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# Federal Register

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Thursday  
December 6, 1979

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## Highlights

**Briefings on How to Use the Federal Register**—For details on briefings in Washington, D.C. and Dallas, Texas, see announcement in the Reader Aids Section at the end of this issue.

- 70145 Civil Rights Program** CSA issues rules regarding requirements and procedures for initial and refunding grants awarded by Community Services Administration; effective 12-6-79
- 70239 Law Enforcement Education Program** Justice/LEAA announces competitive research grant to study arson adjudication in United States; apply by 3-7-80
- 70189 Natural Gas** DOE/FERC proposes to establish the maximum lawful price for gas from new onshore production wells; comments by 1-23-80, public hearing 12-17-79
- 70118 Gasoline Deregulation** DOE/ERA issues rule to exempt butane and natural gasoline from Mandatory Petroleum Allocation and Price Regulations; effective 1-1-80
- 70267 Urban Blight** DOT/FHWA gives notice of study and invites comments; comments by 9-30-80

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## Highlights

- 70362 Section 8 Housing Assistance Program** HUD issues rule amending disposition of HUD-owned projects; effective 12-26-79, comments by 2-4-80 (Part III of this issue)
- 70204 Federal Motor Vehicle Safety Standards** DOT/NATSA proposes to upgrade side impact protection and to extend its applicability; comments by 3-5-80, public meeting 1-31 and 2-1-80
- 70424 Federal Procurement** FEMA issues interim regulations establishing policies and procedures for acquisition of personal property and nonpersonal services; effective 12-6-79, comments by 2-4-80 (Part VII of this issue)
- 70380 Walk-Behind Power Lawn Mowers** CPSC issues regulations requiring manufacturers and importers to certify with Commission's Safety Standards; effective after 12-31-81 (Part IV of this issue)
- 70196 Outer Continental Shelf** Interior/GS proposes regulations requiring all materials, equipment, tools, containers and all other items used must be properly identified; comments by 2-4-80
- 70408 High-Level Radioactive Wastes** NRC proposes licensing of receipt and disposal at geologic repositories; comments by 3-3-80 (Part VI of this issue)
- 70143 Pesticide** EPA issues rule establishing tolerances for residues of Amitraz; effective 12-6-79
- 70164 Transportation of Liquids by Pipeline** DOT/MTS issues rule regarding procedures for operations, maintenance and emergencies; effective 7-15-80, 7-15-81
- 70158 General Radio Mobile Services** FCC adopts new emission limitation standards for VHF and UHF analog and digital transmitters; 1-7-80
- 70192 State Highway Safety Agencies** DOT/NHTSA/FHWA proposes to establish new requirements for authority and function; comments by 1-21-80
- 70293 Sunshine Act Meetings**  
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## Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## GENERAL ACCOUNTING OFFICE

## 4 CFR Part 6

## Acceptance and Retention of Certain Gifts and Decorations From Foreign Governments by U.S. Employees; Correction

AGENCY: General Accounting Office.

ACTION: Final rule; correction.

**SUMMARY:** This document corrects a final rule published at 44 FR 44135, July 27, 1979 relating to Part 6—Code of Ethics.

EFFECTIVE DATE: December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Richard T. Cambosos, Attorney Advisor, Office of General Counsel, General Accounting Office, Washington, D.C. 20548 (202-275-5544).

In FR Doc. 79-23302 the amendment numbered 4 appearing on page 44139 for the issue for July 27, 1979, is corrected by deleting "6.56(a)(2)(iv) and (5)" and inserting in its place "6.56".

Elmer B. Staats,  
Comptroller General of the United States.

[FR Doc. 79-37447 Filed 12-5-79; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF AGRICULTURE

## Federal Crop Insurance Corporation

## 7 CFR Part 423

## Flax Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; corrections.

**SUMMARY:** The final rulemaking published in the Federal Register on Monday, November 26, 1979 (44 FR 67343-67349), on the Flax Crop

Insurance Regulations, contained several typographical errors. This notice is being published to correct those errors.

EFFECTIVE DATE: December 6, 1979.

**ADDRESS:** Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325. The corrections are as follows:

## PART 423—FLAX CROP INSURANCE

1. The second subpart heading, found in the left column of page 67344 (44 FR 67344), following the authority citation and preceding the first section heading (§ 423.1 Availability of flax insurance), is hereby deleted.

2. The single asterisk (\*) footnote, following the example at the top of the left column on page 67345 (44 FR 67345), is hereby corrected to read as follows: "Your guarantee will be on a unit basis (acres X per acre guarantee X share)

3. Section 3(b) of the Appendix (additional terms and conditions), found in the center column on page 67348 (44 FR 67348), is corrected in the seventh line thereof to read as follows:

3. Irrigated Acreage. \* \* \*

(b) \* \* \*

Corporation, shall be considered as due to an

Issued in Washington, D.C., on November 28, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Approved by:

W. Otto Johnson,

Deputy Manager

Dated: November 29, 1979.

[FR Doc. 79-37482 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-08-M

## 7 CFR Part 424

## Rice Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; corrections.

**SUMMARY:** The final rulemaking published in the Federal Register on

Monday, November 26, 1979 (44 FR 67349-67355), on the Rice Crop Insurance Regulations, contained several typographical errors. This notice is being published to correct those errors.

EFFECTIVE DATE: December 6, 1979.

**ADDRESS:** Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The corrections are as follows:

1. Section 424.7 is hereby corrected by moving the asterisked footnotes (\*) and (\*\*), found at the bottom of the left column on page 67351 (44 FR 67351) up to the end of section A of the Rice Crop Insurance Contract to read as follows:

## § 424.7 The application and policy.

\* \* \* \* \*

(d) \* \* \*

A. \* \* \*

\* Your guarantee will be on a unit basis (acre X per acre guarantee X share).

\*\* Your premium is subject to adjustment in accordance with section 5(c) of the policy.

2. The word corporation, found in section 3(b) of the Appendix (additional terms and conditions) in the center column of page 67364 (44 FR 67364), is hereby corrected to read "Corporation".

Issued in Washington, D.C., on November 29, 1979.

Dated: November 29, 1979.

Peter F. Cole, Secretary,  
Federal Crop Insurance Corporation.

Approved by:

W. Otto Johnson,

Deputy Manager

[FR Doc. 79-37483 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-08-M

## 7 CFR Part 432

## Corn Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; correction.

**SUMMARY:** The final rulemaking published in the Federal Register on Monday, November 28, 1979 (44 FR 67361-67369), on the Corn Crop



Insurance Regulations, contained a typographical error. This notice is being published to correct that error.

**EFFECTIVE DATE:** December 6, 1979.

**ADDRESS:** Any suggestion or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

The correction is as follows:

1. § 432.7 is hereby corrected by moving the asterisked footnotes (\*) and (\*\*), found at the bottom of the left column on page 67363 (44 FR 67363) up to the end of section A of the Corn Crop Insurance Contract to read as follows:

**§ 432.7 Application and policy.**

(d) \*\*\*  
A. \*\*\*

\*Your guarantee will be on a unit basis (acres × per acre guarantee × share).

\*\*Your premium is subject to adjustment in accordance with section 5(c) of the policy.

Issued in Washington, D.C., on November 29, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: November 29, 1979.

Approved by:

W. Otto Johnson,  
Deputy Manager.

[FR Doc. 79-37484 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-06-M

**Agricultural Marketing Service  
7 CFR Part 907**

(Navel Orange Regulation 469 and Navel Orange Regulation 468, Amdt 1.)

**Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final Rule.

**SUMMARY:** This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 7-13, 1979, and increases the quantity of such oranges that may be so shipped during the period November 30-December 6, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

**DATES:** This regulation becomes effective December 7, 1979 and the

amendment is effective for the period November 30-December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, (202) 447-5975.

**SUPPLEMENTARY INFORMATION:** Findings. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on December 4, 1979 to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-5975.

**§ 907.769 Navel Orange Regulation 469.**

**Order.** (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 7, 1979, through December 13, 1979, are established as follows:

- (1) District 1: 1,335,000 cartons;
- (2) District 2: unlimited movement;
- (3) District 3: 120,000 cartons;
- (4) District 4: 45,000 cartons.

(b) As used in this section, "handle," "District 1," "District 2," "District 3," "District 4" and "carton" means the same as defined in the marketing order.

2. Paragraph (a)(1), (a)(3), and (a)(4) in § 907.768 Navel Orange Regulation 468 (44 FR 68478), is hereby amended to read:

- (1) District 1: 1,260,000 cartons;
- (3) District 3: 112,000 cartons;
- (4) District 4: 28,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 5, 1979.

Charles R. Brader,  
Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc. 79-37742 Filed 12-5-79; 12:06 pm]

BILLING CODE 3410-02-M

**7 CFR Part 982**

**Handling of Filberts Grown in Oregon and Washington; Free and Restricted Percentages for the 1979-80 Marketing Policy Year**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule

**SUMMARY:** This rule establishes marketing percentages for inshell filberts for the marketing policy year beginning August 1, 1979. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

**EFFECTIVE DATES:** August 1, 1979 through July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, Washington, D.C. 20250, (202) 447-5053.

**SUPPLEMENTARY INFORMATION:** On November 5, 1979, notice was published in the Federal Register (44 FR 63547) on the proposed establishment of free and restricted percentages of 35 percent and 65 percent, respectively. No comments were received. The percentages were

recommended by the Filbert Control Board. The Board is established under the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The percentages are based upon the following estimates by the Filbert Control Board for the 1979-80 marketing policy year:

**Inshell Supply**

- (1) Total production—11,550.
- (2) Less substandard, etc.—1,040.
- (3) Merchantable production—10,510.
- (4) Carryover August 1, 1979 of merchantable filberts—63.
- (5) Supply subject to regulation (Item 3 plus Item 4)—10,573.

**Inshell Requirements**

- (6) Trade demand—5,000.
- (7) Carryover July 31, 1980—400.
- (8) Total—5,400.
- (9) Less carryover August 1, 1979 not subject to 1979-80 regulation—1,687.
- (10) Inshell requirements—3,713.

**Percentages**

- (11) Free percentage (Item 10 divided by Item 5)—35.
- (12) Restricted percentage (100 percent minus 35 percent)—65.

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

**FINDINGS:** After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that to establish this rule will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553). The order requires that free and restricted percentages for a particular marketing policy year shall apply to all inshell filberts handled during that year, and this rule automatically applies to all such filberts beginning August 1, 1979.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from William J. Higgins, (202) 447-5053.

Section 982.229 is added and the free and restricted percentages read as follows:

**§ 982.229 Free and restricted percentages—1979-80 marketing policy year.**

The free and restricted percentages for merchantable filberts for the 1979-80 marketing policy year shall be 35 percent and 65 percent, respectively.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 30, 1979.

D. S. Kuryloski,  
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79-37552 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-02-M

**7 CFR Part 989**

**Raisins Produced From Grapes Grown in California; Interim Change in Free and Reserve Percentages for 1979-80 Crop Year**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule changes the preliminary marketing percentages recently designated for Dipped and Related Seedless raisins from the 1979 production. The estimated 1979 production of these raisins has been revised downward. This change requires the revision specified. Although revised downward, the production of these raisins is still in excess of domestic and Western Hemisphere market needs, and the percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

**EFFECTIVE DATES:** August 1, 1979 through July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, Washington, D.C. 20250 (202) 447-5053.

**SUPPLEMENTARY INFORMATION:** This rule makes an interim change in the preliminary free tonnage and reserve tonnage percentages for 1979 crop Dipped and Related Seedless raisins by increasing the free tonnage percentage

from 56 percent to 65 percent and by reducing the reserve tonnage percentage from 44 percent to 35 percent. The preliminary Dipped and Related Seedless percentages for the 1979-80 crop year were published in the Federal Register on November 20, 1979 (§ 989.233; 44 FR 66574). That crop year began August 1, 1979.

This interim change in the percentages would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was unanimously recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to administer its terms and provisions under USDA supervision.

The preliminary free and reserve tonnage percentages for Dipped and Related Seedless raisins were issued by the Department on November 15, 1979 (989.233; 44 FR 66574). These percentages were based on a 1979 production estimate for those raisins of 14,500 tons. The 1979 production is now estimated to be 13,600 tons. This 900-ton reduction in the estimated 1979 production is the reason for the interim change in percentages hereinafter specified.

After consideration of all relevant matter presented, including that in the notice issued in connection with the designation of the preliminary free and reserve tonnage percentages for Dipped and Related Seedless raisins (§ 989.233; 44 FR 62901), the information and recommendation of the Committee, and other available information, it is found that the designation, under § 989.55 of the order, of the interim change in the preliminary free and reserve tonnage percentages applicable to Dipped and Related Seedless raisins, for the 1979-80 crop year, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective time of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) The percentages designated herein for the 1979-80 crop year apply to all Dipped and Related Seedless raisins acquired by handlers during that crop year; (2) handlers are marketing 1979 crop raisins, and this action must be



taken promptly to achieve its purpose of allowing handlers to use the additional free tonnage quickly; (3) handlers are aware of this action as recommended by the Committee and require no additional time to comply; and (4) this action relieves restrictions on handlers.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this action warrants publication without opportunity for further public comment. A determination has been made that this action should be classified "significant". An impact analysis is available from William J. Higgins, (202) 447-5053.

Therefore, § 989.233 to be included in Subpart — Supplementary Regulations (7 CFR 989.202-989.232; 44 FR 66574) is revised by changing the Dipped and Related Seedless raisin free tonnage percentage from 56 percent to 65 percent and the reserve tonnage percentage from 44 percent to 35 percent.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 3, 1979.

Charles R. Brader,  
Director, Fruit and Vegetable Division.

(FR Doc. 79-37550 Filed 12-5-79; 8:45 am)  
BILLING CODE 3410-02-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### 10 CFR Parts 210, 211, and 212

[Docket No. ERA-R-79-14]

#### Mandatory Petroleum Allocation and Price Regulations; Butane and Natural Gasoline Deregulation

**AGENCY:** Economic Regulatory Administration, Department of Energy.  
**ACTION:** Final Rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending 10 CFR Parts 210, 211 and 212 to exempt butane and natural gasoline from its Mandatory Petroleum Allocation and Price Regulations.

**EFFECTIVE DATE:** January 1, 1980.

**ADDRESSES:** Further comments to Public Hearing Management, Docket No. ERA-R-79-14, Department of Energy, Room 2313, 2000 M Street, NW., 20461.

**FOR FURTHER INFORMATION CONTACT:** Bill Webb (Office of Public Information), Economic Regulatory Administration, Room B-100, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170. Bob Reinstein (Regulations and Emergency Planning), Economic

Regulatory Administration, Room 7216, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7351.

Kristina Clark (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6744.

**SUPPLEMENTARY INFORMATION:** I. Background, II. Comments Received, III. Regulatory Analysis, IV. Exemption, V. Standby Authority, VI. Additional Comments Requested, VII. Procedural Requirements.

#### I. Background

On March 28, 1979, the Economic Regulatory Administration of the Department of Energy issued a Notice of Proposed Rulemaking and Public Hearing on Butane and Natural Gasoline Deregulation (44 FR 19423, April 3, 1979). We concurrently issued a draft regulatory analysis on the deregulation of butane and natural gasoline.

Comments were requested on our tentative conclusion that exemption of butane and natural gasoline from the Mandatory Petroleum Allocation and Price Regulations, (10 CFR Parts 210, 211, and 212) promulgated under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA" Pub. L. 93-159), would be consistent with the objectives set forth in Section 4(b)(1) of the EPAA as amended by Section 451 of the Energy Policy and Conservation Act ("EPCA," Pub. L. 94-163). Comments also were solicited on the following tentative conclusions of the regulatory analysis:

(1) Butane and natural gasoline are not in short supply.

(2) Exemption of butane and natural gasoline from the allocation and price regulations will not have an adverse impact on the supply of any other oil or refined petroleum product subject to the EPAA.

(3) Competition and market forces are adequate to protect consumers following exemption of butane and natural gasoline from regulation.

(4) Exemption of butane and natural gasoline from regulation will not result in inequitable prices for any class of user of butane, natural gasoline or other products.

Finally, comments were requested on what changes, if any, would be necessary under 10 CFR Part 212, Subpart E (Refiners), Subpart F (Resellers and Retailers) and Subpart K (Natural Gas Liquids) if price and allocation controls were removed from butane and natural gasoline and such controls remained in effect with respect to propane.

## II. Comments Received

The ERA invited written comments on the notice concerning butane and natural gasoline deregulation through May 18, 1979, and a public hearing was held in Washington, D.C. on May 9, 1979. Over forty parties submitted oral and written comments in response to the April 3, 1979 notice. Those offering comments included major integrated refining companies, small refining companies, independent gas processors, trade associations, industrial users, natural gas utilities, consumer representatives and a state energy office.

All of those commenting in response to the notice on butane and natural gasoline deregulation recommended that ERA exempt butane and natural gasoline from the allocation and price regulations. These recommendations were based generally upon agreement with our projections as to supply, demand and price, and other findings and views with respect to requirements of Section 12 of the EPAA, as set forth in our draft regulatory analysis. A number of commenters pointed out that butane and natural gasoline prices and supplies had been subject to a great deal of fluctuation during the months between publication of the draft regulatory analysis and the hearing. Nevertheless, they agreed that butane and natural gasoline should be deregulated. These commenters shared the generally widespread view that a free market would operate much more efficiently than the regulations both in setting prices and assuring supplies. Also widespread was the view that the cost of compliance with the regulations was a significant financial burden to firms and that continued regulation could cause market distortions. Many parties expressed the opinion that deregulation would encourage additional natural gas liquid extraction and plant investment which would displace imports. Although the commenters anticipated minimal price increases, they did anticipate that deregulation might result in selective price increases to reflect the increased cost of capital.

Two commenters, a trade association and a refiner, recommended that new butane uses continue to be controlled on a case by case basis. However, the majority of comments received on the subject of new demand of natural gas liquid products for SNG plants, for gas utility use or for boiler fuel use were generally opposed to any limitations on the end uses of these products.

We determined that any attempt to maintain controls on the end uses of butane on a case-by-case basis would

be difficult to administer, inconsistent with the objectives of deregulation and lacking in any clear regulatory benefits. Therefore, we did not include such end use controls in the final rule adopted today.

Many commenters were opposed to the inclusion of natural gas liquids under our proposed definition of "covered products" in Section 212.31. Most of these commenters expressed the view that "natural gas liquids" should be replaced with "the propane component of natural gas liquids." Other commenters requested that a new Section 212.62 be added to exempt specifically the butane and natural gasoline components of natural gas liquids.

In light of the comments received, we are adopting a new Section 212.62 which makes clear that butane and natural gasoline, whether fractionated or as part of a raw stream, would be exempted from controls. However, where natural gas liquids are priced without reference to component products, we determined it would be inconsistent with the regulatory scheme to deregulate that product and therefore are adopting the definition of "covered products" essentially as proposed.

Several parties recommended that if butane and natural gasoline were deregulated, the ERA should establish a mechanism to allocate costs of exempt products to covered products and revise the Section 212.168 method of cost allocation to exempt products. One commenter recommended the establishment of a mechanism to allocate unrecovered butane and natural gasoline costs as of the date of deregulation to the remaining covered products. Such provisions would amount to *de facto* deregulation of propane and are outside the scope of this rulemaking. Therefore they were not adopted.

Some commenters also recommended the establishment of guidelines to which the DOE would refer in its determination that reimposition of standby regulations would be appropriate. The establishment of guidelines for reimposition of standby controls was not considered in connection with this rulemaking because we determined it went beyond the scope of the proposed rule.

## III. Regulatory Analysis

In accordance with the provisions of Executive Order 12044 as implemented by DOE Order 2030 (44 FR 1032, January 3, 1979), we prepared a regulatory analysis of the proposal to exempt butane and natural gasoline from the Mandatory Petroleum Allocation and Price Regulations. A draft regulatory

analysis was published in March, 1979 prior to the issuance of the proposed rule on deregulation of butane and natural gasoline. With this final rule, we are issuing a final regulatory analysis which supplements the data and conclusions of the draft regulatory analysis. The Executive Summary of the final regulatory analysis is included as an appendix to this rule.

A copy of the final regulatory analysis is available from the ERA Office of Public Information, Room B-110, 2000 M Street, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

## IV. Exemption

Based upon our consideration of the comments of those persons who participated in the rulemaking proceeding and all other available information, we have concluded that butane and natural gasoline should be exempted from the allocation and price regulations. This conclusion is supported by the findings of the regulatory analysis conducted during the course of this rulemaking procedure.

Since we published the draft regulatory analysis the butane and natural gasoline markets have been subject to price and supply fluctuations that were not wholly anticipated. We have continued to analyze these markets and have revised both data and conclusions, as summarized in the Executive Summary of the regulatory analysis.

We conclude that, notwithstanding these market fluctuations, it remains appropriate to deregulate these products. The butane and natural gasoline markets typically are characterized by complex interrelationships with other refinery and gas plant products. To the extent that we are able to analyze the effects of the current regulatory scheme on prices and supplies and forecast the impacts of deregulation we have concluded that deregulation will have little effect on supply, demand and price. Because the primary use for both butane and natural gasoline is gasoline feedstock, prices and supplies tend to be influenced more by the motor gasoline market than by regulatory constraints. Given this strong relationship between the motor gasoline market and the butane and natural gasoline markets, we believe that the relative impact of deregulation will be minor. This expectation is supported by the fact that despite the regulations, the butane and natural gasoline markets were subject recently to significant fluctuations which occurred at a time when the motor gasoline market was characterized by similar fluctuations in price and supply.

Although we are unable to forecast with certainty that deregulation will have no harmful impacts, we also can point to no measurable benefits associated with continued regulation. There appears to be little correlation between regulations and prices, and we have not been able to establish how, or if, the regulations affect supply. We have determined that the purposes for which controls were established are no longer served and that regulation of these products does not result in economic efficiency. We conclude that a market free from regulatory constraints can do as good a job, or better, in allocating butane and natural gasoline. Thus, we do not foresee any adverse impacts which would warrant a continuation of controls.

Accordingly, butane and natural gasoline, as raw natural gas liquids, or mixed components of natural gas streams, will no longer be covered products under Part 211 (allocation) and Part 212 (price) of the Mandatory Petroleum Allocation and Price Regulations effective January 1, 1980.

We emphasize that the removal of price controls on butane and natural gasoline, including the butane and natural gasoline components of natural gas liquids, cannot be used in particular cases to achieve a *de facto* removal of price controls on propane. For example, if a producer-seller of liquid hydrocarbons prices each component thereof separately, this is a sale of the respective separately priced products.<sup>1</sup> A gas processor-purchaser cannot take increased product costs attributable to uncontrolled components (butane, natural gasoline or ethane) of these liquid hydrocarbons and allocate those increased product costs to propane when it is fractionated and separately sold. Similarly, sales of natural gas liquids, as defined in 10 CFR 212.162 (i.e. all sales where discrete prices are not assigned to separate products) remain fully subject to price controls. This final rule also cannot be construed to allow seller to reallocate costs attributable to natural gas liquids or to take any increased product or nonproduct costs (including banked costs) attributable to natural gas liquid products that are hereby exempted from price controls and pass those costs on to purchasers of propane.

We also wish to emphasize our concern that adequate supplies of butane continue to be available at reasonable prices to agricultural and residential users. As discussed in the regulatory analysis, a small percentage

<sup>1</sup> See, e.g., *El Paso Natural Gas Co.*, Interpretation 1978-32, 43 FR 29534 (July 10, 1978).



of total butane demand is for residential and agricultural use. We have solicited views from refiners and natural gas processors as to whether adequate butane would remain available for these purposes. In general we have received positive responses and commitments that these small users would continue to be served.

Nonetheless, if any group of residential or agricultural users appears to be adversely affected under deregulation, we are prepared to issue individual orders and adopt rules as necessary to protect these users.

#### V. Standby Authority

Section 12(f) of the EPAA provides that following the exemption of any refined product category from regulation, the DOE shall have the authority at any time to reimpose price regulations if necessary to attain the objectives of the EPAA. For this reason, we are adopting amendments which exempt butane and natural gasoline from the general allocation and price regulations but which do not delete those regulations from the Code of Federal Regulations. We have, in effect, converted them to standby status, so that, in the event of shortages or other occurrence which might require reimposition of regulations, we may, with appropriate modifications, quickly put them back into effect. We will continue to analyze the butane and natural gasoline market after deregulation and we will be prepared to take whatever action may become appropriate with regard to the regulation of these products.

#### VI. Additional Comments Requested

You are invited to submit additional comments and views on what impacts deregulation of butane and natural gasoline may have on the pricing or allocation of products which remain under controls, particularly propane.

We also, invite your comments on what, if any, additional changes to 10 CFR Part 212 might be appropriate in view of the exemption of butane and natural gasoline from controls and the continued regulation of propane.

All comments should be sent to the address set forth in the "Addresses" section above. Comments should be identified on the outside envelope and on documents submitted with the designation "Butane and Natural Gasoline Deregulation" Docket No. ERA-R-79-14. All comments received will be available for public inspection in the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of

8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

#### VII. Procedural Requirements

In accordance with section 404 of the Department of Energy Organization Act ("DOE Act," 42 U.S.C. 7101 *et seq.*), the Federal Energy Regulatory Commission received a copy of the proposed rule and has declined to determine that the rule may significantly affect any of its functions under sections 402(a)(1), (b), or (c)(1) of the DOE Act.

After reviewing the final rule pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), DOE has determined that deregulation of butane and natural gasoline does not constitute major Federal action significantly affecting the quality of the human environment and will not produce a measurable impact on the national environment.

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. A copy of this Rule was provided to the EPA Administrator who responded that EPA does not foresee this rule having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of EPA.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 210, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., November 29, 1979.

David J. Bardin,  
Administrator, Economic Regulatory  
Administration.

1. Section 210.35 is amended by adding paragraph (i) and (j) to read as follows:

#### § 210.35 Exempted products.

(i)(1) Butane and the butane component of natural gas liquids is exempt from the provisions of Part 211 of this chapter.

(2) Butane as defined in § 212.31 of this chapter and the butane component of natural gas liquids is exempt from the provisions of Part 212 of this chapter.

(j)(1) Natural gasoline and the natural gasoline component of natural gas liquids is exempt from the provisions of Part 211 of this chapter.

(2) Natural gasoline as defined in § 212.31 of this chapter and the natural gasoline component of natural gas liquids is exempt from the provisions of Part 212 of this chapter.

2. Section 211.1 is amended in paragraph (b) by adding subparagraph (11) to read as follows:

#### § 211.1 Scope.

#### (b) Exclusions.

(11) Notwithstanding the other provisions of this part, including Subparts D and E of this part, butane and natural gasoline and the butane and the natural gasoline components of natural gas liquids are excluded from this part.

3. Section 212.31 is amended in the definition of "covered products" to read as follows:

#### § 212.31 Definition.

"Covered products" means crude oil, gasoline, natural gas liquids and propane. A blend of two or more particular covered products is considered to be that particular covered product constituting the major portion of the blend. A blend of one or more covered products with one or more non-petroleum-based products is a covered product if the covered product or products constitutes more than 50 percent by volume of the blend, and is that covered product which is the most predominant by volume in the blend.

4. Part 212 is amended by adding new §§ 212.60, 212.61 and 212.62 as follows:

#### § 212.60 Butane.

The prices charged for butane are exempt from the provisions of this part.

#### § 212.61 Natural gasoline.

The prices charged for natural gasoline are exempt from the provisions of this part.

#### § 212.62 Butane and natural gasoline components of natural gas liquids.

The prices charged for the butane and natural gasoline components of natural gas liquids are exempt from the provisions of this part.

#### Appendix—Summary of Final Regulatory Analysis

This report is a Supplement to the March 1979 report *Draft Regulatory Analysis, Deregulation of Butane and Natural Gasoline*, which was prepared as an examination of the potential impacts of exempting these products from the Mandatory Petroleum Allocation and Price Regulations. This Supplement presents additional data which has become available since preparation of the *Draft Regulatory Analysis (DRA)*, presents further analysis of current and historical data, reexamines the conclusions of the DRA regarding projected supply, demand, and price trends, and adds further discussion of possible impacts and alternatives to deregulation.

Section 1 presents additional data available since preparation of the DRA.

Demand for butane for petrochemical use has increased over levels estimated in the DRA and is now estimated to be 100 MB/D in 1980.

Demand for butane and natural gasoline for motor gasoline production has been consistent with the trends discussed in the DRA. This use is estimated to amount to about 1300 MB/D of total butane demand of 1467 MB/D in 1980, and to account for almost all demand for natural gasoline of about 330 MB/D.

Other demand data presented in Section 1 are consistent with historical trends. These demands account for only about 4 percent of total butane demand.

Butane and natural gasoline production data presented here are consistent with trends presented and analyzed in the DRA.

Butane stock levels are somewhat below historical trends, but this appears to be due to a variety of factors, including changes in the data reporting system, and does not appear to indicate any serious supply problems.

Butane and natural gasoline prices have risen significantly since preparation of the DRA in response to high crude oil and gasoline prices.

Sections 2 and 3 present further analysis of available data and a reassessment of the supply, demand, and price projections of the DRA.

Butane and natural gasoline demand for gasoline production is estimated to

continue to follow the trend analyzed in the DRA; since this is by far the largest demand for these products, the major conclusions in the DRA regarding overall demand outlook are unchanged.

Butane demand for petrochemical feedstock use is projected to be somewhat higher in the short term than estimated in the DRA because of relative price differentials between these and heavier feedstocks derived from crude oil; over the longer term heavier feedstocks are expected to predominate, as discussed in the DRA.

Butane and natural gasoline production is estimated to be somewhat higher than projected in the DRA because of higher projections for natural gas production. Supply is generally projected to be in balance with demand through 1980 and no impacts of deregulation are expected on aggregate supply or demand.

Prices for butane and natural gasoline are projected to follow their historical relationship to gasoline prices and, under adequate crude oil and gasoline supply assumptions, 1980 market prices might be 55-65 cents/gallon for butane and 60-70 cents/gallon for natural gasoline.

If crude oil and gasoline supplies are short, 1980 projected market prices could be as much as 20 cents/gallon higher than under adequate supply assumptions, and could therefore be somewhat higher under deregulation than current regulations might allow.

The precise price impact of deregulation cannot be calculated because of the complex relationship of these products to other refinery and gas plant products and the various provisions of the regulations which allow flexibility in the allocation of costs among products, and the timing of recovery of these costs. Prices under current regulations appear very close to the prices that would be set by market forces.

Motor gasoline prices set the ultimate limit on prices for butane and natural gasoline prices, and both market forces and the guidelines of the Council on Wage and Price Stability act to restrain gasoline prices.

Section 4 examines other possible impacts of deregulation and concludes that deregulation is consistent with the objectives of authorizing legislation and with the criteria specifically listed in reference to deregulation (exemption) actions.

Butane and natural gasoline are no longer in short supply and deregulation will not have an adverse impact on the supply of these products or any other product.

A few individual users may have to shift suppliers or switch to another fuel or feedstock as a result of deregulation (such as small refiners and independent petrochemical companies), but these actions would take place in an unregulated market in any case and are not inconsistent with the objectives of the EPAA.

Deregulation will allow for more efficient and rational economic planning and investment and will allow butane and natural gasoline to find those markets

where they have the highest value; this will help to assure adequate supplies to all users at equitable prices.

The NGL industry is complex and thus both the benefits of the current regulations and their adverse impacts are difficult to calculate. Deregulation would permit limited resources of both government and industry to be allocated to other pressing energy problems.

Alternatives such as partial deregulation and phased deregulation are not considered practical because they continue or even increase the complexity of the regulations with few compensating benefits.

[FR Doc. 79-37539 Filed 12-5-79; 8:45 am]  
BILLING CODE 6450-01-M

#### 10 CFR Part 212

#### Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.  
ACTION: Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA), of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 17 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of December 1979, and January and February 1980 of \$6.14, \$6.18, and \$6.22 per barrel (lower tier) and \$13.72, \$13.81, and \$13.90 per barrel (upper tier), respectively.

**EFFECTIVE DATE:** December 1, 1979.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202-634-2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202-254-6296.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, 202-252-6739.

**SUPPLEMENTARY INFORMATION: A. Introduction.—B. Crude Oil Price Schedule No. 17.**

#### A. Introduction

On August 31, 1979, we issued Crude Oil Price Schedule No. 16 (44 FR 52173, September 7, 1979), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. We have decided to continue



this policy during the months of December 1979, and January and February 1980. Accordingly we are issuing Crude Oil Price Schedule No. 17 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during those months to take into account the impact of inflation.

#### B. Crude Oil Price Schedule No. 17

Under Crude Oil Price Schedule No. 17 the November 1979 lower tier ceiling price (the May 15, 1973 posted price plus \$2.41 per barrel, resulting in an average first sale price of approximately \$6.10 per barrel), and the November 1979 upper tier price (the September 30, 1975 posted price plus \$.96, resulting in an average first sale price of approximately \$13.63 per barrel), are adjusted for inflation for December 1979, and January and February 1980, based on the first revision of the GNP deflator published on November 21, 1979, which reflects an annual rate of inflation of 8.0 percent.

#### 1. Lower tier ceiling prices.

Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1979, and in January and February 1980, are determined pursuant to the following methodology:

- A. ERA has computed a monthly adjustment factor of .00643 which when applied over a twelve-month period yields an effective annual rate of adjustment of 8.0 percent.
- B. December 1979 adjustment =  $(\$6.10)(.00643)$  per barrel = \$.039 per barrel rounded to \$.04 per barrel.
- C. January 1980 adjustment =  $(\$6.10 + .04)(.00643)$  per barrel = \$.039 per barrel rounded to \$.04 per barrel.
- D. February 1980 adjustment =  $(\$6.10 + .04 + .04)(.00643)$  per barrel = \$.0397 per barrel rounded to \$.04 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of December 1979, and January and February 1980 are computed as follows:

December 1979 =  $\$6.10 + \$0.04 = \$6.14$ .  
January 1980 =  $\$6.14 + \$0.04 = \$6.18$ .  
February 1980 =  $\$6.18 + \$0.04 = \$6.22$ .

Using an average highest posted field price on May 15, 1973 of \$3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

| Month         | Ceiling price                                        | Price <sup>1</sup> |
|---------------|------------------------------------------------------|--------------------|
| December 1979 | May 15, 1973 highest posted field price plus \$2.45. | \$6.14             |
| January 1980  | May 15, 1973 highest posted field price plus \$2.49. | 6.18               |

| Month         | Ceiling price                                        | Price <sup>1</sup> |
|---------------|------------------------------------------------------|--------------------|
| February 1980 | May 15, 1973 highest posted field price plus \$2.53. | 6.22               |

<sup>1</sup> Estimated average first sale price.

#### 2. Upper tier ceiling prices.

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1979, and January and February 1980 are determined pursuant to the following methodology:

- A. Adjustment factor (explained above) = .00643.
- B. December 1979 adjustment =  $(\$13.63)(.00643)$  per barrel = \$.088 per barrel rounded to \$.09 per barrel.
- C. January 1980 adjustment =  $(\$13.63 + .09)(.00643)$  per barrel = \$.088 per barrel rounded to \$.09 per barrel.
- D. February 1980 adjustment =  $(\$13.63 + .09 + .09)(.00643)$  per barrel = \$.089 per barrel rounded to \$.09 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of December 1979, and January and February 1980, are computed as follows:

December 1979 =  $\$13.63 + \$0.09 = \$13.72$ .  
January 1980 =  $\$13.72 + \$0.09 = \$13.81$ .  
February 1980 =  $\$13.81 + \$0.09 = \$13.90$ .

Using an average highest posted field price on September 30, 1975 of \$12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

| Month         | Ceiling price                                              | Price <sup>1</sup> |
|---------------|------------------------------------------------------------|--------------------|
| December 1979 | September 30, 1975 highest posted field price plus \$1.05. | \$13.72            |
| January 1980  | September 30, 1975 highest posted field price plus \$1.14. | 13.81              |
| February 1980 | September 30, 1975 highest posted field price plus \$1.23. | 13.90              |

<sup>1</sup> Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1979.

Issued in Washington, D.C., November 30, 1979.

David J. Bardin,  
Administrator, Economic Regulatory  
Administration.

Section 212.77 is amended in the appendix to add Schedule No. 17 of Monthly Price Adjustments, as follows:

#### § 212.77 Adjustments to ceilings prices.

#### Appendix

#### Schedule No. 17 of Monthly Price Adjustments

Effective: December 1, 1979

| Month     | Lower tier,<br>May 15, 1973,<br>posted price <sup>1</sup><br>(plus) | Upper tier,<br>Sept. 30, 1975,<br>posted price <sup>2</sup><br>(plus) |
|-----------|---------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1978:     |                                                                     |                                                                       |
| February  | 1.35                                                                | -1.32                                                                 |
| March     | 1.38                                                                | -1.25                                                                 |
| April     | 1.41                                                                | -1.18                                                                 |
| May       | 1.45                                                                | -1.11                                                                 |
| June      | 1.48                                                                | -1.05                                                                 |
| July      | 1.48                                                                | -1.05                                                                 |
| August    | 1.48                                                                | -1.05                                                                 |
| September | 1.48                                                                | -1.05                                                                 |
| October   | 1.48                                                                | -1.05                                                                 |
| November  | 1.48                                                                | -1.05                                                                 |
| December  | 1.48                                                                | -1.05                                                                 |
| 1977:     |                                                                     |                                                                       |
| January   | 1.48                                                                | -1.25                                                                 |
| February  | 1.48                                                                | -1.25                                                                 |
| March     | 1.48                                                                | -1.70                                                                 |
| April     | 1.48                                                                | -1.70                                                                 |
| May       | 1.48                                                                | -1.70                                                                 |
| June      | 1.48                                                                | -1.70                                                                 |
| July      | 1.48                                                                | -1.70                                                                 |
| August    | 1.48                                                                | -1.70                                                                 |
| September | 1.51                                                                | -1.44                                                                 |
| October   | 1.54                                                                | -1.18                                                                 |
| November  | 1.57                                                                | -.92                                                                  |
| December  | 1.59                                                                | -.87                                                                  |
| 1976:     |                                                                     |                                                                       |
| January   | 1.81                                                                | -.82                                                                  |
| February  | 1.63                                                                | -.77                                                                  |
| March     | 1.66                                                                | -.71                                                                  |
| April     | 1.89                                                                | -.65                                                                  |
| May       | 1.72                                                                | -.59                                                                  |
| June      | 1.75                                                                | -.52                                                                  |
| July      | 1.70                                                                | -.45                                                                  |
| August    | 1.81                                                                | -.38                                                                  |
| September | 1.86                                                                | -.28                                                                  |
| October   | 1.91                                                                | -.17                                                                  |
| November  | 1.96                                                                | -.06                                                                  |
| December  | 1.99                                                                | .01                                                                   |
| 1975:     |                                                                     |                                                                       |
| January   | 2.02                                                                | .08                                                                   |
| February  | 2.05                                                                | .15                                                                   |
| March     | 2.09                                                                | .23                                                                   |
| April     | 2.13                                                                | .31                                                                   |
| May       | 2.17                                                                | .39                                                                   |
| June      | 2.21                                                                | .48                                                                   |
| July      | 2.25                                                                | .57                                                                   |
| August    | 2.29                                                                | .66                                                                   |
| September | 2.33                                                                | .76                                                                   |
| October   | 2.37                                                                | .86                                                                   |
| November  | 2.41                                                                | .96                                                                   |
| December  | 2.45                                                                | 1.05                                                                  |
| 1980:     |                                                                     |                                                                       |
| January   | 2.49                                                                | 1.14                                                                  |
| February  | 2.53                                                                | 1.23                                                                  |

<sup>1</sup> The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

<sup>2</sup> The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on December 1, 1979, pursuant to 10 CFR 212.77. It restates without change the

lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1978 through November 1979, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 18 effective September 1, 1979, are further increased as indicated in this schedule, effective December 1, 1979.

This schedule is effective only through February 29, 1980.

[FR Doc. 79-37553 Filed 12-5-79; 8:45 am]

BILLING CODE 6450-01-M.

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Airworthiness Docket No. 79-ASW-25; Amdt. 39-3626]

#### Airworthiness Directives; Bell Models 204B, 205A-1 and 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment amends an existing airworthiness directive (AD) applicable to Bell Models 204B, 205A-1, and 212 helicopters by deleting the requirement to measure the radius in the bottom of the pillow block bushing hole. The amendment is needed because the FAA has determined that of the cases of cracking that occurred in service, none have initiated in the bottom of the pillow block bushing hole. The cracks originate in the side of the hole near the top or through the center section of the yoke adjacent to the data plate.

**DATES:** Effective December 1, 1979. Compliance schedule as prescribed in the AD.

**ADDRESSES:** The applicable maintenance manual revisions may be obtained from Publication Distribution, Logistics Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

**FOR FURTHER INFORMATION CONTACT:** Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, Extension 517.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39-

3572, 44 FR 55556, AD 79-20-05, which currently requires an initial and then repetitive inspections at 2400-hour intervals and corrosion protection and sealing of the main rotor yokes on Bell Models 204B, 205A-1, and 212 helicopters. After issuing Amendment 39-3572, the FAA has determined that the inspection for a radius less than .050 inch in the bottom of the pillow block bushing holes is not required. Of the cases of cracked yokes that have been found in service, none of the cracks have initiated in the bottom of the pillow block bushing hole. The cracks originate in the side of the hole near the top or through the center section of the yoke adjacent to the data plate.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

#### Adoption of the Amendment

#### § 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3572, 44 FR 55556, AD 79-20-05 by revising paragraph (b)(1) to read as follows:

Conduct the following inspections: (1) Inspect yoke for corrosion pits, scratches, and damage in the pillow block bushing hole, in each spindle radius, and yoke web section by using a five power or higher magnifying glass.

This amendment becomes effective December 1, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in Fort Worth, Texas, on November 21, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-37345 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 79-SO-82; Amdt. No. 39-3630]

#### Airworthiness Directives; Luscombe (Larsen Luscombe) Model 8 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD)

which requires inspection of the vertical stabilizer forward attach fitting, P/N 28444 or 28453, for cracks on Luscombe (Larsen Luscombe) Model 8 Series airplanes. The AD is needed to prevent failure of the vertical stabilizer forward attach fitting which could result in loss of the vertical stabilizer from the airplane.

**DATES:** Effective December 17, 1979. Compliance required within the next 10 hours time in service.

**FOR FURTHER INFORMATION CONTACT:** Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

**SUPPLEMENTARY INFORMATION:** There have been two reports of failure of the vertical stabilizer forward attach fitting, one of which resulted in the crash of the airplane, on Luscombe (Larsen Luscombe) Model 8 Series airplanes. Since this condition is likely to exist on other airplanes of the same type design, and Airworthiness Directive is being issued which requires inspection and replacement, as necessary, of the vertical stabilizer forward attach fitting, P/N 28444 or 28453, on Luscombe (Larsen Luscombe) Model 8 Series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

**Luscombe (Larsen Luscombe):** Model 8 Series, certificated in all categories. Compliance is required as indicated, unless already accomplished.

a. Within the next 10 hours time in service from the effective date of this AD, accomplish the following:

(1) Remove the vertical stabilizer forward attach fitting, P/N 28444 or 28453, from the airplane.

(2) Using a dye-penetrant method, inspect the fitting for cracks around the aft flanges which attach to the vertical stabilizer. If cracks are found, replace the fitting with an approved serviceable part before further flight.

b. Within the next 100 hours time in service after the inspection in item a, and at intervals not to exceed 100 hours time in service thereafter, remove the vertical stabilizer fairings and visually inspect the aft flanges of the vertical stabilizer forward attach fitting.



P/N 28444 or 28453, for cracks. If cracks are found, replace the fitting with an approved serviceable part before further flight.

This Airworthiness Directive does not apply to airplanes with steel fittings installed.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is effective December 17, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

**Note**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on November 23, 1979.

George R. La Caille,  
Acting Director, Southern Region.

[FR Doc. 79-37347 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 79-ASW-56; Amdt. 39-3620]

#### Airworthiness Directives; Swearingen Model SA226 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires the modification of Rosemount SAS Servos P/N 9-50D1001 as detailed in Swearingen Aviation Corporation Service Bulletin SB A27-024 dated November 13, 1979, on Swearingen Model SA226 series airplanes. The AD is prompted by a report of a manufacturing defect within the SAS servo which could result in a jammed elevator.

**DATES:** Effective December 10, 1979. Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

**ADDRESSES:** The applicable service bulletin may be obtained from Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284, or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service bulletin is contained in the Rules Docket, Office of

the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

**FOR FURTHER INFORMATION CONTACT:** John D. Swihart, Systems and Equipment Section, Engineering and Manufacturing Branch, ASW-213, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 824-4911, extension 518.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that in one instance the three clutch attachment screws on the internal face of the clutch housing assembly of the Rosemount SAS Servo P/N 9-50D1001 were not staked, resulting in a jammed elevator. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires the removal and inspection of Rosemount SAS Servos P/N 9-50D1001, as detailed in Swearingen Aviation Corporation Service Bulletin SB A27-024 on Swearingen Aviation Corporation Model SA226 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

#### SWEARINGEN

Applies to Models SA226-T, SA226-AT, and SA226-TC airplanes, certificated in all categories, that incorporate Rosemount SAS Servo P/N 9-50D1001.

Compliance is required within the next 10 hours time in service unless already accomplished. (NOTE: The compliance time given here is, in some instances, different from SB A27-024.)

To prevent the possible jamming of the elevator, accomplish the following:

Remove, disassemble, inspect, modify if necessary, and reidentify servos in accordance with the accomplishment instructions in Swearingen Aviation Corporation Service Bulletin SB A27-024 dated November 13, 1979. All Rosemount P/N 9-50D1001 servos not presently installed must also be disassembled, inspected, modified if necessary, and reidentified prior to installation.

Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a

part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Swearingen Aviation Corporation, P.O. Box 32486, San Antonio, Texas 78284. These documents may also be examined at Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76101, and at FAA Headquarters, 800 Independence Avenue S.W., Washington, D.C. 20591. This amendment becomes effective December 10, 1979.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on November 26, 1979.

The incorporation by reference in this document was approved by the Director of the Federal Register on June 19, 1967.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-37346 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 79-ASW-43]

#### Designation of Transition Area; Belen, N. Mex.

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is to designate the transition area at Belen, NM. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Alexander Municipal Airport. The circumstance which created the need for the action is the development of a standard instrument approach procedure using the Socorro VORTAC. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

**EFFECTIVE DATE:** January 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Manuel R. Hugonnet, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### History

On October 1, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 56375) stating that the Federal Aviation Administration proposed to designate the Belen, NM, transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received to the proposal. Except for editorial changes this amendment is that proposed in the notice.

##### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Belen, NM, transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Alexander Municipal Airport.

##### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, January 24, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the following transition area is added:

##### Belen, NM

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Alexander Municipal Airport (latitude 34°38'51" N., longitude 106°49'57" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 23, 1979.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 79-37348 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### FEDERAL TRADE COMMISSION

##### 16 CFR Part 13

[Docket 9075]

#### Irving E. Miller; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires an individual party to a complaint issued against Bankers Life and Casualty Company and others, to cease, in connection with the advertising, promotion and sale of land, misrepresenting that land purchase is a safe investment; involves little financial risk; and is a means of achieving financial security. The order requires that all advertising, promotion materials and sales contracts include specified disclosures regarding risks involved in undeveloped land investment; the advisability of consulting with a real estate specialist prior to contracting; the availability and cost of water, sewage disposal and utilities; and the identity of lots in flood plain areas. Mr. Miller is required to provide customers with cooling-off periods and information regarding rights to cancellation and refund; and from using certain contractual provisions including one by which defaulting purchasers forfeit all payments made. Additionally, the order requires Mr. Miller to release in favor of consumers who have paid for their lots in full any security interest he has or obtains in subdivisions.

**DATES:** Complaint issued February 26, 1976. Decision issued November 7, 1979.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

**SUPPLEMENTARY INFORMATION:** On Monday, August 27, 1979, there was published in the Federal Register, 44 FR 50047, a proposed consent agreement with analysis in the Matter of Irving E. Miller, an individual, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

<sup>1</sup> Copies of the Decision and Order filed with the original document.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Codification, appearing at 44 FR 54471, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37405 Filed 12-5-79; 8:45 am]

BILLING CODE 6750-01-M

##### 16 CFR Part 13

[Docket C-2997]

#### Jaymar-Ruby, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Michigan City, Ind. manufacturer of wearing apparel and related accessories, to cease fixing, maintaining or compelling adherence to suggested resale prices and sale periods for its products. The company is prohibited from soliciting the identity of dealers who fail to conform to suggested prices; and from taking any adverse action against them. Additionally, the firm is prohibited from restricting the use of product trademarks or other identification in the advertising and sale of its products; and barred from suggesting retail prices and sales periods for its products for a period of two years.

**DATES:** Complaint and order issued Nov. 8, 1979.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

**SUPPLEMENTARY INFORMATION:** On Wednesday, Aug. 29, 1979, there was published in the Federal Register, 44 FR 50614, a proposed consent agreement with analysis in the Matter of Jaymar-Ruby, Inc., a corporation, for the

<sup>1</sup> Copies of the Complaint, and Decision and Order filed with the original document.



purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or Withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1145 Discrimination; § 13.1145–5 Against price cutters; § 13.1145–45 In favor of price maintainers; § 13.1150 Penalties; § 13.1165 Systems of espionage; § 13.1165–80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37496 Filed 12-5-79; 8:45 am]  
BILLING CODE 6750-01-M

#### 16 CFR Part 13

[Docket C-2998]

#### Roofing Contractors Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.  
ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair

methods of competition, this consent order, among other things, requires a Seattle, Wash., roofing association to cease entering into agreements with others to establish and maintain terms of guarantees, prices, or other conditions of sale in connection with the sale of roofs and related services; suggesting or urging adherence to particular prices, guarantees, or other conditions of sale; or restricting by any means a member's right to give any guarantee, price or other condition of sale to its customers. The order additionally bars the association from investigating and/or policing its members with regard to prices charged or guarantees imposed in the sale of their products and services.

DATES: Complaint and order issued Nov. 8, 1979.<sup>1</sup>

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: On Thursday, August 30, 1979, there was published in the Federal Register, 44 FR 50862, a proposed consent agreement with analysis in the Matter of Roofing Contractors Association, a non-profit corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade. Subpart—Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures. Subpart—Maintaining Resale Prices: § 13.1165 Systems of espionage.

<sup>1</sup> Copies of the Complaint and Decision and Order filed with the original decision.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37494 Filed 12-5-79; 8:45 am]  
BILLING CODE 6750-01-M

#### 16 CFR Part 13

[Docket C-2996]

#### Gant, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.  
ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a New Haven, Conn. manufacturer of wearing apparel and related accessories, to cease fixing, maintaining or compelling adherence to suggested resale prices and sales periods for its products. The firm is prohibited from soliciting the identity of dealers who fail to conform to such prices, and from taking any adverse action against them. Additionally, the firm is prohibited from restricting the use of product trademarks or other identification in the sale of advertising of its products; and barred from suggesting retail prices and sales periods for its products for a period of two years.

DATES: Complaint and order issued Nov. 8, 1979.<sup>1</sup>

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Wednesday, Aug. 29, 1979, there was published in the Federal Register, 44 FR 50612, a proposed consent agreement with analysis in the Matter of Gant, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

<sup>1</sup> Copies of the Complaint and Decision and Order filed with the Original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1145 Discrimination; § 13.1145–5 Against price cutters; § 13.1145–45 In favor of price maintainers; § 13.1150 Penalties; § 13.1165 Systems of espionage; § 13.1165–80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37497 Filed 12-5-79; 8:45 am]  
BILLING CODE 6750-01-M

#### CONSUMER PRODUCT SAFETY COMMISSION

#### 16 CFR Part 1205

[CP 79-12]

#### Safety Standard for Walk-Behind Power Lawn Mowers; Denial of Petition To Extend Effective Date

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition (CP 79-12) from the Outdoor Power Equipment Institute (OPEI) requesting that the Commission extend the effective date of the Safety Standard for Walk-Behind Power Lawn Mowers by 18 months, to July 1, 1983. The petition is denied because the information available at this time indicates that manufacturers can comply with the present effective date of December 31, 1981, and because it is important that the standard go into

effect as soon as is reasonably possible in order to help prevent the 77,000 blade contact injuries that occur each year due to contact with the blades of walk-behind power lawn mowers. The Commission is presently evaluating another petition from OPEI asking the Commission to begin a proceeding to amend the substantive provisions of the standard. The Commission expects to consider that petition by mid-December, 1979. If the Commission grants that petition, the question of whether a change in the effective date of the standard is appropriate will be reconsidered at that time.

FOR FURTHER INFORMATION CONTACT: William Kitzes, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; phone (301) 492-6557.

SUPPLEMENTARY INFORMATION: On February 26, 1979, the Commission promulgated the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205 (44 FR 9990; February 15, 1979). The standard contains performance requirements intended to reduce injuries from contact with the rotating blades of rotary walk-behind power lawn mowers having a rigid or semi-rigid blade, the type consumers usually use. The standard also requires a label warning of the danger of blade contact on both reel-type and rotary walk-behind power lawn mowers. In order to reduce injuries to the operator's hands and feet, the standard requires that rotary walk-behind power mowers have a blade control system that will stop the mower blade within 3 seconds after the operator's hands leave the normal operating position. If the manufacturer chooses to stop the blade by stopping the engine, the mower must be equipped with a power start mechanism. If the mower has only manual start, stopping the blade by stopping the engine is not allowed by the standard. In order to reduce injuries to the operator's feet, the standard also requires that if the rear periphery and discharge chute of a mower is probed with a specified foot probe, neither the probe nor any part of the mower shall enter the path of the blade.

The performance requirements of the standard apply to all of the subject rotary power lawn mowers manufactured after December 31, 1981. The labeling requirement is applicable to both rotary and reel-type power mowers manufactured after December 31, 1979.

The Commission estimates that each year there are approximately 77,000 injuries caused by contact with the blades of walk-behind power lawn

mowers. The standard is expected to eliminate or reduce the severity of about 60,000 blade contact injuries per year, or 77% of all such injuries. A detailed explanation of the standard's provisions, rationale, and expected impact on consumers and manufacturers is given in the Federal Register notice which published the final standard (44 FR 9990; February 15, 1979).

On February 26, 1979, the Outdoor Power Equipment Institute (OPEI) filed a petition for review of the standard in the U.S. Court of Appeals for the Fifth Circuit (No. 79-1469). A petition filed by John Hayward in the U.S. Court of Appeals for the District of Columbia Circuit has been consolidated with the OPEI petition in the Fifth Circuit.

On September 12, 1979, OPEI filed a petition (No. CP 79-13) with the Commission asking that the standard be amended to allow, as a permissible alternative to the 3 second blade stopping requirement, the use of mowers whose blades are inaccessible as determined by the use of a specified probe intended to simulate the human hand. The Commission's staff is presently evaluating this petition, and it is expected that it will be considered by the Commission by mid-December, 1979.

Prior to that petition, on August 17, 1979, OPEI filed with the Commission the petition that is the subject of this notice (No. CP 79-12) asking for an extension of the effective date of the standard from December 31, 1981, to July 1, 1983. In its petition, OPEI argued that the extension was justified for the following general reasons:

1. OPEI believes that there is a substantial likelihood that the standard will not be upheld by the Court in the petitions for review and that if the effective date is not extended, manufacturers will incur costs for engineering, purchasing, tooling, and production that will be unnecessary if the standard is not upheld.

2. If the effective date of the standard is not extended, manufacturers will be required to incur substantial expenses of redesign, retesting, and retooling a second time in order to comply with any safety standard that may be issued by the Commission addressing the hazard of objects that are thrown by the rotating mower blade.

3. OPEI believes that the standard's effective date should be extended so that manufacturers will not have to continue to develop mowers that comply with the blade stopping requirement while the Commission considers OPEI's petition to allow alternative hand probe requirements.

4. Lastly, OPEI argues that, in any event, the standard's present effective



date does not provide adequate time to develop and test reliable clutch/brake devices to comply with the standard's blade stopping time requirement.

These contentions by the petitioner are discussed separately below.

1. *The petitions for review.* Judicial review of consumer product safety rules issued by the Commission is provided for in section 11 of the Consumer Product Safety Act, 15 U.S.C. 2060, which states that the "rule shall not be affirmed unless the findings under section 9(c) [of the CPSA] are supported by substantial evidence on the record taken as a whole." In addition, such rules must be issued in accordance with the applicable provisions of the Administrative Procedure Act, 5 U.S.C. 553, and other applicable statutes.

The Safety Standard for Walk-Behind Power Lawn Mowers was promulgated by the Commission on February 26, 1979, as a result of a vote by the Commissioners on February 5, 1979. At the time of the filing of this petition for an 18-month extension of the effective date (August 17, 1979), the petitioners had not filed a brief or made any other communication to the Commission of their reasons for why the standard should not be upheld on judicial review. Therefore, at the time of the filing of this petition, there was no reason advanced by OPEI to support its claim that the petitions "raise substantial questions as to the merits of the standard and the manner in which it was promulgated."

The Commission's findings under section 9(c) of the CPSA were discussed at length in the *Federal Register* notice that issued the final rule, as were possible alternative means of achieving safety and the reasons for adopting the provisions of the final rule. The Commission believes that the record in this proceeding clearly supports the rule's provisions.

The views of the public were also solicited in formulating the provisions of the final rule. In response to the proposal of May 5, 1977, the Commission received 118 written comments. An informal proceeding to receive oral comments on the proposal was held on June 12, 1977. Those persons who submitted comments by August 12, 1977, were given a further opportunity until September 6, 1977 to submit comments on oral or written comments that were submitted by others. (42 FR 34892). In addition, the Commission received a number of late comments, which it considered; and the Commission's staff held several public meetings to discuss various issues concerning the lawn mower proposal. Also, on November 2, 1978 (43 FR 51038), the Commission requested additional comments on the

data it had received concerning the safety and reliability of brake-clutch mechanisms. Twenty-one additional written comments were received in response to this request, and these comments were addressed. Also addressed were oral comments on this issue that were presented during a proceeding held on December 11, 1978.

Comments on the proposal were submitted by individual lawn mower manufacturers, the lawn mower industry trade association, private testing laboratories, private inventors, individual consumers, and a consumer testing organization.

The Commission concludes that the notice and comment provisions of the Administrative Procedure Act have been amply complied with in this case.

For the reasons stated above, the Commission does not agree that there is a substantial likelihood that the petitions for review will succeed on the merits.

To support its request for an extension of the effective date of the standard, OPEI notes that the economic effect of the standard will be large and that the portion of the retail price of mowers that is attributable to the standard will be almost \$200,000,000 during the first year the standard is in effect. OPEI also contends that the capital expenditures by the industry for retooling will be a major burden. These figures, however, assume that the judicial proceeding will not be resolved before the industry will have to make retooling expenditures and, in the case of the cited retail price impact, that manufacturers will proceed to sell mowers that comply with the standard to consumers. As will be explained below, these assumptions may not be accurate.

Available information indicates that the following schedule approximates the time periods that are required for manufacturers to produce mowers that comply with the performance requirements of the present standard: (See Research Report on Economic Impact of Proposed Safety Standard for Power Lawn Mowers, Battelle Columbus Laboratories, December 30, 1976.)

| Activity                                                      | Time required (months) |
|---------------------------------------------------------------|------------------------|
| Redesign appropriate systems and components                   | 1-4                    |
| Build prototype of modified unit incorporating design changes | 2                      |
| Test design                                                   | 4                      |
| Redesign and incorporate changes                              | 1-3                    |
| Modify prototype and test redesigned models                   | 2                      |
| Complete final design and release for production tooling      | 1-2                    |
| Order and receive production tooling                          | 6-8                    |
| Manufacture components and assemble first production units    | 2                      |

| Activity                    | Time required (months) |
|-----------------------------|------------------------|
| Test first production units | 2-3                    |
|                             | 21-30                  |

Based on the above timetable, in order to produce complying mowers by September 1981, manufacturers must make final design and order production tooling 10 to 15 months before September 1981, or somewhere between June and November of 1980. This lead time may be lengthened if major changes in mower decks are required or if many lawn mower manufacturers order components at the same time from the same component manufacturers.

Brake-clutch and engine suppliers are subject to a similar timetable. One major engine supplier has indicated to the Commission that his firm will require one year to develop a final heavy flywheel engine design and another year to order and receive tooling and begin production. The other major engine supplier already produces heavy flywheel engines. The major engine producers should now be in the process of developing designs and planning for increased production of heavy flywheel engines for brake-clutch mowers.

Brake-clutch manufacturers should also be well into the development phase. Some have final designs, and are planning to expand their production to meet the needs of the walk-behind mower markets. For both engine and brake-clutch manufacturers, commitments to production tooling will have to be made in the next 9 to 14 months. If engine and brake-clutch manufacturers have not received firm orders for the necessary components, they may be delaying their tooling decisions.

From the information available to the Commission, therefore, it appears that major capital expenditures will not be incurred by manufacturers and component suppliers until the period from June through October of 1980. Until that time, manufacturers of mowers, engines, and brake-clutch devices will continue to incur incremental costs for research and development. If the standard is set aside by the Court, the manufacturers will have to write off these expenditures to the extent that they do not proceed with the production of mowers that comply with the standard. It appears that some of these costs would be absorbed by the manufacturers and some of the costs would be passed on to consumers. Since manufacturers would always have the option of passing the costs on to consumers, it cannot be said that they

would suffer any irreparable harm if the effective date of the standard is not extended at this time. The Commission also notes that an extension could create a competitive disadvantage for manufacturers who have already made good faith efforts to comply with the standard.

As explained above, if the standard is set aside, and if manufacturers do not incorporate a blade stopping feature in the absence of a mandatory requirement to do so, the expenses incurred by manufacturers in preparing to meet the standard will cause retail price increases to consumers. Even if firm commitments for retooling had been made, however, the retail price impact should be considerably less than that required to comply with the standard.

The possibility that these expenses will result in a price increase to consumers that is not accompanied by an increase in the safety of mowers must be weighed against the fact that large numbers of serious injuries are occurring with the mowers that are presently on the market, and that it is essential that some mower improvements be made to reduce the number of injuries that are occurring. The Commission believes that it would be speculative to conclude that the standard may be set aside upon judicial review and that the possibility of this occurrence is greatly outweighed by the need for a standard to be in effect as soon as possible.

The Commission notes that the economic impact on the affected manufacturers and consumers could be minimized if the judicial proceeding is concluded prior to the time at which substantial commitments are made for retooling or parts orders. In this regard, the Commission observes that OPEI's request for a stay in the effective date was made more than 6 months after the Commission voted to issue the standard. Also, OPEI has made no attempt to expedite the pending petitions for review. In fact, OPEI requested and received a 2½ week extension of the time for filing its brief. The Commission would be willing to join with OPEI in a request to the Court that oral argument be set as soon as feasible after filing of the briefs.

OPEI also contends that approximately 20 companies would discontinue their lawn mower business as a result of the standard and that total lawn mower sales would decline almost 20 percent. These figures appear to be based on an estimate of the economic effect of an early version of the standard, which included garden tractors, riding mowers, and reel mowers within the scope of the standard

and which addressed a number of hazards in addition to blade contact. The Commission expects that, after the standard is in effect, the dollar volume of mower sales will increase slightly and the unit volume would decrease 10-15 percent. The Commission also believes that the number of firms leaving the industry will be somewhat less than the 20 mentioned in the petition and the adoption of the standard might create an opportunity for other firms to enter the field. These possible effects were fully considered by the Commission in its determination that the provisions of the standard were reasonably necessary and in the public interest.

In any event, these effects noted by OPEI will not be fully realized unless the standard goes into effect and, to that extent, the figures are not persuasive that the effective date of the standard should be extended at this time.

2. *The interrelationship of requirements addressing thrown objects and blade contact injuries.* In the form in which the standard was proposed (44 FR 23052; May 5, 1977), the standard contained requirements intended to protect against the risk of injury caused by objects propelled by the rotating blade. After the comments on the proposal were received, the Commission decided to initially proceed to issue requirements for walk-behind mower blade contact injuries only and to issue any requirements addressing thrown objects injuries or riding mowers at a later time. The Commission acknowledged, however, that there may be design interrelationships between the blade stop and foot probe requirements, addressing blade contact injuries, and any requirements addressing thrown objects. The Commission indicated that it expected to be able to issue thrown objects requirements by the end of 1979 and that such requirements would have the same effective date as the blade contact requirements (December 31, 1981).

In its petition to extend the effective date, OPEI refers to the separate consideration of blade contact requirements and thrown objects requirements, and notes that the schedule originally forecast by the Commission will not be met. OPEI argues that the economic impact of both sets of requirements will therefore be greater than that originally predicted by the Commission and the contractors and that the effective date of the blade contact requirements should be extended to obviate the need for double tooling costs that might be incurred in making any modifications required to

comply with a thrown objects requirement.

The Commission is presently conducting a thorough evaluation of the actions that could be taken to address thrown objects injuries, and it is not possible at this time to predict with any degree of certainty when appropriate requirements might be issued. While the Commission acknowledges that there may be increased costs associated with having separate effective dates for the blade contact requirements and thrown objects requirements, the Commission cannot justify delaying the benefits to consumers that will be caused by the anticipated reduction in blade contact injuries as a result of the standard that has been issued.

The Commission's staff anticipates that the retail price impact of having separate effective dates for blade contact and thrown objects requirements should not exceed about \$2 per mower. It is possible, however, that high capital costs would be imposed on certain firms and that some firms may decide to cease mower production as a result. However, not all thrown objects design solutions will necessarily require major retooling. In many cases, new parts or shields may be sufficient, and the petition does not substantiate the assertion that a major retooling will be necessary.

These economic effects of issuing a thrown objects standard at a later time will be thoroughly evaluated by the Commission in deciding whether to issue thrown objects requirements and in determining the appropriate effective date for those requirements.

3. *Possible amendment to incorporate hand probe requirements as an alternative to blade stopping time requirements.* At the time of the filing of this petition to extend the effective date of the standard, OPEI described a petition that it intended to file asking the Commission to amend the standard to allow mowers whose blades are inaccessible as determined by a specified probe intended to simulate the human hand but which do not comply with the blade stopping time requirement. This latter petition (No. CP 79-13) was filed by OPEI on September 12, 1979, and the Commission estimates that it will at least be mid-December, 1979, before the staff has completed its evaluation of this petition and the Commission has had an opportunity to vote on whether to begin a proceeding to amend the standard to provide for the use of hand probes.

OPEI first presented a preliminary proposal for hand probes and associated test procedures to the CPSC on March of 1978. The staff evaluation of this



proposal disclosed major deficiencies in the probe configurations and test procedure and concluded that OPEI's proposal could not be used as the basis for the development of mandatory hand probe requirements.

In the fall of 1978, shortly before the Commission was to consider the issuance of the final standard, the industry, through OPEI, renewed its efforts to incorporate provisions for hand probes into a final standard. The industry suggested that adequate and supportable blade accessibility test criteria and requirements could be developed within six months, that the Commission should cooperate with the industry in developing these tests, and that the Commission should delay issuance of a final standard until these tests could be incorporated into the standard. The industry began its development effort in December of 1979.

After considering OPEI's proposal for hand probes prior to issuing the final standard, the Commission concluded that, based on the information available at that time, requirements for such probes were not feasible. In the Federal Register notice that issued the final standard, the Commission stated:

"[I]t is not clear that criteria for the construction and manipulation of such probes, sufficient to reproduce the range of actions that could be developed with the resources that may be available. Also, the time required for development of such probes, the development of proposed mandatory requirements, the response to comments that are received on the proposal, and the issuance of a final standard would be excessive in view of the number of ongoing injuries caused by contact with blades of power mowers. For these reasons, and because of the limited resources of the Commission, the Commission concludes that performance requirements of the type suggested by the mower industry trade association are not feasible for proposal as mandatory requirements.

The Commission did indicate, however, that it would permit the staff to cooperate with the industry effort and that, if suitable probes were developed, the Commission would consider whether the probes were appropriate for inclusion in the mandatory standard and would consider at that time whether an extension of the effective date of the standard was appropriate.

Ten months after the industry effort was begun, OPEI submitted its hand probe petition, which suggested a specific hand probe and various test procedures. As explained above, the Commission's evaluation of this petition is not yet complete. It is premature to speculate on the results of the full evaluation of the hand probe petition at the time. However, the Commission

believes that since it will make a decision on whether to amend the standard to allow for a hand probe alternative before manufacturers will need to invest large sums for retooling, it is preferable for manufacturers to continue to expend incremental costs for research and development than to grant an extension that will have the effect of delaying the effective date by at least one full production year. (Even a 6 month extension during pendency of the hand probe petition would result in a delay in the production of complying mowers of 1 full production year since the normal production year runs from late summer to spring.)

It the Commission decides to initiate a proceeding to amend the standard in response to OPEI's hand probe petition, however, the Commission would also consider at that time whether a change in the present effective date of the standard is appropriate.

4. *Is the present effective date reasonable?* OPEI contends that the present effective date of the standard is unreasonable for the following reasons:

1. That, although the effective date of the standard is December 31, 1981, because the normal production year begins in the late summer or early fall, the manufacturers would actually have to comply with the standard by the summer of 1981.

2. That this effective date eliminates an important summer testing season.

3. That manufacturers will not have time to develop and test devices that comply with the standard's requirements.

4. That additional time is needed to develop and confirm the reliability of the devices required by the standard.

These arguments were fully considered by the Commission at the time of issuance of the standard. Upon consideration of the arguments in this petition and other available information, the Commission concludes that the development schedule set out above is adequate for manufacturers to develop or obtain the components necessary to comply with the standard before the production year that begins just prior to the effective date of the standard. The Commission's reasons for this determination were completely set out in the Federal Register notice that issued the final standard.

In order to demonstrate the difficulty in producing brake-clutch units, OPEI's petition also states that none of the commercially available brake-clutch units have performed without a hazardous failure. However, the information available to the Commission clearly shows that reliable brake-clutch units can be developed and produced

before the effective date of the standard, as discussed in the Federal Register notice issuing the standard.

#### Conclusion

After considering the petition (CP 79-12) submitted by OPEI, and other information available to the Commission, and in view of the public interest in having the protection of the standard as soon as reasonably possible, the Commission denies the petition for the reasons explained above. However, if the Commission grants petition CP 79-13, also submitted by OPEI, it will consider whether any change in the effective date of the standard is warranted at that time.

Sadye E. Dunn,  
Secretary, Consumer Product Safety Commission.

December 3, 1979.

[FR Doc. 79-37500 Filed 12-5-79; 8:45 am]

BILLING CODE 6355-01-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 231

[Release No. 33-6157]

#### Disclosure of Management Remuneration by Certain Foreign Private Issuers; Interpretive Guideline

AGENCY: Securities and Exchange Commission.

ACTION: Publication of an interpretive guideline.

**SUMMARY:** The Commission publishes an interpretive guideline for the disclosure of management remuneration by certain foreign private issuers. Although domestic issuers are generally required to disclose the total remuneration and other benefits paid to or accrued for certain of the highest paid directors and officers, the staff has not objected to the disclosure of such information on an aggregate group basis by certain foreign issuers. This guideline publishes that interpretation.

**EFFECTIVE DATE:** January 7, 1980.

**FOR FURTHER INFORMATION CONTACT:** Carl T. Bodolus or Ronald Adeo, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202/272-3246) or (202/272-3250).

**SUPPLEMENTARY INFORMATION:** The Commission today authorized the publication of Guide 63, "Disclosure Relating to Management Remuneration By Certain Foreign Private Issuers," of

the Guides For the Preparation and Filing of Registration Statements Under The Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)) (the "Securities Act"). In a separate release under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)) (the "Exchange Act"), Release No. 34-16371, also published today, the Commission adopted Form 20-F, an integrated registration and annual report form authorized for use by certain foreign private issuers. Guide 63 is consistent with the provisions of Form 20-F pertaining to disclosure of management remuneration.

In Securities Act Release No. 33-5880 (November 2, 1977) (42 FR 58676, November 10, 1977), the Commission published for comment a proposed Guide 63 that would have required the identity of each director and the three highest paid officers and the total dollar amount of direct remuneration and related benefits paid or accrued for that named group in the aggregate. That proposal is not included in Guide 63 published today. Guide 63, like all existing guidelines for preparing Securities Act registration statements, is not a Commission rule nor does it bear the Commission's official approval. Rather, it represents the policies and practices that are followed by the Division of Corporation Finance in administering the disclosure requirements of the Securities Act.

#### Discussion

Historically, certain disclosure accommodations have been made under both the Securities Act and the Exchange Act for certain foreign private issuers.<sup>1</sup> One of these accommodations is in the area of management remuneration where aggregations for the entire officer-director group in lieu of disclosures relating to individuals have been permitted.<sup>2</sup> Such individual management remuneration disclosures are not generally required in foreign countries. Prior Forms 20 and 20-K and the new Form 20-F specifically provide

<sup>1</sup>Historically, Canadian and other North American private issuers have been treated, generally, the same as domestic issuers for the purposes of registration and reporting under both Acts. The primary exception is in connection with registration pursuant to Section 12(g) of the Exchange Act and subsequent reporting under Section 13(a) of that Act where Canadian and other North American foreign private issuers generally are treated similarly to other foreign private issuers. This distinction will be continued in the proposed guide.

<sup>2</sup>For example, Item 4(a) of Regulation S-K (17 CFR 229.20) requires disclosure of the identity of and the amounts paid to the five highest paid directors and officers whose total remuneration exceeds \$50,000.

this accommodation. Unlike registration and reporting forms adopted under the Exchange Act, no special forms have been adopted under the Securities Act for foreign private issuers. Notwithstanding the absence of any specific accommodation provision in the registration statement forms under the Securities Act, the staff historically has followed the specified requirements in Forms 20 and 20-K with respect to disclosures of management remuneration in registration statements filed under the Securities Act and has not objected to group management remuneration information where individual management remuneration information is not required by, or otherwise made in, the applicable foreign jurisdictions.

In Exchange Act Release No. 34-14128 (November 2, 1977) (42 FR 58684, November 10, 1977) proposing Form 20-F, the Commission proposed to modify the historical accommodations by requiring the identification by name of the three highest paid directors and officers and the aggregate remuneration paid to them. Guide 63, proposed in Securities Act Release No. 33-5880 (November 2, 1977), was consistent with the proposed Form 20-F. However, as explained in Exchange Act Release No. 34-16371, the Commission has decided to retain the traditional accommodations to certain foreign issuers concerning their disclosure of management remuneration. Accordingly, the final version of Guide 63 conforms to the requirements of the adopted Form 20-F.

Guide 63 permits disclosure of only the aggregate remuneration and related benefits paid to or accrued for all directors and officers as a group unless foreign law or regulations require such disclosure on an individual basis.

#### Text of the Guide

*Guide 63. Disclosures Relating To Management Remuneration by Certain Foreign Private Issuers*

Various registration forms contain items requiring the disclosure of information with respect to remuneration, pension, retirement, options to purchase securities and similar benefits paid to, accrued for, held by and proposed to be paid in the future to certain designated officers and directors on an individual basis. Non-North American private issuers may respond to the remuneration and related benefits items by indicating the aggregate payments paid or accrued to all directors and officers as a group. However, if the registrant discloses to its shareholders or otherwise makes

public, pursuant to applicable foreign laws or regulations or stock exchange requirements or otherwise, the information specified in these items for individually named directors and officers, then such information should also be disclosed in response to these items.

#### Authorization of Publication for Guide

The Commission hereby authorizes publication of Guide 63 and, accordingly, it is added to 17 CFR Part 231, pursuant to the Securities Act of 1933 particularly Sections 7 and 10 thereof. [Secs. 7, 10, 48 Stat. 78, 81, 15 U.S.C. 77g and 77j.]

By the Commission.

George A. Fitzsimmons,  
Secretary.

November 29, 1979.

[FR Doc. 79-37401 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

### 17 CFR Part 239

[Release No. 33-6156]

#### Short Form for Registration of Securities for Rights Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

**SUMMARY:** The Commission is adopting amendments which revise the short form for the registration of securities to expand its usage by certain foreign private issuers for certain rights offerings to security holders.

**EFFECTIVE DATE:** January 7, 1980.

**FOR FURTHER INFORMATION CONTACT:** Carl T. Bodolus or Ronald Adeo, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202/272-3246) or (202/272-3250).

**SUPPLEMENTARY INFORMATION:** The Commission announces amendments to Form S-16 [17 CFR 239.27], a form for the registration of certain securities under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)]. The amendments extend the availability of the Form S-16 for use in rights offerings to security holders by certain foreign private issuers.

#### Discussion

These amendments were published for comment in Securities Act Release No. 33-5879 (November 2, 1977) (42 FR 58677, November 10, 1977) in conjunction with Form 20-F, the proposed integrated registration



statement and annual reporting form for certain foreign private issuers under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a, et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)).<sup>1</sup> The subject proposals were made conditional on the adoption of that proposed form.<sup>2</sup> The proposals were premised upon the concept that the foreign issuer's annual report would be comparable in form and content to an annual report filed by a domestic issuer on Form 10-K (17 CFR 249.310). In a concurrent release,<sup>3</sup> the Commission is announcing the adoption of new Form 20-F. The disclosure requirements therein have been reduced somewhat from those proposed. Nevertheless, the Commission has determined to adopt the proposals to amend Form S-16 substantially as proposed as an initial step in the resolution of the problems associated with exclusion of United States investors from direct participation in unregistered rights offerings by foreign issuers. Although no commentators objected to the proposals, several questioned its usefulness since the proposed Form 20-F was tantamount to preparing a Form S-1 annually which is more frequent than rights offerings. The reduced requirements of the Form 20-F should alleviate this concern. Under the amendments adopted today, Form S-16 will be available for registration by certain foreign issuers of securities to be offered upon the exercise of outstanding rights granted on a pro rata basis to existing holders by the issuer of the securities underlying the rights.

Except as discussed below, issuers using Form S-16 for rights offerings would continue to be required to satisfy the eligibility conditions for the use of Form S-7 (17 CFR 236.26). Four of these conditions are generally that issuers (1) be organized in the United States, (2) have their principal business operations in the United States, (3) if foreign, file the same reports under the Exchange Act as domestic issuers and (4) if a Section 15(d) reporting company, have furnished to security holders a report containing the information called for in Rule 14a-3(b) (17 CFR 240.14a-3(b)) and Part II of Form 10-K. In order to enable foreign private issuers to use Form S-16 for rights offerings, the amendments adopted today exempt such issuers from

these conditions<sup>4</sup> and require their compliance with either of two alternative conditions. The first is that the issuer shall have furnished or will furnish with the prospectus, to all its security holders who are residents of the United States, including those holding under American Depositary Receipts or similar arrangements, a copy of the issuer's latest annual report to security holders, if in the English language. As a part of this condition, the issuer must also undertake either in the annual report to security holders or in the prospectus, that upon the written request of any such United States holder, the holder will be sent a copy of the issuer's latest annual report filed with the Commission under the Exchange Act on new Form 20-F. It is understood that this provision would impose an obligation on the issuer to take appropriate steps to assure that the disclosure documents would be transmitted to the beneficial owners when the securities are held by nominees or depositories. As an alternative to the foregoing condition, the issuer might simply furnish with the prospectus a copy of its latest annual report filed with the Commission on Form 20-F.

**EFFECTIVE DATE:** The amendments contained in this release shall be effective January 7, 1980. Eligible foreign issuers may then use Form S-16 for rights offerings as soon as they file an annual report on Form 20-F which may be filed prior to the time it would otherwise be required.

#### Text of the Amendments

The text of the amendments is set forth below:

Form S-16 (17 CFR 239.27), is amended as follows:

**§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.**

A. Rule as to use of Form S-16

3. *Rights Offerings.* Securities to be offered upon the exercise of outstanding rights granted by the issuer of the securities to be offered, provided such rights are granted on a pro rata basis to all existing securityholders of the class of securities to which the rights attach. A foreign private issuer (as defined in Rule 3b-4(c) of the Exchange Act, 17 CFR 240.3b-4(c)) which satisfies all of the provisions of the Rule as to Use of Form S-7, except the provisions in General Instruction A(a) of Form S-7 relating to incorporation

<sup>4</sup> These conditions will not be waived, however, in connection with the use of Form S-16 for other primary offerings, including the sale of any securities not taken down by existing security holders in rights offerings.

and principal business and the filing with the Commission of the same type of reports filed by domestic issuers and the provision in General Instruction A(b)(3), may register rights offerings on this form, provided such foreign issuer:

(i) Furnished previously or furnishes with the prospectus to all its securityholders resident of the United States, including those holding under American Depositary Receipts or similar arrangements, copies of its latest annual report to securityholders, if in the English language, and such annual report to securityholders or the prospectus contains the issuer's undertaking to send promptly to any such United States holder, upon written request, a copy of the issuer's latest annual report filed with the Commission under the Exchange Act on Form 20-F; or

(ii) Furnishes with the prospectus a copy of its latest annual report filed with the Commission under the Exchange Act of Form 20-F.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 908, 908; sec. 8, 68 Stat. 658; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a))

**Statutory Authority:** The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10 and 19(a) thereof.

Dated: November 29, 1979.

By the Commission,

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37402 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

#### 17 CFR Parts 240 and 249

[Release No. 34-16371]

#### Rules, Registration and Annual Report Form for Foreign Private Issuers

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Adoption of amendments to forms and rules.

**SUMMARY:** The Commission announces the adoption of amendments to the registration statement, periodic report, and annual report forms authorized for use by certain foreign private issuers. The amendments consolidate the registration and annual report forms into a single form and increase the disclosure requirements presently applicable to foreign private issuers.

The amendments to the periodic report form basically require English translations of certain documents furnished or otherwise disseminated to securityholders. The rules governing the periodic report form authorized for foreign private issuers are amended to make that form unavailable to essentially United States companies. The Commission is also adopting amendments to the rule which presently

exempts certain foreign securities from the proxy, tender offer and insider trading provisions of the Securities Exchange Act to limit such exemptions only to the proxy and insider trading provisions.

**EFFECTIVE DATE:** For registration statements and Form 6-K reports filed after December 31, 1979 and for annual reports relating to fiscal years ending on or after December 31, 1979. The amendments to Rules 3a12-3, 13a-16 and 15d-16 will be effective, on December 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl T. Bodolus (202/272-3246) or Ronald Adey (202/272-3250), Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission announces the adoption of Form 20-F, amendments to Form 6-K (17 CFR 249.306), and Rules 3a12-3 (17 CFR 240.3a12-3), 13a-16 (17 CFR 240.13a-16) and 15d-16 (17 CFR 240.15d-16). Form 20-F, which consolidates and replaces the existing Forms 20 (17 CFR 249.220) and 20-K (17 CFR 249.320), is the registration and annual report form available for use by certain foreign private issuers<sup>1</sup> under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)]. Form 20-F generally calls for narrative disclosure somewhat less extensive than Forms 10 (17 CFR 249.210) and 10-K (17 CFR 249.310) but which nevertheless is a substantial increase in the disclosure required by Forms 20 and 20-K.<sup>2</sup>

Form 6-K, an interim reporting form, is amended to require English translations or English versions of material press releases and information sent to foreign securityholders. Rule 3a12-3 is revised so that the tender offer provisions of Section 14 of the Exchange Act will apply to the securities of certain foreign private issuers. The amendments to Rules 13a-16 and 15d-16 prohibit the use of Form 6-K by essentially United States registrants which are also prohibited from using Form 20-F.

The proposed version of these forms and rules was published for public comment in Exchange Act Release No.

<sup>1</sup> Rule 3b-4 (17 CFR 240.3b-4) defines foreign private issuer as any foreign issuer other than a government.

<sup>2</sup> The Commission is also announcing amendments to Form S-16 (17 CFR 239.27) and publishing Guide 63. For a discussion of these amendments, see Securities Act Release No. 33-6158, and 33-6157 respectively.

34-14128 (November 2, 1977) (42 FR 58684, November 10, 1977) (the "1977 Release"). As proposed, the forms would have required disclosure substantially equivalent to that received from domestic issuers. The Commission had previously solicited the views of the public concerning this general concept as a way of improving the disclosures then required by Forms 20 and 20-K.<sup>3</sup>

In a concurrent release, Exchange Act Release No. 34-16372, the Commission is withdrawing proposed amendments to Guides 1 and 2 and is deferring action on proposed amendments to Guide 3 of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Exchange Act (the "Exchange Act Guides"), which would have applied the Exchange Act Guides to registration statements and reports filed by foreign private issuers.

#### General Statement

Under the federal securities laws, the Commission's primary mandate is that of investor protection. Thus, United States investors in foreign securities should be supplied with information equal as nearly as possible and practicable to that provided to investors in securities of domestic issuers.

The task of assessing appropriate disclosure requirements for foreign issuers is an important one. The world capital markets are becoming increasingly international in nature. Not only the Commission, but the other organizations discussed below are today concerned with the examination and reevaluation of the general systems of securities regulation in international markets. The Commission believes that this examination should be a continuing and evolutionary one and that its action, herein announced, represents an important step, but only a step, in the harmonization of international disclosure standards.

The amendments announced today represent a significant improvement in the amount of information required of foreign issuers in the United States, placing their required disclosures on a level closer to that required of domestic issuers. At the same time, the Commission recognizes that there are differences in various national laws and businesses and accounting customs which the Commission should take into account when assessing disclosure requirements for foreign issuers. As will be noted, significant reductions in the proposed disclosure requirements have

<sup>3</sup> Exchange Act Release No. 34-13056 (December 10, 1976) (41 FR 36992, December 15, 1976) (the "1976 Release"). The public comments received in response to both releases are available for public inspection in File S7-661.

been made in the areas of most concern to foreign issuers.<sup>4</sup> The public commentary has been helpful to the Commission. Not only have significant changes been made in the major aspects of the requirements as proposed, but also almost every item in its new Form 20-F has been modified to reflect suggestions made to the Commission.

The forms and rules adopted and amended herein are of general application and have thus been considered by the Commission. The Commission recognizes, however, that at times registrants may find themselves in circumstances where particular requirements may, in their view, be inappropriate. In such instances, the Commission, through its Division of Corporation Finance, stands ready to discuss formal or informal modifications of requirements as applied to the circumstances of a particular registrant. In this regard, the Commission will maintain its traditionally flexible approach and attitude in administering the disclosure requirements for foreign issuers to avoid undue hardship in particular cases.

The developing unification of international capital markets has caused other organizations to explore the harmonization of disclosure and financial reporting standards. Notable among these organizations are three public organizations, the Organization for Economic Cooperation and Development ("OECD"), the European Economic Community ("EEC") and the United Nations Commission on Transnational Corporation ("UNC"), and one private organization, the International Accounting Standards Committee ("IASC"). The Commission has reviewed and been influenced by the standards proposed or adopted by these organizations and believes its present action is broadly consistent therewith. The Commission will continue to encourage and participate to the extent practical with the work of these organizations.

The amendments adopted today also represent another step in the Commission's continuing efforts to integrate further the corporate disclosure requirements under the federal securities laws by permitting information provided to investors pursuant to the disclosure requirements of the Exchange Act to be relied upon in lieu of disclosure which would otherwise be required in registration statements under the Securities Act of

<sup>4</sup> These areas are: industry segment reporting, time of filing requirements, management remuneration and English translations of documents furnished with periodic reports.

<sup>1</sup> Exchange Act Release No. 34-14128 (November 2, 1977) (42 FR 58684, November 10, 1977).

<sup>2</sup> Contemporary proposals to extend the use of Form S-16 for rights offerings by domestic and North American foreign issuers which otherwise satisfy the eligibility conditions to its use were adopted previously. Securities Act Release No. 33-5923 (April 11, 1978) (43 FR 16672, April 19, 1978).

<sup>3</sup> Exchange Act Release No. 34-16371.



1933 (the "Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)). In this connection, the Commission today announced in a concurrent release<sup>6</sup> the adoption of amendments to Form S-18 (17 CFR 239.27) under the Securities Act to permit use of that form for rights offerings by certain foreign issuers.

#### I. Summary of Public Comments

The Commission received 54 letters commenting on the general concept of substantially equivalent disclosure for foreign and domestic issuers,<sup>6</sup> and 61 letters commenting on the specific proposals.<sup>7</sup> Since many commentators responded to each release, the total number of commentators on both releases was 88.<sup>8</sup>

The foreign private issuer commentators, with one exception, generally were opposed, in whole or part, to the proposed Form 20-F. A number indicated that they would be compelled to re-evaluate their participation in the United States capital markets in terms of their own benefits and costs if the proposals were adopted. Others were critical of the imposition of increased requirements after they had become subject to the reporting requirements of the Exchange Act. The major disclosure proposals to which the foreign issuers objected were those relating to financial reporting on an industry segment basis, particularly with respect to profitability, and the disclosure of management remuneration on an individual basis. Other major objections included the proposal to reduce the filing period for the annual report from six to four months after the close of the fiscal year, the proposed requirement for English translations of all documents furnished with Form 6-K and the general increased costs of compliance. The cost objections related primarily to the costs involved in implementing accounting systems to obtain industry segment information and, particularly in the case of Japanese issuers, to increased costs that would be necessitated for United States consultants and translators.

The remaining non-issuer commentators, with several exceptions, also were opposed to the proposals. Their major objections included the following: the lack of any showing of abuses based on present disclosure

requirements; the lack of empirical data relating to perceived benefits of or need for the proposed requirement; the lack of any showing of competitive disadvantage to domestic issuers; the perceived reluctance and/or refusal of foreign issuers to comply with the proposals if adopted and the consequent impairment of the United States capital market for foreign securities, the international flow of capital and investment opportunities for United States investors; and the imbalance of costs and benefits. The general consensus of this group of commentators was that the Commission should withdraw its proposals or, prior to any definitive decisions, hold public hearings and/or increase contacts with appropriate foreign organizations with the objective of setting acceptable international standards of disclosure and financial reporting. Generally, these commentators identified disclosure compliance problems of foreign issuers without rejecting the concept of more meaningful disclosure per se.

Some of the commentators suggested alternative approaches such as: reciprocal or country-of-origin treatment, deference to international standards to be developed, application only to future registrants or reporting issuers, differentiations between foreign issuer which have made public offerings in the United States and those only listing securities on United States stock exchanges, differentiation between issuers in the developed and the less developed countries, differentiation based on whether debt or equity securities are involved and consideration of other factors, including whether the foreign issuers are regulated by specific governmental authorities in their domiciles and thus subject to specialized reporting requirements of such authorities. A number of commentators indicated that accommodations, provisions for specific relief and transitional periods would be necessary before certain of the proposed disclosure requirements could be met by foreign companies. Other commentators stressed the importance of maintaining separate registration and reporting forms for foreign issuers to assure that future amendments to the counterpart domestic forms would not be applied automatically to foreign issuers without specific consideration.

The Commission and its staff have considered carefully all public comments received and alternatives suggested. In addition, as previously noted, consideration was also given to the various disclosure guidelines being developed or already promulgated by

various international and regional organizations, including particularly those of the OECD,<sup>9</sup> the EEC<sup>10</sup> and the UN.<sup>11</sup> As a result, significant revisions have been incorporated in the amendments adopted today, particularly in Form 20-F. The Commission believes that the Form 20-F reflects the approach of these guidelines and requires disclosure in comparable detail. Certain of the suggested alternatives have been followed, but in modified form. For example, in certain cases reference is made to foreign law and requirements as the basis for disclosure in the Form 20-F.

Overall, the Commission has endeavored to act in a way consistent with the harmonization of international standards, seeking to require the disclosure of material information while acknowledging legitimate concerns raised by differing national requirements and practices.

#### Synopsis

The following brief synopsis is intended to assist interested parties to understand the amendments adopted.

##### A. General Instructions

As proposed, annual reports on Form 20-F would have been required to be filed within four months after the end of the registrant's fiscal year. Many commentators explained that foreign registrants need more time to prepare their annual report since they must first comply with applicable foreign regulations which often allow more than four months time in which to furnish annual reports to shareholders. Consequently, General Instruction A(c) has retained the present requirement that the annual report must be filed within six months after the end of the registrant's fiscal year.

##### B. Narrative Disclosure

The narrative disclosure called for by Form 20-F contains more disclosure items than the previously existing Forms 20 and 20-K but fewer disclosure items than required by Form 10-K. Except as noted below, the adopted disclosure items generally are as proposed in Exchange Act Release No. 14128.

<sup>6</sup> E.g., "Guidelines For Multinational Enterprises," (1976) and "Minimum Disclosure Rules Applicable To All Publicly Offered Securities," (1976).

<sup>10</sup> E.g., "The Fourth Directive On Annual Accounting," (1978); "The Sixth Directive On Publication Of Prospectus When Securities Are Admitted To Official Stock Exchange Quotation," (Proposed); "Seventh Directive On Group Accounts," (Proposed); and "The Eighth Directive Auditing Practices," (Proposed).

<sup>11</sup> Report of the Group of Experts of International Standards of Accounting and Reporting, UN Document E/C 10/33 (1977).

**Item 1. Description of Business.**—Item 1, Description of Business, was proposed to be substantially identical to the business description in the then contemporary Form 10-K, now Item 1 of Regulation S-K [17 CFR 229.20]. However, the adopted item is based on Form S-18 which calls for less extensive business disclosure than Regulation S-K. The item adopted recognizes that foreign jurisdictions do not generally require the level of disclosure contemplated by Regulation S-K.

Virtually all foreign issuers commented that they would be unable, and in some cases, unwilling, to comply with the industry segment requirements as proposed. The proposed industry segment disclosure requirement has been modified to require quantitative disclosure on a revenue basis only with a narrative discussion requirement if revenue and profit contributions of the respective segments differ significantly.

**Item 2. Summary of Operations and Management's Discussion and Analysis.**—The proposed requirement for a five year Summary of Operations and a related Management's Discussion and Analysis of the Summary has not been adopted. As announced in Exchange Act Release No. 15068 (August 16, 1978) [43 FR 37460, August 23, 1978], the Commission is presently considering amendments to the Form 10-K, including the requirements relating to the Summary of Operations and the Management's Discussion and Analysis. Consequently, the Commission has decided to adopt a requirement for an analysis of the income statements filed as part of the Form 20-F and to consider whether any revisions in that requirement would be necessary when the final requirements for the Form 10-K have been developed.

**Item 3. Description of Property.**—As proposed, this item was substantially similar to the description of property item in the Form 10-K as in effect in 1977 prior to the promulgation of Item 2 of Form S-K and Rule 3.18(k) of Regulation S-X.<sup>12</sup> Paragraph (a) of Item 3, calling for a general description of the registrant's property, was adopted as proposed except for the deletion of a discussion of property on an industry segment basis.

Two commentators, both major oil companies, vigorously opposed the proposals. Notwithstanding their objections, the Commission believes that reserve and production information is important to investors in oil and gas companies and that disclosure of such

information would not unduly burden these registrants.

The item as adopted and the related appendix require, as a minimum, general information about the quantities of reserves and production of registrants involved in oil and gas operations. Moreover, such registrants must either comply with Rule 3.18 of Regulation S-X or discuss the differences between that Rule and the principles used. The discussion should state the effects of the differences if practicable.

**Item 4. Control of Registrant.**—If the registrant's voting securities are in registered rather than bearer form, disclosure must be made of all beneficial owners of more than ten percent of registrant's stock and of the aggregate beneficial ownership of directors and officers as a group. This item, as proposed and adopted, is otherwise substantially the same as Item 6 of Regulation S-K except that the ownership percentage requiring disclosure has been raised to ten percent from five percent to be consistent with international guidelines.

**Item 5. Directors and Officers.**—This item requires only a list of the names and positions with registrant for each director and officer. The proposed extensive disclosure of their business experience and general background was deleted primarily because it is inconsistent with the requirements of many foreign jurisdictions and international guidelines.<sup>13</sup>

**Items 6 and 7. Remuneration of and Options Granted to Directors and Officers.**—The proposed version of these items would have required (a) identification of the three highest paid officers or directors, and the aggregate remuneration and similar benefits paid to that group, and (b) aggregate remuneration and similar benefits paid to all directors and officers as a group. However, the remuneration and similar benefits paid to specified individuals would not have been required to be disclosed unless mandated by foreign law or regulation.

Taking into account the large critical comment this proposal engendered and for the reasons given by those commentators, the Commission has decided to delete the specific requirement for the identification of the three highest paid directors or officers and the aggregate amount paid to them. The items as adopted conform to the present disclosure practices of foreign issuers in registration statements filed

under the Securities Act and in the Forms 20 and 20-K.

**Item 8. Pending Legal Proceedings.**—This item was adopted substantially as proposed except for the deletion of the requirement relating to the disclosure of environment litigation.

**Item 9. Nature of Trading Market.**—This item, as proposed and adopted, requires a description of the principal trading market outside the United States for the registrant's securities.

**Items 10, 11 and 12. Description of Securities.**—These three items require a brief description of the terms of the securities being registered. These items were adopted as proposed.

**Item 13. Exchange Controls.**—This item, similar to an existing item in the Form 20, requires a brief description of any limitations of a United States security-holder's right to receive dividends or interest payments or right to vote.

**Item 14. Taxation.**—This item, adopted as proposed, requires a brief description of the taxes to which United States security holders are subject and any relevant tax treaties.

**Item 15. Changes in Securities.**—This item, adopted as proposed, requires a description of material changes in the terms of the registered security or a substitution of the assets securing the registered security.

**Item 16. Defaults upon Senior Securities.**—This item requires identification of any defaults on senior securities. It was adopted as proposed.

**Item 17. Interest of Management in Certain Transactions.**—As proposed, this item would have required a description of material transactions between the registrant and its management similar to that specified in Items 4(e) and (f) of Regulation S-K. The Commission has decided to condition the disclosure of such information on its being made public pursuant to foreign laws or otherwise. All the proposed instructions were deleted because foreign law and regulations will provide the basis for disclosure.

**Financial Statements.**—The financial statements filed as part of the Form 20-F are not required to comply with United States generally accepted accounting principles or Regulation S-X. However, a discussion of the differences of the principles used from United States generally accepted accounting principles and Regulation S-X is required.

**Exhibits.**—The exhibits required to be filed are substantially the same as those required by the Form 10-K. In the proposed Form 20-F, Item 4 would have required a list of all parents and subsidiaries. As adopted, Instructions A.7 and B.4 only require that such a list

<sup>6</sup> Securities Act Release No. 33-6158.

<sup>7</sup> The 1978 Release.

<sup>8</sup> The 1977 Release.

<sup>9</sup> The summary, discussed in this section, relates primarily to comments received in response to the specific proposals in the 1977 Release. See that release for a summary of the comments received on the 1978 Release.

<sup>12</sup> 17 CFR 210.3-18. This rule relates to the financial accounting and reporting for oil and gas producing activities.

<sup>13</sup> This information is perhaps most relevant in proxy solicitation. Most foreign issuers are exempt therefrom, however, by Rule 3a12-3.



be provided upon request by the Commission. Several commentators strongly objected to the proposal since in many foreign countries operations are customarily carried through a large number of affiliated companies. The Commission agrees with these commentators that in many situations a detailed description of such affiliations would not assist investors, but the Commission believes that this information should be provided if warranted by the circumstances.

#### C. Proposals Deleted

The following proposed items have not been adopted because the information they would have required was largely irrelevant to United States investors in foreign securities, disclosed elsewhere in the Form 20-F or because of other reasons: (1) Item 2: Summary of Operations, (2) Item 12: Recent Sales of Unregistered Securities, (3) Item 18: Indemnification of Directors and Officers, (4) Item 21: Increases and Decreases in Outstanding Securities and Indebtedness, (5) Item 22: Submission of Matters to a Vote of Security Holders, (6) Item 23: Acquisition or Disposition of Assets, (7) Item 24: Changes in registrant's Certifying Accountant, and (8) Item 25: Reports on Form 6-K.

#### D. Form 6-K and Rules 13a-16 and 15d-16

Foreign private issuers entitled to file annual reports on Form 20-F are not required to file the quarterly reports on Form 10-Q [17 CFR 249.308a] or current reports on Form 6-K [17 CFR 249.308] as domestic issuers are. Rather, such foreign issuers furnish Form 6-K reports which require the furnishing of information and material to investors made public pursuant to foreign law, stock exchange regulations or distributed to security holders.

Recognizing that many of these documents required to be furnished in Form 6-K reports are in a foreign language, the Commission desired to make these reports more useful to United States security holders and market intermediaries by proposing that all documents, papers, and exhibits furnished with the report be either translated into English or summarized in an English version. Many foreign issuer commentators objected to this proposal on the basis of the costs involved in translating these documents and concern for legal liability in the event of inaccurate translations. The proposals as well as the present Form 6-K requirements were also criticized on the basis that documents or reports furnished, because of differing customs and practices particularly in the

financial reporting area, might be considered misleading and otherwise result in unnecessary and burdensome submissions.

As adopted, Form 6-K requires English translations, versions or summaries only of information distributed to security holders and of material press releases. Other types of information and documents need be furnished only if English translations, versions or summaries are prepared by the issuer. The Commission believes that this compromise will benefit United States shareholders and at the same time alleviate to a great extent the concerns of and burdens on foreign issuers.

Rules 13a-16 and 15d-16 prescribe the requirement to furnish Form 6-K for foreign private issuers subject to Rules 13a-1 [17 CFR 240.13a-1] and 15d-1 [17 CFR 240.15d-1], the annual report requirements for issuers with securities registered under Section 12 of the Exchange Act and for issuers with effective registration statements under the Securities Act, respectively. The Commission adopts the proposed amendments to Rules 13a-16 and 15d-16 which, in conformity with the General Instructions to Form 20-F, prohibit essentially United States companies from using Form 6-K.

#### E. Rule 3a12-3

Rule 3a12-3 by its terms presently exempts from Sections 14 and 16 of the Exchange Act the securities of certain foreign issuers.

The Commission is adopting amendments to Rule 3a12-3 which would: (1) delete reference to Form 21 which was repealed as of June 30, 1967; (2) change the reference therein to former Form 20 to Form 20-F; (3) make clear that the exemption applies only with respect to securities actually registered pursuant to section 12 and for which such registration on the specified forms was authorized and (4) make clear that the exemption applies only to the provisions respecting proxy solicitations and the furnishing of information statements.

The third of those amendments is intended to conform the rule with prior staff interpretations to the effect that (a) the exemption from the proxy solicitation and information statement provisions of Section 14 and the insider trading provisions of Section 16 does not apply to those securities which, although required to be registered, are not so registered and (b) the exemption would not be lost if the issuer voluntarily

<sup>14</sup> Exchange Act Release No. 34-8067 (April 28, 1967), 32 FR 7851 (May 30, 1967).

registers the securities and/or files periodic and annual reports on the more demanding registration and reporting forms prescribed for domestic issuers.

The fourth of those amendments is to correct an oversight in not amending the rule when Congress, in 1968, adopted the "Williams Act Amendments" which added sections 13(d), 13(e), 14(d), 14(e), and 14(f) to the Exchange Act.<sup>15</sup> These sections govern the acquisitions of or tender offers for securities registered under Section 12 of the Exchange Act. The Commission is of the view that it would be contrary to the public interest and the protection of United States investors to continue the present literal exemption for securities of foreign issuers from the acquisition and tender offer provisions of the Act.<sup>16</sup> These latter provisions are as important to those United States investors who invest in securities of foreign issuers as to those who invest in the securities of domestic issuers, as well as to the issuers of such foreign securities.

#### F. Guides for the Preparation and Filing of Reports and Registration Statements Under the Securities Exchange Act of 1934

The Commission also published for comment proposals clarifying that the Exchange Act Guides apply to foreign private issuers. These Guides are Guide 1, Summary of Operations; Guide 2, Disclosure of Extractive Reserves and Natural Gas Supplies; and Guide 3, Statistical Disclosure by Bank Holding Companies.

These proposals are not adopted. The application of Guides 1 and 2 is preempted by items in the Form 20-F. Item 2 of the Form 20-F requires a modified version of the Management's Discussion and Analysis. Item 3 and the Appendix specify the required disclosure of reserves and production for registrants in extractive industries. Since comments are being solicited on Guide 3, the Commission believes that it would be inappropriate to apply Guide 3 to foreign issuers at the present time. Therefore, the proposals relating to Guides 1 and 2 are withdrawn but action on Guide 3 is deferred.<sup>17</sup>

#### Certain Findings

In publishing the 1977 proposals, the Commission specifically invited comments with respect to: (1) whether

<sup>15</sup> Pub. L. 90-439, 82 Stat. 454-547 (15 U.S.C. 77m (d), (e), 78n (d), (e), (f)).

<sup>16</sup> However, the exemption from Section 14(f) of the Exchange Act is retained since that provision is related to the proxy solicitation provisions of Section 14 from which these foreign issuers remain exempt.

<sup>17</sup> Release No. 34-16372.

the cost of the proposals to an issuer outweigh their benefits to investors and the public interest; and (2) the adverse impact or burdens of the proposals on competition which are neither necessary nor appropriate in furthering the purposes of the Exchange Act.

Since many of the amendments adopted represent significant relaxations from the proposals, especially those relating to industry segment information and the English translations of documents, the commentators' concern with cost has been alleviated. In any event, the Commission finds that the costs imposed on issuers by the rules and forms adopted herein are not unreasonable and are outweighed by the benefits which will accrue to investors.

As required by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the rules and forms adopted herein will have on competition. The Commission finds that compliance by issuers and affiliates with these actions will not impose any significant burden on competition. In any event, the Commission has determined that any possible competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of these actions to investors.

#### Text of the Amendments

Parts 240 and 249 of Chapter 11 of Title 17 of the Code of Federal Regulations are amended as follows:

1. Section 240.3a12-3 is revised to read as follows:

#### § 240.3a12-3 Exemption from sections 14(a), 14(b), 14(c), 14(f) and 16 for securities of certain foreign issuers.

(a) Securities for which the filing of registration statements on Form 18 [17 CFR 249.218] are authorized shall be exempt from the operation of sections 14 and 16 of the Act.

(b) Securities registered under section 12 of the Act on Form 20 [17 CFR 249.220] or Form 20-F [17 CFR 249.220F] or on Form 8-A [17 CFR 249.208a] or Form 8-B [17 CFR 249.208b] in lieu of Forms 20 or 20-F or for which registration on such forms were so authorized shall be exempt from the operation of sections 14(a), 14(b), 14(c), 14(f), and 16 of the Act except that this paragraph shall not apply if at the end of the last fiscal year of the issuer (1) more than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States, and (2) the business of such issuer is

administered principally in the United States or 50 percent or more of the members of the Board of Directors are residents of the United States. For the purpose of this paragraph the term "resident," as applied to security holders, shall mean any person whose address appears on the records of the issuer, the voting trustee or the depositary as being located in the United States.

(c) Securities registered under section 12 of the Act on Forms 18 [17 CFR 249.216] or 19 [17 CFR 249.219] shall be exempt from the operations of sections 14(a), 14(b), 14(c), 14(f) and 16 of the Act if the securities deposited pursuant to the voting trust or other agreement are so exempt pursuant to paragraph (b) of this section.

2. Paragraphs (a) (1) and (2) of § 240.13a-16 are revised to read as follows:

#### § 240.13a-16 Reports of foreign private issuers on Form 6-K [17 CFR 249.306].

(a) Every foreign private issuer which is subject to Rule 13a-1 [17 CFR 240.13a-1] shall make reports on Form 6-K, except that this rule shall not apply to:

(1) Investment companies required to file quarterly reports pursuant to Rule 13a-12 [17 CFR 240.13a-12];

(2) Foreign private issuers not authorized to use Form 20-F [17 CFR 249.220F] for annual reports required by Rule 13a-1; or

3. Paragraphs (a) (1) and (2) of § 240.15d-16 are revised to read as follows:

#### § 240.15d-16 Reports of foreign private issuers on Form 6-K [17 CFR 249.306].

(a) Every foreign private issuer which is subject to Rule 15d-1 [17 CFR 240.15d-1] shall make reports on Form 6-K, except that this rule shall not apply to:

(1) Investment companies required to file quarterly reports pursuant to Rule 15d-12 [17 CFR 240.15d-12];

(2) Foreign private issuers not authorized to use Form 20-F [17 CFR 249.220F] for annual reports required by Rule 15d-1; or

#### §§ 249.220 and 249.320 [Deleted]

4. Sections 249.220 and 249.320 are deleted and their provisions consolidated into a new § 249.220F reading as follows:

#### § 249.220F Form 20-F, for registration of securities of foreign private issuers pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934, and for annual reports of foreign private issuers filed pursuant to Sections 13 or 15(d) of that Act.

(a) This form is to be used for registration pursuant to Section 12 of the Securities Exchange Act of 1934 of any class of securities of any foreign private issuer except that it shall not be used by:

(1) Any North American issuer if (i) the securities are to be registered pursuant to Section 12(b) of the Act; (ii) if the securities are to be registered under Section 12(g) of the Act as a result of the termination of the exemption provided by Rule 12g3-2(d) [17 CFR 240.12g3-2(d)]; or (iii) the issuer has had the same or any other class of securities registered pursuant to Section 12 of the Act on Form 10 [17 CFR 249.210], or Form 8-A [17 CFR 249.208a] or Form 8-B [17 CFR 249.208b] in lieu of Form 10 within one year prior to the date on which the registration statement is filed or required to be filed under Section 12(g); or

(2) Any foreign private issuer if at the end of the last fiscal year of the issuer (i) more than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (ii) the business of such issuer is administered principally in the United States or 50 percent or more of the members of the Board of Directors are residents of the United States.

(b) This form is to be used for annual reports of foreign private issuers filed under Sections 13(a) or 15(d) of the Securities Exchange Act of 1934 pursuant to Rule 13a-1 [17 CFR 240.13a-1] or 15d-1 [17 CFR 240.15d-1] except that it shall not be used by:

(1) Any North American issuer: (i) Which has any class of securities registered pursuant to Section 12 of the Act on Form 10, or on Forms 8-A or 8-B in lieu of Form 10; (ii) which is filing the report pursuant to Section 15(d) of the Act; (iii) whose obligation to file reports pursuant to Section 15(d) of the Act is suspended as a result of the registration of a class of securities pursuant to Section 12(g) of the Act; or (iv) which has registered securities under Section 12(g) of the Act as a result of termination of the exemption provided by Rule 12g3-2(d); or



(2) Any foreign private issuer if at the end of the fiscal year being reported on (i) more than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (ii) the business of such issuer is administered principally in the United States or 50 percent or more of the members of the Board of Directors are residents of the United States.

(c) Annual reports on this form shall be filed within six months after the end of the fiscal year covered by such report.

Copies of the adopted Form 20-F will be forwarded to all foreign private issuers presently filing annual reports on Form 20-K. Copies of the Form 20-F have been filed with the Office of Federal Register and additional copies may be obtained from the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

5. The General Instructions to Form 6-K are revised as follows:

**§ 249.306 Form 6-K, report of foreign issuer pursuant to rules 13a-16 (§ 240.13a-16 of this chapter) and 15d-16 (§ 240.15d-16 of this chapter) under the Securities Exchange Act of 1934.**

**B. Information and Document Required to be Furnished**

Subject to General Instruction D herein, an issuer furnishing a report on this form shall furnish whatever information, not previously furnished, such issuer (i) is required to make public in the country of its domicile or in which it is incorporated or organized pursuant to the law of that country, or (ii) filed with a foreign stock exchange on which its securities are traded and which was made public by that exchange, or (iii) distributed to its security holders.

The information required to be furnished pursuant to (i), (ii), or (iii) above is that which is significant with respect to the issuer and its subsidiaries concerning: changes in management or control; acquisitions or dispositions of assets; bankruptcy or receivership; changes in registrant's certifying accountants; the financial condition and results of operations; material legal proceedings; changes in securities or in the security for registered securities; defaults upon senior securities; material increases or decreases in the amount outstanding of securities or indebtedness; the results of the submission of matters to a vote of security holders; and any other information which the registrant deems of material importance to security holders.

**C. Preparation and Filing of Report**

This report shall consist of a cover page, the document or report furnished by the issuer, and a signature page. Eight complete

copies of each report on this form shall be deposited with the Commission. At least one complete copy shall be filed with each United States stock exchange on which any security of the registrant is listed and registered under Section 12(b) of the Act. At least one of the copies deposited with the Commission and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

**D. Translations of Papers and Documents Into English**

Reference is made to Rule 12b-12(d) (17 CFR 240.12b-12(d)). Information required to be furnished pursuant to General Instruction B in the form of press releases and all communications or materials distributed directly to securityholders of each class of securities to which any reporting obligation under Section 13(a) or 15(d) of the Act relates shall be in the English language. English versions or adequate summaries in the English language of such materials may be furnished in lieu of original English translations.

Notwithstanding General Instruction B, no other documents or reports, including prospectuses or offering circulars relating to entirely foreign offerings, need be furnished unless the issuer otherwise has prepared or caused to be prepared English translations, English versions or summaries in English thereof. If no such English translations, versions or summary have been prepared, it will be sufficient to provide a brief description in English of any such documents or reports. In no event are copies of original language documents or reports required to be furnished.

(Secs. 3, 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; Proc. No. 2695, 60 Stat. 1352; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 8, 28(a), 28(b), 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 80 Stat. 147, 148, 119, 121, 155; 19 U.S.C. 78c, 78f, 78m, 78o(d), 78w(a))

**Statutory Authority for Amendments**

The amendments to Forms 20, 20-K and 6-K and to Rules 13a-16 and 15d-16 are adopted pursuant to Sections 12, 13, 15(d) and 23(a) of the Exchange Act. The amendments to Rule 3a12-3 are adopted pursuant to Sections 3(a)(12), 12(b), 12(h), 13, 14, 15(d), and 23(a) of the Exchange Act.<sup>18</sup>

By the Commission.

George A. Fitzsimmons,  
Secretary.

November 29, 1979.

[FR Doc. 79-37399 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

<sup>18</sup> Forms filed as part of the original document.

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 159**

[T.D. 79-307]

**Leather Handbags From Colombia;  
Revocation of Countervailing Duty  
Determination**

**AGENCY:** U.S. Customs Service, Treasury Department.

**ACTION:** Revocation of Countervailing Duty Determination.

**SUMMARY:** This notice is to inform the public that the countervailing duty determination on leather handbags from Colombia is being revoked because the subsidies paid to exporters and/or manufacturers of this merchandise have been eliminated and there is no likelihood of resumption.

**EFFECTIVE DATE:** Exports on or after November 15, 1979.

**FOR FURTHER INFORMATION CONTACT:** Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone (202) 566-2951.

**SUPPLEMENTARY INFORMATION:** A notice entitled "Leather Handbags from Colombia; Final Countervailing Duty Order," T.D. 78-125, was published in the Federal Register of May 2, 1978 (43 FR 18660). That notice stated that it had been determined that manufacturers and/or exporters of leather handbags from Colombia received benefits which constituted the payment or bestowal of a bounty or grant, within the meaning of Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), by virtue of the granting of a tax rebate certificate, known as a "CAT", by the Government of Colombia upon export of the subject merchandise. Accordingly, imports of leather handbags from Colombia were subject to countervailing duties.

Concurrent with the above determination, a notice entitled "Waiver of Countervailing Duties—Handbags from Colombia", T.D. 78-124, concerning the subject merchandise was published in the Federal Register (43 FR 18659). The waiver was conditioned on the gradual elimination of the net bounty determined by Treasury through actions taken by Colombian handbag exporters to renounce their receipt of the benefit. This renunciation has already occurred.

Subsequent to the waiver, due to facts brought to light in a separate countervailing duty determination involving *Certain Textiles and Textile Products from Colombia* (43 FR 53525),

Treasury determined that there was an additional benefit received by Colombian handbag exporters after reconsidering two allowances earlier permitted. Those allowances involved the effective reduction of the value of the CAT through its discount in the stock exchange and its further reduction due to currency devaluation. This resulted in additional bounty of 0.6 percent *ad valorem* for exporters of handbags from Colombia.

As of November 15, 1979, the Colombian handbag exporters renounced the additional benefit, leaving no further "net subsidy" derived from the tax rebate certificate program. The Government of Colombia will continue to provide Treasury with quarterly reports confirming the renunciation of benefits. Accordingly, it is determined that a bounty or grant within the meaning of Section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), is no longer being paid or bestowed upon the manufacture, production or exportation of leather handbags from Colombia, and there is no likelihood of resumption of the payment or bestowal of a bounty or grant on such merchandise.

T.D. 78-125 is hereby revoked with respect to all entries of dutiable leather handbags exported from Colombia on or after November 15, 1979; entries of this merchandise exported prior to that date are still eligible for the waiver of countervailing duties. Customs officers will be instructed to proceed with liquidation of all entries of the subject merchandise without regard to countervailing duties.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47) is amended by deleting from the column headed "Country", the name "Colombia"; from the column headed "Commodity", the words "Handbags" and "Leather Handbags"; from the column headed "Treasury Decision," the numbers "78-124" and "78-125"; and from the column headed "Action", the words "Bounty declared-rate" and "Imposition of countervailing duties waived".

(R.S. 251, Sections 303, as amended, 624, 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1824)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 18, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and Section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of

revocation order by the Commissioner of Customs, are hereby waived.

David R. Brennan,  
Acting General Counsel of the Treasury.  
November 30, 1979.

[FR Doc. 79-37499 Filed 12-5-79; 8:45 am]

BILLING CODE 4810-22-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Parts 31a, 31b, 31g, and 31h**

**Indian Education**

**AGENCY:** Bureau of Indian Affairs, Department of the Interior.

**ACTION:** Final rule.

**SUMMARY:** This document confirms the effective date for final rules previously issued by the Bureau of Indian Affairs and published by the Federal Register on (1) Indian Education Policies; (2) Transfer of Indian Education Functions; (3) Indian School Equalization Program; and (4) Education Personnel. The effective date for final rules must be published in the Federal Register to fulfill requirements of the Office of Federal Register and to inform the public.

**EFFECTIVE DATE:** Parts 25 CFR 31a and 31b, are effective November 23, 1979; Part 25 CFR 31g, is effective December 24, 1979; and Part 25 CFR 31h, is effective December 10, 1979.

**FOR FURTHER INFORMATION CONTACT:** Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, NW., Washington, D.C. (202) 343-7163.

**SUPPLEMENTARY INFORMATION:** The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and redelegated to the Assistant Secretary for Indian Affairs by 209 DM 8.

The final rule documents for Parts 31a, 31b, 31g, and 31h were previously published in the Federal Register without an effective date to comply with the statutory language of Section 1138 of the Education Amendments of 1978 (Public Law 95-561). The effective date for each of the following parts of 25 CFR has been determined to be: (1) November 23, 1979, for 25 CFR 31a, Indian Education Policies, previously published in 44 FR 58096 dated October 9, 1979; (2) November 23, 1979, for 25 CFR 31b, Transfer of Indian Education Functions, previously published in 44 FR 58101 dated October 9, 1979; (3) December 10, 1979, for 25 CFR 31h,

Indian School Equalization Program, previously published in 44 FR 61848 dated October 26, 1979; and (4) December 24, 1979, for 25 CFR 31g, Education Personnel, previously published in 44 FR 65008 dated November 8, 1979.

Forrest J. Gerard,  
Assistant Secretary, Indian Affairs.

November 28, 1979.

[FR Doc. 79-37500 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-02-M

**25 CFR Part 112a**

**Management of Osage Judgment  
Funds for Education and  
Socioeconomic Programs**

**AGENCY:** Bureau of Indian Affairs, Department of the Interior.

**ACTION:** Amendment of final rule.

**SUMMARY:** This document changes date and time requirements relative to the establishment of an Osage Tribal Education Committee as published in the Federal Register at 43 FR 37175, August 22, 1978, as amended (43 FR 55759). Those regulations require that an Osage Tribal Education Committee "be selected and convene their first meeting within (90) days after these regulations become final." However, extreme delays have resulted from complex conditions surrounding administration of the \$1 million. Those delays have prevented fulfillment of the (90) day time requirement. Therefore, the Bureau extends the time requirement for selecting the committee and convening their first meeting.

**EFFECTIVE DATE:** December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Ramona Osborne, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C. 202-343-7387.

**SUPPLEMENTARY INFORMATION:** The substantive provisions of the regulations are not changed by this amendment, therefore, no comments have been sought from the public.

The primary author of this document is Ramona L. Osborne, Education Specialist, Office of Indian Education Programs, BIA, Washington, D.C. (202) 343-7387.

**PART 112a—MANAGEMENT OF  
OSAGE JUDGEMENT FUNDS FOR  
EDUCATION AND SOCIOECONOMIC  
PROGRAMS**

Accordingly, paragraph (c) of § 112a.5 of 25 CFR is revised to read as follows:



**§ 112a.5 Establishment of Osage Tribal Education Committee.**

(c) The committee shall be selected and convene their first meeting on a date early enough to enable awards to begin with the second semester of the 1979-80 academic year.

Forrest J. Gerard,  
Assistant Secretary, Indian Affairs.  
November 23, 1979.  
[FR Doc. 79-37646 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-02-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[FRL 1356-2]****Approval and Promulgation of Implementation Plans; Illinois****AGENCY:** Environmental Protection Agency.**ACTION:** Final rulemaking.

**SUMMARY:** This action approves a revision to the Illinois State Implementation Plan which was proposed in the *Federal Register* on May 7, 1979 (44 FR 26765). The revision requires Commonwealth Edison Company to bring particulate emissions from coal fired boilers at its Kincaid Generating Station located near Sicily in Christian County, Illinois into compliance with a 0.1 pound particulate per million BTU heat input emission limitation by October 31, 1981. Until that time Edison must limit particulate emissions to .3 lb. particulate per million BTU heat input for Edison's Kincaid Units No. 1 and No. 2. In addition Edison must construct, install and begin operation of new particulate removal control equipment and a new chimney at its Kincaid Station by October 31, 1981, and report its progress to the Illinois Environmental Protection Agency every three months starting September 1, 1978.

The supporting documentation submitted by the State of Illinois demonstrates that this SIP revision will not interfere with the attainment and maintenance of National Ambient Air Quality Standards for particulate matter.

**EFFECTIVE DATE:** December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Maxine Borchering, State Implementation Plan Coordinator, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6052.

**SUPPLEMENTARY INFORMATION:** On December 1, 1977 Commonwealth Edison Company (Edison) filed a petition for a variance from the emission limit for particulate matter for its coal-fired steam-powered electric generating station in Christian County, Illinois, commonly known as Kincaid Station. The variance was requested from Rule 203(g)(1)(B) of the Illinois Pollution Control Board Rules and Regulations for Air Pollution and extended the date for final compliance to October 31, 1981.

On July 20, 1978 the Illinois Pollution Control Board granted Edison's variance petition. The Order was submitted to USEPA as a site specific revision to the Illinois State Implementation Plan on August 14, 1978. On May 7, 1979, (44 FR 26765) the Administrator published a Notice of Proposed Rulemaking on this revision to the Illinois State Implementation Plan and invited public comment. Interested parties were given until June 6, 1979 to submit written comments on the proposed SIP revision. No comments were received.

Final approval of this revision to the Illinois State Implementation Plan is the subject of today's rulemaking. The revision was submitted to the Environmental Protection Agency after notice and public hearings were held in accordance with the procedural requirements of 40 CFR 51.4 and 51.6.

The Proposed SIP revision limits particulate emissions to .3 lb. of particulate per million BTU actual heat input from Kincaid Units No. 1 and No. 2 until October 31, 1981. During this period Edison shall construct, install and begin operation of new particulate removal control equipment and a new chimney at its Kincaid Station and report its progress to the Illinois Environmental Protection Agency every three months starting September 1, 1978.

The revision is effective upon publication (date of publication). The Administrator finds good cause for making this revision effective immediately as the compliance schedule is already effective in the State of Illinois and Federal approval imposes no additional requirement on the affected source.

After review of all relevant materials, the Administrator has determined that the proposed revision meets requirements of section 110(a)(3) of the Clean Air Act and EPA regulations in 40 CFR Part 51.6. The proposed revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing; accordingly the revision is approved.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

**Subpart O—Illinois**

1. Section 52.720 is amended by adding a new paragraph (c)(14) as follows:

**§ 52.720 Identification plan.**

(c) The plan revision[s] listed below were submitted on the date specified.

(14) Revision consisting of an Illinois Pollution Control Board Order issued on July 20, 1978 to Commonwealth Edison Company, Christian County, Illinois and submitted on August 14, 1978 by the Illinois Environmental Protection Agency.

(42 U.S.C. § 7410)

Dated: November 16, 1979.

Barbara Blum,

Acting Administrator.

[FR Doc. 79-37496 Filed 12-5-79; 8:45 am]

BILLING CODE 6560-01-M

**40 CFR Part 52****[FRL 1369-5]****California State Implementation Plan Revision: Tuolumne County Air Pollution Control District****AGENCY:** Environmental Protection Agency.**ACTION:** Final rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Tuolumne County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

**EFFECTIVE DATE:** January 7, 1980.**FOR FURTHER INFORMATION CONTACT:**

Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 556-2938.

**SUPPLEMENTARY INFORMATION:** On May 31, 1977 (42 FR 27618), EPA published a Notice of Proposed Rulemaking for revisions to the Tuolumne County APCD's rules and regulations submitted on February 10, 1977 by the California

Air Resources Board for inclusion in the California SIP.

The changes contained in the above mentioned submittal that are being acted upon by this notice include the following:

- (a) New rules to control pathological incineration and abrasive blasting;
- (b) Amended rules for controlling open outdoor fires including agricultural burning, and visible emissions;
- (c) Several administrative changes in the procedures before the hearing board;
- (d) Minor wording and renumbering changes to several rules; and
- (e) Renumbering changes to sections of the California Health and Safety Code.

The Notice of Proposed Rulemaking provided for a 30-day public comment period. No comments were received.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. All rules submitted have been evaluated in accordance with 40 CFR Part 51. The revisions approved in this action are consistent with all EPA requirements.

It is the purpose of this notice to approve all of the revisions contained in the February 10, 1977 submittal, and incorporate them into the California SIP, with the exception of those rules discussed below.

No action is being taken on Rule 307, *Exceptions to Rule 306*. Action on this rule will be taken in a separate Federal Register notice.

Rule 207, *Particulate Matter*, combines and condenses existing Rules 404 and 407(b) and exempts woodfired boilers and incinerators from the existing 0.1 grain per cubic foot emission limitation. Since the change establishes a less stringent emission rate than previously required and no control strategy demonstration was submitted to show that this revision will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), the rule is disapproved. The previously approved Rules 404 and 407(b), submitted on June 30, 1972, remain in effect.

The applicability of Rule 209, *Fossil Fuel-Steam Generator Facility*, is now restricted by limiting its force to facilities burning fossil fuel. This exempts a potentially significant source of pollution, namely, wood-fired boilers. Because no control strategy demonstration has been submitted to show that this revision will not interfere with the attainment and maintenance of the NAAQS, the rule is disapproved. The previously approved Rule 408,

submitted on June 30, 1972, remains in effect.

Rule 322, *Mechanized Burners*, exempts open burning by mechanized burners from the "no burn day" requirement. As no control strategy demonstration was submitted to show that this revision will not interfere with the attainment and maintenance of the NAAQS, the rule is disapproved.

EPA is approving Regulation VII as a procedure for the granting of variances; however, each variance must satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by the EPA as a revision to the SIP.

In addition, the revocation of Rule 413, *Organic Liquid Loading* and Rule 414, *Effluent Oil Water Separators* is disapproved. No control strategy demonstration was submitted to show that this revocation will not interfere with the attainment and maintenance of the NAAQS.

The Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).

Dated: November 29, 1979.

Douglas M. Costle,  
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

**Subpart F—California**

1. Section 52.220 is amended by adding paragraph (c)(37)(v)(B) as follows:

**§ 52.220 Identification of plan.**

(c) \* \* \*

(37) \* \* \*

(v) \* \* \*

(B) New or amended rules 102, 202, 203, 206, 207, 208, 209, 213, 215, 216, 217, 301, 302, 303, 304, 308, 319, 321, 322, 323, 324, 402, 407, 409, 601, 602, 603, 604, 605, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, and 717 and rescinded rules 413 and 414.

2. Section 52.226 is amended by adding paragraphs (b)(3)(iii) and (iv) as follows:

**§ 52.226 Control strategy and regulations: Particulate matter, San Joaquin Valley Intrastate Region.**

(b) \* \* \*

(3) \* \* \*

(iii) Rule 207, *Particulate Matter*, submitted on February 10, 1977, is disapproved and the previously approved Rules 404 and 407(b), submitted on June 30, 1972, remain in effect.

(iv) Rule 209, *Fossil Fuel-Steam Generator Facility*, submitted on February 10, 1977, is disapproved and the previously approved Rule 408, submitted on June 30, 1972, remains in effect.

3. Section 52.269 is amended by adding paragraphs (b)(1)(ii)(C) and (D) as follows:

**§ 52.269 Control strategy: Photochemical oxidants (hydrocarbons) and carbon monoxide.**

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(C) The revocation of Rule 413, *Organic Liquid Loadings*, submitted February 10, 1977, is disapproved; and the previously approved Rule 413 submitted on June 30, 1972 remains in effect.

(D) The revocation of Rule 414, *Effluent Oil Water Separators*, submitted on February 10, 1977, is disapproved; and the previously approved Rule 414 submitted on June 30, 1972, remains in effect.

4. Section 52.273 is amended by adding paragraph (a)(3)(x) as follows:

**§ 52.273 Open burning.**

(a) \* \* \*

(3) \* \* \*

(x) Tuolumne County APCD.

(A) Rule 322, *Mechanized Burners*, submitted on February 10, 1977, is disapproved.

[FR Doc. 79-37460 Filed 12-5-79; 8:45 am]

BILLING CODE 6560-01-M

**40 CFR Part 52****[FRL 1369-6]****Proposed Revision of the Maryland State Implementation Plan****AGENCY:** Environmental Protection Agency.



**ACTION:** Final rule.

**SUMMARY:** The State of Maryland has submitted a proposed revision of the State Implementation Plan (SIP) consisting of a Consent Order for the Dickerson Generating Station of the Potomac Electric Power Company (PEPCO) at Dickerson, Maryland. This revision is being approved. The schedule in the order requires PEPCO to achieve compliance with Maryland's particulate regulation by April 14, 1979, and specifies other milestones which the company must meet toward that end. Installation of particulate control equipment has been completed. For sulfur dioxide, a demonstration of compliance with National Ambient Air Quality Standards (NAAQS) around the plant to the year 1985 was made by PEPCO as required by the Consent Order. Both Maryland and EPA concur that sulfur dioxide air quality standards are presently being met, and that air quality modeling shows no violations of either the NAAQS or the Prevention of Significant Deterioration (PSD) increment. If at a later time violations are found or projected, the compliance schedule provides for an expeditious conversion to low-sulfur fuel. If no violations are measured or predicted, the plant may continue to burn higher-sulfur fuel (about 1.8%) with a reevaluation every five years.

**EFFECTIVE DATE:** This revision will be effective December 6, 1979.

**ADDRESSES:** Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Bureau of Air Quality and Noise Control, State of Maryland, 201 West Preston Street, Baltimore, Maryland 21201, ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** William E. Belanger (3AH13), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone Number 215-597-8188.

**SUPPLEMENTARY INFORMATION:****I. Background**

On August 8, 1978, the Acting Governor of Maryland, Blair Lee III, submitted to EPA, Region III a proposed revision of the Maryland State Implementation Plan consisting of a

Consent Order for the Dickerson Generating Station of the Potomac Electric Power Company (PEPCO). In his letter, the Governor certified that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State Implementation Plan. The order states that PEPCO at Dickerson, as of the date of the order, was not in compliance with the State's emission limitation for particulate matter as applicable to this facility, and establishes a schedule for improvement of control equipment to ensure compliance with that limitation. The final date for compliance with the applicable particulate regulations was April 14, 1979. The particulate control systems became operational for the Number 1 and the Number 2 scrubbers on June 22, 1979, and June 30, 1979 respectively.

The order also establishes an interim increase in the allowable emission limit for sulfur dioxide (SO<sub>2</sub>). This limit is 2.8 pounds per million BTU and is approximately equal to 1.8% sulfur-in-fuel. The existing limitation is approximately 1% sulfur.

On August 27, 1979, the Regional Administrator acknowledged receipt of these amendments and provided for a 30-day public comment period (44 FR 50066). During the period no comments were received.

**II. Evaluation**

The air quality impact of the proposed change was modeled for Units 1, 2, and 3 based on the 122-meter stack height which was in existence at the time of the 1970 amendments to the Clean Air Act. The conclusions of EPA with regard to attainment were drawn from three different modeling packages submitted by PEPCO at different times during the history of this proposed revision. EPA's conclusions with regard to attainment are as follows:

1. The report by H.E. Cramer Co. dated February, 1979 shows that all applicable Federal SO<sub>2</sub> and particulate standards will be met on the elevated terrain in the vicinity of the Dickerson plant using the Cramer model.

2. The report by TERA Corporation dated September 15, 1977 shows attainment of the Federal 24-hour SO<sub>2</sub> and particulate standards on the flat terrain surrounding the plant using the CRSTER model.

3. The report by Pickard, Lowe and Garrick, Inc. and INTERA, Inc. dated February 24, 1978 shows attainment of the Federal three-hour secondary SO<sub>2</sub>

standard using a model similar to CRSTER.

4. The report by TERA Corporation dated September 15, 1977 shows attainment of the Federal annual standards for SO<sub>2</sub> and particulate using the AQDM and CRSTER models.

It was proposed in the August 27, 1979 Federal Register notice (44 FR 50066) to approve the revision based on a statistical method, which accounts for sulfur variability in the fuel, called the Method of Expected Exceedances. This was because the Cramer model showed the possibility of a violation of the 24-hour SO<sub>2</sub> standard in the flat terrain near the plant. Since the EPA's statistical analysis was performed, EPA policy has designated the CRSTER model as the benchmark model for single source in relatively flat terrain (see memo from Robert Neligan dated June 22, 1979). Because an earlier modeling effort using CRSTER shows no violations of the 24-hour SO<sub>2</sub> standard in the flat terrain around the plant, it is no longer necessary to address the modeled potential for violations predicted by the Cramer model. EPA has concluded that the proposed change shows no violations of the air quality standards whether or not fuel variability is considered. The Method of Expected Exceedances is therefore no longer a factor in the approvability of this revision.

Since this action is a SIP relaxation, an analysis of the impact on the PSD increment is required. EPA has determined that the air quality baseline as measured in 1977 and the projected air quality resulting from the proposed emission limitation are equivalent; thus no consumption of the PSD increment from this revision will occur.

Under the Order, PEPCO is required to submit new projections of SO<sub>2</sub> and Total Suspended Particulates air quality levels based on actual ambient air measurements and emissions, by July 1, 1979, and every five years thereafter. The Consent Order further states that if the study should find or project a violation, PEPCO will come into compliance expeditiously on a preset schedule. The analysis due July 1, 1979 was performed by PEPCO. Evaluations by both Maryland and EPA concur with the conclusion that there are no projected violations of the NAAQS or PSD increment under the present plant configuration using the stack height previously defined.

**III. EPA Action**

The Agency believes that the changes covered by the Consent Order for the Dickerson Power Plant will not interfere with attainment or maintenance of the

Air Quality Standards. Therefore, the Administrator approves the Consent Order submitted by Maryland on August 8, 1978 as a revision to the Maryland State Implementation Plan, effective immediately. Concurrently, the Administrator amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate this revision in the Maryland SIP.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-7642)

Dated: November 29, 1979.

Douglas M. Costle,  
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

**Subpart V—Maryland**

1. In § 52.1070 Identification of Plan subparagraph (25) is added to paragraph (c) to read as follows.

**§ 52.1070 Identification of Plan.**

(c) The plan revisions listed below were submitted on the dates specified:

(25) Consent Order dated July 28, 1978 between the Potomac Electric Power Company and the Department of Health and Mental Hygiene of the State of Maryland in the Circuit Court for Montgomery County (No. 49352—Equity) submitted on August 8, 1978 by Acting Governor Blair Lee.

(FR Doc. 79-37461 Filed 12-5-79; 8:45 am)

BILLING CODE 6560-01-M

**40 CFR Part 81**

[FRL 1369-4]

**Georgia; Redesignation of Sandersville TSP Nonattainment Area**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On August 24, 1979 (44 FR 49703), the Agency proposed to change the nonattainment designation of

Sandersville, Georgia for Total Suspended Particulates (TSP) to attainment. This proposal was based on measured air quality data showing attainment of the national ambient air quality standards for TSP for 24 calendar months. No comments were received in response to the proposal notice. This change is made final as proposed.

**EFFECTIVE DATE:** These actions are effective today, December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30308, Telephone: 404/881-3286 (FTS 257-3286).

**SUPPLEMENTARY INFORMATION:** On March 3, 1979, Sandersville, Georgia was designated as nonattainment for TSP. The basis for this designation was violations of the secondary standard at the Morningside Drive site in Sandersville, Georgia.

On August 1, 1979, the director of Georgia's Environmental Protection Division submitted air quality data

**§ 81.311 Georgia.****Georgia—TSP**

| Designated area                                                              | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|------------------------------------------------------------------------------|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| That portion of Fulton County within northwest section of Atlanta.           | X                               | X                                 |                      |                                |
| That portion of Chatham County within the north central section of Savannah. | X                               | X                                 |                      |                                |
| That portion of the northern part of Walker County which includes Rossville. | X                               | X                                 |                      |                                |
| Rest of State.                                                               |                                 |                                   |                      | X                              |

(FR Doc. 79-37469 Filed 12-5-79; 8:45 am)

BILLING CODE 6560-01-M

**40 CFR Part 180**

[PP 6F1817/R222; FRL 1371-2]

**Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Amitraz**

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes tolerances for residues of the insecticide amitraz in or on apples at zero parts per million (ppm); pears at 3 ppm; and in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at zero ppm. The regulation was requested by The Upjohn Co. This rule establishes maximum permissible levels for residues of amitraz in or on apples; pears; and

showing that the national ambient air quality standards for TSP were not violated at the Morningside Drive site (Sandersville) during the period July 1, 1977, through June, 1979, and requested that the status of the area be redesignated as attainment. On August 24, 1979, EPA proposed redesignation. EPA has verified that the data in question meet all applicable Agency criteria established to assure the validity and representativeness of air quality data. Accordingly, the area is redesignated as the State requests.

(Secs. 107, 171, 301, Clean Air Act (42 U.S.C. 7407, 7501, 7801))

Dated: November 29, 1979.

Douglas M. Costle,  
Administrator.

Part 81 of Chapter I, Title 40, Code of Federal Regulations, as follows: Subpart 81—Section 107 Attainment Status Designation

In § 81.311, the attainment status designation table for TSP is revised to read as follows:

the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

**EFFECTIVE DATE:** Effective on December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, DC 20460 (202/426-2635).

**SUPPLEMENTARY INFORMATION:** On August 5, 1976, notice was given (41 FR 32778) that The Upjohn Co., Kalamazoo, MI 49001, had filed a pesticide petition (PP 6F1817) with the EPA. This petition proposed that 40 CFR 180 be amended to establish tolerances for combined residues of the insecticide amitraz [N-[2,4-dimethylphenyl]-N-[[2,4-dimethylphenyl]imino]methyl]-N-methylmethanimidamide) and its metabolites containing the 2,4-



dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities apples at 1 ppm; pears at 3 ppm; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm. No comments were received in response to this notice of filing.

On March 30, 1977, the EPA issued a notice of Rebuttable Presumption Against Registration (RPAR) of pesticide products containing amitraz (42 FR 18299-392, April 8, 1977) on the basis that amitraz met the risk criterion for oncogenic effects (40 CFR 162.11(a)(3)(ii)(A)). Amitraz was a new pesticide for which an end use had not been approved.

The petitioner and other interested persons were provided the opportunity to submit data and information to rebut the presumption. After reviewing the rebuttals, on January 12, 1979, the EPA published in the Federal Register a notice of determination and availability of Position Document 3 (44 FR 2678-2682). Position Document 3 analyzed the rebuttals, presented the Agency's analysis of the risks and benefits resulting from the uses of amitraz, and proposed a decision to conclude the RPAR process.

The EPA determined that in a qualitative sense, amitraz should be regarded as a carcinogen although the existing evidence is relatively weak. Therefore, the Agency concluded that the proposed uses of amitraz on apples and pears could pose a small risk of cancer to certain exposed groups. Information reviewed as to the benefits of the proposed uses indicated that there may be significant benefits from the use of amitraz on pears and insignificant or speculative benefits from its use on apples.

After weighing these risks and benefits, the Agency proposed to conditionally register amitraz on pears for four years provided that the registrant (petitioner) agreed to submit additional risk and benefit data. The Agency proposed not to register amitraz for use on apples because such use could result in unreasonable adverse effects in humans.

Comments were received from the Secretary of Agriculture on the impact of the proposed action on the agricultural economy and from the Scientific Advisory Panel (SAP) on the impact of the proposed action on health and the environment. After considering these comments, EPA concluded that no modification of its assessment of the risks and benefits of amitraz was warranted and decided to stand by its proposed decision. The EPA issued a Notice of Intent to Conditionally

Register Amitraz for Use on Pears in the Federal Register of June 7, 1979 (44 FR 32736). The SAP and Department of Agriculture comments are discussed in detail in Position Document 4, published in the Federal Register of October 17, 1979 (44 FR 59938).

As a condition of registration of amitraz for use on pears, the petitioner is required to submit another mouse oncogenic bioassay within four years with annual reports of progress and test results. On May 31, 1979, in a letter to this Agency, the petitioner indicated that the oncogenicity study is scheduled to be initiated by December 1979 and submitted to the Agency in December 1982. The petitioner also agreed to voluntarily remove this product from the market should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

Moreover, the petitioner/registrant is also required to submit additional benefits data within four years and comply with the labeling restrictions specified in Position Document 3. If the petitioner/registrant does not comply with those stipulations, the conditional registration for amitraz may be cancelled under the provisions of section 6(e) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included two-year rat and dog feeding studies with a no-observed-effect level (NOEL) of 50 and 10 ppm, respectively; a multigeneration rat reproduction study with an NOEL of 15 ppm; rat and rabbit teratology studies which were negative at 12 (highest level fed to rats) and 25 milligrams (mg)/kilogram (kg) of body weight (bw)/day, respectively and an 80-week mouse oncogenicity study, which showed weakly positive evidence of oncogenicity risks in females at 400 ppm, the highest level fed. There is some uncertainty in estimating the cancer risk from this study because of irregularities in the study which may have compromised its reliability for predicting long-term risks. The irregularities are: (1) the accidental dosing of animals with paraformaldehyde in the last 14 weeks of the study, (2) a nearly significant difference between the number of tumor-bearing females in one quadrant of cages as compared to another quadrant, and (3) the suboptimal length of the study (80 weeks instead of 104 weeks).

On the basis of the mouse study, the Agency considers the cancer risk from

dietary exposure of amitraz-treated pears over the four-year registration period to be very small. If it is assumed as a worst possible case that amitraz residues would be present in all treated fresh pears at the proposed tolerance level and that all pears would be treated with amitraz, the lifetime risk of cancer from consuming fresh and processed pears is roughly estimated to be  $9 \times 10^{-6}$  per person. Based on the two-year dog feeding study with a 10 ppm NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.0025 mg/kg bw/day with regard to chronic effects other than oncogenicity. The proposed tolerances will utilize less than 41.3 percent of the ADL. The theoretical maximum residue contribution (TMRC) from the proposed tolerances is calculated to be 0.0619 mg/day/1.5-kg of diet. No permanent tolerances have been established for amitraz residues.

The metabolism of amitraz is adequately understood and an adequate analytical method (gas chromatography using a flame ionization detector) is available for enforcement purposes. Restrictions and conditions of regulatory actions against amitraz are outlined in the Notice of Determination concluding the RPAR on amitraz in the Federal Register of January 12, 1979 (44 FR 2678) as modified by Position Document 4 (44 FR 59940). There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3) as a result of the use of amitraz on pears. Since the use of amitraz on apples would result in risks which exceed the benefits of that use and therefore would cause unreasonable adverse effects in humans, the Agency has concluded that available scientific data do not justify the establishment of an amitraz tolerance level greater than zero ppm (the no detectable level) on apples. Accordingly, the EPA has reduced the proposed tolerances in or on apples from 1 ppm to 0 ppm and in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep from 0.05 ppm to 0 ppm.

The pesticide is considered useful for the purpose for which the tolerance in or on pears is sought, and it is concluded that the tolerances of 3 ppm in or on pears and 0 ppm in or on apples and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep established by amending 40 CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before January 7,

1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St. SW., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulations deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective December 6, 1979, Part 180 is amended as set forth below.

(Section 408(d)(2), of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)])

Dated: November 28, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

1. Part 180, Subpart C, is amended by adding the new § 180.287 to read as follows:

**§ 180.287 Amitraz; tolerances for residues.**

Tolerances are established for residues of the insecticide amitraz (*N*-[2,4-dimethylphenyl]-*N*-[[[2,4-dimethylphenyl]-imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on the following raw agricultural commodities:

Commodity and parts per million: Apples—0; Cattle, fat—0; Cattle, mby—0; Cattle, meat—0; Goats, fat—0; Goats, mby—0; Goats, meat—0; Hogs, fat—0; Hogs, mby—0; Hogs, meat—0; Horses, fat—0; Horses, mby—0; Horses, meat—0; Pears—3; Sheep, fat—0; Sheep, mby—0; Sheep, meat—0.

2. In Title 40, Part 180, Subpart C, of the Code of Federal Regulations on page 464, § 180.287 2-(Thiocyanomethylthio) benzothiazole; tolerances for residues is incorrectly designated as § 180.287. The correct designation should be § 180.288. Therefore, the section is editorially revised in the heading by redesignating the section to read as follows:

**§ 180.288 2-(Thiocyanomethylthio) benzothiazole; tolerances for residues.**

[FR Doc. 79-37488; Filed 12-5-79; 8:45 am]  
BILLING CODE 6560-01-M

**COMMUNITY SERVICES ADMINISTRATION**

**45 CFR Part 1010**

**Civil Rights Program Requirements of CSA Grantees; Civil Rights Regulations**

**AGENCY:** Community Services Administration.

**ACTION:** Final rule.

**SUMMARY:** This part prescribes the Civil Rights Program—Requirements and Procedures—for initial and refunding grants of assistance awarded by the Community Services Administration. This part is promulgated pursuant to Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 42 U.S.C. 2000d, and section 624 of the Economic Opportunity Act of 1964, as amended, Pub. L. 88-452, as amended by Pub. L. 92-424, 42 U.S.C. 2971c. Additionally, it serves to implement Executive Order 11764 and Parts 42 and 50.3 of Title 28 of the Code of Federal Regulations.

Other regulations which serve to implement section 504 of the Rehabilitation Act of 1973 were recently published in proposed form (43 FR 28758). The comment period has ended and after publication in final form, these regulations will be integrated with this part.

**EFFECTIVE DATE:** December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mosina Jordan, Associate Director Office of Human Rights, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506, (202) 653-5675.

**SUPPLEMENTARY INFORMATION:** CSA has promulgated numerous civil rights requirements over the years. These are contained in various instructions, notices and guidelines. This part integrates all of CSA's Civil Rights requirements into one program. Additionally it seeks to add the requirement that every decision to make a grant of assistance be preceded by a formal determination of compliance. No application for financial assistance shall be approved unless the applicant is determined to be in compliance with Title VI of the Civil Rights Act of 1964 and this part or has agreed in writing to take specific corrective action within a specified time period in order to achieve compliance.

This part prescribes the programs and activities covered. It defines the types of prohibited discrimination and the responsibilities of applicants and grantees; it establishes the procedures for determining compliance, including the processes for pre-award and post-award reviews and complaint resolution; it outlines the procedures to bring about compliance and, where necessary, to terminate or deny assistance.

A companion document "CSA Grantees Civil Rights Program Manual" will be developed to provide grantees with details to assist them in complying with this part.

In adopting this final rule, CSA considered written comments received as a result of the publication of the proposed rule, 42 FR 18378, April 6, 1977. CSA also considered comments made by the Assistant Attorney General, Civil Rights Division, pursuant to his responsibilities as set out in 28 CFR 42.401 *et seq.*, and Executive Order 11764.

Most of the comments received from the public related to editorial modifications. The only substantive comment received from the public proposed the inclusion of a back-pay remedy under Subpart D pursuant to the authority of Section 624 of the Economic Opportunity Act of 1964, as amended. This proposal has been incorporated in the final rule in § 1010.30.4.

Frank N. Jones,  
Assistant Director for Legal Affairs and General Counsel.

45 CFR Chapter X, Part 1010, is revised to read as follows:

**PART 1010—CIVIL RIGHTS PROGRAM REQUIREMENTS OF CSA GRANTEES; CIVIL RIGHTS REGULATIONS**

**Subpart A—General**

Sec.

- 1010.1-1 Purpose.
- 1010.1-2 Applicability.
- 1010.1-3 Definitions.

**Subpart B—Discrimination Prohibited**

- 1010.10-1 General.
- 1010.10-2 Discrimination prohibited—specific discriminatory actions prohibited.
- 1010.10-3 Discrimination prohibited—employment practices.

**Subpart C—Responsibilities of Grantee**

- 1010.20-1 Assurances.
- 1010.20-2 Required grantee civil rights program.
- 1010.20-3 Data and information requirements.

**Subpart D—Conduct of Investigations and Reviews**

- 1010.30-1 Pre-award compliance reviews.
- 1010.30-2 Post-award reviews.



- Sec.  
1010.30-3 Complaint investigations.  
1010.30-4 Back-pay award.  
1010.30-5 Complaints filed with State and local commissions or the U.S. Equal Employment Opportunity Commission.  
1010.30-6 Intimidation.  
1010.30-7 Adjustment of time limits.

#### Subpart E—Procedure for Effecting Compliance

- 1010.40-1 General.  
1010.40-2 Termination of or refusal to grant or to continue financial assistance.  
1010.40-3 Hearings.  
1010.40-4 Decisions and Notices.  
1010.40-5 Judicial review.

#### Subpart F—Miscellaneous

- 1010.50-1 Role of CSA officials.  
1010.50-2 Continuing State programs.  
1010.50-3 Effect on other regulations, forms and instructions.  
1010.50-4 Supervision and coordination.

#### APPENDIX A—Federal Financial Assistance to which this part Applies Funding Authorities under the Economic Opportunity Act of 1964, As Amended.

#### APPENDIX B—Activities to which this part applies when a primary objective of the Federal financial assistance is to provide employment.

#### APPENDIX C—Application of Part 1010 to Federal Financial Assistance of Community Services Administration.

Authority: The provisions of this part are issued under section 602, 624, 603, 223 and 244 (8) of The Economic Opportunity Act, of 1964, as amended 78 stat. 528, 42 U.S.C. 2942; 86 stat. 696, 42 U.S.C. 2971c; 78 stat. 530, 42 U.S.C. 2943; 81 stat. 701, 42 U.S.C. 2837; section 602 and 603, Title VI, Civil Rights Act of 1964, 78 stat. 252, 42 U.S.C. 2000d-1; 78 stat. 253, 42 U.S.C. 2000d-2; Executive Order 11764, 28 CFR Parts 42 and 50.3.

#### Subpart A—General

##### § 1010.1-1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* and Section 624 of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2971c, to the end that:

(a) No person on the basis of race, color, or national origin, be excluded from participation in or be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Community Services Administration (CSA).

(b) No person on the ground of sex be excluded from participation in, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under the Economic Opportunity Act of 1964, as amended.

(c) No person with responsibilities in the operation of a program receiving financial assistance under the Economic

Opportunity Act of 1964, as amended will discriminate with respect to any such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

##### § 1010.1-2 Applicability.

(a) This part applies to all grantees and their delegate agencies receiving financial assistance from CSA. This part does not apply to:

(1) Any Federal financial assistance by way of insurance or guaranty contracts;

(2) Any assistance to any individual who is the ultimate beneficiary under any such program.

(b) This part also applies to any program which is funded and administered by CSA with funds transferred from another Federal agency to CSA.

##### § 1010.1-3 Definitions.

As used in this part—

(a) "CSA" means the Community Services Administration, and includes all of its organizational units.

(b) "Director" means the Director of the Community Services Administration.

(c) "Associate Director for Human Rights" means the CSA official responsible for implementing and enforcing CSA's Civil Rights program.

(d) "Responsible CSA official" with respect to any program receiving Federal financial assistance means the Director or other official of CSA who by law or by delegation has the principal responsibility within CSA for the administration of the law extending such assistance.

(e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-4.

(f) "United States" means the states of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Cana Zone, and the Territories and possessions of the United States, and the term "State" means any one of the foregoing.

(g) "Federal financial assistance" includes (1) grants, loans, or donation of Federal funds, (2) the grant or donation of Federal property and interest in property, (3) the detail of Federal personnel, (4) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, at a nominal consideration, or at a consideration which is reduced of the purpose of assisting the grantee, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

(h) "Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through an employee of the grantee or provided by others through contracts or other arrangements with the grantee, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal resources or such non-Federal resources.

(i) "Facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein. The provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(j) "Grantee" means any state, political subdivision, instrumentality of any state or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any state, to whom Federal financial assistance is extended directly or through another grantee. Such term does not include any ultimate beneficiary under a federally assisted program.

(k) "Grantee Board" means the entity responsible for the administration of funds received pursuant to the Economic Opportunity Act of 1964, as amended.

(l) "Applicant" means one who submits an application, request, or plan required to be approved by CSA or by a grantee as a condition of eligibility for Federal financial assistance. The term "application" means any such application, request or plan.

(m) In complying with the requirements of this part, it will be necessary to refer to persons by race, color or national origin. The following designations will be used by grantees in reporting participant characteristics:

(1) Black, not of Hispanic origin. A person having origins in any of the black racial groups of Africa;

(2) Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;

(3) Asian or Pacific Islander. A person having origins in any of the original people of the Far East, Southeast Asia; the Indian Subcontinent, or the Pacific Islands. The area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa;

(4) American Indian or Alaskan Native. A person who has origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition;

(5) White, not of Hispanic origin. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East;

(6) Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis; and

(7) Paragraphs (m) (1) through (7) of this section are in conformity with Directive #15 of the Office of Federal Statistical Policy and Standards which replaced OMB Directive A-46.

#### Subpart B—Discrimination Prohibited

##### § 1010.10-1 General.

(a) No person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefit of or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under the Economic Opportunity Act of 1964, as amended.

(c) No person with responsibilities in the operation of a program receiving financial assistance under the Economic Opportunity Act of 1964, as amended, will discriminate with respect to any such program because of race, creed, color, national origin, sex, political affiliation or beliefs.

(d) An individual shall not be deemed subjected to discrimination by reason of his/her exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, sex or national origin different from his/hers, for example, programs funded

exclusively to serve on-reservation Indians.

##### § 1010.10-2 Discrimination prohibited—Specific discriminatory actions prohibited.

(a) A grantee under any program to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, sex, or national origin:

(1) Deny an individual any service, financial aid, or other benefit provided under the program;

(2) Provide any service, financial aid, or other benefit to an individual which is different from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any manner related to his/her receipt of any service, financial aid, or other benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(5) Treat an individual differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services, or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program, including the opportunity to participate in the program as an employee to the extent that employment practices are covered in § 1010.10.3; or

(7) Deny any person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(b) A grantee, in determining the type of services, financial aid, or other benefits or facilities which will be provided under any program, or the class of individuals to whom, or the situations in which such services, financial aid, other benefits, or facilities will be provided under or on such program, or the class of individuals to be afforded an opportunity to participate in any such program may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, or national origin, or have the effect of substantially impairing accomplishment of the objectives of the

program with respect to individuals of a particular race, color, sex, or national origin.

(c) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the ground of race, color, sex, or national origin or with the purpose or effect of substantially impairing the accomplishment of the objectives of this part.

(d) The enumeration of specific forms of prohibited discrimination in this subpart does not limit the generality of this subpart's prohibition.

(e) In administering a program in which the grantee has previously discriminated against persons on the ground of race, color, sex, or national origin, the grantee must take affirmative action to overcome the effects of prior discrimination. Even in the absence of such prior discrimination, a grantee, in administering a program may take affirmative action to overcome the effects or conditions which result in limiting participation by persons of a particular race, color, sex, or national origin.

##### § 1010.10-3 Discrimination prohibited—Employment practices.

(a) Where a primary objective of the Federal financial assistance is to provide employment, a grantee may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion or transfer, rates of pay or other forms of compensation, and use of facilities). This prohibition applies where a primary objective of the Federal financial assistance is:

(1) To reduce unemployment or to help individuals through employment to meet subsistence needs;

(2) To assist individuals through employment to meet expenses incident to the commencement or continuation of their education or training;

(3) To provide work experience which contributes to the education or training of individuals; or

(4) To provide remunerative activity to individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market.

(b) Where a primary objective of the Federal financial assistance is not to



provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this part tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, the provisions of paragraph (a) of this section shall apply to the employment practices of the recipient or other persons subject to the regulations, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(c) Where a program receives financial assistance under the Economic Opportunity Act of 1964, as amended, a grantee may not (directly or through contractual or other arrangements):

(1) Subject an individual to discrimination on the basis of sex in its employment practices in connection with the program; and

(2) In connection with any positions funded in whole or in part with funds made available under the Act, subject an individual to discrimination on the basis of race, creed, color, national origin, sex, political affiliation or beliefs.

(d) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive Order which supersedes it.

(e) Enforcement of Title VI, section 624 of the Economic Opportunity Act of 1964, as amended, and this part with respect to covered employment practices shall not be superseded by state and local merit systems relating to the same grantee.

#### Subpart C—Responsibilities of Grantee

##### § 1010.20-1 Assurances.

(a) *Economic Opportunity Assurance.* Every application for financial assistance for a program under the Economic Opportunity Act of 1964, as amended, as well as every grant, contract, or agreement with respect to such program shall specifically provide:

(1) That no person with responsibilities in the operation of such programs will discriminate with respect to any such program on the basis of race, creed, color, national origin, sex, political affiliation or beliefs; and

(2) That compliance with such provision shall be determined by this part.

(b) *General.* Every application for Federal financial assistance to a program to which this subpart applies

shall, as a condition to the extension of any Federal assistance, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by this part. In the case where Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the grantee, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose involving the provision of similar services and benefits, or for as long as the grantee retains ownership or possession of the property, whichever is longer. The Associate Director for Human Rights or his/her designee shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(c) *Real property.* In the case of real property, structures or improvements thereon, or interest therein, which were acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the grantee retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is acquired or improved with Federal financial assistance, the grantee shall agree to include a covenant assuring nondiscrimination in any subsequent transfer of such property. Where the property is obtained from the Federal government, such covenant may also include a condition coupled with a right to be reserved by CSA to have title to the property revert to the Federal government in the event of the breach of the covenant where at the discretion of the Associate Director for Human Rights or his/her designee such a condition and right of reverter are appropriate to the program under which the real property is obtained and to the nature of the

grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the Associate Director for Human Rights or his/her designee may agree, upon written request of the transferee to accomplish such financing, and upon such conditions as he/she deems appropriate, to forebear the exercise of such right to have title revert to CSA for so long as the lien of such mortgage or other encumbrance remains effective.

(d) *Elementary and Secondary Schools.* In the case of any program for the benefit of elementary or secondary school students which, as a necessary part of such program, utilizes to a substantial extent the facilities of an elementary or secondary school or school system, the requirements of Section 1010.20-1 shall be deemed to be satisfied if such school or school system:

(1) Is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order; or

(2) Submits a plan for the desegregation of such school or school system which the Department of Health, Education and Welfare determines is adequate to accomplish the purposes of Title VI and this part within the earliest practicable time, and provides assurances that it will carry out such plan. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform with such final order, including any future modification of such order.

The provisions of this paragraph do not apply to programs for pre-school children.

(e) *Institutions of Higher Education.* In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this paragraph shall extend to admission practices and to all other practices relating to the treatment of students. The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to

the entire institution unless the institution establishes, to the satisfaction of the Associate Director for Human Rights or his/her designee that the institution's practices in designated parts or programs of the institution in no way affect the beneficiaries of or participants in the programs for which Federal financial assistance is sought. If in any such case, the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

##### § 1010.20-2 Required grantee civil rights program.

(a) To be eligible for funding, each CSA grantee shall have an affirmative action plan approved by the Associate Director for Human Rights or his/her designee which shall include the following:

(1) A written Equal Opportunity Policy;

(2) An Equal Opportunity Committee;

(3) An Equal Opportunity Officer;

(4) A written discrimination complaint procedure at a minimum incorporating the procedures in Subpart D, § 1010.30-3.

(5) A data-collection, record-keeping and reporting system to provide the information required by this part.

(6) A comprehensive self-analysis, which shall include a comparison of the provision of benefits on the basis of race, sex, and national origin as to the eligible racial, sexual, and national origin population.

This analysis shall also include a comparison of the grantee's employment by race, sex and national origin to the racial, sexual, and national origin characteristics of the relevant workforce. Where significant disparities are found, the recipient shall determine the reasons and, if appropriate, set forth corrective actions.

(b) The recipient of CSA financial assistance is required to implement its CSA-approved affirmative action plan and to ensure compliance with this part. At a minimum, the following requirements must be met:

(1) Each grantee board shall formally adopt an Equal Opportunity Policy and establish an Equal Opportunity Committee which shall reflect the composition of the board in regard to representation of the public, private and low-income sectors.

(2) The Equal Opportunity Committee shall review the determinations of the Equal Opportunity Officer (EOO) regarding complaints of discrimination and shall oversee the enforcement of the grantee's civil rights program.

(3) Grantees shall have at least one EOO, who shall report directly to the Board of Directors on EO matters, with responsibility for the civil rights program required by this part and such additional personnel as are necessary to carry out the requirements of this part. The EOO shall not be the Executive Director, Deputy Director or Personnel Officer. The Regional Human Rights Chief will make the determination whether the EOO will be full-time or part-time.

(4) The EOO shall undergo training as prescribed by CSA. All expenses incurred by such training shall be borne by the grantee.

(5) The EOO shall be granted the authority to carry out the following activities:

(i) Receive and attempt to resolve complaints of discrimination;

(ii) Provide aggrieved persons with information and advice on equal opportunity procedures including local, state, and Federal redress procedures, and notification of the filing deadlines for Equal Employment Opportunity Commission complaints, where applicable;

(iii) Take other steps which may assist in the resolution of a problem, prior to the filing of a formal complaint;

(iv) Assist, if requested by a complainant, in preparing a formal complaint to CSA of alleged discrimination based on race, color, creed, sex, national origin, age, handicap, political affiliation or beliefs; and

(v) Provide staff leadership in developing, implementing, and evaluating the grantee's Affirmative Action Plan (AAP).

(6) Grantees shall display, in conspicuous places, posters which summarize the rights of the employees, program participants and beneficiaries under Title VI, section 624 of the Economic Opportunity Act of 1964, as amended, and this part. Such posters shall describe the functions of the EOO and the procedures for filing complaints of discrimination, including the right to complain directly to CSA.

(7) In addition to the posters, each grantee shall make available information regarding the provisions of this part and its applicability to the program under which the grantee receives Federal financial assistance and make such information available in such manner as the Associate Director for Human Rights or his/her designee finds necessary to apprise such persons of the protections against discrimination assured them by Title VI, the Economic Opportunity Act, and this part.

(8) Grantee shall make its posters and other material available in a language other than English where a significant number or proportion of the population eligible to be served or likely to be directly affected by Federally assisted program need services in another language. The Associate Director for Human Rights or his/her designee will determine when publication in a language other than English is necessary.

##### § 1010.20-3 Data and information requirements.

(a) Each grantee shall collect, maintain, and, upon request of CSA, submit the information set forth in this section. All of the information set forth shall be collected unless the Associate Director for Human Rights or his/her designee grants a written exemption to any information requirement for good cause shown by the grantee.

(b) To the extent that CSA has supplied or prescribed forms for the following information such forms shall be utilized by the grantee.

(c) Grantees shall collect and maintain the following information:

(1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of race, color, sex or national origin.

(2) The population eligible to be served by race, color, sex or national origin.

(3) The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying services to any persons on the basis of race, color, sex or national origin.

(4) The present or proposed membership by race, color, sex and national origin in any policy making or advisory body which is an integral part of the program.

(5) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary adverse impact on persons on the basis of race, color, sex or national origin.

(6) Data regarding covered employment, including use or planned use of bilingual public contact employees serving the beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.

(7) A brief description of any of its pending applications to other Federal agencies for assistance and of assistance being provided at the time of the application or requested report.



(8) A statement describing any civil rights compliance reviews regarding the applicant or grantee conducted during the two-year period before the applicant or report, and the results of those reviews.

(d) In addition to the data and information required in § 1010.20-3(c)(1)-(8), each applicant or grantee shall:

(1) Promptly notify CSA of any lawsuits filed against the applicant or grantee alleging discrimination on the basis of race, color, sex or national origin.

(2) Maintain a log of complaints under Title VI and this part identifying each complainant by race, color, sex or national origin, the nature of the complaint, the date the complaint was filed, the date the grantee's investigation was completed and the disposition and the date of disposition; and

(3) Where CSA determines that it is necessary and appropriate for the enforcement of Title VI or this part, additional data such as demographic maps, the racial or sexual composition of affected neighborhoods, or census data will be required, however, only to the extent that the information is readily available or the requirement can be complied with by reasonable effort.

(e) *Access to Sources of Information.* Each grantee shall permit access by the responsible CSA official or his/her designee during normal business hours to its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a grantee is in the exclusive possession of any other agency, institution or person and that agency, institution or person fails or refuses to furnish this information, the grantee shall set forth in writing the efforts it has made to obtain the information and provide this information to the CSA official requesting such information.

#### Subpart D—Conduct of Investigations and Reviews

##### § 1010.30-1 Pre-award compliance reviews.

(a) Prior to approval of financial assistance, all applications for financial assistance shall be reviewed by the Associate Director for Human Rights or his/her designee, who will make a written determination as to whether the applicant is in compliance with Title VI, section 624 of the Economic Opportunity Act of 1964, as amended, and the requirements of this part. The basis for such a determination shall be the submission of an assurance of

compliance and a review of the compliance data and information submitted by the applicant, and any relevant compliance review reports on file with CSA. Where a determination cannot be made from this data, the Office of Human Rights will require the submission of necessary additional information and may take additional steps. Such additional steps may include, for example, communicating with local government officials or protected class organizations and field reviews.

(b) No application shall be approved unless it is determined that the applicant is in compliance with Title VI, section 624 of the Economic Opportunity Act of 1964, as amended, and this part or the applicant has agreed in writing to take necessary enumerated steps within a stated period of time to come into compliance. Such an agreement must be approved by the Associate Director for Human Rights and made a part of the conditions of the grant.

(c) If the grantee fails or refuses to enter into such an agreement, the Associate Director for Human Rights shall notify the recipient and the Assistant Attorney General for Civil Rights in writing of:

(1) The preliminary findings setting forth the reasons for the applicant's noncompliance;

(2) The actions necessary to come into compliance; and

(3) The fact that the applicant has 10 days to come into compliance and that the applicant may provide during this time a documentary submission responding to, rebutting, or denying the allegations raised in the notice to them.

(d) If within this 10-day period the applicant has not complied with the actions set forth to come into compliance, or voluntary compliance has not been secured, or has not satisfactorily rebutted the allegations, the Associate Director for Human Rights shall make a formal determination of compliance, notify the grantee and the Assistant Attorney General for Civil Rights, and institute proceedings under Subpart E.

(e) CSA shall defer action on applications for assistance during the pendency of enforcement proceedings under this section.

##### § 1010.30-2 Post-award review.

(a) Each grantee shall submit an annual report which will contain the compliance information specified in § 1010.20-3.

(b) The Office of Human Rights will periodically conduct compliance reviews of selected grantees.

(c) The Office of Human Rights shall seek to review those grantees which have the greatest disparity in the delivery of services or which appear to have the most serious employment problems as defined by § 1010.10-3. Selection for review shall be made on the basis of the following factors:

(1) The relative disparities between the percentage of the eligible minority or female populations, if appropriate, receiving program benefits and the percentage of eligible minorities or females, if appropriate, in the eligible population.

(2) The relative disparities between the percentage of minorities and females in the relevant labor market and the percentage of minorities and females employed by the grantee;

(3) The number and nature of complaints filed against a grantee either with CSA or other Federal agencies;

(4) The scope of problems revealed as a result of an investigation of a complaint filed with CSA and other appropriate Federal, state and local civil rights agencies; and

(5) The amount of assistance provided to a grantee.

(d) Within 15 days of the selection of a grantee for review, the grantee shall be notified that it has been selected for a compliance review and the review shall be initiated.

(e) The grantee shall be informed that it may at any time prior to CSA's findings make a documentary submission responding to, rebutting, or denying allegations raised in the course of the compliance review.

(f) Within 180 days for the initiation of a compliance review, the Associate Director for Human Rights or his/her designee shall notify the grantee in writing of:

(1) Preliminary findings;

(2) Recommendations for achieving voluntary compliance, where appropriate; and

(3) The opportunity to engage in voluntary compliance negotiations, where appropriate.

The Associate Director for Human Rights or his/her designee shall notify the Assistant Attorney General for Civil Rights at the same time he/she notifies the grantee of any matter where recommendations for achieving voluntary compliance are made.

(g) If within 50 days of CSA's recommendations for achieving voluntary compliance the recommendations have not been agreed to, or voluntary compliance has not been secured, or the preliminary findings have not been shown to be false the Associate Director for Human

Rights shall make a formal written determination of noncompliance. At the same time the grantee is notified of this determination, it shall be forwarded to the Assistant Attorney General for Civil Rights. This determination shall be made no later than 14 days after the conclusion of the 50-day negotiation period.

(h) Where the Associate Director for Human Rights makes a formal determination of noncompliance, the grantee and the Assistant Attorney General shall be immediately advised in writing of the determination and of the fact that the grantee has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been achieved within the 10 days, the Associate Director shall institute proceedings under Subpart E.

(i) All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the grantee has agreed to take, and shall be signed by the Associate Director for Human Rights or his/her designee and an official of the grantee with authority to legally bind the grantee.

##### § 1010.30-3 Complaint investigations.

(a) *Local Complaint Procedures.* (1) *Submission of an Equal Opportunity Complaint.* Any person who believes he/she has encountered discrimination because of race, color, creed, sex, national origin, age, political affiliation, beliefs or handicap may first file a complaint with the Equal Opportunity Officer (EOO) of the grantee not more than 180 calendar days after the act complained of occurred. A copy of the complaint shall be immediately mailed to the Associate Director for Human Rights or his/her designee by the Equal Opportunity Officer.

(2) *Resolution and Decision by the Grantee.* (i) The EOO shall make every effort to resolve the complaint informally. The EOO shall, if requested by the complainant, assist in discussions with any party to the complaint and may take other steps which may assist in the resolution of the complaint.

(ii) The aggrieved person has the right to be accompanied, represented and advised by a representative or attorney of his/her choice. If the aggrieved person or the representative is an employee of the agency, he/she shall be given a reasonable amount of working time to prepare and present his/her request for a resolution of the complaint. These procedures shall be included in the grantee's personnel policies and must be approved by the CSA Office of Human Rights.

(iii) The EOO shall have 21 days to attempt to resolve the complaint before

CSA will begin processing the complaint, if it has been filed with CSA or CSA otherwise assumes jurisdiction.

(iv) The EOO shall be given access within the agency to any information necessary for resolving the complaint.

(v) The EOO shall inform the complainant of the right to file a formal complaint with CSA and any other appropriate Federal, state and local civil rights agencies.

(vi) Nothing in this subpart should be construed to mean that a complainant cannot file a complaint directly with CSA at any time.

(3) *Reports on Grantee Efforts at Resolution.* (i) When the EOO has completed attempts to resolve the complaint, a report shall be prepared, setting out a summary of the complaint, the preliminary inquiry and the disposition of the complaint, indicating the basis for that disposition.

(ii) Copies of the report shall be given to the grantee's board, the complainant and to the Office of Human Rights. A report shall be forwarded within 21 days of the filing of a complaint, regardless of the disposition of the complaint.

(b) *CSA Complaint Procedures.* (1) *Filing of Complaint with CSA.* (i) If the result of the procedures outlined in § 1010.30-3(a) is unsatisfactory to the complainant, a formal complaint may be filed within 10 calendar days of receipt of the report of the EOO.

(ii) A complainant may file a complaint directly with CSA. However no complaint will be investigated if not received by CSA or the local EOO within 180 days of the date of the alleged discrimination unless the time for filing is extended, for good cause, by the Associate Director for Human Rights or his/her designee. If a complaint is filed with the local EOO and CSA, CSA shall not begin processing the complaint until the 21 days set forth in § 1010.30-3(a)(2)(iii) have expired.

(2) Within 25 days of receipt of a complaint, the Associate Director for Human Rights or his/her designee shall:

(i) Ascertain whether CSA has jurisdiction over the complaint;

(ii) If it is determined that CSA has jurisdiction, notify the grantee involved of the complaint and initiate the investigation; and

(iii) If it is determined that CSA does not have jurisdiction, notify the complainant of that fact in writing.

(3) The grantee shall be notified that it may at any time prior to CSA's findings make a documentary submission responding to, rebutting, or denying allegations raised in the course of the complaint investigation.

(4) Within 180 days of the initiation of a complaint investigation, the Associate

Director for Human Rights or his/her designee shall notify the grantee in writing of:

(i) the preliminary findings;

(ii) recommendations for achieving voluntary compliance, where appropriate; and

(iii) the opportunity to engage in voluntary compliance negotiations, where appropriate.

The Associate Director for Human Rights or his/her designee shall notify the Assistant Attorney General for Civil Rights at the same time he/she notifies the grantee of any matter where recommendations for achieving voluntary compliance are made.

(5) If within 50 days of CSA's recommendation for achieving voluntary compliance, the recommendations have not been agreed to, voluntary compliance has not been secured, or the preliminary findings have not been shown to be false the Associate Director for Human Rights shall make a formal written determination of noncompliance.

At the same time the grantee is notified of this determination, it shall be forwarded to the Assistant Attorney General for Civil Rights. This determination shall be made no later than 14 days after the conclusion of the 50-day negotiation period.

(6) If the Associate Director for Human Rights makes a formal determination of noncompliance, the grantee and the Assistant Attorney General for Civil Rights shall be advised in writing that the determination has been made and the grantee has an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been secured within the 10-day period, the Director shall institute proceedings under Subpart E.

(7) All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the grantee has agreed to take, and shall be signed by the Associate Director for Human Rights and an official of the grantee with authority to legally bind the grantee.

§ 1010.30-4 Back-pay award. CSA grant funds may lawfully be used to cover back-pay awards resulting from judgments or settlements arising from complaints of discrimination. However, CSA reserves the right to determine whether to allow the program cost on a case-by-case basis after the expenditure of grant funds so as not to influence the decision of the grantee to settle. Consideration will be given to such factors as the grantee's conduct subject to the claim of discrimination, and whether the complainant's salary is funded by CSA.



**§ 1010.30-5 Complaints filed with State and local commissions or the Equal Employment Opportunity Commission.**

When a complaint is filed with CSA and with the Equal Employment Opportunity Commission or another Federal, state or local agency, the Associate Director for Human Rights or his/her designee shall communicate with the other agency and shall arrange to handle the complaint so as to avoid duplication and to secure an effective resolution of the complaint. It shall be the general practice of CSA to investigate a Title VI complaint, unless there appears to be a compelling reason to do otherwise. In cases where Title VI complaints are not investigated, the compelling reason shall be set forth in writing to the complainant and Assistant Attorney General for Civil Rights.

**§ 1010.30-6 Intimidation.**

No grantee shall intimidate, retaliate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 624 of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2971c; Title VI of the Civil Rights Act of 1964, as amended, or this part, or because he/she has made a complaint, testified, assisted, or participated in any manner in any investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any preliminary inquiries thereunder.

**§ 1010.30-7 Adjustment of time limits.**

The time limits listed in § 1010.30-3 (b)(2) through (b)(4) of this section shall be appropriately adjusted where CSA requests another Federal agency to act on the complaint. CSA will monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, CSA shall institute appropriate actions as required by this subpart.

**Subpart E—Procedure for Effecting Compliance****§ 1010.40-1 General.**

(a) If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law.

Such other means may include, but are not limited to, a referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any applicable law of the United States or any assurance or other contractual undertaking.

(b) Noncompliance with Subpart C. If an applicant fails or refuses to furnish an assurance required under Subpart C or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that subpart, Federal financial assistance may be refused in accordance with the procedures of this subpart.

(c) The Agency may defer action on applications for assistance to the grantee or applicant during the pendency of enforcement proceedings under this part.

**§ 1010.40-2 Termination of or refusal to grant or to continue financial assistance.**

(a) No order suspending, terminating or refusing to grant or continue Federal financial assistance for failure to comply with this part shall become effective until:

(1) The Associate Director for Human Rights or his/her designee has advised the applicant or grantee of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or grantee to comply with a requirement imposed by or pursuant to this subpart;

(3) The action has been reviewed by the Director of CSA pursuant to § 1010.40-4 or he/she has had the opportunity to review and did not do so; and

(4) The expiration of 30 days after the Director of CSA has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or grantee as to whom such finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been found.

(b) Voluntary compliance will be determined as not being available, if a voluntary compliance agreement is not arrived at during the period for

voluntary compliance negotiations set forth by this part.

(c) Section 1010.40-2(a)(4) does not apply to actions concerning discrimination on the basis of creed, political affiliation or belief or to employment discrimination on the basis of race or national origin not covered by Title VI, § 1010.10-3(a), and § 1010.10-3(b).

**§ 1010.40-3 Hearings.****(a) Opportunity for Hearing.**

Whenever an opportunity for a hearing is required by this part, reasonable notice of such hearing shall be given by registered or certified mail, return receipt requested. This notice shall advise the applicant or grantee of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and either (a) fix a date less than 20 days after the date of such notice within which the applicant or grantee may request of the responsible CSA official that the matter be scheduled for hearing, or (b) advise the applicant or grantee that the matter in question has been set for hearing at a stated place and time. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or grantee may waive a hearing and submit written information and argument for the record. The failure of an applicant or grantee to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of Title VI and this subpart and consent to the making of a decision on the basis of such information as is available.

(b) *Time and Place of Hearing.* Hearings shall be at a time and place in Washington, D.C. fixed by the responsible CSA official or his/her designee unless he/she determines for cause that another location should be selected. Hearings shall be held before a hearing officer who shall be referred to hereinafter as the hearing examiner.

(c) *Right to Counsel.* In all proceedings under this section, the applicant or grantee and CSA shall have the right to be represented by counsel.

**(d) Procedures, Evidence and Record.**

(1) The hearing, decision, and any review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (Sections 5-8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper, relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 1010.40-2 of this part, taking of testimony, exhibits, arguments and briefs, requests for findings, and

other related matters. Both CSA and the applicant or grantee shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing examiner.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing examiner. The hearing examiner may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence unless dispensed with by stipulation. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or Joint Hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI, the Director may, by agreement with such other departments or agencies, provide for consolidated or joint hearings, and for the application to such hearings of rules of procedure consistent with this part. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with Section 1010.40-4.

**§ 1010.40-4 Decisions and notices.**

(a) *Initial Decision.* The hearing examiner shall make an initial decision. A copy of such initial decision shall be mailed to the applicant or grantee. The applicant or grantee may within 30 days of the mailing of the initial decision file with the Director of CSA its exceptions to the initial decision. In the absence of exceptions, the Director of CSA may, on his/her own motion, within 45 days after the initial decision, serve on the applicant or grantee a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review, the Director of CSA shall review the initial decision and issue his/her own decision thereon. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of CSA.

(b) *Final Decision.* Whenever the Director of CSA makes the initial decision pursuant to paragraph (c) of this section, or whenever the hearing examiner issues an initial decision, the

applicant or grantee and complainant shall be given a copy of the decision. A copy of the final decision of the Director of CSA shall be given to the applicant or grantee and the complainant.

(c) *Waived Hearings.* Whenever a hearing is waived pursuant to Section 1010.40-3(a), a decision shall be made by the Director of CSA on the record and a copy of such decision shall be given to the applicant or grantee and to the complainant.

(d) *Rulings Required.* The decision of a hearing examiner shall set forth each of his/her findings, conclusions, or exceptions presented, and shall identify the requirement or requirements imposed by or pursuant to this part, Title VI, or Section 624 of the Economic Opportunity Act of 1964, as amended, that the applicant or grantee has failed to comply with.

(e) *Content of Orders.* The final decision may provide for suspension or termination or, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purpose of Title VI and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or grantee determined to have failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Associate Director for Human Rights that it will fully comply with this part.

(f) *Post-Termination Proceedings.* (1) An applicant or grantee adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or grantee adversely affected by an order issued pursuant to paragraph (e) of this section may at any time request the Associate Director for Human Rights to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or grantee has met the requirements of paragraph (f)(1) of this section. If the Associate Director for Human Rights determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the Associate Director for Human Rights denies any such request, the applicant or grantee may submit a written request for a hearing to the

Director of CSA specifying why it believes such denial to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with such rules of procedure as are issued by the Director of CSA. The applicant or grantee will be restored to eligibility if it proves at a hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

**§ 1010.40-5 Judicial review.**

Any action taken pursuant to Title VI of the Civil Rights Act of 1964 is subject to judicial review as provided in Section 603 of Title VI.

**Subpart F—Miscellaneous****§ 1010.50-1 Role of CSA officials.**

CSA shall to the fullest extent practicable in accordance with the requirements of this part seek the cooperation of grantees in obtaining compliance with this part, and shall provide assistance and guidance to grantees to help them comply voluntarily with this part.

**§ 1010.50-2 Continuing State programs.**

(a) Each state agency administering a continuing program which receives Federal assistance from CSA shall establish a Title VI compliance program for itself and other grantees which obtain financial assistance through it.

(b) This program will parallel the provisions of this part, including the maintenance of records necessary to permit Federal officials to determine compliance of the state agency and the sub-grantees with Title VI and this part.

**§ 1010.50-3 Effect on other regulations, forms, and instructions.**

Nothing in this part shall be deemed to supersede (a) Executive Order 11246 and regulations issued thereunder, or (b) any other regulations or instructions insofar as they prohibit discrimination on the grounds of race, color, national origin or sex in any program or situation to which this part is applicable, or prohibit discrimination on any other ground.

**§ 1010.50-4 Supervision and coordination.**

The Director of CSA may assign to officials of other departments or agencies of the government (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of this part other than the right to review a hearing examiner's initial decision as provided



in § 1010.40-4. Any action taken, determination made, or requirements imposed by an official of another department or agency acting pursuant to such an assignment or responsibility shall have the same effect as though such action had been taken by the responsible official of CSA.

**Appendix A.—Federal Financial Assistance to Which This Part Applies Funding Authorities Under the Economic Opportunity Act of 1964, as Amended**

| EOA section   | 42 U.S.C. section | Federal financial assistance                                                           |
|---------------|-------------------|----------------------------------------------------------------------------------------|
| 101.....      | 2712              | Research, Demonstration & Pilot Projects.                                              |
| 221.....      | 2806              | Community Action.                                                                      |
| 222(a)(5).... | 2809              | Community Food and Nutrition.                                                          |
| 222(a)(7).... | 2809              | Senior Opportunities and Services.                                                     |
| 222(a)(11)... | 2809              | Rural Housing Development and Rehabilitation.                                          |
| 222(a)(12)... | 2809              | Emergency Energy Conservation Services.                                                |
| 222(a)(13)... | 2809              | Summer Youth Recreation.                                                               |
| 228.....      | 2813              | Design and Planning Assistance Programs.                                               |
| 227.....      | 2814              | National Youth Sports Programs.                                                        |
| 229.....      | 2815              | Consumer Action and Cooperative Programs.                                              |
| 230.....      | 2823              | Technical Assistance and Training.                                                     |
| 231.....      | 2824              | State Agency Assistance.                                                               |
| 232.....      | 2825              | Research and Pilot Programs.                                                           |
| 234.....      | 2827              | Special Assistance.                                                                    |
| 235.....      | 2828              | Demonstration Community Partnerships.                                                  |
| 302(a).....   | 2851              | Loans to Low Income Families (Rural Loan Programs).                                    |
| 312.....      | 2862              | Assistance for Migrant, and Other Seasonally Employed, Farmworkers and their Families. |
| 712.....      | 2982a             | Community Development Corp.                                                            |
| 247(b).....   | 2985a             | Research and Planning (Community Economic Development).                                |
| 901(a).....   | 2995              | Program and Project Evaluation.                                                        |

**Appendix B.—Activities to Which This Part Applies When a Primary Objective of the Federal Financial Assistance is To Provide Employment**

Inner-City Youth Employment Program

**Appendix C.—Application of Part 1010 to Federal Financial Assistance of Community Services Administration**

Nondiscrimination in Federally Assisted Programs

**(A) Examples:**

The following examples, without being exhaustive, illustrate the application of the non-discrimination provisions of this part in programs or projects receiving Federal financial assistance from the Community Services Administration.

1. Denial of the opportunity to participate in a program because of race, color or national origin.—An Off-reservation Native American funded program in an urban area denies a Caucasian the opportunity to participate in the food and nutrition component of the program because she/he is not a Native American.

2. Failure to ensure that all segments of the low-income community have an equal opportunity to participate in the board member representation elective process because of race, color, or national origin.—A Community Action Agency in a multiracial community utilizing a mobile voting booth for board member elections in the area served,

allots an equal amount of time in each of the ethnic and racial areas except for the Black community.

3. Providing a disproportionate allocation to one sector of a community with a predominant monoracial composition where the disproportionate allocation is not justified by a CSA-approved program objective.—A Community Action Agency serving a poverty population composed of 10% White, 77% Black, 10% Hispanic and 3% Oriental provides the White poverty community with 50% and the Black poverty community with 20% of the funds available to the poverty area served.

The above disproportionate allocations may be justifiable if the CSA-approved program objective was to address unemployment, and if 90% of the White poverty area was unemployed compared to 5% of the Black poverty area.

4. The utilization of sites and facilities that have historically discriminated, which affects the participation of beneficiaries because of race, color, or national origin.—A Community Action Agency in a multiracial community which is predominately Black leases a facility for use as a neighborhood service center in an exclusive White area that is inaccessible to the Black community.

[FR Dec. 79-37546 Filed 12-5-79; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 12, 14, 15 and 16

(CGD 79-161)

#### Shipment and Discharge of Seamen

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

**SUMMARY:** This amendment sets out the procedures to be followed by masters of certain U.S. vessels bound on foreign and intercoastal voyages when shipping and discharging seamen. The shipment and discharge of seamen on these vessels had been conducted under supervision of Coast Guard officials functioning as shipping commissioners. However, the Department of Transportation's FY-80 Appropriation Act (Pub. L. 96-131) prohibits the expenditure of funds by any federal agency for pay or administrative expenses in connection with shipping commissioners in the United States. Therefore, masters of these vessels will, pursuant to statute, assume the total responsibility for the shipment and discharge of seamen aboard their vessels. These amendments revise current Coast Guard regulations to reflect that fact.

**EFFECTIVE DATE:** December 3, 1979.

**FOR FURTHER INFORMATION CONTACT:** Commander Scott D. McCowen, Office

of Merchant Marine Safety, Room 1400, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2240.

**SUPPLEMENTARY INFORMATION:** This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication. The extent of the restriction on Coast Guard expenditures could not be determined with certainty and it became effective upon passage of the Appropriation Act. Additionally, because the restriction is effective immediately delay in publication of the rule could lead to disruption in the shipping industry since masters would have no guidance concerning the shipment and discharge of seamen on foreign and intercoastal voyages. Therefore, notice and public procedure hereon are unnecessary and impracticable and good cause exists for making this rule effective in fewer than 30 days after publication.

**DRAFTING INFORMATION:** The principal persons involved in drafting this rule are Commander Scott D. McCowen, Project Manager, Office of Merchant Marine Safety, and Lieutenant John W. Salter, Project Counsel, Office of the Chief Counsel.

**DISCUSSION OF REGULATIONS:** The passage of the Department of Transportation's FY-80 Appropriation Act (Pub. L. 96-131, November 30, 1979) necessitates the revision and deletion of certain Coast Guard regulations pertaining to the shipment and discharge of seamen before shipping commissioners. A provision of the Act prohibits the expenditure of funds by any federal agency for pay or administrative expenses related to shipping commissioner activities in the United States. This provision effectively precludes the Coast Guard from continuing to supervise the shipment and discharge of seamen through Coast Guard personnel acting as shipping commissioners. The prohibition also relieves Customs officials of the mandate in 46 U.S.C. 543 to act when Coast Guard personnel are not available to perform the duties of shipping commissioners. The Act however does not affect the responsibilities of U.S. Counsuls abroad for safeguarding the well-being of seamen in foreign ports.

The office of shipping commissioners was established by the Shipping Commissioners Act of 1872. Originally the commissioners were court officers. However, over the years they have functioned under the various departments of the government until 1946 when all shipping commissioner powers were vested in the Commandant

of the Coast Guard by the 1946 Reorganization Plan No. 3, 60 Stat. 1097. The statutory creation of shipping commissioners initially stemmed from the need to protect merchant seamen from the inequities and abuses effected by vessel owners and masters in the nineteenth century. Historically, the shipping commissioner has provided protection for seamen by acting as an arbiter in shipping agreement disputes and assuring that seamen were entering into shipping agreements of their own free will, while in full control of their mental faculties. The primary duties of commissioners involved the signing on and discharge of seamen, approval of allotments, and disposition of wages and effects of deceased seamen.

During the past forty years seamen's unions have largely eliminated the need for shipping commissioners. Through collective bargaining and the establishment of grievance procedures, merchant seamen are now afforded better protection, food, living and working conditions than are mandated by the statutes under which the shipping commissioner functions. Congress in recognition of these facts has, through the DOT Appropriation Act, effectively terminated the shipping commissioner function of government officials in the United States.

Current Coast Guard regulations in 46 CFR Parts 14-16 are primarily concerned with the function and duties of shipping commissioner. The majority of the regulations in part 14 address the procedures to be followed by government officials acting as shipping commissioners when seamen were signed on and discharged from vessels sailing under foreign and intercoastal articles mandated by 46 U.S.C. 564. These rules revise those regulations by substituting the master for the shipping commissioner in most instances.

With no government officials to act as shipping commissioners the master of vessels bound on foreign and intercoastal voyages will assume the responsibility for signing on and discharging seamen aboard their vessels. The provisions of 46 U.S.C. 546 authorize the master of any vessel to perform the duties of shipping commissioner when engaging seamen "in any district where no shipping commissioner shall have been appointed". Since no district will have appointed shipping commissioners, masters may sign on seamen and, generally perform the function of a commissioner in respect to the shipment of seamen. In fact if a master wishes to commence a voyage he either must sign

on the crew and execute articles or sail in violation of law.

The masters of merchant vessel of 100 gross tons and over, bound on a foreign or intercoastal voyage, will also be required under 46 U.S.C. 643 to effect the discharge of seamen aboard their vessels. Subsection (k) of 643 provides "where vessels are not required to sign on and discharge the crew before a Coast Guard official (shipping commissioner) the duties required by subsections (d) and (e) of this section \* \* \* shall be performed by the master of such vessel". Subsections (d) and (e) pertain to entries in continuous discharge books and issuance of certificates of discharge. There being no government official to perform the duties of shipping commissioner, the Coast Guard has concluded that legally the vessel becomes one "not required to sign on and discharge the crew before a shipping commissioner." Therefore the master must perform the duties set out in subsections (d) and (e) of 46 U.S.C. 564 and sign off seamen on his vessel by issuing certificates of discharge and making entries in continuous discharge books.

These amendments revise current regulations pertaining to the shipment and discharge of seamen to reflect the responsibility of masters as discussed above. References to shipping commissioners and Collectors of Customs have been deleted and the procedures masters must now follow have been added.

The provisions of § 14.05-10(b) add a requirement for masters of certain merchant vessels of 100 gross tons and upwards sailing under foreign and intercoastal shipping articles to forward to the Commandant reports of the shipment and discharge of seamen aboard their vessels. This information had been secured by shipping commissioners and forwarded to the Commandant in the form of copies of the vessels shipping articles. However, since the crew of these vessels will no longer be shipped or discharged before a shipping commissioner the provisions of subsection (1) of 46 U.S.C. 643 will be applicable and the master will be required to file reports on CG Form 735T, in the same manner as masters of vessels engaged in the coastwise trade. The paragraph does contain a provision that allows masters sailing under foreign and intercoastal articles to submit a copy of the articles in place of the report on CG Form 735T since both forms contain substantially the same information and the articles have already been prepared by the master.

This document also deletes the regulations in 46 CFR Parts 15 and 16

pertaining to allotments for seamen and the disposition of wages of deceased or deserter seamen by shipping commissioners. With the passage of the DOT Appropriation Act there is no longer any government official functioning as a shipping commissioner to approve an allotment as required by 46 U.S.C. 599 nor receive seaman's wages as authorized by 46 U.S.C. 622.

The current § 14.01-10 pertaining to the reporting of lost, stolen, or destroyed continuous discharge books, certificates of identification or certificates of discharges is being revised and transferred to Part 12 of 46 CFR and redesignated § 12.02-24. As revised the section will contain no reference to shipping commissioners or Collector of Customs. The section is included in part 12 since that part primarily deals with documents issued by the Coast Guard.

In consideration of the foregoing, Chapter 1 of Title 46, Code of Federal Regulations is amended as follows:

#### PART 12—CERTIFICATION OF SEAMEN

1. By amending Part 12 by adding § 12.02-24 to read as follows:

**§ 12.02-24 Reporting loss or recovery of continuous discharge book, merchant mariners document, or certificate of discharge.**

Whenever a continuous discharge book, merchant mariners document, or certificate of discharge is reported to an Officer in Charge, Marine Inspection (OCMI), as having been stolen, lost, or destroyed, the OCMI shall immediately report the fact by letter to the Commandant, giving all the facts incident to its loss or destruction. By the same procedure the OCMI shall report the recovery of a continuous discharge book, merchant mariners document or certificate of discharge with all the facts incident to its recovery, and shall forward the recovered book, document, or discharge to the Commandant.

2. By revising Part 14 in its entirety to read as follows.

#### PART 14—SHIPMENT AND DISCHARGE OF SEAMEN

##### Subpart 14.01—General

Sec.

- 14.01-1 Purpose of Part.
- 14.01-3 Coast Guard address.
- 14.01-5 Foreign or intercoastal voyages upon which shipping articles are required.
- 14.01-7 Voyages upon which shipping articles are not required.

##### Subpart 14.05—Shipping Articles

- 14.05-1 Form of shipping articles.
- 14.05-2 Posting copy of shipping articles.



- Sec.  
14.05-3 Preparation of shipping articles.  
14.05-5 Production of documents by seamen signing shipping articles.  
14.05-7 Paying off seamen during foreign or intercoastal voyage.  
14.05-10 Reporting shipment and discharge of seamen.  
14.05-15 Completing entries in shipping articles at completion of voyage.

**Subpart 14.10—Discharging Seamen**

- 14.10-1 Entries in continuous discharge book.  
14.10-5 Entries in certificates of discharge to merchant seamen.  
14.10-7 Issuance of certificate of character upon discharge of seaman.  
14.10-10 Discharging a seaman in a foreign port.  
14.10-15 Certificate of discharge issued pending issuance of duplicate continuous discharge book.  
14.10-20 Discharge of seamen in special cases.

**Subpart 14.15—Disclosure of Information Regarding Shipment and Discharge of Merchant Mariners.**

- 14.15-1 Availability of information to the public.

Authority: The provisions of Part 14 are issued under Pub. L. 96-131, R.S. 4551, as amended, sec. 13, 38 Stat. 1169, as amended, sec. 7, 49 Stat. 1936, as amended, sec. 8(b)(1), 80 Stat. 938; 46 U.S.C. 643, 672, 689, 49 U.S.C. 1655(b); 49 CFR 1.46(b), unless otherwise noted.

**Subpart 14.01—General****§ 14.01-1 Purpose of part.**

This part prescribes rules for the shipment and discharge of seamen on certain United States vessels.

**§ 14.01-3 Coast Guard address.**

Each form or report required in this part to be submitted to the Commandant shall be forwarded to: Commandant (G-MVP-1/TP12), U.S. Coast Guard, Washington, D.C. 20593.

**§ 14.01-5 Foreign or intercoastal voyages upon which shipping articles are required.**

(a) Prior to proceeding on any foreign or intercoastal voyage listed in this section, or the engagement of replacement or additional seamen for such a voyage, the master shall make an agreement (shipping articles) in writing with each seaman. The articles shall be signed by the master and each seaman so engaged.

(b) Except as provided in § 14.01-7, shipping articles are required for the following voyages and vessels:

- (1) A voyage by a United States vessel from a port in the United States to any foreign port other than ports in the following areas:
  - (i) British North American possessions.
  - (ii) West India Islands.
  - (iii) Republic of Mexico.

(iii) Republic of Mexico.

(2) A voyage by a United States vessel of 75 gross tons or upward between a United States port on the Atlantic and a United States port on the Pacific, or vice versa.

Note.—The provisions of R.S. 4520, (46 U.S.C. 574) require the master of any United States vessel of 50 gross tons or upward, bound from a port in one state to a port in any other than an adjoining state, to make an agreement (shipping articles) with every seaman engaged.

**§ 14.01-7 Voyages upon which shipping articles are not required.**

(a) Shipping articles are not required but may be utilized for the following classes of vessels:

- (1) Vessels engaged exclusively in fishing or whaling.
- (2) Yachts.

(3) Vessels upon which the seamen are by custom or agreement entitled to participate in the profits or results of a cruise or voyage.

**Subpart 14.05—Shipping Articles****§ 14.05-1 Form of shipping articles.**

(a) The form and content of shipping articles for foreign or intercoastal voyages are generally controlled by R.S. 4511 (46 U.S.C. 564), R.S. 4512 (46 U.S.C. 565), and R.S. 4612 (46 U.S.C. 713, Tables A and B).

(b) The Coast Guard Officer in Charge, Marine Inspection will, as a matter of convenience, supply form CG-705A (shipping articles) upon request. Form CG-705A is considered to comply with the requirements of the statutes noted in paragraph (a) of this section. Any other form of shipping articles complying with the requirements of the statutes noted in paragraph (a) may be utilized.

Note.—Detailed instructions for the completion of form CG-705A are contained in Navigation and Vessel Inspection Circular #8-79, which may be obtained at any Coast Guard Marine Inspection or Safety Office.

**§ 14.05-2 Posting copy of shipping articles.**

(a) At the commencement of a foreign or intercoastal voyage the master shall ensure a legible copy of the shipping articles, omitting signatures (Forecastle Card), is posted at a place accessible to the crew. Form CG-704 or equivalent may be utilized for this purpose.

**§ 14.05-3 Preparation of shipping articles.**

(a) Shipping articles for foreign or intercoastal voyages shall be made out in duplicate. The original shall be retained by the master, who shall enter therein any changes made in the crew during the voyage.

**§ 14.05-5 Production of documents by seamen signing shipping articles.**

(a) At the time of engagement, each seaman shall present to the master any certificate or license as may be required by law for the service to be performed.

**§ 14.05-7 Paying off seamen during foreign or intercoastal voyage.**

(a) In case of the paying off of any members of the crew during a foreign or intercoastal voyage, each seaman shall sign the release on the original of the shipping articles. In a foreign port, where a United States consul is available, the release shall be executed by the master and seaman before the consul or his representative. In a foreign port where a United States consul is not available, the release need be executed only by the master and seaman.

**§ 14.05-10 Reporting shipment and discharge of seamen.**

(a) The master of each merchant vessel of one hundred gross tons or upward, shall report the employment, discharge or termination of the service of every seaman in the manner provided in this section. Reports need not be submitted by masters of the following vessels:

- (1) Vessels employed exclusively in trade on the navigable rivers of the United States.
- (2) Fishing and whaling vessels.
- (3) Yachts.
- (4) Ferries and tugs used in ferry operations if such ferries and tugs are employed exclusively in trade on the Great Lakes, lakes (other than the Great Lakes), bays, sounds, bayous, canals, and harbors, and are not engaged on international voyages.
- (5) Unrigged vessels other than seagoing barges.

(b) When a vessel is engaged on a foreign or intercoastal voyage, the master shall submit a Form CG-735-T to the Commandant prior to sailing and upon completion of the voyage. At the option of the master, a copy of the vessel's shipping articles may be submitted to the Commandant in lieu of Form CG-735-T. When utilized, Form CG-735-T shall contain the names, as well as the other information required by the form, of the master and each member of the crew shipped or discharged. During the term of the voyage the master shall submit supplementary reports on Form CG-735-T listing the names, as well as the other information required by the form, of each seaman engaged, discharged, or whose services have been otherwise terminated.

(c) When a vessel is engaged on a coastwise voyage not specifically

covered by paragraph (d) or (e) of this section, the master shall, prior to sailing, submit to the Commandant a Form CG-735-T listing the names, as well as other information required by the form, with the exception of the date and place of discharge, of the master and of each member of the crew shipped. Thereafter, at the end of each calendar month, the master shall submit a supplementary report on Form CG-735-T listing the name, as well as the other information required by the form, of each seaman engaged, discharged, or whose services were otherwise terminated since the previous submission of the form. When the voyage is completed the master shall submit a final report to the Commandant on Form CG-735-T.

(d) When a vessel is employed exclusively on bays or sounds, the master shall submit a Form CG-735-T, on the last day of each calendar month, listing the name, as well as the other information required by the form, of each seaman employed, discharged, or whose services were otherwise terminated during the month.

(e) When a vessel is employed exclusively on the Great Lakes, the master shall submit a Form CG-735-T at the commencement of the season, or when the vessel is put into service, listing the names, as well as the other information required by the form, with the exception of date and place of discharge, of each member of the crew. Thereafter, at the end of each calendar month, the master shall submit a supplementary report on Form CG-735-T listing the names, as well as the other information required by the form, of each seaman whose employment was terminated during the month and who was not reengaged on the vessel's next trip, and each seaman engaged during the month who was not also employed on the vessel in the same capacity on her last trip preceding the engagement. At the close of the season, or when the vessel is withdrawn from service, the master shall submit a final report to the Commandant on Form CG-735-T containing the information required by the form, concerning each seaman who has not been previously reported as discharged.

(f) Every discharge entry made on a Form CG-735-T shall agree exactly with the corresponding entry made in a Continuous Discharge Book (Form CG-719), the Record of Entry in Continuous Discharge Book (Form CG-718E), or on the certificate of Discharge to Merchant Seaman (Form CG-718A) issued to a

seaman. Each record of entry or copy of the discharge shall be attached to Form CG-735-T on which discharges are reported.

(g) Any master who fails to comply with the requirements of this section is subject to a penalty of \$500.

**§ 14.05-15 Completing entries in shipping articles at completion of voyage.**

(a) At the completion of a foreign or intercoastal voyage, when the crew is paid off, the release on the shipping articles shall be signed by all members of the crew.

(b) All entries made in continuous discharge books during the voyage, and all entries made in certificates of discharge issued during the voyage to seamen holding merchant mariner's documents shall be duplicated on the shipping articles.

**Subpart 14.10—Discharging Seamen****§ 14.10-1 Entries in continuous discharge book.**

(a) Upon the discharge of any seaman who holds a Continuous Discharge Book (Form CG-719), and the payment of wages, the master shall complete the required entries in the book.

(b) The master making the entries in the Continuous Discharge Book shall also prepare a Record of Entry in Continuous Discharge Book (Form CG-718E).

(c) The completed Form CG-718E shall be signed by the seaman in whose Continuous Discharge Book the original entry was made and by the master.

(d) All entries in a Continuous Discharge Book (Form CG-719) shall be made in black ink. All entries on Form CG-718E shall be made with a typewriter or an indelible pencil.

(e) The original copy of completed Form CG-718E shall be submitted to the Commandant. The duplicate copy of completed Form CG-718E may be retained by the master issuing such record of entry.

**§ 14.10-5 Entries in certificate of discharge to merchant seaman.**

(a) Upon the discharge of any seaman who holds a merchant mariner's document issued by the Coast Guard, and payment of wages, the master shall issue to the seaman a Certificate of Discharge to Merchant Seaman (Form CG-718A).

(b) The completed Form CG-718A shall be signed by the seaman to whom it is issued and by the master of the vessel. The signatures shall be made with an indelible pencil before the

issuance of the original copy to the seaman.

(c) All entries on Certificates of Discharge to Merchant Seaman (Form CG-718A) shall be made with a typewriter or an indelible pencil.

(d) The original completed Form CG-718A shall be issued to the seaman who signs the certificate. The yellow copy of the completed Form CG-718A may be retained by the master issuing such discharge. The white copy of completed Form CG-718A shall be submitted to the Commandant.

**§ 14.10-7 Issuance of certificate of character upon discharge of seaman.**

(a) Upon the discharge of each seaman from a vessel engaged on a voyage listed in § 14.01-5(b), the master shall make and sign in the official logbook, and on the articles should such an entry be called for, a report of the conduct, character and qualifications of the person discharged; or may state as the report that he declines to give any opinion.

**§ 14.10-10 Discharging a seaman in a foreign port.**

(a) Upon the discharge of any seaman in a foreign port the master shall make the required entries on the ship's articles and Form CG-718A or Form CG-718E, as appropriate. All entries shall be attested to by a U.S. Consular Officer in ports where such an officer is available.

**§ 14.10-15 Certificate of discharge issued pending issuance of duplicate continuous discharge book.**

(a) When a seaman's continuous discharge book has been lost, pending the issuance of a duplicate, the master shall furnish the seaman with a Certificate of Discharge to Merchant Seaman (Form CG-718A) at the completion of a voyage, and this fact shall be noted on the articles. The white copy of the certificate of discharge shall be forwarded to the Commandant.

**§ 14.10-20 Discharge of seamen in special cases.**

(a) Section 16 of the Act of December 21, 1898 (30 Stat. 759), amended in part R.S. 4581 (46 U.S.C. 683), relating to the discharge of seamen by consuls, to read:

If a seaman is discharged on account of injury or illness, incapacitating him for service, the expenses of his maintenance and return to the United States shall be paid from the fund for the maintenance and transportation of destitute American seamen.

(b) Section 19 of the Seamen's Act of March 4, 1915 (38 Stat. 1185; 46 U.S.C. 683), adds to these words the following:



*Provided:* That at the discretion of the Commandant of the Coast Guard and under such regulations as he may prescribe, if any seaman incapacitated from service by injury or illness is on board a vessel so situated that a prompt discharge requiring the personal appearance of the master of the vessel before a United States consul or consular agent is impracticable, such seaman may be sent to a consul or consular agent, who shall care for him and defray the cost of his maintenance and transportation, as provided in this paragraph.

(c) The personal appearance of the master of the vessel before a United States consul or consular agent to consent to the discharge of a seaman who has been incapacitated by injury or illness may be waived by the consul under the following conditions:

(1) When the condition of the injured or ill seaman is such that prompt medical attention is necessary and cannot be furnished on shipboard, and

(2) When the master cannot proceed with the seaman to the consul without risk to the crew, the vessel, or the cargo.

(d) When the master cannot appear before the consul in person the master shall address to the consul in writing a full statement of the facts which render necessary the discharge of the seaman, together with a statement of the reasons why the master is unable to appear before the consul. The statement should cover the usual particulars set forth in a discharge and should be accompanied with an account of the wages due with the necessary funds to meet such wages, or (if the cash is not available) with an order to the owner for the amount due.

(e) If the consul shall deem the statement satisfactory, the seaman may be discharged as directed in R.S. 4581, as amended by Section 16 of the Act of December 21, 1898, and Section 19 of the Act of March 4, 1915, as if the master were present, attaching to the discharge and to the consul's relief account a copy of the statement submitted by the master.

(f) If the consul shall deem the statement unsatisfactory, and the condition of the seaman permits, the consul may decline to grant the discharge and direct that the seaman be returned to the vessel at its expense.

(g) When the condition of the injured or ill seaman is such that the seaman is incapable of completing the release for discharge at the time of removal from the vessel, the master shall complete the master's portion of the Mutual Release (Form CG-713A) and place the form with the seaman.

(1) If the seaman possesses a continuous discharge book, the master shall make the proper entries in the book and on the ship's articles and

complete Form CG-718E. Form CG-718E shall be retained by the master until the termination of the voyage, at which time it shall be delivered to the vessel's owner or agent along with the shipping articles. Upon completion and presentation of the Mutual Release (Form CG-713A) to the vessel's owner or agent, the seaman shall receive all wages due. Form CG-718E shall then be signed by the seaman and the original copy forwarded to the Commandant. At this time a notation of the completion of the release should be made on the shipping articles and Form CG-713A attached thereto.

(2) If the seaman possesses a merchant mariner's document, the master shall complete a certificate of discharge on Form CG-718A, and make the proper entries on the ship's articles. Form CG-718A shall be retained by the master until the termination of the voyage, at which time it shall be delivered to the vessel's owner or agent along with the shipping articles. Upon completion and presentation of the Mutual Release (Form CG-713A) to the vessel's owner or agent, the seaman shall receive all wages due. Form CG-718A shall then be signed by the seaman and the original given to him. The white copy of Form CG-718A shall be forwarded to the Commandant. At this time a notation of the completion of the release should be made on the shipping articles and Form CG-713A attached thereto.

#### Subpart 14.15—Disclosure of Information Regarding Shipments and Discharges of Merchant Mariners

##### § 14.15-1 Availability of information to the public.

The Coast Guard makes information available to the public in accordance with 49 CFR Part 7.

(14 U.S.C. 633, 5 U.S.C. 552, sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

#### PART 15—ALLOTMENTS OF SEAMEN

3. By deleting Part 15.

#### PART 16—UNITED STATES SHIPPING COMMISSIONERS

4. By deleting Part 16.

(Pub. L. 96-131; 46 U.S.C. 643, 672, 689; 49 U.S.C. 1655(b); 49 CFR 1.46(b).)

Dated: December 3, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-37540 Filed 12-5-79; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Parts 90 and 95

[Docket No. 21142; FCC 79-756]

#### Replacing the Low-Pass Audio Filtering Requirements With a Revised Emission Limitation Standard

AGENCY: Federal Communications Commission.

ACTION: Second Report and Order.

SUMMARY: The FCC adopts new emission limitation standards for VHF and UHF analog and digital transmitters to replace present rule requirements for low-pass filters for stations authorized under Parts 90 and 95 (General Mobile Radio stations only) of the Commission's rules.

EFFECTIVE DATE: January 7, 1980.

ADDRESSES: Federal Communications Commission Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632-6497.

#### Second Report and Order

Adopted: November 20, 1979.

Released: December 3, 1979.

In the matter of amendment of Parts 89, 91, 93 and 95 (General Mobile Radio Service) of the Commission's rules and regulations to replace the low-pass audio filtering requirements with a revised emission limitation standard, Docket No. 21142. See also 43 FR 6822, February 16, 1978.

#### Introduction

1. On March 23, 1977, the Commission released a Notice of Proposed Rule Making to amend Parts 89, 91, 93 and 95 (General Mobile Radio Service) of the Commission's Rules.<sup>1</sup> The objective of this Notice was to determine whether the use of F3Y emission (digital voice modulation) should be permitted in secure communication systems, and whether the low-pass audio filter should be removed from digital voice, Automatic Vehicle Monitoring (AVM) and other high bit rate transmitters. After all comments to the original Notice were reviewed, the Commission determined the effects of the low-pass filter and the analog emission standard on the analog transmitted spectra, and developed an equivalent emission

<sup>1</sup> Parts 89, 91, and 93 for Land Mobile Radio Services were recently combined by the Commission into a single part, designated Part 90. Any further reference to the rules governing the Land Mobile Radio Services shall be to the new Part 90.

limitation standard for digital transmitters.

2. On February 9, 1978, the Commission released a First Report and Order, which authorized the Police and Fire Radio Services to use F3Y emission (digital voice modulation). Furthermore, it authorized F9Y emission (non-voice digital modulation) in all Land Mobile Radio Services regulated by Part 90 of the Commission's rules. In connection with this, the Commission authorized on an "interim" basis, the removal of the low-pass filter from digital transmitters and adopted the new emission limitation standard for those digital transmitters that had the low-pass filter removed.

3. On February 9, 1978, the same date the Commission released the First Report and Order, the Commission released a Further Notice of Proposed Rule Making, with the following proposals:

a. To change the "interim" standard for digital transmitters adopted in the First Report and Order to a "permanent" status.

b. To amend Parts 90 and 95 (General Mobile Radio Service) of the Commission's Rules and remove the low-pass filter from analog transmitters that comply to the digital transmitter limitation standard adopted in the First Report and Order.

c. To apply the new emission standard to all transmitters operating in the 25-50, 150-174, 450-512, 806-821 and 851-866 MHz.

d. To review comments and technical data submitted in response to the Further Notice of Proposed Rule Making, and decide whether the emission limits and measurements described in EIA Standard RS-152-B should replace the emission limitation standard adopted by the Commission.<sup>2</sup>

e. To determine whether the Commission should standardize digitizing techniques, symbol rates, idling codes, encryption methods and carrier modulation of F3Y emission (digital voice modulation).

#### Measurement of Digital Emissions

4. In the comments to the Further Notice of Proposed Rule Making, Motorola claimed that digital transmitters are modulated by random digital pulses. This random signal, they said, is like noise, and its power is distributed equally on every hertz of its sideband. A spectrum analyzer, on the other hand, displays the power accumulated on all frequencies within

<sup>2</sup> EIA Standards RS-152-B, titled "Minimum Standards for Land Mobile Communication FM or PM Transmitters, 25-450 MHz" is a widely used guideline for the design of narrow band FM communication transmitters.

its bandwidth. Therefore, the accumulated bandwidth power displayed by a spectrum analyzer, is not equivalent to the power on each sideband hertz of the modulated carrier. For this reason, they argued, the "interim" emission limitation standard, as described in the Commission's Rules, cannot be verified using the conventional spectrum analyzer method. The General Electric Company (GE) claimed, that the measuring capabilities of spectrum analyzers are limited, and ambiguous interpretation of measurements can be obtained, if the control settings are not specified. They recommended that the Commission should specify the spectrum analyzer IF and video filter settings.

5. We have reviewed these comments and we agree that a spectrum analyzer cannot resolve accurately the spectra emissions of a carrier modulated by random digital pulses. The sweep time of a spectrum analyzer is comparatively slow, and the fast moving random pulses superimpose different power levels of spectra on identical positions of the spectrum analyzer display. The carrier of a digital transmitter, however, is modulated by the digital pulses in a sequential manner. Therefore, the spectra power of the modulated carrier at any time, is a function of a single pulse in the digital signal. The minimum and maximum values of amplitude, pulse width and repetition frequency of the modulating digital pulses are well known, because they are predetermined during the design of the transmitter. For test purposes, repetitive digital pulses can be used, with constant amplitude, pulse width and repetition frequency, to modulate the carrier and obtain recurrent spectral emissions with identical spectral lines, which can be resolved accurately on the display of a spectrum analyzer.<sup>3</sup> The values of the test signal should be changed between the minimum and maximum specifications of the transmitter, to verify that the carrier sideband emissions are within the standards of the Commission's Rules. The transmitter emissions can be measured by using peak or average values. However, the values that are used to measure the transmitter sideband emission spectra, whether peak or average, should be identical to the values used to measure the unmodulated transmitter carrier power. The control settings of a

<sup>3</sup> An explanation of spectrum analyzer measurements is given in the Hewlett-Packard "Spectrum Analyzer Series, APPLICATION NOTE 150-2, SPECTRUM ANALYSIS \* \* \* Pulsed RF". Although this publication deals primarily with amplitude modulated signals, the same principles can be applied to frequency modulated signals.

spectrum analyzer depend on the manufacture and model of the equipment, pulse width and repetition frequency of the modulating signal, and whether the display is a line or pulse spectrum. We believe, therefore, that using good engineering practices, the proper control settings can be determined, and the inability of the spectrum analyzer to measure the spectra emissions of random digital signals circumvented, without compromising the validity of measurements.

#### EIA Measurement Standards

6. Various comments were received with respect to the replacement of the Commission's proposed limitation standard, by the measurement procedure described in EIA Standard RS-152-B. Motorola recommended that the Commission adopt this Standard either on a permanent basis, or as an approved alternate method if the Commission decides to adopt the "interim" standard on a permanent basis. GE recommended to approve the EIA Standard as an alternate method. International Business Machines Corporation (IBM) claimed that the Commission's "interim" Rules provide adequate protection to adjacent channels, that it can be implemented using practical measurement procedures, and should not be replaced by EIA Standard RS-152-B.

7. We have reviewed these comments and the test procedures described in the EIA Standards. As indicated in EIA Standard RS-152-B, however, the adjacent channel protection test procedure described in this document " \* \* \* does not provide in itself a means of evaluating adjacent channel interference." Moreover, the selectivity limits characterized in EIA Standards RS-152-B and RS-204-A are related to the audio output of the "companion receiver," but are not related to the RF sensitivity of that receiver.<sup>4</sup> Consequently, the receiver measurements cannot be correlated to the emission envelopes of transmitters. Furthermore, the test procedures described in these Standards are not

<sup>4</sup> See "Note" under paragraph 17.1, of EIA Standard RS-152-B.

<sup>5</sup> Adjacent channel spacings are described in EIA Standard RS-152-B, titled "Minimum Standards for Land Mobile Communication FM or PM Transmitters, 25-470 MHz," under Section 17, titled "Transmitter Sideband Spectrum." Receiver selectivity is described in EIA Standard RS-204-A, titled "Minimum Standard for Land Mobile Communication FM and PM Receivers, 25-470 MHz," under Section 11, titled "Adjacent Channel Selectivity and Desensitization," and paragraph 4.3, which describes the method of measurement for usable sensitivity of receivers.



very clear. As a result, with the Commission's "interim" rules in mind, the Commission, Motorola, and GE used different methods to derive different adjacent channel protection values for digital systems. In view of these findings and after considering this matter carefully, we have concluded that the adjacent channel protection procedures described in EIA Standards RS-152-B and RS-204-A cannot meet the emission limitation criteria of the Commission's standards and cannot replace the Commission's Rules.

#### Emission Standards of Digital Signals

8. GE, in their comments, requested that the  $116 \text{ Log}_{10} (f_d/6.1)$  requirement of the "interim" standard should be extended to 24.5 kHz and then maintained to 70 dB until 250% of the authorized bandwidth is reached. The 43 plus  $10 \text{ Log}_{10} (P)$  spurious signal limitation could then be applied beyond this frequency. They also questioned whether the 50 plus  $10 \text{ Log}_{10} (P)$  limitation is adequate to provide sufficient protection to adjacent channels.

9. An examination of our data indicates that the UHF envelope reaches a maximum attenuation of 70 dB at 25 kHz. The attenuation at 30 kHz is approximately 71 dB. In view of these findings, the UHF emission limitation standard shall be amended to a maximum attenuation of 70 dB for all UHF systems. In our First Report and Order, however, we concluded that the sideband emission of a transmitter should not require any further attenuation, if a minimum absolute power level is reached. The  $50 \text{ Log}_{10} (P)$  limitation standard was derived using an absolute minimum power level of 10 microwatts. We believe that this power level should be adequate to provide sufficient protection to adjacent channels, regardless of frequency, bandwidth and functional operation of any transmitter. For this reason, we shall retain the 50 plus  $10 \text{ Log}_{10} (P)$  limitation standard for UHF systems.

10. In their comments, Motorola argued that the proposed uniform standard loosens the performance of UHF systems and tightens the performance of VHF and Tertiary systems. The splatter filter, they claimed, has no effect on the resultant spectrum at 15 kHz. Therefore, Tertiary operation is relatively independent of the transmitter frequency and is essentially a co-channel problem when using 5 kHz deviation.

11. We have reviewed these comments and re-examined our data. Our analysis shows that the VHF and UHF envelopes begin to diverge at 5

kHz. The rate of divergence, however, is small from 5 to 10 kHz. In connection with this, we have also considered the maximum permissible sideband emission of the original analog Rules, which stated that the minimum attenuation should be 25 dB at 10 kHz, and we have decided to maintain the 25 dB attenuation at 10 kHz. For these reasons, we shall maintain the "interim" attenuation slope for VHF and UHF transmitters between 5 and 10 kHz, with a 25 dB attenuation at 10 kHz, as specified in the First Report and Order. Furthermore, we agree with the Motorola claim that the VHF low-pass filter reaches a maximum attenuation of 28 dB at 15 kHz. Above 15 kHz, however, the sideband attenuation continues, due to the lower modulation indexes, until a maximum attenuation of 50 dB is reached at 25 kHz. In view of these findings, we shall take in consideration the maximum attenuation effect of the low-pass filter and modify the VHF emission envelope above 10 kHz. The new VHF rule shall read as follows:

The power of any VHF sideband emission shall be attenuated below the unmodulated transmitter output power (P), in accordance to the following schedule:

(a) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) by more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(b) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) by more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $29 \text{ Log}_{10} (f_d^2/11)$  decibels or 50 decibels, whichever is the lesser attenuation;

It should be noted, however, that as this standard is stated, the minimum absolute power level of sideband emissions is 10 microwatts. Therefore, it is not required to reference the minimum sideband power level to the VHF transmitter output power level.

12. Motorola, in further comments, disagreed with the technique the Commission used to derive the "interim" emission envelope for digital transmitters. They claimed that the Commission assumed a linear summation of the various Bessel coefficient spectra that result from the individual components, when using multiple tone modulation, without considering the multiple tones and their spectra resulting from clipping.

13. When the digital "interim" emission limitation standard was developed by the Commission, the intention was to derive a digital

emission envelope which corresponded to the worst case analog emission envelope permitted by the rules through the specification of low-pass filters. By doing this, both types of signals, digital and analog, could co-exist in the same environment. The digital emission limitation standard was developed by examining the effects of the analog low-pass filters and the resultant emission envelopes, for fundamental modulating frequencies between one and thirty kilohertz. Individual and composite Bessel coefficients resulting from modulating frequencies in the specified range were analyzed under conditions of no limiting or clipping (sine wave input) or maximum limiting or clipping (square wave input). However, the spectra resulting from clipping proved to be insignificant due to the attenuating effects of the low pass filters on the resultant harmonics. It was found that the worst case emission limits were obtained by using pure sine waves from one to thirty kilohertz as modulating frequencies.

#### Removal of Low-Pass Filter and Adoption of Uniform Emission Standards

14. With respect to the removal of the low-pass filter in the analog transmitters and the adoption of uniform emission standards for analog and digital systems, GE supported the Commission's recognition that the fundamental purpose of an emission limitation envelope is to preclude interference on unauthorized frequencies, regardless of types of modulations used. The distinction between analog and digital voice-privacy systems they claimed, will become increasingly difficult. To support their statement, they gave as an example the time position scrambler, presently offered by some manufacturers. This scrambler, they said, samples the voice signal and converts it into 300 millisecond time elements. They pointed out that this signal can be considered analog or digital. If the Commission adopts dual emission standards, one for analog and one for digital, they questioned whether the analog or digital standard should apply to this scrambled signal.

15. Motorola, however, disputed that a single standard must be used for both digital and analog systems. To support their position they claimed that the mathematical modeling of the FM process is totally different for the analog and digital modulation cases. The voice modulation for FM systems has never been fully modeled and thus never completely analyzed. On the other hand, unlike voice, most digital signals can be

fully described in precise mathematical terms. The analysis of such forms of modulation, although complex, has provided solutions which fully typify the digital modulation process. The measurement conditions to evaluate the two forms are necessarily different. Analog emissions are strongly dependent on the audio frequencies and amplitudes used in the measurement while digital emissions are not influenced by these factors. When viewed on a spectrum analyzer, it is necessary to relate the energy in the resulting IF signal to a power spectrum density which is a continuous function of frequency for digital modulation. In contrast, analog tone power spectra are discrete energy tones at well defined frequency intervals. Measurement of digital modulation relative to the proposed emission limitation standard can easily be correlated. In the analog case data on transmitters which meet or exceed splatter filter requirements do not show good correlation when using the same criteria utilized in developing the proposed standard. This indicates that each should be treated separately. They also argued that the question of whether a system is analog or digital from an operational standpoint is not relevant; the question is whether the transmission method uses analog or digital techniques. In further comments they claimed that the unresolved issues pertaining to the elimination of the low-pass filter requirement for analog transmitters are primarily of a technical, rather than a regulatory, nature; and that, therefore, it seems more appropriate that this matter be resolved in a technical forum than as a portion of a rule making procedure.

16. We have reviewed these comments and we decided that our legal mandate gives us the authority to consider all technical aspects in our proceedings, before we reach the regulatory decisions for the Commission's rules. Sections 4(i) and 303 of the Communications Act of 1934, as amended. Therefore, our rule making procedure is the proper forum that must be used to determine whether the low-pass filter should be removed from analog transmitters, and a single emission envelope standard adopted for digital and analog systems. In our First Report and Order, we analyzed all technical aspects, developed an emission envelope standard equivalent to the analog transmitters, and we applied this standard to digital transmitters operating with the low-pass filter removed. However, it is technically known that analog voice systems have a greater bandwidth efficiency than

digital voice systems. In order to conserve bandwidth, systems developed for the Police and Fire Services in the future, could use hybrid modulating codes composed of digital signals with variable analog amplitudes. As GE claimed, if the Commission adopts different standards, one for analog and one for digital, it would be difficult to determine whether the analog or digital standard should be applied to such hybrid signals.

17. Furthermore, the primary objective of these proceedings is to determine the adoption of uniform emission standards not in accordance to the methods of modulating techniques but in accordance to the effect of the transmitted signal on the radiated spectra. If the emission limits of the radiated spectra, both for analog and digital signals, are identical, both analog and digital systems should be able to co-exist in the same environment regardless of the presence or absence of the low-pass filter in the transmitter. We agree that in many cases modulating signals can be complex and their radiated spectra cannot be measured using conventional test procedures. Complex signals, however, can be reduced into a range of basic test signals of known frequencies, amplitudes and pulse widths. Furthermore, known engineering techniques can be used to circumvent spectrum analyzer deficiencies without compromising the validity of measured radiated spectra related to transmitters under test. These test concepts have been used successfully for many years by the Commission to verify the emission spectra of analog transmitters. Many manufacturers, especially in the defense and aerospace industries, have used for many years the spectrum analyzer method to measure the emission spectra of digital voice transmitters. We believe, therefore, that as long as the transmitted spectra power of an analog or digital signal is within the boundaries of the emission limitation standards of the Commission's Rules, the argument of test procedures and signal simulation cannot be accepted as a justification to prevent the transmission of that signal.

18. In view of the foregoing, the Commission has decided to adopt on a permanent basis uniform emission limitation standards for analog and digital systems, and to remove the mandatory requirement of the low-pass filter from all transmitters operated in the 25-76, 150-174, 450-512, 806-821 and 851-866 MHz bands. For any system operating in the 25-76 and 150-174 MHz, the power of any sideband emission shall be attenuated below the

unmodulated transmitter power output (P) in accordance to the following schedule:

(a) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(b) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $29 \text{ Log}_{10} (f_d^2/11)$  decibels or 50 decibels whichever is the lesser attenuation;

(c) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus  $10 \text{ Log}_{10}$  (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

For any system operating in the 450-512, 806-821 and 851-866 MHz band, the power of any sideband emission shall be attenuated below the unmodulated transmitter output power (P) in accordance to the following schedule:

(a) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(b) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $116 \text{ Log}_{10} (f_d/6.1)$  decibels or 50 plus  $10 \text{ Log}_{10} (P)$  or 70 decibels, whichever is the lesser attenuation;

(c) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus  $10 \text{ Log}_{10}$  (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

#### Standards of Digital Formats

19. In further comments, GE recommended that the modulation and encryption of digital voice signals should be standardized. This GE recommendation is supported by Gulf Radiotelephone & Electronics, Inc. (GRE). As we stated in our First Report



and Order, however, the evolution of digital voice transmission should determine the types of encryption, modulation and code formats that can fulfill the public needs. We believe that in any particular case, the operating band, bit rate, communicating distance, terrain, level of desired security, discernibility of voice signal and many other factors, can be used as trade-offs to obtain the required signal to noise ratio for effective communication. Therefore, we have decided not to impose any standards on the encryption and modulation techniques of voice digital systems, unless it is shown in the future that definite advantages are apparent in the use of specific modulation and encryption techniques utilized in these systems.

#### Review of Other Comments

20. Motorola recommended to relate the attenuation of transmitters to the frequency band of operation, authorized bandwidth, power output and whether a particular transmitter is operated as a mobile/portable station or as a fixed/base station. Except for some minor modifications, their proposed maximum attenuation levels are identical to the ones specified in EIA Standard RS-152-B.\*

21. The limitations of EIA Standard RS-152-B proposed by Motorola are referenced to the input DC power of the final amplifier of the transmitter. The efficiency of different final amplifiers, however, varies considerably, and it would not be possible to relate this input DC power to the output power of every transmitter. It would also be impossible for the Commission to determine which transmitters would be used as mobile/portable or fixed/base stations and to verify that the licensees would use these transmitters as authorized. Therefore, this proposal cannot be accepted as a criteria in this matter.

22. In further comments, GRE recommended that the rule making procedure of this docket should include Parts 81 and 83 of the Rules. Furthermore, this docket, they claimed, should be applicable to any type of transmitted information regardless if it is voice or not, and that the Commission should implement minimum receiver standards. Additional recommendations by IBM are related to digital non-voice pools with 75 kHz bandwidth channels. We have reviewed these GRE and IBM comments and we find them unrelated to the purpose of this docket. Therefore, we cannot consider them in this proceeding.

\*See EIA Standard RS-152-B, paragraph 17.2.

23. In Part 2 of the Commission's Rules there is a prescribed test for emissions of voice modulation that consists solely of a 2500 Hz test tone. This test is based on the presumption of a high roll-off of the modulating signal resulting from the low-pass filter required by our rules. With the adoption of the rules in Appendix B the low-pass filter will no longer be required. Therefore, there will be no guarantee that the 2500 Hz test tone will be adequate to verify that higher frequencies and potentially interfering signals will not be produced by the transmitter. For this reason, a Notice of Proposed Rule Making pertaining to this matter will be issued in the near future to amend Part 2 of the Commission's Rules.

24. In view of the foregoing, the Commission has decided to proceed and adopt the authorization of F3Y emission in the Police and Fire Radio Services on a permanent basis. Furthermore, it has decided to authorize the optional removal of the low-pass filter in all Private Land Mobile Radio Services in Parts 90 and 95 (General Mobile Radio Service) of the Commission's Rules and Regulations. Analog and digital systems that have the low-pass filter removed, shall comply with the uniform emission limitation standards specified herein and the operational limitations set forth elsewhere in the Rules.

25. Accordingly, pursuant to the authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, it is ordered, That effective January 7, 1980, Parts 90 and 95 of the Commission's Rules and Regulations are amended as set forth in Appendix B below.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Parties Filing Comments and Reply Comments

#### Comments

Gulf Radiotelephone & Electronics, Inc. (GRE)  
General Electric Company (GE)  
Motorola, Inc.  
International Business Machines Corporation (IBM)

#### Reply Comments

General Electric Company (GE)  
Motorola, Inc.

#### Appendix B

I. Part 90 of the Commission's Rules is amended as follows:

### PART 90—PRIVATE LAND MOBILE RADIO SERVICE

1. Section 90.209 is amended by deleting paragraphs (c) and (f) and paragraphs (f)(1) and (f)(2) and by adding new paragraphs (c), (f) and (g) with their associated Subparagraphs to read as follows:

#### § 90.209 Bandwidth limitations

(c) Except as provided in paragraphs (d), (f) and (g) of this section, the mean power of any emission from a transmitter equipped with an audio low-pass filter in accordance with the provisions of Paragraphs (e) and (f) of § 90.211 of this Part shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(f) For those transmitters that operate in the frequency bands of 25.0 to 50.0 MHz, 72.0 to 73.0 MHz, 75.4 to 76.0 MHz or 150.8 to 174.0 MHz that are not equipped with an audio low-pass filter in accordance with the provisions of paragraph (e) of § 90.211, the power of any emission shall be attenuated below the unmodulated carrier power (P) in accordance with the following schedule:

(1) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(2) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $29 \text{ Log}_{10} (f_d^2/11)$  decibels or 50 decibels, whichever is the lesser attenuation;

(3) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus  $10 \text{ Log}_{10}$  (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

(g) For those transmitters that operate in the frequency bands 450.0 to 512.0 MHz, 806.0 to 821.0 MHz or 851.0 to 866.0 MHz that are not equipped with an audio low-pass filter in accordance with the provisions of paragraph (f) of § 90.211, the power of any emission shall be attenuated below the unmodulated carrier power (P) in accordance with the following schedule:

(1) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(2) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $116 \text{ Log}_{10} (f_d/6.1)$  decibels or 50 plus  $10 \text{ Log}_{10}$  (P) or 70 decibels, whichever is the lesser attenuation;

(3) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus  $10 \text{ Log}_{10}$  (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

2. Section 90.211, paragraph (h) is amended as follows:

#### § 90.211 Modulation requirements.

(h) Transmitters subject to paragraphs (f) and (g) of § 90.209, will be exempt from the audio low-pass filter requirements of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provide the digital modulating signal. The application for type acceptance shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraphs (g) and (h) of § 90.209

### PART 95—PERSONAL RADIO SERVICE

Part 95 of the Commission's Rules is amended as follows:

1. Section 95.617 is amended by revising the text of paragraph (c)(1) and by adding a new paragraph (c) (1-a) to read as follows:

#### § 95.617 Emission limitations.

(1) For all transmitters exclusive of those in the General Mobile Service and for those transmitters in the General Mobile Radio Service which incorporate the audio low-pass filter specified in paragraph (e) of § 95.619, when using emissions other than single sideband:

(1-a) For all transmitters in the General Mobile Radio Service using

emissions other than single sideband, which do not use the audio low-pass filter specified in paragraph (e) of § 95.619 the power of any emission shall be attenuated below the unmodulated carrier power (P) in accordance with the following schedule:

(i) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 5 kHz up to and including 10 kHz: At least  $83 \text{ Log}_{10} (f_d/5)$  decibels;

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency ( $f_d$  in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least  $116 \text{ Log}_{10} (f_d/6.1)$  decibels or 50 plus  $10 \text{ Log}_{10}$  (P) or 70 decibels, whichever is the lesser attenuation;

(iii) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus  $10 \text{ Log}_{10}$  (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

2. Section 95.619 is amended by revising the text of paragraph (e) to read as follows:

#### § 95.619 Modulation requirements.

(e) Each transmitter in the General Mobile Radio Service which is equipped with a modulation limiter in accordance with the provisions of paragraph (d) of this section shall also be equipped with an audio low-pass filter unless it complies with the emission limitations specified in paragraph (c) (1-a) of § 95.617. This audio low-pass filter shall be installed between the modulation limiter and the modulated stage and, at audio frequencies greater than 3 kHz up to and including 20 kHz, shall have an attenuation greater than the attenuation at 1 kHz by at least  $60 \text{ Log}_{10} (f/3)$  decibels where "f" is the audio frequency in kHz. At audio frequencies greater than 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

[FR Doc. 79-37442 Filed 12-5-79; 8:45 am]

BILLING CODE 6712-01-M

### DEPARTMENT OF TRANSPORTATION

#### Office of the Secretary

#### 49 CFR Part 1

[OST Docket No. 1; Amdt. No. 1-143]

#### Delegation to the Assistant Secretary for Administration

AGENCY: Department of Transportation.  
ACTION: Final rule.

**SUMMARY:** This change delegates to the Assistant Secretary for Administration certain authority that is currently vested in the Secretary of Transportation. The Secretary has authority under Pub. L. 89-670 to issue notices for publication in the Federal Register. The Secretary is delegating authority to issue notices for publication concerning systems of records pertinent to DOT programs and operations under the provisions of the Privacy Act of 1974 (Pub. L. 93-579) to the Assistant Secretary for Administration. The Assistant Secretary is responsible for the continuing administration of the provisions of the Privacy Act of 1974 which requires publication of notices for public comment on each system of records pertinent to DOT programs and operations. The Departmental directive implementing the Privacy Act authorizes the Assistant Secretary to publish these notices. However, the authority to issue the notices has never been delegated.

The authority is also being delegated to the Assistant Secretary since issuance of these notices is administrative in nature and can, therefore, be more effectively handled by him.

**EFFECTIVE DATE:** This amendment is effective on December 6, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Lynne A. Whitaker, Office of the General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-4723.

**SUPPLEMENTAL INFORMATION:** Since this amendment relates to Departmental management, it is excepted from notice and public procedure requirements and it may be made effective in fewer than 30 days after publication in the Federal Register.

#### Discussion of Delegation

The Secretary derives his authority to issue notices for publication from the Department of Transportation Act, Pub. L. 89-670. Under 49 CFR Part 10, the Assistant Secretary for Administration is responsible for the continuing administration of the provisions of the Privacy Act (Pub. L. 93-579) concerning the Department and for oversight of



Departmental activities stemming from the Act including publication of information on each system of records pertinent to DOT programs and operations. The provisions of the Privacy Act authorize the Assistant Secretary to publish notices concerning these systems of records. They do not, however, make provision for the issuance of notices which must precede their publication.

This section confers authority on the Assistant Secretary for Administration to issue notices, to be published in the Federal Register, covering systems of records pertinent to programs and operations maintained by the Department in connection with the Privacy Act.

Accordingly, Part I of Title 49 of the Code of Federal Regulations is amended by adding a new paragraph (m) to § 1.59, to read as follows:

**§ 1.59 Delegations to the Assistant Secretary for Administration.**

(m) Issue notices of Department of Transportation systems of records as required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4), (11)).

(Sec. 9(e)(1), Department of Transportation Act. (49 U.S.C. 1657(e)).)

Issued in Washington, D.C. on November 21, 1979.

Neil Goldschmidt,  
Secretary of Transportation.

[FR Doc. 79-37141 Filed 12-5-79; 8:45 am]  
BILLING CODE 4910-02-M

**Materials Transportation Bureau**

**49 CFR Part 195**

[Amdt. 195-16; Docket PS-51]

**Transportation of Liquids by Pipeline; Reconsideration of Procedures for Operations, Maintenance and Emergencies**

**AGENCY:** Materials Transportation Bureau (MTB).

**ACTION:** Final rule.

**SUMMARY:** A final rule was published July 16, 1979 (44 FR 41197), establishing the essentials for written procedures to be prepared and followed by operators of liquid pipelines for handling pipeline operations, maintenance and emergencies and for training, communications and public education. In response to six petitions for reconsideration, DOT has made certain changes to that final rule. Among these changes are: (1) to provide for the use of fail safe equipment in lieu of monitoring pipeline operations from attended

locations, (2) to more clearly define those facilities which would require procedures for immediate response by the carrier in event of malfunction, and (3) to permit conversion of certain pipelines to service under Part 195 which were not designed and constructed in accordance with this Part.

**DATE:** Effective date of this final rule is July 15, 1980 except § 195.402(c)(8) & (c)(9) do not become effective until July 15, 1981.

**FOR FURTHER INFORMATION CONTACT:** Frank Robinson, 202-426-2392.

**SUPPLEMENTARY INFORMATION:** Final rules (Amendment 195-15) were published (44 FR 41197, July 16, 1979) establishing the essentials of written procedures that are prepared and followed by carriers for handling pipeline operations, maintenance and emergencies. The Amendment also included new requirements for training, communications and public education. The American Petroleum Institute (API), Phillips Petroleum Company, Texas Eastern Products Pipeline Company, Exxon Company U.S.A., Exxon Pipeline Company, and Mid-America Pipeline System submitted petitions for reconsideration of various portions of the final rule. The disposition of the petitions together with the reasons for granting or denying the petitions, and the amended rules as a result of the petitions follow:

**Scope of Rules:** The API stated that the scope of the rules is vague. The API argued that use of the term "hazardous liquid pipelines" in the Summary portion of the final rules document makes it unclear whether the rules apply to all liquid pipelines or to Highly Volatile Liquid (HVL) pipelines only. The MTB disagrees. The rules themselves reveal which rules apply to all liquid pipelines and which apply to HVL pipelines only. Further, the Supplementary Information concerning General Requirements stated "The proposed regulations and final regulations apply to all liquid commodity pipelines operated by carriers engaged in interstate or foreign commerce with special provisions for HVL pipelines." The MTB believes the scope of the rules is clear as written.

**Applicability of Rules to All Commodities**

Three petitioners argued that neither the notice of proposed rulemaking (NPRM) nor the final rules document contained justification for applying the procedural rules to all hazardous liquid pipelines and recommended that the final rules apply only to pipelines transporting HVL. MTB disagrees with

this view. The requirements for carriers to have written procedures to handle normal operations, abnormal operations, and emergencies for all liquid pipelines were prescribed by § 195.402 at the time Part 195 was adopted, long before Amendment 195-15 was written. Consequently, Amendment 195-15 does not establish a new requirement for carriers to have written procedures nor did it extend the existing rule to include additional commodities. Rather, it specified items that must be covered in complying with existing requirements. Further, although the NTSB report (NTSB-78-19) and the Battelle Study (DOT/OPS-75/06), quoted in the NPRM concern highly volatile liquids, the MTB cited these reports as data to support the need for carriers to have adequate procedures on all their pipelines rather than as data to indicate the need for better procedures on HVL pipelines only. Other NTSB reports not involving HVL also could have been cited as demonstrating the need for adequate procedures. Some of these reports are NTSB-PAR-73-2 "Crude Oil Explosion at Hearne, Texas", and NTSB-PAR-76-3, "Crude Oil Terminal Fire Near Lima, Ohio". In both of these accidents involving crude oil, lack of adequate procedures contributed to the cause of the accident. Approximately 10 percent of liquid pipeline accidents reported annually to the DOT on Form 7000-1 result from incorrect operations by carrier personnel. Additionally, many NTSB reports indicate that although incorrect operation may not have been the cause, the consequences of many liquid pipeline failures could have been lessened if the carriers had had adequate procedures for handling abnormal operations and emergencies. In view of the foregoing, the petitions to amend the final rules to be applicable only to HVL pipelines is denied.

**Duplicate Regulations**

One petitioner argued that safety considerations involving offshore liquid pipelines are adequately covered by OCS Orders No. 8 and 9 issued by the United States Geological Survey (USGS) of the Department of the Interior (DOI). The petitioner argued that these orders already provide for detailed contingency plans and training of personnel much like those prescribed by the final rule. MTB believes this petitioner misunderstands the applicability of the cited USGS Orders and Part 195 to offshore pipelines. A Memorandum of Understanding (MOU) was published in the Federal Register June 11, 1978 (FR 41, 23746), delineating DOT and DOI offshore pipeline responsibilities in order to avoid duplication of regulatory

efforts. This delineation of regulatory responsibilities was incorporated in Part 195 by Amendment 195-11, which modified the scope of Part 195 (§ 195.1) to exclude from coverage those offshore pipelines subject to DOI responsibilities under the MOU. Thus, OCS orders do not apply to safety aspects of offshore pipelines subject to Part 195.

**Coordination With the Department of Interior**

One petitioner argued that DOT failed to coordinate this rulemaking with DOI. In fact, this rulemaking was developed with DOI participation as evidenced by written comments submitted by DOI and available for inspection in the public docket.

**§ 195.401(c)**

One petitioner noted that the new § 195.401(c) did not contain the introductory words "Except as provided in § 195.5" as were in the previous § 195.402(d) [§ 195.402(d) was redesignated as § 195.401(c)] and that the Supplementary Information of the final rule made no mention of this deletion. The petitioner noted that the deletion was significant in that it would prevent conversion of pipelines to service under Part 195 unless the pipeline was designed and constructed in accordance with the Part.

The deletion of the introductory words "Except as provided in § 195.5" in § 195.401(c) was an inadvertent omission. Section 195.401(c) in this amendment contains the correction.

**§ 195.402(a)**

One petitioner recommended that the new § 195.402(a) be deleted, arguing that procedures for normal operations can give a carrier a competitive advantage and that disclosure of these procedures to the MTB might result in the loss of this advantage. The MTB believes this assertion strains credulity. Further, MTB field inspection personnel historically have examined carriers' operating procedures prepared under Part 195 without creating the sort of difficulty envisioned by the petitioner. Consequently, § 195.402(a) remains unchanged.

**§ 195.402(b)**

One petitioner recommended that the provisions for amendment of a carrier's procedures contained in § 195.402(b) apply to emergency procedures only, arguing that review of procedures for normal and abnormal operations would be impractical because of the time required to conduct the review. The MTB disagrees. As noted above concerning the applicability of rules to

all commodities, approximately 10 percent of all liquid pipeline accidents are caused by improper operation by carrier personnel, and it is to reduce the incidence of these accidents as well as improve carriers' emergency responses that these rules have been promulgated. The MTB believes that a provision for review of all procedures is essential to ensure their adequacy and that time devoted to this review will pay rich dividends.

**§ 195.402(c)(4) and § 195.402(c)(14)**

Three petitioners recommended that § 195.402(c)(4) and § 195.402(c)(14) be deleted arguing that (1) § 195.402(c)(4) implies that carriers operate facilities which pose unacceptable safety hazards, (2) both paragraphs defy compliance, (3) the wording of the paragraphs does not inform carriers of their responsibilities, and (4) the substance of § 195.402(c)(4) is covered in other paragraphs under § 195.402(c). The MTB does not agree that the substance of § 195.402(c)(4) is covered elsewhere. The MTB does agree, however, that the wording of § 195.402(c)(4) can be improved to more clearly define the carrier's responsibilities and to dispel the inference that some existing facilities pose unacceptable safety hazards. As stated in Amendment 195-15, the intent of § 195.402(c)(4) is to require a carrier to analyze its pipeline system and its practices, and to identify those facilities and practices that would cause hazards to the public or to the system itself if failure or malfunction did occur. In order to more clearly set forth this intent, § 195.402(c)(4) has been rewritten to require the carrier to determine "those facilities which are located in areas that would require an immediate response by the carrier to avoid hazards to the public if the facilities failed or malfunctioned". This revised wording recognizes (1) that the location of a facility largely determines whether it might become a hazard to the public, and (2) a hazardous situation would be one that requires an immediate response by the carrier. It should be noted that reference to a carrier's "practices" has been deleted to avoid the misunderstanding that carriers might knowingly conduct hazardous practices. Section 195.14(c)(14) has been deleted as unnecessary because MTB believes it duplicates § 195.402(a) which requires carriers to prepare procedures to assure safe operation and maintenance.

**§ 195.402(c)(5)**

One commenter recommended the deletion of § 195.402(c)(5) arguing that (1) all carriers analyze pipeline failures

without being required to do so and (2) cooperation with the Secretary is addressed in § 195.60. The MTB does not agree that all carriers adequately analyze all accidents to determine the causes; hence, there is a need to develop and follow procedures for these analyses. The wording within the parenthesis "in cooperation with the Secretary when appropriate" has been deleted from § 195.402(c)(5) to avoid duplication of, or confusion with, the requirements of § 195.60.

**§ 195.402(c)(8), (c)(9), and (d)(2)**

Five petitioners argued that § 195.402(c)(8) and (c)(9) are needlessly restrictive because these paragraphs provide no alternative to monitoring pipeline operational data from an attended location as a means to ensure safety. These petitioners argued that adequate safety is customarily provided by fail safe equipment and that use of such equipment should be allowed as an alternative to personnel monitoring. The MTB agrees with this view. Section 195.402(c)(8) and (c)(9) have been amended to provide for the use of fail safe equipment.

Four petitioners noted that the words "points of receipt and delivery" in § 195.402(c)(9) and "inlet and outlet facilities" in § 195.402(d)(2) can be interpreted to require that all points of connection between pipelines where transfer of commodity is made would have to be monitored for safe operation. These petitioners argued that "detecting abnormal operating conditions" at these points as required by § 195.402(c)(9) and "checking variations from normal operation" as required by § 195.402(d)(2) would be inordinately expensive and would provide no increase in public safety. The petitioners argued that the cost to install the necessary telemetry equipment offshore and at remote locations onshore at these connection points would be very large.

The intent of § 195.402(c)(9) and § 195.402(d)(2) is to require carriers to detect abnormal conditions that can occur during transfer operations and to check for any further variations from normal operation after detected abnormalities have ended. MTB agrees that connection points between pipelines are not appropriate places to look for signs of abnormal operations. Detection can be more readily accomplished where the transfer operations are controlled. To clarify this intent, § 195.402(c)(9) has been rewritten to require, in the case of facilities not equipped to fail safe, monitoring of facilities "that control receipt and delivery of the commodity". The words "at outlet and inlet facilities" have been



deleted from § 195.402(d)(2) to avoid the confusion with points of connection between pipelines. The wording of this section, as amended, would still require carriers to check for operational/irregularities at points monitored under § 195.402(c)(9).

The words "including pressure and flow rates" have been deleted from § 195.402(d)(2). Although none of the petitioners made this specific recommendation, this deletion was made to allow greater flexibility to select appropriate means to ensure the integrity and safe operation of the pipeline system.

One commenter asserted that monitoring equipment would detect the occurrence of an accident but would not prevent an accident from occurring. The MTB believes that monitoring pipeline operational data can provide information to the carrier so that many accidents can be avoided and the effects of unavoidable accidents lessened. It is with this intent that § 195.402(c) (8) and (9) have been promulgated.

§ 195.402 (d)(1)(ii), and (d)(3).

One petitioner recommended that the requirement to respond to decreases in pressure or flow rate be deleted from § 195.402(d)(1)(ii) and that correcting abnormal operation of flow control equipment be deleted from § 195.402(d)(3) arguing that the only design limit which would lessen safety is the strength limit of the pipe and components. The MTB disagrees. Operating design limits are those limits or ranges of pressure, flow, temperature, etc., that a carrier imposes on its pipeline system to define normal operation. Operation outside these limits or ranges indicates an abnormal condition which should be investigated and corrected to avoid approaching the strength limits of the system and the potential for failure. The MTB believes these tasks are essential to ensure safety; hence these paragraphs remain unchanged.

§ 195.440

One petitioner objected to § 195.440 arguing that since virtually all public officials speak English, there is no reason to duplicate an educational program in other languages. The intent of § 195.440 is not to duplicate educational programs where English is commonly spoken, but where English is not commonly spoken, to conduct programs both in English and in the common language. Further, although it may be true that virtually all public officials speak English, the intent of this section is to require education of the public rather than public officials. Since

the wording of the section conveys this intent, the section is not changed.

#### Costs

Five petitioners argued that the cost to comply with Amendment 195-15 would far outweigh the benefits. The costs arose largely because of the telemetering that would have been required by § 195.402(c)(8), (9) and d(2), according to these commenters. Because these paragraphs have been amended to permit installation of fail safe equipment in lieu of monitoring data from an attended location, and because the requirement to monitor pipeline data at "points of receipt and delivery" in § 195.402(c)(9) and at "inlet and outlet facilities" in § 195.402(d)(2) has been deleted, the MTB believes the expected cost of compliance with this final rule is clearly outweighed by the public safety benefits to be achieved by such compliance.

#### Time for Compliance

Two petitioners argued that compliance with Amendment 195-15 would not be possible within the one year prescribed by the Amendment. These petitioners argued that up to four years would be required to acquire and install the necessary telemetry equipment required by the Amendment. Because § 195.402(c)(8) and (9) have been revised to allow use of fail safe equipment, (much of which is already installed) in lieu of telemetry equipment, the MTB believes the time needed for compliance has been substantially reduced. However, in view of the time for compliance recommended by the petitioners, the MTB has extended the time as noted in the effective date for part of this final rule one year to July 15, 1981 to allow for orderly engineering, procurement, and installation of the equipment required by § 195.402(c)(8) and (9). The effective date for the remainder of the final rule remains as July 15, 1980.

#### Metrication

One commenter objected to the use of metric units in the definition of "HVL" arguing that metrication should be introduced as a separate rulemaking. The MTB does not consider metrication an issue subject to reconsideration in this proceeding or a matter for future rulemaking. The MTB has announced, consistent with Departmental policy, that the Federal pipelines safety standards in Parts 192 and 195 will be gradually modified to include metric units as new rules are adopted and existing rules are amended.

The MTB has determined that the provisions of this final rule will not

result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). A Final Evaluation is available in the public docket.

In view of the foregoing, 49 CFR Part 195 is amended as follows:

1. By amending § 195.401(c) to read as follows:

#### § 195.401 General requirements.

(c) Except as provided in § 195.5, no carrier may operate any part of a pipeline system upon which construction was begun after March 31, 1970, or in the case of offshore pipelines located between a production facility and a carrier's trunkline reception point, after July 31, 1977, unless it was designed and constructed as required by this part.

2. In § 195.402, by amending paragraphs (c)(4), (5), (8), and (9) and (d)(2) to read as follows, and by deleting paragraph (c)(14):

#### § 195.402 Procedural manual for operations, maintenance and emergencies.

(c) . . .

(4) Determining which pipeline facilities are located in areas that would require an immediate response by the carrier to prevent hazards to the public if the facilities failed or malfunctioned.

(5) Analyzing pipeline accidents to determine their causes.

. . .

(8) In the case of a pipeline that is not equipped to fail safe, monitoring from an attended location pipeline pressure during startup until steady state pressure and flow conditions are reached and during shut-in to assure operation within limits prescribed by § 195.406.

(9) In the case of facilities not equipped to fail safe that are identified under § 195.402(c)(4) or that control receipt and delivery of the commodity, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location.

. . .

(d) . . .

(2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.

(18 U.S.C. 831-835, 49 U.S.C. 1655, 491.53(b), App. A of Part 1)

Issued in Washington, D.C. on November 29, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-37349 Filed 12-5-79; 8:45 am]

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## INTERSTATE COMMERCE COMMISSION

### 49 CFR Parts 1043, 1045B, 1046

[Ex Parte No. MC-96 (Sub-No. 2)]

#### Passenger Broker Entry Control

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

**SUMMARY:** The rules in this document establish a simplified licensing procedure for obtaining a passenger broker license. Applicants found fit will be granted a 3-year limited term license. A permanent license will be granted upon reapplication and a second finding of fitness. Applications may be opposed only on the basis that applicant is not fit to conduct a broker operation. The new application process is found at the end of this document under "Adopted Rules."

**EFFECTIVE DATE:** Applications will be accepted until February 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Peter Metrinko, 202-275-7885 or Donald J. Shaw, Jr., 202-275-7292.

**SUPPLEMENTARY INFORMATION:** For copies of the decision and simplified application process write: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423. Or call toll free: (800) 424-9312. This decision establishes a simplified licensing procedure for persons wishing to perform operations as passenger brokers. Arrangement of motorcoach tours, between all points in the United States, will be authorized under the issued licenses. This simplified licensing procedure is consistent with the public interest and the national transportation policy. Applicants for a passenger broker license need only comply with the letter-application filing requirements listed below under "Adopted Rules".

#### Procedural History

By publication in the March 27, 1979, Federal Register, 44 FR 18459, comments were requested on whether the licensing procedure for passenger brokers should be changed. The notice of proposed rulemaking was published as Ex Parte No. MC-96, Entry Control of Brokers. Subsequently, the base proceeding was divided up into four proceedings. See Ex

Parte No. 96 (Sub-No. 1), Passenger Broker Practices, (not printed) decided July 25, 1979, 44 FR 46847. The decision here deals only with the question of passenger broker entry control.

#### Current Procedures

Under current procedures, applicants are required to fill out an OP-OR-11 form, and await publication of the notice of the application in the Federal Register. Opposition to the application may be based on the issue of fitness, or on the grounds that a grant of the application will not be consistent with the public interest. The application may be processed under the modified procedure, see 49 CFR 1100.247, or under oral hearing procedures.

#### Legislative History Behind Passenger Broker Regulation

Present broker regulation is largely governed by 49 U.S.C. 10924 (formerly, section 211 of the Interstate Commerce Act). The legislative history is somewhat sparse. The Commission examined the legislative history of broker regulation in *Carla Ticket Service, Inc., Broker Application*, 94 M.C.C. 579, 580-581 (1964):

. . . The legislative history of section 211 of the act clearly reveals that the primary purpose of Congress in regulating motor transportation brokers is to protect carriers and the traveling and the shipping public against dishonest and financially unstable middlemen in the transportation industry. Although this may be the primary objective of section 211 of the act, it does not follow that this is the sole objective of section 211. If financial integrity and stability were the sole aim of regulation in this area, it would have been sufficient for Congress to have formulated a statutory standard in section 211(b) of the act which would have limited our function in broker application proceedings to determine whether or not the applicant is fit, willing, and able to perform the proposed service. Instead, the statutory standard formulated by Congress in section 211(b), in terms of which all broker applications must be evaluated, requires us to find (1) that the applicant is fit, willing, and able to perform the proposed service, and (2) that the proposed brokerage operation is or will be consistent with the public interest and the national transportation policy. As a matter of statutory construction, no word or clause in a statute should be rejected as superfluous or meaningless, but must be given its due force and meaning appropriate

<sup>1</sup> Fitness is the most important concern when examining a broker application. See *Holiday International, Inc., Broker Application*, 128 M.C.C. 34, 40 (1977), and cases cited therein; and *Auch Inter-Borough Transit Co. Extension-22 States*, 88 M.C.C. 455, 459 (1961). In *Auch*, the Commission stated that in an application proceeding for special operations authority, protection against unwarranted economic competition would not be extended to the protestant broker.

to the context, albeit not a strained or unnatural meaning. Cf., *Keystone Transp. Co. Contract Carrier Application*, 19 M.C.C. 475, 492. The "public interest" aspect of the involved statutory standard obviously encompasses a broader range of deliberation than does the "fitness" aspect of the statutory standard. Therefore, it seems clear to us that Congress intended, by requiring consideration of the "public interest" in section 211(b) of the Act, that our evaluation of broker applications on their merits not be limited to the issue of an applicant's fitness.

It is not clear from the legislative history as to whether or not the "public interest" aspect of the standard enunciated in section 211(b) requires some consideration of relevant competitive factors in our judging broker applications on their merits. However, we think it significant that when section 211(b) was enacted, although Congress was cognizant of the fact that Commission proceedings were [usually] adversary in nature entailing the development of evidence relating to competitive factors among others, we were not directed to deviate from this method of procedure. Despite changes in other language of this particular section and reconsideration of the entire act, Congress has not seen fit to change this standard or otherwise suggest that our prior interpretation of section 211(b) is in error. . . . Under all circumstances we do not believe that Congress intended that the Commission be precluded from giving any consideration to competition in broker application cases.

Consistent with the legislative history of section 211 broker applicants are required to show that their services will contribute something of value or be of benefit to carriers or the public. Consideration of existing broker service is, therefore, relevant to broker applications for it is obvious that the creation of needless duplicative services will neither advance the primary purpose of section 211 nor be of benefit to anyone.

Judicial review of the Commission's broker jurisdiction has been sparse. In the most relevant case, *Gray Line National Tours Corporation v. United States*, 380 F. Supp. 263, 265-266 (S.D.N.Y. 1974), the court examined the legislative history of broker regulation:

. . . As is well known, the sources of the Motor Carrier Act of 1935 were ICC's report on Coordination of Motor Transportation, 182 I.C.C. 263 (1932), and three reports of Commissioner Joseph B. Eastman in his capacity as Federal Coordinator of Transportation during the Great Depression, S. Doc. No. 119, 73d Cong. 2d Sess. (1934), S. Doc. No. 152, 73d Cong. 2d Sess. (1934), and H.R. Doc. No. 89, 74th Cong. 1st Sess. (1935). The ICC report took note of the brokerage problem, saying at 182 I.C.C. at 279-80:

With the development of long-haul motor transportation of passengers there has grown up in many cities the practice of selling transportation by agencies which do not represent any regular bus line. The practices of these agencies have given rise to many of the complaints registered by interstate bus passengers. The agencies advertise rates appreciably less than the fares of regular bus



lines and then make arrangements with irregular operators, frequently the owners of private automobiles, to transport the passengers, the agency retaining a per cent of the fare collected as commission.

Its solution was to limit brokerage in passenger transportation to certificate holders, *id.* at 388.

The first of the two relevant reports of the Coordinator, S. Doc. No. 152, *supra*, at 45-49, 359, recommended regulation of "transportation agents or brokers" but said only that brokers should have to obtain a "permit", without specifying the standard. The second report, which recommended what became § 211, is more informative. It said, H.R. Doc. No. 89 *supra*, at 81-82:

Provision for more thorough-going regulation of brokers or transportation agents is made in the bill. To avoid confusion, the term "license" instead of "permit" is applied to the authority issued for brokerage operations. Licenses are required of all persons selling tickets or making contracts, agreements, or arrangements to provide transportation of persons or property in interstate or foreign commerce. Exemption of the agents of carriers holding certificates or permits is provided.

A showing of public interest and financial responsibility is a condition to the issuance of a license. The Commission shall make reasonable rules and require bond to protect the traveling or shipping public. These licenses are subject to revocation, as provided in section 312.

A desirable control over transportation effected through brokerage operations is afforded by the provision which requires brokers to employ carriers holding certificates or permits. If the broker or transportation agent himself performs any transportation, through agents or employees or by lease of equipment, he must secure a form of carrier authority, either a certificate or a permit, and take on the duties and responsibilities and subject himself to the regulation provided for motor carriers.

The Commission may prescribe the forms of brokers' accounts and require reports. It may also enforce appropriate penalties for unlawful operations.

The brief Senate Report on what became the Motor Carrier Act, S. Rep. No. 482, 74th Cong. 1st Sess. (1935), says nothing about brokers and the House Report, H.R. Rep. No. 1645, 74th Cong. 1st Sess. at 4 (1935), contains simply a condensed version of § 211(b) indeed omitting any reference to "the public interest and the national transportation policy," see note 1 *supra*.

The *Carla* opinion states that it is not clear from the legislative history whether the "public interest" standard required consideration of relevant economic factors. The Commission in *Carla* was taking an approach that, since Congress had not objected to its consideration of competitive aspects, the Commission was not "precluded from giving any consideration to competition in broker application cases." *Carla, supra*, at 581. However, nowhere in the legislative history is

there a requirement that competitive factors be weighed in every application. More importantly, there is no definition of what "public interest" means, or how the processing of broker applications should be carried out to enhance the public interest. Quite clearly, this was to be up to the discretion of the Commission.

The Commission's policy statement in *Carla* should be compared with the earlier evaluation of competition and economic protection involving brokers in *Auch, supra*, at 459:

The fundamental purpose underlying the economic regulation of motor carriers was to protect the public from the damaging effects of ruinous competition among carriers. This regulatory concept derives its validity from the public utility characteristics of the transportation industry and, in particular, from the fact that common carriers of passengers must make a heavy investment in equipment, terminals and other transportation facilities in order to provide safe, economical, and reliable service. A broker of motor transportation, on the other hand, has no comparable investment in property or equipment. In contrast to the basic purpose underlying the economic regulation of motor carriers, brokers are licensed primarily for the purpose of protecting the traveling and shipping public against unscrupulous or dishonest purveyors of transportation. S. Doc. No. 152, 73d Cong., 2d sess. 226 (1934).

#### Major Issues for Resolution in This Proceeding

The principal questions for resolution in this proceeding are whether, under current economic conditions, the public interest is now being served by use of the *Carla* standards; whether individual processing of applications, and examination of local need for broker service is necessary or is accomplishing a valuable purpose; and whether there are other alternatives which might better serve the public interest.

The standard adopted in *Carla* was the product of an era during which the tight economic control of entry into the regulated transportation industry was assumed. The meager legislative history of broker regulation did not contradict the *Carla* standards. Where economic well being was promoted was never addressed in *Carla* directly. No economic analysis was performed prior to the policy declaration in *Carla*. The Commission simply announced a standard which was consistent with current regulatory philosophy in the field of motor carrier regulation, i.e., duplication in service was to be avoided. *Carla* announced the test as "creation of needless duplicative services will neither advance the primary purpose of section 211 (now, 49 U.S.C. 10924) nor be of benefit to

anyone". The parallel standard used in many motor carrier application proceedings was that existing motor carriers should normally have the right to transport all the traffic they can handle adequately, efficiently, and economically in the territories they serve without the added competition of a new operation. See *C. & D. Oil Co. Contract Carrier Application*, 1 M.C.C. 329, 332 (1936). A typical *Carla* era common carrier decision denying an application, essentially based on a "needless duplication" type standard is *Harris Extension—Elkins, W. Va.*, 94 M.C.C. 227, 230 (1963). During this period, many decisions were based on the fact that, unless a different type, improved, or inadequate existing service could be shown, the stated willingness by a protesting motor carrier that it would handle the traffic, combined with the requisite operating authority, was generally sufficient grounds for denial. This contrasts with the present motor carrier entry standards which focus on the public interest in general, rather than exclusively on carrier benefits and harms. See *May Trucking Co. v. United States*, 593 F. 2d, 1349 (D.C. Cir. 1979).

In recent years it has become the Commission's growing perception that the examination of public witness testimony in passenger broker applications is without substantial value. Typically, the applicant will offer in support the testimony of clients or friends who praise applicant's character and promise to use the proposed services. Applicant has a difficult task, however. In many cases, although applicant has travel industry experience in either owning or working in a general service travel agency, it has no bus tour clientele to draw upon for support. Correspondingly, witness testimony is vague.

Existing brokers attempt to show that they offer a multitude of tours, that the witnesses have not availed themselves of the existing brokers' services, or that these services were used without complaint.

The Commission has come to believe that this evidentiary examination is of minor importance. First, applicant will probably depend for support on persons close to applicant. This may include personal friends, business contacts, et cetera, who will naturally praise applicant's integrity and business ability. There is no guarantee that these persons will ever use the proposed services. An applicant may propose a number of exotic tours, which existing brokers obviously are not offering, and assert that it contemplates reaching a different level of clientele. However,

applicant is not bound to offer those services. Nor does the Commission ever monitor the services subsequently offered.<sup>2</sup> Third, even if applicant did offer those tours, there is no way to forecast whether the public would use applicant. While sophisticated market research (which is rarely done in broker cases) could offer some directional clues or approximate chances for the applicant's eventual success, there are many other intangibles which will determine whether the public will actually go on the tours, including such large but immeasurable factors as customer satisfaction, loyalty to an existing broker, and the personality and salesmanship of the applicant. In short, we do not believe that anything substantial is accomplished in examining "need" for a broker service.

Another reason for our decision has to do with a salient characteristic of the motor carrier tour industry. It is largely a luxury service. While some individuals might view this type travel as one of their more important budget items, it is not usually essential, and consequently is not the highest priority in most household budgets. This is only one of many opportunities open to persons to pursue in their leisure time. And, motorcoach tours are but one form of travel. The tour industry is one where demand can be created, often by attractive packaging and promotion. The consumer can spend his leisure dollar on a variety of recreational activities. It is up to the operator of the motorcoach tour to attract this money and, through the offering of pleasurable tours, attract it on a repeat basis. There is nothing in the present application procedure which can foretell the eventual amount of demand for bus travel services. We doubt that a reasonable method can be found, short of employing sophisticated, expensive market research for every broker application.

The Commission also has come to recognize that there are strong institutional and psychological restraints to obtaining a broker license. Commission personnel are in daily contact with members of the public inquiring about the procedures, effort, and cost involved in obtaining a broker license. The public perception is that obtaining a broker license is very expensive (compare this to data submitted by existing brokers, discussed below) and time consuming with low chances of success. Our procedures are seen as overwhelmingly complicated. This is especially critical for the small businessman, who is probably

<sup>2</sup> Nor should it. The broker should be free to change its offerings in response to public demand.

appearing for the first time before the Commission seeking authority. In contrast, motor carriers typically make many application filings. They become accustomed to the application process, and to the various techniques that can be employed in obtaining authority quickly. For example, a motor carrier knows that by proper filing sequence it can begin to serve a shipper almost immediately under temporary authority is considered. There are no provisions for a broker to be granted temporary authority. It must plan long in advance of actual operations. Since tours must be planned and sold months before actual operation, a passenger broker must look to a lengthy gap between its time and money investment in the application process and the actual operation of the tour.

In summary, there are two basic reasons for the Commission's reexamination of the present broker standards. The present examination of "need" does not perform a valuable function, and there are strong institutional impediments to getting a broker license that deter the entrepreneur. It is for those reasons that the public was invited to comment on the various options in the notice of proposed rulemaking.

#### Comments of the Parties

Comments received were from the National Tour Brokers Association, Inc. (NTBA), which represents 202 licensed tour brokers. NTBA recommends that the Commission (1) reject a master licensing approach, (2) use the present application process, subject to certain improvements, (3) reject any new standard of proof, (4) issue regulations setting strict timetables for the application process, and implement expedited case processing procedures, (5) retain existing territorial restrictions in licenses, (6) require that a licensed tour broker maintain an established place of business, (7) increase the minimum bond to \$10,000, and, (8) strengthen the Commission's enforcement program. The NTBA also submitted a study prepared by Arthur D. Little, Inc., and Opinion Research Corporation (hereinafter, Little Study).

General arguments made by NTBA include the following: (1) The Commission's proposed actions would eliminate the "public interest test" for tour broker licensing; (2) the statute regulating brokers was a pioneer consumer protection law; (3) removal of the "public interest test" contradicts prior Commission case law; (4) if cumbersome case processing is seen by

the Commission to be a problem, the Commission should streamline the procedures, not change the required standard of proof; (5) the broker industry is characterized by sound competition, from other brokers as well as special operations conducted by motorcoach operators; (6) since removing territorial restrictions would result in the broker's forced to use buses from the national bus companies, smaller bus companies unauthorized to travel outside their designated areas will suffer; (7) increased competition will force many brokers to cancel tours because of lack of enrollment; and, (8) arranging motorcoach tours requires high expertise which general travel agents may lack.

The American Bus Association (ABA) is a national trade association for the intercity bus industry, with 400 operator members. Members of the ABA assertedly perform most of the brokered transportation at issue, and are competitive with brokers where members hold "special operations" authority. ABA takes no position on whether entry standards should be relaxed. It states that the intercity bus industry might benefit from an increase in the number of licensed brokers. However, it believes that fitness standards should be raised if entry becomes easier. The practices of brokers affect the bus industry, since the traveling public often fails to distinguish between the operator of the bus and the tour broker.

The American Society of Travel Agents, Inc., (ASTA) supports the elimination of the necessity of showing in case-by-case adjudication that the proposed operation is consistent with the public interest. They believe this will expand the availability of motorcoach tours to the traveling public. At the same time, to ensure adequate protection of the public, ASTA urges the adoption of tighter fitness requirements.

ASTA believes that applicants for broker licenses face a costly, time consuming process. In its view, the changing nature of the travel industry and the national economy requires a more flexible attitude on restraints towards competition. It states that there are a comparatively small number of licensed brokers. However, if liberalized entry be adopted, more specific fitness standards should be required. ASTA is of the opinion that the standards employed by the Commission in *Cook Broker Application*, 119 M.C.C. 709 (1974) require more explanation. ASTA proposes that each applicant be required to have a standard office open to the public and devoted solely to the sale of



transportation. Broker licensing standards should include a minimum experience and competency requirement, or the successful completion of a reasonable examination. A strong commitment should be made to enforcement. ASTA takes the position that simply shifting the burden of proof in the application process is not enough, since existing brokers probably would raise arguments to meet the new standard, thus maintaining the present lengthy and expensive process.

ASTA believes that significant environmental benefits would be realized if entry were eased. New and innovative tours would be created. Greater competition should promote innovation. An increase in competition would not be ruinous to existing brokers if they are operating efficiently and responsibly.

#### Discussion and Conclusions

##### I. Evaluation of the Little Study

The Little Study is a June, 1977, characterization of the broker industry. Our examination of the Little Study added weight to our initial conclusion that the current licensing procedures used by the Commission are unnecessarily expensive and time consuming and are of little value.

We note at the outset that we have some problems with the methodology used in the study's interview process. For example, the introduction states that the information "will be used as part of NTBA's response to the recent ICC decision on deregulation of the process for obtaining a broker's license". This would invite self-serving answers. Second, many of the responses are broad estimates on the part of the brokers, dealing with such items as ages and incomes of the tour clients. However, in general we found that the responses shed light on the basic issue under examination—whether the current licensing process is a valuable tool to protect the traveling public.

We are conscious of the argument that easing entry into the broker industry would result in oversaturation of the market. Brokers would assertedly have to cancel tours, leading to the inconvenience of the public, or would suffer so much economically that they might be forced out of business, with the result that fewer tours might be offered.

The Little Study characterizes the "typical" motorcoach tour passenger as being an elderly female. A primary consideration for this tour traveler is personal attention to comfort needs. Once this person finds a broker who suits her preferences, the tendency is to remain loyal to that broker. There is a

large amount of repeat business involved because of such factors as the undesirability of driving long distances.

It appears that loyalty and tour quality are two strong factors at work in the tour broker business. Even if entry be eased, existing brokers that have operated in a suitable manner would have a strong advantage of client loyalty. We conclude that the significance of severe and ruinous price competition would be lessened by the characteristic of the tour passenger to place personal comfort and attention at the head of the list.

A significant finding in the Little Study appears at pages 30 and 31, where 35 percent of the respondents in the survey stated that, prior to being a tour broker, they were in a non-travel business. We noted that, however, personal interviews during the Little Study revealed the belief of some brokers that special knowledge was required to conduct brokerage operations, including dealing with (1) our motorcoach regulations, (2) actual tour construction, and (3) tour members' desires.

We find it highly important that more than a third of those responding had no initial travel industry orientation. There is nothing specific in the responses that buttresses the contention that the knowledge required by the broker is beyond the grasp of those with or without travel experience.

Any business requires specialized knowledge. Many small businesses undergo a trial-and-error period. This does not mean that the business will not ultimately be successful.

We conclude that there is no evidence, on this record or from Commission experience, that the public has been harmed by the operations of inexperienced personnel. Such matters as our regulations can be readily learned, and help is available by contacting either local Commission field offices or the Commission's Small Business Assistance Office. The National Tour Brokers Association in the past has offered its members assistance with understanding the regulations. Passenger brokerage is not such a highly technical area that it requires a licensing process to assure the technical expertise of the licensees.

One potentiality we have looked at is whether the licensing of additional brokers could cause tour cancellations, leading to the inconvenience of the traveling public. Even under the present licensing system, cancellations are unavoidable. (p. 34, Little Study). The study also finds that tour brokers are conservative in their tour planning, to keep the level of cancellations low.

We do not believe that eased entry would have any significant long term effect on tour cancellations. As stated, tour reliability and loyalty to the broker are strong elements in patron preference. Existing efficient brokers should retain a steady base of repeat business. If a newly licensed organization cancels many tours, patrons will tend to do business with those brokers who are better judges of local tour needs and desires and through careful planning, do not annul many trips.

Under the rules we have adopted, brokers are required to inform customers that complaints about service may be made to the Commission. If it appears that, on a long term basis, a broker operates in such manner to cause inconvenience to customers, we will have sufficient notice of this when the broker's term license comes up for renewal into a permanent license.

Some tour cancellations are unavoidable. What is important is whether they have a bad effect on the tour patron. We are sensitive to the fact that persons may plan in advance for vacations. However, there are two alternatives for the tour patron who finds a tour cancelled suddenly. Especially with eased entry, there should be a number of other tour businesses to provide alternatives. Second, there are countless other vacation opportunities that can be arranged on short notice. The NTBA characterizes the possibility of tour cancellation as resulting in significant discomfort (for elderly, non-working people, a change in schedule; for working people, fixed schedule vacations). This is an exaggeration. The tour and recreational industries in this country offer an endless variety of opportunities, in every price range, and for every level of passive or active participation. Most of these involve short term planning.

According to the Little Study (page 69), financial loss to the broker is small from canceled tours. The ability of existing brokers to remain in business will not suffer through cancellation-related deposit losses. In many instances, booking trends of a particular tour are evident early in the season, and cancellations may be made more than 60 days in advance. This typical 30- to 60-day cancellation period demonstrates to us further that the traveling public is not overly inconvenienced. There is sufficient time to substitute. The ability of brokers to cancel tours without financial strain is also evident.

Our overall conclusion, then, is that there will be either no or negligible adverse effects from our adoption of

simplified entry procedures. Further to ensure that this will be the case, the Commission will reopen this proceeding at an appropriate time, but not more than 3 years from its effective date. At that time we will (1) examine any consumer complaints that have been received by our Bureau of Operations, and; (2) request public comment as to effects on bus travel, the financial stability of the tour broker industry, and on tour patrons. The licenses issued under these procedures will have three-year term limitations. At the conclusion of our re-examination, we will be in a better position to know if the term limitations should be removed, or if other modifications to the rules are needed.

If there is evidence that there have been adverse effects, the Commission will then be able to change procedures for licensing. We do not wish to speculate unduly as to what options would be available, but we would not be precluded from returning to some type of procedure which for example would involve looking at local market conditions, either on an individual application or regional basis. We also would not be precluded from terminating the present procedure if we discover that the increase in competition engendered from the introduction of new services has been contrary to the public interest.

Our decision to act in this matter is bolstered by our fortuitous experience with the brief period of licensing of brokers under the rules in Ex Parte No. MC-96, *Entry Control of Brokers*. Subsequently, we found in Ex Parte No. MC-96 (Sub-No. 4), *Property Broker Entry Control*, that the licensing of property brokers had in fact created a demand for broker services.

At pages 42-50 of the Little Study, there is an analysis of the time and cost factors involved in obtaining a broker license. It is clear that a major factor in time and cost (especially legal fees) is the amount of opposition a broker application receives. We realize that, if an application is unopposed, the Commission's summary grant process can speed up an application considerably.

Still, under present procedures the broker applicant can expect to wait quite a while from the time of initial filing until a license is received, if its application is opposed on the basis of "need".

Under the procedures adopted in this decision, the "need" phase of the process would be eliminated. Assuming that most applications would not be protested, since only fitness would be at issue, the processing time would be

reduced in almost all cases to that required for unopposed broker cases under the present system.

While simplification of the process would have some time reduction benefits, we see the greatest benefits being in reduction of the cost of obtaining the license, and perhaps most important, in reduction of the psychological and complexity barriers to obtaining a license.

In the Little Study, the following data were reported (page 46):

| Brokers' Estimated Cost of Obtaining a License<br>(Includes Legal, Travel and Other Expenses) |                       |
|-----------------------------------------------------------------------------------------------|-----------------------|
| Cost                                                                                          | Percent of<br>brokers |
| Under \$2,000.....                                                                            | 25                    |
| \$2,000 to \$5,000.....                                                                       | 13                    |
| \$5,001 to \$10,000.....                                                                      | 18                    |
| Over \$10,000.....                                                                            | 23                    |
| Not reported.....                                                                             | 23                    |

The costs involved under current procedures are too high. Under the adopted process, in most cases total cost would be reduced significantly assuming that the applicant did its own paperwork. The procedures adopted here allow applicants easily to complete the application process without legal assistance. We believe the procedures are easy to understand, simple in application, and still serve the important function of keeping unfit persons out of the broker industry.

In summary, we believe that the Little Study supports the decision here. It shows, among other things, that a significant number of brokers had no previous experience in the travel industry; that present tour clientele have preferences which show that stable operators will continue to attract loyal customers; that tour cancellations will not harm the broker industry, or lessen overall its capability to offer tours; and that the costs incurred by broker applicants have been high in the past.

##### II. Response to Public Comments

The NTBA argues that adoption of a simplified licensing procedure would remove the "public interest test" included by Congress in 49 U.S.C. 10924(2) (formerly Section 211 of the Interstate Commerce Act).

There is nothing in the legislative history which defines the public interest in such a manner as would require individual determinations for licensing. While the public interest has been considered through certain criteria in the past, we are not bound by them in the light of changing economic conditions, or where their reevaluation leads to a conclusion that they are no longer useful or consistent with the

statutory standard of the public interest. We are not eliminating a public interest "test". We are altering the current application process better to meet the public interest. This alteration should result in a more competitive broker industry, the expansion in the use of energy-efficient motorcoaches for pleasure travel, a lower regulatory and paperwork burden on the public, while still ensuring the integrity of the broker industry.

Further, as stated earlier, if future economic conditions should warrant changing our procedures, we will do so again. For example, if the simplified licensing procedures adopted here were to lead to an overproliferation of services which resulted in harm to the public, we have the authority and capability to adopt other appropriate procedures.

We agree with NTBA that the original section 211 was a pioneer consumer protection law. It was not a law designed to protect tour monopolies. While the NTBA comments make reference to consumer protection with frequency, it is clear that this argument has as its main basis the economic protection of existing licensed brokers from additional competition. Every NTBA argument made—environmental protection, convenience of tour passengers, and stability of the industry—are all inextricably and conveniently bound with the common theme that additional competition in the tour broker industry would cause a chain of events to occur which would result in detriment to the public interest.

The NTBA alleges that cumbersome case processing cannot be the reason to eliminate a legal requirement, and that the Commission must act to reform these procedures. As stated above, there is no legal requirement in the governing statute that we make individual public interest findings in every application proceeding. A public interest finding can be made on a broader basis. Second, cumbersome case processing is only one reason for adoption of new procedures. The old procedures are of doubtful use in determining consumer demand. There is no reason to retain procedures which have so little value. We also maintain that additional entry into the broker industry has been forestalled because of the great expense, and the complexity of those procedures. The procedures adopted here could shorten the application proceeding by several months. The simplicity of the procedures, which will significantly lower the costs involved, will help erase the psychological barriers to making application for authority.



The NTBA alleges that removing territorial restrictions would result in the broker being forced to use buses from the national bus companies. The American Bus Association states, however, that the number of licensed brokers, standing alone, is not a matter of concern to authorized motor carriers of passengers, because brokers generate business for carriers. Second, many bus companies have incidental charter authority which is broad in scope. Third, if a broker finds that existing carriers do not have sufficient authority, it can support the carrier for additional authority, or it can obtain operating authority of its own.

Both the American Bus Association and ASTA stress the need for more stringent fitness standards. We have made findings in this report which we believe will add to the fitness standards.

The rules adopted here require the applicant to specify who will own and operate the business. This information will be published in the *Federal Register*. Existing brokers and other members of the transportation industry will have the opportunity to oppose applications on the basis of fitness of these persons. This will aid in weeding out persons whose past activities indicate they are unfit to be granted a license. However, we recognize that other fitness problems, if any, will only come about through actual operations. All tour brokers will be required, as specified below, to inform the tour passenger in writing that complaints about the tour service may be directed to the Commission. The Commission, where appropriate, will act on these complaints as they come in. Where a pattern of complaints develops, the Commission will be able to use this information to make any necessary changes in its regulations.

We do not believe that ASTA's suggestions concerning experience and permanent office location should be adopted at the present time, although this is not ruled out for the future. General business acumen is more important than specific travel agent experience. There is no evidence that licensed tour brokers without specific travel agent or other relevant experience have failed to act in a qualified manner. We also believe that the ATC requirements are overly technical, at least in application. See ATC Docket 78-460A, Office of Travel Agent Commissioner, served February 9, 1979. In that case, an applicant was denied accreditation as an ATC sales agent despite extensive travel related experience, because applicant did not have the requisite 2 years of experience

in creating, generating, and promoting passenger transportation. That decision has been placed in the public docket of this case.

There is no evidence that operation from a standard office should be required. Some brokers conduct their business through the mail and never meet the traveler face to face. Legal service of process can be made at personal residences. An office requirement might also preclude those persons who wish to operate just a few tours a year. These persons may be serving small localities and will have smaller capital requirements. If at a future time a need for this requirement is shown, we can adopt an appropriate rule.

#### Ex Parte No. 96 (Sub-No. 1)

On August 9, 1979, the Commission's decision in Ex Parte No. MC 96 (Sub-No. 1), *Passenger Broker Practices*, appeared in the *Federal Register*, 44 FR 46847. The decision stated policies with regard to passenger broker/motor carrier affiliations, intermodal tours, and proper activities of the passenger broker at office locations and at agency locations.

The decision here to some extent will shape the impact that Ex Parte No. MC 96 (Sub-No. 1) has on brokers. To the extent that a passenger broker retains a license obtained prior to the adoption of these rules, that license will continue to be interpreted by all provisions of the Ex Parte No. MC 96 (Sub-No. 1) policy statement. The policies stated with regard to passenger broker/motor carrier affiliations and proper activities of the broker and its agents will continue to have full effect on the licenses issued under these rules.

#### Reasons for the Application Method Chosen

Since fitness was found to be the sole test warranted our choice is for a letter-application procedure. The proposed procedures requested information regarding the identification of persons running the broker operation. We now believe this information should be published in the *Federal Register* so that the public will have the opportunity to comment on the fitness of the owners and operators of the broker operation.

The proposed licensing process has been modified in other ways. The requirement asking for a statement of good character is not necessary. It is unlikely that an applicant would submit uncomplimentary statements from others. Nor is it necessary to ask information about the experience of the applicant, or the purported ability to offer a satisfactory service to the public.

These statements would only be self-serving, and meaningful analysis would not be possible. The adopted procedures contain sufficient safeguards to test operational fitness, since initially only a limited term license would be granted.

We have revised the internal processing procedures for the application, to conform to the handling of motor carrier applications. For example, the surety bond and service of process designation will not be filed with the application, but only after a grant of authority. This will simplify internal processing. It will also benefit applicants, since they will not have to pay premiums on the surety bond during the processing period.

Informal letter notification of eligibility to participate in a master certificate will not be used. Rather, actual licenses will be issued. This will allow the Commission to keep better information on the broker industry, and on individual operations.

The rules allow the applicant to file a reply to any contentions that it is unfit. An opposed application usually will involve no more than a three-step process: (1) Publication, (2) protest, and (3) reply. At this point the record will be complete, unless the Commission decides that more evidence under the modified procedure is necessary or that oral hearing is required. If the record is found to be complete, it will be sent to a Review Board for disposition.

Existing broker license holders wishing to receive the broad grant of authority available under these procedures must specifically apply under these rules. Their permanent licenses may be retained if they wish to continue operations under licenses more limited in scope, or while they apply under these rules.

#### Office Location

The adopted rules require that an applicant list the cities and States at which brokerage operations will be conducted, including operations conducted by the broker's agents, if any. See 49 CFR 1045B.1(g). The licenses issued under this procedure will authorize the broker to arrange motor vehicle transportation of passengers and their baggage, between all points in the United States, at specified office locations. If a broker, after receiving a license, decides to change or add office locations to its license, or to hire agents at other locations, it shall first request the Commission to modify its broker license to reflect all the new office locations. Since the clerical work required will be similar to that performed when a shipper or plantsite name change is made in a motor carrier

certificate no fee will be charged. Compare 49 CFR 1002.2(d)(15). The purpose of this notification requirement is that the Commission will have an accurate record of where broker operations are being conducted, to better monitor complaints from consumers.

The office location modification request must be accompanied by a newly submitted Form BOC-3 if the broker adds an office location in a State not previously listed in its license.

#### Addition to 49 CFR Part 1046

One new feature which will be incorporated into our regulations is a consumer notice requirement. Because we wish to be advised of consumer complaints, we will require passenger brokers to provide the following information to each passenger:

The persons selling this service are governed by regulations of the Interstate Commerce Commission under License No. MC . . . Any complaints about transportation services provided may be directed to Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423. Complaints about hotel accommodations and other non-transportation services are outside the Commission's jurisdiction.

This information shall be provided in (1) any written contract or service agreement entered into between the broker and the passengers, or (2) on a separate written notice to each passenger in the event there is no written contract or service agreement.

Part 1046 of Title 49 of the Code of Federal Regulations will be revised to include this requirement.

#### Surety Bonding

We agree with the NTBA that the surety bond should be increased to \$10,000. Most brokers in the Little Study favored a higher bond amount than the present \$5,000. There has been little experience with defaults in the broker industry. At the present time, \$10,000 appears to be reasonable, since bonding only covers the transportation service itself, and not other ancillary tour services. If a default should occur, a broker must suspend operations until a new bond can be obtained. The Interstate Commerce Act clearly requires that a surety bond or other security be in effect for the license itself to be in effect, 49 U.S.C. 10927(b). This requirement will additionally serve to deter unscrupulous operations in the broker industry. 49 CFR 1043.4 will be revised accordingly.

#### Oral Argument

Several parties request oral argument. We do not believe that there is any need for oral argument, and there is nothing in the Administrative Procedure Act or the Fifth Amendment which requires this. Therefore, the requests will be denied.

#### Environmental and Energy Considerations and Findings

The notice of proposed rulemaking asked for comment on the environmental effects of a simplified licensing procedure. We conclude that our decision here, and subsequent operations under the rules adopted in the decision, will not significantly affect in an adverse manner either the quality of the human environment or conservation of energy resources.

We identified three areas of potential environmental concern: (1) Market saturation, (2) diversion from other transportation modes, and, (3) production of "new" trips. In the short term, the marketplace could become saturated with brokers and the introduction of additional motorcoach tours could exceed the demand for such services. Although duplicate services and increased competition to gain patronage might lead to fuel inefficient practices, sound business judgment would dictate better planning in the long run.

The second area of concern relates to diversion from other transport modes. Existing trips performed using automobile, railroad, or airplane could be diverted to motorcoach with attractive packaging and promotion. Automobile travel accounts for approximately 87 percent of all intercity passenger miles. Diversion to motorbus could result and environmental impacts would be beneficial. Were airplane and railroad users (which constitute 11 percent of the intercity market) diverted to motorcoach, environmental efficiencies could be further enhanced. In the latter case, air and rail services could operate below current efficiencies while bus efficiency could improve. Diversion from these two modes could lower overall systemwide efficiency, but absolute diversion is not expected to be substantial based on historical trends and other evidence. The largest potential for modal diversion to motorbus is anticipated principally from automobile travel.

The remaining area of possible environmental impact is from the production of trips that were not made previously. The tour industry is one where demand can be created. The consumer can spend leisure time on a

variety of recreational activities. New and innovative tours could be created and greater competition should promote such innovation. Since new trips would be produced as a result of the subject action, an increase in energy consumption could also be expected. However, these trips would be performed on one of the most environmentally efficient modes. Consequently, any increase in energy usage would be mitigated to the extent that an environmental efficient mode would be employed.

The intercity bus industry could benefit from an increase in the number of licensed brokers since brokers generate business for carriers. To the extent automobile users switch to motorbus, energy conservation, air quality and roadway safety would be enhanced. New or induced trips could increase nationwide consumption levels but these would be performed on one of the most environmentally efficient travel modes.

#### General Finding of Public Interest

We find that the operations authorized by the rules adopted in this proceeding are and will be consistent with the public interest and the national transportation policy. The Commission's power to make such a general finding has found judicial approval, see *Chemical Leaman Tank Lines, Inc. v. United States*, 368 F. Supp. 925 (D. Del. 1973). See also *American Trucking Associations, Inc. v. I.C.C., U.S.C.A., D.C. Cir., No. 78-1407* and *Atchison, Topeka and Santa Fe Railroad Co. v. I.C.C., U.S.C.A., D.C. Cir., No. 78-1717*. This proceeding does not grant authority to brokers. It merely establishes a procedure to obtain such authority. Our responsibilities under the Interstate Commerce Act make it necessary and advisable to adopt a simplified licensing procedure.

Dated November 8, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Trantum joined Commissioner Gresham in dissenting to the imposition of 3-year term limitations on these certificates.

Agatha L. Mergenovich,  
Secretary.

#### Adopted Rules

These rules are added as Part 1045B to Title 49 of the Code of Federal Regulations:



**PART 1045B—PASSENGER BROKER LICENSING****§ 1045B.1 Special procedures governing applications to become a passenger broker.**

(a) *Scope.* These rules are used to make application to become a passenger broker. The authority granted under these rules allows the arranging of interstate motorcoach transportation of passengers and their baggage, for compensation, between all points in the United States.

(1) *Term of license.* If the application is granted, applicant will initially receive a 3-year limited term license. Applicant may later apply for a permanent license. This will be applicant's responsibility, and the Commission will not issue notice that a limited-term license is nearing expiration.

(b) *Application procedures.*—(1) *Application form.* There is no application form. Simply put the necessary information in a letter-application.

(2) *Where to send it.* Address it to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Send an original and one copy of all material to the Commission.

(3) *Notarization.* The information in the letter must be sworn to (notarized). The notarization must show that the applicant has read the material being submitted, has knowledge of the facts in the letter, and knows they are true. See 49 CFR Part 1100, Appendix B, No. 6, for an example.

(4) *Fee.* The fee is as listed at 49 CFR 1002.2(d)(9).

(c) *Information needed.* Write in bold letters on the top of the first page of the letter-application letter "Special Passenger Broker Application." If you hold a broker license, list the MC number on the first page.

(1) *The caption summary.* The caption summary is prepared by the applicant. It will be published in the **Federal Register** to give the public an opportunity to make comments on whether applicant, or applicant's company, is fit to perform a brokerage service. The caption summary must be submitted in the manner set forth below. Fill in the blanks with the appropriate information. If the particular question is not applicable, write n/a in the space. If there is no business address, give personal residence. Addresses should contain, unless otherwise specified, the street, city, and State. List all addresses, if more than one.

**Caption Summary**

Applicant's name is \_\_\_\_\_. The name under which operations will be performed is \_\_\_\_\_.

Applicant is represented by \_\_\_\_\_ in this proceeding (applicant may represent itself), whose address is \_\_\_\_\_.

Following are the name and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: \_\_\_\_\_

The broker operations will be managed by \_\_\_\_\_ whose business address is \_\_\_\_\_.

Operations will be conducted at \_\_\_\_\_ (list city, State for broker and all agency locations).

(2) *Other information.* Applicant must submit a statement that it has read and is familiar with the Commission's passenger broker regulations. They are set forth at 49 CFR Part 1046. Applicant must also submit a current balance sheet and income statement.

(3) *Errors in caption summary.* If applicant finds an error in the caption summary published in the **Federal Register**, it must inform the Commission within 30 days of the publication.

(d) *Processing.*—(1) *Incomplete applications.* If incomplete, an application will be returned with a notation as to why it was rejected. A complete application may be refiled at any time.

(2) *Opposed applications.* An application may be opposed only on the basis that that applicant (and business associates) are not fit to conduct the operations. Once a complete and properly submitted request for authority has been filed, the Commission will publish a notice (the caption summary) in the **Federal Register**. Any person may file a sworn statement in opposition with the Commission, with one copy, within 30 days of the **Federal Register** publication. The statement in opposition must contain all the material the protesting party plans to submit. It must be served upon applicant's representative, and shall certify that it has been served upon applicant's representative.

(4) *Reply.* Applicant may reply to this opposition statement. Replies are due within 20 days from the date the opposition statement is due. An original and one copy must be served upon the Commission, and one copy must be served upon the protesting party's representative. The reply shall certify that it has been served upon the protesting party's representative.

(5) *Decision process.* In an opposed case, after the reply, if any, is received, the record will be examined to see if additional evidence is necessary. If none

is necessary, the case will be assigned to a Review Board for disposition under the modified procedure. If no opposition is received, and Commission examination does not reveal fitness objections, applicant will be granted appropriate authority.

(6) *Grants of authority.* The applicant will be sent a notice if it receives a grant of authority. This notice will inform applicant that it has 90 days to comply with the (i) surety bond and (ii) service of process designation requirements set forth below. The surety bond or service of process information shall not be sent until specifically requested.

(e) *Compliance.* After the grant of authority, applicant must submit a properly completed surety bond form (Form BMC-84) and service of process designation form (Form BOC-3). Send it to the Office of the Secretary. Contact the Commission's Bureau of Operations, Section of Motor, Water, and Forwarder Operations for assistance.

(1) *Form BOC-3.* Information must be provided on the form for each State in which the applicant or its agents will have an office or write contracts. If the operation will be from offices in one State, the applicant may designate itself to receive service of process in that State.

(2) *Form BOC-84.* Submit two copies of this form. Applicant and its insurance agent should request the surety company to complete the forms and return them to applicant. Send the forms to Bureau of Operations, Section of Motor, Water, Forwarder Operations (same Commission address as above). The company which furnishes the bond must be one that has been approved by the Commission. Most major companies that write surety bonds have this approval. Check with the Section of Motor, Water, and Forwarder Operations for acceptability. A surety bond must be kept in force at all times, or a broker's license will be suspended or revoked.

(3) *Commencement of operations.* The Commission will issue a 3-year limited-term license once compliance has been completed. When the license is received, operations may begin.

(f) *Limited term licenses.* Applicants successfully completing this procedure for the first time will be granted a limited term license. It will expire 3 years from the date of issuance, unless application is made for a permanent license. The Commission will not individually notify anyone that the license is expiring and that application for a permanent license should be made.

(1) *When to apply for a permanent license.* The permanent license shall be applied for in the period 120 days before

the 3-year term license is to expire. Applications received more than 120 days before the term expiration date will be rejected. Applications received (not date of mailing), after the term license has expired shall be treated as first time limited term applications.

(2) *Operations performed during the time of application for a permanent license.* If the application for a permanent license is received during the proper 120-day period, the broker may operate under its term license until final disposition of the permanent application. If the term license is allowed to expire before the permanent application is made, broker operations must cease until a new term license is granted.

(3) *What the permanent license application shall contain.* The permanent license application shall contain the information asked for in the term license application, except that the broker shall also indicate its term license number and indicate that it is now making a permanent application. The processing of the permanent application will correspond to the term license procedures. There will be no fee required for the second application.

(4) *Further investigation.* Authority received under this procedure is specifically conditioned upon the Commission's investigation of passenger broker entry control to commence within 3 years of the effective date of these rules. The Commission reserves the right to suspend or terminate these procedures at any time.

(g) *Office locations in licenses.* Licenses issued under this procedure shall list the office locations contained in the caption summary. Operations by the broker or its agents may be conducted only at these locations. If a broker wishes to change office locations, it must first inform the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. in writing. No fee for this service is required. If an office in being opened in a State not listed in the old license, the broker must also send an updated Form BOC-3. Operations at the new location may be conducted when the modified license is received.

**Modified Rules****PART 1043—SURETY BONDS AND POLICIES OF INSURANCE****§ 1043.4 [Amended]**

Section 1043.4 of Part 1043, Title 49 of the Code of Federal Regulations, shall be revised in paragraph (b) as follows:

\* \* \* \* \*

(b) A passenger broker must have a surety bond in effect for \$10,000.

**PART 1046—BROKERS OF PASSENGER TRANSPORTATION**

Part 1046, Title 49 of the Code of Federal Regulations, is revised as follows:

**Sec.**

§ 1046.1 Information required to be recorded.

§ 1046.2 Information to be furnished to passengers.

**§ 1046.1 Information required to be recorded.**

Every passenger broker subject to 49 U.S.C. 10924 shall be required to keep a record of all passenger broker transactions, showing: (a) Origin and destination for each ticket sold, (b) name and address of the carrier for which the ticket is sold, (c) the amount received from the passenger, including, stated separately, amounts received for baggage or accessorial services, (d) payments made to each motor carrier served by the broker, and (e) amounts of the commissions earned by the brokers from the sale of transportation for each carrier.

**§ 1046.2 Information to be furnished to passengers.**

The following information shall be provided to each passenger in any written contract or service agreement entered into between the broker and the passenger, or in a separate written notice to each passenger in the event there is no written contract or service agreement:

The persons selling this service are governed by regulations of the interstate commerce commission under license No. MC \_\_\_\_\_. Any complaints about transportation services provided may be directed to Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423. Complaints about hotel accommodations and other non-transportation services are outside the Commission's jurisdiction.

(49 U.S.C. 10101, 10321, 10921, 10924, 10925, and 10927, and 5 U.S.C. 552, 553, 558, and 559)

[FR Doc. 79-37458 Filed 12-5-79; 8:45 am]

BILLING CODE 7035-01-M



## Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### 7 CFR Part 928

#### Handling of Papayas Grown in Hawaii; Proposed Grade and Size Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes minimum grade and size requirements for shipments of Hawaiian papayas. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

**DATES:** Written comments must be received by December 21, 1979. Proposed effective dates: January 1, 1980, through December 31, 1980.

**ADDRESSES:** Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, 202-447-5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* This notice of proposed regulation is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Papaya Administrative Committee, and upon other information. The committee estimates that 1980 production of Hawaiian papayas will total 60.0 million pounds, compared to 40.0 million pounds in 1979. Fresh sales are expected to increase substantially from the 5-year low of 35.0 million

pounds last year to 53.0 million pounds during 1980, with the remaining 7.0 million pounds processed. In-state fresh sales are projected at 13.5 million pounds, compared to 10.5 million pounds for 1979. It is anticipated that out-of-state sales will amount to 75 percent of the total fresh sales and reach 39.5 million pounds, 15.0 million pounds more than in 1979.

The grade and size requirements are designed to prevent the shipment of Hawaiian papayas of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality papayas in the interest of producers and consumers pursuant to the declared policy of the act.

This proposal has been reviewed under the USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed regulation is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant". A Draft Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

As proposed § 928.310 Papaya Regulation 10 would read as follows:

#### § 928.310 Papaya Regulation 10.

**Order.** (a) No handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152 of this part):

(1) During the period January 1 through April 15, 1980, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that allowable tolerances for defects may total 10 percent: *Provided*, That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(2) During the period April 16 through December 31, 1980, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided*,

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That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas individually weight not less than 13 ounces each.

(3) during the period January 1 through April 15, 1980, to any export destination unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects may total 10 percent: *Provided*, That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(4) During the period April 16 through December 31, 1980, to any export destination unless said papayas grade at least Hawaii No. 1, except that they shall be free from injury caused by bruises and free from deep scars; and scars, when scaly, cracked or not smooth, shall not aggregate a circle greater than 1 inch in diameter, or when smooth shall not aggregate more than 7.5 percent of the surface of the fruit, except that the total tolerance for all defects shall not exceed 3 percent: *Provided*, That of this amount not more than 1 percent shall be for immature fruit and not more than 1 percent shall be for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(b) When used herein, "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Grown Papayas, as amended, Subsection 5.32, Section 5, Regulation 1, Division of Marketing and Consumer Services, Department of Agriculture, State of Hawaii, issued pursuant to Section 147-4, Part I, and Section 147-22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes. All other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: December 3, 1979.

Charles R. Brader,  
Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc. 79-37551 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-02-M

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

##### 14 CFR Chapter I

[Docket No. 19829; Petition Notice No. PR-79-13]

#### Petition for Rulemaking of the Aircraft Owners & Pilots Association; Special Air Traffic Rules for San Diego International Airport—Lindbergh Field, San Diego, Calif.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Publication of petition for rulemaking; request for comments.

**SUMMARY:** This notice publishes for public comment the petition of the Aircraft Owners and Pilots Association (AOPA), dated November 29, 1979, on behalf of its members, for amendment of Part 93 of the Federal Aviation Regulations (14 CFR Part 93). Part 93 contains special air traffic rules and airport traffic patterns for operation of aircraft within the airspace designated under the rules. The AOPA petition requests, for the reasons disclosed, the initiation of rulemaking proceedings leading to a special air traffic rule for San Diego International Airport—Lindbergh Field, that would designate safety corridors for operations to and from the airport, prohibit aircraft operations within the corridors without air traffic control authorization, and require large turbine powered airplanes when operating below 12,000 feet MSL to or from the airport to remain within the designated safety corridors. The petition also contains certain "procedural proposals" not involving rulemaking action.

The petition involves some issues similar to those involved in a FAA initiated notice of proposed rulemaking also published in this issue of the Federal Register. That notice (Notice No. 79-AWE-17) proposes to establish a terminal control area (TCA) for the primary airports San Diego International Airport (Lindbergh Field) and Miramar Naval Air Station, San Diego, California. The AOPA petition is being published verbatim in order to receive public comment on both matters simultaneously and ensure due consideration of each separately under the applicable FAA general rulemaking procedures. Although this notice sets forth the contents of the AOPA petition as received by the FAA without change, its publication in accordance with FAA procedures governing the processing of petitions for rulemaking does not present an FAA position on the merits of

the petition. This notice does not propose an amendment of the current Federal Aviation Regulations.

**DATES:** Comments must be received on or before February 5, 1980.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19829, 800 Independence Avenue, SW., Washington, D. C. 20591.

**FOR FURTHER INFORMATION CONTACT:** William E. Broadwater, Airspace and Air Traffic Rules Division (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D. C. 20591; telephone (202) 426-3731.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rulemaking as they may desire. Communications should identify the regulatory docket or petition notice number and be submitted in duplicate to the address for submitting comments indicated above under the caption "ADDRESSES." All communications timely received in the Rules Docket will be considered by the FAA before taking action on the petition for rule making. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

##### Background

The AOPA petitioned the FAA under the general rulemaking procedures contained in FAR Part 11 to amend Part 93 of the Federal Aviation Regulations (FARs). Part 93 contains the special air traffic and airport traffic rules applicable to specified aircraft operations within the designated airspace. Those rules are based on the particular conditions and needs for safe and efficient use of the affected airspace by aircraft. They are specifically tailored for the terminal environment in which they apply and may be in addition to, or in lieu of, the requirements that generally apply to aircraft operations.

While all comments are invited and will receive due consideration, to assist the FAA in its review of the AOPA petition, comments are particularly welcomed on the following matters concerning the petition:

1. Any benefit or disadvantage anticipated in the San Diego area from the recommended means for providing control and separation for controlled aircraft and VFR, uncontrolled, aircraft

to ensure efficient use of available airspace and greater protection in the airspace used by passenger-carrying aircraft.

2. Any benefit or disadvantage anticipated in the San Diego area from establishing separate, special air traffic rules to prescribe safety corridors and associated requirements for increased control of aircraft and protection of airspace from unknown and uncontrolled aircraft in order to provide an adequate level of safety and efficient use of the airspace.

3. Any benefit or disadvantage anticipated in the San Diego terminal air traffic control system from the recommendations in the petition, including considerations of controller workload, equipment, nonavailability of designated corridors during adverse weather or other limiting conditions, and other system factors.

4. Any specific changes that may have occurred in the factual basis for the FAA regulatory and administrative conclusions since 1970, when the current terminal control area (TCA) concept was implemented in the Federal Aviation Regulations under Amendments 71-6 and 91-78 (35 FR 7782; May 21, 1970) and the 21 individual TCAs established and modified under that concept.

5. Any specific economic, environmental, energy, or other consequences (including costs and benefits) anticipated as to (1) operators of aircraft precluded from operating in the designated safety corridors because, for any reason, Air Traffic Control authorization is not obtained, (2) operators of aircraft required to operate within the safety corridors when below 12,500 feet MSL operating to or from San Diego International Airport, (3) other transient operators or operators of aircraft to or from other airports in the San Diego terminal area (generally within approximately 40 miles of San Diego International Airport and below 12,500 feet MSL), and (4) operators of other airports (civil and military) in the San Diego terminal area.

6. Any impacts on the operation of aircraft in the San Diego terminal area (1) outside the designated safety corridors and (2) inside the corridors, including occasions when the corridors are not available due to such conditions as limited access to corridors or adverse weather.

7. Any changes, and the consequences of those changes, anticipated in the manner in which large turbine engine-powered airplanes would be flown in and near the San Diego area in order to conform to the requirements of the recommended rules.



8. Any changes or impacts anticipated in the various aircraft operations to or from other airports in the San Diego terminal area, including whether traffic conflicts and collision potential for those aircraft would be reduced.

9. Any clarification or changes that should be considered in the class of aircraft required to operate within, or remain clear of, the designated corridors.

10. Any changes anticipated in the noise distribution and community noise levels around the airports in the San Diego terminal area, including those represented by single event and cumulative levels shown by (Ldn) noise contours over noise sensitive areas.

11. Any benefit or disadvantage anticipated involving delays to aircraft and fuel consumption associated with the recommended rule and how it would affect different airspace users.

12. Any airspace designation, operating, or equipment requirements in addition to those recommended in the petition that might be needed and should be considered.

13. Any benefit or disadvantage anticipated in the San Diego area involving implementation of the congressional mandates to promote civil aviation, and to provide safety in air commerce, and to manage and control the navigable airspace to ensure its safe and efficient use by aircraft, including the mandate reemphasized by the Airline Deregulation Act of 1958, to further achieve the highest degree of safety in air transportation and air commerce expected by the traveling and shipping public.

14. Any other matters considered to affect a decision whether further public rule-making procedures should be initiated on the recommendations presented in the petition.

#### The AOPA Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rule making of the Aircraft Owners and Pilots Association, dated November 29, 1979.

Issued in Washington, D.C., on December 3, 1979.

Edward P. Faberman,  
Acting Associate Chief Counsel, Regulations  
& Enforcement Division.

Aircraft Owners & Pilots Association  
November 29, 1979.

Hon. Langhorne M. Bond,  
Administrator, Federal Aviation  
Administration, 800 Independence  
Avenue SW., Washington, D.C.

Dear Mr. Bond: This is to petition you, pursuant to Section 11.25 of the Federal

Aviation Regulations, for the establishment of special air traffic rules in FAR Part 93 for San Diego International-Lindbergh Field, San Diego, California.

This petition is submitted by the Aircraft Owners and Pilots Association (AOPA) on behalf of 240,000 members who have authorized AOPA to represent their interests in aviation matters. AOPA members are principal users of the airspace, owning two-thirds of the 200,000 general aviation aircraft and flying three-quarters of the 36,000,000 general aviation flight hours. We believe the rules proposed in this petition will benefit all users of the affected airspace to a greater degree than alternative rules presently advocated by others.

#### Regulatory Proposal

AOPA proposes that special air traffic rules be established for the airspace depicted in Appendix A requiring that no person may operate an aircraft within that airspace except in compliance with the following rules:

1. No person may operate an aircraft within the designated airspace unless an appropriate authorization has been received from ATC.

2. Each person operating a large turbine engine powered airplane to or from the San Diego International-Lindbergh Field Airport shall, when below 12,500 feet MSL, operate in the designated safety corridors.

#### Procedural Proposals

AOPA recommends that all existing standard terminal arrival routes (STARs) and standard instrument departure routes (SIDs) for the San Diego International-Lindbergh Field be adjusted so as to contain these routes in the proposed safety corridors. Specific recommendations for the STARs and SIDs are in Appendix B.

Further, AOPA has some accompanying procedural recommendations:

1. The designated airspace should be depicted on all visual and instrument navigation aeronautical charts to the current specifications for terminal control areas. These charts also should contain, in a convenient location, the appropriate ATC radio frequencies necessary to request clearance into or through the safety corridors.

2. FAA should investigate the need for alteration of the traffic flow in the San Diego area. AOPA believes that the Mission Bay VORTAC should be relocated, with appropriate changes in the airway structure, since the current location clearly is causing a hazardous situation.

#### Background

In 1969, AOPA and the Air Line Pilots Association jointly recommended the establishment of safety corridors for the segregation of high-performance and low-performance aircraft in busier terminal locations.

In June 1977, we made specific recommendations to the Congress and FAA as to the future needs of the air traffic control system. These recommendations included a clear need for safety corridors.

In November 1978, after the San Diego midair collision, AOPA forwarded to FAA,

specific recommendations on the need for safety corridors.

In April 1979, in light of the NASA draft report which in effect refuted FAA's arguments concerning the effect of control on safety from near collisions, AOPA asked FAA to stop guessing and simulate existing terminal airspace plans and proposal alterations. FAA has refused to perform these simulations.

Documentation supporting these developments is available in the files of both AOPA and FAA, but was too bulky to include here.

With the recent alleged increase in near midair collisions in the San Diego area, coupled with FAA failure to do the requested simulation, AOPA now forwards these specific proposals. AOPA is not confident that our exact specifications are 100 percent correct, just as no one is confident of the appropriateness of any TCA proposal that may be forthcoming from the FAA. We are confident that the corridor concept is a better answer to the San Diego traffic flow problem than the normal TCA configuration. Simulation is still recommended for fine-tuning the corridor configuration and procedures.

Simulation and investigation of current traffic could be most useful in both the alteration of the terminal traffic flow and the relocation of nav aids.

It should be noted that in mid-1979, the FAA Air Traffic Service circularized for comment a proposal to alter ATC procedures dealing with visual separation. The proposal was to require the controller to provide vertical or horizontal separation to an aircraft overtaking or converging on another. AOPA concurred with the proposal, since we had recommended essentially the same thing in November 1978. We understand that the air carriers using Lindbergh Field are significantly concerned about the safety of using visual approaches and visual separation. We suggest, therefore, that those carriers instruct their pilots to refuse visual approaches and separation until the AOPA proposed safety corridors can be established.

#### Public Interest

We are aware of air carrier comments rejecting the concept of corridors because it is alleged that they sometimes require a few minutes of additional flight time. However, we believe that safety is the first consideration and this is supported by the wording of the Federal Aviation Act that requires the Administrator to give full consideration to the duty resting upon the air carriers to perform their services with the highest possible degree of safety in the public interest. The carriers should place safety above the interests of short-cutting flight paths and saving a few minutes at the possible expense of safety.

Safety corridors permit maximum safe utilization of the public airspace under reasonable rules and this, too, is in keeping with the instructions of the Congress to the Administrator with regard to promulgation of "reasonable rules." A continual expansion of the large blocks of airspace under the TCA concept and the associated restrictions that they impose on the flying public is not in the

public interest, as envisioned by the Congress.

The following positive results can be expected from the adoption of AOPA's proposal.

1. Air safety will be enhanced in the San Diego area.

2. The burden of safety restrictions is equitably and reasonably distributed to all airspace users.

3. Clearly defined flight paths are established for high performance aircraft, thus protecting all concerned.

4. Rerouting of both IFR and VFR aircraft around a large San Diego TCA will be minimized, resulting in fuel savings.

5. Profile descents are accommodated.

6. Airspace not required by high-performance aircraft is released for use by other aircraft.

7. Controller work load will be reduced and better service provided than with a large conventional TCA.

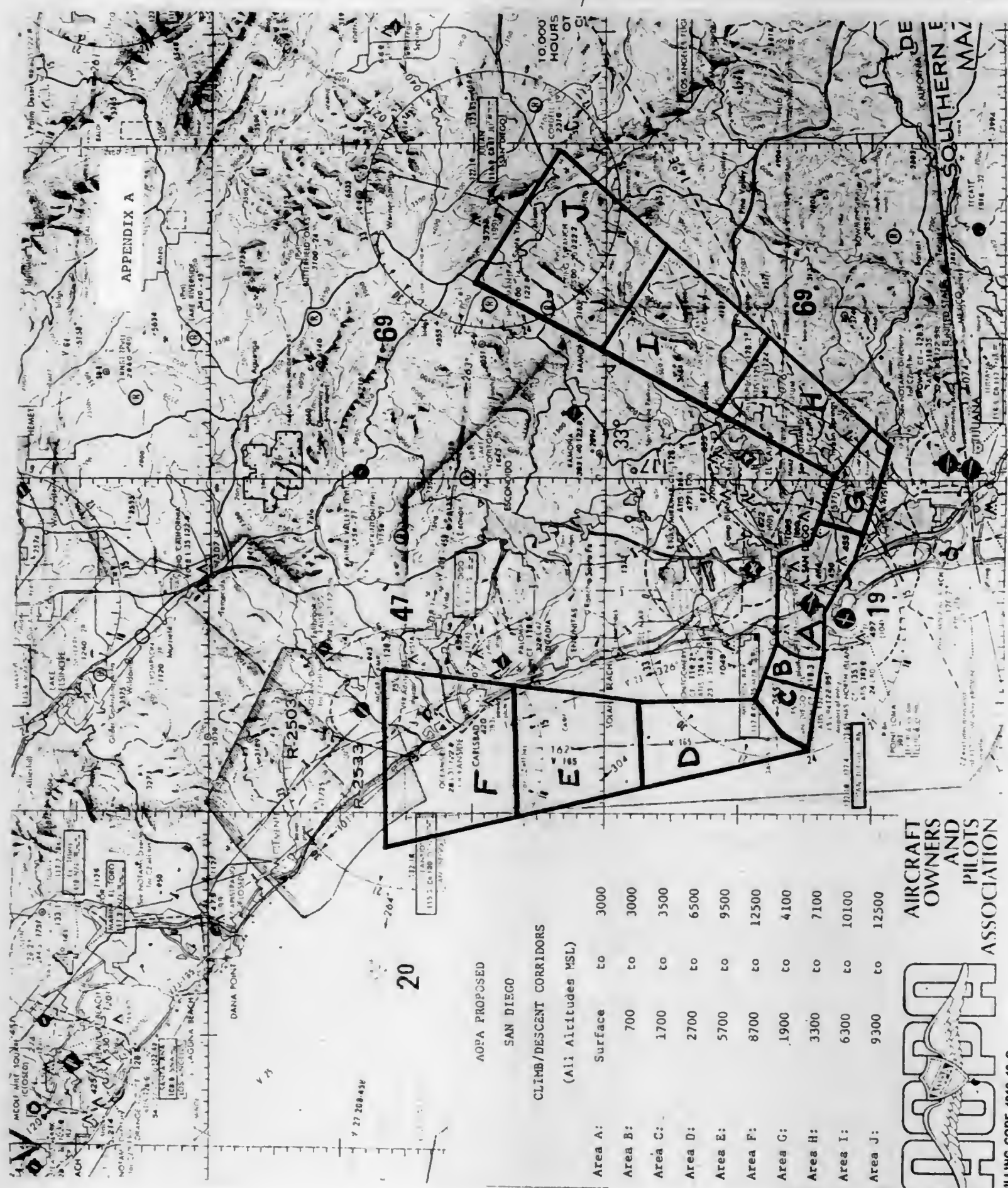
AOPA is of the opinion that our proposal is the safest and most practical designation of the San Diego airspace.

Sincerely,

John L. Baker,  
President.

BILLING CODE 4910-13-M





AIRCRAFT OWNERS AND PILOTS ASSOCIATION

BILLING CODE 4910-13-C

#### Appendix B

##### AOPA Proposed San Diego Standard Terminal Arrival Routes

- \* Julian One Arrival:  
Los Angeles Transition: Radar vectors direct to Julian VORTAC. Thence via JLI R-200 to Swatt Intersection. (Altitude: at or above 12,500 MSL to JLI, then remain in corridor.)
- \* Oceanside One Arrival:  
Los Angeles Transition: Direct Oceanside VORTAC. Thence via OCN R-162 to Sargs Intersection. (Altitude: at or above 12,500 to OCN, then remain in corridor.)
- \* Julian Transition: Direct Julian VORTAC. Thence via the JLI R-260 until intercepting OCN R-162, then via OCN R-162 to Sargs Intersection. (Altitude: at or above 12,500 MSL until intercepting the OCN R-162 then remain in corridor.)

##### AOPA Proposed San Diego Standard Instrument Departure Routes

- \* Julian One Departure (all Runway 9 departures): Via the LOC BC RWY 27 localizer course to Swatt Intersection. Thence via the Julian VORTAC R-200 to JLI. Thence . . . (Altitude: remain in corridor to 12,500 MSL.)
- \* Oceanside One Departure (all Runway 27 departures): Via the ILS RWY 9 localizer course to Sargs Intersection. Thence via the Oceanside VORTAC R-162 to OCN. Thence . . . (Altitude: remain in corridor to 12,500 MSL.)

[FR Doc. 79-37486 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13

#### 14 CFR Part 71

[Airspace Docket No. 79-AL-20]

##### Designation of Transition Area; St. Marys, Alaska; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to Notice of Proposed Rulemaking.

**SUMMARY:** In a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on October 25, 1979, Volume 44, Page 61378, the phrase "including that airspace between these bearings," was inadvertently omitted from the description of the proposed St. Marys transition area. This correction would include the omitted phrase after "(344° M) bearing from the St. Marys NDB" in the St. Marys transition description.

**DATES:** The comment period on this proposed rule is extended to January 7, 1980.

**FOR FURTHER INFORMATION CONTACT:** Jerry M. Wyllie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

**SUPPLEMENTARY INFORMATION:** Federal Register Document 79-32871 was published on October 25, 1979 (44 FR 61378) and proposed designation of the St. Marys transition area. In the description, the phrase "including that airspace between these bearings," was inadvertently omitted. Action is taken herein to correct this error.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the description of the St. Marys transition area contained in Federal Register Document 79-32871, appearing on Page 61378 in the Federal Register of October 25, 1979, is corrected to read as follows:

##### St. Marys, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the 198° True (180° M) bearing from the St. Marys NDB, extending from the NDB to 18.5 miles south of the NDB and within 9.5 miles west of the 351° True (333° M) bearing from the St. Marys NDB, and 9.5 miles east of the 002° True (344° M) bearing from the St. Marys NDB, including that airspace between these bearings, extending from the NDB to 21 miles north of the NDB.

(This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on November 20, 1979.

Robert L. Faith,  
Director, Alaskan Region.

[FR Doc. 79-37139 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 18605/79-AWE-17]

##### Proposed Group II Terminal Control Area—San Diego, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety of Flight Operations in the National Airspace System, the FAA proposed to establish a Group II Terminal Control Area (TCA) at San Diego, Calif. Operations in the proposed TCA would be subject to the operating and equipment rules for operation in Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. This includes, among other rules, the requirement to have an operable VOR/TACAN receiver, two-way radio, and a transponder to operate in the TCA. An altitude encoder would not be required. This action is intended to increase the capability of the Air Traffic Control (ATC) system to separate all aircraft in the terminal airspace around the San Diego International Airport (Lindbergh Field), San Diego, Calif. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involves visual flight rules (VFR) aircraft that are not required to be under ATC control. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

**DATES:** Comments must be received on or before February 5, 1980.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 18605/79-AWE-17, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

The docket for this action may be examined at the office of the Regional Air Traffic Division, at the above address, or at the FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** Richard Morrison, Airspace and Procedures Branch, Air Traffic Division (AWE-530), Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261; telephone: (213) 536-6180.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation



Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. All communications received on or before February 5, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the FAA Regional and Headquarters Rules Dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/79-AWE-17." The postcard will be date/time stamped and returned to the commenter.

#### Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### Prior Public Participation

The proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. Initially, numerous meetings were held with known local groups and interests to receive and discuss their needs and views for the preliminary TCA configuration. After those local meetings, a tentative TCA configuration was prepared for further public discussion at subsequent local informal airspace meetings. An extensive publicity effort was made to invite all interested persons to participate in those meetings. In addition to published notices, notice was given through bulk mailing of notices to hundreds of persons believed to have an interest in the proposal, through posting of notices in airports, and through press, radio, and TV coverage. As a result of those meetings, further adjustments to TCA

configurations have been made and are reflected in the configuration proposed in this notice. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at every stage of the rulemaking process. Based on the public participation and other available data, several locations that were included among the 44 candidates for new TCAs have been dropped from further consideration. Other locations may be dropped later.

#### Relationship to AOPA Petition for Rulemaking

The FAA recently received a petition for rulemaking from the Aircraft Owners and Pilots Association (AOPA), on behalf of its members, to amend Part 93 of the Federal Aviation Regulations to establish a special air traffic rule for San Diego International Airport (Lindbergh Field). That petition, which is published for public comment elsewhere in today's *Federal Register*, requests the FAA to initiate rulemaking procedures to establish "designated safety corridors" for arrivals and departures of aircraft to and from San Diego International Airport. This notice, while proposing airspace and air traffic rules in the form of a TCA in the San Diego, California area, does not respond to that petition and should not be confused with it. While this notice necessarily involves some issues similar to those raised by the AOPA petition, it does not prejudice the disposition which will be made of the petition by the FAA after due consideration of its merits in accordance with the applicable provisions of Part 11 of the Federal Aviation Regulations.

#### Background: The Need for Increased Positive Control in Terminal Airspace

The takeoff and landing phases of flight result in the concentration of inflight aircraft in a relatively limited volume of airspace surrounding an airport. The number of aircraft per unit volume of airspace at a specific instant of time is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe

and efficient flight operations at all controlled airports.

The scope of services range from simple suggested airport traffic flows at lowest density airports, to terminal control areas at the busiest airports which provide positive controlled airspace. Within the latter, all aircraft are subject to specific operating rules and avionics equipment requirements.

The FAA is proposing to take action to extend or enhance the application of these proven control techniques and hardware subsystems to more airports to assure greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

An analysis of the need for extending the ability of ATC to separate visual flight rules (VFR) aircraft and instrument flight rules (IFR) aircraft in terminal airspace is contained in the Administrator's Plan for Enhanced Safety which announced FAA's intent to propose, for public comment, establishment of 44 new Group II TCAs, and the vertical and lateral enlargement of the 21 previously established TCAs. This proposal to establish a Group II TCA at the San Diego International Airport is in accordance with that plan.

#### Near Midair Collisions in Terminal Airspace

The FAA experience since the establishment of mandatory TCAs and voluntary Terminal Radar Service Areas indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. A comparison of periods before and after the establishment of terminal control areas and terminal radar service areas is instructive. In 1968, the FAA conducted an extensive study of near midair collision hazard in the U.S. airspace. The results of this study were published in the "Near Midair Collision Report of 1968," July, 1968. A major portion of the report was devoted to the collision potential in terminal airspace. For the year 1968 (which preceded the establishment of terminal control areas), the report concluded that, for the airports now served by terminal control areas, there were 271 incidents reported as "hazardous" to flight. In response to that study, since 1970, 21 terminal control areas were established. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in these terminal control areas. For comparison purposes, this translates into an average of approximately 20 reported incidents per year, under TCA requirements, in contrast with the 271 incidents for the year 1968. These figures are not conclusive indicators of the absolute

numbers of incidents, but are viewed as pointing toward the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in terminal airspace. As a result of public comments, in response to Notice No. 78-19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken.

In the San Diego terminal area, the mix of aircraft is obvious. Within 15 nautical miles of San Diego International Airport, three general aviation and three military airports are located, and in calendar year 1978, for example, these seven airports generated in excess of 1.2 million aircraft operations. Because of the proximity of these airports, the collision potential between controlled and uncontrolled aircraft in the San Diego terminal airspace exists. To date in 1979, there have been several near midair collisions reported in the San Diego terminal area. In all instances, general aviation and either air carrier or military aircraft have been involved. The high passenger loads discussed below and the mix of various type aircraft using the airspace in and around San Diego International Airport make it highly desirable to add the assurance that the flight paths of air carrier aircraft using this airport are contained within airspace regulated to be free of uncontrolled flights.

#### The "Highest Degree" of Air Transportation Safety

The near midair collision statistics cited above indicate that, for all classes of users of terminal airspace, the furnishing of separation service by ATC, in addition to the duty of pilots to see and avoid each other, can result in a higher level of air traffic safety. For the millions of air carrier passengers who enter and leave the major air terminals each year, the Congress has directed that the highest feasible degree of safety be achieved. The FAA believes that the continued presence of a "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with this high safety objective.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest." This Congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act

of 1978 (Pub. L. 95-504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation ("Secretary") to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The "highest standard of safety in air transportation" is also stressed in relation to annual reports to be submitted to the Congress by the Secretary beginning not later than January 31, 1980, (new Section 107 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978). The orderly and extensive expansion of positive controlled airspace, including the proposal in this notice, would ensure that the system-wide capability of the FAA to assure separation protection for air carrier passengers remains commensurate with the encouragement and growth of a vigorous, safe and efficient air transportation system under the new Act.

#### Building on Past Programs

While the TCA action described herein is proposed as part of the Administrator's Plan for Enhanced Safety, it follows, and is a logical extension of, programs that first gained momentum in 1962. That year, initiating many years of pilot participation in terminal radar service programs, such a program was established at Atlanta to solve communications workload problems and assist in aircraft sequencing. This was followed by a similar program at Merced Air Force Base, California, in 1965. This service was gradually extended until 1970, when the National Terminal Radar Program signalled a major expansion of ATC separation service following the 1968 Near Midair Collision Report (discussed below). Beginning with the TRSA at Nashville, a total of 86 nonregulatory

Terminal Radar Service Areas (TRSAs) covering 105 airports were established under that program, the last being the Peroria TRSA in 1978. The safety enhancement program includes the proposed addition of 80 new TRSAs in phases ending in 1983.

In addition to these nonregulatory programs, the 1970 National Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept, as a regulatory means of providing positive control in terminal airspace, was added to the Federal Aviation Regulations in amendments 71-6 and 91-78, which were published in the *Federal Register* (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments, which defined the nature and operational aspects of TCAs, followed extensive public comment in response to Notice No. 69-41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69-41B) issued on March 11, 1970, (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations, under which TCAs are issued, and § 91.90 of Part 91 of the Federal Aviation Regulations, which describes the equipment and operating rules for participating in a TCA. The TCA action proposed in this notice is issued under § 71.12 and incorporates, without changing, the provisions of § 91.90. While the safety enhancement plan identified 44 new locations for possible Group II TCAs, the legal basis for, and description of, the TCA concept was established under these 1970 amendments to Parts 71 and 91. That regulatory concept would not be changed by this notice. It is to be noted that the 44 locations were only proposals. Each site is being evaluated on its own merits. In fact, the FAA's analysis to date has led to dropping the following cites from the original list—Des Moines, Iowa; El Paso, Texas; Jacksonville, Florida; Lihue, Hawaii; Salt Lake City, Utah; and Tucson, Arizona. The evaluation is continuing with the very real possibility that other cites may be dropped, even before the issuance of a notice of proposed rulemaking.

#### National Benefits

The Plan for Enhanced Safety contains an analysis of the safety increases, in terms of passengers protected, that were expected to result from the establishment of the 44 new TCAs originally under consideration. Six of those proposed sites are no longer under consideration at this time.



However, if all of those TCAs were established the original analysis indicates that the percentage of air carrier enplaned passengers protected by mandatory ATC separation, compared with the 21 TCAs in existence in January 1978, would rise from 62% to 87%. In addition, those TCAs would expand the protected commuter passenger enplanements from 38.5% to 49.7% (in the contiguous 48 states). While those figures have been reduced because of the reduction of the number of candidate sites, the increased protection at the remaining locations is still substantial. This is during a period in which substantial increases in total enplanements are forecast for both classes of air transportation, with annual air carrier and commuter air carrier enplanements expected to exceed 418 million and 14 million, respectively by 1989.

Parallel increases are also expected for general aviation. For this large and expanding class, the numbers of aircraft, and the total operations, are forecast to increase by more than 60% between 1977 and 1989. In addition, manufacturing trends indicate that increasing proportions of the general aviation fleet are being purchased with equipment intended for operation in the busy terminal airspace in which the "mix" of controlled and uncontrolled aircraft has been identified as a common factor in reported near midair collisions.

For all classes of airspace user, therefore, the FAA believes that the extensive expansion of TCAs at the remaining proposed sites would significantly increase the ability of ATC to provide an effective, additional margin of safety to that furnished by the pilot's duty to see and avoid other aircraft.

#### Local Benefits

The establishment of a Group II TCA, as proposed in this notice, would make a meaningful contribution to the system-wide increase in safety and responds to the conditions that exist in the San Diego area. At Lindbergh Field, enplanements for 1979 are forecast to reach 2.95 million and increase instrument operations 233,000 to 312,000 by 1990. Enplanements at San Diego International Airport for 1979, based on these forecasts, will represent 1.09% of national enplanements while aircraft operations will represent .35% of the national total.

#### Economic Impacts

The FAA is committed to ensuring that the costs of establishing the San Diego, Calif., TCA are considered before final regulatory decisions are made.

Since these costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment, covering the entire program as described in that plan, was made available to attendees at informal airspace meetings held in San Diego on March 20-22, 1979, and is in the Regional and Washington dockets for public comment. The assessment includes system-wide assumptions concerning the impact of all 44 originally proposed new TCAs, including San Diego, Calif., TCA proposal. Since six of the original sites are no longer under current consideration, the cost impact system-wide is even less but the underlying assumptions are still valid as applied to the remaining candidate sites. In addition, to determine whether these general assumptions are valid for the particular TCA airspace description proposed for San Diego, Calif., the FAA Western Regional Office has prepared a detailed addendum to the broad national study. This Regional economic assessment is appended to the national assessment and is also in the Regional and Washington dockets. Public comment on these economic assessments is invited.

#### Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment has been prepared, which addresses the overall national environmental effect of the 44 proposed TCAs. This assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that these impacts would not significantly affect the quality of the human environment. This national assessment is in the Regional and Washington dockets. In addition, like the economic study, this program-wide assessment has been supplemented with an environmental assessment, prepared by the Regional office, responding to the site-specific impacts of the San Diego, Calif., TCA proposal. This local assessment is in both dockets for public comments. The local supplement will assist the Administrator in evaluating local and national environmental impacts before decisions are made concerning the proposed TCA. Public comment on these environmental assessments is invited.

#### Airspace Outside the United States

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil

Aviation Organization (ICAO) International Standards and Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

#### The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Western Region in consultation with affected users to minimize the potential impact of the proposal.

On March 20-22, 1979, informal airspace meetings, open to the public, were held in the San Diego area to obtain public participation in the development of an airspace description responsive to the needs of both transient and local users who might be affected. Approximately 300 persons attended during the three days of meetings. A

report describing these meetings has been placed in the Regional and Washington dockets for public review. Public comment is invited on FAA's proposed disposition of comments and options discussed in the informal airspace meetings.

The San Diego TCA would be multi-tiered and consist of 17 areas designated alphabetically with a VFR corridor. In response to public suggestions, the FAA has incorporated several changes into the proposed TCA configuration. Included in the configuration is a north-south VFR corridor over San Diego International Airport (Area A) from 3,300 to and including 4,700 feet. It has been designed to allow free transit of VFR aircraft through the approximate center of Area A.

Another change was made in the Mission Valley (Area J) after comments were made concerning possible compression of VFR traffic beneath the floor. As a result, it was agreed that raising the floor to 4,800 feet would not derogate safety or ATC service within that Area.

Area G was developed from Areas C and D after it was determined that parachute and glider operators in the Lower Otay Reservoir Area would be unduly penalized if the floors remained at 3,500 and 4,800 feet respectively. The floor was raised to 7,800 feet to permit continued use and is incorporated in this proposal.

The following are proposed responses to these comments and recommendations the FAA proposes not to incorporate in the final action. However, specific public comments providing details and data regarding the proposed dispositions are invited so that the FAA can assess the correctness of its initial perceptions.

a. Many commenters objected strongly to the proposed establishment of any TCA in the San Diego area. The reasons offered varied but generally included such views as:

(1) A dislike for the restrictive nature of TCAs on local traffic and particularly on general aviation aircraft and pilots not willing or able to operate in a TCA environment;

(2) Concern that a TCA is itself inherently unsafe and not capable of providing an efficient use of the limited airspace for all users;

(3) A TCA in the San Diego area is unwarranted; and

(4) The complex nature of the proposed TCA makes it unrealistic, unworkable, unenforceable, and unsafe.

Many of these views are directed at the underlying TCA concept. While those matters have been thoroughly covered in the history of TCAs, they are

being reevaluated and the FAA proposes to respond to them as resolved in the preamble to Amendments 71-6 and 91-78 which established the regulatory basis for TCAs, as previously discussed.

As discussed in Notice No. 78-19 and in this notice, the FAA concludes that San Diego is an appropriate candidate for further consideration of the need for establishing a Group II TCA. After a full review of the comments and recommendations submitted in response to the informal airspace meeting and other available data, the FAA is issuing this notice proposing to establish a TCA in order to achieve the benefits that form of air traffic control is designed to provide. The competing interests for use of the affected airspace are being fully considered in this rulemaking process.

b. While the floors in many areas have been adjusted in response to comments, some commenters suggested that the floors were too low in other areas over the water and mountainous terrain, and east and southeast of Lindbergh field.

The proposed TCA floor altitudes have been adjusted where possible to offer the least adverse impact to satellite airports and the potential terrain hazards. The FAA proposes not to make additional adjustments to the TCA floors because the proposed configuration is needed to contain within the TCA airspace the numerous departure and arrival flight profiles in the interest of safety.

c. The present ATC system in San Diego cannot handle the increased traffic anticipated upon the establishment of the proposed TCA.

The FAA does not anticipate any significant increase in traffic handled by the ATC system as a result of a TCA. However, if such an increase does materialize, the FAA would take necessary action to deal with the traffic.

d. Some commenters suggested that the TCA would increase delays and result in increased fuel consumption.

The FAA recognizes there may be some delay as a result of the TCA, particularly in its early phase, but it is anticipated that these delays would be minimal and the FAA will continue to work to minimize the delays while providing an appropriate level of safety. The FAA is continuing its assessment of the fuel consumption impact of the proposed TCA configuration.

e. The proposed TCA depiction is too complicated. More emphasis should be placed on visual points rather than navigation aids, radials and imaginary lines.

In large measure, the complex proposed configuration is the result of

an existing complicated airspace usage involving arrival and departure profiles to and from the numerous airports in the area and of the need to provide the desired level of safety without imposing unnecessary burdens on the users. It was necessary to use a multi-tiered configuration. A simpler configuration would not fully achieve the objectives of the proposal and would necessarily result in reduced safety margins or inefficient use of the airspace. The description uses visual ground references for the VFR corridor and other areas where practical, however, it is the responsibility of pilots to become familiar with TCA airspace the same as they identify control zones, restricted areas, and other designated airspace.

f. There is no need for the upper limits of the TCA to be 12,500 feet; other TCAs have lower upper limits.

To provide positive separation for aircraft, the TCA needs to extend to 12,500 feet where a transponder and automatic altitude reporting equipment requirement currently exists. Otherwise, the continuity of the positive separation would not be provided between the TCA and the 12,500 foot level. For the same reason, the FAA is considering raising the upper limits of existing TCAs.

g. The proposed TCA encompasses too much airspace, particularly for the Lindbergh approach and departure courses and areas further away from Lindbergh Field.

The FAA proposes to respond to these suggestions by noting that the size and shape of the San Diego TCA has been carefully evaluated and is considered the minimum needed to efficiently contain the radar vectoring, sequencing, arrival and descent profiles of aircraft within the TCA. Further reductions in the size would diminish the safe and efficient use of that airspace. The presence of airports other than San Diego International Airport and factors affecting operations dictate full consideration of designating only necessary airspace within the proposed TCA. Elimination of several proposed areas to reduce the size and impact of the TCA would permit those areas to continue to pose unacceptable risks for traffic conflict and collision potential.

The proposed TCA would be established as a Group II TCA. Therefore, the requirements of § 91.90(b) would apply to operations within the TCA. This includes ATC authorization to enter the TCA, two-way radio communications within the TCA, and the requirement that large turbine-engine powered airplanes remain at or above the designated floors of the TCA segments while operating to or from a



primary airport within the TCA. Aircraft operating within the TCA would be required to be equipped with a VOR or TACAN receiver (except for helicopters), two-way radio, and a transponder. Section 91.90(b) should be reviewed for the details of these provisions.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 660) by adding a new Group II Terminal Control Area to read as follows:

#### Subpart K—Terminal Control Areas

##### § 71.401 Designation.

(b) Group II, Terminal Control Areas:

#### San Diego, California, Terminal Control Area

##### Primary Airports

1. San Diego, California, (Lindbergh Field) (Lat. 23°34'22" N., Long. 116°58'47" W.).
2. Miramar NAS, Miramar, California (Lat. 32°52'30" N., Long. 117°08'15" W.).

##### Boundaries

Based on the Mission Bay VORTAC ("Mission Bay": MZB) (Lat. 32°46'57" N., Long. 117°13'29" W.) arcs, DME distances, and radials and the Miramar NAS TACAN (Lat. 32°52'11" N., Long. 117°09'14" W.).

Southern boundary of the San Diego TCA is 3 nautical miles north of the United States-Mexico border beginning at Lat. 32°33'00" N., Long. 117°31'00" W., and extending to Lat. 32°38'30" N., Long. 116°29'00" W.; the United States-Mexico border is referred to as "the border."

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL within an area bounded on the west by a 5 statute mile radius of the Mission Bay VORTAC, on the east by a 10-mile radius of Mission Bay, on the north by the Mission Bay 325°T(310°M) and 099°T(084°M) radials and on the south by an extension of the Lindbergh Field/NAS North Island Control Zone line, excluding that airspace from 3,300 feet to 4,700 feet MSL in an area beginning at the Mission Bay 099°T(084°M) radial and bounded on the west by Interstate 5 south to Interstate 8 thence direct to Lat. 32°44'15" N., Long. 117°12'30" W., direct to Lat. 32°41'00" N., Long. 117°10'45" W., to intercept and proceed along the Silver Strand Highway to the Mission Bay 10-mile radius, and on the east via Highway 163 south to Interstate 5 thence south via Interstate 5 to the Mission Bay 10-mile radius.

Area B. That airspace extending upward from 1,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 10-mile and 15-mile radii bounded on the north by the Mission Bay 099°T(084°M) radial and on the south by an extension of the Lindbergh Field/NAS North Island Control Zone line.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL between the Mission Bay 15-mile and 20-mile radii bounded on the north by a line between the Mission Bay 099°T(084°M) and 090°T(075°M) radials and on the south by the Lindbergh Field/NAS North Island Control Zone line extension to 3-miles north of the border thence via the Mission Bay 17.8-mile arc to the Mission Bay 120°T(105°M) radial thence east to the Mission Bay 115°T(100°M) radial and the 20-mile arc.

Area D. That airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 20-mile and 23-mile radii bounded on the north by a line between the Mission Bay 090°T(075°M) and 087°T(072°M) radials and on the south from the 23-mile arc intersection at 3-miles north of the border, to the Mission Bay 115°T(100°M) radial at the 20-mile intersection.

Area E. That airspace extending upward from 5,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 23-mile and 28-mile radii bounded on the north by a line between the Mission Bay 061°T(066°M) and 084°T(069°M) radials and on the south by the line 3-mile north of the border.

Area F. That airspace extending upward from 7,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 28-mile radius and by a line 3-miles north of the border to Long. 116°29'00" W., then along Long. 116°29'00" W., to Lat. 32°58'00" N., bounded on the north by a line between the Mission Bay 084°T(069°M) radial and the Mission Bay 068°T(053°M) radial/36.5 DME fix and by a line between the Mission Bay 068°T(053°M) radial/36.5 DME fix and Lat. 32°58'00" N.

Area G. That airspace extending upward from 7,800 feet MSL to and including 12,500 feet MSL bounded on the west by a line from the Mission Bay 17.8-mile arc between Lindbergh Field/NAS North Island Control Zone line extension intersecting 3-miles north of the border and the Mission Bay 120°T(105°M) radial, on the north by a line between the Mission Bay 120°T(105°M) radial/17.8 DME fix and the Mission Bay 115°T(100°M) radial/20 DME fix on the east by a line between the Mission Bay 115°T(100°M) radial/20 DME fix and Mission Bay 23-mile radius at the 3-mile line north of the border and on the south by the 3-mile line north of the border.

Area H. That airspace extending upward from 5,800 feet MSL to and including 12,500 feet MSL bounded on the west by a line between Lat. 32°33'00" N., Long. 117°30'45" W., and Lat. 32°43'33" N., Long. 117°36'32" W., to an extension of the Lindbergh Field/NAS North Island Control Zone line at the Mission Bay 10-mile arc thence counterclockwise to the eastern extension of the Lindbergh Field/NAS North Island Control Zone line thence via that extension to the line 3-mile north of the border thence via that line to the point of beginning.

Area I. That airspace extending upward from 2,800 feet MSL to and including 12,500 feet MSL bounded on the north and east by an extension of the Lindbergh Field/NAS North Island Control Zone line and on the south by the 10-mile arc of Mission Bay,

excluding that airspace from 3,300 feet to 4,700 feet MSL in the corridor excluded under the description in Area A.

Area J. That airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL bounded on the south beginning at the Mission Bay VORTAC thence via the Mission Bay 079°T(084°M) radial to the 15-mile DME fix thence via a line to the Mission Bay 087°T(072°M) radial/23 DME fix thence counterclockwise on the 23-mile arc to the Mission Bay 061°T(066°M) radial thence via a line to the Mission Bay 065°T(050°M) radial/10 DME fix extending to the NAS Miramar Control Zone clockwise to the south and along an extension of the NAS Miramar Control Zone line westward to the Mission Bay 325°T(310°M) radial and along the 325°T(310°M) radial to the point of beginning.

Area K. That airspace extending upward from 1,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 5-mile and 13-mile radii bounded on the northwest by the Mission Bay 325°T(310°M) radial and on the south by the Lindbergh Field/NAS North Island Control Zone west extension.

Area L. That airspace extending upward from 2,800 feet MSL to and including 12,500 feet MSL between the Mission Bay 13-mile and 21-mile radii bounded on the northwest by the Mission Bay 325°T(310°M) radial, on the south by the Lindbergh Field/NAS North Island Control Zone west extension to Lat. 32°43'33" N., Long. 117°36'32" W., and on the west to Lat. 32°46'45" N., Long. 117°38'22" W., at the intersection of the 21-mile radius of Mission Bay.

Area M. The airspace extending upward from 4,800 feet MSL to and including 12,500 feet MSL from the Mission Bay 21-mile radius beginning at Lat. 32°46'45" N., Long. 117°38'22" W., thence via a line to Lat. 32°53'00" N., Long. 117°41'40" W., thence via a line to Lat. 33°05'00" N., Long. 117°51'55" W., thence via a line to Mission Bay 325°T(310°M) radial/31.5 DME fix thence via 325°T(310°M) radial to the 21-mile DME fix thence via the 21-mile arc counterclockwise to point of beginning.

Area N. That airspace extending upward from 6,800 feet MSL to and including 12,500 feet MSL beginning at the Mission Bay 325°T(310°M) radial/16-mile DME fix thence via the 325°T(310°M) radial to the Mission Bay 31.5 DME fix thence direct to the Mission Bay 357°T(342°M) radial/22.5 DME fix thence direct to the Mission Bay 047°T(032°M) radial/10.5 DME fix thence counterclockwise via the Miramar NAS Control Zone to the Miramar TACAN 300°T(285°M) radial thence direct to point of beginning.

Area O. That airspace extending upward from 1,500 feet MSL to and including 2,500 feet MSL and that airspace extending upward from 6,800 feet MSL to and including 12,500 feet MSL beginning at the Mission Bay 325°T(310°M) radial and a line extended from the NAS Miramar Control Zone thence via the Mission Bay 325°T(310°M) radial to the 16-mile DME fix thence direct to the intersection of the Miramar TACAN 300°T(285°M) and the Miramar NAS Control Zone thence south via Interstate 805 to the southern edge of the Miramar NAS Control Zone thence westward via an extension of the Miramar NAS Control Zone line to the point of beginning.

Area P. That airspace extending upward from the surface to and including 3,000 feet MSL and that airspace from 6,800 feet MSL to and including 12,500 feet MSL within a 5-statute-mile radius of NAS Miramar excluding that area south of the NAS Miramar Control Zone and that area west of Interstate 805.

Area Q. That airspace extending upward from the surface to and including 6,000 feet MSL within 2 statute miles on each side of the NAS Miramar TACAN 078°T(063°M) radial extending from the 5-statute-mile radius zone to 10 miles east of the TACAN. (Secs. 307, 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the draft evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "For Further Information Contact".

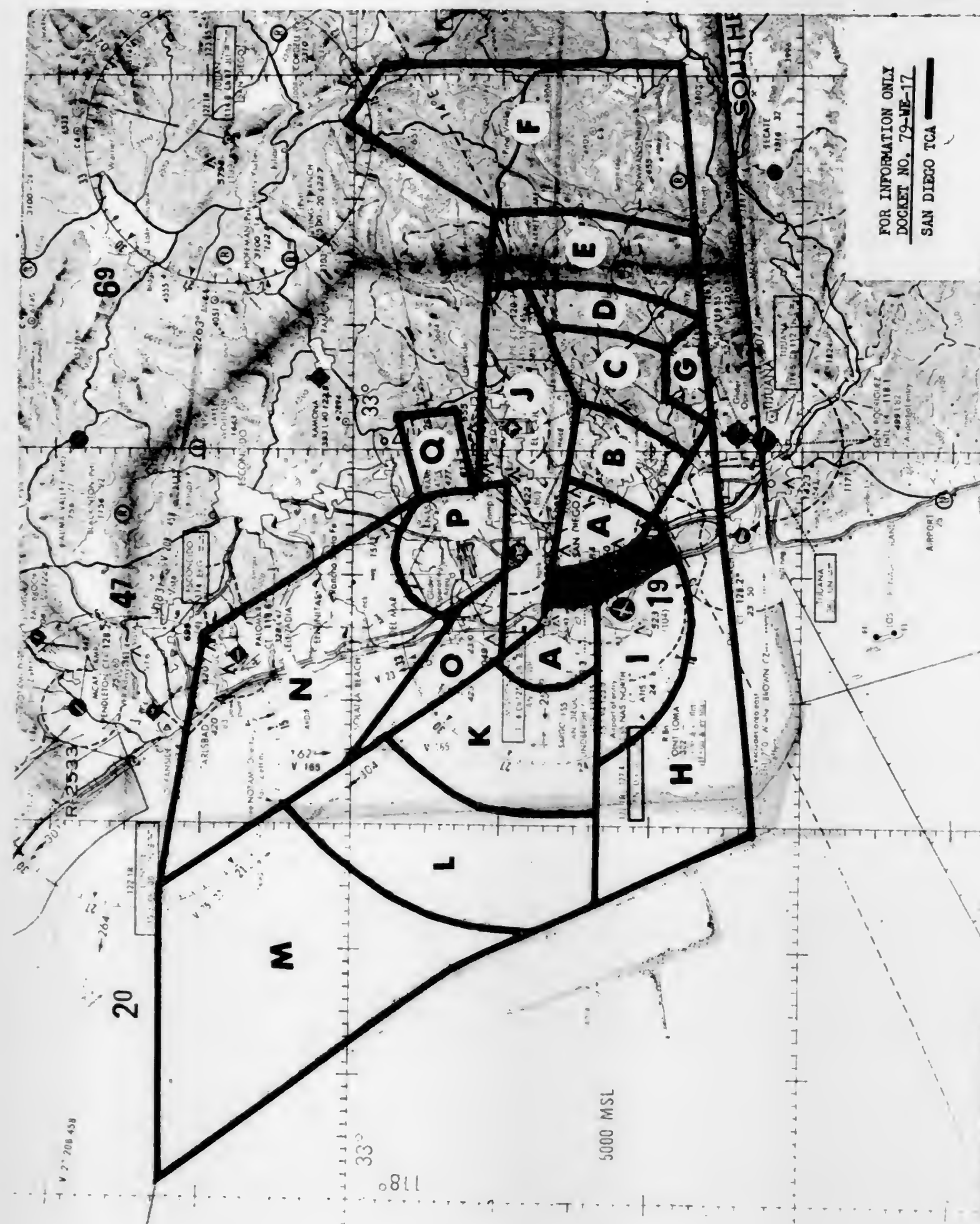
Issued in Washington, D.C., on December 6, 1979.

John W. Baier,

Acting Director, Air Traffic Service.

BILLING CODE 4910-13-M





## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 241

[Release No. 34-16372]

## Withdrawal and Deferment of Action on Proposed Amendments to Staff Disclosure Guidelines

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Withdrawing and deferring action on proposed amendments to existing disclosure guidelines.

**SUMMARY:** The Commission is withdrawing two proposals and deferring action on a third proposal to amend certain staff disclosure guidelines. These proposals would have made clear the application of such guidelines to the registration statements and reports filed by foreign private registrants. These proposals were not adopted because of related actions taken today.

**EFFECTIVE DATE:** December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl T. Bodolus (202/272-3246) or Ronald Adey (202/272-3250), Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** In Release No. 34-14128 (November 2, 1977) (42 FR 58684, November 10, 1977) the Commission proposed for comment amendments to Guides 1, 2 and 3 of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Exchange Act<sup>1</sup> (the "Exchange Act Guides") which would have applied the Exchange Act Guides to registration statements and annual reports filed by certain foreign private issuers. The Commission is withdrawing the proposed amendments to Guides 1 and 2 because of related action taken today.<sup>2</sup> The Commission is also deferring action on proposed amendments to Guide 3 pending the reconsideration of that Guide.<sup>3</sup>

<sup>1</sup> Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] (the "Exchange Act").

<sup>2</sup> Release No. 34-16371 in this issue.

<sup>3</sup> Release No. 34-16149 (August 30, 1979) [44 FR 52820, September 10, 1979].

## DISCUSSION

In conjunction with proposing Form 20-F [17 CFR 249.220f]<sup>4</sup>, the Commission also published for comment proposals clarifying that the Exchange Act Guides apply to foreign private issuers. These Guides are Guide 1, Summary of Operations; Guide 2, Disclosure of Extractive Reserves and Natural Gas Supplies; and Guide 3, Statistical Disclosure by Bank Holding Companies.

These proposals are not adopted. The application of Guides 1 and 2 is preempted by items in the Form 20-F. Item 2 of the Form 20-F requires a modified version of the Management's Discussion and Analysis. Item 3 and the Appendix specify the required disclosure of reserves and production for registrants in extractive industries. Since comments are being solicited on Guide 3, the Commission believes that it would be inappropriate to apply Guide 3 to foreign issuers at the present time. Therefore, the proposals relating to Guides 1 and 2 are withdrawn but action on Guide 3 is deferred.

By the Commission.  
George A. Fitzsimmons,  
Secretary.

November 29, 1979.

[FR Doc. 79-37403 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

[Docket No. PM80-12]

## New, Onshore Production Wells; Proposed Rulemaking Amending Final Regulations Implementing the Natural Gas Policy Act of 1978

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Commission proposes to amend its final regulations implementing section 103 of the Natural Gas Policy Act of 1978 which establishes the maximum lawful price for gas from new, onshore production wells, with regard to collection of the section 103 price for gas from a second well on an existing proration unit.

**DATES:** Comments by January 23, 1980. Public hearing scheduled for December 17, 1979. Request to participate in the

<sup>4</sup> Form 20-F, adopted today in Release No. 34-16371, is the registration and annual report form for certain foreign private issuers filing under the Exchange Act.

hearing must be received prior to December 12, 1979.

**ADDRESSES:** Send comments and request to participate to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Reference Docket No. RM80-12). The hearing will be held at the same location.

## FOR FURTHER INFORMATION CONTACT:

Thom Hirsch, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8025.

Howard Kilchrist, Director of NGPA Compliance, Office of Pipeline and Producer Rates, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8585. November 30, 1979.

## Background

Section 103 of the Natural Gas Policy Act of 1978 (NGPA)<sup>1</sup> established a maximum lawful price for natural gas from new, onshore production wells. These are new wells, the surface drilling of which began on or after February 19, 1977, which satisfy applicable Federal and State well spacing requirements, and which generally are not second wells on existing proration units.

In Order No. 43,<sup>2</sup> the Commission issued final regulations implementing section 103 of the NGPA. One of the regulations, § 271.305, established a special rule for wells drilled on existing proration units. Under § 271.305, a second well drilled on an existing proration unit may still qualify as a new, onshore production well if the jurisdictional agency finds that the second well is a new well necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well.

The Commission in Order No. 43<sup>3</sup> expressed concern about the situation where the jurisdictional agency finds that both an existing well and the new well are necessary to effectively and efficiently drain the proration unit and a State agency has established an allowable or production level for the unit, but not for each well on the unit. Regarding this situation, the Commission was concerned that the special rule in § 271.305 creates an incentive to produce a disproportionate amount of gas from the new well because it commands the higher section

<sup>1</sup> 15 U.S.C. 3301 et seq. (1978).

<sup>2</sup> Final Rule Amending Regulations on Natural Gas From New, Onshore Production Wells . . . Docket No. RM79-72, issued August 20, 1979, 44 FR 49651.

<sup>3</sup> Id., mimeo., pp. 8-9.



103 price. Consequently, the Commission established a new § 271.305(b)(2)(ii) of the final regulations, requiring the appropriate State agency in this situation to set separate allowables for each well in the unit. The allowables or production levels were to be based on the respective ability of the two wells to deliver natural gas.

After considering comments on § 271.305(b)(2)(ii) filed by interested parties in their petitions for rehearing of Order No. 43, the Commission in Order No. 43-A<sup>4</sup> decided to delete the requirement of separate allowables and, instead, issue a notice of proposed rulemaking addressing this issue. In the applications for Rehearing of Order No. 43, several petitioners alleged that the requirement of allowables was an unlawful attempt by the Commission to intrude into the regulatory area or natural gas production which is reserved to the States. Moreover, these petitioners contended that § 271.305(b)(2)(ii) conflicted with existing State procedures. For example, the States of New Mexico and Oklahoma purportedly do not establish allowables for each well in a proration unit; Texas is said to set allowables for each well, but not solely on the basis of the respective ability of the wells to produce.

It was also argued that § 271.305(b)(2)(ii) produced inequitable results, was discriminatory in effect and could not be supported in light of its stated purpose. Finally, the petitioners alleged that § 271.305(b)(2)(ii) was unduly burdensome both administratively and economically to jurisdictional agencies and that the requirements placed in doubt many section 103 determinations which the agencies had already made, but which had not yet become final under § 275.202 of the Commission's regulations.

#### The Proposed Rule

The Commission herein proposes to issue a new § 271.305(b)(2). As proposed, this regulation would provide that where a second well is drilled in an existing proration unit based upon a finding by the jurisdictional agency that such well is necessary to effectively and efficiently drain the reservoir, and the jurisdictional agency has set allowables for the unit but has not set allowables for each well in the unit, production from such well could still qualify for the section 103 price. However, in such a situation, the producer could not bill the

purchaser at the section 103 maximum lawful price for a volume in excess of a volume which bears the same ratio to the total volumes produced from all wells in the unit as the production capability of such new well bears to the aggregate production capability of all wells in such unit. Production capability of the existing and the new wells could be measured by means of a flow test or any other test reasonably designed to calculate the capability of a well to produce natural gas and would not have to be measured more than once per year.

This proposal would allow gas from a second well in a proration unit to qualify for the section 103 price without necessarily requiring a State to set separate allowables for each well in the proration unit. Furthermore, there would not be any limitations on the amount of gas produced from the new well. The producer would have the flexibility to produce any portion of the allowable from either well; however, if he chose to produce a disproportionate volume from the new well, he could not price the new well's entire volume at the section 103 price. Moreover, this new qualification would not apply if the State does set allowables for the unit and has also set allowables for each well consistent with its regulatory policies. Nor would the qualification be applicable if the State does not set allowables for the proration unit. Thus, this regulation would recognize the right of the State to set allowables for each well in the proration unit in accordance with its own regulatory policies.

The Commission proposes to make § 271.305(b)(2) as proposed applicable to deliveries of natural gas made on or after the effective date of any final rule issued in this Rulemaking. The Commission recognizes, however, that its decision to proceed with this rulemaking subsequent to establishment of the final rules implementing section 103 may create difficulties for producers which may arise, for example, in the billing of their purchasers for gas affected by the rule. For this reason, the Commission specifically invites comments identifying any problems which may arise because of the proposed effective date of this rule.

#### Written Comment Procedure

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies of any filing made in this docket should be filed with the Secretary of the Commission. All comments received prior to January 23, 1980, will be considered by the Commission prior to promulgation of any final regulation issued as a result of

this proceeding. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should refer to Docket No. RM80-12.

#### Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on December 17, 1979, beginning at 10:00 a.m., and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided that a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m. on December 12, 1979.

Requests to participate in the hearing should include a reference to Docket Number RM80-12 as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on December 14, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 30 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel, composed of members appointed by the Chairman, may question such persons and any interested persons may submit questions to the presiding officer to be asked of persons making statements.

The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made

available at the Commission's Office of Public Information.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Exec. Order No. 12,009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*)

In consideration of the foregoing, the Commission proposes to amend Subpart C of Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.  
Kenneth F. Plumb,  
Secretary.

1. Section 271.305 is amended by inserting paragraph (b)(2) to read as follows:

§ 271.305 Special rule applicable to existing proration units. \* \* \*

(b) Wells spudded on or after February 19, 1977. \* \* \*

(2) Where the explicit finding of subparagraph (1) of this paragraph is that both an existing well and a new well are necessary to effectively and efficiently drain the reservoir covered by the proration unit and the appropriate State agency having regulatory authority has established an allowable or production level for the unit but not for each well on the unit, the producer may not bill the purchaser at the maximum lawful price under this subpart for a volume in excess of a volume which bears the same ratio to the total volumes produced from all wells in the unit as the production capability of such new well bears to the aggregate production capability of all wells in such unit.

(FR Doc. 79-37491 Filed 12-5-79; 8:45 am)

BILLING CODE 6450-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 630

[FHWA Docket No. 79-36]

#### Project Agreements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration is issuing this advance notice to request comments on existing project agreement procedures and suggestions for their improvement. A Project Agreement (PA) is a legal agreement between a State and the Federal Government. It is required for each Federal aid highway project. The

FHWA believes that the PA process, as well as the PA's, can be simplified, and thus seeks public comments on the alternatives outlined in this document.

DATES: Comments must be received on or before February 4, 1980.

ADDRESS: FHWA Docket No. 79-36, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street SW., Washington, D.C. 20590. It would be appreciated if comments were sent in triplicate. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Clifford R. Green, Federal-Aid Division, Office of Engineering (202-426-0334), or Ms. Ruth R. Johnson, Office of the Chief Counsel (202-426-0781), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: A project agreement (PA) is a written agreement and legal instrument between a State and the Federal Government, wherein (1) the State highway agency (SHA) agrees to undertake and accomplish a Federal-aid highway project, and (2) the Federal Highway Administration (FHWA) agrees to have the State reimbursed for the Federal share of the cost of work performed on the project, under conditions specified in the PA. A PA is required by 23 U.S.C. 110 and is referred to in 23 U.S.C. 108(a), 111 and 121(c). A PA must be executed before a State can be reimbursed for project costs incurred. A standard form, called a "PR-2," is prescribed by FHWA for the PA on each project. This form is included as Appendix A of the existing regulation (23 CFR Part 630, Subpart C) and includes certain standard provisions and space for special provisions to be added on individual projects. Another form, called a "PR-2A," is prescribed for modifying the PA and is included as Appendix B of the existing regulation.

The FHWA desires to reduce the existing regulation to the essential minimum and eliminate unnecessary paperwork as a part of its ongoing regulations reduction and management improvement efforts. In the past, the FHWA has tried to improve the PA process, which occurs on some 9,000-17,000 project actions nationwide each year, while meeting the statutory requirement for a PA.

About 10 years ago, considerable work was put into the development of a

"Master Project Agreement," whereby one agreement would be executed in a given State for all projects over a period of time. The Master PA drafted at that time would have been lengthy and detailed, referring to numerous Federal laws and regulations. The Master PA concept was later abandoned and 23 CFR 630, Subpart C, continued the procedure of a separate PA for each Federal-aid highway project. The present regulation and prescribed PA form (PR-2) are lengthy and may contain unnecessary, misplaced or outdated materials.

In the past, the FHWA has considered three major procedural alternatives for meeting the statutory requirements for a PA: (1) the Master PA, (2) combining the PA with the "Letter of Authorization" which is required for each project action under 23 CFR 630.114, or (3) continuing the present practice of executing a PA for each project. A general discussion of these three alternatives follows:

(1) A Master PA would eliminate 9,000-17,000 separate documents each year, speeding reimbursement for project costs incurred. This alternative has the disadvantages of (a) not being consistent with the existing language of 23 U.S.C. 110: "... after the plans ... have been approved, the Secretary shall enter into a formal project agreement ..." (emphasis added), and (b) making it difficult to stipulate, file and later locate special PA provisions on individual projects.

(2) A combined PA and Letter of Authorization would also eliminate 9,000-17,000 separate documents each year and facilitate both State submission and Federal reimbursement of claims. The disadvantages are (a) the combined PA and authorization would probably require changes or modification in SHA procedures, since the existing method normally requires two approvals: an engineering approval of project plans, specifications and estimates and an administrative approval of a PA, and (b) the combination would require about the same total amount of wording as the individual documents would.

(3) A continuation of the present practice of executing an individual PA for each project would have the advantage of continuing a well-established and understood practice between the States and FHWA. The disadvantages appear to be that it would not reduce the number of documents nor signatures and would not permit the SHA to start claiming reimbursement for project costs any earlier.

With any of the three alternatives, FHWA believes that some parts of the

<sup>4</sup>Order Granting In Part and Denying In Part Rehearing of Order No. 43 and Amending Regulations, Docket No. RM79-72, Issued November 16, 1979, Mimeo., pp. 14-16.



existing PA regulation could be eliminated (e.g., section 630.305 concerning overruns in contract time). Similarly, some of the agreement provisions on the form PR-2 could be eliminated (e.g., item 10 on parking regulation and traffic control, item 13 on liquidated damages and item 15 on nondiscrimination). Any requirement eliminated from the PR-2 would be considered for inclusion in some FHWA regulation other than Part 630, Subpart C. Some of the existing standard PA provisions should be revised to be consistent with other current or proposed FHWA regulations (e.g., item 4 on repayment for preliminary engineering costs when a project is not constructed).

The FHWA would be particularly interested in SHA estimates of the reimbursement time being lost and the dollar amounts involved under the present procedure. Would a State be able to realize substantial timesavings on claiming sizable sums of money if the regulations permitted the SHA to start claiming reimbursement when FHWA authorizes the work? If alternative (1) above is eliminated, should the regulation afford each SHA the choice of alternative (2) or (3) above, and should different forms be provided for each choice? Are there any other suggestions for improving the PA process?

Copies of this advance notice are being sent directly to State highway agencies.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. Due to the preliminary nature of this inquiry, a full regulatory evaluation has not been prepared at this time.

(23 U.S.C. 110, 315; 49 CFR 1.48(b))

Issued on: November 27, 1979.

John S. Hassell, Jr.,  
Deputy Administrator.

[FR Doc. 79-37419 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-22-M

#### National Highway Traffic Safety Administration

#### Federal Highway Administration

#### 23 CFR Part 1251

[Docket No. 79-10; Notice 2]

#### State Highway Safety Agency

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA).

#### ACTION: Proposed rule

**SUMMARY:** The proposed rule would establish new requirements for the authority and function of State highway safety agencies. The goal of the proposed requirements is to improve highway safety programs on a statewide basis by upgrading the role of the central highway safety agencies.

**DATES:** Comments must be received on or before January 21, 1980. The effective date proposed for the rule is October 1, 1980.

**ADDRESSED:** Comments should be addressed to Docket No. 79-10, Notice 2, Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Five copies are requested, but not required.

#### FOR FURTHER INFORMATION CONTACT:

NHTSA: John Tartaglino, Office of State Program Assistance, 202-426-1760, or John Womack, Office of Chief Counsel, 202-426-1834. FHWA: James Rummel, Office of Highway Safety, 202-426-2131, or Thomas Holian, Office of the Chief Counsel, 202-426-0761.

**SUPPLEMENTARY INFORMATION:** This notice of proposed rulemaking is the second to be issued in an effort to carry out the intent of section 207(b) of the Highway Safety Act of 1978 (sec. 207(b), Pub. L. 95-599, 92 Stat. 2689) relating to the status of State highway safety agencies. The first notice, issued on June 21, 1979 (44 FR 36204), drew a number of adverse comments. A review of these comments suggested the need to issue a second proposal rather than to move directly to a final rule.

As explained in the preamble to the June 21 notice, the impetus for a regulation to improve the State safety agencies has two sources. The first is a study conducted by NHTSA and FHWA during 1976 and 1977 at Congress's direction, which revealed a general dissatisfaction within the highway safety community about the inability of the safety agencies in many States to bring about a truly State-wide highway safety program. The report to Congress on July 1, 1977, highlighted this problem.

The second source is the reaffirmation by Congress of the need for an effective highway safety agency at the State level. In the report accompanying the Highway Safety Act of 1978, the House Committee on Public Works and Transportation strongly affirmed that a central authority on highway safety was "essential to the administrative workability and success of the highway safety program." H.R. Rep. No. 95-1485, at 49. To that end, the Committee's bill redesignated the "State agency" in 23

U.S.C. 402(b)(1)(A) as the "State highway safety agency," with the express purpose being to:

Insure that program responsibilities presently fragmented and diffused among several different State agencies are brought together and coordinated by a single State agency with explicit authority for highway safety programs. *Ibid.*

It is clear from the history of the program, as reaffirmed by the Congress, that the State agency designated as the State Highway Safety Agency must have information about other highway safety activities in the State and the ability to assist such activities if it is to exercise its powers effectively. NHTSA and FHWA have had an administrative order in effect for a number of years on the role of State highway safety agencies (NHTSA/FHWA Order 900-4/7-5). (Available for inspection and copying as prescribed in 49 CFR Part 7 Appendix D.) The June 21 notice built on the old order in an effort to secure an effective role for these agencies.

The June 21 notice had therefore proposed that "each State" establish a State highway safety agency and authorize the agency to "coordinate the planning, development, implementation, and evaluation of highway safety programs in the State." 44 FR at 32605. The agency was to perform this coordination by "reviewing and commenting on highway safety programs prior to implementation of the programs by the operating State agencies, regardless of funding source." *Ibid.* The notice concluded with an enumeration of the functions the agency was to perform, including the planning, programming, monitoring, and evaluation of highway safety projects, as well as the collection of statistics as required by NHTSA and FHWA.

Those who objected to the June 21 proposal generally expressed one or more of the following views: that the proposal intruded on the rights of the States to organize their internal affairs; that it disregarded the role of the Governors; that it would interfere with the operation of other agencies, notably the Highway Patrols and Highway Departments; that establishing a central authority to "coordinate" highway safety would simply impose another bureaucratic delay; that exercising the proposed functions effectively would require a massive increase in the size of the safety agencies; and that the collection of statistics at the behest of NHTSA and FHWA would be both burdensome and unnecessary.

The revised proposal has been developed with each of these objections in mind, in an effort to achieve the basic

purpose of the Highway Safety Act without untoward effects on the States. The sections of the revised proposal are discussed below in order.

The *Purpose* section of the proposal has been revised by including an express reference to the Governor's authority under the Highway Safety Act and by deleting the former reference to the State highway safety agency's authority to "manage" the State's highway safety program. Although the preamble to the June 21 proposal had emphasized the Governor's role, the proposed rule had referred only to the "State" as the entity responsible for establishing the highway safety agency. To remove any doubt about the Governor's role, a reference to the Governor is included in the *Purpose* section and in other sections as appropriate.

The word "manage" as used in the *Purpose* section implied to several commenters that more authority was intended to be given to the safety agency than was described in the sections on authority and functions. To avoid this implication, the phrase referring to the agency's management role has been deleted.

The *Policy* section of the June 21 proposal directed each State to establish a State highway safety agency, either by law or by executive order. In addition to being criticized for omitting reference to the Governor, the section was cited for its disregard of the States' prerogatives to order their own affairs. The revised section describes the Governor's responsibilities, and elaborates on the basic role of the agency under the Highway Safety Act to act for or represent the Governor. The proposal does not specify which agency would be the safety agency, leaving that decision to the discretion of the Governor. But in keeping with the requirement of 23 U.S.C. 402(b)(1)(A) that a State must have a highway safety agency to be eligible for funding under the Highway Safety Act, the *Policy* section would make funding contingent on compliance with the minimum authorities and functions specified in sections 3 and 4 of the proposed rule.

The *Authority* section in the June 21 proposal gave rise to a number of strong protests, particularly from those State agencies, such as the Highway Patrol, State Police, and State Highway departments, that have traditionally played an independent role in highway safety matters. Of particular concern was the authority of the safety agency to "coordinate" highway safety programs in the State by reviewing and commenting on highway safety programs of other State agencies prior to

implementation of such programs. Many expressed doubts about the capability of the existing highway safety agencies to undertake such a coordinating role. Several comments predicted that requiring review before program implementation would either be an impossibility (because many programs are ongoing and have no beginning point) or a barrier to timely implementation of the program. No one supported the increased staff for the safety agencies that would be necessary if the proposed authority were to be effectively exercised.

In response to these objections, the revised proposal prescribes a more limited role for the safety agencies. The revised section is based largely on the alternative proposal submitted by the National Association of Governors Highway Safety Representatives. As revised, the section proposes that the safety agencies be authorized to keep themselves informed about highway safety programs administered by other State and local agencies and to assist the other agencies in developing and carrying out highway safety programs. The "coordinating" role would be carried out by having the safety agency report to the Governor periodically on the effectiveness of highway safety activities in the State, including State and locally-funded activities as well as those that are federally-funded. The oversight thus exercised would therefore resemble that of a staff agency rather than that of an operating agency, and would not involve either the expanded staff (the review would be on a selective basis) or the delays (the review would not precede implementation) that could have resulted from the first proposal.

The *Functions* section has been shortened and simplified. As revised, the list of functions closely resembles those suggested by the National Association of Governors Highway Safety Representatives. The "management" functions are confined to the Section 402 funded aspects of the safety agencies' responsibility. With respect to other State and local agencies, the State agency would act in a supportive, not a managerial, capacity. The collection of statistics, which met with objections in the first proposal, would be retained as a function, but for the agencies' own purposes, not for the benefit of NHTSA and FHWA. The reference in the first proposal to the safety agency's "operating the program" caused confusion as to which "program" was intended—the Federally-assisted section 402 program, or the entire State highway safety program. The section 402 program had been intended, but to avoid

further confusion, the phrase has been dropped from the revised proposal.

The time allowed for implementation of the regulation has been revised to October 1, 1980. With the scope of safety agency authority proposed in this notice, it is likely that most States could conform without additional legislation. To the extent that timing problems may be disclosed in the comments to this notice, additional time could be allowed for legislative consideration of administrative changes.

A number of comments called into question the determination that the first proposal was a "nonsignificant" regulation. If controversy is any measure of significance, the determination was wrong as to that proposal. However, with the revisions proposed in this notice, based as they are on the comments to the first notice, NHTSA and FHWA are of the view that the regulation has been reduced to the level of a nonsignificant regulation under the regulatory policies and procedures established by the Department of Transportation (44 FR 11034). It has been determined that the proposal will have a minimal impact on the States because of their compliance with the existing order, and that a draft Regulatory Evaluation is therefore unnecessary.

Issued on December 3, 1979.

Joan Claybrook,  
Administrator, National Highway Traffic Safety Administration.

John S. Hassell,  
Deputy Administrator, Federal Highway Administration.

It is proposed to amend 23 CFR by adding Part 1251 to read as follows:

#### PART 1251—STATE HIGHWAY SAFETY AGENCY

Sec.

- 1251.1 Purpose.
- 1251.2 Policy.
- 1251.3 Authority.
- 1251.4 Functions

Authority: 23 U.S.C. 402; 49 CFR 1.48 and 1.50.

##### § 1251.1 Purpose.

The purpose of this Part is to prescribe the minimum authority and functions of the State Highway Safety Agency established in each State by the Governor under the authority of the Highway Safety Act (23 U.S.C. 402).

##### § 1251.2 Policy.

For a State to receive funds under 23 U.S.C. 402, the Highway Safety Act provides that the Governor is to exercise his or her responsibilities through a State Highway Safety Agency that has



"adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary." 23 U.S.C. 402(b)(1)(A). Accordingly, it is the policy of this Part that approval of a State's Highway Safety Plan will depend upon the State's compliance with sections 1251.3 and 1251.4 of this Part.

#### § 1251.3 Authority.

Each State Highway Safety Agency shall be authorized to:

(a) Develop and implement a process for obtaining information about the highway safety programs administered by other State and local agencies.

(b) Periodically review and comment to the Governor on the effectiveness of highway safety plans and activities in the State regardless of funding source.

(c) Provide technical assistance to other State agencies and political subdivisions to develop highway safety programs.

(d) Provide financial and technical assistance to other State agencies and political subdivisions in carrying out highway safety programs.

#### § 1251.4 Functions.

Each State Highway Safety Agency shall:

(a) Develop and prepare the Highway Safety Plan prescribed by 23 CFR 1204.4, Supplement B, based on evaluation of highway accidents and safety problems within the State.

(b) Establish priorities for highway safety programs funded under 23 U.S.C. 402 within the State.

(c) Provide information and assistance to prospective aid recipients on program benefits, procedures for participation, and development of plans.

(d) Encourage and assist local units of government to improve their highway safety planning and administration efforts.

(e) Review the implementation of State and local highway safety plans and programs, regardless of funding source, and evaluate the implementation of those plans and programs funded under 23 U.S.C. 402.

(f) Monitor progress and audit expenditures of section 402 funds by State and local agencies.

(g) Coordinate the States' Highway Safety Plan with other Federally and non-Federally supported programs relating to or having impact on highway safety.

(h) Collect statistics and other data relevant to highway safety planning and assess program performance.

[FR Doc. 37554 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

#### 24 CFR Part 234

[Docket No. R-79-750]

#### Condominium Ownership Mortgage Insurance; Transmittal of Proposed Rule To Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. The proposed rule was listed on the significant rule agendas which were published on February 1, 1979 and August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

#### Proposed Rule—24 CFR Part 234—Condominium Ownership Mortgage Insurance

This proposed rule would amend 24 CFR Part 234 to provide for HUD-FHA mortgage insurance of condominium units in previously uninsured or conventionally financed projects that have twelve or more units if the construction of the project was completed more than one year prior to the application for HUD-FHA mortgage insurance.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., November 30, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-37449 Filed 12-5-79; 8:45 am]

BILLING CODE 4210-01-M

#### 24 CFR Parts, 803, 888

[Docket No. R-79-749]

#### Section 8 and Section 23, Housing Assistance Payments Programs—Fair Market Rents for Existing Housing; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

#### 24 CFR Parts 803 and 888—Section 8 and Section 23 Housing Assistance Payments Programs—Fair Market Rents for Existing Housing

This proposed rule would revise the schedules of Fair Market Rents for all market areas under the Section 8 and Section 23 Housing Assistance Payments Programs for Existing Housing and for Mobile Home Spaces. These revisions would reflect current changes in median rent levels projected forward to October 1, 1980. HUD's intention is to issue a final rule which will become effective on March 29, 1980.

(Sec. 7(o) Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 30, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-37450 Filed 12-5-79; 8:45 am]

BILLING CODE 4210-01-M

#### 24 CFR Part 3282

[Docket No. R-79-748]

#### Mobile Home Procedural and Enforcement Regulations; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

#### 24 CFR Part 3282—Mobile Home Procedural and Enforcement Regulations, Subpart D—Formal Investigations and Adjudicative Hearings

This proposed rule would amend those sections of the Mobile Home Procedural and Enforcement regulations, which govern formal investigations and adjudicative proceedings, to provide for uniform and fair proceedings with sufficient detail so that the parties involved would be adequately informed of the procedures to be followed. The hearing procedures would apply uniformly to all proceedings where a party is aggrieved by a preliminary determination issued by the Office of Mobile Home Standards.

This proposed rule was listed on the Department's Agenda of Significant Regulations, which was published in the Federal Register on August 1, 1979.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 28, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-37448 Filed 12-5-79; 8:45 am]

BILLING CODE 4210-01-M

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2200

#### Prehearing Conference Calendars

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Proposed rule.

SUMMARY: The proposal would provide for the establishment in one or more locations of special calendars that would permit encouragement of the settlement of cases under the Occupational Safety and Health Act of 1970 that come before the Review Commission. The proposal would also provide for prehearing conferences on cases that are not settled for the possible simplification of issues and other purposes that may aid in the disposition of cases. The proposal would be expected to reduce the burden of any paperwork on the parties when settlements are reached. The opportunity for a conference is also intended to afford affected employees an opportunity to participate meaningfully in settlement conferences.

DATES: Comments by interested persons on the proposed rule may be submitted on or before January 25, 1980.

ADDRESSES: Written comments should be submitted to the address below: Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006, Attn: General Counsel.

FOR FURTHER INFORMATION CONTACT: Robert C. Gombar, (202) 634-4015.

SUPPLEMENTARY INFORMATION: In the event the proposal, or a modification thereof, is adopted it is anticipated that the first calendar will be in metropolitan New York. The high volume of cases and settlements in that region suggest it would be an excellent place to begin. If the procedure proves successful in New York, it would gradually be extended to other major cities where Review Commission offices are located; viz, Boston, Washington, Atlanta, Chicago, St. Louis, Dallas, Denver and San Francisco; and to other major cities.

Under the authority of Section 12(g) of the Occupational Safety and Health Act, Pub. L. 91-596 (29 U.S.C. 661(f)), the Commission proposes that 29 CFR Part 2200 be amended to add the new rule set forth below:

#### § 2200.51a Regional prehearing and settlement conference calendars.

(a) The Commission may establish prehearing conference calendars in one or more places for the possible settlement, simplification of issues, and such other matters as may aid in disposition of cases when regional conditions render it practical for the prompt dispatch of business. Any prehearing conference calendar shall be heard at regular times and places. There shall be a transcription of any prehearing conference in order to preserve conditions, rulings, and agreements.

(b) At the outset of any call of the calendar the parties shall be asked to indicate whether settlement of the cases has been reached. The cases in which settlement has been reached shall be called first.

(c) Notice of a calendar call and prehearing shall be served on the parties at least twenty (20) days before the calendar date. Within fifteen (15) days following the notice, the parties shall confer to consider settlement and to seek agreement on discovery procedure and the exchange of exhibits and lists of witnesses' names and addresses.

(d) Whenever a settlement is reached by the parties and is approved by the presiding administrative law judge, an order to this effect shall be entered on a separate document that shall be served upon the parties. Any order approving settlement shall specify the date on which the case was heard. Any settlement approved under this section shall conform to the requirements of § 2200.100. For the purposes of review by the full Commission under 29 U.S.C. 661(i), the report of the presiding judge on any settled case shall be considered to have been made when both the presiding judge's order and the accompanying transcript are filed with the Commission.

(e) Notice of any prehearing conference under this section shall be served upon affected employees in the manner prescribed under paragraph (f) or (g) of § 2200.7. Affected employees electing to participate in the conference specified in the notice shall be admitted as parties by operation of this section.



Signed this 30th day of November 1979, at Washington, D.C.

Timothy F. Cleary,  
Chairman.

Frank R. Barnako,  
Member.

Bertram R. Cottine,  
Member.

[FR Doc. 79-37493 Filed 12-5-79; 8:45 am]  
BILLING CODE 7600-01-M

## DEPARTMENT OF THE INTERIOR

### Geological Survey

#### 30 CFR Part 250

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** U.S. Geological Survey, Department of the Interior.

**ACTION:** Advance Notice of Intent to Establish Guidelines for Requirements for Marking Equipment.

**SUMMARY:** Subsection 403(b) of the Outer Continental Shelf Lands Act Amendments of 1978, requires the Secretary of the Interior to establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use. By notice of final rule published October 28, 1979 (44 FR 61885), the Department of the Interior promulgated the requirements of subsection 403(b) as § 250.54 of Title 30 of the Code of Federal Regulations. This notice announces the U.S. Geological Survey's initiation of efforts to implement the requirements of subsection 403(b) of the Act as promulgated in the regulations found in 30 CFR 250.54, "Marking of equipment." The U.S. Geological Survey solicits the submission of comments and recommendations by interested parties for consideration by the U.S. Geological Survey during its development of guidelines for obtaining compliance with the requirements of subsection 403(b) of the Act.

**DATES:** Comments and recommendations must be received by February 4, 1980.

**ADDRESS:** Comments and recommendations must be written and submitted on or before the date specified above, should identify the subject matter and be addressed to the Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey,

National Center—Mail Stop 640, Reston, Virginia 22092.

**FOR FURTHER INFORMATION CONTACT:** Gerald D. Rhodes, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, National Center—Mail Stop 640, Reston, Virginia 22092, (703) 860-7531.

**SUPPLEMENTARY INFORMATION:** The Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), enacted September 18, 1978, include subsection 403(b) which provides:

The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

The regulations governing Oil and Gas and Sulphur Operations in the Outer Continental Shelf (30 CFR Part 250), which were published as final rule October 28, 1979, contain a new § 250.54, "Marking of equipment," which provides:

Whenever practicable, all materials, equipment, tools, containers, and items used on the OCS are to be properly color coded, stamped, or labeled with the owner's identification, as approved or prescribed by the Director, prior to actual use. For oil and gas operations, this means that the owner's identification is to be placed upon all materials, cable, equipment, tools, containers, and other objects which could be freed and lost overboard from rigs, platforms, or supply vessels, and which are of sufficient size or are of such a nature that they could be expected to interfere with commercial fishing gear if lost overboard.

To assist in the development of the necessary guidelines and directives to fully implement the requirements of this section, comments and recommendations are requested on the nature, scope, and content of the implementing guidelines and directives. Particular attention should be paid to the following questions:

1. How should the U.S. Geological Survey interpret the statutory constraint "wherever practicable"? Can blanket exclusions be established which identify specific materials, equipment, tools, containers, or other items used on the OCS as not practicable to mark? If so, please identify specific items that should be subject to blanket exclusions.

2. How should the U.S. Geological Survey interpret the statutory constraint "prior to actual use"? Should this statutory language be interpreted as effectively limiting the application of subsection 403(b) to new (i.e., never actually used) materials, equipment, tools, containers, and other items used on the OCS? Please discuss views

regarding the proper interpretation of "prior to actual use" and provide supporting reasons for the view recommended for consideration.

3. What color coding or other identification system(s) should the U.S. Geological Survey adopt or approve for use? How should the U.S. Geological Survey assign color coding or other forms of identification to individual owners (i.e., lessees, operators, and other owners) of materials, equipment, tools, containers, and other items used on the OCS? Please describe the actual systems recommended for consideration and compare their relative costs of implementation.

Dated: November 27, 1979.

H. William Menard,  
Director.

[FR Doc. 79-37293 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-31-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 61

[FRL 1370-8; Docket No. OAQPS 79-14]

#### Proposed Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer; Informal Public Hearings

**AGENCY:** Environmental Protection Agency.

**ACTION:** Amended Notice of Informal Public Hearings.

**SUMMARY:** On October 10, 1979, the Environmental Protection Agency proposed in the Federal Register (44 FR 58642) a policy and procedures for identifying, assessing, and regulating carcinogens emitted into the ambient air from stationary sources. In the same Federal Register (44 FR 58662), EPA published an advance notice of proposed rulemaking, soliciting comments on draft generic work practice and operational standards for volatile organic compounds which could be applied quickly to reduce emissions of airborne carcinogens from certain source categories.

On October 28, 1979, EPA published a notice in the Federal Register (44 FR 61620) announcing the dates and locations of informal public hearings to receive public comment on the proposed policy and generic standards. This notice amends the dates and locations for the subject hearings and clarifies the previous notice in regard to the deadline for written comments on the generic standards.

**DATES:** Written comments on the proposed policy and generic standards should be postmarked no later than February 7, 1980. Notice of intent to appear at a public hearing should be postmarked no later than February 22, 1980. Hearings will be held in Washington, D.C. on March 10, 1980; in Boston, Massachusetts on March 12, 1980; and in Houston, Texas on March 13, 1980. Written comments responding to, supplementing, or rebutting written or oral comments received at public hearings must be submitted within 30 days after the hearing date.

**ADDRESSES:** All written comments should be addressed to: Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460, ATTN: OAQPS 79-14.

Persons wishing to provide oral testimony at the public hearings should contact Mr. Joseph Padgett (MD-12), Director, Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone 919-541-5204 (FTS 629-5204).

The hearings will be held at the following locations:

Washington Hearing: Environmental Protection Agency, Room 3906, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460.

Boston Hearing: Room 208, J. W. McCormick Building, Post Office Square, Boston, Massachusetts 02109.

Houston Hearing: Shamrock Hilton, Crystal Room, 6900 Main at Holcombe, Houston, Texas.

The public hearings will convene at 9:00 a.m. and adjourn at 4:30 p.m. Depending on the number of requests to speak that are received, the Washington, D.C. hearing may be continued on March 11, 1980 beginning at 9:00 a.m. If there is sufficient interest, the Houston, Texas hearing may be continued in an evening session on March 13, 1980 beginning at 7:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Padgett, Telephone 919-541-5204 (FTS 629-5204).

**SUPPLEMENTARY INFORMATION:** The public hearings have been postponed in order to provide participants additional time to prepare testimony and an opportunity to inspect the written comment record prior to the hearings. The deadline for written comments on the generic standards advance notice of proposed rulemaking (44 FR 58662) has been extended to February 7, 1980, in order to be consistent with the dates announced for the proposed policy.

Dated: November 29, 1979.

Edward Tuerk,  
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-37489 Filed 12-5-79; 8:45 am]  
BILLING CODE 6560-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 10

[Docket No. FEMA-GEN-10]

#### Environmental Considerations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule

**SUMMARY:** This rule establishes Federal Emergency Management Agency (FEMA) policies and procedures to supplement the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, November 29, 1978 [40 CFR Parts 1500-1508]. The CEQ regulations provide that Federal agencies shall adopt implementing procedures. This rule provides implementing procedures and guidance to the FEMA Regional Directors and Heads of FEMA offices and administrations, and assigns responsibilities as required by the CEQ regulations.

**DATES:** Comments must be received on or before February 24, 1980.

**ADDRESS:** Send comments to Rules Docket Clerk, Office of General Council, Federal Emergency Management Agency, Room 801 1725 Eye Street, NW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, 1725 Eye Street, NW., Washington, DC 20472, Telephone: (202) 634-1977.

Accordingly, it is proposed to publish 44 CFR Part 10 reading as follows:

#### Part 10—Environmental Considerations.

##### Subpart A—General

Sec.

- 10.1 Background and Purpose.
- 10.2 Applicability and Scope.
- 10.3 Definitions.
- 10.4 Policy.

##### Subpart B—Agency Implementing Procedures

- 10.5 Responsibilities.
- 10.6 Making or Amending Policy.
- 10.7 Planning.

- 10.8 Determination of Requirement for Environmental Review.
- 10.9 Preparation of Environmental Assessments.
- 10.10 Preparation of Environmental Impact Statements.
- 10.11 Environmental Information.
- 10.12 Pre-Implementation Actions.
- 10.13 Emergencies.
- 10.14 Flood Plains and Wetlands.

Authority: 42 U.S.C. 4321 *et seq.*, Executive Order 11514, as amended by E.O. 11991; Reorganization Plan No. 3 of 1978, [43 FR 41943], and Executive Order 12127 April 1, 1979 [44 FR 1936].

#### § 10.1 Background and purpose.

(a) This Part implements the Council on Environmental Quality (CEQ) regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) and provides policy and procedures to enable Federal Emergency Management Agency (FEMA) officials to be informed of and take into account environmental considerations when authorizing or approving major FEMA actions that significantly affect the environment in the United States. The Council on Environmental Quality regulations implement the procedural provisions, section 102(2), of the National Environmental Policy Act of 1969, as amended (hereinafter NEPA), (Pub. L. 91-190, 42 U.S.C. 4321 *et seq.*), and Executive Order 11991, 42 FR 26967 (1977).

(b) Section 1507.3, Council on Environmental Quality Regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) directs that Federal agencies shall adopt procedures to supplement the CEQ regulations. This regulation provides detailed FEMA implementing procedures to supplement the CEQ regulations.

(c) The provisions of this part must be read together with those of the CEQ regulations and NEPA as a whole when applying the NEPA process.

#### § 10.2 Applicability and scope.

The provisions of this Part apply to the Federal Emergency Management Agency, (hereinafter referred to as FEMA) including any office or administration of FEMA, and the FEMA regional offices.

#### § 10.3 Definitions.

(a) Regional Director means the Regional Director of the Federal Emergency Management Agency for the region in which FEMA is acting.

(b) The other terms used in this Part are defined in the CEQ regulations (40 CFR 1508).



**§ 10.4 Policy.**

(a) FEMA shall act with care to assure that, in carrying out its responsibilities for providing for disaster planning, response and recovery and hazard mitigation, it does so in a manner consistent with national environmental policies. Care shall be taken to assure, consistent with other considerations of national policy, that all practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

- (1) Achieving use of the environment without degradation, or undesirable and unintended consequences;
- (2) Preserving historic, cultural and natural aspects of national heritage and maintaining, wherever possible, an environment that supports diversity and variety of individual choice;
- (3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and
- (4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) FEMA shall:

- (1) Assess environmental consequences of FEMA actions in accordance with § 10.9 and § 10.10 of this Part and Parts 1500-1508 of the CEQ regulations;
- (2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences, and environmental considerations, in planning and decisionmaking where there is a potential for significant environmental impact;
- (3) Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process;
- (4) Consider reasonable alternatives to recommended courses of action in any proposal that involves conflicts concerning alternative uses of resources; and
- (5) Make available to States, counties, municipalities, institutions and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

**§ 10.5 Responsibilities.**

(a) *The Regional Directors* shall, for each action not categorically excluded from this regulation and falling within their respective jurisdictions:

- (1) Prepare an environmental assessment and submit such assessment to the Associate Director for Hazard Mitigation (ADHM) and the Office of General Counsel (OGC);

(2) Prepare a finding of no significant impact, or prepare an environmental impact statement;

(3) Coordinate and provide information regarding environmental review with applicants for FEMA assistance;

(4) Prepare and maintain an administrative record for each proposal that is determined to be categorically excluded from this regulation;

(5) Involve environmental agencies, applicants, and the public to the extent practicable in preparing environmental assessments;

(6) Prepare, as required, a supplement to either the draft or final environmental impact statement;

(7) Circulate draft and final environmental impact statements;

(8) Ensure that decisions are made in accordance with the policies and procedures of NEPA and this Part, and prepare a concise public record of such decisions;

(9) Consider mitigating measures to avoid or minimize environmental harm, and, in particular, harm to and within floodplains and wetlands; and

(10) Review and comment upon, as appropriate, environmental assessments and impact statements of other Federal agencies and of State and local entities within their respective regions.

(b) *The Associate Director for Hazard Mitigation* shall:

(1) Determine, on the basis of the environmental assessment whether an environmental impact statement is required, or whether a finding of no significant impact shall be prepared;

(2) Review all proposed changes or additions to the list of categorical exclusions;

(3) Review all findings of no significant impact;

(4) Review all proposed draft and final environmental statements;

(5) Publish the required notices in the *Federal Register*;

(6) Provide assistance in the preparation of environmental assessments and impact statements and assign lead agency responsibility when more than one FEMA office or administration is involved;

(7) Direct the preparation of environmental documents for specific actions when required;

(8) Comply with the requirements of this Part when the Director of FEMA promulgates regulations, procedures or other issuances making or amending Agency policy;

(9) Provide, when appropriate, consolidated FEMA comments on draft and final impact statements prepared for the issuance of regulations and procedures of other agencies;

(10) Review FEMA issuances that have environmental implications;

(11) Maintain liaison with the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, other Federal agencies, and State and local groups, with respect to environmental analysis for FEMA actions affecting the environment.

(c) *The heads of the office and administrations of FEMA* shall:

(1) Assess environmental consequences of proposed and on-going programs within their respective organizational units;

(2) Prepare and process environmental assessments and environmental impact statements for all regulations, procedures and other issuances making or amending program policy;

(3) Integrate environmental considerations into their decisionmaking processes;

(4) Ensure that regulations, procedures and other issuances making or amending program policy are reviewed for consistency with the requirements of this Part;

(5) Designate a single point of contact for matters pertaining to this Part;

(6) Provide applicants for FEMA assistance with technical assistance regarding FEMA's environmental review process.

(d) *The Office of General Counsel of FEMA* shall:

(1) Provide advice and assistance concerning the requirements of this Part;

(2) Review all proposed changes or additions to the list of categorical exclusions;

(3) Review all findings of no significant impact; and

(4) Review all proposed draft and final environmental impact statements;

**§ 10.6 Making or amending policy.**

For all regulations, procedures, or other issuances making or amending policy, the head of the FEMA office or administration establishing such policy shall be responsible for application of this Part to that action. This does not apply to actions categorically excluded. For all policy-making actions not categorically excluded, the head of the office or administration shall comply with the requirements of this Part. Thus, for such actions, the office or administration head shall assume the responsibilities that a Regional Director assumes for a FEMA action in his/her respective region. For such policy-making actions taken by the Director of FEMA, the ADHM shall assume the responsibilities that a Regional Director assumes for a FEMA action in his/her respective region.

**§ 10.7 Planning.**

(a) *Early Planning.* The Regional Director shall integrate the NEPA process with other planning at the earliest possible time to ensure that planning decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

(b) *Lead Agency.* To determine the lead agency for policy-making in which more than one FEMA office or administration is involved or any action in which another Federal agency is involved, FEMA offices and administrations shall apply criteria defined in § 1501.5 of the CEQ regulation. If there is disagreement, the FEMA offices and/or administrations shall forward a request for lead agency determination to the Associate Director for Hazard Mitigation (ADHM);

(1) The ADHM will determine lead agency responsibility among FEMA offices and administration.

(2) In those cases involving a FEMA office or administration and another Federal agency, the ADHM will attempt to resolve the differences. If unsuccessful, the ADHM will file the request with the Council on Environmental Quality for determination.

(c) *Technical Assistance to Applicants.* (1) Section 1501.2(d) of the CEQ regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval. To implement the requirements of § 1501.2(d),

(i) The heads of the FEMA offices and administration shall prepare where practicable, generic guidelines describing the scope and level of environmental information required from applicants as a basis for evaluating their proposed actions, and make these guidelines available upon request.

(ii) The Regional Director shall provide such guidance on a project-by-project basis to applicants seeking assistance from FEMA.

(iii) Upon receipt of an application for agency approval, or notification that an application will be filed, the Regional Director shall consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

(2) To facilitate compliance with the requirements of paragraph (a) of this section, applicants and other non-Federal entities are expected to:

(i) Contact the Regional Director as early as possible in the planning process for guidance on the scope and level of environmental information required to

be submitted in support of their application;

(ii) Conduct any studies which are deemed necessary and appropriate by FEMA to determine the impact of the proposed action on the human environment;

(iii) Consult with appropriate Federal, regional, State, and local agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(iv) Submit applications for all Federal, regional, State, and local approvals as early as possible in the planning process;

(v) Notify the Regional Director as early as possible of all other Federal, regional, State, local, and Indian tribe actions required for project completion so that FEMA may coordinate all Federal environmental reviews; and

(vi) Notify the Regional Director of all known parties potentially affected by or interested in the proposed action.

**§ 10.8 Determination of requirement for environmental review.**

The first step in applying the NEPA process is to determine whether to prepare an environmental assessment or an environmental impact statement. Early determination will help ensure that necessary environmental documentation is prepared and integrated into the decision-making process. Environmental impact statements will be prepared for all major Agency actions (see 40 CFR § 1508.18) significantly (see 40 CFR § 1508.27) affecting the quality of the human environment.

(a) In determining whether to prepare an environmental impact statement (EIS) the Regional Director will first determine whether the proposal is one which:

(1) Normally requires an environmental impact statement; or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) *Actions that Normally Require an EIS.* (1) In some cases, it will be readily apparent that a proposed action will have significant impact on the environment. In that event, the Regional Director will, pursuant to § 10.9(g) of this Part, submit the notice of preparation of an environmental impact statement to the ADHM.

(2) To assist in determining those actions that normally do require an environmental impact statement, the following criteria apply:

(i) If an action will result in an extensive change in land use or the commitment of a large amount of land;

(ii) If an action will result in a land use change which is incompatible with the existing or planned land use of the surrounding area;

(iii) If many people will be affected;

(iv) If the environmental impact of the project is likely to be controversial;

(v) If an action will affect, in large measure, wildlife populations and their habitats, important natural resources, floodplains, wetlands, estuaries, beaches, dunes, unstable soils, steep slopes, aquifer recharge areas, or delicate or rare ecosystems, including endangered species;

(vi) If an action will result in a major adverse impact upon air or water quality;

(vii) If an action will adversely affect a property listed on the National Register of Historic Places or eligible for listing on the Register, to the extent that it is not possible to execute a Memorandum of Understanding with the Advisory Council on Historic Preservation for the purpose of mitigating the adverse effect;

(viii) If an action is one of several actions underway or planned for an area and the cumulative impact of these projects is considered significant in terms of the above criteria;

(ix) If an action holds potential for threat or hazard to the public; or

(x) If an action is similar to previous actions determined to require an environmental impact statement.

(3) In any case involving an action that normally does require an environmental impact statement, the Regional Director may prepare an environmental assessment to determine if an environmental impact statement is required.

(c) *Categorical Exclusions.* The CEQ regulations provide for the categorical exclusion (40 CFR 1508.4) of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help FEMA to avoid unnecessary or duplicative effort and concentrate resources on significant environmental issues.

(1) *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(i) Minimal or no effect on environmental quality;



(ii) No significant change to existing environmental conditions; and  
(iii) No significant cumulative environmental impact.

(2) *List of Categorical Exclusions.* Categories of actions that have been determined by FEMA to have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments are:

(i) Preparation of regulations, directives, manuals, and other guidance related to actions which qualify for categorical exclusions;

(ii) Training activities and training exercises conducted on FEMA installations in accordance with established procedures and land use designations;

(iii) Procurement activities that provide goods and services for routine installation operations and support;

(iv) Routine installation, maintenance, and grounds-keeping activities;

(v) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes;

(vi) Studies that involve no commitment of resources other than manpower and funding;

(vii) Action taken or assistances provided under Sections 305, 306 or 403 of the Disaster Relief Act of 1974, as amended, (Pub. L. 93-288); and

(viii) Action taken or assistance provided under Section 402 or 419 of the Disaster Relief Act of 1974, as amended, that has the effect of restoring facilities substantially as they existed prior to a major disaster or emergency.

(d) *Changes to the List of Categorical Exclusions.* (1) The FEMA List of Categorical Exclusions will be continually reviewed and refined as additional categories are identified and experience is gained in the categorical exclusion process. An office or administration of FEMA may, at any time, recommend additions or changes to the FEMA List of Categorical Exclusions.

(2) Offices and administrations of FEMA are encouraged to develop additional categories of exclusions necessary to meet their unique operational and mission requirements.

(3) If an office or administration of FEMA proposes to change or add to the list of categorical exclusions, it shall first:

(i) Obtain the approval of the ADHM and FEMA's Office of General Counsel; and

(ii) Public notice of such proposed change or addition in the Federal

Register at least 60 days prior to the effective date of such change or addition.

(e) *Extraordinary Circumstances.* If extraordinary circumstances exist, such that an action that is categorically excluded from NEPA compliance may have a significant environmental impact, an environmental assessment shall be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(1) Greater scope or size than normally experience for a particular category of action.

(2) Actions in highly populated or congested areas.

(3) Potential for degradation, even though slight, of already existing poor environmental conditions.

(4) Employment of unproven technology.

(5) Presence of endangered species, archaeological remains, or other protected resources.

(6) Use of hazardous or toxic substances.

(7) Actions in flood plains or wetlands.

(f) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(g) *Actions that Normally Require an Environmental Assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

#### § 10.9 Preparation of environmental assessments.

(a) *When to Prepare.* The Regional Director shall begin preparation of an environmental assessment as early as possible after the determination that an assessment is required. The Regional Director may prepare an environmental assessment at any time to assist planning and decision-making.

(b) *Content and Format.* The environmental assessment is a concise public document to determine whether to prepare an environmental impact statement, aiding in compliance with NEPA when no EIS is necessary, and facilitating preparation of a statement when one is necessary. Preparation of an environmental assessment generally will not require extensive research or lengthy documentation. The environmental assessment shall contain brief discussion of the following:

(1) Purpose and need for the proposed action.

(2) Description of the proposed action.

(3) Alternatives considered.

(4) Environmental impact of the proposed action and alternatives.

(5) Listing of agencies and persons consulted.

(6) Conclusion of whether to prepare an environmental impact statement.

(c) *Public Participation.* The Regional Director shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing environmental assessments. In determining "to the extent practicable," the Regional Director shall consider:

(1) Magnitude of the proposal;

(2) Likelihood of public interest;

(3) Need to act quickly;

(4) Likelihood of meaningful public comment;

(5) National security classification issues;

(6) Need for permits; and

(7) Statutory authority of environmental agency regarding the proposal.

(d) *When to Prepare an EIS.* The Regional Director shall prepare an environmental impact statement for all major Agency actions significantly affecting the quality of the human environment. The test of what is a "significant" enough impact to require an EIS is found in the CEQ regulations at 40 CFR § 1508.27.

(e) *Finding of No Significant Impact.* If the Regional Director determines on the basis of the environmental assessment not to prepare an environmental impact statement, the Regional Director shall prepare a finding of no significant impact in accordance with 40 CFR § 1501.4(e) of the CEQ regulations. The assessment and the finding shall be submitted to the ADHM and the Office of General Counsel (OGC) for approval. If ADHM and OGC approval is obtained, the Regional Director shall then make the finding of no significant impact available to the public as specified in § 1506.6 of the CEQ regulations. A finding of no significant impact is not required when the decision not to prepare an environmental impact statement is based on a categorical exclusion.

(f) *ADHM or OGC Disallowance.* If the ADHM or OGC disagrees with the finding of no significant impact, the Regional Director shall prepare an environmental impact statement. Prior to preparation of an EIS, the Regional Director shall forward a notice of intent to prepare the EIS to the ADHM who shall public such notice in the Federal Register.

(g) *EIS Determination of Regional Director.* The Regional Director may decide on his/her own to prepare an environmental impact statement. In such case, the Regional Director shall forward a notice of intent to prepare the EIS to the ADHM who shall publish such notice in the Federal Register. The notice of intent shall be published before initiation of the scoping process.

#### § 10.10 Preparation of environmental impact statements.

(a) *Scoping.* After determination that an environmental impact statement will be prepared and publication of the notice of intent, the Regional Director will initiate the scoping process in accordance with § 1501.7 of the CEQ regulations.

(b) *Preparation.* Based on the scoping process, the Regional Director will begin preparation of the environmental impact statement. Detailed procedures for preparation of the environmental impact statement are provided in Part 1502 of the CEQ regulations.

(c) *Supplemental Environmental Impact Statements.* The Regional Director may at any time supplement a draft or final environmental impact statement. The Regional Director shall prepare a supplement to either the draft or final environmental impact statement when required under the criteria set forth in § 1502.9(2). The Regional Director will prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft or final statement and will introduce the supplement into their formal administrative record.

(d) *Circulation of Environmental Impact Statements.* The Regional Director shall circulate draft and final environmental impact statements as prescribed in § 1502.19 of CEQ regulations. Prior to signing off on a draft or final impact statement, the Regional Director shall obtain the approval of the ADHM and OGC.

#### § 10.11 Environmental information.

Interested persons may contact the ADHM or the Regional Director for information regarding FEMA's compliance with NEPA.

#### § 10.12 Pre-implementation actions.

(a) *Decision-Making.* The Regional Director shall ensure that decisions are made in accordance with the policies and procedures of the Act and that the NEPA process is integrated into the decision-making process. Because of the diversity of FEMA, it is not feasible to describe in this Part the decision-making process for each of the various FEMA programs. Proposals and actions may be

initiated at any level. Similarly, review and approval authority may be exercised at various levels depending on the nature of the action, available funding, and statutory authority. FEMA offices and administrations shall provide further guidance, commensurate with their programs and organization, for integration of environmental considerations into the decision-making process. The Regional Director shall:

(1) Consider all relevant environmental documents in evaluating proposals for Agency action;

(2) Make all relevant environmental documents, comments, and responses part of the record in formal rulemaking or adjudicatory proceedings;

(3) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing Agency review processes;

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for Agency action;

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) *Record of Decision.* In those cases requiring environmental impact statements, the Regional Director at the time of his/her decision, or if appropriate, his/her recommendation to Congress, shall prepare a concise public record of that decision. The record of decision is not intended to be an extensive, detailed document for the purpose of justifying the decision. Rather it is a concise document that sets forth the decision and describes the alternatives and relevant factors considered as specified in 40 CFR § 1505.2. The record of decision will normally be less than three pages in length.

(c) *Mitigation.* Throughout the NEPA process, the Regional Director shall consider mitigating measures to avoid or minimize environmental harm and, in particular, harm to or within flood plains and wetlands. Mitigation measures or programs will be identified in the environmental impact statement and made available to decision-makers. Mitigation and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the Regional Director.

(d) *Monitoring.* If a Regional Director determines that monitoring is applicable for established mitigation, a monitoring program will be adopted to assure the mitigation measures are accomplished.

The Regional Director shall provide monitoring information, upon request, as specified in 40 CFR § 1505.3. This does not, however, include standing or blanket requests for periodic reporting.

#### § 10.13 Emergencies.

In the event of an emergency, the Regional Director may be required to take immediate action with significant environmental impact. The Regional Director shall notify the ADHM of the emergency action at the earliest possible time so that the ADHM may consult with the Council on Environmental Quality. In no event shall any Regional Director delay an emergency action necessary to the preservation of human life for the purpose of complying with the provision of this directive or the CEQ regulations.

#### § 10.14 Flood plains and wetlands.

For any action taken by FEMA in a flood plain or wetland, the provisions of this Part are supplemental to, and not instead of, the provisions of the FEMA regulation implementing Executive Order 11988, Flood Plain Management and Executive Order 11990, Protection of Wetlands [44 CFR Part 9].

Dated: November 29, 1979.

John W. Macy, Jr.,  
Director.

[FR Doc. 79-37535 Filed 12-5-79; 8:45 am]  
BILLING CODE 6710-01-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[Docket No. 21323; RM-2836; FCC 79-768]

#### Use of Subcarrier Frequencies in the Aural Baseband of Television Transmitters

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Federal Communications Commission proposes additional rules for use of television aural baseband subcarriers. Petition received from Boston Broadcasters, Inc., and supporting comments prompts Commission to propose standards that will permit the use of subcarriers in the aural baseband of television transmitters for the purposes of cuing and coordinating ENG crews in the field.

DATES: Comments must be received on or before January 7, 1980, and reply comments on or before January 28, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.



**FOR FURTHER INFORMATION CONTACT:** Stanley Schmulewitz, Broadcast Bureau, (202) 632-9666.

**SUPPLEMENTARY INFORMATION:** In the matter of The Use of Subcarrier Frequencies in the Aural Baseband of Television Transmitters.

Adopted: November 20, 1979.

Released: December 3, 1979.

By the Commission: Commissioner Lee absent.

#### Background

1. A *Notice of Inquiry* was released in this proceeding on July 15, 1977 (FCC 77-477, 42 FR 38606), as a result of a petition received from Boston Broadcasters, Inc. ("BBI"), licensee of television station WCVB-TV, Channel 5, Boston, Massachusetts. BBI petitioned the FCC to amend Part 73 of its rules to permit TV broadcast stations to use subcarriers on their aural transmitters for the purposes of cuing and coordinating electronic news gathering ("ENG") crews in the field.

2. In support of its petition, BBI has called attention to the burgeoning utilization of ENG in news programming by television stations. Further, the petitioner states that in connection with ENG it is vital that TV broadcast stations have a means of communicating with the crews in the field for the purposes of cuing, coordinating, etc. In lieu of using auxiliary broadcast facilities for these purposes (and the consequent use of scarce spectrum space), BBI proposes use of subcarriers on the aural transmitters of television stations for accomplishing these one-way communications. Paragraph 73.682(a)(23) of the FCC rules presently permits multiplexing of the aural carrier only for the purpose of transmitting telemetry and alerting signals from the transmitter site to the control point of a television broadcast station authorized to operate by remote control.

3. Recognizing that there are possibly other worthwhile uses for TV subcarriers in addition to that proposed by BBI, the FCC considered the time appropriate and included in the above-mentioned *Notice* questions concerning such possible other uses in order to develop a more comprehensive plan for utilizing the TV aural baseband. Specifically mentioned were TV stereophonic sound, bilingual sound channels and augmented program audio for the visually impaired. Comments were also solicited regarding any other worthwhile subcarrier applications. In addition, questions were included regarding possible degradation of regular audio and visual TV transmissions or interference to

adjacent channels or other radio services resulting from use of TV subcarriers. Comments were requested concerning subcarrier specifications, transmitting and receiving equipment, and interest in any of the potential uses of subcarriers.

4. Thirty-five parties filed comments in response to the *Notice of Inquiry*.<sup>1</sup> With few exceptions, the use of TV subcarriers for cuing and coordinating ENG crews received wide endorsement. Some support is given to the use of TV subcarriers for bilingual sound transmission, augmented audio for the visually impaired and other general uses relating to education and communications for the handicapped. In addition, there is interest in utilizing TV subcarriers for a variety of other purposes such as facsimile transmission, storecasting, and the many applications now permitted for subcarriers transmitted over FM broadcast stations.

5. Comments regarding TV stereophonic sound were mixed. CBS, NBC, ABC, the National Association of Broadcasters ("NAB") and the Electronic Industries Association ("EIA") indicate that there is not sufficient public interest in stereophonic sound to justify the development of such service at this time. However, the Public Broadcasting Service ("PBS") and television station KERA report that public response to "simulcasts" has been enthusiastic.<sup>2</sup> PBS further reported that a brief survey of member stations disclosed a widespread interest in TV stereo by both station operators and the public. It also has come to our attention that some cable television systems have been experimentally providing stereophonic sound for programs originated on the systems by using techniques similar to "simulcasting." Telesonics, Inc. states that it is developing a television stereo system which it has been testing on Chicago public television station WTTW. Telesonics, Inc. reports that initial results are good and that the system could be easily utilized to provide for bilingual transmissions or augmented audio for the visually impaired.

6. Difficulty usually encountered in the past during intercity network distribution of stereophonic sound for television programs has been the severe

technical limitation of the distribution network. However, these problems are rapidly being resolved by improvements to the distribution system. American Telephone and Telegraph Company has begun to distribute the aural portion of TV programs through use of its new diplex system.<sup>3</sup> It is reported that this diplex system has the capability of carrying two high quality sound channels which could accommodate stereo. Additionally, PBS reports that their DATE (Digital Audio for Television) multichannel audio system is being developed for use on satellites.

7. We have, therefore, come to the conclusion that interest is rising in television stereo while, at the same time, distribution and transmission of such programs is becoming more practical. However, since we do not have a specific TV stereo system before us for consideration,<sup>4</sup> we will not propose standards for television stereo at this time. Further, it has come to our attention that a subcommittee has been empaneled by the Electronic Industries Association to study the use of multichannel TV sound. It is our understanding that this study will include multi-lingual audio channels and other SCA applications as well as television stereophonic broadcasting. Hence, we believe it is premature to develop a comprehensive plan for the use of aural subcarriers. However, pending the development of such a plan, we believe it is appropriate to allow the use of aural subcarriers for cuing and coordinating ENG crews as proposed by BBI. We have deliberately written the current proposal in broad, permissive language with no attempt to anticipate the results of further efforts towards a comprehensive plan. As a result, any rules adopted from this current proceeding may well be changed when we address the question of a comprehensive plan for use of aural subcarriers in a future proceeding.

8. The FCC encourages studies related to multichannel sound such as those now being carried out by the Electronic Industries Association Multichannel Sound Subcommittee. In addition to the possible benefits of TV stereophonic sound, there is expectation that use of TV aural subcarriers for such applications as multilingual transmissions and additional services to specialized groups such as the handicapped may also be beneficial. We

<sup>3</sup> This is a multiplex system which, in effect, carries high quality audio channels "piggyback" with their associated video channel.

<sup>4</sup> We have become aware that several systems are under development. However, since none have been submitted to us, it would be inappropriate to propose any one at this time.

encourage experimentation in all of these types of transmission, including experimental broadcasts under Special Temporary Authorization (STA).

#### Proposal

9. We are herein proposing rules and standards for TV aural subcarriers used for the purpose of cuing and coordinating ENG crews in the field. As in the case of subcarriers used for telemetry, we believe that no application for subsidiary communications authorization should be required for this use since it is very limited in scope.

10. The *Notice of Inquiry* contained questions concerning technical standards for use of subcarriers including recommended frequency limits in the baseband, injection levels, etc. Although many of the parties submitted test data with their responses to these questions, many of the tests were somewhat limited in scope. That is, most of the data were based generally upon tests made using subcarriers operating on 39 kHz and 67 kHz with injection levels of 5% and 10%, respectively. Therefore, in the absence of more definitive data, we are proposing to limit subcarriers to the band 20 kHz to 75 kHz, and we are proposing that the injection level for any subcarrier may not exceed 10% and the arithmetic sum of all subcarriers may not exceed 15% of maximum permitted modulation. The FCC will consider expanding these limits only if definitive measurement data is received showing that such expanded limits will not cause degradation to regular television transmissions or other radio services.

11. As previously indicated, many of the tests conducted were somewhat limited in scope. The Commission, for example, has been unable to identify test data that indicate what, if any, effect subcarrier use may have on cable television system operations or the service received by their subscribers. Accordingly, our ability to determine the overall effect on the public of subcarrier use is limited with respect to the impact on cable systems that are carrying 12, 20, or more, adjacent program channels. The proposed rules may also have an effect on the ability of cable systems to comply with § 76.605(a)(6) of the cable television technical standards in those situations where cable systems carry the audio at a reduced level of between 13 and 17 decibels below the associated visual signal level. Accordingly, specific comments on these issues are requested along with any other cable-related issues, such as possible changes in intermodulation products and possible reductions in signal-to-noise ratio.

12. Section 76.55(b) of the Rules for the Cable Television Service requires that "programs" of broadcast signals carried "shall be carried in full, without deletion or alteration of any portion except as required by this part." Since the service we are proposing is restricted to limited operational communications not intended for use by the public, it is not our intent to require cable television systems to carry such communications.

13. A significant percentage of television stations presently transmitting subcarriers (generally for telemetry purposes) have been observed by FCC personnel to be operating with excessive subcarrier injection levels or excessive total modulation or both. The most common explanation for the violations was inability to make accurate modulation measurements. This is due to the fact that modulation monitors presently in use do not necessarily have adequate frequency response for subcarriers which are being transmitted.

14. For these reasons, it is being proposed that some appropriate means of monitoring modulation be used by stations utilizing subcarriers. These means may involve the use of a modulation monitor having appropriate characteristics, a composite method, etc. The procedure should include a means for measuring total modulation of the main carrier including that contributed by all subcarriers and a means for determining the injection level of each subcarrier.

15. It is being proposed to require the injection level of each subcarrier to be measured at least once a month and an entry made in the station maintenance log indicating the results. Since the injection level of a subcarrier is normally a relatively stable parameter, it is our view that measurements of injection level made at monthly intervals will be sufficient to guard against excessive injection. A monthly measurement schedule will also coincide with the routine monthly maintenance schedules followed by many TV broadcast licensees. It should be emphasized, however, that subcarrier injection levels should be measured at intervals of less than a month and as often as necessary in those instances where the injection stability is inadequate for longer measurement intervals.

16. Accordingly, pursuant to authority found in §§ 1.4(i) and 303(g), (j) and (r) of the Communications Act of 1934, as amended, it is proposed to amend Part 73 of the FCC's Rules and Regulations as set forth in the attached Appendix B.

17. Pursuant to applicable procedures set forth in § 1.415 of the FCC's Rules,

interested persons may file comments on or before January 7, 1980, and reply comments on or before January 28, 1980. All relevant and timely comments and reply comments will be considered by the FCC before final action is taken in this proceeding.

18. In accordance with the provisions of § 1.419 of the FCC's Rules and Regulations, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the FCC. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the Docket Number 21323 is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the FCC's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, N.W.)

19. For further information concerning this proceeding, contact Stanley Schmulewitz, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceeding such as this one will be disclosed in the public docket file.

20. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she should follow the Commission's procedures governing *ex parte* contacts in informal rule makings. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202-632-7000).

William J. Tricarico,  
Secretary.

Attachment: Appendices A and B

Appendix A

KERA-TV  
Public Broadcasting System



Blonder-Tongue  
Radio Information Center for the Blind  
Herbert A. Terry  
William L. Carman  
McMartin Industries, Inc.  
Lloyd P. Morris  
Georgia Division of Vocational Rehabilitation  
Texas Education Agency  
Seattle University  
The University of Texas, Health Science  
Center at San Antonio  
Florida Dept. of Education, Div. of Blind  
Services  
Oklahoma Dept. of Institutions, Social and  
Rehabilitative Services  
Crowder Communications Ltd.  
Florida Dept. of Education  
Michigan Dept. of Education  
Television Technology Corp.  
Puerto Rican Broadcasting, Inc.  
CBS, Inc.  
Joint Comments of 19 TV Licensees  
Chronical Broadcasting Co.  
Digital Data, Inc.  
Multimedia, Inc.  
Westinghouse  
Capital Broadcasting Co., Inc.  
ABC, Inc.  
National Cable Television Association  
California Instructional TV Consortium  
NBC, Inc.  
National Association of Broadcasters  
Zenith Radio Corp.  
Electronic Industries Association  
Boston Broadcasters, Inc.  
Telefonics, Inc.

#### Appendix B

It is proposed that Part 73, Chapter 1, Title 47 of the Code of Federal Regulations be amended as follows:

1. In § 73.682, paragraph (a) would be amended to read as follows:

#### § 73.682 Transmission standards.

(a) Transmission standards.

(23) Multiplexing of the aural carrier may be employed for the purpose of transmitting telemetry and alerting signals from the transmitter site to the control point of a television broadcast station authorized to operate by remote control; or for the purpose of cuing and coordinating broadcast personnel at remote locations. Multiplex transmission shall be subject to the following conditions:

(i) Frequency modulation of subcarrier shall be used.

(ii) The instantaneous frequency of subcarriers shall at all times be within the range 20 kHz to 75 kHz.

(iii) The arithmetic sum of modulation of the main carrier by subcarriers shall not exceed 15%, with the modulation resulting from any one subcarrier not exceeding 10%.

(iv) The total modulation of the main carrier, including subcarriers, shall not exceed 100%.

(v) Multiplexing of the aural carrier shall not result in transmitting system

output noise levels exceeding those specified in § 73.687(b)(4) and (5).

(vi) Frequency modulation of the main carrier caused by the subcarrier operation shall, in the frequency range 50 to 15,000 Hz, be at least 55 dB below 100% modulation.

(vii) The logging, announcement and other requirements imposed by §§ 73.1201, 73.1208, 73.1212, 73.1810 and 73.1820 are not applicable to nonprogram material transmitted on subcarrier frequencies.

(viii) The modulation of the main carrier by subcarriers and the frequency of each subcarrier shall be measured as often as necessary to ensure compliance with (ii) and (iii) above. However, in any event, the measurements shall be made at least once each calendar month with not more than 40 days expiring between successive measurements.

2. In § 73.1830, paragraph (a)(4)(iii) is added to read as follows:

#### § 73.1830 Maintenance logs.

(a)(4)(iii) The entries for the measurements required by Section 73.682(a)(23)(viii) concerning subcarrier frequency measurements and measurements of main carrier modulation by subcarriers.

3. In § 73.691, paragraph (c) would be added as follows:

#### § 73.691 Modulation monitors.

(c) Stations utilizing aural subcarriers should employ appropriate instrumentation for measuring the total percentage modulation of the main carrier including that caused by all subcarriers; and a means for determining the injection level of each subcarrier.

[FR Doc. 79-37538 Filed 12-5-79; 8:45 am]

BILLING CODE 6712-01-M

#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

##### 49 CFR Part 571

[Docket No. 79-04; Notice 1]

##### Federal Motor Vehicle Safety Standards Side Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking and notice of public meeting.

**SUMMARY:** The purpose of this advance notice is to announce that the National Highway Traffic Safety Administration is considering the proposal of an amendment to Safety Standard No. 214, *Side Door Strength*, to upgrade motor vehicle side impact protection and to extend the applicability of the standard to light trucks, vans and multipurpose passenger vehicles. (Standard No. 214 now only applies to passenger cars). The notice also announces that a public meeting will be held to permit all interested persons to present oral and written views concerning the proposed upgrade of the standard.

The standard currently specifies crush-resistance requirements for the side doors of passenger cars under static test conditions. The primary purpose of the contemplated upgrade is to establish performance criteria for occupant protection under dynamic crash tests. The performance criteria that would be established would require a higher level of protection for occupants involved in side impact collisions than presently exists, and under test conditions that more closely approximate real-world crashes.

**DATES:** Proposed effective date: September 1, 1983-1984. Public meeting: January 31 and February 1, 1980. Comment closing date: March 5, 1980.

**ADDRESSES:** Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours 7:45 a.m. to 4:15 p.m.)

**PUBLIC MEETING:** Federal Office Building 10A, Federal Aviation Administration Auditorium, Seventh Street and Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Brubaker, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. (202-426-2242).

**SUPPLEMENTARY INFORMATION:** In 1977, the National Highway Traffic Safety Administration's (NHTSA) draft 5-year rulemaking plan listed the improvement of side impact protection as a top priority of the agency. That priority was reaffirmed when the final version of the plan was issued early this year. High priority was given to this endeavor because over 34,000 vehicle occupants lose their lives annually in highway accidents and approximately one-third of these fatalities occur in side impact collisions. Generally the fatalities occur in the more severe side impact collisions at high speeds. Extensive intrusion into the occupant compartment and ejection of occupants often accompany these

severe impacts. In fact, at least 28 percent of the occupants that receive life-threatening injuries during side impact accidents are ejected from the vehicle. While it is difficult to determine with certainty the number of severe injuries that occur due to the occupant striking the vehicle interior prior to ejection or the number that occur when the occupant strikes an outside object after ejection, it is obvious that some of these injuries are a direct result of ejection from the vehicle. Therefore, reducing the number of ejections that occur during side impact accidents is one of the primary goals of this proposed rulemaking.

The agency's current standard for side impact protection is Safety Standard No. 214, *Side Door Strength* (49 CFR 571.214), which specifies performance requirements for the side doors of passenger cars to minimize the safety hazards caused by intrusion into the passenger compartment during a side impact crash. The standard specifies three static crush tests to measure the crush resistance of the side doors of automobiles (tests using mechanical devices that apply pressure to the doors of a stationary vehicle). Under the peak crush test, it must not be possible to push a door more than 18 inches into the occupant compartment unless a resistive force of at least 7,000 pound is produced by the door (or a force of two times the curb weight of the vehicle whichever is less).

The NHTSA recently published an Evaluation Report of Safety Standard No. 214 (DOT-HS-804-858), which was prepared in response to Executive Order 12044, "Improving Government Regulation". The conclusions of that report were as follows:

- Standard No. 214 reduces the likelihood of intrusion in side door impact crashes.
- Standard No. 214 prevents a substantial proportion of the deaths and severe injuries in single vehicle side impact accidents (such as when a car skids sideways into a tree).
- Standard No. 214 is significantly less effective in multivehicle crashes (such as intersection collisions) than in single vehicle crashes.
- Standard No. 214 adds approximately \$30 to the cost of purchasing an automobile and \$26 to the cost of operating an automobile over its lifetime.

(See 44 FR 50878, August 30, 1979.)

This Evaluation Report shows that in spite of the effectiveness of the existing standard there is still a great need for improvement of side impact protection in all passenger carrying vehicles. This

advance notice discusses the agency's plans for proposing to upgrade the current requirements of Standard No. 214 and to extend the standard to light trucks, vans and multipurpose passenger vehicles.

Research projects are currently underway to generate data concerning occupant compartment integrity and ways to reduce occupant injuries by changing side door structures and modifying vehicle interiors. Data from these and other studies will be used to upgrade Standard No. 214. The primary thrust of the new standard will be to develop performance requirements based on dynamic crash tests representing real-world accidents, rather than the laboratory type static crush tests of the existing rule. It is anticipated that performance would be determined by measuring the forces (accelerations) to which vehicle passengers, simulated by instrumented test dummies, are subjected when their vehicle is struck in the side by a moving barrier that represents another vehicle. The agency is involved in four major areas of activity to establish such performance requirements:

1. Development of a test procedure, including the development of a moving barrier impactor to simulate the striking vehicle.
2. Development of an instrumented test dummy and the establishment of appropriate injury criteria.
3. Development of vehicles that can be used to demonstrate improved performance in side impact crashes.
4. Analysis of existing accident data in furtherance of the other three activities.

The current progress and future plans for these various activities are discussed below. Since the proposed requirements discussed in this advance notice would provide a greater level of protection for occupants involved in side impact collisions than currently exists, and since a leadtime of several years is anticipated, it is expected that manufacturers will consider early incorporation of changes in their vehicles prior to the effective date of a rule. As an expeditious means of reducing the occurrence of ejections, manufacturers might consider using laminated glass in side windows and strengthening door hinges and latches. These things could be done during the design changes that are currently underway. Other changes that would improve crash safety and that could easily be incorporated include, better welding of A and B pillar assemblies, more overlap of the outer door skin with the outer sill, and improved padding on the roof rail and pillars.

#### Compliance Test Procedures Conditions

Representing real-world conditions is an important factor that the agency will consider in establishing compliance tests for the Standard 214 upgrade. The best test from this standpoint would be one that imposes a range of conditions similar to the wide range of conditions experienced in real-world accidents. Analysis of accident data in the National Crash Severity Study (NCSS) shows that 84% of side impact accidents are intersection-type collisions where one vehicle is struck by another. The remainder (16%) are single-vehicle accidents. The same analysis shows that multi-vehicle accidents account for 65% of the life-threatening injuries to victims of side impacts.

One approach in the development of compliance test procedures would be to discern the accident conditions which are most likely to result in life-threatening injuries in both single-vehicle and multi-vehicle accidents. Simulations of both the single and multi-vehicle accident conditions would then be imposed as the compliance test conditions.

An alternative approach would be to simulate only multi-vehicle accident conditions or only single-vehicle accident conditions in the compliance test procedures. Under this approach, determination of the likely motions and injuries of occupants in the unsimulated conditions would have to be extrapolated from the test results under the simulated conditions. This approach has the advantage of involving fewer tests, but the disadvantage of necessitating mathematical extrapolations to evaluate a vehicle's performance under some impact conditions.

The basis for selecting one of these two approaches over the other lies in determining the similarities and differences between single- and multi-vehicle accidents. Single-vehicle accidents involve contact between the side of the vehicle and a fixed object that extends from the ground to some point above the sill of the vehicle (the lowest part of the vehicle's side-extending from front bumper to rear bumper). This accident configuration has the effect of directly applying forces to not only the door structure but also the sill structure. Multi-vehicle accidents typically involve contact between the side of one vehicle and the front bumper of a striking vehicle. This accident configuration allows the bumper structure to override the sill of the struck vehicle and intrude into the occupant compartment. A side structure that ameliorates the effects of impacts with



vertical fixed objects, such as trees, would not necessarily reduce the propensity of bumper structures of striking vehicles to intrude into the occupant compartment. However, designs that reduce the effect of bumper intrusion would also improve the safety of occupants in vehicles striking a fixed vertical object.

Based on these considerations, the agency believes that the compliance test should reflect conditions associated with multi-vehicle collisions which produce life-threatening injuries. The results of the compliance tests will provide a direct indication of safety improvements for multi-vehicle crashes, but will not provide direct information regarding single-vehicle crashes. Estimates of the effectiveness of safety improvements for single-vehicle crashes would be obtained as part of an analysis by comparing the results of multi-vehicle crashes to single-vehicle crash conditions that produce similar loads on vehicle occupants.

In order to specify crash conditions which are representative of multi-vehicle collisions, several parameters must be identified. These parameters can be used to completely specify the critical conditions (speed, motion, etc.) of the two vehicles just before impact. For cases such as typical intersection collisions, three parameters are needed to define the collision conditions. These are (1) the speed of each vehicle; (2) the location of first contact point, as measured from a convenient reference such as the front door hinge of the struck vehicle; and (3) the angle between the two vehicles, also measured from a convenient reference such as the longitudinal axis of the struck vehicle.

Data from the National Crash Severity Study (NCSS) have been analyzed to form the basis for estimating these parameters. The results of this analysis indicate that the test condition should simulate a collision in which both vehicles are moving. The angle between the vehicles, as measured from the longitudinal axis of the struck vehicle, should be in the range of 40° to 100° (since most serious side impact collisions are within these angles). The impact point should be such that maximum damage occurs adjacent to the front seat occupant. The test procedure envisioned would give the striking vehicle (a moving barrier impactor) a direction of motion and orientation that accounts for all of the motion between the two vehicles in the simulated event. This would result in the struck vehicle being stationary prior to the impact and would improve the

repeatability of the test. A typical crash condition simulated under this scheme would be the case in which the striking vehicle is traveling at 30 mph and the struck vehicle at 15 mph, with an angle of 60° between the two vehicles.

If the above example was used as the compliance test condition and a barrier impactor of unvarying weight was used for all vehicles, the impactor would produce a more severe crash condition for small cars than it would for large cars. For example, if the barrier impactor weighed 3,500 pounds, the test would produce a change of velocity ( $\Delta V$ ) of 25 mph on a 2,000-pound vehicle and a  $\Delta V$  of 20 mph on a 3,500 pound vehicle. Additional work will continue on the analysis of accident data to provide more definitive information on appropriate impactor weights for use in the compliance test, as well as the most appropriate vehicle orientations and traveling speeds.

Questions about the test conditions which are as yet unanswered and for which the agency seeks specific information from commenters include:

(1) Should the compliance test be limited to simulation of multi-vehicle crashes, as the agency has tentatively concluded?

(2) Should the compliance test specify a range of parameters that reflect actual crashes (Examples: an impact point anywhere between the front axle and the B-pillar; and angle between the two vehicles of any value between 40° and 100°) or should the compliance test be specific (Examples: an impact point 3 inches forward of the front door opening reference line, and angle between the two vehicles of 60°)?

#### Development of a Moving Barrier Impactor

The moving barrier impactor is being developed in phases. Phase I is currently underway.

For Phase I, the preliminary parameters of the impactor were based on the average characteristics of today's U.S. automobile fleet. The present test weight of the impactor is 3,600 pounds, while the weight of a 50th percentile passenger car in today's (sales weighted) fleet is about 3,770 pounds. The other major parameters of the impactor for this phase, such as its force and force distribution, have also been selected to fall within the bounds and near the mean of today's car fleet.

The force-crash characteristics of the impactor have proven to be similar to that of a "striking" medium-sized vehicle. Good correlation has been obtained when vehicles are impacted by the side impactor and by a full-sized 1978 General Motors car (weighing 3,780

pounds). Further refinements of the side impactor will be undertaken during the second phase research to account for differences in the current and future vehicle mix.

The Phase I impactor is constructed of layered and segmented aluminum honeycomb. This design provides the flexibility needed in the research phase to investigate variations in force and force distribution parameters. However, the agency expects the final test device to be a simpler design with fewer layers and fewer segments.

During Phase II of this project, the side impactor will be exposed to a variety of test conditions, including conditions during which the impactor and target vehicle are both moving. A procedure for simulating the motion of both vehicles, but with the struck vehicle actually stationary, similar to the one used in NHTSA project, "Occupant Survivability in Lateral Collisions" (Contract No. DOT-HS-4-00922), will also be investigated.

In the Phase II test series, both baseline vehicles (unaltered) and vehicles with modified interiors and side structures will be tested. The results of these tests will be evaluated and the final design of the impactor will then be completed, after which its ability to achieve repeatable results in different test modes will be verified. Details of the side barrier impactor design are contained in the progress reports on NHTSA contract, DOT-HS-8-01933, (copies of this and all other contracts mentioned in this notice are available for review in the Technical Reference Division, Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. Hours are 7:45 a.m. to 3:45 p.m.)

Questions about the moving barrier impactor which are as yet unanswered and for which the agency seeks specific information from commenters include:

(1) Is the barrier impactor design described in this notice appropriate for testing trucks, vans, and multipurpose vehicles, as well as passenger cars?

(2) What weight is appropriate for the barrier impactor considering the probable mix of the 1985 vehicle fleet?

(3) Is it necessary to use a barrier impactor that will deform upon impact (i.e., instead of a rigid barrier)?

(4) Is a cost of \$2,500 for replacement of the aluminum honeycomb face of the impactor excessive? If so, what are the alternatives?

(5) To ensure repeatability, what sort of specifications and calibration procedure for the impactor are necessary?

#### Development of an Anthropomorphic Test Device (Dummy)

The test dummy is a key element in the development and application of a new side impact protection regulation. It is an important part of the final regulation because of the need for an objective measuring device.

The dummy selection process included a search for an existing dummy that would be appropriate for use in the upgraded side impact regulation. The investigation began with two existing dummies that have the potential for being used in side impact testing. One of these is the Part 572 anthropomorphic test device that is specified for use in existing occupant protection safety standards. This dummy has the advantage of being a proven piece of equipment with extensive documentation and testing. The second dummy is one developed at the Transport and Road Research Laboratory (TRRL) in the United Kingdom. That dummy has the advantage of having been developed specifically for use in side impact tests.

An initial study was done by the NHTSA in 1975 to evaluate the response of these dummies in lateral impacts. This was followed by a more recent program which included testing under additional side impact conditions. Based on the results of these tests, the agency decided that neither dummy was adequate in all respects and that a new or revised dummy was necessary for use in evaluating side impact protection. Therefore, the NHTSA plans to use the Part 572 as the basic dummy, making those changes that are necessary in the thorax and shoulder to adequately measure injury response in side impact collisions. In addition to the dummy which is being developed by the NHTSA, there are other dummies which have recently been developed for use in side impact work. The NHTSA will conduct a parallel evaluation and test program of these dummy designs to establish the relevancy and quality of their response for use in side impact applications.

Questions on dummy design which are as yet unanswered and for which the agency seeks specific comments include:

(1) Does the test dummy used in side impact protection testing need an arm (impact side) to be acceptable as a human surrogate? Does the presence of an arm create special problems in dummy response?

(2) Is a modified Part 572 dummy the most appropriate test device that can currently be found?

#### Performance Criteria and Levels

The agency contemplates developing thoracic and head injury criteria and performance requirements to prevent occupant ejection from the vehicle. The primary basis for development of a criteria for limiting chest injuries in side impact accidents consists of human surrogate tests which have been run in the United States and Europe. Comparing the results of these tests with the consequences of real-world accidents has been initiated, but has not progressed to the point of providing adjusted estimates of an appropriate performance criteria. The criteria currently being considered by the agency are estimates of the threshold force level between AIS 3 and AIS 4 injuries to the chest (the AIS scale is an injury severity index). The rationale behind the choice of this level is that injuries which are judged to be AIS 4, 5 or 6 are considered to be life-threatening and have a high probability of resulting in a fatality. Under the proposed criteria, injury levels could not be greater than the forces on the test dummy's chest judged to be equivalent to AIS 3 injuries. Thus, most life-threatening chest injuries to the victims of crashes covered by this regulation would be eliminated.

Based on the work with human surrogates, there are three schools of thought concerning the proper criteria for measuring performance in side impact protection. One school concludes that chest deflection is the best measurement of injury to victims of side impacts. The most recent work in this area has been done at the Peugeot-Renault Association. The results of this work suggest that a limit of 4.5 cm on chest deflection is a proper criterion. A second school of thought concludes that the acceleration signals from spinal accelerometers provide the best source of data for predicting injury. The results of this work suggest two criteria for use in improving occupant protection in side crashes: (1) a limit of 40G (3 msec) on the peak acceleration in the lateral direction; and (2) a limit of 120,000 ft-lb/sec (160 kilowatts) on the peak rate-of-change of energy in the lateral direction. This work is summarized in a paper by Burgett and Hackney given at the 7th ESV Conference in June 1979 (Docket 79-04; General Reference). The third school of thought in this area holds that the change of velocity of the near side rib is a good measure of injury. This work has resulted in several suggested criteria which are based primarily on the lateral change of velocity of the near side rib. One criterion would limit the velocity change to 30 ft/sec. The details of this work are contained in the

progress reports on NHTSA contract number DOT-HS-4-00921.

It is anticipated that head injury criteria and the prevention of ejection from the vehicle would be covered with the following specifications:

(1) All portions of the dummy test device shall be contained within the outer surfaces of the vehicle passenger compartment throughout the test.

(2) Sections of FMVSS No. 206, *Door Locks and Door Retention Components*, that are applicable to the types and weights of vehicles being covered in this upgrade will be incorporated as a part of the performance criteria. Further, side door locks and side door retention components including latches, hinges, and other supporting means would not be allowed to separate or disengage during testing. To demonstrate that this has not occurred, some appropriate pull test may be incorporated.

(3) The resultant acceleration at the center of gravity of the test dummy head shall be such that the expression:

$$[1/(t_2 - t_1) \int_{t_1}^{t_2} a dt]^2 \cdot 2.5 (t_2 - t_1)$$

shall not exceed 1,000, where "a" is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and  $t_1$  and  $t_2$  are any two points in time during the crash.

Questions about performance criteria which are as yet unanswered and for which the agency specifically seeks comments include:

(1) Is it appropriate to base a performance criteria solely on the results of cadaver tests? Are there data sources other than those used by NHTSA which are suitable for development of performance criteria?

(2) Are there parameters other than those presented here which would be more appropriate for establishing performance requirements, e.g., chest severity index?

(3) What are the advantages and disadvantages of the various criteria that are set forth here? What methods for evaluating various criteria are available? Can the various criteria provide accurate predictions of injuries and fatalities occurring in real accidents? Are the various criteria sufficiently distinct in the compliance test environment to generate meaningful dummy response?

(4) Are the injury criteria keyed to the most appropriate AIS level (i.e., not greater than AIS 3)?

#### Vehicle Development for Performance Demonstrations

Several research projects are underway to demonstrate the feasibility and benefits of improved structural



integrity in side impacts and to investigate feasible improvements in vehicle interior padding and load distributing characteristics.

In 1976, a project was initiated to investigate the potential for upgrading the integrity of the side structure of a compact vehicle (1976 Plymouth Volare). A baseline crash test (an unaltered vehicle) was performed to evaluate the existing structural strength. The side structure of the impacted vehicle was examined and minor modifications were made to an identical vehicle. These modifications added approximately 17 pounds per side. Significant reductions in interior intrusion were obtained when the modified vehicle was tested. The modifications made included: increasing the depth of the door beam hat section, closing the door beam section and lowering the beam, improving the door beam-to-door connections, adding continuous welds to the sheet metal door facing, and strengthening the door hinge-to-pillar connections.

During this project, no attempt was made to investigate problems that might be associated with making such modifications on a production basis, or to optimize the introduced structural components. However, a follow-up effort did address the production feasibility of the changes, and the modifications that evolved reduced the weight of the improved structure. This design is now being tested and evaluated.

A similar program was initiated by the agency to improve the side structures of a light weight subcompact vehicle (Volkswagon Rabbit). Two levels of structural modifications have been completed and tested (low and middle weight designs). A third level, the heaviest weight structural modification, is under development.

The modifications to the Rabbit were assessed using a 60° dynamic test configuration (angle between vehicles), while modifications to the Volare were assessed using both a 60° and a 90° test configuration. In both cases, the modified vehicle was initially stationary in the testing.

Details of these programs are contained in the progress reports on NHTSA contract number DOT-HS-7-01588.

Baseline tests are also being conducted on light trucks and vans to determine any problems these vehicles may have in meeting an upgraded side impact protection standard given their current construction. The light weight pick-ups are expected to perform similarly to passenger cars. Modifications being developed for

passenger cars are expected to be adaptable to these light weight vehicles.

Details of these programs are contained in the progress reports on NHTSA contract number DOT-HS-8-01942.

Major efforts are also currently underway to develop improved vehicle interiors to aid in reduction of injury levels in side impacts. A series of static and dynamic component tests will be conducted on various energy-absorbing padding configurations. The more promising energy-absorbing configurations will then be investigated in a side impact sled test with a dummy. After the energy absorbing configuration has been optimized, it will be integrated into structurally modified Rabbits and Volares. The completely modified vehicles, having both upgraded side structures and interiors, will be crash tested under the contemplated compliance test conditions and requirements. Vehicle-to-vehicle and impactor-to-vehicle crash tests will be run to evaluate the potential of the upgraded designs to mitigate injuries.

Questions about vehicle design which have not as yet been answered and for which the agency seeks specific comments include:

(1) Can high-strength-low-alloy steel be used in door and door-frame construction without undue corrosion or other problems?

(2) What methods can be used to improve the protection provided by vehicle's interior in addition to padding?

Further details of this program are contained in the progress reports on NHTSA contract number DOT-HS-9-02177.

#### Benefits, Costs, Weight Implications and Leadtime Studies

Victims of side impact accidents account for approximately one-third of all vehicle occupant fatalities and a similar percentage of the life-threatening injuries that occur. Based on the agency's analysis of accident data, about 65% of these side impact fatalities and life-threatening injuries occur to victims of multi-vehicle collisions. Analysis indicates that about half of those multi-vehicle, life-threatening and fatal injuries can be eliminated by proper choice of barrier impactor design and compliance test conditions that will result in improved vehicle design. This corresponds to approximately one-third of all fatalities and life-threatening injuries caused by side impact accidents. This estimate is probably conservative since it does not include any benefits to victims of single-vehicle accidents. A refined analysis of benefits which includes victims of both multi-

and single-vehicle accidents will be done as part of our ongoing development work.

Studies are being initiated to determine any changes in consumer cost and vehicle weight directly related to vehicle modifications that may be necessary to meet the higher performance levels of side impact protection that are being considered in this advance notice of proposed rulemaking. Manufacturing leadtimes are also being considered. These studies will involve.

(1) The development of designs feasible mass production (the designs will be sufficient for estimating cost and leadtime but not actually for fabricating) for the vehicle structural and interior modifications that are used by NHTSA to demonstrate side impact improvements. These designs will be used to estimate costs and leadtime requirements when appropriate, for the particular criteria under consideration.

(2) Estimation of changes in average consumer costs and vehicle weights that will result from an upgraded side impact protection standard. These estimates will be adjusted for projected sales weighting, by vehicle weight classes (subcompacts, compacts, intermediate and full size passenger cars; trucks and vans with GVWR's less than 6,000 lbs., 6,000-8,000 lbs., and 8,000-10,000 lbs.) To the extent possible, existing reports on present-production car and light truck tear-down cost will be utilized, as well as existing reports on vehicle weights and leadtime studies.

(3) Consideration of the effects on vehicle fuel economy (cost of additional fuel consumed, cost and leadtime necessary to make offsetting fuel economy improvements, etc.) resulting from the weights of structure and padding materials that would be used in production during the mid-1980's to meet the upgraded side impacted standard. Costs will be estimated and reported in terms of both 1980 and projected 1985 economics.

A question about costs and benefits which has not as yet been answered and for which the agency seeks specific comments is:

How much can the costs of the improvements required by an upgrade side impact standard be minimized by making necessary design changes during the normal model-year design cycle?

This advance notice of proposed rulemaking has been evaluated under the criteria of EO 12044, "Improving Government Regulations," and under Departmental guidelines implementing that order. A copy of the evaluation may be obtained by writing NHTSA docket section at the address given at the

beginning of this notice. The agency concluded that the indeterminacy of the nature and level of the requirements and test conditions and, therefore, the indeterminacy also of the impacts of the rulemaking precluded anything but the most general evaluation of this notice. Any more precise analysis would be speculative at best. After the agency reviews the comments on this notice and conducts further studies and analyses, it will select and attempt to refine requirements and test conditions to be included in a notice of proposed rulemaking. At that point, the agency may find that the rulemaking is significant. In that event, a regulatory analysis will be prepared and made available for public comment.

#### Public Meeting

To collect and consolidate as much information as possible on this subject, the NHTSA has determined that a public meeting is desirable to discuss the status of side impact protection technology, vehicle manufacturer experience in developing side impact protection in their vehicle models, and the expected environmental and economic impact of requiring an upgraded side impact protection capability.

The views and presentations of all interested parties, and in particular, component suppliers, vehicle manufacturers, and researchers or other specialists in side impact structures or anthropomorphic test devices, are solicited. The NHTSA especially requests information concerning the questions in this notice.

To assist in the exchange of substantive data at this meeting, an outline is set forth below listing those subject areas of particular interest to the agency.

##### I. Accident Data:

Identification of pertinent side impact collision conditions.

Distribution of life threatening injuries.

Identification of crash modes that describe an appropriate orientation and impact velocity for use in a compliance test.

##### II. Design of an Anthropomorphic Test Device (Dummy):

Review of cadaver testing in side impact crashes.

Status of any dummy development programs that are underway.

Development of performance criteria for side impacts.

##### III. Development of a Dynamic Test Procedure Using a Moving Barrier Impactor.

##### IV. Development of Vehicle Improvements for Upgrading Side Impact Protection:

Exterior structures.

Interior improvements.

##### V. Cost, Weight, Leadtime and other Considerations:

Persons who desire to make an oral presentation at the meeting should contact Mr. William Brubaker, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2242), before January 14, 1980, so that time allocations and the need for any special equipment, such as projectors, can be arranged. A copy of the oral presentation should be submitted to Mr. Brubaker not later than January 21. Any specific questions that interested parties would like to be answered by the NHTSA should also be submitted in writing by that date. These questions will be discussed at the meeting, as time permits. Additionally, there may be time for audience members at the meeting to ask questions of those persons making oral presentations. Persons whose presentations include slides, motion pictures or other visual aids should plan to submit copies for the record at the meeting. A transcript of the meeting will be taken and later submitted to the public docket. An agenda will be available at the meeting. Persons unable to attend the meeting may submit written comments by the date indicated at the beginning of this notice. In addition, persons who wish to supplement their oral comments with written comments may do so by the same date.

The engineer and lawyer primarily responsible for the development of this notice are William Brubaker and Hugh Oates, respectively.

#### Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief

Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR and 501.8)

Issued on: November 30, 1979.

Michael M. Finkelstein,  
Associate Administrator for Rulemaking.

[FR Doc. 79-37350 Filed 11-30-79; 2:30 pm]

BILLING CODE 4910-59-M



## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Parts 32 and 33

**Proposed Addition of Pocasse National Wildlife Refuge, South Dakota, to List of Open Areas; Upland Game Hunting, Big Game Hunting, and Sport Fishing.**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service proposes to add Pocasse National Wildlife Refuge, South Dakota, to the refuge areas open for upland game hunting, big game hunting, and sport fishing. The director has received information that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such uses are compatible with the major purposes for which the refuge was established. Upland game hunting, big game hunting, and sport fishing, subject to annual special regulations, will provide additional public recreational opportunity.

**DATES:** Comments must be received on or before January 7, 1980.

**ADDRESS:** Comments may be addressed to the Director, (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202-343-4305.

**SUPPLEMENTARY INFORMATION:** Ronald L. Fowler is the primary author of this proposed rulemaking. Areas within the National Wildlife Refuge System are closed to hunting or sport fishing until officially opened by rulemaking. The director may open refuge areas to hunting or sport fishing upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for the development, operation, and maintenance of the permitted forms of recreation. This action will be in accordance with provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management, and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuge to the hunting of

upland game, big game, and sport fishing.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment has been prepared and is available for public inspection and copying at room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the director at the address above. The policy of the Department of Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to the issuance of a final rule.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 10244 and 43 CFR Part 14.

Accordingly, it is proposed to amend 50 CFR Parts 32 and 33 by the addition of Pocasse National Wildlife Refuge in §§ 32.21, 32.31, and 33.4 as follows:

**§ 32.21 List of open areas; upland game.**

South Dakota

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Pocasse National Wildlife Refuge

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**§ 32.31 List of open areas; big game.**

• • • • •

South Dakota

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Pocasse National Wildlife Refuge

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**§ 33.4 List of open areas; Sport fishing.**

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South Dakota

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Pocasse National Wildlife Refuge

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Dated: November 16, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-37505 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-55-M

## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

**Rate-making and Economic Regulation Committee; Remedial Order Procedures of the Department of Energy; Treatment of Confidential Business Information; Meeting**

**AGENCY:** Administrative Conference of the United States; Committee on Rate-making and Economic Regulation.

**ACTION:** Committee meeting.

**AGENDA FOR MEETING:** The Committee will consider the comments it has received relating to the Committee's tentative recommendations on remedial order procedures of the Department of Energy. The Committee will also discuss a new project on agency treatment of confidential business information under exemption 4 of the Freedom of Information Act.

**DATE: TIME: PLACE:** December 13, 1979; 10 a.m.; Hearing Room A, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, DC.

**PUBLIC PARTICIPATION:** Attendance at the Committee's meeting is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The Committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during, or after the meeting. Minutes of the meeting will be available on request to the contact person.

**FOR FURTHER INFORMATION CONTACT:** William C. Bush, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone (202) 254-7065.

**SUPPLEMENTARY INFORMATION:**

**Remedial Order Procedures.** On September 19, 1979, the Administrative Conference Committee on Rate-making and Economic Regulation met to consider a draft report and proposed recommendations, submitted by Conference consultant Professor Alfred C. Aman, Jr. of Cornell Law School, on remedial order procedures of the Department of Energy.

The Committee agreed with the consultant that both the administrative and the judicial procedures for handling remedial orders include unnecessary duplication of decisionmaking actions. The Committee agreed in principle on tentative recommendations proposing that review of remedial orders by the Federal Energy Regulatory Commission and by district courts be abolished. The Committee also agreed that the procedural standards for handling remedial orders by the Office of Hearings and Appeals should be specified by statute, and that these standards should be similar to the present requirements of section 503 of the Department of Energy Organization Act.

By Federal Register notice of October 3, 1979 (44 FR 56972) the Committee requested comments on its tentative recommendations. On October 25, 1979, the Committee extended the comment deadline to November 19, 1979. (44 FR 61398.) On November 8, 1979, the Committee invited interested persons to address the Committee at a public hearing on November 28, 1979. (44 FR 64852.) The Committee has received several written comments. At the public hearing, the Committee heard presentations on behalf of the regulated industry and on behalf of the Department of Energy.

At the upcoming meeting on December 13, the Committee will consider all comments received, and will discuss the future of the remedial orders project.

**Confidential Business Information.** The Administrative Conference recently contracted with Professor Russel Stevenson of the National Law Center, George Washington University, to study the practices and procedures used by federal agencies in resolving issues arising under exemption 4 of the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Professor Stevenson will meet with the Committee on December 13 to discuss the scope of his work. Any

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recommendations which may result from this project will be considered by the Administrative Conference in plenary session during December of 1980.

Dated: December 4, 1979.

Richard K. Berg,

Executive Secretary.

[FR Doc. 79-37873 Filed 12-5-79; 8:45 am]

BILLING CODE 6110-01-M

## DEPARTMENT OF AGRICULTURE

## Forest Service

**Payette National Forest Grazing Advisory Board; Meeting**

The Payette National Forest Grazing Advisory Board will meet at 1 p.m., January 8, 1980, at the District Forest Ranger's Office, Council, Idaho. The purpose of this meeting is for the Board to make recommendations on the utilization of Range Betterment funds for fiscal year 1980.

The meeting will be open to the public. Persons who wish to attend should notify M. S. Wright, Payette National Forest, McCall, Idaho, 634-2255. Written statements may be filed with the Board before or after the meeting.

Dated: November 27, 1979.

William B. Sendt,

Forest Supervisor.

[FR Doc. 79-37434 Filed 12-5-79; 8:45 am]

BILLING CODE 3410-11-M

## Soil Conservation Service

**Five Creeks Watershed, Mississippi**

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of deauthorization of Federal funding.

**FOR FURTHER INFORMATION CONTACT:**

James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3527).

**Notice.**—Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Five Creeks Watershed project, Yazoo County, Mississippi, effective on November 13, 1979.



Dated: November 28, 1979.  
 (Catalog of Federal Domestic Assistance  
 Program No. 10.904, Watershed Protection  
 and Flood Prevention Program, Pub. L. 83-566,  
 16 U.S.C. 1001-1008)  
 Edward E. Thomas,  
*Assistant Administrator for Land Resources.*  
 [FR Doc. 79-37435 Filed 12-5-79; 8:45 am]  
 BILLING CODE 3410-16-M

## CIVIL AERONAUTICS BOARD

(Docket 36792)

Air North, Inc., Fitness Investigation;  
Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 13, 1979, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Information concerning the issues involved, other details in this proceeding, as well as other documents, may be found by consulting the docket in this proceeding.

Dated at Washington, D.C., November 29, 1979.

Richard M. Hartsock,  
*Administrative Law Judge.*  
 [FR Doc. 79-37514 Filed 12-5-79; 8:45 am]  
 BILLING CODE 6320-01-M

(Dockets 33361 and 32412)

Former Large Irregular Air Service  
Investigation (Application of Pearson  
Alaska Airlines); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 4, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 3, 1979.  
 Marvin H. Morse,  
*Administrative Law Judge.*  
 [FR Doc. 79-37515 Filed 12-5-79; 8:45 am]  
 BILLING CODE 6320-01-M

## DEPARTMENT OF COMMERCE

Economic Development  
AdministrationPetitions by Producing Firms for  
Determinations of Eligibility To Apply  
for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Die Mesh Corporation, 829 Fifth Avenue, Pelham, New York 10803, producer of nickel plated steel strip (accepted October 19, 1979); (2) Sen-Wel Industries, Inc., 1395 Clinton Street, Buffalo, New York 14240, producer of fabricated steel (accepted November 23, 1979); (3) Roslyn Screen Print, Inc., 410 Morgan Avenue, Brooklyn, New York 11211, producer of printed fabrics (accepted November 28, 1979); (4) A.R.F. Products, Inc., Gardner Road, Raton, New Mexico 87740, producer of CB radios, communications and security systems, and other electronic products (accepted November 26, 1979); (5) Duti-Duds, Inc., 300 Monticello, Lynchburg, Virginia 24501, producer of women's dresses, pantsuits, tops and uniforms (accepted November 26, 1979); (6) Vulcanized Rubber and Plastics Company, 5 South Pennsylvania Avenue, Morrisville, Pennsylvania 19067, producer of rubber and plastic molded products (accepted November 27, 1979); (7) Artspeak, Inc., 120 East 23rd Street, New York, New York 10010, producer of interior design materials including prints and art objects (accepted November 27, 1979); (8) Bee Em Manufacturing Company, Inc., 1421 Wallace Street, Philadelphia, Pennsylvania 19130, producer of boys' coats, suits and sportcoats (accepted November 27, 1979); (9) Utica Duxbak Corporation, 815 Noyes Street, Utica, New York 13502, producer of men's sports apparel, including coats, shirts, vests and pants (accepted November 27, 1979); (10) Rockingham Shoe Company, Spring and Elm Streets, Newmarket, New Hampshire 03857, producer of women's and children's shoes (accepted November 27, 1979); (11) Brokaw Industries, Inc., 292 Overlook Park, Cleveland, Ohio 44110, producer of fishing tackle (accepted November 27, 1979); (12) Jerold Rayne Corporation, 512 Seventh Avenue, New York, New York 10018, producer of men's and women's coats (accepted November 29, 1979); (13)

Piedmont Industries, Inc., 1250 Broadway, New York, New York 10001, producer of men's and boys' shirts and pants (accepted November 29, 1979); (14) Mar-Pearl Company, 823 Polo Road, Oregon, Illinois 81061, producer of shell and plastic parts and accessories for musical instruments (accepted November 30, 1979); (15) J. C. Sportswear Company, Inc., 280 West 35th Street, New York, New York 10001, producer of women's pants, vests, skirts and jackets (accepted December 3, 1979); and (16) East Coast Steel, Inc., Box 276, Eastover, South Carolina 29044, producer of steel joists (accepted November 30, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Charles L. Smith,  
*Acting Chief, Trade Act Certification  
 Division, Office of Eligibility and Industry  
 Studies.*

[FR Doc. 79-37513 Filed 12-5-79; 8:45 am]  
 BILLING CODE 3510-24-M

## DEPARTMENT OF DEFENSE

## Department of the Air Force

USAF Scientific Advisory Board;  
Meeting

November 28, 1979.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will hold meetings on February 14, 1980 from 8:30 a.m. to 5:00 p.m. and from 8:30 a.m. to 12:00 p.m. on February 15, 1980, at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,  
*Air Force Federal Register, Liaison Officer.*

[FR Doc. 79-37437 Filed 12-5-79; 8:45 am]  
 BILLING CODE 3910-01-M

USAF Scientific Advisory Board;  
Meeting

November 29, 1979.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group will hold meetings on January 17, 1980 from 8:00 a.m. to 5:00 p.m. and on January 18 from 8:00 a.m. to 1:00 p.m. at Wright-Patterson AFB, Ohio.

The Group will receive classified briefings and participate in classified discussions related to assessments of foreign ground based radars, laser applications, infra-red techniques and mathematical programming. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,  
*Air Force Federal Register, Liaison Officer.*

[FR Doc. 79-37436 Filed 12-5-79; 8:45 am]  
 BILLING CODE 3910-01-M

## Department of the Army

Notice of Intent To Prepare a Draft  
Environmental Impact Statement  
(DEIS) for Texas City Channel, Tex.

AGENCY: Galveston District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

## Summary:

1. The DEIS covers the possible alternatives for deepening the existing Texas City Channel, a Federally constructed deep draft navigation channel. The project is primarily concerned with improving the navigational efficiency of the port facilities of Texas City, Texas City and the adjacent City of LaMarque are located approximately 40 miles southeast of Houston and 15 miles

northwest, and across Galveston Bay, from the City of Galveston. The cities of Texas City and LaMarque had an estimated combined population of 63,000 in 1977. There are eight separate petroleum or chemical industries in Texas City and the economy of the area is based on this petroleum/chemical industry. Our neighboring communities within Galveston County also depend on the industries of Texas City as a source of employment and economic base.

2. The alternatives to be considered in this DEIS include channel depths of 45, 50, 53, and 55 feet; several disposal schemes including wetlands creation, dike enhancement, and offshore disposal; alternate methods of transporting petroleum; and no action.

3. a. Coordination of the project has included a public meeting, individual consultation with local governing bodies, and a planning aid document from U.S. Fish and Wildlife Service. The public meeting was held in April 1977 to present information and to obtain views and public preferences on alternative plans developed.

b. Important environmental considerations to be analyzed as a result of past coordination and participation include: (1) replenishment of the environmental quality of Galveston Bay, (2) safe transportation, (3) access roads on the Texas City Dike, (4) dredge material disposal, (5) Galveston Bay salinity.

c. Coordination and consultation will continue with appropriate local, State, and Federal agencies and the interested public.

d. Other environmental consultation and review will be conducted in accordance with various laws and regulations.

4. A public meeting specifically to determine the scope of the DEIS will not be held. However, all previous and future input to studies for the project will be considered in the scoping process.

5. The DEIS is scheduled to be available to the public in July 1980.

Address: Questions about the proposed action and DEIS can be answered by Mr. C. R. Harbaugh, Chief, Environmental Resources Branch, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, (713) 763-1211, extension 492.

Dated: November 23, 1979.

James M. Sigler,  
*Colonel, Corps of Engineers, District  
 Engineer.*

[FR Doc. 79-37438 Filed 12-5-79; 8:45 am]  
 BILLING CODE 3710-GK-M

## DEPARTMENT OF ENERGY

Office of Assistant Secretary for  
International AffairsProposed Subsequent Arrangement;  
United States and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden.

The subsequent arrangement to be carried out under the above mentioned agreements involves the approval of the following retransfer:

RTD/SW(EU)-108, retransfer from West Germany to Sweden of 13,697.403 kilograms uranium, containing 340.743 kilograms U-235 (2.49%) in the form of fuel elements for the Oskarshamn-1 power reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 21, 1979.

For the Department of Energy.

Dated: December 4, 1979.

Frederick McGoldrick,  
*Acting Director for Nuclear Affairs,  
 International Nuclear and Technical  
 Programs.*

[FR Doc. 79-37649 Filed 12-5-79; 8:45 am]  
 BILLING CODE 6450-01-M

## Economic Regulatory Administration

(ERA Case No. 50256-3325-04-77)

Ben French No. 4; Black Hills Power &  
Light Co.; Classification as an Existing  
Facility

AGENCY: Economic Regulatory  
 Administration, Department of Energy.

ACTION: Determination to Classify the  
 Black Hills Power and Light Company  
 Ben French No. 4 as an Existing Facility.

SUMMARY: On June 4, 1979, Black Hills Power and Light Company (Black Hills) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Ben French No. 4 as an existing facility pursuant to Section 515.8 of the Revised Interim Rule to Permit Classification of Certain



Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA).

ERA has completed its analysis of Black Hills' request and has determined that Black Hills has satisfactorily demonstrated that it would suffer a substantial financial penalty. Black Hills had expended, in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for Ben French No. 4 within the meaning of Section 515.6 of the Revised Interim Rule.

ERA has classified Black Hills' Ben French No. 4 an "existing" facility and it is therefore subject to the provisions of Title III of FUA.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone: (202) 634-2170.

James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone: (202) 254-7442.

Marx M. Elmer, Office of the General Counsel, Department of Energy, 1000 Independence Ave., SW., Rm. 6G-087, Washington, D.C. 20585, Phone: (202) 252-2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 634-6557.

**SUPPLEMENTARY INFORMATION:** (1) On June 4, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Black Hills requested that ERA classify Black Hills' Ben French No. 4 as an "existing" facility. On September 28, 1979, ERA published at 44 FR 55925 a summary of Black Hills' request for classification and requested comments by interested persons on or before October 19, 1979. ERA has received comments in support of Black Hills' request from the South Dakota Public Utilities Commission.

(2) ERA has analyzed the material submitted by Black Hills applicable to Ben French No. 4 and has classified the unit an existing facility on the basis that Black Hills has satisfactorily demonstrated that it would suffer a substantial financial penalty because it had expended, in nonrecoverable outlays, more than 25% of the total projected project cost as of November 9,

1978, for Ben French No. 4 within the meaning of Section 515.6 of the Revised Interim Rule. A copy of ERA's Summary of Analysis dated October 24, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., November 29, 1979.

Robert L. Davies,  
Assistant Administrator, Office of Fuels  
Conversion, Economic Regulatory  
Administration.

[FR Doc. 79-37543 Filed 12-5-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [ERA Case No. 50868-9005-21-77]

##### Copper Station No. 1; El Paso Electric Co.; Classification as an Existing Facility

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Determination to Classify the El Paso Electric Company Copper Station No. 1 as an Existing Facility.

**SUMMARY:** On June 4, 1979, El Paso Electric Company (El Paso) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Copper Station No. 1 as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA).

ERA has completed its analysis of El Paso's request and has determined that El Paso has satisfactorily demonstrated that it would suffer substantial financial penalty. El Paso had expended, in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for Copper Station No. 1 within the meaning of Section 515.6 of the Revised Interim Rule. ERA has classified El Paso's Copper Station No. 1 an "existing" facility and it is therefore subject to the provisions of Title III of FUA.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone: (202) 634-2170.

James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone: (202) 254-7442.

Marx Elmer, Office of the General Counsel, Department of Energy, 1000 Independence Ave., SW., Rm. 6G-087, Washington, D.C. 20585, Phone: (202) 252-2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 634-6557.

**SUPPLEMENTARY INFORMATION:** (1) On June 4, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, El Paso requested that ERA classify El Paso's Copper Station No. 1 as an "existing" facility. On September 28, 1979, ERA published, at 44 FR 55926, a summary of El Paso's request for classification and requested comments by interested persons on or before October 19, 1979. The published summary of El Paso's request contained a typographical error. The figure of \$7,042,309 was incorrectly identified as "Total projected project costs" and should have been identified as "Total project expenditures." However, ERA does not believe that the error is significant since no comments have been received.

(2) ERA has analyzed the material submitted by El Paso applicable to Copper Station No. 1 and has classified the unit an existing facility on the basis that El Paso has satisfactorily demonstrated that it would suffer a substantial financial penalty because it has expended, in nonrecoverable outlays, more than 25% of the total projected project cost as of November 9, 1978, within the meaning in Section 515.6 of the Revised Interim Rule. A copy of ERA's Summary of Analysis dated October 24, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., November 30, 1979.

Robert L. Davies,  
Assistant Administrator, Office of Fuels  
Conversion, Economic Regulatory  
Administration.

[FR Doc. 79-37544 Filed 12-5-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [ERA Case No. 51913-2176-21-77]

##### Glendive Combustion Turbine Unit No. 1; Classification as an Existing Facility

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Determination to Classify the Montana-Dakota Utilities Company Glendive Combustion Turbine Unit No. 1 as an Existing Facility.

**SUMMARY:** On May 31, 1979, Montana-Dakota Utilities Company (MDU) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Glendive Combustion Turbine Unit No. 1 as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA).

ERA has completed its analysis of MDU's request and has determined that MDU has satisfactorily demonstrated that it would suffer a substantial financial penalty. MDU had expended, in nonrecoverable outlays, more than 25 percent of the total projected cost as of November 9, 1978, for the Glendive Combustion Turbine Unit No. 1 within the meaning of Section 515.6 of the Revised Interim Rule.

ERA has classified that MDU's Glendive Combustion Turbine No. 1 an "existing" facility and it is therefore subject to the provisions of Title III of FUA.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone: (202) 634-2170.

James W. Workman, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone: (202) 254-7442.

Edward Jiran, Office of General Counsel, Department of Energy, 1000 Independence Ave., SW., Rm. 6G-087, Washington, D.C. 20585, Phone: (202) 252-2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 634-6557.

**SUPPLEMENTARY INFORMATION:** (1) On May 31, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, MDU requested that ERA classify MDU's Glendive Combustion Turbine Unit No. 1 as an "existing" facility. On October 22, 1979, ERA published at 44 FR 60791, a summary of MDU's request for classification and requested comments by interested persons on or before November 13, 1979. ERA has not received any comments in response to the notice.

(2) ERA has analyzed the material submitted by MDU applicable to the Glendive Combustion Turbine Unit No. 1 and has classified the unit as existing facility on the basis that MDU has satisfactorily demonstrated that it would suffer a substantial financial penalty because it had expended, in nonrecoverable outlays, more than 25% of the total projected project cost as of November 9, 1978, for the Glendive Combustion Turbine Unit No. 1 within the meaning of Section 515.6 of the Revised Interim Rule. A copy of ERA's Summary of Analysis dated November 19, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., November 29, 1979.

Robert L. Davies,  
Assistant Administrator, Office of Fuels  
Conversion, Economic Regulatory  
Administration.

[FR Doc. 79-37545 Filed 12-5-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [ERA Case No. 51892-6074-04-77]

##### Greenwood Unit No. 4, Missouri Public Service Co.; Classification as an Existing Facility

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Determination to Classify the Missouri Public Service Company Greenwood Unit No. 4 as an Existing Facility.

**SUMMARY:** On June 5, 1979, Missouri Public Service Company (Mo Pub) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Greenwood Unit No. 4 as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA).

ERA has completed its analysis of Mo Pub's request and has determined that Mo Pub has satisfactorily demonstrated that it would suffer a substantial financial penalty. Mo Pub had expended, in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for the Greenwood Unit No. 4 within the meaning of Section 515.6 of the Revised Interim Rule.

ERA has classified Mo Pub's Greenwood Unit No. 4 an "existing" facility and it is therefore subject to the provisions of Title III of FUA.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone: (202) 634-2170.

James W. Workman, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Phone: (202) 254-7442.

James Renjilian, Office of the General Counsel, Department of Energy, 1000 Independence Ave. SW., Rm. 6G-087, Washington, D.C. 20585, Phone: (202) 252-2967.

Robert L. Davies, Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128L, Washington, D.C. 20461, Phone: (202) 634-6557.

**SUPPLEMENTARY INFORMATION:** (1) On June 5, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Mo Pub requested that ERA classify Mo Pub's Greenwood Unit No. 4 as an "existing" facility. On October 15, 1979, ERA published a summary of Mo Pub's request for classification in the *Federal Register* and requested comments by interested persons on or before November 5, 1979. ERA has not received any comments in response to the notice published by ERA in the *Federal Register* on October 15, 1979.

(2) ERA has analyzed the material submitted by Mo Pub applicable to Greenwood Unit No. 4 and has classified the unit an existing facility on the basis that Mo Pub has satisfactorily demonstrated that it would suffer a substantial financial penalty because it had expended in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for Greenwood Unit No. 4 within the meaning of Section 515.6 of the Revised Interim Rule. A copy of ERA's Summary of Analysis dated November 19, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., November 29, 1979.

Robert L. Davies,  
Assistant Administrator, Office of Fuels  
Conversion, Economic Regulatory  
Administration.

[FR Doc. 79-37546 Filed 12-5-79; 8:45 am]  
BILLING CODE 6450-01-M



**ENVIRONMENTAL PROTECTION AGENCY**

(FRL 137-3; OTS-51009)

**Receipt of Premanufacture Notices****AGENCY:** Environmental Protection Agency (EPA, or the Agency).**ACTION:** Receipt of Premanufacture Notices.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the Federal Register. This Notice announces receipt of two PMNs and provides a summary of each.

**DATE:** Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

**ADDRESS:** Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Wilson (5AHQ-1179-0007A), telephone: 202/426-3980, and Ann Radosevich (5AHQ-1179-0010A), telephone: 202/426-2601, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979 (44 FR 28559). (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558).) The requirement to submit a PMN for new chemical substances manufactured

or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, and the generic use and potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided EPA will develop one and, after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period

for up to an additional 90 days. If EPA determines that an extension is necessary, it will public a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

(Sec. 5, Toxic Substances Control Act (90 Stat. 2012; (15 U.S.C. 2604))

Dated: November 29, 1979.

Blake A. Biles,

Deputy Assistant Administrator for Chemical Control.

**PMN No. 5AHQ-1179-0007A**

**Close of Review Period:** February 13, 1980.

**Manufacturer's Identity:** Celanese Plastic & Specialties Co., 1495 South 11 St., Louisville, KY 40208.

**New Chemical Substance:** The generic name of the substance for this PMN is (alkyl hydroxymethyl alkanediol polymer with chloromethyl oxirane) alkenoate. The company claims the specific chemical identity to be confidential.

**Uses:** The substance is intended primarily to be used as a component of a paper coating and adhesive system designed to be cured by high-energy radiation. As such, it will be used in industrial installations designed to handle highly reactive materials. The substance will also be used as an ink vehicle. The company anticipates that, for the first three calendar years of production, a maximum of 1,000 kg/yr, 20,000 kg/yr, and 50,000 kg/yr, consecutively, will be manufactured for these uses. The company estimates that, during manufacture, a maximum of 4 workers may come in dermal contact with the substance and a maximum of 2 workers may be exposed to it through inhalation. The company believes that, because the manufacturing process is a closed batch process, worker contact with the substance is likely to occur only during filling, sampling, and cleansing operations. The company estimates the total number of workers exposed to the substance during processing to be less than 100 individuals during the first three years of manufacture, and that this exposure would be due to dermal contact and inhalation.

**Data Submitted:** The substance is defined as an acrylated epoxy resin. The

company submitted the following data concerning the physical and chemical properties of the substance.

| Test         | Value          |
|--------------|----------------|
| Density      | 1.09.          |
| Viscosity    | 180-210 poise. |
| Acid Value   | 5 Max.         |
| Weight/Epoxy | 16,000 Min.    |
| Flash Point  | >200 °F.       |
| Color        | 5 Max.         |
| Solubility:  |                |
| Toluene      | Sol.           |
| Acetone      | Sol.           |
| Water        | Insol.         |

The company stated that, while toxicity data on the specific polymer are not available, related products have been shown to have low acute oral toxicity. The company also said that products of this type can be expected to be potential skin sensitizers and irritants. The company submitted no data on health and environmental effects of the polymer.

**PMN No. 5AHQ-1179-00110A**

**Close of Review Period:** February 13, 1980.

**Manufacturer's Identity:** Stein Hall Company, Inc., Subsidiary of Celanese Corporation, 7351 South 78th Ave., Chicago, Illinois 60502.

**New Chemical Substance:** The generic name of the substance for this PMN is 2-ethyl hexyl-2-propenoate polymer with alkyl 2-methyl-2-propenoate and alkyl 2-propenoate. The company claims the specific chemical identity of the substance to be confidential.

**Uses:** The substance is defined as a polymer adhesive. End use application of polymer systems similar to this substance have included paints, textile treatments, adhesives, paper coating, binders for non-woven structures such as diapers, and other miscellaneous applications. The company anticipates that for the first three calendar years a maximum of 125,000 kg/yr, 250,000 kg/yr, and 500,000 kg/yr, consecutively, will be produced for this use. The manufacturer states that direct worker exposure is minimal and is limited to dermal contact during material transfer and clean-up operations. There is some potential for worker exposure due to splashing or aerosol formation in the roller coater operation.

**Data Submitted:** The company submitted the following data concerning physical and chemical properties of the substance:

| Test          | Value        |
|---------------|--------------|
| Non-Volatile  | 59-61%.      |
| Viscosity     | 50 poise.    |
| Acid Number   | <10.         |
| Particle Size | <.3 microns. |
| Free Monomer  | <5%.         |

The company claimed that other data concerning health and environmental effects are unavailable.

(FR Doc. 79-37476 Filed 12-5-79; 8:45 am)

BILLING CODE 6560-01-M

**FEDERAL COMMUNICATIONS COMMISSION**

(FCC 79-703, BC Docket No. 79-286, File No. BPCT-5089, et al.)

**Central Texas Broadcasting Co., et al.**

In re applications of Central Texas Broadcasting Co., Ltd., a Limited partnership (Robert A. Mann, General Partner), Waco, Texas (BC Docket No. 79-286, File No. BPCT-5089); Business Communications, Inc., Waco, Texas (BC Docket No. 79-287, File No. BPCT-5126); Blacke-Potash Corp., Waco, Texas (BC Docket No. 79-288, File No. BPCT-5133); and Heart O'Texas Broadcasting, Inc., Waco, Texas (BC Docket No. 79-289, File No. BPCT-5134); For a construction permit for a new television broadcast station; Memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: October 25, 1979.

Released: December 4, 1979.

By the Commission: Commissioners Fogarty and Jones dissenting and issuing a joint statement.

1. The Commission has before it the above-captioned applications of Central Texas Broadcasting Company (CTB), Business Communications, Inc. (BCI), Blake-Potash Corporation (B-P), and Heart O'Texas Broadcasting, Inc. (HOT) for authority to construct a new commercial television broadcast station on channel 25 at Waco, Texas; petitions to specify issues; and related pleadings. The applications are mutually exclusive in that operation of applicants' proposed stations would result in mutually destructive interference.

**Procedural Matters**

2. On August 11, 1978, applicants filed with the Commission a "Joint Stipulation" in which they waived the right to predesignation deficiency letters and agreed upon dates for filing predesignation amendments to their applications and dates for filing petitions to specify issues and oppositions thereto. The parties' agreement contemplated that amendments after September 18, 1978, the date specified for predesignation amendments, would be accepted upon a showing of good cause.

3. The "Joint Stipulation" described above was entered into with the encouragement of the Commission staff

in an attempt to expedite the designation of these applications for hearing. Subsequently, the Commission adopted new procedures<sup>1</sup> for application processing which are designed to eliminate the bottlenecks applicants sought to avoid through their "Joint Stipulation." Accordingly, these applications will be considered under the revised processing procedures with the caveat that any amendment filed after September 18, 1978, will be considered only insofar as it relates to the applicants' basic qualifications, i.e., the comparative status is fixed as of the close of business September 18, 1978. All amendments filed to date will be accepted with this provision. This should effectuate the parties' intention expressed in their "Joint Stipulation." Finally, the petitions to specify issues and the oppositions thereto which the parties have filed will be considered only insofar as they contain information not contained in the applications. Any requested issue not discussed below may be raised before the Administrative Law Judge as contemplated in the revised application processing procedures.

**Central Texas Broadcasting Co.**

4. CTB's opponents seek to have issues specified inquiring into: (a) CTB's compliance with the disclosure requirements of Section 73.3514 of the Rules;<sup>2</sup> (b) character qualifications; (c) financial qualifications; (d) ascertainment efforts; and (e) the energy efficiency of its technical proposal.

5. CTB is a limited partnership consisting of Robert A. Mann and three trusts, the beneficiaries of which are Mr. Mann's children. Mr. Mann is the applicant's general partner and one percent owner while Walter Rusek, as trustee for Mr. Mann's children, is the limited partner and 99 percent owner of the applicant.

6. Table I, Section II of FCC Form 301 requests of applicants which are limited partnerships the name, address, date, place of birth, partnership interest and percent ownership interest of each general and limited partner. When first responding to this question, CTB omitted all information on Walter Rusek, supplying instead, information on the beneficiaries of each limited partnership interest. The financial and business interests of Mr. Rusek were omitted from Table II, Section II of CTB's application. Finally, the information

<sup>1</sup> Revised Procedures for the Processing of Contested Broadcast Applications, 45 FR 2d 1220 (1979).

<sup>2</sup> Rule 73.3514 requires that each application for a construction permit include all information called for by the application form.



originally supplied in Table II, Section II of the application on Mr. Mann's business interest for the past five years omitted information on all business interests which were not held by Mr. Mann at the time CTB filed its application. On the basis of these omissions, CTB's opponents seek an issue inquiring into CTB's compliance with Rule 73.3514.

7. A § 73.3514 issue inquiring into these matters will not be specified. The omissions in the CTB application are not so numerous as to establish a pattern of nondisclosure. In fact, much of the information allegedly omitted is contained in the exhibits submitted in the application. The omitted Section II information concerning Mr. Mann and Mr. Rusek has been supplied. This information raises no question under our policies and rules, and we believe its omission was inadvertent.

8. The character issue is sought against CTB on the following grounds: (a) the omission in Section II of CTB's application discussed previously were made intentionally; (b) past and present civil and criminal litigation involving Mr. Mann raises questions concerning CTB's fitness to be a Commission licensee; and (c) CTB's reporting of litigation involving its principals has been inaccurate. The requested issue concerning Mr. Mann's character is based upon the following: (a) in 1972, Mann was denied specific performance on an option to purchase stock in the Citizens State Bank of Kilgore for failure to exercise his option to purchase that stock in accordance with its terms; (b) the same year the Federal Reserve Board denied Southwest Bancorporation, a bank holding corporation Mann controlled, authority to acquire four banks because minority shareholders were not offered as much for their shares of the bank stock as Mann and his affiliates were and because excessive bank management fees were charged to the banks by a corporation controlled by Mr. Mann; (c) in 1975 the Sabine National Bank of Port Arthur, a bank controlled by Mann, was denied recovery on an installment sale contract and was assessed a penalty for violations of Texas' usury laws; (d) in 1976 Mann was tried and acquitted on charges of conspiring to defraud shareholders of the First National Bank of Waco; and (e) two civil actions were filed in which complainants sought to recover damages and penalties from Mr. Mann and his children's trusts for alleged violations of the Texas usury laws.

9. In examining character, we are basically concerned with the

prospective licensee's candor in its dealings with us and its willingness to comply with our rules and policies. Determining whether to specify a character issue against an applicant involves assessing allegations of misconduct in terms of their factual basis and their relevance to the applicant's conduct as a licensee. There does not appear to be a factual basis for CTB's opponents' allegations that it intentionally omitted information from Section II of its application and that it misrepresented the substance of past and present litigation affecting its principals. Much of the information allegedly omitted from Section II was present in the exhibits to the application. Complete Section II information has been supplied by an amendment and none of this data reflects adversely on the applicant. Finally, review of the information on past and pending litigation involving CTB principals originally contained in the application shows this data to be factually accurate, if somewhat brief.

10. The requested character issue concerning Robert Mann's history of litigation will be specified to a limited extent. We do not believe an inquiry into the matters surrounding Mr. Mann's indictment on felony charges is warranted. Mr. Mann was acquitted after trial and the allegations of fact concerning Mr. Mann's alleged criminal misconduct have not been supported by affidavits of individuals with personal knowledge thereof as required by § 73.3584 of our rules. The Federal Reserve Board's refusal to allow a bank holding company controlled by Mr. Mann to acquire four additional banks rested on grounds unrelated to Mr. Mann's candor or his willingness to comply with rules. The Board's holding is, therefore, unenlightening in evaluating Mr. Mann's character for our purposes. The same holds true of civil judgments rendered against Mr. Mann in his attempts to acquire bank stock.

11. Mr. Mann's alleged involvement in usurious transactions in the State of Texas is relevant to his willingness to obey rules and regulations. The petitions to specify issues against CTB show that there have been a number of law suits alleging that Mr. Mann engaged in usury.<sup>3</sup> The facts in one of these cases, *Vaughn v. Mann*, Case No. 31,157 (District Court Anderson County, Tx.) have been supported by an affidavit of the plaintiff as required by § 73.3584 of the rules. Although this case has been

<sup>3</sup> The facts alleged concerning the usury judgment against the Sabine National Bank of Port Arthur do not reflect adversely on Mr. Mann's character, since nothing indicates that he had any connection with the transaction giving rise to the suit.

settled without adjudication of the facts, we believe that exploration of the conduct giving rise to Mr. Vaughn's suit could render information relevant to assessing CTB's comparative qualifications and an appropriate issue will be specified inquiring into this matter.

12. It appears from CTB's cost estimates that it will cost \$3,797,872 to construct its proposed station and to operate it for three months. This breaks down as follows:

|                     |             |
|---------------------|-------------|
| Broadcast Equipment | \$3,510,000 |
| Land and Building   | 24,000      |
| Legal Costs         | 10,000      |
| Engineering         | 4,000       |
| Installation        | 10,000      |
| Other Miscellaneous | 45,000      |
| Operating Costs     | 194,872     |

To meet these costs, CTB relies on the following funds totalling \$5,851,900:

|                                                                                                       |           |
|-------------------------------------------------------------------------------------------------------|-----------|
| Partnership Assets                                                                                    | \$30,000  |
| First National Bank of Waco Loan (net)                                                                | 3,400,000 |
| Net Deferred Credit from Equipment Supplier (adjusted to account for 3 monthly payments on equipment) | 2,421,900 |

13. CTB's opponents assert that it is not financially qualified for the following reasons: (a) the letter from the equipment supplier does not provide reasonable assurance of the availability of \$2,421,900 in deferred credit; (b) pending litigation could subject Mr. Mann and his children's trusts to over \$4,000,000 in liability; (c) it is doubtful that the bank would have committed itself to loan CTB \$3,400,000 had it known of the potential liability Mr. Mann and the trusts face in pending litigation; and (d) the high debt to equity ratio of the company raises questions of whether the proposed station could operate beyond its first year.

14. The RCA equipment letter CTB relies upon contains no indication that RCA examined and was satisfied with CTB's financial status prior to writing the letter. Absent such a preliminary credit check, there is no reasonable assurance that deferred credit from RCA will be available to CTB. RA-AD of Soddy, 56 FCC 2d 1055 (Review Board 1975). Accordingly, and issue will be specified inquiring into the availability of \$2,421,900 in deferred credit from RCA to CTB.

15. No issue will be specified inquiring into the effect on CTB's financial qualifications of potential liability arising from litigation. In a letter dated November 28, 1978 the president of the First National Bank of Waco stated that the bank was aware of pending litigation involving Mr. Mann and the trusts at the time it indicated its willingness to loan CTB funds to finance the proposed station. Further, Mr. Mann and the trust have already made all capital contributions required of them by the limited partnership agreement.

16. BCI seeks an issue inquiring into CTB's ability to finance its second year of operation on the grounds that the high debt to equity ratio of CTB's capital structure creates a risk that the proposed station will collapse under the weight of debt service during its second year on the air. *Midwest St. Louis, Inc.*, 65 FCC 2d 673 (1977); *Maranatha, Inc.*, 56 FCC 2d 194 (1974); *Greenfield Broadcasting Corp.*, 32 FCC 2d 135 (1971), *A-C Broadcasters*, 10 FCC 2d 256 (1967), and *Ultravision Broadcasting Co.*, 1 FCC 2d 544 (1965), are cited for the proposition that the presumption that a broadcast station surviving its first year will be financially viable thereafter is significantly diminished where there has been substantial debt deferral and the applicant's capital structure is characterized by a high debt to equity ratio.

17. Recently we issued a public notice<sup>4</sup> announcing the modification of our financial qualifications standard for television applicants. Instead of requiring applicants to demonstrate the financial ability to construct and operate their proposed stations for one year, we now require that applicants have sufficient financial resources to construct the station and then operate for 90 days without broadcast revenue. We believe that permitting inquiries into applicants' financial ability to operate for a period longer than 90 days will tend to undo the balance of competing interests we struck in adopting the 90 day standard. Rules concerning time to construct stations and trafficking in construction permits and licenses provide ample incentive for applicants to avoid financial arrangements which could prevent continued operation of their proposed stations. No issue will be specified against CTB inquiring into its ability to operate its proposed station for more than three months after construction. The cases cited in paragraph 16 arose under the financial standard we recently abandoned and are not controlling in this instance.

18. BCI has submitted a newspaper article in which Robert Mann is quoted as saying CTB's proposed station "would serve the needs of Waco and Central Texas minorities and provide a significant voice for local opinions by these minority groups." BCI alleges that this statement was made prior to completion of CTB's ascertainment and this indicates that Robert Mann predetermined the results of CTB's ascertainment. We believe Mr. Mann's expressed desire to serve the needs of

<sup>4</sup> New Financial Qualifications Standard for Broadcast Television Applicants, 45 FR 2d 925 (1979).

minorities with CTB's proposed station is not probative evidence of a "rigged" ascertainment. BCI has not alleged that CTB failed to interview leaders of significant community groups or that it failed to report accurately the problems and needs discussed in ascertainment interviews. Thus, no ascertainment issue will be specified against CTB.

19. BCI requests that an issue be specified inquiring into the energy efficiency of CTB's technical proposal. BCI's argument is as follows: (a) Section 324 of the Communications Act of 1934, as amended, requires broadcasters to use the minimum amount of power necessary to carry out communications desired; (b) energy conservation is a high national priority expressed in Congress's passage of the National Energy Act of 1978; (c) Section 307(b) of the Communications Act requires consideration of efficiency of broadcast stations; (d) by proposing a five megawatt operation, CTB's signal will reach only 1,215 more people than if it were proposing a 2.5 megawatt operation; and, therefore, (e) an energy efficiency issue should be specified against CTB.

20. BCI's arguments ignore the fact that the requirements of Sections 307(b) and 324 of the Communications Act were taken into consideration when we adopted the Television Table of Assignments and our rules concerning maximum power and antenna height. To hold otherwise is to assume that we acted in violation of the Act in adopting our television channel allocations scheme. Accordingly, since CTB's proposal meets the technical requirements of our rules, no energy issue will be specified against CTB.

#### Business Communications, Inc.

21. BCI's opponents seek to have issues specified against it inquiring into the following: (a) BCI's character qualifications; (b) financial qualifications; (c) ascertainment effort; (d) compliance with § 73.3514 of the rules; (e) compliance with our cross interest policies; (f) the sufficiency of its equipment proposal; and (g) the availability of its proposed transmitter site.

22. In 1976, Texas Steel Company, BCI's 94 percent shareholder, pleaded *nolo contendere* to a 1973 indictment charging that, between mid-1969 and late 1972, it conspired with other producers of steel reinforcing bars to stabilize the price of steel reinforcing bars in the State of Texas, to restrict bidding on contracts for steel reinforcing bars and to divide markets, and that it attempted to monopolize steel reinforcing bars in the State of Texas. A

number of civil actions were filed concerning the conduct which gave rise to the indictment.<sup>5</sup> Further, as a result of a court-approved settlement, Texas Steel paid \$18,000 in civil penalties for violations of the Texas Clean Air Act and was enjoined to complete its air pollution abatement program. The conduct underlying these civil and criminal actions forms part of the basis for the request of BCI's opponents that a character issue be specified against BCI. B-P submits one further ground for a character issue against BCI. It asserts that BCI's business of providing ascertainment services to broadcasters is "nothing more than a means of subverting the Commission's ascertainment requirements . . . ."

23. Evaluation of BCI's character involves examination of those portions of its principals' past conduct which are relevant to its ability to operate a broadcast station in the public interest. Violations of federal laws are always considered relevant conduct and are evaluated, in part, in terms of the following factors: (a) whether the conduct was inadvertent or intentional; (b) the duration of the conduct; (c) whether the conduct was an isolated incident or part of a pattern of activity; and (d) the recentness of the conduct. *Violation by Applicants of Laws of U.S.*, 42 FCC 2d 399 (1951). Texas Steel's alleged misconduct in this instance took place over seven years ago. It is the only antitrust incident in Texas Steel's 75-year history. The alleged misconduct did not involve broadcasting and it is the subject of several pending suits. Under these circumstances, we believe Texas Steel's alleged antitrust activities are relevant solely to BCI's comparative qualifications. Accordingly an appropriate issue will be specified inquiring into the activity leading to Texas Steel's *nolo contendere* plea to the criminal antitrust charges.

24. The Texas Clean Air Act violation allegedly committed by Texas Steel does not appear to be conduct relevant to evaluating BCI's prospective conduct as a broadcast licensee. BCI has explained that the violations resulted from technical difficulties in controlling fugitive emissions. The director of the

<sup>5</sup> The following civil suits were filed: (a) *U.S. v. Armco Steel Corp.*, Civil Action No. 73-H-336 (S.D. Tex. filed —, 1973); (b) *Summit Office Park, Inc. v. U.S. Steel Corp.*, Civil Action No. 73-H-1512 (S.D. Tex. filed November 2, 1973); (c) *T & T Builders Co. v. Armco Steel Corp.*, Civil Action No. 73-H-1551 (S.D. Tex. filed November 13, 1973); (d) *Texas v. U.S. Steel Corp.*, Civil Action No. 74-H-533 (S.D. Tex. filed April 18, 1974); (e) *A&R Construction Co. v. Armco Steel Corp.*, Civil Action No. H-79-420 (S.D. Tex. filed —); and (f) *Texas v. U.S. Steel Corp.*, Case No. 279190 (District Court Travis County, Tex. filed —).



Department of Public Health, City of Fort Worth, Texas, has written a letter confirming Texas Steel's compliance with clean air regulations and commending the company for its efforts to control fugitive emissions. No character issue will be specified against BCI on these grounds.

25. B-P's request for a character inquiry based on BCI's ascertainment consulting business will also be denied. B-P alleges no facts tending to establish its assertion that BCI's ascertainment services are a scheme to subvert our ascertainment process. The BCI brochure attached to the "Petition of Blake-Potash Corporation to Specify Issues Against Business Communications, Inc." only demonstrates that BCI is offering to provide broadcast licensees and applicants assistance in conducting ascertainment surveys. B-P cites no instance in which BCI services have been used to circumvent our ascertainment requirements.

26. Examination of BCI's application reveals that it will cost approximately \$3,119,186 to construct BCI's proposed station and operate it for three months. This breaks down as follows:

|                     |             |
|---------------------|-------------|
| Broadcast Equipment | \$2,741,186 |
| Land and Building   | 25,000      |
| Legal Costs         | 50,000      |
| Engineering         | 5,000       |
| Installation        | 50,000      |
| Other Miscellaneous | 35,000      |
| Operating Costs     | 213,000     |

To meet these costs, BCI relies upon the following funds totalling \$4,217,500:

|                                              |             |
|----------------------------------------------|-------------|
| Texas Steel Loan (net)                       | \$1,300,000 |
| First National Bank of Fort Worth Loan (net) | 2,917,500   |

27. CTB alleges that BCI's claimed financial cushion is illusory and that the applicant's balance sheet shows it to be heavily in debt. CTB argues further that BCI cannot rely on Texas Steel's credit as a source of funds because pending lawsuits subject Texas Steel to a potential liability of \$90,000,000 and because Texas Steel has not supplied a balance sheet as required by Section III, Question 4(b) of the application form.

28. The conclusions CTB draws from BCI's balance sheet do not appear to be warranted. A substantial portion of BCI's indebtedness is to Texas Steel Company and Texas Steel has indicated that it would not require payment of interest or principal on this debt until BCI is capable of making these payments without endangering its operations. CTB has also erred in disallowing \$37,000 in BCI trade accounts listed on the balance sheet because they had not been shown to be a liquid asset. Under the instructions for evaluating balance sheets contained in Section III, Question 4(b), FCC Form 301, any current asset is available to offset

current liabilities. Only that amount of current assets in excess of current liabilities which is required to meet an applicant's station construction and operation costs need be liquid assets.

29. CTB's arguments concerning Texas Steel's alleged inability to keep its commitments to BCI have been partially explained by BCI. BCI asserts that the bank it is relying upon to finance its construction and operation costs is aware of the lawsuits pending against Texas Steel. BCI also explains that Texas Steel's commitment to pay BCI's loan commitment fee is not grounds for requiring a Texas Steel balance sheet because the fee has already been paid and, therefore, Texas Steel's ability to supply the funds is not in question.

30. Review of BCI's financial proposal indicates that it is relying, in part, on a \$1,300,000 loan from Texas Steel to meet its financial qualifications. Texas Steel, however, has not submitted a balance sheet demonstrating its ability to make the loan. Instead, Texas Steel relies on a loan commitment letter in this amount from the First National Bank of Fort Worth. Without a Texas Steel balance sheet, we are unable to determine that the company has sufficient net liquid assets to loan BCI \$1,300,000. Thus, an appropriate issue will be specified inquiring into the availability of these funds.

31. CTB seeks to have a site availability issue specified against BCI on the grounds that BCI has not made provisions for sufficient land to guy its proposed tower. BCI's reply to CTB's allegations establishes that BCI has obtained permission to place guy wires and anchors on property adjacent to the proposed transmitter site. Therefore, no site availability issue will be specified.

32. CTB seeks to have an issue specified inquiring into BCI's ability to effectuate its proposal to have standby capacity to broadcast from its transmitter site in the event of a failure at its studio. CTB alleges that BCI's equipment proposal does not contain sufficient equipment to operate the proposed station's main studio and maintain standby capability to broadcast live from its transmitter site.

33. BCI's opposition to the requested equipment issue asserts that CTB's evaluation of the equipment proposal is based on the mistaken assumption that BCI was proposing to install an auxiliary studio at its transmitter site. All BCI intends to do is retain sufficient equipment the transmitter site to allow

\*By net liquid assets we mean the lesser amount of the net current assets or of the liquid assets shown on a party's balance sheet, with net current assets being the excess of current assets over current liabilities.

live operation from the transmitter site with mobile equipment in the event of an emergency. We believe BCI has explained the scope of its proposed standby broadcasting capability and that adequate responses have been made to CTB's factual contentions. The requested issue will not be specified against BCI.

34. CTB requests an issue inquiring into BCI's compliance with § 73.3514 of our rules because: (a) Table II, Section II of BCI's application does not identify the nature of BCI's business interests and (b) BCI has not revealed that the consulting engineer it employs is the chief engineer of Station WTVT(TV) in Fort Worth, Texas. We will not specify this issue. Section II of BCI's application and related exhibits contain a complete and accurate description of BCI's business activities. None of these activities raises a question of potential decisional significance in this proceeding. BCI's omission of information on its consulting engineer is hardly surprising since Section II of the application does not require information on a corporate applicant's employees who are not officers, directors, shareholders, stock subscribers or persons voting three percent of the applicant's stock at its last shareholders' meeting. In any event, it appears from BCI's explanation that the engineer in question was not working for Station WTVT at the time BCI filed its application.

35. CTB alleges that BCI's consulting business creates relationships between BCI and its clients in the State of Texas which are potentially conflicts of interest and which are inherently anticompetitive. CTB suggests that "a large Texas broadcasting organization doing a large volume of business with BCI would be able to influence or indirectly control BCI's operation." No issue will be specified against BCI as a result of these allegations. CTB has not alleged facts which tend to show that BCI controls or is controlled by parties having any other broadcast interests. CTB's request appears to be based solely on speculation.

#### Blake-Potash Corp.

36. CTB and BCI seek to have issues specified against B-P inquiring into the following areas: (a) compliance with § 73.3514 of our rules; (b) financial qualifications; (c) the availability of its proposed transmitter site; (d) compliance with § 1.65 of our rules; (e) the sufficiency of its ascertainment efforts; and (f) the energy efficiency of its technical proposal.

37. The requested § 73.3514 issue is based upon omissions and errors in

Sections II and III of B-P's application form. The Section II information submitted for E. Blake Byrne, B-P's president, director and 27.5 percent shareholder, indicates that he is a vice-president in Lin Broadcasting (Lin) but omits information on Mr. Byrne's ownership in Lin and information on the company's broadcast holdings. The information submitted for Warren Potash, B-P's vice president, secretary, chairman of the board of directors and 27.5 percent shareholder, indicates that he is a vice president of Capital Cities Communications, Inc., (Cap Cities) but omits information on Mr. Potash's ownership in Cap Cities and on Cap Cities' broadcast interests. As originally filed, B-P's application also contained inconsistent information concerning the amount (17.3 percent or 19.7 percent) of stock a convertible debenture could be converted into. Alleged omissions in Section III of B-P's application involve failure to account completely for interest and land acquisition costs.

38. No issue will be specified inquiring into B-P's compliance with § 73.3514 of the rules. The B-P application has been amended to correct its original ambiguities and omissions and this complete information does not raise questions of potential decisional significance. Mr. Byrne's and Mr. Potash's present broadcast employment will terminate if B-P's application is granted. Their stock ownership in other broadcasting companies is negligible.<sup>7</sup> The discrepancies in the conversion rights accorded the debenture and the omission of interest costs appear to be simple oversights.<sup>8</sup> CTB's allegation that B-P is omitting land acquisition costs is not established by the documents it relies upon.<sup>9</sup>

39. Objections to B-P's financial qualifications are largely mooted by substantial amendments to Section III of B-P's application made in response to the petitions to specify issues. A number of questions remain, however. When B-P's operating costs are adjusted to provide for three months of operation, the total construction and operation costs to be met by applicant are \$4,162,400. This breaks down as follows:

|                              |             |
|------------------------------|-------------|
| Broadcast Equipment          | \$3,633,000 |
| Land and Building            | 128,000     |
| Legal Costs                  | 75,000      |
| Engineering                  | 15,000      |
| Pre-operating Costs          | 90,000      |
| Three Months Operating Costs | 221,400     |

To meet these expenses B-P relies upon the following funds totalling \$5,837,444:

|                                                                                                       |             |
|-------------------------------------------------------------------------------------------------------|-------------|
| First National Bank of Waco Loan (net)                                                                | \$2,512,250 |
| Mercantile Texas Capital Corp. Loan (net)                                                             | 676,375     |
| Net Deferred Credit From Equipment Supplier (adjusted to account for 3 monthly payments on equipment) | 2,499,959   |
| Stock Subscriptions                                                                                   | 148,860     |

40. The RCA equipment letter B-P relies upon to establish the availability of credit from the equipment supplier contains no indication that the applicant has been subjected to a preliminary credit examination and has been found to be an acceptable credit risk by RCA. Absent such an examination, no reasonable assurance exists that credit will be available for the purchase of applicant's equipment. Thus, an appropriate issue will be specified inquiring into this matter.

41. It appears that \$99,000 of applicant's costs of preparing and prosecuting its application are to be provided by Mr. Byrne and Mr. Potash. The expenditure of these funds is a condition of the loans from financial institutions upon which B-P relies to meet its financial obligations. The balance sheets submitted for Byrne and Potash do not comply with the requirements of Question 4(b), Section III of the application form in that securities are not properly identified. Even if the balance sheets are taken at face value, they demonstrate the availability of only \$65,000 in net liquid assets. An issue will be specified exploring the ability of Mr. Byrne and Mr. Potash to meet the costs of preparing and prosecuting the B-P application.

42. When originally filed, B-P's application specified a transmitter site located on land owned by Mr. F. R. Cromwell, Jr. The basis for B-P's original estimate for the cost of acquiring a transmitter site was an option for the sale of the land signed by Mr. Cromwell and submitted as Attachment 4 to Exhibit 7 of B-P's application. B-P subsequently amended its application to specify a new transmitter site and modified its estimate for land acquisition costs. No basis for the new cost estimate has been provided as required by Question 1(b), Section III, FCC Form 301. An issue inquiring into the reasonableness of B-P's land acquisition cost estimate will be specified.

43. B-P's failure to supply a basis for its revised transmitter site cost estimate is the sole ground upon which CTB requests specification of a site

availability issue. CTB has not alleged facts tending to establish that the owner of B-P's proposed transmitter site is unwilling or unable to allow B-P to locate its proposed station's facilities on his land and, therefore, no site availability issue will be specified at this time.

44. The requested § 1.65 issue is based upon B-P's failure to report the filing of *Trent v. Bowden*, Case No. 7821753 (District Court, McLennan County, Tex.), a lawsuit which subjects John C. Bowden, applicant's director and 4.8 percent shareholder, to \$133,800 in potential liability. B-P argues that Mr. Bowden's financial resources are so great that he could satisfy any judgment rendered against him and still meet his commitment to purchase applicant's stock. The omission of information concerning this lawsuit, B-P concludes, is not of potential decisional significance and no Rule 1.65 issue should be specified.

45. Examination of B-P's application reveals that John Bowden's role in B-P's finances goes well beyond his obligation to purchase 4.8 percent of applicant's common stock. Along with the other B-P shareholders, he is jointly and severally guaranteeing a \$2,600,000 loan to B-P from the First National Bank of Waco. This loan is conditioned upon the bank's receiving financial statements from B-P's guarantors which do not reflect appreciable changes in their financial condition prior to funding the loan. The financial statement from Mr. Bowden submitted in B-P's application does not comply with the requirements of Question 4(b), Section III of FCC Form 301 and, therefore, we cannot determine the validity of B-P's argument concerning his financial ability to meet his commitment to B-P and satisfy any judgment which may be rendered against him in the pending lawsuit. We believe a question exists as to whether the filing of this lawsuit is a significant change in applicant's circumstances which should have been reported pursuant to Section 1.65 of the Rules, and, therefore, an appropriate issue will be specified.

46. CTB asserts that an issue should be specified against B-P because its ascertainment lacked sufficient demographic information on religious organizations and organizations for the elderly, youth and women. CTB also claims that an ascertainment issue is appropriate because B-P's programming proposal fails to correlate proposed programs with specific community problems they are to treat.

47. Attachment 3 to Exhibit P-1 of B-P's application contains demographic information classifying Waco's

<sup>7</sup> Mr. Byrnes owns less than .005 percent of Lin's common stock and Mr. Potash owns less than .0005 percent of Cap Cities' common stock.

<sup>8</sup> The documents from which interest and conversion rights can be calculated were submitted in the original B-P application.

<sup>9</sup> The basis of CTB's allegation consists of two letters submitted as Attachments 4 and 5 to Exhibit 7 of B-P's application. The letters apparently constitute an option to purchase a transmitter site which was subsequently abandoned to avoid short-spacing problems.



population by age and sex. Although no demographic information is provided on religious groups, B-P's application contains community leader interviews with leaders from several religious denominations. CTB has not alleged that B-P has omitted any significant community group from its community leader interviews. Thus, no question has been raised concerning the validity of the data B-P gathered on the problems, interests and needs of Waco and its environs.

48. CTB's assertion that B-P has not correlated its proposed programming with specific community problems to be treated does not square with an examination of Exhibit P-3 of B-P's application. In this exhibit B-P describes a number of programs which will be used to treat community problems and illustrates how these programs will be used to treat specific problems. B-P concludes the exhibit stating "... particular attention will be paid to problems of economic development, and community growth, crime, the elderly, recreational development and education." We believe B-P's application demonstrates substantial compliance with our ascertainment requirements and no issue will be specified inquiring into the sufficiency of its ascertainment efforts.

49. BCI's request that an energy issue be specified against B-P is essentially the same as its request for an energy issue against CTB. This issue will not be added.

#### Heart O'Texas Broadcasting, Inc.

50. HOT's opponents seek to have issues specified inquiring into: (a) financial qualifications; (b) ascertainment efforts; (c) compliance with §§ 1.65 and 73.3514 of the rules; (d) character qualifications; and (e) compliance with our multiple ownership rules and cross interest policy.

51. When HOT's cost estimates are adjusted to account for three months of operating costs, it appears that applicant requires \$3,019,518 to establish its financial qualifications. This breaks down as follows:

|                          |             |
|--------------------------|-------------|
| Broadcast Equipment..... | \$2,445,000 |
| Legal Costs.....         | 75,000      |
| Engineering.....         | 10,000      |
| Installation.....        | 15,000      |
| Other Miscellaneous..... | 120,000     |
| Operating Costs.....     | 354,518     |

To meet these costs it relies on the following funds totalling \$4,216,226:

|                                                 |           |
|-------------------------------------------------|-----------|
| Sale of Stock.....                              | \$685,613 |
| Firstbank Financial Corporation Loan (net)..... | 2,645,000 |
| Loan From Britain, Turner & Whitley.....        | 200,000   |
| Shareholder Debentures.....                     | 685,613   |

HOT's opponents challenge its financial qualifications on the following grounds: (a) HOT's construction costs

are underestimated; (b) HOT does not have a reasonable assurance of the availability of the bank loan it relies upon; and (c) HOT has not provided information required in Question 4(b), Section III, FCC Form 301 for the parties providing its funds. HOT claims that the December 6, 1978, amendment to its application cures the defects noted by its opponents.

52. We agree with HOT that its December 6, 1978, amendment cures any problems which may have existed concerning the basis and reasonableness of its construction cost estimates. Questions remain, however, as to the availability of the funds HOT relies upon to demonstrate its financial qualifications. Several of the investors committed to purchasing the stock and debentures HOT plans to use to fund its proposed station have failed to submit balance sheets complying with the provisions of Question 4(b), Section III, FCC Form 301.<sup>10</sup> We are, therefore, unable to conclude that these individuals possess the financial ability to meet their commitments to the applicant. When allowance is made for the amounts HOT's investors have shown to be available to meet their commitments, it appears that \$534,610 of the \$1,371,226 in stock and debentures HOT relies upon can be used to demonstrate its financial qualifications. No financial issue will be specified, however. Applicant's financial plan contains a sufficient "cushion" to demonstrate its financial qualifications without the disallowed funds.

53. The parties opposing HOT contend that its ascertainment efforts are defective in the following respects: (a) the demographics supply no information on certain significant groups in Waco; (b) many individuals included in the community leader survey have no identifiable leadership positions; (c) a number of significant community groups are under-represented or omitted from the community leader survey; and (d) the programs proposed to meet community needs and interests are not properly correlated to ascertained problems.

54. Without conceding the veracity of its opponent's allegations, HOT submits that its amended application contains none of the ascertainment defects alleged in its competitors' pleadings. We agree with HOT that its amendments cure the defects in its ascertainment

<sup>10</sup> No balance sheet has been provided for Mark Deering, Richard Freeman, Jerry Herring, Barbara Palmer, Gary Radford, John J. Vacca, Jr., or Harry Wood, Jr. The balance sheets submitted by Boyce Box, David C. Murdoch, and Robert Allen Whitley do not show net liquid assets sufficient to meet their proposed commitments to HOT.

showing. HOT has supplied information on every group allegedly omitted from its original demographic study. Although many of the individuals included in HOT's community leader survey are still not identifiable as community leaders, a sufficient number of individuals are properly identified to conclude that HOT has interviewed leaders of each significant group in Waco, including leaders of youth, the elderly, local government, women and religious organizations. These groups were allegedly omitted from the original community leader survey. Finally, HOT has submitted a list of four illustrative programs designed to meet community needs. These programs are described and identified by name, time segment, duration, frequency of broadcast and problems to be treated. We find that HOT has met all our ascertainment requirements.

55. BCI alleges that HOT has failed to file complete and accurate information in its application and has failed to keep its application up to date regarding developments of potentially decisional significance. BCI asserts that HOT never disclosed that the twin brother of Boyce Box, HOT's vice president, director and 9.9 percent shareholder, is a party to B-P's application in this proceeding.<sup>11</sup> Further, BCI claims that HOT's stock was voted by proxy on two occasions prior to August 1978 and that in August 1978, HOT filed an amended response to Question 10, Section II of its application indicating that no shares of its stock were voted by proxy at its last shareholders' meeting. Finally, BCI submits that HOT has failed to report a lawsuit alleging unfair competition pending against Jack Britain and Robert Whitley, two of its principals.

58. HOT's response to BCI's allegations is that all omissions and errors in its application were inadvertent; that none is of decisional significance; and that a full explanation of these matters is provided in its amended application. HOT explains that its stock was never voted by proxy at its shareholder meetings. Rather, HOT claims that directors cast their votes at two directors meetings through attorneys in fact. The resolutions adopted at these director meetings were captioned "Unanimous Consent of Directors and Shareholders. . . ." because all of HOT's principals are both directors and shareholders. HOT asserts that the undisclosed lawsuit against Mr.

<sup>11</sup> Cloyce Box is one of thirty directors of the Mercantile National Bank, the parent corporation of Mercantile Texas Capital Corporation. Mercantile Texas Capital Corporation has a right of conversion which can be exercised for 17.3 percent of B-P's stock.

Britain and Mr. Whitley originates from promises allegedly made in connection with a land sale in which they were not involved. The unfair competition count in the complaint is based upon alleged trade name infringement and HOT claims that the maximum exposure to liability from this suit is not sufficient to impair the ability of Mr. Britain and Mr. Whitley to meet their financial commitment to the applicant.

57. We find that HOT has made a full disclosure of the information originally omitted from its application and that the omission of this information has been adequately explained. The Review Board's decision in *Post-Newsweek Stations, Florida, Inc.*, 49 FCC 2d 92 (1974), controls the situation. "Where violations of the reporting requirements of the Commission's rules and regulations had been unintentional and not so numerous as to indicate a pattern of non-disclosure, and information not reported is of questionable significance, the Board has consistently denied requests for issues predicated on the violations." *Post-Newsweek Stations, supra* at 93-4. No § 73.3514 or § 1.65 issue will be specified.<sup>12</sup>

58. The facts alleged to support the requested misrepresentation issue against HOT were found insufficient to justify a § 73.3514 or 1.65 issue in paragraphs 54-58 above. We believe these errors in HOT's application were inadvertent and, therefore, no misrepresentation issue is warranted.

59. On October 22, 1979, Heart O'Texas Broadcasting, Inc., amended its application to show that Robert A. Whitley, HOT's vice president, director and 17% shareholder, pleaded guilty October 10, 1979, to a criminal information charging him with three counts of violating the Emergency Petroleum Allocation Act of 1973. As the discussion in paragraph 23, *supra*, indicated, violations of federal law by principals of applicants are considered relevant in evaluating character qualifications. HOT's amendment reporting Mr. Whitley's conviction also revealed that he has been disassociated from any participation in HOT's application. Under these circumstances, we believe it inappropriate to evaluate HOT's basic qualifications to be a commission licensee in light of Mr. Whitley's misconduct. Inasmuch as HOT's comparative status is frozen as of September 18, 1978,<sup>13</sup> however, an issue will be specified inquiring into the effect

<sup>12</sup> The omission of information concerning Boyce Box's involvement in HOT from B-P's application does not, in our opinion, warrant an issue against B-P either. This information raises no questions of potential decisional significance.

<sup>13</sup> See paragraph 3, *supra*.

of Mr. Whitley's misconduct on HOT's comparative qualifications to be a commission licensee.

#### Comparative Programming Issue

60. HOT and CTB seek to have a comparative programming issue specified in this proceeding. HOT asserts the following in support of its request: (a) its ascertainment reveals that inadequate local news coverage is a major problem in the Temple, Texas area; (b) there is presently a media monopoly in this area; (c) HOT is proposing to establish a permanent fully-staffed news studio in Temple; and (d) this commitment of resources to Temple shows a demonstrably superior devotion to public service warranting specification of a comparative programming issue.

61. CTB seeks a comparative programming issue based upon programming devoted to the WACO area's minority population. It alleges: (a) 28 percent of the population in the WACO area is either Black or Spanish; (b) it has established an advisory board composed of minority leaders from the area to insure that its programming will meet the needs of minorities within the service area; (c) it has proposed to broadcast Spanish-language programs; (d) its opponents, with the exception of BCI, do not propose programs addressing the needs of the minority population; and (e) substantial programming differences exist among the applicants which justify specification of a comparative programming issue.

62. One seeking specification of a comparative programming issue must "indicate the relationship between his own ascertainment of community needs and interests and the reflection of those needs and interests in the substantially greater amount of time, effort and resources proposed to be devoted to certain of the categories of programming. In other words, a proponent of the programming issue should be required to make a *prima facie* showing that there are significant differences in the programming proposed and should relate has claimed substantial superiority in program planning to his ascertainment of community needs." *Chapman Radio and Television Co.*, 7 FCC 2d 213, 215 (1967). We believe that HOT and CTB have failed to meet this burden and therefore, no comparative programming issue will be specified.

<sup>14</sup> Station KCEN-TV, Temple-Waco, Texas, the *Temple Daily Telegram* and the *Killeen Herald* are all commonly owned.

63. There appears to be only slight quantitative differences between applicants' programming proposals.<sup>15</sup> HOT is proposing to broadcast less news programming than B-P, one of the applicants to whom HOT claims news superiority. HOT also trails all applicants in proposed amounts of local programming to be broadcast, even though its claimed programming superiority is based on local news coverage. CTB's programming proposal contains less local programming than other applicants, yet its claim of superiority is based upon local programming for minorities. We believe a qualitative review of the programming proposals likewise fails to reveal significant differences. CTB is not the only applicant proposing programs to serve the needs of Waco's minority population. BCI proposes three half-hour programs each week specifically treating the needs of the area's minority and female population. While the quality of HOT's proposed news coverage of the Temple area may be somewhat better than that of its opponents, who will have to cover that area with electronic news gathering equipment instead of having a separate studio, we do not believe that the resources HOT has committed to this project will result in its overall programming proposal being significantly different from that of its opponents.

#### Conclusion and Order

64. Except as indicated in the issues specified below, we find CTB, BCI, B-P and HOT legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive we are unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. These applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

65. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Central Texas Broadcasting Company, Business Communications, Inc., Blake-Potash

<sup>15</sup> The following table illustrates quantitative programming differences (Figures are given in hours of programming):

|                     | CTB   | BCI   | B-P   | HOT  |
|---------------------|-------|-------|-------|------|
| News.....           | 10.06 | 10.78 | 15.03 | 12.8 |
| Public Affairs..... | 9.25  | 6.43  | 2.57  | 4.35 |
| Other.....          | 5     | 5.42  | 2.57  | 6.95 |
| Local.....          | 17.25 | 18.25 | 17.5  | 16.5 |



Corporation and Heart O' Texas Broadcasting, Inc., are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Central Texas Broadcasting Company: (a) Whether applicant has reasonable assurance of the availability of \$2,421,900 in net deferred credit from RCA;

(b) Whether, in light of the evidence adduced pursuant to Issue 1(a) above, applicant is financially qualified to construct and operate as proposed.

(c) To determine whether Robert Mann made a loan to Michael A. Vaughn in violation of Texas' usury laws and, if so, the effect thereof on applicant's comparative qualifications.

2. To determine with respect to Business Communications, Inc.:

(a) Whether Texas Steel Company has sufficient net liquid assets to meet its commitment to lend applicant \$1,300,000;

(b) Whether, in light of the evidence adduced pursuant to Issue 2 (a) above, applicant is financially qualified to construct and operate as proposed.

(c) To determine whether between mid-1969 and late 1972 Texas Steel Company conspired to stabilize the price of steel reinforcing bars in the State of Texas, conspired to restrict bidding on contracts for steel reinforcing bars, conspired to divide markets or attempted to monopolize steel reinforcing bars in the State of Texas and, if so, the effect thereof on applicant's comparative qualifications.

3. To determine with respect to Blake-Potash Corporation:

(a) Whether applicant has reasonable assurance of the availability of \$2,449,959 in net deferred credit from RCA;

(b) Whether Mr. Byrne and Mr. Potash have sufficient net liquid assets to meet their commitment to provide the funds necessary to prepare and prosecute applicant's application;

(c) Whether a reasonable basis exists for applicant's estimated land acquisition costs;

(d) Whether, in light of the evidence adduced pursuant to Issues 3(a), 3(b), and 3(c) above, applicant is financially qualified to construct and operate as proposed;

(e) Whether applicant's failure to report the filing of a lawsuit against Mr. John Bowden constitutes a violation of Rule 1.65, and if so, the effect thereof on applicant's basic and/or comparative qualifications.

4. To determine with respect to Heart O' Texas Broadcasting, Inc.: (a) the effect of Robert Whitley's violation of the Emergency Petroleum Allocation Act of 1973 upon applicant's comparative qualifications.

5. To determine which of the applications would best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

68. It is further ordered, That in the event of a grant of the application of Central Texas Broadcasting Company, Blake-Potash Corporation or Heart O' Texas Broadcasting, Inc., the construction permit shall contain the following condition:

Since applicant's transmitter is not type accepted, type acceptance shall be obtained prior to grant of program test authority.

67. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty days of mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

68. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.<sup>16</sup>

William J. Tricarico,  
Secretary.

Dissenting Statement of Commissioners  
Joseph R. Fogarty and Anne P. Jones

In Re: Applications of Central Texas Broadcasting Company, Business Communications, Inc., Blake-Potash Corporation, and Hart O' Texas Broadcasting, Inc., for a construction permit for a new television broadcast station on Channel 25, Waco, Texas.

We dissent from the Commission's decision to designate these mutually exclusive applications for hearing because the question of whether character issues should be designated against three of the applicants for alleged violations of law, and if so, how such issues should be resolved, should not be determined until the Commission has more clearly articulated its governing policy and standards.

<sup>16</sup> See attached Dissenting Statement of Commissioners Joseph R. Fogarty and Anne P. Jones.

It is clear to us that the Commission's application of its present *Policy as to Violation by Applicants of Laws of U.S.*, 42 FCC 2d 399 (1951), has been uneven at best and affords applicants and the Commission and our staff less than fully adequate guidance for fair and consistent resolution of these issues. In recognition of these inadequacies, the Commission has directed the staff to develop recommendations for any necessary changes or clarification of Commission policy in this area, and it is anticipated that the Commission will have such recommendations for consideration within two or three months.

We believe that until the Commission receives and acts on such recommendations, it should defer action on these and any other pending applications involving character issues presented by violations or alleged violations of law. In our judgment, this course of action is essential if the Commission is to avoid the procedural and substantive pitfalls inherent in its current *ad hoc* treatment of these issues.

[FR Doc. 79-37512 Filed 12-5-79; 8:45 am]  
BILLING CODE 6712-01-M

[BC 23853, BC Docket No. 79-316, File No. BPH-10; 378, et al.]

#### Radio Laredo, et al.

In re applications of Radio Laredo, Inc. Laredo, Texas (BC Docket No. 79-316, File No. BPH-10, 378), Requests: 98.1 MHz, Channel 251 44 kW (H&V), 570 feet; and Laredo Broadcasting Co., Inc. Laredo, Texas (BC Docket No. 79-317, File No. BPH-10, 752) Requests: 98.1 MHz, Channel 251 96 kW (H&V), 810 feet.

For Construction Permits memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: November 23, 1979.

Released: December 3, 1979.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications for construction permit for a new commercial FM broadcast station at Laredo, Texas. These applications are mutually exclusive inasmuch as they propose operation on the same channel in the same community.

2. In their ascertaining of community needs, neither Radio Laredo, Inc. (Radio Laredo) nor Laredo Broadcasting Company, Inc. (LBC) interviewed leaders of any groups organized for the purpose of representing a racial or ethnic minority. However, the Commission notes that Hispanic-Americans, the only protected ethnic group in Laredo, comprise approximately 85 percent of the area's population, and that half of the leaders interviewed by each applicant,

representing a broad span of leadership categories, were Hispanic-Americans. In light of Laredo's unique ethnic composition, we find the applicant's efforts sufficient in this respect. Moreover, examination of both ascertaining indicates that, although minor defects may be present, the applicants have substantially complied with Commission requirements.

3. In section VI (Equal Employment Opportunity) of its application, LBC has failed to include an availability survey for the Laredo workforce. Further, the model promotion policy statement appears to have been marked out on the application form, possibly through inadvertence, with no alternative policy proposed. Accordingly, LBC is directed to amend its application to correct these omissions.

4. Radio Laredo proposes general - market programming while LBC proposes predominantly Spanish-language programming and has shown that such programming is not currently available in a substantial amount in Laredo from any domestic station. Further, LBC sets forth an estimate by the Laredo Chamber of Commerce that between 35 and 40 percent of the city's substantial Hispanic-American community does not speak English. The relative need for these different types of programming will therefore be considered under the standard comparative issue. See *George E. Cameron, Jr. Communications*, 71 FCC 2d 460, 45 RR 2d 689 (1979).

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater strength, together with the availability of other primary aural services in such areas, will also be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to one of the applicants.

6. Each of the applicants is qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be

specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

8. It is further ordered, That the Laredo Broadcasting Company, Inc. shall file the amendment specified in paragraph 3 above with the presiding Administrative Law Judge within 20 days of the release of this Order.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing, and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Richard J. Shiben,  
Chief, Broadcast Bureau.

[FR Doc. 79-37512 Filed 12-5-79; 8:45 am]  
BILLING CODE 6712-01-M

#### GENERAL SERVICES ADMINISTRATION

[E-79-21]

#### Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas rate proceeding before the Federal Energy Regulatory Commission.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Federal Energy Regulatory Commission

involving the application of the Colorado Interstate Gas Company for an increase in its gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 23, 1979.

R. G. Freeman III,  
Administrator of General Services.

[FR Doc. 79-37439 Filed 12-5-79; 8:45 am]  
BILLING CODE 6820-AM-M

[E-79-24]

#### Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the South Carolina Public Service Commission involving electric and gas utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the South Carolina Public Service Commission involving the application of the South Carolina Gas and Electric Company for increases in its electric and gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 27, 1979.

R. G. Freeman III,  
Administrator of General Services.

[FR Doc. 79-37440 Filed 12-5-79; 8:45 am]  
BILLING CODE 6820-AM-M



[E-79-23]

**Delegation of Authority to the Secretary of Defense**

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Hampshire Public Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Hampshire Public Utilities Commission involving the application of the Public Service Company of New Hampshire for an increase in its electric utility rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 23, 1979.

R. G. Freeman III,  
Administrator of General Services.

[FR Doc. 79-37441 Filed 12-5-79; 8:45 am]  
BILLING CODE 6820-AM-M

**Information Security Oversight Office****Information Security Procedures for Council of Economic Advisers**

**AGENCY:** Information Security Oversight Office, GSA.

**ACTION:** Publication of Information Security procedures for Council of Economic Advisers

**SUMMARY:** Since Executive Order 12065 grants classification authority to the Chairman of the Council of Economic Advisers, it was incumbent on the Council to develop information security procedures consistent with the Executive Order. The procedures that follow were developed by the Council and submitted to the Information Security Oversight Office for approval. These procedures meet with our

approval. We believe that the public should be aware of these procedures.  
**EFFECTIVE DATE:** December 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** Susan J. Irving, Special Assistant to the Chairman, Council of Economic Advisers, Old Executive Office Bldg., 17th and Pennsylvania Ave., NW., Washington, D.C. 2056 (202) 395-5084.

**Information Security Procedures for Council of Economic Advisers***Introduction*1.1 *References*

- (a) Executive Order 12065, "National Security information," dated June 28, 1978
- (b) Information Security Oversight Office, Directive No. 1, "National Security Information," dated October 2, 1978.

1.2 *Purpose*

The purpose of these procedures is to ensure, consistent with the authorities listed in the Order, that national security information originated and/or held by the Council of Economic Advisers (CEA) is protected but only to the extent, and for such period, as is necessary to safeguard the national security.

1.3 *Applicability*

These procedures govern the Council of Economic Advisers. In consonance with the authorities listed in the Order, it establishes policy and procedures for the security classification, downgrading, declassification, and safeguarding of information that is owned by, is produced for or by, or is under the control of the Council of Economic Advisers. These procedures supplement the Order and Directive referenced in 1.1 above. Copies of these documents are available in the Special Assistant's Office or the Administrative Office.

*Original Classification*1.11 *Basic Policy*

It is the Policy of the Council of Economic Advisers to make available to the public as much information concerning its activities is possible, consistent with its responsibilities to protect the national security.

1.12 *Classification Categories*

The three-level classification system, as prescribed by the Order, is: Top Secret for documents the unauthorized disclosure of which would cause exceptionally grave damage to the national security. Secret for serious damage, the Confidential for identifiable damages. Pursuant to notice published in the Federal Register on June 29, 1978,

pursuant to Section 1-202 of the Order, the Chairman of CEA has authority for original classification up to the level of Secret.

Only the designations listed above shall be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" may not be used for that purpose. Terms such as "Conference" or "Agency" may not be used in conjunction with the classification designations prescribed by the Order, such as "Agency Confidential" or "Conference Confidential."

1.13 *Classification Requirements*

Information may not be considered for classification unless it concerns:

- (a) Military plans, weapons, or operations;
  - (b) Foreign government information;
  - (c) Intelligence activities, sources or methods;
  - (d) Foreign relations or foreign activities of the United States;
  - (e) Scientific, technological, or economic matters relating to the national security;
  - (f) United States Government programs for safeguarding nuclear materials or facilities; or
  - (g) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to the Order, or by an agency head.
- Even though information is determined to concern one or more of the topics listed above in this section, it may not be classified unless an original classification authority also determines that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security.

1.14 *Level of Original Classification*

Unnecessary classification, and classification at a level higher than is necessary, shall be avoided. If there is reasonable doubt as to which designation is appropriate, or whether information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

1.15 *Classification Authority*

The authority to originally classify information under these procedures will be limited to those officials concerned with matters of national security.

The following officials are granted authority by the Chairman to assign originally the classification of Secret and below to information relating to

national security or foreign relations of the United States:  
Council Member (2)  
Special Assistant to the Chairman

1.16 *Duration of Classification*

Except as permitted in this section, at the time of the original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.

Pursuant to Section 1-2 of the Order, the Chairman of CEA has authority to classify information for more than six years from the date of the original classification. This authority will be used only when the Chairman determines that the basis for original classification will continue throughout the entire period that the classification will be in effect and only for the following reasons:

- (a) The information is "foreign government information" as defined by the authorities in section 1.1 of these procedures;
- (b) The information reveals intelligence sources and methods;
- (c) The information pertains to communications security;
- (d) The information reveals vulnerability or capability data, the unauthorized disclosure of which can reasonably be expected to render ineffective a system, installation, or project important to the national security;
- (e) The information concerns plans important to the national security, the unauthorized disclosure of which reasonably can be expected to nullify the effectiveness of the plan;
- (f) The information concerns specific foreign relations matters, the continued protection of which is essential to the national security or
- (g) The continued protection of the information is specifically required by statute.

A date or event for declassification or review shall be set as early as the national security permits and shall be no more than 20 years after origination, except that for foreign government information the date or event may be up to 30 years after classification.

1.17 *Identification and Markings*

At the time of original classification, the following shall be shown on copies of classified documents:

- (a) Identity of classifier;
- (b) Date or event for declassification or review; and
- (c) One of the classification designations.

The overall classification of a document shall be marked, stamped, or

affixed permanently at the top and bottom of the outside of the front cover, if any, on the title page, if any, on the first page, and on the outside of the back cover, if any. Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when appropriate, or according to the highest overall classification of the document.

Whenever practicable, subjects and titles shall be selected so as not to require classification. When the subject or title is classified, an unclassified identifier may be assigned to facilitate receipting and reference.

Under mandatory portion marking, classifiers shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. Portion marking shall be accomplished by placing a parenthetical designator immediately preceding or following the text that it governs. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. If individual portion marking is impracticable, the document shall contain a description sufficient to identify the information that is classified and the level of such classification.

Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection equivalent to that required by the entity that furnished the information.

The identity of the CEA Chairman who authorizes a date for declassification or review for declassification that is more than six years beyond the date of a document's classification shall be shown on the document unless the Chairman is also the signer or approver of the document. Documents shall be annotated with the reason the classification is expected to remain necessary despite the passage of time, under the criteria set forth in section 1.16 of these procedures.

1.18 *Prohibitions*

Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

Classification may not be used to limit dissemination of information that is not

classifiable under the provisions of the Order or to prevent or delay its release to the public.

No document originated on or after the date of the Order may be classified subsequent to a formal/written request for the document unless such classification is consistent with the Order and is authorized by the Chairman of CEA or a deputy. A document originated before the effective date of the Order that is subject to a similar request may not be classified unless it is consistent with the Order and is authorized by the Special Assistant to the Chairman of CEA. Classification authority under this provision shall be exercised on a document-by-document basis.

Classification may not be restored to documents already declassified and released to the public under the current or prior Orders.

1.19 *Challenges to Classification*

If holders of classified information believe that the information is improperly or unnecessarily classified, or that original classification has been extended for too long a period, they should discuss the matter with their immediate superiors or the classifier of the information. If these discussions do not satisfy the concerns of the challenger, the matter should be brought to the attention of the Special Assistant to the Chairman. Action on such challenges shall be taken 30 days from date of receipt and the challenger shall be notified of the results. When requested, anonymity of the challenger shall be preserved.

*Derivative Classification*1.21 *Definition and Application*

Derivative classification is the act of assigning a level of classification to information that is determined to be the same in substance as information that is currently classified. Thus, derivative classification may be accomplished by any person cleared for access to that level of information, regardless of whether the person has original classification authority at that level.

Persons who apply such derivative classification markings shall respect original classification decisions and shall verify the information's current level of classification so far as practicable before applying the markings.

1.22 *Identification and Markings*

At the time of origination, copies of derivatively classified documents shall be marked as follows:



(a) Identity of classification guide or source of original classification. If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each source is maintained with the file or record copy of the document.

(b) Identity of the office originating the derivatively classified document shall be shown on the face of the document.

(c) Dates or events for declassification or review shall be carried forward from the source material or declassification guide. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information.

(d) The classification marking provisions in section 1.17 of these procedures, excluding the first and last paragraphs, are also applicable to derivatively classified documents.

#### 1.23 Classification Guides

Classification guides issued pursuant to the Order shall be used to direct derivative classification and shall identify the information to be protected in specific and uniform terms so that the information involved can be identified readily.

#### Declassification and Downgrading

##### 1.31 Declassification Policy.

Information classified under current and prior Orders shall be declassified as early as national security considerations permit. Decisions shall be based on the loss of the sensitivity of the information with the passage of time or on the occurrence of a declassification event.

If the Director of the Information Security Oversight Office determines that information is classified in violation of the Order, the Director may require the information to be declassified. Any such decision by the Director may be appealed to the National Security Council. The information will remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

In some instances, if the need to protect classified information is outweighed by public interest in disclosure, the information should be declassified. The Chairman or the Special Assistant to the Chairman, or the Member acting as Chairman in the absence of the Chairman, will determine whether the public interest in disclosure outweighs any possible damage to national security.

##### 1.32 Declassification Authority

Classified information will be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, by a successor, or by a supervisory official of either.

The Chairman, the two Members, and the Special Assistant to the Chairman are authorized to declassify CEA documents.

##### 1.33 Transferred Information

For classified information transferred in conjunction with a transfer of functions, the receiving office or agency shall be deemed to be the originating office or agency for all purposes under the Order.

For classified information originated in an office or agency which has ceased to exist, each office or agency in possession shall be deemed to be the originating office or agency for all purposes under the Order. Such information may be declassified or downgraded by the office or agency in possession after consultation with any other office or agency having an interest in the subject matter.

Classified information transferred from CEA to the General Services Administration for accession into the Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with the Order, the directives of the Information Security Oversight Office, and CEA guidelines.

##### 1.34 Systematic Review for Declassification

Under CEA Systematic Review Guidelines, classified information constituting permanently valuable records of the Government shall be reviewed for declassification as it becomes twenty years old. Under the order, only the Chairman may extend classification beyond twenty years and this authority may not be delegated. When classification is extended beyond twenty years, a date no more than ten years later shall be set for declassification or for the next review, and that date should be marked on the document. Subsequent reviews for declassification shall be set at no more than ten year intervals. The Director of the Information Security Oversight Office may extend the period between subsequent reviews for specific categories of documents or information.

CEA guidelines shall be authorized for use by the the Archivist of the United States and may, upon approval of CEA, be used by any agency having custody

of the information. All information not identified in the guidelines as requiring review and for which a prior automatic declassification has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

Foreign government information shall be exempt from automatic declassification and twenty year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty years from its date of origin. Such review shall be in accordance with the provisions of the Order and CEA guidelines.

##### 1.35 Mandatory Review for Declassification

Classified information will be subject to a mandatory review in response to any request by a member of the public, by a government employee, or by an agency, to declassify and release information.

In response to a formal/written request for a classified document CEA shall confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would be classifiable under the Order.

(a) *Receipt.* (1) Requests for mandatory review for declassification under the Order must be in writing and should be addressed to:

Special Assistant to the Chairman,  
Council of Economic Advisers, Old  
Executive Office Building,  
Washington, DC 20506.

(2) The requestor shall be informed of the date of receipt of the request. This date will be the basis for the time limits specified in subsection (b) below.

(3) If the request does not reasonably describe the information sought, the requestor shall be notified that, unless additional information is provided or the request is made more specific, no further action will be taken.

(b) *Review.* (1) The requestor shall be informed of the CEA determination within sixty days of receipt of the initial request.

(2) If the determination is to withhold some or all of the material requested, the requestor may appeal the determination. The requestor shall be informed that such an appeal must be made in writing within sixty days of receipt of the denial and should be addressed to the chairperson of the CEA Classification Review Committee.

(3) The requestor shall be informed of the appellate determination within thirty days of receipt of the appeal.

(c) *Fees.* (1) Fees for the location and reproduction of information that is the

subject of a mandatory review request shall be assessed according to the following schedule:

a. *Search for records:* \$5.00 per hour when search is conducted by a clerical employee; \$8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

b. *Reproduction of documents:* Documents will be reproduced at a rate of \$.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents that are three pages or less, or for the first three pages of longer documents.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than \$25, and the requestor has not indicated in advance a willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can be readily estimated. Instances where the estimated fees will greatly exceed \$25, an advance deposit may be required. Dispatch of such a notice or request shall suspend the running of the period for response by the CEA until a reply is received from the requestor.

(3) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Council of Economic Advisers and mailed to the Old Executive Office Building, Washington, DC 20506.

(4) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(5) The Council of Economic Advisers may waive all or part of any fee provided for in this section when it is deemed to be in either the interest of the Council of Economic Advisers or of the general public.

##### 1.36 Downgrading Policy

Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders.

Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by other authorized officials when such downgrading is appropriate. Notice of downgrading shall be provided to holders of the information to the extent practicable.

##### 1.37 Downgrading Authority.

The following officials are authorized to downgrade CEA documents:  
Chairman

Council Member (2)

Special Assistant to the Chairman

##### 1.38 Identification and Markings

Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be marked on the document on the cover, or first, page to indicate the change, together with the authority for the action, the date of the action, and the identity of the person taking the action

##### Safeguarding

##### 1.41 Restriction on Access

Access to classified information or material will be granted only to individuals who have an official need for such access, who have met CEA security standards and who have been granted an appropriate security clearance.

Any employee who originates or receives classified material or information will see that appropriate control action is taken.

##### 1.42 Access by Historical Researchers and Former Presidential Appointees

Persons engaged in historical research projects or who previously have occupied policy-making positions to which they were appointed by the President may be authorized access to classified information or material provided:

(a) CEA makes a written determination that access is clearly consistent with the interests of national security and takes appropriate steps to ensure that access is limited to specific categories of information over which CEA has classification jurisdiction;

(b) The information or material requested is reasonably accessible; and

(c) The researcher agrees in writing to adequately safeguard the information and to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information is contained therein.

Former Presidential appointees may be authorized access to classified information or material which they originated, reviewed, signed or received while serving as a Presidential appointee. Upon request of any such official, such information and material as he may identify will be reviewed for declassification in accordance with CEA procedures.

Requests to CEA for classified information or material will be directed to the Special Assistant to the Chairman.

##### 1.43 Reproduction Controls

CEA shall maintain records to show the number and distribution of all Top Secret documents and of all Secret and accountable Confidential documents that are marked with special dissemination or reproduction limitations.

##### 1.44 Storage of Classified Material

Classified material must be safeguarded against unauthorized disclosure. All classified material will be locked in approved storage containers when not in use.

Top Secret and Secret material will be stored in GSA approved safes or safe-type steel filing containers with a three-position dial type changeable combination lock.

Confidential material shall be stored at a minimum in a steel filing cabinet equipped with an approved lockbar secured by a changeable three-position combination lock.

Knowledge of the combination to a safe or padlock will be limited to those having a continuing need for it. Combinations will be set and changed under the direction of the Security Officer. Changes to combinations will be made at least annually or upon the departure of an employee who has knowledge of the combination. A safe record card will be affixed to the front of each container used for storage of classified material, and will list the date the combination was last changed and the persons having access.

##### 1.45 Transmitting or Receiving Classified Material or Documents.

All Top Secret material received in CEA will be delivered at the earliest opportunity to the Top Secret Control Officer for proper control and accounting in accordance with CEA procedures.

Individual offices in CEA will process and maintain accountability records for each item of Secret and accountable Confidential material received, produced, regraded, transmitted or destroyed.

Secret and Confidential material will always be transmitted in a manner that will prevent disclosure to unauthorized persons—delivery by hand or an approved messenger or courier service. An original and one copy of the necessary control form will be attached to the document and one copy of the form will be retained showing distribution and awaiting return of the signed receipt.

##### 1.46 Destruction and Disposition

Non-record classified information that has served its intended purpose shall be



destroyed by the custodian by use of a "burn bag." All staples or other metal fasteners shall be removed from the document; a record shall be made of the document being destroyed, with the indication that the document was consigned to a destruction facility.

#### Implementation and Review

##### 1.51 Information Security Oversight Program

The Special Assistant to the Chairman shall be responsible for acting on all suggestions and complaints concerning the administration of the CEA information security program and shall also be responsible for conducting an active oversight program to ensure effective implementation of the Order by:

(1) Apprising current and new employees of security policy and procedures and of their responsibility for the protection of all classified information.

(2) Conducting periodic reviews to assure compliance with procedures.

(3) Maintaining a list of officers who have been designated in writing to have original classification authority, updated as necessary.

(4) Submitting information and reports as required by the Information Security Oversight Office under the Order.

##### 1.52 Classification Review Committee

The Classification Review Committee shall be chaired by the Special Assistant to the Chairman. The Committee shall decide appeals from denials of declassification requests submitted pursuant to the Order. The Committee shall consist of the Special Assistant to the Chairman, the Security Officer, and the Staff Assistant.

##### 1.53 Administrative Sanctions

Any violations of the Order or implementing directives shall be reported to the Chairman of CEA by the Information Security Oversight Office for corrective action.

All employees of CEA shall be subject to appropriate administrative sanction—reprimand, suspension without pay, removal, termination of classification authority—if they:

(a) knowingly and willfully classify or continue the classification of information in violation of the Order or any implementing directives, or

(b) knowingly, willfully and without authorization disclose information properly classified under the current or prior Orders or compromise properly classified information through negligence, or

(c) knowingly and willfully violate any other provision of the Order or implementing directive.

The Chairman of CEA shall ensure that appropriate and prompt action is taken if a violation occurs and the Director of the Information Security Oversight Office shall be informed of any such violation.

Any violation of Federal criminal law by a CEA employee shall be reported by the Chairman of CEA to the Attorney General.

Michael T. Blouin,  
Director, Information Security Oversight Office.

[FR Doc. 79-37492 Filed 12-5-79; 8:45 am]

BILLING CODE 3120-01-M

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Center for Disease Control

##### Investigation of Neurobehavioral Methods for Toxicity Assessment and Laboratory Investigations of Effects of Styrene Monomer; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

##### Investigation of Neurobehavioral Methods for Toxicity Assessment

Date: December 17, 1979.

Time: 12 p.m. to 4 p.m.

Place: Room 117, Robert A. Taft Laboratories, 4676 Columbia Parkway Cincinnati, Ohio 45226.

Purpose: To discuss the details of research protocols concerning laboratory investigations designed to evaluate the use of neurobehavioral methods in toxicity testing.

Additional information may be obtained from: Dr. W. Kent Anger, Division of Biomedical and Behavioral Science National Institute for Occupational Safety and Health, Center for Disease Control, 4676 Columbia Parkway Cincinnati, Ohio 45226. Telephone: 513/684-8383.

##### Laboratory Investigations of Effects of Styrene Monomer

Date: January 6, 1980.

Time: 9 a.m. to 4 p.m.

Place: Room B-38, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To discuss the details of a research protocol concerning the carcinogenic and teratogenic effects of styrene monomer on laboratory animals.

Additional information may be obtained from: Mr. Bryan Hardin, Division of

Biomedical and Behavioral Science National Institute for Occupational Safety and Health, Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: 513/684-8394.

Dated: November 29, 1979.

William C. Watson, Jr.,  
Acting Director, Center for Disease Control.

[FR Doc. 79-37517 Filed 12-5-79; 8:45 am]

BILLING CODE 4110-87-M

#### National Institutes of Health

##### National Cancer Advisory Board Working Group; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board's Working Group on Board Activities and Agenda, National Cancer Institute, December 19, 1979, Building 31C, Conference Room 7, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 12:00 noon to adjournment to review the role of the National Cancer Advisory Board. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5706) will provide summaries of the meeting and rosters of Board members, upon request.

Dr. Thomas J. King, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5147) will provide substantive program information.

Dated: November 29, 1979.

Suzanne L. Freneau,  
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-37452 Filed 12-5-79; 8:45 am]

BILLING CODE 4110-08-M

##### Workshop on Noninvasive Techniques

Notice is hereby given of the Workshop on Noninvasive Techniques in Assessment of Atherosclerosis in Peripheral, Carotid, and Coronary Arteries of the National Heart, Lung, and Blood Institute, January 16-18, 1980 in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The meeting will be open to the public from 7:30 a.m. to 5:00 p.m. The workshop will involve discussions of needs and methodologies for noninvasive

assessment of atherosclerosis as a means of providing advisory information to the Institute. Attendance by the public will be limited to space available.

Registration forms and substantive information can be obtained from Dr. John Watson, Chief, Devices and Technology Branch, Federal Building, Room 312, phone (301) 496-1586, or Dr. Michael Mock, Chief Cardiac Diseases Branch, Federal Building, Room 3C06, Bethesda, Maryland 20205, phone (301) 496-1081.

For the list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A21, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: November 29, 1979.

Suzanne L. Freneau,  
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-37451 Filed 12-5-79; 8:45 am]

BILLING CODE 4110-08-M

#### Office of the Assistant Secretary for Health

##### Health Systems Agency Reviews of Certain Proposed Uses of Federal Health Funds; Internal Procedures: Availability of Federal Funds Notwithstanding Health Systems Agency Disapproval

AGENCY: Public Health Service, HEW.

ACTION: Notice of Internal Procedures.

SUMMARY: This notice sets forth the internal procedures the Department will follow in determining whether to make certain Federal health funds available for a proposed use in a Health Service Area when the Health Systems Agency for that Area has disapproved the proposed use.

EFFECTIVE DATE: These procedures are effective December 6, 1979.

FOR FURTHER INFORMATION CONTACT: Jack Markowitz, Acting Director, Office of Management, Public Health Service, Parklawn Building, Rm. 17-25, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-3921.

SUPPLEMENTARY INFORMATION: Section 1513(e) of the Public Health Service Act ("Act") provides that each designated Health Systems Agency ("HSA") must review and approve or disapprove certain proposed uses of Federal funds for the development, expansion, or support of health resources in its Health Service Area. The proposed uses must be in the form of grants, contracts, loans or loan guarantees funded from appropriations under the Public Health

Service Act, the Community Mental Health Centers Act, sections 409 and 410 of the Drug Abuse Office and Treatment Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970. Each of these enumerated Acts is administered by agencies within the Public Health Service.

Section 1513(e) also provides that if an HSA disapproves a proposed use of Federal funds under one of the four above enumerated Acts, the Secretary of Health, Education, and Welfare may not make these funds available for the proposed use unless the applicant proposing the use requests the Secretary to review the disapproval decision and the Secretary determines as a result of this review that the funds should be made available notwithstanding the HSA disapproval. In reviewing an HSA disapproval decision, the Secretary is required to consult with the State Health Planning and Development Agency ("SHPDA") of the State in which the HSA is located and to give that SHPDA an opportunity to submit its comments.

The regulations implementing section 1513(e) of the Act (42 CFR Part 122 Subpart E) [44 FR 47064, August 10, 1979] set forth, among other things, the time frame in which the applicant must request the Secretary to review an HSA's disapproval decision as well as the criteria to be used by the Secretary in determining whether to make funds available for a proposed use notwithstanding this disapproval. These regulations do not, however, delineate the internal procedures which the Department will follow in responding to the applicant's request. In an effort to assure that these requests are processed in a uniform manner by those Agencies within the Department responsible for the administration of programs subject to the review and approval or disapproval provisions under section 1513(e), the Assistant Secretary for Health, Department of Health, Education, and Welfare, has adopted the procedures set forth below.

In the interest of processing applications as expeditiously as possible, the Secretary has determined that a review will be initiated in each instance where an applicant has requested the Secretary to review an HSA disapproval decision. This procedure will greatly reduce the amount of time necessary to process the request for review and to determine whether the application will be considered for funding notwithstanding the HSA disapproval.

Although proposed uses funded through contracts are subject to review and approval under section 1513(e) of

the Act, the internal procedures listed below are inapplicable to an applicant's request for funding these uses notwithstanding HSA disapproval. The Department has not developed internal policy guidance regarding the form in which proposed contracts will be submitted to the HSAs for review.

The Department invites public comment on the procedures set out in this notice on or before January 7, 1980.

Dated: November 23, 1979.

Julius B. Richmond,  
Assistant Secretary for Health.

#### Internal Procedures—Section 1513(e) of the Public Health Service Act ("Act")

42 CFR 122.415(b) provides that any applicant whose proposed use of Federal funds has been disapproved by a Health Systems Agency ("HSA") under section 1513(e) of the Public Health Service Act may request that these funds be made available notwithstanding the disapproval. The regulation further requires that to be effective, this request must be provided or mailed to the appropriate Federal Funding Agency ("FFA") no later than 15 days after the HSA provides notification to the applicant of this HSA decision pursuant to 42 CFR 122.414. The request must be in the form prescribed by the FFA and must be accompanied by a detailed justification for the requested action. The procedures set out below apply to requests relating to proposed uses of funds to be provided through grants, loans, and loan guarantees.

1. In advising applicants (either through application materials or other appropriate mechanisms) of the statutory and program requirements for awarding grants, loans, or loan guarantees which are subject to the provisions of section 1513(e) of the Act, each FFA must fully inform the applicant of the requirements of 42 CFR 122.415 and the methods prescribed by that FFA for meeting those requirements. This notification to the applicant must include the following instructions:

(a) The request for funding notwithstanding HSA disapproval must be (1) addressed to the appropriate review official (who may not delegate the authority to perform such reviews), as follows: The Deputy Assistant Secretary for Health Operations (for all programs funded by the Office of the Assistant Secretary for Health); or to the appropriate Public Health Service Agency Head (for all other centralized and decentralized grant programs); and (2) postmarked no later than 15 days after the postmark date of the HSA



disapproval notification. Applicants must also be advised that failure to submit the request in a timely manner will make their requests ineffective.

(b) The request must be accompanied by a statement justifying approval of the proposed use of Federal funds notwithstanding HSA disapproval, including a detailed response to the HSA reasons for disapproval.

(c) Copies of the request and justification must be sent by the applicant to (1) the HSA which disapproved the proposal; (2) the State Health Planning and Development Agency ("SHPDA") of the State in which the proposed use will be conducted; and (3) for decentralized PHS programs, to the PHS Regional Health Administrator ("RHA") for the Region in which the applicant will administer the proposed project, or, for centralized programs, to the appropriate Bureau or Institute Director. In addition, the applicant must submit a copy or summary of the disapproved application to the appropriate SHPDA. The applicant must also be advised that failure to forward the specified materials to the appropriate entities under this paragraph will result in a delay of its consideration.

For purposes of this paragraph, all correspondence to the review official and to non-Federal entities must be sent via certified or registered mail—return receipt requested, or delivered by hand. If the request is delivered by hand to the review official, the applicant will be provided with a written acknowledgement of its receipt by the review official or his or her authorized representative.

2. Within three (3) working days of the receipt of the applicant's request for funding notwithstanding HSA disapproval, the review official will notify the SHPDA of his/her receipt of the request and ask that the SHPDA submit its comments within 15 calendar days from the postmark date of the review official's notification. The SHPDA should also be advised in this notification that its comments will not be considered if it fails to submit them in a timely manner. The review official will forward copies of this SHPDA notification to the applicant and the HSA.

3. Upon receipt of the SHPDA comments, the appropriate review official will forward a copy of those comments to the HSA and, for centralized PHS programs to the appropriate Bureau or Institute Director, or, for decentralized programs, to the RHA.

4. In determining whether to fund a proposed use notwithstanding HSA

disapproval, the review official will consider (1) the criteria in 42 CFR 122.415(d), and (2) any comments received from the SHPDA, Bureau or Institute Director or RHA. This decision will be made by the review official within 60 days following the notification to the SHPDA under paragraph 2 of these procedures.

5. Following his or her review under section 1513(e) of the Act, the review official will notify the applicant, the HSA, the SHPDA, and the appropriate PHS awarding office of his or her decision. The applicant, HSA and SHPDA will be notified via certified or registered mail—return receipt requested, or by hand delivery. If the decision is delivered by hand to any of the entities listed in this paragraph, a written acknowledgment of delivery must be obtained.

6. If he or she determines to make the Federal funds available for the proposed use notwithstanding HSA disapproval, the review official will provide the applicant, the HSA, and the SHPDA a detailed statement of reasons for that decision. For purposes of this paragraph, the review official will use the method of mailing and delivery set forth in paragraph 5 above.

7. Upon receipt of any HSA disapproval, each PHS awarding office shall immediately provide a copy of such disapproval to the Administrator, Health Resources Administration, PHS. In those instances where there has been a request for review of the disapproval, the review official, upon making his/her decision on that request, shall send to the Administrator, Health Resources Administration, PHS, a copy of all documents pertaining to that official's final determination.

8. All documentation regarding the request for funds notwithstanding HSA disapproval will be maintained in the applicant's official file by the appropriate PHS grants management or loan officer.

[FR Doc. 79-37446 Filed 12-5-79; 8:45 am]

BILLING CODE 4110-85-M

#### Proposed Personnel Instruction to Implement the Federal Employees Part-Time Career Employment Act of 1978

**AGENCY:** Department of Health, Education, and Welfare.

**ACTION:** Proposed Personnel Instruction to Implement the Federal Employees Part-Time Career Employment Act of 1978

**SUMMARY:** The Department of Health, Education, and Welfare (hereafter

referred to as HEW) is proposing to issue personnel instructions to implement the Federal Employees Part-Time Career Employment Act of 1978, (Pub. L. 95-437) (hereinafter referred to as the "Act") by establishing a continuing program to expand part-time career employment opportunities within HEW. These instructions apply to all component organizations in HEW.

The Act requires agencies to publish their instructions in proposed form and to provide an opportunity for interested parties to comment. After comments have been received and reviewed, the final instructions will be issued as Chapter 340 of the HEW Personnel Manual which is a part of the Department of Staff Manual System.

**DATES:** Written comments are invited and will be considered if received by the official named below on or before February 4, 1980. The final instructions will be effective on the date of issuance.

**ADDRESS:** Robert E. Eaglesome, Director, Division of Personnel Policy, Office of Personnel Policy and Communications, Office of the Assistant Secretary for Personnel Administration, Department of Health, Education, and Welfare, Room 3605, Switzer Building, 330 C Street, SW., Washington, D.C. 20201.

For Further Information Contact: Gloria W. Harrod, Phone: 202-472-3860.

Dated: November 21, 1979.

Thomas S. McFee,  
Assistant Secretary for Personnel  
Administration.

#### Part-Time Career Employment Program

- 340-1-00 Purpose.
- 10 Definition and References.
- 20 Policy.
- 30 Responsibilities.
- 40 Establishing Part-Time Career Employment Goals.
- 50 Part-Time Employment Practices.
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- 70 Program Review and Evaluation.

#### 340-1-00 Purpose

A. This Instruction implements the Federal Employees Part-Time Career Employment Act of 1978, by establishing a continuing program in the Department of Health, Education, and Welfare to increase part-time career employment opportunities. The provisions of this Instruction apply only to part-time career employment as defined in 340-1-10 below. The Instruction does not relate to part-time temporary employment nor does it apply to persons who began service on a part-time basis before April 8, 1979.

B. Excluded from the Instruction are positions at GS-18 and above (or equivalent) and part-time positions for which the number of hours of

employment per week were established by a collective bargaining agreement.

#### 340-1-10 Definition and References

A. As used in the Instruction, part-time career employment is regularly scheduled work of from 16 to 32 hours per week performed by individuals who are serving under competitive or excepted appointments in tenure group I or II and who became employed on such part-time basis on or after April 8, 1979. See Office of Personnel Management Regulation 340.210 for a definition of these tenure groups.

B. The provisions of this Instruction supplement must be used with the following: Public Law 95-437; 5 CFR Parts 340 and 890; FPM Bulletin 340-1; FPM Letter 890-22.

#### 340-1-20 Policy

It is the policy of this Department to provide part-time career employment opportunities in positions GS-1 through 15 (or equivalent) to the maximum extent consistent with Department resources and mission requirements. HEW recognizes that part-time career employment is an effective management tool which enhances the ability of managers to accomplish the mission of their organizations, and at the same time may improve employee morale by permitting adjustments in work schedules to meet the needs of individuals. Within the Department, regularly scheduled tours of duty for employees who became employed on a part-time career basis on or after April 8, 1979 will be no less than 16 or more than 32 hours per week. Employees who began service on a part-time basis under a career appointment before April 8, 1979, may continue to serve under the earlier arrangement. If such employee had a tour of duty of less than 32 hours, however, the tour may not be increased beyond 32 hours.

#### 340-1-30 Responsibilities

A. The Assistant Secretary for Personnel Administration provides overall program direction and leadership, establishes Department-wide policies and requirements, and designates a part-time career employment program coordinator to give guidance and assistance to Department components in developing part-time career employment programs, and to maintain liaison with the Office of Personnel Management.

B. Heads of Principal Operating Components, the Assistant Secretary for Management and Budget for the Office of the Secretary, the Assistant Secretary for Education, the Commissioner of Education, the Director, National

Institute of Education, and the Director, Office of Child Support Enforcement are responsible for the development of part-time career employment programs for their respective organizations. This includes establishing goals and timetables in accordance with 340-1-40, monitoring progress in expanding career part-time employment opportunities, and assuring that program activities are supportive of other special emphasis programs.

C. Principal Regional Officials are responsible for providing guidance and assistance to regional program managers in expanding career part-time employment opportunities, for overseeing and coordinating part-time program activities and practices within the region, and for assisting Principal Operating Component heads in monitoring results.

#### 340-1-40 Establishing Part-Time Career Employment Goals

A. The officials identified in 340-1-30B, are responsible for establishing for their respective organizations annual nationwide goals for increasing part-time career employment opportunities and a timetable setting forth periodic milestones for achieving such goals. Personnel and budget offices will assist managers in determining feasible goals and timetables. The ability to expand part-time employment opportunities will be influenced by such factors as:

1. POC mission and occupational mix;
2. workload fluctuations and overtime usage;
3. size of work force, turnover rate, and employment trends;
4. geographic dispersion;
5. employee and applicant interest in and availability for part-time employment;
6. potential for improving service to the public;
7. plans for affirmative action; and
8. personnel ceiling allowances and fiscal constraints.

B. Goals for FY 1980 must be established by December 1, 1979. Goals and timetables for FY 1981 and subsequent years should be established by the beginning of each fiscal year and reported to the Assistant Secretary for Personnel Administration by November 1 of each year.

#### 340-1-50 Part-Time Employment Practices

##### A. Identifying Positions for Part-Time Employment.

1. Personnel officers in cooperation with management officials must assure that a periodic review is made to identify individual positions or categories of positions which, if they become vacant, could be filled on a part-time career basis.

2. The criteria for determining the feasibility for part-time occupancy of a position include: 1. mission and workload requirements; 2. adaptability of the work to part-time coverage; 3. applicant or employee availability; and 4. affirmative action goals.

##### B. Establishing Part-Time Career Positions.

1. Operating components shall develop procedures and criteria for establishing or converting positions for part-time career employment. Some employees may find it necessary or desirable for personal reasons to work on a part-time basis, and a plan for considering such requests should be included in each component's part-time employment program. Also, many applicants for various reasons are able to work only on a part-time basis, and the feasibility of establishing or converting positions to accommodate these needs should be carefully considered.

2. In deciding whether to establish a new part-time position or to convert an existing position to part-time the request of the employee or applicant must be weighed against management's needs.

##### C. Notifying the Public of Part-Time Vacancies.

Operating Components shall develop procedures for notifying the public of vacant part-time positions. Generally, this will be done through vacancy announcements. As appropriate, vacancy listings, recruiting bulletins, or Federal job information announcements may also be used. In some cases it will be desirable to publicize part-time opportunities by contacting schools and colleges, through professional journals or associations, or by contacting organizations having members who may want to work on a part-time basis.

#### 340-1-60 Reporting Requirements

##### A. Office of Personnel Management Reporting Requirements.

The Department is required to report twice each year to the Office of Personnel Management on progress in meeting part-time career employment goals together with an explanation of impediments experienced in meeting such goals and measures taken to overcome them. These reports will be based on data as of March 31 and September 30 each year, and they must be sent to the Office of Personnel Management by May 15 and November 15 respectively. The report to the Office of Personnel Management will be made by the Assistant Secretary for Personnel Administration, or his designee, and will be based on information provided by the operating components.

##### B. HEW Reporting Requirements.



1. Officials identified in 340-1-30B will send to the Assistant Secretary for Personnel Administration by May 1 and November 1 of each year a statistical and narrative report showing for their respective organizations the following:

- Goals and timetables that were established.
- Progress toward meeting the goals.
- To the extent practicable, information about the extent to which part-time career employment opportunities were extended during the period covered by the report to older individuals, handicapped individuals or others who require a reduced workweek, persons with family responsibilities, or students.
- An explanation of any impediments in meeting goals or in otherwise carrying out the provisions of this Instruction, together with a statement of the measures taken to overcome such impediments.

2. A Part-Time Career Employment Report will be prepared by the Employee Systems Center/OASPER on a quarterly basis and sent to operating components for use in monitoring progress.

#### 340-1-70 Program Review and Evaluation

Review and evaluation of the part-time career employment program will be included in the periodic personnel management evaluations conducted by the Office of the Assistant Secretary for Personnel Administration. Evaluation will be based on evidence of such factors as (1) review of positions to identify functions suitable for part-time career work (2) issuance of internal policy statements and publications in support of part-time career employment (3) recruitment efforts made to employ part-time workers (4) increase in part-time career employment through conversions from full-time to part-time (5) increase in part-time career employment through new hires and (6) degree of achievement of affirmative action goals through part-time career employment.

[FR Doc. 37487 Filed 12-5-79; 8:45 am]

BILLING CODE 4110-12-M

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Indian Affairs

##### San Juan Basin Regional Uranium Study; Second Draft

November 28, 1979.

**AGENCY:** Bureau of Indian Affairs, Department of the Interior.

**ACTION:** Notice of Availability of the Second Draft of the San Juan Basin Regional Uranium Study.

**SUMMARY:** The Department of the Interior has prepared a second draft of a regional study of the potential environmental and socio-economic impacts of projected uranium development in northwest New Mexico through the year 2000, and requests comments from governmental agencies and the public.

**DATE:** Written comments on the study from governmental agencies and interested citizens will be accepted until January 4, 1980.

**ADDRESS:** Comments should be sent to the Project Leader, San Juan Basin Regional Uranium Study, P.O. Box 1590, Albuquerque, New Mexico 87103. Comments will be available for public review at the San Juan Basin Regional Uranium Study office during regular business hours, 8 a.m. to 4:30 p.m. on regular work days.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior has prepared a second draft of the San Juan Basin Regional Uranium Study to address the potential environmental and socio-economic impacts in the San Juan Basin Region of projected uranium mining and milling from now through the year 2000. The regional study is intended to provide an overview of environmental and socio-economic issues that are involved in projected uranium development in the region. It is not an environmental impact statement such as described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The report and accompanying technical working papers do, however, provide information and analysis that may be utilized in connection with the preparation of environmental impact statements in the future.

All written comments submitted to the Department of the Interior by federal, state, and local agencies, and interested members of the public, will be reviewed and considered. If, upon consideration, changes in the text of the draft study are deemed necessary or desirable, such changes will be made prior to publication of the final study.

Public meetings will be held by the Department in the San Juan Basin area to obtain the views of interested parties regarding matters addressed in the draft study. Dates and locations for these meetings have not yet been selected.

Copies of the draft study are available for inspection at the following locations: Project Office, 123 4th St., S.W., Albuquerque, New Mexico; Office of the

Assistant Secretary—Energy and Minerals, Washington, D.C.; University of New Mexico Library, Albuquerque, New Mexico; Albuquerque City Library, Albuquerque, New Mexico. Copies may also be requested by mail from the following location: San Juan Basin Regional Uranium Study, P.O. Box 1590, Albuquerque, New Mexico 87103. Telephone (505) 766-3325.

Forrest J. Gerard,  
Assistant Secretary—Indian Affairs.

[FR Doc. 79-37501 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-02-M

#### Availability of Results of the Application of Coal Unsuitability Criteria in the Alton, Kaiparowits, and Eastern Kolob Fields, Utah

As part of the comprehensive land use plans for the Excalante, Paria and Zion Planning units, the criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining (coal unsuitability criteria) and exceptions have been applied for coal lands under the jurisdiction of the Cedar District, Bureau of Land Management. A notice of intent to apply this criteria and a request for data was published in the Federal Register on August 9, 1979. A notice of a meeting for public input and comment was published in the Federal Register on September 24, 1979. A meeting was held on October 17, 1979 at the Bureau of Land Management Area Office, Kanab, Utah.

Data used to apply the criteria and exceptions were provided by State and Federal agencies and BLM inventories. There is insufficient data at this time to determine the existence or nonexistence of alluvial valley floors and special (100 year) floodplains. The data to make these assessments will be generated by September 30, 1980. This application of coal unsuitability criteria does not constitute formal designation under CFR Part 769.

A Management Framework Plan Supplement with the results of the application of each of the unsuitability criteria based on the data compiled to date and maps displaying the criteria will be available, upon request, after January 1, 1980 from: District Manager, BLM Cedar City District Office, P.O. Box 724, Cedar City, Utah 84720.

In addition to coal unsuitability criteria, the supplement also addresses multiple use planning decisions involving coal, conditions or stipulations which may be imposed on future coal leases in certain areas, landowner

consent information, and a review of public participation.

J. Kent Giles,  
Acting District Manager.

[FR Doc. 79-37526 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-84-M

#### Caballo Mountain Communications Site Access Road; Proposed Closure

November 23, 1979.

**AGENCY:** Department of the Interior.

**ACTION:** Notice of Proposed Road Closure.

**SUMMARY:** Notice is hereby given that the Bureau of Land Management proposes to close the Caballo Mountain Communications Site access road in accordance with the provisions of 43 CFT Subpart 8364—Closures and Section 505 of the Federal Land Policy and Management Act of 1976—Public Law 94-579, Title V—Rights-of-Way. The proposed closure is to promote public safety and to prevent vandalism to the radio site by controlling public access. This proposed closure does not apply to authorized users, to use by hunters during big game hunting seasons as published annually by the New Mexico Department of Game and Fish, or to Federal, State or governmental agencies during law enforcement or emergency operations. On request, a permit may be obtained by anyone wishing to use this road at the Bureau of Land Management, District Office, 1705 North Valley drive, Las Cruces, New Mexico 88001. Any person who knowingly and willfully violates this closure order shall be fined not more than \$1,000 or imprisoned not more than 12 months, or both.

The area of closure is the road contained within T. 15 S., R. 4W., Section 26, NE¼SW¼NW¼. For exact location of the proposed closure, see maps at the Las Cruces District Office.

**DATES:** Publication of this notice initiates a 90-day comment period. This public comment period ends March 5, 1980.

**ADDRESSES:** Send comments to: Daniel C. B. Rathbun, District Manager, Bureau of Land Management, 1705 North Valley Drive, P.O. Box 1420, Las Cruces, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** John E. Provine at the above address or call 605-523-5571.

Daniel C. B. Rathbun,  
District Manager, Las Cruces District Office.

[FR Doc. 79-37525 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-84-M

[ES 15502]

#### Minnesota and Wisconsin; Republication of Notice of Proposed Withdrawal and Transfer of Jurisdiction of Lands

The U.S. Department of the Interior, National Park Service, on February 4, 1977, filed application, Serial No. ES 15502, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining and mineral leasing laws, for transfer to the National Park Service, subject to valid existing rights:

##### Fourth Principal Meridian

T. 30 N., R. 19 W.,

Sec. 8, Unsurveyed island in W½W½, Wisconsin.

T. 30 N., R. 20 W.,

Sec. 1, Lots 7, 8 and 16 in Minnesota, Lots 17 and 18 in Wisconsin.

Sec. 11, Lots 5 and 8 in Minnesota, Lots 6 and 7 in Wisconsin.

Sec. 12, Lots 7, 9 and 10 in Minnesota, Lot 6 in Wisconsin.

Sec. 14, Lots 8 and 9 in Minnesota, Lot 10 in Wisconsin.

T. 31 N., R. 19 W.,

Sec. 6, Unsurveyed island in E½SW¼, Minnesota.

Sec. 7, Unsurveyed island in W½, Minnesota.

T. 32 N., R. 19 W.,

Sec. 5, Unsurveyed island in NE¼NW¼, Minnesota, National Park Service Tract 05-101; Unsurveyed island in NW¼NW¼, Minnesota, National Park Service Tract 05-102.

Sec. 31, Unsurveyed island in NE¼NE¼, Minnesota.

T. 33 N., R. 19 W.,

Sec. 27, Unsurveyed island in NW¼, Minnesota, National Park Service Tract 04-101.

Sec. 28, Unsurveyed island in S½, Minnesota, National Park Service Tract 04-105.

T. 34 N., R. 19 W.,

Sec. 36, Unsurveyed island in N½N½, Minnesota, National Park Service Tract 01-101; Unsurveyed island in NW¼SW¼, Minnesota, National Park Service Tract 01-102.

The area contains approximately 82.83 acres in the aggregate.

These lands will become part of the Lower St. Croix National Scenic Riverway and will be administered in accordance with applicable laws and regulations for National Park Lands. This action is requested in accordance with section 10(c) of the Wild and Scenic Rivers Act of October 2, 1968, 82 Stat. 916, 16 U.S.C. 1281(c), the Lower Saint Croix River Act of 1972, 86 Stat. 1174, as amended, and Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, for the purpose of administration and preservation of the

Lower Saint Croix National Scenic Riverway.

Until (40 days from the date of publication) all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the Director, Eastern States, Bureau of Land Management, 350 South Pickett St., Alexandria, VA 22304, on or before January 14, 1980. Notice of the public hearing will be published in the Federal Register giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October



20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States, Bureau of Land Management, Department of the Interior, 350 South Pickett Street, Alexandria, Virginia 22304.

Lowell J. Udy,  
Director, Eastern States.

[FR Doc. 79-37549 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38881]

##### New Mexico; Application

November 28, 1979:

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 6-inch natural gas pipeline and related facilities right-of-way across the following land:

New Mexico Principal Meridian, New Mexico  
T. 18 S., R. 31 E.,  
Sec. 35, SE $\frac{1}{4}$ NW $\frac{1}{4}$  and E $\frac{1}{2}$ SW $\frac{1}{4}$ .

This pipeline will convey natural gas across .545 of a mile of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37518 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38998]

##### New Mexico; Application

November 30, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Texas Oil and Gas Corporation has applied for one 4 $\frac{1}{2}$ -inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico  
T. 16 S., R. 27 E.,  
Sec. 33, N $\frac{1}{2}$ N $\frac{1}{2}$ ;  
Sec. 34, N $\frac{1}{2}$ N $\frac{1}{2}$ ;

Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

This pipeline will convey natural gas across 2.253 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37519 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38972]

##### New Mexico; Application

November 30, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico  
T. 31 N., R. 12 W.,  
Sec. 11, lots 3, 4 and 5.

This pipeline will convey natural gas across .400 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37520 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38974, 38975, 38996 and 39179]

##### New Mexico; Applications

November 30, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has

applied for four 4 $\frac{1}{2}$ -inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 5 W.,  
Sec. 26, N $\frac{1}{2}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 35, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$  and  
E $\frac{1}{2}$ SW $\frac{1}{4}$ .

T. 27 N., R. 8 W.,  
Sec. 23, S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 25, SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 26, NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

These pipelines will convey natural gas across 1.711 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37521 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38973]

##### New Mexico; Application

November 28, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 10 W.,  
Sec. 14, lot 10;  
Sec. 23, E $\frac{1}{2}$ NW $\frac{1}{4}$ .

This pipeline will convey natural gas across .529 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management,

P.O. Box 6770, Albuquerque, New Mexico 87107.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37522 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38976, 38977 and 39178]

##### New Mexico; Applications

November 30, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4 $\frac{1}{2}$ -inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 11 W.,  
Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 31 N., R. 12 W.,  
Sec. 7, NE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 29 N., R. 13 W.,  
Sec. 33, N $\frac{1}{2}$ SW $\frac{1}{4}$ .

These pipelines will convey natural gas across .671 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37523 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [NM 38906 and 38907]

##### New Mexico; Applications

November 28, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4 $\frac{1}{2}$ -inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 25 E.,  
Sec. 19, W $\frac{1}{2}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 30, E $\frac{1}{2}$ E $\frac{1}{2}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 31, W $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$  and  
NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

T. 18 S., R. 30 E.,  
Sec. 33, SW $\frac{1}{4}$ SE $\frac{1}{4}$ .

T. 19 S., R. 30 E.,  
Sec. 4, lots 2, 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$  and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 9, E $\frac{1}{2}$ W $\frac{1}{2}$ .

These pipelines will convey natural gas across 4.912 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Consuelo M. Richardson,  
Acting Chief, Lands Section.

[FR Doc. 79-37524 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [W-69517]

##### Wyoming; Application

November 27, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Burton/Hawks, Inc., of Casper, Wyoming filed an amendment to their pending application for a right-of-way to include construction of a 70' x 150' compressor plant site and related facilities for the purpose of processing natural gas and will affect the following described public lands:

Sixth Principal Meridian, Wyoming

T. 27 N., R. 93 W.,  
Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The proposed compressor plant site and related facilities to be located at a point adjacent to Burton/Hawks, Inc.'s proposed 4" buried pipeline in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of section 26 is an additional facility to be used for processing natural gas transported from a well located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of section 25, all within T. 27 N., R. 93 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third

Street, P.O. Box 870, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37527 Filed 12-5-79; 8:45 am]  
BILLING CODE 4310-84-M

#### Bureau of Land Management

##### Area Managers, Coeur D'Alene District; Idaho; Redelegation of Authority

In accordance with Bureau Order No. 701 of July 23, 1964 (FR Doc. 64-7492; 29 FR 10526), as amended, the Area Managers of the Emerald Empire and Cottonwood Resource Area of the Coeur d'Alene District, Idaho, are authorized to perform in their respective areas of responsibility, in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

Section 3.2—General and Miscellaneous Matters. On matters in which he/she is authorized to act, the Area Manager may take all action on:

- (b) Cancellations or surrender of contracts, leases and permits. Make partial or complete cancellation or accept surrenders of contracts, leases and permits.

Section 3.3—Fiscal Affairs. On matters in which he/she is authorized to act, the Area Manager may take action on:

- (a) Bonds and Forfeitures.
- (1) Take all actions on bonds required in connection with matters pertaining to the lands or the resources thereof under his/her jurisdiction.
- (2) Expend funds made available as a result of the forfeiture of a bond or deposit by a timber purchaser or permittee or of a compromise under the Public Land Administration Act (43 U.S.C. 1381).
- (d) Trespass. Determine liability for trespass on the public lands when actual damages do not exceed \$5,000. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Section 3.6—Mineral. The Area Manager may take all actions on:

- (m) Oil and gas exploration operations. All actions on oil and gas exploration matters pursuant to 43 CFR Subpart 3045.
- (n) Geothermal Resource Leases. Take all actions involving geothermal resource exploration operations as



provided in 43 CFR 3203.6 and Subpart 3209.

Section 3.7—Range Management. The Area Manager may take all listed actions on:

(b) Grazing leases.  
(1) Grazing leases of public lands, under Section 15 of the Act of June 28, 1934, as amended (43 U.S.C. 315m), and the permits or cooperative agreements to construct and maintain improvements on lands so leased, and to determine the value of such improvements.

(2) Refunds pursuant to 43 CFR 4130.5-2(a).

(3) The expenditure of funds appropriated by Congress, or contributed by individuals, associations, advisory boards, or others for the construction, purchase, or maintenance of range improvements.

(c) Appropriation of Water.

Applications under State laws to appropriate water on lands under the administration of the Bureau of Land Management where required in connection with BLM projects for the development, control, or utilization of water.

(d) Soil and Moisture.

(1) Soil and moisture conservation on the public lands, pursuant to the National Soil Conservation Act of April 27, 1935 (16 U.S.C. 590a et seq.).

(f) Protection and management of wild free-roaming horses and burros, except authorizations to capture and remove excess animals.

Section 3.8—Forest Management. The Area Manager may take all the actions on:

(a) Disposition of forest products sales of timber up to 1,000,000 board feet.

Section 3.9—Land Use. The Area Manager may take all the listed action on:

(g) Material other than forest products not exceeding \$2,000 unless authority to make sales in greater amounts is delegated to the District Manager.

(m) Grant rights-of-way over public and acquired land pursuant to 43 CFR Subpart 2811.

(o) Temporary Use Permits.

(3) Issue temporary land-use permits for lands outside established grazing and forest districts when specifically authorized by the District Manager.

Section 3.10—Designation of Acting Officials:

(a) Area Managers may, by written order, designate any qualified employee of the Resource Area to perform the functions of the Area Manager in his/her absence.

(b) Each employee who serves in such capacity (a) above, shall prepare a memorandum to be kept in the District Office showing the date and hour of the

commencement and termination of each period of his/her service in that capacity.

This delegation supersedes all previous Bureau Order No. 701 redelegations to Area Managers by the District Manager, Coeur d'Alene, Idaho.

This redelegation will be effective December 6, 1979.

Martin J. Zimmer,  
District Manager.

Approved: December 6, 1979.

Robert O. Buffington,  
State Director.

[FR Doc. 79-37449 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-84-M

#### Geological Survey

##### Beaufort Sea Oil and Gas Lease Sale; Notice to Bidders

AGENCY: Geological Survey.

ACTION: Notice to bidders at proposed Beaufort Sea oil and gas lease sale.

**SUMMARY:** By Federal Register Notice of September 14, 1979, Vol. 44, No. 180, revised rules concerning oil and gas exploration, development, and production activities on the Outer Continental Shelf (OCS) found in 30 CFR 250.34 were published. Section 250.34-1(a)(1) provides that "No exploration activities, except for preliminary activities, may be commenced or conducted on any leased area except in accordance with an exploration plan approved by the director. [For] the purposes of this section, preliminary activities are geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan. Such preliminary activities are those which do not result in any physical penetration of the seabed of greater than 300 feet of unconsolidated formations, or 50 feet of consolidated formations, and which do not result in any significant adverse impact on the natural resources of the OCS."

In order to provide an opportunity to review the potential for adverse impacts on the natural resources from preliminary activities in the area of the proposed Beaufort Sea oil and gas lease sale which was advertised by Federal Register Notice of November 7, 1979, Vol. 44, No. 217, lessees will be required to notify the Area Oil and Gas Supervisor prior to conducting geological, geophysical, and other surveys on their leases. Similar activities not conducted on leases owned or operated by the proponent of such activities will continue to be covered by the provisions found in 30 CFR 251.

**FOR FURTHER INFORMATION:** Richard B. Krah, Chief, Branch of Marine Oil and Gas Operations, Conservation Division, Mail Stop 640, U.S. Geological Survey, National Center, Reston, Virginia 22092.

Don E. Kash,  
Chief, Conservation Division.

[FR Doc. 79-37518 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-31-M

#### Office of Surface Mining and Reclamation

[Federal Lease No. 1420-0252-4088]

##### Availability for Public Review of Proposed Major Modification to the Absaloka Mine

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for Public Review of Proposed Major Modification to a Coal Mining and Reclamation Plan.

**SUMMARY:** Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is given that the Office of Surface Mining has received a major modification to an existing mining and reclamation plan. The proposed modification is described below:

##### Location of Lands To Be Affected by Modification

Applicant: Westmoreland Resources, Inc.

Mine Name: Absaloka.

State: Montana.

County: Big Horn, Crow Indian Ceded Area.

Township, Range, Section: T. 1N, R 38 E.; 30; T. 1N, R 37 E.; 24, 25.

Office of Surface Mining Reference Number: MT-0007.

The mine is located approximately 26 miles east of Hardin, Montana, and immediately north of the Crow Indian Reservation. The proposed modification involves mining and associated disturbance on 625 acres of the total lease area of 14,746 acres in Tract III. The mine is proposed to continue as a multiple (two) seam, dragline operation removing Indian-owned coal. The coal is shipped, via railroad, to power stations in the Midwest. The proposed modification would allow the company to continue mining at the current rate of production of 5 million tons per year through 1984. The proposed modification would extend mining activities northward and eastward from the presently mined area. The multiple seam operation would include the extraction of coal from two primary seams, the Rosebud-McKay and Robinson seams. The area scheduled for mining under the

proposed modification is within the boundaries of the 20-year mine plan which was approved by the Department on August 15, 1977. However, the proposed modification would involve a number of changes in the approved 20-year mine plan.

The Absaloka Mine was the subject of site-specific analyses of impacts, mitigation measures, and alternatives in two Environmental Impact Statements. Final Environmental Impact Statement (74-8) was issued by the Bureau of Indian Affairs in 1974, and another Final Environmental Impact Statement (77-17), which addressed the 20-year mining plan approval, was issued by the U.S. Geological Survey on May 31, 1977.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed modification is technically adequate. It is possible that the Office of Surface Mining will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review.

No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the Federal Register (January 7, 1980). Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

The mine plan modification submitted by Westmoreland Resources, Inc. for the Absaloka Mine is available for public review during normal working hours in the Library, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado. Comments on the proposed modification may be submitted during the 30 days after publication of this notice to the Regional Director, Office of Surface Mining, at the same address.

**FOR FURTHER INFORMATION CONTACT:** Dan Kimball or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Federal Coal Lease No. 1420-0252-4088

Donald A. Crane,

Regional Director.

[FR Doc. 79-37528 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-05-M

[Federal Lease No. D-034365]

##### Availability for Public Review of Proposed Major Modification to the Colowyo Coal Mine ("Wilson Loadout")

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for Public Review of Proposed Major Modification to a Coal Mining and Reclamation Plan.

**SUMMARY:** Pursuant to § 211.5 of Title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is given that the Office of Surface Mining has received a major modification to an existing mining and reclamation plan. The proposed modification is described below:

##### Location of Lands to be Affected by Modification

Applicant: Colowyo Coal Company.

Mine Name: Colowyo.

State: Colorado.

County: Moffat.

Township, Range, Section: T. 6N, R.

91W; 30 and 29.

Office of Surface Mining Reference No.: CO-0015.

This proposal is for a temporary coal loadout facility "Wilson Loadout" approximately 8 miles southwest of Craig, Colorado and 15 miles northeast of the Colowyo surface coal mine beside State Highway 13 which connects Craig and Meeker, Colorado. Coal has been hauled via 30 ton trucks to this location from the mine, stockpiled, and loaded into railroad cars for shipment. Previous to use of this railroad loadout, coal was trucked from the mine to the rail yard at Craig. Subsequent to use of this temporary loadout facility, coal will be (and is presently) loaded into railroad cars at the mine site. The applicant is proposing to retain a portion of the temporary loadout facility for emergency use in the event of breakdowns at the mine loadout, and to initiate reclamation on the remainder of the area. The total disturbed area is about 14.6 acres.

The proposal was submitted in response to a Notice of Violation issued by the Office of Surface Mining on July 17, 1979.

Coal has been stockpiled at the facility in open piles and loaded into railroad cars with a front end loader and, if the site were reactivated it would be operated in the same manner. The railroad line was constructed for a nearby mine (Empire Energy-Eagle Mines) prior to construction of this temporary loadout facility and would

remain for use by that operation.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed modification is technically adequate. It is possible that OSM will request additional information from the company during the forthcoming technical review. Any further information so obtained would also be available for public review.

No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the Federal Register (January 7, 1980). Prior to taking any action on this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to Section 211.5(c)(2) of title 30, Code of Federal Regulations.

The mine plan modification submitted by Colowyo for the Wilson Loadout is available for public review during normal working hours in the Library, Office of Surface Mining, Region V, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado. Comments on the proposed modification may be submitted during the 30 day period after this notice to the Regional Director, Office of Surface Mining, at the same address.

**FOR FURTHER INFORMATION CONTACT:** John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado, 80202.

Federal Coal Lease No. D-034365

Donald A. Crane,

Regional Director.

[FR Doc. 79-37529 Filed 12-5-79; 8:45 am]

BILLING CODE 4310-05-M

#### DEPARTMENT OF JUSTICE

##### Law Enforcement Assistance Administration

##### Competitive Research Grant To Study Arson Adjudication; Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant to study arson adjudication in the United States. The purpose is to improve both the process and outcomes of arson adjudication procedures. The sources of data will consist mainly of case files and interviews with persons who have been involved in arson adjudication cases. The grant will be awarded for up to 21 months and not more than \$200,000



unless terminated earlier by reason of unsatisfactory performance.

The solicitation requests submission of full proposals and requires that submitting organizations have experience and capabilities in this kind of legal case study research.

To be considered for review and possible funding, all proposals must be postmarked not later than March 7, 1980.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, Arson Adjudication—No. 80-111, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: November 29, 1979.

Approved:

Harry M. Bratt,  
Acting Director.

[FR Doc. 79-37530 Filed 12-5-79; 8:45 am]  
BILLING CODE 4410-10-M

# NUCLEAR REGULATORY COMMISSION

## Applications for Licenses to Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41 "Public Notice of Receipt of an Application",

please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses for the period September 7 through November 14, 1979. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated this 23rd day of November 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Petersen,  
Acting Director, Office of International Programs.

| Name of applicant, date of application, date received, application number                                                                           | Material type | Material in kilograms |                  | End-use                                                                                                                                | Country of destination        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-----------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
|                                                                                                                                                     |               | Total element         | Total isotope    |                                                                                                                                        |                               |
| Westinghouse Electric, 09/20/79, 09/24/79, Amend Export License to add "Other Party to Export" and change address of Ultimate Consignee. XRO89(001) |               |                       |                  |                                                                                                                                        | Spain.                        |
| Edlow International, 06/31/79, 09/07/79, 4.05% Enriched Uranium. XSNM79015.                                                                         |               | 1,000                 | 40               | Pellets for use in one of B&W's commercial nuclear power plants.                                                                       | From West Germany.            |
| Edlow International, 06/31/79, 09/07/79, 4.0% Enriched Uranium. XSNM79016.                                                                          |               | 1,500                 | 60               | UO <sub>2</sub> for use in B&W's U.S. nuclear power plants.                                                                            | From United Kingdom.          |
| Westinghouse Electric, 09/12/79, 09/17/79, 3.20% Enriched Uranium. XSNM79017.                                                                       |               | 16,644                | 504              | Return damaged fuel rods from Almaraz 1 & 2; Lemonz 1 & 2 and ASCO 1 & 2.                                                              | From Spain.                   |
| Transnuclear, 09/26/79, 10/1/79, 1.15% Enriched Uranium. XSNM79018.                                                                                 |               | 20,000                | 230              | Feed material for UES/EU/39                                                                                                            | From France.                  |
| Dept. of the Navy, 09/13/79, 10/11/79, XU08475.                                                                                                     |               | 25,725 kgs.           | Depleted Uranium | Penetrators aboard Saudi Arabian Naval vessels.                                                                                        | Saudi Arabia.                 |
| Edlow International, 06/31/79, 09/07/79, 4.05% Enriched Uranium. XSNM01584.                                                                         |               | 1,500                 | 60               | Fabrication of fuel pellets & r/t to U.S. Westinghouse reactors.                                                                       | United Kingdom.               |
| Edlow International, 06/31/79, 09/07/79, 4.05% Enriched Uranium. XSNM01585.                                                                         |               | 1,000                 | 40               | Excess material r/t to Reaktor Brennelement Union GmbH.                                                                                | West Germany.                 |
| Edlow International, 08/05/79, 09/07/79, 19.9% Enriched Uranium. XSNM01587.                                                                         |               | 50,125                | 10.17            | As fuel for RA-6 Research Reactor.                                                                                                     | Argentina.                    |
| Edlow International, 08/05/79, 09/07/79, 19.9% Enriched Uranium. XSNM01588.                                                                         |               | 31,446                | 6.364            | As fuel for RP-O Research Reactor.                                                                                                     | Peru.                         |
| Westinghouse Electric, 09/07/79, 09/10/79, 3.20% Enriched Uranium. XSNM00844(3a).                                                                   |               | Add'l 2,774           | Add'l 89         | For export to cover possible damaged fuel replacements—Almaraz I and II.                                                               | Spain.                        |
| Westinghouse Electric, 09/07/79, 09/10/79, 3.20% Enriched Uranium. XSNM00861(2a).                                                                   |               | Add'l 2,774           | Add'l 89         | Lemoniz Units I and II.                                                                                                                | Spain.                        |
| Westinghouse Electric, 09/07/79, 09/10/79, 3.20% Enriched Uranium. XSNM00865(02).                                                                   |               | Add'l 2,774           | Add'l 89         | ASCO Unit 2.                                                                                                                           | Spain.                        |
| Westinghouse Electric, 09/07/79, 09/10/79, 3.20% Enriched Uranium. XSNM00866(2).                                                                    |               | Add'l 2,774           | Add'l 89         | ASCO Units I and II.                                                                                                                   | Spain.                        |
| Westinghouse Electric, 09/12/79, 09/14/79, 3.4% Enriched Uranium. XSNM01045 (0a).                                                                   |               | Add'l 250             | Add'l 8          | Zorita power fuel increase quantity authorized for export.                                                                             | Spain.                        |
| Union Carbide Corp., 09/05/79, 09/17/79, 93% Enriched Uranium. XSNM01595.                                                                           |               | 10,59                 | 9.85             | Fabricate fuel elements & r/t to U.S. for use in Union Carbide.                                                                        | France.                       |
| Mitsubishi Intern'l, 09/21/79, 09/25/79, 3.33% Enriched Uranium. XSNM01599.                                                                         |               | 16,453                | 548              | Reload fuel for Ikata Unit I.                                                                                                          | Japan.                        |
| Edlow International, 08/24/79, 09/26/79, 3.15% Enriched Uranium. XSNM01601.                                                                         |               | 9,296                 | 293              | Reload fuel for Genkai Unit I.                                                                                                         | Japan.                        |
| General Electric, 11/1/79, 11/1/79, 3.1% Enriched Uranium. XSNM01611.                                                                               |               | 12,306                | 336              | Reload fuel for Tsunaga.                                                                                                               | Japan.                        |
| Mitsubishi Intern'l, 10/29/79, 11/02/79, 3.15% Enriched Uranium. XSNM01612.                                                                         |               | 9,824                 | 310              | Reload fuel for Genkai I, 9.                                                                                                           | Japan.                        |
| Westinghouse Electric, 09/12/79, 09/17/79, Extend the expiration date from 1/1/80 to 12/31/80. XRO83(02).                                           |               |                       |                  |                                                                                                                                        | Korea.                        |
| Combustion Eng., 11/07/79, 11/08/79, Reactor vessel for ATUCHA 2 Reactor Plant. XRI34.                                                              |               |                       |                  |                                                                                                                                        | Argentina.                    |
| U.S. DOE, 09/28/79, 10/03/79, XSNM01502 22 kgs U-233.                                                                                               |               |                       |                  | Characterizing physics behavior of proliferation-resistant thorium/uranium-233 fuel cycles in converter reactors in the ZED-2 reactor. | Canada.                       |
| Transnuclear, 11/08/79, 11/08/79, 3.35% Enriched Uranium. XSNM01620.                                                                                |               | 34,901.0              | 1,169.1636       | Reload fuel for Unterweser I.                                                                                                          | West Germany.                 |
| Transnuclear, 10/03/79, 10/04/79, 3.4% Enriched Uranium. XSNM01621.                                                                                 |               | 10,794                | 367              | Reload fuel for Doel 2.                                                                                                                | Belgium.                      |
| Transnuclear, 10/08/79, 10/09/79, 3.25% Enriched Uranium. XSNM01621.                                                                                |               | 12,714.0              | 413.0325         | Reload fuel for Obngheim.                                                                                                              | West Germany.                 |
| Transnuclear, 11/08/79, 11/08/79, 3.35% Enriched Uranium. XSNM01621.                                                                                |               | 17,401.0              | 583.0335         | Reload fuel for Stade Reactor.                                                                                                         | West Germany.                 |
| General Electric, 10/15/79, 10/17/79, 4.0% Enriched Uranium. XSNM00271(06).                                                                         |               | 11,500                | 170              | Fuel for Nuclenor Reactor.                                                                                                             | Spain.                        |
| Exxon Nuclear Co., 10/29/79, 11/06/79, 3.35% Enriched Uranium. XSNM01619.                                                                           |               | 34,000                | 1,012            | Fuel for Biblis Unit A.                                                                                                                | West Germany.                 |
| U.S. DOE, 10/31/79, 11/06/79, XSNM01615 45% Enriched Uranium.                                                                                       |               | 5.0                   | 2.25             | DOE's reduced enrichment research and test reactor program.                                                                            | West Germany and Netherlands. |
| U.S. DOE, 10/31/79, 11/06/79, XSNM01618 19.75 Enriched Uranium.                                                                                     |               | 20.0                  | 3.96             | DOE's reduced enrichment research and test reactor program.                                                                            | France and Netherlands.       |
| U.S. DOE, 10/31/79, 11/06/79, XSNM01618 45% Enriched Uranium.                                                                                       |               | 5.0                   | 2.25             | DOE's reduced enrichment research and test reactor program.                                                                            | France and Netherlands.       |
| U.S. DOE, 10/31/79, 11/06/79, XSNM01618 19.75 Enriched Uranium.                                                                                     |               | 20.0                  | 3.96             | DOE's reduced enrichment research and test reactor program.                                                                            | France and Netherlands.       |

| Name of applicant, date of application, date received, application number | Material type           | Material in kilograms |               | End-use                                                     | Country of destination                      |
|---------------------------------------------------------------------------|-------------------------|-----------------------|---------------|-------------------------------------------------------------|---------------------------------------------|
|                                                                           |                         | Total element         | Total isotope |                                                             |                                             |
| U.S. DOE, Undated, 11/06/79, ISNM79021                                    | 19.75% Enriched Uranium | 40.496                | 8.0           | DOE's reduced enrichment research and test reactor program. | From France, West Germany, and Netherlands. |
| Transnuclear, 9-24-79, 9-24-79, 4.0% Enriched Uranium. XSNM01573.         | 45% Enriched Uranium    | 10.0                  | 4.502         | Application amended to increase sample quantities.          | West Germany.                               |
|                                                                           |                         | Add'l 12.0            | Add'l 0.480   |                                                             |                                             |

[FR Doc. 79-37481 Filed 12-5-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

## Carolina Power & Light Co.'s H. B. Robinson Steam Electric Plant No. 2; Issuance of Amendment to Facility Operating License; Correction

On November 8, 1979, an "Issuance of Amendment to Facility Operating License" was published on page 44 FR 64928 which listed two amendment numbers 43 and 46. The correct number was Amendment No. 43.

The Amendment related to the Carolina Power and Light Company's H. B. Robinson Steam Electric Plant Unit No. 2, a nuclear plant located in Darlington County, Hartsville, South Carolina.

Dated at Bethesda, Md., this 27th day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,  
Chief, Operating Reactors Branch #1,  
Division of Operating Reactors.

[FR Doc. 79-37477 Filed 12-5-79; 8:45 am]  
BILLING CODE 7590-01-M

## Petition to Suspend all operating Licenses for Pressurized Water Reactors; Request for Action

Notice is hereby given that by petition dated March 29, 1979, the Environmental Coalition on Nuclear Power, State College, Pennsylvania, requested that the Commission suspend all operating licenses issued for pressurized water reactors. The petition alleges that the safety evaluations, performed for these licenses are invalid, because the incident which occurred on March 28, 1979, at Three Mile Island Unit 2, a pressurized water reactor, shows that the evaluations of the Emergency Core Cooling System (ECCS) for all pressurized water reactors cannot demonstrate the performance of the ECCS required by 10 CFR 50.46.

The petition is being treated pursuant to the procedures specified in 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time. A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 23d day of November, 1979.

For the Nuclear Regulatory Commission.

Daniel R. Muller,  
Acting Director, Division of Site Safety and Environmental Analysis, NRR.

[FR Doc. 79-37478 Filed 12-5-79; 8:45 am]

BILLING CODE 7590-01-M

Dated at Bethesda, Md., this 23rd day of November, 1979.

For the Nuclear Regulatory Commission.

Daniel R. Muller,  
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-37480 Filed 12-5-79; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-142]

## University of California Argonaut Reactor Los Angeles; Request for Action

Notice is hereby given that by petition dated October 3, 1979, the Committee to Bridge the Gap requested that an Order be issued to shut down the UCLA research reactor, and that other actions be taken to provide for public hearings. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission Public Document Room at 1717 H Street, NW., Washington, DC. 20555.

Dated at Bethesda, Md., this 30th day of November 1979.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,  
Director, Office of Inspection and Enforcement.

[FR Doc. 79-37479 Filed 12-5-79; 8:45 am]  
BILLING CODE 7590-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-49]

## Safety Recommendation Letters and Responses; Availability

The National Transportation Safety Board on November 28 issued to the Federal Aviation Administration three recommendation letters based on findings in recent investigations:

A-79-88.—The Safety Board has received information from several owners and operators of Cessna 200 series aircraft that engine turbocharger assemblies are being replaced as the result of foreign object damage to the compressor blades. Examinations of



several aircraft indicate a deterioration of the alternate air door's "piano-type" aluminum hinge. As a result, the hinge pin sleeves are breaking away and are being ingested by the turbocharger. FAA's Maintenance Analysis Center records show that 10 such cases have been reported in the past 5 years. Although the Safety Board has not determined that a failure of the hinge has caused an accident, the Board believes that such a failure does constitute a hazardous condition.

FAA's Engineering and Manufacturing Office at Wichita, Kans., advised the Safety Board that Cessna changed the material specification of the alternate air door hinge from aluminum to steel and that a production line change was initiated in June 1979 to install the steel hinge on all 200-series aircraft in production. Also, Cessna has discarded all spare aluminum hinge assemblies. The Board notes that Cessna has not yet issued any service information regarding the hinge failure problem and its consequence or the corrective action taken to eliminate the problem.

The Safety Board believes that owners and operators of turbocharged 200-series Cessna aircraft should be alerted to the possibility of deteriorated alternate air door hinges. Accordingly, it was recommended that FAA:

Issue an advisory to owners and operators of Cessna 200 series aircraft, through the General Aviation Airworthiness Alerts (AC-43-16), alerting them to the hazards associated with the aluminum hinge failure problem. The Notice should advise owner/operators to inspect the alternate air door hinge and should include information regarding the availability of new steel hinge assemblies. (Class II, Priority Action) (A-79-88)

A-79-91.—On September 30, 1979, a West Coast Air Service, Ltd., DeHavilland DHC-6-200 Twin Otter, Canadian Registry C-FWAF, crashed on final approach to Porpoise Bay, British Columbia, Canada. This accident is being investigated by the Aviation Safety Bureau of Transport Canada; a Safety Board representative observed the investigation at the invitation of the Aviation Safety Bureau.

During the investigation, the reversing interconnect linkage from the right propeller was found to be disengaged between the propeller reversing push/pull control wire rope terminal P&WC P/N 3010175 (Pratt & Whitney Aircraft of Canada, Ltd., Illustrated Parts Catalog Part Number) and the clevis P&WC P/N 3012419 interconnect linkage of the right engine. In addition, the reversing interconnect linkage rod and clevis on the aircraft's left engine propeller were found to be attached to the push/pull

control wire rope terminal by only one and one-half threads. The engine manufacturer's maximum limit is three threads visible outside the lock nut securing the control rod. This type of propeller reversing interconnect linkage is installed in some models of the Pratt & Whitney PT6-6A, -6B, -6C/20 and -20 series turboprop engines, which are used primarily in a number of models of DeHavilland and Beech aircraft.

According to the Safety Board, failure mode analyses by the aircraft manufacturers have shown that if this linkage should fail or become disengaged, under some flight conditions, the propeller can go into reverse pitch. A relatively low airspeed, typical of approach airspeeds, and a mechanical failure or a nullification by the pilot of the beta backup systems will cause the propeller to reverse pitch. Since this sequence would result in a potentially hazardous situation to the aircraft and its occupants, the Safety Board believes that corrective action is required and therefore recommends that FAA:

Issue an Airworthiness directive to require a special inspection of the propeller reversing interconnect linkage of all aircraft equipped with Pratt & Whitney Aircraft of Canada Ltd., PT6-6A, -6B, -6C/20 and -20 series turboprop to assure that these installations conform to the aircraft manufacturer's propeller reversing linkage rigging specifications. (Class I, Urgent Action) (A-79-91)

A-79-92.—On August 18, 1979, a Boeing 737 owned and operated by Wien Air Alaska was involved in a landing accident at Dillingham, Alaska. During the landing roll, the lower attachment bolt for the right main landing gear upper drag strut failed and the landing gear folded rearward, causing considerable damage to the aircraft. Safety Board investigation revealed that the upper drag strut lower attach bolt, PN69-39473-12, had fractured sometime before this landing. During the landing the drag strut pulled through the two halves of the bolt and the gear folded rearward. Cause of the initial fracture has yet to be determined.

As a result of the accident, the operator inspected the upper drag strut attach bolts on its aircraft. Initially, the operator borescoped the bolts, but later decided to replace them when it determined that the failure may have been initiated by stress corrosion. During the removal of the bolts from one aircraft, the operator noted that a lower attach bolt had been installed in an upper attach bolt location. The Safety Board is concerned that other upper attach bolts may have been incorrectly installed in the lower attach bolt location which, because of design

differences in the bolts, could affect the crashworthiness of the airplane.

The Safety Board notes that the upper and lower bolts are both fuse points in the landing gear, have nearly identical exterior dimensions, and appear to be interchangeable. However, they have differing strengths. Upper attach bolt PN69-39473-5,6 is manufactured from 4330M (vacuum hardened) steel with a strength of 220-235 KSI. The bolt is hollow with an inside diameter of 0.75 inch. The lower bolt is made of 4340M steel with a strength of 270-300 KSI and has an inside diameter of 0.50 inch. Both bolts have an approximate outside diameter of 1.5 inches. Selection of these values is significant since the sequence of failure of these bolts when they are overloaded during some accident environments will determine the direction in which the landing gear fails and the subsequent effects on other parts of the aircraft's structure. Use of the higher strength lower attach bolt in the upper "fuse" position may change the breakaway characteristics which were designed into the landing gear to minimize secondary effects of failure, and which were approved in the FAA type certification process. Accordingly, the Safety Board recommended that FAA:

Require an immediate inspection of all Boeing 737 aircraft main landing gear upper drag strut attach bolts to ascertain that the correct bolts are installed in the proper locations. (Class II, Priority Action) (A-79-92)

#### Responses to Safety Recommendations Aviation

A-79-23.—On November 11 the Federal Aviation Administration provided additional information in response to this recommendation, issued following investigation of several accidents involving Learjet aircraft equipped with the same type of servo drive unit. FAA initially responded to this recommendation on July 16 (44 FR 45497, August 2, 1979). The recommendation asked FAA to issue immediately an Operations Alert Bulletin to FAA inspectors and notify operators of Learjet aircraft equipped with this type of servo drive unit to advise the pilots of these aircraft of the possible control difficulties which can be encountered as a result of clutch malfunction. The Safety Board acknowledged FAA's initial response on August 14, noting that the Board's recommendation letter had been sent to all FAA Flight Standards Offices and that operations bulletins to deal with the problem are being prepared.

FAA reports on November 13 that Change 17 to Order 8440.5A containing

General Aviation Operations Bulletin No. 79-2, "Servo Drive Unit—Installed on Learjet Aircraft," was issued on June 28, 1979. FAA also issued Change 33 to Order 8430.1A which transmits new Part 135 Operations Bulletin No. 79-3, "Malfunction of Servo Drive Unit Installed on Learjet Aircraft," dated September 10, 1979. FAA provided copies of these changes with its November 13 response.

A-79-62 through 66.—FAA's response of November 23 concerns recommendations developed during investigation of the United Air Lines DC-8 accident at Portland, Oreg., December 28, 1978. (See 44 FR 52061, September 8, 1979.)

Recommendation A-79-62 asked FAA to issue an Air Carrier Maintenance Bulletin clarifying 14 CFR 25.811(d) regarding the conspicuity of passenger emergency exit signs when exits are open and the requirement for exit signs to be relocated in aircraft which have signs affixed on the exist closure. FAA reports that its regions responsible for type certification of air carrier aircraft are currently reviewing compliance with 14 CFR 25.811(d) regarding locations of passenger emergency exit signs. If an Air Carrier Maintenance Bulletin is deemed appropriate, FAA will issue one.

In response to A-79-63, which asked FAA to expedite research with a view toward early rulemaking on a means to most effectively restrain infants and small children during in-flight upsets and survivable crash landings, FAA says that a task force was established early in 1979 to develop the options available regarding agency actions needed to permit the manufacture and use of effective aircraft child restraint systems. The proposed standards covering child restraint systems are scheduled for issuance early in 1980.

With respect to recommendation A-79-54, calling on FAA to expedite the release of Operations Review Program Notice No. 13 containing the Safety Board's 1974 recommendation for a power source for public address systems independent of the main aircraft power supply in passenger-carrying aircraft, FAA reports that the Board's 1974 recommendation is now contained in Operations Review Program Notice No. 11. This notice of proposed rulemaking should be issued during December 1979.

Recommendation A-79-65 asked FAA to include in the anticipated new rule a requirement for domestic and flag air carriers to maintain passenger lists with the proviso that both ticketed and nonticketed passengers' names be provided. FAA reports that a resolution of the issues supporting this

recommendation is anticipated as the result of issuance of operations Review Amendment No. 8 in the near future.

Recommendation A-79-66 called for an Air Carrier Operations Bulletin which will provide guidance and criteria to FAA Inspectors in determining the scope, quality, and effectiveness of training programs with respect to communication and coordination among crewmembers. FAA notes that an Air Carrier Operations Bulletin has been prepared and is presently in final coordination. It should be printed and distributed by the end of this year.

A-79-67.—The FAA on November 21 responded to a recommendation resulting from investigation of the Antilles Air Boats, Inc., accident on September 2, 1978, which occurred when a Grumman 21A struck the water while on a passenger flight from St. Croix to St. Thomas, V.I. (See 44 FR 52061, September 6, 1979.) The recommendation asked FAA to amend 14 CFR Part 135 to require all aircraft conducting passenger service under Part 135 in any overwater operation be equipped with approved flotation-type seat cushions, and to require aircraft conducting extended overwater operations to also be equipped with an approved life preserver equipped with an approved survivor locator light.

FAA's response refers to a similar Safety Board recommendation, No. A-79-36, made last June 1 following investigation of the crash of a National Airlines Boeing 727 into Escambia Bay near Pensacola, Fla., on May 8, 1978. Recommendation A-79-36 asked FAA to amend 14 CFR 121.340 to require that all passenger-carrying aircraft be equipped with approved flotation-type seat cushions. FAA's August 29 response to A-79-36 indicated that since the life preserver is superior to a flotation-type seat cushion as a life-saving device, flotation-type cushions are not necessary when life preservers are being carried. (See 44 FR 53319, September 13, 1979.)

In response to A-79-67, the November 13 letter notes that after responding to A-79-36, FAA received a request for reconsideration which reflects the Board's belief that both life preservers, which are acknowledged to be superior, and flotation cushions should be provided under the hypotheses that evacuation time may be critical or that passengers may be thrown clear of the aircraft along with the floating seat cushions. FAA states that the rationale used by the Board would be equally applicable to FAA's response to recommendation A-79-67.

FAA is continuing to review A-79-67 or alternatives which may satisfy the

intent of the recommendation, together with the Board's request in respect to A-79-36. FAA believes that the evaluation upon which its decision will be based will be completed in several months.

A-79-71.—The FAA on November 27 responded to a recommendation issued September 11 following investigation of the emergency water landing of an Antilles Air Boats Grumman G-21A in Charlotte Amalie Harbor, St. Thomas, V.I., on June 4, 1978. The recommendation asked FAA to issue an Airworthiness Directive to (1) define and require a modification of the carburetor heat valves on all Grumman G-21A airplanes to provide positive retention of the valves in the selected position so that the valves will not close if the linkage fails, and (2) define and require a modification of the operating lever on the carburetor hot-air valve operating lever to facilitate installation of the linkage connecting bolt so that it will not fall out if the nut is lost. (See 44 FR 54561, September 20, 1979.)

FAA's response notes that the Grumman G-21A was certificated in 1937 and, to FAA's knowledge, the subject incident cited as the basis for an Airworthiness Directive (AD) is the only such incident involving separation of the linkage connecting the cold air and hot air butterfly valves. Further, as the Board pointed out, the linkage separated because a bolt was improperly installed presumably during maintenance of the airplane. FAA does not believe that this one incident which was the result of improper maintenance is justification for issuing an AD. However, FAA plans to make this an item for inclusion in a forthcoming issue of "General Aviation Airworthiness Alerts," AC No. 43-16.

#### Highway

H-78-12.—The Federal Highway Administration on November 8 further responded to this recommendation, issued after investigation of the March 8, 1977, collision of a tractor-semitrailer with a schoolbus near Rustburg, Va. The recommendation asked FHWA to revise its enforcement policy, which precludes filing charges against drivers and carriers in violation of the Federal Motor Carrier Safety Regulations (FMCSR) unless they have previously been served with a copy of the regulations, to permit the filing of charges for violations under severe circumstances such as preventable, fatal highway accidents.

FHWA's November 8 letter refers to an earlier response, under date of September 6, 1978, which stated that FHWA does not have a policy which precludes the filing of charges against drivers and carriers in violation of



FMCSR who have not been previously served with a copy of the regulations. FHWA states that it has since learned through staff contacts with the Safety Board that recommendation H-78-12 was based on information gathered in interviews with FHWA field employees who indicated that such a policy does exist. Since there is apparently some confusion on the part of FHWA's field staff, a memorandum, dated October 22, 1979, was sent to all FHWA Regions clearly stating FHWA enforcement policy and seeking to correct any misunderstanding by the field staff. The memorandum, a copy of which was furnished the Safety Board, shows that FHWA's established policy is:

As a followup to investigations of fatal accidents which reveal violations by a motor carrier, driver or other employee of the motor carrier, and if the violations might have been either the cause or a contributing factor to the accident, a case report documenting the violations and related factors (such as knowledge and willfulness) will be prepared and submitted, through the Officer-in-Charge and Regional Director, to The Regional Counsel who will make the determination as to legal sufficiency and other legal considerations (such as double jeopardy). If the violations involve the Hazardous Materials Regulations, determination will be by the Office of the Chief Counsel.

Further with reference to recommendation H-78-12, the Safety Board on May 2 forwarded comments on FHWA's letters of September 6, 1978, and April 10, 1979. The Board's letter expressed appreciation of FHWA's seeking a change in legislation that will upgrade and improve the present motor carrier safety enforcement sanctions and urged FHWA to act with dispatch in developing and submitting the proposed legislation to Congress. (See also 44 FR 25954, May 3, 1979.)

**H-79-41 through 45.**—On November 20 the National Highway Traffic Safety Administration responded to five of the recommendations developed following investigation of the van/automobile collision in Willowick, Ohio, last May 6. (See 44 FR 57244, October 4, 1979.)

In response to recommendation H-79-41, which asked NHTSA to expedite the development of a Federal Motor Vehicle Safety Standard (FMVSS) on motor vehicle fuel systems to include a performance standard for non-metallic fuel tanks, NHTSA reports issuance of an advance notice of proposed rulemaking in this area of concern in response to a petition from the Ford Motor Company. NHTSA is now considering the docket comments, and a decision in this area will be made and published in the *Federal Register*.

NHTSA states that the basic thrust of its

Fuel System Standard (FMVSS No. 301-75) is to prevent fuel leakage from any part of the vehicle incidental to crashes. If this is achieved, the type and design of the fuel tank is of relatively little importance. Although performance orientation of NHTSA standards must be preserved as far as possible, and there is no intention of addressing individual components of the fuel system, NHTSA says the vulnerability of plastic fuel tanks to external fire cannot be ignored.

With respect to H-79-42, which called for inclusion of a definition of a fuel system in the contemplated revision of FMVSS 301-75—Fuel System Integrity, NHTSA notes that the fuel system is considered any part of the vehicle that normally contacts fuel. In *Definitions*, section S4 of the standard, NHTSA defines only fuel spillage, and NHTSA says it has never noted any reason to create other definitions to implement or clarify the standard.

The inclusion of performance requirements for each of the components of the fuel system in revising FMVSS 301-75 was recommended in H-79-43. In response NHTSA notes that fuel systems may contain as a hundred or more separate parts forming perhaps a dozen major components. To evolve separate performance requirements for each of the components would not only be unrealistic but undesirable and unnecessary, according to NHTSA. In compliance testing, the source of a leak is relatively unimportant as related to this "fail-pass" test procedure. NHTSA repeats, "... the thrust of the standard is the prevention of fuel leakage from the vehicle incidental to crashes."

In response to H-79-44, which recommended including requirements for rear end impact tests with both vehicles in a braking attitude in the contemplated revision of FMVSS 301-75, NHTSA notes that the 301-75 rear impact tests involves a test vehicle and a standardized moving barrier. NHTSA states, "Car-to-car impact testing at various attitudes would be extremely difficult to standardize to assure repeatability of results from test to test or from facility to facility. It would also be quite expensive." NHTSA states that repeatability and consistency are vital ingredients of any testing procedure. The various test parameters may then be adjusted to cover the "real world" conditions to the extent proven necessary by a thorough examination of the accident data.

Recommendation H-79-45 asked NHTSA to include in the proposed revision to FMVSS 301-75 the requirement for rear end collision tests at angles from straight to 90 degrees.

NHTSA states that standard 301-75 includes a lateral (90 degrees) impact provision. NHTSA has not ruled out incorporating an angular provision similar to the front end impact ( $\pm 30$  degrees) but is still unable to quantify the need for such a provision.

Further, NHTSA states in its November 20 letter that the recommendations resulting from the subject accident were based upon the following facts:

1. A head-on-type accident in which the contact speed was near 100 mph.
2. None of the vehicles involved were covered by the rear end impact provisions of FMVSS 301-75.
3. The fuel tank rupture due to entanglement of a detached bumper was a rare remote event. It is doubtful if any reasonable current or proposed regulatory countermeasure could have been instrumental in preventing this occurrence.
4. The subsequent ignition of fuel did not (in this case) contribute to the casualties.

NHTSA states, "For these reasons we do not consider the recommendations proposed by the Board to be justified by the single, highspeed accident examined or to be appropriate at this time. However, we are continuing our complete evaluation of FMVSS 301 and will keep the NTSB recommendations based on this particular crash in mind as a part of that effort."

#### Marine

**M-79-100 and 101.**—On November 13 the Geological Survey, U.S. Department of the Interior, responded to recommendations developed as a result of the investigation of the R/V DON J. MILLER II collision with the F/V WELCOME in Admiralty Inlet, Puget Sound, October 25, 1978. (See 44 FR 61477, October 25, 1979.)

Recommendation M-79-100 asked the Geological Survey to arrange with the U.S. Coast Guard for an examination of the MILLER to determine whether it conforms to the minimum manning and other regulations required for privately operated vessels of the same type and size engaged in similar oceanographic operations and, if necessary, consider taking action to bring the vessel into reasonable conformance with the standards prescribed by regulations for privately operated research vessels. The Geological Survey reports that this recommendation has been implemented and resulted in establishing duty hour limitations, provision for pilot house relief, and watch responsibility. The Geological Survey says that rarely is the MILLER underway for more than 4 to 6 hours a day and then normally in uncongested, protected waters. The new standing orders provide for special

manning if extended sailing is required and provide for continuous qualified watches in the pilot house. The Geological Survey notes that the captain of the MILLER at the time of the collision did not allow for navigational watch relief, which action was in contradiction to long-standing Geological Survey procedures, and apparently he ignored navigational help that was standing by outside the pilot house.

Recommendation M-79-101 asked the Geological Survey to enter into an agreement with the Coast Guard to have vessels operated by the Geological Survey regularly examined by the Coast Guard to determine if they meet the standards prescribed by regulations for privately operated research vessels of similar type and service and initiate a program to bring the vessels into reasonable conformance with these standards. In response, the Geological Survey reports that this recommendation is essentially in effect. One of the Geological Survey's two oceanographic vessels, the R/V SEA SOUNDER, is routinely inspected by the Coast Guard as a condition of the Geological Survey's lease arrangement with the private owners and the R/V LEE is Navy-owned and, therefore, not subject to Coast Guard inspection.

#### Pipeline

**P-77-38 through 40.**—On November 5 the Pennsylvania Gas and Water Company responded to the Safety Board's October 29 comments on the company's previous response of September 19 (44 FR 57246, October 4, 1979) to recommendations developed as a result of investigation and analysis of the house fire and explosion near Williamsport, Pa., January 25, 1977.

The Board found that the company's action to inform the public as to the nature, characteristics, and hazards of natural gas and what to do when it is encountered are acceptable in meeting the requirements of recommendation P-77-38 and accordingly classified the recommendation as "closed—acceptable action." In response to the Board's request, Pen Gas attached to its November 5 letter copies of the news releases, bill inserts, and encapsulated odorant sample used in the 1979 public information campaign which the company conducted to inform the public as to the nature, characteristics, and hazards of natural gas.

Further, the Safety Board's October 29 letter indicated that the Penn Gas response to P-77-40 is encouraging. The Board noted that the identification and location verification of all valves intended for use as emergency shutoff

units is underway, and asked to be notified of the completion of the project. The Board said that the recommendation file will be kept in open status pending receipt of this information. With respect to P-77-39, the Board previously had classified that recommendation as "closed—acceptable action."

The Board believes that involvement with the Pennsylvania One-Call System, Inc., will be profitable in reducing construction related damage to the Pen Gas pipeline system and was pleased to note that Pen Gas had made the effort to become a part of this service.

#### Railroad

**R-79-61.**—The Federal Railroad Administration on November 13 responded to a recommendation issued following investigation of the rear-end collision of two Consolidated Rail Corporation freight trains at Muncy, Pa., last January 31. The recommendation asked FRA to promulgate regulations to require the conductor or other employee in charge of the train to be located and informed so that he can properly supervise the safe operation of the train. (See 44 FR 55674, September 27, 1979.)

FRA assumes from statements made in the Safety Board's September 19 recommendation letter that the recommendation, while not specifically stating, does in fact call for the conductor being in the locomotive cab with the engineer so that he would take action if he observed any inattention on the part of the other crewmembers. FRA states, "In the train operation environment, conditions occur which call for responsible action by crewmen on the rear of the train, as well as the head of the train. Rear brakemen are required to provide flag protection, observe their running train for overheated journals, dragging equipment; the safe operation of the rear of the train may not be enhanced by placing him in the cab of the locomotive."

FRA further contends that in most instances the engineer and conductor are the most experienced crewmen onboard the train, and it is advantageous to utilize that experience for the protection of the train from both the front end and the rear end. Also, the ever increasing use of radio to improve communication in the railroad industry will further assist the conductor in supervising the safe operation of the train.

The Safety Board's September 19 letter refers to an earlier recommendation, No. R-73-11, issued as a result of investigation of a head-on collision of two Penn Central freight

trains at Herdon, Pa., on March 12, 1973. That recommendation asked FRA to require, where responsibility for safe operation of the train is assigned jointly to the engineer and the conductor, that they be located and informed so that they can make quick effective decisions. In response to R-73-11, FRA informed the Safety Board that adoption of FRA's proposed radio rules (49 CFR Part 220) would provide the conductor with the required information. The Board did not agree and closed out the recommendation after notifying FRA that its action was considered unacceptable. The Board, in issuing recommendation R-79-61, noted that the Muncy accident again shows the need for the employee who is in charge of the train's operation to be located and informed so that he can properly supervise the safe operation of the train.

In FRA's November 13 response to R-79-61, the agency states, "(FRA) believes that our previous response to your recommendation (R-73-11) is a valid response to both recommendations. We reiterate that response (copy enclosed) and consider the recommendation closed."

Note: Copies of recommendation letters issued by the Safety Board, response letters, and related correspondence are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisber,  
Federal Register Liaison Officer.  
December 3, 1979.

[FR Doc. 79-37506 Filed 12-5-79; 8:45 am]  
BILLING CODE 4910-58-M

#### En Banc Public Hearing; Commuter Airline Industry

**AGENCY:** National Transportation Safety Board.

**ACTION:** Notice of Public Hearing.

**SUMMARY:** The Independent Safety Board Act of 1974 (49 U.S.C. 1901, et seq.) confers upon the Board the power to conduct public inquiries into matters pertinent to transportation safety. This document announces a public hearing to be held to inquire into the commuter airline industry. This document sets forth areas of inquiry the agency wishes addressed in written and oral submissions.

**DATES:** Hearing: January 28, 29, and 30, 1980, at 9 a.m.; written statements due on or before January 10, 1980.

**ADDRESSES:** Hearing Location: Federal Office Building 10-A, 800 Independence



Avenue, S.W., Washington, D.C. 20594. Send written statements to Chief, Aviation Accident Division, AI-30, Bureau of Accident Investigation, National Transportation Safety Board, Washington, D.C. 20594.

**FOR FURTHER INFORMATION CONTACT:** Mr. David F. Thomas, Project Manager, Bureau of Accident Investigation, National Transportation Safety Board, Washington, D.C. 20594, Phone: 202-472-6075; or Ms. Barbara Dixon, Director, Office of Government Affairs, National Transportation Safety Board, Washington, D.C. 20594, Phone: 202-472-6018.

**SUPPLEMENTARY INFORMATION:** Under section 304(a)(4) of the Transportation Safety Act of 1974 (Pub. L. 93-633) the Congress specifically authorized the National Transportation Safety Board to "initiate and conduct special studies and special investigations pertaining to safety in transportation." Therefore, the National Transportation Safety Board announces its intent to hold a public hearing to assess current issues of transportation safety in the commuter industry.

This public hearing will examine the development of the commuter industry, the safety record of commuter travel, the effects of anticipated expansion of the industry on safety, and the performance of Federal agencies charged with regulating the commuter industry.

Notice is hereby given that a hearing will be held before an "en banc" sitting of the Board in the Federal Office Building 10-A, 800 Independence Avenue, S.W., Washington, D.C., on January 28-30, 1980. The proceedings will commence at 9 a.m. on subject dates and will consist of presentations of statements in oral and written form and questioning by the Board. Interested persons are invited to submit written comments.

Any person desiring to submit written comments should notify the Project Manager by telephone, 202-472-6075, on or before January 10, 1980. Four copies of the statement must be filed with the Project Manager by January 15, 1980. Copies of all written submissions will be available for public inspection and copying upon request in accordance with the agency's rules regarding availability of information.

James B. King,  
Chairman.

November 30, 1979.

FR Doc. 79-37507 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-58-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16363; File No. SR-Amex-79-14]

### American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29,16 (June 4, 1975), notice is hereby given that on October 31, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

#### Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. (the "Exchange") proposes to amend Rule 723 regarding Don't Know ("DK") notices. The text of the proposed amendments is attached as Exhibit A.

#### Statement of Basis and Purpose

The basis and purpose of the foregoing rule change is as follows:

Amex Rule 723 (the "Rule") provides that when a clearing member finds that a stock or bond transaction has not been compared and has been excluded from clearance, the clearing member shall prepare a DK notice, in a form prescribed by the Exchange, and shall send the DK notice, to the executing broker on the Floor in order to attempt to ascertain the name of the counterparty to the transaction and/or to verify the terms of the transaction.

In order to improve the current procedure for handling and processing of DK notices, the Exchange is proposing to adopt certain amendments to the Rule. These amendments would:

1. With certain exceptions, require that all DK notices forwarded to members on the Floor have attached a copy of the Floor Report pertaining to the uncompleted transaction.

2. Establish a DK Control Center to process DK notices after they have been resolved by members on the Floor. The Center would edit all DK notices for legibility and completeness, distribute copies to the initiating and counterparty to the transaction, and control the entry of DK notices into the comparison process.

The proposed amendments to Rule 723 are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(5) of the Act in particular in that they are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with

respect to, and facilitating transactions in securities.

### Comments Received From Members, Participants or Others on Proposed Rule Change

No formal comments were solicited or received with respect to the proposed rule change.

#### Burden on Competition

The Exchange has determined that no burden on competition will be imposed by the proposed amendments.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 27, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

November 28, 1979.

### Exhibit A—American Stock Exchange, Inc.

#### Proposed Amendments to Rule 723

(Brackets [ ] indicate words to be deleted and italicizing indicates words to be added.)

#### Rule 723

\* \* \* Commentary

.01 A 'DK Notice' shall be prepared by a clearing member whenever it ('the initiating firm') has been unable to compare [(the initiating firm')] and shall be delivered to its executing broker on the Floor ('the executing broker'). [Three] Four copies of the Notice together with Floor report pertaining to

the uncompleted transaction will be sent to the Floor (copy 1 will be designated as the Clearing Corporation copy). The initiating firm may prepare additional copies to be retained in [the] its office for control purposes. The upper portion of the Notice should identify the trade, and the name and clearing number of the initiating firm should be stamped in the appropriate buy or sell section. The following information should be supplied:

1. The name of the executing broker.
2. The trade date.
3. Sold—Bot—If the DK'd trade was a purchase, a line should be drawn through the word "Sold". If a sale, a line should be drawn through the word "Bot".
4. The alpha symbol of the firm for whom the executing broker acted.
5. Sell Clearing Number—The clearing number for the selling firm.
6. Foreign—The box would be checked to indicate a foreign sale (subject to the Interest Equalization Tax.)
7. 8. Buy Clearing Number—The clearing number for the buying firm.
8. 7. Shares—The number of shares involved in the trade.
9. 8. Symbol—The symbol of the [stock] security which was traded.
10. 9. Price—The price at which the trade was effected.
11. 10. Contract Value—(for bonds only)—The value of the trade in dollars and cents.
12. 11. Original Settlement Date—The settlement date of the trade which was DK'd.
13. 12. Other-Side (Executing Broker)—The alpha symbol of the other-side clearing firm and the badge number, in parenthesis, of the other-side executing broker. The badge number is necessary since the executing broker for the initiating firm must pass on the DK Notice to the broker with whom he traded.

[14.] 13. Total Shares—In cases where there were additional transactions in the same security at the same price with the same other-side broker representing the same other-side firm, the total of all such trades must be indicated. [(The initiating firm [may] must [ , if it wishes, ] attach and forward copies of the Floor reports relating to such other transactions, [(except in the case of a DK initiated by a specialist as a principal or on a PER execution.

[15.] 14. Remarks—Any other information which may be of assistance in resolving the transaction.

If the executing broker agrees with the terms of the trade, he shall deliver copies 1 [and 2], 2 and 3 of the Notice to the broker with whom he traded ('the

other-side broker'). At the same time, the reverse side of copy [3] 4 shall be time stamped on the other-side broker's clock, (or written in), and the other-side broker shall place his initials opposite the time indication, acknowledging receipt of the notice. The executing broker shall retain copy [3] 4 as his control. When the other-side broker is a specialist or Floor broker acting as agent and he agrees with the terms of the transaction as set forth in the DK Notice, he shall, using a form prescribed by the Exchange, advise the member or member organization from whom the DK Notice was received that he knows the transaction and will supply the name of the clearing member on the other-side of the transaction later. He shall then pass on copies 1 [and 2], 2 and 3 to the member or member organization for whom he acted ('the other-side firm').

When the terms of a transaction are agreed upon, all copies of the DK Notice shall be signed by both the executing broker and the other-side broker. Where the other-side broker is a specialist or Floor broker acting as agent and the other-side firm agrees with the terms of the transactions, all copies of the Notice shall also be signed by the Floor partner of the other-side firm or the member representing it under Rule 724).

In the event the DK'd transaction is resolved on any terms other than those originally set forth in the DK Notice by the initiating firm, a line shall be placed through the inapplicable term(s), and the correct term(s) entered [directly above] in the designated area. (A specialist or Floor broker taking over a trade shall substitute his clearing number for the inapplicable clearing number.) To indicate his assent, a Floor partner of the initiating firm (or the member representing it under Rule 724) shall place his initials on all copies next to the item(s) changed.

If the transaction has been resolved, [the executing broker for the initiating firm shall be responsible for filing copy 1 of the DK Notice with the Clearing Corporation and copy 3 with the office of the initiating firm. Copy 2 will be sent by the other-side broker to the office of the clearing member on the other-side of the trade.] the initiating firm shall be responsible for forwarding copies 1, 2 and 3 to the DK Control Center.

Any party who receives a DK Notice and does not know the transaction or does not agree with the terms of the trade and cannot resolve the difference with the party from whom the DK Notice was received, shall circle DK in the appropriate buy or sell section and sign copies 1 [and 2], 2 and 3 of the Notice. [Both] All three copies shall be returned to the party from whom the Notice was

received. In the event that a specialist or Floor broker, who acted as agent, does not know the trade, he shall return the notice as promptly as possible so as to enable the party from whom the Notice was received to redeliver the Notice directly to the other-side firm within the time limits specified in paragraph (d) of this Rule.

[FR Doc. 79-37417 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

### [File No. 1-7203]

### Aydin Corp; Application To Withdraw From Listing and Registration

November 28, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Aydin Corporation's (the "Company's") common stock became listed and registered on the Amex on April 3, 1975, and, as of October 19, 1979, also became listed and registered on the New York Stock Exchange, Inc. ("NYSE"). On the latter date, Amex suspended trading in the issue pursuant to Rule 12d2-1 of the Act.

2. The Company determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on both the Amex and NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before December 10, 1979 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.



For the Commission, by the Division of Market Regulation, pursuant to delegated authority.  
George A. Fitzsimmons,  
Secretary.  
[FR Doc. 79-37407 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21305; 70-6375]

**Central Power & Light Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding**

November 23, 1979.

Notice is hereby given that Central Power & Light Company ("CP&L"), 120 North Chaparral Street, Corpus Christi, Texas 78401, an electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L proposes to issue and sell at competitive bidding \$75,000,000 principal amount of its First Mortgage Bonds, Series Q, Due January 1, 2010. The interest rate of the bonds and the price to be paid to CP&L (which will not be less than 99% nor more than 102.75% of the principal amount thereof) will be determined by competitive bidding. The bonds will have refunding protection until September 1, 1985, and will be subject to a 1% sinking fund beginning in 1981. The bonds will be issued under and secured by CP&L's Indenture, dated November 1, 1943, between it and The First National Bank of Chicago, Trustee, as previously amended and as to be further amended by a Supplemental Indenture to be dated January 1, 1980.

The net proceeds from the issuance and sale of the bonds will be used to repay short-term borrowings which were incurred for company obligations, including projects under construction. Approximately \$80,000,000 of short-term borrowings are expected to be outstanding as of January 29, 1980, the planned date of issuance of the bonds. No funds generated from the bonds nor any of the borrowings retired thereby have been or will be utilized to pay the cost of facilities which would not be needed to provide service to customers of CP&L if it were not part of the Central

and South West System. No expenditures will be made by CP&L for the construction or acquisition of any facility not so needed prior to the time all funds covered by the declaration have been expended. For the purposes of the foregoing representation, CP&L assumes that none of the facilities, construction or acquisition of which would be part of any proposal forming the subject of the proceeding in *Central and South West Corporation, et al.* (Admin. Proc. File No. 3-4951) would be needed to provide service to customers of the company if it were not part of the Central and South West System.

CP&L's estimated construction and fuel exploration and development expenditures for the years 1979 through 1981 are estimated at \$234,900,000, \$219,600,000 and \$209,300,000, respectively. Approximately \$163,000,000 of the 1979 estimated total had been expended as of September 30, 1979.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$85,000, including accountants' fees of \$6,500 and legal fees of \$16,000. The fee of counsel for the purchasers of the bonds is estimated at \$18,500 and is to be paid by the successful bidders. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 17, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action

as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.  
George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37408 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 16368; File No. 57-433]

**Consolidated Tape Association; Receipt of Amendments To Plan**

November 27, 1979.

On September 17, 1979, the Consolidated Tape Association ("CTA") submitted to the Commission a proposed amendment to Section XI(c) of the joint industry plan (the "Plan") filed with and declared effective pursuant to Rule 17a-15 (17 CFR 240.17a-15) under the Securities Exchange Act of 1934 governing the consolidated transaction reporting system. The proposed amendment would effect a decrease in access charges to vendors and other persons for receipt of combined Network A and Network B last sale information.<sup>1</sup> If a vendor or other person receives combined Network A and Network B last sale information via the high speed line, the charge would be reduced from \$750 to \$500 per month. If a vendor or other person receives combined Network A and Network B last sale information via the data base, the charge would be reduced from \$375 to \$250.<sup>2</sup> The reduction in these charges, which reflects decreasing costs to the CTA of disseminating last sale information, was implemented, effective January 1, 1979.

In order to assist the Commission in determining whether to approve the proposed amendment, interested persons are invited to submit their views and comments on the proposal in writing to George A. Fitzsimmons, Secretary, Securities and Exchange

<sup>1</sup> Network A disseminates last sale reports of transactions executed in all reporting markets for securities on the New York Stock Exchange, Inc. Network B disseminates last sale reports of transactions executed in all reporting markets for securities on the American Stock Exchange, Inc.

<sup>2</sup> As a result of the proposed amendment, vendors and other persons would no longer be permitted under the Plan to subscribe to Network A or Network B last sale information separately.

Commission, Washington, D.C. 20549, on or before January 7, 1980. The amendment to the Plan will be available for public inspection in the Commission's public reference room. All such communications should refer to File No. S7-433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-37409 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

**Gold Equities, Inc.; Order of Suspension of Trading**

November 29, 1979.

It appearing to the Securities and Exchange Commission that there is a lack of adequate and accurate public information concerning Gold Equities, Inc.'s financial condition and the total number of shares issued and outstanding, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Gold Equities, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended for the period from 11:15 a.m. (EST) on November 29, 1979 through December 8, 1979.

By the Commission.  
George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37410 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 16369; SR-MSRB-79-8]

**Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change**

November 28, 1979.

On July 17, 1979, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. The purposes of the proposed rule change are (i) to designate the MSRB Municipal Securities Principal Qualification Examination (the "Examination") as satisfying the MSRB's examination requirements for qualification as a municipal securities principal and (ii) to provide an exemption from the examination

requirements for persons who entered the municipal securities business as municipal securities principals between December 1, 1975, and November 28, 1979, who were qualified at the time of entry as general securities principals with a registered securities association or in a general supervisory capacity with a national securities exchange, and who have actively performed the functions of municipal securities principals since such date of entry. The Examination, as filed for Commission review on July 17, 1979, consisted of a question bank of 441 questions, an answer key, and examination specifications, and was accompanied by a request for confidential treatment of such materials.<sup>1</sup>

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16086 (August 7, 1979)) and by publication in the Federal Register (44 FR 47420 (1979)). No comment were received by the Commission with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15b and the rules and regulations thereunder.<sup>2</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.<sup>3</sup>

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-37411 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

<sup>1</sup> The Commission granted the MSRB's request, filed pursuant to Securities Exchange Act Rule 24b-2 (17 CFR 240.24b-2), for confidential treatment of the Examination. Letter from Douglas S. Scarff to Barbara L. Leventhal (July 30, 1979).

<sup>2</sup> The Commission staff, in determining whether to exercise its delegated authority to approve the proposed rule change, reviewed the question bank, the answer key, and the examination specifications submitted by the MSRB.

<sup>3</sup> The examination is approved on the basis of the examination specifications filed with the Commission. Any changes in the examination specifications will be filed with the Commission as proposed rule changes. It is contemplated, however, that the question bank filed with the Commission may from time to time be added to or revised in conformity with the current examination specifications and that such additions and revisions need not be filed with the Commission.

[Rel. No. 21312; 70-6353; 70-576]

**New England Electric System and New England Power Service Co.; Supplemental Notice of Proposed Dividend Payment by, Capital Contribution to and Short-Term Borrowing Authorization for Subsidiary Service Company**

November 28, 1979.

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and its service company subsidiary New England Power Service Company ("NEPSCO"), 25 Research Drive, Westborough, Massachusetts 01581, have filed with this Commission an amendment to their application-declaration previously filed pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, 12 and 13 of the Act and Rules 42, 45, 50, 90 and 91 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By release dated October 19, 1979 (HCAR No. 21259), notice was given concerning a proposed capital contribution from NEES to NEPSCO and a proposed short-term debt authorization for NEPSCO. Subsequent thereto applicants-declarants filed an amendment revising those proposals. The complete proposal, as revised, is set forth below.

During 1978 NEPSCO billed its customers \$50,910,622 for services, an average of approximately \$4,250,000 per month, and NEPSCO's monthly working capital needs ranged from a minimum of \$1,375,000 to a maximum of \$4,500,000. Since it has no authorization to borrow funds to meet its working capital requirements, NEPSCO met such requirements through a combination of open account advances from NEES of \$1,100,000 and prepayments of bills by NEPSCO's customers. The open account advances from NEES consisted of \$550,000 which had been made between 1936 and 1941 and which bear interest at 4% per annum, together with other advances totaling \$550,000 which were made in amounts of \$50,000 each, the last such advance having been made in 1965, and which do not bear interest. To provide for NEPSCO's ongoing working capital requirements it is proposed that NEES make a capital contribution to NEPSCO, that NEPSCO be granted its own short-term borrowing authority and that NEPSCO declare and pay to NEES a dividend of \$273,438, a sum



representing the full amount of its retained earnings. A portion of NEPSCO's retained earnings include work performed for non-affiliates, including work performed for the United States government during World War II. The disposition of this war income must be approved by this Commission in accordance with the order of August 8, 1942, in File No. 70-576.

NEES proposes to make a capital contribution of \$1,350,000 to NEPSCO, from which contribution NEPSCO would repay NEES \$1,100,000, the full amount of outstanding open account advances. NEPSCO will credit the capital contribution to "Miscellaneous paid-in capital" and NEES will charge it to "Investment: Common Stock of Subsidiaries, at Equity."

NEPSCO also proposes to issue and sell from time to time through March 31, 1980, its short-term notes up to a maximum amount of \$4,000,000 outstanding. Such short-term notes would be issued to banks and/or to NEES, would mature in less than one year from date of issuance and would provide for prepayment in whole or in part without penalty. The notes issued to banks would bear interest at a rate not exceeding the prime rate in effect at the time of issuance [not including any fees in lieu of compensating balances], and those issued to NEES would bear interest at a rate not in excess of the prime rate in effect at the time of issuance. Assuming a prime rate of 15.75% and compensating balance requirements of 20%, or fees equivalent thereto, the effective interest cost of bank borrowings would be 19.69%, and the effective interest cost of borrowings from NEES would be 15.75%.

It is proposed that NEPSCO may prepay its notes to NEES, in whole or in part, with borrowings from banks and that NEPSCO may prepay its notes to banks, in whole or in part, with borrowings from NEES. In the event of borrowings from banks at a higher interest rate than the rate on notes to NEES being prepaid with such bank borrowings, NEES will credit NEPSCO with the interest differential from the date of issuance of the new notes to the normal maturity date of the notes to NEES being prepaid. In the event of borrowings from NEES to prepay notes to banks, the interest rate on the notes to NEES will be the lower of (1) the interest rate on the bank notes being prepaid (but only until the maturity date of the notes so prepaid, and thereafter at the prime rate) or (2) the prime rate.

NEPSCO also seeks authorization to include in its service charges to customers (1) the actual interest on funds borrowed by it, and (2) a rate of

return on equity capital (excluding retained earnings) equal to the rate of return on common equity most recently authorized by the Federal Energy Regulatory Commission ("FERC") in rate proceedings involving NEPSCO's affiliate, New England Power Company ("NEP"). The most recent rate of return on common equity authorized NEP in FERC proceedings was 12.75%. NEPSCO further requests that any new rate authorized NEP by FERC become effective for NEPSCO (1) upon filing with this Commission of the FERC order authorizing such new rate for NEP, or (2) upon the effective date of such FERC order, whichever is later.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$3,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than December 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-37412 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release 34-16366; File No. SR-NASD-79-10]

#### National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given on October 22, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

#### NASD's Statement of the Terms of Substance of the Proposed Rule Change

##### Text of Proposed Rule Change

The following is the full text of the proposed amendment to the Code of Procedure for Handling Trade Practice Complaints of the National Association of Securities Dealers, Inc. It consists of a new Section 21 with subsequent existing sections of the Code to be renumbered. New language is italicized.

#### Sec. 21 Service of Complaints, Decisions and Other Notices

*Any respondent or aggrieved person shall be deemed to have received notice to which he is entitled under any section of this Code by mailing of the notice to that person at his last known address as reflected on the Association's records. For purposes of computing the time for any such person to take required action under this Code, three days shall be added to the prescribed period if service is effected by mail.*

#### NASD's Statement of Purpose of Proposed Rule Change

The proposal was prompted by Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36401 (July 14, 1977), 12 SEC Docket 1113-1114 (July 26, 1977), which suggested that self-regulatory organizations review their rules to be sure the rules provide that a mailing to an affected person or entity directed to the last address of record for that person constitutes proper service under the Code. The proposed amendment provides that a mailing to any participant, member, or associated person directed to the latest address carried on the records of the Association for that person constitutes proper service within the meaning of the Association's Code of Procedure for Handling Trade Practice Complaints. This will prevent the possibility of an open-ended period for appeals under the code where an aggrieved person has not timely received a copy of any notice

under the Code for whatever reason. It will bring finality to proceedings under the Code with respect to those limited situations.

#### NASD's Statement of Basis Under the Act for Proposed Rule Change

Section 15A(b)(8) provides that the "rules of a registered securities association are designed to promote just an equitable principles of trade \* \* \* and, in general to protect investors and the public interest \* \* \*". Section 15A(b)(8) provides that the rules of a registered securities association "provide a fair procedure for the disciplining of \* \* \* persons associated with members \* \* \*". Section 15A(h)(1) provides "[I]n any proceeding by a registered securities association to determine whether a member or person associated with a member should be disciplined \* \* \* the association shall \* \* \* notify such member or person of and give him an opportunity to defend against such charges, and keep a record." Section 15A(h)(2) provides "[I]n any proceeding by a registered securities association to determine whether a person shall be denied membership, barred \* \* \* or prohibited or limited with respect to access to services offered by the association \* \* \* the association shall notify such person of and give him an opportunity to be heard \* \* \*". Pursuant to these statutory directives the Association has adopted a Code of Procedure for Handling Trade Practice Complaints designed to provide a comprehensive and fair procedure for the disciplining of members and persons associated with members. As part of this procedure, the Code provides that persons subject to its disciplinary process are provided with notice as a matter of due process protection.

#### Comments Received From Members, Participants or Others of the Proposed Rule Change

No comments have been received by members, participants or others since the Association has not published this proposed amendment for comment.

#### NASD's Statement on Burden on Competition

The proposed amendment has no competitive effect and, therefore, imposes no burden on competition.

On or before January 10, 1980, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so doing or (ii) as to which the Association consents, the Commission will:

(a) By order approve such proposed rule change; or  
(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Association at 1735 K Street, N.W., Washington, D.C. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 27, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

November 27, 1979.  
[FR Doc. 79-37418 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21311; 70-6380]

#### Northeast Utilities, et al.; Proposed Formation of a Non-Utility Subsidiary Which Will Lease Electric and Gas Appliances to Consumers

November 27, 1979.

In the matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; The Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037; the Hartford Electric Light Company, Selden Street, Berlin, Connecticut 06037; Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089.

Notice is hereby given that Northeast Utilities ("NU"), a registered holding company, and The Connecticut Light and Power Company ("CL&P"); the Hartford Electric Light Company ("HELCO") and Western Massachusetts Electric Company ("WMECO") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10, 11 and 12 of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction.

All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction. NU, CL&P, HELCO and WMECO

propose the following transactions: (a) The establishment of Northeast Utilities Energy Management Company (NUEMCO) as a wholly-owned non-utility subsidiary of NU to acquire and lease to customers electric and gas water heaters and other appliances, (b) the proposed method of financing NUEMCO, (c) the purchase by NUEMCO from CL&P, HELCO, and WMECO of all appliances presently owned by those companies and leased to customers, and (d) the several guarantees by CL&P, HELCO and WMECO of the debt of NUEMCO, if required.

For many years, CL&P, HELCO, and WMECO supported the use of electric and gas water heaters and, to a lesser degree, gas conversion burners, through a program of purchasing the appliances and leasing them for a small monthly rental to their customers. This program was discontinued in November, 1974 due to the discontinuance of all marketing efforts and a major capital expenditure cutback.

After detailed study, the applicants determined that a program should be undertaken to encourage the increased use of gas for water heating and to encourage electric customers to use radio-controlled water heaters, whether the heaters are owned by customers or rented to them. The increased use of gas water heaters will reduce the area's need for oil and will improve NU's position in possible future gas allocation priorities because this will be a residential gas use which is the last category to be affected in the event of reduced allocations. The increased use of controlled electric water heaters will result in more efficient use of available generating capacity. This is because they can be controlled to insure that their use coincides with the availability of the most efficient generating capacity and that they do not operate during the "peak" hours when the system must rely on generating units with higher operating costs. This is consistent with the objective of controlling loads at the point of use in order to reduce demand during peak periods and increase use in off-peak periods.

It is stated that the organization of a nonutility subsidiary to own and lease appliances rather than have the program carried out by public utility subsidiaries would have the following advantages: (a) With the approval of the Commission, financing through a higher level of debt would contribute to lower



capital cost which would permit a lower rental charge to the customer; (b) NUEMCO will not be a manufacturer or seller of electricity or gas and as such will be exempt from the Connecticut 5% gross earnings tax presently applicable to appliance rental revenues of electric and gas utilities including CL&P and HELCO, with a resulting aggregate savings of approximately \$175,000 taxes currently being paid by those companies; (c) greater flexibility in setting both book and tax depreciation rates thus lowering federal income taxes and increasing cash flow; (d) a nonutility subsidiary would not be subject to regulation by any state regulatory commission but rental pricing would be determined by competition; and (e) the sale of existing appliances at net book value would provide cash proceeds of approximately \$6,800,000, \$3,800,000 and \$1,900,000 to CL&P, HELCO and WMECO, respectively, for use in repaying short-term debt incurred to finance their ongoing construction programs.

It is proposed that NUEMCO would be incorporated as a stock company under the Connecticut general statutes with \$1,000 stated capital to be provided by NU through the purchase of ten common shares, no par value. The balance of the financing would be provided by (a) a capital contribution of \$1,250,000 representing 10% of NUEMCO's total capitalization of \$12,500,000; and (b) a term bank loan or loans for the balance. These funds would be used to purchase existing rental appliances from the operating subsidiaries. The bank loans would be unsecured and would be fully amortized over the term of the loan. Preliminary discussions with banks have indicated that such financing would be available.

In view of the fact that the bank loans will be unsecured and that NUEMCO will not have substantial paid-in capital, the lending institution or institutions may require the several guarantees of CL&P, HELCO and WMECO for the NUEMCO term bank loans.

Appliances that are presently leased by the operating utilities to customers are covered by written leases. The leasing of new appliances will be handled under a new appliance lease agreement. Under both the old and new lease agreements, customers would be billed for rental on the regular monthly bill from the operating utility providing electric and/or gas service. Under appropriate service contracts CL&P, HELCO and WMECO will provide NUEMCO with necessary services for accounting, billing and maintenance in connection with the appliance rental

program. All expenses attributable to the program incurred by CL&P, HELCO and WMECO with respect to accounting, billing, maintenance, etc., will be charged to NUEMCO and NUEMCO will reimburse the operating utilities for such expenses from appliance rentals pursuant to the service contracts. CL&P, HELCO and WMECO customers will not be charged with any expense of the appliance rental program.

No fees, commissions or expenses will be paid or incurred by the applicants in connection with the proposed transactions except for requisite filing fees and financial and other services to be performed at cost by Northeast Utilities Service Company, a subsidiary service company of NU.

Certain of the proposed transactions are subject to the jurisdiction of the Connecticut Division of Public Utility Control and the Massachusetts Department of Public Utilities. It is stated that no other state commission or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 20, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37413 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 1-4736]

**Polychrome Corp.; Application to Withdraw from Listing and Registration**

November 26, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Pursuant to an Indenture dated November 1, 1977, with Morgan Guaranty Trust Company of New York (the "Trustee"), Polychrome Corporation (the "Company") issued \$20,000,000 principal amount of the Debentures in 1977.
2. As of October 5, 1979, there were 95 debentureholders of record.
3. Trading in the debentures has been light and the Company perceives no reason for this to change. Reporting requirements under the Act must be met by the Company so long as the debentures remain listed and registered on a national securities exchange. The Company incurs substantial expense in complying with those requirements. Given the small number of holders and the limiting trading activity, the Company believes that the burden of filing such reports is disproportionate to any investor benefit therefrom.

In order to protect the debentureholders, the Company upon approval of its withdrawal application, has agreed to undertake the following:

- (a) To provide the Trustee, and each registered debentureholder, a copy of the Company's annual audited financial statements as soon as possible, but in any event, within 120 days after the close of the fiscal year for as long as there are debentures publicly held;
- (b) To notify each registered debentureholder and the Trustee, in writing, of any event which affects the rights, interests or priorities of the debentureholders or the Trustee under the Indenture;
- (c) To arrange for a registered broker-dealer to advertise a willingness to

purchase the Debentures until there are no longer any Debentures outstanding which are publicly held; and

(d) To forward to the Commission any written comments received from debentureholders regarding the decision to voluntarily delist the Debentures while its application with the Commission is pending.

In light of these investor protection measures, the Amex has agreed not to interpose an objection to this application.

Any interested person may, on or before December 10, 1979 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37414 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21304; 70-5648]

**Public Service Co. of Oklahoma and Transok Pipe Line Co.; Post-Effective Amendment Regarding Increase in Amount of Notes Issued by Subsidiary Pipeline Company to Parent Electric Utility Company**

November 23, 1979.

Notice is hereby given that Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, an electric utility subsidiary of Central and South West Corporation, a registered holding company, and Transok Pipe Line Company ("Transok"), P.O. Box 3008, Tulsa, Oklahoma 74101, a subsidiary pipeline company of PSO, have filed with this Commission a further post-effective amendment to their application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By supplemental order issued July 20, 1979 (HCAR No. 21152), Transok was authorized to issue and sell to PSO its short-term notes in an aggregate principal amount outstanding at any one time not to exceed \$10,000,000, such notes to mature not later than December 31, 1980.

It is now proposed that the amount of such notes issued and sold by Transok to PSO be increased to \$20,000,000. In all other respects the transactions remain unchanged. The notes will bear interest at the rate published in The Wall Street Journal for commercial paper placed directly by a major finance company and having terms most nearly equal to the terms of the loans.

The proceeds of the notes have been and will continue to be used to finance Transok's continuing construction program and for Transok's general working funds. It is stated that the fees and expenses to be incurred in connection with the proposed transactions, other than the Commission's filing fee, are estimated at \$300, including legal fees of \$250. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions.

Notice is further given that any interested person may, not later than December 17, 1979, request in writing that a hearing be held for such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarants at the above-stated addresses, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37415 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21306; 70-6097]

**System Fuels, Inc., et al.; Proposal by Nonutility Subsidiary Relating to Procurement, Storage and Transportation of Fuel for the Benefit of Operating Companies and Financing Such Operations Through Loans From Parent Companies**

November 23, 1979.

In the matter of System Fuels, Inc., Noro Plaza, 666 Pondras, New Orleans, Louisiana 70130; Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205; New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that System Fuels, Inc. ("SFI"), a fuel subsidiary of Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L") and New Orleans Public Service, Inc. ("NOPSI") (collectively referred to as the "Operating Companies"), all of which are public utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company, has filed a second post-effective amendment to an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 45, 50(a)(3), 90 and 91 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration for a complete statement of the proposed transaction.

By orders dated January 4, 1978 (HCAR No. 20363), March 9, 1978 (HCAR No. 20441), May 4, 1978 (HCAR No. 20530), and December 29, 1978 (HCAR No. 20867), in this matter the Commission approved, through December 31, 1979, certain financing arrangements and other transactions related to the procurement, storage and transportation of fuel by SFI for use by the Operating Companies. SFI was



authorized to borrow up to \$109,900,000 from the Operating Companies under a loan agreement ("1979 Loan Agreement"). It is estimated that \$56,500,000 will be outstanding under the 1979 Loan Agreement on December 31, 1979 and will be converted into loans under an amended 1978 Loan Agreement ("Loan Agreement") which will provide for additional borrowings by SFI from the Operating Companies in 1980 of up to \$117,000,000 to be used to finance, in part, transactions entered into by SFI in the ordinary course of its fuel supply business for the 1979 calendar year. The exact amount of the borrowings proposed to be made under the Loan Agreement will be adjusted to reflect the actual amount of loans outstanding on December 31, 1978; total borrowings by SFI under the Loan Agreement are presently estimated at \$173,500,000.

Potential borrowing requirements of SFI during 1979 include up to \$61,200,000 for payment of notes and bankers' acceptances and a net amount of \$31,700,000 for SFI's fuel supply program, including \$28,300,000 for fuel procurement, \$2,000,000 for storage facilities and \$1,400,000 for transportation facilities.

Certain other Commission authorizations are also requested in the instant filing where required, to carry out or continue programs which the initial years of SFI's operation have shown to be essential.

It is presently contemplated that net capital requirements of \$52,100,000 will be required for SFI's fuel procurement program during 1980 as follows:

|                                              | 1980         |
|----------------------------------------------|--------------|
| Gas and Oil Exploration and development..... | \$36,300,000 |
| Uranium Exploration.....                     | 14,700,000   |
| Nuclear Fuel Procurement.....                | (3)          |
| Coal Procurement.....                        | 1,100,000    |
| Fuel Oil Procurement.....                    | (3)          |
| Net Requirements.....                        | 52,100,000   |

<sup>1</sup>Capital requirements for nuclear fuel procurement will be financed as described in the Commission's order dated October 31, 1978 (HCAR No. 20753).

<sup>2</sup>Capital requirements for fuel oil procurement will be financed as described in the Commission's orders dated August 1, 1979 (HCAR No. 21171) and August 14, 1979 (HCAR No. 21185).

It is presently estimated that \$43,800,000 will be required for SFI to continue its gas and oil exploration and development activities in the tri-state area of Arkansas, Louisiana and Mississippi during 1980. Additionally \$10,400,000 will be required by SFI to purchase gas and pay royalties on gas produced from prospects in which SFI has an interest. During the same period, SFI estimates that it will generate approximately \$17,900,000 from the sale of gas, thereby resulting in a net capital requirement of \$36,300,000 during the period.

Pursuant to the Commission's order of March 9, 1978 (HCAR No. 20441), in this matter, SFI has embarked on a uranium exploration program to help assure an adequate supply of uranium to accommodate the increased commitment to nuclear power of the System. SFI is involved, acting individually or together with nonaffiliates, in conducting geological and geophysical studies and explorations for, and acquiring and disposing of leases and other mineral rights with respect to, uranium reserves, and proving such reserves. It is presently contemplated that SFI's net capital requirements for this program during this program during 1980 will be approximately \$14,700,000.

SFI contemplates that during 1980 approximately \$47,600,000 will be expended for the acquisition of nuclear materials and services offset by \$43,800,000 from sales of enriched UF<sub>6</sub> to the Operating Companies and Middle South Energy, Inc. ("MSE"), a generating subsidiary of MSU. SFI's nuclear materials and processing services supply program during 1979 will be financed by the issuance by SFI of short-term notes as authorized in the Commission's order of October 31, 1978 (HCAR No. 20753).

It is presently contemplated that SFI's coal procurement program during 1980 will involve expenditures of \$1,100,000 for carrying costs, including interest charges, storage and certain overhead expenses, to be capitalized primarily in connection with SFI's participation in a coal supply arrangement with Antelope Coal Company ("Antelope") pursuant to a contract entered into between SFI and Antelope as approved by the Commission's order dated March 8, 1977 (HCAR No. 19924).

To assure the availability to the Operating Companies and Arkansas-Missouri Power Company ("Ark-Mo"), another utility subsidiary of MSU, of an adequate supply of fuel oil it will be necessary to have an inventory on hand at January 1, 1980, and December 31, 1980, of 7,000,000 bbls. During the ensuing twelve months, the inventory level will vary because of seasonal factors and other conditions. However, due to an increase in cost, the inventory at December 31, 1980, is expected to be worth approximately \$161,800,000 compared to an estimated worth of approximately \$125,400,000 at January 1, 1980. Net cash requirements of \$36,400,000 are therefore expected during 1980.

SFI anticipates expenditures of \$5,800,000 in 1980 to insulate certain of its storage tanks to facilitate storage of heavier fuel oils, to construct an

additional storage tank and to make certain improvements to existing docking and unloading facilities. The anticipated expenditures will be funded in part by \$2,400,000 in fuel storage depreciation expenses included in oil billing to the Operating Companies and Ark-Mo, thereby resulting in a net requirement of \$3,400,000.

It is presently contemplated that SFI's fuel transportation program during 1979 will involve expenditures of \$1,000,000 for the provision of gathering systems and/or pipelines to transport gas, which has been discovered pursuant to SFI's exploration program, to certain of the System's power plants, for certain improvements to towboats and barges and for the financing and general costs applicable to the program to be capitalized. The anticipated expenditures will be funded in part by \$400,000 in fuel transportation depreciation expenses included in fuel billing to the Operating Companies and Ark-Mo, thereby resulting in a net requirement of \$600,000.

SFI's capital requirements during 1980 may involve the following:

|                                                                                                                                                           |              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| To pay SFI's commercial paper notes or The Aetna Casualty and Surety Company ("Aetna") under the arrangement described below.....                         | \$20,900,000 |
| To pay bankers' acceptances from Citibank due periodically through 1979 as authorized by the Commission's order of November 7, 1977 (HCAR No. 20248)..... | 40,000,000   |
| To cover capital expenditures for activities herein described.....                                                                                        | 56,100,000   |
| Total.....                                                                                                                                                | 117,000,000  |

Pursuant to the financing program authorized by Commission order dated October 31, 1978 (HCAR No. 20753), SFI will finance its nuclear materials and processing services supply program during 1980 by the issuance of its commercial paper notes backed by Aetna's Bond of Indemnity. SFI has retained the right to cancel this program at any time should it become economically disadvantageous. In addition, the program may be terminated upon the occurrence of certain events. SFI currently estimates that the maximum amount of notes or obligations to Aetna at any one time outstanding during 1979 will total \$20,900,000. Authority is herein requested to make borrowings under the Loan Agreement, if necessary, in 1980, in an amount sufficient to effect repayment of its borrowings or reimbursement of Aetna. In addition, SFI will endeavor to extend, renew or otherwise refinance its obligations to Citibank, but in the event that such refinancing is not available, it will need \$40,000,000 to pay the notes upon their maturity. SFI also needs the assurance that borrowing capacity is available immediately to meet

contingencies which might arise in connection with leasing and other transactions previously entered into upon authorization from the Commission.

Commission authorization is therefore sought for SFI to enter into the Loan Agreement with the Operating Companies pursuant to which SFI would be authorized to make borrowings, which will mature on December 31, 2005, from the Operating Companies, from time to time through December 31, 1980, in an aggregate amount not to exceed, at any one time, the sum of \$117,000,000 and the amount to be outstanding at December 31, 1979, under the 1978 Loan Agreement, currently estimated to be \$56,500,000, which amount will be converted into loans under the Loan Agreement as described below. Such borrowings would be in addition to the \$28,500,000 of outstanding borrowings authorized by the Commission by order dated December 17, 1971 (HCAR No. 17400) and the \$13,000,000 of outstanding borrowings authorized by Commission orders dated December 17, 1973 (HCAR No. 18221), December 24, 1975 (HCAR No. 19314) and December 30, 1978 (HCAR No. 19835).

Under the Loan Agreement, each Operating Company will agree to make loans to SFI until December 31, 1980, in aggregate principal amounts at any one time outstanding up to but not exceeding the amount set opposite its name below (collectively the "Commitments" and individually the "Commitment").

| Operating company                      | Commitment   |
|----------------------------------------|--------------|
| Arkansas Power & Light Company.....    | \$54,520,000 |
| Louisiana Power & Light Company.....   | 73,305,000   |
| Mississippi Power & Light Company..... | 29,495,000   |
| New Orleans Public Service Inc.....    | 16,180,000   |
| Total.....                             | 173,500,000  |

The amount of the Commitments include an assumed \$56,500,000 to be outstanding under the 1978 Loan Agreement at December 31, 1979. The amounts will vary to reflect the loans actually outstanding at that time.

Each Operating Company's Commitment to make additional loans in 1980 is equal to an amount in such proportion as its kilowatt-hour sales for the twelve months ended September 30, 1979, bear to the total kilowatt-hour sales of the Operating Companies for that period, computed in both cases by including sales to rural electric cooperatives and municipalities but excluding sales to other public utilities.

The obligation of SFI to repay the loans made by each Operating Company under the Loan Agreement shall be evidenced by the promissory note

("Note") of SFI in the principal amount equal to such Operating Company's Commitment and payable to the order of such Operating Company on December 31, 2005. SFI will authorize each Operating Company to endorse on the reverse side of the Note payable to such Operating Company an appropriate notation evidencing its pro rata share of the loans made to SFI under the Loan Agreement and each prepayment and payment of principal with respect to such loans. Each loan will be made pro rata according to the Commitments. Simultaneously with the delivery of the Notes and their appropriate notation for borrowings outstanding at December 31, 1979, under the 1978 Loan Agreement, the notes issued under the 1978 Loan Agreement which evidence such borrowings will be returned to SFI and cancelled.

Each Note will bear interest on the unpaid principal balance thereof, adjustable monthly on the first day of each month, at an annual rate for such month equal to the annual rate of interest borne on the last day of the preceding month by the short-term bank borrowings of the Operating Company to which such Note shall have been issued. If on the last day of any month, such Operating Company shall have short-term bank borrowings bearing more than one rate of interest, the highest rate shall apply. If, on the last day of any month, such Operating Company shall not have any short-term bank borrowings, the prime commercial rate generally charged by commercial banks in New York City on such day to responsible and substantial corporate borrowers shall apply. The loans will be prepayable at any time in any amount without premium or penalty. Each prepayment on account of the unpaid principal balance of the Notes will be made by SFI to the Operating Companies pro rata in accordance with their respective percentage shares of the Commitments.

SFI is endeavoring and will endeavor to obtain funds from external sources under arrangements advantageous to SFI and the System to meet SFI's capital expenditure requirements in lieu of borrowings from the Operating Companies. Subject to the receipt of such regulatory approvals from the Commission as may be necessary at the time, it is anticipated that SFI may borrow from banks, insurance companies and other nonaffiliated lenders and enter into specific arrangements for financing.

The rights and obligations of the parties under the Loan Agreement will be subject to certain restrictions set

forth in (1) the loan agreement with Hibernia, (2) the acceptance facility line of credit agreement with Citibank, as amended, and (3) the participation agreement with The Aetna Casualty and Surety Company. These restrictions relate principally to the payment or prepayment by SFI of its indebtedness to the Operating Companies during the terms of those agreements.

In carrying out its financing program for 1980 SFI represents that it will at all times, unless the Commission shall otherwise expressly authorize, maintain the aggregate of its capital stock, surplus, and principal amount of its indebtedness to the Operating Companies at an amount equal to at least 35% of SFI's total capitalization.

SFI proposes to file certificates of notification pursuant to Rule 24 promulgated under the Act on a quarterly basis through 1980. Such certificates will include a description of the progress of its fuel supply program for 1980 including any deletions, additions or changes therein, and will furnish the Commission on or before December 1 in 1980 a copy of SFI's budget and projected cash flow statement for the next succeeding calendar year. It is specifically agreed that SFI will make, keep and preserve for such period, such accounts, cost-accounting procedures, correspondence and other records relating to any transaction in which SFI participates as may be required by Section 15 of the Act or any rules, regulations or orders promulgated thereunder and that all of the foregoing shall be subject at any time and from time to time to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

SFI and the Operating Companies have found the flexibility resulting from certain authorizations previously granted to SFI in the ordinary course of its fuel supply business to be of great use in the economical and efficient supply of fuel for the System. Accordingly it is requested that authorization be extended during 1980 for the following:

1. The Operating Companies, in connection with a transaction in the ordinary course of SFI's fuel supply business as described above and not involving the issuance of a security, to assure any party contracting with SFI that the Operating Companies will, in accordance with their respective shares of ownership of the Common Stock of SFI, take such action as may be appropriate from time to time to keep SFI in a sound financial condition so



that it may discharge its obligations under the particular contract; and

2. To have personnel employed by the other companies in the System perform services for SFI at cost where it is more economical and efficient for such personnel to perform such services.

It is stated that no state or federal commission, other than this Commission, is required to authorize the proposed transactions. As required, AP&L has filed pertinent information relating to its participation in the proposed transactions with the Arkansas Public Service Commission.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37416 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21315; 70-6388]

**Arkansas-Missouri Power Co.;  
Proposed Issuance and Sale of Short-Term Bank Notes**

November 29, 1979.

Notice is hereby given that Arkansas-Missouri Power Company ("Arkansas-

Missouri"), 405 West Park Street, Blytheville, Arkansas 72315, a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Arkansas-Missouri proposes to issue and sell to the First National Bank in Little Rock, Arkansas, for the account of participating banks, unsecured promissory notes in an amount not to exceed \$5,000,000 at any one time outstanding. The notes will be issued from time to time during a one-year period commencing on the effective date of the Commission's order herein. The notes will be payable in not more than 270 days from the date of issuance and may be renewed from time to time but will mature not later than one year from the effective date. The notes will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to the commercial loan rate of Chemical Bank, New York, New York, from time to time in effect on borrowings having a 90-day maturity by responsible and substantial corporate borrowers. Arkansas-Missouri will not be required to maintain any compensating balances with, or pay any commitment fee to, any of the participating banks in connection with the proposed transactions. The notes will, at the option of the company, be prepayable in whole or in part at any time without premium or penalty.

The proposed borrowings will be in addition to other bank borrowings by the company from (1) First National Bank in Little Rock, Arkansas, which total \$4,000,000 as of the date of this declaration, and may not exceed \$5,500,000 at any one time outstanding, and (2) Worthen Bank & Trust Company, Little Rock, Arkansas, which total \$5,000,000 as of the date of this declaration, and may not exceed \$5,500,000 at any one time outstanding.

It is stated that the net proceeds to be received by Arkansas-Missouri from the issuance and sale of the proposed notes will be applied to its construction program and to other lawful corporate purposes. The company currently intends to repay the \$5,000,000 of borrowings proposed herein and the other bank borrowings referred to from the proceeds of permanent financing or

with funds that might otherwise become available.

It is further stated that the fees and expenses to be incurred in connection with the proposed notes are estimated not to exceed \$4,000 and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, that any interested person may, not later than December 24, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37402 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 81-568]

**Carrier Corp.; Application and  
Opportunity for Hearing**

November 27, 1979.

Notice is hereby given that Carrier Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the Applicant from the reporting requirements of Sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. Pursuant to a statutory merger effected on July 8, 1979, a wholly owned subsidiary of United Technologies Corporation ("United") was merged with and into Applicant. As a result of this merger Applicant is now a wholly owned subsidiary of United.

2. In connection with this merger, United, through the execution of supplemental indentures, assumed Applicant's obligations under the indentures governing Applicant's publicly traded debentures, including the obligation to fulfill all reporting requirements under the Exchange Act with respect to Applicant's publicly traded debentures.

3. Applicant has filed a Current Report on Form 8-K indicating the assumption by United of the reporting requirements with respect to such debentures.

4. Audited financial statements for Applicant for its latest fiscal year ended October 31, 1978 were contained in the proxy material sent to Applicant's shareholders in connection with the merger, and the future results of Applicant's operations will be reported on a consolidated basis by United in its periodic reports.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act and the rules and regulations thereunder. Applicant believes that the purposes of the Exchange Act would not be furthered by the filing of such additional reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than December 21, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time

after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37403 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 81-584]

**Corenco Corp.; Application and  
Opportunity for Hearing**

November 27, 1979.

Notice is hereby given that Corenco Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the Applicant from the reporting requirements of Section 15(d) of the Exchange Act.

The Applicant states, in part:

1. Pursuant to a statutory merger effected on August 8, 1979, a wholly owned subsidiary of Canadian Pacific Investments Limited ("CPI") was merged with and into Applicant. Each share of Applicant's common stock held by the public was converted into and exchanged for \$22.50 per share, and as a result of this merger Applicant is now a wholly owned subsidiary of CPI.

2. Audited financial statements for Applicant for its fiscal year ended December 31, 1978, as well as unaudited information for the three month period ended March 31, 1979, were contained in the proxy statement sent to Applicant's shareholders in connection with the merger.

In the absence of an exemption, Applicant is required to file reports pursuant to Section 15(d) of the Exchange Act and the rules and regulations thereunder for its fiscal year ended December 31, 1979. Applicant believes that the filing of such additional reports pursuant to Section 15(d) would not benefit the public and would burden Applicant.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than December 21, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be

addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37464 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21314; 70-6311]

**General Public Utilities Corp., et al.;  
Post-Effective Amendment Regarding  
Issuance and Sale of Additional First  
Mortgage Bonds, and Request for an  
Exception From Competitive Bidding**

November 28, 1979.

In the matter of General Public Utilities Corporation, 260 Cherry Hill Road, Parsippany, New Jersey 07054; Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Company, 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605; Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiaries Jersey Central Power & Light Company ("Jersey Central"), Metropolitan Edison Company ("Met-Ed"), and Pennsylvania Electric Company ("Penelec"), have filed with this Commission a post-effective amendment to their application-declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(d) of the Act and Rules 44, 45, 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which



is summarized below, for a complete statement of the proposed transaction.

By orders dated June 19, 1979 (HCAR No. 21107) and October 30, 1979 (HCAR No. 21276), the Commission authorized GPU, Jersey Central, Met-Ed and Penelec to issue, sell and renew their respective promissory notes (the "notes") having a maturity of not more than six months from the date of issue from time to time through October 1, 1981 pursuant to a revolving credit agreement with a syndicate of commercial banks (the "Loan Agreement"). Aggregate borrowings under the Loan Agreement are limited to \$500,000,000 and Met-Ed's indebtedness thereunder is restricted to \$125,000,000. The indebtedness under the Loan Agreement was to be secured by an unconditional guarantee given by GPU, as well as the pledge by GPU to the banks of the common stock of Jersey Central, Met-Ed, Penelec and GPU Service Corporation, and, in the cases of Jersey Central and Met-Ed, certain other collateral.

Met-Ed now proposes to issue and sell for cash to the banks participating in the Loan Agreement and requests an exception from the competitive bidding requirements of Rule 50 under the Act for such issuance and sale, up to \$12,000,000 aggregate principal amount of additional first mortgage bonds (the "New Bonds"). The New Bonds would be issued under the Indenture, dated November 1, 1944, between Met-Ed and Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a supplemental indenture.

The New Bonds will mature on or before December 31, 1981. The interest rate on the New Bonds will be computed in accordance with the formula for determining the interest rate on the notes issued by Met-Ed under the Loan Agreement—that is, ranging from 105% to 111% of the higher of (i) Citibank's base rate, as in effect from time to time, or (ii) ½ of 1% above the three-week moving average of offering rates for three-month certificates of deposit of major banks. In other words, the New Bonds will bear interest at a rate equal to the rate that the notes issued by Met-Ed under the Loan Agreement would have borne had they, and not the New Bonds, been issued. The aggregate principal amount of notes issued by Met-Ed under the Loan Agreement and the New Bonds outstanding at any one time shall not exceed \$125,000,000. In all other respects the transactions as

heretofore authorized by the Commission would remain unchanged.

The fees, commissions and expenses to be incurred in connection with proposed transaction will be filed by amendment. The Pennsylvania Public Utility Commission has jurisdiction with respect to Met-Ed's proposed issuance and sale of the New Bonds. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction.

Notice is further given that any interested person may, not later than December 24, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37465 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21317; 70-4990]

**General Public Utilities Corp. and GPU Service Corp.; Post-Effective Amendment Regarding Proposed Issuance and Sale of Notes by Subsidiary to Holding Company**

November 29, 1979.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a

registered holding company, and its wholly-owned subsidiary company, GPU Service Corporation ("Service Company"), 100 Interpace Parkway, Parsippany, New Jersey 07054, have filed a further post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, (9a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated April 29, 1971 (HCAR No. 17112), the Commission authorized the organization of, and conduct of business by, Service Company. The Commission's order also authorized GPU to acquire for cash long-term unsecured notes of Service Company not exceeding \$5,000,000 aggregate principal amount at any one time outstanding. Each such note would mature 40 years from the date of issuance of the first note, would be prepayable without premium or penalty by Service Company at any time, and would bear interest at a rate equal to the prime rate for short-term commercial borrowings generally in effect, from time to time, in New York City, plus not more than 20% thereof. It was stated that Service Company would at all time maintain its aggregate capital, including the principal amount of notes outstanding, at an amount approximately equal to the sum of two months' operating expenses, plus the cost of its property, less applicable reserves, prepayments, and petty cash working funds.

Subsequently, by order dated June 3, 1975, and March 7, 1977 (HCAR Nos. 19023 and 19921), authorization was granted for increases from \$5,000,000 to \$10,000,000 in the maximum aggregate principal amount of Service Company's unsecured notes which could be acquired by GPU. However, all such notes representing borrowings in excess of \$5,000,000 were to be notes of a maturity not exceeding two years from the date of issuance and were to bear interest at a rate equal to the actual cost of short-term borrowings by GPU, taking into consideration GPU's compensating balance requirements. At November 19, 1979, the aggregate outstanding amount of Service Company's unsecured notes so acquired by GPU was \$8,755,683.

GPU and Service Company now seek authority to increase to \$14,000,000 from \$10,000,000 the maximum aggregate principal amount of Service Company's unsecured notes which may be acquired

by GPU. All such notes representing borrowings in excess of \$5,000,000 will continue to be notes of a maturity not exceeding two years from the date of issuance and will bear interest at a rate equal to the prevailing New York City prime rate, plus 20%. This rate approximates GPU's cost of borrowed funds, taking into account compensating balances and commitment fees. Service Company will, moreover, continue to maintain its aggregate capital, including the principal amount of all such notes outstanding, at all times equal to the sum of approximately two months' operating expenses, plus the cost of its property (to the extent not financed from borrowings from others), less applicable reserves, prepayments, and petty cash working funds. In all other respects the transactions will remain unchanged.

It is stated that GPU and Service Company expect that through the period ending December 31, 1981, it will be necessary for Service Company to obtain through unsecured loans from GPU additional approximate \$4 million. Such funds will be required principally for working capital and additional operating expenses, the remaining costs of construction and equipment associated with the Parsippany, New Jersey headquarters office building, and the acquisition of certain additional fixtures and equipment for use by Service Company personnel.

The fees and expenses to be incurred in connection with the proposed notes are to be supplied by amendment.

It is stated that no state or federal commission, other than this Commission, has jurisdiction in connection over the proposed transactions.

Notice is further given that any interested person may, not later than December 24, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after

said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37466 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-595]

**Great Southern Corp.; Application and Opportunity for Hearing**

November 27, 1979.

Notice is hereby given that Great Southern Corporation (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states that as a result of a merger on December 6, 1978, it became an indirect wholly-owned subsidiary of NLT Corporation ("NLT"), and all of its outstanding common stock was converted into the right to receive a cash payment or certain securities of NLT.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 21, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 1100 L Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such

information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37467 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-590]

**Home Savings & Loan Association; Application and Opportunity for Hearing**

November 27, 1979.

Notice is hereby given that Home Savings and Loan Association (the "Applicant"), as originator and servicer under a Pooling and Servicing Agreement providing for the issuance of Mortgage Pass-Through Certificates, Fourth Series, 10% Pass-Through Rate (the "Certificates"), has filed an application for an exemptive order pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from certain reporting requirements under Section 13 and from the operation of Section 16 of the Act.

The Application states, in part:

In the absence of an exemption, the Applicant would be required to file reports adhering to all the item requirements of Form 10-K, 10-Q and 8-K, as well as reports required pursuant to Section 16 of the 1934 Act.

Applicant believes that the exemptive order requested by it is appropriate in view of the fact that Form 10-Q and certain items of Form 10-K, as well as reports required pursuant to Section 16 of the 1934 Act are inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than December 21, 1979, may submit to the Commission his views or any substantial facts bearing on the application or the desirability of a



hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should briefly state the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37408 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16383; File No. SR-NSCC-79-13]

#### National Securities Clearing Corp.; Proposed Rule Changes by Self- Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 30, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change.

The proposed Rule change, which shall only be effective for one year from the date of this filing, consists of the addition to Section VIII PASS-THROUGH EXPENSES of the NSCC fee schedule of a new Sub-Section E as follows:

E. For processing cash or stock dividend claims made against the Corporation's NCC & Co. nominee by NSCC participants and others on and after December 1, 1979—\$10.00 per record date claim.

The proposed Rule change would replace, effective December 1, 1979, SR-NSCC-79-9 which has previously become effective on August 21, 1979 and had provided only for a "\$10.00 processing fee for each cash or stock claim made against the Corporation's NCC & Co. nominee by an NSCC

participant for dividends with record dates on or after September 1, 1979."

#### Statement of Basis and Purpose

The basis and purpose of the foregoing proposed Rule change is as follows:

The proposed Rule change establishes a \$10.00 processing fee for each dividend claim made on and after December 1, 1979 against NSCC's NCC & Co. nominee by participants and non-participants alike, which fee will be utilized by NSCC to defray the costs of processing such claims.

The proposed Rule change relates to the equitable allocation of reasonable dues, fees and other charges.

No comments on proposed Rule change have been solicited or received.

NSCC does not perceive that the proposed Rule change would constitute a burden on competition.

The foregoing Rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 27, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

November 29, 1979.

[FR Doc. 79-37475 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10956; 812-4552]

#### Nationwide Life Insurance Co. and MFS Variable Account; Application

November 28, 1979.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide"), One Nationwide Plaza, Columbus, Ohio 43216, a stock life insurance company organized under the laws of the state of Ohio and MFS Variable Account (the "Variable Account"), a separate account of Nationwide registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on October 15, 1979, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Variable Account was established by Nationwide Life's Board of Directors pursuant to Ohio law on March 3, 1976, for the purpose of investing contributions received under certain variable annuity contracts issued in conjunction with plans which may or may not qualify for special tax treatment. These plans include qualified plans under Section 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"), including so called "H.R. 10 plans" or "Keogh plans" or annuity purchase plans adopted pursuant to Sections 403(b) or 408 of the Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section

51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System (the "System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

#### Section 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after

the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the state's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the state of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of

redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Nationwide will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(C) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 24, 1979 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following December 24, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if



ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37465 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-554]

#### Platteville Telephone Co.; Application and Opportunity for Hearing

November 27, 1979.

Notice is hereby given that Platteville Telephone Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 12(g), 13, 14 and 16 of the 1934 Act.

The Applicant states, in part:

(1) Principally, Applicant furnishes telephone service throughout a rural area of approximately 150 square miles in southwestern Wisconsin;

(2) Applicant is regulated as a public utility by the Public Service Commission of Wisconsin (the "PSC") and is subject to the reporting requirements of the PSC;

(3) Practically all of Applicant's securities are owned by residents of Wisconsin;

(4) Applicant's future offerings of equity securities will be restricted to Wisconsin residents; and

(5) There is no active trading market for Applicant's securities.

Applicant contends that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than December 21, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he

desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37470 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-593]

#### Reynolds Metals European Capital Corp.; Application and Opportunity for Hearing

November 27, 1979.

Notice is hereby given that Reynolds Metals European Capital Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Section 13 of the 1934 Act.

The Applicant states in part:

(1) The Applicant is a wholly-owned subsidiary of Reynolds Metals Company ("Reynolds"), which is subject to the reporting requirements of the 1934 Act.

(2) The Applicant has only one class of securities registered under the 1934 Act, 5% Subordinated Guaranteed Convertible Debentures Due 1988 which are unconditionally guaranteed by Reynolds and convertible into common stock of Reynolds.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, interested persons are referred to said application which is on file in the office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that not later than December 21, 1979, any interested person may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the

application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37471 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10957; 812-4519]

#### Scott Paper International, Inc.; Application

November 29, 1979.

Notice is hereby given that Scott Paper International, Inc. (the "Applicant"), Scott Plaza, Philadelphia, Pennsylvania 19113, a wholly-owned subsidiary of Scott Paper Company ("Scott"), has filed an application on August 14, 1979, and an amendment thereto on November 20, 1979, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant was organized under the laws of Pennsylvania. All the capital stock that has been issued by the Applicant has been issued to and purchased by Scott for \$250,000. The Applicant represents that its primary purposes are: providing unified management of the international assets, primarily shares in foreign affiliates and contracts with those affiliates, that are being transferred to the Applicant by Scott and that may be acquired in the future; technical, marketing, and other management assistance to such affiliates; and financial assistance to such affiliates and to Scott.

Scott is incorporated under the laws of Pennsylvania, and its principal executive office is in Philadelphia, Pennsylvania. It is a publicly held company which has issued a class of securities that has been registered under Section 12 of the Securities Exchange Act of 1934, and it is subject to the rules of the New York Stock Exchange. The application states that Scott is not an investment company as that term is defined in Section 3(a) of the Act. The principal businesses of Scott include the manufacture and marketing of consumer and commercial sanitary paper products and the manufacturing and marketing of printing, publishing, converting, and specialty papers.

The Applicant represents that its assets are expected eventually to include shares in substantially all of approximately 32 affiliates in 23 countries, including the United States. The Applicant asserts that none of these companies is an investment company within the meaning of the Act. The Applicant states its assets will also include various patent, trademark, and other intellectual property rights giving rise to royalty and technical assistance fees from foreign sources. In addition, Scott will transfer to the Applicant Scott's ownership interest in Discott II, Inc., a commission agent for some of Scott's export sales qualified as a Domestic International Sales Corporation. Scott's branch operation in Canada may be transferred to Applicant. The application indicates that these assets encompass most of Scott's investments and operations generating foreign earnings.

The Applicant states that it provides centralized planning and management of its international assets and management assistance to its international affiliates. This assistance includes or will include providing technical and marketing expertise to meet the needs of individual affiliates; providing rights to use patents, trademarks, and other intellectual property under agreements with the affiliates; and managing foreign exchange hedging and currency meeting programs and short-term investments in foreign money markets. The Applicant's current and anticipated activities also include the provision of financial assistance to Scott and to foreign affiliates of the Applicant and of Scott. The Applicant currently contemplates that it will lend to Scott the largest portion of the Applicant's borrowings, which are described below.

The Applicant represents that it has borrowed \$100,000,000 under an arrangement with the Royal Bank of Canada (the "Bank"). In order to satisfy certain Canadian tax requirements that allowed the Applicant to obtain this financing on attractive terms, the financing took the form of an issue of preferred stock to the Bank by a Canadian company, Owikeno Finance, Ltd. ("Owikeno Finance"), all of the common shares of which are wholly owned by Scott; a similar preferred stock issue in like amount to Owikeno Finance by a Liberian company, Scott Finance Liberian, Ltd. ("SFL"), the common stock of which is wholly owned by the Applicant; and a loan to the Applicant of a like amount by SFL.

The application indicates that all of the securities issued under these arrangement, including the Owikeno

Finance preferred shares issued to the Bank, are registered with the issuer and legended to preclude any public distribution and any transfer within the United States, its territories or possessions, or to citizens, nationals, or residents thereof. The persons receiving securities were required to covenant that they will not dispose of them in any manner contrary to these restrictions. The application indicates that Owikeno Finance and SFL were organized as financing affiliates to effect the Canadian financing described above. The application states that neither company has engaged in any other activity, and there is no present plan for either company to engage in any other activity.

The Applicant represents that the preferred shares issued by Owikeno Finance to the Bank in effect are guaranteed, with regard to both purchase price and dividends, by Scott. In satisfaction of that part of the purchase price equal to the issue price per share, Scott may issue to the Bank a subordinated promissory note of Scott or cause to be issued to the Bank such a note of a wholly-owned subsidiary guaranteed by Scott. The Applicant and Scott entered into an agreement that any such note will be issued by the Applicant and that Applicant will hold Scott harmless in connection therewith. The Applicant represents that any such note will be restricted as to transfer to the same extent as the preferred shares that it replaced.

The Applicant states that if it makes the loans from the Canadian financing transaction described above, it may constitute an investment company subject to the provisions of the Act in the absence of an order exempting it from the provisions of the Act or the availability of an exemption under a rule of general application. The Applicant's investment securities (consisting of its loans to Scott and minority-owned international affiliates and its equity securities in the latter) may constitute more than 40% of the value of its total assets. In addition, the Applicant's outstanding securities are owned by two parties, Scott and SFL, thereby precluding exemption under Section 3(b)(3) of the Act. Accordingly, the Applicant requests that the Commission issue an order, pursuant to Section 6(c) of the Act, exempting Applicant from the Act on the ground that such an exemption is in the public interest.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or

transactions from any provisions of the Act and the rules and regulations thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Applicant contends that it should be exempted from the Act for, *inter alia*, the following reasons: (1) the Canadian financing arrangements in which the Applicant participated indirectly did not constitute or involve any public offering of securities by the Applicant or others in the United States, and there are no plans for any such future public offering of securities by or through the Applicant; (2) the Applicant's ownership and capital structure and the terms of the Canadian financing arrangement are such as to make it reasonably certain that no securities of the Applicant will be held by the United States investing public at any future time; (3) the Applicant's ownership and capital structure and the terms of the Canadian financing arrangement and any future financing arrangements are such as to make it reasonably certain that no securities of the Applicant, apart from Applicant's common stock owned by Scott, will be owned by any United States national or resident; (4) the Applicant's security holders will have the benefit of the information made generally available to the public by Scott as required by the Securities Exchange Act of 1934 and the rules of the New York Stock Exchange; (5) the Applicant's activities will be limited to the management of its foreign and domestic assets and the provision of management and financial assistance to affiliated companies, and financial assistance to Scott, and the Applicant will not deal or trade in securities except to the extent that buying or selling forward exchange contracts or entering into parallel loans (both of which are to be used in the ongoing business operations of the Applicant) are considered to be dealing or trading in securities; and (6) the Canadian financing arrangements will assist in improving the balance of payments position of the United States by providing capital funds from outside the United States for domestic use.

The Applicant seriously questions whether it was the intention of Congress in enacting Section 3(b)(3) to require investment company classification for a corporation such as the Applicant. The Applicant is a member of an affiliated group of companies (the Applicant, SFL and Owikeno Finance), all of the securities of which, except for preferred



shares of one affiliate privately placed with a foreign bank (the Bank) and not available for sale to the investing public or to United States nationals or residents, are held by a company (Scott) which is not itself an investment company. The only security-holder outside the affiliated group, the Bank, will, because of Scott's effective guarantee, be subject to minimal risks in connection with the Canadian financing arrangements and thus will not require the protection of the Act.

The Applicant further argues that although since the expiration of the Interest Equalization Tax no corporation, including the Applicant, can satisfy all of the requirements of Rule 6c-1, which exempts finance subsidiaries of domestic companies from the Act under certain conditions, and although the Applicant's function as an operating company and the size of its intended domestic loan to Scott create certain other variations from the literal terms of Rule 6c-1, the Applicant is in full compliance with the basic policies underlying Rule 6c-1 and thus should be exempted from all provisions of the Act by analogy to that rule.

The Applicant has agreed that an order exempting the Applicant from the Act may be issued subject to the conditions:

(1) Applicant will comply with all the requirements of subparagraphs (1)-(3), (4) (except to the extent that foreign branches of United States banks are considered to be nationals or residents of the United States), (5), and (8) (except to the extent that entering into parallel loans or buying and selling forward exchange contracts are considered to be dealing or trading in securities) of paragraph (b) of Rule 6c-1;

(2) At least 90 per cent of the assets of the Applicant, exclusive of United States Government securities, cash items (including bank certificates of deposit), and short-term investments in foreign government paper, commercial paper, banker's acceptances of domestic and foreign banks, state and municipal general obligations, revenue bonds, and notes, will be invested in or loaned to its parent company, Scott, or to companies at least ten percent of the equity securities of which are or at the completion of the investment will be, owned, directly or indirectly, by Scott or will be invested in assets utilized in the Applicant's function as an operating company (i.e., various patent, trademark, and other intellectual property rights and technical assistance contracts, the branch operation in Canada, forward exchange contracts, parallel loans, and tangible personal property and real estate interests

utilized by the Applicant in its operations); and any assets of the Applicant not so invested will only be invested in or loaned to companies which are customers or suppliers of Scott or a subsidiary of Scott; and any of the assets invested in or loaned to investment companies will only be invested in or loaned to SFL or to investment companies which are wholly-owned subsidiaries of Scott; and

(3) That unless and until a tax is enacted providing a deterrent to the purchase of the Applicant's securities by United States persons comparable to that provided by the Interest Equalization Tax, the Applicant will not issue any securities other than (a) common stock issued to Scott, (b) debt securities issued to SFL as part of the Canadian financing arrangements described in the application, (c) a promissory note guaranteed by Scott issued to the Bank upon put of the preferred stock of Owikeno Finance as described in the application, and (d) other debt securities, guaranteed by Scott and publicly sold abroad, issued to foreign purchasers not exceeding \$50,000,000 (excluding the Canadian financing described in the application) under arrangements, including legends restricting transfers within the United States or its territories or possessions or to citizens, nationals, or residents thereof and covenants with purchasers or underwriters, precluding transfers contrary to these restrictions, without a further order of the Commission; provided, however, that in the event that the Applicant becomes exempt from each and every provision of the Act or the Commission adopts, amends, or interprets a Rule under the Act which would exempt the Applicant from each and every provision of the Act, nothing contained in this order or the conditions to which it is subject, shall preclude the Applicant from being exempt from the Act by virtue solely of the applicability of said Rule or interpretation.

Notice is further given that any interested person may, not later than December 24, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address

stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority:

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37472 Filed 12-5-79; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 21313; 70-6372]

**Seneca Resources Corp.; Issuance and Sale of Short-Term Note to Bank by Subsidiary**

November 28, 1979.

Seneca Resources Corporation ("Seneca"), a wholly-owned subsidiary of National Fuel Gas ("National"), 10 Lafayette Square, Buffalo, New York 14203, a registered holding company, has filed a declaration and amendment thereto with this Commission designating Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(2) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

Seneca is engaged in the exploration and development of oil and natural gas reserves in the Gulf Coast, Southwest and Rocky Mountain areas and in the processing of liquefied petroleum products. Seneca's exploration and development program is characterized by agreements between Seneca and a number of different participants who initiate and develop oil and gas prospects on leaseholds which have been secured by Seneca or others. In most cases the leases were acquired by others not subject to the Act. In those instances where leases or working interests were acquired by Seneca, the acquisition was made pursuant to the exemption provided by Rule 49(d). Typical agreements include a commitment from Seneca to pay a percentage of the expenses involved in

drilling and operating wells in return for a percentage working interest in the production from those wells. Most of the current drilling activity is focused in areas of Louisiana and East Texas where exploration and drilling for oil and gas is being actively pursued by a number of different individuals. During fiscal 1979 Seneca participated in the drilling of 80 wells. On the average, Seneca's participation in each well amounted to a 24 percent working interest. On any individual well Seneca's working interest ranged from 1.5 percent to 50 percent. In most cases Seneca is billed for its proportionate share of expenses on a monthly basis after the well operator has incurred expenses in drilling and operating the well. Due to the lag time between the incurring of the expenses by the well operators and the billing of participants, Seneca's payment for its committed share of expenses usually occurs after substantial progress has been made in the development of individual prospects.

By order dated February 2, 1979 (HICAR No. 20911), the Commission authorized Seneca to issue a note to Houston National Bank ("Bank") pursuant to a Loan Agreement with the Bank which provides a line of credit of up to \$20,000,000 through January 31, 1980. Seneca presently has \$20,000,000 of short-term borrowings outstanding under this line of credit and is contemplating refunding these loans with long-term borrowings. Such long-term borrowings will be the subject of a future filing which will be independently considered.

Seneca is now seeking authorization to issue and sell a note pursuant to a separate Loan Agreement ("Loan Agreement") with the Bank. The Loan Agreement will provide an additional line of credit through December 31, 1980 not to exceed \$10,000,000 or an amount ("Borrowing Base") established by the Bank from time to time based upon the Bank's evaluations of the value of Seneca's producing oil and gas reserves ("Producing Reserves") in Texas, Oklahoma and Louisiana. The Borrowing Base may be increased or decreased from time to time based upon the Bank's evaluation but such redetermined Borrowing Base will not exceed \$10,000,000. Seneca will also have the right to reduce any redetermined Borrowing Base by notifying the Bank within a specified period after it has been notified of a redetermination. Borrowings pursuant to the Loan Agreement will be evidenced by a note to be dated as of the date of issue and to mature not more than one year from the date of issue. The note

will be prepayable at any time, in whole or in part, without penalty or premium. The note will bear interest at a variable rate not to exceed the Bank's prime rate from time to time and will be secured by a first mortgage on the Producing Reserves.

Seneca has agreed to maintain a balance ("Average Daily Available Balance") after subtracting the amount of uncollected funds and an amount required to support Bank services and reserve requirements which totals 10% of the Bank's total commitment plus 10% of the amount of any loans outstanding. If the Average Daily Available Balances for a specified period is less than such required amounts, Seneca has agreed to pay a fee equal to the Bank's prime rate times the amount by which the Average Daily Available Balances for such period is less than 10% of the Bank's average total commitment for that period. Assuming Seneca borrows the full amount of the commitment and the required balances are not maintained, the effective interest cost would be 18.60% based upon the current 15.5% prime commercial rate.

Seneca expects to initially borrow up to \$6,000,000 under the Loan Agreement. Of the proceeds from that loan, \$5,000,000 would be used to repay interest-free emergency loans aggregating up to \$7,000,000 advanced to Seneca by National Fuel Gas Supply Corporation ("Supply") and National Fuel Gas Distribution Corporation ("Distribution"), wholly-owned subsidiaries of National. These loans were made by Supply and Distribution to provide Seneca with working capital to finance its gas exploration and development program. The balance of the initial borrowing will be used to pay Seneca's portion of expenses for past drilling. Seneca plans to draw down the remaining amount available under the proposed Loan Agreement as funds are needed during 1980 to pay its portion of expenses involved in drilling, completing and operating wells in which Seneca has obtained a working interest. Repayment of borrowings under the Loan Agreement is expected to be made through internally generated funds and by possible external financing arrangements.

Under the terms of the Loan Agreement, Seneca will pay the reasonable fees and expenses of counsel for the Bank in connection with the preparation of the Loan Agreement and all transactions pursuant thereto. A statement of the fees and expenses to be incurred in connection with the

proposed transactions is to be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission has jurisdiction over the proposed transactions. Seneca requests that it be permitted to file the certificates required by Rule 24 relating to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than December 21, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority:

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37473 Filed 12-15-79; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 81-567]

**Shenandoah Oil Corp.; Application and Opportunity for Hearing**

November 27, 1979.

Notice is hereby given that Shenandoah Oil Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the Applicant from the reporting requirements of Sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:



1. Applicant has been liquidated pursuant to a plan adopted by Applicant's shareholders, will soon be dissolved pursuant to the laws of its state of incorporation.

2. Only approximately 68 shareholders have not tendered their shares and received the liquidating distribution, and the only remaining right of these shareholders is to receive and participate in such liquidating distribution.

3. The only funds in the hands of Applicant are the amounts to be paid to shareholders upon proper tender of their shares, and such funds will, upon Applicant's dissolution, be transferred to a liquidating trustee, and if not distributed after the prescribed statutory period of time, will escheat to the State of Texas.

4. In view of the above facts, an exemption from the obligation to file additional periodic reports for Applicant's current fiscal year is not inconsistent with the public interest or the protection of investors.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act and the rules and regulations thereunder for its fiscal year ended December 31, 1980. Applicant believes an exemption from the obligation to file such additional reports would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than December 21, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the

application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37474 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

#### The Cincinnati Stock Exchange; Proposed Rule Change by Self-Regulatory Organizations

[Release No. 34-16387; File No. SR-CSE-79-7]

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 20, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

#### Statement of the Terms of Substance of the Proposed Rule Change

Chapter IX of the Rules of the Exchange is proposed to be changed by the deletion of the present Chapter IX in its entirety and the substitution thereof of a new Chapter IX which will conform with the Uniform Arbitration Code which has been drafted by the Securities Industry Conference on Arbitration. The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for resolution of controversies with broker-dealers. Further, the proposed rule change is consistent with rule changes requested by other self-regulatory organizations in order to provide a uniform system of arbitration throughout the securities industry.

The basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act in that the proposed rule change is designed to provide investors with a simple and inexpensive procedure for resolution of their controversies and thereby to promote just and equitable principles of trade and to protect investors and the public interest.

No comments on the proposed rule change have been solicited or received.

The Exchange believes that the proposed rule change imposes no burden on competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 27, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

November 30, 1979.

[FR Doc. 37510 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

#### DEPARTMENT OF STATE

[Public Notice CM-8/248]

#### Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on January 4, 1980 of the Working Group on UN/OECD Investment Undertakings of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30 a.m. to 12:30 p.m. The meeting will be held in Room 1105 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The subject of the meeting will be the proposed U.N. Code of Conduct.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr.

Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: November 28, 1979.

Richard D. Kauzlarich,  
Executive Secretary.

[FR Doc. 79-37445 Filed 12-5-79; 8:45 am]

BILLING CODE 4710-07-M

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

[CGD 77-087]

#### New York Vessel Traffic Service—Implementation Schedule

Notice is hereby given of the planned implementation schedule of the New York Vessel Traffic Service (VTS) as presented to and modified by the New York Harbor Vessel Traffic Service Advisory Committee at their meeting of November 21, 1979. A three-part implementation will be carried out.

During the initial phase, after full acceptance of the equipment from the contractor, New York VTS will commence a period of voluntary operation to bring about user familiarization. During this period VTS will be operational and prospective users will be invited to participate. The implementation of this phase will be announced locally.

On January 2, 1980, the New York VTS will begin a period when all vessels and elements of the maritime community are strongly urged to operate in compliance with the Vessel Traffic Service requirements published in the Federal Register on August 2, 1979 (44 FR 45381). Only through the broadest voluntary adherence to these requirements can the VTS program be fully successful from the start. VTS Operating Manuals containing the VTS regulations are available from the U.S. Coast Guard Marine Inspection Office, Battery Park Building, New York, New York 10004, or by writing to Commanding Officer, New York Vessel Traffic Service, Governors Island, New York, New York 10004. This period will extend to March 1, 1980.

Based on this schedule, the Coast Guard plans to make the New York VTS regulations, 33 CFR Part 161.500, effective on March 1, 1980. Mandatory compliance will commence on the effective date and the regulations will be regularly enforced. Formal notification of the effective date of the

VTS regulations will be promulgated in the Federal Register at least 30 days in advance.

The public is advised that the above schedule is contingent upon the necessary electronic, video and computer equipment being provided by the contractor. Delays in the installation of similar equipment caused the previous deferral of operations by New York VTS.

Dated: November 29, 1979.

K. G. Wiman,

Captain, U.S. Coast Guard, Acting Chief,  
Office of Marine Environment and Systems.

[FR Doc. 37502 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-14-M

#### Federal Aviation Administration

#### Intent to Prepare an Environment Impact Statement on Proposed Development at Logan International Airport, Boston, Mass., and Notice of Scoping Meeting

The Federal Aviation Administration, New England Region, and the Massachusetts Port Authority, acting as joint lead agencies, intend to prepare a federal Environmental Impact Statement/State Environmental Impact Report for development of approximately 65 acres of vacant land (Bird Island Flats) at Boston-Logan International Airport.

Alternative development schemes will consider air cargo, general aviation and aviation support activities such as freight forwarders, aircraft maintenance, and food service preparation. Proposed development will include paved apron areas, buildings and hangars, access roads, and associated infrastructure.

Area of primary environmental significance include the potential impact on adjacent residential neighborhoods from aircraft noise, aircraft air pollutant emissions and ground access.

A state environmental scoping meeting was held on October 22, 1979. A federal scoping meeting will be held on Thursday, December 13, 1979, at 10:00 a.m. at New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. The meeting will be held to consider the scope of issues to be addressed in the DEIS/EIR and to identify significant issues related to the proposed development. Interested agencies, organizations and persons are invited to attend.

Inquiries about the proposed action should be directed to: John Silva, Environmental Planner, Airports Division, FAA, 12 New England

Executive Park, Burlington, Mass 01803 (Tel: (617) 273-7233).

Dated: November 23, 1979.

Gerald Curtin,  
Chief, Airports Division, New England  
Region, Federal Aviation Administration.

[FR Doc. 79-37537 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-13-M

#### Federal Highway Administration

[FHWA Docket No. 79-32]

#### Study of Urban Blight; Request for Public Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: Section 159 of the Surface Transportation Assistance Act of 1978 requires the Department of Transportation to conduct a study of urban blight and the actions which can be taken to mitigate adverse impacts associated with existing highways in the blighted areas of central business districts. The purpose of this notice is to advise the public of this study and to invite comments from interested parties for consideration in conducting the study and reporting to Congress.

DATE: Comments must be received by September 30, 1980, to ensure consideration in the report to Congress.

ADDRESS: FHWA Docket No. 79-32, Federal Highway Administration HCC-10, Room 4205, 400 Seventh Street, S.W., Washington, D.C. 20590. All responses to this notice will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., eastern time, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James March, Office of Program and Policy Planning, 202-426-0262, or Mr. Stan Abramson, Office of the Chief Counsel, 202-426-0761; Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are Monday through Friday, 7:30 a.m. to 4:00 p.m., eastern time.

SUPPLEMENTARY INFORMATION: Section 159 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599, 92 Stat. 2718) reads as follows:

The Secretary shall conduct a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

(a) a catalogue and evaluation of adverse impacts on adjacent land use;



(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway improvements and related measures needed to reduce adverse impacts;

(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

(f) such other matters as the Secretary shall deem appropriate. Such study shall be conducted in cooperation with appropriate State and local governments and shall be submitted to Congress two years after the date of enactment.

The report on the study findings is due in November 1980. Preliminary work on the study has already begun and a list of study cities has been compiled. The cities are:

Seattle, Washington; San Francisco, California; Ft. Worth, Texas; Boston, Massachusetts; Washington, D.C.; Charleston, West Virginia; Detroit, Michigan; and Portland, Oregon.

An interagency study committee with representatives from the Department of Housing and Urban Development, the Economic Development Administration, the Urban Mass Transportation Administration, the Office of the Secretary of Transportation, and the Federal Highway Administration has been formed to coordinate the study. Representatives from the cities to be studied will be invited to participate with the committee in evaluating work on the study and in formulating appropriate financial or legislative proposals which may be needed to enhance the contribution of the Federal-aid highway program to comprehensive urban revitalization programs.

The purpose of this notice is to advise the public of this study and to invite comments from all interested groups and individuals. All responses to this notice will be available for examination by any interested person at the above address both before and after the closing date for comments.

Issued on: November 27, 1979.

Karl S. Bowers,  
Federal Highway Administrator.

[FR Doc. 79-37375 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-22-M

#### Federal Railroad Administration

[FRA Waiver Petition Docket HS-79-23]

#### Morristown and Erie Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Morristown and Erie Railroad (ME) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. (64a)(e)). That petition requests that the ME be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The ME seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-23, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before January 18, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1909 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary. 49 CFR 1.49(d).)

Issued in Washington, D.C. on November 26, 1979.

Joseph W. Walsh,  
Chairman, Railroad Safety Board.

[FR Doc. 79-37223 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-06-M

#### National Highway Traffic Safety Administration

[Docket No. IP78-11; Notice 2]

#### American Honda Motor Co., Inc.; Action on Petition for Inconsequential Noncompliance

This notice grants in part and denies in part the petition by American Honda Motor Co., Inc. of Gardena, California, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. The basis of the petition was that the noncompliance is inconsequential as it related to motor vehicle safety.

Notice of the petition was published on December 7, 1978, (43 FR 57366) and an opportunity afforded for comment.

Paragraph S5.3.2. of Standard No. 105 requires that all brake system indicator lamps shall be activated as a check of lamp function when the ignition switch is turned to the "on" position when the engine is not running. Honda has informed NHTSA that this will not occur in Honda passenger cars manufactured between January 1, 1976, and the end of the 1978 model year unless the hand brake is applied when the ignition switch is turned "on". The total number of vehicles involved is 600,000. NHTSA had initially discovered this failure in compliance tests of the 1978 Honda Accord (CIR File 1985). For several reasons Honda argued that the noncompliance was inconsequential as it relates to motor vehicle safety. It has never received any complaint relating to the warning system. Its operator manuals recommend starting the car with the hand brake applied and if this procedure is followed, the lights would be checked. Finally, in order to constitute a hazard, several events would have to occur in sequence—failure of the driver to apply the hand brake during parking and starting, followed by failure of the lamp, followed by failure of the brake system.

Three comments were received on the petition, from private individuals, all of whom supported it.

NHTSA has decided to grant Honda's petition with respect to vehicles with manual transmissions, and to deny it

with respect to those equipped with automatic transmissions. Lacking the parking pawl provided by the automatic transmission, a vehicle with a manual transmission is likely to be parked with the hand brake applied which, under normal driving practice, is not released until after the ignition is on and the engine started. With this sequence of events the warning function will be provided. But many drivers of cars with automatic transmissions do not apply the hand brake when the vehicle is at rest. The transmission is usually placed in "Park" before the ignition key is removed. When this is done, the transmission and driveline are automatically locked and this holds the vehicle in a stationary position. NHTSA believes that the hand brake is rarely applied in this instance. Thus, under the Honda noncompliance, few drivers of cars with automatic transmissions would ever experience the warning light check.

Accordingly, petitioner has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety with respect to vehicles equipped with automatic transmissions, and its petition with respect to this class of vehicle is hereby denied. Insofar as the petition relates to vehicles equipped with manual transmissions, it is hereby found that the noncompliance is inconsequential as it related to motor vehicle safety, and the petition is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 26, 1979.

Michael M. Finkelstein,  
Associate Administrator for Rulemaking.

[FR Doc. 79-37225 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP79-14; Notice 1]

#### B. F. Goodrich Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The B. F. Goodrich Co. of Akron, Ohio, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt to a petition for a determination of inconsequentiality is

published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.3(d) requires that the sidewalls of each passenger car tire be labeled with the generic name of each cord material used in the plies. Goodrich manufactured approximately 7000 tires FR78-15 Lifesaver Radial XLIII with sidewall marking indicating that they contained glass plies when in fact the plies were of steel. The tires are said to conform to all other requirements of Standard No. 109. They were manufactured between the 32d week of 1979 and the 40th. The majority of the tires, 4000, remain under Goodrich's control and it has offered to apply a paper label to the tread of each explaining the correct composition of the tire. Because the tires otherwise conform Goodrich argues that its noncompliance is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of B. F. Goodrich Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: January 7, 1980.  
(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 29, 1979.

Michael M. Finkelstein,  
Associate Administrator for Rulemaking.

[FR Doc. 79-37503 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP79-15; Notice 1]

#### B. F. Goodrich Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The B. F. Goodrich Co. of Akron, Ohio, has petitioned to be exempted

from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt to a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S3.4(c) requires that the sidewalls of each passenger car tire be labeled with the maximum permissible load rating. Goodrich has produced 3512 snow tires in which the maximum load was incorrectly expressed in pounds on the white wall side (though correctly expressed in kilograms, and in both forms on the black wall side). The correct maximum load is 1742 pounds but the figure supplied on the white wall side, 1790 pounds, exceed this maximum by 48 pounds. The tires are known as "P 215/75R15 BF Goodrich Trailmaker Radial Steel Belted Mud and Snow" tires, and were manufactured from the 27th week of 1979 to the 37th week.

Goodrich believes that its "audit test data" proves that the mislabeled tires will comply with the performance requirements of Standard No. 109 when tested at the higher load figure. Its audit testing consists of extensions of the standard's high speed and endurance testing. The 1700 miles of the endurance test is extended until the tire fails or the test's termination at 2800 miles. In these tests the tires are run for 2 hours at an equivalent of 50 mph at loads that increase in increments of five percent. Goodrich tested four of the incorrectly labeled tires, three of which completed the 2800 miles without failure. The fourth tire failed at 2240 miles "at 120% of its correct maximum load rating, which is well above the 1790 lb. branded on the white wall side". It then tested two additional tires using the 1790 lbs. load rating, both of which completed the 2800 miles without failure.

In its high speed testing, tires are run at increasing increments of 5 mph beyond the 85 mph for 30 minutes until the tire fails or the 120 mph step is completed. One tire failed at 95 mph, two at 100 mph and the fourth at 105 mph. In a retest of two tires at the higher load, failures occurred at 100 mph and 105 mph. On the basis of these tests Goodrich argues that its noncompliance is inconsequential.



Interested persons are invited to submit written data, views and arguments on the petition of B. F. Goodrich Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: January 7, 1980. (Sec. 102, Pub. L. 93-492, 99 Stat. 1470 [15 U.S.C. 1417]; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 29, 1979.

Michael M. Finkelstein,  
Associate Administrator for Rulemaking.

[FR Doc. 79-37504 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-59-M

#### Office of the Secretary

#### Privacy Act of 1974; Additions to General Routine Uses and Additions and Changes to Notices of Systems of Records

The Department of Transportation herewith publishes three new notices of systems of records, and republishes one system notice which has been slightly changed. In addition, two general routine uses are published which apply to the systems in the inventory.

Any person or agency may submit written comments on the proposed systems or on the proposed general routine uses to the Privacy Act Officer (M-30), Room 10319, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments must be received by January 6, 1980 to be considered.

If no comments are received, the proposed new systems and general routine uses will become effective on January 7, 1980. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C. on November 29, 1979.

Robert L. Fairman,  
Deputy Asst. Secretary for Administration.

#### Additional General Routine Uses

The following two general routine uses will apply where appropriate to all Systems of Records published by the Department of Transportation to date or subsequent to this date. Number 8 and 9 are to be added to the 7 general routine uses already in the *Federal Register*. Volume 42, No. 181 published in "Privacy Act Issuance, Annual Publication," September 19, 1977." (The "Prefatory Statement of General Routine Uses" appears on page 47038.)

#### Prefatory Statement of General Routine Uses

8. Access to Systems of Records of the Department is authorized to member(s) of the Office of Inspector General where the records are considered "... pertinent to the DOT programs or operations being reviewed. Existing orders or (internal) directives contrary to this provision are hereby superseded." The Secretary of Transportation by the foregoing has clarified the role of Inspector General personnel "who have need for the record(s) in the performance of their duties."

9. The Department may make available to another agency or instrumentality of any governmental jurisdiction, including State and local governments, listings of names from any System of Records in the Department for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the Stated purpose for the collection of the information in the System of Records. These enforcement activities are generally referred to as "matching" programs because two lists of names are checked for match using automated assistance.

This routine use is advisory in nature and does not offer unrestricted access to Systems of Records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using "Guidelines for the Conduct of Matching Programs" published by the Director, Office of Management and Budget, dated March 30, 1979.

#### New Systems of Records DOT/FHWA 222

##### SYSTEM NAME:

Survey Assessing the Long-Term Effects of Relocation on Low-Income Groups.

##### SYSTEM LOCATION:

Associate Consultants, Inc., 624 E Street, NW., Washington, D.C. 20004.

For the Federal Highway Administration, Socio-Economic Studies Division, HPP-40

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected heads of low-income households displaced by highway construction. Fifty to seventy-five respondents will be interviewed from each of the following highway relocation sites: Baltimore, Maryland; Wheeling, West Virginia; St. Petersburg, Florida; and Los Angeles, California.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning the physical characteristics of the respondents' residences prior to and after relocation, payments for mortgages or rents and utilities, adequacy of community services, respondents' opinions of the relocation program, and sociodemographic information (e.g., age, race, income, sex, number of workers in household, transportation utilized, number of children).

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Relocation Assistance Division of the Federal Highway Administration will use the conclusions drawn from the survey to:

(1) Analyze the longer term effects of relocation on low-income families who were relocated due to highway projects under provisions of the 1970 Relocation Assistance Act;

(2) Evaluate the long-term effectiveness of the Highway Relocation Programs in relocating displaced low-income families with the minimum of harm to their social and economic well-being; and

(3) Recommend changes in the relocation program to minimize long-term transition problems of low income families due to relocation. State highway agencies may also use conclusions drawn from this study to modify the administration of their relocation programs.

See also prefatory statement of general routine uses.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

##### STORAGE:

Magnetic Tape

##### RETRIEVABILITY:

Serial number assigned to individual respondent.

##### SAFEGUARDS:

(a) Interviewers will keep respondent identifiers and information collected completely confidential.

(b) Survey instruments containing respondent identifiers will be stored in locked cabinets or a locked room.

(c) Respondent identifiers will not be on the magnetic tape containing responses from the interviews.

(d) Upon completion of the pilot study, the list of respondent identifiers will be destroyed.

##### RETENTION AND DISPOSAL:

The list of respondent identifiers (names, addresses, and telephone numbers) will be retained until Phase II interviewing and coding is completed. The survey instruments and list of respondent identifiers will be destroyed upon completion of Phase II of the study. Statistical records of the questionnaire responses will be kept on tape and after completion of the main survey will be turned over to the Contract Technical Manager.

##### SYSTEM MANAGER(S) AND ADDRESS:

Sociologist (Contract Technical Manager) Office of Program and Policy Planning Federal Highway Administration Room 3327, 400 7th Street, SW., Washington, D.C. 20590.

##### NOTIFICATION PROCEDURE:

Inquiries should be directed to the System Manager.

##### RECORD ACCESS PROCEDURES:

Contact System Manager.

##### RECORD SOURCE CATEGORIES:

All of the information in the survey will be supplied by the individual respondents.

##### DOT/TSC 716

##### SYSTEM NAME:

UMTA/Technology Sharing Mailing List. DOT/TSC.

##### SYSTEM LOCATION:

Department of Transportation (DOT), Office of Plans and Programs, Technology Sharing Office, DTS-151, Kendall Square, Cambridge, MA 02142

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Government officials and transportation professionals who have requested reports or have been selected by UMTA or TSC to receive reports and conference notifications.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain names, job titles, organizations, suborganizations and addresses. In addition, there are special categories which allow for entering the following information for each record in the data base: Organization Affiliation, Modal Information Need/Type of Document, and Subject Information Need.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To identify target audiences who have a need for specific project results or who have expressed an interest in receiving copies of project documentation; and to disseminate programmatic results in an efficient and effective manner. Uses of special codes—organizational affiliation, modal informational need, and subject informational need—will allow for a more efficient selection of audiences for specific types of reports, will permit analyses of information needs, and estimates of report quantities needed.

To communicate plans for scheduled conferences to likely participants and disseminate conference proceedings if applicable.

To prepare mailing labels.

Records are subject to examination by federal officials concerned with the dissemination of programmatic results or conference notification, but are not disclosed to members of the public (except through publication in conference proceedings of names of individuals who actually participated in each conference).

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Records are maintained in a computerized data base. Disc and tape records, paper copies of coding forms, and listings of specific target groups identified to receive a publication are maintained at the U.S. Department of Transportation's Transportation Systems Center (TSC). Upon request, a listing of the target audience for a specific publication may be forwarded to the appropriate federal official responsible for the dissemination of the report.

#### RETRIEVABILITY:

By any attribute contained in the data base—alphabetically by name, address or special attribute codes.

#### SAFEGUARDS:

Access is restricted to UMTA and TSC officials who are involved in the dissemination of programmatic results and/or notification of planned conferences. Terminal operators or contractors, if designated by TSC, may access the system to enter data, generate edit checks to assure data has been entered correctly, and generate paper copies of specific audiences for examination by a federal official. Access to the electronic data base is controlled by the computer telephone number, and name of individual responsible for the data base. Internally, the system is software protected so that people without these combinations of codes cannot even examine the data, let alone use it or modify it. Names are removed when the Postal Service reports an incorrect address with no forwarding address or when individuals request removal.

#### RETENTION AND DISPOSAL:

Records are kept on tape and disc. Deleted names and addresses are discarded completely.

#### SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technology Sharing Office, dTS-151, Department of Transportation, Transportation Systems Center, Kendall Square, Cambridge, MA 02142.

#### NOTIFICATION PROCEDURE:

Individuals may contact system manager to confirm whether or not their name and address is contained in the system.

#### RECORD ACCESS PROCEDURES:

Same as notification procedure.

#### CONTESTING RECORD PROCEDURES:

Contest of this data will be made to the System Manager. If administrative resolution is not satisfactory to the individual, appeals may be filed in writing with the Secretary of Transportation addressed to the General Counsel as follows: Department of Transportation, Office of the Secretary, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

#### RECORD SOURCE CATEGORIES:

Names of individuals who attended conferences and individuals who have requested conference proceedings. Names of individuals who have requested copies of publications pertaining to specific projects. Various Departmental mailing lists such as:



Transit Properties, Planning Agencies, Transportation and Planning Associations.

# DOT/OST 101

## SYSTEM NAME:

Office of Inspector General Management Information System (OIG/MIS).

## SYSTEM LOCATION:

Office of Inspector General, Management Information Staff, Room 9200, 400 7th Street, Washington, D.C., using the Computer Sciences Corporation Infonet Timesharing System, Beltsville, Maryland.

## CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

All active employees of the OIG, with history data on previous employees maintained for two years.

## CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's current position and employment status, assignments, travel, experience, training, with the following personal data: Name, social security account number, date of birth, service computation date, career status, address, assigned station, job series, clearance, education, grade and evaluation due date.

## ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There will be no external uses. Internally, information will be used as follows:

(1) Security clearance notification alerts may be provided to an examined employee in advance of visits by OIG personnel if information to be examined requires a secret clearance or above;

(2) Time and attendance reports will be used to track temporary duty travel frequency and duration, to categorize indirect time for periodic reports, to accrue staff hour data on assigned projects, and to provide time and attendance data to the centralized payroll system;

(3) Planned annual leave reporting will be used by various managers for workload planning and travel scheduling;

(4) Assignment information and workload status information will be used by managers to control audits and investigations, and to maximize effectiveness of staff resources.

(5) Miscellaneous personnel information will be used by staff managers to determine training needs, promotional eligibility, education and background, and professional organization participation.

(6) Travel information will be used by managers to control temporary duty travel, travel costs and issuances of travel orders.

## POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

### STORAGE:

Active records on magnetic disk, with backup active records and inactive records maintained on magnetic tape.

### RETRIEVABILITY:

All records will be retrievable through employee social security number, with selected records having certain secondary keys consisting of certain other data elements, listed in the "Categories of records in the system".

### SAFEGUARDS:

(1) Records will be maintained in a private library not accessible by any unauthorized user.

(2) Authorized user identification codes will be tied to multiple password system to afford additional protection.

(3) Any attempt to bypass the password protection system will result in an immediate "Log-Off" from the system.

(4) Physical access to system documentation, hard copy printouts, personal data files, and terminals will be restricted to authorized personnel by maintaining a secure environment in the headquarters office.

(4) Access to data will be restricted to those who require it in the performance of their official duties and to the individual who is the subject of the record (or authorized representative).

(5) Tape files will be maintained in an environmentally secure vault area when not in use.

### RETENTION AND DISPOSAL:

Records will be maintained for two years after they become inactive. All inactive records will be maintained on magnetic tape within the computer center and will be afforded the same safeguards as active records. Machine-resident records will be destroyed at the end of the two year period. Hard-copy records will be retained until the records are replaced or become obsolete.

### SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management Information Staff, Office of Resources and Management, JP-20, Office of the Inspector General, Room 9200, 400 7th Street, S.W., Washington, D.C. 20590.

### NOTIFICATION PROCEDURES:

Department of Transportation, Office of Inspector General, Room 9200, 400 7th Street, S.W., Washington, D.C. 20590.

Attn: Asst. Inspector General for Resources and Management.

### RECORD ACCESS PROCEDURES:

Contact system manager.

### RECORD SOURCE CATEGORIES:

- (1) Official personnel folder.
- (2) Other personnel documents.
- (3) Activity supervisors.
- (4) Individual applications and forms.

### Changed System of Records

#### DOT/OST 100

### SYSTEM NAME:

Investigative Record System. DOT/OST

### SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), Office of the Inspector General, 400 7th Street, S.W., Washington, D.C. 20590.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former DOT employees, DOT contractors and employees as well as all grantees, subgrantees, contractors, subcontractors and their employees and recipients of DOT monies.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Results of investigations and inquiries conducted by Inspector General (OST); reports of investigations conducted by other departmental, Federal, state and local investigative agencies which relate to the mission and function of the Inspector General and investigative case index card files.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the Investigative Records System is collected and maintained in the administration of the DOT Act, Federal Criminal Statutes, Uniform Code of Military Justice, Executive Orders, and the Code of Federal Regulations to oversee and enforce Federal laws and regulations. Material gathered is used in the enforcement of the aforementioned laws and regulations.

These records may be disseminated, depending on jurisdiction, to:

DOT Officials in the administration of their responsibilities.

Other Federal, state, local or foreign agencies or administrations having interest or jurisdiction in the matter.

Any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, to inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

See Prefatory Statement of General Routine Uses.

### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

#### STORAGE:

Paper records in case folders in manual filing system and on index cards.

#### RETRIEVABILITY:

By name or incident title.

#### SAFEGUARDS:

Investigative files and case index files are maintained in several spaces with appropriate access controls. Access to investigative files is restricted to authorized investigative personnel on a "need to know" basis.

#### RETENTION AND DISPOSAL:

Investigative material held for ten years, then destroyed by secure means used for classified materials.

#### SYSTEM MANAGER(S) AND ADDRESS:

Inspector General (J-1), Department of Transportation, Office of the Secretary, 400 7th Street, S.W., Washington, D.C. 20590.

#### NOTIFICATION PROCEDURE:

Same as "System Manager".

#### RECORD ACCESS PROCEDURES:

Same as "System Manager". Investigative data compiled for law enforcement may be exempt from the access provisions pursuant to 5 USC 552a (k)(1), (k)(2), or (j)(2).

#### CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedure".

#### RECORD SOURCE CATEGORIES:

These records contain information obtained from interviews, review of records and other authorized investigative techniques.

#### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Investigative data compiled for law enforcement purposes may be exempt from the access provisions pursuant to 5 USC 552a (j)(2), (k)(1) or (k)(2).

[FR Doc. 79-37396 Filed 12-5-79; 8:45 am]

BILLING CODE 4910-62-M

### INTERSTATE COMMERCE COMMISSION

#### Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Seventy-Fourth Revised Exemption No. 90

To All Railroads:

*It appearing*, That the railroads named below own numerous 50-ft. plain

boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered*, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation, "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules, 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company  
Reporting Marks: AR  
Ann Arbor Railroad System, Michigan  
Interstate Railway Company, Operator  
Reporting Marks: AA  
Apalachicola Northern Railroad Company  
Reporting Marks: AN  
Atlanta & Saint Andrews Bay Railway Company  
Reporting Marks: ASAB  
Bath and Hammondsport Railroad Company  
Reporting Marks: BH  
Cadiz Railroad Company  
Reporting Marks: CAD  
Camino, Placerville & Lake Tahoe Railroad Company  
Reporting Marks: CPLT  
City of Prineville  
Reporting Marks: COP  
The Clarendon and Pittsford Railroad Company  
Reporting Marks: CLP  
Columbus and Greenville Railway Company  
Reporting Marks: CAGY  
Delta Valley & Southern Railway Company  
Reporting Marks: DVS  
Detroit, Toledo and Ironton Railroad Company  
Reporting Marks: DT&I-DTI  
Duluth, Missabe and Iron Range Railway Company  
Reporting Marks: DMIR  
East Camden & Highland Railroad Company  
Reporting Marks: EACH  
East St. Louis Junction Railroad Company  
Reporting Marks: ESLJ  
Galveston Wharves  
Reporting Marks: GWF  
Genesee and Wyoming Railway Company  
Reporting Marks: GNWR  
Greenville and Northern Railway Company  
Reporting Marks: GRN  
The Hutchinson and Northern Railway Company  
Reporting Marks: HN  
Helena Southwestern Railroad Company  
Reporting Marks: HSW  
Illinois Terminal Railroad Company  
Reporting Marks: ITC

Indiana Eastern Railroad and Transportation, Inc., D/B/A The Hoosier Connection  
Reporting Marks: HOSC  
Lake Erie, Franklin & Clarion Railroad Company  
Reporting Marks: LEF  
Lake Superior & Ishpeming Railroad Company  
Reporting Marks: LSI  
Lenawee County Railroad Company, Inc.  
Reporting Marks: LCRC  
Longview, Portland & Northern Railway Company  
Reporting Marks: LPN  
Louisiana Midland Railway Company  
Reporting Marks: LOAM  
Louisville and Wadley Railway Company  
Reporting Marks: LW  
Louisville, New Albany & Corydon Railroad Company  
Reporting Marks: LNAC  
Manufacturers Railway Company  
Reporting Marks: MRS  
Maryland and Delaware Railroad Company  
Reporting Marks: MDDE  
McCloud River Railroad Company  
Reporting Marks: MR  
Middletown and New Jersey Railway Company, Inc.  
Reporting Marks: MNJ  
Missouri-Kansas-Texas Railroad Company  
Reporting Marks: MKT-BKTY  
Moscow, Camden & San Augustine Railroad  
Reporting Marks: MCSA  
New Hope and Ivyland Railroad Company  
Reporting Marks: NHIR  
New Orleans Public Belt Railroad  
Reporting Marks: NOPB  
New York, Susquehanna and Western Railroad Company  
Reporting Marks: NYSW  
Ocataro Railway, Inc.  
Reporting Marks: OCTR  
Oregon & Northwestern Railroad Co.  
Reporting Marks: ONW  
Pearl River Valley Railroad Company  
Reporting Marks: PRV  
Peninsula Terminal Company  
Reporting Marks: PT  
Port Huron and Detroit Railroad Company  
Reporting Marks: PHD  
Port of Tillamook Bay Railroad  
Reporting Marks: POTB  
Providence and Worcester Company  
Reporting Marks: PW  
Raritan River Rail Road Company  
Reporting Marks: RR  
St. Lawrence Railroad  
Reporting Marks: NSL  
St. Louis Southwestern Railway Company  
Reporting Marks: SSW  
St. Marys Railroad Company  
Reporting Marks: SM  
Sandersville Railroad Company  
Reporting Marks: SAN  
Savannah State Docks Railroad Company  
Reporting Marks: SSDK  
Sierra Railroad Company  
Reporting Marks: SERA  
Southern Pacific Transportation Company  
Reporting Marks: SP  
Terminal Railway, Alabama State Docks  
Reporting Marks: TASD  
The Texas Mexican Railway Company  
Reporting Marks: TM



Toledo, Peoria & Western Railroad Company  
Reporting Marks: TPW  
Union Railroad of Oregon  
Reporting Marks: UO  
Vermont Railway, Inc.  
Reporting Marks: VTR  
Virginia Central Railway  
Reporting Marks: VC  
Wabash Valley Railroad Company  
Reporting Marks: WVR  
WCTU Railway Company  
Reporting Marks: WCTR  
Youngstown & Southern Railway Company  
Reporting Marks: YS  
Yreka Western Railroad Company  
Reporting Marks: YW

Effective November 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 14, 1979.

Robert S. Turkington,  
Agent, Interstate Commerce Commission.

[FR Doc. 79-37454 Filed 12-5-79; 8:45 am]  
BILLING CODE 7035-01-M

#### Fourth Section Application for Relief

December 3, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before January 7, 1980.

FSA No. 43775, Central Gulf Lines, Inc. No. 1, intermodal rates on general commodities in containers from rail terminals on the United States Atlantic and Pacific Coasts to ports on the Mediterranean and Red Sea and the Persian Gulf, by way of rail-water interchange points on the United States Atlantic and Gulf Coasts, in its Tariff ICC CGU 700, effective December 9, 1979.

The effective date is to be postponed to December 28, 1979. Grounds for relief—water competition.

By the Commission.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37456 Filed 12-5-79; 8:45 am]  
BILLING CODE 7035-01-M

[Finance Docket No. 29142 (Sub-No. 1)]

#### Providence & Worcester Co.— Control—Warwick Railway Co.

Providence and Worcester Company (P&W), One Depot Square, Woonsocket, Providence County, RI 02895, represented by John L. Richardson, Esquire and Lawrence Rudolph, Esquire, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036, hereby give notice that on the 9th day of November, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application for authority under 49 U.S.C. 11343 to exercise control of

Warwick Railway Company (Warwick). The proposed transaction involves the acquisition by P&W of the outstanding capital stock of the Warwick, thereby creating a control relationship between P&W and Warwick. The line proposed to be controlled by P&W consists of 0.9 miles of main track and is located between Cranston and Bellefonte, RI. P&W has been operating the system tracks of the Warwick pursuant to the Commission's Service Order No. 1394, served August 14, 1979.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—Nat'l Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in the proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29142 (Sub-No. 1) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than January 21, 1980. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation, and the Attorney General.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37455 Filed 12-5-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29171]

#### Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.— Submissions Under Section 6 of the Milwaukee Railroad Restructuring Act

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the parties.

SUMMARY: The Milwaukee Railroad Restructuring Act, Public Law No. 96-101, provides, *inter alia*, an opportunity for certain organizations to convert all or a substantial part of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) into an employee or employee-shipper owned company. Pursuant to section 6 of Public Law No. 96-101, New Milwaukee Lines (New Mil), a non-profit corporation, filed with the Commission on December 1, 1979, a plan for the reorganization of the MILW as a transcontinental railroad.

DATES: Initial statements in support of or in opposition to the plan shall be filed no later than December 14, 1979. Replies to initial statements shall be filed no later than December 20, 1979.

FOR FURTHER INFORMATION CONTACT: Alexander L. Morton, (202) 275-7684, or Michael Erenberg, (202) 275-7245.

SUPPLEMENTARY INFORMATION: December 3, 1979.

Section 6 of the recently-enacted Milwaukee Railroad Restructuring Act, Public Law No. 96-101, provides that no later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of these) may submit to the Commission a single plan to convert all or a substantial part of the MILW into an employee or employee-shipper owned company, and a method for implementing the plan. The plan must include a comprehensive evaluation of the MILW's prospects for financial self-sustainability. The legislation further provides that within 30 days of submission of such a plan the Commission must approve the proposal if it finds the plan feasible. The Commission finding respecting feasibility must be made pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. 8554.

NewMil is a non-profit corporation formed under the laws of the state of Washington in June 1979. NewMil, 119 South Main Street, Seattle, Washington, 98104, is made up of representatives of the government, shippers and past and present MILW employees. NewMil was formed for the purpose of forming, obtaining funding for, and acquiring

necessary licenses and agency certifications for a new company to purchase and operate a substantial portion of the present MILW system. If the proposals in its plan are approved and implemented, it is contemplated that NewMil will cease to exist. The system proposed in the plan will be acquired, owned, and operated by the New Railroad described in the plan.

The NewMil employee-shipper ownership plan calls for the establishment of a new company to acquire and operate a transcontinental railroad system of main and secondary main lines from Louisville, KY to Chicago, IL, and from Chicago to Portland, OR, and Seattle and Tacoma, WA. An additional number of contingent lines will be included in the system if it can be determined that the line will make a positive contribution to the system (whether from operating revenues, surcharges, or external subsidy), if any required rehabilitation is borne by a third party such as a state agency or shippers, and if the inclusion of such lines in aggregate does not adversely affect system performance or requirements. At the time of submission of this plan, these lines are still being analyzed.

The point of departure for analysis and development of rehabilitation requirements, equipment requirements, employee requirements, financial projections, and other matters was the "Louisville-Transcon" configuration studied in depth by Booz, Allen & Hamilton Inc. (BAH). The Consulting Center, Inc. (CCI), revised and refined the BAH analysis in various specific ways discussed more fully below. In each case CCI refinements were based on actual data coupled with a conservative probability discounting procedure.

The base system proposed by NewMil consists of approximately 2900 main line route miles and 650 miles of lighter density or branch lines, as compared with the 9,000 miles plus system operated by the MILW in 1978. The plan contemplates the conveyance to the New Railroad of all equipment presently owned by the MILW. An aggressive equipment leasing and rebuilding program is contemplated to augment and restore the current fleet.

Rehabilitation requirements for the New Railroad were based on BAH and MILW data for each line segment in question. The projected rehabilitation level was based on a specific analysis of the competitive requirements of each line segment. The fundamental rehabilitation strategy is to institute immediately a program of normalized maintenance on all line segments

coupled with rehabilitation expenditures over and above a normalized level where required to restore major line segments to 25 mph. The total rehabilitation expenditures necessary to achieve long term market opportunities and economic growth is estimated at \$211.3 million (in 1977 dollars).

The total labor force required for the New Railroad is estimated at 7,905 for 1980 and 9,035 by 1982. These estimates were based on the MILW's 1977 employee mix and various BAH data.

The assets to be acquired by the New Railroad include land, rights of way, tract, ballast, trackage rights, equipment, leaseholds, inventory material, and supplies, and a motor transportation subsidiary. These assets are valued on the basis of net liquidation value essentially established in the Ford, Bacon, and Davis report.

The financial projections developed by the New Railroad's base system indicate that the railroad will realize positive income from operations beginning in 1982 and generate positive cash flow from operations beginning in 1983 and in each year thereafter. Expenses were analyzed and significant unit cost improvements were projected from the aggregate effect of specifically analysed factors, including improved equipment utilization, productivity gains, use of higher capacity equipment and benefits accruing from rehabilitated physical plant.

Operating revenues are projected to increase, in constant dollar terms, from \$344.9 million in 1980 to \$853.2 million in 1986. The increases in revenue are attributable to the aggregate effect of various factors including the restoration of traffic to "normalized" 1977 levels, the achievement of specifically analysed market opportunities, long term projected economic growth and authorized selective rate increases.

The projected effects of inflation are addressed in the plan. These effects will be mitigated for the New Railroad because of a relatively strong projected operating ratio and the performance of major rehabilitation work in the early years and the benefits are achieved in the later years when expenses are higher.

The capital needs of the new company are projected to be met through a combination of private and public financing. Sources of private money include an equity contribution through an employee stock ownership plan (ESOP), and a modest amount of shipper-contributed venture capital. Sources of public money include federal funds available under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, state

and local funds available for support of the light density lines; and a joint Economic Development Administration and Farmers Home Administration loan to the ESOP to finance its equity contribution.

Initial statements in support of or in opposition to the plan shall be filed no later than December 14, 1979. Replies to initial statements shall be filed no later than December 20, 1979. All statements and replies shall bear the notation "MILW-ESOP" in boldface on the lower left-hand corner of the outer envelope.

The original and two copies of each filing shall be addressed to: Agatha L. Mergenovich, Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

Ten copies of each filing also be addressed to: Section of Finance, Room 5417, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37533 Filed 12-5-79; 8:45 am]  
BILLING CODE 7035-01-M

#### Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon.



including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to

perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

#### Volume No. 210

Decided: November 8, 1979.

By the Commission. Review Board Number 2, Members Boyle, Eaton and Liberman.

MC 2605 (Sub-5F), filed May 24, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 East Adams St., Philadelphia, PA 19124. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *petroleum and petroleum products* (except commodities in bulk), from Edison, Carteret, Bayonne, and Mt. Laurel, NJ, to Ferndale, MI, and points in OH, (2) *petroleum products*, from Marcus Hook and Philadelphia,

PA, to Chicago, IL, Detroit, MI, and points in OH, and (3) *automotive supplies and automotive accessories* (except commodities in bulk), from the facilities used by Union Carbide Corp., at or near Camden and Paulsboro, NJ, to Chicago, IL, and points in OH. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 2605 (Sub-9F), filed May 24, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 East Adams Street, Philadelphia, PA 19124. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *paper and paper products* (except commodities in bulk), from Philadelphia, PA, to Chicago, IL, Detroit, MI, and points in OH. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 2605 (Sub-10F), filed May 24, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 East Adams Street, Philadelphia, PA 19124. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1)(a) *chemicals, chemical products, and drugs*, (except commodities in bulk), and (b) *dried roots, bark, flowers, herbs and leaves*, which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) when moving in mixed loads with the commodities in (1) above, from Newark, Lyndhurst, Metuchen, Gibbstown, Carteret and Hackensack, NJ, and Chester PA, to Chicago and Utica, IL, Detroit, MI, and points in OH, (2) *plastic and plastic products* (Except commodities in bulk), from Philadelphia, PA, and Windsor, NJ, to Chicago, IL, Detroit, MI, and points in OH. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 2605 (Sub-11F), filed May 24, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 East Adams St., Philadelphia, PA 19124. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *adhesives, floor coverings, and materials, equipment, and supplies* used in the installation of floor coverings (Except commodities in bulk), from Philadelphia, PA, and Camden and Trenton, NJ, to Chicago, IL, Detroit, MI, and points in OH. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 4405 (Sub-609F), filed June 11, 1979. Applicant: DEALERS TRANSIT, INC. P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in

initial movements, in truckaway service, from points in Ector and Midland Counties, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 4405 (Sub-616F), filed March 16, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58126. Transporting (1) *incinerators and smoke stacks*, and (2) *parts*, for the commodities in (1) above, from the facilities of Consumat Systems, Inc., at or near Mechanicsville, VA, to points in the United States (except AK and HI). (Hearing site: Richmond, VA or Washington, DC)

MC 10875 (Sub-57F), filed June 11, 1979. Applicant: BRANCH MOTOR EXPRESS CO., a corporation, 114 Fifth Avenue, New York, NY 10011. Representative: G. G. Heller, 114 Fifth Avenue, New York, NY 10011. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of The Torrington Company, at Dahlonega, Sylvania, and Cairo, GA as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: New York, NY, or Washington, DC)

MC 14215 (Sub-43F), filed June 7, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. Transporting *ferro nickel*, from Baltimore, MD, to points in OH, PA and the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Washington, DC)

MC 20824 (Sub-42F), filed June 8, 1979. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 S. High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Bedford and Vincennes, IN, Over U.S. Hwy 50, serving all intermediate points and the off-route point of Crane United States Naval Ammunition Depot, in Martin

County, IN; (2) between junction U.S. Hwys 50 and 231, near Loogootee, IN, and Owensboro, KY, over U.S. Hwy 231, serving all intermediate points; (3) between junction IN Hwys 37 and 60, near Mitchell, IN, and junction IN Hwy 60 and Interstate Hwy 65, over IN Hwy 60, serving all intermediate points; and (4) between Paoli and French Lick, IN, over IN Hwy 56, serving all intermediate points. (Hearing site: Indianapolis, IN, or Chicago, IL)

MC 30844 (Sub-641F), filed April 4, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: St. Paul, MN)

MC 52464 (Sub-12F), filed June 7, 1979. Applicant: EVANS TRUCKING CO., 2773 Darlington Road, Beaver Falls, PA. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *iron and steel articles*, from the facilities of Republic Steel Corporation, at Cleveland, Warren, and Youngstown, OH, to Buffalo and Rochester, NY. (Hearing site: Washington, DC.)

MC 52704 (Sub-231F), filed June 7, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2209 Century Parkway, Atlanta, GA 30345. Transporting (1) *door jams and wooden moldings*, from Roanoke, AL to points in AR, FL, GA, IL, IN, KY, LA, MA, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 60014 (Sub-125F), filed June 7, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting: (1) *Pipe, casting, valves, hydrants, and fittings*, and (2) *parts and accessories* for the commodities named in (1) above, from the facilities of Central Foundry Co., at or near Holt, AL, to those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Washington, DC.)

MC 85934 (Sub-102F), filed June 7, 1979. Applicant: MICHIGAN TRANSPORTATION CO., a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48121. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *cement*, from Petoskey, MI, and Chicago, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 94265 (Sub-304F), filed June 11, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities used by Vlastic Foods, Inc., at or near (1) Millsboro, DE, to points in WV, VA, NC, SC, and KY, (2) Greenville, MS, to points in AL, GA, and FL, and (3) Memphis, Imlay City, and Bridgeport, MI, to the facilities used by Vlastic Foods, Inc., at or near (a) Greenville, MS, and (b) Millsboro, DE. (Hearing site: Chicago, IL, or Washington, DC.)

MC 96324 (Sub-33F), filed April 16, 1979. Applicant: GENERAL DELIVERY, INC., P.O. Box 206, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 South Columbus Street, Alexandria, VA 22314. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Pittsburgh, PA, or Washington, DC)

MC 105045 (Sub-107F), filed May 14, 1979, previously published in the Federal Register of October 23, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Transporting *tanks and tank accessories*, between points in AR, DE, IL, AL, GA, LA, MS, NC, SC, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, ND, OH, OK, PA, SD, TN, TX, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Northern Propane Gas Company. (Hearing site: Chicago, IL)

Note.—This republication includes the States of AL, GA, LA, MS, NC, AND SC.

MC 105045 (Sub-109F), filed June 8, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington



Building, Washington, DC 20005. Transporting (1)(a) *air and water pollution control equipment*, and (b) *parts* for the commodities in (1)(a) above, from the facilities of Pell City Fabricating Co., Inc., at Pell City, AL, to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL)

MC 106644 (Sub-280F), filed June 7, 1979. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). Transporting (1) *contractors', industrial, and mining equipment*, and *self-propelled articles*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Joy Manufacturing Company, at or near (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC)

MC 106674 (Sub-397F), filed June 6, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *gypsum and gypsum products*, and *building materials*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Georgia-Pacific Corporation, Gypsum Division. (Hearing site: Chicago, IL, or Indianapolis, IN)

MC 107515 (Sub-1243F), filed June 7, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, between Chicago, IL and St. Louis, MO. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1244F), filed June 7, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Holsum Foods, (a) at or near Albany, GA, Waukesha, WI, and Navasota, TX, and (b) in Johnson County, KS, to points in the United States (except AK and HI). (Hearing site: Madison, WI.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1245), filed June 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *confectionery products*, between Hershey, PA, and Oakdale, CA, restricted to the transportation of traffic originating at and destined to the facilities used by Hershey Foods Corporation. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1246F), filed June 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *Canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Greenville, SC to points in AL, GA, and TN, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1248F), filed June 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *intravenous solutions and materials and supplies* used in the application of intravenous solutions, in vehicles equipped with mechanical refrigeration, from the facilities of Travenol Laboratories, Inc., at or near Memphis, TN, to points in GA, NC, and SC. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 107815 (Sub-16F), filed June 8, 1979. Applicant: UNTCO, INC., 850 E. Luzerne Street, Philadelphia, PA 19124. Representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036.

Transporting *printed matter, materials and supplies used in the manufacture and distribution of printed matter*, (except commodities in bulk), between Lancaster, PA, on the one hand, and, on the other, points in NY, NJ, PA, WV, MD, DE, VA, NC, SC, GA, FL, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 109124 (Sub-83F), filed June 7, 1979. Applicant: SENTILE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. Transporting *lime, limestone, and limestone products*, from the facilities of Edward Kraemer & Sons, Inc., at or near Clay Center, OH, to points in PA, WV, IN, IL, MI, and KY. (Hearing site: Columbus, OH.)

MC 110325 (Sub-103F), filed May 29, 1979. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lincoln NE, and Sacramento, CA, over Interstate Hwy 80, serving all intermediate points, and serving Alda, Aurora, Doniphan, Grand Island, and York, NE, Carson City, NV, Tooele, UT, and Green River, WY, points in Morgan, Utah, Lyon, Salt Lake, Davis, and Weber Counties, UT, Lyon, Douglas, and Storey Counties, NV, and those in Washoe County, NV, south of Interstate Hwy 80, as off-route points. (Hearing site: Reno, NV, Salt Lake City, UT, Omaha, NE, Birmingham, AL, Washington, DC, and Philadelphia, PA.)

MC 113165 (Sub-10F), filed June 6, 1979. Applicant: PENINSULA TRUCK LINES, INC., P.O. Box 80038, Seattle, WA 98108. Representative: Carl A. Jonson, 300 Central Building, Seattle, WA 98104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), (1) between Seattle and Tacoma, WA, on the one hand, and, on the other, points in Grays Harbor, Kitsap, and Mason Counties, WA, and (2) between points in Grays Harbor, Kitsap, and Mason Counties, WA. (Hearing site: Seattle or Tacoma, WA.)

MC 113855 (Sub-490F), filed June 6, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901.

Representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58126. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) agricultural equipment and (b) industrial equipment (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Allis Chalmers Corporation. (Hearing site: Chicago, IL.)

MC 113855 (Sub-491F), filed June 6, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58126. Transporting (1) *contractors, industrial, and mining equipment*, (2) *self-propelled articles*, and (3) *materials, parts, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of Joy Manufacturing Company, at or near (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 114004 (Sub-174F), filed June 11, 1979. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Representative: W. G. Chandler (same address as applicant). Transporting *trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, from points in WA and ID, to points in the United States (including AK, but excluding HI). (Hearing site: Boise, ID.)

MC 114274 (Sub-65F), filed June 11, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *coffee and coffee products* (except commodities in bulk), from the facilities of Procter & Gamble Distributing Co., at or near Sherman, TX, to points in the United States (except AK and HI). (Hearing site: Cincinnati, OH.)

MC 116325 (Sub-81F), filed June 11, 1979. Applicant: JENNINGS BOND, d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, MO 63762. Representative: Jennings Bond (same address as applicant). Transporting (1) *building materials* (except in bulk), from points

in Henry County, TN, to points in MO, AR, IL, IN, and KY; and (2) *materials and supplies* used in the manufacture and distribution of building materials; in the reverse direction. (Hearing site: St. Louis, MO, or Tampa, FL.)

MC 116915 (Sub-86F), filed June 8, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *aluminum articles*, between the facilities of Aluminum Company of America, at Alcoa, TN, on the one hand, and, on the other, points in KY, IL, IN, MI, MO, and OH. (Hearing site: Nashville, TN, or Pittsburgh, PA.)

MC 116915 (Sub-87F), filed June 6, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate St., Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) buildings, (b) building sections and panels, and (c) iron and steel articles, (except commodities in bulk), between the facilities of Inryco, Inc., at or near (i) Milwaukee, WI, and (ii) Cullman, AL, on the one hand, and, on the other, those points in the United States in and east of WI, IA, NE, KS, OK, and TX. (Hearing site: Milwaukee, WI.)

MC 116915 (Sub-88F), filed June 6, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate St., Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting (1) *bituminous fiber pipe*, and (2) *accessories* for bituminous fiber pipe, between the facilities of Bermico Company, at or near West Bend, WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Milwaukee, WI.)

MC 116915 (Sub-89F), filed June 6, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles*, between the facilities of Maverick Tube Corporation, at Union, MO, on the one hand, and, on the other, points in AR, TX, LA, OK, NC, SC, FL, TN, IL, OH, MI, and PA, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Louis, MO.)

MC 121654 (Sub-19F), filed June 11, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a

corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *lumber products, wood products, paneling, and composition board*, from the facilities of Holly Hill Lumber Company, at or near Holly Hill and Walterboro, SC, to points in NC, SC, GA, AL, FL, and TN. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

Note.—Dual operations may be involved.

MC 121654 (Sub-20F), filed June 11, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *lumber and lumber products*, (except commodities in bulk), from the facilities of Lamb Brothers Lumber Co., at or near Midville and Wrens, GA, to points in NC, SC, and FL. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 121654 (Sub-21F), filed June 11, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *machinery, and parts* for machinery, between Mableton, GA, on the one hand, and, on the other, points in AL, AR, FL, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 124964 (Sub-39F), filed June 11, 1979. Applicant: JOSEPH M. BOOTH d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Co., at or near Greenville, SC, to New Orleans, LA, and points in AL, FL, GA, MS, and TN, under continuing contract(s) with Heinz USA, Division of H. J. Heinz Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 125335 (Sub-68F), filed June 8, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *paper and paper products, plastic and plastic products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named



in (1) above, (a) from Millville, NJ, to Norcross, GA, and (b) from Norcross, GA, and NJ, to points in NC, SC, AL, and FL. (Hearing site: Chicago, IL, or Harrisburg, PA.)

MC 126844 (Sub-60F), filed November 2, 1978, previously noticed in the Federal Register of February 1, 1979 as MC 126884 Sub-60F. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Transporting *canned food products*, from the facilities of Campbell Soup Co., at or near Napoleon, OH, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, NJ, NY, PA, and WI. (Hearing site: Columbus, OH, or Chicago, IL.)

Note.—This republication indicates the correct docket number.

MC 128205 (Sub-83F), filed June 11, 1979. Applicant: BULKOMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *corn sugar and corn starch*, in bulk, from Argo, IL, to points in MI, OH, IN, WI, NY, CO, KY, VA, MO, IA, PA, and WV. (Hearing site: Washington, DC.)

MC 128304 (Sub-4F), filed June 11, 1979. Applicant: I.T.L., INC., P.O. Box 280, 2155 North 10th St. Gering, NE 69341. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery business houses (except commodities in bulk), from points in AR, IN, MI, NM, and OK, to the facilities of Associated Grocers of Nebraska Cooperative, Inc., at Gering, NE, under continuing contract(s) with Associated Grocers of Nebraska Cooperative, Inc., of Gering, NE. (Hearing site: Denver, CO, or Lincoln, NE.)

MC 128964 (Sub-11F), filed June 4, 1979. Applicant: REES TRUCKING CO. INC., P.O. Box G, Houston, MO 65483. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO. Transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., in Putnam County, IL, to points in MO, AR, and OK. (Hearing site: St. Louis or Jefferson City, MO.)

MC 129645 (Sub-75F), filed June 8, 1979. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, d.b.a. SMEESTER BROTHERS TRUCKING, 1330 South Jackson St., Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville,

KY 40202. Transporting *iron and steel articles*, between the facilities of Crucible Inc., Division of Colt Industries, at or near Midland, PA, on the one hand, and, on the other, points in IA, MN, and WI. (Hearing site: Pittsburgh, PA, or Chicago, IL.)

MC 133655 (Sub-161F), filed June 6, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting (1) *cellulose materials and cellulose products*, and *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Anderson, Pomona, and Ripon, CA, Corsicana, TX, and Weleetka, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 134105 (Sub-52F), filed June 11, 1979. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by producers and distributors of alcoholic beverages (except commodities in bulk in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY, or Washington, D.C.)

MC 134235 (Sub-21F), filed June 7, 1979. Applicant: KUHNLE BROTHERS, INC., P.O. Box No. 375, Newbury, OH 44065. Representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. Transporting *salt and salt products*, from Fairport Harbor, OH, to points in IN, KY, WV, and the Lower Peninsula of MI. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 134335 (Sub-5F), filed June 4, 1979. Applicant: ALL FREIGHT, INC., 238 Sheldon Rd., Berea, OH 44017. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foundry supplies, refractories, exo-thermics, and steel mill supplies*, between the facilities of Foseco, Inc., at or near Berea and Brookpark, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing

contract(s) with Foseco, Inc., of Brookpark, OH. (Hearing site: Columbus, OH.)

MC 134405 (Sub-77F), filed June 6, 1979. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 815 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *anhydrous ammonia*, in bulk, in tank vehicles, from Lake Charles, LA, to points in AR, OK, and TX. (Hearing site: Oklahoma City, OK.)

MC 134755 (Sub-190F), filed June 4, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *foodstuffs* (except commodities in bulk), between the facilities of Ragú Foods, Inc., at Rochester, NY, on the one hand, and, on the other, the facilities of Ragú Foods, Inc., at Owensboro and Henderson, KY. (Hearing site: Rochester, NY.)

Note.—Dual operations may be involved.

MC 134755 (Sub-192F), filed June 7, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by chain grocery and food business houses, (except commodities in bulk), between Indianapolis, IN, and Columbus and Cincinnati, OH, on the one hand, and, on the other, points in AR, GA, MO, TN, and TX. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 135154 (Sub-4F), filed March 23, 1979. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: Daniel R. Dincen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting *glass containers, and materials and supplies* used in the distribution of glass containers, (except commodities in bulk), from the facilities of Thatcher Glass Co., Division of Dart Industries, at Streator, IL, to St. Louis, MO, and points in WI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 135154 (Sub-6F), filed March 28, 1979. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: William C. Dincen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting (1) *malt beverages*, (a) from Milwaukee, WI, to Davenport and Dubuque, IA, St.

Louis, MO, and points in IL, and (b) from St. Louis, MO, to Milwaukee, WI; (2) *malt beverage containers*, (a) from Davenport and Dubuque, IA, and points in IL, to Milwaukee, WI, and (b) between Milwaukee, WI, and St. Louis, MO; (3) *fermented malt beverages*, in containers, from Columbus, OH, to Milwaukee, WI; and (4) *malt beverages*, in containers, from the facilities of Miller Brewing Co., at Milwaukee, WI, to St. Charles, MO.

Condition: Issuance of a certificate in the proceeding is subject to the prior or coincidental cancellation of permits in Nos.

MC 29990 and MC 29990 (Subs 1, 9, and 11). (Hearing site: Milwaukee, WI, to Chicago, IL.)

Note.—Dual operations may be involved. The purpose of this application is to convert the above noted motor contract carrier permits to a motor common carrier certificate.

MC 135874 (Sub-174F), filed June 11, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th St. So., So. St. Paul, MN 55075. Representative: Paul Nelson (same address as applicant).

Transporting *chemicals* (except in bulk), from Bradford, Eightyfour, Petrolia, and Pittsburgh, PA, to points in IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, SD, TN, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or St. Paul, MN.)

MC 135924 (Sub-13F), filed May 18, 1979, previously noticed in the FR issue of October, 1979. Applicant: SIMONS TRUCKING CO., INC. 3851 River Road, Grand Rapids, MN 55744.

Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *tires and tire products*, from Bryan and Akron, OH, to Hibbing, MN. (Hearing site: Minneapolis, MN.)

Note.—This republication indicates the correct origin points.

MC 136605 (Sub-118F), filed June 3, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *building materials, cement pipe, and plastic pipe*, from the facilities of Johns-Manville Sales Corp., at (a) Waukegan, IL, and (b) Wilton, IA, and (2) Johns-Manville Perlite Corp., at Rockdale, IL, to points in AZ, CA, ID, and NV. (Hearing site: Chicago, IL.)

MC 136605 (Sub-119F), filed June 4, 1979. Applicant: DAVIS BROS. DIST., INC., Post Office Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant).

Transporting *roofing materials*, (1) from the facilities of Johns-Manville Sales Corporation at or near Pittsburg, CA, to points in OR, WA, ID, UT, and MT, and (2) from the facilities of Johns-Manville Sales Corporation, in Los Angeles County, CA, to points in OR, WA, ID, and UT. (Hearing site: San Francisco, CA.)

MC 136605 (Sub-120F), filed June 7, 1979. Applicant: DAVIS BROS. DIST., INC., Post Office Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *iron and steel articles*, from the facilities of HyAlloy Steel Company, at or near Chicago, IL, to points in CA, AZ, UT, and ID. (Hearing site: Chicago, IL.)

MC 138875 (Sub-203F), filed June 8, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *brick* from Fairbury, NE, to points in ID, MT, NV, OR, UT, WA, and WY. (Hearing site: Boise, ID, or Washington, DC.)

MC 139495 (Sub-456F), filed June 6, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting (1) *glassware, ceramic ware, and electrical appliances*, and (2) *parts and accessories* for the commodities in (1) above, from the facilities of Corning Glass Works, at or near Greencastle, PA, to points in AZ, CA, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY. (Hearing site: Washington, DC.)

MC 139495 (Sub-457F), filed June 5, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in by grocery and food business houses, in vehicles equipped with mechanical refrigeration, (1) from the facilities of Inland Cold Storage Corp., at or near Kansas City, KS, to those points in the United States in and west of ND, SD, WY, CO, and NM (except AK and HI), and (2) from points in the United States (except AK and HI), to the facilities of Inland Cold Storage Corp., at or near Kansas City, KS, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 139495 (Sub-458F), filed June 7, 1979. Applicant: NATIONAL

CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in or used by department and hardware stores, from Boston, MA, Charlotte, NC, Dalton, GA, and Jersey City, NJ, to the facilities of Kansas City Shippers Association, at or near Kansas City, MO, restricted to the transportation of traffic destined to the named destination. (Hearing site: Washington, DC.)

MC 139495 (Sub-459F), filed June 8, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in by grocery houses, from the facilities of Port Terminals Company, Inc., Bowler Storage & Distribution, Inc., and Foxboro Terminals Company, Inc., at or near Boston, MA, to those points in the United States in and east of WI, IL, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 140265 (Sub-7F), filed June 6, 1979. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asphaltic admixtures* in containers, from Solon and Cleveland, OH, to Richmond, CA, Des Moines, IA, and Woodbridge, NJ, under continuing contract(s) with Revere Chemical Co., and Monroe Company, of Solon, OH. (Hearing site: Chicago, IL.)

MC 140484 (Sub-44F), filed June 1, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *malt beverages* (except in bulk, in tank vehicles), from Albany, GA, Eden, NC, and Fort Worth, TX, to Fort Myers, FL. (Hearing site: Tampa, FL, or Atlanta, GA.)

MC 141245 (Sub-10F), filed June 1, 1979. Applicant: BARRETT TRUCKING CO., INC., 18 Austin Drive, Burlington, VT 05401. Representative: BRIAN L. TROIANO, 918-16th Street, N.W., Washington, DC 20006. Transporting *malt beverages*, from Latrobe, PA, to points in VT. (Hearing site: Burlington, VT, or Washington, DC.)

MC 141804 (Sub-225F), filed June 7, 1979. Applicant: Western Express, Division, of Interstate Rental, Inc., P.O.



Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *surgical products, health products, and medical care products*, between the facilities of Johnson & Johnson, in (a) Middlesex County, NJ, (b) Will and Cook Counties IL, (c) Grayson County, TX, (d) San Mateo County, CA, and (e) Los Angeles County, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142205 (Sub-10F), filed June 7, 1979. Applicant: Loudoun Transfer, Inc., P.O. Box 703, Leesburg, VA 22075. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared animal and poultry feed (except in bulk)*, from the facilities of Doane Products Company, at or near Manassas, VA., to those points in the United States in and east of WI, IL, KY, TN, and MS, under continuing contract(s) with Doane Products Company, of Joplin, MO. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved. MC 142765 (Sub-8F), filed June 6, 1979. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Rd., Bethany, CT 06525. Representative: Mel P. Booker, Jr., 110 South Columbus Street, Alexandria, VA 22314. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by door-to-door sales, catalog sales, and mail order businesses (except commodities in bulk)*, between the facilities of Shaklee Corporation, at or near Dayton, NJ, on the one hand, and, on the other, points in ME, NH, VT, NY, MA, RI, CT, PA, NJ, DE, MD, VA, WV, and DC, under continuing contract(s) with the Shaklee Corporation, of Oakland, CA.

MC 143754 (Sub-8F), filed June 11, 1979. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearingen, P.O. Box 456, Jefferson City, MO 65102. Transporting *liquid feed*, in bulk, in tank vehicles, from the facilities of Farmland Industries, Inc., at or near Kansas City, KS, to points in MO. (Hearing site: St. Louis, MO.)

MC 143775 (Sub-100F), filed June 11, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities (except those of unusual value, classes*

A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from the facilities of New England Shipping Association, Cooperative, in MA and VT, to points in CA, CO, FL, GA, IL, IN, IA, KS, MN, MI, MO, NE, OH, TX, and WI. (Hearing site: Los Angeles, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143794 (Sub-12F), filed June 11, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are used by (a) hospitals, (b) nursing homes, (c) health care centers, and (d) laboratories, and (2) materials, equipment, and supplies used in the manufacture, distribution, and sale of the commodities in (1) above*, between the facilities of McGaw Laboratories, Division of American Hospital Supply Corporation, at (a) Irvine, CA, and (b) Atlanta and Milledgeville, GA, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 85, under continuing contract(s) with McGaw Laboratories, Division of American Hospital Supply Corporation, of Atlanta, GA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 143995 (Sub-18F), filed June 8, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Dr., Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in by (a) chain grocery food business houses and agricultural feed business houses, and (2) materials, equipment, and supplies used in the manufacture, distribution, and sale of the commodities named in (1) and (2) above*, (except commodities in bulk), between points in AL, AR, GA, IA, IL, IN, KY, LA, MI, MN, MO, MS, NJ, NY, OH, PA, TN, and WI, under continuing contract(s) with Ralston Purina Company, of St. Louis, MO. (Hearing site: St. Louis, MO, or Davenport, IA.)

MC 143995 (Sub-19F), filed June 11, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309.

To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, to points in MO, and those in IL on and south of Interstate Hwy 70, under continuing contract(s) with Heinz USA, division of H. J. Heinz Company. (Hearing site: St. Louis, MO, or Davenport, IA.)

MC 144695 (Sub-2F), filed June 1, 1979. Applicant: N. & S. TRUCKING, INC., Route 1, Francisco, IN 47649. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals (except in bulk)*, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to (a) the facilities of Ulrich Chemical, Inc., at Evansville, Fort Wayne, Indianapolis, and Terre Haute, IN, and (b) the facilities of Mead-Johnson and Company, at or near Mount Vernon, IN, under continuing contract(s) with Ulrich Chemical, Inc., of Evansville, IN. Condition for issuance of permit: Prior or coincidental cancellation, at applicant's written request, of Permit No. MC-144695.

MC 145054 (Sub-18F), filed June 1, 1979. Applicant: COORS TRANSPORTATION COMPANY, a corporation, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz company, at or near Muscatine and Iowa City, IA, to points in CO, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 145054 (Sub-20F), filed June 7, 1979. Applicant: COORS TRANSPORTATION COMPANY, a corporation, 5101 York St., Denver CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1600 Lincoln St., Denver, CO 80264. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Cedar Rapids, Cherokee, and Des Moines, IA, to points in CO,

restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Denver CO.)

Note.—Dual operations may be involved.

MC 145204 (Sub-1F), filed June 8, 1979. Applicant: TVF SECURITY CO., INC., P.O. Box 815, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *printed matter*, from the facilities of R. R. Donnelley & Sons Company, at Warsaw, IN, to Ft. Wayne, Elkhart, Indianapolis, and Lafayette, IN, Chicago, IL, and Cincinnati, OH, under continuing contract(s) with R. R. Donnelley & Sons Company. (Hearing site: Indianapolis, IN.)

MC 145274 (Sub-4F), filed June 8, 1979. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. Transporting (1) *iron containers and containers and metal can ends, and (2) machinery and supplies used in the manufacture and distribution of the commodities named in (1) above*, between Bishopville, SC, on the one hand, and, on the other, points in TX, OK, MO, IA, IN, KY, AR, VA, NC, TN, MS, AL, GA, and FL. (Hearing site: Nashville, TN, or Baltimore, MD.)

MC 145664 (Sub-9F), filed June 7, 1979. Applicant: STALBERGER, INC., 223 South 50th Ave., West, Duluth, MN 55806. Representative: John M. LeFevre, 4610 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *timbers and lumber*, from the ports of entry on the international boundary line between the United States and Canada, at or near Grand Portage and International Falls, MN, to points in MN, WI, and the Upper Peninsula of MI. (Hearing site: Minneapolis or Duluth, MN.)

MC 145735 (Sub-2F), filed June 8, 1979. Applicant: KENNETH BASS, 916 Lakewood Drive, Milton, FL 32570. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crushed limestone, crushed slag, and crushed rock*, from points in Shelby, Escambia, Montgomery, and Monroe Counties, AL, to Milton and Bagdad, FL, under continuing contract(s) with Blackwater Prestressed Concrete,

Inc., of Milton, FL. (Hearing site: Birmingham, AL, or Pensacola, FL.)

MC 146044 (Sub-2F), filed June 11, 1979. Applicant: JOE COSTA TRUCKING, a corporation, Highway 299—West End Road, P.O. Box 748, Arcata, CA 95521. Representative: Marvin Handler, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting *lumber and baled wood pulp*, from points in Humboldt County, CA, to points in Shasta, Sonoma, and Mendocino Counties, CA, restricted to the transportation of traffic having a subsequent movement by rail. (Hearing site: San Francisco or Eureka, CA.)

MC 146484 (Sub-3F), filed June 6, 1979. Applicant: F. J. CRICOS TRUCKING, INC., 141 Helman Lane, Cotati, CA 94928. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products, and (2) materials used in the manufacture of (a) highway trailers, (b) spring brakes, and (c) fifth wheels*, from points in CA, to the facilities of Comet Corporation, and Alloy Trailers, Inc., at Spokane, WA, under continuing contract(s) with Comet Corporation and Alloy Trailers, Inc., of Spokane, WA. (Hearing site: San Francisco, CA, or Spokane, WA.)

MC 146564 (Sub-2F), filed June 1, 1979. Applicant: BENNIE MILLER, d.b.a. M & L TRUCK SERVICE, 6730 Larry Lane, Berkeley, MO 63134. Representative: Lawrence O. Willbrand, Suite 873, 818 Olive Street, St. Louis, MO 63101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, in bags, between points in MO and IL, under continuing contract(s) with Mangelsdorf Seed Co., of St. Louis, MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 146604 (Sub-2F), filed June 6, 1979. Applicant: SILVER TRUCKING, INC., 355 West Deloney, P.O. Box 2663, Jackson, WY 83001. Representative: Don C. Henderson (same address as applicant). Transport *malt beverages*, from Fairfield, CA, to Victor, ID, and Jackson, WY. Casper, WY. (Hearing site: Salt Lake City, UT.)

MC 146724 (Sub-3F), filed June 1, 1979. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204, West Jordan, UT 84084. Representative: Jack H. Blanshan, Suite 200, 205 Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *foodstuffs, table decorations, and*

*books (except commodities in bulk), and (2) plants*, which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) when moving in mixed loads with the commodities in (1) above, from points in CA to the ports of entry on the international boundary line between the United States and Canada located in ID, MT, and WA, restricted to the transportation of traffic originating at the indicated origins. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 146755 (Sub-2F), filed June 6, 1979. Applicant: APACHE TRUCK LINES, INC., 901 South Main Street, Eureka, IL 61530. Representative: Douglas G. Brown, The INB Center, Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precast concrete slabs*, from Roanoke and Casey, IL, to points in IN, IA, KY, MO, and WI, under continuing contract(s) with Brim Slats, Inc., of Roanoke, IL. (Hearing site: St. Louis, MO.)

MC 146895 (Sub-2F), filed June 6, 1979. Applicant: JOHNNY FOWLKES, d.b.a. J. J. FOWLKES TRUCKING COMPANY, Route 2, Box 90, Selma, AL 36701. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. Transporting *malt beverages*, in containers, (a) from Jacksonville, FL, to Selma, AL, (b) from Memphis, TN, to Linden, Selma, and Troy, AL. (Hearing site: Montgomery or Mobile, AL.)

MC 147035 (Sub-2F), filed May 30, 1979. Applicant: J. HOWARD LEASING, INC., 253 S.W. Cutoff, Worcester, MA 01604. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. Transporting *meats, and meat products and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) *materials and supplies used in the packaging of the commodities named in (1) above*, between the facilities of Snider Bros. Inc., and Portion Control Meat Processing Co., Inc., at Wilkinsonville, MA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, ID, IA, IN, KY, KS, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Boston, MA.)

MC 147434 (Sub-1F), filed May 25, 1979. Applicant: NEW JERSEY DELIVERY SERVICE, INC., P.O. Box 341, Clifton, NJ 07011. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in



interstate or foreign commerce, over irregular routes, transporting *commercial documents*, between Paterson, NJ, on the one hand, and, on the other, Myack, Haverstraw, New City, Monroe, Newburgh, Montgomery, Middletown, and Port Jervis, NY, and Sussex, NJ, under continuing contract(s) with A & P Tea Co., of Paterson, NJ. (Hearing site: New York, NY, or Washington, DC.)

MC 147574F, filed June 5, 1979. Applicant: MARINE TRUCKING, INC., 47595 North Gratiot Avenue, Mt. Clemens, MI 48045. Representative: William B. Elmer, 21835 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting *boats*, between points in Bay, Charlevoix, Emmet, Macomb, Ottawa, St. Clair, and Wayne Counties, MI, on the one hand, and, on the other, points in FL, GA, KY, OH and TN. (Hearing site: Detroit, MI.)

MC 147585F, filed June 11, 1979. Applicant: DICK WELLER, INC., Shoham Road, P.O. Box 313, Warehouse Point, CT 06088. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Transporting *electrical supplies, and flexible air duct tubing*, from the facilities of the Wiremold Co., at or near West Hartford and Rocky Hill, CT, to Atlanta, GA, Los Angeles, CA, Detroit, MI, and the ports of entry on the international boundary line between the United States and Canada, in Erie and Niagara Counties, NY. (Hearing site: Hartford, CT.)

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Decided: October 19, 1979  
By the Commission, Review Board Number 2, members Boyle, Eaton, and Liberman. Board Member Liberman not participating.

MC 45893 (Sub-16F), filed June 7, 1979. Applicant: ROSS TRUCK LINES, INC., 1010 North Pearl Street, Paola, KS 66071. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting *agricultural implements and grain dryers*, from the facilities of Berico Industries, at or near Waverly, KS, to points in AL, IL, IN, KY, LA, MS, and OH. (Hearing site: Kansas City, MO, or Topeka, KS.)

MC 73533 (Sub-3F), filed June 5, 1979. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham Street, Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring the use of special equipment), in containers or in trailers, having a prior or subsequent movement

by water, and (2) *empty containers or trailers*, between Baltimore, MD, Philadelphia, PA, and New York, NY. (Hearing site: Baltimore, MD, or Washington, DC.)

Note.—Dual operations may be involved.

MC 82093 (Sub-4F), filed May 29, 1979. Applicant: PORTAGE TRANSFER COMPANY, INC., P.O. Box 88, Hiram, OH 44234. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *equipment, materials and supplies*, used in the manufacture and distribution of the commodities in (1) above, (a) between Middletown and Zanesville, OH, on the one hand, and, on the other, Ashland, KY, points in IN, points in PA on the west of U.S. Hwy 15, and those in NY on and west of U.S. Hwy 62, (b) between Butler, PA, on the one hand, and, on the other, Ashland, KY, points in IN, OH, and those in NY on and west of U.S. Hwy 62, and (c) between Ashland, KY, on the one hand, and, on the other, points in IN, OH, those in PA on and west of U.S. Hwy 15, and those in NY on and west of U.S. Hwy 62, under continuing contract(s) with Armco, Inc., of Middletown, OH. Condition: Issuance of this Permit is subject to prior or coincidental cancellation, at the request of applicant, of Permit MC-82093 issued May 28, 1942, and MC-82093 Sub 2 issued May 27, 1946. (Hearing site: Columbus, OH.)

MC 103602 (Sub-12F), filed June 4, 1979. Applicant: SKJONSBY TRUCK LINE, INC., 2831 1st Ave., N., Box 362, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58128. Transporting *such commodities* as are dealt in, or used by, (a) agricultural equipment, (b) industrial equipment, and (c) lawn and leisure product dealers and manufacturers, (except commodities in bulk, in tank vehicles), from points in ND and SD to points in ND, SD, MN, MT, and WY, restricted to the transportation of traffic having a prior movement by rail. (Hearing site: Chicago, IL.)

MC 110563 (Sub-266F), filed March 20, 1979, and previously published in the *Federal Register* on July 3, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 NW, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Transporting *bananas*, from Norfolk, Portsmouth, and Hampton Roads, VA, to points in IL, IN, MD, MA, MI, MO, NJ,

NY, NC, OH, PA, SC, TN, VA, WV, and DC, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Washington, DC.)

Note.—The purpose of this republication is to delete the ports of entry on the international boundary line between the United States and Canada.

MC 115092 (Sub-85F), filed June 5, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Transporting *cedar shakes and shingles*, from points in WA, to points in AR, AZ, CA, KS, MO, NE, NM, and WY. (Hearing site: Los Angeles, CA, or Salt Lake City, UT.)

MC 129282 (Sub-43F), filed March 23, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry, (same address as applicant). Transporting *malt beverages, non-alcoholic beverages, and materials and supplies* used in the manufacture and distribution of malt beverages and non-alcoholic beverages, between Houston, TX, on the one hand, and, on the other, points in LA (except Covington). (Hearing site: Houston, TX, or New Orleans, LA.)

MC 129712 (Sub-22F), filed June 4, 1979. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and wholesalers of lumber, between points in Henry County, GA, on the one hand, and, on the other, points in AL, FL, KY, LA, MS, NC, SC, TN, TX, VA, and WV, under continuing contract(s) with Shockley Forest Industries, Inc., of McDonough, GA. (Hearing site: Atlanta, GA or Washington, DC.)

MC 134472 (Sub-13F), filed June 4, 1979. Applicant: RICHARD KUSTERMANN, d.b.a. KUSTERMANN TRUCK SERVICE, R.R. #2, Highland, IL 62249. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fruit and drink concentrates, ice cream flavorings, frozen fruits, chocolate products, and flavor concentrates*, in vehicles equipped with mechanical refrigeration, from Bridgeton, MO, to points in IA, IN, KS, MI, NE, and WI, under continuing contract(s) with Consolidated Flavor

Corporation, of Bridgeton, MO. (Hearing site: St. Louis, MO.)

MC 135133 (Sub-3F), filed May 21, 1979. Applicant: ALBERT L. RING, ANDREW C. RING, BERNARD J. RING, AND RONALD J. RING, A Partnership, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *computing machines*, and (2) *materials and supplies* used in the manufacture and distribution of computing machines, (except commodities in bulk), between points in CO, IL, IA, KS, MN, MO, OK, and NE, under continuing contract(s) with Control Data Corporation, of Minneapolis, MN. (Hearing site: Minneapolis, MN, or Omaha, NE.)

MC 145673 (Sub-6F), filed August 8, 1979. Applicant: ROAD RAIL SERVICES, INC., 860 Skokie Hwy, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *general commodities*, (except commodities in bulk, classes A and B explosives, and household goods, as defined by the Commission), in containers or in trailers, having a prior or subsequent movement by rail or water, and (2) *empty containers or trailers*, between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI. (Hearing site: Chicago, IL.)

MC 146953 (Sub-1F), filed May 23, 1979. Applicant: MONROE FUGATE, d.b.a. H & M CARTAGE, 17151 South Overhill, Tinley Park, IL 60477. Representative: William D. Brejcha, Esq., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting (1) *plastic articles* (except commodities in bulk), from the facilities of Arco-Polymers, Inc., at Chicago, IL to points in AR, IA, IN, KY, MI, MO, OH, PA, TX and WI, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), in the reverse direction, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Arco-Polymers, Inc., at Chicago, IL. (Hearing site: Chicago, IL.)

#### Volume No. 213

Decided: November 6, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 114897 (Sub-131F), filed May 17, 1979, and previously noticed in the *Federal Register* issue of October 25, 1979. Applicant: WHITFIELD TANK LINES, INC., 124 West Thomas, P.O. Box

7676, Phoenix, AZ 85011. Representative: B. Seth Green (same address as applicant). Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from points in OK, to El Paso and Lubbock, TX, and points in AZ and NM. (Hearing site: El Paso, TX or Santa Fe, NM.)

Note.—This republication is to correctly reflect the territorial description.

MC 133566 (Sub-138F), filed May 14, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *foodstuffs* (except in bulk), from the facilities of Quality Brands, Inc., at or near (1) Paw Paw, MI, to points in AR, CO, CT, DE, GA, IA, IN, KS, KY, MA, MD, IL, ME, MO, MN, NH, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, VT, WI, WV, and DC, (2) Franklin, ME, to points in AR, DE, CO, CT, GA, IA, IN, IL, KS, KY, MA, MD, MO, MN, NH, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, VT, WI, WV, and DC, and (3) Middleport, NY, to points in AR, DE, CO, CT, GA, IA, IN, IL, KS, KY, MA, MD, MO, MN, NH, NE, NJ, NC, OH, OK, PA, SC, TN, TX, VA, VT, WI, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY.)

MC 134477 (Sub-339F), filed April 20, 1979, and previously noticed in the *Federal Register* issue of October 4, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *footwear and materials, supplies and equipment used in the manufacture and distribution of footwear*, (except commodities in bulk), (1) from points in ME, MA, NH, NJ, NY, PA, and VA to Red Wing, MN, and (2) from points in MA to Chicago, IL, and Beloit, Milwaukee, and Sheboygan, WI. (Hearing site: St. Paul, MN.)

Note.—The purpose of this republication is to correct the territorial description in (2) above.

MC 134477 (Sub-348F), filed May 14, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the

facilities of Gamble-Skogmo, Inc. (Hearing site: St. Paul, MN.)

MC 143267 (Sub-62F), filed March 30, 1979, previously published in the *Federal Register* issue of September 11, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, NW, Washington, DC 20005. Transporting (1) *roofing, building and insulating materials*, and (2) *equipment and supplies* used in the installation of the commodities named in (1) above, from the facilities of GAF Corporation (1) at or near Joliet, IL, to points in IA, MI, and OH, and (2) at or near Baltimore, MD, to points in WV.

Note.—This republication is to reflect the correct commodity description in (2) above. (Hearing site: Cleveland, OH or Washington, DC.)

MC 144117 (Sub-43F), filed May 17, 1979. Applicant: TLC LINES, INC., 1666 Fabick Dr., P.O. Box 1091, Fenton, MO. 63026. Representative: Warren W. Wallin, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *plumbing fixtures and fittings*, from points in (1) Sheboygan County, WI, to points in AZ, CA, CO, ID, MT, NE, MN, OR, TX, WA, and WY, and (2) Brown County, TX, to points in AZ, AR, CA, CO CT, DE, KY, MD, MA, MI, NJ, NM, NY, OH, OR, PA, UT, WA, WV, Sheboygan County, WI, and WY. (Hearing site: Milwaukee, WI, or St. Louis, MO.)

MC 144996 (Sub-3F), filed May 10, 1979. Applicant: D. H. SHARRER & SON, INC., R.D. 2, New Oxford, PA 17350. Representative: Walter K. Swartzkopf, Jr., 407 North Front Street, Harrisburg, PA 17101. Transporting *dry fertilizer*, in bulk, in dump vehicles, from the facilities of Allied Chemical Corporation at Hopewell, VA, to points in DE, MD, NJ, NY, PA, WV, and NC. (Hearing site: Washington, DC, or Harrisburg, PA.)

#### Volume No. 238

Decided November 29, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 116947 (Sub-70F), filed March 9, 1979, and previously noticed in the *Federal Register* issue of October 2, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: William Addams, P.O. Box 720434, Atlanta, GA 30328. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *adhesives, caulks and specialty chemicals*, in containers, and (b) *empty plastic containers*, in cartons, from the



facilities of Franklin Chemical Industries at or near Columbus, OH, to points in TX, GA, MO, NC, OK, TN and FL; and (2) *materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities described in (1) above, from points in PA, SC, NJ and MA, to the facilities of Franklin Chemical Industries at or near Columbus, OH. (Hearing site: Atlanta, GA.)

Note.—This republication is to show NC as a destination state.

MC 147137F, filed March 29, 1979, and previously noticed in the Federal Register of September 11, 1979. Applicant: BARNETS MILL ELEVATOR, INC., 1619 Barnets Mill Road, Camden, OH 45311. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. Transporting *soybean meal*, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to those points in the United States in, north, and east of WI, IL, KY, TN, and NC. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—This republication is to correctly reflect the territorial description.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37453 Filed 12-5-79; 8:45 am]  
BILLING CODE 7035-01-M

#### [Volume No. 43]

#### Petitions, Applications, Finance-Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate.

November 28, 1979.

#### Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

FF-399 (M1F), petition to modify, filed January 24, 1979. Applicant: INTERSTATE RENTAL OF UTAH, INC., P.O. Box 30277, Salt Lake City, UT 84125. Representative: Michael S. Rubin, 256 Montgomery St., San Francisco, CA 94104. Petitioner holds *freight forwarder* permit FF-399, issued August 30, 1979, authorizing the transportation of *general commodities* (except used household goods, motor vehicles, and commodities in bulk), (1) between points in Marin, Contra Costa, Alameda, Santa Clara, San Mateo, San Francisco, Santa Barbara, Ventura, Los Angeles, Kern, San Bernardino, Orange, Riverside, and San Diego Counties, CA, on the one hand, and, on the other, ports of entry located at Los Angeles, Long Beach, San Francisco, and Oakland, CA, restricted to the forwarding of shipments having an immediately prior or subsequent movement by water, and (2) between

points in the 14 CA Counties in (1) above, on the one hand, and on the other, points in HI, restricted in (1) and (2) above to the forwarding of shipments, in cargo containers, having a prior or subsequent movement in carrier's non-vessel operating (NVO) water common carrier service. By this petition, petitioner seeks to remove the restriction "having a prior or subsequent movement in carrier's non-vessel operating (NVO) water common carrier service."

MC 104104 and MC 104104 (Sub-9 M1 F), notice of filing of petition to modify certificates, filed June 11, 1979. Petitioner: GEORGE A. FETZER INC., Route 565, Newton-Sussex Rd., Augusta, NJ 07822. Representative: Robert B. Pepper, The Forest Park Bldg., 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds *common carrier* authority in MC 104104, served June 9, 1979, and MC 104104 (Sub-9), served November 3, 1971. MC 104104 authorizes, as pertinent, over irregular routes, the transportation of *plastic articles and insulating material*, (1) from Netcong, NJ, to points in CT, points in that part of PA on and east of a line beginning at the PA-MD State line and extending along unnumbered hwy (formerly portion U.S. Hwy 111) through Shrewsbury and Jacobus, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 through York, PA, to junction unnumbered hwy (formerly portion U.S. Hwy 111), unnumbered hwy to junction PA Hwy 295, then along PA Hwy 295 through Zions View and Shrinestown, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 to Harrisburg, PA, then along U.S. Hwy 15 to the PA-NY State line, and points in Putnam, Dutchess, Orange, Ulster, and Sullivan Counties, NY, and (2) from Stanhope, NJ, to Washington, DC, and points in DE, KY, ME, MD, MA, NH, NY (except New York, NY, and points in Nassau, Suffolk, Westchester, Rockland, Putnam, Dutchess, Orange, Ulster, and Sullivan Counties, NY), PA (except points in that part of PA on and east of a line extending from the PA-MD State line along unnumbered highway (formerly portion U.S. Hwy 111) through Shrewsbury and Jacobus, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 through York, PA, to junction unnumbered hwy (formerly portion U.S. Hwy 111), then along unnumbered hwy to junction PA Hwy 295, then along PA Hwy 295 through Zions View and Shrinestown, PA, to junction Interstate Hwy 83, then along Interstate Hwy 83 to Harrisburg, PA, then along U.S. Hwy 15 to the PA-NY State line), NC, OH, RI, SC, TN, VT, VA,

and WV. MC 104104 Sub 9 authorizes, as pertinent, over irregular routes, the transportation of *insulators, isolators, and insulating materials*, from Netcong, NJ, to New York, NY, and points in Nassau, Suffolk, Westchester and Rockland Counties, NY. By the instant petition, petitioner seeks to modify the above certificates by adding: (1) in MC-104104, *Materials and supplies* used in the manufacture and sale of plastic articles and insulating materials (except commodities in bulk), in the reverse direction; and (2) in MC-104104 Sub 9, *materials and supplies* used in the manufacture and sale of insulators, isolators, and insulating materials, (except commodities in bulk), in the reverse direction.

MC 109098 (M1F) and MC 109098 (Sub-2(M1F)), notice of petition to modify certificates, filed: June 13, 1979. Petitioner: FOGG'S DAILY SERVICE, 145 Roadstown Road, Bridgeton, NJ 98302. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* authority in MC-109098 issued September 9, 1970, which authorizes, in part, transportation of *General Commodities*, with the usual exceptions, over irregular routes, between Philadelphia International Airport and Northeast Airport, Philadelphia, PA, on the one hand, and, on the other, points in Salem, Cumberland and Atlantic Counties, NJ, restricted to traffic having a prior or subsequent movement by air, and MC 109098 (Sub-2) issued November 6, 1974, which authorizes the transportation of *General Commodities*, with the usual exceptions, over irregular routes, between Philadelphia International Airport and Northeast Airport, Philadelphia, PA, on the one hand, and, on the other, points in Cape May County, NJ, restricted to traffic having a prior or subsequent movement by air. By the instant petition, petitioner seeks to modify the said authorities by deleting the underscored restrictions and the references to the named airports.

MC 138549 (M1F), petition to modify, filed June 7, 1979. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds motor *contract carrier* permit in MC-138549, issued August 12, 1977, authorizing the transportation, over irregular routes, of *foodstuffs, meats, meat products, meat by-products, and materials and supplies* used in the manufacture thereof (except hides and commodities in bulk), between the facilities of California Convenience Foods, Inc., at Vernon,

Montebello, and Compton, CA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with California Convenience Foods, Inc., at Los Angeles, CA. By this petition, petitioner seeks to change the shipper to Butcher Boy Food Products, Inc., and substitute Riverside, CA, in lieu of Montebello, CA, as an authorized point.

MC 141599 (M2F), notice of petition to modify, filed June 18, 1979. Applicant: MOUNTAIN PACIFIC TRANSPORT (EDMONTON), LTD., d.b.a. SHADOW LINES, 241 Schoolhouse St., Coquitlan, British Columbia, Canada, V3K 4x9. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Petitioner holds motor *common carrier* certificate in MC-141599, issued August 23, 1977, authorizing the transportation, over irregular routes, of *lumber and wood products*, from points in ID and MT to the ports of entry on the United States-Canada Boundary line located at or near Eastport, ID, and Oroville, WA, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to traffic moving in foreign commerce to the provinces of Alberta and British Columbia, Canada. By this petition, petitioner seeks to use any gateway in ID or MT for the movement of traffic from points in ID and MT to points in Alberta and British Columbia, Canada.

#### Broker, Water Carrier and Freight Forwarder Operating Rights Applications

##### Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part

of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

#### Permanent Authority Decisions; Decision-Notice

Decided: November 27, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not*







eliminated: Carlisle, Shady Grove and Waynesboro, PA.)

No. MC 117574 (Sub-E135), filed January 9, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chestnut, P.O. Box 1166, Harrisburg, PA 17108. *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related material, supplies and parts of such commodities* when their transportation is incidental thereto, and *self-propelled articles each weighing 15,000 pounds or more*, and related machinery, tools, parts, and *supplies* moving in connection therewith, restricted to self-propelled articles transported on trailers, (1) between points in Adair, Schuyler, and Scotland Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along IN Hwy 250 to junction IN Hwy 129, then along IN Hwy 129 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 3, then along IN Hwy 3 to junction IN Hwy 32, then along IN Hwy 32 to the IN-OH State line; points in KY on and east of a line commencing at the TN-KY State line extending along KY Hwy 55 to junction U.S. Hwy 68, then along U.S. Hwy 68 to junction U.S. Hwy 127, then along U.S. Hwy 127 to the IN-KY State line; and points in MI on and east of a line commencing at the OH-MI State line extending along U.S. Hwy 23 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction with MI Road 247 to its termination at Saginaw Bay; (2) between points in Putman and Sullivan Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in IN on and east of a line commencing at the KY-IN State line extending along U.S. Hwy 421 in a northerly direction to its junction with IN Hwy 3, then along IN Hwy 3 to junction I Hwy 69 to the MI-IN State line; points in KY on and west of a line commencing at the TN-KY State line extending along U.S. Hwy 27 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the KY-IN State line; and points in MI on and west of a line commencing at the MI-IN State line extending along U.S. Hwy 27 to junction 75, then along I Hwy 75 to Mackinaw, MI; (3) between points in Buchanan and Clinton Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along U.S. Hwy 421 to its junction with IN Hwy 3, then along IN Hwy 3 to junction IN Hwy 18, then along IN Hwy 18 to junction IN Hwy 37, then

along IN Hwy 37 to junction U.S. Hwy 27, then along U.S. Hwy 27 to the IN-MI State line; points in KY on and east of a line commencing at the TN-KY Kentucky State line extending along KY Hwy 55 to its junction with U.S. Hwy 68, then along U.S. Hwy 68 to junction U.S. Hwy 217, then along U.S. Hwy 217 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the KY-IN State line; and points in MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 27 to junction I Hwy 75, then along I Hwy 75 to Mackinaw City, MI; (4) between points in Atchison, Holt, and Nodaway Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along U.S. Hwy 421 in a northerly direction to junction IN Hwy 9, then along IN Hwy 9 to the MI-IN State line; points in that part of KY on and east of a line commencing at the KY-TN State line extending along KY Hwy 61 to junction KY Hwy 55, then along KY Hwy 55 to junction with U.S. Hwy 421, then along U.S. Hwy 421 to IN-KY State line; and points in that part MI on and east of a line commencing at the MI-IN State line along MI Hwy 66 in a northerly direction to junction MI Hwy 115, then along MI Hwy 115 to junction MI Hwy 37, then along MI Hwy 37 to its termination at Traverse City and continuing along MI Hwy 77 to its termination at Grand Marais, MI; (5) between points in Marion and Shelby Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the OH-IN State line extending along IN Hwy 1 to the MI-IN State line; points in that part of KY on and east of a line commencing at the MI-IN State line extending along U.S. Hwy 27 to junction I Hwy 75, then along I Hwy 75 to Mackinaw County, MI; (6) between points in Coldwell and Livingston Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along I Hwy 65 to junction I Hwy 69, then along I Hwy 69 to the IN-MI State line; and points in that part of KY on and east of U.S. Hwy 31; (7) between points in Jackson County, MO, on the one hand, and, on the other, points in PA, WV, and points in IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 250 to junction IN Hwy 129, then along IN Hwy 129 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction with IN Hwy 9, then along IN Hwy 9 to junction IN Hwy 15, then along

IN Hwy 15 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in the part of KY on and east of a line commencing at the TN-KY State line extending along U.S. Hwy 27 to junction U.S. Hwy 150 to junction U.S. Hwy 127, then along U.S. Hwy 127 to the IN-KY State line; and points in MI on and east of a line commencing at the IN-MI State line extending along MI Hwy 131 to junction with Hwy 37, then along MI Hwy 37 to Lake Michigan, and points on and east of MI Hwy 77; (8) between points in Pettis and Saline Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at Lawrenceburg extending along IN Hwy 1 in to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, then along IN Hwy 13 to the MI-IN State line; points in that part of KY on and east of U.S. Hwy 127; and points in MI on and east of a line commencing at the MI-IN State line extending along U.S. Hwy 131 to junction MI Hwy 37, along MI Hwy 37 to Traverse City, MI; (9) between points in Cooper and Howard Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the OH-IN State line extending along I Hwy 74 to junction IN Hwy 3, then along IN Hwy 3 to junction I Hwy 69, then I Hwy 69 to the IN-MI State line; points in that part of KY on and east of I Hwy 75; and points in that part of MI on and east of a line commencing at IN-MI State line extending along U.S. Hwy 27 to I Hwy 27 to I Hwy 75, then I Hwy 75 to Sault Saint Marie, MI; (10) between points in Boone and Callaway Counties, MO, on the one hand, and, on the other, points in PA and WV and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 262 to its junction with U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in that part of KY on and east of a line commencing at the KY-IN State line extending along U.S. Hwy 27 to junction I Hwy 75, then along I Hwy 75 to junction KY Hwy 14, then along KY Hwy 14 to the IN-KY State line; and points in that part of MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 37 to its termination along Lake Michigan; and

points on and east of MI Hwy 77; (11) between points in Andrew and DeKalb Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 7 to IN Hwy 9, then along IN Hwy 9 to junction I Hwy 69, then I Hwy 69 to the IN-MI State line; points in that part of KY on and east of a line commencing at the TN-KY State line along U.S. Hwy 27; in a northerly direction to U.S. Hwy 421, then along U.S. Hwy 421 to the KY-IN State line; and points in MI on and east of a line commencing the IN-MI State line extending along U.S. Hwy 27 to U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction with I Hwy 75, then along I Hwy 75 to its termination at Bay City, MI; (12) between points in Saint Charles County, MO, on the one hand, and, on the other, points in IN on and east of a line commencing at Lawrenceburg extending along IN Hwy 1 to junction U.S. Hwy 35, then along U.S. Hwy 35 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction IN Hwy 13, then along IN Hwy 13 to the MI-IN State line; points in KY on and east of I Hwy 75; and points in that part of MI on and east of a line commencing at the MI-IN State line extending along U.S. Hwy 131 to junction MI Hwy 37, thence along MI Hwy 37 to Traverse City, MI; (13) between points in Audrian County, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the OH-IN State line extending along U.S. Hwy 50 to junction IN Hwy 3, then along IN Hwy 3 to junction I Hwy 69, then along I Hwy 69 to the IN-MI State line; points in of KY on and east of I Hwy 75; and points in MI on and east of a line commencing at the MI-IN State line extending along U.S. Hwy 27 to U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 13, then along U.S. Hwy 23 to junction MI Hwy 76, then along MI Hwy 76 to junction I Hwy 75, then along I Hwy 75 to Sault Saint Marie, MI.

(14) Between points in Henry and Saint Claire Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 250 to junction IN Hwy 129, then along IN Hwy 129 to junction U.S. Hwy 421 to junction IN Hwy 9, then along I Hwy 9 to junction IN Hwy 5, then along IN Hwy 5 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, to the IN-MI State line; points in KY on

and east of a line commencing at the TN-KY State line extending along U.S. Hwy 27 to junction U.S. Hwy 150, then along U.S. Hwy 150 to junction U.S. Hwy 127, then along U.S. Hwy 127 to the IN-KY State line; points in MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 131 to junction MI Hwy 37, then along MI Hwy 37 to Lake Michigan and points on and east of MI Hwy 77; (15) between points in Camden and Morton Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in IN on and east of a line commencing at the IN-OH State line extending along U.S. Hwy 50 to IN Hwy 101, then IN Hwy 101 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction I Hwy 69, then along I Hwy 69 to the IN-MI State line; points in KY on and east of I Hwy 75; points in that part of MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 27 to I Hwy 75, then along I Hwy 75 to Sault Saint Marie, MI; (16) between points in Miller and Pulaski County, MO, on the one hand, and, on the other, points in PA, WV, and points in IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 262 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to its junction with IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in that part of KY on and east of a line commencing at the TN-KY State line extending along I Hwy 75 to junction KY Hwy 627, then along KY Hwy 627 to junction KY Hwy 227, then along KY Hwy 227 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction KY Hwy 17, then along KY Hwy 17 to junction KY Hwy 14, then along KY Hwy 14 to the IN-KY State line; points in that part of MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 131 to junction MI Hwy 37, then along MI Hwy 37 to its termination at Lake Michigan, and points in and east of MI Hwy 77; (17) between points in Maries and Phelps Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 262 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in KY on and east of a line commencing at the TN-KY

State line extending along U.S. Hwy 25 to its junction with KY Hwy 490 to junction KY Hwy 89, then along KY Hwy 89 to junction KY Hwy 227, then along KY Hwy 227 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction KY Hwy 17, then along KY Hwy 17 to junction KY Hwy 14, then along KY Hwy 14 to the IN-KY State line; and points in MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 131 to junction MI Hwy 37 to its termination at Lake Michigan, and points in MI on and east of MI Hwy 77; (18) between points in Saint Francois and Saint Genevieve Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 56 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction IN Hwy 1, then along IN Hwy 1 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in KY on and east of a line commencing at the KY-VA State line extending along U.S. Hwy 23 to junction KY Hwy 201, then along KY Hwy 201 to junction KY Hwy 32, then along KY Hwy 32 to junction KY Hwy 11, then along KY Hwy 11 to junction KY Hwy 10, then along KY Hwy 10 to junction KY Hwy 22, then along KY Hwy 22 to junction KY Hwy 17, then along KY Hwy 17 to junction KY Hwy 14, then along KY Hwy 14 to the IN-KY State line; and points in that part of MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 131 to junction MI Hwy 37, then along MI Hwy 37 to its termination at Lake Michigan, and points in and east of MI Hwy 77; (19) between points in Perry County, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 56 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction IN Hwy 1, then along IN Hwy 1 to junction IN Hwy 3, then along Hwy 3 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IN Hwy 13, then along IN Hwy 13 to the IN-MI State line; points in that part of KY on and east of a line commencing at the KY-VA State line extending along U.S. Hwy 23 to junction KY Hwy 32, then along KY Hwy 32 to junction KY Hwy 11, then along KY Hwy 11 to junction KY Hwy 10, then along KY Hwy 10 to junction KY Hwy 22, then along KY Hwy 22 to junction KY Hwy 17, then along KY Hwy 17 to junction KY Hwy 14, then along KY Hwy 14 to the IN-KY State line; and points in MI on and east of a line commencing at



the IN-MI State line extending along U.S. Hwy 131 to junction MI Hwy 37, then along MI Hwy 37 to termination at Lake Michigan and points on and east of MI Hwy 77; (20) between points in Barry, McDonald and Newton Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along the IN line to Richmond, IN to junction U.S. Hwy 27, then along U.S. Hwy 27 to the IN-MI State line; points in that part of KY on and east of I Hwy 75; and points in that part of MI on and east of a line commencing at the IN-MI State line along I Hwy 75, then along I Hwy 75 to Sault Saint Marie MI; (21) between points in Carter and Ripley Counties, MO, on the one hand, and, on the other, points in IN on and east of a line commencing at the IN-KY State line extending along IN Hwy 262 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 3, then along IN Hwy 3 to junction IN Hwy 5, then IN Hwy 5 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line; and points in MI on and east of a line commencing at the IN-MI State line extending along U.S. Hwy 31 to junction MI Hwy 140, then along MI Hwy 140 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction MI Hwy 46, then along MI Hwy 46 to its termination at Lake Michigan, and points on and east of MI Hwy 77; (22) between points in Christian, Stone, and Taney Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in that part of IN on and east of a line commencing at the KY-IN State line extending along the IN State line to Richmond, IN then along U.S. Hwy 27 to the IN-MI State line; points in KY on and east of I Hwy 75; and points in MI on and east of I Hwy 75; (23) between points in Douglas and Ozark Counties, MO, on the one hand, and, on the other, points in PA, WV, and points in IN on and east of a line commencing at OH-IN State line extending along U.S. Hwy 50 to IN Hwy 3, then IN Hwy 3 to junction I Hwy 69, then along I Hwy 69 to the IN-MI State line; points in KY on and east of a line commencing at the KY-VA State line along KY Hwy 7 to KY Hwy 15, then along KY Hwy 15 to junction I Hwy 75, then along I Hwy 75 to the KY-OH State line; and points in MI on and east of a line commencing at MI-IN State line extending along U.S. Hwy 27 to MI Hwy 115, then along MI Hwy 115 to junction U.S. Hwy 131, then along U.S. Hwy 131 to Sault Marie, MI. (Gateway eliminated: Columbus, OH.)

MC 117574 (Sub-E149), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and related materials, supplies, and parts of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles on trailers, (A) between points in Hardin County, KY, on the one hand, and, on the other, points in PA; points in IN on and east of a line beginning at Richmond extending along U.S. Hwy 27 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction IN Hwy 9, then along IN Hwy 9 to the MI-IN State line; points in MI on and east of a line beginning at the IN-MI State line extending along U.S. Hwy 12 to junction U.S. Hwy 131, then along U.S. Hwy 131 to junction I Hwy 96, then along I Hwy 96 to Muskegon; and points in WV on and east of a line extending along WV Hwy 80 to junction WV Hwy 10, then along WV Hwy 10 to the WV-KY State line; (B) between points in Hart and Larue Counties, KY, on the one hand, and, on the other, points in PA; points in IN on, north and east of a line beginning at the IN-OH State line extending along U.S. Hwy 40 to junction I Hwy 1, then along I Hwy 1 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction IN Hwy 5, then along IN Hwy 5 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction IN Hwy 19, then along IN Hwy 19 to the IN-MI State line; points in MI on, north and west of a line beginning at the MI-IN State line extending along MI Hwy 19 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction MI Hwy 40, then along MI Hwy 40 to junction MI Hwy 43, then along MI Hwy 43 to junction U.S. Hwy 131, then along U.S. Hwy 131 to junction I Hwy 96, then along I Hwy 96 to Lake Michigan; points in WV on and east of a line beginning at the WV-VA State line extending along WV Hwy 83 to junction WV Hwy 80, then along WV Hwy 80 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 119, then along U.S. Hwy 119 to junction WV Hwy 10, then along WV Hwy 10 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the KY-WV State line; and, Ashland, KY. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

Hwy 40 to junction IN Hwy 1, then along IN Hwy 1 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction IN Hwy 5, then along IN Hwy 5 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction IN Hwy 19, then along IN Hwy 19 to the IN-MI State line; points in MI on, north and west of a line beginning at the MI-IN State line extending along MI Hwy 19 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction MI Hwy 40, then along MI Hwy 40 to junction MI Hwy 43, then along MI Hwy 43 to junction U.S. Hwy 131, then along U.S. Hwy 131 to junction I Hwy 96 then along I Hwy 96 to Lake Michigan; points in WV on and east of a line beginning at the WV-VA State line extending along WV Hwy 83 to junction WV Hwy 80, then along WV Hwy 80 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 119, then along U.S. Hwy 119 to junction WV Hwy 10, then along WV Hwy 10 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the KY-WV State line; (D) between points in Oldham and Trimble Counties, KY, on the one hand, and, on the other, points in PA; points in IN on and northeast of a line beginning at IN-OH State line extending along U.S. Hwy 33 to junction IN Hwy 19, then along IN Hwy 19 to the IN-MI State line; points in MI on, north and west of a line beginning at the MI-IN State line extending along MI Hwy 205 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 33, then along U.S. Hwy 33 to St. Joseph; and points in WV on and east of a line beginning at the WV-VA state line extending along U.S. Hwy 19 to junction I Hwy 77, then along I Hwy 77 to the WV-OH State line; (E) between points in Bullitt and Jefferson Counties, KY, on the one hand, and, on the other, points in PA; points in IN on, north and east of a line beginning at the IN-OH State line extending along U.S. Hwy 24 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the MI-IN State line; points in MI on and north of U.S. Hwy 33; points in WV on and east of a line beginning at the WV-VA State line extending along WV Hwy 83 to junction WV Hwy 80, then along WV Hwy 80 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 119, then along U.S. Hwy 119 to junction WV Hwy 10, then along WV Hwy 10 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the KY-WV State line; and, Ashland, KY. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

By the Commission.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37457 Filed 12-5-79; 8:45 am]  
BILLING CODE 7035-01-M

## Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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#### 1

##### CONSUMER PRODUCT SAFETY COMMISSION.

**TIME AND DATE:** Commission Meeting, 10:30 a.m., Tuesday, December 4, 1979.

**LOCATION:** Eighth Floor Conference Room, 1111 18th Street, NW., Washington, D.C.

**STATUS:** Open to the Public.

Priority Items: The Commission will meet to continue its discussion of several items which it may include on CPSC's list of priority items for Fiscal Year 1980. The Commission began the discussion on November 30 (rescheduled from November 29).

**FOR ADDITIONAL INFORMATION:** Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, (202) 634-7700.

Agenda approved December 3, 1979. In deciding to consider this matter, the Commission determined that agency business requires consideration without the normal seven-day advance notice.

[S-2368-79 Filed 12-4-79; 11:23 am]  
BILLING CODE 6355-01-M

#### 2

##### CONSUMER PRODUCT SAFETY COMMISSION.

**TIME AND DATE:** Commission Meeting, 9:30 a.m., Wednesday, December 5, 1979.

**LOCATION:** Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

**STATUS:** Part Open, Part Closed.

#### A. Open to the Public

##### 1. N-Hexane Petition, CP 79-10

The Commission will consider a petition in which Robert B. Marcus of New York City asks for a ban of all consumer products containing n-hexane. The staff briefed the Commission on this petition November 29.

#### B. Closed to the Public

##### 2. Authorization to Seek Section 15 Complaint, OS No. 716

The Commission will consider a staff request to authorize issuance of an administrative complaint in this matter involving a possible substantial product hazard. (Closed under exemption 9 and 10; possible significant frustration of agency action, and possible civil action.)

**FOR ADDITIONAL INFORMATION:** Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, (202) 634-7700.

Agenda approved November 27, 1979.

[S-2366-79 Filed 12-4-79; 11:23 am]

BILLING CODE 6355-01-M

#### 3

##### U.S. CONSUMER PRODUCT SAFETY COMMISSION.

**TIME AND DATE:** Commission Meeting, Thursday, December 6, 1979.

**LOCATION:** Room 456 Westwood Towers, 5401 Westbard Ave., Bethesda, Maryland.

**STATUS:** Open to the Public.

##### Briefing on Unvented Gas-Fired Space Heaters

The staff will brief the Commission on issues related to a draft proposed standard for unvented gas-fired space heaters. The Commission plans to consider the draft at a meeting on December 11.

**FOR ADDITIONAL INFORMATION:** Richard A. Danca, Office of the Secretary, Suite 300, 1111-18th Street, N.W., Washington, D.C. 20207, (202) 634-7700.

Agenda approved November 27, 1979.

[S-2367-79 Filed 12-4-79; 11:23 am]

BILLING CODE 6355-01-M

#### 4

##### CONSUMER PRODUCT SAFETY COMMISSION.

**TIME AND DATE:** Commission Meeting, 1 p.m., Tuesday, December 11, 1979.

**LOCATION:** Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

**STATUS:** Open to the Public.

#### Federal Register

Vol. 44, No. 236

Thursday, December 6, 1979

#### 1. Briefing on Urea-Formaldehyde Foam: Status Report

The staff will present an update of its activities concerning urea-formaldehyde foam insulation. In addition, the Executive Director will review information which the staff has prepared for the upcoming series of public hearings on urea-formaldehyde foam.

#### 2. Unvented Gas-Fired Space Heaters

The Commission will consider a draft proposed standard for unvented gas-fired space heaters. The staff briefed the Commission on this matter December 6.

**FOR ADDITIONAL INFORMATION:** Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, (202) 634-7700.

Agenda approved November 30, 1979.

[S-2368-79 Filed 12-4-79; 8:45 am]

BILLING CODE 6355-01-M

#### 5

**FEDERAL COMMUNICATIONS COMMISSION, PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETINGS:** 9:30 a.m., Tuesday, December 4, 1979 and December 6, 1979.

**PLACE:** Room 856, 1919 M Street, NW., Washington, D.C.

**STATUS:** Commission Closed Meeting and Commission Special Open Meeting.

**CHANGES IN THE MEETING:** Deletions and addition.

The following items have been deleted at the request of the Office of General Counsel from the list of agenda items scheduled for consideration at the December 4, 1979 Closed Meeting:

#### Agenda, Item No., and Subject

Hearing—2—Decision of the United States Court of Appeals for the District of Columbia Circuit remanding to the Commission a Commission decision denying the renewal application of Cosmopolitan Broadcasting Corporation (WHBI-FM), Newark, New Jersey (Docket No. 19657).

Hearing—3—Petition for extraordinary relief in the Newark, New Jersey FM license renewal proceeding (Docket No. 19657).

The following item has been deleted from the list of agenda items scheduled for consideration at the December 4, 1979 Open Meeting and is rescheduled for consideration at the December 6, 1979 Special Open Meeting, at 9:30 a.m., in Room 856, at 1919 M Street, N.W.

Cable Television—1—"Petition for Special Relief" filed October 17, 1979, by Warner Amex Cable Communications, Inc.



Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 4, 1979.

[S-2373-79 Filed 12-4-79; 2:04 pm]

BILLING CODE 6712-01-M

6

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, December 3, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing changes in FDIC's regulations to amend delegations of authority, to amend the definition of "phantom" bank merger, and to correct an error in prior publication.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: December 3, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2369-79 Filed 12-4-79; 12:37 pm]

BILLING CODE 6714-01-M

7

#### FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 69142.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., December 5, 1979.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

M-14. RO80-2, Atlantic Richfield, Inc., et al.

M-15. RM79-6, Procedures Governing the Collection and Reporting of Information Associated with the Cost of Providing Electric Service.

M-16. RM80- , Delegation of Authority to the General Counsel.

CP-4. CP79-44, Colorado Interstate Gas Company.

Kenneth F. Plumb,  
Secretary.

[S-2374-79 Filed 12-4-79; 3:20 pm]

BILLING CODE 6450-01-M

8

#### NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, December 13, 1979. [NM-79-43]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first seven items will be open to the public; the eighth item will be closed under Exemption 10 of the Government in the Sunshine Act.

#### MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*.—Inlet Marine, Inc., Gates Learjet Century III, Model 25C, N77RS, Anchorage International Airport, Anchorage, Alaska, December 4, 1978.

2. *Special Study*.—Light Twin-engine Aircraft Accidents Following Engine Failure, 1972-1978, and Recommendation to the Federal Aviation Administration.

3. *Railroad Accident Report*.—Derailment of Union Pacific Freight Train GRX 31 at Granite, Wyoming, on July 31, 1979, and Recommendation to Union Pacific Railroad.

4. *Marine Accident Report*.—Collision of M/V Irene S. Lemos and M/V Maritime Justice near New Orleans, Louisiana, November 9, 1978, and Recommendations to U.S. Coast Guard, the Board of River Port Pilots for the Port of New Orleans, and the Crescent City Port Pilots Association.

5. *Letter to the Federal Aviation Administration* re closeout of recommendations A-76-136 and 137, runway friction.

6. *Letter to the Federal Railroad Administration* re NPRM Dkt. RST-3, Track Safety Standards—miscellaneous proposed revisions.

7. *Letter to Mr. Madole* re reconsideration of probable cause, Beech King Air accident, Yazoo City, Mississippi, January 10, 1978.

8. *Opinion and Order*.—*Administrator v. Shelton*, Dkt. SE-4107; disposition of the Administrator's appeal.

#### CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming, 202-472-6022.

December 4, 1979.

[S-2375-79 Filed 12-4-79; 3:45 pm]

BILLING CODE 4910-56-M

9

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 3 and 10, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

Monday, December 3 (Changes)

2:00 p.m. The Affirmation or Discussion and Vote on Use of Shorter Pilings at Bailly (approximately one-half hour) and the Affirmation of UCS Petition (approximately 5 minutes) have been postponed. They are replaced by: Affirmation or Discussion and Vote on Revisions to 10 CFR Part 50; Plans for Coping with Emergencies at Production and Utilization Facilities (continued from 11/29) (approximately one-half hour, public meeting).

Monday, December 10

9:30 a.m. Briefing by I&E on TMI Lessons Learned (approximately 1 hour, public meeting).

10:30 a.m. Briefing on Action Plan (approximately 2 hours, public meeting).

1:30 p.m. Briefing on Action Plan (continued) (approximately 2 hours).

ADDITIONAL INFORMATION: The Discussion of Personnel Matter scheduled for November 29 was cancelled.

#### CONTACT PERSON FOR MORE

INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-2372-79 Filed 12-4-79; 2:04 pm]

BILLING CODE 7590-01-M

10

#### UNITED STATES PAROLE COMMISSION.

TIME AND DATE: 9 a.m. to 5:30 p.m., Tuesday, December 4, 1979.

PLACE: Room 135, Pension Building, 440 G Street NW., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: On December 3, 1979, the Commission determined that the place of the above meeting be changed to Room 818, 320 First Street, NW., Washington, D.C. 20537; and that the above change be announced at the earliest practicable time.

#### CONTACT PERSON FOR MORE

INFORMATION: Peter B. Hoffman, Director of Research, (202) 724-3095.

[S-2364-79 Filed 12-4-79; 11:23 am]

BILLING CODE 4410-01-M

11

#### RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:00 a.m., December 13, 1979.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Portion Open to the Public

(1) Interview by industrial psychologist.

(2) Questionnaire on employer status of railroad contractors.

(3) Appeal from referee's denial of annuity application, George A. DeLoach.

(4) Appeal from referee's denial of annuity application, Leonard C. Shuff.

Portion Closed to the Public

(5) Appeal from referee's denial of disability annuity application, Clyde Nickell.

#### CONTACT PERSON FOR MORE

INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-2370-79 Filed 12-4-79; 2:04 pm]

BILLING CODE 7905-01-M

12

#### SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, November 28, 1979.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Wednesday, December 5, 1979, immediately following the 9:30 a.m. open meeting:

Regulatory matter regarding financial institution.

Formal order of investigation.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

December 4, 1979.

[S-2371-79 Filed 12-4-79; 2:04 pm]

BILLING CODE 8010-01-M

13

#### TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., EST, Tuesday, December 11, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

#### MATTERS FOR ACTION:

Old Business

1. Final rate review.

New Business

Personnel Actions

1. Resolution relating to pay for certain employees in connection with the arbitrators' decision on the Twenty-Eighth Annual Salary Policy Employee Negotiations.

\*2. Status changes for certain Power Operations personnel.

\*3. Change of status for certain employees in the Office of the Manager of Power, Chattanooga, Tennessee.

\*4. Change of status for Robert C. Steffy from Program Coordinator, Office of the General Manager, to Assistant Director, Division of Energy Conservation and Rates, Chattanooga, Tennessee.

\*5. Change of status for Jerre W. Wilson from Assistant to the Manager, Office of Engineering Design and Construction, to Deputy Manager of Power, Office of Power, Chattanooga, Tennessee.

\*6. Change of status for Dwight R. Patterson from Chief Nuclear Engineer to Assistant to the Manager, Office of Engineering Design and Construction, Knoxville, Tennessee.

\*7. Change of status for Joseph E. Wilkins from Construction Engineer, Sequoyah Nuclear Plant, to Project Manager, Watts Bar Nuclear Plant, Division of Construction, Office of Engineering Design and Construction, Spring City, Tennessee.

\*8. Change of status for Conley L. Ballinger from Acting Assistant Director of Personnel, Office of Management Services, to Assistant to the Director of Health and Safety, Office of Natural Resources, Muscle Shoals, Alabama.

#### Consulting and personal services contracts

1. Amendment to consulting contract with John T. Boyd Company, Pittsburgh, Pennsylvania, for services in conducting investigations and studies related to TVA's coal supply, requested by the Office of Power.

2. Renewal of consulting contract with National Economic Research Associates, Inc., New York, New York, for services on environmental and economic impacts connected with electric power rates and rate-making policies, requested by the Office of Power.

3. Consulting contract with Separative Work Unit Corporation (SWUCO), Gaithersburg, Maryland, for advice and assistance in evaluating uranium enrichment contract options, requested by the Office of Power.

4. Amendment to personal services contract with Butler Service Group, Inc., Englewood Cliffs, New Jersey, for engineering support services, requested by the Office of Engineering Design and Construction.

5. Amendment to personal services contract with CDI Corporation, Philadelphia, Pennsylvania, for engineering support services, requested by the Office of Engineering Design and Construction.

\*Items approved by individual Board members. This would give formal ratification to the Board's action.

#### Purchase Awards

1. Rejection of bids received in response to Invitation No. 163380 for management services for coal washing plant at Fabius Mine located in Jackson County, Alabama (TVA's Office of Power will operate the plant).

2. Rejection of bids received in response to Invitation No. 825935 for particulate scrubber system including venturi lining installation for Johnsonville Steam Plant.

3. No. 161919—Nuclear power plant simulators for Bellefonte, Hartsville, and Phipps Bend Nuclear Plants.

4. No. 162280—Indefinite quantity term contract for testing services for various nuclear plants.

5. No. 824973—Availability improvement and balanced draft conversion for Colbert Steam Plant Unit 5.

6. No. 826647—Structural steel for control and absorber building and duct support flue gas desulfurization system for Johnsonville Steam Plant.

#### Project Authorizations

1. No. 3485—Install transformer switches, capacitors, and relays at the West Point, Mississippi, 500-kV Substation.

2. No. 3486—Replace cyclone furnace tubes in Paradise Steam Plant, Unit 3.

3. No. 3484—Replace superheater outlet elements for Colbert Steam Plant, Units 1-4.

4. No. 3482—Changes in various transmission lines to accommodate construction by the Department of the Army of the Tennessee-Tombigbee Waterway project in Mississippi.

5. No. 3066.1—Amendment to project authorization for characterization of effluents from coal-fired utility boilers (in collaboration with U.S. Environmental Protection Agency).

6. No. 3065.1—Amendment to project authorization for fly ash characterization and disposal (in collaboration with U.S. Environmental Protection Agency).

7. No. 3491—Acquisition of Courtland Air Force Base.

8. No. 3488—Modular solar homes demonstration.

9. No. 3487—Phosphoric acid fuel cell demonstration; Phase I pilot plant construction and operation and preliminary design of a demonstration plant.

10. No. 3425.1—Amendment to project authorization for feasibility studies, site acquisition, construction, and related work to complete a Chattanooga office complex.

#### Fertilizer Item

1. Supplemental letter agreement between TVA and the International Fertilizer Development Center covering arrangements for library services.

#### Power Items

1. Acquisition by TVA of real property for a mill site and mill tailings disposal area in connection with operation of the Morton Ranch uranium properties in Wyoming.

2. Bill of sale and quitclaim deed to the Northcentral Mississippi Electric Power Association covering conveyance of 9.13-mile section of TVA's deenergized Slayden Switch-Miller 46-kV line located in Desoto and Marshall Counties, Mississippi.



3. New power contract with Natchez Trace Electric Power Association.
4. New power contract with East Mississippi Electric Power Association.
5. New power contract with Central Electric Power Association.
6. New power contract with city of Louisville, Mississippi.
7. Lease and amendatory agreement with Elizabethton, Tennessee, covering arrangements for 161-kV delivery at TVA's Elizabethton 161-kV Substation.
8. Lease and amendatory agreement with Fort Loudoun Electric Cooperative covering lease arrangements to permit total service at 69-kV.
9. Lease and amendatory agreement with West Kentucky Rural Electric Cooperative Corporation covering lease of TVA's Benton 69-kV Substation.
10. Amendatory agreement among city of Memphis, Memphis Light, Gas and Water Division, and TVA covering release of certain ash disposal rights to accommodate industrial fuel gas demonstration plant adjacent to Allen Steam Plant.
11. Contract with The Resource Authority in Sumner County, Tennessee, covering arrangement for assistance in the construction of a solid waste disposal and resource recovery facility to be located near Gallatin, Tennessee.

*Real Property Transactions*

1. Agreement with Lyon County, Kentucky, relating to conveyance of county-owned roads within Land Between The Lakes.
2. Filing of condemnation suits.
3. Sale of permanent highway easement to the city of Johnson City, Tennessee, affecting 2.45 acres of the Johnson City Power Service Center property in Washington County, Tennessee—Tract XJCPS-1H.
4. Abandonment of unused portion of TVA's deenergized Nolichucky Tap 115-kV Transmission Line right of way in Greene County, Tennessee, to owner of underlying fee (John Mitchell).

*Unclassified*

1. Resolution relating to agreement with the Federal Emergency Management Agency for reimbursable work by TVA on flood insurance studies.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Lee C. Sheppard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: December 4, 1979.

[S-2378-79 Filed 12-4-79; 4:02 pm]

BILLING CODE 8120-01-M

Thursday  
December 6, 1979

Part II

Securities and  
Exchange  
Commission

Tender Offers; Final Rules, Proposed  
Rules and Withdrawal of Proposed Rules



## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Parts 230 and 240

[Releases Nos. 33-6158 and 34-16384, IC-10958]

## Tender Offers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

**SUMMARY:** The Commission announces the adoption of new rules and a related schedule pertaining to tender offers. These provisions implement existing statutory requirements by providing specific filing, delivery and disclosure requirements, optional dissemination provisions and additional substantive regulatory protections with respect to certain tender offers. In addition, certain antifraud rules applicable to any tender offer have been adopted. These actions are necessary and appropriate in the public interest and for the protection of investors because of the increased occurrence of tender offers; their impact on securities markets and on corporate control; the dynamic nature of these transactions and the need to ensure a balance between the interests of the person making a tender offer and the management of the company whose securities are being sought while providing disclosure and substantive protections to shareholders making investment decisions.

EFFECTIVE DATE: January 7, 1980.

**FOR FURTHER INFORMATION CONTACT:** John Huber or John Granda (202-272-2589), Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced the adoption of amendments to Regulation 14D, Rule 434b and Schedule 13D as well as the adoption of Regulation 14E pursuant to sections of the Federal securities laws including sections 2, 17 and 19 of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 24, 1975)] and sections 3(b), 10(b), 13(d), 14(d), 14(e) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 24, 1975)] with respect to tender offers. These actions implement the present statutory requirements by providing specific filing and disclosure requirements, optional dissemination

provisions, and additional substantive protections with respect to tender offers subject to section 14(d) of the Exchange Act. As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices in connection with tender offers, there are also provisions relating to the length of the tender offer and extension thereof, payment of the consideration offered, and disclosure of the subject company's position with respect to the tender offer.

The new and amended provisions are not applicable to any tender offer which has been published, sent or given to security holders prior to their effectiveness.

The Commission is also withdrawing proposed Rules 14d-8 and 14e-2 published for comment in Release No. 34-15548 (February 5, 1979) (44 FR 9956) and concurrently publishing for comment proposals in lieu thereof which, if adopted, would be applicable to any tender offer.<sup>1</sup> These proposals include: a definition of the term "tender offer"; certain antifraud provisions concerning trading by certain persons on the basis of material, non-public information relating to a tender offer; provisions requiring equal treatment of security holders in the context of tender offers; and a prohibition of certain purchases not made by means of a tender offer.

The rules adopted in this release are based primarily on the proposals published for comment by the Commission in February 1979 (the "February proposals") or the "former proposals".<sup>2</sup> The 105 letters of comment received in response thereto,<sup>3</sup> and the Commission's experience. A discussion of the statutory background and development of the February proposals is included in the release which published the proposals for comment (the "February release").<sup>4</sup>

For the convenience of interested persons, a table setting forth the relationship of the rules and schedules published herein to the February proposals is being furnished. The table

consists of three columns: (1) the adopted rules and schedule; (2) the title of the adopted rules and schedule; and (3) the corresponding proposal. The table is as follows:

| Adopted rule or schedule | Title                                                                                                  | Proposal           |
|--------------------------|--------------------------------------------------------------------------------------------------------|--------------------|
| 14d-1.....               | Scope of and Definitions Applicable to Regulations 14D and 14E.                                        | 14d-1              |
| 14d-2.....               | Date of commencement of a tender offer.                                                                | 14d-6              |
| 14d-3.....               | Filing and transmittal of tender offer statement.                                                      | 14d-2              |
| 14d-4.....               | Dissemination of certain tender offers.                                                                | 14d-4              |
| 14d-5.....               | Dissemination of certain tender offers by the use of stockholder lists and security position listings. | 14d-5              |
| 14d-6.....               | Disclosure requirements with respect to tender offers.                                                 | 14d-3              |
| 14d-7.....               | Additional withdrawal rights.                                                                          | 14d-7              |
| 14d-8.....               | Exemption from statutory pro rata requirement.                                                         | 14d-9              |
| 14d-9.....               | Solicitation/ recommendation statements with respect to certain tender offers.                         | 14d-10             |
| 14d-9.....               | Solicitation/ Recommendation Statement.                                                                | 14d-10             |
| 14e-1.....               | Unlawful tender offer practices.                                                                       | 14e-1              |
| 14e-2.....               | Position of subject company with respect to a tender offer.                                            | Special Inquiry A. |

## I. Overview of Application and Operation of Rules and Schedule

The rules are grouped into two regulations. The application of Regulations 14D and 14E depends on whether or not the tender offer is subject to section 14(d)(1) of the Exchange Act. If the tender offer is subject to section 14(d)(1), both regulations apply. If the tender offer is not subject to that subsection, only Regulation 14E is applicable. The following discussion relates only to a tender offer in which both Regulations are applicable.

The rules regulating the person making the tender offer (the "bidder") may be divided into four categories: filing requirements; dissemination provisions; disclosure requirements; and substantive provisions. Before discussing these categories, it should be noted that the operation of these rules is triggered by the date of commencement of the tender offer, which is defined by Rule 14d-2 as essentially equivalent to the date the tender offer is first published or sent or given to security holders.

The filing of Schedule 14D-1 with the Commission is governed by Rule 14d-3. In addition, a bidder is required to make hand delivery of the initial filing and any amendments to the company whose securities are being sought (the "subject company"), and under certain conditions to give telephonic notice of certain information and to mail copies to national securities exchanges and to the NASD. A competing bidder is also required to hand deliver the initial filing to any previous bidder whose tender offer for the same class of securities has not yet expired.

Rule 14d-4 establishes three alternative methods of disseminating a cash tender offer to security holders: long-form publication; summary publication; and the use of shareholder lists and security position listings ("stockholder lists"). The dissemination process includes both the initial and subsequent soliciting materials published or sent or given to security holders during the tender offer. While tender offers may be disseminated by methods other than those specified in Rule 14d-4, summary publication and the use of stockholder lists and security position listings pursuant to Rule 14d-5 must comply with Rules 14d-4(a)(2) and (a)(3), respectively. The dissemination of an exchange tender offer is governed by the provisions of the Securities Act if the transaction is subject to the registration requirements of that Act.

Rule 14d-5 allows a bidder to disseminate its tender offer materials in a manner substantially similar to that permitted under present Rule 14a-7 [17 CFR 240.14d-7], which relates to proxy contests. The tender offer materials would be disseminated to security holders pursuant to the stockholder lists. The subject company would determine whether to retain the stockholder lists, in which case the subject company would distribute the bidder's tender offer materials, or to furnish the stockholder lists to the bidder, in which case the bidder would distribute them.

While the dissemination provisions of Rule 14d-4 apply only to tender offers in which the consideration consists solely of cash and/or securities exempt from registration under Section 3 of the Securities Act and are not mandatory, the disclosure requirements of Rule 14d-6 apply to any tender offer subject to section 14(d). The specific disclosure requirements generally depend on whether the tender offer is published or sent or given to security holders by means of summary publication pursuant to Rule 14d-4(a)(2) or the use of stockholder lists and security position listings pursuant to Rule 14d-5. The

summary advertisement which is required to be published in connection with either of these means of dissemination must contain the disclosure called for by Rule 14d-6(e)(2). Tender offers which are disseminated other than by such means, such as cash tender offers which are published by means of long-form publication, registered exchange offers or unconventional tender offers, are subject to the disclosure requirements prescribed by Rule 14d-6(e)(1).

With respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act, Rules 14d-4, 14d-5 and 14d-6 are designed to operate in concert. This interrelationship may be demonstrated by the following brief description of the chronological operation of a cash tender offer by the use of stockholder lists: (1) the bidder requests the use of the stockholder lists pursuant to Rule 14d-5(a); (2) on or prior to the date of the request the bidder makes adequate publication of either a summary advertisement or long-form publication commencing the tender offer under Rule 14d-2; (3) the subject company makes its election either to disseminate the tender offer materials or to furnish the stockholder lists; (4) if the subject company conducts the dissemination, Rule 14d-5(b) governs the subject company's conduct and Rule 14d-5(f)(3) applies to the bidder; (5) if the subject company furnishes the stockholder lists to the bidder, Rule 14d-5(c) applies to the subject company and Rule 14d-5(f)(4) prescribes the method by which the bidder disseminates its tender offer materials; (6) under either option, the bidder's tender offer materials must include the disclosure required by Rule 14d-6(e)(1); and (7) a similar sequence will be followed with respect to material changes in the bidder's tender offer materials.

Substantive provisions concerning tender offers subject to section 14(d) of the Exchange Act are set forth in Rules 14e-1, 14d-7 and 14d-8. Rule 14e-1 regulates the minimum length of a tender offer. Any tender offer (other than certain issuer tender offers) is required to remain open for a minimum of twenty business days from the date of commencement and for ten business days from the date of any notice of increase in the offered consideration or the dealer's soliciting fee. These time periods are designed to operate concurrently. Thus, if a tender offer commences on business day 1 and the bidder increases the consideration on business day 8, the ten business day

period will expire during the minimum twenty business day period.

Rules 14d-7 and 14d-8 relate to the terms under which the tender offer may be conducted. The additional withdrawal rights provided by Rule 14d-7 operate independently of the time period requirements of proposed Rule 14e-1. Under Rule 14d-7, an initial withdrawal period of 15 business days is provided and, if a competing offer is made, an additional ten business day withdrawal period is required under certain conditions. As with the time periods of Rule 14e-1, the additional withdrawal right time periods are computed concurrently, rather than consecutively. Rule 14d-8 enables a bidder, if it wishes, to vary either or both of the pro rata acceptance provisions of section 14(d)(6) on the condition that (1) the minimum ten day periods under the statute are provided; and (2) the bidder's tender offer materials disseminated on the date of commencement of the offer disclose the different pro rata time periods.

Rule 14e-1(c) requires payment for or the return of the deposited securities to security holders promptly after the termination or withdrawal of the tender offer.

The subject company is regulated by three rules. If a bidder has determined to use the subject company's stockholder list, the subject company must comply with Rule 14d-5. Rule 14e-2 requires the subject company to disclose to security holders its position with respect to the tender offer and the reasons therefor within ten business days of the date the tender offer is first published or sent or given to security holders. This communication is, under Rule 14d-9(f), a solicitation/recommendation requiring compliance with Rule 14d-9. Thus, the statement furnished under Rule 14e-2 or any other solicitation or recommendation to security holders with respect to the tender offer would under Rule 14d-9 require the filing of Schedule 14D-9 with the Commission and transmittal thereof to certain designated persons as soon as practicable on the date the solicitation/recommendation is first published or sent or given to security holders. The disclosure in the solicitation-recommendation disseminated to security holders by the subject company would be required to contain certain information, based on the provisions of Schedule 14D-9. Material changes to that Schedule would be filed, delivered and disseminated in a similar manner.

Rule 14d-9 also covers solicitations/recommendations of certain specified persons. Generally, persons who are related to the subject company or the



bidder because of employment, membership on the board of directors, or shareholder or affiliate status are included in the persons required to comply with the rule. To avoid unnecessary regulation, Rule 14d-9 does not include every solicitation/recommendation made with respect to a tender offer subject to section 14(d). It should be noted, however, that communications not covered by Rule 14d-9, as well as those regulated by the rule, are subject to section 14(e) of the Act.

## II. Synopsis of Rules and Schedule<sup>3</sup>

### A. Rule 14d-1: Scope of and Definitions Applicable to Regulations 14D and 14E

A new paragraph (a) has been added to Rule 14d-1 to clarify the scope of Regulations 14D and 14E. Section 14(d)(1) of the Exchange Act imposes certain requirements upon a bidder who makes a tender offer for a class of equity securities<sup>4</sup> described in that section if upon consummation of such tender offer the bidder would be the beneficial owner of more than five percent of such class. Rule 14d-1(a) limits the application of Regulation 14D to tender offers which are subject to section 14(d)(1). Thus, tender offers by persons for securities of which they are the issuer are not subject to Regulation 14D. However, the rule specifically notes that tender offers by affiliates of such issuers are subject to Regulation 14D. Regulation 14E applies to any tender offer without regard to whether the class of securities being sought is described in section 14(d)(1) or whether the person making the tender offer will upon consummation thereof be the beneficial owner of more than five percent of such class.<sup>7</sup> Therefore, issuer

<sup>3</sup> This synopsis is included in order to assist all interested persons in their understanding of and compliance with the provisions of the rules and schedule which are published herein. However, attention is directed to the text of the rules and schedule for a more complete understanding.

<sup>4</sup> The classes are: any class of equity securities registered pursuant to section 12 of the Exchange Act; any class of equity securities which would have been required to be registered pursuant to section 12 except for the exemption provided in section 12(g)(2)(C) of the Exchange Act; and any class of equity securities issued by a closed-end investment company registered under the Investment Company Act of 1940.

<sup>7</sup> Section 14(e) applies to any tender offer, not only those subject to section 14(d)(1). This position is supported by the language of Section 14(e), a comparison with the other provisions of the Williams Act, the legislative history of the Williams Act, administrative interpretation, legal commentary, and case law; see Release No. 34-16385 (November 29, 1979), footnote 15. The structure of sections 14(d) and 14(e) of the Williams Act reflects a Congressional determination to limit the filing mechanisms and attendant requirements of section 14(d) to tender offers for securities

tender offers are subject to Regulation 14E unless a specific rule thereunder provides otherwise. However, Regulation 14E does not apply to any tender offer for "exempted securities" as that term is defined in section 3(a)(12) of the Exchange Act.<sup>8</sup>

Rule 14d-1(b) establishes a definitional framework in order to clarify terms frequently used in Regulations 14D and 14E and to provide guidance concerning the operation of certain terms. Terms defined in the Exchange Act and in Rule 12b-2 [17 CFR 240.12b-2] promulgated thereunder have the same meaning in the Regulations unless the context otherwise requires. In addition, eight specific terms are defined.<sup>9</sup>

While certain technical revisions have been made in response to specific comments, the definitions are for the most part the same as those proposed for comment. The term "beneficial owner" has, however, been revised by bifurcating the meaning of the term depending on the context in which it is employed. For purposes of filing a

described in section 14(d)(1) of the Exchange Act, but not to limit the antifraud provisions of section 14(e). Having so limited the requirements of section 14(d) and the related costs of compliance, there is no valid reason not to follow the Congressional mandate to protect investors against fraud, deceit and manipulation where, from among the various methods of acquiring securities of a company, the tender offer method is utilized.

<sup>8</sup> Commissioner Karmel believes that the rules adopted by the Commission here pursuant to section 14(e) of the Exchange Act should be subject to clearly defined jurisdictional limits. She believes they should be subject to those limits which apply to the rules adopted pursuant to section 14(d) of that Act, unless some other appropriate limits can be devised. For example, the rules adopted here do not apply to exempted securities. In the view of Commissioner Karmel, Rules 14e-1 and 14e-2 impose regulatory requirements, including some affirmative obligations, essentially in order to prevent violations of section 14(d), rather than to prohibit fraudulent conduct in general. She believes that the rules adopted here today are so broad as to apply on their face to the securities of any corporation, without regard to whether such federal regulation is appropriate. The Commissioner notes that section 14(e) is not limited by its language to matters subject to federal jurisdiction, that is, acts or practices committed through the use of the mails or the facilities of interstate commerce. However, such an essential jurisdictional predicate for federal rulemaking has been read into that section. Commissioner Karmel believes that Rules 14e-1 and 14e-2, adopted here pursuant to section 14(e), and lacking any other limits, should likewise reflect the jurisdictional limits of section 14(d), and apply only to tender offers for securities of certain investment or insurance companies or companies with securities registered pursuant to section 12 of the Act. The exercise of the Commission's jurisdiction as fully as has been done here is, in her judgment, doubtful. In cases where the Commission's exercise of jurisdiction is questionable, Commissioner Karmel believes that restraint should be exercised.

<sup>9</sup> The defined terms are: "bidder," "subject company," "security holders," "beneficial owner," "tender offer material," "executive officer," "business day," and "security position listing."

Schedule 14D-1 or a Schedule 14D-9 as well as stating the number of shares beneficially owned in response to Item 6 of Schedule 14D-1, the term "beneficial owner" has the same meaning as that set forth in Rule 13d-3 [17 CFR 240.13d-3]. Thus, both voting power and investment power with respect to a specified security, or the right to acquire either of those powers, are relevant. However, for other purposes, which relate principally to dissemination of the tender offer, only investment power is operative. This distinction recognizes that in the context of a tender offer only the persons with investment power are being asked to make an investment decision and therefore would benefit from the receipt of tender offer materials.

The definition of "business day" has also been revised in two respects. First, the reference to the time period from 12:01 a.m. through 12:00 midnight has been clarified by specifying that the Eastern time zone is applicable. Second, the application of the definition to the computation of time periods which do not begin on the date of commencement has been clarified. The commentators correctly noted that the standard proposed for comment, which was based on the date of commencement, does not address the computation of time periods which become operative during the tender offer, such as the requirement imposed by Rule 14e-1(b) that a tender offer must remain open for ten business days following notice of a price increase. Accordingly, in computing any time period under section 14(d)(5) or 14(d)(6) of the Act or under Regulation 14D or 14E, the date of the event which begins the running of the time period is included unless the event occurs on a non-business day, in which case the period begins to run on and includes the first business day thereafter. Thus, if a tender offer commences under Rule 14d-2(b) on a non-business day, the Williams Act and the rules thereunder would apply on that date but the statutory and regulatory time periods would begin to run on and would include the first business day after the tender offer is commenced.

### Rule 14d-2: Date of Commencement of a Tender Offer

In view of the importance of the concept of "commencement" of a tender offer to the operation of the Williams Act as well as the need to provide content and clarity to the term, the Commission has determined to adopt Rule 14d-2, which follows closely proposed Rule 14d-6. The provisions of Rule 14d-2(a) (1) through (3) are related to the methods by which tender offer

materials may be disseminated under Rule 14d-4. Hence, a tender offer using long-form publication commences on the date of the newspaper publication. A tender offer disseminated by means of summary publication commences on the date the summary advertisement appears in the newspapers. If stockholder lists and security position listings are used pursuant to Rule 14d-5 to disseminate the tender offer, the bidder is also required to make either long-form or summary publication of the tender offer on or prior to the date of the bidder's request pursuant to Rule 14d-5(a). Publication of the long-form advertisement commences the tender offer under Rule 14d-2(a)(3). Tender offers in which the consideration offered consists of securities registered pursuant to the Securities Act commence when the bidder's registration statement becomes effective thereunder. A tender offer which is not disseminated by any of these means commences on the date it is first published or sent or given.

Rule 14d-2(a) has been revised to clarify that a tender offer which is disseminated by a combination of methods commences on the date that the first method is used. It has also been revised to specify that the tender offer commences on 12:01 a.m. on that date. Accordingly, the date of commencement will be included as a full day in computing any applicable time periods.

As discussed more fully in the February release, Rule 14d-2(b) is intended to prevent public announcements by a bidder of the material terms of its tender offer in advance of the offer's formal commencement. The Commission believes that this practice is detrimental to the interests of investors and results in many of the abuses the Williams Act was enacted to prevent. Such pre-commencement public announcements cause security holders to make investment decisions with respect to a tender offer on the basis of incomplete information<sup>10</sup> and trigger market activity normally attendant to a tender offer, such as arbitrage activity. Since they constitute the practical commencement of a tender offer, such pre-

<sup>10</sup> As stated in the Senate and House Reports accompanying the Williams Act: "Without knowledge of who the bidder is and what he plans to do, the shareholder cannot reach an informed decision. He is forced to take a chance. For no matter what he does, he does it without adequate information to enable him to decide rationally what is the best possible course of action. This is precisely the kind of dilemma which our security laws are designed to prevent." S. Rep. No. 550, 90th Cong., 1st Sess. 2 (1967) ("1967 Senate Report"); H.R. Rep. No. 1711, 90th Cong., 2nd Sess. 3 (1968) ("1968 House Report").

commencement public announcements cause the contest for control of the subject company to occur prior to the application of the Williams Act and therefore deny security holders the protections which that Act was intended by Congress to provide.<sup>11</sup>

Under Rule 14d-2(b) a bidder's public announcement through a press release, newspaper advertisement or public statement of certain material terms of a cash tender offer causes the bidder's tender offer to commence under section 14(d) of the Exchange Act. In order to provide certainty to bidders, the information which will trigger Rule 14d-2(b) is set forth in Rule 14d-2(c). Generally, this information relates to: the identity of the bidder and the subject company; a statement of the class and amount of securities being sought; and disclosure of the price or range of prices being offered therefor. Safe harbor provisions for public announcements which will not trigger the operation of Rule 14d-2(b) are set forth in Rules 14d-2(d) and (e).

Rule 14d-2(b) contains an exception clause which is designed to prevent the imposition of undue burdens on a bidder and to assure the availability of security holders' rights under sections 14(d)(5) and 14(d)(6) and the rules promulgated thereunder. Under the exception clause, the tender offer would not be deemed to commence on the date of the public announcement if within five business days thereafter the bidder either: (1) issues a subsequent public announcement stating that the bidder has determined not to continue with the offer; or (2) complies with the filing requirements of Rule 14d-3(a) and disseminates the disclosure required by Rule 14d-6(a) to security holders pursuant to Rule 14d-4 or otherwise.<sup>12</sup> An empirical study of 153 cash tender offers during the period from 1974 through 1978 which was conducted by the Commission's Directorate of Economic and Policy Research<sup>13</sup> has confirmed the feasibility of meeting these requirements within a period of five business days.

If the bidder makes the subsequent announcement contemplated by the first option, the initial announcement will not be deemed to commence an offer. If the bidder complies with the filing,

<sup>11</sup> See Brief for SEC as Amicus Curiae, *Leroy v. Great Western United Corp.*, 99 S. Ct. 2710 (1979).

<sup>12</sup> It should be noted that the exception applies only to section 14(d). Thus, a public announcement of the information set forth in Rule 14d-2(c) would trigger the application of Rule 10b-13 [17 CFR 240.10b-13]. Bidders are also reminded of the possible applicability of section 14(e) to such purchases.

<sup>13</sup> This study has been included in File No. S7-770 and is available for public inspection and copying.

disclosure and dissemination requirements of the second option, the tender offer will commence on the date of such compliance, rather than the date of the earlier public announcement, except that section 14(d)(7) will apply from the date of such earlier public announcement. If the bidder exercises neither option, the tender offer commences on the date of the initial announcement, resulting, however, in filing and disclosure violations. As a result, it is not anticipated that a bidder making such a public announcement will select the "do nothing" alternative.

Some commentators noted that there is a direct conflict between rule 14d-2(b) and state anti-takeover statutes<sup>14</sup> with the effect that such statutes are preempted. These statutes typically require a publication of or a public filing which includes the material terms of the tender offer prior to the time the offer may be commenced. These requirements of the state statutes will trigger the commencement<sup>15</sup> of the tender offer under Rule 14d-2(b) despite the fact that the state statutes do not permit the offer to commence until the conclusion of any applicable waiting period and hearing process. Moreover, by deeming commencement to occur on the date of the publication or filing required by these statutes, the minimum periods, best price, and withdrawal and pro rata rights provided under these statutes could not function since they are usually predicated on the effective date of the tender offer which cannot occur until after the conclusion of the waiting period and hearing process.

Thus, the conflict between Rule 14d-2(b) and such state statutes is so direct

<sup>14</sup> There are currently over 35 state anti-takeover statutes. However, in 1968, when the Williams Act was enacted, only Virginia had a takeover statute, and that statute had not been enforced. (Virginia's statute, Va. Code § 13.1-528, became effective on March 5, 1968, (Va. Act 1968, c. 119) (amendments to the Virginia statute became effective on July 1, 1979); the Williams Act was enacted several months later, on July 29, 1968. When Congress enacted the Williams Act amendments in 1970, Pub. L. No. 91-567, 84 Stat. 1497, Ohio and Nevada had passed takeover laws, but only the Ohio law had been enforced, and that occurred in the same month the amendments were enacted. Nev. Rev. Stat. § 79.376-78.3778 (1973), 2 CCH Blue Sky L. Rep. § 31,151-31,169; Ohio Rev. Code Ann. § 1707.04.1 (Page 1977 Supp.), 2 CCH Blue Sky L. Rep. § 38,104-1. There is no evidence in the legislative history that Congress was aware of these laws.

<sup>15</sup> Subject to the exception clause in Rule 14d-2(b) noted previously, a bidder must file and transmit its Schedule 14D-1 on the date of commencement as well as publish or send or give the information required by Rule 14d-6 to security holders. Thus, by requiring compliance with Regulation 14D at the time such information is first made available to the public, the rule ensures that security holders will have adequate information when they are confronted with the need to make investment decisions with respect to a tender offer.



and substantial as to make it impossible to comply with both sets of requirements as they presently exist. While recognizing its long and beneficial partnership with the states in the regulation of securities transactions, the Commission nevertheless believes that the state takeover statutes presently in effect frustrate the operation and purposes of the Williams Act<sup>16</sup> and that, based upon the abuses in current tender offer practice discussed above, Rule 14d-2(b) is necessary for the protection of investors and to achieve the purposes of the Williams Act.

Concern was also expressed by the commentators regarding the potential for a conflict between Rule 14d-2(b) and statutes requiring regulatory approval to be obtained in connection with certain transactions, such as tender offers involving a subject company engaged in a regulated business. This may occur where the application for such approval is public and includes the information specified in Rule 14d-2(c). The commentators noted that without a provision for the extension of the five-day period provided in Rule 14d-2(b), the bidder may have to abandon the tender offer because it cannot comply with conflicting legal requirements.

The Commission's examination of this issue reveals that such conflicts are unlikely at the Federal level. The Federal<sup>17</sup> statutes which are commonly applicable in this context focus on the acquisition of either control or a specified percentage of securities. Thus, if appears that a tender offer which is appropriately conditioned upon obtaining the necessary regulatory approval may be published or sent or given in compliance with Rule 14d-2(b) without conflicting with such statutes. Bidders are, however, reminded of the importance of providing appropriate disclosure with respect to regulatory requirements which must be complied with or regulatory approval which must be obtained in connection with the tender offer.<sup>18</sup>

<sup>16</sup> See brief for SEC as Amicus Curiae *Leroy v. Great Western United Corp.*, U.S. 99 S. Ct. 2710 (1979).

<sup>17</sup> See the Banking Holding Company Act, 12 U.S.C.A. § 1842 (West Supp. 1979); the Federal Aviation Act, 49 U.S.C.A. § 1378 (West Supp. 1979); the Federal Communications Act, 47 U.S.C.A. § 310 (West Supp. 1979); the Interstate Commerce Act, 49 U.S.C.A. § 11343 (West Supp. 1979).

<sup>18</sup> See Item 10(b) of Schedule 14D-1. See also *Ronson v. Liquifin AG*, 370 F. Supp. 597 (D.N.J.), *aff'd*, 497 F.2d 394 (3rd Cir.), *cert. denied*, 419 U.S. 870 (1974); *Commonwealth Oil Refining Co. v. Tesoro Petroleum Corp.*, 394 F. Supp. 267 (S.D.N.Y. 1975); *Texasgulf, Inc. v. Canada Development Corp.*, 366 F. Supp. 374 (S.D. Tex. 1973).

#### Rule 14d-3: Filing and Transmission of Tender Offer Statement

Rule 14d-3(a) requires the bidder to file a Schedule 14D-1 with the Commission as soon as practicable on the commencement date. This Rule also requires the bidder to hand deliver a copy of the Schedule to the subject company and to any previous bidder which has filed a Schedule 14D-1 with respect to a tender offer for the same class of securities which has not yet terminated. The Commission has determined, however, not to require the bidder to hand deliver a copy of the schedule to securities exchanges or to the National Association of Securities Dealers (the "NASD") as proposed for comment. Instead, each national securities exchange where the class of the subject company's securities being sought in the tender offer is registered and listed for trading and, if the class of securities being sought in the tender offer is quoted in NASDAQ, the NASD, will receive telephonic notice of certain information and a copy of the schedule through the mail. This revision will reduce the compliance burden noted by the commentators while at the same time providing timely notice of the tender offer to securities exchanges and the NASD.

The requirements for filing amendments disclosing material changes to the bidder's Schedule 14d-1 and additional tender offer materials as exhibits to the Schedule, formerly set forth in paragraphs (b) and (c) of proposed Rule 14d-2, have been revised and combined into a single paragraph (b) of Rule 14d-3. Rule 14d-3(b) requires material changes in the information set forth in the bidder's Schedule 14D-1 to be filed as an amendment. In addition, such amendments must be hand delivered to the subject company and sent to any exchange and/or the NASD as required by Rule 14d-3(a). Any additional tender offer, without regard to whether it includes disclosure of a material change in the information previously disseminated to security holders, is required to be filed as an exhibit to the bidder's Schedule 14D-1 and transmitted in the same manner as amendments disclosing material changes.

Rule 14d-3(b) requires additional tender offer material and amendments to the Schedule 14D-1 disclosing a material change to be filed and sent promptly but not later than the date such material or such change is first published or sent or given to security holders. Rule 14d-3(c) creates a limited exception to this requirement by providing that additional tender offer

material or an amendment to Schedule 14D-1 which only discloses the number of shares deposited to a certain date and/or announces the extension of the tender offer may be filed and sent promptly after the date such material is first published or sent or given to security holders.

A few commentators advocated the extension of the standard in paragraph (c) to the filing and transmission of all additional tender offer material and amendments to Schedule 14D-1 because of the logistical difficulties which would occasionally arise in meeting the same day standard. The Commission notes, however, that section 14(d)(1) of the Exchange Act specifically provides that additional tender offer materials shall be filed and sent not later than the date the material is first published or sent or given to security holders. Moreover, since 1968 former Rule 14d-1(d) has required the filing of additional tender offer material not later than the time such material is first published or sent or given to security holders. While the Commission believes that the limited exception provided by Rule 14d-3(c) is consistent with the statutory framework of the Williams Act and will facilitate prompt dissemination of such limited disclosure, it does not presently believe that further expansion of the exception is warranted.

#### Rule 14d-4: Dissemination of Certain Tender Offers

As discussed more fully in the February release,<sup>19</sup> the disclosure process envisioned by the Williams Act is not limited to the items of information which must be disclosed. It also includes the dissemination of material information to shareholders so that security holders have the opportunity to receive, consider and evaluate the disclosure required by Rule 14d-6.

Tender offers in which the consideration consists of securities registered under the Securities Act are disseminated pursuant to that Act. The former tender offer rules, however, did not provide specific guidance as to what constitutes adequate dissemination of a tender offer in which the consideration consists of cash and/or securities exempt from registration under section 3 of the Securities Act. Rule 14d-4 provides such guidance and encourages the prompt and widespread dissemination of such tender offers by establishing standards whereby information disseminated in compliance with its provisions would be deemed "published or sent or given to security holders" for purposes of section 14(d)(1)

<sup>19</sup> 44 FR 9965-66.

of the Exchange Act. This is accomplished by providing three alternative definitions of what constitutes dissemination: long-form publication; summary publication and use of stockholder lists and security position listings. A bidder is able to use more than one method so long as there is full compliance with each method used. Moreover, Rule 14d-4 is not mandatory and a tender offer in which the consideration consists of cash and/or securities exempt from registration under Section 3 of the Securities Act may be disseminated by other methods. It should be noted, however, that a proviso has been added to paragraph (a) to make clear that any bidder who uses summary publication or stockholder lists and security position listings pursuant to Rule 14d-5 must comply fully with paragraphs (a)(2) and (a)(3), respectively.

Long-form publication under Rule 14d-4(a)(1) is substantially equivalent to the current practice. It requires adequate publication of the tender offer in a newspaper or newspapers.<sup>20</sup>

Summary publication under Rule 14d-4(a)(2) requires the adequate publication of a summary advertisement of the tender offer in a newspaper or newspapers.<sup>21</sup> Additionally, this method requires a bidder to mail or otherwise furnish with reasonable promptness its tender offer materials<sup>22</sup> to any security holder upon request. In order to comply with this provision, a bidder must have sufficient copies of the tender offer materials available for distribution when the summary advertisement appears. The Commission believes that this method will facilitate rapid communication of a tender offer to security holders and will ensure dissemination of tender offer materials while at the same time decreasing the scheduling problems and escalating costs associated with making long-form publication of tender offers.

Rule 14d-4(a)(3) relates to the use of stockholder lists and security position listings. As proposed for comment, this provision would have required publication of a summary advertisement of the tender offer at the approximate time of the commencement of the mailing and transmittal of the tender offer materials pursuant to proposed Rule 14d-5 as well as specifying certain other requirements which depended on

<sup>20</sup> The disclosure requirements for long-form publication are set forth in Rule 14d-6(a)(1), discussed below.

<sup>21</sup> The limited disclosure requirements for a summary advertisement are set forth in Rule 14d-6(a)(2)(i), discussed below.

<sup>22</sup> The disclosure required by such tender offer materials is set forth in Rule 14d-6(a)(2)(ii), discussed below.

the subject company's election pursuant to proposed Rule 14d-5. Rule 14d-4(a)(3) has been revised in several respects. First, in response to the request by commentators for greater flexibility in the use of this method, either long-form or summary publication may be used with stockholder lists and security position listings. Second, such publication is required on or prior to the date of the request to the subject company, rather than on the date of mailing and transmittal of tender offer materials. This revision is intended to decrease the possibility of leaks between the time of the bidder's request and publication that existed under the proposal. It also allows the bidder to control the time of publication and is thus responsive to the commentator's concern regarding the difficulty of obtaining adequate newspaper space on short notice since the bidder would not have known when the subject company would issue the notice that the mailing had commenced. Third, the specific obligations of the bidder regarding the use of stockholder lists and security position listings have been moved to Rule 14d-5.

The specification of what constitutes adequate publication, formerly contained in paragraph (a) of proposed Rule 14d-4, has been made into a separate paragraph (b). In addition, a proviso has been added which deems publication in all editions of a daily newspaper with a national circulation to constitute adequate publication.

Pursuant to Rule 14d-4(c), material changes in the information published or sent or given to security holders must be disseminated in a manner reasonably designed to inform security holders. This change reflects the simplification sought by the commentators with respect to the requirement proposed for comment that material changes be disseminated by the same method used to disseminate the initial tender offer materials. In order to prevent abuse of the use of stockholder lists and security position listings, however, a bidder who has elected pursuant to Rule 14d-5(f)(1), discussed below, to require the subject company to disseminate amendments disclosing material changes pursuant to Rule 14d-5 must disseminate such changes pursuant to such lists and listings. The bidder is nevertheless free to disseminate material changes by other means as well.

#### Rule 14d-5: Dissemination of Certain Tender Offers by the Use of Stockholder Lists and Security Position Listings

Rule 14d-5 gives bidders a Federal right to have their tender offer materials disseminated by means of the

stockholder lists of the subject company and security position listings of clearing agencies. As described more fully below, the subject company is able to elect whether to retain the stockholder lists, in which case the subject company will mail and transmit the bidder's tender offer materials, or to furnish the stockholder lists to the bidder, in which case the bidder will mail and transmit the tender offer materials. The option feature of Rule 14d-5 is patterned after Rule 14a-7 [17 CFR 240.14a-7]. In light of this option and case law under Rule 14a-7,<sup>23</sup> the Commission believes that Rule 14d-5 does not conflict with state law provisions controlling the right of shareholders to be furnished direct access to the stockholder list. Moreover, the rights created by Rule 14d-5 are intended to be in addition to any rights the bidder may have to stockholder lists under state law.

The Commission has carefully considered the comments questioning its authority to adopt the rule. It continues to believe that the extensive discussion of its rulemaking authority in the February release adequately demonstrates that the rule is within the Commission's authority.

In order to assure the timely receipt of tender offer materials by security holders pursuant to the rule, the rule specifies the time periods for compliance as well as the principal obligations of both the bidder and the subject company. Generally speaking, four of the seven paragraphs in the rule pertain to the subject company and three pertain to the bidder.

The principal paragraph relating to the requirements imposed on the subject company is Rule 14d-5(a). This provision is triggered by the subject company's receipt of a written request from a bidder for the use of stockholder lists and security position listings.<sup>24</sup> Upon receipt, the subject company is required to notify promptly certain persons, including transfer agents, of the receipt of the request and to ascertain promptly whether the current stockholder list was prepared as of a date earlier than ten business days before the date of the bidder's request. If

<sup>23</sup> See *Wood, Walker & Co. v. Evans*, 300 F. Supp. 171 (D. Colo. 1969), *aff'd*, 461 F.2d 852 (10th Cir. 1972), in which the district court addressed the compatibility of the Colorado shareholder inspection statute in effect at the time, Colo. Rev. Stat. § 3-15-17, with Rule 14a-7, and held that the two provisions were not mutually exclusive, that utilization of some of the federal procedures did not constitute a binding election, and that the Federal rule did not preempt the state statute.

<sup>24</sup> The subject company would not be required to comply with the proposal if the written request failed to meet the requirements of paragraph (e) of the proposal, discussed below.



the list was prepared prior to the ten business day period, the subject company is required to prepare a stockholder list as of the most recent practicable date which shall not be earlier than ten business days before the day the bidder's request was received. While Rule 14d-5(a) provides the subject company with an election either to furnish the lists to the bidder or to conduct the mailing/transmittal of the bidder's tender offer materials, this provision also requires the subject company to deliver oral notification of its election, which would be confirmed in writing, to the bidder no later than the second business day after the date the bidder's request is received. If the subject company elects to conduct the mailing/transmittal, the subject company's notification would include the approximate direct cost incidental to the mailing of the bidder's tender offer materials computed in accordance with Rule 14d-5(g)(2). This will apprise the bidder of the amount it will have to advance to the subject company at the time its materials are delivered in the event the subject company elects to conduct the mailing/transmittal on behalf of the bidder.

If the subject company elects to conduct the mailing and transmittal of the bidder's tender offer materials, Rule 14d-5(b) is applicable and requires the subject company to contact each participant named on the security position listings of clearing agencies and to ascertain the approximate number of beneficial owners of the securities held by such participant. No later than three business days after delivery of the bidder's tender offer materials, the subject company would be required to begin to mail a copy of such materials to each record holder named on the stockholder list and to begin to transmit the appropriate number of sets of such materials to the participants on the security position listings for subsequent delivery to beneficial owners of the securities sought by the tender offer. This clarifies an ambiguity in the proposal noted by the commentators as to whether it was intended that the mailing and transmittal be completed within the period specified. It is also responsive to the comments which indicated that the mailing and transmittal could not be completed in that amount of time. In order to prevent the use of dilatory tactics by or on behalf of the subject company, this revision has been accompanied by a requirement that the subject company use its best efforts to complete the mailing and transmittal in a timely manner. Moreover, the provision makes

clear that the subject company cannot complete the mailing and transmittal of the bidder's tender offer materials in a substantially greater period of time than it would complete a mailing and transmittal of its own materials relating to the tender offer. It should be noted that the "substantially greater" standard is intended to take into account differences in the time needed to mail and transmit the materials arising solely as a result of the physical characteristics of the materials.

Rule 14d-5(b)(5) provides an updating procedure with respect to the stockholder list under which persons, who become record holders after the date of the stockholder list, are furnished copies of the bidder's tender offer materials. Under Rule 14d-5(b)(6) a similar mailing/transmittal procedure would be followed with respect to amendments disclosing material changes to the bidder's tender offer materials. It should be noted, however, that the subject company's obligation to mail and to transmit such amendments pursuant to Rule 14d-5(b)(6) is qualified by the bidder's election under new paragraph (f)(1). Thus, the obligation will arise only where the bidder has made an irrevocable election to require the subject company to disseminate amendments disclosing material changes.

If the subject company elects to furnish the stockholder list and security position listings to the bidder, Rule 14d-5(c) is applicable and requires the subject company to furnish such list and listings no later than the third business day after the date of the bidder's request. As with the revision to paragraph (b)(6), Rule 14d-5(c)(2) has been revised to require the subject company to update the stockholder list only if the bidder has elected pursuant to paragraph (f)(1) to require the subject company to disseminate amendments disclosing material changes to the tender offer materials.

While the name and address of record holders would be furnished to the bidder, the amount of securities held by such persons would not be disclosed. The commentators disagreed on whether the amount of securities owned of record by each security holder should be shown on the stockholder list. The Commission has determined not to require that disclosure because the purpose of the rule is to facilitate dissemination of the tender offer in the interest of all security holders; not to facilitate the tender offer by permitting the bidder to selectively mail only to large holders. This approach also serves

to protect the interest of holders in the confidentiality of their holdings.

Rule 14d-5(d) is designed to clarify the application of other provisions of the Federal securities laws to a subject company under the mailing/transmittal procedure. Sub-paragraphs (1) and (2) have been added in response to the views of the commentators and are self-explanatory. Sub-paragraphs (3) and (4), which are also self-explanatory, have been revised to negate the possible inference that the subject company or its affiliates or agents would be underwriters under section 2(11) of the Securities Act or liable under any provision of the Federal securities laws for the disclosure in the bidder's tender offer materials based solely upon the failure to comply in all respects with Rule 14d-5.

The Commission has determined not to adopt proposed Rule 14d-5(e). That proposal would have prevented the subject company from conducting a shareholder communication relating to the bidder's tender offer, other than a stop-look-and-listen letter, until it had completed certain obligations under the rule. As noted by the commentators, the proposal involved potential abuse by a bidder seeking a tactical advantage. Moreover, the provision is no longer necessary since the revisions to Rule 14d-4 discussed above will require the tender offer to commence on or prior to the date of the bidder's request for the stockholder lists and security position listings.

While Rule 14d-5(e) sets forth the information which a bidder must include in its written request in order to initiate the operation of Rule 14d-5(a), Rule 14d-5(f) would impose certain requirements on the bidder. Rule 14d-5(f)(1) requires the bidder to make a timely election whether to require the subject company to disseminate amendments disclosing material changes to the tender offer materials. In view of the additional burden which the mailing and transmission of such amendments may impose on the subject company, the Commission believes such information should be available to the subject company prior to making its election. Paragraph (f)(2) of Rule 14d-5 requires the bidder to comply with the dissemination requirements of Rule 14d-4(a)(3). If the subject company elects to conduct the mailing/transmittal of the bidder's tender offer materials, Rule 14d-5(f)(3) would require the bidder to deliver its tender offer materials, including amendments, to the subject company and to mail or otherwise to furnish the tender offer materials to any requesting security holder. Another

provision requires the bidder to advance to the subject company an amount equal to the approximate cost of conducting the mailings to security holders computed in accordance with paragraph (g)(2) of Rule 14d-5. This provision alleviates the commentators' concern that the subject company will be required to absorb the expense of compliance with the rule in cases where the bidder is financially irresponsible. If the subject company elects to furnish the lists to the bidder, Rule 14d-5(f)(4) would require the bidder to use such lists exclusively in the dissemination of tender offer materials to security holders; to return the lists to the subject company promptly after the termination of the bidder's tender offer; to accept, handle and return all lists on a confidential basis; not to retain any list or any information derived from such list after the termination of the tender offer; to mail all the tender offer materials, including amendments, to each person on the stockholder list and updates thereto; to follow a procedure under which all tender offer materials would be transmitted to each participant named on a security position listing for subsequent delivery to the beneficial owners of the securities. Regardless of the subject company's election, the bidder is required to reimburse promptly the subject company for the direct costs of complying with the rule computed in accordance with paragraph (g)(2) incurred by the subject company and its agents in complying with the requirements of the rule which are in excess of the amounts advanced by the bidder under paragraph (f)(3)(iii).

Rule 14d-5(g) adds greater specificity to the obligations imposed on the bidder by paragraph (f). Paragraph (g)(1) specifies the minimum number of sets of tender offer materials which the bidder must deliver and requires envelopes or other containers to be provided therewith. It also provides that delivery of the tender offer materials shall be deemed not to have been made unless the bidder has advanced the approximate cost of conducting the mailing at the time of delivery. Thus, the subject company would not be obligated to mail and transmit the tender offer materials pursuant to Rule 14d-5(b) unless such payment is received with the materials. Paragraph (g)(2) specifies the procedure for calculating the cost of mailing tender offer materials and amendments thereto. It should also be noted that this provision imposes an obligation on the subject company to provide an appropriate accounting to the bidder with its final billing.

#### *Rule 14d-6: Disclosure Requirements With Respect To Tender Offers*

Rule 14d-6 establishes specific disclosure requirements for any tender offer which is subject to section 14(d)(1) of the Exchange Act. While the rule substantially follows proposed Rule 14d-3, its structure has been revised. The disclosure requirements continue to depend on the method by which the tender offer is disseminated to security holders but the distinction between the requirements which are applicable to tender offer materials disseminated on the date of commencement and to additional tender offer materials disseminated after the date of commencement has been clarified.

Rule 14d-6(a) provides the disclosure requirements which are applicable to tender offer materials published or sent or given to security holders on the date of commencement. When a bidder uses a method under Rule 14d-4 to disseminate a tender offer on the date of commencement, either sub-paragraphs (a)(1), (a)(2) or (a)(3) of Rule 14d-6 will determine what information specified in paragraph (e) will be required to be disclosed. Exchange tender offers in which the consideration consists of securities registered under the Securities Act or any other tender offer which is disseminated on the date of commencement other than by means of Rule 14d-4 are governed by the disclosure requirements of Rule 14d-6(a)(4).

Rules 14d-6(a) and (b) specify the information required in additional tender offer materials that are published or sent or given to security holders subsequent to the date of commencement. While based on proposed Rule 14d-3(c)(2), Rule 14d-6(b) has been revised to permit summary advertisements to be used after the date of commencement of the tender offer and to reduce the number of items of information required to be included. Rule 14d-6(c), which is based on proposed Rule 14d-3(c)(1), has been revised in two respects. First, it allows a bidder greater flexibility to omit information from certain tender offer materials disseminated subsequent to the date of commencement if such information has been previously furnished by the bidder in connection with the tender offer. Second, it makes clear that tender offer materials furnished by the bidder upon the request of any security holder or transmitted to security holders pursuant to stockholder lists and security position listings requested under Rule 14d-5 must include all of the information required by Rule 14d-6(e)(1). These revisions are

designed to reduce the compliance burden noted by the commentators while assuring the adequacy of the information furnished to security holders.

Rule 14d-6(d) establishes an express obligation to disclose promptly material changes in the information published or sent or given to security holders. This obligation comports with current practice and avoids any possible ambiguity, thus ensuring full disclosure of material information during the course of the tender offer.

Rule 14d-6(e) specifies the items of information to be included pursuant to Rules 14d-6(a) and (b). Rule 14d-6(e)(1) is applicable to tender offers which are published or sent or given to security holders other than by means of a summary advertisement. Although it closely follows proposed Rule 14d-6(b)(1), revisions have been made with respect to disclosure of the expiration of the tender offer, pro rata periods, and Item 2 of Schedule 14D-1. The commentators noted that it may not be possible or appropriate at the commencement of a tender offer to disclose upon what terms or conditions the offer will be extended, as required by proposed Rule 14d-3(b)(1)(v). The Commission has therefore followed the recommendation of the commentators by requiring disclosure of the procedures for extension. The commentators also pointed out that a bidder cannot know in advance the dates of the period during which securities will be taken up pro rata pursuant to section 14(d)(6) of the Exchange Act in the case of an increase in consideration. Accordingly, Rule 14d-6(e)(1)(vi) has been revised to require the expiration date to be stated only for the pro rata period which begins on the date of commencement. In order to reduce the expense of publication, disclosure will not be required of the residence or business address and five-year employment history of natural persons other than the bidder described in response to Item 2 of Schedule 14D-1.

Rule 14d-6(e)(2) specifies the limited disclosure to be made in a summary advertisement published, sent or given on the date of commencement pursuant to Rule 14d-6(a)(2) or (3). The inclusion of any additional information in a summary advertisement published, sent or given on the date of commencement will make this provision unavailable to the bidder and result in the necessity for publication of the information required by Rule 14d-6(e)(1). A few commentators urged the expansion of the provision to permit the inclusion of additional information. The Commission



is concerned that the expansion of summary advertisements beyond their present limits would erode its intended benefits, viz., rapid notification of the existence of the tender offer and reduction of the scheduling problems and escalating costs associated with making long-form publication of a tender offer. It should also be noted that summary advertisements are only a part of the method of summary publication. Bidders are also required by Rule 14d-4(a)(2)(ii) to furnish tender offer materials containing the information required by Rule 14d-6(e)(1) to any security holder who requests such materials pursuant to the summary advertisement. Security holders are notified of this opportunity in the summary advertisement which is required to include appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials. Moreover, the explanatory note to proposed Rule 14d-3(b)(2) has been made into a separate subparagraph of Rule 14d-6(e) which prevents the inclusion of a transmittal letter (whereby securities of the subject company being sought in the tender offer may be transmitted to the bidder or its depository) in the summary advertisement. This is intended to encourage security holders to request the bidder's tender offer materials in making their investment decision with respect to the tender offer.

Several commentators were opposed to the requirement in proposed Rule 14d-3(b)(2)(ii) that the bidder include a brief description of the purpose of the tender offer in its summary advertisement. It was submitted that bidders would be reluctant to summarize the purpose of the tender offer, thereby resulting in a lengthy advertisement containing all of the information required by Item 5 of Schedule 14D-1. As noted previously, extended discussions of this sort are inconsistent with the intended purpose of summary advertisements. The Commission has therefore narrowed the scope of the requirement by requiring disclosure only in those cases where the purpose or one of the purposes is to acquire or influence control and where the tender offer is for less than all securities of the class. The Commission believes that in the context of a summary advertisement the critical item of information with respect to the bidder's purpose in making the tender offer is whether he is seeking to obtain or influence control. Since this purpose is implicit in tender offers for all of the outstanding securities, disclosure of a

control purpose is not being required in a summary advertisement with respect to such offers.

#### *Rule 14d-7: Additional Withdrawal Rights*

Rule 14d-7 is being adopted substantially as proposed for comment. The rule is intended to enhance the effectiveness of withdrawal by providing withdrawal rights to security holders in addition to those provided by section 14(d)(5) of the Exchange Act. These additional withdrawal rights are set forth in Rule 14d-7(a) which is intended to interrelate with Rule 14e-1(a).<sup>25</sup>

Rule 14d-7(a)(1) extends the statutory seven-day withdrawal right to fifteen business days from the date the tender offer commences. This affords security holders a longer period to reconsider their decision to deposit their shares. It also gives bidders a reasonable time prior to the expiration of the offer to ascertain the number of shares deposited and to determine whether to accept such securities for payment or to change the terms of the offer, such as extending the expiration date.

Certain commentators questioned the Commission's authority to extend the withdrawal period beyond that provided in section 14(d)(5). The Commission notes, however, that section 14(d)(5) expressly grants the authority to vary the statutory periods "as necessary or appropriate in the public interest or for the protection of investors." In the Commission's view, the specific withdrawal rights contemplated by the rule serve the public interest and the protection of investors by providing effective means of withdrawal within the context of the minimum period for tender offers in Rule 14e-1(a).

Rule 14d-7(a)(2) establishes a conditional withdrawal right in competing tender offer situations under which shares can be withdrawn on the date and for ten business days following the commencement date of a competing tender offer by another bidder. It should be noted, however, that commencement for the purpose of this provision is determined solely under Rule 14d-2(a). Thus, a public announcement which is deemed to commence a tender offer under Rule 14d-2(b) would not trigger additional withdrawal rights under Rule 14d-7(a)(2). As proposed for comment, this provision would also have been triggered by a competing tender offer by the subject company. This requirement was deleted because of its potential for

<sup>25</sup> As discussed below, Rule 14e-1(a) establishes a minimum period of twenty business days for any tender offer.

abuse. As noted by the commentators, a subject company could obtain an advantage through the extension of the withdrawal period by making a tender offer for a de minimus amount of the securities being sought by the bidder.

Rule 14d-7(b) provides that the withdrawal rights under subparagraphs (a)(1) and (a)(2) of the rule are to be computed on a concurrent rather than a consecutive basis. The following is an example of the concurrent computation of time periods for withdrawal rights pursuant to this section. Bidder X commences a tender offer on Business Day 1 and another bidder, Y, commences a tender offer for securities of the same class of securities on Business Day 7. For X's tender offer, the withdrawal rights under Rule 14d-7(a)(1) of from Business Day 8 through Business Day 15 would be included in the computation of withdrawal rights under Rule 14d-7(a)(2). Thus, withdrawal rights in X's tender offer would begin on Business Day 1 and terminate at the end of Business Day 17.

Rule 14d-7(d) addresses the question of how security holders can properly effect withdrawal of deposited securities. The commentators noted that the limited requirements in the proposal for effecting withdrawal, although reasonable in terms of serving as timely notice of withdrawal, would have unduly hampered the bidder's ability to protect itself against fraud in physically releasing the withdrawn securities. The provision has therefore been revised to specify the requirements for timely notice of withdrawal but to permit the bidder to impose reasonable requirements as conditions precedent to the physical release of withdrawn securities.

#### *Proposed Rule 14d-8: Purchases After Termination of Certain Tender Offers*

As a means designed to prevent circumvention of the so-called "best price rule" embodied in section 14(d)(7) of the Exchange Act, proposed Rule 14d-8 would have integrated, for the purpose of that subsection, certain purchases of subject company securities made by a bidder or its affiliates within forty business days after the termination of the bidder's tender offer. In view of the substantial problems raised by the commentators with respect to both the approach taken in the proposed rule and its operation and impact,<sup>26</sup> the Commission has determined not to adopt it. Nevertheless, the Commission continues to believe there is a need to prevent bidders from taking advantage

<sup>26</sup> See pages 111 to 131 of the summary of comments.

of unsettled market conditions following the termination of a tender offer. It is therefore concurrently publishing for comment proposed Rule 14e-5, described more fully in a companion release, which would prevent purchases of securities sought by the bidder in a tender offer for a period of ten business days following termination of the tender offer.

#### *Rule 14d-8: Exemption From Statutory Pro Rata Requirement*

Rule 14d-8 is identical to proposed Rule 14d-9. The rule establishes an exemption from section 14(d)(6) pursuant to Section 14(d)(8)(C) of the Exchange Act for a tender offer for less than all the outstanding equity securities of a class in which the bidder provides pro rata periods in excess of those required by section 14(d)(6). Thus, a bidder is allowed to use any proration period of more than ten days with respect to either the period after commencement or after notice of an increase in the consideration offered or both. The availability of the exemption is conditioned on disclosure of the different pro rata periods in the tender offer materials disseminated by the bidder on the date of commencement of the tender offer. In order to avail itself of this provision, a bidder would be required to notify security holders at the earliest possible time, i.e. the date of commencement, that pro rata time periods in addition to those required by statute will be provided in the tender offer. If no provision is made in the tender offer materials disseminated to security holders on the commencement date, the time requirements of section 14(d)(6) would apply and the bidder would be unable to vary the proration periods during the course of the tender offer. Disclosure at the commencement of a tender offer is intended to avoid confusion and uncertainty among security holders confronted with a tender offer for their shares.

Rule 14d-8 is voluntary and operates in a manner similar to that under section 14(d)(6). The Commission believes that the rule will resolve any doubt among practitioners that a bidder can extend either or both of the pro rata acceptance provisions beyond the ten-day periods without being in violation of section 14(d)(6). Moreover, the rule decreases the likelihood of hasty decision-making by investors and increases the opportunity for equal participation by all security holders in tender offers for less than all securities of a class.

#### *Rule 14d-9: Solicitation/Recommendation Statements With Respect to Certain Tender Offers*

Rule 14d-9 is applicable to any solicitation or recommendation with respect to a tender offer by a person described in Rule 14d-9(d). Rule 14d-9(a) requires the filing of Schedule 14D-9 with the Commission and transmittal of copies to certain persons as soon as practicable on the date the solicitation or recommendation is first published or sent or given to security holders. The procedures applicable to transmittal by the subject company of copies of its Schedule 14D-9 to national securities exchanges and to the NASD have been revised to parallel the changes to Rule 14d-3(a). Thus, in lieu of the hand delivery requirement proposed for comment, the subject company is required to give telephonic notice of certain information in the schedule and to mail a copy of the schedule to each national securities exchange where the security is registered and listed for trading and, if the class of securities is authorized for quotation in the NASDAQ interdealer quotation system, to the NASD.

Under Rule 14d-9(b), material changes in the information contained in the Schedule 14D-9 are required to be filed with the Commission and transmitted to the same persons who received the initial filing under Rules 14d-9(a)(2) and (a)(3). Such amendments must be filed and transmitted promptly but not later than the date the material change is first published or sent or given to security holders. The proposal required material changes to be disseminated to security holders, thus implicitly requiring disclosure of such changes to be made. Rule 14d-9(b) has been revised to make explicit both the obligation to disclose and to disseminate such changes. It has also been revised to specify that such disclosure and dissemination must be made promptly after the change has occurred.

Rule 14d-9(c) establishes minimum informational requirements for any solicitation or recommendation that is communicated to security holders.<sup>27</sup> In order to reduce the compliance burden, information furnished to security holders will not have to include the information required by Item 5 of Schedule 14D-9 with respect to persons making solicitations or recommendations on behalf of the person filing the Schedule 14D-9.

<sup>27</sup> In addition to the specific disclosure requirements of Rule 14d-10(c), solicitations/recommendations are also subject to section 14(e) of the Exchange Act.

Rule 14d-9(d) specifies the persons who are required to comply with Rule 14d-9. Paragraph (d)(1) identifies the persons whose solicitations/recommendations are subject to the rule and paragraph (d)(2) exempts specific persons from the rule. While the two paragraphs operate independently, they also interrelate. Thus, a person may be included within the first paragraph but not be required to comply with the rule because of an exemption provided in the second paragraph. The only significant changes in the provision from that proposed for comment are with respect to Rule 14d-9(d)(2). As proposed for comment, an exemption was available for persons required to file a Schedule 14D-1. This standard would have created a hiatus in the application of the rule to solicitations/recommendations by a person during the five-day period between the commencement of his tender offer under Rule 14d-2(b) and the filing of his Schedule 14D-1. By revising Rule 14d-9(d)(2)(i) to exempt bidders who have actually filed a Schedule 14D-1 pursuant to Rule 14d-3, solicitations/recommendations made during the five-day period will be covered by the rule. The revision also removes any ambiguity in the coverage of persons who are required to file a Schedule 14D-1 but have not done so. In addition, Rule 14d-9(d)(2)(ii) has been revised to eliminate the coverage of attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity.

A specific exemption is provided for the subject company's initial limited communication regarding a tender offer—the "stop-look-and-listen" letter under Rule 14d-9(e). This provision has been revised to accommodate new Rule 14e-2, described below. A subject company which is sending a "stop-look-and-listen" letter is required to state that on or before a specified date (no later than 10 business days<sup>28</sup> from the date of commencement) it will advise security holders of its position with respect to the tender offer. Thus, in order to avail itself of the exemption the subject company is required to make a subsequent communication which is deemed by Rule 14d-9(e) to constitute a solicitation/recommendation subject to Rule 14d-9.

<sup>28</sup> The time period has been shortened from the fifteen business days proposed for comment to conform with Rule 14e-2 and to ensure that security holders have adequate time to consider the subject company's position in making their investment decision.



**Schedule 14D-9: Solicitation/Recommendation Statement**

Schedule 14D-9 is intended to provide more meaningful information to security holders in the context of a tender offer. The Commission believes that the disclosure elicited by the Schedule will assist security holders in making their investment decision and in evaluating the merits of a solicitation/recommendation. With the exception of amendments to Items 4 and 7, and the Instruction to Item 3(b) the schedule is substantially the same as that proposed for comment.

Item 3(b) requires, if material, a description of any contract, agreement, arrangement or understanding and any actual or potential conflict of interest between the person filing the statement or its affiliates and either: (1) the subject company, its executive officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates. The instruction to Item 3(b) pertains to a Schedule filed by the subject company and provides that when the materiality standard is applicable it is not necessary under certain circumstances<sup>29</sup> to include in the Schedule a description of any contract, agreement, arrangement or understanding between the subject company or its affiliates and any executive officer or director of the subject company. As proposed for comment, the instruction would have permitted descriptions to be omitted only if they related to present employment by the subject company or its affiliates and the same information had been previously disclosed. The scope of the instruction has been expanded by permitting the omission of such descriptions which are unrelated to employment and by permitting reference to information which does not differ materially from information contained in communications filed with the Commission and disseminated to security holders.

Item 4 pertains to the solicitation or recommendation itself. Paragraph (a) of Item 4 requires the person filing the statement to state the nature of the

<sup>29</sup> The conditions for not including such descriptions in the schedule are: (1) the information, or information which does not differ materially from such information, has been disclosed in a proxy statement, report or other communication within one year of the date of filing of the Schedule with the Commission; (2) the proxy statement, report or other communication has been filed with the Commission; (3) the schedule and the solicitation/recommendation published, sent or given to security holders contain specific reference to the proxy statement, report or communication; and (4) a copy of the pertinent portion(s) of the proxy statement, report or other communication is filed as an exhibit to the schedule.

solicitation/recommendation and to specify whether the person is advising security holders to accept, reject or take other action with respect to the tender offer. In order to accommodate new Rule 14e-2, a new requirement has been added to paragraph (a) which requires a subject company which is not making a recommendation to state whether it is expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer. Thus, Item 4 is intended to serve as the vehicle for the subject company to satisfy the disclosure obligation imposed by Rule 14e-2 with respect to a tender offer subject to section 14(d). Item 4(b) has also been revised to account for Rule 14e-2. A subject company will therefore be required under this sub-item to state the reasons for its position with respect to the tender offer. It should be noted that the instruction to Item 4(b) indicates that conclusory statements will not be considered sufficient disclosure of the reasons stated in response thereto.

Item 7 of Schedule 14D-9 requires disclosure with respect to certain negotiations and transactions by the subject company. As proposed for comment, Item 7 would have required disclosure of any negotiation or transaction being undertaken in response to the tender offer by the subject company which related to or would have resulted in any of the following: (1) an extraordinary transaction, such as a merger or reorganization, involving the subject company or any subsidiary of the subject company; (2) a sale or transfer of a material amount of assets of the subject company or any of its subsidiaries; (3) a tender offer for or other acquisition of subject company securities; or (4) any material change in the subject company's present capitalization or dividend policy. The proposal was criticized by commentators who were concerned that it would elicit premature disclosure of negotiations with competing bidders which could dissuade them from making an offer. It was noted that this would be harmful to security holders since they would be prevented from obtaining the highest price for their securities. In addition, concern was expressed that such disclosure may, either innocently or fraudulently, induce security holders to reject a tender offer on the basis of an unjustified inference that a competing bid is imminent.

The Commission recognizes that premature disclosure of the matters contemplated by the proposal may be detrimental to the interests of security

holders. The effective representation of the interests of security holders may at times require management to maintain confidentiality during the formative stages of negotiations. On the other hand, the major developments referred to in Item 7 can be one of the most material items of information received by security holders.

The Commission has addressed these competing concerns by approaching disclosure of these matters at two levels. While the proposal would have required the subject company to describe negotiations in response to a tender offer which related to or would result in the specified events, new Item 7(a) requires a statement as to whether negotiations are being undertaken or are underway with respect to such events without requiring detailed disclosure. An instruction has also been added to Item 7(a) which clarifies the extent of the disclosure required with respect to negotiations. The instruction provides that, if an agreement in principle has not been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject company such disclosure would jeopardize continuation of such negotiations. In such event, disclosure that negotiations are being undertaken or are underway and are in the preliminary stages will be sufficient. Thus, security holders will be apprised that such negotiations are being held without the subject company's having to furnish disclosure which would discourage further negotiations. A full description is, however, required under Item 7(b) with respect to the matters referred in Item 7(a)(1), (2), (3) or (4) at the time of any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer. It should be noted, moreover, that Item 7 is not exclusive. Thus, in a particular case, requirements such as those imposed by section 14(e) of the Act may dictate the disclosure comprehended by either paragraphs (a) or (b) of Item 7 at an earlier time or in greater detail than that contemplated by the item.

**Rule 14e-1: Unlawful Tender Offer Practices**

With one exception Rule 14e-1(a) requires any tender offer to remain open for a minimum of twenty business days from the date it is first published or sent or given to security holders. The exception has been added to remove from the application of the rule tender offers by issuers for their own securities unless such offers are made in anticipation of or in response to another

person's tender offer for securities of the same class. Requiring a minimum period of twenty business days for issuer tender offers that are made in anticipation of or in response to a third party tender offer will preserve the neutrality of the Williams Act. It should be noted, however, that tender offers by certain issuers which are not made in anticipation of or in response to another person's tender offer would be required by Rule 13e-4<sup>30</sup> [17 CFR 240.13e-4] to remain open for fifteen business days from the date the tender offer is first published or sent or given to security holders. The Commission believes that in the special context of such issuer tender offers the minimum period provided by Rule 13e-4 is adequate.

The commentators expressed divergent views with respect to Rule 14e-1(a). While most of the commentators favored the adoption of a minimum period requirement in excess of the period implicit in the operation of the statute, there was no consensus as to what the length of the period should be.

The Commission finds persuasive the views of the commentators who indicated that a minimum period of thirty business days is unnecessarily long. In the Commission's view the objectives of a minimum period, which are discussed below, can be accomplished with a minimum period of twenty business days. These purposes do not, as suggested by some commentators, include the promotion of competing tender offers which normally result in increasing the consideration paid for the securities being sought. This has been the Commission's view in administering the Williams Act<sup>31</sup> and has also been judicially endorsed.<sup>32</sup> In any event, a study conducted by the Commission's Directorate of Economic and Policy Research of 153 cash tender offers for common stock listed on either the New York Stock Exchange or the American Stock Exchange during the

period from 1974 through 1978 reveals that most recent tender offers do not involve offers by competing bidders and do not have offer price revisions.

There are several purposes to be served by Rule 14e-1(a). Tender offers which do not stay open for a reasonable length of time increase the likelihood of hasty, ill-considered decision making on the basis of inadequate or incomplete information as well as the possibility for fraudulent, deceptive or manipulative acts or practices by a bidder and others. The problems engendered by tender offers of excessively short duration also may have provided part of the stimulus for some of the 36 states which have enacted antitakeover statutes since 1968. To the extent this was a purpose of such legislation, the attempt to alleviate the problem was laudable, but has resulted in an inconsistent, overlapping and often counter-productive pattern of regulation and in many instances may have tipped the carefully constructed balance between bidder and subject company envisioned by the Williams Act in favor of subject company.

Accordingly, the Commission believes that a uniformly applied federal regulation will better serve the purposes and policies of the Williams Act, including the interests of investors.

Tender offers which do not remain open for a reasonable period may impede the effective operation of Regulation 14D. In particular, Rule 14d-4 contemplates methods of dissemination which require a considerable period of time to accomplish. Two of these methods, summary publication and the use of shareholder lists and security position listings, involve mailings to security holders. The latter method also requires transmittal to beneficial owners of the securities being sought of the bidder's tender offer materials through the facilities of brokers, banks and similar persons. Although these methods will provide improved dissemination of tender offer materials, mailing and transmittal will reduce the amount of time available to security holders to consider the tender offer materials. The Commission therefore believes a minimum period of twenty business days is necessary.

For similar reasons, the Commission is adopting rule 14e-1(b) which requires that any tender offer<sup>33</sup> must remain open for at least ten business days after the date of the notice of an increase in either the offered consideration or the dealer's soliciting fee. The Commission

<sup>33</sup> Rule 14e-1(b) also includes an exception for issuer tender offers which are not made in anticipation of or in response to another person's tender offer for securities of the same class.

believes that this provision will facilitate communication during tender offers and provide a realistic time frame for security holders to evaluate certain increases before making an investment decision. In the Commission's view, Rule 14e-1(b) will alleviate undue pressure on security holders without unduly hindering the person making a tender offer.

Paragraphs (a) and (b) of Rule 14e-1 operate on a concurrent, rather than a consecutive, basis. For example, if the offeror increases the consideration offered on business day 3 of the tender offer, the ten business day requirement of Rule 14e-1(b) would expire during the twenty business day period of Rule 14e-1(a) and would not result in requiring the offer to be extended.

Rule 14e-1(c) has been revised to require a person making a tender offer to pay the consideration offered or to return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of the tender offer. This standard is also the standard applicable to issuer tender offers under Rule 13e-4(f)(5). Thus, any person making a tender offer is required to use all reasonable efforts to pay promptly for or to return deposited securities. The commission recognizes that the operation of this standard will be affected by the practices of the financial community and the following factors: current settlement, handling and delivery procedures relating to tenders made by guaranteed deliveries by appropriate institutions; procedures to cure technical defects in tenders; and the application of the Hart-Scott-Rodino Antitrust Improvements Act of 1976<sup>34</sup> and the rules promulgated thereunder.<sup>35</sup> The Commission believes that this provision will protect investors by ensuring that deposited securities are not tied up for an unreasonable length of time and will not unduly burden either the offeror or its depository in their operations after the termination of a tender offer.<sup>36</sup>

<sup>34</sup> 15 U.S.C. 18a et seq.

<sup>35</sup> See Release by Federal Trade Commission announcing promulgation of final rules re: Premerger Notification; Reporting and Waiting Period Requirements (July 31, 1978) (43 FR 33450).

<sup>36</sup> A memorandum from the Division of Corporation Finance which was submitted to the Senate Committee considering the Williams Act amendment pursuant to the request of Senator Williams to then Chairman Budge for examples of how the Commission proposed to implement the grant of rulemaking authority under section 14(e) identified one area to be addressed by the rulemaking authority as the situation in which:

[T]he person who makes a tender offer may fail (a) to pay for securities purchased, or (b) to return to their owner's securities not purchased promptly upon the termination of the tender offer in

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Finally, Rule 14e-1(d) has been revised to require notice of an extension of the tender offer to be issued through a press release or other public announcement no later than the earlier of: (i) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer; or (ii) if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer. The notice is required to include a statement of the approximate number of securities deposited up to the date of such notice. As proposed for comment, a notice of extension would have been required to be issued promptly, but not later than one business day before the scheduled expiration date of the tender offer. Since most shares are tendered on the last day of the tender offer, the Commission agrees with the commentators that the proposal was not feasible.

#### Proposed Rule 14e-2

Proposed Rule 14e-2 included three provisions designed to address the problem of purchases of subject company securities by any person, including a bidder, on the basis of certain material, non-public information, i.e., the undisclosed determination of the bidder to make a tender offer for such securities. For the reasons discussed below, this proposal has been withdrawn and a revised proposed Rule 14e-3, is being published for comment in the companion release.

Proposed Rule 14e-2(a) would have applied to any person, other than the bidder, who purchased subject company securities on the basis of non-public information received directly or indirectly from a bidder that enabled the person to know or reasonably believe that the bidder would make a tender offer for such securities. The proposal would have proscribed any purchase of subject company securities by a person in receipt of such information unless prior to the purchase the person publicly announced the information received and its source. In view of the comments received and its subsequent experience, the Commission believes that a more generic approach to this question is needed. Therefore, the Commission is concurrently proposing for comment proposed Rule 14e-3(a) which pertains to purchases of subject company

securities by persons on the basis of any material non-public information relating to a tender offer, including the determination to make a tender offer.

Proposed Rule 14e-2(b) would have required a bidder who knew or had reason to believe that another person had violated, was in the process of violating, or was about to violate proposed Rule 14e-2(a) to promptly make a public announcement of appropriate information with respect to the bidder's tender offer for subject company securities. This proposal was intended to provide a reasonable assurance that in the event of violations of proposed Rule 14e-2(a) the marketplace and investors would be promptly alerted by the bidder. The Commission continues to believe that the bidder's role is critical in preventing the misuse of material non-public information relating to a tender offer. However, in view of the substantial concerns raised by the commentators with respect to the proposal, the Commission has determined that a different approach to the problem is more feasible. Therefore, the Commission is concurrently publishing for comment a proposed Rule 14e-3(b) which addresses the source rather than the effect of the problem. Generally, the proposal would prohibit any tender offeror from communicating material non-public information relating to the tender offer to any other person if the tender offeror knows or has reason to believe such other person is likely to purchase subject company securities on the basis of such information.

Proposed Rule 14e-2(c) would have prohibited the purchase of subject company securities by a bidder which had determined to make a tender offer therefor but had not yet publicly announced its intention to do so unless prior to any such purchase the bidder made a public announcement of certain information. The commentators raised a number of problems with respect to the proposal. They noted that it would prohibit the widely used acquisition technique of making a negotiated block purchase followed by an "any and all" tender offer at the same price to all other stockholders. It was also noted that the increased risk that purchases made to test the market would be construed in hindsight to have violated the proposal would cause many prospective bidders to stay out of the market. In the commentators' view, this problem is exacerbated by the absence of a definition of the term "tender offer." It was submitted that without a definition it would be difficult to know when a determination to make a tender

has been reached. Because of these changes and other changes in tender offer practice which would be brought about by the proposal, commentators were of the view that it would shift the balance of regulation and would dissuade bidders from making tender offers. For these as well as other reasons, the Commission has determined not to adopt the proposal at this time. However, the Commission continues to be concerned by purchases by bidders after the determination to make a tender offer has been made and may revisit the issue after final rulemaking action has been taken with respect to the proposed definition of the term "tender offer."

#### Rule 14e-2: Position of Subject Company With Respect to a Tender Offer

The Commission requested specific comment in the February release with regard to whether a rule should be adopted under the Williams Act which would require subject company management to disclose to security holders that: (1) the subject company recommends acceptance or rejection of a tender offer; (2) the subject company is expressing no opinion and is remaining neutral toward the tender offer; or (3) the subject company is unable to take a position with respect to the tender offer. It was also noted that if the subject company's position changed during the tender offer, timely disclosure of such change would be required. Comment was also requested as to the appropriateness of specifying this obligation by rule under section 14(d)(4) and/or section 14(e) of the Williams Act.

Rule 14e-2 implements this specific inquiry by requiring the subject company to publish or send or give to security holders a statement disclosing its position with respect to the tender offer within ten business days of the commencement of a tender offer by a person other than the issuer. The statement of position would take one of three forms: (1) the subject company recommends acceptance or rejection of a tender offer; (2) the subject company expresses no opinion and will remain neutral toward the tender offer; or (3) the subject company is unable to take a position with respect to the tender offer. In addition, the subject company is required to include the reason(s) for its position with respect to the tender offer, including the inability to take a position. If a subject company changes its position or other material changes occur in the disclosure required by the rule, the subject company is required to promptly publish or send or give to security holders a statement disclosing such material change.

As noted previously, a statement of position pursuant to Rule 14e-2 with respect to a tender offer which is subject to section 14(d)(1) of the Act is deemed by Rule 14d-9(f) to constitute a solicitation or recommendation within the meaning of Rule 14d-9 and section 14(d)(4) of the Act. In such case, a subject company is required to comply with the requirements of Rule 14d-9. Thus, among other things, a subject company is required to file a Schedule 14D-9 with the Commission and include the information required by certain items thereof in the information disseminated to security holders. Item 4 of the Schedule is among the items of information which is required to be communicated to security holders and is intended to serve as the vehicle by which the subject company will satisfy its disclosure obligation under Rule 14e-2 with respect to tender offers subject to section 14(d)(1).

Rule 14e-2 is predicated primarily on section 14(e) which grants to the Commission authority to define and prescribe means reasonably designed to prevent fraudulent, deceptive or manipulative acts and practices in connection with any tender offer. This rulemaking authority was granted to the Commission by the 1970 Williams Act amendments. During his testimony at the Senate hearings on this legislation, then Chairman Budge was asked by Senator Williams to give the committee "some examples of fraudulent, deceptive or manipulative practices used in tender offers which the proposed Commission rulemaking powers would prevent."<sup>37</sup> In response to this specific request, a memorandum from the Commission's Division of Corporation Finance was submitted for the record. Among the "problem areas" enumerated by this memorandum which the staff proposed to deal with by the rulemaking authority under section 14(e), as amended, was the situation in which:

Management of the target company in a tender offer may omit to make timely disclosure of its position in favor of or in opposition to such bids or change in such position.<sup>38</sup>

Rule 14e-2 is designed to address the problem identified by the Commission staff memorandum in a manner similar to that described therein. The subject company's position with respect to a tender offer can have a determinative effect on the outcome of a tender offer and thus is material to security holders. The subject company

therefore should not be permitted to state its position when it maximizes its tactical advantage and to remain silent when it does not. Such complete discretion increases the likelihood for hasty, ill-considered decision-making by security holders and the possibility for fraudulent, deceptive or manipulative acts or practices by a subject company and others. It is also inconsistent with the neutrality between bidders and subject companies sought to be achieved by the Williams Act.

The Commission believes that the ten business day period will provide the subject company with sufficient time to consider, analyze and formulate a position with respect to the tender offer. Since Rule 14e-1(a) requires a third-party tender offer to remain open for twenty business days, the subject company has an effective opportunity to furnish "any information at its disposal pertinent to the merits of the offer before security holders are required to respond to it."<sup>39</sup> Moreover, since Rule 14d-7(a)(1) allows security holders to withdraw their securities until the expiration of fifteen business days from the date the tender offer commences, security holders will have at least five business days to reconsider their decision to deposit their securities in light of the information provided to them by the subject company. The Commission believes that the statement of the subject company's position within ten business days of commencement together with a twenty business day minimum period will "Avoid tipping the balance of regulation either in favor of [the subject company] or in favor of the person making the takeover bid."<sup>41</sup>

#### III. Certain Findings

In publishing the February proposals, the Commission specifically invited comments with respect to: (1) whether the costs imposed on bidders, subject companies and/or others by the proposals would outweigh their benefits to investors and the public interest; and (2) whether any proposed rule or the proposed schedule, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act.

<sup>37</sup>"By reason of the special relationship between them, shareholders are likely to rely heavily upon the representations of corporate insiders when the shareholders find themselves in the midst of a battle for control." *Chris Craft Industries, Inc. v. Piper Aircraft Corp.*, 480 F.2d 341, 364-65 (2d Cir. 1973), *Cert. denied*, 414 U.S. 910 (1973).

<sup>38</sup>Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. 19 (1967).

<sup>39</sup>S. Rep. No. 550, 90th Cong., 1st Sess. 3 (1967).

The comment letters did not provide any significant basis for concluding that the implementation of the Commission's statutory mandate in the manner proposed would be outweighed by such possible additional costs. Accordingly, the Commission finds that the costs imposed on bidders, subject companies and others by the rules and schedule published herein are not unreasonable and are far outweighed by the benefits which will accrue to investors.

As required by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the rules and schedule published herein will have on competition. The Commission finds that compliance with the rules and schedule will not impose any significant burden on competition. In any event, the Commission has determined that any possible competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of the rules and schedule to investors.

#### IV. Operation of Rules and Schedule, Effective Date

The rules and schedule published herein are not applicable to any tender offer which has been published or sent or given to security holders prior to their effective date. The rules and schedule will become effective January 7, 1980. No person is relieved from such person's present obligations under other provisions of the Federal securities laws pending the effective date of the rules and schedule.

#### V. Text of Adopted Rules and Schedule

The text of the rules and schedule is set forth below.

#### Text of Rules

#### PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

I. Section 230.434b of 17 CFR Part 230 is amended to read as follows:

#### § 230.434b Additional information required to be included in prospectuses relating to tender offers.

Notwithstanding the provisions of any form for the registration of securities under the Act, any prospectus relating to securities to be offered in connection with a tender offer for, or a request or invitation for tenders of, securities which is subject to section 14(d) of the Securities Exchange Act of 1934 shall include all of the information, not otherwise required to be included therein, required by § 240.14d-6(e)(1) of this chapter to be included in all such tender offers, requests or invitations, published or sent or given to the holders of such securities.

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accordance with the practices of the financial community for settlement of transactions, usually within five days.

1970 Senate Hearings at 11-12.

<sup>37</sup>Hearings on S. 336 and S. 3431 Before the Subcomm. on Securities of the Senate Comm. on Banking 91st Cong., 2d Sess. 11 (1970) [the "1970 Senate Hearings"].

<sup>38</sup>*Id.* at 12.



# **PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

II. Section 240.13d-101 of 17 CFR Part 240 is amended by revising Instruction B to read as follows:

**§ 240.13d-101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d-1(a) and amendments thereto filed pursuant to § 240.13d-2(a).**

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Commission for all purposes of the Act.

III. Sections 240.14d-1 through 240.14d-101 (Regulation 14D) of 17 CFR Part 240 are revised as follows:

## **Regulation 14D**

**§ 240.14d-1 Scope of and definitions applicable to Regulations 14D and 14E.**

(a) *Scope.* Regulation 14D (§§ 240.14d-1 through 240.14d-101) shall apply to any tender offer which is subject to section 14(d)(1) of the Act, including, but not limited to, any tender offer for securities of a class described in that section which is made by an affiliate of the issuer of such class. Regulation 14E (§§ 240.14e-1 and 240.14e-2) shall apply to any tender offer for securities (other than exempted securities) unless otherwise noted therein.

(b) *Definitions.* Unless the context otherwise requires, all terms used in Regulation 14D and Regulation 14E have the same meaning as in the Act and in Rule 12b-2 (§ 240.12b-2) promulgated thereunder. In addition, for purposes of sections 14(d) and 14(e) of the Act and Regulations 14D and 14E, the following definitions apply:

(1) The term "bidder" means any person who makes a tender offer or on whose behalf a tender offer is made; *Provided, however,* That the term does not include an issuer which makes a tender offer for securities of any class of which it is the issuer;

(2) The term "subject company" means any issuer of securities which are

sought by a bidder pursuant to a tender offer;

(3) The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer;

(4) The term "beneficial owner" shall have the same meaning as that set forth in Rule 13d-3: *Provided, however,* That, except with respect to Rule 14d-3, Rule 14d-9(d) and Item 6 of Schedule 14D-1, the term shall not include a person who does not have or share investment power or who is deemed to be a beneficial owner by virtue of Rule 13d-3(d)(1) (§ 240.13d-3(d)(1));

(5) The term "tender offer material" means:

(i) The bidder's formal offer, including all the material terms and conditions of the tender offer and all amendments thereto;

(ii) The related transmittal letter (whereby securities of the subject company which are sought in the tender offer may be transmitted to the bidder or its depository) and all amendments thereto; and

(iii) Press releases, advertisements, letters and other documents published by the bidder or sent or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer;

(6) The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for a corporation;

(7) The term "business day" means any day, other than Saturday, Sunday or a federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern time. In computing any time period under section 14(d)(5) or section 14(d)(6) of the Act or under Regulation 14D or Regulation 14E, the date of the event which begins the running of such time period shall be included *except that* if such event occurs on other than a business day such period shall begin to run on and shall include the first business day thereafter; and

(8) The term "security position listing" means, with respect to securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

**§ 240.14d-2 Date of commencement of a tender offer.**

(a) *Commencement.* A tender offer shall commence for the purposes of section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(1) The long form publication of the tender offer is first published by the bidder pursuant to Rule 14d-4 (a)(1) (§ 240.14d-4(a)(1));

(2) The summary advertisement of the tender offer is first published by the bidder pursuant to Rule 14d-4 (a)(2) (§ 240.14d-4(a)(2));

(3) The summary advertisement or the long form publication of the tender offer is first published by the bidder pursuant to Rule 14d-4(a)(3) (§ 240.14d-4(a)(3));

(4) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered pursuant to the Securities Act of 1933, are first published or sent or given by the bidder to security holders; or

(5) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in paragraphs (a)(1) through (a)(4) of this section.

(b) *Public announcement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which includes the information in paragraph (c) of this section with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under paragraph (a)(5) of this section on the date of such public announcement if within five business days of such public announcement, the bidder either:

(1) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event paragraph (a)(5) of this section shall not apply to the initial public announcement; or

(2) Complies with Rule 14d-3(a) (§ 240.14d-3(a)) and contemporaneously disseminates the disclosure required by Rule 14d-6 (§ 240.14d-6) to security holders pursuant to Rule 14d-4 (§ 240.14d-4) or otherwise in which event:

(i) The date of commencement of such tender offer under paragraph (a) of this section will be determined by the date

the information required by Rule 14d-6 is first published or sent or given to security holders pursuant to Rule 14d-4 or otherwise; and

(ii) Notwithstanding paragraph (b)(2)(i) of this section, section 14(d)(7) of the Act shall be deemed to apply to such tender offer from the date of such public announcement.

(c) *Information.* The information referred to in paragraph (b) of this section is as follows:

(1) The identity of the bidder;

(2) The identity of the subject company; and

(3) The amount and class of securities being sought and the price or range of prices being offered therefor.

(d) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which only discloses the information in paragraphs (d)(1) through (d)(3) of this section concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section.

(1) The identity of the bidder;

(2) The identity of the subject company; and

(3) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject company which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(e) *Announcement made pursuant to Rule 135.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which discloses only the information in Rule 135(a)(4) (§ 230.135(a)(4)) concerning a tender offer in which the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section:

*Provided,* That such bidder files a registration statement with respect to such securities promptly after such public announcement.

**§ 240.14d-3 Filing and transmission of tender offer statement.**

(a) *Filing and transmittal.* No bidder shall make a tender offer if, after consummation thereof, such bidder would be the beneficial owner of more than 5 percent of the class of the subject company's securities for which the tender offer is made, unless as soon as

practicable on the date of the commencement of the tender offer such bidder:

(1) Files with the Commission ten copies of a Tender Offer Statement on Schedule 14D-1 (§ 240.14d-100), including all exhibits thereto;

(2) Hand delivers a copy of such Schedule 14D-1, including all exhibits thereto;

(i) To the subject company at its principal executive office; and

(ii) To any other bidder, which has filed a Schedule 14D-1 with the Commission relating to a tender offer which has not yet terminated for the same class of securities of the subject company, at such bidder's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Schedule 14D-1);

(3) Gives telephonic notice of the information required by Rule 14d-6(e)(2) (i) and (ii) (§ 240.14d-6(e)(2) (i) and (ii)) and mails by means of first class mail a copy of such Schedule 14D-1, including all exhibits thereto;

(i) To each national securities exchange where such class of the subject company's securities is registered and listed for trading (which may be based upon information contained in the subject company's most recent Annual Report on Form 10-K (§ 249.310) filed with the Commission unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

(ii) To the National Association of Securities Dealers, Inc. ("NASD") if such class of the subject company's securities is authorized for quotation in the NASDAQ interdealer quotation system.

(b) *Additional materials.* The bidder shall file with the Commission ten copies of any additional tender offer materials as an exhibit to the Schedule 14D-1 required by this section, and if a material change occurs in the information set forth in such Schedule 14D-1, ten copies of an amendment to Schedule 14D-1 (each of which shall include all exhibits other than those required by Item 11(a) of Schedule 14D-1) disclosing such change and shall send a copy of such additional tender offer material or such amendment to the subject company and to any exchange and/or the NASD, as required by paragraph (a) of this section, promptly but not later than the date such additional tender offer material or such change is first published or sent or given to security holders.

(c) *Certain announcements.*

Notwithstanding the provisions of paragraph (b) of this section, if the additional tender offer material or an amendment to Schedule 14d-1 discloses only the number of shares deposited to date, and/or announces an extension of the time during which shares may be tendered, then the bidder may file such tender offer material or amendment and send a copy of such tender offer material or amendment to the subject company, any exchange and/or the NASD, as required by paragraph (a) of this section, promptly after the date such tender offer material is first published or sent or given to security holders.

**§ 240.14d-4 Dissemination of certain tender offers.**

(a) *Materials deemed published or sent or given.* A tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed "published or sent or given to security holders" within the meaning of section 14(d)(1) of the Act if the bidder complies with all of the requirements of any one of the following sub-paragraphs: *Provided, however,* That any such tender offers may be published or sent or given to security holders by other methods, but with respect to summary publication, and the use of stockholder lists and security position listings pursuant to Rule 14d-5, paragraphs (a)(2) and (a)(3) of this section are exclusive.

(1) *Long-form publication.* The bidder makes adequate publication in a newspaper or newspapers of long-form publication of the tender offer.

(2) *Summary publication.* (i) If the tender offer is not subject to Rule 13e-3 (§ 240.13e-3), the bidder makes adequate publication in a newspaper or newspapers of a summary advertisement of the tender offer; and

(ii) Mails by first class mail or otherwise furnishes with reasonable promptness the bidder's tender offer materials to any security holder who requests such tender offer materials pursuant to the summary advertisement or otherwise.

(3) *Use of stockholder lists and security position listings.* Any bidder using stockholder lists and security position listings pursuant to Rule 14d-5 shall comply with paragraphs (a)(1) or (a)(2) of this section on or prior to the date of the bidder's request for such lists or listing pursuant to Rule 14d-5(a).

(b) *Adequate publication.* Depending on the facts and circumstances involved, adequate publication of a tender offer pursuant to this section may require



publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation or may require publication in a combination thereof: *Provided, however*, That publication in all editions of a daily newspaper with a national circulation shall be deemed to constitute adequate publication.

(c) *Publication of changes.* If a tender offer has been published or sent or given to security holders by one or more of the methods enumerated in paragraph (a) of this section, a material change in the information published or sent or given to security holders shall be promptly disseminated to security holders in a manner reasonably designed to inform security holders of such change; *Provided, however*, That if the bidder has elected pursuant to rule 14d-5 (f)(1) of this section to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to Rule 14d-5, the bidder shall disseminate material changes in the information published or sent or given to security holders at least pursuant to Rule 14d-5.

**§ 240.14d-5 Dissemination of certain tender offers by the use of stockholder lists and security position listings.**

(a) *Obligations of the subject company.* Upon receipt by a subject company at its principal executive offices of a bidder's written request, meeting the requirements of paragraph (e) of this section, the subject company shall comply with the following subparagraphs.

(1) The subject company shall notify promptly transfer agents and any other person who will assist the subject company in complying with the requirements of this section of the receipt by the subject company of a request by a bidder pursuant to this section.

(2) The subject company shall promptly ascertain whether the most recently prepared stockholder list, written or otherwise, within the access of the subject company was prepared as of a date earlier than ten business days before the date of the bidder's request and, if so, the subject company shall promptly prepare or cause to be prepared a stockholder list as of the most recent practicable date which shall not be more than ten business days before the date of the bidder's request.

(3) The subject company shall make an election to comply and shall comply with all of the provisions of either paragraph (b) or paragraph (c) of this section. The subject company's election once made shall not be modified or

revoked during the bidder's tender offer and extensions thereof.

(4) No later than the second business day after the date of the bidder's request, the subject company shall orally notify the bidder, which notification shall be confirmed in writing, of the subject company's election made pursuant to paragraph (a)(3) of this section. Such notification shall indicate (i) the approximate number of security holders of the class of securities being sought by the bidder and, (ii) if the subject company elects to comply with paragraph (b) of this section, appropriate information concerning the location for delivery of the bidder's tender offer materials and the approximate direct costs incidental to the mailing to security holders of the bidder's tender offer materials computed in accordance with paragraph (g)(2) of this section.

(b) *Mailing of tender offer materials by the subject company.* A subject company which elects pursuant to paragraph (a)(3) of this section to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(1) The subject company shall promptly contact each participant named on the most recent security position listing of any clearing agency within the access of the subject company and make inquiry of each such participant as to the approximate number of beneficial owners of the subject company securities being sought in the tender offer held by each such participant.

(2) No later than the third business day after delivery of the bidder's tender offer materials pursuant to paragraph (g)(1) of this section, the subject company shall begin to mail or cause to be mailed by means of first class mail a copy of the bidder's tender offer materials to each person whose name appears as a record holder of the class of securities for which the offer is made on the most recent stockholder list referred to in paragraph (a)(2) of this section. The subject company shall use its best efforts to complete the mailing in a timely manner but in no event shall such mailing be completed in a substantially greater period of time than the subject company would complete a mailing to security holders of its own materials relating to the tender offer.

(3) No later than the third business day after the delivery of the bidder's tender offer materials pursuant to paragraph (g)(1) of this section, the subject company shall begin to transmit or cause to be transmitted a sufficient number of sets of the bidder's tender

offer materials to the participants named on the security position listings described in paragraph (b)(1) of this section. The subject company shall use its best efforts to complete the transmittal in a timely manner but in no event shall such transmittal be completed in a substantially greater period of time than the subject company would complete a transmittal to such participants pursuant to security position listings of clearing agencies of its own material relating to the tender offer.

(4) The subject company shall promptly give oral notification to the bidder, which notification shall be confirmed in writing, of the commencement of the mailing pursuant to paragraph (b)(2) of this section and of the transmittal pursuant to paragraph (b)(3) of this section.

(5) During the tender offer and any extension thereof the subject company shall use reasonable efforts to update the stockholder list and shall mail or cause to be mailed promptly following each update a copy of the bidder's tender offer materials (to the extent sufficient sets of such materials have been furnished by the bidder) to each person who has become a record holder since the later of (i) the date of preparation of the most recent stockholder list referred to in paragraph (a)(2) of this section or (ii) the last preceding update.

(6) If the bidder has elected pursuant to paragraph (f)(1) of this section to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to this section, the subject company, promptly following delivery of each such amendment, shall mail or cause to be mailed a copy of each such amendment to each record holder whose name appears on the shareholder list described in paragraphs (a)(2) and (b)(5) of this section and shall transmit or cause to be transmitted sufficient copies of such amendment to each participant named on security position listings who received sets of the bidder's tender offer materials pursuant to paragraph (b)(3) of this section.

(7) The subject company shall not include any communication other than the bidder's tender offer materials or amendments thereto in the envelopes or other containers furnished by the bidder.

(8) Promptly following the termination of the tender offer, the subject company shall reimburse the bidder the excess, if any, of the amounts advanced pursuant to paragraph (f)(3)(iii) over the direct costs incidental to compliance by the subject company and its agents in

performing the acts required by this section computed in accordance with paragraph (g)(2) of this section.

(c) *Delivery of stockholder lists and security position listings.* A subject company which elects pursuant to paragraph (a)(3) of this section to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(1) No later than the third business day after the date of the bidder's request, the subject company shall furnish to the bidder at the subject company's principal executive office a copy of the names and addresses of the record holders on the most recent stockholder list referred to in paragraph (a)(2) of this section and a copy of the names and addresses of participants identified on the most recent security position listing of any clearing agency which is within the access of the subject company.

(2) If the bidder has elected pursuant to paragraph (f)(1) of this section to require the subject company to disseminate amendments disclosing material changes to the tender offer materials, the subject company shall update the stockholder list by furnishing the bidder with the name and address of each record holder named on the stockholder list, and not previously furnished to the bidder, promptly after such information becomes available to the subject company during the tender offer and any extensions thereof.

(d) *Liability of subject company and others.* Neither the subject company nor any affiliate or agent of the subject company nor any clearing agency shall be:

(1) Deemed to have made a solicitation or recommendation respecting the tender offer within the meaning of section 14(d)(4) based solely upon the compliance or noncompliance by the subject company or any affiliate or agent of the subject company with one or more requirements of this section;

(2) Liable under any provision of the Federal securities laws to the bidder or to any security holder based solely upon the inaccuracy of the current names or addresses on the stockholder list or security position listing, unless such inaccuracy results from a lack of reasonable care on the part of the subject company or any affiliate or agent of the subject company;

(3) Deemed to be an "underwriter" within the meaning of section (2)(11) of the Securities Act of 1933 for any purpose of that Act or any rule or regulation promulgated thereunder based solely upon the compliance or noncompliance by the subject company

or any affiliate or agent of the subject company with one or more of the requirements of this section;

(4) Liable under any provision of the Federal securities laws for the disclosure in the bidder's tender offer materials, including any amendment thereto, based solely upon the compliance or noncompliance by the subject company or any affiliate or agent of the subject company with one or more of the requirements of this section.

(e) *Content of the bidder's request.* The bidder's written request referred to in paragraph (a) of this section shall include the following:

(1) The identity of the bidder;

(2) The title of the class of securities which is the subject of the bidder's tender offer;

(3) A statement that the bidder is making a request to the subject company pursuant to paragraph (a) of this section for the use of the stockholder list and security position listings for the purpose of disseminating a tender offer to security holders;

(4) A statement that the bidder is aware of and will comply with the provisions of paragraph (f) of this section;

(5) A statement as to whether or not it has elected pursuant to paragraph (f)(1) of this section to disseminate amendments disclosing material changes to the tender offer materials pursuant to this section; and

(6) The name, address and telephone number of the person whom the subject company shall contact pursuant to paragraph (a)(4) of this section.

(f) *Obligations of the bidder.* Any bidder who requests that a subject company comply with the provisions of paragraph (a) of this section shall comply with the following subparagraphs.

(1) The bidder shall make an election whether or not to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to this section, which election shall be included in the request referred to in paragraph (a) of this section and shall not be revocable by the bidder during the tender offer and extensions thereof.

(2) With respect to a tender offer subject to section 14(d)(1) of the Act in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933, the bidder shall comply with the requirements of Rule 14d-4(a)(3).

(3) If the subject company elects to comply with paragraph (b) of this section,

(i) The bidder shall promptly deliver the tender offer materials after receipt of the notification from the subject company as provided in paragraph (a)(4) of this section;

(ii) The bidder shall promptly notify the subject company of any amendment to the bidder's tender offer materials requiring compliance by the subject company with paragraph (b)(6) of this section and shall promptly deliver such amendment to the subject company pursuant to paragraph (g)(1) of this section;

(iii) The bidder shall advance to the subject company an amount equal to the approximate cost of conducting mailings to security holders computed in accordance with paragraph (g)(2) of this section;

(iv) The bidder shall promptly reimburse the subject company for the direct costs incidental to compliance by the subject company and its agents in performing the acts required by this section computed in accordance with paragraph (g)(2) of this section which are in excess of the amount advanced pursuant to paragraph (f)(2)(iii) of this section; and

(v) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials.

(4) If the subject company elects to comply with paragraph (c) of this section,

(i) The bidder shall use the stockholder list and security position listings furnished to the bidder pursuant to paragraph (c) of this section exclusively in the dissemination of tender offer materials to security holders in connection with the bidder's tender offer and extensions thereof;

(ii) The bidder shall return the stockholder lists and security position listings furnished to the bidder pursuant to paragraph (c) of this section promptly after the termination of the bidder's tender offer;

(iii) The bidder shall accept, handle and return the stockholder lists and security position listings furnished to the bidder pursuant to paragraph (c) of this section to the subject company on a confidential basis;

(iv) The bidder shall not retain any stockholder list or security position listing furnished by the subject company pursuant to paragraph (c) of this section, or any copy thereof, nor retain any information derived from any such list or listing or copy thereof after the termination of the bidder's tender offer;

(v) The bidder shall mail by means of first class mail, at its own expense, a copy of its tender offer materials to each



person whose identity appears on the stockholder list as furnished and updated by the subject company pursuant to paragraphs (c)(1) and (c)(2) of this section;

(vi) The bidder shall contact the participants named on the security position listing of any clearing agency, make inquiry of each participant as to the approximate number of sets of tender offer materials required by each such participant, and furnish, at its own expense, sufficient sets of tender offer materials and any amendment thereto to each such participant for subsequent transmission to the beneficial owners of the securities being sought by the bidder;

(vii) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials; and

(viii) The bidder shall promptly reimburse the subject company for direct costs incidental to compliance by the subject company and its agents in performing the acts required by this section computed in accordance with paragraph (g)(2) of this section.

(g) *Delivery of materials, computation of direct costs.*

(1) Whenever the bidder is required to deliver tender offer materials or amendments to tender offer materials, the bidder shall deliver to the subject company at the location specified by the subject company in its notice given pursuant to paragraph (a)(4) of this section a number of sets of the materials or of the amendment, as the case may be, at least equal to the approximate number of security holders specified by the subject company in such notice, together with appropriate envelopes or other containers therefor: *Provided, however,* That such delivery shall be deemed not to have been made unless the bidder has complied with paragraph (f)(3)(iii) of this section at the time the materials or amendments, as the case may be, are delivered.

(2) The approximate direct cost of mailing the bidder's tender offer materials shall be computed by adding (i) the direct cost incidental to the mailing of the subject company's last annual report to shareholders (excluding employee time), less the costs of preparation and printing of the report, and postage, plus (ii) the amount of first class postage required to mail the bidder's tender offer materials. The approximate direct costs incidental to the mailing of the amendments to the bidder's tender offer materials shall be computed by adding (iii) the estimated direct costs of preparing mailing labels, of updating shareholder lists and of

third party handling charges plus (iv) the amount of first class postage required to mail the bidder's amendment. Direct costs incidental to the mailing of the bidder's tender offer materials and amendments thereto when finally computed may include all reasonable charges paid by the subject company to third parties for supplies or services, including costs attendant to preparing shareholder lists, mailing labels, handling the bidder's materials, contacting participants named on security position listings and for postage, but shall exclude indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject company. The final billing for direct costs shall be accompanied by an appropriate accounting in reasonable detail.

#### § 240.14d-6 Disclosure requirements with respect to tender offers.

(a) *Information required on date of commencement.*

(1) *Long-form publication.* If a tender offer is published or sent or given to security holders on the date of commencement by means of long-form publication pursuant to Rule 14d-4(a)(1) (§ 240.14d-4(a)(1)), such long-form publication shall include the information required by paragraph (e)(1) of this section.

(2) *Summary publication.* If a tender offer is published or sent or given to security holders on the date of commencement by means of summary publication pursuant to Rule 14d-4(a)(2) (§ 240.14d-4(a)(2)),

(i) The summary advertisement shall contain and shall be limited to, the information required by paragraph (e)(2) of this section; and

(ii) The tender offer materials furnished by the bidder upon the request of any security holder shall include the information required by paragraph (e)(1) of this section.

(3) *Use of stockholder lists and security position listings.* If a tender offer is published or sent or given to security holders on the date of commencement by the use of stockholders lists and security position listings pursuant to Rule 14d-4(a)(3) (§ 240.14d-4(a)(3)),

(i) Either (A) the summary advertisement shall contain, and shall be limited to the information required by paragraph (e)(2) of this section, or (B) if long form publication of the tender offer is made, such long form publication shall include the information required by paragraph (e)(1) of this section; and

(ii) The tender offer materials transmitted to security holders pursuant

to such lists and security position listings and furnished by the bidder upon the request of any security holder shall include the information required by paragraph (e)(1) of this section.

(4) *Other tender offers.* If a tender offer is published or sent or given to security holders other than pursuant to Rule 14d-4(a) (§ 240.14d-4(a)), the tender offer materials which are published or sent or given to security holders on the date of commencement of such offer shall include the information required by paragraph (e)(1) of this section.

(b) *Information required in summary advertisement made after commencement.* A summary advertisement published subsequent to the date of commencement of the tender offer shall include at least the information specified in paragraphs (e)(1)(i)-(iv) and (e)(2)(iv) of this section.

(c) *Information required in other tender offer materials published after commencement.* Except for summary advertisements described in paragraph (b) of this section and tender offer materials described in paragraphs (a)(2)(ii) and (a)(3)(ii) of this section, additional tender offer materials published, sent or given to security holders subsequent to the date of commencement shall include the information required by paragraphs (e)(1) and may omit any of the information required by paragraphs (e)(1)(v)-(viii) of this section which has been previously furnished by the bidder in connection with the tender offer.

(d) *Material changes.* A material change in the information published or sent or given to security holders shall be promptly disclosed to security holders in additional tender offer materials.

(e) *Information to be included.—(1) Long-form publication and tender offer materials.* The information required to be disclosed by paragraphs (a)(1), (a)(2)(ii), (a)(3)(i)(B) and (a)(4) of this section shall include the following:

(i) The identity of the bidder,

(ii) The identity of the subject company;

(iii) The amount and class of securities being sought and the type and amount of consideration being offered therefor;

(iv) The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;

(v) The exact dates prior to which, and after which, security holders who deposit their securities will have the right to withdraw their securities pursuant to section 14(d)(5) of the Act and Rule 14d-7 (§ 240.14d-7) and the manner in which shares will be

accepted for payment and in which withdrawal may be effected;

(vi) If the tender offer is for less than all the outstanding securities of a class of equity securities and the bidder is not obligated to purchase all of the securities tendered, the period or periods, and in the case of the period from the commencement of the offer, the date of the expiration of such period during which the securities will be taken up pro rata pursuant to section 14(d)(6) of the Act or Rule 14d-8 (§ 240.14d-8), and the present intention or plan of the bidder with respect to the tender offer in the event of an oversubscription by security holders;

(vii) The disclosure required by Items 1(c); 2 (with respect to persons other than the bidder, excluding sub-items (b) and (d)); 3; 4; 5; 6; 7; 8; and 10 of Schedule 14D-1 (§ 240.14d-100) or a fair and adequate summary thereof; *Provided, however,* That negative responses to any such item or sub-item or Schedule 14D-1 (§ 240.14d-100) need not be included; and

(viii) The disclosure required by Item 9 of Schedule 14D-1 or a fair and adequate summary thereof. (Under normal circumstances, summary financial information equivalent to that required by paragraph (e) of Guide 59 of the Guides for Preparation and Filing of Registration Statements for the periods covered by the financial information furnished in response to Item 9 will be a sufficient summary. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained).

(2) *Summary publication.* The information required to be disclosed by paragraphs (a)(2)(i) and (a)(3)(i)(A) of this section in a summary advertisement is as follows:

(i) The information required by paragraphs (e)(1)(i) through (vi) of this section;

(ii) If the tender offer is for less than all the outstanding securities of a class of equity securities, a statement as to whether the purpose or one of the purposes of the tender offer is to acquire or influence control of the business of the subject company;

(iii) A statement that the information required by paragraph (e)(1)(vii) of this section is incorporated by reference into the summary advertisement;

(iv) Appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials; and

(v) In a tender offer published or sent or given to security holders by the use of stockholder lists and security position listings pursuant to Rule 14d-4(a)(3)

(§ 240.14d-4(a)(3)), a statement that a request is being made for such lists and listings and that tender offer materials will be mailed to record holders and will be furnished to brokers, banks and similar persons whose name appears or whose nominee appears on the list of stockholders or, if applicable, who are listed as participants in a clearing agency's security position listing for subsequent transmittal to beneficial owners of such securities.

(3) *No transmittal letter.* Neither the initial summary advertisement nor any subsequent summary advertisement shall include a transmittal letter (whereby securities of the subject company which are sought in the tender offer may be transmitted to the bidder or its depository) or any amendment thereto.

#### § 240.14d-7 Additional withdrawal rights.

(a) *Rights.* In addition to the provisions of section 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the following periods:

(1) At any time until the expiration of fifteen business days from the date of commencement of such tender offer; and

(2) On the date and until the expiration of ten business days following the date of commencement of another bidder's tender offer other than pursuant to Rule 14d-2(b) for securities of the same class *provided that* the bidder has received notice or otherwise has knowledge of the commencement of such other tender offer and, *Provided further,* That withdrawal may only be effected with respect to securities which have not been accepted for payment in the manner set forth in the bidder's tender offer prior to the date such other tender offer is first published, sent or given to security holders.

(b) *Computation of time periods.* The time periods for withdrawal rights pursuant to this section shall be computed on a concurrent, as opposed to a consecutive, basis.

(c) *Knowledge of competing offer.* For the purposes of this section, a bidder shall be presumed to have knowledge of another tender offer, as described in paragraph (a)(2) of this section, on the date such bidder receives a copy of the Schedule 14D-1 (§ 240.14d-100) pursuant to Rule 14d-3 (§ 240.14d-3) from such other bidder.

(d) *Notice of withdrawal.* Notice of withdrawal pursuant to this section shall be deemed to be timely upon the receipt by the bidder's depository of a written notice of withdrawal specifying the name(s) of the tendering stockholder(s), the number or amount of

the securities to be withdrawn and the name(s) in which the certificate(s) is (are) registered, if different from that of the tendering security holder(s). A bidder may impose other reasonable requirements, including certificate numbers and a signed request for withdrawal accompanied by a signature guarantee, as conditions precedent to the physical release of withdrawn securities.

#### § 240.14d-8 Exemption from statutory pro rata requirement.

The limited pro rata provisions of section 14(d)(6) of the Act shall not apply to any tender offer for less than all the outstanding securities of the class for which the tender offer is made to the extent that the bidder provides in the tender offer materials disseminated to security holders on the date of commencement of the tender offer that in the event more securities are deposited during the period(s) described in paragraphs (a) and/or (b) of this section than the bidder is bound or willing to accept for payment, all securities deposited during such period(s) will be accepted for payment as nearly as practicable on a pro rata basis, disregarding fractions, according to the number of securities deposited by each depositor.

(a) Any period which exceeds ten days from the date of commencement of the tender offer.

(b) Any period which exceeds ten days from the date that notice of an increase in the consideration offered is first published, sent or given to security holders.

#### § 240.14d-9 Solicitation/recommendation statements with respect to certain tender offers.

(a) *Filing and transmittal of recommendation statement.* No solicitation or recommendation to security holders shall be made by any person described in paragraph (d) of this section with respect to a tender offer for such securities unless as soon as practicable on the date such solicitation or recommendation is first published or sent or given to security holders such person complies with the following subparagraphs.

(1) Such person shall file with the Commission eight copies of a Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9 (§ 240.14d-101), including all exhibits thereto; and

(2) If such person is either the subject company or an affiliate of the subject company,

(i) Such person shall hand deliver a copy of the Schedule 14D-9 to the bidder



at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Schedule 14D-1 (§ 240.14d-100) filed with the Commission; and

(ii) Such person shall give telephonic notice (which notice to the extent possible shall be given prior to the opening of the market) of the information required by Items 2 and 4(a) of Schedule 14D-9 and shall mail a copy of the Schedule to each national securities exchange where the class of securities is registered and listed for trading and, if the class is authorized for quotation in the NASDAQ interdealer quotation system, to the National Association of Securities Dealers, Inc. ("NASD").

(3) If such person is neither the subject company nor an affiliate of the subject company,

(i) Such person shall mail a copy of the schedule to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Schedule 14D-1 (§ 240.14d-100) filed with the Commission); and

(ii) Such person shall mail a copy of the Schedule to the subject company at its principal office.

(b) *Amendments.* If any material change occurs in the information set forth in the Schedule 14D-9 (§ 240.14d-101) required by this section, the person who filed such Schedule 14D-9 shall:

(1) File with the Commission eight copies of an amendment on Schedule 14D-9 (§ 240.14d-101) disclosing such change promptly, but not later than the date such material is first published, sent or given to security holders; and

(2) Promptly deliver copies and give notice of the amendment in the same manner as that specified in paragraph (a)(2) or paragraph (a)(3) of this section, whichever is applicable; and

(3) Promptly disclose and disseminate such change in a manner reasonably designed to inform security holders of such change.

(c) *Information required in solicitation or recommendation.* Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1, 2, 3(b), 4, 6, 7 and 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof:

*Provided, however,* That such solicitation or recommendation may omit any of such information previously

furnished to security holders of such class of securities by such person with respect to such tender offer.

(d) *Applicability.* (1) Except as is provided in paragraphs (d)(2) and (e) of this section, this section shall only apply to the following persons:

(i) The subject company, any director, officer, employee, affiliate or subsidiary of the subject company;

(ii) Any record holder or beneficial owner of any security issued by the subject company, by the bidder, or by any affiliate of either the subject company or the bidder; and

(iii) Any person who makes a solicitation or recommendation to security holders on behalf of any of the foregoing or on behalf of the bidder other than by means of a solicitation or recommendation to security holders which has been filed with the Commission pursuant to this section or Rule 14d-3 (§ 240.14d-3).

(2) Notwithstanding paragraph (d)(1) of this section, this section shall not apply to the following persons:

(i) A bidder who has filed a Schedule 14D-1 (§ 240.14d-101) pursuant to Rule 14d-3 (§ 240.14d-3);

(ii) Attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity and who furnish information and/or advice regarding such tender offer to their customers or clients on the unsolicited request of such customers or clients or solely pursuant to a contract or a relationship providing for advice to the customer or client to whom the information and/or advice is given.

(e) *Stop-look-and-listen communication.* This section shall not apply to the subject company with respect to a communication by the subject company to its security holders which only:

(1) Identifies the tender offer by the bidder;

(2) States that such tender offer is under consideration by the subject company's board of directors and/or management;

(3) States that on or before a specified date (which shall be no later than 10 business days from the date of commencement of such tender offer) the subject company will advise such security holders of (i) whether the subject company recommends acceptance or rejection of such tender offer; expresses no opinion and remains neutral toward such tender offer; or is unable to take a position with respect to such tender offer and (ii) the reason(s) for the position taken by the subject company with respect to the tender offer

(including the inability to take a position); and

(4) Requests such security holders to defer making a determination whether to accept or reject such tender offer until they have been advised of the subject company's position with respect thereto pursuant to paragraph (e)(3) of this section.

(f) *Statement of management's position.* A statement by the subject company's of its position with respect to a tender offer which is required to be published or sent or given to security holders pursuant to Rule 14e-2 shall be deemed to constitute a solicitation or recommendation within the meaning of this section and section 14(d)(4) of the Act.

#### § 240.14d-100 Schedule 14D-1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

General Instructions. A. . . .

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Commission for all purposes of the Act.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2-7, inclusive, shall be given with respect to: (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

#### Item 6. Interest in Securities of the Subject Company

Instructions. 1. . . .

2. If the information required by Item 6(b) of this schedule is available to the bidder at the time this statement is initially filed with the Commission pursuant to Rule 14d-3(a)(1) (§ 240.14d-3(a)(1)), such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it shall be filed with the Commission promptly but in no event later than two business days after the date of such filing and, if material, shall be disclosed in a manner reasonably designed to inform security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

#### § 240.14d-101 Schedule 14D-9.

Securities and Exchange Commission

Washington, D.C. 20549

#### Schedule 14D-9

Solicitation/Recommendation Statement Pursuant to Section 14(d)(4) of the Securities Exchange Act of 1934

(Amendment No. —)

(Name of Subject Company)

(Name of Person(s) Filing Statement)

(Title of Class of Securities)

(CUSIP Number of Class of Securities)

(Name, address and telephone number of person authorized to receive notice and communications on behalf of the person(s) filing statement)

Instructions: Eight copies of this statement, including all exhibits, should be filed with the Commission.

General Instructions: A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Commission for all purposes of the Act.

#### Item 1. Security and Subject Company

State the title of the class of equity securities to which this statement relates and

the name and the address of the principal executive offices of the subject company.

#### Item 2. Tender Offer of the Bidder

Identify the tender offer to which this statement relates, the name of the bidder and the address of its principal executive offices or, if the bidder is a natural person, the bidder's residence or business address (which may be based on the bidder's Schedule 14D-1 (§ 240.14d-100) filed with the Commission).

#### Item 3. Identity and Background

(a) State the name and business address of the person filing this statement.

(b) If material, describe any contract, agreement, arrangement or understanding and any actual or potential conflict of interest between the person filing this statement or its affiliates and: (1) the subject company, its executive officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates.

Instruction: If the person filing this statement is the subject company and if the materiality requirement of Item 3(b) is applicable to any contract, agreement, arrangement or understanding between the subject company or any affiliate of the subject company and any executive officer or director of the subject company, it shall not be necessary to include a description thereof in this statement, or in any solicitation or recommendation published or sent or given to security holders if such information, or information which does not differ materially from such information, has been disclosed in any proxy statement, report or other communication sent within one year of the filing date of this statement by the subject company to the then holders of the securities and has been filed with the Commission: *Provided,* That this statement and the solicitation or recommendation published or sent or given to security holders shall contain specific reference to such proxy statement, report or other communication and that a copy of the pertinent portion(s) thereof is filed as an exhibit to this statement.

#### Item 4. The Solicitation or Recommendation

(a) State the nature of the solicitation or the recommendation. If this statement relates to a recommendation, state whether the person filing this statement is advising security holders of the securities being sought by the bidder to accept or reject the tender offer or to take other action with respect to the tender offer and, if so, furnish a description of such other action being recommended. If the person filing this statement is the subject company and a recommendation is not being made, state whether the subject company is either expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer.

(b) State the reason(s) for the position (including the inability to take a position) stated in (a) of this Item.

Instruction: Conclusory statements such as "The tender offer is in the best interest of shareholders," will not be considered sufficient disclosure in response to Item 4(b).

#### Item 5. Persons Retained, Employed or To Be Compensated

Identify any person or class of persons employed, retained or to be compensated by the person filing this statement or by any person on its behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

#### Item 6. Recent Transactions and Intent With Respect to Securities

(a) Describe any transaction in the securities referred to in Item 1 which was effected during the past 60 days by the person(s) named in response to Item 3(a) and by any executive officer, director, affiliate or subsidiary of such person(s).

(b) To the extent known by the person filing this statement, state whether the persons referred to in Item 6(a) presently intend to tender to the bidder, sell or hold securities of the class of securities being sought by the bidder which are held of record or beneficially owned by such persons.

#### Item 7. Certain Negotiations and Transactions by the Subject Company

(a) If the person filing this statement is the subject company, state whether or not any negotiation is being undertaken or is underway by the subject company in response to the tender offer which relates to or would result in:

(1) An extraordinary transaction such as a merger or reorganization, involving the subject company or any subsidiary of the subject company;

(2) A purchase, sale or transfer of a material amount of assets by the subject company or any subsidiary of the subject company;

(3) A tender offer for or other acquisition of securities by or of the subject company; or

(4) Any material change in the present capitalization or dividend policy of the subject company.

Instruction: If no agreement in principle has yet been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject company such disclosure would jeopardize continuation of such negotiations. In such event, disclosure that negotiations are being undertaken or are underway and are in the preliminary stages will be sufficient.

(b) Describe any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer, other than one described pursuant to Item 3(b) of this statement, which relates to or would result in one or more of the matters referred to in Item 7(a)(1), (2), (3) or (4).

#### Item 8. Additional Information To Be Furnished

Furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

#### Item 9. Material To Be Filed as Exhibits

Furnish a copy of:



(a) Any written solicitation or recommendation which is published or sent or given to security holders in connection with the solicitation or recommendation referred to in Item 4.

(b) If any oral solicitation or recommendation to security holders is to be made by or on behalf of the person filing this statement, any written instruction, or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the solicitation or recommendation.

(c) Any contract, agreement, arrangement or understanding described in Item 3(b) or the pertinent portions(s) of any proxy statement, report or other communication referred to in Item 3(b).

*Signature.* After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date)

(Signature)

(Name and Title)

*Instruction.* The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer of a corporation or a general partner of a partnership), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

IV. 17 CFR Part 240 is amended by adding new §§ 240.14e-1 and 240.14e-2 (Regulation 14E) to read as follows:

#### Regulation 14E

##### § 240.14e-1 Unlawful tender offer practices.

As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices within the meaning of section 14(e) of the Act, no person who makes a tender offer shall:

(a) Hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent or given to security holders: *Provided, however,* That this paragraph shall not apply to a tender offer by the issuer of the class of securities being sought which is not made in anticipation of or in response to another person's tender offer for securities of the same class.

(b) Increase the offered consideration or the dealer's soliciting fee to be given in a tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published, or sent or given to security holders: *Provided, however,*

That this paragraph shall not apply to a tender offer by the issuer of the class of securities being sought which is not made in anticipation of or in response to another person's tender offer for securities of the same class.

(c) Fail to pay the consideration offered or return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of a tender offer;

(d) Extend the length of a tender offer without issuing a notice of such extension by press release or other public announcement, which notice shall include disclosure of the approximate number of securities deposited to date and shall be issued no later than the earlier of (i) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer or (ii), if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer.

##### § 240.14e-2 Position of subject company with respect to a tender offer.

(a) *Position of subject company.* As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices within the meaning of section 14(e) of the Act, the subject company, no later than 10 business days from the date the tender offer is first published or sent or given, shall publish, send or give to security holders a statement disclosing that the subject company:

(1) Recommends acceptance or rejection of the bidder's tender offer;

(2) Expresses no opinion and is remaining neutral toward the bidder's tender offer; or

(3) Is unable to take a position with respect to the bidder's tender offer. Such statement shall also include the reason(s) for the position (including the inability to take a position) disclosed therein.

(b) *Material change.* If any material change occurs in the disclosure required by paragraph (a) of this section, the subject company shall promptly publish or send or give a statement disclosing such material change to security holders.

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 9067, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 10(b), 13, 14, 23(a), 48 Stat. 882, 891, 894, 895, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; secs. 4, 5, 78 Stat. 569, 570; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs. 3, 10, 18, 89 Stat. 97, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 91 Stat. 1494, 1498, 1499; sec. 20, 49 Stat. 833; sec. 319(a), 53 Stat. 1173; sec. 38(a), 54 Stat. 841; 15 U.S.C. 77g, 77j, 77s(a),

78c(b), 78j(b), 78m, 78n, 78w(a), 79t, 77ttt(a), 80a-37(a)).

#### Authority

The Commission hereby adopts: amendments to Rule 434(b) (§ 230.434(b)) pursuant to sections 7, 10 and 19(a) of the Securities Act; amendments to Schedule 13D (§ 240.13d-101) pursuant to sections 13(d) and 23(a) of the Exchange Act; Rules 14d-1, 14d-2, 14d-3, 14d-4, 14d-6, 14d-7, 14d-8, 14d-9 Schedule 14D-9 and amendments to Schedule 14D-1 (§ 240.14d-100) pursuant to sections 3(b), 10(b), 13(d), 14(d), 14(e), and 23(a) of the Exchange Act; Rule 14d-5 pursuant to section 19(a) of the Securities Act; sections 3(b), 10(b), 13(d), 14(d), 14(e) and 23(a) of the Exchange Act; section 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.); section 319(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.); and section 38(a) of the Investment Company Act of 1940 (15 U.S.C. 80a et seq.); Rules 14e-1 and 14e-2 pursuant to sections 14(d), 14(e) and 23(a) of the Exchange Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 29, 1979.

[FR Doc. 79-37406 Filed 12-5-79; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 230 and 240

[Release Nos. 33-6159, 34-16385, IC-10959; File No. S7-812]

#### Proposed Amendments to Tender Offer Rules

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed amendment to rules.

**SUMMARY:** The Commission is publishing for comment amendments to new Regulations 14D and 14E pertaining to tender offers and is proposing to rescind Rule 10b-13. The proposals include: a definition of the term "tender offer"; provisions requiring equal treatment of security holders in the context of tender offers; certain antifraud provisions concerning trading by certain persons on the basis of material non-public information relating to a tender offer; and a prohibition of certain purchases not made by means of a tender offer. The proposals are applicable to any tender offer and would implement and augment the present statutory requirements. The proposed amendments are necessary to explicate certain consequences of making a tender offer and to enhance the protection of investors against fraudulent, deceptive and manipulative acts or practices.

**DATE:** Comments must be received on or before February 1, 1980.

**ADDRESSES:** Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-812. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** John Huber or John Granda (202-272-2589), Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today published for comment proposed amendments to Regulation 14D (17 CFR 240.14d-1 through 240.14d-101) and to Regulation 14E (17 CFR 240.14e-1 and 240.14e-2) pursuant to sections 3(b),

10(b), 13(d), 13(e), 14(d), 14(e) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)]. If adopted, these proposals would implement and augment the present statutory requirements by providing a definition of the term "tender offer," additional substantive protections, and antifraud protections applicable to any tender offer. The Commission is also proposing to rescind Rule 10b-13 (17 CFR 240.10b-13) and to adopt in lieu thereof proposed Rule 14e-5.

The Commission is also concurrently adopting amendments to Regulations 14D and 14E. Regulation 14D provides specific filing and disclosure requirements, optional dissemination provisions, and additional substantive protections with respect to tender offers subject to section 14(d) of the Exchange Act. Regulation 14E is applicable to any tender offer other than one involving exempted securities and includes provisions relating to the length of the tender offer and extensions thereof, payment of the consideration offered, and disclosure of the subject company's position with respect to the tender offer.

These proposals are not applicable to presently pending tender offers or to any tender offer commenced prior to the actual adoption and effectiveness of the proposals herein. Rule 10b-13 will continue in effect unless and until proposed Rule 14e-5 becomes effective. The proposals are based in part on the record in the Commission's Public Fact Finding Investigation in the matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons ("Tender Offer Hearings"),<sup>1</sup> the 105 letters of comment<sup>2</sup> received in response to the tender offer proposals published for comment in Release No. 34-15548 (February 5, 1979) (44 FR 9956)

<sup>1</sup> Securities Act Release Nos. 5529 (September 9, 1974) (39 FR 33935) and 5538 (November 5, 1974) (39 FR 41223).

<sup>2</sup> Letters were received from the following categories of commentators: corporations (63); law firms and associations (11); trade organizations and associations (10); state administrative agencies (7); securities industry (6); academicians (1); and other interested persons (7). Copies of these letters are available for public inspection and copying at the Commission's Public Reference Room (File No. S7-770). For the convenience of the public, a copy of the summary of these comment letters, which was prepared by the staff of the Commission, has been placed in File No. S7-770 and is also available for public inspection and copying.

(the "February Release"), judicial decisions, and the Commission's experience. A discussion of each of the proposals follows.

#### Discussion

*A. Proposed Rule 14d-1(b)(1): Definition of the term "Tender Offer"*

The term "tender offer" is not defined in the Williams Act.<sup>3</sup> Since the passage of the Williams Act, the Commission has been continually involved in the development of the meaning of the term<sup>4</sup> but has not adopted a definition.

This position has been premised upon the dynamic nature of these transactions and the need for the Williams Act to be interpreted flexibly in a manner consistent with its purposes to protect investors. Consequently, the Commission specifically declined to define the term on two prior occasions.<sup>5</sup>

While there has been essential compliance with the provisions of the Williams Act when people seek shares through a public announcement and filings with the Commission, many persons have not complied with the Williams Act when they have invited tenders for shares in other ways. Many persons have deliberately structured tender offers in an effort to evade the provisions of the Williams Act. These approaches have included purportedly privately negotiated transactions, wide-scale solicitation of members of one family and various forms of massive open market purchase programs. In the Commission's judgment, these tender offers, however packaged, are subject to the provisions of the Williams Act and are required to be effected in accordance with its provisions.

<sup>3</sup> Both the Senate and House Reports describe the characteristics of a typical cash tender offer. S. Rep. No. 550, 90th Cong., 1st Sess. 2 (1967) ("1967 Senate Report") H.R. Rep. No. 1711, 90th Cong., 2d Sess. 2 (1968) ("1968 House Report").

<sup>4</sup> The involvement of the Commission and its staff has included: determinations relating to specific transactions, see Securities Exchange Act Release No. 8392 (August 30, 1968) (33 FR 14109); participation *amicus curiae* in litigation, see e.g. Memorandum of the Securities and Exchange Commission as *Amicus Curiae* *Cottlemen's Investment Company v. Fears*, 343 F. Supp. 1248 (W. D. Okla. 1972); enforcement actions, see e.g., *Securities and Exchange Commission v. Sun Co.*, reported sub nom. *Wellman v. Dickinson* [Current] CCH Fed. Sec. L. Rep. ¶96,916 (S.D.N.Y. 1979); investigative hearings, see Public Fact-Finding Investigation in the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons, Securities Act Release Nos. 5529 (September 9, 1974) (39 FR 41123); no-action and interpretive letters, see e.g., Letter to William Gleason, Esq. re: *Methode Electronics, Inc.* (December 29, 1976); and monitoring tender offer practice.

<sup>5</sup> Release Nos. 34-12676 (August 6, 1976) (41 FR 33004, 33005) and 34-15546 (February 15, 1979) (44 FR 9956, 9960).



Recognizing the dynamic nature of these activities, the Commission has proposed a definition which would include within its coverage at least certain of these diverse forms of transactions. The Commission has done so because it believes that in substance many of these transactions are in reality tender offers and that the public is entitled to the benefits that would flow from their specific inclusion within the provisions of the Williams Act.

In developing the proposed definition, the Commission considered the provisions and purposes of the Williams Act, its legislative history, applicable case law, enforcement actions, administrative proceedings and positions, legal commentary and past and present tender offer practice. The proposed definition does distinguish between tender offers and transactions involving open market or privately negotiated purchases. However, not all so-called open market or privately negotiated purchases are automatically exempted from the definition simply because they occur on or off the market, and certain of these programs would be defined as tender offers.<sup>6</sup>

In proposing a specific delineation, the Commission is aware that the scope of the definition may include transactions which others believe ought to be excluded and may exclude transactions which others believe ought to be included. While this is a necessary consequence of any definition, the Commission invites public comment as to the scope of the term and what transactions should be excluded and included. In addition, the Commission requests specific suggestions as to the appropriate methods for taking account of such transactions.

Moreover, the scope of the proposed definition reflects the Commission's long-standing position that the term "tender offer embraces" not only tender offers formally announced by communications to shareholders but also offers accomplished by other

<sup>6</sup> Section 14(d)(1) of the Act provides in pertinent part:

It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer (italics supplied).

Thus, the statute recognizes that a tender offer may be made directly or indirectly by using the facilities of a national securities exchange. For example, a special bid, see New York Stock Exchange Rule 391 and American Stock Exchange Rule 560, is a tender offer within the meaning of the Williams Act. See Securities Exchange Act Release No. 8392 (August 30, 1968) (33 FR 14109).

means.<sup>7</sup> This position is supported by the case law<sup>8</sup> and legal commentators.<sup>9</sup>

The definition in proposed Rule 14d-1(b)(1) is designed to provide guidance to members of the financial community and their advisers. The proposal is divided into two tiers which would operate independently of each other. That is, an offer is a tender offer if it meets the test in either of the two tiers.

Under the first tier, proposed Rule 14d-1(b)(1)(i), the term "tender offer" consists of four elements: (1) one or more offers to purchase or solicitations of offers to sell securities of a single class; (2) during any 45-day period;<sup>10</sup> (3) directed to more than 10 persons;<sup>11</sup> and (4) seeking the acquisition of more than 5% of the class of securities.<sup>12</sup>

<sup>7</sup> Release No. 34-15548 (Feb. 5, 1979) (44 FR 9957); Release No. 34-12878 (Aug. 6, 1978) (41 FR 33004); Securities Exchange Act Release No. 8392 (Aug. 30, 1968) (33 FR 14109); Memorandum of the Securities and Exchange Commission as *Amicus Curiae*, *Cattleman's Investment Co. v. Fears*, 343 F. Supp. 1248 (W.D. Okla. 1972). The inclusion of various forms of tender offers within the meaning of the term "tender offer" was recognized by the Commission, Securities Exchange Act Release No. 8392 (Aug. 30, 1968), and by commentators at the time of the Williams Act's passage. See, e.g., O'Boyle, *The Williams Amendments (S.510) to the 1934 Act*, in *Fleischer & Flom, Texas Gulf Sulphur: Disclosure & Insiders*, 128 (1966).

<sup>8</sup> See, e.g., *Cattleman's Investment Co. v. Fears*, 343 F. Supp. 1248 (W.D. Okla. 1972); *Loews Corp. v. Accident & Casualty Insurance Co.*, No. 74 C 1396 (N.D. Ill. bench opinion Aug. 20, 1974); *Smallwood v. Pearl Brewing Co.*, 489 F.2d 579 (5th Cir. 1974); *S-C Industries, Inc. v. Fuqua Investment Co.* [Current] CCH Fed. Sec. L. Rep. ¶96,750 (D. Mass. 1978). Other cases, while not holding a transaction to be a tender offer, have recognized that the term goes beyond formal offers. See, e.g., *Nachman Corp. v. Hoffred, Inc.*, [1973-1974 Transfer Binder] CCH Fed. Sec. L. Rep. ¶94,455 (N.D. Ill. 1973); and *Kennecott Copper Corp. v. Curtiss-Wright Corp.*, 449 F. Supp. 951 (S.D.N.Y. 1978), *aff'd in part and rev'd in part*, [1978 Transfer Binder] CCH Fed. Sec. L. Rep. ¶96,565 (2d Cir. 1978).

<sup>9</sup> See, e.g., Note, *The Developing Meaning of "Tender Offer" Under the Securities Exchange Act of 1934*, 66 Harv. L. Rev. 1250 (1973); and Lipton, *Open Market Purchases*, 32 Bus. Law. 1321 (1977).

<sup>10</sup> Offers within any 45 consecutive calendar day period would be included within this element, for example, offers to purchase made on June 1 and July 10 would be aggregated, whereas another offer made on December 1 would not be included therein.

<sup>11</sup> The Commission requests specific comment on the appropriate meaning of the term "person" as used in proposed Rule 14d-1(b)(1)(i), e.g., whether the term should have the same meaning as in section 3(a)(9) of the Exchange Act or additionally include accounts administered by financial institutions in a manner similar to that set forth in Preliminary Note 5 to Rule 14b (17 CFR 230.14b) or whether the term should have another meaning. The Commission recognizes that under certain circumstances certain persons, such as tightly knit family members, should be treated as one person with respect to the computation of the ten person limitation. The Commission requests comment on whether there is a need for a specific provision in the definition to this effect and whether other relationships should be included in such a provision.

<sup>12</sup> This element makes that offer itself is seeking more than 5% of the class of securities. The shares

In order to be a tender offer within the meaning of proposed Rule 14d-1(b)(1)(i), all four elements must be present. Thus, an offer to purchase more than 5% of a class of securities from nine persons within a 45 day period would not constitute a tender offer. It should be noted that a block transaction which meets the four elements would be a tender offer subject to the Williams Act unless the exception, discussed below, is applicable.

The Commission recognizes that ordinary open market purchases which are part of the "free and open auction market" should not be regulated as tender offers. To say that purchases take place on the floor of a securities exchange, however, does not end the inquiry. The use of facilities of a exchange may be a mere formality to disguise what is otherwise in effect a tender offer that should be subject to the requirements of the Williams Act. While the proposal contemplates that certain open market purchasing programs meeting the four elements discussed above would be tender offers, others are excepted. The exception would be limited to offers by a broker and its customer or by a dealer at the then current market price<sup>14</sup> on a national securities exchange or in the over-the-counter market if in connection with such offers three conditions are present.

First, neither the person making the offers nor the broker or dealer solicits or arranges for the solicitation of any order to sell. With respect to offers at the then current market on a national securities exchange, a broker or dealer who merely talked to the specialist(s) or the persons in the crowd on the floor of the exchange would not in the Commission's view be making a solicitation as that term is used in the definition. However, if the person making the offers and/or the broker or dealer talked to persons off the floor of the exchange and/or arranged for them or their representatives to be present in the crowd on the floor to accept the offer, such conduct would in the Commission's judgement be a solicitation and the exception would not

of the class beneficially owned by the offeror prior to his making the offer(s) would not be included. For example, if a person who is not the beneficial owner of any securities of a class of securities seeks to acquire 8% of such class, the element would be satisfied. In contrast, the offer to acquire 4% of a class of securities by a person who had acquired 2% of such class more than 45 days prior to the first offer for such 4% would not come within this requirement.

<sup>13</sup> 113 Cong. Rec. 856 (1967) (Statement of Senator Williams).

<sup>14</sup> The term "then current market price" would generally refer to the higher of the last sale price or the highest current independent bid.

be available. Moreover, special bids and "assembling a block" off the floor which is then crossed on the exchange would also be viewed as solicitations, with respect to offers at the then current market price in the over-the-counter market, the mere fact that a market maker who has previously made quotes on a continuous basis in the securities being sought during the period that the offer is made should not be viewed as a solicitation by the dealer. Finally, with respect to both exchange and over-the-counter market transactions, the person making the offers to purchase will be considered to have solicited or arranged for the solicitation of sell orders if that person has, directly or indirectly, publicly announced or stated that it intends or is about to engage in a substantial purchase program.

The second condition to the availability of the exception to proposed Rule 14d-1(b)(1)(i) is that the broker or dealer performs only the customary functions of a broker or dealer. Finally, the broker or dealer can receive no more than the broker's usual and customary commission or the dealer's usual and customary mark-up for executing the trade.

If the conditions discussed above are satisfied, offers at the then current market price by a broker or dealer on a national securities exchange or in the over the counter market would be excluded for all purposes from the four elements of proposed Rule 14d-1(b)(1)(i).

As previously noted, the four elements embodied in proposed Rule 14d-1(b)(1)(i) are intended to distinguish tender offers from other transactions, including open market and privately negotiated purchases. The Commission notes that other percentage tests, time periods and numbers of solicitees have been suggested in other approaches, and specifically requests comment as to whether one of these or any other percentages test, time periods or numbers of solicitees should be included in the first tier of the definition. The Commission also requests comment on the interrelationship of the proposed exception to the four elements generally and specifically requests comment on the following questions: (1) whether the exception is necessary in Rule 14d-1(b)(1)(i) as proposed since most ordinary open market purchase programs rarely exceed 5% within a 45-day period; (2) whether the exception would be unnecessary if other elements of proposed Rule 14d-1(b)(1)(i), such as the percentage, were increased; (3) whether the exception should be retained in any event; and, (4) if so, the proper form and scope thereof. The

Commission also requests specific comment on what customary practices should be included within the meaning of customer functions of a broker or dealer.

The Commission requests specific comment from the public and from members of the brokerage community in particular concerning the extent, if any, to which a broker-dealer engages in transactions during any 45-day period which involve offers to purchase or solicitations of offers to sell in excess of 5% of a single class of securities from more than 10 persons, where such offers are not on behalf of any single person or group other than such broker-dealer acting in the ordinary course of business. In connection with this inquiry, the Commission requests that commentators provide examples of any such situations together with supporting details concerning these transactions. The Commission also inquires whether it would be appropriate to except such offers from the first tier of the proposed definition.

The second tier of the definition of tender offer is set forth in proposed Rule 14d-1(b)(1)(ii). Unlike the first tier, the second tier does not contain a specific percentage test,<sup>15</sup> time period or number

<sup>15</sup> Proposed Rule 14d-1(b)(1)(ii) thus recognizes that offers to purchase or solicitations of offers to sell may constitute a tender offer even though the person making the offers is seeking less than 5% of the class of securities. This comports with the provisions of the Williams Act. Section 14(d)(1) is applicable to a tender offer for less than 5% of the securities of a class of securities described in that sub-section if the bidder already is the beneficial owner of more than 5% of such class or who would be the beneficial owner of more than 5% of such class upon consummation of the tender offer. Section 14(d)(8)(A) of the Act provides an exemption from section 14(d) if the acquisition of such securities together with all other acquisitions by the same person of the same class during the preceding twelve months do not exceed 2% of the class. Thus, under section 14(d)(8)(A) a tender offer for less than 2% of a class of securities described in Section 14(d)(1) would be exempt from the provisions of Section 14(d) but would be a tender offer nonetheless and would still be subject to section 14(e) of the Act. Section 14(e) is applicable to any tender offer whether or not it is made for securities of a class described in section 14(d)(1). See, e.g., *Butler Aviation Int'l Inc. v. Comprehensive Designers Inc.*, 307 F. Supp. 910, 914-15 (S.D.N.Y. 1969), *aff'd*, 425 F.2d 642 (2d Cir. 1970) (cause of action under Section 14(e) in an exchange tender offer, although such offers at that time were exempt from section 14(d)(1)); *Bertozzi v. King Louie International* 420 F. Supp. 1186 (D.R.I. 1978) (issuer tender offer in a going private transaction); *Jock Smith v. The Newport National Bank*, 328 F. Supp. 874 (D.R.I. 1971) (tender offer for securities of a national bank); *Weeks Dredging & Contracting Inc. v. American Dredging Co.*, 451 F. Supp. 469 (E.D. Pa. 1978); and *A & K Railroad Materials Inc. v. Green Bay and Western Railroad*, 437 F. Supp. 636 (E.D. Wis. 1977) (securities of target companies were not registered pursuant to section 12 nor were the issuers of such securities subject to the periodic reporting requirements of section 15(d)). There is no percentage test in section 14(e). Therefore, section

of solicitees. Under the second tier, one or more offers to purchase, or solicitations of offers to sell, securities of a single class would be a tender offer if three conditions are present. First, the offers to purchase or the solicitation of offers to sell must be disseminated in a widespread manner.<sup>16</sup> While this requirement could be satisfied through public announcements by means of newspaper advertisements or press releases, the absence of such announcements would not be determinative. A tender offer may be widely disseminated by other means, including telephone solicitations,<sup>17</sup> the use of the mails<sup>18</sup> and personal visits to security holders.<sup>19</sup>

Second, the price offered must represent a premium in excess of the greater of 5% of or \$2 above the current market price<sup>20</sup> of the securities being sought. The third condition of the second tier is that the offers do not provide for a meaningful opportunity to negotiate the price and terms. Thus, truly negotiated purchases of securities would not be regulated as a tender offer under the second tier.<sup>21</sup> The Commission asks for general comment on the appropriateness of the three criteria and whether additional standards should be included.

As noted above, the two tiers of proposed Rule 14d-1(b)(1) are intended to operate independently of one another. One or more offers to purchase or solicitations of offers to sell can therefore be a tender offer under one tier of the definition even though they

14(e) contemplates that a transaction or transactions may be a tender offer regardless of the amount of securities being sought therein.

<sup>16</sup> The Commission expects that the term "widespread" would be interpreted in a manner consistent with the case law. See *Wellman v. Dickinson* [Current] CCH Fed. Sec. L. Rep. ¶96,918 (S.D.N.Y. 1979); *The Hoover Co. v. Fuqua Ind. Inc.*, Civil Action No. C79-1062 (N.D. Ohio, June 11, 1979).

<sup>17</sup> See, e.g., Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong. 1st Sess. 107 (1967) (Testimony of Robert W. Haack) ("1967 Senate Hearings").

<sup>18</sup> See, e.g., *The Hoover Co. v. Fuqua Ind. Inc.*, Civil Action No. C79-1062 (N.D. Ohio, June 11, 1979).

<sup>19</sup> See, e.g., *Cattleman's Investment Co. v. Fears*, 343 F. Supp. 1248 (W.D. Okla. 1972).

<sup>20</sup> For a description of the meaning of "current market price", see footnote 14, *supra*.

<sup>21</sup> In determining whether private negotiations are truly private or actually constitute a tender offer, the number of persons contacted by the person making the offers is of great significance. *Aranow, Einhorn and Berstein, Developments in Tender Offers for Corporate Control* 9-10 (1977). Therefore, even though the offers may not be a tender offer under the second tier because of the provision for a meaningful opportunity to negotiate the consideration, such offers could nonetheless constitute a tender offer under the first tier of the definition if the offers were directed to more than ten persons and the other elements of proposed Rule 14d-1(b)(1)(i) are present.



would not constitute a tender offer under the other tier. In view of the complexity of securities transactions, the diverse and dynamic nature of tender offers, and the need to provide adequate protection of investors within the purposes of the Williams Act, the Commission believes that the two tier approach embodied in proposed Rule 14d-1(b) is feasible, and capable of providing guidance and certainty to practitioners and their clients and would not be unduly burdensome to prospective bidders.

The issue of what constitutes a tender offer is not limited to resolving the issues of whether privately negotiated and open market purchases can be tender offers. Another question is whether an exchange of securities pursuant to a statutory merger or consolidation which is the subject of a shareholder vote is a tender offer. The Commission believes that statutory mergers and consolidations are not tender offers within the meaning of the definition proposed for comment.<sup>22</sup> Under proposed Rule 14d-1(b)(1), and exchange of securities pursuant to a statutory merger or consolidation would not constitute an offer to purchase or a solicitation of an offer to sell securities. Rather, the exchange would be viewed as part of the mechanics of the merger process itself.<sup>23</sup> Similarly, certain repurchases of securities by corporations which are imposed by statute would not be viewed as tender offers within the meaning of proposed Rule 14d-1(b)(1). These would include purchases in court approved bankruptcy reorganizations and repurchases by a corporation of securities owned by shareholders who dissented from a proposal to eliminate mandatory preemptive rights when such obligation is imposed by statute.<sup>24</sup> The Commission requests specific comment on other repurchases which corporations are obligated by statute to make which should not be deemed offers to purchase within the meaning of the proposed definition.

<sup>22</sup> By taking the position, the Commission affirms the view of the Division of Corporation Finance set forth in Release No. 34-14699 (April 24, 1978) (43 FR 18163).

<sup>23</sup> Accord, *Aranow and Einhorn, Tender Offers for Corporate Control*, 76 (1973). Cf. *Dyer v. Eastern Trust & Banking Co.*, 338 F. Supp. 890 (D. Me. 1971). This position would be consistent with the Fifth Circuit's decision in *Smallwood v. Pearl Brewing Co.*, 489 F.2d 579 (5th Cir.), cert. denied, 419 U.S. 873 (1974). There the Fifth Circuit found that a letter sent to shareholders of the acquired company after the merger vote constituted a tender offer. *Id.* at 596-99. Such a letter solicitation of subject company shareholders would also be a tender offer under the proposed definition.

<sup>24</sup> See *Leighton v. AT & T*, 397 F. Supp. 133 (S.D.N.Y. 1975).

In light of the foregoing and its experience in administering the Williams Act since 1968, the Commission proposes for comment the definition of the term "tender offer" in proposed Rule 14d-1(b)(1) pursuant to sections 3(b), 13(e), 14(d), 14(e) and 23(a) of the Exchange Act.<sup>25</sup> In addition, the Commission requests comment on the general issue of defining the term "tender offer" as well as approaches other than that set forth in the proposal. In this regard, the Commission requests specific comment with respect to the need for a provision which would permit transactions to be exempted by the Commission from the application of the definition as well as the scope and terms of such a provision.

As provided in Rule 14d-1(b), the adoption of which is announced in the companion release and in the revisions to that rule proposed for comment herein, the definition of the term "tender offer" in proposed Rule 14d-1(b)(1) would, if adopted in the form proposed or as revised, be applicable to sections 14(d) and 14(e) of the Exchange Act as well as the rules promulgated thereunder, including Regulations 14D and 14E.

**B. Proposed Rule 14e-3: Trading in Subject Company Securities on the Basis of Material Non-Public Information.**

As discussed more fully in the February release,<sup>26</sup> the testimony in the Senate and House Hearings on the legislation which became the Williams Act highlighted the market disruption and abusive practices associated with leaks of the intention of a bidder to make a tender offer.<sup>27</sup> During the hearings on the Williams Act amendments in 1970, the matter was brought to Congress attention in the context of the manner in which the Commission would implement its rulemaking authority under section 14(e).<sup>28</sup>

<sup>25</sup> In the past, the Commission has found it helpful to employ various factors which are derived from case law and legal commentary. See *Securities and Exchange Commission v. Sun Co.*, reported sub. nom. *Weelman v. Dickinson*, [Current] CCH Fed. Sec. L. Rep. ¶96,918 (S.D.N.Y. 1979); *Brascan Ltd. v. Edper Equities Ltd.*, [Current] CCH Fed. Sec. L. Rep. ¶96,882 (S.D.N.Y. 1979); and *Hoover Co. v. Fuqua Ind. Inc.*, Civil Action No. C79-1062 (N.D. Ohio, June 11, 1979). The Commission believes that, in the absence of the adoption of a specific definition such as proposed Rule 14d-1(b)(1), these factors should be applied by prospective bidders and their legal advisers during the planning stages of an acquisition program.

<sup>26</sup> 44 FR 9976.

<sup>27</sup> See, e.g., 1967 Senate Hearings at 69 *et passim*.

<sup>28</sup> During his testimony at the Senate hearings, then Chairman Budge was asked by Senator Williams to give the committee some examples of

in the February release the Commission expressed serious concern about trading on the basis of material, nonpublic information leaked to the market.<sup>29</sup> Not only does this practice create disparities in market information<sup>30</sup> and market disruption,<sup>31</sup> but it also undermines the purposes of the Williams Act. Security holders who sell to persons with such material, nonpublic information are effectively denied the benefits of disclosure and the substantive protections provided by the Williams Act. If furnished with such information, these shareholders would be able to make an informed investment decision, which may involve deferring the sale of the securities until the actual commencement of the tender offer. On the other hand, the persons trading on such non-public information, who are usually short term investors, receive all the protections of the Williams Act. Finally, leaks may lead to the same "stampede effect"<sup>32</sup> which the Williams Act was designed to avert in the context of tender offers.

The Commission addressed this issue in the February release when it published for comment proposed Rule 14e-2. Paragraph (a) of that proposal applied to any person, other than a bidder, in possession of nonpublic information received directly or indirectly from a bidder that the bidder would make a tender offer for the subject company securities. Proposed Rule 14e-2(a) would have proscribed any purchase of subject company securities unless prior to the purchase the person publicly announced the information received and its source.

fraudulent, deceptive or manipulative practices used in tender offers which would be prevented by the rulemaking authority to be granted to the Commission under the proposed amendment to section 14(e) of the Act. 1970 Senate Hearings at 11. In response to this specific request, a memorandum from the Commission's Division of Corporation Finance was submitted for the record. Among the "problem areas" enumerated by this memorandum which the staff proposed to deal with by rulemaking authority under section 14(e), as amended, was the situation in which

The person who has become aware that a tender offer is to be made, or has reason to believe that such bid will be made, may fail to disclose material facts with respect thereto to persons who sell him securities for which the tender bid is to be made.

*Id.* at 12.  
<sup>29</sup> 44 FR 9976-79.

<sup>30</sup> The term "market information" has been described as information that affects the price of a company's securities without affecting the firm's earning power or assets. *U.S. v. Chiarella*, 588 F.2d 1358 (2d Cir. 1978), cert. granted, 47 U.S.L.W. 3747 (U.S. May 14, 1979) (No. 78-1202).

<sup>31</sup> Such purchases may create an artificial demand for the subject company's stock resulting in a distortive effect on the free play of market forces envisioned by the securities laws.

<sup>32</sup> *Rondeau v. Mosinee Paper Co.*, 422 U.S. 49, 58 n. 8 (1975).

Thus, proposed Rule 14e-2(a) would have affirmed a duty of disclosure on any person other than the bidder who purchased subject company securities on the basis of only one item of material, nonpublic information—the undisclosed intention of the bidder to make a tender offer. Since no duty would have arisen under proposed Rule 14e-2(a) if the person with such knowledge refrained from trading, the proposal would have established a "disclose or abstain from trading" rule under section 14(e).

Due in part to its concern that the scope of proposed Rule 14e-2(a) was not sufficiently broad to reach other aspects of the misuse of material, nonpublic information relating to a tender offer, the Commission did not adopt the proposal. Material, nonpublic information relating to a tender is not confined to the undisclosed intention to make a tender offer. The amount and class of securities being sought, the price or range of prices being offered therefor, and the date of commencement are among the other items of information which are material to investors in the context of a prospective tender offer. There are also items of information that are material to investors in the context of an on-going tender offer as well. Included within this category, for example, are price increases, the receipt of regulatory approval, or the withdrawal of the offer. Thus, purchases or sales of subject company securities on the basis of material, nonpublic information relating to a tender offer, whether made prior to the commencement of or during a tender offer, present issues and abusive practices similar to those addressed by proposed Rule 14e-2(a).

Proposed Rule 14e-3(a) addresses this broader problem directly. The proposal would apply to any person other than a bidder who is in possession of material nonpublic information relating to a tender ("tippee") by another person if the tippee knows or has reason to believe that the information was received directly or indirectly from such other person or a person acting on behalf of such other person. Any purchases or sales of subject company securities or options to purchase or sell securities by a tippee while in possession of such material, nonpublic information would be proscribed unless prior to the purchase the person publicly announced the information received and its source.

Like proposed Rule 14e-2(a), proposed Rule 14e-3(a) would affirm a duty of disclosure on any person, other than a bidder, who purchases on the basis of material, nonpublic information

obtained directly or indirectly from a bidder, such as from persons involved or consulted by the bidder in the planning, financing, preparation or execution of the tender offer. However, proposed Rule 14e-3(a) would also pertain to sales of securities under such circumstances since sales can involve the same abusive acts and practices. Moreover, since no duty to disclose would arise if a person subject to the proposal refrains from trading, the proposal, if adopted, would also establish a "disclose or abstain from trading" rule under section 14(e). As with proposed Rule 14e-2(a), the Commission does not believe that making the disclosure required by proposed Rule 14e-3(a) prior to a purchase of subject company securities would be a defense for a breach of duty owed by such person.

Proposed Rule 14e-3(a) differs in several respects from proposed Rule 14e-2(a). Since proposed Rule 14e-3(a) comprehends any material, nonpublic information relating to a tender offer, including, but not limited to, the undisclosed intention to make a tender offer, it would, unlike proposed Rule 14e-2(a), apply throughout the period from the determination<sup>33</sup> to make a tender offer through its termination. Proposed Rule 14e-3(a) also requires that the person in possession of material, nonpublic information know or have reason to believe that such information was obtained directly or indirectly from the person who has determined to make a tender offer or a person acting on that person's behalf. This requirement addresses the commentators' concern with respect to the difficulty under proposed Rule 14e-2(a) of separating rumors and speculation from leaks from the person making the tender or persons acting on behalf of that person. In their view, many persons would be unwilling to trade for fear that their actions would be viewed as violative of the rule, unless the problem were addressed.

<sup>33</sup> The Commission believes that a bidder's determination to make a tender offer may be discerned from the facts and circumstances involved. Relevant factors include, but are not limited to, consideration of a resolution by the bidder's board of directors relating to the tender offer; the formulation of the intention to make a tender offer by the bidder or the person(s) acting on behalf of the bidder; or activities which substantially facilitate the tender offer such as: a plan to make a tender offer for a specific subject company's securities; arranging financing for a tender offer; preparing or directing or authorizing the preparation of tender offer materials; and authorizing negotiations, negotiating or entering into agreements with any person to act as a dealer manager, soliciting dealer, forwarding agent or depository in connection with the tender offer.

The abuse at which proposed Rule 14e-3(a) is directed is the actual misuse of material nonpublic information relating to a tender offer. The Commission recognizes that the proposal is capable of being applied to a person which is not a natural person even though the individuals making the investment decision on behalf of such person did not know and did not have access to material, nonpublic information. This could occur, for example, where one department of a multiservice financial institution received material, nonpublic information relating to a tender while a separate and independent department of the same organization made the decision to purchase (or sell) securities of the subject company without any knowledge of or access to such information. There would have been no actual misuse of material nonpublic information, yet the institution would constitute a person which purchased (or sold) subject company securities in apparent violation of proposed Rule 14d-3(a).

The Commission requests comment on alternative ways in which the impact of proposed Rule 14e-3(a) on multiservice financial institutions might be mitigated consistently with the prevention of the abuses noted above. There are a number of approaches to the conflicts faced by multiservice financial institutions in this context, some of which are discussed below. However, the Commission emphasizes that the discussion does not include all approaches and that the inclusion or exclusion of a particular alternative is no reflection on its adequacy. Moreover, the publication for comment of proposed Rule 14e-3(b), discussed below, is intended to promote meaningful and detailed public discussion of this difficult problem and does not necessarily reflect a preferred choice by the Commission.

Prompt disclosure of material, nonpublic information is clearly the preferred approach. However, this approach is not feasible where the institution is unable to persuade the person who has determined to make or is making the tender offer to disclose the information, the disclosure by the institution would violate a confidential relationship with such person and such person has a right to withhold disclosure for a proper purpose.

The internal isolation of material, nonpublic information, the so-called "Chinese Wall," is generally the approach taken in proposed Rule 14e-3(b). Under the proposal, conduct by a person other than a natural person which would, but for the application of



proposed Rule 14e-3(b), violate proposed Rule 14e-3(a), would be deemed nonviolative if the person who otherwise would have violated proposed Rule 14e-3(a) can show that the individuals who made the investment decision on its behalf did not know and did not have access to material, non-public information relating to the tender offer. Thus, in the above illustration, the department of the multiservice financial institution that made the decision to purchase (or sell) subject company securities without knowledge of or access to the material, nonpublic information in the possession of the other department would not be viewed as having constructively received that information. With respect to the required showing, the proposal provides that the existence of policies and procedures to ensure that material, nonpublic information will not be used in violation of proposed Rule 14e-3(a) may, depending upon the facts and circumstances, be taken into account with respect to whether the department in fact had access. This test would ensure that the reality of the situation in question, i.e., the particular facts, would govern. However, it is also an acknowledgement that prescribing an exhaustive list of criteria which are capable of being applied to all of the factual situations comprehended by the proposal is not feasible. Moreover, even if such policies and procedures were found to be relevant in a particular case, they would merely be probative of whether access to material, nonpublic information relating to a tender offer is or was regularly provided. Thus, the ultimate issue would be whether there was knowledge of or access to material, nonpublic information in the particular case.

Another approach would be to require, either alone or together with a "Chinese Wall," a restricted-list procedure, whereby the institution is precluded from investing in any security on the list for its own account as well as from making recommendations to its customers with respect to the security. Under one variant, securities would be required to be placed on the list whenever the institution received material, non-public information with respect thereto and would be removed from the list once the information becomes public. Under another variant, the securities would be placed on the list when the firm entered into a relationship which would be likely to lead to the acquisition by the institution of material, non-public information and would remain restricted until the relationship is terminated or the

information disclosed. Because the restricted list serves functions in addition to the prevention of misuse of material, non-public information, such as the prevention of violations of Rule 10b-6 (§ 240.10b-6), the placement of a security on the list does not necessarily signal the existence of material, non-public information with respect to that security. However, the Commission is concerned by this possibility and therefore requests specific comment as to how inferences as to the existence and nature of material, non-public information can be avoided.

The Commission also requests specific comment as to whether the relief provided to multi-service financial institutions should distinguish between: (1) types of multi-service financial institutions, e.g., banks and broker-dealers; (2) departments within multi-service financial institutions, e.g., commercial and trust departments of a bank; or (3) activities performed by multi-service financial institutions, e.g., arbitrage and market-making. Commentators are requested to discuss the nature of and reasons for such distinctions, if any, as well as the manner in which the proposal should be revised to reflect one or more of the distinctions.

In the February release the Commission also published for comment proposed Rule 14e-2(b). That proposal would have required a bidder who knew or had reason to believe that another person had violated, or was about to violate, proposed Rule 14d-2(a) to make promptly a public announcement of appropriate information with respect to the bidder's tender offer for subject company securities. The proposal was intended to provide a reasonable assurance that the marketplace and investors would be promptly alerted by the bidder of violations of proposed Rule 14e-2(a).

The Commission continues to believe that the bidder's role is critical in preventing the misuse of material, non-public information relating to a tender offer. However, in view of the substantial problems raised by the commentators with respect to proposed Rule 14d-2(b), the Commission has determined that a different approach to the problem is more feasible. While proposed Rule 14e-2(b) attempted to deal with the effects of misuse of material non-public information, proposed Rule 14e-3(c) is designed to prevent the leaks, the source of the problem. Under proposed Rule 14e-3(c) a person who has determined to make or is making a tender offer or any person acting on behalf of such person would

be prohibited from communicating material, non-public information relating to such tender offer to any other person if such person knew or had reason to believe that the other person was likely to violate proposed Rule 14e-3(a) by purchasing or selling subject company securities. However, the proviso to proposed Rule 14e-3(c) recognizes that the person who has determined to make or is making a tender offer will normally not have reason to believe that its officers, directors, employees or partners as well as persons involved in the planning, financing, preparation or execution of the tender offer are likely to violate proposed Rule 14e-3(a). Thus, the communication of material, non-public information relating to the tender offer to such persons in order to implement the tender offer will not violate proposed Rule 14e-3(c) unless the person who has determined to make or is making the tender offer has evidence indicating that these persons are likely to violate proposed Rule 14e-3(a).

The Commission's Institutional Investor Study<sup>34</sup> found that bidders frequently give institutions advance notice in either general or specific terms of proposed tender offers.<sup>35</sup> This practice and other forms of "tipping" of material, non-public information relating to a tender offer when coupled with trading on such information undermines the Williams Act. The Commission therefore believes that the prophylaxis of proposed Rule 14e-3(c) is needed to prevent such practices.

The Commission also requests specific comment as to whether the purposes described above can be achieved by an alternative approach to proposed Rule 14e-3(c). As a means reasonably designed to prevent the fraudulent, manipulative or deceptive act or practice described in proposed Rule 14e-3(a), this alternative would make it unlawful for any person who has determined to make or is making a tender offer to communicate material, nonpublic information relating to such tender offer to any person who subsequently violates proposed Rule 14e-3(a) unless the communication (A) was made to a person involved in the planning, financing, preparation or execution of such tender offer, (B) was made in the ordinary course of business and (C) was made in accordance with

<sup>34</sup> Institutional Investor Study Report, H.R. Doc. No. 92-64, 92d Cong., 1st Sess. (1971).

<sup>35</sup> *Id.* at 2773, 2828-29, 2832-33. Among the reasons given for this practice was that, if the institution established a position in the subject company's securities, the bidder could expect to purchase such securities pursuant to the forthcoming tender offer. *Id.* at 2830.

procedures established by the person who has determined to make or makes the tender offer to avoid violations of proposed Rule 14e-3(a).

#### C. Proposed Rule 14e-4 Equal Treatment of Security Holders

The common practice in making a tender offer is to extend the offer to all the holders of the class of the security which is the subject of the tender offer. Exceptions to this practice have been limited in nature<sup>36</sup> and have not been challenged by the Commission as a matter of policy.<sup>37</sup>

Current tender offer practice thus reflects a common understanding that implicit in the Williams Act is a requirement that a tender offer be made to all security holders. The Congressional purpose underlying the Williams Act was to require fair and equal treatment of all holders of the class of security which is the subject of a tender offer.<sup>38</sup> Moreover, the operation as well as the legislative history of certain substantive provisions of the Williams Act contemplate that the tender offer will be made to all holders of the class being sought. For example, the additional ten-day pro rata period provided by section 14(d)(6) upon an increase in the consideration offered was described in both the Senate and House reports as "allowing all shareholders a fair opportunity to participate in the offer."<sup>39</sup> The Commission has consistently endeavored to fulfill the Congressional purpose by administering the Williams Act to prevent unreasonable discrimination among holders of the class of security which is the subject of

a tender offer.

It is also common tender offer practice to pay all tendering security holders the same price for their shares. This practice similarly reflects a common understanding that there is implicit in the Williams Act a requirement to pay to every security holder the highest consideration offered to any other security holder pursuant to the tender offer. This construction furthers the purposes underlying the Williams Act, particularly those of section 14(d)(7)<sup>40</sup> which requires that a bidder pay any increase in the consideration offered to persons who have previously tendered their shares. Section 14(d)(7) has been administered by the Commission to require equal treatment of tendering security holders.<sup>41</sup>

In view of the fact that a definition of the term "tender offer" is being proposed for comment, the Commission believes it is appropriate to also propose for comment rules which would codify the "offer to all" and "highest consideration" requirements discussed above. By proposing these requirements simultaneously with the proposed definition of the term "tender offer," the Commission intends to clarify the distinction between the application of the definition to a transaction and the regulatory requirements that must be observed once it is determined that a tender offer is being made. The fact that an offer is extended to less than all the

<sup>36</sup> The Senate and House Reports on the bill which was finally enacted describe the purpose of section 14(d)(7) as being:

to assure fair treatment of those persons who tender their shares at the beginning of the tender period and to assure equality of treatment among all shareholders who tender their shares. 1967 Senate Report at 10; 1968 House Report at 11. The provision which became section 14(d)(7) was first suggested by the Commission, which described the purpose as being

to remove a purely fortuitous factor from the calculation of the amount security holders should receive for their securities by assuring them of the same price for their securities regardless of when they are taken up and to avoid the discriminating effect of paying some holders more than others, since security holders tendering their shares pursuant to a tender offer normally assure tendering security holders will receive the same price.

112 Cong. Rec. 19003, 19005 (1966) (Memorandum of the SEC to the Committee on Banking and Currency, U.S. Senate on S. 2731, 89th Cong., 1st Sess., 111 Cong. Rec. 28256 (1965)).

<sup>41</sup> See, e.g., Letter to William Gleason, Esq. from the Division of Corporation Finance re: Methode Electronics, Inc. (December 29, 1976).

holders of a class of a security or that different consideration is offered to different holders of the same class of securities or both does not mean that a tender offer has not been made. It does, however, mean that if such a transaction is found to be a tender offer under the proposed definition, the transaction would not have been made in compliance with the proposed requirements that the offer be open to all security holders and that the consideration paid to any security holder be equal to the highest consideration offered to any other security holder. These requirements, like those stated explicitly in sections 14(d)(5), 14(d)(6) and 14(d)(7), are the consequences of making a tender offer and are therefore unrelated to the determination of whether or not a tender offer has been made.

Thus, proposed Rules 14e-4(a) and (b) would, if adopted, make explicit requirements which are implicit in the Williams Act. Proposed Rule 14e-4(a) would require the consideration paid to any security holder to be equal to the highest consideration offered to any other security holder pursuant to the tender offer. With respect to an odd-lot tender offer by an issuer for securities of a class of which it is the issuer, the proviso in proposed Rule 14e-4(a) would permit the consideration paid in such tender offers to be based on a formula such as market price prevailing on the date tendered securities are received by the issuer.

The Commission requests specific comment on whether the objective of proposed Rule 14e-4(a) now expressed in terms of "highest consideration" would be better achieved by another standard such as "same consideration" or "substantially the same consideration." In this context, the Commission invites comment on whether different forms of consideration which are substantially equivalent ought to be permitted or whether the different forms of consideration such as cash or cash and securities should be offered to all security holders.

Proposed Rule 14e-4(b) would require the tender offer to be open to all holders of the class of securities which is the subject of the tender offer. Two

<sup>42</sup> See Release No. 34-14234, (December 7, 1977) (42 FR 63068, 63069) which published for comment a requirement of same consideration to all security holders in the context of issuer tender offers under then proposed Rule 13e-4(b)(7).

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exceptions from this latter requirement are, however, also being proposed with respect to tender offers by issuers for their own securities. The first exception would allow issuer tender offers which are limited to persons who own, of record or beneficially, an aggregate of not more than a specified number which is less than one hundred shares of such security (an "odd lot"). This exception is based on proposed Rule 13e-4(b)(7) published for comment in 1977<sup>43</sup> (the "1977 proposal"). The commentators generally agreed that the odd-lot holders, as well as the issuer and its other security holders, derive financial benefits from odd-lot tender offers. Holders of odd lots are afforded an opportunity to dispose of their shares without incurring disproportionately high transaction costs. The issuer and its other security holders benefit to the extent that the elimination of odd lots reduces the expenses incurred by the issuer in servicing small shareholder accounts. Although contemplated by the 1977 proposal, the exception has been revised to specifically permit odd-lot issuer tender offers to fewer than all holders of odd-lots. Thus, the issuer is able to determine the maximum odd-lot size for which a tender offer is made. The Commission believes that the exception to permit odd-lot issuer tender offers does not unreasonably discriminate among holders of the class being sought and that, as a matter of policy, such tender offers should not generally be discouraged.

The second exception would permit issuer tender offers which are not made to officers, directors or affiliates. The exclusion of securities held by these persons would operate to reduce the proration risk to an issuer's public security holders and thus would permit them to participate in the tender offer to a greater extent. Moreover, the relationship of the persons covered by the exception to the issuer is such that their exclusion from the tender offer will generally be volitional. Accordingly, the exception is not inconsistent with the purpose of the proposal.

#### *D. Rule 14e-5. Prohibiting purchases not made by means of a tender offer*

The Commission is proposing to rescind Rule 10b-13 and to adopt in lieu thereof proposed Rule 14e-5. Rule 10b-13 currently prohibits purchases from being made otherwise than pursuant to a tender offer from the time the tender offer is publicly announced until the expiration of the offer. Proposed rule 14e-5 would prohibit any person who

makes a tender offer or simultaneous tender offers<sup>44</sup> for one or more classes of securities issued by a single subject company from making purchases of specified securities except by means of the tender offers<sup>45</sup> during the period from the public announcement of certain information or, if no announcement is made, the date on which the first of the tender offers commences through the tenth business day after the termination of the last of the tender offers to expire. Thus, tender offers for more than one class of securities would be specifically permitted under the proposal so long as purchases were not made outside of the tender offer, during the specified period.

The information which must be included in a public announcement that will trigger Rule 10b-13 is similar to that found in Rule 14d-2(c). However, proposed Rule 14e-5 would prohibit purchases from being made except by means of the tender offer after the public announcement of the information specified in Rule 14d-2(d) through the tenth business day after the termination of the tender offer. By basing the prohibition on the information contained in Rule 14d-2(d), the proposal would interrelate with and augment the protections afforded by Rule 14d-2(b).

Rule 14d-2(b) provides that a bidder's public announcement through a press release, newspaper advertisement or public statement of certain material terms of a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act causes the bidder's tender offer to commence under section 14(d).<sup>46</sup> The information which will trigger Rule

<sup>44</sup> Although the discussion will hereinafter refer to a tender offer for a single class of securities, it is equally applicable to simultaneous tender offers for more than one class of securities of a single subject company.

<sup>45</sup> Proposed Rule 14e-5(c) would, however, except certain purchases from the application of proposed rule 14e-5(a).

<sup>46</sup> Under Rule 14d-3(a) a bidder must file and transmit its Schedule 14D-1 on the date of commencement as well as publish or send or give the information required by Rule 14d-6(a) to security holders. It should be noted, however, that Rule 14d-2(b) contains an exception clause which is designed to prevent the imposition of undue burdens on a bidder and to assure the availability of security holder's rights under sections 14(d)(5) and 14(d)(6) and the rules promulgated thereunder. Under the exception clause, the tender offer would not be deemed to commence on the date of the public announcement if within five business days thereof the bidder either: (1) issues a subsequent public announcement stating that the bidder has determined not to continue with the offer; or (2) complies with the filing requirements of Rule 14d-3(a) and disseminates the disclosure required by Rule 14d-6(a) to security holders pursuant to Rule 14d-4 or otherwise. Nevertheless, in the latter case, section 14(d)(7) will apply from the date of such public announcement.

14d-2(b) includes: the identity of the bidder and the subject company; a statement of the class and amount of securities being sought; and disclosure of the price or range of prices being offered therefor. The determination that section 14(d) is applicable upon the date of such public announcement was based on the Commission's judgment that putting such information in the public domain has such a demonstrable impact on both security holders and the market as to constitute the practical commencement of the tender offer. Such public announcements cause investors to make investment decisions with respect to a tender offer on the basis of incomplete information and trigger market activity normally attendant to a tender offer, such as arbitrage activity.

Rule 14d-2(d) does, however, permit a bidder to make a public announcement of the following information<sup>47</sup> with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act without deeming the tender offer to have commenced under Rule 14d-2(b): the identity of the bidder and the subject company; and a statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject company which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor. While the Commission recognizes that the impact such statements on security holders and the market is not as significant as those in which the price to be offered and the amount of securities to be sought is specified, such statements do have a demonstrable impact and pose the same types of problems, albeit to a lesser extent, as the statements comprehend by Rule 14d-2(b).

In view of their lesser impact and the burden which would be imposed on bidders if such statements were deemed to constitute the commencement of the tender offer, the Commission has determined that such statements will not be viewed as commencing the tender offer. However, the Commission believes that a person who intends to make a tender offer should not be able to purchase securities after such public announcements have been made except by means of the tender offer. Requiring the person who intends to make a tender offer to cease purchasing after such an announcement is made will minimize, to the extent feasible, the abuses noted above. It will also reduce the likelihood

<sup>47</sup> The specified information is set forth in Rule 14d-2(c).

of fraudulent, deceptive or manipulative acts or practices during this period. Moreover, once the specified information has been publicly announced, the proposal removes any incentive on the part of holders of substantial blocks of securities to demand from the person making the tender offer(s) a consideration greater than or different from that currently offered to unaffiliated security holders.

The Commission specifically requests comment on whether the operation of proposed Rule 14e-5(a) should be predicated on an event other than the public announcement of the information contained in Rule 14d-2(d), such as, for example, the announcement of dissemination of the information contained in Rule 14d-2(c). The latter formulation would be consistent with existing interpretations under Rule 10b-13. In addition, the Commission requests comment on the impact which proposed Rule 14e-5(a) would have on the timing of the announcement to make a tender offer.

As noted above, proposed Rule 14e-5 also differs from Rule 10b-13 in that it would prohibit purchases for a period of ten business days after the termination of the tender offer.<sup>48</sup> The Commission believes that this provision may be necessary to ensure that a bidder does not take advantage of unsettled market conditions following the termination of its tender offer. The Commission specifically requests comment on whether a period of ten business days after a tender offer is sufficient to permit the impact of the offer on the market to subside before subsequent purchases can be made. Rule 13e-4(f)(6) (§ 240.13e-4(f)(6)) prohibits purchases of securities of the same class and series which are the subject of a tender offer covered by the rule during the ten business day period subsequent to the termination of the tender offer. Commentators advocating a longer period are asked to consider whether a different period should apply to tender offers which are subject to Rule 13e-4.

Paragraph (b) of proposed Rule 14e-5 specifies the securities to which the rule applies. The securities include not only those to be sought in the bidder's tender offer but also any option, warrant or right, convertible security or other

<sup>48</sup> This approach is being taken in lieu of the integration approach taken in proposed Rule 14d-8 which was published for comment in the February release. That proposal would have integrated, for purposes of section 14(d)(7) of the Exchange Act, certain purchases of subject company securities made by a bidder or its affiliates within forty business days after the termination of the bidder's tender offer. The commentators raised substantial problems with respect to both the approach taken therein as well as its operation and impact.

security which involves a contractual right, privilege or other provision to purchase or acquire the security which is the subject of the tender offer. It should be noted, however, that a person meeting the conditions specified in paragraph (c) of proposed Rule 14e-5 may purchase any of these securities pursuant to the exercise of options, warrants or rights, the conversion of convertible securities, or the performance of agreements to purchase such securities. The specified conditions are: that the options, warrants, rights, convertible securities, or agreements were acquired or entered into prior to the time of such public announcement or pursuant to the tender offer; and that such securities or agreements and any exercise thereof are disclosed in any applicable filings under the Williams Act. If adopted, the proposal would change the practice under Rule 10b-13 which limits purchases other than pursuant to the tender offer during the specified period to the exercise of a right of conversion or exchange of another security that is immediately convertible into or exchangeable for the security which is the subject of the tender offer if the other security is owned prior to the public announcement. Specific comment is requested as to whether the expansion of the scope of purchases which are permitted to be made under proposed Rule 14e-5(c) except by means of the tender offer during the specified period is preferable to the limitation under Rule 10b-13. Comment is also requested with respect to the impact of each of these limitations on tender offer practice given the proposed change in the type of announcement that will trigger the prohibition on purchases outside of the tender offer.

Paragraphs (d) and (e) of proposed Rule 14e-5 are the same as paragraphs (c) and (d) of Rule 10b-13. Paragraph (d) would provide an exemption therefrom for purchases under specified conditions pursuant to "qualified stock options," "employee stock purchase plans," and "restricted stock options" as defined in sections 422, 423, and 424(b) of the Internal Revenue Code of 1954, as amended, respectively, as well as purchases under specified types of employee plans. Paragraph (e) would provide that the Commission may, unconditionally or on terms and conditions, exempt any transaction from the operation of the rule if the Commission finds that the exemption would not result in the use of a manipulative or deceptive device or contrivance or of a fraudulent, deceptive or manipulative act or practice within the purpose of the rule.

As proposed, Rule 14e-5 applies to certain purchases subsequent to the termination of any tender offer, whether for all or less than all of a class of securities. Specific comment is requested as to whether the regulation of post-termination purchases should distinguish between a tender offer for any or all securities and a tender offer for only a portion of the securities of a class which would result in proration if the offer is over subscribed. Commentators advocating such a distinction are requested to furnish the rationale therefor and to suggest appropriate treatment in each case.

#### **General and Specific Inquiries**

##### *A. Issue Relating to Subject Companies*

The Commission is becoming increasingly concerned by the effect of defensive corporate charter amendments on the interests of investors, particularly investors who are confronted with a tender offer. On October 13, 1978, the Commission authorized the Division of Corporation Finance to publish the instructions to its staff with respect to the review of proxy or information statements containing proposals relating to such amendments.<sup>49</sup> Since that time the Commission's staff has monitored proxy and information statements containing proposals relating to such amendments. In many instances, these defensive amendments may in part be designed to deter the making of a tender offer for companies with such provisions in their charters. In such cases, security holders of such companies would be denied the benefits of tender offers for their securities which were recognized by Congress in adopting the Williams Act.<sup>50</sup> Because these actions appear to be inconsistent with the protection of investors and the Congressional purpose

<sup>49</sup> Release No. 34-15230 (October 13, 1978) (43 FR 49863).

<sup>50</sup> In introducing the legislation which became the Williams Act, Senator Williams stated:

This measure is not aimed at obstructing legitimate takeover bids. In some instances, a change in management will prove a welcome boon for shareholder and employee, and in a few severe situations it may be necessary if the company is to survive.

Cong. Rec. S443-444 (daily ed. January 18, 1967) (remarks by Senator Williams).

I have taken extreme care with this legislation to balance the scales to protect the legitimate interests of the corporation, management and shareholders without unduly impeding cash takeover bids.

*Id.* at S444.  
... I am certain that this amendment to the Securities Exchange Act will benefit the interests of America's more than 20 million shareholders and will not serve as a device to protect an inefficient management from a legitimate takeover bid.



underlying the Williams Act, the Commission is requesting specific comment with respect to the following: (1) the impact of defensive corporate charter amendments on tender offer practice and the interests of investors in the context of tender offers; and (2) the need for and type of rulemaking action which should be taken by the Commission under the Exchange Act to address such charter and by-law amendments.

#### B. Issue Relating to Purchases Contrary to Statements in Schedule 13D

The Commission notes that in responding to Item 4 of Schedule 13D (§ 240.13d-101) there is often included a discussion of a number of alternative courses of action which may be taken. The Commission also notes that open market purchases are frequently made even though such discussion has not been amended prior thereto to reflect the specific intention to make such purchases. However, Rule 13d-2(a) (§ 240.13d-2(a)) requires an amendment to Schedule 13D if any material change occurs in the information set forth in the Schedule, including a change in the filing person's purposes, plans or proposals described under Item 4. While the Commission considers such purchases without a prior amendment to Item 4 to be a specific violation of Rule 13d-2(a), the Commission is also concerned about the deceptive effect such omissions may have on the market place. Therefore the Commission requests specific comment as to whether further rulemaking under section 10(b) of the Exchange Act is necessary. Specifically, such rulemaking would proscribe open market purchases by persons who have filed a Schedule 13D unless there is prior disclosure in such filing or amendments thereto specifically reflecting the intention to do so.

#### C. Application of Proposals to Tender Offers for Debt Securities

In addition to applying to tender offers for equity securities, the proposals published herein would be applicable to tender offers for debt securities. The Commission recognizes that certain issuer purchases of debt securities to satisfy sinking fund and other mandatory redemption requirements may constitute a tender offer within the meaning of the definition proposed for comment herein. In recognition of this and similar issues, the Commission invites specific comment as to whether or not it is necessary or appropriate in the public interest or for the protection of investors for any or all of these proposals to apply to such tender offers for debt securities, even if made to

satisfy sinking fund provisions or requirements.

#### D. Application of Proposals to Tender Offers for Foreign Securities and Tender Offers Made in Foreign Countries or by Foreign Persons

The Commission invites specific comment with respect to the effect of the proposals published herein on: (1) tender offers by domestic persons for (a) domestic securities held in foreign countries and (b) for foreign securities held in the United States and/or foreign countries; and (2) tender offers by foreign persons for domestic and/or foreign securities held (a) in the United States or (b) in foreign countries. Specific comment is also requested as to the need for and type of exemption(s) from the proposals which might be created for such tender offers.

#### E. Other Inquiries

In addition to the above and the issues raised by the proposals, the Commission requests written comment on the following: (1) Whether the costs imposed on bidders, subject companies and/or others by the proposals published for comment herein outweigh their benefits to investors and the public interest; and (2) Whether any proposed rule or the proposed schedule, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

In addressing the issues raised and the proposals published in this release, commentators should feel free to consider the materials accumulated in Commission File No. S7-770.

#### Text of Proposals

The text of the proposals is set forth below: (Attention—The text of the following proposed amendments uses ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions.)

I. 17 CFR Part 240 is proposed to be amended by revising Regulation 14D (§§ 240.14d-1 through 14d-101) in the following respects:

Section 240.14d-1 is proposed to be amended to read as follows:

#### § 240.14d-1 Scope of and definitions applicable to Regulations 14D and 14E.

(a) *Scope.* Regulation 14D (§§ 240.14d-1 through 240.14d-101) shall apply to any tender offer which is subject to section 14(d)(1) of the Act, including, but not limited to, any such tender offer for securities of a class described in that section which is made by an affiliate of the issuer of such class. Regulation 14E (§§ 240.14e-1 [and 240.14e-2] ► through 14e-5 ◄) shall apply to any tender offer for securities (other than exempted securities) unless otherwise noted therein.

(b) *Definitions.* Unless the context otherwise requires, all terms used in Regulation 14D or Regulation 14E have the same meaning as in the Act and in Rule 12b-2 (§ 240.12b-2) promulgated thereunder. In addition, for purposes of sections 14(d) and 14(e) of the Act and Regulations 14D and 14E, the following definitions apply:

► (1) The term "tender offer" includes a "request or invitation for tenders" and means one or more offers to purchase or solicitations of offers to sell securities of a single class, whether or not all or any portion of the securities sought are purchased, which

(i) During any 45-day period are directed to more than 10 persons and seek the acquisition of more than 5% of the class of securities, except that offers by a broker (and its customer) or by a dealer made on a national securities exchange at the then current market or made in the over-the-counter market at the then current market shall be excluded if in connection with such offers neither the person making the offers nor such broker or dealer solicits or arranges for the solicitation of any order to sell such securities and such broker or dealer performs only the customary functions of a broker or dealer and receives no more than the broker's usual and customary commission or the dealer's usual and customary mark-up; or

(ii) Are not otherwise a tender offer under paragraph (b)(1)(i) of this section, but which (A) are disseminated in a widespread manner, (B) provide for a price which represents a premium in excess of the greater of 5% of or \$2 above the current market price and (C) do not provide for a meaningful opportunity to negotiate the price and terms. ◄

► (1) ► (2) ◄ The term "bidder means any person who makes a tender offer or on whose behalf a tender offer is made: *Provided, however,* That the term does not include an issuer which makes a tender offer for securities of any class of which it is the issuer;

► (2) ► (3) ◄ The term "subject company" means any issuer of securities which are sought by a bidder pursuant to a tender offer: *Provided, however,* That, with respect to Rule 14e-3, the term includes any issuer of securities which are proposed to be sought pursuant to a tender offer by a person who has determined to make a tender offer. ◄

► (3) ► (4) ◄ The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer;

► (4) ► (5) ◄ The term "beneficial owner" shall have the same meaning as that set forth in Rule 13d-3: *Provided, however,* That, except with respect to Rule 14d-3, Rule 14d-9(d) and Item 6 of Schedules 14D-1 and 14D-9, the term shall not include a person who does not have or share investment power or who is deemed to be a beneficial owner by virtue of Rule 13d-3(d)(1) (§ 240.13d-3(d)(1)).

► (5) ► (6) ◄ The term "tender offer material" means:

(i) The bidder's formal offer, including all the material terms and conditions of the tender offer and all amendments thereto;

(ii) The related transmittal letter (whereby securities of the subject company which are sought in the tender offer may be transmitted to the bidder or its depository) and all amendments thereto; and

(iii) Press releases, advertisements, letters and other documents published by the bidder or sent or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer;

► (6) ► (7) ◄ The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for a corporation;

► (7) ► (8) ◄ The term "business day" means any day, other than Saturday, Sunday or a federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern time. In computing any time period under section 14(d)(5) or section 14(d)(6) of the Act or under Regulation 14D or Regulation 14E the date of the event which begins the running of such time period shall be included *except that* if such event occurs on other than a non-business day such period shall begin to run on and shall include the first business day thereafter; and

► (8) ► (9) ◄ The term "security position listing" means, with respect to

the securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participant's respective positions in such securities as of a specified date.

II. 17 CFR Part 240 is proposed to be amended by adding §§ 240.14e-3, 14e-4 and 14e-5 to Regulation 14E (§§ 240.14e-1 and 14e-2) which read as follows:

#### ► § 240.14e-3 Trading in subject company securities on the basis of material non-public information.

(a) It shall constitute a fraudulent, deceptive or manipulative act or practice within the meaning of section 14(e) of the Act for any person who is in possession of material, non-public information relating to a tender offer that another person has determined to make or is making and who knows or has reason to believe that such information was received directly or indirectly from such other person or a person acting on behalf of such other person, to purchase or sell, cause to be purchased or sold or arrange to purchase or sell any security or any option to purchase or sell any security of such subject company unless within a reasonable time prior to any such purchase or sale such person makes a public announcement by press release or otherwise disclosing the information received and its source.

(b) Notwithstanding paragraph (a) of this section, purchases or sales by a person other than a natural person who is in possession of material, non-public information relating to a tender offer will be deemed not to be a violation of paragraph (a) if such person can show that the individuals making the investment decision on behalf of such person did not know and did not have access to such material, non-public information. The existence of policies and procedures to ensure that material, non-public information will not be used in violation of paragraph (a) of this section may, depending on the facts and circumstances, be taken into account in determining whether the individuals who made the investment decision on behalf of such person had access to material, non-public information relating to the tender offer.

(c) It shall constitute a fraudulent, deceptive or manipulative act or practice within the meaning of section 14(e) of the Act for any person who has determined to make or is making a tender offer or any person acting on behalf of that person to communicate material, non-public information relating to such tender offer to any other person

if such person knows or has reason to believe such other person is likely to violate paragraph (a) of this section: *Provided, however,* That, unless such person has evidence indicating that its officers, directors, employees or partners, as the case may be, and any person involved in the planning, financing, preparation or execution of such tender offer is likely to violate paragraph (a), the communication of such information to those persons in order to implement such tender offer will not violate this provision.

#### § 240.14e-4 Equal treatment of security holders.

As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices within the meaning of section 14(e) of the Act in connection with a tender offer and to ensure equal treatment of holders of securities for which a tender offer is made, no person shall make a tender offer unless:

(a) The consideration paid to any security holder is equal to the highest consideration offered to any other security holder pursuant to the tender offer: *Provided, however,* That in connection with a tender offer by an issuer for securities of a class of which it is the issuer which is made only to holders of not more than a specified number which is less than one hundred shares of such security, the terms of such tender offer may provide for the same formula for determining the consideration offered to all such holders; and

(b) The offer is open to all holders of the class of securities which is the subject of such tender offer *except that* this provision shall not prohibit the issuer from making a tender offer which is (1) limited to persons who own, of record or beneficially, an aggregate of not more than a specified number which is less than one hundred shares of such security; or (2) not made to officers, directors or affiliates of such issuer.

#### § 240.14e-5 Prohibiting purchases not made by means of a tender offer.

(a) As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices within the meaning of section 14(e) of the Act, no person who makes a tender offer or simultaneous tender offers for one or more classes of securities issued by a single subject company shall purchase, cause to be purchased or enter into any agreement, arrangement or understanding to purchase securities described in paragraph (b) of this section, except by means of the tender offers, during the period from the



person's public announcement of the information described in Rule 14d-2(d) or, if no such announcement is made, the date on which the first of the tender offers commences, through the tenth business day after the termination of the last of the tender offers to expire.

(b) The security referred to in paragraph (a) of this section includes:

(1) Any security of any one of the same classes of securities sought in the tender offers; and

(2) Any option, warrant, right, convertible security or other security which involves a contractual right, privilege or other provision to purchase or acquire through exercise, conversion, exchange or otherwise any security described in paragraph (b)(1) of this section.

(c) Notwithstanding paragraph (a) of this section, a person referred to in that paragraph may purchase or cause to be purchased the securities referred in paragraph (b)(1) of this section pursuant to the exercise of options, warrants or rights, the conversion of convertible securities, or the performance of agreements to purchase such securities, subsequent to the time of the public announcement or commencement referred to in paragraph (a) of this section, if the following conditions are satisfied:

(1) Such options, warrants, rights, convertible securities, or agreements were acquired or entered into prior to the time of such public announcement or pursuant to the tender offer; and

(2) Such options, warrants, rights, convertible securities or agreements, and any exercise, conversion or performance thereof, are disclosed in either the Schedule 14D-1 or Schedule 13E-4, if applicable, or amendments to either such schedule, filed by such person and in the tender offer materials disseminated to security holders.

(d) The provisions of this section shall not apply to a purchase of a security of the same class as that which is the subject of a tender offer (or of any other security which is immediately convertible into or exchangeable for such security) if such purchase is made, by the issuer, by participating employees of the issuer or the employees of its subsidiaries, or by the trustee or other person acquiring such security for the account of such employee, pursuant to (1) a stock option plan involving only "qualified stock options," or qualifying as an "employee stock purchase plan," as those terms are defined in sections 422 and 423 of the Internal Revenue Code of 1954, as amended, or "restricted stock options" as defined in section 424(b) of the Internal Revenue Code of 1954, as amended: *Provided, however*, That for the purposes of this paragraph an option

which meets all of the conditions of that section other than the date of issuance shall be deemed to be "restricted stock options"; or (2) a savings, investment, pension or other stock purchase plan providing for both (i) periodic payments (or payroll deductions) for acquisition of securities by or on behalf of participating employees and (ii) periodic purchases of the securities by participating employees, or the person acquiring them for the account of such employees.

(e) This section shall not prohibit any transaction or transactions if the Commission, upon written request or upon its own motion, exempts such transaction or transactions, either unconditionally or on specified terms or conditions, as not constituting a manipulative or deceptive device or contrivance or a fraudulent, deceptive or manipulative act or practice comprehended within the purpose of this section. ◀

[Secs. 3(b), 10(b), 13(d), 13(e), 14(d), 14(e), 23(a), 48 Stat. 882, 891, 894, 895, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; sec. 202, 91 Stat. 1494; 15 U.S.C. 78c(b), 78j(b), 78m(d), 78n(e), 78n(d), 78n(e), 78w(a)].

#### Statutory Authority

The Commission hereby proposes for comment: amendments to Regulation 14D pursuant to sections 3(b), 10(b), 13(d), 14(d), 14(e) and 23(a) of the Exchange Act; proposed Rule 14e-3 pursuant to Sections 14(e) and 23(a) of the Exchange Act; proposed Rule 14e-4 pursuant to Sections 13(e), 14(d), 14(e) and 23(a) of the Exchange Act; and Rule 14e-5 pursuant to Sections 10(b), 13(e), 14(e) and 23(a) of the Exchange Act.

By the Commission.

November 29, 1979.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37404 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

#### 17 CFR Part 240

[Release No. 33-6160, 34-16386, IC-10960]

#### Withdrawal of Rule Proposals Concerning Tender Offers.

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of Proposals.

SUMMARY: The Commission is withdrawing two proposed rules concerning purchases of securities which are or would become the subject of a tender offer. One of the proposed rules would have integrated for certain purposes purchases of subject company securities during a period of forty business days subsequent to the

termination of the tender offer. The other proposed rule dealt with the purchase of subject company securities by certain persons, including the bidder, prior to the bidder's announcement of its intention to make the tender offer. New proposals are being published for comment in a separate release which the Commission believes will deal more effectively with the abuses attendant to such purchases.

DATE: Effective December 6, 1979.

#### FOR FURTHER INFORMATION CONTACT:

John Huber or John Granda (202-272-2589), Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

#### SUPPLEMENTARY INFORMATION:

On February 5, 1979 the Commission published for comment certain proposed rules and a related schedule pertaining to tender offers, including proposed Rules 14d-8 and 14e-2.<sup>1</sup>

Proposed Rule 14d-8 would have integrated, for the purpose of the "best-price rule" embodied in section 14(d)(7) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)] certain purchases of subject company securities by a bidder or its affiliate after the termination of the bidder's tender offer. The Commission has determined to withdraw this proposal for the reasons expressed in Release No. 34-16384 (November 29, 1979) published elsewhere in this issue and is publishing for comment proposed Rule 14e-5, also discussed in that release, to address in a more effective manner the matters sought to be addressed by the proposal.

Proposed Rule 14e-2 dealt with the purchase of subject company securities by certain persons, including the bidder, prior to the bidder's announcement of its intention to make the tender offer. The Commission is withdrawing this proposal for the reasons expressed in Release No. 34-16384 (November 29, 1979) and is publishing for comment a more generic proposal, proposed Rule 14e-3, which is also discussed in that release.

By the Commission.

November 29, 1979.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37406 Filed 12-5-79; 8:45 am]

BILLING CODE 8010-01-M

<sup>1</sup> Release No. 34-15548 (February 5, 1978) (44 FR 9958).

Thursday  
December 6, 1979

## Part III

# Department of Housing and Urban Development

Office of the Assistant Secretary for  
Housing—Federal Housing Commissioner

Section 8 Housing Assistance Program  
for the Disposition of HUD-Owned  
Projects

Best  
Interest  
Federal  
Register



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of the Assistant Secretary for Housing—Federal Housing Commissioner****24 CFR Part 886****[Docket No. R-79-732]****Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects****AGENCY:** Department of Housing and Urban Development (HUD).**ACTION:** Amended Interim Rule.

**SUMMARY:** This rule amends the present interim rule implementing the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects published September 11, 1978. The present interim rule has been revised based on public comment and amended to add additional provisions covering the disposition of projects where repairs and/or rehabilitation will be accomplished by the purchaser.

**DATES:** Effective date: December 26, 1979. However, no outstanding sales contracts or project sales procedures past advertisement shall be required to be reopened or repeated in order to bring them into compliance with these rules.

Comments due: February 4, 1980.

**ADDRESS:** The Department is soliciting comments from the public prior to issuing a final rule. All written comments on this rule should refer to Docket No. R-79-732 and should be submitted to the Rules Docket Clerk Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, no later than February 4, 1980. All written comments made in connection with this subpart will be available for public inspection during normal business hours at this office. All comments received will be considered by the Department in preparation of the final rule.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert P. Kalish, Director, Office of Multifamily Financing and Preservation, Housing, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5730. (This is not a toll free number)

**SUPPLEMENTARY INFORMATION:** On September 11, 1978, an interim rulemaking was published in the Federal Register for public comment (43 CFR 40402). Interested parties were given until December 11, 1978 to submit written comments. The interim rule was

to provide a program where HUD could sell HUD-owned projects serving low to moderate income families with Section 8 assistance in order that the projects could be maintained as a source of decent, safe, sanitary and affordable housing for low to moderate income families where a need for such housing exists. This regulation was published to supplement the already existing regulation at 24 CFR 886, Subpart B, which provides for the sale of HUD-owned projects requiring Substantial Rehabilitation with rehabilitation to be accomplished by the purchaser.

Comments were received from twelve governmental offices and organizations. All comments received with respect to the interim rule were carefully considered.

Since the publication and in consideration of the comments, the Department has decided to emphasize an approach which promotes, when and where feasible, the repair of projects by the owners after the sale, rather than the Department undertaking such actions during its ownership. It is intended that this will reduce the time projects remain in HUD's ownership. While this approach is permitted by Subpart B, and consistent with Subpart C, the Department proposes to turn the programs into a revised and expanded Subpart C. Therefore, HUD is revising and amending Subpart C and intends to rescind Subpart B when sales currently being processed under that Subpart are closed. All future sales involving Substantial Rehabilitation will be processed under the amended Subpart C.

The revised and amended interim rule is intended to provide a program which will permit HUD to dispose of projects requiring section 8 assistance in a prompt, economical manner, together with the appropriate section 8 Existing, Moderate Rehabilitation or Substantial Rehabilitation assistance funds allocated as needed in accordance with the rehabilitation accomplished and the reasonable rent test.

The Department wishes to remind the public that the regulations at 24 CFR Part 290 are the basic regulations under which disposition decisions are developed by the Department. This rule is intended to be used as one available disposition alternative when and where conditions are warranted.

The following is a summary of the comments received and the corresponding revisions, as well as additions resulting from the merger of Subparts B and C, made to the interim rule.

**Change of Title of Regulations**

The title of the regulations in Subpart C has been shortened to Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects.

**Applicability of Regulation**

Several comments were received which questioned the applicability of the rule where a great amount of rehabilitation was needed and the Section 8 Existing Fair Market Rents are insufficient to meet the reasonable rent test. The Department has amended the rule to provide for more program flexibility, to emphasize purchaser repair rather than HUD repair, and to permit increased rents. Even though repair by the purchaser is emphasized, HUD does intend to make all necessary repairs on a priority basis whenever the Department determines that there is an immediate threat to the health and safety of the tenants.

**Cooperative Sales**

Several comments suggested that the language in the interim rule is inconsistent with the use of Section 8 in a cooperative sale, permitted under the interim rule. Among the issues raised were restricting equity appreciation and the government's potential claim on appreciation resulting from subsidy payments. The Department is currently reviewing the issues raised as they affect the cooperative ownership of any project receiving a subsidy and thus affect other Department programs. Therefore, no changes to the interim rule are being made in this area at this time.

**Eligibility of Owner Occupants**

One comment was received stating that owner occupants should be eligible under this program. The statute prohibits eligibility of owner occupants. Cooperatives, however, are eligible. Owners of projects who wish to reside in the project may do so, but they could not receive Section 8 assistance while they occupy a unit.

**Continued Occupancy of Over Income Tenants**

One comment received suggested that the rule may cause the displacement of tenants not eligible for Section 8 by raising rents and providing incentives to owners to attract only eligible families. The Department is very interested in seeing that its disposition programs keep displacement of tenants to a minimum. This rule provides for the establishment of reasonable rents, which are the same as the market comparable rents in the basic disposition regulation of 24 CFR 290. HUD's policy is to establish market comparable rents (reasonable) during

HUD's ownership. Therefore, the rents established in selling a project are intended to be the same as during HUD ownership and overincome tenants reside in these projects more by choice than by necessity. The Department does not intend that this rule would force overincome tenants to seek other housing. The Department has determined that if overincome tenants move from a project due to the use of Section 8 or the establishment of market comparable rents (reasonable) they do so voluntarily and not as a result of the Department's action. Where the reasonable rent test requires that rents be raised, the regulations at 24 CFR 290 provide that the rent authorized may be lower if HUD determines that to be desirable to maintain the existing economic mix in the project or prevent undesirable turnover.

**PHA Involvement**

One commentator suggested that PHA involvement in evictions and inspections could result in jurisdictional problems between HUD, the owner, and the PHA which could adversely affect project monitoring. HUD is required by the statute to involve PHAs in programs using section 8 Existing allocations. In order to keep this program as simple and easy to administer as possible, the role of PHAs has been kept to that of monitoring evictions and performing inspections. While this may in some instances cause jurisdictional problems as suggested by the commentator, no such problems have yet occurred. For those projects located some distance from the field office, or where the project cannot be effectively monitored by HUD, PHA monitoring may be preferred, and PHAs may be requested to provide other services normally accomplished by HUD.

**Housing Quality Standards**

Several commentators suggested that the Housing Quality Standards are too general in nature and should be more specific. The Housing Quality Standards used in this rule are based on the Standards adopted by the Department in the section 8 Existing Housing and Loan Management Programs, with slight variations made to reflect the purpose and scope of this program.

While some changes are being made to update and conform these standards with those currently adopted by the Department, the standards are not being altered or changed substantially for projects in need of no repairs, minor repairs, or moderate rehabilitation at the time of sale. The Department needs the flexibility provided by these broad based standards to determine, on a

project by project basis, how well projects meet these standards in view of the need for low to moderate income housing in the area and its other disposition alternatives. Projects in need of Substantial Rehabilitation at the time of sale shall be rehabilitated in accordance with HUD's Minimum Design Standards for the Rehabilitation of Residential Properties.

**Housing Assistance for Vacancies**

One commentator suggested that when an eligible family vacates an assisted unit the owner should receive 100 percent of the contract rent for up to 90 days, rather than 80 percent for up to 60 days as provided for in the interim rule. The Department believes that the current procedure provides sufficient funds to prevent financial difficulties caused by an unexpected vacancy by an eligible family while at the same time encourages a fast rent up of the unit. If an owner complies with the HUD approved Affirmative Fair Housing Marketing Plan, and maintains an approved waiting list, in most cases the unit will not be vacant even for the 60 days for which vacancy payments are permitted. If a project requires substantial rehabilitation the owner may also be eligible for debt service payments as provided in § 886.309(g).

**Term of Contract**

Several commentators suggested that the 15 year maximum contract term is a serious limitation. Housing Assistance Payments Contracts for units not requiring substantial rehabilitation are limited by statute to a maximum term of 15 years. For substantial Rehabilitation projects a longer contract term is available.

**Responsibilities of the Owner Unclear**

One commentator suggested that the scope of owner accountability and HUD monitoring be better defined along the lines of the HUD Regulatory Agreement for insured subsidized projects. The Department believes that owner accountability is defined sufficiently to put owners on notice of their obligations. The Department wants to keep its flexibility to alter specific requirements as may be needed on a project by project basis. It must be noted that the majority of the projects sold under this program will be sold with HUD mortgage insurance or a HUD purchase money mortgage which includes use of a Regulatory Agreement, and the Department has developed specific Regulatory Agreement language for use in these sales. In addition, sales documents have been designed to assure the owner's compliance with

contractual obligations after the sale. Prior to their submitting an offer to purchase, all prospective purchasers receive a copy of all documents related to the requirements under the program. Thus they should be fully aware of the requirements prior to submitting a bid.

**Lease Amendments Should Note Utility Allowance**

One commentator suggested that, where the family will be paying for utilities, the utilities should be noted in the lease as well as the amount of the utility allowance. The Department has made an appropriate change in Section 886.332 implementing this suggestion.

**Effects on Eligible Family if Contract is Terminated**

Several comments were received regarding the impact on, and input from, eligible families if HUD were to abate housing assistance payments as provided under § 886.323(e) due to the owner's failure to maintain a dwelling unit in decent, safe, and sanitary condition. This section has been revised based on the procedure in the Section 8 New Construction program which provides that HUD will exercise its rights and remedies under the contract, and for these projects possibly rescinding the sale, in order to assure that the contract units are decent, safe and sanitary and remain available to eligible families. In addition HUD will provide assistance in finding eligible families suitable units in other buildings or projects in the event assistance payments are abated. However, it is the Department's intention to work with owners, tenants, and other interested parties to the extent possible to forestall such action.

**Miscellaneous Comments**

Several miscellaneous comments were beyond the scope of these regulations and therefore could not be adopted herein. In some cases, a suggested change would appropriately be made to the regulations at 24 CFR Part 290. The Department considered these suggestions in its preparation of the new 24 CFR 290 regulations which were published on October 1, 1979, effective October 31, 1979. Following is a brief synopsis of these comments:

1. Subpart C does not recognize potential financial problems that may call for innovative or special purchase financing arrangements. Provisions covering the financing of the disposition of a property are found in 24 CFR 290.

2. HUD should indicate whether approved units can or cannot be counted as achievements toward meeting local Housing Assistance goals.



The question of whether or not units assisted under this program should be counted as goal achievements in an administrative decision which need not be covered in these regulations. It is the Department's current policy that these units cannot be counted toward meeting Housing Assistance goals because in the majority of projects, the Department is replacing a previous subsidy with a new one. The Department is studying the situation where new subsidized units are being added through a project's disposition.

3. Regulations should either present a relocation plan or state that tenants are eligible for benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970. The sale of HUD-owned projects is not subject to the Uniform Act. The Uniform Act only applies to the acquisition of real property by a State agency for a federal or federally assisted project and to resulting displacement. 24 CFR 290 provides a procedure which in some cases permits the payment of out-of-pocket moving costs where tenants are forced to be moved, and sets forth in detail the rights of tenants in occupancy in projects being sold.

4. The regulations should provide more definitive provision on the basis for determining when to dispose of a project through a public bidding and when to negotiate. These provisions are found in 24 CFR 290 and were clarified in the revised 24 CFR 290 regulations based on this comment.

5. The field office should seek comments from the local government and the PHA as part of the process leading to the decision to use Section 8 assistance and not wait until after the decision is made. The regulations at 24 CFR 290 were revised to reflect this suggestion. The decision to use section 8 in a project is the Department's decision, based on the documented analysis provided for in 24 CFR 290 which includes consideration of comments from governmental agencies. Basically, where there is a demonstrated need for section 8 assistance to protect eligible families, the regulations at 24 CFR 290 require that it, or another form of housing assistance, will be used in the disposition. Projects with tenants requiring assistance will not generally be sold without assistance. 24 CFR 290 has been amended considerably to clarify the Department's position on this matter.

6. Tenants should be notified in writing when it has been determined that they qualify for housing assistance. 24 CFR 290 is being amended to reflect

this suggestion as this is a basic program determination.

7. Eligible tenants should receive advance notice of any contemplated change in rent and be given an opportunity to comment. This suggestion has not been implemented because eligible tenants are not generally affected by market rent increases as their rents are determined by family income.

8. A complete model form of lease should be provided. The Department is currently developing a model lease. When the lease is available, this regulation will be revised to incorporate that lease.

#### Expansion of Rule for Moderate and Substantial Rehabilitation

In order to simplify Departmental regulations and assure consistency in disposition decisions regarding the use of section 8 assistance, the Department decided to merge the programs set forth in the interim rule and the rule at 24 CFR 886, Subpart B, with the Moderate Rehabilitation program to develop one concise set of regulations under which HUD owned projects in various stages of repair could be disposed of with Section 8 assistance at appropriate rent levels.

Since Subpart C already included provisions for repairs by the purchaser, the Department has expanded Subpart C to serve as the primary mechanism for disposition with Section 8 assistance.

Following are some of the areas of the interim rule amended herein:

1. A definition for the Agreement to Enter into a Housing Assistance Payments Contract has been added.

2. A definition for decent, safe and sanitary has been added.

3. The definition of Fair Market Rent has been amended to cover projects requiring moderate, substantial rehabilitation or no rehabilitation after the sale.

4. A definition of Minimum Property Standards has been added.

5. Definitions of Moderate Rehabilitation and Substantial Rehabilitation have been added.

6. Section 886.304(b) has been amended to assure that in projects where repairs are to be accomplished by the owner, Section 8 payments may only be made for units that are made decent, safe and sanitary.

7. Section 886.306(a) has been amended to remove unnecessary language and to increase clarity.

8. Section 886.307(m) has been amended to reflect recent Departmental changes in Housing Quality Standards for Congregate Housing and Section 886.307(o) has been amended to reflect

the recent Departmental addition of Energy Efficiency Standards.

9. A new Section 886.309(c) has been added to provide owners with at least 80 percent of the Contract rent for contract units not leased up to 60 days subsequent to the effective date of the contract, as long as the owner has taken and continues to take appropriate actions to fill the vacancies.

10. Section 886.309(g) has been added to permit debt service payments for substantial rehabilitation projects.

11. Section 886.310 has been amended to include provisions for Initial Contract Rents for Moderate Rehabilitation and Substantial Rehabilitation projects. In addition, because some projects are located in areas containing no private unassisted projects, and therefore there are no comparable rents in the area a provision has been added to permit comparables based on HUD-insured or HUD-subsidized projects in the area.

12. Section 886.312 has been amended for clarity and to emphasize the fact the Department intends to have owners submit a written request for rent increases on contract units based upon supportable and substantiated evidence of the need for such an increase, rather than depending on the automatic annual adjustment factor. The Fair Market Rent applicable to the project, up to the 20 percent allowable under special circumstances will serve as the ceiling for contract rents.

13. Section 886.313 has been amended to provide for the additional Federal requirements applicable under the expanded Subpart C.

14. In response to one comment received, Section 886.318 has been amended to provide for notification to families, in writing, by the owner when the family has been determined to be eligible for assistance under this Subpart, if the family has not previously been notified by HUD.

#### Implementation of New Sections

The Department is adding new §§ 886.331 to 886.335 to provide the additional procedures necessary to implement a program where moderate or substantial rehabilitation is required by the purchaser after the sale. These procedures are based on the procedures provided at 24 CFR 881 for Substantial Rehabilitation, and 24 CFR 882 for Moderate Rehabilitation.

Section 886.331 provides for work write-ups and cost estimates of all needed repairs. The work write-ups and cost estimates are to be made by HUD or an agent of HUD such as an Architectural and Engineering firm. An important feature of the cost estimate is the funding of the shortfall in rents on

specific dwelling units which will occur from sales closing prior to execution of the Contract. Since the rents paid by the tenants prior to the sale and prior to the effective date of the Contract do not include housing assistance payments and are, therefore, substantially less than the rent to be received by the owner after the effective date of the Contract, the cost of the shortfall caused by the owners' requirement to maintain this lower rent schedule until the effective date of the contract will be considered a rehabilitation expense, as will the cost of any temporary relocation expenses.

Section 886.332 is added which provides that in order to maintain the Department's control over the project and the owner, and to assure completion of the prompt rehabilitation of the project and implementation of the Contract, an Agreement to Enter into a Housing Assistance Payments Contract is provided similar to that in the Section 8 New Construction and Substantial Rehabilitation programs.

Sections 886.333 and 886.334 cover the owner's obligation during the rehabilitation period, at project completion, and after acceptance of the project units by the Department.

Section 886.335 covers execution of the Contract upon acceptance of the units.

The Department is also in the process of revising the definitions for the Allowance for Utilities and Other Services, Contract Rent, Gross Family Contribution, and Gross Rent. The definitions herein will be revised accordingly in the final rule.

Other Information: A Finding of Inapplicability with regard to the Environmental Impact of these rules has been prepared in accordance with the HUD's Handbook "Procedures for Protection and Enhancement of Environmental Quality." A copy of the Finding is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Based on the fact that immediate implementation of this rule will be beneficial to tenants of HUD-owned Multifamily housing projects and to program administration, and the rule consists of a compilation of procedures which have had the benefit of public comment, the Department finds that good cause exists to make this rule effective as a revised interim rule. A final rule will be published after the comments on this interim rule are received:

For the reasons described above, 24 CFR Part 886, Subpart C is amended to read as follows:

#### PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

##### Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

| Sec.    | Purpose.                                                                                                                                                      |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
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| 886.302 | Allocation and Reservation of Section 8 Contract Authority and Budget Authority.                                                                              |
| 886.303 | Project Eligibility Criteria.                                                                                                                                 |
| 886.304 | PHA Involvement.                                                                                                                                              |
| 886.305 | Notices.                                                                                                                                                      |
| 886.306 | Housing Quality Standards.                                                                                                                                    |
| 886.307 | Maximum Total Annual Contract Commitment.                                                                                                                     |
| 886.308 | Housing Assistance Payments to Owners.                                                                                                                        |
| 886.309 | Initial Contract Rents.                                                                                                                                       |
| 886.310 | Term of Contract.                                                                                                                                             |
| 886.311 | Rent Adjustments.                                                                                                                                             |
| 886.312 | Other Federal Requirements.                                                                                                                                   |
| 886.313 | Financial Default.                                                                                                                                            |
| 886.314 | Security and Utility Deposits.                                                                                                                                |
| 886.315 | Establishment of Income Limit Schedules: 30 Percent Occupancy by Very Low-Income Families.                                                                    |
| 886.316 | Establishment of Amount of Housing Assistance Payments.                                                                                                       |
| 886.317 | Responsibilities of the Owner.                                                                                                                                |
| 886.318 | Responsibility for Contract Administration.                                                                                                                   |
| 886.319 | Default Under the Contract.                                                                                                                                   |
| 886.320 | Marketing.                                                                                                                                                    |
| 886.321 | Lease Requirements.                                                                                                                                           |
| 886.322 | Maintenance, Operation, and Inspections.                                                                                                                      |
| 886.323 | Reexamination of Family Income, Composition, and Extent of Exceptional Medical or Other Unusual Expenses.                                                     |
| 886.324 | Overcrowded and Underoccupied Units.                                                                                                                          |
| 886.325 | Adjustment of Allowance for Utilities and Other Services.                                                                                                     |
| 886.326 | Inapplicability of Low-Income Public Housing Model Lease and Grievance Procedures.                                                                            |
| 886.327 | Termination of Tenancy.                                                                                                                                       |
| 886.328 | Reduction of Number of Contract Units for Failure to Lease to Eligible Families.                                                                              |
| 886.329 | Work Write-Ups and Cost Estimates.                                                                                                                            |
| 886.330 | Agreement to Enter Into Housing Assistance Payments Contract.                                                                                                 |
| 886.331 | Rehabilitation Period.                                                                                                                                        |
| 886.332 | Completion of Rehabilitation.                                                                                                                                 |
| 886.333 | Execution of Housing Assistance Payments Contract.                                                                                                            |
| 886.334 | HUD Review of Contract Compliance.                                                                                                                            |
| 886.335 | Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). |

#### Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

##### § 886.301 Purpose.

The purpose of this subpart is to provide for the use of section 8 housing assistance in connection with the sale of HUD-owned housing in order to increase and maintain the amount of decent, safe, and sanitary housing affordable by lower-income families, to minimize displacement of tenants, to preserve and revitalize residential neighborhoods, and to dispose of projects in a manner consistent with HUD's disposition objectives.

##### § 886.302 Definitions.

Act. The United States Housing Act of 1937.

Agreement. An Agreement to Enter into a Housing Assistance Payments Contract. See Section 886.332.

Allowance for utilities and other services ("Allowance"). An amount determined or approved by HUD as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the family. Contract. (See section 8 contract.)

Contract rent. The rent payable to the owner under the contract, including the portion of the rent payable by the family. In the case of a cooperative, the term "contract rent" means charges under the occupancy agreements between the members and the cooperative.

Decent, safe, and sanitary. Housing is decent, safe, and sanitary if the project does not need Substantial Rehabilitation at the time of the sale and the requirements of § 886.307 are met, or if the project does require Substantial Rehabilitation at the time of sale and after such rehabilitation the Minimum Design Standards for Rehabilitation for Residential Properties are met.

Eligible family ("Family"). A family (including those covered by the definition of "Family" in 24 CFR 812) which qualifies as a lower income family and meets the other requirements of the Act and this part. Lower income single persons residing in projects in need of moderate or substantial rehabilitation, who are displaced as a result of the rehabilitation, may return to occupy an assisted unit as a "Family" in accordance with 24 CFR 812. A family's eligibility for housing assistance payments continues until its gross family contribution equals the gross rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its lease nor shall such termination preclude resumption of



section 8 assistance as a result of subsequent changes in income or other relevant circumstances during the term of the Contract.

Eligible project or project. A HUD-owned multifamily housing project (see 24 CFR 290) or HUD-owned home properties together having five or more dwelling units: (1) For which the final disposition program developed in accordance with the provisions of 24 CFR 290 involves sale with section 8 housing assistance to enable the project to be used, in whole or in part, to provide housing for lower income families, and (2) the units of which are decent, safe, and sanitary.

Fair market rent. The rent, including utilities (except telephone), ranges and refrigerators, and all maintenance, management, and other services, which is determined by HUD at least annually and published in the Federal Register.

(a) For units in projects which are in decent, safe and sanitary condition at sales closing, as determined by HUD, the Fair Market Rent shall be an amount that would be required to be paid in order to obtain privately owned, existing decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Separate Fair Market Rents shall be established for dwelling units of varying sizes (number of bedrooms).

(b) For units in projects sold by HUD which are in need of moderate rehabilitation, as determined by HUD, at sales closing, and the purchaser agrees to rehabilitate the project promptly after the sale, as a condition of the sale, the Fair Market Rent shall be an amount equal to 120 percent of the amount set forth in paragraph (a) for a unit of corresponding type and size.

(c) For units in projects sold by HUD which are in need of substantial rehabilitation, as determined by HUD, at sales closing and the purchaser agrees, as a condition of the sale, to rehabilitate the project promptly after the sale, the Fair Market Rent shall be an amount that would not exceed the amount that would be required to be paid in order to obtain privately developed and owned, newly constructed rental housing of modest (non-luxury) nature with suitable amenities and sound architectural design meeting the objectives of the HUD Minimum Design Standards for Rehabilitation for Residential Properties. Separate Fair Market Rents will be established for dwelling units by various sizes (number of bedrooms) and types (e.g., elevator, row, detached, mobile homes; housing designed for the elderly or handicapped shall be a separate type for this purpose).

(d) The Fair Market Rent, minus the amount of any applicable allowance for utilities and other services payable directly by the family, shall be the maximum amount that can be approved as the contract rent, except that the maximum approvable amount may be higher or lower as provided in § 886.310 or § 886.312.

Gross family contribution. The portion of the gross rent payable by an eligible family, i.e., the difference between the amount of the housing assistance payment payable on behalf of the family and the gross rent. (See also 24 CFR 889.)

Gross rent. The contract rent plus any allowance for utilities and other services.

HCD Act. The Housing and Community Development Act of 1974.

Housing assistance payment on behalf of eligible family. The portion of the gross rent payable by or at the direction of HUD, i.e., the difference between the amount of the gross family contribution and the gross rent. (See also part 889.)

HUD. The Department of Housing and Urban Development.

Income. Income from all sources of each member of the household as determined in accordance with criteria established by HUD. (See also 24 CFR 889.)

Lease. A written agreement approved by HUD between an owner and an eligible family for leasing of a decent, safe, and sanitary dwelling unit in accordance with the applicable contract. The lease shall comply with the provisions of this subpart, including but not limited to § 886.322.

Lower income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

Minimum Design Standards for Rehabilitation for Residential Properties. See HUD Handbook 4940.4.

Moderate Rehabilitation. The rehabilitation of an eligible project involving a minimum expenditure of \$1,000 per unit, excluding the cost of contract rent shortfalls during rehabilitation and temporary relocation but including its prorated share of work to be accomplished on common areas or systems, to:

(a) Upgrade the property to decent, safe and sanitary condition to comply with the Housing Quality Standards, or other standards approved by HUD, from

a condition below those standards and requiring minor repairs or the curing of an accumulation of deferred maintenance (improvements being of a modest nature and other than routine maintenance); or

(b) Repair or replace major building systems or components in danger of failure.

Owner. The purchaser, under this subpart, of a HUD-owned project, including a cooperative entity.

Project account. The account established and maintained in accordance with § 886.308.

Public Housing Agency ("PHA"). Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income families.

Section 8 contract ("Contract"). A written contract between the owner of an eligible project and HUD providing housing assistance payments to the owner on behalf of eligible families pursuant to this subpart.

Substantial Rehabilitation.

(a) The improvement of a property to decent, safe, and sanitary condition and in accord with the standards of this part from a condition below these standards. Substantial Rehabilitation may vary in degree from gutting and extensive reconstruction to the cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as Substantial Rehabilitation under this definition.

(b) Substantial Rehabilitation may also include renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part or the repair or replacement of major building systems or components in danger of failure.

Very low-income family. A family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 886.303 Allocation and reservation of section 8 contract authority and budget authority.

(a) Allocation. The contract authority and budget authority for this program will be provided from the Headquarters reserve authority approved specifically for use in connection with the sale of eligible projects.

§ 886.304 Project eligibility criteria.

(a) Selection of projects. HUD shall select projects for sale with assistance

under this subpart on the basis of the final disposition programs developed and approved in accordance with part 290 and the requirements of this subpart. In the evaluation of projects, consideration shall be given to whether there are site occupants who would have to be displaced, whether the relocation of site occupants is feasible, and the degree of hardship which displacement might cause.

(b) Projects needing repairs. A project, which is sold subject to the condition that following sale the project will be repaired by the owner so as to become decent, safe and sanitary, will be sold with an Agreement that Section 8 assistance will be provided after the repairs are completed by the owner and the project is inspected and accepted by HUD. In these projects, Section 8 payments may be made only for project units which are determined to be decent, safe and sanitary.

(c) High-rise elevator projects. High-rise elevator projects for families with children will not be assisted under this subpart unless the final disposition program, prepared in accordance with 24 CFR 290 indicates that there is a need for assisted housing for families and there is no other practical alternative for providing the needed housing.

§ 886.305 PHA involvement.

HUD, as part of its mortgage servicing activities, performs most of the processing activities normally performed by a PHA in the Section 8 existing housing program. Therefore, duplicative PHA processing activities are not required; however, PHA involvement may be appropriate in some circumstances.

(a) Invitation to authorize eviction. The PHA with jurisdiction over the area in which the project is located shall be invited by HUD, in writing, to authorize evictions on contract units for a fee established by HUD and paid by the owner.

(b) Invitation to perform inspections. HUD may invite the PHA to perform inspections of contract units on a fee basis, where HUD determines that such inspections will be performed more efficiently and economically by the PHA.

(c) Other functions. HUD may invite the PHA to perform other functions.

(d) PHA Party to contract. Where the PHA is to perform any functions, the contract between HUD and the owner shall provide that the PHA shall be a party to the contract for the purpose of authorizing evictions, inspections, or for such other purposes as may be agreed upon.

§ 886.306 Notices.

Before a project is approved for sale in accordance with this subpart, and as a part of the process of preparing a disposition recommendation in accordance with 24 CFR 290, the field office manager shall:

(a) Notify the Local Government. Notify in writing the chief executive officer of the unit of general local government in which the project is located (or the designee of that officer) of the proposed sale with housing assistance and afford the unit of local government an opportunity to review and comment upon the proposed sale in accordance with 24 CFR 891. Local government review shall address consistency with the housing needs and strategy of the community, not strict conformance to the limitations on variations from housing assistance plan goals which are contained in part 891.

(b) Notify PHA to participate. Notify in writing the PHA with jurisdiction over the area in which the project is located and advise it of HUD's intention to sell the project and to enter into a contract for Section 8 assistance with the purchaser. The notification shall invite the PHA to participate in the contract as provided in § 886.305 and to respond to HUD within 30 calendar days from the date of the notification letter.

§ 886.307 Housing quality standards.

Housing used in this program not requiring substantial rehabilitation at the time of sale shall meet the performance requirements set forth in this section. In addition, the housing shall meet the acceptability criteria set forth in this section except for such variations as are approved by HUD. Local climatic conditions and geographic features and local housing and building codes are examples which may justify such variations.

(a) Sanitary facilities. (1) Performance requirement. The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(2) Acceptability criteria. A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(b) Food preparation and refuse disposal—(1) Performance requirement. The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(2) Acceptability criteria. The unit shall contain the following equipment in proper operating condition: Cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation, and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(c) Space and security—(1) Performance requirement. The dwelling unit shall afford the family adequate space and security.

(2) Acceptability criteria. A living room, kitchen area, and bathroom shall be present; and the dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

(d) Thermal environment—(1) Performance requirement. The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) Acceptability criteria. The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil, or kerosene are unacceptable.

(e) Illumination and electricity—(1) Performance requirement. Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(2) Acceptability criteria. Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets, one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

(f) Structure and materials—(1) Performance requirement. The dwelling unit shall be structurally sound so as not to pose any threat to the health and



safety of the occupants and so as to protect the occupants from the environment.

(2) *Acceptability criteria.* Ceilings, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition.

(i) In the case of a mobile home, the home shall be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

(g) *Interior air quality*—(1) *Performance requirement.* The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

(2) *Acceptability criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

(h) *Water supply*—(1) *Performance requirement.* The water supply shall be free from contamination.

(2) *Acceptability criteria.* The unit shall be served by an approved public or private sanitary water supply.

(i) *Lead-based paint*—(1) *Performance requirement.* (i) The dwelling unit shall be in compliance with HUD lead-based paint regulations, 24 CFR 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, and the owner shall provide a certification that the dwelling is in accordance with such HUD regulations.

(ii) If the property was constructed prior to 1950, the family upon occupancy shall have been furnished the notice required by HUD lead-based paint regulations and procedures regarding the hazards of lead-based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

(2) *Acceptability criteria.* Same as performance requirement.

(j) *Access*—(1) *Performance requirement.* The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

(2) *Acceptability criteria.* The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows).

(k) *Site and neighborhood.* Where a project is sold with an insured mortgage, the site selection criteria of the insurance program shall be utilized in lieu of the requirements and criteria in this paragraph.

(1) *Performance requirement.* The site and neighborhood shall be reasonably free from disturbing noises and vibrations and other hazards to the health, safety, and general welfare of the occupants.

(2) *Acceptability criteria.* The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank backups, sewage hazards, or mudslides; abnormal air pollution, smoke, or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(l) *Sanitary condition*—(1) *Performance requirement.* The unit and its equipment shall be in sanitary condition.

(2) *Acceptability criteria.* The unit and its equipment shall be free of vermin and rodent infestation.

(m) *Congregate housing.* The foregoing standards shall apply except for paragraph (b) of this section and the requirement in paragraph (c)(2) of this section for a kitchen area. In addition, the following standards shall apply:

(1) The unit shall contain and have ready access to a flush toilet which can be used in privacy, a fixed basin with hot and cold running water, and a shower and/or tub equipped with hot and cold running water all in proper operating condition and adequate for personal cleanliness and the disposal of human wastes. These facilities shall utilize an approved public or private disposal system, and shall be sufficient in number so that they need not be shared by more than four occupants. Those units accommodating physically handicapped occupants with

wheelchairs or other special equipment shall provide access to all sanitary facilities, and shall provide, as appropriate to needs of the occupants, basins and toilets of appropriate height; grab bars to toilets, showers and/or bathtubs; shower seats; and adequate space for movement.

(2) The unit shall contain suitable space to store, prepare and serve foods in a sanitary manner. A cooking stove or range, a refrigerator(s) of appropriate size and in sufficient quantity for the number of occupants, and a kitchen sink with hot and cold running water shall be present in proper operating condition. The sink shall drain into an approved private or public system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(3) The dwelling unit shall afford the family adequate space and security. A living room, kitchen, dining area, bathroom, and other appropriate social and/or recreational community space shall be within the unit and the dwelling unit shall contain at least one sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside each unit shall be capable of being locked. An emergency exit plan shall be developed and occupants shall be apprised of the details of the plan. Regular fire inspections shall be conducted by appropriate local officials. Readily accessible first aid supplies and fire extinguishers shall be provided throughout the unit, smoke detectors shall be provided and emergency phone numbers (police, ambulance, fire department, etc.) shall be available at every phone and individual copies shall be provided to each occupant. All emergency and safety features and procedures shall meet applicable State and local standards.

(n) *Independent group residence.* The foregoing standards shall apply except for paragraphs (a), (b), (c), (k) and (m) of this section. In addition, Section 882.109(n) shall apply.

(o) *Energy Efficiency—Performance Requirement.* Appropriate energy conserving improvements such as insulation, weatherstripping and caulking must be accomplished by HUD or the purchaser as part of any rehabilitation under this Subpart. In addition, energy conserving improvements such as storm doors and windows must be considered by HUD and accomplished by HUD or the purchaser provided that these

improvements are determined by HUD to be cost-effective. See 24 CFR Part 39.

#### § 886.308 Maximum total annual contract commitment.

(a) *Number of units assisted.* Based on the final disposition program developed in accordance with 24 CFR 290, HUD shall determine the number of units to be assisted up to 100 percent of the units in the project.

(b) *Maximum assistance.* The maximum total annual housing assistance payments that may be committed under the contract shall be the total of the gross rents for all the contract units in the project.

(c) *Changes in contract amounts.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in contract rents, changes in family composition, or decreases in family incomes:

(1) A project account shall be established and maintained, in an amount as determined by HUD consistent with section 8(c)(6) of the Act, out of amounts by which the maximum annual contract commitment per year exceeds amounts paid under the contract for any fiscal year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of: (i) Housing assistance payments, and (ii) other costs specifically authorized or approved by HUD.

(2) Whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum annual contract commitment, causing the amount in the project account to be less than an amount equal to 40 percent of the maximum annual contract commitment, HUD, within a reasonable period of time, shall take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

#### § 886.309 Housing assistance payments to owners.

(a) *Payments for eligible families.* Housing assistance payments shall be paid for units under lease by eligible families, in accordance with the contract and as provided in this section. These housing assistance payments will cover the difference between the contract rent and the portion of said rent payable by

the family as determined in accordance with the HUD-established schedules and criteria. (See 24 CFR 889.) Where the gross family contribution is less than the allowance for utilities and other services, the owner, on behalf of HUD, shall pay the difference to the family.

(b) *No assistance for owners.* No section 8 assistance may be provided for any unit occupied by an owner. However, cooperatives are considered rental housing rather than owner-occupied housing under this subpart.

(c) *Payments for vacancies from execution of contract to initial occupancy.* If a Contract unit which is decent, safe and sanitary and has been accepted by HUD as available as of the effective date of the Contract is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract provided that the Owner (1) has submitted a list of units leased as of the effective date and a list of the units not so leased; (2) 60 days prior to the completion of the rehabilitation or the date the agreement was executed, whichever is later, had notified the PHA of any units which the owner anticipated would be vacant on the anticipated effective date of the contract; (3) has taken and continues to take all feasible actions to fill the vacancy including, but not limited to: contracting applicants on the Owner's waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the units in a manner specifically designed to reach low-income families; and (4) has not rejected any eligible applicant except for good cause acceptable to HUD.

(d) *Payments for vacancies after initial occupancy.* If an eligible family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the owner may receive housing assistance payments for so much of the month in which the family vacates the unit as the unit remains vacant. Should the unit remain vacant, the Owner may receive from HUD a housing assistance payment in the amount of 80 percent of Contract Rent for a vacancy period not exceeding an additional month. However, if the owner collects any of the family's share of the rent for this period, the payment must be reduced to an amount which, when added to the family's payments, does not exceed 80 percent of the Contract Rent. Any such excess shall be

reimbursed by the Owner to HUD or as HUD may direct. (See also § 886.315.) The owner shall not be entitled to any payment under this paragraph unless he or she: (1) Immediately upon learning of the vacancy, has notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy, and (2) has made and continues to make a good faith effort to fill the vacancy, including but not limited to, contacting applicants on the waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to HUD.

(e) *Payments for units where family is evicted.* If the owner evicts a family, the owner shall not be entitled to any payments pursuant to paragraph (d) of this Section unless the request for such payment is supported by a certification that the provisions of § 886.328 have been followed.

(f) *Prohibition for double compensation for vacancies.* The owner shall not be entitled to housing assistance payments with respect to vacant units under this section to the extent he or she is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocations pursuant to title I of the HCD Act or payments under § 886.315).

(g) *Debt service payments for substantially rehabilitated projects.* (1) If a contract unit continues to be vacant after the 60-day period specified in paragraph (c) or (d) of this section, the Owner may submit a claim and receive additional housing assistance payments on a semiannual basis with respect to such a vacant unit in an amount equal to the principal and interest payments required to amortize the portion of the debt attributable to that unit for the period of the vacancy, whether such vacancy commenced during rent-up or after rent-up.

(2) Additional payments under this paragraph (g) for any unit shall not be for more than 12 months for any vacancy period, and shall be made only if:

(i) The unit is not in a project insured under the National Housing Act except pursuant to section 244 of that Act.

(ii) The unit was in decent, safe, and sanitary condition during the vacancy period for which payments are claimed.

(iii) The owner has taken and is continuing to take the actions specified in paragraphs (c)(1), (2) and (3) or paragraphs (d)(1) and (2) of this section, as appropriate.



(iv) The Owner has demonstrated in connection with the semiannual claim on a form and in accordance with the standards prescribed by HUD with respect to the period of the vacancy, that the project is not providing the Owner with revenues at least equal to the project costs incurred by the Owner, and that the amount of the payments requested is not in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies.

(v) The Owner has submitted, in connection with the semiannual claim, a statement with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph.

(3) HUD may deny any claim for additional payments or suspend or terminate payments if it determines that based on the Owner's statement and other evidence, there is not a reasonable prospect that the project can achieve financial soundness within a reasonable time.

#### § 886.310 Initial contract rents.

(a) *Reasonable rent determination.* The HUD-determined contract Rents for Contracts Units in the project shall not exceed rents which are reasonable (comparable, see 24 CFR 290) for the location, quality, amenities, facilities, and management and maintenance services in relation to the rents paid for comparable units, nor shall the contract rents exceed the rents charged by the owner to unassisted families for comparable units. If comparable units in the private sector do not exist in the general neighborhood of the project, then HUD-insured or HUD-subsidized projects may be used as comparables. HUD shall maintain for 3 years all relevant documentation under this paragraph.

(b) *Fair Market Rent limitation.* The sum of the contract rent plus an allowance for utilities and other services (where utilities and other services are not included in the contract rent) shall be determined by HUD. This sum shall not exceed the sum of the published section 8 fair market rents, as defined in § 886.302, for contract units in the project, except that the fair market rents may be exceeded by up to 20 percent where the field office manager determines that special circumstances

warrant such higher rents, and such higher rents meet the test of reasonableness in paragraph (a) of this section.

#### § 886.311 Term of contract.

The contract term for any unit shall be one of the following:

(a) If the project units require no rehabilitation or moderate rehabilitation, the term shall be 15 years.

(b) If the project units require substantial rehabilitation, the term shall not exceed 30 years, except that the term shall not exceed 20 years in the case of a project financed with assistance of a loan made by or insured, guaranteed or intended for purchase by HUD. Notwithstanding the preceding sentence, in the case of a project financed by a loan or loan guarantee from a State or local agency, the term may not exceed 40 years.

#### § 886.312 Rent adjustments.

(a) *Limits.* Housing assistance payments will be made in amounts commensurate with contract rent adjustments under this paragraph, up to the maximum amount authorized under the contract. (See § 886.308.)

(b) *Annual adjustments.* The contract rents may be adjusted annually, at HUD's option, either (1) on the basis of a written request for a rent increase submitted by the owner and properly supported by substantiating evidence, or (2) by applying, on each anniversary date of the contract, the applicable automatic annual adjustment factor most recently published by HUD in the Federal Register. If HUD requires that the owner submit a written request, HUD within a reasonable time shall approve a rental schedule that is necessary to compensate for any increase occurring since the last approved rental schedule in taxes (other than income taxes) and operating and maintenance costs over which owners have no effective control, or shall deny the increase stating the reasons therefor. Increases in taxes and maintenance and operating costs shall be measured against levels of such expenses in comparable assisted and unassisted housing in the area to ensure that adjustments in the contract rents shall not result in material differences between the rents charged for assisted and comparable unassisted units. Contract rents may be adjusted upward or downward as may be appropriate; however, in no case shall the adjusted rents be less than the contract rents on the effective date of the contract, provided there was no fraud or mistake

adverse to the Department's interest in determining the initial contract rent.

(c) *Special adjustments.* Special adjustments in the contract rents shall be requested in writing by the owner and may be authorized by HUD to the extent HUD determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the contract units which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments and utilities not covered by regulated rates) which are not adequately compensated for by the adjustment authorized by paragraph (b) of this section.

(d) *Comparability between assisted and unassisted units.* Notwithstanding any other provisions of this subpart, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD. Provided, however, That this limitation shall not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that such differences may have existed with respect to the initial contract rents assuming no fraud or mistake adverse to the Department's interest.

(e) *Addendums to contract and leases.* Any adjustment in contract rents shall be incorporated into the contract and leases by dated addendums to the contract and leases establishing the effective date of the adjustment.

#### § 886.313 Other Federal requirements.

Participation in this program requires: (a) Compliance with (1) title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11248, and section 3 of the Housing and Urban Development Act of 1968, and (2) all rules, regulations, and requirements issued pursuant thereto.

(b) Submission of an approvable Affirmative Fair Housing Marketing Plan.

(c) For projects where rehabilitation is to be completed by or at the direction of the owner, compliance with:

(1) The Clean Air Act and Federal Water Pollution Control Act;

(2) Where the property contains nine or more units to be assisted, prevailing wages must be paid for all rehabilitation work performed and other Davis-Bacon Act requirements must be met and the Labor Standards Provisions contained in the following Acts must be met:

(i) Contract Work Hours and Safety Standards Act.

(ii) Copeland Anti-Kickback Act; and

(iii) National Apprenticeship Act. (3) Section 504 of the Rehabilitation Act of 1973;

(4) The National Historic Preservation Act (Pub. L. 89-665);

(5) The Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291);

(6) Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation at 36 CFR Part 800;

(7) The National Environmental Policy Act of 1969;

(8) The Flood Disaster Protection Act of 1973;

(9) Executive Order 11988, Flood Plains Management;

(10) Executive Order 11990, Protection of Wetlands.

#### § 886.314 Financial default.

In the event of a financial default under the project mortgage, HUD shall have the right to make subsequent housing assistance payments to the mortgagee until such time as the default is cured, or until some other time agreeable to the mortgagee and approved by HUD.

#### § 886.315 Security and utility deposits.

(a) *Amount of deposits.* If at the time of the initial execution of the Lease the Owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Gross Family Contribution or \$50. However, this amount shall not exceed the maximum amount allowable under State or local law. For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the Family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.

(b) *When a Family vacates.* If a Family vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Family Contribution or other amount which the Family owes under the Lease. If a Family vacates the unit owing no rent or other amount under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance to the Family.

(c) *Interest payable on deposits.* In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State

and local laws regarding interest payments on security deposits.

(d) *Insufficient deposits.* If the security deposit is insufficient to reimburse the Owner for the unpaid Family Contribution or other amounts which the Family owes under the Lease, or if the Owner did not collect a security deposit, the Owner may claim reimbursement from HUD for an amount not to exceed the lesser of: (1) The amount owed the Owner, (2) two months' Contract Rent, minus, in either case, the greater of the security deposit actually collected or the amount of security deposit the owner could have collected under the program (pursuant to paragraph (a) of this section). Any reimbursement under this section must be applied first toward any unpaid Family Contribution due under the Lease and then to any other amounts owed. No reimbursement shall be claimed for unpaid rent for the period after the family vacates.

#### § 886.316 Establishment of income limit schedules: 30 percent occupancy by very low-income families.

(a) *HUD-Established income limits.* HUD will establish schedules of income limits for determining whether families qualify as lower income families and very low-income families.

(b) *Preference to Low-Income Families.* During initial occupancy under a contract pursuant to this Subpart, the owner, in filling vacancies for contract units, shall give preference to very low-income families until at least 30 percent of the contract units are occupied by such families. Thereafter, the owner shall exercise his or her best efforts to maintain at least 30 percent occupancy of contract units by very low-income families.

#### § 886.317 Establishment of amount of housing assistance payments.

The amount of the housing assistance payment on behalf of an eligible family shall be determined in accordance with 24 CFR 889. Where an allowance is established for utilities required to be supplied by the family, and the allowance exceeds the gross family contribution, the owner shall pay to the family each month an amount equal to the difference between the applicable utility allowance and the gross family contribution.

#### § 886.318 Responsibilities of the owner.

(a) *Management and maintenance.* The owner shall be responsible for the management and maintenance of the project in accordance with requirements established by HUD. These

responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions including the taking of applications, selection of families in accordance with the owner's tenant selection factors approved by HUD, verification of income and other pertinent requirements, and determination of eligibility and amount of family contribution in accordance with HUD-established schedules and criteria;

(4) Collection of family rents;

(5) Preparation and furnishing of information required under the contract;

(6) Reexamination of family income, composition and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(7) Redeterminations of the amount of family contribution and the amount of housing assistance payment in accordance with HUD-established schedules and criteria as a result of an adjustment by HUD of any applicable allowance for utilities and other services;

(8) Notifying families in writing when they are determined to be qualified for assistance under this subpart where they have not already been notified by HUD prior to sale;

(9) Reviewing at least annually the allowance for utilities and other services;

(10) Compliance with equal opportunity requirements; and

(11) Compliance with Federal requirements set forth in § 886.313(c).

(b) *Contracting for Services.* Subject to HUD approval, any owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section: Provided, That such contract shall not shift any of the owner's responsibilities or obligations.

(c) *HUD review.* The owner shall permit HUD to review and audit the management and maintenance of the project at any time.

#### § 886.319 Responsibility for contract administration.

HUD is responsible for administration of the contract.



**§ 886.320 Default under the contract.**

The contract shall contain a provision to the effect that if HUD determines that the owner is in default under the contract, HUD shall notify the owner of the actions required to be taken to cure the default and of the remedies to be applied by HUD including recovery of overpayments, where appropriate, and that if the owner fails to cure the default within a reasonable time as determined by HUD, HUD has the right to terminate the contract or to take other corrective action, including rescission of the sale. When contract termination is under consideration by HUD, HUD shall give eligible families an opportunity to submit written and other comments. Where the project is sold under the arrangement that involves a regulatory agreement between HUD and the owner, a default under the regulatory agreement shall be treated as default under the contract.

**§ 886.321 Marketing.**

(a) *Marketing in accordance with HUD-Approved Plan.* Marketing of units and selection of families by the owner shall be in accordance with the owner's HUD-approved Affirmative Fair Housing Marketing Plan, HUD-approved tenant selection factors and with all regulations relating to fair housing advertising including use of the equal opportunity logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b)(1) HUD shall determine the eligibility for assistance of families in occupancy prior to sales closing. The owner shall be responsible for determination of eligibility of applicants for tenancy after sale, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected family, in accordance with the gross rent and the gross family contribution computed in accordance with 24 CFR 889. Where an allowance is established for utilities required to be supplied by the family and the allowance exceeds the gross family contribution, the owner shall pay to each family each month an amount equal to the difference between the applicable utility allowance and the gross family contribution. Local residency requirements are prohibited. Local residency preferences are discouraged and may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing

Marketing Plan. With respect to any residency preferences, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

(2) For every family that applies for admission, the owner and the applicant shall complete and sign the form of application prescribed by HUD. When the owner decides to no longer accept applications, the owner shall publish a notice to that effect in a publication likely to be read by potential applicants. The notice shall state the reasons for the owner's refusal to accept additional applications. When the owner agrees to accept applications again, a notice to this effect shall also be published. The owner shall retain copies of all completed applications together with any related correspondence for 3 years. For each family selected for admission, the owner shall submit one copy of the completed and signed application to HUD. Housing assistance payments will not be made on behalf of an admitted family until after this copy has been received by HUD.

(3) If the owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable but the owner does not have a suitable unit to offer, the owner shall place such family on the waiting list and so advise the family indicating approximately when a unit may be available.

(4) If the owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable in accordance with the HUD approved tenant selection factors and if the owner has a suitable unit, the owner and the family shall enter into a lease. The lease shall be on a form approved by HUD and shall otherwise be in conformity with the provisions of this subpart.

(5) Records on applicant families and approved families shall be maintained by the owner so as to provide HUD with racial, ethnic, and gender data and shall be retained by the owner for 3 years.

(6) If the owner determines that an applicant is not eligible, or if eligible, not selected, the owner shall notify the applicant in writing of the determination, the reasons upon which the determination is made, and inform the applicant that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing if the applicant believes that the owner's determination is based on erroneous information. The procedures of this subparagraph do not preclude the applicant from exercising his/her other rights if he/she believes he/she is being discriminated against on the basis of

race, color, creed, religion, sex, national origin, or because of a handicap. The owner shall retain for 3 years a copy of the application, the letter, the applicant's response, if any, the record of any informal hearing, and a statement of final disposition.

(c) *Initial occupancy.* (1) Where moderate or substantial rehabilitation is involved, sixty days prior to the completion of the rehabilitation, or when the rehabilitation is begun, whichever is later, the Owner shall determine whether the tenant population of the project generally reflects the racial/ethnic makeup of the housing market area. Based on this determination, the Owner shall then conduct appropriate marketing activities in accordance with a HUD-approved Affirmative Fair Housing Marketing Plan. Such activities may include special outreach to those groups identified as not ordinarily expected to apply for these units without special outreach; notification to PHA's in the housing market area of any anticipated vacancies; and formulation of waiting lists based on the Owner's HUD-approved tenant selection factors.

(2) Where a PHA is notified, the PHA shall notify an appropriate size family (families) on its waiting list of the availability of the unit and refer the family (families) to the owner. (Since the Owner is responsible for tenant selection, the owner is not required to lease to a PHA selected family, but the owner must comply with § 886.321(b)(6).)

**§ 886.322 Lease requirements.**

The lease shall contain all required provisions specified in paragraph (b) of this section and none of the prohibited provisions listed in paragraph (c) of this section. It also shall reflect the requirements of § 886.328 and shall otherwise conform to a form of lease approved by HUD.

(a) The term of the lease shall be for not less than 1 year. The lease may, or in the case of a lease of a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Required provisions.* The lease between the owner and the family shall contain the following provisions:

*Addendum to lease.* The following additional lease provisions are incorporated in full in the lease between \_\_\_\_\_ (owner) and \_\_\_\_\_ (family) for the following dwelling unit: \_\_\_\_\_. In case of any conflict between these and any other provisions of the lease, these provisions shall prevail.

1. The total rent shall be \$\_\_\_\_\_ per month.
2. Of the total rent, \$\_\_\_\_\_ shall be payable by or at the direction of the Department of

Housing and Urban Development ("HUD") as housing assistance payments on behalf of the family and \$\_\_\_\_\_ shall be payable by the family. These amounts shall be subject to change by reason of changes in the family's income, composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by HUD of any applicable allowance for utilities and other services. Any such change shall be effective as of the date stated in a notification to the family.

3. The owner shall not discriminate against the family in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

4. The family agrees to notify the owner of a change in family composition, and further agrees to transfer to an appropriate size dwelling unit based on family composition upon appropriate notice by the owner that such a dwelling unit is available within the project.

5. The owner shall provide the following utilities, services, and maintenance: (Information to be inserted by owner). The family is responsible for the payment of the following utility bill(s) \_\_\_\_\_. (To be used only when appropriate).

6. The owner shall not evict the family unless the owner complies with the requirements of local law, if any, and of HUD regulations. The owner shall give the family a written notice of the proposed eviction, stating the grounds and advising the family that it has 15 days (or such greater number, if any, that may be required) within which to respond to the owner.

7. Because the owner must obtain HUD's authorization for an eviction, a copy of the notice shall be furnished simultaneously to HUD. The notice shall also state that the family may, within the same time period, present objections in writing or in person to HUD. HUD shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the lease. HUD shall make a good faith effort to notify the owner and the family of its determination within 30 calendar days of the date of the notice to the family whether or not the family has presented objections to HUD.

(c) *When PHA Is Party to the contract.* Where a PHA is a party to the contract between HUD and the owner, the PHA shall assume the responsibilities of HUD under (b)(7) of this section. The PHA shall be entitled to a fee to be paid by the owner as provided in the contract for each proposed eviction action submitted by the owner and reviewed by the PHA.

(d) *Excluded clauses.* Lease clauses which as determined by HUD fall within the classification listed below shall not be included in any lease.

(1) *Confession of judgment.* Consent by the family to be sued, to admit guilt, or to accept without question any judgment favoring the owner in a lawsuit brought in connection with the lease.

(2) *Seize or hold property for rent or other charges.* Authorization to the owner to take property of the family and/or hold it until the family meets any obligation which the owner has determined the family has failed to perform.

(3) *Exculpatory clause.* Prior agreement by the family not to hold the owner or its agents legally responsible for acts done improperly or for failure to act when it was required to do so.

(4) *Waiver of legal notice.* Agreement by the family that the owner need not give any notices in connection with (i) a lawsuit against the family for eviction, money damages, or other purpose, or (ii) any other action affecting the family's rights under the lease.

(5) *Waiver of legal proceedings.* Agreement by the family to allow eviction without a court determination.

(6) *Waiver of jury trial.* Authorization to the owner's lawyer to give up the family's right to trial by jury.

(7) *Waiver of right to appeal court decision.* Authorization to the owner's lawyer to give up the family's right to appeal a decision on the ground of judicial error or to give up the family's right to sue to prevent a judgment from being put into effect.

(8) *Family chargeable with cost of legal actions regardless of outcome of lawsuit.* Agreement by the family to pay lawyer's fees or other legal costs whenever the owner decides to sue the family, whether or not the family wins.

**§ 886.323 Maintenance, operation, and inspections.**

(a) *Maintain decent, safe, and sanitary housing.* The owner shall maintain and operate the project so as to provide decent, safe, and sanitary housing and the owner shall provide all the services, maintenance, and utilities which he or she agrees to provide under the contract and the lease. Failure to do so shall be considered a material default under the contract and Regulatory Agreement, if any.

(b) *HUD inspection.* Prior to execution of the contract, HUD shall inspect (or cause to be inspected) each proposed contract unit and related facilities to ensure that they are in decent, safe, and sanitary condition.

(c) *Owner and family inspection.* Prior to occupancy of any vacant unit by a family, the owner and the family shall inspect the unit and both shall certify that they have inspected the unit and have determined it to be decent, safe, and sanitary. Copies of these reports shall be kept on file by the owner for at least 3 years.

(d) *Annual inspections.* HUD will inspect the project (or cause it to be

inspected) at least annually and at such other times as HUD may determine to be necessary to assure that the owner is meeting his or her obligation to maintain the units and the related facilities in decent, safe, and sanitary condition and to provide the agreed-upon utilities and other services. HUD will take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the owner and the family of its determination regarding the condition of the units.

(e) *Failure to maintain decent, safe, and sanitary units.* If HUD notifies the owner that he/she has failed to maintain a dwelling unit in decent, safe, and sanitary condition, and the owner fails to take corrective action within the time prescribed in the notice, HUD may exercise any of its rights or remedies under the contract, or Regulatory Agreement, if any, including abatement of housing assistance payments (even if the family continues to occupy the unit) and rescission of the sale. If, however, the family wishes to be rehoused in another dwelling unit, HUD shall provide assistance in finding such a unit for the family.

**§ 886.324 Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses.**

(a) *Reexamination of family income.* Reexamination of family income, composition, and the extent of medical or other unusual expenses incurred by the family shall be notice by the owner or HUD that such a dwelling unit is available. Such a family shall have priority over a family on the owner's waiting list seeking the same size unit.

(b) *Change in family composition, owner's responsibilities.* Upon receipt by the owner of a notification by the family of a change in the family size, the owner agrees to offer the family a suitable unit as soon as one becomes vacant and ready for occupancy. If the owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD may assist the family in finding a suitable dwelling unit and require the family to move to such unit as soon as possible.

(c) *HUD actions if appropriate size unit is not made available.* If the owner fails to offer the family a unit appropriate for the size of the family when such unit becomes vacant and ready for occupancy, HUD may abate housing assistance payments to the owner for the unit occupied by the family and assist the family in finding a suitable dwelling unit elsewhere.



**§ 886.326 Adjustment of allowance for utilities and other services.**

HUD shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the allowance for utilities and other services applicable to the dwelling units in the project on grounds of changes in utility rates or other change of general applicability to all units in the project. If HUD determines that an adjustment should be made, HUD shall prescribe the amount of the adjustment and direct the owner to make a corresponding adjustment promptly in the amount of rent to be paid by the affected families and the amount of housing assistance payment.

**§ 886.327 Inapplicability of low-income public housing model lease and grievance procedures.**

Model lease and grievance procedures established by HUD for PHA-owned low-income public housing are applicable only to PHA-owned projects operated under section 8 commitments pursuant to this subpart.

**§ 886.328 Termination of tenancy.**

(a) *Applicability.* The provisions of 24 CFR 450 as modified by this section, apply to all decisions by an Owner to terminate the tenancy of a Family residing in a unit under Contract during or at the end of the Family's lease term.

(b) *Entitlement of Families to Occupancy (1) General.* The Owner may not terminate any tenancy except upon the following grounds: (i) Material noncompliance with the lease; (ii) Material failure to carry out obligations under any State landlord and tenant act, or (iii) Other good cause, which may include the refusal of a Family to accept a HUD-approved modified lease form (see paragraph (d) of this section). No termination by an Owner will be valid to the extent it is based upon a lease or a provision of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of good cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the Owner has given the Family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the Family in the same manner as that provided for termination notices under State and local law.

(3) *Material noncompliance.* The term material noncompliance with the lease includes (i) one or more substantial violations of the lease or (ii) repeated minor violations of the lease which disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

(c) *Termination notice.* (1) The Owner must give the Family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the Family that it has 15 calendar days (or such greater time, if any, that may be required by law) within which to respond to the Owner. This notice shall also state that the family may, within the same time period, present its objections to HUD in writing or in person. The owner shall include in this notice the name, address, and telephone number of the appropriate HUD (or PHA) official to whom the family should respond.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the Family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1) (i) or (ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the Family, the Owner may not rely on any grounds which are different from the reasons set forth in the notice. The owner must obtain HUD's authorization for an eviction; accordingly a copy of the notice must be furnished simultaneously to HUD and HUD must determine that the proposed termination is being performed in accordance with the procedures required in this section.

(i) If the family resides in a unit which is not a moderately or substantially rehabilitated unit, but a unit which is under contract, HUD shall forthwith examine the grounds for the termination and shall authorize the termination unless it finds the grounds to be insufficient under the lease. HUD shall make a good faith effort to notify the owner and the family of its determination within 30 days of the date of notice to the family, whether or not the family has presented objections to HUD.

(ii) Where the PHA is a party to the contract between the owner and HUD for the purpose of authorizing evictions, the PHA shall assume the responsibilities of HUD under paragraph (b) of this section. In this situation a copy of the notice of the proposed eviction shall be sent to the PHA. The PHA shall be entitled to a fee as provided in the contract for each proposed eviction action submitted by the owner and reviewed by the PHA.

(d) *Modification of lease form.* The Owner may, with the prior written approval of HUD, modify the terms and conditions of the lease effective at the end of the initial term or a successive term, by serving an appropriate notice on the Family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the Family at least 30 days prior to the last date on which the Family has the right to terminate the tenancy without being bound by the modified terms and conditions. The Family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the Owner written notice in accordance with the lease that he/she intends to terminate the tenancy. Any increase in rent must in all cases be governed by this Subpart and other applicable HUD regulations.

(e) *Continued assistance.* Should the Family be evicted in accordance with this section, HUD will have no obligation to continue assistance to the Family.

**§ 886.329 Reduction of number of contract units for failure to lease to eligible families.**

(a) *Reductions after initial six months.* If at any time, beginning 6 months after the effective date of the contract, the owner fails for a continuous period of 6 months to have all of the contract units leased or available for leasing by eligible families, HUD may on 30 calendar days notice reduce the number of contract units to not less than the number of contract

units under lease, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number. Failure by the owner to make a reasonable effort to lease the contract units to eligible families shall be considered a material default under the contract.

(b) *Amending the contract.* HUD may agree to an amendment of the contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the owner's record of compliance, with his or her obligations under the contract and if annual contributions contract and budget authority are available; and HUD may take such steps authorized by Section 8(c)(6) of the Act as may be necessary to carry out this assurance.

**§ 886.330 Work write-ups and cost estimates.**

(a) *HUD preparation of work write-up.* A work write-up, including plans and specifications, if needed, will be made by HUD specifying the rehabilitation necessary to make the project units decent, safe, and sanitary and/or to prevent the imminent failure of major building systems or components (e.g., roofs, foundations, electrical system, plumbing system).

(b) *HUD specifies deficiencies and corrective action.* The work write-up will specify deficiencies noted by HUD and describe the manner in which the deficiencies are to be corrected, including minimum acceptable levels of workmanship and materials.

(c) *HUD preparation of cost estimates.* HUD shall perform or cause to be performed a cost estimate to complete these repairs. The cost of any necessary relocation, as determined by HUD as being necessary to expedite the rehabilitation and the estimated cost to the owner of maintaining project rents at the Section 8 level, as required by HUD prior to execution of the Contract, plus other costs allowable by HUD will be included in the cost estimate. The work write-up and cost estimate shall become part of the disposition package and will be used in determining the sales price of the project.

**§ 886.331 Agreement to enter into housing assistance payments contract.**

(a) *Execution of agreement.* At the sales closing and prior to the Owner's commencement of any rehabilitation under this subpart, HUD will enter into an Agreement with the Owner which contains the following:

(1) A statement that the Owner agrees to rehabilitate the project unit(s) to make the unit(s) decent, safe, and sanitary in accordance with the work write-up and cost estimates provided under this subpart.

(2) A date by which rehabilitation will have commenced and a deadline date by which the rehabilitated project unit(s) will be completed and ready for occupancy. The Agreement may provide for staged rehabilitation, occupancy, and payments under the contract.

(3) The Contract Rent which will be paid to the Owner once rehabilitation is completed, the Contract is executed, and the unit(s) is/are occupied by an eligible family.

(4) A date for final inspection of the unit(s) by HUD and the owner shall be specified. This date shall be as soon as possible after the deadline date specified pursuant to paragraph (a)(2) of this section.

(5) The term of the contract.

(b) *Agreement part of sales contract.*

The Agreement will be prepared by HUD and incorporated into the Contract of Sale and Purchase. The Agreement shall include all required information in paragraph (a) of this section and a statement specifying the Owner's responsibility for making relocation payments to Families temporarily displaced.

**§ 886.332 Rehabilitation period.**

(a) *Immediate start of rehabilitation after sales closing.* After the execution of the Agreement and the sales closing, the owner shall immediately proceed with the rehabilitation work as provided in the Agreement. In the event the work is not immediately commenced, diligently continued, and/or completed by the deadline date stated on the Agreement, HUD will have the right, upon written notification to the owner, to rescind the Agreement and the sale, or take other appropriate action.

(b) *Extensions.* Although extensions of time may be granted by HUD upon a written request from the owner stating the grounds for the extension, no increases in Contract Rents shall be granted for delays.

(c) *Changes.* (1) The Owner must submit to HUD for approval any changes from the work specified in the Agreement which would materially reduce or alter the Owner's obligations or the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of the Contract Rents. If changes are made without prior HUD approval, HUD will have the right to take action consistent with the purpose of this Subpart, including action intended to preclude the owner from

benefiting from a change in the work specified without HUD approval. HUD action shall include but is not limited to reducing the Contract Rents, requiring the owner to remedy the deficiency, or rescission of the Contract of Sale with reimbursement to the owner for the HUD determined reasonable cost of work items completed by the Owner and acceptable to HUD.

(2) Contract Rents for moderate or substantial rehabilitation project units shall not be increased except in accordance with this subpart. Should an increase in Contract Rents be necessitated by changes in local codes or ordinances or other unanticipated changes in work items which could not have been anticipated by HUD, an increase will only be approved if HUD approval is obtained prior to incorporation of any changes in the project.

**§ 886.333 Completion of rehabilitation.**

(a) *Notification of completion.* The owner must notify HUD in writing when work is completed and submit to HUD the evidence of completion and cost certifications described in paragraph (b) and (c) of this section.

(b) *Evidence of completion.*

Completion of the project must be evidenced by furnishing HUD with the following:

(1) A certificate of occupancy and/or other official approvals necessary for occupancy as required by the locality.

(2) A certification by the owner that:

(i) The project unit(s) has been completed in accordance with the requirements of the Agreement;

(ii) The project unit(s) is/are decent, safe, and sanitary;

(iii) The project unit(s) has/have been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials;

(iv) The project was treated and is in compliance with applicable HUD Lead Based Paint regulations (24 CFR Part 35) and if the project was constructed prior to 1950, each Family will or has received the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, and that records showing receipt of such notice by each Family shall be maintained;

(v) If applicable, the owner has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of the owner's knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the



Agreement. In the event there are any such pending claims to the knowledge of the owner of HUD, the owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments;

(vi) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified); and

(vii) There has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in the approved purchase proposal other than changes approved in writing by HUD in accordance with the Agreement.

(c) *Actual cost and interest rate certifications.* The Owner must provide HUD with statements of the actual costs, including the interest rate incurred for the rehabilitation, Contract Rent shortfalls, and any relocation approved by HUD. The owner shall certify that these are the actual costs. HUD shall review and approve these costs subject to post audit.

(d) *Review and inspections.* (1) Within fifteen working days of the receipt of the evidence of completion, and the owner's certification of costs, HUD shall review the evidence of completion for compliance with paragraphs (b) and (c) of this section.

(2) Within the same time period, a HUD representative shall inspect the unit(s), both assisted and unassisted.

(i) If the units required moderate rehabilitation, the inspection shall determine whether the unit(s) have been completed in accordance with the Housing Quality Standards with HUD approved modifications.

(ii) If the units required substantial rehabilitation, the inspection shall be in a manner sufficient to enable the inspector to report that he/she has inspected the observable elements and features of the project unit(s) in accordance with professional standards of care and judgment and that, on the basis of the inspection, the project has been completed in accordance with the Agreement and that there are no observable conditions inconsistent with the evidence of completion, including the certifications of the Owner.

(e) If the inspection discloses defects or deficiencies, the inspector shall report these with sufficient detail and information for purposes of paragraphs (g)(1) and (2) of this section.

(f) *Acceptance.* If HUD determines from the review and inspection that the project has been completed in

accordance with the Agreement, the project shall be accepted.

(g) *Acceptance where defects or deficiencies reported.* If the projects unit(s) are not acceptable under paragraph (f), the following shall apply:

(1) If the only defects or deficiencies are punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the contract executed. If the owner fails to complete the items within a reasonable time to the satisfaction of HUD, HUD may, upon 30 days notice to the owner terminate the contract and/or exercise its other rights thereunder, including rescission of the sale.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, HUD shall determine whether and to what extent the defects or deficiencies can be corrected, what corrections are essential to permit HUD to accept the project, whether and to what extent a reduction of Contract Rents will be required as a condition to acceptance of the project, and the extension of time required for the remaining work to be done. The owner shall be notified of HUD's determinations and, if the owner agrees to comply with the conditions, an addendum to the Agreement shall be entered into, specifying the remaining work, pursuant to which the defects or deficiencies will be corrected and the unit(s) then accepted. If the owner is unwilling to enter into such an addendum or fails to perform under the addendum, the units will not be accepted and appropriate remedies will be sought by HUD. Paragraphs (a), (b), (c), (d), (e), (f), and (g) will apply when the remaining work is completed satisfactorily.

(h) *Notification of non-acceptance.* If HUD determines that, based on the review of the evidence of completion and inspection, the unit(s) cannot be accepted, the Owner must be promptly notified of this decision and the reasons and steps shall be taken immediately to rescind the sale, or such other action deemed appropriate by HUD.

#### § 886.334 Execution of housing assistance payments contract.

(a) *Time of execution.* Upon acceptance of the unit(s) by HUD pursuant to § 886.333(f), the contract will be executed first by the Owner and then by HUD. The effective date must be no earlier than the HUD inspection which provides the basis for unconditional acceptance.

(b) *Changes in initial contract rents during rehabilitation.* (1) The Contract Rents established pursuant to § 886.310 and 24 CFR 290 will be the Contract

Rents on the effective date of the Contract except under the following circumstances:

(i) When, during rehabilitation, work items are discovered which (A) could not reasonably have been anticipated by HUD or are necessitated by a change in local codes or ordinances, and (B) were not listed in the work write-up prepared by HUD but are deemed by HUD, in writing, to be necessary work, and (C) will require additional expenditures which would make the rehabilitation infeasible at the Contract Rents established in the Agreement. Under these circumstances, HUD will:

(A) Approve a change order to the rehabilitation contract, or amend the work write-up if there is no rehabilitation contract, specifying the additional work to be accomplished and the additional cost for this work.

(B) Recompute the Contract Rents, within the limits specified in paragraph (b)(4) of this section, based upon the revised cost estimate, and

(C) Prepare and execute an amendment to the Agreement stating the additional work required and the revised Contract Rents.

(ii) When the actual cost of the rehabilitation performed is less than that estimated in the calculation of Contract Rents for the Agreement.

(iii) When the actual certified relocation payments made by the Owner to temporarily relocated Families varies from the cost estimated by HUD.

(2) Should changes occur as specified in paragraph (b)(1)(ii) or (iii) (either an increase or decrease), HUD may recalculate the Contract Rents and amend the Contract or Agreement, as appropriate, to reflect the revised rents. The rents shall not be recalculated based on increased costs to maintain rents at the Section 8 level during the rehabilitation period.

(3) HUD must review and approve the Owner's certification that the rehabilitation costs and relocation costs are the actual costs incurred.

(4) In establishing the revised Contract Rents, HUD must determine that the resulting Gross Rents do not exceed the Fair Market Rent or the exception rent provided in § 886.310 in effect at the time of execution of the Agreement.

(c) *Unleased unit(s).* At the time the contract is executed, HUD will provide a list of dwelling unit(s) leased as of the effective date of the Contract and a list of the unit(s) not so leased, if any, and shall determine whether or not the owner has met the obligations with respect to any unleased unit(s) and for which of those unit(s) vacancy payments will be made by HUD. The

owner must indicate in writing either concurrence with this determination or disagreement reserving all rights to claim vacancy payments for the unleased unit(s) pursuant to the contract, without prejudice by reason of the owner's signing the contract.

#### § 886.335 HUD review of agreement and contract compliance.

HUD will review project operations at such intervals as it deems necessary to ensure that the owner is in full compliance with the terms and conditions of the contract, Regulatory Agreement, and Agreement to Enter into a Housing Assistance Contract, if any. The equal opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

Issued at Washington, D.C., October 30, 1979.

Morton A. Baruch,  
Deputy Assistant Secretary for Housing—  
Federal Housing Commissioner.

[FR Doc. 79-37490 Filed 12-5-79; 8:45 am]

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# Federal Register

Thursday  
December 6, 1979

## Part IV

### Consumer Product Safety Commission

Safety Standard for Walk-Behind Power  
Lawn Mowers; Certification Rule



## CONSUMER PRODUCT SAFETY COMMISSION

## 16 CFR Part 1205

## Safety Standard for Walk-Behind Power Lawn Mowers; Certification Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

**SUMMARY:** The Commission requires that manufacturers and importers certify that their walk-behind rotary power lawn mowers comply with the Commission's Safety Standard for Walk-Behind Power Lawn Mowers. The requirements provide for certifying rotary power mowers with a permanent label and for recordkeeping. The labeling and recordkeeping requirements are needed to help the Commission monitor compliance with the lawn mower safety standard. The labeling requirement will also enable consumers to distinguish complying from noncomplying mowers.

**DATES:** The rule is applicable to all walk-behind rotary power lawn mowers manufactured after December 31, 1981.

In order that all interested persons may have an equal opportunity to examine this certification rule as published in the *Federal Register* and then determine in an orderly manner whether to seek judicial review of the rule, this rule shall be considered promulgated at 12:00 noon, Eastern Standard Time, on December 17, 1979.

**FOR FURTHER INFORMATION CONTACT:** Allen Brauning, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6629.

## SUPPLEMENTARY INFORMATION:

## Background

On February 15, 1979, the Commission published a final consumer product safety standard for power operated walk-behind rotary and reel-type lawn mowers (16 CFR Part 1205 Subpart A, 44 FR 9990). The standard contains performance and labeling requirements intended to reduce the risk of injury to consumers caused by contact, primarily of the foot and hand, with the rotating blade of a mower. The performance requirements of the standard apply only to rotary mowers. The labeling requirements apply to both rotary and reel-type mowers. The standard contains two main performance requirements applicable to rotary power lawn mowers. The first protects against foot contact injuries that occur while the

operator is in the normal mowing position. This requirement states that the rear and discharge chute areas of the mower shall be capable of being probed with a specified foot probe that simulates the action of a human foot, without the probe contacting the blade. The second main requirement protects against hand or foot injuries that occur after the operator has left the normal mowing position by requiring the blade to stop within 3 seconds of the time the operator lets go of the mower. A more detailed explanation of the standard's requirements, rationale, and background is given in the preamble to the final power lawn mower safety standard.

## Certification Rule

## 1. Certification Testing

Section 14(a)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2063(a)(1), requires manufacturers (defined in the act to include importers) and private labelers of a product subject to a consumer product safety standard to issue a certificate which states that the product conforms to all applicable consumer product safety standards, specifies the applicable standard, states the name of the manufacturer or private labeler issuing the certificate, and includes the date and place of manufacture. The certificate must accompany the product or be furnished to any distributor or retailer to whom the product is delivered. Section 14(a) also requires that the certificate be based on a test of each product or upon a reasonable testing program.

The failure to issue a certificate of compliance or the issuance of a certificate which is false or misleading in any material respect violates section 19(a)(6) of the CPSA.

The Commission is issuing this certification and recordkeeping regulation to inform manufacturers and importers of the procedures to use in certifying that their products comply with the safety standard once the standard becomes effective and to exempt private labelers from the requirement to certify. The certification rule applies to walk-behind rotary power lawn mowers and not to reel-type mowers, since the latter are subject only to the labeling requirements of the standard. Under the certification rule, manufacturers and importers are responsible for 1) issuing a certificate of compliance in the form of a permanent label attached to each mower which states that the mower complies with the standard and supplies other specified information, and 2) keeping, or assuring the availability of, records showing that the certificates are based on a test of

each mower or on a reasonable testing program. These requirements are discussed in detail below.

The certification rule issued below provides that manufacturers (defined at § 1205.32(a) to include importers and assemblers) must either test individual rotary walk-behind power lawn mowers or devise "reasonable testing programs." A "reasonable testing program" is defined in the rule as one which provides reasonable assurance that the certified mowers comply with the standard. The rule allows manufacturers and importers to define their own reasonable testing programs. The Commission has exempted private labelers from the requirement to certify.

The Commission has concluded that it is unnecessary to specify the testing program for the manufacturers. A power lawn mower's ability to meet the performance requirements (except for blade stopping time) is controlled by the mower's design, materials, and method of production. Initial tests made on mowers of a specific design should be sufficient to determine that the product manufactured at a later date to essentially the same design complies with the standard. However, because blade stopping time may vary from one mower to another of essentially the same design, the Commission believes that a prudent manufacturer should test production mowers of essentially the same design periodically for the blade stopping time requirement.

The certification rule states at § 1205.33(b)(2) that the Commission will test for compliance with the standard by using the test procedures in Subpart A of Part 1205. However, manufacturers are not bound by these procedures and are free to use any reasonable test procedures.

Section § 1205.33(b)(1) of this rule explains how a reasonable testing program is conducted. For certification testing, the mowers should be grouped into "production lots," defined at § 1205.32(b) to be a quantity of mowers from which certain mowers are selected for testing prior to certifying the lot. All mowers in a production lot are required to be essentially identical in those design, construction, and material features which relate to the ability of a mower to comply with the standard. Sample mowers are then selected from the production lot for testing in accordance with the reasonable testing program.

If the production lot has been properly limited as to number and design of mowers, it should be possible for a manufacturer to test samples from a lot for certification and not to test again as long as the mowers in the production lot

are essentially identical to the mowers tested for certification in all respects relating to the ability of the mower to meet the requirements of the standard. After a lot has been established, if there are any changes in the mower specifications which could affect mower performance in relation to the requirements of the standard, the manufacturer should establish a new production lot for testing. Similarly, if there are changes in parts, suppliers of parts, or production methods which could affect the ability of the mower to comply with the standard, the manufacturer should establish a new production lot for testing. Furthermore, if the testing program shows that a mower does not comply with a requirement of the standard, no mower in the production lot can be certified as complying until the noncomplying mowers have been identified and destroyed or altered by repair, redesign, or use of different materials or components to the extent necessary to make the mowers conform to the standard.

The Commission notes that the obligation to issue a certificate of compliance based on a reasonable testing program is in addition to, and not in place of, the obligation to manufacture, import, distribute, or private label only mowers which meet the requirements of the standard.

Consequently, if the Commission tests mowers in accordance with the standard and obtains failing results, the Commission may begin enforcement action for violation of section 19(a)(1) of the CPSA, even though the manufacturer or importer of the mower may have issued a certificate of compliance and may have based that certificate on a reasonable testing program which meets the requirements of the regulation issued below.

Section 22 of the CPSA authorizes the Commission to enjoin any person from violating section 19, and to seize any product which does not comply with an applicable standard. In addition, sections 20 and 21 of the CPSA authorize the Commission to seek civil or criminal penalties for violation of the CPSA in appropriate cases.

## 2. Recordkeeping

Section 1205.34 of the rule requires that manufacturers and importers of walk-behind rotary power lawn mowers subject to the standard maintain written records demonstrating that compliance certificates are based on tests of each mower or a reasonable testing program.

No specific format is prescribed for the records, but the records are required to contain sufficient information to show

the nature of a firm's testing procedures, including the basis for and identity of the production lot, and to show whether the mowers which are being marketed and certified to comply with the standard are essentially identical in every respect that relates to compliance with the standard to the mowers that were tested for conformance with the standard. The records are also required to indicate exactly which mowers or production lots of mowers are being certified as a result of a specified test or series of tests. The records are required to be maintained for a minimum of 3 years from the date of certification of each mower or each production lot. This is because the Commission staff estimates that some mowers can reasonably be expected to remain in inventory and not reach consumers for a period of three years, and the Commission is particularly interested in being able to check the records concerning any mowers held in inventory.

These records, besides aiding Commission enforcement of the standard and the certification rule, could be helpful to a manufacturer in limiting the scope of a possible recall order under section 15 of the CPSA. (The Commission is authorized under section 15 to order a manufacturer of a product which is found, after opportunity for a hearing, to present a "substantial product hazard" to elect one of the following remedies: repair the defective product, replace the product with a non-defective product, or refund the purchase price of the product. "Substantial product hazard" is defined in section 15 to mean a failure to comply with an applicable consumer product safety rule, or a product defect, which creates a substantial risk of injury to the public.) Records of date and location of manufacture; dates of changes in specifications, parts, suppliers, or manufacturing procedures; and the dates and results of quality control or recertification testing are examples of the types of information which could serve to identify the period of time during which non-complying or defective mowers were manufactured. In the absence of such information, the entire production of a particular type of mower could be subject to a recall order.

The recordkeeping requirements of § 1205.34 are issued under the authority of section 16(b) of the CPSA, which authorizes requirements for the establishment and maintenance of records that are necessary to implement the act or to determine compliance with regulations issued under the act. The

Commission believes the records required by § 1205.34 of the rule are necessary to monitor compliance with the power lawn mower standard.

Section 16(b) further provides that these records must be made available for inspection by duly designated agents of the Commission upon request.

## 3. Product Certification and Labeling

Section 1205.35 of the rule requires manufacturers of walk-behind rotary power lawn mowers manufactured after December 31, 1981, to affix to the mowers permanent labels which shall be considered a "certificate" of compliance, as that term is used in section 14(a) of the CPSA. (Section 14(c) of the CPSA authorizes the Commission to issue rules requiring a product to bear a label containing information similar to that required by section 14(a) for certificates.)

The certification label is required to include the following information:

1. The statement "Meets CPSC blade safety requirements."
2. An identification of the production lot.
3. The name of the manufacturer or importer issuing the certification label.
4. The location where the product was principally assembled.
5. The month and year the product was manufactured.

All of this information, except for the statement and the name of the person issuing the certificate, may be in code if an interpretation of the coding system is available to consumers, persons in the chain of distribution, and the Commission. If a mower is to be sold to a private labeler, and if the brand or trademark of the private labeler is on the certification label, the name of the manufacturer or importer may also be in such a code.

The certification label is required to be visible and legible to the ultimate consumer. However, where the permanent label is not immediately visible to the consumer at the time of sale because of packaging or other marketing practices, a second temporary label stating "Meets CPSC blade safety requirements" is required on the container, or if the container is not so visible, on the promotional material used with the sale of the mowers. The requirement for the temporary label for containers and promotional materials expires December 31, 1984.

In deciding that certification for lawn mowers should be in the form of a permanent label rather than a separate certificate supplied to persons in the distribution chain, the Commission points out that the label will be visible to all in the distribution chain, and the



certification will be immediately available if any questions concerning compliance with the standard arise about a particular mower. The Commission believes that a permanent label will benefit consumers and industry, as well as the Commission, in the following ways:

1. For a period of time after the mower standard goes into effect, both complying and noncomplying mowers will be available on the retail market. A label affixed to the individual mower, in contrast to a certificate covering a group of mowers supplied to the retailer, will help consumers purchasing mowers to make an informed choice between complying and noncomplying mowers.

2. A permanent label will make it easier to determine whether a particular mower was certified to comply with the standard. In the event a power mower is involved in an injury, for example, a CPSC investigator or the victim of the injury can tell immediately if the mower was certified.

3. The Commission may amend the walk-behind power mower standard in the future to add new requirements or to modify the existing requirements. A label stating the date of manufacture will make it immediately apparent which requirements apply to a particular mower, thereby aiding a Commission investigation of particular mower-related accidents.

4. A permanent label will enable CPSC investigators screening mowers for compliance to distinguish between mowers manufactured before and those manufactured after the standard without examining retailers' or distributors' shipping records. An examination of shipping records can be time-consuming and difficult. The label will also permit the Commission investigators to identify the firm responsible for the certification and the place of manufacture, thereby expediting any further Commission actions that may be appropriate.

5. A permanent label with an identification of the production lot and the date and location of manufacture will be advantageous to manufacturers, distributors, retailers, private labelers, and consumers in the event of a recall order under section 15 of the CPSA. If the recall is limited to a certain production period or manufacturing location, the label will help in identifying and limiting those mowers which are subject to the recall.

The last section of the rule (§ 1205.36) deals with certification labeling by importers. Importers of mowers are required to issue the certification labels, but may rely on the foreign manufacturer's tests to support the certification if the records of the tests

are maintained in the United States and the importer is a resident of the U.S. or has a resident agent in the U.S. The requirements that the records must be maintained in the U.S. and the importer must reside, or maintain a resident agent, in this country are necessary to enable the Commission investigators to inspect the records and monitor compliance with the standard. Importers who certify are responsible for inspecting the test records to determine that all testing has been performed properly, that the records of the tests are accurate and complete, and that the tests provide reasonable assurance that all mowers imported comply with the standard.

#### Comments on the Proposal

In response to the proposal of the certification rule, the Commission received 11 comments. In addition, several comments received in response to the proposal of the power lawn mower safety standard concerned certification issues. The substance of these comments and the Commission's responses to them are explained below.

1. *Third party testing.* One commenter recommended that the rule specifically mention that the certification testing could be performed by an independent third party as authorized by section 14(b) of the CPSA. The Commission agrees that inclusion of a specific reference to the acceptability of third party testing is desirable. Section 1205.33 of the rule has been changed accordingly.

Another commenter believes that *only* third parties should be allowed to certify. However, section 14 of the act specifically states that the person required to issue the certificate (manufactures, importers, and private labelers) has the option to perform the testing or to have it performed by an independent third party qualified to perform the tests. Similarly, there is no express authority for requiring witnesses to such tests, as suggested by one commenter. Therefore, the final rule allows the certifying party to perform the testing program.

2. *Certification by importers or private labelers.* The proposal required certification by manufacturers, importers, and private labelers. (However, where more than one party would otherwise have been required to certify, only the party closest to the consumer in the distribution chain would have been required to issue the certificate.) The proposal provided that importers and private labelers would be allowed to rely on the tests of manufacturers to support the certificate of compliance if the importer or private

labeler assured that all testing had been performed properly with acceptable results and that all records of such tests were accurate and complete.

One commenter, who markets under its own label mowers manufactured by others, stated that the proposal unreasonably required private labelers to become the insurers of the manufacturing practices and records of others over whom the private labeler may have no control. Therefore, the commenter suggests that private labelers should be allowed to issue certificates of compliance based on certification from the manufacturer that the testing had been performed properly with acceptable results and that all records of such tests comply with the requirements of the rule, unless the private labeler, in the exercise of due care, had reason to believe otherwise. This commenter also suggested that the manufacturers be required to issue such a certificate to the private labeler.

The Commission agrees that the manufacturer is in a much better position than a private labeler to efficiently designate production lots and to make the other judgments involved in the certification process. The Commission also believes that it would be an unnecessary duplication for private labelers to be required to independently determine the adequacy of the manufacturer's tests and records, as would have been required by the proposal. However, the Commission believes that the simplest way to address these concerns is to eliminate the requirement of the proposal that private labelers certify their products. Thus, such products would be certified only by the manufacturer, which is defined in section 3(a)(4) of the CPSA as any person who manufactures or imports a consumer product. Therefore, private labelers who are also importers would still have to certify. The provision of the proposal that would allow importers to rely on the tests conducted by foreign manufacturers under certain conditions is retained, but the wording of the requirement has been changed to state that the importer's duty is to determine that the test records appear to comply with the rule and that reliance on the tests must be in good faith.

3. *Component suppliers.* One commenter stated that component manufacturers should be allowed to certify their components, and another commenter stated that component manufacturers should not be involved in certification since the complete machine is certified rather than the components. The Commission believes that since the standard applies to the complete lawn

mower and not to its component parts, it is not appropriate to rely on tests by component manufacturers for purposes of the certification required by section 14 of the CPSA. Accordingly, manufacturers who manufacture or import only component parts of a mower are exempted from the requirement to certify. However, the mower manufacturer could contractually require its component suppliers to warrant that the components will meet certain criteria relating to the standard.

4. *Defective mowers.* Section 1205.33(b)(3) of the proposal stated that if the "reasonable testing program shows that a mower does not comply with one or more requirements of the standard, no mower in the production lot can be certified as complying until mowers in the lot have been altered by repair, redesign, or use of a different material or components to the extent necessary to bring them into conformance with the standard." One commenter states that this section assumes that a single failure is attributable to assembly, design, or material and that it is a problem affecting the whole lot. The commenter believes that the "practical effect [of the section] is to impose needless and costly delays in manufacturing by forcing producers to act as if isolated test deficiencies require basic rework throughout the production run."

The Commission does not agree that this section as proposed would require all mowers in the lot to be altered. The proposal states that mowers in the lot are to be altered "to the extent necessary to bring them into conformance." This does not necessarily require wholesale changes in assembly, design, or materials as stated by the commenter. Instead, the section requires the manufacturer to identify all noncomplying mowers within that lot and correct deficiencies before certifying them and offering them for sale.

However, the wording of the proposal has been changed in the final rule to more clearly point out that these corrective actions are required only for noncomplying mowers and to expressly authorize destruction of the noncomplying mowers. (Disassembly of the mowers and discarding of the defective parts would be considered a destruction of the mower for this purpose.)

5. *Records.* Proposed § 1205.34(b) also required the keeping of records of "which mowers or production lots of mowers are covered by particular certificates of compliance." One commenter stated that the use of the plural in this regard was confusing and

suggested that the requirement be changed to read that the "records shall indicate which specific mower or production lot of mowers is covered by any particular certificate of compliance." Since each mower has an individual certification, the Commission does not agree that this change would more precisely describe the purpose of the recordkeeping requirement. However, the final rule has amended the language of this section to require that records be kept of the mower or production lot to which each test applies.

Proposed § 1205.34(b) also required the records to "describe" the tests to which the mowers were subjected. One commenter stated that this requirement could be interpreted as requiring the record of each test record to fully describe the test. The commenter believes the word "reference" would be more apt in this regard than would "describe." The Commission appreciates the commenter's concern, but does not believe that the suggested change would be an improvement. The Commission does not intend to require that the record of each individual test fully describe the manner in which the test is performed. The certifier must maintain a record containing a full description of the tests used for this purpose, however, even though the record for a particular test may only refer to the test by the designation assigned to it by the certifier. (A reference to a test required by the standard would be sufficient if the reference made it clear that was the test that was performed.) Accordingly, no change has been made in the wording of this requirement.

6. *Type of label.* Proposed § 1205.35(a) required the certificates of compliance to be in the form of a label which can reasonably be expected to remain affixed for the life of the mower. Two commenters believed that this language implied that the label could not be an integral part of the mower as would be the case if the label were stamped or cast into the housing. The Commission did not mean to imply in the proposal that integral labels would not be acceptable. In order to make this more clear in the final rule, the words "affixed to" have been deleted and "on" substituted.

7. *Combinations of labels.* In the proposal, the Commission asked for comment on whether it would be appropriate for certifiers to append the information needed for the certification label to the warning label required by the standard. Two commenters were in favor of allowing this. However, neither of these commenters suggested how

such information could be presented so as not to detract from the safety message of the warning label. Accordingly, there has been no change in the final rule in this regard. However, the Commission notes that the rule does not prevent combining the information presented on the mower providing it does not detract from the conspicuousness of the warning label.

8. *Wording of label.* The proposal would have required that each mower bear a label stating "Meets CPSC blade safety requirements for walk-behind rotary power mowers." The words "for walk-behind rotary power mowers" were included so that consumers would not be inclined to think that mowers outside the scope of the performance standard (i.e., reel-type and riding mowers) did not comply with a standard by virtue of the fact that they did not bear a label. However, the industry trade association and a manufacturer commented that this language is self-evident and unnecessary and should be deleted from the label. Accordingly, these words are not required for the label required by the final rule.

The manufacturers' trade association also commented that the inclusion of the words "blade safety" before "requirements" in the label implied that other requirements exist and are not met by that mower and that "blade safety" should be deleted. The Commission disagrees with this comment. Without the indication that the mower complies only with requirements addressing the hazard of contact with the blade, consumers could be misled into thinking that the requirements protect against other hazards, such as thrown objects, when in fact they do not.

The commenter also stated that if requirements addressing other hazards are issued in the future, the label would have to be changed, thus increasing the cost to manufacturers. The Commission, however, believes that such a cost would be minimal and would not outweigh the reasons explained above for retaining the words "blade safety" in the label.

Accordingly, the label required by the final rule will read "Meets CPSC blade safety requirements."

9. *Labeling of reel-type mowers.* One commenter suggested that reel-type mowers, which are not subject to the performance requirements of the standard but which must bear the warning label required by the standard, should be allowed to bear the label stating that the mower complies with CPSC blade safety requirements. The Commission, however, believes that consumers could be misleading if reel-type mowers were so labeled.



The exclusion of reel-type mowers from the performance requirements of the standard was not based on a finding that these mowers are less dangerous than rotary mowers but rather because the standard was primarily developed for rotary mowers and there were different considerations concerning the effectiveness and economic impact of the standard's requirements for reel-type mowers than for rotary mowers. For example, the blade of a rotary mower is required to stop within 3 seconds of when the operator releases a blade control mechanism. This is not required for reel-type mowers. To allow reel-type mowers to bear a label stating that the mowers meet the CPSC blade safety requirements could mislead consumers into relying on the protections afforded by the performance requirements of the standard, which in fact apply only to rotary mowers. Accordingly, only rotary mowers may bear the label.

10. *Labeling of promotional material.* One purpose of the label stating that a mower complies with the CPSC blade safety requirements is to assist consumers who wish to purchase a safer mower in determining which mowers available for sale comply with the standard. However, there are types of marketing situations where the consumer has no opportunity to view the mower before making the purchase. This could be the case, for example, where the purchase is made through a catalog or by telephone solicitation. In order to assist consumers who purchase mowers under conditions where they would not see a label on the mower prior to purchase, the proposal required that, under these conditions, a temporary label must appear on the container, or, if the container is not visible prior to purchase, the promotional material used in connection with the sale of the mowers.

One commenter stated that the requirement for the label on promotional material was unnecessary in that a notice on the mower container was sufficient to bring the information to the consumer's attention. However, as explained above, this is not the case for the situations where the consumer does not see the carton before purchasing the mower.

The commenter also stated that the requirement was vague and could be construed as applying to general advertising practices and policies beyond the scope of the safety standard or the Commission's jurisdiction. The Commission does not agree with this contention. The requirement would not apply to general advertising practices unless the advertising solicited sales by

methods such as mail or telephone. Section 14 of the CPSA specifically authorizes the Commission to require the use and prescribe the form of labels.

Therefore, the requirement for labeling of containers and promotional material in situations where consumers will not be able to inspect the mower prior to purchase is retained in the final rule.

The commenter also suggested that the temporary label for containers and promotional material would be of value only during the period shortly after the standard goes into effect. They state that at some point these labels will be unnecessary since there will be no existing stocks of prestandard mowers on the market. They recommend that a cut-off date for this requirement be established and incorporated into the certification rule.

The Commission agrees that a cut-off date for requiring an affirmative label of compliance on cartons and promotional material is appropriate. From the information available to the Commission, it appears that retailers may have mowers in stock that are two model years old. Therefore, the Commission has decided to keep the requirement of § 1205.35(d) for affirmative labeling of containers and promotional material in effect for a period of 3 years from the effective date of the performance requirements of the standard (i.e., for mowers manufactured before January 1, 1985) after that date, the labels for containers and promotional material may be discontinued.

11. *Reasonable testing program.* The proposal did not specify any particular testing program that would be required as the basis for the certification by manufacturers that their mowers complied with the standard. The Commission believes that in view of the possible range of manufacturing practices and degrees of quality control it is more appropriate to allow each manufacturer to fashion its own reasonable testing program. However, several commenters stated that the Commission should establish criteria for a testing program specifying a percentage confidence level that not more than a certain percentage of noncomplying mowers will be present in the production lot. These comments assume that a test program will be "reasonable" only if the statistical parameters of the testing program are sufficient to provide a statistical assurance that it is unlikely that there are noncomplying mowers in the production lot. However, some manufacturers may achieve satisfactory assurance of compliance through

extensive programs of sub-component inspection and testing, thereby requiring much lower levels of testing of assemblies than would be needed otherwise. Therefore, the Commission does not believe that it can justify the imposition of equal requirements for testing of assembled mowers on all manufacturers. Accordingly, the Commission is not establishing statistical parameters for a reasonable testing program.

The proposal, in § 1205.33(b)(1), stated that production lots shall be limited as to the number and design of mowers "to insure that if the mowers selected for testing meet the standard, all mowers in the lot will meet the standard." Several commenters noted that, without testing each mower, it was not possible to completely assure that all mowers would pass the test of the standard. One commenter suggested that this section be amended to state that there should be a "reasonable assurance" that the mowers in the lot shall meet the standard. The Commission agrees that this language would more accurately express the intent of the section, and the final rule incorporates such language.

One commenter stated that § 1205.33(b)(2) could be clarified by inserting the word "manufacturer's" before "reasonable testing program" in order to point out that while manufacturers may, at their discretion, choose to adopt more rigorous test procedures than those mandated by the safety standard, the Commission will test only in strict accordance with the terms of the standard. The Commission agrees, and the change has been made in the final rule.

12. *Test manual.* Several commenters contended that certification regulation should be stayed until a reasonable interval after the Commission's test manual has been published. They argue that the requirements of the safety standard are ambiguous and incomplete and that manufacturers cannot make design decisions until they know what tests will be used by the Commission to determine compliance with the standard.

The Commission disagrees with the allegations that the standard's requirements are ambiguous or incomplete. The performance requirements of the standard clearly and definitely give the criteria which mowers must meet after the effective date of the standard. The purpose of the compliance test manual is to instruct the Commission's staff in how to test a mower. For example, one of the major performance requirements of the standard is the requirement that the

blade stop within 3 seconds of the time the operator releases a required blade control. The particular apparatus used to measure the time required for the blade to stop is immaterial to the understanding of the requirement. However, the compliance test manual will tell the Commission staff how to use the particular apparatus that will be used by the Commission.

Therefore, there is no need for the Commission to stay the certification rule pending publication of the compliance test manual. However, if manufacturers have any questions concerning the requirements of the standard, they should contact the Commission's Directorate for Compliance and Enforcement for clarification.

#### 13. Definitions.

a. *Manufactured.* One commenter stated that the Commission should define what constitutes "manufactured" within the meaning of the certification rule, since different manufacturers might interpret the term differently. The Commission agrees that this clarification is desirable, and the term is defined in § 1205.32(b) as the earliest point at which the mower is in the form in which it will be sold or offered for sale to the consumer or is in the form in which it will be shipped to a distributor or retailer. In these forms, a "manufactured" mower may still require partial assembly by the consumer or the lawn mower dealer.

b. *Production lot.* One commenter stated that the definition of "production lot" at § 1205.32(c) of the proposal (now § 1205.32(d)) failed to specify how manufacturers using multiple suppliers for the same component parts are to define the lot. The proposal specified that all mowers in a lot must be "essentially identical" in those design, construction, and material features which relate to the ability of a mower to comply with the standard. The commenter believes that the term "essentially identical" suggests that a lot must be terminated whenever interchangeable parts of different suppliers are used on the assembly line. They suggest the use of the term "essentially equivalent" instead. The Commission believes that this commenter has not fully comprehended the meaning of the qualification that "essentially identical" relates only to the features which relate to the ability of a mower to comply with the standard. There is no requirement that a production lot be automatically established when interchangeable parts from another supplier are substituted. The manufacturer would have to make the judgment in an individual case concerning whether the possible

differences in parts between suppliers "relate to the ability of a mower to comply with the standard." Accordingly, with the qualification explained above, the term "essentially identical" would appear to mean the same as the term "essentially equivalent," and no change from the proposal in this regard is required.

This commenter also states that the relationship between the definition of "production lot" and the one month labeling requirement of § 1205.35(b)(5) is not clear. The certification rule does not establish, or limit manufacturers to, any specific time limit for production lots. The one month labeling requirement merely requires identification of the production period and has no inherent relation to the beginning or ending of the production lot. Thus, if a production lot covered more than one month, the mowers produced in different months would be labeled with the same lot number but different month dates. Similarly, if more than one production lot is produced in a month, they would have the same month date but would otherwise be separately identified.

14. *Other comments.* A number of comments were received that related to the effectiveness and cost of the standard itself. Since these issues are not relevant to the issue of a certification rule, they are not discussed in this notice. However, these issues were extensively discussed in the Federal Register notice that issued the power lawn mower safety standard.

#### Other Changes to the Proposal

The proposal required that the compliance label state the month and year of production or, if the production lot is based on a period of less than one month, then a more specific date which relates to the production lot was required. However, the label is also required to contain an identification of the production lot. In view of this latter requirement, there is no need for a more specific date on the label, and the requirement for a more specific date than the month of production has been deleted from the final rule. Manufacturers are free to use a more specific date in order to identify the production lot, however, if they desire.

#### Anticipated Impact of the Certification Rule

The Commission believes that the retail price impact of the labeling and recordkeeping requirements of the certification rule will be approximately a \$0.50 increase for each mower subject to the rule. The Commission notes that the rule mandates a label and recordkeeping but allows manufacturers

a great deal of flexibility as to testing and recordkeeping.

The Commission points out that while the labeling specified in the rule will require more information on lawn mowers than is currently provided on lawn mower housings, most manufacturers already have the voluntary standard seal, the model number, and a serial number on the mower housing. Considering the amount of time until the certification rule becomes effective, it should be relatively easy and inexpensive for manufacturers, or importers to incorporate complying labels on mowers.

Furthermore, certification recordkeeping expenses should not be significant, especially for firms with relatively large production runs. Substantial recordkeeping is already done in connection with the voluntary standard and manufacturers' normal quality control procedures. Since the certification rule allows manufacturers a great deal of latitude in the format of their recordkeeping, manufacturers should be able to incorporate certification recordkeeping into their present systems with little difficulty. There may be one-time-only costs associated with changing labels and forms, and possibly computer programs for those firms with such programs, to accommodate certification information, but these costs should make only a minuscule contribution to increases in the price of mowers.

As explained above, even in the absence of a certification rule, the CPSA would require manufacturers (including importers) and private labelers to issue certificates of compliance based on a test of each mower or on a reasonable testing program. Since the rule being issued at this time does not specify what should constitute a reasonable testing program, the rule does not impose any additional testing burden on manufacturers than was already imposed by statute and the existence of the mower safety standard. With the possible exception of periodic tests of the time required for the blade to stop after release of the blade control, a reasonable testing program should not impose more of a burden to manufacturers than will be involved in initially implementing the standard and in conducting normal quality control reviews. Therefore, the additional costs imposed by the requirement to certify should not result in any significant increase in the price of mowers.

In fact, since the rule exempts private labelers from the requirement to certify, the rule lessens somewhat the burden



associated with certification that would otherwise be imposed by statute.

#### Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that product certification or labeling rules normally have no potential for affecting the environment and environmental review of such rules is, therefore, generally not required (§ 1021.5(b)(2)).

The Commission finds that lawn mower certification rule will have no significant effect on the human environment and that no environmental review is necessary.

#### Effective Date

The certification rule is applicable to walk-behind rotary power lawn mowers manufactured after December 31, 1981 (§ 1205.31). This date corresponds to the effective date for the performance requirements of the lawn mower standard (see Part 1205, Subpart A).

In the time since the performance requirements of the standard were issued and the certification rule was proposed, the Outdoor Power Equipment Institute has submitted 2 petitions to the Commission for changes in the standard.

On August 17, 1979, OPEI asked for an eighteen month extension in the effective date of the standard. On November 29, 1979, the Commission denied this request. On September 12, 1979, OPEI also petitioned for an amendment to the standard that would allow, as a substitute for the blade stop requirement of the standard, the use of mowers with blades that are inaccessible as determined by a probe intended to simulate the actions of a human hand. The Commission expects that it will be several months before this petition is fully evaluated. If this petition is granted, or if other changes are made to the standard, the Commission will consider at that time whether any change in the effective date of this certification rule is appropriate.

#### Conclusion

Having considered the comments and other information relevant to the certification requirements set forth below, the Commission concludes that the requirements are needed, reasonable, and not unduly burdensome. Therefore, pursuant to sections 14, 16, and 27(e) of the CPSA (15 U.S.C. 2063, 2065, 2076), the Commission amends Title 16, Chapter II, Subchapter B, of the Code of Federal Regulations by adding a new Subpart B to Part 1205, reading as follows:

### PART 1205—SAFETY STANDARD FOR WALK-BEHIND LAWN MOWERS

#### Subpart B—Certification

##### Sec.

- 1205.30 Purpose, scope, and application.
- 1205.31 Effective date.
- 1205.32 Definitions.
- 1205.33 Certification testing.
- 1205.34 Recordkeeping requirements.
- 1205.35 Product certification and labeling by manufacturers.
- 1205.36 Product certification and labeling by importers.

Authority: Secs. 14, 16, 27(e); 86 Stat. 1220, 1222, 1228; 15 U.S.C. 2063, 2065, 2076

#### Subpart B—Certification

##### § 1205.30 Purpose, scope, and application.

(a) *Purpose.* Section 14(a) of the Consumer Product Safety Act, 15 U.S.C. 2063(a), requires every manufacturer (including importer) and private labeler of a product which is subject to a consumer product safety standard to issue a certificate that the product conforms to the applicable standard, and to base that certificate either on a test of each product or on a "reasonable testing program." The purpose of this Subpart B of Part 1205 is to establish requirements that manufacturers and importers of walk-behind rotary power lawn mowers subject to the Safety Standard for Walk-Behind Power Lawn Mowers (16 CFR Part 1205, Subpart A), shall issue certificates of compliance in the form of specified labeling and shall keep records of the testing program on which the certificates are based.

(b) *Scope and application.* (1) The provisions of this rule apply to all rotary walk-behind power lawn mowers which are subject to the requirements of the Safety Standard for Walk-Behind Power Lawn Mowers. This rule does not apply to reel-type mowers, which are subject only to the labeling requirements of the standard.

(2) As authorized by section 14(a)(2) of the act, the Commission exempts manufacturers who manufacture or import only component parts, and private labelers, from the requirement to issue certificates. (Private labelers who are also importers must still certify.)

##### § 1205.31 Effective date.

Any walk-behind rotary power mower manufactured after December 31, 1981, must meet the standard and must be certified as complying with the standard in accordance with this rule.

##### § 1205.32 Definitions.

In addition to the definitions set forth in section 3 of the act (15 U.S.C. 2052)

and in § 1205.3 of the standard, the following definitions shall apply to this Subpart B of Part 1205:

(a) "Manufacturer" means any person or firm that manufactures or imports power lawn mowers subject to this standard, and includes those that assemble power lawn mowers from parts manufactured by other firms.

(b) "Manufactured" means the earliest point at which the mower is in the form in which it will be sold or offered for sale to the consumer or is in the form in which it will be shipped to a distributor or retailer. In these forms, a "manufactured" mower may still require partial assembly by the consumer or the lawn mower dealer.

(c) "Private labeler" means an owner of a brand or trademark which is used on a power lawn mower subject to the standard and which is not the brand or trademark of the manufacturer of the mower, provided the owner of the brand or trademark has caused or authorized the mower to be so labeled and the brand or trademark of the manufacturer of such mower does not appear on the label.

(d) "Production lot" means a quantity of mowers from which certain mowers are selected for testing prior to certifying the lot. All mowers in a lot must be essentially identical in those design, construction, and material features which relate to the ability of a mower to comply with the standard.

(e) "Reasonable testing program" means any test or series of tests which are identical or equivalent to, or more stringent than, the tests defined in the standard and which are performed on one or more mowers of the production lot for the purpose of determining whether there is reasonable assurance that the mowers in that lot comply with the requirements of the standard.

##### § 1205.33 Certification testing.

(a) *General.* Manufacturers and importers shall either test each individual rotary walk-behind power lawn mower (or have it tested) or shall rely upon a reasonable testing program to demonstrate compliance with the requirements of the standard.

(b) *Reasonable testing program.* (1) A reasonable testing program for rotary walk-behind power mowers is one that provides reasonable assurance that the mowers comply with the standard. Manufacturers and importers may define their own reasonable testing programs. Such reasonable testing programs may, at the option of manufacturers and importers, be conducted by an independent third party qualified to perform such testing programs.

(2) To conduct a reasonable testing program, the mowers shall be divided into production lots. Sample mowers from each production lot shall be tested in accordance with the reasonable testing program so that there is a reasonable assurance that if the mowers selected for testing meet the standard, all mowers in the lot will meet the standard. Where there is a change in parts, suppliers of parts, or production methods that could affect the ability of the mower to comply with the requirements of the standard, the manufacturer should establish a new production lot for testing.

(3) The Commission will test for compliance with the standard by using the test procedures contained in the standard. However, a manufacturer's reasonable testing program may include either tests prescribed in the standard or any other reasonable test procedures. (For example, in the shield strength test (§ 1205.4), the manufacturer might choose to use a force higher than the 50 lb force specified in the standard.)

(4) If the reasonable testing program shows that a mower does not comply with one or more requirements of the standard, no mower in the production lot can be certified as complying until the noncomplying mowers in the lot have been identified and destroyed or altered by repair, redesign, or use of a different material or components to the extent necessary to make them conform to the standard. The sale or offering for sale of mowers that do not comply with the standard is a prohibited act and a violation of section 19(a)(1) of the CPSA, regardless of whether the mower has been validly certified.

##### § 1205.34 Recordkeeping requirements.

(a) *General.* Every person issuing certificates of compliance for walk-behind rotary power lawn mowers subject to the standard shall maintain written records which show that the certificates are based on a test of each mower or on a reasonable testing program. The records shall be maintained for a period of at least 3 years from the date of certification of each mower or each production lot. These records shall be available to any designated officer or employee of the Commission upon request in accordance with section 16(b) of the act (15 U.S.C. 2065(b)).

(b) *Content of records.* Records shall identify the mower tested and the production lot and describe the tests the mowers have been subjected to and the results of the tests.

(c) *Format for records.* The records required to be maintained by this section may be in any appropriate form

or format that clearly provides the required information

##### § 1205.35 Product certification and labeling by manufacturers.

(a) *Form of permanent label of certification.* Manufacturers (including importers) shall issue certificates of compliance for walk-behind rotary power lawn mowers manufactured after the effective date of the mower standard in the form of a label which can reasonably be expected to remain on the mower during the period the mower is capable of being used. Such labeling shall be deemed to be a "certificate" of compliance as that term is used in section 14 of the act. (15 U.S.C. 2063.)

(b) *Contents of certification label.* The certification labels required by this section shall clearly and legibly contain the following information:

(1) The statement "Meets CPSC blade safety requirements."

(2) An identification of the production lot.

(3) The name of the person or firm issuing the certificate.

(4) The location where the product was principally assembled.

(5) The month and year the product was manufactured.

(c) *Coding.* Except for the requirements of paragraphs (b)(1) and (b)(3) of this section, all of the information required by § 1205.35 may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of each symbol used in the code that will be made available to the distributor, retailer, consumer, and the Commission upon request. If a mower is manufactured for sale by a private labeler, and if the name of the private labeler is also on the certification label, the name of the manufacturer or importer issuing the certificate may also be in such a code.

(d) *Placement of label.* The label required by this section must be visible and legible to the ultimate purchaser of the lawn mower prior to purchase. For mowers manufactured before January 1, 1984, where the label is not visible to the consumer at the time of sale because of packaging or marketing practices, an additional label or notice, which may be temporary, stating "Meets CPSC blade safety requirements" shall also appear on the container, or, if the container is not so visible, the promotional material, used in connection with the sale of the mowers.

##### § 1205.36 Product certification and labeling by importers.

(a) *General.* The importer of any rotary walk-behind power lawn mower

subject to the standard must issue the certificate of compliance required by section 14(a) of the Act and § 1205.35 of this regulation. If testing of each mower, or a reasonable testing program, meeting the requirements of this Subpart B of Part 1205 has been performed by or for the foreign manufacturer of the product, the importer may rely in good faith on such tests to support the certificate of compliance provided the importer is a resident of the United States or has a resident agent in the United States and the records of such tests required by § 1205.34 of this Part are maintained in the United States.

(b) *Responsibility of importer.* If the importer relies on tests by the foreign manufacturer to support the certificate of compliance, the importer bears the responsibility for examining the records supplied by the manufacturer to determine that the records of such tests appear to comply with § 1205.34 of this Part.

Dated: December 3, 1979.

Sadye E. Dunn, Secretary,  
Consumer Product Safety Commission.  
[FR. Doc. 79-37541 Filed 12-5-79; 8:45 am]  
BILLING CODE 6355-01-M



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# Register Federal

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Thursday  
December 6, 1979

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## Part V

### Department of Energy

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Leasing; Proposed Rulemaking and Public  
Hearing Regarding a Fixed Net Profit  
Share Bidding System for Outer  
Continental Shelf Oil and Gas Leases  
and Accounting Procedures for  
Determining Net Profit Share Payments



## DEPARTMENT OF ENERGY

## 10 CFR Parts 376, and 390

**Leasing; Proposed Rulemaking and Public Hearing Regarding a Fixed Net Profit Share Bidding System for Outer Continental Shelf Oil and Gas Leases and Accounting Procedures for Determining Net Profit Share Payments**

AGENCY: Department of Energy.

ACTION: Proposed Rule.

**SUMMARY:** These proposed regulations establish a "fixed net profit share" bidding system for use in lease sales of Outer Continental Shelf oil and gas tracts. The proposed bidding system uses cash bonus as the bid variable and requires net profit share payments at a rate that is constant for the duration of the lease. There is also a fixed annual acreage rental payment. These regulations also establish accounting procedures that oil and gas firms are required to use in order to calculate net profit share payments due the United States for the right to produce oil and gas from Outer Continental Shelf leases issued under this bidding system. This proposal implements rulemaking responsibilities under section 8(a) of the Outer Continental Shelf Lands Act, as amended by Pub. L. 95-372, that were transferred to the Department of Energy under sections 302(b) and 303(c) of the Department of Energy Organization Act.

**DATES:** Written comments are due by March 7, 1980. Hearings will be held in Houston on February 26, 1980; in San Francisco on February 28, 1980; and in Washington, D.C. on February 20, 1980. All hearings will begin at 9:30 a.m. local time. Requests to speak at any hearing must be received by February 8, 1980.

**ADDRESSES:****A. Hearing Locations**

1. Houston: [To be published in Federal Register at a later date].
2. San Francisco: [To be published in Federal Register at a later date].
3. Washington, D.C.: Room 2105, 2000 "M" Street, N.W., Washington, D.C.

**B. Requests To Speak**

Requests to speak should be addressed to the appropriate office:

1. Houston Hearing: U.S. Department of Energy, 2626 Mocking Drive, Dallas, Texas 75235, Attn: Mac L. Lacefield, (214) 729-7745.
2. San Francisco Hearing: U.S. Department of Energy, 111 Pine, San Francisco, California 94111, Attn: Terry Osborne, (415) 556-4953.

3. Washington Hearing (One hundred copies of statement for this hearing are due by February 13, 1979, at the following address): Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. LPD-79-06, 2000 "M" Street, N.W., Washington, D.C. 20461.

4. One copy of each request to speak for each hearing should also be forwarded to: Leasing Policy Development Office, U.S. Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 2313, Washington, D.C. 20461, Attn: Net Profit Share Hearing (Location of Hearing).

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the *Federal Register* of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact the appropriate DOE office on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

**C. Written Comments**

All written comments (identify the outside envelope and the document with the designation "OCS Net Profit Share Leasing, Docket LPD-79-06") should be addressed to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket LPD-79-06, 2000 "M" Street, N.W., Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, 2000 "M" Street, N.W., Room 2214C, Washington, D.C. 20461, (202) 254-5201.

Stuart W. Edwards (Leasing Policy Development Office), U.S. Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 2313, Washington, D.C. 20461, (202) 633-9035.

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Sections 302 and 303 of the Department of Energy Organization Act (DOE Act, Pub. L. 95-91, 91 Stat. 578-580 (42 U.S.C. 7152, 7153)) transferred to the Secretary of Energy certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSIA), the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act. Specifically, with respect to Federal leases issued under these statutes, § 302(b) of the DOE Act authorizes the

Secretary of Energy to promulgate regulations which relate to the: (1) Fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures); (2) implementation of alternative bidding systems authorized for the award of Federal leases; (3) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements); (4) setting rates of production for Federal leases; and (5) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

In addition, section 320(c) of the DOE Act grants the Secretary of Energy the authority to establish rates of production for Federal leases, and section 303(c)(1) permits the Secretary to disapprove any term or condition of a Federal lease that relates to the Department of Energy's (DOE) authority to promulgate regulations under section 302(b).

As required by section 303(b) of the DOE Act, the Secretary of Interior was consulted during the preparation of these proposed regulations and offered not less than thirty (30) days to comment formally on them. The Secretary of the Interior provided comments which were considered in drafting these regulations prior to today's publication.

**II. Outer Continental Shelf Leasing—General**

According to a predetermined schedule, the Department of Interior (DOI) periodically offers for sale oil and gas leases for tracts on the Outer Continental Shelf (OCS). This event is the culmination of a series of DOI actions, including nominations for the inclusion of OCS tracts in a sale, geological/geophysical analysis, preparation and publication of an environmental impact statement (EIS), public hearings, coordination with State officials and members of the public, coordination with Federal agencies, and the publication of a notice of OCS lease sale in the *Federal Register*. The bidding system or systems to be utilized by DOI in each OCS lease sale will be chosen from those authorized by the Outer Continental Shelf Lands Act, (OCSLA, Act of August 7, 1953, Ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*), as amended by Pub. L. 95-372), and prescribed by regulation.

Bidders submit bids on the basis of the bidding system that is applicable to a particular tract as specified in the sale notice. The bidding system also states the method by which the successful bidder pays the United States for the lease. For example, under the proposed bidding system employing a fixed net profit share with a variable cash bonus bid and a fixed annual acreage rental, the successful bidder pays the United States a one-time cash bonus, a yearly cash rental and a fixed percentage (not less than 30 percent) of net profits, based on the revenue received from the production and sale of oil and gas minus the costs of production. After the bids submitted at the publicly held OCS lease sale are opened and evaluated, leases are awarded to successful bidders on a tract-by-tract basis.

**III. The Proposed Regulation**

**A. Authority.** The Secretary of Energy is specifically authorized to promulgate regulations under the OCSLA as they relate to the implementation of alternative bidding systems authorized for the award of Federal leases (section 302(b)(2) of the DOE Act) and to disapprove any term or condition of a Federal OCS lease which relates to DOE's authority to promulgate regulations under section 302(b) (section 303(c)(1) of the DOE Act).

**B. Purpose and Scope.** The purpose of this proposed regulation is to establish the fixed net profit share bidding system<sup>1</sup> for the award of Federal OCS leases and to prescribe accounting procedures required for the calculation of net profit share (NPS) payments due the United States for the production of oil and gas from leases issued under this bidding system.

Today's proposal amends the proposed regulations in 10 CFR Part 376 regarding bidding systems for OCS oil and gas leasing (44 FR 46236, August 6, 1979) by establishing the additional fixed net profit share bidding system and adds a new Part 390 containing the necessary accounting procedures to implement this new bidding system.

Section 205 of the Outer Continental Shelf Lands Act Amendments of 1978 (amendments, Pub. L. 95-372, 92 Stat. 629) authorizes the establishment of the fixed net profit share bidding system for the award of OCS oil and gas leases and requires the Secretary of Energy to establish rules to govern the calculation of net profits. The proposed regulation, therefore, includes accounting

<sup>1</sup>For purposes of this preamble the term "fixed net profit share bidding system" means any bidding system with a cash bonus bid, a fixed share of the net profit, and a fixed annual acreage rental, as proposed in section 376.110(a)(4).

procedures designed to permit lessees to calculate net profits in a uniform manner. In addition, the proposed regulation establishes procedures for auditing by the Federal Government of lessees' accounting practices and net profit calculations and prescribes the process whereby a lessee may challenge any adjustment to its calculations resulting from such auditing.

The fixed net profit share bidding system satisfies a primary intention of Congress by reducing reliance on large front-end cash bonuses as the means for obtaining a fair price for the public's property. Congress' perception was that large cash bonus payments may inhibit competition for OCS leases by preventing smaller, independent firms from participating in OCS development. The fixed net profit share bidding system is designed to shift government return away from initial cash bonuses into deferred payments, which, in the case of this bidding system, are based on net profits from the actual production of oil and gas. The proposed bidding system should make it possible for smaller firms to compete more effectively for OCS leases and to free funds for exploration that previously have been tied up in cash bonuses.

**C. Impact of Proposal.** The primary impact of the fixed net profit share bidding system proposed by this regulation should be a reduction of cash bonus bids. The regulation is also expected to maximize production of oil and gas from the OCS, foster the development of marginal oil and gas fields, and increase the total revenue to the public for its property. The summary of the Regulatory Analysis supporting this regulation (section VIII of this preamble) explains how the proposed fixed net profit share bidding system promotes these objectives.

Since the administration of this regulation is the responsibility of the U.S. Geological Survey (USGS) within DOI, utilization of this bidding system will result in greater administrative responsibilities for the USGS, related to determinations on the allowability of certain costs, concern for inventory, and performance of periodic audits. USGS regulations are not superseded by this action but must be followed in conjunction with this regulation, as appropriate.

**D. Basis for Proposed Fixed Net Profit Share Bidding System.** Royalty based bidding systems require, in addition to the royalty rate, only the value or amount of lease production to determine royalty payments due the United States. However, a net profit share bidding system requires accounting procedures for the identification and measurement



of costs, and a system for charging costs against production revenue to determine net profits. This requirement makes the fixed net profit share bidding system considerably more complex than the bidding systems previously used for OCS lease sales.

Several systems for accumulating and charging costs against revenues were analyzed for their economic impacts by simulation with a resource policy evaluation model. The description of the model, assumptions made, systems studied, and discussion of the results is contained in the summary of the Regulatory Analysis (section VIII of this preamble). The results of these simulations led DOE to propose a fixed net profit share bidding system which utilizes the "fixed capital recovery system."

The fixed capital recovery system is a simple approach for (a) accumulating costs (both capital and non-capital) incurred during the exploration and development phase of lease operations, and then (b) recovering these costs from production revenues in a manner that provides a reasonable return on the lessee's investment. With the fixed capital recovery system, which forms the basis for calculating net profits as proposed by these regulations, costs are not segregated as to whether they constitute capital or non-capital expenses. Rather, costs are accumulated in a preproduction or a production account depending on whether they are incurred prior to, or after, the initiation of production, respectively.

The key feature of the fixed capital recovery system is the mechanism for capital recovery, including a return on investment. The balance in the preproduction account (expenses incurred during the preproduction period less any credits received) is multiplied by a number known as the "recovery factor." The product of this calculation becomes an amount designated as the "allowance for capital recovery." This allowance operates to defer net profit share payments until the amount of the allowance has been charged against production revenues.

The recovery factor is a number equal to or greater than 1.0. The recovery factor and the profit share rate are unique to each profit share lease and will be determined prior to each lease sale. They are selected to provide an adequate return on investment for overall lease operations, given the cost and resource expectations for a particular tract. The recovery factor and the profit share rate will be specified in the Notice of Lease Sale published in the Federal Register prior to an OCS lease sale.

The fixed capital recovery procedure is itself only part of the overall net profit share bidding system. It dictates the basic scheme for aggregating costs and manipulating aggregate costs and production revenues to determine net profits. The other part of the system is the set of accounting procedures for identifying, measuring, and allocating individual costs to the net profit share accounts.

The search for the other component of the system independently led DOE to the accounting procedure for joint offshore operations developed by the Council of Petroleum Accountants Societies of North America (COPAS). Unless otherwise noted the COPAS procedure used is Bulletin 15, "Accounting Procedure—Offshore Joint Operation," October 1977.

The COPAS procedure is an appropriate basis for the cost identification portion of the accounting procedures because: (1) The net profit share lease relationship is analogous to a joint working interest agreement between private parties (*i.e.*, an agreement that shares at a fixed rate all costs and revenue), (2) COPAS is only a procedure for identifying, measuring, and allocating costs for direct billing of joint interest partners; hence, it is not complicated by rules for capitalization or other guidelines for disposition of costs that would be contained in a complete financial accounting procedure, and (3) the COPAS procedure, or minor variations thereof, are in widespread use, thus use in a Government regulation would minimize accounting burden and interpretation problems for the industry.

The modifications to the COPAS procedure that were necessary to adapt it to the purpose of this regulation are discussed in section IV. B of this preamble.

**E. Description of Proposed Accounting Procedures—Part 390. 1. Definitions.** Most of the definitions appearing in § 390.002 are taken from two sources: The COPAS Procedure, and the Cost Accounting Standards Board Regulations (4 CFR Part 400), with necessary modifications to adapt them to this regulation. The terms "allowance for capital recovery", "net profit share base", "net profit share payment", "net profit share rate", "NPSL", "NPSL project area", "NPSL property", "NPSL operations", "NPSL tract", "outside party", "preproduction period", and "production period" are new definitions. Definition of other terms used in Part 390 may be found in proposed Part 375 of Title 10, Code of Federal Regulations (10 CFR 375.004), which contains some general provisions that will be

applicable to all of DOE's mineral leasing regulations (44 FR 45900, August 3, 1979).

**2. Accounts.** Proposed § 390.010 establishes five controlling accounts for net profit share lease (NPSL) operations: Preproduction account, production account, production revenue account, net profit share payment account, and lessee's net profit share account. The preproduction and production accounts are expense accounts. The production revenue account is, as its name implies, the account in which oil and gas production revenue entries are made. The net profit share payment account and the lessee's net profit share account are accounts for recording net profit share payments to the United States and net profits retained by the lessee, respectively.

All costs permitted by §§ 390.011 (schedule of allowable direct and joint costs and credits) and 390.012 (overhead allowance) will be allocated to either the preproduction or production accounts, depending on whether they are incurred during the preproduction or the production period. Direct costs (costs that are traceable to and incurred exclusively for the benefit of NPSL operations) and joint costs (costs that are traceable to and benefit NPSL and non-NPSL operations) are allocated between the preproduction and production periods on the basis of whether they were incurred before or after the beginning of the production of oil and gas from the lease. Allowable direct and joint costs are limited by § 390.011 to the following 14 categories, which are based on the COPAS procedures: Lease rental to the United States for the tract; labor expenses, including fringe benefits and certain personal expenses; the costs of material, transportation, contracted services, insurance, communications, audit, damage and losses to NPSL property; certain legal expenses; use charges for equipment and facilities furnished by the lessee; taxes (except income taxes); the cost of complying with environmental regulations; and miscellaneous costs approved by the USGS Supervisor.

Credits are allocated to either the preproduction or production accounts in the same manner as direct and joint costs. That is, they are allocated on the basis of when they are incurred (before or after the start of production). Revenue is credited to the production account as explained in section III E.3 of this preamble.

Generally, overhead is a residual category for costs that are difficult to associate or attribute to a particular aspect of lease operations. Examples of

overhead costs are general and administrative expenses, office services, and research and development. Rather than allow charges for overhead expenses, these proposed regulations provide a charge equal to 4 percent of allowable direct and joint costs (exclusive of specific costs identified in § 390.012(c)) as an allowance for overhead costs occurring in the preproduction period. Similarly, an allowance equal to 10 percent of allowable direct and joint costs is proposed for the production period. The capital recovery factor is not applied to the overhead allowance.

**3. Determination of net profit share payments.** This section briefly describes the proposed net profit share accounting process and the determination of net profit share payments.

Direct and joint costs and credits incurred during the preproduction period are accumulated in the preproduction account. At the end of the preproduction period, the allowance for capital recovery is calculated and entered in the production period account. The preproduction period overhead allowance is also calculated and entered in the production period account.

During the production period, direct and joint costs and credits incurred or received are entered individually in the production period account. Examples of credits that may be entered into the production account include salvage credits, income from equipment rental, income from the sale of geological information, rebates, and refunds. Credits reflecting the value of production are entered in the production revenue account.

At the end of each month during the production period, the allowance for production period overhead is calculated and entered in the production account. Then, the balance in the production revenue account is cleared and credited to the production account.

The balance of the production account, that is, the difference between the costs and credits (including production revenue), is computed monthly. If the end of the month balance is positive (*i.e.*, a credit balance indicating that revenues exceed accumulated costs and allowance for capital recovery), the balance is the net profit share base which is distributed between the lessee and the United States according to the profit share rate. If the production account balance is negative (*i.e.*, a debit balance indicating that accumulated costs and allowance for capital recovery exceed revenues), the balance is carried forward to the next month.

The profit share payment is the United States' share of the profit share base and is calculated by multiplying the profit share base times the profit share rate.

**4. Administration.** Sections 390.030 through 390.034 propose the following procedural requirements necessary for the administration of fixed net profit share leases by the USGS: The keeping of records of production revenue, material inventory, costs, and credits; filing monthly reports of production revenue and costs; submitting monthly payments; taking an annual inventory of controllable material; provisions for an audit of records and accounts at least every two years; a provision for the USGS Supervisor to recalculate the profit share payment based on a determination that an expense was improperly claimed or classified or that another type of error was made; and a provision for the lessee to appeal any such determination made by the USGS Supervisor.

#### IV. Major Issues

**A. Selection of the Fixed Capital Recovery System.** Three different types of systems were considered in the course of developing the fixed net profit share bidding system regulations proposed in Part 390. The three systems differ in the mechanism each provides for the recovery of capital invested to develop a lease. An evaluation of the relative performance of these systems (fixed capital recovery, annuity capital recovery, and investment account systems) was made by DOE with a computer-based resource policy evaluation model. Based on the results of this analysis, the fixed capital recovery system is being proposed. Important conclusions of this analysis are summarized in section VIII of this preamble and specific comments are requested in section VI.A of this preamble.

**B. Adjustments to COPAS Accounting Procedures. 1. Allowable direct and joint costs.** The cost categories established by COPAS for direct charges to joint operations are generally adopted within the framework of the proposed regulations. However, various changes have been made to the COPAS approach. These changes are discussed below:

**a. Royalties.** The proposed fixed net profit share bidding system does not require royalty payments to the United States. Therefore, the proposed regulation deletes royalties from the schedule of allowable costs.

**b. Labor.** The guidelines in § 390.011(b) of the proposed regulation for charging labor are patterned after

COPAS Bulletin No. 14, "Accounting Procedure—Arctic Operations," rather than COPAS Bulletin No. 15, "Accounting Procedure—Offshore Joint Operations." The Arctic Operations procedures are more liberal than the procedures for offshore operations in that they permit direct charging of field employees within the project area rather than on just the tract. They also permit the direct charging of technical personnel at headquarters or district offices. The Arctic Operation procedures were chosen because their more liberal provisions are better suited to the OCS with its attendant logistics problems than the offshore guidelines, which appear to be designed primarily for near-shore operations.

**i. Salaries and wages.** The proposed regulations adopt the COPAS definition and interpretation of "field employees," "first level supervisors," and "technical employees." Salaries and wages of field employees, first level supervisors, and technical employees are allowable costs, provided these personnel are employed in the NPSL project area and are engaged in NPSL operations. The NPSL project area includes the NPSL tract and shore based support and production facilities that directly support NPSL operations. When personnel work in the NPSL project area and are engaged in activities that benefit several tracts or separate activities in addition to the NPSL tract (*e.g.*, a support facility that services several tracts), the charge to NPSL accounts must be made on the basis of time spent on activities that directly benefit NPSL operations.

The proposed regulations establish, by design, the criterion that a charge for salaries and wages is allowed for qualified personnel only if they are employed and "engaged in activities within the NPSL project area." There is only one exception to the requirement that personnel must physically work at a location within the NPSL project area. A charge is allowed for salaries and wages of technical employees assigned to a technical branch of the lessee's organization and who are engaged full time in activities that directly support NPSL operations or specific problems related to the NPSL tract. However, no charge is allowed for salaries and wages of technical employees who, while working on some aspect of NPSL operations not within the NPSL project area, are also assigned or perform collateral duties unrelated to NPSL operations.

This exception regarding technical workers is intended to relax somewhat the requirement that personnel must



work within the project area. However, the farther an individual is removed from the NPSL project area, the more difficult it is to establish the extent to which he is involved with NPSL operations. The requirements in the proposed regulations are dictated by the need to establish criteria that can be easily documented and verified at audit. To take advantage of this exception, it is expected that lessees will segregate within the technical branches of their organizations those technical employees working on NPSL operations or related technical problems, and that lessees will not assign these personnel duties unrelated to NPSL operations or problems.

No charge is permitted for salaries and wages of personnel not falling within the definitions of field employees, first level supervisors, or technical employees. The overhead allowances are intended to provide compensation for personnel involved in NPSL operations or support but who do not fall within these categories.

ii. *Personal expenses.* Limitations on employee relocation costs have been proposed in § 390.013(g) that are not contained in COPAS. Relocation costs that may not be claimed are: loss on the sale of a home, costs of acquiring a home in the new location, payments of employee income taxes incident to reimbursed relocation costs, and any relocation cost in connection with an employee move that is for the primary benefit of the lessee's other operations. Closing costs on the employee's former residence and continuing costs of ownership of the former residence are permitted, except that the amount claimed as an expense may not exceed 8 percent of the sales price of the property. These limitations are in place of negotiated terms and conditions recommended by COPAS.

c. *Materiel.* Through reference to § 390.015, DOE has required in § 390.011(c) that single items of equipment with an original cost of \$100,000 or more that are acquired or disposed of by the lessee for NPSL operations be priced on a current market basis with approval by the Supervisor.

d. *Transportation.* The proposed regulation in § 390.011(d) would be more restrictive than COPAS with respect to allowable charges for materiel movements to and from the NPSL project area. COPAS limits such costs only with respect to movements between the NPSL project area and storage facilities owned by or under the control of the lessee. This regulation would extend the COPAS limitation to cover all materiel movements between the NPSL project area and any storage

facility, regardless of its location or connection with the lessee. The ceiling on allowable materiel transportation costs would be the same ones that COPAS applies to materiel movements between the joint property and the operator's storage facilities. NPSL operations would not be charged for transportation costs greater than the distance between the NPSL project area and the nearest supply source where like materiel is normally available.

e. *Contract services.* As with salaries and wages, the COPAS requirement that contract services must be performed within the NPSL project area is relaxed. A charge is permitted for contract services performed away from the NPSL project area, provided that there is compliance with specific requirements in the regulations. These requirements are designed to isolate and verify that charges for services performed under contract to the lessee exclusively benefit NPSL operations.

f. *Equipment and facilities furnished by lessee.* Both COPAS and the proposed regulation in § 390.011(g) contain detailed provisions regarding the charging of lessee-owned equipment and facilities, and both require such items to be rented to the jointed operations. As an element of the rental rate, COPAS allows the estimate cost of platform dismantlement. The proposed regulation, however, would not include this element of the rental rate as an allowable cost. DOE believes that this charge is difficult to estimate accurately, and therefore, may result in interim debits that do not reflect the actual costs of removal. It is anticipated that potential bidders will estimate their expected cost of platform dismantlement and incorporate this estimate in calculations that determine cash bonus bids.

Unlike COPAS, the proposed regulation explicitly permits the charging of lease-to-shore pipelines and shore-base production facilities to NPSL operations on a rental or use charge basis.

g. *Taxes.* COPAS permits the operator to charge the joint account for all taxes paid by him for the benefit of the joint operations. The proposed regulations in § 390.011(i), however, expressly exclude income taxes and all other taxes based upon income from being charged to NPSL operations. This approach is required because the Government allows net profit share payments to be deducted from gross income for Federal income tax purposes. To permit income and related taxes to be allocated to NPSL operations would confer a double-benefit on lessees and result in the

reduction of the public's return for its property.

h. *Audit.* In the event that the Government exercises its option under § 390.011(m) of the proposed regulation and requires the lessee to commission an independent audit, the cost of that audit may be charged to NPSL operations. The costs of audits of joint operations conducted under COPAS are borne by the partners since each partner contributes one or more staff auditors to the audit team.

i. *Other expenditures.* COPAS authorizes the operator to charge any expenditure, not listed as an allowable cost, that is incurred in the necessary and proper conduct of the joint operations. The proposed regulation in § 390.11(n), however, requires the prior approval of the USGS Supervisor before like charges to NPSL operations may be made.

2. *Unallowable costs.* Section 390.013 of the proposed regulation notifies lessees that certain costs are expressly disallowed as direct or joint costs and would not be approved by the USGS Supervisor. These include the cash bonus; interest on any loans obtained to finance NPSL operations, equipment, construction, etc.; the cost of taking inventory; research and development costs; certain employee relocation costs; the cost of administering employee benefit plans; certain expenses; the cost of construction and equipping shore-base facilities; and lease abandonment costs.

The cash bonus is not an allowable cost. Excluding the cash bonus as a charge tends to reduce the magnitude of initial cash bonuses—a desired effect—without distorting production economics.

Interest is not an allowable cost because the fixed capital recovery system proposed by these regulations is designed to provide a return on total capital investment, regardless of whether the capital is borrowed or equity.

Other costs (listed below) are not allowed because they are either inappropriate, not customarily charged, or because it is extremely difficult to determine the proportion that directly benefits NPSL operations: Construction of shore-based facilities and real property (note that shore-based facilities are, in effect, rented to NPSL operations); certain employee relocation costs (loss on the sale of a home; acquisition costs for a home in a new location such as brokerage fees, appraisal fees, etc.); payments for employee income taxes incident to reimbursed relocation costs; relocation costs for moving an employee when the

move primarily benefits non-NPSL operations; and fines or penalties levied by a Federal agency.

The cost of taking inventory, research and development costs, the cost of a legal staff, and administration costs for employer benefit plans are covered as overhead. Abandonment costs are not allowed for previously stated reasons.

3. *Overhead.* COPAS recognizes three categories of overhead costs: (1) Drilling and producing operations; (2) major construction; and (3) catastrophe. Traditional (i.e., general and administrative) overhead charges appear to be accommodated in category (1). Major construction overhead (2) is designed to compensate the operator for overhead costs associated with the installation or expansion of fixed assets required to develop the joint property or with dismantling for abandonment. The catastrophe category (3) compensates an operator for costs incurred for dealing with single-event natural or environmental disasters, and is calculated using a method similar to that which applies to major construction overhead. Under the COPAS procedures, the parties negotiate the fixed rate that will apply to each category, and these rates are specified in the joint operating agreement.

However, for the Government to undertake a similar procedure (i.e., negotiate overhead rates for each net profit share lease) would be both administratively burdensome and excessively time-consuming. Thus, in keeping with the proposed regulatory scheme of differentiating between preproduction and production costs, these regulations provide a preproduction period overhead allowance of 4 percent of allowable direct and joint costs (which compensates for overhead incurred during the capital intensive development phase of offshore operations) and a production period overhead allowance of 10 percent.

C. *Other Issues.* 1. Should the proposed regulations permit the cost of cleanup of oil spills to be charged to NPSL accounts?

Concern regarding this issue appeared to center on the propriety of the U.S. sharing in the cost of ameliorating environmental damage to U.S. property caused by operation of the lessee, and on the effect this cost sharing would have on the resolve of the operator to prevent oil spills. Nevertheless, DOE believes that to some extent, even with the exercise of all reasonable precautions, seepage and spillage may occur, and thus, their amelioration represents a normal cost of doing business which should be chargeable to

NPSL operations. DOE does not believe that the sharing of these costs by the U.S. will weaken the incentive to prevent accidental contamination. Furthermore, DOE believes that consideration of the risks of accidental contamination will result in potential bidders discounting their bids as a means of offsetting these potential costs if they are not allowed to be charged to NPSL operations.

2. The proposed regulation should provide specific criteria for "proper materiel control, inventory, and purchasing" (§ 390.032(a)).

DOE believes that further guidance can not be provided by regulation, since individual situations such as distance from the supply base or store will determine what is reasonable. Thus, the USGS area supervisor will be called upon to interpret and implement these guidelines on an area or case-by-case basis.

3. The proposed regulations permit new materiel required or consumed by NPSL operations to be charged at current market value rather than charged at original cost or the lesser of original cost or current market value (§ 390.015). This is consistent with the requirement, in § 390.032, that the lessee can only maintain an inventory (the cost of which has been charged to NPSL operations) that is essential to support efficient and economical operations.

Taken together, these actions establish the condition that the cost of materiel is charged to NPSL accounts only when used to support NPSL operations, allowing some inventory flexibility to facilitate efficient operations. Thus, a charge is not necessarily made when the materiel is originally purchased. The regulations do not allow warehousing costs to be charged to NPSL operations except as is required to maintain the inventory that supports efficient and economical operations.

The intent of these provisions in the regulations is to avoid, to the extent possible, the problems of inventory control and audit. Clearly, the level of inventory required for efficient and economical operations depends on conditions encountered in each OCS region. Higher levels of inventory will be required to support operations in frontier Alaskan areas than are needed in the Gulf of Mexico. DOE expects that the supervisor will issue specific guidelines regarding the levels of inventory for each OCS region.

#### V. Example of Net Profit Share Payment Calculation

The following is a detailed example of how to calculate the NPS payment.

These calculations illustrate how the NPS formula and the proposed NPS accounts are to work.

1. *During the Preproduction Period.* During the preproduction period, direct and allocable joint costs and credits are accumulated in the preproduction account.

Specifically, at the end of each month during the preproduction period, the preproduction account is charged for direct and allocable joint costs and credits for the month in each of the following 15 categories: rent, labor, materiel, transportation, services, legal expenses, equipment and facilities furnished by lessee, damages and losses to NPSL property, taxes, insurance, communications, ecological and environmental, audit and other costs and credits. Exhibit I illustrates these transactions:

Exhibit I

|                     | Preproduction account |     |
|---------------------|-----------------------|-----|
|                     | Dr.                   | Cr. |
| January             |                       |     |
| Rent.....           | 5                     |     |
| Labor.....          | 10                    |     |
| Materiel.....       | 10                    | 2   |
| Transportation..... | 2                     |     |
| Services.....       | 1                     |     |
| Legal.....          | 1                     |     |
| Other.....          | 1                     |     |
| Total.....          | 30                    | 2   |
| February 1980       |                       |     |
| Rent.....           | 6                     |     |
| Labor.....          | 12                    |     |
| Materiel.....       | 12                    | 4   |
| Transportation..... | 4                     |     |
| Services.....       | 1                     |     |
| Legal.....          | 1                     |     |
| Other.....          | 3                     |     |
| Total.....          | 39                    | 4   |

2. *End of the Preproduction Period.* At the end of the preproduction period, the cumulative total of all direct and allocable costs and credits is determined by calculating the balance in the preproduction account. Exhibit II illustrates this transaction:

Exhibit II

|                    | Preproduction account |     |
|--------------------|-----------------------|-----|
|                    | Dr.                   | Cr. |
| January 1980.....  | 30                    | 2   |
| February 1980..... | 39                    | 4   |
| March 1980.....    | 45                    | 6   |
| December 1985..... | 60                    | 10  |
|                    | 5,500                 | 500 |
|                    | 5,000                 |     |

Next, the allowance for capital recovery and the preproduction



**2. Treatment of abandonment costs and credits.** The proposed regulations provide that accounts are to be closed when production ends. Salvage credits



received by the lessee after this period are not credited to the NPSL account, but are retained 100 percent by the lessee. Similarly, abandonment expenses cannot be charged to NPSL accounts. The expected difference between the salvage credits and abandonment expenses must be anticipated by the lessee when he prepares his bid and an allowance made in his calculation of the cash bonus bid. Is this approach workable? Are there better—administratively feasible—alternatives to provide for abandonment expenses and credits?

3. *Percentage rate for overhead allowance.* The rates of 4 percent and 10 percent for preproduction period and production period overhead, respectively, were chosen as representative of overhead treatment in joint venture agreements. Are these rates appropriate, and if not, what evidence is there to suggest more appropriate rates?

4. *Accounting procedures.* Comments are requested on any of the accounting procedures proposed in Part 390, modifications to COPAS, or interpretations discussed in sections IV.B and IV.C of this preamble.

B. *Written Comments.* You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in today's rulemaking. Written comments should be submitted by 4:30 p.m., March 7, 1980, to the address indicated in the "ADDRESSES" section of this preamble. Comments should be identified on the outside envelope and on the document with the designation: "OCS Net Profit Share Leasing, Docket LPD-79-06". Fifteen copies should be submitted. All copies received by the above date, and all other relevant information will be considered by DOE before final action is taken on this proposed regulation. Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

C. *Public Hearings.* 1. *Procedure for Request to Make Oral Presentation.* The time and place of the hearings are indicated in the "DATES" and "HEARING LOCATIONS" sections at the beginning of the preamble. The hearings will be continued, if necessary, on the next business day.

If you have an interest in today's proposal, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make an oral presentation. This request should be

made by 4:30 p.m. on February 8, 1980 for all hearings, and should be sent to the appropriate addresses indicated in the "REQUEST TO SPEAK" section of this preamble. Please describe your interest and, if appropriate, state why you are a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing. If you are selected to be heard, you will be so notified prior to the hearing. One hundred copies of your statement, labeled "OCS Profit Share Leasing," are due five working days prior to the date of the regional hearings and due February 13, 1979 for the Washington hearing and should be delivered to the "REQUEST TO SPEAK" addresses indicated at the beginning of this preamble. In the event any person wishing to testify cannot meet the 100 copy requirement, alternative arrangements can be made with the Office of Hearings Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Hearings Management at 202-254-5201.

2. *Conduct of the Hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for "REQUEST TO SPEAK" before 4:30 p.m. the day prior to each hearing.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer DOE or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

#### VII. Environmental and Competitive Analysis

After reviewing this proposed regulation pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321)) DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental impact statement is required for the proposed regulation.

Environmental impacts resulting from the use of the fixed net profit share bidding system are expected to be minimal. There are two sources of potential environmental impact. First, since the fixed net profit share system is expected to improve economic incentives for expeditious exploration and development of tracts, there could be an increase of this activity on profit share tracts in the sale area. Second, the fixed net profit share bidding system will improve economic conditions and incentives for developing and producing smaller oil and gas deposits. Thus, the use of this bidding system could result in increased levels of production from the sale area.

In either case, however, the use of the bidding system is expected to result in a cumulative increase in activity or production, but no major increase on any individual tract. Absolute rates of activity or ultimate levels of production are not expected to fall outside the ranges that should be considered during an environmental impact analysis for lease sales conducted with conventional leasing systems. Environmental impacts associated with using the fixed net profit share bidding system will, of course, be examined prior to each lease sale. Moreover, potential environmental impacts resulting from the use of this system will be considered prior to the selection of a leasing system for tracts in each sale.

Thus, to summarize, DOE believes that any environmental impacts attributed directly to the use of the fixed net profit share bidding system are minimal and inconsequential. Moreover, the rates of activity and levels of production that could result from the use of the fixed net profit share bidding system are well within the ranges that must be considered by the environmental impact analysis for each specific sale.

Pursuant to § 204 of the Amendments (section 5 OCSLA, 43 U.S.C. 1334), a copy of this proposed regulation has been transmitted to the Attorney General for his views on any matters contained herein that may affect competition. The Attorney General will consult with the Federal Trade Commission in accordance with § 204 in preparing any such views. Their views will be carefully considered by DOE before the promulgation of final regulations.

#### VIII. Summary of Regulatory Analysis

We have determined that this is a significant regulation and will have a major impact within the meaning of DOE's procedures to implement Executive Order 12044 on "Improving Government Regulations" (DOE Order No. 2030.1, (44 FR 1032, January 3, 1979)). Therefore, a regulatory analysis is required for this proposed regulation.

A summary of the regulatory analysis prepared for this regulation is included below. Copies of the complete regulatory analysis are available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Interested parties are invited to submit written comments on the Regulatory Analysis to the address indicated in the "ADDRESSES" section of this preamble.

The regulatory analysis examines the impact of using a cash bonus bid with a fixed share of the net profit from production (using a method of capital recovery known as the fixed capital recovery system) by comparing the performance of this bidding system with other types of net profit share and royalty based bidding systems including the current cash bonus bid with a fixed royalty.

Research performed in support of the analysis shows that when a fixed net profit share bidding system is used, prospective bidders lower their cash bonuses in anticipation of the higher costs in the form of net profit share payments to the government which they will incur during the production phase of the lease. This lowering of the cash bonus improves competition by lowering

the "ante required to get into the game" and distributes risk more evenly between government and industry by minimizing industry's losses in the event of an unproductive lease. The analysis also shows that government revenue is expected to increase as potential risks to the bidders are decreased.

This same phenomenon of reduced cash bonuses with its attendant benefits is also observed for bidding systems which employ a variable royalty. Such systems, however, lead to perverse incentives for lease development and production. Higher royalty rates necessary to effect reductions in the cash bonus tend to cause the smaller oil fields to go undeveloped because they are uneconomic. Also, higher royalty rates affect the rate of production of the leases that are developed. Earlier studies of royalty systems indicated a premature termination of production. However, more recent studies indicate that, faced with high royalty rates, producers will install smaller initial production capacity and produce the same amount of resource over a longer period of time than would occur with the current cash bonus— $\frac{1}{2}$  royalty system or the proposed fixed net profit share bidding system.

Because net profit share bidding systems incorporate a definition of cost as well as revenue, they differ markedly from royalty systems which need only be concerned with the gross value of production. Thus, net profit share bidding systems require accounting procedures that define which costs are allowable as offsets to lease revenues.

Two controlling accounts are common to all of the net profit share systems analyzed for charging costs against production revenues: The preproduction account that accumulates all of the expenses incurred from lease acquisition until the start of production, and the production account that accumulates the expenses incurred in the production period. Provisions for capital recovery are specifically provided through the capital recovery mechanism of each leasing system. The different types of systems for determining net profit share payments, fixed capital recovery system, annuity capital recovery system, and investment account system, differ in the way in which capital recovery is made.

In the fixed capital recovery system the balance in the preproduction account is multiplied by a number known as the capital recovery factor. The product of this calculation is the total allowance for capital recovery (TACR). A portion of the TACR equal to the excess of revenue over operating costs is taken in successive reporting

periods until the sum of the portions (ACR) equals the TACR.

In the annuity capital recovery system, the balance in the preproduction account at the end of the preproduction period is annuitized to determine the ACR available to the lessee each reporting period. The interest rate and the number of reporting periods would be selected as term of the lease.

The third system considered, the investment account system, has some of the features of the other two systems. Like the annuity capital recovery system, an interest rate rather than a fixed factor is applied; however, the interest rate is applied to the balance of the preproduction account at established accounting periods (months) during the preproduction period, rather than merely to the final preproduction account balance. At the end of the preproduction period the sum of all expenses and interest charges becomes the TACR that is available as an ACR in any production accounting period (as with the fixed capital recovery system). Unlike the fixed capital recovery system, any unused TACR and any operating expenses in excess of revenues accrued during each accounting period are forwarded to the next accounting period with an additional interest charge that is calculated by multiplying the sum of the operating expenses in excess of revenues plus the unused TACR by the interest rate.

The net profit share base from which the net profit share payments are calculated is determined by subtracting the current operating expenses in the production account and the ACR from gross lease revenue. If operating expenses or the ACR exceed the gross revenue to offset them, they are carried forward to the next accounting period. The net profit share payment is the net profit share base times the net profit share rate.

These three systems were analyzed by simulating their performance with a resource policy evaluation model. Four measures of performance were used to compare the performance of these systems. These measures are: 1) Percentage of cash bonus reduction (relative to the current cash bonus— $\frac{1}{2}$  fixed royalty system), 2) percentage of fields developed, 3) production life of the lease, and 4) the present value of total expected government revenue generated. Comparisons were made over a wide range of reservoir sizes and development costs, net profit share rates, and interest/recovery factor rates.

The simulations showed that the fixed capital recovery system with a recovery factor of 2.0 and net profit share rate of



60 percent gave the best overall performance. No investment account system variation was found that resulted in a greater percentage of cash bonus reduction while maintaining as high a percentage of fields developed as is available under the fixed capital recovery system. Furthermore, DOE found the investment account system provides less incentive for expeditious lease development and is susceptible to the artificial acceleration, for accounting purposes, of the timing of expenses. By contrast, the fixed capital recovery system (2.0 capital recovery factor, 60 percent profit share rate) as compared to the present cash bonus bid with a fixed  $\frac{1}{2}$  royalty improves the percentage of fields to be developed, thus enhancing efficient resource recovery; reduces expected cash bonuses approximately 40 percent, thus promoting competition; increases slightly the amount of expected government revenue; and does not result in any prolongation of the production period.

The implementation of the fixed net profit share bidding system will have some minor impacts on industry costs, resulting from the administrative costs attendant with accounting and reporting requirements. These costs will result from changes to accounting systems and procedures as required to track NPS tract expenses and calculate net profit. Estimates of these costs are \$50,000 to \$150,000 for the one time accounting system modification and \$25,000 to \$30,000 for the annual cost for administration. Administrative costs to the government for audit and monitoring of net profit share leases are expected to be nominal.

**Authority:** (Outer Continental Shelf Lands Act, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 et seq., 1953), as amended by Pub. L. 95-372; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq., 1977), E.O. 12009, 42 F.R. 46267.

In consideration of the foregoing it is proposed to amend Chapter II of Title 10, Code of Federal Regulations as set forth below.

Issued in Washington, D.C., November 30, 1979.

**Dr. Ruth M. Davis,**  
Assistant Secretary, Resource Applications,  
Department of Energy.

1. Part 376 of Chapter II of Title 10, Code of Federal Regulations, is amended by adding paragraph (4) to § 376.110(a) to read as follows:

**§ 376.110 Bidding systems.**

(4) *Cash bonus bid with a fixed share of the net profits of no less than 30 percent to be derived from the*

*production of oil and gas from the lease area and a fixed annual acreage rental.*

(i) *Net profit share payment calculation.* The amount of the net profit share payment to the United States by the person awarded the lease shall be determined for each month by multiplying the net profit share base times the net profit share rate, in accordance with § 390.022.

(A) *Net-profit share base.* (1) The net profit share base shall be calculated in accordance with § 390.021.

(2) The recovery factor needed to calculate the allowance for capital recovery, § 390.020, shall be specified in the notice of OCS lease sale published in the Federal Register.

In determining the recovery factor, which may vary from tract to tract, the factors stated in § 376.111 shall be considered in relation to the characteristics of each tract to which the bidding system will be applied.

(B) *Net profit share rate.* The net profit share rate, which determines the fixed share of the net profits owed to the United States, shall be a percentage that is specified in the notice of OCS lease sale published in the Federal Register. Such net profit share rate shall not be less than 30 percent of the net profit share base. In determining the net profit share rate, which may vary from tract to tract, the factors stated in § 376.111 shall be considered in relation to the characteristics of each tract to which the bidding system will be applied.

(ii) The amount of cash bonus to be paid is determined by the person submitting the bid. Any deferment and the schedule of payments shall be included in the notice of OCS lease sale published in the Federal Register.

(iii) The annual acreage rental to be paid by the person awarded the lease shall be the amount specified in the notice of OCS lease sale published in the Federal Register.

In determining the rental, which may vary from tract to tract, the factors stated in § 376.111 shall be considered in relation to the characteristics of each tract to which the bidding system will be applied.

2. Chapter II of Title 10, Code of Federal Regulations, is amended by adding a Part 390 to read as follows:

**PART 390—ACCOUNTING PROCEDURES FOR DETERMINING NET PROFIT SHARE PAYMENT FOR OUTER CONTINENTAL SHELF OIL AND GAS LEASES**

**Sec.**  
390.001 Purpose and scope.  
390.002 Definitions.  
390.010 Profit share accounts.

**Sec.**  
390.011 Schedule of allowable direct and joint costs and credits.  
390.012 Overhead allowance.  
390.013 Unallowable costs.  
390.014 Allocation of joint costs and credits.  
390.015 Pitting of materiel purchases, transfers, and dispositions.  
390.020 Calculation of allowance for capital recovery and preproduction overhead allowance.  
390.021 Determination of net profit share base.  
390.022 Calculation of net profit share payment and lessee's net profit share.  
390.030 Maintenance of records.  
390.031 Reporting and payment requirements.  
390.032 Inventories.  
390.033 Audits.  
390.034 Redetermination and appeals.

**Authority:** Sec. 205, Pub. L. 95-372, 92 Stat. 643 (43 U.S.C. 1337); sec. 302(b), Pub. L. 95-91, 91 Stat. 578-79 (42 U.S.C. 7152(b)).

**§ 390.001 Purpose and scope.**

(a) This Part 390 establishes accounting procedures for determining the net profit share base and calculating net profit share payments due the United States for the production of oil and gas from Outer Continental Shelf leases.

(b) The procedures established by the Part 390 apply to any Outer Continental Shelf leases issued by the Department of the Interior under a net profit share bidding system established by § 376.110(a)(4) of this chapter.

**§ 390.002 Definitions.**

"Allowance for capital recovery" means the amount calculated according to procedures specified in § 390.020. This amount allows a premium for risk initially undertaken by the lessee and a return on his investment made during the preproduction period. It is provided in lieu of depreciation on equipment and materiel charged to the preproduction account.

"Compensated personal absence" means any absence from work for illness, vacation, holidays, jury duty, military training, disability benefits and other customary allowance, for which the lessee pays compensation directly to an employee under an existing plan of the lessee.

"Controllable materiel" means materiel which at the time of inventory is so classified in the Materiel Classification Manual as most recently recommended by the Council of Petroleum Accountants Societies of North America.

"Cost" means an expense incurred by a lessee in conducting NPSL operations.

"Cost pool" means a grouping of incurred costs identified with two or more operations.

"Credit" means a payment, rebate, or reimbursement to a lessee, exclusive of production revenue, in the course of NPSL operations.

"Direct cost" means any cost listed in § 390.011 that benefits only NPSL operations.

"Field employee" means an employee below a first level supervisor who is directly employed in the NPSL project area.

"First level supervisor" means an employee whose primary function in NPSL operations is the direct supervision of other employees and contract labor directly employed on the NPSL tract in a field operating capacity.

"G & G" means geological and geophysical exploration.

"Joint cost" means any cost listed in § 390.011 that benefits NPSL operations and one or more other operations of the lessee or outside party.

"Lessee" means a person authorized by an OCS lease, or an approved assignment thereof, to develop and produce oil and gas, including all parties holding such authority by or through the lessee, and the person designated to conduct NPSL operations.

"Materiel" means equipment, apparatus, and supplies.

"Net profit share base" means the end of the month credit balance in the production account. The net profit share base is the production revenue remaining after subtracting all allowable costs and adding all allowable credits (including production revenue) in accordance with the procedures established by this Part 390.

"Net profit share payment" means the portion of the net profit share base payable to the United States.

"Net profit share rate" means the fixed percentage share of the net profit share base payable to the United States.

"NPSL" means a net profit share lease, which is an OCS lease that provides for payment to the United States of a fixed share of the profits for production of oil and gas from the tract.

"NPSL operations" means all activities subsequent to issuance of the NPSL necessary and proper for the exploration, development, operation, and maintenance of the NPSL property.

"NPSL project area" means the NPSL tract, offshore facilities, and shore base facilities.

"NPSL property" means the NPSL tract, and materiel and offshore facilities acquired for use in NPSL operations and that are installed and/or used on the NPSL tract.

"NPSL tract" means a tract subject to a NPSL.

"OCSLA" means the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.).

"OCS lease" means a Federal lease for oil and gas issued under the OCSLA.

"OCS lease sale" means the DOI proceeding by which leases for certain OCS tracts are offered for sale and then issued to the person who is the highest qualified responsible bidder.

"Offshore facilities" means platform and support systems located offshore and that are necessary to conduct NPSL operations, e.g., oil and gas handling facilities, living quarters, offices, shops, cranes, electrical supply equipment and systems, fuel and water storage and piping, heliport, marine docking installations, communication facilities, and navigation aids.

"Outside party" means any person who is not a lessee.

"Person" means person as defined in Part 376 of this chapter.

"Personal expenses" means travel and other reasonable reimbursable expenses of lessee's employees.

"Preproduction period" shall mean the period from the date of issuance of the NPSL until production begins.

"Production" means the bringing forth of oil or gas from the NPSL tract in commercial quantities, as determined by the Supervisor.

"Production period" means the time during which production occurs, for purposes of this Part 390.

"Production revenue" means the value of all oil and gas production saved, removed or sold from a tract, or, if the tract is unitized, the value of all oil and gas production saved, removed or sold and credited to the tract under a unitization formula, during a month, which value is determined in accordance with § 376.110(c) of this chapter.

"Reliable supply store" means a recognized source or common stock point for the particular materiel involved.

"Railway receiving point" or "recognized barge terminal" means the location that a vendor would use in determining the sale price to the lessee of new materiel to be delivered to the NPSL project area.

"Shore base facilities" means onshore facilities necessary for NPSL operations, including:

(a) Shore base support facilities, e.g., a receiving and trans-shipment point for materiel, staging area for shuttling personnel to and from the NPSL tract, a communication, scheduling, and dispatching center; and

(b) Shore base production facilities, e.g., pumps, separating facilities, gas

plants, and tankage for production from the NPSL tract.

"Technical employees" means those employees having special and specific engineering, geological or other professional skills, and whose primary function in NPSL operations is the handling and resolution of specific operating conditions and problems for the benefit of NPSL operations.

"Tract" means land located on the OCS that is offered for lease through an OCS lease sale and is described and identified by an Outer Continental Shelf Official Protraction Diagram that is prepared and published by DOI in connection with an OCS lease sale.

**§ 390.010 Profit share accounts.**

(a) For each NPSL tract, five controlling accounts shall be established and maintained by lessee for NPSL operations, as follows:

(1) *Preproduction account.* The preproduction account shall include direct and allocable joint costs and credits that are incurred from issuance of the NPSL until the first day of the production period.

(2) *Production account.* The production account shall include (i) direct and allocable costs and credits incurred during the production period, (ii) the allowance for capital recovery, (iii) preproduction period costs not allowed in the allowance for capital recovery, and (iv) preproduction period overhead.

(3) *Production revenue account.* The production revenue account shall include credits reflecting the value of oil and gas produced during the production period.

(4) *Net profit share payment account.* The net profit share payment account shall include the amounts of net profit share payments due the United States.

(5) *Lessee's net profit share account.* The lessee's net profit share account shall include the amounts of net profit share base retained by the lessee.

(b) NPSL accounts shall be kept on an accrual basis.

**§ 390.011 Schedule of allowable direct and joint costs and credits.** The costs and credits specified in paragraphs (a)-(o) of this section may be charged direct, or allocated to NPSL operations, as appropriate, in accordance with § 390.014.

(a) *Lease rental.* The rent paid by the lessee for the NPSL tract.

(b) *Labor.* (1) (i) Salaries and wages of lessee's field employees, first level supervisors and technical employees employed in the NPSL project area in NPSL operations, if such costs are not charged under subparagraph (g) of this section.



(ii) Salaries and wages of technical employees within technical branches of the lessee's organization who are either temporarily or permanently assigned to, and directly employed in NPSL operations, provided that such employees work "full time" on some particular aspect of NPSL operations or some specific technical problem. Excluded from this category are employees assigned a role in NPSL operations as a duty collateral with other duties that do not directly benefit NPSL operations.

(2) Lessee's cost of compensated personal absence paid to employees whose salaries and wages are chargeable to NPSL operations under subparagraph (b)(1) of this section.

(3) Expenditures or contributions made pursuant to assessments imposed by governmental authority that are applicable to lessee's costs chargeable to NPSL operations under subparagraphs (b)(1) and (b)(2) of this section.

(4) Reasonable personal expenses, including allowable relocation costs of employees whose salaries and wages are chargeable to NPSL operations under subparagraph (b)(1) of this section and that are paid by the lessee or for which the employees are reimbursed under the lessee's normal practice.

(i) Allowable relocation costs include:

(A) Travel expenses, including transportation, lodging, subsistence, and reasonable incidental expenses of the employee and members of his immediate family and transportation of his household and personal effects to the new location.

(B) Other necessary and reasonable expenses normally incident to relocation, such as costs of cancelling an unexpired lease, disconnecting and reinstalling household appliances, and purchases of insurance against damages to or loss of personal property. Costs of cancelling an unexpired lease shall not exceed three times the monthly rental.

(C) Closing costs (i.e. brokerage fees, legal fees, appraisal fees, etc.) for the sale of the employees' actual residence when notified of the transfer; and

(D) Continuing costs of ownership of the vacant former actual residence being sold, such as continuing mortgage principal and interest payments, maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date or lease date of new permanent residence.

(ii) The combined total of costs listed in subparagraphs (b)(4)(i)(C)-(D) shall not exceed 8 percent of the sales price of the property sold.

(iii) Section 390.013(g) specifies employee relocation expenses that are not allowable as a charge of NPSL operations.

(5) Lessee's current costs of established plans for employee's group life insurance, hospitalization, pension, retirement, stock purchase, thrift, bonds, and other benefit plans of a like nature that are made available to all employees on an equitable basis, applicable to lessee's labor cost chargeable to NPSL operations under subparagraph (b)(1) and (b)(2) shall be lessee's actual cost not to exceed 20 percent of the total charges under subparagraphs (b)(1) and (b)(2).

(6) Charges for expensed incurred under subparagraphs (b)(2)-(b) (5) of this section may be made to NPSL accounts on a "wide and as paid" basis on by a percentage assessment method. If the percentage assessment method is used, it shall be based upon the lessee. Actual cost experience for the proceeding year expressed as percentage of costs chargeable under subparagraphs (b)(1) and (b)(2) of this section, and adjustments shall be made at the end of each fiscal year to balance total charges made NPSL accounts during the year with the lessee's actual costs for the year. Under either method the lessee's own cost of administering the plan and paying the salaries and benefits defined in this paragraph shall be excluded. In determining actual cost experience actual cost experience of any employee benefit plan, any dividend or refunds received are applicable to insurance of annuity policies shall be used to reduce the cost of such policies.

(c) *Materiel*. (1) Materiel purchase of furnished by a lessee as NPSL property shall be charged or credited at amounts specified in § 390.015. The purchase and inventorying of materiel is subject to conditions and provisions in §390.032.

(2) Credit for salvage or returned materiel shall be made to the account originally charged except that, in the case of crediting the preproduction account when the calculation of the allowance for capital recovery in § 390.020 has been made, the credit shall be multiplied by the recovery factor and entered in the production account.

(d) *Transportation*. Transportation of employees and materiel necessary for NPSL operations, to, from and within the NPSL project area, but subject to the following limitations:

(1) If materiel is moved to the NPSL project area, no charge shall be made to NPSL operations for a distance greater than the distance from the nearest reliable supply store, recognized barge terminal, or railway receiving point where like materiel is normally

available, unless agreed to by the Supervisor.

(2) If surplus materiel is moved from the NPSL project area, not charge shall be made to NPSL operations for a distance greater than the distance to the nearest reliable supply store, recognized barge terminal, or railway receiving point unless agreed to by the Supervisor. No charge shall be made to NPSL operations for moving materiel to other properties owned by or under the control of a lessee, unless agreed to by the Supervisor.

(3) In the application of subparagraph (1) and (2) of this paragraph, there shall be no equalization of actual gross trucking costs of \$200 or less, excluding accessorial charge

(e) *Contract services*. Except when excluded by paragraph (f) of this section and/or §390.013(c), the cost of services and utilities provided under contract by outside parties to the lessee and which constitute proper and necessary NPSL operations or support for NPSL operations, and rental charges paid to outside parties for the rental of equipment used in the NPSL project area in support of NPSL operations, may be charged to NPSL operations subject to the following conditions and limitations:

(1) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit exclusively NPSL operations may be charged at the rates specified in the contract.

(2) Contract services (including professional consulting services and contract services of technical personnel) that are entirely performed in the NPSL project area and benefit the NPSL operations and operations on other tracts must be allocated among all tracts benefited and only that portion representing services benefiting the NPSL tract charged to NPSL operations.

(3) Contract services (including professional consulting services and contract services of technical personnel) that are performed at sites outside the NPSL project area may be charged to NPSL operations only if:

(i) The contracted services benefit only the NPSL tract or support NPSL operations;

(ii) The contract under which such services are provided deals exclusively with services benefiting the NPSL tract or NPSL operations; and

(iii) Services specified in the contract relate to the resolution of specific technical problems confronting NPSL operations, or specific engineering design problems related to equipment or facilities required for NPSL operations.

(4) The cost of any contract service related to research and development is specifically excluded, as are contract services calling for feasibility studies not directly related to specific engineering design problems or alternatives for equipment and facilities required by NPSL operations.

(f) *Legal expenses*. Expense of handling, investigating and settling litigation or claims, discharging or liens, payments of judgments and amounts paid for settlement of claims incurred in or resulting from NPSL operations, or necessary to protect or recover the NPSL property, except those costs listed in § 390.013(d) as unallowable.

(g) *Rental of equipment and facilities furnished by lessee*. (1)(i) NPSL

accounts shall be charged for the use of equipment and facilities owned by a lessee that are proper and necessary for NPSL operations, including shore base and offshore facilities and pipelines from the tract to shore base production facilities, and that are not NPSL property. Charges shall be made at rates based upon actual costs of acquisition, construction, and operation. Such rates may include labor, the cost of setting up and dismantling equipment, maintenance, repair, other operating expenses, insurance, taxes, depreciation (calculated with the same method adopted for depreciating the asset for Federal income tax purposes), and a return on the remaining undepreciated basis not to exceed 8 percent per year. Any cost of acquiring real property in excess of that reasonably required to support the facilities furnished for NPSL operations shall not be included in the costs used to establish these rates. Rates charged shall not exceed average commercial rates for equipment and facilities of similar nature and capability currently prevailing in the vicinity of the NPSL project area, or such other maximum rates as may be set by the Supervisor.

(ii) The term equipment and facilities is used in the broad sense to include equipment that may be mobile or semimobile and also installations that may be semipermanent or permanent in nature. Such equipment and facilities listed below shall be charged on the basis indicated:

| Equipment/facilities                  | Basis of charge |
|---------------------------------------|-----------------|
| <b>A. Mobile equipment:</b>           |                 |
| Aircraft .....                        | Hour.           |
| Automobiles .....                     | Mile or hour.   |
| Trucks .....                          | Mile or hour.   |
| Tractors .....                        | Hour.           |
| Buildings .....                       | Hour.           |
| Mobile cranes .....                   | Hour.           |
| Trailer-mounted test separators ..... | Hour.           |
| Truck-mounted paraffin .....          | Hour.           |
| scrapping units .....                 | Hour.           |
| Trailer-mounted cement mixers .....   | Hour.           |
| Boats .....                           | Day or hour.    |
| House trailers .....                  | Day.            |

| Equipment/facilities                   | Basis of charge  |
|----------------------------------------|------------------|
| <b>B. Semimobile equipment:</b>        |                  |
| Drill rigs .....                       | Foot or day.     |
| Workover rigs .....                    | Hour.            |
| Pulling units .....                    | Hour.            |
| Derricks .....                         | Day.             |
| Drilling tender .....                  | Day.             |
| Barges .....                           | Day.             |
| <b>C. Semipermanent installations:</b> |                  |
| Skid-mounted separators .....          | Day or volume.   |
| Skid-mounted compressors .....         | Day or volume.   |
| <b>D. Permanent installations:</b>     |                  |
| Compressor stations .....              | Volume.          |
| Saltwater disposal wells .....         | Volume or wells. |
| Source water wells and supply .....    | Volume.          |
| systems .....                          | Wells.           |
| Roads .....                            | Volume or wells. |
| Production/drilling platform .....     | Wells.           |
| Canals .....                           | Wells.           |
| Dock .....                             | Wells.           |
| Oil storage and loading .....          | Volume.          |
| facilities .....                       | Volume.          |
| Gathering systems and pipeline .....   | Volume.          |
| ACT systems .....                      | Volume.          |
| Laboratory services (excluding .....   | Hour or unit.    |
| research work) .....                   | Volume.          |
| Shore base production facilities ..... | Wells.           |
| Shore base support facilities .....    | Wells.           |
| <b>E. Miscellaneous:</b>               |                  |
| Drill Pipe .....                       | Foot or day.     |
| Casing Setting Tools .....             | Day.             |
| Well Testing Equipment .....           | Day.             |

Equipment and facilities that are not listed shall be charged on a basis consistent with the nature of the use.

(2) In lieu of charges in subparagraph (g)(1) above, the lessee may elect to use average commercial rates prevailing in the vicinity of the NPSL project area less 20 percent. For automotive equipment, the lessee may elect to use rates established by the Supervisor. For other equipment for which no commercial rate exists, the lessee shall submit the basis for determining such costs to the Supervisor for approval.

(h) *Damages and losses to NPSL property*. All costs necessary for the repair or replacement of NPSL Property made necessary because of damages or losses incurred by fire, flood, storm, theft, accident, or other causes not covered by insurance, except those resulting from lessee's negligence or willful misconduct. Lessee shall inform the supervisor of all such damages and losses suffered as soon as practical following their discovery. Notice to the Supervisor shall include the time, cause, and extent of damage or loss, and the estimated charge. Any settlement received from an insurance carrier should be credited to NPSL operations when received.

(i) *Taxes*. All taxes, except income taxes, profit share payments, and taxes based upon income, that are assessed or levied upon or in connection with NPSL operations which have been paid by the lessee.

(j) *Insurance*. (1) Net premiums paid for insurance required to be carried for NPSL operations. For NPSL operations in which the lessee may act as self-insurer for Workmen's Compensation

and Employer's Liability, the lessee may include the risk under its self-insurance program in providing coverage under State and Federal laws and charge NPSL operations at lessee's cost not to exceed manual rates.

(2) NPSL operations shall be credited for all reimbursements for costs of damage to NPSL property or personal injury. Reimbursements for damage NPSL property shall be credited as follows:

(i) If the damage NPSL property is replaced or repaired, to the NPSL account charged for the cost of replacement or repair; or

(ii) If the damaged NPSL property is not replaced or repaired, to the NPSL account originally charged for the cost of the NPSL property except that in the case of the preproduction account, when the calculations of the allowance for capital recovery in § 390.020 has been made, the production account shall be credited in accordance with § 390.021.(a)(2).

(k) *Communications*. costs of acquiring, installing, operating, repairing and maintaining communication systems, including radio and microwave facilities, between the NPSL tract and the lessee's nearest shore base facility. If communication facilities/systems serving the NPSL tract are lessee-owned, or serve operations and/or facilities outside the NPSL project area, charges to NPSL operations shall be made as provided in subparagraph (g) of this section.

(l) *Ecological and environmental*. Costs incurred in the NPSL project area as a result of statutory regulations for archeological and geophysical surveys relative to identification and protection of cultural resources and other environmental or ecological surveys required by the Bureau of Land Management or other regulatory authority. Also, the costs to provide or have available pollution containment and removal equipment, and the costs of actual control and cleanup and resulting responsibilities of oil spills as required by applicable laws and regulations.

(m) *Audit*. The cost of an audit of NPSL operations made by an independent auditor, if such audit is not performed by an agent of the United States.

(n) *Other costs*. Any other costs not covered in Paragraphs (a)-(m) of this section and not specified by § 390.013 that are incurred by the lessee in the necessary and proper conduct of NPSL operations and are approved by the Supervisor.

(o) *Other credits*. Credit shall be given to the preproduction or production



account, depending on when it is occurred, for NPSL property leased or used in non/NPSL operations, and for the sale of information derived from test wells and G & G.

#### § 390.012 Overhead allowance.

(a) The preproduction period overhead allowance shall be calculated on a percentage basis at the rate of 4 percent of direct and allocable joint costs charged to the preproduction account, exclusive of costs specified in § 390.012(c), and debited to the production period account in accordance with § 390.020.

(b) Production period overhead allowance shall be calculated on a percentage basis at the rate of 10 percent of direct and allocable joint costs.

(c) Overhead shall not be charged on the value of:

- (1) Lease rental (§ 390.011 (a));
- (2) Contract services (§ 390.011 (e));
- (3) Legal expenses (§ 390.011(f));
- (4) Rental of equipment and facilities furnished by the lessee and that are charged to NPSL accounts under § 390.011 (g);
- (5) Taxes (§ 390.011(i));
- (6) Injected substances charged under § 390.011 (c); and
- (7) Credits for material charged under § 390.011 (c) that are salvaged, returned, or used for the benefit or non-NPSL operations.

#### § 390.013 Unallowable costs.

The following costs shall not be charged as direct or joint costs to NPSL operations:

- (a) Bonus payments to the United States;
- (b) Interest (except as permitted under § 390.011(g));
- (c) Depreciation, amortization, or any other charge for capital recovery, except as explicitly provided by the allowance for capital recovery calculated according to § 390.020, for material charged to a NPSL account under § 390.011 (c);
- (d) The cost of taking inventory;
- (e) Research and development costs;
- (f) The following legal expenses:
  - (1) The costs of litigation against the Federal government;
  - (2) Fines or penalties levied by any Federal agency;
  - (3) Settlement of claims or other litigation resulting from the lessee's violation of regulatory requirements or negligence; and
  - (4) The cost of the lessee's legal staff or expense of outside attorneys.
- (g) The following employee relocation costs (whether incurred by the employee or the lessee):

- (1) Loss on the sale of a home;
- (2) Purchase price of a home in the new location;
- (3) Payments for employee income taxes incident to reimbursed relocation costs; and
- (4) Any relocation cost in connection with an employee move that is for the primary benefit of the lessee's non-NPSL operations;

(h) The lessee's own cost of administering employee benefit plans;

(i) The cost of acquiring or constructing shore base facilities and real property improvements supporting NPSL operations but that are not on the NPSL property; and

(j) Abandonment costs.

#### § 390.014 Allocation of joint costs and credits.

(a) Joint costs shall be grouped in cost pools for allocation to NPSL and non-NPSL operations in reasonable proportion to the beneficial or causal relationships which exist between a specific cost pool and the operations. That portion of a joint cost pool that may be allocated to NPSL operations is called an allocable joint cost.

(b) The following allocation principles apply in allocating joint costs:

(1) G & G, G & G shall be allocated on a line mile per tract basis.

(2) *Wages and salaries.* Wages and salaries that are not charged direct on the basis of time spent on a particular job shall be allocated on a well basis, i.e., on the basis of the number of wells on each property served.

(3) *Compensated personal absence, payroll taxes and personal expenses.* These items shall be allocated on the same basis as wages and salaries.

(4) *Transportation costs.* Transportation costs for employees that are not charged direct shall be allocated on the same basis as their salaries and wages.

(c) Joint credits shall be allocated in the same manner as joint costs.

#### § 390.015 Pricing of material purchases, transfers, and disposition.

(a)(1) *Purchased material.* Except as provided in paragraph (a)(2)(i) of this section, material purchased for use in NPSL operations shall be charged to NPSL operations at the price paid, after deduction of any discounts received. Should any purchased material be defective or returned to a vendor for other reasons, the credit shall be allocated to NPSL operations when received by the lessee in accordance with § 390.011(c)(2).

(2) *Transferred and disposed material.* An item of material with an original cost under \$100,000, which is acquired by the

lessee for use in NPSL operations by means other than purchase or disposed of by any means, shall be priced according to this subparagraph:

(i) *Condition A (New) Material:* (A) Tubular goods, except line pipe, shall be priced at the current market price in effect on date of movement on a minimum carload or barge load weight basis, regardless of quantity transferred, equalized to the lowest published price "free on board" (f.o.b.) railway receiving point or recognized barge terminal nearest the NPSL tract where such material is normally available.

(B) *Line Pipe.* (1) Movement of less than 30,000 pounds shall be priced at the current price in effect at date of movement, as listed by a reliable supply store nearest the NPSL tract where such material is normally available.

(2) Movement of 30,000 pounds or more shall be priced under provisions of tubular goods pricing in paragraph (a)(3)(i)(A) of this section.

(C) Other material shall be priced at the current price in effect at date of movement, as listed by reliable supply store or f.o.b. railway receiving point nearest the NPSL tract where such material is normally available.

(ii) *Condition B (Good Used) Material:* Material in sound and serviceable condition and suitable for reuse without reconditioning:

(A) Material transferred to the NPSL project area shall be priced at 75 percent of current Condition A price.

(B) Material transferred from the NPSL project area shall be priced—

(1) At 75 percent of current Condition A price, if the material was originally charged to NPSL operations as Condition A material, or

(2) At 65 percent of current Condition A price, if the material was originally charged to NPSL operations as Condition B material at 75 percent of current Condition A price.

(iii) *Conditions C and D (Other used) Material:* (A) *Condition C.* Material that is not in sound and serviceable condition and not suitable for its original function until after reconditioning shall be priced at 50 percent of current Condition A price.

(B) *Condition D.* Material no longer suitable for its original purposes but suitable for some other purpose shall be priced on a basis commensurate with its use and comparable with that of material normally used for such other purpose. If the material has no alternative use it should be priced at prevailing prices as scrap.

(iv) *Obsolete Material.* Material that is serviceable and usable for its original function and has a value less than Condition A, B, or C material may be

valued at a price agreed to by the Supervisor. Such price should be the equivalent of the value of the service rendered by such material.

(3) *Transferred and disposed material with a value of \$100,000 or more.* An item of material with an optional cost of \$100,000 or more or item of similar material with aggregate original cost exceeding \$100,000 acquired by the lessee for use in NPSL operations by means other than purchase or disposed of by any means, shall be priced on a current market basis with the approval of the Supervisor.

(b) *Pricing conditions.* (1) Loading and unloading costs shall be charged at a rate of 15 cents per hundred weight, or such other rate as may be set by the Supervisor, on all tubular goods movements, in lieu of loading/unloading costs sustained, when the actual hauling costs of such tubular goods is equalized under provisions of § 390.011(d).

(2) Material involving erection costs shall be charged at the applicable percentage of the current knocked-down price of new material.

(c) When material subject to subparagraphs (a)(2)(ii)(iii) of this section is transferred, the cost of reconditioning shall be borne by the receiving property.

#### § 390.020 Calculation of allowance for capital recovery and preproduction overhead allowance.

(a) The allowance for capital recovery and the preproduction overhead allowance shall be calculated at the end of the preproduction period.

(1) At the end of the preproduction period, the allowance for capital recovery shall be calculated by multiplying the balance in the preproduction account, less any charges specified in § 390.011(g) and exclusive of the preproduction period overhead allowance, by the recovery factor that is published in the notice of lease sale and is specified in the NPSL.

(2) The preproduction overhead allowance shall be calculated by multiplying the balance in the preproduction account, less any charges specified in § 390.011(g), by 0.04.

(b) At the beginning of the production period, the production account shall be debited by the allowance for capital recovery and by the preproduction overhead allowance calculated in paragraph (a) of this section, and by the sum of charges specified in § 390.011(g) that were excluded from calculations in paragraph (a)(1) of this section.

#### § 390.021 Determination of net profit share base.

(a) During each month of the production period:

(1) The production revenue account shall be credited with an amount reflecting the current value of production during the month and calculated in accordance with § 378.110(c) of this chapter.

(2) The production account shall be debited with allowable costs and credited with allowable credits. Credits associated with the preproduction period, however, shall first be multiplied by the recovery factor before crediting the production account.

(b) At the end of each month during the production period:

(1) The production overhead allowance shall be calculated by multiplying the net of the debits and credits to the production account for that month (less any charges or credits specified in § 390.012(c)) by 0.10.

(2) The production account shall then be debited by the production overhead allowance.

(3) The balance in the production revenue account shall be calculated.

(4) The balance in the production revenue account shall then be cleared to the production account by debiting the production revenue account and crediting the production account by the balance in the production revenue account.

(c) If, as a result of the accounting transactions described in paragraph (b) of this section, there is a credit balance in the production account, this credit balance is the *net profit share base* for that month.

#### § 390.022 Calculation of net profit share payment and lessee's net profit share.

(a) The net profit share payment shall be calculated by multiplying the net profit share base calculated in accordance with § 390.021 by the net profit share rate.

(b) The lessee's net profit share shall be calculated by subtracting the net profit share payment from the net profit share base.

(c) At the end of each month during the production period for which a profit share base is calculated, the following transactions shall be made in the NPSL accounts.

(1) Debit the production account by the profit share base for the month.

(2) Credit the net profit share payments account by the net profit share payment for the month.

(3) Credit the lessee's net profit share account by the lessee's net profit share for the month.

#### § 390.030 Maintenance of records.

(a) Each lessee subject to this part shall establish and maintain such records as are necessary to determine for each NPSL:

(1) The volume and disposition of all oil and gas production saved, removed or sold for each production period;

(2) The value of all oil and gas production saved, removed or sold for each production period;

(3) The amount and description of costs and credits to all NPSL accounts.

(4) The amount and description of all costs of acquisition, construction, and operation of equipment and facilities furnished by the lessee and charged to NPSL accounts under § 390.011(g). Such records shall include worksheets or other documents that indicate the method used to calculate the amount of each charge made under § 390.011(g).

(5) The cumulative balance of costs and credits to all NPSL accounts; and

(6) The inventory of material.

(b) Records shall be maintained from the date of issuance of the NPSL to the date five years subsequent to the abandonment of the NPSL.

#### § 390.031 Reporting and payment requirements.

(a) Each lessee subject to this part shall file an annual report during the preproduction period. Such report shall list the costs incurred, credits received, and the balance of the preproduction account. Not later than 45 days after the start of production, a final preproduction report, that includes the calculation of the allowance for capital recovery, shall be filed.

(b) Each lessee subject to this part shall file a report, not later than 45 days following the end of each month, together with the appropriate net profit share payment, containing the following information for each NPSL:

(1) The volume and disposition of all oil and gas production saved, removed or sold for the production period;

(2) The monthly production revenue;

(3) The amount and description of all costs and credits to the production account, and monthly balance of the production account; and

(4) The monthly net profit share payment due the United States and the monthly profit share of the lessee.

(c) Each lessee subject to this part shall file a report each year, not later than 90 days after inventory is taken, reporting the controllable material on hand, acquired, transferred or used, and a list of overages and shortages.

(d) Each lessee subject to this part shall file a report, not later than 45 days following the end of production, together with the appropriate net profit share



payment, indicating the remaining balance and costs and credits to the NPSL accounts for the production period.

(e) Reports required by this section shall be filed with the Supervisor, either separately or as part of the reports that are currently filed.

Interest shall be charged at the annual rate of 18 percent, compounded monthly, on the amount of a net profit share payment, from the due date (45 days following the end of the production period) of a net profit share payment until such payment is received by the United States.

#### § 390.032 Inventories.

(a) The lessee is responsible for NPSL materiel and shall make proper and timely cost and credit notations for all materiel movements affecting NPSL property. The lessee shall provide only such materiel as may be required for immediate use or is consistent with practical, efficient, and economical operations. The accumulation of surplus stocks shall be avoided by proper materiel control, inventory and purchasing. The lessee shall make timely disposition of idle and surplus materiel through sale.

(b) At reasonable intervals, but at least once every year, inventories of controllable materiel shall be taken by the lessee. Written notice of intention to take inventory shall be given by the lessee at least 30 days before any inventory is to be taken so that the Supervisor may be represented at the taking of inventory. Failure of the Supervisor to be represented at an inventory shall bind the Supervisor to accept the inventory taken by the lessee.

(c) Inventory shall be valued with any generally accepted accounting method used by the lessee to value the same materiel for financial or income tax reporting purposes, provided that the method is consistently applied throughout the life of the materiel.

(d) Reconciliation shall be made of a physical inventory with the NPSL by the lessee, and a list of overages and shortages shall be furnished to the Supervisor within three months following the taking of the inventory as part of the report required by § 390.031(c). Inventory adjustments of controllable materiel shall be made by the lessee to NPSL accounts for overages and shortages. Controllable materiel removed from physical inventory that has not been credited to NPSL operations under § 390.015(a)(2) or (3) shall be credited to NPSL operations at its original value.

#### § 390.033 Audits.

(a) The records of financial transactions pertaining to NPSL operations shall be audited periodically, but at least once every two years, by the United States or, at its option, by an independent auditor. Such audit may include the records pertaining to NPSL operations of contractors or the lessee.

(b) An independent auditor is a certified public accountant who has no financial interest in the NPSL or any corporation or partnership which has an interest, and who is an independent contractor employed solely for the purpose of providing a periodic audit of the financial records of the NPSL.

(c) The Supervisor is authorized at any time, to inspect NPSL operations for compliance with this part.

(d) Records required to be kept under paragraph (a) shall be made available for inspection by any authorized agent of the United States at any time during normal business hours upon the request of the Supervisor or other authorized official.

#### § 390.034 Redetermination and appeals.

(a) If, as a result of an inspection of records or an audit under § 390.033, the Supervisor determines that there is an error in an NPSL account or an error in calculating the net profit share payment, the Supervisor shall redetermine the net profit share base and recalculate the net profit share payment due the United States and notify the lessee of the recalculation.

(b) The lessee shall pay any additional amount of net profit share payment owed plus interest at the rate of 18 percent per year, compounded monthly, from the date that the payment was due until the date it is actually paid. If the recalculated profit share payment is less than the amount paid the United States, the lessee will reclaim a credit that will be applied to the next profit share payment.

(c) Within 30 days after receiving notice of the recalculation as provided in paragraph (a), the lessee may appeal the decision of the Supervisor in accordance with the appeals provisions of 30 CFR Part 290.

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Thursday  
December 6, 1979

## Part VI

# Nuclear Regulatory Commission

Disposal of High-Level Radioactive  
Wastes in Geologic Respositories;  
Proposed Licensing Procedures

federal register

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# NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 21, 30, 40, 51, 60, and 70

## Disposal of High-Level Radioactive Wastes in Geologic Repositories; Proposed Licensing Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

**SUMMARY:** This notice invites public comment on a proposed rule for licensing the receipt and disposal of high-level radioactive wastes (HLW) at geologic repositories. The proposed rule sets forth requirements applicable to the Department of Energy (Department) in submitting an application for a license for such activities and specifies the procedures which the Commission will follow in considering such an application. The proposed rule also sets forth provisions for consultation and participation in the license review by State governments.

**DATE:** Comments must be received by March 3, 1980.

**ADDRESS:** Written comments or suggestions on the proposed rule should be sent to the Secretary of the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments may be examined in the U.S. Nuclear Regulatory Commission Public Document Room, 1717 H Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** I. C. Roberts, Assistant Director for Siting Standards, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 443-5985.

### SUPPLEMENTARY INFORMATION:

#### Background

In November of 1978, the Nuclear Regulatory Commission published for comment a proposed General Statement of Policy outlining procedures for licensing geologic high-level radioactive wastes (HLW) repositories to be constructed and operated by the Department of Energy. At the same time, a draft rule to implement the policy was circulated to State governments for review. Comments on the Policy Statement were received from thirty groups and individuals. Fourteen States commented on the draft rule. The rule that is presently being proposed reflects a change in our earlier views, stimulated in part by those comments and by a somewhat different appreciation of the

quality and quantity of information needed to select a site for a repository. The Commission is withdrawing the proposed General Statement of Policy as being superseded by this action.

#### Authority and Rationale

Sections 202(3) and (4) of the Energy Reorganization Act of 1974, as amended, provide the NRC with licensing and regulatory authority regarding Department of Energy facilities used primarily for the receipt and storage<sup>1</sup> of high-level radioactive wastes resulting from activities licensed under the Atomic Energy Act and certain other long-term, high-level waste storage facilities of the Department of Energy. Pursuant to that authority, the Commission is developing procedures and criteria appropriate for licensing geologic disposal of HLW by the Department. The requirement contained in the instant proposed rule that the Department submit a site characterization report in advance of performing exploration which may include in situ testing at depth also implements Section 14(a) of the NRC Authorization Act of 1979 (Pub. L. 95-601).<sup>2</sup>

Alternatives to rulemaking that were considered included the issuance of regulatory guides and NUREG reports, which would be applied in the context of other, existing, parts of NRC regulations. However, the considerable differences between a geologic repository and other licensed facilities, particularly in view of the significance of a repository with respect to the health and safety of future generations, make it desirable to develop rules tailored specifically to geologic disposal of HLW. Moreover, the rulemaking proceeding should provide the Commission the broadest opportunity to receive and consider the views of the public.

#### Comments

Comments on the Policy Statement touched upon many issues. Some of the comments dealt with details of implementation that are being addressed for the first time in these proposed rules. The principal comments

of a policy nature related to the timing and scope of the Commission's initial review, opportunities for State and public participation, and the respective NEPA responsibilities of the Commission and the Department of Energy.

Comments about the initial review straddled the position set forth in the Policy Statement. Some commenters urged the Commission to schedule hearings early in the Department's site selection process; others recommended that hearings be deferred until construction has been completed and an application to receive waste is filed. The Commission has undertaken a thorough review of the matter and now proposes a more extensive informal involvement during early phases of site characterization<sup>3</sup> and a deferral of formal proceedings until site characterization has been completed. The scope of the review procedures would be expanded, as urged by several commenters, to include an assessment of site characterization data for multiple sites. The reasons for the modifications are explained in the text below.

The proposed rule also provides detailed provisions to ensure extensive opportunities for State and public participation. We have not made specific provision for funding of intervenors, as requested by some commenters. This question may be addressed separately in the context of rulemaking applicable to various adjudicatory proceedings. Provisions for State participation would be reviewed in the light of any pertinent statutory changes that may be enacted.

The proposed regulations do not explicitly address the NEPA responsibilities of the Commission regarding matters within the scope of the Department's generic environmental impact statement on the management of commercially generated radioactive wastes. The possibility of adopting the Department's statement may be considered by the Commission, as suggested in comments, at an appropriate time.

<sup>3</sup>Note.—Site characterization means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken. The intent of permitting these activities is to allow the timely gathering of information needed both to characterize a site and for a meaningful comparison of alternatives.

## Departure From the General Statement of Policy

The procedures delineated in the proposed rule depart from those set forth by the proposed General Statement of Policy in three ways. These departures all bear on the initial stages of the licensing process. First, it is clearly stated that review of the Department's plans for site characterization as well as the site selection methods and criteria to be used by the Department is required in advance of site characterization and that the Director of NMSS will issue an opinion on the basis of that review. Second, the review does not presume that the Department has selected a repository site, but only that it has identified a number of sites in appropriate media to undergo site characterization. The third departure from the Policy Statement is the elimination of the provisional construction authorization and expansion of the concept of site characterization. These changes are being proposed to reflect our current appreciation of the quality and quantity of information needed to bring the licensing proceeding to an appropriate conclusion.

### Site Characterization Review

The provision for early review of the Department's site characterization plans will provide an opportunity for the Director to point out those aspects of a location which in the judgment of the staff require special attention or present special problems, and to indicate particular items of information needed for the Commission to make licensing decisions with respect to the sites being considered. Moreover, the Director will be able to consider the methods and procedures of exploration contemplated for use by the Department. The opportunity to review those methods and procedures is valuable because if the process of characterizing a site to obtain information necessary to determine if a site is suitable for a repository is not carefully done, it may render the site unusable for a repository. For example, an excessive number of bore holes or improper excavation of an exploratory shaft or drift could make the repository unsealable. Presumably, this concern for possible exploration-induced damage is one reason that some commenters on the Policy Statement suggested a multi-step review process begun before commencement of site exploration. This factor and the desirability of evaluating whether the Department's program will generate data suitable to support a Commission

licensing decision are reasons that the Commission regards some provision for preapplication review to be appropriate. Further, early guidance on development and consideration of alternative sites will help to avoid later delay caused by inadequate discussion of alternatives as required by NEPA.

In addition to providing for the early review of the Department's site characterization and site selection programs, the submittal of a site characterization report assures an early opportunity for other Federal and State agencies and the public to become involved in the decision making process with respect to those programs. The opportunity for involvement is provided through publication of the Department's site characterization report and the Commission staff assessment of same and by means of meetings between the Commission staff and State officials, residents of the areas near the sites to be characterized, and other interested persons. Furthermore, where other Federal agencies have decisionmaking authority regarding the Department's proposed action, it is expected that they will consider the recommendations of the Director in carrying out their responsibility.

The change is also intended to implement the requirements of Pub. L. 95-601, as set out above, and to ensure that the notice from the Department will, in fact, initiate a meaningful, substantive review. Although the Commission cannot direct the Department to comply with the provisions for involving it during the site characterization activities, any failure to do so is likely to result in imprudent expenditures and subsequent delays, and ultimately could result in the denial of the application for the proposed site.

In sum, the Commission believes that the required submission of a site characterization report and subsequent public review will achieve early Commission, State and public involvement without undue schedule delays.

Consideration has been given to providing for formal hearings prior to site characterization, with the objective of resolving alternative site issues. Early Site Review (ESR) regulations (10 CFR Part 2 Subpart F) certainly provide a precedent for this approach. However, this is a reasonable approach for reactors only because of the considerable experience we have had with siting such facilities, the knowledge we have of typical light water reactor designs and characteristic impacts, and the extent to which engineered features can be relied upon to accommodate deficiencies in site characteristics. The

situation in the case of geologic repositories is different in each of these respects. With a geologic repository, reconnaissance level data alone will not support a presumption that a site is suitable with respect to safety for a repository. Hence, any decision on alternative site issues at this early point is likely to require reexamination at the construction authorization proceedings and, therefore, would be of questionable value.

However, other findings could be made: the adequacy and appropriateness of the Department's site characterization program, including the development of a slate of alternatives, can be reviewed in a licensing action which would allow the Department to proceed with that program. But, considering the preliminary nature of the geologic and hydrologic data available, the fact that the Director's review of these items as described earlier will include the benefit of public comment, and the relatively insignificant environmental impact of site characterization, the Commission has concluded that the considerable time and effort on the part of the Commission, the Department, and the public demanded by formal proceedings would not be justified.<sup>4</sup>

### Provision for Characterizing Several Sites

The revised procedures permit the Department to include exploration and in situ testing at depth as part of its site characterization activities. We anticipate that it will be necessary for the Department to explore at depth more than one site at different locations and in different geologic media. This position follows from consideration of both the long-term performance required of and the technical uncertainties involved in geologic disposal of HLW, and the need for the Commission to discharge its NEPA responsibilities with respect to evaluation of alternatives.

It is expected that each site selected for site characterization and testing will potentially satisfy the technical criteria in 10 CFR 60, i.e., no obvious deficiency will be evident when the site is assessed in terms of NRC's preliminary site

<sup>4</sup>The principal impact of site characterization at a typical site can be attributed to management of the spoils from excavation of an exploratory shaft. The spoils will be in the neighborhood of 5000 cubic yards which either would be disposed of on site or trucked off site. The volume of these spoils is about 10% of that from excavation of a main shaft for a repository and less than 0.1% of the spoils from total excavation. The absence of formal Commission proceedings, of course, would not excuse the Department from considering this and other environmental impacts associated with major actions which it proposes to undertake.



review. NRC will examine the Department's site selection process with this in mind, and the results of this review will be reflected in the Director's opinion. Thus, application of the technical criteria will guide the Department toward a slate of candidate sites that are among the best that reasonably can be found. Under this approach, the selection of a proposed site from among the alternatives would be deferred until site characterization of the slate of candidate sites is at least substantially complete.

It can be noted that the procedure here is consistent with the recommendation of the Interagency Review Group on Nuclear Waste Management which calls for simultaneous investigation of several potential sites.<sup>5</sup>

#### Site Characterization and Authorization of Construction

Under the proposed Policy Statement, only surface exploration combined with some test borings would be permitted prior to the Commission's initial licensing decision—either a construction authorization or a provisional construction authorization. This procedure was intended to allow the Commission to complete a safety and environmental review before the Department undertook a major commitment of resources (money and manpower).

We now perceive two grounds for questioning our previous thinking. First, the quality of the data that will be available before completion of site characterization as currently envisioned is unlikely to provide a satisfactory basis for arriving at the technical judgments reflected in the standards for construction authorization and provisional construction authorization that are contained in the Policy Statement. Second, further study persuades us that the commitment of resources involved is not so great nor the environmental impacts so large as to lead the Commission to exercise its licensing authority in advance of site characterization. Our revised position now more closely resembles an approach presented in comments submitted by the Natural Resources Defense Council, among others, that deferment of some specific safety findings may be desirable in order to avoid decisions based on inadequate information and analyses so long as the increased financial investments and institutional commitments do not

thereby reduce the stringency of the subsequent safety reviews.

Support for our revised position is bolstered not only by comments received on the Policy Statement but also by many in the earth science community with whom we have discussed this matter, including members of the U.S. Geological Survey staff. These experts agree that exploration and testing at depth should be performed if sufficient data are to be obtained to determine whether the surrounding geology will retard waste migration and to make meaningful comparisons among alternatives. Further, the importance of exploration at depth has been cited by both the IRC report (Appendix A) and the recent National Academy of Sciences report, "Implementation of Long-term Environmental Radiation Standards: The Issue of Verification" (Committee on Radioactive Waste Management, 1979).

The investigations which the Policy Statement would have allowed prior to construction authorization were limited to surface geophysical techniques such as aeromagnetic and gravity surveys and seismic traverses augmented by a few borings and well logs. Insofar as subsurface geology and hydrology are concerned, such investigation would provide substantial information regarding the stratigraphy and hydrogeology of the site. While this information is obviously relevant and extremely important in evaluating a site, the data needed to establish the ultimate suitability of the site is likely to be obtained only through exploration and in situ testing at depth, i.e., in the proposed host rock unit. This exploration and testing are needed not only to determine whether serious but not readily observed defects are present, but also to determine specific properties such as homogeneity, porosity, the extent of fracturing and jointing, and thermal response of the rock including expansion, fluid migration and decrepitation. Of course, the kinds of defects—fractures, breccia pipes, etc.—will vary from one kind of medium to another, and from site to site, as will the properties which are key to isolation of the wastes. But the important point is that without exploration and in situ testing in the proposed host rock unit, neither the defects nor the key parameters can be determined with confidence. It might be argued that deferring the initial licensing decision to a later stage in some cases could lead to the expenditure of some resources and the waste of time pursuing projects that might otherwise have been found to be

unacceptable on the basis of careful examination of surface reconnaissance data. However, this situation is unlikely for two reasons. First, the process of site characterization is also a process of site elimination. There is no point to proceeding with exploration and testing at depth if the surface reconnaissance data reveal an insuperable defect. Second, under the procedures contemplated by the proposed rule, the Department will augment the site characterization report with semiannual reports to the Director, Office of Nuclear Material Safety and Safeguards. These reports along with any comment by the Director will be made public. If review of a report reveals such a defect, the Director will publicly inform the Department of the problem and, if warranted, could caution the Department from proceeding further with the site. Moreover, in the context of overall project costs for a repository, the incremental site characterization costs are small indeed. Again, it is difficult to generalize since different media and sites will present a variety of factual situations. In our analysis, however, we have determined that total site characterization expenses for a generic hypothetical site could be expected to amount to about \$20 million.

We do not minimize the amount of public funds that we have identified as a reasonable estimate of incremental site characterization costs or the increasing urgency for disposing of the wastes which may accompany any delay in licensing action. These factors should be examined, however, in the light of the requirement discussed above that multiple sites must be characterized. The effect of this change is to decrease, in a highly significant way, the level of commitment of the Department or the Commission to any particular site. Also, the delay will help to assure that the Commission avoids making any improvident, premature commitment to a particular site by making a licensing decision before it has the necessary technical data that would permit it to make a commitment with confidence. Further, this approach could provide a ready alternative for consideration in the event that the Department's proposed site is found unsuitable.

As discussed earlier, it would be possible for the Commission to structure its proceedings so as to provide for formal hearings on limited issues at an early stage in the process. The hearing process has clear advantages as a mechanism for fact-finding. But it can be an inefficient and cumbersome means for arriving at decisions. Moreover, since several sites are to be

characterized, hearings would not be so well-focused as they would be after a single site had been identified in a license application.

We are satisfied that the opportunities for public participation and the Commission's staff review that have been included in the proposed rule will provide an acceptable avenue for achieving early identification of relevant issues and concerns. The proposed rule contemplates an opportunity for formal Commission proceedings before construction, before receipt of radioactive waste, and before and after decommissioning. Each of these decision points may involve issues of great significance to the health and safety of the public. Questions arising during site characterization can be resolved less formally, in our judgment, without jeopardizing public health and safety. Moreover, the independent NEPA obligations of the Department provide additional structured opportunities for evaluation of environmental issues.

#### Scope of Proposed Rule

The proposed rule addresses only the licensing of geologic disposal of HLW. Alternative methods of disposal are not addressed chiefly because information from the department indicates that geologic disposal is the only technology likely to be the subject of a license application in the foreseeable future. Some methods are still developing technologies, e.g., transmutation. For others it is not clear what the Commission's licensing authority would be. For example technical feasibility issues aside, sea bed emplacement or disposal in Antarctic ice sheets would require international arrangements involving legislative action. In general, the Commission does have licensing authority over surface storage and disposal facilities within the United States. However, surface disposal is not anticipated; and surface storage, *per se*, could be covered under other parts of the commission's regulations.

The proposed rule contains only the procedural requirements for licensing. The technical criteria against which the license application will be reviewed are still under development. However, the scope of the technical criteria is regarded as being sufficiently developed to determine an appropriate licensing procedure for their implementation. This enables the Commission to propose a procedural rule even though the technical criteria are still under review. In the interest of proceeding with development of the necessary regulatory framework for licensing, these licensing procedures, therefore, are being proposed at this time.

Licensing of a geologic repository would be a major Federal action which requires the preparation of an environmental impact statement by the Commission. While development of disposal technologies and methods is a programmatic activity for which the department must assume responsibility, issues related to alternative technologies will be considered by the Commission in the context of later decisions.

#### Procedures

The Commission will participate in four stages in the review of the Department activities involving high-level waste disposal at a particular geologic repository. Although essentially the same features are addressed, with each stage there is a progressive increase in knowledge regarding these features and a corresponding increase in confidence in a decision whether HLW can be disposed of at a repository at the site.

In the first stage when the Department has formulated plans for a prospective repository to the extent that it wishes to begin site characterization, it will be required to submit a site characterization report which contains, among other things, the program plan by which the Department will investigate and characterize sites. The report will address the process by which the media and site(s) were chosen for characterization and the Department's program for further development of alternatives.<sup>6</sup> The report also will contain a description of the media and site(s) to be characterized and the site characterization program. The report will be reviewed by the NRC staff with opportunity for public comment on both the report and a staff analysis of the report. Also, it is anticipated that the Commission will hold local public meetings in the immediate area of the site(s) to be characterized. These meetings will be held both to disseminate information and to obtain public input which will be factored into the final version of the staff analysis. Included in the final analysis will be a statement by the Director expressing his opinion on the site, the site report and the Department's site selection and characterization program. The Department should consider the site characterization analyses before publishing a final environmental impact statement, where such may be required

<sup>6</sup>Note.—This will include the identification and location of other media and sites which the Department considers alternatives to the site being put forth for site characterization and for which the Department intends to submit subsequent site characterization reports.

under NEPA for site characterization activities proposed for a particular site. Once site characterization is initiated, the Department should inform the Director by semiannual report of the progress of the site characterization activities and schedules. The Commission staff should be permitted to visit the site and to observe excavation, boring and testing activities. The Director may respond from time to time in writing to the Department to express his current views on questions raised in the semiannual reports or site visits. Inasmuch as the site characterization activities could have an adverse impact upon site safety, i.e., could affect the site's ability to contain the waste, failure by the Department to involve the NRC in the manner described here and to implement the recommendations of the Director could result in denial of the subsequent license application. These procedures will be followed for each of the number of sites in appropriate geologic media which the Department intends to characterize, prior to its selecting a proposed site. We believe that these procedures will provide adequate regulatory participation so that a site will not be made unusable by characterization, and at the same time will assure that the data needed to enable a comparison of alternatives and a reasoned choice in the selection of a site is gathered.

The second stage begins with the submission by the Department of an application for construction authorization at a particular site from among those characterized.<sup>7</sup> We do not anticipate that action will be taken on an application until the site characterization efforts at several sites are substantially complete.

Subsequent to staff review and preparation of an Environmental Impact Statement, it is anticipated that a licensing board will be appointed and the license application will undergo the first formal review, including public hearings. If the Commission finds after considering reasonable alternatives that the benefits of the proposal exceed the costs under NEPA and that there is reasonable assurance that the types and amounts of wastes described in the application can be received, possessed, and disposed of in a repository of the design proposed at the site without

<sup>7</sup>To satisfy the requirements of NEPA, the Commission anticipates such characterization at a minimum of three sites representing a minimum of two geologic media. However, in light of the significance of the decision selecting a site for a repository, the Commission fully expects the Department to submit a wider range of alternatives than the minimum suggested here.



unreasonable risk to the health and safety of the public or being inimical to the common defense and security, construction of the repository will be authorized.

Stage three is a further review of the application prior to receipt of wastes at the repository. The Commission will issue a license to the Department if it finds, among other things, that the issuance of the license will not constitute an unreasonable risk to the health and safety of the public. The findings would be based upon a review of an update of the application submitted for construction authorization and an updated environmental report if needed. Among items to be considered in the review are additional data acquired during construction, conformance of construction with design, and resolution of questions not answered during the construction authorization review. It is expected that adjudicatory hearings would be held to consider appropriate issues. (All hearings would be conducted in accordance with subpart G of 10 CFR Part 2.)

Once all the wastes have been emplaced, the Department may submit an application to decommission the repository, and the final review of repository activities will begin.<sup>4</sup> Additional geologic and hydrologic data acquired during the emplacement period as well as the results of test and experiments on backfilling and shaft sealing, along with the Department's planned decommissioning program, will be considered by the Commission in determining whether the planned method for decommissioning is adequate. Following decommissioning, DOE may seek an amendment to terminate the license. The Commission may terminate the license if it finds that the final disposition of wastes is in conformance with the Department's license, that the final state of the repository site is in conformance with the requirements of the license, and that termination of the license is authorized under the Atomic Energy Act. Alternatively, the Department may continue to be a licensee of the Commission and conduct such monitoring and exercise such control at the repository as might be appropriate.

<sup>4</sup> Unless expressly authorized in the license to receive and possess HLW, an amendment to that license will be required to allow the Department to conduct partial backfilling in parts of the repository once all the wastes have been emplaced in those parts. (This does not apply to backfilling tests that are described in the license.)

#### State Participation

The submittal of a site characterization report by the Department not only begins the Commission's involvement in the planning and development of a geologic repository, but also marks the beginning of State participation in the licensing process. States may submit proposals for participation in the review of the Site Characterization Report and any subsequent license application from the Department. In addition, at that time Commission staff will be made available to discuss with representatives of both State and local governments information submitted by the Department.

States may request to participate in several ways. States could assist the Commission in the review of specific portions of license applications. States could perform other technical assistance work for the Commission, particularly in the area of environmental studies and the like. States might perform environmental and radiation monitoring for the Commission throughout the operational period and perhaps after closure as well. States could also participate through employment or exchange of State and Federal personnel under the Intergovernmental Personnel Act. In addition, States could participate in hearings on a license application under the applicable provisions of the rules of practice. The Commission intends to develop further guidance to assist the States in planning for such participation.

Besides review of site characterization reports, license applications, and ongoing work in support of the license application, States might also be involved by the Department (in response to the regulations for implementation of NEPA or otherwise) in the site selection process itself. The requirement that the Department must describe in its site characterization report how States were involved in the site selection process reflects the Commission's expectation that the Department will involve State and local governments in its site selection programs. The Commission believes that many issues, including the NEPA questions related to alternatives and alternative sites, will be more easily resolved if State concerns are identified and addressed at the earliest possible time. In any case, these procedures have been designed to allow affected States to participate to the fullest extent possible within the limits of the Commission's authority and the State's own desires and capabilities.

The Commission recently submitted to the Congress a report on "Means for

Improving State Participation in the Siting, Licensing and Development of Federal Nuclear Waste Facilities," NUREG-0539, March 1979. The extent of State participation may be affected by legislative action on the matters discussed in that report.

#### Other Reviews

In addition to reviewing applications from the Department and materials submitted in support of those applications, the Commission's staff will follow closely the unfolding of the Department's overall program for the disposal of radioactive wastes. The Director will comment from time to time on all matters pertinent and appropriate to the Nuclear Regulatory Commission's role as the licensing agency. The Director also will provide the Department with specific guidance on technical matters relevant to licensing requirements.

Two areas to which the Commission staff intends to pay particular attention are the Department's site screening procedure and its waste form research and development program. Both the screening of sites for site characterization and selection of a waste form are programmatic decisions within the prerogatives of the Department as the agency charged with the responsibilities to dispose of the wastes. However, it is important to the Commission's ability to discharge its licensing responsibilities that the course which the Department follows to select sites is systematic, well-reasoned, publicly accessible, and ultimately will result in a slate of characterized sites whose members are among the best that reasonably can be found. Moreover, because selection of a waste form commits significant resources to the development and production of that waste form, as well as influences repository design, the Commission believes that the Department's research and development program must address and compare alternative waste forms. The Commission also must be familiar with the Department's waste form research and development program so the results of the program can be factored into the licensing process.

The Commission has decided not to prepare an Environmental Impact Statement for the rule here proposed. An Environmental Impact Appraisal setting forth the basis for this decision is available for public inspection in the Commission's Public Document Room.

Pursuant to the Atomic Energy Act of 1954, as amended, The Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that

adoption of a new 10 CFR Part 60 and the following conformation amendments to 10 CFR Parts 2, 19, 20, 21, 30, 40, 51 and 70 is contemplated.<sup>5</sup> All interested persons who desire to submit written comments or suggestions for consideration in conjunction with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by March 3, 1980.

Copies of comments received on proposed amendment may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

#### PART 2—RULES OF PRACTICE

1. 10 CFR 2.101 is amended to add a new paragraph (f) to read as follows:

##### § 2.101 Filing of application.

(f)(1) Each application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter and any environmental report required in connection therewith pursuant to Part 51 of this chapter shall be processed in accordance with the provisions of this paragraph.

(2) To allow a determination as to whether the application or environmental report is complete and acceptable for docketing, it will be initially treated as a tendered document, and a copy will be available for public inspection in the Commission's Public Document Room. Twenty copies shall be filed to enable this determination to be made.

(3) If the Director of Nuclear Material Safety and Safeguards determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the respects in which the document is deficient.

(4) With respect to any tendered document that is acceptable for docketing, the applicant will be

<sup>5</sup> Amendments to 10 CFR Part 51 were published as a proposed rule on October 25, 1979 (44 FR 61372). It is anticipated that rules similar to the ones there proposed will have been issued in final form before the instant amendments have been acted upon. If so, the amendments to Part 51 would be different in form, though not necessarily in substance, from those presently being proposed.

requested to (i) Submit to the Director of Nuclear Material Safety and Safeguards such additional copies as the regulations in Parts 60 and 51 require, (ii) serve a copy on the chief executive of the municipality in which the geologic repository operations area is to be located or, if the geologic repository operations area is not to be located within a municipality, on the chief executive of the county, and (iii) make the direct distribution of additional copies to Federal, State, and local officials in accordance with the requirements of this chapter and written instructions from the Director of Nuclear Material Safety and Safeguards. All such copies shall be completely assembled documents, identified by docket number. Subsequently distributed amendments, however, may include revised pages to previous submittals and, in such cases, the recipients will be responsible for inserting the revised pages.

(5) The tendered document will be formally docketed upon receipt by the Director of Nuclear Material Safety and Safeguards of the required additional copies. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees. The date of docketing shall be the date when the required copies are received by the Director of Nuclear Material Safety and Safeguards. Within ten (10) days after docketing, the applicant shall submit to the Director of Nuclear Material Safety and Safeguards a written statement that distribution of the additional copies to Federal, State, and local officials has been completed in accordance with requirements of this chapter and written instructions furnished to the applicant by the Director of Nuclear Material Safety and Safeguards.

(6) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director of Nuclear Material Safety and Safeguards in the same manner as for the initial application and environmental report.

(7) The Director of Nuclear Material Safety and Safeguards will cause to be published in the Federal Register a notice of docketing which identifies the State and location at which the proposed geologic repository operations area would be located and will give notice of docketing to the governor of that State.

2. 10 CFR 2.103(a) is revised to read as follows:

#### § 2.103 Action on applications for byproduct, source, special nuclear material, and operators' licenses.

(a) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, or if it is to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the State and local officials specified in § 2.104(e) of the issuance of the license.

3. 10 CFR 2.104(e) is revised to read as follows:

#### § 2.104 Notice of hearing.

(e) The Secretary will give timely notice of the hearing to all parties and to other persons, if any, entitled by law to notice. The Secretary will transmit a notice of hearing on an application for a facility license or for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee or for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter to the Governor or other appropriate official of the State and to the chief executive of the municipality in which the facility is to be located or the activity is to be conducted or, if the facility is not to be located or the activity conducted within a municipality, to the chief executive of the county.

4. 10 CFR 2.105(a) is amended by, renumbering existing subparagraphs (3) and (4) as (4) and (5), by adding a new subparagraph and revising the subparagraph renumbered as (4) to read as follows:

#### § 2.105 Notice of proposed action.

(a) If a hearing is not required by the Act or this chapter, and if the Commission has not found that a hearing is in the public interest, it will, prior to acting thereon, cause to be published in the Federal Register a notice of proposed action with respect to an application for:



(3) A license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter;

(4) An amendment of a license specified in paragraph (a) (1), (2), or (3) of this section and which involves a significant hazards consideration; or

(5) Any other license \* \* \*

5. 10 CFR 2.105(e) is amended by replacing the words "will issue the license" with the words "may take the proposed action" following the phrase "... or Director of Nuclear Material Safety and Safeguards, as appropriate," and by adding the words "or other action" following the phrase "... published in the Federal Register a notice of issuance of the license."

6. 10 CFR 2.106 is amended by adding a paragraph (c) to read as follows:

**§ 2.106 Notice of issuance.**

(c) The Director of Nuclear Material Safety and Safeguards will also cause to be published in the Federal Register notice of, and will inform the State and local officials specified in § 2.104(e) of, any action with respect to an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter for which a notice of proposed action has been previously published.

**PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS**

**§ 19.2 [Amended]**

7. 10 CFR 19.2 is amended by adding "60," following "30, 40,".

**§ 19.3 [Amended]**

8. 10 CFR 19.3(d) is amended by adding "60," following "35, 40,".

**PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION**

**§ 20.2 [Amended]**

9. 10 CFR 20.2 is amended by adding "60," following "30, 40,".

**§ 20.3 [Amended]**

10. 10 CFR 20.3(a)(9) is amended by adding "60," following "35, 40,".

**§ 20.301 [Amended]**

11. 10 CFR 20.301(a) is amended by adding "60," following "35, 40,".

12. 10 CFR 20.408(a) is amended by deleting the word "or" following the phrase "of this chapter;" in subparagraph (a)(3), inserting the word "or" following the phrase "of the following quantities:" in subparagraph

(a)(4), and adding a new subparagraph (a)(5) to read as follows:

**§ 20.408 Reports of personnel monitoring on termination of employment or work.**

(5) Possesses high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter.

**PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE**

**§ 21.2 [Amended]**

13. 10 CFR 21.2 is amended by inserting "60," after "35, 40," and also by inserting "60," after "40, 50,".

**§ 21.3 [Amended]**

14. 10 CFR Part 21, § 21.3(a), 21.3(a-1)(1), 21.3(a-1)(2), and 21.3(k) are amended by adding "60," after "40, 50,".

**§ 21.21 [Amended]**

15. 10 CFR 21.21(b)(1)(i) and 21.21(b)(1)(ii) are amended by adding "60," after "40, 50,".

**PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL**

16. 10 CFR 30.11 is amended by adding a new paragraph (c).

**§ 30.11 Specific exemptions.**

(c) The Department of Energy is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 60 of this chapter.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

17. 10 CFR 40.14 is amended by adding a new paragraph (c).

**§ 40.14 Specific exemptions.**

(c) The Department of Energy is exempt from the requirements of this part to the extent that its activities are subject to the requirements of Part 60 of this chapter.

**PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION**

18. 10 CFR 51.5(a) is amended by adding new paragraphs (10) and (11), and renumbering present paragraph (10) as paragraph (12) to read as follows:

**§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental impact appraisals; actions excluded.**

(a) An environmental impact statement will be prepared and circulated prior to taking any of the following types of actions:

(10) Issuance of an authorization for a geologic repository operations area pursuant to part 60 of this chapter.

(11) Issuance of a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter.

(12) Any other action which the Commission determines is a major Commission action significantly affecting the quality of the human environment.

19. 10 CFR 51.5(b) is amended by: replacing the period at the end of subparagraph (4)(iii) with a semicolon; adding a new subparagraph (4)(iv); substituting "(b)(4)(iv)" for "(b)(4)(iii)" in paragraph (5); inserting "60," following "40, 50," in paragraph (6); and adding a new paragraph (9). With these changes, 10 CFR 51.5(b)(4) reads in part as follows:

**§ 51.5 Actions requiring preparation of environmental impact statements, negative declarations, environmental appraisals; action excluded.**

(b) \* \* \*

(4) Issuance of an amendment which would authorize a significant change in the types or significant increase in the amounts of effluents or a significant increase in the potential for accidental releases of a license for:

(iv) The receipt and possession of high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter.

(5) Renewal of licenses to conduct activities listed in paragraph (b)(4)(i)-(iv) of this section;

(9) Termination of a license for the possession of high-level radioactive waste at a geologic repository operations area at the request of the licensee.

20. 10 CFR 51.5(d)(3) is amended by adding "60," following "40, 50,".

21. 10 CFR 51.40 is amended by revising subsection (a) to start "except as provided in paragraphs (b), (c), and (d) of this section, . . ." and by adding a new subsection (d) to read as follows:

**§ 51.40 Environmental reports**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, \* \* \*

(d) The Department of Energy, as an applicant for a license to receive and possess radioactive waste at a geological repository operations area pursuant to Part 60 of this chapter, shall submit at the time of its application or in advance, and at the time of amendments, in the manner provided in § 60.22 of this chapter, environmental reports which discuss the matters described in § 51.20. The discussion of alternatives shall include site characterization data for a number of sites in appropriate geologic media\* so as to aid the Commission in making a comparative evaluation as a basis for arriving at a reasoned decision under NEPA.

22. 10 CFR 51.41 is revised to read as follows:

**§ 51.41 Administrative procedures.**

Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.22-51.26 will be followed in proceedings for the issuance of materials licenses and other actions covered by § 51.5(a) but not covered by § 51.20 or 51.21. The procedures followed with respect to materials licenses will reflect the fact that, unlike the licensing of production and utilization facilities, the licensing of materials does not require separate authorizations for construction and operation. In the case of an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, however, the environmental impact statement required by § 51.5(a) shall be prepared and circulated prior to the issuance of a construction authorization; the environmental impact statement shall be supplemented prior to issuance of a license or take account of any substantial changes in the activities proposed to be carried out or significant new information regarding the environmental impacts of the proposed activities.

**PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL**

23. 10 CFR 70.14 is amended by adding a paragraph (c).

\*To satisfy the requirements of NEPA, the Commission anticipates such characterization at a minimum of three sites representing a minimum of two geologic media. However, in light of the significance of the decision selecting a site for a repository, the Commission fully expects the Department to submit a wider range of alternatives than the minimum suggested here.

**§ 70.14 Specific exemptions.**

(c) The Department of Energy is exempt from the requirements of the regulations in this part to the extent that its activities are subject to the requirements of Part 60 of the chapter.

24. A new Part 60 is added to read as follows:

**PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES**

**Subpart A—General Provisions**

**Sec.**

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60.71 Records and reports.

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Authority: Secs. 51, 53, 62, 63, 65, 81, 161b, f., l., o., p., 182, 183, Pub. L. 93-703, as amended, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); Secs. 202, 206, Pub. L. 93-438, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); Sec. 14, P.L. 95-601 (42 U.S.C. 2021a).

For the purposes of Sec. 223, 68 Stat. 958, as amended, 42 U.S.C. 2273, §§ 60.71 to 60.73 are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

**Subpart A—General Provisions**

**§ 60.1 Purpose and scope.**

This part prescribes rules governing the licensing of the Department of Energy to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area.

**§ 60.2 Definitions.**

As used in this part: (a) "Candidate area" means a geologic and hydrologic system within which a geologic repository may be located.

(b) "Commencement of construction" means clearing of land, surface or subsurface excavation, or other substantial action that would adversely affect the environment of a site, but does not include changes desirable for the temporary use of the land for public recreational uses, site characterization activities, other preconstruction monitoring and investigation necessary to establish background information related to the suitability of a site or to the protection of environmental values, or procurement or manufacture of components of the geologic repository operations area.

(c) "Decommissioning" means final backfilling of subsurface facilities, sealing of shafts, and decontamination and dismantlement of surface facilities.

(d) "Department" means the Department of Energy or its duly authorized representatives.

(e) "Disposal" means permanent emplacement within a storage space with no intent to retrieve for resource values.

(f) "Director" means the Director of the Office of Nuclear Material Safety and Safeguards.

(g) "Geologic repository" means a system which is intended to be used for, or may be used for, the disposal of radioactive wastes in excavated geologic formations. A geologic repository includes (1) the geologic repository operations area and (2) all surface and subsurface areas where natural events or activities of man may change the extent to which wastes are effectively isolated from the biosphere.

(h) "Geologic repository operations area" means an HLW facility that is part of a geologic repository, including both surface and subsurface areas, where waste handling activities are conducted.

(i) "High-level radioactive waste" or "HLW" means (1) irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated



reactor fuel, and (3) solids into which such liquid wastes have been converted.

(j) "HLW facility" means a facility subject to the licensing and related regulatory authority of the Commission pursuant to Section 202(3) and 202(4) of the Energy Reorganization Act of 1974 (88 Stat. 1244).\*

(k) "Important to safety" with reference to structures, systems, and components, means those structures, systems, and components that provide reasonable assurance that radioactive waste can be received, handled, and stored without undue risk to the health and safety of the public.

(l) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., at which the records of the Commission will ordinarily be made available for public inspection and any other place, the location of which has been published in the Federal Register, at which public records of the Commission pertaining to a particular geologic repository are made available for public inspection.

(m) "Radioactive waste" means HLW and any other radioactive materials other than HLW that are received for emplacement in a geologic repository.

(n) "Site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

(o) "Traceability" means the ability, through the use of container identification and preparation and maintenance of appropriate records, to delineate a step-by-step history of any radioactive waste.

### § 60.3 License required.

(a) The Department shall not receive or possess source, special nuclear, or byproduct material at a geologic repository operations area except as

\*These are Department of Energy "facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such act (the Atomic Energy Act)" and "Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive wastes generated by DOE, which are not used for, or are part of, research and development activities."

authorized by a license issued by the Commission pursuant to this part.

(b) The Department shall not commence construction of a geologic repository operations area unless it has filed an application with the Commission and has obtained construction authorization as provided in this part. Failure to comply with this requirement shall be grounds for denial of a license.

### § 60.4. Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director of Nuclear Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street, NW., Washington, D.C., or 7915 Eastern Avenue, Silver Spring, Maryland.

### § 60.5 Interpretations.

Except as specifically authorized by the Commission, in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be considered binding upon the Commission.

### § 60.6 Exemptions.

The Commission may, upon application by the Department, any interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

## Subpart B—Licenses

### Preapplication Review

#### § 60.11 Site characterization report.

(a) As early as possible after commencement of planning for a particular geologic repository operations area, and prior to site characterization, the Department shall submit to the Director a site characterization report. The report shall include (1) A description of the site(s) to be characterized; (2) a description of the site characterization program including extent of planned excavations, plans for in situ testing, investigation activities which may affect the ability of the site to isolate wastes, and provisions to control any adverse, safety-related impacts from site characterization

including appropriate quality assurance programs; (3) the criteria used to arrive at candidate areas; (4) the method by which the site(s) was selected for site characterization; (5) identification and location of alternative media and sites on which DOE intends to conduct site characterization for which DOE anticipates submitting subsequent site characterization reports; (6) a description of the decision process by which the site(s) was selected for characterization, including the means used to obtain public and State views during selection; and (7) any issues related to the site selection, alternative candidate areas or sites, or design of the geologic repository operations area which the Department wishes the NRC staff to review. The Department may include multiple sites in a single site characterization report. Also included shall be a description of the research and development activities being conducted by the Department which deal with the waste forms which may be considered appropriate for the sites to be characterized, including research planned or underway to evaluate the performance of such waste forms.

(b) The Director shall cause to be published in the Federal Register a notice that the information submitted under paragraph (a) of this section has been received and that a staff review of that information has begun. The notice shall identify the site(s) selected for site characterization and alternate areas considered by the Department and shall advise that consultation may be requested by State and local governments in accordance with § 60.61.

(c) The Director shall make available a copy of the above information at the Public Document Room. The Director also shall transmit copies and the published notice of receipt thereof to the Governor and legislature of the State and to the chief executive of the municipality in which a site to be characterized is located (or if it is not located within a municipality, then to the chief executive of the county) and to the Governors of any contiguous States.

(d) The Director shall prepare a draft site characterization analysis which shall discuss the items cited in paragraph (a) of this section. The Director shall publish a notice of availability of the draft site characterization analysis and request comment in the Federal Register. Copies shall be made available at the Public Document Room.

(e) A reasonable period, not less than 60 days, shall be allowed for comment on the draft site characterization analysis. The Director shall then prepare a final site characterization analysis

which shall take into account comments received and any additional information acquired during the comment period. Included in the final site characterization analysis shall be either an opinion by the Director that he has no objection to the Department's site characterization program, if such an opinion is appropriate, or specific objections of the Director to the Department's proceeding with characterization of the named site(s). In addition, the Director may make specific recommendations to the Department on the matters pertinent to this section.

(f) Neither issuance of a final site characterization analysis nor the opinion of no objection by the Director shall constitute a commitment to issue any authorization or license or in any way affect the authority of the Commission, the Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards, other presiding officers, or the Director, in any proceeding under Subpart G of Part 2 of this chapter. If the Department prepares an environmental impact statement with respect to site characterization activities proposed for a particular site, it should consider NRC's site characterization analyses before publishing its final environmental impact statement with respect to site characterization activities proposed for that particular site.

(g) During site characterization, the Department should inform the Director by semiannual report of the progress of the site characterization and waste form research and development including schedules as appropriate. During this time, NRC staff should be permitted to visit the site(s) and observe excavations, borings, and in situ tests as they are done. Inasmuch as these site characterization activities could have adverse impact upon site safety, failure by the Department to involve the Commission in the manner described here and to accommodate the recommendations of the Director could result in denial of the subsequent license application.

(h) The Director may respond from time to time in writing to the Department, expressing his current views on questions raised in the semiannual reports referred to above. Comments received from States in accordance with § 60.61 shall be considered by the Director in formulating his views. All correspondence between the Department and the NRC including the reports cited in paragraph (g) of this section shall be placed in the Public Document Room.

(i) The activities described in paragraphs (a) through (h) of this section

constitute informal conference between a prospective applicant and the staff, as described in § 2.101(a)(1) of this chapter, and are not part of a proceeding under the Atomic Energy Act of 1954, as amended.

### License Applications

#### § 60.21 Content of application.

(a) An application shall consist of general information and a safety analysis report. An environmental report shall be prepared in accordance with Part 51 of this chapter and shall accompany the application. Any Restricted Data or National Security Information shall be separated from unclassified information.

(b) The general information shall include:

(1) A general description of the proposed geologic repository identifying the proposed site of the geologic repository operations area, the general character of the proposed activities, and the basis for the exercise of licensing authority by the Commission.

(2) Proposed schedules for construction, receipt of waste, and emplacement of wastes at the proposed geologic repository operations area.

(3) A certification that the Department will provide at the geologic repository operations area such safeguards as it requires at comparable surface facilities (of the Department) to promote the common defense and security.

(c) The safety analysis report shall include:

(1) A description and analysis of the site at which the proposed geologic repository operations area is to be located with appropriate attention to those features that might affect facility design. The assessment shall contain an analysis of the geology, hydrology, geochemistry, and meteorology of the site and the major design structures, systems, and components, both surface and subsurface, that bear significantly on the suitability of the geologic repository for disposal of radioactive waste. It will be assumed that operations at the geologic repository operations area will be carried out at the maximum capacity and rate of receipt of radioactive waste stated in the application.

(2) A description and discussion of the design, both surface and subsurface, of the geologic repository operations area including: (i) the principal design criteria and their relationship to any general design criteria promulgated by the Commission, (ii) the design bases and the relation of the design bases to the principal design criteria, (iii) information relative to materials of construction

(including geologic media, general arrangement, and approximate dimensions), and (iv) codes and standards that the Department proposes to apply to the design and construction of the geologic repository operations area.

(3) A description and analysis of the design and performance requirements for structures, systems, and components of the geologic repository which are important to safety. The analysis and evaluation shall consider (i) the margins of safety under normal conditions and under conditions that may result from anticipated operational occurrences, including those of natural origin; (ii) the adequacy of structures, systems, and components provided for the prevention of accidents and mitigation of the consequences of accidents, including those caused by natural phenomena; and (iii) the effectiveness of engineered and natural barriers, including barriers that may not be themselves a part of the geologic repository operations area, against the release of radioactive material to the environment.

(4) A description of the quality assurance program to be applied to the design, fabrication, inspection, construction, testing, and operation of the structures, systems, and components of the geologic repository operations area important to safety.

(5) A description of the kind, amount, and specifications of the radioactive material proposed to be received and possessed at the geologic repository operations area.

(6) An identification and justification for the selection of those variables, conditions, or other items which are determined to be probable subjects of license specifications. Special attention shall be given to those items that may significantly influence the final design.

(7) A description of the program for control and monitoring of radioactive effluents and occupational radiation exposures to maintain such effluents and exposures in accordance with the requirements of Part 20 of this chapter.

(8) A description of the controls that the applicant will apply to restrict access and to regulate land use at the geologic repository operations area and adjacent areas.

(9) Plans for coping with radiological emergencies at any time prior to completion of decommissioning the geologic repository operations area.

(10) A description of the nuclear material control and accounting program.

(11) A description of design considerations that are intended to facilitate decommissioning of the facility.



(12) A description of plans for retrieval and alternate storage of the radioactive wastes should the geologic repository prove to be unsuitable for disposal of radioactive wastes.

(13) An identification of those structures, systems, and components of the geologic repository, both surface and subsurface, which require research and development to confirm the adequacy of design. For systems, structures, and components important to safety, the Department shall provide a detailed description of the programs designed to resolve safety questions, including a schedule indicating when these questions will be resolved.

(14) The following information concerning activities at the geologic repository operations area:

(i) The organizational structure of the Department, offsite and onsite, including a description of any delegations of authority and assignments of responsibilities, whether in the form of regulations, administrative directives, contract provisions, or otherwise.

(ii) Managerial and administrative controls to be used to ensure safety.

(iii) Identification of key positions which are assigned responsibility for safety at and operation of the geologic repository operations area.

(iv) Personnel qualifications and training requirements.

(v) Plans for startup activities and startup testing.

(vi) Plans for conduct of normal activities, including maintenance, surveillance, and periodic testing of structures, systems, and components of the geologic repository operations area.

(vii) Plans for decommissioning.

(viii) Plans for any uses of the geologic repository operations area for purposes other than disposal of radioactive wastes, with an analysis of the effects, if any, that such uses may have upon the operation of the structures, systems, and components important to safety.

#### § 60.22 Filing and distribution of application.

(a) An application for a license to receive and possess source, special nuclear, or byproduct material in a geologic repository at a site which has been characterized, and an accompanying environmental report, and any amendments thereto, shall be filed in triplicate with the Director and shall be signed by the Secretary of Energy or his authorized representative.

(b) Each portion of such application and environmental report and any amendments shall be accompanied by 30 additional copies. Another 120 copies shall be retained by the Department for distribution in accordance with written

instructions from the Director or his designee.

(c) The Department shall, upon notification of the appointment of an Atomic Safety and Licensing Board, update the application and environmental report, eliminating all superseded information and serve them as directed by the board. In addition, at that time the Department shall serve one such copy on the Atomic Safety and Licensing Appeal Panel. Any subsequent amendments to the application or environmental report shall be served in the same manner.

(d) At the time of filing of an application and environmental report, and any amendments thereto, one copy shall be made available in an appropriate location near the site of the proposed geologic repository (which shall be a public document room, if one has been established) for inspection by the public and updated as amendments to the application or environmental report are made. This updated copy shall be produced at any public hearing on the application for use by any parties to the proceeding.

(e) The Department shall certify that the updated copies of the application and environmental report, as referred to in paragraphs (c) and (d) of this section, contain the current contents of such documents submitted in accordance with the requirements of this part.

#### § 60.23 Elimination of repetition.

In its application, environmental report, or site characterization report, the Department may incorporate by reference information contained in previous applications, statements, or reports filed with the Commission: *Provided*, That such references are clear and specific and that copies of the information so incorporated are available in each public document room.

#### § 60.24 Updating of application and environmental report.

(a) The application and environmental report shall be as complete as possible in the light of information that is reasonably available at the time of submission.

(b) The Department shall update its application in a timely manner so as to permit the Commission to review, prior to issuance of a license:

(1) Additional geologic, hydrologic, meteorologic and other data obtained during construction.

(2) Conformance of construction of structures, systems, and components with the design.

(3) Results of research programs carried out to confirm the adequacy of designs.

(4) Other information bearing on the Commission's issuance of a license that was not available at the time a construction authorization was issued.

(c) The Department shall update its environmental report in a timely manner so as to permit the Commission to review, prior to issuance of a license, the environmental impacts of any substantial changes in the activities proposed to be carried out or any significant new information regarding the environmental impacts of activities previously proposed.

#### Construction Authorization

##### § 60.31 Construction authorization.

Upon review and consideration of an application and environmental report submitted under this part, the Commission may authorize construction if it determines:

(a) *Safety*: That there is reasonable assurance that the types and amounts of wastes described in the application can be received, possessed, and disposed of in a repository of the design proposed without unreasonable risk to the health and safety of the public. In arriving at this determination, the Commission shall consider whether:

(1) The Department has described the proposed geologic repository including but not limited to (i) the geologic, geochemical and hydrologic characteristics of the site; (ii) the kinds and quantities of radioactive waste to be received, possessed, stored, and disposed of in the geologic repository; (iii) the principal architectural and engineering criteria for the design of the geologic repository operations area; (iv) construction procedures which may affect the capability of the geologic repository to serve its intended function; and (v) features or components incorporated in the design for the protection of the health and safety of the public.

(2) The site and design comply with the criteria contained in Subparts E and F of this part.

(3) The Department's quality assurance program complies with the requirements of Subpart G of this part.

(4) The Department's personnel training program complies with the criteria contained in Subpart H of this part.

(5) The Department's emergency plan complies with the criteria contained in Subpart I of this part.

(6) The Department's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(b) *Common defense and security*: That there is reasonable assurance that

the activities proposed in the application will not be inimical to the common defense and security.

(c) *Environmental*: That, after weighing the environmental, economic, technical and other benefits and considering reasonable alternatives, the action called for is issuance of the construction authorization.

#### § 60.32 Conditions of construction authorization.

(a) A construction authorization shall include such conditions as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, or environmental values.

(b) The Commission may, at its discretion, incorporate provisions requiring the Department to furnish periodic or special reports regarding: (1) progress of construction, (2) any site data obtained during construction which are not within the predicted limits upon which the facility design was based, (3) any deficiencies in design and construction which, if uncorrected, could adversely affect safety at any future time, and (4) results of research and development programs being conducted to resolve safety questions.

(c) A construction authorization shall be subject to the limitation that a license to receive and possess source, special nuclear, or byproduct material at the geologic repository operations area shall not be issued by the Commission until (1) the Department has updated its application as specified in § 60.24, and (2) the Commission has made the findings stated in § 60.41.

#### § 60.33 Amendment of construction authorization.

(a) An application for amendment of a construction authorization shall be filed with the Commission fully describing any changes desired and following as far as applicable the format prescribed for construction authorization applications.

(b) In determining whether an amendment of a construction authorization will be approved, the Commission will be guided by the considerations which govern the assurance of the initial construction authorization, to the extent applicable.

#### License Issuance and Amendment

##### § 60.41 Standards for issuance of a license.

A license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area may be issued by the Commission upon finding that:

(a) Construction of the geologic repository operations area has been substantially completed in conformity with the application as amended, the provisions of the Atomic Energy Act, and the rules and regulations of the Commission. Construction may be deemed to be substantially complete for the purposes of this paragraph if the construction of (1) surface and interconnecting structures, systems, and components, and (2) any underground storage space required for initial operation are substantially complete.

(b) The activities to be conducted at the geologic repository operations area will be in conformity with the application as amended, the provisions of the Atomic Energy Act and the Energy Reorganization Act, and the rules and regulations of the Commission.

(c) The issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public.

(d) All applicable requirements of Part 51 have been satisfied.

#### § 60.42 Conditions of license.

(a) A license issued pursuant to this part shall include such conditions, including license specifications, as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, and environmental values.

(b) Whether stated therein or not, the following shall be deemed conditions in every license issued:

(1) The license shall be subject to revocation, suspension, modification, or amendment for cause as provided by the Atomic Energy Act and the Commission's regulations.

(2) The Department shall at any time while the license is in effect, upon written request of the Commission, submit written statements to enable the Commission to determine whether or not the license should be modified, suspended or revoked.

(3) The license shall be subject to the provisions of the Atomic Energy Act now or hereafter in effect and to all rules, regulations, and orders of the Commission. The terms and conditions of the license shall be subject to amendment, revision, or modification, by reason of amendments to or by reason of rules, regulations, and orders issued in accordance with the terms of the Atomic Energy Act.

(c) Each license shall be deemed to contain the provisions set forth in section 183 b-d, inclusive, of the Atomic Energy Act, whether or not these provisions are expressly set forth in the license.

#### § 60.43 License specifications.

(a) A license issued under this part shall include license conditions derived from the analyses and evaluations included in the application, including amendments made before a license is issued, together with such additional conditions as the Commission finds appropriate.

(b) License conditions shall include items in the following categories:

(1) Restrictions as to the physical and chemical form and radioisotopic content of radioactive waste.

(2) Restrictions as to size, shape, and materials and methods of construction of radioactive waste packaging.

(3) Restrictions as to the location, size, configuration, construction and physical characteristics (e.g., physical, chemical and thermal properties) of the storage medium.

(4) Restrictions as to the amount of waste permitted per unit volume of storage space considering the physical characteristics of both the waste and the storage medium.

(5) Requirements relating to test, calibration, or inspection to assure that the foregoing restrictions are observed.

(6) Controls to be applied to restrict access and to avoid disturbance to the geologic repository operations area and adjacent areas.

(7) Administrative controls, which are the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure that activities at the facility are conducted in a safe manner and in conformity with the other license specifications.

#### § 60.44 Changes, tests, and experiments.

(a)(1) Following authorization to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area, the Department may (i) make changes in the geologic repository operations area as described in the application, (ii) make changes in the procedures as described in the application, and (iii) conduct tests or experiments not described in the application, without prior Commission approval, provided the change, test, or experiment involves neither a change in the license conditions incorporated in the license nor an unreviewed safety question.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question if (i) the likelihood of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the application is increased, (ii) the possibility of an accident or malfunction



of a different type than any previously evaluated in the application is created, or (iii) the margin of safety as defined in the basis for any license condition is reduced.

(b) The Department shall maintain records of changes in the geologic repository operations area and of changes in procedures made pursuant to this section, to the extent that such changes constitute changes in the geologic repository operations area or procedures as described in the application. Records of tests and experiments carried out pursuant to paragraph (a) of this section shall also be maintained. These records shall include a written safety evaluation which provides the basis for the determination that the change, test, or experiment does not involve an unreviewed safety question. The Department shall prepare annually or at such shorter intervals as may be specified in the license, a report containing a brief description of such changes, tests, and experiments, including a summary of the safety evaluation of each. The Department shall furnish the report to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter with a copy to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Any report submitted pursuant to this paragraph shall be made a part of the public record of the licensing proceedings.

#### § 60.45 Amendment of license.

(a) An application for amendment of a license may be filed with the Commission fully describing the changes desired and following as far as applicable the format prescribed for license applications.

(b) In determining whether an amendment of a license will be approved, the Commission will be guided by the considerations that govern the issuance of the initial license, to the extent applicable.

#### § 60.46 Particular activities requiring license amendment.

(a) Unless expressly authorized in the license, an amendment of the license shall be required with respect to any of the following activities:

(1) Any action which would make emplaced high-level radioactive waste irretrievable or which would substantially increase the difficulty of retrieving such emplaced waste.

(2) Dismantling of structures.

(3) Removal or reduction of controls applied to restrict access to or to avoid

disturbance of the geologic repository operations area or adjacent areas.

(4) Destruction or disposal of records required to be maintained under the provisions of this part.

(5) Any substantial change to the design or operating procedures from that specified in the license.

(6) Decommissioning.

(b) An application for such an amendment shall be filed, and shall be reviewed, in accordance with the provisions of § 60.45.

#### Decommissioning

##### § 60.51 License amendment to decommission.

(a) The Department shall submit an application to amend the license prior to decommissioning. The application shall consist of an update of the license application and environmental report submitted under §§ 60.21 and 60.22 including:

(1) A description of the program for post-decommissioning monitoring of the geologic repository.

(2) A detailed description of the measures to be employed—such as land use controls, construction of monuments, and preservation of records—to regulate or prevent activities that could impair the long-term isolation of emplaced waste within the geologic repository and to assure that relevant information will be preserved for the use of future generations.

(3) Geologic, hydrologic, and other site data that are obtained during the operational period pertinent to the long-term isolation of emplaced radioactive wastes.

(4) The results of test, experiments, and any other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with emplacement media, and any other tests, experiments, or analysis pertinent to the long-term isolation of emplaced wastes within the geologic repository.

(5) Any substantial revision of plans for decommissioning.

(6) Other information bearing upon decommissioning that was not available at the time a license was issued.

(b) The Department shall update its environmental report in a timely manner so as to permit the Commission to review, prior to issuance of an amendment, substantial changes in the decommissioning activities proposed to be carried out or significant new information regarding the environmental impacts of such decommissioning.

#### § 60.52 Termination of license.

(a) Following decommissioning, the Department may apply for an amendment to terminate the license.

(b) Such application shall be filed, and will be reviewed, in accordance with the provisions of § 60.45 and this section.

(c) A license shall be terminated only when the Commission finds with respect to the geologic repository:

(1) That the final disposition of radioactive wastes has been made in conformance with the Department's plan, as amended and approved as part of the license.

(2) That the final state of the geologic repository operations area site conforms to the Department's decommissioning plans, as amended and approved as part of the license.

(3) That the termination of the license is authorized by law, including sections 57, 62, and 81 of the Atomic Energy Act, as amended.

#### Subpart C—Participation by State Governments

##### § 60.61 Site review.

(a) Upon publication in the Federal Register of a notice that the Department has selected a site for site characterization, in accordance with § 60.11(b), and upon the request of a State, the Director shall make available NRC staff to consult with representatives of State and local governments to keep them informed of the Director's view on the progress of site characterization and to notify them of any subsequent meetings or further consultations with the Department.

(b) Requests for consultation shall be made in writing to the Director.

(c) The Director also shall respond to written questions or comments from the States, as appropriate, on the information submitted by the Department in accordance with § 60.11 of this part. Copies of such questions or comments and their responses shall be made available in the Public Document Room and shall be transmitted to the Department.

##### § 60.62 Filing of proposals for State participation.

(a) Consultation under § 60.61 may include, among other things, a review of applicable NRC regulations, licensing procedures, potential schedules, and the type and scope of State activities in the license review permitted by law. In addition, staff shall be made available to cooperate with the State in developing proposals for participation by the State.

(b) States potentially affected by siting of a geologic repository operations area at a site that has been selected for characterization may submit to the Director a proposal for State participation in the review of the site

characterization report and/or license application. A State's proposal to participate may be submitted at any time prior to docketing of an application or up to 120 days thereafter.

(c) Proposals for participation in the review shall be signed by the Governor of the State submitting the proposal and shall at a minimum contain the following information:

(1) A general description of how the State wishes to participate in the review, specifically identifying those issues which it wishes to review.

(2) A description of material and information which the State plans to submit to the NRC staff for consideration in the review. A tentative schedule referencing steps in the review and calendar dates for planned submittals should be included.

(3) A description including funding estimates of any work that the State proposes to perform for the Commission, under contract, in support of the review.

(4) A description of State plans to facilitate local government and citizen participation.

(5) A preliminary estimate of the types and extent of impacts which the State expects should a geologic repository be located at the site in question.

(d) If the State desires educational or information services (seminars, public meetings) or other actions on the part of NRC, such as establishing additional public document rooms or employment or exchange of State personnel under the Intergovernmental Personnel Act, these shall be included with the proposal.

##### § 60.63 Approval of proposals.

(a) The Director shall arrange for a meeting between the representatives of the State and the NRC staff to discuss any proposal submitted under § 60.62(b), with a view to identifying any modifications that may contribute to the effective participation by the State.

(b) Subject to the availability of funds, the Director shall approve all or any part of a proposal, as it may be modified through the meeting described above, if he determines that:

(1) The proposed activities are suitable in light of the type and magnitude of impacts which the State may bear, and

(2) The proposed activities (i) will enhance communications between NRC and the State, (ii) will contribute productively to the license review, and (iii) are authorized by law.

(c) The decision of the Director shall be transmitted in writing to the Governor of the originating State. A copy of the decision shall be made available at the Public Document Room.

If all or any part of a proposal is rejected, the decision shall state the reason for the rejection.

(d) A copy of all proposals received shall be made available at the Public Document Room.

#### Subpart D—Records, Reports, Tests, and Inspections

##### § 60.71 Records and reports.

(a) The Department shall maintain such records and make such reports in connection with the licensed activity as may be required by the conditions of the license or by rules, regulations, and orders of the Commission as authorized by the Atomic Energy Act and the Energy Reorganization Act.

(b) Records of the receipt, handling, and disposition of radioactive waste at a geologic repository operations area shall contain sufficient information to assure traceability from the shipper through all phases of storage and disposal.

(c) The Department shall promptly notify the Commission of each deficiency found in the site characteristics, and design and construction of the geologic repository which, were it to remain uncorrected, could (1) be a substantial safety hazard, (2) represent a significant deviation from the design criteria and design bases stated in the application, or (3) represent a significant deviation from the conditions stated in the terms of a construction authorization or the license, including license specifications. The notification shall be in the form of a written report, copies of which shall be sent to the Director and to the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A to Part 73 of this chapter.

##### § 60.72 Tests.

The Department shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or are necessary for the administration of the regulations in this part. These may include tests of (a) radioactive waste, (b) the geologic repository including its structures, systems, and components, (c) radiation detection and monitoring instruments, and (d) other equipment and devices used in connection with the receipt, handling, or storage of radioactive waste.

##### § 60.73 Inspections.

(a) The Department shall allow the Commission to inspect the premises of the geologic repository operations area

and adjacent areas to which the Department has rights of access.

(b) The Department shall make available to the Commission for inspection, upon reasonable notice, records kept by the Department pertaining to activities under this part.

(Amendments to all parts issued pursuant to citations of authority presently codified or, in the case of 10 CFR Part 60, as proposed to be codified.)

Dated at Washington, D.C. this 3rd day of December, 1979.

For the U.S. Nuclear Regulatory Commission.

John C. Hoyle,  
Assistant Secretary of the Commission.

[FR Doc. 79-37568 Filed 12-5-79; 8:45 am]

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# Federal Register

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Thursday  
December 6, 1979

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Part VII

## Federal Emergency Management Agency

Procurement; Interim Rules and Request  
for Comments



**FEDERAL EMERGENCY  
MANAGEMENT AGENCY****41 CFR Chapter 44**

[Docket No. FEMA-MISC-41-44]

**Procurement; Interim Rules and  
Request for Comments****AGENCY:** Federal Emergency  
Management Agency.**ACTION:** Interim regulations and request  
for comments.

**SUMMARY:** These interim rules establish policies and procedures for acquisition of personal property and nonpersonal services (including construction) by the Federal Emergency Management Agency (FEMA). They implement the Federal Procurement Regulations in accordance with 41 CFR 1-1.008. Although these regulations involve contracts, FEMA is requesting public comment but by issuing a regulation which serves as a fully effective operating rule and at the same time affording an opportunity for such comment.

**DATES:** Effective date is December 6, 1979. Written comments should be submitted on or before February 4, 1980.

**ADDRESS:** Federal Emergency Management Agency, 1725 I Street NW. (M Street Bldg.), Washington, D.C. 20472.

**FOR FURTHER INFORMATION CONTACT:** Steve Goodman, Division of Acquisition Management, Policy and Support Branch, (202) 634-6048.

**SUPPLEMENTARY INFORMATION:** Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The Plan was activated effective April 1, 1979 by Executive Order 12127 of March 31, 1979, "Federal Emergency Management Agency," 44 FR 19367. The plan, The Executive Order, and subsequently, Executive Order 12148, effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments or parent agencies. Under the plan, and pursuant to the order, regulations of the predecessor agencies remain in full force and effect in FEMA until those regulations are superceded.

Accordingly, to provide a single regulation for the acquisition of personal property and nonpersonal services (including construction) for all FEMA procuring offices, it is necessary to adopt FEMA regulations.

Interested parties may participate in the comment process by submitting their views, in writing, on this interim

regulation to FEMA. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before the date set out above will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at FEMA. It has been determined that the April 1, 1979 effective date of Reorganization Plan No. 3 of 1978 and the July 15, 1979 effective date for Executive Order 12148 established good cause for immediate publication of these regulations for interim effect.

Accordingly, a new Chapter 44 of Title 41 of the Code of Federal Regulations is added:

Dated: November 30, 1979.

John W. Macy, Jr.,  
Director.

**CHAPTER 44—FEDERAL EMERGENCY  
MANAGEMENT AGENCY****Part**

- 44-1 General.
- 44-2 Procurement by formal advertising.
- 44-3 Procurement by negotiation.
- 44-4 Special types and methods of procurement.
- 44-7 Contract clauses.
- 44-11 Federal, State and local taxes.
- 44-13 Government property.
- 44-15 Contract cost principles and procedures.
- 44-16 Contract forms.
- 44-30 Contract financing.

**PART 44-1—GENERAL****Sec.**

- 44-1.000 Scope of part.

**Subpart 1.0—Regulation System**

- 44-1.001 Scope of subpart.
- 44-1.002 Purpose.
- 44-1.003 Authority.
- 44-1.004 Applicability.
- 44-1.005 Exclusions.
- 44-1.006 Issuance.
- 44-1.006-1 Code arrangement.
- 44-1.006-2 Publication.
- 44-1.006-3 Copies.
- 44-1.006-4 Coordination.
- 44-1.007 Arrangement.
- 44-1.007-1 General plan.
- 44-1.007-2 Numbering and titling.
- 44-1.007-3 Citation.
- 44-1.009 Deviation.
- 44-1.009-1 Description.
- 44-1.009-2 Procedure.

**Subpart 1.2—Definition of Terms**

- 44-1.201 Definitions.
- 44-1.202 Agency.
- 44-1.204 Director.
- 44-1.205 Procuring office.
- 44-1.206 Head of the procuring activity.

**Sec.**

- 44-1.250 Contractor.
- 44-1.251 Subcontractor.
- 44-1.252 Supplies and property.
- 44-1.253 Personal services.
- 44-1.254 Nonpersonal services.
- 44-1.255 Program office.
- 44-1.256 Project officer.
- 44-1.257 Interagency agreement.

**Subpart 1.3—General Rules**

- 44-1.302 Procurement sources.
- 44-1.302-1 General.
- 44-1.303-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
- 44-1.305 Specifications.
- 44-1.305-6 Military and departmental specifications.
- 44-1.317 Noncollusive bids and proposals.

**Subpart 1.4—Procurement Responsibility  
and Authority**

- 44-1.400 Scope of subpart.
- 44-1.401 Responsibility of the head of the procuring activity.
- 44-1.404 Selection, designation and termination of designation of contracting officers.
- 44-1.404-1 Selection.
- 44-1.404-2 Designation.

**Subpart 1.7—Small Business Concerns**

- 44-1.700 General.
- 44-1.704 FEMA direction and operation.
- 44-1.704-1 Small business advisor.
- 44-1.704-2 Small business specialists.
- 44-1.705 Cooperation with the Small Business Administration.
- 44-1.705-3 Screening of procurements.
- 44-1.706 Procurement set-asides for small business.
- 44-1.706-2 Review of set-aside recommendations initiated by small business specialists.
- 44-1.706-3 Withdrawal or modification of set-asides.
- 44-1.706-5 Small business class set-aside for construction, including repair and alteration.
- 44-1.706-50 Review of class set-aside program for construction, including repair and alteration.
- 44-1.713 FEMA contracts with the Small Business Administration.
- 44-1.750 FEMA responsibilities and functions pursuant to Section 8(a) of the Small Business Act.

**Subpart 1.8—Labor Surplus Area Concerns**

- 44-1.800 Scope of subpart.
- 44-1.803 FEMA direction and operation.
- 44-1.803-1 Labor surplus area advisor.
- 44-1.803-2 Labor surplus area specialists.
- 44-1.803-3 Screening of procurements.
- 44-1.803-4 Review of set-aside recommendations initiated by labor surplus area specialists.
- 44-1.804 Partial set-asides for labor surplus area concerns.
- 44-1.804-4 Withdrawal of set-asides.
- 44-1.804-50 Modifications of set-asides.

**Subpart 1.10—Publicizing Procurement  
Actions**

- 44-1.1003-2 General requirements.

**Subpart 1.13—Small Business Concerns  
Owned and Controlled by One or More  
Socially and Economically Disadvantaged  
Individuals****Sec.**

- 44-1.1300 Scope of subpart.
- 44-1.1302 Policy.
- 44-1.1303 Solicitation representation.

**Subpart 1.50—Criteria for Use of  
Procurement Contracts Versus Assistance  
Instruments [Reserved]**

Authority.—41 CFR 1-1.008.

**§ 44-1.000 Scope of part.**

This part sets forth policies and procedures concerning: The Federal Emergency Management Agency Procurement Regulation System; definition of terms used throughout this chapter; general policies of procurement; small business concerns; labor surplus area concerns; and publicizing procurement actions.

**Subpart 1.0—Regulation System****§ 44-1.001 Scope of subpart.**

This subpart sets forth introductory information pertaining to the Federal Emergency Management Agency Procurement Regulation System; its purpose, authority, applicability, issuance, arrangement, implementation, supplementation and deviation procedure.

**§ 44-1.002 Purpose.**

This subpart establishes the Federal Emergency Management Agency Procurement Regulations (FEMAPR) for the codification and publication of uniform policies and procedures applicable to the Federal Emergency Management Agency (FEMA) in the procurement of personal property and nonpersonal services (including construction).

**§ 44-1.003 Authority.**

41 CFR 1-1.008 requires that as portions of Federal Procurement Regulation (FPR) material are prescribed, agencies shall publish in the Federal Register implementing regulations deemed necessary for business concerns, and others properly interested, to understand basic and significant agency procurement policies and procedures which implement, supplement, and deviate from the FPR. In compliance with this requirement, the FEMAPR are herein prescribed.

**§ 44-1.004 Applicability.**

The FEMAPR apply to all procurements within FEMA but do not apply to the placement or administration of cooperative agreements or grants.

**§ 44-1.004-50 Relationship to the FPR.**

Material published in the FEMAPR will not repeat, paraphrase or otherwise restate material in the FPR except to the extent necessary to implement, supplement or deviate therefrom.

**§ 44-1.005 Exclusions.**

Certain FEMA policies and procedures which come within the scope of the FEMAPR nevertheless may be excluded from the FEMAPR. These exclusions include the following categories:

- (a) Policy or procedure for subject matter which bears a security classification.
- (b) Policy or procedure which is expected to be effective for a period of six months or less.
- (c) Policy or procedure which is being instituted on an experimental basis for a reasonable period.
- (d) Policy or procedure of an internal nature which shall be issued as either a FEMA Handbook or Standard Operating Procedure or a revision to either of the above.

**§ 44-1.006 Issuance.****§ 44-1.006-1 Code arrangement.**

The FEMAPR are issued in the Code of Federal Regulations as Chapter 44 of Title 41, Public Contracts and Property Management.

**§ 44-1.006-2 Publication.**

The FEMAPR, as deemed necessary by the Director, Office of Finance and Administration, for information to the general public, are published initially in the daily issue of the Federal Register and in final cumulated form in Title 41 of the Code of Federal Regulations. The above regulations are printed in separate loose-leaf volume form for distribution to appropriate FEMA organizational elements.

**§ 44-1.006-3 Copies.**

Copies of the FEMAPR in Federal Register and Code of Federal Regulations form may be purchased at nominal cost from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Upon request, copies of the FEMAPR loose-leaf volume and amendments and additions thereto will be distributed to agency procuring offices and other appropriate agency organizational units by the Policy and Support Branch of the Division of Acquisition Management.

**§ 44-1.006-4 Coordination.**

In the development of FEMAPR issuances, the views of interested agency procuring offices, and, where appropriate and feasible, the views of

interested business and professional organizations, will be considered.

**§ 44-1.007 Arrangement.****§ 44-1.007-1 General plan.**

The general plan, numbering system, and nomenclature used in the FEMAPR conform with those of the Federal Procurement Regulation (FPR) and Federal Register Standards approved for the FPR.

**§ 44-1.007-2 Numbering and titling.**

(a) Where the FEMAPR implements or deviates from a part, subpart, section or subsection of the FPR, the FEMAPR part, subpart, section or subsection will be numbered and titled to correspond to the part, subpart, section or subsection of the FPR.

(b) Where the subject matter contained in a part, subpart, section or subsection of the FPR requires no further implementation, the FEMAPR will contain no corresponding part, subpart, section or subsection number and the subject matter as published in the FPR governs.

(c) Material published in the FEMAPR which supplements the FPR will be assigned numbers from the number 50 onward to denote the new part, subpart, section or subsection being added. For example, § 44-50.100 (new part), § 44-1.5000 (new subpart), § 44-1.150 (new section), § 44-1.102-50 (new subsection).

**§ 44-1.007-3 Citation.**

FEMAPR will be cited in accordance with Federal Register Standards approved for the FPR. Thus this section, when referred to in divisions of the FEMAPR should be cited as "§ 44-1.007-3 of this chapter". When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 44-1.007-3". Any section of the FEMAPR may be informally identified as "FEMAPR" followed by the section number, such as FEMAPR 44-007-3.

**§ 44-1.009 Deviation.****§ 44-1.009-1 Description.**

As used in the FEMAPR, the term "deviation" includes any of the actions set forth in 41 CFR 1-1.009-1 for either the FEMAPR or the FPR.

**§ 44-1.009-2 Procedure.**

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and the FEMAPR shall be kept to a minimum and controlled as follows:

- (a) Deviations in both individual cases and classes of cases must be authorized in advance by the Director, Division of



Acquisition Management. Requests for such authorization shall:

(1) Cite the specific parts of the FPR or FEMAPR from which it is desired to deviate.

(2) Provide a full description of the deviation.

(3) Indicate the circumstances which will require use of the deviation.

(4) Give detailed reasons supporting the actions requested; and

(5) Give reasons why the action is in the best interest of the Government.

(b) Where the deviation applies to a class of cases, review and approval shall be accomplished in accordance with 41 CFR 1-1.009-2(c) for deviations to either the FPR or the FEMAPR.

(c) The contract file(s) of the requesting office shall include a copy of the request and the approval. Class deviations will be issued as a part of the FEMAPR, if they are of a continuing nature and publication is deemed appropriate by the Director, Office of Finance and Administration.

#### Subpart 1.2—Definition of Terms

##### § 44-1.201 Definitions.

For the purposes of the FEMAPR, and unless otherwise indicated the following terms have the meaning set forth in this subpart.

##### § 44-1.202 Agency.

"Agency" means the Federal Emergency Management Agency or as it is referred to throughout the FEMAPR, "FEMA".

##### § 44-1.204 Director.

"Director" means the Director of the Federal Emergency Management Agency. In the FPR, the term "Secretary", where it pertains to a procuring agency, shall be construed to mean "Director".

##### § 44-1.205 Procuring office.

"Procuring offices" means those offices which have delegated or redelegated authority to purchase or contract for supplies, services and/or construction.

##### § 44-1.206 Head of the procuring activity.

"Head of the procuring activity" means the Director, Division of Acquisition Management.

##### § 44-1.250 Contractor.

"Contractor" means any person, firm, association, or corporation entering into a contract with the Government.

##### § 44-1.251 Subcontractor.

"Subcontractor" means any person, firm, association or corporation entering

into a subcontract with a contractor or higher-tier subcontractor.

##### § 44-1.252 Supplies and property.

"Supplies and Property" means materials and goods to be delivered to the Agency under contracts or purchase orders.

##### § 44-1.253 Personal services.

"Personal Services" means those services rendered by an officially appointed or employed individual engaged in the performance of authorized Federal functions who is compensated on either a time or contract basis and is under the direct supervision of a Federal officer thereby establishing an employer-employee relationship.

##### § 44-1.254 Nonpersonal services.

"Nonpersonal Services" means those services rendered by non-Government firms, institutions or persons through contract or agreement with FEMA wherein no employer-employee relationship exists.

##### § 44-1.255 Program office.

"Program office" means any of various offices within the agency which generate requests for procurement action.

##### § 44-1.256 Project officer.

"Project officer" means the representative of a program office cognizant over the technical aspects of a given procurement action.

##### § 44-1.257 Interagency agreement.

"Interagency agreement" means an agreement between two or more agencies, bureaus, or departments of the Federal Government by which supplies, services or property are provided to, or obtained from, one or more agencies, bureaus or departments of the Federal Government.

#### Subpart 1.3—General Policies

##### § 44-1.302 Procurement sources.

##### § 44-1.302-1 General.

Supplies and services may be obtained from the following sources:

(a) Government Program Sources. Procuring offices shall endeavor to obtain required supplies or services from the following sources prior to initiating purchases from other sources. These sources shall be utilized to the maximum extent practicable in accordance with applicable laws and regulations and shall be solicited in the order in which they appear below:

(1) Excess and surplus stocks in the possession of any Government agency (See FEMAPR 44-4.5004).

(2) Federal Supply Schedules.

(3) GSA Stores Stock.

(4) Federal Supply Service Consolidated Purchase Program.

(5) Federal Prison Industries, Inc.

(6) National Industries for the Blind.

(b) Sources outside the Government. If the required supplies and/or services cannot be obtained from any of the sources listed in paragraph (a) above, procuring offices shall endeavor to obtain them from commercial or other non-Government sources (including State and local Governments) to the maximum extent practicable.

(c) Other Federal Agencies. If supplies and/or services are available from another Federal agency, and the circumstances of the requirement meet the criteria set forth in OMB Circular A-76, procuring offices may obtain the supplies or services from that Federal agency (See FEMAPR 44-4.5004).

##### § 44-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

When a requisitioning office becomes aware that a suggested procurement source is either a Government employee, or a business or organization substantially owned by a Government employee, or the spouse or immediate family of a Government employee, the appropriate procurement office shall be immediately notified and shall seek alternative sources. If no alternative sources can be located, the requisitioning office shall prepare a written justification to clearly support a contracting officer decision to procure from the Government employee source and to provide for actions, where possible, to prevent future related procurements from employee sources. Approval shall be obtained from the head of the program office and the Director, Office of Finance and Administration prior to any procurement award to a Government employee source.

##### § 44-1.305 Specifications.

##### § 44-1.305-6 Military and departmental specifications.

If no Federal Specification is available, Interim Federal, Military and Departmental Specifications shall be considered, in the order of precedence indicated herein, prior to using or developing other specifications.

##### § 44-1.317 Noncollusive bids and proposals.

The authority to make the determination described in paragraph (d) of the certification set forth in 41 CFR 1-1.317(a) shall vest in the head of

the procuring activity without authority to redelegate.

#### Subpart 1.4—Procurement Responsibility and Authority

##### § 44-1.400 Scope of subpart.

This subpart deals with the placement of procurement authority and responsibility with the Agency, the selection and designation of contracting officers, and the authority of procuring offices.

##### § 44-1.401 Responsibility of the head of the procuring activity.

The head of the procuring activity shall be responsible for the establishment of policy throughout the Agency, monitoring the overall effectiveness and efficiency of the Agency's procuring offices, the establishment of adequate controls to assure compliance with applicable laws, regulations and procedures, and shall be responsible for delegating or redelegating contracting officer authority, which has been delegated the head of the procuring activity.

##### § 44-1.404 Selection, designation and termination of designation of contracting officers.

##### § 44-1.404-1 Selection.

In selecting contracting officers, the appointing authorities shall consider experience, training, education, business acumen, judgment, character, reputation and ethics. In the areas of experience, training and education the following shall be required unless contracting authority is limited to simplified purchase procedures. Waiver of any of the criteria set out below shall be in writing with specific justification therefor.

(a) Experience of an individual contracting officer or appointment of an individual to a position having contracting officer authority shall consist of a minimum of two years experience performing contracting, procurement or purchasing operations in a Government or commercial procurement office. Additionally where appointment of a contracting officer involves a specialized procurement field, experience in the field shall be considered as a criterion for the appointment.

(b) Educational requirements of an individual contracting officer or appointment of an individual to a position having contracting officer authority shall require as a minimum the equivalent of a bachelor's degree from an accredited college or institution with major studies in business administration, law, accounting or

related fields. This educational requirement may be waived by the appointing official when it is determined that a potential appointee is otherwise qualified by virtue of extensive contract-related experience, training, business acumen, judgment, character, reputation and ethics.

(c) Training requirements of an individual contracting officer or appointment of an individual to a position having contracting authority as a minimum shall require that the individual has successfully completed training courses in Government basic procurement, of not less than 80 class hours, and Government contract administration, not less than 80 class hours. Incumbents not meeting the special training requirements shall be given 24 months to meet the minimum qualification standards.

##### § 44-1.404-2 Designation.

Except for disaster-related activities and unusual circumstances as determined by the head of the procuring activity, it is the policy of the Agency to delegate contracting officer authority to positions rather than to individuals. Except in those instances where the redelegation of authority specifically includes the authority for further redelegation to subordinate positions, no other delegations or redelegations may be made. Delegations of contracting officer authority shall include clear statement of such authority, its responsibilities and limitations.

#### Subpart 1.7—Small Business Concerns

##### § 44-1.700 General.

This subpart implements and supplements general policies and procedures set forth in 41 CFR Subpart 1-1.7.

##### § 44-1.704 FEMA direction and operation.

FEMA shall implement the policies and procedures set forth in 41 CFR 1-1.7 through its small business advisor and its small business specialists.

##### § 44-1.704-1 Small business advisor.

The Director, Division of Acquisition Management, is hereby designated as FEMA's small business advisor for all procurement matters. The small business advisor is responsible for the establishment, implementation and execution of the small business procurement program. He is the central point of contact of inquiries concerning the program from industry, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation that will insure that an equitable share of contracts will be

awarded to small businesses by the Agency. He will be assisted on a daily basis by the small business specialists.

##### § 44-1.704-2 Small business specialists.

The small business advisor shall designate, by name and in writing, a small business specialist in each procuring office of FEMA, as appropriate, who shall be responsible for maintaining the program in that procuring office in accordance with the requirements of the FPR, the FEMAPR, and any further directives from the small business advisor. The small business specialist, for the Division of Acquisition Management at FEMA Headquarters, in addition to the above duties, shall act as coordinator for the small business activities in the other procuring offices and provide liaison between the other small business specialists and the small business advisor.

##### § 44-1.705 Cooperation with the Small Business Administration.

##### § 44-1.705-3 Screening of procurements.

FEMA has no SBA representative assigned to it on a full or part-time basis except to the extent that a representative of SBA regularly monitors the small business program within the Agency. Therefore, for all practical purposes, the small business specialists perform the duties of on-site SBA representatives.

Accordingly, all proposed procurements estimated to exceed \$10,000 will be reviewed by the small business specialists to identify those procurements which should be set aside in whole or in part for small business, unless the head of the procuring activity determines in accordance with 41 CFR 1-1.705-3(a) that such review would unduly delay the procurement process. The small business specialist initiates recommendations to the contracting officer for small business set-asides for those individual procurements or classes of procurements, or portions thereof.

##### § 44-1.706 Procurement set-asides for small business.

##### § 44-1.706-2 Review of set-aside recommendations initiated by small business specialist(s).

When the small business specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the



contracting officer disapproves the recommendation of a small business specialist, the small business specialist may appeal to the head of the procuring activity whose decision shall be final.

**§ 44-1.706-3 Withdrawal or modification of set-asides.**

A withdrawal or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be proposed by the contracting officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, the contracting officer may appeal to the head of the procuring activity whose decision shall be final.

**§ 44-1.706-5 Small business class set-aside for construction, including repair and alteration.**

A class set-aside is hereby made for each proposed procurement for construction which is not expected to exceed \$1,000,000 in amount. Accordingly, contracting officers shall set aside for small business each such proposed procurement. If a contracting officer determines that any individual procurement falling within the class set-aside requirements of this section is unsuitable for such a set-aside in part or in total, the set-aside may be withdrawn or modified in accordance with FEMAPR 44-1.706-3. Proposed procurements for construction which exceed an estimate of \$1,000,000 shall be considered for set-aside on a case-by-case basis.

**§ 44-1.706-50 Review of class set-aside program for construction, including repair and alteration.**

Each procuring office, shall forward a semi-annual report on class set-aside withdrawals to the Director, Division of Acquisition Management as a part of the required Standard Form 37, Report on Procurement by Civilian Executive Agencies. The Director, Division of Acquisition Management, acting as the small business advisor, shall direct actions to be taken to improve small business participation under the class set-aside in FEMAPR 44-1.706-5.

**§ 44-1.713 FEMA contracts with the SBA.**

It is the policy of FEMA to increase small business participation in procurement programs by awarding procurement contracts, whenever feasible to the SBA as authorized by Section 8(a) of the Small Business Act (15 USC 637(a)) and the FPR.

**§ 44-1.750 FEMA responsibilities and functions pursuant to section 8(a) of the Small Business Act are as follows.**

(a) 8(a) program responsibilities. The FEMA Director for Small and Disadvantaged Business Utilization shall be responsible for the development and review of goals to be achieved under the 8(a) program and shall coordinate with the Director, the program offices, and the regional directors in establishing the level of FEMA's participation in the 8(a) program and the level of coordination with the small business advisor appropriate and necessary to definitize FEMA's plan for implementation of the 8(a) established goals. In conjunction with this responsibility for establishing 8(a) goals, the Director for Small and Disadvantaged Business Utilization shall make available to the small business advisor 8(a) program guides for use by the small business specialists and contracting officers in making determinations on individual procurements that should be processed as an 8(a) contract to be awarded to SBA.

(b) 8(a) procurement responsibility. The procurement and contracting aspects of this program shall be the responsibility of the small business advisor who shall assure that 8(a) procurement requirements are implemented through the small business specialists in each of their appropriate areas of assignment.

(c) 8(a) functions of the small business specialist. The small business specialist(s) acting on behalf of the small business advisor, shall screen proposed solicitations to determine the feasibility of placement under the 8(a) program as part of the performance of those duties set forth under FEMAPR 1.704-1. The small business specialists, after consideration of the goals and guidance established pursuant to paragraph (a) of this section, shall make recommendations for 8(a) procurement to the contracting officer, who may, in his discretion, contract with the Small Business Administration in accordance with 41 CFR 1-1.705-7 and 1-1.713.

(d) 8(a) reporting requirements. The small business advisor shall report to the Director for Small and Disadvantaged Business Utilization on a quarterly basis covering the activities of the 8(a) program which report shall include the following:

- (1) A narrative statement regarding the operation of the program during the three month period; and
- (2) The number and dollar amount of awards made to small business under the 8(a) program.

**Subpart 1.8—Labor Surplus Area Concerns**

**§ 44-1.800 Scope of subpart.**

This subpart sets forth policies and procedures governing aid to sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas.

**§ 44-1.803 FEMA direction and operation.**

FEMA shall implement the policies and procedures set forth in 41 CFR 1-1.8 through its labor surplus area advisor and its labor surplus area specialists.

**§ 44-1.803-1 Labor surplus area advisor.**

The Director, Division of Acquisition Management, is hereby designated as FEMA's labor surplus area advisor for all procurement matters. The labor surplus area advisor is responsible for the establishment, implementation and execution of the labor surplus area program within FEMA. He is the point of contact for inquiries concerning the program from industry, the Departments of Labor and Commerce, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation to increase the share of contracts awarded to labor surplus area concerns by FEMA. He will be assisted on a daily basis by the labor surplus area specialists.

**§ 44-1.803-2 Labor surplus area specialists.**

The labor surplus area advisor shall designate, by name and in writing, a labor surplus area specialist in each procuring office of FEMA who shall be responsible for maintaining the program in those procuring offices in accordance with the requirements of the FPR, the FEMAPR and any further directives from the labor surplus area advisor.

The labor surplus area specialist for the Division of Acquisition Management at FEMA headquarters, in addition to the above, shall also act as coordinator for the labor surplus area activities in the other procuring offices and provide liaison between the other labor surplus area specialists and the labor surplus area advisor.

**§ 44-1.803-3 Screening of procurements.**

All proposed procurements estimated to exceed \$10,000 shall be reviewed by the labor surplus area specialist to identify those procurements which should be set aside in whole or in part for labor surplus area concerns in accordance with 41 CFR 1-1.804-1 and to identify possible subcontracting

opportunities for labor surplus area concerns.

The labor surplus area specialist shall initiate recommendations to the contracting officer based upon these reviews for labor surplus area set-asides for those individual procurements or classes of procurements or portions thereof identified.

**§ 44-1.803-4 Review of set-aside recommendations initiated by labor surplus area specialists.**

When the labor surplus area specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for labor surplus area concerns, the contracting officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation, the labor surplus area specialist may appeal to the head of the procuring activity whose decision shall be final.

**§ 44-1.804 Partial set-asides for labor surplus area concerns.**

**§ 44-1.804-4 Withdrawal of set-asides.**

A withdrawal of an individual or class set-aside which was originally established upon the recommendation of the labor surplus area specialist may be proposed by the contracting officer by giving written notice, containing the reason for the proposed withdrawal to the labor surplus area specialist. If the labor surplus area specialist does not agree to a withdrawal, the contracting officer may appeal to the head of the procuring activity whose decision shall be final.

**§ 44-1.804-50 Modifications of set-asides.**

Modifications of set-asides shall be handled in the same manner as withdrawals of set-asides.

**Subpart 1.10—Publicizing Procurement Actions**

**§ 44-1.1003-2 General requirements.**

(a) Except in the instances described in 41 CFR 1-1.1003-2(a)(1) through (10) every proposed modification to, or exercise of an option on, existing contracts, when new funds are obligated for additional supplies and services, which may result in an award of \$5,000 or more, shall be published promptly in the Commerce Business Daily.

(b) Synopses prepared in accordance with paragraph (a) above on procurements negotiated on a noncompetitive basis, shall indicate that the procurement is being synopsized to show that the agency believes only one

source to exist. Descriptions of noncompetitive procurements contained in such synopses shall be in such detail that a firm can clearly understand the requirement and thus decide on the basis of adequate information whether it has the ability to compete in performing the work.

**Subpart 1.13—Small Business Concerns Owned and Controlled by One or More Socially and Economically Disadvantaged Individuals**

**§ 44-1.1300 Scope of subpart.**

This subpart contains policies and procedures applicable to the participation in FEMA procurement of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals.

**§ 44-1.1302 Policy.**

It is the policy of FEMA to foster and promote the participation, of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals in the Agency's procurement program and to offer guidance to such firms to the maximum extent practicable in order to enhance their ability to compete for the placement of FEMA procurement contracts. In furtherance of this policy, a presolicitation notice shall be sent to each small business concern owned and controlled by one or more socially and economically disadvantaged individuals listed on the Bidders Mailing list which has indicated a capability in the particular subject area. Such notification shall include a description of the procurement in sufficient detail to allow the firm to make a judgment as to whether or not to request the solicitation package. This notification shall be sent as soon as practicable after receipt of the procurement but in no event later than the date the synopsis is forwarded to the Commerce Business Daily. Failure of a firm to respond to three consecutive presolicitation notices shall result in removal of that firm's name from the Bidders Mailing List.

**§ 44-1.1303 Solicitation representation.**

As with procurements over \$10,000, it is desirable that a representation as a small business concern owned and controlled by one or more socially and economically disadvantaged individuals be obtained from all bidders, offerors, and contractors for procurement under \$10,000. Accordingly, procuring offices shall request, whether in a solicitation or otherwise, that all bidders, offerors and contractors, complete and return on

a voluntary basis, the certificate set forth in 41 CFR 1-1.1303, indicating also the applicable solicitation number or purchase order number. Completion of the certificate shall not be regarded as a condition for award.

**Subpart 1.50—Criteria for Use of Procurement Contracts Versus Assistance Instruments [Reserved]**

**PART 44-2—PROCUREMENT BY FORMAL ADVERTISING**

Sec.

44-2.000 Scope of part.

**Subpart 2.1—Use of Formal Advertising**

44-2.106 Procurement management review.

**Subpart 2.2—Solicitation of Bids**

44-2.201 Preparation of invitation for bids.

44-2.202 Miscellaneous rules for solicitation of bids.

44-2.202-1 Bidding time.

44-2.202-2 Telegraphic bids.

44-2.202-3 Place and method of delivery of supplies.

44-2.202-4 Bid samples.

44-2.202-50 Extension of time for bid opening.

44-2.202-51 Pre-bid conferences.

44-2.202-52 Bid envelopes.

44-2.205 Bidders mailing lists.

44-2.205-1 Establishment of lists.

44-2.205-4 Excessively long bidders mailing lists.

44-2.250 Small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns.

**Subpart 2.3—Submission of Bids**

44-2.301 Responsiveness of bids.

44-2.303 Late bids.

44-2.303-6 Notification to late bidders.

44-2.303-7 Disposition of late bids.

**Subpart 2.4—Opening of Bids and Award of Contract**

44-2.401 Receipt and safeguarding of bids.

44-2.402 Opening of bids.

44-2.406 Mistakes in bids.

44-2.406-3 Other mistakes disclosed before award.

44-2.407 Award.

44-2.407-7 Statement and certificate of award.

44-2.407-8 Protests against award.

**Subpart 2.5—Two-Step Formal Advertising**

44-2.502 Conditions for use.

Authority: 41 CFR 1-1.008.

**§ 44-2.000 Scope of part.**

This part implements and supplements the basic requirements for procurement of personal property and non-personal services (including construction) by formal-advertising, and establishes policies with respect to solicitation of bids, submission of bids, opening and evaluation of bids and the



awarding of contracts as set forth in 41 CFR Part 1-2.

#### Subpart 2.1—Use of Formal Advertising

##### § 44-2.106 Procurement management reviews.

The Policy and Support Branch of the Division of Acquisition Management shall be responsible for meeting the requirements of 41 CFR Part 1-2.106.

#### Subpart 2.2—Solicitation of Bids

##### § 44-2.201 Preparation of invitation for bids

Forms used in the preparation of invitations for bids are prescribed in 41 CFR Subparts 1-16.1 and 1-16.4 and Part 16 of the FEMAPR.

##### § 44-2.202 Miscellaneous rules for solicitation of bids.

##### § 44-2.202-1 Bidding time.

In the procurement of supplies and services, the following shall be observed:

(a) Procurement action which does not provide for the minimum bidding time required by 41 CFR 1-2.202-1(c) shall be justified by the contracting officer prior to releasing the invitation for bids. This justification shall take the form of a finding of fact which establishes the contracting officer's basis for the exception to the minimum bidding time.

(b) The minimum bidding time stipulated in 41 CFR 1-2.202-1(c) shall not be construed as a maximum. Each prospective procurement shall be examined on its own merits to determine the bidding time that will facilitate competition on reasonable and equal terms. As a general rule, procurement of a less complicated nature for which no extensive bid preparation by the prospective bidder is required in development of his bid may contain a bidding time of 20 calendar days. Where the specification may require prospective bidders to develop drawings or samples, or to do extensive preparation in developing a meaningful bid, 30 calendar days or more of bidding time may be required.

##### § 44-2.202-2 Telegraphic bids.

Telegraphic bids will be authorized only by the contracting officer who shall document the official procurement file as to the necessity of telegraphic bids. Conditions under which telegraphic bids may be authorized are set forth in 41 CFR 1-2.202-2. When telegraphic bids are authorized by the contracting officer, a clause shall be incorporated in the invitation for bids, authorizing such bids and providing instructions on their

submission in accordance with 41 CFR Part 1-2.202-2(a).

##### § 44-2.202-3 Place and method of delivery of supplies.

To the maximum extent practical, invitations for bids issued by FEMA shall stipulate "f.o.b. destination." Only where the contracting officer determines in writing that it is in the Government's best interest may he deviate from this policy.

##### § 44-2.202-4 Bid samples.

Bid samples submitted by bidders as required by an invitation for bids or as unsolicited samples, if not returned in accordance with 41 CFR Part 1-2.202-4(h), shall be disposed of by the contracting officer who shall document the contract file as to the method of disposition.

##### § 44-2.202-50 Extension of time for bid opening.

Whenever such action is determined by the contracting officer to be in the best interest of the Government, bid openings may be rescheduled for a later date by issuance and distribution of an amendment (See 41 CFR 1-2.207) to the invitation for bids. Notices of change in bid opening date shall specify the exact time and date for the new opening and will be issued by mail or telegram as soon as possible, but, in any event, prior to the time specified for the opening of bids.

##### § 44-2.202-51 Prebid conferences.

Whenever a prebid conference is proposed for a formally advertised procurement the following will be applicable:

(a) *General.* One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, discussions with prospective bidders will only be conducted by or with the knowledge and approval of the contracting officer. It is incumbent upon the contracting officer to avail all prospective bidders of the same information so as not to give one an advantage over the others. The need for prebid conferences in advertised procurements should be infrequent and such conferences shall not be used as a substitute for formally amending defective or ambiguous solicitations or to disseminate additional specification requirements. A prebid conference is only authorized when it is deemed by the contracting officer to be in the best interest of the Government and approved by the head of the procuring activity or when written internal program policy requires it under certain specified circumstances.

(b) *Purpose.* A prebid conference is held to accomplish these primary objectives:

(1) To provide discussion of unusual aspects of complex procurements.

(2) To impart information that removes areas of performance uncertainties which, unless removed, result in higher price to the Government, i.e., inclusion in the bid of an amount for the uncertainty or contingency.

(3) To avoid post-award performance problems which firms could have been made aware of at the time of bid preparation.

(c) *Format.* The typical format of a prebid conference is a formal presentation by the contracting officer or his representative followed by a question and answer period. All prospective bidders and their subcontractors shall be invited to the meeting in a manner deemed appropriate by the contracting officer. When held, a prebid conference shall be scheduled sufficiently in advance of the date set for bid opening to permit prospective bidders to use the information. A written record of the prebid conference shall be made and maintained in the procurement file as the official record of what was presented at the conference.

(d) *Conclusion.* As a result of the prebid conference, it may become necessary to change or substantially clarify the invitation for bid. This action shall be transmitted to all those receiving invitation for bids in the form of an official amendment to the solicitation, taking into consideration any extension of the closing date for the receipt of bids.

##### § 44-2.202-52 Bid envelopes.

Mailing labels, or envelopes, bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, the Optional Form 17, "Sealed Bid Label" may be furnished with each bid set to inform the bidder as to what will be required on the bid envelope. 41 CFR 1-16.902-OF17 illustrates the referenced form and copies of same can be obtained from the General Services Administration.

##### § 44-2.205 Bidders mailing lists.

##### § 44-2.205-1 Establishment of lists.

New prospective suppliers that have been added to the bidders mailing list shall be notified by the procuring office by a letter so indicating.

##### § 44-2.205-4 Excessively long bidders mailing lists.

It is the policy of FEMA to send preinvitation notices to concerns on the mailing list, described in 41 CFR 1-2.205-4(c), in lieu of initially forwarding complete bid sets for all procurements expected to result in awards in excess of \$10,000.

##### § 44-2.250 Small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns.

It is the policy of FEMA to send preinvitation notices to all small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns that are on the bidder's mailing list for each procurement expected to result in an award in excess of \$10,000, subject to the provisions of 44-1.1302.

#### Subpart 2.3—Submission of Bids

##### § 44-2.301 Responsiveness of bids.

Any bid which is not signed by the bidder or his authorized representative shall be disregarded, except when it is accompanied by other evidence which demonstrates the bidder's intention to be bound by the unsigned bid document. An example of such evidence is a bid guarantee or a letter (which does not qualify or otherwise render the bid non-responsive) signed by the bidder referring to, and clearly identifying the bid itself. In such a case, the contracting officer may waive the deficiency as a minor informality or irregularity (see 41 CFR 1-2.405) and shall document the file to so indicate.

##### § 44-2.303 Late bids.

##### § 44-2.303-6 Notification to late bidders.

In setting the date to be inserted in the notice to late bidders contained in 41 CFR 1-2.303-6, consideration should be given to the time required by the bidder to develop and prepare the required evidence in relation to the acceptance period specified by the otherwise apparent low bidder, avoidance of undue delay in the procurement cycle, and other pertinent factors. As a general rule, the bidder should be allowed a minimum of three (3) working days in addition to a time allowance for transmitting the notice to, and receipt of the evidence by, the contracting officer. The bidder shall be notified immediately in writing if his bid cannot be considered for award because of lateness.

##### § 44-2.303-7 Disposition of late bids.

The return of a late bid which cannot be considered for award shall be accompanied by a statement from the contracting officer that the bid was not considered because of its late receipt. If the late bid had to be opened for identification purposes or was opened by mistake, this fact shall be included in the statement from the contracting officer accompanying the returned bid. In all cases where a late bid is not considered and returned to the bidder, the file shall be documented with all information relating to the determination of late receipt which shall include a copy of the late bid envelope.

#### Subpart 2.4—Opening of Bids and Award of Contract

##### § 44-2.401 Receipt and safeguarding of bids.

(a) Envelopes or other outer coverings containing identified bids shall be stamped or otherwise marked to show the office of receipt, the time of day received and the date. The individual receiving the bids shall then place his initials under the above marking.

(b) The contracting officer shall, in addition to the requirements of 41 CFR 1-2.401(b), retain in the file a copy of the envelope, wrapper or other container bearing the required documentation of a bid which was opened by mistake or for purposes of identification.

##### § 44-2.402 Opening of bids.

The bid opening will be conducted by the contracting officer or his duly authorized representative designated as the bid opening officer. At the bid opening, the relative merits of any bids shall not be discussed by the person opening the bids, or the contracting officer, with the bidders, their representatives, casual observers, or Agency personnel. No statement shall be made by the person opening the bids or the contracting officer at a bid opening bearing on the award, the possibility of a readvertisement, mistakes in bids, the responsiveness of any bid or responsibility of any bidder, etc. Oral instructions shall not be given to bidders at any time during the opening. Protests of bidders and inquiries regarding the award of the contract shall be referred to the contracting officer after the completion of the bid opening. Bidders are cautioned that information obtained at bid opening from other than the contracting officer may only be relied upon by the bidder at the bidder's own risk. After all bids have been opened, read aloud and recorded, the bid

opening officer shall state that opening of bids has been completed.

##### § 44-2.402-50 Timing of acceptance and withdrawal of bids.

Bidders may not withdraw their bids after bid opening unless the notice of withdrawal was mailed prior to the time set for bid opening and handled in accordance with 41 CFR 1-2.305.

##### § 44-2.406 Mistakes in bid.

##### § 44-2.406-3 Other mistakes disclosed before award.

The Director, Division of Acquisition Management, is delegated the authority to make determinations in accordance with 41 CFR 1-2.406-3 concerning mistakes in bid discovered prior to award other than obvious clerical errors. Each such determination shall be approved by the Office of General Counsel prior to notification of the bidder.

##### § 44-2.407 Award.

##### § 44-2.407-8 Protests against award.

(a) Resolution of protests, received before or after award, shall be pursued initially by the contracting officer. If the protest cannot be resolved to the satisfaction of the protestor, the contracting officer shall refer the matter to the head of the procuring activity prior to issuing a final decision. In referring the matter, the contracting officer shall prepare and forward to the head of the procuring activity a report consisting of the documents set forth in 41 CFR 1-2.407-8(a)(2). The head of the procuring activity shall consider the matter on the basis of this report, and any advice from the Office of General Counsel, the General Accounting Office (GAO) as may be requested, and shall provide the contracting officer with a recommended course of action to resolve the protest.

(b) A protestor shall be notified of the final decision on his protest within thirty (30) working days from the date the protest is received in the procuring activity, except where GAO views are requested in which case the time for rendering a decision shall be twenty (20) working days from receipt by the head of the procuring activity of GAO views.

(c) In a case where a protest is referred to the head of the procuring activity for review, to assure that the protestor receives timely notification of the final decision, the contracting officer shall submit the required report described above to the head of the procuring activity within ten (10) working days after receipt of the protest and the head of the procuring activity shall provide the contracting officer with



the recommended course of action within fifteen (15) working days after his receipt of the report or fifteen (15) days after receipt of GAO views, if requested.

(d) The contracting officer, except as described above, is responsible for all matters relating to protests against award of contracts within FEMA unless the protest has been filed concurrently or otherwise with the GAO. In such cases, the Office of General Counsel is responsible for liaison with the GAO. All communications concerning a protest, written or otherwise, directed to GAO shall be coordinated with the Office of General Counsel and all written communications from FEMA to the GAO shall be by the Office of General Counsel. The contracting officer, via the head of the procuring activity, is responsible for furnishing the Office of General Counsel with all information relating to the protest.

(e) Upon receipt of a protest, or upon receipt of notification from the head of the procuring activity that a protest has been filed with GAO, the contracting officer shall promptly notify in writing the contractor, if award has been made, and in any case, all bidders who, in the opinion of the contracting officer appear to have a reasonable prospect of receiving an award if the protest is sustained. This notification shall indicate that a protest has been filed concerning the solicitation or the award of the contract and the basis for the protest (see 41 CFR 1-2.407-8(a)(3)). In addition, the contracting officer shall request the bidders to extend the time for acceptance of their bids. Both the contracting officer's request for such extension and the bidders' responses shall be in writing. Where a protest has been lodged with the GAO, and the GAO requests that a formal report be submitted, the Office of General Counsel shall be responsible for submitting the formal report, or a written statement setting forth the reasons for any delay and the expected date of submission to GAO, within twenty-five (25) working days after receipt of the request, unless a different time is stipulated by GAO.

(f) Upon receipt of the request, the Office of General Counsel shall immediately notify the head of the procuring activity of the request, and the head of the procuring activity shall immediately notify the contracting officer of same. Upon such notification from the head of the procuring activity, the contracting officer shall begin to compile the report that he would normally compile for protests which are referred to the head of the procuring activity, plus a statement of the urgency of the procurement and the extent to

which a delay in award may result in significant performance difficulties or additional expense to the Government, if appropriate, or if not appropriate, a statement of the length of time an award may be delayed without significant expense or difficulty in performance. The contracting officer shall then submit the report to the head of the procuring activity within ten (10) working days from receipt of notification. The head of the procuring activity shall then forward the report, with any comments, to the Office of General Counsel within five (5) working days of receipt. The Office of General Counsel's report to GAO shall include the documents and statements submitted by the head of the procuring activity, as appropriate, the GAO file number assigned to the protest, and any additional comments by the Office of General Counsel. The report shall be transmitted by a covering letter addressed to the individual in the GAO who signed the request and shall state that copies thereof have been sent to the protestor and any other name parties who have been given notice of the protest. The external distribution shall be shown on the original of the letter to GAO. In addition, letters shall be sent to the protestor and other interested parties enclosing a copy of the completed report and shall advise recipients that any comments shall be filed with the Office of General Counsel, General Accounting Office, within ten (10) working days after receipt, with copies to the procuring activity and the Office of General Counsel of FEMA. If GAO requests additional information, a supplementary report shall be transmitted to GAO within five (5) working days after FEMA receives the request and shall follow the procedures set forth in 41 CFR 2.4078(a)(4). Where the contracting officer makes a determination to award a contract notwithstanding a protest as authorized by 41 CFR 1-2.4078(b)(4), the head of the procuring activity shall approve such a determination prior to award.

(g) If the protest has not been filed with GAO, the head of the procuring activity may, at his discretion, obtain, through the Office of General Counsel the views of GAO regarding the protest whenever such action is considered desirable, prior to approving or disapproving the determination. If the head of the procuring activity approves the determination, he shall notify the contracting officer that he is authorized to make the award. If the protest has been filed with the GAO, the head of the procuring activity, upon approval of the determination, but prior to authorizing the contracting officer to make the

award, shall notify the Officer of General Counsel of the intent to make the award. The Office of General Counsel shall then furnish GAO with notification of the intent to obtain formal or informal advice concerning the current status of the case prior to making the award. This advice shall be transmitted to the head of the procuring activity, who, in light of this advice, shall notify the contracting officer as to whether or not the award should be made. However, if in the opinion of head of the procuring activity, obtaining this advice will delay excessively the award, he may proceed with award after advising GAO through the Office of General Counsel of his intent.

(h) Protests shall be filed to be received at the procuring office not later than five (5) working days after the basis for protest is known or reasonably should have been known, whichever is earlier.

(i) The head of the procuring activity shall maintain records relating to all protests received. The records shall contain adequate data to show the number and nature of formal protests received (whether filed directly with FEMA or with GAO), their disposition and the time for resolution. These records will be reviewed annually in order to update protest procedures.

#### Subpart 2.5—Two-Step Formal Advertising

##### § 44-2.502 Conditions for use.

Pursuant to 41 CFR 1-2.502, approval must be obtained from the head of the procuring activity before the two-step formal advertising method of procurement may be used.

#### PART 44-3—PROCUREMENT BY NEGOTIATION

Sec.

44-3.000 Scope of part.

##### Subpart 3.1—Use of Negotiation

44-3.100 Scope of subpart.

44-3.101-50 Noncompetitive procurement.

44-3.101-51 Preference for local contractors in Federally-declared disaster areas.

44-3.103 Publicizing procurement actions.

44-3.103-50 Preproposal conferences.

44-3.104 Disclosure of mistakes after award.

44-3.150 Treatment of proposal information

44-3.150-1 General.

44-3.150-2 Disposition of unsuccessful proposals.

44-3.150-3 Use of successful proposals.

##### Subpart 3.4—Types of Contracts

44-3.400 Scope of subpart.

44-3.405-3 Cost-sharing contract.

44-3.408 Letter contract.

##### Subpart 3.7—Negotiated Overhead Rates

44-3.700 Scope of subpart.

Sec.

44-3.702 General.

44-3.707 Overhead ceilings.

#### Subpart 3.8—Price Negotiation Policies and Techniques

44-3.800 Scope of subpart.

44-3.801-2 Responsibility for determination of final price.

44-3.802 Preparation for negotiation.

44-3.802-2 Alternate procedures for consideration of late proposals.

44-3.805 Selection of offerors for negotiation and award.

44-3.805-50 Source selection procedures.

#### Subpart 3.51—Protests Against Award

3.5101 Negotiated procurement protests.

Authority: 41 CFR 1-1.008.

##### § 44-3.000 Scope of part.

This part prescribes policies and procedures which shall be observed by FEMA procuring offices in connection with procurement by negotiation.

##### Subpart 3.1—Use of Negotiation

##### § 44-3.100 Scope of subpart.

This subpart sets forth policies and procedures concerning exceptions to normal negotiation procedures and the dissemination of procurement information.

##### § 44-3.101-50 Noncompetitive procurement.

(a) General. FEMA procurement shall be accomplished on a competitive basis to the maximum extent practicable. Procurement without competition shall be limited to those circumstances in which only one firm, organization or individual can provide the required supplies or services.

(1) *Procurements not expected to exceed \$100,000.* Program offices recommending procurement on a noncompetitive basis shall submit a detailed summary of the factual circumstances justifying noncompetitive procurement to the contracting officer. The contracting officer shall review the justification in accordance with the criteria outlined in paragraph (c) of this section. If, in the judgment of the contract officer, the justification adequately supports procurement on a noncompetitive basis pursuant to paragraph (c) of this section, the contracting officer shall evidence his approval of the justification by preparing and signing a determination which states that the circumstances set forth in the justification meet one of the criteria for procurement on a noncompetitive basis set forth in FEMAPR 3.101-50(c) and which details the reasons why these circumstances are considered to meet this criterion. The contracting officer shall then insert the determination and accompanying

rationale in the contract file with the justification and commence negotiations with the identified firm. In the event that the contracting officer does not feel that the justification adequately supports procurement on a noncompetitive basis, he shall evidence his disapproval of the justification by preparing and signing a determination which states that the circumstances set forth in the justification do not meet either of the criteria for procurement on a noncompetitive basis set forth in FEMAPR 3.101-50(c) and which details the reasons why these circumstances are not considered to meet either of the criteria. If the justification is disapproved by the contracting officer the originating program office may appeal the determination to the head of the procuring activity whose decision shall be final.

(2) *Procurements expected to exceed \$100,000 but not expected to exceed \$500,000.* The procedures set forth in paragraph (a) (1) of this section shall be followed for procurements expected to exceed \$100,000, but not expected to exceed \$500,000, except that when the contracting officer has either approved or disapproved the justification for noncompetitive procurement, the contracting officer shall submit the determination, the accompanying rationale and the justification along with the contract file to the head of the procuring activity. The head of the procuring activity shall then review the contracting officer's determination, accompanying rationale and the justification and either concur or not concur in the determination in writing. All nonconcurrences by the head of the procuring activity shall be accompanied by a statement of the reasons for the nonconcurrence. If the concurrence or nonconcurrence of the head of the procuring activity results in approval of the justification for noncompetitive procurement, the contracting officer shall commence negotiations with the identified firm. If the concurrence or nonconcurrence of the head of the procuring activity results in disapproval of the justification, the contracting officer shall advise the originating program office in writing, of the disapproval detailing the reasons therefor.

(3) *Procurements expected to exceed \$500,000.* The procedures set forth in paragraph (a)(2) of this section shall be followed for procurements expected to exceed \$500,000, except that when the head of the procuring activity has either concurred or not concurred in the determination of the contracting officer the head of the procuring activity shall submit the contracting officer's

determination, accompanying rationale and the justification along with the written concurrence or nonconcurrence of the determination to the Director, Officer of Finance and Administration. The Office of Finance and Administration shall review the justification in light of the information provided by the head of the procuring activity and approve or disapprove the justification. If the approval or disapproval represents a nonconcurrence with the recommendation of the head of the procuring activity, the Director, Office of Finance and Administration shall provide a written statement to the head of the procuring activity detailing the reasons therefor. If the justification is approved the contracting officer shall advise the originating program office, in writing, of the disapproval detailing the reasons therefor.

(b) *Exclusions.* The provisions of FEMAPR 44-3.101-50(a) do not apply to the following:

- (1) Procurements of \$500 or less
- (2) Procurements from or through other Government Agencies
- (3) Procurements of architect-engineer services
- (4) Procurements of utility services where the services are available from only one source
- (5) Procurements with the Small Business Administration
- (6) Purchases from mandatory Federal Supply Schedule contracts which list only one source.

(c) *Justification for noncompetitive procurement.* In order for procurement on a noncompetitive basis to be approved by the Contracting Officer, the justification must demonstrate that one of the following criteria has been met:

- (1) The recommended source possesses a unique characteristic or capability that serves to make that source the only one able to provide the desired product or service and all other sources unable to provide the product or service.
- (2) The proposed procurement is for replacement of components for equipment specially designed by a manufacturer, and available data is not adequate to assure that replacement parts or components, if provided by a source other than the manufacturer of the equipment, would be compatible with, or perform the same function as, the parts or components being replaced.

§ 44-3.101-51 Preference to local contractors in procurements resulting from Presidentially declared major disasters or emergencies.

(a) *Scope of subsection.* This subsection establishes policies relating to local contractor preference to receive



procurement awards resulting from competitively negotiated solicitations with a Presidentially-declared major disaster or emergency operation.

(b) *Geographical coverage.* The geographic areas to which local contractor preference shall apply are those affected by the Presidentially-declared disaster and designated by the Associate Director for Disaster Response and Recovery in the Federal Register. Geographical areas shall be identified by county or other political subdivision.

(c) *Procurement for implementation of the procurement of supplies and services for disaster relief response.* The clause set forth below shall be included in each competitively negotiated solicitation for disaster relief response.

#### Provision for Competitively Negotiated Solicitations

In awarding any contract(s) pursuant to this solicitation, the Government shall give preference to local organizations, firms and individuals residing or doing business primarily in the geographic area identified as the disaster area by the Associate Director for Disaster Response and Recovery.

The contracting officer reserves the right to request offerors to furnish documentation to demonstrate eligibility for local contractor preference. To be eligible for local contractor preference, the offeror shall have been residing (in the case of individuals) or doing the major portion of its business (in the case of business entities) in the disaster area.

Offerors for which eligibility is established (local offerors) shall be permitted to reduce their proposed price to meet the lowest price received from an otherwise eligible nonlocal offeror, provided that the proposed price from the local offeror(s) does not exceed 130% of the price received from the nonlocal offeror. The lowest priced local offeror within 130% of the lowest nonlocal price shall be given the initial opportunity to meet the nonlocal price. If the local offeror meets the lowest nonlocal price and is determined to be responsible, award shall be made. If the nonlocal offer is not met, the next lowest local offeror within 130% shall be given an opportunity to meet the lowest nonlocal price. This process shall continue until award is made to a local offeror within the 130% requirement or the supply of such local offerors is exhausted and award made to the lowest nonlocal offerors.

(d) *Exception to use of local preference provisions.* If it is determined by the Contracting Officer to be in the best interest of the Government the clause set forth in Paragraph (c) of this

section need not be included in solicitations. Such determination shall be documented in the contract file with a findings and determination signed by the contracting officer and approved by the head of the procuring activity.

(e) *Additional methods for encouraging local participation.* In the event the contracting officer makes the determination of paragraph (d) of this section, local participation may be encouraged by:

(1) Setting the procurement aside for labor surplus areas if the disaster area has been established as a labor surplus area;

(2) Advertising only in the local disaster area; and/or

(3) Subdividing large requirements into several smaller requirements.

#### § 44-3.103 Dissemination of procurement information.

(a) *Publicizing procurement actions.* The agency shall continually search for and develop information on sources (including small businesses owned and controlled by one or more socially or economically disadvantaged individuals) competent to provide supplies or services. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking to do business with the agency and (b) a cooperative effort by program personnel, small business specialists and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirements. Each procuring office shall use to the maximum extent practicable its bidders mailing list for soliciting competition.

(b) *Release of information during the solicitation phase.* No information shall be released during the solicitation phase of a procurement except as follows:

Each solicitation for a negotiated procurement shall specify an individual within the procuring office who shall be responsible for responding to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions concerning the solicitation whether of a procedural or substantive nature shall be directed to the above individual. All other personnel will avoid exchange of comments with all offerors or potential offerors. Answers to questions requiring clarification of the substantive portion of the solicitation shall be provided by amendment to the solicitation a copy of which shall be furnished to each recipient of the solicitation.

(c) *Release of information during the evaluation phase.* During the course of evaluating proposals, personnel involved in this activity shall not reveal any information concerning the evaluation of proposals to anyone who is not also participating in the same evaluation proceedings, except as may be required for internal clearances. However, the contracting officer, upon determination that a proposal is unacceptable, or not within the competitive range, shall provide prompt notice of the fact to the offeror submitting the proposal. In addition to stating that the proposal has been determined to be unacceptable, or not within the competitive range, the notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise the offeror that since further negotiation with him is not contemplated, a revision of his proposal will not be considered. Such notice need not be given if (a) in the judgment of the contracting officer, the disclosure will prejudice the Government's interest (the possibility of protest shall not be considered prejudicial), or if the proposed contract is to be awarded within a few days and notice pursuant to 41 CFR 1-3.103 would suffice. This notification procedure shall not apply to procurements negotiated pursuant to 41 USC 252(c) (4), (5) or (6); negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited; or urgent procurement actions which the contracting officer determines in writing must be awarded without delay to protect the public interest. The contracting officer's determination shall be placed in the contract file.

(d) *Postaward release of procurement information.* Promptly after making award of any procurement in excess of \$10,000, the contracting officer shall, if he has not done so pursuant to FEMAPR 44-3.103(c), give written notice to the unsuccessful offerors that their proposals were not accepted. The notice should name the successful contractor and state the amount of the award and the number of proposals received. Where additional information is requested by the offeror, it shall be provided as follows:

(1) It is the policy of FEMA to provide a debriefing to any unsuccessful offeror who makes a written request to the contracting officer within two (2) months after contract award.

(2) A debriefing is intended to:

(i) Tell an unsuccessful offeror which areas of his proposal were judged to be weak or deficient and whether the weaknesses or deficiencies were factors in his not having been selected.

(ii) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed and given a general comparison of significant areas, but not a point by point comparison of all the elements considered in the evaluation criteria.

(3) A debriefing should not reveal:

(i) Confidential business information, trade secrets, techniques, or processes of the other offerors; and

(ii) The relative merits or technical standing of the unsuccessful offerors or the scoring by the Source Evaluation Board or Technical Evaluation Panel.

(4) Any FEMA official who receives from an unsuccessful offeror a request, written or oral, for a debriefing shall immediately refer the request to the appropriate procuring office which shall make the necessary arrangements for the debriefing.

(5) It is essential that the debriefing be conducted in a scrupulously fair, objective and impartial manner, and that the information given be factual and consistent with the findings of the evaluation and the basis on which the source selection official made his decision.

(6) It is most important that all FEMA personnel engaged in the evaluation and selection process be aware of the foregoing policies and procedures. Detailed and complete records will be maintained by key technical and business participants in a manner which will facilitate either a written or oral debriefing of any unsuccessful offeror's proposal.

#### § 44-3.103-50 Preproposal conferences.

In cases of complex procurement, preproposal conferences may be used to explain complicated specifications and requirements to prospective offerors so as to permit them to submit proposals without undue expenditure of effort, time and money. The preproposal conference shall not be used as a method for prequalification of offerors, and may only be used when approved by the head of the procuring activity. The preproposal conference shall be arranged and conducted by the contracting officer or his representative with participation by technical, legal and such other personnel as appropriate. All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be

advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgement and receipt of solicitation amendments shall be applied. A complete record shall be made of the conference.

#### § 44-3.104 Disclosure of mistakes after award.

Mistakes discovered in prospective contractor's proposals after award is made, shall be handled in accordance with 41 CFR 1-2.406-4 as implemented by FEMAPR 44-2.406-4.

#### § 44-3.150 Treatment of proposal information.

##### § 44-3.150-1 General.

It is the general policy of FEMA to use information contained in proposals only for evaluation purposes except to the extent such information is generally available to the public, is already the property of the Government or the Government already has unrestricted use rights, or it is, or has been made available to the Government from other sources, including the offeror, without restriction.

##### § 44-3.150-2 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) All but one copy of each unsuccessful proposal shall be destroyed upon contract award. The one remaining copy of each unsuccessful proposal may be retained in the official contract file until for sixty (60) days at the end of which time it would be destroyed.

(b) Unsuccessful proposals shall not be used for purposes other than internal reference unless (1) written permission has been obtained from the offeror or (2) the proposal expressly states that unrestricted use of the proposal is given to the Government regardless of its success in the competition or (3) any of the conditions described in FEMAPR 44-3.150-1 exist.

##### § 44-3.150-3 Use of successful proposals.

The Government shall normally be accorded unrestricted use of successful proposals. In the event that the successful offeror desires to place restrictions on the use of his proposal, the terms and extent of such restrictions may be set forth in the resulting contract. In any event the Freedom of Information Act will govern.

#### Subpart 3.4—Types of Contracts

##### § 44-3.400 Scope of subpart.

This subpart sets forth policies and procedures concerning the use of cost-sharing contracts and letter contracts.

##### § 44-3.405-3 Cost sharing contracts.

(a) *Purpose.* This subsection sets forth basic guidelines governing cost-sharing on research contracts with non-Federal organizations.

(b) *Basic guidelines.* Cost sharing with non-Federal organizations shall be encouraged as provided below for the following contracts for basic or applied research:

(1) A contract in which the parties have considerable mutual interest in the research (e.g., when it is probable that the performing organization or institution will receive significant future benefits from the research such as increased technical knowledge useful in future operations, additional technical or scientific expertise or training for its personnel, opportunity to benefit through patent rights, or the use of background knowledge in future production contracts).

(2) Cost sharing ordinarily shall not be applied to the following contracts:

(i) When the contracting officer has determined that:

(A) The research effort has only minor relevance to the non-Federal activities of the performing organization which is proposing to undertake the research primarily as a service to the Government; or

(B) The performing organization has few or no non-Federal sources of funds from which to make a cost contribution; or

(C) The performing organization is predominately engaged in research and development and has little or no production or other service activities and is, therefore, not in a favorable position to make a cost contribution; or

(D) Payment of the full cost of the project is necessary in order to obtain the services of the particular organization.

The contracting officer shall include the substance of his determination in the negotiation summary.

(ii) Contracts, except when cost sharing is specifically directed by the Director, Division of Acquisition Management, or voluntarily offered by the performing organization for projects:

(A) Where a particular research objective or scope of effort is specified by FEMA rather than proposed by the performing organization. This will usually include any formal solicitation for a specific contractual requirement.



(B) The principal purpose of which is the production of, or design, testing, or improving of products, materials, devices, systems or methods.

(c) *Guidelines for determining the amount of cost sharing.* (1) For educational institutions and other not-for-profit or non profit organizations, cost sharing normally may vary from 1 percent to as much as 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(2) The amount of cost participation by commercial or industrial organizations may vary from as little as 1 percent or less of the total project cost to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise or competitive position and the value of such enhancement to the performing organization. It should be recognized that those organizations which are predominately engaged in research and development and have little or no production or other service activities may not be in a favorable position to derive a monetary benefit from the research under Federal agreements.

(3) A fee or profit will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing its normal fee or profit on the research. However, if the research is expected to be of only minor value to the performing organization and if cost-sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee or profit, rather than sharing the costs of the project.

(4) Each cost-sharing contract negotiated by the agency shall contain the clause included in FEMAPR 44-7.5002-9.

#### § 44-3.406 Letter contract.

Prior to the award of a letter contract the contracting officer shall make a determination that no other type of contract is suitable under the circumstances surrounding the procurement and shall support this determination by detailing the reasons why no other type of contract is suitable. The determination and

supporting documentation shall then be submitted to, and must be approved by, the head of the procuring activity before the letter contract may be awarded.

#### Subpart 3.7—Negotiated Overhead Rates

##### § 44-3.700 Scope of subpart.

This subpart sets forth policies and procedures concerning negotiated overhead rates for use in cost-reimbursement type contracts.

##### § 44-3.702 General.

(a) When a contractor performs work in the same period under several contracts for one or more procuring offices or agencies, it may be desirable and appropriate, when mutually agreed to by FEMA and the contractor, to negotiate uniform overhead rates for application to all such contracts in order to (1) effect uniformity of approach, (2) effect economy in administrative effort, and (3) promote timely settlement of reimbursement claims.

(b) When the contracting officer determines that the above conditions exist, he shall include the negotiated overhead rate clause set forth in 41 CFR 1-3.704-1.

(c) If the prospective cost-reimbursement contract is the only contract to be performed by the contractor for the Government during a given period or if the contracting officer determines that it is not appropriate to include the clause specified in 41 CFR 1-3.704-1, determination of the reimbursable amount of the overhead under the contract shall be based upon final audit of the actual costs incurred during the period of performance and the clause set forth in FEMAPR 44-7.5002-6 shall be included.

##### § 44-3.707 Overhead ceilings.

When the contracting officer determines in accordance with 41 CFR 1-3.707 that it is appropriate to place an overhead ceiling in the contract, he shall include the clause set forth in FEMAPR 44-7.5002-8.

#### Subpart 3.8—Price Negotiation Policy and Techniques

##### § 44-3.800 Scope of subpart.

This subpart sets forth policies and procedures concerning final price negotiation, consideration of late proposals, and source selection.

##### § 44-3.801-2 Responsibility for determination of final price.

In the event a contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable and, if the contracting

officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in 41 CFR 1-3.801-2(c), the matter shall be referred for resolution to the head of the procuring activity with a statement of facts and the contracting officer's recommendations.

##### § 44-3.802 Preparation for negotiation.

##### § 44-3.802-2 Alternate procedures for consideration of late proposals.

When the head of the procuring activity determines that the procedures set forth in 41 CFR 1-3.802-1 are not appropriate for certain classes of negotiated procurement conducted by FEMA, he may authorize the adoption of the procedures set forth in 41 CFR 1-3.802-2(b) for consideration of late proposals and modifications (except where the procurement of general purpose automated data processing equipment is involved unless use of the procedures set forth in 41 CFR 1-3.802-2(b) is expressly authorized by the Commissioner, Automated Data and Telecommunications Service, GSA).

##### § 44-3.805 Selection of offerors for negotiation and award.

##### § 44-3.805-50 Source selection procedures.

All competitive procurements in excess of \$10,000 shall be subject to a formal selection procedure as described herein.

(a) A proposal evaluation team shall be appointed for each competitive procurement. For procurements under \$500,000, the team shall be called the Technical Evaluation Panel. For those procurements in excess of \$500,000, the team shall be called the Source Evaluation Board.

(b) Each competitive solicitation shall contain applicable selection criteria including the numerical ranking of each major criterion and shall be agreed upon by the proposal evaluation team.

(c) The proposal evaluation team shall evaluate each proposal against the criteria established in the request for proposal. The initial evaluation shall be to determine technical merit and then shall be combined with the business evaluation to determine the overall merit. Upon completion of this total evaluation the competitive range shall be established. The competitive range shall include those proposals which through written or oral discussions with the proposer have a reasonable chance of selection when all factors are considered, including cost. The competitive range shall be established by the Source Evaluation Board for procurements in excess of \$500,000 and

by the contracting officer on those under \$500,000.

(d) Discussions shall be conducted with all proposers in the competitive range. Each proposer shall be given an opportunity to submit a revised proposal. A common cutoff date shall be established for receipt of the revisions. Upon receipt the appropriate evaluation team shall evaluate and prepare a final ranking. A final recommendation report will be prepared and furnished to the selecting official. The selecting official for those procurements under \$500,000 shall be the contracting officer and for those over \$500,000 the head of the cognizant program office shall be the selecting official.

(e) The selecting official shall consider the recommendations and select the firm(s) for final negotiations. The contracting officer shall then enter into final negotiations with the selected firm(s) to resolve all remaining terms and conditions necessary to reach final agreement.

#### Subpart 3.51—Protests Against Award

##### § 44-3.5101 Negotiated procurement protests.

Protests against award of negotiated contracts shall be processed in accordance with FEMAPR 44-2.407-8 and 41 CFR 1-2.407-8.

#### PART 44-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Sec.

44-4.000 Scope and applicability of part.

#### Subpart 4.9—Unsolicited Proposals [Reserved]

#### Subpart 4.10—Architect-Engineer Services

44-4.1000 Scope of subpart.

44-4.1004 Selection.

44-4.1004-1 Establishment of architect-engineer evaluation boards.

44-4.1004-50 Conflict of interest.

44-4.1004-51 Privy of information.

#### Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

44-4.1100 Scope of subpart.

44-4.1104 Request for procurement action.

44-4.1104-50 Clearance procedures.

#### Subpart 4.50—Interagency Procurement [Reserved]

Authority: 41 CFR 1-1.008.

##### § 44-4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding unsolicited proposals and the procurement of architect-engineer services, automatic data processing equipment and services,

and property and services from other Federal agencies.

#### Subpart 4.9—Unsolicited Proposals [Reserved]

#### Subpart 4.10—Architect-Engineer Services

##### § 44-4.1000 Scope of subpart.

This subpart sets forth policies and procedures for the establishment of architect-engineer evaluation boards and for architect-engineer source selection.

##### § 44-4.1004 Selection.

##### § 44-4.1004-1 Establishment of architect-engineer evaluation boards.

Each architect-engineer evaluation board, whether permanent or ad hoc, shall consist of at least five voting members who are Federal employees from the appropriate FEMA program office or, from Federal offices outside the program office, as appropriate. One member of each board shall be appointed chairman. Five alternate members, who are Federal employees, shall also be appointed. The majority of voting members shall be from the program office concerned. The members of a permanent board shall be appointed by the Director for a period of two (2) years.

##### § 44-4.1004-4 Source selection.

(a) The heads of offices cognizant over programs which from time to time may require architect-engineer services are designated as source selection officials for all procurements of architect-engineer services, and as such are vested with the authority to review the recommendations of the evaluation board and to make the final selection of the firms best qualified to perform the work, in accordance with the provisions of 41 CFR 1-4.1004-4. Rejections of the recommended firms and the reasons for their rejection will be in writing.

(b) Upon the determination of the qualified firms by the source selection official, a requisition shall be forwarded to the procuring office which shall indicate the order of qualification, including capability, of the selected firms. The procuring office shall then send a request for proposal to, and begin negotiations with, the firm ranked highest on the list.

##### § 44-4.1004-50 Conflict of interest.

If at any time during the selection process a board member or advisor to the board encounters a situation with one or more of the firms being considered that might be, or might appear to be, a conflict of interest, he

will disqualify himself and call it to the attention of the chairman who shall refer the matter to the Office of General Counsel.

##### § 44-4.1004-51 Privy of information.

The evaluation board is to be insulated from outside pressures to the extent practical. No person having knowledge of the activities of the board shall divulge information concerning the deliberations of the board to any other persons not having a need to know such information.

#### Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

##### § 44-4.1100 Scope of subpart.

This subpart sets forth policy governing the procurement of all automatic data processing equipment, software, maintenance services, and supplies by FEMA.

##### § 44-4.1104 Request for procurement action.

##### § 44-4.1104-50 Clearance procedures.

No solicitation or modification to an existing contract, when related in whole or in part to the procurement of ADP equipment or services, shall be issued until approval is obtained from the General Services Administration pursuant to 41 CFR 1-4.1104.

#### Subpart 4.50—Interagency Procurement [Reserved]

#### PART 44-7—CONTRACT CLAUSES

Sec.

44-7.000 Scope of part.

#### Subpart 7.50—Additional Clauses

44-7.5001 Additional clauses to be used in all contracts.

44-7.5001-1 Notification of changes.

44-7.5001-2 Suspension of work.

44-7.5001-3 Disabled veterans and veterans of the Vietnam era.

44-7.5002 Additional clauses to be used in contracts as appropriate.

44-7.5002-1 Rights in data.

44-7.5002-2 Reproduction of reports.

44-7.5002-3 Coordination of Federal reporting requirements.

44-7.5002-4 Services of consultants.

44-7.5002-5 Publication.

44-7.5002-6 Indirect costs (actual).

44-7.5002-7 Limitation of funds.

44-7.5002-8 Indirect costs (ceiling).

44-7.5002-9 Consideration and payment (cost-sharing).

44-7.5002-10 Warranty.

44-7.5002-11 Ocean freight shipment—use of American-flag vessels—reports.

44-7.5002-12 Method of payment—letter of credit.

Authority: 41 CFR 1-1.1008.



**§ 44-7.000 Scope of part.**

This part sets forth special contract clauses which are in addition to clauses set forth in the FPR for use in connection with the procurement of personal property and nonpersonal services (including construction).

**Subpart 7.50—Additional Clauses****§ 44-7.5001 Additional clauses to be used in all contracts.****§ 44-7.5001-1 Notification of changes.****Notification of Changes**

(a) *Notices.* Except in the case of changes identified as such in writing and signed by the contracting officer, the contractor shall notify the contracting officer in writing promptly, and in any event within 5 calendar days from the date that the contractor identifies any Government conduct (including actions, inactions, and written or oral communications) which the contractor regards as a change to the contract terms and conditions. The notice shall state:

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and contractor official or employee involved in or knowledgeable about such conduct; and

(3) The identification of any documents and the substance of any oral communication involved in such conduct.

(b) *Continued Performance.* Following submission of the notice required by paragraph (a) of this section, the contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the contractor.

(c) *Government response.* The contracting officer shall promptly, and in any event within five calendar days after receipt of notice, respond thereto in writing. In such response the contracting officer shall either:

(1) Confirm or deny that the conduct of which the contractor gave notice constitutes a change, and

(2) In the event that the contracting officer confirms that the conduct constitutes a change, he shall provide the contractor with appropriate direction. In the event that the contracting officer denies that the conduct constitutes a change, he shall direct the contractor to continue performance of the contract in accordance with the communication regarded as a change, and advise him that should he wish to pursue the matter

further to do so pursuant to the Disputes clause of the contract.

(d) *Equitable Adjustments.* If the contracting officer confirms that Government conduct effected a change as alleged by the contractor, and such conduct causes an increase or decrease in the contractor's cost of, or the time required for, performance of any part of the work under this contract, an equitable adjustment shall be made.

(e) *Notification of contacting officer.* If the contractor fails to notify the contracting officer of Government conduct regarded by the contractor to constitute a change to the contract within five (5) days from the date such conduct is identified, the Government will assume no liability in regard to the alleged change.

**§ 44-7.5001-2 Suspension of work.****Suspension of Work**

(a) The contracting officer may, at any time, by written order to the contractor, require the contractor to suspend, delay or interrupt all, or any part, of the work called for by this contract for a period up to ninety (90) days after the order is delivered to the contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a suspension of work issued pursuant to this clause. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work suspension. Within a period of ninety (90) days after a suspension of work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the contracting officer shall either:

(1) Cancel the suspension of work order; or

(2) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a suspension of work issued under this clause is cancelled or the period of the order or any extension thereof expires, the contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if:

(1) The suspension of work results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract, and

(2) The contractor asserts a claim for such adjustment within thirty (30) days

after the end of the period of work stoppage; provided, that, if the contracting officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) If a suspension of work order is not cancelled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the suspension of work order shall be allowed in arriving at the termination settlement.

(d) If a suspension of work order is not cancelled and the work covered by such order is terminated for default, the reasonable costs resulting from the suspension of work order shall be allowed by equitable adjustment or otherwise.

**§ 44-7.5001-3 Disabled veterans and veterans of the Vietnam era.****Disabled Veterans and Veterans of the Vietnam Era**

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding

employment openings and hires as may be required. State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e) of this section.

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placings of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this order shall include, but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the

name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be in the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own

organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Vietnam Era Veteran's Readjustment Act (Hereinafter referred to as "The Act").

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or order of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.



**§ 44-7.5001-7 Payment of interest on contractor's claims.****Payment of Interest on Contractor's Claims**

(a) If an appeal is filed by the contractor from a final decision of the contracting officer under the Disputes clauses of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the contractor furnishes to the contracting officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding paragraph (a) of this section, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the contracting officer determines the contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

**§ 44-7.5002 Additional clauses to be used in contracts as appropriate.****§ 44-7.5002-1 Rights in data.****Rights in Data**

The following clause shall be included in each contract for which data is expected to be a product of the work:

(a) *Subject data.* As used in this clause, the term "subject data" means writings, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, workflow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and similar information incidental to contract administration.

(b) *Government-rights.* Subject only to the proviso of paragraph (c) of this section, the Government may use, duplicate or disclose in any manner and for any purpose whatsoever, and have

or permit others to do so, all subject data delivered under this contract.

(c) *License to copyrighted data.* In addition to the Government rights as provided in paragraph (b) of this section, with respect to any subject data which may be copyrighted, the contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world to use, duplicate or dispose of such data in any manner and for any purpose whatsoever and to have or permit others to do so; provided, however, that such license shall be only to the extent that the contractor now has, or prior to completion or final settlement of this contract may acquire the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(d) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Marking and identification.* The contractor shall mark all subject data with the number of this contract and the name and address of the contractor or subcontractor who generated the data. The contractor shall not affix any restrictive markings upon any subject data, and if such markings are affixed, the Government shall have the right at any time to modify, remove, obliterate, or ignore any such markings.

(f) *Subcontractor data.* Whenever any subject data is to be obtained from a subcontractor under this contract, the contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's rights in that subcontractor subject data.

(g) *Deferred ordering and delivery of data.* The Government shall have the right to order, at any time during the performance of this contract, or within two years from either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, any subject data and any data not called for in the schedule of this contract but generated in performance of the contract, and the contractor shall promptly prepare and deliver such data as is ordered. The Government's right to use data delivered pursuant to this paragraph (g) shall be the same as the rights in subject data as provided in paragraph (b) of this section. The contractor shall be relieved of the obligation to furnish data pertaining to an item obtained from a subcontractor upon the expiration of two years from the date he accepts such items. When

data, other than subject data, is delivered pursuant to this paragraph (g), payment shall be made, by equitable adjustment or otherwise, for converting the data into the prescribed form, reproducing it or preparing it for delivery.

**§ 44-7.5002-2 Reproduction of reports.**

Include the following clause when the product of the contract is a report, data or other written material.

**Reproduction of Reports**

Reproduction of reports, data or other written material, if required herein is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is to be determined by multiplying pages times copies. A production unit is one sheet, size 8 by 10-1/2 inches or less, printed on one side only and in one color. All copy preparation to produce camera ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils masters and plates which are to be used on single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10-3/4 by 14-3/4 inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproductions (camera ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data or other written material.

**§ 44-7.5002-3 Coordination of Federal reporting requirements.**

The following clause shall be included in contracts when appropriate:

**Coordination of Federal Reporting Services**

In the event that it is a contractual requirement to collect information from ten or more public respondents, the provisions of 44 U.S.C., Chapter 35, (Coordination of Federal Reporting Requirements), shall apply to this contract. The contractor shall obtain through the project officer the required Office of Management and Budget clearance before making public contacts for the collection of data or expending any funds for such collection. The authority to proceed with the collection of data from public respondents and the expenditure of funds therefor shall be in writing signed by the contracting officer.

**§ 44-7.5002-4 Services of consultants.**

The following clause shall be used in contracts where it is anticipated that consultant services may be used:

**Services of Consultants**

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled, "Subcontracting,"

the prior written approval of the contracting officer shall be required:

(a) Whenever any employee of the contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract except when the consultant has been identified and rates established during negotiations of this contract.

Whenever contracting officer approval is required, the contractor shall obtain and furnish to the contracting office information concerning the need of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

**§ 44-7.5002-5 Publication.**

The following clause shall be used in all contracts under which it is anticipated that a report will be a product:

**Publication**

(a) *Definition.* For the purpose of this clause, "publication" includes (1) any document containing information intended for public consumption or (2) the act of, or any act which may result in, disclosing information to the public.

(b) *General.* The results of the research and development and studies conducted under this contract are to be made available to the public through dedication, assignment to the Government, or such other means as the Director of the Federal Emergency Management Agency shall determine.

(c) *Reports furnished the Government.* All intermediate and final reports of the research and development and studies conducted hereunder shall indicate on the cover or other initial page that the research and development and studies forming the basis for the report were conducted pursuant to a contract with the Federal Emergency Management Agency. Such reports are official Government property and may not be published or reproduced (in toto, in verbatim excerpt, or in a form approximating either of these) as an unofficial paper or article. The contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish such reports in whole or in part in a non-Government publication only in accordance with this paragraph (c) and paragraph (e)(1) of this clause.

(d) *Publication by Government.* The Government shall have full right to publish all information, data, and findings developed as a result of the research and development and studies conducted hereunder.

(e) *Publication by contractor or technical personnel.*

(1) *Publication in whole or in part of contractor's reports furnished the Government.* Unless such reports have been placed in the public domain by Government publication, the contractor or technical personnel (each employee or consultant

working under the administrative direction of the contractor or any subcontractor hereunder) may publish a report furnished the Government, in toto or in verbatim excerpt, but consistent with paragraph (c) of this clause may not secure copyright therein, subject to the following conditions, and the conditions in paragraph (e)(4) and paragraph (f):

(i) During the first six months after submission of the full final report, if written permission to publish is obtained from the contracting officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, if a foreword or footnote in the non-Government publication indicates the source of the verbatim material.

(2) *Publication, except verbatim excerpts, concerning or based in whole or in part on results of research and development and studies hereunder.* The contractor or technical personnel may issue a publication concerning, or based in whole or in part on the results of, the research and development and studies conducted under this contract and may secure copyright therein but in so publishing is not authorized thereby to inhibit the unrestricted right of the Director of the Federal Emergency Management Agency to disclose or publish in such manner as he may deem to be in the public interest the results of such research and development and studies, subject to the following conditions and the requirement in paragraph (e)(4):

(i) During the first six months after submission of the full final report, and if paragraph (e)(3) is inapplicable, if written waiver of the waiting period is obtained from the contracting officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, subject to Government exercise of an option that the publication contain a foreword or initial footnote substantially as follows:

The (research) (development) (studies) forming (part of) the basis for this publication were conducted pursuant to a contract with the Federal Emergency Management Agency. The substance of such (research) (development) (studies) is dedicated to the public. The author and publisher are solely responsible for the accuracy of statements or interpretations contained herein.

(3) *General condition if FEMA determines that contractor's final report contains patentable subject matter developed in contract performance.* If the contracting officer determines that the contractor's full final report contains patentable subject matter developed in the performance of this contract and so notifies the contractor in writing prior to six months from date of submission of such report, no publication of verbatim excerpts from contractors' reports or publication concerning or based in whole or in part on the results of the research and development and studies hereunder shall be made without the written consent of the contracting officer.

(4) *Copies of contractor and technical personnel publications to be furnished the Government.* The contractor or technical personnel will furnish the contracting officer

six (6) copies of any publications which are based in whole or in part on the research and development and studies conducted under this contract.

(f) *Administratively confidential information.* The contractor shall not publish or otherwise disclose, except to the Government and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(g) *Inclusion of provisions in contractor's agreements.* The contractor shall include provisions appropriate to effectuate the purposes of this clause in all contracts of employment with persons who perform any part of the research or development or study under this contract and in any consultant's agreements or subcontracts involving research or development or study hereunder.

**§ 44-7.5002-6 Indirect costs (actual).**

When it has been determined pursuant to FEMAPR 44-3.702(c) that it is not appropriate to include the Negotiated Overhead Rates clause set forth in 41 CFR 1-3.704, the following clause shall be inserted:

**Indirect Cost (Actual)**

In accordance with the "Allowable Cost, Fixed Fee, and Payment" clause of the contract, the contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined by the contracting officer in accordance with the principles set forth in 41 CFR Part 1-15. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

**§ 44-7.5002-7 Limitation of funds.**

When a contract has not been funded in full the following clause shall be included:

**Limitation of Funds**

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost.

(b) The amount presently available for payment and allotted to this contract, the items covered thereby, the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost set forth in the Schedule, exclusive of any fee. The contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates, but does



not exceed, the total amount actually allotted to the contract.

(c) If at any time the contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount then allotted to the contract, the contractor shall notify the contracting officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty days prior to the end of the period specified in the Schedule the contractor will advise the contracting officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the contracting officer will, upon written request by the contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request and the contracting officer, in his discretion, may terminate this contract on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the contractor for costs incurred in excess of the estimated cost to the Government set forth in the schedule, and the contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the total of the amount then allotted to the contract by the Government plus the contractor's corresponding share unless and until the contracting officer has notified the contractor in writing that such allotted amount has been increased and has specified in such notice an increased amount constituting the total amount then allotted to the contract. To the extent the amount allotted exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. No notice, communication, or representation in any other form or from any person other than the contracting officer shall affect the amount allotted to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the contractor for any costs in excess of the total amount then allotted to the contract, whether those excess costs were incurred during the course of the contract or a result of termination. When and to the extent that the amount allotted to the contract has been increased, any costs incurred by the contractor in excess of the amount previously allotted shall be allowable to the same extent as if such costs had been incurred after such increase in the amount allotted, unless the

contracting officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the contractor to exceed the amount allotted in the schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract to allow completion of the work contemplated by this contract, the contractor shall be entitled to that percentage of the fee set forth in the schedule equivalent to the percentage of completion of the work contemplated by this contract.

#### § 44-7.5002-8 Indirect costs (ceiling).

When it has determined in accordance with 41 CFR 1-3.707 that it is appropriate to place an overhead ceiling in the contracts, insert the following clause:

##### Indirect Costs (With Ceiling)

(a) Pursuant to the provisions of the clause of this contract entitled, "Indirect Costs (Actual)", the following rates are established: Period, Cost Center, Type, Rate, Base

(b) In addition to the principles for determination of costs set forth in the clause of this contract entitled "Indirect Costs (Actual)", the following special provision shall be applicable to this contract.

Final overhead rates shall not exceed \_\_\_\_\_% of the allowable direct labor dollars; provided, however, that in the event overhead rates developed by the cognizant audit activity on the basis of actual allowable costs are less than the ceiling overhead rate agreed to herein then the rates based upon those established by such cognizant auditor shall apply. The Government will not be obligated to pay any additional amounts on account of overhead above the ceiling overhead rate set forth above.

#### § 44-7.5002-9 Consideration and payment (cost-sharing).

The following clause shall be inserted in each cost-sharing contract:

##### Consideration and Payment (Cost-Sharing)

(a) The estimated cost for the performance of this contract is \$\_\_\_\_\_. The contractor agrees to bear without reimbursement by the Government \_\_\_\_\_% of the cost for performance hereunder. Such cost sharing shall be effected as set forth in Paragraph (b) below.

(b) Public vouchers or invoices shall be submitted to the contracting officer in

an original and five (5) copies and shall show the total cost incurred for the period for which the voucher or invoice is submitted, the cumulative total of costs incurred through the billing period, and the percentage of costs to be reimbursed by the Government. However, the Government is not obligated to reimburse the contractor in excess of \_\_\_\_\_% of such amount. The Government shall not be obligated to reimburse the contractor for the Government's share of the costs in excess of \$\_\_\_\_\_ nor is the contractor obligated by this contract to expend his own funds in excess of \$\_\_\_\_\_.

#### § 44-7.5002-10 Warranty.

When it has been determined that it is appropriate to place a warranty on equipment or services furnished under a contract, insert the following clause set forth below. Each construction contract shall incorporate an appropriate clause.

##### Warranty

The contractor agrees that the supplies or services furnished by the contractor under this contract shall be covered by warranties which are either standard or customary in the trade or are substantially similar to, and not in excess of, a standard or customary trade warranty. The contractor shall furnish any warranty description at time of delivery. Supply package shall be simply marked to show existence of the warranty, its expiration date and the company official to be notified.

#### § 44-7.5002-11 Ocean freight shipment—Use of American-flag vessels—Reports.

The following clause shall be used when appropriate with the required report filed as set forth in paragraph (b) of this section.

(a) It is the policy of FEMA to encourage and foster the American Merchant Marine. Pursuant to the provisions of section 901(b) of the Merchant Marine Act of 1936 (46 U.S.C. 1241) invitations for bids and request for proposals shall in appropriate cases contain the following clause:

##### U.S.-Flag Vessel Provision

The contractor agrees to ship in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of any equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels. Pursuant to section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. sec. 1241(b)), the Director or his duly authorized representative may permit shipment in a manner other than that required by this provision upon the basis of evidence furnished by the contractor that U.S.-flag commercial vessels are not

available at fair and reasonable rates for U.S.-flag commercial vessels. The contractor will be required to certify compliance with this requirement prior to final payment. For purposes of this section, the term "privately owned U.S.-flag commercial vessels" shall not be deemed to include any vessels which, subsequent to September 21, 1961, shall have been either: (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of 3 years.

(b) Each affected office shall submit to the Chief, Office of Market Development, Cargo Preference Control Center, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235, a report as follows: Within 20 working days of the date of loading for each shipment originating in the United States, or within 30 working days for each shipment originating outside the United States, a report consisting, where obtainable, of a properly notated and legible copy in English of the ocean bill of lading. If a copy of the bill of lading is unobtainable or not in English, the report shall be made in the following format:

##### Federal Emergency Management Agency

Office \_\_\_\_\_  
Date \_\_\_\_\_  
Cargo preference shipment report:  
Vessel name \_\_\_\_\_  
Vessel flag \_\_\_\_\_  
Date of loading \_\_\_\_\_  
Port of loading \_\_\_\_\_  
Port of final discharge \_\_\_\_\_  
Commodity description \_\_\_\_\_  
Gross weight in pounds \_\_\_\_\_  
Total ocean freight revenue in U.S. dollars \_\_\_\_\_

#### § 44-7.5002-12 Methods of payment—Letter of credit.

(a) The contractor shall be paid with funds made available under the Federal Reserve Letter of Credit No. \_\_\_\_\_, established by \_\_\_\_\_, Federal Emergency Management Agency (FEMA), against which the contractor will withdraw funds pursuant to prescribed Federal Reserve Letter of Credit procedures, as implemented by FEMA.

(b) The contractor shall: (1) initiate cash drawdowns only when actually needed for its disbursements, (2) timely report cash disbursements and balances as required by the contracting office, and (3) impose the same standards of timing and amount upon any secondary recipients including the furnishing of reports of cash disbursements and balances. Failure to adhere to these material provisions will be considered

an event under paragraph (f) of this clause.

(c) The funds drawn by the contractor against the Federal Reserve Letter of Credit referred to above shall be only for current allowable expenditures necessary for the performance of the contract.

(d) Then so requested in writing by the contracting officer, the contractor shall repay to the Government, in accordance with prescribed agency procedures, such part of the unliquidated balance of the advance payments as shall, in the opinion of the contracting officer, be in excess of the contractor's current needs or in excess of the contract price.

(e) If upon completion or termination of this contract all amounts obtained by the contractor under this letter of credit have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due to the contractor from the Government, and any excess funds shall be repaid by the contractor to the Government.

(f) Upon the happening of any of the following events of default: (1) a finding by the contracting officer that the contractor (i) has failed to observe any of the covenants, conditions, or warranties of these provisions or has failed to comply with any material provision of this contract, or (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, or (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, or (iv) is delinquent in payment of taxes or of the costs of performance of this contract in the ordinary course of business; (2) appointment of a trustee, receiver or liquidator for all or a substantial part of the contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against the contractor; (3) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings; or (4) the commission of an act of bankruptcy; the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the contractor withhold further withdrawals under the Letter of Credit and withhold further payments on this contract. Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional

actions as it may deem appropriate in the circumstances:

- (1) Charge interest on advance payments outstanding during the period of any such default at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97 for the Renegotiation Board;
- (2) Demand immediate repayment of the unliquidated balance of advance payments hereunder; or
- (3) Take possession of and, with or without advertisements, sell at public sale at which the Government may be the purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder and in reduction of any other claims of the Government against the contractor.

(g) Notwithstanding any other provision of this contract, the contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(h) (1) Interest shall be charged in the manner provided herein at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41; 85 Stat. 97, for the Renegotiation Board on subadvances or downpayments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on subcontracts with nonprofit educational or research institutions for experimental, developmental or research work.

(2) The office administering advance payments is designated as the Division of Acquisition Management.

(i) For the performance of this contract, the Government shall pay the contractor: The cost thereof (hereinafter referred to as "allowable cost") determined by the contracting officer to be allowable in accordance with (1) 41-CFR 1-15 as in effect on the date of this contract; and (2) the terms of this contract.

(j) For the purpose of determining amounts to be advanced under this contract, costs previously incurred shall only include those recorded costs which result, at the time of requests for further advances, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid for



materials which have been issued from the contractor's stores inventory and production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the Contractor's subcontractors under similar cost standards. In addition, when pension contributions are paid by the contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for purposes of obtaining advances under this contract until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes of obtaining advances under this contract until payment has been made.

(l) The contractor shall submit an invoice or a voucher designated as a "Completion Invoice" or "Completion Voucher" promptly following completion of the work under this contract but in no event later than one year (or such longer time as the contracting officer may in his discretion approve in writing) from the date of such completion. The contracting officer can direct that a final report of expenditures be included with the completion invoice or voucher.

(m) The contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the contractor or any assignee under this contract shall be paid by the contractor to the Government, to the extent that they are properly allocable to costs for which the contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the contracting officer. Prior to final payment under this contract, the contractor shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the contracting officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly

allowable to costs for which the contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statements by the contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract; provided, however, that such claims are not known to the contractor on the date of the execution of the release, and provided further, that the contractor gives notice of such claims in writing to the contracting officer not more than six years after the date of the release or the date of any notice to the contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents.

(3) Any cost incurred by the contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by references, designating services to be performed or materials to be furnished by the contractor at his expense or without cost to the Government.

#### PART 44-11—FEDERAL, STATE AND LOCAL TAXES

Sec.

44-11.000 Scope of part.

##### Subpart 11.4—Contract Clauses

44-11.401-4 Matters requiring special consideration.

##### Subpart 11.50—Resolution of Tax Problems

44-11.500-1 Resolution of tax problems.

Authority: 41 CFR 1-1.008.

##### § 44-11.000 Scope of part.

This part sets forth policies and procedures for dealing with matters concerning Federal, State or local taxes.

#### Subpart 11.4—Contract Clauses

§ 44-11.401-4 Matters requiring special consideration.

Pursuant to 41 CFR 1-11.401-4(d), it is the policy of FEMA to implement the procedures set forth in 41 CFR 1-11.404-4 (a), (b), and (c) as appropriate.

##### Subpart 11.50—Resolution of tax problems

§ 44-11.500-1 Resolution of tax problems.

In order to have uniformity in FEMA's treatment of the tax aspects of a contract and to insure effective cooperation with other Government agencies on tax matters of mutual interest, the Office of General Counsel has the responsibility within FEMA for handling all tax problems. Therefore, procuring offices will not engage in negotiation with any taxing authority for the purpose of determining the validity or applicability of, or obtaining exemptions from or refund of, any tax. When a problem exists, the contracting officer shall request in writing the assistance of the Office of General Counsel. The request shall detail the problem and be accompanied by appropriate backup data. The Office of General Counsel shall report to the contracting officer as to the necessary disposition of the tax problem. The contracting officer will notify the contractor of the outcome of the tax problem. The Office of General Counsel shall have the responsibility for communications with the Department of Justice for representation or intervention in proceedings concerning taxes.

#### PART 44-13—GOVERNMENT PROPERTY

Sec.

44-13.000 Scope of part.

44-13.001 General policy.

##### Subpart 13.1—Definitions

44-13.100 Scope of subpart.

44-13.101 Government property.

44-13.102 Real property.

44-13.103 Personal property.

44-13.104 Facilities.

##### Subpart 13.2—Furnishing Government Property to Contractors

44-13.201 Responsibility of FEMA.

44-13.202 Availability of required property.

Authority: 41 CFR 1-1.008.

##### § 44-13.000 Scope of part.

This part sets forth policy concerning the furnishing of Government property to contractors under FEMA contracts.

##### § 44-13.001 General policy.

It is the general policy of FEMA to contract with suppliers which are able to perform the requirements of a

contract without being furnished property by the Government. This policy has been established to prevent FEMA from assuming any responsibility for the performance of work under a contract which rightly vests in the contractor, and to preclude the possibility of creating an unfair competitive advantage for one prospective contractor over another. However, circumstances may arise in which the interests of the Government would be best served by furnishing property to contractors, such as in a case where the property is necessary to contract performance, or, when furnishing Government property will result in substantial cost savings to the Government.

##### Subpart 13.1—Definitions

§ 44-13.100 Scope of subpart.

For purposes of this part, and unless otherwise indicated, the following terms have the meaning set forth in this subpart.

##### § 44-13.101 Government property.

"Government property" means all property furnished by the Government or acquired with Federal funds by the contractor for use in performance of his contractual obligations. Government property includes Government-furnished property and contractor-acquired property as defined below:

(1) "Government-furnished property" is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(2) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

##### § 44-13.102 Real property.

"Real Property" means land, buildings or items permanently affixed to either land or buildings.

##### § 44-13.103 Personal property.

"Personal property" means all property that is subject to ownership except real property. Personal property includes:

(a) *Reportable property.* All property other than real property having a unit acquisition of cost of \$100.00 or more and tools regardless of cost.

(b) *Expendable property (material).* Property which may be incorporated into, or attached to, an end item to be delivered under the contract or which may be consumed or expended in the performance of the contract.

It is the general policy of FEMA that contractors will furnish all materials required for the performance of its contracts. However, furnishing materials to contractors could be preferable when:

(1) The material is not readily available on the market or cannot be conveniently manufactured by a contractor or his subcontractors. This premise is valid only if the Government has the material in inventory or can readily obtain it;

(2) The cost would be less than if the contractor obtained the material;

(3) The Government may already be exercising control over the material;

(4) Standardization or Government-design control is desired;

(5) It is necessary to expedite the research; and

(6) Furnishing the material may significantly broaden the competitive base.

(c) *Residual Materials and Property.* All serviceable material not consumed in the performance of a contract, and all unserviceable or scrap equipment not consumed in the performance of a contract.

##### § 44-13.104 Facilities.

"Facilities" means all industrial property (other than material, special tooling, military or space property, special test equipment and technical information) used for the production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

#### Subpart 13.2—Furnishing Government Property to Contractors

§ 44-13.201 Responsibility of FEMA.

When the Government furnishes property it assumes a direct role in the performance of the contract. Therefore, the furnishing of Government property should be carefully planned and scheduled in order to avoid delays or mistakes. When Government-furnished property is essential for performance of the contract, FEMA must insure that the contractor receives the property in the specified quantities and at the required time.

§ 44-13.202 Availability of required property.

Prior to making a decision to furnish property to a prospective contractor, the contracting officer shall first ascertain whether the subject property is available by inquiring into existing inventories. Property requested should be identified by functional need in order to maximize the effectiveness of furnishing Government property. The functions to which the Government

furnished property are to be applied should be analyzed to determine what types of equipment can be used from available sources. When existing Government property is not available or suitable, the contractor may be authorized (subject to surveillance and approval of the contracting officer) to purchase new property. The contractor then vouchers for the property along with the normal billing process, is reimbursed and the Government takes title to the property. Contractor-acquired and Government furnished property can be combined in the same contract.

#### PART 44-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

44-15.000 Scope of part.

##### Subpart 15.50—Suspension and Disallowance of Contract Costs

44-15.5000 Scope of subpart.

44-15.5001 Suspension and disallowance of costs.

44-15.5001-1 Procedure.

44-15.5001-2 Recourse to determination of cost as unallowable.

Authority: 41 CFR 1-1.008.

##### § 44-15.000 Scope of part.

This part sets forth policies and procedures concerning unallowable costs.

##### Subpart 15.50—Suspension and Disallowance of Contract Costs

§ 44-15.5000 Scope of subpart.

This subpart sets forth policies and procedures concerning suspension and disallowance of contract costs and recourse to determination of costs as unallowable.

§ 44-15.5001 Suspension and disallowance of costs.

§ 44-15.5001-1 Procedure.

In the event that the contractor presents a cost for reimbursement which the contracting officer considers to be unallowable, questionably allowable or partially unallowable, either specifically pursuant to 41 CFR 1-15, or consistent with the intent thereof, he shall notify the Division of Budget and Finance, the project officer, and the contractor that the subject cost, plus any corresponding overhead, general and administrative expense, indirect cost or fee associated with its incurrence, is being suspended pending receipt of supporting documentation from the contractor justifying the cost. This notification in each case shall be in writing and shall be accompanied by a copy of the invoice indicating the questioned cost. The notification to the contractor shall also



indicate that supporting documentation for the cost must be received within thirty days, or such longer period as may be granted by the contracting officer, or the cost will be disallowed pending final audit. The notification to the Division of Budget and Finance shall also indicate that the cost and associated pool costs and/or fee should not be reimbursed. If the contractor provides the requested documentation, and the contracting officer considers it to adequately support the cost as allowable, the contracting officer shall so notify the contractor and advise him to resubmit the cost and associated pool costs on his next invoice clearly indicating the origin and identity of the cost. In the event that the contractor should fail to submit the requested documentation, or if the supporting documentation is considered to be inadequate, or does not support the cost as allowable, the contracting officer shall notify the contractor, in writing, to this effect and advise him that the cost is being disallowed and, therefore, shall not be reimbursed.

**§ 44-15.5001-2 Recourse to determination of cost as unallowable.**

When the contracting officer has determined, in accordance with the foregoing procedure, that a cost is unallowable, his decision shall be final and conclusive unless the contractor seeks remedy pursuant to the Disputes clause of the contract.

**PART 44-16—PROCUREMENT FORMS**

Sec.  
44-16.000 Scope of part.

**Subpart 16.1—Forms for Advertised Supply Contracts**

44-16.101 Contract forms.

**Subpart 16.2—Forms for Negotiated Supply Contracts**

44-16.202 Contract forms.  
44-16.202-50 Fixed price contracts.  
44-16.202-51 Cost-reimbursement contracts.

**Subpart 16.3—Purchase and Delivery Order Forms**

44-16.301 Order-invoice-voucher forms.  
44-16.301-2 Order for supplies or services (Standard Forms 147 and 148).

**Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect Engineer Contracts)**

44-16.501 Contract forms.  
44-16.501-1 Fixed price contracts.  
44-16.501-2 Cost-reimbursement contracts.

**Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts**

44-16.701 Forms prescribed.  
44-16.701-1 Fixed price contracts.  
44-16.701-2 Cost-reimbursement contracts.

**Subpart 16.8—Miscellaneous Forms.**

44-16.806 Contract pricing proposals.  
Authority: 41 CFR 1-1.008.

**§ 44-16.000 Scope of part.**

This part prescribes forms for use by FEMA procuring offices in connection with the procurement of supplies, purchase and delivery orders, nonpersonal services, and architect-engineer services and other miscellaneous forms for use in connection with the procurement of supplies and services.

**Subpart 16.1—Forms for Advertised Supply Contracts**

**§ 44-16.101 Contract forms.**

Standard Form 32 (SF-32) shall be used for all advertised supply contracts in excess of \$10,000.

**Subpart 16.2—Forms for Negotiated Supply Contracts**

**§ 44-16.202 Contract forms.**

**§ 44-16.202-50 Fixed price contracts.**

Standard Form 32 (SF-32) shall be used for all negotiated fixed price supply contracts in excess of \$10,000.

**§ 44-16.202-51 Cost-reimbursement contracts.**

FEMA Form DAM/GP-1 shall be used for all cost-reimbursement supply contracts in excess of \$10,000.

**Subpart 16.3—Purchase and Delivery Order Forms**

**§ 44-16.301 Order-invoice-voucher forms.**

§ 44-16.301-2 Order for supplies or services (Standard Forms 147 and 148).

All FEMA purchase and delivery orders shall be executed on Standard Form 147 (SF-147), "Order for Supplies or Services", and Standard Form 148 (SF-148), "Continuation Sheet".

**Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)**

**§ 44-16.501 Contract forms.**

**§ 44-16.501-1 Fixed price contracts.**

FEMA Form DAM/GP-3 shall be used for all advertised or negotiated fixed price contracts in excess of \$10,000 for nonpersonal services other than construction, architect-engineer services and transportation.

**§ 44-16.501-2 Cost-reimbursement contracts.**

FEMA Form DAM/GP-2 shall be used for all cost-reimbursement contracts in excess of \$10,000 for nonpersonal

services other than construction, architect-engineer services or transportation.

**Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts**

**§ 44-16.701 Forms prescribed.**

**§ 44-16.701-1 Fixed price contracts.**

The forms prescribed in 41 CFR 1-16.701 shall be used exclusively in preparing fixed price architect-engineer contracts with the exception that the clause set forth in 41 CFR 1-16.703(d) shall be substituted for Clause 7 of the Standard Form 253 (SF-253). In addition, FEMA Form DAM/SP-1 shall also be used.

**Subpart 16.8—Miscellaneous Forms**

**§ 44-16.806 Contract pricing proposals.**

Cost or pricing data shall be submitted by contractors on Optional Form 59, if the proposed contract is for other than research and development work.

**PART 44-30—CONTRACT FINANCING**

Sec.

44-30.000 Scope of part.

**Subpart 30.4—Advance Payments**

44-30.400 Scope of subpart.

44-30.406 Responsibility—delegation of authority.

44-30.408-1 Use of letter of credit method of financing.

44-30.414-2 Contract provisions for advance payments.

Authority: 41 CFR 1-1.008.

**§ 44-30.000 Scope of part.**

This part sets forth policies and procedures concerning advance payments on prime contracts.

**Subpart 30.4—Advance Payments**

**§ 44-30.400 Scope of subpart.**

This subpart covers policies and procedures concerning authority to make advance payments and the letter of credit method of financing and sets forth clauses to be used in contract where advance payment has been authorized.

**§ 44-30.406 Responsibility—delegation of authority.**

The responsibility and authority for making findings and determinations with respect to advance payments and in each case for approval of contract provisions for advanced payments, or for approval of terms and conditions thereof, shall be vested in the head of the procuring activity. Prior to committing FEMA to the making of an advance payment, the head of the

procuring activity shall obtain the advice and concurrence of the Director, Division of Budget and Finance concerning such advance payment.

**§ 44-30.408-1 Use of letter of credit method of financing.**

Letters of credit for contracts shall be established and administered in accordance with FEMA procedures established for all Letter of Credit transactions.

**§ 44-30.414-2 Contract provisions for advance payments.**

The clause set forth in 41 CFR 1-30.414-2 shall be included in all contracts for which advance funding has been authorized, but for which the letter of credit method of providing advance funding is not appropriate. The clause set forth in FEMAPR 44-7.5002-12 shall be included in all contracts for which advance funding has been authorized and the letter of credit method of providing such advance funding is appropriate.

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/SECRETARY*  | USDA/ASCS  |           | DOT/SECRETARY*  | USDA/ASCS  |
| DOT/COAST GUARD | USDA/APHIS |           | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/FHWA        | USDA/FSQS  |           | DOT/FHWA        | USDA/FSQS  |
| DOT/FRA         | USDA/REA   |           | DOT/FRA         | USDA/REA   |
| DOT/NHTSA       | MSPB/OPM   |           | DOT/NHTSA       | MSPB/OPM   |
| DOT/RSPA        | LABOR      |           | DOT/RSPA        | LABOR      |
| DOT/SLSDC       | HEW/FDA    |           | DOT/SLSDC       | HEW/FDA    |
| DOT/UMTA        |            |           | DOT/UMTA        |            |
| CSA             |            |           | CSA             |            |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

### Rules Going Into Effect Today

|       |                                                                                                                       |
|-------|-----------------------------------------------------------------------------------------------------------------------|
|       | <b>HOUSING AND URBAN DEVELOPMENT DEPARTMENT</b>                                                                       |
| 64196 | 11-6-79 / Low-income housing; modernization program—PHA-owned projects                                                |
| 64072 | 11-6-79 / Mobile home loans; down payments<br>Federal Housing Commissioner—Office of Assistant Secretary for Housing— |
| 64204 | 11-6-79 / Indian housing<br><b>INTERIOR DEPARTMENT</b><br>Fish and Wildlife Service—                                  |
| 64247 | 11-6-79 / <i>Coryphantha ramillosa</i> (bunched cory cactus) et al.; endangered species                               |
| 64250 | 11-6-79 / Endangered and threatened species; <i>arctomecon humilis</i> (dwarf bear—poppy)                             |
| 64246 | 11-6-79 / endangered and threatened species; <i>berberis sonnei</i> (truckee barberry)                                |

### List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 5, 1979

## THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

|              |                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>FOR:</b>  | Any person who uses the Federal Register and Code of Federal Regulations.                                                                                                                                                                                                                                                                                                                                              |
| <b>WHO:</b>  | The Office of the Federal Register.                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>WHAT:</b> | Free public briefings (approximately 2½ hours) to present:<br>1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.<br>2. The relationship between Federal Register and the Code of Federal Regulations.<br>3. The important elements of typical Federal Register documents.<br>4. An introduction to the finding aids of the FR/CFR system. |
| <b>WHY:</b>  | To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.                                                                                                            |

### WASHINGTON, D.C.

|                      |                                                                                                                           |
|----------------------|---------------------------------------------------------------------------------------------------------------------------|
| <b>WHEN:</b>         | Jan. 11 and 25; at 9 a.m.<br>(identical sessions)                                                                         |
| <b>WHERE:</b>        | Office of the Federal Register, Room 9409,<br>1100 L Street N.W., Washington, D.C.                                        |
| <b>RESERVATIONS:</b> | Call Mike Smith, Workshop<br>Coordinator, 202-523-5235 or<br>Gwendolyn Henderson, Assistant<br>Coordinator, 202-523-5234. |

### DALLAS, TEXAS

|                      |                                                                     |
|----------------------|---------------------------------------------------------------------|
| <b>WHEN:</b>         | December 8, 1979 at 9:30 a.m.                                       |
| <b>WHERE:</b>        | Dunfey Dallas Hotel<br>3800 West Northwest Highway<br>Dallas, Texas |
| <b>RESERVATIONS:</b> | Call Mary Peters (214) 445-0855                                     |



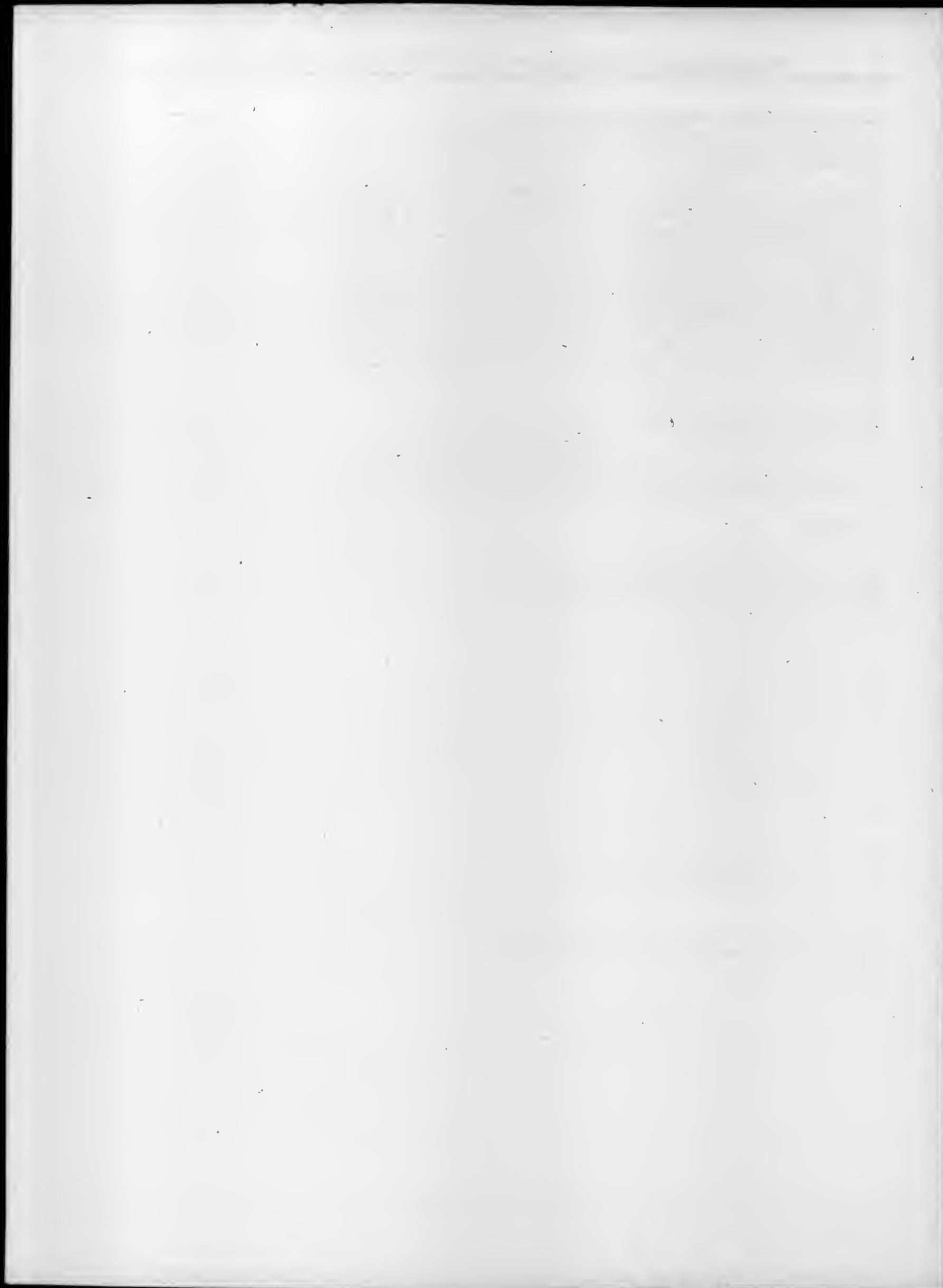
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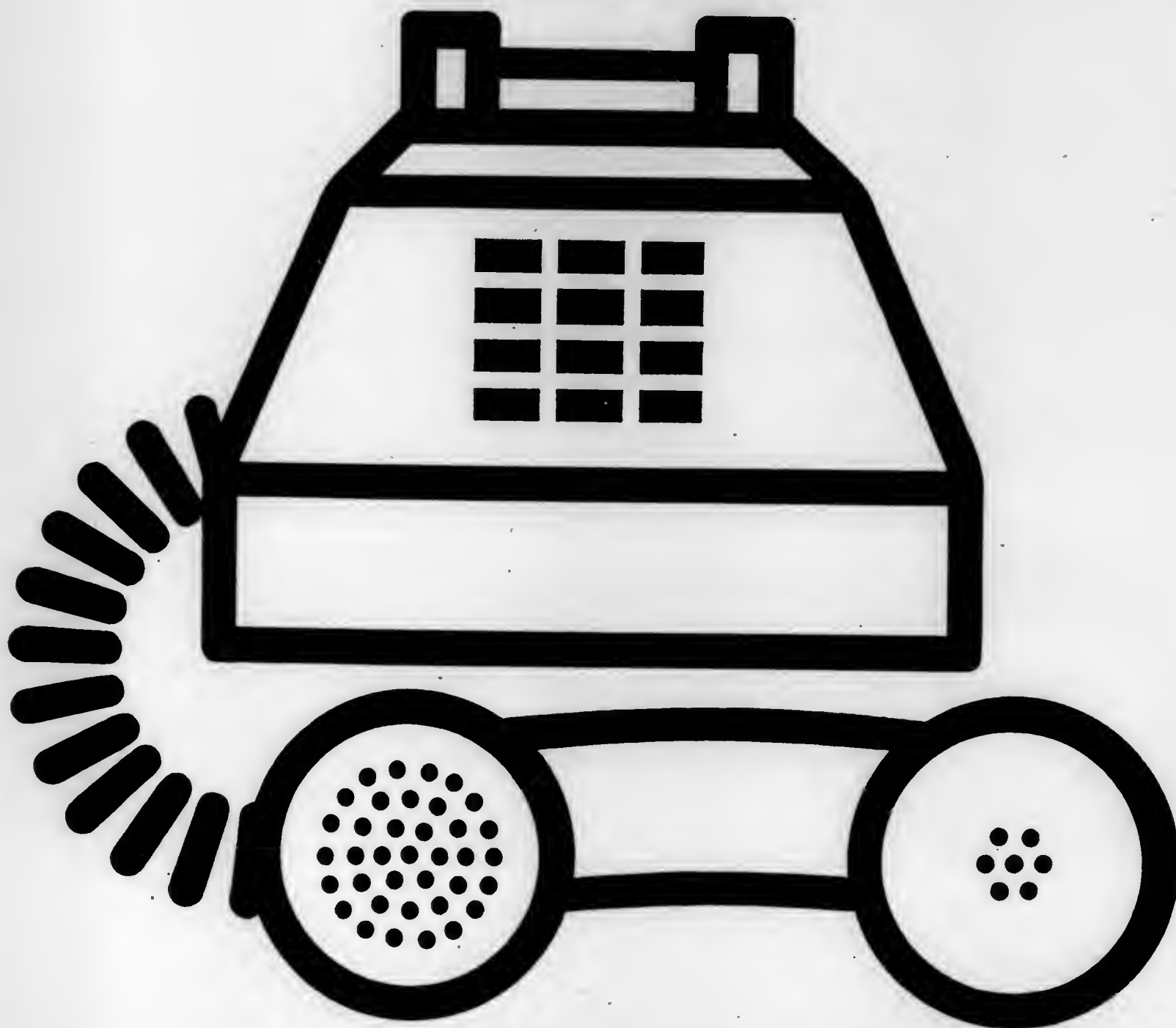
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Friday  
December 7, 1979

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## Highlights

- 70451 Nutrition Education and Training Program**  
USDA/FNS apportions funds to States; effective 12-7-79
- 70652 Campus-Based Federal Programs of Student Financial Aid** HEW/OE proposes rules regarding National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; comments by 1-7-80, hearings 1-9 and 1-10-80 (Part III of this issue)
- 70692 Standby Federal Emergency Conservation Plan**  
DOE requests comments on types of measures which should or should not be included in plan; comments by 12-20-79 (Part VIII of this issue)
- 70539 Domestic Crude Oil Allocation Program** DOE/ERA issues correction to entitlement notice for September 1979
- 70472 Industrial, Scientific, and Medical Equipment**  
FCC issues memorandum opinion and order regarding induction cooking ranges; effective 12-10-79
- 70664 Toxic Substances Control** EPA issues corrections to the fourth and publishes the fifth reports of Interagency Testing Committee and requests comments; comments by 2-5-80 (Part IV of this issue)

CONTINUED INSIDE





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Area Code 202-523-5240

## Highlights

- 70571 Privacy Act** HEW/SSA publishes document affecting systems of records
- 70587 Privacy Act** Justice publishes document affecting the systems of records
- 70607 Privacy Act** NRC publishes document affecting systems of records
- 70628 Minimum Wages For Federal and Federally-Assisted Construction** Labor/ESA publishes general wage determinations; (Part II of this issue)
- 70684 Food Stamps** USDA/FNS proposes procedures for joint application processing; comments by 2-7-80 (Part VII of this issue)
- 70680 Turtles** Interior-FWS repropose a critical habitat; comments by 2-5-80; hearings on 1-18, 1-30 and 1-31-80 (Part VI of this issue)
- 70450 Age Discrimination** USDA announces it will operate under the Department of Health, Education, and Welfare's provisions of the Act until it adopts its own specific regulations
- 70583 Nonelectric Cooking Ware** ITC reports investigation
- 70499 Amateur Satellite** FCC proposes to develop rules for the service; comments by 2-5-80
- 70569 Inhalation Bronchodilator** HEW/FDA rescinds opportunity for hearing and reevaluates new drug application; supplements to approved new drug applications due by 2-5-80
- 70452 1980 Peanut Program** USDA/ASCS issues acreage allotments and poundage quotas; effective 12-6-79
- 70515 Certain Man-Made Fiber Textile Products from India** CITA increases import level
- 70624 Sunshine Act Meetings**
- Separate Parts of This Issue**
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**70652 Part III, HEW/OE**  
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**70677 Part V, Interior/FWS**  
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## Rules and Regulations

Federal Register

Vol. 44, No. 237

Friday, December 7, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## OFFICE OF PERSONNEL MANAGEMENT

## 5 CFR Part 213

## Excepted Service; Environmental Protection Agency

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This document corrects the paragraph designations of two Environmental Protection Agency excepted service appointing authorities published September 25, 1979.

**EFFECTIVE DATE:** August 8, 1979.

**FOR FURTHER INFORMATION CONTACT:** On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Anne Maes, Environmental Protection Agency, (202) 755-0272.

**SUPPLEMENTARY INFORMATION:** (1) Federal Register Document 79-29534, published on September 25, 1979, at 44 FR 55141, incorrectly added paragraph (c) to § 213.3318. Since a paragraph (c) already existed, this document corrects that paragraph designation to read (b)(8) and revises the paragraph to reflect the additional appointing authority.

(2) Federal Register Document 79-29574, published on September 25, 1979, at 44 FR 55144, incorrectly added paragraph (b) to § 213.3318. Since a paragraph (b) already existed, this document corrects that paragraph designation to read (g).

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending 5 CFR § 213.3318 by revising paragraph (b)(8), and for clarity sets forth paragraph (g) as follows:

## § 213.3318 Environmental Protection Agency.

(b) Office of Legislation.

(8) Two Special Assistants and two Congressional Liaison Specialists (Congressional Affairs).

(g) Office of the Inspector General.

(1) One Special Assistant to the Inspector General.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., P. 218)

[FR Doc. 79-37650 Filed 12-6-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 871

## Optional Life Insurance; Cancellation of Declination for Certain Postal Service Employees

**AGENCY:** Office of Personnel Management.

**ACTION:** Final regulations.

**SUMMARY:** These regulations provide for automatic permanent cancellation of an employee's declination of optional life insurance when he or she enters the Postal Career Executive Service (PCES) and for full payment by the Postal Service of optional life insurance premiums for all members of the PCES. These regulations are being added in response to a Postal Service decision.

**EFFECTIVE DATE:** June 2, 1979.

**FOR FURTHER INFORMATION CONTACT:** Gay Gardner, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202-632-4634.

**SUPPLEMENTARY INFORMATION:** The final rules are identical to proposed regulations published in the Federal Register on July 10, 1979 (44 FR 40313). No comments were received on the proposed regulations.

By letter of April 13, 1979, the Postal Service informed the Office of Personnel Management that effective June 2, 1979, its newly established Postal Career Executive Service (PCES) would offer its members free optional life insurance. The Postal Service has full authority under the Postal Reorganization Act to make variations, additions or substitutions in the life insurance

program offered to its employees so long as any changes do not result in less favorable benefits. However, the regulatory amendments herein adopted will enable the Postal Service to continue to offer the optional life insurance through the Federal Employees' Group Life Insurance (FGLI) program rather than buy a separate policy.

Postal Service is committed to paying the full cost of optional life insurance for any PCES member who now has a declination on file, but cancels it in the future. The amendment to 5 CFR 871.401 will clarify that the full cost of optional insurance for these individuals will be paid from Postal Service funds on and after June 2, 1979. Without an amendment to the insurance regulations, declinations of optional life insurance may be cancelled only after they have been in effect for at least one year and only when the employee requests cancellation of optional life insurance declination before he or she reaches age 50 or while in good health. An amendment to the insurance regulations authorizing automatic cancellation of optional insurance declinations for PCES members would permit them to participate in the free optional insurance which will be offered to PCES members on and after June 2, 1979, without having to meet these usual requirements for cancellation of declination. Provision of free optional insurance to these employees is motivated primarily by the Postal Service's desire to conform to the prevailing practice in the private sector of transferring from a contributory to a non-contributory program and by its belief that a free optional insurance program will assist in attracting and retaining the most capable employees in the PCES.

These regulations parallel those adopted in 1974 when the Postal Service assumed the full cost of regular insurance premiums for all of its employees. Section 870.401(e) of Title 5, Code of Federal Regulations, was promulgated to provide that the Postal Service pays the full cost of regular life insurance for its employees, while 5 CFR 870.204(e) was adopted to cancel automatically regular insurance waivers for all Postal Service employees. These cancellations are permanent; that is, the waivers remain cancelled throughout any subsequent Federal service the employees may perform outside the



Postal Service, unless they later waive coverage once again. Before these regulations were adopted, the Postal Service had considered withdrawing from the FEGLI program, which would have increased the cost of life insurance for other Federal employees. Due to their flatter salary scales and lower disability rates than Federal employees generally, postal employees cost less, on the average, for \$1,000 of insurance than other Federal employees. Therefore, the continued participation of postal employees in the life insurance program helps maintain low premiums for Federal employees generally.

As far as optional insurance for PCES members is concerned, approximately 300 employees will presently benefit from the automatic declination cancellation. Participation in the optional program by members of the PCES will be so small relative to participation by postal employees generally that the mortality rate of these executives will not affect the system's financial basis. At the same time, these amendments to the regulations will encourage the Postal Service to continue its participation in the FEGLI program.

Office of Personnel Management.  
Beverly M. Jones,  
Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, as follows:

(1) A new paragraph (d) is added to § 871.205, as set out below:

§ 871.205 Cancellation of declination.

(d) Notwithstanding paragraphs (a) and (b) and (c) of this section, the declination of optional life insurance coverage of an employee who is or becomes a member of the Postal Career Executive Service on or after June 2, 1979 is automatically and permanently cancelled and he or she is insured for optional life insurance on the first day he or she enters on duty in a pay status on or after June 2, 1979.

(5 U.S.C. 8716)

(2) A new paragraph (f) is added to § 871.401, as set out below:

§ 871.401 Withholdings.

(f) Notwithstanding paragraphs (a), (b), (c), (d), and (e) of this section, the United States Postal Service contributes the full cost of optional life insurance, that is, the sum of the amounts otherwise to be withheld and contributed under paragraphs (a), (b), (c), (d), and (e) of this section, for each period in which a member of the Postal Career Executive Service is insured.

(39 U.S.C. 1005(f))

[FR Doc. 79-37625 Filed 12-6-79; 8:45 am]

BILLING CODE 5325-01-M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Subtitle A

#### Effective Date of Government-Wide Discrimination Act Regulations

**AGENCY:** Office of Equal Opportunity, USDA.

**ACTION:** Notice of Effective Date of Government-wide Discrimination Act Regulations.

**SUMMARY:** The Office of Equal Opportunity, USDA, announces that it is operating under government-wide regulations published by HEW (44 FR 33768-88) to carry out the provisions of the Age Discrimination Act of 1975 (ADA), as amended, until such time as the USDA has adopted its own specific implementing regulations. The effective date of the HEW regulations is July 1, 1979. The ADA prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Moore, Civil Rights Division, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5114.

#### SUPPLEMENTARY INFORMATION:

##### Background Information

The Age Discrimination Act of 1975 (ADA), 42 U.S.C. 6101 et seq., as amended in 1978, prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. On June 12, 1979, the Department of Health, Education and Welfare (HEW) published final government-wide regulations to implement the Act (44 FR 33768-88) and to provide a guide for the development of regulations by specific agencies which administer financial assistance programs.

##### Purpose of this notice

This notice is to inform recipients of USDA financial assistance and the general public that the USDA is operating under HEW's government-wide regulations until such time as the USDA has adopted its own regulations which will supplement the government-wide ones. The HEW regulations became effective on July 1, 1979; therefore, complaints alleging age discrimination in any program or activity receiving USDA financial assistance on or after July 1, 1979 may be filed with the Director, Office of Equal Opportunity, Room 242E,

Department of Agriculture, Washington, DC 20250. Alleged acts of discrimination in USDA-assisted programs which occurred prior to the effective date are not actionable.

The HEW government-wide regulations provide for mediation of complaints during a maximum period of 60 days from the date of filing. OEO will refer all complaints alleging age discrimination in USDA-assisted programs to the Federal Mediation and Conciliation Service (FMCS). Mediation of complaints did not begin until November 1, 1979. In any event, the statutory 180 days required to exhaust administrative remedies begins to run from the date a complaint is filed with the Office of Equal Opportunity. If mediation cannot resolve the complaint, it will be referred back to OEO for handling under our existing complaint procedures (7 CFR 15.6) until such time as procedures are incorporated into USDA's specific regulations for implementing the ADA.

##### Proposed USDA Regulations

USDA is now drafting regulations to implement the ADA with regard to its own programs and activities. Such regulations will supplement the HEW government-wide regulations. A public comment period will be provided when the proposed regulations are published. Because of the extensive public participation process which HEW followed in developing the government-wide regulations and because the USDA regulations will necessarily conform to their standards, USDA does not plan to conduct public meetings on its implementing regulations. We do solicit public comment both now and when the proposed regulations are published.

Comments should be addressed to: James Frazier, Director, Office of Equal Opportunity, Department of Agriculture, Washington, D.C. 20250.

##### Existing USDA Prohibitions Against Discrimination in any Programs Receiving USDA Financial Assistance—

USDA prohibits discrimination in any of its programs receiving USDA assistance on the basis of race, color or national origin (7 CFR Part 15, Subpart A), on the basis of sex in any of its Federally-assisted education programs (7 CFR Part 15a) and on the basis of race, color, religion, sex, age or national origin in any of its direct assistance programs or activities (7 CFR Part 15, Subpart B). USDA is currently preparing final regulations prohibiting discrimination on the basis of handicap in any of its

Federally-assisted programs (7 CFR Part 15b, when published).

Dated: November 30, 1979.

Bob Bergland,  
Secretary.

[FR Doc. 79-37724 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-01-M

## Food and Nutrition Service

### 7 CFR Part 227

#### Nutrition Education and Training Program; Appendix—Apportionment of Funds for Nutrition Education and Training

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Apportionment of funds for nutrition education and training.

**SUMMARY:** This appendix sets forth the apportionment of funds for the Nutrition Education and Training Program among the States as directed by section 19 of the Child Nutrition Act of 1966, as amended. These funds will provide for nutrition education and training in the States.

**EFFECTIVE DATE:** December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Audrey Maretzki, Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9081.

**Authority:** Section 15, Pub. L. 95-166, 91 Stat. 1340 (42 U.S.C. 1788).

Section 19(j) of the Child Nutrition Act of 1966, as amended, requires that grants to the States for the Nutrition Education and Training Program be based on a rate of 50 cents for each child enrolled in the schools or institutions within the State, except that no State will receive an amount less than \$75,000 per year. Enrollment data used for this purpose must be the latest available as certified by the Office of Education of the Department of Health, Education and Welfare (DHEW).

As in previous years, the Food and Nutrition Service (FNS) obtained certified data on enrollment from the Office of Education in the following categories: public and private schools, and nonresidential child care institutions. The dollar amounts for these categories are enumerated under "Schools" and "Nonresidential Child Care Institutions" in the Appendix. The Office of Education was unable to provide certified enrollment data on public and nonprofit private residential child care institutions.

Section 19(j) provides that grants to States to be determined on the basis of "each child enrolled in schools or in institutions within the State, \* \* \*". Because no DHEW certified data exists for nonprofit private institutions, another data source was developed. Unless this data is used, States will not receive Nutrition Education and Training grants in direct relation to the number of children attending institutions in the state. Therefore, the Department has collected data for residential child care institutions from its own reporting forms and has used this data in determining the apportionment of funds.

Enrollment data for these child care institutions were taken from the enrollment data presented in the "Annual Report of Meal Service in Schools" submitted by State agencies to FNS on FNS Form 47 (10-78). The dollar amounts are set out under the category "Residential Child Care Institutions" in the Appendix. The enrollment figures for each of the above categories are available upon request.

For fiscal year 1980, \$20 million was appropriated for the Program. This compares to \$26 million for each of fiscal years 1978 and 1979. Thus the apportionment among the States cannot be based on 50 cents per child enrolled in schools and institutions as done in previous years.

Section 19(j)(2) states that if funds appropriated for such year are insufficient to pay the amount to which each State is entitled (50 cents per child enrolled in schools or in institutions), the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of

appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

In addition, the total grant to a State will be reduced proportionately, regardless of the amount of funds a State may receive, as provided in 7 CFR 227.5(a) of the regulations, if the State educational agency is prohibited by law from administering the Program in nonprofit schools or institutions. Funds withheld for this purpose will be used by FNS for the administration of the Program in such nonprofit private schools or institutions.

Section 19(j) provides that a minimum grant level of \$75,000 should be maintained. Therefore, all States who receive a grant of less than \$75,000, under the statutory formula will receive a minimum grant of \$75,000. Thus, fourteen State agencies—Vermont, Delaware, District of Columbia, Virgin Islands, North Dakota, Wyoming, Alaska, American Samoa, Guam, Trust Territory of the Pacific Islands, Montana, South Dakota, Nevada, and the Northern Marianas—representing a total enrollment of 1,315,110, will receive \$75,000 each in fiscal year 1980 (a total of \$1,050,000). The remaining States will have \$18,950,000 to be apportioned among them. The remaining States, representing an enrollment of 48,694,239, would receive a grant of approximately \$389 per child enrolled in schools or institutions.

Pursuant to Section 19(j) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1788), funds available for the fiscal year ending September 30, 1980, are apportioned among the States as follows:

| State                       | Public schools <sup>1</sup> | Private schools <sup>2</sup> | Residential child care institutions <sup>3</sup> | Nonresidential child care institutions <sup>4</sup> | Total <sup>5</sup> |
|-----------------------------|-----------------------------|------------------------------|--------------------------------------------------|-----------------------------------------------------|--------------------|
| Connecticut                 | 231,069                     | 38,488                       | 1,260                                            | 2,866                                               | 273,683            |
| Maine                       | 93,406                      | 6,538                        | 387                                              | 806                                                 | 101,139            |
| Massachusetts               | 420,866                     | 68,337                       | 2,697                                            | 5,352                                               | 497,252            |
| New Hampshire               | 67,087                      | 7,978                        | 331                                              | 1,180                                               | 76,556             |
| Rhode Island                | 62,521                      | 12,570                       | 304                                              | 767                                                 | 76,162             |
| Vermont                     | 39,419                      | 3,814                        | 247                                              | 579                                                 | 75,000             |
| Delaware                    | 914,368                     | 137,725                      | 5,226                                            | 11,532                                              | 1,098,792          |
| District of Columbia        | 43,210                      | 7,277                        | 107                                              | 1,339                                               | 75,000             |
| Maryland                    | 44,309                      | 7,511                        | 447                                              | 2,456                                               | 75,000             |
| New Jersey                  | 315,196                     | 51,992                       | 1,292                                            | 5,234                                               | 373,714            |
| New York                    | 520,438                     | 117,060                      | 3,930                                            | 8,588                                               | 650,016            |
| Pennsylvania                | 1,204,026                   | 274,593                      | 14,068                                           | 19,756                                              | 1,512,443          |
| Puerto Rico                 | 796,518                     | 182,089                      | 9,026                                            | 7,312                                               | 994,945            |
| Virginia                    | 280,750                     | 36,776                       | 0                                                | 0                                                   | 317,526            |
| Virgin Islands              | 410,860                     | 34,947                       | 6,239                                            | 6,068                                               | 457,914            |
| West Virginia               | 9,783                       | 2,452                        | 11                                               | 0                                                   | 75,000             |
| Alabama                     | 154,000                     | 4,942                        | 770                                              | 854                                                 | 160,566            |
| Florida                     | 3,778,890                   | 719,639                      | 35,890                                           | 51,809                                              | 4,692,124          |
| Georgia                     | 236,412                     | 21,948                       | 892                                              | 10,607                                              | 329,860            |
| Kentucky                    | 389,122                     | 57,440                       | 2,116                                            | 19,074                                              | 467,752            |
| Mississippi                 | 424,042                     | 27,708                       | 2,783                                            | 14,806                                              | 469,339            |
| North Carolina              | 269,690                     | 27,786                       | 3,685                                            | 3,652                                               | 304,813            |
| South Carolina              | 192,134                     | 25,802                       | 541                                              | 12,175                                              | 230,652            |
| South Carolina <sup>6</sup> | 452,523                     | 22,104                       | 3,052                                            | 19,722                                              | 497,401            |
|                             | 243,200                     | 19,225                       | 1,255                                            | 6,559                                               | 270,239            |



| State                 | Public schools <sup>1</sup> | Private schools <sup>2</sup> | Residential child care institutions <sup>3</sup> | Nonresidential child care institutions <sup>4</sup> | Total <sup>5</sup> |
|-----------------------|-----------------------------|------------------------------|--------------------------------------------------|-----------------------------------------------------|--------------------|
| Tennessee             | 339,753                     | 17,396                       | 1,448                                            | 7,847                                               | 366,444            |
| Illinois              | 2,806,876                   | 219,410                      | 15,772                                           | 94,442                                              | 3,136,500          |
| Indiana               | 793,671                     | 160,491                      | 5,343                                            | 15,971                                              | 975,476            |
| Michigan              | 433,267                     | 39,967                       | 2,814                                            | 5,279                                               | 481,327            |
| Minnesota             | 747,374                     | 85,655                       | 3,069                                            | 7,817                                               | 843,915            |
| Ohio                  | 314,333                     | 38,994                       | 1,245                                            | 3,135                                               | 357,707            |
| Wisconsin             | 818,192                     | 110,581                      | 5,836                                            | 10,767                                              | 945,356            |
| Arkansas              | 344,962                     | 73,707                       | 1,822                                            | 3,579                                               | 424,170            |
| Louisiana             | 3,451,799                   | 509,375                      | 20,229                                           | 46,548                                              | 4,027,951          |
| New Mexico            | 177,730                     | 8,095                        | 385                                              | 4,453                                               | 190,663            |
| Oklahoma              | 317,817                     | 64,562                       | 1,551                                            | 8,307                                               | 390,237            |
| Texas                 | 108,873                     | 5,448                        | 235                                              | 2,619                                               | 118,975            |
| Colorado <sup>6</sup> | 229,166                     | 3,969                        | 1,916                                            | 6,639                                               | 243,690            |
| Iowa                  | 1,115,829                   | 52,654                       | 4,183                                            | 38,934                                              | 1,211,580          |
| Kansas                | 1,949,215                   | 134,728                      | 8,250                                            | 60,952                                              | 2,153,145          |
| Missouri              | 217,264                     | 15,800                       | 937                                              | 4,399                                               | 238,400            |
| Montana               | 221,255                     | 25,957                       | 3,204                                            | 2,631                                               | 253,047            |
| Nebraska              | 168,720                     | 12,785                       | 330                                              | 1,062                                               | 182,877            |
| North Dakota          | 350,248                     | 54,950                       | 1,271                                            | 8,629                                               | 413,098            |
| South Dakota          | 63,950                      | 3,425                        | 75                                               | 677                                                 | 75,000             |
| Utah                  | 115,891                     | 17,829                       | 378                                              | 1,694                                               | 135,590            |
| Wyoming               | 47,486                      | 4,826                        | 309                                              | 383                                                 | 75,000             |
| Alaska                | 53,792                      | 5,780                        | 287                                              | 390                                                 | 75,000             |
| Samoa                 | 126,488                     | 1,518                        | 541                                              | 1,325                                               | 129,872            |
| Guam                  | 38,709                      | 1,206                        | 74                                               | 497                                                 | 75,000             |
| Hawaii                | 1,401,803                   | 143,836                      | 7,384                                            | 19,887                                              | 1,652,884          |
| Idaho                 | 35,308                      | 739                          | 310                                              | 392                                                 | 75,000             |
| Nevada                | 3,818                       | 778                          | 0                                                | 0                                                   | 75,000             |
| Oregon                | 198,407                     | 21,871                       | 661                                              | 4,712                                               | 225,651            |
| Trust Territory       | 1,629,801                   | 170,376                      | 28,777                                           | 44,277                                              | 1,873,231          |
| Washington            | 11,118                      | 1,985                        | 0                                                | 0                                                   | 75,000             |
| N. Marianas           | 66,454                      | 13,348                       | 1,854                                            | 3,352                                               | 85,008             |
|                       | 79,009                      | 1,868                        | 119                                              | 860                                                 | 81,856             |
|                       | 56,927                      | 2,179                        | 473                                              | 1,643                                               | 75,000             |
|                       | 183,441                     | 9,379                        | 859                                              | 3,703                                               | 197,382            |
|                       | 11,590                      | 0                            | 0                                                | 0                                                   | 75,000             |
|                       | 299,362                     | 17,318                       | 2,140                                            | 5,856                                               | 324,476            |
|                       | 1,945                       | 0                            | 0                                                | 0                                                   | 75,000             |
|                       | 2,576,978                   | 239,841                      | 35,193                                           | 64,595                                              | 3,237,604          |
|                       | 18,879,929                  | 2,104,554                    | 127,944                                          | 349,365                                             | 20,000,000         |

<sup>1</sup>Sources: (1) U.S. Department of Health, Education, and Welfare, Education Division, NCES, *Statistics of Public Schools, Fall 1977*, prepublication data, Table 5 for States and areas, except (2) Northern Marianas and Trust Territory, 1975-76 data from Department of Interior, adjust to include pre-school Puerto Rico and Guam, Full 1976 data.

<sup>2</sup>U.S. Department of Health, Education, and Welfare, Education Division, (NCES), *Digest of Education Statistics, 1976*, Table 48, p. 47, Northern Marianas and Trust Territory 1975-76 data from Department of Interior, adjust to include pre-school.

<sup>3</sup>U.S. Department of Agriculture, Food and Nutrition Service, *Annual Report of Meal Service in Schools (Form FNS-47)*, October 1978.

<sup>4</sup>U.S. Department of Health, Education, and Welfare, *Day Care Centers in the U.S.: A National Profile 1976-77*, Volume 3 of the Final Report of the National Day Care Study, Table 63.

<sup>5</sup>A portion of these funds will be withheld from the States' allocations for use by FNS in administering the Program in nonprofit private schools or institutions.

Dated: December 3, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-37861 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-30-M

## Agricultural Stabilization and Conservation Service

### 7 CFR Part 729

#### 1980 Peanut Program; Acreage Allotments and Poundage Quotas

**AGENCY:** Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this rule is, (1) to determine and proclaim a national acreage allotment; (2) to establish and proclaim a national poundage quota; and (3) to apportion such allotment to the States, with respect to the 1980 crop of peanuts.

The need for this rule is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as "the Act").

**EFFECTIVE DATE:** December 6, 1979.

**ADDRESSES:** Price Support and Loan Division, ASCS, USDA, 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Gypsy Banks, (ASCS), (202) 447-6733.

**SUPPLEMENTARY INFORMATION:** A notice that the Secretary was preparing to make determinations with respect to the national acreage allotment; of those, 23

national acreage allotment and poundage quota was published in the *Federal Register* on September 28, 1979 (44 FR 55888). The comment period ended November 15, 1979.

A total of 132 comments were received, of which 118 contained recommendations pertaining to one or more of the determinations to be made. Thirty-one responses were received commenting on the national acreage allotment; of those, 23 respondents recommended a national average allotment of 1,614,000 acres, seven respondents recommended an allotment above 1,614,000 acres, and one recommended increasing the allotment in lieu of reducing the quota. One hundred and ten comments were received concerning the poundage quota. One hundred and two respondents recommended a national poundage quota of 1,596,000 tons or more. However, seven of such respondents indicated that a quota of 1,516,000 tons would be acceptable if the quota loan rate were increased. Three recommended reducing the quota to the 1980 crop statutory minimum of 1,516,000 tons. Five respondents recommended abolishing poundage quotas. Regarding the apportionment of the national allotment to States, there were 17 respondents, 15 respondents recommended that apportionment be made on the same basis as in 1979, one recommended the New Mexico State allotment be increased and one recommended that the State allotments remain unchanged from 1979.

After consideration of the comments received, as well as the latest available data, which are set forth in the final rule, it was determined that the national poundage quota for the 1980 marketing year should be 1,516,000 tons, the minimum quota prescribed under section 358(l) of the Act. Section 358(l) also specifies that "If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements." It has been determined that no increase is needed since the minimum poundage quota is sufficient to meet such requirements. It has also been determined that the national acreage allotment for the 1980 crop of peanuts should be 1,614,000 acres, the minimum prescribed under Section 358(k) of the Act. The Secretary determined that the minimum acreage allotment would be sufficient taking into consideration, as

required by Section 358(k), projected domestic use, exports, and a reasonable carryover. The latest available statistics of the Federal Government have been used in making such determinations. It is essential that these provisions be made effective as soon as possible since the proclamations of the national allotment and national poundage quota are required to be made not later than December 1, 1979. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 729.100 through 729.103 shall become effective upon filing with the Director, Office of the Federal Register with respect to the 1980 crop of peanuts.

The material previously appearing in §§ 729.100 through 729.103 under centerhead "1979 Crop of Peanuts; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the 1979 crop.

#### Final Rule

Accordingly, 7 CFR 729.100 to 729.103 and the title of the subpart are amended to read as follows:

#### Subpart—1980 Peanut Program; Acreage Allotments and Poundage Quotas

Sec.

729.100 National poundage quota for the 1980 peanut marketing year.

729.101 National acreage allotment for the 1980 crop of peanuts.

729.102 [Reserved]

729.103 Apportionment of national acreage allotment to the States.

729.104 [Reserved]

Authority: Secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended (7 U.S.C. 1301, 1358, 1375).

#### Subpart—1980 Peanut Program; Acreage Allotments and Poundage Quotas

##### § 729.100 National poundage quota for the 1980 peanut marketing year.

(a) The national poundage quota for the 1980 peanut marketing year is hereby determined and proclaimed to be 1,516,000 tons, the minimum quota prescribed under Section 358 (1) of the Agricultural Adjustment Act of 1938, as amended, (referred to in the subpart as "the Act").

(b) The Act specifies that if the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the quota may be increased to the extent necessary to meet such requirements.

(c) It has been determined that the minimum national poundage quota for 1980 will be sufficient to meet such requirements based on the following data:

#### Quota Peanuts—Projected Supply and Domestic Edible and Related Requirements, 1980 Marketing Year

|                                       |            |
|---------------------------------------|------------|
| Projected supply:                     | 1,000 tons |
| Carryin                               | 275        |
| Production                            | 1,566      |
| Total supply                          | 1,841      |
| Projected requirements:               |            |
| Domestic edible                       | 1,090      |
| Seed                                  | 103        |
| Crushing residual                     | 155        |
| Subtotal, domestic edible and related | 1,348      |
| Carryover (15 pct of requirements)    | 202        |
| Total statutory requirements          | 1,550      |
| Available for other use               | 291        |

#### § 729.101 National acreage allotment for the 1980 crop of peanuts.

(a) The national acreage allotment for the 1980 crop of peanuts is hereby determined and proclaimed to be 1,614,000 acres, the minimum allotment prescribed under Section 358(k) of the Act.

(b) Subject to the prescribed minimum, the Department is required under the Act to consider projected domestic use, exports, and a reasonable carryover in determining the national acreage allotment. It has been determined that the minimum national allotment will be sufficient to meet such requirements for the 1980 crop of peanuts based on the following data:

(1) *Production potential.* Historically, actual national acreage allotments have ranged from 1,000 to 4,000 acres above the minimum national acreage allotment prescribed by statute each year from 1957 through 1977 because of short supply determinations, mainly applicable to New Mexico. In 1978 and 1979, short supply determinations were not made and the actual national acreage allotment remained at the new statutory minimum of 1,614,000 acres. For the 1980 crop, each peanut producing State will have substantially the same total allotted acreage as in 1979.

(i) While the allotted acreage has been about the same each year since 1957, planted and harvested acres and average yields produced from those acres all have resulted in upward trends in recent years except under poor weather conditions. From 1974 through 1979, planted acres have ranged from a low of 1,519,000 in 1974 to a high of 1,548,600 in 1978 and harvested acres from a low of 1,472,100 in 1974 to an estimated high of 1,524,600 in 1979.



Average yields in the same period ranged from 2,457 pounds in 1977 to an estimated 2,643 pounds in 1979. Production ranged from 1,834,000 tons in 1974 to an estimated 2,015,000 tons in 1979 and has exceeded the 1979 crop national poundage quota of 1,596,000 tons each year since 1972.

| Crop          | Production<br>1,000 tons |
|---------------|--------------------------|
| 1975          | 1,929                    |
| 1976          | 1,875                    |
| 1977          | 1,863                    |
| 1978          | 1,994                    |
| 1979 estimate | 2,015                    |
| 5-yr average  | 1,935                    |

(ii) During the 1973-1979 period, only about 94 to 96 percent of the total acreage allotment was planted. This pattern of underutilization is expected to continue into 1980, with 1,530,000 planted acres and 1,500,000 harvested acres seen as the practicable potential for the year. Using the projected yield range of 2,625 to 2,875 pounds, 1980 crop production potential is estimated at 1,968,750 to 2,156,250 tons.

(2) *Projected requirements, 1980 marketing year.* (i) Requirements for quota peanuts for domestic edible and related use and a reasonable carryover total 1,550,000 tons (see § 729.100) out of total estimated supply of 1,841,000 tons for the 1980 marketing year.

(ii) Requirements for peanuts for export are estimated at 560,000 tons. However, availability of additional peanuts for export will depend on response of peanut growers to market demand. Quota peanuts which are surplus to domestic requirements (175,000 tons to 5,000 tons) will be available for export if demand exceeds the supply of additional peanuts.

(3) *Projected supply of and demand for peanuts under variable weather conditions, 1980 marketing year.*

| Item                                                | 1,000 tons         |                    |
|-----------------------------------------------------|--------------------|--------------------|
|                                                     | Projected estimate | Probable variation |
| Supply:                                             |                    |                    |
| Carryin.....                                        | 600                |                    |
| Marketings.....                                     | 1,998              | + 85 - 85          |
| Imports.....                                        | Negligible         |                    |
| Total.....                                          | 2,598              |                    |
| Requirements:                                       |                    |                    |
| Domestic edible, seed, and commercial crushing..... | 1,348              |                    |
| Exports.....                                        | 560                |                    |
| Surplus—CCC diversion.....                          | 90                 | + 85 - 85          |
| Total.....                                          | 1,998              |                    |
| Carryout.....                                       | 300                |                    |

#### § 729.102 [Reserved]

#### § 729.103 Apportionment of national acreage allotment to the States.

The national acreage allotment of 1,614,000 is apportioned to the States in accordance with Section 358(c)(1) of the Act as follows:

| State               | State<br>acreage<br>allotment,<br>acres |
|---------------------|-----------------------------------------|
| Alabama.....        | 216,224                                 |
| Arizona.....        | 761                                     |
| Arkansas.....       | 4,298                                   |
| California.....     | 930                                     |
| Florida.....        | 55,480                                  |
| Georgia.....        | 530,393                                 |
| Louisiana.....      | 1,945                                   |
| Mississippi.....    | 7,492                                   |
| Missouri.....       | 247                                     |
| New Mexico.....     | 9,767                                   |
| North Carolina..... | 167,870                                 |
| Oklahoma.....       | 136,290                                 |
| South Carolina..... | 13,881                                  |
| Tennessee.....      | 3,492                                   |
| Texas.....          | 358,063                                 |
| Virginia.....       | 104,837                                 |
| Total.....          | 1,614,000                               |

<sup>1</sup> The Food and Agriculture Act of 1977 amended Section 358(c)(1) of the Act to provide that the peanut acreage allotment for the State of New Mexico shall not be reduced below the 1977 crop acreage allotment as increased pursuant to a short supply determination under Section 358(c)(2). Accordingly, the acreage allotment for each State, including New Mexico, is based on each State's share of the 1979 national acreage allotment.

Note.—This regulation has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should be classified "significant" under those criteria. A final impact analysis is available from Gypsy Banks, (ASCS), (202) 447-6733.

Signed at Washington, D.C., on November 30, 1979.

Bob Bergland,

Secretary, Department of Agriculture.

[FR Doc. 79-37395 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-05-M

#### Agricultural Marketing Service

#### 7 CFR Part 910

#### [Lemon Regulation 229]

#### Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period December 9-15, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

**EFFECTIVE DATE:** December 9, 1979.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, 202-447-5975.

#### SUPPLEMENTARY INFORMATION: Findings.

This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on December 4, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975. Section 910.529 is added as set forth below:

#### § 910.529 Lemon Regulation 229.

**Order.** (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 9, 1979, through December 15, 1979, is established at 250,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 6, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc. 79-37857 Filed 12-6-79; 1:20 pm]

BILLING CODE 3410-02-M

#### SMALL BUSINESS ADMINISTRATION

#### 13 CFR Parts 120, 122

[Rev. 6, Amdt. 24, and Rev. 3, Amdt. 13]

#### Business Loan Policy

AGENCY: Small Business Administration.  
ACTION: Final rule.

**SUMMARY:** The Small Business Administration charges a guaranty fee on the amount of the loan guaranteed. This amendment will permit the financial institution to charge the guaranty fee to the borrower. Previously the regulations, in Parts 120 and 122, prohibited direct payment of the guaranty fee by the borrower. This amendment was proposed and is adopted because the prior prohibition induced a higher interest rate and inhibited participation by private lenders. The proposed rule would also have eliminated the differences in calculation and ceilings for fluctuating interest rates for shorter and longer (7 or more years) maturities and reduced the authorized interest rate as a part of SBA's recognition of the payment of the guaranty fee by the borrower. This amendment is not adopted as proposed because the existing regulation, which is being modified, encourages longer maturities for small business borrowers.

**EFFECTIVE DATE:** December 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** Arthur E. Armstrong, Director, Office of Financing Small Business Administration, 1441 L Street, N.W., Room 800, Washington, D.C. 20416, 653-6574.

**SUPPLEMENTARY INFORMATION:** On September 21, 1979, SBA published (44 FR 54725) a proposed change to its regulations, 13 CFR Parts 120, 122, relating to a guaranty fee to lenders and to the allowable amount to be added to base rate by participating lenders when loans are made on a fluctuating rate basis. Public comment was invited to November 20, 1979.

A total of 31 comments have been received in regard to this proposal; 22 from private lenders, 3 from SBA field offices, 3 from certified public accountants, 1 from a development company, 1 from an industrial commission, and 1 from a U.S. Senator.

Of the 31 comments, 28 favored the change which would permit the 1

percent guaranty fee to be passed through to the borrower (1 suggested, however, that this be considered an addition to interest rate and that language be dropped concerning a reduction of interest rate), 2 were silent on this point, and 1 was ambiguous. Thus, this portion of the proposal is adopted without change.

Concerning the part of the proposal that would reduce the 3 percentage points maximum spread allowed on fluctuating interest rate loans to 2½ percentage points for longer-term (7 years or more) loans, 15 respondents made no comment; 6 favored the change, 1 suggested a 3 percent spread for both short and long-term loans, and 9 urged that the change not be adopted, primarily for the reason that it would be disincenative for participating lenders to make longer-term loans to small firms. The Small Business Administration concurs with this latter view and thus the change will not be adopted as proposed. Instead, the regulation is being modified to accommodate a differentiation between rates for shorter and longer term loans while at the same time lowering slightly the maximum permitted rates on fluctuating rate loans. For example: If the initial note rate was 14 percent and the base rate when the lender submitted the loan application for approval by SBA was 13 percent, the lender would designate an addition to the base rate of up to 2¼ percent for loans with a maturity of less than 7 years, and an addition to the base rate of up to 2½ percent for loans with a maturity of 7 or more years; or 15¼ percent or 15½ percent as of the first fluctuation period even if the base rate remained at 13 percent.

Other substantive comments were as follows:

Permit banks to charge a fee for preparing loan applications, permit banks to use a graduated principal repayment agreement, permit banks to use the fluctuating rate from the day a loan originates rather than waiting for 3 months, begin the fluctuating rate cycle only after final disbursement, and permit savings and loan companies to charge customary fees for longer-term loans; all of these suggestions will be studied further by the Small Business Administration and one or more may be adopted in the future.

A final comment suggested that the proposal to make the change relating to the pass-through of the guaranty fee retroactive not be adopted. SBA agrees with this comment; at the time the proposal was originally drafted it appeared that July 1, 1979, would be an appropriate date, but the passage of time has made it unwieldy to implement

for both the Agency and participating lenders. Therefore, the change to pass through the guaranty fee will be effective on December 1, 1979.

#### PART 120—BUSINESS LOAN POLICY

Section 120.3 is amended by revising paragraphs (b)(1) and (b)(2)(iii), and by adding a new paragraph (b)(1)(iv) as follows:

#### § 120.3 Terms and conditions of business loans and guarantees.

(b) *Fees and interest rates.* (1) *Guaranty fees.*—In guaranteed loans (those made by a financial institution with which SBA has entered into an agreement to guarantee as set forth in Part 122 of this Chapter) a guaranty fee shall be payable by the financial institution to SBA for such agreement. Receipt or acceptance of the guaranty fee by SBA shall not waive any right of SBA arising from lender's negligence, misconduct, or violation of any provision of these regulations or of the guaranty agreement.

(iv) For guaranties approved on or after December 1, 1979, the guaranty fee may be charged to the borrower: Provided, however, That the lender has paid such fee to SBA pursuant to paragraph (b)(1)(iii) of this section, and the charge to the borrower is not made prior to first disbursement. The fee may be a part of the proceeds of the loan.

#### (2) *Interest.*

(iii)(A) Subject to paragraph (b)(2)(ii) of this subparagraph, for loans approved between June 19, 1978, and November 30, 1979, a participating lending institution (lender) may utilize a fluctuating rate of interest. The fluctuations may occur not more often than quarterly, and must rise or fall on the same basis. The initial interest rate on the loan shall not exceed SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, and the initial rate must remain in effect for not less than one full fluctuation period (e.g. one full calendar quarter); thereafter, the publication of, or variations in, SBA's maximum acceptable rate shall have no further effect or application when the interest rate fluctuates as the base rate fluctuates. The fluctuating interest may only be based either on the prime rate in effect on the first date of the fluctuation period and published daily in a public print media, or on the SBA Optional Peg Rate which is published by SBA. For loans with maturities under seven (7) years, the increase in interest added to



the base rate cannot exceed the lesser of (1) the difference in interest rates between the base rate and SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, or (2) two and one-half (2½) percentage points. For loans with maturities of seven (7) or more years, the increase in interest to be added to the base rate may be arbitrarily established by the lender up to, but not to exceed, three (3) percentage points, without regard to SBA's maximum acceptable rate, except as to the limitation on the initial interest rate as provided in this subparagraph.

(B) Subject to paragraph (b)(2)(ii) of this section, and for loans approved on or after December 1, 1979, a participating lender may utilize a fluctuating rate of interest. The fluctuations may occur not more than quarterly, and must rise and fall on the same basis. Fluctuation periods commence on the first day of a calendar quarter (e.g., Jan. 1, April 1, July 1, Oct. 1). The initial interest rate on the loan shall not exceed SBA's maximum acceptable rate as of the date the loan application was submitted by the lender to SBA, and the initial rate must remain in effect for not less than one full fluctuating period (e.g. one full calendar quarter) after first disbursement. Thereafter, the publication of, or variations in, SBA's maximum acceptable rate shall have no further effect or application when the interest rate on the note fluctuates as the base rate fluctuates. The base rate for fluctuating interest may be either the prime rate in effect on the first day of the fluctuation period and published daily in a public print media, or the SBA Optional Peg Rate which is published in the *Federal Register* quarterly by SBA. For loans with maturities under seven (7) years, the increase in interest to be added to the base rate may be established by the lender up to, but not to exceed, two and one-quarter (2¼) percentage points. For loans with maturities of seven (7) or more years, the increase in interest to be added to the base rate may be established by the lender up to, but not to exceed, two and three quarter (2¾) percentage points, without regard to SBA's maximum acceptable rate, except as to the limitation on the initial interest rate as provided in this subparagraph. Amortization of the loan may be either by fixed principal amounts plus interest at the specified rate for the particular fluctuating period, or by equal payments combining principal and interest: Provided, however, That the equal payment may be based on an interest

rate higher than the note rate to insure that future payments will be sufficient to pay interest on the outstanding principal.

#### PART 122—BUSINESS LOANS

Section 122.10 (a)(3) and (b)(2) are revised to read as follows:

##### § 122.10 Guaranteed loans.

(a) *Individually guaranteed loans.*

(3) SBA makes a charge to the financial institution as set forth in Part 120 of this Chapter.

(b) *Simplified blanket guaranty loans.*

(2) SBA makes a charge to the financial institution as set forth in Part 120 of this chapter.

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

(Catalog of Federal Domestic Assistance Programs No. 59.001, 59.002, 59.003, 59.008, 59.010, 59.012, 59.013, 59.014, 59.017, 59.018, 59.020, 59.021, 59.022, 59.023, 59.024, 59.025, 59.027, 59.028, 59.030)

William H. Mauk, Jr.,  
Acting Administrator.

[FR Doc. 79-37706 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

#### FEDERAL TRADE COMMISSION

##### 16 CFR Part 432

##### Proprietary Vocational and Home Study Schools

AGENCY: Federal Trade Commission.

ACTION: Reopening of record on exemption request of cosmetology schools; stay of rule's application.

SUMMARY: The Commission is reopening the record for late comments on the request of the National Association of Cosmetology Schools for an exemption from the requirements of the Proprietary Vocational and Home Study Schools Rule. Interested persons will have thirty days to respond to late comments being placed on the record. As a result of reopening the record, the Commission has determined to stay the Rule's application to cosmetology schools until the Commission has acted on the petition and if the Commission ultimately denies the petition, the schools affected will be given 90 days to comply with the Rule.

DATE: Written comments will be accepted until January 7, 1980.

FOR FURTHER INFORMATION CONTACT: Walter C. Gross, Federal Trade

Commission, PM-H-280, 6th Street & Pennsylvania Ave. NW., Washington, DC 20580, Telephone: (202) 523-3911.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Commission published notice and invitation to comment on the petition of the National Association of Cosmetology Schools (NACS) requesting exemption from the requirements of the Trade Regulation Rule pertaining to Proprietary Vocational and Home Study Schools (44 FR 40929). The Rule was promulgated on December 28, 1978 (43 FR 60796; 16 CFR 438) with a January 1, 1980 effective date. It requires a 14 day cooling-off period, a pro rata refund, mandatory disclosures of graduation and drop-out rates, disclosure of placement rates if triggered by jobs and earnings claims, prior substantiation of other jobs or earnings claims, and a disclaimer to be included in media advertising that contains such claims. The Commission's notice requested comments on the petition and on specified issues which the Commission considered pertinent to a decision on the merits of the request. The public record for filing comments closed after September 11, 1979.

Since September 11, 1979, the Commission has received numerous late comments from interested persons, some of which are probative of the issues on which the Commission sought information. Among these, are supplementary comments of NACS regarding comments which, though timely, were not filed in sufficient time for NACS to respond by the end of the original comment period. NACS has also requested leave of the Commission to have such comments considered as part of the record. Other comments have come from cosmetology schools, the New Jersey Cosmetology Board, the Oregon State Department of Education and the Inspector General's Office of the Department of Health, Education and Welfare. The latter's comments included a request that the Commission consider the late filing of HEW in its deliberations on the exemption request.

In view of the requests of HEW and NACS for special consideration on their filings and because the public interest will be better served, the Commission is reopening the public record and placing all comments filed after the September 11 closing date on the record. Interested persons wishing to comment on these additions will have thirty days to do so. The final date for filing such comments is January 7, 1980.

Comments should be identified as "Vocational School Exemption Comment" and, if possible, submitted in five copies. The current record on this

matter is on file in Room 130 of the Federal Trade Commission at the above address.

As a consequence of its decision to reopen the record in this matter, the Commission will be unable to act on the NACS petition before January 1, 1980, the effective date of the Vocational School Rule. Accordingly, the Commission has determined to stay the Rule's application to cosmetology schools, as NACS has defined them, until the Commission has acted on the petition. Furthermore, if the Commission ultimately denies the petition, in whole or in part, the schools affected by the denial will be given a period of 90 days to bring themselves into compliance with the Rule.

By direction of the Commission.  
Commissioner Pitofsky did not participate.  
Carol M. Thomas,  
Secretary.

[FR Doc. 79-37590 Filed 12-6-79; 8:45 am]  
BILLING CODE 6750-01-M

##### 16 CFR Part 600

##### Statements of General Policy or Interpretations Under the Fair Credit Reporting Act

AGENCY: Federal Trade Commission.  
ACTION: Final rule.

SUMMARY: The Federal Trade Commission is amending Part 600 of Title 16 to reflect changes in the organizational structure of the Federal government made during calendar year 1979. The amendment is for clarification purposes only and is not substantive in nature.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT: Gregory E. Hales, SSR-I-514, Federal Trade Commission, Washington, D.C. 20580; (202) 724-1185.

SUPPLEMENTARY INFORMATION: During calendar year 1979, the U.S. Civil Service Commission was abolished and its personnel recordkeeping responsibilities reassigned to the Office of Personnel Management. Certain provisions of the FTC's Statements of General Policy or Interpretations under the Fair Credit Reporting Act discuss applications of the Act with respect to the U.S. Civil Service Commission. Because the "CSC" no longer exists, 16 CFR Part 600 § 600.6 is hereby amended to read as follows:

##### § 600.6 Office of Personnel Management.

(a) In the course of its operations the Office of Personnel Management collects and files data concerning current and potential employees of the

Federal Government. This data may include commentary on such matters as the subject's character, general reputation, personal characteristics, or mode of living, and the information is routinely transmitted to various branches of the government. The question has arisen whether these activities are subject to the provisions of the Fair Credit Reporting Act.

(b) The definition of a "consumer report" section 603(d)(2) includes any written, oral, or other communication containing information of the type reported by the Office of Personnel Management when that communication is used for employment purposes. That provision is applicable, however, only to those reports issued by a "consumer reporting agency," which is described in section 603(f) as being a "person" which assembles such information "for monetary fees, dues, or on a cooperative nonprofit basis" to third parties. Although such a person may be a "government or governmental subdivision or agency" (section 603(b)), it is the Commission's view that the Office of Personnel Management was not intended by Congress to be subject to the Fair Credit Reporting Act.

(c) While in another context exchanges of information between the Office of Personnel Management and other government agencies might be described as "nonprofit" and "cooperative," the legislative history of section 603(d) indicates that the language was intended to refer to commercial enterprises engaged in mutually beneficial exchanges of information. See 116 Congressional Record 36576 (remarks of Representative Brown)(1970). The proposition that Federal agencies were meant to be included as well finds no support in the Congressional debates or committee reports.

(d) In addition, there is no reference to administrative agencies of the U.S. Government in the discussions of the definition of the term "consumer reporting agency" which preceded passage of the Fair Credit Reporting Act, 116 Congressional Record 35941 (remarks of Senator Proxmire)(1970); 116 Congressional Record 36575 (remarks of Representatives Wylie, Sullivan, Brown, and Widnall)(1970). Normally, Congress requests the views of officials of affected agencies when hearings are held on proposed legislation. It is unlikely that legislation affecting the Office of Personnel Management would have been considered and passed without the benefit of comments from that agency.

(e) For these reasons, the reporting activities of Federal agencies such as

the Office of Personnel Management will not be included within the scope of the Commission's Fair Credit Reporting Act enforcement program.

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37578 Filed 12-6-79; 8:45 am]

BILLING CODE 6750-01-M

#### SECURITIES AND EXCHANGE COMMISSION

##### 17 CFR Part 200

[Release No. 34-16388]

##### Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is announcing an amendment to its rules which delegates to the Director of the Division of Market Regulation the authority to publish notice of and to approve plans for allocating regulatory responsibilities filed by self-regulatory organizations pursuant to Rule 17d-2 (17 CFR 240.17d-2) and amendments thereto.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT: Katherine L. Hufnagel, Division of Market Regulation, 500 North Capitol Street NW., Washington, D.C. 20049, (202) 272-2368.

SUPPLEMENTARY INFORMATION: Section 17(d)(1)(A) of the Securities Exchange Act of 1934 (the "Act") authorizes the Commission, by rule or order, based on specified considerations, to relieve self-regulatory organizations of their statutory responsibilities with respect to any member which belongs to more than one self-regulatory organization ("joint member"). Rule 17d-2, adopted in Securities Exchange Release No. 12935 (October 28, 1976), 41 FR 49093 (1976), to implement Section 17(d), permits self-regulatory organizations to file proposals for allocating regulatory responsibilities for joint members. Under paragraph (c) of that rule, the Commission is required to give notice of each plan and to provide an opportunity for public comment on it.

Since the adoption of Rule 17d-2, twenty-two plans for allocating responsibilities and five plan amendments have been filed with the Commission. Based on its continuing review of these plans, the Commission anticipates that many of the initial filings will require amendment in order to clarify their application to particular



regulatory functions. In addition, the Commission believes that the self-regulatory organizations will, from time to time, seek to revise the plans in light of additional experience with their operation and developments within the regulatory structure.

In order to expedite publication of notice of the plans and plan amendments and, in appropriate cases, approval of them, the Commission has determined to amend, pursuant to Sections 2, 17(d) and 23(a)(1) of the Act and Section 78d-1 of Title 15, United States Code, § 200.30-3 (17 CFR 200.30-3) of the rules of the Commission, which relate to general organization, to delegate to the Director of the Division of Market Regulation the authority to issue notice of the terms of proposals for allocating regulatory responsibilities, both initial plans and amendments thereto, and in appropriate cases to approve the proposals and amendments.

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that the foregoing action relates only to a rule of agency organization, procedure or practice and does not relate to a substantive rule. Accordingly, the foregoing action becomes effective immediately December 7, 1979. In addition, the Commission finds that there is no burden on competition imposed by the foregoing action.

Part 200 of Title 17 of the Code of Federal Regulation is amended by adding paragraph (a)(34) to § 200.30-3 as follows:

**§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.**

(a) . . . . .  
(34) Pursuant to Rule 17d-2 (§ 240.17d-2 of this chapter) to publish notice of plans and plan amendments filed pursuant to Rule 17d-2 and to approve such plans and plan amendments.

(Sec. 2, Pub. L. 94-29, 89 Stat. 97 (15 U.S.C. 78b); sec. 23, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w); sec. 25, Pub. L. 94-29, 89 Stat. 163 (15 U.S.C. 78d-1); sec. 31, Pub. L. 94-29, 89 Stat. 137 (15 U.S.C. 78q))

By the Commission,  
George A. Fitzsimmons,  
Secretary.

November 30, 1979.

[FR Doc. 79-37660 Filed 12-6-79; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 4**

[T.D. 79-304]

**Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From the Bahamas Suspended and Discontinued**

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adds The Bahamas to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been obtained by the Department of State that no discriminating duties of tonnage or impost are imposed in ports of The Bahamas upon vessels belonging to citizens of the United States or on their cargoes.

**EFFECTIVE DATE:** The exemption became effective February 9, 1979.

**FOR FURTHER INFORMATION CONTACT:** Donald H. Reusch, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5706).

**SUPPLEMENTARY INFORMATION:**

**Background**

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (48 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminating duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (48 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On June 25, 1979, the Department of State advised the Treasury Department that on February 9, 1979, the Government of The Bahamas gave assurances to the U.S. Embassy in

Nassau that no discriminating duties of tonnage or imposts are imposed or levied in the ports of The Bahamas upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported from the United States or from any foreign country in vessels of the United States. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of The Bahamas are entitled to the exemption, and the Department of State has requested that such vessels be afforded the exemption.

**Declaration**

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (48 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959-1983 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101-5 (44 FR 31057), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of The Bahamas and the produce, manufactures, or merchandise imported into the United States in such vessels from The Bahamas or from any other foreign country.

This suspension and discontinuance shall extend retroactively to February 9, 1979, in respect to vessels of The Bahamas and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

**Amendment to the regulations**

In accordance with this declaration, § 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Bahamas, The" in the appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

(R.S. 251, as amended, 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119 as amended, sec. 824, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141))

**Inapplicability of Public Notice and Delayed Effective Date Requirements**

Because this is a minor amendment in which the public does not have a particular interest and, which merely implements a statutory requirement, notice and public procedure pursuant to

5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d), a delayed effective date is not required because this amendment grants an exemption.

**Regulation Determined to be Nonsignificant**

In a directive published in the Federal Register on November 8, 1978, (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant." However, regulations which are nonsubstantive, essentially procedural, do not materially change existing or establish new policy, and do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for "significant" regulations.

**Drafting Information**

The principal author of this document was Charles W. Hart, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Departments of State and Treasury participated in its development.

Dated: November 8, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-37704 Filed 12-6-79; 8:45 am]

BILLING CODE 4810-22-M

**19 CFR Part 171**

[T.D. 79-305]

**Fines, Penalties, and Forfeitures; Correction**

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule-correction.

**SUMMARY:** This document corrects an omission from T.D. 79-160 which amended the Customs Regulations implementing various aspects of Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978", relating to fines, penalties, forfeitures, and liquidated damages incurred for violations of customs and navigation laws.

**EFFECTIVE DATE:** December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Edward T. Rosse, Commercial Fraud and Negligence Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8317).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Customs Procedural Reform and Simplification Act of 1978, (Pub. L. 95-410), approved October 3, 1978, made numerous amendments to statutes administered by Customs which relate to fines, penalties, forfeitures, and liquidated damages for violations of customs and navigation laws. Final amendments to the Customs Regulations implementing these changes were published as T.D. 79-160 in the Federal Register on June 4, 1979 (44 FR 31950).

On page 31955 of the document, under the heading "Editorial Changes", an explanation was provided for certain changes which had been made from the regulations proposed in a notice published in the Federal Register on November 16, 1978 (43 FR 53453). Item 3 under that heading discussed a change to § 171.14(b) Customs Regulations (19 CFR 171.14(b)) relating to the right of a person named in a penalty notice to make an oral presentation seeking relief from a penalty incurred for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). The document stated that the language after "in the discretion of" in proposed § 171.14(b) has been deleted and the following substituted:

. . . any official of the Customs Service or Department of the Treasury authorized to act on a petition or supplemental petition.

The document also stated that the change was made because various officials within Customs and the Treasury Department other than those specifically enumerated in the proposed section are authorized to act on petitions and supplemental petitions. However, the above change was not made in the text of the amendments. Accordingly, the following amendment is made to the Customs Regulations to reflect this change:

**Inapplicability of Notice and Delayed Effective Date Procedures**

Because this amendment is designed merely to correct an omission from a previously published amendment to the Customs Regulations, good cause is found for dispensing with the notice and delayed effective date provisions of 5 U.S.C. 552.

**Inapplicability of Executive Order 12044**

This document is not subject to the provisions of the Treasury Department directive (43 FR 52120) implementing Executive Order 12044, "Improving Government Regulations", because the document to which this correction relates was in the process of preparation before May 22, 1978, the effective date of the directive.

**Drafting Information**

The principal author of this document was John E. Elkins, Regulations and Research Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

**Amendment to the Regulations**

Section 171.14(b), Customs Regulations (19 CFR 171.14(b)), is amended to read as follows:

**§ 171.14 Oral presentations seeking relief.**

(b) *Other oral presentations.* Oral presentations other than those provided in paragraph (a) of this section may be allowed in the discretion of any official of the Customs Service or Department of the Treasury authorized to act on a petition or supplemental petition.

(R.S. 251, as amended (19 U.S.C. 66), section 592, 46 Stat. 570, as amended (19 U.S.C. 1592), section 27, 41 Stat. 99, as amended (46 U.S.C. 883))

Jack T. Lacy,

Acting Commissioner of Customs.

Approved: November 16, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-37703 Filed 12-6-79; 8:45 am]

BILLING CODE 4810-22-M

**DEPARTMENT OF HEALTH, EDUCATION AND WELFARE**

**Food and Drug Administration**

**21 CFR Parts 10, 12, 13, 14, 15 and 16**

**Administrative Practices and Procedures; Reimbursement for Participation**

**Correction**

In FR Doc. 79-31701, at page 59174, in the issue of Friday, October 12, 1979, make the following corrections:

(1) On page 59176, in the third column, the third full paragraph, designated as "10.", the second line "document" should read "comment".

(2) On page 59178, the first column, the third full paragraph designated as "18." the fourth line insert the word "Society" after "Wilderness" and before



the comma and on the same page and in the same column and paragraph, the fifth line, correct "1254" to read "1354".

(3) On page 59185, in the last column, the fourth line down, correct "Transportation" to read "Importation".

(4) On page 59188, in the middle column, the fifth paragraph, designated as "(1)", the first line, correct "applicants" to read "applicant's".

(5) On page 59189, the middle column, the second full paragraph, designated as "(C)", the eleventh line down "repaymentof" is corrected to read "repayment of" and on the same page, same column, same paragraph, line twenty-one, delete the "s" in "as".

BILLING CODE 1505-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 230

[DoD Directive 1000.10]<sup>1</sup>

#### Credit Unions Serving DoD Personnel

**AGENCY:** Office of the Secretary of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule updates DoD policies governing the establishment, support of and relationships with credit unions serving DoD personnel, and revises OSD responsibilities for the program. The rule clarifies and expands some definitions and prescribes procedures for domestic and overseas credit unions in greater detail.

**EFFECTIVE DATE:** September 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Ms. Vivian Langill, Office of the Deputy Assistant Secretary of Defense (Management Systems), OASD (Comptroller), Washington, D.C. 20301, Telephone: 202-697-6954.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 78-317 appearing in the Federal Register on January 6, 1978 (43 FR 1066) the Office of the Secretary of Defense published this part as final rule. This reissuance of Part 230 incorporates internal alignments in responsibilities and expands on definitions and procedures.

Accordingly, 32 CFR Chapter I is amended by revising Part 230, reading as follows:

<sup>1</sup> Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention Code 301.

#### PART 230—CREDIT UNIONS SERVING DOD PERSONNEL

##### Sec.

- 230.1 Reissuance and Purpose.
- 230.2 Applicability.
- 230.3 Policy.
- 230.4 Responsibilities.
- 230.5 Logistical Support.
- 230.6 Definitions.
- 230.7 Specific Policies and Procedures for DoD Credit Unions.

**Authority:** Sec. 301, 80 Stat. 379; 5 U.S.C. 301 and sec. 1-28, 48 Stat. 1216; 12 U.S.C. 1751 et seq.

##### § 230.1 Reissuance and purpose.

This Part updates DoD policies governing the establishment of, support of and relationships with credit unions serving DoD personnel.

##### § 230.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereinafter referred to as "DoD Components").

##### § 230.3 Policy.

(a) Credit unions are cooperative associations created for the purpose of stimulating systematic savings and creating a source of credit for provident or productive purposes (Federal Credit Union Act (12 U.S.C. 1751, et seq.); and Rules and Regulations of the Administrator of Federal Credit Unions (12 CFR, Chapter VII)). Credit unions provide benefits to DoD personnel by (1) encouraging habits of thrift through the accumulation of savings, (2) lending money for personal loans at low-cost interest rates, and (3) extending full counseling services on personal and family financial planning problems and related matters of financial interest to members and their dependents. Therefore, to the extent provided in this Part, DoD Components shall provide support to credit unions servicing DoD personnel on military installations.

(b) Credit union services shall be made available to DoD personnel of all ranks and grades under conditions and in the manner set forth in § 230.7.

(c) Specific policies and procedures which govern the establishment and operations of credit unions are contained in § 230.7.

##### § 230.4 Responsibilities.

(a) The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall:

(1) Establish policy for the effective utilization of credit union services on military installations and monitor implementation of that policy.

(2) Maintain liaison as appropriate with the National Credit Union Administration and equivalent State regulatory agencies.

(3) Maintain liaison with associations, leagues of credit unions and councils which include DoD credit unions in order to provide DoD policies to the credit union community and to aid in solving mutual problems in the conduct of credit union operations.

(4) Coordinate with the ASD(MRA&L) on all aspects of the credit union program which pertain to morale and welfare.

(5) Take final action on requests for exceptions to the provisions of this Part.

(6) Coordinate on Military Department requests for the removal for cause of a credit union from an installation before referral to the appropriate regulatory agency.

(b) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) shall:

(1) Develop and monitor policies and procedures governing logistical support of Defense credit unions, including the use of DoD real property furnished to credit union offices on military installations.

(2) Advise the ASD(C) on all aspects of the DoD credit union program relating to the morale and welfare of DoD personnel.

(c) The Secretaries of the Military Departments shall:

(1) Have responsibility for recognizing and assisting credit unions in developing and expanding necessary credit union services for DoD personnel under their jurisdiction, consistent with the provisions of this Part.

(2) Establish liaison as appropriate with the National Credit Union Administration, the State agencies involved, as well as associations, leagues and councils which include DoD credit unions.

(3) Maintain a current list of all credit unions, branches and facilities serving their Departments.

(4) Evaluate the services provided by credit unions located on military installations to ensure that such credit unions fulfill the purposes for which they were established.

(5) Take action on requests for establishment and termination of credit union operations on military installations subject to the approval or concurrence, when required, of the appropriate regulatory agency, the ASD(C), and other DoD Components.

(d) Heads of DoD Components shall:

(1) Recognize the right of military and civilian personnel to organize and join credit unions formed under duly constituted authority, and encourage the

application and expansion of the principles of the credit union movement in the Department of Defense worldwide.

(2) Recognize and support credit union associations, leagues of credit unions and councils which include DoD credit unions in their membership.

(3) Permit DoD personnel to serve on credit union boards and committees on a voluntary noncompensatory basis where neither conflict of duty nor interest is involved as prescribed by 32 CFR 40. These personnel may be allowed to attend credit union conferences and meetings in accordance with DoD Directive 1327.5, "Leave and Liberty," June 29, 1974 and DoD Instruction 1424.2, "Administrative Dismissal and Excusal of DoD Civilian Employees," October 10, 1972. No person who serves as a credit union board member or in any other official credit union capacity may serve as a credit union liaison officer, bank liaison officer or "Commander's representative" for either credit unions or banking offices.

##### § 230.5 Logistical support.

Credit unions organized by and for DoD personnel may be provided logistical support as set forth in § 230.7(c) and DoD Directive 4000.6, "Policy on Logistics Support of United States Nongovernmental, Nonmilitary Agencies and Individuals on Overseas Military Commands," January 23, 1976.

##### § 230.6 Definitions.

(a) *Automated Teller Machine (ATM).* A machine which dispenses cash, accepts deposits and transfers funds between a member's various accounts. Equipment generally is activated by a plastic card in combination with pushbuttons.

(b) *Credit Union Branch.* A subsidiary office of an existing full-service credit union.

(c) *Credit Union Facility.* A facility employing teletype or other communications systems with the main credit union to conduct business at remote locations where a full-service credit union branch is impracticable. Credit union facilities need not provide cash transaction services, but must disburse loans and shares via check or draft. They provide competent financial counseling service during normal working hours.

(d) *Credit Union Liaison Officer.* A commissioned officer or DoD civilian employee of equivalent grade appointed

<sup>1</sup> Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention Code 301.

by an installation (military community) commander to maintain liaison with officials of the credit union located on that installation.

(e) *Discrimination.* Any differential treatment in the provision of services, including loan services, by a credit union to DoD credit union members and their dependents on the basis of race, color, religion, national origin, sex or marital status, age, rank or grade. However, if uniformly applied, the amount of credit extended may be directly based upon an applicant's total income.

(f) *DoD Credit Union.* A credit union organized primarily to serve DoD personnel.

(g) *DoD Personnel.* DoD personnel, as used in this Directive, unless the context indicates otherwise, means all military personnel, Civil Service employees, and other civilian employees including special Government employees of all offices, agencies and departments carrying on functions on a Defense installation (including nonappropriated fund instrumentalities).

(h) *Domestic DoD Credit Union.* A DoD credit union located in any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, or territory or possession of the United States.

(i) *Fair Market Rental.* Fair market rental is a reasonable charge for on-base land, buildings or building space. Rental will be determined by a Government-appraisal based on comparable properties in the local civilian economy. However, appraisers shall take into consideration the fact that on-base land may not always be comparable to similar land in the local commercial geographic area (e.g., recognizing limitation of usage and access by persons other than those on the installation, proximity to the community center or installation business district, Government's right to take title to improvements constructed at credit union expense, and Government's right to terminate lease).

(j) *Federal Credit Unions.* Credit unions established and operated under the authority granted by the Federal Credit Union Act. They are chartered, supervised and examined periodically by the National Credit Union Administration.

(k) *Field of Membership.* Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. This field of membership is defined in the credit union's charter by the Federal or State regulatory agency.

(l) *Full-Service Credit Union.* A full-service credit union provides normal counter transaction services and is staffed with a loan officer, a person authorized to sign checks and a qualified financial counselor.

(m) *Malpractice.* Any unreasonable lack of skill or fidelity in fiduciary duties or the intentional violation of applicable law and/or regulations that govern the operations of the credit union. A violation will be considered intentional if the responsible credit union officials knew that an action or inaction violated a law and/or regulation.

(n) *Operating Agreement.* A mutual agreement between the on-site credit union and the installation commander regarding their relationships.

(o) *Overseas DoD Credit Union.* A Federally chartered full-service credit union which serves its members through a branch or facility at U.S. military installations in foreign countries.

(p) *Share Drafts.* A negotiable or nonnegotiable draft or other order prepared by the credit union member and used to withdraw shares from a share draft account, normally through the commercial banking system.

(q) *State Credit Unions.* Credit unions, organized under State laws, which operate on the same general principles as Federal credit unions and are supervised and examined by State regulatory bodies.

##### § 230.8 Specific policies and procedures for DOD Credit Unions.

(a) *General.* (1) *Establishment of New Domestic Credit Union Services.* (i) Where there is a demonstrated need for credit union services and sufficient personnel capability and interest exist, credit union services may be obtained by (A) establishing a new full-service credit union, or (B) opening a branch office of facility of an existing credit union under the common bond principle.

(ii) Any group of persons seeking to establish either a new full-service credit union, or a branch or facility of an existing Defense credit union, shall submit a proposal to the installation commander for review. If the local commander supports the proposal, it will be forwarded through channels to the appropriate Military Department headquarters for final determination in coordination with the appropriate regulatory agency.

(iii) Where none of the possibilities above exist, service by mail is permitted by any credit union whose charter authorizes such membership.

(2) *Share Insurance.* Department of Defense sponsored credit unions must provide share insurance at least equal to that required by the National Credit



Union Administration (NCUA) for Federal credit unions. The insurance may be obtained through NCUA, a state-sponsored insurance program, or a private insurance plan. Department of Defense credit unions not maintaining share insurance after June 22, 1979, will be suspended from operating on the installation and a request will be made to the appropriate regulatory agency for charter amendment or revocation.

(3) *Dual Credit Unions.* At certain installations, two credit unions, each with independent and/or overlapping fields of membership, now exist. These credit unions should be encouraged by the appropriate DoD Component to take voluntary action to request charter amendments that would eliminate overlaps and would cover any installation personnel not now included.

(i) Where charter amendment is neither desired nor deemed appropriate by the officials of the credit union or where such proposed amendment is disapproved by the NCUA or the appropriate State agency, affected credit unions should be encouraged to consider the advantages of merger. Mergers may not be directed by military officials.

(ii) Where neither charter amendments nor mergers are possible, existing credit unions may retain, but not expand, existing facilities or may elect to operate from an off-base location. Priority in space allocation and facility support will be tendered first to that credit union serving all authorized personnel on the installation or to that credit union serving the largest population on the installation.

(iii) Except for those already in existence, only one credit union on a military installation is permitted, and its field of membership shall normally include all assigned DoD personnel.

(4) *Joint Operations.* Joint operations at the same physical location by multiple credit unions normally are not appropriate or necessary. However, in unusual circumstances when required in order to provide proper service to DoD personnel, such operation may be approved as an exception to policy by a DoD Component. Approvals should be coordinated with the appropriate regulatory agency and, where appropriate, by the host DoD Component with any tenant DoD Components. Information copies of such approvals shall be forwarded to the Director for Banking, International Finance and Professional Development, OASD(C).

(5) *ATM Service.* Proposals for establishment of ATMs on DoD installations shall be forwarded through military channels to the Head of the DoD Component concerned for

evaluation and approval or rejection. Information copies of all correspondence will be forwarded to the Director for Banking, International Finance and Professional Development, OASD(C). For remote ATMs, the local command must include data required by paragraph C.5., Enclosure 2, DoD Instruction 1000.12<sup>1</sup>, "Procedures Governing Banking Offices on DoD Installations", December 13, 1977. In addition, installation commanders will ensure that proposals for location of ATMs in facilities not normally under their jurisdiction (e.g., Post Exchanges) are fully coordinated before forwarding to the DoD Component headquarters concerned. In all cases, the cost of ATM installation and maintenance will be borne by the financial institution(s) involved. Commanders exercising jurisdiction over military real property and space used to house approved remote ATMs will negotiate appropriate leases in accordance with DoD Directive 4165.6<sup>1</sup>, "Real Property Acquisition, Management and Disposal," December 22, 1976, 32 CFR 231, and DoD Instruction 1000.12<sup>1</sup>, as applicable.

(b) *Operating policies.* Credit unions organized by and for DoD personnel shall operate in accordance with the provisions of this Part and 32 CFR 212. Credit union operating policies shall also be consistent with the following:

(1) *Lending.* (i) In accordance with accepted credit union practice, lending policies will be as liberal as possible and still be consistent with the interests of the overall credit union membership and the individual member. Credit unions must strive to provide the best possible service to all of their members. Special attention will be given to the counseling of military members in pay grades of E-1, E-2 and E-3 who apply for loans.

(ii) Credit unions which evidence a policy of discrimination in their loan services will be in violation of this Part. The procedures to be followed by the installation commander in resolving complaints of discrimination are specified in § 230.7(b)(4).

(iii) Credit unions shall conform to the Standards of Fairness principles as set forth in 32 CFR 43a before executing loan or credit agreements. Should an on-base credit union refer a prospective borrower to an off-base branch of the same credit union, it shall advise the latter that the Department of Defense requires compliance with the Standards

<sup>1</sup> Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

of Fairness before executing the loan or credit agreement.

(2) *Counseling.* Counseling service shall be made available to DoD credit union members without charge, and shall include helping members, particularly youthful and inexperienced personnel and young married families, to solve money problems and to budget.

(3) *Relations.* (i) It is a mutual responsibility of the installation commander and the credit union manager to build a viable relationship in which there is an in-depth understanding of each other's requirements. This relationship should be one in which effective communications are maintained and problems are anticipated and resolved as smoothly as possible.

(ii) Operating agreements will be executed between the installation commander and the on-site credit union. Such agreements will confine themselves to basic relationships and mutual support activities, e.g., hours of operation, security provided, etc. They will not involve internal operations of the credit union and will conform to the policies contained in this Part.

(iii) Credit unions operating on military installations shall:

(A) Keep the installation commander advised of credit union operations.

(B) Furnish the commander a copy of the monthly financial report and other local credit union publications.

(C) Invite command representatives to attend annual meetings and other appropriate functions.

(iv) Credit unions will, to the extent resources permit and when so requested, provide the installation commander with lectures and material on consumer credit matters in support of educational programs for DoD personnel as prescribed by 32 CFR 43.

(v) The support and sympathetic understanding intended by this Directive will not be construed as representing control, supervision, or financial responsibility for credit unions by installation commanders or DoD Components.

(vi) DoD personnel who fail to meet their just financial obligations in a proper and timely manner damage their credit reputation and affect the public image of all DoD personnel. Therefore, DoD Components will provide debt processing assistance to credit unions in accordance with 32 CFR 43a as limited by the Privacy Act Guidelines set forth in enclosure 4, DoD Instruction 1000.12<sup>1</sup>.

Credit unions may bring delinquent loans or dishonored checks to the attention of a commanding officer, or his or her designee, for such assistance.

(vii) When a credit union office is located on an installation, the installation commander will appoint a member of the command to serve as the credit union liaison officer. The credit union liaison officer's name and duty telephone number will be conspicuously displayed in the lobby of each credit union office located on a military installation. This officer will be responsible for maintaining contact with the credit union manager to:

(A) Confer or assist in the resolution of member complaints, relating to credit union services.

(B) Assess the overall value of the service provided by the credit union to the command. This estimate will not involve the internal operations of the credit union.

(C) Recommend improvements in the quality and/or quantity of credit union services provided to members.

(4) *Complaints Processing.* (i) *Discrimination.* Installation commanders who suspect or receive complaints of discrimination will first attempt to solve the problem by negotiation. Failing this, a request in writing for investigation shall be made to the regional director of the NCUA in the case of a Federal credit union, or to the State authority in the case of a State-chartered credit union. The request will clearly describe the problem. These regulatory bodies will attempt to resolve the situation. Information copies of all correspondence relating to the matter shall be sent through channels to the DoD Component concerned for forwarding to ASD(C).

(ii) *Malpractice.* Any evidence of suspected malpractice shall be reported in writing by the installation commander to the regional director of the NCUA in the case of a Federal credit union, or to the State regulatory agency in the case of a State-chartered credit union.

(iii) *Reporting.* If action by the appropriate regulatory agency's local representative fails to solve the problem, a full report with recommendations shall be submitted through military channels to the ASD(C). Appropriate follow-up action, directly to the Administrator of NCUA, or to a State regulatory agency, which may include a request for charter revocation, will be accomplished by the ASD(C), keeping the DoD Component informed.

(iv) *Removal from Installation.* If the installation commander determines that the operating policies of the credit union are inconsistent with the operating policies included in this Part, a recommendation for termination of logistical support and space arrangements may be made through departmental channels. Removal of the

credit union from the installation will be made only after approval by department headquarters and with the concurrence of the ASD(C) and the appropriate regulatory agency.

(5) *Staffing.* (i) Full services shall be provided by on-site credit unions staffed by a loan officer authorized to act for the credit committee, an individual authorized to sign checks, and a qualified financial counselor available to the membership during operating hours. Exceptions to this requirement may be approved by the DoD Component concerned in the case of newly organized credit unions.

(A) Where and on-site credit union requires only minimum staffing, the counselor duties may be assumed by § 230.7(b)(5)(i).

(B) Where an on-site credit union extends its services to one or more areas of the same installation and direct courier or message service is available to the main office, a one-person operation is authorized for the extended operation.

(ii) All staffing shall be accomplished in full compliance with the spirit and intent of the equal employment opportunity policies and programs of the Department of Defense in accordance with 32 CFR 191.

(6) *Hours of Operation.* Credit unions will be permitted to conduct operations during normal duty hours, providing there is no undue interference with the performance of official duties. Credit unions are encouraged to establish operating hours consistent with the needs of the military installation to best serve the overall needs of the membership within sound management principles. Automated teller machines (ATMs) may be used by credit unions as a means to provide service and expand operating hours.

(7) *Advertising.* (i) Advertising in official Armed Forces newspapers and periodicals 32 CFR 202 and 32 CFR 248 is prohibited with the exception of insert advertising in "Stars and Stripes" by Federal credit unions.

(ii) Credit unions may be permitted to use the unofficial section of the installation Daily Bulletins, provided space is available, to inform personnel of services afforded members, to announce credit union membership meetings, seminars, consumer information programs, and other matters of broad general interest. Credit union advertising of a competitive or comparative nature, such as advertising specific interest rates on savings or on loans is not authorized. Announcements of free financial counseling services are encouraged.

(iii) The use of informational bulletin boards for promotional material is authorized.

(iv) Competitive literature from other credit unions will not be disseminated on installations. This does not preclude a credit union from utilizing a direct mail approach or commercial advertising in the areas of another credit union. Distribution of competing credit union literature through Military Exchange outlets in areas where an on-site credit union exists is not authorized.

(v) The use of the American Forces Radio and Television Service (DoD Instruction 5120.20<sup>1</sup>, "American Forces Radio and Television (AFRT)," April 26, 1971 to promote a specific credit union is prohibited.

(8) *Support of Pay Allotment Privileges.* DoD personnel may use the allotment of pay privileges as authorized by 32 CFR 59 to make allotments to the credit union of their choice to establish sound credit and savings practices.

(i) Members who elect to deposit funds by allotment shall have their accounts credited on the date the credit union is authorized to deposit funds received on behalf of the members.

(ii) Under no circumstances will the initiation of an allotment of pay become a prerequisite for a loan approval or delivery of funds to the credit union member. Allotments voluntarily initiated to a credit union under 32 CFR 59 may continue in force at the pleasure of the allotter.

(9) *Change of Address.* Members of credit unions should contact the credit union prior to departure from the installation and report a change of address. Installation commanders are encouraged to require clearance from on-base financial institutions for personnel who are transferring from the installation.

(10) *Locator Service.* Requests for central locator service for military addresses of active duty personnel by credit unions located on a military installation will be provided at no cost in accordance with 32 CFR 288 which should be cited when requesting such service. This service is provided only when necessary to locate individuals for settlement of accounts including bad checks and delinquent loans in accordance with 32 CFR 43a.

(c) *Utilization of space, logistical support, and military real property.* Criteria governing the assignment of existing space and construction of new space for credit unions are contained in

<sup>1</sup> Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.



DoD Manual 4270.1-M, "Department of Defense Construction Criteria," June 1, 1978.

(1) *Criteria for Use of Space on DoD-Owned Real Property.* One full-service credit union, or one credit union branch, or one credit union facility at each DoD installation will be furnished space at one location, when available, by no-cost permit/license for periods of 5 years as prescribed in DoD Directive 4165.6.

(i) The furnishing of office space and related real property to credit unions will be governed by Section 124 of the Federal Credit Union Act which specifies that in order to receive space without charge, at least 95 percent of the membership must be composed of persons who either are presently military members or Federal employees or were such at the time of admission to the credit union, and members of their immediate families. Credit unions which fail to meet or do not continue to meet this criterion for free space will normally be charged fair market rental for space provided as defined in § 230.6(i). Credit unions providing less than full service and those not serving all assigned DoD personnel on each base are not authorized to be furnished free space.

(ii) On an installation where a credit union does not offer full service, and another credit union receives approval to provide full credit union services to all personnel at the installation, the installation commander shall withdraw on-base space and support functions for the credit union which does not provide full services.

(2) *Logistical Support.* Janitorial services, fixtures and maintenance when available will be furnished at no cost to the credit union at the one no-cost location. However, costs for other services such as telephone lines, long-distance toll calls, space alterations, air conditioning, heat, light, etc., will be reimbursed to the Department of Defense. Credit unions providing less than full service and those not serving all assigned DoD personnel on each base are normally not authorized to be furnished free logistical support.

(3) *Construction of Credit Unions.* Proposals by credit union officials for construction of structures on DoD installations at credit union expense must receive prior approval of the DoD Component concerned. If cost is projected to be in excess of \$300,000, prior approval of ASD(C) and ASD(MRA&L) or their designee is required. All construction projects using other than appropriated funds and costing over \$25,000 must be reported to Congress in accordance with DoD Instruction 7700.18, Nonappropriated

and Privately Funded Construction Projects—Review and Reporting Procedures, July 24, 1978. Information in the proposal must include: number of credit union members, transactions per day, value of credit union assets, accounting method used (machine or manual), and number of credit union employees. The following provisions are emphasized:

(i) Proposals for construction of credit union buildings on Defense installations must contain adequate justification why it is not feasible to construct such buildings off-base. Off-base construction is encouraged in all cases so that the credit union can recoup in case of installation closure.

(ii) The building must be confined to the needs of the credit union. The building will not be used to house other commercial enterprises or Government instrumentalities.

(iii) Credit unions submitting such plans for consideration must also agree to be financially responsible for and to reimburse the DoD for any maintenance, utilities and other services furnished.

(iv) Land required for approved construction at credit union expense shall be made available only at appraised fair market rental § 230.6(i) by real estate lease, not to exceed 25 years in duration in accordance with DoD Directive 4165.6. Leases will include the provision that, at the option of the Government, structures and other improvements erected thereon shall be conveyed to the Government without reimbursement, or removed and the land restored to its original condition in the event of (A) installation inactivation, closing, or other disposal action, (B) liquidation of the credit union, or (C) termination of the credit union lease.

(v) When under the terms of the lease, title to improvements passes to the United States, arrangements normally will be made for continued occupancy by the credit union of the amount of space permitted in DoD Manual 4270.1-M at no cost to the credit union. The credit union will be given first right to use any space in excess of the space permitted in DoD Manual 4270.1-M provided that a mutually acceptable lease is negotiated which includes provisions for fair market rental for the excess space and payment of utilities and other support service costs. Adjustments in space assignments and rental rates will be required if the membership criterion is not maintained. Exceptions to the above policies must be approved at the departmental level.

(d) *Credit union service overseas.* (1) *General.* A credit union established as a full-service branch or facility of a stateside DoD Federal credit union will

be limited to on-base operations, and will confine its membership to DoD personnel, their dependents, and other individuals who are eligible by law or regulation to receive services and benefits from the military installation and are not precluded by intergovernmental agreement, host country law, or the credit union's approved field of membership. It should be recognized that the basic decision concerning whether or not a credit union will provide services overseas rests with the credit union concerned. In developing requests for credit union services, DoD officials will provide as much information as possible concerning the availability of operating space and the availability and conditions of logistical support as a basis for decision by credit union management.

(i) DoD Component implementation of this Part shall include appropriate instructions governing existing overseas branches or facilities under its jurisdiction and encouraging the extension of credit union services overseas consistent with the principles established for domestic DoD credit unions and with pertinent Status of Forces Agreements and local laws.

(A) The appropriate DoD Component headquarters shall be notified through channels when a local commander determines that there is a need for credit union services overseas. This notification shall include, where appropriate, a statement that the requirement has been coordinated with the appropriate unified command or joint command and U.S. chief of mission or U.S. embassy and that it does not conflict with Status of Forces Agreements or local laws. This notification shall also include full information about available space and related logistical support.

(B) The DoD Component shall notify, or cause to be notified, DoD Federal credit unions of this need, shall review the specific proposals of interested credit unions, shall coordinate with the field commands as it deems necessary and appropriate, and shall make recommendations for the satisfaction of the need to the NCUA with information copies to the Director for Banking, International Finance and Professional Development, OASD(C).

(C) Such recommendations to the NCUA shall, where appropriate, include identification of the primary installation from which the proposed branch office would operate and the geographical territory in which additional branches and facilities may be established. These additions may be permanent locations or mobile outlets.

(D) Upon receipt of the NCUA response, the DoD Component shall take appropriate action to implement that response, with information copies to the Director for Banking, International Finance and Professional Development, OASD(C).

(ii) Branches and facilities authorized by NCUA will have a prescribed territorial franchise. However, any credit union having an approved charter which authorizes it to serve its members while stationed overseas may continue to do so by direct mail, including the use of available advertising media for commercial solicitation.

(2) *New Services.* Should a credit union propose any new service, e.g., share drafts, which is an addition to or departure from the original charter, the proposal shall be coordinated with the appropriate unified command or joint command and U.S. chief of mission or U.S. embassy to make certain that it is not in conflict with Status of Forces Agreements or local law. A statement citing such coordination shall be included when the proposal is forwarded through departmental channels for review and approval by the DoD Component and the NCUA.

(3) *Implementation.* Overseas credit union branch offices and facilities shall conduct business in accordance with this Part implementing regulations of the DoD Components.

(i) The recommendations and direction of the NCUA through its rules, regulations, procedural forms, reports and manuals (including the Board of Directors Manual for Federal Credit Unions) shall apply directly to all overseas credit union branch offices and facilities.

(ii) Funds shall be deposited and/or invested in accordance with the authority applicable to Federal credit unions. Overseas credit union branch offices and facilities shall deposit funds in accordance with instructions issued by the NCUA giving full consideration to use of the services of military banking facilities whenever available.

(iii) Operation of overseas credit union branch offices and facilities will be reviewed by the NCUA during examination of the main credit union or as NCUA determines necessary.

(iv) When credit unions deal in foreign currency, it shall be purchased at the accommodation rate when used for resale to individuals and purchased at the bulk rate when used for vendor or payroll payments, as these rates have been established by the local military banking facility.

(v) When Military Payment Certificates are prescribed for the area in which the overseas credit union is

operating, they shall be used in accordance with DoD Instruction 7360.5<sup>1</sup>, "Military Payment Certificate System," June 14, 1977.

(vi) No credit union loans may be made for the purpose of purchasing real property or purchasing or erecting any type of residence in any foreign country.

(4) *Logistical Support for Overseas Credit Unions* will be in accordance with DoD Directive 4000.6<sup>1</sup>. This will include free space, when available. Any renovations or alterations required by the credit union will be at the cost of the credit union. Janitorial services, fixtures and maintenance will be furnished at no cost to the credit union; however, costs for other services such as utilities will be reimbursed to the appropriate DoD Component.

(5) *Military Postal Service for Overseas Credit Unions* may be authorized in accordance with DoD Directive 4525.5<sup>1</sup>, "Postal Operations and Related Services," March 20, 1978.

(6) *Autodin and Autovon* may be provided on a case-by-case reimbursable basis.

(7) *Travel of Credit Union Officials Overseas* shall be as set forth in DoD Directive 4000.8<sup>1</sup>. Invitational travel orders which authorize travel at no expense to the U.S. Government may be issued by the local commander for official on-site visits of Defense credit union officials.

December 3, 1979

H. E. Lofdahl,  
Director, Correspondence and Directives,  
Washington Headquarters Services,  
Department of Defense.

[FR Doc. 79-37899 Filed 12-6-79; 8:45 am]

BILLING CODE 3810-70-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

(FRL 1353-2)

### Standards of Performance for New Stationary Sources; Delegation of Authority to State of Delaware

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** This document amends 40 CFR 60.4 to reflect delegation to the State of Delaware of authority to implement and enforce certain Standards of Performance for New Stationary Sources.

<sup>1</sup> Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

EFFECTIVE DATE: December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Joseph Arena, Environmental Scientist, Air Enforcement Branch, Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597-4561.

## SUPPLEMENTARY INFORMATION:

### I. Background

On October 5, 1978, the State of Delaware requested delegation of authority to implement and enforce certain Standards of Performance for New Stationary Sources for Sulfuric Acid Plants. The request was reviewed and on October 9, 1979 a letter was sent to John E. Wilson III, Acting Secretary, Department of Natural Resources and Environmental Control, approving the delegation and outlining its conditions. The approval letter specified that if Acting Secretary Wilson or any other representatives had any objections to the conditions of delegation they were to respond within ten (10) days after receipt of the letter. As of this date, no objections have been received.

### II. Regulations Affected by this Document

Pursuant to the delegation of authority for certain Standards of Performance for New Stationary Sources to the State of Delaware, EPA is today amending 40 CFR 60.4, *Address*, to reflect this delegation. A Notice announcing this delegation is published today in the Notices Section of this Federal Register. The amended § 60.4, which adds the address of the Delaware Department of Natural Resources and Environmental Control, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

### III. General

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on October 9, 1979, and it serves no purpose to delay the technical change of this address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. 7411.



Dated: December 3, 1979.

Douglas M. Costle,  
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph (I) to read as follows:

**§ 60.4 Address.**

(b) \* \* \*

(A)-(H) \* \* \*

(I) State of Delaware (for fossil fuel-fired steam generators; incinerators; nitric acid plants; asphalt concrete plants; storage vessels for petroleum liquids; sulfuric acid plants; and sewage treatment plants only).

Delaware Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dover, Delaware 19901.

[FR Doc. 79-37655 Filed 12-6-79; 8:45 am]

BILLING CODE 5560-01-M

**40 CFR Part 81**

[FRL 1357-1]

**Air Quality Control Regions, Criteria, and Control Techniques; Section 107 Attainment Status Designations; New York**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Rule.

**SUMMARY:** The purpose of this notice is to revise the attainment status designations for portions of the State of New York with regard to the national ambient air quality standard for ozone. This action, as proposed in an August 3, 1979 Federal Register notice (44 FR 45650), affects certain areas of the State originally designated as "nonattainment." The table following this rulemaking indicates the attainment status designation for each area in New York State. Publication of these designations relates to the provisions of Section 107(d) of the Clean Air Act, as amended.

**DATES:** Effective December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 107(d) of the Clean Air Act, as amended, directed each state to submit to the Environmental Protection Agency (EPA) for every area within the state a

list of the attainment status designations with respect to each of the national ambient air quality standards. EPA received such information and promulgated the attainment status designations in a March 3, 1978 Federal Register (43 FR 8962). Subsequently, modifications to these designations were promulgated for the states administered by the Region II Office of EPA (New York, New Jersey, Puerto Rico and the Virgin Islands) in a January 25, 1979 Federal Register (44 FR 5119). In both of these Federal Register notices, all areas within the State of New York were designated as not attaining the national ambient air quality standard for ozone. These designations were based on ambient air monitoring data and other analyses indicating statewide violation of the ozone standard.

In a February 8, 1979 Federal Register notice (44 FR 8202), EPA announced revision of the ozone standard from 0.08 ppm to 0.12 ppm. Upon reviewing its air quality data base in relation to the revised ozone standard, New York State determined that several portions of the State had ambient air quality levels better than the revised standard and that other areas could not be classified with confidence as either attaining or not attaining the standard. Consequently, on May 2, 1979 the New York State Department of Environmental Conservation formally requested that EPA redesignate several areas to reflect this information.

EPA reviewed the State's request and in an August 3, 1979 Federal Register notice (44 FR 45656) proposed to approve the following redesignations:

*Better Than Notional Standards*

Southern Tier East Air Quality Control Region (the entire area)  
Central Air Quality Control Region (the Counties of Herkimer, Lewis, Jefferson, and Cortland)  
Hudson Valley Air Quality Control Region (the Counties of Fulton, Montgomery, Schoharie, and the northern two thirds of the County of Saratoga)  
Northern Air Quality Control Region (the entire area except the County of Washington)

*Cannot Be Classified*

Southern Tier West Air Quality Control Region (the entire area)  
Central Air Quality Control Region (the Counties of Oswego, Madison, and Oneida)  
Northern Air Quality Control Region (the County of Washington)

EPA's Federal Register notice also invited the public to comment on the State's proposed redesignations. In response, on September 4, 1979 the New Jersey Department of Environmental Protection submitted comments to EPA. No other comments were received.

New Jersey's submittal contained an analysis indicating ozone standard violations in the areas EPA proposed to redesignate from "nonattainment" to "attainment" or "unclassifiable." On this basis New Jersey maintains that the proposed redesignations should not be promulgated.

EPA disagrees with this position. The methodology used by New Jersey in its analysis is based on the assumption that a limited network of existing ozone monitors can be used in combination with meteorological data to estimate ambient ozone levels over a broad geographical area in which no ozone monitors exist. However, this method does not consider that there may be variations in the emission density in the various area. EPA has determined that, although the methodology used by New Jersey may be useful as a preliminary screening technique to determine areas of potential ozone standard contravention, it is not conclusive and cannot be used as a basis for the determination of attainment status designations.

EPA's decision to redesignate areas as "Better Than National Standards" is based on an analysis of measured air quality data over a period of twelve calendar quarters which shows that ambient levels in the affected areas are better than the revised ozone standard. The redesignations to "Cannot Be Classified" are based on the absence of concrete evidence of ozone standard violations. For the Southern Tier West Air Quality Control Region (AQCR) and the County of Washington in the Northern AQCR, monitoring results show attainment of the standard; however, it is believed that these readings are unduly influenced (depressed) by the presence of nearby sources of nitrogen oxide. Inasmuch as all the areas proposed to be redesignated as "Cannot Be Classified" are located nearby and downwind of areas designated as "Does Not Meet Primary Standards" and do not contain any major urban centers, further evaluation of their attainment status is believed warranted.

This criteria, on which today's redesignations are based, is consistent with EPA policy which states that designations of "Does Not Meet Primary Standards" shall be determined on the basis of measured air quality data which indicates contravention of the standard. In the absence of such data, a designation of "Cannot Be Classified" or "Better Than National Standards" is appropriate for a nonurban area. The redesignations promulgated in this notice are based in this policy. The

reader is referred to a February 1, 1979 Federal Register notice (44 FR 6395) and the "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattainment Areas for Ozone" (cited in the referenced notice) for a detailed discussion of this policy. The Notice and Technical Support Document are incorporated as part of the record supporting this action.

Part D of the Clean Air Act requires that states revise their State Implementation Plans to provide for attainment of national ambient air quality standards in those areas that are designated as "nonattainment." The areas redesignated herein from "nonattainment" to "attainment" or "unclassifiable" are no longer required to meet Part D requirements but are subject to the Prevention of Significant Deterioration (PSD) requirements (43 FR 26380, June 19, 1978). PSD requirements stipulate, among other things, that where there is no reliable measured ambient air quality data, monitors are to be established to determine if there are any violations of a standard.

Based on a review of all data submitted in relation to the ozone attainment status designations proposed on August 3, 1979 (44 FR 45650), EPA has determined that such redesignations are consistent with the requirements of Section 107(d) of the Clean Air Act and EPA regulations found at 40 CFR Part 81 and is, today, promulgating revised ozone attainment status designations for New York State. Furthermore, this action is being made effective immediately because the revision imposes no hardship on the affected sources.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA has reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)))

Dated: December 3, 1979:

Douglas M. Costle,  
Administrator, Environmental Protection Agency.

Part 81 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

**Subpart C—Section 107 Attainment Status Designations**

**§ 81.333 [Amended]**

In § 81.333, the attainment status designation table for ozone is revised to read as follows:

| New York—Ozone            |                                 |                                                     |
|---------------------------|---------------------------------|-----------------------------------------------------|
| Designated Area           | Does Not Meet Primary Standards | Cannot Be Classified or Better than Nat'l Standards |
| Niagara Frontier          | X                               |                                                     |
| Genesee-Finger Lakes AQCR | X                               |                                                     |
| Southern Tier West AQCR   |                                 | X                                                   |
| Southern Tier East AQCR   |                                 | X                                                   |
| Central AQCR              |                                 |                                                     |
| The County of Cayuga      | X                               |                                                     |
| The County of Onondaga    | X                               |                                                     |
| Remainder of AQCR         |                                 | X                                                   |
| Northern AQCR             |                                 | X                                                   |
| Hudson Valley AQCR        |                                 |                                                     |
| The County of Albany      | X                               |                                                     |
| The Town of Clifton Park  | X                               |                                                     |
| The County of Columbia    | X                               |                                                     |
| The County of Dutchess    | X                               |                                                     |
| The County of Greene      | X                               |                                                     |
| The Town of Halfmoon      | X                               |                                                     |
| The City of Mechanicville | X                               |                                                     |
| The County of Orange      | X                               |                                                     |
| The County of Putnam      | X                               |                                                     |
| The County of Rensselaer  | X                               |                                                     |
| The County of Schenectady | X                               |                                                     |
| The County of Ulster      | X                               |                                                     |
| The Town of Waterford     | X                               |                                                     |
| Remainder of AQCR         |                                 | X                                                   |
| Metropolitan AQCR         | X                               |                                                     |

[FR Doc. 79-37654 Filed 12-6-79; 8:45 am]

BILLING CODE 5560-01-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Public Land Order 5688**

[S-1491]

**California; Withdrawal for New Melones Dam and Reservoir Project**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order withdraws approximately 5,093 acres of public and national forest land and 450 acres of privately owned land, the minerals to which are reserved to the United States, aggregating a total of approximately 5,543 acres for the Water and Power Resources Service, Department of the Interior New Melones Dam and Reservoir Project authorized as a part of the California Central Valley Project. **EFFECTIVE DATE:** December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Sue Bosma, 202-343-6486

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2). The lands shall be reserved for use by the Water and Power Resources Service, Department of the Interior (formerly the Bureau of Reclamation), in connection with the New Melones Dam and Reservoir Project and are to be managed in accordance with the Act of October 23, 1962 (76 Stat. 1191).

**Mount Diablo Meridian**

T. 1 N., R. 13 E.,

Sec. 1, Lots 1 to 5, inclusive, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼, and NE¼SE¼;

Sec. 2, Lots 1 and 2, SW¼NE¼, S½NW¼, and W½NW¼SW¼;

Sec. 4, SW¼SE¼;

Sec. 8, NE¼SE¼;

Sec. 9, NW¼NE¼, NW¼SE¼, and S½SE¼;

Sec. 11, NW¼SW¼ and S½SW¼SW¼;

Sec. 12, Lot 1, NW¼NE¼, NE¼NW¼, and NE¼SW¼;

Sec. 15, NW¼NE¼NW¼;

Sec. 24, S½SW¼.

T. 2 N., R. 13 E.,

Sec. 9, NW¼SW¼;

Sec. 21, Lot 1;

Sec. 23, Lots 1 and 2 (except portion M.S. 5189A and M.S. 4192);

Sec. 24, Lots 13, 17, and 19, S½ Lot 22, and unpatented fractional portion of Lot 23 in W½SE¼SE¼;

Sec. 25, E½SE¼NW¼, E½SW¼, fractional NE¼SE¼, and NW¼SE¼;

Sec. 26, Lots 1 and 2 and N½NE¼ (except portion M.S. 5189A and B).

T. 1 N., R. 14 E.,

Sec. 6, Lots 8 and 9 and Lots 25 to 34, inclusive;

Sec. 7, Lots 1 and SE¼NE¼ (except portion M.S. 5001);

Sec. 18, Lots 5 and 6 and W½SE¼;

Sec. 19, NW¼NE¼, SE¼NE¼, W½SE¼, and NE¼SE¼;

Sec. 20, SW¼SW¼NE¼, SW¼NW¼, S½SE¼NW¼, and N½SW¼.

T. 2 N., R. 14 E.,

Sec. 4, Lots 1 and 2, W½ Lot 7, Lot 9, NW¼ Lot 10, Lots 11, 12, and 13, E½E½ Lot 14, Lots 15 and 16, and SE¼NE¼;

Sec. 8, Lots 1, 3, and 5, N½ Lot 10, and SW¼ Lot 10;

Sec. 9, Lots 1 to 4, inclusive;

Sec. 17, W½ Lot 1, N½ Lot 5, SW¼ Lot 5, SE¼ Lot 6, E½NE¼, W½SW¼, W½NE¼SW¼, NW¼SE¼SW¼, W½SE¼, N½NE¼SE¼, and SW¼NE¼SE¼;

Sec. 19, Lot 3 (except M.S. 5028), Lot 4 (except M.S. 5068), Lots 7 and 12, S½NE¼SW¼, S½NW¼SE¼, and N½N½NE¼SE¼;

Sec. 20, Lots 2, 3, and 4 (except M.E. 167 and M.S. 3987), Lots 5, 6, and 7, and S½SE¼NW¼;



Sec. 30, Lots 3 and 20 and M.S. 6307 in Lot 24;  
 Sec. 31, SE $\frac{1}{4}$  Lot 1, E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$  Lot 1, South 330 feet Lot 16, Lots 17, 18, 23, and NW $\frac{1}{4}$  Lot 24, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 3 N., R. 14 E.,  
 Sec. 1, South 330 feet Lot 8;  
 Sec. 12, Lot 4, Lot 5 (except M.S. 4509), SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$  (except M.S. 4602), E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$  lying Southeast of M.S. 4602, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 13, W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 14, S $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22, SE $\frac{1}{4}$  Lot 2;  
 Sec. 23, Lots 1 and 2, S $\frac{1}{2}$  Lot 3, E $\frac{1}{2}$  Lot 5, N $\frac{1}{2}$  Lot 6, SW $\frac{1}{4}$  Lot 6, W $\frac{1}{2}$  Lot 11, Lots 12 and 13, and W $\frac{1}{2}$  Lot 14;  
 Sec. 24, W $\frac{1}{2}$ W $\frac{1}{2}$  Lot 1, Lot 2, N $\frac{1}{2}$  Lot 3, and NW $\frac{1}{4}$  Lot 4;  
 Sec. 26, Lots 2 and 3, W $\frac{1}{2}$  Lot 7, and Lot 9;  
 Sec. 27, E $\frac{1}{2}$  Lot 1 and Lots 3 and 7;  
 Sec. 33, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 35, Lot 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$  lying South and West of M.S. 5677, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and unnumbered segregation survey of mineral land in N $\frac{1}{2}$ ;  
 Sec. 36, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  [except M.S. 5677] and N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 The area described aggregates 4,985 acres in Calaveras and Tuolumne Counties.

2. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location and entry under the mining laws (30 U.S.C., Ch. 2) for use by the Water and Power Resources Service in connection with the New Melones Dam and Reservoir Project under the terms and conditions as may be agreed upon between the Water and Power Resources Service, and the Forest Service, Department of Agriculture.

#### Stanislaus National Forest

##### Mount Diablo Meridian

T. 3 N., R. 15 E.,  
 Sec. 6, Lot 2, S $\frac{1}{2}$  Lot 7, S $\frac{1}{2}$ NE $\frac{1}{4}$  Lot 7, and SE $\frac{1}{4}$ NW $\frac{1}{4}$  Lot 7;  
 Sec. 7, N $\frac{1}{2}$  Lot 1, W $\frac{1}{2}$ W $\frac{1}{2}$  Lot 2, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 The area described aggregates 107.50 acres in Calaveras and Tuolumne Counties.

3. The following described patented land, the minerals to which are reserved to the United States under the

Stockraising Homestead Act of December 29, 1916 (30 Stat. 862), is hereby withdrawn from location and entry under the general mining laws (30 U.S.C., Ch. 2) and reserved for use by the Water and Power Resources Service in connection with the New Melones Dam and Reservoir Project.

##### Mount Diablo Meridian

T. 1 N., R. 13 E.,  
 Sec. 14, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$  NW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The above described area aggregates 450 acres in Calaveras and Tuolumne Counties.

4. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands described in paragraph 2 of this order, under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

5. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,  
*Assistant Secretary of the Interior.*

December 3, 1979.

[FR Doc. 79-37628 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

#### National Flood Insurance Program; Final Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, National Flood

Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free (800) 424-9080), Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the

community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

#### Final Base (100-Year) Flood Elevations

| State                                                                        | City/town/county                                              | Source of flooding       | Location                                                  | —#Depth in feet above ground.<br>*Elevation in feet (NGVD) |
|------------------------------------------------------------------------------|---------------------------------------------------------------|--------------------------|-----------------------------------------------------------|------------------------------------------------------------|
| Arizona                                                                      | Paradise Valley (Town), Maricopa County (Docket No. FI-5567). | Indian Bend Wash         | Scottsdale Road                                           | *1,299                                                     |
|                                                                              |                                                               |                          | Northern Avenue                                           | *1,301                                                     |
|                                                                              |                                                               |                          | Golf Drive                                                | *1,303                                                     |
|                                                                              |                                                               |                          | Ivergordon Road                                           | *1,321                                                     |
|                                                                              |                                                               |                          | Double Tree Ranch Road                                    | *1,333                                                     |
|                                                                              |                                                               |                          | 56th Street                                               | *1,346                                                     |
|                                                                              |                                                               |                          | Mountain View Road (Upstream Corporate Limits)            | *1,348                                                     |
|                                                                              |                                                               | Berneil Channel          | Double Tree Ranch Road                                    | *1,325                                                     |
|                                                                              |                                                               |                          | Mountain View Road                                        | *1,335                                                     |
|                                                                              |                                                               |                          | Scottsdale Road                                           | *1,335                                                     |
|                                                                              |                                                               | Echo Canyon Wash         | Confluence with Arizona Canal                             | *1,251                                                     |
|                                                                              |                                                               |                          | Stanford Drive                                            | *1,263                                                     |
|                                                                              |                                                               |                          | McDonald Drive                                            | *1,308                                                     |
|                                                                              |                                                               |                          | Valley Vista Lane (downstream)                            | *1,318                                                     |
|                                                                              |                                                               |                          | Valley Vista Lane (upstream)                              | *1,320                                                     |
|                                                                              |                                                               |                          | Tatum Boulevard                                           | *1,322                                                     |
| Maps available at the Office of the Town Engineer, Paradise Valley, Arizona. |                                                               |                          |                                                           |                                                            |
| California                                                                   | Alameda County (Unincorporated Areas) (Docket No. FI-3722).   | Arroyo Mocho             | Corporate Limits Downstream of Arroyo La Positas          | *341                                                       |
|                                                                              |                                                               |                          | Arroyo Road                                               | *503                                                       |
|                                                                              |                                                               |                          | Wente Street                                              | *551                                                       |
|                                                                              |                                                               | Arroyo Las Positas       | El Charro Road                                            | *357                                                       |
|                                                                              |                                                               |                          | Cottonwood Creek                                          | *374                                                       |
|                                                                              |                                                               |                          | Airway Boulevard                                          | *381                                                       |
|                                                                              |                                                               |                          | Interstate Highway 580 Downstream of Cayetano Creek       | *405                                                       |
|                                                                              |                                                               |                          | North Livermore Avenue                                    | *448                                                       |
|                                                                              |                                                               |                          | Interstate Highway 580 Upstream of North Livermore Avenue | *477                                                       |
|                                                                              |                                                               | Arroyo Seco              | Vasco Road                                                | *527                                                       |
|                                                                              |                                                               |                          | Vasco Road                                                | *595                                                       |
|                                                                              |                                                               |                          | Greenville Road                                           | *695                                                       |
|                                                                              |                                                               | Las Positas Relocation   | Greenville Road                                           | *620                                                       |
|                                                                              |                                                               | Arroyo Valle             | Vineyard Avenue                                           | *365                                                       |
|                                                                              |                                                               |                          | Isabel Avenue                                             | *415                                                       |
|                                                                              |                                                               |                          | East Vallecitos Road                                      | *446                                                       |
|                                                                              |                                                               |                          | Arroyo Road                                               | *540                                                       |
|                                                                              |                                                               | Line J-1                 | Dublin Boulevard                                          | *530                                                       |
|                                                                              |                                                               |                          | Amador Valley Boulevard                                   | *535                                                       |
|                                                                              |                                                               | Chabot Canal             | Southern Pacific Railroad                                 | *333                                                       |
|                                                                              |                                                               | San Lorenzo Creek        | Don Castro Dam                                            | *238                                                       |
|                                                                              |                                                               |                          | Confluence with Palomares Creek                           | *313                                                       |
|                                                                              |                                                               | Line G                   | Grove Way                                                 | *133                                                       |
|                                                                              |                                                               |                          | Castro Valley Boulevard                                   | *161                                                       |
|                                                                              |                                                               |                          | San Miguel Avenue                                         | *191                                                       |
|                                                                              |                                                               | Line J                   | Pine Street                                               | *163                                                       |
|                                                                              |                                                               |                          | Catalina Drive                                            | *186                                                       |
|                                                                              |                                                               |                          | Berdina Road                                              | *177                                                       |
|                                                                              |                                                               | Bockman Canal and Line N | Pile Trestle Bridge                                       | *8                                                         |
|                                                                              |                                                               |                          | Southern Pacific Railroad                                 | *8                                                         |
|                                                                              |                                                               | Alameda Creek            | Sunol Dam                                                 | *223                                                       |
|                                                                              |                                                               |                          | Interstate 680                                            | *245                                                       |
|                                                                              |                                                               | Tassajara Creek          | Santa Rita Road                                           | *346                                                       |
|                                                                              |                                                               | Cayetano Creek           | Hartman Road                                              | *522                                                       |
|                                                                              |                                                               | Collier Creek            | Interstate 580                                            | *416                                                       |
|                                                                              |                                                               |                          | Collier Canyon Road                                       | *432                                                       |



## Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                  | City/town/county                                               | Source of flooding                          | Location                                                           | —#Depth in feet above ground. *Elevation in feet (NGVD) |
|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------|---------------------------------------------------------|
| California                                                                                                                             | Alameda County (Unincorporated Areas) (Docket No. FI-3722).    | Altamont Creek                              | Laughlin Road                                                      | *554                                                    |
|                                                                                                                                        |                                                                |                                             | North Front Road                                                   | *579                                                    |
|                                                                                                                                        |                                                                | Arroyo De La Laguna                         | Paloma Road                                                        | *242                                                    |
|                                                                                                                                        |                                                                |                                             | Southern Pacific Railroad                                          | *267                                                    |
|                                                                                                                                        |                                                                |                                             | Verona Road                                                        | *286                                                    |
|                                                                                                                                        |                                                                |                                             | Castlewood Drive                                                   | *301                                                    |
|                                                                                                                                        |                                                                | Palomares                                   | Bernal Avenue                                                      | *316                                                    |
|                                                                                                                                        |                                                                |                                             | Confluence with San Lorenzo Creek                                  | *313                                                    |
| Maps available at: Alameda County Flood and Water Conservation District, 399 Elmhurst Street, Hayward, California 94544.               |                                                                |                                             |                                                                    |                                                         |
| California                                                                                                                             | St. Helena (City), Napa County (Docket No. FI-3974).           | Napa River                                  | Pope Street                                                        | *214                                                    |
|                                                                                                                                        |                                                                |                                             | Pratt Avenue                                                       | *228                                                    |
| Maps available at: City Hall, 1480 Main Street, St. Helena, California 94574.                                                          |                                                                |                                             |                                                                    |                                                         |
| Michigan                                                                                                                               | Portsmouth (Township), Bay County (FI-4097).                   | Saginaw River                               | Russell Road between Trumbull and Lincoln Roads                    | *586                                                    |
|                                                                                                                                        |                                                                |                                             | Munger Road between Scheurman and Green Roads                      | *586                                                    |
|                                                                                                                                        |                                                                |                                             | Intersection of German Road and Michigan Avenue                    | *586                                                    |
| Maps are available at: Township Hall, 310 Sheridan Court, Bay City, Michigan.                                                          |                                                                |                                             |                                                                    |                                                         |
| Send comments to: Mr. Donald Krzewinski, Township Supervisor, Township of Portsmouth, Michigan, 110 Stanley Drive, Bay City, Michigan. |                                                                |                                             |                                                                    |                                                         |
| New Jersey                                                                                                                             | Westville (Borough), Gloucester (County) (Docket No. FI-5070). | Big Timber Creek                            | Conrail—at centerline                                              | *10                                                     |
|                                                                                                                                        |                                                                |                                             | Interstate 295—at centerline                                       | *10                                                     |
|                                                                                                                                        |                                                                | Tributary No. 1                             | Intersection of Woodbine Avenue and 4th Avenue                     | *10                                                     |
|                                                                                                                                        |                                                                |                                             | Intersection of Willow Road and High Street                        | *10                                                     |
| Maps available at: Borough Hall, 114 Crown Point Road, Westville, New Jersey 08093.                                                    |                                                                |                                             |                                                                    |                                                         |
| North Dakota                                                                                                                           | Forrest River (City), Walsh (County) (Docket No. FI-5107).     | Forrest River                               | At Downstream Corporate Limits                                     | *859                                                    |
| Maps available at: City Hall, Forrest River, North Dakota 58233.                                                                       |                                                                |                                             |                                                                    |                                                         |
| Virginia                                                                                                                               | Prince George County, (Docket No. FI-4475).                    | Appomattox River                            | Prince George County and Hopewell City Line                        | *8                                                      |
|                                                                                                                                        |                                                                |                                             | USGS Gaging Station (River Mile 8.67)                              | *11                                                     |
|                                                                                                                                        |                                                                | Bailey Creek                                | Petersburg City, Chesterfield County and Prince George County Line | *12                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Routes 10 and 156                                         | *8                                                      |
|                                                                                                                                        |                                                                |                                             | Confluence of Cattail Creek                                        | *10                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 156                                                 | *13                                                     |
|                                                                                                                                        |                                                                |                                             | Confluence of Manchester Run                                       | *14                                                     |
|                                                                                                                                        |                                                                |                                             | Confluence of Southerly Run                                        | *35                                                     |
|                                                                                                                                        |                                                                | Blackwater Swamp                            | Virginia Route 630                                                 | *53                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 156                                                 | *102                                                    |
|                                                                                                                                        |                                                                |                                             | Virginia Route 106                                                 | *113                                                    |
|                                                                                                                                        |                                                                |                                             | Virginia Route 630                                                 | *113                                                    |
|                                                                                                                                        |                                                                |                                             | Virginia Route 603                                                 | *119                                                    |
|                                                                                                                                        |                                                                | Chappell Creek                              | Virginia Route 10                                                  | *16                                                     |
|                                                                                                                                        |                                                                |                                             | Earthen Dam                                                        | *18                                                     |
|                                                                                                                                        |                                                                | Jones Hole Swamp                            | Virginia State Route 638                                           | *88                                                     |
|                                                                                                                                        |                                                                |                                             | Interstate Route 95 (and U.S. Route 301)                           | *110                                                    |
|                                                                                                                                        |                                                                |                                             | Virginia Route 621                                                 | *110                                                    |
|                                                                                                                                        |                                                                |                                             | Earthen Dam                                                        | *120                                                    |
|                                                                                                                                        |                                                                |                                             | Virginia Route 605                                                 | *120                                                    |
|                                                                                                                                        |                                                                |                                             | Corporate Limits                                                   | *121                                                    |
|                                                                                                                                        |                                                                | Manchester Run                              | Confluence with Bailey Creek                                       | *14                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 156                                                 | *30                                                     |
|                                                                                                                                        |                                                                | Powell Creek                                | Confluence with Walls Run                                          | *11                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 10                                                  | *13                                                     |
|                                                                                                                                        |                                                                | Southerly Run                               | Confluence with Bailey Creek                                       | *35                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 646                                                 | *48                                                     |
|                                                                                                                                        |                                                                | Walls Run                                   | Confluence with Powell Creek                                       | *11                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 641                                                 | *13                                                     |
|                                                                                                                                        |                                                                |                                             | Virginia Route 10                                                  | *16                                                     |
|                                                                                                                                        |                                                                | Wards Creek                                 | Virginia Route 10                                                  | *25                                                     |
| Maps available at: The Prince George County Courthouse, Prince George, Virginia.                                                       |                                                                |                                             |                                                                    |                                                         |
| Virginia                                                                                                                               | Warren County (Docket No. FI-5191).                            | North Fork Shenandoah at Buckton.           | State Route 668 (Extended)                                         | *490                                                    |
|                                                                                                                                        |                                                                | Shenandoah River at Shenandoah Shores.      | Weir                                                               | *487                                                    |
|                                                                                                                                        |                                                                | South Fork Shenandoah River at Front Royal. | Interstate 66                                                      | *498                                                    |
|                                                                                                                                        |                                                                |                                             | 4,000 feet from State Route 619                                    | *495                                                    |
|                                                                                                                                        |                                                                |                                             | 300 feet from State Route 619.                                     | *499                                                    |
| Maps available at the Office of the County Administrator, Front Royal, Virginia.                                                       |                                                                |                                             |                                                                    |                                                         |

## Final Base (100-Year) Flood Elevations—Continued

| State      | City/town/county                                                                                                                                | Source of flooding  | Location                                                 | —#Depth in feet above ground. *Elevation in feet (NGVD) |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------------------------------------------|---------------------------------------------------------|
| Washington | Bonney Lake (Town), Pierce County (FI-5123).                                                                                                    | Fennel Creek        | State Route 410 at centerline                            | *489                                                    |
|            |                                                                                                                                                 |                     | Lakeway Drive 90 feet downstream from centerline         | *489                                                    |
|            |                                                                                                                                                 | Debra Jane Creek    | Lakeway Drive 10 feet upstream from centerline           | *494                                                    |
|            |                                                                                                                                                 |                     | Bonney Lake Boulevard 60 feet downstream from centerline | *556                                                    |
|            |                                                                                                                                                 | Bonney Lake Outflow | Bonney Lake Boulevard 10 feet upstream from centerline   | *561                                                    |
|            |                                                                                                                                                 |                     | Lakeway Drive 10 feet upstream from centerline           | *494                                                    |
|            |                                                                                                                                                 |                     | 190th Avenue East 30 feet downstream from centerline     | *584                                                    |
|            |                                                                                                                                                 |                     | 190th Avenue East 10 feet upstream from centerline       | *590                                                    |
|            |                                                                                                                                                 | Bonney Lake         | 185th Avenue East 10 feet upstream from centerline       | *609                                                    |
|            |                                                                                                                                                 |                     | 185th Avenue 10 feet downstream from centerline          | *609                                                    |
|            |                                                                                                                                                 | Debra Jane Lake     | 193rd Avenue East 20 feet downstream from centerline     | *566                                                    |
|            | Maps are available at: Town Hall, 19306 Bonney Lake Boulevard, Bonney Lake, Washington.                                                         |                     |                                                          |                                                         |
|            | Send comments to: Honorable Steven Flaherty, Mayor, Town of Bonney Lake, Town Hall, 19306 Bonney Lake Boulevard, Bonney Lake, Washington 98390. |                     |                                                          |                                                         |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 20, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-37534 Filed 12-6-79; 8:45 am]

BILLING CODE 6718-03-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 0

#### Editorial Amendments Reflecting Name Changes for the Public Information and Consumer Assistance Divisions

AGENCY: Federal Communications Commission.

ACTION: Order.

**SUMMARY:** Part 0 of the Commission's rules and regulations amended to rename the divisions of the Office of Public Affairs. The Public Information Division will become the Press and News Media Division and the Consumer Assistance Division becomes the Consumer Assistance and Information Division. The change in names will more accurately reflect the functions of each division and improve service to members of the public seeking information about FCC proceedings.

**EFFECTIVE DATE:** November 16, 1979.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard D. Goodfriend, Management Systems Division, 632-7513.

#### SUPPLEMENTARY INFORMATION:

##### Order

Adopted: November 16, 1979.

Released: December 5, 1979.

In the matter of editorial amendment of Part 0 of the Commission's rules to reflect Name changes for the Public Information and Consumer Assistance Divisions.

1. Changes in the names for the Public Information and Consumer Assistance Divisions were adopted by the Executive Director November 16, 1979. The Public Information Division is renamed the Press and News Media Division while the Consumer Assistance Division is renamed the Consumer Assistance and Information Division. These changes were necessary to direct public inquiries to the proper division and to provide prompt service to members of the public seeking information about FCC proceedings. Part 0 of the rules and regulations, which describes the organization of the Commission, is being amended to reflect these changes.

2. The amendments adopted herein pertain to agency organization. The prior notice, procedure and effective date provisions of Section 4 of the Administrative Procedure Act are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules.

3. In view of the foregoing, it is ordered, effective November 16, 1979, that Part 0 of the rules and regulations is amended as set forth in the Appendix.

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

#### Appendix

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

#### § 0.5 [Amended]

1. Section 0.5(b)(7) is amended to read as follows:

\* \* \* \* \*

(b) \* \* \*  
(7) Office of Public Affairs. The Office of Public Affairs has primary responsibility for the Commission's Press and News Media, Consumer Assistance and Information, Industry Equal Employment Opportunity (EEO) and Minority Enterprise programs. The major purpose of these programs is to inform the public of the Commission's regulatory requirements, to facilitate public participation in the Commission's decision-making processes, and to apprise the public of Commission policies promoting equal employment opportunity and minority participation in the telecommunications industry.

2. Section 0.15(i) amended to read as follows:

#### Office of Public Affairs

#### § 0.15 Functions of the Office.

\* \* \* \* \*

(i) Maintain liaison with the Field Operations Bureau regarding the press and news media, and consumer assistance and information activities of the Commission's field offices.

#### § 0.422 [Amended]

4. In § 0.422, the phrase "Public Information Division" is replaced by "Press and News Media Division."

#### § 0.423 [Amended]

5. In § 0.423, the words "Chief, Public Information Division" are replaced by "Chief, Press and News Media Division."

#### § 0.433 [Amended]

6. In § 0.433, the words "Public Information Division" are replaced by "Press and News Media Division."



**§ 0.605 [Amended]**

7. In § 0.605, paragraphs (b), (c)(1), (d)(1), and (d)(3) are amended as follows: The words "Public Information Division" in § 0.605(b) are replaced by "Press and News Media Division". The words "Chief, Public Information Division" in § 0.605(c)(1), 0.605(d)(1) and 0.605(d)(3) are replaced by the words "Chief, Press and News Media Division."

**§ 0.465 [Amended]**

In § 0.465(d)(1) the words "Consumer Assistance Division" are changed to read "Consumer Assistance and Information Division" and the words "Public Information Division" are changed to read "Press and News Media Division."

[FR Doc. 79-37662 Filed 12-4-79; 8:45 am]  
BILLING CODE 6712-01-M

**47 CFR Part 18**

[Docket No. 20718; FCC 79-755]

**Industrial, Scientific, and Medical Equipment; Overall Revision of Part 18 of the Rules; Regulations for Induction Cooking Ranges**

**AGENCY:** Federal Communications Commission.

**ACTION:** Memorandum Opinion and Order re Regulations for Induction Cooking Ranges.

**SUMMARY:** Order responding to the petition filed by the Roper Corporation requesting the Commission to reconsider the effective date of the new rules for induction cooking ranges adopted by the Commission on August 1, 1979. The Order adopted a new rule which permits the marketing of induction ranges manufactured prior to February 1, 1980 (the effective date of the new rules) subject to certain conditions.

**EFFECTIVE DATE:** December 10, 1979.

**ADDRESS:** Federal Communications Commission, 1919 M St. NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Art Wall, Office of Science and Technology (202-632-7095).

Adopted: November 20, 1979.

Released: December 3, 1979.

In the matter of overall revision of Part 18 governing Industrial, Scientific and Medical equipment. (Docket 20718). Memorandum Opinion and Order Re Regulations for Induction Cooking Ranges. [44 FR 56699].

By the Commission:

1. A First Report and order in this proceeding was adopted by the

Commission on August 1, 1979 establishing new regulations, effective February 1, 1980, for induction cooking ranges.<sup>1</sup> On September 14, 1979, the Roper Corporation, 1905 West Court St., Kankakee, Illinois 60901 petitioned the Commission to reconsider only the effective date to permit immediate marketing of their range. For the reasons given herein, we have decided to retain the original effective date, but will permit the immediate marketing of all ranges presently in stock, subject to the conditions in paragraphs 16 and 17 below. Induction ranges manufactured after February 1, 1980 must comply with the new technical standards in Subpart I of part 18 of FCC Rules.

2. The induction cooking range is the result of new technology, which reportedly allows the consumer to cook food placed in a ferrous pot more economically than conventional stove top cooking. It also has the added feature of not heating the cooking surface. Over the last several years, we have received a number of inquiries from manufacturers proposing to market induction ranges. Since the range uses radio frequency (RF) energy to produce heat for cooking and not for telecommunications, it is classified as a piece of miscellaneous Industrial, Scientific, and Medical (ISM) equipment and is regulated pursuant to part 18 of our Rules, specifically by §§ 18.261 and 18.141-18.142. These rules were adopted in 1947, to regulate nonconsumer equipment and require a user certification renewable every three years if the equipment does not operate on an ISM frequency. The recertification requirement in § 18.142 was to be met by the user of the equipment and was never intended for consumer products. It is impractical for the induction range.<sup>2</sup>

3. We first heard of the induction range in 1974 when Westinghouse Electric Corp. requested and was granted a limited waiver of § 18.142. In 1977, other manufacturers inquired about the regulations for the induction range and were told about the waiver that had been granted Westinghouse. In 1978-1979 several manufacturer's requested waiver of the user recertification requirement. In lieu of granting a waiver for each of these ranges, the Commission adopted interim regulations in the First Report and Order in Docket No. 20718 specifically intended to control the interference potential of the induction cooking range.

<sup>1</sup> Released August 9, 1979; published in the Federal Register at 44 FR 48178 on August 17, 1979.

<sup>2</sup> See paragraphs 3-6 of the First Report and Order in Docket 20718 for a more complete discussion of the range and the present rules governing the range.

Other aspects of this proceeding, which is an overall revision of Part 18-ISM equipment, were left for further consideration and action.

4. In the petition, Roper did not ask for reconsideration of any of the new technical standards and in fact understands that their range complies with the new technical standards. However, the petitioner takes strong exception and objects to the February 1, 1980 effective date of these new regulations as being arbitrary and unreasonable. Roper argues that establishing the effective date six months after adoption for the reason given at the Commission meeting " . . . to give other manufacturers an opportunity to conform . . . " is clearly outside the scope of the Commission's authority to make reasonable regulations governing the interference potential of devices. The effect of the delay, they say, is to wrongfully deprive an innovator of its competitive advantage of lead time once its device meets the technical and administration specifications established by the Commission. Roper said that they began development on their ranges in 1972 and have spent over 2 million dollars before they were ready to be marketed. Roper is ready to begin marketing and requests that the date be moved forward so that they can begin selling immediately.

5. Copies of Roper's petition were served upon and comments were requested from each of the manufacturers who have indicated an interest in marketing an induction cooking range. Comments were received from the following four manufacturers:

—Fasar Systems, Inc., 2801 Burton Ave., Burbank, California 91505

—Tappan Appliances, Tappan Park, Mansfield, Ohio 44901

—Panasonic Company, Division of Matsushita Electric Corporation of America, One Panasonic Way, Secaucus, New Jersey 07094

—Rangaire Corporation, P.O. Box 177, Cleburne, Texas 76031

6. Comments from Tappan are noncommittal. In a letter dated October 3, 1979, Tappan stated that they presently do not . . .

. . . manufacture induction equipment and because there are good arguments for and against the Roper proposal, we [Tappan] will not comment either for or against the proposal.

7. Fasar and Panasonic both objected to the Commission granting the relief requested by Roper and fully supported the February 1, 1980 effective date. Panasonic claims that there was a substantial inconsistency in the interim technical standards made available to

Panasonic in a letter dated July 7, 1977 from those made available to Roper in a similar letter dated March 12, 1979.<sup>3</sup> Panasonic argued that because of not having the latest information, it was not able to produce a range to comply with the new technical standards and, therefore, need the additional time to bring their range into compliance.

8. Fasar, on the other hand, claims that it is the only company currently marketing an induction range.<sup>4</sup> Fasar asserts that granting Roper's petition would eliminate competition, but provides no basis for this conclusion. Fasar also appeals to the Commission for relief on grounds of hardship. It points out that Fasar is a small manufacturer employing 34 people and will go bankrupt if it is unable to continue marketing its induction range until certification under the new rules can be obtained.<sup>5</sup>

9. Rangaire comments take a slightly different approach. It's support for relaxation of the February 1, 1980 effective date is conditioned on the Commission and Roper answering a number of questions. In particular, Rangaire asked:

A. Whether the FCC Laboratory tested the Roper range with regard to the development of wattage claimed by Roper, and of proposed production line units.

B. Whether the Roper unit tested by the FCC met Underwriter's Laboratory (UL) requirements for leakage currents and was a marketable unit.

C. Whether the wattage, efficiency and the leakage current of the four ranges tested by the Laboratory were considered in the new regulations.

D. Whether claims of efficiency of the range were substantiated by test data in accordance with accepted test procedures, such as the one developed by the National Bureau of Standards.

E. Whether the adopted regulations are arbitrary and unreasonable and whether basing the conducted emission

<sup>3</sup> Panasonic was advised in 1977 that a waiver similar to the one granted to Westinghouse in 1974, would be recommended to the Commission for granting, subject to, among other things, the range meeting a conducted limit of 1,000 µV on any frequency above 100 kHz. The 250 µV limit adopted represents a relaxation of what was proposed in this proceeding (43 FR 46326) in 1978, but a tightening of the limit granted to Westinghouse.

<sup>4</sup> Fasar is currently being investigated for apparent violation of the Commission's present Part 18 Rules. Appropriate sanctions will be administered if warranted.

<sup>5</sup> In addition to its comments on the Roper petition, Fasar, on October 28, 1979, filed a separate petition for waiver of the present FCC Part 18 Rules, to the extent necessary to permit Fasar to continue marketing its induction cooking range. The merits of Fasar are also considered here.

levels in this country on the VDE specification levels is justifiable.

We will not attempt to answer all the questions raised by Rangaire, since some of them are outside the scope of the Commission's jurisdiction. Moreover, consideration of all aspects of Rangaire's questions would only serve to delay a finding on the original petition.

10. In view of some of the comments received, it may be useful to review the background and reasons for our regulation of induction cooking ranges.

11. As stated in the First Report and Order, our primary concern with the introduction of the induction cooking range into the marketplace is its potential for causing interference to radio reception. Considering that the induction range operates on a frequency between 19 to 40 kHz with conducted and radiated emissions extending well into the HF portion of the radio spectrum, we are particularly concerned about the interference these ranges can cause to AM Broadcast reception (540-1600 kHz), as well as to other radio services below 30 MHz. Unless such emanations are suppressed, AM receivers in the same and adjacent households can be expected to receive interference from the range. As suggested by Rangaire, there is no question that a complete study of the interference potential of the range is desirable and may be useful in more accurately balancing economic and technical trade-offs. However, such a study is time consuming—too time consuming when it is a stated fact that these ranges have been developed and are waiting to be marketed.

12. This places the Commission in a dilemma. If we withhold standards and approval of the range until such a study is completed, we would deprive the public of the benefit of this new technology for at least a year or more. It would also be unfair and detrimental to some of the above mentioned manufacturers. On the other hand, if we allowed such equipment to be marketed without any interference control, interference to AM Broadcast reception can be expected. Because of their expected proliferation and the findings of our tests of some four ranges, regulations are considered necessary to protect radio reception. We were, therefore, forced to adopt interference standards for induction ranges with what information was available. We tried to balance RFI protection with its cost so that the range did not become economically prohibitive.

13. In arriving at standards for the ranges, we reviewed both present and proposed technical specifications

intended for controlling the interference to radio communications from similar ISM equipment operating in the same frequency range. Similar international standards were also reviewed. The adopted standards, in our option, provide a reasonable compromise. A discussion of the standards reviewed is presented in the First Report and Order, supra at paragraphs 10-15.

14. In lieu of the present user certification, renewable every three years, the Commission adopted a bilateral certification requirement for ranges as a prerequisite for marketing. Under this program, which places responsibility on the manufacturer to assure compliance, approval is granted by the Commission on the basis of measurements made by the manufacturer demonstrating compliance of a representative unit. Subsequently produced units, which are essentially identical to the unit tested and certified by the Commission may be marketed without any retesting. The manufacturer is expected to make enough tests on the units during and after production to insure that they are essentially identical with the unit originally tested.

15. A delay in the effective date of six months from the date of adoption of the regulations until they become effective was to give each of the manufacturers an equal opportunity in bringing their ranges into compliance. The delay was not expected to be a burden to any one manufacturer. In retrospect, however, it now seems reasonable that Roper would want to market their range immediately, since it already complies with the new technical specifications. It is also reasonable that each of the other manufacturers also expended efforts to bring their range into compliance with standards that were not clearly defined until August 1, 1979. Several manufacturers received letters from the Commission advising them of the conditions imposed on the Westinghouse range and of some possible conditions for a similar waiver to permit them to market their range. It is unfortunate that Panasonic did not realize that the Notice of Proposed Rule Making in this proceeding issued September 1978 changed what they had been told in our 1977 letter. In any case, the net result is that several manufacturers have ranges ready to be marketed. For these manufacturers not to be allowed to market their ranges would be to subject them to a severe economic burden.

16. The Commission finds these arguments persuasive enough to warrant changes in our original action. We are accordingly adopting rules that would



permit the immediate marketing of an induction range, without recertification under either of two conditions. Immediate marketing of an induction range is permitted if the range has been certificated by the Commission to show compliance with the new §§ 18.273 and 18.274. The Commission undertakes to expedite any such application for certification that may be filed prior to February 1, 1980.

17. If the induction range is manufactured prior to February 1, 1980, the manufacturer may certificate it pursuant to the existing provisions of §§ 18.261 and 18.142(b) based on measurements of a prototype subject to the conditions listed below. Immediate marketing is permitted of an induction range which has been so certificated. Recertification of such a range is not required. A label must be attached to each range containing the following information:

—The manufacturer certifies that this range complies with the provisions of FCC Rules § 18.261.

—Operation of this device may cause interference to AM Broadcast reception. Interference to radios in the same household unit must be accepted by its residents. If the range causes interference outside the household, contact the manufacturer for instructions on how to correct the problem.

—This range was manufactured on —.

A manufacturer marketing an induction range under these conditions assumes the responsibility of assisting the owner to correct any interference problem that may arise.

18. The special provisions outlined in paragraph 17 apply only to induction ranges manufactured prior to February 1, 1980 regardless of when sold. Ranges manufactured after February 1, 1980 must be certificated by the Commission to show compliance with the new §§ 18.273 and 18.274 as a prerequisite for marketing.

19. In view of the above, we conclude that it is in the public interest to add a new regulation § 18.277 to Part 18. The text of this regulation is appended to this Order. This regulation is adopted under the authority in §§ 4 (i), 302, and 303(r) of the Communications Act of 1934, as amended. Moreover, since this new regulation grants an exemption to an existing regulation and serves to relieve a restriction that imposes a severe economic hardship on small manufacturers, this new regulation may be made effective immediately under the provisions of 5 U.S.C. 553(d)(1). Further, a delay would only serve to nullify the effect of this Order.

20. Therefore, It Is Ordered that effective on December 10, 1979, § 18.277 is added to Part 18.

21. It Is Further Ordered that the petitions for relief filed by Fasar and Roper are granted only to the extent herein indicated.

23. For further information about this Order, contact Art Wall, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, phone 202-632-7095.

(Sec. 4, 303, 48 Stat., as amended, 1066, 1082, Sec. 302, 82 Stat. 290, 47 U.S.C. 154, 302, 303.) Federal Communications Commission, William J. Tricarico, Secretary.

#### Appendix

Part 18 is amended by adding § 18.277.

#### § 18.277 Induction range manufactured prior to February 1, 1980.

(a) Such a range may be certificated by the manufacturer pursuant to the provisions of § 18.142(b) to show compliance with the technical specifications of § 18.281. Recertification of such a range is not required during the lifetime of the range.

(b) The manufacturer warrants the purchaser that the range can be expected to comply with the technical provisions in § 18.281 of FCC Rules. In addition, the manufacturer shall advise the purchaser that the manufacturer will assume responsibility for correcting any interference that the range may cause outside the household.

(c) The range bears a label containing the following statement:

—The manufacturer certifies that this range complies with the provisions of FCC Rules § 18.261.

—Operation of this device may cause interference to AM Broadcast reception. Interference to radios in the same household unit must be accepted by its residents. If the range causes interference outside the household, contact the manufacturer for instructions on how to correct the problem.

—This range was manufactured on —.

[FR Doc. 79-37579 Filed 12-6-79; 8:45 am]  
BILLING CODE 6712-01-M

#### 47 CFR Part 73

(BC Docket No. 79-177; RM-3370)

#### Radio Broadcast Services; FM Broadcast Station in Thomaston, Georgia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Thomaston, Georgia, as a first FM assignment, in

response to a petition filed by Sunbelt Communications, Inc. The proposed channel could be used to provide a first full-time local aural broadcast service to Thomaston.

EFFECTIVE DATE: January 17, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

#### SUPPLEMENTARY INFORMATION:

#### Report and Order—Proceeding Terminated

Adopted: November 28, 1979.

Released: December 4, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Thomaston, Georgia), BC Docket No. 79-177, RM-3370.

1. The Commission has under consideration a Notice of Proposed Rule Making, adopted July 18, 1979, 44 FR 44193, proposing the assignment of Channel 237A as a first FM assignment to Thomaston, Georgia, at the request of Sunbelt Communications, Inc. ("petitioner"). Supporting comments were filed by petitioner in which it stated its readiness to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Thomaston (pop. 10,024), seat of Upson County (pop. 23,505),<sup>1</sup> is located approximately 97 kilometers (60 miles) east of the Georgia-Alabama border, and 109 kilometers (68 miles) south of Atlanta, Georgia. Thomaston is served locally by two daytime-only AM stations (WSFT and WKNG).

3. Petitioner notes that Thomaston serves as the major trading center for this rural section of Georgia. It claims that the population of Thomaston is growing and adds that Channel 237A could provide the community with its first FM facility and its first nighttime aural service.

4. It has been shown that there is a need and demand for an FM assignment in Thomaston, Georgia. A station on the channel could provide a first full-time local aural broadcast service. Therefore, we conclude that the public interest would be served by making this assignment.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

<sup>1</sup> Population figures are taken from the 1970 U.S. Census.

6. Accordingly, it is ordered, that effective January 17, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the community listed below:

City: Channel No.

Thomaston, Georgia; 237A.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307)) Federal Communications Commission.

Henry L. Baumann,  
Acting Chief, Policy and Rules Division,  
Broadcast Bureau.

[FR Doc. 79-37663 Filed 12-6-79; 8:45 am]  
BILLING CODE 6712-01-M

#### INTERSTATE COMMERCE COMMISSION

#### 49 CFR Part 1033

[Amendment No. 1 to Service Order No. 1408]

Chicago and North Western Transportation Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Sibley, Iowa

Decided November 29, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1408.

SUMMARY: The Chicago and North Western Transportation Company is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Sibley, Iowa, in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

EFFECTIVE DATE: 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Upon further consideration of Service Order No. 1408, (44 FR 67989) and good cause appearing therefor:

It is ordered, § 1033.1408 Chicago and North Western Transportation Company authorized to operate over

tracks of Chicago, Rock Island and Pacific Railroad Company at Sibley, Iowa, Service Order No. 1408 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37702 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

#### 49 CFR Part 1033

[Amendment No. 1 to Service Order No. 1410]

The Denver and Rio Grande Western Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Roswell and Colorado Springs, Colorado

Decided November 29, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1410.

SUMMARY: The Denver and Rio Grande Railroad Company is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Roswell and Colorado Springs, Colorado in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

EFFECTIVE DATE: 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Upon further consideration of Service Order No. 1410, and good cause appearing therefor:

It is ordered, § 1033.1410 The Denver and Rio Grande Western Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company at Roswell and Colorado Springs, Colorado. Service Order No. 1410 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37701 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

#### 49 CFR Part 1033

[Amdt. No. 1 to S.O. No. 1409]

Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Fairfield, Iowa

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1409.

SUMMARY: The Burlington Northern Inc. is authorized to operate over the tracks of the Chicago, Rock Island and Pacific



Railroad Company (RI) at Fairfield, Iowa in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

**EFFECTIVE DATE:** 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decided: November 29, 1979.

Upon further consideration of Service Order No. 1409, and good cause appearing therefor:

*It is ordered,* Service Order No. 1033.1409 (Burlington Northern Inc. authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Fairfield, Iowa) is amended by substituting the following paragraph (e) for paragraph (e) thereof: (e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37691 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1033**

[Amdt. No. 1 to S.O. No. 1407]

**Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Worthington, Minn.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Amendment No. 1 to Service Order No. 1407.

**SUMMARY:** The Chicago and North Western Transportation Company is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Worthington, Minnesota in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

**EFFECTIVE DATE:** 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840

**SUPPLEMENTARY INFORMATION:**

Decided: November 29, 1979.

Upon further consideration of Service Order No. 1407 (44 FR 65400), and good cause appearing therefor:

*It is ordered,* § 1033.1407 Service Order No. 1407 (Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Worthington, Minnesota), is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980 unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. 10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37692 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1033**

[Amdt. No. 1 to S.O. No. 1403]

**Union Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Beatrice, Nebr.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Amendment No. 1 to Service Order No. 1403.

**SUMMARY:** The Union Pacific Railroad Company is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Beatrice, Nebraska in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

**EFFECTIVE DATE:** 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decided: November 29, 1979.

Upon further consideration of Service Order No. 1403, (44 FR 62287), and good cause appearing therefor:

*It is ordered:* § 1033.1403 Service Order No. 1403 (Union Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Beatrice, Nebraska) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980 unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S.

Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37693 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1033**

[Amdt. No. 1 to S.O. No. 1401]

**Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Burlington, Iowa**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Amendment No. 1 to Service Order No. 1401.

**SUMMARY:** The Burlington Northern Inc. is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Burlington, Iowa in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

**EFFECTIVE DATE:** 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decided: November 29, 1979.

Upon further consideration of Service Order No. 1401, (44 FR 60999), and good cause appearing therefor:

*It is ordered:* § 1033.1401 Service Order No. 1401 (Burlington Northern Inc. Authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Burlington, Iowa) is amended by substituting the following paragraph (e) for paragraph (e) thereof: (e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980 unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing

a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37694 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1033**

[Amdt. No. 1 to S.O. No. 1402]

**Atchison, Topeka and Santa Fe Railway Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Dodge City, Kans.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Amendment No. 1 to Service Order No. 1402.

**SUMMARY:** The Atchison Topeka and Santa Fe Railway Company is authorized to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Dodge City, Kansas in order to continue to provide essential railroad service during the continued period of Directed Service on the RI (360 I.C.C. 289 et al.) which would be otherwise unavailable due to track embargoes on the RI.

**EFFECTIVE DATE:** 11:59 p.m., December 3, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decided: November 29, 1979.

Upon further consideration of Service Order No. 1402, (44 FR 62286), and good cause appearing therefor:

*It is ordered:* § 1033.1402 Service Order No. 1402 (The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Dodge City, Kansas) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980 unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., December 3, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37695 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1033**

[S.O. 1410]

**Denver and Rio Grande Western Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Roswell and Colorado Springs, Colo.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Service Order No. 1410.

**SUMMARY:** Authorizes the Denver and Rio Grande Western Railroad Company to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company at Roswell and Colorado Springs, Colorado, due to track embargoes at Roswell and Colorado Springs, Colorado, in order to serve industries which would otherwise be deprived of railroad service.

**EFFECTIVE DATE:** 12:01 a.m., November 28, 1979, and continuing in effect until December 3, 1979.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) at Roswell and Colorado Springs, Colorado, is embargoed due to track conditions, depriving shippers at Roswell and Colorado Springs, Colorado, of essential railroad service by RI. The Denver and Rio Grande Western Railroad Company (DRGW) serves this area and has consented to operate over RI tracks at Roswell and Colorado Springs in order to serve the industries. The Kansas City Terminal



Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the DRGW.

It is the opinion of the Commission that an emergency exists requiring the operations of DGRW trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

**§ 1033.1410 Service Order No. 1410.**

(a) *The Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Roswell and Colorado Springs, Colorado.* The Denver and Rio Grande Western Railroad Company (DRGW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Roswell and Colorado Springs, Colorado, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the DRGW over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the DRGW over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., November 28, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S.

Turkington and John R. Michael, Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37697 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1249**

[No. 37002]

**Revision to Quarterly Report Form QFR, and Elimination of Filing Requirement for Certain Carriers**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final Rule.

**SUMMARY:** The Commission is revising the Quarterly Report of Results of Operations (Form QFR). The revisions are being made to simplify the reporting form and relieve certain carriers from the filing requirement. Those relieved are Class I & II contract carriers and all instruction 28A, B & C Class II motor carriers of property. In addition, the "Fuel and Related Data" section of the report has been restructured to require data on the amount of fuel purchased, rather than fuel consumed. This change in fuel data disclosure will assist the Commission in monitoring significant changes in fuel prices. In order to retain Commission access to valuable information, we will require those carriers relieved from filing Form QFR to submit Form QFR-S which will consist of selected data necessary to the Commission. This one page report will impose a minimum burden on the carriers.

**DATE:** Effective for the reporting year beginning January 1, 1980.

**ADDRESS:** For copies of the revised reporting requirements call: (800) 424-5403.

**FOR FURTHER INFORMATION CONTACT:** Bryan Brown, Jr., (202) 275-7448.

**SUPPLEMENTARY INFORMATION:** On December 8, 1978, the Commission published a notice proposing revisions to the Quarterly Report of Results of Operations (Form QFR) which must be filed by all Class I and Class II motor carriers of property (43 FR 57626). We proposed to reduce the number of carriers required to file the form and to adopt one report form, to be used by all carriers required to file, instead of the present system of different forms based on class and other criteria. Class I & II contract carriers and Class II carriers not subject to Instruction 27 would no longer have to file the report. In addition, we proposed a detailed breakdown of information required in

the fuel-related data section of the report.

In response to the notice, we received 41 comments from representatives of the insurance industry, from motor carriers and their associations, and from a trade publication. The comments, and the changes that have been made in the proposal as a result of them, are discussed below.

**Elimination of the quarterly data base.** The American Trucking Associations, Inc. (ATA), opposed relieving Class I contract carriers and non-instruction 27 carriers from the filing requirements on the grounds that the Commission needs data on these carriers to properly regulate motor carriers and that the information is also needed by outside sources such as insurance companies, banks, and creditors. A number of insurance companies filed comments in opposition to the proposal on grounds that it would adversely affect their information base. These companies are required by law to assume full responsibility for all losses, both insured and uninsured, which are unpaid by their motor carrier policyholders. Form QFR is used by insurance companies to monitor the financial condition of their policyholders. They do not believe that quarterly data, received directly from the motor carriers, will be as reliable as that obtained from the Commission. They further contend that this proposal may result in the imposition of additional accounting fees because certain carriers will be required to obtain independent verification of quarterly financial data.

These insurance companies are aware that the Commission has collected this information as a public service for interested parties. They believe that the public will be best served by continuing this service.

In the past, the Commission's reporting policy was designed to provide for its own information needs and, at the same time, to accommodate the needs of other users whenever practical. Over the years, this policy has placed an increasing reporting burden on certain carriers and an unnecessary processing burden on the Commission. Recently, the Commission adopted a new reporting policy, aimed at reducing or eliminating these burdens. Under this new policy, the Commission only collects data which is used internally on a regular basis to fulfill regulatory responsibilities. The QFR's filed by certain Class I and II carriers are not used for this purpose; therefore, under the new policy, these carriers should be relieved from the reporting burden.

However, the Commission expects substantial regulatory changes to the specialized carrier and contract carrier industry in the near future. We will require a one page report form which will supply us with information necessary to monitor the results of these changes.

Insurance companies insuring the losses of Class III motor carriers have not had Commission quarterly report data to monitor carrier financial condition and have developed alternative means of satisfying their data needs at a minimal expense to the carriers. Similar alternatives should be considered for those carriers relieved from the reporting requirements as a result of this proceeding.

**Class II Household goods carriers.** The Household Goods Carrier's Bureau (HGCB) requested special relief from the reporting requirements for Class II household goods carriers. The HGCB states that Class II carriers are not members of their Continuing Cost Study Group and that rate increase proposals are rarely based on information collected from Class II carriers. Since neither the HGCB nor the Commission has a need for the Class II household goods carriers information, we are adding these carriers to the carriers exempted from the requirement to file Form QFR.

**Revised format.** A few carriers opposed the idea of having household goods and freight carriers file the same report. They contend that only a small number of carriers are involved in combined operations. The new format is not designed specifically to accommodate those carriers with combined operations. It is designed to eliminate the need to send different sets of forms to different carriers. The report form clearly distinguishes between household goods and freight carrier operations, and we do not believe that carriers will have problems completing the new form.

**Fuel data.** The new fuel data disclosure is designed to enable the Commission to monitor significant changes in fuel prices. This data is required when applying for rate increases necessitated by changes in fuel costs as outlined in Ex Parte No. 31, *Effect of Modifying Proclamation No. 3279 and Other Anticipated Energy Conservation Measures on the Operation of Carriers Subject to the Interstate Commerce Act*. The Commission has not been in a position properly to analyze significant changes in fuel prices. At the present time, the only data of this type collected comes from a small number of carriers on a monthly basis. At the time of the

February 1974 fuel crisis, no data of this type was collected by the Commission. It is apparent that fuel prices are significantly changing and the Commission must be able to monitor and analyze these changes. Therefore, fuel data disclosure in Form QFR will be required from all carriers filing the report.

Some motor carriers protested the proposed requirement to break down fuel costs into gasoline, diesel, oil and other categories. The need for a similar break down of state, and federal taxes was also questioned. In addition, the ATA claimed that accurate cost per gallon of diesel and gasoline fuel purchased could only be obtained by requesting fuel dollars and gallons allocated between bulk purchases and over-the-road purchases. Also, the respondents could not determine if the information requested concerned "fuel consumed" or "fuel purchased."

In consideration of these comments, certain revisions have been incorporated in Form QFR. The instructions in the revised Form QFR will clearly state that all fuel data be reported in terms of "fuel purchased." Previous account numbers which referred to "fuel consumed" will no longer be used. The information will not be related to any account in the uniform system of accounts. The categories of fuel purchased have been revised at the request of ATA. Fuel purchased will be segregated into gasoline, diesel (bulk), diesel (over-the-road), and other. Federal and state taxes have also been combined as requested. The required fuel data is readily available to carriers and should not add to their reporting burden.

The Household Goods Carrier's Bureau requested that we eliminate all fuel disclosures from the household goods carriers' report. They claim that household goods carriers, and other specialized carriers, are unreliable sources for information on fuel since most of the fuel used for transportation under their authority is purchased by hauling contractors and owner-operators and, consequently, is not reported on Form QFR. In spite of these arguments, the commission believes that the data that is included in Form QFR is useful and that household goods carriers should continue to supply it. We are, however, studying the problem, with intent of modifying this requirement in the future.

This Decision does not significantly affect the quality of the human environment.

Accordingly, § 1249.12 Part 1249 of Title 49 of the Code of Federal

Regulations is amended to read as follows:

**§ 1249.12 Quarterly financial reports.**

All Class I common carriers and Class II "Instruction 27" carriers as defined in 49 CFR 1207, and Class I household goods carriers shall complete and file the Quarterly Results of Operations Form QFR. All Class I and II contract carriers and Class II Instruction 28 A, B & C Carriers shall complete and file the Selected Quarterly Data of Results of Operations Form QFR-S. Two copies of the form should be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the end of the reporting quarter.

This reporting revision is issued under the authority of 49 U.S.C. 11142 and 11145, and 5 U.S.C. 553.

Decided November 2, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37696 Filed 12-6-79; 8:45 am]  
BILLING CODE 7035-01-M

**49 CFR Part 1252**

[No. 34364 (Sub-No. 4)]

**Elimination of Piggyback Traffic Statistics Report Confidentiality**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** This reporting revision will eliminate the confidentiality of piggyback traffic statistics reports and incorporate these reports as part of carrier annual reports to the Commission. The Commission studied the confidentiality of piggyback traffic statistics reports and concluded there was no longer a need to maintain these reports on a confidential basis. This reporting revision should reduce the reporting burden of carriers and processing burden of the Commission. **DATES:** Effective for the reporting year beginning January 1, 1980.

**ADDRESSES:** For copies of the revised reporting requirements call: (800) 424-5403.

**FOR FURTHER INFORMATION CONTACT:** Bryan Brown, Jr. (202) 275-7448.

**SUPPLEMENTARY INFORMATION:** On October 6, 1978, the Commission served Order No. 34364 (Sub-No. 3) [43 FR 46851, Oct. 11, 1979]. The purpose of that Order was to change the filing frequency



of the Piggyback Traffic Statistics Report (PTSR) from a semi-annual to an annual basis. The order also extended in the filing requirement to Class II rail carriers and Class II intercity motor carriers. In that order the Commission also requested the public to comment on the confidentiality issue. The respondents to the Notice of Proposed Rulemaking (NPR) in Docket No. 34364 (Sub-No. 3) did not address the confidentiality issue.

In a further effort to determine the need for PTSR confidentiality, the Commission issued a NPR on June 6, 1979, Docket No. 34364 (Sub-No. 4) [44 FR 33716, June 12, 1979], proposing to eliminate the confidentiality of PTSR's by including piggyback data in annual reports filed with the Commission.

There were only four respondents to this NPR. The respondents generally favored the proposal. In view of the limited response to the NPR and the position of the four respondents, we concluded that PTSR confidentiality is no longer a reporting issue. Therefore, piggyback data will be included in carrier annual reports to the Commission and opened to public inspection effective January 1, 1980. Inclusion of piggyback data in carrier annual reports will reduce the burden of mailing, filing and processing two reports. It will also simplify the report processing burden because specialized procedures will no longer be needed to insure report confidentiality.

This decision does not significantly affect the quality of the human environment.

Accordingly, §§ 1252.1 through 1252.4 of Part 1252 of the Code of Federal Regulations are deleted. Carrier annual report forms will now include the disclosure of piggyback data.

#### §§ 1252.1 through 1252.4 (Deleted).

This revision is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: November 16, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners, Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37696 Filed 12-6-79; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 603

#### Confidentiality of Statistics; Interim Final Regulations

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interim final regulations.

**SUMMARY:** These regulations prescribe procedures authorized by section 303(d) of the Fishery Conservation and Management Act of 1976 (the Act) to protect the confidentiality of any statistics submitted to the Secretary of Commerce by any person in compliance with requirements of a preliminary fishery management plan or a fishery management plan. The regulations specify persons having access to confidential statistics, systems required to protect the confidential data, and circumstances under which the data may or may not be released.

**EFFECTIVE DATE:** Regulations are effective on December 7, 1979. Comment is invited on these regulations until January 23, 1980.

**ADDRESS:** Comments should be submitted in writing to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

#### FOR FURTHER INFORMATION CONTACT:

B. G. Thompson, Assistant Chief, Resource Statistics Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: (202) 634-7366.

**SUPPLEMENTARY INFORMATION:** On January 9, 1978, the National Marine Fisheries Service (NMFS) published proposed regulations on Confidentiality of Statistics submitted pursuant to the Act, and requested public comment (43 FR 1460). Since publication of the proposed regulations, the Act has been amended to require the collection of data concerning the capacity of United States fish processors to process domestic catch. These regulations have been revised to acknowledge this new statutory reporting requirement. The regulations also have been revised in response to comments received on the proposed regulations. Comments which responded to the substance of the proposed regulations are addressed below. Those sections which are not addressed in the preamble received no comment.

## General Comments

Five commenters recommended substituting "individual" or "firm" for "person." The definition of "person" in the Act includes associations, Federal, State, local, or foreign governments, and section 303(d) of the Act protects against disclosure of the "identity or business of any person who submits such statistics." Since the word "person" has the same definition in these regulations as in the Act, the concern was that this would prevent the publication of statistics submitted by foreign governments.

While statistics may be received from a foreign government, they are not the original submitters of the statistics. For example, the identity and catch of a foreign fishing vessel is a confidential statistic, but the aggregated catch of all fishing vessels of a foreign nation is not. Therefore, such aggregated data can be disclosed.

Concern was raised about access by State personnel to data that the States collect under their own authority but which is stored in Federal facilities. These regulations do not increase or diminish the authority of any State to collect fishery statistics from persons subject to their jurisdiction, nor limit the use of any statistics collected under such authority. However, States which by contractual agreement are collecting confidential statistics for the Secretary under the Secretary's authority, but which do not have State authority to collect such statistics, will not have access to, nor be permitted to retain, these statistics. Several changes have been made to these regulations to clarify the authority of the Secretary to execute agreements with the States to collect required statistics, and the authority of States to have access to data they have collected under this own authority.

Several commenters have questioned the propriety of disclosing confidential statistics to members and staffs of Regional Fishery Management Councils (Councils). In order to ensure accurate data submission and to avoid placing Councils and their staffs in an awkward position due to the potential for the appearance of a conflict of interest, these regulations operate to prohibit the disclosure of confidential statistics to Councils' members and staffs.

Concern was raised that § 603.5, Procedures for Disclosure, provided discretionary authority for the disclosure of statistics, contrary to the intent of the regulations. Commenters also felt that § 603.5 failed to provide for access by the States to data which they collected. NMFS agrees with these comments, and has determined that § 603.5 did not adequately address all

the issues involved. To correct the problem, the previously proposed § 603.5, Procedures for Disclosure, has been replaced with three new sections:

- 603.5 Access to statistics.
- 603.6 Controls system.
- 603.7 Release of statistics.

## Other Changes

### 603.2 Definitions.

A definition of "aggregate or summary form" has been added. Since it is possible to aggregate data and still reveal the identity and business of a person, it was felt necessary to establish the meaning of the term as used in these regulations. The definition is intended to provide a common understanding of the term and establish a standard to avoid disclosure of the identity or business of the person submitting required statistics.

### 603.3 Types of statistics covered.

This section has been revised to include additional types of data in response to amendment of section 303(a) of the Act by the so-called "joint venture amendment" (Pub. L. 95-354).

### 603.4 Collection and maintenance of statistics.

Language has been added to note that State agents can be authorized to collect statistics required by a fishery management plan implemented under the Act.

## Request for Public Comment

Interested persons, Regional Fishery Management Councils, and government agencies are encouraged to submit written comments, views, or data concerning these regulations to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. All such submissions received on or before January 23, 1980, will be considered.

In order to contribute to a sound statistical basis for fishery conservation and management through the application of a secure system of confidentiality protection, and in view of the immediate need presented by passage of Pub. L. 95-354, and because these regulations impose no burden on the general public, the 30-day "cooling off" period required by the

Administrative Procedure Act is waived.

Since the purpose of the regulations is to prescribe internal procedures within the National Oceanic and Atmospheric Administration, they constitute no burden on the public, nor do they significantly affect the environment or the economy. For these reasons, the Assistant Administrator has determined that these regulations do not require

preparation of an environmental impact statement under the National Environmental Policy Act; he also finds that these regulations are not significant under Executive Order 12044.

Signed in Washington, D.C., this 4th day of December, 1979.

Winfred H. Meibohm,  
Executive Director, National Marine Fisheries Service.

Title 50 of the Code of Federal Regulations is amended by adding "Part 603—Confidentiality of Statistics" to read as follows:

## PART 603—CONFIDENTIALITY OF STATISTICS

- Sec.
- 603.1 Purpose.
- 603.2 Definitions.
- 603.3 Types of statistics covered.
- 603.4 Collection and maintenance of statistics.
- 603.5 Access to statistics.
- 603.6 Control system.
- 603.7 Release of statistics.

Authority: 5 U.S.C. 301; 16 U.S.C. 1853(d).

### § 603.1 Purpose.

The purpose of this Part 603 is to prescribe procedures to preserve the confidentiality of any statistics submitted to the Secretary by any person in compliance with a requirement under a preliminary fishery management plan (PMP) or a fishery management plan (FMP).

### § 603.2 Definitions.

The terms used in this part shall have the same meaning as ascribed to them in section 3 of the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 *et seq.*) and part 601 of this chapter.

*Aggregate or summary form*, with respect to data, means data or information submitted by three or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person.

*Assistant Administrator* means the Assistant Administrator for Fisheries or his designee.

"Data", "statistics", and "information" are used interchangeably.

### § 603.3 Types of statistics covered.

This part applies to all information required to be submitted by any PMP or FMP or any regulation promulgated to implement a PMP or FMP, including, but not limited to: Information regarding the type and quantity of fishing gear used; catch by species in numbers of fish or weight thereof; areas in which fishing was engaged; time of fishing; number of hauls; and the estimated processing

capacity of, and the actual processing capacity utilized by, United States fish processors.

### § 603.4 Collection and maintenance of statistics.

(a) *General.* (1) All statistics required to be submitted to the Secretary under a PMP or FMP shall be provided to the Assistant Administrator.

(2) After receipt of the statistics submitted to the Assistant Administrator, the appropriate NMFS official shall delete all identifying particulars from the statistics at the first practicable opportunity consistent with the needs of the NMFS and good scientific practice.

(3) Appropriate safeguards as specified by NOAA Directives, or other NOAA or NMFS internal procedures, shall apply to the collection and maintenance of all statistics, whether separated from identifying particulars or not, so as to ensure their confidentiality.

(b) *Collection Agreements with States.* (1) The Assistant Administrator may enter into an agreement with a State authorizing the State to collect statistics on behalf of the Secretary.

(2) It is the policy of NMFS that NMFS will not enter into a cooperative collection agreement with a State unless the State has authority to protect the statistics from disclosure to the public in a manner similar to that of the Federal government, and in a manner consistent with these regulations.

### § 603.5 Access to statistics.

(a) *NOAA and NMFS personnel.* Statistics submitted as a requirement of a PMP or FMP and which will reveal the business or identity of the submitter shall only be accessible to:

- (1) Personnel within NMFS responsible for the collection, processing, and storage of the statistics;
- (2) Personnel within NMFS performing research that requires routine access;
- (3) Other NOAA and NMFS personnel on a demonstrable need-to-know basis; and

(4) NMFS contractors that require access in order to perform functions authorized by the Federal contract.

(b) *State personnel.* (1) State access to, and use of, those statistics collected will depend upon the State's authority to require collection of the statistics on its own behalf.

(2) If the State has authority to collect the statistics in question but has no agreement with the Assistant Administrator, the State shall not have access to statistics covered by this part which are submitted to the Assistant Administrator.



(c) *Prohibitions.* Persons having access to these data are prohibited from unauthorized use or disclosure, and are subject to the provisions of 18 U.S.C. 1905 and NOAA/NMFS internal procedures.

#### § 603.6 Controls system.

(a) The Assistant Administrator shall institute a control system to protect the confidentiality of statistics submitted in compliance with a PMP or FMP. The control system will:

(1) Identify those persons who have routine access to the statistics;

(2) Contain procedures to identify non-routine users and their use of the data; and

(3) Provide for safeguarding the data.

(b) This system will require that all persons who have access to the data be informed of the confidentiality of the data. These persons shall be required to sign a statement that they:

(1) Have been informed that the data are confidential, and

(2) Have reviewed and are familiar with the procedures to protect data confidentiality.

#### § 603.7 Release of statistics.

(a) The Assistant Administrator shall not disclose to the public any statistics required to be submitted under a PMP or FMP in other than aggregate or summary form except as required by court order. Disclosure as required by court order shall be made only after approval of the NOAA Office of General Counsel.

(b) All requests for statistics submitted in response to a requirement of a PMP or FMP shall be processed consistent with NOAA Freedom of Information Act (FOIA) regulations (15 CFR Part 903), NOAA Directives Manual 21-25, Department of Commerce Administrative Orders 205-12 and 205-14, and 15 CFR Part 4.

(1) The Assistant Administrator shall have the authority to issue initial denials of requests subject to the FOIA for statistics submitted in response to a PMP or FMP. Initial denials shall indicate that exemption 3 of FOIA (5 U.S.C. 552(b)(3)) is the basis for denial, making specific reference to section 303(d) of the Act and reciting in its entirety the first sentence of that section. Furthermore, citing this regulation, the denial shall indicate that the application of section 303(d) is nondiscretionary and shall refer specifically to the appropriate portion of the applicable PMP, FMP, or implementing regulation that required the submission of the requested statistics. Exemption (b)(4) (5 U.S.C. 552(b)(4)), as well as other applicable

FOIA exemptions, may be cited in addition, where appropriate.

(2) Appeals from initial denials should be addressed to the Administrator of NOAA, Department of Commerce, Washington, D.C. 20230. The Administrator shall not make a discretionary release of statistics unless, upon review, it is determined that the Assistant Administrator improperly applied exemption (b)(3) to the requested statistics. In such cases the Administrator will instruct the Assistant Administrator to release the statistics to the requestor.

[FR Doc. 79-37888 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-22-M

## Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### OFFICE OF PERSONNEL MANAGEMENT

#### 5 CFR Part 213

#### Excepted Service; Establishment of a New Temporary Schedule C Authority

**AGENCY:** Office of Personnel Management (OPM).

**ACTION:** Proposed Rulemaking.

**SUMMARY:** OPM is proposing to revise regulations pertaining to the excepted service issued under Executive Order 10577, "Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive Service," in order to facilitate the orderly transition of duties as a consequence of a change in Presidential Administration, when a new Department or agency head has entered on duty, or at the time of the creation of a new department or agency. Such positions shall be either:

(1) Identical to an existing Schedule C position if intent to vacate that position has been put in writing by management or the present incumbent, such position to be designated as Identical Temporary Schedule C (ITC); or

(2) A new temporary Schedule C position, to be designated New Temporary Schedule C (NTC), when it is determined that the department or agency head's needs cannot be met through establishment of an Identical Schedule C position. The number of NTC positions established by any one agency may not exceed 25% of the total number of permanent Schedule C positions authorized for that agency as of March 31, 1980.

**DATE:** Written comments will be considered if received no later than February 5, 1980.

**ADDRESS:** Send written comments to William Bohling, Chief, Inservice Placement Branch, Rm. 6H28, Office of Personnel Management, Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** William Bohling, (202) 632-4533.

**SUPPLEMENTARY INFORMATION:** This proposed regulation would amend Part 213 to add a new Temporary Schedule C authority to Subpart C in recognition of the fact that appointment changes and new hiring requirements do occur as a result of a change in Presidential Administration, changes in Department

or agency heads, or the creation of a new department or agency. This authority would permit agencies, without prior OPM approval, to make appointments to legitimate temporary Schedule C positions for a period not to exceed 90 days immediately after the head of an agency has entered on duty.

Office of Personnel Management.

Beverly M. Jones,  
Issuance System Manager.

Accordingly, OPM proposes to add 5 CFR 213.3302 to read as follows:

**§ 213.3302 Temporary Schedule C positions during a Presidential transition, as a result of changes in department or agency heads, or at the time of the creation of a new department or agency.**

(a) An agency may establish temporary positions necessary to assist a department or agency head during the period immediately following a change in Presidential Administration, when a new Department or agency head has entered on duty, or at the time of the creation of a new department or agency. Such positions shall be either:

(1) Identical to an existing Schedule C position if intent to vacate that position has been put in writing by management or the present incumbent, such position to be designated as Identical Temporary Schedule C (ITC); or

(2) A new temporary Schedule C position, to be designated New Temporary Schedule C (NTC), when it is determined that the department or agency head's needs cannot be met through establishment of an Identical Schedule C position. The number of NTC positions established by any one agency may not exceed 25% of the total number of permanent Schedule C positions authorized for that agency as of March 31, 1980.

(b) Service under this authority may not exceed 90 days. These positions must be of a confidential or policy-determining character, and are subject to instructions issued by the Office of Personnel Management.

[5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218]

[FR Doc. 79-37624 Filed 12-6-79; 8:45 am]

BILLING CODE 6325-01-M

Federal Register

Vol. 44, No. 237

Friday, December 7, 1979

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 1004

#### Milk in the Middle Atlantic Marketing Area; Proposed Suspension of a Certain Provision of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed suspension of rule.

**SUMMARY:** This notice invites written comments on a proposal to suspend an order provision affecting the regulatory status of milk distributing plants. The action was requested by a handler operating a distributing plant. It would make inoperative the requirement that a distributing plant use at least 40 percent of its milk for fluid use before it is eligible to have all of its milk pooled and priced under the order. The suspension is proposed for December 1979 and January 1980.

**DATE:** Comments are due not later than December 14, 1979.

**ADDRESS:** Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447-6273.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provision of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for December 1979 and January 1980:

In § 1004.7(a) the words "not less than 40 percent."

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than December 14, 1979.

The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required



procedures and include December 1979 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

#### Statement of Consideration

The proposed suspension would make inoperative for December 1979 and January 1980 the provision that at least 40 percent of the receipts of milk at a pool distributing plant be disposed of as Class I milk. The proposed action was requested by Michaels Dairies, Inc., a proprietary handler who operates a pool distributing plant.

Michales Dairies, Inc. indicates that it expects its Class I disposition to be less than 40 percent of the milk supply associated with its distributing plant because of the cancellation of a substantial Class I milk contract with Dover Air Force Base, Dover, Delaware. The handler claims that the failure of its plant to meet the pooling requirements would result in the milk of producers who are regular suppliers on the market not being priced and pooled under the order. Proponent states that the temporary suspension action will permit the orderly marketing of the milk supply associated with its plant.

Signed at Washington, D.C., on December 4, 1979.

William T. Manley,  
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-37700 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-02-M

#### FEDERAL TRADE COMMISSION

##### 16 CFR Part 13

[File No. 771 0031]

#### Texas Association of Professional Sureties, Et Al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require an Odessa, Tex. unincorporated trade association of bail bondsmen and its Houston, Tex. affiliate to cease establishing, fixing or maintaining uniform non-competitive prices for the sale of bail bonds; requiring adherence to such prices through coercion or otherwise; and attempting by any means to eliminate

competition between or among bail bondsmen. The associations would be prohibited from discussing prices and recalcitrant members at meetings, and required to timely amend any rule, by-law or code of ethics so as to conform with the terms of the order. Additionally, the associations would be required to terminate the membership of any member who fails to comply with those terms.

**DATE:** Comments must be received on or before February 5, 1980.

**ADDRESS:** Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Juereta P. Smith, Director, 5R, Dallas Regional Office, Federal Trade Commission, 2001 Bryan St., Suite 2665, Dallas, Texas. 75201. (214) 729-0032.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of Texas Association of Professional Sureties and Association of Professional Sureties of Houston, unincorporated associations. File No. 771 0031 Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Texas Association of Professional Sureties and Association of Professional Sureties of Houston, and it now appearing that Texas Association of Professional Sureties and Association of Professional Sureties of Houston, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Texas Association of Professional Sureties and Association of Professional Sureties of Houston, by their duly authorized officers, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Texas Association of Professional Sureties is an unincorporated, non-profit trade association with its office

and principal place of business located at 318 North Texas Street in the City of Odessa, State of Texas.

Proposed respondent Association of Professional Sureties of Houston is an unincorporated, non-profit trade association with its office and principal place of business located at 212 Scanlan Building, 405 Main Street, in the City of Houston, State of Texas.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order

has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### Order

*It is ordered,* That respondents Texas Association of Professional Sureties and respondent Association of Professional Sureties of Houston, individually, and their respective officers, directors, agents, representatives, employees, successors and assigns, directly or indirectly or through any corporation, subsidiary, affiliate, association, division, committee or other device, in connection with each respondent association's business, or with the offering for sale, sale, distribution or promotion of bail bonds, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from entering into, cooperating in, or carrying out any agreement, understanding or combination, express or implied, or unilaterally to do, adopt or perform any of the following acts, policies or practices:

1. Determining, fixing, suggesting, recommending, establishing, stabilizing, maintaining or effectuating, or attempting to determine, suggest, recommend, fix, establish, stabilize, maintain, or effectuate any price, term or condition of sale, price floor, or minimum charge to customers for bail bonds.

2. Promoting, encouraging, requiring or coercing adherence to, or discouraging or deterring variance from, any price, term or condition of sale, price floor or minimum charge to customers for bail bonds.

3. Discussing at any meeting or elsewhere: (a) Any price, term or condition of sale, price floor, or minimum charge to customers for bail bonds;

(b) The prices charged by, or terms or conditions of sale of, any member or non-member bail bondsman or bondsmen; or

(c) Any action to be considered or taken in regard to any bail bondsman or bondsmen by reason of the price which such person or persons charge or their terms or conditions of sale.

4. Promulgating, adopting, maintaining, enforcing or requiring adherence to any constitution, code of ethics, rule, regulation, by-law, or other device by which any price, term or condition of sale, price floor, or minimum charge to customers for bail bonds is determined, fixed, suggested, recommended, established, maintained, or effectuated.

5. Restricting or preventing, or attempting to restrict or prevent, any bail bondsman from carrying on any lawful course of action, or from engaging in trade or commerce by lawful methods of his or her own choosing.

6. Eliminating or attempting to eliminate competition between or among bail bondsmen.

*It is further ordered,* That each respondent shall, within thirty (30) days after service upon it of this order, mail by first class mail a copy of this order to each of its members, with a notice that such member must abide

by the terms of this order as a condition to continued membership in the association.

*It is further ordered,* That, immediately upon completion of the above mailings, each respondent obtain from the person(s) actually performing the required mailing of each order and notice, an affidavit verifying the mailing of each such document, and specifying the particular person or business entity and address to which such document was mailed.

*It is further ordered,* That each respondent shall, within thirty (30) days after service upon it of this order, amend its charters, constitutions, by-laws, codes of ethics, rules and regulations by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this order; and that each respondent shall thereafter require as a condition of membership that all of its present and future members act in accordance with the provisions of this order, and shall terminate the membership of any member not acting in accordance with the provisions of this order.

*It is further ordered,* That each respondent notify the Commission at least thirty (30) days prior to any proposed change in such respondent such as dissolution, incorporation, assignment or sale resulting in the emergence of a successor, entity, the creation or dissolution of any subsidiary or affiliate or any other change in such association which may affect compliance obligations arising out of the order.

*It is further ordered,* That each respondent, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it complied with this order including copies of all affidavits required by this order to be obtained by each respondent.

#### Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Texas Association of Professional Sureties and the Association of Professional Sureties of Houston.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Texas Association of Professional Sureties (TAPS) is a statewide association of bail bondsmen. The Association of Professional Sureties of Houston (HAPS) is an association of bail bondsmen in Houston, Texas, and is directly affiliated with TAPS. The Commission's complaint alleges that the two Associations, acting in combination with their members and others, have engaged in various practices designed to affect the prices for bail bonds. A bail

bond is an instrument, purchased from a bondsman by a criminal defendant, which allows the defendant's release from jail before trial. If the defendant fails to appear for trial, the bondsman forfeits the dollar amount of the bond (an amount equal to bail as set by the court). The price paid by a defendant for a bail bond is usually based upon a percentage of the total bond amount and is paid directly to the bondsman.

The complaint alleges that the two Associations have determined fixed, established, stabilized, effectuated and maintained uniform, non-competitive prices for the sale of bail bonds; have promoted, encouraged and coerced adherence to such prices; have held meetings at which the prices of bonds and the identity of price cutting bondsmen were discussed; and have promulgated and maintained Codes of Ethics which fixed the amount to be charged for bail bonds. The complaint alleges that by these practices the two Associations have hindered, restrained and eliminated competition in the sale of bail bonds.

The proposed consent order specifically prohibits the two Associations from engaging in those practices listed above. They are further prohibited from eliminating or attempting to eliminate competition between or among bail bondsmen. In addition, the proposed consent order requires that copies of the order be sent to all members of the two Associations, and that the Associations terminate the membership of any member who fails to abide by its terms.

The proposed consent order would not affect, in any manner, the ability or right of the state of Texas or any other governmental entity to regulate the sale of bail bonds or the price charged for bail bonds.

The purpose of this analysis is to facilitate public comment in the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,  
Secretary.

[FR Doc. 79-37595 Filed 12-6-79; 6:45 am]

BILLING CODE 6750-01-M

##### 16 CFR Part 457

#### Standards and Certification; Extension of Period for Filing Rebuttal Submissions

AGENCY: Federal Trade Commission.

ACTION: Extension of period for filing rebuttal submissions.



**SUMMARY:** On December 7, 1978, the Commission published in the Federal Register its initial notice of proposed rulemaking regarding standards and certification. This notice provided that interested persons would be afforded 40 days after the close of the public hearings to file rebuttal submissions. This notice announces that the period for filing rebuttal submissions has been extended.

**DATES:** Rebuttal submissions must be filed by January 15, 1980.

**ADDRESSES:** Rebuttal submissions should be submitted in five copies, when feasible, to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for public inspection in Room 130 of the Public Reference Branch, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045, or Robert J. Schroeder, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-3935.

**SUPPLEMENTAL INFORMATION:** On December 7, 1978, the Commission published in the Federal Register its initial notice of rulemaking regarding the establishment of prohibitions and requirements for standards developers, certifiers, and persons who reference standards and certification in the marketing of products (43 FR 57269). In Section I of this notice, it was announced that interested persons would be afforded 40 days after the close of the public hearing to file rebuttal submissions. The hearing and the resulting transcript of testimony was much longer than had been expected because many more witnesses appeared than had been predicted at the time the initial notice was published.

Additionally, a number of witnesses expressed a willingness to provide upon request of counsel who examined them additional information to supplement or support their testimony. Processing of these requests through the Presiding Officer required a considerable amount of time following the conclusion of the hearing. As a consequence of these two circumstances, the Presiding Officer has extended the period for filing rebuttal submissions to January 15, 1980.

All interested persons who desire to file rebuttal submissions should do so at the earliest practicable date by forwarding them to Henry B. Cabell, Presiding Officer, Federal Trade

Commission, Washington, D.C. 20580. Submissions received prior to January 15, 1980, will be held *in camera* until that date. Thereafter, they will be placed on the rulemaking record in Category M and be available for public inspection in Room 130 of the Public Reference Branch, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, NW., Washington, D.C. Rebuttal submissions must be based only upon identified, properly cited matters already on the rulemaking record. The Presiding Officer will reject all submissions which are essentially written comment in contrast to rebuttal.

Henry B. Cabell,  
Presiding Officer.

[FR Doc. 79-37725 Filed 12-6-79; 8:45 am]  
BILLING CODE 6750-01-M

## DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

### Food and Drug Administration

#### 21 CFR Part 868

[Docket No. 78N-1651]

#### Medical Devices; Classification of Argon Gas Analyzers

##### Correction

In FR Doc. 79-33337, appearing in the issue of Friday, November 2, 1979, on page 63302, in the middle column under the preamble's "SUPPLEMENTARY INFORMATION", in the second full paragraph, the third line, replace the word "connection" with the word "concentration".

BILLING CODE 1505-01-M

#### 21 CFR Part 868

[Docket No. 78N-1662]

#### Medical Devices; Classification of Indwelling Blood Oxygen Partial Pressure (P<sub>o2</sub>) Analyzers

##### Correction

In FR Doc. 79-33347, appearing at page 63310, in the issue of Friday, November 2, 1979, on page 63311, in the first column, in the third full paragraph designated as "3.", in the sixth line, correct "class II" to read "class III".

BILLING CODE 1505-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52 and Part 81

[FRL 1371-5]

#### Approval and Promulgation of Implementation Plans for Rhode Island; Attainment Status Designations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Revisions to the State Implementation Plan (SIP) for the State of Rhode Island were submitted to the Environmental Protection Agency (EPA) on May 14, June 11 and August 13, 1979 by Governor Garrahy. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act (the Act) as amended in 1977, "Plan Requirements for Non-Attainment Areas", through the implementation of new measures for controlling emissions and providing for attainment of the National Ambient Air Quality Standards (NAAQS) by the required dates. In addition, the revisions respond to certain other requirements of the Act. This Notice discusses the Rhode Island submittal and EPA's proposed action concerning it. EPA invites public comment and/or corrections on these proposed actions, the identified and other relevant issues and generally on whether the Rhode Island SIP revisions should be approved or disapproved.

**DATE:** Comments must be submitted to EPA at the address listed below on or before January 7, 1980.

**ADDRESSES:** Copies of the Rhode Island submittal and documents containing EPA's guidance are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Department of Environmental Management, Division of Air Resources, Cannon Building, 75 Davis Street, Providence, Rhode Island 02908.

Comments should be submitted to Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203.

**FOR FURTHER INFORMATION CONTACT:** Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, 617/223-6883.

**SUPPLEMENTARY INFORMATION:** On April 4 (44 FR 20372), July 2, (44 FR 38583), August 28 (44 FR 50371) and September 17 (44 FR 53761) 1979, EPA published notices discussing the requirements (hereafter the General Preamble) for an approvable non-attainment SIP in the Federal Register. These publications supplement this proposal by identifying the major considerations that guide EPA's evaluation of state submittals. These considerations are not restated in this Notice in detail but copies of the documents in which they are stated are available at the locations listed in the Addresses section of this Notice.

EPA is hereby proposing to approve certain parts of the Rhode Island submission, to approve others upon the fulfillment of certain stated conditions, to disapprove one section and to take no action on others.

EPA is proposing to approve:

1. The redesignation of Providence from non-attainment to unclassifiable for the period March 3, 1978 through the date of publication of the Final Rulemaking Notice on these revisions, based upon the data from the Dyer Street hi-volume air samples (hi-vol.).

2. The designation of Providence as non-attainment for the primary TSP standard based upon the 1978 data from the Westminster Street hi-vol.

3. Resource commitments.

4. Conflict of Interest provisions.

EPA is proposing to approve conditionally:

1. The entire portion of the SIP revision to control stationary sources of volatile organic compounds.

2. The transportation planning

process.

3. The carbon monoxide attainment plan.

4. The Inspection and Maintenance program.

5. The volatile organic compound emission inventory.

6. The ozone attainment SIP revision.

7. The public, local and state participation program.

8. The notice and hearing provisions.

EPA is proposing to disapprove: 1. The program to review new sources in non-attainment areas.

EPA is proposing to take no action on:

1. The program to review new sources in attainment areas (Prevention of Significant Deterioration).

2. Monitoring.

3. Permit fees.

4. Intergovernmental consultation.

5. Stack height requirements.

6. Interstate pollution.

7. Public notification.

**BACKGROUND:** Despite significant progress since the Rhode Island SIP was

developed and adopted in 1972, violations of the National Ambient Air Quality Standards (NAAQS) except for nitrogen dioxide and sulfur dioxide have continued to occur in the state. On March 3, 1978 (43 FR 8962), pursuant to the requirements of Section 107 of the Act, EPA promulgated lists designating as non-attainment areas where the NAAQS were not attained as of August 7, 1977, as attainment where the standards had been attained or as unclassifiable when insufficient information was available. The designations were made for carbon monoxide, total suspended particulates, sulfur dioxide, nitrogen dioxide and ozone, the air pollutants for which there are NAAQS.

In Rhode Island, there is statewide attainment for nitrogen dioxide and sulfur dioxide. In the March 3, 1978 Federal Register notice, the entire state was designated non-attainment for ozone. In addition, the city of Providence was classified non-attainment for carbon monoxide and for the primary total suspended particulate (TSP) standard. However, the data upon which this TSP determination was made were later found to have been inaccurate. The Governor thus requested a redesignation of Providence from non-attainment to unclassifiable. Concurrently, data collected at a second monitoring site in the city showed primary TSP violations. As part of this latest submittal, Rhode Island has requested a designation for Providence of non-attainment for the primary TSP standard based upon data from the second monitor.

On May 29, June 29, and August 29, 1979 EPA published Notices that the Rhode Island SIP revisions were available for review and invited the public to comment on their approvability. Comments from three organizations have been received to date. EPA has now completed its review of the SIP revisions.

Pursuant to Part D of the Act, each state must satisfy specific requirements in the areas designated as non-attainment. The SIP must be revised to demonstrate attainment of the NAAQS as expeditiously as practicable, but no later than the end of 1982 or the end of 1987 for areas with difficult ozone and/or carbon monoxide problems. In some cases of secondary standard non-attainment, the SIP may provide for an attainment date beyond 1982. These requirements and the major considerations that will guide EPA's evaluation of attainment plans are briefly summarized below. After each item is a citation to the applicable

section of the Act and the applicable paragraphs of EPA Administrator Costle's February 24, 1978 memorandum (hereafter the Administrator's Memorandum) on "Criteria for Approval of 1979 SIP Revisions" which was published in the Federal Register on May 19, 1978 (43 FR 21673).

#### Requirements for All Part D SIPs

- Demonstrate that both primary and secondary NAAQS will be attained within the non-attainment area as expeditiously as practicable, but for primary NAAQS no later than the following final deadlines: (Section 172(a); §§ 1, 3, 5.)

For sulfur oxides, particulate matter, and nitrogen dioxide, December 31, 1982.

For ozone or carbon monoxide, December 31, 1982, except, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures, December 31, 1987.

- Require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date. (Section 172(b)(3); § 6.)

- Provide for implementation of all reasonably available control measures (RACM) as expeditiously as practicable, insofar as necessary to assure reasonable further progress and attainment by the required date. This includes reasonably available control technology (RACT) for stationary sources and reasonably available transportation control measures. (Section 172(b)(2), (8); §§ 4-5.)

- Include an accurate, current inventory of emissions that have an impact on the non-attainment area, and provide for annual updates to indicate emissions from existing sources. (Section 172(b)(4); §§ 2, 7-8.)

- Expressly quantify the emissions growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress or attainment by the required date. (Section 172(b)(3) and (5); § 7.)

- Require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Act. (Section 172(b)(6); § 9.)

- Include the following additional SIP elements: (Section 172(b)(7); (9)-(10); §§ 4, 10-11.)

Identification and commitment of the necessary resources to carry out the Part D provisions of the plan.

Evidence of public, local government, and state legislative involvement and



consultation in accordance with Section 174 of the Act.

Identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered, and a summary of the public comment on the analysis.

Written evidence that the state and other governmental bodies have adopted the necessary requirements in legally enforceable form.

Written evidence that the state and other governmental bodies are committed to implement and enforce the appropriate elements of the SIP.

Additional requirements must be met in Rhode Island since carbon monoxide and ozone attainment will not take place in the state prior to 1982. These requirements include:

- Prior to issuance of a permit, provide an analysis of alternate sites, sizes, production and environmental control regulations for the proposed source which demonstrates that its benefits significantly outweigh its environmental and social costs.
- Implement an Inspection and Maintenance (I/M) program or establish a specific schedule endorsed by and committed to by the Governor. Legal authority to implement such a program was required by June 30, 1979.
- Evidence of a commitment by the responsible officials to establish, expand or improve public transportation.
- Evidence of a commitment to use available grants and funds to establish, expand or improve public transportation.

These requirements were discussed in the General Preamble, specifically the Notice published on July 2, 1979 (44 FR 38583). It included, among other things, a discussion of EPA's intent to approve a plan conditionally where there are minor deficiencies and where a state provides assurance that it will submit corrections on a specified schedule. This Notice solicits comment on what items should be approved conditionally in the Rhode Island SIP revisions, and on the deadlines where these are specified in the Notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled deadlines, or unless the revisions are not approved by EPA.

EPA proposes in this notice to approve certain items which are expected to be submitted during the public comment period. EPA specifically solicits comment on this procedure and on whether (and why) the public perceives a need for additional

opportunity for comment on any of the items anticipated.

The remainder of this Notice is divided into two parts. The first part describes Rhode Island's non-attainment SIP revisions, the attainment status redesignations and the results of EPA's review. The second part discusses Rhode Island's response to certain requirements of the Act and EPA's judgment as to whether those requirements have been met.

#### *I. Part D—Rhode Island's Non-Attainment SIP Revisions*

**A. Total Suspended Particulates (TSP).** The city of Providence was designated non-attainment for the primary total suspended particulate (TSP) standard in the March 3, 1978 Federal Register (43 FR 8962) based upon data gathered at a high volume air sampler (hi-vol) located at Dyer Street. Following a careful review, the Rhode Island Department of Environmental Management (RIDEM) determined that the Dyer Street hi-vol is improperly sited and therefore that its air quality monitoring data are not an accurate indicator of ambient air quality. Data collected in 1978 at a second hi-vol, located at Westminster Street, indicated a new primary standard violation caused by a markedly different class of sources which impacted the Dyer Street site. Consequently, on July 19, 1979, the Director of RIDEM submitted a written request to EPA to redesignate Providence unclassifiable based upon the Dyer Street data, and non-attainment based upon the 1978 Westminster Street violation.

**Description of the Plan:** The primary annual standard of  $75 \mu\text{g}/\text{m}^3$  was violated at the Dyer Street hi-vol which recorded an annual geometric mean of  $92 \mu\text{g}/\text{m}^3$  in 1978 and  $101 \mu\text{g}/\text{m}^3$  in 1977. An evaluation of the site location and data base indicated that these results should be discounted as they had been unduly influenced by traffic and reentrained road dust. A special TSP study on the Dyer Street monitor using traffic counts, regression analysis and filter examination demonstrated that between 32 and 43 percent of the total particulate readings are attributable to traffic influences. Additionally, the site location is not representative of population exposure or commercial activity. Consequently, the data from the Dyer Street hi-vol are not an accurate indicator of ambient air quality. RIDEM has requested a redesignation from non-attainment for primary standards to unclassifiable based upon the Dyer Street hi-vol site evaluation and special study.

A second hi-vol, located at Westminster Street, recorded an annual TSP concentration of  $72 \mu\text{g}/\text{m}^3$  in 1977 after the data were adjusted for sampling bias. Sampling data from 1977 demonstrated compliance with the primary annual standard. However, a violation of the secondary 24-hour standard occurred in that year. A review of TSP data collected at the Westminster hi-vol for the eight calendar quarters starting with April 1977 through June 1979 by RIDEM and EPA indicated that there were no violations of the 24-hour secondary standard. However, unbiased data collected in 1978 and reviewed by RIDEM and EPA shows a violation of the primary annual standard with a value of  $79 \mu\text{g}/\text{m}^3$ . RIDEM has requested a non-attainment designation for the primary standard based upon the 1978 data from the Westminster Street hi-vol. Although the height of the monitor above street level does not meet present site criteria for high volume air samplers, the site is generally acceptable and is the only other hi-vol particulate sampler presently located in Providence which can be used to compare data with the NAAQS. However, the state has indicated that it will request a waiver for this site location which will be incorporated in the State and local air monitoring system (SLAMS) SIP revision due on January 1, 1980.

RIDEM has indicated that area sources, predominantly fuel combustion with some contribution from incineration, construction and demolition activity, and urban fugitive dust contribute to excessive TSP levels in Providence. The most significant control measure adopted by RIDEM to address this problem is a ban on unapproved burners for combustion sources consuming fuel oil. In addition, the standard for fossil-fuel fired steam or hot water generating units from one million Btu to 250 million Btu per hour heat input has been reduced from .2 pound/10<sup>6</sup> Btu to .1 pound/10<sup>6</sup> Btu. Wood burning boilers in excess of one million Btu per hour will also be subject to the .1 pound/10<sup>6</sup> Btu emission standard.

**Issues:** The bases for Providence's present non-attainment designation are data from the Dyer Street hi-vol site which has since been determined to be unacceptable by RIDEM and EPA. This determination was based upon the fact that the hi-vol is unduly influenced by reentrained road dust.

EPA's review of the Westminster Street hi-vol data for 1978, however, revealed a new primary standard

violation. The Westminster Street hi-vol is influenced by a markedly different class of sources from those at Dyer Street and has not recorded previous violations of the primary TSP standard.

**Proposed Action:** EPA is proposing to:

1. Terminate the designation of Providence as non-attainment, based upon the data from the Dyer Street hi-vol.
2. Approve a new designation of Providence as non-attainment for the primary TSP standard based upon the 1978 data from the Westminster Street hi-vol.
3. Since a substantially revised controlled strategy demonstration will be required for this area, Section 110(a)(1) provides for an additional nine months from the publication of the Final Rulemaking Notice to allow the RIDEM to develop a primary standard attainment plan for Providence.

Such an attainment plan must comply with all the requirements stipulated in Part D of the Act, including but not limited to the following:

- (a) A comprehensive emission inventory including industrial fugitive emissions and non-traditional source emissions.
- (b) A control strategy demonstration with estimates of source categories presently contributing to primary standard violations in Providence.
- (c) A schedule for non-traditional source particulate control.
- (d) Construction and operating permits for new and modified sources in non-attainment areas in compliance with Section 173 of the Act.

**B. Ozone ( $\text{O}_3$ )-Control of Stationary Source Volatile Organic Compounds.** Rhode Island was designated non-attainment statewide for ozone in the March 3, 1978 Federal Register (43 FR 8962). Pursuant to Section 172(b)(2) of Part D of the Act, the state must provide for implementation of all reasonably available control technology (RACT) for stationary sources of emissions of volatile organic compounds (VOCs) as expeditiously as practicable. EPA regulations provide that less stringent emission limitations than those achievable with RACT are acceptable only if the State plan shows that the less stringent limitations are sufficient to attain and maintain national ambient air quality standards, and show reasonable further progress during the interim before attainment. Otherwise, RACT limitations are required. See 44 FR 53762 (September 17, 1979).

Where, as in Rhode Island, the entire state is designated nonattainment, EPA policy is that all major stationary sources (defined as those sources with the potential to emit 100 tons per year of

VOCs) must be controlled statewide and all sources including the sources which emit less than 100 tons of VOCs per year must be regulated in urban areas with a population of over 200,000 (44 FR 20376, April 4, 1979).

EPA has issued Control Techniques Guidelines (CTGs) for fifteen categories of sources, providing information on available air pollution control techniques, and containing recommendations of what EPA calls the "presumptive norm" for RACT. EPA policy is that a SIP revision due January 1, 1979 is acceptable if it includes necessary emission limitations for source categories covered by CTGs published by January 1978. Emission limitations for source categories covered by CTG published between January 1978 and January 1979 must be adopted and submitted to EPA by July 1, 1980. See 44 FR 53762 (September 17, 1979). EPA has also issued recommendations to the states as to what constitutes expeditious compliance in the Agency's comment judgment.

**Description of the Plan:** According to an inventory prepared and submitted by the RIDEM, stationary sources of VOCs in the state which must be addressed at this time are: solvent metal cleaning; petroleum storage and marketing including Stage I vapor recovery; fabric coating; paper coating; and the use of cutback asphalt. RIDEM has developed regulations to control the following source categories to limits recommended by EPA: solvent metal cleaning as well as petroleum storage and marketing including Stage I vapor recovery. Paper coating and fabric coating have not been controlled to the EPA recommended levels. The state claims the use of cutback asphalt is insufficient to warrant control at this time. RIDEM has committed to evaluate the need for future categorical controls in accordance with future CTG guidance and to consider implementing such controls.

**1. Surface Coating of Paper and Fabric.** Description of the Plan and Issues: Rhode Island has not submitted regulations requiring control of paper or fabric surface coating sources to a limit which is considered by EPA to be RACT.

Based on EPA's current evaluation of the capabilities and problems general to the industry, EPA recommends that states adopt the emission limitations in the CTG. The state may adopt the recommended limitations and perform source-by-source reviews to take into account individual variations. States are also free to develop case-by-case RACT recommendations independently of EPA's recommendation, so long as the

state shows that its requirements satisfy the requirements of the Act for RACT for the particular sources affected by the regulation. RIDEM has chosen neither of these options, and EPA does not believe that information in the CTG or supplied by the state justifies approval of the existing paper coating or fabric coating regulations as representing RACT.

As part of its SIP revision, the state has submitted to EPA a proposed Regulation 19 controlling paper and fabric coating. By 1982 this regulation proposes a level of control of 4.0 pounds of VOCs emitted per gallon of coating as applied and 2.9 or 3.8 pounds per gallon in 1985 depending on the source category. The proposed regulation was the subject of a public hearing on August 9, 1979, and has been submitted by RIDEM to the Secretary of State for issuance. Regulation 19 deviates from EPA's current policy guidance in two significant respects: (1) the Administrator's Memorandum states EPA policy that states control both VOC sources with potential emissions of 100 tons per year statewide and all sources located in major urban areas for which EPA has issued CTGs. Regulation 19, in contrast, only provides control of sources with actual emissions of 100 tons per year; and (2) it is EPA's best judgment at this time that most VOC sources can achieve compliance within one or two years, depending upon the source category. Regulation 19, on the other hand, provides until 1985 for all sources to achieve full compliance.

**Proposed Action:** EPA is proposing approval of this portion of the SIP revisions conditioned upon the following:

(a) Prior to the expiration of the public comment period on this Notice of Proposed Rulemaking the state submits to EPA for inclusion in the SIP revisions an adopted regulation controlling paper and fabric coating issued by the Secretary of State.

(b) The submitted regulation must contain a compliance schedule consistent with EPA's current recommendation, or the state must present adequate justification for the submitted schedule.

(c) The submitted regulation must require control to at least 5 percent of the reductions which would occur if the source-size criteria from the Administrator's Memorandum were applied, or the state must present adequate justification that the level of control proposed is RACT for Rhode Island sources.

**2. Solvent Metal Cleaning.** Description of the Plan and Issues: Regulation 18 requires control of solvent metal cleaning operations, otherwise known



as "degreasers." The level of control of solvent metal cleaning required by this regulation is acceptable. However, one of the compliance schedules contained in Regulation 18 allows one year and eight months for compliance if a control device or new equipment is installed. It is EPA's best judgment at this time that compliance can be achieved within one year for this source category. The state must either require compliance within one year or demonstrate why all sources in this category require the time for compliance provided in the submitted schedule.

**Proposed Action:** EPA is proposing approval of Regulation 18 conditioned upon the state's adoption by the expiration of the public comment period on this Notice of Proposed Rulemaking of EPA's recommended compliance schedule or submittal of adequate justification for the currently submitted compliance schedule.

**3. Petroleum Storage and Marketing.** Description of the Plan and Issues: Regulation 11 requires control of emissions from fixed roof tanks, bulk gasoline terminals, bulk gasoline plants and gasoline service stations (Stage I). The level of control required for these four categories is acceptable. However, it is EPA's best judgment that tanks of 2,000 gallons and larger at gasoline service stations should have Stage I controls. Regulation 11 presently applies only to tanks larger than 2,000 gallons. Moreover, the compliance schedules for bulk terminals and gasoline service stations deviate substantially from current EPA guidance issued to the states concerning compliance schedules. Finally, the state has made a tentative assessment that there may be no bulk plants in Rhode Island.

**Proposed Action:** EPA is proposing approval of Regulation 11 conditioned upon the state's completion of the following:

1. Revision of Regulation 11 to require controls for 2,000 gallon tanks by January 1, 1980, or demonstration that control of them in Rhode Island is not RACT.

2. Revision of Regulation 11 to be consistent with EPA's recommendation as to compliance schedules, or provide adequate justification by January 1, 1980 that the compliance schedule for gasoline service stations provides for expeditious compliance for all sources in this category.

3. Submission to EPA by January 1, 1980 of one of the following:

a. Certification that there are no bulk plants in the state;

b. Adoption of a compliance schedule acceptable to EPA for any bulk plants in the state; or

c. Justification deemed adequate by EPA for not controlling bulk plants in the state.

4. Revision of Regulation 11 to be consistent with EPA's recommendation as to compliance schedules, or provide to EPA adequate justification by January 1, 1980 showing that the state's compliance schedule for bulk terminals provides for expeditious compliance for all sources in this category.

**4. Cutback Asphalt.** Description of the Plan and Issues: The information provided in the SIP revisions on cutback asphalt usage is inconsistent. The inventory summary shows 98 tons of emissions in 1977 with the same projected level in 1982 and 1987. In Section BIF of the revisions, however, it is stated that only 71 tons of VOC were emitted from this category in 1977. Documentation for these figures is not provided. Further, the state has not adopted a regulation to control the use of cutback asphalt.

**Proposed Action:** EPA is proposing to approve this portion of the SIP revisions conditioned upon the state's submittal by the expiration of the public comment period on this Notice of Proposed Rulemaking of a documented estimate of present use and emissions of cutback asphalt, a commitment to review this estimate annually and adopt a regulation to control the use of cutback asphalt when emissions in any single county in the state exceed 100 tons per year.

**5. Other Categories.** Description of the Plan and Issues: The state has indicated in the SIP revisions that no sources in the remaining CTG categories exist.

**Proposed Action:** EPA is proposing to approve this portion of the plan conditioned on submission by the expiration of the public comment period on this Notice of Proposed Rulemaking of certification by an air program or RIDEM official that such sources do not exist in the state.

**6. Commitment to Future CTG Categories.** Description of the Plan and Issues: The state has not made a firm commitment to adopt RACT for those VOC sources for which CTGs are published after January 1, 1978.

**Proposed Action:** EPA is proposing to approve this portion of the SIP revisions on the assumption that the State will commit to implement RACT for VOC sources for which CTGs are published after January 1, 1978.

**C. Carbon Monoxide (CO).** The city of Providence was designated non-attainment for the 8-hour carbon monoxide (CO) standard in the March 3, 1978 Federal Register (43 FR 8962). According to the SIP revisions, monitoring undertaken since designation

demonstrates that violations of the standard are limited to the Providence central business district (CBD). The remainder of the state was designated as unclassifiable for carbon monoxide.

**Description of the Plan and Issues:** Based on projections of emissions from stationary and mobile sources for 1982 and 1987 and a calculation of reductions obtained through use of the rollback (proportional) model, the RFP line presented in the SIP revisions indicates that standards will be attained for CO by December, 1982 through reliance on reductions obtained through the Federal Motor Vehicle Emission Control Program alone. Additional reductions are expected through the Inspection/Maintenance program which could result in an earlier attainment date. In addition, a program known as a hot spot screening program has been designed to facilitate rapid, efficient review of CO conditions along existing roads based on the use of limited traffic data. The program will be executed by RIDEM, Rhode Island Department of Transportation (RIDOT), Rhode Island Office of State Planning (RIOSP) and the city of Providence to identify and correct hot spot areas of CO violations.

The CO hot spot program, as outlined in the SIP revisions (Page CIV-14), will be restricted to Providence in FY 1980. In FY 1981-1982 a program will be undertaken to screen remaining cities and towns in urbanized areas of the state, based on the results of the screening for Providence. EPA has determined that a hot spot screening program can, in certain circumstances, serve as an adequate basis for a monitoring program in the unclassifiable areas of the state.

Details of Providence's involvement in the CO hot spot screening program are provided in the SIP revisions and in the Unified Work Program (UWP) task designations. A letter to RIDEM from the Director of the Providence Department of Planning and Development supporting procedures for identification of hot spots is included in the SIP revisions.

At the present time, the only locations known to have CO violations in the Providence CBD are in an area planned for the development of an auto restricted zone (ARZ). It is likely that hot spots in this area could be eliminated if the ARZ was designed to include CO correction strategies to eliminate violations in areas impacted by the project. Pursuant to Section 172(b)(2) of the Act, the SIP revisions must provide for the implementation of all RACMs as expeditiously as practicable. In order to comply with this requirement, Providence must analyze the impacts of the ARZ plan with

respect to CO. Reasonable measures which will expedite the date of attainment of standards for CO must be included in the design and incorporated into the SIP with a schedule for implementation and commitments for funding.

Commitments by state agencies to develop and implement correction projects are vague. According to the SIP revisions (page CIV-14) "DOT and OSP will select a reasonable number of CO correction projects for inclusion in the TIP [Transportation Improvement Program] depending on available funding." No definition is offered as to what constitutes "a reasonable number." Inclusion of a project in the TIP does not represent a commitment for funding and implementation. Therefore, once potential CO hot spots are identified and verified through the CO hot spot screening process, appropriate state and local agencies must prioritize locations according to criteria such as extent of the violation and population exposure. A commitment by these agencies to seek the necessary resources to develop and implement hot spot correction strategies for these highest priority locations must appear in the SIP revisions.

**Proposed Action:** EPA is proposing to approve the carbon monoxide portion of the SIP revisions with the following conditions:

(1) By March 1, 1980 the Providence CBD ARZ project must be reviewed for consistency with the SIP revisions. If this project is shown to expedite the date of attainment of standards for CO in the Providence CBD then it must be incorporated into the SIP revisions with the necessary commitments for implementation. If the project is shown to have no beneficial impacts related to attainment of CO standards, then all reasonable measures must be incorporated into the project design and the project must then be incorporated into the SIP revisions.

(2) By the expiration of the public comment period on this Notice of Proposed Rulemaking, appropriate state and local agencies must submit written commitments to EPA that they will seek the necessary resources to develop and implement hot spot correction strategies for those locations given highest priority in the CO hot spot screening procedure, according to a schedule that will be incorporated into the SIP revisions. This commitment must state that the appropriate implementing agencies will use available funding and seek additional funding as necessary to correct high priority CO violations.

**D. Transportation Planning.** 1. Process. Sections 172(b)(9) and 174

require the development of a transportation planning process for air quality improvement. The joint EPA-DOT Transportation-Air Quality Planning Guidelines (June 1978) (hereafter EPA-DOT Guidelines) provide specific guidance and criteria to be used by local planning agencies to develop a transportation planning process to be included in the SIP.

**Description of the Plan:** The Rhode Island SIP revisions include a section describing criteria and procedures to be followed in the conformity<sup>1</sup> review process. The criteria to be used in determining conformity of plans and programs are acceptable. They are designed to insure that transportation plans and programs provide as much reduction of system-wide hydrocarbon emissions as is reasonably possible, that they demonstrate that in no case will carbon monoxide standards be violated in a nonattainment area, and that RFP toward meeting the NAAQS for ozone by 1987 is achieved. This section also details procedures by which RIDEM, RIDOT and RIOSP will jointly review the TIP and specific projects for their conformity with the SIP. Included in the SIP revisions are copies of a detailed checklist and project air quality categories to be used by RIDEM and RIDOT in their analysis. Also included are "Inter-Office Memos" from the directors of RIDOT and RIDEM and the Chief of the RIOSP in which they pledge their agencies' support in carrying out the conformity review process according to the procedures in the SIP revisions. These letters of support are interpreted by EPA to be commitments by these agencies to be bound by the findings of these procedures and to adopt their planning process accordingly.

**Issues:** The processes detailed in the SIP revisions apply to the TIP and review of individual projects only. No process is defined for review of conformity of Long Range Plans. The SIP revisions state that an analysis of alternative long-range system plans will be conducted by 1982 as part of the continuing transportation-air quality planning process. This commitment lacks specificity and a description of what procedures will apply to this review. Procedures for the review of long-range plans must appear in these SIP revisions. The current Plan must be reviewed according to these procedures and reviewed again after each major update. Because the State Planning Council (SPC) acts as the Metropolitan

<sup>1</sup> The Rhode Island SIP revisions use the term consistency rather than conformity. Hereafter, the term conformity as contained in Section 170(c) of the Act is used in lieu of consistency.

Planning Organization (MPO) responsible for determining consistency, the UWP of the RIOSP, staff to SPC, should include those activities included in the conformity process description appropriate to RIOSP. These activities must follow Federal Highway Administration requirements (23 USC 109(j)) for an annual determination of the conformity of transportation plans and programs with state air quality implementation plans by the policy board of the MPO.

The procedures described in the SIP revisions for review of the TIP and specific projects generally represent a reasonable effort to integrate these aspects of the transportation and air quality maintenance planning processes. However, EPA recommends that an independent determination of conformity by RIDEM be made as part of the process so that the finding of the agency responsible for submittal and future revision of the SIP is documented. While the description of the TIP review process (page IV-10) indicates that RIDEM will review the TIP and submit its findings to RIOSP, clarification is needed concerning the way in which RIDEM's findings will be documented. EPA recommends that the process which must be developed for the review of long-range plans also include an independent determination of conformity by RIDEM.

A final problem which must be addressed as part of the conformity review process relates to the status of on-going projects which had progressed beyond the draft Environmental Impact Statement (EIS) or draft Negative Declaration stage as of October 1, 1979. The SIP revisions state at CIV-12 that these projects will not be required to have a conformity review. However, once implemented, these projects will conceivably have air quality impacts which could affect the state's schedule of RFP. In cases where there are or will be major negative impacts, offsets from projects with positive air quality impacts will be required if the approved RFP schedule is to be maintained. Conversely, some of these on-going projects may have positive impacts which can be credited toward improving air quality. Furthermore, a draft EIS or draft Negative Declaration may not include an adequate air quality analysis and may require substantial refinement before the document is finalized. Therefore, on-going projects beyond the draft EIS or draft Negative Declaration stage must be analyzed to determine if they have potentially significant air quality impacts which could affect the RFP schedule or interfere with the



maintenance of air quality standards once they are attained.

In regard to the overall transportation planning process, the Administrator's Memorandum states that "every effort must be made to integrate the air quality related transportation plan and implementation required by the Clean Air Act into planning and programming procedures administered by the DOT [U.S. Department of Transportation] (43 FR 21877)." The SIP revisions contain a description of how the transportation planning process operates in Rhode Island, including a flow diagram of how proposed projects in the Long Range Plan proceed to implementation. However, a description of how projects specifically developed through the SIP process will be implemented or given priority over non-air quality improving projects is not included. Pursuant to the Administrator's Memorandum, this process and a commitment by the implementing agencies to abide by it are necessary as part of the State's commitment to an integrated transportation-air quality planning process. Without documented procedures for implementing SIP related projects and clear commitments from the implementing agencies, there is no guarantee that these projects will advance beyond the plan stage.

Proposed Action: EPA is proposing to approve this portion of the Rhode Island SIP revisions conditioned upon submittal to EPA by the expiration of the public comment period of this Notice of Proposed Rulemaking of the following:

a. Written revisions to the Conformity Review Process including:

(i) Procedures and a schedule for review of Long Range Plans.

(ii) Identification of documentation of independent conformity determination performed by RIDEM.

(iii) Procedures for addressing the conformity of projects beyond the draft EIS or draft Negative Declaration stage as of October 1, 1979 and not covered under the present conformity review process.

b. A revised UWP must be submitted to EPA which includes a task description of RIOSP's responsibilities for conformity review. This condition can be satisfied by incorporation into the SIP revisions of the work program previously submitted by RIOSP to EPA as part of RIOSP's application for an air quality-transportation planning grant under Section 175 of the Act.

c. Documentation of a process and commitments from implementing agencies to a process that ensures that projects developed through the SIP process and transportation controls with

demonstrable air quality benefits developed as part of the transportation process funded by U.S. DOT will be followed through to implementation. These commitments must indicate that RIDEM, RIDOT, and RIOSP will give air quality improving projects in the SIP priority for implementation and that they will comply with all other requirements of the SIP. The description of the transportation planning process must be revised to include a description of these procedures.

2. *Reasonably available control measures (RACMs).* Under Section 172(b)(2) of the Act any non-attainment area for carbon monoxide and/or ozone must submit SIP revisions which provide "... for the implementation of all reasonably available control measures (RACMs) as expeditiously as practicable." Eighteen measures which are considered to be reasonably available are listed in Section 108(f) of the Act. The EPA-DOT Guidelines interpret this to state that the SIP must include commitments to accelerate implementation of specific, currently-planned transportation strategies having air quality benefits, and commitments to the analysis and incremental phase-in of additional strategies as may be necessary to attain standards by the prescribed date.

The Administrator's Memorandum and the EPA-DOT Guidelines state that where adoption of all measures necessary to provide for attainment is not possible by 1979, the SIP revisions must contain a schedule for expeditious development, adoption, submittal, and implementation of these measures. The comprehensive analysis of alternatives for transportation measures must be completed by July, 1980 and implemented as expeditiously as practicable on a schedule that demonstrates RFP from 1979 to the attainment date.

Description of the Plan: In Rhode Island, the Governor has designated the SPC as lead agency for the evaluation and selection of long-range, system-wide control measures and procedures for transportation-related sources of emissions, pursuant to Section 174 of the Act. Therefore, it is the SPC's responsibility to perform the analysis of RACMs or to assign responsibilities and monitor the activities of other agencies performing the analyses.

Issues: According to the SIP revisions (Appendix G-1, Part 3), transportation measures identified in the Act will be "analyzed in accordance with the agency responsibilities, resources, methodologies, documentation, and schedules indicated in the Unified Work Program." This framework and the tasks

identified in the UWP elements included in the SIP revisions are inadequate as commitments to the analysis of RACMs. No specific commitment is made to study, at a minimum, the 18 RACMs, no assignment of agency responsibilities is made in the UWP, no schedules for the analyses are provided, and the methodology for the analyses is described only in terms of general criteria. The Administrator's Memorandum requires that the commitment to the analysis of RACMs address the above details.

It is unclear from the material submitted in the SIP revisions what Rhode Island's schedule for analysis and implementation of these measures will be. The Scope of Work appearing in Appendix E states that the entire Transportation Element of the SIP revisions was to be prepared prior to January 1, 1979 and would include a preliminary analysis of some but not all RACMs with a recommended program of strategies and implementation responsibilities. Table 8 of Appendix G-1 outlines a sequence of events for adoption of the Transportation Element of the SIP and indicates that a number of the preliminary events leading to the development and adoption of the Transportation Element have occurred, but no schedule for this sequence of events is presented. In the UWP task description of responsibilities for the Statewide Planning Program in the development of the Transportation Element, the schedule of products states that the Transportation Element will be adopted by the SPC by December 1979.

There are inconsistencies in these various schedules, and none represents a clear schedule with milestones for the analysis, adoption, and implementation of RACMs as needed to attain standards for carbon monoxide and ozone. Furthermore, the SIP revisions are unclear in committing to implementation of on-going programs and those projects programmed in the current TIP which are considered to be RACMs.

As stated above, the SIP revisions must provide for the expeditious implementation of specific strategies. The SIP revisions include discussions of various ridesharing and transit programs which are currently in operation and a list of projects (Appendix G-1, Table 1) from the FY 1979 TIP which are considered to be air quality related. The SIP revisions state that "most" of these projects will be accelerated by assigning them first priority although no explanation is given of how this affects a project's schedule for implementation. No indication is given of the air quality benefits, if any, from these projects, nor

is there a schedule for their implementation, funding commitments, or a procedure identified for reporting the emission reduction contribution of a project once it is implemented. Although EPA agrees that the on-going transit and ridesharing programs and the projects drawn from the TIP will likely lead to improvements in air quality, no firm commitment is made to the maintenance of these on-going programs or to the implementation of new, currently planned programs from the TIP. In order to provide for expeditious implementation of currently planned RACMs, the SIP revisions must include commitments to current on-going programs such as transit and carpooling and projects from the TIP which are considered under Section 108(f) of the Act to be reasonably available control measures. Initially, a list of projects and commitments for their implementation in the form of a compliance schedule and source of funding is acceptable.

Proposed Action: EPA is proposing to approve this portion of the Rhode Island SIP revisions with the following conditions:

(1) Before the expiration of the public comment period on this Notice of Proposed Rulemaking, the state must submit to EPA a commitment to perform an analysis of, at least, the 18 RACMs identified in Section 108(f) of the Act and provide an assignment of agency responsibilities for the various analyses, and a methodology by which the analyses will be performed. This commitment must confirm that the analyses will identify a package of measures which will attain the emission reduction target ascribed to transportation sources in the SIP revisions. This condition can be satisfied by incorporation into the SIP of the work program submitted by RIOSP to EPA as part of RIOSP's application for an air quality-transportation planning grant under Section 175 of the Act.

(2) Before the expiration of the public comment period on this Notice of Proposed Rulemaking the state must submit to EPA a single schedule, indicating intermediate milestones, of activities leading to the analysis, adoption into the SIP and TIP, and implementation of necessary transportation control measures. The comprehensive analysis of alternatives must be completed by July, 1980 unless an extension is granted. Adopted measures must be implemented as expeditiously as practicable and on a continuous schedule.

(3) By March 1, 1980, the state must submit to EPA a revised list of on-going programs such as carpooling and transit

and planned projects from the TIP which have demonstrable air quality benefits, a compliance schedule, including enforcement commitments if appropriate, for their implementation and firm funding commitments from the responsible implementing agencies (and commitments from enforcement agencies, if appropriate).

(4) By June 1, 1980 the state must submit to EPA an air quality analysis identifying the air quality benefits of those projects which the state has committed to implement through the SIP revisions (See #3 above) and regulations or procedures for reporting implementation and analysis of the on-going air quality benefits from these projects.

3. *Public Transportation.* Public transportation strategies represent a major share of the RACMs which must be analyzed and implemented to improve air quality. Furthermore, Section 110(a)(3)(D) of the Act and the Administrator's Memorandum require that the 1979 SIP revisions include:

(1) A commitment by the responsible government official or officials to establish, expand, or improve transportation measures to meet basic transportation needs as expeditiously as is practicable, and

(2) A commitment to use, as necessary federal grants, state or local funds, or any combination thereof, for the purpose of establishing, expanding or improving public transportation resources to meet basic transportation needs. These commitments serve to insure that an adequate system of public transportation exists in areas which must implement public transportation strategies in order to attain air quality standards for carbon monoxide and ozone. The Act intends that states actively pursue funding to provide transit services that are viable alternatives to low occupancy vehicles.

Description of the Plan and Issues: The Rhode Island SIP revisions contain a narrative which describes programs to increase bus transit utilization, including transit marketing programs, a park-and-ride program, and special fares. However, a clear commitment to expand or improve public transportation measures to meet basic transportation needs is not included. This is particularly important in that the SIP revisions do not establish the adequacy of the existing public transportation system.

Proposed Action: EPA is proposing to approve this portion of the Rhode Island SIP revisions with the condition that before the expiration of the public comment period on this Notice of Proposed Rulemaking, the SIP revisions

be revised to include adequate commitments from the Governor for the provision and funding of public transportation measures.

E. *Motor Vehicle Inspection and Maintenance Program.* Inspection/Maintenance (I/M) refers to a program whereby motor vehicles receive periodic inspection to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Enforcement can be accomplished through various means such as requiring proof of compliance to purchase license plates or to register a vehicle, or, in certain cases, issuing a windshield sticker much like many safety inspection programs.

Section 172 of the Act requires that State Implementation Plans for states which include non-attainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(1)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program . . ."

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372, 20373, n 6). The July 17, 1978, guidance contains in detail the key elements for I/M SIP approval required by EPA.

Description of the Plan: In its SIP revisions Rhode Island has included its I/M program, which began its mandatory inspection-mandatory maintenance phase on January 1, 1979. This program addresses cars and light trucks with a gross vehicle weight not more than 8000 pounds. It also provides for inspection each year. Inspections are carried out by private garages, licensed by RIDOT. An idle inspection test is used. Vehicles failing must be repaired within 14 days and reinspected. Enforcement is carried out through the issuance of stickers as well as through random roadside checks. Non compliance with the inspection requirement can result in loss of registration. A vehicle exceeding the standards after its second inspection



may be granted a waiver; however, there are no criteria provided by which waiver requests can be judged.

Rhode Island has adopted cutpoints for vehicles being inspected which result in a stringency factor of 20%; that is, 20% of the vehicles tested may be expected to fail to meet the standards. The State anticipates that these cutpoints will result in the requisite 25% reduction in both hydrocarbon and carbon monoxide emissions by the end of the calendar year 1987.

In 1977 and 1978 Rhode Island offered a 4 hour training course for mechanics who were interested in participating in the I/M program. RIDOT required that any garage seeking certification as an approved inspection station employ a mechanic who had satisfactorily completed the State course. The course presented instruction in the general design of the I/M program, its goals and requirements, as well as the operation of the non-dispersive infrared (NDIR) analyzer used to determine vehicle tailpipe emissions.

Another requirement for certification as an inspection station is the use of a RIDOT approved NDIR analyzer. RIDOT adopted instrument specifications developed by the California Air Resources Board for approved analyzers. The inspection fee for the combined emissions and safety inspection in Rhode Island is four dollars. This fee includes one reinspection if necessary.

For consumer protection RIDOT has built a Challenge Station in Cranston where motorists dissatisfied with their test results can have them verified by the state. As of this Notice of Proposed Rulemaking this station has not been completely equipped. It is operating but its availability has not been well publicized.

Issues: Implementation of the Rhode Island program has been the subject of meetings, letters, and discussions among the staff of RIDEM, RIDOT and EPA. The Committee on Air Quality, an advisory committee to the State Planning Council, has studied the I/M program during the last several months, addressing those issues highlighted as needing improvement in public testimony on January 31, 1979.

The Committee has made recommendations which were endorsed by the State Planning Council. These recommendations were incorporated into a letter from Governor Garrahy included in the August 13 submittal to EPA. The letter directs the State Planning Council and affected state agencies to review and improve the program completely by January 1, 1981. The State Planning Council, in

conjunction with the Committee on Air Quality, will provide oversight and coordination of a joint RIDOT/RIDEM undertaking to improve the program completely by January 1, 1981. These improvements will include:

1. Development and implementation of a data recording and management system which addresses data collection, verification, and failure rate analysis.

2. Development and implementation of quality assurance procedures to address instrument calibration techniques and a sticker control system to monitor the issuance of stickers.

3. Determination of the need for a light engine emission repair and maintenance training course for garage mechanics.

4. Development and implementation of a system making registration contingent upon passing inspection.

5. Development and implementation of a roadside check program to evaluate the garaged-based program and validate stickers.

6. Development and implementation of consumer protection elements.

7. Determination of the need to create a program to evaluate the proficiency of emission inspectors.

8. Development and implementation of a variance procedure containing specific criteria to exempt vehicles unable to meet standards.

9. Determination of the desirability of issuing inspection stickers at the Challenge Station and modifying the operation of the station.

10. Determination of the extent of fuel switching and the need to modify the inspection system to check for fuel switching.

EPA finds that the August 13, 1979 submittal has addressed the program deficiencies discussed in the Agency's January testimony. The state intends to use funds available under Section 105 of the Act to improve the program.

Proposed Action: EPA is proposing to approve the I/M program conditioned upon receipt by the expiration of the public comment period on this Notice of Proposed Rulemaking of:

- (1) A written commitment from the authorized state agencies or officials binding them to the implementation by January 1, 1981 of an inspection/maintenance (I/M) program (including necessary refinements) which will accomplish the required 25% reduction in hydrocarbon and carbon monoxide emissions from light-duty vehicles by December 31, 1987.

- (2) This commitment must include a schedule featuring interim and final dates to complete the study and adoption of the necessary refinements discussed in items 1-10 above and listed in the addendum to the Governor's

letter. This submittal must indicate the delegation of responsibilities, and the funding and manpower commitments necessary to accomplish these refinements.

- (3) A commitment to submit an approvable revision to the SIP incorporating these refinements within twelve months of this notice of proposed rulemaking.

**F. Reasonable Further Progress—Attainment of Standards—Request for Extension.** Section 172(a)(1) of the Act requires in part attainment of standards as expeditiously as practicable. Section 172(a)(2) allows an extension of the attainment date for ozone beyond December 31, 1982 under certain circumstances. Section 172(b)(3) requires in part a showing of RFP towards attainment of the standard.

**Description of the Plan:** In its SIP revisions, Rhode Island demonstrated, using the rollback model, that attainment of the NAAQS for ozone would be achieved by the end of 1982. In a letter dated September 24, 1979 the state has now indicated that the attainment showing would be improved by using the Empirical Kinetic Modelling Approach (EKMA) model, which had also been submitted with the SIP revisions. This analysis shows that additional reductions of VOC emissions will be needed to attain the standard, and will also demonstrate a need for an extension beyond 1982.

**Issues:** The strategy presented in the plan considers reductions anticipated from the Federal Motor Vehicle Emission Control Program, I/M program and stationary source controls. The strategies presently adopted by the state would yield a 42.1 percent reduction by 1982. Full implementation of RACT to include adoption of Regulation 19 for paper and fabric coating would yield a 48.7 percent reduction by 1982. Although the implementation of RACT is adequate to meet the ozone standard as determined by using the rollback model, the new analysis using EKMA will show a need for VOC reductions from transportation measures and future CTG categories.

**Proposed Action:** EPA is proposing approval of the ozone attainment demonstration, RFP demonstration and request for an extension beyond 1982 conditioned upon submittal of the following items prior to the expiration of the public comment period on this Notice of Proposed Rulemaking:

1. A revised attainment demonstration incorporating reductions from application of RACT on all CTG categories and reasonable reductions from transportation measures.

2. An RFP demonstration incorporating expected dates for compliance by sources each year.

3. A projection of reasonable annual incremental reductions from stationary and transportation measures specified separately.

4. A determination of the annual growth increment, if any, which will be available.

5. A projection of the new attainment date based on the revised demonstration.

6. A commitment to participate in the Northeast Corridor Oxidant Study, a cooperative effort among states in EPA's Regions I-III. This study is designed to refine projected ozone reductions and to develop strategies necessary to achieve the ozone standard on or before 1987.

**G. Emission Inventories.** Sections 172(b)(3) and (4) of the Act require that the SIP revisions must include an accurate, current inventory of emissions of non-attainment pollutants for the non-attainment areas, and must provide for updates of the inventory to indicate emissions growth and must show progress in reducing emissions from existing sources.

**Description of the Plan and Issues:** The stationary source inventory for VOC submitted by the state is deficient in a number of areas. Point sources (100 tons per year) have not been identified; the emissions from categories used by the state to summarize the inventory cannot be compared to the categories recommended by EPA; there is no breakdown of area and point sources; documentation showing the basis of the emission estimates is not provided; and there are large discrepancies between this inventory and one done in 1974 by an EPA contractor. The stationary VOC inventory, therefore, does not meet the minimum requirements.

The assumptions and procedures used in developing the hydrocarbon inventory for mobile sources for the 1977 base year are acceptable to EPA. The 1977 emission factors were obtained using an EPA-approved model. The state has made a commitment to update the inventory annually, however the procedures to be used have not been defined. The inventories were not submitted in a format which can readily be entered into the EPA data computer system, the National Emissions Data System (NEDS).

**Proposed Action:** EPA is proposing approval of the Rhode Island inventory conditioned upon submittal to EPA of the following items:

1. A listing of VOC 100 ton potential emission sources, their addresses and annual emissions, a revised summary of VOC emissions utilizing the EPA

recommended categories defining area and point source emissions, documentation showing the source of VOC emission estimates, resolution of inconsistencies between this new inventory and the one developed by the EPA contractor in 1974 and a description of the specific procedures which will be used to annually update and refine the point and area source inventory including mobile sources. This information must be forwarded to EPA prior to the end of the public comment period on this Notice of Proposed Rulemaking.

2. By March 1, 1980 submittal of a VOC 100 ton potential emissions point source inventory in NEDS format.

3. By January 1, 1981 submittal of an updated inventory for all other pollutants in NEDS format.

**H. New Source Permit Program.** To satisfy the requirements of Part D, the SIP revisions must include a preconstruction review program which assures that permits for proposed major sources and major modifications may be issued only if the following requirements of Section 173 of the Act are satisfied:

1. The proposed major source or major modification is accommodated by one or both of the following approaches:

- (a) There are sufficient case-by-case offsetting emission reductions (offsets) and other emission reductions required under the SIP, so that allowable emissions from all sources when the proposed major source or major modification is to commence operation represent reasonable further progress; or
- (b) Emissions resulting from the Proposed major source or major modification are accommodated by the emissions growth allowance for major new sources.

2. Any emission reductions required under paragraph (a) must be legally binding and enforceable before the permit may be issued.

3. The proposed major source or major modification must comply with the lowest achievable emission rate (LAER) as defined in Section 171(3) of the Act.

4. All major sources in the State owned or operated by the owner or operator of the proposed major source or major modification must be in compliance (or on a schedule for compliance) with the Act.

In addition, since an extension beyond 1982 will be needed in order to satisfy the requirements of Section 172(b)(11)(A) the state must provide for an analysis of alternatives to any proposed major new source and a demonstration that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of the source.

**Description of the Plan:** Rhode Island has established a policy to allow growth at the present rate for each source category on a percentage basis rather than on an emission tonnage basis. Offsets will be utilized if the allowable growth margin is exhausted.

**Issues:** The SIP revision narrative states that existing law "does not provide sufficient authority to allow the regulatory schedule envisioned by (the Clean Air Act) Section 173 . . .". The narrative further states that revisions to Rhode Island General Law, Chapters 23-25, necessary to satisfy the requirements of Section 173 would be offered in the 1979 session for the Rhode Island General Assembly. However, the legislative body has recessed thus precluding action until January, 1980. Because legal authority does not now exist, the state did not adopt any regulations pursuant to Section 173. In addition, the state did not adopt regulations to meet the requirements of Section 172(b)(11)(A).

**Section 173(1)—**The state has not provided for case-by-case offsets consistent with RFP for new and modified stationary sources nor has the state demonstrated that growth from such sources is accommodated.

**Section 173(2)—**The state has not included a definition of LAER or a comparable LAER requirement for sources in non-attainment areas.

**Section 173(3)—**The state has not included a regulation that all sources in the state owned or operated by the same person seeking a permit to construct and operate in a non-attainment area must be in compliance with all applicable emission limitations and air pollution requirements.

Since the state does not have legal authority, and has not adopted regulations pursuant to Section 173, any emission offsets voluntarily achieved by affected sources are not legally binding. In addition, a regulation requiring operating permits and an alternative analysis is needed.

**Proposed Action:** EPA is proposing to disapprove this portion of the SIP revisions.

**I. Resources Committed.** The SIP revisions describe the existing and planned resources within the RIDEM needed to carry out the planned programs for stationary sources. A small increase in staff is projected accompanied by a reassignment of personnel to priority activities as necessary. Additionally, an increase in operating funds is projected.

The SIP revisions contain no description of the resources necessary to carry out the mobile source related programs. However, portions of grant



monies to be provided through Sections 105 and 175 of the Act will be utilized by RIOSP and RIDOT for these purposes.

**Proposed Action:** EPA is proposing to approve this portion of the SIP revisions. Additional information which is necessary to assess the current and future commitments of all responsible agencies will be obtained through the Section 105 and 175 grant process and will become a part of the SIP revisions.

**J. Evidence of Public, Local, and State Involvement.** As a result of a workshop in May of 1978 to which the public, local officials and representatives of other state agencies were invited, the Governor designated three state agencies and Providence as leads in resolving Rhode Island's transportation-related pollution. Additional open workshops were held as the revisions were being developed.

Advisory committees were established and the Rhode Island Lung Association was hired to oversee public participation, specifically on the I/M program. Public participation efforts to date on the I/M program have been very good. However, stationary and mobile source related public participation issues require additional coordination. Rhode Island has also proposed a continuing, comprehensive public participation program but tasks are not clearly defined.

Public participation responsibilities for the transportation element of the Rhode Island SIP revisions were delegated to the RI Lung Association through a contractual agreement with RIOSP. However, the Lung Association has recently withdrawn its contract for these services, leaving the public participation element deficient. Written requests have been made by EPA to the state and to RIOSP to submit a new proposal for transportation-related public participation, for inclusion in the revised SIP.

In its discussion of each pollutant, Rhode Island has included an analysis of the health effects and in some cases the welfare consequences of the SIP revisions pursuant to Section 172(b)(9)(A). The discussion is incomplete, does not include energy, economic or social effects and there has been no public comment on the analysis as required by Section 172(b)(9)(B).

**Proposed Action:** EPA is proposing to:

1. Approve the public participation/consultation effort to date.
2. Approve the long-term public participation and consultation program conditioned upon compliance with grant conditions to be contained in Rhode Island's FY-1980 program grant under Section 105 of the Act. The grant conditions will require that Rhode

Island submit by January 1, 1980 a plan for public participation. That plan must identify a skilled public participation staff person in the state air program as of October 1, 1979 with responsibility for carrying out an effective participation program and a commitment of resources to that effort.

3. Approve conditionally the analysis of the effects of the SIP revisions, based upon a commitment to complete and expand the analysis and to submit it to public comment. The expanded analysis and summary of public comments on these effects must be submitted to EPA by January 1, 1980.

**K. Adoption After Notice and Hearing.** Public hearings on the SIP revisions were held on January 30 and 31, 1979 following 30 days public notice. The regulations to implement the revisions have been adopted.

**Proposed Action:** EPA is proposing to approve this portion of the SIP revisions.

## II. General SIP Revision Measures

**A. Prevention of Significant Deterioration (PSD).** Sections 160-169 in Part C and Section 110(a)(2)(D) of the Act establish limitations on the deterioration of air quality in those parts of the Nation where the air quality is better than required by NAAQS.

The amount of deterioration permitted is quantified by a table of air quality increments which appears in Section 163 of the Act. In effect, increments represent the amount of pollution that can be tolerated by an area without significantly deteriorating the clean air status of the area.

A principal means of protecting the increments is the review and regulation of new growth. At present EPA is operating a federal permit system designed to protect the increments and will continue to do so until the state adopts an equivalent program. Regulations specifying requirements for approvable state plans are found at 40 CFR, § 51.24 as published June 19, 1978 (43 FR 26380 to 26388).<sup>1</sup>

<sup>1</sup> Many of the regulations were judicially challenged in the U.S. Court of Appeals for the District of Columbia Circuit. On June 18, 1979, the Court issued an opinion, *Alabama Power Company v. Costle*, No. 78-1006 (D.C. Circuit, June 18, 1979). The Court upheld in part and remanded in part the Agency's regulations. The Court also provided an opportunity for filing petitions for re-hearing, and specified that its judgment would be stayed until the Court responds to the petitions.

As to the non-attainment components of the plan, the Court opinion does not impede the adoption and approval of provisions needed to satisfy the requirements of Part D. EPA will proceed to review these provisions, advising the states and the public of any aspect of the PSD decision that may be relevant to the non-attainment provisions of the Act. See 44 FR 51924 (September 5, 1979).

**Description of the Plan:** Rhode Island did not submit regulations to adopt the PSD program although the SIP narrative indicates that a comprehensive PSD plan would be submitted in the future.

**Issues:** Rhode Island's legal authority to set ambient PSD increments and to promulgate regulations for protecting these increments must be established prior to submission of the plan.

**Proposed Action:** None at this time.

**B. Monitoring—Section 110(a)(2)(C) and Section 319 of the Act** require a comprehensive air monitoring network. The Rhode Island proposal is currently being reviewed by EPA in light of regulations recently promulgated by the Agency.

**Proposed Action:** None at this time.

**C. Permit Fees—Section 110(a)(2)(K)** of the Act requires each state to institute a fee system for those sources applying for a permit to cover the administrative costs of reviewing permit applications as well as those incurred in monitoring and enforcing the permit conditions.

EPA has not yet promulgated regulations concerning the permit fee requirements. Because of this and the fact that Rhode Island has not submitted a new source review program for EPA approval, this provision has not been included in this set of revisions.

**Proposed Action:** None at this time.

**D. Consultation—Section 121** requires a state to provide a satisfactory process for consultation with local governments and federal land managers on the development of the SIP.

EPA has recently promulgated regulations governing consultation which require states to submit SIP revisions which meets the provisions of Section 121 by December 18, 1979.

**Proposed Action:** None at this time.

**E. Stack Height—Section 123** provides that the degree of emission limitation necessary may not be affected by stack height in excess of good engineering practice or by other dispersion techniques. EPA proposed stack height regulations on January 12, 1979 but has not yet promulgated regulations.

**Proposed Action:** None at this time.

**F. Interstate Pollution—Section 126** requires states to identify existing major sources which may significantly contribute to air pollution levels and provide written notice to nearby states. In addition, it must do the same for any proposed major new stationary source.

Rhode Island has committed to notifying other states of proposed new major stationary sources which may affect their air quality but has not indicated that the state has, in fact, notified nearby states of existing sources which currently may be impacting their air quality.

**Proposed Action:** None at this time.

**G. Public Notification—Section 127** requires each state to effect measures for notifying the public on a regular basis of instances or areas in which any primary standard is exceeded and to enhance public awareness of measures which can prevent the standards from being exceeded.

On May 10, 1979 EPA promulgated regulations concerning public notification (44 FR 27569). Pursuant to the regulations, a comprehensive revision to the SIP incorporating the regulatory provisions is to be submitted to EPA by March 1, 1980.

**Proposed Action:** None at this time.

**H. Conflict of Interest—Section 128** requires that any existing state board which is empowered to approve or enforce permits required under the Act must have as a majority members who represent the public interest. Any board members and executive agency heads with any potential conflict of interest must disclose that fact.

Although Rhode Island has no Board charged with these responsibilities, disclosure of potential conflicts of interest is required by Rhode Island General laws, Chapter 36-14 of the Governor, the Director of RIDEM and the Director of the Department of Health.

**Proposed Action:** EPA is proposing approval of this portion of the SIP.

Interested persons are invited to comment on all elements of the Rhode Island revisions and whether they meet the requirements of the Clean Air Act. Comments should be submitted, preferably in triplicate, to the EPA, Region I address listed in the ADDRESSES section of this Notice. Public comments received by (30 days after publication of this notice) will be considered by the Agency when it takes final action on the revisions. EPA believes the available period for comments is adequate because:

(1) The issues presented by the Rhode Island SIP revisions are sufficiently clear to allow comments to be developed in the available thirty day period;

(2) Parts of the SIP revisions have been available for inspection and comment since May 14, June 11 and August 13, 1979 EPA's Notice of Availability published on May 29, June 29, and August 29, 1979 indicated the possibility that the comment period may be less than 60 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after the July 1, 1979 deadline on those sections of the SIP revisions that address the requirements of Part D.

All comments received will be available for inspection at EPA's Regional office, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: November 29, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-37723 Filed 12-6-79; 8:45 am]  
BILLING CODE 6560-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FI-5047]

### National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Correction to proposed rule for the Town of Merrillville, Lake County, Indiana.

**SUMMARY:** In the notice of proposed flood elevation determination, published at 44 FR 6451 on February 1, 1979, and at 44 FR 45225 on August 1, 1979, under the Source of Flooding of Chapel Manor Lateral, the location described as "Upstream side of Delaware Place", with an elevation of 654 feet should be corrected to read "Downstream side of Delaware Place." The elevation was correct as cited.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1480 or toll-free line (800) 424-8872 (In Alaska and Hawaii call toll-free line (800) 424-9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the correction to the proposed determinations of base (100-year) flood elevations for the Town of Merrillville, Lake County, Indiana. The location listed as "Upstream side of Delaware Place" under the Source of Flooding of Chapel Manor Lateral should be

corrected to read "Downstream side of Delaware Place."

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: November 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-37628 Filed 12-6-79; 8:45 am]  
BILLING CODE 6718-03-M

### 44 CFR Part 67

[Docket No. FI-5713]

### Revision of Proposed Flood Elevation Determinations for the City of Crockett, Houston County, Texas

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Crockett, Houston County, Texas.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 61069 on October 23, 1979 and in *The Houston County Courier* published on September 13 and September 20, 1979, and hence supersedes those previously published rules.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Clerk's Office, City Hall, South Fifth Street, Crockett, Texas 75835.

Send comments to: Honorable Tommy Driskell, Mayor of the City of Crockett, City Hall, P.O. Box 550, Crockett, Texas 75835.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-7460 or Toll Free Line 800-424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the City of Crockett, Houston County, Texas, in accordance with section 110 of



the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

| Source of flooding           | Location                                                              | Elevation in feet, national geodetic vertical datum |
|------------------------------|-----------------------------------------------------------------------|-----------------------------------------------------|
| Spring Creek .....           | Just downstream of State Highway 287.                                 | *286                                                |
| Town Branch Creek Main.      | Just upstream of Loop 304 ....                                        | *294                                                |
|                              | Just upstream of Loop 304 ....                                        | *285                                                |
|                              | Approximately 120 feet upstream of the Missouri and Pacific Railroad. | *305                                                |
| Town Branch Creek Tributary. | Approximately 60 feet downstream of F.M. 229.                         | *290                                                |
|                              | Just downstream of upstream (western) corporate limits.               | *300                                                |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: November 27, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-37647 Filed 12-6-79; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FI-5713]

#### Revision of Proposed Flood Elevation Determinations for the City of Hillsboro, Hill County, Texas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hillsboro, Hill County, Texas.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 61070 on October 23, 1979 and in The Reporter published on September 13, and September 20, 1979, and hence supersedes those previously published rules.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 155 S. Wico Street, Hillsboro, Texas 76645.

Send comments to: Honorable Harry Blount, Mayor of the City of Hillsboro, City Hall, P.O. Box 568, Hillsboro, Texas 76645.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-7460 or Toll Free Line 800-424-8872, (in Alaska and Hawaii call Toll Free Line (800-424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the City of Hillsboro, Hill County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

| Source of flooding   | Location                                                        | Elevation in feet, national geodetic vertical datum |
|----------------------|-----------------------------------------------------------------|-----------------------------------------------------|
| Hackberry Creek..... | Abernathy Street (extended) ..                                  | *560                                                |
|                      | Approximately 100 feet upstream of downstream corporate limits. | *558                                                |

| Source of flooding            | Location                                                             | Elevation in feet, national geodetic vertical datum |
|-------------------------------|----------------------------------------------------------------------|-----------------------------------------------------|
| Tributary of Hackberry Creek. | Just downstream of Church Street.                                    | *592                                                |
|                               | Approximately 100 feet downstream of Covington Street.               | *587                                                |
|                               | Just upstream of Hawkins Street.                                     | *581                                                |
|                               | Just upstream of Morgan Street.                                      | *576                                                |
| Little Hackberry Creek        | Upstream corporate limits.....                                       | *568                                                |
| Pecan Creek .....             | Just downstream of U.S. Highways 81 and 77.                          | *585                                                |
|                               | Just upstream of State Highway 171.                                  | *579                                                |
| Bond Creek .....              | Approximately 200 feet downstream of Missouri-Kansas Texas Railroad. | *584                                                |
|                               | Just upstream of State Highway 171.                                  | *579                                                |
| Tributary of Pecan Creek.     | Just upstream of Old Brandon Road.                                   | *616                                                |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: November 27, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-37648 Filed 12-6-79; 8:45 am]

BILLING CODE 6718-03-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 90

[PR Docket No. 79-107]

#### Inquiry concerning the multiple licensing of Land Mobile Radio Systems ("Community Repeaters") in the Bands 806-812 MHz; Order extending time for filing reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

**SUMMARY:** The Chief, Private Radio Bureau adopts an Order extending the filing deadline for reply comments in the FCC's inquiry concerning the multiple licensing of land mobile radio systems ("Community Repeaters") in the Bands 806-812 MHz and 851-866 MHz from December 5, 1979 to February 4, 1980.

**DATES:** Reply Comments must be received on or before February 4, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554

**FOR FURTHER INFORMATION CONTACT:** Lewis H. Goldman, Private Radio Bureau (202) 632-6497.

#### Order

Adopted: November 30, 1979.  
Released: December 3, 1979.

In the matter of an inquiry concerning the multiple licensing of Land Mobile Radio systems ("Community Repeaters") in the Bands 806-812 MHz, PR Docket No. 79-107. See 44 FR 51720, September 4, 1979.

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration a request of Motorola, Inc. for an extension of time from December 5, 1979, to February 4, 1980, in which to file reply comments in the above-captioned proceeding. In support of its request Motorola notes that portions of the comments filed by certain other parties to this proceeding were directed specifically towards Motorola's role in the land mobile marketplace, and that one party has raised issues concerning the propriety of Motorola's business practices. Motorola thus urges that a comprehensive response to these matters in its reply comments will require substantial investigation and time.

2. Although each of the parties who filed comments in this proceeding has been served with a copy of Motorola's request, no opposition thereto has been interposed. The Bureau has carefully considered Motorola's request and believes that extending the filing date for reply comments will have no adverse effect upon the Commission's processes or the public interest.

3. Accordingly, the Motorola request is granted, and the date by which reply comments must be submitted in the above-captioned proceeding is hereby extended to February 4, 1980.

Federal Communications Commission.

Carlos V. Roberts,  
Chief, Private Radio Bureau.

[FR Doc. 79-37664 Filed 12-6-79; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 97

[Docket No. 19852; FCC 79-758]

#### Providing for the Amateur-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

**SUMMARY:** The Commission orders a Notice of Proposed Rulemaking to revise Part 97 of the Commission's rules and regulations. It is evident that the amateur satellite service has become an important facet of amateur radio, thus, it is now time to develop rules for the service. Hence, a statement of the

amateur satellite service requirements in the rules would give notice to the amateur community on procedures to follow when engaging in amateur satellite service operations.

**DATES:** Comments must be received on or before February 5, 1980 and reply comments must be received on or before March 6, 1980.

**FOR FURTHER INFORMATION CONTACT:** Roy C. Howell, Federal Communications Commission, Private Radio Bureau, Personal Radio Branch (202) 254-6884.

**ADDRESSES:** Federal Communications Commission, 2025 M Street NW., Washington, D.C.

Adopted: November 20, 1979.

Released: December 4, 1979.

In the matter of amendment of Part 97 of the Commission's Rules to provide for Amateur-Satellite Service, Docket No. 19852. See Also 39 FR 1643, January 11, 1974.

#### Background

1. On February 14, 1973, the Commission adopted amendments to Part 2 of the Commission's rules in Docket No. 19547. These amendments incorporated into the rules the Amateur-Satellite Service (AMSS) as established by the World Administrative Radio Conference for Space Telecommunications in Geneva, 1971. Certain frequencies already allocated to the Amateur Radio Service were also allocated to AMSS. Furthermore, AMSS frequency bands 435-438 MHz are also shared with the Government Radiolocation Service on a secondary basis.

2. On October 25, 1973, the Commission adopted a Notice of Inquiry in Docket No. 19852 which was published in the Federal Register on November 6, 1973, 38 FR 30566 (1973). In our Notice of Inquiry, we indicated the desire to receive comments from interested parties concerning: The structures of the new Amateur-Satellite Service; the technical standards licensees in the Service should have to meet; and, the qualifications licensees should possess.

3. The Commission received approximately fifteen comments in response to the October 25, 1973 Notice of Inquiry. All comments received have been carefully analyzed by the Commission's staff and we are now prepared to issue formal proposals in this proceeding.

4. Prior to WARC-ST, five amateur space stations licensed by the FCC were placed in operation. Since WARC-ST, three more space stations licensed by the FCC became operational. These stations were operated pursuant to

waiver of the Commission's rules for amateur radio stations (Part 97). It is evident that AMSS has become an important facet of Amateur Radio; thus, it is now time to develop rules for the service. Hence, a statement of the AMSS requirements in the Rules would give notice to the amateur community on procedures to follow when engaging in AMSS operations. Therefore, the Commission could discontinue its present system of granting waivers on an individual basis. Consequently, the end result would be uniform regulations of AMSS operations.

#### International Regulations

5. As a result of WARC-ST, a new paragraph was added to Article 41 *Amateur Stations*, of the Radio Regulations of the International Telecommunication Union (ITU) (see 156A Spa2 § 6, and the Appendix to this Notice). This paragraph requires space stations in AMSS to be fitted with devices for controlling emissions in the event harmful interference is reported. Furthermore, it requires FCC to inform the International Frequency Registration Board (I.F.R.B.) of all space stations to be authorized in AMSS. Additional, Article 7 of the ITU provides that "space stations shall be fitted with devices to ensure immediate cessation of their radio emissions by telecommand, whenever such cessation is required under the provisions of these regulations" (see 470 Spa2 § 24).

6. Elsewhere in the Radio Regulations of the ITU, definitions of terms related to space station operations were added, as were the requirements for advance publication coordination and notification.

#### Experience in Licensing Space Stations

7. F.C.C. experience in licensing space stations has brought Commission attention to various problems encountered when attempting to operate a space station pursuant to rules enacted to regulate other types of amateur radio stations, via Part 97. These are:

(A) § 97.79 *Control operator requirements and § 97.88 Operation of a station by remote control.* These rules require a control operator to be at an authorized control point whenever the station is in operation. For low earth orbit satellites, the station is not in view of any telecommand station for extended periods. Therefore, no single control operator, or any reasonable number of control operators, could possibly be at all times at a control point(s), able to command the space station, as required by the general rules.

(B) § 97.84 *Station identification.* This rule requires every amateur radio to transmit its assigned call letters. None of the amateur



satellites authorized by the F.C.C. have had this capability. Furthermore, based on the F.C.C.'s experience in this area, the nature of space operation would seem to make such a requirement meaningless.

To date, F.C.C. licensed amateur space stations have simply identified themselves with the letters "HI" in Morse Code telegraph. Except for the first few amateur satellites, even this identification probably serves no useful purpose.

Another area of concern regarding station identification is telecommand operation. To maintain the integrity of the telecommand capability, knowledge of the location and identity of such stations must be limited to only those persons engaging in controlling the space station. Otherwise, information on controlling the space station could fall into the hands of persons who could use it to effect improper operation of the station, possibly resulting in interference to other services or damage to the station.

For this reason, telecommand stations are not required to identify with F.C.C. assigned call signs. Their transmissions are brief, (time required to transmit a call sign could exceed the time required to transmit a series of commands), and their transmissions are directed skyward making the causing of interference unlikely.

(C) § 97.85 Repeater operation and § 97.126 Retransmitting radio signals. The only amateur radio station permitted to automatically retransmit the radio signals of other amateur radio stations are stations in repeater operation or auxiliary operation. This capability is one of the principal features of amateur satellites, so provision has to be made to permit it.

(D) § 97.91 One-way communication. This rule lists the types of one-way transmissions permitted in amateur radio which are not considered broadcasting (amateur radio stations may not broadcast). One-way space-to-earth telemetry transmissions from a space station, and one-way earth-to-space telecommand transmissions to a space station are not covered by this rule.

(E) § 97.117 Codes and ciphers prohibited. This rule prohibits the use of codes and ciphers in the Amateur radio service, where the intent is to obscure the meaning. Telemetry transmissions must use codes to transfer data, as do telecommand transmissions. While telemetry codes are only to facilitate communications, telecommand codes must also obscure the meaning of the message for the same reasons discussed under § 97.84 Station identification.

#### The Comments

8. Generally, very few comments expressed opposition to the establishment of an Amateur-Satellite Service. Only one comment expressed total opposition to the establishment of an Amateur-Satellite Service,<sup>1</sup> and the rationale for this opposition was the following: "Whenever rules are issued governing a rapidly growing field, progress in that field inevitably slows or

<sup>1</sup> This comment was filed by Amateur radio operator Mark Zimmerman.

stops completely." Hence, according to the one negative comment any regulations for AMSS would hinder technological growth in this area. The Rules proposed herein are fundamentally the same set of rules AMSS has been operating under. We are proposing to move from a procedure based on a series of waivers, to one which is premised on rules developed via the rule making process.

9. One comment suggested that amateur communication achieved by reflection from the moon, should not be governed by the rules adopted for AMSS.<sup>2</sup> Such communication, it is claimed, does not represent a significant source of interference to other radio services, and is better regulated by the existing rules governing the Amateur Radio Service. Article 1 of the Radio Regulations of the ITU defines AMSS as "a radiocommunication service using space stations on earth satellites for the same purposes as those of the amateur service" (see, 84ATA, Spa2). This definition is used for the purpose of AMSS in the proposed rules. Therefore, communications conducted by passive reflection of signals off the moon would not constitute operation in AMSS.

#### The Proposal

10. The Commission proposes to add a new Subpart H, *Amateur-Satellite Service*, to Part 97 of the rules. The rules for the Amateur Radio Service would apply except in those instances specifically covered by the proposed Subpart. Generally, all amateur stations and amateur radio operators would be authorized to operate in the Amateur-Satellite Service to the extent of the privileges authorized by their amateur radio licenses, without any additional authorization by the Commission. Space operation would be limited to holders of the Amateur Extra Class operator license. Examination material related to the Amateur-Satellite Service is incorporated only in Examination Element 4(B), a requirement for the Amateur Extra Class license.

11. Any amateur radio station licensed by the Commission, having a control operator holding an operator license with the necessary frequency privileges, could be designated by the space station licensee to conduct telecommand operations. Certain privileges not afforded other amateur stations would be permitted authorized telecommand operations for the above-discussed reasons. Furthermore, the licensee of the space station could authorize amateur radio stations in other countries to

<sup>2</sup> This comment was filed by amateur radio operator K. D. Tentarelli.

conduct telecommand operations, subject to the regulations of the licensing authority in the other country. In regard to space stations licensed by the Commission, however, there would have to exist the capability to effect an immediate, permanent cessation of emissions from the space stations via telecommanded operations conducted by one or more stations licensed by the Commission.

12. We are proposing to exempt both space stations and telecommand stations from the station identification requirement for the reasons given in paragraph 7, above. Article 19 § 2 of the Radio Regulations of the ITU provides:

"A station shall be identified by a call sign or other recognized means of identification. Such recognized means of identification may be one or more of the following necessary for complete identification: name of station, location of station, operating agency, official registration mark, flight identification number, selective call number or signal, selective call identification number or signal, characteristic signal, characteristic of emission or other clearly distinguishing features readily recognized internationally."

Instead of transmitting their call sign, information of the type specified by Article 19 § 2 would be filed with the F.C.C. by the station licensee.

13. In addition to Article 41 (see paragraph 5, above), Article 7 provides that "space stations shall be fitted with devices to ensure immediate cessation of their radio emissions by telecommand, whenever such cessation is required under the provisions of these Regulations" (see 470V Spa2, § 24). All of the frequency bands allocated to AMSS are shared with the Amateur radio service. Furthermore, AMSS frequency band 435-438 MHz is also shared with the Government radiolocation service. We are proposing to incorporate these requirements into the Rules.

14. Article 9A § 2 (see, 639AA, Spa2) of the Radio Regulations of the International Telecommunication Union (ITU) sets out the procedure for the Advance Publication of information on planned Satellite Systems. The procedure is the following:

"An administration (or one acting on behalf of a group of named administrations) which intends to establish a satellite system shall, prior to the co-ordination procedure in accordance with No. 639A] where applicable, send to the International Frequency Registration Board not earlier than five years before the date of bringing into service each satellite network of the planned system, the information listed in Appendix 1B."

Article 9A, § 2, No. 639A] provides the following:

"Before an administration notifies to the Board or brings into use any frequency assignment to a space station on a geostationary satellite or to an earth station that is to communicate with a space station on a geostationary satellite, it shall effect co-ordination of the assignment with any other administration whose assignment in the same band for a space station on a geostationary satellite or for an earth station that communicates with a space station on a geostationary satellite is recorded in the Master Register, or has been co-ordinated or is being co-ordinated under the provisions of this paragraph. "For this purpose, the Administration requesting co-ordination shall send to any other such Administration the information listed in Appendix A."

We are proposing that informational filings be at: two years, and three months (the three months are to allow for processing); updates one year, and three months. Further, we anticipate the first filing period could be waived where justified. However, amateur satellites placed into orbit prior to receiving international sanction may be required to discontinue operation in favor of a prior request, or to avoid interference to other radio services.

15. We seek comment on the proposal and on the desirability of the information requirement, particularly in terms of clarity of the questions, instructions, and format. The information requirements included herein are subject of General Accounting Office clearance.

#### Comments Solicited

16. The specific amendments we are proposing are set forth in the Appendix. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended 47 U.S.C. 154 (i) and 303(r). Pursuant to procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before February 5, 1980, and reply comments on or before March 6, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

17. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file

an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

18. For further information concerning this rule making, contact Roy C. Howell, Rules Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 254-6884.

Federal Communications Commission.

William J. Tricarico,  
Secretary.

#### Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

#### § 97.3 [Amended]

1. In § 97.3, paragraphs (i) and (k) are deleted and designated (Reserved).
2. A new Subpart H is added, as follows:

#### Subpart H—Amateur-Satellite Service

##### General

- Sec.
- 97.401 Purpose.
- 97.403 Definitions.
- 97.405 Applicability of rules.
- 97.407 Eligibility for space operations.
- 97.409 Eligibility for earth operations.
- 97.411 Eligibility for telecommand operation.
- 97.413 Space operation requirements.

##### Technical Requirements

- 97.415 Frequencies available.

##### Special Provisions

- 97.417 Space operation.
- 97.419 Telemetry.
- 97.421 Telecommand operation.
- 97.423 International advance publication.
- 97.425 International coordination.
- 97.427 Notification required.

Authority: Secs. 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

#### Subpart H—Amateur-Satellite Service

##### General

#### § 97.401 Purposes.

The Amateur-satellite Service is a radio communication service using stations on earth satellites for the same purposes as those of the Amateur Radio Service.

#### § 97.403 Definitions.

(a) *Space operation*. Space-to-earth amateur radio communication from a station which is beyond, is intended to go beyond, or has been beyond the major portion of the earth's atmosphere.

(b) *Earth operation*. Earth-to-space-to-earth amateur radio communication by means of radio signals automatically retransmitted by stations in space operation.

(c) *Telecommand operation*. Earth-to-space amateur radio communications to initiate, modify, or terminate functions of a station in space operation.

(d) *Telemetry*. Space-to-earth transmissions, by a station in space operation, of results of measurements made in the station, including those relating to the function of the station.

#### § 97.405 Applicability of rules.

In all cases not specifically covered by the provisions of this Subpart, stations in space operation, telecommand operation, and earth operation, shall be governed by the provisions of the rules governing amateur radio stations and operators (Subpart A through E of this part).

#### § 97.407 Eligibility for space operation.

Amateur radio stations licensed to Amateur Extra class operators are eligible for space operation.

#### § 97.409 Eligibility for earth operation.

Any amateur radio station is eligible for earth operation, subject to the privileges of the operator's class of license.

#### § 97.411 Eligibility for telecommand operation.

Any amateur radio station designated by the licensee of a station in space operation is eligible to conduct telecommand operation with that station in space operation.

#### § 97.413 Space operation requirements.

An amateur radio station may be in space operation where:

(a) The station has not been ordered by the Commission to cease radio transmissions.

(b) The station is capable of effecting a cessation of radio transmissions by commands transmitted by station(s) in telecommand operation whenever such cessation is ordered by the Commission.

(c) There are in place, sufficient amateur radio stations licensed by the Commission capable of telecommand operation to effect cessation of space operation, whenever such is ordered by the Commission.

(d) The notifications required by § 97.423 (b) & (c) are on file with the Commission.



## Technical Requirements

## § 97.415 Frequencies available.

The following frequency bands are available for space operation, earth operation, and telecommand operation.

## Frequency Bands

kHz

7000-7100

14000-14250

MHz

21.00-21.45

28.00-29.70

144-146

435-438(1)

GHz

24-25.05

Stations operating in the Amateur-satellite Service shall not cause harmful interference to other stations between 435 and 438 MHz.

## Special Provisions

## § 97.417 Space operation.

(a) Stations in space operation are exempt from the station identification requirements of § 97.87 on each frequency band when in use.

(b) Stations in space operation may automatically retransmit the radio signals of other stations in earth operation, and space operation.

## § 97.419 Telemetry.

(a) Telemetry transmission by stations in space operation may consist of specially coded messages intended to facilitate communications.

(b) Telemetry transmissions by stations in space operation are permissible one-way communications.

## § 97.421 Telecommand operation.

(a) Stations in telecommand operation may transmit special codes intended to obscure the meaning of command messages to the station in space operation.

(b) Stations in telecommand operation are exempt from the station identification requirements of § 97.87.

## § 97.423 International advance publication.

All stations to operate on earth satellites or to communicate with stations on earth satellites are subject to the international advance publication procedure for the purpose of informing foreign administrations, in advance, of the intended operation. The proposed technical parameters of planned stations are to be published internationally (generally from 2 to 5 years prior to the commencement of space operations). The data required for this purpose are

set forth in Appendix 1B of the International Radio Regulations.

## § 97.425 International coordination.

All stations proposed for earth and space operations and which utilize an earth satellite in a geostationary orbit are required to be prior coordinated with affected foreign administrations pursuant to the provisions of Article 9A of the International Radio Regulations. For this purpose, the Commission is obligated to collect and forward the data specified in Appendix 1A of the International Radio Regulations. No coordination is required for operations utilizing non-geostationary orbits.

## § 97.427 Notification required.

(a) The licensee of every station in space operation shall give written notifications to the Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(b) Pre-space operation notification.

(1) Three Notifications are required prior to initiating space operation. They are:

(i) *First Notification.* Required no less than twenty-seven months prior to initiating space operation.

(ii) *Second Notification.* Required no less than fifteen months prior to initiating space operation.

(iii) *Third Notification.* Required no less than three months prior to initiating space operation.

(2) The pre-space operation notification shall consist of:

(i) *Space operation date.* A statement of the expected date space operations will be initiated, and a prediction of the duration of the operation.

(ii) *Identity of satellite.* The name which the satellite will be known.

(iii) *Service area.* A description of the geographic area on the Earth's surface which is capable of being served by the station in space operation. Specify for both the transmitting and receiving antennas of this station.

(iv) *Orbital Parameters.* A description of the anticipated orbital parameters as follows:

## Non-geostationary satellite

(1) Angle of inclination

(2) Period

(3) Apogee (kilometers)

(4) Perigee (kilometers)

(5) Number of satellites having the same orbital characteristics

## Geostationary satellites

(1) Nominal geographical longitude

(2) Longitudinal tolerance

(3) Inclination tolerance

(4) Geographical longitudes marking the extremities of the orbital arc over which the satellite is visible at a minimum angle of

elevation of 10° at points within the associated service area.

(5) Geographical longitudes marking the extremities of the orbital arc within which the satellite must be located to provide communications to the specified service area.

(6) Reason when the orbital arc of (5) is less than that of (4)

(5) *Technical Parameters.* A description of the proposed technical parameters for the station in space operation and all other stations to engage in satellite communications; however, recognizing that a wide variety of amateur radio stations would be transmitting and receiving from a station on an earth satellite, only the parameters of a "typical" such station should be indicated. The description where possible, shall include the following:

(1) Carrier frequency <sup>1</sup>

(2) Necessary bandwidth <sup>2</sup>

(3) Class of emission <sup>3</sup>

(4) Total Peak Power <sup>2</sup>

(5) Maximum power density (watts/Hz)

(6) Antenna radiation pattern <sup>3</sup>

(7) Antenna gain (main beam) <sup>3</sup>

(8) Antenna pointing accuracy

(geostationary satellites only) <sup>3</sup>

(9) Receiving system noise temperature <sup>4</sup>

(10) Lowest equivalent satellite link noise temperature <sup>5</sup>

(c) *In-space operation notification.*

Notification is required after space operation has been initiated. The notification shall update the information contained in the pre-space operation notification. In-space operation notification is required no later than seven days following initiation of space operation.

(d) *Post-space operation notification.*

Notification of termination of space operation is required no later than three months after termination is complete. If the termination is ordered by the Commission, notification is required no later than twenty-four hours after termination is complete.

3. In Appendix 2, the undesignated paragraph following the headnote is revised, and a new paragraph SEC. 8 is added as follows:

<sup>1</sup> Only the frequency range in which the carrier frequencies will be located need be submitted for international advance publication purposes if carrier frequencies have not been determined.

<sup>2</sup> Not required for international advance publication but should be included if this information is available.

<sup>3</sup> These antenna characteristics shall be provided for both transmitting and receiving antennas.

<sup>4</sup> For a station in space operations.

<sup>5</sup> The noise temperature at the input of a typical amateur radio station receiver corresponding to the radio frequency noise power which produces the total observed noise at the output of the satellite link excluding noise from other non-associated radio systems.

## Appendix 2

*Extracts From Radio Regulations Annexed to the International Telecommunications Convention (Geneva, 1959), as revised by the World Administrative Radio Conference for Space Telecommunications, Geneva, 1971.*

## Article 41—Amateur Stations

Sec. 6. Space stations in the Amateur-satellite Service operating in bands shared with other services shall be fitted with appropriate devices for controlling emissions in the event that harmful interference is reported in accordance with the procedure laid down in Article 15. Administrations authorizing such space stations shall inform the International Frequency Registration Board (I.F.R.B.) and shall ensure that sufficient earth command stations are established before launch to guarantee that any harmful interference that might be reported can be terminated by the authorizing Administration.

[FR Doc. 79-37705 Filed 12-6-79; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 652

## Atlantic Surf Clam and Ocean Quahog; Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the proposed regulations for Atlantic Surf Clam and Ocean Quahog published on Friday, November 9, 1979 (44 FR 65372).

EFFECTIVE DATE: December 6, 1979.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: On November 8, 1979, proposed regulations governing domestic fishing for Atlantic Surf Clam and Ocean Quahog were filed with the Federal Register. The proposed regulations which appeared in the Federal Register on November 9, 1979, under the authority of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), as amended, contained an inadvertent oversight.

This document corrects this oversight and omission so that the Effort restriction section reads as follows:

## § 652.22 Effort restriction.

(c)(2) If the Regional Director determines that the quota probably will be exceeded, he may reduce the number of days per week during which fishing for ocean quahogs is permitted.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this the 3rd day of December, 1979.

Winfred H. Meibohm,  
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-37705 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-22-M



## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### ADVISORY COUNCIL ON HISTORIC PRESERVATION

#### Demolition of the J. L. Hudson Co. Building and Effects of the Proposed Cadillac Center Project; Meeting

Notice is hereby given in accordance with § 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties," (36 CFR Part 800), that a panel of members of the Advisory Council on Historic Preservation will meet on December 18 and 19, 1979, to consider demolition of the J. L. Hudson Company building and other effects of the proposed Cadillac Center Project in Detroit, Michigan.

Pursuant to § 800.6(d)(2) of the Council regulations, the Chairman of the Council decided on November 28, 1979, that a panel should consider this project in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320).

The Council was established by the National Historic Preservation Act to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture, Transportation; State; Defense; Health, Education, and Welfare; and the Smithsonian Institution; the Attorney General; the Administrator of the General Services Administration; the Chairman of the Council on Environmental Quality; the Chairman of the Federal Council on the Arts and the Humanities; the Architect of the Capitol; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State

Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The Council's regulations require that the panel be composed of five members, three from the private sector (with one chairing) and two Federal members. This panel will be chaired by James W. Haas of San Francisco.

The panel will meet in Detroit. Place and time have yet to be set and may be obtained from the Executive Director.

The panel will consider written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by December 11. Persons wishing to make oral statements should notify the Executive Director by December 14. Additional information concerning the meeting or the submission of statements to the panel is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street, NW., Washington, D.C. 20005, (202) 254-3974.

Dated: December 3, 1979.

Robert R. Garvey, Jr.  
Executive Director.

[FR Doc. 79-37573 Filed 12-6-79; 8:45 am]  
BILLING CODE 4310-10-M

### DEPARTMENT OF AGRICULTURE

#### Agricultural Stabilization and Conservation Service

#### Feed Grain Donations for the Blackfoot Indian Tribe in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Blackfoot Indian Tribe in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere

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with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1980, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on December 3, 1979.

Ray Fitzgerald,  
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-37746 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-05-M

### Federal Grain Inspection Service

#### Official Agency Designation; Requests for Comments on Applicants for Designation in the Saginaw, Michigan, Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice requests comments from interested parties on the qualified applicants applying for designation as official agency(s) in the Saginaw, Michigan, area.

DATE: Comments to be postmarked on or before January 7, 1980.

ADDRESS: Comments should be submitted to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The June 29, 1979, issue of the Federal Register (44 FR 37964) contained a notice from the Federal Grain Inspection Service requesting applications for designation

to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), at the nonexport locations in the Saginaw, Michigan, area. Applications were to be postmarked by August 28, 1979. A total of three applications were received, two of which met the criteria for designation specified in Section 7(f)(1)(A) of the Act.

The names of the applicants qualified for designation are as follows: Kenneth R. Hagelshaw, Grain Inspection Services, Inc., Battle Creek, Michigan, and; Roy A. Marchetti, Detroit Grain Inspection Service, Detroit, Michigan.

In accordance with section 26.98 of the regulations under the Act, this notice provides interested persons the opportunity to submit written comments concerning the qualified applicants. All comments must be submitted to the Office of the Director specified in the address section of this notice and be postmarked not later than January 7, 1980.

A comment period of 30 days is deemed adequate because such a period of time would expedite the designation of an official agency(s) to service the Saginaw, Michigan, area. Such a comment period does not impose any undue obligations or requirements on others, and under the circumstances, provides a sufficient period of time for comments.

Consideration will be given to all comments filed and to all other information available to the Administrator of the Federal Grain Inspection Service before a final decision is made with respect to this matter. Notice of the final decision will be published in the Federal Register and the applicants will be informed of the decision in writing.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a; 7 CFR 28.98.)

Done in Washington, D.C. on December 3, 1979.

D. R. Galliat,  
Acting Administrator.

[FR Doc. 79-37811 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-02-M

#### Official Designation of the Peoria Grain Inspection Service, Inc., Peoria, Ill., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Peoria Grain Inspection Service, Inc., Peoria, Illinois, as an official agency to perform official

inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 21, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENT INFORMATION: Peoria Grain Inspection Service, Inc. (the "Agency"), 330 S.W. Washington Street, 2nd Floor, Peoria, Illinois 61602, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on August 16, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Peoria Board of Trade. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Stark County line east then south to Marshall County; the northern Marshall County line east to Putnam County; the western Putnam County line north to State Route 29; State Route 29 north to Interstate 180; Interstate 180 east to State Route 26;

Bounded: on the East by State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 southeast to State Route 121; State Route 121 south to State Route 10;

Bounded: on the South by State Route 10 west to Mason County, the eastern Mason County line; the southern Mason County line west to the Illinois River;

the Illinois River northeast to Fulton County; the southern Fulton County line; and

Bounded: on the West by the western Fulton County line; the northern Fulton County line east to Peoria County; the western Peoria County line; the western Stark County line.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since August 1979. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 21, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))



Done in Washington, D.C. on December 4, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-37953 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-02-M

#### Forest Service

##### Noranda Exploration, Inc. Mining and Milling Proposal; Chatham Area, Tongass National Forest; Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the USDA Forest Service will prepare an environmental statement in response to a proposal for development of a mining and milling operation by Noranda Explorations, Inc., as operator for the Pan Sound Joint Venture. The Noranda claims are located in the upper Greens Creek drainage of northern Admiralty Island National Monument, within the Tongass National forest of southeast Alaska.

Following exploration of these claims in 1978 and 1979, Noranda has identified high grade materials containing silver, zinc, lead and copper and has indicated that a development proposal will be submitted to the Forest Service by August 1980. The draft environmental statement will be prepared and filed by December 1980.

The Noranda proposal is expected to define available options for development of the mineral deposit, feasible mill site locations, alternate modes of access, and estimated daily activities. The proposal is expected to reflect preliminary environmental baseline studies, proposal for future monitoring, and results of Noranda's socioeconomic assessment.

The USDA Forest Service will assess the proposed options and any additional feasible alternatives, access environmental implications, and seek comment and involvement from a wide range of local, regional, and national publics.

Planning for possible development of these Noranda claims can be expected to generate considerable controversy due to the complex management situation for Admiralty Island. The Tongass Land Management Plan, completed in March 1979, allocated Admiralty except the Mansfield Peninsula, to roadless management for ten years and identified it for recommendation to the National Wilderness Preservation System. In addition, Admiralty was withdrawn under the Federal Land Policy and

Management Act which closed the island to further mineral location for a period of two years, beginning on December 5, 1978. Finally, the Noranda claim's area was included within the boundary of the Admiralty Island National Monument as created by Presidential Proclamation under the Antiquities Act on December 1, 1978. Interim management guidelines have been established for the National Monument; the planning process to establish a long-range Monument Management Plan will be completed by the spring of 1981.

Several issues which will affect this planning process and are part of Alaska Lands legislation are expected to be resolved before the final environmental analysis is completed. A Congressional decision concerning wilderness designation for Admiralty will determine whether or not the provisions of the Wilderness Act of 1964 must be met by the Noranda plan of operations.

If Congress does add Admiralty to the National Wilderness Preservation System, specific provisions concerning the Noranda claims could be included in the enactment.

An additional issue which is potentially relevant to the Noranda planning process is final resolution of possible Native land claims on northern Admiralty. Should lands in proximity to Noranda's claims be conveyed to a Native group under the Alaska Native Claims Settlement Act, the new landownership patterns will be assessed as a part of the total management context.

This complex planning environment reflects the high values associated with Admiralty Island, including significant amenity and commodity resources as well as cultural and social values. Thus, in addition to meeting the legal requirements and management objectives now in effect for Admiralty, the plan of operation approved for Noranda must meet high standards for resource protection. Key values are water quality of Greens Creek and its tributaries, including associated fisheries habitat and Greens Creek estuary. Potential impacts to wildlife, scenic and recreation values, and potential historic and prehistoric cultural resources must also be addressed by the planning process. Finally, because of the broad objectives proclaimed in the creation of the Admiralty Island National Monument, potential impacts to the ecological system—the interrelationship of the natural resources—must be assessed to assure that research opportunities within the Monument are retained.

It is recognized that, while careful resource assessment is necessary and management restrictions to achieve other management objectives are probable, development of valid mining claims is permitted under all applicable laws and regulations. In addition, there is strong support from many publics to encourage such development, both to meet National mineral needs and to provide regional employment and economic benefits. These potential effects will be fully assessed as a part of the planning process.

As the lead agency in preparation of the environmental statement, the USDA Forest Service has encouraged participation by interested State and Federal agencies, communities, interest groups, organizations, and individuals since the inception of the Noranda project. This involvement began during environmental assessment of Noranda's Plan of Operations for exploration work in February 1978.

With initial indication by Noranda that a developmental proposal would be submitted, the agency assembled a pre-planning team which included representatives of the Alaska Department of Fish and Game, and Alaska Department of Environmental Conservation. An informal public advisory group met with the team and Noranda representatives during 1979 to review Noranda's early planning and to assist in identification of major physical, biological, social, economic, and other management issues. With the establishment of an interdisciplinary planning team to prepare the Noranda Mining and Milling Proposal Environmental Statement, the State of Alaska and the informal public advisory group will be encouraged to continue their involvement. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service will also be asked to participate as consulting agencies.

Public comment through earlier planning phases is being used to identify issues and opportunities. These will appear as a draft scoping document to be published in December 1979. A plan to assure full opportunity for public participation throughout the planning process will be included in the scoping document. Public meetings are anticipated in the fall of 1980, after Noranda's proposal is presented to the Forest Service.

The Forest Supervisor, USDA Forest Service, Tongass National Forest, Chatham Area, is the agency official responsible for approval of the final mining and milling plan for Noranda. For a copy of the scoping document and for other inquiries or requests for

planning information, including the draft environmental statement, please contact K. J. Metcalf, Manager, Admiralty Island National Monument, Juneau Work Center, P. O. Box 2097, Juneau, Alaska 99803 (Telephone No. (907) 789-3111).

Norman R. Howse,

Acting Forest Supervisor.

November 29, 1979.

[FR Doc. 79-37571 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-11-M

#### Office of the Secretary

##### Part-Time Career Employment Program, Personnel Instructions

**AGENCY:** U.S. Department of Agriculture.

**ACTION:** Proposed Implementation of the Federal Employees Part-Time Career Employment Act of 1978

**SUMMARY:** Pursuant to the provisions of the Federal Employees Part-Time Career Employment Act of 1978 (Pub. L. 95-437), the U.S. Department of Agriculture has developed proposed personnel instructions for providing permanent part-time employment opportunities. The instructions will apply to all agencies of the U.S. Department of Agriculture.

**DATE:** Written comments may be submitted no later than January 7, 1980.

**ADDRESS:** Comments should be submitted to: Office of Personnel, U.S. Department of Agriculture, Room 1087, South Building, 14th and Independence Avenue SW., Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Patricia J. Killen, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5625.

**SUPPLEMENTARY INFORMATION:** Pursuant to 5 U.S.C. 3406, Federal agencies are required to publish regulations relating to part-time employment in the *Federal Register*, and provide an opportunity for interested parties to comment. These regulations may be supplemented from time to time through the Department of Agriculture's Personnel Manual. In addition, changes in the Program may be required to reflect policy issued by the Office of Personnel Management. Accordingly, it is proposed to add a new Chapter 340 to the Department of Agriculture's Personnel Manual to read as follows:

##### Chapter 340—Part-Time Career Employment Program

###### Subchapter 1—General Provisions

a. *Purpose.* These regulations implement the Federal Employees Part-Time Career Employment Act of 1978 (Pub. L. 95-437) by establishing a

continuing program in the U.S. Department of Agriculture (Department) to:

(1) Provide part-time employment opportunities to potential and current Department employees at all grade levels through GS-15 (or equivalent) and in professional, administrative, technical, clerical, and trades occupations;

(2) Benefit the Department as an employer by increasing productivity and job satisfaction while lowering turnover rates and absenteeism;

(3) Provide management with flexibility in meeting work requirements and filling shortages in various occupations;

(4) Provide an alternative to individuals who need or desire shorter working hours; and

(5) Support affirmative action programs for minorities, woman, and handicapped individuals.

b. *Policy.* The U.S. Department of Agriculture (Department) will, to the extent possible with Agency resources and mission requirements, provide part-time career opportunities in all positions through GS-15 (or equivalent) to department employees and prospective employees who may be unable to work full-time, but are available for part-time employment from 16 to 32 hours per week.

c. *Definitions.*—(1) *Agency.* As used in the Department Personnel Manual "Agency" means a major organizational unit of the Department of Agriculture.

(2) *Part-time Employment.* Employment of 16 to 32 hours per week on a regularly scheduled tour of duty performed by individuals serving under competitive or excepted appointments in tenure groups I or II, and who became employed on such a part-time basis on or after April 8, 1979.

(3) *Tenure Group I.* Applies to employees in the competitive service under career appointments who are not serving probation, and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

(4) *Tenure Group II.* Applies to employees in the competitive service serving probation, career-conditional employees, and career employees in obligated positions. It also includes employees in the excepted service serving trial periods, whose tenure is indefinite solely because they occupy obligated positions; or whose tenure is equivalent to career-conditional in the competitive service.

d. *Coverage.* These regulations apply to all Agencies within the Department at headquarters level and all field

installations, and cover all positions through GS-15 (or equivalent).

e. *Exceptions.* These regulations do not apply to any positions designated as temporary or intermittent, positions at GS-16 (or equivalent) and above, or to positions where a collective bargaining agreement establishes the number of hours per week. Agencies may not make exceptions to employ persons on a permanent part-time basis for more than 32 hours per week. This prohibition does not restrict Agencies from temporarily increasing an employee's hours of duty above 32 hours per week for limited periods to meet heavy workloads, permit employee training, etc. Agencies are cautioned to monitor requests to permit part-time employees to work more than 32 hours per week for any period of time. Agency Heads, or their designee, may authorize the employment of part-time workers for less than 16 hours per week if necessary to carry out the Agency's mission.

###### Subchapter 2—Program Implementation

a. *Program Responsibilities.* (1) General direction for the department's Part-Time Career Employment Program is under the jurisdiction of the Assistant Secretary for Administration.

(2) The Director of Personnel is delegated responsibility for the overall direction of the program.

(3) The Department Coordinator, designated by the Director of Personnel, is responsible for:

(a) Reviewing goals and timetables for part-time employment developed by department Agencies;

(b) Monitoring of the Department's Program;

(c) Providing advice and assistance to Agency officials;

(d) Consulting on the Program with interested parties in special emphasis areas; e.g., equal employment opportunity, selective placement, veterans, employee organizations, etc.;

(e) Maintaining Departmental liaison with groups interested in promoting part-time opportunities; and

(f) Preparing consolidated Program reports for transmittal to the Office of Personnel Management and the Congress.

(4) Each Agency Head, or designee, is responsible for providing general direction for the Agency's Program, and setting Program goals and timetables for meeting those goals.

(5) Agency Coordinators. Each Agency Head, or designee, shall designate a Part-Time Employment Coordinator who shall have overall responsibility for implementing and monitoring the Agency's Program. The Coordinator's responsibilities include:

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(a) Overseeing development and implementation of part-time employment goals and timetables;

(b) Consulting on the Program with interested parties; e.g., Equal Employment Opportunity and Federal Women Program officials, Handicapped Program Coordinators, representatives of employee unions, organizations, etc.;

(c) Keeping Agency managers, supervisors, and employees informed on the basis rules covering part-time employment, and position management and work assignment techniques that can lead to the most productive use of part-time workers;

(d) Maintaining liaison with groups interested in promoting part-time employment opportunities;

(e) Monitoring Agency progress in expanding part-time employment opportunities; and

(f) Preparing reports on part-time employment for transmittal to the Office of Personnel.

b. *Goals and Timetables.* (1) Each Agency shall set annual goals for establishing or converting positions for part-time career employment, and establish timetables setting forth interim and final deadlines for achieving such goals. Goals for each fiscal year (beginning with FY 1980) must be established and reported to the Office of Personnel by October 31 of each year.

(2) The following factors should be considered in identifying part-time employment opportunities:

(a) Agency mission and occupational mix;

(b) Workload fluctuations;

(c) Size of workforce, turnover rate, and employment trends;

(d) Potential for improving service to the public;

(e) Affirmative action;

(f) Geographic dispersion;

(g) Current employee interest in part-time; and

(h) Personnel ceiling and fiscal constraints.

c. *Program Evaluation and Reporting.* (1) The Part-Time Career Employment Program will be subject to continuing review and evaluation as a part of the regular personnel management evaluations conducted by the Office of Personnel and the Office of Personnel Management. Program evaluation shall also be included in each Agency's internal personnel management evaluation process.

(2) Agencies are required to report twice each year to the Office of Personnel on progress in meeting part-time employment goals, noting any impediments encountered and measures taken to overcome them. Agency reports, as of March 31 and September

30 of each year, shall be submitted to the Office of Personnel no later than April 30 and October 31, respectively. Reports must address the Agency's progress in meeting part-time employment goals, noting any impediments encountered and measures taken to overcome them. Reports should also include the extent to which the Program has provided for part-time career opportunities for older persons, handicapped individuals, persons with family responsibilities, and students.

(3) The Department Coordinator will review Agency reports, and submit a consolidated report to the Office of Personnel Management by May 15 and November 15 of each year.

#### *Subchapter 3—Part-Time Employment Practices*

##### a. *Review of Vacant Positions.*

Agencies must establish procedures to review positions which become vacant to determine the feasibility of filling them on a part-time career employment basis. This review shall include consideration of factors such as those used to establish goals and timetables.

b. *Establishing and Converting Part-Time Positions.* (1) Agencies are required to establish a sufficient number of new part-time positions to meet their established goals.

(2) Employees should be given the opportunity to request and receive consideration to switch from full-time to part-time schedules, on a voluntary basis. Full-time employees cannot be required to accept part-time employment as a condition of continuing employment.

(3) Agencies shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

c. *Notifying the Public of Part-Time Vacancies.* Agencies are required to keep the public informed of job opportunities through publicizing vacant part-time positions in Department-wide vacancy announcements; Federal Job Information announcements; and maintaining contact with State Employment Service Offices, schools, organizations, and other sources of recruitment.

Since this proposed rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations," and Secretary's Memorandum No. 1955.

Done this 20th day of November, 1979, at Washington, D.C.

Joan S. Wallace,

Assistant Secretary for Administration.

[FR Doc. 79-37602 Filed 12-6-79; 8:45 am]

BILLING CODE 3410-01-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 149]

#### Resolution and Order Approving the Application of the Seaway Port Authority of Duluth for a Foreign-Trade Zone in Duluth, Minn.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

##### Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Seaway Port Authority of Duluth (the Port Authority), filed with the Foreign-Trade Zones Board (the Board) on May 10, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Duluth, Minnesota, within the Duluth Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

#### Grant to Establish, Operate, and Maintain a Foreign-Trade Zone in Duluth, Minn.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Seaway Port Authority of Duluth (the Port Authority) has made application (filed May 10, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone in Duluth, Minnesota, within the Duluth Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 51, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as through the same were full set forth herein, and also to the following express conditions and limitations:

Operations of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone site.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer

at Washington, D. C., this 27th day of November 1979, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Luther J. Hodges, Jr.

Acting Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 79-37643 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

## Industry and Trade Administration

### IIT Research Institute; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street N.W. (Room 735) Washington, D.C.

Docket No.: 79-00343. Applicant: IIT Research Institute, 10 W. 35th Street, Chicago, Illinois 60616. Article: Memory Controlled Fully Automatic Sequential Vacuum X-Ray Spectrometer, Model 3064 with End Window X-Ray Tube and Accessories. Manufacturer: Rigaku Ltd., Japan. Intended use of article: The article is intended to be used for studies of material requiring quantitative or qualitative elemental analysis as presented to an analytical research laboratory. Particular interest will be analysis of thin powder samples on filter paper (such as aerosol samples) solids, bulk powders, slurries, and liquids. The primary quantity to be measured is the elemental composition (chemical composition) of the sample including light elements. The physical properties will vary from rugged solids to relatively fragile powders deposited on the top surface of filter papers.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 12 kilowatt high incidence (Brilliant) x-ray beam. The National Bureau of Standards advises in its memorandum dated November 19, 1979 that (1) the capability of the foreign

article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-37638 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

### Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on application for duty-free entry of Electron Microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).) A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street N.W. (Room 735), Washington, D.C.

Docket No: 79-00392. Applicant: University of Texas Health Science Center, San Antonio, Department Of Pathology, 7703 Floyd Curl Drive, San Antonio, TX 78284. Article: Electron Microscope, Model JEM-100CX (Standard Side Entry Type) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigation on the ultrastructural (characteristics) of various pathologic conditions through studies of tissue culture cells (smooth muscle), endothelial and aortic tissue, tumors and renal biopsies. The article will also be used in the teaching of residents, graduate students in pathology and for the training of post-doctoral fellows in specialized techniques related to studies in ultrastructure. Article ordered: July 3, 1979.

Docket No.: 79-00395. Applicant: Texas Tech University, P.O. Box 4050, Lubbock, TX 79409. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies



of clay minerals used in geothermal drilling fluids. Some examples are sepiolite, attapulgite, saponite, and bentonite. Clays will be autoclaved under conditions which will stimulate the temperature, pressure, and chemistry of the bore-hole conditions of geothermal drilling operations. The rheological properties of the fluids will be measured and correlated with the changes in the structure, morphology and chemistry of the clay particles. The articles will also be used in the training of graduate students in the course GEOCHEM 539, Clay Mineralogy. Article ordered: June 26, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,  
Director, Statutory Import Programs Staff.

[FR Doc. 79-37641 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of

1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00388. Applicant: National Aeronautics and Space Administration—Goddard Institute for Space Studies, 2880 Broadway, New York, New York 10025. Article: Carcinotron (312-362 GHz) Oscillator. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used for testing submillimeter-wave frequency converters, and for testing components of the measurement system.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a frequency range of 312 to 362 gigahertz. The National Bureau of Standards advises in its memorandum dated November 19, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use. In this regard, it is noted that several domestic firms received a request for quotation from the applicant and none submitted proposals on the request.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,  
Director, Statutory Import Programs Staff.

[FR Doc. 79-37639 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued

thereunder as amended (15 CFR 301). (See especially section 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5 P.M. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket No.: 79-00355. Applicant: University of Texas Medical Branch, UMED 9-12970, Galveston, TX 77550. Article: LKB 2088 Ultratome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used for the following:

- (1) Studies on *pathologic human tissues* where it is expected that *softer tissues* (such as renal or striated muscle) as well as *harder tissues* (such as collagen-rich tendon or epidermis) will be encountered frequently.
- (2) Studies on *normal and pathologic animal tissues* which include, for example, experimental identification, localization, and modification of the surface charge present in the capillary loops of rat kidney glomeruli, and
- (3) Studies on *host-parasite interfaces* which include, for example, the progressive (in time) examination of schistosoma egg maturation in livers tissue of host animals. Host animals bearing infections of host animals. Host animals bearing infections of known age will be periodically sacrificed and areas of suspected parasite infestation located, dissected, and prepared for various assays, including electron microscopic examination.

The objectives are to contribute to basic knowledge of cell and tissue ultrastructure in normal and pathologic tissues. One objective is to reveal what, if any, diagnostic correlates exist between light and electron microscopic examination of pathologic tissues. Moreover, the study of host-parasite interactions will reveal at the ultrastructural level morphological alternations in cellular and subcellular components as a result of parasite infestation. The objective pursued in the course of these investigations is to understand early pathological alternations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human pathologic tissues. By understanding early alterations seen in human we may begin to formulate preventative treatments in human diseases. The foreign article will also be used in the residency training program offered by the Pathology Department and in the graduate training program of the School of Biomedical Sciences wherein the residents and graduate students will be taught techniques of electron microscopy. Application

received by Commissioner of Customs: July 13, 1979. Advice submitted by the Department of Health, Education, and Welfare: November 1, 1979. Article ordered: December 8, 1978.

Docket No.: 79-00382. Applicant: University of Kansas Medical Center, College of Health Sciences and Hospital, 39th and Rainbow Blvd., Kansas City, Kansas 66103. Article: LKB 2128-010 Ultratome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning animal and viral specimens and tissue cultures which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic animal tissues and on cells, developmental studies on viral systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-virus interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments, and by viral infection. Application received by Commissioner of customs: August 10, 1979. Advice submitted by the Department of Health, Education, and Welfare: November 1, 1979. Article ordered: July 24, 1978.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article provides a cutting speed range equal to or better than 0.1 to 20 millimeters/second (mm/sec). The MT-5000 ultramicrotome manufactured by the DuPont/Sorvall Division of the DuPont Company (Sorvall) became available on April 24, 1979. The MT-5000 has a cutting speed range of 0.1 to 38 mm/sec. However, at the time each foreign article was ordered the most closely comparable domestic instrument was Sorvall's Model MT-2B ultramicrotome. The Model MT-2B provides a range of cutting speeds from 0.09 to 3.2 mm/sec. HEW advises in its respectively cited memoranda, that (1) cutting speeds in excess of 4 mm/sec. are pertinent to the purposes for which each foreign article is intended to be used and (2) the domestic Model MT-2B did not provide the pertinent feature at the time each foreign article was ordered.

For these reasons, we find the Sorvall Model MT-2B ultramicrotome was not of equivalent scientific value to the foreign articles to which each of the foregoing applications relate, for such purposes as these articles are intended to be used at the time each foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles were being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,  
Director, Statutory Import Programs Staff.

[FR Doc. 79-37642 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### VA Wadsworth Medical Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 987) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No.: 79-00219. Applicant: VA Wadsworth Medical Center, Wilshire and Sawtelle Blvds., Los Angeles, California 90073. Article: Scanning Electron Microscope, Model HFS-2 and Accessories. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for high resolution membrane receptor work being performed during the study of changes membrane molecules undergo with aging.

Comments: Comments dated May 17, 1979 have been received from AMRAY Inc. (AMRAY) which alleged, among other things, that its Model 1400 provides 30 Angstrom (A) guaranteed resolution (specifications provided with the AMRAY comments listed the resolution at the 1400 at "40A in the secondary mode, 30A attainable \* \* \*"). Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign

article was ordered (July 30, 1976). Reasons: The foreign article provides a guaranteed resolution of 30A in the secondary electron mode. The Department notes that Model 1400 referred to in AMRAY's comments became available January, 1977 (letter dated February 21, 1978 from AMR Corporation, now AMRAY) and was not available at the time the foreign article was ordered. Pursuant to 15 CFR 301.11(a), the Department relies on the guaranteed specifications of the foreign and domestic instruments in making determination of scientific equivalency. "Attainable" resolution has no standing as a guaranteed specification and for purposes of its evaluation the guaranteed resolution for the AMRAY 1400 is considered to be 40A. The AMRAY Model VTC, which was available at the time the foreign article was ordered, provided a guaranteed resolution of 70A in the secondary electron mode. The Department of Health, Education, and Welfare advises in its memorandum dated August 9, 1979, that (1) 30A resolution in the secondary electron mode is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument (including AMRAY's Model 1400) or apparatus that guaranteed or provided resolution equivalent to that of the foreign article at the time the foreign article was ordered.

Based on this advice, the information provided above and specifications in our files we find that the Model VTC is not of equivalent value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,  
Director, Statutory Import Programs Staff.

[FR Doc. 79-37640 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### [Case No. 570]

#### Mr. Irving Becker and Comspace Corp., Respondents; Order Denying Export Privileges

By letter of June 20, 1978, the Compliance Division charged Irving Becker and Comspace Corporation (350 Great Neck Road, Farmingdale, New York 11735) had violated the Export



Administration Act of 1969, as amended, and regulations issued thereunder, 15 CFR 36 *et seq.* It alleged that the respondents illegally exported assorted integrated circuits, transistors, a counter/timer and attenuators and an oscilloscope to Poland in the years 1974-1976.

The facts involved in this proceeding were previously considered by the U.S. District Court, Eastern Division of New York, in Jay-June 1977. Anatole Ungurian, a Jordanian national, sought to purchase the above described controlled electronic equipment for Unitra, a purchasing agency of the Polish Government. To accomplish this purpose, Ungurian formed "Conco" a New York corporation. In accordance with Ungurian's written orders, the respondents supplied the requested items to Conco. The merchandise was immediately transhipped to Poland. Neither Becker nor Conco applied for advance permission, i.e., validated export licenses which are required for the export of controlled commodities. A felony indictment was returned against Becker and Ungurian for their unlawful exportations. Ungurian is a fugitive from justice. For his part in the culpable export scheme, Becker was fined \$2,500, and given a three year period of probation.

Becker, for himself and on behalf of his Comspace Corporation, did not contest the validity of the charges; he consented to a civil penalty as imposed below. Although admitting the charges, Becker steadfastly denied any intention to violate the law and regulations. He asserted that his participation in the illegal exports resulted from his own cupidity and misplaced trust in Ungurian during a period of adverse business conditions.

The record before me indicates respondents' principal business activities consist of the manufacture of home alarm devices, educational equipment, and the exportation of basic hardware, such as nuts, bolts, switches and toggles. During the pendency of this proceeding, Becker showed remorse and appeared penitent for his part in violating U.S. law. He stated that his business suffered and that he incurred major financial burdens for legal expenses and fines. I note that the three year period of probation imposed by the Court is about to expire and that Becker's activities during that period have not been suspect and, except for the charges in this case, he appears in full compliance with the export laws and regulations. Furthermore, he has made personal assurances to me that he has studied the export laws and has

taken appropriate action to guard himself against violations.

Based on the foregoing, I find that respondent violated the Export Administration laws and regulations, as alleged in the charging letter. In view of the penalty imposed by the United States District Court and the respondents' manifest intention to comply with all laws and regulations, I find that the agreed penalty as outlined is fair, reasonable, and designed to achieve the purpose of the law and regulations.

Therefore, pursuant to the authority delegated to me, it is

#### Ordered

I. For a period ending May 31, 1981, the respondents are denied all privileges of participation, directly or indirectly, in any manner or capacity, in any transaction involving commodities, technical data, exported or to be exported from the United States in whole or in part which requires a validated license. All export privileges shall be restored on June 1, 1981, SUBJECT, HOWEVER, to a continuing period of probation ending May 31, 1983.

II. A denial of export privileges shall extend to respondents' agents, employees or successors in interest. During the time when respondents are denied export privileges for commodities requiring validated licenses, no party, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall in any manner, directly or indirectly, carry on negotiations with respect thereto with the respondents or with any other person in behalf of the respondents.

III. The terms of probation are that respondents shall fully comply with the Export Administration Act, as amended, and all regulations, licenses and order issued thereunder.

IV. The provisions of 15 CFR 388 are applicable. The Director, Office of Export Administration, or other authorized officer, may revoke outstanding validated export licenses and deny export privileges for the remaining period of this order upon a finding by the Hearing Commissioner or his successor that respondents have failed to comply with the requirements and conditions of this order. Such action may be taken without notice when national security or foreign policy considerations are involved. If a supplemental order should be issued because of breach of the terms and conditions herein it will contain the proscriptions of 15 CFR 387 and 388. A supplemental order will not preclude the Department of Commerce from taking further action in connection with any violation. Respondents will be permitted to file objection to a supplemental order, petition that the order be set aside, and may request an oral hearing in accordance with the pertinent Export Administration Regulations, but such proceedings will not stay the order or revocation which order will remain in effect until otherwise modified or cancelled.

This order is effective immediately.

Dated November 29, 1979.

Bertram Freedman,  
Hearing Commissioner.

FR Doc. 79-37577 Filed 12-6-79; 8:45 am]  
BILLING CODE 3510-25-M

#### [Case No. 584]

#### Madhu Vrajmir Desai, Respondent; Order of April 20, 1979, Modified

A charging letter of February 1, 1979, in effect, alleged that Desai (15 Lorong Bukit Pantai Empat Pantai Hills Kuala Lumpur, Malaysia) had taken an active part in a scheme by the now defunct Hugel International, Inc. of Sunnyvale, California, to ship controlled electronic commodities to a Polish consignee without the required validated license. Inasmuch as Desai failed to respond, the charges were taken as confessed. Thereafter, by Order of April 20, 1979, 44 FR 24900 (April 27, 1979), it having been determined that he had violated the Export Administration regulations as alleged in the letter of February 1, 1979, Desai was denied all U.S. export privileges.

The respondent petitioned to set aside the default. Evidence submitted by him, together with the previously assembled record, was considered. As a result, the default is set aside; the new evidence is accepted as an answer to the charging letter.

The record is decisive that Hugel International devised a scheme to subvert the export laws and regulations. That company contrived to mislabel controlled electronic commodities for shipment to a proscribed consignee in Poland. Hugel was to ship the mislabeled commodities to Desai's company in Malaysia; Desai, in turn, was to transship to the ultimate consignee. The record now shows that Desai took no active part in Hugel's scheme although he acted as a passive participant as a previous employee of Hugel, because of his ignorance of Hugel's designs and by his further lack of understanding of the Export Administration laws.

Except for the subject charges, Desai is not otherwise suspect and appears in full compliance with the Export Administration laws. He states he had studied the Export Administration laws and regulations, and makes assurances that he will not violate those laws, nor be inveigled into active or passive participation in any scheme to subvert those laws.

In view of the foregoing, I find Madhu Vrajmir Desai violated the Export Administration laws and regulations. However, the violation was due to ignorance and without intent or design.

Amelioration of the prior sanctions to lift the denial and instead to impose a term of probation is reasonable in view of the nature of the offense and appears sufficient to protect the public interest and achieve effective enforcement of the regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 388, the Order of April 20, 1979, denying all export privileges is vacated and modified to impose a period of probation to remain in effect until May 31, 1984. The condition of probation is that respondent shall fully comply with all export laws and regulations, failing in which this matter may be reopened and export privileges again may be denied.

Dated: November 28, 1979.

Bertram Freedman,  
Hearing Commissioner.

[FR Doc. 79-37576 Filed 12-6-79; 8:45 am]  
BILLING CODE 3510-25-M

#### [Case No. 397]

#### Caramant GmbH Order of December 19, 1977, Vacated; Export Privileges Restored

In the matter of Caramant GmbH Manfred Hardt, and Werner Hardt, Adolfsallee 27/29 62 Wiesbaden, Federal Republic of Germany; Respondents.

The decision of the United States Court of Appeals, Fifth District, U.S. v. Wieschenberg *et al.*, No. 78-5218, on October 8, 1979, in effect, found there was no evidence to support an inquiry or an allegation that Manfred Hardt had in any way violated the Export Administration Act or Regulations, as charged in that case.

Accordingly, the Order of December 19, 1977, 42 FR 64392 (Dec. 23, 1977) is vacated and the Order of September 30, 1976, 41 FR 54787 (Dec. 15, 1976) is reinstated. Thus, the respondents in this case are each restored to all export privileges subject to the general probation directed in the Order of September 30, 1976. And it is further Ordered that the period of probation shall terminate on May 31, 1981.

Dated: November 28, 1979.

Bertram Freedman,  
Hearing Commissioner.

[FR Doc. 79-37575 Filed 12-6-79; 8:45 am]  
BILLING CODE 3510-25-M

#### Maritime Administration

[Docket No. S-656]

#### Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by Gulf Oil Corp.

Notice is hereby given that an application has been filed by Gulf Oil Corporation (Gulf) for Gulf's 262,376 deadweight ton tanker, AMERICAN SPIRIT, to carry oil in the Alaska/Panama oil trade. The vessel, which was built with construction-differential subsidy, would operate between Valdez, Alaska and Puerto Armuelles, Republic of Panama under charter to Sohio Natural Resources Company (Sohio) for a period of not more than six months. Gulf anticipates that six voyages could be made within this time and that the first voyage would commence at Valdez on or about December 15, 1979.

Gulf advises that the American Spirit is needed to assure Sohio's shipping capacity during the six-month period requested when certain of its vessels in the Alaskan service will be withdrawn for repairs. The American Spirit also would assure Sohio of adequate tonnage on the route in view of the present increased production of North Slope crude oil and the onset of inclement weather in Alaskan waters generating shipping delays.

Gulf states that to the best of its knowledge and that of Sohio no suitable Jones Act tonnage is available to provide the full shipping capacity Sohio requires during the requested six-month period.

Interested parties may inspect Gulf's application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th & E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in Part 250 of Chapter II, Title 46 of the Code of Federal Regulations published in the Federal Register issue of June 29, 1977 (42 FR 33035), and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this Notice in the Federal Register. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working

days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS))

Dated: December 4, 1979.

By Order of the Assistant Secretary for Maritime Affairs.

Robert J. Patton, Jr.,  
Secretary.

[FR Doc. 79-37600 Filed 12-6-79; 8:45 am]  
BILLING CODE 3510-15-M

#### National Telecommunications and Information Administration

#### Grant Appeals Board of the Public Telecommunications Facilities Program; Rescheduling of Open Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Further notice.

SUMMARY: In an earlier notice, 44 FR 68945 (November 30, 1979), we announced the forthcoming meeting of the Grant Appeals Board of the Public Telecommunications Facilities Program on December 13, 1979. The date scheduled for that meeting has been changed. The Board is now scheduled to meet on January 14, 1980.

PURPOSE: To consider the petition of Independent School District Number 89 of Oklahoma County, Oklahoma seeking reconsideration of an action of the PTFP staff denying forgiveness of its obligation to repay the remaining Federal interest in a grant awarded April 23, 1971.

TIME: 10:00 a.m.

PLACE: National Telecommunications and Information Administration, 1800 G Street, N.W., Room 765, Washington, D.C. 20504.

COMMENTS: Interested parties are encouraged to submit comments on the Petition for Reconsideration of Independent School District Number 89 of Oklahoma County, Oklahoma. (Appendix A.) An original and seven copies of any comments should be filed on or before January 7, 1980 with: Office of Chief Counsel, NTIA/DOC, 1800 G Street, N.W., Washington, D.C. 20504. A certificate of service must be attached to the comments reflecting that a copy of



the comments has been served on: Thomas W. Payzant, Superintendent, Oklahoma City Public Schools, 900 North Klein, Oklahoma City, Oklahoma 73106.

Additional information may be obtained from Robert Hunter, National Telecommunications and Information Administration, Office of Chief Counsel, 1800 G Street, NW., Room 703, Washington, D.C. 20504. Telephone: (202) 377-1866.

Edward Zimmerman,  
Deputy Administrator, National  
Telecommunications and Information  
Administration.

#### Appendix A

In the Matter of Federal Matching Grant P.L. 87-447, File No. 86T.

Petition for Reconsideration of Petition for Forgiveness of the Reimbursement of the Federal Share of the Current Market Value of Equipment.

Independent School District Number 89 of Oklahoma County, Oklahoma (hereinafter called "District"), for its petition for reconsideration of its petition for forgiveness of the reimbursement of the current market value of equipment, states:

1. District's petition for forgiveness of the reimbursement of the federal share of the current market value of equipment attached hereto as Exhibit A has been denied by the Director of the Public Telecommunication Program, by letter, a copy of which is attached hereto as Exhibit B. Pursuant to § 2301.33 of Rules and Regulations of the National Telecommunications and Information Administration, District is entitled to reconsideration of its petition.

2. District believes the Administrator's action to be unjust and unwarranted on the basis that the District can use the subject funds to develop its telecommunications in the areas set forth in its petition for forgiveness. Specifically, the District has an urgent need to expand its video tape capabilities of its television media system for disseminating information.

In addition to the areas listed in its prior petition, District has additional programming needs in the following areas:

- Pre & post lesson plan activities to accompany field trips and out-school programs.
- Review of literature and storytelling to expand language development.
- Artists in Residence presentation.
- Inservice information workshops to assist in implementing new and existing programs.
- Discussion seminars to enhance classroom experiences for students and teachers.
- Orientation to Oklahoma City Cultural Centers and organizations that work in cooperation with Oklahoma City Public Schools to provide learning experiences for students.
- Explanation and discussion of all special programs developed by curriculum service department, i.e., the parents handbook.

District believes the uses of the federal share in the above manner satisfies the

mandate from Congress for the Facilities Program to use the funds to develop a national public broadcasting system and to stimulate the growth and quality of public telecommunications services to help meet the established needs of as many citizens as possible.

3. In the event the Grant Appeals Board finds the utilization of the funds by District set forth above to be insufficient, District requests that, in the alternative, it be directed to make a grant of the subject federal share to the Oklahoma Educational Television Authority for the development of instructional television services set forth in Exhibit C. Such services would be greatly beneficial in meeting the needs of the District stated hereinabove.

Wherefore, District respectfully request the Grant Appeals Board to forgive the reimbursement of the federal share of the fair market value of such equipment; or, in the alternative, to direct District to make a grant of such value to Oklahoma Educational Television Authority for the purposes set forth in Exhibit C.

Respectfully submitted,

William P. Bleakley,

Attorney for Independent School District No. 89 of Oklahoma County, Okla.

#### Exhibit A

In the Matter of Federal Matching Grant P.L. 87-447, File No. 86T.

Petition for forgiveness of the reimbursement of the Federal share of the current market value of equipment.

Independent School District Number 89 of Oklahoma County, Oklahoma (hereinafter called "District"), for its petition for the forgiveness of the reimbursement of the federal share of the current market value of equipment, states:

1. That District received a grant from the Department of Health, Education, and Welfare (hereinafter called "HEW") to purchase equipment for District's television broadcast facilities in 1971. The grant is identified as Federal Matching Grant P.L. 87-447, File No. 86T.

2. The ten year period of Federal interest in the equipment began on April 23, 1971. Less than two years of Federal interest remain. Reimbursement of 49.5% of the fair market value is required until the federal period of interest is required if District sells the equipment prior to the expiration of the period of Federal interest.

3. District has negotiated a sale of the equipment purchased by such grant. Transfer of title and possession of the equipment is anticipated to occur prior to the expiration of the period of Federal interest.

4. The Public Telecommunications Facilities Program of the National Telecommunications and Information Administration has accepted the appraisal of R. C. Crisler and Company commissioned by District which values such equipment at \$240,650.00; 49.5% of such value is \$119,122.00.

5. Pursuant to Section 60.21 of the Rules and Regulations of Public Law 87-447, the Secretary of HEW or his successor in interest is authorized to forgive the reimbursement of the federal share of the current market value upon a showing of good cause by District.

6. Good cause is established by the following facts:

a. The federal share in the amount of \$119,122.00 is urgently needed to alleviate unfunded costs incurred by District to implement the following programs: (1) Lau Regulation Requirements; (2) Education of the Handicapped Programs; (3) Expansion of athletic programs for female students.

The estimated costs for the implementation of the Lau Decision alone for the 1979-80 school year is \$410,000.00.

b. Economic loss to District resulting from anticipated reductions in P.L. 874 appropriations to District. See letter from Senator Magnuson dated April 17, 1979, attached hereto as Exhibit A.

c. Economic loss to District resulting from increased fuel costs and double-digit inflation. The District maintains a unified school district by transporting large numbers of students by bus and is critically affected by increased gasoline costs.

Wherefore, Petitioner, upon the above showing of good cause, requests the Secretary to forgive the reimbursement of the federal share of the fair market value of such equipment.

Respectfully submitted,

Thomas W. Payzant,

Superintendent.

#### Exhibit B

June 21, 1979.

Mr. Thomas W. Payzant,

Superintendent, Oklahoma City Public Schools, 900 North Klein, Oklahoma City, Oklahoma 73106.

Dear Mr. Payzant: Your May 30 petition for forgiveness of the reimbursement of the Federal share of the current market value of equipment purchased through the matching grant, HEW File No. 86-T has been reviewed by Dr. John Cameron, Director of the Public Telecommunications Facilities Program.

Public television is losing a valuable channel and a significant and valuable community service by the sale of Channel 25 to a commercial entity. The mandate from Congress for the Facilities Program is to use the appropriated Federal funds to the fullest extent to develop a national public broadcasting system and to stimulate the growth and quality of public telecommunications services to help meet the established needs of as many citizens as possible.

While we are sympathetic toward the reasons presented in your petition to justify forgiveness, there are not compelling circumstances that establish good cause for releasing the Oklahoma City Public Schools (Independent School District #89) from its obligation to repay the pro-rated value of the equipment previously supported (\$119,122) 47 U.S.C. 392 G(2). Therefore your request is denied.

Thank you for releasing the grant award of \$400,000, grant number G007703450. The Department of Commerce is in the process of deobligating this amount and adding it to this fiscal year's funds available for matching grant awards.

Sincerely,

Stuart W. Hallock,

Senior Program Specialist, Public Telecommunications Facilities Program.

#### Exhibit C

July 25, 1979.

Dr. Thomas Payzant,  
Superintendent of Schools, Board of  
Education, Oklahoma City, Oklahoma  
73106.

Dear Dr. Payzant: The Oklahoma Educational Television Authority indeed welcomes the possibility of the Oklahoma City School Board making a grant of approximately \$119,000 to OETA for the purpose of purchasing certain broadcast equipment which would allow OETA to improve its service in broadcasting instructional television programs and its overall service to the people of Oklahoma City and, of course, the rest of the state.

Currently, OETA is extremely short of video tape machines as we attempt to record prefiles of PBS programs via satellite; perform sophisticated studio production; and perform off-line editing of previously taped mobile productions while airing instructional television programs. In fact, our studio production capability has been severely cut back since we assumed full-time playback of instructional programs two years ago.

The OETA would utilize these funds to help purchase two Quad Video Tape recorder/players to be used for dubbing and playing instructional programs. We understand that the funds described would be the remaining interest of a ten year HEW Facilities Grant. We can assure you that the proposed use of these funds are clearly in line with the guidelines of the HEW Educational Broadcasting Facilities Program and the new guidelines of PTFP/NTIA/DOC in Washington, D.C. It would appear reasonable to assume that the use of the funds in this manner meets the original purpose of the grant and would be consistent with transferring similar equipment from your agency to OETA.

Yours truly,

Robert L. Allen,

Executive Director.

[FR Doc. 79-37666 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-60-M

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

##### Further Adjusting Import Levels in Certain Man-Made Fiber Textile Products From India

December 4, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Increasing the import level for other man-made fiber manufactures, such as other furnishings in Category 666, by 112,180 pounds to 512,821 pounds during the agreement year which began on January 1, 1979; and (2) controlling

imports of man-made fiber dresses in Category 636 at the adjusted minimum consultation level of 24,283 dozen during the agreement year which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).)

**SUMMARY:** Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, agreement has been reached to increase the level established for man-made fiber textile products in Category 666 to 512,821 pounds during the agreement year which began January 1, 1978. Also under the terms of the agreement, the United States Government has decided to control imports in Category 636 at the adjusted minimum consultation level of 24,283 dozen during the agreement year which began on January 1, 1979.

**EFFECTIVE DATE:** December 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On January 9, 1979, there was published in the Federal Register (44 FR 2003) a letter dated January 5, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which prohibited, effective on January 1, 1979 and for the twelve-month period extending through December 31, 1979, entry into the United States for consumption or withdrawal from warehouse for consumption of certain designated categories of man-made fiber textile products, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1979.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase to 512,821 pounds the level of restraint previously established for man-made fiber textile products in Category 666, and to control imports in Category 636 at the adjusted level of 24,283 dozen,

both during the 12 month period that began on January 1, 1979.

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.  
December 4, 1979.

#### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
Department of the Treasury, Washington,  
D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel the directive of January 5, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in India.

Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 7, 1979 to amend the level of restraint previously established for man-made fiber textile products in Category 666, produced or manufactured in India to 512,821 pounds.<sup>1</sup>

Pursuant to the foregoing authorities, you are further directed to prohibit, effective on December 7, 1979 and for the twelve-month period beginning in January 1, 1979 and extending through December 31, 1979, entry for consumption or withdrawal from warehouse for consumption of man-made fiber textile products in Category 636 in excess of 24,283 dozen.

Textile products in Category 646 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Textile products in Category 636 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of India and with respect to imports of man-made textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5

<sup>1</sup> These levels of restraint have not been adjusted to reflect any imports after December 31, 1978. Imports during the January-September period of 1979 amounted to 9,619 dozen in Category 636.



U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-37876 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### New Official Authorized To Issue Export Visas and Certifications for Exempt Textile Products From the Republic of Korea

December 4, 1979.

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Authorizing Choe Hong Geon (Choe, H.G.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea to the United States, replacing Kim Chul Su.

**SUMMARY:** On May 25, 1972 a letter dated May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs was published in the *Federal Register* (37 FR 10605), prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States, for which the Republic of Korea had not issued a visa. A further letter, dated August 22, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the *Federal Register* on August 29, 1973 (38 FR 23357) and established an administrative mechanism to exempt from the limitations of the bilateral agreement between the Governments of the United States and the Republic of Korea certain textile products which have been certified for exemption by the Government of the Republic of Korea. One of the requirements is that the visas and certifications for exemption include the signature of an official designated by the Government of the Republic of Korea. The Government of the Republic of Korea has informed the Government of the United States that, effective on November 1, 1979, Choe Hong Geon (Choe, H.G.), Director, Export Division I, Ministry of Commerce and Industry, is the official authorized to issue export visas and certifications for exempt items, replacing Kim Chul Su. Goods covered by visas and certifications issued by Kim Chul Su before November

1, 1979 will not be denied entry. A facsimile of the signature of Choe Hong Geon is filed as part of the original document with the Office of the Federal Register.

**EFFECTIVE DATE:** November 1, 1979.

**FOR FURTHER INFORMATION CONTACT:** William Boyd, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Paul T. O'Day

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

Attachment

December 4, 1979.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,

*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This letter further amends, but does not cancel the directive of May 19, 1972 for the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the *Federal Register*, entry into the United States for consumption and withdrawal from the warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. It also further amends, but does not cancel, the directive of August 22, 1973, which established a mechanism to exempt from the levels of the bilateral agreement between the Governments of the United States and the Republic of Korea, certain textile products which have been certified for exemption by the Government of the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11961 of January 6, 1977, the directives of May 19, 1972 and August 22, 1973, as previously amended, are hereby further amended to authorize Choe Hong Geon (Choe, H.G.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea, effective on November 1, 1979, replacing Kim Chul Su. Goods covered by visas and certifications issued by Kim Chul Su before November 1, 1979 shall not be denied entry.

The actions taken with respect to the Government of the Republic of South Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs,

being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-37874 Filed 12-6-79; 8:45 am]

BILLING CODE 3510-25-M

#### DEPARTMENT OF DEFENSE

##### Department of the Army

**Intent To Prepare Supplemental Draft Environmental Impact Statement (SDEIS) for Proposed Flood Control Project; Santa Ana River Mainstem (including Santiago Creek and Oak Street Drain); Orange, Riverside, and San Bernardino Counties, Calif.**

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of Intent to Prepare a Supplemental Draft Environmental Impact Statement (SDEIS).

**SUMMARY:** A Final Environmental Statement based on the feasibility investigations for the project was transmitted to the Environmental Protection Agency on 14 September 1978. The project recommendations in that report included the following: (a) Construction of a new reservoir upstream from Prado Dam near the towns of Mentone and East Highlands; (b) flood plain management for the reach between Mentone Dam and Prado Dam; (c) improvement of Oak Street Drain in the City of Corona; (d) modification of the existing Prado Dam and expansion of the existing Prado Reservoir; (e) improvement of the existing Santa Ana River flood control channel downstream from Prado Reservoir to the ocean; (f) improvement of the lower Santiago Creek Channel; (g) development of water conservation, recreational and wildlife enhancement facilities in and along the above; (h) acquisition and protection of natural amenities in Santa Ana Canyon; and (i) acquisition and preservation of a 92-acre salt marsh area for impact mitigation and for protection of endangered species habitats.

**ALTERNATIVES:** The "No Action" alternative and the following viable alternatives to the recommended plan were considered during the feasibility studies: (a) Correct Prado Dam, (b) Present 100-Year Flood Protection Below Prado, (c) Future 100-Year Flood Protection Below Prado, (d) Standard Project Flood Protection Below Prado,

(e) National Economic Development, (f) Environmental Quality, and (g) Social Well-Being.

**SCOPING PROCESS:** Public meetings will be held between November and March to assess public needs and desires relative to protection formulation. These public meetings will be held in the following areas: Corona, Santiago Creek, and Costa Mesa. Participation in these public meetings by affected Federal, State, and local agencies; affected Indian tribes; and other interested private organizations and parties is encouraged. Significant issues to be addressed in these public meetings include: (a) impacts on prime and unique farmlands, (b) impacts on historical and archeological resources; (c) impacts on biological resources (including endangered and threatened species); (d) impacts on water quality; and (e) required relocations.

#### TIME AND LOCATIONS OF SCOPING MEETINGS:

The scoping meetings will be held according to the following schedule:

##### Area, Location, and Time

Prado Dam, Corona, January and February.  
Santiago Creek, Santa Ana and Orange, November, December, January, and February.  
Mouth of Santa Ana River, Costa Mesa, January and March.

Availability of the SDEIS. The SDEIS is anticipated to be circulated for public review in July 1980.

**ADDRESS:** Questions about the proposed action and SDEIS can be answered by: Brian Moore, Project Manager, Tel. No. (213) 688-5443 (FTS 798-5443), U.S. Army Corps of Engineers, 300 N. Los Angeles Street, P.O. Box 2711, Los Angeles, Calif. 90053.

Dated: November 30, 1979.

Gwynn A. Teague,

*Colonel CE, District Engineer.*

[FR Doc. 79-37570 Filed 12-6-79; 8:45 am]

BILLING CODE 3710-KF-M

#### DEPARTMENT OF ENERGY

##### Bonneville Power Administration

**1979 Systemwide Wholesale Power Rates; Order Confirming and Approving Increased Power Rates on an Interim Basis**

**AGENCY:** Department of Energy, Bonneville Power Administration (Bonneville).

**ACTION:** Notice of Approval on Interim Basis of Bonneville Systemwide Wholesale Power Rates.

**SUMMARY:** On December 3, 1979, the Assistant Secretary for Resource Applications pursuant to Delegation Order No. 0204-33, 43 FR 60636 (December 28, 1978) confirmed and approved, on an interim basis, Wholesale Power Rate Schedules EC-8, EC-9, IF-2, MF-2, F-7, F-8, J-2 and H-6, the General Rate Schedule Provisions setting forth the terms and conditions of service under the foregoing rate schedules, and special contract rates and rate schedule provisions. The wholesale power rates, plus an intended increase in transmission rates (see 44 FR 30405, May 25, 1979), will produce an estimated 88-percent increase in total revenues throughout the repayment period.

**EFFECTIVE DATES:** The rates are confirmed and approved on an interim basis effective December 20, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, Department of Energy, P.O. Box 12999, Portland, Oregon 97212, (503) 234-3361, extension 4261, Toll-free numbers for Oregon callers: 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California: 800-547-6048, or  
Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, 12th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8338

**SUPPLEMENTARY INFORMATION:** The new rate schedules, applicable to all of Bonneville's power customers, constitute Bonneville's first systemwide power rate increase since December 20, 1974. Federal Power Commission approval of the existing power rate schedules expires on December 20, 1979, the effective date of the interim order.

Issued in Washington, D.C., December 3, 1979.

Ruth M. Davis,

*Assistant Secretary, Resource Applications.*

[Rate Order No. BPA-2]

##### Bonneville Power Administration—Systemwide Wholesale Power Rates

*Order Confirming, Approving, and Placing Increased Power Rates into Effect on an Interim Basis*  
December 3, 1979.

The functions of the Secretary of the Interior and the Federal Power Commission under the Bonneville Project Act, 16 U.S.C. 832, the Federal Columbia River Transmission System Act, 16 U.S.C. 838, and other statutes relating to the Bonneville Power Administration were transferred to and vested in the Secretary of Energy

pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis. Also under this delegation order, the Secretary of Energy delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

#### Background

##### Existing Rates

Wholesale power from the Bonneville system is delivered to 161 customers pursuant to rate schedules in effect since December 20, 1974, for the period ending December 20, 1979. The rate schedules were approved by the Federal Power Commission in Docket No. E-8978 by orders issued on December 19, 1974, and August 21, 1975. These seven rate schedules are:

EC-6, Wholesale Firm Power Rate; EC-7, Reserve Power Rate; F-6, Wholesale Firm Capacity Rate; H-5, Wholesale Nonfirm Energy Rate; J-1, Wholesale Firm Energy Rate; IF-1, Wholesale Power Rate for Industrial Firm Power; and MF-1, Wholesale Power Rate for Firm Power and Modified Firm Power.

Approval was also granted in that order of Bonneville's General Rate Schedule Provisions, a special contract rate of 3 mills per kilowatthour for certain exchange power, and certain billing provisions relating to power sales contracts between Bonneville and California utilities.

#### Need for Rate Increase

Pursuant to the Bonneville Project Act (Pub. L. 75-329 as amended) and the Federal Columbia River Transmission System Act (Pub. L. 93-454) and Section 2 of the Grand Coulee Third Powerhouse Authorization (Pub. L. 89-448), the Administrator conducted a revised power repayment study of the Federal Columbia River Power System (FCRPS) to determine the revenue necessary to recover the cost of producing and transmitting the electric power Bonneville markets and to repay with interest the Federal investment in the FCRPS as required by statute. The results



of the study showed the need for an 88-percent increase in total revenues over the entire repayment period. This need will be met by the increase in wholesale power rates approved by this order plus a future increase in transmission rates.

The existing wholesale power rate schedules would produce revenues of approximately \$310,000,000 in CY 1980, assuming average water conditions. The new wholesale power rates would produce approximately \$597,000,000 in CY 1980 under these same conditions.

Present revenues are inadequate for a number of reasons. Since present rates were established in 1974, there have been significant increases in the cost of operating and maintaining the Federal generation and transmission system, in the cost of constructing new generation and transmission facilities, and in the cost of power purchases. These cost increases have not been matched by revenue increases. Revenue increases have been limited to those resulting from an increase in the volume of sales.

Another significant change since the 1974 rate adjustment is that pursuant to the 1974 Federal Columbia River Transmission System Act, Bonneville must now operate on a self-financing basis. Bonneville must pay a rate of interest on the bonds it sells to the U.S. Treasury to finance the construction of transmission facilities comparable to the current rate for bonds of similar quality sold in the money market. This has resulted in increased interest costs to Bonneville, as compared with the rates of interest previously paid on appropriated funds.

The most significant cost increases are due to construction delays and cost escalation at thermal plants from which Bonneville has purchased thermal output. Bonneville has contracted to purchase either all or a sizable portion of the capability of four nuclear plants which have either been completed or are under construction. The contracts provide that Bonneville commence payment for its share of plant capacity at fixed dates regardless of whether or not the plants are completed or are operating by those dates. Costs for two of these plants, the Trojan facility constructed by Portland General Electric from which Bonneville acquires Eugene Water and Electric Board's 30 percent ownership share of the capability and the Washington Public Power Supply System (WPPSS) Plant No. 2 from which Bonneville will acquire 100 percent of the capability, were included in 1974 rates. Costs of these plants have increased significantly since 1974. Cost increases have been due to inflation, higher interest rates, changes in regulatory requirements, construction

delays, labor disputes, and other factors. In addition, costs of an additional thermal plant, WPPSS Plant No. 1, from which Bonneville will acquire 100 percent of the capability, are now included. The cost of the fourth plant, WPPSS Plant No. 3, from which Bonneville will acquire 70 percent of the capability, will be included in future rate adjustments.

Until recently Bonneville power sales contracts limited Bonneville rate adjustments to 5-year intervals. The contracts have now been amended to enable Bonneville to adjust its rates annually beginning July 1, 1981. The effect of more frequent rate reviews will permit a series of smaller rate increases rather than infrequent large increases like the present one.

#### Public Notice and Comment

In response to the current power repayment study which showed that revenues from current rates were inadequate to meet Bonneville's repayment obligation, Bonneville published in the January 18, 1978, **Federal Register** (43 FR 2659) a "Notice of Intent to Develop Revised Wholesale Power Rates." After consideration of the recommendations received from Bonneville customers and the public in response to this notice, Bonneville published proposed wholesale power rates in the August 25, 1978, **Federal Register**. It also announced the availability of a Draft Rate Environmental Impact Statement and the opportunity for public review and comment (43 FR 38358). All customers and identified interested parties were notified by mail of the proposed wholesale power rates.

Eight public information forums and eight public comment forums were held throughout the Bonneville service area during the months of September and November 1978. The forums were attended by more than 700 persons. Written comments on the initial rate proposal were received through November 30, 1978. Proceedings of public information and comment forums were transcribed and over 300 written comments and detailed studies were received from Bonneville customers and interested parties.

Bonneville's initial rate proposal was based on a Federal Columbia River Power System (FCRPS) power repayment study, a cost-of-service methodology study, an average cost-of-service study, a long-run incremental cost-of-service study, an irrigation impact study, a time-differentiated average cost rate study, and a rate design study. Copies of these documents remain available to Bonneville

customers and interested members of the public.

Based upon the comments received on the rate schedules and on additional Bonneville studies, the Administrator issued revised proposed wholesale power rates. The revised rates were published in the **Federal Register** on July 17, 1979 (44 FR 41743).

Bonneville held seven additional public meetings on July 31, 1979, and August 1, 1979, to provide technical details on the revised wholesale power rates and to receive public comment. Proceedings of the public meetings were transcribed. Written comments on the revised proposed rates were accepted until August 16, 1979. The public meetings were attended by more than 250 persons and more than 60 written comments were received. In response to the oral and written comments received, the Administrator developed his final proposed rate schedules and General Rate Schedule Provisions. These schedules and provisions are given interim approval by this order.

In addition to studies conducted by Bonneville, the Bonneville Administrator issued a Record of Decision documenting the process by which the rates were developed. This included the significant public comments received, the response to such comments, and the rationale for his decisions.

#### Studies Conducted by Bonneville

The new wholesale power rates are based on studies conducted by Bonneville. Some studies were conducted up to three times in order to reflect the most recent cost data available and the changes made in the rate proposal as a result of public comment. The studies conducted were: FCRPS Power Repayment Study, August 1978 (current and revised), July 1979 (current and revised); FCRPS Cost-of-Service Analysis, August 1978, July 1979, and September 1979; Bonneville Long-Run Incremental Cost-of-Service and Rate Study, August 1978, July 1979, and October 1979; Demand Response to Increasing Electricity Prices by Pacific Northwest Irrigated Agriculture, June 1978, and Supplement, April 1979; Time-Differentiated Pricing Analysis, August 1978, July 1979, and October 1979; Summary Rate Design Study, August 1978, July 1979, and October 1979; Staff Evaluation of Official Record, July 1979, and Addendum, October 1979; and a Draft Rate Environmental Impact Statement, August 1978, and a Final Rate Environmental Impact Statement, October 1979. The new wholesale rate schedules are based on results of the final studies that appropriately reflect

public comments, criticisms, and suggested alternatives.

#### Repayment Study

Bonneville is required by law to set its rates so as to recover the cost to the Government of producing, purchasing, and transmitting electric energy (Section 7 of the Bonneville Project Act). It must also provide the lowest possible rates to consumers consistent with sound business principles (Section 5 of the Flood Control Act of 1944 and Section 9 of the Federal Columbia River Transmission System Act).

The Department of Energy policy for implementing the statutory requirements is set forth in Department of Energy Order No. RA 6120.2, dated September 20, 1979, which replaces Department of Interior policy, 730 DM 3 and 4, without substantive change. Bonneville's total revenues must be sufficient to pay all annual operation and maintenance costs, purchased power costs, and interest expenses; to repay bonds sold to the U.S. Treasury; to repay Federal investment in generation and transmission facilities financed with appropriated funds within 50 years or the service life, if this is less; and to repay irrigation system construction costs at designated Federal reclamation projects which are beyond the repayment ability of irrigators.

Investment bearing the highest interest rates may be amortized first, but each increment of investment must be amortized within its prescribed period.

Repayment periods vary: Transmission investment financed with appropriated funds is repaid within 35 years after the facilities have been placed in service; Federal investment in generating projects must be repaid within 50 years after the project begins producing revenues; each replacement of a power generating facility is repaid within its service life up to a maximum of 50 years; and the repayment periods for interest-free irrigation investments range from 40 to 66 years.

The adequacy of revenues from existing power and wheeling rates to meet these cost recovery criteria is determined by preparing a current power system repayment study. This study projects estimated revenues and costs for the entire power system over the remainder of the repayment periods for major investments to determine if there will be enough revenue to recover all costs. The allowable unamortized investment for any given year is the maximum investment that can remain unamortized in that year if the repayment periods established for each power facility are observed. Each year the amount of new power investment

made that year is added to the allowable unamortized investment.

The power repayment study determines whether the repayment criteria are met by showing annual revenues and expenses and by comparing the estimated future unamortized power investment with the allowable unamortized investment. If the unamortized investment exceeds the allowable amount for any year, an increase in revenues will be necessary to assure complete recovery of all power costs within the required repayment period.

#### Cost-of-Service Analysis

The average cost-of-service analysis provided a starting point for the development of rates and was used to determine the cost of providing power to each of Bonneville's classes of service. Bonneville followed generally accepted utility methods in preparing the study, although modifications were made to reflect the repayment method used by Federal power marketing agencies to determine revenue requirements. While the results of the cost-of-service analysis were used extensively in the design of rates, final rates also reflect adjustments in costs based on the results of the other studies, as well as considerations of value of service, equity, continuity of rates, and ease of administration.

In addition to providing information on the cost of serving various customer classes, the analysis was designed to respond to Section 10 of the Federal Columbia River Transmission System Act which requires that "the recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system."

Three major steps were followed in preparing the cost-of-service analyses. First, investment and annual costs were divided according to functions performed by the power system. These functions were defined as generation, transmission, and metering and billing. Second, generation costs were classified to energy and capacity. Third, functionalized and classified costs were allocated to the service classes. The service classes include power rates, wheeling rates, other services, and miscellaneous services and revenues. The power rate category was further divided into the sub-categories of firm power, reserve power, industrial firm power, modified firm power, firm capacity, firm energy, and nonfirm energy.

#### Time-Differentiated Pricing Analysis

The Time-Differentiated Pricing Analysis based on embedded, historical

costs was prepared as a supplement to the cost-of-service analysis to address the question of cost variation by time period. Separate analyses were conducted for capacity costs and for energy costs. The study results show that Bonneville costs for capacity vary over the years, with three separate distinguishable periods. The three capacity periods are: (1) December through May, Monday through Saturday, 7 a.m. to 10 p.m. (winter); (2) June through November, Monday through Saturday, 7 a.m. to 10 p.m. (summer); and (3) all remaining hours of the year (offpeak).

The energy analysis indicates that there are two periods in which costs vary. There is a summer season from April through August and a winter season from September through March. The cost differences for these two periods are based on costs associated with storage of water used primarily to generate energy during the winter season.

#### Long-Run Incremental Cost-of-Service and Rate Study

The Bonneville Long-Run Incremental Cost-of-Service and Rate Study (LRIC) is a cost-of-service analysis which focuses on the incremental costs incurred to meet load growth requirements or the costs saved by not consuming additional increments of power. This analysis differs from the average cost-of-service analysis where the primary function is to reflect the book cost which Bonneville is required to recover based on particular accounting practices. Bonneville conducted the LRIC study to obtain important information on the direction of future costs and rates.

The LRIC study focuses on the costs Bonneville will incur over a 5 to 7-year planning period, adjusted to a 1980 constant price level. Included in the study are costs for constructing, operating, and maintaining new Federal generation and transmission facilities and costs for power purchases from Washington Public Power Supply System plants.

Costs for incremental generation capacity are based on peaking units which have been added to existing Federal hydroelectric projects. The long-run incremental cost of energy is based primarily on the cost associated with purchases from the Washington Public Power Supply System plants. Transmission costs, all of which are classified as capacity, are based on the cost of Federal transmission facilities added over the planning period to serve load growth and to provide transmission services for the movement of power for other utilities. The LRIC includes an



analysis of cost variance over different time periods. Costs are higher during certain hours of the year and those differences are reflected in the results of the study.

The main conclusions drawn from the study are that long-run incremental costs are more than five times as great as embedded historical costs and that the energy component of long-run incremental costs is increasing much faster than the capacity component. Inflation and a change from an all hydro system to a hydro-thermal system are the major reasons for these trends.

#### *Staff Evaluation of the Official Record and Addendum*

The Staff Evaluation of Official Record notes and discusses each major comment received during the public involvement process. The staff evaluation contains an outline of the issues raised in response to the August 1978 rate proposal and details Bonneville's assessment of these issues. It also discusses the similarities and differences between the August 1978 rate proposal and the July 1979 rate proposal. All issues are combined by generic category.

In October 1979, Bonneville updated the evaluation with an Addendum to the Staff Evaluation of Official Record. The Addendum details new issues raised since the July 1979 rate proposal was published and includes more information on some of the material discussed in the first evaluation. As in the first staff evaluation, it includes Bonneville's assessment of the issues raised. Issues are combined by generic category.

#### *Rate Environmental Impact Statement*

The Draft (August 1978) and Final Rate Environmental Impact Statements (EIS) (October 1979) were used by Bonneville to identify and analyze alternative revenue levels and rate designs. In addition to the 88-percent revenue increase, the EIS identified three revenue level alternatives lower than the 88-percent increase (no change, 30-percent revenue increase, and 83-percent revenue increase) and two revenue alternatives in excess of the 88-percent increase (195-percent increase and 895-percent increase). The EIS described each alternative revenue level, quantified the alternative, reviewed the effects of the alternative on Bonneville, its customers, and the ultimate consumers of the region, and analyzed the environmental impact of each alternative. Some of the analysis was based on the results of an econometric model which projects demand for electricity for each of the

alternative revenue levels. The Rate EIS also contains a discussion of rate design alternatives and their probable impacts.

The impacts of the various important rate design alternatives identified by Bonneville's other studies and means of mitigating the environmental and socioeconomic effects identified are also analyzed in the EIS.

#### *Discussion*

##### *Repayment Issues*

The power repayment study determines the total revenues which must be collected from rates. Issues on repayment relate to appropriate costs to include in the study and to methods that are used in repayment analysis.

##### *Future Federal Projects*

The August 1978 power repayment studies, which were used to support the initial proposed rates, included authorized Federal projects which were not completed and, in some cases, projects on which construction had not been started. The inclusion of these projects continued a practice Bonneville has been following since the enactment of the Grand Coulee Third Powerhouse authorization in 1966 (Pub. L. 89-448). Section 2 of the Act requires the submission annually to the President and to the Congress of a consolidated financial statement for all projects "heretofore or hereafter authorized" for the Federal Columbia River Power System and directs that if the statement indicates that the reimbursable construction costs are likely not to be returned within the period prescribed by law, the rates shall be adjusted as necessary to assure such return.

Several comments questioned the inclusion of these future Federal power projects in the repayment studies. In response, the Bonneville General Counsel prepared a legal opinion on the requirements of Pub. L. 89-448. The opinion concluded that although all authorized projects must be included in the annual report to Congress, it is not necessary to include all authorized power projects in the power repayment studies prepared to determine revenue requirements for setting rates.

Accordingly, the July 1979 revised power repayment studies excluded Federal power projects which would not be in service until after July 1, 1981. This date was selected because Bonneville expects that a further rate increase will be placed in effect at that time, as permitted by the Bonneville contracts. This revision has the effect of establishing a cost evaluation period for power investment of 3 1/4 years after fiscal year 1977, the last year for which

historical data were used in the August 1978 power repayment studies, or 2 1/4 years after the 1978 historical year data used in the July 1979 and September 1979 studies.

The General Counsel's opinion did not address the question of the small amount of future irrigation project investments which are included in the repayment study. The effect of these projects on the rate increase is inconsequential.

#### *Washington Public Power Supply System (WPPSS) Debt Service*

Bonneville began making payments for its 100 percent share of WPPSS Plant No. 2 in January 1977 and is further committed to commence its payments for WPPSS Plants Nos. 1 and 3 in January 1980 and September 1982, respectively. The costs of Plants No. 1 and No. 2 are included in the power repayment study on which new rates are based, but costs of Plant No. 3 are excluded because no payments for that plant will be required prior to July 1, 1981.

Many comments were received on Bonneville's initial August proposal indicating that generally accepted regulatory practice does not permit including the costs of construction work in progress in the rate base. Numerous comments suggested that Bonneville should omit all costs of the WPPSS Plants No. 1 and No. 2. These plants will not be in service from December 20, 1979, through June 30, 1981, the period during which the approved rates are expected to be in effect. However, based on contractual commitments, Bonneville is obligated to pay its share of principal and interest costs of the WPPSS plants commencing as of fixed dates. Those funds must be generated from Bonneville revenues.

In response to these comments, Bonneville supported a proposal that WPPSS be authorized to issue additional bonds to finance the costs to be paid by Bonneville until the plants are placed in service. This would have relieved Bonneville of the obligation to pay any further costs of the WPPSS plants during the period that the new rates are expected to be in effect and would have resulted in a revenue increase of approximately 40 percent instead of approximately 90 percent. A present worth analysis of 40 future years for the two alternatives indicated that Bonneville's customers would have paid less for power under the WPPSS financing alternative. Nevertheless, the financing proposal received approval from only 102 of the 104 participants in the WPPSS plants and could not be implemented. Based on an opinion of the

WPPSS bond counsel and Bonneville's General Counsel, unanimous approval would be required before junior lien bonds could be issued by WPPSS. The process of preparing studies on the WPPSS cost issue and requesting approval of the participants took a period of 5 months in early 1979 to complete.

Bonneville was able to respond, in part, to the comments which suggested excluding WPPSS costs from the power repayment study. Bonneville included only fixed costs of WPPSS Plants Nos. 1 and 2 which it is committed to pay regardless of whether the plants are operating and omitted the variable operating costs and all revenues associated with these plants.

A third comment received on the July 1979 proposal concerning WPPSS costs relates to the dates bonds are issued for financing the WPPSS projects. Since it was estimated that approximately \$277 million of bonds for WPPSS Plant No. 1 will not be sold until after July 1, 1981, it was suggested that these costs should be excluded from the power repayment study. It was argued that this would be more equitable to the ratepayers because it would reflect the costs committed to the WPPSS plants through June 30, 1981, the end of the period for which rates are expected to be in effect.

The proposal to exclude the costs of bonds currently projected to be issued after July 1, 1981, was rejected because Bonneville is committed to paying its share of the interest and amortization for Plant No. 1 bonds regardless of whether the plant is operating or when the bonds are sold. The cost for Plant No. 1 to which Bonneville is irrevocably committed by contract to paying, and which is therefore reflected in the power repayment study, is the interest and amortization on all bonds which it is estimated will have to be issued to complete construction of the plant.

#### *Deferral of Amortization*

One proposal from the public was that a 10 to 15-percent reduction be made in the revenue level proposed by Bonneville so that revenue levels would more closely relate to Bonneville's costs through June 1981, as measured on a cost accounting basis. This would reduce the amount that ratepayers would be charged during that time for construction work in progress for the WPPSS projects and appeared to be possible since the Department's power repayment policy does not require any specified amount of amortization in any year. The deferral of amortization during the period could be made up through future adjustments after the WPPSS plants are in service.

Department of Energy Order No. RA 6120.2 requires that all cost recovery criteria are met. These include the requirement that the power repayment study demonstrate that all of the Federal investments in power facilities will be amortized within a period not to exceed 50 years from the time each facility is placed in service, or the service life of each facility, whichever is less. Bonneville analysis has demonstrated that even less than a 1-percent reduction in the revenue level would cause the maximum repayment periods for amortizing the Federal investment in power facilities to be exceeded.

#### *Cost Escalation*

Several comments were received indicating that Bonneville did not escalate all costs in the repayment study uniformly with respect to the amount of escalation included in the estimates for future years. This issue was resolved in the final repayment study by uniformly escalating all cost estimates to the FY 1980 level, at escalation rates consistent with current Presidential price guidelines.

#### *Other Repayment Issues*

Other repayment issues are discussed in the Staff Evaluation of Official Record, Addendum to the Staff Evaluation of Official Record, and the Administrator's Record of Decision.

#### *Cost-of-Service Issues*

The average cost-of-service analysis is a starting point for rate design. Because the results of that analysis impact final rates, Bonneville received a significant number of comments on the methods that were used in preparing this study. The comments that were received on methodology concerned segmentation of transmission costs, division of costs to capacity and energy, and allocation of costs to various classes of service.

#### *Segmentation of Transmission System Costs*

Segmentation of the transmission system costs into various categories is an important step in the cost-of-service analysis. The degree to which costs are separated can impact final rate design if the rates directly reflect the cost separation by service class. In addition, transmission segmentation is important because the Federal Columbia River Transmission System Act requires Bonneville to equitably allocate recovery of Federal System costs between Federal and non-Federal power utilizing the system.

In the initial proposal, Bonneville chose the "rolled-in" method for

separating transmission system costs. With that approach, all transmission facilities were considered part of the integrated system except for the Pacific Northwest-Pacific Southwest Intertie facilities, some wheeling arrangements for which Bonneville provides services at fixed rates, and leased facilities.

Although some comments received by Bonneville on the proposal indicated agreement with the separation of transmission costs into four segments, others indicated disagreement. Commenters who disagreed suggested that Bonneville expand the number of segments to allow clear identification of the costs incurred to provide service to each customer category or major service category. The concern was that Bonneville does not provide uniform service to all users and, therefore, should not allocate a portion of total cost to each user.

As a result of all comments received and statutory requirements which Bonneville must follow, transmission costs were separated into seven segments for the revised and final cost-of-service analyses. Segments include: (1) Generation integration, (2) transmission system, (3) intertie, (4) fringe area, (5) preference customer delivery, (6) direct-service industrial delivery, and (7) investor-owned utility delivery. These segments were selected primarily to comply with the requirements of the Transmission System Act and to provide a degree of cost division which would allow Bonneville to examine various rate design alternatives based on these cost distinctions. Moreover, the degree of segmentation chosen was compatible with the separation of costs in Bonneville's accounts.

While Bonneville developed seven transmission cost segments in the cost-of-service analysis, it did not base wholesale power rates on this degree of segmentation. This issue is discussed in the section on rate design.

#### *Classification of Costs to Capacity and Energy*

The results of the classification of costs to capacity and energy were used as a starting point for developing capacity and energy charges in the rates, but were adjusted based on other rate design objectives. Adjustments are discussed under rate design issues.

Comments on classification of costs between capacity and energy were directed at the method Bonneville used. Some suggested use of a fixed-variable method which classifies fixed costs to capacity and variable costs to energy. Others suggested some modification to the Bonneville hydro and thermal



classification methods. Another alternative suggested was that Bonneville use the National Association of Regulatory Utility Commissioners' (NARUC) method for classifying hydro costs.

Bonneville examined many different classification methods when preparing its cost-of-service analysis. Exhibit 2, Classification of Generation Costs, in the Cost-of-Service Analysis, details the other methods considered.

The traditional method of classifying costs in a cost-of-service study is to place all costs associated with investment in the capacity costs column and all costs associated with operating the plant in the energy costs column. This method is called the fixed-variable cost approach. In the short run, all the costs which do not vary as output varies are fixed costs and all costs which vary as output varies are variable costs. This approach might be appropriate for a system which is primarily thermal or for systems with a large thermal base and hydro peaking. However, Bonneville rejected the fixed-variable approach because it did not reflect the capacity and energy relationship which was developed during the planning of a total hydro system such as the Federal Columbia River Power System (FCRPS).

In the process of developing the FCRPS, it has been acknowledged that this system produces both energy and capacity. During early development of the system, the projects were run-of-the-river plants and produced significant amounts of energy. As the region has grown and the hydro sites have been developed, thermal generation is being constructed to produce significant amounts of base load energy, while peaking requirements are being met primarily with the construction of additional units at existing hydro projects. For Bonneville, new energy requirements are being met primarily from purchases of the capability of thermal plants, although these plants also provide capacity.

Based on the fact that Federal system costs have been and are being incurred, the traditional method of classifying fixed costs to capacity and variable costs to energy was not appropriate for the FCRPS. The problem with the approach is that classification of capacity and energy are considered strictly from an operational standpoint and a cost causation or planning approach is completely disregarded.

Hydro projects provide both capacity and energy. The Federal Energy Regulatory Commission recognizes this when providing guidance for calculation of the benefits for project justification in the FPC P-35 Manual for Corps of

Engineers and Water and Power Resources Service (formerly Bureau of Reclamation) projects. In the benefit analysis for all FCRPS generating projects, a capacity component and an energy component are included.

Bonneville also examined the method in the National Association of Regulatory Utility Commissioners (NARUC) cost allocation manual for classifying hydro costs. While the rationale for the method is not explained in the NARUC cost allocation manual, it appears that average megawatts under critical water conditions represent dependable capacity and the difference between that figure and average megawatts under average water conditions represents energy. The NARUC manual treats the cost of the megawatts which meet firm load requirements as capacity only and the cost of the remaining resource up to the output under average water conditions as energy only. This is not appropriate for the FCRPS because Bonneville hydro resource planning is based on the premise that sufficient resources must be available under critical water conditions to meet firm loads. Consequently, both capacity and energy requirements must be met from the resources which are available to meet those loads under critical water conditions.

The hydro classification method which Bonneville adopted involves separating cost of hydro plants defined as baseload from cost of additional units. These additional units would not have been needed had capacity requirements not increased. These additional units produce no incremental energy under average water conditions. The fact that once the additional units are installed they may be operated before older units does not negate the fact that they were installed to meet capacity requirements.

The method for classifying hydro costs defined as base units has been modified during the rate development process to incorporate the latest cost data, to reflect the energy-related operation and maintenance costs, to reflect 10-hour peaking capacity rather than instantaneous peaking, and to include an adjustment in the hydro classification formula. As a result of these modifications, 72-percent of the base system costs were classified to capacity and 28-percent were classified to energy.

Bonneville has used a thermal classification method which recognizes that the net-billed thermal plants from which Bonneville purchases power produce both capacity and energy, but that the primary reason for their

construction is to provide baseload energy. While Bonneville recognizes that the plants provide capacity, the least costly alternative for meeting capacity requirements is not a baseload nuclear plant. In fact, additional units are being added at existing FCRPS hydro projects to provide capacity. Other utilities construct plants for capacity only, primarily combustion turbines, pumped-storage hydro plants, or combined cycle plants. Investment costs for these plants are considerably less than investment costs for nuclear plants.

Bonneville has classified that portion of net-billed nuclear plant costs equal to the least expensive alternative cost of capacity to capacity. The cost of hydro peaking units at existing hydro plants constitutes the least expensive alternative cost of capacity. However, the cost of this capacity has been modified from the August 1978 proposal. Bonneville has completed additional studies and has developed an alternative cost of capacity for all the units which have been defined as peaking units at FCRPS projects. Adjustments for sunk costs are included and all costs are at a 1980 price level. This differs from the August proposal where only a limited number of plants were included.

Inclusion of all the additional units with a modification for some of the sunk costs of the original projects, adjusted to 1980 price level, is in response to comments received concerning the approach used by Bonneville to classify thermal costs. Inclusion of all units provides a better representation of Bonneville's alternative costs of capacity.

Another modification to the original method of classifying thermal costs concerns the choice of thermal project costs. The new thermal classification percentages are based on the costs in constant 1980 dollars of WPPSS Plants Nos. 1, 2, and 3. In the August proposal, the classification was based on a 1977 estimate of WPPSS Plants Nos. 1 and 2 and Trojan costs. This change reflects the most recent cost estimates and provides comparability between the hydro and thermal costs.

The difference between the average annual cost per kilowatt of the hydro capacity credit and the average annual thermal cost per kilowatt represents the energy component of the ratio, while the hydro capacity credit represents the capacity portion. This approach results in classification of 21-percent of thermal plant costs to capacity and 79-percent to energy. All fuel and variable operation and maintenance costs of thermal plants are classified to energy.

When the hydro classification costs are combined with thermal classification costs, 53-percent of generation costs are classified to energy and 47-percent to capacity. However, the results of classification of costs to capacity and energy have been adjusted in designing the rates to reflect the results of the long-run incremental cost study. This topic is discussed in the section on rate design issues.

#### *Allocation of Costs to Classes of Service*

Energy-related costs were allocated among the classes of service in direct proportion to the kilowatthours of energy associated with each class. No adverse comments were received concerning this standard method of allocating energy-related costs.

Capacity-related costs were allocated according to the 12 coincidental peak (12CP) method. The 12CP method results in allocation of capacity-related costs to each customer class in proportion to the projected coincidental peak demands for the class, averaged over the 12 months in the test year. Because the power system is designed to provide capacity to meet coincidental peak demands over the full course of the operating year, this method reflects the contribution of each customer class relative to the need for total system capacity.

Alternative methods of allocation capacity costs have been suggested. One possible allocator is a single coincidental peak (1CP). It is assumed in this method that the capacity requirement of a system is determined by the annual system peak load. Capacity-related costs are allocated in proportion to the coincidental demands at the time of the system peak. It has been suggested that the 1CP should be used to allocate generation capacity costs. The relationship between the annual coincidental peak and the average of the 12 monthly coincidental peaks is not significantly different among those classes of service comprising the greatest portion of the total system load. This means that, while the direct-service industrial customers (DSI's) are high load factor customers on the basis of average load compared to peak load, the DSI's and other customer classes are similar with respect to load characteristics that directly bear upon capacity cost allocation.

Another allocation method is based on the single noncoincidental peak demand (1NCP). Use of the 1NCP is based on the assumption that cost should be allocated to each customer class as if it were served independently. Capacity-related costs are apportioned among classes on the basis of maximum

class load without regard to the time of the peak load relative to the system peak. It was suggested that Bonneville use the 1NCP allocation method to allocate transmission system costs. The transmission system does serve loads in widely divergent regions from resources in widely divergent areas, which means the system must be concerned with serving noncoincidental peak loads as well as serving coincidental peak loads. However, use of allocation factors reflecting only noncoincidental loads implies either there is no coincidence to be reflected in the transmission peak loads or the flows in every line segment do not contribute to the loads in areas served directly by other segments.

The 12CP method was retained because although the total network may be needed only during peak load hours, substantial portions of the network are also needed during other hours. The transmission system was constructed, at least in part, to move large amounts of energy from resource to load. Transmission energy is required year-round, thus cost allocation factors must reflect energy components. The 12CP allocation method does reflect energy components, while the non-coincidental peak method does not.

Another issue which has been raised concerning Bonneville's use of the 12CP method is whether its use is consistent with Bonneville's seasonal rates. The 12CP method is not inconsistent with seasonal rates. Allocating costs by the 12CP method is based in part on the fact that the cost of supplying generation capacity for Bonneville is fairly uniform throughout the year. The time-differentiated pricing study based on embedded costs demonstrates this fact. It shows that there are not large capacity cost differences among periods. Nevertheless, relatively small differences in cost did appear and they are reflected in the proposed rates.

#### *Other Cost-of-Service Issues*

Other cost-of-service issues are discussed in the Staff Evaluation of Official Record, Addendum to the Staff Evaluation of Official Record, and the Administrator's Record of Decision.

#### *Rate Design Issues*

The results of all the other studies described in this order plus rate design objectives were used in the Summary Rate Design Study to develop the final rates which appear in each of the new rate schedules. The rate design objectives Bonneville followed in designing its wholesale power rates were: (1) Total revenues must be adequate to meet total repayment obligations, (2) the cost burden should

be distributed in an equitable manner among recipients of the service, (3) rates should be designed to encourage conservation and minimize environmental impact, and (4) rates should be designed to encourage efficient use of the Federal Columbia River Power System by reflecting costs incurred and benefits received. Consideration also was given to rate continuity, ease of administration, revenue stability, and ease of understanding.

#### *Adjustments to Reflect Long-Run Incremental Costs*

The wholesale power rates contain a value of service or share-the-savings rate for the sale of nonfirm energy (Schedule H-6) and the sale of firm capacity (Schedule F-7). These two rates are expected to produce revenue in excess of allocated cost in the amount of \$106.2 million in fiscal year 1980. These excess revenues were used to eliminate the off-peak capacity charge and to reduce the summer capacity charge in Schedules EC-8, IF-2 and MF-2. These adjustments reflect the incremental cost relationship between capacity and energy which was developed in the Long-Run Incremental Cost-of-Service and Rate Study (LRIC).

The results of the LRIC demonstrate that the cost relationship between capacity and energy is changing as Bonneville begins to purchase the output of new thermal plants. By comparing the results of the average cost-of-service analysis with those of the LRIC, this changing relationship becomes evident. These studies show that although all costs are increasing, the costs of supplying energy are increasing at a faster rate than the cost of supplying capacity. The ratio of the long-run incremental demand cost to the average demand cost is 2.0 to 1, while the ratio of long-run incremental energy cost to average energy cost is 8.6 to 1.

There were many comments concerning this adjustment. In summary they are: (1) Because nonfirm revenues are from energy sales, they should be credited to energy costs; (2) the appropriate price signals were produced in the average cost-of-service analysis, and therefore, Bonneville should not try to amplify these signals; (3) because Bonneville chose to implement the results of its time-differentiated pricing analysis, off-peak capacity costs should not be altered; (4) the removal of off-peak capacity costs results in undervalued capacity.

Though it is correct that revenues from Schedule H-6 are derived from sales of energy, use of nonfirm revenues to eliminate the off-peak demand charge



and to reduce the summer demand charge incorporates the proper price signal that future energy costs will increase at a much faster rate than future capacity costs. This signal is not provided in the cost-of-service analysis which is based on average, historical costs. Furthermore, to the extent that the increase in the energy rate encourages conservation of energy, the environmental impact associated with construction and operation of baseload thermal plants will be reduced.

The adjustment in the July 1979 revised rate proposal is different from that contained in the initial proposal of August 1978 when revenues in excess of allocated costs were first applied to the off-peak period capacity costs and then proportionately to the summer and winter period costs. Based on the results of the LRIC, capacity costs should not be reduced during the winter period December through May, Monday through Saturday, 7 a.m. to 10 p.m. Therefore, in the final rates Bonneville did not reduce the winter period capacity charge. Revenues in excess of allocated costs were first applied to off-peak capacity and then to summer season capacity to reflect more closely the LRIC result. The elimination of the off-peak demand charge also simplifies metering and billing.

The time-differentiated pricing analysis did not reflect the results of the long-run incremental cost study which shows that Bonneville will not be incurring additional costs for the off-peak period. The time-differentiated pricing analysis reflects only past costs which have been incurred and shows that some costs have been incurred to serve off-peak period capacity requirements. In order to provide a price signal on the direction of future costs, adjustments were made in those cost components for which Bonneville has the least concern. Capacity is not undervalued. The results of LRIC indicate that energy is undervalued and that any adjustments which are made in rates should be made so that proportionately more revenues are collected from the energy charge.

#### Time-Differentiated Pricing

Bonneville received many comments on the time-differentiated pricing analysis and incorporated some of these comments into the design of the new rate schedules. Rate schedules EC-8, IF-2, and MF-2 contain both daily and seasonal differentials in the capacity rate and a seasonal differential in the energy rate.

Bonneville received comments questioning the method selected to determine seasonal and diurnal capacity

periods. It was suggested that Bonneville should not have based the selection of seasonal capacity pricing periods on probability of negative margin data and that a more appropriate method would entail an analysis of monthly peak load data. The probability of negative margin (PONM) method was criticized because the results can be influenced by the scheduling of maintenance. It was noted that probabilities of negative margin can be shown during months with high scheduled maintenance even though capacity requirements are much less during these months than during other months of the pricing period. Use of the suggested alternative method may result in different pricing periods. Additionally, some customers and customer groups argued that the daily peak period is too long to allow effective shifting of the load to the off-peak period.

Monthly peak load data are inadequate for determining pricing periods because these data reflect only demand for power. Probability of negative margin data take into account both the projected demand for capacity and the monthly availability of resources considering hydrological conditions, hydro and thermal capacity, and maintenance. While the probability of negative margin is influenced to a certain degree by maintenance schedules, it still represents the best indicator of appropriate time periods for developing rates. Moreover, probability of negative margin reflects both the supply of and demand for electricity, and this is preferable to examining only one side of the relationship, as is the case with using only load or generating data.

The selection of the diurnal periods in the initial proposal was based primarily on an analysis of total Federal generation and the assumption that the probabilities of negative margin are equal to zero for all hours with average ratios of hourly generation to daily peak generation of less than 90 percent.

Firm load data were available for the revised and final studies. An analysis of firm loads and probability of negative margin data indicated that 99.9-percent of PONM occurs for those hours during the day in which loads are 90-percent of daily peakloads or greater. Use of 90-percent criteria results in a 15-hour daily peak period, 7 a.m. to 10 p.m.

Some comments were received that advocated a larger energy rate differential based on seasonal cost differences. It was suggested that the following costs are reasons for a larger differential: availability credits, thermal

fuel costs, short-term energy purchases, and Hanford energy purchases.

It was argued that the availability credit dollars should be collected from the winter energy rate because Bonneville is more likely to restrict industrial loads in the winter than in the summer.

Restriction of industrial loads occurs to protect the system's ability to develop its firm energy capability over a 42-½-month critical water period, the planning criterion for critical water conditions, and is not based on a winter planning period. Therefore, the cost to Bonneville of the availability credit is related more closely to the 42-½-month critical water period than to any given season, and collection of revenues to pay for the credit should be spread throughout the year.

It was also suggested that a larger seasonal differential is appropriate because thermal fuel costs should be applied to the winter period. However, baseload thermal plants are designed to be operated throughout the year except for planned maintenance, refueling outages, and forced outages. These outages are dependent upon many factors including fuel life, equipment failure, demand for energy, and the availability of alternative resources, and thus may occur throughout the year. These thermal resources have been added to the FCRPS to supply needed energy on an annual basis under critical water conditions, based on Bonneville's planning criteria. From a planning perspective, increases in demand for energy at any hour of the year require baseload thermal additions. Thus, the costs of providing energy from base load thermal plants are the same for each hour of the year, regardless of operating characteristics.

The suggestion that the costs of Hanford purchases and short-term energy purchases should be applied only to the winter period only was also considered inappropriate. If Hanford energy is recalled and/or outside energy is purchased during a year, it is in order to protect the system's ability to develop its firm energy capability in future years given the planning criterion of critical water conditions. This is not a seasonal issue, but one that is related to the 42-½-month critical period.

#### Availability Credit

The IF-2 rate schedule for firm power sales to direct-service industrial customers (DSI) contains an availability credit designed to compensate customers for power delivery restrictions. Bonneville can restrict up to one-quarter of a direct-service industrial customer's contract demand at any time

and for any reason. Second quartile restrictions can be made for delays in completion of hydroelectric and thermal plants. Restrictions can also be made in the event of forced outages in order to maintain system stability. The restriction rights allow Bonneville to avoid developing additional resources which otherwise would be required, thereby reducing the environmental impact associated with construction and operation of additional power plants.

The expected annual cost of the availability credit is appropriately \$32.3 million. This includes a component for capacity restrictions based on the estimated cost of capacity to avoid the restrictions and a component for energy restrictions based on the estimated cost of replacing energy to avoid the second quartile energy restrictions. The dollars associated with energy restrictions are recovered through the energy component of the rates. The dollars associated with the capacity restrictions are recovered through the capacity component of the rates.

The availability credit has been modified throughout the rate development process. The availability credit formula contained in the August 1978 rate proposal represented an increase in the existing IF-1 credit corresponding to the magnitude of the Bonneville rate increase to industries, while maintaining the same basic form as the existing availability credit. The average annual credit which would have been given under the August 1978 proposal was \$40 million, which is approximately 90 percent greater than the existing IF-1 annual credit.

Comments were received concerning both the average amount of availability credit that would be given under the August proposal and the manner in which the credit would be given. The \$40 million credit was criticized as not being adequately documented. One suggestion was to estimate the amount of revenues potentially available if the energy which is subject to restriction were instead sold in secondary markets. Others suggested that availability credits should be greater than \$40 million, arguing that the cost of building incremental generation equal in size to the restriction rights provided by the DSI's interim contracts is significantly greater than \$40 million.

The magnitude of the availability credit was reduced to \$28 million for the revised proposal of July 1979, based on the estimated cost of replacing energy lost to avoid second quartile restrictions. The DSI customers commented that the availability credit in the July proposal was inadequate because (1) it did not recognize the

value of capacity reserves, (2) it did not recognize the value of being able to interrupt the top quartile interruptible energy provided by the DSI's, and (3) it underestimated the cost of purchasing replacement energy. The DSI's also commented that the structure of the Credit should be changed because it provides Bonneville with an incentive to restrict DSI loads because the total availability credit decreases with additional restrictions in excess of 25-percent of contract demand.

For the final rates, Bonneville reevaluated the cost of replacement energy. Further analysis indicated the cost of replacement energy should be revised upward from 27 mills per kilowatthour to 30 mills per kilowatthour.

Bonneville also reevaluated the issue of a capacity credit. Bonneville has generally planned to provide sufficient capacity to meet the industrial loads whenever sufficient energy is available for this purpose. This results in an additional cost to Bonneville. However, whenever Bonneville cannot meet all firm capacity loads, it has the contractual option of restricting DSI loads in lieu of restricting other firm loads. If such restrictions are made, the implication is that Bonneville has not acquired enough capacity resource (or transmission capability) and Bonneville's total costs are less than the amount necessary to provide reliable service. Based on these cost distinctions, it is appropriate to consider such restrictions in determining availability credits.

In contrast, Bonneville has not incurred the obligation to meet top quartile energy loads under all conditions (for example under low water flow conditions). The limited obligations contained in the IF and MF contracts reflect the historical development of Bonneville's obligation and ability to supply energy under various conditions. Bonneville has incurred some expense in facilities required to meet top quartile energy loads but only to the extent that energy is available to meet the loads. Given the limited expense and obligation involved along with the fact that the DSI's only pay for the energy received, it is inappropriate to consider top quartile energy restrictions in determining availability credits.

While it is true that total availability credit will decrease with each additional restriction beyond 25-percent, this will have no impact on Bonneville's decision to restrict. As indicated above, the amount of the total availability credit is based on the cost of capacity restriction for the top and second quartile and the replacement cost of energy due to second quartile energy

restrictions. From an analysis based on average water conditions, the average annual replacement costs of these restrictions is expected to be \$32.3 million. Although actual compensation for the restrictions could have been accomplished in a number of ways, past practice and the concern for revenue stability constrain the choice to a form that is directly related to top quartile restrictions.

Bonneville's contractual obligations limit its ability to restrict industrial load. In addition to other firm loads, Bonneville is obligated to serve the bottom three quartiles of industrial load. As set forth in the industrial firm contracts, Bonneville can restrict the top quartile of the DSI's contract demand at any time for nearly any reason. Restrictions beyond the top quartile can be made only for delays in construction or inability to operate new generating projects and in the event of forced outages in order to maintain system stability. Regardless of the economic incentive to restrict beyond the top quartile, Bonneville's contractual obligations require that the lower three quarters of the industries' loads be served if resources are available.

#### Charges for Delivery Facilities

The 1974 EC-6 rate schedule included a separate charge based on the voltage of the customer's point of delivery. The charge was initiated to recognize that some customers' take power at higher voltages and require less transformation than others. The transformation charge has been eliminated in the new rates.

Bonneville has received comments for and against a separate charge for lower voltage delivery facilities. The arguments presented for a continuation of the transformation charge can be divided into two general categories: (1) continuity of rates, and (2) incentive for customers to build their own delivery facilities. Similarly, the arguments objecting to the voltage-based transformation charge can be put into two categories: (1) postage stamp rate concept should be maintained, and (2) cost differences are not related to voltage only.

Bonneville has examined various rate forms as options to the existing transformation charge. Although it may seem obvious that lower voltage delivery facilities are more expensive than higher voltage delivery facilities, Bonneville found that there is very little correlation between higher cost and lower voltage. Location, size, reserve capacity, chronological date of initial service, and voltage all have some impact on costs. It would be inequitable



to isolate and develop a separate charge for only one of these cost indicators.

#### Baseline or Multi-Tier Rates

Several persons commenting on Bonneville's August 1978 rate proposal expressed concern that the proposed rate schedules contained no provision for multi-tier or baseline rates. Subsequently, Bonneville investigated two methods of applying a baseline approach to wholesale power rates.

Under the first baseline method the output of Bonneville's lowest cost generation resources would be allocated to serve the needs of a designated segment of end-use customers (such as residential users or irrigators). The generation cost component of this baseline rate would reflect the average cost of those resources assigned to serve baseline loads. This average cost would depend on the size of the baseline load and would gradually increase as the number of resources committed to baseline service increased.

The other baseline approach was based on a separation of Bonneville's hydro and thermal power costs. Under this approach, the rate for baseline power would reflect the average cost of all of Bonneville's hydro resources. The rate for power not committed to serving baseline requirements would reflect a meld of the costs associated with thermally generated power acquired by Bonneville as well as that portion of Bonneville's hydro resources not required for baseline service.

The first baseline approach reflecting the lowest cost resource would result in a baseline rate lower than the rates contained in this order which are based on melded power cost. The baseline rate reflecting average hydro cost would currently provide only a slightly lower rate to baseline customers.

Analysis of these baseline approaches indicated that neither approach would have much impact on reducing power demand in the Northwest in the near future because of the small amount of thermal resource which is presently included in Bonneville's rates. Also, because use of multi-tier baseline rates would be a sharp break from the melded rate principle on which Bonneville has always based rates and because such rates present difficult problems of definition and administration, a baseline rate concept has not been included in the rates contained in this order.

#### Share-the-Savings Rate for Nonfirm Energy

Rate Schedule H-6 contains a share-the-savings rate for nonfirm energy in contrast to the fixed rate in prior rate schedules. This proposal has been very

controversial and has received a good deal of attention during the public involvement process. The rate approved herein contains several significant changes from the initial proposal of August 1978.

The nonfirm energy that Bonneville sells under the H-6 rate schedule is the energy which is available after the commitments of firm energy have been met. The amount of nonfirm energy sold in most years is substantial. For example, during the 10-year period from fiscal year 1969 through 1978 the amount sold in each fiscal year ranged from a low of 268,000 megawatt-hours in 1977 to 21,500,000 megawatt-hours in 1978. This constituted about 15.5-percent of the total year sold by Bonneville during this 10-year period. Fifty percent of the nonfirm energy was sold in the Pacific Northwest and the remainder was sold outside the region, principally in the Southwest. The revenues during this period from these sales averaged \$27,752,000 a year, which was 14.4-percent of Bonneville's total revenues. Under the H-6 rate schedule it is estimated that the revenues will average \$89 million a year, or about 15-percent of the total.

Nonfirm energy sales are made on a priority basis. After all markets for nonfirm energy in the Pacific Northwest have been satisfied, nonfirm energy which would otherwise be spilled is marketed outside the Northwest. The Pacific Northwest Regional Preference Act (Pub. L. 88-552) gives preference rights to all utilities in the Northwest. Preference customers outside the Northwest have preference rights on surplus Federal energy exported from the Northwest.

Pacific Southwest utilities also are able to acquire non-Federal energy from Pacific Northwest utilities either through a trust fund agreement, with Bonneville acting as their agent, or through direct contract with the Pacific Northwest utilities.

There were two basic objectives followed in developing the H-6 rate schedule. The first was to develop a rate which would share benefits of nonfirm energy sales equitably between Bonneville and purchasers of this energy for displacement of their thermal generation. This will have the further effect of sharing benefits of nonfirm energy among Bonneville's customers in the Northwest and utilities outside the Northwest. The basic rate for thermal displacement does this by reconciling the difference between the cost of energy production and its value to the purchaser so that an appropriate share of the potential savings to the purchase benefits all Bonneville customers.

The second objective was to develop a rate with enough flexibility to allow Bonneville to react to market conditions and water conditions to ensure that all available nonfirm energy could be sold. The provision permitting Bonneville to set the rate below 50-percent of decremental costs is essential to avoid spilling water when sales at the formula-derived rate are not competitive in the wholesale market.

The H-6 rate for nonfirm energy sales for thermal displacement is 50 percent of either the decremental cost in mills per kilowatt-hour of the displaced thermal resource or the rate in mills per kilowatt-hour associated with the displaced purchase of energy. The maximum charge is 20 mills. The minimum charge is 6.5 mills per kilowatt-hour during peak periods and 4.5 mills per kilowatt-hour during off-peak periods. Bonneville may determine that because of water and market conditions a rate of less than 50-percent of the decremental cost or purchase cost may be charged, but not less than the minimum. For sales to a Pacific Northwest customer which is concurrently selling energy outside of the Pacific Northwest, the rate to Bonneville is one-third of the rate the purchaser is charging for such sales outside the region, limited by the maximum and minimum charges. When nonfirm energy is sold by Bonneville for purposes other than thermal displacement, the charge is 6.5 mills per kilowatt-hour on-peak and 4.5 mills per kilowatt-hour off-peak.

The comments in opposition to the share-the-savings concept can be grouped into four categories: (1) The rate is a violation of the ratemaking principle and the Congressional intent that rates be based on cost; (2) it is without precedent; (3) it represents a violation of national energy policy because it will result in increased oil consumption; (4) it discriminates among classes of service and among regions.

Because the incremental cost of nonfirm hydroenergy is near zero, cost of service alone is not an appropriate basis for pricing nonfirm energy. Nonfirm energy becomes available when water flows are above the critical level and can be generated at the hydro facilities with little or no increase in costs. Variable thermal resource costs range from 5 to 6 mills per kilowatt-hour for nuclear plants and from 30 to 40 mills per kilowatt-hour for oil-fired plants. If nonfirm energy is sold at or near cost, the primary beneficiaries of the nonfirm energy rate are customers in the Pacific Northwest having high operating cost thermal generation and

those outside the Pacific Northwest because they are able to purchase energy at a rate much below their alternative costs. This does not result in an equitable sharing of benefits among all customers.

As is evident from a reading of the legislative history of the Bonneville Project Act, Congressional intent in enacting Section 7 was to recover the overall costs allocated to the power production function of the Federal multipurpose dams, plus transmission costs, rather than the intent that individual rates follow costs of providing each of the many services. More importantly, Congress expressly directed in Section 6 that rates "shall be fixed and established with a view to encouraging the widest possible diversified use of electric energy." Thus, Congress clearly established a policy of basing rates for individual services on considerations other than costs.

The legislation under which Bonneville operates does not specifically address a share-the-savings rate concept. Its use is implied, however, in Section 5 of the Pacific Northwest Regional Preference Act (16 U.S.C. 837d) which refers to the sharing of benefits and states:

"All benefits from such exchanges, including resulting increases in firm power shall be shared equitably by the areas involved, having regard to the secondary energy and other contributions made by each."

This statutory charge should be read together with the language from Section 6 of the Bonneville Project Act:

"The said rate schedules may provide for uniform rates or rates uniform throughout prescribed transmission areas in order to extend the benefits of an integrated transmission system and encourage the equitable distribution of the electric energy developed at the Bonneville Project." (Emphasis added).

The Senate and House Committee reports on the Regional Preference Act and the Congressional Record remarks of individual Senators and Congressmen indicate that in enacting the legislation it was contemplated that there should be a continuing and mutual sharing of benefits between the Pacific Northwest and the Pacific Southwest in all power sales, not just exchanges of energy or capacity under Section 5 of the Act.

Bonneville was encouraged to adopt a share-the-savings pricing mechanism by the General Accounting Office. In a letter from that office on September 11, 1978, the Regional Manager stated:

"The current Bonneville rate for secondary energy may be inconsistent with sound business principles and with the concept of

equitable sharing of benefits it does not fully reflect the value of the energy it displaces."

Share-the-savings or split rates for sales of nonfirm energy are common among utilities throughout the United States. Three Federal power marketing administrations, Southeastern, Southwestern, and the Western Area (Western) all have such charges for the sale of surplus power in at least some contracts. Their charges are all based on a percentage of the purchaser's fuel cost savings. These percentages range from 50-percent in the case of Southwestern to 85-percent for some of Western's sales. An opinion of the Assistant Solicitor for Power, Department of Interior, dated May 20, 1976, concluded that an 85-percent share-the-savings rate for the Pick-Sloan Missouri Basin Program was legal because the "power marketing statutes do not require that the price for each category of service must be based on the cost of that service."

A share-the-savings principle was used in establishing the fixed rates for nonfirm energy that were in effect when the intertie between the Northwest and Southwest became operational. Oil-fired generation in California had a decremental cost of 3 to 4 mills per kilowatt-hour and the cost to generate nonfirm energy in the Northwest was less than 1 mill per kilowatt-hour at that time. Bonneville's rate for surplus energy was 2.5 mills per kilowatt-hour between 1965 and 1974, except when the system was surplus so that sales could be made to California. When surpluses were available, the rate was reduced to 2.0 mills per kilowatt-hour in both regions which resulted in an approximate sharing between the Northwest and Southwest of the benefits from displacement of oil-fired generation in California. In 1974 when new rates became effective, the nonfirm energy rate was increased to 3.0 mills per kilowatt-hour in the summer and 3.5 mills per kilowatt-hour in the winter. This constituted a departure from the share-the-savings principle because by that time oil costs in California had risen to about 15 mills per kilowatt-hour, resulting in an inequitable sharing of the benefits of displacing thermal generation between the two regions which now can be corrected.

The share-the-savings rate concept does not result in increased oil consumption. By pricing the nonfirm hydro energy substantially less than the resource it displaces, by maintaining an economic incentive for Northwest utilities to use their coal-fired thermal and nuclear generation to displace relatively higher cost Southwest oil-fired thermal generation, and by enabling

Bonneville to respond appropriately to water and market conditions, oil consumption will be minimized.

Under the H-6 rate in the July 1979 proposal, however, there was an inadvertent disincentive for operators of Northwest thermal projects which had a decremental cost in excess of 10 mills per kilowatt-hour to continue to operate these plants and make sales to the Southwest. The sales price to the Southwest would have had to be twice the decremental cost of the Northwest utility's operating thermal resource before it would have been exported to the Southwest. The final H-6 rate eliminates this problem and now provides incentive for Northwest utilities to purchase nonfirm energy from Bonneville while continuing to operate their low-cost thermal and displace relatively higher cost Southwest oil-fired thermal.

The fourth category of comments involved allegations of discrimination. The initial proposal provided separate nonfirm energy rates for sales within the Pacific Northwest region and for sales outside the region, but that concept has been abandoned. There remains the claim that H-6 inherently discriminates against the Southwest despite the fact that the rate is the same for both regions because the decremental cost of resources is higher on an average in the Southwest than in the Northwest.

It is true that there are more resources with high decremental costs in the Southwest because that region has traditionally relied on oil-fired generation. However, some oil-fired plants are part of the resources of the Pacific Northwest. Also, the rate that California utilities will pay Bonneville for nonfirm energy will depend upon the availability of other nonfirm energy supplies from the Pacific Northwest, and the rate at which the energy is offered. Use of the intertie transmission capacity is determined on a priority basis between Bonneville and Northwest utilities based on the transactions they have negotiated for sales to the Southwest. Each Northwest entity declares an amount of surplus available at a given price, and negotiates the sale with a Southwest utility. As a result, if a Northwest utility is willing to sell nonfirm energy to a Southwest utility at a rate less than 50 percent of the decremental cost of the Southwest utility's displaceable resource, then Bonneville will reduce the price for nonfirm energy in order to ensure that the hydro resource will be fully utilized.

Whenever the supply of nonfirm energy in the Northwest for export to the Southwest is less than the intertie capacity, Bonneville probably will sell



energy at the full rate (50-percent of the decremental cost). However, if there is a supply of nonfirm energy in the Northwest more than sufficient to load the intertie, Bonneville believes that the rate at which it sells nonfirm energy to the Southwest will be quickly lowered to the floor of 4.5 mills per kilowatt-hour during off-peak hours and 6.5 mills per kilowatt-hour during peak hours. Based on an analysis for 1980, Bonneville estimates that California utilities on the average will be paying approximately 8-mills per kilowatt-hour under the H-6 Rate Schedule, only 1 mill per kilowatt-hour in excess of Bonneville's 7-mill per kilowatt-hour average cost of power.

#### *Variable Charge in the Wholesale Firm Capacity Rate Schedule, F-7*

The F-7 firm capacity rate schedule is for the sale of peaking capacity. This schedule separately identifies rates for (1) annual capacity (delivery of capacity throughout the year as requested by the customer) and (2) seasonal capacity (capacity delivered during 5 summertime months, principally to Pacific Southwest utilities). To encourage capacity purchasers to limit their usage of Federal generating facilities, the capacity rate includes an additional monthly charge for capacity usage in excess of 6 hours per day.

The reason for this additional charge is that the Federal hydro system cannot generate as much capacity during a sustained daily period (for example, in excess of 6 consecutive hours) as it can for shorter periods (for example, less than 6 hours). When the Federal system generates capacity for extended periods, the peaking capability of the system and therefore, its ability to meet firm commitments, is reduced. The F-7 rate schedule provides a load shaping service by allowing for the return during offpeak hours of the energy which was delivered with the peak. One result of extended use of this peaking arrangement is that the return of significant amounts of energy during offpeak hours may at times force the Federal system into a spill condition.

Several objections have been expressed to the inclusion of this variable charge in the F-7 rate. The principal objections were that (1) the cost of purchasing capacity in excess of 6 hours was greater for customers purchasing under the F-7 rate schedule than for firm power customers purchasing under the EC-8 rate schedule and (2) the inclusion of the variable charge in the F-7 rate schedule unilaterally changes the nature of a commodity sold under existing fixed contracts.

The cost of capacity purchases in excess of 6 hours under the F-7 rate exceeds the cost under the EC-8 rate because the service provided is different. The F-7 rate provides a load-shaping service by allowing for the return of energy during offpeak hours. Raising the cost of this service through lowering the maximum number of hours that capacity purchases can be made without any additional charge does not constitute a unilateral change in the nature of the commodity sold. It does reflect the fact that the sustained peaking capability of the Federal hydro system is reduced if the time period over which peaking capability must be maintained is increased.

The F-7 rate schedule conforms with the standard wholesale firm capacity contract provisions. Bonneville's firm capacity customers remain entitled to receive firm capacity in the amount specified by contracts; only the rate at which this service is provided has been changed.

#### *Irrigation*

Two features of the initial EC-8 rate proposal were of special significance to irrigators. Since irrigation loads are substantially larger during the summer than during the winter, elimination of a seasonal energy rate as was proposed in August 1978 would have resulted in higher power costs for utilities serving large irrigation loads. Bonneville reexamined the issue of a seasonal energy rate in response to comments received on its initial proposal and concluded that justification does exist for a seasonal energy rate based on hydro storage costs. The new rates include a seasonal energy rate. In addition, the capacity charge is seasonally differentiated, with a higher rate during the winter period based on the results of the time-differentiated pricing analysis and an adjustment based on the results of the long-run incremental cost study. This differential benefits customers with large irrigation loads.

Under the new rates the energy charge will be increased significantly more than the capacity charge. With existing rates in 1980, 71-percent of revenues from firm power sales would have come from the capacity charge and 29-percent from the energy charge. Under the new rates for 1980, 40-percent of revenues from firm power sales will be derived from the capacity charge and 60-percent from the energy charge. This has an important impact on utilities serving large irrigation loads. During the summer, irrigation loads are relatively high and uniform. Therefore, a larger portion of the total cost of serving

irrigators is associated with energy charges (as opposed to capacity charges) than is the case of most other customers. This has created a proportionately greater impact on utilities with a large irrigation load than on other firm power customers and reflects the price signal that energy costs are increasing much faster than capacity costs.

Bonneville considered a special discount for utilities with large irrigation loads. However, the lower summer energy rate and the lower summer capacity rate benefit these customers and lessen the impact of the rate increase. Special treatment was not offered this class of customers. In most cases the percentage increase in power costs to utilities with high irrigation loads was near the overall Bonneville revenue increase. A reduction in costs for one group of customers based on a special discount results in a cost increase to other groups of customers. From the viewpoint of equity, there is no justification for charging other customers more in order to implement a special irrigation discount.

#### *Computed Demand; Overrun Charge*

Most of Bonneville's preference customers rely on Bonneville for all of their power needs. A few, however, own generation facilities. Several of these allow Bonneville to operate their facilities or have their resources delivered directly to Bonneville. Others operate their own facilities. Some preference customers that do own and operate their own generation facilities are designated by the Administrator to purchase on a computed demand basis because operation of their resources can adversely impact the Federal System either through losses of power or revenue. Bonneville is obligated to provide the difference between the computed demand customer's load and their forecasted resource capability.

A utility that is designated to purchase on a computed demand basis has an ability and an obligation, due to the coordinated operation of resources by utilities in the Northwest, to produce an assured resource capability. The computed demand billing factors provide Bonneville with a means of assuring that the amount of firm power delivered to a customer does not exceed the customer's net requirements, thereby assuring Bonneville that the customer is using its own assured resources for its load.

When a computed demand customer receives more Federal firm power than it is entitled to, under certain conditions the excess amount is called an unauthorized increase or overrun.

Several comments were received concerning this overrun charge. It was viewed as being inequitable and it was suggested that it be eliminated. The basis for the criticism was that the overrun penalty impacts only the computed demand customers prior to the date Bonneville will have insufficient resources to meet projected firm energy loads, and due to variations in load, a computed demand customer, despite its best efforts, might not be able to avoid an overrun.

Most of the objections to the overrun charge and its application have or are being dealt with through the computed demand customers' power sales contracts. Bonneville has rewritten the unauthorized increase section in the rate schedule for purposes of clarification. No substantive changes in the content of this section have been made.

#### *Other Rate Design Issues*

Other rate design issues are discussed in the Staff Evaluation of Official Record, Addendum to the Staff Evaluation of Official Record, and the Administrator's Record of Decision.

#### *Other Considerations—Special Contract Rates and Provisions*

In addition to granting interim approval of Bonneville's wholesale power rate schedules, I am also granting interim approval of certain special contractual deviations as indicated below:

1. A special contractual rate providing for a 3-mill-per-kilowatt-hour charge to be paid by the Western Area Power Administration for exchange energy delivered to its Mead and Tracy substations by the City of Los Angeles, California, or by Southern California Edison Company in lieu of these utilities' obligations to deliver exchange energy to Bonneville. (Contract Nos. 14-03-09239 and 14-03-39448)

This special rate was previously approved by the Federal Power Commission in Docket E-8978.

2. Continuation of certain contractual deviations from General Rate Schedule Provision 7.1 which extends the grace period for payment of power bills and deletes Bonneville's right to cancel a power sales contract with the specified California customers. The subject contracts are between Bonneville and the City of Los Angeles (Contract No. 14-03-51286); the City of Burbank (14-03-53291); State of California (14-03-62887); Pacific Gas and Electric Company (14-03-54132); San Diego Gas and Electric Company (14-03-55347); Southern California Edison Company (14-03-54125); City of Pasadena (14-03-53298); City of Glendale (14-03-53296); and Sacramento Municipal Utility District (14-03-57359). The subject contracts received letter approval from the Secretary of the Federal Power Commission on May 29, 1968, and were reconfirmed by the Federal Power

Commission in Docket E-8978 until December 20, 1979.

3. Special contractual rates for the sale of electric capacity on an emergency basis between Bonneville and Idaho Power Company (Contract No. DE-MS79-79BP90105—\$0.41 per kW week) and Pacific Gas and Electric Company (Contract No. DE-MS79-79BP900—\$0.43 per kW per week or portion thereof and Bonneville's memorandum of October 5, 1979). These contracts provide a service not previously included in Bonneville's rate schedules and were entered into on an emergency basis between Bonneville and its customers. The contractual rates are subject to final adjustment.

None of the subject special contract rates or rate schedule provision deviations will result in excess revenues to Bonneville or endanger timely repayment of Bonneville's annual obligations to the Federal Treasury.

#### *General Rate Schedule Provisions*

The General Rate Schedule Provisions (GRSP's) which are attached to the order have remained unchanged in substance from those which accompany existing rates. A few wording changes have been made which allow the GRSP's to conform to the new rate schedules. No major comments were received to the GRSP's during the rate development process.

#### *Price Stability*

Bonneville is a "government enterprise" within the meaning of the price standards of the President's Council on Wage and Price Stability. The rate increases approved herein comply with the operating margin limitation of these standards because the revenues will be only those necessary to recover costs required by statute to be recovered by the Administrator.

#### *Public Utility Regulatory Policies Act*

Bonneville is a nonregulated utility, having more than 500 million kilowatt-hours in annual sales for direct use. It is therefore required by the Public Utility Regulatory Policies Act (PURPA) (Pub. L. 95-617, 92 Stat. 3117) among other things, to consider, after public notice and hearings, each of six specified ratemaking standards (Section 111(a), PURPA). Hearings were held pursuant to public notice (44 FR 35285, June 19, 1979) on July 19, 1979. The Bonneville Administrator issued a Determination Order concerning the rate standards on November 19, 1979.

#### *Effective Date of Order*

It is not possible to give 30 days notice before the effective date of the rates approved on an interim basis by this

order. Bonneville power sales contracts limit rate adjustments to fixed dates, and the next date is December 20, 1979. If this contractually fixed date is missed, the next opportunity for adjustment will be July 1, 1980. In the interim, Bonneville, which is self-financed, would experience severe cash flow difficulties, in addition to falling behind in its obligation to repay the Federal Treasury for the capital cost of power projects. Rates are subject to final confirmation and approval by the Federal Energy Regulatory Commission (FERC), and the rates approved herein are subject to refund if lesser rates are ultimately approved by the FERC.

#### *Availability of Information*

Information regarding these rates including studies, public information and comment forum transcripts, and other supporting material are available for public review in the office of the Public Involvement Coordinator, Bonneville Power Administration Building, 1002 N.E. Holladay Street, Portland, Oregon 97212, and in the office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

#### *Submission to the Federal Energy Regulatory Commission*

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

#### *Environmental Impact*

Bonneville prepared a Draft Environmental Impact Statement, the availability of which was announced in Bonneville's August 25, 1978, Federal Register Notice (43 FR 38356). Bonneville's Final Environmental Impact Statement was filed with the Environmental Protection Agency on October 9, 1979, and announced by Federal Register notice on October 26, 1979 (44 FR 61637).

Pursuant to 40 CFR 1505.2, Bonneville has a record of decision, incorporated into the "Administrator's Record of Decision 1979 Wholesale Power Rates Proposal," designed to document the decisionmaking process related to the National Environmental Policy Act. The record is available for review at the locations indicated in this order under "Availability of Information" and copies of the Record of Decision may be obtained by the public by writing to the addresses indicated.



## Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective December 20, 1979, the attached wholesale power rate schedules, EC-8, EC-9, IF-2, MF-2, F-7, F-8, J-2, and H-8, together with the attached General Rate Schedule Provisions, and special contract rates and rate schedule provisions as specified in the order. These rates shall remain in effect on an interim basis through June 30, 1981, unless such period is extended or until the FERC confirms and approves them or substitute rates on a final basis.

Issued at Washington, D.C. this 3rd day of December, 1979.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

### Rate Schedules and General Rate Schedule Provisions

#### A. Schedule EC-8—Wholesale Firm Power Rate

Section 1. *Availability*: This schedule is available for the purchase of firm power for resale or for direct consumption by purchasers other than direct-service industrial purchasers which purchase power under rate Schedules IF-2 or MF-2.

##### Section 2. *Rate*:

a. *Demand Charge*: (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.95 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.19 per kilowatt of billing demand; and (3) all other hours: No demand charge.

b. *Energy Charge*: (1) For the billing months September through March: 4.13 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.76 mills per kilowatthour of billing energy.

Section 3. *Billing Factors*: The factors to be used in determining the billing for firm power purchased under this schedule are as follows:

a. For any purchaser not designated to purchase under subsection 3b or 3c: (1) The contract demand as specified in the contract; (2) the measured demand for the billing month adjusted for power factor; and (3) the measured energy for the billing month.

b. For any purchaser designated by Bonneville to purchase on a computed demand basis because of such purchaser's potential ability either to sell generation from its resources in such a manner as to increase

Bonneville's obligation to deliver firm power to such purchaser in an amount in excess of Bonneville's obligation prior to such sale, or to redistribute the generation from its resources over time in such a manner as to cause losses of power or revenue on the Federal System; provided, however, that when a purchaser operates two or more separate systems, only those systems designated by Bonneville will be covered by this subsection:

(1) The peak computed demand for the billing month; (2) the average energy computed demand for the billing month; (3) 60 percent of the highest peak computed demand during the previous 11 billing months; (4) 60 percent of the highest average energy computed demand for the previous 11 billing months; (5) the measured demand for the billing month adjusted for power factor; (6) the measured energy for the billing month; and (7) the contract demand as specified in an agreement between a purchaser and Bonneville for a specified period of time.

c. For any purchaser contractually limited to an allocation of capacity and/or energy as determined by Bonneville pursuant to the terms of a purchaser's power sales contract: (1) The allocated demand for the billing month, as specified in the contract; (2) the measured demand for the billing month adjusted for power factor; (3) the allocated energy for the billing month, as specified in the contract; (4) the measured energy for the billing month.

#### Section 4. *Determination of Billing Demand and Billing Energy*:

a. For a purchaser governed by subsection 3a:

(1) The billing demand for the month shall be factor 3a(1) or 3a(2), as specified in the purchaser's power sales contract, except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing demand for the month shall be factor 3c(2); *Provided, however*, That billing demand factor 3c(2), before adjustment for power factor, shall not exceed factor 3c(1).

(2) The billing energy for the month shall be factor 3a(3) except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing energy shall be factor 3c(4), provided, however, that factor 3c(4) shall not exceed factor 3c(3).

b. For a purchaser governed by subsection 3b:

(1) the billing demand for the month shall be the largest of factors 3b(3), 3b(4), and 3b(5), or 3b(7) if applicable. Factor 3b(5), before adjustment for power factor, shall not exceed the largest of factors 3b(1), 3b(2), or 3b(7) if

applicable, except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing demand for the month shall be factor 3c(2), provided, however, that billing demand factor 3c(2), before adjustment for power factor, shall not exceed factor 3c(1).

(2) the billing energy for the month shall be factor 3b(6) except that at such time as Bonneville determines that the limitation in section 3c is necessary, the billing energy shall be factor 3c(4), provided, however, that factor 3c(4) shall not exceed factor 3c(3). Factor 3b(6) shall not exceed factor 3b(2) times the number of hours during such month.

#### Section 5. *Adjustments*:

a. *Power Factor*: The adjustment for power factor when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. *At-Site Power*: At-site power purchased for consumption by a purchaser shall be used within 15 miles of the powerplant specified in the power sales contract. At least 90 percent of any at-site power purchased for resale shall be used within 15 miles of the specified powerplant.

The monthly demand charge for at-site firm power will be the monthly demand charge for firm power reduced by \$0.257 per kilowatt of billing demand.

At-site firm power is made available only under existing contracts, providing for at-site firm power, at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual

cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This use of facilities charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase*: That portion of (a) any 60-minute clock-hour integrated demand or scheduled demand (the total amount of power scheduled to the purchaser from Bonneville) that cannot be assigned to a class of power which Bonneville delivers on such hour pursuant to contracts between Bonneville and the purchaser or to a type of power which the purchaser acquires from sources other than Bonneville which Bonneville delivers during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month which cannot be assigned to a class of power which Bonneville delivers during such month pursuant to contracts between Bonneville and the purchaser or to a type of power which the purchaser acquires from sources other than Bonneville which Bonneville delivers during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to (a) and the total of such amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be \$0.10 per kilowatthour.

Section 7. *General Provisions*: Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

#### B. Schedule EC-9—Reserve Power Rate

Section 1. *Availability*: This schedule is available for the purchase of:

a. Firm power to meet a purchaser's unanticipated load growth as provided in a purchaser's power sales contract.

b. Power for which Bonneville determines no other rate schedule is applicable; or,

c. Power to serve a purchaser's firm power loads in circumstances where Bonneville does not have a power sales contract in force with such purchaser,

and Bonneville determines that this rate should be applicable.

Section 2. *Rate*: a. *Demand Charge*: (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: \$6.16 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: \$3.76 per kilowatt of billing demand; and (3) all other hours: no demand charge.

b. *Energy Charge*: 26.7 mills per kilowatthour of billing energy.

Section 3. *Billing Factors*: The factors to be used in determining the billing for power purchased under this schedule are as follows:

A. The contract demand as specified in the contract.

b. The measured demand.

c. The contract amount of energy for the month.

d. The measured energy for the month.

Section 4. *Determination of Billing Demand and Billing Energy*: The billing demand and billing energy shall be determined as provided in a purchaser's power sales contract. If Bonneville does not have a power sales contract in force with a purchaser, the billing demand and billing energy shall be the measured demand adjusted for power factor and measured energy.

#### Section 5. *Unauthorized Increase*:

That portion of (a) any 60-minute clock-hour integrated demand or scheduled demand (the total amount of power scheduled to the purchaser from Bonneville) that cannot be assigned to a class of power which Bonneville delivers on such hour pursuant to contracts between Bonneville and the purchaser or to a type of power which the purchaser acquires from sources other than Bonneville which Bonneville delivers during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month which cannot be assigned to a class of power which Bonneville delivers during such month pursuant to contracts between Bonneville and the purchaser or to a type of power which the purchaser acquires from sources other than Bonneville which Bonneville delivers during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to (a) and the total of such amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining

the amount which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be \$0.10 per kilowatthour.

Section 6. *Power Factor Adjustment*: The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 7. *General Provisions*: Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

#### C. Schedule IF-2—Wholesale Power Rate for Industrial Firm Power

Section 1. *Availability*: This schedule is available for the purchase of industrial firm power and/or authorized increase on a contract demand basis and for additional power requested by the purchaser and made available as authorized increase by Bonneville on an intermittent basis.

Section 2. *Rate*: a. *Demand Charge*: (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.95 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.19 per kilowatt of billing demand; and (3) all other hours: no demand charge.

b. *Energy Charge*: (1) For the billing months September through March: 4.13 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.76 mills per kilowatthour of billing energy.

Section 3. *Billing Factors*: The factors to be used in determining the billing for power purchased under this rate schedule are as follows: (a) Contract demand, (b) curtailed demand, (c)



restricted demand, and (d) measured energy.

**Section 4. Determination of Billing Demand and Billing Energy:** The billing demands for industrial firm power and authorized increase, respectively, and for additional power requested by the purchaser and made available by Bonneville as authorized increase on an intermittent basis will be the lowest of the respective contract demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy distributed proportionately among the respective demands for each hour each such demand is applicable during the billing month.

**Section 5. Adjustments:** a. **Availability Credit:** If Bonneville restricts deliveries to the purchaser for any purpose other than scheduled maintenance or forced outages on either the purchaser's system or Bonneville's delivery facilities, then the purchaser will be entitled to an annual billing credit for such restriction. For periods beginning July 1 and ending June 30 (operating year), such credit will be the product of one-twelfth of the sum of the monthly billing demands and the value of the availability credit factor (determined from the appropriate formula below). An appropriate adjustment shall be made to the purchaser's December wholesale power bill based on calculated availability during the first six months of the operating year. A final adjustment, when appropriate, shall be made to the purchaser's June wholesale power bill for availability credits calculated on an annual basis, giving consideration for those credits granted on the purchaser's December wholesale power bill. For periods which do not correspond to an operating year, the sum of the monthly billing demands during the period will be divided by the number of months in the period and then multiplied by the appropriate availability credit factor calculated for such periods. An appropriate adjustment will be made at the earliest practical time. Availability credits will be separately determined for industrial firm power and authorized increases. Availability credits will not apply to additional power made available as authorized increase on an intermittent basis.

#### Annual Availability—A

| Greater than | But less than or equal to |
|--------------|---------------------------|
| .75          | 1.00                      |
| .0           | .75                       |

**Formula For Availability Credit Factor—F**  
 $F = \$56 (1-A)$   
 $F = \$14.00$

b. **Power Factor:** The adjustment for power factor, when specified in this rate schedule or power sales contract, may be made by increasing the appropriate demand (contract, curtailed, or restricted) for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

c. **At-Site Power:** At-site industrial firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site industrial firm power will be the monthly demand charge for industrial firm power reduced by \$0.257 per kilowatt of billing demand.

At-site industrial firm power is made available only under existing contracts, providing for at-site industrial firm power at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This use of facilities charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

**Section 6. Unauthorized Increase:** Any amount by which any 60-minute clock-hour integrated demand exceeds the sum of the billing demand for such hour before adjustment for power factor, plus any applicable scheduled demands which the purchaser acquires through

other contracts for such hour will be assessed a charge of \$0.10 per kilowatthour.

**Section 7. Special Conditions—Advance of Energy:** Bonneville may elect to advance energy under terms and conditions of the purchaser's power sales contract.

**Section 8. General Provisions:** Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

#### D. Schedule MF-2—Wholesale Power Rate for Modified Firm Power

**Section 1. Availability:** This schedule is available for the purchase of modified firm power on a contract demand basis for direct consumption by existing direct-service industrial customers until existing contracts terminate. This schedule is also available for the purchase of authorized increase power on a contract demand basis and for additional power requested by the purchaser and made available by Bonneville as authorized increase on an intermittent basis.

**Section 2. Rate:** a. **Demand Charge:** (1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.95 per kilowatt of billing demand; (2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: \$1.19 per kilowatt of billing demand; and (3) all other hours: no demand charge.

b. **Energy Charge:** (1) For the billing months September through March: 4.13 mills per kilowatthour of billing energy; (2) for the billing months April through August: 3.76 mills per kilowatthour of billing energy.

**Section 3. Billing Factors:** The factors to be used in determining the billing for power purchased under this rate schedule are as follows: (a) Contract demand, (b) curtailed demand, (c) restricted demand, and (d) measured energy.

**Section 4. Determination of Billing Demand and Billing Energy:** The billing demand for modified firm power and authorized increase, respectively, and for additional power requested by the purchaser and made available by Bonneville on an intermittent basis will be the lowest of the respective contract demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy distributed proportionately among the respective demands for each hour each such

demand is applicable during the billing month.

**Section 5. Adjustments:** a. **Power Factor:** The adjustment for power factor, when specified in this rate schedule or power sales contract, shall be made by increasing the appropriate demand (contract, curtailed, or restricted) for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. **At-Site Power:** At-site modified firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site modified firm power will be the monthly demand charge for modified firm power reduced by \$0.257 per kilowatt of billing demand.

At-site modified firm power will be made available under existing contracts, providing for at-site modified firm power at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by Bonneville. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by Bonneville. This use of facilities charge shall be in addition to the charge determined by application of section 2 of the rate schedule as reduced by the provisions of this subsection.

**Section 6. Unauthorized Increase:** Any amounts by which any 60-minute clock-hour integrated demand exceeds the sum of the billing demand for such hour (before adjustment for power factor) plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be

assessed a charge of \$0.10 per kilowatthour.

**Section 7. General Provisions:** Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

#### E. Schedule F-7—Wholesale Firm Capacity Rate

**Section 1. Availability:** This schedule is available for the purchase of firm capacity without energy on a contract demand basis for supply during a contract year of 12 months, or during a contract season of 5 months, June 1 through October 31.

**Section 2. Rate:** a. **Contract Year Service:** \$18.84 per kilowatt per year of contract demand. Interim bills will be rendered monthly at the rate of \$1.57 per kilowatt of contract demand.

b. **Contract Season Service:** \$9.73 per kilowatt per season of contract demand. Interim bills will be rendered monthly at the rate of \$1.946 per kilowatt of contract demand.

c. The capacity rate specified in subsections a. and b. above shall be increased by \$0.265 per kilowattmonth of billing demand for each hour that the purchaser's monthly demand duration exceeds 6 hours. The purchaser's demand duration for the month shall be determined by dividing the kilowatthours supplied under this rate schedule to a purchaser on the day of maximum kilowatthour use between the hours of 7 a.m. and 10 p.m., excluding Sundays, by the purchaser's contract demand effective for such month. If, however, Bonneville does not require the delivery of peaking replacement energy by the purchaser during certain periods, the additional charge above will not be made for such periods.

**Section 3. Billing Factors:** The billing demand will be the contract demand.

**Section 4. Special Provision:** Contracts for the purchase of firm capacity under this schedule will include provisions for replacement by the purchaser of energy accompanying the delivery of such capacity.

**Section 5. General Provisions:** Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

#### Schedule F-8—Emergency Capacity Rate

**Section 1. Availability:** This schedule is available for purchase of emergency capacity requested by a purchaser when Bonneville determines that an emergency condition exists on the

purchaser's system and it has capacity available for such purpose.

**Section 2. Rate:** \$0.42 per kilowatt of demand per calendar week or portion thereof. For deliveries over the Pacific Northwest-Pacific Southwest intertie, made available for the account of a purchaser at the Oregon-California or the Oregon-Nevada border, the charge will be increased by \$0.086 per kilowatt. Bills will be rendered monthly.

**Section 3. Billing Factors:** The billing demand will be the maximum amount requested by the purchaser and made available by Bonneville during a calendar week, provided that if Bonneville is unable to meet subsequent requests by a purchaser for delivery at the demand previously established during such week, such billing demand for such week shall be the lower demand which Bonneville is able to supply.

**Section 4. Special Provision:** Energy delivered with such capacity shall be returned to Bonneville within 7 days of the date of delivery at times and rates of delivery agreed to by the purchaser and Bonneville prior to delivery. Bonneville may agree to accept delay of return energy beyond 7 days if it so agrees prior to the delivery of capacity.

#### F. Schedule J-2—Wholesale Firm Energy Rate

**Section 1. Availability:** This schedule is available for contract purchase of firm energy, to be delivered for the uses, in the amounts, and during the period or periods specified in such contract.

**Section 2. Rate:** 6.1 mills per kilowatthour of billing energy.

**Section 3. Billing Factors:** The contract energy is the billing factor.

**Section 4. Determination of Billing Energy:** The billing energy shall be determined as provided in the purchaser's power sales contract.

**Section 5. Delivery:** Delivery of energy under this rate schedule is assured during the contract period. However, Bonneville may interrupt the delivery of firm energy hereunder, in whole or in part, at any time that Bonneville determines that Bonneville is unable because of system operating conditions, including lack of generation or transmission capacity, to effect such delivery.

**Section 6. Power Factor Adjustment:** The adjustment for power factor, when specified in this rate schedule or power sales contract, may be made by increasing the contract energy delivered for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such



month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by Bonneville. Unless specifically otherwise agreed, Bonneville may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to the purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

**Section 7. General Provisions:** Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

**G. Schedule H-6—Wholesale Nonfirm Energy Rate**

**Section 1. Availability:** This schedule is available for the purchase of nonfirm energy both inside and outside the Pacific Northwest. This schedule is also available for energy delivered for emergency use under the conditions set forth in section 5.1 of the General Rate Schedule Provisions. This schedule is not available for the purchase of energy which Bonneville has a firm obligation to supply.

**Section 2. Rate:** a. Thermal Displacement—This rate is for nonfirm energy sales to any purchaser for displacement of thermal generation. When Bonneville determines that nonfirm energy is available, such energy shall be offered to displace the thermal generation and purchases of energy, consistent with Pub. L. 88-552 and other applicable statutes.

(1) For all nonfirm energy sales for thermal displacement not subject to the provisions of a.(2) below the rate is 50 percent of either (a) the decremental cost in mills per kilowatt-hour of the displaced thermal resource or (b) the rate in mills per kilowatt-hour associated with the displaced purchase of energy. The maximum charge is 20 mills per kilowatt-hour. The minimum charge is 6.5 mills per kilowatt-hour during the period Monday through Saturday, 7:00 a.m. through 10:00 p.m.; and 4.5 mills per kilowatt-hour for all other hours of the year. Bonneville may determine that because of water and market conditions a rate of less than 50 percent of decremental cost or purchase rate, but not less than the minimum rates, may be charged. The purchaser will furnish

Bonneville with either (a) the decremental cost in mills per kilowatt-hour of the purchaser's displaced thermal resource or (b) the rate in mills per kilowatt-hour associated with the displaced purchase of energy.

(2) For nonfirm energy sales to any Pacific Northwest utility during the period when that utility is either operating a displaceable thermal resource or is purchasing energy from a resource and is concurrently selling nonfirm energy outside the Pacific Northwest, as defined in Pub. L. 88-552, the rate is:

Thirty-three percent of the rate in mills per kilowatt-hour that the purchaser receives for concurrent nonfirm energy sales for use outside the Pacific Northwest. The maximum charge is 20 mills per kilowatt-hour. The minimum charge is 6.5 mills per kilowatt-hour during the period Monday through Saturday, 7:00 a.m. through 10:00 p.m.; and 4.5 mills per kilowatt-hour for all other hours of the year. The purchaser will furnish Bonneville with the amount and rate per kilowatt-hour for the purchaser's sale of nonfirm energy for use outside the Pacific Northwest for the period when nonfirm energy purchases are made from Bonneville.

b. Sales other than for Thermal Displacement—This rate is for all nonfirm energy sales which are not applicable to the provisions of a. above.

(1) 6.5 mills per kilowatt-hour during the period Monday through Saturday, 7:00 a.m. through 10:00 p.m.; and

(2) 4.5 mills per kilowatt-hour for all hours of the year not included in subsection b(1) above.

c. For contracts which refer to this schedule for determining the value of energy, the rate is 5.5 mills per kilowatt-hour.

**Section 3. Delivery:** Bonneville shall determine the availability of energy hereunder and the rate of delivery thereof.

**Section 4. General Provisions:** Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, and to the applicable General Rate Schedule Provisions.

**H. General Rate Schedule Provisions**

**1.1 Firm Power:** Firm power is electric power which Bonneville will make continuously available to a purchaser to meet its load requirements except when restricted because the operation of generation or transmission facilities used by Bonneville to serve such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract

Provisions of the contract. Such restriction of firm power shall not be made until industrial firm power has been restricted in accordance with section 1.4 and until modified firm power has been restricted in accordance with section 1.2.

**1.2 Modified Firm Power:** Modified firm power is electric power which Bonneville will make continuously available to a purchaser on a contract demand basis subject to: (a) The restriction applicable to firm power, and (b) the following:

When a restriction is made necessary because the operation of generation or transmission facilities used by Bonneville to serve such purchaser and one or more firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract, Bonneville shall restrict such purchaser's contract demand for modified firm power to the extent necessary to prevent, if possible, or minimize restriction of any firm power. *Provided however,* That: (1) Such restriction of modified firm power shall not exceed at any time 25 percent of the contract demand therefor, and (2) the accumulation of such restrictions of modified firm power during any calendar year, expressed in kilowatt-hours, shall not exceed 500 times the contract demand therefor.

When possible, restrictions of modified firm power will be made ratably with restrictions of industrial firm power based on the proportion that the respective contract demands bear to one another. The extent of such restrictions shall be limited for modified firm power by this subsection and for industrial firm power by the Restriction of Deliveries Section of the General Contract Provisions of the contract.

**1.3 Firm Capacity:** Firm capacity is capacity which Bonneville assures will be available to a purchaser on a contract demand basis except when operation of generation or transmission facilities used by Bonneville to serve such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

**1.4 Industrial Firm Power:** Industrial firm power is electric power which Bonneville will make continuously available to a purchaser on a contract demand basis subject to: (a) The

restriction applicable to firm power, and (b) the following:

(1) The restrictions given in the Restriction of Deliveries Section of the General Contract Provisions of the contract.

(2) When a restriction is made necessary because of the operation of generation or transmission facilities used by Bonneville to serve such purchaser and one or more firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract, Bonneville shall restrict such purchaser's contract demand for industrial firm power to the extent necessary to prevent, if possible, or minimize restriction of firm power. When possible, restrictions of industrial firm power will be made ratably with restrictions of modified firm power based on the proportion that the respective contract demands bear to one another. The extent of such restrictions shall be limited for modified firm power by section 1.2 (b) of these General Rate Schedule Provisions and for industrial firm power by the Restriction of Deliveries Section of the General Contract Provisions of the contract.

**1.5 Authorized Increase:** An authorized increase is an amount of electric power specified in the contract in excess of the contract demand for firm power, modified firm power, or industrial firm power that Bonneville may be able to make available to the purchaser upon its request. The purchaser shall make such request in writing stating the amount of increase requested, the purpose for which it will be used, and the period for which it is needed. Such request shall be made prior to the first calendar month beginning such specified period. Bonneville will then determine whether such increase can be made available, but it shall retain the right to restrict the delivery of such increase if it determines at any subsequent time that such increase will no longer be available.

The purchaser may curtail an authorized increase, in whole or in part, at the end of any billing month within the period such authorized increase is to be made available.

**1.6 Firm Energy:** Firm energy is energy which Bonneville assures will be available to a purchaser during the period or periods specified in the contract except during such hours as specified in the contract and when the operation of the Government's facilities used to serve the purchaser are suspended, interrupted, interfered with,

curtailed, or restricted by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

**2.1 Contract Demand:** The contract demand shall be the number of kilowatts that the purchaser agrees to purchase and Bonneville agrees to make available. Bonneville may agree to make deliveries at a rate in excess of the contract demand at the request of the purchaser (authorized increase), but shall not be obligated to continue such excess deliveries.

**2.2 Measured Demand:** Except where deliveries are scheduled as hereinafter provided, the measured demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands at which electric energy is delivered to a purchaser at each point of delivery during each time period specified in the applicable rate schedule during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract, or as determined in section 3.2 herein. Bonneville, in determining the measured demand, will exclude any abnormal 60-minute integrated demands due to or resulting from (a) emergencies or breakdowns on, or maintenance of, the Federal System facilities, and (b) emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated as determined by Bonneville. For those contracts to which Bonneville is a party and which provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total measured demand so assigned shall constitute the measured demand for each such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be adequately controlled because such points are interconnected within the purchaser's system, or the purchaser's system is interconnected directly or indirectly with the Federal System, the purchaser's measured demand for each class of power for such system for any billing period shall be the largest of the hourly amounts of such class of power which are scheduled for delivery to the purchaser during each time period specified in the applicable rate schedule.

**2.3 Peak Computed Demand and Energy Computed Demand:** The purchaser's peak computed demand for each billing month shall be the largest amount during such month by which the

purchaser's 60-minute system demand exceeds its assured peaking capability.

The purchaser's average energy computed demand for each billing month shall be the amount during such month by which the purchaser's actual system average load exceeds its assured average energy capability.

a. **General Principles:** (1) The assured peaking and average energy capability of each of the purchaser's systems shall be determined and applied separately.

(2) As used in this section, "year" shall mean the 12-month period commencing July 1.

(3) The critical period is that period, determined for the purchaser's system under adverse streamflow conditions adjusted for current water uses, assured storage operation, and appropriate operating agreements, during which the purchaser would have the maximum requirement for peaking or energy after utilizing the firm capability of all resources available to its system in such a manner as to place the least requirement for capacity and energy on Bonneville.

(4) Critical water conditions are those conditions of streamflow based on historical records, adjusted for current water uses, assured storage operation, and appropriate operating agreements, for the year or years which would result in the minimum capability of the purchaser's firm resources during the critical period.

(5) Prior to the beginning of each year the purchaser shall determine the assured capability of each of the purchaser's systems in terms of peaking and average energy for each month of each year or years within the critical period. The firm capability of all resources available to the purchaser's system shall be utilized in such manner as to place the least requirement for capacity and energy on Bonneville. Such assured capability shall be effective after review and approval by Bonneville.

(6) The purchaser's assured energy capability shall be determined by shaping its firm resources to its firm load in a manner which places a uniform requirement on Bonneville within each year of the critical period with such requirement increasing each year not in excess of the purchaser's annual load growth.

(7) As used herein, the capability of a firm resource shall include only that portion of the total capability of such resource which the purchaser can deliver on a firm basis to its load. The capabilities of all generating facilities which are claimed as part of the purchaser's assured capability shall be determined by test or other substantiating



data acceptable to Bonneville. Bonneville may require verification of the capabilities of any or all of the purchaser's generating facilities. Such verification will not be required more often than once each year for operating plants, or more often than once each third year for thermal plants in cold standby status, if Bonneville determines that adequate annual preventive maintenance is performed and the plant is capable of operating at its claimed capability.

(8) In determining assured capability, the aggregate capability of the purchaser's firm resources shall be appropriately reduced to provide adequate reserves.

b. *Determination of Assured Capability:* The purchaser's assured peaking and energy capabilities shall be the respective sums of the capabilities of its hydroelectric generating plants based on the most critical water conditions on the purchaser's system, the capabilities of its thermal generating plants based on the adverse fuel or other conditions reasonably to be anticipated; and the firm capabilities of other resources made available under contracts prior to the beginning of the year, after deduction of adequate reserves. Assured capabilities shall be determined for each month if the purchaser has seasonal storage. The capabilities of the purchaser's firm resources shall be determined as follows:

(1) *Hydroelectric Generating Facilities:* The capability of each of the purchaser's hydroelectric generating plants shall be determined in terms of both peaking and average energy using critical water conditions. The average energy capability shall be that capability which would be available under the storage operation necessary to produce the claimed peaking capability. Seasonal storage shall mean storage sufficient to regulate all the purchaser's hydroelectric resources in such a manner that when combined with the purchaser's thermal generating facilities, if any, and with firm capacity and energy available to the purchaser under contracts, a uniform energy computed demand for a period of 1 month or more would result.

A purchaser having seasonal storage shall, within 10 days after the end of each month in the critical period, notify Bonneville in writing of the assured energy capability to be applied tentatively to the preceding month; such notice shall also specify the purchaser's best estimate of its average system energy load for such month. If such notice is not submitted, or is submitted later than 10 days after the end of the month to which it applies, subject to the

limitations stated herein, the assured energy capability determined for such month prior to the beginning of the year shall be applied to such month and may not be changed thereafter.

If notice has been submitted pursuant to the preceding paragraph, the purchaser shall, within 30 days after the end of the month, submit final specification of the assured energy capability to be applied to the preceding month; provided, That the assured energy capability so specified shall not differ from the amount shown in the original notice by more than the amount by which the purchaser's actual average system energy load for such month differs from the estimate of that load shown in the original notice. If the assured energy capability for such month differs from that determined prior to the beginning of the year for such month, the purchaser, if required by Bonneville, shall demonstrate by a suitable regulation study based on critical water conditions that such change could actually be accomplished, and that the remaining balance of its total critical period assured energy capability could be developed without adversely affecting the firm capability of other purchaser's resources. The algebraic sum of all such changes in the purchaser's assured energy capability shall be zero at the end of the critical period or year, whichever is earlier. Appropriate adjustments in the assured peaking capability shall be made if required by any change in reservoir operation indicated by such revisions in the monthly distribution of critical period energy capability.

(2) *Thermal Generating Facilities:* The capability of each of the purchaser's thermal generating plants shall be determined in terms of both peaking and average energy. Such capabilities shall be based on the adverse fuel or other conditions reasonably to be anticipated. The effect of limitations on fuel supply due to war or other extraordinary situations will be evaluated at the time of occurrence.

(3) *Other Sources of Power:* The assured capability of other resources available to the purchaser on a firm basis under contracts shall be determined prior to each year in terms of both peaking and average energy.

c. *Determination of Computed Demand:* The purchaser's computed demand for each billing month shall be the greater of:

(1) The largest amount during such month by which the purchaser's actual 60-minute system demand, excluding any loads otherwise provided for in the contract, exceeds its assured peaking

capability for such month, or period within such month, or

(2) The largest amount for such month, or period within such month, by which the purchaser's actual system average energy load, excluding the average energy loads otherwise provided for in the contract, exceeds its assured average energy capability.

The use of computed demands as one of the alternatives in determining billing demand is intended to assure that each purchaser who purchases power from Bonneville to supplement its own firm resources will purchase amounts of power substantially equivalent to the additional capacity and energy which the purchaser would otherwise have to provide on the basis of normal and prudent operations, viz, sufficient capacity and energy to carry the load through the most critical water or other conditions reasonably to be anticipated, with an adequate reserve.

Since the computed demand depends on the relationship of capability of resources to system requirements, the computed demand for any month cannot be determined until after the end of the month. As each purchaser must estimate its own load, and is in the best position to follow its development from day to day, it will be the purchaser's responsibility to request scheduling of firm power, including any increase over previously established demands, on the basis estimated by the purchaser to result in the most advantageous purchase of the power to be billed at the end of the month.

Each contract in which computed demand may be a factor in determining the billing demand shall have attached to it as an exhibit a sample calculation of the computed demand of the purchaser for the period having the highest computed demand during the 12 months immediately preceding the effective date of the contract.

2.4 *Restricted Demand:* A restricted demand shall be the number of kilowatts of firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results when Bonneville has restricted delivery of such power for 1 clock-hour or more. Such restrictions by Bonneville are made pursuant to section 8 of the General Contract Provisions for industrial firm power and pursuant to sections 1.1 and 1.2 of the General Rate Schedule Provisions for firm power and modified firm power, respectively. Such restricted demand shall be determined by Bonneville after the purchaser has made its determination to accept such restriction or to curtail its contract demand for the month in accordance

with section 2.5 of the General Rate Schedule Provisions.

2.5 *Curtailed Demand:* A curtailed demand shall be the number of kilowatts of firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results from the purchaser's request for such power in amounts less than the contract demand therefor. Each purchaser of industrial firm power or modified firm power may curtail its demand in accordance with the section entitled "Curtailment of Deliveries and Payment Therefor" of the General Contract Provisions of the contract. Each purchaser of an authorized increase in excess of firm power, modified firm power, or industrial firm power may curtail its demand in accordance with section 1.5 of the General Rate Schedule Provisions.

3.1 *Billing:* Unless otherwise provided in the contract, power made available to a purchaser at more than one point of delivery shall be billed separately under the applicable rate schedule or schedules. The contract may provide for combined billing under specified conditions and terms when (a) delivery at more than one point is beneficial to Bonneville, or (b) the flow of power at the several points of delivery is reasonably beyond the control of the purchaser.

If deliveries at more than one point of delivery are billed on a combined basis for the convenience of the customer, a charge will be made for the diversity between the measured demands at the several points of delivery. The charge for the diversity shall be determined in a uniform manner among purchasers and shall be specified in the contract.

3.2 *Determination of Estimated Billing Data:* If the purchased amounts of capacity, energy, or the 60-minute integrated demands for energy must be estimated from data other than metered or scheduled quantities, Bonneville and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on the estimated billing quantities, a determination binding on both parties shall be made in accordance with the arbitration provisions of the contract.

4.1 *Application of Rates During Initial Operation Period:* For an initial operating period, not in excess of 3 months, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, Bonneville may agree (a) to bill for service to such new or reactivated plant facilities on the basis of the measured

demand for each day, adjusted for power factor, or (b) if such facilities are served by a distributor purchasing power therefor from Bonneville, to bill for that portion of such distributor's load which results from service to such facilities on the basis of the measured demand for each day, adjusted for power factor. Any rate schedule provisions regarding contract demand, billing demand, and minimum monthly charge which are inconsistent with this section shall be inoperative during such initial operating period.

The initial operating period and the special billing provisions may, on approval by Bonneville, be extended beyond the initial 3-month period for such additional time as is justified by the developmental character of the operations.

5.1 *Energy Supplied For emergency Use:* A purchaser taking firm power shall pay in accordance with Wholesale Nonfirm Energy Rate Schedule H-6 and emergency capacity Schedule F-8 for any electric energy which has been supplied (a) for use during an emergency on the purchaser's system, or (b) following an emergency to replace energy secured from sources other than Bonneville during such emergency, except that mutual emergency assistance may be provided and settled under exchange agreements.

6.1 *Billing Month:* Meters will normally be read and bills computed at intervals of 1 month. A month is defined as the interval between meter-reading dates which normally will be approximately 30 days. If service is for less or more than the normal billing month, the monthly charges stated in the applicable rate schedule will be appropriately adjusted. Winter and summer periods identified in the rate schedules will begin and end with the beginning and ending of the purchaser's billing month having meter-reading dates closest to the periods so identified.

7.1 *Payment of Bills:* Bills for power shall be rendered monthly and shall be payable at Bonneville's headquarters. Failure to receive a bill shall not release the purchaser from liability for payment. Demand and energy billings under each rate schedule application shall be rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

If Bonneville is unable to render the purchaser a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by

a final bill. Such estimated bill, if so issued, shall have the validity of and be subject to the same repayment provisions as shall a final bill.

Bills not paid in full on or before the close of business of the 20th day after the date of the bill shall bear an additional charge which shall be the greater of one-fourth percent (0.25%) of the amount unpaid or \$50. Thereafter a charge of one-twentieth percent (0.05%) of the sum of the initial amount remaining unpaid and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full. The provisions of this paragraph shall not apply to bills rendered under contracts with other agencies of the United States.

Remittances received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the 20th day after the date of the bill. If the 20th day after the date of the bill is a Sunday or other nonbusiness day of the purchaser, the next following business day shall be the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the 20th day must bear a postal department cancellation in order to avoid assessment of such further charges.

Bonneville may, whenever a power bill or a portion thereof remains unpaid subsequent to the 20th day after the date of the bill, and after giving 30 days advance notice in writing, cancel the contract for service to the purchaser, but such cancellation shall not affect the purchaser's liability for any charges accrued prior thereto.

8.1 *Approval of Rates:* Schedules of rates and charges, or modifications thereof, for electric energy sold by Bonneville shall become effective only after confirmation and approval by the entity or entities designated to confirm and approve such rates and charges by the Secretary of Energy.

9.1 *Average Power Factor:* The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \frac{\text{Kilowatthours}}{\sqrt{(\text{Kilowatthours})^2 + (\text{Reactive Kilovoltamperehours})^2}}$$

The data used in the above formula shall be obtained from meters which are ratcheted to prevent reverse registration.

When deliveries to a purchaser at any point of delivery include more than one class of power or are under more than one rate schedule, and it is impracticable to separately meter the



kilowatthours and reactive kilovoltamperehours for each class, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for each of the separate classes of power and rate schedules.

**10.1 Temporary Curtailment of Contract Demand:** The reduction of charges for power curtailed pursuant to the purchaser's contract and Sections 1.5 and 2.5 hereof shall be applied in a uniform manner.

**11.1 General Provisions:** The Wholesale Rate Schedules and General Rate Schedule Provisions of the Bonneville Power Administration effective December 20, 1979, supersede in their entirety Bonneville's Wholesale Power Rate Schedules and General Rate Schedule Provisions effective December 20, 1974.

[FR Doc. 79-37665 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

#### Economic Regulatory Administration

##### Ozona Gas Processing Plant, a Partnership; Action Taken on Consent Order

**AGENCY:** Economic Regulatory Administration, Department of Energy.  
**ACTION:** Notice of Action taken and opportunity for comment on Consent Order.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

**DATES:** Effective date: November 26, 1979

**COMMENTS BY:** January 7, 1980.

**ADDRESS:** Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

**FOR FURTHER INFORMATION CONTACT:** Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214/767-7745.

**SUPPLEMENTARY INFORMATION:** On November 26, 1979, the Office of Enforcement of the ERA executed a Consent Order with Ozona Gas Processing Plant, A Partnership, of

Tyler, Texas. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Ozona Gas Processing Plant, A Partnership, wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Ozona Gas Processing Plant, A Partnership, effective as of the date of its execution by the DOE and Ozona Gas Processing Plant, A Partnership.

#### I. The Consent Order

Ozona Gas Processing Plant, A Partnership, with its home office in Tyler, Texas, is a firm engaged in the production and sale of natural gas liquid products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of NGL products, the Office of Enforcement, ERA, and Ozona Gas Processing Plant, A Partnership, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was January 1975 through February 1978, and it included all sales of natural gas liquid products which were made during that period.

2. Ozona Gas Processing Plant, A Partnership, improperly applied the provisions of 10 CFR Part 212, Subpart K, when determining the prices to be charged for its NGL products, and as a consequence overcharged certain of its customers on some of their purchases.

3. Ozona Gas Processing Plant, A Partnership, agrees to refund to the DOE \$177,000, including interest. The terms of the refund consist of \$44,250 to be refunded within 90 days of the effective date of the Consent Order, with the balance of the refundable amount divided into three equal installments to be paid 90 days from first and each other.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

#### II. Disposition of Refunded Overcharges

In this Consent Order, Ozona Gas Processing Plant, A Partnership, agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of

Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of \$177,000 in the manner specified in I. 3. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

#### III. Submission of Written Comments

**A. Potential Claimants:** Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

**B. Other Comments:** The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of

Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Ozona Gas Processing Plant, A Partnership, Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on January 7, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 29th day of November, 1979.

Wayne I. Tucker,

*District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.*

[FR Doc. 79-37672 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

#### Domestic Crude Oil Allocation Program; Entitlement Notice for September 1979; Correction

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**ACTION:** September 1979 Entitlement Notice Correction.

**SUMMARY:** The monthly entitlement notice for September 1979 (44 FR 68513, November 29, 1979) setting forth the September purchase and sale requirements of refiners under the Department of Energy's (DOE) domestic crude oil allocation program contained an error at page 68514, column two. Imports of middle distillates eligible for entitlement issuances was incorrectly reported as "4,106,606 barrels." The correct figure for middle distillate imports eligible for entitlements issuances for September 1979 is "1,108,716 barrels."

**FOR FURTHER INFORMATION CONTACT:** Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, [202] 252-6744.

Issued in Washington, D.C., December 5, 1979.

Lynn R. Coleman,  
*General Counsel.*

[FR Doc. 79-37798 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Docket No. RP71-125 (PGA No. IPR & GRI80-1)]

#### Natural Gas Pipeline Co. of America

##### Change in Rates Under the Incremental Pricing Provisions of Part 282 of the Commission's Regulations and Change in GRI Surcharge Authorized by Commission Opinion No. 64

November 29, 1979.

Take notice that on November 21, 1979, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective January 1, 1980: Thirty-ninth Revised Sheet No. 5 Original Sheet No. 5C Original Sheet No. 5D.

The purpose of the filing is to reflect rate adjustments in accordance with Sections 18, 26 and 29 of the General Terms and Conditions of Natural's Tariff.

The unit adjustment under Section 18 reflects changes in Natural's purchased gas cost from producer and pipeline suppliers reduced by the gas acquisition costs to be recovered under Section 29-Incremental Pricing Surcharges. The annualized effect of the changes in producer and pipeline supplier rates amounts to approximately \$216.2 million. This increase has been reduced by the portion to be recovered through incremental pricing surcharges which amounts to \$1.9 million on an annualized basis for a net annualized increase of \$214.3 million. The resulting unit adjustments are a decrease in Natural's Demand Charge of \$(0.17) per Mcf and an increase of 21.84¢ per Mcf in its Commodity Charge.

Natural also filed to reflect the GRI surcharge of 0.48¢ per Mcf to be effective January 1, 1980 which was authorized by Commission Opinion No. 64 in Docket No. RP79-75 issued October 2, 1979. The increase of 0.13¢ per Mcf amounts to approximately \$1.3 million annually.

Natural request waiver of the Commission regulations to the extent, if any, required to put the proposed tariff sheets into effect on January 1, 1980.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 79-37598 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP80-21]

#### Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Revision to Tariff Filing

November 29, 1979.

Take notice that on November 20, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Substitute Sixth Revised Sheet No. 213C to Ninth Revised Volume No. 1 of its FERC Gas Tariff to be effective on December 1, 1979.

Tennessee states that this tariff sheet revises a tariff sheet filed on November 1, 1979 in this docket. Tennessee states that the revision is necessary to conform the calculation of carrying charges on balances in its Unrecovered Purchased Gas Cost Account with the provisions of the Commission's Order No. 47-A issued November 9, 1979, in Docket No. RM77-22.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers, all direct customers affected by incremental pricing, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding



is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37590 Filed 12-6-79; 8:45 am]

BILLING CODE 6450-01-M

#### [No. 120]

#### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 27, 1979.

The Federal Energy Regulatory Commission Received Notices From the Jurisdictional Agencies Listed Below of Determinations Pursuant to 18 CFR 274.104 and Applicable to the Indicated Wells Pursuant to the Natural Gas Policy Act of 1978.

#### Utah Division of Oil, Gas and Mining

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-05348/K-115-1(B) (Revised)
2. 43-019-30491
3. 102 Denied
4. Bowers Oil & Gas Exploration Inc
5. Bowers State Well #1-36
6. Wildcat
7. Grand UT
8. 120.0 Million Cubic Feet
9. November 7, 1979
- 10.

#### Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-05962/07323
2. 34-133-21671-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Pochedly #3
- 6.
7. Portage OH
8. .3 Million Cubic Feet
9. November 9, 1979
- 10.
1. 80-05928/01145
2. 34-119-22072-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Bissett 1

- 6.
7. Muskingum OH
8. 12.0 Million Cubic Feet
9. November 9, 1979
10. Columbia Gas Transmission Corp
1. 80-05929/01165
2. 34-119-23690-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Shook #2 MB
- 6.
7. Muskingum OH
8. 5.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Co
1. 80-05930/01183
2. 34-119-22806-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Ohio Power 15B
- 6.
7. Muskingum OH
8. 14.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05931/01212
2. 34-119-23072-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Ohio Power 23-B
- 6.
7. Muskingum OH
8. 7.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05932/01222
2. 34-121-21646-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Teeters Hewst-1G
- 6.
7. Noble OH
8. 5.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Co
1. 80-05933/01237
2. 34-121-21697-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Coyle-Hedge 1G
- 6.
7. Noble OH
8. 14.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Co
1. 80-05934/01247
2. 34-121-21848-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Winkleman 1-MC
- 6.
7. Noble OH
8. 5.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Co
1. 80-05935/01251
2. 34-119-23163-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Ohio Power 25 MB
- 6.
7. Muskingum OH
8. 8.0 Million Cubic Feet
9. November 9, 1979
10. East Ohio Gas Co

1. 80-05936/02955
2. 34-019-20844-0014
3. 108 000 000
4. L & M Exploration
5. Krantz #2
- 6.
7. Carroll OH
8. 5.0 million cubic feet
9. November 9, 1979
10. Bonanza Gas Line
1. 80-05937/02972
2. 34-019-20713-0014
3. 108 000 000
4. L & M Exploration
5. Moore #3
- 6.
7. Carroll OH
8. 3.0 million cubic feet
9. November 9, 1979
10. Bonanza Gas Line
1. 80-05938/02973
2. 34-019-20701-0014
3. 108 000 000
4. L & M Exploration
5. Moore #2
- 6.
7. Carroll OH
8. 3.0 million cubic feet
9. November 9, 1979
10. Bonanza Gas Line
1. 80-05939/02974
2. 34-019-20702-0014
3. 108 000 000
4. L & M Exploration
5. Moore #1
- 6.
7. Carroll OH
8. 3.0 million cubic feet
9. November 9, 1979
10. Bonanza Gas Line
1. 80-05940/03973
2. 34-169-21423-0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Ramseyer #1-A
- 6.
7. Wayne OH
8. 2.0 million cubic feet
9. November 9, 1979
10. Columbia Gas Transmission Corp
1. 80-05941/03977
2. 34-075-21637-0014
3. 108 000 000
4. Buckeye Oil Producing Co
5. Close #4
- 6.
7. Holmes OH
8. 4.0 million cubic feet
9. November 9, 1979
10. Columbia Gas Transmission Corp
1. 80-05942/05921
2. 34-169-00000-0000
3. 108 000 000
4. William N Tipka
5. E Swartzentruber
- 6.
7. Wayne OH
8. 3.0 million cubic feet
9. November 9, 1979
10. Columbia Gas Trans
1. 80-05943/06174
2. 34-167-24071-0014
3. 103 000 000
4. Tri-City Drilling Company
5. James Woodruff #1

- 6.
7. Washington OH
8. 4 million cubic feet
9. November 9, 1979
10. River Gas Company
1. 80-05944/07012
2. 34-169-21995-0014
3. 103 000 000
4. Riverland-Krabill #7
5. R & H Krabill #1
6. Canaan-Wayne Pool
7. Wayne OH
8. 18.0 million cubic feet
9. November 9, 1979
10. Columbia Gas Trans Corp
1. 80-05945/07256
2. 34-031-23249-0014
3. 103 000 000
4. Bill D Vaught DBA Vaught Oil Co
5. O & W Williamson #1B
- 6.
7. Coshocton OH
8. 1.5 million cubic feet
9. November 9, 1979
10. Columbia Gas Trans Corp
1. 80-05946/07291
2. 34-075-22219-0014
3. 103 000 000
4. M C F Oil Company Inc
5. W & C Johnson
- 6.
7. Holmes OH
8. 5.0 million cubic feet
9. November 9, 1979
10. The Columbia Gas Transmission Corp
1. 80-05947/07292
2. 34-075-22222-0014
3. 103 000 000
4. R D Curry Production Co
5. Clarence & Lillian Starner #1
- 6.
7. Holmes OH
8. 5.0 million cubic feet
9. November 9, 1979
10. The Columbia Gas Transmission Corp
1. 80-05948/07297
2. 34-119-24852-0014
3. 103 000 000
4. Reliance Management Co
5. Paul Moran #2
- 6.
7. Muskingum OH
8. 15.0 million cubic feet
9. November 9, 1979
10. National Gas & Oil Corp
1. 80-05949/07310
2. 34-031-23442-0014
3. 103 000 000
4. A & Z Production
5. Harry J Ringwalt #2
6. New Castle
7. Coshocton OH
8. 3.5 million cubic feet
9. November 9, 1979
10. Columbia Gas
1. 80-05950/07311
2. 34-007-21041-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Kreliach #1
- 6.
7. Ashtabula OH
8. .2 million cubic feet
9. November 9, 1979
10. No Contract

1. 80-05951/07312
2. 34-133-22004-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Fedorchak #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05952/07313
2. 34-133-22005-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Fedorchak #2
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05953/07314
2. 34-133-22037-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Graham #2
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05954/07315
2. 34-133-21973-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Patton #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05955/07316
2. 34-133-21972-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Patton #2
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05956/07317
2. 34-133-21974-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Willey #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05957/07318
2. 34-133-21955-0014
3. 103 000 000
4. Jud Noble and Associates Inc
5. Yarolyn #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. November 9, 1979
10. East Ohio Gas Company
1. 80-05958/07315
2. 34-133-21978-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Schwan #1

- 6.
7. Portage OH
8. 11.5 million cubic feet
9. November 9, 1979
- 10.
1. 80-05959/07320
2. 34-089-23578-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Redman #1
- 6.
7. Licking OH
8. .2 million cubic feet
9. November 9, 1979
- 10.
1. 80-05960/07321
2. 34-133-21768-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Kubo #1
- 6.
7. Portage OH
8. .8 million cubic feet
9. November 9, 1979
- 10.
1. 80-05961/07322
2. 34-133-21668-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Pochedly #8
- 6.
7. Portage OH
8. .4 million cubic feet
9. November 9, 1979
- 10.
1. 80-05963/07324
2. 34-007-21145-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Ziegler #2
- 6.
7. Ashtabula OH
8. .2 million cubic feet
9. November 9, 1979
- 10.
1. 80-05964/07325
2. 34-133-21780-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. May #4
- 6.
7. Portage OH
8. .3 million cubic feet
9. November 9, 1979
- 10.
1. 80-05965/07326
2. 34-133-21994-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Banks-Carlton-Grubbs #2
- 6.
7. Portage OH
8. .8 million cubic feet
9. November 9, 1979
- 10.
1. 80-05966/07327
2. 34-133-21313-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. May #2
- 6.
7. Portage OH
8. .3 million cubic feet
9. November 9, 1979
- 10.



1. 80-05967/07328  
2. 34-133-21792-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. May #3  
6.  
7. Portage OH  
8. .3 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05968/07329  
2. 34-007-21144-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Dolan #1  
6.  
7. Ashtabula OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05969/07330  
2. 34-133-21996-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Banks-Carlton-Grubbs #1  
6.  
7. Portage OH  
8. .8 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05970/07331  
2. 34-133-21592-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Givens #1  
6.  
7. Portage OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05971/07332  
2. 34-133-21586-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Heiner #1  
6.  
7. Portage OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05972/07333  
2. 34-133-21736-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Vanauken #2  
6.  
7. Portage OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05973/07334  
2. 34-007-21141-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Kreilach-Rhoa #1  
6.  
7. Ashtabula OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05974/07335  
2. 34-007-21146-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Ziegler #1

6.  
7. Ashtabula OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05975/07336  
2. 34-059-22624-0014  
3. 103 000 000  
4. Pominex Inc  
5. #1 Rayner  
6.  
7. Guernsey OH  
8. 10.0 million cubic feet  
9. November 9, 1979  
10. East Ohio Gas Company  
1. 80-05976/07337  
2. 34-059-22607-0014  
3. 103 000 000  
4. Pominex Inc  
5. Byrne-Schrader U #2  
6.  
7. Guernsey OH  
8. 10.0 million cubic feet  
9. November 9, 1979  
10. East Ohio Gas Company  
1. 80-05977/07338  
2. 34-059-22625-0014  
3. 103 000 000  
4. Pominex Inc  
5. #1 Richard P Smith  
6.  
7. Guernsey OH  
8. 10.0 million cubic feet  
9. November 9, 1979  
10. East Ohio Gas Company  
1. 80-05978/07339  
2. 34-075-22257-0014  
3. 103 000 000  
4. William F Hill  
5. E & R Parsons #1  
6.  
7. Homes OH  
8. 10.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05979/07340  
2. 34-075-22258-0014  
3. 103 000 000  
4. William F Hill  
5. Buckhorn Energy Company #1  
6.  
7. Holmes OH  
8. 9.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05980/07341  
2. 34-167-24736-0014  
3. 103 000 000  
4. Wynn Oil Co (DBA)  
5. R Lemasters #2  
6.  
7. Washington OH  
8. 8.0 million cubic feet  
9. November 9, 1979  
10. Gas Transport Inc  
1. 80-05981/07342  
2. 34-133-22018-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. G Burkey Sr #3  
6.  
7. Portage OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.

1. 80-05982/07343  
2. 34-151-23023-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Donovan-Ward #2  
6.  
7. Stark OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05983/07344  
2. 34-133-21985-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Stevens-Booth Unit #1  
6.  
7. Portage OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05984/07345  
2. 34-133-21776-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. W D Bever #1  
6.  
7. Portage OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05985/07346  
2. 34-133-21986-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Tomaiko #1  
6.  
7. Portage OH  
8. .0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05986/07347  
2. 34-151-23022-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Donovan-Ward #1  
6.  
7. Stark OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05987/07348  
2. 34-133-21992-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Pfeilsticker-Robinson Unit #1  
6.  
7. Portage OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05988/07349  
2. 34-133-21997-0014  
3. 103 000 000  
4. Viking Resources Corporation  
5. Miner Unit #1  
6.  
7. Portage OH  
8. 30.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05989/07350  
2. 34-163-20392-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Jay Mar Coal Co #1

6.  
7. Vinton OH  
8. .3 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05990/07351  
2. 34-163-20393-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Jay Mar Coal Co #2  
6.  
7. Vinton OH  
8. .3 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05991/07352  
2. 34-119-21772-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Greer #1  
6.  
7. Muskingum OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05992/07353  
2. 34-119-24674-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Crawford-Vineyard #1  
6.  
7. Muskingum OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05993/07354  
2. 34-009-21952-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Federal Valley Coal #3  
6.  
7. Athens OH  
8. .2 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05994/07355  
2. 34-163-20397-0014  
3. 103 000 000  
4. Inland Drilling Co Inc  
5. Jay Mar Coal Co #6  
6.  
7. Vinton OH  
8. .3 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05995/07356  
2. 34-119-24174-0014  
3. 103 000 000  
4. Geo Energy Inc  
5. Myer #1  
6.  
7. Muskingum OH  
8. 16.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-05996/07357  
2. 34-059-22581-0014  
3. 103 000 000  
4. Guernsey Petroleum Corp  
5. Tennant-Williams #1-MH  
6.  
7. Guernsey OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. East Ohio Gas Company

1. 80-05997/07358  
2. 34-121-22185-0014  
3. 103 000 000  
4. Guernsey Petroleum Corporation  
5. Dudley-Brown 1-MH  
6.  
7. Nobel OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. East Ohio Gas Company  
1. 80-05998/07359  
2. 34-121-22152-0014  
3. 103 000 000  
4. Guernsey Petroleum Corp  
5. Slevin #1-ME  
6.  
7. Nobel OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05999/07362  
2. 34-031-23149-0014  
3. 103 000 000  
4. Jadoil Inc  
5. Amby & Mary McNeal #1  
6.  
7. Coshocton OH  
8. 8.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Transmission Corp  
1. 80-06000/07365  
2. 34-009-21869-0014  
3. 103 000 000  
4. Trend Exploration Ltd  
5. Trend #1 Shearer-Wilcox  
6. Coolville  
7. Athens OH  
8. 50.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Transmission  
1. 80-06001/07366  
2. 34-167-24221-0014  
3. 103 000 000  
4. Trend Exploration Ltd  
5. Trend #1 Justice  
6. Coolville  
7. Washington OH  
8. 50.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Transmission Corp  
1. 80-06002/07367  
2. 34-009-21868-0014  
3. 103 000 000  
4. Trend Exploration Ltd  
5. Trend #1 Coe  
6. Coolville  
7. Athens OH  
8. 50.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Transmission Corp  
1. 80-06003/07398  
2. 34-133-22017-0014  
3. 103 000 000  
4. Orion Energy Corp  
5. Schultz #1  
6.  
7. Portage OH  
8. 11.0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-06004/07368  
2. 34-153-20592-0014  
3. 103 000 000  
4. Darrel L Seibert  
5. Seibert Devel Corp of Stow #3

6.  
7. Summitt OH  
8. 2.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas of Ohio  
1. 80-06005/07369  
2. 34-089-23647-0014  
3. 103 000 000  
4. Foster Mills  
5. Fox Farm II Well #1  
6.  
7. Licking OH  
8. 6.0 million cubic feet  
9. November 9, 1979  
10. National Gas & Oil Corp  
1. 80-06006/07370  
2. 34-115-21771-0014  
3. 103 000 000  
4. Benatty Corporation  
5. Cecil Moore #1  
6.  
7. Morgan OH  
8. 25.0 million cubic feet  
9. November 9, 1979  
10. The East Ohio Gas Company  
1. 80-06007/07371  
2. 34-157-23380-0014  
3. 103 000 000  
4. William N Tipka  
5. C W Shell & M S Willis #1  
6.  
7. Tuscarawas OH  
8. .0 million cubic feet  
9. November 9, 1979  
10.  
1. 80-06008/07372  
2. 34-157-23347-0014  
3. 103 000 000  
4. William N Tipka  
5. George Berkshire #1  
6.  
7. Tuscarawas OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Trans Corp  
1. 80-06009/07373  
2. 34-157-23373-0014  
3. 103 000 000  
4. William N Tipka  
5. George Berkshire #1A  
6.  
7. Tuscarawas OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Trans Corp  
1. 80-06010/07374  
2. 34-157-23358-0014  
3. 103 000 000  
4. William N Tipka  
5. George Berkshire #2  
6.  
7. Tuscarawas OH  
8. .0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas Trans Corp  
1. 80-06011/07375  
2. 34-053-20218-0014  
3. 103 000 000  
4. W J Lydic Inc  
5. Norris Nunn #1  
6. Bera Field  
7. Gallia OH  
8. 40.0 million cubic feet  
9. November 9, 1979  
10. Columbia Gas



1. 80-06012/07378
  2. 34-009-21972-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Oakley #1 69154-1
  - 6.
  7. Athens OH
  8. 144.5 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06013/07377
  2. 34-119-24886-0014
  3. 103 000 000
  4. Camaron Bros
  5. Herb Young #1
  - 6.
  7. Muskingum OH
  8. 9.0 million cubic feet
  9. November 9, 1979
  - 10.
  1. 80-06014/07378
  2. 34-157-23330-0014
  3. 103 000 000
  4. Stocker & Sittler Inc
  5. No 1 Sherrard Unit
  - 6.
  7. Tuscarawas OH
  8. 24.0 million cubic feet
  9. November 9, 1979
  10. The East Ohio Gas Co
  1. 80-06015/07379
  2. 34-087-20269-0014
  3. 103 000 000
  4. Webster Myers
  5. Trout No 1
  6. Southeastern Ohio
  7. Lawrence OH
  8. 7.5 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission
  1. 80-06016/07380
  2. 34-157-21498-0014
  3. 108 000 000
  4. Resource Exploration Inc
  5. Baldwin #1
  - 6.
  7. Tuscarawas OH
  8. 4.0 million cubic feet
  9. November 9, 1979
  10. American Energy
  1. 80-06017/07381
  2. 34-157-21191-0014
  3. 108 000 000
  4. Resource Exploration Inc
  5. Durbin #2
  - 6.
  7. Tuscarawas OH
  8. 5.5 million cubic feet
  9. November 9, 1979
  10. American Energy
  1. 80-06018/07382
  2. 34-157-21180-0014
  3. 108 000 000
  4. Resource Exploration Inc
  5. Lint #3
  - 6.
  7. Tuscarawas OH
  8. 11.7 million cubic feet
  9. November 9, 1979
  10. American Energy
  1. 80-06019/07383
  2. 34-073-22151-0014
  3. 103 000 000
4. Reliance Management Company
  5. Sunday Creek Coal #QR-1
  - 6.
  7. Hocking OH
  8. 18.3 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission Corporation
  1. 80-06020/07384
  2. 34-073-22160-0014
  3. 103 000 000
  4. Reliance Management Company
  5. Sunday Creek Coal #QR-3
  - 6.
  7. Hocking OH
  8. 18.3 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission Corporation
  1. 80-06021/07385
  2. 34-073-22159-0014
  3. 103 000 000
  4. Reliance Management Company
  5. Sunday Creek Coal #QR-4
  - 6.
  7. Hocking OH
  8. 18.3 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission Corporation
  1. 80-06022/07386
  2. 34-073-22157-0014
  3. 103 000 000
  4. Reliance Management Company
  5. Sunday Creek Coal #QR-2
  - 6.
  7. Hocking OH
  8. 18.3 million cubic feet
  9. November 9, 1979
  10. Columbia Gas Transmission Corporation
  1. 80-06023/07387
  2. 34-119-24840-0014
  3. 103 000 000
  4. William V Cantlin
  5. Clements #1-A
  - 6.
  7. Muskingum OH
  8. 10.0 million cubic feet
  9. November 9, 1979
  - 10.
  1. 80-06024/07388
  2. 34-169-22157-0014
  3. 103 000 000
  4. H I Smith Oil & Gas Inc
  5. Henry Varner #1
  - 6.
  7. Wayne OH
  8. 18.0 million cubic feet
  9. November 9, 1979
  10. Pominex Inc
  1. 80-06025/07389
  2. 34-169-21580-0014
  3. 103 000 000
  4. H I Smith Oil & Gas Inc
  5. Harry H Varner #2
  - 6.
  7. Wayne OH
  8. 18.0 million cubic feet
  9. November 9, 1979
  10. Pominex Inc
  - U.S. Geological Survey, Albuquerque, N. Mex.
  1. Control number (FERC/State)
  2. API Well number
  3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-05887/COA-3611-79
2. 05-067-00000-0000-0
3. 103 000 000
4. American Petroleum Energy Co Inc
5. Argenta-UTE #8
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05895/COA-3611-794
2. 05-067-06164-0000-0
3. 103 000 000
4. American Petroleum Energy Co Inc
5. Argenta-UTE #2
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05896/COA-3611-795
2. 05-067-06160-0000-0
3. 103 000 000
4. American Petroleum Energy Co Inc
5. Argenta-UTE #5
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05897/COA-3611-793
2. 05-067-00000-0000-0
3. 103 000 000
4. American Petroleum Energy Co Inc
5. Argenta-UTE #1
6. Ignacio-Blanco
7. La Plata CO
8. .0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05921/NM 3362-79
2. 30-039-21380-0000
3. 103
4. Amoco Production Company
5. Jicarilla Apache 102 #20
6. Tapacito Pictured Cliffs
7. Rio Arriba MN
8. 45.0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Co
1. 80-05818/NM-2709-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger #6
6. West Kutz Pictured Cliffs
7. San Juan NM
8. 11.4 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05817/NM-2711-79

2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack #5
6. West Kutz Pictured Cliffs
7. San Juan NM
8. 1.3 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05818/NM-3333-79
2. 30-045-21014-0000-0
3. 108 000 000
4. Amoco Production Company
5. Elliott A L C #3
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 21.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05819/NM-3345-79
2. 30-045-06949-0000-0
3. 108 000 000
4. Amoco Production Company
5. Candelario Ada #1
6. South Blanco-Pictured Cliffs
7. San Juan NM
8. 21.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05820/NM-3404-79
2. 30-045-11947-0000-0
3. 108 000 000
4. Amoco Production Company
5. Gallegos Canyon Unit #257
6. Pinon-Fruitland
7. San Juan NM
8. 4.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05821/NM-3412-79
2. 30-045-08496-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #7
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 19.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05822/NM-3417-79
2. 30-045-21013-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #13
6. Aztec-Pictured Cliffs
7. San Juan NM
8. 13.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05823/NM-3420-79
2. 30-045-08396-0000-0
3. 108 000 000
4. Amoco Production Company
5. Heath W D A #6
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 16.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05824/NM-3753-79
2. 30-015-21617-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Fannie Lou Federal #1
- 6.

7. Eddy NM
8. 138.0 million cubic feet
9. November 9, 1979
10. Transwestern Pipeline Company
1. 80-05825/NM-3851-79
2. 30-005-60506-0000-0
3. 102 000 000
4. McClellan Oil Corporation
5. McClellan Federal No 1
6. Sams Ranch Grayburg N-11-14S-28E
7. Chaves NM
8. 72.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05826/NM-2710-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger #12
6. West Kutz Pictured Cliffs
7. San Juan NM
8. .8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05827/NM-3854-79
2. 30-025-26126-0000-0
3. 103 000 000
4. Marathon Oil Company
5. C J Saunders No 3
6. Drinkard
7. Lea NM
8. 109.0 million cubic feet
9. November 9, 1979
10. Getty Oil Company
1. 80-05828/NM-2696-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Huskey Oil Company
5. Frontier Aztec Unit B #1-D
6. Basin Dakota
7. San Juan NM
8. 14.3 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05829/NM-3873-79-2
2. 30-025-25604-0000-0
3. 102 000 000
4. The Superior Oil Company
5. Government L Com No 1
6. Bell Lake South
7. Lea NM
8. 1000.0 million cubic feet
9. November 9, 1979
- 10.
1. 80-05830/NM-3853-79
2. 30-025-26089-0000-0
3. 103 000 000
4. Penroc Oil Corporation
5. CSO Federal No 2
6. South Eunice Seven Rivers Queen
7. Lea NM
8. 4.0 million cubic feet
9. November 9, 1979
10. Phillips Petroleum Company
1. 80-05831/NM-3858-79
2. 30-045-08985-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Ludwick #7 MV & PC
6. Blanco MV & Aztec-PC
7. San Juan NM
8. 17.9 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05832/NM-3859-79

2. 30-045-09866-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Brington #3 PC & MV
6. Aztec-Pictured Cliffs Gas-MV & Aztec
7. San Juan NM
8. 22.3 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05833/NM-3860-79
2. 30-039-20696-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 28-7 Unit #170 PC & CH
6. Blanco South-PC & Largo Chacra
7. Rio Arriba NM
8. 20.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05834/NM-3863-79
2. 30-039-07302-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #4
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05835/NM-3864-79
2. 30-039-07265-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #7
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 14.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05836/NM-3865-79
2. 30-025-11458-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. E J Wells #13
6. Jalmat-Yates Gas
7. Lea NM
8. 23.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05837/NM-3867-79
2. 30-039-06939-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #29
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 15.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05838/NM-3866-79
2. 30-045-21175-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Turner 4
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 18.6 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05839/NM-3868-79
2. 30-039-06770-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 27-4 Unit #6
6. Tapacito-Pictured Cliffs Gas



7. Rio Arriba NM  
8. 13.5 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05840/NM-3872-79  
2. 30-045-21559-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Lackey #8  
6. Harris Mesa Chacra Gas  
7. San Juan NM  
8. 19.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05841/NM-3874-79  
2. 30-045-21045-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Grambling C #11  
6. Blanco Pictured Cliffs Gas  
7. San Juan NM  
8. 21.5 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05842/NM-3875-79  
2. 30-045-21114-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Case #17  
6. Blanco Pictured Cliffs Gas  
7. San Juan NM  
8. 20.8 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05843/NM-3715-79  
2. 30-041-10530-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Federal 23 #4  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 1.4 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05844/NM-3592-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. A B Coates C No 22  
6. Justis Blinebry  
7. Lea NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05845/NM-3593-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie Mattix #36  
6. Langlie Mattix  
7. Lea NM  
8. 4.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05846/NM-3585-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie Mattix #83  
6. Langlie Mattix  
7. Lea NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05847/NM-3584-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie Mattix #16  
6. Langlie Mattix  
7. Lea NM  
8. 2.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05848/NM-3587-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie Mattix #44  
6. Langlie Mattix  
7. Lea NM  
8. 8.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05849/NM-3586-79  
2. 30-025-00000-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie Mattix #33  
6. Langlie Mattix  
7. Lea NM  
8. 6.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05850/NM-3393-79  
2. 30-045-22565-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Ute Indians A #10  
6. Ute Dome Paradox  
7. San Juan NM  
8. 183.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05851/NM-3730-79  
2. 30-041-10504-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 27 #3  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 1.4 million cubic feet  
9. November 9, 1979  
10. Cities Service Oil Company  
1. 80-05852/NM-3729-79  
2. 30-045-11793-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Riddle No 4  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 8.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05853/NM-3728-79  
2. 30-041-10541-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 22 #2  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 2.5 million cubic feet  
9. November 9, 1979  
10. Cities Service Oil Co  
1. 80-05854/NM-3727-79  
2. 30-041-10524-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 26 #8  
6. Chaveroo San Andres

7. Roosevelt NM  
8. 2.3 million cubic feet  
9. November 9, 1979  
10. Cities Service Oil Company  
1. 80-05855/NM-3765-79  
2. 30-045-21942-0000-0  
3. 108 000 000  
4. Bedford Inc  
5. Ram #1  
6. Waw-Fruitland Pictured Cliffs  
7. San Juan NM  
8. 4.2 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Co  
1. 80-05856/NM-3764-79  
2. 30-025-11696-0000-0  
3. 108 000 000  
4. Santa Fe Energy Company  
5. Carlson A-2 Serial #032579  
6. Langlie  
7. Lea NM  
8. 5.5 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05857/NM-3763-79  
2. 30-045-05235-0000-0  
3. 108 000 000  
4. Petroleum Corporation of Texas  
5. Mobil Rudman Federal #1 SF-078521  
6. Gallup Formation in the Basin Dakot  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05858/NM-3791-79  
2. 30-039-20852-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla G-11  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 4.7 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05859/NM-3790-79  
2. 30-039-06228-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla F-2  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 18.8 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05860/NM-3789-79  
2. 30-039-20626-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-12  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 18.3 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05861/NM-3788-79  
2. 30-039-08100-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-10  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 5.7 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05862/NM-3787-79

2. 30-039-06206-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-9  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 3.3 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05863/NM-3786-79  
2. 30-039-06201-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-8  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 4.3 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05864/NM-3785-79  
2. 30-039-06208-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-7  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 3.1 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05865/NM-3798-79  
2. 30-039-06109-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla K-8  
6. South Blanco Picture Cliffs  
7. Rio Arriba County NM  
8. 17.2 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05866/NM-3796-79  
2. 30-039-06304-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla J-6  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 10.9 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05867/NM-3797-79  
2. 30-039-06136-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla K-3  
6. South Blanco Picture Cliffs  
7. Rio Arriba County NM  
8. 2.5 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05868/NM-3869-79  
2. 30-045-20860-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Ludwick #25  
6. Aztec Pictured Cliffs Gas  
7. San Juan NM  
8. 19.3 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05869/NM-3792-79  
2. 30-039-06370-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla H-3  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 9.3 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05870/NM-3793-79  
2. 30-039-06391-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla H-4  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 3.8 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05871/NM-3795-79  
2. 30-039-06333-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla J-3  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 17.1 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05872/NM-3794-79  
2. 30-039-06211-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla J-2  
6. South Blanco Picture Cliffs  
7. Rio Arriba NM  
8. 4.6 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05873/NM-3707-79  
2. 30-015-20075-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-Skelly Federal #1  
6. Indian Hills (Morrow)  
7. Eddy NM  
8. 4.8 Million Cubic Feet  
9. November 9, 1979  
10. Nat Gas Pipeline Co of Amer  
1. 80-05874/NM-3711-79  
2. 30-015-21503-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-Lake Federal #1  
6. Avalon (Morrow)  
7. Eddy NM  
8. 8.4 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05875/NM-3712-79  
2. 30-025-00095-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-King-Davis-Federal #3  
6. Allison (Penn)  
7. Roosevelt County NM  
8. 1.6 Million Cubic Feet  
9. November 9, 1979  
10. Warren Petroleum Company  
1. 80-05876/NM-3710-79  
2. 30-015-20471-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-Pennzoil 13 Federal #1  
6. Atoka West (Morrow Gas)  
7. Eddy NM  
8. 2.6 Million Cubic Feet  
9. November 9, 1979  
10. Transwestern Pipeline Company  
1. 80-05877/NM-3709-79

2. 30-015-21581-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-Seven Rivers Federal #1  
6. Cemetery North (Wolfcamp)  
7. Eddy NM  
8. 1.4 Million Cubic Feet  
9. November 9, 1979  
10. Nat Gas Pipeline Co of Amer  
1. 80-05878/NM-3708-79  
2. 30-015-22036-0000-0  
3. 108 000 000  
4. David Fasken  
5. Fasken-Avalon-Federal Com #1  
6. Catclaw Draw (Morrow)  
7. Eddy County NM  
8. 12.0 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05879/NM-3395-79  
2. 30-045-22931-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Elliott Gas Com W #1  
6. Blanco-Pictured Cliffs  
7. San Juan NM  
8. 183.0 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Co  
1. 80-05880/NM-3698-79  
2. 30-025-11073-0000-0  
3. 108 000 000  
4. Amoco Production Company  
5. Myers B Federal R/A A #13  
6. Jalmat (Gas)  
7. Lea NM  
8. 18.0 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05881/NM-3699-79  
2. 30-025-11606-0000-0  
3. 108 000 000  
4. Amoco Production Company  
5. Langlie B Tr 2 No 2  
6. Jalmat  
7. Lea NM  
8. 20.2 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05882/NM-3714-79  
2. 30-041-10514-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 21 #2  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 4.5 Million Cubic Feet  
9. November 9, 1979  
10. Cities Service Oil Company  
1. 80-05883/NM-3696-79  
2. 30-025-25613-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. South Mattix Unit No 28  
6. Fowler Upper (Yaso)  
7. Lea NM  
8. 313.0 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05884/NM-3623-79  
2. 30-039-09690-0000-0  
3. 108 000 000  
4. Joseph B Gould  
5. Fred Phillips #3  
6. South Blanco Pictured Cliffs



7. Rio Arriba NM
8. 90.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05885/NM-3624-79
2. 30-039-08190-0000-0
3. 108-000-000
4. Joseph B Gould
5. Jicarilla #1
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 29.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co Northwest Pipeline Corp
1. 80-05886/NM-3620-79
2. 30-039-20168-0000-0
3. 108-000-000
4. Mobil Oil Corporation
5. Jicarilla D #5
6. Sleeper Pictured Cliffs
7. Rio Arriba NM
8. 5.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corp
1. 80-05888/NM-3622-79
2. 30-039-05731-0000-0
3. 108-000-000
4. Joseph B Gould
5. Fred Phillips #2
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 77.5 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05889/NM-3694-79
2. 30-025-25880-0000-0
3. 103-000-000
4. Amoco Production Company
5. Myers/B/Federal #32
6. Langlie Mattix (Queen)
7. Lea NM
8. 104.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas
1. 80-05890/NM-3693-79
2. 30-025-25973-0000-0
3. 103-000-000
4. Amoco Production Company
5. Myers/B/Federal R/A/B/#33
6. Jalmat Yates-Seven Rivers
7. Lea NM
8. 211.7 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas
1. 80-05891/NM-3692-79
2. 30-025-25898-0000-0
3. 103-000-000
4. Amoco Production Company
5. Langlie /C/ Tract 1 Federal #1
6. Jalmat Yates-Seven Rivers
7. Lea NM
8. 18.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural
1. 80-05892/NM-3612-79
2. 30-025-25471-0000-0
3. 103-000-000
4. Petroleum Development Corp
5. Gulf-McKay Federal #1
6. North Lusk Morrow
7. Lea NM
8. 36.0 Million Cubic Feet
9. November 9, 1979
10. Phillips Petroleum Co
1. 80-05893/NM-3691-79
2. 30-025-25774-0000-0
3. 103-000-000
4. Amoco Production Company
5. Myers /A/ Federal # 8
6. Langlie Mattix Queen
7. Lea NM
8. 130.0 Million Cubic Feet
9. November 9, 1979
10. Northern Natural
1. 80-05894/NM-3400-79
2. 30-039-21322-0000-0
3. 103-000-000
4. Amoco Production Company
5. Jicarilla Apache 102 #28
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 80.0 Million Cubic Feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05898/NM-3396-79
2. 30-045-22564-0000-0
3. 103-000-000
4. Amoco Production Company
5. Ute Mountain Tribal L #1
6. Ute Dome Paradox
7. San Juan NM
8. 55.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas
1. 80-05899/NM-3397-79
2. 30-039-21592-0000-0
3. 103-000-000
4. Amoco Production Company
5. Valencia Canyon Unit #24
6. Choza Mesa
7. Rio Arriba NM
8. 100.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05900/NM-3398-79
2. 30-039-21604-0000-0
3. 103-000-000
4. Amoco Production Company
5. Valencia Canyon Unit #22
6. Choza Mesa
7. Rio Arriba NM
8. 20.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05901/NM-3399-79
2. 30-039-21595-0000-0
3. 103-000-000
4. Amoco Production Company
5. Valencia Canyon Unit #27
6. Choza Mesa
7. Rio Arriba NM
8. 50.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05902/NM-3810-79
2. 30-025-21034-0000-0
3. 108-000-000
4. C & K Petroleum Inc
5. Greenwood Federal 6 #1
6. Northwest Lusk (Morrow)
7. Lea NM
8. 9.0 Million Cubic Feet
9. November 9, 1979
10. Phillips Petroleum Company
1. 80-05903/NM-3609-79
2. 30-015-21973-0000-0
3. 102-000-000
4. Yates Petroleum Corp
5. El Paso Gs Federal #1

6. Box Canyon-Permo Penn
7. Eddy NM
8. 60.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05904/NM-3608-79
2. 30-015-20059-0000-0
3. 102-000-000
4. Yates Petroleum Corporation
5. Hilliard BF Federal 1-Y
6. Indian Basin-Morrow East
7. Eddy NM
8. 660.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05905/NM-3385-79
2. 30-045-22929-0000-0
3. 103-000-000
4. Amoco Production Company
5. A L Elliott E #1
6. Blanco Pictured Cliffs
7. San Juan NM
8. 60.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05906/NM-3583-79
2. 30-025-00000-0000-0
3. 108-000-000
4. Getty Oil Company
5. Myers Langlie Mattix unit Well #14
6. Langlie Mattix
7. Lea NM
8. 2.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05907/NM-3581-79
2. 30-025-00000-0000-0
3. 108-000-000
4. Getty Oil Company
5. Myers Langlie Mattix Unit Well #1
6. Langlie-Mattix
7. Lea NM
8. 1.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05908/NM-3588-79
2. 30-025-25988-0000-0
3. 103-000-000
4. Getty Oil Company
5. Myers Langlie-Mattix Unit #48
6. Langlie Mattix
7. Lea NM
8. 12.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05909/NM-3589-79
2. 30-025-25987-0000-0
3. 103-000-000
4. Getty Oil Company
5. Myers Langlie-Mattix Unit No 25
6. Langlie Mattix
7. Lea NM
8. 3.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05910/NM-3570-79
2. 30-025-00000-0000-0
3. 108-000-000
4. Getty Oil Company
5. Myers Langlie Mattix No 27
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05911/NM-3502-79-1
2. 30-045-22374-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Roelofs A #2R
6. Blanco
7. San Juan NM
8. 384.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05912/NM-35716-79
2. 30-041-10538-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 23 #12
6. Chaveroo San Andres
7. Roosevelt NM
8. 4.4 million cubic feet
9. November 9, 1979
10. Cities Service Oil Company
1. 80-05913/NM-3719-79
2. 30-041-10535-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 23 #9
6. Chaveroo San Andres
7. Roosevelt NM
8. 2.3 million cubic feet
9. November 9, 1979
10. Cities Service Oil Company
1. 80-05914/NM-3733-79
2. 30-041-10531-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 23 #5
6. Chaveroo-San Andres
7. Roosevelt NM
8. 1.0 million cubic feet
9. November 9, 1979
10. Cities Service Oil Company
1. 80-05915/NM-3732-79
2. 30-041-10509-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 24 #5
6. Chaveroo-San Andres
7. Roosevelt NM
8. 4.8 million cubic feet
9. November 9, 1979
10. Cities Service Oil Company
1. 80-05916/NM-3731-79
2. 30-041-10507-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 24 #3
6. Chaveroo-San Andres
7. Roosevelt NM
8. 3.5 million cubic feet
9. November 9, 1979
10. Cities Service Oil Company
1. 80-05917/NM-3589-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Getty Oil Company
5. A B Coates C No 6
6. Justis Tubb Drinkard
7. Lea NM
8. 7.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05918/NM-3590-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Getty Oil Company
5. Myers Langlie Unit Mattix No 84
6. Langlie Mattix
7. Lea NM
8. 4.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05919/NM-3591-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Getty Oil Company
5. A B Coates C Well No 9
6. Justis Blinebry
7. Lea NM
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05920/NM-3283-79
2. 30-039-07971-0000-0
3. 108 000 000
4. Northwest Pipeline Corp
5. Rosa Unit #22
6. Blanco
7. Rio Arriba NM
8. 9.0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corp; El Paso Natural Gas Company
1. 80-05922/NM-3366-79
2. 30-045-22666-0000-0
3. 103 000 000
4. Amoco Production Company
5. Shane Gas Com #1A
6. Blanco Mesaverde
7. San Juan NM
8. 250.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05923/NM-3548-79
2. 30-045-12056-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance No 100
6. Blanco Picture.Cliff
7. San Juan NM
8. 13.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05924/NM-3549-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance B No 2
6. Blanco Picture Cliff
7. San Juan NM
8. 12.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05925/NM-3607-79
2. 30-015-21017-0000-0
3. 102 000 000
4. Yates Petroleum Corp
5. Federal DC #1
6. Burton Flat-Atoka West
7. Eddy NM
8. 260.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05926/NM-3700-79
2. 30-015-20510-0000-0
3. 108 000 000
4. Amoco Production Company
5. Malco S Federal No 1
6. Scoggin Draw Morrow
7. Eddy NM
8. 8.4 million cubic feet
9. November 9, 1979

10. Gas Company of New Mexico
1. 80-05927/NM-3706-79
2. 30-015-22715-0000-0
3. 103 000 000
4. David Fasken
5. Fasken-Ross-Federal No 2
6. Cemetery (Morrow)
7. Eddy NM
8. 1460.0 million cubic feet
9. November 9, 1979
10. Nat Gas Pipeline Co of Amer

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the commission's office of public information, room 1000, 825 north Capitol Street, N.E., Washington, D.C. 20426.

Persons Objecting to any of these Final Determinations May, in Accordance with 18 CFR 275.203 and 18 CFR 275.204, File a protest with the commission on or before December 24, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37600 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[No. 118]

#### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Illinois Department of Mines and Minerals,  
Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 80-05501
2. 12-191-00000-0000-
3. 102 000 000
4. Hobson Oil Company
5. Gillison #1
6. Mayberry
7. Wayne IL
8. .0 million cubic feet



9. November 7, 1979  
10. Crystal Oil Company  
1. 80-05502  
2. 12-191-00000-0000-  
3. 102 000 000  
4. Hobson Oil Company  
5. Gillison #2  
6. Mayberry  
7. Wayne IL  
8. 1.0 million cubic feet  
9. November 7, 1979  
10. Crystal Oil Company  
1. 80-05503  
2. 12-191-00000-0000-  
3. 102 000 000  
4. Hobson Oil Company  
5. Ellis #1  
6. Mayberry  
7. Wayne IL  
8. 1.0 million cubic feet  
9. November 7, 1979  
10. Crystal Oil Company  
1. 80-05504  
2. 12-191-00000-0000-  
3. 102 000 000  
4. Hobson Oil Company  
5. Tiffany #1A  
6. Mayberry  
7. Wayne IL  
8. 14.6 million cubic feet  
9. November 7, 1979  
10. Crystal Oil Company  
1. 80-05505  
2. 12-191-00000-0000-  
3. 102 000 000  
4. Hobson Oil Company  
5. Tiffany #2A  
6. Mayberry  
7. Wayne IL  
8. 14.6 million cubic feet  
9. November 7, 1979  
10. Crystal Oil Company  
1. Control Number (F.E.R.C./State)  
2. API Well number  
3. Section of NGPA  
4. Operator  
5. Well name  
6. Field or OCS area name  
7. County, State or Block No.  
8. Estimated Annual Volume  
9. Date received at FERC  
10. Purchaser(s)  
1. 80-05506/ERC-234  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Dave Gillum #1 Serial #10  
6. Ashland Field  
7. Boyd KY  
8. 4.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05507/ERC-235  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Charles Brickey #1 Serial #24  
6. Ashland Field  
7. Boyd KY  
8. 3.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05508/ERC-236  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Edward Gehringer #1 Serial #34  
6. Ashland Field  
7. Boyd KY  
8. 2.5 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05509/ERC-237  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Pinehurst Co Inc #1 Serial #35  
6. Ashland Field  
7. Boyd KY  
8. 9.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05510/ERC-238  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Wm Barber #1 Serial #36  
6. Ashland Field  
7. Boyd KY  
8. 2.2 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05511/ERC-239  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Sarah C McCown #1 Serial #38  
6. Ashland Field  
7. Boyd KY  
8. .5 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05512/ERC-240  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. J A Bywaters #1 Serial #46  
6. Ashland Field  
7. Boyd KY  
8. .7 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05513/ERC-241  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Wm Deal #1 Serial #51  
6. Ashland Field  
7. Boyd KY  
8. 5.8 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05514/ERC-242  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Eliza Huff #1 Serial #55  
6. Ashland Field  
7. Boyd KY  
8. 8.4 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05515/ERC-243  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Ben G Crow #1 Serial #58  
6. Ashland Field  
7. Boyd KY  
8. .0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05516/ERC-244  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Eliza Salisbury #1 Serial #61  
6. Ashland Field  
7. Boyd KY  
8. 8.7 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05517/ERC-245  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Proctor Sparks #1 Serial #62  
6. Ashland Field  
7. Boyd KY  
8. 2.8 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05518/ERC-246  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. John Okelly #1 Serial #63  
6. Ashland Field  
7. Boyd KY  
8. 1.1 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05519/ERC-247  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. E G McGuire #1 Serial #68  
6. Ashland Field  
7. Boyd KY  
8. 5.9 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05520/ERC-248  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Bugg & Gruber #1 Serial #69  
6. Ashland Field  
7. Boyd KY  
8. 5.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05521/ERC-249  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Mary Lewis #1 Serial #71  
6. Ashland Field  
7. Boyd KY  
8. 3.2 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05522/ERC-250  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Adam Weis #1 Serial #72  
6. Ashland Field  
7. Boyd KY  
8. 1.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05523/ERC-251  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Weswego Land Co #1 Serial #76  
6. Ashland Field  
7. Boyd KY  
8. 1.3 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05524/ERC-252  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Linda B Hatcher #1 Serial #80  
6. Ashland Field  
7. Boyd KY  
8. 2.7 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05525/ERC-253  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Effie Mutters #1 Serial #81  
6. Ashland Field  
7. Boyd KY  
8. 3.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05526/ERC-254  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. C M White #1 Serial #83  
6. Ashland Field  
7. Boyd KY  
8. 5.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05527/ERC-255  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. George Savage #1 Serial #84  
6. Ashland Field  
7. Boyd KY  
8. 2.6 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05528/ERC-256  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. John Morairty #1 Serial #85  
6. Ashland Field  
7. Boyd KY  
8. .8 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05529/ERC-257  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Anne Scott #1 Serial #86  
6. Ashland Field  
7. Boyd KY  
8. 3.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05530/ERC-258  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Boyd County Poor Farm #1 Serial #88  
6. Ashland Field

7. Boyd KY  
8. 1.3 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05531/ERC-259  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. J D Sturgill #1 Serial #90  
6. Ashland Field  
7. Boyd KY  
8. 1.3 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05532/ERC-260  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Ironville Realty Co #1 Serial #91  
6. Ashland Field  
7. Boyd KY  
8. 4.2 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05533/ERC-261  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. A L Keeney #1 Serial #99  
6. Ashland Field  
7. Boyd KY  
8. 3.2 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05534/ERC-262  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. James Hammond #1 Serial #101  
6. Ashland Field  
7. Boyd KY  
8. .7 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05535/ERC-271  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. P E Caldwell #1 Serial #103  
6. Ashland Field  
7. Boyd KY  
8. 2.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05537/ERC-264  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. G R Watson #1 Serial #104  
6. Ashland Field  
7. Boyd KY  
8. 2.8 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05538/ERC-265  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Mary L Brown #1 Serial #105  
6. Ashland Field  
7. Boyd KY  
8. 2.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05539/ERC-266  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. George Mason #1 Serial #106  
6. Ashland Field  
7. Boyd KY  
8. 1.0 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05540/ERC-267  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. J M York #1 Serial #110  
6. Ashland Field  
7. Boyd KY  
8. 2.7 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05541/ERC-268  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. J M York #2 Serial #111  
6. Ashland Field  
7. Boyd KY  
8. 1.2 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05542/ERC-269  
2. 16-019-00000-0000-  
3. 108 000 000  
4. Kentucky Ohio Gas Company  
5. Proctor Sparks #1 Serial #113  
6. Ashland Field  
7. Boyd KY  
8. 2.5 million cubic feet  
9. November 7, 1979  
10. Columbia Gas Transmission Corp  
1. 80-05544/00808  
2. 35-081-00000-0000-  
3. 103 000 000  
4. C & C Energy Co  
5. O C Wolff #1  
6. Skellyville  
7. Lincoln OK  
8. 136.1 million cubic feet  
9. November 8, 1979  
10. Cities Service Gas Co  
1. 80-05545/00842  
2. 35-011-20908-0000-  
3. 103 000 000  
4. Mustang Production Company



5. Theodore #1
6. Squaw Creek
7. Blaine OK
8. 250.0 million cubic feet
9. November 8, 1979
10. Michigan Wisconsin Pipeline; Oklahoma Gas & Electric Company
1. 80-05546/00205
2. 35-077-20159-0000
3. 102 000 000
4. Samson Resources Company
5. Kent Unit #1
6. West Wilburton
7. Latimer OK
8. 290.0 million cubic feet
9. November 7, 1979
10. Arkansas Louisiana Gas Company
1. 80-05547/00837
2. 35-017-20960-0000
3. 103 000 000
4. Tenneco Oil Company
5. Anabel Parks 1-15
6. Piedmont NE
7. Canadian OK
8. 584.0 million cubic feet
9. November 7, 1979
10. Phillips Petroleum Company
1. 80-05548/00394
2. 35-043-00000-0000
3. 108 000 000
4. Amax Petroleum Corporation
5. Eva Dale 1-24
6. Webb-Putnam
7. Dewey OK
8. 13.0 million cubic feet
9. November 7, 1979
10. El Paso Natural Gas Company; Michigan Wisconsin P/L Company
1. 80-05549/00846
2. 35-129-20229-0000
3. 103 000 000
4. American Quasar Petroleum Co
5. Hogg 1-5
6. 660 FSL & 1960 FEL 5-17N-21W
7. Roger Mills OK
8. 300.0 million cubic feet
9. November 7, 1979
10. Producers Gas Co
1. 80-05550/00758
2. 35-007-21460-0000
3. 103 000 000
4. Marathon Oil Company
5. Gardner Unit Well #2 (Morrow Forma)
6. Mocane
7. Beaver OK
8. 1446.0 million cubic feet
9. November 7, 1979
10. Colorado Interstate Gas Company
1. 80-05551/00757
2. 35-007-21460-0000
3. 103 000 000
4. Marathon Oil Company
5. Gardner Unit Well #2 (Chester Forma)
6. Mocane
7. Beaver OK
8. 9.0 million cubic feet
9. November 7, 1979
10. Colorado Interstate Gas Company
1. 80-05552/00765
2. 35-139-21037-0000
3. 103 000 000
4. W C Payne
5. Flaming #1
6. Camrick Upper Morrow
7. Texas OK
8. 180.0 million cubic feet
9. November 7, 1979
10. Panhandle Eastern Pipeline Co
1. 80-05553/00759
2. 35-139-21079-0000
3. 103 000 000
4. W C Payne
5. Chance #1
6. Camrick Upper Morrow
7. Texas OK
8. 15.0 million cubic feet
9. November 7, 1979
10. Panhandle Eastern Pipeline Co
1. 80-05554/00776
2. 35-007-21396-0000
3. 103 000 000
4. Singer-Fleischaker Oil Opr Co
5. Angleton #1-21
6. Mocane-Laverne
7. Beaver OK
8. 73.0 million cubic feet
9. November 7, 1979
10. Panhandle Eastern Pipeline Co
1. 80-05555/00779
2. 35-025-20310-0000
3. 103 000 000
4. CIG Exploration Inc
5. Mathis #2
6. Keyes
7. Cimarron OK
8. 160.0 million cubic feet
9. November 7, 1979
10. Colorado Interstate Gas Co
1. 80-05556/00789
2. 35-079-20294-0000
3. 103 000 000
4. Dyco Petroleum Corporation
5. Bradford #1
6. Kinta
7. Leflore OK
8. 108.0 million cubic feet
9. November 7, 1979
10. Arkansas Louisiana Gas Co
1. 80-05557/00786
2. 35-121-20490-0000
3. 103 000 000
4. Dyco Petroleum Corporation
5. Sander #1-27
6. Ulan South
7. Pittsburg OK
8. 18.0 million cubic feet
9. November 7, 1979
10. Arkansas Louisiana Gas Company
1. 80-05558/00792
2. 35-061-20197-0000
3. 103 000 000
4. Dyco Petroleum Corporation
5. Loudermilk No 1
6. Kinta
7. Haskell OK
8. 300.0 million cubic feet
9. November 7, 1979
10. Arkansas-Louisiana Gas Company
1. 80-05559/00795
2. 35-107-00000-0000
3. 108 000 000
4. VAB Inc
5. Victor Paul #1
6. Section 1-10N-11E
7. Okfuskee OK
8. 11.4 million cubic feet
9. November 7, 1979
10. Phillips Petroleum Company
1. 80-05560/00809

2. 35-081-00000-0000
3. 103 000 000
4. C & C Energy Co
5. H McLaury #1
6. Skellyville
7. Lincoln OK
8. 3.4 million cubic feet
9. November 7, 1979
10. Cities Service Gas Co

## Utah Division of Oil, Gas, and Mining

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05474/K-107-6
2. 43-043-30092-0000
3. 102 000 000
4. American Quasar Petroleum Co
5. Pineview 4-7S
6. 6614 Fel & 2159 3 FNL
7. Summit UT
8. 180.0 million cubic feet
9. November 7, 1979
10. Mountain Fuel Supply Co

## U.S. Geological Survey, Albuquerque, N.Mex.

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05563/COA-4045-79
2. 05-067-06047-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. UTE #2-8
6. Ignacio Blanco Fruitland PC
7. La Plata Co
8. 10.1 million cubic feet
- 9.

## 10. Peoples Natural Gas Company

1. 80-05564/COA-4054-79
2. 05-067-05251-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Bascom #1-34
6. Ignacio Blanco Dakota
7. La Plata Co
8. 15.6 million cubic feet
9. November 8, 1979
10. Peoples Natural Gas Company

## U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume

9. Date Received at FERC
10. Purchaser(s)
1. 80-05475/NM-4126-79-A
2. 30-045-22977-0000-1
3. 103 000 000
4. El Paso Natural Gas Company
5. Atlantic B #9A (MV)
6. Blanco Mesaverde
7. San Juan NM
8. 130.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05476/NM-4126-79-B
2. 30-045-22977-0000-2
3. 103 000 000
4. El Paso Natural Gas Company
5. Atlantic B #9A (PC)
- 6.
7. San Juan NM
8. 140.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05477/NM 4127-79
2. 30-045-22977-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Hughes A #2A
6. Blanco Mesaverde
7. San Juan NM
8. 55.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05478/NM-4129-79
2. 30-045-22830-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Hardie B #1A
6. Blanco Mesaverde
7. San Juan NM
8. 110.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05479/NM 4130-79
2. 30-039-21717-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Rincon Unit #79A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 130.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05480/NM-4116-79
2. 30-045-22829-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Hardie A #1A
6. Blanco Mesaverde
7. San Juan NM
8. 170.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05481/NM-4117-79
2. 30-045-22720-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Roelofs #1A
6. Blanco Mesaverde
7. San Juan NM
8. 150.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company

1. 80-05482/NM-4118-79
2. 30-045-22749-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Hardie #5A
6. Blanco Mesaverde
7. San Juan NM
8. 160.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05483/NM-4119-79
2. 30-045-22754-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Sunray G #2A
6. Blanco Mesaverde
7. San Juan NM
8. 170.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05484/NM 4120-79
2. 30-045-22993-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Atlantic A #2A
6. Blanco Mesaverde
7. San Juan NM
8. 90.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05484/NM-4121-79
2. 30-045-23169-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Florance #1A
6. Blanco Mesaverde
7. San Juan NM
8. 260.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05486/NM-4122-79
2. 30-045-21977-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Howell K #4A
6. Blanco Mesaverde
7. San Juan NM
8. 180.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company; Southern Union Gathering Co
1. 80-05487/NM-4123-79
2. 30-045-22780-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Atlantic B #18
6. Blanco Pictured Cliffs
7. San Juan NM
8. 130.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05488/NM-4124-79
2. 30-045-22996-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. Atlantic B #7A
6. Blanco Mesaverde
7. San Juan NM
8. 130.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05489/NM-4125-79
2. 30-045-22721-0000-0

3. 103 000 000
4. El Paso Natural Gas Company
5. Hughes A #3A
6. Blanco Mesaverde
7. San Juan NM
8. 75.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05490/NM-4081-79
2. 30-039-20446-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Jicarilla E #8
6. South Blanco Pictured Cliffs Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05491/NM-4085-79
2. 30-045-07586-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Johnston #2
6. Aztec Pictured Cliffs Gas
7. San Juan NM
8. 17.9 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05492/NM-4086-79
2. 30-039-20525-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. S J 30-6 Unit #103
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 16.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05493/NM-4099-79
2. 30-039-20688-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #65
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 16.8 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05496/NM-4108-79
2. 30-015-21560
3. 108 000 000
4. Yates Petroleum Corp
5. Scout Eh Federal Com #2
6. Penasco-Draw-Atoka
7. Eddy NM
8. 3.0 Million Cubic Feet
9. November 8, 1979
10. Transwestern Pipeline Co
1. 80-05497/NM-4110-79
2. 30-015-20582
3. 108 000 000
4. Yates Petroleum Corp
5. Mobil CI Federal #1
6. Penasco Draw San Andres-Yeso
7. Eddy NM
8. 1.6 Million Cubic Feet
9. November 8, 1979
10. Transwestern Pipeline Co
1. 80-05498/NM-4115-79-A



2. 30-045-22836  
3. 103 000 000  
4. El Paso Natural Gas Company  
5. Case #1A (MV)  
6. Blanco Mesaverde  
7. San Juan NM  
8. 90.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05499/NM-4115-79-B  
2. 30-045-22836  
3. 103 000 000  
4. El Paso Natural Gas Company  
5. Case #1A (PC)  
6. Blanco Pictured Cliffs  
7. San Juan NM  
8. 70.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05582/NM4067-79(7)  
2. 30-043-20337-0000  
3. 103 000 000  
4. BCO Inc  
5. Federal B #5  
6. Undesignated Gallup  
7. Sandoval NM  
8. 20.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05603/NM-3895-79  
2. 30-039-06365-0000  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Scott A #1  
6. Blanco South-Pictured Cliffs Gas  
7. Rio Arriba NM  
8. 1.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05494/NM-4102-79  
2. 30-045-06342-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Florence D #1  
6. South Blanco Pictured Cliffs Gas  
7. San Juan NM  
8. 19.7 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05495/NM-4104-79  
2. 30-045-06950-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Roelofs A #2  
6. Blanco Mesaverde Gas  
7. San Juan NM  
8. 19.7 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05500/NM-906-79  
2. 30-045-13064-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Lackey B #18  
6. Aztec Pictured Cliffs Gas  
7. San Juan NM  
8. 14.6 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05581/NM-2702-79  
2. 30-045-00000-0000-0  
3. 108 000 000 denied  
4. Husky Oil Company  
5. Alice Bolack #11  
6. West Kutz Pictured Cliffs  
7. San Juan NM  
8. 13.9 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05582/NM-4044-79  
2. 30-045-22851-0000-0  
3. 103 000 000  
4. Dome Petroleum Corp  
5. Frew Federal #8  
6. Nipp-Pictured Cliffs  
7. San Juan County NM  
8. 37.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas, Nat Gas P/L Corp of Am  
1. 80-05565/NM-4025-79  
2. 30-045-22855-0000-0  
3. 103 000 000  
4. Dome Petroleum Corp  
5. Frew Federal #9  
6. Nipp-Pictured Cliffs  
7. San Juan County NM  
8. 37.0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas, Nat Gas P/L Corp of Am  
1. 80-05566/NM 4027-79  
2. 30-039-05985-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Nordhaus Federal Wn #4  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 11.9 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05587/NM-4028-79  
2. 30-039-05948-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Nordhaus Federal Wn #5  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 19.1 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05588/NM4029-79  
2. 30-045-20442-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Oxnard Wn Federal #8  
6. So Blanco-Pictured Cliffs  
7. San Juan NM  
8. 14.6 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05589/NM4030-79  
2. 30-039-06034-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company Division  
5. Nordhaus Federal Wn #2  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 4.1 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05570/NM-4031-79  
2. 30-045-06095-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Hammond Federal Wn #2  
6. So Blanco-Pictured Cliffs  
7. San Juan NM  
8. .3 million cubic feet  
9. November 8, 1979

10. El Paso Natural Gas Company  
1. 80-05571/NM-4032-79  
2. 30-039-05896-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Nordaus Federal Wn #6  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 20.2 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05572/NM-4024-79  
2. 30-045-22850-0000-0  
3. 103 000 000  
4. Dome Petroleum Corp  
5. Frew Federal #8  
6. Nipp-Pictured Cliffs  
7. San Juan County NM  
8. 37.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company; Nat Gas P/L Corp of AM  
1. 80-05573/NM-4034-79  
2. 30-045-11873-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Hammond Wn Federal #4  
6. So Blanco-Pictured Cliffs  
7. San Juan County NM  
8. 18.2 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05574/NM-4035-79  
2. 30-045-05301-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Graham Wn Federal #1  
6. Ballard Pictured Cliffs  
7. San Juan County NM  
8. 5.4 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05575/NM-4036-79  
2. 30-045-41001-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Hammond Wn Federal #3  
6. So Blanco-Pictured Cliffs  
7. San Juan County NM  
8. 2.2 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05576/NM-4037-79  
2. 30-039-06069-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Nordaus Federal Wn #7  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 11.5 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05577/NM-4038-79  
2. 30-039-05991-0000-0  
3. 108 000 000  
4. Arco Oil and Gas Company  
5. Nordaus Federal Wn #1  
6. Ballard Pictured Cliffs  
7. Rio Arriba NM  
8. 10.3 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05578/NM-4042-79  
2. 30-045-22669-0000-0

3. 103 000 000  
4. Dome Petroleum Corp  
5. Frew Federal #7  
6. Nipp-Pictured Cliffs  
7. San Juan County NM  
8. 37.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company; Nat Gas P/L of AM  
1. 80-05579/NM-4043-79  
2. 30-045-22657-0000-0  
3. 103 000 000  
4. Dome Petroleum Corp  
5. Frew Federal #12  
6. Nipp-Pictured Cliffs  
7. San Juan County NM  
8. 37.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas; Nat Gas P/L of AM  
1. 80-05580/NM-4067-79(6)  
2. 30-043-20339-0000-0  
3. 103 000 000  
4. Bco Inc  
5. Federal B #3  
6. Undesignated Gallup  
7. Sandoval NM  
8. 20.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05581/NM-4067-79(5)  
2. 30-043-20338-0000-0  
3. 103 000 000  
4. Bco Inc  
5. Federal B #2  
6. Undesignated Gallup  
7. Sandoval NM  
8. 20.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05583/NM-4067-79(8)  
2. 30-043-20332-0000-0  
3. 103 000 000  
4. Bco Inc  
5. Federal B #6  
6. Undesignated Gallup  
7. Sandoval NM  
8. 20.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05584/NM-4080-79  
2. 30-039-20106-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. SJ 28-5 Unit #77  
6. Basin-Dakota Gas  
7. Rio Arriba NM  
8. 18.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05585/NM-4063-79  
2. 30-045-06120-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #79  
6. West Kutz Pictured Cliffs Gas  
7. San Juan NM  
8. 23.7 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05586/NM-4064-79  
2. 30-045-11948-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #165  
6. Basin-Dakota Gas  
7. San Juan NM  
8. 18.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company; Northwest Pipeline Corporation; Southern Union Gathering Company  
1. 80-05587/NM-4065-79  
2. 30-045-20632-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #204  
6. Basin-Dakota Gas  
7. San Juan NM  
8. 19.3 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company; Northwest Pipeline Corporation; Southern Union Gathering Company  
1. 80-05588/NM-4066-79  
2. 30-045-20531-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #186  
6. Basin-Dakota Gas  
7. San Juan NM  
8. 21.9 million cubic feet  
9. November 7, 1979  
10. El Paso Natural Gas Company; Northwest Pipeline Corporation; Southern Union Gathering Co  
1. 80-05589/NM-4131-79  
2. 30-039-21685-0000-0  
3. 103 000 000  
4. El Paso Natural Gas Company  
5. San Juan 26-6 Unit #15A  
6. Blanco Mesaverde  
7. Rio Arriba NM  
8. 130.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05590/NM-4021-79  
2. 30-045-23207-0000-0  
3. 103 000 000  
4. Dugan Production Corp  
5. Federal I #6  
6. Harper Hill Fruitland PC  
7. San Juan NM  
8. 27.5 million cubic feet  
9. November 8, 1979  
10.  
1. 80-05591/NM-4019-79  
2. 30-045-22635-0000-0  
3. 103 000 000  
4. Dugan Production Corp  
5. Designated Hitter #3  
6. WAW Fruitland PC  
7. San Juan NM  
8. 27.5 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05592/NM-4018-79  
2. 30-045-22968-0000-0  
3. 103 000 000  
4. Dugan Production Corp  
5. FAF #3  
6. WAW Fruitland PC  
7. San Juan NM  
8. 5.0 million cubic feet  
9. November 8, 1979  
10.  
1. 80-05593/NM-4017-79  
2. 30-039-21507-0000-0  
3. 103 000 000  
4. Dugan Production Corp  
5. Monticello #1Y  
6. WAW Fruitland PC  
7. San Juan NM  
8. 45.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05594/NM-4015-79  
2. 30-039-21851-0000-0  
3. 103 000 000  
4. J G Merriam & R L Bayless  
5. Hill #1  
6. Blanco Mesa Verde  
7. Rio Arriba NM  
8. 56.8 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05595/NM-4016-79  
2. 30-045-22969-0000-0  
3. 103 000 000  
4. Dugan Production Corp  
5. FAF #4  
6. WAW Fruitland PC  
7. San Juan NM  
8. 12.5 million cubic feet  
9. November 8, 1979  
10.  
1. 80-05596/NM-4014-79-2  
2. 30-025-25553-0000-0  
3. 107 000 000  
4. American Quasar Petroleum Co  
5. Brinninstool #2  
6. 1980 FN & WL 21-T23S-R33E  
7. Lea NM  
8. 277.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Co  
1. 80-05597/NM-4009-79-B  
2. 30-025-25917-0000-2  
3. 103 000 000  
4. Continental Oil Company  
5. Warren Unit Blinbry No 58  
6. NMFU-Blinebry Oil & Gas  
7. Lea NM  
8. 12.0 million cubic feet  
9. November 8, 1979  
10. Warren Petroleum Company  
1. 80-05598/NM-4009-79-A  
2. 30-025-25917-0000-1  
3. 103 000 000  
4. Continental Oil Company  
5. Warren Unit Tubb No 58  
6. NMFU-Warren Tubb Oil  
7. Lea NM  
8. 26.0 million cubic feet  
9. November 8, 1979  
10. Warren Petroleum Company  
1. 80-05599/NM-4008-79-B  
2. 30-025-25853-0000-2  
3. 103 000 000  
4. Continental Oil Company  
5. Warren Unit Blinbry No 55  
6. NMFU-Blinebry Oil-Gas  
7. Lea NM  
8. 74.0 million cubic feet  
9. November 8, 1979  
10. Warren Petroleum Company  
1. 80-05600/NM-4008-79-A  
2. 30-025-25853-0000-1  
3. 103 000 000  
4. Continental Oil Company  
5. Warren Unit Tubb No 55  
6. NMFU-Warren Tubb Oil  
7. Lea NM  
8. 5.0 million cubic feet  
9. November 8, 1979  
10. Warren Petroleum Company



1. 80-05801/NM-4007-79-B
2. 30-025-26125-0000-2
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry No 54
6. NMFU-Blinbry Oil-Gas
7. Lea NM
8. 32.0 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05602/NM-4007-79-A
2. 30-025-26125-0000-1
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb No 54
6. NMFU-Warren Tubb Oil
7. Lea NM
8. 66.0 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05604/NM-3896-79
2. 30-039-40001-0000-0
3. 103 000 000
4. Mobil Oil Corporation
5. Jicarilla E #2-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 274.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05605/NM3896-79-3A
2. 30-043-20246-0000-1
3. 103 000 000
4. J G Merrion & R L Bayless
5. Jicarilla 428 #3 (PC)
6. Ballard Pictured Cliffs
7. Sandoval NM
8. 12.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05606/NM3896-79-3B
2. 30-043-20246-0000-2
3. 103 000 000
4. J G Merrion & R L Bayless
5. Jicarilla 428 #3 (Chacra)
6. Undesig Chacra
7. Sandoval NM
8. 12.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05607/NM-3896-79-4A
2. 30-043-20272-0000-1
3. 103 000 000
4. J G Merrion & R L Bayless
5. Jicarilla 428 #5 (PC)
6. Ballard Pictured Cliffs
7. Sandoval NM
8. 12.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05608/NM-3896-79-4B
2. 30-043-20272-0000-2
3. 103 000 000
4. J G Merrion & R L Bayless
5. Jicarilla 428 #3 (Chacra)
6. Undesig Chacra
7. Sandoval NM
8. 12.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05609/NM-4005-79-A
2. 30-025-26033-0000-1
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb No 52
6. NMFU-Warren Tubb Oil
7. Lea NM
8. 1.5 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05610/NM-4005-79-B
2. 30-025-26033-0000-2
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry No 52
6. Nmfu Blinbry Oil-Gas
7. Lea NM
8. 135.0 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05611/NM-4006-79-A
2. 30-025-25916-0000-1
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb Oil
6. Nmfu-Warren Tubb Oil
7. Lea NM
8. 140.0 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05612/NM-4006-79-B
2. 30-025-25916-0000-2
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry No 53
6. Nmfu-Blinbry Oil-Gas
7. Lea NM
8. 40.0 million cubic feet
9. November 8, 1979
10. Warren Petroleum Company
1. 80-05613/NM-3488-79
2. 30-045-21016-0000-0
3. 108 000 000
4. Amoco Production Company
5. Holmberg Gas Com A #1
6. Mt Nebo-Fruitland
7. San Juan NM
8. 19.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Co
1. 80-05614/NM-3004-79
2. 30-043-20158-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache P #4
6. Axi Apache Area
7. Sandoval NM
8. 1.6 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-05615/NM-4147-79
2. 30-005-60524-0000-0
3. 102 000 000
4. Depco Inc
5. Midwest Federal Well #3
6. Sand Ranch NM
7. Chaves NM
8. 105.0 million cubic feet
9. November 8, 1979
- 10.
1. 80-05616/NM-4138-79
2. 30-039-31699-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 30-6 Unit #95A
6. Blanco Mesaverde
7. Rio Arriba NM

8. 75.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05617/NM-4138-79
2. 30-039-21721-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #255
6. Basin Dakota
7. Rio Arriba NM
8. 140.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation

1. 80-05618/NM-4135-79
2. 30-039-21689-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #195
6. Basin Dakota
7. Rio Arriba NM
8. 140.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation

1. 80-05619/NM-4134-79
2. 30-039-21650-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #247
6. Basin Dakota
7. Rio Arriba NM
8. 140.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation

1. 80-05620/NM-4133-79
2. 30-039-21688-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #56A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 150.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company

1. 80-05621/NM-4132-79
2. 30-039-21687-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #20A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 60.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a

protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37582 Filed 12-6-79; 8:45 am]

BILLING CODE 6450-01-M

#### [Docket No. ER80-102]

#### Alabama Power Co.; Filing Rate Schedule

November 29, 1979.

The filing Company submits the following:

Take Notice that Alabama Power Company on November 23, 1979, tendered for filing an Agreement with The City of Opelika, intended as an initial rate schedule. This agreement provides for service to five (5) delivery points for a capacity of 25,000 KVA at 115 KV for each delivery point. Service at 115 KV will be provided to each of the existing delivery points on a schedule which currently extends from November 1, 1979 through June 1, 1981. The City of Opelika will be served at the Company's applicable revision to Rate Schedule MUN-1 incorporated in FERC Electric Tariff. Original Volume 1 of Alabama Power Company as allowed to become effective by Commission Order in FERC Docket ER78-77.

Copies of the filing were served upon The City of Opelika, Opelika, Alabama.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37582 Filed 12-6-79; 8:45 am]

BILLING CODE 6450-01-M

#### [Docket No. RP79-75]

#### Algonquin Gas Transmission Co.; Rate Change Pursuant to Gas Research Institute Charge Adjustment Provision

November 29, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 19, 1979, tendered for filing 50th Revised Sheet No. 10, 9th Revised Sheet No. 10-A, and 1st Revised Sheet No. 20-G to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that the purpose of this filing is to include in its rates the Gas Research Institute ("GRI") surcharge as authorized by Opinion No. 64 for GRI funding of \$0.0048 per Mcf, adjusted to \$0.0047 per MMBtu to reflect Algonquin Gas' Btu billing arrangements.

Algonquin Gas states the GRI surcharge is applicable to billing under its Rate Schedules F-1, WS-1, I-1, E-1, and SNG-1.

Algonquin Gas proposes that the effective date of the revised tariff sheets be January 1, 1980, as authorized by Opinion No. 64.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37583 Filed 12-6-79; 8:45 am]

BILLING CODE 6450-01-M

#### [Docket No. ER80-103]

#### The Cincinnati Gas & Electric Co.; Proposed Rate

November 29, 1979.

The filing company submits the following:

Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on November 23, 1979, a

proposed Non-Firm Transmission Service rate based upon an agreement between Cincinnati and the City of Hamilton, Ohio (Hamilton) executed on September 1, 1979. The proposed rate provides for Non-Firm Transmission Service at a charge of \$.75 per kW per month times the reserve quantity during the reserve period.

The day on which service under the revised schedule is expected to commence is September 1, 1979. An estimate of the transactions and revenues under this revised schedule is not feasible because use will be scheduled only as Hamilton requires and as Cincinnati has transmission available.

The filing company requests that the Company waive any requirements not already complied with under Section 35.12 of its regulations and that an effective date prior to the filing date be approved pursuant to Section 35.11. A copy of this filing has been mailed to the City of Hamilton.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37585 Filed 12-6-79; 8:45 am]

BILLING CODE 6450-01-M

#### [Docket No. CP76-285, et al.]

#### Clay Basin Storage Co.; Report of Disposition of Refunds

November 29, 1979.

Take notice that on November 23, 1979, Clay Basin Storage Company ("Storage Company") tendered for filing its Report of Disposition of Refunds resulting from Northwest Pipeline Corporation's ("Northwest") distribution of refunds to Storage Company, among others, on September 14, 1979, pursuant to Article V of Northwest's Stipulation and Agreement dated February 12, 1979, at Docket No. RP78-50.



Storage Company states that the amount of refunds, inclusive of interest, received by Storage Company from Northwest pursuant to the provisions of Article V of Northwest's Stipulation and Agreement dated February 12, 1979, at Docket No. RP78-50, is \$165,928.28. Such amount is attributable to certain transportation service rendered by Northwest as a part of the Clay Basin Interim Storage Arrangements authorized at Docket No. CP76-285, *et al.* Under paragraph 6.5, Article VI, of the Interim Storage Agreement, dated as of July 6, 1977, as amended, between Storage Company and El Paso Natural Gas Company ("El Paso"), Storage Company has assigned to El Paso the full amount of any refunds received by Storage Company from Northwest, by crediting such amount in the calculation of its cost of service billing for September 28, 1979, to El Paso under Paragraph 6.2, Article VI, of the Interim Storage Agreement.

Storage Company further states that copies of the filing were served upon Storage Company's customers, El Paso Natural Gas Company's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before Dec. 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37587 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. SA80-7]

**Delhi Gas Pipeline Corp.; Application for an Adjustment**

November 29, 1979.

Take notice that on October 12, 1979, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. SA80-7 an application pursuant to Section 502(c) of

the Natural Gas Policy Act of 1978 (NGPA) and Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41) for an adjustment permitting Delhi to continue to assign without prior Commission approval, its contractual right to certain natural gas to United Gas Pipeline Company (United) pursuant to Section 312 of the NGPA, so long as the price of that gas does not exceed the Section 102 price of the NGPA, plus Section 110 of the NGPA state severance taxes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Delhi states that it seeks an adjustment because pursuant to Section 284.163(b) of the Regulations under the NGPA assignments of contracts with gas prices exceeding the new gas prices set out in Table I of Section 271.101(a) of the Regulations under the NGPA are not permitted without prior Commission approval. It is indicated that said contracts were assigned by Delhi to United under the special rule contained in Section 284.163 without prior Commission approval because at the time of assignment the gas prices under the contracts did not exceed the Table I new gas prices. Delhi asserts that the requested relief is necessary because under its price redetermination clauses, Delhi is required to redetermine the gas price to the average of the 2 or 3 highest prices being paid by a pipeline purchaser, including interstate pipelines, for gas located within one or more designated geographical areas. Delhi states that such highest prices being paid by interstate pipelines are the new gas prices under Section 102 of the NGPA, plus state severance taxes, and that beginning on or about October 1, 1979, such redetermined prices would exceed said Table I new gas prices.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed on or before December 24, 1979.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37588 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP80-22]

**East Tennessee Natural Gas Co.; Revision to Tariff Filing**

November 29, 1979.

Take notice that on November 20, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Fifth Revised Sheet No. 69A to Sixth Revised Volume No. 1 of its FERC Gas Tariff to be effective on December 1, 1979.

East Tennessee states that this tariff sheet revises a tariff sheet filed on November 1, 1979 in this docket. East Tennessee states that the revision is necessary to conform the calculation of carrying charges on balances in its Unrecovered Purchased Gas Cost Account with the provisions of the Commission's Order No. 47-A issued November 9, 1979, in Docket No. RM77-22.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional and direct customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37590 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-104]

**Edison Sault Electric Co.; Filing**

November 29, 1979.

The filing Company submits the following:

Take notice that Edison Sault Electric Company (Edison), on November 26, 1979, tendered for filing a Supplemental Agreement No. 2 between Edison and Upper Peninsula Power Company (Upper Peninsula), dated October 1,

1979, which agreement will supplement an existing Contract for Electric Service, dated September 10, 1976, between the same two parties. The contract between the parties, dated September 10, 1976, has been designated FPC Rate Schedule No. 7 (Docket No. ER77-98). The proposed supplemental agreement provides for a change in the rate schedule as provided in the contract, dated September 10, 1976, under section "Increases or Decreases in Rates".

Copies of the filing were served upon Upper Peninsula Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37590 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Project No. 2960]

**City of Gonzales, Texas; Application for Short-Form License (Minor) for an Unconstructed Project**

November 28, 1979.

Take notice that on August 28, 1979, the City of Gonzales, Texas (City) filed an application for license [pursuant to the Federal Power Act, 16 USC, Section 791(a)-825(r)] for redevelopment of an existing water power project to be known as the Gonzales Project No. 2960 located on the Guadalupe River in Gonzales County, near the Town of Gonzales, Texas.

Correspondence with the Applicant should be directed to: City of Gonzales (c/o Calvin Spacek) P.O. Box 547 Gonzales, Texas 78629.

**Purpose of the Project**—Power from the rehabilitated project would be used in the City's municipal power distribution system.

**Project Description**—The proposed project would be operated as run-of-river and would consist of: (1) an

existing concrete dam approximately 15 feet high, 258 feet long, and 78 feet wide, impounding; (2) a reservoir with a surface area of 300 acres and storage capacity of 1,400 acre-feet at elevation 259.6 feet msl; (3) an existing powerhouse approximately 80 by 20 feet; (4) three new 380-kW vertical shaft open flume propeller type units; (5) two existing substations—one of 69 and one of 12 kV; (6) trash racks; and (7) apartment facilities.

All lands to be affected are owned by the State of Texas. Projected annual power generation would be 6.8 million kWh, dropping to 6.4 million kWh as additional river water is diverted in later years by existing hydroelectric projects upstream. Applicant estimates the cost of redevelopment at \$1,923,000.

**Agency Comments**—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If any agency does not file comments within the time set below, it will be presumed to have no comments.

**Competing Applications**

Anyone desiring to file a competing application must submit to the Commission, on or before February 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 4, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33 (b) and (c), *as amended*, 44 Fed. Reg. 61328, Oct. 25, 1979. A competing application must conform with the requirements of 18 C.F.R. 4.33 (a) and (d), *as amended*, 44 Fed. Reg. 61328, Oct. 25, 1979.

**Protests, and Petitions to Intervene**

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules and Practice and

Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comment, protest, or petition to intervene must be filed on or before February 4, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37591 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. GP80-46]

**Lacy & Byrd, Inc.; Application for Allowance for Production-Related Costs**

November 29, 1979.

Take notice that on October 19, 1979, Lacy & Byrd, Inc. (Applicant), P.O. Box 2518 Midland, Texas 79702, filed with the Federal Energy Regulatory Commission (Commission), pursuant to § 271.1105 of the Commission's regulations, an application for recovery of production-related costs under section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, *et seq.*

Applicant is currently seeking a determination from the Texas Railroad Commission that gas which it produces and delivers to Northern Natural Gas Company (Northern) qualifies for a maximum lawful price under section 103 of the NGPA. Applicant requests an allowance in addition to such maximum lawful price for gathering costs connected with natural gas deliveries to Northern.

Any person desiring to be heard or to make any protests with reference to this proceeding should, on or before December 24, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the



protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37593 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP80-23]

**Midwestern Gas Transmission Co.;  
Revision to Tariff Filing**

November 29, 1979.

Take notice on November 20, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Fifth Revised Sheet Nos. 82 and 86 to Third Revised Volume No. 1 of its FERC Gas Tariff to be effective on December 1, 1979.

Midwestern states that these tariff sheets revise tariff sheets filed on November 1, 1979 in this docket. Midwestern states that the revision is necessary to conform the calculation of carrying charges on balances in its Unrecovered Purchased Gas Cost Accounts with the provisions of the Commission's Order No. 47-A issued November 9, 1979, in Docket No. RM77-22.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37594 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP79-75]

**Pacific Gas Transmission Co.; Change  
in GRI Adjustment Charge**

November 29, 1979.

Take notice that on November 19, 1979, Pacific Gas Transmission Company (PGT) tendered for filing the following sheet to its FERC Gas Tariff:

*Original Volume No. 1.—Third  
Revised Sheet No. 16.*

An effective date of January 1, 1980 is proposed, in accordance with the Commission's Opinion No. 64 in Docket No. RP79-75.

PGT states that this filing is made under its filed Gas Research Institute (GRI) Charge Adjustment Provision and pursuant to the Commission's Opinion No. 64 issued October 2, 1979 in Docket No. RP79-75. That Opinion authorizes members of the Gas Research Institute (GRI) to collect a general R&D funding unit of 4.8 mills per Mcf of Program Funding Services by payment to GRI. PGT further states that the change in rates will affect only charges for natural gas service rendered to Pacific Gas and Electric Company under Rate Schedule PL-1.

PGT states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37596 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. EL78-29]

**Village of Penn Yan, New York; order  
denying stay**

November 15, 1979.

October 19, 1979 the New York State Electric and Gas Corporation (NYSEG) filed a motion for an expedited stay of the Commission's declaratory order

issued in this docket on March 28, 1979. In that order, the commission ordered NYSEG to file certain contracts relating to NYSEG's agreement to transmit Niagara Project power to certain preference customers of the Power Authority of the State of New York (PASNY), including the village of Penn Yan (Penn Yan).<sup>1</sup> In addition, the Commission determined that provisions in these contracts which limit a municipal system's use of power wheeled by NYSEG to retail service within the municipality's borders as of the date of the contract are unjust and unreasonable because they are unreasonably anticompetitive in effect. On September 17, 1979, the Commission issued an order denying NYSEG rehearing of the declaratory order.<sup>2</sup>

In support of its motion, NYSEG states that it will be irreparably harmed if Penn Yan and other municipalities to which NYSEG transmits PASNY power under NS-11 begin service to customers in their extended borders. Such action will result in loss of retail customers now served by NYSEG. If NYSEG is successful in its review before the Court of Appeals, the company argues that it may have to initiate a number of actions against Penn Yan and other involved municipalities in order to recover its lost customers and lost revenues. According to NYSEG, the "goodwill" lost through such "multiple litigation" and "changing electric service relationships" will be irreplaceable and uncompensable.

In attempting to demonstrate a likelihood of success on the merits, NYSEG relies on the arguments raised in its April 25, 1979 application for rehearing. Specifically NYSEG argues that (1) Contract NS-11 and 1972 Agreement are not subject to the jurisdiction of the Commission; (2) because NS-11 was approved by the State of New York, the Commission is without authority to modify its terms and its terms are immunized from antitrust review and (3) under the Federal Power Act and general principles of due process NYSEG was entitled to an evidentiary hearing before the relief requested could be granted.

On October 31, 1979 Penn Yan filed a response in opposition to NYSEG's

<sup>1</sup> The PASNY-NYSEG transmission agreement is designated Niagara Contract NS-11 and is referred to herein as NS-11.

<sup>2</sup> The NYSEG-Penn Yan transmission agreement, recognizing the NYSEG's transmission obligation as established in NS-11, is referred to herein as the 1982 Agreement.

<sup>3</sup> On October 15, 1979, NYSEG filed a Petition for Review of the Commission's March 28 and September 17, 1979 orders with the United States Court of Appeals for the Second Circuit.

motion.<sup>3</sup> Penn Yan argues that NYSEG has demonstrated neither irreparable harm nor a likelihood of success on the merits. In addition, Penn Yan argues that the public interest will be served by denial of the stay.

Having considered the arguments of all parties, we find that NYSEG has not made a showing sufficient to warrant a stay of the declaratory order in this docket.

First, NYSEG's allegation of irreparable harm is without merit. With the possible exception of the Village of Penn Yan, NYSEG's statements regarding potential loss of customers are merely speculative. Moreover, any harm to NYSEG which may result from loss of these customers is fully compensable in monetary damages. NYSEG's allegation of "loss of goodwill" is not persuasive given that the residents of Excell Estates expressed their desire to be served by the Penn Yan municipal system long before the Commission issued its declaratory order.<sup>4</sup> Clearly, there is little or no "goodwill" to be lost if these customers begin receiving service from the municipal system.

Further, we find that NYSEG has not demonstrated that it is likely to prevent on the merits. In requiring NYSEG to file its transmission contracts with PASNY and the preference customers of PASNY, the Commission was exercising its express statutory authority under Section 201(b) and 205(c) of the Federal Power Act to require a jurisdictional utility to file its agreements to provide transmission service. In rendering unenforceable the provision of the NS-11 and the 1982 Agreement which places a restriction on the use of wheeled power, the Commission was exercising its well-established authority to consider antitrust policy when examining the rates, terms and conditions of agreements for wholesale service. Further, the undisputed facts contained in the pleading provided a sufficient basis for the Commission's determination that the disputed provisions are unreasonably anticompetitive in effect. In sum, NYSEG has presented no persuasive

<sup>3</sup> Because NYSEG requested expedited treatment of its motion, notice was issued on October 25, 1979 requiring all responses to NYSEG's motion to be filed on or before October 31, 1979.

<sup>4</sup> See Petition For A Declaratory Order Of The Village Penn Yan, New York To Invalidate Contract Provision Between The Power Authority Of The State Of New York And New York State Electric And Gas Corporation, Exhibit D, filed May 25, 1978. This exhibit is a petition signed by the residents of Excell Estates requesting the Penn Yan Municipal Board to furnish electric service to these residents in place of NYSEG. There are statements in the petition which demonstrate the dissatisfaction felt by these residents with regard to NYSEG's rates and service.

arguments challenging the exercise of the Commission's authority in this case.

Finally, it is clear that the balance of hardships tips in favor of Penn Yan and the customers it seeks to serve in the extended territories. As stated earlier, the residents of Excell Estates have been seeking electric service from Penn Yan for several years. The imposition of a stay at this point would result in further delay in commencement of municipal electric service in Excell Estates to which the residents of that area are lawfully entitled. This hardship to the Village of Penn Yan, particularly the citizens of Excell Estates, outweighs any hardship NYSEG may experience as a result of the loss of a relatively insignificant amount of revenue.

**The Commission orders:**

(A) The request of the New York State Electric and Gas Corporation for a stay of the Commission's March 28, 1979 order in this docket is hereby denied.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37601 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. CP80-93, et al.]

**Border Gas, Inc., et al.**

In the Matter of Border Gas, Inc. (Docket No. CP80-93, CP80-75); Texas Eastern Transmission Corporation, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Transcontinental Gas Pipe Line Corporation (Docket No. CP80-89); Texas Eastern Transmission Corporation (Docket No. CP80-90); Florida Gas Transmission Company (Docket No. CP80-91); and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Docket No. CP80-92); notice of applications and consolidation. November 30, 1979.

Take notice that on November 9, 1979, Border Gas, Inc. (Border), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-75 an application pursuant to Section 3 of the Natural Gas Act for authorization to import from Mexico up to 300,000 Mcf of natural gas per day purchased from Petroleos Mexicanos (Pemex).

Border states that it was formed by certain domestic interstate natural gas pipeline companies to facilitate the purchase of Mexican natural gas from Pemex in the following proportions:

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), 37 1/2%.  
Texas Eastern Transmission Corporation (Texas Eastern), 27 1/4%.  
El Paso Natural Gas Company (El Paso), 15%.  
Transcontinental Gas Pipe Line Corporation (Transco), 10%.  
Southern Natural Gas Company (Southern), 6 3/4%.  
Florida Gas Transmission Company (Florida), 3 1/4%.

It is further stated that the above companies own all of Border's outstanding shares in proportion to their respective percentage entitlement to purchase the Mexican natural gas.

Border states that pursuant to its October 19, 1979, purchase contract with Pemex, it would purchase and import initially up to 300,000 Mcf of natural gas per day which is determined from time to time to be surplus to the Mexican national demand. The sale and delivery of natural gas by Pemex following exportation from Mexico to Border would be made at two points on the international boundary. The initial sale and delivery is proposed to begin immediately utilizing existing facilities, near Reynosa, Tamaulipas, and Hidalgo, Texas, referred to as the "secondary" point of delivery, it is stated.

On resale to the companies listed above, at the "secondary" point of delivery, the natural gas would be received into Texas Eastern's interstate system and transported for itself and each of the other five companies to downstream delivery points, it is stated. It is presently contemplated that Texas Eastern would (1) transport and deliver the Mexican natural gas for Tennessee, Florida, and Transco, directly into their respective interstate systems, and (2) deliver Mexican natural gas for Southern, El Paso, and Transwestern Pipeline Company (Transwestern), a Texas Eastern affiliate to which Texas Eastern plans to sell one-third of its Mexican supply, to intermediate pipelines for further transportation to their respective systems.

Pursuant to an agreement between the United States and Mexico announced September 21, 1979, the initial price of the natural gas would be \$3.625 per million Btu's as of January 1, 1980, said price being subject to reconsideration prior to that date should the price for natural gas from comparable sources exceed that amount prior to said date and subject to quarterly adjustment pursuant to a specific formula.

Take further notice that on November 16, 1979, five additional applications were filed pursuant to Section 7 of the Natural Gas Act for certificates of public convenience and necessity. Each states that its proposal is an integral part of



the arrangements for importation of the Mexican volumes. Certain applications also request adjustments pursuant to Section 502(c) of the Natural Gas Policy Act exempting certain parties from provisions of Commission Order No. 49 issued September 28, 1979, in Docket No. RM79-14.

In Docket No. CP80-93 Border requests authority to resell in interstate commerce all the natural gas which it purchases each day from Pemex to the six pipeline companies initially through existing facilities and later at a primary point of delivery through facilities yet to be constructed. The price proposed is said to be the result of an agreement reached between the Governments of the United States and Mexico and is stated to be \$3.625 per million Btu subject to quarterly adjustments. Border requests that it be allowed to pass through concurrently each change in the price payable by Border to Pemex and states that it is authorized to request that each of its six customer pipelines and Transwestern be authorized to flow through by means of its respective PGA clause mechanism its purchased cost of Mexican natural gas.

Border requests, that it be found not to be an "interstate pipeline" within the meaning of the NGPA and asserts that the provisions of the NGPA and Order No. 49 are inapplicable to it. In the alternative, Border requests an adjustment under Section 502 of the NGPA to prevent alleged special hardship, inequity, and unfair distribution of burdens.

Border submits that the imported gas is necessary to prevent future severe natural gas shortages. It requests the Commission to review the applications concurrently with review of the application filed pursuant to Section 3 of the Natural Gas Act by the Economic Regulatory Administration of the Department of Energy.

In Docket No. CP80-89, Texas Eastern, P.O. Box 2521, Houston, Texas 77001; Florida, P.O. Box 44, Winter Park, Florida 32790; Tennessee, P.O. Box 2511, Houston, Texas 77001; Transco, 2700 South Post Oak Road, Houston, Texas 77056; filed a joint application for a certificate authorizing Texas Eastern to transport for the other participants in the Mexican natural gas import project the following volumes plus additional volumes as may be made available, less 1% for gas used and to charge the following rates:

Participant; Mcf/day; dekatherms/day; less 1%; Rate, cents/dekatherms.

Tennessee; 112,500; 111,365; 2.60.  
El Paso; 45,000 44,550; 7.68.  
Transco; 30,000; 29,700; 3.13.

Southern; 20,000; 19,800; 3.15.  
Florida; 10,00; 9,000; 3.15.

Texas Eastern states that the rates are based on its cost of service per dekatherm per mile (0.026¢) with a minimum rate of 2.80¢ per dth, as filed in its proposed settlement rates in Docket No. RP78-87.

Florida, Tennessee, and Transco propose to construct certain pipeline metering, and related facilities to effect receipt of the Mexican gas by such companies from Texas Eastern and by Florida, for Southern's account. Florida's facilities are estimated to cost \$218,000; Tennessee's, to cost \$1,578,000; and Transco's, to cost \$180,000. Pipeline facilities are proposed by Florida and Tennessee and will be operated by such companies.

Texas Eastern proposes to construct and operate certain tap and side valve facilities to effect deliveries to Florida, Tennessee, and Transco. Texas Eastern also proposes to operate the metering facilities installed by Florida, Tennessee, and Transco.

Deliveries of gas for El Paso's account will be made at the existing interconnection of the facilities of Texas Eastern and LoVaca Gathering Company (LoVaca) near Angleton, Brazoria County, Texas pursuant to Section 311(a)(2) of the NGPA, it is stated. Deliveries by Texas Eastern for the other participants will be made at the point of interconnection proposed herein, as follows: to Florida, for its account and for the account of Southern, at the proposed interconnection near Robstown, Nueces County, Texas; to Tennessee at the proposed interconnection in Hidalgo County, Texas; and to Transco at the proposed point in Nueces County, Texas.

In Docket No. CP80-90, Texas Eastern filed an application for a certificate authorizing the sale of one-third of its entitlement at the international boundary to Transwestern pursuant to an agreement dated November 13, 1979. Texas Eastern states that the proposed rate of 7.68 per dekatherm is based on the rate in Docket No. RP78-87. Texas Eastern also requests that the Commission grant it an exemption from Section 207(b) of the NGPA and Section 282.301(e) of the Commission's Regulations thereunder, requiring that the gas sold be incrementally priced by Texas Eastern.

Deliveries of gas for Transwestern's account will be made at the existing interconnection of the facilities of Texas Eastern and LoVaca near Angleton, Brazoria County, Texas. No additional facilities are required, the application states.

In Docket No. CP80-91, Florida filed an application for a certificate authorizing it to transport Southern's share of the Mexican volumes from Nueces or Matagorda County, Texas, to Washington Parish, Louisiana, pursuant to a November 14, 1979, agreement. Florida proposes to charge a demand charge equal to the delivery quantity per million Btu times \$3.13 plus a commodity charge equal to the equivalent quantity for every day of each month times 10.0c.

In Docket No. CP80-92, Tennessee filed an application for a certificate authorizing it to restore to interstate service its Line 400-1, authorized to be abandoned from its interstate system in Docket Nos. CP75-358 and CP76-284, in order for it to receive its daily initial quantities of Mexican natural gas. Tennessee states that it is currently transporting natural gas for Celanese Chemical Corporation through its line 400-1.

Each application is on file with the Commission and available for public inspection.

Since these applications may involve common questions of law and fact, they will therefore be consolidated for all purposes pursuant to Sections 1.20(b) and 3.5(a)(6) of the Commission Rules and Regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 14, 1979, file with the Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the consolidated proceeding. Any person wishing to become a party to the consolidated proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the import authorizations and certificates are not

inconsistent with the public interest and required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37584 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

#### System of Docket Prefixes for Natural Gas Pipeline Tracking Rate Filings

November 28, 1979.

Take notice that the Federal Energy Regulatory Commission (Commission) has adopted a system of docket prefixes and docket numbering as set forth below. The new system is to be applied to all semi-annual tracking filings made by natural gas pipelines, as well as any other rate tracking filings. Tracking filings are those rate adjustment filings other than general rate adjustment filings made pursuant to § 154.63 or 154.38(d)(4)(vi) of the Regulations which reflect an adjustment in one item of cost (such as purchased gas cost) without the submission of a general cost and revenue study. This notice is issued for the information and aid of the public and practitioners before the Commission as an explanation of the docket prefix system to be used. This system shall be used for all rate tracking filings made by natural gas pipelines proposed to become effective January 1, 1980, and thereafter.

The docketing system previously used for these tracking filings incorporated the RP docket in which the purchased gas adjustment clause (PGA clause) was first approved and certain sub-dockets (PGA, DCA, AP) to designate the components of the filing. The new system will discontinue the use of the RP docket prefix for tracking filings. It will have three elements. The first element will be the tariff rate adjustment prefix, TA, and the fiscal year in which the effective date falls. The second element will be either the number "1" or "2." A "1" will be used for all filings which fall in the first half of the Federal fiscal year; i.e., those with proposed effective dates falling between October 1 and March 31 of any fiscal year. A "2" will be used for all filings which fall in the second half of the fiscal year; i.e., those with proposed effective dates falling between April 1 and

September 30 of any fiscal year. The third element will be a number which will designate the company which is making the filing. These numbers have been assigned as set out in the Appendix to this notice. The numbers in the third element will not change for each company from one filing or fiscal year to another. The subdocket prefixes currently used shall be retained. Two examples are set forth below.

(1) Southern Natural Gas Company files one of its semi-annual PGA adjustments with a proposed effective date of January 1, 1980. It includes only a PGA adjustment. It will be docketed as TA 80-1-7 (PGA80-1).

(2) United Gas Pipeline Company files one of its semi-annual PGA adjustments with a proposed effective date of July 1, 1980. It includes a PGA and a DCA adjustment. It will be docketed as TA 80-2-11 (PGA80-2, DCA80-2).

Kenneth F. Plumb,  
Secretary.

#### Appendix

- Alabama-Tennessee Natural Gas Company.
- East Tennessee Natural Gas Company.
- Chattanooga Gas Company.
- Granite State Gas Transmission, Inc.
- Midwestern Gas Transmission Company.
- Sea Robin Pipeline Company.
- Southern Natural Gas Company.
- South Georgia Natural Gas Company.
- Tennessee Gas Pipeline Company.
- Tennessee Natural Gas Lines, Inc.
- United Gas Pipe Line Company.
- Distigas of Massachusetts Corporation.
- Gas Gathering Corporation.
- Lawrenceburg Gas Transmission Corporation.
- Mid-Louisiana Gas Company.
- National Fuel Gas Supply Corporation.
- Texas Eastern Transmission Corporation.
- Texas Gas Transmission Corporation.
- Utah Gas Service Company.
- Algonquin Gas Transmission Company.
- Columbia Gas Transmission Corporation.
- Consolidated Gas Supply Corporation.
- Eastern Shore Natural Gas Company.
- Equitable Gas Company.
- Mississippi River Transmission Corporation.
- Natural Gas Pipeline Company of America.

- North Penn Gas Company.
- Panhandle Eastern Pipe Line Company.
- Transcontinental Gas Pipe Line Corporation.
- Trunkline Gas Company.
- Arkansas Louisiana Gas Company.
- Colorado Interstate Gas Company.
- El Paso Natural Gas Company.
- Florida Gas Transmission Company.
- Northern Natural Gas Company (Peoples Division).
- Mountain Fuel Supply Company.
- Northwest Pipeline Corporation.
- Oklahoma Natural Gas Gathering Corporation.
- Pacific Interstate Transmission Company.
- Raton Natural Gas Company.
- Southwest Gas Corporation.
- Transwestern Pipeline Company.
- Cities Service Gas Company.
- Commercial Pipeline Company, Inc.
- Inter-City Minnesota Pipelines Ltd., Inc.
- Kentucky-West Virginia Gas Company.
- McCulloch Interstate Gas Company.
- Michigan Wisconsin Pipe Line Company.
- Montana-Dakota Utilities Company.
- Valley Gas Transmission, Inc.
- Great Lakes Gas Transmission Company.
- Western Gas Interstate Company.
- Kansas-Nebraska Natural Gas Company.
- Louisiana-Nevada Transit Company.
- Mountain Fuel Resources, Inc.
- South Texas Natural Gas Gathering Company.
- Western Transmission Corporation.
- Texas Gas Pipe Line Corporation.
- Northern Natural Gas Company.

[FR Doc. 79-37581 Filed 12-6-79; 8:45 am]  
BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL 1371-7]

#### Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104) U.S. Environmental Protection Agency.

PURPOSE: This Notice Lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups,



organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

**PERIOD COVERED:** This Notice includes EIS's filed during the week of November 26 to November 30, 1979.

**REVIEW PERIODS:** The 45-day review period for draft EIS's listed in this Notice is calculated from December 7, 1979 and will end on January 21, 1980. The 30-day review period for final EIS's as calculated from December 7, 1980 will end on January 7, 1980.

**EIS AVAILABILITY:** To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

**BACK COPIES OF EIS'S:** Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction:  
Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street NW., Suite 318, Washington, D.C. 20037.

**FOR FURTHER INFORMATION CONTACT:** Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245-3006.

**SUMMARY OF NOTICE:** On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of November 26, 1979 to November 30, 1979 the 30-day review period will be calculated from December 7, 1979. The review period will end on January 7, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of November 26, 1979 to November 30, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the

proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: December 4, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During the Week of November 26, 1979, Through November 30, 1979.

#### U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

#### Draft

Hookers Prairie Phosphate Mine, Permit, Polk County, Fla., Nov. 30: Proposed is the issuance of a permit to the W. R. Grace and Company to mine for phosphate ore in wetlands of Hookers Prairie, Polk County, Florida. Approximately 5,387 acres, of which 3,713 acres are wetlands, are to be mined. Alternatives include: (1) mining in wetlands and uplands, with surface clay disposal ponds; (2) wetland and upland mining without clay disposal ponds; (3) upland mining only, with clay disposal ponds; (4) upland mining only, without clay disposal ponds; and (5) mining only after a national policy is formulated. (Jacksonville District) (EIS Order No. 91201.)

#### Final

Rock Hall Harbor Small Navigation Project, Kent County, Md., Nov. 27: Proposed is a

navigation project for the Rock Hall Harbor in Kent County, Maryland. The project will include: (1) increasing the height of existing breakwaters at harbor entrances to +7 foot MLW, (2) construction of a +7 foot MLW addition to the western breakwater at the harbor entrance, (3) channel and anchorage basin dredging in the eastern harbor entrance, and (4) upland disposal of 76,800 cubic yards of dredged material. The alternatives consider: (1) use of baffles, (2) breakwater opening by extension or construction of an independent opening, and (3) no action. (Baltimore District) Comments made by: EPA, DOI, DOC, USDA, State agencies. (EIS order No. 91191.)

Baltimore Harbor/Channels Navigation Improvements, States of Maryland and Virginia, Nov. 27: Proposed are navigational improvements for the Baltimore Harbor and channels in the States of Maryland and Virginia. The remaining measures include: (1) dredging the Connecting Channel from its present 27 foot depth and 400 foot width, to 35 by 600 feet, (2) dredging of the Approach Channels, (the Swan Point and Tolchester sections), from the present 35 foot depth and 450 width to 600 feet wide, and (3) placement of 1.03 million cubic yards of dredged material into the Chesapeake Bay at the Pooles Island Deep. The alternatives considered include: (1) the proposed action, (2) no action, and (3) several disposal methods for the dredged material. (Baltimore District) Comments made by: DOC, DOT, EPA, DOI, State agencies, groups. (EIS order No. 91193.)

#### DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, DC 20585, (202) 252-4600.

#### Final

Savannah River Plant, Mgmt. of Radioactive Waste, Aiken, Barnwell, Allendale Counties, Nov. 29: This programmatic environmental impact statement is issued to provide environmental guidance for the research and development program, demonstration activities, and engineering design studies that will be carried out at the Savannah River Plant (SRP) related to long-term management of high-level radioactive waste generated at SRP as part of the Nation's nuclear defense program. (DOE/EIS-0023-F) Comments made by: HEW, NSF, NRC, EPA, DOI, State and local agencies, groups and businesses. (EIS order Number 91199.)

#### DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

#### Federal Highway Administration

#### Draft

Willamette R. Bridges, OR-22 Willamina-Salem Hwy., Marion and Polk Counties, Ore., Nov. 27: Proposed is the replacement of the Center Street Bridge and the widening of the Marion Street Bridge both on OR-22, the Willamina-Salem Highway in Marion and

Polk Counties, Oregon. The bridges span the Willamette River. Other features of the project will include: (1) two new bridges on the east side; (2) modifications to the existing Front Street ramp; (3) changes in the Center Street, Marion Street, Wallace Road/Edgewater Street, and Wallace Road/OR-22 ramps; and (4) other features. (FHWA-OR-EIS-79-10-D) (EIS order No. 91192.)

#### Draft

Newburgh Riverfront Arterial, Orange County, N.Y., Nov. 28: Proposed is the construction of the Newburgh (Riverfront Boulevard) in the city of Newburgh and towns of Newburgh and New Windsor, Orange County, New York. The facility would begin just north of the River Road/Walsh Road intersection in New Windsor. The facility will range from two to five lanes and include signalization, lighting, storm sewers, and other features. The alternatives consider no build and mass transit. (FHWA-NY-EIS-79-3D) (EIS order Number 91195.)

#### FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000, S-22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 275-4150.

#### Draft

Dinkey Creek Project, License, Fresno County, Calif., Nov. 29: Proposed is the issuance of a construction license for the Dinkey Creek project in Fresno County, California. The license would authorize the construction of a conventional hydroelectric facility including: 1) a dam and reservoir on Dinkey Creek, 2) a power tunnel, 3) two powerhouses, 4) three diversion dams, 5) access roads, 6) recreational facilities, and 7) other appurtenant facilities. The license would also authorize the operation of the facility for the production of electricity. Five alternatives are considered in the areas of rates, design, site location, forms of generating power, and denial of license. (FERC No. 2890) (EIS order Number 91197.)

#### DEPARTMENT OF HUD

Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 743, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6306.

#### Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

#### Draft

Wellington Station Area Development, UDAG, Middlesex County, Mass., Nov. 30: Proposed is the issuance of an urban development action grant to the city of Medford, Middlesex County, Massachusetts for the Wellington Station area development project. The project includes public and

private improvements to convert the project site into a major multi-use center with retail, office, hotel, transit and housing development. A no-build and five build alternatives were selected for the real estate development on the site. The build alternatives differ primarily in the sizes and locations of each component land use. (EIS order Number 91202.)

#### DEPARTMENT OF AGRICULTURE

Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250 (202) 447-3965.

#### Forest Service

#### Draft

Hells Canyon National Recreation Area, several counties in Oregon and Idaho, Nov. 29: Proposed is a land and resource management plan for the 652,488 acre Hells Canyon National Recreation Area in the Wallowa-Whitman Nez Perce and Payette National Forests, Baker and Wallowa Counties, Oregon and Nez Perce, Idaho. The preferred alternative will include: 1) establishment of 5 campgrounds, 2) emphasis on elk habitat, 3) timber cutting, 4) boat use of the Snake River, 5) recommendations for five additions to the wilderness system, 6) development of cultural resources, and 7) a national recreation trail. Six other alternatives are considered. (EIS order No. 91196.)

The review period for the above project has been extended to February 19, 1980. (See Appendix II.)

#### Soil Conservation Service

#### Draft

Hoyle Creek Watershed Protection/Flood Prevention, Major County, Okla., Nov. 28: Proposed is a watershed protection and flood prevention plan for the Hoyle Creek watershed in Major County, Oklahoma. The plan will include: 1) conservation land treatment, 2) one floodwater retarding structure, 3) 1.45 miles of channel work, and 4) 0.66 miles of dike system. The channel work involves enlargement, realignment, and extension of an ephemeral stream. Four alternatives are considered. (EIS order No. 91189.)

#### U.S. POSTAL SERVICE

Contact: Mr. Robert Coven, Director, Office of Program Planning, Real Estate and Building Department, U.S. Postal Service, Washington, D.C. 20260, (202) 245-4305.

#### Draft

Westport Postal Station Building/Parking Expansion, Jackson County, Mo., Nov. 28: Proposed is the expansion of the Westport Postal Station in Kansas City, Jackson County, Missouri. The expansion would include additional building space and off-street parking. The alternatives considered include: 1) structural and unstructural solutions, 2) satellite parking, 3) rescheduling activities, and 4) no action. (EIS order No. 91194.)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Roger Mochnick, Environmental Protection Agency, Region 10, 1200 6th Avenue, Seattle, Washington 98101. FTS 8-339-1285, CML (206) 442-1220.

#### Draft

Valdez Oil Refinery/Petrochemical Facility, NPDES, Alaska, Nov. 28: Proposed is the issuance of a NPDES permit for the Valdez oil refinery and petrochemical facility located in Valdez, Alaska. The treated wastewater discharges resulting from the proposed facility would be discharged to Port Valdez. The facility would be located on 1,400 acres of land and will include: 1) a products shipping dock near Solomon Gulch, 2) an industrial wastewater treatment plant, and 3) an onsite power plant. (EIS order No. 91190.)

Contact: Mr. Dave Jones, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105, CML (415) 556-2766.

#### Draft

WWT Facilities, South Shore, Lake Tahoe Basin, El Dorado and Alpine Counties, Calif., and Douglas County, Nev., Nov. 30: Proposed is the expansion and improvement of two wastewater treatment facilities that serve the south shore of the Lake Tahoe basin located in El Dorado and Alpine Counties, California and Douglas County, Nevada. Described are five alternative growth scenarios which are used to assess the impacts on both the natural and manmade (social) environments. The anticipated levels of development range from very limited to full buildout on the available land. A wide range of mitigation measures are also identified to minimize such effects as: Degradation of water quality, loss of environmentally sensitive lands, disturbance of fish and wildlife habitats, deterioration of air quality, and loss of visual resources. (EIS order No. 91200.) The review period for the above project has been extended to February 22, 1980. (See Appendix II.)

#### U.S. DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

#### Final

Jackson and Klamath Units, Timber Management Plan, Jackson, Josephine, Klamath Counties, Ore., Nov. 29: Proposed is a ten-year timber management plan for the 488,258 acres of public land in the Jackson and Klamath sustained yield units of the Medford District in the counties of Jackson, Josephine, and Klamath, Oregon. The proposed annual timber harvest is 20.55 million cubic feet. Treatments specified by the proposal include road construction harvest by two-stage shelterwood, clearcut, and single tree selection methods; slash disposal; site preparation; planting of trees; herbicide application; precommercial thinning; fertilization; and commercial thinning. (FES-79-62) Comments made by: DOI, APH, DOE, EPA, State and local agencies, groups, individuals and businesses. (EIS order No. 91198.)



## DEPARTMENT OF THE NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350.

## Final Supplement

Kahoolawe Island Target Complex (FS-1), Hawaii, Nov. 30: This statement supplements a FEIS originally filed with CEQ in March 1972. This supplement provides a more complete table of contents and updates the information contained in the final statement.

Three new targets have been added to the target complex and overall use of the island ground operations of the US Marine Corps has increased. Adverse impacts include erosion, and the possible extension of five species of rare plants. Comments made by: DOC, EPA, State and local agencies, groups and individuals. (EIS order No. 91203.)

## Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

| Federal agency contact                                                                                                                                                                    | Title of EIS                                   | Filing status/accession No. | Date notice of availability published in "Federal Register" | Waiver/extension | Date review terminates |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|-----------------------------|-------------------------------------------------------------|------------------|------------------------|
| U.S. DEPARTMENT OF AGRICULTURE                                                                                                                                                            |                                                |                             |                                                             |                  |                        |
| Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965. | Hells Canyon National Recreation Area, HCNRA.  | Draft 91196                 | Dec. 7, 1979 (see app. I).                                  | Extension        | Feb. 19, 1980.         |
| U.S. ENVIRONMENTAL PROTECTION AGENCY                                                                                                                                                      |                                                |                             |                                                             |                  |                        |
| Mr. Dave Jones, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, Calif. 94105, (415) 556-2766.                                                               | WWT Facilities, South Shore, Lake Tahoe Basin. | Draft 91200                 | Dec. 7, 1979 (see app. I).                                  | Extension        | Feb. 22, 1980.         |

## Appendix III.—EIS's Filed with EPA Which Have Been Officially Withdrawn by the Originating Agency

| Federal agency contact | Title of EIS | Filing status/accession No. | Date notice of availability published in "Federal Register" | Date of withdrawal |
|------------------------|--------------|-----------------------------|-------------------------------------------------------------|--------------------|
| None.                  |              |                             |                                                             |                    |

## Appendix IV.—Notice of Official Retraction

| Federal agency contact | Title of EIS | Status/No. | Date notice published in "Federal Register" | Reason for retraction |
|------------------------|--------------|------------|---------------------------------------------|-----------------------|
| None.                  |              |            |                                             |                       |

## Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA

| Federal agency contact | Title of report | Date made available to EPA | Accession No. |
|------------------------|-----------------|----------------------------|---------------|
| None.                  |                 |                            |               |

## Appendix VI.—Official Correction

| Federal agency contact                                                                                                                                          | Title of EIS                                                                                      | Filing status/accession No. | Date notice of availability published in "Federal Register" | Correction                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------|-------------------------------------------------------------|--------------------------------------------------------|
| U.S. DEPARTMENT OF THE INTERIOR                                                                                                                                 |                                                                                                   |                             |                                                             |                                                        |
| Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891       | Southborough 8 and Pinehurst Planned Development.                                                 | Final 91151                 | Nov. 26, 1979                                               | Include USDI as commenting Agency on DEIS.             |
|                                                                                                                                                                 | Denver Metropolitan Area-wide Plan.                                                               | Final 91099                 | Nov. 26, 1979                                               | Include USDI as commenting Agency on DEIS.             |
|                                                                                                                                                                 | Shenandoah New Community.                                                                         | Final 91166                 | Nov. 26, 1979                                               | Include USDI as commenting Agency on DEIS.             |
| U.S. DEPARTMENT OF TRANSPORTATION                                                                                                                               |                                                                                                   |                             |                                                             |                                                        |
| Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357 | I-275/US 10 Sunshine Highway                                                                      | Final 91131                 | Nov. 9, 1979                                                | Add FHWA EIS reference number: (FHWA-FLA-EIS-77-02-F). |
|                                                                                                                                                                 | Interstate 84 from I-86 in East Hartford to the Connecticut-Rhode Island State Line in Killingly. | Final 91188                 | Nov. 30, 1979                                               | See below expanded abstract of EIS No. 91188.          |

Proposed is the construction of three major road sections consisting of: (1) 3.5 miles of improvements to existing I-84 and I-86 from west of Roberts Street in East Hartford to east of West Middle Turnpike in Manchester and the construction of a full service interchange between I-84 and I-86 at the East Hartford/Manchester town line; (2) 12.6 miles of construction of I-84 between previously constructed sections from west of the Bolton/Manchester town line (route 85 interchange), easterly to east of the Coventry/Windham town line; and (3) 17.8 miles of construction of I-84 from the previously constructed section, west of U.S. Route 6 in Windham to Connecticut, route 52 (Connecticut turnpike) in Killingly. (FHWA-CT-EIS-77-01-F, FHWA-CT-EIS-72-02-F, FHWA-CT-EIS-72-06-F) (EIS order No. 91188).

[FR Doc. 79-37714 Filed 12-6-79; 8:45 am]

BILLING CODE 6560-01-M

## [FRL 1371-4]

## Standards of Performance for New Stationary Sources; Delegation of Authority to State of Delaware

On December 23, 1971 (36 FR 24876) and on March 8, 1974 (39 FR 9308), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of The Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for certain categories of new stationary sources New Source Performance Standards (NSPS). Section 113(c) directs the Administrator to delegate his authority to implement and enforce NSPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On October 5, 1978, Austin P. Olney, former Secretary, Department of Natural Resources and Environmental Control, submitted to the EPA Regional Office a request for delegation of authority. The request was to add sulfuric acid plants as a section of Regulation XX dealing with NSPS. After a thorough review of that request, the Enforcement Director has determined that for the source category set forth in paragraph A of the following official letter to John E. Wilson III, Acting Secretary, Department of Natural Resources and Environmental Control, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 8 of that letter:

United States Environmental Protection Agency,  
Region III, 6th and Walnut Streets,  
Philadelphia, Pennsylvania 19106.  
October 9, 1979.

## Certified Mail Return Receipt Requested

John E. Wilson III,  
Acting Secretary, Department of Natural Resources and Environmental Control,  
Edward Tatnall Building, Dover,  
Delaware 19901.

Re: Delegation of Authority of New Source Performance Standards pursuant to Section 111(c), Clean Air Act, as amended.

Dear Mr. Wilson: This is in response to former Secretary Olney's letter of October 5, 1978, requesting delegation of authority for implementation and enforcement for sulfuric acid plants, under the Standards of Performance for New Stationary Sources (NSPS), to the State of Delaware's Department of Natural Resources and Environmental Control (the Department).

We have reviewed the pertinent laws of the State of Delaware and its regulations

governing the control of air pollution and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS regulations by the Department. Therefore, we hereby delegate authority to the Department, as follows:

A. The Department is delegated and shall have authority for all sulfuric acid plant sources located in the State of Delaware subject to the Standards of Performance for New Stationary Sources promulgated in 40 CFR Part 60.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Department For New Source Performance Standards including:

(A) Sources determined to be applicable during that quarter;

(B) Applicable sources which started operation during that quarter, or which started operation prior to that quarter which have not been previously reported;

(C) The compliance status of the above, including the summary sheet from the compliance test(s); and

(D) Any legal actions which pertain to NSPS sources.

2. Enforcement of the NSPS regulations in the State of Delaware will be the primary responsibility of the Department. Where the Department determines that such enforcement is not feasible and so notified EPA, or where the Department acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the State of Delaware subject to NSPS regulations.

3. Acceptance of this delegation of certain promulgated NSPS does not commit the State of Delaware to request or accept delegation of other present or future standards and requirements. A new request for delegation will be required for any additional standards not included in the State's request of October 5, 1978.

4. The Department will not grant a variance from compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (Part 60). Should the Department grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the Department shall also constitute grounds for revocation of delegation by EPA.

5. The Department and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a Department interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the Department.

6. If at any time there is a conflict between a Department regulation and a Federal regulation 40 CFR Part 60, the Federal regulation must be applied if it is more stringent than that of the Department. If the Department does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

7. The Department will utilize the methods specified in 40 CFR Part 60, in performing source tests pursuant to the regulations.

8. If the Enforcement Director determines that a Department program for enforcing or implementing a NSPS regulation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Department.

A Notice announcing this delegation will be published in the Federal Register in the near future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the above-enumerated Federal NSPS regulations by sources located in the State of Delaware should be submitted to the State of Delaware, Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dover, Delaware 19901, in addition to EPA, Region III. Any such reports which have been or may be received by EPA, Region III, will be promptly transmitted to the Department.

Since this delegation is effective immediately, there is no requirement that the Department notify EPA of its acceptance. Unless EPA receives from the Department written notice of objections within ten (10) days of receipt of this letter, the State of Delaware's Department of Natural Resources and Environmental Control will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

R. Sarah Compton,

Director, Enforcement Division.

Therefore, pursuant to the authority delegated by the Administrator, the Enforcement Director of Region III notified Austin P. Olney, Secretary, Department of Natural Resources and Environmental Control, on October 9, 1979 that authority to implement and enforce certain standards of performance for new stationary sources was delegated to the State of Delaware.

Copies of that request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Effective immediately, all reports required pursuant to the standards of performance for new stationary sources



for Sulfuric Acid Plants should be submitted to the Delaware Department of Natural Resources and Environmental Control, Edward Tatnall Building, Dove, Delaware 19901, with copies to EPA, Region III. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) should be sent to the Delaware Department of Natural Resources and Environmental Control, only.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. 7411.

Dated: October 9, 1979.

R. Sarah Compton,

Director, Enforcement Division.

[FR Doc. 79-37656 Filed 12-6-79; 8:45 am]

BILLING CODE 6560-01-M

#### FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1203]

#### Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

December 4, 1979.

| Docket or RM No. | Rule No.                                                                                                                                                                | Subject                                                                                                                            | Date received |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 20780            | 15                                                                                                                                                                      | Amendment of Part 15 to redefine and clarify the rules governing restricted radiation devices and low-power communication devices. |               |
| Filed by:        |                                                                                                                                                                         |                                                                                                                                    |               |
|                  | W. Michael King                                                                                                                                                         | 11-15-79                                                                                                                           |               |
|                  | Aaron L. Fleischman and James Alan Cook, Attorneys for Alan, Inc.                                                                                                       | 11-21-79                                                                                                                           |               |
|                  | Irwin Dorros, Assistant Vice President—Network Planning and Burton K. Katkin, William V. Catucci & Michael Berg, Attorneys for American Telephone and Telegraph Company | 11-23-79                                                                                                                           |               |

Note: Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-37633 Filed 12-6-79; 8:45 am]

BILLING CODE 6712-01-M

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Center for Disease Control

##### Annual Reports; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), Fiscal Year 1979 Annual Reports for the following Federal advisory committees utilized by the Center for Disease Control have been filed with the Library of Congress:

Immunization Practices Advisory Committee.  
Safety and Occupational Health Study Section.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone 202/245-6791.

Dated: November 27, 1979.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 79-37574 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-86-M

#### Food and Drug Administration

[Docket No. 79F-0411]

##### Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for safe use of a chemical as an ultraviolet light absorber in polycarbonate resins intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.  
SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), FDA gives notice that

the Ciba-Geigy Corp., Ardsley, NY 10502, has filed a petition (FAP 7B3323) proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 2(2'-hydroxy-5'-methylphenyl) benzotriazole [CAS No. 2440-22-4] as an ultraviolet light absorber in polycarbonate resins.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the requirement of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: November 29, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-37431 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0417]

##### General Foods Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: General Foods Corp. has filed a petition proposing that the food additive regulations be amended to provide for safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food.

FOR FURTHER INFORMATION CONTACT: Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3310) has been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that § 172.836 *Polysorbate 60* (21 CFR 172.836) be amended to provide the safe use of polysorbate 60 as a surfactant and wetting agent for natural and artificial colors intended for use in food.

The environmental impact of this action has been reviewed, and it has

been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m. Monday through Friday.

Dated: November 29, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-37430 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0414]

##### Pfizer, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: Pfizer, Inc., has filed a petition proposing that the food additive regulations be amended to provide for safe use of an additional process for the manufacture of food-grade mannitol.

FOR FURTHER INFORMATION CONTACT: Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9A3458) has been filed by Pfizer, Inc., 235 E. 42d St., New York, NY 10017, proposing that § 180.25 *Mannitol* (21 CFR 180.25) be amended to provide for the safe use of an additional process for the manufacture of food-grade mannitol.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, and environmental assessment report, as applicable, will be published in the Federal Register regulation, as provided by 21 CFR 25.25(b).

Dated: November 29, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-37432 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79G-0420]

##### Transfresh Corp.; Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRAS 5G0048) proposing that TECTROL gas atmospheres containing carbon dioxide, nitrogen, oxygen, and up to 10 percent carbon monoxide are generally recognized as safe (GRAS) for the shelf life extension of red meats and poultry.

FOR FURTHER INFORMATION CONTACT: Corbin L. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7) of the procedural food additive regulations, Transfresh Corp., P.O. Box 1788, Salinas, CA 93902, has withdrawn its petition (GRASP 5G0048), notice of which was published in the Federal Register of January 29, 1975 (40 FR 4173) proposing that TECTROL gas atmospheres containing carbon dioxide, nitrogen, oxygen, and up to 10 percent carbon monoxide are GRAS for the shelf life extension of red meats and poultry.

Dated: November 29, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-37433 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77N-0393; DESI 7245]

##### Certain Inhalation Bronchodilators; Drugs for Human Use; Drug Efficacy Study Implementation; Rescission of Notice of Opportunity for Hearing and Reevaluation

AGENCY: Food and Drug Administration.  
ACTION: Notice.

SUMMARY: This notice (1) rescinds a notice of opportunity for hearing on the proposal to withdraw approval of a new drug application, (2) reclassifies the combination of isoproterenol hydrochloride and phenylephrine bitartrate to effective in the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and

bronchiectasis, and (3) announces the conditions for marketing the product.

DATE: Supplements to approved new drug applications due on or before February 5, 1980.

ADDRESSES: Communications in response to this notice should be identified with reference number DESI 7245, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences—National Research Council: Freedom of Information Staff (HFI-35), Rm. 12A-16.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 7245) published in the Federal Register of March 3, 1978 (43 FR 8852), the Food and Drug Administration (FDA) offered an opportunity for a hearing on a proposal to issue an order withdrawing approval of the new drug applications for certain inhalation bronchodilators based upon lack of substantial evidence for effectiveness. The following product was included in that notice:

NDA 13-296; Duo-Medihaler containing isoproterenol hydrochloride and phenylephrine bitartrate; Riker Laboratories, 19901 Nordhoff St., Northridge, CA 91324.

In the March 3, 1978 notice, the agency cited the following two papers that had been evaluated after the initial DESI notice was published July 28, 1972 (37 FR 15187):

1. Palmer, K. N. V., "Drugs in the Treatment of Asthma," in "An Asthma Research Council Symposium, London, October 1973," *The Trust of Education*



and Research in Therapeutics, pp. 263-275, 1974.

2. Spector, S. L., L. Hudson, and T. L. Petty, "Effect of Bronkosol and Its Components on Cardiopulmonary Parameters in Asthmatic Patients," *Journal of Allergy and Clinical Immunology*, 59(5):371-376, 1977.

In response to the notice, Riker requested a hearing and submitted studies in support of the combination of isoproterenol and phenylephrine. FDA concludes that the studies submitted by Riker provide substantial evidence that the combination is effective in the treatment of bronchospasm. A discussion of the studies follows:

The following studies provide evidence of superiority of the combination over isoproterenol alone.

1. Cohen, A. A. and F. C. Hale, "Comparative Effects of Isoproterenol on Airway Resistance in Obstructive Pulmonary Diseases," *American Journal of the Medical Sciences*, 249:309-315, 1965.

2. Kallos, P. and L. Kallos-Deffner, "Comparison of the Protective Effect of Isoproterenol with Isoproterenol-Phenylephrine Aerosols in Asthmatics," *International Archives of Allergy and Applied Immunology*, 24:17-26, 1964.

3. Maeda, Y., et al., "Phenylephrine Added to an Isoproterenol Aerosol: A Double Blind Study in Asthmatic Patients," *Annals of Allergy*, 29:475-479, 1971.

The Maeda study also adequately demonstrates that the addition of phenylephrine significantly increases the duration of the bronchodilator effect.

The following studies are less satisfactory but are regarded as supportive of the effectiveness of the product:

1. Cohen, B., "Appraisal of the Worth of Bronchodilator Microaerosols," *Diseases of the Chest*, 48:471-478, 1965.

2. Cohen, B., "Ventilatory Responses to Aerosols of Isoproterenol and Isoproterenol-Phenylephrine," *Current Therapeutic Research*, 4:601-609, 1962.

The following two studies show that the addition of phenylephrine to isoproterenol reduces the cardiovascular effects caused by using isoproterenol without phenylephrine:

1. The Maeda study cited above.

2. Unger, D. L., D. E. Temple, and L. Unger, "Effects of Isoproterenol and Isoproterenol-Phenylephrine Aerosols on Hypertensive Asthmatic Patients," *Journal of Allergy*, 41:285-289, 1968.

Evidence that the addition of phenylephrine to isoproterenol helps prevent the arterial hypoxia frequently seen after use of isoproterenol alone is provided by the studies cited below. While this effect is not claimed by Riker,

it does occur and is important in evaluating the product.

1. Harris, L. H., "Effects of Isoprenaline Plus Phenylephrine by Pressurized Aerosol on Blood Gases, Ventilation, and Perfusion in Chronic Obstructive Lung Disease," *British Medical Journal*, 4:579-582, 1970.

2. Harris, L. H., "Comparison of the Effect on Blood Gases, Ventilation, and Perfusion of Isoproterenol-Phenylephrine and Salbutamol Aerosols in Chronic Bronchitis with Asthma," *The Journal of Allergy and Clinical Immunology*, 49(2):63-71, 1972.

The two studies cited by FDA in the March 3, 1978 notice of opportunity for hearing, when considered with the convincing evidence submitted by Riker, are insufficient to support withdrawal of approval of Duo-Medihaler. Of the documentation cited by FDA in the notice, the Palmer study is an individual opinion without data or references to other studies performed, and the Spector paper is a study involving phenylephrine combined with a different bronchodilator (isoetharine), making it inappropriate to support withdrawing approval of a product in which isoproterenol is the bronchodilator.

Accordingly, the March 3, 1978 notice of opportunity for hearing is rescinded as it pertains to Duo-Medihaler. The drug is now regarded as effective for the indications described in the labeling conditions below.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug product is

effective for the indications described in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* This preparation is in liquid form suitable for inhalation.

2. *Labeling conditions.* a. The label bears the statement: "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and bronchiectasis.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before (insert date 60 days after date of publication in the Federal Register), the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, delivery system, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, delivery system, facilities, and controls) of new drug application form FD-356H must be obtained before marketing such products. Pursuant to 21 CFR 320.22(b), the requirement for evidence demonstrating the in vivo bioavailability of the drug is waived on the ground that the bioavailability of the drug in such products is self evident. Marketing before approval of an abbreviated new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority

delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: November 29, 1979.

J. Richard Crout,  
Director,

[FR Doc. 79-37610 Filed 12-6-79; 8:45 am]  
BILLING CODE 4110-03-M

#### Public Health Service

##### Hypertension Project Grants; Delegations of Authority

Notice is hereby given that in furtherance of the delegation by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health on May 24, 1978 (41 FR 22117), the following redelegations of authority have been made under section 317(a)(1) of the Public Health Service Act, as amended, [42 USC 247b(a)(1)] for project grants relative to hypertension:

1. Redelegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of all the authorities under section 317(a)(1) of the Public Health Service Act, as amended, excluding the authority to issue regulations.

2. Redelegation by the Administrator, Health Services Administration, to the Regional Health Administrators, Public Health Service Regional Offices, with authority to redelegate, of the authority under section 317(a)(1) of the Public Health Service Act, as amended, to award grants to State health authorities within their respective regions to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for the detection, diagnosis, prevention, and referral for treatment of, and follow up on compliance with treatment prescribed for, hypertension.

3. Redelegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Administration, with authority to redelegate, of all authorities delegated to the Administrator, Health Services Administration, under section 317(a)(1) of the Public Health Service Act, as amended, except those authorities that the Administrator, Health Services Administration, has delegated to the Regional Health Administrators.

The above delegations became effective on November 23, 1979.

The May 24, 1978 delegation by the Assistant Secretary for Health to the Regional Health Administrators (41 FR 22117) has been superseded insofar as it pertains to the authority herein cited as having been delegated to the

Administrator, Health Services Administration.

Dated: November 23, 1979.

Julius B. Richmond,  
Assistant Secretary for Health.

[FR Doc. 79-37671 Filed 12-6-79; 8:45 am]  
BILLING CODE 4110-04-M

#### Social Security Administration

##### Privacy Act of 1974; Report of New and Amended Routine Uses

AGENCY: Department of Health, Education, and Welfare, Social Security Administration.

ACTION: Notification of new and amended routine uses.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are proposing to add new and amended routine uses applicable to the following notices of systems of records:

- (1) 09-60-0058, Master Files of Social Security Number Holders;
- (2) 09-60-0059, Earnings Recording and Self-Employment Income System;
- (3) 09-60-0089, Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Benefits; and
- (4) 09-60-0090, Master Beneficiary Record.

We have provided background information about the routine uses in the "Supplementary Information" section below. We invite public comments on this proposal.

DATES: These routine uses will become effective January 7, 1980, unless we receive comments on or before that date, which would result in a contrary determination.

ADDRESS: Interested parties who wish to comment on this proposal should address their comments to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. We will make comments received available for public inspection in Room 4400 West High Rise Building, at the above address.

FOR FURTHER INFORMATION CONTACT: (1) For information about the routine use we are amending in systems 09-60-0058, 09-60-0059, 09-60-0089, and 09-60-0090 involving disclosure to the American Institute on Taiwan, contact Mr. Pat Caligiuri, Acting Director, Office on Central Operations, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-1900.

(2) For information about the new routine use we are adding to systems 09-60-0058, 09-60-0059, 09-60-0089, and

09-60-0090 involving disclosure to foreign countries, contact Mr. Barry Powell, Office of International Policy, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-2714.

(3) For information about the new routine use we are adding to systems 09-60-0089 and 09-60-0090 involving disclosure to Federal, State, or local agencies, contact Mr. Richard Kirchner, Acting Director, Office of Insurance Programs, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-2500.

(4) For information about the new routine use we are adding to system 09-60-0059 involving disclosure of earnings information to the States, contact Mr. James Trainor, Office of Family Assistance, 330 C Street, Washington, D.C. 20201, telephone (202) 245-0128.

SUPPLEMENTARY INFORMATION: System notice 09-60-0058, Master Files of Social Security Number Holder contains a record of each individual who has obtained a social security number. We use information in this system for a number of purposes such as a basic control for retaining earnings information, a control and data source to prevent issuance of multiple social security numbers, and as the means to correctly identify incorrectly reported names or social security numbers on earnings reports.

The notice of system of records 09-60-0059, Earnings Recordings and Self-Employment Income System also contains a record of each individual who has obtained a social security number. In addition, it contains a record of the earnings or self-employment income these individuals may have. We use information in this system for purposes which include determining the amount of social benefits an individual may be entitled to and recording incorrectly or incompletely reported earnings items.

System notice 09-60-0089, Claims Folder and Post-Adjudicative records of applicants and Beneficiaries for Social Security Benefits, contains records for each individual who is a claimant for retirement, survivors, disability, or health insurance benefits or black lung benefits. We use information in this system for the purposes of determining, organizing, and maintaining documents for making determinations as to eligibility to and the amount of benefits, and reviewing continuing eligibility to benefits.

System notice 09-60-0090, Master Beneficiary Record, contains a record of each individual who is currently entitled to receive social security benefits.



whose entitlement has been terminated, or whose application for benefits has been denied or disallowed.

The Privacy Act allows us to disclose information routinely without an individual's consent if the information is to be used for a purpose which is compatible with the purposes for which the information was collected. We disclose information for "routine uses" where necessary to carry out our programs. We may also routinely disclose information to other Federal, State, or local agencies for administering their programs which we have determined to be compatible with our own programs. We generally consider the programs to be compatible when they involve administering a cash or noncash income maintenance or health maintenance program. We believe the new and amended routine uses which we are adding meet this criteria. Accordingly, we are revising the above-mentioned systems notices as indicated below.

**A. Systems Notices 09-60-0068, 09-60-0059, 09-60-0089, and 09-60-0090:** 1. We have amended an existing routine use for these systems. The amended routine use previously provided for disclosure to the Department of State and the Veteran's Administration, Philippines for administering the Social Security Act in foreign countries. The routine use now includes disclosure to the American Institute for administering the Social Security Act on Taiwan. We are adding this new user category as a result of Presidential action which closed the State Department on Taiwan in February 1979 and established the American Institute as the mechanism by which departments and agencies are to carry out programs and other relations with or relating to Taiwan. The new routine use is as follows:

Disclosure may be made to the Department of State; the American Institute on Taiwan; and the Veterans Administration Regional Office, Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of these agencies.

2. We have also added a new routine use to these systems as indicated below: Section 233 of the Social Security Act authorizes the President to enter into international agreements for the purpose of totalization arrangements between the social security systems of the United States and foreign countries. Under these agreements, benefits are payable based on combined coverage under the two systems. Once a claim has been filed and developed, we must furnish to the other country all pertinent information in our files which relate to

the claim. Accordingly, we are revising these systems to include the following new routine use:

*Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.*

**B. Systems notices 09-60-0089 and 09-60-0090:** 1. In addition to including the amended and new routine uses identified in A.1 and 2. above to these two systems, we are also adding another new routine use.

The social security benefits an individual receives may affect his or her eligibility to or amount of payment or benefit under a cash or noncash income maintenance or health maintenance program which may be administered by a Federal, State, or local agency. It is necessary in some instances for the Social Security Administration to provide these agencies with information about an individual's social security entitlement in order that they may effectively administer their programs. Therefore, we are revising these two systems to include the following new routine use.

*Disclosure may be made to Federal, State or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs.*

We have also made editorial and clarifying changes to the system 09-60-0090. This includes reflecting the new organization which replaced the Civil Service Commission in routine use "m"; and including a portion of routine use "o", dealing with disclosures to the States for administering the Medicaid program which was inadvertently not published with the notice on October 9, 1979; and routine use "v" which also was inadvertently not published on that date.

**C. System Notice 09-60-0059:** In addition to including the changes in A.1 and 2 above, we are also adding another routine use to the system.

Section 402(a)(29) and 411 of the Social Security Act provide that the Social Security Administration must provide earnings information in response to requests from State Welfare agencies for determining an individual's eligibility for aid or services under the State plans for Aid to Families with Dependent Children and the amount of such aid or services. Accordingly, we are proposing to add the the following routine use to this system:

*Information pertaining to wages and self-employment income may be disclosed in response to requests from State welfare*

*agencies under Section 402(a)(29) and 411 of the Social Security Act for determining an individual's eligibility for aid or services under State plans for Aid to Families with Dependent Children and the amount of such aid or services.*

The above-mentioned notices of systems of records, 09-60-0058, 09-60-0059, 09-60-0089, and 09-60-0090, contain the minimum amount of information necessary to perform their functions. We make all disclosures from these systems in accordance with the provisions of the Privacy Act. Therefore, we anticipate no untoward effect on the privacy or other personal or property rights of the individuals involved.

We have established systems security for the automated records in accordance with National Bureau of Standards guidelines and the Department's *ADP Systems Manual*, "Part 6, ADP Systems Security." We safeguard the manual records by storing them in locked cabinets, limiting access to authorized employees on a need-to-know basis and employing armed guards at entrances and exits to buildings which house the records.

The notices below contain the new and amended routine uses as indicated above.

Dated:

Stanford G. Ross,  
Commissioner of Social Security.

09-60-0058

**SYSTEM NAME:**

Master files of Social Security Number Holders HEW SSA OEER.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals who have obtained social security numbers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains all of the information received on original applications for social security numbers and any changes in the information on the applications that are submitted by the social security number holder. Cross-reference may be noted where multiple numbers have been issued to the same individual; and indication that benefit claim has been made under this social security number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 205(a) of the Social Security Act; Section 205(c)(2) of the Social Security Act.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. Employers are notified of the social security number of an employee in order to complete their records for reporting FICA to the Social Security Administration pursuant to the Federal Insurance Contributions Act and Section 218 of the Social Security Act.

2. State welfare agencies are notified on written request, of the social security numbers of AFDC applicants or recipients.

3. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.

4. The Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens.

5. The Department of Justice (Federal Bureau of Investigation) and the Department of Treasury (United States Secret Service) for national security matters and in connection with threats on the life of the President or other dignitaries.

6. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the Railroad Unemployment Insurance Act.

7. Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure.

8. The Treasury Department for tax administration as defined in 26 U.S.C. 8103 of the Internal Revenue Code and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

9. Contractors under contract to the SSA for the ongoing conversion of paper documents to machine readable form for entry into magnetic tape files.

10. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

11. The Department of State, the Veterans Administration Regional Office, Philippines; and the American Institute on Taiwan for administering the Social Security Act in foreign countries through facilities and services of those agencies.

12. The Department of Labor for administering provisions of title IV of

the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training programs to combat poverty.

13. The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration to the Social Security Administration for social security program purposes.

14. The Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

15. Federal agencies who use the Social Security number as a numerical identifier in their recordkeeping systems, for the purpose of validating social security numbers.

16. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

17. State Audit agencies for auditing State supplementation payments and medicaid eligibility considerations.

18. *Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.*

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records in this system are maintained as paper forms, paper lists, punchcards, magnetic tape, microfilm, microfiche files, and disk with on-line access.

**RETRIEVABILITY:**

Records in this system are indexed both by social security number and by name. This information is used for the following purposes: by Social Security Administration as basic control for

retained earnings information; by Social Security Administration as a basic control and data source to prevent issuance of multiple social security numbers; as the means to correctly identify incorrectly reported names or social security numbers on earnings reports; for resolution of earnings discrepancy cases; for statistical studies; by Health, Education, and Welfare Audit Agency for auditing benefit payments under social security programs; by Social and Rehabilitation Service (HEW) for locating deserting parents; by National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974; by Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.

**SAFEGUARDS:**

All magnetic tapes and disks are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges issued only to authorized personnel. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with DHEW standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Expansion and upgrade of SSA's telecommunications systems will result in terminals equipped with physical key locks. The terminals will also be fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminals users.

**RETENTION AND DISPOSAL:**

All paper forms are retained until they are filmed or are entered on tape, and the accuracy verified, then they are destroyed by shredding. All tape, disks, microfilms microfiche files are updated periodically. The out-of-date magnetic tapes and disks are erased. The out-of-date microfiche is shredded by the application of heat.

**SYSTEM MANAGER(S) ADDRESS:**

Director, Office of Enumeration and Earnings Records, 6401 Security Boulevard, Baltimore, Maryland 21235.



**NOTIFICATION PROCEDURE:**

An individual may present a request for information as to whether this system contains records pertaining to himself by providing his name and social security number, or if the social security number is not known, date of birth, place of birth, mother's maiden name and father's name, and evidence of identity to the Director, Office Enumerations and Earnings Records, 6401 Security Boulevard, Baltimore, Maryland 21235.

**RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

**CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

**RECORD SOURCE CATEGORIES:**

Social security number applicants; or individual acting on their behalf. The social security number itself is assigned to the individual as a result of internal process of this system.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

09-60-0059

**SYSTEM NAME:**

Earnings Recording and Self-Employment Income System HEW SSA OEER.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any person who has been issued a social security number and who may or may not have earnings under social security have earnings under social security or self-employment income.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This contains records of all social security number holders, their name, date of birth, sex, race, a summary of their yearly earnings, quarters of coverage, special employment codes (i.e. self-employment, military, agriculture,

and railroad), benefit status and employer identification.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 205(a) of the Social Security Act and section 205(c)(2) of the Social Security Act.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. Employers or former employers, including State social security administrators for correcting and reconstructing State employee earnings records and for social security purposes.

2. The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of social security checks and for tax administration as defined in 26 U.S.C. 6103 of the Internal Revenue Code.

3. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

4. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.

5. The Department of Justice (Federal Bureau of Investigation) and the Department of Treasury United States Secret Service) for National security matters and in connection with threats on the life of the President or other dignitaries.

6. Energy Research and Development Administration for their study of low-level radiation exposure.

7. Congressional Office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. The Department of State; the Veterans Administration Regional Office, Philippines; and the American Institute on Taiwan for administering the Social Security Act in foreign countries through facilities and services of those agencies.

9. The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration for social security program purposes.

10. State Audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

11. Federal agencies who use the social security number as a numerical identifier in their recordkeeping systems, for the purpose of validating social security numbers.

12. In the event of litigation where one of the parties is (a) the Department, any

component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

13. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

14. Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

15. Information pertaining to wages and self-employment income may be disclosed in response to requests from State welfare agencies under Section 402(a)(29) and 411 of the Social Security Act for determining an individual's eligibility for aid or services under State plans for Aid to Families with Dependent Children and the amount of such aid or services.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records in this system are maintained as paper forms, paper lists, punchcards, microfilm, magnetic, and disk with on-line access tape files.

**RETRIEVABILITY:**

Records in this system are indexed by social security number and name. This information is used for the following purposes: As a primary working record file of all social security number holders; as a quarterly earnings record detail file to provide full data in wage investigation cases; to provide information for determining amount of benefits; to record all incorrect or incomplete earnings items; to reinstate incorrectly or incompletely reported earnings items; to record the latest employer of a wage earner; for statistical studies; for identification of possible overpayments of benefits; for

identification of individuals entitled to additional benefits; provide information to employers and former employers for correcting or reconstructing earnings records and for social security tax purposes provide worker and self-employed individuals with earnings statements or quarters of coverage statements; provide information to Health, Education and Education Audit Agency for auditing benefit payments under Social Security programs; provide information to National Institute for Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety Act of 1974. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with DHEW standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

**SAFEGUARDS:**

Expansion and upgrade of SSA's telecommunications systems will result in terminals equipped with physical key locks. The terminals will also be fitted with adapters to permit the future installation of data encryption devices and devices to permit the identification of terminals users.

**RETENTION AND DISPOSAL:**

All paper forms and cards are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tapes, disks, and microfilm files are updated periodically. The out of date magnetic tapes and disks are erased. The out of date microfilm is shredded.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Enumerations and Earnings Records, 6401 Security Boulevard, Baltimore, Maryland 21235.

**NOTIFICATION PROCEDURE:**

Any individual may present a request for information as to whether this system contains records pertaining to himself by providing his social security number, name, signature, or other personal identification and referring to

this system to Director, Office of Enumerations and Earnings Records, 6401 Security Boulevard, Baltimore, Maryland 21235.

**RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

**CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

**RECORD SOURCE CATEGORIES:**

Social security number applicants, employers, self-employed individuals, Department of Justice (Immigration and Naturalization Service), Department of Treasury (Internal Revenue Service) master beneficiary record of Social Security Administration.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

09-60-0089

**SYSTEM NAME:**

Claims folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HEW SSA OCO.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Retirement and Survivors Insurance Claim: Claims folders are maintained primarily in the Program Service Centers and the Division of International Operations (see Appendix A). Disability Insurance Claims: Disabled Insurance person under age 62.

Bureau of Disability Insurance (see Appendix B) or DIO (see Appendix A). Disabled person age 62 or older-RSI Program Service Center or DIO (see Appendix A). Black Lung Claims: Bureau of Disability Insurance (see Appendix B). Supplemental Security Income Claims: Claims folders are maintained in the Chicago Federal Archives Records Center.

In addition, claims folders are transferred to numerous other locations throughout the Social Security Administration, and the General Service Administration infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or

Office of the General Counsel, Department of Health, Education, and Welfare). The disability claims folders are also transferred to State agencies for disability and vocational rehabilitation determinations (see Appendix B). The claims folders are generally set up in district or branch offices when claims for benefits are filed. They are retained there until all development has been completed, then are transferred to the appropriate reviewing office as set out above. Supplemental security income claims folders are held in district or branch offices pending establishment of a payment record, or until the appeal period, in a denied claim situations, has expired. The folders are then transferred to a folder-staging facility in Chicago prior to transfer to the Chicago Federal Archives Records Center. For district or branch office information, see Appendix F.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The claims folder is established when a claim for benefits is filed. It contains applications for benefits, earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives. It may also contain data collected as a result of inquiries or complaints; and evaluation and measurement study of effectiveness of claims policies. Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to reports of changes of address, work status, and other post-adjudicative reports.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Payment of benefits is directed by the following sections: Sections 202-205, 223, 226, 228, 1611, 1631, 1618, 1836, and 1840 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

a. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating



to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security program when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

b. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

c. A person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; that is:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

d. Employees or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery of theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency

officers or employees, or violation of civil rights.

h. *The Department of State; the Veterans Administration Regional Office, Philippines; and the American Institute on Taiwan for administering the Social Security Act in foreign countries through facilities and services of those agencies.*

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment and for administering the Railroad Unemployment Insurance Act.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412, and, upon request, of information needed for determining eligibility for or amount of VA benefits or verifying other information with respect thereto.

k. The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act.

l. State social security administrators for administration of agreements pursuant to section 218 (State and local).

m. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes only.

n. State Welfare Departments pursuant to agreements with the Social Security Administration for administration of State supplementation payments, for determinations of eligibility for Medicaid per section 1634, and for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for federal administration of the supplementation provides for such an independent review.

o. State Vocational Rehabilitation agency, or State crippled children's service agency (or another agency providing services to disabled children) for consideration of rehabilitation services per U.S.C. and 1382d.

p. State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations, and expenditures of Federal funds by the State in support of the Disability Determination Section (DDS).

q. Private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social

Security Administrative or a State agency acting in accord with sections 221 or 1633.

r. Specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

a. Institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611e and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

t. To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive an account of benefit payments.

u. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

v. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

w. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

x. *To Federal, State, or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs.*

y. *Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.*

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Claims folders are maintained in file cabinets by service areas as set out in Location above.

##### **RETRIEVABILITY:**

Filed in numerical sequence by social security number. The folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determination as to eligibility to benefits, the amount of benefits, reviewing continuing eligibility, holding hearings or administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

The claims folder constitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (black lung). Data are used to produce and maintain the master beneficiary record system (see Systems Notice) which is the automated payment system for retirement, survivors, and disability benefits; the supplemental security income automated system for the aged, blind, and disabled payments; the black lung payment process for black lung claims; and the Health Insurance and Billing and Collection Master record systems for Hospital and supplementary medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System while the claim is pending development for adjudication in the district or branch office, and by the Case Control System once the folder has been transferred to the reviewing office (program service centers, Division of International Operations, or the Bureau of Disability Insurance).

##### **SAFEGUARDS:**

Claims folders are protected through limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

##### **RETENTION AND DISPOSAL:**

The claims folder is initially maintained in the reviewing office. Later, both active and inactive folders are transferred to the Federal Archives and Records Center for storage and inactive (no one is entitled to benefits) folder are scheduled for destruction. The time for retention prior to destruction is 5-year retention—no record of surviving potential beneficiaries; 20-year retention—withdrawn claims, claims disallowed or lump-sum death payments only, and 55-year retention—potential future claimants indicated in the file. When a subsequent claim is filed on the social security number, the claims file is recalled from the Records Center. Similarly, the claims files may be recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of the social security programs.

##### **SYSTEM MANAGER(S) AND ADDRESS:**

Associate Commissioner, Office of Central Operations, 6401 Security Boulevard, Baltimore, Maryland 21235.

##### **NOTIFICATION PROCEDURE:**

Contact the most convenient social security office (see Appendix F for address and telephone information). An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with DHEW Regulations 45 CFR, Section 5b.

##### **RECORD ACCESS PROCEDURES:**

In order to find out if this system contains information about him, an individual may contact the most convenient social security office in person or in writing. The inquirer should provide his name, social security number, identify the type of claim he filed (retirement, survivors, disability, health insurance, black lung, special minimum payments, or supplemental security income) (if more than one claim was filed, each should be identified); whether he is or has been receiving benefits; whether payments are being received under his own social security number, and if not, the name and social security number under which received; if benefits have not been received, the approximate date and the place the claim was filed; and his return address or his telephone number. These access procedures are in accordance with DHEW Regulations 45 CFR, Section 5b.

##### **CONTESTING RECORD PROCEDURES:**

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

##### **RECORD SOURCE CATEGORIES:**

This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

##### **SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

09-60-0090

##### **SYSTEM NAME:**

Master Beneficiary Record HEW SSA OURV.

##### **SECURITY CLASSIFICATION:**

None.

##### **SYSTEM LOCATION:**

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in the Social Security Act; and denied and disallowed cases.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

The master beneficiary data contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases; contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable; reflects any special



status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary's subscript, beneficiary name, date of birth, date of entitlement, sex, race and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form: Master Beneficiary Record Computer File; Online Data Base (Query and Response); Various Microform Files as follows: Master File—a master record in social security number order, Alpha File—an alphabetic list of beneficiaries, Transaction File—monthly supplement (accretions, deletions, and changes) to the master file, in social security number order, Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, and Returned and Cancelled Check Files, and payment reference listing, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary record. After use they are returned to stock.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Payment of benefits is directed by the following sections: Sections 202a-205, 223, 226, 228, 1818, 1838, 1840 and of the Social Security Act.

#### ROUTINE USES OF RECORD MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses for disclosure may be to:

a. Applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

b. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security programs when:

(1) The individual is unable to provide the information being sought (an

individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

c. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

d. A person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State; the Veterans Administration Regional Office, Philippines; and the American Institute on Taiwan for administering the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment and for administering the Railroad Unemployment Insurance Act.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412, and upon request, of information needed for determining eligibility for or amount of VA benefits or verifying other information with respect thereto.

k. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

l. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

m. The Office of Personnel Management (formerly the Civil Service Commission) for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

n. State social security administrators for administration of agreements pursuant to section 218 (State and local).

o. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC and Medicaid programs and for the complete administration of the Medicaid program.

p. Energy Resources Development Administration for their study of the long-term effects of low-level radiation exposure.

q. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

s. The Department of Labor, for statistical studies of the relationship of private pensions and social security benefits to prior earnings.

t. In the event litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the

Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

u. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

v. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

w. Federal, State, or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs.

x. Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Magnetic tape, magnetic disk, microfilm, and paper.

##### RETRIEVABILITY:

Based on social security number on magnetic tape, disc, microfilm readers and printers, listings, and online computer terminals. Master beneficiary record data are used by a broad range of social security employees for responding to inquiries, generating followups on beneficiary reporting events, computer acceptance processing, statistical studies, conversion of benefits, and to generate payment records for Treasury. Data are received from the States regarding health insurance third party premium payment/buy-in information, data are made available to the Inspector General for use in the performance of his duties.

##### SAFEGUARDS:

All magnetic tapes and discs are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized

personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental Standards and National Bureau of Standards guidelines. Safeguards include a lock-unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

##### RETENTION AND DISPOSAL:

Magnetic tape records are used to update the disc files and then are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, while the disc files are continuously updated and retained indefinitely. Microfilm is disposed of by shredding after periodic replacement of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see notices for claims folders and post-adjudicative records of applicants and beneficiaries for social security benefits).

##### SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of User Requirements and Validation, 6401 Security Boulevard, Baltimore, Maryland 21235.

##### NOTIFICATION PROCEDURE:

Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols), and name and address must be furnished with proper identification.

##### RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

##### CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with DHEW Regulations, 45 CFR, Section 5b.

##### RECORD SOURCE CATEGORIES:

The information for the master beneficiary record comes primarily from

the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the Social Security Administration by the beneficiary; from States regarding health insurance buy-in cases.

#### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-37558 Filed 12-6-79; 8:45 am]

BILLING CODE 4110-07-M

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

[W-69281, W-69282, W-69546, and W-69611]

##### Wyoming; Applications

November 28, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed applications for rights-of-way to construct, operate, maintain, repair, replace and remove six 4½", one 6½" and one 8½" O.D. buried pipelines for the purpose of transporting natural gas across the following described public lands:

##### Sixth Principal Meridian, Wyoming

| Serial No. | Pipe size                             | Land description                                                                                         |
|------------|---------------------------------------|----------------------------------------------------------------------------------------------------------|
| W-69281    | 4½ in.                                | T. 22 N., R. 94 W., Secs. 2 and 10, Sweetwater County.                                                   |
| W-69282    | Three 4½ in, one 6½ in and one 8½ in. | T. 17 N., R. 93 W., Secs. 28 and 34, T. 18 N., R. 94 W., Sec. 34, Carbon and Sweetwater Counties.        |
| W-69546    | 4½ in.                                | T. 22 N., R. 92 W., Secs. 24 and 36, Sweetwater County.                                                  |
| W-69611    | 4½ in.                                | T. 17 N., R. 94 W., Sec. 30, T. 23 N., R. 94 W., Sec. 28, T. 16 N., R. 95 W., Sec. 2, Sweetwater County. |

The proposed pipelines will serve to transport natural gas from several wells to points of connection with existing pipeline facilities as an addition to Cities Service Gas Company's gathering system all within Carbon and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly.



Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37563 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69613, W-69614, W-69615, W-69657, and W-69936]

#### Wyoming; Applications

November 27, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed applications for rights-of-way to construct, operate, maintain, repair, replace and remove five 4½", five 6", and one 8" O.D. buried pipelines for the purpose of transporting natural gas across the following described public lands:

#### Sixth Principal Meridian, Wyoming

| Serial No. | Pipe size               | Land Description                                                                                  |
|------------|-------------------------|---------------------------------------------------------------------------------------------------|
| W-69613    | 4½ in and 6½ in.        | T. 21 N., R. 92 W., Secs. 26, 28, 32 and 33.                                                      |
| W-69613    | 4½ in, 8½ in and 8½ in. | T. 17 N., R. 93 W., Sec. 22, Carbon and Sweetwater Counties.                                      |
| W-69615    | 4½ in and 6½ in.        | T. 19 N., R. 93 W., Sec. 10, T. 20 N., R. 93 W., Secs. 24 and 34, Carbon and Sweetwater Counties. |
| W-69657    | 4½ in and 6½ in.        | T. 22 N., R. 94 W., Sec. 22, Sweetwater County.                                                   |
| W-69657    | 4½ in and 6½ in.        | T. 22 N., R. 94 W., Secs. 24 and 26, Sweetwater County.                                           |
| W-69936    | 4½ in and 6½ in.        | T. 20 N., R. 92 W., Sec. 30, T. 20 N., R. 93 W., Sec. 24, Sweetwater County.                      |

The proposed pipelines will serve to transport natural gas from several wells to points of connection with existing pipeline facilities as an addition to Cities Service Gas Company's gathering system all within Carbon and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third

Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37564 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69195]

#### Wyoming; Application

November 27, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an amendment to their pending application for a right-of-way to construct a 6" O. D. buried pipeline for the purpose of transporting natural gas across the following described public lands:

#### Sixth Principal Meridian, Wyoming

T. 19 N., R. 98 W.,  
Sec. 24, E½SE¼.

The amendment to the application was filed to include additional public lands affected by the proposed pipeline as rerouted to transport natural gas from the TRU #41 Well located in the N½ of Section 19 to a point of connection with an existing pipeline located in the SE¼SE¼ of Section 24, all within T. 19 N., R. 98 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37568 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69285, W-69577, W-69578, W-69598, W-69601, and W-69607]

#### Wyoming; Applications

November 28, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed applications for rights-of-way to

construct, operate, maintain, repair, replace and remove 4½" O.D. buried pipelines and related facilities consisting of 4' x 6' meter houses and metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

#### Sixth Principal Meridian, Wyoming

| Serial No. | Pipe size                      | Land description                                   |
|------------|--------------------------------|----------------------------------------------------|
| W-69285    | 4½ in. and related facilities. | T. 18 N., R. 93 W., Secs. 2 and 12, Carbon County. |
| W-69577    | 4½ in.                         | T. 18 N., R. 93 W., Sec. 12, Carbon County.        |
| W-69578    | 4½ in.                         | T. 18 N., R. 93 W., Sec. 24, Carbon County.        |
| W-69598    |                                | T. 18 N., R. 93 W., Sec. 34, Carbon County.        |
| W-69601    | 4½ in.                         | T. 18 N., R. 93 W., Sec. 26, Carbon County.        |
| W-69607    | 4½ in.                         | T. 17 N., R. 93 W., Sec. 28, Carbon County.        |

The proposed pipelines and related facilities located entirely within a 50' right-of-way width will serve to transport natural gas from several wells to points of connection with existing pipeline facilities all located within Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37567 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69937]

#### Wyoming; Application

November 28, 1979

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Utilities, Inc., of Casper, Wyoming filed an application for a right-of-way to construct a Cathodic Protection Groundbed for the purpose of externally protecting existing gas line from corrosion affecting the following described public lands:

#### Sixth Principal Meridian, Wyoming

T. 33 N., R. 90 W.,  
Sec. 3, lot 4.

T. 34 N., R. 90 W.,  
Sec. 34, SW¼SW¼.

The proposed cathodic protection groundbed will be located in lot 4, section 3, T. 33 N., R. 90 W., and the SW¼SW¼ of section 34, T. 34 N., R. 90 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Operations.

[FR Doc. 79-37568 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

#### Lahontan Cutthroat Trout Natural Area; Instant Study Area

An intensive wilderness inventory was conducted of the Lahontan Cutthroat Trout Natural Area (Instant Study Area) to determine whether wilderness characteristics were present. The inventory documented that the Lahontan Cutthroat Trout Natural Area lacked the size and naturalness necessary to be recommended for wilderness study. The natural area consisted of 12,316 acres of public land with 1258.24 acres of private land located primarily in the drainages.

The Natural Area is crisscrossed with numerous roads dividing the unit into seven separate sections. All of the units are less than 5,000 acres and, in most cases, heavily intruded with the impacts of man's past and present activities. These intrusions include four permanent structures, water troughs, mining scars, several corrals, and numerous fence lines. The quantity of the intrusions, along with their location in the drainages, makes it nearly impossible to isolate one's self from the presence of man.

An open house will be held at the Winnemucca Bureau of Land Management Office, 705 E. 4th Street, on January 8, 1980 at 7:30 P.M. to discuss the intensive inventory findings.

A 30-day comment period on the study unit will begin on December 13, 1979, and terminate January 13, 1980.

Dated: November 30, 1979.

Chester E. Conard,  
For the State Director.

[FR Doc. 79-37609 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

[INT DES 79-60]

#### Western Gulf of Alaska Outer Continental Shelf, Availability of Draft Environmental Statement; Intent To Hold Public Hearing(s) Regarding Proposed Oil and Gas Lease Sale No. 46

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 564 tracts of submerged Federal Lands off the coast of Kodiak Island, Alaska.

Single copies of the draft statement can be obtained from the Office of the Manager, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft statement will also be available for review in the following public libraries in Alaska: Alaska Federation of Natives, 670 W. Fireweed Lane, Anchorage 99501; Department of Interior, Alaska Resources Library, 733 W. 4th Avenue, Anchorage 99501; Kenai Community Library, Box 157, Kenai 99611; North Star Borough Library, Fairbanks 99701; University of Alaska, Institute of Economics and Government Research Library, Fairbanks 99801; Z. J. Loussac Public Library, 427 F Street, Anchorage 99801; Alaska State Library, Juneau 99811; Bureau of Indian Affairs School Library, Elim 99739; Department of Defense, Army Corps of Engineers Library, Anchorage 99510; Department of Interior—Bureau of Mines Library, AF—F.O. Center, P.O. Box 550, Juneau 99802; Ketchikan Community College, 7th & Madison, Ketchikan 99901; Seldovia Public Library, Seldovia 99663; University of Alaska—Juneau Library, P.O. Box 1447, Juneau 99802; Anchor Point Public Library, Anchor Point 99556; Cordova Public Library, Cordova 99574; Elim Learning Center, Elim 99739; Haines Public Library, Haines 99827; Homer Public Library, Homer 99603; Juneau Memorial Library, Douglas Public Library, 114 W. 4th Street, Juneau 99824; Ketchikan Public Library, 629 Dock Street, Ketchikan 99901; Kodiak Public Library Association, Inc., Kodiak 99615; Metlakatla Extension Center, Metlakatla 99926; Petersburg Extension

Center, Petersburg 99833; Seward Community Library, Seward 99664; Sitka Community Library, Sitka 99835; University of Alaska—Anchorage Library, 3211 Providence Drive, Anchorage 99504; University of Alaska, Elmer E. Rasmuson Library, Fairbanks 99701; Wrangell Extension Center, Wrangell 99929.

In accordance with 43 CFR 3314.1, public hearings will be held in Kodiak and Anchorage, Alaska, for the purpose of receiving comments and suggestions relating to the draft statement. The exact locations and dates of these hearings will be announced at a later date. Comments concerning the statement will be accepted until January 28, 1980, and should be sent to the Manager, Alaska OCS Office, at the above listed address.

After a public hearing is held and comments are received and considered, a final environmental statement will be prepared.

Ed Hastey,  
Associate Director, Bureau of Land Management.

Approved:

James H. Rathlesberger,  
Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 79-37658 Filed 12-6-79; 8:45 am]

BILLING CODE 4310-84-M

#### Fish and Wildlife Service

#### Intent To Prepare an Environmental Impact Statement on the Proposed Preservation of Bottomland Hardwood Habitat Known as Hickman Bottoms in Fulton and Hickman Counties, Ky.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the protection and preservation of Hickman Bottoms located in Fulton and Hickman Counties, Kentucky. This area has been identified in the FWS Lower Mississippi River Delta (Habitat Category 7) Concept Plan of April 1978 as the most important bottomland hardwood area left in Kentucky. Public meetings regarding this proposal and preparation of the EIS will also be conducted. This Notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the



EIS. Comments and participation in this scoping process are solicited.

**DATES:** Written comments should be received on or before January 7, 1980.

Four initiating scoping sessions are planned: The first will involve the various agencies having projects or other interest in the Hickman Bottoms area, the second session will involve various conservation organizations, and their remaining two sessions are planned as public meetings to be held in Hickman and Clinton, Kentucky.

**ADDRESSED:** Comments should be addressed to: Area Manager, U.S. Fish and Wildlife Service, Asheville Area Office, Federal Building, Room 279, Asheville, North Carolina 28801.

**FURTHER INFORMATION CONTACT:** Deborah S. Paul, Ascertainment Biologist, U.S. Fish and Wildlife Service, Reelfoot National Wildlife Refuge, P.O. Box 98, Samburg, Tennessee 38254. Telephone: (901) 538-2481.

**SUPPLEMENTAL INFORMATION:** The proposal to preserve Hickman Bottoms reflects the FWS' intense concern about the rapid disappearance of Mississippi River bottomland hardwoods. Loss of this habitat, which is vital to our migratory waterfowl resource, is especially severe in western Kentucky due to concentrated timbering activity and conversion of lands to agricultural use. Hickman Bottoms has been identified as the most important remaining tract of bottomland hardwood in Kentucky; its preservation would provide valuable wintering habitat for migratory waterfowl and the endangered bald eagle, and also insure the continual existence of viable populations of other wildlife and fish utilizing the area. Several projects have been proposed or initiated in the Hickman Bottoms area which have the potential to alter or destroy all or part of the existing wetland habitat. These include the West Kentucky Tributaries (Obion Creek) Project, channel alternation plans for Bayou du Chien, establishment of a Great River Road Scenic Route along the Mississippi River through Kentucky, a Columbus-to-Hickman levee proposal, and the construction of sites suitable for power generation facilities. The FWS solicits participation from other involved or concerned agencies and/or individuals in the development of feasible alternatives which would preserve and protect Hickman Bottoms. Alternatives to be explored in the EIS include but are not necessarily limited to: (1) fee title and/or easement acquisition of Hickman Bottoms by the FWS as a National Wildlife Refuge, (2) acquisition by entities other than the FWS who would

preserve the area, (3) expansion of mitigation plans for proposed dredge-and-channel projects, and (4) no action including reliance on existing zoning, legislation and other regulations to protect the area. The purpose of the scoping process in EIS preparation is to determine the scope of issues to be addressed and to identify the significant issues related to the preservation of the Hickman Bottoms area. The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), other appropriate Federal regulations, and FWS procedures for compliance with these regulations.

We estimate that the draft EIS will be available to the public by late 1980.

**Kenneth E. Black,**

*Regional Director, U.S. Fish and Wildlife Service.*

November 30, 1979.

[FR Doc. 79-37666 Filed 12-6-79; 8:45 am]

**BILLING CODE 4310-55-M**

#### Office of the Secretary

#### Commissioner of Reclamation; Delegation of Authority

Notice is hereby given that the Assistant Secretary of the Interior-Land and Water Resources has revised the general program delegation of authority to the Commissioner of Reclamation. The revised delegation, published in Chapter 1, Part 255 of the Department of the Interior Manual, was issued in Release No. 2205 dated October 22, 1979, and is published in its entirety below. It supersedes the version published in the *Federal Register* on July 16, 1979 (44 FR 41350).

Additional information regarding the revised delegation of authority may be obtained from the Management and Organization Officer, Bureau of Reclamation, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4867.

Dated: November 30, 1979.

**William L. Kandig,**

*Deputy Assistant Secretary of the Interior.*

#### Departmental Manual

Delegation Series—Part 255 Bureau of Reclamation

General Program Delegation; Chapter 1 Commissioner of Reclamation, 255 DM 1.1

1.1 *Delegation.* The Commissioner of Reclamation is authorized, except as provided in 200 DM 1 and in 255 DM 1.2, to:

A. Perform the functions and exercise the authority now or hereafter vested in the

Secretary of the Interior, or in the Department of the Interior, by:

(1) The act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 *et seq.*), and acts amendatory thereof or supplementary thereto;

(2) The Water Conservation and Utilization Act of August 11, 1939 (53 Stat. 1418; 16 U.S.C. 590y *et seq.*), as amended;

(3) The Warren Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523 *et seq.*);

(4) The Columbia Basin Project Act of May 27, 1937 (50 Stat. 208; 16 U.S.C. 835 *et seq.*), as amended;

(5) The Fort Peck Project Act of May 18, 1938 (52 Stat. 403; 16 U.S.C. 833 *et seq.*), as amended;

(6) The Hungry Horse Dam Act of June 5, 1944 (58 Stat. 270; 43 U.S.C. 593a *et seq.*);

(7) The Colorado River Front Work and Levee System Act of January 21, 1927 (44 Stat. 1010, 1021), as amended;

(8) The act of August 31, 1954 (68 Stat. 1045), relating to the Palo Verde Irrigation District;

(9) Coulee Dam Community Act of 1957 (71 Stat. 524);

(10) Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, and Executive Order 11200. The authorities of the Commissioner under this Act and Executive Order shall be restricted to the following:

(a) The authority to designate areas under his jurisdiction at which recreation fees will be charged as specified by Sections 1, 2, and 3 of Executive Order 11200;

(b) The authority to post such designated areas as specified by Section 4 of Executive Order 11200;

(c) The authority to select from the fees established by 36 CFR 1227 the specific fees to be charged at the designated areas in accordance with Section 5(a) of Executive Order 11200;

(11) Section 7 of the Federal Water Project Recreation Act of July 9, 1965 (79 Stat. 213) for areas under his jurisdiction, subject to review and coordination of outdoor recreation plans by the Heritage Conservation and Recreation Service;

(12) Sections 5 and 8 of the Flood Control Act of 1944 (58 Stat. 887) for areas under his jurisdiction;

(13) Section 303 of the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885; 43 U.S.C. 1501 *et seq.*) to the extent not already delegated under (1) above; and

(14) The Colorado River Basin Salinity Control Act of June 24, 1974 (88 Stat. 266) to the extent not already delegated under (1) above.

B. Act on behalf of the Secretary of the Interior in carrying out the provisions of contracts heretofore or hereafter executed pursuant to any of the foregoing acts.

1.2 *Limitations.* Excepted from 255 DM 1 is authority to:

A. Take action in matters for which authority has been delegated on a functional basis in 205 DM.

B. Acquire any interest in property by condemnation;

C. Make the findings authorizing construction of a new project, new division of a project, or supplemental works on a project, in accordance with subsection (a) of Section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187; 1193; 43 U.S.C. 485 h(a));

D. Act for the Secretary of the Interior in approving and adopting project feasibility reports as the Secretary's proposed reports or as his reports to the President and to the Congress;

E. Certify for the Secretary of the Interior as to the adequacy of soil surveys and land classification, and as to the productivity of land, as a condition precedent to the initiation of construction, in accordance with the Interior Department Appropriation Act, 1954 (67 Stat. 261, 268; 43 U.S.C. 390a);

F. Execute and issue Public Notices opening lands to homestead entry and Public Announcements offering lands for sale; however, this limitation shall not prohibit the amendment of such Public Notices or Public Announcements and their publication in the *Federal Register* by the Commissioner of Reclamation when, in his judgment, adjustments in the provisions thereof are in the best interest of sound project development and such adjustments do not modify the basic requirements for homestead entry on public lands of the United States;

G. Establish rates for "project use" power and energy.

H. Take the following actions under the act of August 31, 1954 (68 Stat. 1045):

(1) Approve and execute the contract with the Palo Verde Irrigation District required by section 2 of said act;

(2) Make the loan or loans to the Palo Verde Irrigation District authorized by section 4(c) of said act;

(3) Grant to the United States the interests in land within the Colorado River Indian Reservation referred to in section 4(d) of said act;

I. Act for the Secretary of the Interior under section 7(c) of the Coulee Dam Community Act of 1957 (71 Stat. 524);

J. Withdraw public lands.

1.3 *Redelegation.* The Commissioner of Reclamation may, in writing, redelegate to officers and employees of the Bureau the authority granted in 255 DM 1.1, and he may authorize written redelegations of such authority.

1.4 *Exercise of Authority.* The following administrative instructions, additional to those elsewhere prescribed, shall be observed by officers and employees of the Bureau of Reclamation in the exercise of the legal authority delegated by 255 DM 1 or redelegated pursuant to it.

A. *Lands.*—(1) The concurrence of the Bureau of Land Management shall be obtained before final action is taken to:

(a) Survey, subdivide, or sell public lands withdrawn for townsite purposes; and

(b) Effect exchanges involving public lands, except public lands within the Columbia Basin Project and the Gila Project.

(2) Prior Secretarial approval shall be obtained for issuance of any license for the construction or operation of a voltage of more than 100 kilovolts for the distribution of electric power and energy on public lands under Reclamation withdrawal or lands acquired for Reclamation purposes.

B. *Contracts.*—Before contracts of the following types, or amendments thereof or supplements thereto, are executed, such contract must have Secretarial approval as to form:

(1) Repayment contracts and water-service contracts for irrigation, municipal, domestic, or industrial water, except:

(a) Contracts for payment of construction charges for lands acquired by States for use as highway rights-of-way;

(b) Contracts to furnish water from Columbia Basin Project works for municipal supply or miscellaneous purposes in accordance with proviso numbered (2) of subsection (c) of Section 9 of the Reclamation Project Act of 1939 (53 Stat. 1187, 1194; 43 U.S.C. 485h(c));

(c) Interim irrigation water service contracts for terms not to exceed 1 year and quantities not to exceed 10,000 acre-feet per contractor; and

(d) Interim municipal, industrial, domestic, and miscellaneous water service contracts for terms not to exceed 1 year and quantities not to exceed 500 acre-feet per contractor.

(2) Contracts for the transfer of the care, operation, and maintenance of irrigation works and facilities to water users' organizations;

(3) Recordable contracts covering excess lands;

(4) Contracts for delivery or wheeling of project use power and energy, including contracts for the sale of energy in falling water to be used in the generation of hydroelectric power and energy, when the proposed contracts contain provisions which do not conform to standard or special provisions previously approved by the Secretary of the Interior, provided that minor variations shall not be regarded as nonconformity; and

(5) Repayment contracts for development of recreation at existing Reclamation reservoirs in accordance with Section 7 of the Federal Water Project Recreation Act of 1965 (79 Stat. 213).

[FR Doc. 79-37670 Filed 12-6-79; 8:45 am]

**BILLING CODE 4310-09-M**

#### INTERNATIONAL TRADE COMMISSION

[TA-201-39]

#### Nonelectric Cooking Ware; Report to the President

November 5, 1979.

To The President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation relating to nonelectric cooking ware.

The investigation to which this report relates (investigation No. TA-201-39) was undertaken to determine whether—

nonelectric cooking ware, provided for in items 533.77, 548.38, 548.56, 548.59, 653.85, 653.93, 653.94, 653.97, 654.05, 654.10, and 654.15 of the Tariff Schedules of the United States (TSUS),

is being imported into the United States in such increased quantities as to be a

substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation under the authority of section 201(b) of the Trade Act of 1974 on May 15, 1979, following receipt of a petition on May 4, 1979, filed on behalf of the General Housewares Corp., Terre Haute, Ind. The investigation as originally instituted concerned only cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the TSUS. On June 25, 1979, the Commission expanded the scope of its investigation by adding to it nonelectric cooking ware, provided for in items 533.77, 548.38, 548.56, 548.59, 653.85, 653.93, 653.94, 654.05, 654.10, and 654.15 of the TSUS.

Notice of the institution of the porcelain-on-steel cooking ware investigation and the public hearing to be held in connection therewith was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the *Federal Register* of May 22, 1979 (44 FR 29740). The notice expanding the scope of the investigation and changing the hearing date was published in the *Federal Register* of July 5, 1979 (44 FR 39316). A third notice postponing the hearing date from August 14, 1979, to September 6, 1979, was published in the *Federal Register* of August 9, 1979 (44 FR 46955).

The Commission held a public hearing in connection with the investigation on September 6 and 7, 1979, in the Commission's Hearing Room in Washington, D.C. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard at the hearing. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.<sup>1</sup>

The information in this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from briefs submitted by interested parties, and from the Commission's files.

By Order of the Commission:

<sup>1</sup> Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.



Issued: December 4, 1979.  
Kenneth R. Mason,  
Secretary.

#### Determination, Findings, and Recommendation of the Commission

##### Determination

On the basis of the investigation, the Commission determines that—

(1) cooking ware of steel, enameled or glazed with vitreous glasses, provided for in TSUS item No. 653.97, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles; and

(2) other types of nonelectric cooking ware were provided for in TSUS items 533.77, 546.38, 548.56, 548.59, 653.59, 653.85, 653.93, 653.94, 654.05, 654.10, and 654.15 are not being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.

##### Findings and Recommendation

The Commission finds and recommends that to prevent or remedy the serious injury to the domestic industry it is necessary to impose rates of duty, in addition to the present rates of duty, with respect to cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the TSUS, as follows—

| Year          | Articles valued not over \$2.25 per pound net weight         |
|---------------|--------------------------------------------------------------|
| 1st year..... | 25 cents per pound, but not more than 50 percent ad valorem. |
| 2nd year..... | 25 cents per pound, but not more than 50 percent ad valorem. |
| 3rd year..... | 20 cents per pound, but not more than 50 percent ad valorem. |
| 4th year..... | 15 cents per pound, but not more than 50 percent ad valorem. |
| 5th year..... | 10 cents per pound, but not more than 50 percent ad valorem. |

Views of Chairman Joseph O. Parker and Commissioners George M. Moore and Catherine Bedell

This investigation under section 201 of the Trade Act of 1974 was initiated by the U.S. International Trade Commission on the basis of a petition from the General Housewares Corp. The petition requested that the Commission institute an investigation to determine whether cooking ware of steel, enameled or glazed with vitreous glasses (porcelain-on-steel), is being imported into the United States in such

increased quantities as to be a substantial cause of serious injury to the domestic industry producing like or directly competitive articles. Thereafter, the Commission broadened the scope of its investigation to include additional types of nonelectric cooking ware.

Under the amended notice of investigation, the Commission investigated whether imports of one or more of the articles under investigation are being imported in such increased quantities as to cause injury within the meaning of the statute to an industry in the United States producing an article like or directly competitive with an imported article. In our judgment, the information obtained in the investigation has established that imports of porcelain-on-steel cooking ware are causing injury within the meaning of section 201 to the domestic producers of such cooking ware. For the reasons set forth below, we have made a negative determination with respect to the other imported articles which are the subject of this investigation.

In the present investigation, the petitioner requested that the Commission examine the impact of imports of porcelain-on-steel cooking ware on the U.S. industry producing such cooking ware. As this investigation disclosed, there are a number of different types of nonelectric cooking ware produced and marketed, which are competitive in varying degrees depending upon the market and the intended use. The record shows that porcelain-on-steel cooking ware production is limited to one company, the other producer having ceased production in 1978. This cooking ware is produced in a plant devoted solely to the production of porcelain-on-steel cooking ware.

In view of the differences between porcelain-on-steel and other types of cooking ware, and its uses and its market demand, it is this segment of the cooking ware industry which is facing the full competitive impact of imports of porcelain-on-steel cooking ware from several countries. Thus, for the purposes of this investigation, we have determined that the domestic industry should be defined as the facilities used for the production of porcelain-on-steel cooking ware.

In order to make an affirmative determination, the Commission must determine that imports of the articles in question have increased either in actual terms or relative to domestic production. In 1974, imports of porcelain-on-steel cooking ware totaled 6.9 million units. They steadily increased to 19.7 million units in 1978, or by more than 180 percent. The ratio of imports of

porcelain-on-steel cooking ware to domestic production of these articles increased by more than 300 percent from 1974 to 1978. Thus, it is clear that imports of porcelain-on-steel cooking ware increased within the meaning of section 201. Aggregate imports of the other types of cooking ware within the scope of the investigation increased from 18.2 million units to 45.8 million units over this period, or by 150 percent.

In our judgment, the information obtained in the Commission's investigation establishes that these increased imports of porcelain-on-steel cooking ware are a substantial cause of serious injury within the meaning of section 201. No producers of other types of cooking ware claimed injury, and the information obtained in the investigation does not establish that the producers of other types of cooking ware have been injured within the meaning of the statute.

Consumption of porcelain-on-steel cooking ware increased by 43 percent from 1974 to 1978. During this period, there was also a significant increase in market penetration by imports. In 1974, imports supplied about one third of the porcelain-on-steel cooking ware consumed in the United States; in 1978, they supplied more than two-thirds of this market.

In contrast, total apparent domestic consumption of all types of nonelectric metal cooking ware within the scope of the Commission's investigation increased from 176 million units in 1974 to 212 million units in 1978, representing an increase of 20 percent. During this period, the share of the domestic market being supplied by imports also increased rising from 14 percent to 31 percent. Thus, it is clear that imports of porcelain-on-steel cooking ware have captured a more than twice as large a share of the U.S. market as other types of cooking ware. It is significant to note that the size of the porcelain-on-steel market relative to that of the other types of cooking ware has remained the same during the period under consideration.

The increased competition from imports and the loss of market share in the porcelain-on-steel market had serious consequences for the domestic industry. Domestic production of porcelain-on-steel cooking ware declined by over 30 percent between 1974 and 1978, as did the quantity of producers' domestic shipments. Over the 5-year period, the value of such shipments also declined significantly. In contrast, the quantity of shipments of all types of nonelectric cooking ware remained essentially stable during this period, while the value of such

shipments increased from \$322 million to \$428 million.

Capacity utilization in the domestic porcelain-on-steel industry declined by about 35 percent from 1974 to 1978, when one of the two domestic producers ceased production. That decline and the cessation of production severely affected the number of production and related workers producing porcelain-on-steel cooking ware which declined by almost 40 percent. Man-hours worked by the employees declined at a similar rate.

The injury suffered by the domestic industry as described above is reflected in the industry's profit-and-loss experience. The U.S. producer which ceased production in 1978 suffered losses throughout 1976-78. The profit of General Housewares Corp., the remaining U.S. producer, was also affected adversely. In 1978, when imports of porcelain-on-steel cooking ware jumped by 6.5 million units, or by 50 percent, General Housewares experienced the lowest ratio of net operating profit to net sales of any year during 1974-78.

In sharp contrast to the experience of the domestic producers of porcelain-on-steel cooking ware, net sales of all types of nonelectric cooking ware by 12 major U.S. producers increased from \$275 million in 1974 to \$364 million in 1978, or by 32 percent. Net operating profit on these operations also increased, rising from \$24.9 million in 1974 to \$31.9 million in 1978, or by 28 percent. It is clear that the domestic producers of other types of nonelectric cooking ware have not been affected by increased imports to the same extent as producers of porcelain-on-steel cooking ware.

On the basis of these factors, we determined that imports of porcelain-on-steel cooking ware are being imported in such increased quantities as to be a substantial cause of serious injury or the threat thereof to the domestic producers of these articles. We have also determined that imports of the other articles set forth in the Commission's notice of investigation are not causing injury or the threat thereof within the meaning of section 201.

Views of Commissioners Paula Stern and Bill Alberger

On the basis of information obtained in this investigation, we determine that porcelain-on-steel cooking ware is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing like or directly competitive products. We have further determined that the domestic industries producing other types of nonelectric cooking ware

are not being seriously injured and are not threatened with serious injury.

The Trade Act of 1974 requires that each of the following conditions be met before an affirmative determination is made:

- (1) There are increased imports (either actual or relative to domestic production) of an article into the United States;
- (2) A domestic industry producing an article like or directly competitive with the imported article is seriously injured, or threatened with serious injury; and
- (3) Such increased imports of an article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

##### The Domestic Industry

The Commission investigation encompassed all types of nonelectric cookware. Information obtained during this investigation revealed that other types of nonelectric cookware may, to some extent, be substituted for porcelain-on-steel cookware. However, we have concluded that porcelain-on-steel cookware constitutes a separate industry after considering the following differences between porcelain-on-steel and other types of nonelectric cookware: (1) appearance and physical properties, (2) production requirements, and (3) the dominant determinants of consumer demand.

Porcelain-on-steel cookware has a nonporous, glass surface, which is considered to be sanitary, easy to clean, but subject to chipping. Because of its ability to withstand extremely high temperatures, porcelain-on-steel cookware is available in brilliant colors which cannot be duplicated in other types of cookware. It is produced in facilities that are dedicated exclusively to such production, and the equipment, raw materials, and technology employed cannot be used in producing other types of cookware. Many of the employees producing this cookware possess special skills which are not readily transferred to production of other types of cookware.

Finally, the information obtained by the Commission indicated that porcelain-on-steel cookware supplies a unique consumer market. As a result of the Commission's investigation, there is reason to believe that consumers of middle- to high-priced cookware behave differently than do consumers of inexpensive cookware. While medium- to high-priced merchandise is not viewed as particularly price sensitive, the demand for inexpensive cookware seems to be highly price elastic. In addition, consumers of medium- to high-priced cookware are generally more knowledgeable about differences in cooking properties of various materials.

It is thus probable that various types of cookware in the medium- to high-price range compete directly with each other.

In contrast with the more expensive cookware, porcelain-on-steel cookware caters to consumers who place high priorities on low prices. Having consistently sold at the lower end of the price scale during the period covered by this investigation, porcelain-on-steel cookware has maintained a stable share of the total U.S. market. By comparison, its closest competition in terms of price, stamped aluminum cookware, has steadily lost market share. It follows, therefore, that stamped aluminum cookware has not proven to be directly competitive with porcelain-on-steel cookware.

Price has been an especially important factor in the specialty cookware market. Unlike other materials used for the production of nonelectric cookware, porcelain-on-steel can be fabricated economically into large capacity vessels. It thus has the major advantage of being particularly well-suited to the production of inexpensive specialty cookware, such as roasters and stock-pots. Although the industry markets all classes of porcelain-on-steel cookware—fashion, utilitarian, and specialty—its profitability has greatly depended upon sales in the latter two categories.

We have, therefore, determined that there is an identifiable separate industry in the United States producing porcelain-on-steel cookware. Supporting this conclusion is the fact that no domestic producer of other types of nonelectric cookware claimed injury or made an effort to represent itself at the Commission's hearing.

Thus, for the purposes of this investigation, the domestic industry should be defined as the facilities used for the production of porcelain-on-steel cooking ware. The domestic industry so defined consists of one company, General Housewares Corporation of Terre Haute, Indiana. A second producer, located in Moundsville, West Virginia, ceased production in 1978.

##### Increased Imports

U.S. imports of porcelain-on-steel cooking ware increased annually during 1974-78, rising from 6.9 million units in 1974, to 19.7 million units in 1978. The ratio of imports of porcelain-on-steel cookware to domestic production increased by more than 300 percent in this same period. Thus, it is evident that the first statutory requirement for an affirmative determination of increased imports has been satisfied.

Aggregate imports of the other nonelectric cooking ware considered in



this investigation also increased during 1974-78, but less rapidly than imports of porcelain-on-steel. Imports of these articles increased from 18.2 million units in 1974, to 46 million units in 1978. Within the category of all nonelectric cookware, only imports of stamped aluminum cookware did not increase. But as a practical matter, since separate data on profits, employment and other factors were not available (as they were for porcelain-on-steel) we have been forced to consider all other nonelectric cookware in a basket category. Given this limitation, we find increased imports in this basket category.

#### *Serious Injury or Threat of Serious Injury*

Sections 201(b)(2) (A) and (B) of the Trade Act provide guidelines for determining whether the domestic industry is being seriously injured or is threatened with serious injury. The Commission is to consider, among other economic factors, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, significant unemployment or underemployment within the industry. Analysis of these factors indicates that the economic position of the domestic porcelain-on-steel industry is rapidly declining.

*Underutilization of production capacity*—It is clear that the U.S. industry producing porcelain-on-steel cooking ware has experienced a considerable idling of productive facilities. The capacity utilization rate for this industry declined by about 35 percent between 1974 and 1978.

*Significant unemployment or underemployment in the industry*—Employment in the production of porcelain-on-steel cooking ware fell by almost 35 percent from 1974 to 1978. Manhours worked by production employees declined at a similar rate.

*U.S. production and U.S. producers' shipments*—U.S. production and domestic shipments of porcelain-on-steel cookware both declined by about one-third during the 1974-1978 period. Despite the impact of inflation on cooking ware prices, the value of U.S. producers' shipments of porcelain-on-steel cooking ware declined during 1974-1978.

*Inventories*—U.S. producers' porcelain-on-steel inventories trended downward during 1974-1978, dropping sharply in 1978 as a result of the liquidation of U.S. Stamping Co.'s inventory.

*Profitability*—U.S. producers' net sales of porcelain-on-steel cookware increased by 13 percent from 1974 to

1977 and declined by 13 percent in 1978. Net operating profits declined by almost 60 percent in 1978 from their 1975 peak level. However, net profits as a share of net sales have not yet exhibited the severe decline evident in other traditional economic indicators. The trend in profitability is clearing downward, and in our judgment, absent relief, it is only a matter of time before the continuing loss of market share will erode profits significantly or cause them to disappear completely.

These downward trends in traditional economic indicators are particularly important in the face of other factors of concern to the industry. Foreign capacity to produce porcelain-on-steel cookware—particularly in Korea and Taiwan, countries which have rapidly expanded their share of the U.S. market in recent years—is scheduled to increase significantly in 1978-1980. In addition, there are signs that at least one foreign producer, Mexico, may have plans to increase its exports of specialty products, an area which has previously been a stronghold of sales for the domestic industry.

Economic data for all nonelectric metal cookware do not exhibit the same steady declines that the indices for porcelain-on-steel reveal. Capacity utilization declined by only 12 percent from 1974-1978. Employment fell approximately 8 percent from 1974-1975 and increased thereafter. Production and shipments have remained stable in quantity terms, and shipments have increased by 32 percent in terms of value. Net sales and net profits of the twelve major manufacturers of nonelectric metal cookware have increased annually during 1974-1978, resulting in a moderately healthy and constant ratio of net profits to net sales. Consequently, we do not find serious injury or threat thereof to producers of other types of nonelectric cookware.

#### *Substantial Cause*

Section 201(b)(4) of the Trade Act defines the term "substantial cause" to mean "a cause which is important and not less than any other cause." In making its determination, the Commission is to consider, among other factors, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

Total apparent domestic consumption of all types of nonelectric cooking ware within the scope of the Commission's investigation increased by 19 percent during 1974-1978. Apparent consumption of porcelain-on-steel cooking ware, however, grew at a much

faster rate, more than doubling the rate reported for the aggregated industries. Imports captured all of this growth in the U.S. porcelain-on-steel market at a time when U.S. producers' shipments declined absolutely. Imports as a share of the U.S. market doubled between 1974 and 1978 and consequently account for more than two-thirds of apparent consumption.

The survey of retailers conducted by the Commission indicates that porcelain-on-steel cooking ware does, to a limited extent, compete for sales with other types of cooking ware at both the retail and "final" level of competition. Thus, the domestic industry could be suffering injury from not only imported porcelain-on-steel cookware but also from competition with other types of foreign and domestically produced cookware. As previously pointed out, however, porcelain-on-steel cooking ware has maintained its relative share of total U.S. consumption of all nonelectric cookware throughout the 1974-1978 period and the growth in consumption of porcelain-on-steel products has been captured by porcelain-on-steel imports. The impact of imports on domestic producers is highlighted by the fact that the largest decline in profits for General Housewares occurred from 1977-1978 when the increased imports was largest, jumping from 13.1 to 19.7 million units. Clearly, increased imports of porcelain-on-steel imports are at least as important a cause of the serious injury or threat thereof being suffered by the domestic industry as any other factor affecting the domestic industry's performance.

#### *Conclusion*

On the basis of the issues discussed above, we have determined that the industry producing porcelain-on-steel cookware is being seriously injured or is threatened with serious injury within the meaning of Section 201 of the Trade Act of 1974, and we have determined in the negative with respect to the industries producing the other types of nonelectric cookware considered in this investigation.

#### *Views of the Commission on Remedy*

It is our view that relief in the form of increased rates of duty should be granted to the domestic industry which the Commission has found to be seriously injured or threatened with serious injury. Our finding with respect to the specific relief necessary to prevent or remedy such injury is set forth in the findings and recommendations appearing on page 3 of this report.

The recommended remedy is designed to apply the increased rates of duty to those articles of porcelain-on-steel cooking ware that compete most directly with domestically produced articles. For this reason, articles which are valued over \$2.25 per pound, net weight, i.e., primarily high fashion cooking ware and better quality tea kettles, are exempted from the escape action rates.

The recommended increased rates are specific rates—cents per pound—which are more restrictive on lower priced imports as distinguished from higher priced and higher fashion imports. Thus, the major burden of the remedy will be applied to articles which are priced at a level which have the most injurious impact on the domestic industry.

We believe that an increased rate of duty of 25 cents per pound for a 2-year period is necessary to remedy the serious injury experienced by this industry. Thereafter, we recommend that this additional duty be reduced in stages so that over the 5-year period of relief that we have recommended the domestic industry will have an opportunity to adjust to whatever competitive conditions will exist after the termination of import relief.

FR Doc. 79-37880 Filed 12-6-79; 8:45 am]  
BILLING CODE 7020-02-M

#### DEPARTMENT OF JUSTICE

[AAG/A Order No. 37-79]

#### Privacy Act of 1974; New System of Records

Notice is hereby given that pursuant to the provisions of the Privacy Act of 1974, the Department of Justice proposes to establish a system of records to be maintained by the Land and Natural Resources Division.

The Citizens' Mail File (JUSTICE/LDN-006) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the *Federal Register*.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB or the

Congress by February 5, 1980, the system will be implemented without further notice in the *Federal Register*. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate and the Speaker of the House of Representatives.

Dated: November 28, 1979.

Kevin D. Rooney,  
Assistant Attorney General for  
Administration.

#### JUSTICE/LDN-006

##### SYSTEM NAME:

Citizens' Mail File.

##### SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All private persons whose correspondence is directly or indirectly routed to the Land and Natural Resources Division for action or response.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetized file, by last name of correspondent, containing his/her correspondence and any reply thereto; annual docket which identifies all mail received and disposition thereof.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This file is maintained pursuant to requirements for maintenance of records by Federal agencies (see 44 U.S.C. 3101 et seq.).

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This file is routinely consulted by personnel of the Land and Natural Resources Division to determine past action on specific matters and to expedite action on additional correspondence received from the individual file subject.

##### RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

##### RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

##### RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use of the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

##### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

###### STORAGE:

Information is stored in file folders in form received, or in photostatic copies if additional referral for response has become necessary.

###### RETRIEVABILITY:

Information is retrieved by alphabetized name of the subject.

###### SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rules and procedures governing Justice records.

###### RETENTION AND DISPOSAL:

Records are retained in the alphabetical file for a year. At the end of that time, they are transferred to the File Unit, Land and Natural Resources Division, where they are segregated and refiled according to Department of Justice file number and date. Records are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

###### SYSTEM MANAGER(S) AND ADDRESS:

Division Control Officer; Land and Natural Resources Division; U.S. Department of Justice; P.O. Box 7415; Washington, D.C. 20044.

###### NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General; Land and Natural Resources Division; U.S. Department of Justice; P.O. Box 7415; Washington, D.C. 20044.

###### RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing to the system manager with the envelope



and the letter clearly marked "Privacy Access Request." The request shall identify the system and sufficiently describe the record sought.

#### CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

#### RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individual subjects with whom correspondence is conducted, and in appropriate cases, those agencies furnishing information to assist in responding to the subjects.

#### SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-37557 Filed 12-6-79; 8:45 am]

BILLING CODE 4410-01-M

#### Civil Rights Division, Law Enforcement Assistance Administration

#### Civil Rights Compliance; Memorandum of Understanding

**AGENCY:** Department of Justice, Law Enforcement Assistance Administration and Civil Rights Division.

**ACTION:** Notice.

**SUMMARY:** This agreement describes the manner in which the Law Enforcement Assistance Administration (LEAA) and the Civil Rights Division (Division) coordinate their efforts to secure the civil rights compliance of LEAA recipients.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Madden, General Counsel, LEAA, (202) 724-7792 or David L. Rose, Chief, Federal Enforcement Section, Civil Rights Division, (202) 633-3831.

#### SUPPLEMENTARY INFORMATION:

##### Background

The memorandum essentially sets forth the current practices of LEAA and the Division in writing. The primary purpose of the agreement is to improve the working relationship between the respective staffs of the Division, the LEAA Office of Civil Rights Compliance, and the LEAA Office of General Counsel. By putting its expectations and responsibilities in writing, each agency anticipates even smoother communications and more thorough cooperation with the staff of the other.

The memorandum has been reviewed by the Equal Employment Opportunity Commission pursuant to Executive Order 12067.

#### Summary

Under the memorandum, LEAA would be primarily responsible for investigating all complaints filed with it, and the Division would be similarly responsible for complaints filed with it. Any information or complaints received by the Division or LEAA about a case in which the other was engaged would be sent to the other for action. LEAA would still retain its responsibility under the LEAA Nondiscrimination Regulations, 28 CFR 42.201 et seq., to assure that any complaint of discrimination brought to its attention would be resolved expeditiously. Information pertaining to complaint investigations, compliance reviews, administrative proceedings, and litigation would be exchanged periodically, as a matter of routine. LEAA would also be given the opportunity to comment on any consent decree the Division proposed to enter into with an LEAA recipient.

(This notice is issued under the authority of Sections 501 and 508 of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3751 and 3758).)

#### Memorandum of Understanding

The Law Enforcement Assistance Administration (LEAA) and the Civil Rights Division of the Department of Justice (Division) hereby agree to the following cooperative arrangement with respect to enforcing Section 518(c) of the Crime Control Act, 42 U.S.C. 3786(c), as it applies to recipients of financial assistance awarded under that Act and the Juvenile Justice and Delinquency Prevention Act, 42 U.S.C. 5601, et seq.; Subpart D of the Department of Justice Equal Employment Opportunity Regulations, 28 CFR 42.201 et seq.; Titles III, VI, VII and IX of the Civil Rights Act of 1964, as amended; and Section 122(a) of the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1242, where the public agency under investigation is also a recipient of LEAA financial assistance.

1. LEAA and the Division will inform each other of the initiation and status of full investigations and cases concerning criminal justice agencies. A full investigation means an investigation of the practices of the criminal justice agency and contact with that agency, either by written inquiry or on-site review, and any negotiations which arise out of that review or investigation. A case means a lawsuit (for the Division) or a formal administrative hearing (for LEAA). Ordinarily status

reports showing the status of all full investigations or cases will be exchanged at least every thirty (30) days; and special advice will be given of new matters of mutual interest between status reports. If both LEAA and the Division are interested in initiating a full investigation against the same agency, the interested Division Section Chief and the Director of the LEAA Office of Civil Rights Compliance will attempt to resolve the question of which agency should proceed with the investigation. Failing agreement, the Administrator and the Assistant Attorney General, or their delegates, will resolve the question.

2. Unless the Administrator and the Assistant Attorney General agree in a particular case to the contrary, LEAA shall have primary responsibility for handling investigations and cases commenced by LEAA, and the Division shall have primary responsibility for handling investigations and cases commenced by the Division. LEAA cases will be handled under Section 509 or Section 518(c)(2) of the Crime Control Act, and the Division cases will be handled under Section 518(c)(3) and/or whatever other jurisdictional grounds exist, such as Titles III, VI, VII and IX of the Civil Rights Act of 1964 and the State and Local Fiscal Assistance Act of 1972.

If the Division has or receives complaints against an agency within the scope of an investigation or case for which LEAA has primary responsibility, the Division will request LEAA to investigate the complaint. If LEAA has or receives complaints against an agency within the scope of an investigation or case for which the Division has responsibility, LEAA will request the Division to investigate the complaint. The Division shall, as soon as practicable, advise LEAA whether the complaint will be resolved by its litigation. If it will not be, the Division shall promptly return the complaint to LEAA for investigation. Each party may also request the other to act on new matters uniquely within its jurisdiction.

3. Five (5) working days prior to the proposed filing of a lawsuit against a recipient of LEAA funds; the Division will forward a copy of the proposed complaint to LEAA. If the Division files suit against an LEAA recipient, alleging a pattern or practice of discriminatory conduct that violates or would violate Section 518(c)(1), and neither party within 45 days after filing has been granted preliminary relief with regard to the suspension or payment of funds as may be available by law, LEAA shall suspend further payment of any funds

under the Crime Control Act and the Juvenile Justice Act to the specific program or activity alleged by the Attorney General to be in violation of the provisions of Section 518(c)(1) until such time as the court orders resumption of payment.

4. In those matters within its primary responsibility, LEAA will institute administrative proceedings pursuant to Sections 42.210, et seq., of the LEAA Nondiscrimination Regulations, Subpart D (43 FR 28794) against any recipient criminal justice agency determined to be in noncompliance with Section 518(c)(1). LEAA may, at any time, request the Division to file suit to enforce compliance with Section 518(c)(1). LEAA will monitor the litigation through the court docket and liaison with the appropriate section.

If, in a particular matter within its primary responsibility, LEAA does not believe that a determination of noncompliance or request to sue is warranted, it may refer the matter to the Division for such actions as the Division deems appropriate.

5. The Division will represent LEAA in any proceedings for judicial review of a final determination of noncompliance with Section 518(c)(1).

6. Nothing in this memorandum is intended to or shall be construed to restrict the authority or abrogate any responsibility the Administrator of LEAA may have to initiate an administrative proceeding against any recipient agency at any time.

7. In any case where both a judicial proceeding by the Division and an administrative investigation or case by LEAA have been commenced against the same recipient agency, and the Division believes that a consent decree is an appropriate resolution of the judicial proceeding, LEAA will be given the opportunity to comment on the proposed consent decree prior to its entry. In such cases, LEAA and the Division will each continue their established practice of making available to the other information contained in their files relevant to compliance with Federal civil rights law.

8. The General Counsel of LEAA, the Director of the LEAA Office of Civil Rights Compliance, and the Chiefs of the Federal Enforcement and Special Litigation Sections of the Division will periodically discuss matters of mutual

\*If LEAA assistance to the recipient agency had previously been suspended, funding will not resume until the recipient is either in full compliance with the final order of the court, as defined in 28 CFR 42.213(b); is found in compliance by the court; or enters into a compliance agreement with LEAA pursuant to Section 518(c)(2)(D) of the Crime Control Act.

concern to attempt to improve the coordination and effectiveness of the programs of the two agencies, and to recommend to the Administrator and Assistant Attorney General any appropriate changes in this memorandum or in the procedures of the two agencies.

Henry S. Dogin,  
Administrator, Law Enforcement Assistance Administration.

Drew S. Days III,  
Assistant Attorney General, Civil Rights Division.

[FR Doc. 79-37756 Filed 12-6-79; 8:45 am]

BILLING CODE 4410-18-M

#### DEPARTMENT OF LABOR

##### Employment Standards Administration

##### Fire Protection and Law Enforcement Employees of Public Agencies; Study of Average Number of Hours Worked

**AGENCY:** Employment Standards Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor is required by the Fair Labor Standards Amendments of 1974 to conduct studies of the average number of hours in tours of duty worked by fire protection personnel and by law enforcement personnel employed by public agencies. Under the Act, the average number of hours worked by such employees, if less than 216 hours in a 28-day work period, determines the overtime standard which applies to such employees, effective January 1, 1978. The Department has now completed the studies, and publishes the results in the Federal Register, as required by the 1974 amendments.

**DATE:** The overtime standard required as a result of the study took effect on January 1, 1978, to the extent that it is less than 216 hours in a work period of 28 consecutive days. The 216-hour standard became effective by statute on January 1, 1977.

**FOR FURTHER INFORMATION CONTACT:** James D. Brown, Deputy Director, Office of Program Development and Accountability, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, telephone 202-523-6591.

**SUPPLEMENTARY INFORMATION:** Section 7(a) of the Fair Labor Standards Act ("FLSA" or "Act") requires that premium overtime wages be paid after 40 hours in a workweek. However, section 7(k) of the Act sets forth a partial overtime exemption for fire protection and law enforcement

personnel (including security personnel in correctional institutions) who are employed by public agencies. Effective January 1, 1978, section 7(k) provides as follows:

No public agency shall be deemed to have violated [the normal 40-hour overtime standard of the Act] with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or

(2) in the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days, compensation at a rate not less than one and one-half times the regular rate at which he is employed.

The study referred to in section 7(k) is described in section 6(c)(3) of the Fair Labor Standards Amendments of 1974:

The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct (A) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the Federal Register.

As the statutory text makes clear, each study is to be made of specified types of employees of "public agencies," except for those employees exempted by section 13(b)(20) of the Act. "Public agency" is defined in section 3(x) of the Fair Labor Standards Act as "the government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service or Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency." Section 13(b)(20)



exempts any fire protection or law enforcement employee of a public agency "if the public agency employs during the workweek less than 5 employees in fire protection or law enforcement activities, as the case may be."

Accordingly, when the study was originally designed, it excluded those fire protection and law enforcement personnel (including security personnel in correctional institutions) who, as a result of the section 13(b)(20) exemption, were not subject to the special overtime standard in section 7(k).

During the time that the study was being designed, the Supreme Court took action which at first temporarily, and later permanently, prevented application of the special section 7(k) overtime standard to many other fire protection and law enforcement employees besides those exempted by section 13(b)(20). Specifically, on December 31, 1974, the day before the section 7(k) provisions became effective, the Supreme Court stayed them, as well as regulations which the Department of Labor had issued, insofar as they applied to State and local governments. The stay order specifically enjoined "enforcement by the Secretary of Labor or by any other person in any Federal court" of the provisions referred to above with respect to State and local governments (see 419 U.S. 1321 (Dec. 31, 1974)). Later, in *National League of Cities v. Usery*, 426 U.S. 833 (1976), the Supreme Court struck down as unconstitutional the application of the FLSA's minimum wage and overtime provisions to State and local government employees engaged in "traditional" government functions, including firefighters and law enforcement personnel. As a result of the stay order and the 1976 decision by the Supreme Court, State and local firefighters and law enforcement personnel were never subject to section 7(k) (or any other overtime provisions of the Act).

In light of this action by the Supreme Court, the Department has excluded from the studies not only those employees who are exempt from the section 7(k) overtime standard by reason of section 13(b)(20), but also those state and local government employees who are not subject to the section 7(k) overtime standard by reason of the Supreme Court's decision in *National League of Cities*.

The data with respect to the remaining public agency employees are as follows. In the case of employees engaged in fire protection activities, the average number of hours in tours of duty in work periods in calendar year 1975

was 282 hours. Consequently, the partial overtime exemption in section 7(k) for such employees will remain at 216 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period).

In the case of employees engaged in law enforcement activities (including security personnel in correctional institutions), the average number of hours in tours of duty in work periods in calendar year 1975 was 186 hours. Consequently, the partial overtime exemption in section 7(k) for such employees will change from 216 hours to 186 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period). As provided in section 6(c)(1)(D) of the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259, 88 Stat. 610, this change became effective January 1, 1978. The Office of Personnel Management has taken the position that where any Federal employee is entitled to additional overtime compensation as a result of the studies described herein, such overtime compensation shall be paid retroactively to the first applicable work period commencing on or after January 1, 1978.

As a result of these studies, pertinent changes will be made in 29 CFR Part 553 ("Employees of Public Agencies Engaged in Fire Protection or Law Enforcement Activities (Including Security Personnel in Correctional Institutions)").

Signed at Washington, D.C., on this 3rd day of December, 1979.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 79-37887 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-27-M

#### Employment and Training Administration

##### Ending of Extended Benefit Period in the State of Rhode Island

This notice announces the ending of the Extended Benefit Period in the State of Rhode Island, effective on December 8, 1979.

##### Background

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Amendments of 1970, Pub. L. 91-373; 26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State

or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. This Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period individuals are eligible for maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when unemployment in the State is no longer at the high levels set in the Act. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Rhode Island on March 18, 1979, and has now triggered off.

##### Determination of "Off" Indicator

The head of the employment security agency of the State of Rhode Island has determined, in accordance with the State law and 20 CFR § 615.12(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on November 17, 1979, and the immediately preceding twelve weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the Extended Benefit Period in that State terminates with the week ending on December 8, 1979.

##### Information for Claimants

Persons who wish information about their rights to Extended Benefits in the State of Rhode Island should contact the nearest State Employment Office of the Rhode Island Department of Employment Security.

Signed at Washington, D.C., on December 4, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-37886 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-30-M

#### Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made

regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20013.

Signed at Washington, D.C., this 3rd day of December 1979.

Earl T. Klein,

Director, Office of Program Services.

##### Applications Received During the Week Ending Dec. 1, 1979

| Name of applicant and location of enterprise                                | Principal product or activity                                                               |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Lake George Steamboat Company, Inc., Lake George Village, New York          | Local water transportation and sightseeing cruises.                                         |
| Goods Department Stores, Inc., Steubenville, Ohio and St. Clairsville, Ohio | Department store sales.                                                                     |
| Plumley Rubber Company and Subsidiaries, Paris, Tennessee                   | Manufacture of automotive rubber hose, wiring harnesses, weather stripping and rubber hose. |
| Hawthorne Industries, Inc., Dalton, Georgia                                 | Manufacture of tufted carpet and carpet finishing services.                                 |

[FR Doc. 79-37547 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-30-M

#### Office of the Secretary

##### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of

Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 17, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 17, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of November 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.



## Appendix

| Petitioner: Union/workers or former workers of—                                    | Location          | Date received | Date of petition | Petition No. | Articles produced                                                    |
|------------------------------------------------------------------------------------|-------------------|---------------|------------------|--------------|----------------------------------------------------------------------|
| Detcor Fashions Co., Inc. (company)                                                | Jersey City, N.J. | 11/26/79      | 11/20/79         | TA-W-6,463   | Contractor of ladies' coats.                                         |
| Essex Group, Inc. (Alloyed Industrial Workers)                                     | Andrews, Ind.     | 11/21/79      | 11/16/79         | TA-W-6,464   | Power steering hose assemblies and return lines for cars and trucks. |
| Hyde Athletic Industries, Saucony Shoe Division (workers)                          | Kutztown, Pa.     | 11/23/79      | 11/20/79         | TA-W-6,465   | Athletic shoes.                                                      |
| Hyde Athletic Industries, Saucony Shoe Division (workers)                          | Macungie, Pa.     | 11/23/79      | 11/20/79         | TA-W-6,466   | Athletic shoes.                                                      |
| Indian Coal Land Company (workers)                                                 | Beckley, W. Va.   | 11/23/79      | 11/19/79         | TA-W-6,467   | Metallurgical coal.                                                  |
| International Shoe Company (Footwear Division of United Food & Commercial Workers) | Marshall, Mo.     | 11/23/79      | 11/19/79         | TA-W-6,468   | Men's and women's finished boots and shoes.                          |
| Judson Steel Corp., Northern Division (workers)                                    | Vancouver, Wash.  | 11/23/79      | 11/20/79         | TA-W-6,469   | Reinforcing steel.                                                   |
| Max Rubin Industries (company)                                                     | Baltimore, Md.    | 11/27/79      | 11/27/79         | TA-W-6,470   | Men's clothing—suits—sportcoats.                                     |
| Park Fashions, Inc. (company)                                                      | Hoboken, N.J.     | 11/26/79      | 11/20/79         | TA-W-6,471   | Ladies' coats.                                                       |
| Penco Products, Inc. (company)                                                     | Oaks, Pa.         | 11/21/79      | 11/14/79         | TA-W-6,472   | Steel lockers, cabinets, and shelves.                                |
| Republic Steel Corp., Union Drawn Division (USWA)                                  | Massillon, Ohio   | 11/23/79      | 11/15/79         | TA-W-6,473   | Cold finished steel bars, carbon alloy and stainless steel.          |
| Snob Fashions, Inc. (company)                                                      | Jersey City, N.J. | 11/23/79      | 11/19/79         | TA-W-6,474   | Ladies' coats.                                                       |
| Vinco Fashions Co., Inc. (company)                                                 | Jersey City, N.J. | 11/26/79      | 11/20/79         | TA-W-6,475   | Ladies' coats.                                                       |

[FR Doc. 79-37685 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-28-M

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or

production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request

is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 17, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 17, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of November 1979.

Harold A. Bratt,  
Acting Director, Office of Trade Adjustment Assistance.

## Appendix

| Petitioner: Union/workers or former workers of—               | Location            | Date received | Date of petition | Petition No. | Articles produced                                                              |
|---------------------------------------------------------------|---------------------|---------------|------------------|--------------|--------------------------------------------------------------------------------|
| Ashland Mining Corp. (UMWA)                                   | Ashland W. Va.      | 11/6/79       | 11/1/79          | TA-W-6,476   | Metallurgical coal.                                                            |
| Consolidation Coal Co., Eastern Region, Island Mine (workers) | Moundsville, W. Va. | 11/20/79      | 11/14/79         | TA-W-6,477   | Metallurgical coal.                                                            |
| Island Creek Coal Company, V.P. Mine No. 3 (UMWA)             | Vansant, Va.        | 11/2/79       | 10/26/79         | TA-W-6,478   | Metallurgical coal.                                                            |
| Island Creek Coal Co., Beatrice Mine (UMWA)                   | Keen Mountain, Va.  | 11/19/79      | 10/11/79         | TA-W-6,479   | Metallurgical coal.                                                            |
| Jones & Laughlin Steel Corp. (USWA)                           | Hammond, Ind.       | 11/23/79      | 11/9/79          | TA-W-6,480   | Cold finished bars.                                                            |
| Judy Wayne, Inc. (workers)                                    | New York, N.Y.      | 11/20/79      | 11/15/79         | TA-W-6,481   | Women's knit dresses, separates.                                               |
| M. Lowmeston Corp. (workers)                                  | New York, N.Y.      | 11/5/79       | 10/31/79         | TA-W-6,482   | Textiles.                                                                      |
| Russell, Burdall & Ward Corp. (UAW)                           | Mentor, Ohio        | 11/23/79      | 11/19/79         | TA-W-6,483   | Nuts, bolts, screws, and washers.                                              |
| Satralloy, Inc. (workers)                                     | Steubenville, Ohio  | 11/14/79      | 11/10/79         | TA-W-6,484   | Ferroalloy.                                                                    |
| Wilton Corp. (workers)                                        | Winchester, Tenn.   | 11/23/79      | 11/15/79         | TA-W-6,485   | Metaworking vises for hose shop use, metaworking band saws, and drill presses. |

[FR Doc. 79-37684 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-28-M

## [TA-W-6263]

### Keystone Uniform Manufacturing Co., Inc.; Philadelphia, Pa. Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 24, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers formerly producing uniforms at Keystone Uniform Manufacturing Company, Incorporated of Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Keystone Uniform Manufacturing Company, Incorporated produces custom-made uniforms for municipal police and fire departments, highway commissions, port authorities and high school bands. U.S. imports of uniforms were negligible in 1977, 1978 and the first half of 1979.

### Conclusion

After careful review, I determine that all workers of Keystone Uniform Manufacturing Company, Incorporated of Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th May of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37683 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-28-M

## [TA-W-6117 and TA-W-6118]

### Townsend Fastening Systems, Fallston, Pa.; Ellwood City, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements to section 222 of the Act must be met.

The investigation was initiated on September 27, 1979, in response to a worker petition received on September 24, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners at Townsend Fastening Systems, Fallston and Ellwood City, Pennsylvania. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that most of the surveyed customers did not purchase imported specialty fasteners or rivets in 1978 or 1979. The one customer that did purchase imports increased purchases from Townsend.

### Conclusion

After careful review, I determine that all workers of Townsend Fastening Systems, Fallston and Ellwood City, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37682 Filed 12-6-79; 8:45]

BILLING CODE 4510-28-M

## Pension and Welfare Benefit Programs

## [Application No. D-1032]

### Proposed Exemption for Certain Transactions Involving the Evans Products Co. General Pension Plan

In 44 FR 60437 of the Federal Register dated October 19, 1979, the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed by the trustees of the Evans Products Company General Pension Plan (the Plan).

### Extension of Time for Comments and Hearing Requests

In the paragraph headed "Notice to Interested Parties," page 60437, it was specified that notice of the proposed exemption would be made available to all interested parties including the trustee of the Plan and all active and retired participants or their beneficiaries, within 10 days of the publication of the notice of pendency in the Federal Register, by delivery in person or by first class mail.

By letter dated November 5, 1979, Evans Products Company (Evans) notified the Department that they were unable to comply with their representation to notify all interested persons within the time period specified in the notice of pendency. Therefore, the time period for receipt of comments and/or requests for a public hearing on the proposed exemption is hereby extended until January 14, 1980, so that participants and beneficiaries may have the opportunity to comment on the proposed exemption. Evans represented, in their November 5, 1979 letter, that (1) a copy of the October 19, 1979 notice of pendency; (2) a copy of this notice; and (3) a transmittal letter from Evans (collectively, the Documents) will be provided to all interested parties on or before December 28, 1979, by posting copies of the Documents in all Evans' operating plants and mailing copies of the Documents, by first class mail, to all retired participants and beneficiaries.

All written comments and requests for a public hearing should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1032.



**Changes**

In the paragraph headed "Summary of Facts and Representations," page 60437, the last sentence of paragraph number 1, should read: "All of the Plan's assets were subsequently transferred to Bank of America with the exception of eleven real estate mortgage loans totalling \$58,783.52 which Bank of America did not want to manage."

Dated: November 28, 1979.

Ian D. Lanoff,

*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37420 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

**[Prohibited Transaction Exemption 79-71; Exemption Application No. D-792]**

**Exemption From the Prohibitions for Certain Transactions Involving the Wells Fargo Index Fund for Employee Benefit Trusts**

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the purchase or sale of securities between the Wells Fargo Bank Index Fund for Employee Benefit Trusts (the Index Fund) and certain employee benefit plans (the Plans) with respect to which Wells Fargo Bank (the Bank) is a fiduciary.

**FOR FURTHER INFORMATION CONTACT:** Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On August 10, 1979 notice was published in the *Federal Register* (44 FR 47188) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restriction of section 406(a)(1)(A) and (D) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) and (D) of the Code, for the purchase or sale of securities between the Index Fund and the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested

persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No requests for a hearing were received by the Department.

Three comments were received, two of which were in favor of the exemption being granted in the same form in which it was proposed. The third comment, which was submitted by the Bank, concerned a clarification as to whether the exemption would include transactions between the Index Fund and certain Plans which respect to which the Bank is a fiduciary but which are not partially invested in the Index Fund. It was the intention of the Department in the notice of pendency that a Plan need not be invested in the Index Fund to be included in this exemption.

Upon consideration of the comments received, the Department has determined to grant the exemption in the form in which it was proposed.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the

general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a)(1)(B), (C) and (E) and 406(b)(1) and (3) of the Act and section 4975(c)(1)(B), (C), (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

**Exemption**

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a)(1)(A) and (D) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) and (D) of the Code shall not apply to the purchase or sale of securities between the Index Fund and the Plans.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms

of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of November, 1979.

Ian D. Lanoff,

*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37421 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

**[Prohibited Transaction Exemption 79-72; Exemption Application No. D-966]**

**Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions Involving W. L. Gordon Company, Inc. Profit Sharing and Thrift Plan**

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the donation to the W. L. Gordon Company, Inc. Profit Sharing and Thrift Plan (the Plan) and the leaseback until June 30, 1984, from the Plan of certain real property by the W. L. Gordon Company, Inc. (the Employer).

**FOR FURTHER INFORMATION CONTACT:** C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8882. (This is not a tollfree number.)

**SUPPLEMENTARY INFORMATION:** On October 19, 1979, notice was published in the *Federal Register* (44 FR 60443) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(a)(1) (A) through (E) of the Code, for transactions described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held

relating to this exemption. No public comments and no requests for a hearing were received by the Department.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

**Exemption**

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975

(a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the donation of certain real property, consisting of 17,065 square feet of land and 4,784 square feet of new building located at 4135 Office Parkway, Dallas, Texas by the Employer to the Plan and the leaseback, until June 30, 1984, of the same real property by the Employer from the Plan.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of November.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37422 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

**[Prohibited Transaction Exemption 79-74; Exemption Application No. D-1521]**

**Exemption From the Prohibitions for Certain Transactions Involving the Carey Defined Contribution Trust**

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the sale by the Carey Defined Contribution Trust (the Plan) of a parcel of real property in Danbury, Connecticut to Carey Industries, Inc. (the Employer), the sponsor of the Plan.

**FOR FURTHER INFORMATION CONTACT:** Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-7222. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On October 19, 1979 notice was published in the *Federal Register* (44 FR 60435) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the sale of a parcel of real property in Danbury, Connecticut by the Plan to the Employer. The notice set forth a



summary of facts and representations contained in the application and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code,

including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

#### Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

- (a) The exemption is administratively feasible;
- (b) It is in the interests of the Plan and of its participants and beneficiaries; and
- (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan of 3.099 acres of land on Triangle Street in Danbury, Connecticut for \$105,000 to the Employer provided that this amount is at least the fair market value of the land at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of November, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-37424 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

#### [Application No. L-1435]

#### Proposed Exemption for Certain Transactions Involving the Quad-City Builders—Local 111 Training Program Trust

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of

the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt from the restrictions of section 406(a) of the Act the purchase by the Quad-City Builders—Local 111 Training Program Trust (the Plan) of a parcel of real property improved by a building (the Property) from Mr. Dan Schlapkohl, a party in interest with respect to the Plan, and an extension of credit by Mr. Schlapkohl to the Plan with respect to the purchase. The proposed exemption, if granted, would affect Mr. Schlapkohl, the trustees, participants and beneficiaries of the Plan, and all contributing employers with respect to the Plan.

DATE: Written comments must be received by the Department of Labor on or before January 11, 1980.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-1435. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

#### FOR FURTHER INFORMATION CONTACT:

Mr. David J. Stander, of the Department of Labor, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA procedure 75-1 (40 FR 18471, April 28, 1975).

#### Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below: Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a collectively bargained multiple employer training plan whose activities are exclusively devoted to the training of ironworkers in the skill categories represented by Local No. 111 of the International Association of Bridge, Structural and Ornamental Iron Workers. The estimated number of Plan

participants is 350. The training program is instrumental in supplying adequate numbers of ironworkers for construction projects in the Davenport and Bettendorf, Iowa—rock Island, Moline, and East Moline, Illinois metropolitan areas as well as surrounding areas including Clinton and Muscotine, Iowa and Galesburg, Illinois. These areas contain many different kinds of industry and manufacturing that require ironworkers on a constant and long-term basis.

2. The Plan does not have adequate training facilities available in the community and would like to acquire new training facilities which would be designed and constructed to accommodate the Plan's specific needs. The Plan expects that the acquisition of a new training facility (the Building) will alleviate the current manpower shortage in the local construction force, and enable the Plan to deal with the expected long-term increase in demand for ironworkers due to the planned construction of major industrial projects in the area.

3. As of July 1, 1979, the Plan had total assets of approximately \$21,850. The Plan sought financing for the construction of the Building from local banking institutions. The First National Bank of Rock Island and several other local banks indicated to the Plan that financing for the construction of the Building would only be available upon the effecting of a down payment of at least 25% of the purchase price of the Building. Since the Plan expected that the construction of the Building would cost approximately between \$250,000 and \$300,000, the amount of down payment necessary for the Plan to obtain third party financing would be approximately three times the amount of the Plan's total assets. The Plan would also be charged an interest rate for any loan it received at a rate not less than the current prevailing prime rate.

Therefore, the Plan intends to acquire the Property pursuant to an installment sales contract (the Contract), which customarily is known as a commercial arrangement whereby a buyer makes an initial down payment and signs a contract for the payment of the balance in installments over a period of time.

4. The Plan represents that the only contractors in the local area competent to undertake the construction of the Building are contractors who are contributing employers with respect to the Plan. The Plan's trustees developed the initial specifications for the construction of the Building, and publicly solicited bids with respect to the Property through general circulation

newspapers. Two bids on the Property were received, both of which were reviewed by Mr. Wayne F. Kulow, an independent local professional engineer. Mr. Kulow determined that both bids satisfied the published specifications and recommended the acceptance of the bid of the All Steel Building Company (the Company), a contributing employer with respect to the Plan, based on its bid being \$30,000 less than the other bid. Mr. Dan Schlapkohl, a principal owner of the Company and a party in interest with respect to the Plan, will provide the financing rather than the Company. No agent, employee, officer, or owner of the Company is or has been in the past four years a Plan trustee, nor has the Company contributed more than 10% of the employer contribution to the Plan for the past three years.

5. The land upon which the Building will be constructed (the Land) is situated in the County of Rock Island, State of Illinois, and is known and described as Lot 6, Turkey Hollow Industrial Park, 3rd Addition to the City of Rock Island, Illinois. Although, the total purchase price for the Property is \$303,011.96, the total amount to be expended by the Plan will be \$360,000 which includes interest at the rate of seven percent (7%) per annum on the unpaid principal balance. The Plan will pay the sum of \$6,000 per month in sixty (60) equal monthly payments commencing on the first day of the first month following completion of the Building. The Plan will not make any down payment. The Plan will take possession of the Property upon the date of completion of the Building. Ownership of the Property will pass to the Plan upon completion of the monthly payments by the Plan. The Plan will pay all general taxes, insurance, assessments, repairs or other charges to the Property due during the five year payment period, but will not be responsible for such expenses during the construction of the Building.

6. The Plan intends to make payments pursuant to the Contract by utilizing funds contributed by contributing employers with respect to the Plan. The Plan expects that an increase in the employer contribution rate per hour worked by ironworkers of 19¢ per hour, which went into effect on July 1, 1979, will provide not less than approximately \$95,000 a year in employer contributions. The monies resulting from the increase in the employer contribution rate would be allocated directly to a separate fund to be used for the acquisition and maintenance of the Building. The annual payments due pursuant to the Contract will be \$72,000. Additional increases in

the contribution rate will be arranged between the Plan and contributing employers if the 19¢ per hour increase is not adequate.

7. The Contract will provide for many of the customary safeguards typically provided for in such contracts. First, Mr. Schlapkohl will be required to show at the execution of the Contract that he has good and marketable title with respect to the Land. The only encumbrances upon the land will be Mr. Schlapkohl's indebtedness with respect to his purchase of the Land (the Mortgage), and easements of record which do not affect the value of the Land and are acceptable to the Plan. Mr. Schlapkohl will agree not to make or suffer additional encumbrances prior to the transfer of title of the Property to the Plan other than an additional mortgage whose payments must be less than the Plan's payments under the Contract. Second, the Plan will record the sale and therefore prevent a subsequent purchaser or lien holder from attaining superior title to the Land. Third, the Plan will not begin to make payments until an unrelated third party selected by both the Plan and the Company has certified that the Building is complete. Fourth, Mr. Schlapkohl's mortgagee will be required to promptly notify the Plan of any default by Mr. Schlapkohl with respect to the Mortgage. The Plan will have the right to make Mr. Schlapkohl's required payments, and credit such payments towards its obligations under the Contract. Fifth, a default in payment by the Plan will not result in the Plan forfeiting its rights under the Contract unless the Plan fails to make such payment or perform such other terms and conditions of the Contract in default within 30 days of the receipt of a certified or registered letter specifying which terms and conditions of the Contract have not been complied with.

8. In summary, the applicant represents that the proposed exemption satisfies the criteria of section 408(a) of the Act because (1) it allows the Plan to acquire and maintain the Property by the effecting of payments from a specific fund established and fully funded by employer contributions; (2) it enables the Plan to acquire a much needed training facility at considerably more favorable terms than if the Plan sought such financing from an independent third party, specifically (a) the Plan will not make any down payment with respect to the Contract and (b) the Plan will pay interest with respect to the purchase at a much lower rate than if the Plan secured financing from an unrelated third party; and (3) an independent professional engineer



determined that the Company's bid satisfied the Plan's specifications for the construction of the Building, and recommended the acceptance of the Company's bid.

#### Notice to Interested Persons

A copy of this notice of the proposed exemption will be posted prominently and continuously for a period not less than 30 days beginning within five (5) days after publication of the notice in the *Federal Register* at the office of the Plan, the hiring and dispatch hall of the local union, and all places where membership meetings of the local union are customarily held. Copies of this notice will also be mailed to all of the contributing employers of the Plan within five (5) days after publication in the *Federal Register*.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive or whether the transaction is in fact a prohibited transaction.

#### Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within

the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

#### Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to: (1) the purchase by the Plan from Mr. Dan Schlackohl, a principal owner of the Company, of a certain parcel of real property known as Lot 8, Turkey Hollow Industrial Park, 3rd Addition to the City of Rock Island, Illinois, improved by a building thereon, and (2) an extension of credit by Mr. Dan Schlackohl to the Plan with respect to the above purchase.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of November 1979.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37425 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

#### [Application No. D-1385]

#### Proposed Exemption for Certain Transactions Involving Alfa Profit Sharing Retirement and Savings Plan

**AGENCY:** Department of Labor.

**ACTION:** Notice of Proposed Exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a 50% interest in a parcel of real property owned by the Alfa Profit

Sharing Retirement and Savings Plan (the Plan) to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the trustee and participants of the Plan, and other persons participating in the proposed transaction.

**DATES:** Written comments and requests for a public hearing must be received by the Department on or before January 18, 1980.

**ADDRESS:** All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1385. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Stander of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on March 26, 1979, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

#### Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan has seven participants all of whom joined in the application for exemption. The Plan was established on April 1, 1966. On January 31, 1977, the Board of Directors of the Alfa Machine and Tool Company, Inc., the Plan's sponsor, voted to terminate the Plan as of December 31, 1976. The Plan's assets were not distributed to its participants but were held in trust pending their complete liquidation.

2. The Plan owns a two acre parcel of vacant land known as Block 149-4, Lot 4 located in the Township of Montville in Morris County, New Jersey (the Property). The Property was acquired by the Plan from an unrelated third party on April 17, 1972 for \$50,000. The Property constitutes virtually all of the Plan's assets. The Property was appraised by an independent, qualified appraiser, John P. Hurley of The Real Estate Exchange, Morris Plains, New Jersey, who determined its fair market value to be \$75,000 as of July 3, 1978. The Property is not income producing and is assessed \$1,776 a year in taxes by the municipality.

3. The Property has been offered for sale for over five years through recognized brokers and also by means of a sign posted on the Property. The brokerage firm of Sterling Thompson of Whippany, New Jersey, was given a ninety day exclusive listing on August 8, 1978, to sell the Property at a price of \$75,000 subject to a 10% commission. This authorization expired on November 9, 1978, without any offer having been received. To date, there has not been an offer from an unrelated third party to purchase the Property.

4. Dieter P. Gerlach, a party in interest with respect to the Plan by virtue of being the trustee of the Plan and his wife, Ilse M. Gerlach, propose to purchase a 50% interest in the Property. Lawrence S. Taccone and Mary D. Taccone, unrelated third parties with respect to the Plan, will purchase the remaining interest in the Property. The proposed total sales price for the Property will be the appraised value of \$75,000, provided that this price is not less than its fair market value at the time of sale. The Gerlachs propose to pay \$37,500 for their 50% interest in the Property, provided that this amount is not less than the fair market value of their undivided one-half interest in the Property at the time of sale. The transaction will be for cash.

In summary, the applicant represents that the sale of the Property will be in the interests of and protective of the participants of the Plan because: (a) it would allow the Plan to dispose of a non-income producing asset that constitutes virtually all of the assets of

the Plan; (b) the sale of the Property will be for cash at its independently appraised value; and (c) the sale of the Property will allow the distribution of benefits to the Plan and the complete liquidation of Plan assets to Plan participants.

#### Notice to Interested Persons

Notice of the proposed exemption as published in the *Federal Register* will be mailed to each of the Plan's participants and any individual receiving benefits under the Plan within 10 days of the date the notice of the proposed exemption is published in the *Federal Register*.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that the transaction is subject to an administrative or statutory exemption is not dispositive of whether the

transaction is in fact a prohibited transaction.

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

#### Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a 50% interest in a two acre unimproved parcel of real property located in the Township of Montville, Morris County, New Jersey by the Plan to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan, for the greater of \$37,500.00 cash or the fair market value of their undivided one-half interest in the Property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of November, 1979.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37426 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M



[Application No. D-1467]

**Proposed Exemption for Certain Transactions Involving the Pension Trust Fund for Operating Engineers****AGENCY:** Department of Labor.**ACTION:** Notice of Proposed Exemption.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the issuance by the Pension Trust Fund for Operating Engineers (the Plan) of commitments obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the financial institutions involved, contributing employers, and other persons participating in the proposed transactions.

**DATES:** Written comments must be received by the Department of Labor on or before January 31, 1980.

**ADDRESS:** All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1467. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by McMorgan & Company, the investment manager of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the

Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

**Summary of Facts and Representations**

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Plan is a multiemployer pension plan which covers operating engineers who are employed by contractors and home builders in Northern California. In order to obtain construction loans, builders frequently must have a commitment from a mortgage banking firm or other financial institution to provide financing for the purchasers of the dwelling units which the builder proposed to build and sell. Such mortgage banking firms and other financial institutions often do not hold for their own investment all the mortgage loans they make to purchasers of the homes but instead sell the loans to long-term investors, pursuant to a written commitment made by such an investor. In many instances the mortgage banker or financial institution relies on the commitment of the long-term investor in giving its financing commitment to the builder to provide financing for the purchasers of the dwelling units. The Plan has for over five years issued written commitments to independent mortgage banking firms, which are typically state and federally chartered banks and savings and loan associations, or other corporations which have a mortgage banking business. Such commitments obligate the Plan to purchase from the mortgage banking firms a specified amount of mortgage loans made by the firm, and secured by first deeds of trust on single-family dwelling units. Such units are detached single-family homes in subdivisions, are condominiums created under applicable state law, or are planned unit developments which are multi-unit subdivisions restricted by recorded documents limiting the use of property to residential purposes and providing a plan for maintenance of common facilities. Commitments are made on behalf of the Plan by McMorgan & Company, the Plan's investment manager, for the purchase of

mortgage loans which conform to certain written guidelines, regarding the type and quality of the property and the credit worthiness of the buyer, established by the trustees of the Plan. In considering whether to issue a commitment on behalf of the Plan for a particular project, McMorgan & Company considers, among other things, who the builder of the project will be. McMorgan & Company is, and is required to remain while serving as investment manager for the Plan, registered as an investment advisor under the Investment Advisor's Act of 1940, and was appointed the Plan's investment manager under section 402(c)(3) of the Act.

(2) Following purchase by the Plan of any such mortgage loans, the note and deed of trust are assigned by the mortgage banking firm to the Plan. The Plan normally charges a loan fee for issuing the commitment to purchase such loans, part of which is refundable if the loans are tendered and purchased by the Plan. Terms of the commitments prohibit sale to the Plan of any loan which is an obligation of a party in interest or disqualified person with respect to the Plan. In addition, mortgage banking firms from which the Plan purchases mortgages service the loans under separate servicing contracts with the Plan. The servicing includes collecting payments and remitting them to the Plan, sending late notice and handling foreclosures. The Plan's commitment must conform to the written guidelines which the Plan trustees have provided to the Plan's investment manager. The guidelines are in two sets, one for conventional residential, mortgages, including planned unit developments and condominium units, and the other for one-family dwellings. FHA-insured or VA guaranteed mortgages. Each set of guidelines contains requirements regarding the dwelling, the plot, water supply and sewage disposal, the area, the mortgage loan (including the borrower's income and credit) and other requirements or considerations. Some of the requirements are that the dwelling unit not be more than one year old (although justifiable exceptions may be considered, that the loan mature in not more than 30 years (in the case of conventional loans) or 35 years (in the case of FHA-insured or VA-guaranteed loans), that conventional loans not exceed 80% of appraised value except loans of 90% of appraised value will be considered where private mortgage insurance covers the top 20%, and that title insurance and other forms of insurance be provided. These

requirements are specified in the written commitment. In addition, the commitment contains the fee charged by the Plan for issuing the commitment and the interest rate required on the loans which are to be purchased by the Plan.

(3) The terms of the commitment are similar to commitments made by other lenders, for example, insurance companies, banks and savings and loan associations. The interest rate charged is determined by the rate then prevailing in the market place.

**Notice to Interested Persons**

Within sixty days following publication in the *Federal Register*, the notice of the proposed exemption will be published in the monthly newspaper of Local 3 of the Operating Engineers which is distributed to both Plan participants and beneficiaries.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules.

Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

**Written Comments**

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

**Proposed Exemption**

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reasons of servicing mortgages which they previously have sold to the Plan. The foregoing exemption will be applicable only if the following conditions are met.

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arms'-length transactions between unrelated parties.

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be

deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan records are lost or destroyed prior to the end of the six-year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

- (i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;
- (ii) Any trustee of the Plan or any duly authorized employee or representative of such trustee;
- (iii) The Plan's investment manager or any duly authorized employee or representative of the investment manager; and
- (iv) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participant or beneficiary.

In addition, the proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of November, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-37427 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-911]

**Proposed Exemption for a Transaction Involving the International Union of Operating Engineers, Local 12 Pension Trust; Extension of Comment Period****AGENCY:** Department of Labor.**ACTION:** Notice of Extension of Comment Period.

**SUMMARY:** This document contains a notice of an extension of time in which to file comments with respect to an application filed by the Board of Trustees of the Local 12 Operating Engineers Pension Trust. The application is for an exemption from



certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by section 4975 of the Internal Revenue Code of 1954. The extension of the comment period will allow persons who would be affected by the proposed exemption to consider the complete application, including interested person comments made thereon, and additional representations which were made by the applicants after the expiration of the previous comment period on July 13, 1979.

**DATES:** Written comments must be received by the Department of Labor on or before February 1, 1980.

**ADDRESS:** All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20218, ATTENTION: Application No. D-911. The application for exemption, including the most recent representations of the Applicants and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216, in the offices of the U.S. Department of Labor, Los Angeles Area Administrator, Pension and Welfare Benefit Programs, 300 North Los Angeles Street, Room 4334, Los Angeles, California 90012, and in the offices of the Operating Engineers, Local 12 Pension Trust.

**SUPPLEMENTARY INFORMATION:** By notice of pendency published in the *Federal Register* on April 20, 1979 (44 FR 23598), the Department of Labor (the Department) proposed to exempt a transaction between the Operating Engineers Pension Trust (the Plan) and Local 12 of the Operating Engineers (Local 12). The Notice stated that, if granted, the exemption would exempt from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D) and (E) of the Code, the sale of a certain parcel of real property (the Cordova property) by the Plan to Local 12, provided that the Plan would receive the higher of \$450,000 or the fair market value of the property at time of sale.

The Notice contained the following summary of the facts and representations found in the Applicants' original request for exemption and in subsequent submissions.

1. The Plan is a pension plan administered by a joint labor-management board of trustees (the Trustees) in accordance with section 302(c)(5) of the Labor Management Relations Act. Investment decisions of the Plan are made by the Board of Trustees and its duly authorized Finance and Investment Committee which consists of members of the Board of Trustees. The Plan has approximately 29,000 participants.

2. As part of a program to improve the accessibility of the Plan and Local 12 to participants of the Plan and members of Local 12, the Plan purchased in May 1977 a small tract of land consisting of three adjoining lots in the city of Pasadena (the Cordova property) for \$301,575.11. This property was purchased with the intention of constructing a lowrise office building for occupancy primarily by the administrative staff which serves the Plan and certain related employee benefit plans. At that time, Local 12 intended to purchase a separately owned parcel immediately adjacent to the Cordova property and to build on it a building for its headquarters staff so that the administrative staff of the Plan and Local 12 could serve participants and members at one location. However, the adjacent parcel was sold to a third party rather than to Local 12. Attempts by Local 12 to find other properties suitable for its needs in the Pasadena area have ended in failure.

3. The only property in the Pasadena area suitable for Local 12's needs is the Cordova property. In order to assure the close proximity of the administrative staffs of Local 12 and the Plan in Pasadena, the Plan abandoned the idea of using the Cordova property for its offices and has instead committed itself to the construction of a building which it intends to occupy. This building would be located on another parcel of land acquired by the Plan in June 1978, 4 blocks from the Cordova property. Local 12 has offered to purchase the Cordova property from the Plan, subject to the granting of this exemption, for \$450,000.

4. Appraisals of the Cordova property supporting values of \$425,000, \$460,000 and \$475,000 were made by three independent appraisers in June 1978. Local 12's offer is the approximate average of these appraisals. Local 12 has placed \$450,000 in an interest bearing account so that the Plan would receive, in addition to the amount of the offer, any interest which accrues up to the date the purchase is accomplished. No real estate commissions or similar fees will be paid by the Plan on the transaction.

5. The Trustees believe that the proposed purchase is crucial to making the Plan and Local 12 more accessible to members and participants of the union and the Plan, most of whom reside in the outer fringe areas of the greater Los Angeles area. Less traffic congestion and the recent opening of a freeway (the Foothills Freeway) across the northern perimeter of Pasadena make the area accessible from all parts of Southern California.

Pursuant to the invitation to comment contained in the Notice, and by further notice of the extension of the period in which to comment, published in the

*Federal Register* on June 5, 1979 (44 FR 32307), interested parties submitted to the Department written comments on the proposed exemption. Assertions made in the comments may be summarized as follows: (1) that the change in location of Plan and Local 12 offices is not in the best interests of the Plan and its participants and beneficiaries but is for the benefit of certain parties in interest; and (2) that the proposed sales price of the Cordova property does not represent the true market value of the property as reflected in offers received by the Plan from unrelated parties. By letter dated August 6, 1979, the Department informed Applicants that based on the record developed to that date, including the comments, that the Department was unable to make a determination that the proposed transaction would be in the interests of the Plan and its participants and beneficiaries and protective of the rights of participants and beneficiaries.

In response to that letter, the Applicants supplied additional information and representations with respect to the application and the comments made thereon in a letter dated September 4, 1979, which was submitted to the Department after the close of the comment period on July 13, 1979. The Applicants represented that since the date the application was submitted, the Plan had received five written offers to purchase the Cordova property (copies of which were enclosed with the letter), the highest of which would have realized \$622,065 for the Plan. The Applicants further represented that to the best knowledge of the Plan's trustees no party in interest with respect to the Plan had received or would receive any payment from the Plan for additions or improvements to the Cordova property. The Applicants also submitted a list of the previous owners of the Cordova property as well as a legal description of the property identified by the Applicants as the Lake Avenue property\*. Pursuant to a request for clarification by the Department, the Applicants, by letter dated November 7, 1979, represented that to the best knowledge of the Plan's trustees none of the previous owners of the Cordova and Lake Avenue properties had any relationship to the Plan, plan trustees or contributing employers.

The Applicants further represented in the November 7, 1979 letter that Local 12 had made a new offer which will realize for the Plan an amount (\$622,065) equal

\*The Lake Avenue property now houses the offices of the Plan and was referred to in the *Federal Register* notice which proposed the transaction as having a location four blocks from the Cordova property.

to what the Plan would have realized had it accepted the highest offer made for the Cordova property by unrelated parties. The offer is based on the footage value of the highest offer (\$15 per square foot) and is subject to the condition that if the square footage of the property is determined to be more or less than currently estimated, the purchase price will be so adjusted. The reader should note that if the proposed transaction, as amended by the representations of the Applicants described in this notice, is finally approved by the Department it would be subject to the condition that the Plan receive the higher of the stipulated offer or the fair market value of the property at time of sale.

Inasmuch as interested parties have not seen nor have had an opportunity to consider and comment on the complete application including the interested party comments made thereon and the information and representations contained in the Applicants' letters of September 4 and November 7, 1979, the Department has determined to extend the period in which comments will be received until February 1, 1980.

Accordingly, all interested persons are invited to review the complete record at the locations specified above and to submit comments on the proposed exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments should state the reason for the writer's interest in the proposed exemption.

The Applicants have represented that interested persons will be advised of the proceeding by the publication of this notice in the December issue of the *Engineers News Record*, which is to be mailed to the membership of Local 12 on approximately the 15th day of this month. It is expected that copies of the *News Record* will reach Local 12 members by the 20th day of this month.

Signed at Washington, D.C. this 30th day of November, 1979.

Ian D. Lanoff,  
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-37428 Filed 12-6-79; 8:45 am]  
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-75; Exemption Application No. D-1359]

**Exemption From the Prohibitions for a Certain Transaction Involving the Pension Plan for the Employees of Pilot Freight Carriers, Inc.**

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption exempts a loan made from the Pension Plan for the Employees of Pilot Freight Carriers, Inc. (the Plan) to Terminal Warehouse Corporation (Terminal Warehouse), a party in interest with respect to the Plan. The loan was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 357-0040. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On October 19, 1979 notice was published in the *Federal Register* (44 FR 60445) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by Terminal Warehouse. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was forwarded by United States mail to the Plan Administrator and Trustee, and notification to all Plan participants was made by posting on their employee bulletin boards within 10 days of the publishing of the pendency of the proposed exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR

47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

#### Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

- (a) The exemption is administratively feasible;
- (b) It is in the interest of the Plan and of its participants and beneficiaries; and
- (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by



section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective January 1, 1975, to the transaction entered into on August 1, 1974, in which the Plan loaned \$500,000 to Terminal Warehouse.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 30th day of November, 1979.

Ian D. Lanoff,

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37429 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

**[Prohibited Transaction Exemption 79-73; Exemption Application No. D-1459]**

**Exemption From the Prohibitions for Certain Transactions Involving the Eagle Metals Co. Profit Sharing Plan**

**AGENCY:** Department of Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the cash sale of certain real property in Portland, Oregon by the Eagle Metals Company Profit Sharing Plan (the Plan) to Mr. William Anderson, a party in interest with respect to the Plan.

**FOR FURTHER INFORMATION CONTACT:** Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On October 19, 1979 notice was published in the Federal Register (44 FR 60447) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the cash sale of certain real property in Portland, Oregon by the Plan to Mr. William Anderson, a party in interest with respect to the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred

interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and no in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

**Exemption**

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the cash sale by the Plan of certain real property located at 1211 North Loring Street in Portland, Oregon for \$380,000 to Mr. William Anderson provided that this amount is at least the fair market value of the property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of November, 1979

Ian D. Lanoff,

*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 79-37423 Filed 12-6-79; 8:45 am]

BILLING CODE 4510-29-M

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**[Notice 79-98]**

**Direct Awards of \$10 Million or More; List of Aerospace Contractors**

The following is a list of aerospace contractors which received direct NASA awards totaling \$10 million or more during Fiscal Year 1979. This list is published pursuant to section 8 of Pub. L. 91-119, as amended by section 7 of Pub. L. 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.) and Pub. L. 94-273 (90

Stat. 375). For related NASA reporting requirements, see 14 CFR Part 1208.

Air Products & Chemicals, Inc., P.O. Box 538, Allentown, PA 18105.

Bali Corporation, 345 South High Street, Muncie, IN 47305.

The Bendix Corporation, Executive Offices, Bendix Center, 20650 Civic Center Drive, Southfield, MI 48037.

The Boeing Company, P.O. Box 3707, Seattle, WA 98124.

Boeing Services International, Inc., P.O. Box 3707, Seattle, WA 98124.

Bostrom Bergen Metal Products, 4700 Coliseum Way, Oakland, CA 94601.

Frank Briscoe Company, Inc., 141 South Harrison, East Orange, NJ 07016.

California Institute of Technology, 1201 E. California Blvd., Pasadena, CA 91125.

Computer Sciences Corporation, 650 N. Sepulveda Blvd., El Segundo, CA 90245.

Computer Sciences—Technicolor Assoc. (JV), 10210 Greenbelt Road, Seabrook, MD 20801.

Fairchild Industries, Inc., Sherman Fairchild Technology Center, 20301 Century Blvd., Germantown, MD 20767.

Ford Aerospace & Communications Corporation, 300 Renaissance Center, 20th Floor, P.O. Box 43342, Detroit, MI 48243.

General Dynamics Corporation, Pierre Laclede Center, 7733 Forsyth Blvd., St. Louis, MO 63105.

General Electric Company, 3135 Easton Turnpike, Fairfield, CT 06431.

General Motors Corporation, 767 Fifth Avenue, New York, NY 10022.

Honeywell Information Systems, 200 Smith Street, Waltham, MA 02154.

Hughes Aircraft Company, Centinela Ave. & Teale Street, Culver City, CA 90230.

International Business Machines Corp., Old Orchard Road, Armonk, NY 10504.

Kentron International Inc., 2345 W. Mockingbird Lane, Dallas, TX 75235.

Lockheed Corporation, 2555 N. Hollywood Way, Box 551, Burbank, CA 91520.

Lockheed Electronics Co., Inc., U.S. Highway 22, Plainfield, NJ 07061.

Lockheed Missiles & Space Co., Inc., P.O. Box 504, Sunnyvale, CA 94086.

Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20034.

McDonnell Douglas Corporation, P.O. Box 516, St. Louis, MO 63166.

Mechanical Technology Inc., 968 Albany-Shaker Road, Latham, NY 12110.

Northrop Services Inc., 500 E. Orangethorpe Avenue, Anaheim, CA 92801.

Pan American World Airways, Inc., 200 Park Avenue, New York, NY 10017.

Perkin-Elmer Corporation, 761 Main Avenue, Norwalk, CT 06856.

Planning Research Corporation, Suite 1100, 1850 K Street NW., Washington, DC 20006.

RCA Corporation, 30 Rockefeller Plaza, New York, NY 10020.

Rockwell International Corporation, 600 Grant Street, Pittsburgh, PA 15219.

The Singer Corporation, 30 Rockefeller Plaza, New York, NY 10020.

Sperry Corporation, 1290 Avenue of the Americas, New York, NY 10019.

TRW, Incorporated, 23555 Euclid Avenue, Cleveland, OH 44117.

Teledyne Industries Inc., 1901 Avenue of the Stars, Los Angeles, CA 90067.

Thiokol Corporation, P.O. Box 1000, Newtown, PA 18940.

United Space Boosters, Inc., 220 Wynn Drive, NW, P.O. Box 1826, Huntsville, AL 35807.

United Technologies Corporation, One Financial Plaza, Hartford, CT 06101.

Vought Corporation, P.O. Box 225907, Dallas, TX 75265.

Westinghouse Electric Corporation, Westinghouse Bldg., Gateway Center, Pittsburgh, PA 15222.

[FR Doc. 79-37572 Filed 12-6-79; 8:45 am]

BILLING CODE 7510-01-M

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**Humanities Panel; Meetings**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: January 2, 3, & 4, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1025. Purpose: To review applications for the development of humanities Special Program formats submitted to the National Endowment for the Humanities for projects beginning after April 1, 1980.

2. Date: January 4, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review Summer Stipend applications in Art History submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

3. Date: January 4, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1130. Purpose: To review NEH Fellowships in Category C applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

4. Date: January 5, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in 19th and 20th Century European History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

5. Date: January 7, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 309. Purpose: To review NEH Summer Stipend applications in Latin American and Non-Western History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

6. Date: January 9, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in Sociology and Psychology submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

7. Date: January 10, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in Early U.S. History submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

8. Date: January 10, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 309. Purpose: To review

Summer Stipend applications in Classics and Ancient, Medieval, and Early Modern European History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

9. Date: January 11, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in French and Italian Literature submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

10. Date: January 14, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in Recent U.S. History submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

11. Date: January 14 & 15, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1134. Purpose: To review the recommendations given by all other panels for applications submitted to the Translations Program for projects beginning after April 1, 1980.

12. Date: January 17, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in American Studies and Cultural History submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

13. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in Spanish, Portuguese, and Asian Literature submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted my by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,  
*Advisory Committee Management Officer.*

[FR Doc. 79-37690 Filed 12-6-79; 8:45 am]

BILLING CODE 7536-01-M



**Special Projects Panel; Amended Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Special Projects Panel to the National Council on the Arts (which appeared in the FR, Vol. 44, No. 223 p. 66113, Friday, November 16, 1979) is amended as follows: The meeting will be held December 6, 1979, from 9:00 a.m.-5:30 p.m. and December 14, 1979, from 9:00 a.m.-5:30 p.m., in Room 1426, Columbia Plaza Building, 2401 E. St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,  
Director, Office of Council and Panel  
Operation, National Endowment for the Arts.

November 27, 1979.

[FR Doc. 79-37565 Filed 12-6-79; 8:45 am]

BILLING CODE 7537-01-M

**Visual Arts Panel (Crafts Exhibition Aid/Workshops; Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Crafts Exhibition Aid/Workshops) will be held December 10, 1979, from 9:00 a.m.-5:30 p.m.; December 11, 1979, from 9:00 a.m.-5:30 p.m.; and December 12, 1979, from 9:00 a.m.-5:30 p.m., in Room 1340, Columbia Plaza Building, 2401 E. St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including discussion of information

given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (D) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel  
Operation, National Endowment for the Arts.

December 4, 1979.

[FR Doc. 79-37823 Filed 12-6-79; 8:45 am]

BILLING CODE 7537-01-M

**NUCLEAR REGULATORY COMMISSION****Metropolitan Edison Co., Et Al., Three Mile Island Nuclear Station, Unit 2; Order Granting Joint Motion To Terminate Proceeding**

[Docket No. 50-320 (EPICOR-II)]

December 3, 1979.

This proceeding is pending as a result of notices of opportunity for hearing contained in the Commission's Memorandum and Order of October 16, 1979, and the Order of October 18, 1979, issued by the Director of Nuclear Reactor Regulation (44 FR 61276-8, clarified at 62633). Both orders provided that any person whose interest may be affected may request a hearing pursuant to 10 CFR 2.714 with respect to either or both orders.

The Susquehanna Valley Alliance (SVA) filed a timely petition to intervene and request for a hearing on November 5, 1979. No one else has filed a petition or request for hearing in response to the notices of opportunity to do so. This Board granted the petition and request for hearing filed by SVA in its Notice of Special Prehearing Conference issued on November 15, 1979, subject to the prompt filing of a supplement to the petition in accordance with the provisions of 10 CFR 2.714(b). A joint motion filed by the Staff for the indefinite postponement of the scheduled special prehearing conference was denied on November 29, 1979.

On November 30, 1979, the Staff filed the instant Joint Motion to Terminate Proceeding. SVA, by counsel of record, has withdrawn its petition to intervene and request for hearing which it had filed on November 5, 1979. The resulting

joint motion for an order terminating this proceeding is based upon an Agreement executed by SVA and the attorney for the Licensees on November 29, and by the Solicitor of NRC on November 28, 1979. A copy of this Agreement is attached hereto and is incorporated herein by reference.

Upon consideration of the pending motion and the underlying agreement of all parties, it appears that leave should be and hereby is granted for the withdrawal of the petition and request for hearing previously filed by SVA. Inasmuch as there are no other petitions or requests for hearing, this proceeding is terminated.

It is so ordered.

Marshall E. Miller,  
Chairman.

Dated at Bethesda, Maryland this 3rd day of December 1979.

**AGREEMENT**

1. The parties to this Agreement are: Susquehanna Valley Alliance ("SVA"); the United States Nuclear Regulatory Commission ("the NRC"); Metropolitan Edison Company, Jersey Central Power & Light Company, Pennsylvania Electric Company and General Public Utilities Corporation ("the Utilities").

2. On October 16, 1979, the NRC issued a Memorandum and Order In the Matter of Metropolitan Edison Company, et al. (Three Mile Island Nuclear Station, Unit 2), Docket No. 50-320. On October 28, 1979, the NRC's Director of Nuclear Reactor Regulation issued, in NRC docket no. 50-320, Order for Modification of License. See 44 FR 61276-8, clarified at 62633.

3. On November 5, 1979, SVA filed with the Atomic Safety and Licensing Board designated by the NRC a "Petition to Intervene and Request for a Hearing" pursuant to the orders described above in Paragraph 2.

4. In any proceeding initiated by SVA in a court of the United States to review the NRC's Memorandum and Order of October 16, 1979 in NRC docket no. 50-320, the NRC and the Utilities will not argue: (a) that the Memorandum and Order is not final for the purposes of judicial review; or (b) that the Memorandum and Order is not reviewable because SVA did not exhaust available administrative remedies by pursuing the hearing requested before the Atomic Safety and Licensing Board. The NRC and the Utilities expressly reserve their rights to present any argument to challenge the jurisdiction of any United States District Court to rule upon the legality of the NRC's Memorandum and Order of October 16, 1979 in NRC docket no. 50-320 or to enjoin any activity under that Order.

5. Based upon the representation made in Paragraph 4 above, SVA agrees to withdraw the Petition and Request described above in Paragraph 3, and to support a joint motion to the Atomic Safety and Licensing Board to terminate that proceeding.

6. This Agreement is contingent upon the granting by the Atomic Safety and Licensing

Board in NRC docket no. 50-320 of a joint motion to terminate that proceeding.

SEEN AND AGREED:

Susquehanna Valley Alliance.

Dated: Nov. 29, 1979.

By:

Albert J. Slap,

Public Interest Law Center of Philadelphia,  
1315 Walnut Street, Suite 1600, Philadelphia,  
Pennsylvania 19107.

Metropolitan Edison Company; Jersey  
Central Power & Light Company;  
Pennsylvania Electric Company; General  
Public Utilities Corporation.

Dated: Nov. 29, 1979.

By:

Gerald Charnoff,

Show, Pittman, Potts & Trowbridge, 1800 M  
Street, N.W., Washington, D.C. 20036.

United States Nuclear Regulatory  
Commission.

Dated: Nov. 28, 1979.

By:

Stephen F. Eilperin,

Solicitor, U.S. Nuclear Regulatory  
Commission, Washington, D.C. 20555.

[FR Doc. 79-37636 Filed 12-6-79; 8:45 am]

BILLING CODE 7590-01-M

**Privacy Act of 1974; New System of Records**

AGENCY: U.S. Nuclear Regulatory  
Commission (NRC).

ACTION: Notice of Proposed New System  
of Records.

**SUMMARY:** The NRC is proposing to establish a new system of records subject to the Privacy Act. The system will be identified as NRC-35, IE Household Move Survey. The purpose of the system is to enable the agency to determine whether employees (such as resident inspectors at nuclear power plants) are receiving fair reimbursement for costs of household moves necessitated by transfers of duty station. A survey will be taken of these employees, to obtain actual cost figures for their household moves, and figures on reimbursement by the Government for these moves.

**DATE:** Comment period expires January 7, 1980.

**ADDRESS:** All persons who desire to submit written comments or suggestions concerning the new system of records should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

**FOR FURTHER INFORMATION CONTACT:** Betty L. Wagman, Acting Chief, Rules and Procedures Branch, Division of Rules and Records, Office of

Administration, U.S. Nuclear Regulatory  
Commission, Washington, D.C. 20555,  
Telephone: (301) 492-7086.

**SUPPLEMENTARY INFORMATION:** The proposed new system, "IE Household Move Survey", NRC-35, will consist of information derived from a survey of employees whose duty station is transferred in connection with their assignment to serve as resident inspectors at nuclear power facilities. The employees will be asked to fill out a questionnaire dealing with specific costs entailed in their household moves. Results of the survey will be used by NRC officials to determine whether the Government provides adequate reimbursement for such changes in duty station.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on December 3, 1979. The prefatory statement containing General Routine Uses applicable to all of the NRC's systems of records was published at 42 FR 49082 (September 26, 1977), and amended at 44 FR 56066 (September 28, 1979).

All interested persons who desire to submit written comments or suggestions for consideration in connection with this Notice of Proposed New System of Records should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 7, 1980. Copies of comments received will be available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 30th day of November 1979.

For the Nuclear Regulatory Commission,  
Lee V. Gossick,

Executive Director for Operations.

**NRC-35****SYSTEM NAME:**

IE Household Move Survey.

**SYSTEM LOCATION:**

Executive Office for Management and Analysis, Office of Inspection and Enforcement, NRC, East West Towers Building, 4350 East West Highway, Bethesda, Md.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NRC employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records consist of questionnaires filled out by employees who change duty stations. The questionnaire

includes employee name, date of household move, location of move, actual costs of move, and amount of reimbursements received from the Government.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Section 161c of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

A record in this system of records may be disclosed as a routine use to persons in Federal agencies involved in establishing, monitoring, or maintaining records on expenditures and reimbursements of travel and/or household moves by government employees.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Maintained in file folder.

**RETRIEVABILITY:**

Information is accessed by employee name.

**SAFEGUARDS:**

Records are maintained in lockable metal filing cabinet. Access to them is available only to persons authorized by the system manager.

**RETENTION AND DISPOSAL:**

Records will be maintained for one year after the survey is completed, but in any case they will be destroyed within three years after they have been received.

**SYSTEM MANAGERS AND ADDRESS:**

Executive Officer for Management and Analysis, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**NOTIFICATION PROCEDURE:**

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**RECORD ACCESS PROCEDURES:**

Same as "Notification Procedure."

**CONTESTING RECORD PROCEDURES:**

Same as "Notification Procedure."

**RECORD SOURCE CATEGORIES:**

The information in this system of records is obtained from questionnaires or surveys filled out by employees who have moved in connection with changes



of duty station. All information is provided on a voluntary basis.

[FR Doc. 79-37715 Filed 12-4-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-528, STN 50-529, and STN 50-530]

**Arizona Public Service Co., et al.; Notice of Issuance of Amendments to Construction Permits**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 2 to Construction Permits CPPR-141, CPPR-142, and CPPR-143 issued to the Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, and Public Service Company of New Mexico for construction of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3. The amendments reflect a waiver to one of the permittee's commitments made during the environmental review of the application and provide for chemical weed control along portions of the water pipeline route from the 91st Avenue Sewage Treatment Plant to the plant site. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action see (1) the application for amendments dated October 15, 1979, (2) Amendment No. 2 to Construction Permit CPPR-141, (3) Amendment No. 2 to Construction Permit CPPR-142, and (4) Amendment No. 2 to Construction Permit CPPR-143. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Local Public Document Room located at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona.

A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 30th day of November 1979.

For the Nuclear Regulatory Commission,  
Donald E. Sells,  
Acting Chief, Environmental Projects Branch  
2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-37634 Filed 12-6-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

**Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit No. 2); Memorandum and Order**

November 29, 1979.

By our order of November 7, 1979, we informed the parties that the evidentiary hearing on the stability of the applicant's electrical grid and the general adequacy of this plant's emergency power supplies would begin on Tuesday, December 11, 1979 and be held in or near Miami.<sup>1</sup> The Office of the Secretary has now found a suitable location for the hearing. It will be held in Coral Gables, in the University of Miami Law School's Moot Court Room. As specified in our earlier order, on Tuesday we will begin the hearing at 9:30 A.M. but will recess at mid-day to take a guided tour of the applicant's new System Control Center. On subsequent days, we will have to recess the hearing around 4:00 P.M. to accommodate a class that begins in the courtroom at 4:30 P.M.

In connection with the hearing, we note that the intervenors had until November 18, 1979 to file prepared testimony; they did not exercise the opportunity to do so.<sup>2</sup> The other parties should be prepared to elaborate upon their testimony by identifying and discussing which, if any, of the generic "design and procedural improvements" mentioned in the staff's prepared testimony (Baranowsky, pp. 5-6) have been or are being adopted at this facility.<sup>3</sup>

It is so ordered.

<sup>1</sup> A month earlier, we had given the parties advance notice that we anticipated holding the hearing in southern Florida during the week of December 10.

<sup>2</sup> They did belatedly take certain other action. See their letter of November 27, 1979, which reached us this afternoon.

<sup>3</sup> This staff testimony says that these improvements "have the potential for minimizing the accident probability for station blackout sequences."

For the Appeal Board.

C. Jean Bishop,

Secretary to the Appeal Board

[FR Doc. 79-37635 Filed 12-6-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-266]

**Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Unit 1); Confirmatory Order for Modification of License**

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License No. DPR-24 which authorizes the licensee to operate the Point Beach Nuclear Plant, Unit 1, located in Two Creeks, Wisconsin, under certain specified conditions. License No. DPR-24 was issued by the Atomic Energy Commission on October 5, 1970 and is due to expire on July 25, 2008.

II

Inservice inspections of the Point Beach Unit 1 steam generators performed during the August 1979 and October 1979 outages indicated extensive general intergranular attack and caustic stress corrosion cracking on certain of the external surfaces of the steam generator tubes. As a result of information provided in discussions with the licensee and its representatives, which is documented in a letter dated November 23, 1979 from S. Burstein to H.R. Denton, and the Staff's Safety Evaluation Report, dated November 30, 1979, on Point Beach Unit 1, Steam Generator Tube Degradation Due to Deep Crevice Corrosion, it was determined that additional operating conditions would be required to assure safe operation prior to resumption of operation of Unit 1 from the current refueling outage.

III

The licensee in letters dated November 29, 1979 and November 30, 1979 has agreed to additional conditions which are necessary to provide reasonable assurance for safe operation of Unit 1 for a period of 60 effective full power days.

IV

After review of the licensee's commitment, it has been determined that this commitment should be formalized by order. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT

the above license be amended, in the manner hereinafter provided, to include the following conditions:

1. (a) Within 30 effective full power days, a 2,000 psid primary to secondary hydrostatic test and a 800 psid secondary to primary hydrostatic test will be performed. Should any significant leakage develop as a result of either test, the leaking tubes will be identified and plugged.

(b) Within 60 effective full power days, the same primary to secondary and secondary to primary hydrostatic tests will be repeated, and an eddy current examination of the steam generator tubes will be performed. This eddy current program will be submitted to the NRC for Staff review.

2. Primary coolant activity for Point Beach Nuclear Plant Unit 1 will be limited in accordance with the provisions of sections 3.4.8 and 4.4.8 of the Standard Technical Specifications for Westinghouse Pressurized Water Reactors, Revision 2, July 1979, rather than Technical Specification 15.3.1.C.

3. Close surveillance of primary to secondary leakage will be continued and the reactor will be shut down for tube plugging on detection and confirmation of any of the following conditions:

(a) Sudden primary to secondary leakage of 150 gpd (0.1 gpm) in either steam generator;

(b) Any primary to secondary leakage in excess of 250 gpd (0.17 gpm) in either steam generator; or

(c) An upward trend in primary to secondary leakage in excess of 15 gpd (0.01 gpm) per day, when measured primary to secondary leakage is above 150 gpd.

4. The reactor will be shut down, any leaking steam generator tubes plugged, and an eddy current examination performed if any of the following conditions are present:

(a) Confirmation of primary to secondary leakage in either steam generator in excess of 500 gpd (0.35 gpm); or,

(b) Any two identified leaking tubes in any 20 calendar day period. This eddy current program will be submitted to the NRC for Staff review.

5. The NRC Staff will be provided with a summary of the results of the eddy current examination performed under items 1 and 4 above, including a description of the quality assurance program covering tube examination and plugging. This summary will include a photograph of the tubesheet of each steam generator which will verify the location of tubes which have been plugged.

6. The licensee will not resume operation after the eddy current examinations required to be performed in accordance with condition 1(b) or 4 until the Director, Office of Nuclear Reactor Regulation determines in writing that the results of such tests are acceptable.

7. The licensee will complete a review of Emergency Operating Procedure 3A, Revision 9, dated March 29, 1978, confirm that this procedure is appropriate for use in the case of a steam generator tube rupture, and have completed a retraining program for all licensed reactor operators and senior reactor operators in this procedure before return to power.

8. Unit 1 will not be operated with more than 18% of tubes plugged in either steam generator.

V

Copies of the above referenced documents are available for inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555, and are being placed in the Commission's local public document room at Document Department, University of Wisconsin-Stevens Point Library, Stevens Point, Wisconsin 54451.

VI

Any person whose interest may be affected by this Order may within twenty days of the date of this Order request a hearing with respect to this Order. Any such request shall not stay the effectiveness of this Order. Any request for a hearing shall be addressed to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. In the event a hearing is requested, the issues to be considered at such hearing shall be:

(1) Whether the facts stated in Sections II and III of this Order are correct; and,

(2) Whether this Order should be sustained.

Effective date: November 30, 1979, Bethesda, Maryland.

For the Nuclear Regulatory Commission,  
Edson G. Case,  
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-37637 Filed 12-6-79; 8:45 am]

BILLING CODE 7590-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 10961; 812-4563]

**American General Enterprise Fund, Inc., and Equity Growth Fund of America, Inc.; Application**

November 30, 1979.

Notice is hereby given that American General Enterprise Fund, Inc. ("Enterprise") 2777 Allen Parkway, Houston, Texas 77019 and Equity Growth Fund of America, Inc. ("Equity Growth") (hereinafter collectively referred to as "Applicants"), both registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, filed an application on November 5, 1979, pursuant to Section 17(b) of the Act more for an order of the Commission exempting from the provisions of Section 17(a) of the Act the proposed combination of Equity Growth with and into Enterprise. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the proposed combination is part of an overall plan of consolidation of certain of the mutual funds managed by American General Capital Management, Inc. ("Management"), the investment adviser of each of the Applicants and a wholly-owned subsidiary of American General Insurance Company. Such overall plan was undertaken by the independent directors of the Applicants and the other mutual funds managed by Management to effect operating economies, which are expected to benefit Applicant's stockholders.

Applicants state that, as of August 31, 1979, the net assets of Enterprise and Equity Growth were \$422,928,971 and \$33,422,295, respectively. On that date Enterprise had 54,906,837 shares outstanding and Equity Growth had 3,852,437 shares outstanding. Each Applicant is a Maryland corporation. Applicants represent that, since the same investment adviser, principal underwriter and stock transfer agent serve each Applicant, and since the Applicants have certain common directors, the Applicants may be deemed to be under "common control" and, therefore, "affiliated persons" of each other within the meaning of Section 2(a)(3)(C) of the Act.

Applicants state that they have entered into an Agreement and Plan of Reorganization ("Plan") dated September 7, 1979, which provides for (i) the combination of the Applicants to be



accomplished through the transfer of Equity Growth's assets to Enterprise in exchange for shares of Enterprise; (ii) the distribution on a pro rata basis to stockholders of Equity Growth of all shares of Enterprise received by Equity Growth; and (iii) the dissolution of Equity Growth after such distribution (hereinafter referred to as the "Combination"). The number of Enterprise shares to be issued to the stockholders of Equity Growth will be determined by dividing the aggregate net asset value of Equity Growth by the per share net asset value of Enterprise, all to be determined as of the close of the New York Stock Exchange on the closing date of the proposed Combination, which is expected to be December 31, 1979. If the proposed Combination had taken place on August 31, 1979, Enterprise would have issued 4,224,787 Enterprise shares valued at \$32,542,121 in exchange for the net assets of Equity Growth. The valuation procedures to be used in determining the net assets of each Applicant are the same. On the effective date of the proposed Combination all of the property and assets of Equity Growth, except for approximately \$10,000 which will be retained by Equity Growth to provide for the payment of accrued but unpaid Plan expenses, will be transferred to Enterprise. Each Applicant will pay its respective expenses of the proposed Combination, which are estimated to be approximately \$20,000 for Enterprise and \$81,000 for Equity Growth. Enterprise will assume all liabilities of Equity Growth except expenses associated with the proposed Combination.

No tax adjustment will be made to the net assets of either Applicant to reflect any potential income tax effect which might result from any differences in the proportionate amount of capital loss carryforwards of each Applicant because of the difficulty in predicting the potential use by Enterprise or Equity Growth of such loss carryforwards. Based on June 30, 1979 asset values, stockholders of Equity Growth will own 7% of the outstanding shares of Enterprise following consummation of the proposed Combination. Consequently only 35% of Equity Growth's capital loss carryforwards at the Closing Date will be available to the combined fund after the Closing Date.

The number of shares of Enterprise received by each stockholder of Equity Growth will be registered on the books of Enterprise promptly after the effective date of the proposed Combination. Each such stockholder will be advised of the

number of shares so registered. Holders of certificates for shares of Equity Growth will immediately become owners of the appropriate number of shares of Enterprise, but no certificates will be issued until any outstanding Equity Growth certificate is tendered to the transfer agent. If the registration with respect to any shares is to be changed, the stockholder will be responsible for any transfer taxes incurred, and must provide a signature guarantee on the instrument of transfer. All dividends and distributions paid on shares of the combined fund will be paid to the stockholder in cash or reinvested in shares of the combined fund in accordance with any option previously in effect, unless the stockholder furnishes different instructions to the transfer agent in writing.

Applicants state that the proposed Combination is contingent upon: (1) Approval by the holders of at least 50 percent of the outstanding stock of Equity Growth; (2) Receipt of opinions of counsel that the proposed Combination will constitute a tax-free reorganization; (3) Issuance of the Order requested by the instant application; and (4) Receipt of opinions of counsel respecting certain legal matters in connection with the proposed Combination. At any time prior to consummation of the proposed Combination the Board of Directors or President of either Applicant may waive any of the terms or conditions of the Plan benefiting such Applicant, if in the opinion of the Board of Directors or President such waiver will not have a material adverse effect on the benefits intended under the Plan to accrue to the stockholders of each Applicant.

Applicants state that Enterprise's investment objective is growth of the stockholders' investment, principally through the ownership of growth common stocks. Equity Growth's primary investment objective is appreciation of capital. Protection of capital values and, to a lesser extent, current return on portfolio investments also are important, although secondary to the objective of capital appreciation. The relative proportion of the various types of securities in each Applicant's portfolio is substantially similar. In the opinion of Management the investment objectives of the Applicants are compatible.

Applicants also state that, although there are some variations in the investment restrictions applicable to Enterprise and Equity Growth, none of such variations is considered by Management to be of material significance in the management of Applicants' portfolios. If the proposed

Combination is consummated, the investment restrictions and policies of Enterprise will become the investment restrictions and policies of the combined fund. In addition, the application states that, in the opinion of Management, the pro forma composition of the combined fund's portfolio is compatible with Enterprise's investment objective, investment policies and investment restrictions. Therefore, no sales of securities in the portfolio of Equity Growth will be required to conform to Enterprise's investment objective, investment policies and investment restrictions. However, the application also states that, because of differing investment strategies of the portfolio managers for the two funds, there will be some realignment of the current Equity Growth portfolio prior to the proposed Combination. The extent of such realignment will depend upon an appraisal of the fundamental attractiveness and compatibility with Enterprise's investment strategy (but not fundamental investment policies, objectives and restrictions) of the securities owned by Equity Growth. Applicants state that it is contemplated that most securities not considered compatible with Enterprise's investment strategy will be sold before the effective date of the proposed Combination. Management presently expects that such realignment might involve the sale of up to 50% of the equity securities owned by the Fund, which would be approximately 40% of Equity Growth's total net assets.

Applicants state that, as a result of the acquisition by merger of American General Capital Growth Fund ("Capital Growth") on August 31, 1979, Enterprise became a successor plaintiff in several pending class actions involving a capital loss to Capital Growth of \$2,127,538 in 1971 upon the sale of securities of Viatron Computer Corporation ("Viatron"). A partial settlement with certain of the defendants has been approved in the District Court, but other defendants have appealed and oral argument before the United States Court of Appeals for the First Circuit was held on November 7, 1979. At such time as the approval of the settlement becomes final, Enterprise proposes to record as an asset the fair value as determined by its Board of Directors of its portion of the proceeds of the partial settlement. Based upon the amount of claims filed to date by class members, and based upon anticipated attorneys' fee applications, it presently is estimated that Enterprise's portion of the proceeds of the partial settlement, including reimbursement of certain legal fees and

expenses, would approximate \$425,000 or less than one cent per share on the basis of 54,906,837 outstanding shares on August 31, 1979. All legal fees and expenses paid by Capital Growth (amounting to approximately \$345,000 through August 31, 1979) in prosecuting this litigation have been charged off and no amounts attributable to this litigation are presently included in the calculation of Enterprise's net asset value.

If the proposed Combination is consummated, any amounts which otherwise would accrue to Enterprise after the effective date as a result of final approval of the partial settlement or any recovery from the remaining defendants as a result of the continued prosecution of the lawsuits will accrue to the combined fund. Since Equity Growth stockholders' ownership interest in the combined fund will constitute about 7% of the combined fund, the proposed Combination would have the effect of diluting by 7% the benefit received by present Enterprise stockholders from any recovery which may accrue after consummation of the proposed Combination. All legal fees incurred after the proposed Combination in connection with prosecution of the lawsuits will be borne by all stockholders of the combined fund. If the proposed Combination is not consummated, any recovery and all future legal expenses will accrue to and be borne by the present Enterprise stockholders.

The application states that the Board of Directors of Enterprise specifically considered the Viatron litigation and the dilution which would result from the proposed Combination in Enterprise's interest in any recovery realized after the effective date of the proposed Combination. The Board, after weighing the benefits of the proposed Combination and taking into account probable delays and the speculative nature of any recoveries as well as the relatively small degree of potential dilution, concluded in its business judgment that the proposed Combination was in the best interests of the stockholders of Enterprise.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal knowingly to sell to or purchase from such investment company any security or other property, subject to certain exceptions. Section 17(b) of the Act provides that the commission may, upon application, exempt a proposed transaction from the provisions of section 17(a) of the Act if

the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Applicants state that because the proposed Combination may be deemed to involve the purchase and sale of securities and other property between affiliated registered investment companies, unless exempted, it may be deemed to violate section 17(a) of the Act. Applicants represent that the terms of the proposed Combination are reasonable and fair and do not involve overreaching on the part of any person concerned since the assets of Equity Growth are being acquired by Enterprise in exchange for shares of Enterprise on the basis of their respective net asset values.

Applicants assert that consummation of the proposed Combination is expected to benefit their stockholders through an overall reduction in operating expenses over the long run. This reduction is expected to result (i) from a reduction in the effective investment advisory fee rate because of breakpoints in the current investment advisory fee schedule and (ii) from the elimination of certain operating expenses which would be duplicative in absence of the proposed Combination.

Notice is Further Given that any interested person may, not later than December 21, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a

hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37614 Filed 12-6-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 10964; 812-4508]

#### Fidelity Tax-Exempt Money Market Trust; Application

November 30, 1979.

Notice is hereby given that Fidelity Tax-Exempt Money Market Trust ("Applicant") 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940, as amended, ("Act") as an open-end, diversified management investment company, filed an application on July 17, 1979, and amendments thereto on November 15, 1979, and November 28, 1979, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on June 19, 1979, as an investment company and is designed as an investment vehicle for substantial investors who desire tax-exempt income from a portfolio of high quality short-term municipal obligations. According to the application, Applicant's investment objective is to provide as high a level of current income as is consistent with the stability of principal and liquidity. The application also states that Fidelity Management and Research Company will serve as the investment adviser to Applicant. A registration statement on Form N-1 under the Securities Act of 1933 covering shares of common stock of Applicant has been filed with the Commission, but has not yet become effective. Thus, a public offering of Applicant's common shares has not commenced. Applicant's common shares will be offered for sale to the public at net asset value without a sales charge.



Applicant represents that it will invest in a diversified portfolio of short-term municipal obligations whose interest payments are exempt from federal income tax, and in commitments to purchase such securities on a "when-issued" basis. These securities are issued by cities, municipalities or municipal agencies and will include Tax Anticipation Notes, Revenue Anticipation Notes, Tax and Revenue Anticipation Notes, Bond Anticipation Notes, Grant Anticipation Notes, Construction Loan Notes and Short-Term Discount Notes. Applicant may also invest in Project notes, which are instruments sold by the U.S. Department of Housing and Urban Development but issued by a state or local housing agency. The application states that the maturities of these instruments at the time of issue generally will range between three months and one year or, in some cases, slightly more than one year, and that the dollar-weighted average of the Fund's portfolio will at all times be 120 days or less. Applicant states that it may invest in municipal securities whose original maturities were in excess of one year if at the time of purchase the remaining time to maturity is less than one year.

Applicant represents that its investments will be limited to those obligations which are backed by the full faith and credit of the United States or are rated MIG-1 or MIG-2 by Moody's Investors Services, Inc. ("Moody's") and, in the case of Short-Term Discount Notes, A-1 by Standard & Poor's Corporation ("S&P") and Prime-1 by Moody's, or if the notes are not rated then the issue's long-term bond rating must be at least A as determined by Moody's or by S&P. Applicant may also purchase other types of tax-exempt instruments as long as they meet standards of quality equivalent to those described above.

The application states that all of the above instruments are generally offered on the basis of a quoted yield to maturity and the price of the security is adjusted so that relative to the stated range of interest it will return the quoted rate to the purchaser. The Applicant states that it intends to declare and pay its net income as a dividend to its shareholders on a daily basis and distribute it monthly, and that "net income" for this purpose will consist of all interest income accrued on the portfolio assets of the Applicant, less all expenses of the Applicant. The application also states that if the Applicant values its securities on an amortized cost basis there will be no calculation for realized or unrealized

capital gains or losses, and that since the daily dividend will be paid in the form of additional shares of the Applicant, the Applicant's per share net asset value will remain at a constant \$1.00 amount. Applicant represents that the nature of the investments which it proposes to make have characteristics which are similar to those securities which are generally designated as money market instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities; and (ii) With respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities by means of the amortized cost method of valuation (i.e.,

valuing securities at cost, adjusted for amortization of premium or accretion of discount).

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that sophisticated individual, professional and institutional investors are expected to own shares representing a large portion of the Applicant's total assets and that those shareholders, as well as investors with similar circumstances, will represent the most important source of potential investments in the Applicant. In this regard, Applicant states that its experience has been that in order to attract such investors and retain them as shareholders, the Applicant must have a stable net asset value, preferably at \$1.00 per share, and a constant and steady flow of investment income. Applicant also states that it will not own portfolio securities having maturities exceeding one year, and its average portfolio maturity will not exceed 120 days. Applicant further states that its experience has been that with respect to municipal securities maturing in 120 days or less, there is normally a negligible discrepancy between market value and the amortized cost value of such securities. On the basis of the foregoing, Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit its shareholders by enabling Applicant to more effectively maintain its \$1.00 price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities.

Applicant consents to the following conditions being contained in any order of the Commission granting the exemptive relief requested:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular

responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at \$1.00 per share.

(2) Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's \$1.00 amortized cost price per share, and maintenance of records of such review.<sup>1</sup>

(b) In the event such deviation from the \$1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's \$1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it, shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-

<sup>1</sup> Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

weighted average portfolio maturity in excess of 120 days.<sup>2</sup>

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investment, including repurchase agreements if any, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

The Applicant represents that its Trustees have determined in good faith that in light of the characteristics of the Applicant as described above and, subject to compliance with the above conditions, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicant and reflects fair value of such securities. Applicant further represents that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than

<sup>2</sup> In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

December 21, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons  
Secretary.

[FR Doc. 79-37615 Filed 12-6-79; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 21318; 70-6099]

**General Public Utilities Corp.;  
Proposed Extension of and  
Adjustment in Short-Term Debt  
Authorization**

November 29, 1979.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transactions. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order dated May 4, 1979 (HCAR No. 21035), the Commission granted



GPU authority to issue or renew, from time to time until December 31, 1979, its unsecured promissory notes maturing not more than nine months after the date of issue, to various commercial banks pursuant to informal lines of credit provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time shall not exceed \$150,000,000. Such promissory notes would bear interest at the lending bank's prime interest rate for commercial borrowings at the date of issuance and would be prepayable at any time without premium. By Order dated June 19, 1979 (HCAR No. 21107; Filed No. 70-6311), the Commission authorized GPU to issue, sell and renew from time to time through October 1, 1981, its promissory notes (having a maturity of not more than six months from the date of issue) pursuant to a Revolving Credit Agreement (the "loan agreement"), dated as of June 15, 1979, with a syndicate of commercial banks. GPU is authorized to incur indebtedness under the loan agreement up to an amount which, when added to GPU's borrowings outstanding hereunder, would not exceed \$150,000,000.

By post-effective amendment GPU now requests that it be permitted to issue, sell and renew its unsecured promissory notes hereunder such borrowings from time to time during the period ending December 31, 1980; provided that GPU's borrowings hereunder, when added to its borrowings outstanding under the previously authorized loan agreement would not in the aggregate exceed \$150,000,000. From time to time, certain lending banks have advised GPU that it would be more convenient if GPU's borrowings were made at an interest rate in excess of the bank's prime rate with a reduction in the compensating balances which GPU would otherwise normally be required to maintain. GPU is normally required to maintain compensating balances ranging from a minimum of 10 percent of the available line to a maximum of 10 percent of the line plus 10 percent of the loan outstanding. Consequently, assuming compensating balances will equal 20 percent of the aggregate amounts borrowed, the result is presently to increase the effective cost of borrowing to an amount equal to 125 percent of the prime rate. In order to provide the necessary flexibility, GPU therefore further requests authority to effect such borrowings at rates in excess of the prime rate; provided, however, that any such interest rate, after giving effect to compensating balance requirements, would not result in an effective cost to

GPU in excess of 125 percent of the lending bank's prime rate in effect from time to time. Although no commitments or agreements for such borrowings have been made, GPU expects that, as and to the extent that its cash needs require, they would be effected from time to time from one or more commercial banks with which GPU would establish informal lines of credit. In all other respects the transactions as heretofore authorized by the Commission herein would remain unchanged.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal commission, other than this commission, has jurisdiction in connection with the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37618 Filed 12-6-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21320; 70-6283]

#### Metropolitan Edison Co.; Proposed Extension of and Adjustment in Short-Term Borrowing Authorization

November 29, 1979.

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, an electric utility subsidiary of General Public Utilities Corporation, ("GPU") a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transactions. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By Order dated May 4, 1979 (HCAR No. 21037), the Commission granted Met-Ed authority to issue or renew, from time to time until December 31, 1979, its unsecured promissory notes maturing not more than nine months after the date of issue, evidencing short-term bank borrowings. Such promissory notes would bear interest at the lending bank's prime interest rate for commercial borrowings at the date of issuance and would be prepayable at any time without premium. Met-Ed is authorized during such period, to issue and renew, as commercial paper, its unsecured promissory notes in denominations of \$100,000 or multiples thereof, maturing not more than 270 days from the date of issue. The aggregate principal amount of unsecured promissory notes to banks and commercial paper outstanding at any one time would not exceed the lesser of (a) \$97,000,000, or (b) the amount permitted by Met-Ed's Articles of Incorporation. By Order dated October 30, 1979 (HCAR No. 21276; File No. 70-6311), the Commission authorized an increase in the amount of indebtedness which Met-Ed may have outstanding under the GPU System Revolving Credit Agreement (the "loan agreement"), dated as of June 15, 1979, with a syndicate of commercial banks. As a result, Met-Ed may now incur indebtedness under that agreement which, when added to its borrowings outstanding hereunder would not exceed the lesser of (a) \$125,000,000 or (b) the amount permitted by Met-Ed's Articles of Incorporation.

Met-Ed now requests that it be permitted to issue, sell and renew its

unsecured promissory notes from time to time during the period ending December 31, 1980; provided that such borrowings, when added to Met-Ed's borrowings outstanding under the previously authorized loan agreement would not in the aggregate exceed the lesser of (a) \$125,000,000 or (b) the amount permitted by Met-Ed's Articles of Incorporation. As Met-Ed does not expect to sell commercial paper during this period, Met-Ed does not request that the Commission's Order herein authorize Met-Ed's issuance and sale thereof.

From time to time, certain lending banks have advised Met-Ed that it would be more convenient if Met-Ed's borrowings were made at an interest rate in excess of the bank's prime rate with a reduction in the compensating balances which Met-Ed would otherwise normally be required to maintain. Met-Ed is normally required to maintain compensating balances ranging from a minimum of 10% of the available line to a maximum of 10% of the line plus 10% of the loan outstanding. Consequently, assuming compensating balances will equal 20% of the aggregate amounts borrowed, the result is presently to increase the effective cost of borrowing to an amount equal to 125% of the prime rate. In order to provide the necessary flexibility, Met-Ed therefore further requests authority to effect such borrowings at rates in excess of the prime rate; provided, however, that any such interest rate, after giving effect to compensating balance requirements, would not result in an effective cost to Met-Ed in excess of 125% of the lending bank's prime rate in effect from time to time.

Although no commitments or agreements for such borrowings have been made, Met-Ed expects that, as and to the extent that its cash needs require, they would be effected from time to time from one or more of the following banks, the maximum to be borrowed and outstanding at any one time from each such bank being as follows:

| Bank                                       | Amount    |
|--------------------------------------------|-----------|
| Cumberland County National Bank.....       | \$500,000 |
| Lafayette Trust Bank.....                  | 300,000   |
| Lebanon County Trust Co.....               | 250,000   |
| The Merchants National Bank of Bangor..... | 200,000   |
| Nazareth National Bank & Trust Co.....     | 200,000   |
| The Valley Trust Co. of Palmyra.....       | 150,000   |
| Total.....                                 | 1,600,000 |

Met-Ed expects that there may be additional banks from which it may effect such borrowings from time to time. In all other respects the transactions as heretofore authorized by the Commission herein would remain unchanged.

A statement of the fees, commissions and expenses to be incurred in

connection with the transactions will be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction in connection with the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37617 Filed 12-6-79; 8:45 am]

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[Rel. No. 21321; 70-5534]

#### New England Electric System and New England Energy, Inc.; Proposed Extension of Oil and Gas Exploration Partnership and Increased Level of Exploration Expenditures

November 30, 1979.

Notice is hereby given that New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, and its fuel subsidiary New England Energy Incorporated ("NEEI"), have filed with this

Commission post-effective amendments to their application-declaration previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43 and 45(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended by said post-effective amendments, which is summarized below, for a complete statement of the proposed transactions.

By order dated October 30, 1974 (HCAR No. 18635), NEES was authorized to organize NEEI, acquire its capital stock and make investments (including subordinated notes) in NEEI up to \$20,250,000 through July 31, 1976, and NEEI was authorized to enter into a partnership agreement ("Agreement") with Samedan Oil Corporation ("Samedan"), a wholly owned subsidiary of Noble Affiliates, Inc., to explore for oil and gas in the continental United States (both onshore and offshore). NEEI was at that time authorized to invest a maximum of \$10,000,000 in that partnership through July 31, 1976. NEEI was also authorized to acquire other interests in similar ventures for oil and gas exploration, development and production and to undertake various fuel procurement and inventory activities. Said order also granted a request for an exception from the tax allocation provisions of Rule 45(b)(6) pursuant to Rule 45(a) on terms and conditions therein set forth.

By order dated June 18, 1976 (HCAR No. 13580), NEES was authorized to increase its investment in NEEI to \$45,000,000 through December 31, 1979, with NEEI to use such investments to finance its procurement and inventory activities and to finance fuel exploration and development activities with Samedan and/or other parties. Said order also continued the exception from the tax allocation provisions of Rule 45(b)(6) through the same period.

By order dated July 19, 1978 (HCAR No. 20632), NEEI was authorized to make sales of fuel oil to New England Power Company ("NEP"), an affiliate, pursuant to a fuel purchase contract on terms and conditions set forth in said order. Those terms included a pricing policy under which NEEI's total costs related to its exploration and development program, including capital costs as defined, are divided by total estimated equivalent barrels of reserves to determine a unit cost to be applied to each equivalent barrel produced. With respect to capital costs, a method was prescribed for their determination based



on a hypothetical capital structure input to NEEI approximately equivalent to the capital structure of NEP. In this connection, it was contemplated that NEEI would obtain outside financing and apply the proceeds to reduce the subordinated notes issued to NEES.

By order dated July 25, 1979 (HCAR No. 21158), NEEI was authorized to enter into an \$80,000,000 revolving credit loan with Bank of Montreal and National Bank of North America, upon the termination of which becomes a term loan. The proceeds of the initial advance under said loan (\$30,000,000) were used to reduce the amount of NEEI's subordinated notes to NEES. Said order also extended the authority granted in the order of June 18, 1976 (HCAR No. 19580), for NEES to make investments in NEEI up to \$45,000,000 through December 31, 1988.

By post-effective amendments applicants-declarants request authorization to enter into an amendment to the Agreement with Samedan, which amendment would (1) extend the term of the Agreement from December 31, 1979, to December 31, 1984; and (2) increase to \$30,000,000 the average annual amount which NEEI can be called upon to invest in the partnership during the period 1980-1984.

It is stated that through June 30, 1979, NEEI had invested \$55,000,000 in the partnership with Samedan, that 248 of the 485 wells drilled in which the partnership participated have been found to be productive, and that NEEI's share of the total equivalent reserves of oil and gas represented by these wells is now estimated to exceed 10,000,000 barrels. Through the same date it is claimed that total savings of over \$423,000 have been achieved through the pricing mechanism set forth in the order of July 19, 1978 (HCAR No. 20632), under which NEEI's proceeds from the sale of oil and gas in its exploration programs are used to purchase residual fuel oil for NEP. NEP had purchased through June 30, 1979, approximately 248,000 barrels of fuel oil related to NEEI production at prices averaging \$1.72 less per barrel than the market price. NEEI's share of production from its exploration and development activities is currently estimated to be about 430,000 equivalent barrels in 1979 and about 1,700,000 equivalent barrels in 1980.

Most of the basic features of the Agreement would remain the same under the proposed amendment, including (1) Samedan's acting as managing partner, (2) a limitation on the geographical scope of the partnership's activities to the continental United States (including Alaska), both onshore

and offshore, (3) each partner having a fifty percent interest in the partnership, with NEEI paying a larger share of the costs of exploration (to compensate Samedan for management and expertise in running the partnership as managing partner as well as for Samedan's accumulated geological and geophysical work in evaluating prospects), (4) each partner sharing equally the costs of development and production of successful prospects, (5) each partner being entitled to take in kind or sell one-half of the partnership production of oil and gas (with NEEI also having a first call to purchase Samedan's share of oil produced from any prospect), and (6) the partnership being terminable by either partner at the end of any calendar year on sixty days' prior notice. The amendment would, as previously mentioned, extend the Agreement through December 31, 1984, and increase to \$30,000,000 the average annual amount which NEEI could be called upon to invest for exploration activities during each year of the extension period. The amendment would also change some other minor features of the Agreement. NEEI further requests authority to amend the Agreement without Commission approval from time to time as the parties may agree, except that no such amendment may permit (i) any contribution to or investment in the partnership by NEEI in excess of the limitations on capitalization and financing of NEEI imposed by order of the Commission, or (ii) participation by NEEI in partnership activities outside the continental United States (including Alaska), onshore and offshore.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by further amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact of law raised by said application-declaration, as amended by said post-effective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof

of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendments or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37818 Filed 12-6-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16390; File No. SR-NYSE-79-23]

#### New York Stock Exchange, Inc.

November 30, 1979.

On June 21, 1979, the New York Stock Exchange, Inc. (the "NYSE") 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4<sup>1</sup> (17 CFR 240.19b-4) thereunder, a proposed rule change that would revoke the NYSE's present arbitration rules and adopt the proposed Uniform Code of Arbitration (the "Code"), which was drafted by the Securities Industry Conference on Arbitration (the "SICA").<sup>2</sup> Notice of the NYSE's proposed rule change together with its terms of substance was given by issuance of a Commission release (Securities Exchange Act Release No. 16038 (July 18, 1979)) and by publication of that release in the Federal Register (44 FR 43378 (July 24, 1979)).

#### I. Background

The SICA was organized in April, 1978, in response to urgings by the Commission that the securities industry develop a dispute resolution system to settle controversies between customers and broker-dealers in a fair, simple, and inexpensive manner consistent with the

<sup>1</sup> Second Report of the Securities Industry Conference on Arbitration to the Securities and Exchange Commission (December 28, 1978).

public interest.<sup>3</sup> The SICA's membership consists of 10 self-regulatory organizations, the Securities Industry Association, and three representatives of the public.<sup>4</sup>

#### II. The NYSE

proposed rule change amends Article VIII of its constitution regarding arbitration, revoke its present rules,<sup>5</sup> and adopts the entire proposed code as new NYSE Rules 600 through 630. The proposed rule change also incorporates the simplified arbitration procedures drafted by SICA and adopted by the NYSE on May 4, 1978,<sup>6</sup> regarding small claims, not exceeding \$2500, which ordinarily are resolved by a single arbitrator.<sup>7</sup> The proposed rule change will apply to arbitration of disputes between members, allied members, member firms, and/or member organizations,<sup>8</sup> as well as to claims

<sup>3</sup> See Securities Exchange Act Release No. 13470 (April 26, 1977), 12 SEC Docket 188 (May 10, 1977), Securities Exchange Act Release No. 12974 (November 15, 1978), 10 SEC Docket 955 (November 30, 1978), 41 FR 50880 (November 18, 1978); Securities Exchange Act Release No. 12528 (June 8, 1978) Second 833 June 23, 1978).

<sup>4</sup> The 10 self-regulatory organization members are: American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Cincinnati Stock Exchange; Midwest Stock Exchange, Inc.; Municipal Securities Rulemaking Board; National Association of Securities Dealers, Inc. The three public representatives are lawyers specializing in arbitration matters: Peter R. Cella, Jr., Mortimer Goodman, and Constantine N. Kastoris.

<sup>5</sup> The arbitration rules revoked by the proposal are NYSE Rules 480-492B.

<sup>6</sup> Securities Exchange Act Release No. 14737 (May 4, 1978), 14 SEC Docket 985 (May 16, 1978), 43 FR 20585 (May 12, 1978). Eight other self-regulatory organizations also have adopted SICA's proposed arbitration procedures for small claims: American Stock Exchange, Inc., Securities Exchange Act Release No. 14737 (May 4, 1978), 14 SEC Docket 985 (May 10, 1978), 43 FR 20585 (May 12, 1978); Pacific Stock Exchange, Inc. and Chicago Board Options Exchange, Inc., Securities Exchange Act Release No. 14881 (June 22, 1978), 15 SEC Docket 103 (July 5, 1978), 43 FR 28278 (June 29, 1978); National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 14892 (June 23, 1978), 15 SEC Docket 144 (July 12, 1978), 43 FR 28597 (June 30, 1978); Philadelphia Stock Exchange, Inc., Securities Exchange Act Release No. 14896 (June 26, 1978), 15 SEC Docket 146 (July 12, 1978), 43 FR 29202 (July 6, 1978); Midwest Stock Exchange, Inc., Securities Exchange Act Release No. 15390 (December 8, 1978), 16 SEC Docket 425 (December 28, 1978); Municipal Securities Rulemaking Board, Securities Exchange Act Release No. 15411 (December 13, 1978), 16 SEC Docket 425 (December 28, 1978), 43 FR 60681 (December 28, 1978); and Cincinnati Stock Exchange, Securities Exchange Act Release No. 15998 (July 5, 1979), 17 SEC Docket 1178 (July 17, 1979), 44 FR 48399 (August 17, 1979).

<sup>7</sup> NYSE Rule 601 (Code, Section 2).

<sup>8</sup> Proposed NYSE Rule 631 makes NYSE Rules 600-630 (i.e., the Code) applicable to member disputes except in so far as they specifically apply to matters involving public customers. In addition, the NYSE has proposed a new Rule 632, a fee schedule for controversies between members that essentially follows NYSE Rule 630 (Code, Section

against members raised by customers and non-members.<sup>9</sup> The rule proposal requires the appointment of panels of three to five arbitrators, the majority of whom must not be from the securities industry.<sup>10</sup> It also requires that the names and affiliations of the arbitrators be communicated to the parties at least eight days before the hearing date<sup>11</sup> and affords parties the right to modify a proposed panel through one peremptory challenge.<sup>12</sup> Generally, a proceeding may be initiated by filing a statement of claim and an agreement to arbitrate with the NYSE.<sup>13</sup> All parties to the proceeding have the right to representation by counsel<sup>14</sup> and the right to attend hearings.<sup>15</sup> As is customary in arbitration proceedings, the rules of evidence do not strictly apply.<sup>16</sup> No record of the proceeding is kept unless requested by a party,<sup>17</sup> and a decision by a majority of the arbitrators is final with no right of review or judicial appeal unless otherwise provided by law.<sup>18</sup>

#### III. Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and with the rules and regulations thereunder that are applicable to national securities exchanges, and, in particular, that it is consistent with the requirements of Section 6(b)(5) of the Act that the rules of an exchange be designed to promote just and equitable principles of trade.

The Commission believes that this proposal marks a substantial improvement over the various arbitration procedures currently being utilized by the securities industry and represents an important step toward establishing a uniform system for resolving investor complaints through arbitration.<sup>19</sup> The Commission urges the remaining self-regulatory organization

31), which contains the proposed fee schedule for customer controversies.

<sup>9</sup> NYSE Rule 600(a) (Code, Section 1(a)).

<sup>10</sup> NYSE Rule 607 (Code, Section 8).

<sup>11</sup> NYSE Rule 608 (Code, Section 9).

<sup>12</sup> NYSE Rule 609 (Code, Section 10).

<sup>13</sup> NYSE Rule 612(a) (Code, Section 13(a)).

<sup>14</sup> NYSE Rule 614 (Code, Section 15).

<sup>15</sup> NYSE Rule 615 (Code, Section 16).

<sup>16</sup> NYSE Rule 621 (Code, Section 22).

<sup>17</sup> NYSE Rule 624 (Code, Section 25).

<sup>18</sup> NYSE Rule 628(b) (Code, Section 29(b)).

<sup>19</sup> The Commission emphasizes, however, that notwithstanding the proposed rule change, arbitration clauses contained in customers' agreements that purport to bind customers to arbitrate all future disputes raising claims under the federal securities laws cannot be enforced against those customers who choose to obtain a judicial determination of such claims. See Securities Exchange Act Release No. 15984 (July 2, 1979), 17 SEC Docket 1167 (July 17, 1979), 44 FR 40462 (July 10, 1979).

members of SICA to file promptly comparable amendments to their arbitration rules.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above referenced rule change be, and hereby is, approved.

By the Commission.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37819 Filed 12-6-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10965; 812-4543]

#### Oppenheimer Directors Fund, Inc., and Centennial Capital Special Fund, Inc.; Filing of Application for an Order Exempting Proposed Acquisition and Permitting Participation in Proposed Acquisition

November 30, 1979.

Notice is hereby given that Oppenheimer Directors Fund, Inc. ("Directors Fund"), and Centennial Capital Special Fund, Inc. ("Centennial") ("Applicants"), One New York Plaza, New York, New York 10004, both open-end, diversified management investment companies registered under the Investment Company Act of 1940 (the "Act"), filed an application on October 1, 1979, and amendments thereto on November 13, 1979, and November 19, 1979, pursuant to Sections 6(c), 17(b) and 17(d) of the Act and Rule 17d-1 thereunder for an order (1) exempting the proposed acquisition of substantially all of the assets of Centennial by Directors Fund from the provisions of Section 22(c) of the Act and Rule 22c-1 thereunder to permit the proposed issuance of Directors Fund shares at net asset value, but at a price other than the price next determined after receipt of the purchase order; (2) exempting the proposed acquisition from the provisions of Section 17(a) of the Act; and (3) permitting the sharing of the expenses of such acquisition as provided in an Agreement and Plan of Reorganization ("the Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Directors Fund was organized on May 23, 1978. As of August 31, 1979, Directors Fund had net assets of approximately 8 million dollars and was beneficially owned by approximately 121 shareholders. Directors Fund's investment adviser is Oppenheimer Management Corporation ("OMC"), a registered investment adviser under the Investment Advisers



Act of 1940. Directors Fund's principal underwriter is Oppenheimer Investor Services, Inc. ("OISI"), a wholly-owned subsidiary of OMC and a registered broker-dealer under the Securities Exchange Act of 1934.

Centennial was organized on May 20, 1969. As of August 31, 1979, Centennial had net assets of approximately 6 million dollars, beneficially owned by approximately 100 shareholders. Centennial's investment adviser is Centennial Capital Corp., a registered investment adviser under the Investment Advisers Act of 1940 and a wholly-owned subsidiary of Oppenheimer Capital Corp. ("OCC"), which is also a registered investment adviser under the Investment Advisers Act of 1940. Centennial's principal underwriter is Oppenheimer & Co., Inc. ("OPCO"), a registered broker-dealer under the Securities Exchange Act of 1934.

OMC, OCC, and OPCO are corporations controlled by Oppenheimer & Co., a New York limited partnership, which owns directly and indirectly through a wholly-owned subsidiary 90% of the common and preferred stock of OCC and OPCO and 83.925% of the common stock and 78.942% of the preferred stock of OMC. Oppenheimer & Co. has the power to and does elect all of the Directors of OCC, OPCO and OMC.

The Applicants state that, pursuant to the Agreement, Directors Fund will acquire substantially all of the assets and properties of Centennial in exchange for shares of capital stock of Directors Fund. Following the exchange of Centennial's assets for Directors Fund's stock, Centennial will dissolve and liquidate. As part of the liquidation distribution, Centennial will distribute to its shareholders in exchange for their shares of Centennial stock the Directors Fund shares it receives upon the transfer of its assets to Directors Fund. Each Centennial shareholder will be entitled to that portion of the Directors Fund shares received by Centennial as the number of shares of capital stock of Centennial owned by each shareholder bears to the total number of Centennial shares outstanding on the close of business on the day before the transaction ("the Exchange Date"). The Agreement provides that shares of Directors Fund of an aggregate net asset value equal to the value of assets of Centennial received by Directors Fund will be transferred to Centennial. Centennial will distribute such shares to its shareholders by redelivering the certificate received from Directors Fund which will set up accounts for each

Centennial shareholder pursuant to instructions received from Centennial. Shareholders of Centennial holding certificates representing their shares will not be required to surrender their certificates to anyone in connection with the transaction. After the transaction it will not be necessary for such shareholders to surrender such certificates in order to redeem the shares of Directors Fund which they receive.

The net assets and net asset value per share of Centennial as of August 31, 1979, were \$5,727,667 and \$16.21, respectively. Directors Fund's net asset value per share on that date was \$14.14. If the Exchange Date had occurred immediately following the close of business on August 31, 1979 each share of Centennial's outstanding capital stock would have been exchanged for 1.146 shares of Directors Fund's capital stock and Directors Fund would have issued a total of 405,068 shares for Centennial's net assets. These computations are pro forma and do not include adjustments with respect to distributions prior to the reorganization, unreimbursed expenses of either Directors Fund or Centennial carrying out its obligation under the Agreement and any cash reserves retained by Centennial for its final expenses.

The Agreement provides that the net asset value of Directors Fund and Centennial will not be adjusted for realized and unrealized gains and losses. As of August 31, 1979, Directors Fund had no net operating loss carryforward or capital loss carryover. For financial statement purposes it had \$594,388 of net unrealized capital gains and for the eight months that ended had net realized gains of \$1,069,187. As of December 31, 1978, Centennial had net operating loss carryforwards to offset future ordinary taxable income of approximately \$117,000, expiring 1980 through 1985. At December 31, 1978, Centennial had capital loss carryforwards for federal tax purposes of approximately \$7,800,000 of which \$4,400,000 expires at December 31, 1979, \$400,000 at December 31, 1980 and \$3,000,000 at December 31, 1981. For the eight months ended August 31, 1979, Centennial had net realized capital gains of \$1,044,733 and net operating income of \$106,285. Upon the day of the transaction, the above-mentioned \$4,400,000 capital loss carryforward will expire and the expiration date for the above-mentioned \$400,000 capital loss carryforward will move to the first taxable year of Directors Fund ending after the day of the transaction, pursuant to Internal Revenue Code

Sections 381, 382, 383 and the regulations thereunder.

Since five of Centennial's shareholders own more than 50% of its total outstanding shares it is a "personal holding company" as defined by the Internal Revenue Code. Further, Centennial does not qualify as a regulated investment company under the Internal Revenue Code and is thereby subject to corporate federal income taxes on its taxable net income and capital gains whether or not it distributes them to its shareholders. As a personal holding company, Centennial is also liable for any additional federal tax on undistributed personal holding company income. Immediately before the Exchange Date the Applicants state that Centennial will pay, or reserve sufficient assets to pay, any federal income tax due for the year 1979.

The Applicants indicate that fees and expenses to be incurred in connection with the proposed acquisition are currently estimated at \$20,000 to \$25,000. The Agreement provides that Directors Fund will not assume any liabilities of Centennial in connection with the acquisition except for portfolio security purchases which have not settled. Centennial will assume one-fifth of the fees and expenses, including legal, accounting, printing, filing, proxy solicitation and portfolio transfer taxes, if any, or other similar expenses included by Centennial or Directors Fund in connection with the acquisition up to an aggregate amount of \$10,000 exclusive of those fees and expenses which Directors Fund incurs in the issuance and sale of its shares. All other fees and expenses, including printing, filing, proxy solicitation and portfolio transfer taxes, if any, or other similar expenses incurred by either Centennial or Directors Fund in connection with the acquisition shall be borne by Directors Fund. The Applicants state that Directors Fund shall promptly reimburse Centennial in full for such fees and expenses that are paid by Centennial in excess of the amount of such fees and expenses assumed by Centennial.

Section 22(c) of the Act, and Rule 22c-1 thereunder together provide, in part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

The Agreement provides that the shares of Directors Fund and the assets of Centennial will be valued as of the time of close of trading on the New York

Stock Exchange on November 19, 1979, or such earlier or later date as may be agreed to by the parties ("the Valuation Time") and the issuance of Directors Fund shares in exchange for Centennial assets will occur on the next full business day following the Valuation Time. Thus, the "forward pricing" requirement of Section 22(c) and Rule 22c-1 will not be met.

Applicants contend that it will be impracticable to comply with Section 22(c) and Rule 22c-1, as the number of Directors Fund shares to be issued is determined by dividing the net asset value per share of Directors Fund into the total net assets of Centennial available for acquisition. Applicants submit that such a computation can be made only after the close of business when both portfolios can be fully valued. Applicants further contend that the valuation of Directors Fund's assets at the Valuation Time on the last business day immediately preceding the Exchange Date will be fair to the shareholders of Directors Fund and Centennial, and will not present any of the potential for abuse that Rule 22c-1 is intended to avoid.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act.

Applicants represent that an order exempting Directors Fund from the provisions of Section 22(c) and Rule 22c-1 thereunder to the extent necessary to enable valuations as of the time set forth above is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer.

As the investment advisers of Directors Fund and Centennial are under common control, the Applicants might be deemed to be "affiliated persons" of each other within the meaning of Section 2(a)(3) of the Act. Accordingly, any disposition of portfolio securities by Centennial to Directors

Fund or any acquisition by Directors Fund of the portfolio securities of Centennial pursuant to the agreement might be deemed to be prohibited by Section 17(a) of the Act. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that the terms of the Agreement provide that the acquisition of Centennial's assets by Directors Fund shall be accomplished on the basis of the net asset value of the Funds. No adjustment is to be made in the computation of each Fund's net asset value for Centennial's capital loss carryforward, it having been determined by Centennial's Directors that the possible detriment to Centennial's stockholders from the loss of the exclusive beneficial use of a portion of Centennial's capital loss carryforward is limited and, therefore, outweighed by the advantages to Centennial from consummation of the transaction.

The costs of the transaction whereby Centennial bears one-fifth of the combined expenses up to \$10,000 and Directors Fund bears the expenses in excess of that amount reflects an appraisal by both the Board of Directors of Directors Fund and Centennial as to the relative benefits to each Fund from the transaction. In this regard, the Applicants state that the Directors of Centennial and Directors Fund considered that the shareholders of Centennial would benefit from the projected reduced expense ratio that might be expected from a larger fund and, while not easily quantifiable, the benefit from the termination by Centennial of personal holding company status. The Applicants also submit that the shareholders of Directors Fund would benefit as well from projected reduced expense ratios and projected savings of brokerage commissions resulting from the transaction amounting to approximately \$12,000.

Applicants represent that the transaction is also consistent with the investment objectives and policies of Directors Fund and Centennial. Directors Fund's objective is "capital appreciation in the value of its shares. Current income is not an objective."

Centennial's objective is "capital appreciation. Any income received will be incidental to this objective." Applicants state that their policies in pursuing these objectives are also substantially similar. Applicants submit that in accordance with Section 17(b) of the Act, the terms of the proposed transaction are reasonable and fair to the Applicants and do not involve overreaching by either of the Applicants, and that the proposed transaction is consistent with the investment policies of each Applicant and consistent with the purposes of the Act.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of any registered investment company and no affiliated person of such person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered investment company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in the Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

As noted above, Directors Fund and Centennial might be deemed "affiliated persons" of each other within the meaning of Section 2(a)(3) of the Act. Thus, the proposed sale of assets by Centennial to Directors Fund and the related allocation of expenses might be deemed to be a joint enterprise or arrangement prohibited by Section 17(d) of the Act and Rule 17d-1 thereunder without Commission approval.

The Applicants represent that the terms of the proposed transaction are reasonable and fair to all parties, do not involve overreaching, and are consistent with the investment objectives of each



of the Funds and with the policies of the Act. To the extent that Directors Fund's participation in the transaction is different from that of Centennial's, each Fund represents that its participation in the transactions is as advantageous as the participation of the other Fund.

While Directors Fund shareholders will bear a higher proportion of expenses of the transaction than will Centennial shareholders, Directors Fund has the opportunity to purchase, without the necessity of the payment of additional brokerage commissions, approximately \$5,000,000 of assets representing, in large part, portfolio securities which are similar to securities already held by Directors Fund. Centennial shareholders will bear a lower proportion of the expenses of the transaction and will benefit from the reduced per share expense ratio and the termination of personal holding company status. Accordingly, the Applicants submit that their participation in the proposed transaction is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act, and to the extent that participation by each Applicant is different from the other, such participation is not less advantageous.

Notice is further given that any interested person may, not later than December 21, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-37820 Filed 12-6-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-16389; File No. 4-273]

**Program for Allocating Regulatory Responsibilities Pursuant to Rule 17d-2; Proposed Filing of Amendment to the NASD/CSE**

In Securities Exchange Act Release No. 15191 (September 26, 1978),<sup>1</sup> the Commission approved, on a provisional basis, the plan filed by the National Association of Securities Dealers, Inc. (the "NASD") and the Cincinnati Stock Exchange, Inc. (the "CSE") (together, the "parties") for allocating regulatory responsibilities under Rule 17d-2.<sup>2</sup> The Commission conditioned its further consideration of this plan on, among other things, the filing of certain amendments to it.

The NASD and the CSE have filed an amendment to their allocation proposal which will apply to any member of the CSE which is now or is in the future designated to be inspected for compliance with applicable financial responsibility rules (a "designated member") by the NASD pursuant to Rule 17d-1 (17 CFR 240.17d-1) under the Securities Exchange Act of 1934. In brief, the amendment provides that the CSE will forward to the NASD any complaint pertaining to a designated member which it receives. Unless the CSE specifically directs otherwise, the NASD will be responsible for reviewing the complaint and taking appropriate action on it. Under the amendment the NASD will also review, in accordance with the NASD's rules, the advertising of the designated member. Finally, the amendment would establish a procedure for use by the parties resolving any disputes which may arise concerning their obligations under the plan.

In order to assist the Commission in determining whether to approve this plan amended as described herein and to relieve the CSE of the responsibilities which would be assigned to the NASD, interested persons are invited to submit written data, views and arguments

<sup>1</sup> 43 FR 46093. Originally approved for 270 days the Commission subsequently extended the period of provisional approval until January 1, 1980 in Securities Exchange Act Release No. 15941 (June 21, 1979).

<sup>2</sup> The Commission had published notice of the terms of that plan in Securities Exchange Act Release No. 14094 (October 25, 1977), 42 FR 57197 (1977).

concerning the submission on or before January 7, 1980. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Reference should be made to File No. 4-273.

By the Commission.  
George A. Fitzsimmons,  
Secretary.

November 30, 1979.  
[FR Doc. 79-37821 Filed 12-6-79; 8:45 am]  
BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

[Proposed License No. 06/06-0226]

**Energy Investors, Inc.; Application for a License To Operate as a Small Business Investment Company**

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Energy Investors, Inc., Suite 500, 5944 Luther Lane, Dallas, Texas 75225, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the rules and regulations promulgated thereunder.

The proposed officers, directors and voting shareholders of the Applicant are as follows:

Richard D. Siegal, 343 Forest Avenue, Woodmere, New York 11898. President, Treasurer, Director; 67.0 percent shareholder.  
Ronald G. Williams, 9405 Spruce Hollow Drive, Dallas, Texas 75243. Vice President, Secretary, General Manager, Director; 16.5 percent shareholder.  
Manahel Siegal, M.D., 270-28 L Grand Central Pkwy., Floral Park, New York 11005. Director; 16.5 percent shareholder.  
Richard P. Perrin, 2353 North Oak Street, Falls Church, Virginia 22048. Assistant Secretary.

There will be two classes of stock authorized: One million shares of Class A voting stock and 500,000 shares of Class B non-voting stock. Initially 500,000 shares of the Class A stock will be issued at 40 cents per share to the individuals listed above, and 325,000 shares of the Class B stock to no more than ten beneficial owners at one dollar per share. The resultant private capital will be \$525,000. SBA will publish in the Federal Register the names and addresses of any Class B shareholder(s) owning 10 percent or more of Applicant's private capital.

Since the management group will own all of the Applicant's voting stock it will be necessary for each Class B shareholder to provide SBA with a written acknowledgment that he or she is aware of the manner and means of the Applicant's capitalization, and that the management group will hold all of the voting stock.

Applicant proposes to conduct its operations primarily in the southwestern United States, including the States of Texas, Louisiana, Oklahoma, New Mexico, Arizona and Colorado.

Applicant intends to follow a diversified investment policy, with emphasis on concerns engaged in energy exploration, development, production and transmission.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Dallas, Texas, and New York City.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 30, 1979.

Peter F. McNeish,  
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-37707 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1697; Amdt. No. 1]

**Maryland; Declaration of Disaster Loan Area**

The above numbered Declaration (see 44 FR 61718), is amended by extending the filing date for physical damage until the close of business on December 20, 1979, and the date for economic injury remains the same; i.e., until the close of business on June 18, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 20, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-37710 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1733]

**Massachusetts; Declaration of Disaster Loan Area**

Hampden County and adjacent counties within the State of Massachusetts constitute a disaster area as a result of a tornado, high winds and flooding which occurred on October 3, 1979.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 21, 1980, and for economic injury until the close of business on August 21, 1980, at: Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 21, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-37708 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

[License No. 04/04-0137]

**LeBaron Capital Corp.; Issuance of License**

On May 3, 1978, a Notice was published in the Federal Register (43 FR 19092) stating that an application had been filed by LeBaron Capital Corporation, 4900 Bayou Boulevard, Suite 106, Pensacola, Florida 32503 with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (SBIC) (13 CFR 107.102 (1977)), for a license as an SBIC.

Interested parties were given until the close of business May 18, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958 as amended, after having considered the application and all pertinent information, the SBA issued License No. 04/04-0137 to LeBaron Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: November 30, 1979.

Peter F. McNeish,  
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-37712 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1690; Amdt. No. 1]

**Virgin Islands; Declaration of Disaster Loan Area**

The above-numbered declaration (see 44 FR 62387) is amended by extending the termination date for filing applications for loans for physical damage until the close of business on November 30, 1979; the economic injury closing date remains the same, i.e., June 16, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 21, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-37709 Filed 12-6-79; 8:45 am]  
BILLING CODE 8025-01-M

[License No. 02/02-0375]

**Sherwood Business Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company**

On September 4, 1979, a Notice was published in the Federal Register (44 FR 51890) stating that Sherwood Business Capital Corporation, 770 King Street, Port Chester, New York 10573, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.120 (1979)), for a license to operate as a small business investment company.

Interested parties were given until the close of business September 19, 1979, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on November 23, 1979, issued License No. 02/02-0375 to Sherwood Business Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)



Dated: November 29, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-37711 Filed 12-6-79; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF STATE

### Office of the Secretary

[CM-8/249]

#### Presidential Advisory Board on Ambassadorial Appointments; Meeting

The Department of State announces a meeting of the Presidential Advisory Board on Ambassadorial Appointments on December 15, 1979. In accordance with Section 10(d) of the Federal Advisory Committee Act, as amended (86 Stat. 770, 5 U.S.C. App. s 10(d)), the Department has determined that the meeting should be closed. The committee will necessarily discuss information of a personal nature about candidates for ambassadorial appointments. Public disclosure would constitute a clearly unwarranted invasion of the candidates' personal privacy.

Owing to difficulties in scheduling the meeting and the fact that the determination for a closed meeting was under review at the highest levels of the Department, it was impossible to provide this notice under the customary two-week notification. Rescheduling of the meeting was not feasible owing to Presidential requirements.

Ben H. Read,

Chairman, Presidential Advisory Board on Ambassadorial Appointments.

December 4, 1979.

[FR Doc. 79-37845 Filed 12-6-79; 8:45 am]

BILLING CODE 4710-10-M

## VETERANS ADMINISTRATION

#### Jefferson Barracks National Cemetery, Undeveloped Property; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the land development at Jefferson Barracks National Cemetery, Missouri.

The Cemetery Master Plan consists of a stage-development program. The 306.98 acre cemetery contains approximately 181.65 undeveloped acres. The undeveloped acreage will be developed in several stages with various sizes of land parcels to provide an additional 119,591 gravesites. Current

phase development includes a 40 acre land parcel.

During the construction phases of the project, special attention should be given to the implementation of effective erosion and sedimentation controls because of the additional subsoil deposits from gravesite excavation and steep slopes existing above a major stream. Other mitigating actions include the use of an effective landscape and open space design, dust and fume emission controls, onsite noise abatement techniques and compatible architectural design.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sittler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: November 20, 1979.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-37813 Filed 12-6-79; 8:45 am]

BILLING CODE 8320-01-M

## INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

#### Expedited Procedures for Recovery of Fuel Costs

Decided: December 4, 1979.

In our decisions of November 13, 20 and 27, 1979, a 10-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10.2 percent, we are authorizing that the 10-percent surcharge on this traffic remain in effect.

All owner-operators are to continue to receive compensation at the 10-percent level. However, we are authorizing a 1.8-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators. No change will be made in the existing authorization of a 3.8-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the governor of each State and the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

*It is ordered:*

This decision shall become effective Friday, 12:01 a.m., December 7, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal absent and not participating.

Agatha L. Mergenovich,  
Secretary.

#### Appendix—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)

January 1, 1979, 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

December 3, 1979, 102.0¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From transportation performed by owner operators (apply to all truckload rated traffic), 16.9%. Percent surcharge developed, 10.2%. Percent surcharge allowed, 10%.

(2) Other (including less-truckload traffic), 2.9%. Percent surcharge developed, 1.8%. Percent surcharge allowed, 1.8%.

(3) Bus carriers 6.3%. Percent surcharge developed, 3.8%. Percent surcharge allowed, 3.8%.

[FR Doc. 79-37877 Filed 12-6-79; 8:45 am]

BILLING CODE 7035-01-M

#### Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense

under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1058.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC 115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before December 28, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HG-38-79 (Special Certificate—Used Household Goods), filed November 29, 1979. Applicant: GENERAL WAREHOUSE CO. INC., Highway 281, South Jean Ribaut Rd., P.O. Box 208, Port Royal, SC 29935. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036.

Authority sought: Between points in Beaufort, Jasper, Hampton, and Colleton Counties, SC, serving the Marine Corps Station, Beaufort, SC, the Marine Corps Recruiting Depot, Parris Island, SC, the U.S. Naval Hospital, Beaufort, SC, and the Laurel Bay Government Housing Project, which extends over Jasper County within the State of South Carolina.

HG-39-79 (Special Certificate—Used Household Goods), filed November 30, 1979. Applicant: JUDGE MOVING & STORAGE CO., INC., 1204—7th St. S., Great Falls, MT 59401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, DC 20036. Authority sought: Between points in Cascade, Chouteau, Fergus, Glacier, Hill, Lewis & Clark, Meagher, Pondera, Teton, Toole, Blaine, Broadwater, Jefferson, Judith Basin, and Powell Counties, MT, serving Malmstrom Air Force Base, MT.

HG-40-79 (Special Certificate—Used Household Goods), filed December 3, 1979. Applicant: DAVIS MOVING & STORAGE, INC., 6700 Allied Way, Little Rock, AR 72209. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW—Ste 1200, Washington, DC 20036. Authority sought: Between points in Pulaski, Lonoke, Saline, Garland, Hot Springs, Grant, Jefferson, Arkansas, White, Prairie, Perry, Fulkner, Conway, Clebourne, Van Buren, Independence, Stone, Izard, Sharp, Fulton, Baxter,

Marion and Searcy Counties, AR, serving Little Rock, Air Force Base, AR.

By the Commission.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37878 Filed 12-6-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Authorization Order No. 16]

#### Kansas City Terminal Railway Company, Directed to Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustees)

Decided: November 29, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 58343 (October 1, 1979).

RI operates four synchronized Whiting 35-ton jacks that work in tandem to lift a locomotive in order to remove the trucks and make repairs. One of the jacks, the control jack, serial number MA-1386, is in need of repairs. The cost of repairs for this jack is \$3,513.29 for materials, \$2,257.90 for labor, for a total repair cost of \$5,771.19.

Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds \$1,200 per unit. See Supplemental Order No. 4 (served October 15, 1979). [44 FR 61127, Oct. 23, 1979]. Accordingly, the DRC submitted an urgent request for authority to repair these vehicles. See wire to Joel E. Burns, dated November 21, 1979.

The DRC seeks Commission authorization to repair Whiting jack serial number MA-1386, on the grounds that the jack is necessary in order to properly perform locomotive repairs.

*We find:*

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

*It is ordered:*

1. The DRC is authorized to make repairs to RI whiting jack serial number MA-1386, at a cost of \$3,513.29 for materials, \$2,257.90 for labor, for a total

repair cost of \$5,771.19, as requested in a telegram from DRC to Joel E. Burns dated November 21, 1979.

2. The repairs authorized above shall be completed within the directed service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Member Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37878 Filed 12-6-79; 8:45 am]

BILLING CODE 7035-01-M



# Sunshine Act Meetings

Federal Register

Vol. 44, No. 237

Friday, December 7, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-258, Amdt. 2; Dec. 3, 1979]

### CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the December 6, 1979, meeting agenda.

**TIME AND DATE:** 9:30 a.m., December 6, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

#### SUBJECT:

##### Addition

5a. Docket 27360, *Continental Air Lines, Inc., Enforcement Proceeding*, review on Board initiative (no petitions for review filed) of ALJ's termination of proceeding on Part 252 "no-smoking" violations. (Memo 9325, OGC)

##### Deletion

15. Amendment of Rules of Practice in Enforcement Proceedings to simplify and expedite procedures for settlement, and to conform provisions for withholding of documents to Freedom of Information Act standards. (BCP)

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** Item 5a must be considered by the Board on short notice because, unless the Board acts on December 7, the ALJ's termination of the proceeding under Section 302.28 of the regulations, becomes the order of the Board on December 10, ten days after the time (November 30) for filing petitions for discretionary review. The case was not submitted earlier because it was

impossible due to unavailability of staff coordination. Item 15 is being deleted from the December 6, 1979 calendar due to the insufficient time available for coordination with other Bureau staffs. Accordingly, the following Members have voted that agency business requires the addition of Item 5a and the deletion of Item 15 from the December 6, 1979 calendar and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2384-79; Filed 12-5-79; 3:47 pm]  
**BILLING CODE 6320-01-M**

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[M-258, Amdt. 3; Dec. 4, 1979]

### CIVIL AERONAUTICS BOARD.

Notice of Addition and Closure of Item to the December 6, 1979, meeting agenda.

**TIME AND DATE:** 9:30 a.m., December 6, 1979.

**PLACE:** Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 16. Board position on cargo rate flexibility as proposed in H.R. 5882. (OGC)

**STATUS:** Open (Items 1-15), Closed (Item 16).

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** At the November 29, 1979, Hearings on H.R. 5882—proposed rate flexibility for foreign air transportation of cargo—the House Aviation Subcommittee was promised further Board views on appropriate means of providing rate flexibility for foreign cargo. The staff has, since the hearings, been considering various options for cargo rate flexibility which should be considered by the Board. Since the Committee was promised the Board's response as soon as possible, it is important that Board consideration of this matter not be delayed. Accordingly, the following Members have voted that Item 16 be added to the December 6, 1979 calendar, and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia

Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

The Board is to consider various options for providing rate flexibility for foreign cargo. This matter involves questions of foreign rate policy which could be the subject of international negotiations. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies prior to such negotiations could seriously compromise the position of the United States to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of the proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting on this item should be closed:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

#### Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirshtein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter. Managing Director.—Mr. Cressworth Lander. Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Director.—Mr. Michael E. Levine.

Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.

Bureau of International Aviation.—Mr. Stanford Rederer, Mr. Douglas V. Leister, Mr. Vance Fort, Mr. John H. Kiser, Mr. Richard M. Loughlin, and Mr. Ivars V. Mellups.

Bureau of Domestic Aviation.—Ms. Barbara A. Clark, Mr. Paul L. Gretch, and Mr. Mark S. Kahan.

Office of Economic Analysis.—Mr. Robert H. Frank and Ms. Julie Moll.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Ms. Patricia Kennedy, and Mr. Glenn W. Wienhoff.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

#### General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C.

552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to the public observation:

Mary McInnis Schuman,  
General Counsel.

[S-2385-79; Filed 12-5-79; 3:47 pm]

**BILLING CODE 6320-01-M**

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[M-258, Amdt. 4; Dec. 5, 1979]

### CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the December 6, 1979, meeting.

**TIME AND DATE:** 9:30 a.m., December 6, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 7. Docket 36419, Texas-Alberta-Alaska case (OGC).

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** In Item 7, Office of the General Counsel recommended adoption of a Draft Order ruling on a petition for review of Order 79-10-139 filed in this case. However, by Order 79-11-216, the Administrative Law Judge reconsidered his ruling in Order 79-10-139, and reversed his prior position. Board Regulation § 385.53 provides that "(i)f the initial action is reversed, the petition for review shall not be submitted to the Board."

Therefore, the OGC recommendation on the petition for review is unnecessary, and should be deleted. Accordingly, the following Members have voted that Item 7 be deleted from the December 6, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2386-79; Filed 12-5-79; 3:47 pm]

**BILLING CODE 6320-01-M**

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[M-258, Amdt. 5; Dec. 5, 1979]

### CIVIL AERONAUTICS BOARD.

Notice of addition of item to the December 6, 1979, meeting agenda.

**TIME AND DATE:** 9:30 a.m., December 6, 1979.

**PLACE:** Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 9a. Dockets 37065 and 36499; *Application of United for Emergency Exemption* to operate one daily Chicago-West Palm Beach flight for 120 days, beginning December 13, 1979, *Denver/*

*Chicago-Florida Show-Cause Proceeding.* (BDA)

**STATUS:** Open (Items 1-15), Closed (Item 16).

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** United has advertised the flight for operation beginning December 13, 1979 and a number of passengers already hold confirmed reservations. Consequently it is essential that the Board consider the matter as soon as possible. Accordingly, the following Members have voted that Item 9a. be added to the December 6, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2387-79; Filed 12-5-79; 3:47 pm]

**BILLING CODE 6320-01-M**

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### COMMODITY FUTURES TRADING COMMISSION.

**TIME AND DATE:** 10 a.m., December 11, 1979.

**PLACE:** 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

Title III Organization.  
Proposed amendment to Section 1.12.  
CFTC Reparations System.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2379-79; Filed 12-5-79; 10:25 am]

**BILLING CODE 6351-01-M**

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### COMMODITY FUTURES TRADING COMMISSION.

**TIME AND DATE:** 11:30 a.m., December 11, 1979.

**PLACE:** 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Matters concerning Legislation and Surveillance.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2380-79; Filed 12-5-79; 10:25 am]

**BILLING CODE 6351-01-M**

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### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

**TIME AND DATE:** 9:30 a.m. (Eastern Time). Tuesday, December 11, 1979.

**PLACE:** Commission Conference Room, No. 5240, on the fifth floor of the

Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

**STATUS:** Part will be open to the public and part will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Open to the Public

1. Recommendation that 706 designation not be granted to the Detroit (Michigan) Human Rights Department.
2. Proposed final 706 designation for North Dakota Department of Labor.
3. Proposed sole source contract for Demographic services.
4. Freedom of Information Act Appeal No. 79-9-FOIA-300, concerning a respondent's request for charge files and agency memoranda.
5. Federal Aviation Administration's proposed EEO regulations for Airports.
6. Proposed Interim OFCCP regulations.
7. Report on Commission Operations by the Executive Director.

#### Closed to the Public

Litigation Authorization: General Counsel Recommendations.

#### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued December 4, 1979.

[S-2388-79; Filed 12-5-79; 3:47 pm]

**BILLING CODE 6570-06-M**

8

### FEDERAL ELECTION COMMISSION.

#### FEDERAL REGISTER NO. 2336.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Thursday, December 6, 1979 at 10 a.m.

**CHANGE IN MEETING:** The following items have been added to the agenda—

1. Procedure for Tally Vote Approval for the Certification of Matching Fund Payments.
2. Federal Candidate Debate Regulations.

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2381-79; Filed 12-5-79; 10:25 am]

**BILLING CODE 6715-01-M**

9

### FEDERAL MARITIME COMMISSION.

**TIME AND DATE:** December 12, 1979, 10 a.m.

**PLACE:** Hearing Room One—1100 L Street NW., Washington, D.C. 20573.

**STATUS:** Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Trailer Marine Transport Corporation—Fifteen percent general increase between United States Atlantic and Gulf ports and ports in Puerto Rico.



2. Matson Navigation Company increase in wharfage charges at West Coast ports.

3. Agreement No. 9891-7: Application for renewal of the term of approval of the Unigulf Sailing and Ratemaking Agreement.

4. Agreement Nos. 10333 and 10333-1: The Calcutta and Bangladesh/U.S.A. Pool Agreement.

5. Agreement No. 9938-3: Lloyd Brasileiro/Netumar Line Cooperative Working Arrangement—Application for extension of term of approval.

6. Agreement No. 10051-4: Mediterranean Force Majeure Agreement—Application for extension of term of approval.

7. Amendments to General Order 13 accommodating the tariff filing requirements for controlled carriers under the Ocean Shipping Act of 1978.

8. Docket No. 79-91: Pan Ocean Bulk Carriers, Ltd.—Investigation of Rates on Neo-Bulk Commodities in the Trade Between the United States and South Korea—Status report of Presiding Officer.

9. Special Docket No. 664: Application of Sea-Land Service, Inc. for the Benefit of Haynes Furniture Co., Inc.—Review of initial decision.

10. Docket No. 78-46: Amendment to Financial Reports of Common Carriers by Water in the Domestic Offshore Trades—Review of comments.

#### Portions Closed to the Public

11. Docket No. 79-86: Japan/Korea-Atlantic and Gulf Freight Conference Rules Pertaining to Chassis Availability and Demurrage Charges That Result When Chassis are Not Made Available—Consideration of pending motions and possible consideration of the record.

2. Docket No. 79-10: Rates of Far Eastern Shipping Company—Petition for reconsideration by Far Eastern Shipping Company.

**CONTACT PERSON FOR MORE INFORMATION:** Francis C. Hurney, Secretary, (202) 523-5725.

[S-2377-79 Filed 12-5-79; 10:25 am]

**BILLING CODE 6730-01-M**

#### 10

**FEDERAL RESERVE SYSTEM** (Board of Governors).

**TIME AND DATE:** 10 a.m., Wednesday, December 12, 1979.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

##### Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of Philadelphia.

#### Discussion Agenda

1. Board's regulatory improvement program: Consideration of Subparts A and B of Regulation J (Collection of Checks and Other Items and Transfers of Funds) dealing with check collection and wire transfers.

2. Proposed policy statement on the disposition of income from the sale of credit life insurance.<sup>1</sup>

3. Proposed Federal Reserve Bank budgets for 1980.

4. Any agenda items carried forward from a previously announced meeting.

**Note.**—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 5, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-2376-79 Filed 10-5-79; 10:25 am]

**BILLING CODE 6210-01-M**

#### 11

#### NATIONAL TRANSPORTATION SAFETY BOARD.

**TIME AND DATE:** 10 a.m., Friday, December 14, 1979. [NM-79-44]

**PLACE:** NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

**STATUS:** Open.

**MATTER TO BE CONSIDERED:** Briefing by the National Highway Traffic Safety Administration on Federal Motor Vehicle Safety Standard 208—Passive Restraints.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Sharon Flemming, 202-472-6022.

December 5, 1979.

[S-2383-79 Filed 12-5-79; 12:05 pm]

**BILLING CODE 4910-58-M**

#### 12

**PAROLE COMMISSION:** National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

**TIME AND DATE:** Friday, December 7, 1979, at 9:30 a.m.

<sup>1</sup> Note: Anyone planning to attend specifically for Item 2 should contact the office below on Tuesday, December 11, 1979, to assure that it has not been postponed to a future meeting.

**PLACE:** Room 818, 320 First Street NW., Washington, D.C. 20537.

**STATUS:** Closed pursuant to a vote to be taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

#### CONTACT PERSON FOR MORE

**INFORMATION:** A. Ronald Peterson, Analyst; (202) 724-3094.

[S-2382-79 Filed 12-5-79; 11:25 am]

**BILLING CODE 4410-01-M**

#### 13

#### CIVIL AERONAUTICS BOARD.

**Note.**—In the Federal Register of Wednesday, December 5, 1979, the Civil Aeronautics Board notice published as item 2 is a duplicate of item 1. The item 2 notice is therefore revoked, and the following notice inserted in its place.

**TIME AND DATE:** 9:30 a.m.—December 4, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428

**SUBJECT:** 1. Dockets 36445 and 36538, Air Pacific's notice to suspend service at Chico, California, (BDA). 2. dockets 36228, 36229, 36230, and 35418; United's Notices to terminate service at Modesto, Bakersfield and Stockton; Petitions of the Bakersfield Parties to Prohibit Termination of Service by United at Bakersfield; Petition of Stockton to Prohibit Termination of Service by United at Stockton. (BDA)

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, The Secretary, (202) 873-5068.

**SUPPLEMENTARY INFORMATION:** The Board would like to meet on Short notice on Item 1 so they can authorize emergency, temporary compensation to Westair to provide Chico's essential air service. Also Item 2 will be discussed so that the Board can (a) move quickly to allow a transition at Bakersfield and (b) seek carrier proposals to provide service at Stockton and Modesto. Accordingly, the following Members have voted that a meeting be held on December 4, 1979 at 9:30 a.m. and that no earlier announcement of this meeting was possible:

Chairman Marvin S. Cohen  
Member Richard J. O'Melia  
Member Elizabeth E. Bailey  
Member Gloria Schaffer

[FR S-2361-79 Filed 12-3-79; 3:38 pm]

**BILLING CODE 6320-01-M**

Friday  
December 7, 1979

## Part II

# Department of Labor

Employment Standards Administration,  
Wage and Hour Division

Minimum Wages for Federal and  
Federally Assisted Construction; General  
Wage Determination Decisions

Department of Labor  
Federal Register



## DEPARTMENT OF LABOR

Employment Standards  
Administration, Wage and Hour  
DivisionMinimum Wages for Federal and  
Federally Assisted Construction;  
General Wage Determination  
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the

provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas  
Decisions to General Wage  
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained

by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination  
Decisions

Georgia.....GA79-1156

Modification to General Wage  
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

|                              |               |
|------------------------------|---------------|
| Florida:                     |               |
| FL79-1094.....               | June 8, 1979  |
| FL79-1110.....               | July 20, 1979 |
| FL79-1118.....               | Aug. 17, 1979 |
| FL79-1109.....               | Oct. 1, 1978  |
| FL79-1068.....               | Apr. 13, 1979 |
| Iowa:                        |               |
| IA78-4100.....               | Nov. 24, 1978 |
| IA78-4101.....               | Nov. 24, 1978 |
| IA78-4108.....               | Nov. 24, 1978 |
| IA78-4104.....               | Nov. 24, 1978 |
| IA78-4105.....               | Nov. 24, 1978 |
| IA78-4106.....               | Nov. 24, 1978 |
| IA78-4107.....               | Nov. 24, 1978 |
| IA78-4109.....               | Nov. 24, 1978 |
| IA78-4110.....               | Nov. 24, 1978 |
| IA78-4111.....               | Nov. 24, 1978 |
| IA78-4112.....               | Nov. 24, 1978 |
| Kansas—MO79-4065.....        |               |
| June 1, 1979                 |               |
| Kentucky:                    |               |
| KY79-1031.....               | Feb. 9, 1979  |
| KY79-1034.....               | Feb. 9, 1979  |
| Pennsylvania—PA78-3069.....  | Oct. 6, 1978  |
| Missouri—MO79-4065.....      | June 1, 1979  |
| Tennessee:                   |               |
| TN78-1091.....               | Oct. 20, 1978 |
| TN79-1104.....               | June 29, 1979 |
| West Virginia—WV79-3044..... | Nov. 2, 1979  |

Supersedeas Decisions to General Wage  
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

|                                     |               |
|-------------------------------------|---------------|
| Georgia—GA78-1015 (GA79-1155).....  | Jan. 23, 1976 |
| Kentucky—KY79-1072 (KY79-1158)..... | Apr. 20, 1979 |
| Kentucky—KY79-1035 (KY79-1159)..... | Feb. 9, 1979  |
| Missouri—MO79-4059 (MO79-4092)..... | Mar. 30, 1979 |

Cancellation of General Wage  
Determination Decisions

None.

Signed at Washington, D.C. this 30th day of November 1979.

Gerald M. Parks,

Acting Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

| Basic Hourly Rates | Fringe Benefits Payments |          |          |                            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|----------------------------|
|                    | H & W                    | Pensions | Vacation | Education and/or Appr. Tr. |                            |
| \$11.15            | .70                      | .70      |          | .07                        |                            |
| 10.10              | .90                      | .55      |          | .08                        |                            |
| 11.15              | .70                      | .70      |          | .07                        |                            |
| 11.00              | .98                      | 1.00     |          | .10                        |                            |
| 10.42              | .92                      | 1.30     |          | .09                        |                            |
| 12.85              | .70                      | 4.6%+3%  |          | 1%                         |                            |
| 10.65              | .60                      | .70      |          | .10                        |                            |
| 12.13              | 1.13                     | 1.10     |          | .14                        |                            |
| 9.05               | 1.13                     | 1.10     |          | .14                        |                            |
| 11.06              | .75                      | 1.05     |          | .10                        |                            |
| 11.06              | .75                      | 1.05     |          | .10                        |                            |

DECISION #FL79-1094 - Mod. #2  
(64 FR 33328 - June 8, 1979)  
Dade County, Florida

Change:  
Bricklayers  
Carpenters  
Cement Masons  
Ironworkers  
Plumbers; Pipefitters

DECISION #FL79-1110 - Mod. #3  
(64 FR 42858 - July 20, 1979)  
Dade County, Florida

Change:  
Electricians  
Fitter Drivers  
Refrigeration & Air Condition-  
ing Mechanics:  
A/C Units over 15 tons  
A/C Units over 7.5 tons  
but under 15 tons  
Sprinkler Fitters

DECISION #FL79-1118 - Mod. #1  
(64 FR 48564 - August 17, 1979)  
Pinellas County, Florida

Change:  
Sprinkler Fitters

NEW DECISION

STATE: GEORGIA  
COUNTIES: BANKS, DAWSON, FORSYTH, FRANKLIN, HABERSHAM, HALL, LUMPKIN, RABUN,  
STEPHENS, TOWNS, UNION, & WHITE.  
DECISION NUMBER: GA79-1156  
DATE: DATE OF PUBLICATION  
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single  
family homes and apartments up to and including four stories.

| Basic Hourly Rates | Fringe Benefits Payments |          |          |                            | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|----------------------------|
|                    | H & W                    | Pensions | Vacation | Education and/or Appr. Tr. |                            |
| \$ 5.00            |                          |          |          |                            |                            |
| 6.81               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 5.06               |                          |          |          |                            |                            |
| 4.72               |                          |          |          |                            |                            |
| 3.00               |                          |          |          |                            |                            |
| 4.28               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 6.14               |                          |          |          |                            |                            |
| 5.07               |                          |          |          |                            |                            |
| 5.00               |                          |          |          |                            |                            |
| 4.50               |                          |          |          |                            |                            |
| 3.00               |                          |          |          |                            |                            |
| 5.75               |                          |          |          |                            |                            |
| 5.73               |                          |          |          |                            |                            |
| 5.59               |                          |          |          |                            |                            |
| 5.08               |                          |          |          |                            |                            |
| 4.83               |                          |          |          |                            |                            |

## AIR CONDITIONING &amp; HEATING

MECHANICS

BRICKLAYERS

CARPENTERS

CEMENT MASONS

IRONWORKERS

PLUMBERS

ELECTRICIANS

INSULATION INSTALLERS

LABORERS:

Unskilled

Mason tenders

PAINTERS

PLUMBERS & PIPEFITTERS

ROOFERS

SHEET METAL WORKERS

SOFT FLOOR LAYERS

TRUCK DRIVERS

WELDERS - Rate for craft.

POWER EQUIPMENT OPERATORS:

Asphalt distributor

Backhoe

Front end loader

Motor grader

Roller

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).



MODIFICATION PAGE 3

| Decision #                                                                                                                                                                                                            | Basic Hourly Rates                          | Fringe Benefits Payments        |                                      |          | Education and/or Appr. Tr.      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|---------------------------------|--------------------------------------|----------|---------------------------------|
|                                                                                                                                                                                                                       |                                             | H & W                           | Pensions                             | Vacation |                                 |
| Decision # IA78-4100-Mod. #5<br>(43 FR 55161-November 24, 1978)<br>Building-Black Hawk Co., Ia.<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS<br>CARPENTERS<br>Millwrights; Piledrivermen<br>ROOFERS    | \$13.18<br>11.61<br>10.09<br>10.69<br>10.80 | .55<br>.45<br>.45<br>.45<br>.45 | 1.00<br>1.10<br>1.50<br>1.50<br>1.50 |          | .10<br>.02<br>.03<br>.03<br>.03 |
| Decision # IA78-4101-Mod. #4<br>(43 FR 55162-November 24, 1978)<br>Building-Cerro Gordo Co. Ia.<br>CHANGE:<br>ASBESTOS WORKERS<br>PLUMBERS & STEAMFITTERS<br>SHEET METAL WORKERS<br>ROOFERS                           | 12.75<br>13.49<br>11.08<br>9.52             | .89<br>.65<br>1.00<br>1.00      | 1.025<br>.55<br>.72<br>1.00          |          | .04<br>.14<br>.04<br>.10        |
| Decision # IA78-4103-Mod. #4<br>(43 FR 55165-November 24, 1978)<br>Building-Des Moines Co., Ia.<br>CHANGE:<br>CARPENTERS<br>Carpenters<br>Millwrights & Piledrivermen<br>ASBESTOS WORKERS                             | 11.65<br>12.35<br>13.18                     | .75<br>.75<br>.55               | .90<br>.90<br>1.00                   |          | .04<br>.04<br>.10               |
| Decision # IA78-4104-Mod. #4<br>(43 FR 55166-November 24, 1978)<br>Building-Dubuque Co., Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS<br>CARPENTERS<br>Carpenters<br>Piledrivermen<br>Millwrights | 13.18<br>10.84<br>11.22<br>11.62<br>11.72   | .55<br>.45<br>.37<br>.37<br>.37 | 1.00<br>.25<br>.37<br>.37<br>.37     |          | .10<br>.02<br>.02<br>.02<br>.02 |

MODIFICATION PAGE 2

| Decision #                                                                                                                                                                                                                                                                                                                | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                                                                                                                                                                                                                                                                                                                           |                    | H & W                    | Pensions | Vacation |                            |
| Decision # EL76-1108 - Mod. #1<br>(41 FR 43555 - October 1, 1976)<br>Brevard County, Florida (excludes Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Walabar Radar Site)<br>Delete:<br>Geographical area as previously published<br>Add:<br>Geographical area as listed above |                    |                          |          |          |                            |
| Decision # EL79-1068 - Mod. #5<br>(44 FR 22309 - April 13, 1979)<br>Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Walabar Radar Site<br>Delete:<br>Geographical area as previously published<br>Add:<br>Geographical area as listed above                                     |                    |                          |          |          |                            |

MODIFICATION PAGE 5

| Decision #                                                                                                                                                | Basic Hourly Rates | Fringe Benefits Payments |              |          | Education and/or Appr. Tr. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------------|--------------|----------|----------------------------|
|                                                                                                                                                           |                    | H & W                    | Pensions     | Vacation |                            |
| Decision # IA78-4109-Mod. #6<br>(43 FR 55174-November 24, 1978)<br>Building-Scott County, Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>CARPENTERS               | \$13.18<br>12.01   | .55<br>.60               | 1.00<br>.90  |          | .10<br>.06                 |
| Decision # IA78-4110-Mod. #4<br>(43 FR 55175-November 24, 1978)<br>Building-Story County, Iowa<br>CHANGE:<br>ASBESTOS WORKERS                             | 12.75              | .89                      | 1.025        |          |                            |
| Decision # IA78-4111-Mod. #4<br>(43 FR 55177-November 24, 1978)<br>Building-Webster Co., Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS | 12.75<br>11.20     | .89                      | 1.025<br>.40 |          | .02                        |
| Decision # IA78-4112-Mod. #5<br>(43 FR 55178-November 24, 1978)<br>Building-Woodbury Co., Iowa<br>CHANGE:<br>LATHERS                                      | 11.13              |                          |              |          | .01                        |

MODIFICATION PAGE 4

| Decision #                                                                                                                                                                                           | Basic Hourly Rates                        | Fringe Benefits Payments        |                              |          | Education and/or Appr. Tr.        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------|------------------------------|----------|-----------------------------------|
|                                                                                                                                                                                                      |                                           | H & W                           | Pensions                     | Vacation |                                   |
| IA78-4104 Continued<br>MARBLE SETTERS<br>TERRAZZO WORKERS<br>TILE SETTERS                                                                                                                            | 10.59<br>10.59<br>10.59                   | .45<br>.45<br>.45               | .25<br>.25<br>.25            |          |                                   |
| Decision # IA78-4105-Mod. #4<br>(43 FR 55168-November 24, 1978)<br>Building-Johnson Co., Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS<br>ELECTRICIANS<br>ROOFERS<br>TILE SETTERS | 13.18<br>12.89<br>13.27<br>10.30<br>11.78 | .55<br>.65<br>.65<br>.65<br>.55 | 1.00<br>.55<br>38+.50<br>.55 |          | .10<br>.02<br>3/48<br>.02<br>3/48 |
| Decision # IA78-4106-Mod. #4<br>(43 FR 55169-November 24, 1978)<br>Building-Linn County, Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS<br>ELECTRICIANS<br>ROOFERS<br>TILE SETTERS | 13.18<br>12.89<br>13.27<br>10.30<br>11.78 | .55<br>.65<br>.65<br>.65<br>.55 | 1.00<br>.55<br>38+.50<br>.55 |          | .10<br>.02<br>3/48<br>.02<br>3/48 |
| Decision # IA78-4107-Mod. #4<br>(43 FR 55171-November 24, 1978)<br>Building-Polk County, Iowa<br>CHANGE:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS                                            | 12.75<br>12.03                            | .89<br>.90                      | 1.025<br>1.00                |          | .02                               |



MODIFICATION PAGE 7

| Basic Hourly Rates                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Fringe Benefits Payments                                                                                                                    |                                                                                                              |                                                                                                                               |                                                         | Education and/or Appr. Tr.                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | H & W                                                                                                                                       | Pensions                                                                                                     | Vacation                                                                                                                      | Vocation                                                |                                                                                                              |
| DECISION #M079-4065 - Mod. #2<br>(44 FR 3329 - June 1, 1979)<br>Cass, Clay, Jackson, Johnson & Lafayette Counties, Missouri; Johnson & Wyanotte Counties, Kansas.<br>Change:<br>Asbestos workers<br>Electricians:<br>Zone 1:<br>Zone 2:<br>Electricians (contracts exceeding 2000 man hours)<br>Electricians (contracts not exceeding 2000 man hours)<br>Zone 3:<br>Electricians (contracts exceeding 2000 man hours)<br>Electricians (contracts not exceeding 2000 man hours)<br>Zone 4:<br>Glaziers<br>Line Construction:<br>Zone 1:<br>Linemen<br>Linemen operator<br>Groundman<br>Zone 2:<br>Linemen<br>Cable splicers<br>Powderman<br>Sheet metal workers<br>Soft floor layers | \$13.27<br>13.38<br>13.38<br>12.38<br>13.38<br>11.78<br>13.38<br>11.18<br>14.32<br>13.33<br>9.44<br>11.96<br>12.56<br>9.91<br>12.83<br>9.81 | .60<br>.69<br>.69<br>.69<br>.69<br>.69<br>.61<br>.45<br>.45<br>.45<br>.45<br>.45<br>.45<br>.45<br>.75<br>.50 | 1.55<br>38+.70<br>38+.70<br>38+.70<br>38+.70<br>38+.70<br>1.04<br>38+.25<br>38+.25<br>38+.25<br>38<br>38<br>38<br>1.10<br>.85 | .05<br>.95<br>.95<br>.95<br>.95<br>.95<br>19.78<br>1.00 | .12<br>.12<br>.12<br>.12<br>.12<br>.12<br>.04<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8 |

MODIFICATION PAGE 6

| Basic Hourly Rates                                                                                                                                                                                                                                                         | Fringe Benefits Payments                           |                                        |                                        |                                                                            | Education and/or Appr. Tr.                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                            | H & W                                              | Pensions                               | Vacation                               | Vocation                                                                   |                                                                            |
| DECISION #K779-1031 - Mod. #3<br>(44 FR 8497 - February 9, 1979)<br>McCracken County, Kentucky<br>Change:<br>Electricians:<br>Wiremen<br>Cable splicers<br>Line Construction:<br>Linemen & equipment operators<br>Cable splicers<br>Groundmen - truck drivers<br>Groundmen | \$12.05<br>12.30<br>11.95<br>12.20<br>8.96<br>8.72 | .50<br>.50<br>.70<br>.70<br>.70<br>.70 | 13%<br>13%<br>13%<br>13%<br>13%<br>13% | 1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1% | 1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1%<br>1/8 of 1% |
| DECISION #K779-1034 - Mod. #3<br>(44 FR 8504 - February 9, 1979)<br>Henderson County, Kentucky<br>Change:<br>Electricians:<br>Wiremen<br>Cable splicers                                                                                                                    | 12.83<br>13.08                                     | .50<br>.50                             | 3%<br>3%                               | 1/8 of 1%<br>1/8 of 1%                                                     | 1/8 of 1%<br>1/8 of 1%                                                     |
| DECISION NO. PA78-3069<br>MOD. NO. 8<br>(43 FR 46475 - October 6, 1978)<br>Berks County, Pennsylvania<br>Change:<br>ASBESTOS WORKERS<br>BRICKLAYERS & STONEMASONS<br>ELECTRICIANS:<br>REMAINDER OF COUNTY<br>SPRINKLER FITTERS                                             | \$11.61<br>10.40<br>12.49<br>13.55                 | 1.12<br>.90<br>.78<br>.75              | .90<br>.85<br>38+.30<br>1.05           | .01<br>.03<br>.08                                                          | .01<br>.03<br>.08                                                          |

MODIFICATION PAGE 9

| Basic Hourly Rates                                                                                                                                                                                                                                                 | Fringe Benefits Payments                           |                                              |                                                                      |                                                                            | Education and/or Appr. Tr.                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                    | H & W                                              | Pensions                                     | Vacation                                                             | Vocation                                                                   |                                                                            |
| DECISION #M78-1091 - Mod. #6<br>(43 FR 19207 - October 20, 1978)<br>Shelby County, Tennessee<br>Change:<br>Electricians:<br>Wiremen & Technicians<br>Cable splicers<br>Line Construction:<br>Linemen<br>Cable splicers<br>Special equipment operators<br>Groundmen | \$12.13<br>12.23<br>12.13<br>12.23<br>9.10<br>6.25 | 1.05<br>1.05<br>1.05<br>1.05<br>1.05<br>1.05 | 3% + .50<br>3% + .50<br>3% + .50<br>3% + .50<br>3% + .50<br>3% + .50 | 1/8 of 1%<br>1/8 of 1%<br>3/8 of 1%<br>3/8 of 1%<br>3/8 of 1%<br>3/8 of 1% | 1/8 of 1%<br>1/8 of 1%<br>3/8 of 1%<br>3/8 of 1%<br>3/8 of 1%<br>3/8 of 1% |
| DECISION #M79-1104 - Mod. #3<br>(44 FR 38137 - June 29, 1979)<br>Hamilton, Marion, Polk, & Rhea Counties, Tennessee<br>Change:<br>Lathers                                                                                                                          | 10.55                                              |                                              |                                                                      |                                                                            |                                                                            |
| DECISION NO. WY79-3044 - Mod. #1<br>(44 FR 63430 - November 2, 1979)<br>Berkeley, Jefferson, and Morgan Counties, West Virginia<br>Change:<br>BRICKLAYERS<br>Add:<br>SPRINKLER FITTERS                                                                             | \$ 9.89<br>12.90                                   | .75<br>1.05                                  |                                                                      |                                                                            | .08                                                                        |

MODIFICATION PAGE 8

| Basic Hourly Rates                                                                                                                                                                                                                                                                                                                                            | Fringe Benefits Payments                                       |                                                      |                                                  |                                                      | Education and/or Appr. Tr.                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------|------------------------------------------------------|------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                               | H & W                                                          | Pensions                                             | Vacation                                         | Vocation                                             |                                                      |
| DECISION #M079-4065 - Mod. #2 (Contd.)<br>Omit:<br>Line Construction:<br>Zone 1:<br>Groundman (1st 6 mos.)<br>Zone 2:<br>Groundman, over 1 year<br>Groundman, 1st year<br>Line truck and equipment operators:<br>1st year<br>2nd year<br>Over 2 years' experience<br>Add:<br>Line Construction:<br>Zone 2:<br>Groundman<br>Line truck and equipment operators | \$8.08<br>7.44<br>5.64<br>7.61<br>9.10<br>9.91<br>7.44<br>9.91 | .45<br>.45<br>.45<br>.45<br>.45<br>.45<br>.45<br>.45 | 38+.25<br>3%<br>3%<br>3%<br>3%<br>3%<br>3%<br>3% | 1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8 | 1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8<br>1/8 |



**SUPERSEDES DECISION**

STATE: GEORGIA  
COUNTIES: BURKE, COLUMBIA, GLASCOCK, HAWCOCK, JEFFERSON, JENKINS, LINCOLN  
MCDFUFFE, RICHMOND, TALLAPOOSA, WARREN, WASHINGTON, & WILKES  
Decision Number: GA79-1155 DATE: DATE OF PUBLICATION  
Supersedes Decision Number GA76-1015, dated January 23, 1976, in ltr FR 3590.  
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single  
family homes and apartments up to and including four stories.

|                                       | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---------------------------------------|--------------------------|--------------------------|----------|----------|----------------------------------|
|                                       |                          | H & W                    | Pensions | Vacation |                                  |
| <b>AIR CONDITIONING &amp; HEATING</b> |                          |                          |          |          |                                  |
| MECHANICS                             | \$ 4.84                  |                          |          |          |                                  |
| BRICKLAYERS                           | 7.00                     |                          |          |          |                                  |
| CARPENTERS                            | 5.90                     |                          |          |          |                                  |
| CEMENT MASONS                         | 5.50                     |                          |          |          |                                  |
| DRYWALL FINISHERS                     | 5.00                     |                          |          |          |                                  |
| DRYWALL HANGERS                       | 6.00                     |                          |          |          |                                  |
| ELECTRICIANS                          | 5.77                     |                          |          |          |                                  |
| GLAZIERS                              | 5.30                     |                          |          |          |                                  |
| INSULATION INSTALLERS                 | 4.86                     |                          |          |          |                                  |
| IRONWORKERS                           | 7.30                     |                          |          |          |                                  |
| LABORERS:                             |                          |                          |          |          |                                  |
| Unskilled                             | 3.44                     |                          |          |          |                                  |
| Mortar mixers                         | 3.50                     |                          |          |          |                                  |
| Asphalt rakers                        | 3.77                     |                          |          |          |                                  |
| Pipelayers                            | 4.75                     |                          |          |          |                                  |
| PAINTERS                              | 6.50                     |                          |          |          |                                  |
| PLASTERERS                            | 7.19                     |                          |          |          |                                  |
| PLUMBERS & PIPEFITTERS                | 6.59                     |                          |          |          |                                  |
| ROOFERS                               | 4.45                     |                          |          |          |                                  |
| SHEET METAL WORKERS                   | 5.00                     |                          |          |          |                                  |
| TILE SETTERS                          | 6.16                     |                          |          |          |                                  |
| TRUCK DRIVERS                         | 3.44                     |                          |          |          |                                  |
| <b>WELDERS - Rate for craft.</b>      |                          |                          |          |          |                                  |
| <b>POWER EQUIPMENT OPERATORS:</b>     |                          |                          |          |          |                                  |
| Asphalt distributor                   | 4.32                     |                          |          |          |                                  |
| Asphalt paver                         | 4.75                     |                          |          |          |                                  |
| Backhoe                               | 5.00                     |                          |          |          |                                  |
| Bulldozer                             | 4.23                     |                          |          |          |                                  |
| Fork lift                             | 4.43                     |                          |          |          |                                  |
| Front end loader                      | 4.15                     |                          |          |          |                                  |
| Motor grader                          | 4.60                     |                          |          |          |                                  |
| Roller                                | 3.87                     |                          |          |          |                                  |
| Spreader                              | 4.25                     |                          |          |          |                                  |
| Tractor                               | 4.00                     |                          |          |          |                                  |

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (11)).

STATE: KENTUCKY

**STATE:** KENTUCKY      **COUNTIES:** DAVIESS, HANCOCK,  
                                 & OHIO  
**DECISION NUMBER:** KY79-1158  
**SUPERSEDES DECISION NUMBER:** KY79-1072, dated April 20, 1979, in 44 FR 23736.  
**DESCRIPTION OF WORK:** RESIDENTIAL CONSTRUCTION PROJECTS - include single family homes and apartments up to and including four stories.

| Basic Hourly Rates                    | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|---------------------------------------|--------------------------|----------|----------|----------------------------|
|                                       | H & W                    | Pensions | Vacation |                            |
| <b>AIR CONDITIONING &amp; HEATING</b> |                          |          |          |                            |
| MECHANICS                             | \$ 5.43                  |          |          |                            |
| BRICKLAYERS                           | 5.61                     |          |          |                            |
| CARPENTERS                            | 4.75                     |          |          |                            |
| CEMENT MASONS                         | 6.06                     |          |          |                            |
| DRYWALL FINISHERS                     | 5.36                     |          |          |                            |
| DRYWALL HANGERS                       | 5.67                     |          |          |                            |
| ELECTRICIANS                          | 5.85                     |          |          |                            |
| INSULATION INSTALLERS                 | 5.21                     |          |          |                            |
| LABORERS:                             |                          |          |          |                            |
| Unskilled                             | 3.50                     |          |          |                            |
| Mason tenders                         | 4.00                     |          |          |                            |
| PAINTERS                              | 5.02                     |          |          |                            |
| PLUMBERS & PIPEFITTERS                | 5.68                     |          |          |                            |
| ROOFERS                               | 5.09                     |          |          |                            |
| SHEET METAL WORKERS                   | 5.38                     |          |          |                            |
| SOFT FLOOR LAYERS                     | 4.50                     |          |          |                            |
| TILE SETTERS                          | 5.50                     |          |          |                            |
| TRUCK DRIVERS                         | 3.97                     |          |          |                            |
| <u>WELDERS - Rate for craft.</u>      |                          |          |          |                            |
| <u>POWER EQUIPMENT OPERATORS:</u>     |                          |          |          |                            |
| Backhoe                               | 5.28                     |          |          |                            |
| Bulldozer                             | 7.14                     |          |          |                            |

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

**SUPERSEDES DECISION**

COUNTIES: BOONE, CAMPBELL,  
KENTON, & FENDLETON  
DATE: DATE OF PUBLICATION  
DECISION NUMBER: KY79-1159  
Supersedes Decision Number KY79-1035, dated February 9, 1979, in 44 FR 8506.  
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

|                                                                | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education end/or Appr. Tr. |
|----------------------------------------------------------------|--------------------|--------------------------|----------|----------|----------------------------|
|                                                                |                    | H & W                    | Pensions | Vacation |                            |
| ASBESTOS WORKERS                                               | \$14.01            | .75                      | 1.25     |          | .02                        |
| POTILERMAKERS                                                  | 10.70              | .65                      | 1.10     |          | .02                        |
| BRICKLAYERS & STONE MASONS                                     | 13.595             | 1.05                     | .70      |          | .02                        |
| CARPENTERS                                                     | 13.20              | .75                      | .85      |          | .075                       |
| CEMENT MASONS                                                  | 13.13              | .80                      | .95      |          | .30                        |
| ELECTRICIANS                                                   | 13.70              | .70                      | 3% + .80 |          | $\frac{1}{2}$ of 1%        |
| ELEVATOR CONSTRUCTORS:                                         |                    |                          |          |          |                            |
| Mechanics                                                      | 12.36              | .715                     | .56      | a + b    | .035                       |
| Helpers                                                        | 9.65               | .715                     | .56      | a + b    | .035                       |
| Probationary helpers                                           | 6.18               |                          |          |          |                            |
| GLAZIERS                                                       | 14.10              |                          | .60      |          | .01                        |
| IRONWORKERS:                                                   |                    |                          |          |          |                            |
| Reinforcing                                                    | 12.18              | 1.00                     | 2.25     |          | .02                        |
| Structural & Ornamental                                        | 13.08              | 1.00                     | 1.45     |          | .03                        |
| LATHERS                                                        | 14.02              |                          | .35      |          | .025                       |
| LINE CONSTRUCTION:                                             |                    |                          |          |          |                            |
| Linsmen & machine operators                                    | 13.90              | .70                      | 3% + .60 |          | $\frac{1}{2}$ of 1%        |
| Groundmen                                                      | 10.41              | .70                      | 3% + .60 |          | $\frac{1}{2}$ of 1%        |
| MARBLE SETTERS                                                 | 13.435             | .65                      | .45      |          |                            |
| MARBLE SETTER FINISHERS                                        | 12.35              |                          |          |          |                            |
| MILLWRIGHTS                                                    | 13.34              | .50                      | 1.10     |          | .10                        |
| PAINTERS:                                                      |                    |                          |          |          |                            |
| Brush, roller, taping, paper-hanging, wall covering, & washing | 13.55              |                          | .35      |          |                            |
| Steamcleaning (40' or over)                                    | 13.70              |                          | .35      |          |                            |
| Taping (on stilts)                                             | 13.95              |                          | .35      |          |                            |
| Spray                                                          | 14.05              |                          | .35      |          |                            |
| Sand & water blasting                                          | 14.45              |                          | .35      |          |                            |
| Drywall machine operators                                      | 14.55              |                          | .35      |          |                            |
| PIPEDRIVERS                                                    | 13.20              | .85                      |          |          | .075                       |
| PIPEFITTERS                                                    | 13.00              | 1.30                     |          |          | .08                        |
| PLASTERERS                                                     | 13.895             | 1.025                    | .75      |          | .02                        |
| PLUMBERS & GAS FITTERS                                         | 13.82              | 1.05                     | 1.20     |          | .07                        |

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only, as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. KY79-1159

| Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|--|----------------------------|
|                    | H & W                    | Pensions | Vacation |  |                            |
| \$11.50            | .75                      | .85      |          |  | .05                        |
| 14.32              |                          | .85      |          |  | .01                        |
| 12.88              | 1.563                    | 1.47     |          |  | .16                        |
| 13.835             | 1.06                     | .85      |          |  | .06                        |
| 13.33              | .75                      | 1.05     |          |  | .08                        |
| 13.385             | .65                      | .45      |          |  |                            |
| 12.35              |                          |          |          |  |                            |
| 13.385             | .65                      | .45      |          |  |                            |
| 12.35              |                          |          |          |  |                            |

## SEILONTROOL:

a. Seven Paid Holidays:  
New Year's Day; Memorial  
Day; Independence Day;  
Labor Day; Thanksgiving  
Day; Friday after Thanks-  
giving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate of employees with 5 years or more of service, or 6% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.



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DECISION NO. KY79-1159

LABORERS - Boone, Campbell,  
& Kenton Counties;

|           | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|-----------|--------------------------|--------------------------|----------|----------|----------------------------------|
|           |                          | H & W                    | Pensions | Vacation |                                  |
| Group A - | \$11.15                  | .80                      | .80      |          | .10                              |
| Group B - | 11.25                    | .80                      | .80      |          | .10                              |
| Group C - | 11.30                    | .80                      | .80      |          | .10                              |
| Group D - | 11.35                    | .80                      | .80      |          | .10                              |
| Group E - | 11.50                    | .80                      | .80      |          | .10                              |
| Group F - | 11.65                    | .80                      | .80      |          | .10                              |
| Group G - | 11.90                    | .80                      | .80      |          | .10                              |

## CLASSIFICATIONS DEFINITIONS

Group A - Common laborers, cement mason tenders, hand operated mechanical mule, mechanical sweeper, signal man;

Group B - Bottom man, pipe layers;

Group C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man;

Group D - Plaster tender, mason tender, stone mason tender, bottom jack-hammer man;

Group E - Plaster mixer pump operator;

Group F - Tunnel laborer;

Group G - Gunnite nozzle operator.

## LABORERS' CLASSIFICATIONS DEFINITIONS

Group I - General laborers, water boys, concrete pouring, concrete forms stripping and wrecking, hand digging and backfilling of ditches, clearing of right-of-ways and building sites, wood sheathing and shoring, signalman for concrete bucket, and general cleaning.

Group II - All air tool operators, air track drills, asphalt rakers, barco tamers, batcher plant and scale man, chain saw, concrete saw, electric hand grinder, all electric bush and chipping hammers, flagman, forklift operators, form setter (street or highway), gunnite laborers, hand spiker, Introflex burning rod, joint makers, mason tenders, pipe layers, plaster tenders, powderman helpers, power driven Georgia buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man and deck hand, signal man, sweeper and cleaner machines, vibrator operators, walk behind trenching machines, mortar mixer machines, water pumpman.

Group III - Gunnite nozzleman and gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pumpman, plaster pumpman.

Group IV - Powderman and Blaster.

Group V - Caisson holes (6 ft. & over) pressure and free air including tools.

Group VI - Tunnel man and tunnel sand miner, cofferdam (pressure and free air) sand hog or mucker (pressure or free air).

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DECISION NO. KY79-1159

LABORERS - Boone, Campbell,  
& Kenton Counties;

|           | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|-----------|--------------------------|--------------------------|----------|----------|----------------------------------|
|           |                          | H & W                    | Pensions | Vacation |                                  |
| Group A - | \$11.15                  | .80                      | .80      |          | .10                              |
| Group B - | 11.25                    | .80                      | .80      |          | .10                              |
| Group C - | 11.30                    | .80                      | .80      |          | .10                              |
| Group D - | 11.35                    | .80                      | .80      |          | .10                              |
| Group E - | 11.50                    | .80                      | .80      |          | .10                              |
| Group F - | 11.65                    | .80                      | .80      |          | .10                              |
| Group G - | 11.90                    | .80                      | .80      |          | .10                              |

## CLASSIFICATIONS DEFINITIONS

Group A - Common laborers, cement mason tenders, hand operated mechanical mule, mechanical sweeper, signal man;

Group B - Bottom man, pipe layers;

Group C - Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man;

Group D - Plaster tender, mason tender, stone mason tender, bottom jack-hammer man;

Group E - Plaster mixer pump operator;

Group F - Tunnel laborer;

Group G - Gunnite nozzle operator.

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DECISION NO. KY79-1159

## POWER EQUIPMENT OPERATORS:

|         | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---------|--------------------------|--------------------------|----------|----------|----------------------------------|
|         |                          | H & W                    | Pensions | Vacation |                                  |
| GROUP A | \$13.16                  | .96                      | 1.00     |          | .11                              |
| GROUP B | 13.00                    | .96                      | 1.00     |          | .11                              |
| GROUP C | 12.64                    | .96                      | 1.00     |          | .11                              |
| GROUP D | 11.86                    | .96                      | 1.00     |          | .11                              |
| GROUP E | 11.53                    | .96                      | 1.00     |          | .11                              |
| GROUP F | 9.33                     | .96                      | 1.00     |          | .11                              |

GROUP A: A-frame; Air compressor on steel erection; all rotary drills used on caisson work for foundations and substructure work; Boiler operator or compressor operator when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; Cherry pickers; Combination concrete mixer and tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Dredge (dipper, clam or suction) 3 man crew; Elevating grader or euclid loader; Floating equipment; Gradalls; Helicopter operator, (hoisting builders materials); Helicopter winch operator (hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack operator; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Pancakeboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines (over 24" wide); Tug boat

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats; Lead greaseman

GROUP C: Air compressor, pressurizing shafts or tunnels; All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure); Pump operator installing or operating well points or other type of dewatering system; Pumps (4" and over discharge); Submersible pumps (4" and over discharge); Trenchers (24" and under)

GROUP D: Compressors on building construction; Conveyors building material; Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Roller operator; Generators

GROUP E: Backfillers and tamers; Batch plant; Bar and joint installing machine; Bull floats; Burlap and curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman asphalt; Farm type tractors, pulling attachments; Finish- ing machines; Form trenchers; High pressure pumps (over 1/2" discharge); Hydro seeders; Self propelled powered spreader; Self propelled sub-grader; Tire repairman; Tractors (pulling sheep foot roller or grader); Vibratory compactors with integral power); Deckhand

GROUP F: Oilier, Helper, Signalman; Light plant operator; Power driven heaters (oil fired); Power boilers (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge); Inboard, Outboard motor boat launch

## SUPERSEDEAS DECISION

STATE: Missouri  
DECISION NO.: MO79-4092  
Supersedes Decision No. MO79-4059 dated March 30, 1979 in 44 FR 19111

COUNTY: Statewide

DATE: Date of Publication

DESCRIPTION OF WORK: Heavy and Highway Construction Projects

|         | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---------|--------------------------|--------------------------|----------|----------|----------------------------------|
|         |                          | H & W                    | Pensions | Vacation |                                  |
| Zone 1  | 11.76                    | .65                      | .70      | .50      | .03                              |
| Zone 1A | 11.36                    | .65                      | .70      | .50      | .03                              |
| Zone 2  | 11.21                    | .65                      | .70      | .50      | .03                              |
| Zone 3  | 11.90                    | .50                      | .40      | .40      | .03                              |
| Zone 4  | 11.30                    | .50                      | .40      | .40      | .03                              |
| Zone 5  | 10.35                    | .65                      | .70      | .50      | .03                              |
| Zone 6  | 11.87                    | .33                      |          |          | .03                              |
| Zone 7  | 11.87                    | .33                      |          |          | .03                              |
| Zone 7A | 11.57                    | .33                      | .30      |          | .03                              |
| Zone 8  | 11.47                    | .53                      |          |          | .03                              |
| Zone 9  | 11.00                    | .50                      | .30      |          | .05                              |
| Zone 10 | 11.66                    | .75                      | .90      |          |                                  |

## CARPENTERS &amp; PILEDRIVERMEN:

|         | Basic<br>Hourly<br>Rates | Fringe Benefits Payments |          |          | Education<br>and/or<br>Appr. Tr. |
|---------|--------------------------|--------------------------|----------|----------|----------------------------------|
|         |                          | H & W                    | Pensions | Vacation |                                  |
| Zone 1  | 11.76                    | .65                      | .70      | .50      | .03                              |
| Zone 1A | 11.36                    | .65                      | .70      | .50      | .03                              |
| Zone 2  | 11.21                    | .65                      | .70      | .50      | .03                              |
| Zone 3  | 11.90                    | .50                      | .40      | .40      | .03                              |
| Zone 4  | 11.30                    | .50                      | .40      | .40      | .03                              |
| Zone 5  | 10.35                    | .65                      | .70      | .50      | .03                              |
| Zone 6  | 11.87                    | .33                      |          |          | .03                              |
| Zone 7  | 11.87                    | .33                      |          |          | .03                              |
| Zone 7A | 11.57                    | .33                      | .30      |          | .03                              |
| Zone 8  | 11.47                    | .53                      |          |          | .03                              |
| Zone 9  | 11.00                    | .50                      | .30      |          | .05                              |
| Zone 10 | 11.66                    | .75                      | .90      |          |                                  |

## AREAS COVERED BY CARPENTERS &amp; PILEDRIVERMEN ZONES

Zone 1 - Franklin, Jefferson, St. Charles, Counties  
Zone 1A - Lincoln, Warren Counties  
Zone 2 - Pike, St. Francois & Washington Counties  
Zone 3 - Cass and Lafayette Counties  
Zone 4 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, Dekalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties  
Zone 5 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon & Texas Counties  
Zone 6 - Boone, Cooper & Howard Counties  
Zone 7 - Adair, Audrain, Benton, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scott, Shelby and Sullivan Counties  
Zone 7A - Callaway, Cole, Miller, Moniteau and Osage Counties  
Zone 8 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties  
Zone 9 - Clay, Jackson, Platte and Ray Counties  
Zone 10 - St. Louis County & City



## DECISION NO. M079-4092

| CEMENT MASONS | Basic Hourly Rates | Fringe Benefits Payments |          |         | Education and/or Appr. Tr. |
|---------------|--------------------|--------------------------|----------|---------|----------------------------|
|               |                    | H & W                    | Pensions | Vocelon |                            |
| Zone 1        | 11.675             | .65                      | .50      |         |                            |
| Zone 2        | 10.93              | 1.00                     | .95      |         |                            |
| Zone 3        | 9.50               | .65                      | .50      |         |                            |
| Zone 4        | 12.50              | .85                      | .50      |         |                            |
| Zone 5        | 7.50               |                          |          |         |                            |
| Zone 6        | 8.75               |                          |          |         |                            |
| Zone 7        | 10.43              |                          |          |         |                            |
| Zone 8        | 11.05              |                          |          |         |                            |
| Zone 9        | 7.40               | .65                      | .50      |         |                            |
| Zone 10       | 11.30              |                          |          |         |                            |
| Zone 11       | 10.55              |                          |          |         |                            |
| Zone 12       | 10.15              | 1.00                     | .95      |         |                            |

## CEMENT MASONS

Zone 1  
Zone 2  
Zone 3  
Zone 4  
Zone 5  
Zone 6  
Zone 7  
Zone 8  
Zone 9  
Zone 10  
Zone 11  
Zone 12

## AREAS COVERED BY CEMENT MASONS ZONES

Zone 1 - Bates, Carroll, Cass and Lafayette Counties  
Zone 2 - Dent, Phelps, Pike, Pulaski and Texas Counties  
Zone 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on projects less than \$100,000.00  
Zone 4 - Clay, Jackson, Platte and Ray Counties  
Zone 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties  
Zone 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster & Wright Counties  
Zone 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettit, Saline and St. Clair Counties  
Zone 8 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan, and Putnam Counties  
Zone 9 - Barry, Barton, Jasper, Lawrence, McDonald, Newton and Vernon Counties  
Zone 10 - Andrew, Atchinson, Buchanan, Caldwell, Clinton, Davies, Dekalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway and Worth Counties  
Zone 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery and Osage Counties  
Zone 12 - St. Louis City and County, Jefferson, and St. Charles Counties, and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects \$100,000.00

| CEMENT MASONS | Basic Hourly Rates | Fringe Benefits Payments |          |         | Education and/or Appr. Tr. |
|---------------|--------------------|--------------------------|----------|---------|----------------------------|
|               |                    | H & W                    | Pensions | Vocelon |                            |
| Zone 1        | 11.675             | .65                      | .50      |         |                            |
| Zone 2        | 10.93              | 1.00                     | .95      |         |                            |
| Zone 3        | 9.50               | .65                      | .50      |         |                            |
| Zone 4        | 12.50              | .85                      | .50      |         |                            |
| Zone 5        | 7.50               |                          |          |         |                            |
| Zone 6        | 8.75               |                          |          |         |                            |
| Zone 7        | 10.43              |                          |          |         |                            |
| Zone 8        | 11.05              |                          |          |         |                            |
| Zone 9        | 7.40               | .65                      | .50      |         |                            |
| Zone 10       | 11.30              |                          |          |         |                            |
| Zone 11       | 10.55              |                          |          |         |                            |
| Zone 12       | 10.15              | 1.00                     | .95      |         |                            |

## ELECTRICIANS

Zone 1  
Electrical contract over \$15,000.00  
Electrical contracts \$15,000.00 & under  
Zone 2  
Electrical contracts not to exceed 2000 man hours  
Electrical contracts 2000 man hours and over  
Zone 3  
Electrical contracts not to exceed 2000 man hours  
Electrical contracts 2000 man hours and over  
Zone 4  
Electrical contracts not to exceed 2000 man hours  
Electrical contracts 2000 man hours and over  
Zone 5  
Electrical contract not to exceed 2000 man hours  
Electrical contracts 2000 man hours and over  
Zone 6  
Electrical contracts over \$15,000.00  
Zone 7  
Electrical contract \$15,000.00 and under  
Zone 8  
Electrical contract \$15,000.00 and under  
Zone 9  
Electrical contract \$15,000.00 and under  
Zone 10  
Electrical contract \$15,000.00 and under  
Zone 11  
Electrical contract \$15,000.00 and under

| ELECTRICIANS | Basic Hourly Rates | Fringe Benefits Payments |          |         | Education and/or Appr. Tr. |
|--------------|--------------------|--------------------------|----------|---------|----------------------------|
|              |                    | H & W                    | Pensions | Vocelon |                            |
| Zone 1       | 11.65              | .49                      | 3%       | 11.5%   | 1/2                        |
| Zone 2       | 9.94               | .49                      | 3%       | 11.5%   | 1/2                        |
| Zone 3       | 13.38              | .69                      | 3%+.70   | .95     | .12                        |
| Zone 4       | 12.72              | .69                      | 3%+.70   | .95     | .12                        |
| Zone 5       | 13.72              | .69                      | 3%+.70   | .95     | .12                        |
| Zone 6       | 12.72              | .69                      | 3%+.70   | .95     | .12                        |
| Zone 7       | 13.72              | .69                      | 3%+.70   | .95     | .12                        |
| Zone 8       | 12.25              | .70                      | 3%+.5%   | 15%     | .10                        |
| Zone 9       | 11.46              | .70                      | 3%+.5%   | 15%     | .10                        |
| Zone 10      | 8.86               | .70                      | 3%+.5%   | 15%     | .10                        |
| Zone 11      | 6.26               | .70                      | 3%+.5%   | 15%     | .10                        |

## ELECTRICIANS (CONT'D)

Zone 8 - Franklin, Jefferson, Lincoln, and Warren Counties.  
Electrical contracts \$15,000.00 and under  
Zone 9 - Bollinger, Cape Girardeau, Perry, Scott, St. Francois, and Ste. Genevieve Counties.  
Electrical contracts \$15,000.00 and under  
Zone 10 - Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Ripley, Reynolds, Stoddard, Washington, and Wayne Counties.  
Electrical contracts \$15,000.00 and under  
Zone 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties  
Zone 12 - Pulaski County  
Zone 13 - Andrew, Buchanan, Clinton, and Dekalb Counties  
Zone 14 - Barry, Barton, Caldwell, Cedar, Dade, Davies, Gentry, Holt, Jasper, McDonald, Newton, Nodaway, St. Clair, Vernon, and Lawrence Counties  
Zone 15 - Atchinson, Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Grundy, Harrison, Howard, Livingston, Maries, Mercer, Miller, Moniteau, Osage, Phelps, Randolph and Worth Counties

## DECISION NO. M079-4092

| ELECTRICIANS CONT'D         | Basic Hourly Rates | Fringe Benefits Payments |          |         | Education and/or Appr. Tr. |
|-----------------------------|--------------------|--------------------------|----------|---------|----------------------------|
|                             |                    | H & W                    | Pensions | Vocelon |                            |
| Zone 11                     | 12.305             | .47                      | 3%+1.00  | 6%      | .02                        |
| Zone 12                     | 12.795             | .47                      | 3%+1.00  | 6%      | .02                        |
| Zone 13                     | 11.84              | .60                      | 3%+1.00  | 7%      | .02                        |
| Zone 14                     | 10.54              | .65                      | 3%+.50   | 5%      | .01                        |
| Zone 15                     | 10.89              | .65                      | 3%+.50   | 5%      | .01                        |
| Electricians Cable splicers | 12.53              | .47                      | 3%+.75   | 5%      | .01                        |
| Electricians Cable splicers | 12.78              | .47                      | 3%+.75   | 5%      | .01                        |

## ELECTRICIANS CONT'D

Zone 11  
Zone 12  
Zone 13  
Zone 14  
Zone 15  
Electricians  
Cable splicers  
Electricians  
Cable splicers

## AREAS COVERED BY ELECTRICIANS ZONES

Zone 1 - Adair, Audrain (that part of east of Highway 19), Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Cos.  
Electrical contracts over \$15,000.00  
Zone 2 - Area bounded on the North by State Highway 92 in Platte & Clay Counties; east by a straight line from intersection of State Highway 92 & 33 in Clay County intersection of U. S. Highway 24 & State Highway 7 in Jackson County; south on Highway 7 to Pleasant Hill; South from Pleasant Hill due west to the Missouri-Kansas State Line; West by the Missouri-Kansas State Line. Towns of Pleasant Hill & Blue Springs are excluded  
Zone 3 - Portion of Cass, Clay, Jackson and Platte Counties not included in Zone 2  
Zone 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Cos.  
Zone 5 - Carroll, Cooper, Morgan, Ray and Saline Counties  
Zone 6 - St. Charles County, St. Louis County and City  
Zone 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington, and Wayne Cos.:  
Electrical contract over \$15,000.00



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DECISION NO. MO79-4092

|              | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------|--------------------|--------------------------|----------|----------|----------------------------|
|              |                    | H & W                    | Pensions | Vacation |                            |
| IRONWORKERS: |                    |                          |          |          |                            |
| Zone 1       | 12.075             | .55                      | 1.05     | 1.00     | .09                        |
| Zone 2       | 11.60              | .75                      | 1.40     | 1.00     | .05                        |
| Zone 3       | 11.485             | .75                      | 1.40     | 1.00     | .05                        |
| Zone 4       | 11.30              | .75                      | 1.65     |          | .12                        |
| Zone 5       | 12.25              | .55                      | 1.05     |          | .06                        |
| Zone 6       | 10.00              | .45                      |          |          | .04                        |
| Zone 7       | 9.90               | .45                      | .65      |          | .02                        |

AREAS COVERED BY IRONWORKERS ZONES

ZONE 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis & City, Ste. Genevieve, Texas, Warren, Washington, and Wright Cos.

ZONE 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Cooper, Dallas, Davies, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Monticau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Cos.

ZONE 3 - Christian, Dade, Douglas, Greene and Webster Cos.

ZONE 4 - Barry, Jasper, Lawrence, McDonald, Newton and Stone Cos.

ZONE 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Cos.

ZONE 6 - Howell, Oregon, Ozark and Taney Cos.

ZONE 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

DECISION NO. MO79-4092

|           | Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|-----------|--------------------|--------------------------|----------|----------|----------------------------|
|           |                    | H & W                    | Pensions | Vacation |                            |
| LABORERS: |                    |                          |          |          |                            |
| GROUP 1   | 9.03               | .60                      | .60      | .50      | .10                        |
| Zone 1    | 7.63               | .60                      | .60      | .50      | .10                        |
| Zone 2    | 10.10              | .60                      | .50      |          | .10                        |
| Zone 3    | 9.20               | .60                      | .50      |          | .10                        |
| Zone 4    |                    |                          |          |          |                            |
| GROUP 2   | 9.18               | .60                      | .60      | .50      | .10                        |
| Zone 1    |                    |                          | .60      | .50      | .10                        |
| Zone 2    | 7.78               | .60                      | .50      |          | .10                        |
| Zone 3    | 10.25              | .60                      | .50      |          | .10                        |
| Zone 4    | 9.35               | .60                      | .50      |          | .10                        |
| Zone 5    |                    |                          |          |          |                            |
| GROUP 3   | 9.33               | .60                      | .60      | .50      | .10                        |
| Zone 1    | 7.93               | .60                      | .60      | .50      | .10                        |
| Zone 2    | 10.40              | .60                      | .50      |          | .10                        |
| Zone 3    | 9.50               | .60                      | .50      |          | .10                        |
| Zone 4    |                    |                          |          |          |                            |
| GROUP 4   | 9.53               | .60                      | .60      | .50      | .10                        |
| Zone 1    | 8.13               | .60                      | .60      | .50      | .10                        |
| Zone 2    | 10.60              | .60                      | .50      |          | .10                        |
| Zone 3    | 9.70               | .60                      | .50      |          | .10                        |
| Zone 4    |                    |                          |          |          |                            |
| GROUP 5   | 9.78               | .60                      | .60      | .50      | .10                        |
| Zone 1    | 8.38               | .60                      | .50      |          | .10                        |
| Zone 2    | 10.85              | .60                      | .50      |          | .10                        |
| Zone 3    | 9.85               | .60                      | .50      |          | .10                        |
| Zone 4    |                    |                          |          |          |                            |

DECISION NO. MO79-4092

(LABORERS CONT'D)

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - General Laborer - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers

GROUP 2 - First Semi-skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzle man

GROUP 3 - Second Semi-skill - Asphalt plant platform man; chuk tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; vibrator man; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; aboutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river

GROUP 4 - Third Semi-skill - Laser beam man; asphalt raker; barco tamper; jackson or any other similar tamp; wagon drillers; churn drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, manhole builder helpers and mortar men on brick or block manholes; sand blasting and gunite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and fills string line man for electronic grade control; pressure groutmen

GROUP 5 - Fourth Semi-skill - Manhole builders, - brick or block; dynamite and powder men; welder

DECISION NO. MO79-4092

LABORERS (CONT'D)

AREA COVERED BY LABORERS

ZONE 1 - Buchanan, Cass and Lafayette Counties

ZONE 2 - Andrew, Atchison, Barry, Barton, Bates, Benton, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Davies, DeKalb, Douglas, Greene, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Morgan, Newton, Nodaway, Ozark, Pettis, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Wright and Worth Counties

ZONE 3 - Franklin, Jefferson and St. Charles Counties

ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Chariton, Clark, Cole, Cooper, Crawford, Dent, Dunklin, Gasconade, Howard, Howell, Iron, Knox, Lewis, Linn, Lincoln, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, St. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Sullivan, Texas, Warren, Washington and Wayne Counties



## LABORERS:

Zone 5  
Group 1  
Group 2  
Group 3  
Group 4  
Group 5

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 9.65               | .60                      | .60      | .75      | .10                        |
| 9.80               | .60                      | .60      | .75      | .10                        |
| 9.95               | .60                      | .60      | .75      | .10                        |
| 10.15              | .60                      | .60      | .75      | .10                        |
| 10.45              | .60                      | .60      | .75      | .10                        |

## CLASSIFICATION DEFINITIONS

GROUP 1 - General laborer - Carpenter tenders, salamander tenders; dump man, & ticket taker on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers

GROUP 2 - First Semi-skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; geologic buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); tripod pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines, and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; from setter helpers; puddlers (paving only)

GROUP 3 - Second Semi-skill - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used.

GROUP 4 - Third Semi-skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamper; wagon driller, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettlemen; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block manholes; sand blasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

GROUP 5 - Fourth Semi-skill - Manhole builder (brick or block); dynamite and powder men.

## AREA COVERED BY LABORERS

Zone 5 - Clay, Jackson, Platte and Ray Counties

## DECISION NO. MO79-4092

## LABORERS:

Zone 6 - St. Louis City and County;  
General laborer  
Dynamiter or powderman  
Pier hole

| Basic Hourly Rates                                    | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|-------------------------------------------------------|--------------------------|----------|----------|----------------------------|
|                                                       | H & W                    | Pensions | Vacation |                            |
| 10.375                                                | .45                      | 1.00     |          |                            |
| 11.075                                                | .45                      | 1.00     |          |                            |
| 10.825                                                | .45                      | 1.00     |          |                            |
| LINE CONSTRUCTION:                                    |                          |          |          |                            |
| Zone 1                                                |                          |          |          |                            |
| Lineman                                               | .45                      | 38+.25   |          |                            |
| Lineman operator                                      | .45                      | 38+.25   |          |                            |
| Groundman powderman                                   | .45                      | 38+.25   |          |                            |
| Groundman                                             | .45                      | 38+.25   |          |                            |
| Groundman (1st 6 mos.)                                | .45                      | 38+.25   |          |                            |
| Zone 2                                                |                          |          |          |                            |
| Lineman                                               | .45                      | 38+.25   |          |                            |
| Lineman operator                                      | .45                      | 38+.25   |          |                            |
| Groundman powderman                                   | .45                      | 38+.25   |          |                            |
| Groundman                                             | .45                      | 38+.25   |          |                            |
| Groundman (1st 6 mos.)                                | .45                      | 38+.25   |          |                            |
| Zone 3                                                |                          |          |          |                            |
| Lineman & cable splicers                              | .50                      | 38       | 12.48    |                            |
| Groundman - winch driver                              | .50                      | 38       | 12.48    |                            |
| Groundman - driver                                    | .50                      | 38       | 12.48    |                            |
| Equipment operator                                    | .50                      | 38       | 12.48    |                            |
| Groundman - 1st 6 mos.                                | .50                      | 38       | 12.48    |                            |
| Groundman - next 12 mos.                              | .50                      | 38       | 12.48    |                            |
| Groundman - next 12 mos.                              | .50                      | 38       | 12.48    |                            |
| Groundman - thereafter                                | .50                      | 38       | 12.48    |                            |
| Zone 4                                                |                          |          |          |                            |
| Lineman                                               | .45                      | 38+.78   |          |                            |
| Groundman equipment op.                               | .45                      | 38+.78   |          |                            |
| Groundman - Class A                                   | .45                      | 38+.78   |          |                            |
| Zone 5 - Railroad and Cross County Transmission Lines |                          |          |          |                            |
| Lineman                                               | .45                      | 38+.25   |          |                            |
| Lineman operator                                      | .45                      | 38+.25   |          |                            |
| Groundman powderman                                   | .45                      | 38+.25   |          |                            |
| Groundman                                             | .45                      | 38+.25   |          |                            |
| Pole treating specialist                              | .45                      | 38+.25   |          |                            |
| Pole treating truck driver                            | .45                      | 38+.25   |          |                            |
| Pole treating groundman                               | .45                      | 38+.25   |          |                            |

## DECISION NO. MO79-4092

## PAINTERS:

Zone 1  
Brush and roller  
Spray  
Bridge  
Zone 2  
Brush  
Spray  
Zone 3  
Brush  
Spray  
Zone 4  
Brush and roller  
Spray, structural steel  
and sandblasting  
Zone 5  
Brush  
Spray  
Zone 6  
Steel, sandblasting opr.; work performed on bridges 75 ft. in height  
All structural steel over 50 ft. in height  
Zone 7  
Brush  
Spray  
Steel, storage bin & tank  
Bridge, stage; belt; bazooka  
Zone 8  
Brush  
Spray  
Zone 9  
Brush  
Spray  
Zone 10  
Brush  
Spray  
Zone 11  
Brush  
Spray, bridgemen, steelmen

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 11.53              | .55                      | .70      |          | .08                        |
| 12.53              | .55                      | .70      |          | .08                        |
| 12.28              | .55                      | .70      |          | .08                        |
| 9.70               |                          | .25      |          |                            |
| 10.45              |                          | .25      |          |                            |
| 7.85               |                          |          |          |                            |
| 8.35               |                          |          |          |                            |
| 10.25              | .70                      | .35      |          |                            |
| 11.50              | .70                      | .35      |          |                            |
| 10.95              | .85                      | .35      |          |                            |
| 11.95              | .85                      | .35      |          |                            |
| 12.25              | .85                      | .35      |          |                            |
| 12.35              | .85                      | .35      |          |                            |
| 7.25               |                          |          |          |                            |
| 7.75               |                          |          |          |                            |
| 9.87               |                          | .45      |          |                            |
| 10.245             |                          | .45      |          |                            |
| 10.20              |                          | .20      |          |                            |
| 10.70              |                          | .20      |          |                            |
| 11.24              | .68                      | .33      |          | .08                        |
| 12.74              | .68                      | .33      |          | .08                        |
| 9.90               | .50                      |          |          |                            |
| 10.40              | .50                      |          |          |                            |



PAINTERS CONT'D:

ZONE 12  
Brush  
Structural steel  
Spray  
ZONE 13  
Brush

| Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|--|----------------------------|
|                    | H & W                    | Pensions | Vacation |  |                            |
| 7.50               |                          |          |          |  |                            |
| 8.00               |                          |          |          |  |                            |
| 8.00               |                          |          |          |  |                            |

AREA COVERED BY PAINTERS

ZONE 1 - Bates, Caldwell, Carroll, Clinton, Cass, Clay, Daviess, Grundy, Henry, Harrison, Jackson, Johnson, Lafayette, Livingston, Mercer, Platte, and Ray Counties  
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties  
ZONE 3 - Lincoln and Pike Counties  
ZONE 4 - Camden, Crawford, Dent, Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties  
ZONE 5 - Benton, Cooper, Moniteau, Morgan, Pettis, and Saline Counties  
ZONE 6 - Andrew, Atchinson, Buchanan, DeKalb, Gentry, Holt, Nodaway and Worth Counties  
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby and Sullivan Counties  
ZONE 8 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties  
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties  
ZONE 10 - Jefferson, St. Charles and St. Louis & City Counties  
ZONE 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster and Wright Counties  
ZONE 12 - St. Francois and Ste. Genevieve Counties  
ZONE 13 - Marion County

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POWER EQUIPMENT OPERATORS:

| Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|--|----------------------------|
|                    | H & W                    | Pensions | Vacation |  |                            |
| 11.90              | .75                      | 1.00     | .75      |  | .10                        |
| 11.65              | .75                      | 1.00     | .75      |  | .10                        |
| 10.95              | .75                      | 1.00     | .75      |  | .10                        |
| 9.45               | .75                      | 1.00     | .75      |  | .10                        |
| 12.15              | .75                      | 1.00     | .75      |  | .10                        |
| 11.90              | .75                      | 1.00     | .75      |  | .10                        |
| 9.95               | .75                      | 1.00     | .75      |  | .10                        |
| 10.52              | .50                      | 1.00     |          |  | .02                        |
| 9.97               | .50                      | 1.00     |          |  | .02                        |
| 9.52               | .50                      | 1.00     |          |  | .02                        |
| 11.32              | .50                      | 1.00     |          |  | .02                        |
| 12.07              | .50                      | 1.00     |          |  | .02                        |
| 12.52              | .50                      | 1.00     |          |  | .02                        |
| 13.27              | .50                      | 1.00     |          |  | .02                        |
| 11.02              | .50                      | 1.00     |          |  | .02                        |
| 11.85              | .75                      | 1.00     | .40      |  | .02                        |
| 11.65              | .75                      | 1.00     | .40      |  | .02                        |
| 11.45              | .75                      | 1.00     | .40      |  | .02                        |
| 10.85              | .75                      | 1.00     | .40      |  | .02                        |
| 12.10              | .75                      | 1.00     | .40      |  | .02                        |
| 12.35              | .75                      | 1.00     | .40      |  | .02                        |
| 12.60              | .75                      | 1.00     | .40      |  | .02                        |
| 10.85              | .75                      | 1.00     | .40      |  | .02                        |
| 10.50              | .75                      | 1.00     | .40      |  | .02                        |
| 10.30              | .75                      | 1.00     | .40      |  | .02                        |
| 9.45               | .75                      | 1.00     | .40      |  | .02                        |
| 11.10              | .75                      | 1.00     | .40      |  | .02                        |
| 11.35              | .75                      | 1.00     | .40      |  | .02                        |
| 11.60              | .75                      | 1.00     | .40      |  | .02                        |

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POWER EQUIPMENT OPERATORS

CONT'D:

| Basic Hourly Rates | Fringe Benefits Payments |          |          |  | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|--|----------------------------|
|                    | H & W                    | Pensions | Vacation |  |                            |
| 11.90              | .75                      | 1.00     | .75      |  | .10                        |
| 11.65              | .75                      | 1.00     | .75      |  | .10                        |
| 10.95              | .75                      | 1.00     | .75      |  | .10                        |
| 9.95               | .75                      | 1.00     | .75      |  | .10                        |
| 12.15              | .75                      | 1.00     | .75      |  | .10                        |
| 12.40              | .75                      | 1.00     | .75      |  | .10                        |
| 12.65              | .75                      | 1.00     | .75      |  | .10                        |
| 10.80              | .75                      | 1.00     | .75      |  | .10                        |
| 10.45              | .75                      | 1.00     | .75      |  | .10                        |
| 10.25              | .75                      | 1.00     | .75      |  | .10                        |
| 8.45               | .75                      | 1.00     | .75      |  | .10                        |
| 11.05              | .75                      | 1.00     | .75      |  | .10                        |
| 11.30              | .75                      | 1.00     | .75      |  | .10                        |
| 11.55              | .75                      | 1.00     | .75      |  | .10                        |
| 11.55              | .50                      | .75      |          |  | .02                        |
| 11.20              | .50                      | .75      |          |  | .02                        |
| 11.00              | .50                      | .75      |          |  | .02                        |
| 8.95               | .50                      | .75      |          |  | .02                        |
| 11.80              | .50                      | .75      |          |  | .02                        |
| 12.05              | .50                      | .75      |          |  | .02                        |
| 12.30              | .50                      | .75      |          |  | .02                        |
| 11.55              | .50                      | .75      |          |  | .02                        |
| 11.20              | .50                      | .75      |          |  | .02                        |
| 11.00              | .50                      | .75      |          |  | .02                        |
| 8.95               | .50                      | .75      |          |  | .02                        |
| 11.80              | .50                      | .75      |          |  | .02                        |
| 12.05              | .50                      | .75      |          |  | .02                        |
| 12.30              | .50                      | .75      |          |  | .02                        |
| 11.30              | .75                      | 1.00     | .40      |  | .02                        |
| 11.10              | .75                      | 1.00     | .40      |  | .02                        |
| 10.90              | .75                      | 1.00     | .40      |  | .02                        |
| 10.30              | .75                      | 1.00     | .40      |  | .02                        |
| 11.55              | .75                      | 1.00     | .40      |  | .02                        |
| 11.80              | .75                      | 1.00     | .40      |  | .02                        |
| 12.05              | .75                      | 1.00     | .40      |  | .02                        |

DECISION NO. MO79-4092

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator; central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engine; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high-loader; fork lift; and welders, field or shop; maintenance operator; mucking machine; piledriver operator; pitman crane operator; pump-2; quad-trac; scoop operator-all types; pushcat operator; scoops in tandem; self-propelled rotary drill (Leroy or Equal- not Air Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2

GROUP II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman; drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry, power operator; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine-1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; roller operator, other than dredge; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator, self-propelled street broom or sweeper, siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor 50 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

GROUP IV - Mechanic's helper, oiler

GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels and backhoes, 3 yd. capacity or over

GROUP VI - Hoist (each additional drum over 1 drum)

GROUP VII - Oiler driver, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50c) per hour above the regular classification.



## DECISION NO. M079-4092

## POWER EQUIPMENT OPERATORS ZONE 2

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or crawler mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; grapple; crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other powers), switch boat; whirley, air tugger 2/air compressor; anchor-placing barge; asphalt spreader; atchey force feed loader (self-propelled); backfilling machine, boat operator-push boat or tow boat (job-site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixer/boiler; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); conveyor, large (not self-propelled), concrete spreader; concrete pump, such as a pump-crete machine; hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or crawler mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages on concrete skips operating in or on tower, towmobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-green); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; (one operator will operate two); pump, self-powered over 2" one through three, over 4", quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine; automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

## DECISION NO. M079-4092

## POWER EQUIPMENT OPERATORS ZONE 2 CONT'D:

GROUP II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck); concrete saw, self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job. an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street, welding machine, one over 400 amp.; winch operating from truck (such as con-way-it) regardless of how used; oiler; sweeper, floor

GROUP III - Boat operator-outboard motor (job site); conveyor (ten pounds) (a) Air pressure, oiler engineer; operating under ten pounds (b) Air pressure, oiler engineer operating over ten pounds (c) Air pressure engineer operating over ten pounds. (d) Air pressure engineer operating over ten pounds. (e) Crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds. and over; crane, climbing such as ladder; derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler

Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of 75¢) above basic rate for crane

Work in tunnel or tunnel shaft, .25¢ above base rate.

## DECISION NO. M079-4092

## POWER EQUIPMENT OPERATORS ZONES 3, 4, and 9

GROUP I - Asphalt finishing machine & trench widening spreader, asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boiler - 2; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator

GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant mixer loader; boat operator (bridge & dams); chip spreader; concrete pump operator - skip loader; concrete plant operator; concrete mixer operator; elevating grader operator; fork lift; grease fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker powerboom - self propelled; power shield; roter; slip-form finishing machine; stumpcutter machine; side discharge concrete spreader; throttlemat; tractor operator (over 50 hp); winch truck

## DECISION NO. M079-4092

## POWER EQUIPMENT OPERATORS ZONES 5, 6, 7 and 8

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe; blade operator - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clam-shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator; - standard gauge; mechanics and welders; mucking machine; piledriver operator; sideboom cats; skimmer scoop operators all types; trenching machine operator; truck crane; scoop operators - all types

GROUP II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant mixer loader; boat operator (bridge dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator, crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor, pavement breaker; power - broom - self-propelled; power shield; roter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttlemat; tractor operator (over 50 hp); winch truck

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator; other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator; self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric, or similar spreader; vibrating machine operator, not hands; tractor operator (50 hp or less)

GROUP IV - Oiler; oiler driver, fireman - rig; maintenance operators

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. jib), hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs 150' to 200' or over (incl. jib)

GROUP VII - Crane, rigs 200' or over (incl. jib)



## DECISION NO. MO79-4092

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONT'D:

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (inc. jib)

GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)

## AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties

ZONE 2 - St. Louis City and County

ZONE 3 - Franklin, Jefferson, St. Charles Counties

ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gasconade, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties

ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties

ZONE 6 - Andrew, Atchinson, Bates, Benton, Caldwell, Carroll, Charlton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties

ZONE 7 - Christian, Greene, Jasper, Lawrence and Taney Counties

ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon, Webster and Wright Counties

ZONE 9 - Lincoln and Warren Counties

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 6.99               | a                        | b        | c&d      |                            |
| 7.19               | a                        | b        | c&d      |                            |
| 7.29               | a                        | b        | c&d      |                            |

TRUCK DRIVERS

ZONE 1 - St. Louis City and County

GROUP 1

GROUP 2

GROUP 3

## FOOTNOTES:

- a - Employer contribution of \$12.50 per week
- b - Employer contribution of \$12.50 per week
- c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veterans Day, Christmas.
- d - Paid vacation of 3 days for 600 hours of service any one contract year;  
4 days paid vacation for 800 hours of service in any one contract year;  
5 days paid vacation for 1,000 hours of service in any one contract year

## CLASSIFICATION DEFINITIONS

GROUP 1 - Trucks or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pickup trucks, flat bed trucks

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity

GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

## DECISION NO. MO79-4092

## TRUCK DRIVERS

ZONE 2

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 9.99               | .75                      | 1.25     | .75      |                            |
| 10.19              | .75                      | 1.25     | .75      |                            |
| 10.50              | .75                      | 1.25     | .75      |                            |
| 10.65              | .75                      | 1.25     | .75      |                            |
| 9.765              | .75                      | 1.25     | .75      |                            |

## CLASSIFICATION DEFINITIONS

## TRUCK DRIVERS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle

GROUP 2 - Two teams; material tandem; semi-trailers; winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump excavating, 5 cu. yds. & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

GROUP 3 - A-frame, low boy, boom

GROUP 4 - Mechanics & welders

GROUP 5 - Mechanic's helpers, oilers, & greasers

## AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

## DECISION NO. MO79-4092

## TRUCK DRIVERS

ZONE 3

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

ZONE 4

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

ZONE 5

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

ZONE 6

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

ZONE 7

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

| Basic Hourly Rates | Fringe Benefits Payments |          |          | Education and/or Appr. Tr. |
|--------------------|--------------------------|----------|----------|----------------------------|
|                    | H & W                    | Pensions | Vacation |                            |
| 12.80              |                          |          |          |                            |
| 12.95              |                          |          |          |                            |
| 13.02              |                          |          |          |                            |
| 12.91              |                          |          |          |                            |
| 12.70              |                          |          |          |                            |
| 11.75              |                          |          |          |                            |
| 11.90              |                          |          |          |                            |
| 11.97              |                          |          |          |                            |
| 11.86              |                          |          |          |                            |
| 11.65              |                          |          |          |                            |
| 11.34              | .75                      | 1.00     |          |                            |
| 11.49              | .75                      | 1.00     |          |                            |
| 11.56              | .75                      | 1.00     |          |                            |
| 11.45              | .75                      | 1.00     |          |                            |
| 11.24              | .75                      | 1.00     |          |                            |
| 10.13              | .75                      | 1.00     |          |                            |
| 10.28              | .75                      | 1.00     |          |                            |
| 10.40              | .75                      | 1.00     |          |                            |
| 10.29              | .75                      | 1.00     |          |                            |
| 10.03              | .75                      | 1.00     |          |                            |
| 9.40               | .75                      | 1.00     |          |                            |
| 9.55               | .75                      | 1.00     |          |                            |
| 9.67               | .75                      | 1.00     |          |                            |
| 9.56               | .75                      | 1.00     |          |                            |
| 9.30               | .75                      | 1.00     |          |                            |



DECISION NO. M079-4092

**CLASSIFICATION DEFINITIONS  
TRUCK DRIVERS**

**GROUP 1** - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle

**GROUP 2** - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle

**GROUP 3** - Semi and/or pole trailers; winch fork and steel trucks; insley wagons, dumpsters, half trucks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer

**GROUP 4** - Agitator and transit mix trucks

**GROUP 5** - Warehouseman

**\*AREAS COVERED BY TRUCK DRIVERS ZONES**

**ZONE 3** - Franklin, Jefferson and St. Charles Counties

**ZONE 4** - Lincoln and Warren Counties

**ZONE 5** - Buchanan, Cass, Johnson and Lafayette Counties

**ZONE 6** - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene, Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster and Wright Counties

**ZONE 7** - Adair, Atchison, Barry, Butler, Clark, Dunklin Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer, Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney and Worth Counties

Unlisted classifications needed for work not including within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii)).

[FR Doc. 79-3772 Filed 12-6-79; 8:45 am]

**BILLING CODE 4510-27-C**

# Federal Register

Friday  
December 7, 1979

## Part III

## Department of Health, Education, and Welfare

Office of Education

National Student Direct Loan, College  
Work-Study, and Supplemental  
Educational Opportunity Grant Programs



DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Office of Education

## 45 CFR Parts 174, 175, and 176

National Direct Student Loan, College  
Work-Study, and Supplemental  
Educational Opportunity Grant  
Programs

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** On November 8, 1978 the Commissioner published a notice of proposed rulemaking (NPRM) to revise several sections of the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Program Regulations. These three programs are commonly known as the "campus-based" Federal programs of student financial aid. That NPRM proposed the first phase of a new funding process designed to assure that each institution receives its fair share of the funds available for each program. Phase I of the new funding process was implemented in award year 1979-80. The final regulations were published in the Federal Register on August 13, 1979.

Throughout this preamble, a single number (e.g. section 3) will be used to refer to the same section in the regulations for each program (174.3, NDSL; 175.3, CWS; and 176.3, SEOG). In each case, that section covers the same topic. The November 8 NPRM proposed revisions of sections 3, 4, 5, 6, 7, and 16.

The Commissioner is now proposing to revise section 4 and section 6 of these regulations. These revisions are a result of the Office of Education's experience with Phase I and of panel recommendations. There is no need to revise sections 3, 5, 7, and 16. The preamble will discuss only the aspects of the procedures that are being revised. However, the public may desire to comment on other aspects of the overall funding process.

**DATES:** Comments must be received on or before January 7, 1980. There will be hearings in Albuquerque, Kansas City, and Atlanta on January 9, 1980, and in Philadelphia and San Francisco on January 10, 1980.

**ADDRESSES:** Comments should be addressed to Ms. Lynn Laverentz, Room 4018, ROB-3, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

January 9—Albuquerque, N.M., Pete McDavid Conference Room, University of New Mexico, South Campus, University and Stadium Streets, S.E., Albuquerque, New Mexico. 9:00 a.m. to

4:00 p.m. Contact person for scheduling presentation times: Ms. Carol Sivright. 214-787-3568.

January 9—Kansas City, Federal Office Building, 601 East 12th Street, Room 140, Kansas City, Missouri. 9:00 a.m. to 4:00 p.m. Contact person for scheduling presentation times: Steve Dorssom, 816-374-5875.

January 9—Atlanta, Georgia, Howard Johnson Motel Hotel, 1 85 & Virginia Avenue, Atlanta, Georgia. 10:00 a.m. to 4:00 p.m. Contact person for scheduling presentation times: Judy Brantley, 404-221-5010.

January 10—Philadelphia, Pennsylvania, Creese Student Center, Drexel University, 32nd & Chestnut Street, Philadelphia, Pennsylvania. 10:00 a.m. to 4:00 p.m. Contact person for scheduling presentation times: Beatrice Rosenfeld, 215-596-5441.

January 10—San Francisco, California, Knuth Hall, San Francisco State University, School of Creative Art, 1600 Holloway Avenue, San Francisco, California. 10:00 a.m. to 5:00 p.m. Contact person for scheduling presentation times: Ernest Robles, 415-556-0137.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Laverentz, telephone no. 202-245-8720.

**SUPPLEMENTAL INFORMATION:** This notice of proposed rulemaking (NPRM) prescribes funding procedures for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs in response to recommendations from a panel of experts in student financial aid. The panel's recommendations appear in the June 1978 BSFA Bulletin and in the preamble to the NPRM in the Federal Register of November 8, 1978.

The panel recommended a three-phase process for changing the method of distributing campus-based program funds. This process gave both current participants and new applicants a conditionally guaranteed level of funding. In phase I, the 1979-80 award year, institutions received a conditional guarantee equal to their 1977-78 actual expenditures or projected expenditures for 1978-79. Institutions desiring a higher level of funding had the option of requesting an added amount by filing data on costs, enrollment, and other aid available to students. If an institution did not file the information needed by the Office of Education to make this calculation, it received its conditional guarantee.

The November 8 NPRM proposed changes in sections 3, 4, 5, 6, 7, and 16 of each of the campus-based program

regulations. (Section 16 relates only to verifying information on student applications and is not relevant to the funding process.) After receiving written comments and holding public hearings, the Commissioner has revised these sections and published the final regulations in the Federal Register on August 13, 1979.

Section 4 is being revised to establish priorities for the distribution on funds available for reallocation. These funds will be used first to increase awards to institutions whose students have suffered financial hardships as a result of natural disaster, second to increase awards to institutions that have not received their "fair shares", and third if any funds still remain, the Commissioner will reallocate the funds in a manner that best carries out the purposes of these programs.

As promised in the November 8 NPRM, the Commissioner has reviewed the results of Phase I and is now proposing further changes. These changes require revision of section 6. In brief, the changes include the following:

1. **Definitions.** The Commissioner is adding a definition of "base year," which means the twelve-month period ending on the June 30 preceding the closing date for filing the application.

2. **Conditional guarantee.** Two systems for computing the conditional guarantee are proposed. The first one, set forth in the body of the proposed regulation, provides that institutions that received funds in award year 1977-78 or 1978-79 or both will receive as a conditional guarantee 90 percent of the greater of their expenditure in 1977-78 or 1978-79. Institutions that did not receive funds in the base year will receive \$5,000 per program. New institutions that did receive funds in the base year will receive 90 percent of their actual expenditures in the first year they received funds. The second proposed system, set forth in the preamble only, would set an institution's conditional guarantee at 90 percent of its expenditures in the base year.

3. **Fair share.** Several changes in the method of calculating an institution's fair share of program funds are being made:

a. All institutions having base year data will be required to file the information needed to calculate their fair share. In Phase I, this filing was optional.

b. The income grids for dependent and independent students are being expanded at the low and high income ends.

c. The base year for reporting data needed for calculating and institution's fair share will be updated annually

except for State and institutional grants. For these, 1977-78 will be used.

d. The procedure for determining the State increase is being revised.

4. **"Brokeraging."** The provision for "brokeraging" is being deleted.

5. **NDSL Federal Capital Contribution.** For purposes of calculating an institution's FCC, the Commissioner is proposing standards for reduction of the institution's default rate. The proposed standards take into account, in a preliminary way, the new authority contained in the Higher Education Technical Amendments of 1979 for the Commissioner to collect defaulted NDSL's referred to the Commissioner by an institution. For the purposes of this NPRM, these "referred" loans are being excluded from an institution's default rate in determining whether it is to receive new Federal Capital Contributions. However, this treatment is limited to NDSL's referred before September 15, 1979. The treatment of loans referred after that date has not yet been decided.

A separate NPRM will be issued to incorporate in Subpart C of the NDSL regulations this new "referral" authority. Subpart C sets forth the due diligence requirements of the NDSL program. When that separate NPRM is issued, it will also include a proposed standard for calculating an institution's default rate as of June 30, 1980, and will specify how loans referred to the Commissioner after September 15, 1979 will be treated.

The following sections will discuss these changes in greater detail.

## Conditional Guarantee

Phase I of the funding process gave both current participants in the campus-based programs and new applicant a conditionally guaranteed level of funding. The conditional guarantee for a current participant was the greater of its actual 1977-78 expenditures or its projected 1978-79 expenditures.

The conditional guarantee for a new applicant was the product of its enrollment times the average grant per enrolled student for similar institutions in the prior year.

An institution is considered a new applicant for two years. Applications are filed annually, usually in October. The program year runs from July 1 of one year through June 30 of the following year.

In October of the first year (e.g., 1979), an institution applies for the funds that it will spend in the second year (1980-81). It receives those funds effective July 1, 1980 and is permitted to spend them until June 30, 1981.

In October of 1980 that institution applies for the funds it will need for the

third year (1981-82). At that time it has just recently begun its first year of expenditures. Therefore its conditional guarantee cannot be based on a full year's expenditures and must instead be based on other factors.

The Commissioner is proposing two systems for determining an institution's conditional guarantee.

I. Under the proposal set forth in the proposed regulation all institutions fall one of two categories:

A. Institutions that received campus-based funds in 1977-78 or 1978-79. An institution in this category would receive a conditional guarantee equal to 90 percent of the greater of its 1977-78 or 1978-79 expenditures.

B. All other institutions.

Category "B" is further divided into two groups:

1. Institutions that did not receive any campus-based funds in the base year. An institution in this group will receive a conditional guarantee of \$5,000.

2. Institutions that received campus-based funds in the base year.

An institution in group "2" will receive a conditional guarantee equal to 90 percent of its actual expenditure in the first year that it received funds.

Institutions that received campus-based funds for the first time in 1979-80 will be treated as a special group. When applying for funds for the 1980-81 and 1981-82 award years, these institutions will receive a conditional guarantee of \$5,000. When applying for funds for 1982-83 and later award years, these institutions will use 1980-81 (not 1979-80) as the first year in which they received funds.

II. Under the alternative proposal, an institution's conditional guarantee is 90 percent of its expenditures in the base year. If it did not participate in any campus-based programs in the base year, its conditional guarantee is \$5,000 per program.

Under both proposals a new applicant can receive more than \$5,000 per program only if it submits fair share data and its fair share is greater than \$5,000.

Public comment is invited on both the proposal set forth in the body of the proposed regulation and on the alternative set forth above.

## Calculation of Fair Share

A detailed explanation of the calculation of an institution's fair share is provided in the preamble to the November 8 NPRM. In Phase I, the Commissioner computed an institution's fair share of each appropriation by two formulas, one for SEOG and the other for CWS and NDSL (self-help). The Commissioner will continue to use the

same formulas. However, a number of procedural changes will be made.

All institutions that have the information necessary for calculating their fair share will be required to file that information. This filing was optional in Phase I. The reduction in the conditional guarantee by 10 percent for 1980-81 means that fair share data are needed to assure that every institution receives its full and fair funding. If, in future years, the conditional guarantee is reduced further, the need for these data will increase even more.

In Phase I, institutions furnished information on the number of eligible undergraduate and graduate, dependent and independent, aid applicants by income categories. The grids on which this information was reported in Phase I included income categories for independent students ranging from 0 to \$999 in the lowest cell to \$9,000 and over. The range has been extended to \$15,000 and over, once again by \$1,000 increments. Similarly, for dependent students, the range has been extended. The lowest and highest cells in Phase I were 0 to \$5,999 and \$30,000 and over respectively. Now, the corresponding cells will be 0 to \$2,999 and \$45,000 and over. It should be noted that the lowest cell for Phase I (0 to \$5,999) has been expanded into two cells (0 to \$2,999) and (\$3,000 to \$5,999). The purpose for these changes is to provide greater sensitivity to differences among institutions in calculating the expected family contributions.

The income charts that appear in section 6 of this NPRM differ from the grids that will appear in the application. Institutions are required to supply only the information requested in the column headed "Number of Students." The charts are provided as worksheets to assist institutions to understand the way in which the Commissioner computes an institution's need.

The base year for reporting all fair share data except State and institutional grants will be updated annually. For State and institutional grants, the base year is 1977-78. Institutions that were not in existence in 1977-78 should report zero.

The living expense figure used in calculating an institution's fair share will be updated annually. This figure will be equal to the sum of three fourths of the family size offset for single self-supporting students as calculated for distributing Basic Grants for the base year in which the FISAP is submitted and books and supplies. For the 1980-1981 award year, this figure will be \$2,600.



## State Increase

The Commissioner increases awards if the combined conditional guarantees of all institutions in the State are less than the state allotment required by statute.

The state increase is calculated according to the following fraction:

$$\frac{\text{The institution's state shortfall}}{\text{the state shortfalls of all institutions in the state}} \times \frac{\text{the available funds under the program for meeting state shortfall}}{\text{the available funds under the program for meeting state shortfall}}$$

Definitions of the specific terms used in the fraction for determining state increase are included in Section 6.

## Shifting Funds in Self-Help Programs

A procedure is currently in effect during Phase I which enables the Office of Education to increase the funding in one self-help program for an institution which requested less in the other self-help program than the funding to which it would have otherwise been entitled. This step in the funding formula is called "brokeraging".

The original intent of this procedure was to enable maximum flexibility of shifting funds to meet remaining needs of institutions between the two programs which were governed by the self-help formula.

After an analysis of the results of Phase I, the Commissioner has concluded that brokeraging should not be continued. Because the NDSL appropriation for the 1979-80 award year was the same amount as for 1978-79, the great majority of available funds was used to meet conditional guarantees and to bring some State allotments up to the amount required by the legislatively mandated State allotment formula. Approximately 40 percent of the funds remaining to meet fair share were distributed to a relatively few institutions which brokered CWS excess funds. The Commissioner believes that the limited NDSL funds available to meet fair share shortfalls should be distributed to all eligible institutions, and these funds should not be linked to the CWS program where the appropriation for 1979-80 was increased substantially.

## NDSL FCC

In the determination of the NDSL Federal Capital Contribution under Phase I, an institution's NDSL default rate was one of the factors considered by the Commissioner when projecting an institution's collections.

Collections were expected to increase 10 percent per year under the NDSL Program. Therefore, collections for 1979-80 were projected to be 121 percent of the collections for 1977-78.

The Commissioner is now proposing to update the base year annually. Collections will be projected to be 121 percent of the amount collected in the base year.

An institution will receive FCC only if—

- Its default rate is 10 percent or less;
- Its default rate is more than 10 percent, but the default rate has declined by at least 25 percent during the base year (for example from 20 percent to 15 percent). Notes that have been accepted by the Office of Education before September 15, 1979 will not be included in the default rate; or
- Its default rate is more than 10 percent, but the institution shows under § 174.7 that it is exercising due diligence under Part 174 Subpart C.

Dated: September 10, 1979.

John Ellis,  
Executive Deputy Commissioner for Educational Programs.

Approved: November 26, 1979.

Patricia Roberts Harris,  
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.471 National Direct Student Loan; 13.463 College Work-Study; and 13.418 Supplemental Educational Opportunity Grant)

Section 174.4 is revised to read as follows:

## § 174.4 Allocation, reallocation, and payment to institutions.

(a)(1) If funds available for Federal capital contributions within a State are insufficient to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in § 174.6.

(2) Allocations to proprietary institutions may not exceed the difference between \$190,000,000 and the amount appropriated for Federal capital contributions. If the amounts approved for proprietary institutions exceed that difference, the Commissioner reduces their allocations proportionately.

(b)(1) If an institution anticipates not lending all its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Commissioner, who reduces the institution's allocation accordingly.

(2) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(3) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (c) of this section.

(c)(1) If the funds that become available under paragraph (b) of this section come from the State's initial

allotment under § 174.3(a)(1), the Commissioner reallocates those funds proportionately to other institutions in that State. If no institution in the State needs those funds, the Commissioner reapportions them in accordance with paragraph (c)(2) of this section.

(2) The Commissioner distributes the remaining funds as follows:

(i) The Commissioner first increases awards to institutions whose students have suffered financial hardships as a result of natural disasters within the preceding 12 months.

(ii) If any funds remain, the Commissioner then increases awards to institutions whose awards are less than their national fair shares determined under § 174.6. The Commissioner calculates each applicant's increase as follows:

$$\frac{\text{Institution's remaining shortfall}}{\text{remaining shortfall of all applicants for reallocation}} \times \frac{\text{remaining amount available for reallocation}}{\text{remaining amount available for reallocation}}$$

(An institution's remaining shortfall is the difference between its national fair share and its award calculated in § 174.6 and this section through subparagraph (c)(2)(i).)

(iii) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(d) The Commissioner allocates new Federal capital contributions for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(20 U.S.C. 1087bb.)

Section 174.6 is revised to read as follows:

## § 174.6 Funding procedure.

(a) General. (1) Each institution applying for NDSL funds receives an approved level of expenditure computed in the following three stages—

- A "conditional guarantee";
- A State increase based on its "fair share" of the State apportionment; and
- A national increase based on its "fair share" of the national appropriation.

(2) The terms "conditional guarantee" and "fair share" refer only to the level of expenditure. The Commissioner computes the Federal capital contribution (FCC) according to § 174.6a.

(3) Definition—As used in this section "base year" means the 12-month period ending on the June 30 preceding the closing date for filing an application.

(b) Conditional guarantee for 1977-78 or 1978-79 participants. (1) For any year, an institution that received campus-based funds in award year 1977-78 or

1978-79 receives a conditional guarantee equal to the greater of 90% of its—

- 1977-78 level of expenditure; or
- 1978-79 level of expenditure.

(2) An institution's level of expenditure equals the amount of loans made in that award year plus the amount it claimed for administrative expenses.

(c) Conditional guarantee for other institutions. For any year, an institution that did not participate in any campus-based program in either award year 1977-78 or 1978-79 receives a conditional guarantee as follows:

(1) No funds in base year. If the institution did not receive any campus-based funds in the base year, it receives a conditional guarantee of \$5,000.

(2) Funds in base year. If the institution received any campus-based funds in the base year, its conditional guarantee is 90% of its CWS expenditure in the first year it received campus-based funds.

(3) Exception for first-time participants in 1979-80. Notwithstanding paragraphs (c) (1) and (2) of this section, if an institution participated in the campus-based programs for the first time in awards year 1979-80, it—

(i) When applying for funds for awards year 1981-82, receives its conditional guarantee under paragraph (c)(1) of this section; and

(ii) When applying for funds after award year 1981-82, uses as the first year it received funds, award year 1980-81.

(d) Self help need of an institution. (1) The Commissioner allocates additional funds to an institution under paragraph (6) of this section (State increase) and paragraph (h) of this section (National increase) based in part on the institution's self help need. Self help need is the need for funds from work and loan sources. The institution's self help need is the sum of the self help need of its graduate students and the self help need of its undergraduate students.

(2) The Commissioner calculates the self help need of an institution's graduate students in accordance with paragraph (e) of this section and the self help need of its undergraduate students in accordance with paragraph (f) of this section.

(3) As used in paragraph (e) and (f) of this section:

(i) Cost of education means attendance costs for eligible undergraduate and graduate students including tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner

prorates this amount for eligible students.)

(ii) Eligible students means students who satisfy the eligibility requirements of § 174.9 (a)(1) through (a)(4).

(e) Self help need of graduate students. To determine the self help need of an institution's graduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent graduate students;

(2) Establishes an expected family contribution (EFC) for each income category of dependent and independent graduate students, using a need analysis method approved under § 174.13;

(3) Determines the average cost of education for graduate students;

(4) Subtracts from the average cost of education for graduate students, the computed EFC for each income category of dependent students and each income category of independent students.

However, the average cost of education minus the EFC for any income category may not be less than zero;

(5) Multiplies those amounts by the number of students in each category;

(6) Adds the amounts obtained for each income category of dependent students and each income category of independent students; and

(7) Totals those two amounts. The following charts show the income categories and calculations for graduate students.

| 1                                                                 | 2                            | 3            | 4                                              | 5               | 6                               |
|-------------------------------------------------------------------|------------------------------|--------------|------------------------------------------------|-----------------|---------------------------------|
| Income                                                            | Expected family contribution | Average cost | Average cost less expected family contribution | Number students | Self help need, col. 4 x col. 5 |
| Determination of Self Help Need for Dependent Graduate Students   |                              |              |                                                |                 |                                 |
| 0 to \$2,999.....                                                 | .....                        | .....        | .....                                          | .....           | .....                           |
| \$3,000 to \$5,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$6,000 to \$8,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$9,000 to \$11,999.....                                          | .....                        | .....        | .....                                          | .....           | .....                           |
| \$12,000 to \$14,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$15,000 to \$17,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$18,000 to \$20,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$21,000 to \$23,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$24,000 to \$26,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$27,000 to \$29,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$30,000 to \$32,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$33,000 to \$35,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$36,000 to \$38,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$39,000 to \$41,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$42,000 to \$44,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$45,000 and over.....                                            | .....                        | .....        | .....                                          | .....           | .....                           |
| 7 Total self help need for dependent graduate students.....       | .....                        | .....        | .....                                          | .....           | \$.....                         |
| Determination of Self Help Need for Independent Graduate Students |                              |              |                                                |                 |                                 |
| 0 to \$999.....                                                   | .....                        | .....        | .....                                          | .....           | .....                           |
| \$1,000 to \$1,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$2,000 to \$2,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$3,000 to \$3,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$4,000 to \$4,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$5,000 to \$5,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$6,000 to \$6,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$7,000 to \$7,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$8,000 to \$8,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$9,000 to \$9,999.....                                           | .....                        | .....        | .....                                          | .....           | .....                           |
| \$10,000 to \$10,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$11,000 to \$11,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$12,000 to \$12,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$13,000 to \$13,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$14,000 to \$14,999.....                                         | .....                        | .....        | .....                                          | .....           | .....                           |
| \$15,000 and over.....                                            | .....                        | .....        | .....                                          | .....           | .....                           |
| 7 Total self help need for independent graduate students.....     | .....                        | .....        | .....                                          | .....           | \$.....                         |
| Summary                                                           |                              |              |                                                |                 |                                 |
| 1 Total self help need for dependent graduate students.....       | .....                        | .....        | .....                                          | .....           | \$.....                         |
| 2 Total self help need for independent graduate students.....     | .....                        | .....        | .....                                          | .....           | \$.....                         |
| 3 Total self help need for all graduate students (1 + 2).....     | .....                        | .....        | .....                                          | .....           | \$.....                         |

(f) Self help need of undergraduate students. To determine the self help

need of an institution's undergraduate students, the Commissioner—



(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 174.13;

(3) Computes 30 percent of the average cost of education for undergraduate students;

(4) Multiplies the number of dependent students in each income category by the lesser of—

(i) 30 percent of the average cost of education for undergraduate students; or

(ii) The average cost of education for undergraduate students minus the EFC determined under paragraph (f)(2) of this section, for that income category.

However, the average cost of education minus the EFC may not be less than zero;

(5) Adds the amounts obtained for each income category of dependent students;

(6) Multiplies the number of independent students in each income category by the lesser of—

(i) 30 percent of the average cost of education of undergraduate students; or

(ii) The average cost of education for undergraduate students minus the EFC determined under paragraph (f)(2) of this section, for that income category.

However, the average cost of education minus the EFC may not be less than zero;

(7) Adds the amounts obtained for each income category of independent students; and

(8) Adds the amounts obtained under paragraphs (f)(5) and (7) of this section.

The following charts show the income categories and calculations for undergraduate students.

| 1      | 2                            | 3                     | 4                                              | 5               | 6                                                  |
|--------|------------------------------|-----------------------|------------------------------------------------|-----------------|----------------------------------------------------|
| Income | Expected family contribution | 30 pct x average cost | Average cost less expected family contribution | Number students | Need: lesser of col. 3 x col. 5 or col. 4 x col. 5 |

#### Determination of Self Help Need for Dependent Undergraduate Students

|                      |  |  |  |  |  |
|----------------------|--|--|--|--|--|
| 0 to \$2,999         |  |  |  |  |  |
| \$3,000 to \$5,999   |  |  |  |  |  |
| \$6,000 to \$8,999   |  |  |  |  |  |
| \$9,000 to \$11,999  |  |  |  |  |  |
| \$12,000 to \$14,999 |  |  |  |  |  |
| \$15,000 to \$17,999 |  |  |  |  |  |
| \$18,000 to \$20,999 |  |  |  |  |  |
| \$21,000 to \$23,999 |  |  |  |  |  |
| \$24,000 to \$26,999 |  |  |  |  |  |
| \$27,000 to \$29,999 |  |  |  |  |  |
| \$30,000 to \$32,999 |  |  |  |  |  |
| \$33,000 to \$35,999 |  |  |  |  |  |
| \$36,000 to \$38,999 |  |  |  |  |  |
| \$39,000 to \$41,999 |  |  |  |  |  |
| \$42,000 to \$44,999 |  |  |  |  |  |
| \$45,000 and over    |  |  |  |  |  |

7 Total self help need for dependent undergraduate students.....\$

#### Determination of Self Help Need for Independent Undergraduate Students

|                      |  |  |  |  |  |
|----------------------|--|--|--|--|--|
| 0 to \$999           |  |  |  |  |  |
| \$1,000 to \$1,999   |  |  |  |  |  |
| \$2,000 to \$2,999   |  |  |  |  |  |
| \$3,000 to \$3,999   |  |  |  |  |  |
| \$4,000 to \$4,999   |  |  |  |  |  |
| \$5,000 to \$5,999   |  |  |  |  |  |
| \$6,000 to \$6,999   |  |  |  |  |  |
| \$7,000 to \$7,999   |  |  |  |  |  |
| \$8,000 to \$8,999   |  |  |  |  |  |
| \$9,000 to \$9,999   |  |  |  |  |  |
| \$10,000 to \$10,999 |  |  |  |  |  |
| \$11,000 to \$11,999 |  |  |  |  |  |
| \$12,000 to \$12,999 |  |  |  |  |  |
| \$13,000 to \$13,999 |  |  |  |  |  |
| \$14,000 to \$14,999 |  |  |  |  |  |
| \$15,000 to \$15,999 |  |  |  |  |  |

7 Total self help need for independent undergraduate students.....\$

#### Summary

|                                                                      |  |
|----------------------------------------------------------------------|--|
| 1 Total self help need for dependent undergraduate students.....\$   |  |
| 2 Total self help need for independent undergraduate students.....\$ |  |
| 3 Total self help need for all undergraduate students (1 + 2).....\$ |  |

(g) *State increase.* (1) In any year the Commissioner increases awards to institutions in a State ("State increase") if the combined FCC's resulting from conditional guarantees of all institutions in that State are less than the State apportionment under § 174.3(a)(1). However, no institution receives a State increase if it does not qualify for FCC under § 174.6a.

(2) The Commissioner calculates an institution's State increase according to the following formula:

$$\text{Institution's State increase} = \frac{\text{Institution's State shortfall}}{\text{State shortfall of all institutions in the State}} \times \frac{\text{FCC available for State shortfall}}{\times 1.11}$$

(3) As used in the formula in paragraph (g)(2) of this section—

(i) "Institution's State shortfall" means the difference between an institution's conditional guarantee and its State fair share determined in paragraph (g)(4) of this section.

(ii) "FCC available for State shortfall" means the State apportionment minus the FCC used for conditional guarantees.

(4) The Commissioner determines an institution's State fair share according to the following formula:

$$\text{Institution's State fair share} = \frac{\text{Institution's self-help need}}{\text{self-help need of all institutions in the State applying for NDSL or CWS funds}} \times \frac{\text{Total State NDSL funds}}{\times 1.11}$$

(5) As used in the formula in paragraph (g)(4) of this section, "total State NDSL funds" means the sum of—

(i) The State apportionment of FCC and the matching institutional capital contribution;

(ii) 121 percent of loan repayments in the base year; and

(iii) Reimbursement for Direct loan cancellation in the base year.

(h) *National increase.* (1) For any year the Commissioner will further increase awards to institutions ("national increase") if the sum of the conditional guarantees and State increases awarded to institutions is less than the total NDSL funds for that year (see paragraph (h)(4)(i) of this section).

(2) The Commissioner calculates an institution's national increase according to the following formula—

$$\text{Institution's national increase} = \frac{\text{its national shortfall}}{\text{national shortfall of all institutions}} \times \frac{\text{NDSL funds available for national shortfall}}{\times 1.11}$$

(3) As used in the formula in paragraph (h)(2) of this section—

(i) "NDSL funds available for national shortfall" is calculated by—

(A) Adding the conditional guarantees and State increases for all institutions; and

(B) Subtracting that sum from total NDSL funds; and

(ii) An institution's "national shortfall" is calculated by subtracting from its "national fair share" its conditional guarantee and State increase.

(4) As used in paragraph (h)(3) of this section—

(i) "Total NDSL funds" is calculated by adding—

(A) The appropriation for FCC plus the matching institutional capital contribution;

(B) 121 percent of loan repayments in the base year; and

(C) Reimbursements for Direct Loan cancellations in the base year; and

(ii) An institution's "national fair share" is calculated as follows—

$$\text{Institution's national fair share} = \frac{\text{its self-help need}}{\text{self-help need of all institutions applying for CWS or NDSL funds}} \times \frac{\text{total NDSL funds}}{\times 1.11}$$

(i) No institution may receive a higher level of expenditure than it requests. (20 U.S.C. 1087bb)

Section 174.6a is added to read as follows:

#### § 174.6a Funding procedure—Federal capital contributions (FCC).

(a) For any year, an institution receives Federal capital contributions if its default rate—

(1) Is 10 percent or less;

(2) Is more than 10 percent, but has declined by at least 25 percent during the base year; or

(3) Is more than 10 percent but the institution demonstrates that it exercised due diligence according to the provisions of Subpart C during the base year and is currently exercising due diligence.

(b) To determine an institution's FCC the Commissioner—

(1) Adds the institution's conditional guarantee, State increase, and national increase;

(2) Subtracts from the sum obtained in paragraph (b)(1) of this section, loan repayment and reimbursements for Direct loan cancellations received in the base year; and

(3) Multiplies the remainder obtained in paragraph (b)(2) of this section by 90 percent.

(c) For purposes of paragraph (b)(2) of this section, loan repayments equal 121 percent of the amount collected in the base year.

(d) The definition of default rate is set forth in § 174.2. However for purpose of this section, the Commissioner excludes—

(1) Notes referred to the Commissioner for collection or assigned to the Commissioner on or before September 15, 1979 for which the institution has received either a notification of acceptance or a receipt from the Office of Education; and

(2) Notes that have been in default but on which borrowers have made satisfactory arrangements to resume payment.

(e) No institution may receive more Federal capital contribution than it requested.

(20 U.S.C. 1087bb.)

Section 175.4 is revised to read as follows:

#### § 175.4 Allocation, reallocation, and payment to institutions.

(a) If funds available within a State are insufficient to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in § 175.6.

(b)(1) If an institution anticipates not using all its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Commissioner, who reduces the institution's allocation accordingly.

(2) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(3) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (c) of this section.

(c)(1) If the funds that become available under paragraph (b) of this section come from the State's initial allotment under § 175.3(b)(1), the Commissioner reallocates those funds equitably to other institutions in that State. If no institution in the State needs those funds, the Commissioner reallocates them in accordance with paragraph (c)(2) of this section.

(2) The Commissioner distributes the remaining funds as follows:

(i) The Commissioner first increases awards to institutions whose students have suffered financial hardships as a result of natural disasters within the preceding 12 months.

(ii) If any funds remain, the Commissioner then increases awards to institutions whose awards are less than their national fair share determined under § 175.6. The Commissioner

calculates each applicant's increase as follows:

$$\text{institution's remaining shortfall} \times \frac{\text{remaining amount available for reallocation}}{\text{remaining shortfall of all applicants for reallocation}}$$

(An institution's remaining shortfall is the difference between its national fair share and its award calculated in § 175.6 and this section through paragraph (c)(2)(1)).

(iii) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(d) The Commissioner allocates funds for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(42 U.S.C. 2756)

Section 175.6 is revised to read as follows:

#### § 175.6 Funding procedure.

(a) *General.* (1) Each institution applying for CWS funds receives an amount computed in the following three stages:

(i) A "conditional guarantee";  
(ii) A State increase based on its "fair share" of the State apportionment; and  
(iii) A national increase based on its "fair share" of the national appropriation.

(2) *Definition.*—As used in this section "base year" means the 12-month period ending on the June 30 preceding the closing date for filing an application.

(b) *Conditional guarantee for 1977-78 or 1978-79 participants.* For any year, an institution that received campus-based funds in award year 1977-78 or 1978-79 receives a conditional guarantee equal to the greater of 90% of its—

(1) 1977-78 CWS expenditures; or  
(2) 1978-79 CWS expenditures;

(c) *Conditional guarantee for other institutions.* For any year, an institution that did not participate in any campus-based program in either award year 1977-78 or 1978-79 receives a conditional guarantee as follows:

(1) *No funds in base year.* If the institution did not receive any campus-based funds in the base year, it receives a conditional guarantee of \$5,000.

(2) *Funds in base year.* If the institution received any campus-based funds in the base year, its conditional guarantee is 90% of its CWS expenditure in the first year it received campus-based funds.

(3) *Exception for first-time participants in 1979-80.* Notwithstanding paragraphs (c)(1) and (2) of this section, if an institution participated in the



campus-based programs for the first time in award year 1979-80, it—

(i) When applying for funds for first year 1981-82, receives its conditional guarantee under subparagraph (c)(1) of this section;

(ii) When applying for funds after award year 1981-82, uses as the first year it received funds, award year 1980-81.

(d) *Self-help need of an institution.* (1) The Commissioner allocates additional funds to an institution under paragraph (g) of this section (State increase) and paragraph (h) of this section (national increase) based in part on the institution's self-help need. Self-help need is the need for funds from work and loan sources. The institution's self-help need is the sum of the self-help need of its graduate students and the self-help need of its undergraduate students.

(2) The Commissioner calculates the self-help need of an institution's graduate students in accordance with paragraph (e) of this section and the self-help need of its undergraduate students in accordance with paragraph (f) of this section.

(3) As used in paragraphs (e) and (f) of this section:

(i) *Cost of education* means attendance costs for eligible undergraduate and graduate students including tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner prorates this amount for eligible students.)

(ii) *Eligible students* means students who satisfy the eligibility requirements of § 175.9 (a)(1) through (a)(4).

(e) *Self-help need of graduate students.* To determine the self-help need of an institution's graduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent graduate students;

(2) Establishes an expected family contribution (EFC) for each income category of dependent and independent graduate students, using a need analysis method approved under § 175.13;

(3) Determines the average cost of education for graduate students;

(4) Subtracts from the average cost of education for graduate students, the computed EFC for each income category of dependent students and each income category of independent students. However, the average cost of education minus the EFC for any income category may not be less than zero;

(5) Multiplies those amounts by the number of students in each category;

(6) Adds the amounts obtained for each income category of dependent students and each income category of independent students; and

(7) Totals those two amounts. *The following charts show the income categories and calculations for graduate students.*

| 1                                                                      | 2                            | 3            | 4                                              | 5               | 6                               |
|------------------------------------------------------------------------|------------------------------|--------------|------------------------------------------------|-----------------|---------------------------------|
| Income                                                                 | Expected family contribution | Average cost | Average cost less expected family contribution | Number students | Self help need, col. 4 x col. 5 |
| <b>Determination of Self Help Need For Dependent Graduate Students</b> |                              |              |                                                |                 |                                 |
| 0 to \$2,999                                                           |                              |              |                                                |                 |                                 |
| \$3,000 to \$5,999                                                     |                              |              |                                                |                 |                                 |
| \$6,000 to \$8,999                                                     |                              |              |                                                |                 |                                 |
| \$9,000 to \$11,999                                                    |                              |              |                                                |                 |                                 |
| \$12,000 to \$14,999                                                   |                              |              |                                                |                 |                                 |
| \$15,000 to \$17,999                                                   |                              |              |                                                |                 |                                 |
| \$18,000 to \$20,999                                                   |                              |              |                                                |                 |                                 |
| \$21,000 to \$23,999                                                   |                              |              |                                                |                 |                                 |
| \$24,000 to \$26,999                                                   |                              |              |                                                |                 |                                 |
| \$27,000 to \$29,999                                                   |                              |              |                                                |                 |                                 |
| \$30,000 to \$32,999                                                   |                              |              |                                                |                 |                                 |
| \$33,000 to \$35,999                                                   |                              |              |                                                |                 |                                 |
| \$36,000 to \$38,999                                                   |                              |              |                                                |                 |                                 |
| \$39,000 to \$41,999                                                   |                              |              |                                                |                 |                                 |
| \$42,000 to \$44,999                                                   |                              |              |                                                |                 |                                 |
| \$45,000 and over                                                      |                              |              |                                                |                 |                                 |
| 7 Total self help need for dependent graduate students                 |                              |              |                                                |                 | \$                              |

| 1                                                                        | 2                            | 3            | 4                                              | 5               | 6                               |
|--------------------------------------------------------------------------|------------------------------|--------------|------------------------------------------------|-----------------|---------------------------------|
| Income                                                                   | Expected family contribution | Average cost | Average cost less expected family contribution | Number students | Self help need, col. 4 x col. 5 |
| <b>Determination of Self Help Need For Independent Graduate Students</b> |                              |              |                                                |                 |                                 |
| 0 to \$999                                                               |                              |              |                                                |                 |                                 |
| \$1,000 to \$1,999                                                       |                              |              |                                                |                 |                                 |
| \$2,000 to \$2,999                                                       |                              |              |                                                |                 |                                 |
| \$3,000 to \$3,999                                                       |                              |              |                                                |                 |                                 |
| \$4,000 to \$4,999                                                       |                              |              |                                                |                 |                                 |
| \$5,000 to \$5,999                                                       |                              |              |                                                |                 |                                 |
| \$6,000 to \$6,999                                                       |                              |              |                                                |                 |                                 |
| \$7,000 to \$7,999                                                       |                              |              |                                                |                 |                                 |
| \$8,000 to \$8,999                                                       |                              |              |                                                |                 |                                 |
| \$9,000 to \$9,999                                                       |                              |              |                                                |                 |                                 |
| \$10,000 to \$10,999                                                     |                              |              |                                                |                 |                                 |
| \$11,000 to \$11,999                                                     |                              |              |                                                |                 |                                 |
| \$12,000 to \$12,999                                                     |                              |              |                                                |                 |                                 |
| \$13,000 to \$13,999                                                     |                              |              |                                                |                 |                                 |
| \$14,000 to \$14,999                                                     |                              |              |                                                |                 |                                 |
| \$15,000 and over                                                        |                              |              |                                                |                 |                                 |
| 7 Total self help need for independent graduate students                 |                              |              |                                                |                 | \$                              |

| <b>Summary</b>                                           |  |  |  |  |    |
|----------------------------------------------------------|--|--|--|--|----|
| 1 Total self help need for dependent graduate students   |  |  |  |  | \$ |
| 2 Total self help need for independent graduate students |  |  |  |  | \$ |
| 3 Total self help need for all graduate students (1 + 2) |  |  |  |  | \$ |

(f) *Self-help need of undergraduate students.* To determine the self-help need of an institution's undergraduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 175.13;

(3) Computes 30 percent of the average cost of education for undergraduate students;

(4) Multiplies the number of dependent students in each income category by the lesser of—

(i) 30 percent of the average cost of education for undergraduate students; or

(ii) The average cost of education for undergraduate students minus the EFC determined under paragraph (f)(2) of this section for that income category.

However, the average cost of education minus the EFC may not be less than zero;

(5) Adds the amounts obtained for each income category of dependent students;

(6) Multiplies the number of independent students in each income category by the lesser of—

(i) 30 percent of the average costs of education for undergraduate students; or

(ii) The average cost of education for undergraduate students minus the EFC determined under paragraph (f)(2) of this section for that income category. However, the average cost of education minus the EFC may not be less than zero;

(7) Adds the amounts obtained for each income category of independent students; and

(8) Adds the amounts obtained under paragraphs (f)(5) and (7) of this section.

*The following charts show the income categories and calculations for undergraduate students.*

| 1                                                                           | 2                            | 3                     | 4                                              | 5               | 6                                                  |
|-----------------------------------------------------------------------------|------------------------------|-----------------------|------------------------------------------------|-----------------|----------------------------------------------------|
| Income                                                                      | Expected family contribution | 30 pct x Average cost | Average cost less expected family contribution | Number students | Need: lesser of col. 3 x col. 5 or col. 4 x col. 5 |
| <b>Determination of Self Help Need for Dependent Undergraduate Students</b> |                              |                       |                                                |                 |                                                    |
| 0 to \$2,999                                                                |                              |                       |                                                |                 |                                                    |
| \$3,000 to \$5,999                                                          |                              |                       |                                                |                 |                                                    |
| \$6,000 to \$8,999                                                          |                              |                       |                                                |                 |                                                    |
| \$9,000 to \$11,999                                                         |                              |                       |                                                |                 |                                                    |
| \$12,000 to \$14,999                                                        |                              |                       |                                                |                 |                                                    |
| \$15,000 to \$17,999                                                        |                              |                       |                                                |                 |                                                    |
| \$18,000 to \$20,999                                                        |                              |                       |                                                |                 |                                                    |
| \$21,000 to \$23,999                                                        |                              |                       |                                                |                 |                                                    |
| \$24,000 to \$26,999                                                        |                              |                       |                                                |                 |                                                    |
| \$27,000 to \$29,999                                                        |                              |                       |                                                |                 |                                                    |
| \$30,000 to \$32,999                                                        |                              |                       |                                                |                 |                                                    |
| \$33,000 to \$35,999                                                        |                              |                       |                                                |                 |                                                    |
| \$36,000 to \$38,999                                                        |                              |                       |                                                |                 |                                                    |
| \$39,000 to \$41,999                                                        |                              |                       |                                                |                 |                                                    |
| \$42,000 to \$44,999                                                        |                              |                       |                                                |                 |                                                    |
| \$45,000 and over                                                           |                              |                       |                                                |                 |                                                    |
| 7 Total self help need for dependent undergraduate students                 |                              |                       |                                                |                 | \$                                                 |

| 1                                                                             | 2                            | 3                     | 4                                              | 5               | 6                                                  |
|-------------------------------------------------------------------------------|------------------------------|-----------------------|------------------------------------------------|-----------------|----------------------------------------------------|
| Income                                                                        | Expected family contribution | 30 pct x Average cost | Average cost less expected family contribution | Number students | Need: lesser of col. 3 x col. 5 or col. 4 x col. 5 |
| <b>Determination of Self Help Need for Independent Undergraduate Students</b> |                              |                       |                                                |                 |                                                    |
| 0 to \$999                                                                    |                              |                       |                                                |                 |                                                    |
| \$1,000 to \$1,999                                                            |                              |                       |                                                |                 |                                                    |
| \$2,000 to \$2,999                                                            |                              |                       |                                                |                 |                                                    |
| \$3,000 to \$3,999                                                            |                              |                       |                                                |                 |                                                    |
| \$4,000 to \$4,999                                                            |                              |                       |                                                |                 |                                                    |
| \$5,000 to \$5,999                                                            |                              |                       |                                                |                 |                                                    |
| \$6,000 to \$6,999                                                            |                              |                       |                                                |                 |                                                    |
| \$7,000 to \$7,999                                                            |                              |                       |                                                |                 |                                                    |
| \$8,000 to \$8,999                                                            |                              |                       |                                                |                 |                                                    |
| \$9,000 to \$9,999                                                            |                              |                       |                                                |                 |                                                    |
| \$10,000 to \$10,999                                                          |                              |                       |                                                |                 |                                                    |
| \$11,000 to \$11,999                                                          |                              |                       |                                                |                 |                                                    |
| \$12,000 to \$12,999                                                          |                              |                       |                                                |                 |                                                    |
| \$13,000 to \$13,999                                                          |                              |                       |                                                |                 |                                                    |
| \$14,000 to \$14,999                                                          |                              |                       |                                                |                 |                                                    |
| \$15,000 and over                                                             |                              |                       |                                                |                 |                                                    |
| 7 Total self help need for independent undergraduate students                 |                              |                       |                                                |                 | \$                                                 |

| <b>Summary</b>                                                |  |  |  |  |    |
|---------------------------------------------------------------|--|--|--|--|----|
| 1 Total self help need for dependent undergraduate students   |  |  |  |  | \$ |
| 2 Total self help need for independent undergraduate students |  |  |  |  | \$ |
| 3 Total self help need for all undergraduate students (1 + 2) |  |  |  |  | \$ |

(g) *State increase.* (1) For any year the Commissioner increases awards to institutions in a State ("State increase") if the combined conditional guarantees of all institutions in that State are less than the State's allotment under § 175.3.

(2) The Commissioner calculates an institution's State increase according to the following formula—

$$\text{Institution's State increase} = \frac{\text{its State shortfall}}{\text{State shortfalls of all institutions in State}} \times \text{CWS funds available for State shortfall.}$$

(3) As used in the formula in paragraph (g)(2) of this section—

(i) An institution's "State shortfall" is calculated by subtracting from an institution's State fair share its conditional guarantee.

(ii) "CWS funds available for State shortfall" is calculated by subtracting from the State allotment, the conditional guarantees of all institutions in the State.

(4) An institution's "State fair share" is calculated as follows—

$$\text{Institution's fair share} = \frac{\text{its self-help need}}{\text{self-help need of all institutions in the State applying for CWS funds or NDSE funds}} \times \text{State allotment for CWS}$$

(h) *National increase.* (1) For any year the Commissioner will further increase awards to institutions ("national increase") if the sum of the conditional guarantees and State increases awarded to institutions is less than the CWS appropriation for that year.

(2) The Commissioner calculates an institution's national increase according to the following formula—

$$\text{Institution's national fair share} = \frac{\text{its national shortfall}}{\text{national shortfall of all institutions}} \times \text{CWS funds available for national shortfall}$$

(3) As used in the formula in paragraph (h)(2) of this section—

(i) "CWS funds available for national shortfall" is calculated by subtracting from the CWS appropriation the conditional guarantees and State increases of all institutions.

(ii) An institution's national shortfall is calculated by subtracting from its "national fair share", its conditional guarantee and State increase.

(4) An institution's "national fair share" is calculated as follows—

$$\text{Institution's national fair share} = \frac{\text{its self-help need}}{\text{self-help need of all institutions applying for CWS or NDSE funds}} \times \text{CWS appropriation}$$

(i) No institution may receive more CWS funds than it requests. (42 U.S.C. 2756)

Section 176.4 is revised to read as follows:



**§ 176.4 Allocation, reallocation, and payment to institutions.**

(a) If funds available within a State are insufficient to honor all requests for funds by institutions in that State, the Commissioner distributes the funds as described in § 176.6.

(b)(1) If an institution anticipates not using all its allocation for initial and continuing grants by the end of an award year, it must specify the anticipated unused amount to the Commissioner, who reduces the institution's allocation accordingly.

(2) Other institutions may apply for those funds on the form and at the time specified by the Commissioner.

(3) The Commissioner distributes those funds to applicant institutions in accordance with paragraph (c) of this section.

(c)(1) If the funds that become available under paragraph (b) of this section come from the State's initial year allotment under § 176.3(a)(1), the Commissioner reallocates those funds equitably to other institutions in that State. If no institution in the State needs those funds, the Commissioner reapportions them in accordance with paragraph (c)(2) of this section.

(2) The Commissioner distributes the remaining funds as follows:

(i) The Commissioner first increases awards to institutions whose students have suffered financial hardships as a result of natural disasters within the preceding 12 months.

(ii) If any funds remain, the Commissioner then increases awards to institutions whose awards are less than their national fair shares determined under § 176.6. The Commissioner calculates each applicant's increase as follows:

$$\frac{\text{institution's remaining shortfall}}{\text{remaining shortfall of all applicants for reallocation}} \times \frac{\text{remaining amount available for reallocation}}{\text{total amount available for reallocation}}$$

(An institution's remaining shortfall is the difference between its national fair share and its award calculated in § 176.6 and this section through paragraph (c)(2)(i).)

(iii) If any funds still remain, the Commissioner reallocates the funds in a manner that best carries out the purposes of this part.

(d) The Commissioner allocates funds for initial and continuing grants for a specific period of time. The Commissioner pays funds to an institution in advance or by reimbursement. The Commissioner bases the amount to be paid on periodic fiscal reports.

(20 U.S.C. 1070b-3.)

Section 176.6 is revised to read as follows:

**§ 176.6 Funding procedure.**

(a) *General.* (1) Each institution applying for SEOG initial year (IY) or continuing year (CY) funds receives an amount computed in the following three stages:

(i) A "conditional guarantee";  
(ii) A State increase based on its "fair share" of the State's IY apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) *Definition.* As used in this section "base year" means the 12-month period ending on the June 30 preceding the closing date for filing an application.

(b) *Conditional guarantee for 1977-78 or 1978-79 participants.* For any year, an institution that received campus-based funds in award year 1977-78 or 1978-79 receives a conditional guarantee equal to the greater of 90% of its—

(i) 1977-78 SEOG expenditure; or  
(ii) 1978-79 SEOG expenditure.

(c) *Conditional guarantee for other institutions.* For any year, an institution that did not participate in any campus-based program in either award year 1977-78 or 1978-79 receives a conditional guarantee as follows:

(1) *No funds in base year.* If the institution did not receive any campus-based funds in the base year, it receives a conditional guarantee of \$5,000.

(2) *Funds in base year.* If the institution received any campus-based funds in the base year, its conditional guarantee is 90% of its SEOG expenditure in the first year it received campus-based funds.

(3) *Exception for first-time participants in 1979-80.* Notwithstanding paragraphs (c) (1) and (2) of this section, if an institution participated in the campus-based programs for the first time in award year 1979-80, it—

(i) When applying for funds for award year 1981-82, receives its conditional guarantee under paragraph (c)(1) of this section; and

(ii) When applying for funds after award year 1981-82, uses as the first year it received funds, award year 1980-81.

(4) *IY and CY funds.* The Commissioner divides each institution's conditional guarantee between IY and CY funds. The Commissioner bases this division on the percentage that the institution's request for each type of grant bears to its total request.

Example: An institution that requests \$100,000, \$45,000 in IY funds and \$55,000 in CY funds, has a conditional guarantee of 45% for IY grants and 55% for CY grants.

(d) *SEOG need of an institution.* (1) The Commissioner allocates additional funds to an institution under paragraph

(f) of this section (State increase), paragraph (g) of this section (IY national increase), and paragraph (h) of this section (CY national increase) based in part on the institution's need for SEOG funds.

(2) The Commissioner computes an institution's need for IY and CY SEOG funds by the following formula:  
SEOG need = 70% if cost of education - (Total expected family contribution + Basic Grants + State grants + 50% of institutional grants).

(3) The Commissioner divides each institution's need between IY and CY based on the institution's request for each (see paragraph (c)(4) of this section).

(4) As used in paragraph (e) of this section:

(i) *Cost of education* means attendance costs for eligible undergraduate students including tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Commissioner prorates this amount for eligible students.)

(ii) *Eligible students* means students who satisfy the eligibility requirements of § 176.9(a)(1) through (a)(4).

(iii) *State grant* means the sum of all State grants and scholarships received by undergraduate students at an institution during the award year 1977-78.

(iv) *Institutional grants* means the sum of undergraduate gift aid included in determining the maintenance of effort amount under § 176.20 during the award year 1977-78.

(5) Seventy percent of the average cost of education minus EFC may not be less than zero.

(e) *SEOG need of undergraduate students.* To determine the need for SEOG funds of an institution's undergraduate students, the Commissioner—

(1) Establishes various income categories for dependent and independent undergraduate students;

(2) Establishes an EFC for each income category of dependent and independent undergraduate students, using a need analysis method approved under § 176.13;

(3) Multiplies the number of dependent students in each income category by the EFC for that income category;

(4) Multiplies the number of independent students in each income category by the EFC for that income category; and

(5) Adds the amount obtained in all categories.

The following charts show the income categories and calculations.

| 1                                                                      | 2             | 3                            | 4                        | 5               | 6               |
|------------------------------------------------------------------------|---------------|------------------------------|--------------------------|-----------------|-----------------|
| Income                                                                 | 70 pct x cost | Expected family contribution | Need: col. 2 less col. 3 | Number students | Col. 4 x col. 5 |
| <b>Determination of SEOG Need for Dependent Undergraduate Students</b> |               |                              |                          |                 |                 |
| 0 to \$2,999                                                           |               |                              |                          |                 |                 |
| \$3,000 to \$5,999                                                     |               |                              |                          |                 |                 |
| \$6,000 to \$8,999                                                     |               |                              |                          |                 |                 |
| \$9,000 to \$11,999                                                    |               |                              |                          |                 |                 |
| \$12,000 to \$14,999                                                   |               |                              |                          |                 |                 |
| \$15,000 to \$17,999                                                   |               |                              |                          |                 |                 |
| \$18,000 to \$20,999                                                   |               |                              |                          |                 |                 |
| \$21,000 to \$23,999                                                   |               |                              |                          |                 |                 |
| \$24,000 to \$26,999                                                   |               |                              |                          |                 |                 |
| \$27,000 to \$29,999                                                   |               |                              |                          |                 |                 |
| \$30,000 to \$32,999                                                   |               |                              |                          |                 |                 |
| \$33,000 to \$35,999                                                   |               |                              |                          |                 |                 |
| \$36,000 to \$38,999                                                   |               |                              |                          |                 |                 |
| \$39,000 to \$41,999                                                   |               |                              |                          |                 |                 |
| \$42,000 to \$44,999                                                   |               |                              |                          |                 |                 |
| \$45,000 and over                                                      |               |                              |                          |                 |                 |

|                                                                          |    |
|--------------------------------------------------------------------------|----|
| 7 Total for dependent undergraduate students                             | \$ |
| <b>Determination of SEOG Need for Independent Undergraduate Students</b> |    |
| 0 to \$999                                                               |    |
| \$1,000 to \$1,999                                                       |    |
| \$2,000 to \$2,999                                                       |    |
| \$3,000 to \$3,999                                                       |    |
| \$4,000 to \$4,999                                                       |    |
| \$5,000 to \$5,999                                                       |    |
| \$6,000 to \$6,999                                                       |    |
| \$7,000 to \$7,999                                                       |    |
| \$8,000 to \$8,999                                                       |    |
| \$9,000 to \$9,999                                                       |    |
| \$10,000 to \$10,999                                                     |    |
| \$11,000 to \$11,999                                                     |    |
| \$12,000 to \$12,999                                                     |    |
| \$13,000 to \$13,999                                                     |    |
| \$14,000 to \$14,999                                                     |    |
| \$15,000 and over                                                        |    |

|                                                                                |    |
|--------------------------------------------------------------------------------|----|
| 7 Total for independent undergraduate students                                 | \$ |
| <b>Summary and Calculation of SEOG Need</b>                                    |    |
| 1 Total for dependent undergraduate students                                   | \$ |
| 2 Total for independent undergraduate students                                 | \$ |
| 3 Total for all undergraduate students (1 + 2)                                 | \$ |
| 4 All SEOG                                                                     | \$ |
| 5 All State grant aid                                                          | \$ |
| 6 50% of all institutional grant aid                                           | \$ |
| 7 Total of items 4, 5, and 6                                                   | \$ |
| 8 Item 3 (total all undergraduate students) less item 7 equals total SEOG need | \$ |

(f) *State increase.* (1) For any year the Commissioner increases awards to institutions in a State ("State increase") if the combined IY conditional guarantees of all institutions in that State are less than the State's IY apportionment under § 176.3(a).

(2) The Commissioner calculates an institution's State increase according to the following formula—

$$\frac{\text{Institution's State increases}}{\text{Institution's IY State shortfall}} \times \frac{\text{SEOG IY need of all institutions in the State}}{\text{SEOG IY funds available for State shortfall}}$$

(3) As used in the formula in paragraph (f)(2) of this section—

(i) An institution's "IY State shortfall" is calculated by subtracting from an institution's IY State fair share its IY conditional guarantee.

(ii) "SEOG IY funds available for State shortfall" is calculated by subtracting from the State IY apportionment, the IY conditional guarantees of all institutions in the State.

(iii) An institution's "IY State fair share" is calculated as follows—

$$\frac{\text{Institution's IY State fair share}}{\text{Institution's SEOG IY need}} \times \frac{\text{SEOG IY need of all institutions in the State}}{\text{SEOG IY funds available for SEOG funds}}$$

(g) *IY national increase.* (1) For any year the Commissioner will further increase awards to institutions ("IY national increase") if the sum of the IY conditional guarantees and State increases awarded to institutions is less than the SEOG IY appropriation for that year.

(2) The Commissioner calculates an institution's IY national increase according to the following formula—

$$\frac{\text{Institution's IY national increase}}{\text{Institution's IY national shortfall}} \times \frac{\text{SEOG IY national shortfall of all institutions}}{\text{SEOG IY funds available for national shortfall}}$$

(3) As used in the formula in paragraph (g)(2) of this section.

(i) "SEOG IY funds available for national shortfall" is calculated by subtracting from the SEOG appropriation the IY conditional guarantees and State increases of all institutions.

(ii) An institution's "IY national shortfall" is calculated by subtracting from its "IY national fair share", its IY conditional guarantee and State increase.

(4) An institution's "IY national fair share" is calculated as follows:

$$\frac{\text{Institution's IY national fair share}}{\text{Institution's SEOG IY need}} \times \frac{\text{SEOG IY need of all institutions applying for SEOG funds}}{\text{SEOG IY appropriation}}$$

(h) *CY national increase.* (1) For any year the Commissioner will further increase awards to institutions ("CY national increase") if the sum of the CY conditional guarantees awarded to institutions is less than the SEOG CY appropriation for that year.

(2) The Commissioner calculates an institution's CY national increase according to the following formula—



$$\text{Institution's CY} = \frac{\text{its CY national shortfall}}{\text{national CY national shortfall of all institutions}} \times \text{SEOG CY funds available for national shortfall}$$

(3) As used in the formula in paragraph (h)(2) of this section—

(i) "SEOG CY funds available for national shortfall" is calculated by subtracting from the SEOG CY appropriation the CY conditional guarantees of all institutions.

(ii) An institution's "CY national shortfall" is calculated by subtracting from its "CY national fair share", its CY conditional guarantee.

(4) An institution's "CY national fair share" is calculated as follows:

$$\text{Institution's CY} = \frac{\text{its SEOG CY need}}{\text{national fair share SEOG CY need of all institutions applying for SEOG funds}} \times \text{SEOG CY appropriation}$$

(i) No institution may receive more IY or CY SEOG funds than it requests.

(20 U.S.C. 1070b-3)

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Friday,  
December 7,  
1979

#### Part IV

### Environmental Protection Agency

Priority List of Chemical Substances  
Recommended for Testing; Fifth Report  
of the Interagency Testing Committee to  
the Administrator, EPA, Receipt of the  
Report, Request for Comments; and  
Corrections to the Fourth Report of the  
Interagency Testing Committee

test report  
federal register

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# ENVIRONMENTAL PROTECTION AGENCY

[FRL 1371-3]

## Fifth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency: Receipt of the Report and Request for Comments Regarding Priority List of Chemicals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** This notice requests comments on recent additions to the Interagency Testing Committee's (ITC) priority list of chemical substances recommended for testing under section 4(a) of the Toxic Substances Control Act (TSCA).

**SUMMARY:** The ITC, established under section 4(e) of TSCA, has transmitted its Fifth Report to the Administrator of EPA. This report revises and updates the Committee's priority list of chemicals. The Report adds two individual chemical substances and three categories to the Committee's list of chemicals for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act.

The Fifth Report is being published with this Notice. The Agency invites interested persons to submit comments on the Report.

### SUPPLEMENTARY INFORMATION:

#### Background

Section 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA for priority consideration for proposing test rules under section 4(a). The Committee may at any one time designate up to 50 of its recommendations for special priority consideration by EPA. Within 12 months of that designation, EPA must initiate rulemaking to require testing or publish in the *Federal Register* its reasons for not doing so.

The Committee's initial recommendations to the priority list, of four substances and six categories of substances, were published in the *Federal Register* on October 12, 1977 (42 FR 55028). EPA's response to the initial recommendations appeared in the *Federal Register* on October 26, 1978 (43

FR 50134). The ITC's revisions to the initial list appeared in the Committee's Second Report and were published in the *Federal Register* on April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the priority list. EPA responded to the second ITC Report on May 14, 1979 (44 FR 28095). In its Third Report, published in the *Federal Register* on October 30, 1978 (43 FR 50631), the Committee recommended the addition of one chemical substance and two categories of chemical substances to the priority list. In its Fourth Report, the Committee recommended the addition of 11 individual chemicals and one category to its priority list, each designated for priority consideration by EPA. The ITC's Fifth Report was received by the Administrator on November 7, 1979.

#### Availability

The ITC's Fifth Report follows this Notice.

**REQUEST FOR COMMENTS:** EPA invites interested persons to submit comments on the ITC's new recommendations. The Agency requests comments be submitted no later than February 5, 1979. All comments received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations.

Comments should bear the identifying notation OTS-410001 and should be submitted to the Document Control Officer, Chemical Information Division, Office of Pesticides and Toxic Substance (TS-793), Room 447, EPA, 401 M Street SW., Washington, D.C. 20460. All written comments will be available for public inspection in Room 447, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: November 28, 1979.

Steven D. Jellinek.

Assistant Administrator for Pesticides and Toxic Substances.

### Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency

#### Toxic Substances Control Act

##### Interagency Testing Committee

**Member agencies—**Council on Environmental Quality, Department of Commerce, Environmental Protection Agency, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Science Foundation, Occupational Safety and Health Administration  
**Liaison agencies—**Consumer Product Safety Commission, Department of Defense,

Department of the Interior, Food and Drug Administration  
November 6, 1979.

Hon. Douglas M. Costle,  
Administrator, Environmental Protection Agency (A-100), Room 1200 W, 401 M Street, S.W., Washington, D.C.

Dear Mr. Costle: On behalf of the TSCA Interagency Testing Committee I wish to inform you that the Committee now recommends further revision of the Section 4(e) Priority List with the addition and designation of two individual chemicals and three categories of chemical substances. These recommendations and supporting information are presented in the enclosed document, the Fifth Report of the Committee.

This report highlights our recent deliberations on dyes and pigments from which recommendations on certain dyes are made. Essentially, our first recommendation is a generic recommendation for the study of human health effects. I would emphasize the need for scientific investigation rather than routine testing of these materials since great uncertainties regarding the composition of each substance and its complex pharmacodynamics and fate simply preclude isolation upon a specific effect. This recommendation does not imply that testing for mutagenicity, carcinogenicity, teratogenicity and other end-points is inappropriate but that the evaluation of these materials must be a global evaluation to include the parent material, its constituents and metabolites and transformation products.

Our second major recommendation is with respect to the environmental fate and effects of the three categories of dyes. The Committee cannot recommend testing for specific environmental effects at this time. This is because the chemical composition, and hence the environmental fate, of all components of the dyes in each category is not known. Also, both the toxicity and the environmental fate of these dyes will be affected by the metabolic fate of their various components. However the Committee does urge the development of a sequenced approach, in which the results of environmental fate studies are used to determine the environmental compartments in which these chemical substances or their derivatives may be of concern. The organisms, species and effects which are most appropriate for testing can then be determined.

Certainly, the dyes and pigments are a complicated group of chemical substances—from their composition, chemistry and usage to their effective regulation. I personally believe that acceptable use patterns for these materials can only be advanced through a coordinated, comprehensive program of research and testing involving the joint efforts of industry and the Federal Government. And I would suggest that serious consideration be given to finding ways to involve the National Toxicology Program with this effort.

I trust that you will find our recommendations responsive to the intentions of the Toxic Substances Control Act, and I want to assure you that the

Committee continues to regard its mission as a sensitive and serious responsibility.

Sincerely yours,

Carter Schuth,

Chairperson, TSCA Interagency Testing Committee.

Enclosure

cc: Mr. Jellinek

Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, November 1979

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##### Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce which may pose an unreasonable risk to human health or the environment. This section of the Act also provides for establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the Section 4(e) Priority List as it determines to be necessary and transmits them to the Administrator, at least every six months.

As a result of its deliberations during the past six months, the Committee is revising the TSCA Section 4(e) Priority List by the addition of 2 individual substances and 3 categories. As provided in the law these substances are designated for action by EPA within twelve months. The Committee considers each newly designated addition to be of equal priority with those previously designated. The additions to the Priority List are presented, together with the types of studies recommended, as follow:

### Substances and Categories Designated and Recommended Studies

#### Benzidine-based dyes—Environmental Fate and Effects

#### o-Dianisidine-based dyes—Human Health Effects, Environmental Fate and Effects

#### o-Tolidine-based dyes—Human Health Effects, Environmental Fate and Effects

#### Hydroquinone—Carcinogenicity, Teratogenicity, Epidemiology, Environmental Fate and Effects

#### Quinone—Carcinogenicity, Teratogenicity, Environmental Fate and Effects

#### TSCA Interagency Testing Committee

#### Statutory Member Agencies

#### Council on Environmental Quality—Nathan J. Karch

#### Department of Commerce—Orville E. Paynter, Bernard Greifer, Alternate

#### Environmental Protection Agency—Warren R. Muir, Amy Rispin, Alternate<sup>1</sup>

#### National Cancer Institute—James M. Sontag

#### National Institute of Environmental Health Sciences—Richard R. Bates, Warren T. Piver, Alternate

#### National Institute for Occupational Safety and Health—Vera W. Hudson,<sup>2</sup> Michael Blackwell, Alternate<sup>3</sup>

#### National Science Foundation—Carter Schuth, Chair

#### Occupational Safety and Health Administration—Fred W. Clayton, Vice-Chair, Joseph K. Wagoner, Alternate

#### Liaison Agencies

#### Consumer Product Safety Commission—Joseph McLaughlin

#### Department of Defense—Bernard P. McNamra<sup>4</sup>

#### Department of the Interior—Charles R. Walker

#### Food and Drug Administration—Allen H. Heim, Winston deMonsabert, Alternate

#### Department of Agriculture—Homer E. Fairchild<sup>5</sup>

#### Committee Staff

#### Walter G. Rosen, Acting Executive Secretary

#### Madye B. Cole, Administrative Technician

#### Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, October 1979

#### Chapter 1. Introduction

#### 1.1 Background.—The Interagency Testing Committee (Committee) was established under Section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection

#### Agency (EPA) chemical substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations to the Administrator will be in the form of a list (Section 4(e) Priority List) to be published in the *Federal Register*. The Committee also is directed to make such revisions in the list as it determines to be necessary and transmit them to the Administrator, at least every six months after submission of its initial list.

#### The current Committee members, alternates, and liaison representatives are identified in the front of this report. The Committee's chemical review procedures and previous recommendations have been presented elsewhere (References 1-5).

#### 1.2 Committee Activities in this Reporting Period.—In August 1979 the Committee completed a second round of scoring of chemicals from its master file (see reference 2 for methodology). Newly scored chemicals will be reviewed for the purpose of making future recommendations to the Administrator.

#### A significant development since the Committee's last report to the Administrator has been the publication by the EPA of the Toxic Substances Control Act Chemical Substances Inventory. The Committee has begun to utilize the Inventory for production information in its evaluation of chemicals.

#### Public comments on the Committee's Fourth Report have been reviewed. Based on this review, the Committee does not plan to revise its testing recommendations or alter further the format of its reports.

#### As in its previous reports, the rationales in this Fifth Report do not contain references to all planned or ongoing studies, although the Committee may be aware of such studies. In this regard, the Committee's reasoning remains the same as stated and explained in Section 3.2 of the Third Report (4):

#### The Committee generally does not regard knowledge that studies are planned or ongoing as a sufficient basis to defer consideration of a substance for designation for the effect under investigation or for any other effect. The Committee's judgment as to whether a substance has been adequately tested for health and environmental effects must rest with the data that are presently available. Such data do not exist for planned studies and may be in various stages of generation for ongoing studies.

#### 1.3 EPA's Response to the Committee's Previous Reports.—In this Report, twenty one entries appear on the

#### <sup>1</sup> Dr. Rispin replaced Mr. Joseph Merenda as Alternate on June 29, 1979.

#### <sup>2</sup> Ms. Hudson replaced Dr. Jean French as Member on August 9, 1979.

#### <sup>3</sup> Dr. Blackwell replaced Ms. Vera Hudson as Alternate on August 9, 1979.

#### <sup>4</sup> Dr. McNamara replaced Dr. Seymour Freiss on September 27, 1979.

#### <sup>5</sup> Dr. Fairchild joined the Committee on September 21, 1979.



Section 4(e) Priority List with designations for EPA action by October 1978, April 1979, and October 1979. Although these chemicals were designated for action by the Administrator in the Committee's previous reports, they are still retained on the Section 4(e) Priority List as shown in Table 1.

1.4 *Liaison Members.*—The Committee continues to rely on input from its liaison agency members and recommends that consideration be given to statutory membership for their agencies.

#### Chapter 2. Recommendations of the Committee

2.1 *Chemical Substances Designated for Action by EPA Within Twelve Months.*—The Committee is revising its TSCA Section 4(e) Priority List by the designation of an additional 2 individual substances and 3 categories for which initiation of testing rules is recommended. These designations were made after consideration of the factors identified in TSCA Section 4(e)(1)(A), and with the professional judgment of Committee members. The recommended studies deemed appropriate for determining the potential hazard(s) of each new entry and the reasons for such recommendations are described in Section 2.2 of this report and summarized in Table 2. As allowed by Section 4(e)(1)(A) of TSCA, the Committee designates these chemicals and categories for action by EPA within twelve months of the date of this Report.

In previous reports, the Committee has recommended studies for specific health effects. In the present report however, the Committee makes the generic recommendation for human health effects testing of *o*-dianisidine and *o*-tolidine based dyes. Further elaboration can be found in Section 2.2.

The Committee is recommending environmental fate studies for both of the chemicals and all three of the categories of chemicals which are

included in this report. The Committee has refrained from recommending specific environmental effects studies for these chemicals and categories until information concerning their fate is sufficient to establish the identity of metabolites and degradation products and whether significant environmental concentrations are likely to occur.

Appropriate tests are conditional on the environmental fate of the chemicals in question.

Although the three categories which are being designated in this report are listed separately, they are closely related to each other and are therefore discussed in a single rationale.

Table 1.—The TSCA Section 4(e) Priority List

|                                                 | Designated for action by |
|-------------------------------------------------|--------------------------|
| Acetonitrile                                    | April 1980               |
| Acrylamide                                      | April 1979**             |
| Alkyl epoxides                                  | October 1978*            |
| Alkyl phthalates                                | October 1978*            |
| Aniline and bromo, chloro, and/or nitroanilines | April 1980               |
| Antimony (metal)                                | April 1980               |
| Antimony sulfide                                | April 1980               |
| Antimony trioxide                               | April 1980               |
| Aryl phosphates                                 | April 1979**             |
| Benzidine-based Dyes                            | November 1980            |
| Chlorinated benzenes, mono- and di-             | October 1978*            |
| Chlorinated benzenes, tri-, tetra- and penta-   | October 1979             |
| Chlorinated naphthalenes                        | April 1979**             |
| Chlorinated paraffins                           | October 1978*            |
| Chloromethane                                   | October 1978*            |
| Cresols                                         | October 1978*            |
| <i>o</i> -Dianisidine-based Dyes                | November 1980            |
| Dichloromethane                                 | April 1979**             |
| 1,2-Dichloropropane                             | October 1979             |
| Cyclohexanone                                   | April 1980               |
| Glycidol and its derivatives                    | October 1979             |
| Halogenated alkyl epoxides                      | April 1979**             |
| Hexachloro-1,3-butadiene                        | October 1978*            |
| Hexachlorocyclopentadiene                       | April 1980               |
| Hydroquinone                                    | November 1980            |
| Isothorone                                      | April 1980               |
| Mesityl oxide                                   | April 1980               |
| 4,4'-Methylenedianiline                         | April 1980               |
| Methyl ethyl ketone                             | April 1980               |
| Methyl isobutyl ketone                          | April 1980               |
| Nitrobenzene                                    | October 1978*            |
| <i>o</i> -Tolidine-based Dyes                   | November 1980            |
| Polychlorinated terphenyls                      | April 1979**             |
| Pyridine                                        | April 1979**             |
| Quinone                                         | November 1980            |
| Toluene                                         | October 1978*            |
| 1,1,1-Trichloroethane                           | April 1979**             |
| Xylene                                          | October 1978*            |

\* Designated by the Committee in its First Report (2) and responded to by the Administrator in 43 FR 50134-50138.

\*\* Designated by the Committee in its Second Report (3) and responded to by the Administrator in 44 FR 28095-28097.

Table 2.—Summary of Studies Recommended in This Report

| Substance or category            | Recommended Studies |                |                      |              |                                |
|----------------------------------|---------------------|----------------|----------------------|--------------|--------------------------------|
|                                  | Carcinogenicity     | Teratogenicity | Human Health Effects | Epidemiology | Environmental fate and effects |
| Benzidine-based dyes             |                     |                |                      |              | X                              |
| <i>o</i> -Dianisidine-based dyes |                     |                | X                    |              | X                              |
| <i>o</i> -Tolidine-based dyes    |                     |                | X                    |              | X                              |
| Hydroquinone                     | X                   | X              |                      | X            | X                              |
| Quinone                          | X                   | X              |                      |              | X                              |

#### References

1. Preliminary List of Chemical Substances for Further Evaluation, Toxic Substances

Control Act Interagency Testing Committee, July 1977.

2. Initial Report to the Administrator,

Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the *Federal Register*, Vol. 42, 197, Wednesday, October 12, 1977, pp. 55026-55080. Corrections published in *Federal Register* Vol. 42, November 11, 1977, pp. 58777-58778. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560-10-78/001, January 1978.

3. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, April 1978. Published in the *Federal Register*, Vol. 43, No. 76, Wednesday, April 19, 1978, pp. 16684-16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560-10-78/002, July 1978.

4. Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1978. Published in the *Federal Register*, Vol. 43, No. 210, Monday, October 30, 1978, pp. 50630-50635.

5. Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, April 1979. Published in the *Federal Register*, Vol. 44, No. 107, Friday, June 1, 1979, 31866-31889.

#### 2.2 Rationales

##### *Benzidine-, o-Dianisidine- and o-Tolidine-Based Dyes*

**Recommended Studies:** It is the Committee's view that benzidine-based dyes are an established health hazard. The health effects of *o*-tolidine- and *o*-dianisidine-based dyes, on the other hand, are not as clearly demonstrated. The Committee, therefore, recommends health effects testing for the *o*-tolidine- and *o*-dianisidine-based dyes. These general human health effects recommendations are based on uncertainty about the metabolic fate of each dye in these categories and about the carcinogenic potential of the parent *o*-tolidine and *o*-dianisidine.

The environmental fate and potential environmental effects of these three categories of dyes are largely unknown. This lack of information coupled with their large environmental release causes the Committee to recommend environmental fate and effects testing.

With regard to all three categories of dyes, it is the view of the Committee that specific environmental effects tests cannot be recommended at this time. This is because the chemical composition, and hence the environmental fate, of all components of

the dyes in each category is not known. Also, both toxicity and environmental fate of these dyes will be affected by the metabolic fate of their various components. For these reasons we believe that the evaluation of environmental effects of these three categories of dyes can be most effectively ascertained through a sequenced approach, in which the results of environmental fate studies are used to determine the environmental compartments in which these chemical substances or their derivatives may be of concern. The organisms, species and effects which are most appropriate for testing can then be determined.

The Committee hopes that its recommendation for testing for health or environmental effects does not encourage the premature replacement of the designated dyes with others about which even less test data are available and which might prove hazardous.

The ITC is aware of the fact that considerable attention is being focused on dyes and pigments, including the three categories of dyes which are the subject of this recommendation, by various agencies of the federal government. We believe that the complexity of dye chemistry, the variety of dye uses, the ubiquity of their distribution and the uniqueness of their exposure potential create special problems with regard to their evaluation and effective regulation, possibly

exceeding the resources of the EPA under TSCA. Indeed, a coordinated, multi-agency approach to these chemicals may be required.

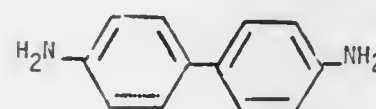
**Category Identification.** These three categories of dyes which are based on benzidine, *o*-tolidine (3,3'-dimethylbenzidine) and *o*-dianisidine (3,3'-dimethoxybenzidine). The three parent compounds constitute a family of similar synthetic aromatic compounds (see Fig. A) and are referred to in this report as "benzidine and its congeners." The three categories of dyes represent about 90 commercially available dyes in the United States; namely 23 benzidine-based dyes, 37 *o*-dianisidine-based dyes, and 33 *o*-tolidine-based dyes.

The Dyes Environmental and Toxicology Organization, Inc. (DETO) supplied the Committee with the following definition of dyes:

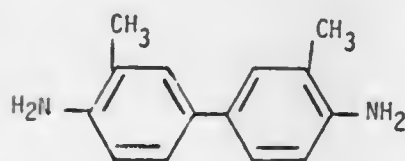
Dyes are intensely colored or fluorescent organic substances which impart color to a substrate by selective adsorption of light. Dyes are water soluble and/or go through an application process which, at least temporarily, destroys any crystal structure of the color substances. Dyes are retained in the substrate by adsorption, solution, and mechanical retention, or by ionic or covalent chemical bonds.

Dyes based on benzidine, *o*-tolidine and *o*-dianisidine are water soluble and non-volatile.

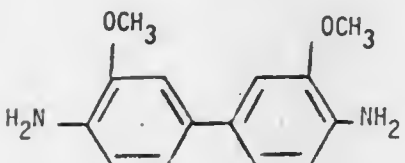
FIGURE A.



Benzidine



*o*-Tolidine (3,3'-dimethylbenzidine)



*o*-Dianisidine (3,3'-dimethoxybenzidine)

#### *Production and Importation.*

According to a 1979 industry survey conducted by DETO for the Committee, benzidine-based dyes in commerce in 1978 from domestic production and imports totaled almost 2 million pounds. *o*-Tolidine-based dyes in commerce totaled at least 1 million pounds and *o*-dianisidine dyes at least 1.3 million pounds for the same year. Not all importers and manufacturers of these dyes contributed to this survey. DETO indicated that the combined production of the companies not contributing to the survey was probably insignificant relative to the totals given although four of the five importers surveyed by DETO did not respond. Since the United States International Trade Commission does not monitor all ports of entry, the Committee does not have an adequate estimate of imports. Currently there is no estimate of quantities of these dyes entering the country in dyed articles of commerce.

**Exposure.** The dyes derived from benzidine and its congeners are an important class of direct dyes, i.e., dyes which are colorfast without requiring an extra mordant process. Some of them are key dyes for cellulosic fibers. They are used to color textiles, rubber and plastics products, printing inks, paints and lacquers, leathers and paper products.

Dyes derived from *o*-tolidine, *o*-dianisidine, and benzidine are used in consumer products which may result in significant human exposure. Dyes in textiles, leather, paper and fur may rub off by abrasion. Clothing may be subject to perspiration, urine, or saliva. Dyes may be decomposed through the heat of ironing or drying. This exposure may be especially important in the case of fabrics with low attraction between fiber and dye; for example, those derived from batik, tie dyeing or home dyeing rather than from industrial dyeing (Sheldrick et al. 1979).

Exposure to these dyes occurs through three primary paths: inhalation (Genin, 1977; NIOSH, 1979), unintentional ingestion (Yoshida and Miyakawa, 1973) and skin absorption (McKinney, 1979). Industrial workers, professional craft dyers and hobbyists, and individuals using fabric dyes at home or in arts and crafts classes comprise populations of potential high exposure.

Skin absorption as an important route of exposure to both the dyes and their parent compounds is supported by a recent study (McKinney, 1979). This study indicates that Direct Black 38, a



benzidine-based dye, or the benzidine portion of the molecule, is rapidly absorbed from the unbroken skin of experimental animals. The dye, labelled in the benzidine moiety, was painted on the skin of rabbits. By the sixth day after exposure, 90% of the labelled dose had been recovered in the urine and feces.

A NIOSH investigation has examined benzidine levels in the urine of workers exposed to benzidine-based dyes. Four facilities—two benzidine-based dye manufacturing plants, a leather tanning plant, and a papermill—were studied. Samples were collected from the environment to determine the amount of potential exposure to the dyes. There was a good correlation between the amount of benzidine-based dyes in the environment and the occurrence of benzidine in urine. The urinary levels of benzidine was considered to be too high to have come only from impurities in the dye. (NIOSH, 1979).

**Human Health Effects.** Dyes in these three categories have been reported to undergo reductive cleavage of the azo linkages, resulting in the release of the benzidine or benzidine-congener parent compound in both mammals and anaerobic intestinal bacterial enzyme systems. (Walker, 1970; Chung et al., 1978).

Benzidine is well established as a carcinogen in humans and animals (IARC, 1972). *o*-Tolidine and *o*-dianisidine have been tested for carcinogenicity in rats (IARC, 1974; Pliss, 1965; Pliss and Zabenzbinsky, 1970; Hadidian et al., 1968.) Although there was some indication of carcinogenicity, the protocols used did not permit satisfactory evaluation of the results. *o*-Tolidine and *o*-dianisidine are currently under test for carcinogenicity at the National Center for Toxicological Research.

Two *o*-tolidine-based dyes, commercial grade Evans Blue and Trypan Blue, have been reported to be carcinogenic in rats (Marshall, 1953). There is some question about the purity of the tested compounds. A recent study shows that Trypan Blue contains substantial quantities of monoazo dye impurities (Field et al., 1977). In this study, rats injected with the purified *o*-tolidine-based component of Trypan Blue gave only weak indications of pre-cancerous hepatic changes. Three

purified benzidine dyes, Direct Black 38, Direct Brown 95 and Direct Blue 5, were carcinogenic in rats after a treatment period of only 13 weeks (NCI, 1978a).

Epidemiological studies (Meigs et al. 1954; Kiese et al., 1968) show that occupational exposure to benzidine-based dyes is associated with bladder cancer in humans. Yoshida et al. (1973) studied 200 kimono painters who used benzidine-based dyes. Seventeen (8.5%) developed bladder cancer; this was 6.8 times the expected rate. Approximately 47% had ingested dyes by moistening the brushes on their tongues. The workers had used these dyes, Direct Black 38, Direct Green 1, Direct Red 17, and Direct Red 28.

Field et al., (1977) reported the teratogenicity of the pure *o*-tolidine-based component of Trypan Blue. Administration of aqueous solutions of the purified dye to rats on the seventh day of pregnancy resulted in a significantly increased incidence of resorptions and malformations.

*o*-Tolidine, *o*-dianisidine and benzidine have been reported to be mutagenic in the Ames *Salmonella* assay (Urwin et al., 1976; Ames et al., 1973; Garner et al., 1975; Ferretti et al., 1977). *o*-Tolidine and *o*-dianisidine were weakly mutagenic.

Sugimura et al. (1977) reported on the mutagenicity of an *o*-tolidine dye (Benzopurpurine 4B), a dianisidine dye (Pontacyl sky blue 4BX) and two benzidine based dyes (Congo red and chlorazol violet N). These dyes were mutagenic to *Salmonella* TA98 with S-9 mix (liver homogenate with TPNH) in the presence of riboflavin. When tested without riboflavin, the results were negative. Trypan Blue (based on *o*-tolidine) was mutagenic only when pretreated anaerobically with a cell free bacterial extract containing azo-reductase, or when first chemically reduced with dithionite (Hartman et al., 1978). These results suggest that the mutagenic activity of Trypan Blue is due to release of the *o*-tolidine group from the dye.

Four benzidine-based dyes (Direct Black 38, Direct Blue 6, Direct Brown 95 and Direct Red 28) have been reported to be metabolized to free benzidine in Rhesus monkeys (Rinde and Troll, 1975). Incubation of benzidine-based dyes (Direct Reds 10, 17, 28, Direct Orange 8

and Direct Black 38) with common intestinal bacteria has demonstrated that the azo linkages can be cleaved enzymatically to release the benzidine-derived moiety (Chung et al., 1978; Diekhues, 1961). Studies being conducted at the National Institute of Environmental Health Sciences indicate that benzidine dyes (Direct Blue 2, Direct Black 4, Direct Brown 2, Direct Red 28, Direct Orange 8 and Direct Green 1) are cleaved metabolically in dogs to release free benzidine (Matthews, 1979, Personal Communication.) Preliminary results in these studies also indicate the release in the urine of *o*-tolidine from Direct Red 2 and Direct Red 39, and *o*-dianisidine from Direct Blue 1.

As discussed earlier, metabolism of benzidine based dyes in humans leading to the release of free benzidine was indicated by a study of workers exposed to dyes (NIOSH, 1979).

Structurally, the *o*-dianisidine, and *o*-tolidine based dyes are similar to three benzidine-based dyes known to cause cancer in animals. The teratogenic potential of one *o*-tolidine-based dye has been reported. Although it is not known precisely how these dyes act in the body, the pattern of evidence appears to support initial reductive cleavage of the dyes to release the toxic biphenylamines. The structure-activity relationships of these chemicals are based on the ease of enzymatic cleavage of these dyes with different substituents near the azo groups and the relative biological activity of the benzidine-containing congener.

**Environmental Fate.** The environmental fate of these three categories of dyes has received virtually no scientific investigation. That benzidine is an environmentally significant degradation product of benzidine-based dyes is supported by the finding by Takemura et al. (1965) of levels ranging from 0.082 to 0.233 ppm of benzidine in the Sumida River which, at the time, was receiving large quantities of waste waters from dye and pigment plants. Levels of total aromatic amines in the river were reported as 0.205 to 0.562 ppm. The biodegradability of benzidine under carefully controlled conditions has been reported (Tabak and Barth, 1978; Baird et al., 1977); but none of the studies available to the Committee is adequate to determine the

fate of benzidine in the environment. Further, these studies are not applicable to environmental conditions and real-life wastewater treatment conditions. Their main inadequacy is that only the disappearance of parent benzidine was measured, leaving unresolved the identity of intermediates and end-products of the many reactions possible under environmental or use conditions. Possible products of concern include hydroxylated derivatives of benzidine, 4-aminobiphenyl, *o*-toluidine and aniline. Studies on the metabolism of benzidine are not conclusive as to the identity of the ultimate carcinogen, but hydroxylated forms cannot be ruled out (IARC, 1972). 4-Aminobiphenyl is carcinogenic to several species of animals and was strongly associated with human bladder cancer in an epidemiological study of workers (IARC, 1972). *o*-Toluidine and aniline have been reported to be carcinogenic in laboratory animals (NCI, 1978b; NCI, 1979). The Committee reviewed the possible human and environmental health risks associated with aniline in its Fourth Report. The Committee is not aware of studies on the fate and persistence of the benzidine congeners.

The reduction of azo bonds to release the parent amines has been reported to occur via several different reactions, all of which may be applicable to environmental or use conditions. These include photo-degradation (van Beek and Heertges, 1963), heat decomposition (Mel'nikov and Kirillova 1969), enzymatic cleavage in animals (Rinde and Troll, 1975; Miller and Miller, 1953; Radomski, 1974; Radomski and Mellinger, 1962; Fouts et al., 1957) and by bacteria and cell-free extracts (diekhues, 1961; Hartman et al., 1978; Yoshida et al., 1973; Idaka et al., 1978). Other reactions of dyes include demethylation (Miller et al., 1945), ring hydroxylation (terayama, 1967), N-hydroxylation (Miller, 1970), and N-acetylation and O-conjugation of metabolites (Terayama, 1967). A myriad of other reactions can be postulated based on the typical structure of these dyes: aromatic ring fission following hydroxylation, reduction of nitro groups to amino groups, oxygen- and nitrogen-dealkylation, olefin oxidation, ester hydrolysis, acetylation, aliphatic hydroxylation and oxygen- and nitrogen-conjugation. The Committee is concerned that these dyes may be converted to free amines, substituted anilines and other chemicals that may pose a potential environmental hazard. Games and Hites (1977) have demonstrated the variety of chemicals in a river receiving dye plant effluents.

Many dyes may have the same intermediate and final degradation products in the environment. Identification of the common metabolites and products is prerequisite to an understanding of the environmental fate of the parent compounds and their dyes.

Calculation of the environmental release of dyes is problematic. Consideration of annual production and import data on dyestuffs fails to account for the dyes which are part of dyed materials and articles. In addition to wastewaters and sludges containing some proportion of annual production and imports, one must also account for the disposal of all dyed materials, many of which were produced several to many years ago. Yoshida et al., (1973) report that a benzidine-based dye on cotton cloth lost color in 72 hours when incubated with river water, ostensibly releasing free benzidine which resisted further bacterial degradation. Another study shows that these dyes with their high affinity for cellulosic materials are adsorbed to sludges in biological treatment (Hitz et al., 1978). This would likely lead to additional environmental release when the sludges are disposed of, used as a soil supplement or incinerated. Anaerobic digestion of the dye-containing sludge might also release aromatic amines and other degradation products. The classical emphasis on decolorization of dye wastes without attention to the degradation products possible formed is also a serious concern, particularly if these wastes are chlorinated (Gardiner and Borne, 1978). In real world situations of wastewater treatment, the lack of nutrient chemicals in industrial waste streams may lead to incomplete substrate oxidation and the resulting effluent may contain a variety of unexpected chemicals.

The *in vitro* and *in vivo* conversion of dyes to possibly hazardous products in the environment has not been adequately studied. The Committee therefore recommends that EPA give high priority to assessing the environmental behavior of dyes, in all forms which are released to the environment.

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## Physical and Chemical Identification

CAS number: 123-31-9

Structural formula:

Molecular formula:  $C_6H_6O_2$ 

Melting point: 173-174°C

Hydroquinone is a white crystalline solid at room temperature. It discolors upon exposure to air and light. It is very soluble in water, ethanol and acetone; and soluble in alkali, ether, chloroform

Molecular weight: 110.11

Vapor pressure: 1 mm at 132.4°C

carbon tetrachloride and hot benzene. It acts chemically as a reducing agent, being readily oxidized to quinone (IARC, 1977). This occurs in two steps

Yoshida, O., M. Miyakawa, Y. Okada, K. Ohshiro, T. Harada, S. Machida, and T. Kato. 1973. The disintegration of a benzidine dye, Direct Deep Black Ex, by *Escherichia coli* and soil bacteria. Igaku to Seibutsugaku 86:361-363.

## Hydroquinone

**Recommended Studies:** The Committee recommends the hydroquinone be studied for environmental fate and health effects. The widespread use of the chemical by consumers having little knowledge of safety and environmental control is of particular concern. The formation of the relatively stable semiquinone radical and the reversibility of the oxidation-reduction system of quinone-semiquinone-hydroquinone are further cause for concern. Information is needed on the stability of this entire system within the environment, rather than simply on the loss of a single component. The Committee believes that existing studies are inadequate to evaluate the potential carcinogenicity of hydroquinone in either experimental animals or in human beings. Evaluation of teratogenicity is also needed, especially in view of the apparent increase in fetal resorption in one reproduction study. Thus, the Committee recommends studies of environmental fate, carcinogenicity, and teratogenicity. Epidemiologic studies are recommended if an appropriate cohort can be identified.

through the formation of a relatively stable semiquinone radical. The reaction is reversible (NIOSH, 1978).

**Production, Release and Exposure.** Production volume in 1977 was at least 11 million pounds as compiled from non-confidential information in the TSCA Inventory. Any production in excess of this figure in 1977 is not publicly available. Hydroquinone has been reported to be present in cigarette smoke (Schlotzhauer et al., 1978), in effluents from chemical plants (IARC, 1977) and as a glucoside in the leaves and bark of many plants (IARC, 1977).

Hydroquinone is used as a photographic developer; as an antioxidant and polymerization inhibitor in fats, oils, turpentine, paints and motor fuels; in dermatologic preparations designed to bleach hyperpigmented skin; and as an intermediate in the production of dyes and other chemicals (IARC, 1977).

The National Institute for Occupational Safety and Health (NIOSH) has estimated that about 475,000 U.S. workers are potentially exposed (NIOSH, 1979).

**Review of Published Studies:** Carcinogenicity. Bladder carcinomas were induced in 6 of 19 mice with pellets of cholesterol containing 20% hydroquinone implanted into the bladder (Boyland et al., 1964). Topical application 3 times weekly for 1 year of the highest dose that did not damage the skin did not induce skin tumors (Van Duuren and Goldschmidt, 1976). Simultaneous application of hydroquinone and benzo(a)pyrene according to this regimen resulted in a slight inhibition of the carcinogenicity of the hydrocarbon. Hydroquinone had no promoting activity in a two-stage study. Systemic effect of topical application of hydroquinone was not reported by these authors.

A two-year feeding study on Sprague-Dawley rats was performed by Carlson and Brewer (1953). In one experiment of this study, ten rats of each sex were fed 0.0%, 0.1%, 0.5%, or 1% hydroquinone. In another experiment, 16 to 23 rats of each sex were fed 0.0%, 0.1%, 0.25% or 0.5% hydroquinone that had been heated together with lard for 30 minutes at 190°C. In a third experiment, 20 rats of each sex were fed 0.0%, 0.1%, 0.5% or 1.0% hydroquinone along with 0.1% citric acid. In most of the high dose and some other groups, the weights of treated groups were 8-20% reduced at the end of the experiment, but in most groups the difference was not statistically significant. Histological sections were made of liver, omentum, kidney, spleen, heart, lung, bone marrow, stomach, pancreas, adrenal, subperitoneal and

intramuscular abdominal fat. Hemoglobin, erythrocyte and differential white blood cell counts were also done. An unspecified number of animals were necropsied at intervals during the course of the experiments. Histopathologic and hematologic findings were reported as "negative," but no data were reported. Another group of rats fed 5% hydroquinone lost 46% weight over 9 weeks and were reported to show aplastic anemia; atrophy of liver, lymphoid tissue, fat and muscle; and ulceration of the stomach.

Thus, hydroquinone caused bladder tumors by pellet implantation, but this test is not generally recognized as definitive. Other long term studies were negative, but they do not meet current testing or reporting standards.

**Mutagenicity.** Several studies of the effect of hydroquinone on plant chromosomes have reported gaps and breakage but no rearrangements (Valadaud and Izard, 1971; Sharma and Chatterjee, 1964; Loveless, 1951; Chatterjee and Sharma, 1972). In a test reported to correlate well with mutagenicity and carcinogenicity, hydroquinone did not inhibit testicular DNA synthesis (Seiler, 1977). Hydroquinone did not mutate *Micrococcus (Staphylococcus) aureus* to penicillin or streptomycin resistance (Clark, 1953). An abstract reporting another bacterial mutation study indicated that it was positive in the *E. coli* pol A test, but no data were published (Bilimoria, 1975).

**Reproduction and Teratogenicity.** One study reported a significant increase in fetal resorption in rats given a total of 0.5 gm hydroquinone in the diet during pregnancy (Telford et al., 1962). Another study reported no effect on litter size or viability from feeding 0.003 or 0.3% hydroquinone in the diet to pregnant rats (Ames et al., 1956). No teratogenicity studies have been found.

**Other Toxic Effects.** A large number of acute toxicity studies have been done in several kinds of rodents, rabbits, dogs, cats, pigeons and goldfish. Several routes of administration have been used. Acute effects have included vomiting, labored breathing, cyanosis, coma, convulsions and death (NIOSH, 1978). Intravenous administration resulted in acute renal tubular necrosis (Calder et al., 1973). Subacute poisoning caused hemolytic jaundice, anemia, leukocytosis, hypoglycemia and cachexia (Deichmann and Keplinger, 1963). A chronic study in rats was referred to above under "carcinogenicity" (Carlson and Brewer, 1953). These same authors fed 100 mg/Kg/day of hydroquinone to 5 adult dogs for 28 weeks and doses ranging from 1.6

to 40 mg/Kg/day for 80 weeks to 3 dogs beginning at 4 months of age. Hematologic and histopathologic findings were reported to be similar to controls except for reduced

"hemosiderosis" in spleen, liver and bone marrow. A study by Woodward (NIOSH 1978), however, indicated that daily administration of 25 or 50 mg/Kg of hydroquinone in gelatin capsules resulted in hyperplasia of the bone marrow and excessive pigment deposits in the spleens of all dogs after 809 days.

**Epidemiology.** As would be expected from its pharmacologic effect, repeated topical exposure with hydroquinone can cause depigmentation of the skin. In addition, prolonged topical exposure has resulted in erythema, hyper-sensitivity, dermatitis, ochronosis and colloid millum. Damage to the cornea and conjunctiva are generally proportional to the amount and time of exposure. Mild effects include conjunctivitis, photophobia, lacrimation and pigmentation. Erosion of the epithelium, changes in thickness and curvature of the cornea and loss of visual acuity were seen in more severe cases. A few reported cases of oral ingestion of acutely toxic amounts of hydroquinone have been characterized by gastroenteritis, cyanosis, tinnitus, convulsions and loss of consciousness (NIOSH, 1978; Hooper et al., 1978).

**Environmental Fate and Effects.** Hydroquinone has been reported to be readily degraded by algae (Timofeeva, et al., 1975) and readily oxidized in air (IARC, 1977). The principle metabolic products, however, are water soluble conjugates and the relatively insoluble oxidation product, quinone (IARC, 1977). Since hydroquinone and quinone have been reported to reach equilibrium by 90 minutes in tissue culture (Guillerm et al., 1968), a significant portion of the degraded hydroquinone may be in a form available for regeneration to the parent compound. The reversible oxidation-reduction system of hydroquinone and quinone has been reported to involve the formation of a relatively stable semiquinone radical (NIOSH, 1978).

Hydroquinone is rapidly metabolized and excreted by mammals (NIOSH 1978). It is not likely to bioaccumulate. BOD5 has been reported as 0.478 and 1.00 (Verschuere, 1977).

Effects that have been observed experimentally include inhibition of seed germination (Stom and Leonova, 1973), inhibition or stimulation of plant growth depending on dose (Georgiev and Ivanova, 1972), attraction and repellance of beetles (Norris et al., 1970), molluscicidal action (El Sebae et al., 1978), inhibition of protoplasmic streaming in



algae (Stom et al., 1974) and stimulation of insect feeding (Meyer and Norris et al., 1974).

**Summary.** There is substantial opportunity for human and environmental exposure to hydroquinone and possibly to its metabolic and oxidation products, semiquinone and quinone. More information is needed on both the environmental fate of hydroquinone and its metabolism in humans in order to estimate the extent of exposure to semiquinone and quinone. Acute and subacute effects of hydroquinone have been well characterized. Such chronic study reports as exist tend to be reassuring, but they do not meet current standards of test design or reporting. No published reports of epidemiologic studies of chronic effects have been found. No teratology studies have been reported. Several mutagenicity studies reported in the literature are negative, but one abstract which provides no data reported hydroquinone to be mutagenic.

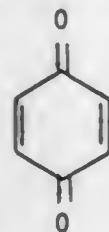
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#### Physical and Chemical Identification:

CAS number: 106-51-4

Structural formula:



Synonym: p-Benzoquinone

Molecular formula:  $C_6H_4O_2$

Melting point: 105.7°C

Molecular weight: 108.1

Vapor pressure: 98 mm Hg at 25°C

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#### Recommended Studies:

The Committee recommends that quinone be studied for environmental fate and health effects. It is particularly concerned about the formation of the relatively stable semiquinone radical and the reversibility of the oxidation-reduction system of quinone-semiquinone-hydroquinone. Information is needed on the stability of this entire system within the environment, rather than simply on the loss of a single component. The electrophilic nature of quinone is compatible with its being carcinogenic; several bioassays support this possibility. No information on teratogenicity is available, but the inhibition of aggregation of embryonic cells raises concern. Reports of effects in humans are inadequate to assess chronic effects. The Committee recommends that studies of environmental fate, carcinogenicity and teratogenicity be done.

Quinone is a yellow crystalline solid at room temperature. It is slightly soluble in water, and soluble in ethanol, ether, and hot petroleum ether. It acts as an oxidizing agent while being reduced to hydroquinone (IARC, 1977). This occurs through the formation of a relatively stable semiquinone radical. The reaction is reversible (NIOSH, 1978).

#### Production, Release and Exposure

Production volume in 1977 was at least 100,000 pounds as compiled from non-confidential information in the TSCA Inventory. Any production in excess of this figure in 1977 is not publicly available. NIOSH (1979) estimates that 3,700 workers may be exposed. It is used as an oxidizing agent, an inhibitor of polymerization, a tanning agent, a photographic chemical and as an intermediate in the synthesis of hydroquinone and other chemicals. It has also been reported to occur naturally in some arthropods (IARC, 1977). Other sources of exposure may result from oxidation of hydroquinone through metabolic or environmental processes (Deichman & Keplinger, 1963) and from ozonation of aromatic amines (Glabisz and Tomaszewska, 1977).

#### Review of Published Studies

##### Carcinogenicity

Sugishita (1950) reported results of daily topical application of 0.2% quinone for up to 758 days. Among 14 mice surviving more than 100 days, there was 1 skin cancer, 2 mice with "papillomatous atypical proliferation in the skin", 1 lung cancer, and 8 with "atypical proliferation in their lungs." Sex and strain of mice were not reported, nor was information about control animals. In a similar experiment using 0.2% quinone exposed to light, 5 of 20 mice developed "papillomatosis" of the skin (Takizawa and Sugishita, 1948). Among ten that were necropsied, 1 had "atypical proliferation of the small bronchial tube", 2 had severe atypical proliferation and 1 had "adenomatous carcinoma" of the lung. Again, sex and strain were not specified and no mention was made of controls.

Several studies by Takizawa reported the apparent induction of skin, liver and lung tumors by lifetime topical application to the skin of mice of unspecified strain and sex. In one of these (1940a), among 44 mice receiving 0.25% quinone in benzene and surviving 200 days, 3 had skin papillomas, 1 had skin cancer and 5 had liver cancer. After 0.1% quinone, 6 had skin papillomas, 2 had skin cancer and 10 had liver cancer among 41 survivors. Forty-six benzene-

treated controls had 1 papilloma, no skin cancers, and 2 liver cancers. Lung cancer incidence was reported to be increased in quinone-treated mice, but data were not reported. In a subsequent study (Takizawa, 1941), 54.5% of mice surviving topical application of quinone for 200 days had epithelial proliferation in the lung and bronchi compared with 7.1% of benzene treated controls. Three out of 99 of the former had carcinomas and 4 adenomas compared with 0 and 1 respectively among 28 controls. Another study (Takizawa, 1940b) reported 9 mice with skin papillomas, 3 with skin cancer and 8 with lung cancer among 87 mice receiving topical application of quinone and surviving more than 200 days; among 46 benzene-treated controls, 1 had papilloma, none had skin cancer, and 1 had a lung cancer.

In contrast, Tiedemann (1953) applied 1% quinone solution in benzene 6 days a week for 47% days to the skin of albino mice. No skin tumors were seen in these animals or benzene treated controls.

Two local sarcomas were induced in 24 rats by weekly subcutaneous injections for 394 days (IARC, 1977). No lifetime feeding studies appear to have been done, and inhalation studies were inadequate for evaluation (IARC, 1977).

##### Mutagenicity

Quinone failed to induce chromatid translocations in human leukocyte cultures (Luers and Obe, 1972), *Vicia faba* or *Triturus* (Loveless, 1951), though breaks and gaps did occur. It was not found to be mutagenic by dominant lethal test in mice (Roehrborn and Vogel, 1967) or *Drosophila* (Vogel, 1972), by recessive lethal tests in *Drosophila* (Luers and Obe, 1972) or in forward or reserve mutation tests in *Neurospora* (Reissig, 1963).

##### Reproduction and Teratology

No studies of reproductive or teratologic effects of quinone have been found. It has been reported to inhibit aggregation of chick fibroblasts (Jones, 1965) and chick embryo muscle cells (Kemp and Jones, 1970).

##### Other Toxic Effects

Quinone is readily absorbed through the gastro-intestinal tract and from subcutaneous tissues. In large doses it causes respiratory difficulties, drop in blood pressure and chronic convulsions. Death results from paralysis of medullary centers in the brain (Deichmann and Keplinger, 1963). Intravenous administration is toxic to kidneys (Calder et al, 1973).

##### Epidemiology

Exposure of skin to quinone causes discoloration, severe irritation, erythema, swelling, and formation of papules and vesicles. Prolonged contact leads to necrosis of the skin. Exposure of the eyes to vapors of quinone results in pigmentation of the conjunctiva and cornea, disturbance of vision and corneal ulceration (Deichmann and Keplinger, 1963).

##### Environmental Fate and Effects

Hydroquinone and quinone are reported to form a reversible oxidation-reduction system through the formation of a relatively stable semiquinone radical (NIOSH, 1978). Quinone can be metabolized to hydroquinone (Deichmann and Keplinger, 1963). Thus, environmental effects of hydroquinone may also be relevant to quinone.

Experimental observations of effects of quinone include breaking dormancy of grass seed (Shimizu and Ueki, 1972), inhibition of oxidation of indoleacetic acid by pea roots (Ugrekhelidze et al, 1972); inhibition of protoplasmic streaming (Stom and Rogozina, 1976),  $O_2$  uptake (Stom and Beim, 1976), and  $CO_2$  fixation (Pristavu, 1975) in algae; and inhibition of growth of plant rootlets (Stom, 1975; Le Thi Muoi et al., 1974). Some of its effects may result from its interaction with sulfhydryl groups (Men'shikova et al., 1975; Stom and Kuzevanova, 1976).

##### Summary

Although estimates of direct occupational exposure to quinone are relatively small, human and environmental exposure could be significant as a result of oxidation of hydroquinone. More information is needed on metabolism and environmental fate of both hydroquinone and quinone. Quinone has been relatively well studied for mutagenicity and found negative. Carcinogenicity studies are conflicting, raising questions about purity of the chemical administered and quality of experimental observations; better studies are needed. No data are available on teratogenicity.

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- [Fr Doc. 79-37862 Filed 12-6-79; 8:45 am]
- BILLING CODE 6560-01-M
- [OPTS-410001B, FRL 1371-1]
- Fourth Report of the Interagency Testing Committee; Receipt of the Report and Request for Comments; Corrections**
- In FR Doc. 79-16620 appearing at page 31866 in the issue of Friday, June 1, 1979, various typographical and editorial errors in the fourth report of the Interagency Testing Committee were published. These errors are corrected as follows:
1. P. 31867, column 1, line 14 of the first complete paragraph is corrected to read: "addition to be of equal priority with those";
  2. P. 31868, column 1, line 12 of the first complete paragraph is corrected to read: "basis of their knowledge of scoring";
  3. P. 31869, "Table II" is corrected to read "Table 2";
  4. P. 31869, column 1 of Table 2, line 11 is corrected to read: "4,4'-Methylenedianiline";
  5. P. 31870, column 2, line 13 is corrected to read: "Fassett, D. W. 1963, Cyanides and Nitriles . . .";
  6. P. 31878, column 3, 10th line of the final paragraph is corrected to read: "mining, hauling, and smelting of ore.";
  7. P. 31878, column 3, 14th line of the final paragraph is corrected to read: "and asphalt concrete . . .";
  8. P. 31881, column 2, line 3 of the first complete paragraph is corrected to read: "Weller and Griggs (1973, 1976) and Griggs";
  9. P. 31882, column 3, under *Mutagenicity*, line 5 is corrected to read: "liver microsomes (Bonse and Goggleman, 1977).";
  10. P. 31885, column 3, line 17 of paragraph is corrected to read: "raw material in the production of Qiana R";
  11. P. 31886, column 1, line 6 of the first complete paragraph is corrected to read: "[Stienhoff and Grundmann 1970a; . . .";
  12. P. 31886, column 1, paragraph 2, line 5 is corrected to read: "compound, 4,4'-diamino-diphenylether on";
  13. P. 31888, column 2, the last line of the second complete paragraph is corrected to read: "personal communication reported by McGill and Motto, 1974).";
  14. P. 31888, column 2, in alphabetical order, after the eighth entry is added: "Perry, J. J., 1968. Substrate specificity in hydrocarbon utilizing microorganisms. Antonie van Leeuwenhoek J. Microbiol. Serol. 34:27-36.";
  15. P. 31888, column 3, line 6 is corrected to read: "Methyl Isobutyl Ketone"; and
  16. P. 31889, column 3, line 7 is corrected to read: "1946. Further studies on sensory response".
- Dated November 28, 1979.
- Steven D. Jellinek,  
Assistant Administrator for Pesticides and Toxic Substances.
- [FR Doc. 79-37823 Filed 12-6-79; 8:45 am]
- BILLING CODE 6560-01-M

Friday  
December 7, 1979

## Part V

# Department of the Interior

Fish and Wildlife Service

Certification of Endangered Status of  
Virgin Islands Tree Boa, *Epicrates*  
*Monensis Granti*



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Clarification of Endangered Status of Virgin Islands Tree Boa, *Epicrates monensis granti*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is presently reviewing the status of various species of animals listed as Endangered or Threatened prior to 1975. During the course of the review, it was discovered that a change in the scientific nomenclature of the Virgin Islands tree boa may create confusion over its endangered status. This rule clarifies this species' status and gives notice that this species is protected as Endangered under provisions of the Endangered Species Act of 1973, as amended in 1978.

DATES: The Virgin Islands tree boa was listed as a subspecies of the Puerto Rican boa on October 13, 1970. This clarification is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(c)(4) of the Endangered Species Act of 1973, as amended,

requires the Service to conduct a status review of all species listed at least once every five years. Accordingly, a notice of status review was published in the Federal Register of May 21, 1979 (44 FR 29566-29577) that such a review would be conducted. Included among the species to be reviewed was the "Puerto Rican" boa, *Epicrates inornatus*. This species, including all subspecies, was listed as Endangered on October 13, 1970 (35 FR 16047). During the course of the review, the Service discovered that because of a change in nomenclature, boas indigenous to the Virgin Islands had been omitted from the U.S. List of Endangered and Threatened Wildlife and Plants.

In the early 1970's, Dr. James A. Peters (U.S. National Museum) and a committee on Rare and Endangered Wildlife Species prepared a list of species and subspecies of amphibians and reptiles which was submitted to the then Bureau of Sport Fisheries and Wildlife. While not every species recommended was eventually listed, this recommendation formed the basis for listing the Puerto Rican Boa. In his report, Peters gave the range as "Puerto Rico; a single recent record from St. Thomas; reported from Tortola in the British Virgin Islands". In addition, he gave examples of problems this snake encountered in the Virgin Islands. At this time, the Virgin Islands population was recognized as a subspecies, *Epicrates inornatus granti* (see Stull, 1933, Occ. Papers Mus. Zool. Univ. Michigan (267):1). It is therefore clear

that the Virgin Islands boas were included as Endangered under the name *Epicrates inornatus*.

In 1974, Sheplan and Schwartz (1974, Ann. Carnegie Mus. 45(5):102) relegated the Virgin Islands population to the species *Epicrates monensis*, which then recognized *E. m. monensis* from Mona Island in Puerto Rico and *E. m. granti* from the U.S. and British Virgin Islands. This nomenclatural change was never included in the Federal Register or 50 CFR 17.11 so it has generally been overlooked that boas in the Virgin Islands are protected as Endangered. The purpose of this notice is to clarify this confusion, and insure that boas in the Virgin Islands are accorded full protection of the Endangered Species Act of 1973, as amended.

Because this rule is only a technical correction to the Endangered Species list, there is good cause to waive notice and comment for this rule, and to make it effective immediately. The technical change only updates the taxon's correct scientific name, and so it is unnecessary as well as contrary to the public interest to delay the listing by requiring a proposed rulemaking or to delay its effective date.

Accordingly, the List of Endangered and Threatened Wildlife (Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations) should be corrected as follows:

1. By adding the Virgin Islands tree boa alphabetically, under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

| Species                  |                                  | Range      |                                 | Status | When listed | Special rules      |
|--------------------------|----------------------------------|------------|---------------------------------|--------|-------------|--------------------|
| Common name              | Scientific name                  | Population | Known distribution              |        |             |                    |
|                          |                                  |            |                                 |        |             | Portion endangered |
| Boa, Virgin Islands tree | <i>Epicrates monensis granti</i> | NA         | U.S. and British Virgin Islands | E      | 2           | NA                 |

This notice was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235-1975).

Note.—The Service has determined that this document is not a significant rule nor does it require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Dated: November 27, 1979.

Robert E. Gilmore,  
Acting Director, Fish and Wildlife Service.

[FR Doc. 79-37657 Filed 12-6-79; 8:45 am]

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# Endangered Species Federal Register

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Friday  
December 7, 1979

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## Part VI

### Department of the Interior

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#### Fish and Wildlife Service

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Endangered and Threatened Wildlife and  
Plants; Reproposal of Critical Habitat for  
the Illinois Mud Turtle and Beaver Dam  
Slope Population of the Desert Tortoise



## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for Two Species of Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the Illinois mud turtle and Beaver Dam slope population of the desert tortoise.

SUMMARY: The Service repropose Critical Habitat for the Illinois mud turtle (*Kinosternon flavescens spooneri*) and Beaver Dam slope population of the desert tortoise (*Gopherus agassizii*). Endangered status and Critical Habitat were originally proposed for these species on July 8, 1978 (43 FR 29152-29154) and August 23, 1978 (43 FR 37662-37665) respectively.

The Critical Habitat portion of these proposals was withdrawn by the Service on March 8, 1979 (44 FR 12382-84) because of the procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. The proposed rule comports with these requirements.

DATES: Comments on this proposed rule must be submitted by February 5, 1980. Public meetings on this proposal will be held January 31, 1980 at 7 p.m. at the Holiday Inn, Muscatine, Iowa, January 10, 1980 at 8 p.m. at the Hilton Inn in St. George, Utah, and January 30, 1980 at 7 p.m. at the Sheraton Inn, 3090 Stevens Dr., Springfield Illinois at 7 p.m.

DATES: Comments on this proposed rule must be submitted by February 5, 1980. Public hearings on this proposal will be held January 31, 1980 in Iowa, January 10, 1980 in Utah and January 30, 1980 in Illinois.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. The time and place of the public meetings on this proposal are presented in the table below.

FOR FURTHER INFORMATION CONTACT: For further information on the original proposals, as well as on this supplement, contact Mr. John L. Spinks,

Jr., Chief, Office of Endangered Species (703/254-2771).

## SUPPLEMENTARY INFORMATION:

## Background

The Illinois mud turtle and the Beaver Dam slope population of the desert tortoise were proposed as Endangered with Critical Habitat on July 8, 1978 and August 23, 1978, respectively. Before final action could be taken on these proposals, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposal into conformity with the amendments.

The Illinois mud turtle was described in 1951 and is presently known to occur in a few scattered localities in Missouri, Illinois and Iowa. Total population estimates are not available although several scientists informally place the number at fewer than 650. The status of this subspecies is at present extremely precarious although a study currently in progress has managed to relocate several populations previously reported. The Illinois mud turtle had been reported from Missouri and was thought to be extinct. However, researchers in Missouri have located what appears to be a small population in Clark County.

Detailed summaries of the present knowledge surrounding the present and past distribution of this subspecies are available and studies underway, largely through the efforts of Monsanto, Inc. and Iowa-Illinois Gas and Electric, have yielded new information on the biology of the turtle. However, no information has been received to date which would modify the summary of status of the subspecies as published in the original proposal.

On August 8, 1977, the U.S. Fish and Wildlife Service was petitioned by Dr. Glenn R. Stewart on behalf of the Desert Tortoise Council to list the Utah desert tortoise population as Endangered under provisions of the Endangered Species Act of 1973. Included in the petition was a recommendation for Critical Habitat. The main threats to this unique population include competition from grazing animals, overgrazed habitat, and problems with collection of individuals.

After careful review of the petition by the Office of Endangered Species, the Director of the Service notified the Desert Tortoise Council on August 30, 1977, that the petition did indeed qualify as formal petition.

On August 23, 1978, the Fish Wildlife Service published a proposal to list this

unique population as Endangered and included a 35 square mile area of Bureau of Land Management administered land in southwestern Utah as Critical Habitat.

## Summary of Factors Affecting the Species

Illinois mud turtle—As previously stated, the Illinois mud turtle is presently known to occur in limited areas in Iowa, Illinois, and Missouri. It seems well documented that the turtle was much more widely distributed; studies by researchers in universities, the Illinois Department of Conservation, and that currently being sponsored by Monsanto and Iowa-Illinois Gas and Electric Co. (I-IGE), have confined the absence of the turtle in areas where it was previously encountered and in areas where it might be expected to occur based on habitat types.

The major threats to the Illinois mud turtle include destruction or modification of habitat, including ponds, wetlands and adjacent nesting sites, collection of individuals, predation, and pollution of water sites. Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. Fluctuation of water levels in ponds or wetlands,
2. Development or modification of land adjoining such ponds or wetlands thus leading to increased siltation or pollution of the water source,
3. Draining of ponds or wetlands known to contain this species,
4. Dumping of pollutants directly into ponds or wetlands,
5. Increased disturbance to nesting areas adjacent to ponds by humans and their pets, and
6. Collection and harassment by people.

Beaver Dam slope population of the desert tortoise—This unique population of the desert tortoise is primarily Endangered through habitat modification by grazing animals (competition and actual destruction of feed plants, shelter and overwintering sites, and trampling). Other factors which have contributed to the status of the population include overcollection of individuals for sale to tourists, predation, and habitat modification caused by the use of off road vehicles. Examples of activities that could be detrimental to the environment of this population and lead to further reduction of its viability include:

1. The allowance of unregulated grazing by domestic animals,
2. Development which would destroy burrows and overwintering sites,

3. The unregulated use of off road vehicles in the area, and
4. Collection and harassment by people.

## Comments on Critical Habitat

An extensive study sponsored by Monsanto and I-IGE has yielded additional information on the distribution of the Illinois mud turtle on Big Sand Mound in Iowa. As a result of receiving this information, the Service now believes that certain modifications should be made to the Critical Habitat area as originally published in the Federal Register of July 8, 1978 (43 FR 37662-37665). Accordingly, Critical Habitat is hereby repropose as follows:

Illinois. Mason County. A circular area with a one mile radius, the center being a point on Sand Ridge Road one mile west of its junction with Cactus Drive; Iowa, Muscatine and Louisa Counties.—(1) SW ¼ Section 34 T76N R2W, (2) an area including Spring Lake and the shores of Spring Lake including Monsanto Bay, in Sections 33 and 34 T76N R2W; this boundary should extend approximately 100 meters inland on the south shore as shown on the accompanying map but not inland elsewhere around the lake (3) W ½ Section 3 T75N R2W, (4) E ¼ Section 4 T75N R2W, (5) a rectangular area beginning at the intersection of Sections 33 and 34 T76N R2W and extending north 1200 feet, thence west 800 feet, thence south 1200 feet, thence east 800 feet back to the intersection of Sections 33 and 34 T76N R2W and Sections 3 and 4 T76N R2W.

To date, no biological information has been received by the Service which would cause a change to be made at this time of the boundaries proposed as Critical Habitat for the Beaver Dam slope population of the desert tortoise. (See the Federal Register of August 23, 1978 (43 FR 37662-37665) for details of the original proposal).

A detailed summary of comments received to both the original proposals for listing these species, as well as this reproposal of Critical Habitat, will appear at the time of final rulemaking.

## Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such

areas are essential for the conservation of the species.

The Service believes that certain ponds and adjacent land areas within the geographical area occupied by the Illinois mud turtle, as well as desert areas inhabited by the Beaver Dam slope population of the desert tortoise, should be designated as Critical Habitat. Both species occupy a limited range and are highly susceptible to changes in their habitat. Because physical or chemical changes in the waters and land areas occupied by the Illinois mud turtle may result in extinction, designation of Critical Habitat is essential for this turtle's conservation. Likewise, because changes in the plant community, as well as the physical destruction or alteration of burrows and overwintering sites, may result in the tortoise's extinction designation of Critical Habitat is essential to conservation efforts. The physical and biological features of these habitats are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for either the Illinois mud turtle or the Beaver Dam slope population of the desert tortoise.

## Effect of this Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 7 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence

of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of Section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the Illinois mud turtle or the Beaver Dam slope population of the desert tortoise, but also to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have been determined by the Secretary to be critical.

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for these species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

1. With regard to the Illinois mud turtle, a major threat to the continued existence of this species is the adverse modification of the water quality and levels of the ponds on which it depends. Any significant alteration of the water levels, as by groundwater pumping, or reduction in water quality which would reduce or eliminate vegetation and aquatic prey items of this turtle could adversely modify Critical Habitat. Siltation resulting from land clearing adjacent to ponds or wetlands or pollution of the groundwater could eliminate vegetation and aquatic invertebrates.

2. Because the Illinois mud turtle uses wetlands and ponds, the draining of wetlands and ponds within the Critical Habitat could adversely affect the species.

3. Shoreline modification, filling, and dredging for beaches, dikes, real estate development or similar types of activity could be considered to adversely affect Critical Habitat since they could affect water quality, levels of shoreline, and nesting, hibernation and estivation sites for the species.

4. With regard to the Beaver Dam



slope population of the desert tortoise, overgrazing of the habitat could be expected to adversely modify Critical Habitat since cows trample burrows, may trample young tortoises, destroy cover sites, and compete for food items, especially during the spring and early summer.

5. The driving of off road vehicles through the habitat could eliminate burrows, overwintering sites, and cover

as well as destroy browse and directly kill or injure tortoises.

Public Meetings

The Service hereby announces that public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meetings are set out below:

| Place                              | Date          | Time   | Subject                                             |
|------------------------------------|---------------|--------|-----------------------------------------------------|
| 1. Holiday Inn, Muscatine, Iowa    | Jan. 31, 1980 | 7 p.m. | Illinois mud turtle.                                |
| 2. Hilton Inn, St. George, Utah    | Jan. 10, 1980 | 8 p.m. | Beaver Dam slope population of the desert tortoise. |
| 3. Sheraton Inn, Springfield, Ill. | Jan. 30, 1980 | 7 p.m. | Illinois mud turtle                                 |

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Illinois mud turtle and Beaver Dam slope population of the desert tortoise. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

1. Biological and other relevant data concerning any threat (or lack thereof) to these species;
2. Additional information concerning the range and the distribution of the species;
3. Current or planned activities in the subject areas;
4. The probable impacts on such activities if the area is designated as Critical Habitat; and
5. The foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a

regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.95 [Amended]

1. It is proposed that § 17.95(c), Reptiles, be amended by adding Critical Habitat of the Illinois mud turtle after that of the Plymouth red-bellied turtle as follows:

Illinois Mud Turtle

(*Kinosternon flavescens spooneri*)

Illinois. Mason County. A circular area with a one mile radius, the center being a point on Sand Ridge Road one mile west of its junction with Cactus Drive; Iowa. Muscatine and Louisa Counties, (1) SW ¼ Section 34 T76N R2W, (2) an area including Spring Lake and the shores of Spring Lake, including Monsanto Bay, in Section 33 and 34 T76N R2W; this boundary should extend approximately 100 meters inland on the south shore as shown on the accompanying map but not inland elsewhere around the lake, (3) W ½ Section 3 T75N R2W, (4) E ½ Section 4 T75N R2W, (5) a rectangular area beginning at the intersection of Sections 33 and 34 T76N R2W and Sections 3 and 4 T75N R2W and extending north 1200 feet, thence west 800 feet, thence south 1200 feet, thence east 800 feet back to the intersection of Section 33 and 34 T76N R2W and Section 3 and 4 T75N R2W.

§ 17.95 [Amended]

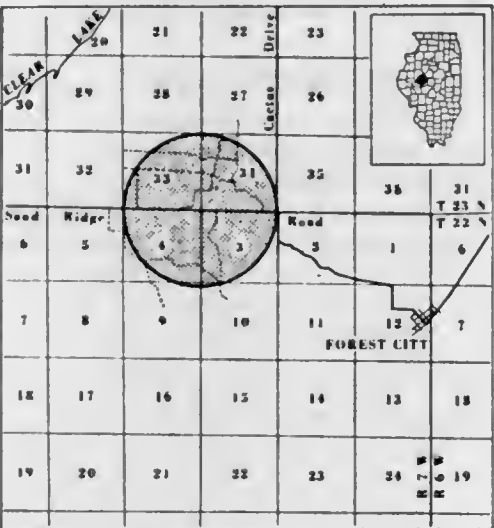
2. Section 17.95(c), Reptiles, is further proposed to be amended by adding Critical Habitat of the Beaver Dam slope population of the desert tortoise after that of the Illinois mud turtle as follows:

Beaver Dam Slope Population of the Desert Tortoise

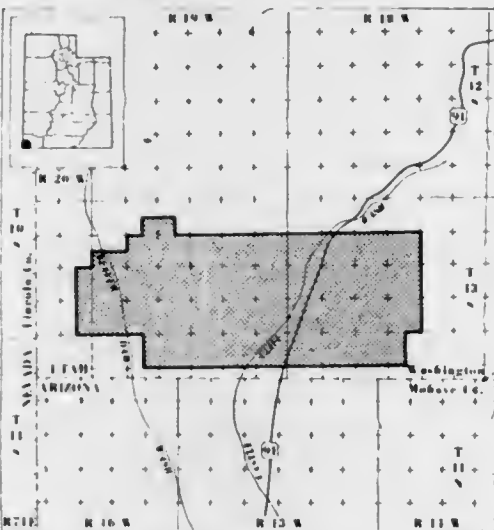
(*Gopherus agassizii*)

Utah. Washington County. E ½ Sections 13 and 24, T43S R20W; S ½ Section 7, all of Sections 8 through 28, E ½ Section 29, SE ¼ Section 5, SW ¼ Section 4, T43S R19W; all of Sections 7 through 10, 15 through 22, 28 through 30, and W ½ Section 27, T43S R18W.

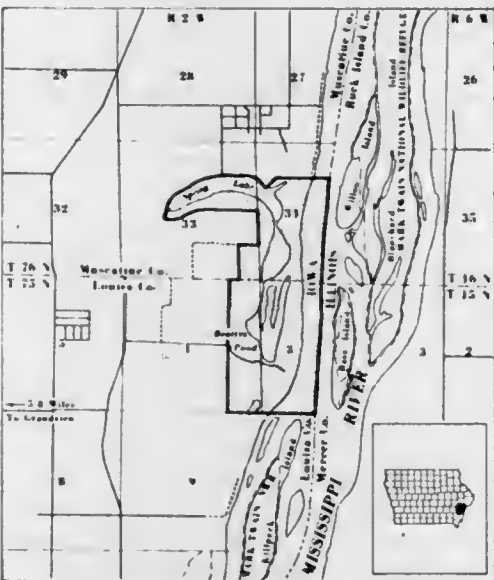
Illinois Mud Turtle  
(Mason County, Ill.)



Desert Tortoise  
Beaver Dam Slope Population



Illinois Mud Turtle  
(Louisa and Muscatine  
Counties, Iowa)



Dated: November 8, 1979.  
Lynn A. Greenwalt,  
Director, Fish and Wildlife Service.  
[FR Doc. 79-37659 Filed 12-6-79; 8:45 am]  
BILLING CODE 4310-55-M

Friday  
December 7, 1979

Part VII

Department of  
Agriculture

Food and Nutrition Service

Food Stamp Act of 1977; SSI/Food  
Stamp Joint Application Processing



## DEPARTMENT OF AGRICULTURE

## Food and Nutrition Service

## 7 CFR Part 273

[Amdt 158]

## Food Stamp Act of 1977; SSI/Food Stamp Joint Application Processing

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

**SUMMARY:** The Department is proposing procedures that would enable households applying for or receiving Supplemental Security Income (SSI) to apply for food stamp benefits in Social Security Administration (SSA) offices. These rules are intended to make it easier for such households to obtain food stamp benefits.

**DATE:** Comments must be received on or before February 7, 1980 in order to be assured consideration. After reviewing all comments, we will publish final regulations. It is proposed that final rules be implemented on the first day of the month following the one hundred and twentieth day after their publication, in order to provide national uniformity in implementation.

**ADDRESS:** Comments should be submitted to: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. All written comments will be open to public inspection at the office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street S.W., Washington, D.C. Room 678.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Carnes, Chief, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202-447-8918.

## SUPPLEMENTARY INFORMATION:

## Introduction

The regulations implementing the Food Stamp Act of 1964 made households consisting exclusively of SSI recipients categorically eligible for food stamps. The Food Stamp Act of 1977 ended categorical eligibility for these households and required that their eligibility be determined on the same basis as that of all other households. Section 11(i)(2) of the 1977 Act also mandates the Department of

Agriculture, in conjunction with the Department of Health, Education and Welfare (HEW) to develop procedures to enable households in which all members receive SSI benefits to apply for food stamp benefits at SSA Offices and to be certified on the basis of information contained in SSA files.

Extensive meetings were held with HEW to develop procedures which would most efficiently and effectively meet the objectives of the 1977 Act. Due to the basic incompatibility between key elements of eligibility and program procedures in the SSI and Food Stamp Programs, we encountered some serious problems in developing joint procedures. We closely examined the legislative history of the Act to determine the intended extent of SSA involvement in the food stamp certification process. In order to publish proposed rules, both Departments had to reach full agreement on all aspects of the joint procedures. SSA has agreed to procedures proposed in this rulemaking in a Memorandum of Understanding between the Commissioner of SSA and the Administrator of the Food and Nutrition Service (FNS). The Memorandum of Understanding represents FNS and SSA agreement on the fundamental procedures to be proposed, and if necessary can be modified to reflect changes that are made in the final rules based on public comment. Therefore we strongly encourage the public to submit comments. All comments received on or before February 8, 1980 will be fully considered before we draft final rules.

## Who would be eligible for these joint procedures?

"Supplemental Security Income" includes only Supplemental Security Income payments made under Title XVI of the Social Security Act, State supplemental payments made under section 1616 of that Act, or payments made under Section 212(a) of Pub. L. 93-66.

The Food Stamp Act of 1977 specifically directs that these joint procedures apply to households in which all members are applying for or receiving SSI benefits—"pure" SSI households. The procedures would pertain to such households which are not already participating in or having an application processed for the Food Stamp Program. We propose that joint processing procedures initially apply only to such "pure" SSI households. These would include households applying for SSI benefits, being redetermined for SSI benefits, or SSI households who were in the SSA office for any other reason, such as reporting changes in circumstances. The joint

procedures would not apply to SSI households currently certified for food stamps and applying for food stamp recertifications.

We decided to limit the initial application of these rules to pure SSI households because of the differences in eligibility criteria and certification units between the two programs. While the basic certification unit of service in the Food Stamp Program is the household, SSA certifies only individuals. This poses no problem for joint processing of pure SSI households. However, because SSA usually does not collect information for any household member(s) not applying for or receiving SSI, joint processing of households which contain non-SSI members would substantially increase the workload of SSA workers. It would also require greater familiarity on their part with provisions of the food stamp regulations that do not usually apply to SSI beneficiaries.

While our proposed rules would initially apply only to pure SSI households, except where applications are processed by a colocated State agency worker at an SSA office, the Departments may consider extending these rules to include households containing non-SSI members and the Title II Social Security population after SSA has developed some experience with the Title XVI population under the mandatory joint processing provisions.

**Note.**—For the sake of brevity, the term "SSI household" is used hereafter to refer to households in which all members are applying for or receiving SSI payments. Households with any members not applying for or receiving SSI payments are referred to as "non-SSI households."

The joint processing procedures will not apply in food stamp cash-out States as defined in § 273.6.

## Initial Application

To apply for food stamps, all households must submit signed applications, be interviewed by an eligibility worker and provide required verification of their statements. We are proposing to offer State agencies two options for processing SSI households who wish to apply for food stamps at SSA offices. Under the first option, SSA workers would accept applications, interview applicants, obtain required verification and forward all information to the State agency for an eligibility determination. Under the second option, State agency personnel stationed in SSA offices would perform these functions. These two options are described herein. A State agency could adopt one option for all SSA offices in the State or it could adopt the first option for some

SSA offices and the second option for others.

Regardless of the option selected, joint processing procedures would have to be available during the same hours in which SSI services are provided.

## Option one: SSA processing

Under the first option SSA would accept food stamp applications, interview applicants, obtain verification, forward applications and all available verification to the State agency. The State agency would perform all eligibility determinations based on the information forwarded by SSA. Households interviewed by an SSA worker would not be required to see a State agency eligibility worker or be otherwise subject to a State agency interview in order to obtain food stamp benefits. However, the State agency could contact the household to obtain any required verification that had not been provided, to verify questionable information, or to complete the application form, if necessary in order to complete the certification process. This contact might be established by telephone, by home visit or by mail, as such households could not be required to make a separate trip to the food stamp office.

SSA would be required to explain to all SSI households that they could apply for food stamps at SSA offices without having to make a separate trip to a food stamp certification site.

We believe we have met the intent of Congress even though a simplified affidavit is not used.

**Application forms.** FNS and SSA considered developing a shortened food stamp affidavit to be used nationwide by SSA for joint application purposes. It was assumed that much of the information ordinarily collected on the SSI application/redetermination form could simply be transferred to the food stamp affidavit, and that little additional information would be required for food stamp purposes. We found, however, that much of the information needed to determine food stamp eligibility is not needed to determine SSI eligibility and the affidavit therefore could not be developed as a short form attachment to the SSI application/redetermination form.

We therefore propose that State agencies have the option of using the national food stamp application form, or an approved State form. State agencies that wish to use a State food stamp form instead of the national form would have to submit their forms to SSA and FNS for prior approval. To be approved, a State form could not exceed the national food stamp form in length or complexity.

**SSI redeterminations.** Households redetermined for SSI eligibility by telephone would be interviewed for food stamp purposes by the SSA worker at the same time, if the household wished to apply for food stamps. SSA would fill out the application and send it to the applicant for signature.

Households redetermined for SSI eligibility by mail would be advised by SSA of the following: the right to file a food stamp application at the local food stamp office; and the right to an out-of-office food stamp interview if the household was unable to appoint an authorized representative.

**Determining whether households wish to apply for food stamps.** SSA would add two food stamp questions to the SSI application/redetermination form. The first question would ask whether the household is currently receiving food stamp benefits or has applied for them in the past 30 days. The second question would ask, if the household were not currently participating and had not applied, if it now wished to apply for food stamp benefits. SSA would also verbally ask these questions of all SSI households at initial application and at redeterminations, and would explain that SSI households could apply for food stamp benefits at SSA offices without having to make a separate trip to a food stamp office. All pure SSI households indicating a desire to apply for food stamps would be provided with a food stamp application form. The SSA worker would then assist the applicant in completing the form and would accept it for processing.

The State Data Exchange (SDX) files, which contain the information required for SSI eligibility determinations, would include data indicating whether an individual was or was not currently receiving food stamps; and, if not, whether a food stamp application was filed with SSA.

**Processing standards.** The Act mandates that State agencies complete the certification process and provide benefits to eligible households not later than 30 days following the date signed applications are submitted. These rules propose that signed food stamp applications taken at SSA Offices be considered filed on the date they are received by SSA. The normal 30-day processing standard described in section 273.2(g) of the food stamp regulations would begin on that date. SSA would forward food stamp applications to the State agency within one working day following the day the SSA worker interviewed the household. Many of the food stamp certification functions would have been performed by SSA before the State agency received the application

form and related information. Because most SSI households are interviewed on the same day they contact SSA offices and submit SSI applications and most SSI applications are completed on the day of the interview for SSI benefits, the State agency would probably receive food stamp applications and accompanying verification from SSA within no more than 5 days after the date the food stamp application was filed with SSA. This permits at least 25 days for State agencies to complete the certification process and provide benefits to eligible households. We do not foresee any significant administrative problems that would make it difficult for State agencies to determine eligibility and provide benefits within the 30-day standard, as the incomes and other circumstances of the SSI population are generally stable and needed verification should be relatively easy to obtain.

The State agency would be responsible for providing SSA District Offices with the State agency addresses to which SSA would forward food stamp applications and verification. In the event the food stamp file was sent to an incorrect food stamp office, the State agency would have one working day to forward the file to the correct food stamp office. With FNS and SSA approval State agencies could develop means of transmitting applications other than through the Postal Service.

Where SSA outstations field representatives at branch offices or satellite contact stations, the outstation SSA field representatives would ask SSI households whether they wish to apply for food stamps and would complete applications for those households who did; would interview those households for food stamp purposes; and would forward completed applications and all accompanying information to the proper food stamp office. The regulations as proposed would require that the 30-day standard for processing these applications begin on the date they are received by an SSA representative in such situations as well.

**Non-SSI households.** SSA would not accept food stamp applications from households containing non-SSI members, but would refer such households to the correct food stamp office, if they wished to apply for food stamp benefits. As the geographic areas administered by SSA District Offices are much larger than food stamp project areas, several counties or project areas may be served by one SSA District Office administrative area. The State agency would be responsible for ensuring that SSA is familiar with the



location of all food stamp offices and can determine to which food stamp office each non-SSI household should be referred.

**Expedited service.** All of the expedited processing standards of § 273.2(i) would apply to SSI households entitled to expedited service. However, while the 30-day processing standard would begin on the date that the application is received by the SSA, the processing standard for expedited processing would begin the date the application is received by the correct food stamp office.

SSA would prescreen all applications to identify those indicating probable entitlement to expedited service and would mark "Expedited Processing" on the first page of those applications. The State agency would be required to screen all applications, rather than just those identified by SSA, to determine which were eligible for expedited service. Those which were identified by SSA as potentially qualifying for expedited service would receive special handling.

SSA would be required to inform households that appeared to qualify for expedited service that they might receive food stamp benefits a few days sooner if they applied directly to the food stamp office. As with all other applications received by SSA, applications marked "Expedited Processing" would be forwarded to the State agency within one working day following the interview with the household.

**Administrative costs.** The administrative costs to the SSA for performing these food stamp certification functions will be reimbursed by USDA in accordance with the interagency Memorandum of Understanding. We do not foresee significant State agency administrative costs arising from these procedures. We particularly encourage comments on significant State agency costs that could be incurred or administrative difficulties that might arise because of these procedures.

**Quality control error rates.** Because State agencies will base eligibility determinations largely on information gathered by SSA staff, the question arises as to whether the State agency ought to be held liable for errors caused by SSA staff or rising from information obtained through the State data exchange system. We will shortly propose a modification to our quality control rules that would define any errors arising from SSA processing as administrative deficiencies. Such deficiencies would not be counted

against a State agency's cumulative allotment error rate.

#### Option two: Colocation

The second option available to State agencies for SSI/food stamp joint processing proposes the colocation of at least one full-time State agency food stamp eligibility worker at the SSA District or branch office. The State agency worker would be required to provide applications to an accept applications from both pure SSI households and "mixed" SSI households (those with both SSI and non-SSI members). The worker would also have to interview such households and assist them in completing applications, if necessary. For these households, both the 30-day and expedited processing standards would begin on the date the collocated worker received a signed food stamp application form.

If State agency eligibility workers are collocated in SSA offices, the State agency shall determine whether or not those workers would actually determine eligibility, or whether they would forward the completed applications and verification to the correct food stamp office for eligibility determinations.

Collocated State agency workers will be required to accept applications from households with persons applying for or receiving Title II Social Security Benefits under the same procedures as proposed for SSI households. However, it is proposed that the collocated worker could interview these persons in the SSA office only with the approval of the SSA.

The State agency would be required to assign additional workers to the SSA office as the workload would indicate.

State agencies could also collocate an eligibility worker at an SSA contact station along with an outstationed SSA field representative. The outstationed food stamp eligibility worker would be subject to the same requirements as the food stamp eligibility workers stationed in SSA District or branch offices.

Where collocation was used, the SSA worker would refer households who wished to apply for food stamps to the food stamp eligibility worker after the SSA interview was conducted and would forward to the food stamp eligibility worker a copy of the completed SSA application and any verification and/or redetermination information. The food stamp eligibility worker would then conduct a separate interview for food stamp purposes.

This process would have to be continuous whereby there would be no significant delay between interviews; both interviews would be completed within the same visit, unless there was

insufficient time to process the application. While this procedure would not provide a single interview for both SSI and food stamp benefits, it would meet Congressional intent that there be a one-stop application process for both SSI and food stamp benefits.

**Geographic jurisdictions.** Because SSA District Offices generally administer areas geographically larger than a single food stamp project area, the collocated food stamp eligibility worker would be required to accept food stamp applications from all SSI households that would normally transact business at that SSA office. The eligibility worker could not refer food stamp applicants to a food stamp office because they resided in a food stamp project area or county other than the one in which the SSA office was located. The "correct" SSA office would be the one serving the area in which the household resided. The food stamp worker would not, however, be required to provide service to households that did not reside in the SSA office's district.

**Expedited service.** The collocated food stamp eligibility worker would screen all households applying for food stamps at the SSA office for entitlement to expedited service. The expedited processing standards would begin on the date that the collocated worker received a signed food stamp application from the household.

#### Overall State agency responsibilities

The State agency would be responsible for determining which option it wished to adopt for each SSA office and, through the SSA Regional Offices, for making all arrangements necessary for the collocation of State agency food stamp eligibility workers at SSA Offices or for arranging with SSA to accept applicants and interview households. Individual food stamp offices wishing to collocate workers at SSA Offices would not contact SSA directly, but would ask the State office to do so.

#### Verification

We propose that all of the verification requirements of § 273.2(f) apply to SSI households applying for food stamps at SSA offices under both above options. In order to limit verification burdens on SSI households and facilitate their verification, the Act mandates the implementation of procedures for using information in SSA files for food stamp certification purposes. SSI eligibility information is recorded by SSA on the SDX. We propose that State agencies use SDX information as much as possible to verify information about SSI households for food stamp purposes.

**Release of SDX information.** HEW rulemaking published in the July 20, 1979 Federal Register authorized State agencies to access SDX data for food stamp certification purposes without a signed release statement from the household. State agencies must either make appropriate requests for data under the Freedom of Information Act or amend their data exchange agreements with SSA. State agencies wishing routine user status for the purpose of verifying information about SSI households for food stamp purposes would be responsible for establishing necessary agreements with SSA. Until such agreement is established or if it were not desired, State agencies would be required to obtain a signed release statement from each household member in order to access SDX data.

**Use of other than SDX.** For households newly applying for SSI benefits, no information will be present in SDX at the time of application. In such cases, verification would have to be obtained from the household. Further, some State agencies may not have the capability to receive and process SDX data from SSA on a timely basis. We propose that these agencies be able to verify through information provided by the household. We also propose that households have the right to provide verification of any statements which are contradicted by information in SDX.

For required verification which is not available at all through SDX, State agencies would seek verification through the household.

The Department proposes that State agencies shall not require food stamp applicants and recipients to personally present verification at a food stamp office. This provision is designed to prohibit what would amount to a second interview by an SSA worker. Such a second interview would defeat the intent of the Congress, which was to allow one stop application for households applying for food stamps and SSI. Because this proposal is consistent with § 273.2(f)(5) as it now stands, the Department proposes to apply this provision to all households.

**Other verification rules.** When SSA interviews applicants for food stamps, SSA would forward all verification provided by the household along with the signed application to the designated office of the State agency within one working day following the interview. The State agency would then determine eligibility based on that information. The State agency would not be allowed to contact the household for additional verification unless mandatory verification required by § 273.3(f)(1) were missing, or the State agency

determined that certain information on the application was questionable. The State agency would not be allowed to contact SSA for verification of information other than through the SDX system. Conversely, the State agency would not re-verify any information verified through SDX, unless there was reason to believe it was questionable.

#### Certification periods

In keeping with the legislative intent that participation of SSI households in the food stamp program be facilitated, we propose that State agencies certify households subject to this rulemaking for up to 12 months. If, after two months from the date the household was certified for food stamps, a household applying for SSI benefits had not yet reported to the State agency the results of its SSI eligibility determination, the State agency would verify the results. If the household had been determined eligible for SSI benefits, its food stamp benefits would be adjusted to reflect SSI income, according to the current regulations on processing changes.

If the SSI eligibility determination were still pending, the State would verify the results of the determination at two month intervals until such time as the final determination was made. This procedure would certify households for the longest period possible, while still ensuring that their benefits were adjusted to reflect SSI income. However, the procedure would depend upon a State agency ability to identify all jointly processed SSI households for at least two months following their certification for food stamps and two months thereafter as required. We appreciate comments on the feasibility of this provision and alternatives to it.

#### Reporting Changes

We propose that households processed under these rules have the same reporting requirements as all other food stamp households and that they be provided with the standard food stamp change report form. We do not propose a joint SSI/food stamp change reporting requirement. For households interviewed by SSA, we propose that the State agency have the option of requiring the household to report the initial SSI payment or of relying on SDX data for that information. If the household were notified at the time of certification for food stamps that its food stamp benefits would be reduced upon receipt of the SSI payment, the State agency would not have to send an individual notice of adverse action to such households when it reduced their benefits for this reason.

**Mass changes.** Cost-of-living adjustments and other Federal adjustments to SSI benefits would be handled in accordance with food stamp rules governing mass changes. In the October 30, 1979 Federal Register, USDA proposed modifications to these rules.

#### Recertification

State agencies would be required to provide a notice of expiration to all SSI households certified for food stamps in accordance with the notification requirements of § 273.14(b). All applications for recertification would be submitted to the State agency and the State would complete all application processing. The rules proposed for joint SSA/State agency processing would not apply to applications for recertification.

In accordance with § 273.2(e)(2) of the food stamp regulations, any SSI household which was unable to appoint an authorized representative would be entitled to an out-of-office interview. State agencies will also be permitted to recertify SSI households on the basis of an application submitted by mail, without the need for an interview.

#### PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. An additional sentence is added to § 273.2(f)(5)(ii) and new paragraphs (F)(8) and (K) are added to § 273.2 to read as follows:

#### § 273.2 Application processing.

- \* \* \* \* \*
- (f) \* \* \*
- \* \* \* \* \*
- (5) Responsibility for obtaining verification.
- \* \* \* \* \*
- (ii) \* \* \* The State agency shall not require the household to personally present verification at a food stamp office.
- \* \* \* \* \*

(8) State Data Exchange (SDX). The State agency shall have the option of verifying SSI benefit payments through the State Data Exchange (SDX) or through verification provided by the household. In addition, the State agency may use SDX data to verify other food stamp eligibility criteria provided the household is given an opportunity to verify the information from another source if the SDX information is contradictory to the household's information or unavailable. However, determination of a household's eligibility and benefit level shall not be delayed past the application processing time standards of § 273.3(g) if the SDX data is unavailable. The State agency may access SDX data without a release



statement from the household provided the State agency makes the appropriate data request to SSA or executes any SDX data exchange agreements required by the SSA. The State agency may access SDX on a need-to-know basis.

(k) *SSI households.* Except in SSI cash-out States (273.6), households all of whose members are participating in or applying for the Supplemental Security Income (SSI) program, and who are not participating in the Food Stamp Program or have not applied for food stamps in the thirty preceding days shall be allowed to apply for food stamp benefits at the Social Security Administration (SSA) office where they apply for SSI benefits. These households' food stamp eligibility and benefit levels shall be based solely on food stamp eligibility criteria. Such households shall be certified in accordance with the notice, procedural and timeliness requirements of the Food Stamp Act of 1977 and its implementing regulations. The State agency shall make an eligibility determination based on information provided by SSA or by the household.

(1) *Initial application and eligibility determination.* The State agency may either arrange for SSA to complete and forward food stamp applications or may colocate State food stamp eligibility workers at the SSA Offices, based upon an agreement negotiated between the State agency and the SSA.

(i) If the State agency arranges with the SSA to complete and forward food stamp applications the following actions shall be taken:

(A) Whenever a member of an SSI household entitled to joint processing transacts SSI business at an SSA office, the SSA shall inform the household of:

(1) Its rights to apply for food stamps at the SSA office without going to the food stamp office; and

(2) Its rights to apply at a food stamp office if it chooses to do so.

(B) The SSA will accept and complete food stamp applications received at the SSA Office from SSI households and forward them within one working day after the household is interviewed to a designated office of the State agency. The SSA will also forward all available verification and documentation to the State agency with the application. The SSA will use the national food stamp application form for joint processing. State agencies may substitute a State food stamp only application, which is no longer or more complex than the national form provided that prior approval is received from both FNS and SSA.

(C) SSA will accept and complete food stamp applications from SSI households received by SSA field representatives. The outstationed worker will forward all food stamp applications from SSI households to the designated food stamp office.

(D) The State agency shall designate an address for the SSA to forward food stamp applications and accompanying information to the State agency for eligibility determination. Applications and accompanying information must be forwarded to the agreed upon address within one working day.

(E) The State agency shall make an eligibility determination and issue food stamp benefits to eligible SSI households within 30 days following the date the application was received by the SSA. Applications shall be considered filed for normal processing purposes when the signed application is received by SSA. The filing date for expedited services is the date the correct food stamp office receives the application. Food Stamp applications and supporting documentation sent to an incorrect food stamp office shall be sent to the correct office, by the State agency, within one working day of their receipt.

(F) Households in which all members are applying for or participating in SSI will not be required to see a State eligibility worker, other than colocated workers, or otherwise be subjected to additional State interview requirements to obtain the benefits of both programs. Following the SSA interview, the food stamp application will be processed by the State agency. The State agency shall not contact the household further in order to obtain information for certification food stamp benefits unless: the application is improperly completed; mandatory verification required by § 273.2(f)(2) is missing; or, the State agency determines that certain information on the application is questionable. In no event would the applicant be required to appear at the food stamp office to finalize the eligibility determination.

(G) The SSA shall refer non-SSI households to the correct food stamp office. The State agencies shall process those applications in accordance with the procedures noted in § 273.2. Application from such households shall be considered filed on the date the signed application is taken at the correct State agency office, and the normal and expedited processing time standards shall begin on that date.

(H) The SSA shall prescreen all applications for entitlement to expedited services on the day the application is received at the SSA office and shall mark "Expedited Processing" on the first

page of all households' applications that appear to be entitled to such processing. The SSA will inform households which appear to meet criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the food stamp office.

(I) The State agency shall prescreen all applications received from the SSA for entitlement to expedited service on the day the application is received at the correct food stamp office. All SSI households entitled to expedited service shall be certified in accordance with § 273.2(i) except that the expedited processing time standard shall begin on the date the application is received at the correct State agency office.

(J) The State agency shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA are already participating in the Food Stamp Program directly through the State agency.

(K) If SSA takes an SSI application or redetermination on the telephone, a food stamp application shall also be completed during the telephone interview. In these cases, the food stamp application shall be mailed to the claimant for signature. Although the State agency may not require the household to be interviewed again in the food stamp office the State agency is not precluded from conducting an out-of-office interview, even though the individual's contact was with SSA.

(L) To a household redetermined for SSI by mail, the SSA shall send a notice informing it of the following: its right to file a food stamp application at the local food stamp office and its right to an out-of-office food stamp interview if the household is unable to appoint an authorized representative.

(M) SSA shall not be responsible for work registration procedures. The State agency is responsible however, to perform all work registration functions in accordance with § 273.7.

(N) Section 272.4 bilingual requirements shall not apply to the Social Security Administration

(ii) If the State agency chooses to colocate eligibility workers at SSA District Offices, the following actions shall be completed.

(A) SSA will provide adequate space for State food stamp eligibility workers in District or Branch Offices.

(B) The State agency shall have at least one colocated worker on duty at all time periods during which SSI households may be referred for food stamp application processing. In most cases this would require the availability of a colocated worker throughout normal business hours.

(C) The State agency may permit the eligibility worker colocated at the SSA to determine the eligibility of households, or may require that completed applications be forwarded to the food stamp office for the final eligibility determination.

(D) The State agency shall accept applications from, and interview, households who would normally obtain services at the SSA office and who express a desire to apply for food stamps. These households may be composed entirely of SSI applicants and recipients. They may also contain SSI clients and others. These households shall be interviewed for food stamps on the day of application unless there is insufficient time to conduct an interview.

(E) The State agency shall not refuse to provide service to persons served by the SSA office because they do not reside in the county or project area in which the SSA office is located, provided, however, that they reside within the jurisdictions served by the SSA office. The State agency is not required to accept food stamp application from persons who are not residing within the SSA office jurisdiction.

(F) The colocated State agency worker shall accept applications from applicants for and recipients of Social Security benefits. At the option of the State agency and with the approval of SSA, the colocated worker may also interview these applicants and/or recipients.

(iii) Regardless of whether the State agency or SSA conducts the food stamp interview, the following actions shall be taken:

(A) *Verification.* (1) The State agency shall verify all of the information required by § 273.2(f) prior to certification for households initially applying. Households entitled to expedited certification services shall be processed in accordance with § 273.2(i).

(2) The State agency has the option of verifying SSI benefit payments as much as possible through the State Data Exchange (SDX) and/or through verification provided by the household.

(3) The State agency may verify other income through the SDX. Information verified through SDX shall not be reverified unless it is questionable. Households shall be given the opportunity to provide verification from another source if all necessary information is not available on the SDX or if the SDX information is contradictory to other household information.

(B) *Certification periods.* The State agency shall certify households

consisting entirely of SSI recipients for up to 12 months, except for States which must assign the initial certification period to coincide with adjustments to the SSI grant as designated in § 273.2(k)(1)(iii)(C).

(C) *Changes in Circumstances.* (1) SSI households shall report changes in gross monthly income of more than \$25 changes in household composition, changes in residence and shelter costs, the acquisition of vehicles, and when liquid assets exceed \$1750 in accordance with requirements contained in § 273.12.

(2) The State agency has the option of requiring the household to report the amount and the date of the initial SSI payment or relying on the SDX. The State agency shall rely on SDX to the greatest extent possible. Two months after certification, the State agency shall verify the amount and date of the initial SSI payment if the household has not done so. If a final determination is still pending, the State agency will check on the status of the SSI determination at two month intervals thereafter, until a final determination is made.

(3) The State agency shall process adjustments to SSI cases resulting from mass changes, in accordance with provisions of § 273.12(e).

(D) *SSI households applying at the food stamp office.*

The State agency shall allow SSI households to submit food stamp applications to local food stamp offices rather than through the SSA if the household chooses. In such cases all verification, including that pertaining to SSI program benefits, shall be provided by the SSI household or obtained by the State agency rather than being provided by the SSA.

(2) *Recertification.* The State agency shall complete the application process and approve or deny timely applications for recertification in accordance with § 273.14 of the food stamp regulations. A face-to-face interview shall be waived if requested by a household consisting entirely of SSI participants which does not appoint an authorized representative. The State agency shall provide SSI households with a notice of expiration in accordance with § 273.14(b), except that such notification shall inform households consisting entirely of SSI recipients that they are entitled to a waiver of a face-to-face interview if the household is unable to appoint an authorized representative.

The joint application processing requirements of § 273.2(k)(1) shall not apply to applications at recertification. The State agency may, however, use the

SSA State Data Exchange (SDX) to verify information at recertification.

(91 Stat. 958 (7 U.S.C. 2011—2027))

Note.—This proposal has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as significant. An impact statement has been prepared and is available from Claire Lipsman, Director, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington D.C. 20250. (Catalogue of Federal Domestic Programs No. 10.551, Food Stamps)

Dated: December 4, 1979.

Carol Tucker Foreman,  
Assistant Secretary.

[FR Doc. 79-37713 Filed 12-6-79; 8:45 am]  
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# Department of Energy Federal Register

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Friday  
December 7, 1979

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Part VIII

**Department of  
Energy**

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Standby Federal Conservation Plan



## DEPARTMENT OF ENERGY

## 10 CFR Part 576

[CAS-RM-79-507]

## Standby Federal Conservation Plan

AGENCY: Department of Energy.

ACTION: Notice of Inquiry.

**SUMMARY:** The recently enacted Emergency Energy Conservation Act of 1979 (the Act) directs a variety of actions at both Federal and State levels to further reduce public and private use of available energy resources. Title II of the Act establishes a mechanism for restraining domestic energy demand for energy sources such as gasoline, diesel, and home heating oil (1) when a severe energy supply interruption exists, (2) when such an interruption is imminent, or (3) when required to fulfill certain international obligations of the United States.

Upon a finding by the President that any of the foregoing circumstances exists with respect to any energy source, he may establish monthly emergency conservation targets for that energy source for the Nation generally and for each State. Under the Act, such targets are to be met in the States by activating emergency energy conservation plans developed by each State and approved by the Secretary of Energy. However, should the President find, after a reasonable period of time, that a given State's target is not being substantially met and is likely to continue to be unmet, he must impose all or part of a standby Federal emergency conservation plan.

The standby Federal emergency conservation plan is required by the Act to be established by the Department of Energy by February 4, 1980, whether or not conservation targets for specific energy sources have been established.

This notice requests comments on the types of measures which should, or should not, be included in the standby Federal emergency conservation plan, the rationale for such measures, and the level of shortage (i.e., mild or acute) at which those measures should be brought into effect.

**DATE:** Written response to this Notice of Inquiry should be received by DOE no later than December 20, 1979, 4:30 p.m.

**ADDRESS:** Send comments to Ms. Carol Snipes, Hearings and Dockets, Conservation and Solar Energy, Department of Energy, 20 Massachusetts Avenue, N.W., Mail Stop 2221C, Washington, D.C. 20585, telephone (202) 376-1651.

## FOR FURTHER INFORMATION CONTACT:

Henry G. Bartholomew or Lorn Harvey, Conservation and Solar Energy, Department of Energy, 1000 Constitution Avenue, S.W., Room GE-004A, Washington, D.C. 20585, (202) 252-4966. Lewis W. Shollenberger, Jr. or Christopher T. Smith, Office of General Counsel, Department of Energy, Mail Stop 2221C, Room 3228, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376-9297.

**SUPPLEMENTAL INFORMATION:** Title II of the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102) provides the framework for a coordinated national response to a severe energy supply interruption. Title II of this Act is appended to this notice and all references are to sections in that Title. If the President finds that an interruption exists or is imminent, or that actions to restrain domestic energy demand are necessary to fulfill the obligations of the United States under the international energy program, he can establish monthly emergency conservation targets for each affected energy source, for example, gasoline or home heating oil, for the Nation and for each State (section 211(a)). Within 45 days after these targets are established, States must submit emergency conservation plans which contain measures they will enforce to reduce consumption of each targeted energy source in compliance with the applicable target (section 212(a)).

Under this statute, the Department of Energy (DOE) is directed to establish a standby Federal emergency conservation plan by February 4, 1980. The Federal plan is to provide for the emergency reduction in the public and private use of energy (section 213(a)). It will contain the emergency energy conservation measures which the Secretary of Energy believes will be most effective in achieving the emergency reduction in the use of each energy source for which a target is or may be in effect under section 211 of the Act. The President must impose this plan in any State which he finds is not, after a reasonable period of time, substantially meeting a conservation target established under section 211 (section 213(b)). The plan will also serve as an example which States can follow in preparing their own conservation plans pursuant to section 212 of the Act.

By this notice, the Department of Energy solicits comment and suggestions on types of measures the standby Federal conservation plan should contain. Since the Federal plan must provide for emergency reduction in the use of any targeted energy source, DOE seeks comments on measures

which conserve specific energy sources, such as gasoline, home heating oil, diesel fuel, residual fuel oil, and natural gas. At this time, comments on measures to conserve gasoline would be particularly useful. In addition, since the Federal plan must contain measures which can offset shortages of varying degrees of severity, comments should, if possible, specify when or how a measure would be applied at different levels of shortages. Comments received by December 20, 1979 will be considered in the course of developing the Federal plan.

After considering the comments received in response to this notice and to the extent time permits, DOE intends to publish for comment selected conservation measures which may be appropriate for inclusion in a standby Federal energy conservation plan. The standby Federal plan is scheduled to be published as an interim final rule on February 4, 1980.

All responses to this notice should be sent to Ms. Carol Snipes, Conservation and Solar Energy, Department of Energy, 20 Massachusetts Avenue, N.W. Room 2221-C, Washington, D.C. 20585, telephone (202) 376-1651. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Standby Federal Conservation Plan", Docket No. CAS-RM-79-507. Twenty copies should be submitted.

All comments received by December 20, 1979, 4:30 p.m., will be considered by DOE in developing the standby Federal plan. All comments received by DOE will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-142, Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Emergency Energy Conservation Act of 1979, Pub. L. 96-102; Department of Energy Organization Act, Pub. L. 95-91.

John M. Deutch,  
Under Secretary.

BILLING CODE 6450-01-M

## PUBLIC LAW 96-102—NOV. 5, 1979

33 STAT. 758

33 STAT. 757

## TITLE II—EMERGENCY ENERGY CONSERVATION

## SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—  
(1) severe energy supply interruptions have recently occurred in the gasoline and diesel fuel markets of the United States;  
(2) it is likely that such disruptions will recur;  
(3) interstate commerce is significantly affected by those market disruptions;

(4) an urgent need exists to provide for emergency conservation and other measures with respect to gasoline, diesel fuel, home heating oil, and other energy sources in potentially short supply in order to cope with market disruptions and protect interstate commerce; and  
(5) up-to-date and reliable information concerning the supply and demand of gasoline, diesel fuel, and other related data is not available to the President, the Congress, or the public.

(b) PURPOSES.—The purposes of this title are to—  
(1) provide means for the Federal Government, States, and units of local government to develop emergency conservation measures with respect to gasoline, diesel fuel, home heating oil, and other energy sources which may be in short supply;  
(2) establish other emergency measures to alleviate disruptions in gasoline and diesel fuel markets;  
(3) obtain data concerning such fuels; and  
(4) protect interstate commerce.

## SEC. 202. DEFINITIONS.

For purposes of this title—

(1) the term "severe energy supply interruption", when used with respect to motor fuel, means a national energy supply shortage of such energy source which the President determines—  
(A) is, or is likely to be, of significant scope and duration;  
(B) may cause major adverse impact on national security or the national economy; and  
(C) results, or is likely to result, from an interruption in the energy supplies of the United States, including supplies of imported petroleum products, or from sabotage or an act of God.

(2) The term "international energy program" has the meaning given that term in section 3(1) of the Energy Policy and Conservation Act (42 U.S.C. 6202).

(3) The term "motor fuel" means gasoline and diesel fuel.

(4) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government or any agency of the United States or any State or political subdivision thereof.

(5) The term "vehicle" means any vehicle propelled by motor fuel and manufactured primarily for use on public streets, roads, and highways.

(6) The term "Secretary" means the Secretary of Energy.

(7) The term "Governor" means the chief executive officer of a State.

(8) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

## Part A—Emergency Energy Conservation Program

## SEC. 211. NATIONAL AND STATE EMERGENCY CONSERVATION TARGETS.

(a) DETERMINATION AND PUBLICATION OF TARGETS.—(1) Whenever the President finds, with respect to any energy source for which the President determines a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are necessary to fulfill the obligations of the United States under the international energy program, it is in the interest of the United States that the purposes of this title may establish monthly conservation targets for each State.

(2) Any finding of the President under paragraph (1) shall be promptly transmitted to the Congress, accompanied by such information and analysis as is necessary to provide the basis for such finding, and shall be disseminated to the public.

(3) (A) The State conservation target for any energy source shall be equal to (i) the State base period consumption reduced by (ii) a uniform percentage of the State base period consumption.

(B) For the purposes of this subsection, the term "State base period consumption" means, for any month, the product of the following factors, as determined by the President:

(i) the consumption of the energy source for which a target is established during the corresponding month in the 12-month period prior to the first month for which the target is established; and  
(ii) a growth adjustment factor, which shall be determined on the basis of the trends in the use in that State of such energy source during the 12-month period prior to the first month for which the target is established.

(C) The President shall adjust, to the extent he determines necessary, any State base period consumption to insure that achievement of a target established for that State under this subsection will not impair the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 1533(b)(1)).

(D) The President may, to the extent he determines appropriate, further adjust any State base period consumption to reflect—  
(i) variations in weather from seasonal norms;  
(ii) energy shortages which may affect energy consumption; and  
(iii) variations in weather from seasonal norms.

(E) For purposes of this subsection, the uniform national percentage shall be designed by the President to minimize the impact on the domestic economy of the projected shortage in the energy source for which a target is established by saving an amount of such energy source which is equivalent to the amount of such energy source which would have been consumed had there been no such other factors related to that shortage as the President considers appropriate.

(b) NOTIFICATION AND PUBLICATION OF TARGETS.—The President shall notify the Governor of each State of each target established under subsection (a) for that State, and shall publish in the Federal Register, the targets, the base period consumption for each State and other data on which the targets are based, and the factors considered under subsection (a)(3).

(c) THE PRESIDENT'S TARGETS FOR FEDERAL AGENCIES.—In connection with the establishment of a national target under subsection (a), the President shall make effective an emergency energy conservation plan for the Federal Government, which plan shall be designed

22 USC 8511

42 USC 8501

42 USC 8502

Transmittal to Congress

State base period consumption

Publication in Federal Register



graph (A) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

(2) Each State is encouraged to submit to the Secretary a State conservation plan as soon as possible after the date of the enactment of this Act. The Secretary may, at his discretion, approve or disapprove of such plan. The Secretary may, at his discretion, approve or disapprove of such plan. The Secretary may, at his discretion, approve or disapprove of such plan.

(b) CONSERVATION MEASURES UNDER STATE PLANS.—(1) Each State emergency conservation plan under this section shall provide for emergency reduction in the public and private use of each energy source which the Secretary determines to be necessary to achieve the conservation target established under section 211. Such State plan shall contain measures which the Secretary determines to be necessary to achieve the conservation target. Such plan may provide for reduced use of that energy source through voluntary programs or through the application of one or more of the following measures described in such plan:

(A) measures which are authorized under the laws of that State and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions); and

(B) measures which the Secretary determines to be necessary to achieve the conservation target, and which the Secretary determines to be necessary to achieve the conservation target.

(i) which the Governor requests, and agrees to assume, the responsibility for administration and enforcement in accordance with subsection (d);

(ii) which the attorney general of that State has found that the Governor lacks the authority under Federal law, the Governor invokes, (ii) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law; and (iii) if implemented, would not be contrary to State law; and

(C) measures which the Secretary determines to be necessary to achieve the conservation target, and which the Secretary determines to be necessary to achieve the conservation target.

(2) In the preparation of such plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment.

(3) Any State plan submitted to the Secretary under this section may permit persons affected by any measure in such plan to use alternate means of conserving at least as much energy as would be conserved by such measure. Such plan shall provide for the enforcement of such alternative means by such State or by any political subdivision of such State.

(c) APPROVAL OF STATE PLANS.—(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

(A) that, taken as a whole, the plan is not likely to achieve the emergency conservation target established for that State under section 211(a) for each energy source involved;

(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restriction on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

to achieve an equal or greater reduction in use of the energy source for which a target is established than the reduction achieved by the measures which the President will implement in accordance with other applicable provisions of law, to reduce on an emergency basis the use of energy by the Federal Government. In developing such plan the President shall consider the potential for emergency reductions in energy use—

(1) by buildings, facilities, and equipment owned, leased, or under contract by the Federal Government; and

(2) by Federal employees and officials through increased use of car and van pooling, preferential parking for multipassenger vehicles, and greater use of mass transit.

(d) REVIEW OF TARGETS.—(1) From time to time, the President shall review and, consistent with subsection (a), modify (i) the extent the President commits under this section to the establishment of such conservation targets, and (ii) the measures which the President determines to be necessary to achieve the conservation target.

(2) Any modification under this paragraph shall be accompanied by such information and analysis as is necessary to provide the basis therefor and shall be available to the Congress and the public. (3) Before the end of the 12th month following the establishment of any conservation target under this section, and annually thereafter while such target is in effect, the President shall determine, for the energy source for which that target was established, whether a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are required in order to fulfill the obligations of the United States under the international energy program. The President shall transmit to the Congress and the public a report on the data on which any determination under this paragraph is based.

(B) If the President determines such an energy supply interruption does not exist or is not imminent or such actions are not required, the conservation targets established under this section with respect to such energy source shall cease to be effective.

(e) DETERMINATION AND PUBLICATION OF ACTUAL CONSUMPTION NATIONALLY AND STATE-WIDE.—Each month the Secretary shall determine and publish in the Federal Register (1) the level of consumption for the most recent month for which the President determines accurate data is available, nationally and for each State, of any energy source for which a target under subsection (a) is in effect; and (2) whether the targets under subsection (a) have been substantially met or not.

(f) PRESIDENT'S AUTHORITY TO REVOKE.—Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

SEC. 212. STATE EMERGENCY CONSERVATION PLAN.

(a) STATE EMERGENCY CONSERVATION PLANS.—(1) Not later than 45 days after the date of the publication of an energy conservation target for a State under section 211(b), the Governor of that State shall submit to the Secretary a State emergency conservation plan designed to meet or exceed the emergency conservation target in effect for that State under section 211(a). Such plan shall contain measures which the Secretary determines to be necessary to achieve the conservation target. The Governor may, with the approval of the Secretary, amend a plan established under this section.

(B) The Secretary may, for good cause shown, extend to a specific date the period for the submission of any State plan under subparagraph (a).

Transmitted to Congress.

Publication in Federal Register.

42 USC 8512.

Publication in Federal Register.

tions of energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

(C) that the requirements of this part regarding the plan have not been met, or

(D) that a measure described in subsection (b)(1) is—

(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(ii) an undue burden on interstate commerce, or

(iii) a tax, tariff, or user fee not authorized by State law.

(2) Any measure contained in a State plan shall become effective in that State on the date the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

(d) STATE ADMINISTRATION AND ENFORCEMENT.—(1) The authority to administer and enforce any measure described in subsection (b)(1)(B) which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e).

(2) All delegation of authority under paragraph (1) with respect to any State plan shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(3) If at any time the conditions of subsection (b)(1)(B)(ii) are no longer satisfied in any State with respect to any measure for which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(4) Any revocation under paragraph (2) or (3) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such revocation.

(e) CIVIL PENALTY.—(1) Whoever violates the requirements of any measure described in subsection (b)(1)(B) which is in a State plan in effect under this section shall be subject to a civil penalty of not to exceed \$1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of measures the authority for which is delegated under subsection (d).

42 USC 8513.

SEC. 213. STANDBY FEDERAL CONSERVATION PLAN.

(a) ESTABLISHMENT OF STANDBY CONSERVATION PLAN.—(1) Within 90 days after the date of the enactment of this part, the Secretary, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), shall establish a standby Federal emergency conservation plan. The Secretary may amend such plan at any time, and shall make such amendments public upon their adoption.

(2) The plan under this section shall be consistent with the attainment of the objectives of section 401 of the Emergency Petroleum Conservation Act (42 U.S.C. 73801), and shall provide for the emergency reduction in the public and private use of each energy source for which an emergency conservation target is in effect or may be in effect under section 211.

(b) IMPLEMENTATION OF STANDBY CONSERVATION PLAN.—(1) If the President finds—

(A) after a reasonable period of operation, but not less than 90 days, that a State emergency conservation plan approved and implemented under section 212 is not substantially meeting a conservation target established under section 211(a) for such State and it is likely that such target will continue to be unmet; and

(B) a shortage exists or is likely to exist in such State for the 60-day period during which the finding that is equal to or greater than 8 percent of the target under such State plan is determined by the President, for an energy source for which such conservation target has been established under section 211(a);

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(2) If the President finds after a reasonable period of time, that the conservation target established under section 211(a) is not being substantially met and it is likely that such target will continue to be unmet, the State which—

(A) has no emergency conservation plan approved under section 212; or

(B) the President finds has substantially failed to carry out the assurances regarding implementation set forth in the plan approved under section 212;

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(c) PUBLIC NOTICE.—Any finding under subsection (b) shall be accompanied by such information and analysis as is necessary to provide a basis therefor and shall be available to the Congress and the public.

(d) SUBMISSION OF STATE EMERGENCY CONSERVATION PLAN.—(1) The Governor of a State in which all or any portion of the standby Federal conservation plan is or will be in effect may submit at any time a State emergency conservation plan, and if it is approved under section 212(c), all or such portion of the standby Federal conservation plan shall cease to be effective in that State. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based



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upon any act committed or liability incurred prior to such cessation of effectiveness.

(e) **STATE SUBSTITUTE EMERGENCY CONSERVATION MEASURES.**—(1) After the President makes all or any part of the standby Federal conservation plan effective in any State or political subdivision under subsection (a), the Secretary shall provide procedures whereby such State or political subdivision may submit to the Secretary a substitute for approval one or more measures under authority of State or local law to be implemented by such State or political subdivision and to be substituted for any Federal measure in the Federal plan. The measures may include provisions whereby persons affected by such Federal measure are permitted to use alternative means of conserving at least as much energy as would be conserved by such Federal measure. Such measures shall provide effective procedures, as determined by the Secretary, for the approval and enforcement of such alternative measures by such State or by any political subdivision thereof.

(2) The Secretary may approve the measures under paragraph (1) if he finds—

(A) that such measures when in effect will conserve at least as much energy as would be conserved by such Federal measure which would have otherwise been in effect in such State or political subdivision;

(B) such measures otherwise meet the requirements of this paragraph; and

(C) such measures would be approved under section 212(c)(1) (B), (C), and (D).

(3) If the Secretary approves measures under this subsection such Federal measure shall be substituted for the corresponding State or political subdivision. Nothing in this paragraph shall affect any pending proceedings, administrative or civil, not finally determined on the date the Federal measure ceases to be effective in that State or political subdivision, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(4) If the Secretary finds after a reasonable period of time that the requirements of this subsection are not being met under the measures in effect under this subsection he may reimpose the Federal measure referred to in paragraph (1).

(f) **STANDSTILL PLAN.**—(1) At the request of the Governor of any State, the President may provide that the standby conservation plan made effective in that State under subsection (b) be in accordance with section 212(d)(1), (2), and (4).

(g) **PRESIDENTIAL AUTHORITY NOT TO BE DELEGATED.**—Notwithstanding any other provision of law (other than subsection (f)), the authority vested in the President under this section may not be delegated.

(h) **REQUIREMENTS OF PLAN.**—The plan established under subsection (a) shall—

(1) be in effect as a whole, be designed so that the plan, if implemented, would be likely to achieve the emergency conservation target under section 211 for which it would be implemented;

(2) taken as a whole, be designed so as not to impose an unreasonable disproportionate share of the burden of restrictions on energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof; and

(3) not contain any measure which the Secretary finds—

(A) is inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law);

(B) is an undue burden on interstate commerce;

(C) is a tax, tariff, or user fee; or

(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 203(a)(1)(A) and (B) of the Energy Policy and Conservation Act (42 U.S.C. 6263).

(1) Except as provided in paragraph (2), the plan established under subsection (a) may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Saturday noon.

(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

(3) **CIVIL PENALTIES.**—(1) Whoever violates the requirements of such a plan implemented under subsection (b) shall be subject to a civil penalty not to exceed \$1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided under paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of that portion of the standby Federal conservation plan for which authority is delegated to that State under subsection (f).

#### SEC. 211. JUDICIAL REVIEW.

(a) **STATE ACTIONS.**—(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any target established by the President under section 211(a);

(B) any finding by the President under section 213(b)(1)(A), relating to the achievement of the emergency energy conservation target of such State, or 213(b)(2), relating to the achievement of the emergency energy conservation target of such State or the failure to carry out the assurances regarding implementation contained in an approved plan of such State; or

(C) any determination by the Secretary disapproving a State plan under section 212(c), including any determination by the Secretary under section 212(c)(1)(B) that the plan is likely to impose an unreasonable disproportionate share of the burden of restrictions on energy use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

Such action shall be barred unless it is instituted within 30 calendar days after the date of publication of the establishment of a target referred to in subparagraph (A), the finding by the President referred to in subparagraph (B), or the determination by the Secretary referred to in subparagraph (C), as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United

42 USC 6314

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States court of appeals for the circuit involved, which shall hear the matter sitting en banc. Such court of appeals on a matter certified under subsection (a) may, at its discretion, refer the matter to a panel of three judges. The court of appeals shall have jurisdiction to grant an attachment of a writ of certiorari. Any petition for such a writ shall be filed no later than 20 days after the decision of the court of appeals.

(b) **COURT OF APPEALS DOCKET.**—It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)(2).

(c) **INJUNCTIVE RELIEF.**—With respect to judicial review under subsection (a)(1)(A), the court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in the case.

#### SEC. 213. REPORTS.

(a) **MONITORING.**—The Secretary shall monitor the implementation of State emergency conservation plans and of the standby Federal conservation plan and make such recommendations to the Governor of each affected State as he deems appropriate for modification to such plans.

(b) **ANNUAL REPORT.**—The President shall report annually to the Congress on any activities undertaken pursuant to this section and include in such report his estimate of the energy saved in each State and the performance of such State in relation to this part. Such report shall contain such recommendations as the President considers appropriate.

#### Part B—Other Automobile Fuel Purchase Measures

##### SEC. 221. MINIMUM AUTOMOBILE FUEL PURCHASES.

(a) **GENERAL RULE.**—If the provisions of this subsection are made applicable under subsection (c), no person shall purchase motor fuel from a motor fuel retailer in any transaction for use in any automobile or motor vehicle—

(1) the price for the quantity purchased and placed into the fuel tank of that vehicle equals or exceeds \$5.00; or

(2) in any case in which the amount paid for the quantity of motor fuel necessary to fill the fuel tank of that vehicle to capacity is less than \$5.00, such person pays to the retailer an additional amount so that the total amount paid in that transaction equals \$5.00.

Any person selling motor fuel in transactions to which the provisions of this subsection apply shall display at the point of sale notice of such requirements in accordance with regulations prescribed by the Secretary.

(b) **\$7.00 TO BE APPLICABLE IN THE CASE OF 8-CYLINDER VEHICLES.**—In applying subsection (a) in the case of any vehicle with an engine having 8 cylinders (or more), "\$7.00" shall be substituted for "\$5.00".

(c) **APPLICATION.**—(1) Unless applicable pursuant to paragraph (2), the requirements of subsection (a) shall apply in any State and shall be administered and enforced as provided in subsection (g) only if—

(A) the Governor of that State submits a request to the Secretary to have such requirements applicable in that State;

and

(B) the attorney general of that State has found that (i) absent a delegation of authority under a Federal law, the Governor lacks the authority under the laws of the State to invoke

comparable requirements, (ii) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing such requirements under a delegation of authority pursuant to Federal law, and (iii) if implemented such requirements would not be contrary to State law.

Subject to subsection (c), such provisions shall cease to apply in any State if the Governor of the State withdraws any request under subparagraph (A).

(2) The requirements of subsection (a) shall apply in every State if there is in effect a finding by the President that nationwide implementation of such requirements would be appropriate and consistent with the purposes of this title.

(3) Such requirements shall take effect in any State beginning on the 30th day after the Secretary or the President (as the case may be) publishes notice in the Federal Register of the applicability of the requirements to the State pursuant to paragraph (1) or (2).

(4) Notwithstanding subsection (c), the Secretary shall have authority vested in the President under paragraph (2) may not be delegated to any other person.

(d) **EXEMPTIONS.**—The requirements of subsection (a) shall not apply to any motorcycle or motorpowered bicycle or to any comparable vehicle as may be determined by the Secretary by regulation.

(e) **ADJUSTMENT OF MINIMUM LEVELS.**—The Secretary may increase the \$5.00 and \$7.00 amounts specified in subsections (a) and (b) if the Secretary considers it appropriate. Adjustments under this subsection shall be only in even dollar amounts.

(f) **CIVIL PENALTIES.**—(1) Whoever violates the requirements of subsection (a) shall be subject to a civil penalty of not to exceed \$100 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action under this section brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of the requirements of subsection (a) the authority for which is delegated under subsection (c).

(g) **ADMINISTRATION AND ENFORCEMENT DELEGATED TO STATES.**—(1) There is hereby delegated to the Governor of any State, and other State and local officers and employees designated by the Governor, the authority to administer and enforce, within that State, any provision of this part which is to be administered and enforced in accordance with this section. Such authority includes the authority to collect any amounts collected pursuant to this section.

(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective (i) upon the receipt of a written waiver of authority signed by the Governor of such State or (ii) upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(B) If at any time the conditions of subsection (c)(1)(B) are no longer satisfied in any State to which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective

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42 USC 8506

42 USC 8521







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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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|-----------------|------------|-----------|-----------------|------------|
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\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

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## Rules Going Into Effect Today

- ENERGY DEPARTMENT**
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## List of Public Laws

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This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 1686 / Pub. L. 96-134 To designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building". (Dec. 5, 1979; 93 Stat. 1055) Price \$75.





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- 70799 Standby Gasoline Rationing Plan** DOE/ERA gives notice of a proposed rule and public hearings in order to receive comments; comments by 1-9-80
- 71102-71380 Consumer Programs** Consumer Affairs Council and 31 departments and agencies publish draft programs under EO 12160; comments by 3-10-80 (Parts II-VII of this issue)
- 70932 Prevention Research and Demonstration Grants** HEW/PHS announces acceptance of applications for a program devoted to finding out the impact of severely disturbed parents on children; apply by 2-1-80
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Federal Register  
Vol. 44, No. 238  
Monday, December 10, 1979

Presidential Documents

Title 3—  
  
The President

Proclamation 4705 of December 6, 1979  
  
Bill of Rights Day  
Human Rights Day and Week, 1979

By the President of the United States of America

A Proclamation

On December 15, 1791, the Bill of Rights became part of the Constitution of the United States. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. In marking these anniversaries, we renew our dedication both to our own liberties and to the promotion of human rights everywhere on earth.

In our open society, a freely elected government, an independent judiciary, a free and vigorous press, and the vigilance of our citizens combine to protect our rights and liberties—civil, political, economic and social.

We can be proud of what we have achieved so far. Yet we cannot rest satisfied until the Bill of Rights is a living reality for every person in the United States. The Equal Rights Amendment would help do that by explicitly guaranteeing the basic rights of American women. I urge every state that has not yet done so to ratify this wise and necessary measure in the coming year.

The Universal Declaration of Human Rights sets global standards that reflect the same vision that inspired our own Bill of Rights. Almost every country has endorsed the Declaration. Yet in too much of the world its promise is mocked.

Arbitrary arrest and imprisonment, summary executions and torture, disappearances and acts of genocide still shatter the lives of millions. Fundamental human liberties are continually threatened by the silencing of political dissenters, by discrimination based on race, religion, ethnic origin and sex, by violations of the freedoms of assembly, association, expression and movement, and by the suppression of trade unions. And as the kidnapping and abuse of American Embassy employees in Iran have reminded us, the internationally protected rights of diplomatic envoys are a basic condition of civilized relations among nations.

Those who cause others anguish—whether they are the secret police of dictators, the faceless bureaucrats of totalitarian states or the chanting mobs of revolutionary zealots—must know that we will not defend them, but their victims.

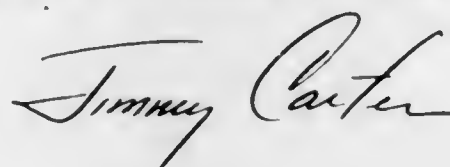
Bill of Rights Day and Human Rights Day and Week should be marked by redoubled support for international efforts on behalf of the full range of human rights.

I renew my request to the Senate to give its advice and consent to the Genocide Convention, the Convention on the Elimination of all Forms of Racial Discrimination, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights. I commend the Senate Foreign Relations Committee for holding hearings on these treaties, and I urge all Americans to support their ratification.



NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim December 10, 1979, as Human Rights Day and December 15, 1979, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1979. Let us rededicate ourselves to promoting the ideals embodied in the Bill of Rights and the Universal Declaration so that, one day, they will be enjoyed by all peoples of the world.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of December, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



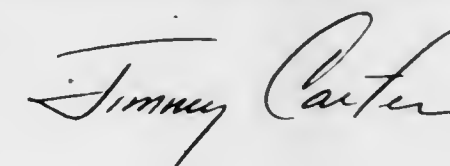
[FR Doc. 79-37971  
Filed 12-7-79; 10:45 am]  
Billing code 3195-01-M

## Presidential Documents

Executive Order 12175 of December 7, 1979

### Reorganization of Functions Relating to International Trade

By the authority vested in me as President of the United States of America by Section 9 of Reorganization Plan No. 3 of 1979 (transmitted to the Congress on September 25, 1979), the time period prescribed by Section 906 of Title 5 of the United States Code having elapsed without the adoption of a resolution of disapproval by either House of Congress, it is hereby ordered that Section 2(b)(1) of that Plan, establishing the Office of Deputy Secretary of Commerce, is effective immediately.



THE WHITE HOUSE,  
December 7, 1979.

[FR Doc. 79-38020  
Filed 12-7-79; 11:47 am]  
Billing code 3195-01-M

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## Presidential Documents

Executive Order 12176 of December 7, 1979

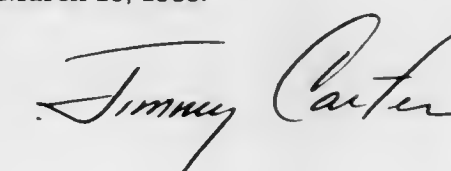
### President's Commission on the Coal Industry

By the authority vested in me as President by the Constitution of the United States of America, and in order to extend the time for the President's Commission on the Coal Industry to complete its report, Sections 1-401 and 1-402 of Executive Order No. 12103 of December 14, 1978 are hereby revised to read as follows:

"1-401. The final report required by section 1-202 of this Order shall be transmitted no later than March 15, 1980.

"1-402. The Commission shall terminate on March 15, 1980."

THE WHITE HOUSE,  
December 7, 1979.



[FR Doc. 79-38021  
Filed 12-7-79; 11:48 am]  
Billing code 3195-01-M

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Rules and Regulations

Federal Register  
Vol. 44, No. 238  
Monday, December 10, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

[Amdt. No. 11]

Restrictions on the Importation of Meat from Australia and New Zealand

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulation set forth in this Subpart is amended to limit imports of certain meats from Australia and New Zealand to no more than 873.8 and 358.8 million pounds, respectively, during calendar year 1979. Such action is necessary to carry out the 1979 restraint program, including the agreements entered into by the United States with Australia and New Zealand pursuant to section 204 of the Agricultural Act of 1956, limiting the export from Australia and New Zealand and the importation into the United States of certain meat.

EFFECTIVE DATE: December 10, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

This regulation establishes quantitative restrictions applicable to meat imported from Australia and New Zealand which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 873.8 and 358.8 million

pounds, respectively, during calendar year 1979.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore this regulation falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and Executive Order 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to December 10, 1979 shall not be denied entry.

PART 16—LIMITATION ON IMPORTS OF MEAT

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended to add paragraph (c) which reads as follows:

§ 16.5 Quantitative restrictions.

(c) Imports from Australia and New Zealand. During calendar year 1979, no more than 873.8 and 358.8 million pounds of meat, exported from Australia and New Zealand, respectively, in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia or New Zealand to the United States.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 5th day of December 1979.

M. Rupert Cutler,

Acting Secretary.

[FR Doc. 79-37831 Filed 12-6-79; 9:40 am]

BILLING CODE 3410-10-M

7 CFR Part 16

[Amdt. No. 12]

Restrictions on the Importation of Meat from Honduras and Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the final rule published on October 3, 1979 (44 FR 56919) and October 18, 1979 (44 FR 60069) regarding limitations on the importation of certain meats from Honduras and Nicaragua, respectively. Imports of such meat from Honduras and Nicaragua were previously limited to 48.9 and 66.8 million pounds, respectively, for calendar year 1979 in order to carry out the 1979 restraint program pursuant to Section 204 of the Agricultural Act of 1956. This amendment increases this limitation to 49.7 million pounds for Honduras and 67.9 million pounds for Nicaragua for calendar year 1979 in view of the changes which have been made in the restraint levels for various countries participating in the 1979 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: December 10, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to December 10, 1979 shall not be denied entry.

PART 16—LIMITATION ON IMPORTS OF MEAT

§ 16.5 [Amended]

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended as follows:

1. In paragraph (a), imports from Nicaragua, "66.8 million pounds" is



deleted and "67.9 million pounds" is inserted in lieu thereof.

2. In paragraph (b), imports from Honduras, "48.9 million pounds" is deleted and "49.7 million pounds" is inserted in lieu thereof.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 5th day of December 1979.

M. Rupert Cutler,

Acting Secretary.

[FR Doc. 79-37832 Filed 12-6-79; 9:41 am]

BILLING CODE 3410-10-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 211

[Docket No. R-0263]

#### International Banking Operations; Regulation K

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board has amended section 211.5(b)(3) of its Regulation K (12 CFR 211.5(b)(3)), to simplify the procedures by which subsidiaries of United States banking organizations may establish branches in foreign countries.

**EFFECTIVE DATE:** November 28, 1979.

**FOR FURTHER INFORMATION CONTACT:** C. Keefe Hurley, Senior Counsel (202/452-3269), or Michael L. Kadish, Attorney (202/452-3428), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** On June 14, 1979, the Board revised its regulations governing the international operations of member banks, Edge and Agreement Corporations, and bank holding companies ("investors"), and consolidated them into one regulation, Regulation K. Sections 211.3(a) and 211.4(c)(2) of Regulation K govern the establishment of foreign branches by member banks and Edge Corporations, respectively; and § 211.5(b)(3) applies the procedures of § 211.3(a) to the establishment of branches by subsidiaries of member banks, Edge Corporations, Agreement Corporations, and bank holding companies. The Board has amended § 211.5(b)(3) to simplify approval procedures for the establishment of branches by subsidiaries of an investor where the investor, its subsidiaries, or affiliates have offices or branches in foreign countries.

This action relieves a procedural restriction and, therefore, the notice and public participation provisions of 5 U.S.C. 553 with regard to the Board's action are unnecessary. This action is taken pursuant to the Board's authority under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 *et seq.*); and section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)).

Effective November 28, 1979, Part 211 of 12 CFR Chapter II is amended as follows:

#### PART 211—INTERNATIONAL BANKING OPERATIONS

By revising § 211.5(b)(3) to read as follows:

##### § 211.5 Investments in other organizations.

###### (b) Investment limitations. \* \* \*

(3) A subsidiary (other than a member bank or an Edge Corporation) may establish a foreign branch with prior approval of the Board. Unless otherwise advised by the Board: (i) a subsidiary (other than a member bank or an Edge Corporation) whose affiliates have offices (other than representative offices) in two or more foreign countries may establish initial branches in additional foreign countries after 60 days' notice to the Board; (ii) a foreign bank subsidiary may, without prior approval or prior notice, establish additional branches in any country in which it operates one or more offices (other than representative offices); and (iii) without prior approval or prior notice, any subsidiary (other than a foreign bank, member bank, or Edge Corporation) may establish additional branches in any foreign country in which any affiliate operates one or more offices (other than representative offices). Authority to establish branches through prior approval or prior notice shall expire one year from the earliest date on which that authority could have been exercised, unless extended by the Board. An investor shall inform the Board within 30 days of the opening, closing, or relocation of a branch and the address of a new or relocated foreign branch.

By Order of the Board of Governors of the Federal Reserve System, effective November 28, 1979.

Theodore E. Allison,  
Secretary of the Board.

[FR Doc. 79-37825 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

### 12 CFR Part 265

[Docket No. R-0264]

#### Disclosure of Reports of Examination Under the 1975 Amendments to the Securities Exchange Act of 1934

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** This amendment delegates to the Director of the Division of Banking Supervision and Regulation authority to make certain reports available to the Securities and Exchange Commission. This delegation will simplify procedures now followed by the Board.

**EFFECTIVE DATE:** November 28, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Stephen L. Siciliano, Senior Counsel, (202/452-3920), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment is to delegate to the Director of the Board's Division of Banking Supervision and Regulation authority to make reports of examination of transfer agents, clearing agencies and municipal securities dealers subject to the Board's supervisory jurisdiction available to the Securities and Exchange Commission pursuant to section 17(a)(3) of the Securities Exchange Act of 1934, as amended. The Board is required by the Act to make such reports of examination available to the Commission upon request so that it might carry out its regulatory responsibilities under that statute. This delegation will simplify procedures now followed by the Board in processing such requests from the Commission. To accomplish this delegation, § 265.2(c) of the Board's Rules Regarding Delegation of Authority is amended by addition of a new subsection (25), as set forth below.

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of § 265.2(c)(25) because the rule involved therein is procedural in nature and accordingly does not constitute a substantive rule subject to the requirements of such section.

Effective November 28, 1979, 12 CFR 265.2(c) is amended by adding a new subparagraph (25) to read as follows:

##### § 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

(c) The Director of the Division of Banking Supervision and Regulation (or,

in the Director's absence, the Acting Director) is authorized:

(25) Under the provisions of section 17(c)(3) of the Securities Exchange Act of 1934, as amended, to make available upon request to the Securities and Exchange Commission reports of examination of transfer agents, clearing agencies and municipal securities dealers for which the Board is the appropriate regulatory agency for use by the Commission in the exercise of its supervisory responsibilities under that statute.

By order of the Board of Governors of the Federal Reserve System November 28, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-37806 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

### NATIONAL CREDIT UNION ADMINISTRATION

#### 12 CFR Part 720

##### Public Observance and Availability of Information Regarding Board Meetings; Interim Sunshine Act Policy Statement

**AGENCY:** National Credit Union Administration.

**ACTION:** Interim Policy Statement.

**SUMMARY:** In accordance with the objectives of the open meeting provisions of the Sunshine Act (5 U.S.C. 552b), the newly created National Credit Union Administration Board gives notice and seeks comments on its policy governing public observance of its meetings and the availability of public information on its decision-making processes.

**DATES:** Effective September 14, 1979; however, comments will be received until January 17, 1980.

**ADDRESS:** Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** Beatrix D. Fields, Attorney-Adviser, at the same address or telephone (202) 357-1030.

**SUPPLEMENTARY INFORMATION:** Pursuant to Pub. L. 95-630, the National Credit Union Administration (NCUA) was restructured to be managed by a three member Board. Once the three members of the National Credit Union Administration Board (the "Board") were appointed by the President, confirmed by the Senate, and had

officially taken office on September 4, 1979, the agency became subject to the open meeting requirements of the Sunshine Act (5 U.S.C. 552b, hereinafter referred to as the "Sunshine Act" or the "Act"). Subsection (g) of the Sunshine Act requires that each agency promulgate regulations to implement the open meeting provisions of the Act, i.e. 5 U.S.C. 552b (b) through (f). Pending the promulgation of regulations to implement the open meeting provisions of the Sunshine Act, the Board adopted at its first meeting, September 14, 1979, an interim policy statement to provide access to its deliberations and access to information regarding its decision-making processes ("Sunshine Act Policy Statement"). The Sunshine Act is silent as to the amount of time an agency newly subject to the Sunshine Act has to promulgate regulations. In view of the agency's new method of management, the Board will evaluate its experience under this interim Sunshine Act Policy Statement as well as evaluating any comments received in determining and developing its Sunshine Act regulations after January 31, 1979. Once final regulations implementing the Sunshine Act become effective, this interim Sunshine Act Policy Statement will be revoked.

#### Interim Sunshine Act Policy Statement

[IRPS No. 79-8]

##### Section 1. Scope and Purpose.

(a) This policy statement sets forth guidelines to govern compliance by the National Credit Union Administration Board with the open meeting provisions of the Government in the Sunshine Act (5 U.S.C. 552b(b)-(f)) until final regulations are promulgated to implement those provisions. It is the purpose of these guidelines to provide the public with full access to the deliberations and decisions of the Board while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

##### Section 2. Definitions.

(a) "Agency" means the National Credit Union Administration.

(b) "Board" means the National Credit Union Administration Board, whose members are appointed by the President with the advice and consent of the Senate.

(c) "Subdivision of the Board" means a group composed of two Board members authorized by the Board to act on behalf of the agency.

(d) "Meeting" means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the

joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"); *Provided*, The votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act).

(e) "Public observation" means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board.

(f) "Public announcement" or "publicly announce" means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency.

(g) "Sunshine Act" means the open meeting provisions of the "Government in the Sunshine Act", Pub. L. 94-409, 5 U.S.C. 552b (b) to (f).

##### Section 3. Open Meetings.

Except as provided in Section 4(a), any portion of any meeting of the Board shall be open to public observation. The Board and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this policy statement.

##### Section 4. Exemptions.

(a) Under the procedures specified in Section 6, the Board may close a meeting or any portion of a meeting from public observation or may withhold information pertaining to such meetings as otherwise required to be disclosed, provided, the Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact



properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5 of the United States Code, the Freedom of Information Act), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of Federal agencies responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) be likely to, (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that this subparagraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative

prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Prior to closing a meeting whose discussions are likely to fall within the exemptions listed in paragraph (a) of this section, the Board will balance the public interest in observing the deliberations of an exemptible matter and the agency's need for confidentiality of the exemptible matter. In weighing these interests, the Board is assisted by the General Counsel as provided in Section 8, by expressions of the public interest set forth in requests for open meetings as provided by Section 7(b), and by the brief staff analysis of public interest which will accompany each staff recommendation that an agenda item be considered in a closed meeting.

#### Section 5. Public Announcement of Meetings.

(a) Except as otherwise provided in this section the Board shall, for each meeting, make a public announcement, at least one week in advance of the meeting, of the time, place and subject matter of the meeting, whether it will be open or closed to public observation and the name and phone number of the Secretary of the Board or the person designated by the Board to respond to requests for information about the meeting.

(b) Advance notice is required unless a majority of the members of the Board determine by a recorded vote that agency business requires that a meeting be called at an earlier date, in which case, the information to be announced in paragraph (a) of this section shall be publicly announced at the earliest practicable time.

(c) A change, including a postponement or a cancellation, in the time or place of a meeting after a published announcement may be made only if announced at the earliest practicable time.

(d) A change in or deletion of the subject matter of a meeting or any portion of a meeting or a redetermination to open or close a meeting or any portion of a meeting after a published announcement may be made only if (1) a majority of the Board determines by recorded vote that agency business so requires and that no earlier

announcement of the change was possible and (2) public announcement of the change and of the vote of each member on such change shall be made at the earliest practicable time.

(e) Each meeting announcement or amendment thereof shall be posted on the Public Notice Bulletin Board in the reception area of the agency's headquarters and may be made available by other means deemed desirable by the Board. Immediately following each public announcement required by this section, the stated information shall be submitted to the Federal Register for publication.

(f) No announcement shall contain information which is determined to be exempt from disclosure under Section 4(a).

(g) The agency shall maintain a mailing list of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation and amendments to such announcements. Requests to be placed on the mailing list should be made by telephoning or by writing to the Secretary of the Board.

#### Section 6. Regular Procedure for Closing Meeting Discussions or Limiting the Disclosure of Information.

(a) A decision to close any portion of a meeting and to withhold information about any portion of a meeting closed pursuant to Section 4(a) will be taken only when a majority of the entire Board votes to take such action. In deciding whether to close a meeting or any portion of a meeting or to withhold information, the Board shall independently consider whether the public interest requires an open meeting. A separate vote of the Board will be taken and recorded for each portion of a meeting to be closed to public observation pursuant to Section 4(a) or to withhold information from the public pursuant to Section 4(a). A single vote may be taken and recorded with respect to a series of meetings, or any portions of meetings which are proposed to be closed to the public, or with respect to any information concerning the series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. No proxies shall be allowed.

(b) Any person whose interests may be directly affected by any portion of a meeting for any of the reasons stated in paragraph (5), (6) or (7) of Section 4(a), may request that the Board close such portion of the meeting. After receiving notice of a person's desire for any specified portion of a meeting to be

closed, the Board, upon a request by one member, will decide by recorded vote whether to close the relevant portion or portions of the meeting. This procedure applies to request received either prior or subsequent to the announcement of a decision to hold an open meeting.

(c) Within one day after any vote is taken pursuant to paragraph (a) or (b) of this section, the Board shall make publicly available a written copy of the vote taken indicating the vote of each Board member. Except to the extent that such information is withheld and exempt from disclosure, for each meeting or any portion of a meeting closed to the public, the Board shall make publicly available within one day after the required vote, a written explanation of its action, together with a list of all persons expected to attend the closed meeting and their affiliation. The list of persons to attend need not include the names of individual staff, but shall state the offices of the agency expected to participate in the meeting discussions.

#### Section 7. Requests for Open Meetings.

(a) Following any announcement that the Board intends to close a meeting or any portion of any meeting, any person may make a written or telegraphic request to the Secretary of the Board that the meeting or a portion of a meeting be open. The request shall be circulated to the members of the Board, and the Board, upon the request of one member, shall reconsider its action under Section 6 before the meeting or before discussion of the matter at the meeting. If the Board decides to open a portion of a meeting proposed to be closed, the Board shall publicly announce its decision in accordance with Section 5(e). If no request is received from a Board member to reconsider the decision to close a meeting or portion thereof prior to the meeting discussion, the Chairman of the Board shall certify that the Board did not request reconsideration of its decision to close the discussion of the matter.

(b) The request to open a portion of a meeting shall be submitted to the Secretary of the Board in advance of the meeting in question. The request shall set forth the requestor's interest in the matter to be discussed and the reasons why the requestor believes that the public interest requires that the meeting or portions thereof be open to public observation.

(c) The submission of a request to open a portion of a meeting shall not act to stay the effectiveness of Board action or to postpone or delay the meeting unless the Board decides otherwise.

(d) The Secretary of the Board shall advise the requestor of the Board's consideration of the request to open a portion of the meeting as soon as practicable.

#### Section 8. General Counsel Certification.

For each meeting or any portion of a meeting closed to public observation under Section 6, the General Counsel shall publicly certify, whether in his or her opinion, the meeting or portion thereof may be closed to public observation and shall state each relevant exemptive provision of law. A copy of the certification together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained as a part of the permanent meeting records. As part of the certification, the General Counsel shall recommend to the Board whether the public interest requires that the meeting or portions thereof proposed to be closed to public observation be held in the open.

#### Section 9. Maintenance of Meeting Records.

(a) The Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to public observation. However, for meetings closed under paragraph (8), (9)(i), or (10) of Section 4(a), the Board shall maintain either a transcript, a recording or a set of minutes. The Board shall maintain a complete electronic recording for each open meeting or any portion thereof. All records shall clearly identify each speaker.

(b) A set of minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes shall also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action shall be identified in the minutes.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes or a complete electronic recording of each meeting or any portion of a meeting, closed to public observation, for at least two years after such meeting or until one year after the conclusion of any agency proceeding with respect to which the meeting or any portion was held, whichever occurs later. The agency shall maintain a

complete electronic recording of each open meeting for at least three months after the meeting date. A complete set of minutes shall be maintained on a permanent basis for all meetings.

#### Section 10. Public Availability of Meeting Records and Other Documents.

(a) The agency shall make promptly available to the public, in the Public Reference Room, the transcript, electronic recording or minutes of a closed meeting, deleting any agenda item or any item of the testimony of a witness received at a meeting which the Board determined, pursuant to paragraph (c) of this section, was exempt from disclosure under Section 4(a). The exemption or exemptions relied upon for any deleted information shall be reflected on any record or recording.

(b) Copies of any transcript, minutes or transcription of a recording, disclosing the identity of each speaker, shall be furnished to any person requesting such information in the form specified in paragraph (a) of this section. Copies shall be furnished at the actual cost of duplication or transcription unless waived by the Secretary of the Board.

(c) Following each meeting or any portion of a meeting closed pursuant to Section 4(a), as the last item of business, the Board shall determine which, if any, portions of the meeting transcript, electronic recording or minutes not otherwise available under 5 U.S.C. 552a (Privacy Act), contain information which should be withheld pursuant to Section 4(a); provided, however, that should the Board not make such determinations immediately following any such closed meeting, the Secretary of the Board, upon the advice of the General Counsel or the General Counsel's designee and after consulting with the Board, shall make such determinations. If at a later time, the Board determines that there is no further justification for withholding any meeting record or other item of information from the public which has previously been withheld, then such information shall be made available to the public.

(d) Except for information determined by the Board to be exempt from disclosure pursuant to paragraph (c) of this section, meeting records shall be promptly available to the public in the Public Reference Room. Meeting records include but are not limited to: The transcript, electronic recording or minutes of each meeting, as required by Section 9(a); the notice requirements of Sections 5 and 6(c); and the General Counsel Certification along with the



presiding officer's statement, as required by Section 8.

(e) These provisions do not affect the procedures set forth in Section 720, Subpart A governing the inspection and copying of agency records, except that the exemptions set forth in Section 4(a) of this statement and in 5 U.S.C. 552b(c) shall govern in the case of a request made pursuant to Part 720, Subpart A to copy or inspect the meeting records described in this section. Any documents considered or mentioned at Board meetings may be obtained subject to the procedures set forth in Part 720, Subpart A.

By the National Credit Union Administration Board, on December 3, 1979.

Rosemary Brady,  
Secretary of the Board.

[FR Doc. 79-37785 Filed 12-7-79; 8:45 am]  
BILLING CODE 7535-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 79-NW-41-AD Amdt. 39-3634]

#### Airworthiness Directives; Boeing Model 747 Series Airplane

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** FAA Airworthiness Directive (AD) 79-22-03 (Amdt. 39-3598; October 29, 1979, 44 FR 61935) requires inspection and replacement, as required, of the engine pylon diagonal brace forward attach pins. The AD is amended herein to correct a wrong part number, exempt airplanes with JT9D-70 engines, and reference the manufacturer's service bulletin for the inspection procedure.

**DATES:** Effective date: December 18, 1979.  
**ADDRESSES:** Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:** Mr. Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

**SUPPLEMENTARY INFORMATION:** Since issuance of Amendment 39-3598, the manufacturer has developed an

alternate inspection method which should be incorporated in the AD. Also, one pin part number was erroneously listed and since all airplanes equipped with JT9D70 engines have this part, they should be exempted from the AD. The AD is accordingly amended.

Since this Amendment relieves a restriction and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary, and this amendment may be made effective in less than 30 days.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive No. 79-22-03 (Amdt. 39-3598; 44 FR 61935, October 29, 1979), as follows:

1. Revise applicability heading to read:

**Boeing:** Applies to all Model 747 series airplanes, except JT9D-70-equipped airplanes, certificated in all categories with more than 5,000 landings. Compliance required within 300 landings after the effective date of this AD, unless already accomplished within the last 900 landings. To prevent failure of the inboard pylon diagonal brace forward fuse pins, accomplish the following:

2. Revise Paragraph A to read as follows:

A. Within 300 landings after the effective date of this AD unless already accomplished within the last 900 landings, remove the retainer bolt and end caps from the inboard pylon diagonal brace forward fuse pins Part Numbers 65B94182-3, 69B90410-1,3,-4,-600, and 69B89612-3. Visually or ultrasonically inspect the fuse pins for cracks in the machined shear section in accordance with Boeing Service Bulletin 747-54-2066.

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This Amendment becomes effective December 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

**Note.**—The FAA has determined that this document involves a regulation which is not

considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Issued in Seattle, Wash., on November 28, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

**Note.**—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-37804 Filed 12-7-79; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 79-SO-84; Amdt. No. 39-3631]

#### Airworthiness Directives; Lockheed Model 382 series

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement as necessary of clear vision window latch mechanisms on Lockheed Model 382 series airplanes. The AD is needed to prevent the windows from opening during normal flight operations.

**DATES:** Effective December 19, 1979. Compliance is required within the next 50 hours time in service.

**ADDRESSES:** The applicable service bulletin may be obtained from Lockheed-Georgia Company, Marietta, Georgia 30063.

A copy of the Service Bulletin is also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

**SUPPLEMENTARY INFORMATION:** There have been reports of discrepant latches found on the latching systems of the clear vision windows on Lockheed Model 382 series airplanes which could result in the windows becoming open in flight. Since this condition is likely to exist on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and replacement as necessary of the clear vision windows latch mechanism on Lockheed Model 382 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and

public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

**Lockheed:** Models 382 series, Serial Numbers 3948 through 4832, certificated in all categories.

Compliance is required within the next 50 hours time in service, unless already accomplished.

a. To prevent the clear vision windows from opening in flight, inspect the window latch catches, part numbers 385057-1 and -2, and 393433-1 and -2, which are mounted on the windshield post at each window, in accordance with Lockheed-Georgia Company Service Bulletin A382-56-1, dated October 17, 1979.

b. If discrepant catches are found, before further flight, replace the catches in accordance with Lockheed-Georgia Company Service Bulletin A382-56-1, dated October 17, 1979.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is effective December 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Issued in East Point, Ga., on November 27, 1979.

Louis J. Cardinali,  
Director, Southern Region.

[FR Doc. 79-37605 Filed 12-7-79; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 79-SO-83; Amdt. No. 39-3632]

#### Airworthiness Directives; EMBRAER EMB-110P1 and EMB-110P2

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing Airworthiness Directive (AD) applicable to EMBRAER Model EMB-110P1 airplanes by making the AD

applicable to the Model EMB-110P2 airplanes. The amendment is needed because the inspections required by the existing AD are also necessary for the Model EMB-110P2 airplane which recently received a U.S. Type Certificate.

**DATES:** Effective December 19, 1979. Compliance is required within the next 25 hours time in service and thereafter at intervals not to exceed 500 hours time in service.

**FOR FURTHER INFORMATION CONTACT:** Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (A/C 404) 763-7407.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39-3468, AD 79-10-11, which currently requires inspection of the FAFNIR Part No. SBS6ATC18-Z bearings installed in the flight control trim tab assemblies of EMB-110P1 airplanes. After issuing Amendment 39-3468, the FAA certificated the EMB-110P2 which uses the same assemblies and, therefore, the inspections required by AD 79-10-11 should also be accomplished on the Model EMB-110P2. Therefore, the FAA is amending Amendment 39-3468 by making AD 79-10-11 apply to EMB-110P2 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3468, AD 79-10-11, by revising the applicability statement to read:

Applies to all Model EMB-110P1 and EMB-110P2 airplanes, certificated in all categories.

This amendment is effective December 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Ga., on November 27, 1979.

George R. La Caille,  
Acting Director, Southern Region.

[FR Doc. 79-37606 Filed 12-7-79; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket Number 79-CE-20-AD; Amdt. 39-3633]

#### Airworthiness Directive; Cessna Models 180, 182, F182, 185/A185, 188/A188, P206, U206/TU206, 207/T207 and 210/T210 Series and Model P210N Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new Airworthiness Directive applicable to Cessna 180, 182, F182, 185/A185, 188/A188, P206, U206/TU206, 207/T207, 210/T210 Series and Model P210N aircraft. It requires installation of an additional ground strap to bond the alternator electrically to the engine or modification of the alternator installation by replacement of the existing alternator support bracket with a new alternator support bracket which provides an electrical ground path between the alternator frame and engine. Additional inspections and actions to assure the alternator installation meets minimum airworthiness standards are also required. This action is necessary because failure of existing alternator ground provisions will result in a "hot" alternator frame which may seek an electrical ground through any conductive material coming in contact with the alternator or its adjusting arm. This may damage nearby fuel lines, causing release of fuel at the location of the arc and result in an in-flight fire.

**EFFECTIVE DATE:** December 13, 1979.

**COMPLIANCE:** Within 50 hours time-in-service after the effective date of this AD.

**ADDRESSES:** Cessna Single Engine Customer Care Service Information Letters SE79-5, dated February 26, 1979, SE79-58, dated November 23, 1979, and SE79-59, dated November 23, 1979, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67209; telephone (316) 685-9111. A copy of the Service Letters cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106



and at Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** Fred Jones, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 942-4281.

**SUPPLEMENTARY INFORMATION:** There have been instances on Cessna Model T210 and A188 airplanes of failures of existing alternator grounding provisions which resulted in failure of the overvoltage relay and overvoltage damage to the aircraft electrical and electronic components and/or shorting to an adjacent fuel line which contacted the alternator installation. If the damaged fuel line releases fuel at the point of contact, an in-flight fire may result.

A redundant or second ground path can be provided for the alternator by installing a ground strap between the alternator and the engine in accordance with Cessna Single Engine Customer Care Service Information Letter SE79-59.

Alternatively, grounding between the alternator and engine may be accomplished by incorporating applicable Cessna Service Kit SK210-84 or SK182-55A as referenced in Cessna Single Engine Customer Care Service Information Letters SE79-5 or SE79-58 respectively. This kit installs a new left hand rear engine mount leg and alternator support bracket without rubber bushings in the alternator mount, thus providing a direct ground path between the alternator and engine.

Additional assurance that a short will not occur between the alternator installation and adjacent components may be obtained by verifying the integrity of existing engine and alternator to airframe ground provisions and providing adequate separation between the alternator and its mount and other nearby powerplant components.

Since the condition described herein can exist or develop in other airplanes of the same type design (alternator installation), the FAA is issuing an AD making installation of the grounding strap between the alternator and engine in accordance with SE79-59, or in the alternative, incorporation of Cessna Service Kit SK210-84 as referenced in SE79-5, or for the 182 Series, Cessna Service Kit SK182-55A as referenced in SE79-58, mandatory on affected airplanes. In addition, the AD will require certain inspections and action to assure adequate clearance between the alternator and other powerplant installation components and the security

of the existing ground between the alternator and airframe.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Cessna: Applies to:

180 Series (Serial Numbers 18051762 thru 18052981, except 18052975) airplanes;  
182/F182 Series (Serial Numbers 18257446 thru 18266590, F18200001 thru F18200094) airplanes;  
185 and A185 Series (Serial Numbers 18501096 thru 18503619) airplanes;  
188 and A188 Series (Serial Numbers 18800050 thru 18803240) airplanes;  
P206 Series (Serial Numbers P20600280 thru P20600647) airplanes;  
U206 and TU206 Series (Serial Numbers 20600634 thru 20604649) airplanes;  
207 and T207 Series (Serial Numbers 20700001 thru 20700451) airplanes;  
210 and T210 Series (Serial Numbers 21058783 thru 21062649, 21062651 thru 21062661, 21062663 thru 21062666, T210-0001 thru T210-0454) airplanes;  
Model P210N (Serial Numbers P21000001 thru P21000026) airplanes.

Compliance: Required within the next 50 hours' time-in-service after the effective date of this AD unless previously accomplished.

To preclude the possibility of electrical or electronic component damage or an in-flight fire due to a short between an ungrounded alternator and flammable fluid carrying lines, accomplish the following:

(A) Perform either 1 or 2 below:

(1) Install an additional ground strap, Cessna P/N 1570102-22, between the ground stud on the alternator and the lower left hand mounting strd on the engine auxiliary drive pad in accordance with Cessna Single Engine Service Information Letter SE 79-59. An equivalent ground strap fabricated per FAA Advisory Circular 43.13-1A appropriate for the alternator rating is also acceptable.

(2) Modify the alternator installation by installing a different engine mount leg per Cessna Service Kit SK210-84 (Reference Cessna Single Engine Customer Care Service Information Letter SE79-5, dated February 26, 1979) or for the 182 Series, Cessna Service Kit SK182-55A (Reference Cessna Single Engine Customer Care Service Information Letter SE79-58 dated November 23, 1979).

Note.—When accomplishing Paragraph (1) or (2), assure all contact areas are clean and provide good electrical continuity.

(B) Visually inspect the alternator installation for, and if necessary, provide at

least ¼ inch clearance between the alternator installation and adjacent flammable fluid carrying lines, powerplant controls and electrical wiring in accordance with FAA Advisory Circular 43.13-1A.

(C) Visually inspect the existing alternator to airframe ground for proper installation (Reference View A-A of SE79-59), evidence of looseness at the terminal and adequate length to allow for relative motion between the alternator and airframe. Also, visually verify that the ground straps between the engine and airframe mount are installed and provide continuity between the engine and mount. Correct any unsatisfactory conditions noted per FAA Advisory Circular 43.13-1A.

(D) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(E) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 E. 12th Street, Kansas City, Missouri 64106.

Cessna Single Engine Customer Care Service Information Letters SE79-5 dated February 26, 1979, SE79-58 dated November 23, 1979, and SE79-59 dated November 23, 1979, pertain to the subject matter of this AD. This Amendment becomes effective December 13, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri, 64106; telephone (816) 374-3446.

Issued in Kansas City, Missouri on November 27, 1979.

Paul J. Baker,

Director, Central Region.

[FR Doc. 79-37603 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Parts 71 and 73

[Airspace Docket No. 79-GL-10]

#### Alteration of Restricted Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments alter the boundaries of the Lacarne, Ohio, Restricted Area R-5502, dividing it into two areas and including one of them in the Continental Control Area. These

actions more accurately define the area that is presently in use and permits public use of a subarea when it is not in use for military purposes.

**EFFECTIVE DATE:** January 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: (202) 426-3715.

**SUPPLEMENTARY INFORMATION:** On September 27, 1979, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter the boundaries of R-5502, divide it into two areas and include them in the Continental Control Area (44 FR 55597). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. Section 71.151 of Part 71 and § 73.55 of Part 73 were republished in the Federal Register on January 2, 1979 (44 FR 344 and 709). These amendments are the same as proposed in the notice.

#### The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) rescind R-5502 and add R-5502A and R-5502B. R-5502A is a subdivision within R-5502B. R-5502 is listed in § 71.151 and is thereby included in the Continental Control Area. R-5502B replaces R-5502 in this listing. These actions permit greater use of the area by the public when the military is using only a part of it. The Department of the Army has stated that the requirements of the Environmental Policy Act (NEPA) have been met.

#### Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 709) are amended, effective 0901 GMT, January 24, 1980, as follows:

Under § 71.151

"R-5502 Lacarne, Ohio" is deleted.

"R-5502B Lacarne, Ohio" is added.

Under § 73.55

R-5502 title and text is deleted.

R-5502A is added as follows:

**R-5502A Lacarne, Ohio**

#### Boundaries

Beginning at Lat. 41°35'19"N., Long. 82°55'30"W.; to Lat. 41°32'30"N., Long. 83°01'00"W.; to Lat. 41°36'35"N., Long.

83°04'52"W.; thence via a 5 NM arc centered at Lat. 41°32'30"N., Long. 83°01'00"W.; to point of beginning.

#### Designated altitudes

Surface to 5,000 feet MSL.

#### Time of designation

0800 to 1700 local time April 1 to November 30; 0800 to 1700 local time Tuesday, Wednesday and Thursday, December 1 to March 31; other times by NOTAM 48 hours in advance.

#### Controlling agency

Federal Aviation Administration, Cleveland ARTC Center.

#### Using agency

The Adjutant General, State of Ohio.

R-5502B is added as follows:

**R-5502B Lacarne, Ohio**

#### Boundaries

Beginning at Lat. 41°41'30"N., Long. 83°00'00"W.; to Lat. 41°35'40"N., Long. 82°54'50"W.; to Lat. 41°32'30"N., Long. 83°01'00"W.; to Lat. 41°36'35"N., Long. 83°04'52"W.; to Lat. 41°41'30"N., Long. 83°07'30"W.; to point of beginning.

#### Designated altitudes

Surface to 23,000 feet MSL.

#### Time of designation

Tuesday, Wednesday and Thursday, 0800 to 1700 local time; other times by NOTAM 48 hours in advance.

#### Controlling agency

Federal Aviation Administration, Cleveland ARTC Center.

#### Using agency

The Adjutant General, State of Ohio.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 29, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-37607 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 75

[Airspace Docket No. 79-WA-4]

#### Alteration of Jet Route

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment realigns Jet Route No. 18 from Bradford, Ill., over St. Joseph, Mo., to Salina, Kans., in order to bypass Kirksville, Mo. This action reduces traffic congestion in the vicinity of Kirksville and provides for more efficient use of the airspace.

**EFFECTIVE DATE:** January 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

**SUPPLEMENTARY INFORMATION:** On May 21, 1979, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route 18 from Bradford, Ill., to Salina, Kans., via St. Joseph, Mo., rather than over Kirksville, Mo. Aircraft are frequently vectored to Salina from Bradford via St. Joseph, Mo., (44 FR 29485). Realignment of Jet Route 18 eliminates the need for radar service thereby reducing controller workload. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. One comment was received with no objection. Subpart B of Part 75 was republished in the Federal Register on January 2, 1979, (44 FR 722).

#### The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) realigns J-18 in part, from Bradford, Ill., via St. Joseph, Mo., to Salina, Kans. This alteration establishes a jet route segment in an area where aircraft are normally vectored. This action eliminates traffic congestion in the Kirksville, Mo., area and reduces controller workload.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., January 24, 1980, as follows:

Under § 75.100—Jet Route No. 18 "Kirksville, Mo.," is deleted and "St. Joseph, Mo.," is substituted therefor.



(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on December 3, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-27809 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[Docket No. C-2999]

#### Westinghouse Credit Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.  
**ACTION:** Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Pittsburgh, Pa. finance company to cease violating federal regulations and statutes relating to credit discrimination and credit reporting by requesting, recording and utilizing prohibited consumer credit information; considering the sex and marital status of applicants in evaluating creditworthiness; and failing to provide rejected applicants with reasons for denial of credit. Respondent is further required to establish educational programs for its consumer credit employees and retail dealers to explain the application of federal credit regulations to firm's credit practices.  
**DATES:** Complaint and order issued November 13, 1979.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** FTC/PD, Lewis H. Goldfarb, Washington, D.C. 20580. (202) 724-1181.  
**SUPPLEMENTARY INFORMATION:** On

<sup>1</sup> Copies of the Complaint and the Decision and Order filed with the original document.

Wednesday, September 5, 1979, there was published in the *Federal Register*, 44 FR 51817, a proposed consent agreement with analysis in the Matter of Westinghouse Credit Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Acquiring Confidential Information Unfairly: § 13.1 Acquiring confidential information unfairly; 13.1-1 Equal Credit Opportunity Act; 13.1-5 Fair Credit Reporting Act. Subpart-Collecting, Assembling, Furnishing or Utilizing Consumer Reports and/or Information: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports and/or information; § 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization; 13.382-1(a) Fair Credit Reporting Act; 13.382-1(b) Equal Credit Opportunity Act; 13.382-5 Formal regulatory and/or statutory requirements; 13.382-5(a) Fair Credit Reporting Act; 13.382-5(b) Equal Credit Opportunity Act. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-60 Fair Credit Reporting Act; 13.1852-65 Equal Credit Opportunity Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 704, 88 Stat. 1522; 90 Stat. 253; (15 U.S.C. 1691c); sec. 621, 84 Stat. 1134; (15 U.S.C. 1681s))

Carol M. Thomas,

Secretary.

[FR Doc. 79-37810 Filed 12-7-79; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

#### 24 CFR Part 201

[Docket No. R-79-593]

#### Increase in Loan Maturity for Double-wide Mobile Homes From 15 to 20 Years

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Final rule.

**SUMMARY:** This amendment increases the maturity period for an obligation financing the purchase of a mobile home consisting of two or more modules from 15 years and 32 days to 20 years and 32 days. The purpose of this rule is to lower the monthly mortgage payment by extending the loan term. This rule permits double-wide homes to be financed for a period of 20 years and 32 days provided that only one transportation trip occurs after manufacture unless specified shipping precautions are observed.

**EFFECTIVE DATE:** January 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, U.S. Department of Housing and Urban Development, Room 9172, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6880. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** On December 22, 1978, the Secretary of Housing and Urban Development published a Notice of Proposed Rulemaking (43 FR 247) to amend 24 CFR Part 201, § 201.560. At present, the maturity period for the financing of two or more modules is a maximum of 15 years and 32 days.

This rule permits 20 year maturities provided one transportation trip occurs after manufacture unless special shipping precautions are observed. One transportation trip consists of moving the home from the manufacturing plant, to the dealer's lot, and finally to the purchaser's site. A home that has been moved from the original purchaser's site may not be financed again under this subpart unless the following transportation procedures are followed. Each section for the double-wide mobile home shall be reinforced with reusable exterior plywood on the open portions of the marriage walls. The plywood must cover the marriage wall ridge beam and extend to the bottom of the perimeter joist. It is recommended that

4' x 10' x 5/8" tongue and grooved plywood sheets be utilized and be fastened to the home's ridge beam and perimeter joist with two rows of 1/4" x 1 1/2" x 15 gauge staples. The temporary walls should be attached before removing the mobile home from its on-site foundation supports and shall remain attached until the home is placed on a subsequent site. If manufacturers are shipping double-wide homes long distances, it is recommended these temporary walls be installed at the factory. The recommended maximum speed during transportation is 45 miles per hour. Comments were invited until January 22, 1979. A total of nineteen comments were received. Overall, these comments were favorable.

Several commenters suggested that the maturity period be extended to twenty-three (23) years instead of the proposed twenty (20) and they also questioned the restriction of limiting the home to one transportation trip after manufacture. Both of these restrictions originated from the study conducted by HUD on the economic useful life of a Mobile Home. No change will be made with respect to the loan term; however, the one transportation trip was modified to permit a secondary move if special transportation instructions are followed.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures and was submitted with the Proposed Rule. A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, § 201.560 is amended by adding the exception at the end of the section as follows:

#### § 201.560 Maturity provision.

\*, \*, except that an obligation for a mobile home composed of two or more modules may have a term of not more than 20 years and 32 days provided that only one transportation trip occurs after manufacture unless specified shipping precautions are observed. \*, \*

(Sec. 7(d) Department of Housing and Urban Development Act, 79 Sec. 870 (42 U.S.C. 3535(d) sec. 2, 48 Stat. 1248 (12 U.S.C. 1703)))

Issued at Washington, D.C., November 28, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-37728 Filed 12-7-79; 8:45 am]

BILLING CODE 4210-01-M

## Office of Assistant Secretary for Community Planning and Development

### 24 CFR Part 570

[Docket No. R-79-643]

#### Community Development Block Grants; A-95 Clearinghouse Review and Comment

**AGENCY:** Department of Housing and Urban Development. (HUD)

**ACTION:** Final rule.

**SUMMARY:** HUD is issuing a final rule with respect to compliance with OMB Circular No. A-95 by applicants for entitlement grants and small cities grants.

**EFFECTIVE DATE:** January 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles Kreiman, Entitlement Cities Division, or Richard Kennedy, Small Cities Division, Office of Block Grant Assistance, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410, telephone number (202) 755-5977 or (202) 755-6322, respectively. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** On April 16, 1979, the Department published in the *Federal Register* for public comment proposed changes to the requirements for compliance with OMB Circular No. A-95 by applicants for entitlement grants and small cities grants. The purpose of the proposed changes was to consider the impact of conforming strictly to standard OMB procedures and to achieve consistency among HUD programs and among HUD, Economic Development Administration (EDA) and other Federal programs. The proposed changes related to the timing of the notice of intent to file and who is responsible for filing, the review time for the clearinghouses, and the disposition by applicants of clearinghouse comments.

Interested persons were given until June 15, 1979 to submit written comments. Forty persons submitted one or more comments. All comments received with respect to the proposed rule were carefully considered. As a result of the comments received, a number of changes have been made. Following is the Department's response to the comments received.

#### Entitlement Grants—Responsibility for Filing of Notice of Intent

Six commenters indicated that requiring individual applicants, rather than HUD, to notify the clearinghouses would pose no problems. Two commenters pointed out that this

requirement might improve communications between clearinghouses and applicants.

Four commenters protested that this change would be burdensome to applicants, increase paperwork and result in a duplication of effort. Two commenters indicated that this change would be confusing to clearinghouses which would receive multiple notifications, one from each applicant, rather than one notification from HUD.

Under the Entitlement Grant Program, the Department knows which communities will be applying for entitlement grants. Because the Department is in a unique position to provide the clearinghouses with one notification on behalf of these entitlement communities, the Department has decided that it would be more efficient and economical to continue notification to the clearinghouses. Therefore, the Department is not adopting the proposed change in the notification process and is retaining the rule as published in the March 1, 1978 regulations (43 FR 8434) and republished in the August 27, 1979 regulations (44 FR 50248).

#### Entitlement Grants—Clearinghouse Review Time

Seven commenters expressed support for the proposed change to reduce clearinghouse review time from 45 to 30 days. These persons indicated that the shortened review time would be beneficial to applicants by providing them with an additional 15 days to prepare their applications, and that 30 days was an adequate time for clearinghouse review.

Eight commenters did not support the proposed change, including one commentator who suggested that the review time be expanded from the current 45 to 60 days. These persons indicated that the clearinghouses required 45 days to conduct adequate reviews, coordinate comments from other agencies, and take into account their monthly policy board meetings. A few stated that some of the applications, including the Housing Assistance Plans, are quite complex and require at least 45 days for thoughtful review. It also was noted that, for many clearinghouses, the entitlement workload is not evenly spread throughout the year and that clearinghouses must be able to review a considerable number of entitlement applications within a two- or three-month period.

The Department believes that it is desirable to continue its policy of supporting clearinghouses and of providing clearinghouses with an



opportunity for meaningful review. Therefore, the Department has decided not to adopt the proposed change and to retain the 45-day clearinghouse review period as published in the August 27, 1979 regulations.

#### Entitlement Grants—Applicant Handling of Clearinghouse Comments

Four commentors supported the proposed requirement that if the clearinghouses find any inconsistency with State, areawide or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, applicants must state how they intend to resolve the findings or state their justification for proceeding despite the findings.

Four commentors expressed concerns about the proposed change. One commentor stated that clearinghouses do not have the resources to determine noncompliance with equal opportunity requirements. Another commentor suggested that clearinghouse comments should not be given higher status than citizen comments and that applicants should not have to respond to adverse clearinghouse comments on consistency with State, areawide or local plans. The Department would like to note that such a response is already required by the August 27, 1979 regulations.

One commentor objected to the proposed change because it assumes that all negative clearinghouse comments are valid and unfairly places the burden of proof on applicants to show otherwise. This commentor stated that clearinghouses frequently raise questions without adequately documenting their findings and suggested that the Department warn clearinghouses to issue comments only after complete reviews of applications. The Department would like to point out that although it is concerned with the quality of clearinghouse reviews, the achievement of such quality is not a matter of Federal regulation.

The Department believes there is merit to placing emphasis on consistency with State, areawide or local plans, significant adverse urban impacts, compliance with environmental laws, and provision of equal opportunity. Therefore, the Department has decided to require applicants to consider clearinghouse findings in these four areas before submitting the application to HUD. Applicants also must submit a written statement indicating what action they plan to take as a result of these findings and the reasons therefor.

Another commentor stated that additional time would be required

between receipt of clearinghouse comments and submission of the application to HUD if applicants had to submit with their applications their responses to clearinghouse comments. It was suggested that applicants be permitted to submit their response to clearinghouse comments within 30 days after acceptance of the application by HUD for review. This would mean that the 30-day applicant response period would be concurrent with the first 30 days of the 75-day application review period. The Department believes that this suggestion is reasonable and, therefore, has incorporated it into the final rule.

#### Small Cities Program—Timing and Length of Clearinghouse Review of Full Application

Three clearinghouses and two grantees supported the proposed change to reduce clearinghouse review time of the full application from 45 to 30 days before submission of the full application to HUD. One commentor suggested that the 30-day review would be more workable if it remained concurrent with the first 30 days of HUD's review period.

Eight clearinghouses, 11 grantees and two other commentors did not support the proposed change. The clearinghouses pointed out that a 30-day review period would not be feasible because of their monthly policy board meetings and the heavy workloads created when all of the full applications arrive simultaneously. The reduced review time would encourage reviews on an emergency basis which would be undesirable and superficial at best. One commentor suggested that a one-time submission of the multi-year comprehensive full applications to the clearinghouses would be desirable if the clearinghouses were then notified of any revisions, similar to the procedure used for amendments to entitlement programs under § 570.312. Another commentor suggested that advance notice of second and third year submissions of multi-year applications would facilitate clearinghouse review.

Several grantees pointed out that since Area Offices only give applicants about 60 days from notification to the date full applications are due, a 30-day sequential review by clearinghouses would reduce application preparation time to 30 days. These commentors claimed that this would not allow applicants sufficient time for public meetings, application preparation, administrative review, etc. In small communities where newspaper publications are limited to weeklies, missing one publication date with a notice of public meetings further delays

required citizen participation and cuts application preparation time. Additionally, many commentors suggested a more appropriate time for clearinghouse reviews would be at the preapplication submission.

It was never the intent of the Department to further limit the time of preparation of the full application by interjecting the 30-day prior clearinghouse review into the existing time frame. Additional time would have to have been incorporated into the schedule to accommodate the proposed change. However, because the majority of commentors opposed this change, the Department has decided not to require advance submission of the full applications to the clearinghouses or to reduce clearinghouse review time to 30 days. Therefore, the Department has decided not to adopt the proposed change and will retain the rules as published in the March 1, 1978 regulations (43 FR 8434) and republished in the June 28, 1979 regulations (44 FR 37478), as corrected July 19, 1979 (44 FR 42179). The July 19, 1979 regulations provided applicants with the option of submitting full applications to the clearinghouses prior to or concurrent with submission to HUD, with HUD making no decisions on the full applications until 45 days after receipt. This should allow ample time for clearinghouse review and submission of comments before HUD reaches a decision on the full application.

#### Small Cities Program—Applicant Handling of Clearinghouse Comments

The public comments that are summarized in the entitlement grants section on this subject also apply to the Small Cities Program. The current rule, as published in the July 19, 1979 regulations, already requires applicants to explain why they should proceed with the project if A-95 comments contain any findings of inconsistency with State, areawide or local plans, or noncompliance with civil rights laws. The Department believes that it also is important to emphasize significant adverse urban impacts and compliance with environmental laws. Therefore, the Department has decided to require applicants to consider clearinghouse findings in these four areas and state what action they plan to take as a result of these findings and the reasons therefor.

#### Small Cities Program—Clearinghouse Review of Preapplications

A number of commentors raised issues relating to the submission of preapplications to the clearinghouses, although A-95 review of the

preapplications was not addressed in the proposed rule. Four clearinghouses suggested that prior submission of the preapplications to clearinghouses would be more desirable since HUD funding decisions are based largely on the preapplications and the clearinghouses have a greater chance of influencing projects at the preapplication stage. These commentors suggested that review of the full applications was merely a formality and that clearinghouse comment at that time was largely unnecessary.

One commentor suggested that a 60-day clearinghouse review period for preapplications and a 30-day clearinghouse review period for full applications would be more meaningful. Another commentor stated that submission of both the preapplication and the full application to the clearinghouses was a duplication and recommended that there be one application for the Small Cities Program, with approval or disapproval based on the point system.

Although the issue of A-95 review of the preapplications was not a part of the proposed rule, in view of the number of comments received advocating longer clearinghouse review periods, the Department has decided to extend the review time from 30 days to 45 days prior to or concurrent with filing of the preapplication to HUD.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of HUD, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Department is amending Part 570 by:

1. Amending § 570.310, A-95 clearinghouse review and comment, of Subpart D, Entitlement Grants, by revising paragraph (c) as follows:

#### § 570.310 A-95 clearinghouse review and comment.

(c) *Applicant actions after clearinghouse review.* The applicant shall transmit all comments received from the clearinghouses with the application to HUD. In instances where no comments are received, the applicant shall include a statement indicating the date that the State and areawide clearinghouses were notified and no comments were received by the end of the 45-day review period. If the A-95 review comments contain any findings of inconsistency with State, areawide or

local plans, significant adverse urban impacts, noncompliance with environmental laws or failure to provide equal opportunity, the applicant must consider these findings before submitting the application to HUD. The applicant must submit a written statement indicating what action it plans to take as a result of these findings and the reasons therefor within 30 days of acceptance by HUD of the application for review.

2. Amending § 570.435, Modified OMB Circular No. A-95 procedures for the Small Cities Program, of Subpart F, Small Cities Program, by revising paragraphs (b) and (c)(3) as follows:

#### § 570.435 Modified OMB Circular A-95 procedures for the Small Cities Program.

(b) *A-95 procedures for preapplications.* Preapplications for either comprehensive Grants or for Single Purpose Grants shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrent with the submission of the preapplication to HUD to serve as the notification of intent to apply for a Federal grant. The clearinghouses shall have forty-five days from receipt of the preapplication in which to conduct their review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. HUD shall not make a final decision on a preapplication until all clearinghouse comments are considered, or if no clearinghouse comments are received by HUD, forty-five days after the deadline for submission of preapplications. Applicants are urged to provide preapplications to the clearinghouses prior to submission to HUD whenever possible.

(c) *A-95 procedures for full applications.* . . .

(3) If the A-95 review comments contain any findings of inconsistency with State, areawide, or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, the applicant must consider these findings and state what action it plans to take as a result of these findings and the reasons therefor.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., November 28, 1979.

Robert C. Embry, Jr.,  
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-37729 Filed 12-7-79; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Parts 3, 161

[CGD 79-133]

#### Boundary Lines for MSO/VTS Prince William Sound; Editorial Amendment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** Portions of the boundaries for the Marine Inspection Zone and the Captain of the Port Zone at Prince William Sound, Alaska, as well as for the Prince William Sound Vessel Traffic Service (VTS), are presently described by referencing the COLREGS Demarcation Lines at Prince William Sound (33 CFR 82.1740). However, on April 16, 1979, the Coast Guard published in the *Federal Register* a final rule which removed all the COLREGS Demarcation Lines from Alaskan waters (44 FR 22457). Because of that rulemaking, it is necessary to redescribe these boundaries and delete the references to these lines, eliminating any misunderstanding caused by these inconsistencies.

**EFFECTIVE DATE:** December 10, 1979.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (jg) George W. Molessa, Jr., Office of Marine Environment and Systems (G-WLE-4/TP11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-4958.

**SUPPLEMENTARY INFORMATION:** Since these amendments are editorial and no substantive provisions of the regulations are being changed, notice and public procedure are unnecessary under 5 U.S.C. 553, and these amendments may be made effective in less than 30 days after publication in the *Federal Register*.

#### Drafting Information

The principal persons involved in the drafting of this document are: Lieutenant (jg) George W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Jack Orchard, Project Counsel, Office of the Chief Counsel.



**Evaluation**

The Coast Guard has determined, in accordance with the Department of Transportation's notice entitled "Improving Government Regulations" (44 FR 11034), that these amendments are not significant. Since these amendments are editorial, there will be no economic impact and a full evaluation is not necessary. These amendments impose no additional requirements upon any vessel.

In consideration of the foregoing, Parts 3 and 161 of Title 33 of the Code of Federal Regulations are amended as follows:

**PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES**

1. By amending § 3.85-20 to read as follows:

**§ 3.85-20 Prince William Sound Marine Inspection Zone and Captain of the Port Zone.**

(a) \* \* \*

(b) The Prince William Sound Marine Inspection Zone and the Prince William Sound Captain of the Port Zone comprise the State of Alaska that falls within the following boundary line: A line which starts at Cape Puget; thence northerly to latitude 61°30' N., longitude 148°26' W.; thence easterly to latitude 61°30' N., longitude 145°30' W.; thence southerly to the sea at longitude 145°30' W.; thence westerly along the coastline to Pt. Whitt; thence southwesterly to Point Bentinck aero-beacon on Hinchinbrook Island; thence southwesterly along the coastline of Hinchinbrook Island to Cape Hinchinbrook Light; thence northwesterly to Schooner Rock Light; thence southwesterly along the coastline of Montague Island to latitude 59°50' N., longitude 147°54' W.; thence northwesterly to Point Elrington Light; thence westerly to Cape Puget.

**PART 161—VESSEL TRAFFIC MANAGEMENT**

2. By amending § 161.380 to read as follows:

**§ 161.380 VTS Area.**

The VTS Area consists of the navigable waters of the United States north of a line drawn from Cape Hinchinbrook Light to Schooner Rock Light, comprising that portion of Prince William Sound between longitudes 146°40' W. and 147°20' W.; and includes Valdez Arm, Valdez Narrows, and Port Valdez.

(5 U.S.C. 552; 63 Stat. 545 (14 U.S.C. 633); 80 Stat. 937 (49 U.S.C. 1655(b)); 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.48(n)(4))

Dated: November 29, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-37815 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-14-M

**POSTAL SERVICE****39 CFR Part 111****Pickup of Express Mail Addressed to Post Office Box Addresses**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to Parts 223 and 224 of the Domestic Mail Manual, the Postal Service picks up shipments of Express Mail from addresses within designated areas. Certain regulations, such as those governing delivery of registered mail and preparation of Express Mail shipments, place conditions upon, or limit the usefulness of, pickup service from post office box addresses. This final rule amends postal regulations to establish conditions for service agreements that govern pickup service from post office box addresses, and to alter Express Mail preparation requirements in order to make such pickup service more useful to all Express Mail customers.

**EFFECTIVE DATE:** January 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** William Purson, (202) 245-5624.

**SUPPLEMENTARY INFORMATION:** On October 25, 1979, the Postal Service published for comment in the *Federal Register* (44 FR 61384) proposed changes to Parts 223, 224, 262, and 263 of the Domestic Mail Manual as described above in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by November 24, 1979. No comments were received. Accordingly, the proposed changes, which are hereby adopted without change, are made to the Domestic Mail Manual, which is incorporated by reference in the *Federal Register* under 39 CFR 111.1.

**Part 223—Express Mail Custom Designed Service**

1. In 223.2 add new .24 reading as follows:

.24 *Pickup from Post Office Box Addresses.*

The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by special permit and instructions are

given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement.

**Part 224—Express Mail Next Day Service**

2. Revise 224.3 to read as follows:

224.3 *Service Agreement.*

Pickup service is available for Next Day Service only on a scheduled basis pursuant to a service agreement (Form 5631) between the Postal Service and the mailer. The service agreement must specify the time, place, day or date, and frequency of such service. The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by postage trust account and instructions are given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement. Service under a service agreement must not be offered in a manner that makes any undue or unreasonable preference to any such user. Commencement and termination of service agreements are subject to the provisions of 223.22 and 223.23.

**Subchapter 260—Preparation Requirements**

3. Revise 262 to read as follows:

262 *Express Mail Custom Designed Service.*

Except as provided in 261.2 and 223.24, all Custom Designed Service mail must be tendered in sealed Express Mail pouches with the required receipt forms and labels combined and attached. See 261.2 for outside pieces and 223.24 for pickup from post office box addresses.

4. Revise 263.2 to read as follows:

263.2 For Next Day Service pickup (see 224.3) other than pickup from post office box addresses, the customer must complete Form 5625-B, *Mailing Statement for Next Day and Same Day Airport Express Mail Service*, for each pickup. Volume mailers must tender the mail in containers provided or approved by the Postal Service.

These changes will be published in the *Federal Register* as provided in 39 CFR 111.3

(39 U.S.C. 401, 403)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 79-37727 Filed 12-7-79; 8:45 am]

BILLING CODE 7710-12-M

**DEPARTMENT OF COMMERCE****Federal Maritime Commission****46 CFR Part 503**

[Managing Directive 79-4; G.O. 22, Amdt. 10]

**Classification and Declassification of National Security Information and Material; Correction**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Correction to Implementing Directive; Final rule.

**SUMMARY:** The Commission's final rule in this matter, published October 5, 1979 (44 FR 57411), should have indicated that it constitutes amendment 10 to General Order 22, as shown in the above corrected heading.

**EFFECTIVE DATE:** August 29, 1979.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

**SUPPLEMENTARY INFORMATION:** None. Francis C. Hurney, Secretary.

[FR Doc. 79-37731 Filed 12-7-79; 8:45 am]

BILLING CODE 6730-01-M

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****49 CFR Part 399**

[BMCS Docket No. MC-58-1; Amdt. No. 79-1]

**Step, Handhold, and Deck Requirements on Commercial Motor Vehicles; Effective Date Extended**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Effective date extended.

**SUMMARY:** A final rule concerning Step, Handhold, and Deck Requirements on Commercial Motor Vehicles was to become effective on April 1, 1982. The effective date is extended to September 1, 1982. This extension is in response to a petition from the Ford Motor Company. The petitioner contends that an April effective date is inconsistent with customary timing for the introduction of new models and that the

timing could cause an unnecessary disruption of production by introducing a change in their product designs which is out of phase with other Government regulation changes presently planned for the 1983 models.

**DATE:** The rule is effective on September 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald J. Davis, Chief, Development Branch, Bureau of Motor Carrier Safety (202) 426-9787; or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division (202) 426-0346, FHWA, Department of Transportation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The FHWA has received, from the Ford Motor Company, a petition requesting reconsideration of the April 1, 1982 effective date of the final rule that establishes specific requirements for steps, handholds, and deck plating on commercial motor vehicles. The new rule which affords individuals increased stability and safety while entering and exiting the cab and while performing work-related duties on other areas of the vehicle was published on July 26, 1979 (44 FR 43730).

Ford stated that an April effective date is inconsistent with customary timing for the introduction of new models. Also, this timing could cause unnecessary disruption of production by introducing a change in product designs which is out of phase with other government regulations changes presently planned for the 1983 model. The new rule will require design and procurement of new components, some reprocessing of the assembly operations and further changes to the inspection, invoicing, parts coding and production control functions that are a necessary part of any product change. To "pull ahead" the changes necessitated by the new regulation into the 1982 model program would cause Ford to modify a product program already underway.

Another heavy duty truck manufacturer has advised that it will be faced with similar problems if the April 1, 1982 effective date is retained since a new cab-over model is planned for introduction at the beginning of the 1983 model year (September 1, 1982).

Three other manufacturers have stated that their production lines "shut down" for a short period of time during the summer months for necessary retooling and other necessary production changes prior to the introduction of the next model year trucks. The April 1, 1982 date would cause disruption to their production.

Early in this decade the automotive manufacturers used the same arguments presented herein to persuade the National Highway Traffic Safety Administration (NHTSA) to use September 1, as an effective date for all regulations that would cause a change in the manufacturer's production processes. The NHTSA recognized that by using the September 1, date as an effective date, increased manufacturing costs would be kept to a minimum and the resulting societal costs would also be minimized.

Both the NHTSA and the FHWA regulate commercial motor vehicles. It would seem appropriate for both agencies to be compatible in their use of the same effective date when promulgating regulations effecting commercial motor vehicles.

In consideration of the foregoing, it has been determined that a postponement of the effective date of the new rules to September 1, 1982, has merit. Accordingly, the effective date of Subpart L, Step, Handhold, and Deck Requirements on Commercial Motor Vehicles, of Part 399, Title 49 of the Code of Federal Regulations is extended to September 1, 1982.

**Note.**—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. An evaluation of the regulation is contained in BMCS Docket No. MC-58-1 and can be reviewed in Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590 from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. (49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48(b) and 301.60)

Issued on: December 3, 1979.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-37812 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-22-M

**Research and Special Programs Administration****49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178**

[Docket No. HM-161; Amdt. Nos. 171-51, 172-56, 173-134, 174-36, 175-10, 176-10, 177-47, 178-60]

**Detonators and Detonating Primers**

**AGENCY:** Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments prescribe appropriate shipping descriptions and hazard class designations for detonators



and detonating primers. The need for this action is the present lack of proper shipping descriptions for many small explosive devices and the fact that the present division of blasting caps into Class A and Class C explosives is not done on a technically sound basis from a safety standpoint. The term "commercial detonators" as proposed in the notice is revised to read "detonators" in order to accommodate shipments made commercially and by the military. The reference to the IME standard has been updated to acknowledge the latest revision of the standard. Also, § 173.87 has been revised for clarity. A grandfather clause allowing the transportation of detonators and detonating primers under certain conditions has been added in this final rule.

**EFFECTIVE DATE:** January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles W. Schultz, Technical Division, Office of Hazardous Materials Regulation, Department of Transportation, Washington, D.C. 20590, telephone 202-426-2311.

**SUPPLEMENTARY INFORMATION:** On May 4, 1978, the MTB published a notice of proposed rulemaking under Docket HM-161 in the *Federal Register* (43 FR 19242) regarding commercial detonators and detonating primers. Also, on September 25, 1978, a meeting was held with representatives of the Institute of Makers of Explosives (IME), who had requested an extension of the time allowed for filing comments.

Several comments were received on the proposed rulemaking and all have been carefully evaluated. Several commenters stated that limiting the initiators described in the notice to "commercial" devices creates problems for the military because some devices such as blasting caps are shipped both commercially and by the military. The MTB acknowledges this fact with respect to devices identified in the notice as "commercial detonators" and this amendment contains revisions which change the definition and shipping description so that such devices may be shipped by both military and commercial interests without any conflict in terminology.

Several commenters indicated that the proposed revision to § 175.320 was not consistent with § 172.101 concerning quantities allowed aboard aircraft. The MTB agrees that a possible inconsistency existed by the proposed wording of § 175.320, therefore, the wording in the section is being revised in this amendment to eliminate the problem.

Another commenter stated that a reference to mass detonation in § 173.100 was not necessary in view of the 25-gram limited propagation restriction. It is the MTB's opinion that the mass detonation prohibition is needed to prevent shipments of less than 25 grams in one package when all the devices may explode simultaneously when one is initiated.

In an effort to simplify and clarify the regulations, § 173.87 has been revised. The term "with other articles" as used in this section means with articles foreign to the explosive or device packaged, other explosives with different shipping descriptions or classes, and other hazardous materials. A packaging exception is permitted for explosives (other than detonators and initiating explosives) when packaged in accordance with the requirements of this section.

Section 173.103 has been revised in an effort to clarify the specific requirements for detonators and detonating primers which are to be offered for transportation as Class C explosives. Included in this section is a provision which allows the use of an IME Standard 22 container as an outside packaging for detonators under specific conditions. Also included in this section is a provision which details specific conditions in which detonators, Class C explosives, and detonating primers, Class C explosives, may be transported on passenger carrying aircraft. The IME has revised IME Safety Library Publication No. 22. The MTB has reviewed these revisions and concurs. Therefore, the reference in § 171.7 is being updated to reflect this latest revision.

A grandfather clause has been added in §§ 173.66 and 173.68 which allows detonators and detonating primers, which are subject to the provisions of the appropriate sections but which have been approved prior to January 1, 1980, to continue to be transported in accordance with the regulations in effect on October 31, 1979, until December 31, 1984.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Parts 171, 172, 173, 174, 175, 176, 177, and 178 are amended as follows:

#### PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7 paragraph (d)(9) is revised as follows:

§ 171.7 Matter incorporated by reference.

(d) \* \* \*

(9) IME Standard 22 is titled, "IME Standard for the Safe Transportation of Class C Detonators (Blasting Caps) in a Vehicle With Certain Other Explosives," Revised March 21, 1979 (IME Safety Library Publication No. 22).

#### PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. Section 172.101, the Hazardous Materials Table is amended as follows:

BILLING CODE 4910-60-M

| (1)      | (2)                                                              | (3)                  | (4)                                           | (5)<br>Packaging  |                                 | (6)<br>Maximum net quantity<br>in one package     | (7)<br>Water shipments        |                        |                              |
|----------|------------------------------------------------------------------|----------------------|-----------------------------------------------|-------------------|---------------------------------|---------------------------------------------------|-------------------------------|------------------------|------------------------------|
|          | Hazardous materials<br>descriptions and<br>proper shipping names | Hazard<br>class      | Label (a)<br>required<br>(if not<br>excepted) | (a)<br>Exceptions | (b)<br>Specific<br>requirements | (a)<br>Passenger carrying<br>aircraft or rail car | (b)<br>Cargo only<br>aircraft | (a)<br>Cargo<br>vessel | (c)<br>Other<br>requirements |
| (Delete) | Blasting caps - (1,000<br>or less) (Show actual<br>number)       | Class C<br>explosive | Explosive C                                   | None              | 173.103                         | Forbidden                                         | Forbidden                     | 1, 2                   | 5                            |
|          | Blasting caps - (more<br>than 1,000) (Show actual<br>number)     | Class A<br>explosive | Explosive A                                   | None              | 173.66                          | Forbidden                                         | Forbidden                     | 6                      | 5                            |
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| (1)<br>•/<br>W/<br>A | (2)<br>Hazardous materials<br>descriptions and<br>proper shipping names | (3)<br>Hazard<br>class | (4)<br>Label (a)<br>required<br>(if not<br>excepted) | (5)<br>Packaging  |                                 | (6)<br>Maximum net quantity<br>in one package     |                               | (7)<br>Water shipments |                            |                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------|-------------------------------------------------------------------------|------------------------|------------------------------------------------------|-------------------|---------------------------------|---------------------------------------------------|-------------------------------|------------------------|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                      |                                                                         |                        |                                                      | (a)<br>Exceptions | (b)<br>Specific<br>requirements | (a)<br>Passenger carrying<br>aircraft or rail car | (b)<br>Cargo only<br>aircraft | (a)<br>Cargo<br>vessel | (b)<br>Passenger<br>vessel | (c)<br>Other<br>requirements                                                                                                                                                                                                                                                                                                                                                |
|                      | Blasting caps - electric<br>(1,000 or less) (Show<br>actual number)     | Class C<br>explosive   | Explosive C                                          | None              | 173.103                         | Forbidden                                         | Forbidden                     | 1,2                    | 3                          | Portable magazine<br>or metal locker.<br>Do not stow<br>blasting caps<br>with any high<br>explosive. Do<br>not handle<br>blasting caps at<br>the same time<br>high explosives<br>are being loaded.<br>Magazine. Do not<br>stow blasting caps<br>with any high ex-<br>plosives. Do not<br>handle blasting<br>caps at the same<br>time high explosiv-<br>es are being loaded. |
|                      | Blasting caps - electric<br>(more than 1,000) (Show<br>actual number)   | Class A<br>explosive   | Explosive A                                          | None              | 173.66                          | Forbidden                                         | Forbidden                     | 6                      | 3                          |                                                                                                                                                                                                                                                                                                                                                                             |

| (1)<br>•/<br>W/<br>A | (2)<br>Hazardous materials<br>descriptions and<br>proper shipping names                               | (3)<br>Hazard<br>class | (4)<br>Label (a)<br>required<br>(if not<br>excepted) | (5)<br>Packaging  |                                 | (6)<br>Maximum net quantity<br>in one package     |                               | (7)<br>Water shipments |                            |                                                                                                                                                                                        |
|----------------------|-------------------------------------------------------------------------------------------------------|------------------------|------------------------------------------------------|-------------------|---------------------------------|---------------------------------------------------|-------------------------------|------------------------|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                      |                                                                                                       |                        |                                                      | (a)<br>Exceptions | (b)<br>Specific<br>requirements | (a)<br>Passenger carrying<br>aircraft or rail car | (b)<br>Cargo only<br>aircraft | (a)<br>Cargo<br>vessel | (b)<br>Passenger<br>vessel | (c)<br>Other<br>requirements                                                                                                                                                           |
|                      | Blasting caps with<br>metal clad mild<br>detonating fuse,<br>(1,000 or less) (Show<br>actual number)  | Class C<br>explosive   | Explosive C                                          | None              | 173.103                         | Forbidden                                         | Forbidden                     | 1,2                    | 3                          | Portable magazine or<br>metal locker. Do not<br>stow blasting caps<br>with any high<br>explosive. Do not<br>handle blasting caps<br>at the same time<br>high explosives are<br>loaded. |
|                      | Blasting caps with<br>metal clad mild<br>detonating fuse<br>(more than 1,000) (Show<br>actual number) | Class A<br>explosive   | Explosive A                                          | None              | 173.66<br>173.67                | Forbidden                                         | Forbidden                     | 6                      | 3                          | Do not stow blasting<br>caps with any high<br>explosive. Do not<br>handle blasting caps<br>at the same time<br>high explosives are<br>being loaded.                                    |



| (1)<br>Hazardous materials descriptions and proper shipping names       | (2)<br>Hazard class | (3)<br>Label (a) required (if not excepted) | (4)<br>Packaging  |                              | (5)<br>Maximum net quantity in one package     |                            | (6)<br>Water Shipments        |                                                                                                                                                                           |
|-------------------------------------------------------------------------|---------------------|---------------------------------------------|-------------------|------------------------------|------------------------------------------------|----------------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                         |                     |                                             | (a)<br>Exceptions | (b)<br>Specific requirements | (a)<br>Passenger carrying aircraft or rail car | (b)<br>Cargo only aircraft | (a)<br>Cargo Passenger vessel | (b)<br>Other requirements                                                                                                                                                 |
| Blasting caps with safety fuse - (1,000 or less) (Show actual number)   | Class C explosive   | Explosive C                                 | None              | 173.103                      | Forbidden                                      | Forbidden                  | 1, 2                          | 3<br>Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded. |
| Blasting caps with safety fuse - (more than 1,000) (Show actual number) | Class A explosive   | Explosive A                                 | None              | 173.66<br>173.67             | Forbidden                                      | Forbidden                  | 6                             | 5<br>Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.                                    |
| Detonating primer                                                       | Class A explosive   | Explosive A                                 | None              | 173.68                       | Forbidden                                      | Forbidden                  | 6                             | 5                                                                                                                                                                         |

| (1)<br>Hazardous materials descriptions and proper shipping names                                                                                                                                                                                                                                                                               | (2)<br>Hazard class | (3)<br>Label (a) required (if not excepted) | (4)<br>Packaging  |                              | (5)<br>Maximum net quantity in one package    |                            | (6)<br>Water Shipments        |                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------|-------------------|------------------------------|-----------------------------------------------|----------------------------|-------------------------------|---------------------------|
|                                                                                                                                                                                                                                                                                                                                                 |                     |                                             | (a)<br>Exceptions | (b)<br>Specific Requirements | (a)<br>Passenger carrying aircraft or railcar | (b)<br>Cargo only aircraft | (a)<br>Cargo Passenger vessel | (b)<br>Other Requirements |
| (Add)<br>Blasting caps. See Detonators.<br>Blasting caps, electric. See Detonators<br>Blasting caps, percussion activated. See Detonators<br>Blasting caps with metal clad mild detonating fuse. See Detonators<br>Blasting caps with detonating cord. See Detonators and detonating primers.<br>Blasting caps with safety fuse. See Detonators |                     |                                             |                   |                              |                                               |                            |                               |                           |



| (1)<br>A/<br>W | (2)<br>Hazardous materials description<br>and proper shipping names                                                                  | (3)<br>Hazard<br>class | (4)<br>Label(s)<br>required<br>(if not<br>excepted) | (5)<br>Packing    |                                 | (6)<br>Maximum net quantity<br>in one package          |                                  | (7)<br>Water Shipments |                            |                                                                                                                                                                                                                                                                                                                                                    |
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|                |                                                                                                                                      |                        |                                                     | (a)<br>Exceptions | (b)<br>Specific<br>Requirements | (a)<br>Passenger<br>carrying<br>aircraft<br>or railcar | (b)<br>Cargo<br>only<br>aircraft | (a)<br>Cargo<br>Vessel | (b)<br>Passenger<br>vessel | (c)<br>Other<br>Requirements                                                                                                                                                                                                                                                                                                                       |
|                | Blasting caps with shock tubes,<br>See Detonators<br>Caps, blasting. See Detonators<br>Detonators, Class A explosives.<br>See 173.53 | Class A<br>explosive   | Explosive<br>A                                      | None              | 173.66                          | Forbidden                                              | Forbidden                        | 6                      | 5                          | Do not stow<br>detonators, Class A<br>explosives with any high<br>explosives. Do not handle<br>at the same time high<br>explosives are being<br>loaded.                                                                                                                                                                                            |
|                | Detonators Class C explosives<br>See 173.100                                                                                         | Class C<br>explosive   | Explosive C                                         | None              | 173.66                          | See<br>§ 173.103(d)                                    | 150<br>pounds                    | 1, 2                   | 1, 2                       | The maximum net quantity<br>in one package for this<br>material shipped aboard<br>passenger vessel is<br>limited to 50 pounds.<br>Must be stowed in port-<br>able magazine or metal<br>locker. Do not stow<br>detonators, Class C<br>explosives with high<br>explosives.<br>Do not handle at the<br>same time high explosives<br>are being loaded. |
|                | Delay connectors. See Detonators<br>and detonating primers                                                                           |                        |                                                     |                   |                                 |                                                        |                                  |                        |                            |                                                                                                                                                                                                                                                                                                                                                    |

| (1)<br>A/<br>W | (2)<br>Hazardous materials description<br>and proper shipping names                                                                      | (3)<br>Hazard<br>class | (4)<br>Label(s)<br>required<br>(if not<br>excepted) | (5)<br>Packing    |                                 | (6)<br>Maximum net quantity<br>in one package          |                                  | (7)<br>Water Shipments |                            |                                                                                                                                                                                                                                                                                                                                                              |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------------|-------------------|---------------------------------|--------------------------------------------------------|----------------------------------|------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                |                                                                                                                                          |                        |                                                     | (a)<br>Exceptions | (b)<br>Specific<br>Requirements | (a)<br>Passenger<br>carrying<br>aircraft<br>or railcar | (b)<br>Cargo<br>only<br>aircraft | (a)<br>Cargo<br>Vessel | (b)<br>Passenger<br>vessel | (c)<br>Other<br>Requirements                                                                                                                                                                                                                                                                                                                                 |
|                | Detonating primers, Class A<br>explosives. See 173.53                                                                                    | Class A<br>explosive   | Explosive A                                         | None              | 173.68                          | Forbidden                                              | Forbidden                        | 6                      | 5                          | Do not stow detonating<br>primers, Class A explo-<br>sives with any high<br>explosives. Do not<br>handle at the same time<br>high explosives are<br>being loaded.                                                                                                                                                                                            |
|                | Detonating primers, Class C<br>explosives. See 173.100                                                                                   | Class C<br>explosive   | Explosive C                                         | None              | 173.68                          | See<br>§ 173.103(d)                                    | 150<br>pounds                    | 1, 2                   | 1, 2                       | The maximum net quantity<br>in one package for this<br>material shipped aboard<br>passenger vessel is<br>limited to 50 pounds.<br>Must not be stowed in<br>portable magazine for<br>metal locker. Do not<br>stow detonating primers<br>Class C explosives with<br>high explosives. Do not<br>handle at the same time<br>high explosives are<br>being loaded. |
|                | Detonators, commercial. See<br>Detonators<br>Electric blasting caps. See<br>Detonators<br>Primers, detonating. See<br>Detonating primers |                        |                                                     |                   |                                 |                                                        |                                  |                        |                            |                                                                                                                                                                                                                                                                                                                                                              |

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3. In § 172.203 paragraph (c) is deleted:

**§ 172.203 Additional description requirements.**

(c) [Deleted]

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

4. In § 173.53 the introductory text of paragraph (g) and paragraph (g)(1) are revised; paragraph (g)(2) is redesignated (g)(3); and a new paragraph (g)(2) is added; Notes 1 through 5 following paragraph (h)(1) are moved to the end of the section following paragraph (v); Note 5 is revised and a new Note 6 is added to read as follows:

**§ 173.53 Definition of Class A explosives.**

(g) *Type 7.* An initiating device is a metal or plastic casing containing initiating or priming explosives, Class A-Type 4, either with or without other explosives. It is activated by any one of several means, including an electrical pulse, a flame, a shock or detonation wave, mechanical impact (percussion), pressurized gas, or high intensity light beam. It produces an explosive output that may be used to initiate another explosive or to perform work. A time delay may be incorporated in the means of applying the stimulus, or in the initiating device itself.

(1) A detonator (see Note 5) is an initiating device (other than one properly described as a detonating fuze) which contains no more than 10 grams of total explosives weight, excluding ignition and delay charges per unit. There are different kinds of detonators including the following:

(i) Blasting caps which are activated by safety fuse.

(ii) Blasting caps which are percussion activated.

(iii) Blasting caps which are activated by flexible detonating cord, including—

(A) Delay connectors in plastic sheaths which consist of a plastic sleeve that contains a suitable delay system with receptor and donor explosive charges in the center portion. Each end of the sleeve is made so that flexible detonating cord can be inserted into and locked to the connector;

(B) Delay connectors in metal tubes which consist of a system with a receptor and donor charge positioned between two detonators with the entire assembly placed in a metal tube having both ends open for the insertion of flexible detonating cord;

(C) Delay connectors with detonating cord pigtailed which consist of delay

connectors as described in paragraph (g)(1)(iii)(B) of this section that have short lengths of detonating cord inserted into both ends and crimped in place; and

(D) Nonelectric instantaneous and delay caps which consist of blasting caps to which is assembled a length of detonating cord that may have a transfer explosive charge at the opposite end.

(iv) Blasting caps which are activated by gas pressurization or reaction.

(v) Blasting caps which are activated by a shock tube.

(vi) Electric blasting caps which are activated by an electric current.

(2) A detonating primer (see Note 6) is an initiation device for commercial use which contains more than 10 grams of total explosives weight, excluding ignition and delay charges per unit.

(v) \* \* \*

**Note 5.**—See § 173.100(gg) for criteria that determine whether a particular type of detonator can be classed as a Class C explosive.

**Note 6.**—See § 173.100(hh) for criteria that determine whether a particular type of detonating primer can be classed as a Class C explosive.

5. Section 173.66 is revised to read as follows:

**§ 173.66 Detonators.**

(a) Unless otherwise specified in this section, detonators must be packed in accordance with the following:

(1) They must be snugly packed in strong inside packagings.

(2) Inside packagings must be snugly packed in an outside packaging specified in paragraph (e) of this section.

(3) For devices containing no more than 10 grams of explosive (excluding ignition and delay charges)—

(i) No more than 50 devices may be packed in one inside packaging;

(ii) No more than 500 devices may be packed in one outside packaging; and

(iii) The gross weight of the completed package may not exceed 150 pounds or the gross weight permitted by the specification for the outside packaging used, whichever is less.

(b) Detonators that are blasting caps (including percussion activated) or delay connectors in metal tubes, must be packed as specified in paragraph (a) of this section. In addition—

(1) They must be packed in inside packagings with the open ends of any device covered with an appropriate cushioning material;

(2) Inside packagings must be snugly packed in intermediate packagings consisting of cartons, or wrappings made of paper, plastic, or pasteboard;

(3) Intermediate packagings must be separated from the outside packaging by at least 1 inch of cushioning material; and

(4) For devices containing no more than 3 grams of explosive (excluding ignition and delay charges)—

(i) No more than 110 devices may be packed in one inside packaging; and

(ii) No more than 5,000 devices may be packed in one outside packaging.

(c) Detonators that are electric blasting caps, delay connectors in plastic sheaths, or blasting caps with empty plastic tubing, must be packed as specified in paragraph (a) of this section, except that—

(1) Devices containing no more than 3 grams of explosive (excluding ignition and delay charges) may be packed as follows:

(i) No more than 100 devices may be packed in one inside packaging; and

(ii) No more than 1,000 devices may be packed in one outside packaging.

(2) Inside packaging is not required for electric blasting caps when packed in inside pasteboard tubes, or when their leg wires are wound on spools with the caps either placed inside the spool or securely taped to the wire on the spool, so as to restrict freedom of movement of the caps and to protect them from impact forces.

(d) Detonators that are blasting caps with safety fuse, blasting caps with metal clad mild detonating cord, blasting caps with detonating cord, or blasting caps with shock tubes, must be packed in accordance with the requirements of paragraph (a) of this section, except that—

(1) The blasting caps are not required to be attached to the safety fuse, metal clad mild detonating cord, detonating cord, or shock tube; and

(2) Inside packagings are not required if the packing configuration restricts freedom of movement of the caps and protects them from impact forces.

(e) Detonators with or without inside packaging as provided for in paragraphs (a) through (d) of this section, must be packed in the following outside packagings.

(1) DOT Specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT Specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter) fiberboard box.

(f) Each outside packaging containing detonators must be plainly marked "DETONATORS—HANDLE CAREFULLY" and bear the appropriate explosives label specified in § 172.411 of this subchapter.

(g) Devices subject to this section which have been approved by an

agency listed in § 173.86(b) before January 1, 1980, may be transported subject to the conditions of the approval and in accordance with the regulations in effect on October 31, 1979, until December 31, 1984.

**§ 173.67 [Deleted]**

6. Section 173.67 is deleted.

7. Section 173.68 is revised to read as follows:

**§ 173.68 Detonating primers.**

(a) Detonating primers that are blasting caps with detonating cord, and delay connectors with detonating cord pigtailed, must be packed in accordance with the following:

(1) They must be snugly packed in inside packagings;

(2) Inside packagings must be snugly packed in an outside packaging specified in paragraph (d) of this section;

(3) No more than 50 devices may be packed in one inside packaging;

(4) No more than 500 devices may be packed in one outside packaging; and

(5) The gross weight of the completed package may not exceed 150 pounds or the maximum gross weight permitted by the specification for the outside packaging used, whichever is less.

(b) Detonating primers that are blasting caps with detonating cord in a coil configuration must be packed as specified in paragraph (a) of this section, except the use of inside packaging is not required if the packing configuration restricts movement of the caps and protects them from impact forces.

(c) All other unspecified types of detonating primers may only be offered for transportation if they are packed in accordance with the requirements of paragraph (a) of this section, except that inside packagings are not required for devices that are packed in individual pasteboard, metal, plastic, or wooden tubes.

(d) Detonating primers, with or without inside packagings, as provided for in paragraphs (a) through (c) of this section, must be packed in one of the following outside packagings:

(1) DOT specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter) fiberboard box.

(e) Each outside packaging of detonating primers must be plainly marked "DETONATING PRIMERS—HANDLE CAREFULLY" and must bear the appropriate label specified in § 172.411 of this subchapter.

(f) Devices subject to this section, which have been approved by an

agency listed in § 173.86(b) before January 1, 1980, may be transported subject to the conditions of the approval and in accordance with the regulations in effect on October 31, 1979, until December 31, 1984.

8. Section 173.87 is revised to read as follows:

**§ 173.87 Explosives in mixed packaging.**

Unless specifically authorized by Parts 110–189 of this subchapter, explosives may not be packed in the same outside packaging with other articles. Inside packages of different explosives (except detonators and initiating explosives) may be packed in one outside packaging in accordance with the requirements of this subchapter if the gross weight of each inside package does not exceed 8 ounces and the gross weight of the completed package does not exceed 50 pounds.

9. In § 173.100 paragraph (bb) is amended by deleting the words "or commercial users" in the third sentence; paragraphs (gg), and (hh) are added to read as follows:

**§ 173.100 Definition of Class C explosives.**

(gg) Detonators (§ 173.53(g)(1)), which will undergo only limited propagation in the shipping package, are classed as Class C explosives. For the purposes of this paragraph, limited propagation means that if one detonator near the center of a shipping package is exploded, the aggregate weight of explosives, excluding ignition and delay charges, in this and all additional detonators in the outside packaging that explode may not exceed 25 grams. Detonators which mass detonate in the shipping package may not be classed as Class C explosives. For the purposes of this paragraph "mass detonate" means that more than 90 percent of the devices tested in a package explode practically simultaneously.

(hh) Detonating primers (§ 173.53(g)(2)) in which the total explosive charge per unit does not exceed 25 grams, and which will undergo only limited propagation in the shipping package, are classed as Class C explosives. For the purposes of this paragraph, limited propagation means that if one detonating primer near the center of a shipping package is exploded, the aggregate weight of explosives, excluding ignition and delay charges, in this and all additional detonating primers in the outside packaging that explode may not exceed 25 grams. Detonating primers which mass detonate in the shipping package may not be classed as Class C explosives. For the purposes of this

paragraph, "mass detonate" means that more than 90 percent of the devices tested in a package explode practically simultaneously.

10. Section 173.103 is revised to read as follows:

**§ 173.103 Detonators, Class C explosives, and detonating primers, Class C explosives.**

(a) It must be shown by actual tests that detonators and detonating primers which are to be offered for transportation as Class C explosives meet the appropriate definitions in paragraphs (gg) and (hh) in § 173.100. Testing must be performed or confirmed and the classification approved as specified in § 173.86. Substitution of a representative packaging in place of the actual shipping package for testing purposes may be authorized by one of the agencies specified in § 173.86(b).

(b) Detonators, Class C explosives, and detonating primers, Class C explosives, may only be offered for transportation if they are packed in packagings specified in §§ 173.66 and 173.68 that meet the requirements of paragraph (a) of this section, except that quantity limitations for devices in packagings (other than the gross weight limitation for the specification packaging used) do not apply.

(c) Detonators originally classed as Class C explosives in accordance with the requirements of paragraph (a) of this section, may be offered for transportation in an IME Standard 22 container as Class C explosives subject to the following conditions:

(1) Each detonator may contain no more than 1 gram of explosive (excluding ignition and delay charges);

(2) The detonators must be packed in accordance with the requirements and limitations of § 173.66, except paragraphs (a)(3) (ii) and (iii), and paragraph (e); and

(3) There are no more than 1,000 detonators in the container.

(d) Detonators, Class C explosives, and detonating primers, Class C explosives, may be offered for transportation on passenger-carrying aircraft only under the following conditions:

(1) They must be packed in accordance with the applicable requirements of §§ 173.66 and 173.68 except that the maximum gross weight of any completed package may not exceed 50 pounds or the maximum gross weight permitted by the specification for the outside packaging used, whichever is less; and

(2) Packages must have been tested in accordance with the requirements of paragraph (a) of this section, except that when one device near the center of the



package is detonated, no other device in the package may be caused to detonate, and there must be no communication of detonation from one package to another.

#### PART 174—CARRIAGE BY RAIL

11. In § 174.81 paragraph (a), the table is amended by deleting the heading "Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers" in the fourth entry of both vertical and horizontal columns and substituting therefor "Detonators, detonating primers"; footnotes a and e are revised to read as follows:

##### § 174.81 Segregation and separation requirements for hazardous materials in rail cars.

(a) \* \* \*

\* Detonators, Class C explosives, may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of detonators or detonating primers, in any quantity, with articles named in vertical or horizontal columns b, c, e, or f are prohibited.

\* Does not include blasting agents, ammonium nitrate-fuel oil mixtures, or ammonium nitrate, fertilizer grade, which may be loaded, transported, or stored with high explosives, or with detonators containing no more than 1 gram of explosive each, excluding ignition and delay charges.

12. In § 174.101 the first sentence of paragraph (h) is amended; paragraph (m) is deleted as follows:

##### § 174.101 Loading explosives.

(h) Package containing any Class A explosives (see § 174.104), detonators or detonating primers must be securely blocked and braced to prevent the packages from changing position, falling to the floor, or sliding into each other, under conditions normally incident to transportation.

| Material description              | Class              | Conditions                                                              |
|-----------------------------------|--------------------|-------------------------------------------------------------------------|
| Detonators and detonating primers | Class A explosives | Permitted only when no other hazardous material is aboard the aircraft. |
| Detonators and detonating primers | Class C explosives | Permitted only when there are no Class A explosives aboard aircraft.    |

#### PART 176—CARRIAGE BY VESSEL

16. In § 176.9 the introductory text of

(m) [Deleted]

13. In § 174.106 paragraphs (a) and (b) are revised to read as follows:

##### § 174.106 "Order-Notify" or "C.O.D." shipments, Class A explosives.

(a) A carrier may not accept for transportation Class A explosives, detonators, or detonating primers in any quantity when consigned to "order-notify" or "C.O.D.," except on a through bill of lading to a place outside the United States.

(b) A carrier may not accept for transportation Class A explosives, detonators, or detonating primers which the shipper consigns to himself unless the shipper has a resident representative to receive them at the delivery point.

14. In § 174.115 paragraph (a) is revised to read as follows:

##### § 174.115 Loading Class C explosives.

(a) Class C explosives may be loaded into any closed car in good condition, or into any container car in good condition. Car certificates are not required. Packages of Class C explosives must be blocked and braced to prevent their movement and possible damage due to movement of other freight during transportation. For methods of recommended loading and bracing, see Bureau of Explosives Pamphlet No. 6.

#### PART 175—CARRIAGE BY AIRCRAFT

15. In § 175.320 paragraph (a), the Table is revised by deleting the entire first two entries entitled "Electric blasting caps (more than 1,000)" and "Electric blasting caps (1,000 or less)" and replacing those entries as follows:

##### § 175.320 Cargo-only aircraft; only means of transportation.

(a) \* \* \*

##### § 176.9 "Order-Notify" or "C.O.D." shipments.

(a) A carrier may not transport Class A explosives, detonators, or detonating primers which are—

##### § 176.83 [Amended]

17. In § 176.83, paragraph (a) Table 1 is amended by deleting the words "blasting caps, with or without safety fuse (including electric blasting caps)"; in the fourth entry of both the vertical and horizontal columns and in place thereof adding the word "detonators."

18. In § 176.105 the first sentence of paragraph (d) is revised to read as follows:

##### § 176.105 Loading and unloading explosives.

(d) Detonators, detonating primers, detonating fuzes, fulminate of mercury, and other initiating or priming explosives defined in this subchapter constitute distinct types of explosives.

19. In § 176.177 paragraphs (c) and (e) are revised to read as follows:

##### § 176.177 Magazine vessels.

(c) *Location of explosives.* Class A and Class B explosives, in excess of 5,000 pounds, stored in any magazine vessel must be stowed below deck. No explosive may be stowed on deck unless the vessel is fitted with a deck house having a stowage area which meets the requirements in this subpart for the stowage of explosives. Detonators, Class A explosives, and detonating primers, Class A explosives, may not be stored on the same magazine vessel with other Class A explosives or Class B explosives.

(e) *Initiating explosives, detonators and detonating primers.* No initiating or priming explosive may be stowed in the same compartment with any other explosive when there is any high explosive on the same magazine vessel. Detonators and detonating primers must be stowed at least 25 feet from any bulkhead forming a boundary of a compartment containing any other explosives.

#### PART 177—CARRIAGE BY PUBLIC HIGHWAY

20. In § 177.835 the introductory text of paragraph (g), paragraphs (g)(2) (i) and (m) are revised to read as follows:

##### § 177.835 Explosives.

(g) No detonating primer may be transported on the same motor vehicle with any Class A or Class B explosive (except detonating primers). No detonator may be transported on the same motor vehicle with any Class A or Class B explosive (except detonators) unless—

(2) \* \* \*

(i) The detonators are in packagings as prescribed in § 173.66 of this subchapter which in turn are loaded into suitable containers or separate compartments. Both the detonators and the container or compartment must meet the requirements of the Institute of Makers of Explosives Standard (IME Safety Library Publication No. 22).

(m) *Detonators or other explosives.* Any explosive, including desensitized liquid explosives as defined in § 173.53(e) of this subchapter, other than liquid nitroglycerin, desensitized nitroglycerin or diethylene glycol dinitrate, transported on any motor vehicle transporting liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, must be segregated, each kind from every other kind, and from tools or other supplies. Detonators must be packed in specification MC 201 (§ 178.318 of this subchapter) containers.

21. In § 177.848 paragraph (a), the table is amended by deleting the words "blasting caps, with or without safety fuse (including electric blasting caps)," in the fourth entry of both the vertical and horizontal columns and in place thereof adding the word "detonators"; footnotes a and e are revised to read as follows:

##### § 177.848 Loading and storage chart of hazardous materials.

(a) \* \* \*

\* Detonators, Class C explosives, may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of detonating primers, or detonators, except as prescribed in § 177.835, in any quantity with articles named in vertical or horizontal columns b, c, e, or f is prohibited.

\* Does not include blasting agents, ammonium nitrate-fuel oil mixtures, or ammonium nitrate, fertilizer grade, which

may be loaded, transported or stored with high explosives, or with detonators, containing not more than 1 gram of explosive each, excluding ignition and delay charges.

22. In § 177.870 paragraph (d) is revised to read as follows:

##### § 177.870 Regulations for passenger carrying vehicles.

(d) *Hazardous materials on passenger carrying vehicles; quantity.* Where no other practicable means of transportation are available, the following articles in the quantities as shown may be transported in motor vehicles carrying passengers for hire in a space other than that provided for passengers: Not to exceed 100 pounds gross weight of any or all of the kinds of explosives permitted to be transported by passenger-carrying aircraft or rail car may be transported on a motor vehicle transporting passengers. *Provided, however,* That samples of explosives for laboratory examination, not to exceed two samples, or a total of no more than 100 detonators, Class C explosives at one time in a single motor vehicle, may be transported in a motor vehicle transporting passengers.

#### PART 178—SHIPPING CONTAINER SPECIFICATIONS

##### § 178.318 [Amended]

23. In § 178.318 the Heading, the first sentence of §§ 178.318-(a), and 178.318-2 (a) and (b) are amended by deleting the words "blasting caps, electric blasting caps" and replacing them with the word "detonators."

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this final rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available in the docket.

Issued in Washington, D.C., on November 30, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-37612 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-60-M

#### INTERSTATE COMMERCE COMMISSION

##### 49 CFR Part 1033

[Directed Service Order No. 1398 (Sub-No. 1)]

**Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Directed Service Order No. 1398 (Sub-No. 1).

**SUMMARY:** Pursuant to 49 U.S.C. 11125(b)(1), the Commission is extending Directed Service Order No. 1398 for an additional 90 days, subject to certain reductions in scope and other modifications. The Kansas City Terminal Railway Company (KCT) is being retained as the sole "directed rail carrier" (DRC), subject to possible later modification. Interested rail carriers are encouraged to seek temporary operating authority, without government reimbursement, over portions of the Rock Island rail system. Directed service may be selectively discontinued over any portions of the Rock Island system as to which temporary operating authority is granted. Affected persons are cautioned that directed service will not be extended beyond March 2, 1980, and that they should therefore plan for the post-directed service period.

**DATES:** This directed service order will be effective at 12:01 a.m. (central time (CT)) on December 4, 1979. Unless otherwise modified by the Commission, this order shall expire at 11:59 p.m. (CT) on the 90th day after its effective date (March 2, 1980).

**FOR FURTHER INFORMATION CONTACT:** Richard Schiefelbein (202) 275-0826.

##### SUPPLEMENTARY INFORMATION:

##### Decision of the Commission

Decided: November 30, 1979.

##### Background

On September 26, 1979, we directed the Kansas City Terminal Railway Company (KCT) to provide service as a "directed rail carrier" (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry.*

<sup>1</sup> This directed service order embraces the Peoria Terminal Company (PTC), a wholly owned subsidiary of RI. All future references to RI shall include PTC.



Co.—Operate—Chicago, R.I. & P., 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979). This action was necessary to prevent the severe transportation and economic dislocations which would have resulted from RI's lack of sufficient cash to operate and meet its common carrier obligations ("cashlessness" within the meaning of 49 U.S.C. 11125(a)(1)). *Id.* at 290-292.

In accordance with section 11125(b)(1), the initial directed service order was made effective for only 60 days. This initial directed service period expires at 11:59 p.m. (central time (CT)) December 3, 1979.<sup>2</sup> However, under section 11125(b)(1), we may extend the initial directed service period "for an additional designated period of not more than 180 days if cause exists."

The issue presently before us is whether we should extend directed service for an additional 180 days or less. For the reasons detailed below, we believe there is good cause to extend our initial directed service order for a period of 90 days with, however, a moderate reduction in the number of RI lines being operated under directed service.

#### Continued Directed Service

**Need for Continued Directed Service**—In our initial directed service order, we announced that public hearings would be held during the initial 60-day period to help us determine which RI lines and services are "essential" and require continued directed service. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 293-94. Accordingly, public hearings were scheduled in seventeen midwestern cities and interested persons were invited to express their views on the essentially of RI service. See 44 FR 59999 (October 17, 1979).

The preponderance of the testimony indicated that most RI service is sufficiently "essential" to require at least a partial continuation of directed service. Cessation of directed service at the end of the initial 60-day period would produce a wide array of economic and transportation dislocations. Many businesses would possibly be forced to shut down or relocate if RI service were immediately discontinued. Many parts of RI's service territory are said to be poorly adapted to truck transportation due to such factors as poor road conditions, highway

inaccessibility, weight limitations, and the like. Where truck transportation is feasible, the higher rates associated with such transportation would not only burden RI shippers but could also exacerbate the present inflationary spiral. While KCT moved much traffic over RI's lines during the initial directed service period, many grain elevators are still near capacity due to the recent bumper harvest, and many of RI's shippers—1,700 according to the Kansas City Board of Trade—are "captive" shippers served exclusively by RI.

Additionally, we note that numerous rail carriers, RI's bankruptcy court, and the United States Department of Transportation (DOT) have all indicated that more time is needed for the development of long-range solutions to RI's present financial crisis. The Secretary of Transportation is presently engaged in the so-called "§ 401 planning process" to facilitate the transfer of RI properties and services to other rail carriers. See letter dated November 19, 1979, from DOT Secretary Goldschmidt (Appendix A to this decision); *accord* Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Pub. L. No. 94-210, § 401, 90 Stat. 31 (February 5, 1976). As Secretary Goldschmidt states in his letter:

Continuation of directed service on the Rock Island system after December 3, 1979, should be compatible with and supportive of the 401 process now underway. . . . If directed service ended abruptly on December 3, we could not assume that other railroads which are interested in Rock Island properties would use their own resources to continue essential service over the Rock Island lines. . . . We recognize that certain strategic lines may indeed be sought by carriers for interim operation, but we are concerned that "cherry-picking" of the Rock Island system at this time would be disruptive to achieving an overall restructuring. . . . Directed service after December 3 should be structured to maximize our chance of reaching a long-range solution this winter and next spring and to assure continuation of gathering and through-line rail services. (See Appendix A, DOT letter at pages 2-3.)

In Secretary Goldschmidt's view, a 90-day extension of the basic directed service order would facilitate the § 401 planning process. Such an extension "would give all railroads interested in acquiring or using Rock Island lines a fair opportunity to study Rock Island traffic potential and how it would complement their own operations." See Appendix A, DOT letter at page 3.

Further, we are aware of the recently enacted Milwaukee Railroad Restructuring Act, Pub. L. No. 96-101 (November 4, 1979) (MRR Act). This new Act makes significant reorganization

measures possible for RI in the next 90 days. For example, section 17 of the MRR Act substantially expedites the processing of RI abandonments and property transfers. Further, section 17(b)(3) authorizes the RI bankruptcy court to permit potential purchasers to "operate interim service over the lines to be purchased." In view of the MRR Act—and the fact that the RI Trustee will submit a reorganization plan by December 10, 1979—it seems that directed service should be continued for another 90 days. This extension should provide ample time for the development of such long-range solutions to RI's difficulties as completion of the 401 process, implementation of a reorganization plan by the RI Trustee, submission of expedited abandonment and purchase applications under section 17 of the MRR Act, and acquisition of court-issued "temporary authority" (TA) under section 17(b)(3) of the MRR Act.

In order to obtain a court-issued TA under section 17(b)(3) of the MRR Act, a potential purchaser must first reach agreement with the RI Trustee. Then, the parties must submit the purchase proposal to the bankruptcy court and file an appropriate application with the Commission. Pending Commission review of the purchase application, the bankruptcy court "may, on a preliminary basis, authorize the sale or transfer proposed in such application" . . . (and) permit the purchasing carrier to operate interim service over the lines to be purchased." See section 17(b) of the MRR Act. We believe that the 90-day extension period is needed to permit the necessary negotiations and agreements to be completed.

**Operating Plan for Extended Directed Service**—In formulating an operating plan for extended directed service, our paramount consideration has been "essentiality." Both Congress and the courts have made it clear that directed service is merely a vehicle to "ensure that essential rail service provided by the bankrupt carriers" . . . would be continued pending development and implementation of a longer term reorganization of the bankrupt lines" (emphasis added). See *Lehigh & New England Ry. Co. v. ICC*, 540 F.2d 71, 74 (3d Cir. 1976), cert. denied 429 U.S. 1061 (1977) (analyzing the legislative intent behind the directed service statute). We cannot ignore Congress' earnest desire to economize where possible, as reflected in the legislation adopting the directed service provisions of 49 U.S.C. 11125 and its predecessor 49 U.S.C. 1(16)(b). See Regional Rail Reorganization Act of 1973 (3R Act), Pub. L. No. 93-236, sections 101(b)(6)

and 601(e), 87 Stat. 986 (1974) (45 U.S.C. § 701 *et seq.*); *accord*, *KCT—Operate—CRIP, supra*, 360 I.C.C. at 294 (44 FR 56344, 3rd column). Indeed, Congress has recently reaffirmed its commitment to having service directed only over "essential" lines. In the Conference Report on H.R. 4440 making appropriations for the Department of Transportation and related agencies, the Committee addressed the issue in explicit terms:

The conferees strongly believe that directed rail service should be only a temporary mechanism to continue essential rail service for a brief period of time until a permanent solution is implemented . . . The conferees believe that directed rail service should be continued only where it is essential to prevent severe economic disruption . . . The conferees direct the Commission to consider only essential services for further directed service orders and to limit the duration of any further directed service orders to the minimum period of time found necessary to implement a permanent solution. (See 125 Cong. Rec. H-10548 (November 9, 1979) [Conference Report on H.R. 4440].)

Accordingly, after analyzing the results of the public hearings and the staff's recommendations on essentiality, we have decided to extend the initial directed service order—with the partial cutback described below—for 90 days with KCT as the sole DRC, subject to possible later modification.

In deciding the extent to which directed service operations should be reduced, we have considered several options. We believe that one option reflecting a moderate reduction in the lines and services directed ("Option 1") provides the best accommodation between the needs of the shipping public and our duty to direct service only over essential lines. Under Option 1, directed service would continue only over 6,259 miles of RI's system (89% of total mileage). Based on 1978 operations, there would be a reduction of 7,449 originating-and-terminating (O&T) carloads out of a total of 774,000 carloadings. Based on 1978 revenues, this would project a reduction of 1 percent in revenues under Option 1. The number of RI employees needed to perform directed service would be reduced by 300-400 out of a total work force of 8,270. The specific lines excluded from directed service under Option 1 are described in Appendix B.<sup>3</sup>

<sup>3</sup>Although we are ending directed service over the lines listed in Appendix B, we recognize that there may be substantial amounts of RI equipment and traffic en route on these lines. Accordingly, we shall give KCT 10 days to move all necessary RI rolling stock from these lines and to complete the routing of traffic (other than traffic originating or terminating on these lines) which was already en

While Option 1 may produce some hardships on certain RI shippers, we believe that the cutbacks envisioned in Option 1 are justified by present traffic patterns and national transportation needs. As we had stated in the initial directed service order, *KCT—Operate—CRIP, supra*, 360 I.C.C. at 294 (44 FR 56344, 3rd column), affected persons should "recognize the fiscal and time constraints on directed service and . . . prepare for a winding-down of many operations now being conducted over RI lines."

We have decided to extend the directed service period for only 90 days, rather than 180 days, for several reasons. In light of the bankruptcy court's schedule for the RI reorganization plan and the Federal Railroad Administration's (FRA's) anticipated timetable for the results of its section 401 planning process, it appears that a 90-day extension (through March 2, 1980) would be quite adequate to permit restructuring plans to be initiated. The RI reorganization plan is due to the court on December 10, 1979; comments on the plan are due on January 10, 1980. FRA and interested railroads can use the remainder of January to finalize purchase and sale plans. The railroads and the RI Trustee can use February to negotiate purchase agreements under the MRR Act, file purchase applications with the Commission and the bankruptcy court, and request temporary operating authority from the court pursuant to section 17(b)(3) of the MRR Act. Since we believe 90 days would be adequate for the development and initiation of long-range restructuring plans for RI, we are not disposed to require taxpayer subsidization of directed service beyond this 90-day extension. See 125 CONG. REC. H-10548 (November 9, 1979) [Conference Report on H.R. 4440], *supra*.

We have determined that KCT should be retained as the sole DRC, at least initially, to operate all RI lines except those excluded from the directed service system under Option 1. See Appendix B for a comprehensive listing of the lines which will not be served under Option 1. For all the reasons stated in our initial directed service order, KCT is the logical choice for DRC. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 295-297 (44 FR 56345-56346). Moreover, since KCT has been the sole DRC during the initial 60-day period, it is thoroughly familiar with the present directed service situation. The KCT management team is already in place and can ensure that

route along these lines at the end of the initial 60-day directed service period.

there is no interruption in service between the 60-day and 90-day periods.

In directing service for an additional 90 days, we shall retain and extend all the provisions and directions contained in the initial directed service order (DSO No. 1398), except as changed herein and except as such provisions and directions may have been modified in the various supplemental and authorization orders and letters interpreting DSO No. 1398. Thus, our initial directions regarding such matters as reimbursement, rates, rehabilitation, and accounting shall continue to be effective during the upcoming 90-day period and are hereby expressly incorporated by reference. All supplemental orders and authorizations interpreting DSO No. 1398 shall remain in effect during the next 90 days to the extent necessary to effectuate DSO No. 1398 (Sub-No. 1), except to the extent any particular supplemental order or authorization is expressly scheduled to expire at the termination of the initial directed service period. Authorization Order No. 15 (served November 23, 1979) (44 FR 69071, Nov. 30, 1979), which provides for continuation of FRA's car rebuilding program, is expressly extended. Appropriate agreements to extend this extension among the parties shall be filed with the Commission.

Our decision to direct service for another 90 days does not mean we shall not be receptive to requests from interested carriers to provide service over RI lines at no cost to the government. As we stated in the initial directed service order:

The issuance of this directed service order does not preclude interested rail carriers (including the DRC) from filing petitions with the Commission to operate all or part of the RI system on a noncompensated basis under 49 U.S.C. 11123 . . . or similar provisions. In addition, we urge the DRC to consider waiving its right to government reimbursement under 49 U.S.C. 11125(b)(5) where such reimbursement is not essential to the provision of directed service. (See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 296.) (44 FR 56346, 1st and 2nd columns)

We hereby expressly reiterate this request and encourage all interested carriers to petition us for authority to operate all or part of the RI system on an unsubsidized basis.

In addition to filing requests with the Commission for "temporary authority" (TA) to operate parts of the RI system, we also note that the RI bankruptcy court has been empowered by section 17(b)(3) of the MRR Act to issue "TA's" to persons filing RI purchase applications under section 17(b). Accordingly, we encourage interested rail carriers to file purchase applications under section 17(b) and to request

<sup>2</sup>The initial 60-day directed service period began at 12:01 a.m. (CT) October 5, 1979, and expires at 11:59 p.m. (CT) December 3, 1979. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 315, as modified by Supplemental Order No. 3 to DSO No. 1398 (served October 5, 1979).



temporary operating authority from the RI bankruptcy court.

We expressly retain jurisdiction selectively to discontinue directed service over those portions of the RI system as to which TA's are granted either by the Court or by the Commission. In this way, directed service may be phased out earlier than 90 days, while essential services are preserved. The process for filing TA requests and petitions for similar relief is described below under the heading "Long-Range Restructuring."

We caution affected persons that directed service will cease at the end of the 90-day period. Accordingly, appropriate arrangements should be made by such persons for the transition to the post-directed service period. For example, carriers interested in operating or purchasing portions of the RI system should immediately begin developing the plans and conducting the negotiations which are a condition-precursor to their operational or acquisitional intentions. Further, shippers concerned about the movement of their traffic should immediately begin to investigate the availability of alternative transportation modes.

#### Long-Range Restructuring

**Section 401 Process**—We encourage and support DOT's ongoing efforts under section 401 of the 4R Act, *supra*, to coordinate purchase and sale plans. We shall direct the Commission's Section of Rail Services Planning to assist DOT and interested parties in facilitating the section 401 planning process. We urge all parties interested in acquiring portions of the RI system to so notify DOT and our Rail Services Planning office, and to participate in the section 401 process.

**RI Reorganization Plan**—The RI bankruptcy court has set December 10, 1979, as the deadline for the RI Trustee's submission of a reorganization plan for RI. Under the court's timetable, comments on the plan may be filed until January 10, 1980. The reorganization plan will assist interested parties in determining which parts of the RI system will not be included in any RI "core" and which, therefore, will not be operated absent financial assistance or a change in ownership. We encourage all interested parties to study the Trustee's reorganization plan and to use this as a basis for developing their own purchase or subsidy plans. Both DOT and the Commission should be apprised of any such purchase or subsidy plans as soon as possible.

**Abandonment and Purchase Applications**—Under the newly enacted MRR Act, *supra*, an expedited process

has been established for handling RI abandonment and transfer requests. See sections 17(a-b) and 19 of the MRR Act. The Commission is currently developing special regulations, on an expedited basis, to govern the handling of such abandonment and purchase applications. These regulations will be published in the *Federal Register* as soon as possible under the following docket designations: (1) The abandonment regulations will be docketed as Ex Parte No. 274 (Sub-No. 4); and (2) the transfer regulations will be docketed as Ex Parte No. 282 (Sub-No. 4). Due to the extremely short timeframes envisioned by the MRR Act, these regulations shall be promulgated as final regulations without prior notice and comment, pursuant to the exemption in section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)).

**Temporary Operating Authority**—As previously indicated, the RI bankruptcy court has been authorized by section 17(b)(3) of the MRR Act to issue temporary operating authority to persons filing RI purchase applications under section 17(b) of the MRR Act. Moreover, under 49 U.S.C. 11123 and 11125, the Commission has authority—in certain emergency situations—to authorize temporary operations by one rail carrier over the lines of another. We encourage interested parties to seek such temporary operating authority either from the RI bankruptcy court or from this Commission as soon as possible. We have already expressed our willingness selectively to discontinue directed service over those RI lines as to which either Court-issued or Commission-issued TA's may be granted.

#### Conclusion

For the foregoing reasons, we have decided to extend the initial directed service order (DSO No. 1398) for an additional 90 days beyond the initial directed service period, with the moderate reduction in service contemplated by Option 1. In view of KCT's expertise and proximity to the situation, we have further decided to designate KCT as the sole DRC, subject to possible later modification. We expressly reserve jurisdiction, however, selectively to discontinue directed service over those RI lines as to which temporary operating authority may be granted to other interested carriers.

#### We find:

1. Good cause has been demonstrated to warrant an extension of the initial directed service order for an additional

90 days, pursuant to 49 U.S.C. 11125(b)(1).

2. Our action in this decision will not result in a violation of 49 U.S.C. 11125(b)(2)(A-B).

3. This action will not significantly affect either the quality of the human environment or conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

4. Any findings made elsewhere in this decision but not specifically enumerated here are hereby expressly adopted.

#### It is ordered:

49 CFR 1033.1398 (Sub-No. 1), Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

1. KCT shall continue as sole DRC, unless otherwise ordered, over the RI system—as modified by "Option 1"—for a period of 90 days from the expiration of the initial 60-day directed service period.

2. The terms and directions of the initial directed service order (DSO No. 1398) are hereby retained and extended, except as changed in this order and except as such terms and directions may have been modified in the various supplemental orders and authorizations interpreting DSO No. 1398.

(a) All supplemental orders and authorizations interpreting DSO No. 1398 shall remain in effect during the next 90 days to the extent necessary to effectuate DSO No. 1398 (Sub-No. 1), except to the extent indicated in this decision.

3. All letters, pleadings and other submissions in this proceeding relating to the initial directed service order should bear the docket number "DSO No. 1398", and all submissions regarding this extension of the directed service order should bear the docket number "DSO No. 1398 (Sub-No. 1)".

(a) Copies of all submissions in this proceeding should be sent to the following Commission offices in the Commission's headquarters at 12th and Constitution Avenue, NW, Washington, DC 20423:

- Office of the Secretary (Room 2215) (original)
- Section of Finance (Room 5417)
- Office of Proceedings (3 copies)
- Section of Rail Services Planning (Room 7375) Office of Policy and Analysis (3 copies)
- Railroad Service Board (Room 7115)
- Bureau of Operations (3 copies)
- Bureau of Accounts (Room 6133) (3 copies)

4. All requirements specified in this decision but not specifically enumerated in the ordering paragraphs shall be followed as though specifically enumerated.

5. The Commission retains jurisdiction to modify, supplement or reconsider this order at any time.

6. This decision shall be served on all parties of record in DSO No. 1398, who are hereby made parties of record in DSO No. 1398 (Sub-No. 1) as well.

7. Notice of this decision shall be given to the general public by: (a) Depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC; and (b) filing a copy with the Director, Office of the Federal Register.

8. **Effective Date**—This decision and order shall be effective at 12:01 a.m. (CT) on December 4, 1979.

9. **Expiration Date**—Unless modified by the Commission, this decision and order shall expire at 11:59 p.m. (CT) on the 90th day after its effective date (March 2, 1980).

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Clapp concurring. Commissioners Gresham and Trantum dissenting.

Agatha L. Mergenovich,  
Secretary.

#### Appendix A

The Secretary of Transportation,  
Washington, D.C. 20590.

November 19, 1979.

Hon. A. Daniel O'Neal, Jr.,  
Chairman, Interstate Commerce Commission,  
Washington, D.C. 20423.

Dear Mr. Chairman: I am taking this opportunity to provide you my recommendations as to the continuation of directed service on the Chicago, Rock Island and Pacific Railroad (Rock Island). During the initial 60-day period of directed service by the Kansas City Terminal Railroad Company (KCT) on the Rock Island, the Department of Transportation has begun "the 401 process" which is authorized by sections 5 (a)-(d) of the Department of Transportation Act to facilitate the transfer of Rock Island properties and services to other railroads. Also during the period, the Department has worked closely with the KCT team and the Rock Island Trustee to help restore rail service as quickly as possible and to facilitate the changeover to directed service operation.

The initiation of directed service on the Rock Island was a historic and complex event. The Commission's staff and the railroads owning the KCT cannot be praised highly enough for the success of the initial operation. Within days of the October 5th

<sup>3</sup> Concurring and dissenting Statement of Chairman Clapp, Gresham, and Trantum filed as part of the original document.

directed service order, commuter ridership in Chicago was back to normal levels. One month after the order, 90 percent of the railroad was in operation, and carloadings thus far in November are running at 70 percent of the carloadings in November of 1978. This remarkable accomplishment is indicative of the management expertise of the KCT team and the cooperative spirit of Rock Island employees.

The initial 60-day period has stabilized the situation to the point where shippers have had the opportunity to consider or arrange for alternative transportation and employees have gone back to work under the President's Emergency Board order. The Commission, in extending directed service, should concentrate on achieving long-range restructuring at the lowest possible cost to the taxpayer and should specifically consider the likelihood of future acquisition or joint use by other railroads of Rock Island services and properties. Therefore, I want to advise the Commission of the results of our initial contacts with prospective purchasers and users and to recommend a policy for continuation of directed service consistent with the restructuring process now underway.

#### Sale and Transfer Process

On October 18 and 19, the Federal Railroad Administration met with 13 major railroads separately and later received proposals from two other railroads. The results of these meetings are presented in Attachment A, which identifies the specific line segments and facilities in which the prospective purchasers expressed an interest. The listings should be considered only as expressions of interest and not as specific offers to purchase, since the prospective purchasers did not have the benefit of detailed traffic data or complete knowledge as to the physical condition of the Rock Island facilities. We have since aided the Trustee in making available to these railroads the necessary information to the extent it is available.

A general review of the listings will indicate that nearly all Rock Island properties are being considered for prospective purchase. Some properties have several prospective bidders, and some bidders, if they choose to proceed, have not decided between acquisition of an entire line segment or only key Rock Island traffic points. In addition, we have not dismissed the possibility that transfers might take the form of trackage rights, with the Rock Island leasing its facilities to prospective users.

Over the next several months we will continue to use the 401 process to encourage and to facilitate sale and transfer proposals. We expect the Trustee to conduct active negotiations with potential purchasers of Rock Island lines, and will give our assistance to those negotiations. We also stand ready within the available funding authority and statutory requirements for obligation guarantees and preference shares to provide Federal assistance under Title V of the 4R Act for the purpose of helping acquiring railroads meet acquisition and rehabilitation costs.

At the direction of the Reorganization Court and with the concurrence of FRA and

the representatives of major creditor interests, the Trustee has undertaken an immediate study to determine whether a viable core of the Rock Island exists and whether such a core has a reasonable likelihood of becoming self-sustaining. The Court has limited the study, which is being conducted by an independent consultant, to the Rock Island service area extending from Des Moines north to the Twin Cities, south to Kansas City, west to Omaha and east to Chicago. A preliminary report is due to be presented to the Reorganization Court by December 10, and all parties of interest will have the opportunity to comment on the study's results until January 9, 1980.

#### Recommended Directed Service Policy

Continuation of directed service on the Rock Island system after December 3, should be compatible with and supportive of the 401 process now underway. An automatic extension of the current level of directed service for an additional 180 days is unnecessary from the standpoint of current traffic levels and would result in an excessive and unnecessary burden on the taxpayer. If directed service ended abruptly on December 3, we could not assume that other railroads which are interested in Rock Island properties would use their own resources to continue essential service over the Rock Island lines. This may not be the case where there are joint operating rights or pending applications before the commission for interim operating rights. Also, we recognize that certain strategic lines may indeed be sought by carriers for interim operation, but we are concerned that "cherry-picking" of the Rock Island system at this time would be disruptive to achieving an overall restructuring.

Directed service after December 3 should be structured to maximize our chance of reaching a long-range solution this winter and next spring and to assure continuation of gathering and through-line rail services. Thus, the Department recommends that the Commission divide its remaining 180-day authority into two segments. For the first 90 days, that is, from December 4 through March 2, we recommend continuation of directed service by the KCT. We believe extension of the existing type of directed service for this period is needed in order to give all railroads interested in acquiring or using Rock Island lines a fair opportunity to study Rock Island traffic potential and how it would complement their own operations. It is clear from our discussions with prospective purchasers that firm commitments concerning the substantial undertakings they are considering require reasonable time for careful analysis. Of course, during this 90-day period the Commission should be prepared to approve transactions that would shift the burden of continued service from the Government to private carriers, if these transactions do not significantly compromise any of the major options for final restructuring of the Rock Island system.

It is necessary to put new and more lasting arrangements in place for the period beginning March 3. We would not support continuation of a single carrier directed service operation after March 3, because that



approach would consume all of the remaining transition time that should be used for implementation of a long-range solution.

In order to provide time to review proposals for acquisition or operation of Rock Island lines before termination of the 90-day extension of directed service, we must establish a firm deadline for receipt of such proposals. I have publicly stated that *bona fide* offers must be presented to the Trustee, the Rock Island Reorganization Court, the ICC and DOT no later than February 1, 1980. Since actions of the Trustee, the Court and the Commission based on these proposals may determine ownership and operating patterns long into the future, it is important that they be the subject of careful planning, meaningful negotiations with the Trustee, and all necessary corporate approvals. Filings or offers from prospective purchasers or operators could take a variety of forms.

(1) If applications are filed with the Commission after November 1 and if the applying carriers seek to acquire from the Rock Island specified line segments or jointly operate over lines for their own account, we would strongly support the granting of interim operating rights while the Commission considers the full application. However, we must expect competing interests, and decisions will have to be made. Interim operating authority where acquisition is the objective, may also come from the Rock Island's Reorganization Court under Section 17(b)(3) of Public Law 96-101, the recent Milwaukee Railroad Restructuring Act. If we are to support a request for interim operating rights, we will need to know, prior to filing, the proposed purchase price, the agreement on responsibilities for Rock Island employees related to the specific services, and detailed traffic, operational and competitive information associated with the transaction.

(2) If an actual contract is impossible to reach, but the major issues are resolved in principle by the end of February, the prospective acquiring or joint use carrier may offer to become a voluntary service operator under the terms of Section 11123 or 11124 of the Interstate Commerce Act. Offers of this type would have to be accompanied by a description of line segments and stations to be served, and since voluntary service orders do not require labor protection, the offering carrier would have to specify any labor accords that would facilitate implementation of voluntary service.

(3) A carrier may strongly desire to operate portions of the Rock Island, but not be ready to finance new service on March 3. Such a carrier may be considered as a directed service operator from March 3 through May 31. Again, the interested carrier should detail how its operation would fit into the carrier's normal operations and in addition should provide a cost estimate for the indicated period.

(4) If a reorganized Rock Island core railroad should be proposed by the Trustee, we would be willing of course to look at its feasibility.

Finally, the complex process of transferring rail properties from the bankrupt to stronger railroads will demand the full cooperation of all Federal and State agencies as well as the best efforts of the Trustee and acquiring

railroads. I am convinced that the process can work if we receive such cooperation, and I am particularly encouraged by the responses of those railroads which have made known their prospective interest in purchasing segments of the Rock Island.

We need to do much in a very short time. The policy I am recommending to you for a limited continuation of directed service by the KCT will provide sufficient time for critical decisions to be made as to sale, transfer and continued operation of specific Rock Island properties within the private sector railroad industry.

Sincerely,  
Neil Goldschmidt.

#### Attachment A to Appendix A—Potential Interest in Acquisition of Rock Island Rail Lines by Other Carriers Exhibited at October 18-19 401 Sessions

##### Southern Pacific

1. Tucumcari line-Santa Rosa-Kansas City-St. Louis-Armourdale Yard.
2. Kansas City-Chicago. Would consider joint use of the line.
3. Memphis-Brinkley-Little Rock-Fordyce. Possibly Fordyce-Alexandria. Exclude Little Rock Shop.

##### Denver & Rio Grande Western

1. Denver and Colorado Springs-Council Bluffs and Kansas City.

##### Atchison, Topeka & Santa Fe—Major

1. Memphis-Tucumcari.
2. Topeka-Tucumcari.
3. Belfast-Quad Cities.
4. Atchison-St. Joseph.
5. Courtland-Omaha.
6. Ft. Worth-Dallas.

##### Minor

1. Chillicothe-Peoria.
2. McPherson area.
3. Salina, Kansas.
4. Amarillo-Bushland (Power Plant).
5. Elller-Morris Junction, Texas.
6. Enid, Oklahoma.
7. Krimlin.
8. Oklahoma City—switching.
9. Wellington, Kansas.
10. Wichita (15-20 miles).
11. Hutchinson (local industry).
12. Ft. Worth (local industry).
13. Dallas.

##### Burlington Northern

1. Chicago-Davenport, including Peoria and Lafayette branches. Also Silvis yard.
2. Des Moines-Twin Cities. Would consider coordination.
3. Des Moines-Iowa Falls-Estherville-Superior.
4. St. Joseph-Topeka.
5. Burlington-Medapolis. Preserve operating rights.
6. Fairfield-Davenport.
7. Keokuk industrial trackage.
8. Inver Grove Heights industrial trackage.
9. Iowana.
10. Fort Worth-Dallas, including yards.
11. Waxahatchie-Houston.
12. Amarillo industry, plus branch line to Liberal, Kansas.

##### Kansas City Southern

1. Kansas City-Twin Cities, including Iowa grain lines. Would consider route coordination with C&NW.
2. Kansas City-Chicago.
3. Winfield, La-Hodge.
4. Cadiz Yard in Dallas.
5. Dallas to Houston. Share with Fort Worth & Denver.

##### Missouri-Kansas-Texas

1. Topeka-Ft. Worth, plus trackage rights from Ft. Worth to Dallas.
2. Trackage rights McAlester-Oklahoma City.
3. The Rock Island interest in the HB&T (Houston).

##### Union Pacific

1. Not interested in overhead lines, but considering segments in Nebraska, Kansas and Colorado, and add-on stations in Iowa and Missouri.

##### St. Louis-San Francisco

1. Fort Worth-Dallas.
2. Carrollton-Irving, Texas.
3. Fort Worth-Enid, Oklahoma. Would save crews.
4. Oklahoma City-Clinton and O'Keene branch.
5. Norrick (serve carbon black plant).

##### Missouri Pacific

1. Malvern-Hot Springs.
2. Kansas City-St. Louis.
3. Trackage in North Little Rock.
4. Participate in split-up among existing carriers of line south of Little Rock.
5. Kansas City north (assuming no other railroad wants or if a railroad south of Kansas City wants to extend).
6. Trackage in Dallas.
7. Atchison, Kansas, to St. Joseph, Missouri.
8. Great Southwest railroad (Rock portion).
9. Hutchinson and Wichita gathering areas, and service to McPherson elevators.
10. Segments of Denver line.
11. Trackage in Topeka.
12. Mesa-Little Rock; Perry paper mill; branch to Stuttgart, Arkansas.

##### Chicago & North Western

1. Peoria-Bureau.
2. Clinton-Quad Cities plus West Liberty to Davenport.
3. Inver Grove Yard.
4. St. Paul-Kansas City.
5. Iowa Falls-Estherville, Rake-Albert Lea, Royal-Palmer, Earlham-Newton.
6. Armourdale Yard.

##### Illinois Central Gulf

1. Iowa Falls-Estherville-Superior plus branch to Buffalo Center.
2. Waterloo-Cedar Rapids-Davenport-Joliet.
3. Calumet Harbor.

##### Milwaukee Road

1. St. Paul-Kansas City or Mason City south.
2. Grain lines. Iowa Falls-Estherville-Sibley, Albert Lea-Estherville, Dows-Buffalo Center, and Hayfield Junction-Titonka.
3. West Davenport-Muscataine.
4. Seymour-Allerton.
5. Quad Cities industrial area via DRI&NW.

##### 6. Washington, Iowa.

In addition, subsequent discussions have elicited the following interest:

##### Toledo, Peoria & Western

1. Iowa Junction-Hollis.
2. Pekin trackage of Peoria Terminal plus trackage rights over P&PU.
3. Keokuk industrial trackage, plus possibly part of line running northwest from Keokuk.

##### Peoria & Pekin Union

1. Bureau-Peoria.
2. Peoria Terminal.

#### Appendix B—Lines Excluded Under Option 1

|                                                | Miles |
|------------------------------------------------|-------|
| Between Kansas and Owensville, MO.....         | 206.3 |
| Between Albert Lea, MN and Rake, IA.....       | 26.0  |
| Between Columbus Jct. and Centerville, IA..... | 104.7 |
| Between Adrian, TX and Tucumcari, NM.....      | 67.2  |
| From Lake Park, IA to Lismore, MN.....         | 40.6  |
| From Pella to Farmington, IA.....              | 88.8  |
| From Anadarko to Mangum, OK.....               | 79.2  |
| From Fordyce to Camden, AK.....                | 30.2  |
| From Bucklin to Dodge City, KS.....            | 26.5  |
| From Limon to Colorado Springs, CO.....        | 71.8  |
| Total mileage excluded (11% of system).....    | 741.3 |

**Definitions:** As used in this Appendix, the terms "between \* \* \* and" mean referenced points will continue to be served; "From" preceding the referenced point means that point will continue to be served; "To" preceding the referenced point means that point will not be served.

BILLING CODE 7035-01-M



CHICAGO, ROCK ISLAND AND  
PACIFIC RAILROAD COMPANY

[FR Doc. 79-37790 Filed 12-7-79; 8:45 am]  
BILLING CODE 7035-01-C

## Proposed Rules

Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

## Farmers Home Administration

## 7 CFR Part 1980

Business and Industrial Loan Program;  
Amendment

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to the administration of the Business and Industry (B&I) Loan Program. Changes involve: (1) Defining allowable fees and charges as eligible loan purposes; (2) Prohibiting the guarantee of tax-free bonds. The intended effect of the first action is to strengthen the program by setting acceptable parameters for fees and charges. The intended effect of the second action is to clarify FmHA's position on guaranteeing taxable bonds and tax-free bonds. These actions are being taken in response to agency recommendations to correct deficiencies in the regulation as suggested by the Department's Office of Inspector General.

**DATES:** Written comments on or before February 8, 1980.

**ADDRESSES:** Submit written comments in Duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

**FOR FURTHER INFORMATION CONTACT:** Darryl H. Evans, Director, Business Management and Development Division, telephone 202-447-4150.

**SUPPLEMENTARY INFORMATION:** FmHA proposes to amend various sections of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations. These changes are being proposed to strengthen the B&I program and are

made by FmHA at the recommendation of the Department's Office of Inspector General. The following specific revisions are proposed.

1. The Table of Sections and § 1980.488 are revised to clarify FmHA's position on guaranteed bond issues with regard to interest income being taxable. The revision will refer to guaranteeing any class or series of bonds.

2. Section 1980.411 (a)(13) and (14) are revised to include acceptable parameters for fees and charges and § 1980.423(a) is revised to conform to the proposed changes. When the B&I program was first implemented in late 1973 the regulations had certain restrictions on fees and charges. At a later date, when it was found necessary to help make FmHA loan guarantee paper saleable in the secondary market, part of the strategy was to allow fees which would encourage all private, interested parties to greater efforts. Therefore, FmHA's approach to determining the amount of fees was shifted in 1975 from one of rather rigid limits to one that was more flexible—with the standard being changed to "reasonableness." We now believe it appropriate to define "reasonableness" in measurable terms because in some instances we believe the standard of reasonableness is being misconstrued.

Since implementation of the 1975 regulations, FmHA has noted an increase in the number and amounts of fees.

The following are three general categories of fees which FmHA—B&I Division will recognize together with the valuation standards for each:

(a) "Loan Origination" or "Packaging" Fees—For services rendered by other than the lender in connection with preparation of an application and seeing the project presentation through to final FmHA decision. These services are ordinarily performed by a business consultant or an investment banker.

The schedule of allowable fees for loan origination or packing fees are as follows:

On principal amount of original loan amount: Up to \$1 million—2% all over \$1 million—¼% with a total maximum fee allowable of \$50,000.

(b) Professional Fees—These fees apply to services rendered by professionals generally licensed by individual state or Accreditation Associations, such as Engineers,

Architects, Lawyers, Public Accountants, Appraisers and the like. Allowable fees will be what is customary in a particular community; for example, Architects and Engineers customarily charge a fee based on a percentage of estimated project costs. Lawyers, Accountants, and Appraisers customarily charge for services rendered on an hourly basis, with special consideration given for additional charges in connection with extraordinary services performed.

(c) Lenders' Fees—These fees refer to all services performed by the lender, most generally classified as loan origination actions, marketing of the loan and loan servicing actions. The total of such fees and the interest charged can not exceed 1½% or 150 basis points over the highest published yield on Government National Mortgage Association (GNMA) securities at the date of loan closing.

Since the borrower is the entity that provides the job opportunities which enables FmHA to meet its objectives for rural development, FmHA believes the borrower should be given every opportunity to enhance the program's objectives by maintaining the borrower's true interest cost at reasonable rates. FmHA's investigation into the fees, charges, and interest rates has shown that the secondary market rate is on an average 50 basis points above the (GNMA) yield.

3. In § 1980.413 dealing with transactions which will not be guaranteed by FmHA a new subparagraph (c) has been added. This addition will prohibit guaranteeing loans when the financing arrangements include tax-free bond issues, since this form of financing would provide two benefits, (i.e. the government guaranteeing a loan and tax-free interest bonds sold to the general public to cover financing of a private business or industry). FmHA proposes to restrict any projects which provide either directly or indirectly financing through the use of tax free bond issues because of such double benefits to private business.

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted to the Chief, Directives Management Branch.

As proposed, Subpart E of Part 1980 is amended as follows:



**PART 1980—GENERAL**

1. The Table of Contents is amended to change the title of § 1980.488 to "Guaranteed bond issues."

2. Section 1980.488 is amended to change the title of the section and to amend paragraph (a) as follows:

**§ 1980.488 Guaranteed bond issues.**

(a) Loans to public bodies will be guaranteed only in connection with the issuance of any class or series of bonds (as defined in Section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of bonds the interest on which is excludable from gross income under Section 103(a)(1) of such Code. Before the execution of any Loan Note Guarantee, the lender will furnish FmHA evidence regarding the interest on the bonds. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

3. Section 1980.411(a) (13) and (14) are amended and read as follows:

**§ 1980.411 Loan purposes. \* \* \***

(a) *Private entrepreneurs* \* \* \*

(13) Reasonable fees, charges and rates only if specifically listed on Form FmHA 449-1 "Application for Loan and Guarantee," or on an addendum to the application at the time the request is submitted to FmHA for processing. Authorized professional fees include fees rendered by professionals generally licensed by individual state or accreditation Associations, such as Engineers, Architects, Lawyers, Accountants, appraisers and the like. Allowable fees will be what is customary in the community or region where the project is located for example, Architects and Engineers, customarily charge fees based on a percentage of estimated project costs. Lawyers, Accountants and appraisers customarily charge for services on an hourly basis. Any fee for professional or expert services are to be fully documented and justified, and are subject to FmHA approval. Loan Origination or packaging fees include services rendered in connection with preparation of an application and seeing the project presentation through to final FmHA decision. When not performed by the lender, these services are ordinarily performed by a consultant or an investment banker. The schedule of allowable fees are 2 percent of the total

principal amount of the loan up to \$1 million and on all amounts over \$1 million an additional ¼ percent up to a total maximum fee of \$50,000.

(14) Lender's rate includes all fees and services performed by the lender, most generally classified as loan origination actions, marketing and servicing actions in connection with the project. The total of such fees and the interest charged can not exceed 1½% or 150 basis points over the highest published yield on Government National Mortgage Association securities at the date of loan closing. Lenders will provide a calculation of the estimated rate at time the application is submitted to FmHA for approval. At loan closing the final rate will be calculated and submitted to FmHA. No other fees are permitted, except the FmHA guarantee fee.

4. In § 1980.413 a new paragraph (c) is added and reads as follows:

**§ 1980.413 Transactions which will not be guaranteed. \* \* \***

(c) The guarantee of any loan(s) when any planned source of the funding for the project will be raised thru the issuance of tax free bonds, the interest which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954, as amended. This includes bonds issued for the purpose of purchasing any portion of a loan or which will be secured by any portion of the loan.

5. In § 1980.423 paragraph (a) and the last sentence in paragraph (a)(1) are amended and read as follows:

**§ 1980.423 Interest rates.**

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower; however, the rate determined must be tied to the over all rate as set forth in § 1980.411(a)(14). If legally permissible, the interest rate can be either fixed or variable, but not both.

(1) \* \* \* There will be no floor on the variable interest rates, however, the maximum ceiling is limited to that interest rate which is no more than 1½% or 150 basis points, over the highest published yield on GNMA securities at the date of loan closing.

(7 U.S.C. 1989; delegation of authority of Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70)

**Note.**—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal

action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190; and Environmental Impact Statement is not required.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Draft Impact Analysis is available from the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, Washington, D.C. 20250.

Dated: November 30, 1979.

Alex P. Mercure,

*Assistant Secretary for Rural Development.*

[FR Doc. 79-37730 Filed 12-7-79; 8:45 am]

**BILLING CODE 3410-07-M**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 79-ASW-55]

**Alteration of Transition Area; Ruston, La.**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** The nature of the action being taken is to propose alteration of the transition area at Ruston, La. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Ruston Municipal Airport. The circumstances which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

**DATES:** Comments on or before January 9, 1980.

**ADDRESSES:** Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:** Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Ruston, La., will necessitate an amendment to this subpart.

**Comments Invited**

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before January 9, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

**The Proposal**

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area

at Ruston, La. The FAA believes this action will enhance IFR operations at the Ruston Municipal Airport by providing controlled airspace for aircraft executing instrument approach procedures to the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Ruston, La., transition area by deleting the present description and substituting the following:

**Ruston, La.**

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruston Municipal Airport (latitude 32°30'45"N., longitude 92°37'45"W.), and within 3 miles each side of the 089° bearing from the airport extending from the 6.5-mile radius area to 7.5 miles east; and within 3.5-miles each side of the Ruston, La., VOR (latitude 32°27'54"N., longitude 92°36'30"W.), 159° radial extending from the 6.5-mile radius area to 11.5 miles south of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 29, 1979.

C. R. Melugin, Jr.,

*Director, Southwest Region.*

[FR Doc. 79-37608 Filed 12-7-79; 8:45 am]

**BILLING CODE 4910-13-M**

**14 CFR Part 91**

[Docket No. 19793; Notice No. 79-20]

**General Operating and Flight Rules; Airplane Tires****Correction**

In FR Doc. 79-36645, published at page 68759, on Thursday, November 29, 1979, make the following corrections.

1. On page 68759 the heading should read as set out in the heading of this document.

2. On page 68761, in the first column insert "Part 91—General Operating and Flight Rules" before "§ 91.59 Airplane tires".

**BILLING CODE 1505-01-M**

**DEPARTMENT OF COMMERCE****National Telecommunications and Information Administration****15 CFR Part 2303**

[Docket No. 79-2]

**Reimbursement of Public Participation Expenses**

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, seeks public comment on proposed rules and policies to govern the reimbursement of public participation expenses to individuals and groups participating in its proceedings. This action is taken pursuant to the President's Memorandum to the Heads of Executive Departments and Agencies, dated May 16, 1979, 15 Weekly Comp. of Pres. Doc. 867-68 (May 25, 1979), and is authorized under Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979, Pub. L. 95-431, 92 Stat. 1021 (1979); the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405 (1978); and 15 U.S.C. 1525. This rulemaking has been approved by the Plain English Officer of NTIA as prescribed by Department Administrative Order 205-1, Amendment 4, § 6.03 (1971).

**DATES:** Comments should be submitted on or before January 9, 1980. Reply comments should be submitted on or before February 8, 1980.

**ADDRESS:** An original and seven copies of comments should be sent to the National Telecommunications and Information Administration, Office of the Chief Counsel, Room 703, 1800 G St., NW., Washington, D.C. 20504.

**FOR FURTHER INFORMATION CONTACT:** Robert Hunter (202) 377-1866.

**SUPPLEMENTARY INFORMATION:** In the matter of Reimbursement of Public Participation Expenses: *Notice of Proposed Rulemaking.*



1. In a Memorandum to the Heads of Executive Departments and Agencies,<sup>1</sup> President Carter stated:

[C]itizen groups often find the cost of meaningful participation in agency proceedings to be prohibitive. Many citizen groups are unable to pay the costs of experts and attorney's fees, clerical costs, and the cost of travel to agency proceedings. As a result, the views and interests of consumers, workers, small businesses, and others often go unrepresented, or underrepresented, in proceedings that may have substantial impacts on their health, safety, or economic well-being.

Consequently, the President directed each Executive Department and Agency that has not already established a public participation funding program to determine whether it has the explicit or implicit authority necessary to establish a program to provide assistance to persons:

(1) whose participation in a proceeding could reasonably be expected to contribute to a fair disposition of the issues and (2) who would be unable to participate effectively in the proceeding in the absence of such assistance.

The President further directed that each such department or agency evaluate its need for a public participation funding program and establish such a program, if the department or agency has the statutory authority to establish a funding program and public participation in that agency's or department's proceedings is determined to be necessary or appropriate for a fair resolution of the issues involved.

2. NTIA has determined that it has the legal authority to establish a public participation funding program. That determination is based on our interpretation of NTIA's statutory authorizations found in Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979,<sup>2</sup> the Public Telecommunication Financing Act of 1978,<sup>3</sup> and 15 U.S.C. 1525.<sup>4</sup>

<sup>1</sup>15 Weekly Comp. Pres. Doc. 867 (May 1979).

<sup>2</sup>Pub. L. 95-431, 92 Stat. 1021. Section 391 of that Act allows NTIA to expend the appropriated funds for our "necessary expenses, as provided by law." 92 Stat. at 1034.

<sup>3</sup>Pub. L. 95-567, 92 Stat. 2405, 47 U.S.C. 390, *et seq.* (PTFA). The PTFA provides that the Secretary of Commerce may expend funds appropriated under the Act "to cover the costs of administering this subpart." 47 U.S.C. 391. The powers and responsibilities of the Secretary of Commerce are delegated to the Assistant Secretary for Communications and Information pursuant to Departmental Organizational Order 10-10 and are further delineated in Departmental Administrative Order 25-7 (attached as Appendices A and B respectively).

<sup>4</sup>Section 1525 provides that NTIA may expend funds for the purposes detailed in that section.

Viewing these authorizations in light of the Comptroller General's statements<sup>5</sup> and the acquiescence of the Department of Justice in the views expressed by the Comptroller General, it is clear that NTIA has the necessary authority to fund individuals and groups desiring to participate in its proceedings, provided that it is determined that the participation of particular individuals or groups is reasonably necessary for the fair disposition of issues before the agency and that the participation of these individuals or groups would not be effective without financial assistance.<sup>6</sup>

3. In assessing the need for developing and instituting a program to fund public participation in NTIA proceedings, it must be noted that until recently NTIA performed no rulemaking functions that would require or be appropriate for public participation. However, with the transfer of the functions of the Educational Broadcasting Facilities Program from the Department of Health, Education, and Welfare to the Public Telecommunications Facilities Program (PTFP) of NTIA, it is now appropriate for NTIA to establish a public participation funding program such as that described by the President in his memorandum.<sup>7</sup> NTIA has therefore issued this Notice to consider and receive public comment on its adoption

which include the undertaking of special studies on matters within the authority of the Department of Commerce, and engaging in joint projects of mutual interest with non-profit organizations, research organizations or public organizations. That section also authorizes the Secretary to equitably apportion the costs of these projects between the Department of Commerce and such organizations and to waive payment of these costs when authorized to do so under regulations approved by the Office of Management and the Budget.

<sup>5</sup>See: Comptroller General, Opinion B-139703, July 24, 1972 (Federal Trade Commission could pay attorney, transcript, witness and attendance expenses incurred); Comptroller General, Opinion B-92288, February 19, 1976 (Nuclear Regulatory Commission has the authority to pay costs of indigent intervenor groups). See also Comptroller General, letter to Congressman William Clay, File B-139703, September 22, 1976. The Comptroller General's letter specified that it must be determined that "both the participation itself and payment therefore are necessary," at 3.

<sup>6</sup>See Comments and Reply Comments of NTIA in Matter of Reimbursement of Expenses for Participation in Commission Proceedings, before the Federal Communications Commission, Gen. Doc. No. 78-205 (filed October 18, and November 15, 1978 respectively), for a thorough discussion of the decisions of the Comptroller General. See also *Financial Compensation of Participants in Administrative Proceedings*, 43 FR 17806 (1978), in which the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, established a program based on an analysis of its own statutory authorization.

<sup>7</sup>NTIA has in fact already funded the participation of several public telecommunications entities in some policy development matters under the PTFP where it was felt their participation was reasonably necessary to a fair disposition of the issues.

of the Proposed Rules Relating to the Reimbursement of Public Participation Expenses set out below.

4. In developing the proposed rules three areas have been identified in which public participation would seem to be most appropriate: agency inquiry and rulemaking proceedings, and termination proceedings under the PTFP. It would appear that these areas exist primarily in connection with the PTFP, and therefore that public participation will probably be confined to that program. However, we now believe that it is advisable to cast the coverage of funding public participation in a general manner so as to reach all agency matters that may be determined to be appropriate for public participation. This discretionary ability would enable NTIA to fund public participation in its various proceedings and thereby obtain the benefits of public participation in any of its policy development matters where such participation is necessary or appropriate, even though a particular matter might not be properly categorized as an inquiry, rulemaking or termination proceeding.<sup>8</sup>

With regard to termination proceedings under Section 392(g) of the PTFA, a local public interest group may desire to participate and be able to make substantial contributions in those proceedings. In such a case NTIA and the public would benefit significantly from the funding of that group's participation, if the group would otherwise be unable to effectively participate. In view of possible due process claims by impoverished recipients of PTFP facilities grants, the question arises as to whether NTIA should provide some compensation for those recipients who are the subjects of termination proceedings and are unable to afford legal representation. We are of the opinion that some degree of compensation should be available to

<sup>8</sup>Thus, NTIA, as the lead Administrative agency, has held informal public sessions to assist in the development of the Administration's position on the entry of the Postal Service into the electronic message service, *Electronic Communications Policy in Postal Area*, 43 FR 60164 (December 26, 1978), and NTIA's development of proposed legislation regarding privacy. These could arguably have been classified as inquiries, but regardless of the procedural label, NTIA believes that the agency should have the discretion to fund public participation in such matters where appropriate. We stress, however, that we will not fund public participation in the development of NTIA positions before other administrative agencies, e.g. the FCC. Administrative agencies, such as the Commission, are themselves decisional bodies, and while NTIA would welcome (and has already welcomed) any and all discussions with the public in formulating its position, it would be wholly inappropriate for us to hold "inquiries" paralleling the process of the independent agency to whom Congress has delegated the decisional authority.

individuals and groups who can make a *bona fide* showing that they would be unable to effectively participate without reimbursement and that their interests would not otherwise be represented in the proceedings. Consequently, applications for reimbursement from grant recipients for legal representation in termination proceedings will be considered.

6. It must be emphasized, however, that NTIA is not to be considered as an initial source of funding in any case. In making an application for reimbursement under paragraph (d), it will not be considered sufficient for an applicant merely to state that it is a public telecommunications entity (or a public interest group) affected by the proposed agency action with no funds budgeted or presently available to meet the expenses of participation. All applicants for assistance must first seek funds from members of the public generally. Organizations representing similar interests are encouraged to pool their resources. In denying or partially granting an application for funding, the Associate Administrator of the program office initiating an agency action shall, to the extent possible, indicate when other groups or individuals present similar interests. Such individuals or groups should be contacted as alternate or supplementary sources of funding. In proceedings involving public telecommunications entities funded by a State or a subdivision of a State, it will be presumed that adequate funding will be available for participation expenses (including legal representation in termination proceedings), unless a compelling showing to the contrary is made by the applicant.

7. In discussing the proposed rules, participants should direct their comments toward what they believe should be the appropriate areas for public participation in NTIA proceedings. Commenters should be aware that the proposed rules, set out below, have been adapted from the rule<sup>9</sup> promulgated by the Federal Trade Commission (FTC) pursuant to the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.<sup>10</sup> In view of the experience of that agency with this type of rule, participants should comment on the necessity or advisability of imposing a ceiling on funds available to a single entity in one proceeding or over each fiscal year. Although NTIA would not ordinarily be subject to the adversarial interests commonplace at the FTC, prudence and a due respect for the fiscal integrity of

<sup>9</sup>40 CFR 1.17.

<sup>10</sup>Pub. L. 93-637, 88 Stat. 2183 (January 4, 1975).

the PTFP and the agency itself suggest that some guidelines for the exercise of our discretion are appropriate. Toward that end, we have proposed to limit agency payments for attorney's fees in termination proceedings to 50 percent of the cost of such representation. Perhaps it would be sufficient for us to establish a ceiling on the amount of funds available to a single entity in one proceeding. Perhaps in termination proceedings the total amount of reimbursement should be limited to a percentage of the Federal interest at stake in those proceedings. In commenting on the propriety and adequacy of establishing such limitations, parties should keep in mind that funds for reimbursement of public participation in PTFP proceedings are very limited.

#### Ex Parte Rules

8. Because the proceeding could be regarded as largely procedural in nature, there is, in all likelihood, little need for a provision dealing with ex parte contact. Nevertheless, we think it sound simply to adhere to our established practice in this regard. Our desire is to "foster genuine and fair dialogue" between interested parties and the agency while simultaneously creating a full administrative record. This objective provides interested parties with an opportunity to contribute information and arguments regarding a proposal while preserving both basic fairness and the agency's flexibility in informal rulemakings. To further this end, NTIA has adopted guidelines to govern rulemaking proceedings in our PTFP *Notice of Proposed Rulemaking*, 44 FR 13262 (1979). NTIA decision-making personnel will be permitted to engage in communications with the public regarding the rulemaking. However, the public will be advised that copies of written communications and summaries of conversations and meetings will be placed in the public file, such a procedure will give us the benefit of the fullest possible public input into our decisions, will assure basic fairness and will create a record of all discussion, thus facilitating any judicial review.

9. Interested parties are encouraged to submit comments on this Notice. An original and seven copies of any comments should be filed by January 9, 1979 with: Office of Chief Counsel, NTIA/DOC, 1800 G Street, NE., Washington, D.C. 20504. Reply comments must be submitted on or before February 8, 1979. Parties having questions concerning this proceeding should contact Robert Hunter, Office of the Chief Counsel, Room 703, telephone 377-1866.

10. All parties intending to file comments in this matter are requested to file a Notice of Intent to Participate with the Office of Chief Counsel at the above address ten (10) days prior to the date for filing comments in this proceeding. We must stress, however, that the filing of a Notice of Intent to Participate is not a condition for participation in this proceeding. The name and address of each party filing such a notice will be available from the NTIA Office of Public Affairs five (5) days prior to the date for filing of comments. A certificate of service reflecting that a copy of the comments has been served on each party listed as having filed a Notice of Intent to Participate should be attached to the comments. Comments will be available for inspection during regular business hours in Room 703 at the above address.

11. The foregoing is in the nature of a continuing experiment to determine whether we can facilitate the exchange of information among the filing parties. By doing so we would be enhancing our ability to "genuinely deal with the public" —a purpose which is central to this proceeding. Consequently, we have decided to adopt these procedural requirements for this proceeding. Our belief is that these requirements will not prove overly burdensome or costly and, rather, will be welcomed by parties who will then be able to obtain timely and complete information regarding the rule making. Nevertheless, we would appreciate any suggestions as to how we might improve this procedure by lessening the burden on commenting parties while accomplishing the goals set out above.

Dated: December 5, 1979.

Henry Geller,  
Administrator, National Telecommunications  
and Information Administration.

#### PART 2303—REIMBURSEMENT FOR PUBLIC PARTICIPATION EXPENSES

##### § 2303.1 Compensation for representation in proceedings.

(a) *Purpose of compensation.* The National Telecommunications and Information Administration (the agency) may provide compensation for reasonable attorneys fees, expert witness fees and other costs of participation, including costs necessary for the preparation of oral or written presentations, to any person who has or represents an interest which would not otherwise be adequately represented in any proceeding, described in paragraph

<sup>11</sup>Wright, Skelly, J., *The Courts and the Rulemaking Process: The Limits of Judicial Review*, 59 Cornell L. Rev. 375, 381 (1974).



(b) of this section, and representation of which is necessary or appropriate for a fair determination of the proceeding taken as a whole, and who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceeding.

(b) *Proceedings covered.* Compensation for participation in agency proceedings may be made available in proceedings initiated by a Notice of Inquiry, a Notice of Proposed Rulemaking, a Notice of Termination or in any proceeding initiated by the agency and determined by the agency to be appropriate for public participation. Such determination shall be made by the Office of Chief Counsel at the request of the Associate Administrator of any program office within the agency.

(c) *Level of funding.* At or after the time of the initial Notice of Inquiry, Notice of Proposed Rulemaking or Notice of Termination, the agency may announce a tentative total level or funding for compensation for participation in that proceeding. In cases involving the reimbursement of attorneys' fees for representation in termination proceedings, agency payments shall not exceed 50 percent of the total costs for such representation.

(d) *Applications.* An application for compensation for participation in a rulemaking proceeding may be filed at any time after the publication of the initial Notice of Inquiry, Notice of Proposed Rule Making, Notice of Termination or other public notice. An application for compensation shall be filed prior to the time when the costs for which compensation is sought are incurred. Such application shall contain the following:

(1) A description of the interest the applicant has or represents in the rulemaking proceeding;

(2) A statement of the reasons representation of such interest is necessary for a fair determination of the proceeding taken as a whole;

(3) Insofar as possible, the reasons why such an interest would not otherwise be adequately represented in the proceeding;

(4) A statement of the reasons the applicant is unable effectively to participate in the proceeding without financial assistance including information relating to:

(i) The interest involved as compared with the costs of participation;

(ii) The feasibility of contributions to the costs of participation by individual representatives of the interest;

(iii) The resources of the applicant, or of the interest represented by the applicant for financial assistance;

(5) Insofar as possible, a specific statement of the expenses to be incurred for which compensation is sought, including an estimate of the total anticipated expenses; and

(6) A statement of the organizational and financial status of the individual (or group) applying for compensation in such form as the agency may prescribe.

(e) *Determination of applications—(1)*

*By an Associate Administrator.* The Associate Administrator of the program office initiating an action described in paragraph (b) of this section shall consider applications for compensation filed with his or her office under this section and forward initial findings to the Office of the Chief Counsel as to whether the applicant meets the criteria of paragraph (a) of this section. In determining whether the representation of an interest is necessary for a fair determination of the proceeding taken as a whole, the Associate Administrator shall consider, among other factors, the number and complexity of the issues involved and the importance of a fair, balanced representation of all interests. In determining whether an applicant can afford to pay the costs of participation, the Associate Administrator shall consider the interest involved as compared with the costs of participation; the resources of the applicant for financial assistance; and the feasibility of obtaining contributions from other parties who share the same interest as the applicant for financial assistance. In connection with the making of this determination the Associate Administrator may conduct such inquiry or investigation, or require the production of documents by the applicant for financial assistance.

(2) By the Office of the Chief Counsel. The Office of the Chief Counsel shall review applications and the initial findings of the Associate Administrator of the program office initiating an action described in paragraph (b) of this section and determine to what extent compensation shall be authorized under this section.

(f) *Payment of compensation—(1) In general.* The agency will compensate the applicant only for those authorized expenses actually incurred. Appropriate proof of actual expenditures may be required by the agency. The agency may make any payments under this section in advance where necessary to permit effective participation in the proceedings described in paragraph (b) of this section. Advanced payments will be conditioned upon the execution by each applicant for financial assistance

of an appropriate agreement setting forth the terms and conditions of the compensation.

(2) *Attorneys' fees; expert witness fees.* Attorneys' fees at a rate in excess of \$50.00 per hour will be considered presumptively unreasonable and compensation will not be provided for such excess in the absence of special justification. Experts and consultants will be compensated at a rate not to exceed the highest rate at which experts and consultants to the agency are compensated—such rate shall be evaluated annually by the Associate Administrator of each program office within the agency.

(President's Memorandum of May 16, 1979, vol. 15 of the weekly Compilation of Presidential Documents, pages 867-868, May 25, 1979; Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979, Pub. L. 95-431, 92 Stat. 1021; the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405; and 15 U.S.C. 1525)

#### Appendix A

Note.—This Appendix A is being published for informational purposes only and will not be published in the Code of Federal Regulations.

#### Department of Commerce

##### Office of the Secretary

[Dept. Organization Order 10-10]

#### Assistant Secretary for Communications and Information; Statement of Organization Functions, and Delegations of Authority

##### Section 1. Purpose

.01 This order establishes the National Telecommunications and Information Administration (NTIA) and prescribes the scope of authority and the functions of the Assistant Secretary, NTIA. The organizational structure and the assignment of functions are prescribed in Department Organization Order 25-7.

.02 This order also shares an authority for the investigation of non-ionizing radiation between NTIA and NBS (subparagraph 5.01c).

##### Section 2. Administrative Designation

The position of Assistant Secretary of Commerce for Communications and Information (the "Assistant Secretary") was established by Section 4 of Reorganization Plan No. 1 of 1977. The Assistant Secretary is appointed by the President by and with the advice and consent of the Senate.

##### Section 3. Scope of Authority

.01 The National Telecommunications and Information Administration is hereby established as an operating unit of the Department of Commerce.

.02 The Assistant Secretary shall head NTIA as the Administrator.

.03 The Deputy Assistant Secretary for Communications and Information, who shall

also serve as the Deputy Administrator, of NTIA, shall perform such functions as the Assistant Secretary shall from time to time assign or delegate, and shall act as Assistant Secretary during the absence or disability of the Assistant Secretary or in the event of a vacancy in the office of the Assistant Secretary.

#### Section 4. Transfer of Functions

Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, Sections 4 and 5.B of Reorganization Plan No. 1 of 1977 and Executive Order No. 12046 of March 26, 1978:

a. The functions, personnel, funds, property, and records transferred to the Secretary of Commerce pursuant to Reorganization Plan No. 1 of 1977 are hereby transferred to the NTIA.

b. The functions, personnel, funds, property, and records of the Office of Telecommunications, Department of Commerce, are hereby transferred to the NTIA.

c. The effective date of such transfers shall be determined by the Assistant Secretary for Administration, in consultation with the Assistant Secretary.

#### Section 5. Delegation of Authority

.01 Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Assistant Secretary is hereby delegated the authority vested in the Secretary of Commerce under:

a. Section 5.B of Reorganization Plan No. 1 of 1977, and by Executive Order No. 12046, including:

1. Subsection 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 701 *et seq.*) as amended to advise and assist the President in connection with the functions previously conferred upon the President as described more particularly in Part B, Section 7 of Executive Order No. 12046.

2. Subsection 305(a) of the Communications Act of 1934 (47 U.S.C. 305(a)) to assign frequencies to, and amend, modify, and revoke frequency assignments for radio stations belonging to and operated by the United States, subject to the disposition of appeals by the Director, Office of Management and Budget (OMB), and make frequency allocations.

3. Subsection 305(d) of the Communications Act of 1934, as amended, (47 U.S.C. 305(d)), to authorize a foreign government to construct and operate a radio station at the seat of government. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairperson of the Federal Communications Commission.

b. 15 U.S.C. 272(12) and (13), which relate to the investigation of the conditions which affect transmission of radio waves and to the compilation and distribution of information about such transmissions;

c. 15 U.S.C. 272(9), the functions which relate to the investigation of non-ionizing radiation, its uses, and means of protection of

persons from harmful effects, to the extent appropriate to coordination of research throughout the Executive Branch.

.02 The Assistant Secretary may exercise other authorities of the Secretary to the extent applicable to performing the functions assigned in this order. This includes the use of administrative and monetary authorities contained in 15 U.S.C. 271 *et seq.*, as may be necessary or desirable to perform the NTIA functions; and the authority to foster, promote, and develop the foreign and domestic commerce of the United States in effecting, and as such commerce may be affected by, the development and implementation of telecommunications and information systems.

.03 The Assistant Secretary may redelegate any authority conferred by this order to any employee of the NTIA, and may authorize further redelegation by any such employee as appropriate, subject to such conditions as may be prescribed.

#### Section 6. General Functions and Objectives

The Assistant Secretary shall:

.01 Serve as the President's principal advisor on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

.02 Advise the Director, OMB on the development of policies for procurement and management of Federal telecommunications systems.

.03 Conduct studies and evaluations concerning telecommunications research and development, the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and programs, and make recommendations concerning their scope and funding to appropriate agency officials and to the Director, OMB.

.04 Develop and set forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations. The Assistant Secretary shall coordinate economic, technical, operational, and related preparations for U.S. participation in international telecommunications conferences and negotiations; provide advice and assistance to the Secretary of State with respect to international telecommunications policies to strengthen the position and serve the best interests of the United States in the conduct of foreign affairs.

.05 Provide for the coordination of the telecommunications activities of the Executive Branch and assist in the formulation of policies and standards for the telecommunications activities of the Executive Branch including considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

.06 Develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and the regulation of the telecommunications industry.

.07 Ensure that the Executive Branch views on telecommunications matters are

effectively presented to the Federal Communications Commission and, in coordination with the Director, OMB, to the Congress.

.08 Assign frequencies to, and amend, modify, and revoke frequency assignments for radio stations belonging to and operated by the United States, make frequency allocations, establish policies concerning spectrum assignment allocation and use, and provide the various departments and agencies with guidance to assure that their conduct of telecommunications activities is consistent with these policies.

.09 Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources, including jointly determining the National Table of Frequency Allocations.

.10 Conduct studies and develop, set forth or recommend policies concerning the impact of the convergence of computer and communications technology and the emerging economic and social implications of the greater ability to originate, manipulate and move information.

.11 Coordinate Federal telecommunications assistance to State and local governments; conduct studies to identify and provide assistance to remove barriers to telecommunications applications; conduct needs assessments to aid in the design of telecommunications services and provide experimental and pilot tests of telecommunications applications to fulfill national goals; and provide for the application of telecommunications technologies and services to avoid waste and achieve an efficient delivery of public services in the furtherance of national goals.

.12 Participate with and perform staff services for the National Security Council and the Director, Office of Science and Technology Policy in carrying out their functions under Executive Order No. 12046.

.13 Participate in evaluating the capability of telecommunication resources in recommending remedial actions and in developing policy options.

.14 Review and coordinate research into the side effects of non-ionizing electromagnetic radiation and coordinate, develop and set forth plans, policies, and programs therefor.

.15 Acquire, analyze, synthesize and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect propagation, on the nature of electromagnetic noise and interference, and on methods for the more efficient use of the electromagnetic spectrum for telecommunications purposes; and prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions.

.16 To the extent it is deemed necessary to continue the Interdepartment Radio Advisory Committee (IRAC), that Committee shall serve in an advisory capacity of the Assistant Secretary.

.17 Perform analysis, engineering, and administrative functions, including the maintenance of necessary files and data



bases, as necessary in the performance of assigned responsibilities for the management of electromagnetic spectrum.

18. Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum, in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

19. Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other government agencies.

20. Conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

21. Make grants, enter into cooperative agreements, or make proposals for contracts related to any aspect of assigned responsibilities, in accordance with Department rules.

22. Issue such rules and regulations as may be necessary to carry out the functions delegated by this order.

23. Conduct such other activities as are incident to the performance of telecommunications and information functions assigned in this order.

#### Section 7. Support Services

The Assistant Secretary for Administration, in consultation with the Assistant Secretary, shall ensure that other organizations of the Department provide to NTIA, as appropriate, specified personnel and other administrative support services, and accounting and payroll services after consultation with the head of the operating unit concerned.

#### Section 8. Transitional Provisions

All rules, regulations orders, determinations, authorizations, contracts, grants agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending, or entered into by or for OT, or OTP with respect to functions transferred to the Secretary by Section 5.B of Reorganization Plan No. 1 of 1977, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

#### Section 9. Effect on Other Orders

This order supersedes Department Organization Order 30-5A, Office of Telecommunications, of July 13, 1972, and constructively amends all Department orders which refer to the Office of Telecommunications.

Date of issuance and effective date: May 9 1978.

Juanita M. Kreps,

Secretary of commerce.

#### Appendix B

Note.—This Appendix B is being published for informational purposes only and will not be published in the Code of Federal Regulations.

#### Department of Commerce

##### Office of the Secretary

Dept. Organization Order 25-7

#### National Telecommunications and Information Administration; Statement of Organization; Function and Delegation of Authority

##### Section 1. Purpose

This order prescribes the organization and assignment of functions within the National Telecommunications and Information Administration (NTIA). The functions and scope of authority of NTIA are set forth in Department Organization Order 10-10.

##### Section 2. Organization and Structure

The principal organization structure and line of authority shall be as depicted in the attached organization chart (Exhibit 1).

##### Section 3. Office of the Administrator

.01 The Assistant Secretary for Communications and Information shall be the Administrator of NTIA (the "Administrator") and shall determine policy, direct programs, and be responsible for all activities of NTIA.

.02 The Deputy Assistant Secretary for Communications and Information shall be the Deputy Administrator of NTIA (the "Deputy Administrator"), shall assist the Administrator in the formulation of policies and in the management and direction of NTIA, and shall perform the functions of the Administrator in the latter's absence or disability or in the event of a vacancy in that office.

##### Section 4. Special Staff Offices

.01 The Office of Planning and Policy Coordination shall be headed by the Director of Planning and Policy Coordination and shall assist the Administrator and Deputy Administrator in performing their policy and management responsibilities. In performing these functions it shall:

a. As directed represent the Administrator in the development and implementation of telecommunications and information policies and in all other program activities of NTIA.

b. Assist the Administrator and the Deputy Administrator in developing program priorities, goals and objectives, in the allocation of resources, and in the evaluation of NTIA telecommunications and information policies and those of other agencies.

c. Coordinate the activities and programs of the Associate Administrators and other offices in the performance of their missions and in interdepartmental activities.

d. Provide overall guidance, planning and policy direction on the management and organization of NTIA and on the performance of NTIA programs, including the direction of organizational and management studies, the development and promulgation of management procedures and the coordination on such matters with other Departmental offices.

e. Provide policy and program guidance on the formulation, preparation and presentation of NTIA budgets and on the integration of policy goals and program plans into budget documents. Coordinate on such matters with the Departmental offices.

f. Develop, propose, and coordinate long and short-term program and policy directions; and program plans for NTIA and incorporate such considerations into the programmatic and administrative functions of NTIA.

g. Perform such other tasks as shall from time to time be assigned by the Administrator and Deputy Administrator.

.02 The Office of the Chief Counsel shall be headed by the Chief Counsel of NTIA who shall have full responsibility for the development and administration of the NTIA legal program. The Office shall:

a. Provide legal advice and general counselling to the Administrator and all components of NTIA with regards to the powers, duties, and responsibilities of NTIA and its relationship with other government departments and agencies (particularly, the Federal Communications Commission (FCC)), Congress, business, industry and private organizations; and the development and administration of NTIA policies and programs.

b. Prepare or review legislative proposals and statements concerning pending legislation or oversight to be made before committees of Congress, and prepare or review regulatory proposals and comments before regulatory agencies.

c. Carry out additional policy development functions with significant legal orientation as the Administrator shall from time to time direct.

These activities shall be carried out subject to the overall authority of the Department's General Counsel as provided in DOO 10-6.

.03 The Office of International Affairs shall be headed by the Director of International Affairs and shall provide the Administrator with broad overview and advice on international telecommunications and information affairs. To perform this function it shall:

a. Assist in the formulation and recommendation to the Administrator of policies and plans for U.S. participation in international telecommunications and information activities.

b. Coordinate NTIA and interdepartmental economic, technical, operational and related preparations for U.S. participation in international telecommunications conferences and negotiations.

c. Maintain liaison with government agencies and private organizations engaged in activities involving international telecommunications and information matters and maintain cognizance of activities of U.S. signatories to international telecommunications treaties, agreements and other instruments.

d. Provide for NTIA representation to international telecommunications and information meetings and to domestic activities preparatory to such meetings excepting for matters specifically assigned to other officers by the Administrator or Deputy Administrator.

e. Provide for NTIA advice and assistance to the Secretary of State with respect to international telecommunications policies to strengthen the position and serve the best interests of the United States in the conduct of negotiations with foreign nations.

These activities shall be carried out in close consultation with, and with the assistance of, the Associate Administrators.

.04 The Office of Administration shall be headed by the Director of Administration and shall provide administrative management and support services for all components of NTIA, except for field operations that are directed by the Administrator to provide such services for themselves, exercise functional supervision over such field administrative service operations, and provide regular reports to the Administrator on the utilization of NTIA resources. To perform these functions it shall:

a. Manage grants, contracts, cooperative agreements, property, and supplies, in accord with and as may be authorized by Department rules.

b. Provide systems analysis, reporting, administrative ADP services and programming support to NTIA's executive and administrative management functions.

c. Coordinate with the Departmental Office of Personnel to obtain the full range of personnel management services.

d. Provide for centralized financial accounting for all components of NTIA, and maintain a resource management reporting system.

e. Formulate, prepare, present and execute NTIA budgets under the overall policy and program guidance of the Office of Planning and Policy Coordination, and coordinate on such matters with other Departmental offices.

f. Conduct and implement management organization and systems analyses, coordinate activity under the Freedom of Information Act and the Privacy Act of 1974; and develop and maintain the internal administrative management control systems of NTIA.

.05 The Office of Congressional and Public Affairs shall be headed by the Director of Congressional and Public Affairs and shall recommend objectives and policies relating to public affairs, plan and conduct information and educational programs to insure that the public and staff are properly informed of NTIA's activities, and in conjunction with the Department's Office of Congressional Affairs shall coordinate liaison with the Congress and develop plans and programs for, and assist in, the presentation of NTIA's views and policies to appropriate Congressional bodies. In carrying out these functions, the Director of Congressional and Public Affairs shall maintain liaison with the Departmental Offices of Congressional Affairs and Public Affairs, shall act consistently with the overall policy directives of those offices, and shall be responsive to their inquiries.

##### Section 5. Office of Telecommunications Applications

The Office of Telecommunications Applications shall be headed by the Associate Administrator for Telecommunications Applications and shall, on behalf of the Administrator, conduct programs to assist public service agencies and other groups in more effectively using telecommunications technologies to better achieve public service and other national goals. To perform this function it shall:

a. Coordinate Federal telecommunications assistance to State and local governments.

b. Identify public service and other users' needs and develop methods of efficiently and effectively serving such needs through telecommunications services.

c. Develop policies for the continuing development of public broadcasting, including the use of new technologies.

d. Develop and maintain relationships with Federal agencies so as to assist them in determining ways in which innovative telecommunications technologies can contribute to the more effective delivery of public services; work with them in adapting such technologies to their own needs; and identify ways in which they can facilitate applications by others to meet public service and other national goals.

e. Conduct or coordinate interagency experimental and pilot testing of telecommunications uses.

f. In coordination with other Associate Administrators, work to remove barriers to the orderly introduction of innovative telecommunications technologies in the private sector, and provide for the application of such technologies to avoid waste and achieve an efficient delivery of public services in the furtherance of national goals.

##### Section 6. Office of Federal Systems and Spectrum Management

The Office of Federal Systems and Spectrum Management shall be headed by the Associate Administrator for Federal Systems and Spectrum Management and shall:

a. On behalf of the Administrator, advise the Director of the Office of Management and Budget (OMB) on the development of policies for procurement and management of Federal telecommunications systems. Conduct studies and evaluations concerning telecommunications research and development, the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and programs, and make recommendation to appropriate agency officials and to the Director, OMB, concerning the scope and funding of such programs.

b. Provide for the coordination of the telecommunications activities of the Executive Branch and assist in the formulation of policies and standards for the telecommunication activities of the Executive Branch including consideration of interoperability, privacy, security, and emergency preparedness.

c. Participate with, and perform staff services for, the National Security Council and the Director, Office of Science and Technology Policy, in carrying out their functions under Executive Order No. 12046.

d. Participate in evaluating the capability of telecommunication resources in recommending remedial action and in developing policy options.

e. Assign radio frequencies to, and amend, modify or revoke frequency assignments for radio stations belonging to and operated by the United States, make frequency allocations, and develop and maintain techniques, data bases, measurements, files and procedures necessary for such allocation.

f. Establish policies concerning spectrum assignment, allocation and use, and provide the various Departments and agencies with guidance to assure that their conduct of telecommunications activities is consistent with these policies.

g. Develop, in cooperation with the FCC, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources including jointly determining the National Table of Frequency Allocations.

h. Provide a chairperson and secretariat functions for the Interdepartment Radio Advisory Committee.

i. Authorize, upon the recommendation of the Secretary of State and after consultation with the Attorney General and the Chairperson of the FCC, the construction and operation of radio stations by foreign governments at the seat of government, and assign frequencies for their use.

j. Advise and assist the Administrator on technical and policy issues surrounding the security of national telecommunications and systems and means to assure such security.

k. Provide advice and assistance to the Administrator and the Director of International Affairs in carrying out spectrum management related aspects of NTIA's international policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.

##### Section 7. Institute for Telecommunication Sciences

The Institute for Telecommunication Sciences shall be headed by the Associate Administrator for Telecommunication Sciences and shall, on behalf of the Administrator, manage the telecommunications technology research programs of NTIA and provide technical research support to other elements of NTIA as well as other agencies on a reimbursable basis. To perform these functions it shall:

a. Conduct and coordinate technical analyses of telecommunications and information policy options.

b. Acquire, analyze, synthesize and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect propagation, on the nature of electromagnetic noise and interference, and on methods for the telecommunications purposes; prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions; develop methods of measurement of system performance and standards of practice for telecommunications.

c. Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of electromagnetic spectrum, in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

d. Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies and State and local governments.



- e. Provide scientific engineering and technical expertise, as the central Federal Government laboratories for research on transmission of radio waves.
- f. Coordinate or undertake, on behalf of and at the direction of the Administrator, policy programs with major scientific or technical content.
- g. In coordination with the Office of Federal Systems and Spectrum Management, provide advice and assistance to the Administrator and the director of International Affairs in carrying out spectrum management related aspects of NTIA's international policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.

Section 8. Office of Policy Analysis and Development.

The Office of Policy Analysis and Development shall be headed by the Associate Administrator for Policy Analysis and shall, on behalf of the Administrator, be responsible for the analysis, review, and formulation of domestic and international telecommunications and information policies and, at the direction of the Administrator, may present domestic and international policy before the FCC, the Congress and elsewhere. To perform these functions it shall:

- a. Conduct or obtain analyses incorporating economic and other aspects of domestic and international telecommunications policy issues. For analyses involving legal and technical aspects of those issues draw upon and coordinate with the Office of the Chief Counsel and the Institute for Telecommunications Sciences. Integrate the results of these activities for the purposes of policy formulation.
- b. Provide advice and assistance to the Administrator and the Director of International Affairs in carrying out NTIA's international telecommunications and information policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.
- c. Provide other policy research, analysis and development in support of the policy research needs of other elements of NTIA.

Section 9. Effect on other orders.

This order supersedes Department Organization Order 30-5B of September 20, 1970, as amended.

Date of issuance: May 12, 1978.

Effective date: May 11, 1978.

Henry Geller,

Administrator, National Telecommunications and Information Administration.

Approved:

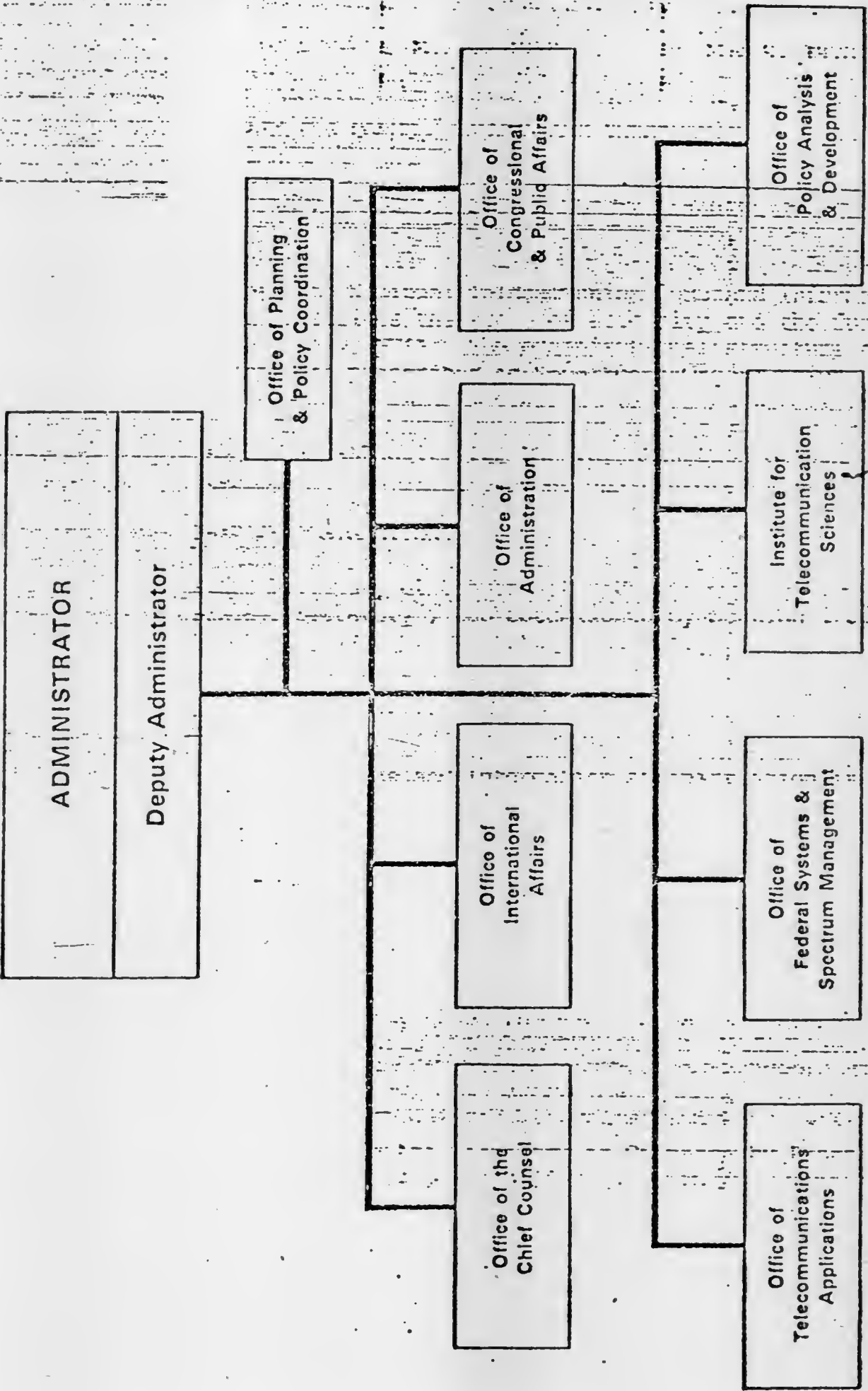
Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

BILLING CODE 3510-60-M

Exhibit 1 to DDO 25-7

U.S. DEPARTMENT OF COMMERCE  
National Telecommunications and  
Information Administration



[FR Doc. 79-3783 Filed 12-7-79; 8:45 am]  
BILLING CODE 3510-60-C



## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Ch. I

[Docket No. RM80-13]

## Price Squeeze Rules Applicable to the Natural Gas Industry; Inquiry

December 5, 1979

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of inquiry.

**SUMMARY:** On November 19, 1979, the Federal Energy Regulatory Commission (Commission) issued companion notices of proposed rulemakings (Docket Nos. RM79-79, 44 FR 87154, November 23, 1979; and docket No. RM79-80, 44 FR 87158, November 23, 1979), proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding new §§ 35.30 and 35.32 which would establish the procedural and substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. Commission proceedings in which price squeeze has been an issue have been almost exclusively proceedings involving the electric industry. However, the Commission specifically solicits comments from members of the public on whether it should promulgate rules applicable to the natural gas industry, similar to those contained in the proposed §§ 35.30 and 35.32.

**DATE:** Written comments by January 24, 1980.

**ADDRESSES:** Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 and should reference Docket No. RM80-13.

**FOR FURTHER INFORMATION CONTACT:** Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street NE., Washington, DC 20426, (357-8333, or Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8170.

**SUPPLEMENTARY INFORMATION:** The Commission invites interested persons to submit written data, views, and other information with respect to the desirability of promulgating rules governing price squeeze in the natural gas industry, similar to proposed §§ 35.30 and 35.32 in Docket Nos. RM79-79 and RM79-80. All comments reference Docket No. RM80-13, and

should be submitted by January 24, 1980 to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An original and 14 conformed copies should be filed.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426, during regular business hours.

A public hearing on proposed §§ 35.30 and 35.32 will be held in Washington, DC., beginning at 9:30 a.m. on January 14, 1980 and continuing if necessary to the following day. Details of that hearing were noticed by the Commission in Docket Nos. RM79-79 and RM79-80, which appear elsewhere in the Proposed Rules Section of this Federal Register. At the public hearing, only the proposed rules, applicable to the electric industry, will be discussed.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37827 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

## 18 CFR Part 35

[Dockets Nos. RM79-79 and RM79-80]

## Price Squeeze—Procedural and Substantive Rules; Extension of Comment Period and Notice of Public Hearing Date, Location, and Procedures

December 5, 1979.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Extension of comment period and establishment of public hearing date, location and procedures.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is extending until January 24, 1980, the deadline for comments on its notices of proposed rulemakings relating to price squeeze in the electric industry. The public hearing on these proposed rules will be held in Washington, DC, beginning at 9:30 a.m. on January 14, 1980, and continuing if necessary to the following day.

**DATES:** Public hearing on January 14, 1980; written comments by January 24, 1980.

**ADDRESSES:** Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 and should reference Docket Nos. RM79-79 and RM79-80. The public hearing will be held in

Hearing Room A, 825 North Capitol Street NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8333, or Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8170.

**SUPPLEMENTARY INFORMATION:** On November 19, 1978, the Commission issued companion notices of proposed rulemaking (Docket No. RM79-79, 44 FR 87154, November 23, 1979; Docket No. RM79-80, 44 FR 87158, November 23, 1979) proposing to adopt regulations governing Commission proceedings involving price squeeze in the electric utility industry. The Commission is hereby extending the deadline for the filing of written comments on matters contained in those notices from December 24, 1980 to January 24, 1980.

A public hearing will be held in Washington, DC on matters contained in both notices, beginning at 9:30 a.m. on January 14, 1980 and continuing if necessary on the following day. The members of the panel at that hearing will be designated by the Chairman of the Commission. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m. on January 9, 1980.

Requests to participate in the hearing should include a reference to Docket Nos. RM79-79 and RM79-80, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the Secretary or a designee for scheduling purposes. To aid the staff in preparation for the hearing, persons participating are requested to submit at least ten copies of their statements to the Secretary of the Commission prior to 4:00 p.m. on January 10, 1980. Additional copies of statements may be brought to the hearing for distribution to members of the audience.

The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such

persons and any interested persons may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Persons may ask questions of the panel in order to obtain a clarification of any aspect of the proposed rules; however, the panel will not respond to questions seeking justification or explanation of the policies behind the proposed rules. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information. Copies of the transcript may be purchased by members of the public.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37828 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 23 CFR Part 656

[FHWA Docket No. 79-28]

## Carpool and Vanpool Projects; Proposed Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** This notice proposes the revision of existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978 (STAA). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent, permits the use of Federal-aid secondary system funds for such projects, changes these projects from demonstration projects to regular Federal-aid highway projects, and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. The proposed regulation does not concern grants and loans made pursuant to subsections (d), (e) and (f) of section 126 of the STAA.

**DATES:** Comments must be received on or before January 24, 1980.

**ADDRESS:** Submit written comments, preferably in triplicate, to FHWA

Docket No. 79-28, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Barbara Reichart, Chief, Ridesharing Branch, Office of Highway Planning, 202-426-0210, or Ruth R. Johnson, Attorney, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** This proposal sets forth the basic criteria for determining whether carpool and vanpool projects are eligible for Federal-aid funding under 23 U.S.C. 146. Eligible projects include nonconstruction work as well as typical Federal-aid construction projects. Suggestions for expanding the list of eligible projects in proposed § 656.5(c) are invited.

To help promote modes of transportation that conserve energy, reduce pollution, and reduce traffic congestion, the FHWA is proposing in § 656.5(c)(6) that Federal-aid primary, secondary and urban highway system funds can participate in the construction, including the acquisition of land, of carpool or vanpool fringe parking facilities. Comment is particularly invited on the eligibility of parking facilities for Federal-aid funds as proposed in this section. We have not proposed that Federal-aid Interstate System funds participate in such construction of parking facilities. Interstate funds may participate where the facilities serve existing or planned public transportation as provided in 23 U.S.C. 142 and 23 CFR Part 810.

This proposed regulation will have no significant economic effect as it will not increase spending. The proposed regulation will merely implement the policies set forth in the STAA. For these reasons the FHWA has determined that this document does not contain a significant regulatory proposal under the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above.

In consideration of the foregoing, and under the authority of 23 U.S.C. §§ 146

and 315, and § 126 of the STAA (Pub. L. 95-599, 92 Stat. 2689), and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), it is proposed to revise Chapter I of Title 23, Code of Federal Regulations, Part 656 as set forth below.

Issued on: December 4, 1979.

John S. Hassell, Jr.,  
Deputy Administrator.

## PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.  
656.1 Purpose.  
656.3 Policy.  
656.5 Eligibility.  
656.7 Property management.

Authority: 23 U.S.C. § 146 and 315; § 126 of the Surface Transportation Assistance Act of 1976, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.48(b).

## 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

## 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

## 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid funds. Such projects may be financed with Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C. 120. Except for paragraph (c)(3) of this section for all purposes of this regulation, the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this part if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs



(including both labor and other related items);

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons;

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before scheduled termination date for reasons, concurred in by the State, that its continuation is no longer productive. The Cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 8-15 passengers (no buses, passenger cars or station wagons).

(ii) Provision is made for repayment of acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance;

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to assure the project is fully developed and operating properly.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trail blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs of leasing parking space or acquisition of easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include

acquisition of land, normal construction activities, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, fringe parking construction shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

#### 656.7 Property management.

All of the applicable provisions of OMB Circular A-102, Appendix N, concerning property management standards shall apply.

[FR Doc. 79-37811 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-22-M

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[FRL 1371-8]

#### Approval and Promulgation of State Implementation Plans; Proposed Revision to the New York State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The purpose of this notice is to discuss the results of the Environmental Protection Agency's (EPA's) review of a proposed revision to the New York State Implementation Plan (SIP) and to invite public comment on EPA's proposed determinations regarding the SIP's adequacy. The Clean Air Act, as amended, requires that the SIP applicable to an area not in attainment of a national ambient air quality standard be revised by January 1, 1979 to provide for attainment of the standard. The revision received from New York State is intended to meet this requirement for two pollutants, carbon monoxide and ozone, in the New York City metropolitan area, which encompasses the City of New York and the Counties of Nassau, Suffolk, Rockland and Westchester.

**DATES:** Comments must be submitted on or before February 8, 1980.

**ADDRESSES:** Copies of the SIP revision are available during normal business

hours for inspection at the following locations:

Environmental Protection Agency, Region II, Room 1642, 28 Federal Plaza, New York, New York 10007.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790.

New York State Department of Environmental Conservation, Region 2, Two World Trade Center, New York, New York 10047.

New York State Department of Environmental Conservation, Region 3, 211 South Platt Corners Road, New Paltz, New York 12561.

New York State Department of Environmental Conservation, Region 3, 202 Mamaroneck Avenue, White Plains, New York 10601.

Written Comments Should be sent to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency—Region II, 28 Federal Plaza, New York, New York 10007.

**FOR FURTHER INFORMATION CONTACT:** William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency—Region II, 28 Federal Plaza, New York, New York 10007, (212) 264-2517.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The 1977 Amendments to the Clean Air Act added part D to Title I of the Act. This new part requires that for each area within a State designated as not meeting a national ambient air quality standard, a revision to the State Implementation Plan (SIP) must be adopted by the State and submitted for approval to the Environmental Protection Agency (EPA) by January 1, 1979. The SIP revision is to provide for attainment of the contravened standard by December 31, 1982 or, for ozone and carbon monoxide under certain conditions specified by the Act, no later than December 31, 1987. As discussed in greater detail in Section II.A of this notice, the New York City metropolitan area has been designated as not attaining the ozone, carbon monoxide and particulate matter standards; therefore, a revision to the New York SIP for these pollutants and this area is required. The required contents of such a SIP revision are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in a "General Preamble for

Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" published in the April 4, 1979 issue of the *Federal Register* at 44 FR 20372. The reader is referred to this *Federal Register* notice for a complete discussion of SIP revision requirements; these are not repeated in great detail in this notice.

The reader is also referred to several supplements to this April 4, 1979 notice which were published in the *Federal Registers* of July 2, 1979 at 44 FR 38583, August 28, 1979 at 44 FR 50371 and September 17, 1979 at 44 FR 53761. Among other things, the July 2, 1979 *Federal Register* notice discusses conditional approval of SIP's. EPA proposes to conditionally approve a plan where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved and on the deadlines for submittal specified in this notice. The restrictions on new major stationary source construction, also discussed in a July 2, 1979 *Federal Register* notice (44 FR 38583 and 44 FR 38471), will not apply where conditional approvals are granted unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA. The August 28 and September 17, 1979 *Federal Register* notices provide discussion on Control Technology Guidelines for stationary sources of volatile organic compounds. This requirement is further discussed in Subsection III.D.2 of this notice.

On May 16, 1979 the Governor of the State of New York formally submitted a SIP revision intended to meet the Clear Air Act requirements for the nonattaining portions of the New York City metropolitan area. The revision was transmitted to EPA by the Commissioner of the New York State Department of Environmental Conservation on May 24, 1979. In addition, on May 23, 1979, May 31, 1979, June 12, 1979, June 18, 1979, June 26, 1979, July 30, 1979, August 6, 1979, August 10, 1979, August 20, 1979, August 31, 1979, September 21, 1979, October 1, 1979, October 17, 1979, November 5, 1979, and November 13, 1979, the State submitted to EPA additional information for inclusion in its SIP revision proposal. Notice of EPA receipt of the proposed SIP revision was announced in the *Federal Register* on June 25, 1979 at 44 FR 37087.

The information in this notice is presented in five sections entitled, "Introduction," "Background," "SIP Revision Content and Review,"

"Summary of Unfulfilled Requirements," and "Public Comment." The "Background" section provides information on the nonattainment areas dealt with by this notice, reviews the history of the development of the SIP for the New York City metropolitan area and of this proposed revision and describes the general content of the State's proposed revision. The "SIP Revision Content and Review" section identifies the specific requirements for an acceptable SIP, summarizes how the proposed SIP revision attempts to address each requirement, and discusses the adequacy of the proposed SIP revision with respect to each requirement. The "Summary of Unfulfilled Requirements" section summarizes the proposed findings made in Section III of this notice with regard to the adequacy of the proposed SIP revision to meet the requirements of the Clean Air Act. The final, "Public Comment," section solicits comments on EPA's proposed action with respect to the State's revision.

## II. Background

### A. Nonattainment Areas

Under the provisions of Section 107(d) of the Clean Air Act, as amended, EPA published in the *Federal Register* (44 FR 5119, January 25, 1979) a list of the attainment status designations with respect to each national ambient air quality standard for every area within New York State. These designations represent revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the *Federal Register* at 43 FR 8962. Additional revisions to ozone designations in New York State which do not affect those for the New York City metropolitan area were also proposed on August 3, 1979 (44 FR 45650). The reader is referred to the January 25, 1979 *Federal Register* for a detailed description of the nonattainment designations for the New York City metropolitan area (the City of New York and the Counties of Nassau, Suffolk, Westchester and Rockland); they are summarized as follows:

- Carbon Monoxide:
  - the City of New York.
  - the City of Yonkers.
  - the City of Mount Vernon.
  - the County of Nassau (southwestern).
- Ozone:
  - the entire New York City metropolitan area.
- Particulate Matter (Secondary Standard)
  - the Borough of Manhattan.
  - the Borough of Brooklyn (part).
  - the Borough of Queens (part).
  - the Borough of the Bronx (part).

### B. Early Efforts

In 1970 Congress amended the Air Quality Act of 1967 and by doing so mandated EPA to establish national ambient air quality standards at a level sufficient to protect the public health and welfare. The states were required to develop SIP's to attain these standards by adopting requirements, where necessary, for the control of transportation and stationary sources of air pollution.

To meet the requirements of the 1970 Clean Air Act, in 1972 the State of New York submitted a proposed SIP to EPA which was designed to demonstrate the attainment of the then applicable national ambient air quality standards for particulate matter, sulfur oxides, hydrocarbons, photochemical oxidants (ozone), carbon monoxide and nitrogen dioxide. Through its review EPA found this plan deficient in its ability to control two of the transportation-related pollutants, carbon monoxide and ozone. Consequently, the State was given additional time to submit a revised plan for these pollutants. The revised SIP was submitted in 1973 and subsequently approved by EPA (38 FR 16560, 16567, June 22, 1973). The 1973 ozone and carbon monoxide SIP revision contained many measures for controlling the use of private automobiles and for improving public transportation in the metropolitan area. However, for various reasons, much of the plan was never implemented. The current status of the measures contained in State's 1973 SIP revision is discussed in Subsection III.D.1.e of this notice.

### C. Development of the SIP Revision

In accordance with the provisions of Section 174 of the Clean Air Act, primary responsibility for preparing carbon monoxide and ozone SIP revisions was identified by the Governor of the State of New York as belonging to specific organizations of local elected officials in the State. For the New York City metropolitan area, in a March 30, 1978 letter, the Governor designated the Tri-State Regional Planning Commission (Tri-State) acting through its three subregional Transportation Coordinating Committees (TCC's) (the three TCC's are: The Mid-Hudson South (Westchester and Rockland Counties), New York City and Nassau-Suffolk) as the lead planning organization to prepare the proposed SIP revision. The State itself assumed responsibility for providing technical support to involved agencies, for development of mobile source emission inspection and maintenance programs, for development



of stationary source emission control regulations, for new source review, and for other programs encompassing areas beyond the traditional role of local governments.

In addition, the Governor of New York State, the Mayor of New York City and the Region II Administrator of EPA entered into a Memorandum of Understanding on June 24, 1978 in order to establish principles by which the SIP revision would be developed. The Memorandum of Understanding established an Oversight Committee to monitor the development of the SIP revision. It also described the responsibilities of Tri-State and various State and local agencies regarding the development of the proposed SIP revision.

#### D. General Content of the SIP Revision

That part of the proposed SIP revision which was submitted to EPA on May 24, 1979 provides the following principal control strategies aimed at attainment of the ozone and carbon monoxide standards: The normal replacement of old automobiles by newer vehicles, the implementation of an automobile emission inspection and maintenance program, the requirement for the installation of emission controls on stationary sources of volatile organic compounds and the institution of transportation control measures. In addition, the plan contains procedures for the development of future transportation control measures through an ongoing transportation—air quality planning process. As permitted under the provisions of the Clean Air Act, in his letter of May 18, 1979, the Governor also requested an eighteen-month extension, until July 1, 1980, to submit the State's plan to attain the secondary standard for particulate matter in the New York City metropolitan area.

The May 24, 1979 proposed SIP revision consists of seven volumes and four appendices. (The appendices are noted in the submittal as being provided for background information only). These documents are entitled:

- Volume I—New York State Air Quality Implementation Plan for Control of Carbon Monoxide and Hydrocarbons in the New York City Metropolitan Area.
- Volume II—Detailed Descriptions of Reasonably Available Control Measures.
- Volume III—Air Quality and Emission Inventory.
- Volume IV—Public Participation.
- Total Suspended Particulates Secondary Standard: New York City Extension Request.

- New York State Air Quality Implementation Plan, the Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area.
- New York State Air Quality Implementation Plan, Statewide Summary and Program.
- Appendix A—TCC RACM Evaluations, New York City.
- Appendix B—TCC RACM Evaluations, Nassau-Suffolk.
- Appendix C—TCC RACM Evaluations, Mid-Hudson South.
- Appendix D—TCC RACM Evaluations, Department of Environmental Conservation.

#### III. SIP Revision Content and Review

This section describes the content of the proposed SIP revision for the New York City metropolitan area, evaluates it with respect to each of the major criteria used by EPA to determine approvability and discusses the deficiencies found by EPA through its evaluation and corrective actions which should be undertaken by the State in order to make its SIP revision fully approvable. Unless each of the Part D requirements listed below are either approved or conditionally approved the growth limitations under Section 110(a)(1) remain in effect.

A. *SIP revisions shall be adopted by the state after reasonable notice and public hearing.* The proposed SIP revision was adopted by the Governor of New York after public hearings were held at the following locations on the following dates. Each public hearing was held after at least 30 days of notice.

Location and date (1979): New York City—January 29. Plainview—January 30. White Plains—January 31.

The State has provided documentation to identify that the necessary notices, public hearings and adoptions were carried out in such a manner as to be found acceptable to EPA.

B. *The SIP revisions shall demonstrate that both primary and secondary national ambient air quality standards will be attained within the nonattainment area as expeditiously as practicable, but for primary standards no later than the following final deadlines:*

—December 31, 1982, except that  
—For ozone or carbon monoxide, December 31, 1987, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures.

1. *SIP Content.*—The New York SIP revision includes a demonstration that it

is not possible to attain the carbon monoxide and ozone standards by the end of 1982. Such a demonstration is prerequisite to the granting of attainment date extensions for both pollutants and means that another SIP revision demonstrating attainment by the extended date must be submitted by the State on or before July 1, 1982.

a. *Carbon Monoxide.* The proposed SIP revision contains a request for an extension of the attainment date of the carbon monoxide ambient air quality standard from December 31, 1982 to December 31, 1987 for all of the nonattainment areas in the New York City metropolitan area. The replacement of older vehicles with newer, lower polluting vehicles (vehicle turnover) was found to be the most significant measure for reducing carbon monoxide emissions. The proposed SIP revision concludes that vehicle turnover alone would provide for the eventual attainment of the carbon monoxide standards; however, this would not occur by December 31, 1982.

To augment the emission reduction benefits of vehicle turnover the State proposes a motor vehicle emission inspection and maintenance program to commence on January 1, 1982 (this program is discussed in detail in Subsection III.D.1.c(1)(b) of this notice).

The proposed SIP revision does not claim any carbon monoxide emission reduction credit except for vehicle turnover and inspection and maintenance. Through the use of a simple rollback modeling technique, these two control measures are calculated to result in attainment of the carbon monoxide standard by 1984, 1983 and 1982 for Midtown Manhattan, Downtown Manhattan and the remainder of the nonattainment areas, respectively.

In addition to the limited number of known carbon monoxide problems in the New York City metropolitan area, numerous "hotspots" of higher concentrations may also exist. Therefore, in order to better define the true magnitude and extent of the carbon monoxide problems in this area, the State, in cooperation with EPA and Tri-State, is adopting a work plan for a "hotspot" identification study. The study tasks are identified in the proposed SIP revision.

b. *Ozone.* The State claims that, for a variety of reasons, the demonstration of ozone attainment for the New York City metropolitan area is not possible at this time. The proposed SIP revision further states that the adoption of extreme measures to effect significant organic compound emission reductions would be premature as well as unproven in terms

of its ultimate effect. Consequently, the proposed SIP revision does not propose comprehensive programs indicating how the ozone standard will be met.

The only measures for which the proposed SIP revision credits specific organic compound emission reductions are vehicle turnover, motor vehicle emission inspection and maintenance, and stationary source "vapor" controls. The proposed SIP revision does not credit transportation control measures with any significant potential to reduce ozone concentrations and does not propose to rely upon them for obtaining additional future emission reductions to meet the ozone standard. Furthermore, the proposed SIP revision states that there is no available method to estimate additional organic compound emission reductions achievable from stationary source controls until EPA publishes "Control Technology Guideline" documents on additional source categories to be regulated. (These documents, which provide the information on reasonably available control technology for selected stationary source categories, are discussed in Subsection III.D.2.a of this notice).

However, the proposed SIP revision does state that the implementation of all measures for which specific emission reductions are credited by the State will not achieve the 47 to 69 percent organic compound emission reduction estimated to be necessary for attainment of the ozone standard by December 31, 1982. Attainment by December 31, 1987 is depicted based on strategies "to be developed for 1982 Plan."

c. *Particulate Matter.* Section 110(b) of the Clean Air Act provides for an extension in the time allowed for the submission of SIPs for areas which are in violation of a secondary standard. According to EPA policy (44 FR 20372, April 4, 1979), if a state demonstrates that the installation of reasonably available control technology on traditional stationary sources located in the secondary standard nonattainment area will not be sufficient to bring about attainment, then the state may be granted an extension of up to eighteen months to the plan revision submittal date. The Governor of New York has requested such an extension until July 1, 1980, with regard to State's plan revision to meet the secondary particulate matter standard in the New York City metropolitan area. The proposed SIP revision submittal contains the requested demonstration justifying his request.

2. *Adequacy.*—a. *Carbon Monoxide.* EPA recognizes that better information than currently exists regarding the

magnitude and geographic extent of the carbon monoxide problems in the New York City metropolitan area is needed and expects that the "hotspot" study committed to in the SIP will provide this information. The attainment date extension requested by the proposed SIP revision is considered by EPA to be reasonable based on existing information concerning the area's carbon monoxide problems and the effectiveness of the control measures contained in the plan. Consequently, EPA proposes to accept the State's demonstration, but expects it will be reevaluated in light of the new information which will become available. EPA further expects that the State will apply all reasonably available control measures to carbon monoxide problems as they are identified.

b. *Ozone.* The proposed SIP revision does not adequately assess the potential organic compound emission reductions that could be obtained from the adoption of all reasonably available control measures, including transportation control measures. Consequently, as additional information is obtained (e.g., from studies and demonstration projects contained in the proposed plan) regarding the effectiveness of control measures and the nature of the ozone problem, EPA expects that the State will reevaluate its claim that the ozone standard cannot be attained by December 31, 1982 and will, in the interim, apply all reasonably available control measures as expeditiously as is practicable. In this light, EPA proposes to accept the proposed plan's contention that an attainment date extension is required.

c. *Particulate Matter.* On the basis of the reasonably available control technology demonstration contained in the state's submittal, EPA proposes to grant the eighteen-month extension for plan revision requested by the state.

C. *The SIP revision shall require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date.* 1. *SIP Revision Requirements.*—In the case of a plan revision for ozone or carbon monoxide demonstrating the need for an extension of the attainment date, reasonable further progress may be considered to be, at a minimum, the rate of emission reduction up to the end of 1982 that, if continued, would provide for attainment by the end of 1987 or sooner. In addition, in order to describe the contribution to reasonable further progress of each measure contained in a SIP revision, a target emission reduction for each should be provided (44 FR

20372, April 4, 1979). Emission reduction targets are essential to effective planning for the attainment of air quality standards.

2. *SIP Content.*—a. *Carbon Monoxide.* The proposed SIP revision graphically depicts, for three principal nonattainment areas (Midtown Manhattan, Downtown Manhattan and the remainder of the nonattainment areas), carbon monoxide emission reductions that are expected to be obtained from the plan's control measures. The graphs show that reasonable further progress toward attainment of the standards will be provided. However, emission reduction targets for each measure or combination of measures are not provided.

b. *Ozone.* The proposed SIP revision also graphically depicts the reduction in organic compound emissions expected to result from selected stationary and mobile source control measures. This presentation shows that reasonable further progress toward attainment of the ozone standard will be provided. For stationary sources, new volatile organic compound control requirements produce emission reductions beginning in late 1979; but, after 1982, the proposed SIP revision shows no further emission decreases resulting from the further control of stationary sources. As is the case for carbon monoxide, emission reduction targets were not provided in the proposed SIP revision.

3. *Adequacy.*—a. *Carbon Monoxide/Ozone.* EPA proposes to find the State's demonstration of reasonable further progress toward attainment of standards acceptable. However, reasonable further progress for carbon monoxide may have to be reassessed at a later date after the results of the "hotspot" monitoring study, discussed in subsection III.B.1.a of this notice, are available.

EPA accepts the fact that emission reduction targets for measures or combination of measures are not available at this time. However, these targets will be essential for ensuring that reasonable further progress is provided after 1982. Such targets must be development for inclusion in the 1982 revision to the SIP. Targets are particularly important since the proposed SIP revision does not identify where additional emission reductions might be obtained after 1982.

D. *The SIP revision shall provide for implementation of all reasonably available control measures as expeditiously as practicable insofar as is necessary to assure reasonable further progress and attainment by the required date.* This requirement includes (1) reasonably available



transportation control measures and (2) reasonably available control technology for stationary sources. 1. *Transportation Control Measures*.—a. *SIP Revision Requirements*. Section 108(f)(1)(A) of the Clean Air Act lists those transportation control measures which are presumed by EPA to be reasonably available (this list of measures is not intended to be exhaustive). With the exception of motor vehicle emission inspection and maintenance (which is specifically required by Section 172(b)(11)(B) of the Clean Air Act when an extension beyond December 31, 1982 for attainment of the carbon monoxide or ozone standards is being requested), if a state believes that one or more of these measures is not reasonably available, the state may elect to demonstrate this fact and not implement the measure. Such a demonstration must show that substantial adverse impact would result from implementation, or that extensive time is needed to analyze and develop the measure (44 FR 20372, April 4, 1979).

A proposed SIP revision must contain schedules for implementation of currently planned reasonably available transportation control measures, and schedules for the analysis, selection, adoption, and implementation of additional transportation control measures sufficient to achieve the emission reductions ascribed to the transportation system in the demonstration of reasonable further progress towards attainment of standards. A proposed SIP revision should also include a schedule for the implementation of a representative selection of reasonable transportation control measures, at least on a pilot or demonstration basis, before the end of 1980 (44 FR 20372, April 4, 1979).

Provisions for an integrated transportation-air quality planning process which gives priority consideration to air quality concerns should also be included in a proposed SIP revision. The planning process should investigate and compile data on the control strategies needed to attain air quality standards. The scope of the investigation must be commensurate with the scope and severity of the air quality problem (44 FR 33473, June 11, 1979).

b. *General Discussion of Transportation Control Measures & Studies*.—(1) *Categorization of Measures*. The proposed SIP revision presents a series of transportation-related air quality control measures designed to improve air quality in the New York City metropolitan area. Each measure was categorized in the proposed plan under one of four

headings. The measures in each category are depicted in Table 1. In its plan revision, the State generally described the nature of its commitment to implementation of specific actions under a measure through that measure's categorization as follows:

*Reasonably Available Control Measures*: Those measures defined as "reasonably available" are those to which the State and local governments have given their full commitment to implementation. These measures "are funded and enforceable or will be by the scheduled date of implementation."

*Demonstration Projects*: These are projects which will be undertaken in the immediate future to determine the feasibility for widespread implementation of a measure. Each has the full commitment of the State and of the agency responsible for its development. If a measure proves to be infeasible, the SIP will be revised to eliminate the measure.

*Reasonably Available Control Measures Subject to Transportation Planning Process Action*: These are measures which the State and local governments agree are feasible, but which lack sufficient funding at this time to be executed. They are all eligible for federal funding and will be considered in the transportation planning process. "Reasonableness" will be defined by funding availability as determined by the Transportation Coordinating Committees. Once funds are made available, the State and local governments are committed to implementation of the measure.

*Measures Not Reasonably Available*: These measures are defined by the State as "not reasonably available" because they were found to be: (1) Unnecessary for attainment or maintenance of air quality standards or (2) infeasible because the measure's social, political or economic costs are believed to outweigh its benefits.

Problems which EPA has found with this method of categorization are discussed in Subsection III.D.1.d(3) of this notice.

Table 1—Air Quality Control Measures

*Reasonably Available Control Measures*

1. Vehicle Turnover.
2. Vehicle Inspection and Maintenance.
3. Transit Improvements.
4. Land Use and Development Controls.
5. Parking Restrictions.
6. Freight Transportation.
7. Heavy Duty Gasoline Truck Retrofit.
8. Vapor Recovery.

*Demonstration Projects To Determine Implementation Feasibility*

1. Limitation on Authorized Parking.
2. 42nd Street Transitway Project.

3. Eastside Avenue Exclusive Local Bus Lane.
4. Business District Peripheral Parking Facilities.
5. 49th-50th Streets Corridor: Improved Service for Public Transportation Vehicles.
6. Bike Lanes.

*Reasonably Available Control Measures Subject to Transportation Planning Process Action*

1. Express Bus and Carpool Lanes.
2. Pedestrian Priority Zones.
3. Traffic Flow Improvements for Arterials.
4. Traffic Flow Improvements for Limited Access Highways.
5. Alternate Work Schedules.
6. Bicycle Lanes and Storage Facilities.
7. Employer Based Programs.
8. Private Car Restrictions.
9. Park-and-Ride and Fringe Parking.

*Measures Not Reasonably Available*

1. Extreme Cold Start Reduction.
2. Controls on Extended Vehicle Idling.
3. Alternate Fuels.
4. Road Pricing.

(2) *Studies*. In addition to the specific projects which are committed to implementation under the various measures in the proposed SIP revision, the plan also presents a program of further study "to identify additional applications of the measures." The studies generally will analyze the applicability and feasibility of the measures. More than 100 studies are proposed in the SIP revision, covering both specific projects and general problem areas.

The proposed plan identifies "top priority" studies which are "commitments." Other air quality studies are also identified for funding consideration and additional studies are expected as the planning and implementation program progresses. Study outlines are noted by the State as being preliminary in nature and study costs are expected to be refined and are subject to change as project scopes are further defined and cost estimates updated.

(3) *General Adequacy of Measures*. In its review, EPA has found several shortcomings in the program contained in the proposed SIP revision for implementation of mobile source related control measures. These include: (a) The inclusion of imprecise schedules for the implementation of projects intended to carry out the measures, (b) the lack of a systematic program for the further study of the measures, (c) insufficient documentation of the reasons for the rejection of certain measures, and (d) the use of an inconsistent and potentially confusing format to describe the measures. Specific instances of these deficiencies, which must be corrected, are included in the discussions of the

individual measures which appear in Subsection III.D.1.c of this notice. What follows is a general elaboration on these shortcomings and an identification of the conditions which must be met by the State in order for the proposed SIP revision to receive full EPA approval.

(a) *Imprecise Schedules*. The proposed SIP revision does not sufficiently define the State's schedule for the implementation of projects related to the transportation control measures. In order to correct the vagueness that exists in this regard, a more complete identification of significant milestones for project implementation is needed. Such milestones should include, as appropriate, dates for the following actions:

- Financial
  - inclusion of the project in the Transportation Improvement Program Annual Element.
  - inclusion of the project in the State's Section 105 application to the Federal Highway Administration.
  - inclusion of the project in the State and local budgets.
- Political
  - endorsement of the project by principal elected officials.
  - endorsement of the project by the appropriate Transportation Coordinating Committee.
  - Passage of State or local enabling legislation, or regulations, where needed.
- Social
  - presentation of the project to Community or Borough Boards.
  - presentation of the project to the Citizens' Advisory Committee.
  - endorsement of the project by public referendum, when needed (e.g., transit bond issue).
- Technical
  - completion of preliminary engineering studies.
  - acquisition of any necessary right-of-way.
  - initiation and completion of construction.

Financial, political and social requirements are discussed further in Sections III.G, I and J of this notice.

Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

- Parking Restrictions.
- Freight Transportation.
- Limitation on Authorized Parking.
- Bike Lanes (Demonstration Project).
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Traffic Flow Improvements for Arterials.
- Traffic Flow Improvements for Limited Access Highways.
- Employer Based Programs.
- Private Car Restrictions.
- Alternate Work Schedules.
- Bicycle Lanes and Storage Facilities.
- Park and Ride and Fringe Parking.

In order to correct this deficiency, dates for initiation and completion of the significant milestones discussed earlier and any other key milestones which are appropriate must be identified in the SIP. Consequently, EPA proposes to conditionally approve the proposed SIP pending submission to EPA by August 1, 1980 of key milestones for those projects associated with transportation control measures which are a part of the SIP.

(b) *Systematic Study*. The deficiency just discussed emphasizes the importance of the proposed SIP revision's program for the further study of the application of measures. The study program can be used to correct this deficiency through identifying the milestones needed for implementation of projects. In addition, studies can be used to determine a measure's "reasonableness" and opportunities for its further application. EPA considers that all the studies contained in the proposed SIP revision as well as any additional studies needed to correct cited deficiencies in the SIP, are essential for the development of the 1982 SIP revision, addressed in Subsection III.B.1 of this notice.

The proposed SIP revision often lacks information concerning a study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings. It should be noted that these deficiencies, for the most part, will be addressed by Tri-State in a program that is being funded by an EPA Urban Air Quality Planning Grant authorized under Section 175 of the Clean Air Act. Measures which contain an inadequate program of study include:

- Freight Transportation.
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Employer Based Programs.
- Private Car Restrictions.
- Alternate Work Schedules.
- Bicycle Lanes and Storage Facilities.

EPA proposes to conditionally approve the proposed SIP revision pending improvement of the program of study by February 1, 1980 to include studies directed toward the broader application of measures, and to include the above noted detailed information where missing. In this regard, it is particularly important that the schedule for completion of a study include a milestone relating to action on the study's recommendations by principal elected officials. At the completion of a study, an explicit decision must be made as to what further actions are called for.

Such a decision should be forthcoming shortly after the study's completion.

(c) *Rejected Measures*. Several measures discussed in the proposed SIP revision were found by the State not to be reasonably available (these are discussed in Subsection III.D.1.c of this notice). EPA recognizes that these findings were made after State review. However, in one case, "Controls on Extended Vehicle Idling," the measure was found to be reasonable in one part of the metropolitan area and not reasonable in another. Adequate justification was not provided in the proposed SIP revision to explain this measure's general categorization.

Because of the importance which EPA places on the development of adequate documentation to justify the rejection of a measure, EPA proposes to conditionally approve the proposed plan provided that additional documentation to support the finding that "Controls on Extended Vehicle Idling" is "unreasonable" is submitted to EPA by August 1, 1980.

(d) *Confusing Format*. The format of the proposed SIP revision, especially as it relates to the discussion of transportation control measures, leads to confusion that might hinder the ability of responsible agencies and the interested public to understand what the plan contains. Part of this problem results from the fact that control measures are discussed in two separate volumes. The information presented in Volume I appears to be complete and self-contained and Volume II appears to provide supportive data to Volume I. However, Volume I states that, "State and local governments are committed also to implementation of the measures as described in Volume 2." Therefore, in this regard, Volume II would appear to serve as a critical component of the SIP. Moreover, in Volume I it is stated that, "a description of each study, responsible agency, legal authority, cost, source of funding and a schedule for the study, are given in Volume II." But Volume I also contains a discussion of each measure.

When the content of these two volumes are compared, conflicts and omissions appear among descriptive materials, evaluation details, and other items. Thus, the question arises, does the material in Volume I take precedence over that in Volume II in the case of conflicts? Unless given specific instructions by the State to the contrary, EPA will assume that the material found in Volume I serves as an overview and outline for the proposed SIP revision, and, in cases of inconsistency, material in Volume I will be considered to take precedence over that of Volume II.



This format problem is further complicated by the use of inconsistent terminology in the proposed SIP revision. For example, it is often unclear whether an element in the plan is a study, a permanent project, or a demonstration project. Thus, uncertainty exists as to what actions are being committed to. Extensive technical editing is needed.

While EPA believes that portions of the proposed SIP revision need to be extensively rewritten in order to correct these problems, such an effort would be a significant drain on State and local governmental resources. However, in order for the SIP to be a usable document, it must be clarified.

Therefore, EPA proposes to conditionally approve the SIP revision provided that by February 1, 1980 the State provides three separate listings covering, respectively, all of the transportation related studies, demonstration projects and permanent projects committed to in its plan. Any action currently appearing in the proposed SIP revision must appear in this listing. As discussed in Subsections III.D.1.b(3)(a) and (b) of this notice, adequate milestones for these projects and studies must be developed if they do not already exist.

#### c. Description and Adequacy of Specific Transportation Control Measures

The following is a description of the mobile source related measures presented in the proposed SIP revision. The measures are described using the same categorizations which were used by the State in the proposed SIP revision and which were discussed in Subsection III.D.1.b(1) of this notice.

Subsection III.D.1.b(3) of this notice discussed in general the deficiencies EPA has found with the State's program for implementation of mobile source related control measures. These deficiencies are elaborated upon here, where the adequacy of each separate measure is discussed along with specific corrective actions which EPA believes must be taken by the State in order for the measure to be found acceptable. However, it should be noted that, in a general sense, EPA found the State's treatment of the measures adequate.

(1) *Reasonably Available Control Measures—(a) Vehicle Turnover*  
Description: Since 1968 the Federal Motor Vehicle Control Program (FMVCP) has required that all new vehicles sold in the United States meet increasingly more stringent federal emission standards. To meet these federal standards, manufacturers have modified the design and operation of automobile and light-duty truck engines

and have added emission control systems and devices to these vehicles. Thus, as new vehicles replace vehicles currently in use, emissions will be reduced and air quality improved.

Adequacy. This measure is implemented and enforced by the federal government and, consequently, requires no State action.

(b) *Vehicle Inspection and Maintenance*  
Description: Automobile emission inspection and maintenance (I/M) commonly refers to a program requiring the periodic testing of the emissions of in-use vehicles against state established standards set so as to account for vehicle age and class. Any vehicle failing such an inspection must undergo a tune-up and, in some cases, repair in order to reduce its emissions to the level of the applicable standard.

An inspection and maintenance program is intended to supplement the existing FMVCP. In order for motor vehicles not to have excessive emissions after they have been in use, they must receive periodic maintenance; an inspection and maintenance program would ensure this. The program increases the frequency and quality of the maintenance of motor vehicles and thereby reduces their average emissions. Thus, other things being equal, total vehicle related pollutant emissions will be significantly lower than they would be without a program.

The Clean Air Act requires the implementation of all reasonably available control measures and specifically an I/M program where attainment of either the ozone or the carbon monoxide standards by December 31, 1982 cannot be demonstrated.

The proposed SIP revision presents two substrategies related to this measure. The first initiates an I/M program for light duty vehicles, which is planned to commence on January 1, 1982, and continues a thrice-yearly medallion taxi I/M program implemented by the City of New York. This latter program was originally included in the 1973 SIP and was implemented in its present form in October 1977. (See Subsection III.D.1.e for a discussion of the 1973 SIP). The second substrategy is an "anti-Tampering Pilot Program" which is intended to determine the extent and nature of tampering with automotive emission control systems in New York State. These two substrategies are discussed below.

#### Inspection and Maintenance Program

The key elements for SIP approval with respect to a proposed I/M program are as follows:

- **Legal Authority.** States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program (Section 172(b)(10)).
- **Commitment.** The appropriate governmental unit(s) must be committed to implement and enforce the I/M program (Section 172(b)(10)).
- **Resources.** The necessary finances and personnel resources to carry out the I/M program must be identified and committed (Section 172(b)(7)).
- **Schedule.** A specific schedule to establish the I/M program must be included in the SIP (Section 172(b)(11)(B)). Interim milestones to be included in this schedule are to be in accordance with the general requirement of 40 CFR 51.15(c). Such milestones appropriate to an I/M program have been specified by EPA in a guidance memorandum published in the July 17, 1978 Federal Register at 44 FR 20372.
- **Program Effectiveness.** As set forth in the July 17, 1978 guidance memorandum the I/M program must achieve a 25 percent reduction in passenger car exhaust emissions of hydrocarbons and a 25 percent reduction of carbon monoxide emissions. In order to determine the required reductions, the emission levels as of December 31, 1987 with the I/M program in place are compared with the emission levels as of December 31, 1987 without I/M. This policy is based on Section 172(b)(2) of the Clean Air Act which states that, "the plan provisions . . . shall . . . provide for the implementation of all reasonably available control measures . . .". This level of effectiveness is based on the evaluation of the New Jersey and Arizona I/M programs, which have effectively demonstrated practical operation of their programs with 20 percent stringency factors. (A stringency factor is a measure of the rigor of a program based on the estimated fraction of the vehicle population whose emissions would exceed cutpoints were no improvements in maintenance habits or quality of maintenance to take place as a result of the program.) It is EPA policy to use a 25 percent emission reduction as the criterion to determine compliance of the I/M portion with the provisions of Section 172(b)(2).

The I/M program described in the proposed SIP revision will require the annual emission inspection of all gasoline-powered light duty vehicles in

the New York City metropolitan area. (Diesel-powered vehicles and heavy duty gasoline-powered trucks would be exempted). A provision is also made for the study of the feasibility of waiving certain vehicles. The inspection will be of the "pass/fail" type designed to check vehicle idle exhaust emission levels with respect to certain emission standards. These standards will be set to reflect the emissions expected from a vehicle engine that is in a tuned condition. The standards are expected initially to be set at a level at which approximately 10 percent of the vehicles tested would fail the test. After the program has been in effect for an unspecified period of time, the standards will be tightened. A vehicle failing the emission test normally would have to receive adjustments or repairs in order to pass a reinspection.

The proposed SIP revision presents three alternative approaches to conducting the inspection and maintenance program. The first alternative uses State or contractor operated facilities to conduct emission inspections and the existing private garages to conduct safety inspections. The second alternative is to conduct safety and emissions inspections at the same place and time in a State or contractor operated facility. The third alternative is to add the new emission inspection program to the current private garage safety inspection program. Advantages and disadvantages of each of the alternatives are discussed in the proposed SIP revision.

The proposed SIP revision presents a schedule for implementation of a contractor operated emission inspection and maintenance program. However, the ability of the State to meet the schedule was contingent upon State passage of new enabling legislation by July 1, 1979. Such legislation has not yet been passed.

On November 5, 1979 the State submitted additional information on its I/M program for the New York City metropolitan area. In this submission the State indicated its choice to implement and enforce a decentralized idle emissions inspection program using the existing licensed garages which now perform the mandatory safety inspection. Details of the State's proposed I/M program are as follow.

- **Legal Authority**  
The State indicates that sufficient legislative authority exists to implement an I/M program. Under Title III, Article 5, Section 301(c)(3) of its Vehicle and Traffic Law an I/M program can be established " . . . as soon as the commissioner [of the Department of

Motor Vehicles], in consultation with the commissioner of environmental conservation determines that it is technologically feasible and economically practical to conduct inspection . . .". Such a determination has been made and was included in the State's submittal. In addition, the Commissioner of the Department of Motor Vehicles has the authority under Section 215 and by Article 5, Section 302(e) specifically of the Vehicle and Traffic Law to amend and/or promulgate the necessary regulations so as to incorporate the emissions test into the safety test.

#### • System Description

The program will cover all light duty vehicles registered in the New York City metropolitan area except motorcycles, diesel powered vehicles, certain special purpose commercial, farm and historical vehicles. The inspection will consist of an annual idle exhaust emission check of carbon monoxide and hydrocarbons conducted at state licensed private garages employing certified inspectors. Vehicles failing inspection must be adjusted or repaired and reinspected.

Noncomplying vehicles will be prohibited from operation on the public roads through the current vehicle registration system and the use of unique window inspection stickers, pursuant to Section 306(b) and (c) of the Vehicle and Traffic Law. Emission inspections will be mandatory beginning on January 1, 1981, but repair will be voluntary; beginning on January 1, 1982 inspection and repair will both be mandatory. While specific program stringency factors are not provided in the submittal, the State commits to achieving a 25 percent reduction in passenger car exhaust emissions of hydrocarbons and a 25 percent reduction in carbon monoxide emissions.

#### • Regulations

New York State currently has regulations for conducting and enforcing its annual safety inspections. The emission test would be added to the specific list of items to be inspected and thereafter all registration and enforcement procedures would apply. Regulations currently exist for licensing inspection stations which specify specific space, equipment and reporting requirements. Individuals performing inspections must meet specific requirements in order to gain certification.

#### • Emission Test Procedure

In addition to the required idle exhaust emission test, the State is considering the desirability of conducting visual checks of automotive air pollution control equipment. This

anti-tampering program is discussed further later in this subsection.

#### • Public Information and Education

The State considers a public information program essential to the successful implementation of an I/M program. Details on a specific public information program have not been provided in the proposed SIP revision; however, the State commits to developing such a program and has included milestones for this work in its I/M implementation schedule. The proposed SIP revision states that the New York State Department of Environmental Conservation would conduct a free exhaust emission test program from June 7, 1979 through August 25, 1979 throughout the New York City metropolitan area. This program was designed to begin to educate the public on the benefits of an exhaust emission test.

#### • Mechanic Training

Since under existing authority the State does not have a mechanism to require mechanic training, certification, or licensing, the State has committed itself to study the feasibility of conducting a voluntary program.

#### • Assignment of Responsibility

In order for the New York State Departments of Motor Vehicles (DMV) and Environmental Conservation (DEC) to develop, implement and maintain an effective I/M program, a memorandum of understanding allocating responsibilities will be developed between them.

#### • Monitoring and Quality Control

The State will use several methods to monitor and control the inspection facilities and ensure quality inspections. These include: periodic unannounced inspections (once every 60 days), concealed investigations (utilizing unmarked vehicles), contractor supplied, serviced and maintained exhaust gas analyzers and data recorders (contractor calibration at least once per month), periodic data analysis of inspection station records and followup investigations, and investigation of consumer complaints involving inspections (exhaust analyzers will be used to handle complaints and concerns regarding proper emission inspections).

It is EPA policy to require a periodic inspection of decentralized licensed garages to insure proper calibration and maintenance of exhaust gas analyzers. The State has included in its proposed revision a requirement that exhaust gas analyzers be calibrated once per month. The State, in addition, will require periodic calibration of the exhaust gas analyzers by the licensed inspection stations.



Currently the State is monitoring and controlling the safety inspection program. Therefore, all that is necessary when adding the exhaust inspection is to extend that system with an appropriate increase in the number of DMV automotive facilities inspectors to handle the more frequent and expanded inspections.

#### • Request For Proposal for Test Equipment

In order to obtain better control over the exhaust gas analyzers used to perform the exhaust test and the quality of maintenance and service, the State will issue a single request for proposal on such equipment and service. In addition, this equipment will have data storage capability for accurate and complete recordkeeping.

#### • Financing

In order to successfully operate and monitor the proposed I/M program the State has determined that it will be necessary to increase the current safety inspection fee and provide additional State funds to administer the program. Under existing authority the DMV Commissioner can raise the inspection fee to cover the additional cost of the exhaust inspection. The State also has identified methods of securing funds for the additional DMV administrative costs. Included in the State's submission is a general commitment to fund the I/M program as outlined.

#### • Waiver Provisions From Exhaust Standards

The State will include waiver provisions, which are yet to be determined, in the interest of fairness and public acceptance. Nevertheless, a waiver will not be granted for a vehicle that has had its emission control system tampered with.

#### • Implementation Schedule

A schedule has been included in the State's submission for the implementation of the decentralized I/M program. Milestones to achieve the January 1, 1982 commencement date for mandatory emissions inspection and mandatory repair are provided in the following schedule.

9/14/79—Coordination begins between DMV and DEC.

10/1/79—Prepare notification to all currently licensed stations informing them of the new requirements. Provide them with any information currently available on how they will be affected on continuing basis.

10/1/79—Begin identifying all exhaust analyzer equipment supplies to establish a mailing list for the request for proposal.

10/1/79—Begin, in coordination with DEC, preparing request for proposal for equipment supply, maintenance, and training.

10/15/79—Begin continuous public information and public education campaign

by forming task force; use current DEC and EPA material.

10/31/79—Submit amended DMV budget request.

11/15/79—Mail request for proposals to prospective bidders.

11/15/79—Begin draft of Commissioner's regulations.

11/15/79—Begin study of waiver provisions.

1/4/80—Bids received.

1/4/80—Complete study of waiver provisions and select procedures, if any.

1/4/80—Begin public promulgation process for the Commissioner's regulations on Part 79 including pass/fail standards for emission test and fee increase.

1/4/80—Submit legislation to raise DMV inspection sticker fee from 25 to 50 cents.

1/18/80—Select successful bidder.

1/18/80—Begin public information and education program.

2/4/80—Begin feasibility study of mechanic training program.

2/18/80—Formally sign contract with successful bidder on request for proposal.

4/1/80—DMV to receive funds from either amended budget request or legislation raising sticker fee to 50 cents (or both), or obtain funding from some other source.

4/1/80—Determine necessary DEC level of staffing.

8/2/80—Report on feasibility of mechanic training course and begin planning any new program.

7/1/80—Memorandum of understanding between DEC and DMV completed.

7/1/80—Determine funding mechanism for DEC.

8/1/80—Amended Part 79 promulgated.

9/1/80—Additional DMV monitoring staff on board.

10/1/80—Receive funding for DEC portion of program.

10/1/80—Distribute new inspection forms, supplies and procedures including new New York City metropolitan area inspection stickers and revised certified inspector training class.

12/1/80—Exhaust gas analyzers in hands of stations and automotive facilities inspectors (including data recorders if available at this time).

1/1/81—Begin one year of mandatory emissions inspection/voluntary repair.

10/1/81—Data recording devices attached to all gas analyzers used for emissions inspection.

1/1/82—Begin mandatory emissions inspection/mandatory repair.

#### Anti-Tampering Pilot Program

The second substrategy relating to inspection and maintenance is a pilot program involving the inspection of vehicles with the objectives of determining the extent of tampering with emission control systems, determining the effect of such tampering on vehicle emissions, determining how tampering is occurring, and developing inspection procedures to detect tampering in the I/M program just discussed. The State believes that the effectiveness of an I/M program to reduce exhaust emissions can be

increased if a tampering inspection is added to the standard exhaust test. The pilot program began on June 18, 1979 and is to be completed by March 1, 1980. At the completion of the pilot program, a written report will be issued relating to the above objectives.

**Adequacy:** The State was required to certify by June 30, 1979 that authorizing legislation existed for a vehicle emission I/M program. Since the State has decided to implement a decentralized emission program by incorporating it into the current State decentralized safety inspection program, they have been able to provide documentation demonstrating State authority to implement this type of program. EPA has reviewed this authority and agrees with the State's determination that it is adequate to implement an exhaust emission inspection and to require vehicles failing the test to be repaired.

Since the State will include in its request for proposal a requirement to calibrate test instruments once per month, and since State DMV inspectors will be checking calibration of the exhaust gas analyzer once every sixty days, EPA accepts this calibration frequency as adequate to ensure emission test integrity.

While the State has committed to achieving the 25 percent emission reduction of hydrocarbons and carbon monoxide in 1987, specific details as to how this will be accomplished have not been provided to EPA. As long as the State provides this information on schedule, EPA is satisfied with this commitment.

The specific finances and resources to carry out the I/M program have not been identified in the proposed SIP revision, but the State commits to fund the program. EPA is satisfied with this commitment, along with the milestones in the implementation schedule which will provide the details on funding and manpower resources.

The implementation schedule submitted by the State contains the necessary milestones and is acceptable to EPA.

Based on the State's submissions, EPA proposes to approve the State's proposed I/M program.

Although the taxi inspection program has been in operation is its present form since October 1977, an evaluation of the program's effectiveness in reducing air pollution emissions has never been submitted to EPA. Consequently, no documentation is available to verify the emission reduction credits assigned to this program. In order for EPA to fully evaluate the existing taxi I/M program, as well as the State's demonstration of reasonable further progress and

attainment of the air quality standards, EPA requests that the State submit such information as soon as possible.

**(c) Transit Improvements.**—Description: This measure includes the following substrategies to improve public transportation: maintenance of the current 50-cent transit fare, rehabilitation of public transit, and improvement and promotion of mass transit.

• **Maintenance of 50-cent transit fare.**—The proposed plan indicates that the Governor of New York and the Mayor of New York City intend to maintain the present transit fare. This objective is to be met through increased federal funding, funds from the State's operating assistance budget, and by efforts such as those outlined by a proposed Metropolitan Transportation Authority Management Study.

• **Rehabilitation of public transit.**—The proposed SIP revision describes the rehabilitation of the existing New York City Transit Authority's subway and bus systems as an on-going program. According to the proposed SIP revision, the Governor and the Mayor have agreed upon an accelerated program of improvements to the existing system, conditioned on the receipt of additional federal capital assistance.

• **Improving and Promotion of Mass Transit.**—This substrategy is intended to improve transit service by reducing travel time, improving coordination, providing information, and promoting transit service improvements. Various projects and studies are proposed to effect service improvements.

Estimates of the air quality impact of this measure are presented in the State's document, "The Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area," May 1979. Reduction in vehicle-miles-travelled and organic compound emissions of 0.4 percent are anticipated.

**Adequacy:** The measure, "Transit Improvements," will be discussed in a separate notice concerning the State's "Moynihan/Holtzman" submission which will appear in a future issue of the *Federal Register*. The Clean Air Act requirement for this document is discussed in detail in Subsection III.K.4 of this notice.

**(d) Land Use and Development Controls.**—Description: This measure deals with a proposed change to New York City's zoning ordinance affecting the construction of off-street parking facilities. Its goal is to reduce air pollution and traffic congestion without adversely affecting the City's economic base. Changes in the zoning ordinance

will reflect the results of on-going studies (e.g., a Parking Management Study) and an evaluation of the air quality benefits of the off-street parking restriction programs that have been previously implemented. The Parking Management Study will describe the relationship between parking availability and traffic in Manhattan's central business districts. Justification for not applying this measure outside of the Manhattan central business districts is provided by the State.

**Adequacy:** The schedule for implementation of sections associated with this measure appears to be adequate.

**(e) Parking Restrictions.**—Description: By restricting the availability of on-street parking spaces, the implementation of this measure aims to reduce the total number of vehicles entering the central business districts so as to improve traffic flow and thus improve air quality. The SIP revision proposes to examine three major options under this measure: (1) The strict enforcement of existing parking regulations, (2) the control of daytime commuter parking in residential areas, and (3) the reduction in the number of parking spaces in Manhattan's business districts. It is stated in the proposed SIP revision that the implementation of some programs under these options has already begun. In addition, this measure may be further implemented based in part on the findings of the carbon monoxide "hotspot" monitoring study, discussed in Subsection III.B.1.a. of this notice. Parking restrictions will be explored as a means to attain standards in areas where violations are identified by this study.

**Adequacy:** This measure is deficient with respect to its schedule for implementation. Many actions called for by this measure lack starting dates, completion dates, and interim dates describing key milestones.

**(f) Freight Transportation.**—Description: The objective of this measure is to reduce emissions through improving truck and rail freight transportation in the City of New York. The following six elements are included in the proposed SIP revision for consideration:

- Consolidation of Trucking Activities
- Development and Fostering of Improvements in Goods Movement Technology and Management Systems
- After Hours Delivery to Stores and Office Buildings
- Provisions of Off-Street Loading Facilities
- Use of Rail for Transporting Commodities
- Development of Waterfront Facilities

These six elements correspond to strategies contained in the 1973 SIP.

Parts of two of the six elements were found by the State to be not reasonably available. These are:

• **Element No. 2—Moving freight on the New York City subway system** was found to be unreasonable because of the inability of the passenger oriented systems to accommodate freight. In addition, the use of Conrail's tunnels under the Hudson River for freight was also found to be unreasonable.

• **Element No. 3—The "mandating" of after hours delivery of freight in Lower Manhattan** was found to be unreasonable, but the "encouraging" of voluntary after hours delivery was considered to be reasonably available. Programs to encourage after hours delivery will be studied.

Four projects will be implemented under this measure, as follows:

- Construction of a trailer on flat car terminal at High Bridge Terminal in the Bronx and the provision of increased bridge clearance for rail cars north of the High Bridge Terminal.
- Establishment of a full clearance link between High Bridge and the Oak Point rail yard in the Bronx.
- Establishment of a rail link to the Brooklyn waterfront.
- Designation of new truck routes in New York City.

**Adequacy:** This measure is deficient in that schedules for various projects and studies under it are deficient with respect to starting dates, interim milestones, and completion dates.

**(g) Heavy Duty Gasoline Truck Retrofit.**—Description: This measure proposes to determine the feasibility of retrofitting heavy duty gasoline powered trucks with air pollution control devices, primarily catalytic converters. The 1973 SIP (See Subsection III.D.1.e of this notice for a discussion of the 1973 SIP) contains a heavy duty gasoline retrofit strategy. While developmental work on it was carried out, substantial questions still remain to be answered regarding its technical and administrative feasibility.

In order to resolve the questions of availability of devices, durability of devices, certification procedure, and costs, the State has included a proposed schedule for a demonstration program. Funding for the program is being sought from EPA and other sources. Full implementation of this measure is in part dependent upon the results of the demonstration program.

The proposed SIP revision states that the effectiveness of this measure depends upon adoption of similar programs in Connecticut and New Jersey. This is considered necessary because of the nature of the interstate shipping business and to prevent New



York truck owners from registering vehicles in these other states to avoid retrofit requirements.

**Adequacy:** Consistent with the fact that the 1973 SIP contains a heavy duty gasoline retrofit strategy, the State has designated this measure in the "Reasonably Available Control Measure" category. However, unlike other measures in this category, the State does not appear ready to provide for its implementation at this time, but only to begin a demonstration program which will provide answers to outstanding issues. In addition, EPA questions the State's commitments to this measure because legislative authority for heavy duty gasoline truck retrofit in New York State is contingent upon New Jersey and Connecticut obtaining legal authority to implement the measure. If in fact a recategorization of this strategy is in order, this should be done in conformance with the procedures for revising the 1973 SIP discussed in Subsection III.D.1.e of this notice.

The demonstration program appears dependent on the availability of federal funds and the cooperation of catalyst manufacturers in providing prototype devices. Both of these contingencies have not been resolved as of yet. It is not clear from this measure who would be conducting the demonstration program and the adequacy of manpower commitments. This could significantly affect the availability of federal funds.

(2) Demonstration Projects to Determine Implementation Feasibility.

(a) **Limitations on Authorized Parking.**—*Description:* In the City of New York, individuals, private corporations and domestic or foreign government agency employees are, in certain cases, extended special on-street parking privileges, sometimes combined with special license plates or other insignias which immunize the vehicle from having to comply with generally applicable parking regulations. However, these privileges are at times abused through double parking or parking in unauthorized areas. Such abuses block or slow the free movement of traffic in congested areas.

In the proposed SIP revision, the New York City Department of Transportation is committed to investigate and report on the extent of this problem and to develop a program to correct it. The report will contain recommendations for changes in procedures, regulations and legislation to limit such authorized parking and to locate it in places which minimize traffic flow interferences.

**Adequacy:** This demonstration project is inadequate with respect to its schedule for implementation. The

project fails to identify a starting date, interim milestones and a completion date.

(b) **42nd Street Transitway Project.**—*Description:* The New York City Planning Commission and the New York City Department of Transportation are currently studying the financial and technical feasibility of establishing a transitway along the 42nd Street corridor. The proposed SIP revision includes a schedule for bringing this project to fruition. The last milestone in this schedule indicates that the project would be considered for inclusion in the Transportation Improvement Program in the fall of 1980.

**Adequacy:** EPA believes that this project has been miscategorized by the State because the project is well underway and will require future federal funding for implementation. Hence, it would appear more appropriate to categorize it as a "Reasonably Available Control Measure Subject to Transportation Planning Process Action."

(c) **East Side Avenue Exclusive Local Bus Lane.**—The proposed SIP revision contains a commitment to conduct a demonstration project to test the feasibility of an exclusive bus lane on an East Side Avenue in Manhattan. The proposed SIP revision further states that this commitment is conditioned on the results of a feasibility analysis to be completed by February 1, 1980 and, if found feasible, the project will be considered for inclusion in the Transportation Improvement Program in the fall of 1980.

**Adequacy:** The City of New York has recently obligated itself to institute exclusive bus lanes on two Manhattan avenues by entering into a Stipulation in *United States of America v. State of New York et al.*, 76 Civ. 837. This Stipulation (and accompanying court Order) represents settlement of litigation concerning a strategy in the 1973 SIP which required medallion taxicabs to meet rigorous emission standards (Strategy A-11 shown in Table 2 of this notice). The 1973 SIP identifies the City of New York as bearing responsibility for implementation of Strategy A-11. It was, therefore, appropriate for the City of New York to assume responsibility for implementation of the exclusive bus lane strategy as it did by entering into the Stipulation.

The existence of the referenced Stipulation and Order makes implementation of two exclusive bus lanes an absolute legal requirement. The State's categorization of this project in the proposed SIP revision is, therefore, inappropriate. As the City of New York was the State's delegate for

implementation of the former Strategy A-11, and has committed to the institution of exclusive bus right-of-way as a partial substitute for that strategy, the State's proposed SIP revision should be changed to reflect the obligations and the relevant dates that are set out in the Stipulation and Order.

(d) **Business District Peripheral Parking Facilities.**—*Description:* A demonstration project to test the feasibility of locating at least one special parking facility peripheral to the Midtown Manhattan Central Business District is included in the proposed SIP revision. An essential part of this demonstration project is the concurrent establishment of an efficient public transportation link from the peripheral facility to the Midtown Central Business District. The Cruise Shipping Terminal parking lot in the west side of Manhattan is one of several sites being considered. The New York City Department of Transportation, the Taxi and Limousine Commission and the Metropolitan Transportation Authority share responsibility for this project.

**Adequacy:** EPA finds the program for implementation of this demonstration project is adequate.

(e) **49th-50th Streets Corridor: Improved Service for Public Transportation Vehicles.**—*Description:* A program to improve the level of transportation service in the 49th and 50th Street corridor, which is identified as having the lowest transit speeds in Manhattan, is proposed to be developed by the SIP revision. Potential actions to be investigated include the establishment of a bus lane, a public transportation corridor and turn restrictions. The plan commits the New York City Department of Transportation to start implementation of recommendations resulting from this investigation by July 1979.

**Adequacy:** This project was implemented on June 12, 1979 and apparently is operating satisfactorily. EPA recommends timely application of this demonstration project to other transit improvement projects.

(f) **Bike Lanes.**—*Description:* In the proposed SIP revision four bike routes linking Brooklyn, Queens and Staten Island with the Midtown and Downtown areas of Manhattan are proposed for implementation. These bike lanes, which will be carefully monitored for their effectiveness, are considered by the State to constitute the first phase of a bikeway implementation strategy. The New York City Department of Transportation has responsibility for this project.

**Adequacy:** This proposed bike lane from Queens to Manhattan over the

Queensboro Bridge was implemented on July 3, 1979. The proposed SIP revision indicates that construction of all four of the bike lanes would begin in June 1979. However, no further details of the implementation schedule are provided.

(3) Reasonably Available Control Measures Subject to Transportation Planning Process Action.

(a) **Express Bus and Carpool Lanes.**—*Description:* Discussion of this measure in the proposed SIP revision includes a reference to several different types of projects. Besides those providing for exclusive bus and carpool lanes on major arterials and limited access highways, there are projects that relate to local bus operations (e.g., local bus lanes, construction of bus shelters), the establishment of exclusive bus and taxi lanes, increased traffic enforcement with respect to bus lanes, and the establishment of parking facilities where buses can "lay over" between their scheduled trips to and from Manhattan. A listing of specific projects and studies in the New York City, Nassau-Suffolk and Mid-Hudson South areas is provided. In addition, the governmental agencies responsible for these projects and studies are identified. The State has indicated to EPA that some of the projects presented as a part of this measure appropriately belong under the "Transit Improvements" measure discussed in Subsection III.D.1.C(1)(c) of this notice. Such projects as bus shelters and signs belong to this category. To a limited extent, schedules for actions on projects are presented in Volume II of the proposed SIP revision.

**Adequacy:** Insufficient information is included in the proposed SIP revision for EPA to evaluate the adequacy of the program of specific projects and studies presented under this measure. It is not possible to determine the products which are expected to result from each study. The proposed SIP revision fails to identify any necessary sequencing of the studies. Finally, starting dates, interim milestones and completion dates are not specified for many projects and studies.

(b) **Pedestrian Priority Zones.**—*Description:* The proposed SIP revision identified two types of projects as being applicable to this measure: pedestrian malls closed to all traffic except for emergency and limited services delivery vehicles, and transit malls designed to accommodate pedestrians, buses, emergency and service delivery vehicles. Of the various jurisdictions in the New York City metropolitan area, Suffolk County and Rockland County found pedestrian priority zones to be unreasonable based upon their relatively low populations densities.

**Adequacy:** EPA believes that the schedules for implementation of studies and projects do not adequately provide starting dates, interim milestones and completion dates.

(c) **Traffic Flow Improvements for Arterials.**—*Description:* Projects under this measure seek to improve traffic flow by utilizing a variety of traffic control and engineering measures. The proposed SIP revision contains a listing of various projects and studies to be undertaken in the New York City metropolitan area. Moreover, the plan points out that, "throughout the area, traffic flow improvements are undertaken on a continuous basis, with most of the funding coming from federal sources. Therefore, most traffic flow improvement projects are reviewed and selected according to the ongoing transportation planning process." Under this measure the State also considers projects related to reducing the number of vehicle trips which go through Manhattan, improving the movement of goods in Manhattan, and reducing unnecessary travel by taxis.

The State considers that those types of projects commonly referred to as traffic engineering on TOPICS (Traffic Operations Program to Increase Capacity and Safety) reduce vehicle emissions by improving traffic flow without significantly increasing vehicle-miles-travelled. Such projects include signal improvements, signs, turning lanes and other pavement modification for traffic engineering purposes short of adding additional travel lanes between intersections. In this regard, the State has proposed that the traffic flow projects identified in the proposed SIP revision that exceed the definition of traffic engineering type projects (i.e., arterial reconstruction projects in Yonkers and Nassau County) not be considered as part of the SIP.

**Adequacy:** The schedule of implementation is inadequate with respect to providing starting dates, interim milestones, and completion dates for the various projects and studies under the measures.

(d) **Traffic Flow Improvements for Limited Access Highways.**—*Description:* The proposed SIP revision specifically describes only two projects under this measure. The first is a "Traffic Surveillance and Control System" which is under construction on the Van Wyck Expressway in New York City. The evaluation of this system is expected to be completed in 1981. The second is an "Integrated Motorist Information System" which is under development in the Northern Long Island corridor including the Long Island Expressway, Northern and Grand

Central Parkways and some parallel roads. Construction of this project is expected to be completed in 1982.

These two projects are proposed as demonstrations to be used to further evaluate this measure. The State does not intend to propose additional projects of this nature until their air quality benefit can be determined.

**Adequacy:** EPA believes that any future highway projects that may be presented by the State for inclusion in its SIP must be carefully evaluated as to their air quality impact. To do otherwise might undermine gains in air quality resulting from other strategies and result in less than expeditious attainment of standards.

(e) **Alternate Work Schedules.**—*Description:* Projects developed under this measure are intended to encourage employers to voluntarily alter employee work schedules away from the predominant 9:00 am-5:00 pm work period. Because employees would not be traveling to and from work during peak periods, improvements to mass transit service would be experienced and traffic congestion would be reduced. Several specific projects and studies in the New York City metropolitan area are described in the proposed SIP revision under this measure.

**Adequacy:** The schedules for implementation of various projects and studies are deficient with respect to providing starting dates, interim milestones, and completion dates.

(f) **Bicycle Lanes and Storage Facilities.**—*Description:* Specific related projects categorized in the proposed SIP revision as "Demonstration Projects to Determine Implementation Feasibility" have already been discussed in Subsection III.D.1.C(2)(f) of this notice. Additional projects and studies in the major jurisdictions of the New York City metropolitan area are also discussed under this heading in the proposed SIP revision.

**Adequacy:** The schedule for implementation for various projects and studies described under this measure are deficient with respect to providing starting dates, interim milestones, and completion dates.

(g) **Employer Based Programs.**—*Description:* The proposed SIP revisions discusses several past and current efforts to encourage carpooling and vanpooling in the New York City metropolitan area. For example, the New York State Department of Transportation provides keypunched carpooling data and computer summaries to employers in Nassau County.

**Adequacy:** With the exception of a general discussion of one project and



three studies, the proposed SIP revision does not provide the necessary information for implementation of any new employer programs. Also, starting dates, interim milestones and completion dates are needed for the new studies and projects mentioned.

(h) *Private Car Restrictions.*—*Description:* Projects developed under this measure would be directed at reducing congestion through the restriction of private vehicle use in specific areas within a central business district. The proposed SIP revision commits the New York City Department of Transportation to conduct an eighteen-month study of the feasibility of various private car restriction policies for the central business districts of the City. The Nassau-Suffolk TCC has determined that this measure is not applicable to the two counties under its jurisdiction because of their low density of development. Rockland County also rejected this measure as ineffective. In Westchester County, the City of Yonkers will conduct a study of "transit streets" to determine feasibility. Nevertheless, the State believes that this measure could have application in carbon monoxide nonattainment areas in Nassau and Westchester Counties, if such areas are identified as a result of the "hotspot" monitoring study discussed in Subsection III.B.1.a of this notice.

*Adequacy:* It will be necessary for the State to provide more specific information on the nature and the extent of these two studies, and on the key milestones associated with them.

(i) *Park-and-Ride and Fringe Parking.*—*Description:* Projects developed under this measure are intended to divert automobile drivers to convenient parking facilities at express transit service stops. In addition, particularly in suburban areas, such parking facilities can be used as carpool staging areas. The proposed SIP revision commits the New York City Department of Transportation to the analysis and implementation of several park-and-ride pilot projects. A study of Manhattan Central Business District peripheral parking will be completed by November 1980. By June 1979 two park-and-ride lots in addition to the three already existing in New York City were to have been established. A park-and-ride study undertaken by the New York State Department of Transportation will be completed by mid-1981. Within this period the State will construct, expand or upgrade at least fourteen park-and-ride lots, encompassing 3000 new spaces in Rockland, Westchester, Nassau and Suffolk Counties.

*Adequacy:* The schedule for implementation for various projects and studies described under this measure are deficient with respect to providing starting dates, interim milestones and completion dates.

(4) *Measures Not Reasonably Available.* (a) *Extreme Cold Start Reduction.*

EPA has informed the State that the New York City metropolitan area does not qualify as an "extreme cold climatic" area and, consequently, investigation of this measure would not be required. Therefore, EPA proposes to accept the State's classification of this measure as not being reasonably available.

(b) *Controls on Extending Vehicle Idling.* *Description:* The intent of this measure is to impose limits on the length of time that a vehicle would be permitted to idle unnecessarily. This measure was determined by the State to be not reasonably available in New York City largely due to the contention that the existing City regulation limiting idling is unenforceable and ineffective. Data supporting this contention were not provided in the proposed SIP revision. With the exception of Suffolk County, the other jurisdictions in the New York City metropolitan area, Nassau, Westchester and Rockland Counties, will attempt to continue to limit unnecessary idling.

*Adequacy:* It is not clear from the proposed SIP revisions whether or not this measure should be considered not reasonably available for the entire New York City metropolitan area or just for New York City. Its categorization by the State would seem to imply the former, but the discussion of the measure in the proposed plan seems to imply the latter. Before eliminating this measure the State should submit evidence to EPA which clearly demonstrates the proposed plan contention that the measure is unreasonable.

(c) *Alternate Fuels.* *Description:* The intent of this measure is to promote the investigation of the use of new or modified vehicular fuels. However, discussion in the proposed SIP revision centers solely around the increased use of diesel engines. Because of the potential health impact of diesel engine exhaust no action concerning this measure is contained in the proposed plan.

*Adequacy:* EPA recommends that further evaluation of this measure be conducted by the State and that the State explore other alternate fuels (e.g., electric vehicles) besides diesel fuel.

(d) *Road Pricing.* *Description:* This measure is directed at establishing new or modified tolls or taxes to encourage

auto drivers to use mass transit or carpools. Five specific substartegies are discussed in the proposed SIP revision. They are: (1) East and Harlem River Bridge Tolls, a strategy originally included in the State's 1973 SIP, (2) the establishment of new toll collection locations, (3) the elimination of commuter toll discounts on Port Authority of New York and New Jersey facilities, (4) the institution of lower tolls or no tolls for high occupancy vehicles on existing tolled facilities, and (5) mileage charges or gasoline taxes. Each of these actions was considered by the State not to be reasonably available based on existing published evaluations which are cited in the proposed plan.

*Adequacy:* EPA proposes to agree with the State is conclusion regarding the availability of these particular substartegies but recommends that the State further explore in the light of changed conditions their current viability. In this regard, the concept of mileage charges or gasoline taxes should particularly be subject to reevaluation.

d. *Transportation Planning Process.* (1) *Introduction and Definitions.* The preponderance of the funding necessary to support the transportation-related projects and studies contained in the proposed SIP revision will be made available through existing U.S. Department of Transportation programs. The ongoing transportation planning process, which organizes and provides direction to these programs, is therefore key to the expeditious implementation of the proposed SIP revision. Consequently, in order for this process to function in a manner which is supportive of the SIP, air quality concerns must be integrated into it. This subsection discusses the transportation—air quality planning process which will be necessary to ensure that this objective is met.

To aid the reader in understanding the terminology used in discussing the existing transportation planning process, the following definitions are provided. These have been taken from Appendix D, "Definitions," to U.S. Environmental Protection Agency and U.S. Department of Transportation *Transportation—Air Quality Planning Guidelines*, June 1978.

"Annual Element": A list of transportation improvement projects proposed for implementation during the first program year of the Transportation Improvement Plan (23 CFR 450.304(b)).

"Conformity" (as related to transportation): A determination under Section 176(c) of the Clean Air Act, as amended, that the Department of Transportation has assured that transportation plans and programs in an

area conform to the transportation-related requirements of the SIP.

"Consistency": The requirement in 23 U.S.C. 109(j) that proposed transportation plans and projects be consistent with the approved SIP.

"Metropolitan Planning Organization": That organization designated by the Governor as being responsible, together with the state, for urban transportation planning under the Federal-Aid Highway Act (23 U.S.C. 101 *et seq.*) and the Urban Mass Transportation Act (49 U.S.C. 1601 *et seq.*). This organization is the forum for cooperative decision making by principal elected officials of general purpose local governments (23 CFR 450.104(b)).

"Prospectus": That part of the Unified Planning Work Program which summarizes the planning program and generally describes the status and anticipated accomplishments of each element, the procedures to be used in carrying out each element and the functional responsibilities of each participating agency (23 CFR 450.114(b)).

"Regional Transportation Plan": The plan that must be developed under the Department of Transportation urban transportation planning process to satisfy the requirements of 23 CFR 450.116. The Transportation Plan includes a transportation systems management element and a long range element and must be consistent with the area's comprehensive long-range land use plan and overall social, economic, environmental, system performance and energy conservation goals and objectives.

"Transportation Improvement Program": A staged multi-year program of transportation improvements including an annual element listing transportation improvement projects proposed for implementation during the first program year (23 CFR 450.304(b)).

"Transportation Systems Management Element": That part of the Regional Transportation Plan which provides for the short-range transportation needs of the urbanized area, not including new transportation facilities or major changes in existing facilities (23 CFR 450.116(b)).

"Unified Planning Work Program (UPWP)": The document that must be developed by the Metropolitan Planning Organization under 23 CFR 450.112(a) and satisfy the requirements of 23 CFR 450.114(c). The UPWP describes all urban transportation-related planning activities within the area during the next one or two year period, regardless of funding sources and documents work to be performed with planning assistance under Section 8 of Urban Mass Transportation Act (49 U.S.C. 1607a) and 23 U.S.C. 104(f) and 307(c).

(2) *SIP Content.* Chapter IV of Volume I of the proposed SIP revision presents a program for integrating air quality considerations into the ongoing urban transportation planning process of Section 134 of Title 23 of the United States Code. In describing this planning process, the State points out that the current transportation planning process is both complex and cumbersome, yet workable.

The Metropolitan Planning Organization designated by the

Governor of New York for transportation planning in the New York City metropolitan area is the Tri-State Regional Planning Commission. As discussed in Section II.C of this notice, Tri-State was also identified by the Governor as the lead planning organization to prepare the required SIP revision. The proposed SIP revision commits to having Tri-State review the transportation planning process by the end of 1979 and to propose such modifications as may be necessary to ensure that air quality concerns receive high priority and that programs contained in the SIP are followed.

The following are key actions that the State has committed to in its proposed revision with regard to the planning process:

- That EPA and the New York State Department of Environmental Conservation become members of key transportation decision making bodies;
- That New York City provide for public review of the Transportation Improvement Program (TIP) during its update (public forums are already underway in the suburban counties);
- That studies to evaluate the air quality impact and feasibility of potential control strategies be given priority in the Unified Planning Work Program
- That projects with significant air quality benefit be identified and given priority in the region's Transportation Improvement Program.

The proposed SIP revision presents a description of the major elements of the transportation—air quality planning process and how they are coordinated with the SIP. The following discussion summarizes this information.

(a) *Prospectus.* The Prospectus will reflect increased recognition of air quality issues and outline the responsibilities of the environmental agencies which have been formally added to the planning process as a result of the provisions of the proposed SIP revision. It will call for the establishment of schedules for studies in the UPWP with the dates in the proposed SIP revision. The Prospectus will include a commitment to improve the methods for assessing the progress made toward meeting of air quality related objectives.

(b) *Unified Planning Work Program.* Federal and State environmental agencies are now members of the Transportation Coordinating Committees and, therefore, can participate in the process of proposing studies and in the process of refining, ranking, and selecting them. A mechanism has been established whereby an agency which disagrees with the priorities set forth in a proposed UPWP can formally convey its

recommendations to the Tri-State Standing Committee on Transportation, to which the TCCs submit programs for endorsement. The proposed SIP revision recommends that studies to evaluate air quality impacts and the reasonability of potential control measures to given priority in the UPWP. Progress reports will be issued concerning that status of air quality related studies.

(c) *Regional Transportation Plan.* Tri-State will assess the Regional Transportation Plan ("Maintaining Mobility") for consistency with the SIP. The assessment will include a review of progress being made under the SIP. If the assessment uncovers a conflict between the transportation plan and the SIP, the State is committed to "consider" a revision to the Regional Transportation Plan that would eliminate the conflict.

(d) *The Transportation Improvement Program.* Environmental agency members of the TCCs can recommend projects for inclusion in the Transportation Improvement Program (TIP). Projects proposed in the Annual Element of the TIP for right-of-way acquisition or construction will be reviewed at these stages of commitment to determine whether or not they are consistent with the SIP. A project may be included in the TIP in an earlier stage of its development (e.g., preliminary engineering) without a consistency assessment. However, it is pointed out in the proposed SIP revision that, for major projects, assessments for air quality and other impacts should be conducted at these earlier stages. The proposed SIP revision recognizes the need for the assessment of air quality impacts when projects are first added to the TIP.

Projects contained in the SIP will be required to be given high priority for inclusion in the Annual Element. Projects not in the SIP for which a significant air quality benefit can be identified must also be given priority for inclusion in the TIP. The State is committed to develop and apply criteria for giving priority to all such projects.

According to the State, SIP projects to be contained in the TIP may be modified in the TIP development process. Depending on the impact of the change on air quality, a revision to the SIP might be necessary. Such a modification will constitute a revision if emission reduction credits were claimed for the project. Hence, any project not claiming a reduction in emission can be omitted from the TIP without a formal revision to the SIP. Omitting a project from the TIP means that it may not be implemented. An agency which disagrees with the TCC's action



concerning projects in the TIP can convey its concerns directly to the Tri-State Standing Committee on Transportation.

It is also stated in the proposed SIP revision that any significant change to a control measure would require a revision of the SIP. Such revision would be formally proposed by the State and would require approval by EPA. Minor revisions to a control measure will not constitute a SIP revision.

(e) *Transportation Project Development Process.* After a project is in the TIP, it is advanced for implementation. Most projects are advanced according to the State's "Environmental Action Plan." Projects reviewed through the "Environmental Action Plan" may not be approved unless the project is determined to be consistent with the SIP.

(3) *Adequacy.* EPA believes that the State's effort to integrate air quality concerns into the transportation planning process are commendable and finds them generally acceptable. However, some shortcomings in the process still exist. These are discussed as follows.

(a) *Elimination of Projects from the SIP.* The proposed SIP revision states that a "significant" change to a project contained in the SIP would necessitate the SIP's revision. However, the criteria to be used by the State to determine whether or not a change is "significant" is not clear from the proposed plan. Since the SIP is to be used as a standard against which, in part, the plans, programs and projects of the transportation planning process are to be evaluated, it is critical that such criteria be defined.

Similarly, the State includes in its proposed SIP revision the concept that a measure found not to be reasonable by decisions made through the transportation planning process may be classified, with adequate justification, as "unreasonable." This issue particularly concerns projects falling under those measures included in the category, "Reasonably Available Control Measures Subject to Transportation Planning Process Action." (As discussed in Subsection III.D.1.b(1) of this notice, these measures only need to be examined, primarily by the TCCs, for the availability of funding to determine their reasonableness). In order to be acceptable to EPA, however, any change to the categorization of a measure must be confirmed by a SIP revision. This action is particularly important for the reasons just cited and because the State is responsible for

ensuring implementation of all measures contained within the SIP.

Most of the projects contained in the proposed SIP do not have an emission reduction credit claimed for them. The State proposes that such projects may be omitted from the TIP without a revision to the SIP. Since this effectively eliminates the State's commitment to implement its SIP, EPA cannot accept the State's proposal. Otherwise, there would be no assurance that the SIP and TIP "conform" to one another as required by Section 176(c) of the Clean Air Act. However, EPA does agree to the removal of projects from the SIP through SIP revision if funding is determined to be unavailable or if implementation of the project would result in substantial adverse impact.

EPA believes that these three changes to the proposed SIP revision are necessary to ensure that the SIP remains a timely document which reflects the decisions of the planning process. Consequently, EPA proposes to conditionally approve the proposed SIP revision regarding the State's approach to future SIP revisions with respect to transportation projects. By August 1, 1980 SIP revision criteria and procedures must be developed by the State and submitted to EPA. Criteria for a "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the TIP.

(b) *Elimination of Studies from the SIP.* EPA believes that, because of the role studies play in development of the 1982 SIP revision, the program for study of potential projects is critical to the attainment of standards. Consequently, any study contained in the proposed SIP revision that is not performed, regardless of whether this results from a decision made through the transportation planning process, requires a revision to the SIP to justify its deletion. It will be incumbent upon the State to demonstrate that the proposed study is not needed for the development of the 1982 SIP or that reasonable efforts towards performing the study were made. Criteria and procedures for making such assessments are needed. Consequently, EPA also proposes to conditionally approve the State's proposed SIP revision with respect to its approach to future SIP revisions. By August 1, 1980 criteria and procedures for making changes to

studies contained in the SIP should be developed and submitted to EPA.

e. *Status of 1973 State Implementation Plan Requirements*

The events leading up to the development of the 1973 ozone and carbon monoxide SIP for the New York City metropolitan area are discussed in Section II.B of this notice. Because of a failure to implement this plan after its approval, several of the strategies which it contained were subject to EPA administrative enforcement orders under Section 113 of the Clean Air Act. In addition, as a result of federal court action initiated by EPA and private citizens, Court orders were issued requiring implementation of seven of the strategies subject to EPA administrative orders. A listing of the primary strategies contained in the 1973 SIP and an indication of those which are subject to administrative and Court order is presented in Table 2.

The proposed SIP revision states that it "is intended to supersede the 1973 State Implementation Plan" and identifies whether each measure from the 1973 SIP was incorporated or omitted in the proposed SIP revision or has been placed under additional study. However, a measure contained in the 1973 plan may not be automatically changed or deleted by a state's submittal of the required 1979 SIP revision. This may be done only to the extent that the measure is demonstrated not to be reasonably available and if the proposed SIP revision satisfies all other requirements of Part D of the Clean Air Act (44 FR 20372, April 4, 1979).

The proposed SIP revision does not provide full justification as to why changes and deletions to the 1973 SIP strategies were made. EPA may approve a State change to the status (e.g., its implementation schedule) of a 1973 strategy upon receipt of documentation describing the needed change provided that the strategy is one of the ten never reduced to Court order. Until this documentation is received and approved by EPA, the strategy, as contained in the 1973 SIP, must remain as an enforceable part of the plan.

In the case of those measures in the 1973 SIP which were reduced to Court order, EPA cannot unilaterally entertain any proposal for change or deletion. This is because other parties besides EPA and the State are involved. However, if EPA finds that the State's reasons for modifying a 1973 SIP strategy are appropriate, EPA would be willing to join the State in petitioning the Court for any such modifications.

Table 2.—1973 Transportation Control Measures—Primary Strategies

| Name                                                                 | No.  | Court order         |                 | Administrative order |
|----------------------------------------------------------------------|------|---------------------|-----------------|----------------------|
|                                                                      |      | (Citizen initiated) | (EPA initiated) | (EPA issued)         |
| Vehicle Turnover                                                     | A-1  |                     |                 |                      |
| Retrofit of Heavy Duty Vehicles                                      | A-2  |                     |                 | X                    |
| Emission Inspection of Livery Vehicles                               | A-3  |                     | X               | X                    |
| Heavy-Duty Vehicle Emissions Inspection                              | A-4  |                     | X               | X                    |
| Passenger Vehicle Emissions Inspection                               | A-5  |                     | X               | X                    |
| Mechanic Training                                                    | A-6  |                     |                 | X                    |
| Diesel Bus Maintenance and Inspection                                | A-7  |                     |                 |                      |
| California Package on Toxicants                                      | B-1A |                     |                 | X                    |
| Enforcement of Traffic Regulations                                   | B-1B |                     |                 | X                    |
| Traffic Management                                                   | B-1C |                     |                 | X                    |
| Selective Ban on Taxi Cruising                                       | B-2  | X                   |                 | X                    |
| Reduction in CBD Parking                                             | B-3  | X                   |                 | X                    |
| Express Bus Exclusive Bus Lanes                                      | B-5  |                     |                 | X                    |
| Imposition of Tolls on All East River Bridges & Harlem River Bridges | B-7  | X                   |                 | X                    |
| Staggered Work Hours                                                 | C-8  |                     |                 |                      |
| After-Hours Delivery to Stores and Office Buildings                  | D-3  | X                   |                 | X                    |
| Citizen Participation Public Information                             | E-4  |                     |                 |                      |

<sup>1</sup> Strategy deleted from plan by Governor in October 19, 1977 letter (See 42 FR 61453, December 5, 1977).

## 2. Stationary Source Control Measures. a. SIP Revision

*Requirements.* For stationary sources, the 1979 ozone SIP revisions for major urban areas (including the New York City metropolitan area) must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available volatile organic compound control technology (RACT) to those stationary sources for which EPA has published a Control Technology Guidelines (CTG) document by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980 for those sources covered by CTGs that have been published by January of the preceding year (44 FR 20372, April 4, 1979). (A recent EPA policy decision, which has been published in the August 28, 1979 issue of the *Federal Register* at 44 FR 50371, has extended this January 1980 date to July 1980).

To meet this requirement, the State has submitted to EPA revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affecting the following parts:

- Part 200—General Provisions.
- Part 204—Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area.
- Part 205—Photochemically reactive Solvents and Organic Solvents From Certain Processes—New York City Metropolitan Area.
- Part 211—General Prohibitions.
- Part 212—Process and Exhaust and/or Ventilation Systems.
- Part 223—Petroleum Refineries.
- Part 226—Solvent Metal Cleaning Processes.
- Part 228—Surface Coating Processes, and
- Part 229—Gasoline Storage and Transfer.

It should be noted that, with the exception of Part 212, these regulatory revisions have been legally adopted by the State. Also, in the "Statewide Summary and Program" part of the proposed SIP revision there appears a commitment to adoption of future RACT regulations to apply to source categories covered by CTGs published after December 31, 1977.

The remainder of the discussion under this item will deal with each of the submitted regulations for the control of volatile organic compounds from the source categories for which CTG documents had been published by January 1978. As discussed in a notice appearing in the September 17, 1979 issue of the *Federal Register* (44 FR 53761) the Control Technology Guidelines provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information on the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT or amend the regulations to be consistent with the information in the CTGs.

b. *Description and Adequacy of Control Regulations.* (1) *Part 200—General Provisions.* Part 200 contains definitions of the terms used in the State's regulations and general provisions which are applicable to all regulations. This Part defines "attainment area" and "nonattainment area" which determine the geographic applicability of the various Parts in the

State's Code. In § 200.1(pp) this Part also defines "owner" as used in Part 231, Major Facilities. The reader is referred to Section II.F of this notice for a discussion of this definition.

(2) *Part 204—Hydrocarbon Emissions from Storage and Loading Facilities—New York City Metropolitan Area.* This regulation, originally promulgated on August 12, 1972, was intended to control the following operations: storage of volatile organic liquids, filling of stationary storage vessels, loading of mobile storage vessels, and usage of efficient water separators. Since these types of sources are now to be regulated under provisions of Part 229 (see Subsection III.D.2.b(9) of this notice), the State is proposing to repeal this regulation. However, it is EPA's policy, as defined in 44 FR 20373, April 4, 1979, that even when a new requirement is being added to a SIP, the new requirement does not supersede or replace the old requirement until the sources regulated come into compliance with the new requirement. On this basis, EPA is proposing to disapprove the State's request to delete the provisions of Part 204 from the SIP. The present emission control requirements will remain applicable and federally enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulation (or if it chooses, challenging the new regulation). Failure of a source to meet applicable preexisting regulations could result in appropriate enforcement action being taken, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or a lapse in the applicability or enforceability of the new regulation, the preexisting regulation would apply and could be enforced.

(3) *Part 205—Photochemically Reactive Solvents and Organic Solvents From Certain Processes—New York City Metropolitan Area.* Part 205 originally went into effect on January 28, 1974 and was intended to control the most photochemically reactive groups of organic solvents (those which most rapidly lead to the formation of ozone in the atmosphere). This is a solvent-substitution-type regulation which applies to all sources using designated photochemically reactive solvents in the New York City metropolitan area. Since all of the presently controlled sources will not be covered by the new Part 226 and Part 228 (discussed in Subsections III.D.2.b(7) and (8), respectively), the State has chosen to retain Part 205, which will continue to apply only to



those sources not covered by these new regulations (see new § 205.8(h)). This will maintain the emission reductions achieved by Part 205 until all sources are covered by a specific source category regulation. EPA proposed to find this Part acceptable.

(4) *Part 211—General Prohibitions.* Part 211 contains a general prohibition against polluting the air and regulates visible emissions. It also contains a new section (Section 211.4) which prohibits, except under certain circumstances, the use of VOCs to liquify asphalt used for paving purposes.

The State has included an exemption for cutback asphalt used in the manufacturing of asphalt emulsions with low VOC content (less than 15% by weight). The State determined that the exemption was necessary because of certain application problems for emulsions with no VOC content and the inability of some asphalt manufacturers to produce solvent-free emulsions. However, EPA did not recommend such an exemption in the CTG and the State has not provided a valid justification for the exemption. Therefore, EPA cannot fully approve this proposed revision. As a result of discussions by EPA and the State regarding this problem, the State has agreed to survey current asphalt usage and use the resulting data to either justify the current general exemption or to make appropriate revisions to Part 211. The State has submitted a schedule for completing this work. Therefore, EPA is proposing to approve the proposed revision on the condition that on or before May 1, 1981 the State shall submit to EPA necessary adopted revisions to Part 211 to eliminate the general exemption or shall submit adequate justification for not making such revisions.

(5) *Part 210—Process and Exhaust and/or Ventilation Systems.* Part 212 contains general limits applicable to process sources for which there are no specific regulations. When revisions to existing regulations or new regulations are promulgated, it is therefore necessary for the State to amend this Part by exempting those processes covered by the revised or new regulation. Such a step was taken with regard to the sources addressed by the regulations discussed in this notice.

However, in its review of the State's SIP revision submittal, EPA noted that Part 212 had been revised to a greater extent than indicated by the State. This apparent discrepancy results from the fact that Part 212 had been previously revised by the State without incorporation of these revisions into the SIP. Therefore, EPA and the State currently are enforcing different

versions of Part 212. While, in order to correct this situation, the State has recently submitted as SIP revision this regulation in its entirety, only those revisions to Part 212 exempting those processes covered by revised or new regulations are being addressed by EPA in this notice. EPA proposed to find these specific revisions to Part 212 acceptable.

(6) *Part 223—Petroleum Refineries.* In its revision of Part 223 the State has combined into a single regulation various emission standards applicable to petroleum refinery air pollution sources. Many of these standards existed previously in other parts of the State's Code.

Of importance to the SIP revision discussed in this notice is the further fact that the proposed regulation addresses the control of VOCs from refinery vacuum producing systems, wastewater separators and process unit turnarounds.

This part requires all non-condensable vapors from any vacuum producing system to be piped to a firebox or incinerator, or compressed and added to refinery fuel gas. It would require all forebays and separator sections which recover 200 gallons per day or more of VOCs to be covered. It would also require all processing units to be depressurized to 5 psig and the VOCs vented to a recovery system, fuel gas system, or flared when the unit is being shut-down, inspected, repaired, or started-up.

This Part allows the regulated sources until June 1, 1982, or such later date as determined by an Order of the Commissioner of the New York State Department of Environmental Conservation (upon submission of appropriate justification) to achieve compliance with its VOC emission limitation provisions. Such Orders must be submitted by the State to EPA as SIP revision. The length of time allowed for compliance is considered by EPA to be generous for these types of sources. However, since no petroleum refiners exist in the New York City metropolitan area and none are expected before 1982, at the earliest, EPA proposes to find this Part acceptable.

(7) *Part 226—Solvent Metal Cleaning Processes.* Part 226 is a new regulation with statewide applicability directed at controlling the emissions of VOCs from solvent metal cleaning (degreasing) operations. The rule contains three main sections: "General Requirements," "Equipment Specifications," and "Operating Requirements."

Section 226.2, "General Requirements," requires solvents to be stored in covered containers and

dispose of properly, equipment to be maintained properly, operating procedures to be posted, equipment covers to be closed when not in use, and records of solvent consumption to be kept. Section 226.3, "Equipment Specification," lists the equipment required for each of three types of degreasers: cold cleaning, open top vapor, and conveyorized degreasers. In the CTG document for Solvent Metal Cleaning, two levels of control for each type of degreaser were identified. The state has selected control requirements composed of those contained in the first (more stringent) level. Section 226.4, "Operating Requirements," addresses the correct operation of degreasing units to minimize emissions.

The requirements for controlling solvent metal cleaning operations meet the recommended control levels contained within the EPA guidance. However, this regulation contains provisions which exempt methyl chloroform and methylene chloride from control. These exemptions were included by the State because these two compounds do not have an effect on atmospheric ozone formation. Therefore, the State believes that they should not be regulated under a rule that is concerned with reducing ambient ozone levels. However, under 6 NYCRR Part 212, "Process and Exhaust and/or Ventilation Systems," methyl chloroform and methylene chloride emissions from metal cleaning processes can be controlled if it is determined by the State that these two compounds have "toxic properties" (§ 212.8(k)).

EPA does not agree with this limited interpretation of regulatory objective. While it is true that these volatile organic compounds do not appreciably affect ambient ozone levels, they are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raised the possibility of human mutagenicity and carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contribution to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light, the depletion could lead to an increase of ultraviolet light penetration resulting in a worldwide increase in skin cancer.

With the possible exemption of these compounds, some sources, particularly existing degreasers, may be encouraged to utilize methyl chloroform in place of other more photochemically reactive

degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in Part 226 can only further aggravate the problem by possibly increasing the emissions produced by existing primary degreasers and other sources.

EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. As noted in a June 4, 1979 Federal Register notice (44 FR 32042), while EPA does not propose to disapprove the State's SIP revision if the State chooses to maintain these exemptions, EPA is concerned that this policy should not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. EPA does not endorse such approaches. Furthermore, State officials and sources are advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply with Part 226 by substitution may well be required to install control systems as a consequence of these future regulatory actions or as a requirement of Part 212.

(8) *Part 228—Surface Coating Processes.* Part 228 is a new regulation applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the emissions of VOCs from surface coating processes. Industries involved in the following activities are required to comply with this Part: large appliance coating lines, magnet wire insulation coating lines, metal furniture coating lines, metal can coating lines, fabric coating lines, vinyl coating lines, paper coating lines, automobile assembly coating lines, and coil coating lines. This rule specifies a maximum permitted emission rate (pounds of organic solvent, minus water, per gallon of coating at application) for each source category and allows the source owner to choose the most economical method of control to meet the emission limitation specified. The various control methods available to sources are: reformulation of coatings—use of "low-solvent" coatings (water-borne, high-solids, and powder coatings), "add-on" technology to recover or destroy the VOCs in the exhaust gases, and modification of processes to reduce the quantity of VOC emissions. EPA proposes to find this Part acceptable.

(9) *Part 229—Gasoline Storage and Transfer.* Part 229 is a new regulation applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the

emissions of VOCs from: the storage of gasoline in fixed roof tanks, the transfer of gasoline at gasoline bulk plants, the transfer of gasoline at loading terminals, and the transfer and storage of gasoline at service stations.

Fixed roof tanks with capacities of 40,000 gallons or greater storing gasoline in the New York City metropolitan area are required to be retrofitted with an internal floating roof or equivalent vapor controls. Gasoline bulk plants with an average throughput of between 20,000 and 40,000 gallons per day are required to adopt the same controls as gasoline loading terminals, a vapor collection and vapor control system. Gasoline bulk plants with an average throughput of less than 20,000 gallons per day (small bulk plants) are required to have two levels of control depending on whether or not they service a gasoline service station equipped with vapor controls. All such bulk plants are required to have submerged filling of gasoline transport vehicles. Those servicing vapor control equipped service stations must install vapor collection, vapor balance type systems to control the gasoline vapors generated during transfer operations. Facilities with an average throughput of greater than 40,000 gallons per day are considered by the State to be gasoline loading terminals.

Section 229.3(d) of Part 229 only requires that gasoline service stations with a throughput of greater than 400,000 gallons per year install vapor collection, vapor balance type systems, on-site vapor control systems, or other approved equivalent control systems. Smaller service stations are exempt from vapor control requirements. The CTG document and regulations currently being implemented under existing State Implementation Plans do not suggest that this exemption is necessary. However, the CTG's presumptive norm with regard to service station controls does include an exemption from control for certain tank sizes. In addition the State could include a reasonable throughput exemption in its regulation if it can be justified. Because no valid justification has been provided by the State for its currently proposed 400,000 gallon per year throughput exemption, EPA is proposing to condition its approval of the plan with regard to § 229.3(d).

In addition, § 229.3(a) of Part 229 only partially addresses the control requirements for VOC emissions from fixed roof storage tanks. The CTG document addressing this source category did not limit itself only to the control of gasoline storage as does the State's proposed regulation; rather, it

suggest control of "petroleum liquids," those with a true vapor pressure of greater than 10.5 kilo Pascals.

The State believes that the storage of gasoline accounts for the preponderance of the VOC emission potential from this source category. If the State had demonstrated that its control of gasoline storage would allow emissions within 5 percent or less of those which could have been permitted if all petroleum liquids were subject to such control, according to EPA policy, the State's regulation could be found fully acceptable. However, because of its limited scope without justification, EPA is also proposing to condition its approval of the plan with regard to § 229.3(a).

In summary, EPA is proposing to find Part 229 acceptable with the exception of §§ 229.3(d) and 229.3(a). With regard to these sections, on or before February 1, 1980 the State must hold public hearings to revise these sections to address all petroleum liquid storage in fixed roof tanks and to modify or eliminate the existing throughput exemption for gasoline service station VOC controls. Alternately, the State may provide adequate justification to EPA for not revising these sections. However, if the State does elect to revise Part 229, such revised regulations must be adopted and submitted to EPA by August 1, 1980. It should be noted that the State has written to EPA indicating its intent to hold public hearings at least on the issue surrounding § 229.3(d).

(10) *Compliance Schedules.* Each of the State's regulations contains a date by which an affected source must submit a schedule for achieving compliance with provisions of the regulation and a date for final compliance. Title 40 of the Code of Federal Regulations, § 51.1(q) defines acceptable "increments of progress" toward compliance which are more extensive than the two milestones included in the State's regulations. However, the State has provided written assurance to EPA that the increments of progress contained in 40 CFR 51.1(q) will be established with each source owner unless, because of the shortness of the compliance schedule, such interim milestones are not appropriate. EPA propose to find this assurance acceptable.

E. *The SIP revision shall include an accurate, current inventory of emissions that have an impact on the nonattainment area, and provide for annual updates to indicate emissions growth and progress in reducing emissions from existing sources.*



1. *SIP Content*—a. *Carbon Monoxide*. The proposed SIP revision includes an emissions inventory for carbon monoxide based on computerized simulations of mobile source emissions. This is acceptable to EPA since the overwhelming majority of carbon monoxide emissions are attributable to mobile sources. Mobile source emissions are presented by vehicle class (e.g., autos, taxis, light duty trucks) for the base year 1977 and are projected to 1982 and 1987. In generating its inventory, the State only considered emission reductions resulting from vehicle turnover and the proposed vehicle emission inspection and maintenance program.

b. *Ozone*. The proposed SIP revision also includes an emissions inventory of organic compounds. Total emissions in 1977, 1982, and 1987 are presented for stationary and mobile source categories. In discussing this inventory the State notes that, at the present time, there is a "reasonable degree of uncertainty" associated with it, but that it should be considered "adequate for plan submittal." Stationary source emissions data is characterized by the State as "preliminary" and are held constant in its projections after 1982. A program to improve this stationary source emissions inventory is, however, committed to in the proposed SIP revision.

c. *Particulate Matter*. An emissions inventory for particulate matter must be submitted by the State at such time as when the secondary standard attainment plan for this pollutant is submitted to EPA. None was included with the current submittal.

2. *Adequacy*—a. *Carbon Monoxide*. EPA proposes to find the State's carbon monoxide emissions inventory acceptable. However, the State should provide EPA with a breakdown of the emission reduction credit assumed for both the proposed private vehicle and existing taxi emission inspection and maintenance programs (this issue is also discussed in Subsection III.D.1.c.(1)(b) of this notice).

b. *Ozone*. EPA believes that the stationary source organic compound emissions inventory contained in the proposed SIP revision is not sufficiently comprehensive for plan development purposes. However, EPA is proposing to conditionally approve the proposed SIP revision on the provision that future improvements to this inventory, as identified in the plan, are completed by January 1, 1981. This date for the submittal of an improved inventory is necessary to assure that the July 1, 1982 plan revision required from the State (see Subsection III.B.1 of this notice) will

contain and employ an accurate data base. In addition, this requirement is necessary to implement the Northeast Corridor Regional Modeling Project, an effort to develop an advanced photochemical dispersion model for the northeastern states. The objective of this program is to evaluate over a broad area the relative effectiveness of organic compound control strategies. The emission inventory necessary by January 1, 1981 must provide for a detailed spatial and temporal resolution of organic compound and nitrogen oxide emissions. Also the impact on organic compound emissions of the various mobile source control strategies committed to by the State must be presented in future inventories.

It should be noted that a current, comprehensive volatile organic compound emissions inventory is also necessary for air pollution control activities aside from those associated with meeting the national ambient air quality standard for ozone. This results from the fact that a majority of the air pollutants suspected as having carcinogenic or other toxic properties are volatile organic compounds. In view of the emerging concerns regarding these pollutants, the State is encouraged to develop its inventory data on an organic species or, where necessary, a specific compound basis.

3. *Annual Reporting*. The State has agreed to provide annual reports to EPA on progress made in adopting control measures, growth of new and modified major sources of air pollution, changes in emissions as required to track reasonable further progress, progress in updating emission inventories and the results of ongoing air quality studies related to the plan. EPA finds that the State's commitment with regard to Annual Reporting acceptable.

4. *Data Base Consistency*. It is important that the techniques and assumptions used by the State in projecting future emissions should be consistent with those used in other State, regional and local planning programs (e.g., water pollution abatement, energy, housing, transportation). In the case of mobile source projections, no documentation concerning growth assumptions or comparisons with other planning data is provided in the proposed SIP revision. EPA encourages the development of such documentation and its review by appropriate governmental agencies and the public.

F. *The SIP revision shall expressly quantify the emission growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which*

*may not be so large as to jeopardize reasonable further progress toward attainment by the required date. The SIP revision shall require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Clean Air Act.*

In order to assure that emission increases from new stationary sources or modifications of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstrations discussed in Section III.C of this notice, the State has submitted procedures providing for "offsetting" of emissions from major sources or modifications and for tracking of all minor and area source emission changes. The emission "offsets" will be required in accordance with a new State regulation, 6 NYCRR Part 231, "Major Facilities."

This regulation requires new major sources and major modifications locating in a nonattainment area to offset new emissions by providing reductions at existing sources beyond those required by control strategies in the SIP. The regulation also apparently was intended to apply to new major sources and major modifications locating in attainment areas, but significantly impacting air quality in nonattainment areas. However, § 231.9(d) could be read as exempting such sources from the provisions of Part 231 until EPA delegates to the State responsibility for source review related to Prevention of Significant Deterioration provisions of the Clean Air Act. Therefore, EPA requested an interpretation of §§ 231.9(d) and 231.6(a), which could be subject to a similar misinterpretation, from the State. In response the State has submitted to EPA a Declaratory Ruling issued pursuant to Section 204 of the New York State Administrative Procedures Act and 6 NYCRR 619 indicating that the provisions of Part 231 do, in fact, apply to new major sources and major modifications locating in attainment areas, but significantly impacting nonattainment areas. In addition, in order to further clarify these two sections, the State has indicated that it will formally revise the wording of these sections by April 1, 1980. Consequently, EPA is proposing to approve the proposed SIP revision on the condition that §§ 231.6(a) and 231.9(d) are revision to reflect the Declaratory Ruling and adopted by this date.

A major source is defined in Part 231 as one having allowable emissions of 50

tons per year, 1000 pounds per day, or 100 pounds per hour of particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, or volatile organic compounds. A major modification is defined as a change to an existing source causing allowable emissions to increase by these amounts for the specified pollutants. EPA proposes to approve these definitions because they are consistent with EPA's definitions in Section II A of the revised Emission Offset Interpretative Ruling published in the January 16, 1979 issue of the *Federal Register* at 44 FR 3282.

Additionally, these sources are required by Section 173 of the Clean Air Act to meet the "lowest achievable emission rate" (LAER). Currently, the language of the regulation (§ 231.3(b)) is unclear about requiring LAER control technology on a source locating in an area where standards are actually violated, regardless of whether or not the source has a significant impact (as defined in the regulation) on the air quality of the area. (In this regard, an actual violation exist where air quality monitoring or modeling confirms the existence of a violation.) The State has written to indicate that the LAER requirement is, in fact, applicable to such sources and has been explicitly documented by policy guidance. EPA is proposing to approve the proposed SIP revision on the condition that on or before August 1st, 1980 the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact of the areas air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

In accordance with the requirements of Section 173(3) of the Clean Air Act, the regulation must require that any other major sources owned or operated by the same person and located in the State be in compliance or meeting the requirements of an approved compliance schedule. However, although Part 231 requires a permit applicant to demonstrate that all of its major sources in the State are in compliance or on a schedule for compliance with applicable emission standards, the regulation does not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant. EPA has determined that the State's definition of "owner" appearing in § 200.1(pp) of 6 NYCRR Part 200,

"General Provisions," is not equivalent to the definition in Section 173(3) of the Clean Air Act. Therefore, EPA is proposing to approve the proposed SIP on the condition that the State change the definition of "owner" in Part 200 to conform to the definition in the Clean Air Act. This revision must be adopted by August 1, 1980.

The State procedures providing for the "offsetting" of emissions from major sources and major modifications and the tracking of all minor and area source emission changes will be implemented in nonattainment areas differently depending on the pollutant affected. In the New York metropolitan area, for total suspended particulates, the State will "offset" all major source emission growth; minor and area source emission growth will be tracked against the annual emissions accommodated for in the reasonable further progress demonstrations discussed in Section III.C of this notice when they are developed. If minor and area source growth exceeds these annual emission allowances, the State will require new major sources and major modifications to obtain emission reductions not already relied upon in the plan so as to provide for reasonable further progress toward attainment of standards.

For volatile organic compounds, as is discussed in Section III.E. of this notice, the State's emissions inventory is not sufficiently comprehensive to permit a complete assessment of the precise annual emission allowance that can be accommodated for this class of pollutants. Until this deficiency is rectified, the State will require major volatile organic compound sources to "offset" all emissions growth which occurs, including that due to minor and area sources.

On the conditions indicated, EPA proposes to find the State's SIP revision acceptable with respect to the requirements discussed.

G. *The SIP revisions shall provide identification and commitment of the necessary resources to carry out the Part D provisions of the plan.*

1. *SIP Content and Adequacy*. The proposed SIP revision generally provides an identification and commitment to the financial and manpower resources needed to carry out the plan. However, transportation-related projects and studies often lack information relating to their cost, the source of their funding and the manpower necessary for their implementation. This is particularly true for the following measures:

- Parking Restrictions.
- Freight Transportation.

- Heavy Duty Gasoline Truck Retrofit.
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Traffic Flow Improvements for Arterials.
- Employer Based Programs.
- Park-and-Ride and Fringe Parking.
- Alternate Work Schedules.

The State commits to making available sufficient resources to enable the New York State Department of Environmental Conservation to participate fully in the transportation planning process. However, the number and types of individuals and the necessary costs involved to meet this commitment are not identified.

EPA expects that the information concerning the necessary resources will be provided, in part, by work performed under an Urban Air Quality Planning Grant award funded under Section 175 of the Clean Air Act. Nevertheless, EPA proposes to conditionally approve the proposed SIP revision pending identification to EPA by August 1, 1980 of the resources necessary to carry out the transportation elements of the plan.

2. *Federal Funding*. It is possible that full federal funding will not be available to support some of the projects and studies identified in the proposed SIP revision as being dependent on this source of financing. Although EPA will work with other federal agencies to ensure that SIP projects and studies will receive high priority for funding, these monies cannot be guaranteed. To reduce the likelihood of federal funds not being available, the proposed SIP revision was reviewed by the Federal Highway Administration (FHWA), the Urban Mass Transportation Administration (UMTA) and EPA to identify projects and studies which may not be capable of being funded. Based on past grant awards and anticipated future actions, these agencies have identified changes to project and study costs, scopes or schedules so that the SIP will better reflect constraints imposed by other programs. It should be noted that regardless of whether federal funds are provided, the State is required to carry out all projects and studies contained in the SIP or make a reasonable effort to do so (see Subsection III.D.1.d(3) of this notice).

EPA has found that several of the studies identified in the proposed SIP revision as being supported by Clean Air Act Section 175 funds (e.g., "Transportation Brokerage—JFK Airport," "Van Wyck Traffic Flow") cannot be funded at this time because of the need to support other efforts related to the further development of the SIP. Nevertheless, the total level of Section 175 funding available to the New York City metropolitan area is greater than



that identified in the proposed SIP revision. For those studies that were not funded, EPA recommends that funds from other sources be obtained or that these studies be included in an application for additional Section 175 funding.

In its review of the program of study, UMTA identified three studies as being "non-transit related" air quality studies. These are:

Goods Movement Patterns, \$250,000.  
Reduction of Through Trips on City Streets, \$150,000.  
Residential Parking Management Study, \$150,000.

For non-transit related air quality studies, UMTA estimates that only \$300,000 is expected to be available each year. Consequently, a shortfall of \$250,000 might be expected. The State, therefore, should determine if any other sources of funds are available and obtain necessary funding commitments.

In the FHWA review, it is noted that the SIP incorrectly characterized federal policy relating to carpool and park-and-ride facilities. FHWA noted that property acquisition or leasing costs associated with constructing these facilities are eligible for federal aid.

H. *The SIP revisions shall provide evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 of the Clean Air Act.*

EPA believes that the public and intergovernmental participation and consultation programs utilized to develop the proposed SIP revision were generally adequate. However, the program described in the proposed SIP revision and summarized as follows should be continued as planned to further improve these efforts.

1. *Public Participation and Consultation.* Citizen participation in the current SIP revision development process began in early 1976. A task force was formed to assist the New York State Department of Environmental Conservation in selecting and evaluating control measures. This task force included representatives of the affected environmental and transportation agencies, and three public representatives. In June 1978, a Memorandum of Understanding executed between the Governor, the Mayor of New York City, and the EPA Regional Administrator established an Oversight Committee to monitor development of the plan revision. The Committee met frequently to review progress, negotiate problem areas, consider suggestions from the public, and provide guidance to agency staffs working on the plan revision. Two

representatives of the public participated on the committee. A public participation coordinator was also appointed and several events were held and documents prepared to encourage public participation and information.

The proposed SIP revision states that the State is committed to an ongoing public participation program for the SIP implementation process. The State also realizes the importance of informing and educating the public on the subject of the SIP and related air quality issues. Ongoing public involvement programs will be further developed, funded in part by EPA.

2. *Intergovernmental Involvement and Consultation.* As will be discussed again in Subsection III.J.1.b, Tri-State and the New York State Departments of Environmental Conservation and Transportation are negotiating a memorandum of understanding to establish principles and procedures for intergovernmental involvement and consultation. In addition, the modifications to the planning process discussed in Subsection III.D.1.d(2) are expected to provide assistance in this regard.

Furthermore, a representative of the Governor's Office, in a January 18, 1979 letter to the New York State Commissioners of Transportation and Environmental Conservation and to the Mayor of New York City, requested that policy level individuals be named from these agencies to oversee implementation of the SIP. Those three persons have been identified and will work in cooperation with Tri-State and representatives of Rockland, Westchester, Nassau, and Suffolk counties, as appropriate.

I. *The SIP revision shall provide an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered and a summary of the public comments on the analysis.*

EPA finds that this element is satisfactory in that the State has generally addressed the air quality, social and economic acceptability of proposed transportation and stationary source control measures. As specific projects are developed and studies undertaken with regard to transportation measures, additional analyses will be done.

J. *The SIP revision shall provide written evidence that the State and other governmental bodies have adopted the necessary requirements in legally enforceable form, and are committed to implement and enforce the appropriate elements of the SIP.*

# 1. Transportation Control Measures—

a. *Motor Vehicle Emission Inspection and Maintenance.* As discussed in Subsection III.D.1.c(1)(b) of this notice, the State indicates that under Title III, Article 5, Section 301(c)(3) of its Vehicle and Traffic Law sufficient legislative authority exists to implement an I/M program. Under this authority an I/M program can be established "... as soon as the commissioner [of the Department of Motor Vehicles], in consultation with the commissioner of environmental conservation determines that it is technologically feasible and economically practical to conduct inspections ... ." Such a determination has been made and was included in the State's submittal. In addition, the Commissioner of the Department of Motor Vehicles has the authority under Section 215 and by Article 5, Section 302(e) specifically of the Vehicle and Traffic Law to amend and/or promulgate the necessary regulations so as to incorporate the emissions test into the safety test. EPA proposes to find this authority adequate for SIP approval.

b. *Other Transportation Control Measures.* The proposed SIP revision generally identifies the legal authority necessary to implement the transportation control measures it contains. In addition, the proposed SIP revision states that the State and local governments have given their full commitment to implement those control measures categorized as "reasonably available." However, with the exception of resolutions enacted by the three New York City metropolitan area TCCs generally endorsing the hearing draft of the proposed SIP revision, these commitments are not explicit in that no written endorsements or interagency agreements are provided in the proposed plan to support them.

A general division of agency responsibility and commitments to provide for SIP development, implementation and enforcement, as required under provisions of Section 174 of the Clean Air Act, is not adequately presented in the proposed SIP revision. As a result, Tri-State and the New York State Departments of Environmental Conservation and Transportation are engaged in drafting a memorandum of understanding to identify necessary tasks and to establish responsibilities. In order to ensure that adequate commitments exist at all levels of government to implement control measures and that all measures (including those related to stationary sources) are properly developed, EPA proposes to approve the proposed SIP revision on the condition that the State

must submit to EPA by January 1, 1980 a memorandum of understanding which has been endorsed by appropriate TCC's and which provides commitments to develop, implement and enforce the SIP.

2. *Stationary Source Control Measures.* As discussed in Subsection III.D.2(a) and Section III.F of this notice, with the exception of Part 212, "Process and Exhaust and/or Ventilation Systems," the State has submitted the required stationary source control regulations in legally enforceable form. Therefore, EPA is proposing to find this aspect of the State's SIP revision acceptable. This proposed finding by EPA is based in part on the fact that the unadopted revisions to Part 212 are ministerial rather than substantive.

K. *Additional Requirements for Ozone or Carbon Monoxide SIP's with Attainment Dates After 1982.*

The Clean Air Act mandate four specific requirements for SIP's demonstrating the need for an extension of the ozone or carbon monoxide standard attainment date beyond December 31, 1982. As discussed in Section III.B of this notice, the New York City Metropolitan area's proposed SIP revision makes such a demonstration. The first three requirements to be discussed are mandated by Section 172(b)(11) of Part D of the Clean Air Act; the fourth is made of Part D requirement by Sections 110(a)(3)(D) and 110(c)(5)(C) of the Act.

1. Inclusion of a program that requires, before issuance of a preconstruction review permit, an analysis of alternative sites, sizes, production processes, and control techniques which demonstrates that the benefits of the proposed source significantly outweigh any environmental and social costs.

New York State has provided EPA with a policy statement indicating that all major sources of volatile organic compound emissions will be subject to a complete "environmental impact statement" review, pursuant to the State Environmental Quality Review Act (SEQRA). EPA's review indicates that the provisions of this act provide for all the required preconstruction analyses.

It should be noted that the State does not address this requirement for major sources of carbon monoxide. Since only few such sources locate in central business districts where violations of the carbon monoxide standard are a problem, EPA does not believe this requirement to be applicable to these sources. On this basis, EPA proposes to find the plan adequately meeting this requirement.

2. The establishment of a specific schedule for implementation of a vehicle

emission inspection and maintenance program.

As discussed in Subsection III.D.1.c(1)(b) of this notice, the SIP revision proposes establishment of such an emission inspection and maintenance program and includes the required schedule. For this reason, EPA proposes to approve the proposed SIP revision with regard to its ability to meet this Clean Air Act requirement.

3. Inclusion of a program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reduction targets in the SIP.

The proposed SIP revision contains a program for selecting a package of transportation control measures which is expected to provide the emission reduction targets assigned to these measures through 1982. However, as discussed in Section III.D., deficiencies were found in the program. Consequently, EPA proposes to conditionally approve this element of the SIP on the basis of the same provisions as stated in Subsection III.D.

4. The proposed SIP revision must include comprehensive measures to establish, expand, or improve public transportation to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds.

The state's effort to meet this requirement is covered under two submissions. The first submission is entitled "New York State Air Quality Implementation Plan—The Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area," and is dated June, 1978. The second submission, supplementing the first, is entitled, "New York State Air Quality Implementation Plan—The Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area," and is dated May 1979. The State prepared these submissions in response to Section 110(c)(5)(B) of the Clean Air Act which includes the requirements of Section 110(a)(3)(D). The June 1978 submissions was discussed by EPA in a January 29, 1979, Federal Register notice of proposed rulemaking (44 FR 5693); the May 1979 supplemental submission is under review. EPA is currently assessing the adequacy of the State's supplemental submission with respect to the requirements of the Clean Air Act, including Part D. Its findings will be discussed in a separate Federal Register notice to be published in the near future.

## IV. Summary of unfulfilled Requirements

EPA is today proposing conditional approval for all of the elements of the State of New York's Part D Submission for carbon monoxide and ozone for the New York City metropolitan area, except for the State's submission to meet the requirements of the "Moynihan/Holtzman" provision of the Clean Air Act. EPA is currently reviewing that submission and will act upon it in the near future.

As described in Section III, EPA has found deficiencies in the proposed plan revision which EPA believes should be corrected. These deficiencies are being proposed for conditional approval (this concept is discussed in Section I of this notice.)

The following summary identifies plan improvement actions which EPA has found to be necessary. To aid the reader, reference is made to the subsection number where each of these proposed conditions of approval is discussed.

(1) On or before August 1, 1980 the State must submit to EPA key milestones (actions and dates) associated with projects relating to the transportation control measures which are a part of its SIP. Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

- Parking Restrictions,
- Freight Transportation,
- Limitation on Authorized Parking,
- Bike Lanes (Demonstration Project),
- Express Bus and Carpool Lanes,
- Pedestrian Priority Zones,
- Traffic Flow Improvements for Arterials,
- Traffic Flow Improvements for Limited Access Highways,
- Employer Based Programs,
- Private Car Restrictions,
- Alternate Work Schedules,
- Bicycle Lanes and Storage Facilities, and
- Park and Ride and Fringe Parking (Subsection III.D.1.b(3)(a)).

(2) On or before February 1, 1980 the State must submit to EPA an improved program of study for the broader application of the following measures:

- Freight Transportation,
- Express Bus and Carpool Lanes,
- Pedestrian Priority Zones,
- Employer Based Programs,
- Private Car Restrictions,
- Alternate Work Schedules,
- Bicycle Lanes and Storage Facilities.

In addition, each new and existing study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings must be



submitted to EPA (Subsection III.D.1.b(3)(b)).

(3) On or before August 1, 1980, the State must submit to EPA additional documentation to support its determination that the measure, "Controls on Extended Vehicle Idling," is not reasonably available. If such additional documentation cannot be provided, this measure must be recategorized (Subsection III.D.1.b(3)(c)).

(4) On or before February 1, 1980, the State must submit to EPA three separate listings covering, respectively, all of the transportation related studies, demonstration projects and permanent projects committed to in the SIP (Subsection III.D.1.b(3)(d)).

(5) On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation projects contained in the SIP. Criteria for a "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the Transportation Improvement Program (Subsection III.D.1.d(3)(a)).

(6) On or before August 1, 1980, the State must submit to EPA SIP revision criteria and procedures for making changes to transportation studies contained in the SIP (Subsection III.D.1.d(3)(b)).

(7) On or before May 1, 1981 the State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency (Subsection III.D.2.b(4)).

(8) On or before February 1, 1980 the State must either submit to EPA acceptable justification for the following provisions of 6 NYCRR Part 229, "Gasoline Storage and Transfer," or hold public hearings to revise these provisions to correct their deficiencies:

- Section 229.3(a), "Storage of Gasoline in Fixed Roof Tanks," does not regulate the storage of petroleum liquids other than gasoline.
- Section 229.3(d), "Gasoline Filling Stations," exempts from control storage tanks at gasoline filling stations with an annual throughput of less than 400,000 gallons.

If the State elects to revise Part 229, such revised regulation must be adopted

and submitted to EPA on or before August 1, 1980 (Subsection III.D.2.b(9)).

(9) On or before January 1, 1981 the State must submit to EPA an organic compound emissions inventory of sufficient comprehensiveness and quality to meet the requirements specified by EPA (Subsection III.E.2.b).

(10) On or before April 1, 1980 the State must adopt and submit to EPA revisions to Sections 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating in attainment areas, but significantly impacting the air quality of nonattainment areas (Section III.F).

(11) On or before August 1, 1980 the State must adopt and submit to EPA revisions to Section 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated (Section III.F).

(12) On or before August 1, 1980 the State must adopt and submit to EPA a revision to Section 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act (Section III.F).

(13) On or before August 1, 1980 the State must submit to EPA identification of the resources necessary to carry out the transportation planning process and the following transportation elements of the SIP:

- Parking Restrictions,
- Freight Transportation,
- Heavy Duty Gasoline Truck Retrofit,
- Express Bus and Carpool Lanes,
- Pedestrian Priority Zones,
- Traffic Flow Improvements for Arterials,
- Employer Based Programs,
- Park-and-Ride and Fringe Parking,
- Alternate Work Schedules, (Subsection III.G.1).

(14) On or before January 1, 1980 the State must submit to EPA a memorandum of understanding which has been endorsed by appropriate Transportation Coordinating Committees and which provides commitments by appropriate agencies to develop, implement and enforce the SIP (Subsection III.J.1.b).

#### V. Public Comment

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New York State

Implementation Plan revision meets Clean Air Act requirements. Comments received by (60 days following publication) will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1642, New York, New York 10007.

This current SIP revision request was submitted to EPA in accordance with all applicable EPA requirements as contained in 40 CFR Part 51.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on whether the proposed revision to the New York State Implementation Plan should be approved or disapproved.

Dated: November 19, 1979.  
(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601)).

Dick Dewling,

Acting Regional Administrator,  
Environmental Protection Agency.

[FR Doc. 79-37757 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

#### 40 CFR Part 52

[FRL 1372-6]

#### Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration Regulations

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

**SUMMARY:** On June 19, 1978, EPA promulgated regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit regulations for PSD. The State of Tennessee has responded and on April 12, 1979, submitted to EPA regulations meeting EPA's requirements. EPA is today proposing to approve the State of Tennessee's PSD plan.

**DATES:** To be considered, comments must be submitted on or before January 9, 1980.

**ADDRESSES:** Written comments should be addressed to Ray Gregory of EPA Region IV's Air Programs Branch (see

EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Environmental Protection Agency, Air Programs Branch Region IV, 345 Courtland Street NE, Atlanta, Georgia 30308.

Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

**FOR FURTHER INFORMATION CONTACT:** Raymond Gregory, EPA Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, Telephone: 404/861-3286 (FTS 257-3286).

#### Background

On December 5, 1974, EPA published regulations under the 1970 version of the Clean Air Act for the prevention of significant air quality deterioration (PSD). These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). Then, on August 7, 1977, the Clean Air Act Amendments of 1977 became law and changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans. On June 19, 1978 (43 FR 26380), EPA promulgated the final guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements. The State of Tennessee has complied with these requirements and has adopted and submitted a new rule 1200-3-9-.01-(4) for the review of new sources.

EPA has reviewed the submitted material and found it to be equivalent to EPA's requirements. Therefore, EPA is today proposing to approve the Tennessee submittal as satisfying the requirements of an acceptable plan for implementing PSD.

However, the case of *Alabama Power et al. v. Costle* (D.C. Cir., decision June 18, 1979) invalidated certain aspects of the EPA regulations. Although the effect of that decision is presently stayed, on September 5, 1979 (44 FR 51924) EPA proposed replacement PSD regulations intended to conform to the *Alabama Power* decision. Thus, when regulations proposed September 5 are finalized,

Tennessee will have to promulgate new conforming regulations.

(Sec. 110, 161, Clean Air Act (42 U.S.C.A. 7410 and 7471 (Pamphlet 1978)))

Dated: November 21, 1979.

John C. White,  
Regional Administrator.

[FR Doc. 79-37755 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

#### 40 CFR Part 180

[FRL 1372-1; PP 8E2092/P123]

#### Proposed Tolerance for the Pesticide Chemical Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

**SUMMARY:** This notice proposes that a tolerance be established for residues of the insecticide chlorpyrifos on tomatoes at 0.5 part per million (ppm). The proposal was submitted by Dow Chemical Co. This regulation would establish a maximum permissible level for residues of chlorpyrifos on tomatoes. **DATE:** comments must be received on or before January 9, 1980

**ADDRESS:** Address comments to: Mr. Charles T. Mitchell, Acting Product Manager (PM) 12, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW, Washington, DC. 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles T. Mitchell at the above address (202/426-2635).

**SUPPLEMENTARY INFORMATION:** Dow Chemical Co., P.O. box 1706, Midland, MI 48640, has submitted a pesticide petition (PP 8E2092) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.342 be amended by the establishment of a tolerance for combined residues of the insecticide chlorpyrifos (0,0-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3, 5,6-trichloro-2-pyridinol in or on the raw agricultural commodity tomatoes imported from Israel and Mexico at 0.5 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect-level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw). Studies on delayed neurotoxicity and reproduction showed negative potentials. Based on the two-year chronic rat feeding study with a 0.1 mg/kg bw NOEL and anticholinesterase

effects, the acceptable daily intake (ADI) for man is 0.01 mg/kg bw/day using a safety factor of 10. The theoretical maximum residue contribution (TMRC) in the human diet from the proposed tolerance and tolerances which have previously been established for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 1.50 ppm does not exceed the ADI.

Desirable data that are lacking from the petition are a life-time oncogenicity study and a teratology study. In letters of February 17, 1978, and January 31, 1979, the petitioner indicated that the lifetime oncogenicity study is currently under review.

Although the oncogenicity evaluation of chlorpyrifos is not complete, it is concluded that based on the available data, risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding/oncogenicity study.

The metabolism of chlorpyrifos is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. No actions are currently pending against continued registration of chlorpyrifos nor are there any other relevant considerations involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.5 ppm on tomatoes established by amending 40 CFR 180.342 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before January 9, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 8E2092/P123". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 12, Room 335, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the



procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "Specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: December 3, 1979

Douglas D. Campt,

Director Registration Division.

(Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

It is proposed that Part 180, Subpart C, § 180.342 be amended by alphabetically inserting tomatoes at 0.5 ppm in the table to read as follows:

**§ 180.342 Chlorpyrifos; tolerances for residues.**

| Commodity | Parts per million |
|-----------|-------------------|
| Tomatoes  | 0.5               |

[FR Doc. 79-37793 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 67**

[Docket No. FEMA 5748]

**National Flood Insurance Program; Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872. (In Alaska and Hawaii call Toll Free Line (800 424-

9080), Room 5150, 451 7th Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

**Proposed Base (100-Year) Flood Elevations**

| State                                                                                                                                                                                                                  | City/town/county                   | Source of flooding        | Location                                                                                                                                                                                                                                                                       | #Depth in feet above ground. *Elevation in feet (NGVD). |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| California                                                                                                                                                                                                             | Montague (City), Siskiyou County   | Oregon Slough             | At downstream corporate limits<br>50 feet downstream from center of Yreka Western Railroad Bridge<br>50 feet upstream from center of Yreka Western Railroad Bridge<br>At upstream corporate limits<br>300 feet southeast from Yreka Western Railroad Bridge over Oregon Slough | *2,499<br>*2,505<br>*2,509<br>*2,519<br>#2              |
| Maps available at: City Clerk's Office, City Hall 1030 13th Street, Montague, California 96064.<br>Send comments to: Honorable Walter H. Bray, Mayor, City of Montague, City Hall, P.O. Box 428, Montague, California. |                                    |                           |                                                                                                                                                                                                                                                                                |                                                         |
| California                                                                                                                                                                                                             | Tehama (City), Tehama County       | Sacramento River          | Intersection of Fifth Street and Gyle Road<br>Intersection of Tehama Road and B Street                                                                                                                                                                                         | *215<br>*221                                            |
| Maps available at: City Clerk's Office, City Hall, Tehama, California.<br>Send comments to: Honorable C. A. Stromsness, Mayor, City of Tehama, City Hall, P.O. Box 70, Tehama, California 96090.                       |                                    |                           |                                                                                                                                                                                                                                                                                |                                                         |
| Colorado                                                                                                                                                                                                               | Eagle County, Unincorporated Areas | Buffehr Creek             | 225 feet upstream from center of Interstate 70 and U.S. 6                                                                                                                                                                                                                      | *7,983                                                  |
|                                                                                                                                                                                                                        |                                    | Eagle River (At Mintum)   | 30 feet upstream from confluence with Cross Creek                                                                                                                                                                                                                              | *7,964                                                  |
|                                                                                                                                                                                                                        |                                    | Brush Creek               | 35 feet upstream from center of Farm Bridge                                                                                                                                                                                                                                    | *8,531                                                  |
|                                                                                                                                                                                                                        |                                    | Taylor Creek              | 30 feet upstream from center of Fryngpan Road                                                                                                                                                                                                                                  | *8,985                                                  |
|                                                                                                                                                                                                                        |                                    | Roaring Fork River        | 40 feet upstream from confluence with Fryngpan River                                                                                                                                                                                                                           | *8,588                                                  |
|                                                                                                                                                                                                                        |                                    | Turkey Creek              | 130 feet upstream from confluence with Eagle River                                                                                                                                                                                                                             | *8,622                                                  |
|                                                                                                                                                                                                                        |                                    | Eagle River (at Redcliff) | 60 feet downstream from confluence with Turkey Creek                                                                                                                                                                                                                           | *8,618                                                  |
|                                                                                                                                                                                                                        |                                    | Fryngpan River            | 50 feet upstream from confluence with Center Creek                                                                                                                                                                                                                             | *8,718                                                  |
|                                                                                                                                                                                                                        |                                    |                           | Confluence with Seven Castles Creek                                                                                                                                                                                                                                            | *6,910                                                  |
|                                                                                                                                                                                                                        |                                    |                           | 100 feet upstream from confluence with Frenchman Creek                                                                                                                                                                                                                         | *7,239                                                  |

Maps available at: County Planning Office, Eagle County Courthouse, Eagle, Colorado.

Send comments to: Mr. Dan Williams, Chairman, Board of County Commissioners, Eagle County, Eagle County Courthouse, P.O. Box 850, Eagle, Colorado 81631.

**Proposed Base (100-Year) Flood Elevations—Continued**

| State                                                                                                                                                                                                                                       | City/town/county                           | Source of flooding                   | Location                                                                                                                                                                                                                       | #Depth in feet above ground. *Elevation in feet (NGVD). |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| Florida                                                                                                                                                                                                                                     | City of Sanford, Seminole County           | City Ditch (East Branch)             | Just upstream of State Road No. 46 (First Street)<br>Just upstream of Third Street<br>Just upstream of Eighth Street                                                                                                           | *12<br>*14<br>*26                                       |
|                                                                                                                                                                                                                                             |                                            | City Ditch (West Branch)             | Just upstream of Third Street<br>Just upstream of Eighth Street<br>Just downstream of Persimmon Avenue                                                                                                                         | *14<br>*23<br>*26                                       |
| Maps available at: City Engineer's Office, City Hall, 300 N. Park Avenue, Sanford, Florida 32771.<br>Send comments to: Mr. W. E. Knowles, City Manager or Mr. Max LaZebny, City Engineer, City Hall, P.O. Box 1778, Sanford, Florida 32771. |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Florida                                                                                                                                                                                                                                     | City of St. Cloud, Osceola County          | Dakota Avenue Canal                  | Just upstream of Lake Shore Boulevard<br>Just downstream of Fifth Street                                                                                                                                                       | *63<br>*64                                              |
|                                                                                                                                                                                                                                             |                                            | East Lake Tope Kaliga                | Entire shoreline                                                                                                                                                                                                               | *62                                                     |
|                                                                                                                                                                                                                                             |                                            | Shallow Flooding Along Second Street | Intersection of Tennessee Avenue and Second Street                                                                                                                                                                             | *62                                                     |
| Maps available at: Public Works Office, City Hall, 1300 9th Street, St. Cloud, Florida 32769.<br>Send comments to: Mayor Sarah Lewis or Mr. W. Fowler, Public Works Director, City Hall, 1300 9th Street, St. Cloud, Florida 32769.         |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Idaho                                                                                                                                                                                                                                       | Caldwell (City), Canyon County             | Boise River                          | Intersection of West Belmont Street and Riverside Canal<br>Intersection of West Elgin Street and Boise Avenue<br>Intersection of West Galveston Street and Boise Avenue<br>Intersection of river and West Plymouth Street      | *2,351<br>*2,353<br>*2,354<br>*2,361                    |
|                                                                                                                                                                                                                                             |                                            | Indian Creek                         | Intersection of creek and Sewer Plant Road<br>Intersection of creek and Riverside Canal<br>25 feet upstream from center of Stock Bridge<br>30 feet downstream from center of Elm Lane<br>Intersection of creek and Ustick Road | *2,349<br>*2,352<br>*2,377<br>*2,393<br>*2,411          |
| Maps available at: City Hall, 704 Blaine Street, Caldwell, Idaho.<br>Send comments to: Honorable R. E. Pasty, Mayor, City of Caldwell, City Hall, 704 Blaine Street, Caldwell, Idaho 83605.                                                 |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Idaho                                                                                                                                                                                                                                       | Parma (City), Canyon County                | Boise River                          | Intersection of Roswell Boulevard and Starcher Street<br>Stockton Road 150 feet east from its intersection with 10th Street                                                                                                    | *2,220<br>*2,226                                        |
| Maps available at: City Hall, 3rd and Bates, Parma, Idaho.<br>Send comments to: Honorable Patricia N. Romanko, Mayor, City of Parma, City Hall, Box 608, Parma, Idaho.                                                                      |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Illinois                                                                                                                                                                                                                                    | Countryside (City), Cook County            | Peck Avenue Ditch                    | Intersection of 55th Place and Peck Avenue<br>Intersection of Peck Avenue and Plainfield Road                                                                                                                                  | *876<br>*877                                            |
|                                                                                                                                                                                                                                             |                                            | East Avenue Ditch                    | Intersection of East Avenue and 57th Street<br>Intersection of Lorraine Drive and Rose Court                                                                                                                                   | *648<br>*648                                            |
|                                                                                                                                                                                                                                             |                                            | East Avenue Ditch Tributary          | East side of intersection of LaGrange Road and 59th Street<br>South edge of 57th Street approximately 550 feet east from its intersection with LaGrange Road                                                                   | *649<br>*648                                            |
|                                                                                                                                                                                                                                             |                                            | 67th Street Ditch                    | 30 feet downstream from center of Brainard Avenue<br>25 feet upstream from center of Sunset Avenue                                                                                                                             | *658<br>*674                                            |
| Maps available at: City Hall, 5550 East Avenue, Countryside, Illinois.<br>Send comments to: Honorable Carl W. LeGant, Mayor, City of Countryside, City Hall, 5550 East Avenue, Countryside, Illinois 60525.                                 |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Louisiana                                                                                                                                                                                                                                   | Town of Homer, Clairborne Parish           | Caney Creek                          | Approximately 280 feet upstream of Lyons Hill Road<br>Approximately 70 feet upstream of U.S. HWY 79                                                                                                                            | *230<br>*250                                            |
| Maps available at: City Hall, East Main Street, Homer, Louisiana 71040.<br>Send comments to: Mayor Joe Michael or Mr. Ed Foster, City Clerk, City Hall, East Main Street, Homer, Louisiana 71040.                                           |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Louisiana                                                                                                                                                                                                                                   | Town of Rayville, Richland Parish          | Little Creek                         | Approximately 400 feet upstream of the downstream corporate limits<br>Just upstream of West Rosa Street                                                                                                                        | *79<br>*80                                              |
|                                                                                                                                                                                                                                             |                                            | Little Creek Tributary               | Just downstream of West Francis Street                                                                                                                                                                                         | *79                                                     |
|                                                                                                                                                                                                                                             |                                            | Stream No. 2                         | Approximately 500 feet downstream of State HWY 3048                                                                                                                                                                            | *79                                                     |
|                                                                                                                                                                                                                                             |                                            | Burns Bayou                          | Approximately 340 feet upstream of U.S. HWY 80                                                                                                                                                                                 | *79                                                     |
|                                                                                                                                                                                                                                             |                                            | Burns Bayou Tributary No. 2          | Approximately 200 feet upstream of Linda Street                                                                                                                                                                                | *78                                                     |
| Maps available at: City Hall, P.O. Box 750, Rayville, Louisiana 71269.<br>Send comments to: Mayor Joe Kall or Mr. Foster Jones, City Clerk, P.O. Box 750, Rayville, Louisiana 71269.                                                        |                                            |                                      |                                                                                                                                                                                                                                |                                                         |
| Michigan                                                                                                                                                                                                                                    | Cottrellville (Township), St. Clair County | St. Clair River                      | Confluence with Robbins Drain                                                                                                                                                                                                  | *580                                                    |
|                                                                                                                                                                                                                                             |                                            | Beaubien Creek                       | Confluence with Lester-Bammel Drain<br>50 feet upstream from center of Starville Road                                                                                                                                          | *580<br>*587                                            |
|                                                                                                                                                                                                                                             |                                            | Marine City Drain (Main Channel)     | At Roberts Road Bridge<br>At Broadbridge Road Bridge                                                                                                                                                                           | *581<br>*582                                            |
|                                                                                                                                                                                                                                             |                                            | Marine City Drain (West Channel)     | At confluence with Marine City Drain (Main Channel)<br>50 feet upstream from center of Michigan State Route 29                                                                                                                 | *581<br>*581                                            |
|                                                                                                                                                                                                                                             |                                            | Robbins Drain                        | At center of Broadbridge Road Bridge                                                                                                                                                                                           | *580                                                    |
|                                                                                                                                                                                                                                             |                                            | Robbins Drain Outlet                 | At center of Michigan State Route 29 Bridge                                                                                                                                                                                    | *580                                                    |
| Maps available at: the Township Hall, 7008 Marsh Road, Marine City, Michigan.<br>Send comments to: Mr. George Sochowicz, Township Supervisor, Township of Cottrellville, Township Hall, 7008 Marsh Road, Marine City, Michigan 48037.       |                                            |                                      |                                                                                                                                                                                                                                |                                                         |



## Proposed Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                                                                                                                                                   | City/town/county                        | Source of flooding                  | Location                                                                                      | #Depth in feet above ground.<br>*Elevation in feet (NGVD). |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------------------------------|
| Minnesota                                                                                                                                                                                                                                                               | Zumbrota (City), Goodhue County         | North Fork Zumbro River             | 80 feet upstream from center of State Highway 58 (Main Street)                                | *972                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Bitter Creek                        | West Avenue 100 feet south from its intersection with 2nd Street                              | *976                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 40 feet upstream from center of 5th Street                                                    | *985                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 50 feet upstream from center of County Road 10                                                | *1014                                                      |
|                                                                                                                                                                                                                                                                         |                                         | Roscoe Creek                        | At center of Chicago, Milwaukee, St. Paul, and Pacific Railroad crossing.                     | *977                                                       |
| Maps available at: City Hall, 55 East 3rd Street, Zumbrota, Minnesota.<br>Send comments to: Honorable Perry Weeks, Mayor, City of Zumbrota, City Hall, 55 East 3rd Street, Zumbrota, Minnesota 55992. Attn: Steve Oakland.                                              |                                         |                                     |                                                                                               |                                                            |
| New Jersey                                                                                                                                                                                                                                                              | Lindenwold (Borough), Camden County     | Cooper River                        | Intersection of Dana Street and Walnut Avenue                                                 | *66                                                        |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 50 feet downstream from center of Conrail Bridge                                              | *70                                                        |
|                                                                                                                                                                                                                                                                         |                                         | North Branch Big Timber Creek       | 50 feet upstream from center of Laurel Road                                                   | *32                                                        |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 150 feet upstream from center of East Atlantic Avenue                                         | *42                                                        |
|                                                                                                                                                                                                                                                                         |                                         | Mason Run                           | 75 feet upstream from center of Chews Landing-Clementon Road                                  | *28                                                        |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 50 feet downstream from center of Blackwood-Clementon Road                                    | *32                                                        |
| Maps available at: Clerk's Office, Borough Hall, 2001 Egg Harbor Road, Lindenwold, New Jersey.<br>Send comments to: Honorable John A. Pregartner, Mayor, Borough of Lindenwold, Borough Hall, 2001 Egg Harbor Road, Lindenwold, New Jersey 08021.                       |                                         |                                     |                                                                                               |                                                            |
| New York                                                                                                                                                                                                                                                                | Campbell (Town), Steuben County         | Cohocton River                      | Intersection of Curtis Coopers Road and Eldred Road                                           | *982                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 150 feet upstream from center of Conrail Bridge                                               | *1,009                                                     |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 200 feet upstream from State Route 333                                                        | *1,016                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Meads Creek                         | 50 feet upstream from center of westbound lanes of U.S. Highway 15                            | *973                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 50 feet upstream from center of Meads Creek Road                                              | *1,077                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Unnamed Tributary to Meads Creek    | Van Fleet Road approximately 1,300 feet northwest from its intersection with Meads Creek Road | *1,170                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Michigan Creek                      | 50 feet upstream from center of State Route 333                                               | *1,027                                                     |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 50 feet upstream from center of Burr Hollow Road                                              | *1,072                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Unnamed Tributary to Michigan Creek | At western corporate limits                                                                   | *1,126                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Wolf Run                            | 50 feet upstream from center of State Route 333                                               | *1,011                                                     |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 75 feet upstream from center of County Route 415                                              | *1,029                                                     |
|                                                                                                                                                                                                                                                                         |                                         | McNutt Run                          | 50 feet upstream from center of County Route 415                                              | *1,041                                                     |
|                                                                                                                                                                                                                                                                         |                                         | Shallow Flooding                    | 400 feet northeast from intersection of U.S. Highway 15 and State Route 333                   | #2                                                         |
| Maps available at the Town Clerk, Bemis Street, Campbell, New York.<br>Send comments to Mr. Thomas Bisket, Town Supervisor, Town of Campbell, RD No. 2, Painted Post, New York 14870.                                                                                   |                                         |                                     |                                                                                               |                                                            |
| Ohio                                                                                                                                                                                                                                                                    | Maple Heights (City), Cuyahoga County   | Mill Creek                          | 25 feet upstream from center of Broadway Avenue                                               | *848                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | 25 feet upstream from center of Lee Road                                                      | *878                                                       |
| Maps available at: City Hall, 5353 Lee Road, Maple Heights, Ohio.<br>Send comments to: Honorable Emil J. Lisy, Mayor, City of Maple Heights, City Hall, 5353 Lee Road, Maple Heights, Ohio 44137.                                                                       |                                         |                                     |                                                                                               |                                                            |
| Texas                                                                                                                                                                                                                                                                   | City of Everman, Tarrant County         | Chambers Creek                      | Approximately 200 feet upstream of downstream crossing of Enon Avenue                         | *622                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of Rendon Drive                                                                 | *626                                                       |
|                                                                                                                                                                                                                                                                         |                                         | N. Fork Chambers Creek              | Approximately 80 feet downstream of Hansbarger Street                                         | *650                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of Race Street                                                                  | *652                                                       |
|                                                                                                                                                                                                                                                                         |                                         | S. Fork Chambers Creek              | Just upstream of abandoned R.R. Bridge                                                        | *645                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Approximately 200 feet upstream of Race Street                                                | *652                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of Christopher Street                                                           | *662                                                       |
| Maps available at: City Tax Collector's Office, City Hall, 212 N. Race Street, Everman, Texas 76140.<br>Send comments to: Mr. Thomas H. Bryers, City Tax Assessor Collector, City Hall, 212 N. Race Street, Everman, Texas 76140.                                       |                                         |                                     |                                                                                               |                                                            |
| Texas                                                                                                                                                                                                                                                                   | City of Farmers Branch, Dallas County   | Elm Fork of the Trinity River       | Just upstream of Royal Lane                                                                   | *430                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of Valley View Lane                                                             | *434                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Cooks Branch                        | Just downstream of Denton Road                                                                | *454                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just downstream of Rollingdale Lane                                                           | *494                                                       |
| Maps available at: Director of Public Works' Office, City Hall, 13000 William Dodson Parkway, Farmers Branch, Texas 75234.<br>Send comments to: Mayor Bill Binford, or Mr. Sam Wyse, Director of Public Works, City Hall, P.O. Box 340435, Farmers Branch, Texas 75234. |                                         |                                     |                                                                                               |                                                            |
| Texas                                                                                                                                                                                                                                                                   | Unincorporated Areas of Rockwall County | Camp Creek                          | Just upstream of State Highway 205                                                            | *445                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of State Highway 552                                                            | *499                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Thompson Branch                     | Approximately 1000 feet South of the County Boundary of Collin and Rockwall Counties          | *445                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Brushy Creek                        | Just upstream of Highway 1,143                                                                | *542                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Approximately 600 feet downstream of Interstate Highways 30 and 67                            | *568                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Long Branch                         | Just upstream of State Highway 205                                                            | *514                                                       |
| Maps available at: Rockwall County Judge's Office, Rockwall County Courthouse, Rockwall, Texas 75087.<br>Send comments to: Honorable Derwood Wimpee, Rockwall County Judge, Rockwall County Courthouse, Rockwall, Texas 75087.                                          |                                         |                                     |                                                                                               |                                                            |
| Texas                                                                                                                                                                                                                                                                   | City of Saginaw, Tarrant County, Texas  | Big Fossil Creek                    | North of Intersection of Hamilton Bailey Eoswell Road and Blue Mound Road                     | *659                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Just upstream of Blue Mound Road                                                              | *669                                                       |
|                                                                                                                                                                                                                                                                         |                                         | Little Fossil Creek                 | Approximately 50 feet upstream of Bell Helicopter Road                                        | *693                                                       |
|                                                                                                                                                                                                                                                                         |                                         |                                     | Approximately 50 feet upstream of Atchison, Topeka and Santa Fe Railroad                      | *728                                                       |
|                                                                                                                                                                                                                                                                         |                                         | West Fork Cement Creek              | Just upstream of Longhorn Road (corporate limits)                                             | *718                                                       |
| Maps available at: City Administrator's Office, City Hall, 404 S. Saginaw Boulevard, Saginaw, Texas 76179.<br>Send comments to: Mr. Marty A. Joab, City Administrator, City Hall, P.O. Drawer 79070, Saginaw, Texas 76179.                                              |                                         |                                     |                                                                                               |                                                            |

## Proposed Base (100-Year) Flood Elevations—Continued

| State | City/town/county                  | Source of flooding | Location                                                                                       | #Depth in feet above ground.<br>*Elevation in feet (NGVD). |
|-------|-----------------------------------|--------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| Texas | City of Seagoville, Dallas County | Stream 2 A1        | Approximately 100 feet upstream of Willis Drive                                                | *379                                                       |
|       |                                   |                    | Just upstream of Water Street                                                                  | *401                                                       |
|       |                                   |                    | Just upstream of Malloy Bridge Road                                                            | *417                                                       |
|       |                                   | Stream 2 A2        | Just upstream of Malloy Bridge Road                                                            | *397                                                       |
|       |                                   |                    | Just upstream of Smith                                                                         | *402                                                       |
|       |                                   |                    | Just upstream of Reeves Street                                                                 | *425                                                       |
|       |                                   | Stream 4 C1        | Approximately 100 feet upstream of Cloverhill Road                                             | *400                                                       |
|       |                                   | Stream 4 C3        | Approximately 200 feet downstream of South Frontage Road of U.S. Highway 175                   | *423                                                       |
|       |                                   | Trinity River      | Just Northwest of the Intersection of Malloy Bridge Road and the Southwestern Corporate Limits | *370                                                       |

Maps available at: City Manager, 704 N Highway 175, Seagoville, Texas 75159.

Send comments to: David Couch, City Manager, 703 N Highway 175, Seagoville, Texas 75159.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 28, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-37609 Filed 12-6-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

[Docket No. FEMA 5747]

**National Flood Insurance Program;  
Proposed Zone and Base Flood  
Elevation Determinations for the City  
of Normandy Park, Wash.**AGENCY: Federal Insurance  
Administration, FEMA.

ACTION: Proposed Rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations as described below.

The proposed base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Council Chambers, 240 S.W. 200th, Normandy Park, Washington.

Send comments to: The Honorable John T. Dawson, Mayor, 240 S.W. 200th, Normandy Park, Washington 98168.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Robert G. Chappell, Acting  
Assistant Administrator, Program  
Implementation & Engineering Office,  
National Flood Insurance Program, 451  
Seventh Street, SW., Washington, DC  
20410, (202) 755-6570 or toll free line  
(800) 424-8872, (in Alaska and Hawaii  
call toll free (800) 424-9080).

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed base flood elevations for the City of Normandy Park, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67 (presently appearing at its former Section 24 CFR Part 1917).

These base flood elevations, together with the flood plain management measures required by Section 60.3 (presently appearing at its former Section 1910.3) of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevation for selected locations are:

| Source of flooding | Location                            | Elevation in feet national geodetic vertical datum |
|--------------------|-------------------------------------|----------------------------------------------------|
| Puget Sound        | Northernmost corporate limit        | 16                                                 |
|                    | Confluence with Miller Creek        | 9                                                  |
|                    | Confluence with Normandy Park Creek | 10                                                 |
|                    | West of Edgely Drive, S.W.          | 16                                                 |
|                    | West of S.W. 201st Street           | 9                                                  |
|                    | West of S.W. 211th Street           | 16                                                 |
| Miller Creek       | Confluence with Puget Sound         | 9                                                  |
|                    | S.W. 175th Place (downstream)       | 16                                                 |
| Walker Creek       | Confluence with Miller Creek        | 10                                                 |
|                    | S.W. 175th Place (downstream)       | 14                                                 |
| Des Moines Creek   | Southernmost corporate limit        | 11                                                 |
|                    | Easternmost corporate limit         | 23                                                 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued October 22, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-37627 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 67

[Docket No. FI-5701]

**Proposed Flood Elevation  
Determinations for the Town of  
Londonderry, Rockingham County,  
N.H., Under the National Flood  
Insurance Program; Correction**AGENCY: Federal Insurance  
Administration, FEMA.

ACTION: Correction of proposed rule.

**SUMMARY:** This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 56965 of the Federal Register of October 3, 1979.

**EFFECTIVE DATE:** October 3, 1979.



**FOR FURTHER INFORMATION CONTACT:** Mr. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Londonderry, New Hampshire, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The following corrections are made:

| Source of flooding   | Location                                        | Elevation in feet, national geodetic vertical datum |
|----------------------|-------------------------------------------------|-----------------------------------------------------|
| Tributary D.....     | Downstream corporate limits.                    | * 245                                               |
| Nesenkeag Brook..... | Dan Hill Road 75 feet upstream from centerline. | * 238                                               |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-37629 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FI-5275]

#### Revision of Proposed Flood Elevation Determinations for the Town of Long View, Catawba County, N.C., Under the National Flood Insurance Program

**AGENCY:** Federal Insurance Administration, FIA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Long View, Catawba County, North Carolina.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 17738 on March 23, 1979, and in the *Hickory Daily Record*, published on or about March 29, 1979, and April 5, 1979, and hence supersedes those previously published rules.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 139 24th Street, Southwest, Hickory, North Carolina.

Send comments to: Honorable Fred J. Dale, Mayor, Town of Long View, Town Hall, 139 24th Street, Southwest, Hickory, North Carolina 28601.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5148, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Long View, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

| Source of flooding             | Location                                                                              | Elevation in feet, national geodetic vertical datum |
|--------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------|
| Long View Creek.....           | 25 feet upstream from centerline of 1st corporate limits.                             | *1012                                               |
|                                | 775 feet downstream from centerline of confluence with Long View Creek Tributary Two. | *1030                                               |
|                                | 60 feet downstream from centerline of U.S. Highway 64 and 70.                         | *1050                                               |
|                                | 25 feet upstream from centerline of U.S. Highway 64 and 70.                           | *1080                                               |
|                                | 25 feet upstream from centerline of 26th Street S.W.                                  | *1080                                               |
| Frye Creek.....                | 40 feet upstream from centerline of 2nd Avenue N.W.                                   | *1052                                               |
|                                | 150 feet upstream from centerline of 19th Street N.W.                                 | *1059                                               |
|                                | 25 feet upstream from centerline of 20th Street N.W.                                  | *1062                                               |
|                                | 120 feet downstream from centerline of 23rd Street N.W.                               | *1065                                               |
|                                | 20 feet upstream from centerline of 23rd Street N.W.                                  | *1070                                               |
|                                | 60 feet upstream from centerline of 27th Street N.W.                                  | *1085                                               |
|                                | 20 feet upstream from centerline of 30th Street Place N.W.                            | *1105                                               |
|                                | 20 feet upstream from centerline of 33rd Street N.W.                                  | *1120                                               |
| Long View Creek Tributary Two. | 840 feet upstream from the confluence with Long View Creek.                           | *1050                                               |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-37630 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FI-5419]

#### National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Revision to proposed rule for Summers County, West Virginia.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Summers County, West Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 26920 on May 18, 1979, and in the *Hinton News* on or about April 12, 1979, and April 19, 1979, and hence supersedes those previously published rules.

**DATES:** The period for comments will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the flood elevations are available for review at the County Commissioner's Office, County Courthouse, Hinton, West Virginia.

Send Comments to: Mr. Billy Joe Edwards, President of the Summers County Commission, P.O. Box 97, Hinton, West Virginia 25951.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5148, 451 Seventh Street, S.W., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in Summers County, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of

the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are amended to read as follows:

#### Proposed Base (100-Year) Flood Elevations

| State              | City/town/county    | Source of flooding    | Location                                                          | #Depth in feet above ground. *Elevation in feet (NGVD) |
|--------------------|---------------------|-----------------------|-------------------------------------------------------------------|--------------------------------------------------------|
| West Virginia..... | Summers County..... | Beech Run.....        | Upstream of State Route 3.....                                    | *1,373                                                 |
|                    |                     |                       | .48 mile upstream of confluence adjacent to Beech Run Church..... | *1,435                                                 |
|                    |                     |                       | 1.03 miles upstream of confluence adjacent to cemetery.....       | *1,500                                                 |
|                    |                     |                       | 2.16 miles upstream of confluence.....                            | *1,777                                                 |
|                    |                     | Big Creek.....        | Upstream of Chessie System.....                                   | *1,404                                                 |
|                    |                     |                       | .35 mile upstream of confluence.....                              | *1,434                                                 |
|                    |                     |                       | .55 mile upstream of confluence.....                              | *1,467                                                 |
|                    |                     | Blue Lick Creek.....  | Confluence with Greenbrier River.....                             | *1,462                                                 |
|                    |                     |                       | Upstream of County Route 17.....                                  | *1,497                                                 |
|                    |                     |                       | .81 mile upstream of confluence.....                              | *1,575                                                 |
|                    |                     | Bradshaw Creek.....   | Upstream of confluence with Wheel Run.....                        | *1,537                                                 |
|                    |                     |                       | 1.59 miles upstream at Private Road.....                          | *1,564                                                 |
|                    |                     |                       | Upstream of State Route 12.....                                   | *1,587                                                 |
|                    |                     | Brooks Branch.....    | Confluence with New River.....                                    | *1,338                                                 |
|                    |                     |                       | Downstream of State Route 20.....                                 | *1,351                                                 |
|                    |                     |                       | .367 mile upstream of confluence.....                             | *1,382                                                 |
|                    |                     | Buggy Branch.....     | Confluence with Greenbrier River.....                             | *1,520                                                 |
|                    |                     |                       | .45 mile upstream of confluence.....                              | *1,520                                                 |
|                    |                     | Fisher Creek.....     | Confluence with Mill Creek.....                                   | *1,733                                                 |
|                    |                     |                       | .65 mile upstream of confluence.....                              | *1,850                                                 |
|                    |                     |                       | 1.15 miles upstream of confluence.....                            | *1,954                                                 |
|                    |                     |                       | 1.725 miles upstream of confluence.....                           | *2,091                                                 |
|                    |                     | Greenbrier River..... | Upstream State Route 107.....                                     | *1,377                                                 |
|                    |                     |                       | Upstream State Route 13.....                                      | *1,393                                                 |
|                    |                     |                       | Confluence of Big Creek.....                                      | *1,404                                                 |
|                    |                     |                       | Confluence of Powley Creek.....                                   | *1,412                                                 |
|                    |                     |                       | Upstream State Route 3.....                                       | *1,415                                                 |
|                    |                     |                       | Confluence of Wolf Creek.....                                     | *1,436                                                 |
|                    |                     |                       | Confluence of Kissinger Run.....                                  | *1,445                                                 |
|                    |                     |                       | Confluence of Blue Lick Creek.....                                | *1,461                                                 |
|                    |                     |                       | Confluence of Hungard Creek.....                                  | *1,503                                                 |
|                    |                     |                       | Confluence of Buggy Branch.....                                   | *1,520                                                 |
|                    |                     |                       | At confluence of Griffith Creek.....                              | *1,540                                                 |
|                    |                     | Griffith Creek.....   | Downstream of State Route 3.....                                  | *1,540                                                 |
|                    |                     |                       | Downstream County Route 7 at mile .75.....                        | *1,602                                                 |
|                    |                     |                       | Downstream Private Road at mile 1.29.....                         | *1,672                                                 |
|                    |                     | Hungard Creek.....    | Downstream State Route 3.....                                     | *1,503                                                 |
|                    |                     |                       | .9 mile upstream of confluence.....                               | *1,506                                                 |
|                    |                     |                       | 100 feet downstream of State Route 6.....                         | *1,541                                                 |
|                    |                     | Kates Branch.....     | Confluence with New River.....                                    | *1,325                                                 |
|                    |                     |                       | Downstream of State Route 20.....                                 | *1,344                                                 |
|                    |                     |                       | .4 mile upstream of confluence.....                               | *1,400                                                 |
|                    |                     |                       | .625 mile upstream of confluence.....                             | *1,449                                                 |
|                    |                     | Kissinger Run.....    | Confluence with Greenbrier River.....                             | *1,445                                                 |
|                    |                     |                       | .3 mile upstream of confluence.....                               | *1,453                                                 |
|                    |                     | Laurel Creek.....     | Downstream of State Route 20.....                                 | *1,280                                                 |
|                    |                     |                       | .85 mile upstream of confluence.....                              | *1,404                                                 |
|                    |                     |                       | 1.84 miles upstream of confluence.....                            | *1,485                                                 |
|                    |                     | Lick Creek.....       | Confluence with New River.....                                    | *1,274                                                 |
|                    |                     |                       | Upstream of State Route 20.....                                   | *1,263                                                 |
|                    |                     |                       | Upstream of Private Road crossing.....                            | *1,353                                                 |
|                    |                     |                       | .45 mile upstream of Private Bridge.....                          | *1,382                                                 |
|                    |                     |                       | 2.8 miles upstream of Private Bridge.....                         | *1,470                                                 |
|                    |                     |                       | Confluence of Mill Creek.....                                     | *1,545                                                 |



## Proposed Base (100-Year) Flood Elevations—Continued

| State         | City/town/county | Source of flooding | Location                                                                  | #Depth in feet above ground.<br>*Elevation in feet (NGVD)     |        |
|---------------|------------------|--------------------|---------------------------------------------------------------------------|---------------------------------------------------------------|--------|
| West Virginia | Summers County   | Madam Creek        | Confluence with New River                                                 | *1,365                                                        |        |
|               |                  |                    | Upstream of State Route 3                                                 | *1,374                                                        |        |
|               |                  |                    | Upstream Private Drive .69 miles upstream of confluence                   | *1,435                                                        |        |
|               |                  |                    | Upstream Private Drive 1.09 miles upstream of confluence                  | *1,470                                                        |        |
|               |                  |                    | Downstream Private Drive 1.865 miles upstream of confluence               | *1,529                                                        |        |
|               |                  |                    | Upstream County Road 3/21                                                 | *1,556                                                        |        |
|               |                  |                    | Upstream County Road 12/2                                                 | *1,826                                                        |        |
|               |                  |                    | Upstream Private Drive .41 mile upstream of County Route 12/2             | *1,694                                                        |        |
|               |                  |                    | 1 mile upstream County Route 12/2 adjacent to Martha Chapel               | *1,800                                                        |        |
|               |                  |                    | Downstream Private Road 4.805 miles upstream of confluence with New River | *2,099                                                        |        |
|               |                  |                    | 5.025 miles upstream of confluence with New River                         | *2,178                                                        |        |
|               |                  |                    | Meadow Creek                                                              | Confluence with New River                                     | *1,254 |
|               |                  |                    |                                                                           | Upstream Chessie System                                       | *1,257 |
|               |                  |                    |                                                                           | Upstream County Route 7                                       | *1,276 |
|               |                  |                    |                                                                           | .8 mile upstream of County Route 7                            | *1,359 |
|               |                  |                    |                                                                           | .81 mile upstream of County Route 7                           | *1,382 |
|               |                  |                    | Mill Creek                                                                | Confluence with Lick Creek                                    | *1,545 |
|               |                  |                    |                                                                           | Upstream County Route 4                                       | *1,549 |
|               |                  |                    |                                                                           | Upstream Private Road .68 mile upstream of County Route 4     | *1,608 |
|               |                  |                    |                                                                           | Upstream of downstream State Route 20 crossing                | *1,739 |
|               |                  |                    |                                                                           | .0125 mile upstream of upstream State Route 20 crossing       | *2,021 |
|               |                  |                    | New River                                                                 | Downstream County Boundary                                    | *1,242 |
|               |                  |                    |                                                                           | Confluence of Meadow Creek                                    | *1,254 |
|               |                  |                    |                                                                           | Confluence of Lick Creek                                      | *1,274 |
|               |                  |                    |                                                                           | Confluence of Kates Branch                                    | *1,325 |
|               |                  |                    |                                                                           | Confluence of Madam Creek                                     | *1,365 |
|               |                  |                    | Pipestem Creek                                                            | Confluence of Greenbrier River                                | *1,376 |
|               |                  |                    |                                                                           | 1.32 miles upstream of confluence                             | *1,534 |
|               |                  |                    |                                                                           | 1.85 miles upstream of confluence                             | *1,590 |
|               |                  |                    |                                                                           | 2.5 miles upstream of confluence adjacent to Greenbrier River | *1,656 |
|               |                  |                    |                                                                           | 2.6 miles upstream of confluence                              | *1,685 |
|               |                  |                    | Powley Creek                                                              | County Route 13                                               | *1,412 |
|               |                  |                    |                                                                           | .23 miles upstream of confluence                              | *1,440 |
|               |                  |                    |                                                                           | .29 miles upstream of confluence                              | *1,455 |
|               |                  |                    | Stinking Lick Creek                                                       | Upstream County Route 33/3 at Jeep Trail                      | *1,541 |
|               |                  |                    |                                                                           | .96 mile upstream from County Route 33/3                      | *1,571 |
|               |                  |                    |                                                                           | 1.42 mile upstream from County Route 33/3                     | *1,607 |
|               |                  |                    | Tributary No. 1 to New River                                              | Upstream Chessie System                                       | *1,257 |
|               |                  |                    |                                                                           | Upstream County Route 7                                       | *1,272 |
|               |                  |                    |                                                                           | Upstream County Route 7/2                                     | *1,331 |
|               |                  |                    | Wheel Run                                                                 | About 1 mile upstream County Route 7/2                        | *1,355 |
|               |                  |                    |                                                                           | Confluence with Bradshaw Creek                                | *1,535 |
|               |                  |                    |                                                                           | Upstream County Route 21/2                                    | *1,544 |
|               |                  |                    | Wolf Creek                                                                | Upstream Private Road at .2 mile upstream of confluence       | *1,577 |
|               |                  |                    |                                                                           | .39 miles upstream of confluence                              | *1,621 |
|               |                  |                    |                                                                           | Upstream State Route 12                                       | *1,436 |
|               |                  |                    |                                                                           | .135 mile upstream of State Route 12                          | *1,444 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 27, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-37631 Filed 12-7-79; 8:45 am]

BILLING CODE 6710-03-M

## 44 CFR Part 67

[Docket No. FEMA 5749]

National Flood Insurance Program;  
Proposed Flood Elevation  
Determinations

AGENCY: Federal Insurance  
Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or  
comments are solicited on the proposed  
base (100-year) flood elevations listed  
below for selected locations in the  
nation. These base (100-year) flood

elevations are the basis for the flood  
plain management measures that the  
community is required to either adopt or  
show evidence of being already in effect  
in order to qualify or remain qualified  
for participation in the National Flood  
Insurance Program (NFIP).

DATES: The period for comment will be  
ninety (90) days following the second  
publication of this proposed rule in a  
newspaper of local circulation in each  
community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:  
Mr. R. Gregg Chappell, National Flood  
Insurance Program, (202) 426-1460 or

Toll Free Line (800) 424-8872. (In Alaska  
and Hawaii call Toll Free Line (800) 424-  
9080, Room 5150, 451 7th Street, S.W.,  
Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The  
Federal Insurance Administrator gives  
notice of the proposed determinations of  
base (100-year) flood elevations for  
selected locations in the nation, in  
accordance with Section 110 of the  
Flood Disaster Protection Act of 1973  
(Pub. L. 93-234), 87 Stat. 980, which  
added Section 1363 to the National  
Flood Insurance Act of 1968 (Title XIII of

the Housing and Urban Development  
Act of 1968) (Pub. L. 90-448), 42 U.S.C.  
4001-4128, and 44 CFR 67.4(a).

These elevations, together with the  
flood plain management measures  
required by Section 60.3 of the program  
regulations, are the minimum that are  
required. They should not be construed

to mean the community must change  
any existing ordinances that are more  
stringent in their flood plain  
management requirements. The  
community may at any time enact  
stricter requirements on its own, or  
pursuant to policies established by other  
Federal, State, or Regional entities.

These proposed elevations will also be  
used to calculate the appropriate flood  
insurance premium rates for new  
buildings and their contents and for the  
second layer of insurance on existing  
buildings and their contents.

The proposed base (100-year) flood  
elevations for selected locations are:

## Proposed Base (100-Year) Flood Elevations

| State    | City/town/county               | Source of flooding                                                                                                                  | Location                                                              | #Depth in feet above ground. *Elevation in feet (NGVD) |
|----------|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------|
| Illinois | (V) Alsip, Cook County         | Stony Creek (East)                                                                                                                  | Just upstream 127th Street                                            | *583                                                   |
|          |                                |                                                                                                                                     | Approximately 300 feet upstream Homan Avenue                          | *584                                                   |
|          |                                |                                                                                                                                     | Approximately 200 feet downstream Cicero Avenue                       | *587                                                   |
|          |                                |                                                                                                                                     | Approximately 200 feet upstream mouth                                 | *585                                                   |
|          |                                | Merrionette Park Ditch                                                                                                              | Approximately 100 feet downstream 123rd Street                        | *592                                                   |
|          |                                |                                                                                                                                     | Approximately 200 feet upstream 123rd Street                          | *595                                                   |
|          |                                | Maps available at: Village Hall, 4500 123rd Street, Alsip, Illinois 60658.                                                          |                                                                       |                                                        |
|          |                                | Send comments to: The Honorable Arnold A. Andrews, Mayor, Village of Alsip, Village Hall, 4500 123rd Street, Alsip, Illinois 60658. |                                                                       |                                                        |
|          | (V) Burr Ridge, Du Page County | 79th Street Ditch                                                                                                                   | 75 feet upstream of corporate limits                                  | *674                                                   |
|          |                                |                                                                                                                                     | Just downstream of private drive                                      | *680                                                   |
|          |                                |                                                                                                                                     | Just upstream of private drive                                        | *689                                                   |
|          |                                |                                                                                                                                     | Just upstream of County Line Road                                     | *690                                                   |
|          |                                |                                                                                                                                     | Just downstream of 79th Street                                        | *692                                                   |
|          |                                |                                                                                                                                     | Just upstream of Hamilton Street                                      | *694                                                   |
|          |                                |                                                                                                                                     | Approximately 1,000 feet upstream of Hamilton Street                  | *695                                                   |
|          |                                |                                                                                                                                     | Approximately 300 feet downstream of Interstate 294                   | *699                                                   |
|          |                                |                                                                                                                                     | Just upstream of Interstate 294                                       | *641                                                   |
|          |                                |                                                                                                                                     | 130 feet downstream of Tomlin Drive                                   | *642                                                   |
|          |                                |                                                                                                                                     | Upstream of Tomlin Drive                                              | *646                                                   |
|          |                                |                                                                                                                                     | Upstream of pond outlet                                               | *647                                                   |
|          |                                |                                                                                                                                     | Just upstream from pond inlet                                         | *653                                                   |
|          |                                |                                                                                                                                     | 600 feet upstream from pond inlet                                     | *657                                                   |
|          |                                |                                                                                                                                     | Just downstream from County Line Road                                 | *663                                                   |
|          |                                | 63rd Street Ditch                                                                                                                   | Upstream from County Line Road                                        | *670                                                   |
|          |                                |                                                                                                                                     | Downstream side of Elm Avenue                                         | *672                                                   |
|          |                                |                                                                                                                                     | 1,000 feet upstream of Elm Avenue                                     | *676                                                   |
|          |                                |                                                                                                                                     | 150 feet downstream of Garfield Avenue                                | *681                                                   |
|          |                                |                                                                                                                                     | Upstream of Garfield Avenue                                           | *685                                                   |
|          |                                |                                                                                                                                     | Located at Grant Street                                               | *691                                                   |
|          |                                |                                                                                                                                     | Approximately 500 feet upstream from Grant Street                     | *694                                                   |
|          |                                |                                                                                                                                     | Just downstream of Madison Street                                     | *704                                                   |
|          |                                |                                                                                                                                     | Upstream of Madison Street (corporate limit)                          | *710                                                   |
|          |                                |                                                                                                                                     | Downstream side of Interstate 294                                     | *638                                                   |
|          |                                |                                                                                                                                     | Upstream side of Interstate 294                                       | *644                                                   |
|          |                                |                                                                                                                                     | Just downstream of Hillcrest Circle                                   | *652                                                   |
|          |                                |                                                                                                                                     | 200 feet upstream of Hillcrest Circle                                 | *655                                                   |
|          |                                |                                                                                                                                     | Downstream of Shady Lane Road                                         | *657                                                   |
|          |                                |                                                                                                                                     | 75 feet upstream of Shady Lane Road                                   | *661                                                   |
| Illinois | (V) Colons, Henry County       | Rock River                                                                                                                          | Just upstream of State Highway 84                                     | *576                                                   |
|          |                                |                                                                                                                                     | Just downstream of Chicago Rock Island and Pacific Railroad           | *576                                                   |
|          |                                |                                                                                                                                     | Just upstream of Green River Road                                     | *578                                                   |
|          |                                |                                                                                                                                     | Just upstream of Chicago Rock Island and Pacific Railway              | *580                                                   |
|          |                                | Green River                                                                                                                         | 1,500 feet upstream of Interstate 80                                  | *582                                                   |
|          |                                |                                                                                                                                     | 4,400 feet upstream of Interstate 80                                  | *583                                                   |
|          |                                | Maps available at: Village Hall, P.O. Box 186, Colons, Illinois 61241.                                                              |                                                                       |                                                        |
|          |                                | Send comments to: Mr. Charles Seamen, Village President, Village of Colons, Village Hall, P.O. Box 186, Colons, Illinois 61241.     |                                                                       |                                                        |
|          | Indiana                        | Unincorporated Areas of Clark County                                                                                                | At downstream county limits                                           | *451                                                   |
|          |                                |                                                                                                                                     | At upstream county limits                                             | *459                                                   |
|          |                                |                                                                                                                                     | At downstream county limits                                           | *448                                                   |
|          |                                |                                                                                                                                     | Just upstream Interstate 65                                           | *456                                                   |
|          |                                |                                                                                                                                     | Just upstream of U.S. Route 31 East                                   | *460                                                   |
|          |                                |                                                                                                                                     | Just upstream gaging station                                          | *464                                                   |
|          |                                |                                                                                                                                     | Just downstream State Route 403                                       | *470                                                   |
|          |                                |                                                                                                                                     | Just upstream Memphis Road                                            | *475                                                   |
|          |                                | Ohio River                                                                                                                          | Just upstream Murphy Road                                             | *488                                                   |
|          |                                |                                                                                                                                     | Just upstream State Route 160                                         | *496                                                   |
|          |                                |                                                                                                                                     | At private road, approximately 1.70 miles upstream of State Route 160 | *505                                                   |
|          |                                |                                                                                                                                     | At downstream county limits                                           | *451                                                   |
|          |                                |                                                                                                                                     | At upstream county limits                                             | *459                                                   |
|          |                                |                                                                                                                                     | At downstream county limits                                           | *448                                                   |
|          |                                |                                                                                                                                     | Just upstream Interstate 65                                           | *456                                                   |
|          |                                |                                                                                                                                     | Just upstream of U.S. Route 31 East                                   | *460                                                   |
|          |                                |                                                                                                                                     | Just upstream gaging station                                          | *464                                                   |
|          |                                |                                                                                                                                     | Just downstream State Route 403                                       | *470                                                   |
|          |                                |                                                                                                                                     | Just upstream Memphis Road                                            | *475                                                   |
|          |                                |                                                                                                                                     | Just upstream Murphy Road                                             | *488                                                   |
|          |                                |                                                                                                                                     | Just upstream State Route 160                                         | *496                                                   |
|          |                                |                                                                                                                                     | At private road, approximately 1.70 miles upstream of State Route 160 | *505                                                   |



## Proposed Base (100-Year) Flood Elevations—Continued

| State   | City/town/county                     | Source of flooding       | Location                                                                    | #Depth in feet above ground, Elevation in feet (NGVD) |
|---------|--------------------------------------|--------------------------|-----------------------------------------------------------------------------|-------------------------------------------------------|
| Indiana | Unincorporated Areas of Clark County | Muddy Fork               | At Louisville Cement Company Bridge-Northwest                               | *472                                                  |
|         |                                      |                          | Just upstream Interstate 65                                                 | *475                                                  |
|         |                                      |                          | Just upstream Wilson Switch Road                                            | *485                                                  |
|         |                                      |                          | Just upstream of Switch Road                                                | *491                                                  |
|         |                                      |                          | Just upstream of Louisville and Nashville railroad                          | *505                                                  |
|         |                                      | Lancassange Creek        | Just upstream U.S. Route 60                                                 | *555                                                  |
|         |                                      |                          | Approximately 2.1 miles upstream of U.S. Route 60                           | *599                                                  |
|         |                                      |                          | At mouth                                                                    | *452                                                  |
|         |                                      |                          | Just upstream Lancassange Drive                                             | *456                                                  |
|         |                                      |                          | Just upstream of Middle Road                                                | *459                                                  |
|         |                                      | Mill Creek               | Just upstream Presidential Place                                            | *467                                                  |
|         |                                      |                          | Just upstream private road—approximately 0.90 mile upstream of Capitol Hill | *476                                                  |
|         |                                      |                          | 1,000 feet downstream of Hamburg Pike                                       | *445                                                  |
|         |                                      |                          | 900 feet upstream of Hamburg Pike                                           | *446                                                  |
|         |                                      |                          | 0.7 mile upstream of Hamburg Pike                                           | *449                                                  |
|         |                                      | Woodland Court Tributary | At confluence with Lancassange Creek                                        | *459                                                  |
|         |                                      |                          | Just downstream of Woodland Court                                           | *461                                                  |
|         |                                      | Hamburg Pike             | 370 feet upstream of Woodland Court                                         | *464                                                  |
|         |                                      |                          | At mouth                                                                    | *445                                                  |
|         |                                      |                          | Just upstream of county road                                                | *452                                                  |
|         |                                      |                          | 0.58 mile upstream of county road                                           | *456                                                  |

Maps available at: City-County Building, Jeffersonville, Indiana 47130.

Send comments to: Mr. Charles Spitznagel, President, Board of Commissioners, Clark County, Indiana, City-County Building, Jeffersonville, Indiana 47130.

|      |                           |                   |                                    |      |
|------|---------------------------|-------------------|------------------------------------|------|
| Iowa | (C) Buffalo, Scott County | Mississippi River | Upstream corporate limits          | *562 |
|      |                           |                   | Downstream corporate limits        | *560 |
|      |                           | Cedar Creek       | Upstream corporate limits          | *627 |
|      |                           |                   | About 200 feet upstream 4th Street | *592 |
|      |                           |                   | Mouth at Mississippi River         | *561 |

Maps available at: City Hall, 409 3rd Street, Buffalo, Iowa 52728.

Send comments to: The Honorable Larry Patrick, Mayor, City of Buffalo, 409 3rd Street, Buffalo, Iowa 52728.

|      |                             |                     |                                                              |      |
|------|-----------------------------|---------------------|--------------------------------------------------------------|------|
| Iowa | (C) Clinton, Clinton County | Mississippi River   | Southern corporate limits                                    | *588 |
|      |                             |                     | Northern corporate limits                                    | *594 |
|      |                             | Mill Creek          | Mouth at Beaver Slough                                       | *588 |
|      |                             |                     | Just downstream of Lincoln Highway                           | *588 |
|      |                             |                     | Just downstream of Manufacturing Drive                       | *591 |
|      |                             |                     | Just upstream of South Bluff Boulevard                       | *597 |
|      |                             |                     | Just upstream of 2nd Avenue Road                             | *611 |
|      |                             | Harts Mill Creek    | At confluence with Mill Creek                                | *591 |
|      |                             |                     | About 150 feet upstream of Manufacturing Drive               | *592 |
|      |                             |                     | About 550 feet upstream of Chicago and Northwestern railroad | *593 |
|      |                             |                     | About 150 feet upstream of Bluff Road                        | *604 |
|      |                             |                     | Just downstream of Harts Mill Road                           | *607 |
|      |                             | Manufacturers Ditch | Just upstream of Harts Mill Road                             | *618 |
|      |                             |                     | About 1.26 miles upstream of Harts Mill Road                 | *618 |
|      |                             |                     | About 400 feet upstream of mouth                             | *585 |
|      |                             |                     | About 400 feet upstream of South 21st Street                 | *588 |
|      |                             |                     | Just upstream of South 14th Street                           | *590 |
|      |                             | Unnamed Creek       | Just upstream of 11th Avenue South                           | *591 |
|      |                             |                     | Mouth at Mill Creek                                          | *588 |
|      |                             | Car Barn Creek      | About 0.8 mile upstream of U.S. Highway 87                   | *588 |
|      |                             |                     | Mouth at Joyce Slough                                        | *575 |
|      |                             | Turtle Creek        | About 100 feet upstream of Chicago and Northwestern railroad | *585 |
|      |                             |                     | About 100 feet upstream of Garfield Street                   | *588 |
|      |                             |                     | About 100 feet upstream of 23rd Avenue North                 | *592 |
|      |                             |                     | About 100 feet downstream of Buell Avenue                    | *595 |
|      |                             |                     | About 100 feet upstream of Main Avenue (near Buell Avenue)   | *604 |
|      |                             |                     | About 150 feet downstream of North 10th Street               | *618 |
|      |                             |                     | About 60 feet downstream of North 10th Street                | *624 |
|      |                             |                     | About 100 feet upstream of North 11th Street                 | *627 |
|      |                             |                     | About 1,400 feet upstream of North 11th Street               | *633 |
|      |                             |                     | Mouth at Mississippi River                                   | *592 |
|      |                             |                     | About 100 feet downstream of Pershing Boulevard              | *592 |
|      |                             |                     | About 50 feet upstream of North 3rd Street                   | *630 |
|      |                             |                     | About 50 feet downstream of 30th Avenue North                | *635 |
|      |                             |                     | About 50 feet upstream of 30th Avenue North                  | *640 |
|      |                             |                     | About 650 feet upstream of 30th Avenue North                 | *640 |

Maps available at: City Hall, 611 South 3rd Street, Clinton, Iowa 52732.

Send comments to: The Honorable Dwain P. Walters, Mayor, City of Clinton, City Hall, 611 South 3rd Street, Clinton, Iowa 52732.

|               |                                   |              |                                              |      |
|---------------|-----------------------------------|--------------|----------------------------------------------|------|
| New Hampshire | Fremont (Town), Rockingham County | Exeter River | Downstream Corporate Limits                  | *135 |
|               |                                   |              | 4,600 feet above downstream Corporate Limits | *136 |

Maps available at: The Town Hall, Route 107, Fremont, New Hampshire.

Send comments to: Mr. Charles M. Healey, Chairman of the Board of Selectmen of Fremont, Box 165, Fremont, New Hampshire 03044.

## Proposed Base (100-Year) Flood Elevations—Continued

| State         | City/town/county                | Source of flooding | Location                                                                         | #Depth in feet above ground, Elevation in feet (NGVD) |
|---------------|---------------------------------|--------------------|----------------------------------------------------------------------------------|-------------------------------------------------------|
| New Hampshire | (T) Plaistow, Rockingham County | Little River       | Approximately 400 feet downstream of Atkinson Depot Road                         | *39                                                   |
|               |                                 |                    | Approximately 100 feet upstream of Atkinson Depot Road                           | *42                                                   |
|               |                                 |                    | Just downstream of Route 125                                                     | *46                                                   |
|               |                                 |                    | Just downstream of Old Danville Road                                             | *48                                                   |
|               |                                 |                    | Just downstream of Westville Road                                                | *56                                                   |
|               |                                 |                    | Just downstream of Boston and Maine Railroad                                     | *61                                                   |
|               |                                 |                    | Approximately 1,750 feet downstream of Main Street                               | *65                                                   |
|               |                                 |                    | Approximately 750 feet downstream of Main Street                                 | *70                                                   |
|               |                                 |                    | Approximately 200 feet downstream of Main Street                                 | *74                                                   |
|               |                                 |                    | Just upstream of Main Street                                                     | *82                                                   |
|               |                                 |                    | Approximately 1,000 feet upstream of Main Street                                 | *86                                                   |
|               |                                 |                    | Approximately 1,800 feet upstream of Main Street                                 | *90                                                   |
|               |                                 |                    | Approximately 2,600 feet upstream of Main Street                                 | *93                                                   |
|               |                                 |                    | At confluence with Kelly Brook                                                   | *95                                                   |
|               |                                 |                    | Approximately 50 feet downstream of Abandoned Bridge downstream of Kingston Road | *98                                                   |
|               |                                 |                    | Just upstream of Abandoned Bridge downstream of Kingston Road                    | *102                                                  |
|               |                                 |                    | Just upstream of Kingston Road                                                   | *103                                                  |
|               |                                 |                    | Just downstream of Crane Crossing Road                                           | *104                                                  |
|               |                                 |                    | Approximately 100 feet upstream of Crane Crossing Road                           | *107                                                  |
|               |                                 | Kelly Brook        | Confluence with Little River                                                     | *95                                                   |
|               |                                 |                    | Approximately 1,600 feet upstream of confluence with Little River                | *99                                                   |
|               |                                 |                    | Approximately 800 feet downstream of Route 125                                   | *102                                                  |
|               |                                 |                    | Just downstream of Route 125                                                     | *105                                                  |
|               |                                 |                    | Just upstream of Route 125                                                       | *112                                                  |
|               |                                 | Bryant Brook       | Just downstream of Kelly Road                                                    | *113                                                  |
|               |                                 |                    | Just upstream of Kelly Road                                                      | *116                                                  |
|               |                                 |                    | Approximately 1,000 feet downstream of North Main Street                         | *119                                                  |
|               |                                 |                    | Approximately 400 feet downstream of North Main Street                           | *123                                                  |
|               |                                 |                    | Just downstream of North Main Street                                             | *127                                                  |
|               |                                 |                    | Just upstream of North Main Street                                               | *130                                                  |
|               |                                 |                    | Confluence of Little River                                                       | *43                                                   |
|               |                                 |                    | Just downstream of Boston and Main Railroad                                      | *65                                                   |
|               |                                 |                    | Approximately 470 feet upstream of Boston and Main Railroad                      | *73                                                   |
|               |                                 |                    | Approximately 100 feet downstream of East Road                                   | *79                                                   |
|               |                                 |                    | Just upstream of East Road                                                       | *82                                                   |

Maps available at: Town Hall, Plaistow, New Hampshire.

Send comments to: Mr. Samuel E. Conti, Chairman, Board of Selectmen, Town of Plaistow, Town of Plaistow.

|      |                                      |                 |                                                     |        |
|------|--------------------------------------|-----------------|-----------------------------------------------------|--------|
| Ohio | (C) Bedford Heights, Cuyahoga County | Bear Creek      | Approximately 110 feet downstream of Libbey Road    | *1,014 |
|      |                                      |                 | Approximately 65 feet downstream of Libbey Road     | *1,016 |
|      |                                      |                 | 655 feet upstream of Libbey Road                    | *1,020 |
|      |                                      |                 | Approximately 110 feet upstream of Interstate 480   | *1,025 |
|      |                                      |                 | Approximately 1,900 feet upstream of Interstate 480 | *1,031 |
|      |                                      | Tinkers Creek   | At western corporate limit                          | *907   |
|      |                                      |                 | Just upstream of confluence of Hawthorne Creek      | *915   |
|      |                                      | Hawthorne Creek | Just upstream of mouth at Tinkers Creek             | *915   |
|      |                                      |                 | Just upstream of Norfolk and Western Railway        | *919   |
|      |                                      |                 | 995 feet downstream of eastern corporate limits     | *925   |
|      |                                      |                 | At eastern corporate limit                          | *929   |

Maps available at: City Hall, 5661 Perkins Road, Bedford Heights, Ohio.

Send comments to: The Honorable Lucille Reed, Mayor, City of Bedford Heights, City Hall, 5661 Perkins Road, Bedford Heights, Ohio 44146.

|              |                                   |                        |                                    |        |
|--------------|-----------------------------------|------------------------|------------------------------------|--------|
| Pennsylvania | Butler (Township), Luzerne County | Nescopeck Creek        | Township Route 364 (Upstream)      | *908   |
|              |                                   |                        | U.S. Interstate Rt. 81 (Upstream)  | *946   |
|              |                                   |                        | Township Route 358 (Upstream)      | *961   |
|              |                                   |                        | Legislative Route 40013 (Upstream) | *1,000 |
|              |                                   |                        | Township Route 358 (Downstream)    | *1,020 |
|              |                                   | Little Nescopeck Creek | U.S. Route 309 (Upstream)          | *1,023 |
|              |                                   |                        | U.S. Interstate Rt. 81 (Upstream)  | *964   |
|              |                                   |                        | Legislative Route 40013 (Upstream) | *999   |
|              |                                   |                        | Township Route 358 (Upstream)      | *1,020 |
|              |                                   |                        | Township Route 335 (Upstream)      | *1,072 |
|              |                                   |                        | U.S. Route 309 (Upstream)          | *1,112 |

Maps available at: The Township Building.

Send comments to: Mr. Warren Klinger, Chairman of the Township of Butler, R.D. 1, Drums, Pennsylvania 18222.

|              |                                      |                   |                                 |      |
|--------------|--------------------------------------|-------------------|---------------------------------|------|
| Pennsylvania | Cummings (Township), Lycoming County | Pine Creek        | Downstream Corporate Limits     | *596 |
|              |                                      |                   | Conrail (Upstream)              | *601 |
|              |                                      |                   | Confluence of Little Pine Creek | *818 |
|              |                                      |                   | State Route 44 (Upstream)       | *824 |
|              |                                      |                   | Upstream Corporate Limits       | *644 |
|              |                                      | Little Pine Creek | Confluence with Pine Creek      | *818 |
|              |                                      |                   | English Run Road (Upstream)     | *689 |
|              |                                      |                   | Upstream Corporate Limits       | *790 |

Maps available at: The residence of Margaret A. Berry, Township Secretary of Cummings, Waterville, Pennsylvania.

Send comments to: Mr. Roger Myers, Chairman of the Board of Supervisors of Cummings, Waterville, Pennsylvania 17778.



## Proposed Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                                                                                                                    | City/town/county                       | Source of flooding    | Location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | #Depth in feet above ground. *Elevation in feet (NGVD)                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Pennsylvania                                                                                                                                                                                                                             | Eldred (Township), Lycoming County.    | Loyalsock Creek       | Downstream Corporate Limits.....<br>Private Road (extended) 8,000' downstream of State Route 973.....<br>Private Road (extended) 1,200' downstream of State Route 973.....<br>State Route 973 Bridge (Upstream).....<br>Harvey Drive (extended).....<br>Upstream Corporate Limits.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | *567<br>*581<br>*598<br>*610<br>*618<br>*623                                                                                                                                                                           |
| Maps available at: The Township Office, located behind the Eldred Volunteer Fire Company.<br>Send comments to: Mr. Robert F. Winter, Chairman of the Board of Supervisors of Eldred, R.D. 1, Box 417, Cogan Station, Pennsylvania 17728. |                                        |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                        |
| Pennsylvania                                                                                                                                                                                                                             | Harborcreek (Township), Erie County.   | Sixmile Creek         | Confluence with Lake Erie.....<br>1,230 feet downstream of State Route 5.....<br>State Route 5 (Downstream Side).....<br>State Route 5 (Upstream Side).....<br>1,200 feet downstream of Boyer Road.....<br>1,100 feet upstream of Boyer Road.....<br>2,260 feet upstream of Boyer Road.....<br>3,500 feet upstream of Boyer Road.....<br>4,500 feet upstream of Boyer Road.....<br>5,530 feet upstream of Boyer Road.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | *578<br>*582<br>*587<br>*602<br>*636<br>*648<br>*660<br>*670<br>*680<br>*689                                                                                                                                           |
| Maps available at: The Township Building, Harborcreek, Pennsylvania.<br>Send comments to: Mr. Gerald Blanchfield, Chairman of the Board of Supervisors of Harborcreek, 5601 Buffalo Road, Harborcreek, Pennsylvania 16421.               |                                        |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                        |
| Pennsylvania                                                                                                                                                                                                                             | Hollenback (Township), Luzerne County. | Big Wapwallopne Creek | Confluence with Tributary C.....<br>Legislative Route 40018.....<br>Approximately 1,050' upstream of Legislative Route 40018.....<br>Approximately 630' downstream of Legislative Route 40021.....<br>Legislative Route 40021 Upstream.....<br>Cataracts (Upstream approximately 200').....<br>Approximately 1,070' upstream from Cataracts.....<br>Confluence with Big Wapwallopne Creek.....<br>Private Road Upstream.....<br>Township Route 375 Upstream.....<br>Approximately 1,190' upstream from T-375 Private Road Upstream.....<br>Township Route 390—Culvert Outlet.....<br>Township Route 390—Culvert Inlet.....<br>Culvert Outlet Legislative Route 40018.....<br>Culvert Inlet Legislative Route 40018.....<br>County Road Upstream.....<br>Balliet Run.....<br>Confluence with Big Wapwallopne Creek.....<br>Private Road Upstream.....<br>Legislative Route 40021 Upstream.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | *756<br>*781<br>*785<br>*795<br>*797<br>*808<br>*810<br>*756<br>*768<br>*793<br>*808<br>*834<br>*841<br>*860<br>*865<br>*878<br>*797<br>*800<br>*812                                                                   |
| Maps available at: The Hollenback Fire Hall.<br>Send comments to: Mr. Joseph Lukashewski, Chairman to the Board of Supervisors of Hollenback, R.D. 2, Hobbie Road, Wapwallopen, Pennsylvania 18660.                                      |                                        |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                        |
| Pennsylvania                                                                                                                                                                                                                             | Jackson (Township), Luzerne County.    | Huntsville Creek      | Downstream Corporate Limits.....<br>Upstream of Private Road.....<br>Confluence with Browns Creek.....<br>Upstream of Chase Road.....<br>Upstream of Hillside Road.....<br>Approximately 1,500 feet upstream of Hillside Road.....<br>Upstream Private Bridge.....<br>East Fork Harvey Creek.....<br>Approximately 780 feet downstream of Township Route 704.....<br>Approximately 320 feet downstream of Township Route 704.....<br>Downstream of Township Route 704.....<br>Upstream of Township Route 704.....<br>Upstream of Township Route 704 (adjacent to L.R. 40059).....<br>Upstream of Private Bridge.....<br>Approximately 850 feet downstream of Township Route 605.....<br>Upstream of Township Route 605.....<br>Drakes Creek.....<br>Approximately 870 feet downstream of L.R. 40059.....<br>Downstream of L.R. 40059.....<br>Upstream of L.R. 40059.....<br>Upstream of Township Route 716.....<br>Upstream of Private Road.....<br>Upstream of Private Bridge (adjacent to Limit of Detailed Study).....<br>Confluence with Huntsville Creek.....<br>Approximately 540 feet upstream of confluence with Huntsville Creek.....<br>Approximately 1,340 feet upstream of confluence with Huntsville Creek.....<br>Browns Creek.....<br>Upstream of Private Road (Downstream of Township Route 784).....<br>Upstream of Chase Road.....<br>Jackson Road (Extended)..... | *864<br>*865<br>*904<br>*918<br>*929<br>*943<br>*981<br>*856<br>*875<br>*889<br>*908<br>*936<br>*953<br>*972<br>*992<br>*939<br>*959<br>*964<br>*967<br>*980<br>*1,004<br>*904<br>*922<br>*945<br>*966<br>*984<br>*993 |
| Maps available at: The Fire House, Jackson, Pennsylvania.<br>Send comments to: Mr. Fred Fielding, Chairman of the Board of Supervisors of Jackson, R.D. 5, Shavertown, Pennsylvania 18708.                                               |                                        |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                        |

## Proposed Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                                                                                                                                                         | City/town/county                             | Source of flooding | Location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | #Depth in feet above ground. *Elevation in feet (NGVD)                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Pennsylvania                                                                                                                                                                                                                                                                  | Lower Paxton (Township), Dauphin County.     | Beaver Creek       | Downstream Corporate Limits.....<br>Dam 950' downstream of Nyes Road.....<br>Upstream Nyes Road.....<br>Confluence of Nyes Run.....<br>Confluence of Beaver Creek.....<br>Upstream Union Deposit Road.....<br>Upstream Locust Lane (LR 22071).....<br>350' upstream Locust Lane.....<br>Tributary to Spring Creek.....<br>Downstream Corporate Limits.....<br>Upstream Interstate 83.....<br>Upstream Arlington Avenue.....<br>Upstream Sussex Drive.....<br>1,000' upstream Sussex Drive.....<br>Downstream Corporate Limits.....<br>Upstream Gale Drive.....<br>Downstream Carol Drive.....<br>Upstream Carol Drive.....<br>Upstream Crumsmill Road.....<br>Confluence with Tributary to Goose Valley Run.....<br>Upstream Colonial Club Road.....<br>Upstream Derbyshire Road.....<br>Downstream Linglestown Road.....<br>Upstream Linglestown Road.....<br>Tributary to Goose Valley Run.....<br>Confluence of Goose Valley Run.....<br>Downstream Interstate 81.....<br>Upstream Interstate 81.....<br>Downstream Earl Drive.....<br>Upstream Earl Drive.....<br>Downstream Curvin Drive.....<br>Upstream Curvin Drive.....<br>Confluence of South Branch of Tributary to Goose Valley Run.....<br>Downstream Lochwillow Road.....<br>Upstream Lochwillow Road.....<br>600 feet upstream of Lochwillow Road.....<br>South Branch of Tributary to Goose Valley Run.....<br>Confluence with Tributary to Goose Valley Run.....<br>Upstream U.S. Route 22.....<br>Upstream Sunset Avenue.....<br>Upstream South Lochwillow Rd.....<br>Downstream Beaver Road..... | *335<br>*336<br>*342<br>*343<br>*343<br>*363<br>*375<br>*379<br>*422<br>*427<br>*431<br>*434<br>*442<br>*432<br>*438<br>*446<br>*448<br>*393<br>*437<br>*449<br>*454<br>*463<br>*393<br>*395<br>*402<br>*420<br>*425<br>*445<br>*450<br>*452<br>*469<br>*474<br>*481<br>*452<br>*487<br>*489<br>*485<br>*488 |
| Maps available at: The Lower Paxton Township Building.<br>Send comments to: Mr. Jack Hurley, Manager of the Township of Lower Paxton, 75 South Houcks Road, Harrisburg, Pennsylvania 17109.                                                                                   |                                              |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                              |
| Pennsylvania                                                                                                                                                                                                                                                                  | Oliver (Township), Mifflin County.           | Museer Run         | Furnace Road.....<br>South Queen Street.....<br>Campground Road.....<br>Corporate Limits.....<br>Legislative Route A2764.....<br>1,310 feet upstream of Legislative Route A2764.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | *496<br>*513<br>*525<br>*527<br>*565<br>*591                                                                                                                                                                                                                                                                 |
| Maps available at: The residence of Ms. Betty Bonson, Township Secretary, R.D. 4, Oliver Township, Pennsylvania.<br>Send comments to: Mr. Clyde Krepps, Chairman of the Township of Oliver, R.D. 1, McVeytown, Pennsylvania.                                                  |                                              |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                              |
| Pennsylvania                                                                                                                                                                                                                                                                  | Pine (Township), Lycoming County             | Little Pine Creek  | Downstream Corporate Limits.....<br>Legislative Route 41021 (Upstream).....<br>Confluence of English Run.....<br>State Route 287 (Upstream).....<br>Confluence of Texas Creek.....<br>Confluence of Texas Creek.....<br>Confluence with Little Pine Creek.....<br>State Route 284 (Upstream).....<br>Confluence with Little Pine Creek.....<br>Legislative Route 41021 (Upstream).....<br>Approximately 2,680 feet upstream of Legislative Route 41021.....<br>Confluence with Little Pine Creek.....<br>Township Route 776 (Upstream 40 feet).....<br>Approximately 1,390 feet upstream of Township Route 776.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | *790<br>*817<br>*877<br>*900<br>*1,004<br>*1,004<br>*1,004<br>*1,009<br>*790<br>*797<br>*837<br>*877<br>*888<br>*927                                                                                                                                                                                         |
| Maps available at: The Pine Community Building, English Center, Pennsylvania.<br>Send comments to: Mr. Walter Mahoski, Chairman of the Board of Supervisors of Pine, English Center, Pennsylvania 17733.                                                                      |                                              |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                              |
| Pennsylvania                                                                                                                                                                                                                                                                  | Upper Fairfield (Township), Lycoming County. | Loyalsock Creek    | Corporate Limits Downstream.....<br>State Route 973 Upstream.....<br>Corporate Limits Upstream.....<br>Corporate Limits Downstream.....<br>Private Road Upstream 5,060' upstream of Downstream Corporate Limits.....<br>Private Road Upstream 11,258' upstream of Downstream Corporate Limits.....<br>11,500' upstream of Downstream Corporate Limits.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | *558<br>*610<br>*616<br>*565<br>*586<br>*614<br>*618                                                                                                                                                                                                                                                         |
| Maps available at: The Upper Fairfield Township Building, by appointment, Route 87, Montoursville, Pennsylvania.<br>Send comments to: Mr. Edgar E. Hunter, Sr., Chairman of the Board of Supervisors of Upper Fairfield, R.D. 4, Box 277a, Montoursville, Pennsylvania 17754. |                                              |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                              |



## Proposed Base (100-Year) Flood Elevations—Continued

| State   | City/town/county                  | Source of flooding | Location                                                  | #Depth in feet above ground. Elevation in feet (NGVD) |
|---------|-----------------------------------|--------------------|-----------------------------------------------------------|-------------------------------------------------------|
| Vermont | (T) Canaan, Essex County          | Connecticut River  | Downstream corporate limit                                | *1,010                                                |
|         |                                   |                    | About 211 feet upstream of confluence with Willard Stream | *1,012                                                |
|         |                                   |                    | About .45 mile upstream of confluence with Capon Brook    | *1,013                                                |
|         |                                   |                    | About 1.95 miles upstream of confluence with Capon Brook  | *1,014                                                |
|         |                                   |                    | About 4 miles upstream of confluence with Capon Brook     | *1,017                                                |
|         |                                   |                    | About .48 mile downstream of Gale Street                  | *1,019                                                |
|         |                                   |                    | About 317 feet upstream of Gale Street                    | *1,027                                                |
|         |                                   |                    | Just downstream of dam                                    | *1,041                                                |
|         |                                   |                    | Just upstream of dam                                      | *1,057                                                |
|         |                                   |                    | About .75 mile upstream of Maine Central Railroad         | *1,063                                                |
|         |                                   |                    | About 160 feet downstream of Vermont Street               | *1,076                                                |
|         |                                   |                    | About 1.68 miles upstream of confluence with Halls Stream | *1,087                                                |
|         |                                   |                    | Upstream corporate limit                                  | *1,106                                                |
|         |                                   |                    | Mouth at Connecticut River                                | *1,012                                                |
|         |                                   |                    | About 106 feet downstream of State Route 102              | *1,014                                                |
|         |                                   |                    | About 211 feet upstream of State Route 102                | *1,019                                                |
|         |                                   |                    | About .41 mile upstream of State Route 102                | *1,029                                                |
|         |                                   |                    | About .86 mile upstream of State Route 102                | *1,100                                                |
|         |                                   |                    | Mouth at Leach Creek                                      | *1,307                                                |
|         |                                   |                    | About .31 miles upstream of mouth at Leach Creek          | *1,313                                                |
|         |                                   |                    | Mouth at Connecticut River                                | *1,018                                                |
|         |                                   |                    | About 106 feet upstream of State Route 102                | *1,022                                                |
|         |                                   |                    | About 3 miles downstream of U.S. and Canada Border        | *1,031                                                |
|         |                                   |                    | Just upstream of State Route 114                          | *1,305                                                |
| Vermont | Fayston (Town), Washington County | Mill Brook         | About .23 mile upstream of confluence with Morrill Brook  | *1,324                                                |
|         |                                   |                    | Just upstream County Route 1                              | *1,080                                                |
|         |                                   |                    | Upstream Canada Border                                    | *1,081                                                |
|         |                                   |                    | Mouth at Connecticut River                                | *1,013                                                |
|         |                                   |                    | Just downstream of State Route 102                        | *1,013                                                |
|         |                                   |                    | About 106 feet upstream of State Route 102                | *1,021                                                |
|         |                                   |                    | About .44 mile upstream of State Route 102                | *1,059                                                |
|         |                                   |                    |                                                           |                                                       |
|         |                                   |                    |                                                           |                                                       |
|         |                                   |                    |                                                           |                                                       |

Maps available at: Town Office, Canaan, Vermont.

Send comments to: Mr. Jean Louis Massone, Chairman Board of Selectmen, Town of Canaan, Town Office, Canaan, Vermont 05903.

|         |                                   |            |                                                                                    |        |
|---------|-----------------------------------|------------|------------------------------------------------------------------------------------|--------|
| Vermont | Fayston (Town), Washington County | Mill Brook | Downstream Corporate Limits                                                        | *757   |
|         |                                   |            | 1st crossing upstream side of McCullough Turnpike from downstream Corporate Limits | *839   |
|         |                                   |            | 2nd crossing upstream side of McCullough Turnpike from downstream Corporate Limits | *864   |
|         |                                   |            | 3rd crossing upstream side of McCullough Turnpike from downstream Corporate Limits | *905   |
|         |                                   |            | German Flats Road                                                                  | *925   |
|         |                                   |            | Approximately 3,000 feet upstream of German Flats Road                             | *967   |
|         |                                   |            | Approximately 6,480 feet upstream of German Flats Road                             | *1,006 |
|         |                                   |            |                                                                                    |        |
|         |                                   |            |                                                                                    |        |
|         |                                   |            |                                                                                    |        |

Maps available at: The Office of the Town Clerk.

Send comments to: Mr. Robert Vasseur, Chairman of the Board of Supervisors of Fayston, Town Office, Fayston, Vermont 05673.

|               |                                              |                               |                                                                                 |      |
|---------------|----------------------------------------------|-------------------------------|---------------------------------------------------------------------------------|------|
| West Virginia | Huntington (City), Cabell and Wayne Counties | Arlington Boulevard Tributary | Arlington Boulevard                                                             | *555 |
|               |                                              |                               | Aqueduct Exit                                                                   | *559 |
|               |                                              |                               | Aqueduct Entrance                                                               | *578 |
|               |                                              |                               | Downstream Norway Avenue                                                        | *586 |
|               |                                              |                               | Upstream Footbridge approximately one-tenth of a mile upstream of Norway Avenue | *592 |
|               |                                              |                               | Nonwood Road                                                                    | *813 |
|               |                                              |                               | Downstream U.S. Route 60                                                        | *540 |
|               |                                              |                               | West Fifth Street                                                               | *548 |
|               |                                              |                               | Downstream Eighth Street                                                        | *556 |
|               |                                              |                               | Corporate Limits Upstream                                                       | *569 |
|               |                                              |                               | Confluence with Ohio River                                                      | *555 |
|               |                                              |                               | 5th Street                                                                      | *555 |
|               |                                              |                               | Confluence with Fourpole Creek                                                  | *542 |
|               |                                              |                               | Upstream Harvey Avenue and Greenndge Drive                                      | *549 |
|               |                                              |                               | Ritchie Drive at Corporate Limits (Upstream)                                    | *556 |
|               |                                              |                               | Downstream Burlington Road                                                      | *537 |
|               |                                              |                               | Waverly Road                                                                    | *543 |
|               |                                              |                               | Piedmont Road                                                                   | *548 |
|               |                                              |                               | Upstream Chessie System Bridge                                                  | *556 |
|               |                                              |                               | Confluence with Hisey Fork                                                      | *544 |
|               |                                              |                               | Upstream Private Drive (0.22 mile upstream of confluence)                       | *554 |
|               |                                              |                               | Private Drive (0.48 mile upstream of confluence)                                | *565 |
|               |                                              |                               | Harveytown Road                                                                 | *578 |
|               |                                              |                               | Private Drive (0.913 mile upstream of confluence)                               | *567 |
|               |                                              |                               | Confluence of Twelvepole Creek                                                  | *552 |
|               |                                              |                               | Confluence of Guyandotte River                                                  | *555 |

Maps available at: The City Hall, Room 16, Huntington, West Virginia.

Send comments to: Mr. Richard Bartoen, City Manager of Huntington, P.O. Box 1859, Huntington, West Virginia 25717.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 19, 1979.

[FR Doc. 79-37632 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

Gloria M. Jimenez,  
Federal Insurance Administrator.

## 44 CFR Part 67

[DOCKET No. FEMA 5724]

## National Flood Insurance Program; Proposed Flood Elevation Determinations; Pennsylvania

## Correction

In FR Doc. 79-34083, published at page 64444, on Wednesday, November 7, 1979, on page 64450, after the third entry on "Township of Sugarloaf, Luzerne County" the entry on "Township of Tilden, Berks County" should be added to read as follows:

|              |                                  |                  |                                       |      |
|--------------|----------------------------------|------------------|---------------------------------------|------|
| Pennsylvania | Township of Tilden, Berks County | Schuylkill River | Downstream Corporate Limits           | *325 |
|              |                                  |                  | Fisher Dam Road                       | *329 |
|              |                                  |                  | Rerne Speedway Access Road (Extended) | *334 |
|              |                                  |                  | Hill Drive (Extended East)            | *341 |
|              |                                  |                  | State Route 61                        | *355 |
|              |                                  |                  | Conrail Bridge                        | *359 |
|              |                                  |                  | U.S. Routes 22 & 78                   | *362 |
|              |                                  |                  | 1,000' downstream of Kernville Dam    | *372 |
|              |                                  |                  | Kernville Dam (Downstream)            | *375 |
|              |                                  |                  | Kernville Dam (Upstream)              | *390 |
|              |                                  |                  | State Route 61                        | *409 |
|              |                                  |                  | Conrail Bridge (Upstream)             | *425 |
|              |                                  |                  | 5,000' downstream of Corporate Limits | *437 |
|              |                                  |                  | Upstream Corporate Limits             |      |

Maps available at: The residence of the Township Secretary, Ms. Anna Scollenberger, R.D. 1, Hamburg, Pennsylvania.

Send comments to: Mr. C. Norman Kauffman, Chairman of the Township of Tilden, R.D. 1, Hamburg, Pennsylvania 19526.

BILLING CODE 1505-01-M

## 44 CFR Part 67

[Docket No. FEMA 5738]

## National Flood Insurance Program; Proposed Flood Elevation Determinations; Virginia

## Correction

In Federal Register Doc. 79-35954, published on page 67186, on Friday, November 23, 1979, on page 67191, in the first full entry of the chart, the state and city were inadvertently omitted and should be added to read:

"Virginia . . . . . City of Bristol  
(Independent City)"

BILLING CODE 1505-01-M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Parts 42 and 93

[CCGD 76-080]

## Hopper Dredges; Load Line and Stability Requirements

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

**SUMMARY:** The Coast Guard proposes to amend the load line and stability regulations to permit deeper loading of hopper dredges on coastwise voyages

than is presently permitted under the load line regulations and to require increased protection against flooding or capsizing for hopper dredges certificated by the Coast Guard. The proposed regulations are the result of private marine interests entering the field of hopper dredge operation. Since 1902, the U.S. Army Corps of Engineers (COE) has been the principal builder and operator of hopper dredges in the United States. The proposed regulations would require privately owned hopper dredges to be built to a standard of protection against flooding and capsizing similar to the standard currently applied to COE hopper dredges.

**DATES:** Comments must be received on or before: January 25, 1980.

**ADDRESSES:** 1. Comments should be submitted to Commandant (G-CMC) U.S. Coast Guard, Room 2418, 2100 2nd Street, S.W., Washington, D.C. 20590.

Comments will be available for examination at the Marine Safety Council (G-CMC), Room 2418, 2100 2nd Street, S.W., Washington, D.C. 20590.

2. Bureau Veritas Guidance Note N.I. 144 BM. 1 is available from Bureau Veritas, United States Central Office, 17 Battery Place, New York, N.Y. 10004. All other documents referenced herein may be obtained from Commandant, USCG, 2100 2nd Street, S.W., Washington, D.C. 20590.

**FOR FURTHER INFORMATION, CONTACT:** Mr. Donald L. Ewing, Office of Merchant Marine Safety (G-MMT-5), Department of Transportation, 2100 2nd Street, S.W., Washington, D.C. 20590, (202) 426-2187.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each should include the name and address of the person submitting the comment, identify this notice (CCGD 76-080) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held at a time and place to be set in a later notice in the *Federal Register* if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

## Drafting Information

The principal persons involved in drafting this proposal are Mr. D. L. Ewing, Project Manager, Office of Merchant Marine Safety, and LT Jack Orchard, Project Counsel, Office of the Chief Counsel.



### Discussion of the proposed Regulations

In the Federal Register issue of August 2, 1976, the Coast Guard published an Advance Notice of Proposed Rulemaking (41 FR 32237) to consider developing damage stability standards for hopper dredges. Comments were received from seven organizations. Of these, six supported some form of damage stability requirement for self-propelled hopper dredges. Of these six, four supported and one opposed the adoption by the Coast Guard of intact and damage stability standards similar to those contained in Bureau Veritas Guidance Note N.I. 144 BM.1, "Freeboard of Dredges and Barges Fitted with Bottom Dump Doors" dated January 1971. Two of the seven commenters recommended that any damage stability standard should apply only to seagoing self-propelled hopper dredges.

In developing the proposed standards, the Coast Guard has reviewed Bureau Veritas Guidance Note N.I. 144 BM.1 and has, as recommended, adopted most of its features. However, one part of the Bureau Veritas Guidance Note has not been adopted. In computing damage stability that document based the calculations on the assumption that the dredged material on board could be easily jettisoned when a casualty occurred. The Corps of Engineers in its comment to the Advance Notice recommended against basing stability calculations on this assumption. The Corps was of the opinion that the dredged material could be of a cohesive nature and thus might tend to "bridge" or hang up when attempting to dump. Stability calculations based on the assumption that the dredged material would be jettisoned on collision or flooding would not be adequate if the material failed to jettison. Since the Corps of Engineers is the organization with extensive experience with hopper dredge operation, the Coast Guard proposes to adopt the Corps' recommendation that the stability calculations should not assume that the dredged material would be jettisoned immediately after collision or flooding.

The Coast Guard agrees with the two commenters who felt that the regulations should only apply to seagoing self-propelled hopper dredges. Non-self propelled dredges do not typically face the risks which form the basis of this regulation. These proposed regulations would apply only to seagoing self-propelled hopper dredges.

The Coast Guard is proposing damage stability standards for seagoing hopper dredges for two major reasons.

First, the area and mode of operation of hopper dredges subject them to a substantial risk of accident. Seagoing hopper dredges typically operate in harbors and channels where vessel congestion and fixed harbor installations constitute continual threat of collision and subsequent side damage to the hull (approximately 37% of the casualties reported by the Corps). They often operate close to shoal areas and in lesser traveled portions of harbors, risking bottom damage from grounding or collision with submerged, unmarked obstacles (approximately 56% of the casualties). Finally, the bottoms of most busy harbors are littered with a variety of debris which, when dredged up, may burst pipes and pumps resulting in flooded engine and pump rooms.

Second, the casualty record provided by the Corps of Engineers (the primary operator of hopper dredges since 1902) in their comments on the Advance Notice of Proposed Rulemaking (41 FR 32237) substantiated the existence of the risk. Over a period of 70 years 48 seagoing dredge casualties occurred.

A discussion of specific proposed regulations is contained in the following paragraphs.

#### 1. Applicability & Definitions

The proposed intact and damage stability requirements would apply to all seagoing self-propelled hopper dredges that are subject to inspection under 46 USC 367. The proposed reduced freeboards would apply only while on a coastwise voyage by sea. A dredge is a vessel used for removing material from underwater. They are normally operated for the purpose of clearing channels and harbors. Deep sea mining vessels are not considered to be dredges and are excluded from the definition of dredges even though they remove material from underwater. A hopper dredge is fitted with tanks to carry the dredged material on board.

#### 2. Intact Stability Requirements

This portion of the proposal requires each seagoing hopper dredge to meet a set of intact stability criteria recommended by Bureau Veritas in its Guidance Note N.I. 144 BM.1 in addition to that required by 46 CFR 93.07.

In checking the Bureau Veritas criteria against existing Coast Guard guidelines and against related Intergovernmental Maritime Consultative Organization (IMCO) criteria, we found that the BV criteria essentially repeat what has been Coast Guard practice since 1973 as explained in NVC 3-73 and also is almost the same as IMCO Resolution A 167. Therefore, the proposed righting

energy criteria in this regulation will not be unfamiliar to U.S. designers.

It is Coast Guard practice to apply a righting energy criteria to any vessel for which the weather criterion of 46 CFR 93.07 does not provide a sufficiently complete stability analysis. The righting energy criteria (such as that in NVC 3-73) is used to compliment the weather criteria. Such an extended analysis is necessary for seagoing hopper dredges which generally do not conform to the service or hull type upon which the weather criteria is based. Therefore, the proposed regulations include both evaluations.

The definition of downflooding angle in the proposed regulation is based on IMCO Resolution A 167, rather than on the Bureau Veritas Guidance Note, and is reflected in NVC 3-73. This definition is consistent with current Coast Guard regulations.

#### 3. Damage Stability Requirements

This proposal would require seagoing self-propelled hopper dredges to survive both side and bottom damage with the hopper full. This standard would apply to all operating drafts permitted by the regulation. The extent of damage which the dredge must be capable of surviving is derived from IMCO statistics of actual casualties. Since most collisions and groundings occur near or in harbors, these statistics are considered valid for hopper dredges which operate primarily in or near harbors. The maximum angle of heel permitted after damage would be 30 degrees. This is the internationally accepted maximum angle of heel for vessel survivability.

In order to maintain the watertight integrity of bulkheads in case of flooding, all doors in watertight bulkheads would have to be Class 3 sliding watertight doors approved under 46 CFR Subpart 163.001 unless it is shown by the calculation required in this part that the sills of these doors are not submerged in any damage condition. If the latter condition is shown to be the case, quick acting hinged watertight doors will be allowed. This is consistent with the requirements of Bureau Veritas Note N.I. 144 BM.1.

#### 4. Reduced freeboards, new dredges

Hopper dredges currently receive a freeboard assignment under 46 CFR 42.20-10 which is based on a collision damage standard and is commonly referred to as a B100 freeboard. This proposal would permit a seagoing hopper dredge to use a working freeboard that is one-half that allowed under 46 CFR 42.20-10. This reduction is similar that granted European hopper dredges which meet similar damage

stability rules provided under Bureau Veritas Note N.I. 144 BM.1. Information available to the Coast Guard is that these vessels have operated successfully under this standard. During the period of development of this regulation, seagoing hopper dredges in the United States have been allowed a similar reduction on an individual basis under terms and conditions similar to this proposal and the European practice. These vessels have operated successfully thus far and the Coast Guard now considers it acceptable to adopt this approach on a general basis.

The working freeboard cannot be permitted on an international voyage because it would violate the International Convention on Load Lines, 1966, to which the United States has acceded. A working freeboard is considered permissible under the Coastwise Load Line Act (46 U.S.C. 88) which allows the Commandant to consider the type and character of vessels and the trade in which they are engaged.

In order to use the reduced freeboard, the hopper dredge would have to meet the intact and damage stability requirements of this proposal. This requires a hopper dredge to survive damage in excess of the requirements in 46 CFR 42.20-10 for a B100 freeboard. Because of this increased ability to survive damage and providing that the dredge meets certain further conditions discussed below, the Coast Guard believes it is reasonable to allow these reduced freeboard requirements within the normal limits of dredging operations.

Since 46 CFR 42.13-5 requires that the assigning or issuing authority be satisfied that vessels assigned a load line have sufficient structural strength for the draft corresponding to the freeboard assignment, this proposal will require the structural strength of a hopper dredge to meet this same requirement. Thus, the calculation of strength requirements must be based on the reduced freeboard so that the vessel will be structurally capable of safe operation at the reduced freeboard.

Also, since hopper dredges may take on board dredged material while at sea, it would be difficult for the operator to determine when the vessel has reached the deeper working draft permitted in these proposed rules. Therefore, the proposal includes a requirement for an internal draft indicator located on the bridge of the dredge so that the operator will know when the dredge is loaded to the permitted limit. This indicator would supplant the need for freeboard marks in excess of those already required for a coastwise voyage.

Finally, due to lack of data concerning the behavior of a vessel of this type in a seaway, the Coast Guard also proposes prohibiting a hopper dredge from loading to the working freeboard when the significant wave height exceeds 3 meters (10 feet) and winds exceed 35 knots. There would also be a prohibition on proceeding more than 37 kilometers (20 nautical miles) from shore when loaded to the working freeboard.

#### 5. Reduced freeboards, existing dredges

Existing hopper dredges would not have to meet the requirements of the proposed rule unless they desire to qualify for a freeboard that is one-half that allowed under current load line regulations.

If the owners of an existing hopper dredge wanted to qualify the dredge for the reduced freeboard, the dredge would have to meet the basic intent of the stability requirements of this proposed rule. However, since exact compliance with these rules would be difficult for existing hopper dredges, entailing expensive modifications for marginal increases in stability in a few cases, this proposal would allow some variations. The Coast Guard would evaluate existing dredges that applied for the reduced freeboard on a case by case basis to insure that basic stability criteria were met. It is anticipated that most of the existing dredges with which the Coast Guard is familiar could be allowed some reduced freeboard under this approach.

The Coast Guard has evaluated this proposal under the Department of Transportation "Policies for Improving Government Regulations" published on February 26, 1979 (44 FR 11034). A regulatory evaluation is not considered necessary since compliance with the regulations as proposed will not result in increased costs to the dredging industry. Most inspected or load lined seagoing self-propelled hopper dredges adequately meet the proposed rules. Therefore, new dredges built to these proposed rules should not suffer a competitive disadvantage.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 46, Code of Federal Regulations, as follows:

### PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. By adding a new Subpart 42.27 as follows:

#### Subpart 42.27—Special Requirements for Hopper Dredges

Sec.  
42.27-1 Applicability.  
42.27-5 Definitions.

42.27-10 Freeboard.  
42.27-15 Reduced freeboards, new dredges.  
42.27-20 Reduced freeboards, existing dredges.

Authority: Sec. 1, 49 Stat. 886, as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); 49 CFR 1.46(b).

#### Subpart 42.27—Special Requirements for Hopper Dredges

##### § 42.27-1 Applicability.

(a) This subpart applies to all self-propelled hopper dredges on coastwise voyages by sea.

##### § 42.27-5 Definitions.

(a) For the purpose of this subpart: (1) "Dredge" means a vessel equipped with machinery for removing material from the seabed for construction, landfill, or to deepen or clear a channel or a harbor, except vessels built for the purpose of deep sea mining.

(2) "Hopper dredge" means a dredge with internal tanks (hoppers) for storing the dredged material.

(3) "Working freeboard" means the freeboard to which a hopper dredge may load while in the act of dredging for the purpose of proceeding on a coastwise voyage by sea to a dump site.

(4) "New dredge" is a dredge which—

(i) Is constructed under a building contract awarded after (effective date);

(ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after (effective date plus 1 year);

(iii) Is delivered after (effective date plus 3 years); or

(iv) Has undergone a major conversion for which the contract is awarded after (effective date) or, in the absence of a contract, conversion is begun after (effective date plus 1 year);

(5) "Existing dredge" is a dredge which is not a new dredge.

##### § 42.27-10 Freeboard.

(a) Each hopper dredge is assigned a freeboard in accordance with 46 CFR 42.20-10.

##### § 42.27-15 Reduced freeboards, new dredges.

(a) A new dredge is assigned a working freeboard not less than one-half of the freeboard assigned under 46 CFR 42.20-10 if all the following conditions are met:

(1) The general structural strength of the dredge meets the requirements of 46 CFR 42.13-5(b) for the draft at the working freeboard assigned;

(2) The dredge meets the intact and damage stability requirements of 46 CFR Subpart 93.40 of this chapter at the draft



corresponding to the working freeboard assigned;

(3) The dredge complies with the requirements of 46 CFR 42.20-10 (c) (1), (2), and (3); and;

(4) The dredge has an internal draft indicator on the bridge. The draft indicator must indicate the mean draft of the dredge and be clearly marked at the drafts corresponding to both the working freeboard and the normal load line freeboard.

(b) A dredge assigned a working freeboard must not—

(1) Be loaded to the working freeboard in conditions exceeding 3.05 meters (10 foot) seas and 35 knot winds, or

(2) Operate at the working freeboard more than 37 kilometers (20 nautical miles) from shore.

(c) No special mark indicating working freeboard will be placed on the vessel.

#### § 42.27-20 Reduced freeboards, existing dredges.

(a) An existing dredge is assigned a working freeboard not less than one-half of the freeboard assigned under 46 CFR 42.20-10 if all the following conditions are met:

(1) The Commandant is satisfied that the dredge meets the intent of intact and damage stability requirements of 46 CFR Subpart 93.40; and

(2) The dredge meets the requirements of paragraphs (a)(1), (a)(3), (a)(4), and (b) of § 42.27-15.

#### PART 93—STABILITY

2. By revising § 93.01-1 to read as follows:

##### § 93.01-1 General.

(a) The provisions of this part, with the exception of Subpart 93.40, shall apply to the following vessels:

3. By adding a new 46 CFR 93.10-2 to read as follows:

##### § 93.10-2 Hopper dredges.

(a) The owner must provide the operator (master) of the hopper dredge with the stability information necessary to maintain the dredge in a condition of stability that meets the requirements of Subpart 93.40 in all loading conditions. This information must include the following:

(1) Required metacentric height (GM) or vertical center of gravity (KG) values.

(2) Loading restrictions.

(3) Ballasting information.

(4) Draft limitations.

(b) The information required by paragraph (a) of this section must be submitted to the Commandant for approval.

4. By adding a new Subpart 93.40 to read as follows:

#### Subpart 93.40—Hopper Dredges

Sec.

93.40-01 Applicability.

93.40-05 Definition.

93.40-10 General.

93.40-15 Intact stability requirements.

93.40-20 Damage stability calculations.

93.40-30 Damage survival.

93.40-35 Watertight doors.

Authority: Sec. 1, 49 Stat. 888, as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); 49 CFR 1.46(b).

#### Subpart 93.40—Hopper Dredges

##### § 93.40-01 Applicability.

This subpart applies to each new self-propelled hopper dredge that—(a) Is constructed under a building contract awarded after (effective date);

(b) In the absence of a building contract, has the keel laid or is at a similar stage of construction after (effective date plus 1 year);

(c) Is delivered after (effective date plus 3 years); or

(d) Has undergone a major conversion for which:

(1) The contract is awarded after (effective date); or

(2) In the absence of a contract, conversion is begun after (effective date plus 1 year)

##### § 93.40-05 Definitions.

(a) "Dredge" means a vessel equipped with machinery for removing material from the seabed for construction, landfill, or to deepen or clear a channel or harbor, except vessels built for the purpose of deep sea mining.

(b) "Hopper dredge" means a dredge with internal tanks (hoppers) for storing the dredged material.

##### § 93.40-10 General.

(a) Each dredge must have sufficient stability at each operating draft to meet the requirements of §§ 93.40-15 and 93.40-20.

(b) For the purpose of completing calculations required in this part, the following is to be assumed:

(1) The dredged material is a homogeneous liquid.

(2) The dredged material will be assumed to have a specific gravity of 2.0. However, dredged material with lower specific gravities which could lead to more severe conditions of loading must also be considered.

(c) The intact and damage stability calculations required by this subpart must be submitted to the Commandant for approval as prescribed in Subpart 91.55 of this chapter.

##### § 93.40-15 Intact stability requirements.

(a) Each dredge must have: (1) An initial metacentric height (GM) of at least 0.150 m (0.5 ft.);

(2) A maximum righting arm (GZ) of at least 0.20 m (0.66 ft.);

(3) An area under each righting arm curve of at least 0.055 meter-radians (10.34 foot-degrees) up to an angle of heel of 30 degrees, and not less than 0.090 meter-radians (16.9 foot-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less, and

(4) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, not less than 0.030 meter-radian (4.64 foot-degrees).

(b) Calculations required in paragraph (a) of this section must include the effect of a free liquid, including the dredged cargo. The effects of a free liquid are to be handled as described in §§ 93.40-20(b) (3) and 93.40-20(c).

(c) The downflooding angle in paragraphs (a) (3) and (a) (4) of this section is the angle of heel at which the lower edge of an opening that cannot be closed weathertight is immersed.

##### § 93.40-20 Damage stability calculations.

(a) The design calculations must show that the dredge meets the survival conditions of § 93.40-30.

(b) The design calculations must—(1) Include the effects of each empty or partially filled tank and the weight and volume of the cargoes carried;

(2) Assume both side and bottom damage, applied separately; and

(3) Include the free surface effect of free liquids, including the dredged cargo;

(i) At an angle of heel of 5 degrees for each space in which a liquid is carried; or

(ii) By assessing the shift of liquids by calculating the actual moment of transference.

(c) In calculating the effect of free surfaces of consumable liquids;

(1) For each liquid, at least one pair of transverse wing tanks or one centerline tank must be assumed to have a free surface; and

(2) The tank or combination of tanks having the greatest free surface effect must be selected.

(d) Damage must be considered to consist of the most disabling penetration up to and including penetrations having the following dimensions:

(1) Side penetration:

(i) Longitudinal extent:  $\frac{1}{4}$  L% or 14.5 m (0.495 L% or 47.6 ft.) whichever is shorter, where L is the vessel length on the waterline.

(ii) Transverse extent (inboard from the dredge's side at a right angle to the centerline at the level of deepest draft): B/5 or 11.5 m (37.7 ft.), whichever is shorter, where B is the maximum beam.

(iii) Vertical extent: from the base line upward without limit.

(2) Bottom penetration: (i) At any position forward of a point 0.3L aft of the forward perpendicular:

(A) Longitudinal extent:  $\frac{1}{4}$  L% or 14.5 m (0.495 L% or 47.6 ft.) whichever is shorter.

(B) Transverse extent: B/5 or 5 m (16.4 ft.), whichever is shorter.

(C) Vertical extent (from the molded line of the shell at the center line): B/15 or 2 m (6.6 ft.), whichever is shorter.

(e) If the dredge has an open hopper, the calculations under paragraph (d) of this section may include the effects of the loss of cargo as the dredge heels.

(f) Permeability.

(1) The assumed permeability of a floodable space must be as follows:

(i) Storerooms: 0.60.

(ii) Accommodation Spaces: 0.95.

(iii) Machinery Space: 0.85.

(iv) Consumable liquid tanks: 0.00 or 0.95, whichever results in the more disabling condition.

(2) The permeability of a cargo tank must be consistent with the actual density and amount of liquid carried in the tank.

##### § 93.40-30 Damage survival.

(a) A dredge is presumed to survive assumed damage if it meets the following conditions:

(1) Heel angle. The maximum angle of heel does not exceed 30 degrees.

(2) Final waterline. The waterline, taking into account sinkage, heel, and trim, is below the lower edge of each opening through which progressive flooding may take place (such as an airpipe).

Openings closed by weathertight doors or hatch covers are considered to be openings through which progressive flooding may take place. The following are considered to be openings through which progressive flooding will not take place:

(i) Watertight manhole covers.

(ii) Watertight flush scuttles.

(iii) Small watertight cargo tank hatch covers that maintain the integrity of the deck.

(iv) Remotely-operated, watertight sliding doors.

(v) Side scuttles of the non-opening type.

(3) Range of stability.

(i) The righting arm curve is positive and has a minimum range of 20 degrees beyond the angle of equilibrium.

(ii) The maximum righting arm within the range specified in paragraph (a) (3)

(i) if this section must be at least 100 mm (4 inches).

(iii) Each opening within or partially within the 20 degree range beyond the angle of equilibrium must be at least weathertight.

(b) After flooding, the dredge metacentric height must be at least 50 mm (2 inches) when the dredge is in an upright position.

(c) Equalization arrangements requiring mechanical aids such as valves or cross-flooding lines may not be considered for reducing the angle of heel. Spaces joined by ducts with large cross-sectional areas may be assumed to be common spaces.

(d) If an intermediate stage of flooding is more critical than the final stage, calculations for the intermediate stage must be submitted to Commandant for special approval.

##### § 93.40-35 Watertight doors.

(a) Each watertight door below the bulkhead deck must be a Class 3 sliding watertight door that is approved under 46 CFR Subpart 163.001 of this chapter unless it can be shown by the calculations required in this part that the door sill is not submerged in any damaged condition.

(b) If the sill of a door below the bulkhead deck is shown by the calculations not to be submerged in any damage condition, then a quick acting hinged watertight door (Class 1) may be used.

(Sec. 1, 49 Stat. 888; as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 375); sec. 1, 22 Stat. 346 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545 as amended (46 U.S.C. 367); 49 CFR 1.46(b).)

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

December 5, 1979.

[FR Doc. 79-37814 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-14-M

#### FEDERAL MARITIME COMMISSION

##### 46 CFR Part 510

[Docket No. 78-53]

#### Independent Ocean Freight Forwarder Bids on Government Shipments at U.S. Ports; Discontinuance of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proposed rulemaking.

SUMMARY: On December 12, 1978, the Federal Maritime Commission published a notice of proposed rulemaking (43 FR 58098) with respect to practices of independent ocean freight forwarders

who submit bids to United States Government agencies. After full consideration of the issues and comments from interested parties, the Commission has decided that the adoption of a new rule at this time is unnecessary.

DATES: December 10, 1979.

ADDRESSES: For further information contact: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On March 18, 1977, the Commission issued a decision in Docket No. 74-10<sup>1</sup> holding that fees assessed the General Services Administration (GSA) for ocean freight forwarding services were, in certain instances, so low<sup>2</sup> as to be in violation of section 18 First, of the Shipping Act, 1916 (46 U.S.C. 815), and the Commission's General Order 4 (46 CFR Part 510).

Section 18 First, of the Shipping Act, 1916 *inter alia*, makes it unlawful for a forwarder:

To make or give undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Rule 510.24(b) of General Order 4 provides:

"No (Forwarder) shall render, or offer to render, any forwarding service free of charge or at a reduced forwarding fee in consideration of . . . receiving compensation from an oceangoing common carrier on the shipment . . ."

However, in its decision in Docket 74-10 the Commission stated:

"We are reluctant to establish binding rules of universal application governing the level of freight forwarder fees on the basis of the existing limited record. The important matter of what objective standards, if any, should be adopted to judge the acceptability of forwarding GSA bids under the Shipping Act, 1916, and the Commission's regulations, is one that requires considerably more study and analysis. We do not intend to take any precipitous action, no matter how well motivated, that might result in the establishment of requirements which could prove impossible of application or unduly or unnecessarily disruptive of the freight forwarder industry. Whatever standards are finally adopted must be well-reasoned, economically sound and consistent with

<sup>1</sup> Freight Forwarder Bids on Government Shipments at United States Ports—Possible Violations of the Shipping Act, 1916, and General Order 4.

<sup>2</sup> Fees as low as four and one half cents were being bid on GSA shipments.



responsible regulatory policy . . . We will therefore hold under advisement, pending further study and review, the issue raised in our Order instituting this proceeding, of whether the Commission's General Order 4 should be amended to include a rule governing the practices of forwarders bidding on GSA contracts and providing services thereunder."

After the above mentioned "further and review" of the issue was concluded, it appeared that a new rule might be the most effective method of preventing the type of unlawful practice found in Docket 74-10.<sup>3</sup> The Commission therefore published a notice of proposed rulemaking (43 FR 58098) instituting the instant proceeding, Docket No. 78-53, on December 12, 1978.

After consideration of all the comments submitted and carefully weighing the advantages and disadvantages of the proposed rule, the Commission has determined that the benefits to be derived from a new rule do not currently justify the burdens which would be imposed on the forwarding industry. Accordingly, this proposed rulemaking proceeding will be discontinued.

The Commission now gives notice that it intends to monitor the level of forwarder bids submitted to GSA and take whatever action it deems appropriate on a case-by-case basis. Appropriate action includes civil penalties and license suspension or revocation.

Therefore, it is ordered, That Docket No. 78-53 is discontinued; and

It is further ordered, That notice of this Order be published in the Federal Register.

By the Commission,  
Francis C. Hurmey,  
Secretary.

[FR Doc. 79-37807 Filed 12-7-79; 8:45 am]  
BILLING CODE 6730-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Five Expired Proposals for Listing of 1,876 Species, and Intent To Revise 1975 Plant Notice Which Includes Most of These Species

AGENCY: Fish and Wildlife Service, Interior.

<sup>3</sup> Despite the findings in Docket 74-10, GSA's next request for bids produced bids as low as one cent.

**ACTION:** Notice of withdrawal of five expired proposed rules.

**SUMMARY:** As amended November 10, 1978, the Endangered Species Act mandatorily withdraws proposed rules to list species which have not been finalized within two years of the proposal. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limits have expired for 1,876 plants and animals in five proposals, and this constitutes notice of their withdrawal. Species from all States except Nebraska, North Dakota, South Dakota and West Virginia, and from over 27 foreign countries, are included. The majority of the withdrawn species are native plants which remain under notice of review. The Service requests substantive data on plants by March 15, 1980, for a revised notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

| Proposed rule                                                                                                                                | Date           | FR reference    |
|----------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|
| Proposed Endangered status for 216 species appearing on Convention on International Trade.                                                   | Sept. 26, 1975 | 40 FR 44329-33. |
| Proposed Endangered or Threatened status for 32 U.S. snails.                                                                                 | Apr. 28, 1976  | 41 FR 17742-6.  |
| Proposal to determine 2 birds, 1 lizard, 3 snails, and 1 insect, all indigenous to the California Channel Islands, to be Endangered species. | June 1, 1976   | 41 FR 22073-5.  |
| Proposed Endangered status for some 1700 U.S. vascular plant taxa.                                                                           | June 16, 1976  | 41 FR 24523-72. |
| Proposed Endangered or Threatened status for 41 U.S. species of Fauna.                                                                       | Jan. 12, 1977  | 42 FR 2507-15.  |

In accord with Section 4(f)(5), all species in these proposed rules which either had not been previously withdrawn, or have not already been the subjects of final rules were mandatorily withdrawn on November 10, 1979.

This action gives notice of the withdrawal of approximately 1,876 proposed native and foreign plants and animals, and involves range in all fifty states except Nebraska, North Dakota, South Dakota and West Virginia, and range in over twenty-seven foreign countries.

Approximately 1,726 of these species are native plants which were proposed as Endangered in the June 16, 1976 Federal Register (41 FR 24523). The majority of these plant species were also included in a notice of review in the July 1, 1975 Federal Register (40 FR 27823). That notice was in response to House Document No. 94-51, the report of the Smithsonian Institution to Congress as required by Section 12 of the Act. It contained a list of 3,187 U.S. vascular

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(1)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the five proposed rules indicated below:

plant taxa considered by the Smithsonian Institution to be endangered, threatened, or extinct.

#### Notice Continued and Information Requested

The Service has accepted the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act. The notice of review in the July 1, 1975, Federal Register (40 FR 27823-27924) continues for the approximately 3,131 plant taxa which have not been the subjects of final rules. The Service has mentioned the continuing review of these taxa in previous Federal Register documents on June 24, 1977 (42 FR 32374) and April 26, 1978 (43 FR 17910). As a consequence of this continuing review, these plant taxa should be considered in environmental planning.

The Service recognizes that the data and information on these taxa and other vulnerable plants have changed in the more than four years that the notice of

review has been in effect. Therefore, the Service intends to publish a new notice in the near future to supersede the notice of July 1, 1975. In this regard, substantive data and information to indicate appropriate candidate plant taxa which may qualify for listing under the Act, and which should be included in this revised notice, are hereby solicited by March 15, 1980. The information should be sufficient to decide whether the plant taxon should be dropped from the 1975 notice, or included in the new notice which will supersede it. The Service will use this contemplated new list of plant taxa to guide further plant conservation review; it does not constitute the first step to another single proposal of a large number of plant taxa such as the proposal of June 16, 1976 (41 FR 24523). New proposals of taxa must conform with all requirements of the amended Act.

Such information as is requested above should be sent to the Chief, Office of Endangered Species, Attention: Plant Notice, U.S. Fish and Wildlife Service, Washington, D.C. 20240; the deadline for receipt of information is March 15, 1980.

With respect to each of the 1,876 proposed species withdrawn because of Section 4(f)(5), it should be kept in mind that the subsection authorizes reproposal of such species if it is determined that sufficient new information is available to warrant the new proposed listing.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884, 92 Stat. 3751). The primary author of this notice is Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: December 5, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-37786 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[Reference Notice No. 330]

#### The Distilled Spirits Tax Revision Act of 1979 (Public Law 96-39)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Correction notice.

**SUMMARY:** On December 4, 1979, the Bureau of Alcohol, Tobacco and Firearms published a notice of public seminars in the Federal Register (44 FR 69674). The notice set dates and addresses for seminars which were being held to discuss the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Public Law 96-39), with the distilled spirits industry, wine industry, and others concerned. This notice changes the location of one of these public seminars. The public seminar scheduled for San Jose, California, will be held in Santa Clara, California. The new location is the Edgewater Hotel, 2930 El Camino Real, Santa Clara, California, on December 11 and 12, 1979, from 9 a.m. to 4:30 p.m.

All other seminars will be held as originally scheduled.

**FOR FURTHER INFORMATION CONTACT:** Melvin T. Bruce, All-in-Bond Coordinator, Bureau of Alcohol, Tobacco and Firearms, Washington, DC. Telephone: 202-566-7568.

Signed: December 7, 1979.

G. R. Dickerson,  
Director.

[FR Doc. 79-37988 Filed 12-7-79; 11:23 am]  
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[6450-01]

DEPARTMENT OF ENERGY  
Economic Regulatory Administration

[10 CFR Part 570]

[Docket No. ERA-R-79-54]

STANDBY GASOLINE RATIONING PLAN

AGENCY: Economic Regulatory Administration,  
Department of Energy

ACTION: Notice of Proposed Rulemaking and Public Hearings

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearings to receive comments on its proposed Standby Gasoline Rationing Plan. Upon promulgation as a final rule, this plan would be submitted by the President to Congress for review over a period of 30 days. If not disapproved by Congress, these regulations would remain in standby status. They would become effective only upon a determination by the President, subject to Congressional review, that putting the Standby Gasoline Rationing Plan into effect is necessary to respond to a severe petroleum shortage or to meet international energy program obligations, in accordance with the procedures specified in the Energy Policy and Conservation Act (Pub. L.

94-163), as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102).

The proposed Standby Gasoline Rationing Plan regulations would provide a basic framework for distribution of ration coupons (or other evidence of the right to purchase gasoline, called a ration right) to all end-users of gasoline on a basis which takes into account historic differences in the use of gasoline among States. Ration rights would be freely transferable. Ration rights would have to be provided by the purchaser to any supplier for each gallon sold. Every supplier of gasoline would have to provide redeemed ration rights to its supplier on a gallon-for-gallon basis in order to be resupplied with gasoline. A ration banking system would be established to facilitate transfers of ration rights and redeemed ration rights. Each State would be provided a reserve of ration rights to provide for hardship needs and to alleviate inequities. A national reserve also would be established for emergencies.

Development of any end-user gasoline rationing plan necessitates difficult tradeoffs between equitably meeting the diverse needs of millions of gasoline users and creating a program capable of rapid implementation with limited administrative complexity. Although the proposed rationing



plan, if fully implemented, would be costly and administratively complex, options have been incorporated into the proposed plan to preserve equity among gasoline users throughout the Nation and to provide flexibility to minimize disparities within States.

Any gasoline rationing plan will inconvenience large numbers of gasoline users and will cause hardships to many persons. But in times of serious shortage, gasoline rationing would assure access to some gasoline by all motorists (particularly priority users) at a reasonable, controlled price and would also help to eliminate waiting lines, stabilize the market for gasoline, and mitigate the economic dislocations caused by a severe petroleum shortage.

DATES: Comments by January 9, 1980.

Requests  
to speak: for Boston, San Francisco, Chicago and New Orleans hearings: by December 28, 1979, 4:30 p.m.; for the Washington hearing, January 2, 1980, 4:30 p.m.

Hearing Dates: Washington, D.C. hearing: January 7, 8 and 9, 1980, 9:30 a.m.; Chicago, New Orleans, Boston and San Francisco hearings: January 3 and 4, 1980, 9:30 a.m.

ADDRESSES: All comments to: Office of Public Hearing Management, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

Requests to Speak: Washington Hearing: to Department of Energy, Attn: Robert C. Gillette, Office of Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201; San Francisco Hearing: to Department of Energy, Attn: Terry Osborne, 111 Pine Street, 3rd Floor, San Francisco, CA 94111, (415) 556-4953; Boston Hearing: to Department of Energy, Attn: Cathy Healy, 150 Causeway Street, Room 700, Boston, MA 02114, (617) 223-4257; New Orleans Hearing: to Department of Energy, Attn: Mac L. Lacefield, 2626 W. Mockingbird, P.O. Box 35338, Dallas, TX 75235, (214) 729-7745; Chicago Hearing: to Department of Energy, Attn: Lou Brownlee, 175 W. Jackson Blvd., Chicago, IL 60604, (312) 353-8547.

Hearing Locations: Washington hearing: James Forrestal Building, 1000 Independence Avenue, S.W., Room GE086 (Auditorium), Washington, D.C.; Boston hearing: Gardner Auditorium, State House, Boston, Massachusetts; San Francisco hearing: Golden Gate Holiday Inn, Red Room, 1500 Van Ness Avenue, San Francisco, California; Chicago hearing: E.M. Dirksen Building, Room 204-A, 219 S. Dearborn St., Chicago, Illinois; New Orleans hearing: F. Edward Hebert Building, Room 631, 600 South Street, New Orleans, Louisiana.

#### FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures)  
Economic Regulatory Administration  
Room 2214B  
2000 M Street, N.W.  
Washington, D.C. 20461  
(202) 254-5201

William Webb (Office of Public Information)  
Economic Regulatory Administration  
Room B110  
2000 M Street, N.W.  
Washington, D.C. 20461  
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I. Background and Statutory Requirements

The Department of Energy (DOE) issued a Notice of

Proposed Rulemaking for a contingency gasoline rationing plan on June 22, 1978 (43 F.R. 28134, June 28, 1978). This proposed regulation was issued pursuant to the authority in sections 201 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163, EPCA). Hearings were held in twelve cities and over 1,000 public comments were submitted. A final contingency gasoline rationing rule was issued by DOE on March 1, 1979 (44 F.R. 15568, March 14, 1979). Under the provisions of EPCA then in effect, the rule could become effective even as a standby rule only if affirmatively approved by each House of Congress. The Senate approved the plan on May 9, 1979, 125 Cong. Rec. S5579 (daily ed. May 9, 1979), but it was rejected by the House of Representatives on May 10, 1979, 125 Cong. Rec. H3018 (daily ed. May 10, 1979). As a result of Congress' failure to approve the plan, DOE withdrew the final rule on September 27, 1979 (44 F.R. 56921, October 3, 1979).

On November 5, 1979, the President signed into law the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102, EPCA), which amends the EPCA gasoline rationing provisions in several respects that will be described in more detail below.

Section 203(a)(1) of EPCA, as amended, provides that:

As soon as practicable after the date of the enactment of the Emergency Energy Conservation Act of 1979, the President shall prescribe, by rule, a rationing contingency plan....

The Secretary of Energy has been delegated the authority to develop for the President's consideration the gasoline rationing plan prescribed under EPCA section 203. Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978).

Congressional action on both the rationing plan submitted by the President last March and the EPCA came during a year characterized by a temporary cessation of oil supplies from Iran and shortages of gasoline, aviation fuel, diesel fuel and other products. Since the EPCA was enacted, yet another series of events has demonstrated the extreme fragility of our petroleum supplies. In response to the seizure of U.S. embassy employees in Tehran, the President issued a proclamation on November 12, 1979, which prohibits the importation into the U.S. of oil that originated in Iran. Prior to this action, Iran supplied 4-5 percent of our total oil supply. The Iranian government has indicated that even if the President lifts this boycott of Iranian oil, Iran will refuse to sell oil to U.S. companies for importation into the U.S. The hostage situation in Tehran has continued to provoke further turmoil and unrest in the Middle East, an area which supplies over 60 percent of the petroleum consumed by the Western industrial nations.



While the termination of supplies from Iran will not in itself cause gasoline shortages severe enough to warrant the implementation of gasoline rationing, it demonstrates the insecurity of our foreign sources of supply and demonstrates the need to have a gasoline rationing plan and other contingency measures in place as soon as possible. Therefore, the Secretary of Energy has ordered the development of a rationing plan as expeditiously as possible consistent with the procedural requirements of the EPCA and the EPCA. The Secretary intends to have the plan completed and presented to the President by February 1, 1980.

In order to meet this schedule and still allow the public at least 30 days in which to comment on the plan, it is necessary to issue this Notice of Proposed Rulemaking at this time. The plan proposed here is similar to the coupon rationing plan submitted to Congress last March, except for certain changes made to incorporate the requirements of the EPCA and to respond to various objections to the plan raised during the Congressional review process. Therefore, the many features of the proposed plan that are largely unchanged have already undergone an extended public comment process and thorough economic analysis. Nevertheless, all parts of the plan will again be subject to extensive review and analysis by DOE during the public comment period. Moreover, during this

period, we intend to conduct extensive consultation with the Congress, the States and other governmental interests and to incorporate as many of their suggestions as possible into the final plan. Thus, the plan proposed here represents only DOE's preliminary views on the contents of a rationing plan, and it remains open to comments and suggestions for the plan's improvement before it is adopted in final form and submitted to the Congress.

The recent EPCA amendments changed significantly the process by which a gasoline rationing contingency plan is approved by Congress and implemented by the President. EPCA sec. 201(d), as amended by the EPCA, provides generally that the President must submit the rationing plan to Congress for review over a period of 30 days. The plan will be considered approved after that period unless a joint resolution of disapproval is enacted (which occurs when both Houses of Congress adopt the resolution and the President signs it, or, if the President vetoes it, both Houses of Congress override the veto by a two-thirds margin). A plan may be approved affirmatively by Congress in less than 30 days.

Pursuant to EPCA sec. 201(d), as amended, an approved plan would remain in standby status and could be imposed only if the President found that putting the plan into effect is required by a severe energy supply interruption or

is necessary to comply with obligations of the United States under the international energy program. EPCA sec. 201(d) defines a severe energy supply interruption as a national energy supply shortage which the President determines has resulted or is likely to result in a 20 percent shortfall, with respect to projected normal demand, of gasoline and middle distillate fuels for a period of at least 30 days. The shortfall must be one which is not manageable under other energy emergency authorities, is expected to persist for a substantial period of time and is expected to have a major adverse impact on national health or safety or the national economy. An international energy program obligation must have comparable impacts. The President must notify the Congress of his finding together with a request to implement rationing. Either House of Congress may disapprove the implementation of rationing by passing a resolution to that effect within 15 days of the President's request.

EPCA sec. 201(d) further provides that the President may request the Congress to waive the finding requirement described above. If Congress approves the President's request by concurrent resolution, the President could implement rationing within 60 days without further Congressional review.

The EPCA, as amended, also provides that an approved plan could be amended provided the Congress is notified and the proposed amendment lies before the appropriate committees of Congress for at least 15 days, and each such committee

has transmitted to the President written notice that such committee has no objection to the amendment. Once a plan is implemented by the President in an emergency it can be amended only if the President transmits the amendment to Congress and neither House disapproves of such amendment within 15 days.

Any Standby Gasoline Rationing Plan regulation that is adopted according to these procedures might remain in standby status for a substantial period of time after approval by Congress before it would have to be implemented. In addition, developing a program for rationing gasoline on a national level is a unique and extraordinarily complex undertaking. Completion of a final gasoline rationing program will require several months of pre-implementation planning and effort by DOE to complete the details of such a far-reaching program. In consideration of these and other factors, the proposed regulation strikes a balance between providing as much detail as practicable, yet retaining the flexibility to respond to a broad range of situations. Given the delicate balance of the world oil situation, the Standby Gasoline Rationing Plan must be capable of implementation in a range of circumstances. It is contemplated that further rules, orders and guidelines consistent with the general plan would be issued during the pre-implementation period and at the time rationing is implemented to provide any necessary additional details. These rules, orders, or guidelines would not be subject to Congressional review unless they changed significantly the Standby Gasoline Rationing Plan.



# II. Other Statutory Requirements of the EPCA

Section 203(a)(1) of the EPCA, as recently amended by the EPCA, establishes the general framework that must be included in any rationing contingency plan. The plan shall provide, consistent with the attainment to the maximum extent practicable of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, EPAA),

(A) for the establishment of a program for rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

The rationing plan also must take into account the mobility needs of the handicapped.

EPCA, sec. 203(a)(3), as amended, prescribes that any rationing plan must (i) distribute end-user rights on a State-to-State basis that results in the degree of shortfall being equally shared among the various States, (ii) make end-user rights available on a basis which takes into account fairly the relative needs of end-users, and (iii) ensure that adequate end-user rights are available to carry

out sections 203(a)(1)(A) and (B) quoted above.

EPCA also provides that the President, in developing the rationing plan, make provisions for use of local boards to respond to hardship and other needs.

Section 203(e) of the EPCA prohibits any rationing contingency plan developed under the EPCA from:

- (1) Imposing any tax;
- (2) Providing for a credit or deduction in computing any tax; or
- (3) Imposing any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights.

## III. Summary of the Proposed Standby Gasoline Rationing Regulations

### A. Distribution of Ration Rights

For each ration period, DOE would project the national total available supply of gasoline. Based upon this projection, DOE would determine the number of ration rights to be distributed generally as follows:

- (1) A percentage of these rights would be reserved for distribution for a National Ration Reserve.
- (2) The total number of ration rights to be distributed within each State would be determined on a State-by-State basis that takes into account historic use of gasoline in

that State.

(3) A percentage of each State's ration rights would be reserved for distribution within the State as a State Ration Reserve.

(4) In each State, DOE would compute the ration rights for firms, farming, priority class activities and other persons as supplemental allotments.

(5) In each State, DOE would compute ration rights for all registrants and eligible individuals.

### B. Entitlements for Ration Allotments

1. Eligibility for ration allotments would be primarily on the basis of motor vehicle registration, although flexibility would be provided to phase in a system based on historical use of gasoline for some or all business firms. Parties (whether individuals or firms) with the most recent valid vehicle registration for an eligible vehicle would receive ration allotments. Provisions would be made to transfer eligibility for ration allotments when a vehicle is transferred. Provisions also would be made to enable purchasers of new cars to obtain ration rights on an expedited basis.

2. An allotment index would be established to compute the allotment size for each class or type of vehicle (e.g., motorcycles, passenger cars, trucks of various sizes).

3. DOE would issue supplemental allotments for certain priority activities, such as law enforcement, fire fighting, United States Postal Service, emergency medical services, certain Department of Defense activities, public passenger transportation, sanitation services, snow removal, telecommunications and energy production activities.

4. Firms with significant gasoline requirements for off-highway (and often unregistered) vehicles, e.g., construction equipment operators and fishermen, would be eligible to apply for supplemental allotments.

5. Supplemental allotments for off-highway vehicles and equipment used in the production of food and fiber would be provided in a timely manner in amounts adequate to meet fully the food and fiber production goals approved by the President.

### C. Issuance and Distribution of Ration Rights

1. DOE would distribute ration rights by printing and mailing Government ration checks to eligible ration recipients if sufficient time is available or by such other means as will be appropriate in the circumstances.

2. Ration recipients would be permitted to exchange Government ration checks for ration coupons at designated coupon issuance points, endorse them for deposit in a ration rights account, endorse them for transfer or sale to any



individual or firm, or exchange them for gasoline to a willing supplier.

#### D. Gasoline Sales

1. DOE would control the sale of gasoline by requiring (except in limited circumstances as provided in the proposed regulation) that each purchaser of gasoline present ration rights (coupons or checks) to the seller equal on a gallon basis to the amount of gasoline to be purchased.
2. Retail outlets and other suppliers would be required to "redeem" the ration rights received in exchange for gasoline sold. Gasoline suppliers might be required to open "redemption accounts" for the deposit of redeemed ration rights.
3. Suppliers would be required to remit to their suppliers redeemed ration rights or a redemption check drawn on its redemption account equal on a gallon basis to the amount of gasoline received.
4. Principal suppliers, i.e., refiners and importers, would be required periodically to write a redemption check to DOE equal on a gallon basis to the volume of gasoline sold during a given reporting period.

#### E. Relationship of Allocation Program to Rationing

1. DOE's petroleum product allocation program would continue in effect at the time the proposed rationing plan is implemented. Under the allocation program, supplier/purchaser relationships in effect during a recent base period would be maintained.
  2. A base period purchaser, such as a retail sales outlet, would be assured of receiving gasoline from its base period suppliers in an amount equal to the number of ration rights it has collected and redeemed, but no greater than its allocation entitlement. A base period purchaser with redeemed ration rights in excess of its allocation entitlement would be eligible to purchase surplus product to the extent such surplus product is available from any supplier.
- #### F. Ration Banking
1. Subject to conditions to be established by DOE, any firm or individual would be permitted to open a ration rights account at a participating bank. Ration rights accounts would operate in much the same manner as monetary

I/ "Surplus" product is that amount of product, if any, a supplier has available after it has fulfilled its supply obligations to all of its base period customers. "Surplus" product might be created as a result of some retail outlets being unable to purchase their full allocation entitlements due in part to sharply changed driving patterns that might occur as a result of a gasoline shortage (whether or not gasoline rationing is imposed).

checking accounts, i.e., account holders would be able to deposit ration coupons and ration checks in their accounts and could write ration checks against their accounts.

2. Gasoline suppliers would be able to open "redemption accounts" for the deposit of redeemed ration coupons and ration checks. Redemption checks could be written against these accounts, payable to other suppliers for resupply of gasoline. Suppliers would receive an initial redemption advance in order to permit them to be resupplied until they have accumulated sufficient redeemed ration rights.

#### G. The Ration Rights Market

1. Ration coupons that have not been redeemed would be freely transferable. DOE does not intend to regulate the ration rights market directly, but the proposed plan would reserve the right to do so, if in DOE's judgment such regulation becomes necessary to prevent abuses.
2. In order to facilitate the establishment of a market for ration coupons, DOE would have the authority under the proposal to sell some ration rights to the public. In addition, DOE could authorize the States to sell ration rights from the State Ration Reserves' (see below). DOE would also be authorized to buy and sell coupons whenever

necessary to equilibrate the number of issued ration rights with the actual supply of gasoline.

#### H. National Ration Reserve

A percentage of the total ration rights issued would be reserved for the establishment of a National Ration Reserve. The National Ration Reserve would be used to meet national disaster relief needs, to provide allotments to Canadian and Mexican firms that conduct business in the United States, and for such other purposes as DOE finds necessary.

#### I. States' Role in Gasoline Rationing

1. A percentage of the ration rights to be issued within each State would be reserved for distribution to that State as a State Ration Reserve, to be used by the State primarily for the relief of hardship. The States would have broad discretion and flexibility in the administration of the State Ration Reserves. DOE could authorize the States to sell to the public a portion of the State Ration Reserves, in order to facilitate the establishment of a market for ration coupons.



IV. Section by Section Analysis of the  
Standby Gasoline Rationing Regulations

A. General Provisions

1. § 570.1 Scope and Effective Date

The proposed regulations provide that gasoline rationing would be effective on a date to be specified and published by DOE subject to the provisions of sections 201(d) and (e) of the EPCA (see discussion in Part I above). It is our intention that gasoline rationing, if imposed, would be effective in all fifty States and the District of Columbia. We have made no determination at this time whether it would also be necessary to impose gasoline rationing in Puerto Rico and the territories and possessions of the United States. Accordingly, the proposed regulations provide that gasoline rationing would be effective in all or such parts of the United States as specified by DOE. Under this provision, DOE could exempt some or all of the territories and possessions of the United States from gasoline rationing.

The proposed regulations provide that 10 CFR Part 205 (Administrative Procedures and Sanctions) and the EPAA-based petroleum allocation and price regulations found in 10 CFR Parts 210, 211, and 212 would continue in effect unless otherwise specified. Thus, all requests for interpretations, rulings, applications for exception relief (other than those

applications for hardship relief filed with the States), or modification of a classification would be governed by the administrative procedures contained in Part 205.

2. § 570.2 General Definitions

The concepts of "base period" and "base year" are integral parts of the rationing plan. The determination of ration rights and the allocation of gasoline to wholesale purchasers are both determined with reference to an historical period. "Base period" is defined as the period in the base year corresponding to the current calendar month, or current ration period, as appropriate. The "base year" would be either (1) the base period set forth in the allocation regulations at 10 CFR section 211.102, which currently is the twelve calendar month period November 1977 through October 1978; (2) the base year as determined under DOE's standby product allocation regulations, Special Rule No. 1 to Part 211, if such regulations were to be imposed; or (3) if neither the current or standby gasoline allocation regulations are in effect, any other twelve month period designated by DOE.

"Ration coupon" is defined as a coupon issued by DOE entitling the bearer to purchase a specified volume of gasoline.

"Ration check" is defined as a negotiable document other than a ration coupon or redemption check evidencing the right to purchase specified volumes of gasoline. "Ration rights" means either ration coupons, ration checks or any other documents authorized by this regulation that shall be

evidence of or establish ration recipients' rights to purchase specified volumes of gasoline. This definition provides DOE with flexibility to use methods other than checks or coupons to distribute ration rights under the plan. By way of illustration, DOE may issue a document to bulk purchasers, or other gasoline end-users who receive allocations under the gasoline allocation system, authorizing such end-users' suppliers to provide a specified percentage of base period gasoline use. Such a short-cut method of distributing ration rights may be useful if a severe gasoline supply shortage should occur prior to the time that a system could be put in place to distribute ration coupons to all end users.

In most instances, ration rights would be distributed to a "registrant," which is defined as the party with the most recent valid vehicle registration for a vehicle which has been determined by DOE as eligible for an allotment. A category of "eligible individual" has been established, so that DOE may in special circumstances issue ration rights to persons who are not registrants. Other recipients of ration rights are farmers, priority classes, certain persons and firms which receive supplemental allotments, discussed below. Thus, "ration recipients" would include registrants, eligible individuals, farmers, firms, priority class firms and certain other persons. DOE or its delegate would distribute ration rights in the form of "Government ration

checks" to ration recipients, unless the time available to put the plan in effect requires some more expeditious means of distributing ration rights.

"Emergency services" has been broadened over the definition in 10 CFR § 211.51 to also include the United States Postal Service and snow removal services. The definition of telecommunications services in § 211.51 has been changed to exclude sales and routine administrative activities. These services are eligible to receive supplemental allotments of ration rights as priority class firms.

The definition of "public passenger transportation" also includes activities entitled to receive supplemental allotments as priority firms. In addition to water, rail, bus and van transportation, taxicabs are entitled to supplemental allotments. During times of shortage, taxicabs provide an efficient mode of transportation, and often are relied upon by the sick, handicapped and elderly as a principal means of transportation where other forms of public transit are either impractical or unavailable.

The definition of "retail sales outlet" has been narrowed from the definition contained in the allocation regulations, 10 CFR § 211.51, to make it clear that the entity to which the term applies is the typical retail gasoline station. Comments are requested as to the effect of this change on entities which would be excluded from this definition but not from the § 211.51 definition.



The definition of "sanitation services" would be identical to its current form in § 211.51, with the exception that the reference to "during emergency conditions" is deleted with respect to the maintenance, operation and repair of liquid purification and waste facilities.

Many of the definitions in proposed § 570.2 would require further clarification by rule, order or guideline before rationing is implemented.

Several other definitions will be discussed below in the separate sections where these terms are applied, and the remaining definitions are similar or identical to those definitions as currently set forth in § 211.51 or § 211.102 of the allocation regulations.

### 3. § 570.3 Penalties and Violations

Section 570.3 of the proposed regulations provides that any person who violates any provision of these regulations or any further regulations or orders issued under them would be subject to the penalties set forth in section 5 of the EPAA, sections 524 and 525 of the EPCA, and Subpart P of 10 CFR Part 205. Proposed § 570.3 would also impose an obligation upon all firms having custody, care or control of ration rights to take all reasonable necessary precautions against the use of counterfeit and altered ration rights, as well as a duty to safeguard ration coupons, Government ration checks and other ration rights from embezzlement, loss, theft damage or unauthorized destruction.

Subsections (c), (d) and (e) of proposed § 570.3 would specifically proscribe counterfeiting, fraud and related activity with respect to ration checks, ration coupons or other ration rights, as well as with respect to redemption checks. Additionally, subsection (f) would implement section 105(b)(5) of the Emergency Energy Conservation Act of 1979, providing that ration rights or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of the criminal statutes in Title 18, United States Code.

### 4. § 570.4 Reporting Requirements

Section 570.4 of the proposed regulations would authorize DOE to require filing of such reports or information as it deems necessary to administer the Standby Gasoline Rationing Plan.

### 5. § 570.5 User Fees

Proposed § 570.5 would permit DOE to impose a uniform fee on each gallon sold during the period for which rationing is in effect. Under the EPCA, such a fee could be imposed only to the extent necessary to defray administrative costs or to provide for initial distribution of end-user rights.

### 6. § 570.6 Authority to Contract or Delegate

Proposed § 570.6 would provide DOE with the authority to contract for or delegate any of the functions contained

in these regulations. The authority to delegate includes the authority to delegate to any other governmental agency at the Federal, State or local level.

### 7. § 570.7 Authority to Issue Further Regulations and Orders

Because these regulations may be in a standby status for a substantial period before they would have to be implemented, and because the need for certain authorities may not be ascertained until the pre-implementation effort has begun, there are many instances in the proposed regulations where further orders, rules or guidelines may be necessary. Proposed § 570.7 would provide authority to issue such rules, orders and directives in order to implement these regulations.

### B. Ration Rights: General Provisions

#### 1. § 570.11 Distribution of Ration Rights

The proposed Standby Gasoline Rationing Plan in

§ 570.11(a), provides that DOE would issue ration rights in the form of Government ration checks, or alternatively could issue ration rights directly to ration recipients, could deposit them directly into ration rights accounts, or could otherwise provide for their distribution. This section has been designed purposely to give DOE the necessary flexibility to utilize any of several options for distributing ration rights. As was noted earlier in the discussion of the "ration rights" definition, DOE may find it necessary or

expedient to distribute ration rights in a manner less administratively complex than issuing tens of millions of checks which must be cashed at banks and other ration coupon issuance points.

The proposed regulations provide in § 570.11(b) that DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE. Such a situation may arise, for example, where a State has accumulated a large number of ration rights in the State Ration Reserve and for the next ration period would rather have DOE distribute the Reserve's allotment for that period directly to ration recipients within the State. Or, if a State is not administering its Reserve in accordance with an approved plan, DOE may decide to issue ration rights directly to ration recipients within the State.

This plan gives to DOE in proposed § 570.11(c) the authority to provide for separate rationing of unleaded gasoline or gasohol. Comments are requested on this issue, particularly on whether such separate rationing would be necessary given the added cost and complexity that would result.



## 2. § 570.12 Disposition of Government Ration Checks

In addition to exchanging Government ration checks for ration coupons at designated issuance points (see discussion below), a Government ration check would be transferable by endorsement to any individual or firm, by deposit in a ration rights account or by endorsement to a supplier when purchasing gasoline, provided the supplier is willing to accept the check rather than coupons.

## 3. § 570.13 Ration Rights

Under proposed § 570.13, ration coupons would entitle the bearer to purchase a specified quantity of gasoline. It is anticipated that ration coupons would be issued in 5-gallon amounts, with the possibility that 1-gallon ration coupons or other denominations may be issued. Ration coupons which were printed in early 1974 with the designation "one unit" also may be utilized. If we determined to utilize these coupons, we would announce, by advance notice published in the Federal Register and other publications, the gallon amount for which each such coupon would be redeemable.

Ration coupons would have a series designation and the DOE would publish an advance notice of the effective date for each coupon series designation. A coupon would not be valid until such date, but once a coupon had become valid,

it would remain valid for the duration of gasoline rationing. However, it may become necessary periodically to require old coupons to be redeemed for newer ones to avoid having too many series valid at one time or to counteract counterfeiting activities. The proposed regulations allow for similar limitations to be placed on the validity of other ration rights.

## 4. § 570.14 Mandatory Transfers of Ration Allotments

The proposed regulations provide in § 570.14 that DOE may require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle according to terms and conditions to be established by DOE.

There is no reference in the proposed regulations to the length of time of the lease in order to make clear that the regulation would not preclude the mandatory transfer of ration rights for short term rental vehicles if DOE should determine that is necessary. However, we believe that competitive pressures will require most rental companies to transfer ration rights to their customers. Proposed § 570.14 would enable us to mandate transfers in the event that such transfers generally do not take place, or in order to prevent windfalls.

## C. Computation of Reserves and Allotments

### 1. § 570.21 Definitions

Proposed § 570.21 provides definitions for terms used in the computations that would determine the State and National Ration Reserves and the allotments to registrants and other ration recipients for each ration period. Each term will be discussed at the point at which it is introduced into the computation.

### 2. § 570.22 Calculations

For each ration period, DOE would project the available supply of gasoline and, based on this projection, would determine the national total number of ration rights (NTR) to be distributed. The computation of allotments would be made as follows:

(a) National Net Number of Rights (NNR). The national net number of rights (NNR) would be computed by subtracting from the national total number of rights (NTR) the National Ration Reserve (NRR).

$$NNR = NTR - NRR$$

### (b) State Total Rights (STR).

The NNR calculated in subsection (a) would be the total amount of ration rights available for distribution to all of the States. Section 104 of the EPCA requires that ration rights "be distributed on a State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States, considering the most recent base period use data available." This requirement means that

the net amount of ration rights distributed to ration recipients in any State will depend in part on the historic use of gasoline in that State vis-a-vis other States.

The proposed regulations provide for this historic use factor by separately calculating each State's share of the NNR. To determine a given State's allotment, the NNR would be multiplied by the ratio of the State base period gasoline use (SBPU) to national base period gasoline use (NBPU).

$$STR = NNR \times \frac{SBPU}{NBPU}$$

The amount of ration rights available for distribution in each State would vary according to the ratio of that State's base period use to the national base period use; the greater the fraction the larger the amount of ration rights. The ration allotments for ration recipients in each State then would be calculated in accordance with sections (c) through (f) below.

### (c) State net rights (SNR).

The State net rights (SNR) for each State is computed by subtracting from the State total rights (STR) the number of rights in the State Ration Reserve (SRR). As is more fully explained in a later section, the size of the State Ration Reserve would be subject to two variables. First, as noted, the total number of ration rights available to a State would



vary among States depending upon each State's historical

use. Thus, even if the percentage to be reserved as a SRR were the same for each State, the number of rights reserved would vary. Second, the proposal gives DOE the authority to vary from State to State the percentage of such rights to be reserved as a SRR.

$$SNR = SRR - SRR$$

(d) State basic rights (SBR). After a percentage of the ration rights available to a State has been reserved for the State Ration Reserve, the remaining State net rights (SNR) would be distributed to ration recipients. The first calculation would be to subtract from the SNR the total amount of ration rights to be allotted to priority class activities, farming, business firms and others as supplemental allotments (SA). As more fully explained in a following section on supplemental allotments, DOE would be able to designate some or all firms to receive supplemental allotments as a percentage of base period gasoline use. In such an event, the number of supplemental allotments would be expected to increase.

$$SBR = SNR - SA$$

(e) State basic allotment. Once the supplemental allotments for firms, farming, priority activities and other designated persons have been deducted, the supply of ration rights remaining would be allotted to registrants.

Under the proposed rationing plan, the basic eligibility for ration allotments would be determined by vehicle registration records maintained in the individual States' departments of motor vehicles (DMV's). Prior to any decision to implement gasoline rationing, DOE would attempt to develop and maintain a national vehicle registration file. This file would contain all of the vehicle registration records provided by the States from their own motor vehicle registration files, but revised and in the proper format to meet the requirements of the rationing plan.

The national vehicle registration file would be updated periodically from information provided by the States and other sources as appropriate. Where duplicate registrations are found for a single vehicle, such as would commonly occur when a used vehicle is sold, DOE would use only the most current registration.

Records in the file would be grouped according to vehicle type. Each record would contain a vehicle category identifier from which DOE could establish the correct allotment index. Registered vehicles which are not eligible for ration rights, such as trailers, would be excluded from the file.

The individual or firm named on the registration record (the registrant) maintained in the national vehicle registration file would be eligible for an allotment of ration

rights if the corresponding registered vehicle is gasoline-powered, and was either already registered on a specified date prior to the effective date of the rationing program or is a new car purchased during the rationing program. The actual cut-off date for vehicle registrations would be determined by DOE when rationing is implemented. By imposing a vehicle registration cut-off date for all but newly purchased vehicles, the chances for registrations of "junked" or fictitious vehicles would be significantly reduced. Under certain circumstances, DOE might permit vehicles with lapsed registrations to become eligible for ration allotments, if it could be demonstrated that these vehicles were operable or if it could be otherwise shown that these vehicles are not being registered for the principal purpose of receiving ration rights.

DOE would establish different allotments for different types of vehicles. Based on an analysis of average annual fuel consumption of vehicles in various categories, we would establish allotment indices to compute the size of the allotment for each type of vehicle. The indices would be keyed to the single passenger automobile allotment, which would be assigned an index value of 1.0. As new data became available, the indices would be recomputed.

All vehicles within a given category (e.g., all passenger cars) would have the same index number and therefore would receive the same ration allotment (in a given State), regardless of fuel efficiency. This would give a significant advantage to fuel efficient vehicles and should provide an incentive for their use during a period of rationing.

No allotment index would be provided for "dealer plate" registrations since these registrations are not issued to specific vehicles. Trailers and other non-powered vehicles registered with State DMV's would not receive an allotment index. Diesel-powered vehicles would also not receive an allotment index, as diesel fuel would not be subject to rationing under this plan.

Once the allotment indices have been established for all eligible vehicles, the State basic allotment for vehicles in each State could be computed. The sum of all vehicles in the State in a given vehicle classification (VC) would be multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$CVP = VC \times AI$$

The sum of the CVP's for all vehicle classifications would equal the total vehicle points (TVP) in the State.

$$TVP = CVP_1 + CVP_2 + CVP_n$$



A State basic allotment (SBA) would be computed by dividing the State basic rights (SBR) by the total vehicle points (TVP) in the State.

$$SBA = \frac{SBR}{TVP}$$

For example, assume the total vehicle points in a State equals three million, and the State basic rights for a three month ration period totals 360 million gallons. The State basic allotment would be determined as follows:

$$\frac{360,000,000 \text{ (SBR)}}{3,000,000 \text{ (TVP)}} = 120 \text{ gallons (SBA)}$$

(f) Distributed basic allotment (DBA).

Once the State basic allotment is calculated for each State, the number of ration rights, in gallons, distributed to the registrant of a given vehicle for a ration period would equal the State basic allotment (SBA) multiplied by the allotment index calculated by DOE for that vehicle. This distributed basic allotment (DBA) would be rounded by DOE, where necessary.

$$DBA = SBA \times AI$$

In the calculation example used in subsection (e), the SBA was 120 gallons for a three month ration period. A passenger vehicle in this example, with an allotment index of 1.0, would receive 120 gallons in ration coupons. A truck with an allotment index of 2.2 would receive 264 gallons in ration coupons for that same ration period. If coupons were issued in five gallon amounts, this would be rounded to 265 gallons.

(g) Length of the ration period.

The length of each ration period is expected to be three months. However, DOE may find it necessary to extend or shorten a ration period. Therefore, proposed § 570.22(g) would provide DOE with the flexibility to modify the length of the ration period.

3. § 570.23 Ration Rights Purchases and Sales.

In addition to distributing ration rights in accordance with the calculations described in section 2 above, DOE may find it necessary to issue and distribute (by auction, sale, etc.) additional rights, or alternatively to purchase ration rights. Since the supply of gasoline for a ration period would have to be projected several months in advance, it is likely that the actual gasoline supply would either exceed or fall short of the projected supply, possibly by a wide margin. In such a case, to reconcile the number of ration rights with the actual supply of gasoline, it may be necessary for DOE to buy or sell ration rights.

DOE also might find, once rationing is implemented, that the ration rights market is not operating satisfactorily to transfer ration rights. In such an event too, we might find it necessary to sell additional ration coupons.

Proposed § 570.23 provides DOE with the requisite authority to buy or sell ration rights. Subsection (a) authorizes DOE to sell ration rights where necessary (i) to

establish a market for ration rights; (ii) to equilibrate the number of ration rights issued with the actual supply of gasoline, or (iii) for such other purposes to assure that adequate ration rights are available to carry out the purposes of the Standby Gasoline Rationing Plan. This latter provision is reflective of EECA sec. 104, which amends EPCA sec. 203(a), requiring that adequate end-user rights be available to carry out EPCA's purposes for a gasoline rationing plan.

Subsection (b) of proposed § 570.23 would authorize DOE, to the extent funds are available, to purchase ration rights to (i) equilibrate the number of ration rights issued with the actual supply of gasoline, or (ii) otherwise carry out the purposes of the rationing plan.

It is possible that funds may not be appropriated by Congress for DOE to purchase ration rights. In such an event, proposed § 570.23(c) would provide that DOE may take such other actions as may be necessary to equilibrate the number of ration rights issued with the actual supply of gasoline, including making more or less ration rights available in the next ration period by adjusting as necessary the "national total number of ration rights" (NTR) used in proposed § 570.22.

D. Supplemental Allotments.

1. § 570.31 Priority Class Activities. Section 570.31

of the proposed regulations would provide that certain Department of Defense activities, emergency services, sanitation services, public passenger transportation services and energy production activities would receive supplemental allotments as priority class firms. Emergency services are defined as law enforcement, fire fighting, United States Postal Service, snow removal, emergency medical services, and telecommunications services. Public passenger transportation has been broadly defined as (a) facilities and services for surface public transportation whether publicly or privately owned, including water, rail, bus and van transportation, including taxicabs; and (b) bus and van transportation of pupils to and from school.

The "United States Postal Service" has been included in the definition of "emergency services". It is our intention that the gasoline usage of privately-owned vehicles under delivery contracts with the Post Office would be included in the base period consumption of the Post Office.

"Energy production" would be another priority class activity. Rationing would be implemented only in response to an energy shortage, and during such times domestic energy production activities should be accorded priority status to maintain, to the greatest degree possible, domestic energy supplies.



The proposed regulation provides that DOE would be able to designate other persons or firms as priority classes. This provision would permit us to include other essential public services as priority class firms if such additions prove necessary.

We anticipate that it would be necessary to further define and clarify the scope of activities included within emergency services either before or at the time rationing is implemented.

Priority class firms would receive a percentage of their base period gasoline consumption, such percentage to be determined by DOE at the time rationing is implemented. It is our intention that priority class firms would receive a percentage of base period usage generally greater than that received by other firms receiving supplemental allotments under Subpart D, but in most cases would likely receive less than 100 percent of their base period usage. Proposed § 570.31(a) would permit DOE to provide for greater than 100 percent of base period usage for any priority class activity if such an adjustment proves necessary. This may be required, for example, to allow mass public transportation to accommodate increased demand during an energy supply emergency.

Taxicabs have been included in the definition of public passenger transportation. As noted earlier, taxicabs perform an important role in providing for the transportation needs of the elderly and the handicapped, particularly in areas not adequately served by other forms of public transportation.

Proposed § 570.31 makes clear that a firm would receive priority class treatment only with respect to its activities attributable to a priority classification. In applying for supplemental allotments for priority class activities, firms engaged in priority and non-priority activities would be required to report total gasoline consumption for the base period, as well as that portion of total base period consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity.

2. § 570.32 Farming. It is our intention that provision of ration rights for off-highway vehicles would provide for maintenance of agricultural operations, as required by section 4(b)(1)(C) of the EPAA, as amended. Proposed § 570.32 therefore provides that supplemental ration allotments for agricultural production of food and fiber would be provided in a timely manner so as to ensure that these allotments would be in amounts adequate to meet fully food and fiber production goals approved by the President. The Secretary of Agriculture is ordinarily responsible for developing the production goals for agricultural commodities that are approved by the President. That will continue to be the case during a period of rationing. DOE, in consultation with the Secretary of Agriculture, would be responsible

during rationing for determining the amount of ration allotments for farmers' off-highway vehicles necessary to meet fully the approved food and fiber production goals.

3. § 570.33 Off-highway Vehicles. DOE proposes to provide supplemental allotments to that class of firms that consumes a significant percentage of its total gasoline consumption in off-highway vehicles (vehicles that are not registered with a State DMV, or are registered with a State DMV for off-highway usage).

We would determine and publish the classes and types of vehicles and equipment which qualify as "off-highway." In most States tractors and other vehicles used for agricultural production are not ordinarily registered with State DMV's. In States where such vehicles are registered, we would either exclude such vehicles from the standard per vehicle allotments (discussed above) or would subtract the per vehicle allotments from the total entitlement that firm would receive for off-highway vehicles. The specific treatment of farming under the proposed plan is discussed in section 2 above. Each firm eligible for supplemental allotments would be given allotments for a volume of gasoline equal to a certain percentage of its base period use, which percentage would depend on the severity of the gasoline supply shortfall and the category of firm involved.

The procedures by which firms would identify themselves and their base period volumes would be specified by regulations issued prior to or at the time rationing is implemented. In the public comments on the proposed regulation, commenters are specifically requested to identify operators of "off-highway vehicles" that should be considered as eligible for supplemental allotments under this subsection.

4. § 570.34 Other Supplemental Allotments. Proposed § 570.34 would enable DOE to designate other classes of firms or any individual firm to receive supplemental allotments on a basis to be established by DOE. This section is pivotal to the rationing plan for many reasons, since it is DOE's intention to provide supplemental allotments to most business firms as necessary to assure that their allotments reflect historical use.

We have designed this rationing program primarily on a per vehicle basis because such a system can be implemented relatively quickly in a severe gasoline supply emergency. We recognize that any system which relies on average vehicle fuel consumption will provide allotments which for many firms would differ from historical usage and from actual requirements. It is therefore our intention that most firms would eventually receive ration rights on an historical usage basis. However, because allotment on this basis would require extensive DOE, State or local level staff and a



reporting system that will take some time to establish, we expect initially that firms as well as individuals will have to receive allotments on a per vehicle basis. During this initial period, a firm with insufficient ration rights would be required to purchase the necessary additional ration rights on the ration rights market.

Once the program is established to allot ration rights to firms on an historical gasoline usage basis, we would determine and publish by order or subsequent regulation the size of the supplemental allotment for each firm or category of firm. It is presently anticipated that supplemental allotments would be based on a specified percentage of a firm's base period gasoline consumption (minus the per vehicle allotments already received by the firm), as would be the case for operators of off-highway vehicles.

Proposed section 570.34 would provide DOE with the authority to implement, either at the beginning of rationing or phased-in during the program, a mechanism for providing additional firms with ration right allotments based on their historical use of gasoline during the base period. This could be accomplished in several ways, such as to allot ration rights to all registrants, including firms, and then issue supplemental allotments to firms so as to bring the total allotment to a target level.

DOE would like comments addressing the question of whether businesses should receive a higher ration level than individuals. Although nearly everyone can conserve some fuel in an emergency, individuals do more discretionary driving than businesses and thus can be expected to absorb a larger percentage cutback. By way of illustration, if the gasoline shortfall is projected to be 20 percent, business could be cut back by a percentage less than 20, while individuals and other registrants could be cut back over 20 percent.

Proposed § 570.34(b) would enable DOE to establish procedures in order that any person, including eligible individuals, may apply for supplemental allotments. This section is intended to provide ration rights for any other person or class of persons not otherwise provided for in the proposed regulations.

5. § 570.35 Application Procedures. The proposed regulations in § 570.35 provide that DOE would establish forms and procedures for supplemental allotment applications.

6. § 570.36 Precedence of Delivery. Section 570.36 of the proposed regulations establishes the right of precedence of delivery for priority class firms, in accordance with section 203(a)(1) of the EPCA which requires "the assignment of rights, and evidence of such rights, to end-users of gasoline . . . entitling such end-users to obtain gasoline . . . in precedence to other classes of end-users not similarly entitled."

#### E. Purchase of Gasoline

##### 1. Proposed §§ 570.41 - 570.44.

§ 570.41(a) of the proposed regulations provides that no supplier, including a retail sales outlet, may sell gasoline to a customer without securing ration rights from the purchaser at the time of sale. We are proposing two exceptions to this rule. First, a retail sales outlet would be allowed to make sales to customers without ration rights on the assumption that the retail sales outlet would be able, through purchases of ration rights to cover those transactions. The retail sales outlet would be required to obtain the additional ration rights within a time period to be designated by DOE.

The second exception is proposed in response to the fact that deliveries frequently are made at night to wholesalers and retailers, using a key or lock-card system. Under such circumstances, it would be difficult to give ration rights or redeemed ration rights, as appropriate, to suppliers at the time of delivery. Accordingly, § 570.41 and § 570.43 have been proposed to permit wholesale purchaser-resellers, wholesale purchaser-consumers, and bulk purchasers to give their suppliers by close of the first business day following the date of delivery the appropriate amount of ration rights or redeemed ration rights. Proposed § 570.41(c) would

require a supplier (including a wholesale purchaser-reseller) to give its supplier a redemption check or redeemed ration rights equal to the amount of gasoline transferred by the close of the first business day following the date of sale or transfer.

Proposed § 570.41(d) specifies that ration coupons of a given series designation cannot be used for the purchase of gasoline prior to their effective date.

Section 570.41(e) of the proposed regulations provides that unredeemed ration rights are freely transferable. This provision would constitute the authority for a ration rights market, which should promote a more efficient use of available gasoline. We do not anticipate regulating the ration rights market through price controls or any other mechanism. However, in order to prevent abuses in the market that might arise, the plan gives DOE authority to regulate the market if necessary. Furthermore, as noted in earlier sections, DOE would be authorized by the proposed regulations to buy and sell coupons.

Sections 570.41(f) and (g) are intended to protect the rights of purchasers and sellers of gasoline. Section 570.41(f) would prohibit any supplier from requiring any purchaser to purchase ration rights from any firm including itself as a condition of transferring gasoline. Section 570.41(g) would prohibit any seller of gasoline from



refusing to accept valid ration coupons at the time of sale.

A supplier would be allowed to accept a Government ration check for the purchase of gasoline, but would not be required to do so. A supplier would also be permitted to accept a ration check drawn on a ration rights account, but, as in ordinary commercial transactions, the supplier/payee would incur the risk that such a check is invalid, and, if it is, his only recourse would be against the purchaser/payor.

Section 570.42 would require suppliers (including retail sales outlets) which receive ration coupons in exchange for the sales of gasoline to "redeem" such coupons by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." Similarly, suppliers would be required to redeem all ration checks received. In order to be resupplied, § 570.43 would require a supplier to deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal to the amount of gasoline received. In this manner redeemed ration rights would move up the gasoline supply distribution chain in an amount equal to the volume of gasoline moved down the chain. Under § 570.44, refiners and importers, defined as principal suppliers, would be required to submit periodically a report to DOE certifying the volume of gasoline sold during

the reporting period and to submit a redemption check equal on a gallon basis to the volume of gasoline sold during the reporting period. In this manner, the distribution system would be "cleared," and DOE would be able to ensure that the volume of gasoline sold is in balance with the number of ration rights that have been issued.

## 2. § 570.45 Redemption Advances.

Proposed § 570.45 provides that each supplier other than a principal supplier would receive an initial redemption advance under a formula that would be established by DOE and published prior to the implementation of rationing. This provision would enable suppliers to obtain initial deliveries at the commencement of rationing before they have accumulated sufficient ration rights. Also, since a retailer could not accumulate redeemed ration rights for resupply in excess of the sum of gasoline he has to sell at the beginning of rationing plus any redemption advance, this section would allow additional redemption advances to enable a supplier to obtain additional gasoline as more supplies become available.

Although the proposed regulations do not contain a specific formula for the computation of the initial redemption advance, we are interested in receiving comments on how such a formula should be constructed.

## 3. § 570.46 Inventory Changes

Proposed § 570.46 would require each supplier to measure his inventory at the beginning and end of the rationing program, or at such other times as designated by DOE. DOE also would require suppliers to repay their initial redemption advance. Proposed § 570.46 provides that each supplier (including retail sales outlets) account for inventory drawdown at the end of the rationing program by submitting to DOE a redemption check or redeemed ration rights equal on a gallon basis to the amount of inventory drawdown, less a specified amount for losses due to spillage and evaporation.

## 4. § 570.47 Blends

Section 570.47 of the proposed regulation would permit DOE to make such volumetric adjustments as it deems appropriate for fuels, such as gasoline, which are a blend of motor gasoline and other substances.

## F. Allocation of Gasoline and Alternatives.

The proposed plan would incorporate the existing gasoline allocation program, with certain modifications.

It is intended that the same base period in the base year that determines the distribution for ration rights would also be used for allocation. Thus the overall gasoline distribution to the various States should approximate the distribution of ration rights, which for each State is also determined with respect to the base year and base period. Under the proposal, a firm's allocation rights under the allocation system would be limited by its ability to exchange ration rights or redeemed ration rights at the time of purchase. Thus, although a supplier would have the obligation to distribute product under a uniform allocation fraction to all of its customers, its obligation to supply any particular firm would be reduced if that firm does not have adequate ration rights or redemption rights to exchange for the gasoline.

The State set-aside program would be retained under the proposed plan. The set-aside program was an effective tool to relieve the effects of shortages during the past summer. A State's authority to redirect product should complement



its authority under the proposed State Ration Reserve to provide additional coupons to alleviate hardships. We request your comments on whether the State set-aside program should be eliminated in the final plan because the State Ration Reserve could adequately resolve hardships.

Allocation levels under the plan would be modified so that all purchasers would receive product subject to an allocation fraction except for those categories expressly designated otherwise (such as for farming or for other firms with supplemental allotments of ration rights). However, as in all purchases of gasoline (including purchases made available through the State set-aside), purchasers would be subject to the requirement to provide ration rights or redeemed ration rights, as appropriate. As an alternative, we wish your comments as to whether bulk purchasers with existing first priority allocations should retain their allocations not subject to an allocation fraction, subject to their possessing sufficient ration rights.

As a further alternative, we invite your comments on a plan that would retain the concept of ration rights for purchase of gasoline from retail outlets, but would allow bulk purchasers to receive gasoline based on their allocation rights under the existing program, subject to possible limits set by DOE. For instance, in a severe shortage DOE could publish a Federal Register notice declaring that bulk purchasers, except farmers, would be limited to seventy percent of their allocation entitlements.

In the interest of having a plan which can be implemented quickly, we also invite your comments on a plan in which ultimate consumption would be rationed through a coupon system, but distribution to the retail level would not. The main features of this plan would be (1) ultimate consumers (principally motorists) of gasoline (possibly excluding bulk purchasers with allocations) would be required to present ration rights to their suppliers (principally retail outlets) to obtain gasoline, and (2) suppliers, including retail outlets, would not be required to exchange ration rights or redeemed ration rights for gasoline, but instead would receive their allocation under the existing allocation program. A possible difficulty with this alternative is that enforcement of the requirement that motorists present a valid ration coupon or other evidence of a ration right at the time they make the purchase would be possible only at the retail level. Because of the number of retailers, this requirement would be difficult to monitor.

To enforce the alternative plan, several options are possible. One option would be to have the retail outlet forward the coupons received to either State or Federal authorities where they would be checked against either State or Federal excise tax records. Another option would be to require the coupons to be passed up the supply chain with each supplier verifying the volumes supplied through retail

outlets against the coupons received. DOE would audit the results at the refiner level.

Another possible problem with this alternative is that it may leave some retailers with substantial volumes of surplus gasoline if for any reason they cannot sell their full allocation entitlement.

We also request comments on whether the rationing system proposed here could entirely replace the present allocation system. Under such an allocation system, a supplier's allocation entitlement would be exactly equal to the ration rights it redeems -- no more and no less.

One further possible plan for which comments are solicited is to permit resellers to receive allocations under the existing allocation scheme, but require that they exchange redeemed ration rights within a fixed time period (30 or 35 days for instance). Such a credit arrangement would allow resellers to receive product for a current period prior to receiving sufficient ration rights from its purchasers. This plan would obviate the necessity for start-up allotments and would permit seasonal fluctuations in demand to occur.

The alternative proposals identified above may be implemented, if gasoline rationing were required, in lieu of or in addition to the proposed complete rationing plan.

#### G. Ration Banking

##### 1. § 570.61 Coupon Issuance Points and Participating Banks

In § 570.61, we propose to authorize a variety of financial institutions and other firms to act as coupon issuance points or participating banks. Coupon issuance points (CIP's) would serve to exchange ration coupons for Government ration checks or such other documents or evidence of ration rights as DOE may authorize. Participating banks (which may or may not also be coupon issuance points) would accept applications for and establish ration rights accounts and redemption accounts. Holders of Government ration checks could exchange such checks for ration coupons at coupon issuance points. Ration recipients would receive Government ration checks through the mail generally on a quarterly basis. The ration coupons received for each Government ration check would bear a separate series designator so that they would not become effective until the first day of the ration period or periods applicable to that Government ration check. Subject to terms and conditions to be established by DOE, coupon issuance points would be required to accept Government ration checks presented by the payee in exchange for ration coupons.



We intend to expand the number of coupon issuance points to include such organizations as commercial banks and savings and loan associations, major employers, credit unions, Post Offices, State and local governmental agency offices, and major retail establishments such as supermarkets and department stores. By expanding the number of coupon issuance points, we believe that we could significantly reduce the potential for long lines and would help assure that registrants at all economic levels and social backgrounds would be able to cash their ration checks at establishments at which they are accustomed to doing business. Further, we may issue Government ration checks on a staggered basis.

Alternatives to a system of Government ration checks, including the direct mailing of ration coupons, have been thoroughly examined. It is our tentative view based on this analysis that, despite the inconveniences that may occur, a system of Government ration checks is required. Even with an endorsement requirement, the direct mailing of ration coupons would be the equivalent of mailing cash. The attendant risk of mail thefts under such a system would be too great.

## 2. § 570.62 Ration Rights Accounts.

Proposed § 570.62 would provide that any firm or individual may open a ration rights account at a participating bank. We would have authority under the proposal to establish a minimum initial deposit requirement, as well as other terms

and conditions governing the operation and maintenance of ration rights accounts as are deemed to be necessary. We could also establish a schedule of allowable fees which may be collected by ration banks to defray their costs of providing services in connection with the rationing program. We would also have authority to issue forms and instructions for the opening of such accounts. It is our current intention that the minimum initial deposit required for the opening of ration rights accounts would be set sufficiently high to limit their use to those entities which would otherwise be required to handle large numbers of ration coupons.

Ration rights accounts would operate in much the same manner as monetary checking accounts. Holders of ration rights accounts would be able to deposit ration coupons and ration checks in their account and write ration checks drawn against their accounts. Proposed § 570.62(b) would provide that no individual or firm could issue a ration check drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account. It is intended that rules analogous to those governing normal commercial practices would govern in determining which party bears the burden of loss with respect to overdrawn ration checks. Fraud or forgery in the issuance of a ration check would, in addition to being a violation of other applicable Federal or State law, be a violation of the rationing regulations and subject to the penalties for willful violation.

## 3. § 570.63 Redemption Accounts.

Redemption accounts would be used by suppliers for the deposit of ration rights they have received and redeemed for gasoline sales to end-users, and for the deposit of redemption checks they have received for gasoline sales, if any, to other suppliers. Suppliers would also deposit initial redemption advances in their redemption accounts.

Section 570.63(a) as proposed would allow suppliers, including retail sales outlets, to open a redemption account at any participating bank. § 570.63(b) would permit DOE to require some or all suppliers to open and maintain redemption accounts. We solicit comments as to whether redemption accounts should be required for all suppliers.

Participating banks would service redemption accounts in the same manner as ration rights accounts. DOE would establish forms and instructions for the opening of such accounts. Redemption account holders would be prohibited under proposed § 570.63(d) from writing a redemption check upon which there are insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account. Because redemption checks represent deposits of redeemed ration rights, § 570.63(e) would provide that redemption checks would not be valid for deposit in a ration rights account. Since redemption accounts and redemption checks are intended for use solely by suppliers, as a further safeguard against misuse, § 570.63(e) would provide

that redemption checks would not be valid for the purchase of gasoline by wholesale purchaser-consumers, bulk purchasers and other ultimate consumers.

The proposed regulations do not prohibit transfers of redemption account sums from one person or firm to another. We specifically would like comments as to whether we should adopt such a restriction, except, of course, where redemption rights are transferred in exchange for a supply of gasoline.

## 4. § 570.64 Restrictions on Endorsements.

As proposed, § 570.64 would permit DOE to establish restrictions on endorsements of ration checks (including Government ration checks) and redemption checks.



## II. National Ration Reserve.

Proposed § 570.71 would provide for a National Ration Reserve to meet national disaster relief needs or for any other purpose which the DOE may deem necessary.

In order to establish a market for the sale of ration rights, § 570.71 would provide that DOE may auction some ration rights from the National Ration Reserve to the public.

DOE would provide allotments from the National Ration Reserve to Canadian and Mexican firms that do business in the United States.

## I. State Ration Reserves.

### 1. § 570.81 State Ration Reserves.

For each ration period, DOE would propose in § 570.81(a) to establish for each State a percentage of that State's total number of ration rights (which would be determined in the manner described in Part C of the preamble) as a State Ration Reserve (SRR). The ration rights in the SRR would be used to meet hardship needs of persons in the State and to provide for the mobility needs of the handicapped.

DOE proposes in § 570.81(b) to use five percent in the initial ration period as the amount of State total number of ration rights to be reserved for the SRR. DOE would have the discretion to modify this percentage both in the first ration period and in subsequent periods. In addition, a State could apply to DOE at any time to reduce or increase the amount of ration rights to be included in the SRR. A State which elects to have a smaller SRR would not lose ration rights. The difference would be included in the number of ration rights available for distribution generally to registrants, firms and others within that State.

DOE is providing flexibility to States in determining the size of their SRR since some States may be unwilling or unable to assume the additional paperwork and administrative costs of a large SRR. On the other hand, we expect that

many States will assume an active role in administering the SRR since it will be the most effective tool for responding to the needs of persons within the State. Generally, States will be given broad discretion and flexibility in the disposition of the SRR.

### 2. § 570.82 Establishment of State Rationing Offices and Local Boards.

Section 203(d) of the EPCA, as amended, prescribes that any rationing plan must set forth:

- (A) criteria for delegation of the President's functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and
- (B) procedures for petitioning for receipt of such delegation.

In accordance with this requirement, DOE has proposed for delegation of the President's authority in a manner which substantially involves States in the planning effort for gasoline rationing. Subsection (b) provides that, within 60 days after DOE establishes appropriate procedures, States may submit to DOE plans to receive delegations of authority and to administer the SRR. The plans must include such information as DOE may request, but specifically must include the following: (i) how the State proposes to establish a State Rationing Office and local boards to meet hardship needs and to provide for the mobility needs of the handicapped; (ii) efforts to be undertaken during the effective period of the Standby Gasoline Rationing Plan to meet the needs of

those persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system; and (iii) the percentage of the State total number of ration rights requested by the State to be reserved as a State Ration Reserve. The above procedure has been proposed because States and their political subdivisions are best able to meet the hardship needs of citizens during an emergency.

DOE would review the State plans, and if a plan is approved, DOE would delegate appropriate authority to administer the SRR allotted to that State and would inform the State of the percentage of the SRR.

In an effort to encourage States to begin their planning efforts early, proposed § 570.81(d) would provide that no SRR would be reserved for States which do not have an approved plan. In such an event, DOE would assume, to the extent practicable, the effort to provide for hardship needs in those States out of that State's allotment.

The ration rights for the SRR would be distributed by DOE to the States by transmitting a Government ration check. State Rationing Offices would be required to report to DOE each month regarding administration of the SRR. A State Rationing Office could redelegate its authorities to local rationing boards, provided the local boards are of balanced composition reflecting the community as a whole.



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No State would be allowed to issue a ration check drawn upon a ration rights account if there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account.

DOE could authorize the States to sell to the public a portion of the ration rights from the SRR to increase the availability of ration rights.

Proposed § 570.82(j) authorizes DOE to establish procedures whereby all or a portion of the ration rights allotted to a SRR may be distributed by DOE, or by DOE in accordance with instructions provided by the State. As was noted in an earlier section of the preamble, certain States may not have the capability to administer a SRR, or may have accumulated a large surplus of ration rights. In such circumstances, the State could request DOE not to reserve any of the State total number of ration rights for the SRR in the next ration period and to distribute those ration rights directly to persons in the State.

3. § 570.83 Hardship Applications and Guidelines.

As required by EPCA sec. 203(a)(2)(A), proposed

§ 570.83(a) would direct State Rationing Offices, in their administration of the SRR, to consider the mobility needs of the handicapped. Further, State Rationing Offices would be required to consider the hardship needs of other individuals

and firms, such as low-income, long distance commuters, migrant workers, persons engaged in household moves, and other recurring or one-time hardship needs. States would also be required to consider the needs of persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system.

V. Specific Comments Requested

A. Allotments based on drivers' licenses or on registered vehicles

The two practical alternatives for distributing ration rights to individuals are on the basis of licensed drivers or registered vehicles, lists of which are maintained in both cases by States' Departments of Motor Vehicles (DMV's).

Within the driving age population of approximately 160 million in the United States, about 80 percent, or 134 million, now hold drivers' licenses. DMV vehicle registration files contain approximately 130 million motor vehicle records, of which 106 million are estimated to be automobiles. To our knowledge, the use of other lists, or combinations of lists (such as social security files), or the use of individual applications made solely for the purposes of rationing would be expensive, subject to fraudulent misuse, or too slow to implement for the purposes of an emergency rationing plan.

After careful consideration of the advantages and disadvantages of the two practical alternatives, we have proposed a rationing plan based on vehicle registrations. We have concluded that such a plan would be more equitable than a plan based on drivers' licenses. The possession of a validly registered vehicle is a better indicator of need, as reflected in gasoline use, than possession of a driver's

license. In this respect, therefore, distributing allotments to vehicle registrants is the better means of providing ration rights to those who need them. On the other hand, a system that distributed allotments to all licensed drivers would provide ration rights to many individuals who do not drive or do so only occasionally.

DOE has received comments from some members of Congress and from the public presenting the view that a rationing plan based on vehicle registrations would benefit high income households at the expense of households with lower incomes. This concern is based on the assumption that high income households own more vehicles than lower income households, but do not have a commensurately higher need for gasoline.

In response to this concern, DOE has conducted an analysis of the effect either type of plan would have on households with different income levels in the event of a 20 percent gasoline shortfall. In making the computations, it was assumed that:

- o The per vehicle allotment would equal 75 percent of average per vehicle fuel use under a vehicle plan;



- o under a license based plan, each licensed driver would receive 75 percent of average per driver fuel use; however, because the data base does not contain information on the number of licensed drivers per household, and because it is likely that most of those who are eligible for licenses would obtain them under a rationing plan that provided entitlements to licensed drivers, we used persons 18 years of age or older as a proxy for licensed drivers;
- o each household would reduce its fuel consumption by 25 percent.

The results are presented in Table 1.

The table shows that under a plan in which allotments are made on the basis of vehicle registrations, the average low income household would receive coupons in excess of its needs and would sell these coupons, thereby increasing its income. The average high income household, on the other hand, would be a net purchaser of coupons. These figures appear to rebut the argument that a vehicle-based plan would treat lower income families unfairly.

Table 1 also shows the income distributive effects of a rationing plan that would provide entitlements to all licensed drivers. This analysis confirms that providing entitlements to licensed drivers increases the income transfers from

Table 1  
Average Household Annual Net Value  
of Allotment Sales (Purchases)  
(1977 dollars)

| Household Disposable Income | Vehicle Based Plan | License Based Plan |
|-----------------------------|--------------------|--------------------|
| Under 5,000                 | 107                | 303                |
| 5,000 - 9,999               | 63                 | 163                |
| 10,000 - 14,999             | - 26               | - 52               |
| 15,000 - 19,999             | - 43               | - 132              |
| 20,000 - 24,999             | - 102              | - 248              |
| 25,000 - 29,999             | - 104              | - 269              |
| 30,000 or more              | - 63               | - 267              |

\* Department of Energy, Energy Information Administration, Service Report, The Impact of Gasoline Rationing on Households of Different Incomes and Location (forthcoming)

households with higher incomes to those with lower incomes. This results principally from the fact that vehicle ownership per adult does tend to increase with household income. It should be noted, however, that while lower income households would derive considerably greater benefits from a license-based system, such a system would substantially increase the costs for not only high income households (above \$30,000) but also middle income households (between \$10,000 and \$30,000) as well.

Thus, our analysis shows that households with incomes below \$10,000 would indeed derive a greater benefit from a license-based plan than a vehicle-based plan. But in our tentative view, the more significant factor that should be derived from this analysis is that households with incomes below \$10,000 would also derive a net benefit from a vehicle-based plan, with much less adverse impact on middle income families. The vehicle-based plan would therefore appear to be the preferable option, because it is more likely to provide allotments roughly in proportion to need and would reduce the magnitude of ration rights transfers among households.

In addition, while both of the two alternatives would be accompanied by significant and complex administrative problems, the practical problems associated with implementation of a vehicle-based allotment system appear to

be less formidable. For example, in the absence of a national identification data bank, it is unlikely that DOE would be able to prevent individuals who have multiple drivers' licenses in different States from receiving multiple allotments. Also, the use of vehicle registrations would give ration allotments to firms with respect to their registered vehicles. This would give at least some ration rights to those firms who were not eligible for supplemental allotments; if ration rights were only distributed to licensed drivers, all firms would have to apply (at the beginning or prior to the start of rationing) for some form of allotment based on historical usage. This would significantly increase the implementation time for rationing (measured from the date rationing is announced to the effective date of rationing), and the administrative complexity and costs of the program.

Despite our tentative conclusion that vehicle-based entitlements would be equitable and administratively more feasible than a license-based system, we are interested in receiving comments on these issues, especially as to whether the practical problems associated with a drivers' license system are soluble.



#### B. Diesel Fuel Rationing

Section 203 of the EPCA requires the submission to Congress of a rationing plan not just for gasoline but also for "diesel fuel used in motor vehicles." There are major differences between the supply characteristics of gasoline and diesel fuel which require that the two fuels be rationed by separate and independent mechanisms. Our analysis to date suggests that the principal problem associated with developing a diesel fuel rationing plan is the interchangeability of highway diesel fuel with other fuels, particularly off-highway diesel fuel and home heating oil. We solicit comments on how a diesel fuel rationing plan could prevent highway diesel fuel consumers subject to rationing from diverting non-rationed middle distillate to highway diesel use.

We will address the issue of a diesel fuel rationing plan following the submission of this Standby Gasoline Rationing Plan to the Congress.

#### C. Limitations on Allotments

When the previous rationing plan was being considered by Congress last spring, it was observed that under a rationing system based upon vehicle registrations persons or households with multiple vehicles would receive a greater number of ration coupons than persons or households with a single vehicle.

One solution to this potential problem would be to place a limitation on the number of ration allotments any individual or household could receive, notwithstanding the number of vehicles they had registered. However, existing vehicle registration files do not contain the necessary data to identify vehicle ownership on a per household or similar basis.

We would like comments on this issue, specifically addressing the questions of what the limit on allotments should be, if any, and how such a limitation could be enforced.

#### D. Supplemental Allotments for Priority and Other Special Classes of End-Users.

Section 203(a)(1) of EPCA requires the rationing plan to order priorities among classes of end-users. Section 203(a)(3), added by EPCA, then requires that all these end-user rights be distributed on a "State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States." In order to carry out the mandate of section 203(a)(3), we have provided that the total number of ration rights available to each State (STR) would be determined by multiplying each State's percentage of national gasoline consumption in the base period by the national supply of ration rights (minus a small National Ration Reserve). In other words, if the national supply shortfall is 25 percent, each State should suffer approximately a 25 percent shortfall as well.

Priorities among end-users, as indicated in sections 203(a)(1) and (3), are to be ordered on a State-to-State basis such that the national shortfall is equally shared among the States. That is, supplemental allotments for priority and other special classes of end-users within a State come from the State's supply of ration rights. The effect of this is that the greater the number of supplemental allotments made for these special classes of end-users in a State, the lesser the number of rights available to ordinary motorists and other end-users.

Generally, we believe that most activities which qualify for supplemental allotments would not result in a significant impact on the available rights for individual motorists nationwide or in any particular State. One priority, energy production, and the special allotments for food and fiber production, however, would appear to impact some States more greatly than others. This result appears to be mandated by EPCA, as amended, however, because each State as a whole would be suffering equally in the shortfall, even though individual non-priority motorists in different States might not suffer equally.

We request comments on this feature of the proposal, its potential impact on particular States, and alternative ways to deal with this issue consistent with the requirements of section 203(a) of EPCA.



# VI. Other Matters

## A. Proposed Alternatives

In several sections of the preamble, alternatives to the proposed regulatory sections are identified and discussed. These alternatives also should be considered as proposals for a rationing rule. Where we are persuaded by public comment or further analysis that we should adopt an alternative proposal, we will do so in the final Standby Gasoline Rationing Plan rule.

## B. Procedures for Promulgating the Standby Gasoline Rationing Plan Rule

Section 203(a) of the EPCA, as amended, requires the President to prescribe the rationing plan by rule. In section 4 of Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978) the President has delegated to the Secretary of Energy only the responsibility to develop for the President's consideration such a rationing plan. As a result, the authority to prescribe the proposed rule remains with the President. Issuance of this proposed rule by DOE is being performed as a ministerial function at the direction of the President.

# VII. Comment Procedures

## A. Written Comments.

You are invited to participate in this rulemaking by submitting views, data or arguments with respect to the proposal set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation "Standby Gasoline Rationing Plan Regulations." Fifteen copies should be submitted. All comments received will be available for public inspection in the Economic Regulatory Administration (ERA) Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by January 9, 1980.

4:30 p.m. in order to be considered.

Any information or data you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

## B. Public Hearings.

1. Requesting Opportunity for Oral Statement. The time and place for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. If necessary to

present all testimony, the hearings will be continued to 9:30 a.m. of the next business day following the first day of the hearings.

Any person may make a written request for an opportunity to make an oral presentation at the hearings. You should provide a phone number where you may be contacted through the day before the hearings.

If you are selected to be heard, you will be so notified by the DOE before 4:30 p.m. on the day before the hearing. You must submit 100 copies of your statement before 9:30 a.m., on the date of the hearing at the hearing locations.

2. Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be adjudicative in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Such questions should be submitted to the address indicated above for requests to speak before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In any case, the presiding officer will determine whether time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for inspection at the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the Federal Register of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons



desiring to attend the hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

#### VIII. Regulatory Analysis

The requirement in sec. 201(f) of the EPCA that a rationing contingency plan must be accompanied by an evaluation of its potential economic impacts was eliminated by an amendment to that section in EPCA sec. 103(c). An economic analysis was prepared for the final contingency rationing rule issued in February 1979, and this analysis will be updated and modified so as to provide a useful discussion of the new plan's economic impacts. Copies of the February 1979 analysis are available at the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. Comments are requested on those portions of the February 1979 economic analysis that remain applicable to the present proposed plan.

The President has not delegated to DOE the authority to issue the Standby Gasoline Rationing Plan rule. This proposed rule is being issued as a ministerial duty by the DOE at the direction of the President. As a result, the authority to issue the rule remains with the President and the provisions of Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), regarding a regulatory analysis, are not applicable to this proposed rule.

In addition to the updated economic analysis, DOE also plans to issue the "progress report" required by EPCA sec. 102 at the time the Standby Gasoline Rationing Plan is submitted to Congress. This report is required to contain an analysis of many issues related to the development of a rationing plan.

#### IX. Environmental Report

As more fully explained in Part VI above, the authority to issue this proposed rule has not been delegated to DOE and thus remains with the President. The provisions of the National Environmental Policy Act (NEPA, 32 U.S.C. 4321 et seq.) do not apply to actions taken by the President. As a result, no environmental analysis in accordance with NEPA is required for this rule.

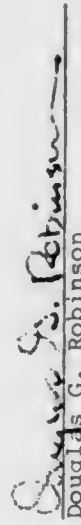
DOE did prepare an environmental report for the rationing plan issued in February 1979. Since the fundamental rationing concepts which could be considered to have an environmental impact have not been changed substantially from that plan, its analysis still is useful. In the Conference Report on S.1030 (125 Cong. Rec. H9142, H9150 (Oct. 12, 1979)) Congress also stated its belief that the existing environmental report is adequate for the new plan. The environmental report is available for public review in the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C.



(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 11912; Emergency Energy Conservation Act of 1979, Pub. L. 96-102; Executive Order 11912 (41 FR 15825, April 15, 1976), as amended by Executive Order 12038 (43 FR 4957, February 7, 1978).

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued pursuant to the express direction of the President of the United States, in Washington, D.C., December 1, 1979.

  
Douglas G. Robinson  
Acting Administrator  
Economic Regulatory Administration

Chapter II, Title 10 of the Code of Federal Regulations is amended to add a new Part 570, to read as follows:

Part 570 - STANDBY GASOLINE RATIONING PLAN REGULATIONS

Subpart A -- General Provisions

- 570.1 Scope.
- 570.2 General definitions.
- 570.3 Penalties and violations.
- 570.4 Reporting requirements.
- 570.5 User fees.
- 570.6 Authority to contract or delegate.
- 570.7 Authority to issue regulations, rules, orders and guidelines.

Subpart B -- Ration Rights: General Provisions

- 570.11 Distribution of ration rights.
- 570.12 Disposition of Government ration checks.
- 570.13 Ration rights.
- 570.14 Mandatory transfers of ration allotments.

Subpart C -- Computation of Reserves and Allotments

- 570.21 Definitions.
- 570.22 Calculations.
- 570.23 Ration rights purchases and sales.

Subpart D -- Supplemental Allotments

- 570.31 Priority class activities.
- 570.32 Farming.
- 570.33 Off-highway vehicles.
- 570.34 Other supplemental allotments.
- 570.35 Application procedures.
- 570.36 Precedence of delivery.

Subpart E -- Purchase of Gasoline

- 570.41 General.
- 570.42 Supplier disposition of ration rights and ration checks.
- 570.43 Supplier's obligation to its supplier.
- 570.44 Principal supplier's obligation to DOE.
- 570.45 Redemption advances.
- 570.46 Inventory changes.
- 570.47 Blends.

Subpart F -- Allocation of Gasoline

- 570.51 Relationship to Parts 210 and 211.

Subpart G -- Ration Banking

- 570.61 Coupon issuance points and participating banks.
- 570.62 Ration rights accounts.
- 570.63 Redemption accounts.
- 570.64 Restrictions on endorsements.

Subpart H -- National Ration Reserve

- 570.71 National Ration Reserve.

Subpart I -- State Ration Reserves

- 570.81 State Ration Reserves.
- 570.82 Establishment of State Rationing Offices and local boards.
- 570.83 Hardship applications and guidelines.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended; Energy Policy and Conservation Act, Pub. L. 94-163, as amended; Emergency Energy Conservation Act of 1979, Pub. L. 96-102; Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978).

Subpart A -- General Provisions

§ 570.1 Scope.

- (a) This Part applies in all or such parts of the United States as specified by DOE to the end-use rationing of gasoline refined in or imported into the United States.

- (b) Effective date. These regulations shall become effective severally or in toto on a date or dates to be specified and published by DOE, subject to the provisions of sec. 201(d) of the Energy Policy and Conservation Act (Pub. L. 94-163, EPCA), as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102).

- (c) Relationship to other Parts. Unless otherwise specified, the provisions of Parts 205, 210, 211, and 212 of this Chapter shall apply to this Part.

- (d) Title. This Part shall be entitled the Standby Gasoline Rationing Plan.

§ 570.2 General definitions.

For purposes of this Part--

"Allotment" means the value, in gallons of gasoline, of the ration rights issued to a ration recipient.

"Base period" means a period in the base year corresponding to the current calendar month or quarter, or current ration period, as appropriate.



"Base year" means (1) the 12 calendar month period provided in the definition of "base period" in 10 CFR 211.102; (2) in the event that Special Rule No. 1 of 10 CFR Part 211 is implemented, the same 12 month period as specified in or designated pursuant to the definition of "base period" in 10 CFR 211.102; or (3) in the event Subpart F of Part 211 is not in effect, the 12 calendar month period designated by DOE.

"Bulk purchaser" means any firm which is an ultimate consumer and which, as part of its normal business practice, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm, or (c) receives delivery of that product for use in cargo, freight and mail hauling by truck.

"DOE" means the Department of Energy or the delegate of the Secretary of Energy.

"Eligible individual" means a natural person designated by DOE as eligible to receive ration rights on the same basis as a registrant of a specified vehicle classification.

"Emergency services" means law enforcement, fire fighting, United States Postal Service, snow removal, emergency medical services and telecommunications services.

"Energy production" means energy production as that term is defined in § 211.51 of Part 211 of this Chapter.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship, or any other entity however organized, including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations and orders issued under this Part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gasoline" means motor gasoline as defined in § 211.51 of Part 211 of this Chapter excluding, however, aviation fuels as defined in § 211.142 of Part 211 of this Chapter.

"Government ration check" means a ration check issued by DOE to a ration recipient.

"National Ration Reserve" means the ration rights reserved by DOE each ration period pursuant to Subpart H of this Part.

"Principal supplier" means a supplier which refines gasoline in or imports gasoline into the United States.

"Public passenger transportation" means (a) facilities and services for surface public transportation whether

publicly or privately owned, including water, rail, bus and van transportation, and taxicabs; and (b) bus and van transportation of pupils to and from school.

"Ration check" means a negotiable document issued pursuant to the authority of this Part, other than a ration coupon or redemption check, evidencing the right to purchase specified volumes of gasoline.

"Ration coupon" means a coupon issued by DOE entitling the bearer to purchase a specified volume of gasoline.

"Ration period" means that period of time for which

DOE calculates the projected available supply of gasoline and determines ration right allotments for ration recipients.

"Ration recipient" means a registrant, eligible individual, firm or other person allotted ration rights under the provisions of this Part.

"Ration rights" means ration coupons and ration checks or any other documents authorized by this Part that shall be evidence of or establish rights to purchase specified volumes of gasoline.

"Ration rights account" means an account opened pursuant to the provisions of § 570.62 of this Part for the deposit and withdrawal of ration rights.

"Redeemed ration rights" means ration rights accepted by a supplier in exchange for the sale of gasoline, and cancelled by that supplier pursuant to § 570.42 of this Part.

"Redemption account" means an account opened by a supplier pursuant to the provisions of § 570.63 of this Part for the deposit of ration rights received and redeemed in exchange for the sale of gasoline, and for the deposit of redemption checks received from other suppliers in exchange for the sale of gasoline.

"Redemption check" means a check drawn on a redemption account by a supplier who is the holder of that account.

"Registrant" means the party with the most recent valid vehicle registration for a vehicle which has been determined by DOE as eligible for an allotment.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling gasoline to ultimate consumers, provided that the major gasoline sales activity of that supplier is to supply gasoline to vehicles for consumption in such vehicles as fuel.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities. Sanitation



services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

"State" means any one of the fifty States, the District of Columbia, Puerto Rico or any territory or possession of the United States.

"State Rationing Office" means the office established or designated by each State to carry out the authorities delegated to that office by DOE pursuant to Subpart I of this Part.

"State Ration Reserves" means the ration rights provided to the State Rationing Offices by DOE for distribution within the States.

"Supplemental allotment" means the allotment distributed to a firm, farming, priority class activity or other person pursuant to Subpart D of this Part.

"Supplier" means any firm or any part or subsidiary of any firm, other than the Department of Defense, which presently, during the base period, or during any period between the base period and the present, supplies, sells, transfers or otherwise furnishes (as by consignment) gasoline to wholesale purchasers or end-users, including, but not limited to refiners, importers, resellers, jobbers, and retailers.

"Telecommunications services" means the repair, operation and maintenance of voice, data, telegraph, video and similar communication services to the public by a communications common carrier, during periods of substantial disruption of normal service, excluding sales and routine administrative activities.

"United States" means the fifty States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains gasoline from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of gasoline for its own use in agricultural production in the base year, or (b) purchased or obtained more than 84,000 gallons of gasoline in the base year.

"Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) gasoline and resells or otherwise transfers it to other purchasers without substantially changing its form.

#### § 570.3 Penalties and violations.

(a) Any person who violates any provision of these regulations or any order or rule issued pursuant thereto shall be subject to the penalties as set forth in section 5 of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), in sections 524 and 525 of the Energy Policy and Conservation Act (Pub. L. 94-163), and in Subpart P of Part 205 of this Chapter.

(b) Any firm having custody, care or control of ration coupons, Government ration checks or other ration rights shall at all times, in receiving, storing, transmitting, or otherwise handling ration rights, take all reasonable precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit ration coupons, Government ration checks or other ration rights, and to avoid any unauthorized transfer, negotiation, or use of ration coupons, Government ration checks or other ration rights. Such firms shall also safeguard ration coupons, Government ration checks or other ration rights from theft, embezzlement, loss, damage, or unauthorized destruction.

(c) No person shall, with intent to defraud, falsely make, forge, counterfeit, or alter any ration check, ration coupon or other ration right or redemption check.

(d) No person shall, with intent to defraud, pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States or keep in possession

or conceal any falsely made, forged, counterfeited, or altered ration check, ration coupon or other ration right or redemption check.

(e) No person shall buy, sell, exchange, transfer, receive, or deliver any false, forged, counterfeit, or altered ration check, ration coupon or other ration right or redemption check, with the intent that the same be passed, published, or used as true and genuine.

(f) A ration right or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of Title 18, United States Code.

#### § 570.4 Reporting requirements.

DOE shall require the filing of such information or reports as it deems necessary to administer the Standby Gasoline Rationing Plan.

#### § 570.5 User fees.

DOE may impose a uniform fee on each gallon of gasoline sold during the period for which these regulations are in effect solely to defray the expenses of administering and operating the Standby Gasoline Rationing Plan.

#### § 570.6 Authority to contract or delegate.

DOE may delegate or contract for the carrying out of all or any part of its functions under this Part.



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§ 570.7 Authority to issue regulations, rules, orders, and guidelines.

DOE may issue such additional regulations, rules, orders, and guidelines, and may make such adjustments, as are necessary to administer and implement the provisions of these regulations.

Subpart B -- Ration Rights: General Provisions  
§ 570.11 Distribution of ration rights.

(a) Ration rights will be issued in the form of Government ration checks distributed to ration recipients. DOE in its discretion also may issue ration rights directly to ration recipients, may deposit them directly into ration rights accounts, or may otherwise provide for their distribution.

(b) DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE, or by DOE in accordance with instructions provided by the State Rationing Office in that State.

(c) Notwithstanding any other provision of this Part, DOE may provide for the separate rationing of leaded and unleaded gasoline or gasoline.

§ 570.12 Disposition of Government ration checks.

Government ration checks may be disposed of as follows:

(a) Government ration checks may be exchanged for ration coupons at coupon issuance points pursuant to Subpart C of this Part.

(b) Government ration checks may be deposited in a ration rights account and may be subsequently withdrawn as ration rights pursuant to § 570.62 of this Part.

(c) Government ration checks may be surrendered to a supplier when purchasing gasoline.

(d) Government ration checks may be transferred or sold to any individual or firm.

§ 570.13 Ration rights.

(a) Value of ration coupons. A ration coupon entitles the bearer to purchase the number of gallons indicated on the face of the coupon, or such other amount as shall be determined and announced by DOE.

(b) Validity of ration coupons. Unless declared invalid by DOE or redeemed pursuant to § 570.42, ration coupons of a given series designation shall be valid from a date specified in an Order published by DOE through the end of the Standby Gasoline Rationing Plan.

(c) Validity of the ration rights. DOE may establish limitations on the period of time for which any ration right issued under the authority of this Part shall remain valid.

§ 570.14 Mandatory transfers of ration allotments

DOE may require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle according to terms and conditions established by DOE.

Subpart C -- Computation of Reserves and Allotments  
§ 570.21 Definitions.

The following symbols have the following meanings:

| Symbol | Meaning                                                                                                                                 |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------|
| NTR    | The total number of ration rights to be distributed within the United States during a ration period.                                    |
| NNR    | The number of ration rights available for distribution within the States.                                                               |
| NRR    | The number of ration rights to be reserved for use in the National Ration Reserve for the ration period.                                |
| STR    | The total number of ration rights available to each State for the ration period.                                                        |
| SBPU   | State base period use, which equals the total of gasoline consumption in a given State during the base period.                          |
| NBPU   | National base period use, which equals the total of gasoline consumption in the United States during the base period.                   |
| SNR    | The net number of ration rights available to a State for distribution as basic and supplemental allotments.                             |
| SRR    | The number of ration rights distributed to the States for the State Ration Reserves for the ration period.                              |
| SA     | The projected number of supplemental allotments to farming, priority class activities and other persons or firms for the ration period. |
| SBR    | The number of ration rights in a State available for distribution as basic allotments.                                                  |
| VC     | Vehicle classification(s) to be established by DOE for all vehicles designated by DOE as eligible to receive allotments.                |

Symbol Meaning

|     |                                                                                                                                                                                                                                   |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AI  | The allotment index, which expresses the value of the allotment for any vehicle in a given vehicle classification in relation to the allotment for private automobiles (the allotment index for private automobiles will be 1.0). |
| CVP | The classification vehicle point, which is the sum of all vehicles in a given vehicle classification, multiplied by the allotment index for that vehicle classification.                                                          |
| TVP | The total vehicle points, which is the sum of the classification vehicle points (CVP's) for all vehicle classifications.                                                                                                          |
| SBA | The State basic allotment for each private automobile or other vehicle with an allotment index (AI) of 1.0.                                                                                                                       |
| DNA | The distributed basic allotment, which is the number of ration rights in gallons allotted for a given type of vehicle.                                                                                                            |

§ 570.22 Calculations.

For each ration period, DOE shall project the available supply of gasoline and, based on this projection, shall determine the national total number of ration rights (NTR) to be distributed. The computation of allotments shall be made as follows:

(a) National Net Number of Rights (NNR). The national net number of rights (NNR) is computed by subtracting from the national total number of rights (NTR) the National Ration Reserve (NRR).

$$N N R = N T R - N R R$$



(b) State Total Rights (STR). The total number of ration rights available to each State (STR) is determined by multiplying the national net rights (NNR) by the ratio of State base period gasoline use (SBPU) to national base period gasoline use (NBPU).

$$STR = NNR \times \frac{SBPU}{NBPU}$$

(c) State Net Rights (SNR). The net number of rights in a State, available for distribution as basic and supplemental allotments, is computed by subtracting from the State total rights (STR) the number of rights in the State Ration Reserve (SRR).

$$SNR = STR - SRR$$

(d) State Basic Rights (SBR). The number of rights in a State available for distribution as basic allotments (SBR) is computed by deducting from the State net rights (SNR) the projected number of supplemental allotments (SA) to be distributed as provided in Subpart D.

$$SBR = SNR - SA$$

(e) State Basic Allotment (SBA). The State basic allotment is computed as follows:

(1) The sum of all vehicles registered in the State in a given vehicle classification is multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$CVP = VC \times AI$$

(2) The sum of the CVP's for all vehicle classifications equals the total vehicle points (TVP).

$$TVP = CVP_1 + CVP_2 + \dots + CVP_n$$

where n = the number of classifications.

(3) The State basic allotment (SBA) equals the State basic rights (SBR) divided by the total vehicle points (TVP) within the State.

$$SBA = \frac{SBR}{TVP}$$

(f) Distributed Basic Allotment (DBA). For each State, the value of ration rights in gallons distributed to the registrant of a given vehicle for a ration period equals the State basic allotment (SBA) multiplied by the allotment index (AI) for that vehicle, such product to be rounded by DOE if necessary.

$$DBA = SBA \times AI$$

(g) Length of the ration period. The length of each ration period shall be three months or such other period as DOE may prescribe.

§ 570.23 Ration rights purchases and sales.

(a) DOE is authorized to issue and distribute by auction, sale or such other means as determined by DOE, additional ration rights where necessary:

- (1) to establish a market for ration rights;
- (2) to equilibrate the number of ration rights issued with the actual supply of gasoline, or

(3) for such other purposes as DOE may determine to be appropriate to assure that adequate ration rights are available to carry out the purposes of the Standby Gasoline Rationing Plan.

(b) To the extent that funds are available, DOE is authorized to purchase ration rights where necessary:

- (1) to equilibrate the number of ration rights issued with the actual supply of gasoline; or

- (2) to carry out the purposes of the Standby Gasoline Rationing Plan.

(c) Where funds are not available, DOE may take such other actions as may be necessary to equilibrate the number of ration rights issued with the actual supply of gasoline, including making adjustments to the national total number of ration rights (NTR) in the next ration period pursuant to § 570.22.

Subpart D -- Supplemental Allotments

§ 570.31 Priority class activities.

(a) A firm with respect to its activities in any of the following classifications may apply to DOE for a supplemental allotment equal to a percentage of such firm's consumption of gasoline attributable to its priority activities during the base period, such percentage to be determined by DOE for

each firm or classification of priority activity, less all other allotments attributable to its priority activity provided to such firm under any other provisions of this Part:

(1) The Department of Defense, with respect to its activities directly related to the maintenance of national security;

- (2) Emergency services;
  - (3) Sanitation services;
  - (4) Public passenger transportation; and
  - (5) Energy production.
- (b) DOE may designate other activities as priority class activities, and firms engaged in such activities shall be eligible to apply for a supplemental allotment pursuant to paragraphs (a) and (c) of this section.

(c) Any firm applying for a supplemental allotment as a priority class activity shall submit an application to DOE according to forms and procedures to be established by DOE. In addition to reporting its total gasoline consumption for the base period, a firm applying for a supplemental allotment for a priority class activity shall report that portion of its total base period gasoline consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity, and such other information as DOE may require.



**§ 570.32 Farming.**

Supplemental allotments for off-highway vehicles and equipment used in the agricultural production of food and fiber will be provided in a timely manner and in amounts adequate to meet fully food and fiber production goals approved by the President.

**§ 570.33 Off-highway vehicles.**

A firm may apply to DOE for a supplemental allotment if in the base year such firm consumed gasoline in vehicles or equipment determined by DOE to qualify as off-highway vehicles and equipment and such firms meet such additional eligibility requirements to be established by DOE.

**§ 570.34 Other supplemental allotments.**

(a) DOE may designate other classes of firms or any individual firm to receive supplemental allotments on a basis to be established by DOE.

(b) Any person, including eligible individuals, may apply to DOE for a supplemental allotment, in accordance with criteria to be established by DOE.

**§ 570.35 Application procedures.**

A firm or other person applying for a supplemental allotment shall submit an application to DOE according to forms and procedures to be established by DOE.

**§ 570.36 Precedence of delivery.**

Prior to arranging gasoline delivery schedules for any other purchasers, suppliers shall first establish mutually satisfactory delivery schedules with all their base period purchasers which qualify as priority class firms pursuant to § 570.31 of this Part.

**Subpart E -- Purchase of Gasoline**

**§ 570.41 General.**

(a) Except as otherwise provided in paragraph (b) and (c) below, no supplier may sell or otherwise transfer gasoline without obtaining from the purchaser at the time of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(b) A retail sales outlet may transfer gasoline to a purchaser without first obtaining ration rights from that purchaser, if the retail sales outlet obtains the appropriate amount of ration rights from any source within a time period to be designated by DOE.

(c) No supplier may sell or otherwise transfer gasoline to a supplier (including a wholesale purchaser-reseller) without securing from the supplier by the close of the first business day following the date of sale or transfer a redemption check or redeemed ration rights equal on a gallon basis to the amount of gasoline transferred.

No supplier may sell or otherwise transfer gasoline to a

wholesale purchaser-consumer or bulk purchaser without securing from the wholesale purchaser-consumer or bulk purchaser by the close of the first business day following the date of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(d) No purchaser may tender, and no supplier may accept ration coupons of a given series designation in exchange for gasoline prior to the date for which such series designation has been declared valid by DOE pursuant to § 570.13(b) of this Part.

(e) Subject to the provisions of § 570.64 of Subpart G of this Part, and subject to such regulations as DOE may develop, unredeemed ration rights may be freely transferred for or without consideration.

(f) No supplier (including a retail sales outlet) shall require any purchaser to purchase ration rights from any firm (including itself) as a condition of transferring gasoline.

(g) No supplier (including a retail sales outlet) may refuse to accept valid ration coupons offered as evidence of entitlement to purchase gasoline if such coupons are tendered by a customer at the time of sale. A supplier may accept ration checks, including Government ration checks, from a customer as evidence of entitlement to purchase gasoline, but if there are insufficient ration rights in the ration

rights account on which the ration check (other than a Government ration check) is drawn, the payee shall be liable for the deficiency, with recourse against the payor.

**§ 570.42 Supplier disposition of ration rights and ration checks.**

A supplier (including a retail sales outlet) which accepts ration coupons or ration checks (including Government ration checks) in exchange for gasoline shall at the time of exchange redeem all such coupons or checks by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." No supplier shall sell or otherwise transfer gasoline for consumption to a purchaser in exchange for ration coupons that have previously been redeemed.

**§ 570.43 Supplier's obligation to its supplier.**

(a) A supplier shall deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal on a gallon basis to the volume of gasoline received.

(b) A supplier that has a redemption account shall promptly deposit all redemption checks and redeemed ration rights received in its redemption account.

**§ 570.44 Principal supplier's obligations to DOE.**

Each principal supplier shall file with DOE in such form and for such period as shall be designated by DOE, a report certifying the volume of gasoline sold during the



reporting period, and shall submit with such report a redemption check equal on a gallon basis to the volume of gasoline sold during the reporting period.

§ 570.45 Redemption advances.

(a) Every supplier shall be entitled to receive an initial redemption advance according to a formula to be established and published by DOE. Such formula shall take into account the needs, if any, of suppliers located in remote areas subject to infrequent or irregular delivery schedules and suppliers in areas subject to highly seasonal demand.

(b) DOE may provide for such additional redemption advances as it deems necessary.

(c) DOE shall require suppliers receiving redemption advances to repay such advances to DOE according to terms and conditions established and published by DOE.

§ 570.46 Inventory changes.

(a) Each supplier (including a retail sales outlet), shall report according to forms and instructions to be issued by DOE its inventory of gasoline, measured on the first day of rationing before any sales of gasoline are made, measured at the end of the rationing program, and measured at intervals to be specified by DOE.

(b) Any supplier (including a retail sales outlet), whose inventory at the close of the rationing program or at such other intervals as designated by DOE is less than its inventory measured on the first day of rationing may be required to submit a redemption check or redeemed ration rights to DOE or its delegate equal on a gallon basis to the amount of inventory drawdown, less an amount to be specified by DOE for losses due to spillage, evaporation and shrinkage. § 570.47 Blends.

For fuels which are a blend of motor gasoline and other substances, DOE may make such volumetric adjustments as it deems appropriate.

Subpart F -- Allocation of Gasoline

§ 570.51 Relationship to Parts 210 and 211.

(a) Except where inconsistent with the provisions of this Part, the provisions of Parts 210 and 211 of this Chapter shall continue to apply when this Part is in effect.

(b) The allocation levels as provided in § 211.103 shall not apply when this Part is in effect. Each purchaser entitled to an allocation level under section 211.103 shall have an allocation level of 100 percent of base period use subject to an allocation fraction. However, DOE may raise the allocation levels for firms receiving supplemental allotments or with priority classification.

(c) Each supplier and wholesale purchaser-reseller shall supply to each wholesale purchaser and bulk purchaser volumes of gasoline in accordance with Part 211 of this Chapter; provided, that each purchaser's right to receive product is limited by the requirements under § 570.41 of this Part to provide either ration rights or redeemed ration rights, as applicable.

Subpart G -- Ration Banking

§ 570.61 Coupon issuance points and participating banks.

(a) Payees or endorsees of ration checks or such other documents or evidence of right as DOE may authorize may exchange them for ration coupons of equal value at coupon issuance points.

(b) Subject to terms and procedures to be established by DOE, DOE may authorize certain firms and institutions to act as (1) coupon issuance points to issue ration coupons in exchange for ration checks or such other documents or evidence of right as DOE may authorize, and (2) participating banks to provide ration rights accounts and redemption accounts.

(c) Coupon issuance points and participating banks shall maintain such records and issue such reports as may be required from time to time by DOE.

§ 570.62 Ration rights accounts.

(a) Any firm or individual may establish a ration rights account in accordance with forms and procedures to be established by DOE. DOE may by order and notice establish a minimum initial deposit, allowable fees, and other terms and conditions governing the operation and maintenance of ration rights accounts.

(b) No individual or firm shall issue a ration check for which no ration rights account has been established or drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account.

§ 570.63 Redemption accounts.

(a) Each supplier, including a retail sales outlet, may open a redemption account at any participating bank for the deposit of an initial redemption advance, if any, redeemed ration rights, and redemption checks.

(b) DOE may require some or all suppliers to open and maintain redemption accounts.

(c) The opening of a redemption account and the receipt of deposits therefor shall be made at participating banks according to forms and procedures to be established by DOE.

(d) No individual or firm shall issue a redemption check for which no redemption account has been established or drawn upon a redemption account in which there are



insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account.

(e) Redemption checks shall not be valid for deposit in a ration rights account, nor shall redemption checks be valid for the purchase of gasoline by a wholesale purchaser-consumer, bulk purchaser or other ultimate consumer.

§ 570.64 Restrictions on endorsements.

DOE may establish limitations on the endorsements of ration checks and redemption checks.

Subpart II -- National Ration Reserve

§ 570.71 National Ration Reserve.

(a) The National Ration Reserve shall be used by DOE to meet national disaster relief needs, or to provide ration rights for sale to the public in order to establish a market for ration rights, or to provide allotments to meet the needs of Canadian and Mexican firms, or for any other purpose at the discretion of DOE.

(b) For each ration period, DOE shall determine a percentage of the national total number of ration rights for which ration rights shall be reserved by DOE for the National Ration Reserve.

Subpart I -- State Ration Reserves

§ 570.81 State Ration Reserves.

(a) For each ration period, DOE shall establish for each State a percentage of that State's total number of ration rights (STR, as determined in Subpart C) for which ration rights shall be reserved by DOE for that State as a State Ration Reserve to meet the needs and hardships of end-users.

(b) For the initial ration period the State Ration Reserve shall be five percent of the State total number of ration rights, or such other percentage as DOE may determine. A State may apply to DOE at any time to reduce or increase the amount of ration rights to be included in the State Ration Reserve.

(c) For each subsequent ration period, the State Ration Reserve allotment shall be determined by DOE after consultation with each State.

§ 570.82 Establishment of State Rationing Offices and Local Boards.

(a) As soon as practicable after the Standby Gasoline Rationing Plan is approved by Congress in accordance with EPCA sec. 201(d), DOE will establish procedures for delegation of functions under this Part to a State Rationing Office and to officers or local boards (of balanced composition reflecting the community as a whole) of a State or political subdivision thereof.

(b) Within 60 days after DOE establishes procedures under subsection (a), each State may submit to DOE a plan to receive a delegation of authority from DOE and to administer the State Ration Reserve. The State plans shall include such information as DOE may request, including the following: (1) how the State proposes to establish a State Rationing Office and local boards to meet hardship needs and to provide for the mobility needs of the handicapped; (2) efforts to be undertaken during the effective period of the Standby Gasoline Rationing Plan to meet the needs of those persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system; and (3) the percentage of the State total number of ration rights requested by the State as a State Ration Reserve.

(c) DOE shall review the State plan submitted under subsection (b), and if approved DOE shall delegate appropriate authority to administer the State Ration Reserve allotted by DOE to that State. DOE also shall inform the State of the percentage of the State total number of ration rights to be allotted as a State Ration Reserve.

(d) Any State which does not have a State plan approved under subsection (c) shall not be provided any ration rights for a State Ration Reserve.

(c) The State Ration Reserves will be distributed by DOE to the State Rationing Offices by transmitting a Government ration check to each State.

(f) Each month the State Rationing Office shall report to DOE with respect to the preceding month: (1) the number of hardship petitions received by category of hardship alleged, (2) the disposition made of hardship applications, (3) the amount of ration rights issued from the State's Ration Reserve, and (4) such other information as DOE shall require.

(g) The State Rationing Office may redelegate the authority given to it by DOE to local rationing boards, provided they meet the balanced composition criteria set forth in paragraph (a).

(h) No State shall issue a ration check drawn upon a ration rights account if there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that ration rights account.

(i) DOE may authorize the States to sell to the public a portion of the ration rights from the State Ration Reserves in order to establish a market for the sale of ration rights.

(j) DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE, or by DOE in accordance with instructions provided by the State Rationing Office in that State.



§ 570.83 Hardship applications and guidelines.

(a) Hardship applications will be received by the State Rationing Office or its delegate for review and determination. In its administration of the State Ration Reserve, a State Rationing Office or its delegate shall consider the mobility needs of handicapped persons. In addition, the State Rationing Office or its delegate shall consider the hardship needs of other individuals and firms, such as low-income, long-distance commuters, migrant workers, persons engaged in household moves, and other recurring or one-time hardship needs, and the needs of persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system.

(b) For purposes of this section, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial impediment to mobility.

## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

Done at Washington, D.C., this 3rd day of December 1979.  
Edward L. Thompson,  
Chief, Registrations, Bonds and Reports  
Branch Livestock Marketing Division.  
[FR Doc. 79-37745 Filed 12-7-79; 8:45 am]  
BILLING CODE 3410-02-M

### Forest Service

#### Paddy Creek Wilderness Study Area; Mark Twain National Forest, Texas County, Missouri; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for the Paddy Creek Wilderness Study Area. The Paddy Creek Area was designated a wilderness study area by Pub. L. 94-557, October 19, 1976. It was also an inventoried area in the Forest Service Roadless Area Review Evaluation (RARE II) process which culminated in a final environmental impact statement released on January 4, 1979.

The RARE II process served to identify issues and concerns that will be developed in the Paddy Creek Wilderness Study. It also established the possible alternatives that will be considered: (1) Designation as wilderness, (2) continue present management, (3) designation as special management area under the Forest Service's authority.

It is anticipated that the draft environmental impact statement will be available in February 1980, and the final environmental impact statement in June 1980. A public hearing will be held during the draft review period; time and place to be announced at a later date.

R. Max Peterson, Forest Service Chief, is the responsible official and James T. Hunt, Forester on the Mark Twain National Forest (314-364-4621) is the coordinator for the environmental impact statement.

Comments on the Notice of Intent or on the project should be sent to the Forest Supervisor, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, Missouri, 65401.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

##### North American Auction Co., Platte City, Mo.; Proposed Posting of Stockyards

The Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock market named below is a stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MO-248, North American Auction Company  
Platte City, Missouri.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture Washington, D.C. 20250, by December 26, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

### Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

December 4, 1979.

R. Max Peterson,  
Chief, Forest Service.

[FR Doc. 79-37780 Filed 12-7-79; 8:45]

BILLING CODE 3410-11-M

### Soil Conservation Service

#### Paw Paw Bottoms Watershed Project, Okla.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Availability of the Record of Decision.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624-4360.

NOTICE: Pursuant to the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that a decision has been made to implement the drainage and flood prevention plan developed for Paw Paw Bottoms Watershed project, Sequoyah County, Oklahoma. The planned works of improvement include 8.13 miles of channel work and three grade control structures.

The environmental impact statement prepared for this federally-assisted action indicates that the impacts of the project are primarily beneficial and that the minor adverse impacts are acceptable in terms of tradeoffs. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the plan for this project should be implemented.

The draft environmental impact statement has been circulated for review and the final environmental impact statement has been filed with the Environmental Protection Agency (EPA).

The record of decision has been forwarded to the EPA. A limited number of copies of this document are available to fill single copy requests. The copies may be requested from the Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624-4360.



Date: November 30, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

[FR Doc. 79-37719 Filed 12-7-79; 8:45]

BILLING CODE 3410-16-M

# CIVIL AERONAUTICS BOARD

[Docket No. 37163]

## Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 30, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air

carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

### Subpart Q Applications

| Date filed    | Docket No. | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nov. 27, 1979 | 37163      | Ozark Air Lines, Inc., Lambert-St. Louis International Airport, St. Louis, Missouri 63145. Application of Ozark Air Lines, Inc. under Subpart Q, pursuant to Section 401 of the Act, requests amendment of its certificate of public convenience and necessity for Route 107 so as to authorize it to engage in nonstop scheduled air transportation of persons, property and mail over the following segment:<br>Between the alternate terminal points, Baltimore, Maryland; Washington, D.C. (National); and Washington, D.C. (Dulles); and the alternate terminal points Chicago, (O'Hare) and Chicago (Midway); Illinois; Dallas/Fort Worth, Texas; Kansas City, Missouri; Milwaukee, Wisconsin; Nashville, Tennessee; and Indianapolis, Indiana.<br>Answers may be filed no later than December 11, 1979. |

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-37784 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 33361 and 32413]

## Former Large Irregular Air Service Investigation (Application of Standard Airways); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 12, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and

other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 4, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-37783 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37020]

## Intra-Alaska Service Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-styled case is set to be conducted on January 8, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

In light of time constraints (the 150 day Rule) the procedural dates for the proceeding are established as follows:

A. Requests for information, restatement of issues and/or subsumed/subordinate issue—December 12, 1979.

B. Responses to "A" above, not later than December 28, 1979.

C. Prehearing Conference, if any, January 8, 1980.

D. Hearing—January 22, 1980.

E. Briefs—February 12, 1980.

It is the hope of the Judge that a prehearing conference will be unnecessary in which event the hearing and briefs will be advanced to January 8, 1980 and January 22, 1980, respectively. Every effort by Counsel for the parties should be bent to iron out their stipulations, statements of position, etc. and exchange of direct cases reasonably prior to the hearing, having in mind good faith efforts by all concerned. Accordingly, exchanges by phone between all counsel to this end are encouraged. Counsel for the Bureau will notify the Judge prior to the Prehearing/Hearing date of the outcome of such discussions, looking toward the elimination of the prehearing phase or simultaneous prehearing and hearing commencing on January 8, 1980.

Dated at Washington, D.C., December 4, 1979.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 79-37782 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

# DEPARTMENT OF COMMERCE

## Industry and Trade Administration

### Exporters' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10:00 a.m., on January 9, 1980, in Room 3817, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee, which is comprised of 24 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data
2. Report on Conditions in the Export Market
3. Recent Foreign Restrictions Affecting Textiles

#### 4. Other Business.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: December 5, 1979.

Paul T. O'Day,

Acting Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-37819 Filed 12-7-79; 8:45 am]

BILLING CODE 3510-25-M

# DEPARTMENT OF ENERGY

## Alaska Power Administration

### Eklutna Project; Order Confirming, Approving and Placing Increased Power Rates in Effect on an Interim Basis

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of Rate Order, Eklutna Project, Alaska.

SUMMARY: Notice is given of a Rate Order No. APA-2, of the Assistant Secretary for Resource Applications under Delegation Order No. 0202-33, 43 FR 60636 (December 28, 1979), placing increased power rates into effect January 1, 1980, on an interim basis for power marketed by the Alaska Power Administration from Eklutna Project, Alaska. The rate order involves wholesale rate schedules A-F8 for firm power and A-N7 for nonfirm power. The increased rates will produce an increase of \$369,600, which is equivalent to approximately 23 percent more than the amount produced by rates previously in effect. The rates are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATE: The rates are confirmed and approved on an interim basis effective January 1, 1980.

FOR FURTHER INFORMATION CONTACT: James A. Braxdale, Office of Power Marketing Coordination, Department of

Energy, Room 3349, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-8338.

Gordon J. Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, P.O. Box 50, Juneau, Alaska 99802, (907) 586-7405.

SUPPLEMENTARY INFORMATION: Rate Schedules A-F8 and A-N7, applicable to wholesale customers, supersede Rate Schedules A-F7 and A-N6. Rate Schedules A-F7 and A-N6 were confirmed and approved by the Federal Power Commission, FPC Docket No. E-7045 issued March 7, 1975. FPA approval of Rate Schedules A-F7 and A-N6 expires December 31, 1979.

Issued in Washington, D.C., December 4, 1979.

Ruth M. Davis,

Assistant Secretary, Resources Applications.

[Rate Order No. APA-2]

## Alaska Power Administration—Eklutna Project Power Rates

### Order Confirming and Approving Increased Power Rates on an Interim Basis

December 4, 1979.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under the Eklutna Project Act of July 31, 1950, 64 Stat. 382, as amended were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resources Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

#### Background

#### Contractual Arrangements and Existing Rates

The Eklutna Project was completed by the U.S. Bureau of Reclamation in 1955. The Alaska Power Administration (APA) has operated and maintained the project since 1967. The Eklutna Project is a single-purpose project, comprised of a dam, reservoir, 30,000-kV

hydroelectric plant, 45 miles of 115-kV transmission lines, and four substations serving the Anchorage and Palmer areas. All project costs are allocated to power. The entire output of the project is under contract with three preference customers in the Anchorage-Palmer area. Pursuant to a 1969 negotiated operating agreement with its three firm power customers, APA annually allocates 153,000,000 kWh to the three customers. Allocations are: 25,500,000 kWh to Matanuska Electric Association; 45,900,000 kWh to Chugach Electric Association; and the remaining 81,600,000 kWh to the City of Anchorage, all on a take-or-pay basis. The allocations are subject to adjustment due to extended curtailment of service from uncontrollable forces, including inadequate supply of water for power generation.

Rate Schedules A-F7 and A-N6 for the Eklutna Project were confirmed and approved by the Federal Power Commission, FPC Docket No. E-7045, issued March 7, 1975. The rate schedules expire December 31, 1979. Existing rates produce approximately \$1,636,000 annually.

Schedule A-F7 for wholesale firm power service, available to wholesale power customers, provided for a charge of 10.3 mills/kWh for all firm energy, with no capacity charge.

Schedule A-N6 for wholesale non-firm power service, available to firm power customers normally maintaining their own generating facilities provided for a charge of 3.0 mills/kWh for all non-firm energy, with no capacity charge.

Schedule A-L6 for domestic retail service provided for an energy charge of 3 cents for the first 100 kWhrs., 2 cents for the next 100 kWhrs., 1.25 cents for the next 400 kWhrs., and 1 cent for the balance of energy. This schedule expires December 31, 1979, and is not being continued. We anticipate the one remaining customer will be served by a local utility starting January 1, 1980.

#### Public Notice and Comment

APA prepared revised Power Repayment Studies in January 1979. The studies showed an increase in project rates are necessary for production of revenues sufficient to amortize the project investment and pay annual expenses. Based on the repayment studies, an increase in annual revenues of \$369,600 was proposed for a 5-year period beginning January 1, 1980, and the increase is approximately 23 percent.

Opportunities for public review and comment on the proposed increased rates were announced in the Federal



Register September 13, 1979, 44 FR 53288, and by paid advertisement in Anchorage and Palmer, Alaska, newspapers on September 7, 19, 20, 21, 24, and 25, 1979. The three project customers were notified by mail. Each customer also received a copy of the proposal. A public comment forum was held in Anchorage, Alaska, on September 24, 1979, and in Palmer, Alaska, on September 25, 1979. The proposal was discussed with each of the customers individually on September 24 and 25, 1979. Opportunity for oral presentation of views was afforded at the forums. Written comments were invited by the newspaper notice for a period of 30 days after the date of the public comment forum.

Participation at the public forum held in Anchorage, Alaska, was slight. There was no participation at the public forum held in Palmer, Alaska. A tape recording transcript of the forum held in Anchorage, Alaska, was made.

Chugach Electric Association, Inc., offered no objection to the rate proposal at the Anchorage, Alaska, forum. Matanuska Electric Association submitted a letter of no objection on October 8, 1979.

The other Eklutna customer, Anchorage Municipal Light and Power, requested additional information orally at the Anchorage forum and by letter dated October 1, 1979. The requested information was furnished by letter to Anchorage Municipal Light and Power on October 23, 1979. No other oral presentations were offered at the forum and no other written comments were received.

#### Project Repayment

The Eklutna Project Act states: "The capital investment properly allocable to each unit of said project, as determined by the Federal Power Commission, shall be amortized over a reasonable period of years, and interest shall be charged on the unamortized balance of the full capital investment in said project at a rate of 2½ per centum per annum and shall be covered into the Treasury of the United States to the credit of miscellaneous receipts."

APA tests the adequacy of repayment of investment with an annual Power Repayment Study. This study covers a 50-year period, starting with 1955. Included in the study are all revenues from the sale of power and energy, interest expense, and other expenses, such as payment for old Eklutna. The data include all historical and estimated future revenues and expenses from FY 1955 through 2005.

The 1978 Current Power Repayment Study shows that the annual revenues

from the existing rate schedules are inadequate to pay annual expenses and amortize the project investment by FY 2005. This is due to increased operation, maintenance, administration and general expenses, and increased costs for additions and replacements.

The 1978 Revised Power Repayment Study shows that annual revenues from the proposed rates will be sufficient to amortize the project investment and pay annual expenses.

The increased rates will produce an estimated increase of \$369,000 in annual revenue or an increase of 23 percent above existing rates. Projected annual revenues will total \$2,006,500 with the rate increase.

#### Rate Design

The rate design used here is the same as previously employed. The charges are for energy with no capacity charge because of take-or-pay provisions in the contracts and the operating agreement. Each unit of firm energy will be sold for 12.5 mills per kWh, and each unit of nonfirm power will be sold for 8 mills per kWh.

The Eklutna Project supplies less than 10 percent of the energy required in the Anchorage-Palmer area. Therefore, a complex rate structure incorporating peakload pricing and seasonal pricing is not required.

#### Environmental Impact

The possible environmental impact of the rate adjustment under consideration has been reviewed. It has been concluded that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

#### Price Stability

APA is a "Government enterprise" within the meaning of the price standard of the President's Council on Wage and Price Stability. The rate increase approved herein complies with the operating margin limitation of these standards because the revenues will be only those necessary to cover the Government's costs and expenses.

#### Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts and other supporting material, is available for public review in the offices of the Alaska Power Administration, Room 825, Federal Building, 709 West Ninth Street, Juneau, Alaska 99802 and in the

Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

#### Submission to the Federal Energy Regulatory Commission

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

#### Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective January 1, 1980, Rate Schedules A-F8 and A-N7. These rates shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the Federal Energy Regulatory Commission conforms and approves these or substitute rates on a final basis.

Issued in Washington, D.C. December 4, 1979.

Ruth M. Davis,

Assistant Secretary Resource Applications.

#### Schedule A-F8

Eklutna Project, Alaska

#### Schedule of Rates for Wholesale Firm Power Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To wholesale power customers for general power service.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate: Capacity charge: None. Energy charge: All energy at 12.5 mills per kilowatt-hour.

Minimum Annual Capacity Charge: None.

Billing Demand: Not Applicable.

#### Adjustments

For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For Auxiliary Power Service: Auxiliary power supplies may be used in conjunction with the service

hereunder if the parties hereto, prior to the Contractor's utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy supplied by the United States will be determined.

#### Schedule A-N7

Eklutna Project, Alaska

#### Schedule of Rates for Nonfirm Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at points of delivery and voltage to be determined by the Alaska Power Administration.

Monthly Rate: Demand charge: None.

Energy charge: 6.0 mills per kilowatt-hour for all energy under this schedule.

Minimum Bill: None.

#### Adjustments

For Character and Conditions of Service: None.

For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

[FR Doc. 79-37732 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

#### Economic Regulatory Administration

[Docket No. ERA-R-79-22A]

#### Public Conferences To Discuss the Gas Utility Rate Design Study Required by the Public Utility Regulatory Policies Act of 1978

Notice is hereby given that public conferences to discuss the preliminary results of the gas utility rate design study required by the Public Utility Regulatory Policies Act of 1978 will be held January 15 and 16, 1980, at the Department of Energy, 12th Street and Pennsylvania Avenue, NW., Room 3000A, Washington, D.C. 20461.

Representatives of the natural gas industry, residential consumers, small commercial users, industrial and large commercial users will be invited to attend these conferences. These invited participants will be asked for oral comments. Questions or comments will be heard from the audience as time permits.

Previous conferences were held by ERA on the gas utility rate design study on August 9 and 10. This is a continuation of that effort.

The conferences, schedules for which are shown below, will be informal and open to the public. Seating will be made available on a first-come, first-served basis.

#### Schedule

Natural Gas Industry, January 15, 9:00 a.m.-12:00 noon.

Industrial and Large Commercial Users, January 15, 1:30 p.m.-4:30 p.m.

Consumers/Small Commercial, January 16, 9:00 a.m.-12:00 noon.

Transcripts of the conferences will be made available for public review and duplication at the Freedom of Information public reading room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. The Chairman for the conferences is Dr. Stephen S. Skjei, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C. on November 29, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-37721 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Opinion No. 69]

[Docket Nos. CP78-391, CP75-278, CP77-556, and CP75-283]

#### Great Plains Gasification Associates, Successor to ANR Gasification Properties Co. and PGC Coal Gasification Co.; Opinion and Order on Requests for Certificates Involving Proposed Coal Gasification Project

Issued: November 21, 1979.

#### Appearances

Richard J. Flynn and Frederic G. Berner, Jr. for Great Plains Gasification Associates  
S. Kinnie Smith and Wilford J. Lundberg for ANR Coal Gasification Company  
Charles V. Shannon, S. Kinnie Smith and Wilford J. Lundberg for ANR Gasification Properties Company and Michigan Wisconsin Pipe Line Company  
Hart T. Monkin and William L. Block for Columbia Coal Gasification Corporation  
Leonard Sergeant, L. Michael Bridges and John D. Daly for Columbia Gas Transmission Corporation

Joseph M. Wells, Paul E. Goldstein, Richard E. Terry and Constance DeYoung for PGC Coal Gasification Company

Harry Albrecht, Joseph M. Wells, Paul E. Goldstein, Richard E. Terry and Constance DeYoung for Natural Gas Pipeline Company of America

Harold L. Talisman, Terrence J. Collins, L. R. Pankonien, John F. Grube and Boyd L. Henderson for Tenneco SNG Incorporated and Tennessee Natural Gas Pipeline Company

Thomas F. Ryan, Jr., Robert J. Hardy, Richard T. Boone, Brian F. O'Neill, Dan Fleckman and W. N. Bonner for Transco Coal Gas Company and Transcontinental Gas Pipe Line Corporation

James D. McKinney, Jr., William R. Napes, Jr., Bradford Ross, William Mogel, John M. Rody and Narinder J. S. Kathuria for Great Lakes Gas Transmission Company

Robert C. Goodwin, Jr. for the United States Department of Energy

Ronald D. Eastman, Lynda S. Mounts, Frank J. Kelley and Walter V. Kron for the State of Michigan and the Michigan Public Service Commission

Lorraine Gerson, Bertram Goltz, Neal Atterman and John J. Degnan for the State of New Jersey Department of Energy

Richard A. Solomon, Dennis Lane and Peter H. Schiff for the Public Service Commission of the State of New York

Margaret Ann Samuels and William A. Spratley for the State of Ohio Office of Consumers' Counsel

Glen Howard, Edward J. Grenier, Jr., Richard Noland, Laurel W. Glassman, Otis M. Smith, Julius Jay Hollis, Robert W. Clark, III and Jack F. Wheatley for General Motors Corporation

Philip J. Maure for the Environmental Defense Fund

Francis J. McShalley and John K. Archambault for TransCanada Pipelines Limited

William E. Herron, William J. Kenney and Lynda Troutman for the Dayton Power and Light Company

Charles A. Crompton and E. J. Hartmen for Iowa-Illinois Gas & Electric Company  
John J. Haley, Joseph Tompkins and Garry L. Cowan for Michigan Consolidated Gas Company

Robert A. Neurnberg, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Gas Company

Gerald J. O'Brien and Ned Willis for North Central Public Service Company

Willard S. Stafford, Bruce F. Kiely and Catherine C. Wakelyn for Madison Gas and Electric Company

Harry K. Wrench, Jr., Glen H. Bell, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Fuel & Light Company

Lilyon Sibert, L. R. Pankonien, Anthony D. Preyer, Harold L. Talisman and Terence J. Collins for Midwestern Gas Transmission Company

Griffin G. Dorschel, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Power & Light Company

Robert H. Diaz, Jr. for Wisconsin Power Company

Robert H. Diaz, Jr., Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Natural Gas Company



Harold Borden, Jr. for Public Service Electric & Gas Company of New Jersey  
 Douglas K. Porter for Pacific Coal Gasification Company  
 George E. Meinshausen for The Cincinnati Gas & Electric Company and The Union Light Heat & Power Company  
 Michael W. Hall for The Brooklyn Union Gas Company  
 Vic Korges for Hazen, North Dakota, School District  
 Harold J. Van Groll for Wisconsin Public Service Company  
 Marvin I. Resnik and Harris S. Leven for the Public Utilities Commission of Ohio  
 John W. Glendening and John S. Schmid for New England Customer Group  
 John I. Norton for the Dakota Resource Council  
 H. Paul Friesema and Errol Meidinger appearing pro se  
 Robert J. Haggerty for Montana-Dakota Utilities Co.  
 William J. Cronin for New York State Electric & Gas Corporation  
 David B. Ward for Northern Natural Gas Company  
 James A. Patten for the Northern Plains Resource Council  
 Gregory A. Thomas for the Sierra Club  
 Michael J. Manning and Patrick J. Keeley for the Tennessee Small Distributor Group  
 Raymond N. Shibley, Brian D. O'Neill and Michael A. Ross for Citibank, N.A.; Bank of America N.T. & S.A.; and Morgan Guaranty Trust Company of New York  
 Joel F. Zipp, Kathleen Boyle, Allan W. Anderson, Jr., Joel Cockrill, David Huard, Robert W. Cleveland and Robert Nordhaus for the Staff of the Federal Energy Regulatory Commission  
 Before Commissioners: <sup>1</sup> Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

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<sup>1</sup> As announced previously, Chairman Curtis has recused himself from any participation in this decision.

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#### I. Background

##### A. Introduction

This case concerns a proposal by Great Plains Gasification Associates (Great Plains) <sup>2</sup> to construct a coal gasification project to be located in Mercer County, North Dakota, designed to produce an average of 125,000 Mcf of synthetic gas per day at a minimum heating value of 970 Btu per cubic foot. <sup>3</sup> The applicants request various certificates under Section 7 of the Natural Gas Act to carry out the project. The proceeding is now before the Commission on review of an initial decision issued June 6, 1979, which recommended that the applications for certificates be denied. We reverse and offer conditioned certificates of public convenience and necessity. In addition, we find that this is a demonstration project within the definition of research,

<sup>2</sup> Great Plains is a general partnership formed by five corporations that are in turn affiliates of certain jurisdictional pipeline companies (Customer Pipeline Companies). The partners are: Columbia Coal Gasification Corporation (Columbia Coal), an affiliate of Columbia Gas Transmission Corporation (Columbia); ANR Gasification Properties Company (ANP), an affiliate of Michigan Wisconsin Pipe Line Company (Michigan Wisconsin); PGC Coal Gasification Company (PGC), an affiliate of Natural Gas Pipeline Company of America (Natural); Tenneco SNG Inc. (Tenneco SNG), an affiliate of Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee); and Transco Coal Gas Company (Transco Coal), an affiliate of Transcontinental Gas Pipe Line Company (Transco).

<sup>3</sup> The plant would have a design capacity of 137,500 Mcf per day and is expected to operate at 91 percent of capacity on an annual basis.

development and demonstration promulgated by Order No. 566.<sup>4</sup>

The project seeks to demonstrate the technological and commercial feasibility and the environmental acceptability of converting coal into pipeline quality gas by constructing and operating the first commercial-size high-Btu coal gasification plant in the United States.<sup>5</sup> The facility has been characterized by the parties as a "demonstration project,"<sup>6</sup> a "research, development and commercial demonstration project,"<sup>7</sup> a "grass roots RD&D project,"<sup>8</sup> a "commercial demonstration facility,"<sup>9</sup> and as a "pioneer commercial plant."<sup>11</sup> Regardless of the nomenclature, it is clear that this project presents the Commission with important issues of public policy relative to the natural gas industry's place in the Nation's overall energy activities and the role—if any—of synthetic coal gas in supplementing our supplies of natural gas. The initial decision, and the exceptions and replies to exceptions filed on the basis of that decision, discuss, *inter alia*, such vital matters as: whether the national interest requires a present demonstration of the financial, environmental, social, political, institutional and regulatory acceptability of the technology of coal gasification at a commercial-size configuration in a real world setting; whether a project of the type here proposed should be funded by taxpayers or by natural gas consumers; if any gas consumers should pay for the project, whether to require that all gas consumers share the cost burden; the

<sup>4</sup> Docket No. RM76-17, issued June 3, 1977.  
<sup>5</sup> Coal gasification proposals have been before the Commission before. The Transwestern Coal Gasification Company (WESCO), owned by Texas Eastern Transmission Company and Pacific Lighting Corporation, was granted a conditioned certificate of public convenience and necessity in FPC Opinion Nos. 728 and 728-A in 1975. No final financing plan has been submitted, as required in our decision, and the project seemingly has been dropped by its sponsors. Earlier, El Paso Natural Gas Company applied for a certificate of public convenience and necessity for coal gasification and transportation in 1974 but later requested deferment and the case is still in limbo.

In Opinion No. 14, issued May 10, 1978, we permitted Northern Natural Gas Company to recover certain expenditures for research and development incurred in connection with a Coal Slagging Classifier Project but rejected the inclusion in rates of other amounts attributable to a Coal Gasification Study.

<sup>6</sup> Tr. p. 3143.

<sup>7</sup> Tr. p. 3334.

<sup>8</sup> Tr. 3192.

<sup>9</sup> Tr. 3195.

<sup>10</sup> Tr. 3196-97.

<sup>11</sup> Tr. 2883, 5286-89. The underlying distinctions, including the reasons for the disagreement on its proper characterization, will be considered shortly.

monitoring of the project; whether the proposed funding arrangements are acceptable and, finally, the appropriateness of the proposed tariff provisions.

#### B. Description of Great Plains Project

The proposed plant and related facilities are to be located in Mercer County, North Dakota, and will be owned by Great Plains. Utilizing a coal gasification process developed by Lurgi Kohle and Mineralotechnic (Lurgi) of Frankfurt, Germany, the plant has been designed to produce an average of 125,000 Mcf per day of pipeline quality gas from lignite reserves held under option for that purpose. The plant will be constructed and operated by the project administrator, ANG Coal Gasification Company (ANG), an affiliate of Michigan Wisconsin. ANG will receive technical assistance from Lurgi; the Lummus Company; Kaiser Engineers; the South African Coal, Oil and Gas Corporation, Limited (Sasol); Ralph M. Parsons Company; and the USS Engineers and Consultants, Inc.

ANG will secure the feedstock required for plant operations from surface coal mines contiguous to the plant under a Coal Sales Agreement with Coteau Properties Company (Coteau), a subsidiary of the North American Coal Corporation (NACCO). The volumes of water needed for the gasification process will be obtained from nearby Lake Sakakawea pursuant to a conditional water permit granted by the State of North Dakota and a water service agreement to be executed with the Secretary of the Interior. The plant's power requirements will be supplied by Basin Electric Power Cooperative (Basin Electric), which is constructing an electric generating facility adjacent to the coal gasification plant.

The gas produced at the plant would be transported to the point of sale for Great Plains by Great Lakes Gas Transmission Company (Great Lakes) under two separate agreements.<sup>12</sup> Under a Synthetic Gas Transportation Agreement, Great Lakes would first transport the gas through a pipeline to be constructed from the tailgate of the plant to a point on Great Lakes' existing pipeline system near Thief River Falls, Minnesota. At that point, the synthetic gas would be commingled with natural gas and then transported through Great Lakes jurisdictional facilities to a point on Michigan Wisconsin's transmission facilities near Crystal Falls, Michigan. At Crystal Falls, Great Plains would sell

<sup>12</sup> Great Plains has the option of choosing another pipeline transporter if better transportation arrangements are available.

equal quantities of commingled synthetic and natural gas (equivalent in heating value to the output of the gasification plant, less line loss) to each of the Customer Pipeline Companies. The gas will then be delivered through displacement or otherwise. Michigan Wisconsin proposes to construct and operate additional facilities to receive the gas and provide the subsequent transportation.

The total installed cost of the gasification plant in 1978 dollars is estimated to be \$890 million; the coal mine development is estimated to require an additional capital investment by Great Plains of \$85 million. Assuming an annual rate of inflation of 7.5%,<sup>13</sup> the capital costs of the gasification plant and the portion of the coal mine dedicated to Great Plains are estimated to total \$1,176,165,000. The estimate assumes that the pre-operational costs of capital will be borne by ratepayers on a current basis; otherwise, the capital costs are estimated to exceed \$1.5 billion.

In 1978 dollars, the cost of gas at the tailgate of the plant is projected by the sponsors to be \$5.66 per Mcf during the first full year of operations.<sup>14</sup> Considering the impact of inflation, possible plant change costs and changes in plant output, the initial cost of gas could range from \$5.56 to \$8.62 per Mcf. Applicants assert that as a result of declining rate base and a relatively low proportion of variable costs, the tailgate cost of gas would thereafter increase at a rate well below either the rate of inflation or expected increases in new natural gas prices, so that by the early 1990's it would cost less than new supplies from conventional sources.

Great Plains proposes to finance the construction of the coal gasification project on a project financing basis. The financing plan contemplates that the plant and related facilities will be financed on a 75 percent debt, 25 percent equity basis while the coal mine will be 100 percent debt financed.

The terms and conditions under which the prospective lenders purport to be willing to lend the debt capital are set forth in a loan commitment letter (Ex. 133-A)<sup>15</sup> which was negotiated with the project's commercial bank advisors—Citibank, N.A.; Morgan Guaranty Trust Company of New York; and Bank of

<sup>13</sup> This is the inflation rate used in the record.

<sup>14</sup> As discussed in Appendix A (p. 2); this value overestimates the cost of gas in 1978 dollars because of an inflation premium included in the assumed rates of return and interest rates.

<sup>15</sup> The letter, addressed to Great Plains, reflects the position of the banks at the time of the last hearing sessions to lend money to the project and is subject to later revision by the banks.

America, NT and SA. According to the lenders they will require, *inter alia*, Commission approved tariff provisions at the outset that (1) provide for full recovery of debt service (both principal and interest) in all circumstances, (2) permit the collection of debt financing costs during the construction period, (3) allow the outstanding debt to be amortized over a five-year period if abandonment should occur and in certain other events, (4) permit Great Plains to charge the Customer Pipeline Companies rates based on a full cost-of-service formula, (5) authorize the Customer Pipeline Companies to recover all such project costs on a current basis through their proposed "tracking" provisions, and (6) permit the Customer Pipeline Companies to market the plant's output on a rolled-in basis. Also, the lenders state that they require assurances from the Commission of its intent that these tariff mechanisms will remain in full force and effect until the debt is completely repaid.

The equity capital is to consist of three elements—paid-in equity, investment tax credit and an after-tax return of 15 percent during construction. The paid-in equity is to be contributed in equal amounts by each partner either from its earnings, its borrowings, or sale of its stock. The investment tax credit portion of the equity investment represents the excess of Federal income taxes charged to ratepayers over the amount actually paid by each partner to the Internal Revenue Service, each sponsor using the credit to reduce its tax liability by a statutory percentage of its share of the project's construction costs. The 15 percent return and associated taxes would be charged the ratepayers to compensate each partner during construction for its equity investment and will be reinvested in the project.

To achieve the project's funding requirements, Great Plains and its partners seek approval of interrelated and interdependent rate and tariff mechanisms, which are detailed in Exhibits 3C and 3D (Revised). The Precedent Agreement (Exh. 3C), which has already been executed, provides that upon the issuance by the Commission of satisfactory certificate authorization, separate Funding Agreements (Exhs. A and G to Exh. 3D (Revised)) and Gas Purchase Agreements (Exh. D and E to Exh. 3D (Revised)) will be executed; Great Plains will file the Gas Purchase Agreements as its FERC Gas Tariff; and the Customer Pipeline Companies will file tariff provisions (Exh. F to Exh. 3D (Revised)) which will permit the tracking of project costs. However, the



transportation agreement with Great Lakes will not be executed by Great Plains until necessary to meet the project's time schedule in order to afford Great Plains the option to select an alternative transportation service if that is found advantageous. Further, upon the issuance of satisfactory regulatory approvals, 60 percent of the property rights in the project will be sold by the present co-owners (ANP and PGC) to the other general partners (Columbia Coal, Tenneco SNG, and Transco Coal) under the Project Acquisition Agreement at a price equal to the 60 percent plus a return thereon.

The Funding Agreements specify the project costs to be paid in the Construction and Start-Up periods, which precede the In-Service date of the plant. Prior to the In-Service date, the Customer Pipeline Companies would collect funds equal to interest and related expenses on debt plus an amount equal to the return on equity invested in the project and related income taxes. In the event the project is abandoned for any reason prior to the commencement of the Start-Up period (when gas begins to flow), the pipeline would collect over a five-year period amounts sufficient to amortize partnership debt and interest thereon and to satisfy contractual obligations and related expenses.

The applicants propose that the equity investment would not automatically be recouped if the project were abandoned for reasons of technological failure or failure to complete because of cost overruns, unless such failures were due to changes in laws or regulations with which the plant was designed to comply. However, in the event an abandonment resulted for any other reason, the Customer Pipeline Companies would collect funds equal to the amounts required to permit the recovery of equity, as well as to earn the allowed return on unrecovered equity, over a five-year period.

The Gas Purchase Agreements will be filed with the Commission as Great Plains' FERC Gas Tariff and payments would commence upon the initial delivery of gas. During the Start-Up period, prior to the In-Service date of the plant, the proposed tariff provides for the recovery of transportation charges, while carrying costs on debt and equity will continue to be recouped under the Funding Agreements. Commencing with the In-Service date, the tariff provides for the collection of the actual cost of service of the plant, including a 15 percent return on equity, the cost of coal, transportation charges, and all other related project expenses. In the

event of abandonment after initial delivery of gas, Great Plains would collect charges from the Customer Pipeline Companies under its tariff in essentially the same manner as described above for a pre-completion abandonment.

Upon the issuance of satisfactory certificate authorization, the Customer Pipeline Companies' proposed "tracking" provisions would permit those companies to collect on a current basis all payments made under both the Funding Agreements and the Gas Purchase Agreements. The gas purchased by the pipelines will be resold on a rolled-in basis.

Applicants ask that their proposed financing plan and tariff mechanisms be viewed as an inseparable package. In particular, they seek approval of the following: (1) recovery of debt from ratepayers in all events and, in the event the project goes awry, recovery on a five-year accelerated basis; (2) recovery of equity, plus a 15 percent return, from ratepayers on a five-year accelerated basis if the project is abandoned except where such abandonment is due to circumstances of cost overruns or technological failure not caused by governmental action; (3) a 15 percent return on equity during the construction and operating phases—with a minimum guaranteed return during the latter stages of the operating phase; (4) during the construction period, collection from ratepayers on a current basis of the cost of debt and equity capital; (5) a cost-of-service tariff enabling Great Plains, once it becomes a natural-gas company, to recover its costs on a current basis from the affiliated pipelines; (6) "tracking" provisions enabling the affiliated pipelines to recover their costs on a current basis from their ratepayers, even during the construction period, for the charges covering costs of capital; and (7) rolled-in pricing of the cost of the coal gas with the cost of natural gas to be marketed by or on behalf of the affiliated pipelines.

#### C. Procedural Background

This proceeding was initiated on March 26, 1975, when ANG and Michigan Wisconsin filed an application for certificates of public convenience and necessity in Docket No. CP75-278 authorizing (a) the sale by ANG to Michigan Wisconsin of commingled gas equivalent on a Btu basis to the output of the coal gasification plant in Mercer County, which was proposed at that time to be designed to produce an average of 250,000 Mcf of pipeline quality gas per day, and (b) the construction and operation by Michigan Wisconsin of the facilities necessary to

enable it to receive and transport such gas to its customers. The application also sought, *inter alia*, approval of a cost-of-service tariff governing ANG's sales to Michigan Wisconsin and of a modification of the purchased gas adjustment provisions of Michigan Wisconsin's tariff to permit the collection of both the cost of the coal gas and of a surcharge during plant construction and testing to cover carrying costs on debt and equity investments.

In a related application filed on March 31, 1975, Great Lakes sought certificate authority to transport commingled gas for the account of ANG from a point on its main transmission line to the point of delivery to Michigan Wisconsin and to construct, modify and operate facilities required for such transportation. At the initial hearings held between January 22 and February 25, 1976, the applicants presented the testimony of 20 witnesses who discussed the scope and purpose of the project, its technological feasibility, its environmental impact, the availability and cost of feedstock, the marketability of the synthetic gas, the financial plan for the project, the proposed tariffs covering the sale of commingled gas to and by Michigan Wisconsin, and the related transportation services and facilities.

Prior to the time fixed for the submission of evidence by the Commission staff, the applicants advised the law judge that they had concluded that the problems associated with constructing and financing this massive project and the potential socio-economic impact of the planned development in North Dakota would be ameliorated if the project were constructed in two separate phases. Following the issuance of an order by the law judge fixing dates for the submission of additional evidence relating to the Phase I plant and for the subsequent submission of staff evidence, hearings reconvened on May 18, 1976 and were completed on June 7, 1976. At these hearings the applicants called 14 witnesses to describe the planned phased construction and its effect in terms of costs, engineering, financing, environmental impact and related matters. Staff presented two witnesses, one who discussed the proposed financial plans and one who testified with respect to the price of the commingled gas to be marketed by Michigan Wisconsin and its customers.

When these hearings were concluded, the prospects for prompt enactment of loan guarantee legislation which would have provided the necessary financial support for the debt portion of the

project's financing requirements seemed favorable, but it subsequently became evident that such guarantees would not be available for some time. In light of the financial burden which continuation of the project under those circumstances would have imposed on the American Natural Resources System (American Natural), ANG and Michigan Wisconsin requested the law judge to defer a decision pending efforts to reduce this burden by inviting the participation of one or more additional major gas systems in the coal gasification project. The applicants' request was granted.

After extensive negotiations, PGC agreed to a co-ownership arrangement involving an equal sharing with ANP of all costs, obligations, plant output and project revenues (Ex. 102). On May 9, 1977, an amendment to the application in Docket No. CP75-278 was filed to reflect the co-ownership of the Phase I facilities by ANP and PGC, the substitution of ANP for ANG as an applicant, and the execution of agreements (Ex. 103) with Basin Electric relating to the construction of a lignite-fired steam-electric generating station at the coal gasification plantsite. Thereafter, on August 8, 1977, PGC and Natural filed an application in Docket No. CP77-556 requesting authority both for PGC to sell Natural a quantity of commingled gas equal in hearing value to one-half of the plant's output, and for Natural to file and make effective revised tariff provisions permitting timely recovery of PGC's share of the project costs.

Additional evidence showing the impact of co-ownership by ANP and PGC was thereafter received into evidence at hearings that began on December 13, 1977 and ended on March 6, 1978. In those hearings the applicants presented 19 witnesses in support of their revised proposals, staff offered the testimony of three witnesses on matters relating to transportation, technology and tariffs, and Montana-Dakota Utilities Company sponsored a witness to explain its request for a portion of the plant output. The applicants' proposals continued to presume the availability of Federal loan guarantees to support the debt component of the project's capitalization.

At the conclusion of these hearings, the applicants' witnesses testified that neither loan guarantees nor foreign financing of the debt could be obtained on a timely or satisfactory basis. However, officials of the Department of Energy (DOE) had suggested that if a consortium of companies could be formed to support the project, then DOE would recommend approval by the

Commission of tariff mechanisms providing consumer credit support to the extent DOE concluded such provisions were necessary to finance the project. The applicants informed the law judge and the parties at that time that they intended to pursue this alternative by seeking the participation of additional gas systems in such a consortium. Thereafter, the Great Plains consortium was established to carry out this project.

On June 2, 1978, Great Plains and the Customer Pipeline Companies filed another amendment to the applications in Docket Nos. CP75-278 and CP77-556, which, as supplemented, sets forth the proposal to be addressed (Item H by Reference). Following a hearing held on June 13, 1978, to receive an Environmental Impact Statement (EIS) prepared by the Department of the Interior and Staff's environmental testimony into the record, hearings on the merits of the amended applications were conducted from October 31 to December 4, 1978, when the record was closed. In this last phase of the proceeding, 18 witnesses were presented by the applicants, three by DOE, four by the prospective commercial bank lenders, one by the New Jersey Department of Energy (New Jersey), two by the Ohio Consumers' Counsel and seven by staff.

#### D. FERC Jurisdiction and Requested Authorizations

Because the Great Plains plant will produce "artificial" rather than "natural" gas, the Commission has no jurisdiction under the Natural Gas Act over the project facilities in North Dakota. Nor does the Commission have jurisdiction over the synthetic gas pipeline that Great Lakes proposes to construct, since the transportation of "artificial" gas is not subject to regulation under the Act. Sections 1(b) and 2(5) of the Natural Gas Act, 15 U.S.C. §§ 717(b) and 717a(5); *Henry v. FPC*, 513 F. 2d 395 (D.C. Cir. 1975).

Once the output of the gasification plant has been commingled with natural gas, however, the Commission would possess full and complete jurisdiction to regulate any subsequent transportation of the gas in interstate commerce and its sale in interstate commerce for resale for ultimate public consumption, 15 U.S.C. § 717(b). The Commission's involvement arises by virtue of several Section 7 applications for certificates to transport commingled coal gas and natural gas and to make sales thereof for resale to the Customer Pipeline Companies. Moreover, the Commission's jurisdiction over the transportation and sale for resale of the commingled gas "gives it a corollary authority and

responsibility to look into 'all' factors bearing on the public interest," including Great Plains' non-jurisdictional facilities and Great Lakes' synthetic gas pipeline. *Henry v. FPC*, *supra*, 513 F. 2d at p. 405. In addition, the Commission's authority to regulate the rates of the Customer Pipeline Companies obviously empowers it to determine the propriety of those companies' rate and tariff proposals. The applicants have requested that we approve certain specific certificate and rate proposals. Under Section 7 they ask that we find the public convenience and necessity would be served by granting:

(1) Great Plains' application to make jurisdictional sales of equal volumes of commingled gas equivalent on a Btu basis to the output of the coal gasification plant to each of the Customer Pipeline Companies;

(2) Great Lakes' application to transport the commingled gas and to construct and operate the additional jurisdictional facilities required to receive and transport that gas; and

(3) Michigan Wisconsin's application to construct and operate the additional facilities needed to receive and transport the gas.

They also request that the Commission:

(1) accept and approve the Gas Purchase Agreements for filing as Great Plains' FERC Gas Tariff;

(2) accept and approve the tracking provisions proposed by the Customer Pipeline Companies; and

(3) accept and approve the Gas Transportation Agreement as part of Great Lakes' FERC Gas Tariff.

They further request that we make certain other findings and determinations which are alleged to be necessary to provide the assurances required to permit the project to be financed. To the extent deemed necessary, these matters are addressed in this Opinion.

#### II. Initial Decision and Exceptions

##### A. Initial Decision

The law judge at the outset of his decision dismissed staff's and various parties' arguments that the project should be disapproved because the near term and future natural gas supply picture does not warrant the project at this time. The judge concluded that their views were "too sanguine". The judge also found that the sponsors' attempt to prove the near term need for a coal gasification industry contained "major flaws" and was not sufficiently persuasive. With regard to DOE's view of the project, that it is a means for establishing the viability of a coal



gasification industry in the future to ameliorate possible service interruptions due to a shortage of natural gas and soaring price increases by foreign suppliers of oil and natural gas, the judge determined that while "[T]here may well be a national need to get on with efforts to develop a coal gasification technology," the costs of such development should be borne by the taxpayers, rather than by only a portion of the natural gas consumers, since "whatever benefits are to be derived from this project will be shared by the entire country, not merely some ratepayers." The judge concluded that this finding disposed of the matter.

The conclusion by the law judge that a coal gasification demonstration project should be financed from the public treasury, not through gas tariffs, was crucial to his recommendation that the applications should be denied. However, assuming it was determined that the ratepayers should properly bear the risks of this project, the judge found that the sponsors' financing plan, considered as an indivisible package, did not comport with the public convenience and necessity. On the specifics of the financing plan and the positions taken thereon, the judge made the following determinations:

(1) He rejected staff's position that the sponsors should be required to repay the debt in the first instance if the project were to go awry; (2) he approved the proposal to permit recovery of the debt from ratepayers on an accelerated five-year basis, if the project were to go awry; (3) on the proposal for the recovery of the equity portion of the investment if the project were to go awry, he denied any automatic recovery of equity (including costs of equity capital), but would permit the sponsors an opportunity to prove the reasonableness of such recovery at a hearing before the Commission; (4) since the financing plan would be modified if his proposals were adopted, he recognized that additional risks would be incurred and therefore recommended a 15 percent return during construction and the first 12 months of operation, with a fluctuating return on equity determined in separate Commission proceedings for the remainder of the project's life; (5) he denied the sponsors' request for a minimum guaranteed return; (6) he denied the request for a preoperational surcharge; (7) he approved the concept of the cost-of-service tariff for Great Plains and of the "tracking" provisions for the Customer Pipeline Companies; and (8) he approved the sponsors' request for rolled-in pricing.

The judge then examined and determined the following issues: (1) on the matter of the sponsors' concern about the regulatory risk of actions by future Commissions in changing any of the matters being approved here, he found that the sponsors have ample existing safeguards to protect themselves against such a "potential threat"; (2) he denied the sponsors' request for a blanket assurance that the ratepayers will provide funds to Great Plains to permit its discharge of all contractual obligations, but would permit the sponsors an opportunity for a Commission hearing on a specific request; (3) he denied Great Lakes' application as being premature; (4) on the requests for controls to assure the lowest costs possible, he (a) denied a request for a "cap" on "cost overruns"; (b) denied a request that funds be loaned at no more than the prime rate; (c) denied a request to hinge the level of return on equity on the success of plant operations; and (d) touched on certain items raised by staff, but concluded that these have "not been fleshed out to allow reasoned determinations"; (5) to reduce costs, the judge adopted the following suggestions: (a) a requirement that the coal agreement be amended to specify the exact quantity and quality of the coal needed for the project; (b) to require the use of whatever method is adopted by the Commission in the proceeding involving *Columbia Gulf Transmission Co., et al.*, Docket Nos. RP75-105, *et al.*, for determining the Federal income tax component of applicants' cost-of-service tariff; and (c) to require credits against operating costs whenever the project receives monies apart from revenues generated from coal gas sales; (6) he denied the request by Montana-Dakota Utilities Company (MDU) for special treatment in obtaining five percent of the coal gas which ANR allegedly agreed to offer to gas distribution companies in North Dakota; and, finally, (7) found that the environmental issues have been adequately addressed to satisfy the requirements of the National Environmental Policy Act (NEPA).

#### B. Exceptions

Exceptions to the Initial Decision were filed by Great Plains, staff, the Public Service Commission of the State of New York (New York), the Office of Consumers' Counsel of Ohio (Ohio), Elizabethtown Gas Company (Elizabethtown), MDU, Great Lakes and DOE.<sup>16</sup> We believe it noteworthy that in

<sup>16</sup> The Governor of North Dakota filed comments to the decision in the form of a letter to the

those exceptions no party objected to the construction and operation of the project *per se*, although some intervenors (e.g., New York) did indicate that they opposed issuance of the certificate authorizations unless their suggestions were accepted.<sup>17</sup> The exceptions primarily addressed the question of whether the Customer Pipeline Companies' consumers should bear the risks and costs of the project or whether the Nation's taxpayers should bear those risks and costs.

Further, exceptions were taken as to what risks and costs should be borne by the consumers with and without taxpayer support. For example, exceptions were taken to the judge's denial of the applicants' proposal for the automatic recovery of equity in the case of project abandonment and the surcharge provision, the allowance of a 15 percent return on equity for the construction period and during the first 12 months of operation, the use of a consolidated effective tax rate in computing the income tax component of the cost-of-service tariff, denial of a conditional certificate to Great Lakes, denial of MDU's proposal for obtaining a portion of the coal gas produced and the judge's requirement for modification of the coal contract.

In the introduction to its exceptions Great Plains states that, while the project can be financed on the basis of the financing plan, "it cannot be financed on terms that differ materially from those proposed." Further, Great Plains asserts that each company's willingness to participate is predicated on acceptance of the entire package of proposals and agreements and, therefore, the Commission is urged "to consider the various proposals as links in a chain which cannot be broken if the project is to be successfully financed and constructed."<sup>18</sup>

Additionally, Great Plains states that it recognizes that Congress is considering various forms of government support for synthetic fuel projects. It, therefore, agrees that if such support is enacted and is available for this project, applicants will seek to obtain such support and will modify their financing plan and tariff (subject to Commission approval) to reflect that legislation.<sup>19</sup>

Commission requesting FERC consideration of certain non-record "critical factors".

<sup>17</sup> Briefs opposing exceptions were filed by New York, staff, Great Plains, Ohio, General Motors Corporation, the State of Michigan and the Michigan Public Service Commission, and DOE.

<sup>18</sup> Brief on exceptions, p. 15.

<sup>19</sup> *Id.*, p. 16.

### III. Is Issuance of Certificates for the Great Plains Project in the Public Interest?

The initial decision of the law judge, the exceptions to that decision, and the record in general raise four basic questions the Commission must answer in reaching a decision concerning the public need for this project. First, is it likely that a large scale coal gasification industry will be needed in the near future? If the answer to this question is no, i.e. that a coal gasification industry is not likely to be needed for a number of decades, it is unnecessary to construct this project now to demonstrate the commercial feasibility of coal gasification. The construction of such a demonstration project can be postponed until it appears more likely that a coal gasification industry will be needed. In that event, a more advanced technology for coal gasification may be available for the demonstration project.<sup>20</sup>

If the answer to this first question is yes and it is likely that a large scale coal gasification industry will be needed in the near future, then the second question is whether the demonstration benefits of the specific facility are worth the cost of the project. For example, what will this project demonstrate and how will this project advance the development of coal gasification? The Commission must attempt to evaluate the benefits and the cost of this project to determine if this project is in the public interest.

If the answer to the second question is that the benefits of the project are worth the cost, then the third question is whether it is reasonable for the ratepayers and customers of the five sponsoring companies to pay for the cost of this project and to provide the necessary financial guarantees to the investors in the project. Even though a coal gasification industry may be needed in the near future, and the demonstration benefits of the Great Plains project may exceed the cost, a more equitable or fairer method of supporting this project may be available. The alternatives include support by additional natural gas consumers or taxpayers in general.

Even if it is reasonable for customers of the sponsoring pipelines to provide general support for this project without assistance from other gas consumers or general taxpayers, the fourth question is whether all of the specific finance and tariff proposals of the sponsors are reasonable and in the public interest. Should any specific tariff provisions

<sup>20</sup> For example, the Department of Energy is now sponsoring research on other coal gasification technologies.

proposed by the sponsors be modified or altered by the Commission?

The parties in these proceedings disagree about the correct answers to each of these four basic questions. We address each in turn. Preliminarily, however, a brief review of the current status of the national energy situation is of assistance in providing a frame of reference for our examination of these issues.

#### A. The National Energy Situation

The national interest aspects of this project must be evaluated against the background of the nation's present and future energy balance. This country, which had been a major exporter of fossil fuels prior to World War II, became a net importer in the early post-war period and now we rely on imports for one-quarter of all of our energy needs. All projections of our energy balance show continued reliance on imports.

The tangible economic and intangible political and social costs of these imports to the economy are significant. Oil imports this year will be almost three times the 1970 level and payments, approximately \$60 billion, will be about 20 times the 1970 outlay. Gas imports in 1970 averaged about \$0.25 per Mcf. The price of gas imported from Canada recently was increased to \$3.45 per Mcf; initial deliveries of Mexican gas, scheduled to commence in the Summer of 1980, are now priced at \$3.625 per Mcf. The nation's economy and its political and social structure are under stress because of our excessive reliance on foreign sources for our energy needs.

There is widespread and increasing agreement that our energy policy should pursue several goals simultaneously. We should attempt to reduce the extent of our exposure to economic disruption due to oil embargoes or similar acts by promoting conservation, establishing a strategic petroleum reserve and taking similar damage-limiting acts. Another goal is to shift from our extensive dependence on depleting oil and gas sources towards use of more abundant energy sources such as coal, waste and renewable resources. Finally, in the longer run we must transit to a solar-fuel based energy economy. Applicants contend that this project is pertinent with respect to the first two goals. It is asserted that demonstration of an economically attractive technology for converting coal to natural gas would reduce the likelihood of supply interruptions or mitigate the consequences of disruptions should they occur. It is also argued that a demonstration of the commercial attractiveness of coal gasification would

speed up the process of shifting our energy economy from oil and gas to coal.

This proposed project will not solve all our energy problems. It has the limited goal of providing a basis for evaluating the potential role, if any, of coal gasification in the improvement of our energy situation. However, it is clear that the Nation's future energy prospects mandate the need for change. It is in the interest of everyone to encourage the evaluation of possible new energy sources that could reduce this Nation's dependence on expensive, insecure foreign supplies. Coal gasification may be one of these. If so, demonstration of the role it might play would be particularly significant to gas consumers who have a major investment in gas facilities and who might be forced in the future to convert to other less satisfactory or less secure energy sources.

#### B. Potential for a Coal Gas Industry

The record in this case concerning the issue of the need for a coal gasification industry contains a number of diverse and conflicting arguments. The project sponsors and the Department of Energy have argued that a coal gasification industry will be needed very soon. Commission staff witnesses and a witness representing the Ohio Consumers' Council argued that natural gas produced from coal will not be needed until 1990 or later.

Determining the likely need for coal gas is very difficult because it requires predicting energy markets and prices decades into the future. No individual or government agency has a crystal ball that will accurately predict the energy future for this country with absolute certainty. The Commission must make a reasoned judgment about the future potential of a coal gasification industry while recognizing the inherent uncertainty in that judgment.

When a coal gas industry will be commercially viable will be primarily determined by the future cost of oil related to the cost of gas produced from coal. For the foreseeable future, imported oil will be the marginal or variable energy source. Gas from coal will most likely be substituted for or used instead of imported oil. Thus the central issue is when, if ever, coal gas will be an economical substitute for imported oil.

As recent events in the Middle East dramatically illustrate, predicting the future supply or price of imported oil is very difficult. The record in this case contains almost no discussion of future oil prices. In any case, evidence on this issue in the record would probably be



superseded by the events in the international oil markets since the record was closed.

The record contains substantial information about the estimated cost of gas from the Great Plains project. These estimates are the best guide available to the Commission about the likely future cost of coal gas. The engineering, design and cost studies for the Great Plains project are more thorough and complete than for any other similar project and thus the cost estimates are the best available to the Commission. However, as discussed below, the uncertainty about these estimates of cost is still substantial.

Appendix A presents a comparison of the likely cost of gas from Great Plains with the cost of imported oil under various assumptions. The basic annual cost of service estimates for Great Plains are taken from the record in the proceeding, and the Commission in Appendix A has computed certain average and total cost estimates. Appendix A indicates that the life time or "lifecycle" costs of high Btu gas produced from coal may already be less than the cost of imported oil over the same period. Also if oil continues to rise in price, the economic merits of coal gasification will improve.

It does not follow that this Nation should begin the immediate construction of numerous coal gasification plants. There are major uncertainties concerning all aspects of coal gasification, particularly the cost of the gas. A commercial-size demonstration plant such as the Great Plains proposal would materially help to resolve many of the uncertainties surrounding coal gasification and help to verify that a large scale industry would be in the public interest.

The project sponsors attempted to compare the cost of gas produced from coal with the cost of electricity produced from coal. Other parties argued that this cost comparison was inaccurate in a number of significant ways. Regardless of the accuracy of the cost comparison, the Commission believes that a comparison between the cost of coal gas and the cost of electricity is not particularly important or relevant since it is unlikely that coal gas will compete for the same market or uses as does electricity. Unless domestic supplies of natural gas decline at a rate below what most observers now expect, there should be enough natural gas supplies from conventional sources to supply most high priority users for the foreseeable future. Thus, it is much more likely that coal gas will have to compete with oil in industrial markets, and that

the relevant comparison is with the price of imported oil.

The witness for the Ohio Consumers' Council and staff's witnesses compared the cost of coal gas with the cost of new natural gas produced from domestic wells. However, as discussed above, a better comparison is with the cost of imported oil. Also as price controls over natural gas are removed, one can expect gas prices to increase towards the level established by oil prices. These witnesses testified prior to the recent large increases in the international price of oil and probably underestimated both the likely future price of oil and the likely future price of natural gas. Consequently, their conclusions have little pertinence.

The sponsors provided an estimate of \$7.16 per Mcf as the cost for the gas in the first year of the operating life of the project based on the prices that will prevail in 1983 (the first year of operation).<sup>21</sup> It thus includes a substantial premium for inflation. Such a price cannot be compared to the current price of alternatives such as imported oil. Another estimate given by the sponsors, \$5.66 per Mcf, purports to be in 1978 prices but is still only for the first year of operation of the project.<sup>22</sup> Following conventional original-cost ratemaking methodology, the rate base of this project will decline over time as depreciation is accumulated, and thus the charge per unit of gas produced likewise can be expected to decline over time. By citing the unit cost for the first year of operation, the law judge and other parties have overstated the average cost of gas over the life of this project.

The more meaningful calculation presented in Appendix A estimates the average cost of gas produced from this project over its anticipated operating life based on the cost of service calculations provided in the record. This estimate of the lifetime average cost of gas from this project in 1979 prices is \$4.06 per Mcf. This price is equivalent to the cost of imported oil selling at \$23.50 per barrel, or only slightly more than the current cost of imported oil and is well within the probable cost of oil during any future period in which the Lurgi technology might be an important component of our gas supply.<sup>23</sup>

<sup>21</sup> Exhibit No. 15-A. This rate assumes that pre-operational costs of capital are recovered on a current basis.

<sup>22</sup> Exhibit No. 19-D. As discussed in Appendix A, even this lower price is not truly in 1978 dollars.

<sup>23</sup> In Appendix A, a mid-1979 imported oil price of \$20.00 per barrel is used as the starting point for comparisons with coal gas. According to the U.S. Department of Energy publication *Weekly Petroleum Status Report*, the July 1 estimated

Though this estimate indicates that the lifetime average cost of gas from the Great Plains project would be approximately 15 percent more expensive than the current cost of imported oil, many knowledgeable observers predict that the "real" cost of imported oil will continue to rise in the future. Appendix A shows that if the cost of imported oil rises at a rate 1.5 percent higher than the general rate of inflation,<sup>24</sup> consumers of energy would find gas from the Great Plains project over its life to be less expensive than the purchase of an equivalent amount of imported oil over the same period.<sup>25</sup>

It is possible that gas produced from coal gasification plants such as the Great Plains project is already more economical than purchasing imported oil over the next two or three decades. If not so at this time, coal gasification may become more attractive than imported oil by the time a significant number of plants could be constructed. In any event, the economics of coal gasification are sufficiently attractive to merit a closer examination of this supply option.<sup>26</sup>

#### C. Need for Great Plains Project

1. *Purpose of the Project.*—The goal or purpose of the Great Plains coal gasification project according to the sponsors is to demonstrate the technical, environmental and economic feasibility of producing high Btu gas from coal. Many of the objections to the construction of this project and to the proposed financing plan and tariff provisions are based on the assumption that the purpose of this project is to produce an economical supply of natural gas. As discussed hereafter, the Commission believes that the project falls within the definition of the commercial demonstration category of

average FOB price for OPEC oil was \$20.37 per barrel. By November 1, this estimate had increased to \$21.26. According to another DOE publication, *Monthly Energy Review*, the U.S. refiner acquisition cost for imported oil was \$23.09 in July. Recent press reports describe short term spot sales of crude oil at prices of \$30.00 per barrel or higher.

<sup>24</sup> According to former DOE Deputy Secretary O'Leary, it is a "near certainty" that in the late 1980's world oil production will peak and result in much higher prices for oil and other energy products.

<sup>25</sup> This comparison is based on the discounted total costs of purchasing coal gas or imported oil over the expected productive life of the Great Plains plant.

<sup>26</sup> There are other less tangible benefits of supplying our nation's energy needs with domestically produced energy rather than imported oil. The social, economic and political stresses that attend our considerable reliance on foreign energy sources were alluded to previously. These energy concerns are so well known that we need not dwell on them here. The point is that because of them, dollar comparisons undervalue the advantages of new domestic supplies.

our policy regarding research, development and demonstration expenditures. Therefore, the Commission will evaluate this project and the proposed tariff and financing provisions by RD&D criteria. These criteria or standards are different from those that the Commission would normally apply to a conventional gas supply project.

2. *Benefits and Cost of Coal Gas Demonstration.*—There is a great deal of uncertainty surrounding coal gasification. The cost of constructing coal gas plants may be much higher than now estimated. The techniques for producing gas from coal may prove less efficient than now estimated. Coal gasification could have unanticipated impacts on the environment that no one now envisions. These and other major uncertainties surround the future of the production of high Btu gas from coal and could deter those who might be potential entrepreneurs from undertaking coal gasification investments.

The basic argument of the project sponsors and the Department of Energy<sup>27</sup> is that the Great Plains project is needed to eliminate or reduce these uncertainties. Their witnesses testified that this project is necessary to demonstrate the commercial feasibility of coal gasification. For example, Deputy Secretary O'Leary stated: "We know that the Lurgi process works, but it needs to be refined on a commercial

<sup>27</sup> The Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, enacted by Congress on August 4, 1977 charges DOE, *inter alia*, with the responsibility to develop (or, more precisely to participate in the development of) a coordinated national energy policy to deal with the short, mid- and long-term energy problems of the Nation and to develop plans and the programs for dealing with domestic energy production and import shortages; to carry out the planning and support of a balanced and comprehensive energy research and development program, including assessing the requirement for energy research and development and developing priorities to meet these requirements; and to assure, to the maximum extent practicable, that the productive capacity of private enterprise is utilized in the development and achievement of the policies and purposes of the Act.

On June 1, 1978, DOE announced its intention to intervene in this proceeding in support of the proposed coal gasification project, a decision which it characterized as a key step in implementing the energy supply initiatives which DOE had developed and transmitted to Congress and which have been designed to improve the Nation's capability to commercialize new energy supply technologies. DOE participate actively in this proceeding, strongly supporting the issuance of the requested certificate authorizations. Deputy Secretary O'Leary testified that "[t]he development of such a coal gasification capability is an important element of DOE's energy policy" and that, in DOE's considered opinion, this plan promises to provide a sound demonstration of that capability, thereby establishing the technological and economic predicates for a future coal gasification industry (Tr. pp. 4087-88, 4197, 4331).

scale. We need to develop data on the construction and operating cost for Lurgi plants. We need to reduce the uncertainties regarding the commercial application of that technology." (Tr. 4090)

In a letter addressed to the Chairman of the House Committee on Interstate and Foreign Commerce, the Deputy Secretary stated that what is needed is a plant: "which is sized to demonstrate, to the satisfaction of the financial and technical community, the commercial viability of the technology, including its economics, its environmental acceptability, its technological applicability, its socioeconomic impact and such other factors as are appropriate" \* "Generally speaking, plants up to and including one-half of commercial scale" \* "can be regarded as demonstration plants." (Tr. 2653, 2682-83).

After reviewing the record, the Commission has concluded that the demonstration benefits of this project should be significant. Also, the overall net economic cost to consumers of supporting this project is likely to be small or non-existent and is certainly within a reasonable range considering the benefits they will derive.

The demonstration benefits of this project can be grouped into three categories. The first benefits it that this project will allow the financial community, government planners and the gas industry to better assess the economic and technical feasibility of producing high-Btu gas from coal. There are at present two major uncertainties in estimating the cost of coal gas. The first is the cost of construction and operation of the plant. The second is the efficiency of the plant. Higher than estimated construction and operating costs coupled with lower than estimated plant efficiency could result in a higher ultimate cost of coal gas.

Recent experience in the United States indicates that the ultimate cost of constructing large complex facilities often proves to be substantially greater than early cost estimates made during the design or planning stages.<sup>28</sup> Until a

<sup>28</sup> A study by Walter Mead cites 12 examples, including the Trans-Alaska Oil pipeline, a rapid transit system, nuclear power plants, bridges, dams, and even office buildings. (*Transporting Natural Gas from the Arctic: The Alternative Systems*, American Enterprise Institute for Public Policy Research, Washington, D.C., 1977, pp. 83-94). The projects studied on average had 121 percent cost growth after adjustment for inflation and changes in scope for the project. The Rand Corporation prepared a study for the Department of Energy which shows that 10 energy process plants have experienced an average increase in cost of 141 percent from the first available estimate to the actual cost of construction. (*A Review of Cost Estimation in New Technologies: Implications for*

coal gasification plant of the size and complexity of the Great Plains plant is constructed, estimates of the cost of producing coal gas are uncertain. The project sponsors argue that they have estimated the cost of constructing this plant with a high degree of accuracy, but this may be typical of the early optimism of supporters of large scale and complex projects. Only a commercial-size demonstration facility can provide the empirical data needed to resolve these questions.

The ultimate cost of gas from the project is also dependent on the technical success of the plant design. This plant will demonstrate whether a coal gasification plant can be built following the design proposed by the sponsor. If the plant is not able to produce gas in the manner in which its designers claim or unexpected technical problems result, the most likely outcome is that substantial sums of money and time will have to be expended to modify the design. Even then the plant may not operate at the high levels of efficiency claimed by the sponsors. The major consequences of technical problems are most often higher costs and delays in plant startup.

Although many of the individual components of the proposed plant utilize proven technology, the record in the case indicates that there is significant uncertainty related to the following:<sup>29</sup>

"(1) The various components of the plant will be put together in a particular sequence for the first time;

"(2) The methanation process of raising coal gas Btu from 350 to 900-plus Btu has not been used in this precise way before;

"(3) The sizes of some of the components are larger than have been used commercially elsewhere; . . ."

Complications or difficulties resulting from any of these factors could result in cost overruns, delay in start-up, or reduced plant efficiency with attendant implications for the long-run future of coal gasification.

In contrast to the possibility of cost overruns is the potential for increased efficiency in throughput of the plant. A witness for the project sponsors testified that there is "an excellent chance" of producing up to 151,300 Mcf per day compared to the design output of 137,500 Mcf per day.<sup>31</sup> A staff witness was less optimistic,<sup>32</sup> but plant efficiency will

*Energy Process Plants*, Edward W. Merrow, Stephen W. Chapel, and Christopher Worthing, Rand Corporation, July 1979).

<sup>29</sup> This is intended to be an illustrative list and not necessarily all-inclusive.

<sup>30</sup> Staff initial brief, p. 81.

<sup>31</sup> Tr. p. 3265.

<sup>32</sup> Tr. p. 4964.



only be known when the plant is actually operating.

Although this project will not be financed under conventional arrangements because the financing of this project is based on special tariff conditions, the project will reduce the uncertainties surrounding coal gasification and thus make easier the future financing of coal gasification projects. Investors in general and debt investors in particular are unwilling to risk sizable sums of money on projects which have many unresolved uncertainties or risks unless very high rates of return are allowed or other assurances are granted to investors. Because of the many uncertainties and unknowns surrounding the Great Plains project, debt investors have expressed an unwillingness to make the necessary commitments to the project without special guarantees from gas consumers, as are here involved, in the form of a tariff that would guarantee the repayment of debt both in the event of abandonment prior to commencement of operation and during the operating period. The economic, regulatory, technological and environmental uncertainties surrounding this project appear to make it impossible for the sponsors to obtain financing under more conventional terms. If coal gasification were a mature industry with numerous plants already in operation, with a long record of producing gas at competitive price, with proven environmental acceptability, and with a proven technology, investors would be willing to commit funds for the construction of a coal gasification plant without relying on special tariff provisions or guarantees from the government. Most private investments in this economy do not require consumer or government guarantees. The Great Plains project will be a major step forward in reducing the risk and uncertainties surrounding the coal gasification industry and should result in more conventional financing arrangements for future coal gasification plants.

The second category of potential demonstration benefits is information about the regulatory and governmental approval processes on the Federal, State and local levels. The sponsors of large, complex projects often have complained that they suffer major difficulties, delays and expense in obtaining the necessary permits at all levels of government. The sponsors of the Great Plains project will have to obtain many permits and approval from various governmental

agencies.<sup>33</sup> The difficulties or problems encountered in obtaining these approvals can only be known after the sponsors have actually attempted to obtain them. After this project has obtained the various governmental approvals required, future sponsors and financial investors in coal gasification projects will have better information concerning the institutional problems, the substantive issues and the associated costs. If there turn out to be major barriers to commercialization due to such requirements, a predicate for possible regulatory change would be established.

Third, the Great Plains project will have demonstration value in the area of environmental impacts. A number of large construction projects in recent years have been delayed or cancelled because of concern about their environmental impact. The environmental impact statements and the extensive testimony on environmental issues indicate that this project and its related facilities such as the coal mine will be acceptable from an environmental standpoint.<sup>34</sup> As discussed below, we affirm the presiding judge in his finding that the environmental impact statements for this proposal are adequate. Nonetheless, important information concerning the environmental impacts of coal gasification can only be learned through actual plant operation. For example, the record indicates that the Environmental Protection Agency has not issued air emission standards for facilities of this type (Tr. 5370), and there is a possibility that the cost of environmental protection has been underestimated. Also, the Great Plains project will demonstrate the socioeconomic impacts of coal gasification in the rural areas in which future coal gasification projects are likely to be built and the public acceptance of these projects.

The usual justification for a demonstration plant is the need to demonstrate the technical feasibility of a new process or technique. However, as previously discussed, we believe a broader focus for demonstrations is permissible if there are non-technological uncertainties that also need resolution. In today's complex world, the major uncertainties surrounding large energy projects of this type often concern ultimate cost, environmental impacts, institutional problems, the ability to finance and the governmental regulatory processes. The

Great Plains project will provide valuable information about all of these areas, as well as the technical issues related to producing high Btu gas from coal.

Any excess cost of coal gas to consumers relative to alternative forms of energy can be viewed as the cost of providing the demonstration benefits of this project. If the expected cost of gas to consumers from this project were substantially in excess of the cost of alternative forms of energy available to those consumers, then it can be said that the expected cost of this demonstration project would be high. Alternatively, if the expected cost of the gas from this project were less than the cost of alternative forms of energy, then the demonstration benefits of this project will be expected to be provided at no cost.

Because one of the major uncertainties that this project will help to resolve is the ultimate cost of producing high Btu gas from coal, it is impossible to be definitive about the ultimate cost to the consumer of this demonstration at this time. The estimates in the record in this proceeding were provided by the project sponsors, and they may prove to be optimistic if the project experiences cost overruns of the magnitude experienced by many other large energy projects.

On the other hand, the cost of this gas, even assuming substantial cost overruns, may be less than the cost of alternative forms of energy if the price of oil continues to rise rapidly. As discussed in greater detail in Appendix A, the "lifecycle" cost of gas from this project based upon the capital and operating cost estimates provided by the sponsors will be less than the "lifecycle" cost of imported oil over the same period if the price of imported oil rises at a rate faster than 1.5 percent per year in real terms. In other words, the price of oil must increase at a rate 1.5 percentage points higher than the general rate of inflation. Such future prices are sufficiently probable that the cost of the demonstration benefits of this project, as measured by the difference between the cost of coal gas and the cost of imported oil, will likely be small. It is unlikely that the support of this project by consumers of natural gas would constitute a major cost burden.<sup>35</sup>

<sup>33</sup> Even if the plant were to encounter serious cost overruns, environmental problems or technological difficulties, it is unlikely that the plant would be abandoned after substantial sums of money have been invested. In the event of such catastrophic developments, the most likely outcome would be that the plant would still be completed but at a greater cost in order to overcome the technical or environmental problems encountered during

Footnotes continued on next page

A final issue concerning the demonstration benefits and cost of this project is the size of the proposed project. A staff witness argued that most of the potential demonstration benefits could be realized from a plant half the size of the proposed Great Plains project. (Tr. 5308). The New York Commission also argues on behalf of a requirement reducing the plant to one-half the size proposed. Although most of the technical demonstration benefits associated with the integration of the various components into a smoothly functioning plant could be achieved with a smaller scale plant, only a large project can adequately demonstrate the cost of producing coal gas, the regulatory requirements, the environmental impacts, and the financing requirements for coal gasification facilities. A demonstration project much smaller than the one here proposed would provide far fewer demonstration benefits. Accordingly, we will not require a down-sizing of the project.

**3. Environmental Acceptability.**—In addition to the other more direct costs discussed herein, the Commission must consider the probable environmental impact of this project.<sup>36</sup> The Federal agencies<sup>37</sup> having major involvement in the regulation and approval of this project recognized that their individual

Footnotes continued from last page  
construction. (See, however, our discussion regarding the Commission's reservation of the right to direct abandonment and of the Project Monitoring System, *post*). The incremental cost to completion after substantial sums have already been spent on construction would probably impel completion and thus gas would be produced even though at a cost higher than predicted at the outset. Because the risk of abandonment during construction is small, the potential cost to consumers in the event of abandonment should not be given large weight in the evaluation of the benefits and cost of this demonstration project.

<sup>34</sup> Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*, 83 Stat. 852, Pub. L. No. 91-190 (1979)) requires in pertinent part that all agencies of the Federal government shall:

"(C) Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

<sup>37</sup> Federal Energy Regulatory Commission; Bureau of Reclamation of the Department of the Interior; and Rural Electrification Administration, Department of Agriculture.

and collective actions constituted a "[m]ajor Federal action significantly affecting the quality of the human environment \* \* \*" and prepared a series of final environmental impact statements (FEIS) which assessed the site-specific effects of the coal mining operation, steam electric plant, coal gasification plant and gas pipeline on the physical, biological and socioeconomic environments during construction and operation of these facilities.<sup>38</sup> The Department of the Interior, acting as "lead agency", prepared the FEIS on the gasification project as a whole. This FEIS was made a part of the record during the hearings. However, since the Interior FEIS did not assess the environmental impact associated with the natural gas pipeline system facilities needed to receive and transport the commingled gas in the interstate market, the FERC staff prepared a supplement to that FEIS which it sponsored and introduced into the hearings.<sup>39</sup> Staff presented witnesses who testified on both FEIS. No intervenors participated in the hearings on the environmental issues. In his initial decision, the judge found that the adverse environmental consequences of the project had been identified and that the requirements of the National Environmental Policy Act had been fulfilled.

The U.S. Department of Agriculture FEIS on the Antelope Valley (Basin Electric) Station, entered as an item by reference, had been analyzed previously by staff which submitted comments on the draft version on November 18, 1977. In addition, a draft Environmental Impact Study prepared jointly by the Department of the Interior (Bureau of Land Management) and the State of North Dakota entitled "Draft West Central North Dakota Environmental Impact Study on Energy Development" also was entered into the record. This latter document evaluates the impact of the Federal coal leasing program in the environs of the proposed action.

The major environmental impacts resulting from approval of this action can be summarized as (a) permanent changes in the land surface and a restructured ecology of 12,500 acres due to the removal of coal; (b) degradation of air quality due to the emission of air pollutants from the coal gasification plant and Basin Electric's Antelope

<sup>38</sup> FEIS, *ANG Coal Gasification Company (ANGCCG), North Dakota Project*, Upper Missouri Region, Bureau of Reclamation, Department of the Interior, (INT FES 78-1), January 20, 1978.

<sup>39</sup> Supplement to the USDI FEIS, *ANG Coal Gasification Company North Dakota Project*, Federal Energy Regulatory Commission (FERC/EIS-0001), April 1978.

Valley power plant; (c) degradation of surface water and alteration of ground water characteristics due to the construction of facilities and the operation of the coal mine; and (d) socioeconomic effects due to the influx of large numbers of construction workers and plant operations personnel into a rural area.

The reclamation plan proposed for regrading and restoring the area that will be stripmined is designed to return the land to productive, albeit modified usage. Enforcement is to be the responsibility of the North Dakota Public Service Commission. The gasification and Basin Electric plants will be required to operate in compliance with both Federal and State Ambient Air Quality Standards, Significant Air Deterioration Limits and New Source Performance Standards. Comparing emissions from the entire project, the majority will be produced by the power plant rather than the gasification plant. It may be noted that our action is not controlling on construction of the Antelope Valley generation station since REA has stated that the station will be built even if the Great Plains sponsors do not proceed with their project.<sup>40</sup>

Surface water effects will be temporary and generally limited to the period of plant and pipeline construction; ground water effects will be tracked by a monitoring program. Effects on social systems and community infra-structures will be significant, considering the large number of workers and their families that will move to the area to build and operate the facilities. A phased-construction plan has been prepared to reduce the number of new people in the area at any given time during the construction phase. This plan, coupled with impact funds, will mitigate the social impact. However, some permanent social change will be unavoidable.

Staff made several recommendations regarding alternative routing of the product and natural gas pipeline in its Supplement to the Department of Interior's FEIS (Section I). We would support those recommendations dealing with the alternative placement of the Great Lakes looping and the recommendation to substitute a 25-mile SNG line to the proposed Northern Border Pipeline Company line (Docket No. CP78-14) in place of the proposed 365-mile long SNG pipeline. The latter recommendation, in particular, would seem to have significant environmental

<sup>40</sup> FEIS, *Antelope Valley Station*, U.S. Department of Agriculture (USDA-REA-EIS (ADM) 77-6-F), May 1978 (Summary Sheet).



advantages. In addition to elimination of the SNG line across North Dakota, it could eliminate 245 miles of looping along Great Lakes and Michigan-Wisconsin's system, with savings for both ratepayers and the environment. From an engineering and systems operation standpoint this is a feasible and attractive alternative.

However, as discussed in the later section dealing with the Great Lakes application, we have concluded that certificates for transportation of the coal gas or commingled coal-natural gas should not be issued at this time. Consequently, our statements regarding the apparent advantages of staff's recommendations with regard to the routing of the lines required to transport the coal gas should be considered only in the nature of observations for the future consideration of the respective applicants. Also, we have some concern that the timing of these two projects (Great Plains and Northern Border Pipeline) may not be sufficiently synchronistic to permit this approach. A more accurate evaluation of the validity of this option will be possible when the date for the commencement of operations by Great Plains is more certain, while still leaving sufficient time for approval and construction of either of the SNG lines.<sup>41</sup>

The environmental documentation presented during these proceedings has been exhaustive and we are satisfied that in conjunction with the extensive testimony given, all of the significant environmental impacts have been identified and assessed, that a reasonable range of alternatives had been considered, and that a concerted effort has been made to develop and recommend measures to mitigate any adverse environmental effects. On this basis, and assuming compliance with all related Federal, State and local laws, we find that this coal gasification project can be constructed and operated in an environmentally acceptable manner and will provide a reasonable demonstration of the environmental acceptability of the entire coal gasification process.

We make these findings cognizant of the questions about environmental uncertainties pointed out in staff's briefs. As discussed previously, one of the fundamental arguments that this project is in the public interest is the need to clarify and learn more about the environmental implications of a major coal gasification industry. The record is clear that the likely environmental impacts are such that proceeding with this project is appropriate. We are also aware that the nature of the project

demands continuous evaluation of environmental matters. We therefore adopt the judge's findings that the requirements of NEPA have been fully met and that the sponsors are obliged to comply with the requirements of Chapter 4 of the FEIS (Exh. No. 114).

#### D. Who should support the Great Plains Project?

1. *Gas Research Institute.*—The Gas Research Institute (GRI) is the only nationwide gas research organization which has broad-based support.<sup>42</sup> GRI was formed in 1976 to expand the gas industry's research and development activities. It Articles of Incorporation state that it is organized "[e]xclusively for scientific and educational purposes . . . in the general areas of production, transmission, storage, distribution, utilization and conservation of natural and manufactured gases and related products, and in the analysis, demonstration and dissemination of results derived from such research and development programs. . . ."

GRI is a planning and management organization which engages in RD&D activities through project contracts with laboratories, universities and others. It is not designed or financed "either to organize or manage a project of the nature, scope or size of Great Plains. Consequently, this organization cannot be considered as a source of support for this project.

2. *Taxpayers v. Gas Consumers.*—The pivot of the recommended rejection of the project in the initial decision was a judgment that it was inappropriate to place the costs of the project on the shoulders of gas consumers rather than the general taxpayers. The initial decision and exceptions thereto place before us the issue of whether it is reasonable for consumers of approximately one-third of the Nation's interstate natural gas to provide the guarantees and support that are necessary for this project.

Many of the parties in the proceeding have argued that this burden placed on a minority of natural gas consumers is unfair and inequitable. Instead, they contend that the general taxpayers, through the Federal government, should provide any special support that this project requires. The law judge held that

<sup>42</sup> Two other groups having essentially national representation, The American Gas Association and the Interstate Natural Gas Association of America, are both non-profit trade associations of companies engaged in the natural gas business and do not themselves directly engage in industrial activities or operations.

<sup>43</sup> Initial membership payments to GRI were in the range of \$2,000 to \$10,000 for each participant. Its 1979 budget for all operations was \$39.9 million, with an increase to \$57.9 million in 1980.

"It would simply be inequitable to have perhaps one-third of the country pay all the costs of the project, including paying for the modest volumes of coal gas to be obtained if the project is successful, while the benefits of learning whether or not it is practicable to manufacture and market coal gas would inure to the nation as a whole." "He concluded that the Federal government should provide loan guarantees to repay the investment in the project in the event of abandonment. In addition, he argued that the government should pay for part of the cost of the gas produced by the project equal to the difference between the cost of the coal gas and the cost of new natural gas supplies from other sources."<sup>44</sup>

One goal of regulation is to try to achieve a matching of the benefits to cost, i.e., to try to assure that the beneficiaries of a project or policy pay the cost of that policy or project.<sup>45</sup> The goal of a perfectly fair and equitable allocation of the benefits and cost of research, development or demonstration projects is very difficult to achieve for a variety of reasons. The benefits of research and development often cannot be predicted with certainty and, as a result, it is almost impossible to ascertain which individuals in society will benefit therefrom. As an example, military and National Aeronautics and Space Administration research often have resulted in technological breakthroughs that have wider application in commercial enterprises. Also, the benefits of research and development can occur decades (or even centuries) after the research and development activity. Society today is still reaping enormous benefits from scientific research, development and demonstration undertaken years ago.

Because of the difficulty in predicting the results of specific research, development and demonstration activities or the beneficiaries of that research, a large portion of RD&D activities in this country is paid for by the Federal or state governments from tax revenues. The parties who oppose the financing plan proposed by the

<sup>44</sup> Initial decision, p. 5.

<sup>45</sup> *Id.*, pp. 28-29.

<sup>46</sup> One theoretical method of providing a matching of the benefits and costs for the Great Plains project that would be close to ideal would be to set aside the excess cost of the coal gas compared to imported oil in a special fund to be accumulated and paid for by future consumers of coal gas when coal gas has developed into an economical industry. The equitableness of this procedure is that it would require those who benefit from a coal gasification industry to pay for the research, development and demonstration cost of developing that industry. Such a scheme, however, seems excessively complex and theoretical for consideration in connection with the present proposal.

project sponsors argue that similar government support should be obtained for the project. However, the fact that government has often supported RD&D activities with tax revenues does not necessarily imply that this is the only fair or equitable method of supporting research and development activities. Government support is simply a practical way to pay for many RD&D activities because of the inherent difficulty in identifying the beneficiaries of the particular project and requiring them to pay the costs.

An argument might even be made that general taxpayer support of a project such as the one proposed would not be fair or equitable. Gas consumers have a substantial investment in the gas transmission and distribution system as well as gas-using equipment. Gas is a premium fuel with special advantages. While a new gas supply source would benefit everyone because of the relationships among the various components of our energy economy, gas consumers would receive special benefits. On this basis it could be argued that gas consumers, not taxpayers, should shoulder the costs of the additional supply.

The benefits of the Great Plains Coal Gasification project will accrue widely to present and future consumers of both oil and natural gas. If coal gasification does prove to be an economical source of energy compared to the primary alternative of imported oil, then gas from coal can replace our own depleted reserves of natural gas and thus avoid requiring natural gas consumers to switch to more expensive imported oil. Increased supplies of gas transported through existing pipelines will allow the fixed costs of these facilities to be spread over more units of throughput, thus reducing the unit cost of all gas. Alternatively, gas from coal may be used in the future to expand natural gas markets and allow current consumers of oil to switch from higher cost oil to lower cost gas produced from coal.

Also, as indicated earlier, the development of secure domestic energy sources will reduce the cost of future disruptions in imported oil supplies. An increase in secure domestic energy supplies could result in a reduced strategic oil storage program and thus reduce the cost to the general taxpayer of that program. The development of additional domestic energy supplies will tend to reduce upward pressure on world oil prices, benefiting present and future oil consumers and also benefiting gas consumers to the extent that the price of gas will track the price of oil.

Deputy Secretary O'Leary stated that he preferred to think of the coal gasification industry as a national insurance policy. In his view, the development of a capability to produce natural gas from coal on a large scale would be available for prompt utilization in the event that large increases in future oil prices made coal gasification economical.<sup>47</sup> This again would benefit oil consumers who would then be able to switch to lower cost coal gas.

In a sense, comparison of the proposal before us with the alternative advocated by the initial decision is academic because Congress has not chosen to provide taxpayer support for a commercial-size demonstration of coal gasification. There is presently, as there has been from time to time, interest in Congress in such programs. Nonetheless, the record indicates that Deputy Secretary O'Leary believed that the time necessary to obtain loan guarantees or other government support would be approximately two years.<sup>48</sup> Even then it may not be possible to secure such support for the project.

The project sponsors have promised to restructure the financing of the project if government support for high cost energy projects becomes available in the near future.<sup>49</sup> If such general support is made available, we shall require that the financing of the project be restructured commensurately.

We continue to support the general principle that individual gas companies or consortia of gas companies should continue to support research, development and demonstration of new gas technology, even in the absence of Federal support, because of the desirability of a diversified approach to RD&D. To have all research concerning natural or synthetic gas controlled and supported by one or two organizations, for example, the Gas Research Institute or the Department of Energy, can have serious disadvantages. It is very difficult to predict what avenues of research will be the most productive or have the greatest payoff. If many agencies or organizations are able and willing to pursue the avenues of research that they believe to be the most advantageous, then a greater variety of research projects and different points of view are likely to receive support; and the possibility that a valuable new technology is overlooked or not developed is reduced. Thus, the Commission believes that worthwhile gas research programs undertaken by a

<sup>47</sup> Tr. pp. 4195; 4212.

<sup>48</sup> Tr. pp. 4273-76.

<sup>49</sup> Great Plains brief on exceptions, p. 16.

variety of organizations, including individual gas companies and *ad hoc* consortia supported by the customers of those companies are in the public interest.

Finally, although the Great Plains project could impose a cost burden on the ratepayers of the five sponsoring companies if the cost of the coal gas produced exceeds that of its alternatives, the ratepayers of these and other companies have and will continue to support RD&D efforts or projects whose purpose is to obtain gas supplies from supplementary and relatively expensive sources. We do not believe that the ratepayers of these same five companies should be asked, in the future, to be the sole support of other coal gas demonstration projects or other large demonstration and research projects.

In sum, the law judge may be correct in his determination that since the project eventually may benefit the entire country, the costs would best be shared by all potential beneficiaries.<sup>50</sup> The matter is academic, however, because we do not have before us a proposal involving all taxpayers or all gas ratepayers and that option is not in our power to order. Applicants have expressed their willingness to restructure the financial aspects of the project if Federal assistance becomes available. We will hold them to that position by requiring the submission of a revised financing plan if and when any financial assistance becomes available. However, unless and until governmental support is available, we must address the proposal before us.

The law judge concluded that denial of the applications was preferable to permitting the project to proceed under the existing sponsorship. We believe this project is consistent with the public convenience and necessity and we are prepared to extend certification on the basis of the sharing of costs as will occur under the existing sponsorship contingent upon appropriate tariff and financing arrangements.<sup>51</sup>

3. *Sponsorship Proposal.*—The applicants contend that the project meets the requirements of the public convenience and necessity test and it is reasonable that the costs of the project should be provided by the gas consumers served by the participating

<sup>50</sup> Though, as noted, valid arguments to the contrary can be raised.

<sup>51</sup> In a sense, the importation of liquefied natural gas as approved by our predecessor agency, the Federal Power Commission, in its Opinion No. 552, also could be viewed as a demonstration of energy technology, but the costs involved were supported by the consumers served and were not assigned to the Nation's taxpayers.



pipeline companies.<sup>52</sup> These are the consumers that will directly benefit from the operation of the plant and from the additional gas supplies that will result therefrom. Quantitatively and geographically they represent a sizable portion of the gas consuming public. The area to be served by the plant is also the area of our country that potentially will reap the greatest benefit from additional gasification plants and be most directly effected by future implementation of this technology. Benefits of national significance may not be evident until subsequent gasification production units are placed in service, at a time that may well be late in the next decade.

Wider sponsorship would have been preferable to provide a greater dispersion of costs. Nevertheless, it is our opinion that the existing sponsorship is adequate to permit inclusion of the costs of this project in the rates of the sponsoring pipeline companies as RD&D costs, subject to the provisions of this decision. The key consideration is not ideal equity as a result of a perfect matching of costs and benefits but, rather, whether there is a sufficient sharing of the risks and responsibilities such that no single customer will be required to bear unreasonable costs or risks.

Accepting for present purposes the figure of \$4.06 per Mcf which we have estimated as the likely cost of the coal gas produced from Great Plains over the life of the project (Appendix A) on the basis of the figures in the record, and including the anticipated production volume of 125,000 Mcf per day into the total sales made in 1978 by the five sponsoring Customer Pipeline Companies, our computations indicate that the average price of all sales would have increased by about 2.60 cents per Mcf. Furthermore, assuming the "worst case" based on the cost estimates in the record, namely abandonment of the project at the conclusion of construction and without any production, the cost to the resale customers of the sponsoring pipelines on a one year payout basis would be 26.817 cents per Mcf. On a five year amortization for debt and equity investment, and including interest at 11 percent on the unamortized debt balance and an illustrative 15 percent return on outstanding equity, the annual

<sup>52</sup> The initial decision seems to imply that a significant defect of this project is that only one-third of the Nation's natural gas ratepayers would be involved. However, since the judge immediately moved to the conclusion that the taxpayers should support the project, he did not reach the question whether, assuming ratepayer support was found appropriate, support by the five sponsoring pipelines was adequate. See, however, our discussion of rate of return allowed on equity, pp. 70-75, *post*.

cost burden would range from 6.0 to 8.5 cents per Mcf.<sup>53</sup>

This project will be supported by consumers of approximately one-third of the Nation's interstate gas and any burden will be small and will be justified by the benefits to those consumers. We hold this to be satisfactory for a finding that there is a sufficient sharing of costs and benefits so that, assuming the other requirements are met, the public convenience and necessity will be served by granting the requested certificates.

As discussed in the initial decision, the final three sponsors—Columbia Coal, Tenneco SNG and Transco Coal—did not join the project until 1978, after two series of hearings had been conducted and it had become apparent, after discussions with DOE officials, that additional sponsorship was necessary to spread the costs and risks of the project. By the terms of their agreement, those latter three sponsors are passive and are not required to participate actively in the project or to share in its costs until the project has been fully authorized. Finally, even after all regulatory authorizations are secured, the three passive sponsors, as well as the active sponsors, ANP and PGC, are free to withdraw from the project.<sup>54</sup>

The existing scale of sponsorship and the diffusion of costs and risks attendant thereon is fundamental to our certification. Accordingly, if the certificate tendered herein is accepted, we shall require as a condition the continued involvement of the five sponsors. Any withdrawal by a sponsor shall be subject to prior approval by the Commission.

#### *E. Threshold Public Convenience and Necessity Determination*

**1. Commission's RD&D Policy as Basis for PC&N Finding.**—The applicants argue that the project satisfies the Commission's "commercial feasibility" test for treatment of the proposed facility as a Research, Development and Demonstration (RD&D) Project.<sup>55</sup> The Department of Energy argues that the project, if not within the letter of our RD&D policy, is in accord with the general spirit and objectives of that policy. This question is important because the Commission has stated that it stands ready to give special treatment for RD&D investments different from that afforded to other types of pipeline investments and

expenditures.<sup>56</sup> The Commission's RD&D regulations envision rate filings under Section 4 of the Natural Gas Act rather than certificate applications under Section 7 as are involved here, but if this project falls under the RD&D rubric the case for treatment different from that accorded ordinary pipeline investments is stronger.

Both the applicants and DOW argue that the "demonstration" value of the project justifies its certification (and, thus, of course, a finding that the project and the proposed financing plan are in the public convenience and necessity). The sponsors' principal policy witness, Mr. Arthur R. Seder, Jr., stated:<sup>57</sup>

"[T]his project has now become truly a demonstration of the technological, economic and environmental viability of the coal gasification process. Since no single member of the Great Plains consortium will receive significant volumes of gas from the plant it is clear that the motivation of these consortium members—and the public interest justification for its construction—is to provide concrete evidence to the financial community and the public that a commercial sized coal gasification plant will produce gas at a rate of production, at a price and with environmental consequences that will lead to the construction of many more gasification plants in the years to come."

Some participants, including the New York Commission and staff, seem to argue that the proposed Mercer County facility is not a proper RD&D project since it embodies an established technology and the application of this technology to the lignite reserves dedicated to this project or to other domestic coal reserves could be tested in a much simpler and less expensive fashion.

As discussed in an earlier section of the Order, there are a number of technical uncertainties surrounding the design, construction, and operation of this plant. However, the Commission does not believe that the sole or primary purpose of this project is to demonstrate the technical feasibility of the Lurgi process for coal gasification. Instead, this project will provide valuable information about the economic, commercial, regulatory and environmental feasibility of coal

<sup>54</sup> Order No. 483, *Research and Development, Accounting and Reporting*, Docket No. R-462, 49 FPC 1054 (1973); *Research Development and Demonstration; Accounting; Advance Approval of Rate Treatment*; Docket No. RM 76-17, Notice of Proposed Rulemaking issued June 17, 1976; Order No. 566, *Order Prescribing Changes in Accounting and Rate Treatment for Research Development and Demonstration Expenditures*, Docket No. RM 76-17, issued June 3, 1977, rehearing denied August 3, 1977.

<sup>57</sup> Tr. p. 3176.

<sup>53</sup> See Appendix B for computations.

<sup>54</sup> Exh. No. 119.

<sup>55</sup> Initial brief, pp. 25-27.

gasification. Therefore, the issue is whether the Commission's RD&D policy should be limited to evaluations of new technology or new technological issues, as some of the parties to this proceeding imply, or whether the "demonstration" concept can properly be extended to a broader set of concerns as the applicants and DOE suggest.

Proper evaluation of this question requires review of Federal Power Commission and Federal Energy Regulatory Commission policy towards RD&D. This policy has evolved slowly over years, largely in response to the need to deal with the reduction in the discovery of new conventional sources of natural gas and the increasing costs associated with substitute supply sources. The original scope of cognizable research and development (RD&D) activities was set in Order No. 322 issued May 26, 1966, 35 FPC 820, and was extremely limited. By a Notice of Proposed Rulemaking issued on December 13, 1972,<sup>58</sup> the Commission proposed various changes to Order No. 322 in order to broaden the definition of RD&D (specifically, to expand the types of activities qualifying for the special rate and accounting treatment). The Commission explained that it "[b]elieves that research and development is an essential part of the national energy policy demanding a high priority of industry and government leadership."

The responses to the Notice and subsequent evaluation by the Commission led to the adoption of Order No. 483 to encourage a wider range of RD&D. The definition of RD&D included expenses incurred in the "design, development or implementation of . . . a plant process [and] amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternative fuel sources for example, an experimental coal gasification plant . . .)"<sup>59</sup> but did not include demonstration projects.

It was not until the adoption of Order No. 566 on June 3, 1977, that the existing definition of RD&D was expanded to recognize the participation in full scale demonstration facilities, under certain conditions, as justifying special consideration and treatment. In the Notice of Proposed Rulemaking<sup>60</sup> which preceded and formed the basis for Order No. 566, the Commission emphasized the need for a significantly expanded national energy RD&D program as part of the solution to the problem of an

<sup>58</sup> 37 Fed. Reg. 27640.

<sup>59</sup> 49 FPC at p. 1059.

<sup>60</sup> Docket No. RM76-17, issued June 17, 1976, 41 Fed. Reg. 25914.

increasing imbalance between energy supply and demand and stated:<sup>61</sup>

"Many of the energy technologies under serious investigation in the nation's R&D are not only known to be technically feasible but also are in operation on a laboratory scale, or on a working scale, as in a pilot plant. However, uncertainty with regard to the economics of commercial-scale operation is, in many cases, so great as to preclude normal methods of financing the construction of the first, or the first several commercial-scale facilities. Therefore, because of the Nation's need for rapid development of new energy technology, the construction of commercial-scale demonstration facilities must be regarded as a vital part of the national R&D program." (emphasis supplied)

Thus, the revised definition of RD&D as stated in Order No. 566:

" . . . includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and economically feasible operations are verified. . . . The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible . . ."

It is important to note that the thrust of the just quoted excerpts is that RD&D treatment will be accorded not only to facilities that test the technological soundness of the engineering concepts embodied in the facility but also to the economics of commercial-size plants. That is, it is not only whether the technology "works" in an engineering sense but also whether it is commercially viable as a potential source of supply.

The law judge concluded that Order No. 566 " . . . says nothing whatever as to what constitutes the public convenience and necessity under Section 7(c)-(e) of the Natural Gas Act." <sup>62</sup> We believe this is an unduly restrictive application of Order No. 566 in these circumstances; as a minimum Order No. 566 stands for the Commission's willingness to consider permitting ratepayer support of demonstration projects to advance our knowledge about new sources of gas.

Finally, in denying an application by California and the California Commission for rehearing of Order No. 566 with regard to the verification of commercial feasibility, the FPC stated that "[C]ommercial feasibility refers to a determination that a technology proved

<sup>61</sup> *Id.*, mimeo. p. 6.

<sup>62</sup> Initial decision, p. 27.

in a pilot plant will be operable on a commercial scale as well. For our purpose, it does not refer to whether the cost of the final product will be low enough to make it competitive with other processes now, but it does refer to an evaluation that the cost of the final product will be reasonable at some future date. It is anticipated that the need for verification will require the construction of at least one demonstration plant."<sup>63</sup>

We agree with the project's sponsors that the present proposal is consistent with Order No. 566 and the relevant planning guidelines. Order No. 566 expressly includes "expenditures for the implementation or development of new and/or existing concepts until operations become technically and economically feasible." Even if the project is unsuccessful in producing pipeline quality gas within a reasonable range of the prices forecasted, significant benefits will nevertheless accrue as a result of the knowledge to be gained in the project's construction and, more importantly, in establishing whether coal gasification is or is not a viable energy alternative, either in the long-run or as a stop-gap measure capable of being relied on pending the development of other more long-term energy sources such as solar power.

We believe that the demonstration aspects of the Mercer County project are important to the national effort to develop supplemental energy sources. However, consistent with Order No. 566 (mimeo pp. 11-12), we shall evaluate this project on its own terms and shall attach certain conditions to ensure that the project is consistent with the public interest. As discussed more fully immediately below, the public convenience and necessity standard of section 7(c) of the Natural Gas Act is sufficiently broad to permit certification of the proposal as conditioned by us.

Viewed in this light, applicants and DOE make a reasonable argument when they state that the proposed Mercer County facility is within the definition of a demonstration project as included in the Commission's basic RD&D concept. There are many questions about the Lurgi process that are crucial to determining whether it is commercially acceptable. Staff, for example, challenges the view that the results of the project will be acceptable. These questions raise again issues that have been debated for years. Data from an actual, commercial-size facility would do much to resolve them. In the absence

<sup>63</sup> Order Denying Application for Rehearing of Order No. 566, Issued August 3, 1977, mimeo. pp. 4-5.



of a demonstration they are likely to be debated for many more years with the Nation continuing to need to know as much as possible about all reasonably potential supplemental energy supplies.

While supporting the concept of large scale demonstration plants funded by RD&D organizations, the FPC also made clear that<sup>64</sup>

"[w]e will not tolerate a proliferation of simultaneous large scale demonstration plants in the name of RD&D to be funded by natural gas consumers if there is major duplication of new technology. These plants require enormous sums of capital and we must be cognizant of the impact of each proposal on the public as well as the cumulative impact on the public. We therefore urge the companies we regulate to proceed with caution in proposing the construction of large scale demonstration plants that will be funded by natural gas consumers of this country."

We reaffirm this policy and note its particular relevance for the Lurgi process.

**2. The Public Convenience and Necessity Standard.**—As noted, *supra*, the Commission is requested by the applicants to find, consistent with Section 7 of the Natural Gas Act, that the public convenience and necessity would be served by granting certain specific certificate and rate proposals. The question of whether the public convenience and necessity permits the certification of a proposed jurisdictional transaction has been viewed by the Commission, from the outset of its administration of the Natural Gas Act, as involving broad avenues of inquiry into the interest of the public in the particular proposal. Thus, for example, in *Kansas Pipe Line & Gas Company, et al.*, 2 FPC 29 (1939), one of earliest reported decisions interpreting Section 7, the Commission stated:

"We are aware that the term 'public convenience and necessity' is not susceptible of precise definition. Judicial decisions interpreting the phrase are in conflict. We believe that any definition of the term must fundamentally have reference to the facts and circumstances of each given case as it arises.

"We do not view the term as meaning indispensably requisite. Rather we view the term as meaning a public need or benefit without which the public is inconvenienced to the extent of being handicapped in the pursuit of business or comfort or both—without which the public generally in the area involved is denied to its detriment that which is enjoyed by the public of other areas

similarly situated. We do not construe the phrase to mean an absolute necessity but rather a reasonable necessity having a regard to the convenience of the public in the area involved and its welfare. In determining what is the 'public' whose convenience and necessity are the subjects of inquiry, we have conceived of that public as the public which exists in the area or territory proposed to be served, not merely the applicants nor those persons or towns who believe they would benefit from the proposed construction."<sup>65</sup>

Similarly, in *Commonwealth Natural Gas Company, et al.*, 9 FPC 71 (1950), involving a major pipeline extension to introduce natural gas into the Tidewater area of Virginia, the Commission—quoting in part from an earlier decision granting a certificate for a major interstate pipeline—held:

"Public convenience and necessity comprehends a question of the public interest. Or stated another way: Is the proposal conducive to the public welfare? Is it reasonably required to promote the accommodation of the public? The public interest we referred to has many facets. To the limit of our authority under the law our responsibility encompasses them all."<sup>66</sup>

The wide scope accorded by the Commission to the considerations relevant to a determination of the public convenience and necessity has been set out in numerous decisions. Indeed, the matter is now so commonly accepted that recent references are infrequent. Judicial interpretations of the legislative standard, both in the Natural Gas Act and in other regulatory enactments, are consistent with the Commission's interpretation in the instant matter. The courts have long held that the "public convenience and necessity" is not a phrase of fixed content to be mechanically applied regardless of the diversity of facts presented in particular cases. On the contrary, the statutory standard encompasses many considerations which in number and importance vary as the circumstances of the cases vary. Accordingly the standard of "public convenience and necessity" must be interpreted in right of the facts of each case, giving it a scope consistent with the broad purpose of the organic statute and applying it in pursuance of the policies the Natural Gas Act is intended to serve.<sup>67</sup>

<sup>64</sup> 2 FPC at p. 56 (citations omitted).

<sup>65</sup> 9 FPC at p. 85.

<sup>66</sup> *U.S. v. Detroit Navigation Co.*, 328 U.S. 236, 241 (1945); *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 216 (1943); *I.C.C. v. Railway Labor Executives Ass'n*, 315 U.S. 373, 376-377 (1942); *F.C.C. v. Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940);

A general example of this latitude may be helpful. In the past, when natural gas supplies were relatively abundant, the public convenience and necessity was applied strictly in the sense of specific, long-term reserve estimates being required before construction of a pipeline into a new production area would be certificated. Because on a national scale gas was readily available, the appropriate inquiry was whether the specific reserves to be attached could, in effect, adequately support the cost of the new pipeline. In this way, the natural gas consumers served by the interstate pipeline system were fully protected and the ample gas supply enjoyed by the Nation was delivered at the lowest possible cost.

Later, the national gas supply situation worsened, and a legitimate concern developed as to whether interstate consumers could be adequately supplied, even at substantially higher prices. In these circumstances, the Commission properly shifted the emphasis of its section 7(c) analysis. Rather than require long-term reserve estimates, the commission in appropriate circumstances certificated pipelines into new production areas where specific reserve data of the type required in the past were not yet available. Responding to the need to encourage exploration and development of new reserves, the Commission recognized and applied a somewhat different public convenience and necessity standard, one which would serve the present public interest of encouraging supply, while at the same time attempting to protect consumers as to price by appropriately conditioning the certificates issued. See, for example, *HIOS*, Docket No. CP75-104, and *Cities Service*, Docket No. CP76-500.

The proposal before us is similar to such cases in that its certification would be based, in substantial part, on the determination that the public convenience and necessity requires the commercial demonstration of coal gasification. The Mercer County project will aid the public interest by providing data as to the availability of this process as a supplemental energy source. Just as certain pipelines have been certificated, at least in part, for the reason that they would encourage exploration and development in new production areas,

*Rodio Comm'n v. Nelson Bros.*, 289 U.S. 266, 285 (1933); *Chesapeake & Ohio Ry. v. U.S.*, 283 U.S. 35, 42 (1931); *City of Pittsburgh v. FPC*, 237 F.2d 741, 754-755 (CA DC, 1956); *National Coal Ass'n v. F.P.C.*, 191 F.2d 462, 467 (1956); *National Coal Ass'n v. F.P.C.*, 191 F.2d 462, 467 (CA DC, 1951); *Scripps Howard Radio v. F.C.C.*, 189 F.2d 677, 680 (CA DC, 1959), cert. den., 342 U.S. 830.

the proposal here may lead to the construction of numerous coal gas plants resulting in a significant additional amount of gas available to consumers.

We have considered, and our decision here reflects, not only an evaluation of the specific component elements of the project advanced by the applicants but also—and unquestionably of even wider significance—the potential importance of the project in evaluating the feasibility of converting the Nation's abundant coal reserves into pipeline quality gas.

In these circumstances, we find that the public convenience and necessity is served by the issuance pursuant to Section 7(c) of the Natural Gas Act of a properly conditioned certificate authorizing the proposal before us.

#### F. Is the Basic Finance and Tariff Proposal Reasonable?

**1. Overview of Financing Plan.**—Great Plains proposes to finance the construction of the coal gasification project on a "project financing" basis and thus the major security for the investors would be the flow of income to the project resulting from charges to gas consumers as determined by the project tariff and the tariffs of the sponsoring pipeline companies purchasing and reselling the synthetic gas. We must determine whether the financing plan and the related tariff provisions proposed<sup>68</sup> are reasonable for this project.<sup>69</sup>

The project sponsors have proposed tariff provisions that would guarantee the debt investment in the project under all circumstances and the equity investment in the project in most circumstances. Staff has opposed

<sup>68</sup> The term "tariff" refers to the Funding Agreements and the Gas Purchase Agreements submitted by the sponsors into the record of this proceeding.

<sup>69</sup> Despite its overall strong support for this project DOE did not recommend blanket approval of every aspect of the sponsor's proposal; to the contrary, DOE made a point of supporting only those conditions "[i]ntended solely to assure the success of this particular project." Thus, it took no position with respect to any particular rate of return on equity but, rather, recommended that the Commission give appropriate consideration to the degree to which the risks associated with the project would be pre-guaranteed by consumers. Also, whereas the sponsors seek full recovery of their equity investment on an accelerated basis in most circumstances if the project is aborted, DOE has recommended automatic recovery of only 60 percent, with the remainder to be recovered only if authorized in a separate proceeding. In determining the terms and conditions which are necessary in our view to protect the interest of gas consumers in this project and which do not involve fundamental considerations of national energy policy, we have weighed the arguments of DOE as a co-equal party to the proceeding without according any unusual weight to its views by virtue of its agency position.

authorization of all the terms and conditions sought by the applicants and has proposed an alternative financing plan which it believes represents a fairer and more equitable sharing of the risks between the sponsors and their customers. The proposed consumer guarantee of debt and equity investment has almost no precedent in other projects under the jurisdiction of this commission. Nevertheless, we are willing to approve an atypical sharing of the costs and risks under the proposed financing plan and tariff provisions, subject to certain conditions discussed in more detail below, because this project is not a conventional gas supply or transportation proposal but is, instead, an RD&D project designed to demonstrate the technical, commercial, institutional and environmental feasibility of producing synthetic gas from coal.

Our action here does not imply that it would be reasonable to allow this type of tariff or financing plan for a project whose purpose was to supply or transport natural gas from conventional sources nor should approval of the proposed financing plan and tariff, even with the modifications herein ordered, be considered as a precedent or an indication of what the Commission would allow for a future coal gasification project if coal gas becomes competitive with alternative forms of energy. If this demonstration plant or future research and development does indicate that gas produced from coal is economical, then any future coal gasification projects should be financed without the reliance on extraordinary financial guarantees by natural gas consumers.

In their application to this Commission, the sponsors of the Great Plains project explicitly have requested to be regulated as a utility with the price for the manufactured coal gas to be set according to conventional cost of service principles. The project sponsors freely admit that the Commission's jurisdiction technically does not extend to this project. It is clear that once the output of the gasification plant is commingled with natural gas in jurisdictional facilities, the Commission will have jurisdiction over the transportation and sale for resale of the commingled gas. The project sponsors desire utility treatment by the Commission and for the Commission to extend its regulation to the Great Plains facilities so that the investors will be assured that revenues derived from charges to consumers will always be available to repay the debt and equity

investment in the project (including interest and a return thereon).

In requesting the project to be treated akin to a public utility, the sponsors propose to forego a number of advantages that would be available to a completely unregulated coal gasification facility. In the future, if the project actually demonstrates commercial viability, corporations or groups of firms should be willing to undertake synthetic gas projects on an unregulated basis. The high risk associated with the development of a new synthetic gas industry would be offset by the potential for substantial profits or high rates of return if the gas could be produced at a price less than the competitive market price. Therefore, the Commission does not believe that it would be reasonable to extend the extraordinary financing and tariff provisions that we allow in this decision for the Great Plains project to future coal gas projects when the economic feasibility of coal gasification is known with greater certainty. In this regard, the Commission notes with some concern the statement by Deputy Secretary of Energy O'Leary in his testimony in the hearings that two or more demonstration plants in addition to the Great Plains plant may be necessary. As indicated several times previously, approval of special financing arrangements for the Mercer County facility does not imply approval of similar arrangements for other plants.

**2. Ratepayer Guarantees.**—The key element of the financing plan proposed by the project sponsors is that gas consumers will, in effect, guarantee the repayment of and interest on the debt in all circumstances and the repayment of and return on equity invested in this project under most circumstances. The project sponsors, who will provide the equity capital for the project, are unwilling to guarantee the debt investment and are unwilling to invest the equity in the project unless consumers also guarantee the equity investment under most circumstances. The project sponsors are unwilling to underwrite or guarantee the project debt because this project is a demonstration plant and is not intended to be a source of significant new gas supplies for any of the sponsoring companies.

Lenders and equity investors in a facility that is project financed look among other things to the tariff of the project and the tracking provisions of the purchasing pipelines for assurance that revenues to the project will be adequate to repay their investment and a return thereon. The Commission recognizes that equity investors and lenders will provide funds for the



construction of this project in reliance on the tariff and tracking provisions permitted by this Order.

The sponsors, however, insist that before investors will provide the substantial funds necessary to construct this project, they not only must be assured of the basis on which their investment will be made, but also that the tariff and tracking provisions on which they rely for the security of their investment will not be changed to their detriment during the period that their investment is outstanding. In resolving this issue, the judge noted that "the Commission's issuance of a certificate carries with it a high level of protection to its holder . . ." and concluded that "[t]he sponsors have ample safeguards through their own resources to protect themselves against such a potential threat and to achieve their objective of maintaining the integrity of any certificate which the Commission might issue to them."<sup>70</sup>

The project's sponsors in their brief on exceptions seek to have the Commission evidence an awareness as to how the various contractual and tariff arrangements will operate as well as an awareness that the lenders and sponsors are relying on these arrangements in committing capital to the project. We have noted our awareness of the reliance that will be placed on this decision. No additional assurances appear necessary. Insofar as the law judge recommended against the request for further assurances, we sustain his ruling.

With regard to ratepayer guarantees of the debt investment or bank loans to the project, the law judge concluded that it would be reasonable for the debt to be recovered from ratepayers on an accelerated basis of five years if the project were abandoned or never completed. No party to the case objects to this finding. We sustain the law judge's ruling. The Commission will allow the project to charge rates adequate to provide debt service in all events on the terms proposed both during the operation of the project and prior to operation if the project should be abandoned.

In addition, the project sponsors have proposed that the equity investment and related taxes in the project should be recovered in the unlikely event of a project abandonment if the abandonment resulted from . . . any act or omission or any circumstances other than cost overrun or technological failure of the gasification plant to produce pipeline quality gas at a rate which is acceptable to seller

<sup>70</sup> Initial decision, p. 39.

(unless such technological failure or cost overruns are due to changes in any government law or regulation in which the plant was designed to comply)." The staff, on the other hand, argued for a total loss of the equity investment if the project is abandoned, regardless of the circumstances, with no opportunity for a hearing before this Commission. The Department of Energy would allow an automatic recovery of 60 percent of the sponsor's equity in most circumstances, with the remaining 40 percent to be recovered only if the Commission authorizes it in a separate proceeding. The law judge rejected the sponsors' proposal, finding that "[t]hese standards are too vague and open-ended to be adopted as a standard . . ." In particular, the judge found it highly unlikely that the project sponsors would abandon the project due to cost overruns, and observed that there practically always would be some government action to which blame could be ascribed for the overrun.<sup>71</sup>

We agree with the judge's observations, and add one of our own: as all parties to this proceeding appear to agree, total technological failure on this project is highly unlikely; rather, whatever technological failure may develop is likely to be manifested in cost overruns and extremely high-priced gas. In short, the risk the sponsors are willing to assume is too vaguely defined to give us or, we should think, the sponsors themselves, any clear sense of what is likely to transpire in the event that the project goes awry. Put another way, the criteria proposed by the sponsors to determine who bears the risk of abandonment are simply not conducive to a reasoned administrative determination. For example, neither of the grounds for abandonment on which the equity holders bear the risk embodies any implicit or explicit benchmarks. In the context of this project and the sponsors' proposal, what is a "cost overrun"? What is "technological failure"?

A second, related, problem is that the sponsors' proposal contains no means by which the Commission may compel abandonment after having determined that any further benefits to be derived from the project are not worth the requisite incremental investment. If, for example, the sponsors fear that the reason for abandonment is one of those as to which they have assumed the risk, they may be unlikely to seek abandonment at all. Under their proposal, the Commission might have to stand by while more money was

<sup>71</sup> Initial decision, p. 32.

invested in the project, without a concomitant public benefit.

Moreover, in light of the special nature of this project, we do not think it particularly appropriate that the sponsors bear the risk of losing their investment in all circumstances where cost overruns or technological failure would or should lead to abandonment. In our view, if the project were to fail or be abandoned because it demonstrated that coal gasification is not technologically, environmentally, or commercially feasible, then the project would have served a very useful purpose. So long as the cost overruns or technological failure had occurred despite the best and prudent efforts of the project management, we do not think it inappropriate under these circumstances for the sunk investment to be recovered from the ratepayers.

We therefore conclude that the appropriate standard to be employed here in determining whether or not the sponsors may recover their equity is prudence, the traditional standard employed in our proceedings concerning matters of cost recovery. We must make it clear, however, that in this matter prudence has more than one aspect. First, as in more conventional undertakings, the management of the project and the expenditure of monies must be prudent. Second, as is appropriate to a demonstration project such as this, the sponsors must exercise an ongoing prudent judgment as to whether continuation of the construction or operation of the project is warranted. If, for example, all that can be learned at a reasonable price has been learned, or if it should be clear that completion of the project, through no fault of the sponsors, is no longer economically justified, then the sponsors have an obligation to inform the Commission and request abandonment. Failure to promptly request abandonment may result in a disallowance of costs incurred after that point when the continuation of the project is no longer in the public interest.

As we indicated above, the mechanism for abandonment is of real concern to us and warrants discussion. Of course, after the plant has operated and gas has been delivered to an interstate pipeline, Great Plains must seek authorization for abandonment under Section 7(b) of the Natural Gas Act in order to terminate the certificated service. Due to the unique circumstances of this case—in particular, the recovery of both debt and a return on equity prior to the initiation of service, and the prospect for recovery of both in the event the project never produces gas—

we must insist that the sponsors secure our authorization before abandoning the project prior to completion. Consequently, we hereby make our approval of the recovery of both ongoing debt and equity, as well as the ultimate recovery of all debt and equity, expressly conditional upon the sponsors' applying for and receiving Commission authorization for abandonment of the project prior to the initiation of service under the certificate.

**3. Tracking Provisions.**—As part of the chain of contracts or agreements that would provide assurance of a flow of revenue from the ratepayers to the investors in the project, the project sponsors have proposed tracking provisions in the tariffs of the pipelines that would purchase the gas produced by Great Plains. Such tracking provisions would allow the automatic recovery (following notice but without suspension or refund obligation) of all project costs by the pipelines that purchase gas from the project in rates to the customers of the pipelines.

During the hearings, the Commission staff objected to tracking provisions by the pipelines because of the potential for over-collection or under-collection of costs by the pipelines if the throughput increased or decreased. This position by the staff was rejected by the law judge. The staff in its brief on exceptions, withdrew its objection to tracking. The staff, however, did suggest that it would be desirable to require the pipelines which purchase gas from the project to submit a general rate filing with the Commission under Section 4(e) of the Natural Gas Act "sufficiently prior to the in-service date to effectuate a timely matching of cost and revenue." The purpose of such rate filing would be to adjust the general rates charged by the pipelines to reflect the anticipated increase in volumes resulting from the Great Plains project. If this were not done, staff claims there is the possibility that the increase in throughput resulting from the Great Plains project could result in an over-collection of the fixed costs of the pipeline to the detriment of ratepayers.

Staff's proposal reflects an effort to achieve a proper balancing between the need to protect consumers and the need to provide a certainty of revenue flow to the investors in the Great Plains project. However the result can be achieved without initiating a Section 4 proceeding by requiring the pipeline companies to support the tracking provisions in the same manner that is required for PGA provisions, i.e., through a cost-revenue study. Consequently the Commission will affirm the law judge on this issue

and permit tracking but will not approve any specific tracking provisions at this time. The pipeline companies will be required to file amendments to their respective tariffs and will be required to submit cost-revenue studies in the form prescribed in Section 154.38 (d)(4)(vi) of the Regulations prior to the anticipated In-Service date to support the flow-through of costs attributable to the Great Plains project.

**4. Rolled-In Pricing.**—One of the essential elements of the proposed financing plan is that the cost of the synthetic gas would be "rolled-in" or averaged with other sources of gas supply purchased by the pipelines. The pipelines contend that they should not be required to market the Great Plains gas to their own customers on a separate or "incremental" basis. Incremental pricing has been advocated by some parties as a way of providing a market test for high cost supplemental gas. In other words, under incremental pricing the supplemental gas would be sold separately to customers at a price adequate to cover its full, separate cost in order to test whether the value to the customer of this gas exceeded the cost.

Such an approach may or may not have merit for a project whose basic purpose is the production of substantial amounts of supplemental gas, but the purpose of this project is to demonstrate the feasibility of coal gasification, rather than to supply gas at a price competitive with alternatives. The use of incremental pricing would serve no useful purpose in this context. The law judge's ruling in favor of rolled-in pricing is affirmed.

**5. Surcharge During construction.**—As noted above a component of the project sponsors' equity contribution is a proposed surcharge that would be levied during the construction and testing of the project. The surcharge would be levied on the pipeline sponsors which would be authorized to pass the surcharge through to their own customers. The costs to be recovered by the surcharge would include interest expense on debt, financing charges, the return on equity and related taxes, and similar carrying charges incurred by Great Plains under the coal purchase agreement with ANC.

The law judge determined that the surcharge was an unjustified departure from the usual procedures of this Commission regarding the treatment of interest, finance charges and rate of return during construction. On exceptions staff supports the conclusion of the judge. The applicants contend, however, that the surcharge is both necessary to achieve project financing and can permissibly be approved by the

Commission as an exercise of administrative discretion.

The Commission having found that this project qualifies as an RD&D investment, it follows that special financing provisions are appropriate. The Commission's task, therefore, is to determine which specific provisions will achieve the RD&D objectives of the project in a way that is appropriate and equitable to the ratepayers of the sponsoring pipelines. In the absence of appropriate and equitable tariff and financing conditions, the project will not meet the public convenience and necessity test.

The standard procedure used by the Commission is that interest charges and rate of return on equity during construction of a project are capitalized and added to the rate base of the project to be recovered through charges to customers during the operating life. The capitalized amount of interest and on equity return is commonly referred to as an "allowance for funds used during construction" or AFUDC. The basic reason why the Commission has generally required the inclusion of AFUDC in rate base is that the AFUDC method usually provided a more equitable allocation of the costs over time to ratepayers. Under this concept, customers who receive the benefits of the gas supply project pay for the entire cost of the project, including interest costs and return on equity during construction. In most supply projects the benefits are proportional to the amounts of gas consumed. Consequently, the Commission has in the past required such interest charges and equity allowances to be capitalized and included in rate base to be recovered by customers when the project is actually in operation and gas is flowing to the ultimate consumers.

The AFUDC procedure should not be applied inflexibly to the Great Plains project because as explained above, it is not a gas supply project but, rather, is an RD&D project. The financing provisions of a demonstration project are considered by the Commission on the basis of the individual project.<sup>72</sup> For this project the knowledge generated about the commercial, technical, institutional and environmental feasibility of coal gasification will benefit both current and future ratepayers. Because of this wide class of beneficiaries, the Commission does not find its AFUDC policy to prohibit the type of surcharge proposed here. Moreover, the adoption of the surcharge provision is beneficial in that it spreads the costs of the project over a longer

<sup>72</sup> See Order No. 566 at pp. 11-12.



period of time to a greater number of ratepayers.

A surcharge that permits the recovery of interest on debt and return on equity represents one method of assisting the financing of this project. Other financing options have been referred to in the record, such as a surcharge limited to the recovery of debt costs or treating this project similar to more conventional RD&D projects. The method approved, however, must be one that assures ratepayers are adequately protected. The Commission believes that the type of surcharge proposed by the project sponsors is a reasonable approach in light of the safeguards described in this Order and which will be attached to the Commission's approval of this project. Among those safeguards are the project monitoring system, the Commission's ability to terminate the project and the authority to determine whether equity recovery will be permitted in the event of abandonment or termination of the project. Considering, as is essential the entire package of finance-assisting arrangements and consumer-protection arrangements, the Commission concludes that a surcharge to recover interest and financing costs on debt, and a return on equity together with associated taxes (as well as similar carrying charges incurred by Great Plains under the coal purchase agreement with ANG), is a feature that is reasonable for inclusion in the project's financing plan.

**6. Rate of Return on Equity.**—One of the elements of the surcharge is the recovery of a return on equity. Since the initial decision rejected the surcharge as a part of the financing plan for this project, it did not prescribe a return on equity during the period that the surcharge would be in effect. However, during construction and for the initial year of operation of the project the initial decision approved a 15 percent equity return.<sup>73</sup> Our determination to approve a surcharge requires that a return on equity be prescribed both for the period that the surcharge is in operation and the initial year thereafter.

For this period of the surcharge and until changed by the Commission, the project sponsors, although emphasizing the unique nature of the project, request rate of return treatment on a basis similar to that accorded gas pipelines and argue that for this project a rate of return on equity of 15 percent is justified. The project sponsors state that a 15 percent return is necessary because

<sup>73</sup> The effect of the law judge's decision to permit a 15 percent return on equity during the construction period, but not permit a surcharge is that the 15 percent return would be accumulated and included in rate base when the project becomes operational.

the risk of technological failure is "substantially greater" than for a pipeline project using established technologies and, further, the risk of cost overruns is higher than for conventional pipeline projects because of the longer duration of the construction period for this project. The sponsors also argue that they will experience higher than normal risks because their proposed tariff includes a cost disallowance feature that results in equity capital absorbing the first loss of any revenue deficiency. Finally, the applicants argue that they risk the repayment of investment tax credits if the project is not completed or abandoned prior to expiration of the recapture period.

Although staff opposes a surcharge, it argues that if the Commission nevertheless approves the surcharge and all other aspects of the applicants proposed financing plan, the return on equity for this project should be no more than 10 percent. According to staff there are three principal risks associated with this project: (1) marketability, (2) technology, and (3) cost overruns. Staff argues that none of these represent significant risks because the use of rolled-in pricing obviates the risk of marketability; the technical risks are minimal or nonexistent since all parties concur that it is unlikely that the plant will not operate as designed and; applicants' own witness concedes that there is little risk of cost overruns. Staff further argues that the applicants' equity contribution enjoys substantial safeguards as evidenced by the very limited circumstances in which there would not be a recovery of equity. The staff concludes on the basis of this analysis that the applicants have not made an equity contribution to the project but a contribution more in the nature of a loan. Having reached that conclusion, the staff argues that an equity return of 10 percent is appropriate to reflect risks only slightly greater than that of long term debt investors in BBB rated utility companies, the lowest rating applicable to any of the sponsoring pipelines.<sup>74</sup>

As the parties recognize, the appropriate return on equity is a function of the risks borne by the

<sup>74</sup> The Ohio Consumers' Counsel and the New York Public Service Commission also oppose a 15 percent return on equity. Since both of these parties agreed with the judge that a surcharge should not be permitted, their objections are directed to the equity return that will apply after service commences. For this period New York proposes a rate of return on equity of 12.5 percent while the Consumers' Counsel proposes a return of approximately 13 percent. Each of these proposals, however, was made in conjunction with a financing proposal that varied substantially from the one approved here or those proposed by the applicants or staff.

sponsors. However, a rate of return analysis is not wholly an empirical endeavor but requires both judgment and expertise to determine the weight to be given the various risk factors and thereafter drive a single equity return within a range of reasonableness. The equity return approved by the Commission must also conform to the principles of the *Hope*<sup>75</sup> and *Bluefield*<sup>76</sup> decisions which require a balancing of the protection of gas consumers from unreasonably high rates against the need to maintain the financial integrity of the project and provide an adequate return on investment. Employing such criteria the Commission finds that the 15 percent rate of return on equity for the surcharge and initial year of operation is not justified by the record of this proceeding. Instead, the Commission concludes for the reasons set forth below that a 13 percent rate of return on equity should be prescribed for this period.

Although the law judge approved a 15 percent rate of return on equity, his analysis was based on a financing plan and tariff conditions significantly different from those which the Commission is approving.<sup>77</sup> For example, the initial decision and the Commission's Opinion herein differ with respect to our approval of a surcharge. The law judge recognized that the financing plan and tariff conditions that are approved will vary the risk exposure of the sponsors. We agree with that conclusion and base our decision both on the arguments raised and the financing and tariff conditions that are approved in this order.

The sponsors' arguments that the risks of cost overruns and technological failure justify a 15 percent rate of return on equity are unpersuasive. In the Commission's view the applicants concern with cost overruns and technological failure is partly due to the vagueness of those terms. As discussed above, those criteria provide no implicit or explicit benchmarks that would aid the sponsors (or the Commission) in determining the risks associated with those factors. A different standard employing prudence has therefore been prescribed. This standard will reduce the uncertainty of the vaguely-defined terms of "technological failure" and

<sup>75</sup> *F.P.C. v. Hope Natural Gas Company*, 320 U.S. 591 (1943).

<sup>76</sup> *Bluefield Water Works and Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 879 (1923).

<sup>77</sup> Thus, we do not consider here the reasonableness of the 15 percent rate of return that the judge would have applied to the financing and tariff conditions recommended in his initial decision.

"cost overruns" and will place in the hands of the sponsors an opportunity to better control the risks of this project.

Further, the argument of the applicants concerning the exposure of equity capital is not a persuasive reason for adopting a rate of return of 15 percent. While it may be that the cost disallowance feature of the proposed tariff requires equity holders to "absorb the first loss of a revenue deficiency . . . resulting from any FERC disallowance of costs from the earnings investment base of the project," the risk of such deficiencies is not significant because, as set forth *infra*, the Commission will not require a minimum performance provision for this project. In the absence of imprudent action on the part of the project sponsors, there will continue to be a flow of revenues to the sponsors. We believe that the decision not to require a minimum performance provision substantially reduces the risk of a diminution of revenues and adds assurance to lenders and investors.

Finally, the risk of loss of investment tax credits is not a risk that sufficiently buttresses the sponsors' request for a 15 percent equity return. This risk is directly related to the risk that this project will not be completed. As indicated above, the Commission has concluded that this risk is minimal. That is a conclusion based in part on the sponsors' own assessment of the likely success of completing this project<sup>78</sup> and we believe that the actions taken in this decision will not significantly diminish that likelihood. In summary, we do not find that this risk factor, either separately or together with the other risks cited by the applicants, justifies a rate of return on equity of 15 percent.<sup>79</sup>

The Commission also finds that it should reject the 10 percent rate of return on equity proposed by the staff. Recently, the Commission undertook an analysis of the range of the equity returns it had allowed pipelines. In Order No. 31 concerning the incentive rate of return for ANGTS, the Commission concluded that the allowed

<sup>78</sup> Tr. pp. 73, 118-19, 512; see also p. 4960.

<sup>79</sup> In Order No. 31 concerning the Alaska Natural Gas Transportation System (ANGTS), the Commission concluded that with the exclusion of two risk factors unique to the ANGTS project, a return on equity of 14 percent was reasonable because of certain risk-increasing factors such as the Arctic operating environment, the use of a previously untried high pressure pipeline, and the low equity capitalization of the ANGTS project. In contrast, this project does not exhibit all these risk-increasing factors but does exhibit several of the risk-reducing factors cited by the Commission in Order No. 31, including the availability of a cost-of-service tariff, the opportunity to use rolled-in pricing and the provisions made herein for tracking of costs.

return on equity for pipelines within the continental United States generally had been established within the range of 12 to 15 percent.<sup>80</sup> This RD & D project is unlike other pipeline supply projects and a comparison to that decision cannot precisely resolve the issue of the proper rate of return here. Nevertheless, we conclude, for the reasons set forth below, that the study undertaken in Order No. 31 provides a relevant point of departure for analyzing the range of reasonableness on equity return for this project.

The 10 percent return on equity proposal of the staff was made in the context of a set of circumstances in which the basic assumption was that there would be no changes to the proposal originally offered by the applicants. As described in this Opinion, that assumption is not applicable since changes have been made to the project sponsors' proposal. Further, although the staff characterizes the sponsors' equity contribution as similar to a loan, those revenues will be subject to risk, albeit at a lower risk exposure than the project sponsors assert. The equity investment of the sponsors will be subject to a prudence standard and to that extent their investment is not risk free. The applicants, although having control over their actions that will be judged by this standard, will still be subject to the possibility that a course of action they perceive as prudent will nevertheless be found imprudent by the Commission. In the Commission's judgment these factors place the staff's proposal of 10 percent beyond the lower end of the range of reasonableness and indicate that the more appropriate limit should be no less than 12 percent.

The Commission, however, will approve a rate of return on equity that is higher than the minimum level that would otherwise be reasonable. We believe that a rate of return on equity of more than 12 percent is appropriate because of the uncertainties of this project. As we have indicated, this is the first time that a project of this nature and magnitude will be undertaken in this country. Uncertainties will exist and will be resolved, reduced or eliminated only as the project goes forward. If the project is to generate knowledge and reduce the uncertainties, it must be allowed a rate of return on equity that meets the traditional criteria of providing a return comparable to returns on investments in enterprises having corresponding risks and maintaining the credit and capital attraction ability of the partnership. On balance the Commission believes that these factors,

<sup>80</sup> Order No. 31 at p. 62.

taken together with our discussion of the applicants' arguments regarding the risks of this project, indicate that a rate of return on equity of 13 percent is appropriate.

The Commission recognizes that its reduction in the requested return on equity will decrease the amount of revenues that will be generated by the surcharge and included in the project as equity contribution. The result, however, is a consequence of the Commission's analysis of the risks to be borne by the project sponsors and, also, the risks and responsibilities that will be borne by their ratepayers. Where extraordinary certificate conditions such as a surcharge are requested, the Commission views it as essential that those requesting such conditions demonstrate a high order of commitment to the success of the endeavor. In this instance, that commitment is best demonstrated by the level of their own funds that the project sponsors are willing to dedicate to this project. The difference in revenues between a return of 15 percent and the 13 percent approved here will be relatively small but that additional investment by the sponsors would reflect a reassuring commitment to the project.

One other matter relating to the surcharge requires consideration. As pointed out previously, the surcharge would enable the project sponsors to recover interest on debt and an allowance on equity funds, including associated taxes. While we are willing to permit a surcharge to recover capital costs associated with funds actually invested in the project, we are not willing to require consumers to bear the costs of funds transferred to the project and not actually utilized. Therefore, the capital costs to be included in the surcharge permitted in this Order will be limited to the capital actually invested in the project as determined for each month.

#### G. Other Issues

In this section we consider a number of other tariff and ratemaking matters raised either by the filings or by the parties throughout the proceedings, or by their exceptions to the initial decision.

#### 1. Additional Tariff and Rate Issues: (a) Review of Rate of Return on Equity.

An issue related to the Commission's discussion of return on equity question is when and under what circumstances the rate of return on equity will be reviewed during the life of the project and possibly be either increased or decreased. The law judge interpreted the proposed financing plan to mean that the project sponsors were



requesting a constant 15 percent return on equity throughout the life of the project. He argued that such a guarantee was unreasonable and that the rate of return should fluctuate over time as economic conditions change.

In their brief on exceptions, the project sponsors made clear that they did not seek a guarantee that the return on equity would remain fixed at 15 percent. The applicants recognize that the rate of return may need to be adjusted upwards or downwards depending upon changing conditions. They believe it is unnecessary for the Commission to require any specific procedures at this time under which such a review would take place. The applicants argue that the Commission can institute proceedings under the Natural Gas Act to review the level of return on equity whenever conditions should so require. However, the Commission's authority to initiate such a review derives from Section 5 of the Natural Gas Act. Relying upon Section 5, the burden of proof would be placed upon the Commission and any changes in the allowed rate of return would have prospective effect only.

We conclude that it is appropriate to require a periodic rate of return review for the Great Plains project.<sup>41</sup> Beginning one year after the In-Service date for the project, and every three years thereafter, the project's sponsors will be required to justify to the Commission the rate of return on equity to be applied during the next three year period. Any amounts collected prior to determination of the rate of return to be used for any three year period will be subject to refund pending final disposition of the rate of return issue. The revenue subject to refund will be only those amounts attributable to the rate of return on equity and associated taxes.<sup>42</sup>

In their brief on exceptions, the sponsors argued that any future consideration of the level of return on equity must consider the risks undertaken during construction, the assurances given to lenders, and the equity ratio as it reflects the terms upon which debt funds can be obtained and the project refinanced. Staff, in its brief opposing exception, took issue with the sponsors' attempt "to obligate the Commission to consider certain factors

<sup>41</sup> Recently, the Commission has approved a cost-of-service tariff for the Alaskan Gas Project similar to the cost-of-service tariff proposed by the sponsors of the Great Plains project. As part of that approval, the Commission required that the tariffs shall provide for a periodic rate of return review.

<sup>42</sup> Some additional refund obligation could arise due to our treatment of the cash working capital allowance. See our discussion of "Cash Working Capital", post.

in its future deliberations on rate of return." We believe that the staff's concern on this issue is well taken. The future review of return on equity required by our determination, *infra*, should be open to a free ventilation of all matters bearing on the proper rate of return for the relevant period. We will not preclude any interested party from presenting relevant evidence on the rate of return issue in any future hearings. The 13 percent level found appropriate for the construction and first 12 months operating periods will be adjusted upward or downward in the future proceedings on the basis of an evaluation of all relevant factors applicable to the period that the rate will be in effect.

Similarly, the Commission will not attempt to decide now whether or not a minimum level of return to equity investors of \$10 million per year is reasonable as urged by the project sponsors. Late in the operating life of the project, when depreciation has reduced the rate base of the project to a low level, the total return would also be reduced to a relatively low level. At that time, in the course of a periodic rate of return review, it would be appropriate for the Commission to consider whether it is reasonable to allow a minimum return to equity. It is simply not possible for the Commission to attempt now to anticipate the conditions and circumstances that may prevail for this project late in its operating life and thus to determine whether or not a \$10 million minimum return on equity is reasonable.

(b) *Investment Tax Credit*.—Portions of the investment in the Great Plains project may qualify for a 10 percent investment tax credit (ITC) under both Section 38 of the Internal Revenue Code (26 U.S.C. § 38) and Section 301 of the Energy Tax Act of 1978 (26 U.S.C. § 48(1)(3)(A)(iii)). These Federal tax credits encourage commitments of equity capital by reducing the tax liability of investors (including both regulated and unregulated companies) by a percentage of their investment in particular assets. These credits have been proposed to be one of the three elements of the sponsors' equity.<sup>43</sup> Staff has argued that the equity investors in the Great Plains project should not be permitted to earn a return on these ITC benefits. According to staff, an amount equal to the Accumulated Deferred Investment Tax Credits should be removed from Great Plains' rate base, with a ratable portion of the credit to be restored over the life of the project.

<sup>43</sup> Exh. No. 25-C.

The law judge declined to rule on staff's proposal in the initial decision. The sponsors allege that the Great Plains project cannot proceed without a ruling on this issue. While the law judge suggested that the parties' testimony and briefs left "substantial questions unanswered",<sup>44</sup> it appears that staff's proposal raises purely legal and policy issues involving no questions of fact. Accordingly, the propriety of that proposal can be decided wholly on the basis of the arguments presented on the record and in the briefs filed herein. We are prepared to resolve the issue on this basis solely for the purposes of this proceeding. Our determination here is not to be considered as a precedent for any other proceeding since, as stated above, this project is unique and our determinations herein are predicated on that status.

An investment tax credit was first enacted in 1962.<sup>45</sup> One year later, however, Congress became aware that several Federal regulatory agencies (including the Federal Power Commission) were considering a plan to transfer a major share of the benefits of the investment tax credits earned by regulated companies from the shareholders to the customers of the companies. Finding that such rate treatment was "clearly contrary to the intent of Congress" in enacting the credit,<sup>46</sup> Congress enacted Section 203(e) of the Revenue Act of 1964 (Pub. L. 88-272, 78 Stat. 35 (1964)), which provided as follows:

"Treatment of Investment Credit by Federal Regulatory Agencies. It was the intent of the Congress in providing an investment credit under Section 38 of the Internal Revenue Code of 1954, and it is the intent of the Congress in repealing the reduction in basis required by Section 48(g) of such Code, to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated). Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to the taxpayer shall, without the consent of the taxpayer, use—

(1) *in the case of public utility property* (as defined in Section 46 (c)(3)(B) of the Internal Revenue Code of 1954), more than a proportionate part (determined with reference to the property with respect to which the credit was allowed) of the credit against tax

<sup>44</sup> Initial decision, mimeo, p. 43.

<sup>45</sup> Revenue Act of 1962, § 2.

<sup>46</sup> H.R. Rep. No. 749, 86th Cong., 1st Sess. pp. 36-37 (1963); see, also, S. Rep. No. 30, 86th Cong., 2d Sess. p. 43 (1963).

allowed for any taxable year by Section 38 of such Code, or

(2) *in the case of any other property*, any credit against tax allowed by Section 38 of such Code, to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method." (emphasis added).

When Congress reinstituted the investment tax credit in the Revenue Act of 1971,<sup>47</sup> Section 203(e)(1) was superseded by an amendment to Section 46(e) (later redesignated 46(f)) of the Internal Revenue Code which permits regulatory agencies to order a ratable flow-through of the credit arising from the purchase of "public utility property" unless the product furnished by the regulated company was determined to be in short supply, in which case any reduction of rate base would result in a disallowance of any credit and the realization of no benefits by either investors or customers.<sup>48</sup> On the other hand, Section 203(e)(2) of the 1964 Act was not altered and therefore continues to govern the ratemaking treatment of "any other property".<sup>49</sup>

In staff's view, the gasification plant does not qualify as "public utility property" under the Internal Revenue Code (26 U.S.C. § 46(f)(5)(ii)) because "it clearly does not transport gas by pipeline . . . it manufactures or produces synthetic gas."<sup>50</sup> The sponsors agree with staff's conclusion that the coal gasification project facilities would constitute "any other property" for purposes of the prohibition set forth in Section 203(e)(2). We believe the sponsors and staff are correct in their resolution of this question.

As between these parties, the controversy boiled down to the proper construction of Section 203(e)(2)'s prohibition against the use of investment tax credits "to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method." Staff argues that Section 203(e) prohibits only the "flow-through" of ITC benefits to consumers and does not preclude its proposed treatment, which it contends is analogous to the ratemaking-accounting concepts involved in the "normalization" of certain tax benefits which serves to assign those benefits to ratepayers over the period when they

<sup>47</sup> Revenue Act of 1971, P.L. 92-178, Dec. 10, 1971, 85 Stat. 497.

<sup>48</sup> Revenue Act of 1971, § 105(c); see 26 U.S.C. §§ 46(e) and (f).

<sup>49</sup> Revenue Act of 1971, § 105(e); see 26 U.S.C. § 38 note.

<sup>50</sup> Staff initial brief, pp. 180-181.

are paying rates based on service from the plant.<sup>51</sup> The sponsors argue that Section 203(e)(2) "[f]latly prohibits the adoption of staff's proposal to reduce Great Plains' rate base by any portion of the investment tax credits or the adoption of any other proposal that would reduce Great Plains' revenue to reflect ITC benefits."<sup>52</sup>

In support of its position, staff refers to certain cases involving other utility regulatory agencies where a requirement for ratable flow-through of ITC benefits had been upheld in the courts and to a "Congressional and Commission preference for normalization treatment". Great Plains contends that pertinent legislative history at the time of Congressional consideration leading up to the adoption of the 1964 and 1971 Revenue Acts shows that no flow-through of ITC benefits to consumers, ratable or otherwise, was intended.

In our opinion it is not necessary, for purposes of this decision, to resolve the legal issue of whether a portion of the benefits of the investment tax credits generated by the construction of the Great Plains project may or may not be flowed-through to consumers. The procedure outlined by staff for dividing the tax benefits between the sponsoring pipeline companies and their customers is not mandated under the Internal Revenue Code, even assuming *arguendo* the validity of staff's arguments. It is clear that the statute permits reasonable regulatory determinations to decide whether or not those benefits should be shared.<sup>53</sup> In the circumstances of this specific demonstration project, we believe that the sharing procedure recommended by staff, even if statutorily permitted, should not be adopted. As discussed above, the project is intended to demonstrate the viability of coal gasification in assisting to meet the future energy needs of our Nation—a demonstration that we believe is a matter of importance. The sponsors have placed great importance on their retention of the ITC benefits so that they can be utilized in the financing of the project. They will not be dissipated either in the form of dividends to the shareholders of the sponsoring pipeline companies or, possibly, by investment in other activities having no relation to the

<sup>51</sup> Staff initial brief, p. 182; brief on exceptions, p. 46.

<sup>52</sup> Great Plains brief on exceptions, p. 58.

<sup>53</sup> "[T]he Congress, in general, believed that it was appropriate to permit the regulatory agencies, where they conclude it necessary, to divide the benefits of the credit between the customers of the regulated industries and the investors in the regulated industries." (emphasis added). General Explanation of the Revenue Act of 1971, Joint Committee on Internal Revenue Taxation, p. 33.

present or future gas supply needs of their customers. This is a factor in our determination. Taking into consideration the general U.S. energy shortage and gas supply need in particular and the general concerns expressed by Congress in enacting the investment tax credit legislation, it is appropriate to have these funds utilized for capital formation purposes. We conclude that in light of the purposes intended to be served by this demonstration project and in consideration of all the features of the tariff and financing arrangements taken as a whole, adequate justification exists in this instance not to require a sharing of these benefits.

(c) *Federal Income Tax Computation*.—The judge held that whatever decision was reached in the case of *Columbia Gulf Transmission Company, et al.*, Docket Nos. RP75-105, *et al.*, involving the use of consolidated tax savings in determining the income tax component of the pipeline's cost-of-service, which was pending before the Commission at the time of his decision, ought to control the resolution of the same issue in this case. As the applicants correctly noted, the Commission in Opinion No. 47, issued July 2, 1979, determined that the use of the statutory rate, rather than a lower rate determined on a consolidated basis, is appropriate for ratemaking purposes. That determination is applicable here. We sustain the applicants' position on this issue.

(d) *Interest Cost*.—In its brief on exceptions, staff reiterates its argument that the interest component of the applicants cost-of-service should be modified—an issue that the judge did not address in his decision. Applicants' brief opposing exceptions addressed this issue and noted that staff's position on this issue "is less than clear." We interpret staff's position to be that short-term interest should not be included in the capital structure for purposes of computing the rate of return, but that such interest is available for tax purposes and should be included in computing taxes under the cost-of-service tariff. Short-term borrowing used to finance construction is generally replaced by long-term financing; the cost of such short-term borrowing is capitalized and becomes a part of the cost of the facility constructed. Similarly, the cost of short-term borrowing used to finance operating expenses or materials and supplies is recovered through the working capital allowance. Consequently, it is not appropriate to include short-term interest in capital structures for rate or



return purposes unless it can be demonstrated that short-term borrowing is relied upon on a regular and continuing basis to finance operations. Such a demonstration has not been made in this proceeding; therefore, we concur with staff that short-term interest should not be included in the rate of return to be employed under the cost-of-service tariff. This interest is nevertheless available for tax purposes and should be used in tax computations.

Staff also argues that any short-term interest not capitalized as a part of construction should be used for tax purposes. Presumably this short-term borrowing would be used to finance operations, but it is possible that it would be used for construction as well. In any event, it would be available for tax purposes and should be used in tax computations.

While staff's concern was addressed to tax computations under the cost-of-service tariff, it is necessary that we also address tax treatment during the construction period. We note that while Great Plains is a partnership and will not pay income taxes as an entity, there may be expenses other than interest, such as taxes and pension costs, which are capitalized as a part of the cost of the project but are utilized as a current tax deduction in the tax returns of the individual partners. Since the sponsoring pipelines' customers will pay the cost of constructing and operating the project, these customers should benefit from all the tax deductions generated by the project. We shall therefore require that for accounting and rate purposes the partnership be treated as a corporation and that comprehensive interperiod tax allocation procedures be followed. This assures that all tax deductions generated during the construction and operating periods are preserved for benefit of the customers and recorded on the books of the partnership.

Staff also objected to the fact that, under the applicants' tariff, interest rates associated with adjustments for over or under collections are computed by applying the end of the month rates, whereas the Commitment Letter provides for the computation of interest rates each Friday. The discrepancy in computing interest rates has not been adequately explained and the result may create a difference detrimental to the ratepayers. Accordingly, we will require that the interest rates be computed on a monthly basis based on the average of Citibank's rates as published each Friday, in accordance with staff's suggestion. That procedure will assure a close relationship between interest costs

and expenses. Since the published rates are easily accessible and the average easily ascertained, this requirement will not burden the rate calculation.

(e) *Cash Working Capital*.—Staff argues that the applicants should submit a lead-lag study to substantiate their request for a cash working capital allowance based on the 45-day formula. Staff asserts that the 45-day formula was based on factors that may not be applicable to the instant project and, therefore, its use here may not be consistent with the working capital needs for this project. While we appreciate the basis for staff's concern, we believe that any lead-lag study prepared prior to a period of actual experience in the operations of this coal gasification plant would contain infirmities similar to the case of the 45-day formula. Therefore, we will permit the applicants to use the 45-day formula for the first 12-months of the plant's operations. Thereafter, we will require applicants to file a lead-lag study based upon actual operations to determine the appropriate basis for computing the working capital allowance. Such study shall be filed within 90 days of the end of the 12-month period and the working capital allowance included in rates shall be subject to adjustment and refund effective upon the filing date pending final Commission determination.

(f) *Depreciation Rate*.—The Gas Purchase Agreement (Exh. G to Exh. No. 3D (Revised)) states that the depreciation and amortization expenses will be "computed by the application of the straight-line depreciation method to the facilities with the rates being determined by the shorter of the useful lives of the applicable facilities or the remaining life of the initial term of this agreement" (pp. 16-17). Staff excepts to the provision as being too indefinite and permitting the determination of depreciation rates to be made without Commission approval. Further, staff argues that, since the depreciation rate is tied to the amortization of the bank loans, the lenders could dictate the depreciation rates for the cost-of-service. In its brief opposing exceptions, Great Plains responds that the uncontroverted record evidence shows an estimated plant life of 25 years, which establishes a 4 percent depreciation rate. Further, applicants assert that any "subsequent modification of the depreciation rate could only be effected in accordance with the standards and procedures set forth in Sections 4, 5, and 9 of the Natural Gas Act (see Tr. 355, 3167)."<sup>94</sup>

<sup>94</sup> Great Plains' brief on exceptions, p. 21.

We find that the language of the proposed tariff provision is too vague and indefinite. It does not set forth with clarity the intention of applicants as interpreted in their brief opposing exceptions. We will therefore require applicants to modify the language to more clearly reflect their interpretation. Such language should designate the specific depreciation rate to be used in the tariff and shall provide the following methodology to be used in computing the monthly depreciation expense:

"One twelfth (1/12) of the annual depreciation expense computed by the application of a straight-line depreciation rate of 4.0 percent to gross depreciable plant at the time the tariff becomes effective. The depreciation rate so established shall not be changed except in accordance with the standards and procedures set forth in Sections 4, 5 and 9 of the Natural Gas Act."

It should be noted that the 4.0 percent overall depreciation rate assumes zero salvage value—that is, the costs associated with removing the facility from service will equate to the revenues to be derived from disposition of the facilities. Due to the uncertainties related to this RD&D project, it is difficult to anticipate today the circumstances that might exist when the facility is no longer used and useful. For that reason we find it appropriate to assume zero salvage value for depreciation purposes. However, we will continue to monitor not only operation of the facility but any additions and deletions as well as possible influences upon salvage value. A change in the 4.0 percent overall depreciation rate may be required in the future, but any such change will be made in accordance with Sections 4, 5 and 9 of the Natural Gas Act.

(g) *Performance Standard Provision*.—Staff has excepted to the law judge's decision rejecting its minimum performance proposal. The proposal would reduce the return on equity when the plant produces less than the full contract volumes of gas or gas with a heating content lower than 950 Btu per cubic foot. Staff argues that the minimum performance provision is essential to protect the ratepayer, is consistent with Commission precedent and would more equitably share the risks of temporary interruption between applicants and the ultimate consumers. Applicants oppose staff's exception and support the law judge's ruling.

Because this project is a demonstration of a commercial-sized coal gasification plant, it is reasonable to expect that during the period of the plant's operation, design improvements or new operating procedures or

techniques will be suggested, the implementation of these may occasion a temporary restriction of the plant's output.

Mr. Seder testified:<sup>95</sup>

"If the sponsors are to be penalized whenever plant production is reduced [below design output], there is a disincentive against adopting new techniques, procedures, facility alterations, etc. that might improve future production but require a temporary reduction in output. These provisions would encourage deferral of maintenance when one of the chief benefits of the project is to determine the proper levels of maintenance. In short, staff's proposals are wholly incompatible with the concept of a demonstration project."

We agree with the law judge's conclusions that "... whatever merit the [staff] suggestion has in the context of a gas supply project [footnote omitted], it has nothing to recommend it where a project is intended to show the nation whether coal gasification is practicable. The return on equity ought not to hinge on the success of operation where the possible need to modify techniques and facilities is an essential element of the project." The exception is denied. The Commission observes, however, that its denial of staff's exception should not be construed as a *carte blanche* approval of imprudent operating procedures. Our action here is meant to apply only to those interruptions necessary to modify techniques and facilities. Oversight over service interruptions will be exercised in our annual review of the applicants' cost.

(h) *Revenues From Disposition of Project Assets*.—The law judge recognized that the sponsors' proposed tariff provides that the cost of gas sold to the Customer Pipeline Companies will be reduced by any net revenues received by Great Plains from the sale of byproducts, from the operation and/or lease of the facilities, and from the sale of any proprietary knowledge arising out of research or development programs relating to the gasification plant. Finding "a need to expand this list", the initial decision would require that revenues from the sale to others of any gas of less than pipeline quality should also be credited against the cost of service. Applicants do not object to such a requirement and this change is adopted.

The law judge also concluded that a condition should be included to assure that the proceeds from a sale or other disposition of the plant, regardless of when such disposition occurs, must

inure to the benefit of the pipelines' ratepayers. We agree with the sponsors' exception that this recommendation is unnecessary so far as it relates to the construction and operating periods, since the Gas Purchase and Funding Agreements that will then be operative provide that such revenues will be credited against costs. Both of those agreements specify that any costs of abandonment will be net of the salvage value of the facility;<sup>96</sup> that is, whatever proceeds Great Plains realizes as a result of disposing of the facility (or portions thereof) prior to the expiration of its useful life will be used as an offset to the costs of abandonment. Thus, no condition is necessary as to the construction and operating periods.

The law judge also recommended that any proceeds realized "[a]fter the plant has outlived its usefulness . . . shall likewise be used to defray the costs of the project." The sponsors allege that this requirement would be illegal and unsupported by any evidence "[s]o far as it relates to the distant period when the plant has been fully depreciated and is finally removed from service following Commission approval."<sup>97</sup> We are not persuaded that it would be either illegal or unreasonable to require that any benefits derived from the abandonment of the facility accrue to the ratepayers who are being required to bear the costs of a demonstration project in order to obtain information rather than gas supply. Just as the costs of abandoning a project are legitimate costs of the project so too is it appropriate to consider any proceeds a legitimate part of the project. Both costs and revenues are essential elements of determining the salvage value of abandoned facilities. The sponsors' argument that the project would be fully depreciated points out the need to develop meaningful estimates of salvage value for purposes of evaluating the continuing appropriateness of the 4.0 percent depreciation rate.

(i) *Great Plains' Cost-of-Service Tariff*.—Over what he termed the unexplained "misgivings" of the New Jersey Department of Energy and the Ohio Office of Consumers' Counsel, the law judge approved the use of a cost-of-service tariff for Great Plains.<sup>98</sup> He noted that this type of tariff was particularly appropriate for use when affiliated entities, such as the sponsoring pipelines here, are involved. Further, the judge noted the continuing oversight the Commission will exercise

<sup>96</sup> Ex. A. to Ex. 3D (Revised), Art. XI, § 2(c), p. 25; Ex. D. to Ex. 3D (Revised), Art. III, § 2(c), p. 12; Ex. E. to Ex. 3D (Revised), Art. IV, § 2(c).

<sup>97</sup> Brief on exceptions, p. 62.

<sup>98</sup> Initial decision, pp. 36-37.

<sup>95</sup> Tr. p. 3197.

over the propriety of the costs that will be reflected in the tariff. That power is set forth in the Gas Purchase Agreements<sup>99</sup> in the following language:

#### "Article XIV

##### *Regulatory Review of Costs*

1. Seller shall file such reports and supporting information with the FERC as the FERC shall reasonably prescribe to substantiate the charges Seller has billed to Buyer. Copies of such reports and supporting information shall also be provided to Buyer. In addition, Seller shall make available its accounting and supporting records to representatives of the FERC for inspection at reasonable times and locations. If, upon any audit or review of periodic reports, the FERC determines within one year following each report that any costs which Seller has incurred may not have been reasonably and prudently incurred or may not be properly includable in Seller's charges under this Gas Purchase Agreement, and establishes a proceeding for the ultimate determination thereof, the burden shall be upon Seller to establish the propriety of such charges according to the same standards, and subject to the same rights of judicial review, as would be applicable under Section 4 of the Natural Gas Act. In the event any cost charged by Seller to Buyer is held by a final and nonappealable order to be imprudent or unreasonable or not properly includable under this Gas Purchase Agreement, Seller shall reflect such disallowance of costs, plus interest on the amount disallowed, by adjusting further billings in accordance with the procedures set out in Article X, Section 3, of this Gas Purchase Agreement."

In urging adoption of the cost-of-service tariff, Great Plains emphasized the regulatory safeguards built into its proposed tariff, stating:<sup>100</sup>

"More fundamentally, Great Plains' tariff contains built-in safeguards which fully assure that consumers will be accorded 'a complete, permanent and effective bond of protection from excessive rates and charges.' *Atlantic Refining Co. v. Public Service Commission of New York*, 360 U.S. 378, 388 (1959) (referred to as the *CATCO* decision). First, as a practical matter, companies operating under a cost-of-service tariff have always been obliged to bear the burden of justifying rate levels by proving that their costs were reasonably and prudently incurred and, where they failed to sustain this burden, to refund overcharges by reducing rates

<sup>99</sup> Exhs. A. pp. 34-35, and G. pp. 31-32, to Exh. 3D (Revised).

<sup>100</sup> Initial brief, p. 54.



(Tr. 353, 1015-17, 1030-35). More important, Article XIV of the Gas Purchase Agreements specifically provides for a thorough regulatory review of costs. In particular, that provision imposes the burden of establishing the propriety of all charges on Great Plains and requires Great Plains to retrospectively adjust further billings to reflect any costs which, upon FERC review, are found to be imprudent, unreasonable, or not properly includable in cost of service (see Tr. 3366). This tariff provision obviates the burden of proof and refund problems that have been posed in other contexts (see *CATCO, supra*, 360 U.S. at 388-391) and thus ensures that consumers will pay no more than 'the lowest possible reasonable rate consistent with the maintenance of adequate service in the public interest.' *CATCO, supra*, 360 U.S. 388." [footnotes omitted.]

We adopt the judge's evaluation of this issue and will implement the tariff provision by requiring Great Plains to file annual reports to permit our review of the charges reflected in its tariff. Further, to permit easier and more efficient review procedures, we will require Great Plains to use, to the extent applicable, our Uniform System of Accounts for Class A & B pipeline companies. Any requests for deviations from this accounting procedure should be presented to the Chief Accountant for approval.

We note that, pursuant to Article XIV, refunds of any cost found improper are delayed until "a final and nonappealable order" is issued. In the absence of a showing of extraordinary circumstances warranting a stay of a refund order, it is our general policy not to delay the effectuation of a refund until the conclusion of judicial review. Therefore, we will require applicants to modify the Article to require refunds to be made upon Commission order issued at the conclusion of any proceeding involving such costs. Such modification does not deprive applicants of their right to judicial review and to seek court stay of our order. It will, however, eliminate an automatic stay of our order as would occur under the proposed Article and will require applicants to justify any request for a stay either from the Commission or a court. We believe that this modification meets the needs of all interests—applicants, consumers and the public.

In approving a cost-of-service tariff for Great Plains it is necessary that the essential elements be clearly described. The tariff should provide for the periodic computation of a cost-of-service to be allocated among the purchasers based

upon their proportionate share of the costs. The cost-of-service tariff should provide for recovery of actual operation and maintenance expenses as well as taxes other than income. Annual depreciation expense should be determined by applying a 4.0 percent rate to gross depreciable plant. Rate base for rate of return purposes should be computed on the basis of projected average depreciated plant plus an allowance for working capital less any deferred taxes. The equity allowance should be determined using an annual rate of 13.0 percent and debt cost should reflect the cost of long-term debt outstanding during the period. Federal income taxes should employ the effective statutory rate and State income taxes should employ a factor to be applied to the Federal income tax rate.

The tariff proposed by the project sponsors provides for semi-annual computations of estimated costs to be recovered by monthly billings over the future 6-month period. The tariff also provides for adjustments to subsequent 6-month periods to recover or return any difference between actual costs experienced and estimated costs used for billing purposes plus interest. The methodology encompassed in the proposed tariff is acceptable with the exception of the computations of rate base and debt cost. Rate base would be computed using net depreciated plant as of the beginning of the 6-month billing period. This would not be representative of the net plant actually utilized during the period; neither would it be consistent with the treatment of other costs recovered during the period. Therefore, the net depreciated plant used for rate base purposes should be the projected average for the 6-month billing period. Similarly, the long-term debt cost used for rate of return purposes should be the projected average for the 6-month period. This would assure consistent treatment of expenses, depreciation, debt cost, return on equity and taxes.

The proposed tariff must also be modified to reflect a 13.0 percent return on equity. Consistent with our earlier discussion on working capital, the use of a 45 day formula will be permitted for the first 12 months of operation under the tariff; thereafter, the working capital allowance must be adjusted consistent with the Commission's determination after reviewing the filed lead-lag study based upon actual experience. Moreover, the factor to be used for State income tax purposes must be adjusted based on actual experience for the first 12 months of operation.

**2. Coal Sales Agreement.**—Applicants disagree with the judge's recommendations that the Coal Sales Agreement between ANG and Coteau "shall be modified to detail the quantity and quality of the coal" as proposed by staff and may be further reviewed to determine the reasonableness of Coteau's profit allowance.

Applicants pose the issue of whether the Commission should require isolated provisions in the Coal Sales Agreement to be rewritten in order to conform with what the law judge and staff consider to be more desirable contract terms. That view, however, misses the mark.

It is well-settled that in initial certification proceedings the Commission may scrutinize, and in fact is required to scrutinize, all factors affecting the public convenience and necessity of a particular project.<sup>101</sup> Since the cost of coal accounts for nearly one-fourth of the cost of the coal gas,<sup>102</sup> and the cost of the non-jurisdictional coal sales will be passed through to jurisdictional ratepayers, there can be no question that the terms and conditions of the contract significantly affect the public convenience and necessity of the project and, thus, are within the Commission's authority to review.

(a) *Quantity Provisions.*—The initial phase of operation of the coal gasification plant will require approximately 4.5 million tons of lignite. In addition, 2.6 million tons will be required for Basin Electric, which is constructing electric generating facilities on the same site. Since the estimated coal requirement figures are available, there is no reason for excluding quantity provisions from the ANG-Coteau contract. This is particularly true in light of ANG's contractual obligation to Basin Electric for a specified quantity of coal.

A staff witness specifically addressed the necessity for providing a quantity figure in the ANG-Coteau coal contract. The basis for staff's concern with the quantity provision is the potential for problems if Coteau mines more coal than ANG needs for Great Plains and Basin Electric. Although the output of the mine is sold to ANG, Coteau has the right to sell quantities of coal elsewhere.<sup>103</sup> Under the contract, ANG will pay Coteau on a cost-plus-fixed profit basis. However, the lack of a quantity provision could result in the design of mining operations capable of producing amounts of coal exceeding

<sup>101</sup> See, e.g., *FPC v. Transcontinental Gas Pipeline Corporation*, 365 U.S. 1 (1961); *Henry v. FPC*, *supra*; *Algonquin SNG, Inc.*, 48 FPC 1216 (1972).

<sup>102</sup> Exh. No. 19-D.

<sup>103</sup> Exh. No. 6.

ANG's requirements. The entire design of Coteau's mining operation, including necessary equipment, e.g., drag lines, is governed by the desired output. For example, Coteau may design mining operations capable of producing 8.1 million tons per year, while Great Plains and Basin Electric will only be able to use 7.1 million tons. Although Basin Electric will pay slightly more than one-third of the cost of the mine, Great Plains, and ultimately the jurisdictional natural gas consumers, could pay a price which reflects the cost of mining operations which have produced a volume of coal well beyond ANG's needs. As a result, Coteau would be free to sell the coal elsewhere, with the costs of the excess mining operations passed on to natural gas consumers. Clearly, those consumers should not be required to pay for any mining operations producing coal beyond Great Plains' needs. A quantity provision in the coal contract would ensure that consumers pay for what they receive and nothing more.

The applicants' argument that there is no basis for concern that the gasification plant will be charged for coal other than that mined for the gasification plant because the sales are subject to audit is without merit. Although the applicants may not presently intend to pay Coteau for coal not mined for the gasification plant, the fact remains that the existing contract permits such a result.

We affirm the law judge's determination and will require the agreement to be amended to include a quantity figure in order to protect the jurisdictional ratepayers who will purchase the coal gas produced at the plant.

(b) *Quality Provisions.*—The staff also addressed the issue of quality provisions in the ANG-Coteau coal contract. A staff witness recommended the contract be amended in the following respects:

(1) to specify the average as-delivered Btu content per pound;

(2) to specify the percent-by-weight content of moisture, ash and sulphur; and

(3) to specify the percent of sodium in the ash.

These quality specifications would then be related to reasonable increments of weight or time, e.g. a certain amount of ash per 100,000 tons, or a certain amount of ash in all the coal delivered each week.<sup>104</sup> ANG either

<sup>104</sup> E.g., ANG is obligated to sell Basin Electric coal having a minimum Btu content of 5,800 per pound. Additionally, Basin Electric has the right to refuse any coal ANG delivers with an ash content in excess of 12.5 percent. (Exhibit No. 103, p. 6). Prior to sale, however, ANG must crush the coal into smaller pieces, which will likely result in more ash

would not be obligated to accept coal from Coteau that failed to meet the quality specifications or would pay proportionately less for any sub-quality coal delivered to its plant.

The quality provision recommended by staff and approved by the law judge is commonly referred to as a calorific adjustment clause.<sup>105</sup> Calorific adjustment clauses are crucial elements in coal contracts because coal is purchased for its heating value, measured in Btu's. Btu's can only come from one source: the coal. Therefore, any heating value in manufactured coal gas is a function of the Btu content of the coal used for feedstock.

Because Great Plains is obligated to produce coal gas having a specified Btu content,<sup>106</sup> it is imperative that Coteau deliver coal of a quality sufficient to meet this obligation. If coal delivered to the gasification plant has a low Btu content, two options will be presented; ANG must either produce less coal gas or lower the quality of the coal gas it does produce.

However, neither option is acceptable because the cost of this inefficiency will be borne by consumers. The calorific adjustment clause embodied in Exhibit No. 183 is a simple and proper method to ensure that ratepayers do not pay for coal that will produce gas having an unacceptable heating value. The coal contract contains nothing to induce or encourage Coteau to exercise minimum mining skill to avoid deteriorating the quality of coal fed to the gasification plant. Any decrease in gasification efficiency will, under the applicants' proposal, result in consumers being penalized.

The quality requirements, together with appropriate penalty and bonus provisions, will provide an incentive for Coteau to mine coal of average core quality sufficient to manufacture high-Btu coal gas. Without such a provision, the opportunity exists for Coteau to deliver coal which, although capable of being gasified,<sup>107</sup> will only produce coal

being delivered than without crushing. Since ash has no Btu content, i.e. heating value (Tr. 3749), it is important that ANG receive coal from Coteau with a Btu content exceeding 5,800 Btu's per pound to enable full performance of contractual obligations ANG has to Basin Electric. (Exhibit No. 103, Art. 2.4). Consequently, staff recommended that the ANG-Coteau contract require Coteau to deliver coal to ANG with a Btu content of at least 6,000 per pound and an ash content not exceeding 12.5 percent.

<sup>105</sup> Staff's witness testified that the applicants' contract was the first of an estimated one hundred he had seen containing no quality provision.

<sup>106</sup> Exh. No. 3C.

<sup>107</sup> The Lurgi gasification process is capable of gasifying coal having a Btu content below 6,000 Btu per pound, the level recommended by Staff witness Gakner in Exhibit No. 183.

gas with a lower heating value or higher cost.

In addition to necessitating production of lower Btu gas, delivery to ANG of coal that is less than 6,000 Btu's per pound raises other potential problems. The gasification project contemplates a somewhat symbiotic relationship between ANG and Basin Electric: the former will provide coal to the latter in exchange for power. The agreement between the parties specifies that Basin Electric can refuse to accept coal from Coteau with an ash content in excess of 12.5 percent. If Coteau did deliver such coal and Basin Electric refused to accept, ANG would gasify it, thereby producing less coal gas per ton of coal or lower quality gas per ton. Even if Basin Electric waived its contractual rights of refusal, its use of coal having an ash content in excess of 12.5 percent would necessarily limit power production. Any limitation on Basin Electric's production potentially impacts the power supply to Great Plains. Quality control provisions between Coteau and ANG will eliminate this potential harm to the efficiency of the gasification process.

A staff witness testified that other problems will be presented if Great Plains gasifies coal with a Btu content below a specified level. Although the plant was designed to gasify a range of coals, the gasifiers will operate most efficiently when burning coal within a certain Btu-content range. If coal delivered to Great Plains is at the low end of the design's quality range, the gasifiers will be pushed to their limits. The entire coal input system must then operate at its highest rate to gasify poor quality coal and to deliver the volumes of coal gas promised.

With this degree of stress on the system, the witness stated the probability of maintenance problems increase. Although the plant was designed to give operations some leeway, or "cushion", the poorer the quality of coal delivered, the greater the stress on the system and the more likely breakdowns become. Even assuming, *arguendo*, maintenance problems do not increase substantially if lower quality coal is used, plant efficiency will decrease, thereby raising the overall cost of the gas and penalizing ratepayers.

Another area likely to be affected by the quality of the coal is the agreement between ANG and Lurgi which guarantees both the gasifier output and the quality of gas. If the quality of the coal decreases, thereby lessening the gas quality, the guarantee may be endangered. This potential problem will be eliminated by including the proposed



coal quality provisions in the ANG-Coteau contract.

In support of their opposition to the recommended quality provisions, the applicants argue that (1) the coal quality does not vary greatly and the Great Plains plant was specifically designed to gasify not only the average value of coal in the field, but also the variations or coal in the field; and (2) an insistence on quality provisions might result in higher coal costs as a result of contract renegotiations and altered mining plans to avoid specific coal deposits.

We are aware of the advantages of flexibility inherent in the Lurgi design. However, we are concerned that, even though the plant is fully capable of gasifying a wide range of coal, the cost which consumers are being asked to pay may be too high. If Coteau delivers coal to ANG with a Btu content below 6,000 per pound, the process would require more coal to produce 950 Btu gas than if the coal contained 6,000 or more Btu per pound. The more coal ANG has to buy to produce quality gas, the more consumers will pay. This is the reason for inclusion of a calorific adjustment clause.

Further, the quality provisions approved are standard, accepted coal contract elements. Inclusion of a calorific adjustment provision will not force Coteau to search for and mine only the "best" coal, thereby incurring substantial excess costs; it will simply provide an incentive for Coteau to exercise ordinary and prudent mining skill while ensuring that consumers "get what they pay for." Such protective clauses are not, as the applicants' objections suggest, in any way extraordinary, nor are they frontrunners of increased coal costs. In fact, if the core samples tested are as accurate as applicants' witness Mermer testified, no special efforts by Coteau will be required at all. It need only deliver coal of an average Btu quality of 6,000 Btu per pound. The inclusion of the quality provision, we conclude, is required by the public convenience and necessity and is adopted.

(3) *Transportation Certification.*—Great Lakes and Great Plains except to the findings of the initial decision that it is premature to certificate the proposal to transport gas from the outlet of the plant to the interconnection with Michigan Wisconsin's pipeline, for further delivery to the other customers. Great Lakes believes a conditional certificate can and should be issued at this time based upon the adequacy of its proposal. The condition to such approval would require Great Plains to provide the Commission with a statement, at a future date, that either:

(1) justifies the use of the Great Lakes' facilities, or; (2) would amend its proposal so as to utilize an alternative system.

If the proposal before us was concerned with a conventional gas supply project that contemplated timely completion and operation, the treatment sought by Great Lakes might be appropriate and certainly would merit our further consideration. The Great Plains proposal, however, is not a routine supply project but is unique in many respects, including a need for a substantial construction period. While we recognize the efforts put forth by Great Lakes to support the certification of a transportation system for the coal gas, and are fully aware that a transportation system will be necessary once the plant begins operation and coal gas is produced, we do not believe that the present and future public convenience and necessity would be served by the certification of any transportation facilities at this time. First, despite all of the assurances regarding the relative certainty of the technology to be employed in the gasification process, we cannot be unaware that a possibility nevertheless exists that abandonment of the project may occur during the construction period. In that circumstance any expenditures for a transportation system may prove to have been wasteful. Also, even if the project is successful, a system to transport the coal gas is not necessary until operations commence, some years in the future. At that time, other alternatives may be available, for example the Northern Border Pipeline System which is being considered as part of the Alaskan Natural Gas Transportation System and which, if available, may permit reduced construction costs and result in less environmental disturbance. Finally, because this is an RD&D project and much is yet to be learned, the design and sizing of a pipeline system is extremely speculative. Therefore, in order to provide unbiased consideration of such alternative proposals as may be available at the time of completion of the plant, we will affirm the law judge and not authorize Great Lakes' proposal at this time.<sup>108</sup>

<sup>108</sup> Investors in the Great Plains project need not be concerned about the security of their investment even if the project were complete but no transportation were available to move the coal gas to market. Though we believe that such an eventuality is very unlikely, the investor is protected because the tariff provisions approved in this Order will allow both debt and equity investors to recover a return on their investment prior to the start-up of operations through a surcharge in the rates to customers of the sponsoring companies. Thus, during any delay in startup because of lack of

The application by Michigan-Wisconsin for authorization to construct and operate the additional facilities which it would need to receive the commingled gas at the point of interconnection with Great Lakes' pipeline near Crystal Falls, Michigan, and to transport the gas likewise will not be authorized at this time. If the transportation proposal eventually goes forward as now contemplated, both Great Lakes' and Michigan Wisconsin's applications will be processed in sufficient time to permit construction of the necessary facilities coincident with the initiation of coal gas production. The same will be true in the event an alternative transportation method is proposed by Great Plains. No prejudice or prejudgment should be considered as attaching to our present denial of the transportation applications.

(4) *Montana-Dakota Utilities Proposal.*—MDU seeks special consideration as a customer of Great Plains in requesting that it be guaranteed 5 percent of the production of the gasification plant, as well as a further provision that it may resell any of such quantities above its needs back to Great Plains. It bases this request for priority treatment on discussions held with representatives of American Natural and officials of the State of North Dakota in which representations allegedly were made that production deliveries in these quantities would be available for use of the State's gas distributors.

We adopt the finding of the law judge on this matter. The request would provide preferential treatment to MDU and, as such, is inconsistent with the public convenience and necessity.

#### G. Project Monitoring System

The law judge in his initial decision recommended against the establishment of a monitoring system to prevent or minimize cost overruns. His discussion apparently was in response to a staff suggestion for the creation of a project management system to monitor costs and technology.<sup>109</sup> The law judge denied the suggestion on several grounds: (1) cost overruns are inherently difficult to define, (2) a maximum expenditure limit would "invite overblown estimates" by applicants in future cases; and (3) such a limitation could be counterproductive, either increasing ultimate costs by virtue of the delay or aborting a project that is needed by the public.<sup>110</sup>

transportation facilities, investors would earn a return on their investment.

<sup>109</sup> Staff Initial Brief, pp. 202-208. DOE also supported some type of project management control.

<sup>110</sup> Initial decision, p. 42.

The exact purpose of staff's proposed system is not entirely clear, but seems to have envisioned a review of the engineering and design of the system prior to construction; monitoring during construction by Commission auditors, accountants and engineers; review of design decisions to ensure plant integration; consideration of environmental parameters and operation requirements; dissemination of technical information; and determination of whether costs are prudently incurred and thereby qualify for recovery from the sponsors' customers, either currently (through the tracking mechanism) or by inclusion in Great Plains' rate base.

The project sponsors replied that they "do not disagree in principle with Staff's recommendation that the Commission should create a project management system to interface with the Great Plains management system." However, the sponsors seem to prefer a much more limited or restricted system compared to that proposed by the staff and suggest "... that to the extent that ongoing project review is desired by the Commission, a specific Commission Staff task force be designated to receive periodic reports of construction expenditures, project cost projections, and significant changes in plans. This task force can advise the Commission on a continuing basis leaving to the Commission the question of the necessity for formal review."<sup>111</sup>

We consider the nature of an appropriate project monitoring or management system to be a complex issue. The Commission will not here reach a decision concerning either the structure of the system or its complete functions. Some basic guidelines can, however, be set down.

Our reference herein is to a "project monitoring system" and not to a "project management system." The substitution of terminology is not merely a semantic change but reflects a significant difference in concept. This project is intended to demonstrate the commercial feasibility of coal gasification. The owners, managers and operators of the project are the sponsoring companies and they should be as free as reasonable from governmental intervention through the design and construction stages in order to provide the clearest possible answer to the question of the ability of the gas industry in particular and private industry in general to produce coal gas at a price which is economically attractive in comparison to alternative sources. Government control of

<sup>111</sup> Great Plains reply brief, p. 40.

management decisions would, at best, impair the demonstration value of the project and, at worst, could serve to increase costs and reduce efficiency by imposing the burden of a second layer of control and management.

As discussed earlier, the Commission has reserved the right to order an abandonment of the project whenever it concludes that continued construction or continued operation is no longer in the public interest. One goal or function of the project monitoring system will be to provide information to the Commission that will allow a timely decision to be made on whether the project should be halted—and also, assuming abandonment, the time at which the project sponsors themselves should have begun to question whether the authorization of further expenditures on the project was prudent.

It is essential in this connection that the system provide the Commission with information on a regular and frequent basis on the status and progress of construction, as well as estimates of the cost to completion based on the most current information and the plant's technical efficiency. Further, the system should notify the Commission of any unexpected technical, environmental, or regulatory problems that could significantly alter the Commission's current views about the feasibility of coal gasification. It is likely that a key decision point will be when the final definitive design is complete, contracts have been awarded for construction, firm prices have been received for major plants components, and actual on-site construction is ready to begin. A cost estimate at that point is likely to be much more certain than the estimate now available. If this estimate is substantially higher than the current estimate, the project could be halted after only incurring costs for design, engineering and planning.

Several of the parties have suggested various measures to control possible cost overruns. For example, the New York Commission proposed a requirement that whenever the costs are projected to be 25 percent above those now proposed, Commission approval of further construction be required. The Michigan Commission has advanced a similar suggestion. Our decision to go forward with a project monitoring system to interface with the Great Plains management through the period of construction and into the period of full operation will serve to alert the Commission of any situation involving large, unexpected cost overruns. The existence of a system of this nature will provide assurance that the

Commission's knowledge of the project's progress is kept reasonably current throughout the construction phase, including any situations giving rise to unanticipated costs. The other suggestions for cost controls will be denied. In the event that matters are brought to our attention which appear to indicate a problem, we will not hesitate to take appropriate action.

A possible function of the Project Monitoring System would be to aid in the dissemination of technical information on coal gasification technology gained from this demonstration plant. This project will only serve this purpose if the experience and knowledge gained from this plant is made available to this Commission, energy policy makers in the Department of Energy and elsewhere in government, and private enterprises, including other natural gas companies that may someday wish to sponsor additional coal gasification facilities. There may be two restraints, however, on the dissemination of information from this project. The first is the proprietary nature of some of the techniques and components used in the project. The second is that it may be desirable for the project sponsors to charge the sponsors of future coal gasification projects for certain of the knowledge and expertise gained from Great Plains. Such revenues could lower the cost of service charged to the consumers of the five sponsoring companies for gas from this plant. The best method for the dissemination of information and knowledge should be considered further and the Project Monitoring System might have a role.

The monitoring system might also assist in the auditing of construction and operating costs. As a condition of approving this project, the Commission requires that the accounting records of the project be kept in accord with the Commission's Uniform System of Accounts and that construction and operating expenditures be subject to audit by the Commission's staff to assure that these expenditures are properly classified, prudently incurred, and otherwise just and reasonable. It may be desirable both from the point of view of reducing regulatory uncertainty for the investors and providing better information to the Commission to carry out its oversight responsibilities if the construction costs were audited on a periodic basis during construction rather than after the completion of construction.

The exact procedure for a project monitoring system will be developed after it is determined whether the applicants wish to accept the proffered



certificate and the dimensions of the project become more specific. It could include some combination of periodic reports from the sponsoring companies, on-site inspection by Commission or Department of Energy personnel, auditing of construction and operating expenses, or review of final design and plant specifications. A major consideration is that such a monitoring system should not impose an undue burden and expense or cause delays in construction because key management personnel are diverted to providing the information required by the monitoring system.

#### IV. Conclusion

For the reasons previously discussed and based on the Commission's review of the record, the initial decision, the exceptions thereto, and replies to the exceptions, we conclude that the law judge's recommended denial of the requested Natural Gas Act Section 7(c) application attendant to the proposed Lurgi coal gasification project should be reversed. We find that, subject to the certificate conditions previously discussed, the proposed commercial-sized demonstration of coal gasification by means of the Lurgi technology is in the public convenience and necessity.

The parties would prefer that the proposed Mercer County, North Dakota project be financed with Federal guarantees or other U.S. Treasury aid, but such a proposal is not before us;<sup>112</sup> the Commission must act on this proposal to finance a commercial-size demonstration or pioneer plant by surcharges on the natural gas bills of the ratepayers of the sponsoring pipelines.

The Commission is empowered to and should on appropriate occasions consider the sponsorship of appropriate demonstration programs by individual pipelines or consortia. Such sponsorship is envisioned by the Commission's RD&D policy as enunciated in various FPC and FERC decisions and orders, such as Order Nos. 483 and 566 and the Commission's Regulations. (See Section 154.38(5)).

As to the specific proposal before us, with the appropriate financing and tariff arrangements, a commercial-size demonstration of Lurgi coal gasification would have the benefits and features required to qualify for RD&D treatment in accordance with the policy of the FPC and this Commission. The proposed Mercer County, North Dakota pioneer plant would advance the public interest and the interest of the sponsoring

pipelines' consumers by providing a basis for evaluating technological uncertainties and attendant financial and economic questions with respect to Lurgi technology as well as providing a basis for evaluating various environmental, social, political, and regulatory questions regarding the future role, if any, of coal gasification in the energy economy of the United States. Therefore, the Commission concludes that the project meets the requisite Natural Gas Act, Section 7(c) public convenience and necessity test provided the project embodies appropriate financing and tariff arrangements.

Because the Commission has determined that this project is appropriate for treatment as an RD&D project, we will not require that it utilize the standard financing and tariff arrangements for a conventional pipeline project. If this project were a conventional investment, labor and material cost, debt costs and an allowance on equity funds would be capitalized. Also, expenses and debt costs would be used to reduce other taxable income and the difference between taxes booked and those actually paid would be normalized. In contrast this Commission and its predecessor have generally permitted RD&D projects to recover expenses on a current basis, to amortize large non-recurring costs over a five-year period and to normalize taxes. Moreover, RD&D treatment has generally included tracking of costs.

The Commission emphasizes that its finding that this project qualifies for RD&D treatment does not imply similar treatment for other coal gasification plants or for supplemental gas supply projects. Indeed, the implication is just the opposite. Because this project has been given special treatment in order to provide a basis for resolving various RD&D questions pursuant to Lurgi technology, future Lurgi plants would have a very substantial burden of proof to show RD&D qualification. Moreover, supplemental supply projects must first qualify for RD&D treatment before such terms would be appropriate; this requires, *inter alia*, a demonstration of likely significant replication if the project were to work as envisioned and, also, that the various criteria set forth in the orders embodying the Commission's RD&D policy are met.

We cannot find the applicants' proposed "take-it-or-leave-it" package of tariff and financing terms to be in the public convenience and necessity because the division of risk and cost between the sponsoring pipelines and their ratepayers is inappropriate.

However, the Commission is prepared to offer a Certificate of Public Convenience and Necessity for this project which would provide a surcharge during construction to cover interest on debt and a return on equity at a rate of 13 percent. As discussed previously, this rate of return is more appropriate to low-risk projects such as the one proposed than the 15 percent return on equity proposed by applicants.

The applicants submitted their tariff and financing terms as a single package or as a "chain" consisting of links not to be broken. We have concluded that acceptance of the applicants' package would not be in the public convenience and necessity and have modified it to the minimum extent necessary to justify approval. We are aware that each component of the applicants' proposal and of our set of certificate conditions is related and intertwined with the other components in complex ways. Consequently, change in one feature of the set of tariff and financing arrangements has implications for other features and for the overall nature of the project. For example, changes in features that affect risk have implications for the appropriate rate of return on equity, which in turn has implications for the amount of investment each party will be required to put into the project.

The Commission has been very conscious of these interrelationships and is aware that we must address not only the individual components but also the overall tariff and financing package as a whole. As noted, we cannot accept the applicants' proposal as a package. We offer a certificate with a package of conditions that we have determined to be acceptable. We recognize, however, that other packages of appropriately related conditions would also be acceptable for this or other projects. For example, we would have been pleased to see a proposed package that involved more risk exposure on the part of the applicants with perhaps a different debt equity ratio. In that event a higher rate of return could have been considered than is appropriate with the arrangements proposed by the applicants or as modified by this order.

The Commission will permit, in accord with its RD&D policy, rolled-in pricing of the gas from this project and tracking of costs. Further the Commission will authorize termination of the project upon application and a determination that the expected future benefits would not justify the costs and, therefore, termination would be prudent. Also, the Commission on its own motion may require applicants to

cease construction or operation. In either event, the applicants will be permitted to recover all prudently incurred costs and, in determination of the prudence the causes of cost overruns or technological failure will be taken into consideration. The certificate conditions summarized here and discussed more fully in this Order will ensure that the proposed project furthers this Commission's RD&D policy and advances the public interest by providing a basis for assessing the possible future contribution of coal gasification technology to alleviating the general energy problems faced by this country and the specific problems faced by the natural gas pipeline industry and sponsoring pipelines.

#### The Commission orders:

(A) A certificate of public convenience and necessity is hereby issued to Great Plains Gasification Associates to make sales for resale in interstate commerce to Columbia Gas Transmission Corporation, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Line Corporation of equal volumes of commingled natural gas and coal gas, equivalent on a Btu basis to the output of the Great Plains Coal Gasification Plant less any line losses incurred in the transportation of such gas.

(B) The application by Great Lakes Gas Transportation Company to transport commingled coal gas and natural gas from Thief River Falls, Minnesota to Crystal Falls, Michigan, and to construct and operate facilities to receive and transport such gas is denied without prejudice.

(C) The application by Michigan Wisconsin Pipe Line Company to construct and operate facilities near Crystal Falls, Michigan to receive and transport commingled coal gas and natural gas is denied without prejudice.

(D) The request by Montana-Dakota Utilities Company for a guarantee of five (5) percent of the coal gas produced at the Great Plains Coal Gasification Plant is denied.

(E) Upon the acceptance by Great Plains Gasification Associates of the certificate issued in Ordering Paragraph (A), the Funding Agreements provided in Exhibits D and E to Exhibit 3D (Revised) and the Gas Purchase Agreements provided in Exhibits A and G to Exhibit 3D (Revised) shall be executed, as modified to be consistent with this Opinion. Within sixty (60) days from the date of acceptance of the certificate, Great Plains shall file a *pro forma* gas tariff with the Commission in

accordance with the modifications required by this Opinion. The Customer Pipeline Companies specified in Ordering Paragraph (A) may file tariff provisions with supporting cost-revenue studies to permit the "tracking" in their rates of costs reasonably incurred in the construction and operation of the Great Plains Coal Gasification project.

(F) The certificate and authorizations granted in Ordering Paragraphs (A) and (E) above are subject to the following terms and conditions:

(1) None of the sponsoring companies, *i.e.*, Columbia Coal, ANP, PGC, Tenneco SNG, and Transco Coal, shall withdraw from this project unless specifically permitted by the Commission upon application.

(2) In the event that any legislation is enacted under which financial support might be made available for this type of demonstration project, Great Plains shall seek such support and, if granted, Great Plains shall file with the Commission appropriate financing and tariff modifications for its approval.

(3) Great Plains shall file a request for a specific rate of return on equity that will become effective for each three-year period commencing after the first 12-months of operations of the Project. Each three-year filing shall be tendered within a time frame that will permit the request to become effective (subject to refund, if so ordered) on the first day of the 13th month of operation for the first period and on the first day of each subsequent three-year period thereafter. Each such filing shall be accompanied with supporting documentation and justification.

(4) As part of the first filing required in Ordering Paragraph (F)(3) above, Great Plains shall also file justification for its requested cash working capital allowance using studies based on its actual operations. It also shall file justification for the factor to be employed to recover state income taxes.

(5) Pursuant to Article XIV of the Gas Purchase Agreements (Exhs. A and G to Exh. 3D (Revised)), Great Plains shall file with the Commission an original and 15 copies of reports and supporting information substantiating the charges billed to its purchasers. Said reports shall be filed on or before March 31 of each year and shall contain the data applicable to the previous January 1 to December 31 period. In the event that the Commission determines, within one (1) year following the filing of each report, that any costs which Great Plains has incurred or may not have been reasonably and prudently incurred or may not be properly includable in the charges made by Great Plains to its purchasers, a proceeding will be

initiated for the ultimate determination thereof. In any such proceeding the burden shall be upon Great Plains to establish the propriety of such charges. Otherwise, at the conclusion of the 12-months review period, the costs reported will be deemed prudently incurred.

(6) Great Plains shall maintain its books and records in accordance with the accounting procedures established by this Commission for Class A & B gas pipeline companies. Deviation from such procedure may be permitted by the Chief Accountant upon request and good cause shown by Great Plains. For accounting and rate purposes, Great Plains, a partnership, will be treated as if it were a corporation and comprehensive tax allocation procedures will be required. Comprehensive tax allocation accounting procedures shall mean those procedures which require recording a full provision for all income tax effects of the timing differences between recorded amounts on the books of Great Plains and amounts reported for income tax purposes on the tax returns of the individual partners including (a) interest, taxes and pension cost capitalized per books and expensed currently for tax purposes, (b) all difference between book and tax depreciation and (c) any other timing difference between the recording of other revenues and expenses for book and tax purposes.

(7) Great Plains shall amend the language of Article XIV in both Gas Purchase Agreements to require refunds to be made upon issuance of a final Commission order.

(8) The Coal Sales Agreement between ANG and Coteau Properties Company shall be revised to reflect the quantity and quality of the coal to be provided, consistent with our discussion in this Opinion. Copies of the revised Agreement shall be filed with the Commission for approval.

(G) Written acknowledgment of the acceptance by Great Plains Gasification Associates of the certificate issued in Ordering Paragraph (A), together with its accompanying terms and conditions, shall be provided to the Commission within seventy-five (75) days from the date of issuance of this Opinion. In the absence of such written acceptance, the certificate herein issued shall be void. Any abandonment of this project subsequent to the acceptance of the certificate tendered shall be in accordance with this decision.

(H) The sponsors are hereby required to comply with Chapter 4 of the FEIS (Exh. No. 114), and with the Project Monitoring System.

<sup>112</sup> As discussed, applicants propose to restructure the project, subject to FERC approval, should Congress decide to provide tax-generated support.



(I) The initial decision issued in these proceedings on June 6, 1979, is adopted to the extent consistent with this Opinion and Order.

(J) All exceptions to the initial decision not granted are denied.

By the Commission. Commissioner Holden, concurring in part and dissenting in part, filed a separate statement appended hereto.

Kenneth F. Plumb,  
Secretary.

#### Appendix A—Analysis of cost of Service Estimates for the Great Plains Coal Gasification Project

##### Introduction

A key factor in determining when this nation will need a coal gas industry is the likely cost of high Btu gas from coal compared to alternatives such as imported oil. This appendix estimates the lifetime or "lifecycle" cost of gas produced from Great Plains and compares this estimate with alternative estimates of future oil prices. The estimates of lifecycle costs presented herein are derived from the annual cost of service estimates presented by the project sponsors and examined during the administrative proceeding in this case.

##### Prices Estimated By Project Sponsors

The project sponsors submitted several estimates of the cost of service per Mcf of gas produced from the Great Plains project. They estimated that the first year cost of service in inflated prices will be \$7.16 per Mcf (Exhibit 15A (REB-26)). This estimate is said to assume a 7.5 percent inflation rate in construction costs from 1978 through 1983, the scheduled first year of operation.

This type of estimate has two limitations. First, under original cost rate base regulation, the rate base and thus the cost of service will decline as depreciation is deducted from the rate base. Thus a first year cost of service overestimates what the project will cost on average over its lifetime. Second, by using inflated prices or current dollar estimates in 1983, it is difficult to make comparisons with today's prices of alternative sources of energy such as imported oil.

A second estimate provided by the sponsors is \$5.66 per Mcf (Exhibit No. 19d (REB-22)). This again is a first year cost of service and thus not representative of the lifetime costs of gas from this project. It is derived from estimates of capital and O&M costs in 1978 prices, i.e., no inflation is assumed. The rate of return on equity used is 15 percent, and the interest rates assumed are about 11 percent. Despite its claim to be a "real" or inflation-free projection, the \$5.66 per Mcf figure is not really such an estimate. The capital and O&M costs are in 1978 prices, but the rates of return and interest rates used are only valid in a world of rather high rates of inflation. In other words, these rates of return do include a premium for inflation.<sup>1</sup>

<sup>1</sup> The nominal rate of return required from investments normally includes a premium for inflation reflecting expectations about future price increases. Conversely, it follows that a rate of

Another estimate of the cost of service ranged from \$7.38 per million Btu in 1983,<sup>2</sup> to \$7.13 in 1987, and to \$10.74 per million in 2007. (Exhibit 121 (REB-27)). This projected plant tailgate cost is designed to show the actual price that will be billed to customers for this gas in the year they buy it and includes the impact of inflation. However, these estimates do not reflect the substantial surcharge paid by consumers during the construction period. Also, to assess the economic merits of coal gas, these estimates must be compared with the future cost of alternatives such as imported oil. The following analysis makes that comparison based on alternative assumptions about future oil prices.

##### Total and Average Cost of Service

A comparison of this latter estimate (\$10.74) of the annual cost of the gas over the life of the project provided by the sponsors with the energy equivalent price of imported crude oil for the assumed twenty-five year life of the project is presented in Table 1. The crude oil prices have been based on \$20 per barrel OPEC oil in 1979 plus the impact of inflation and price escalation under three assumptions: (1) that imported oil prices will increase at the same rate assumed for U.S. inflation (8.5 percent per year), (2) that imported oil prices will escalate at a rate 1.0 percent more rapidly (approximately 7.5 percent per year), (3) at a rate 1.2 percent more rapidly (approximately 7.7 percent per year), and (4) at a rate 1.5 percent more rapidly than inflation (approximately 8.0 percent per year).<sup>3</sup>

For purposes of comparison, Table 2 shows the prices of coal gas and imported oil under the same assumptions used in Table 1 except that the effects of inflation have been removed. Prices in Table 1 have been deflated back to mid 1979 prices assuming 6.5 percent inflation.

**Table 1.—Expected cost of coal gas and prices of imported oil**  
(In current dollars per MMBtu)<sup>1</sup>

| Year | Coal gas price <sup>2</sup> | Imported oil prices at real escalation rate of— <sup>3</sup> |        |        |        |
|------|-----------------------------|--------------------------------------------------------------|--------|--------|--------|
|      |                             | Percent                                                      |        |        |        |
|      |                             | 0                                                            | 1      | 1.2    | 1.5    |
| 1983 | \$7.38                      | \$4.44                                                       | \$4.62 | \$4.66 | \$4.71 |
| 1984 | 7.29                        | 4.73                                                         | 4.97   | 5.02   | 5.09   |
| 1985 | 7.21                        | 5.03                                                         | 5.34   | 5.41   | 5.50   |

return of fifteen percent embodies the assumption that inflation is and will be rather high. In order to compare revenues and prices fairly over some extended period of time, it is necessary first to compare them in terms of constant purchasing power, expressed in terms of the purchasing power of a dollar in some fixed year. This is done by dividing the nominal money values for each year by the ratio of the level of prices (as measured by some price index) in that year to the level of prices that prevailed in the base year.

<sup>2</sup> Equivalent to \$7.16 Mcf.

<sup>3</sup> The total escalation rates for oil prices actually used in the following tables are slightly higher than those given here (.065, .07565, .07778, and .080975). These rates result from the formula  $(1+r)(1+e) - 1$ , where  $r$  is the inflation rate (.065) and  $e$  is the real rate of 0.0, 0.01, 0.012, and 0.015.

**Table 1.—Expected cost of coal gas and prices of imported oil—Continued**  
(In current dollars per MMBtu)<sup>1</sup>

| Year | Coal gas price <sup>2</sup> | Imported oil prices at real escalation rate of— <sup>3</sup> |       |       |       |
|------|-----------------------------|--------------------------------------------------------------|-------|-------|-------|
|      |                             | Percent                                                      |       |       |       |
|      |                             | 0                                                            | 1     | 1.2   | 1.5   |
| 1986 | 7.16                        | 5.36                                                         | 5.75  | 5.83  | 5.96  |
| 1987 | 7.13                        | 5.71                                                         | 6.16  | 6.28  | 6.43  |
| 1988 | 7.13                        | 6.08                                                         | 6.65  | 6.77  | 6.95  |
| 1989 | 7.15                        | 6.48                                                         | 7.15  | 7.30  | 7.52  |
| 1990 | 7.21                        | 6.90                                                         | 7.69  | 7.86  | 8.12  |
| 1991 | 7.28                        | 7.35                                                         | 8.28  | 8.48  | 8.78  |
| 1992 | 7.38                        | 7.82                                                         | 8.90  | 9.14  | 9.49  |
| 1993 | 7.51                        | 8.33                                                         | 9.58  | 9.85  | 10.26 |
| 1994 | 7.66                        | 8.87                                                         | 10.30 | 10.61 | 11.09 |
| 1995 | 7.84                        | 9.45                                                         | 11.08 | 11.44 | 11.99 |
| 1996 | 8.05                        | 10.08                                                        | 11.92 | 12.33 | 12.96 |
| 1997 | 8.31                        | 10.72                                                        | 12.82 | 13.28 | 14.01 |
| 1998 | 8.45                        | 11.41                                                        | 13.79 | 14.32 | 15.15 |
| 1999 | 8.63                        | 12.16                                                        | 14.83 | 15.43 | 16.37 |
| 2000 | 8.82                        | 12.95                                                        | 15.98 | 16.63 | 17.70 |
| 2001 | 9.03                        | 13.79                                                        | 17.16 | 17.93 | 19.13 |
| 2002 | 9.27                        | 14.68                                                        | 18.48 | 19.32 | 20.68 |
| 2003 | 9.52                        | 15.64                                                        | 19.88 | 20.82 | 22.36 |
| 2004 | 9.78                        | 16.68                                                        | 21.36 | 22.44 | 24.17 |
| 2005 | 10.08                       | 17.74                                                        | 22.98 | 24.19 | 26.12 |
| 2006 | 10.40                       | 18.89                                                        | 24.71 | 26.07 | 28.24 |
| 2007 | 10.74                       | 20.12                                                        | 26.58 | 28.10 | 30.53 |

<sup>1</sup> Prices include the effect of expected inflation at 6.5 percent per year.

<sup>2</sup> Based on \$20.00 imported oil with prices increasing to match U.S. inflation plus various added escalation prices as shown. A barrel of oil is assumed to contain 5.6 MMBtu.

<sup>3</sup> From Exhibit 121.

**Table 2.—Expected cost of coal gas and prices for imported oil**  
(In 1979 dollars per MMBtu)

| Year | Coal gas price <sup>2</sup> | Imported oil prices at real escalation rate of— <sup>3</sup> |        |        |        |
|------|-----------------------------|--------------------------------------------------------------|--------|--------|--------|
|      |                             | Percent                                                      |        |        |        |
|      |                             | 0                                                            | 1      | 1.2    | 1.5    |
| 1983 | \$5.74                      | \$3.45                                                       | \$3.59 | \$3.62 | \$3.66 |
| 1984 | 5.32                        | 3.45                                                         | 3.63   | 3.66   | 3.72   |
| 1985 | 4.94                        | 3.45                                                         | 3.66   | 3.71   | 3.77   |
| 1986 | 4.61                        | 3.45                                                         | 3.70   | 3.75   | 3.83   |
| 1987 | 4.31                        | 3.45                                                         | 3.74   | 3.80   | 3.89   |
| 1988 | 4.05                        | 3.45                                                         | 3.77   | 3.84   | 3.94   |
| 1989 | 3.81                        | 3.45                                                         | 3.81   | 3.89   | 4.00   |
| 1990 | 3.61                        | 3.45                                                         | 3.85   | 3.93   | 4.06   |
| 1991 | 3.42                        | 3.45                                                         | 3.89   | 3.98   | 4.12   |
| 1992 | 3.25                        | 3.45                                                         | 3.93   | 4.03   | 4.19   |
| 1993 | 3.11                        | 3.45                                                         | 3.97   | 4.08   | 4.25   |
| 1994 | 2.98                        | 3.45                                                         | 4.01   | 4.13   | 4.31   |
| 1995 | 2.86                        | 3.45                                                         | 4.05   | 4.18   | 4.38   |
| 1996 | 2.76                        | 3.45                                                         | 4.09   | 4.23   | 4.44   |
| 1997 | 2.67                        | 3.45                                                         | 4.13   | 4.28   | 4.51   |
| 1998 | 2.55                        | 3.45                                                         | 4.17   | 4.33   | 4.58   |
| 1999 | 2.45                        | 3.45                                                         | 4.21   | 4.38   | 4.65   |
| 2000 | 2.35                        | 3.45                                                         | 4.25   | 4.43   | 4.72   |
| 2001 | 2.26                        | 3.45                                                         | 4.29   | 4.49   | 4.79   |
| 2002 | 2.18                        | 3.45                                                         | 4.34   | 4.54   | 4.86   |
| 2003 | 2.10                        | 3.45                                                         | 4.38   | 4.59   | 4.93   |
| 2004 | 2.03                        | 3.45                                                         | 4.42   | 4.65   | 5.01   |
| 2005 | 1.96                        | 3.45                                                         | 4.47   | 4.70   | 5.08   |
| 2006 | 1.90                        | 3.45                                                         | 4.51   | 4.76   | 5.16   |
| 2007 | 1.84                        | 3.45                                                         | 4.56   | 4.82   | 5.23   |

Observe from Table 2 that the unit cost of gas will decline in real terms over time. If the real cost of oil does not increase over time, the cost of this gas will be less than oil 8 years after initial operation (1991). If oil prices increase in real terms, this "cross over" point will occur sooner.

In order to determine the total cost of the fuel to consumers in each year we have multiplied the unit price shown in Table 1 by

45 trillion Btu (the approximate plant output per year) to obtain the total cost of the fuel as it will be charged to consumers. These sums are then compared with the cost of fuel to consumers assuming imported oil were burned. The imported oil prices are computed on the same assumption used in the previous tables. These figures are shown in Table 3.

The gas customers are also required to provide construction period funding in the form of surcharges to be levied during the construction period. The cost to consumers from the construction period funding arrangement were presented in Exhibit 26B and are shown in Table 4.

**Table 3.—Costs in Current Dollars of Supplying 45 Trillion Btu/Year For 1983-2007**  
(In Millions of Dollars)<sup>1</sup>

| Year | Coal gas | Imported oil—At real escalation rate of— <sup>3</sup> |          |          |          |
|------|----------|-------------------------------------------------------|----------|----------|----------|
|      |          | Percent                                               |          |          |          |
|      |          | 0                                                     | 1        | 1.2      | 1.5      |
| 1979 | .00      | .00                                                   | .00      | .00      | .00      |
| 1980 | .00      | .00                                                   | .00      | .00      | .00      |
| 1981 | .00      | .00                                                   | .00      | .00      | .00      |
| 1982 | .00      | .00                                                   | .00      | .00      | .00      |
| 1983 | \$332.10 | \$199.80                                              | \$207.90 | \$209.70 | \$211.95 |
| 1984 | 328.05   | 212.85                                                | 223.65   | 225.90   | 229.05   |
| 1985 | 324.45   | 226.35                                                | 240.30   | 243.45   | 247.50   |
| 1986 | 322.20   | 241.20                                                | 258.75   | 262.35   | 267.75   |
| 1987 | 320.85   | 256.95                                                | 278.10   | 282.60   | 289.35   |
| 1988 | 320.85   | 273.60                                                | 299.25   | 304.65   | 312.75   |
| 1989 | 321.75   | 291.60                                                | 321.84   | 328.50   | 338.40   |
| 1990 | 324.45   | 310.50                                                | 346.05   | 353.70   | 365.40   |
| 1991 | 327.60   | 330.75                                                | 372.60   | 381.60   | 395.10   |
| 1992 | 332.10   | 351.90                                                | 400.50   | 411.30   | 427.05   |
| 1993 | 337.95   | 374.85                                                | 431.10   | 443.25   | 461.70   |
| 1994 | 344.70   | 399.15                                                | 463.50   | 477.45   | 499.05   |
| 1995 | 352.80   | 425.25                                                | 498.60   | 514.80   | 539.55   |
| 1996 | 362.25   | 452.70                                                | 536.40   | 554.85   | 583.20   |
| 1997 | 373.95   | 482.40                                                | 576.90   | 597.60   | 630.45   |
| 1998 | 380.25   | 513.45                                                | 620.55   | 644.40   | 681.75   |
| 1999 | 388.35   | 547.20                                                | 667.35   | 694.35   | 736.65   |
| 2000 | 396.90   | 582.75                                                | 718.20   | 748.35   | 796.50   |
| 2001 | 406.35   | 620.55                                                | 772.20   | 806.85   | 860.85   |
| 2002 | 417.15   | 660.60                                                | 830.70   | 869.40   | 930.60   |
| 2003 | 428.40   | 703.80                                                | 893.70   | 936.90   | 1006.20  |
| 2004 | 440.10   | 749.70                                                | 961.20   | 1009.80  | 1087.60  |
| 2005 | 453.60   | 798.30                                                | 1034.10  | 1088.50  | 1175.40  |
| 2006 | 468.00   | 850.05                                                | 1111.90  | 1173.10  | 1270.80  |
| 2007 | 483.30   | 905.40                                                | 1196.10  | 1264.50  | 1373.80  |

<sup>1</sup> Costs and Prices include the effect of expected inflation at 6.5 percent per year.

**Table 4.—Construction Period Funding**

| Year | Thousand dollars |
|------|------------------|
| 1979 | \$33,044         |
| 1980 | 81,840           |
| 1981 | 115,641          |
| 1982 | 144,468          |

A comparison of the costs of coal gas with alternate energy sources must include these charges during construction. In Table 5 the costs in Tables 3 and 4 are converted to current (1979) dollars, using a 6.5 percent deflation factor. This shows the amount collected for the fuel in terms of constant dollars.

The total cost of coal gas over the 25 years and the average cost of coal gas are also shown in Table 4 and are significantly less than any of the oil cost scenarios because of the low cost of coal gas in later years. For example, the simple 25 year average cost of

the coal gas is 3.44 per MMBtu. This is equivalent in energy to oil selling at about 20 per barrel which was approximately the price of imported oil in July 1979. However as discussed below, total undiscounted cost or a simple average is not a valid basis for comparison.

**Table 5.—Costs in Constant Dollars of Supplying 45 Trillion Btu/Year for 1983-2007 Including Surcharges<sup>1</sup>**  
(In millions of 1979 dollars)

| Year                        | Coal gas | Imported oil—At real escalation rate of— <sup>3</sup> |          |          |          |
|-----------------------------|----------|-------------------------------------------------------|----------|----------|----------|
|                             |          | Percent                                               |          |          |          |
|                             |          | 0                                                     | 1        | 1.2      | 1.5      |
| 1979                        | \$33.04  | .00                                                   | .00      | .00      | .00      |
| 1980                        | 58.07    | .00                                                   | .00      | .00      | .00      |
| 1981                        | 101.98   | .00                                                   | .00      | .00      | .00      |
| 1982                        | 119.64   | .00                                                   | .00      | .00      | .00      |
| 1983                        | 258.15   | \$155.25                                              | \$161.55 | \$162.90 | \$164.70 |
| 1984                        | 239.44   | 155.25                                                | 163.35   | 164.70   | 167.40   |
| 1985                        | 232.38   | 155.25                                                | 164.70   | 166.95   | 169.65   |
| 1986                        | 207.34   | 155.25                                                | 166.50   | 168.75   | 172.35   |
| 1987                        | 193.87   | 155.25                                                | 168.30   | 171.00   | 175.05   |
| 1988                        | 182.04   | 155.25                                                | 169.65   | 172.80   | 177.30   |
| 1989                        | 171.40   | 155.25                                                | 171.45   | 175.05   | 180.00   |
| 1990                        | 162.29   | 155.25                                                | 173.25   | 176.85   | 182.70   |
| 1991                        | 153.87   | 155.25                                                | 175.05   | 179.10   | 185.40   |
| 1992                        | 146.46   | 155.25                                                | 176.85   | 181.35   | 188.55   |
| 1993                        | 139.95   | 155.25                                                | 178.65   | 183.60   | 191.25   |
| 1994                        | 134.03   | 155.25                                                | 180.45   | 185.85   | 193.95   |
| 1995                        | 128.61   | 155.25                                                | 182.25   | 188.10   | 197.10   |
| 1996                        | 124.18   | 155.25                                                | 184.05   | 190.35   | 199.80   |
| 1997                        | 120.37   | 155.25                                                | 185.85   | 192.60   | 202.95   |
| 1998                        | 114.93   | 155.25                                                | 187.65   | 194.85   | 206.10   |
| 1999                        | 110.21   | 155.25                                                | 189.45   | 197.10   | 209.25   |
| 2000                        | 105.76   | 155.25                                                | 191.25   | 199.35   | 212.40   |
| 2001                        | 101.67   | 155.25                                                | 193.05   | 202.05   | 215.55   |
| 2002                        | 98.01    | 155.25                                                | 195.30   | 204.30   | 218.70   |
| 2003                        | 94.51    | 155.25                                                | 197.10   | 206.55   | 221.85   |
| 2004                        | 91.16    | 155.25                                                | 198.90   | 209.25   | 225.45   |
| 2005                        | 88.22    | 155.25                                                | 201.15   | 211.50   | 228.60   |
| 2006                        | 85.47    | 155.25                                                | 202.95   | 214.20   | 232.20   |
| 2007                        | 82.88    | 155.25                                                | 205.20   | 216.90   | 235.35   |
| Total                       | 3870.0   | 3881.2                                                | 4563.9   | 4716.0   | 4933.6   |
| Simple average <sup>2</sup> | 3.44     | 3.45                                                  | 4.06     | 4.19     | 4.40     |

<sup>1</sup> Assuming 6.5 percent per year inflation.

<sup>2</sup> (\$/MMBtu).

##### Present Value Cost of Service

The constant dollar cost of purchasing the same amount of energy in the form of gas or oil is shown in Table 5. It is not clear from Table 5, which source of energy has a lower lifetime cost. The cost of coal gas is higher than oil in the earlier years of operation but becomes less as some point after 1988 depending upon the assumed rate of growth in oil prices. The way of comparing the lifetime or "lifecycle costs" of alternative sources of energy is to calculate the present value or present worth of the stream of costs over time for each source. This is done by discounting the future costs at an appropriate discount rate. Discounting



other prices for coal gas provided by the sponsors.

**Table 6.—Present Value of Cost of Supplying 45 Trillion Btu/Year for 1983-2007<sup>1</sup>**

[In millions of 1979 dollars]

| Year:                | Imported oil—At real escalation rate of— |          |          |          |          |
|----------------------|------------------------------------------|----------|----------|----------|----------|
|                      | Coal gas                                 | Percent  |          |          |          |
|                      |                                          | 0        | 1        | 1.2      | 1.5      |
| 1979....             | \$33.04                                  | .00      | .00      | .00      | .00      |
| 1980....             | 55.30                                    | .00      | .00      | .00      | .00      |
| 1981....             | 92.48                                    | .00      | .00      | .00      | .00      |
| 1982....             | 103.31                                   | .00      | .00      | .00      | .00      |
| 1983....             | 212.38                                   | \$127.72 | \$132.91 | \$134.02 | \$135.50 |
| 1984....             | 187.61                                   | 121.64   | 127.99   | 129.05   | 131.18   |
| 1985....             | 165.93                                   | 115.65   | 122.90   | 124.58   | 126.60   |
| 1986....             | 147.35                                   | 110.33   | 118.33   | 119.93   | 122.49   |
| 1987....             | 131.22                                   | 105.08   | 113.91   | 115.74   | 118.48   |
| 1988....             | 117.34                                   | 100.08   | 109.36   | 111.39   | 114.29   |
| 1989....             | 105.23                                   | 95.31    | 105.26   | 107.47   | 110.50   |
| 1990....             | 94.89                                    | 90.77    | 101.30   | 103.40   | 106.82   |
| 1991....             | 85.68                                    | 86.45    | 97.47    | 99.73    | 103.24   |
| 1992....             | 77.67                                    | 82.33    | 93.79    | 96.17    | 99.99    |
| 1993....             | 70.68                                    | 78.41    | 90.23    | 92.73    | 96.59    |
| 1994....             | 64.47                                    | 74.66    | 86.80    | 89.40    | 93.29    |
| 1995....             | 59.01                                    | 71.12    | 83.49    | 86.17    | 90.29    |
| 1996....             | 54.18                                    | 67.74    | 80.30    | 83.05    | 87.17    |
| 1997....             | 50.02                                    | 64.51    | 77.22    | 80.03    | 84.33    |
| 1998....             | 45.48                                    | 61.44    | 74.26    | 77.11    | 81.58    |
| 1999....             | 41.54                                    | 58.51    | 71.40    | 74.28    | 78.86    |
| 2000....             | 37.96                                    | 55.73    | 68.65    | 71.58    | 76.24    |
| 2001....             | 34.76                                    | 53.07    | 65.99    | 69.07    | 73.69    |
| 2002....             | 31.91                                    | 50.54    | 63.58    | 66.51    | 71.20    |
| 2003....             | 29.30                                    | 48.14    | 61.11    | 64.04    | 68.79    |
| 2004....             | 26.92                                    | 45.85    | 58.74    | 61.79    | 66.58    |
| 2005....             | 24.81                                    | 43.66    | 56.57    | 59.48    | 64.29    |
| 2006....             | 22.89                                    | 41.58    | 54.36    | 57.37    | 62.19    |
| 2007....             | 21.14                                    | 39.80    | 52.35    | 55.33    | 60.04    |
| Total                | 2224.5                                   | 1890.2   | 2166.3   | 2229.4   | 2324.2   |
| Average <sup>2</sup> | 4.06                                     | 3.45     | 3.96     | 4.07     | 4.24     |

<sup>1</sup> Based upon a 5% discount rate per year.  
<sup>2</sup> Present value (\$/MMBtu).

#### Use of Tailgate Gas Price

The analysis of the cost differential between Great Plains coal gas and imported oil has been based on the difference between the gas price at the tailgate of the plant and the FOB price for OPEC oil as announced in their June meeting. Neither of these prices represents the full cost to the consumer, but the difference in trends in these major components of the burner tip costs is instructive.

Consumer payments for gas or oil will be the delivered costs of the fuel to the consumer as it will be used. For the industrial customer the cost of Great Plains gas will probably be about \$1.26 per million Btu higher than the plant tailgate cost to cover the transmission through the new Great Lakes Pipeline and distribution costs.<sup>3</sup>

<sup>3</sup> The additional \$1.26 allows for:

|                                                                                                                                                                                                                                 |                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| (1) Cost of Transmission on New Great Lakes facilities—\$8505 (in 1978 Dollars) per Mcf as shown in Exhibit 110 adjusted to 1979 Dollars to allow for the 26.2% increase in the GNP Deflator of the Department of Commerce..... | \$0.82 per Mcf. |
| (2) Distribution Costs—per AGA Energy Modeling Department.....                                                                                                                                                                  | .40             |

1.22 per Mcf or  
1.26 per MMBtu.

We recognize that there may be some additional transmission costs on the sponsoring pipelines.

The crude oil is processed by refiners to make the products delivered to consumers. The price of \$20.00 per barrel FOB for imported oil represents the average OPEC export price in July 1979.<sup>4</sup> The prices vary by country and premiums are paid for higher quality oil. The average landed cost of imported crude oil to U.S. refiners in July 1979 was \$23.09 per barrel, including transportation charges.<sup>5</sup>

In addition to the premiums paid and the cost of delivery to the United States, there is a cost of processing the crude oil and a delivery cost for the products. Distillate fuel oil and low sulfur residual fuel oil are the products best suited to serve as alternates to gas, and the difference between the costs of these products at the refineries and the refiners' cost of crude may be considered to represent the processing costs. In 1978 and 1979 distillate fuel at a refinery has been priced at about \$4.10 per barrel more than crude oil and low sulfur residual at \$1.40 more.<sup>6</sup> The average of these—\$2.75 per barrel—may be considered the approximate processing cost.

The distribution cost to industrial customers is not reported, but DOE indicates that refiners charge large volume ultimate consumers of fuel oil an average of about \$1.65 per barrel more than they charge other refiners and resellers.<sup>7</sup> The added costs for oil delivered to consumers, therefore, is about \$3.09 for quality premiums and delivery to refineries, \$2.75 for processing and \$1.65 for distribution. This totals \$7.49 per barrel or \$1.29 per million Btu. This is about the same as the added transmission and distribution costs for gas, so the comparison between the tailgate gas cost and the FOB OPEC oil price may be considered as indicative of the real cost differential of coal gas and oil when purchased by the ultimate consumer.

#### Conclusions

This analysis does not attempt to recalculate or reestimate the basic construction and operating costs and annual cost of service estimates provided by the sponsors. However, the analysis of interpretation of these cost of service estimates provided by the sponsors does not adequately measure the economic merits of coal gas compared to alternatives over the life of the project without some additional analysis. A comparison with alternatives can best be made by calculating the "lifecycle" cost per MMBtu of gas from this project. This lifecycle cost per unit of gas is estimated to be approximately \$4.06 per MMBtu. This is equivalent to oil selling for about \$23.50 per barrel. If oil prices escalate at a rate 1.5 percentage points above the general rate of inflation, the "lifecycle" costs of gas from this

<sup>4</sup> DOE's Weekly Petroleum Status Report shows the effective FOB price for OPEC exports was \$20.37 per barrel in July 1979; non-OPEC exports averaged \$22.78.

<sup>5</sup> DOE Monthly Energy Review, October 1979.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

project will be less than the "lifecycle" cost of oil over the same period. However, the cost of the gas will be greater than the cost of oil during the earlier years but will decline to a level less than oil in later years. This "cross over" point will occur within nine years after commencement of operations depending on the rate of oil price escalation.

**Table 7.—Compounded Discount Rate**

| Year:     | Discount at 5% per year |
|-----------|-------------------------|
| 1979..... | .95238                  |
| 1980..... | .90703                  |
| 1981..... | .86384                  |
| 1982..... | .82270                  |
| 1983..... | .78353                  |
| 1984..... | .74622                  |
| 1985..... | .71068                  |
| 1986..... | .67684                  |
| 1987..... | .64461                  |
| 1988..... | .61391                  |
| 1989..... | .58468                  |
| 1990..... | .55684                  |
| 1991..... | .53032                  |
| 1992..... | .50507                  |
| 1993..... | .48102                  |
| 1994..... | .45811                  |
| 1995..... | .43630                  |
| 1996..... | .41552                  |
| 1997..... | .39573                  |
| 1998..... | .37688                  |
| 1999..... | .35894                  |
| 2000..... | .34185                  |
| 2001..... | .32557                  |
| 2002..... | .31007                  |
| 2003..... | .29530                  |
| 2004..... | .28124                  |
| 2005..... | .26785                  |
| 2006..... | .25509                  |
| 2007..... |                         |

**Table 8.—Present Value of 45 Trillion Btu at 5% Annual Discount Rate**

| Year:      | Present Value (Trillion Btu) |
|------------|------------------------------|
| 1979.....  | 0                            |
| 1980.....  | 0                            |
| 1981.....  | 0                            |
| 1982.....  | 0                            |
| 1983.....  | 37.022                       |
| 1984.....  | 35.259                       |
| 1985.....  | 33.580                       |
| 1986.....  | 31.981                       |
| 1987.....  | 30.458                       |
| 1988.....  | 29.007                       |
| 1989.....  | 27.626                       |
| 1990.....  | 26.311                       |
| 1991.....  | 25.068                       |
| 1992.....  | 23.864                       |
| 1993.....  | 22.728                       |
| 1994.....  | 21.646                       |
| 1995.....  | 20.615                       |
| 1996.....  | 19.633                       |
| 1997.....  | 18.698                       |
| 1998.....  | 17.808                       |
| 1999.....  | 16.960                       |
| 2000.....  | 16.152                       |
| 2001.....  | 15.383                       |
| 2002.....  | 14.651                       |
| 2003.....  | 13.953                       |
| 2004.....  | 13.289                       |
| 2005.....  | 12.656                       |
| 2006.....  | 12.053                       |
| 2007.....  | 11.479                       |
| Total..... | 547.87                       |

**Appendix B.—Failure of Project at Conclusion of Construction Requiring Repayment of \$1,176,000,000 Over 5 Years**

| Year:  | Debt balance outstanding | Debt repayment | Interest on debt balance | Debt charge   | Equity balance outstanding | Return of equity | Return on equity | Combined debt and equity charge | Charge to sales for resale cents per Mcf |
|--------|--------------------------|----------------|--------------------------|---------------|----------------------------|------------------|------------------|---------------------------------|------------------------------------------|
| 1..... | \$906,000,000            | \$181,200,000  | \$99,660,000             | \$280,860,000 | \$270,000,000              | \$54,000,000     | \$40,500,000     | \$375,360,000                   | 8.5                                      |
| 2..... | 724,800,000              | 181,200,000    | 79,728,000               | 260,930,000   | 218,000,000                | 54,000,000       | 32,400,000       | 347,330,000                     | 7.9                                      |
| 3..... | 543,600,000              | 181,200,000    | 59,796,000               | 241,000,000   | 162,000,000                | 54,000,000       | 24,300,000       | 319,300,000                     | 7.3                                      |
| 4..... | 362,400,000              | 181,200,000    | 39,864,000               | 221,060,000   | 108,000,000                | 54,000,000       | 16,200,000       | 291,260,000                     | 6.6                                      |
| 5..... | 181,200,000              | 181,200,000    | 19,932,000               | 201,130,000   | 54,000,000                 | 54,000,000       | 8,100,000        | 263,230,000                     | 6.0                                      |

#### Assumptions:

1. Sales for resale by sponsoring pipeline companies equal to 4,400 Bcf per year.
2. Investment in combined gasification plant and coal mine equals 77 percent debt and 23 percent equity.
3. Unamortized debt at 11 percent interest per annum.
4. Unamortized equity earning 15 percent per annum.
5. Debt and equity repaid in five equal amounts, with outstanding capital presented at the beginning of each year and payments made at end of each year.
6. No tax liability on assumption that write-offs equal liabilities.

Great Plains Gasification Associates, et al.,  
Docket Nos. CP78-391, et al.

Holden, Commissioner, concurring in part and dissenting in part:  
(Issued November 21, 1979).

It is useful to distinguish at the outset what is in controversy and what is not. There is no controversy here as to the importance of utilizing gas produced from coal as an ingredient of the national energy supply. The problem before the Commission is not to make broad national policy on the subject of synthetic fuels. Whether a given level of investment in synthetic fuels, at this time, is superior to a given level of investment in liquid fuels or in other forms is not what we are here deciding.

The necessity for an increased reliance on coal, in the context of national energy policy, is also not the prime issue in this case; is not within the primary responsibility of the Commission to decide; and, as far as the Commission has latitude to express advisory, even if wellfounded, opinions of energy policy, is not now the subject of disagreement.

Nor is the Commission acting on a project to increase gas supply. Once upon a time, the original applicants thought it would be a gas supply project. But they have given up that ghost. There is no pretense that this is a gas supply project. When originally proposed, the project would have provided 250,000 Mcf per day for Michigan Wisconsin, equal to approximately 10 % of its system supply. As now approved by the Commission, the project will provide gas equal to about 1% of the system supply of each of the five project sponsors.<sup>13</sup> While public relations ventures appear to describe the project as one to produce gas, that is not the objective as the companies have presented it to the Commission and that is not the objective

<sup>13</sup> These figures are approximate and based on 1977 data from FPC Form No. 2. The breakdown is as follows: Columbia, 1%; Michigan Wisconsin, 1.3%; Natural, .97%; Tennessee, .84%; Transco, 1.6%. The Public Service Commission of New York is absolutely right in describing these amounts as "minuscule." Brief... Opposing Exceptions, (page 3).

revealed by the record before the Commission.<sup>14</sup>

The only reason this project is here is financing. Only by securing a structure which allows the project costs to be assigned to ratepayers can the sponsors get moving. Otherwise, it is an oddity that, in this season of increased deregulation, companies should ask us to stretch our jurisdiction and include what we would normally not cover. This is not a gas supply project, but a financing package. The Commission would normally have nothing to do with the financing of these coal gasification facilities. The reason is that under normal circumstances, it would have no authority to say to these customers, "build" or "do not build." It still claims no such authority. It is not being asked by the project sponsors to exercise any such authority. In other words, the Commission is not being asked to exercise a regulatory function as such. Instead, it is being asked to undertake the role of facilitating the investment program of the participating companies.

How is this to work?

Essentially, the steps are as follows:

- (1) The participating companies have structured a concept of what the plant and associated facilities would be and have estimated the cost of producing coal gas through those facilities. Since that is none of our official business, it would not be before us directly.
- (2) The matter comes before us because we have authority to set rates when coal gas is comingled with natural gas. In relation to that authority, we are therefore asked, and the majority have hereby in this order determined to, issue a certificate of public convenience and necessity to Great Plains Gasification Associates to make sales for resale in interstate commerce to the participating companies. The contemplated sales contracts reflect the financial position necessary to construct this project.
- (3) The participating companies are to provide equity in the project, under terms

<sup>14</sup> The applicants seek to limit their loss of equity on the specific basis that "none of the sponsors will receive any substantial amount of gas from the initial project." Brief on Exceptions of Great Plains Gasification Associates and the Customer Pipeline Companies, (Page 45).

which will allow all of their money to be repaid to them, except such as may be attributable to cost overruns and technological failure.

(4) It will allow them to borrow money in the private finance market, with the absolute assurance that the private finance market requires; that under all conditions, the debt will be repaid.

(5) If the commercial demonstration project turns out to be successful, so that the sponsors learn how to make high-Btu gas that they can sell at a profit, then they will be free to proceed to do so.

(6) All of this is held together by the fact that the customers of the five participating pipelines will be obliged, on the basis of rate decisions made by the Commission, to provide the security that the project sponsors need.

The Administrative Law Judge has ruled against the sponsors. He has done so on the basis that the benefits of the project will be national, not specific to the gas consumers. Therefore, he reasons, the costs of the project should be assumed by the taxpayers rather than by a designated group of ratepayers. It is not necessary to adopt, as sharply as the Judge does, this distinction between "taxpayers" and "ratepayers." It might well be possible to approve of what is sought.<sup>15</sup> But the Commission majority has gone beyond the extent that I can find reasonable.

There is some merit in the judge's view, at least in that a policy predicated principally upon national energy considerations might well take into account that the gas market accounts for only about 25 percent of national energy consumption. There are, of course, gas elements in sectors which are not reported as gas consumption, but the matter is not a simple one conceptually. In any event, it is not indispensable to undertake that kind of analysis.

Even if we were to assume that the charges could properly be laid to gas consumers, we would still need to make a judgment that the specific benefits that identifiable gas consumers would derive, would have some reasonable relationship to those consumers' financial contribution. To base rates upon some more diffuse benefit, of the type that economists would call "public goods", tends

<sup>15</sup> See footnote 6 at page 7.



to erode the conceptual distinction between rate-making and taxation. Such an erosion should not come about, like the British Empire, in a fit of absent-mindedness.

Even on the theory that there is some valid basis on which an order approving the concept of the Great Plains application could be approved, which I would not necessarily reject, the Commission majority has gone beyond the extent that I can find reasonable. The points at issue fall into three main groups: (1) the proper relationship of the regulatory agency to the legislative power from which it derives its authority, particularly when the regulatory agency is called upon to engage in sophisticated interpretation that expand its authority beyond a scope normally contemplated and for the purpose of regulating matters not regulated; (2) the absence of the limitation of the concept of "demonstration" for the purpose of arriving at public convenience and necessity determinations, with attendant future problems for Commission decisionmaking; and (3) certain specific features of the financial and tariff conclusions which the Commission reaches.

1. The fundamental disputed issue is one of regulatory policy—this Commission's proper relationship to the rest of the Government.

The Commission does not have the freedom, as if it were one of Plato's guardians, merely to do whatever it chooses. Instead, its decisions must be governed by some concept of lawful authority. If the Commission believes that something is desirable, but lacks the lawful authority to approve it, then the Commission must deny. That is axiomatic. But there is the question of policy.

This is a fundamental issue. The issue of how the Nation is to handle a synthetic fuels industry is currently before Congress. That issue involves fundamental questions as to public priorities, and has of recent months and weeks been the subject of intense political debate. A central issue in that debate has been how and on what scale the synthetic fuels industry is to be financed.

DOE has urged that we should not await the Congressional outcome.

DOE continues to strongly oppose any delay in this project to await Congressional initiatives.

Throughout this proceeding, alternative forms of financing have been proposed. The latest arguments have advanced the pending H.R. 3930 which contains provisions for loan guarantees and other funding mechanisms for new synthetic fuel plants as a reason for delaying this project. (Ohio B.O.E., 6.) Last summer the President proposed the establishment of an Energy Security Corporation to produce two and one half million barrels a day or equivalent of synthetic fuels and unconventional gas. (Address to the Nation, July 15, 1979.) The Administration strongly believes that new methods of financing coal gasification and other synthetic fuel projects are essential if the nation is to decrease its dependence on foreign energy supplies. DOE will continue to pursue those options for all appropriate projects including this project. It is also DOE's position, however, that we cannot

afford to delay this project until these options are finalized. As pointed out in the DOE Brief on Exceptions, there is no assurance of what would be passed by Congress, when it would be passed, or what conditions would be attached. Possibly critical delays could be encountered either in the time taken for the legislation to pass or in the time necessary to establish procedures for such assistance once the legislation is passed. The uncertainties associated with this process make further pursuit of these options in this proceeding fruitless, and this approach to the case should be rejected by the Commission. Waiting for someone else to take the initiative may mean that critical energy options are lost. For this reason, DOE believes that the dangers inherent in waiting, far outweigh the speculative benefits that may become available later.<sup>16</sup>

The position DOE articulates fundamentally misconstrues the regulatory process. As an independent regulatory agency this Commission derives its authority and power from the Congress, whose delegate it is. It is not "waiting for someone else," in any proper sense, for an arm of Congress to view its possible course in relation to those from whom it derives its powers. Such mature deliberation is sound, as is a proper regard for the assignments of authority that the legislative body may have made. The constitutional regime does not permit us to say "Congress hasn't done it. We're going to do it."

The point is well grasped by General Motors,<sup>17</sup> who has argued, I think wisely, that:

There is an even more basic reason why the Commission should not approve the Great Plains project at this point in time. If a synthetic fuels program is ultimately approved by Congress, and the Energy Security Corporation (or some similar entity) is established that Corporation will have the responsibility for establishing national synthetic fuels priorities and setting the criteria under which individual synthetic fuels projects will go forward. The Corporation may or may not conclude that the Great Plains project, as presently structured, is the best way to accomplish its goals. [footnote omitted] However, that should be a decision for the Corporation, which will have overall responsibility for assuring that a synthetic fuels industry is developed in the country. The Commission's approval of the Great Plains project now might well prove to be inconsistent with the program ultimately developed by Congress and the Energy Security Corporation. [emphasis added]

Whether the Commission is specifically persuaded by the DOE argument is not answerable definitively. But the Commission has adopted a course which, in this respect, is identical to the course that DOE proposed. The functional result, if not that intended, is to substitute Commission discretion for legislative discretion by adding a separate and additional mode of financing beyond any that Congress may have contemplated.

<sup>16</sup> Brief Opposing Exceptions of the Department of Energy, pp. 2-3.

<sup>17</sup> Brief Opposing Exceptions of General Motors Corporation, pp. 4-5.

It is possible, of course, that the thrust of the legislation is fundamentally different from the order's approach. This is however, a subtlety. It does not change the fact that sponsors have the option to proceed under the legislation, or to seek commercial demonstration status. While I certainly agree that the phrase "and future public convenience and necessity" is elastic, it is not good policy—nor, I think, good law—to construe the term so as to provide an end run around significant questions concerning national energy policy and the means by which that policy is to be carried out, an issue now being directly confronted by the Congress.

2. Even assuming that the Commission is not acting *ultra vires*, by making a Section 7 public convenience and necessity determination, with respect to a project which is not even arguably a gas supply project, there are still grave issues evoked by the rationale adopted by the majority.<sup>18</sup> The Commission cannot approve the application, under Section 7 unless the Commission can determine that the facilities contemplated in the application would serve the present and future public convenience and necessity. The basic concept of the Natural Gas Act is the adequate provision of gas supply and the preclusion of unnecessary or wasteful investment. If the Commission were to conclude that gas supply would result from a project but that investment would be excessive or wasteful, then the Commission would be obliged to deny a certificate of public convenience and necessity. If, on the other hand, the Commission were to conclude that, under the usual standards, gas supply were excessively problematical, the Commission would also be obliged to deny such a certificate.

As to coal gas, Commission jurisdiction does not apply until the gas is comingled with natural gas for sale or transportation in interstate commerce. The Commission majority bridges the gap by an interpretation of Order 566 as sufficient to provide a basis for a public convenience and necessity finding.

While I have considerable reservation that Order 566 can provide a full substitute for the gas supply requirements of Section 7(c), I do not have to resolve that problem entirely. Even assuming the majority view, the Order as adopted by the majority fails fundamentally for the lack of definition of

<sup>18</sup> It would be possible, absent the policy considerations, to conceive an alternative basis for an order. Although the application is not so styled, it could, I believe, be treated as a request for advance approval of rate treatment for an RD&D project as contemplated in Order No. 566 (§ 35.22 (a) & (b) of the Commission's regulations). Incidental to that would be the application for § 7(c) certification of those facilities connected with the project which would be jurisdictional. The test, then is whether we could approve this application under the terms of Order No. 566, and if so, on what conditions. Having made the Order No. 566 determination, would the public convenience and necessity finding as to the certificate then be based on the approval of RD&D project? If so, such an order might be preferable, especially if clear constraints were imposed on what is to be demonstrated, but I do not believe the present order effectively imposes such constraints.

what constitutes a valid demonstration project for purposes of Order 566. The concept of demonstration clearly applies, as a scientific proposition and a proposition for technology based upon science, to those circumstances where objective data can be developed, recorded, analyzed, understood and interpreted by persons of appropriate training and skill, regardless of their different value judgments. This means that the criteria of demonstration for such purposes must be relatively well determined and the knowledge that is developed must be broadly replicable. Thus, it could be reasonable, depending upon circumstances, to argue that the operation of the plant with the combination of the Lurgi process and the methanation process of raising coal gas Btu from 350 to more than 950 Btu/mcf, would fall within this scope.

The Staff Brief Opposing Exceptions raises a significant issue. Staff argues that even under the expanded definition of RD&D, in Order No. 566 the expenditure must be found to be in the public interest and the project must be novel, innovative, or unique.<sup>19</sup> In this regard, the Commission has already concluded "the technology of coal gasification with methanation is no longer R&D because it is no longer experimental, novel or innovative." The Commission has previously found "[t]he Lurgi process is currently the only coal gasification process with proven commercial experience. The methanation process . . . is alleged to be technically and commercially feasible and has been used in smaller units worldwide on an experimental basis."<sup>20</sup>

Thus, while a technological demonstration could be highly plausible,<sup>21</sup> the Commission may already have precluded that in an order subsequent to Order No. 566. Arguably, environmental matters would fall within the scope to the extent that it involves actual testing of effects in the physical environment.

However, the Commission introduces fatal flaws including certain additional categories of potential demonstration benefits: (1) information about the regulatory and governmental approval processes on the Federal, state, and local levels (p. 30); (2) environmental matters understood to mean the legal and administrative process connected with environmental impact statements, and so forth (p. 31); and (3) socioeconomic impacts of coal gasification in the rural areas in which future coal gasification plants are likely to be built and the public acceptance of these projects.

The distinction between the technological considerations and the rest of the considerations is highlighted in the order at

<sup>19</sup> See, *Northern Natural Gas Company*, Opinion No. 14 (May 10, 1978, mimeo at pp. 6-7, citing *Michigan Wisconsin Pipeline Company*, 51 FPC 2406, 2411 (1974, and *Northern Natural Gas Company*, 51 FPC 49, 54 (1974).

<sup>20</sup> *Ibid* pp. 24-27. Cf. *Transwestern Coal Gasification Co. (WESCO)*, Opinion No. 728 (April 21, 1975) mimeo at p. 5.

<sup>21</sup> Even if technological demonstration were plausible, it would be necessary to resolve the issue, raised both by General Motors and the Public Service Commission of New York, that a plant one-half the size proposed would be adequate. I do not find the brief dismissal of this issue in the order at pp. 33-34 to be sufficient.

page 32 which emphasizes, in contrast to technical feasibility, the majority's belief that:

\* \* \* [A] broader focus for demonstrations is permissible if there are non-technological uncertainties that also need resolution. In today's complex world, the major uncertainties surrounding large energy projects of this type often concern ultimate cost, environmental impacts, institutional problems, the ability to finance, and the governmental regulatory processes. (p. 32)

The order goes on further to state that "any excess cost of coal gas to customers relative to alternative forms of energy can be viewed as the cost of providing the demonstration benefits of this project." (p. 32) This must mean, apparently, the demonstration benefits that were just cited in the quoted paragraph and in the enumerations just above.

I have several objections to this concept of demonstration.

(1) Some of the considerations raised as matter for demonstration are merely matters for legal or other administrative and policy decisions. There is no way, in principle, to demonstrate in a scientifically valid manner that the approval of a plant in one place will be in accord with approval or disapproval at another place. It is possible to challenge a regulatory agency, by political or judicial means, and to win or lose. But where is the scientific demonstration?

(2) The weakness of the demonstration concept is even expressed with respect to the concept of the demonstration of commercial feasibility. If a product can be introduced into the market, and customers do not have the option to refuse it, and if the price can be regulated, then whatever the unit price may be, it is the unit price which is commercially feasible. This will be the case with their system of rolled-in pricing so long as there is sufficient quantity of old natural gas with which the coal gas can be rolled in for purposes of ultimate sale. Under those circumstances, it is virtually a charade to describe the project as one producing demonstration of commercial feasibility. (It is like demonstrating the feasibility of a school cafeteria if students cannot avoid eating, cannot go outside, cannot bring their own lunches, and cannot bargain as to price.)

(3) In addition, some of the matters indicated are matters for the disciplines of political science, sociology, anthropology, and maybe social psychology. These disciplines have their merits, but clearly do not provide the same focus for systematic demonstration of objectively transferrable knowledge as would the elements based directly upon the natural sciences. Socio-economic impact demonstration thus raises a different question.

There certainly are socio-economic impacts.<sup>22</sup> Both Government and industry have for many years studied the impacts of military bases, large factories, atomic research facilities, highways and other such establishments upon small town and rural communities.

<sup>22</sup> As this Commission knows for itself, socio-economic impacts are likely to be alleged an important aspect of any large construction project, e.g., the gas conditioning facility for the Alaska Natural Gas Transportation System.

The question is what significance is to be demonstrated in the Great Plains case that is not already known. Clearly, as a matter of policy, adjustments for socio-economic impacts are to be made. But what is the demonstration?

For the preceding reasons, then, the expanded demonstration concept becomes a basis for public convenience and necessity determination, with no rigorous (or even clearly indicated) criteria for determining what is to be demonstrated, or when a demonstration has succeeded or failed.<sup>23</sup> The consequence is that the Commission's reliance upon Order No. 566, on the rationale of demonstration expressed in the majority order, may open the door to an endless variety of alternative applications which the Commission will have no option but to consider, and which will then be under extraordinary political pressure to approve. Applicants will not always bring in such projects, but they will bring them in whenever they wish to move forward and whenever institutional circumstances do not require them to go elsewhere.

3. As to the financial and tariff issues, assuming that the project has adequate basis for approval as it stands, there are also some aspects of the project in which I concur and others which I might have treated differently.

(a) The concept of ratepayer guarantees has come to have considerable significance, in the contemporary world of utility financing, particularly with respect to debt financing where it is the project revenues alone that give assurance of repayment. The parties have here chosen to seek a utility financing format. It is not clear to me, however, upon what basis the Commission can adopt the extent of consumer guarantees provided here without jeopardizing its discretion not to do so in other major projects under its consideration.

(b) I agree in the Commission's sustaining the Law Judge with respect to accelerated recovery in a five-year period, assuming abandonment or failure of completion.

(c) I would not, however, have adopted the approach that the Commission did adopt in approving full recovery of equity except on the basis of cost overrun or technological guarantees, subject only to a prudency test. The order does not provide proper risk apportionment between equity investors and consumers. These project sponsors are themselves the equity investors, they who stand to benefit ultimately, in a specific financial sense, should the project prove successful. We know too much about the hazards of litigation, and the way in which regulatory decision-making is inhibited by the fear of such hazards, to be sanguine that the consumer protection features of this order will ever be effective. Vague and indefinite criteria for challenging recovery are not adequate.

The fundamental value of tracking is it provides in the collection process, but tracking is easily disturbed, there is

<sup>23</sup> I find somewhat persuasive the Staff argument that the showing of conformity with the planning criteria under Order No. 566 has not been made. Staff Brief Opposing Exceptions, p. 7.



particular need, in such a project as this, for close attention in the manner in which costs are passed from sponsors and their suppliers to the customers. The PGA mechanism adopted by the majority seems to me less adequate than the proposals advanced by Staff. I would have given more consideration to overruling the Administrative Law Judge and adopting the tracking positions argued by Commission staff at the hearing. But this is a prudential judgment, subject to much more evaluation.

As to rolled-in pricing, I concur.

The approval of the surcharge is essentially the adoption of construction work in progress. The radicalism of the departure from previous Commission practice is neither sufficiently analyzed nor sufficiently justified. The implicit rule is that construction work in progress or some equivalent thereto will be allowed on RD&D projects, but not on gas supply projects. If Order No. 555 does not apply to RD&D projects, as the majority decision seems to indicate, then it is obvious that various parties will see financial advantage in the widened demonstration concept the Commission has adopted. It must follow, in any event, that even were I to concur in the acceptance of the surcharge, I should consistently, with my view of the recovery of equity, also prefer a surcharge limited to the recovery of debt costs. I cannot conclude, incidentally, that the project monitoring system which is defined only in the shadowed outlines can carry the burdens that the decision appears to place upon it, especially the order may indicate some doubt as to whether the Commission should cede this responsibility to another agency.

I do not find the rate of return of 13 percent unreasonable although I would not find it unreasonable to establish a return as high as 14 percent, subject to other constraints in the package.

As to the periodic review of rate of return, on equity, I concur as a matter of policy; and as to treatment of the investment tax credit, I concur on the understanding that it is legally requisite. On the assumption of legal requisiteness, there is no need to examine the policy consideration.

The prior Commission decision having been that Columbia Gulf (RM75-105) decision would determine whether the statutory or consolidated rates would be applicable, there is no need for further judgement here. It is not necessary to consider whether the decision in Opinion No. 47 should otherwise be regarded as controlling since the Commission has previously agreed that it would be controlling.

As to interest costs, cost working capital, and depreciation rate, I concur; and as to the performance standards, I would have adopted the Staff position. As to revenues from disposition of projected assets, I would have sustained the Administrative Law Judge entirely and concur to the extent that the order does so.

I do not think that cost-of-service tariffs are particularly appropriate for use with affiliated entities and would, therefore, have felt no obligation to sustain the Administrative Law Judge on this point. Indeed, the very uniqueness of the Great Plains Project may make a cost-of-service

tariff undesirable, especially since other review provisions could be incorporated with the mechanisms that the Commission has thus far included.

As to quantity and quality with respect to the coal contract, I concur.

It is somewhat strange to avoid making one of the key jurisdictional decisions that the Commission is undoubtedly qualified to make, namely approval of the transportation certificate, while making decisions that may be debatable. But it seems reasonable under circumstances for the Commission to do what it has done given the basis upon which it has further acted.

It is not unreasonable for people in the specific geographical area where the project is to be located to desire some special acts as to the facility, unless the basic law should, in some way, impose an inhibition. This might be more pertinent to "socio-economic impact" than any "demonstration" under Order No. 566. I would, thus, have set the Montana-Dakota proposal for expedited proceeding before a specially designated representative of the Commission to examine such questions of fact and of law as may be relevant. I do not find it satisfactory merely to say that MDU request would provide preferential treatment. It is not apparent to me whether the MDU request is excluded under the Natural Gas Act, but that unreasonable and undue discrimination would be precluded. It might be possible, for example, to regard a 5 percent guarantee that MDU seeks as a part of the overall terms and conditions negotiated by the state of North Dakota for its assent to the project.

In summation, I would make the following overall observations: The concept of coal gasification deserves to be developed and there is considerable merit to the project idea that is now before the Commission. I would be prepared, therefore, to endorse and adopt a properly crafted order which would facilitate such a purpose. In that respect, I could be regarded as concurring with the underlying purpose, as well as in noted details of the order.

I am obliged to dissent on the major features of the order as drafted, for the reasons that I believe it verges upon the very borders of the law, and goes beyond the bounds of good policy in several respects.

(1) It unnecessarily substitutes the Commission's judgment for legislative judgment.

(2) It seeks Section 7 authority for something which I question can be done under Section 7, may unreasonably extend Order No. 566, and adopts a concept of "demonstration" which hereafter invites efforts virtually to erode any defined structure for Order No. 566.

(3) As to financing, I would have treated recovery of equity less protectively, in view of the fact that the pipelines generated this project and stand to benefit, in dollars and cents, if it succeeds. Only the ratepayers lose if it fails. I also have considerable reservation that the Order does not, in fact, undermine Order No. 555, and that the tracking and cost-

of-service tariff features may be uncontrollable.

Matthew Holden, Jr.,  
Commissioner.

[FR Doc. 79-37580 Filed 12-7-79; 8:45 am]  
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[Docket Nos. ER80-1 etc.]

**Indiana & Michigan Electric Co. et al.;  
Order Accepting for Filing and  
Suspending Proposed Fuel  
Conservation Energy Service  
Schedules, Granting Waivers of the  
Regulations, Consolidating  
Proceedings and Terminating Related  
Proceedings**

November 30, 1979.

Indiana & Michigan Electric Company, Central Illinois Public Service Company, Docket No. ER80-1, Ohio Power Company, Dayton Power & Light Company, Docket No. ER80-6, Indiana & Michigan Electric Company, et al., Docket Nos. ER78-229, et al., Ohio Power Company, et al., Docket Nos. ER79-456 and ER79-458.

On October 1, 1979, Indiana & Michigan Electric Company (I&M) submitted for filing in Docket No. ER80-1 a proposed service schedule for fuel conservation energy to supersede a schedule in the interconnection agreement, dated June 1, 1968, between I&M and Central Illinois Public Service Company (CIPSCO).<sup>1</sup> The proposed Schedule H, "Conservation Energy," provides for the transfer of energy between the parties during an emergency caused by energy shortage. Schedule H also provides the flexibility to permit transfers of energy to and from systems interconnected with the two companies. I&M requests that the Commission waive the notice requirements of § 35.11 of its regulations and permit the proposed Schedule H to become effective immediately.

Notice of the I&M filing was issued on October 10, 1979. No comments, protests or petitions to intervene were filed.

On October 5, 1979, Ohio Power Company (Ohio Power) submitted for filing in Docket No. ER80-6 a proposed conservation energy rate schedule to supersede a schedule in the facilities and operating agreement, dated May 1, 1967, between Ohio Power and Dayton Power & Light Company (Dayton).<sup>2</sup> This proposed rate schedule would serve the same purposes as those described above regarding the I&M schedule. Ohio Power

<sup>1</sup> See paragraphs (1) and (2) of Attachment A for the schedule designations.

<sup>2</sup> See Paragraphs (3) and (4) of Attachment A for the schedule designations.

also requests waiver of § 35.11 of the regulations.

Notice of this filing was issued on October 12, 1979, with comments, protests or petitions to intervene due on or before November 12, 1979. On November 2, 1979, Dayton filed a petition to intervene supporting the conservation energy rate schedule.

The two proposed service schedules provide for the delivery of conservation energy for periods of one or more weeks for the purpose of meeting an energy shortage which results from fuel unavailability, governmental actions or widespread disasters making it necessary for the deficient system to conserve energy resources over an extended period of time. The parties determine the capacity available each hour, the period of supply, the estimated cost, and the source of supply if the supplying party is in turn obtaining it from another system. Both proposed service schedules are to remain in effect until September 15, 1980, unless extended by mutual consent. The proposed rates for conservation energy are 110% of out-of-pocket replacement cost, plus 5 mills/kWh or, for third party transactions, the cost to the supplying party plus the out-of-pocket cost of transmission losses, plus 1.7 mills/kWh.<sup>3</sup>

Each submission results from a series of actions in Docket Nos. ER79-456 and ER79-458. On June 25, 1979, Ohio Power and I&M submitted for filing notices of termination of their "coal-by-wire" service schedules, then in effect with Dayton and CIPSCO, respectively. The Commission suspended the proposed terminations for five months to become effective January 25, 1980, and ordered that a hearing be held to determine the justness and reasonableness of the proposed notices of termination and the filing utilities' plans for submitting new fuel conservation service schedules in the future.<sup>4</sup> On September 6, 1979, a prehearing conference was held at which time the parties agreed to tender the instant submittals.

The proposed fuel conservation energy rate schedules of I&M and Ohio Power have been submitted during the periods in which the proposed terminations of coal-by-wire rate schedules were suspended in Docket Nos. ER79-456 and ER79-458. Moreover, the new schedules are proposed to become effective during the suspension

<sup>3</sup> The transmission charge is set at 1.3 mills/kWh when Dayton is the wheeling party.

<sup>4</sup> Order Accepting Termination of Rate Schedules for Filing, Suspending Termination, Consolidating Dockets and Establishing Procedures, *Ohio Power Company, et al.*, Docket Nos. ER79-456 and ER79-458, issued August 24, 1979.

periods of the proposed terminations. Section 35.17 of our regulations prohibits such filings without permission of the Commission. However, it is our belief that utilities such as I&M and Ohio Power should have on file fuel conservation schedules for use in energy emergencies, and these utilities now intend that the coal-by-wire schedules be superseded by the instant filings, rather than simply terminated. We shall therefore waive the provisions of § 35.17, accept the instant rate schedules for filing and suspend them for one day, as described below. I&M and Ohio Power have moved to dismiss Docket Nos. ER79-456 and ER79-458. In light of our action on the proposed fuel conservation rate schedules, we agree that no further proceedings are necessary on the proposed terminations of coal-by-wire schedules. Accordingly, we shall permit I&M and Ohio Power to withdraw their respective notices of termination, pursuant to § 35.17(a) of our regulations, and terminate Docket Nos. ER79-556 and ER79-558.

The proposed fuel conservation energy service rate schedules of I&M and Ohio Power have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall waive the notice requirements of § 35.11 of the regulations, accept the proposed schedules for filing and suspend each for one day, to become effective as of October 1979, subject to refund after a decision in these proceedings. Dayton's participation in Docket No. ER80-6 may be in the public interest and, accordingly, we shall grant its petition to intervene.

In a recent order, we consolidated proceedings in a number of dockets, all regarding conservation energy rates, for the purpose of establishing comprehensive interchange arrangements under which crisis-related transactions should take place. Since the proposed rate schedules are similar to those presently under investigation in Docket Nos. ER78-229, et al., we shall consolidate the instant dockets with those ordered consolidated in our order issued May 14, 1979.<sup>5</sup>

*The Commission orders:* (A) The requirements for notice contained in Section 35.11 of the Commission's Regulations under the Federal Power Act are hereby waived.

(B) The prohibitions against withdrawals of, and changes in,

<sup>5</sup> Order Consolidating Proceedings and Providing for Prehearing Conference, *Indiana & Michigan Electric Company, et al.*, Docket Nos. ER78-229, et al., issued May 14, 1979.

suspended rate schedules contained in § 35.17 of the Commission's regulations under the Federal Power Act are hereby waived.

(C) The proposed superseding fuel conservation energy service schedules to I&M's Rate Schedule FERC No. 67 and CIPSCO's Service Schedule H are hereby accepted for filing and suspended for one day, to become effective October 2, 1979, subject to refund.

(D) The proposed superseding conservation energy service schedules to Ohio's Rate Schedule FERC No. 36 and Dayton's Service Schedule I are accepted for filing and suspended for one day, to become effective October 6, 1979, subject to refund.

(E) Docket Nos. ER80-1 and ER80-6 are hereby consolidated with the existing proceedings in Docket Nos. ER78-229, et al.

(F) Dayton is hereby permitted to intervene in Docket No. ER80-6 subject to the rules and regulations of the Commission; *Provided, however*, That the participation of the intervenor shall be limited to matters set forth in its petition to intervene; *And provided, further*, That the admission of this intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) I&M and Ohio Power are hereby permitted to withdraw their respective notices of termination in Docket Nos. ER79-556 and ER79-558.

(H) Docket Nos. ER79-556 and ER79-558 are hereby terminated.

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37733 Filed 12-7-79; 8:45 am]  
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[Docket No. TC80-37]

**Inter-City Minnesota Pipelines Ltd.,  
Inc.; Order Granting Interim  
Adjustment, Waiver of Filing  
Requirements, and Extension of Time**

November 30, 1979.

On November 1, 1979, Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), tendered tariff sheets for filing pursuant to §§ 281.201 through 281.215 of the Commission's regulations and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15, as modified and amended. These tariff sheets were intended to provide for



revisions in the pipeline's curtailment plan<sup>1</sup> regarding deliveries of natural gas for high-priority and essential agricultural uses.

Simultaneously with the filing of tariff sheets, Inter-City requested by motion a 60-day extension of time in which to file an index of requirements and report of the Data Verification Committee (DVC) as required by Order No. 29 and § 281.204(a), *supra*.

The filing was noticed on November 6, 1979, with a due date for receipt of interventions of November 19, 1979. To date, no protests, petitions to intervene or notices of intervention have been received in this matter.

On November 19, 1979, Inter-City filed a request to withdraw the tariff sheets as filed and to refile them together with the index of requirements and report of the DVC on or before February 1, 1980.

In support of this expanded motion for extension of time, Inter-City notes that it has an interim curtailment plan in effect for high-priority and essential agricultural users pursuant to Section 401 of the Natural Gas Policy Act of 1978, in Docket No. TC79-18 filed March 16, 1979. Inter-City also notes that this interim plan will fully protect the high priority uses from curtailment should it be continued during the requested extension of time. Inter-City additionally states that it does not expect interruptions of reductions in its supply during the period.

In light of the above, the Commission will treat these filings by Inter-City as a request for an adjustment pursuant to Section 502(c) of the NGPA.

For the foregoing reasons, *The Commission finds:*

It is appropriate in the circumstances that the Commission on its own motion grant Inter-City an adjustment pursuant to Section 502(c) of the NGPA from present compliance with the requirements of Order No. 29, as amended.

*The Commission orders:*

Inter-City is hereby granted an adjustment pursuant to Section 502(c) of the NGPA in that it is hereby permitted to file on or before February 1, 1980, in accordance with the requirements of Order No. 29, as amended.

By the Commission, Commissioner Holden, concurring, filed a separate statement which is filed as part of the original document.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37734 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

<sup>1</sup> Effective as of July 5, 1974, in Docket No. CP71-142.

[Docket No. RP80-7]

**Kentucky West Virginia Gas Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Subject to Conditions, Granting Intervention, Denying Waiver, Initiating Hearing and Establishing Procedures**

November 30, 1979.

On October 29, 1979, Kentucky West Virginia Gas Company (Kentucky West) filed revised tariff sheets<sup>1</sup> reflecting an increase in jurisdictional revenues of \$5,238,749 under rate schedules PLS-1 and GSS-1. Kentucky West requests waiver of the notice requirements in order to permit these tariff sheets to become effective November 1, 1979. The test period cost of service in support of the proposed rates is based on actual costs for the 12-month period ending June 30, 1979, as adjusted for known and measurable changes through March 31, 1980. Kentucky West contends that this filing meets the requirements of both a filing under 18 CFR 154.38(d)(4)(vi)(a) and a change in rates under 18 CFR 154.63. Waiver of Section 154.22 of the Commission's regulations is requested in order to allow the proposed rate increase reflected in Eleventh Revised Sheet No. 27 to be effective November 1, 1979. In the event waiver is denied, Kentucky West filed Substitute Tenth Revised Sheet No. 27 which corrects Tenth Revised Sheet No. 27 to comply with a Commission order issued September 12, 1979, in Docket No. RP76-93. Kentucky West states that in the event waiver is denied, Substitute Tenth Revised Sheet No. 27 be permitted to become effective until superseded by Eleventh Revised Sheet No. 27.

Kentucky West proposes an overall rate of return of 10.90 percent, with a return on common equity of 13.50 percent. The equity ratio is 50.2 percent of the total capitalization and Kentucky West states that it is based on the consolidated capital structure of Equitable Gas Company and its subsidiaries in accordance with the Commission's determination in Docket No. RP76-93. Increased costs in materials and supplies, wages, and administrative and general expenses are also claimed by Kentucky West.

Public notice of this filing was issued on October 31, 1979 providing for the filing of protests and petitions to intervene by November 19, 1979. On November 12, 1979, the City of Paintsville, Kentucky filed a protest and petition to intervene in this docket.

<sup>1</sup> First Revised Sheet Nos. 5 and 9, Second Revised Sheet No. 24, Eleventh Revised Sheet No. 27, and Substitute Tenth Revised Sheet No. 27 to FERC Gas Tariff, First Revised Volume No. 1.

Paintsville requests that the Commission suspend the proposed increase for 5 months. The city has demonstrated an interest in this proceeding which warrants its participation. Accordingly, it shall be permitted to intervene.

The Commission finds that the present filing does not comply with 18 CFR 154.38(d)(4)(vi)(a), for Kentucky West has adjusted its base period costs for known and measurable changes occurring during the 9 months following the base period. This section does not allow post base period adjustments. It does however provide for annualization of costs incurred during the 12 month base period. Accordingly, the Commission shall accept the filing as a Section 4(e) rate increase application filed pursuant to 18 CFR 154.63.

Based on a review of Kentucky West's filing, the Commission finds that the proposed rate increase and tariff modifications have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Kentucky West's tariff sheets for filing, suspend their effectiveness for 5 months until May 1, 1980, subject to refund and the conditions stated below, and set the matter for hearing.

To continue to use its Purchased Gas Adjustment clause (PGA) Kentucky West must comply with the requirements of 18 CFR 154.38(d)(4)(vi)(a) and restate its base tariff rates to include the current cost of purchased gas, supported by a cost and revenue study meeting the requirements of that section and justifying the restated rates. Kentucky West shall file such a restatement to establish its base tariff rate, which will be effective on November 1, 1979, subject to refund. Kentucky West may use the actual costs shown for the base period in this docket i.e., the 12 months ended June 30, 1979, as annualized in accordance with § 154.38(d)(4)(vi)(a) of the Commission's regulations, to support the restated base tariff rates.

Kentucky West's filing includes certain costs associated with uncertificated facilities not in service. Inclusion of these facilities is inconsistent with § 154.63(e)(2)(ii) of the Commission's regulations. The Commission will grant waiver of § 154.63(e)(2)(ii) conditional upon Kentucky West's filing revised tariff sheets to eliminate costs associated with facilities not in service on or before March 30, 1980. Kentucky West shall also reflect in the revised tariff sheets the actual advance payments balance in Account 166 as of March 30, 1980, and the effective GRI Funding Unit on that

date, provided, however, that the inclusion of a higher advance payments balance shall not be permitted to increase the level of original suspended rates. Waiver of § 154.63(e)(2)(ii) is granted upon the further condition that Kentucky West shall not be permitted to make offsetting adjustment other than those pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

In addition, we shall accept Substitute Tenth Revised Sheet No. 27 to become effective subject to refund as of November 1, 1979, pending final determination in this docket or until superseded by Eleventh Revised Sheet No. 27, conditioned upon Kentucky West filing revised tariff sheets restating its presently effective base tariff rates, as prescribed by § 154.38(d)(4)(vi) of the regulations, and subject to the conditions set forth below.

*The Commission Orders:*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 8 and 15 thereof, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the rates proposed by Kentucky West.

(B) Pending hearing and decision, and subject to the conditions of the ordering paragraphs below and those described in the body of this order, Kentucky West's First Revised Sheet Nos. 5 and 9, Second Revised Sheet No. 24, and Eleventh Revised Sheet No. 27 are accepted for filing and suspended for five months until May 1, 1980, at which time they may become effective, subject to refund, in the manner prescribed by the Natural Gas Act and the Commission's regulations promulgated thereunder.

(C) Substitute Tenth Revised Sheet No. 27 is accepted for filing and permitted to become effective November 1, 1979, subject to refund, pending final determination in this docket or until superseded by Eleventh Revised Sheet No. 27, conditioned upon Kentucky West filing revised tariff sheets restating its presently effective base tariff rates, as prescribed by § 154.38(d)(4)(vi) of the Regulations, and subject to the conditions set forth below.

(D) Kentucky West shall be permitted to withdraw Tenth Revised Sheet No. 27.

(E) Waiver of § 154.63(e)(2)(ii) is granted upon the condition that Kentucky West file revised tariff sheets to reflect: (1) The elimination of those costs associated with facilities not in service on or before March 30, 1980; (2) the current cost of purchased gas reflected in Kentucky West's most recent PGA filing prior to the effective

date of the proposed rates; (3) the actual balance of advance payments in Account 166 as of March 30, 1980, provided that the inclusion of a higher actual balance of advanced payment shall not be permitted to increase the overall level of the original suspended rates; and (4) the effect GRI Funding Unit on the effective date of the increased rates. This waiver is granted upon the further condition that Kentucky West shall not be permitted to make offsetting adjustments to those suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(F) Kentucky West's request for waiver of § 154.22 is denied.

(G) Kentucky West shall file within 15 days of the issuance of this order a restatement of its base tariff rates to include the current cost of purchased gas. The base tariff rates will be effective November 1, 1979, subject to refund. Kentucky West shall also file a supporting cost and revenue study as required by 18 CFR 154.38(d)(4)(vi)(a). Kentucky West may use the actual costs shown for the base period in this docket i.e., the 12 months ended June 30, 1979, as annualized in accordance with § 154.38(d)(4)(vi)(a) of the Commission's regulations to support the such restated base tariff rates.

(H) Staff shall serve its top sheets on or before March 3, 1980.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(J) The City of Paintsville, Kentucky shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* That the participations of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding.

(K) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37735 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TC80-36]

**Panhandle Eastern Pipe Line Co.; Order on Request for Declaratory Order, Accepting for Filing and Permitting Tariff Sheets To Become Effective and Granting Interventions**

November 30, 1979.

On November 1, 1979, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following tariff sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1  
Sixth Revised Interim Original Sheet No. 42-A  
Fourth Revised Interim Original Sheet No. 42-E  
FERC Gas Tariff, Original Volume No. 1-A  
Original Sheet Nos. 1 through 38

Panhandle requests that the above-noted sheets be accepted for filing and that they become effective on December 1, 1979.

Panhandle has filed the revised tariff sheets to its Original Volume No. 1 of its FERC Gas Tariff to incorporate changes to provisions in its existing curtailment plan to protect deliveries to high priority and essential agricultural users as required pursuant to §§ 281.201 through 281.215 of the Commission's regulations (18 CFR 281.201-215).

Panhandle filed Original Sheet Nos. 1 through 38 to its Original Volume No. 1-A of its FERC Gas Tariff in order to expand existing Priority No. 1 by including high priority users and to establish a new priority of service reflecting essential agricultural users as envisaged under Section 401 of the Natural Gas Policy Act of 1978 (NGPA).

Panhandle's filings were duly noticed by publication in the Federal Register on November 14, 1979 (44 FR 65659). Only one filing indicating opposition to Panhandle's proposed revised tariffs sheets has been received pursuant to the aforementioned notice. This was in the nature of a request for a declaratory order filed by Central Illinois Light Company (CILCO) pursuant to § 1.7(c) of the Commission's rules of practice and procedure in which it contends that the techniques employed by Panhandle for attributing the increased essential agricultural requirements of Illinois Power Company (Illinois Power) and



other distribution companies with more than one supplier are incorrect.

CILCO in its request for a declaratory order raises the same two complaints relative to Panhandle's filings that were set forth in the comments that it submitted to the DVC, i.e., (1) the inconsistent application by Panhandle's customers of the Commission's regulations requiring attribution of essential agricultural requirements among pipeline suppliers and (2) insufficient documentation provided to permit CILCO to determine that the index of entitlements filed by Panhandle were calculated in compliance with the Commission's regulations. The DVC report indicates that the committee reviewed CILCO's complaints and concluded that the attribution had been accomplished in conformity with the Commission's regulations.

We shall first address CILCO's complaint that relates to attribution under § 281.209 of the Commission's regulations. CILCO contends that the regulations on attribution, especially § 281.209(e), provide that the basis for attribution to the various suppliers of a distribution company shall be the proportionate contribution of the various suppliers to the distribution company's total requirements in the base period used for the supplier's curtailment plan. It contends that such an interpretation can result in overall allocation of requirements. CILCO's concern is that Panhandle could be allocated a disproportionate share of the agricultural requirement of Panhandle's partial requirements customers. The possibility that the operation of the attribution provision could result in an overstatement of such requirements of partial requirements customers has been raised previously in connection with Order No. 29.

The intent of the provision is that only 100 percent of the agricultural requirements of a partial requirements customer be attributed among its various sources of supply. As originally drafted, Order No. 29 (§ 281.209(e)): *Provided*, That a distribution company must:

calculate its attributable indirect essential agricultural requirements to a particular direct supplier by multiplying its indirect essential agricultural requirements by the annual quantity of entitlements from such direct supplier and dividing the product by the total volume of natural gas received from all sources during the base period of the direct supplier's currently effective curtailment plan.<sup>1</sup>

<sup>1</sup> "Final Regulation for the Implementation of Section 401 of the Natural Gas Policy Act," Docket No. RM79-15, issued May 2, 1979 (18 CFR 281.201 et seq.).

Because the interstate pipelines do not have a uniform base period, this formula would result in some cases in the problem complained of by CILCO, i.e., an overstatement of agricultural requirements for certain distributors. A number of persons focused on this problem in their petitions for rehearing of Order No. 29. We believe the problem has been corrected by the amendments to the attribution provision that we made in Order No. 29-C.<sup>2</sup> That provision now reads:

(e) *Local distribution company*. A local distribution company shall calculate its attributable indirect essential agricultural requirements among its direct suppliers in the same manner as it attributed its supplies to its direct suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct suppliers.

The intent of the regulation remains unchanged: a partial requirements customer is to attribute only 100 percent of its essential agricultural requirements among its several sources of supply.<sup>3</sup> The requirement that essential agricultural requirements may be attributed in the same manner as supplies are attributed for purposes of establishing entitlements in the currently effective curtailment plans of interstate pipelines is fully consistent with Section 401 of the NGPA, which mandates a preference for high priority and essential agricultural uses, to the maximum extent practicable and without throwing existing curtailment plans into disarray.

It appears from the DVC report that the essential agricultural uses of Illinois Power were attributed to Panhandle upon the same basis that the over-all needs of that distributor were attributed to Panhandle for establishing its entitlements under that company's effective curtailment plan.<sup>4</sup> Panhandle did not include the total increased essential agricultural requirements of Illinois Power in its revised tariff sheets, but only those increased requirements that were attributed to the area served by Panhandle during the base period.

<sup>2</sup> See Order No. 29-C issued on October 22, 1979, in Docket No. RM79-15 entitled "Order Amending Regulation, Granting in Part and Denying in Part Petition For Rehearing and Motions for Clarification, Denying Motion For Oral Argument, and Denying Motion to Waive Regulations and Accept Late Filed Petitions."

<sup>3</sup> If presented with facts or factual allegations that the revised attribution language still leads to material overstatement of the agricultural requirements of partial requirements customers in a specific case, we would consider what adjustments to the attribution provision may be required.

<sup>4</sup> CILCO acknowledges that the DVC employed this standard, but contends that a different method should have been followed. On the basis of the information before us, we disagree.

This is consistent with the situation that existed when the base period on that system was formulated. We believe our amendment to Order No. 29 renders CILCO's request for a declaratory order moot, and the additional discussion herein should provide assistance to pipelines and distributors alike in applying the attribution provisions.

CILCO also complains that insufficient documentation existed to properly verify the index of entitlements reflected in Panhandle's filing herein as contemplated under § 281.213. CILCO's complaint appears to be summed up in the protest that it filed with the DVC which was included as Appendix B to the DVC report:

"... No on-site checks were made of any of the requests for Essential Agricultural Uses, and the only attempts beyond the requirement for notarization of requests to verify the legitimacy of such requests were questions asked at the DVC meetings. While CILCO recognizes the difficulty of verifying in a relatively short period of time the large amount of data presented by essential agricultural users, we submit that the inability of the DVC to provide a list of assumptions used in attributing essential agricultural gas among pipeline suppliers and the absence of any on-site spot checks of the data submitted by essential agricultural users falls far short of the verification required by § 281.213 of the regulations."

The DVC report indicated that the data submitted requesting an increase was reviewed for, among other things, the following:

(1) Changes in classification and increases which were submitted showing current requirements above the actual use indicated during the entitlement period were checked to make sure that they were attested and accompanied by a letter indicating the reason for the increase.

(2) Figures which were submitted for changes in volumes being moved to high priority use and the changes requested for essential agricultural uses to priority 1a were checked to assure arithmetical accuracy.

(3) Changes attempting to change the priority of a user which had been placed in a particular category during the original entitlement period that did not conform to the definition of a high priority user or essential agricultural users were noted and those requesting such a change were advised that such a change could not be made under Order No. 29.

We have reviewed the report of the DVC and are satisfied that the index of entitlements filed by Panhandle has been prepared in conformance with our regulations. On-site inspection was not included with the duties of the DVC. Requests for changes in priority

categories were submitted under oath and reviewed by the full DVC. In the absence of specific charges of error, Order No. 29 does not require more.

After having fully considered the arguments presented by CILCO, the Commission is of the opinion that sufficient basis does not exist to require that it refuse to accept the filing made by Panhandle pursuant to its Order No. 29. The Commission is therefore disposed to accept the tariff sheets submitted by Panhandle and make them effective as of December 1, 1979.

#### *The Commission finds:*

(1) It is necessary and proper in carrying out the provisions of Section 401 of the NGPA and the Commission's implementing regulations thereunder that Panhandle's proposed revised tariff sheets filed in this proceeding be accepted for filing and made effective as of December 1, 1979.

(2) The index of entitlements filed by Panhandle has been prepared in conformance with §§ 281.201 through 281.215 of the Commission's regulations.

(3) CILCO's request for a declaratory order has been mooted by the issuance of Order No. 29-C.

(4) The participation of those petitioners that have filed timely petitions to intervene in the above-styled proceeding may be in the public interest.

#### *The Commission orders:*

(A) Panhandle's proposed tariff sheets referenced herein are accepted for filing and shall be permitted to become effective without suspension on December 1, 1979.

(B) CILCO, Illinois Power and General Motors Corporation are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; *And, provided, further*, That the admission of said interveners shall not be construed by the Commission that they have been aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37736 Filed 12-7-79; 8:45 am]

BILLING CODE 4450-01-M

[Docket No. RA80-1]

#### **Ron's Shell Service, Inc.; Filing of Petition for Review**

December 3, 1979.

Take notice that Ron's Shell Service, Inc., on October 31, 1979, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before December 19, 1979, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 100, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37737 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-13]

#### **Transwestern Pipeline Co.; Order Approving Settlement**

November 30, 1979.

Transwestern Pipeline Company (Transwestern) has filed an offer of settlement that seeks to implement Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA) for its system. We approve that settlement as a suitable alternative to compliance with Order No. 29 for implementing Section 401(a) on Transwestern's system at this time.<sup>1</sup>

In brief, Section 401(a) of the NGPA requires that high priority and essential agricultural users be afforded a preference in the curtailment plans of

<sup>1</sup> For a summary of Section 401(a) and the administrative actions taken to implement it, including Order No. 29, see *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

interstate pipelines. Order No. 29<sup>2</sup> requires that these preferences be included in interstate pipeline curtailment plans, that end-use data be collected and reviewed by a data verification committee and that an index of entitlements setting forth the volumes attributable to high priority and essential agricultural uses be included within the pipeline's tariff provisions.

At the time of promulgation of Order No. 29, the Commission expressed its willingness to consider settlements at variance with the rule:

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission \* \* \* (N)othing in the rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our rule. Such a settlement will be evaluated by the Commission in light of its responsibility to meet the statutory goal of protecting to the maximum extent practicable, high priority users and essential agricultural uses. (Preamble to Final Regulation, pp. 10-11)

In approving a settlement of Section 401 matters that departed from Order No. 29 for the system of Northwest Pipeline Corporation, we emphasized that rigid adherence to Order No. 29 will not be required where a suitable alternative is proposed. There we said:

The Commission wishes to emphasize its flexibility under Section 401 and its willingness to exercise its flexible authority thereunder, in the form of an adjustment proceeding or in the context of a settlement. To this end, the Commission has openly encouraged the entry into settlements which meet the requirements of Section 401 even though the settlement may deviate from Order No. 29.<sup>3</sup>

We also called special attention to the Joint Explanatory Statement of the Committee on Conference for the NGPA, which expresses a clear desire to avoid disruption of existing curtailment plans upon implementation of Section 401. With this background, we turn to the settlement proposed by Transwestern.

On October 1, 1979, Transwestern filed an offer of settlement in accordance with § 1.18(e) of the Commission's Rules of practice and procedures (18 CFR 1.18(e)).<sup>4</sup>

<sup>2</sup> "Final Regulations for the Implementation of Section 401 of the Natural Gas Policy Act," Docket No. RM79-15, issued May 2, 1979, 18 CFR 281.201 et seq., as amended.

<sup>3</sup> *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

<sup>4</sup> Transwestern states that copies of its filing were served on all parties to its original curtailment case, Docket No. RP73-101. Notice of the offer of settlement was issued by the Commission on October 5, 1979 and published in the *Federal Register* on October 15, 1979 (44 FR 59283).



Transwestern states that during the process of collecting the information required by Order No. 29, it and its customers reached a consensus that the issues raised by Order No. 29 could be settled without modification of the curtailment procedures currently utilized by Transwestern.<sup>3</sup>

The Stipulation and Agreement provides that Transwestern would not be required to file the draft tariff sheets and index of entitlements contemplated by Order No. 29 and that Transwestern would continue to provide a mechanism in its tariff for granting relief from curtailment for high priority and essential agricultural users, in substantially the same form as utilized to implement the Commission's Interim Curtailment Rule. The Stipulation and Agreement further provides that, in the future, if Transwestern or any of its customers feel that changes in Transwestern's curtailment plan are required in order to comply with Section 401(a) of the NGPA, then Transwestern will promptly notify its customers and the Commission, and any party may request the convening of a conference for the purpose of determining what changes may be required. Citing Section 502(c) of the NGPA, Transwestern requests an adjustment and waiver of the requirements of Order No. 29 to the extent necessary to implement the proposed settlement.

Comments on the proposed settlement were filed by Southern California Gas Company and Pacific Lighting Service Company, the Process Gas Consumers Group (PGC), the Public Utilities Commission of the State of California (CPUC), Cities Service Gas Company (Cities).<sup>6</sup> Transwestern and the Commission Staff. In general, the comments supported or did not oppose the proposed settlement. CPUC noted that under the proposed settlement, Transwestern would give notice of a request for a conference to its customers and the Commission. CPUC urged that it also be given such notice. In its reply comments, Transwestern stated that it will serve such notice on all parties to its original curtailment case, thereby including CPUC.

PGC requested that the proposed settlement be "clarified" with respect to

<sup>3</sup> In accordance with the Commission's Interim Curtailment Rule, issued in Docket RM79-13 on March 6, 1979, Transwestern amended its tariff by adding Section 11.6, which provides a mechanism for making adjustments upon request in order to meet the needs of high priority and essential agricultural users. (Docket No. TC79-29)

<sup>6</sup> Cities moved for an extension of time to file its comments, because it did not receive a copy of the Stipulation and Agreement until after the date comments were due. Under the circumstances, the motion will be granted.

the applicability of rules issued in Docket No. RM79-40 pertaining to alternative fuel determination for essential agricultural users. It is PGC's position that such rules should be applicable to Transwestern's settlement. None of the commenters took exception PGC's position. The Commission Staff supported PGC's request; Transwestern stated that granting PGC's request "would not be inconsistent with" the proposed settlement. Both the Staff and Transwestern cited language in Order No. 55<sup>7</sup> (adopted after PGC filed its comments) to the effect that the alternative fuel rule would apply to curtailment plans placed into effect following a settlement or Order No. 29 matters PGC's request for clarification is granted, and Transwestern should revise its tariff to indicate that the alternative rule adopted by the Commission under Section 401(b) of the NGPA will be applied to requests for relief under Section 11.6.

We find that the proposed settlement as revised and clarified in the two respects discussed above, provides the requisite measure of protection for high priority and essential agricultural uses mandated by the NGPA. The proposal presents a suitable alternative to the requirements of Order No. 29 for meeting those statutory objectives. Accordingly, we grant the requested adjustment to Order No. 29 and approve the settlement.

*The Commission finds and orders:* (1) The October 1, 1979 Stipulation and Agreement proposed by Transwestern, as revised and clarified herein, constitutes a fair and reasonable means of implementing Section 401(a) of the Natural Gas Policy Act and is consistent with the objectives of Commission Order Nos. 29, 29-A, 29-B and 29-C.

(2) Transwestern is hereby granted an adjustment in accordance with Section 502(c) of the NGPA, excepting it from the application of Commission Order Nos. 29, 29-A, 29-B and 29-C to the extent that those orders require Transwestern to file tariff sheets and an index of entitlements with respect to high priority and essential agricultural uses.

(3) The October 1, 1979 Stipulation and Agreement, as revised and clarified herein, is hereby approved. Transwestern shall file tariff sheets, including language with respect to the Commission's alternative fuel rule, implementing the Stipulation and

<sup>7</sup> "Interim Rule—Determination of Alternative Fuels for Essential Agricultural Users." Docket No. RM79-40, issued October 26, 1979.

<sup>8</sup> Our action here makes unnecessary any further proceedings in Docket No. SA80-2, and that proceeding will be terminated.

Agreement within 10 days of issuance of this order. The Commission finds it appropriate to waive its regulations to the extent necessary to permit the tariff sheets to become effective as of December 1, 1979.

(4) Good cause exists for granting Cities' motion for an extension of time, and that motion is hereby granted.

(5) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding.

(6) Southern California Gas Company, Pacific Lighting Service Company, the Process Gas Consumers Group and Cities Service Gas Company are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; provided, that their participation shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and further provided, that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered into this proceeding.

By the Commission. Commissioner Holden, concurring filed a separate statement which is filed as part of the original document.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37738 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. ER79-644]

#### Mid-Continent Area Power Pool; Order Accepting for Filing and Suspending Proposed Amendment to Pooling Agreement, Granting Intervention and Establishing Hearing Procedures

November 30, 1979.

On October 3, 1979, the Management Committee of the Mid-Continent Area Power Pool (MAPP) tendered for filing an amendment to the MAPP Agreement.<sup>1</sup> This amendment, if approved, would change the method of allocating votes among MAPP's members.

The proposed amendment would change the voting rights specified in the MAPP Agreement to assign each participant on the Management Committee one vote for each MW of demand. Under the current method, each party entitled to vote on the Management Committee receives the sum of (1) one vote for each block of 25 megawatts of system demand up to 300

<sup>1</sup> The MAPP Management Committee first filed on September 7, 1979, but amended the submission on October 3, 1979.

megawatts, (2) one vote for each block of 50 megawatts of demand from 301-600 megawatts, and (3) one vote for each block of 100 megawatts of demand over 600 megawatts. Additionally, this amendment will give each participant a vote on all other pool committees in direct proportion to its annual system demand instead of the current system which gives each participant a single vote on all pool committees other than the Management Committee.

In support of the proposed voting changes, the Committee states that, according to estimates, there are 99 small systems with a combined 1977 system demand of approximately 500 MW which would now be eligible for participant status in MAPP as a result of the change in the membership provision. There are currently 25 participant members of MAPP with a combined 1977 system demand of 17, 853 MW. The Committee states that if the small systems were to join MAPP as participants, they would constitute a majority of the voting membership on the pool's committees while representing only 3% of the pool load. It is the Committee's position that those systems representing only a small percentage of the pool load would be in a position to cast a disproportionately large share of the votes. Further, the Committee argues that these smaller systems could bring the pool's operation to a halt if they don't regularly attend committee meetings, since they now require 70% of the representatives be present for a quorum. The Committee argues that the proposed voting method will conform to the NEPOOL Agreement approved by the Commission in *New England Power Pool*, Opinion No. 775 (September 10, 1976), *affirmed sub nom., Municipalities of Groton, et al. v. FERC*, 587 F. 2d 1296 (D.C. Cir. 1978).

A petition to intervene and protest was filed on October 4, 1979, by the Alexandria Board of Public Works (Alexandria). Alexandria requested that a conference be held. Also, on October 4, 1979, the South Dakota Public Utilities Commission (South Dakota) informed the Commission of its intervention in this docket, requesting suspension of the proposed amendment and a hearing thereon.

Both Alexandria and South Dakota have stated that the impact of the voting change cannot be fully assessed at this time. However, they assert that the proposed amendment could detrimentally affect smaller systems and probably nullify the wider participation previously ordered by the Commission.<sup>2</sup>

<sup>2</sup> *Mid-Continent Area Power Pool Agreement*, Opinion No. 806, Docket No. E-7734, issued June 15,

South Dakota states that the MAPP Agreement presently provides that the voting be allocated in a manner that emphasizes participation by each system, rather than the size of the system, and that the new voting method would drastically change this emphasis. The new voting procedure would cause a shift in the power balance within the Pool in favor of the larger systems. Both South Dakota and Alexandria discount the Committee's use of NEPOOL as an example for comparing voting procedures because NEPOOL members are not as disproportionately sized as MAPP members. Alexandria argues that the Committee's concern over committee quorums is unwarranted because it is unlikely for a system having sufficient interest to join the pool not to attend Committee meetings.

The proposed amendment to the MAPP Agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall accept the proposed amendment for filing and suspend it for one day when it will become effective subject to the outcome of this proceeding.<sup>3</sup> Alexandria's participation in this proceeding may be in the public interest, and we shall grant its petition to intervene.

*The Commission Orders:* (A) The Mid-Continent Area Power Pool Management Committee's proposed amendment to its governing agreement is hereby accepted for filing and suspended for one day, to become effective December 4, 1979, subject to the outcome of this proceeding.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning the justness and reasonableness of the amendment proposed in this docket. Furthermore, if the proposed amendment is changed as a result of the hearing ordered in this

1977, rehearing denied, Opinion 806A, issued August 12, 1977, *affirmed sub nom. Central Iowa Power Cooperative v. FERC*, Nos. 77-1914, 77-1916, 77-1924 (D.C. Cir. July 9, 1979).

<sup>3</sup> The Committee has also asserted that unless the Commission accepts for filing this amendment and a related compliance filing in Docket No. E-7734, both "shall be deemed withdrawn." We have accepted both amendments for filing, but this acceptance resulted from an independent assessment of each filing and not from the Committee's attempt to present the two as a non-severable package.

proceeding, only prospective relief shall be allowed.

(C) The Alexandria Board of Public Works shall be permitted to intervene in this proceeding pursuant to section 1.8 (c) of the Commission's Regulations, subject to the Rules and Regulations of the Commission; *Provided, however* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *Provided, further* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference in these proceedings, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428. That conference shall be for the purpose of establishing a procedural schedule for these proceedings. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37821 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. RP79-71]

#### Natural Gas Pipeline Co. of America; Order Permitting Withdrawal of Rate Increase Filing and Terminating Proceeding

November 30, 1979.

On May 31, 1979, Natural Gas Pipeline Company of America (Natural) filed for a rate change in the above-referenced docket. Natural stated that the proposed change in rates represented a revenue decrease of \$24.1 million from the rates then in effect subject to refund in Docket No. RP78-78, but a \$44 million revenue increase over the proposed settlement rates in Docket No. RP78-78. By order issued June 29, 1979, the Commission accepted Natural's filing and suspended its effectiveness until December 1, 1979, except for certain tariff sheets which were suspended until January 1, 1980.



By letter order dated October 4, 1979, the Commission approved the settlement agreement in Docket No. RP78-78. Article XVI of that agreement provides as follows:

4. Natural filed a general rate change on May 31, 1979 which is identified as Docket No. RP79-71. Within 10 days of the date the Commission enters a final and nonappealable order approving this Agreement as provided in Article XXVI, Natural shall withdraw Docket No. RP79-71. In the event the date of the Commission's order becomes final and nonappealable is after November 30, 1979, Natural reserves the right to allow Docket No. RP79-71 to remain in effect.

No applications for rehearing of our October 4 letter order were filed within 30 days, thus rendering it final and nonappealable. Accordingly, Natural filed the instant application for permission to withdraw its filing in this docket on November 7, 1979. Good cause having been shown, Natural will be permitted to withdraw its May 31, 1979 filing in Docket No. RP79-71. In view of the fact that issuance of this order will precede the effective date of the rates proposed herein, no refunds will be required and the proceeding may be terminated.

The Commission orders: (A) Natural's application for permission to withdraw the rates it proposed on May 31, 1979 in Docket No. RP79-71 is hereby granted, and the proceeding is terminated.

(B) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-37822 Filed 12-7-79; 8:45 am]

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#### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kentucky Department of Mines and Minerals, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05543/ERC-270
2. 16-019-00000
3. 108
4. Kentucky Ohio Gas Company
5. Ennis Gillum #1 Serial #114
6. Ashland
7. Boyd, KY
8. 4.2 million cubic feet
9. November 7, 1979
10. Columbia Gas Transmission Corp

Utah Division of Oil, Gas and Mining

1. Control number (F.E.R.C./State)
  2. API well number
  3. Section of NGPA
  4. Operator
  5. Well name
  6. Field or OCS area name
  7. County, State or block No.
  8. Estimated annual volume
  9. Date received at FERC
  10. Purchaser(s)
1. 80-05622/K-107-6
  2. 43-043-30088-0000
  3. 103 000 000
  4. American Quasar Petroleum Co
  5. URPP 3-8
  6. 1500 FNL and 200 FWL (NW NW)
  7. Summit, UT
  8. 180.0 million cubic feet
  9. November 8, 1979
  10. Mountain Fuel Supply Co

U.S. Geological Survey—Albuquerque, N.Mex.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05657/COA-3808-79
2. 05-113-06027-0000-0
3. 103 000 000
4. Union Oil Company of Calif
5. Andys Mesa Unit No. 11-E34
6. Andys Mesa
7. San Miguel Co
8. 73.0 million cubic feet
9. November 8, 1979
10. Trans-Corridor Pipeline Co

1. 80-05720/COA-3750-79
2. 05-067-06150-0000-0
3. 103 000 000
4. Lynco Oil Corporation
5. Argenta No. 5
6. Ignacio Blanco Mesa Verde
7. La Plata, CO
8. 68.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corp

1. 80-05738/COA-3611-79
2. 05-067-00000-0000-0
3. 108 000 000
4. American Petroleum Energy Co In
5. No. 1 Ute 34-10
6. Ignacio-Blanco
7. La Plata, CO
8. .0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corp

1. 80-05763/COA-3562-79
  2. 05-067-05003-0000-0
  3. 108 000 000
  4. Texaco Inc
  5. SO Ute Tribe of Indians No. 3
  6. Ignacio-Blanco
  7. La Plata, CO
  8. 16.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05764/COA-3561-79
  2. 05-067-05004-0000-0
  3. 108 000 000
  4. Texaco Inc
  5. SO Ute Tribe of Indians No. 4
  6. Ignacio-Blanco
  7. La Plata, CO
  8. 6.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Company

1. 80-05765/COA-3560-79
  2. 05-067-05307-0000-0
  3. 108 000 000
  4. Texaco Inc
  5. SO Ute Tribe of Indians No. 1
  6. Ignacio-Blanco
  7. La Plata, CO
  8. 16.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Company
1. 80-05766/COA-3559-79
  2. 05-067-05563-0000-0
  3. 108 000 000
  4. Texaco Inc
  5. SO Ute Tribe of Indians No. 5
  6. Ignacio-Blanco
  7. La Plata, CO
  8. 8.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Company

1. Control number (FERC/State)
  2. API well number
  3. Section of NGPA
  4. Operator
  5. Well name
  6. Field or OCS area name
  7. County, State or block No.
  8. Estimated annual volume
  9. Date received at FERC
  10. Purchaser(s)
1. 80-05823/NM-3567-79
  2. 30-025-25989-0000-0
  3. 103 000 000
  4. Getty Oil Company
  5. Myers Langlie-Mattix Unit No 135
  6. Langlie Mattix
  7. Lea NM
  8. 4.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05824/NM-3625-79
  2. 30-039-09734-0000-0
  3. 108 000 000
  4. Joseph B Gould
  5. Federal G No 1
  6. Ballard Pictured Cliffs
  7. Rio Arriba NM
  8. 24.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05825/NM-3626-79
  2. 30-039-09729-0000-0
  3. 108 000 000
  4. Joseph B Gould
  5. Fred Phillips No 4

6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 13.9 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation

1. 80-05628/NM-3627-79
  2. 30-039-20083-0000-0
  3. 108 000 000
  4. Joseph B Gould
  5. Apache No 1
  6. Ballard Pictured Cliffs
  7. Rio Arriba NM
  8. 102.0 million cubic feet
  9. November 8, 1979
  10. El Paso Natural Gas Co
1. 80-05627/NM-3628-79
  2. 30-039-05694-0000-0
  3. 108 000 000
  4. Joseph B. Gould
  5. Fred Phillips No 1
  6. South Blanco Pictured Cliffs
  7. Rio Arriba NM
  8. 105.0 million cubic feet
  9. November 8, 1979
  10. Northwest Pipeline Corporation

1. 80-05628/NM-3629-79
  2. 30-039-20265-0000-0
  3. 108 000 000
  4. Joseph B Gould
  5. Apache No 2
  6. Ballard Pictured Cliffs
  7. Rio Arriba NM
  8. 35.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05629A/NM-3633-79-A
  2. 30-045-22705-0000-1
  3. 103 000 000
  4. Marathon Oil Company
  5. Ohio C Government No 5 (PC)
  6. Kutz Canyon—Pictured Cliffs
  7. San Juan NM
  8. 144.9 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05629B/NM-3633-79-B
  2. 30-045-22705-0000-2
  3. 103 000 000
  4. Marathon Oil Company
  5. Ohio C Government No 5 (FR)
  6. Kutz Canyon-Fruitland
  7. San Juan NM
  8. 16.1 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05630A/NM-3634-79A
  2. 30-039-21819-0000-1
  3. 103 000 000
  4. Marathon Oil Company
  5. Jicarilla Apache No 20 (Chacra)
  6. Jicarilla-Chacra Formation
  7. Rio Arriba NM
  8. 6.5 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05630B/NM-3634-79B
2. 30-039-21819-0000-2
3. 103 000 000
4. Marathon Oil Company
5. Jicarilla Apache No 20 (PC)
6. Jicarilla—Pictured Cliffs
7. Rio Arriba NM
8. 58.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co

1. 80-05631A/NM-3637-79A
  2. 30-039-21502-0000-1
  3. 103 000 000
  4. Marathon Oil Company
  5. Jicarilla Apache No 19 (PC)
  6. Jicarilla—Pictured Cliffs
  7. Rio Arriba NM
  8. 43.2 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05631B/NM-3637-79-B
  2. 30-039-21502-0000-2
  3. 103 000 000
  4. Marathon Oil Company
  5. Jicarilla Apache No 19 (Chacra)
  6. Jicarilla—Chacra
  7. Rio Arriba NM
  8. 4.8 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05632/NM-3639-79
  2. 30-045-23000-0000-0
  3. 103 000 000
  4. Marathon Oil Company
  5. Ohio F Government No 1-A
  6. Blanco Mesaverde
  7. San Juan NM
  8. .0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05633/NM-3640-79
  2. 30-045-22999-0000-0
  3. 103 000 000
  4. Marathon Oil Company
  5. Ohio E Government No 1-A
  6. Blanco Mesaverde
  7. San Juan NM
  8. 260.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05634/NM-3641-79
  2. 30-045-22998-0000-0
  3. 103 000 000
  4. Marathon Oil Company
  5. Ohio D Government No 1-A
  6. Blanco Mesaverde
  7. San Juan NM
  8. 369.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05635/NM-3645-79
  2. 30-015-22395-0000-0
  3. 103 000 000
  4. Petroleum Corporation of Delaware
  5. Superior-Federal Unit I No 4
  6. E Burton Flat (Morrow)
  7. Eddy NM
  8. 91.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co

1. 80-05636/NM-3656-79
  2. 30-039-21536-0000-0
  3. 103 000 000
  4. Petroleum Corporation of Texas
  5. Federal No 1 Well No 2 SF-081347
  6. Chacon-Dakota Associated Pool
  7. Rio Arriba NM
  8. 250.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05637/NM-3661-79
  2. 30-045-05914-0000-0
  3. 108 000 000
  4. Alamo Petroleum Company
  5. Hanson Federal No 1

6. Basin Dakota
  7. San Juan NM
  8. 14.0 million cubic feet
  9. November 9, 1979
  10. Northwest Pipeline Company
1. 80-05638/NM-3662-79
  2. 30-045-10702-0000-0
  3. 108 000 000
  4. Consolidated Oil & Gas Inc
  5. Government-Starr No 1-13
  6. Basin Dakota
  7. San Juan NM
  8. 6.0 million cubic feet
  9. November 9, 1979
  10. Southern Union Gathering Co

1. 80-05639/NM-3663-79
  2. 30-045-10301-0000-0
  3. 108 000 000
  4. Consolidated Oil & Gas Inc
  5. Payne No 3
  6. Basin Dakota
  7. San Juan NM
  8. 12.8 million cubic feet
  9. November 9, 1979
  10. Southern Union Gas Company
1. 80-05641/NM-3668-79
  2. 30-025-25566-0000-0
  3. 103 000 000
  4. Carl Engwall
  5. Fletcher Federal NM 0897
  6. Lynch Yates—SR
  7. Lea NM
  8. 120.0 million cubic feet
  9. November 9, 1979
  10. Phillips Petroleum

1. 80-05642/NM-3667-79
  2. 30-005-60402-0000-0
  3. 102 000 000
  4. E L Latham Jr & R G Barton Jr
  5. Amoco Federal No 1
  6. Sams Ranch Grayburg
  7. Chaves NM
  8. 50.0 million cubic feet
  9. November 9, 1979
  10. El Paso Natural Gas Co
1. 80-05646/NM-3630-79
  2. 30-045-21196-0000-0
  3. 108 000 000
  4. Wynn Oil Company Inc
  5. Largo Federal Number 4
  6. Chacra
  7. San Juan NM
  8. 7.0 million cubic feet
  9. November 9, 1979
  10. Northwest Pipeline Corporation

1. 80-05647/NM-3631-79
  2. 30-045-21198-0000-0
  3. 108 000 000
  4. Wynn Oil Company Inc
  5. Largo Federal No 6
  6. Chacra
  7. San Juan NM
  8. 15.0 million cubic feet
  9. November 9, 1979
  10. Northwest Pipeline Corporation
1. 80-05649/NM-3632-79
  2. 30-045-21197-0000-0
  3. 108 000 000
  4. Wynn Oil Company Inc
  5. Largo Federal No 5
  6. Chacra
  7. San Juan NM
  8. 11.0 million cubic feet
  9. November 9, 1979
  10. Northwest Pipeline Corporation



1. 80-05650/NM-3819-79  
2. 30-045-05774-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom No 5  
6. Ballard Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05651/NM-3818-79  
2. 30-045-05869-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom No 4  
6. Ballard Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05652/NM-3817-79  
2. 30-045-05834-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom No 3  
6. Ballard Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05653/NM-3816-79  
2. 30-045-05825-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom No 2  
6. Ballard Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05654/NM-3815-79  
2. 30-045-05856-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom #1  
6. Ballard Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05655/NM-3814-79  
2. 30-045-05702-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom #9  
6. Ballard Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05656/NM-3810-79  
2. 30-045-10725-0000-0  
3. 108 000 000  
4. Consolidated Oil & Gas Inc  
5. Government-Reid #1  
6. Blanco Mesaverde  
7. San Juan NM  
8. 7.3 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gas Company  
1. 80-05658/NM-1081-79  
2. 30-045-07718-0000-0  
3. 108 000 000  
4. Northwest Production Corporation  
5. San Juan 29-9 1  
6. Blanco-Pictured Cliffs Gas  
7. San Juan NM  
8. 18.3 Million Cubic Feet  
9. November 8, 1979  
10. Northwest Pipeline Corporation  
1. 80-05659/NM-3813-79-2  
2. 30-039-21987-0000-0  
3. 102 000 000  
4. Palmer Oil & Gas Company  
5. Apache Jva #8  
6. Undesignated Chacra  
7. Rio Arriba, NM  
8. 150.0 Million Cubic Feet  
9. November 8, 1979  
10. Northwest Pipeline Corporation  
1. 80-05660/NM-3813-79-3  
2. 30-039-21987-0000-0  
3. 103 000 000  
4. Palmer Oil & Gas Company  
5. Apache Jva #8  
6. Undesignated Chacra  
7. Rio Arriba, NM  
8. 150.0 Million Cubic Feet  
9. November 8, 1979  
10. Northwest Pipeline Corporation  
1. 80-05661/NM-3828-79  
2. 30-045-60273-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Summit B-5  
6. Fulcher Kutz Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gathering Company  
1. 80-05662/NM-3827-79  
2. 30-045-21732-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Garland 1-R  
6. Fulcher Kutz Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gathering Company  
1. 80-05663/NM-3826-79  
2. 30-045-07474-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Lachman #2  
6. Fulcher Kutz Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gathering Company  
1. 80-05664/NM-3825-79  
2. 30-045-08979-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Sanchez #2  
6. Aztec Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gathering Company  
1. 80-05665/NM-3822-79  
2. 30-045-05689-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom #8  
6. Ballard Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05666/NM-3821-79  
2. 30-045-05833-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom #7  
6. Ballard Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05667/NM-3820-79  
2. 30-045-05773-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Newsom #6  
6. Ballard Pictured Cliffs  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05668/NM-3845-79  
2. 30-039-21565-0000-0  
3. 103 000 000  
4. Northwest Pipeline Corporation  
5. S/J 29-6 #20A  
6. Blanco Mesa Verde  
7. Rio Arriba, NM  
8. 195.0 Million Cubic Feet  
9. November 8, 1979  
10. Northwest Pipeline Corporation El Paso Natural Gas Company  
1. 80-05669/NM-3844-79  
2. 30-039-21396-0000-0  
3. 103 000 000  
4. Northwest Pipeline Corporation  
5. Rosa Unit #61  
6. Basin Dakota  
7. Rio Arriba, NM  
8. 102.0 Million Cubic Feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05670/NM-3843-79  
2. 30-039-21395-0000-0  
3. 103 000 000  
4. Northwest Pipeline Corporation  
5. Rosa Unit #61  
6. Basin Dakota  
7. Rio Arriba, NM  
8. 66.0 Million Cubic Feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05671/NM-3842-79  
2. 30-039-21807-0000-0  
3. 103 000 000  
4. Northwest Pipeline Corporation  
5. S/J 31-6 Unit #30  
6. Blanco Mesa Verde  
7. Rio Arriba, NM  
8. 163.0 Million Cubic Feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation El Paso Natural Gas Company  
1. 80-05672/NM-3841-79  
2. 30-039-21561-0000-0  
3. 103 000 000  
4. Northwest Pipeline Corporation  
5. S/J 29-6 Unit #18A  
6. Blanco Mesa Verde  
7. Rio Arriba, NM  
8. 266.0 Million Cubic Feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation El Paso Natural Gas Company  
1. 80-05673/NM-3800-79  
2. 30-025-21566-0000-0

3. 108 000 000  
4. Burleson & Huff  
5. Dale Federal #1  
6. Jalmat Yates  
7. Lea, NM  
8. 7.1 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05674/NM-3799-79  
2. 30-039-05721-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla L-1  
6. South Blanco Picture Cliffs  
7. Rio Arriba, NM  
8. .8 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05675/NM-3784-79  
2. 30-039-06301-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-4  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County, NM  
8. 17.9 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05676/NM-3783-79  
2. 30-039-06276-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-2  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County, NM  
8. 12.4 Million Cubic Feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05677/NM-3802-79  
2. 30-045-10519-0000-0  
3. 108 000 000  
4. Consolidated Oil & Gas Inc  
5. Phillips #1-23  
6. Basin Dakota  
7. San Juan, NM  
8. 16.4 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gas Company  
1. 80-05678/NM-3803-79  
2. 30-045-10656-0000-0  
3. 108 000 000  
4. Consolidated Oil & Gas Inc  
5. Governmen-Gross #1  
6. Basin Dakota  
7. San Juan, NM  
8. 11.0 Million Cubic Feet  
9. November 8, 1979  
10. Southern Union Gas Company  
1. 80-05679/NM-3804-79  
2. 30-039-21551-0000-0  
3. 103 000 000  
4. Palmer Oil & Gas Company  
5. Apache Jva #4  
6. Blanco-Mesaverde  
7. Rio Arriba, NM  
8. 140.0 Million Cubic Feet  
9. November 8, 1979  
10. Northwest Pipeline Corporation  
1. 80-05680/NM-3805-79  
2. 30-025-11809-0000-0  
3. 108 000 000  
4. Santa Fe Energy Company  
5. Carlson B-27-2  
6. Langlie  
7. Lea, NM  
8. 5.4 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05681/NM-3850-79  
2. 30-039-21831-0000-0  
3. 103 000 000  
4. Transocean Oil Inc  
5. #2 Federal 28714  
6. Chacon Dakota Field  
7. Rio Arriba, NM  
8. .0 Million Cubic Feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05682/NM-3776-79  
2. 30-039-06096-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. McCroden #A-1  
6. Tapacito Pictured Cliffs  
7. Rio Arriba, NM  
8. 3.0 Million Cubic Feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05683/NM-3775-79  
2. 30-045-00000-0000-0  
3. 108 000 000  
4. Petroleum Corporation of Texas  
5. Mobil Rudman Well No 2 I-149 Ind-11  
6. Basin Dakota Field  
7. San Juan County, NM  
8. .0 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05684/NM-3773-79  
2. 30-039-06260-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #3  
6. Jicarilla  
7. Rio Arriba, NM  
8. 7.0 Million Cubic Feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05685/NM-3771-79  
2. 30-039-20940-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #17  
6. Jicarilla  
7. Rio Arriba, NM  
8. 17.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05686/NM-3770-79  
2. 30-045-07222-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Ohio C Government #1  
6. Kutz Canyon  
7. San Juan, NM  
8. 11.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05687/NM-3766-79  
2. 30-039-06336-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #7  
6. Jicarilla  
7. Rio Arriba, NM  
8. 13.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05688/NM-3807-79  
2. 30-025-11467-0000-0  
3. 108 000 000  
4. Santa Fe Energy Company  
5. Wells B-6-1 Serial #052956  
6. Langlie  
7. Lea, NM  
8. 1.2 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05689/NM-3801-79  
2. 30-045-10470-0000-0  
3. 108 000 000  
4. Consolidated Oil & Gas Inc  
5. Government-Senter #1-24  
6. Basin Dakota  
7. San Juan, NM  
8. 15.3 million cubic feet  
9. November 9, 1979  
10. Southern Union Gas Company  
1. 80-05690/NM-3752-79  
2. 30-015-21718-0000-0  
3. 102 000 000  
4. Harvey E Yates Company  
5. Pennzoil Federal #1  
6. Eddy, NM  
8. 100.0 million cubic feet  
9. November 9, 1979  
10. Transwestern Pipeline Company  
1. 80-05691/NM-3751-79  
2. 30-025-25985-0000-0  
3. 103 000 000  
4. Union Texas Petroleum  
5. Crosby Deep No 4  
6. Crosby (Fusselman) Pool  
7. Lea, NM  
8. 549.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05692/NM-3781-79  
2. 30-039-06223-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla #B-3  
6. South Blanco Pictured Cliffs  
7. Rio Arriba County, NM  
8. 4.0 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05693/NM-3779-79  
2. 30-039-06127-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. McCroden 3  
6. Tapacito Pictured Cliffs  
7. Rio Arriba, NM  
8. 9.0 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05694/NM-3778-79  
2. 30-039-06126-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. McCroden #1  
6. Tapacito Pictured cliffs  
7. Rio Arriba, NM  
8. 4.0 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05695/NM-3777-79  
2. 30-039-06146-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. McCroden #B-1  
6. Tapacito Pictured Cliffs



7. Rio Arriba County, NM  
8. 7.0 million cubic feet  
9. November 9, 1979  
10. Gas Company of New Mexico  
1. 80-05696/NM-3690-79  
2. 30-015-22359-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Baumgartner Federal Com No 1  
6. Und Burton Flat Morrow  
7. Eddy, NM  
8. 75.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05697/NM-3723-79  
2. 30-041-10543-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 22 #4  
6. Chaveroo-San Andres  
7. Roosevelt, NM  
8. 2.8 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05698/NM-3720-79  
2. 30-041-10523-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 26 #5  
6. Chaveroo San Andres  
7. Roosevelt, NM  
8. 1.8 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05699/NM-3722-79  
2. 30-041-10529-0000-0  
3. 108 000 000  
4. Tenneco West Inc  
5. Federal 23 #3  
6. Chaveroo San Andres  
7. Roosevelt, NM  
8. 3.7 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05700/NM-3721-79  
2. 30-045-11772-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Mansfield No 3  
6. Blanco Picture Cliff  
7. San Juan, NM  
8. 6.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05701/NM-3689-79  
2. 30-025-25866-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Gillully Federal Gas Com No 15  
6. Eumont Queen  
7. Lea, NM  
8. 35.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural Gas  
1. 80-05702/NM-3688-79  
2. 30-025-25937-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Gillully B Federal No 20  
6. Cass Penn  
7. Lea, NM  
8. 51.0 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05703/NM-3687-79

2. 30-025-25744-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers /A/ Federal No 7  
6. Langlie Mattix Queen  
7. Lea, NM  
8. 9.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural  
1. 80-05704/NM-3686-79  
2. 30-025-25747-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers /B/ Federal No 26  
6. Langlie Mattix  
7. Lea, NM  
8. 156.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural  
1. 80-05705/NM-3685-79  
2. 30-025-25745-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers B Federal No 28  
6. Langlie Mattix Queen  
7. Lea, NM  
8. 212.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural Gas  
1. 80-05706/NM-3684-79  
2. 30-025-25746-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers /B/ Federal No 29  
6. Langlie Mattix Queen  
7. Lea, NM  
8. 231.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural Gas Company  
1. 80-05707/NM-3683-79  
2. 30-025-25765-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers /B/ Federal No 30  
6. Jalmat Yates—Seven Rivers  
7. Lea, NM  
8. 137.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural  
1. 80-05708/NM-3682-79  
2. 30-025-25766-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Myers /B/ Federal No 31  
6. Jalmat Yates—Seven Rivers  
7. Lea, NM  
8. 117.0 million cubic feet  
9. November 8, 1979  
10. Northern Natural  
1. 80-05709/NM-3681-79  
2. 30-015-22236-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Empire South Deep Unit No 15  
6. Und Empire South Morrow  
7. Eddy, NM  
8. 398.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural  
1. 80-05710/NM-3680-79  
2. 30-015-22241-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Empire South Deep Unit No 16  
6. Empire Morrow South

7. Eddy, NM  
8. 997.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural  
1. 80-05711/NM-3679-79  
2. 30-025-25747-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. South Mattix Unit #30  
6. Fowler Upper Yes  
7. Lea, NM  
8. 68.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05712/NM-3747-79  
2. 30-015-10397-0000-0  
3. 108 000 000  
4. Llano Incorporated  
5. Sweeney Federal No 1  
6. Lusk Strawn  
7. Eddy, NM  
8. 2.0 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05713/NM-3746-79  
2. 30-025-25738-0000-0  
3. 103 000 000  
4. Martindale Petroleum Corp  
5. Closson B #21  
6. Jalmat  
7. Lea, NM  
8. 27.2 million cubic feet  
9. November 8, 1979  
10. Ashland Oil Inc  
1. 80-05714/NM-3745-79  
2. 30-025-26041-0000-0  
3. 103 000 000  
4. Martindale Petroleum Corporation  
5. Closson B #22  
6. Jalmat  
7. Lea, NM  
8. .0 million cubic feet  
9. November 8, 1979  
10. Ashland Oil Inc  
1. 80-05715/NM-3744-79  
2. 30-025-26042-0000-0  
3. 103 000 000  
4. Martindale Petroleum Corporation  
5. Closson B #23  
6. Jalmat  
7. Lea, NM  
8. 111.6 million cubic feet  
9. November 8, 1979  
10. Ashland Oil Inc  
1. 80-05716/NM-3743-79  
2. 30-025-26144-0000-0  
3. 103 000 000  
4. Martindale Petroleum Corporation  
5. Closson B #25  
6. Jalmat  
7. Lea, NM  
8. 112.5 million cubic feet  
9. November 8, 1979  
10. Ashland Oil Inc  
1. 80-05717/NM-3749-79  
2. 30-025-00889-0000-0  
3. 108 000 000  
4. Llano Incorporated  
5. Price Federal 5 No. 2  
6. Lusk Strawn  
7. Lea, NM  
8. .5 million cubic feet  
9. November 8, 1979  
10. Continental Oil Company  
1. 80-05718/NM-3748-79

2. 30-015-10848-0000-0  
3. 108 000 000  
4. Llano Incorporated  
5. Tenneco Federal No. 1  
6. Lusk Strawn  
7. Eddy, NM  
8. 5.0 million cubic feet  
9. November 8, 1979  
10. Continental Oil Company  
1. 80-05719/NM-3750-79-1  
2. 30-015-21456-0000-0  
3. 108 000 000  
4. Great Western Drilling Co.  
5. Hay Hollow Unit #1  
6. Hay Hollow Strawn Gas  
7. Eddy, NM  
8. 19.7 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Oil Company  
1. 80-05721/NM-3782-79  
2. 30-039-00623-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Jicarilla D-1  
6. Tapacito Pictured Cliffs  
7. Rio Arriba County NM  
8. 2.2 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05722/NM-3725-79  
2. 30-041-10511-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 24 #7  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 7.3 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05723/NM-3741-79  
2. 30-039-00000-0000-0  
3. 108 000 000  
4. James E. Rogers  
5. Schmitz No. 1  
6. Tapacitos Pictured Cliffs  
7. Rio Arriba NM  
8. 5.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05724/NM-3739-79  
2. 30-041-10544-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 22 #5  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 3.0 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05725/NM-3737-79  
2. 30-041-10539-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 23 #13  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 3.9 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05726/NM-3736-79  
2. 30-041-10526-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 26 #8  
6. Chaveroo San Andres

7. Roosevelt NM  
8. 2.5 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05727/NM-3734-79  
2. 30-041-10528-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 23 #2  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 3.5 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05728/NM-3726-79  
2. 30-041-10521-0000-0  
3. 108 000 000  
4. Tenneco West Inc.  
5. Federal 26 #3  
6. Chaveroo San Andres  
7. Roosevelt NM  
8. 1.5 million cubic feet  
9. November 8, 1979  
10. Cities Service Oil Company  
1. 80-05729/NM-3621-79  
2. 30-025-02378-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. Langlie Mattix Queen Unit #37  
6. Langlie Mattix 7-Rivers Queen  
7. Lea NM  
8. .4 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Oil Company  
1. 80-05730/NM-3616-79  
2. 30-025-23185-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. Humphrey Queen Unit #112  
6. Langlie Mattix 7-Rivers Queen  
7. Lea NM  
8. .2 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Oil Company  
1. 80-05733/NM-3677-79  
2. 30-025-25912-0000-0  
3. 103 000 000  
4. Amoco Production Company  
5. Nellis Fed/A/Cas Com #1  
6. Und West Tonto Penn-Morrow  
7. Lea NM  
8. 287.0 million cubic feet  
9. November 8, 1979  
10. Gas Company of New Mexico  
1. 80-05734/NM-3673-79-3  
2. 30-025-25604-0000-0  
3. 103 000 000  
4. The Superior Oil Company  
5. Government L Com #1  
6. Bell Lake South  
7. Lea NM  
8. 1000.0 million cubic feet  
9. November 8, 1979  
10.  
1. 80-05735/NM-3768-79  
2. 30-039-06309-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #4  
6. Jicarilla  
7. Rio Arriba NM  
8. 17.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05736/NM-1158-79

2. 30-045-05743-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit NP #23  
6. Huerfano-Pictured Cliffs Gas  
7. San Juan NM  
8. 20.0 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05737/NM-2141-79  
2. 30-039-06999-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. San Juan 28-7 Unit #19  
6. Blanco South-Pictured Cliffs Gas  
7. Rio Arriba NM  
8. 20.8 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05739/NM-3614-79  
2. 30-025-01633-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. E. K. Queen Unit #1-4  
6. E. K. Yates 7-Rivers Queen  
7. Lea NM  
8. .1 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05740/NM-3613-79  
2. 30-025-01601-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. E. K. Queen Unit #1-1  
6. E. K. Yates 7-Rivers Queen  
7. Lea NM  
8. .1 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05741/NM-3615-79  
2. 30-025-01615-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. E. K. Queen Unit #1-8  
6. E. K. Yates 7-Rivers Queen  
7. Lea NM  
8. .1 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05742/NM-3616-79  
2. 30-025-01609-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. E. K. Queen Unit #6-13  
6. E. K. Yates 7-Rivers Queen  
7. Lea NM  
8. .1 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05743/NM-3617-79  
2. 30-025-01634-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. E. K. Queen Unit #1-9  
6. E. K. Yates 7-Rivers Queen  
7. Lea NM  
8. .2 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05744/NM-3619-79  
2. 30-025-11433-0000-0  
3. 108 000 000  
4. Mobil Oil Corporation  
5. Humphrey Queen Unit #18  
6. Langlie Mattix 7-Rivers Queen



7. Lea NM  
8. .1 million cubic feet  
9. November 8, 1979  
10. El Paso Natural Gas Company  
1. 80-05745/NM-3644-79  
2. 30-025-04340-0000-0  
3. 108 000 000  
4. Warrior Inc.  
5. Federal D Account B #6  
6. Eumont Yates Seven Rivers Queen  
7. Lea NM  
8. 4.0 million cubic feet  
9. November 8, 1979  
10. Phillips Petroleum Company  
1. 80-05746/NM-3836-79  
2. 30-045-20801-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #12  
6. Aztec Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05747/NM-3835-79  
2. 30-045-07564-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #11  
6. Aztec Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05748/NM-3834-79  
2. 30-045-07628-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #9  
6. Aztec Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05749/NM-3833-79  
2. 30-045-07726-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #8  
6. Aztec Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05750/NM-3831-79  
2. 30-045-00000-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #8  
6. Aztec Pictured Cliffs  
7. San Juan NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05751/NM-3830-79  
2. 30-045-07566-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Zachry #8  
6. Aztec Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05752/NM-3754-79  
2. 30-005-60379-0000-0  
3. 102 000 000  
4. C E Larue and B N Muncy Jr  
5. Nola Federal #1  
6. Sams Ranch Grayburg  
7. Chaves NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05753/NM-3767-79  
2. 30-039-21256-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #18  
6. Jicarilla  
7. Rio Arriba NM  
8. 21.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05754/NM-3766-79  
2. 30-039-06339-0000-0  
3. 108 000 000  
4. Marathon Oil Company  
5. Jicarilla Apache #5  
6. Jicarilla  
7. Rio Arriba NM  
8. 10.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05755/NM-3761-79  
2. 30-045-22548-0000-0  
3. 108 000 000  
4. Odessa Natural Corporation  
5. Gulf Little Fed No. 1-25  
6. Basin Dakota  
7. San Juan NM  
8. 5.8 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05756/NM-3760-79  
2. 30-045-00000-0000-0  
3. 108 000 000  
4. Odessa Natural Corporation  
5. Little Federal No. 6  
6. Conner Fruitland  
7. San Juan NM  
8. 4.7 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05757/NM-3759-79  
2. 30-025-11710-0000-0  
3. 108 000 000  
4. Odessa Natural Corporation  
5. Carlson Federal A No. 1  
6. Justis  
7. Lea NM  
8. 11.9 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05758/NM-3758-79  
2. 30-045-00000-0000-0  
3. 108 000 000  
4. Odessa Natural Corporation  
5. Little Federal No. 4  
6. Conner Fruitland  
7. San Juan NM  
8. 1.7 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05759/NM-3829-79  
2. 30-045-07725-0000-0  
3. 108 000 000  
4. Supron Energy Corporation  
5. Summit #4  
6. Fulcher Kutz Pictured Cliffs  
7. San Juan County NM  
8. .0 million cubic feet  
9. November 9, 1979  
10. Southern Union Gathering Company  
1. 80-05760/NM-3566-79  
2. 30-025-25890-0000-0  
3. 103 000 000  
4. Getty Oil Company  
5. Myers Langlie-Mattix Unit #188  
6. Langlie Mattix  
7. Lea NM  
8. 8.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Co.  
1. 80-05761/NM-3564-79  
2. 30-025-25191-0000-0  
3. 103 000 000  
4. Getty Oil Company  
5. Hughes Federal No. 4  
6. Langlie Mattix 7-Rivers Queen  
7. Lea NM  
8. 1.0 million cubic feet  
9. November 9, 1979  
10. Getty Oil Company Natural Gas Plant  
1. 80-05762/NM-3563-79  
2. 30-025-25534-0000-0  
3. 103 000 000  
4. Grace Petroleum Corporation  
5. New Mexico E Federal Comm  
6. South Salt Lake Morrow  
7. Lea NM  
8. 912.0 million cubic feet  
9. November 9, 1979  
10. Natural Gas Pipeline Co of America  
1. 80-05767/NM-3556-79  
2. 30-045-20383-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Giomi Com A No. 1  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 10.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05768/NM-3555-79  
2. 30-045-11791-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Riddle A No. 3  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 12.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05769/NM-3554-79  
2. 30-045-11640-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Florance No. 85  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 17.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05770/NM-3553-79  
2. 30-045-11658-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Florance D No. 2  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 18.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05771/NM-3551-79

2. 30-045-11641-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Florance No. 72  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 18.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05772/NM-3550-79  
2. 30-045-00000-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Florance B No. 1  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 12.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05773/NM-3557-79  
2. 30-045-07808-0000-0  
3. 108 000 000  
4. Tenneco Oil Company  
5. Jones No. 3  
6. Blanco Picture Cliff  
7. San Juan NM  
8. 4.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05774/NM-3565-79  
2. 30-025-25986-0000-0  
3. 108 000 000  
4. Getty Oil Company  
5. Myers Langlie-Mattix Unit #23  
6. Langlie Mattix  
7. Lea NM  
8. 14.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Co.  
1. 80-05775/NM-3880-79  
2. 30-039-20702-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Canyon Largo Unit #199  
6. Ballard Pictured Cliffs Gas  
7. Rio Arriba NM  
8. 20.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05776/NM-3879-79  
2. 30-045-11930-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #156  
6. Basin Dakota Gas  
7. San Juan NM  
8. 18.3 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company Northwest  
Pipeline Corp Southern Union Gathering Co  
1. 80-05777/NM-4002-79  
2. 30-025-26156-0000-0  
3. 103 000 000  
4. Flag-Redfern Oil Company  
5. Lynn B-25 Federal #5 (NM-21644)  
6. Langlie Mattix  
7. Lea NM  
8. 75.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05778/NM-4003-79  
2. 30-025-26143-0000-0  
3. 103 000 000  
4. Martindale Petroleum Corporation  
5. Closson B #24  
6. Jalmat Yates Seven Rivers  
7. Lea NM  
8. 233.5 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05779/NM-3884-79  
2. 30-045-21136-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Sunray H #5  
6. Blanco Pictured Cliffs Gas  
7. San Juan NM  
8. 19.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05780/NM-3885-79  
2. 30-045-21283-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Storey B #7  
6. Aztec Pictu. Cliffs Gas  
7. San Juan NM  
8. 20.8 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05781/NM-3886-79  
2. 30-045-22863-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Horton #2  
6. Blanco Pictured Cliffs Gas  
7. San Juan NM  
8. 19.7 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05782/NM-3887-79  
2. 30-039-05206-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Lindrith Unit #53  
6. South Blanco Pictured Cliffs Gas  
7. Rio Arriba NM  
8. 18.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05783/NM-3889-79  
2. 30-045-06331-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Lodewick #3  
6. Fulcher Kutz Pictured Cliffs Gas  
7. San Juan, NM  
8. 20.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05784/NM-3891-79  
2. 30-045-20626-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Huerfano Unit #206  
6. Basin Dakota Gas  
7. San Juan, NM  
8. 19.3 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company Northwest  
Pipeline Corp., Southern Union Gathering  
Co.  
1. 80-05785/NM-3897-79  
2. 30-015-70217-0000-0  
3. 102 000 000  
4. Mesa Petroleum Co  
5. Williamson Federal Com #1  
6. Undesignated Atoka  
7. Eddy, NM  
8. 204.0 million cubic feet  
9. November 9, 1979  
10. Northern Natural Gas Co  
1. 80-05786/NM-3894-79  
2. 30-039-06649-0000-0  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Rincon Unit #3  
6. Blanco South-Pictured Cliffs Ga  
7. Rio Arriba, NM  
8. 20.8 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05787/NM-3904-79  
2. 30-039-21183-0000-0  
3. 108 000 000  
4. Cotton Petroleum Corporation  
5. Apache No. 14  
6. South Blanco—Pictured Cliffs  
7. Rio Arriba, NM  
8. 16.6 million cubic feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05788/NM-3903-79  
2. 30-039-21764-0000-0  
3. 108 000 000  
4. Cotton Petroleum Corporation  
5. Apache No. 12  
6. South Blanco—Pictured Cliffs  
7. Rio Arriba, NM  
8. 17.6 million cubic feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05785/NM-3902-79  
2. 30-039-21763-0000-0  
3. 108 000 000  
4. Cotton Petroleum Corporation  
5. Apache No. 11  
6. South Blanco—Pictured Cliffs  
7. Rio Arriba, NM  
8. 7.9 million cubic feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05790/NM-3901-79  
2. 30-039-20456-0000-0  
3. 108 000 000  
4. Cotton Petroleum Corporation  
5. Apache No. 10  
6. South Blanco-Pictured Cliffs  
7. Rio Arriba, NM  
8. 9.8 million cubic feet  
9. November 9, 1979  
10. Northwest Pipeline Corporation  
1. 80-05791/NM-3899-79  
2. 30-025-11674-0000-0  
3. 108 000 000  
4. Mesa Oil Company  
5. A B Coates B No. 1  
6. Jalmat Yates—Seven Rivers  
7. Lea, NM  
8. 15.0 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05792/NM-3898-79-1  
2. 30-015-21424-0000-0  
3. 103 000 000  
4. Inexco Oil Company  
5. Majoros Federal No. 2Y  
6. Morro (undesignated)  
7. Eddy, NM  
8. 182.5 million cubic feet  
9. November 9, 1979  
10. El Paso Natural Gas Company  
1. 80-05793/NM-3905-79  
2. 30-039-21185-0000-0



3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 15
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. 5.2 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05794/NM-3909-79
2. 30-041-10099-0000-0
3. 108 000 000
4. Layton Enterprises Inc
5. Kirkpatrick Federal No. 1
6. Bluff San Andres
7. Roosevelt, NM
8. 1.6 million cubic feet
9. November 9, 1979
10. Cities Service Company
1. 80-05795/NM-3906-79
2. 30-039-21892-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 16
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. 4.4 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05796/NM-3911-79
2. 30-045-08392-0000-0
3. 108 000 000
4. Helen Loraine Harvey
5. Jones No. 1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 13.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05797/NM-3876-79
2. 30-039-20724-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. S J 27-4 Unit No. 71
6. Basin Dakota Gas
7. Rio Arriba, NM
8. 21.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05798/NM-3898-79-2
2. 30-039-21850-0000-0
3. 103 000 000
4. J G Merrion & R L Bayless
5. North Lindreth Com No. 1A
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 70.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05799/NM-3939-79
2. 30-045-22574-0000-0
3. 108 000 000
4. Getty Oil Company
5. Mexico-Federal B No. 1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 18.4 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Co
1. 80-05800/NM-3994-79
2. 30-039-21518-0000-0
3. 103 000 000
4. Supron Energy Corporation
5. Jicarilla F 4
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05801/NM-3995-79
2. 30-039-21540-0000-0
3. 103 000 000
4. Supron Energy Corporation
5. Jicarilla K 20
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05802/NM-3957-79
2. 30-015-22561-0000-0
3. 102 000 000
4. Mesa Petroleum Co
5. Runyan Federal Com No. 1
6. Wildcat
7. Eddy, NM
8. 134.0 million cubic feet
9. November 9, 1979
10. Natural Gas Pipeline Co of America
1. 80-05803/NM-3975-79
2. 30-045-05995-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Davis No. 2
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. 8.9 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05804/NM-3976-79
2. 30-039-05702-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla No. 1
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05805/NM-3977-79
2. 30-039-20433-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla K-17
6. Basin Dakota
7. Rio Arriba County, NM
8. 6.6 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05806/NM-2697-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 9
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05807/NM-2695-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack #2
6. Kutz Pictured Cliffs
7. San Juan, NM
8. 1.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-5808/NM-2698-79

2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack No. 8
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 9.8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05809/NM-2699-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack No. 7
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05810/NM-2700-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Bolack 2-D
6. Basin Dakota
7. San Juan, NM
8. 20.4 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05811/NM-2701-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Bolack 4-D
6. Basin Dakota
7. San Juan, NM
8. 10.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05812/NM-2703-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 14
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 17.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05813/NM-2705-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack No. 2
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05814/NM-2707-79
2. 30-045-0000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 5
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05815/NM-2708-79
2. 30-045-0000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 10
6. West Kutz Pictured Cliffs

7. San Juan, NM
8. 2.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05643/UA-3670-79
2. 43-037-30460-0000-
3. 103
4. The Superior Oil Company
5. McElmo Creek Unit T-10
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05644/UA-3671-79-2
2. 430037-30405-0000-0
3. 102 000 000
4. The Superior Oil Company
5. Navajo Tribal 34-42
6. Rockwell Springs
7. San Juan, UT
8. 200.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05645/UA-3671-79-3
2. 43-037-30405-0000-0
3. 103 000 000
4. The Superior Oil Company
5. Navajo Tribal 34-42
6. Rockwell Springs
7. San Juan, UT
8. 200.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05648/UA-3672-79
2. 43-037-30459-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit T-14
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-057-31/UA-3669-79-A
2. 43-037-30457-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit S-8
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05732/UA-3669-79-B
2. 43-037-30457-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit S-8
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 175.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37820 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

#### Office of Hearings and Appeals

#### Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals

Week of July 13 through July 20, 1979.

Notice is hereby given that during the week of July 13 through July 20, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix below to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 31, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 [44 FR 7926, February 7, 1979]. On or before January 9, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

December 3, 1979.

Melvin Goldstein,  
Director, Office of Hearings and Appeals.

Harvey J. Bean, Erie, Pa., DRO-0274, motor gasoline

On July 13, 1979, Harvey J. Bean, 471 West Arlington, Erie, Pennsylvania, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Northeast Enforcement District issued to him on July 2, 1979. In the IROIC the Enforcement District found that on July 2, 1979 Harvey Bean sold motor gasoline at prices that were in violation of the DOE pricing regulations. The IROIC therefore ordered Bean to sell regular leaded gasoline at 91.3 cents per gallon and regular unleaded gasoline at 95.3 cents per gallon.

Belcher of New England, Inc., Revere, Mass., DRO-0275, motor gasoline

On July 16, 1979, Belcher of New England, Inc. (Belcher), 222 Lee Burbank Highway, Revere, Massachusetts 02151 filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Enforcement, Northeast District, issued on July 8, 1979. In the IROIC, the Office of Enforcement found that Belcher had violated its supplier/purchaser obligations as defined in Section 211 of the DOE regulations by refusing to supply motor gasoline to its customer, Acomi, Inc. The IROIC requires Belcher to supply motor gasoline to Acomi, Inc. and to begin deliveries within twenty-four hours after receipt of the IROIC.

Mark Crockett d.b.a. Prestige Marketing, Inc., Kansas City Mo., DRO-0278, motor gasoline

On July 17, 1979, Mark Crockett, d/h/a/ Prestige Marketing, Inc., 5507 Northeast 51st Street, Kansas City, Missouri, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Central Enforcement District Office of Enforcement issued to the firm only July 6, 1979. In the IROIC, the Enforcement district found that there was a strong probability that Crockett had modified his normal business practices and as a result Crockett had violated 10 CFR 210.62. The Enforcement Office also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Crockett were not required to immediately desist from the alleged violation. The IROIC accordingly directed Crockett to stop employing any form of discriminatory practices in sales of motor gasoline and to conform his business practices to those followed during the base period.

Elmwood Car Wash, Inc., Jefferson, La., DRO-0277, motor gasoline

On July 13, 1979 Elmwood Car Wash, Inc., 1005 South Clearview Parkway, Jefferson, Louisiana, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Southwest District issued to him on July 5, 1979. In the IROIC the Enforcement District found that on June 15, 1979 Elmwood Car Wash was engaged in discriminatory conduct and had modified its normal business practices in an unlawful manner by imposing a tie-in sale which requires customers to purchase a car wash in order to buy gasoline. Accordingly, the IROIC ordered Elmwood to discontinue this tie-in arrangement.



**Englewood Getty Service, Inc., Englewood, N.J. DRO-0283 motor gasoline**

On July 18, 1979, Englewood Getty Service, Inc., 134 Route 4 East, Englewood, New Jersey 07631, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the New Jersey Office of the Department of Energy issued to the firm on July 5, 1979. In the interim Remedial Order, the New Jersey Office found that Englewood Getty committed pricing violations in connection with resales of motor gasoline. According to the Interim Remedial Order, Englewood Getty's violations resulted in overcharges of \$5,000.

**George's Shell, Inc., Elizabeth, N.J., DRO-0290, motor gasoline**

On July 19, 1979, George Alexiades, d/b/a George's Shell, Inc., 375 Morris Avenue, Elizabeth, New Jersey 07208, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 5, 1979. In the IROIC, the New Jersey DOE found that on June 25, 1979, George's Shell, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date, and that George's Shell, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered George's Shell, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its June 25, 1979 selling prices.

**Golden Eagle Oil Co., Inc., Los Angeles, Calif., DRO-0286, fuel oil**

On July 19, 1979, Golden Eagle Oil Co., 707 Wilshire Boulevard, Los Angeles, California 90017, filed a Notice of Objection to a Proposed Remedial Order which the DOE National Office of Enforcement issued to the firm on June 20, 1979. In the Proposed Remedial Order the National Office found that during November 1974 through January 1975, Golden Eagle improperly received and sold entitlements with respect to residual fuel oil which it imported. According to the Proposed Remedial Order the Golden Eagle's violation resulted in \$395,770 of overcharges.

**Hawkie's Service Station Corp., Malden, Mass., DRO-0281, Gasoline Retailer**

On July 17, 1979, Hawkie's Service Station Corporation (Hawkie's), 333-445 Eastern Avenue, Malden, Massachusetts 02148, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Northeast District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to Hawkie's on July 6, 1979. In the IROIC, the ERA found that there was a strong probability that Hawkie's had modified its normal business practices and as a result Hawkie's had violated 10 CFR 210.62. The ERA also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Hawkie's were not required to immediately desist from the alleged violation. The IROIC

accordingly directed Hawkie's to stop employing any form of discriminatory practices in sales of motor gasoline and to conform its business practices to those followed during the base period.

**Perez's Amoco, Inc., Elizabeth, N.J., DRO-0289, Motor Gasoline**

On July 19, 1979, Alfredo Perez, Jr. d/b/a Perez's Amoco, Inc., 380 Morris Avenue, Elizabeth, New Jersey 07208, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 19, 1979. In the IROIC, the New Jersey DOE found that on June 25, 1979, Perez's Amoco, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date and that Perez's Amoco, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Perez's Amoco, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its June 25, 1979 selling prices.

**K. R. "Ken" Rearick d/b/a. Clearview Gulf Service Center, Metairie, La., DRO-0273, Gasoline Retailer**

On July 18, 1979, K. R. "Ken" Rearick (Rearick), d/b/a. Clearview Gulf Service Center, 3120 Clearview Parkway, Metairie, Louisiana 7002, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Southwest District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to Rearick on July 2, 1979. In the IROIC, the ERA found that there was a strong probability that Rearick had modified his normal business practices and as a result Rearick had violated 10 CFR 210.62. The ERA also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Rearick were not required to immediately desist from the alleged violation. The IROIC accordingly directed Rearick to stop employing any form of discriminatory practices in sales of motor gasoline and to conform his business practices to those followed during the base period.

**Red Carpet Car Wash, Inc., Corpus Christi, Tex., DRO-0279 Motor Gasoline**

On July 17, 1979, Mr. Fred E. Long, d/b/a Red Carpet Car Wash, Inc., 1902 The Six-Hundred Building, Corpus Christi, Texas 78401, filed a Notice of Objection to an Interim Remedial Order for immediate Compliance (IROIC) that the Department of Energy Southwest District Office of Enforcement issued to him on June 29, 1979. The IROIC found that during June 1979, Red Carpet modified its normal business practices in an unlawful manner by requiring customers without a specified credit card to purchase a car wash as a condition to purchasing motor gasoline at a Red Carpet facility in Corpus Christi, Texas.

**Rock Creek Gulf, Washington, D.C., DRO-0272 Motor Gasoline**

On July 13, 1979, Rock Creek Gulf, 1827 Adams Mill Road, N.W., Washington, D.C., filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the Office of Enforcement issued to the firm on July 3, 1979. In the IROIC the Office of Enforcement found that the prices that Rock Creek Gulf was charging at the time of issuance of the IROIC were five to nine cents above the firm's maximum lawful prices.

**Saveway Stations, Inc./Auto Flite Company, Inc., Las Vegas, Nev., DRO-0288, Motor Gasoline & Diesel Products**

On July 19, 1979, Saveway Stations, Inc. and Auto Flite Company, Inc., 2424 South Highland Avenue, Las Vegas, Nevada 89102, filed a Notice of Objection to a Proposed Remedial Order issued to them on July 2, 1979, by the Western District Office of Enforcement. The Proposed Remedial Order found that from November 1, 1973 through May 31, 1975, Saveway and Auto Flite committed pricing violations of \$999,791 in connection with the resale of motor gasoline and diesel fuel in the State of Nevada.

**Shell Oil Company, Houston, Tex., DRO-0284, Motor Gasoline**

On July 18, 1979, Shell Oil Company, P.O. Box 2463, Houston, Texas 70001, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the DOE Southwest District Office of Special Counsel issued to Shell Oil Company on July 9, 1979. In the Interim Remedial Order for Immediate Compliance, the Office of Special Counsel ordered Shell Oil Company to resupply D and D Shell, 1317 Fulton Street, San Francisco, California, with its May and June base period volumes, reduced only by Shell's allocation fraction, at May and June prices. Shell also is ordered to satisfy its obligation to D and D Shell in the future.

**Tenafly Getty Service, Inc., Tenafly, N.J., DRO-0282, Motor Gasoline**

On July 18, 1979, Tenafly Getty Service, Inc., 25 Central Avenue, Tenafly, New Jersey 07670, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the New Jersey Office of the Department of Energy issued to the firm on July 5, 1979. In the Interim Remedial Order, the New Jersey Office found that Tenafly Getty committed pricing violations in connection with resales of motor gasoline. According to the Interim Remedial Order, Tenafly Getty's violations resulted in overcharges of \$5,000.

**Robert A. Williams, d.b.a. Heights Shell, Minneapolis, Minn., DRO-0291, Motor Gasoline**

On July 18, 1979, Robert A. Williams d/b/a Heights Shell, 3701 Central Avenue, N.E., Minneapolis, Minnesota 55421, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Central Enforcement District of the Economic Regulatory Administration of the Department of Energy issued to the firm on July 6, 1979. In

the IROIC, the Enforcement District found that on July 6, 1979, Heights Shell (1) charged prices in excess of its maximum lawful selling prices for certain grades of motor gasoline in violation of 10 CFR 212.93; (2) failed to post maximum lawful selling prices on the face of each pump in violation of 10 CFR 212.129; and (3) failed to maintain books and records to support the lawfulness of the prices it charged in sales of motor gasoline in violation of 10 CFR 210.92 and 212.93. The IROIC directed Heights Shell to come into compliance immediately with applicable legal requirements or to come forth within five days with documentation to establish the lawfulness of each price charged on the date of the audit.

[FR Doc. 79-37722 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

**Office of the Special Counsel for Compliance****Consent Order With Chevron U.S.A., Inc.**

**AGENCY:** Department of Energy.  
**ACTION:** Notice of Proposed Consent Order and Opportunity for Public Comment.

**SUMMARY:** Pursuant to 10 CFR 205.199], the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that it has entered into a Consent Order with Chevron, U.S.A., Inc. (Chevron). The Consent Order addresses Chevron's compliance with the transportation component of the landed cost regulations, Subpart E of 10 CFR Part 212 as raised in a Notice of Probable Violation (NOPV) issued to Chevron on January 31, 1978. In the Consent Order, Chevron agrees to remedy the violations alleged by reducing its costs by approximately \$12,074,000.

As required by 10 CFR 205.199], OSC will receive comments concerning the Consent Order for a period of at least 30 days following publication of this notice. Although the Consent Order has been signed and accepted by the parties, OSC may, after consideration of the comments received, withdraw its acceptance to the Consent Order, attempt to negotiate a modification of the Consent Order, or make the Consent Order final as proposed.

**DATES:** Comments received on or before January 4, 1980 will be considered.

**FOR FURTHER INFORMATION CONTACT:** Comments, and questions, should be directed to: Herbert G. Schreiber, Jr., Chief Counsel, Pacific District, Office of Special Counsel, Department of Energy, 525 Market Street, Suite 2560, San Francisco, CA 94105, 415-556-8828.

Copies of the Consent Order may be received by written request to the same

address. Copies will also be available at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., S.W., Room GA-152, Washington D.C. 20585.

**SUPPLEMENTARY INFORMATION:****Background**

Chevron is a refiner subject to the Mandatory Petroleum Price and Allocation Regulations. OSC conducted an audit of Chevron's compliance with the regulations governing the computation of landed costs, 10 CFR Part 212, Subpart E, as well as related and predecessor provisions, applicable to Chevron's importation of Indonesian crude oil. The audit examined the period August 1973 through December 1975.

As a result of the audit, OSC identified what it believed to be a violation of the landed cost regulation in that Chevron improperly computed the transportation costs associated with the landed cost of the Indonesian crude oil. Chevron used the actual transportation charges rather than using the London Tanker Broker Panel Average Freight Rate Assessment (AFRA) method, its customary accounting procedure, which it was required to use, as more fully described in the (NOPV) issued January 31, 1978. Based on the foregoing, OSC alleged that the transportation costs computed in this manner exceeded the applicable AFRA costs Chevron could have claimed by approximately \$12,074,000.

**The Consent Order**

Chevron and OSC have agreed to resolve the issues raised in the Notice through this Consent Order rather than through adversary proceedings. The significant terms of the Consent Order are that:

1. Chevron agrees to adjust its landed cost in each month of measurement where transportation costs were computed pursuant to actual costs rather than the AFRA method. Chevron shall recalculate its increased product costs, by product category, in accordance with instructions applicable to Forms FEO-96 and FEA P110-M-1.

2. Based upon the above recalculation, Chevron agrees to determine whether it has over-recovered increased product costs with respect to any product category during any months of measurement. In the event that consecutive months of over-recovery exist, Chevron shall submit within 30 days of the effective date of this Consent Order to OSC for its approval a plan for instituting refunds, including interest.

3. The Consent Order does not constitute an admission by Chevron or a

finding by OSC that violations of the regulations occurred. Chevron waives any rights to contest or appeal the terms of the Order.

4. The provisions of 10 CFR § 205.199], including the publication of this notice, are applicable to the Consent Order.

**Submission of Written Comments**

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to the address noted above. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Chevron Consent Order." All comments received by 5:00 p.m. PDT on January 4, 1980, will be considered by OSC in evaluating the Consent Order. Modifications of the Consent Order which, in the opinion of OSC significantly change the terms or impact of the Consent Order will be published for comment.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., November 29, 1979.

Paul L. Bloom,  
Special Counsel for Compliance.

[FR Doc. 79-37801 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL 1372-2; OTS-51006A]

**Amendment to Premanufacture Notice**

**AGENCY:** Environmental Protection Agency (EPA), Office of Toxic Substances.

**ACTION:** Amendment to Premanufacture Notice.

**SUMMARY:** In Premanufacture Notice (PMN) No. 5AHQ-1079-0035 submitted to the EPA, Schenectady Chemicals, Inc., claimed that the specific use and the estimated production volume of its chemical substance 2-tert-butyl-4-sec-butylphenol were confidential information. The Company has since withdrawn its claims of confidentiality. This notice announces that the new chemical substance will be used as a chemical intermediate (site limited). The company has estimated that 1,000 to 10,000 pounds will be manufactured in 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of



Pesticides and Toxic Substances, EPA, 401 M Street SW., Washington, D.C. 20460 (202/426-3936). All portions of this notice, summaries of correspondence between the company and EPA, and other written material relating to the notice are available in the public record and may be viewed in Room 447, East Tower, at the above address. The public reading area is open from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

**SUPPLEMENTARY INFORMATION:** On October 17, 1979 (44 FR 59954), the EPA announced receipt of a PMN (No. 5AHQ-1079-0035(S)) submitted under provisions of section 5 of the Toxic Substances Control Act (TSCA). Schenectady Chemicals, Inc., 9th & Congress Streets, Schenectady, NY 12301, claimed as confidential information the specific use of its new chemical substance, 2-tert-butyl-4-sec-butylphenol, and the amount to be produced.

Subsequently, the company withdrew its claims of confidentiality. In addition, the PMN No. 5AHQ-1079-0035(S) has been corrected to read 5AHQ-1079-0035. Therefore, the Agency is amending PMN No. 5AHQ-1079-0035 to include the use of the new chemical substance as a chemical intermediate (site limited) and the total estimated production volume for 1980 of 1,000 to 10,000 pounds.

Dated: December 3, 1979.

John P. DeKany,  
Deputy Assistant Administrator for Chemical Control.

[FR Doc. 79-37753 Filed 12-7-79; 8:45 am]  
BILLING CODE 6560-01-M

#### [FRL 1372-5]

#### Approval of Wisconsin's NPDES Program To Regulate Federal Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of approval of the State of Wisconsin's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) with respect to Federal facilities.

**SUMMARY:** On November 26, 1979, the Environmental Protection Agency (EPA) approved the State of Wisconsin's request to include regulation of Federal facilities under their State water pollution permit program. Previously the State had been approved to participate in the National Pollutant Discharge Elimination System (NPDES).

**FOR FURTHER INFORMATION CONTACT:** Joel Blumstein, Permits Division (EN-

338), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0750.

**SUPPLEMENTARY INFORMATION:** In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendment, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the National Pollutant Discharge Elimination System (NPDES), were precluded from regulating Federal facilities. Therefore, the Environmental Protection Agency (EPA) in approving State programs under section 402(b) reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's Federal Register notice is to announce the approval of the State of Wisconsin's request to assume NPDES authority over Federal facilities.

Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

|                | Approved State NPDES permit program | Approved to regulate Federal facilities | Approved State pretreatment program |
|----------------|-------------------------------------|-----------------------------------------|-------------------------------------|
| Alabama        | 10-19-79                            | 10-19-79                                | 10-19-79                            |
| California     | 05-14-73                            | 05-05-78                                |                                     |
| Colorado       | 03-27-75                            |                                         |                                     |
| Connecticut    | 09-26-73                            |                                         |                                     |
| Delaware       | 04-01-74                            |                                         |                                     |
| Georgia        | 06-28-74                            |                                         |                                     |
| Hawaii         | 11-28-74                            | 06-01-79                                |                                     |
| Illinois       | 10-23-77                            | 09-20-79                                |                                     |
| Indiana        | 01-01-75                            | 12-09-78                                |                                     |
| Iowa           | 08-10-78                            | 08-10-78                                |                                     |
| Kansas         | 06-28-74                            |                                         |                                     |
| Maryland       | 09-05-74                            |                                         |                                     |
| Michigan       | 10-17-73                            | 12-09-78                                |                                     |
| Minnesota      | 06-30-74                            | 12-09-78                                | 07-16-79                            |
| Mississippi    | 05-01-74                            |                                         |                                     |
| Missouri       | 10-30-74                            | 06-26-79                                |                                     |
| Montana        | 06-10-74                            |                                         |                                     |
| Nebraska       | 06-12-74                            | 11-02-79                                |                                     |
| Nevada         | 09-19-75                            | 08-31-78                                |                                     |
| New York       | 10-28-75                            |                                         |                                     |
| North Carolina | 10-19-75                            |                                         |                                     |
| North Dakota   | 06-13-75                            |                                         |                                     |
| Ohio           | 03-11-74                            | 03-02-79                                |                                     |
| Oregon         | 09-26-73                            | 06-30-78                                |                                     |
| Pennsylvania   | 06-30-78                            |                                         |                                     |
| South Carolina | 06-10-75                            |                                         |                                     |
| Tennessee      | 12-28-77                            |                                         |                                     |
| Vermont        | 03-11-74                            |                                         |                                     |
| Virgin Islands | 06-30-78                            |                                         |                                     |
| Virginia       | 03-31-75                            |                                         |                                     |
| Washington     | 11-14-73                            |                                         |                                     |
| Wisconsin      | 02-04-74                            | 11-26-79                                |                                     |
| Wyoming        | 01-30-75                            |                                         |                                     |

<sup>1</sup> On January 26, 1979, the United States Court of Appeals for the Seventh Circuit invalidated the Agency's approval of the Illinois NPDES program in *Citizens for a Better Environment v. Environmental Protection Agency* (No. 78-1042, Petition for rehearing denied May 16, 1979). However, on May 30, 1979, the Court stayed the enforcement of its order until

February 23, 1980, in order to provide EPA an opportunity to revise its regulations governing public participation in enforcement. In the interim, the State of Illinois is operating an approved program.

For further information on the *Citizens for a Better Environment* case and the Agency's response thereto, see the public participation in enforcement regulations that were recently proposed in the FEDERAL REGISTER (44 FR 49275, August 22, 1979).

<sup>2</sup> On August 15, 1979, EPA approved a modification to Washington's NPDES program to allow the State Energy Facility Site Evaluation Council to issue and enforce permits.

Dated: November 26, 1979.

Jeffrey G. Miller,  
Acting Assistant Administrator for Enforcement.

[FR Doc. 79-37751 Filed 12-7-79; 8:45 am]  
BILLING CODE 6560-01-M

#### [FRL 1372-3; PP 8G2079/T223]

#### Pesticide Programs; Extension of a Temporary Tolerance

The Environmental Protection Agency (EPA) in response to a pesticide petition (PP 8G2079) submitted to the Agency by EM Laboratories, Inc., 500 Executive Blvd., Elmsford, NY 10523, established a temporary tolerance for residues of the plant growth regulator that is a mixture of methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxy-fluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm). This temporary tolerance is scheduled to expire March 19, 1980.

EM Laboratories, Inc., requested a one-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit, 21137-EUP-3, that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. EM Laboratories, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production,

distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 19, 1981. Residues not in excess of 0.1 ppm remaining in or on cucumbers after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St. SW., Washington, DC 20460 (202/755-2196).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (2 U.S.C. 346a(j))

Dated: December 3, 1979.

Douglas D. Campit,  
Director, Registration Division.

[FR Doc. 79-37752 Filed 12-7-79; 8:45 am]  
BILLING CODE 6560-01-M

#### [FRL 1372-4; OTS-51010]

#### Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA, or the Agency).

**ACTION:** Receipt of Premanufacture Notices.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the Federal Register. This Notice announces receipt of two PMN's and provides a summary of each.

**DATE:** Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

**ADDRESS:** Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

The PMN's and other documents in the public record are available for

public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kirk Maconaughey,

Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979 (44 FR 28559). (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558).) The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the

chemical. EPA will publish the generic name, and the generic use and potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: December 3, 1979.

John P. DeKany,  
Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1179-0073 and 5AHQ-1179-0074.

**Close of Review Period:** February 21, 1980.  
**Manufacturer's Identity:** Pioneer Plastics, Pionite Road, Auburn, Maine 04210.

**New Chemical Substance:** The chemical identity of PMN No. 5AHQ-1179-0073 is 1,3-benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene. The chemical identity of the substance for PMN No. 5AHQ-1179-0074 is 1,3-benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene acrylonitrile. Information provided by the company concerning *Uses and Data Submitted* for each PMN is identical and is as follows:

**Uses:** The substances are intended to be used in fiber reinforced plastic compositions which will be formed into such articles as appliance and automotive parts. The



company anticipates that the first year production for each substance will be approximately 200,000 pounds with an expected increase to 1,000,000 pounds within two years.

**Data Submitted:** The substances are defined as polyester resins. The company estimates that up to ten people will be directly exposed for an eight-hour period to the raw materials and finished resin. An additional twenty people who work at the same location may be exposed for short periods of time. Distillate byproducts of the substances are common to the polyester resin industry. The substances will be disposed of by incineration while their distillate byproducts will be disposed in a biological treatment plant. The company indicated that no test data are available and that the health and environmental effects are not known or reasonably ascertainable.

[FR Doc. 79-37754 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### FM and TV Translator Applications Ready and Available for Processing

Adopted: November 23, 1979;

Released: November 28, 1979.

By the Chief, Broadcast Facilities Division: Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's Rules, that on January 4, 1980, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on January 3, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on January 3, 1980.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 73.3584(a) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

### UHF TV Translator Applications

BPPT-7904241J—New: Honaker, Virginia, Russell County Board of Supervisors, Req: Channel 51, 692-698 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPPT-7904301N—New: Blue Mountain, Rangely & Dinosaur, Colorado, Rio Blanco County TV Association, Inc., Req: Channel 59, 740-746 MHz, 100 watts, Primary: KRMA-TV, Denver, Colorado

BPPT-7905091C—New: Carpenterville, Oregon, Sierra Cascade Communications, Inc., Req: Channel 60, 746-752 MHz, 1 watt, Primary: KTVL-TV, Medford, Oregon

BPPT-7905221H—New: Starbuck & All Pope County, Minnesota, Starbuck Area Development Corporation, Req: Channel 64, 770-776 MHz, 100 watts, Primary: WCCO-TV, Minneapolis, Minnesota

BPPT-7905221C—New: Cottonwood, Clarkdale & Cornville, Arizona, Meredith Corporation, Req: Channel 40, 626-632 MHz, 100 watts, Primary: KPFO-TV, Phoenix, Arizona

BPPT-7905221D—New: Flagstaff, Arizona, Meredith Corporation, Req: Channel 57, 728-734 MHz, 100 watts, Primary: KPFO-TV, Phoenix, Arizona

BPPT-7905241J—New: Honaker, Virginia, Russell County Board of Supervisors, Req: Channel 53, 704-710 MHz, 100 watts, Primary: WCYB-TV, Bristol, Virginia

BPPT-7905241K—New: Castletown, Virginia, Russell County Board of Supervisors, Req: Channel 59, 740-746 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPPT-7905241L—New: Castletown, Virginia, Russell County Board of Supervisors, Req: Channel 64, 770-776 MHz, 100 watts, Primary: WCYB-TV, Bristol, Virginia

BPPT-7905241M—New: Dickensonville, Virginia, Russell County Board of Supervisors, Req: Channel 65, 776-782 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPPT-7906051J—New: Port Henry & Crown Point, New York, Northeast New York Educational Television Association, Req: Channel 60, 746-752 MHz, 100 watts, Primary: WCFE-TV, Plattsburgh, New York

BPPT-7906051J—New: Westport, New York, Northeast New York Educational Television Association, Req: Channel 67, 788-794 MHz, 10 watts, Primary: WCFE-TV, Plattsburgh, New York

BPPT-7906121J—New: River Falls, Wisconsin, State of Wisconsin-Educational Communications Board, Req: Channel 55, 716-722 MHz, 100 watts, Primary: WHWC-TV, Menomonie, Wisconsin

BPPT-7906121K—New: Township of Washington Island & Upper Door County, Wisconsin, State of Wisconsin-Educational Communications Board, Req: Channel 55, 716-722 MHz, 100 watts, Primary: WPNE-TV, Green Bay, Wisconsin

BPPT-7907231B—New: Cloverdale & Hebo, Oregon, State of Oregon Acting By and Through the State Board of Higher Education, Req: Channel 55, 716-722 MHz, 10 watts, Primary: KOAC-TV, Corvallis, Oregon

BPPT-7907231C—New: Grays River & Lebam, Washington and Astoria, Oregon, State of Oregon Acting By and Through the State Board of Higher Education, Req: Channel 59, 740-746 MHz, 100 watts, Primary: KOAP-TV, Portland, Oregon

BPPT-7907231D—New: Seaside & Cannon Beach, Oregon, State of Oregon Acting By

and Through the State Board of Higher Education, Req: Channel 62, 758-764 MHz, 100 watts, Primary: KOAP-TV, Portland, Oregon

BPPT-7907251B—New: Ticonderoga, New York, Northeast New York Educational Television Association, Req: Channel 67, 788-794 MHz, 10 watts, Primary: WCFE-TV, Plattsburgh, New York

BPPT-7907271E—New: Crystal Falls Township, Michigan, Crystal Falls Township, Req: Channel 49, 680-686 MHz, 100 watts, Primary: WLUK-TV, Green Bay, Wisconsin

BPPT-7908081F—New: Casper, Glenrock, Midwest & Rural Areas, Wyoming, Hi Ho Broadcasting Corporation of Wyoming, Req: Channel 20, 506-512 MHz, 1000 watts, Primary: KWRB-TV, Riverton, Wyoming

BPPT-7908141A—New: Waimea (Kamuela), Hawaii, Hawaii Public Broadcasting Authority, Req: Channel 63, 764-770 MHz, 100 watts, Primary: KMED-TV, Wailuku, Hawaii

BPPT-7908201C—New: San Sebastian, Puerto Rico, Ponce Television Corporation, Req: Channel 38, 614-620 MHz, 1000 watts, Primary: WRK-TV, Ponce, Puerto Rico

BPPT-7909041A—New: Booneville & Philco, California, Anderson Valley Television, Inc., Req: Channel 67, 788-794 MHz, 20 watts, Primary: KBHK-TV, San Francisco, California

BPPT-7909041B—New: Santa Barbara, Ventura & Oxnard, California, KEY Television, Inc., Req: Channel 57, 728-734 MHz, 100 watts, Primary: KEYT-TV, Santa Barbara, California

BPPT-7909041C—New: Cody, Powell & Rural Area, Wyoming, Park County, Req: Channel 47, 688-694 MHz, 100 watts, Primary: KWRB-TV, Thermopolis, (Riverton) Wyoming

BPPT-7909101A—K61AX: Wellton & Mohawk Valley, Arizona, Wellton-Mohawk Irrigation Drainage District, Req: Add San Luis, Gadsden & Somerton, Arizona to present principal community

BPPT-7909101B—K67BI: Wellton & Mohawk Valley, Arizona, Wellton-Mohawk Irrigation Drainage District, Req: Add San Luis, Gadsden & Somerton, Arizona to present principal community

BPPT-7909251A—New: Joplin, Montana, Garryowen Corporation, Req: Channel 48, 674-680 MHz, 1000 watts, Primary: KRTV-TV, Great Falls, Montana

BPPT-7910011A—K69AW: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 44, 650-656 MHz

BPPT-7910011B—K71CG: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 46, 662-668 MHz

BPPT-7910011C—K75CP: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 48, 674-680 MHz

BPPT-7910011C—K77CI: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 50, 686-692 MHz

BPPT-7910011E—K55AD: Appleton, Minnesota, Rural Western UHF TV Corporation, Req: Change frequency to Channel 54, 710-716 MHz

BPPT-7910011F—K65AB: Appleton, Minnesota, Rural Western UHF TV Corporation, Req: Change frequency to Channel 52, 698-704 MHz

BPPT-7910261A—W59AH: Allentown & Bolivar Relay, New York, Board of Cooperative Educational Services of Allegany County, Req: Add Andover Relay, New York to present principal community

### VHF TV Translator Applications

BPPTV-7904111A—K04DK: Cave Junction, Selma & Deer Creek Area, Oregon, Oregon Broadcasting Company, Req: Change frequency to Channel 7, 174-180 MHz, increase output power to 5 watts

BPPTV-7904271B—New: Togiak, Alaska, City of Togiak, Req: Channel 3, 60-66 MHz, 10 watts, Primary: KYUK-TV, Bethel, KUAC-TV, Fairbanks, KAKM-TV, KENI-TV, KTVA-TV, KIMO-TV, Anchorage, Alaska

BPPTV-7904301L—New: Banty Point Rural Area, Colorado, Rio Blanco County TV Association, Req: Channel 4, 66-72 MHz, 1 watt, Primary: KTVX-TV, Salt Lake City, Utah

BPPTV-7904301M—New: Staley & Goeder Rural Area, Colorado, Rio Blanco County TV Association, Req: Channel 9, 186-192 MHz, 1 watt, Primary: KREX-TV, Grand Junction, Colorado

BPPTV-7904301O—K02DX: Staley & Goeder Colorado, Rio Blanco County TV Association, Req: Change frequency to Channel 13, 210-216 MHz

BPPTV-7904301P—K04DT: Staley & Goeder, Rio Blanco County TV Association, Req: Change frequency to Channel 11, 198-204 MHz

BPPTV-7905141B—New: Hydaburg, Alaska, City of Hydaburg, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-7906081F—New: Unalakleet, Alaska, City of Unalakleet, Alaska, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-7906081G—New: Koliganek, Alaska, Koliganek Village Council, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-7907021K—New: Huslia, Alaska, Huslia Village Council, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-7907131A—New: Anvik, Alaska, City of Anvik, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-7908061D—New: Sitka, Alaska, Sheldon Jackson College, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-7908201A—New: Stony River, Alaska, Stony River Traditional Council, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KYUK-TV, Bethel, KUAC-TV, Fairbanks,

KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-7909121A—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 3, 60-66 MHz, 1 watt, Primary: KTVX-TV, Salt Lake City, Utah

BPPTV-7909121B—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 5, 76-82 MHz, 1 watt, Primary: KUTV-TV, Salt Lake City, Utah

BPPTV-7909121C—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 7, 174-180 MHz, 1 watt, Primary: KUED-TV, Salt Lake City, Utah

BPPTV-7909181A—New: Yerington Nevada, Lyon County, Req: Channel 6, 82-88 MHz, 10 watts, Primary: KOLO-TV, Reno, Nevada

BPPTV-7909181B—New: Yerington Nevada, Lyon County, Req: Channel 11, 198-204 MHz, 10 watts, Primary: KTVN-TV, Reno, Nevada

BPPTV-7909181C—New: Yerington Nevada, Lyon County, Req: Channel 13, 210-216 MHz, 10 watts, Primary: KCRL-TV, Reno, Nevada

BPPTV-7909211A—New: Lloyd, Montana, Bear Paw TV Club, Req: Channel 13, 210-216 MHz, 1 watt, Primary: KRTV-TV, Great Falls, Montana

BPPTV-7909281B—New: Del Norte, Colorado, Parker Hill TV Association, Req: Channel 6, 82-88 MHz, 10 watts, Primary: KRDO-TV, Colorado Springs, Colorado

### FM Translator Applications

BPFT-7903131B—New: Hotchkiss, Crawford, Rogers Mesa and Redlands, Mesa, Delta County, Colorado, North Fork Valley Public Radio, Incorporated, Req: Channel 252, 98.3 MHz, 10 watts, Primary: KVNF-FM, Paonia, Colorado

BPFT-7905091D—New: Williamport, Pennsylvania, Muncy Terraces Christian Activity Center, Inc., Req: Channel 232, 94.3 MHz, 1 watt, Primary: WPGM-FM, Danville, Pennsylvania

BPFT-7906041F—New: Marysville and Yuba City, California, The University Foundation California State University, Chico, Req: Channel 210, 89.9 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-7906041G—New: Redding, California, The University Foundation, California State University, Chico, Req: Channel 214, 90.7 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-7906041H—New: Red Bluff, California, The University Foundation, California State University, Chico, Req: Channel 218, 91.05 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-7906071C—New: Webster, New York, Webster Bible Church, Req: Channel 228, 93.5 MHz, 1 watt, Primary: WMHR-FM, Syracuse, New York

BPFT-7906081H—K276AF: Mendenhall Valley, Alaska, Capital Community Broadcasting, Inc., Req: Add Auke Bay to present principal community

BPFT-7907061C—New: La Verne, San Dimas, Glendora and Azusa, California, Frederick

R. Cote, Req: Channel 224, 92.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061D—New: Placentia, Brea, La Habra and Whittier, California, Frederick R. Cote, Req: Channel 244, 92.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061E—New: Yucaipa, Redlands and Loma Linda, California, Frederick R. Cote, Req: Channel 240, 95.9 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061F—New: Victorville, Mountain View and Adelanto, California, Frederick R. Cote, Req: Channel 240, 95.9 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061G—New: Norco, California, Frederick R. Cote, Req: Channel 272, 102.3 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061H—New: Monrovia, Arcadia, Sierra Madre and Pasadena, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061I—New: Torrance, Wilmington, Long Beach and San Pedro, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907061J—New: San Clemente, Laguna Hills, Santa Ana and Orange, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-7907311B—New: Prineville, Oregon, Gospel Echo, Inc., Req: Channel 280, 103.9 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

BPFT-7907311C—New: Bend, Oregon, Gospel Echo, Inc., Req: Channel 244, 96.7 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

BPFT-7907311D—New: Redmond, Oregon, Gospel Echo, Inc., Req: Channel 249, 97.7 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

[FR Doc. 79-37749 Filed 12-7-79; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL MARITIME COMMISSION

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be



submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 20, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accomplished by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-1768-12  
Filing Party: John E. Nolan, Assistant Port Attorney, City of Oakland, 66 Jack London Square, Oakland, California 94604.

Summary: Agreement No. T-1768-12, between the City of Oakland (City) and Sea-Land Service, Inc. (Sea-Land) modifies the parties' basic agreement which provides for the preferential assignment of certain facilities to Sea-Land. The modification provides for an extension of time within which Sea-Land may exercise its right to terminate said agreement, following the City's written notification of increase in the minimum/maximum compensation amounts effective at the beginning of the 15th year of the term of said agreement, for an additional two month period of and including the 1st day of March, 1980.

Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-37778 Filed 12-7-79; 8:45 am]  
BILLING CODE 6730-01-M

#### Intent to Review Prior Exemption of Certain Provisions of Agreements Nos. LM-2 and LM-10

Agreements Nos. LM-2 and LM-10, as amended and supplemented, are the 1978-1981 collective bargaining agreements between the Pacific Maritime Association, on the one hand, and the National Marine Engineers' Beneficial Association (LM-2) and the American Radio Association, AFL-CIO, (LM-10) on the other hand.

The Commission determined Agreements Nos. LM-2, and LM-10 to be exempt *en toto* from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended, on August 30 and October 17, 1978, respectively, in accordance with its

*Interim Policy Statement—Collective Bargaining Agreements* (46 CFR 530.9), served June 12, 1978.

However, preliminary review of certain other maritime collective bargaining agreements filed pursuant to 46 CFR 530.9 (Agreements Nos. LM-12, LM-14, LM-20, and LM-22) indicates that certain types of provisions contained in Agreements Nos. LM-2 and LM-10 may not, in fact, qualify for labor exemption from the filing and approval requirements of section 15, although they appear to qualify for approval pursuant to that section of the Act.

The first type of provision, which is contained in Agreements Nos. LM-2 (section 34(f)(2)) and LM-10 (section 62, third paragraph), obligates the employer to obtain for the union's benefit a written undertaking with the union executed by a vessel's purchaser or transferee that the collective bargaining agreement shall apply to the vessel for the balance of its term and that the transferee—as well as the union—will comply fully with the agreement.

The second type of provision, which is set forth in the last paragraph on the second page of the preamble of Agreement No. LM-10, states that in the event the employer, in conjunction with one or more of the other employers participating in the collective bargaining agreement, transfers any or all of its passenger vessels for U.S. flag operation to any entity which is not then under agreement with the union, the collective bargaining agreement shall continue to cover the vessels during the life of the collective bargaining agreement.

Inasmuch as the foregoing provisions impose terms (i.e., the underlying collective bargaining agreements) on entities outside of the collective bargaining unit (i.e., the vessel purchaser or transferee), they appear to fail the third criterion for labor exemption set forth in *United Stevedoring Corp. v. Boston Shipping Association*, 16 F.M.C. 7, 12-13 (1972). However, in view of the standards enunciated in 46 CFR 530.9, it would appear that they would qualify for approval pursuant to section 15 since they do not appear to be inconsistent with Commission precedent or violative of the Commission-administered statutes or Commission policies. Even though the competitive impact of these provisions—if implemented—could conceivably raise issues under the antitrust statutes, it appears that the purpose of the provisions is to assure harmonious labor-management relations at times when disputes would be likely to cause industrial strife. It should be noted that the collective bargaining agreements containing these provisions

specifically deem them to be of the essence of the agreements, and in the event the provisions are not properly implemented, either the "no strike" clauses in the underlying collective bargaining agreements are voided or the unions are entitled to cancel the agreements. In view of the foregoing, it would appear that approval of the above provisions in the context of Agreements Nos. LM-2 and LM-10 would be justified by the national policy of the maintenance of peace in industrial labor-management relations.

Therefore, notice is hereby given that the Commission may review its prior exemption of these provisions in the context of Agreements Nos. LM-2 and LM-10, with a view of granting the provisions approval pursuant to section 15 of the Shipping Act, 1916. It should be noted that the exemption of these provisions in the context of these agreements will remain ineffect pending formal Commission action on their status under section 15.

Interested parties may inspect a copy of the provisions at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423. Comments on the provisions, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1979. Comments on the provisions should include facts and arguments concerning the exemption, approval, modification, or disapproval of the provisions. Comments shall also discuss with particularity allegations that the provisions are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements (Edward D. Ransom, Esq., Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111), and the statement shall indicate that this has been done.

Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-37716 Filed 12-7-79; 8:45 am]  
BILLING CODE 6730-01-M

#### Temporary Exemption and Interim Approval of Agreements Nos. LM-12, et al.

Notice is hereby given that on November 15, 1979, the Commission (a) determined Section 41(e)(2) of Agreement No. LM-12, the fourth paragraph on page 2 of the preamble together with the third paragraph of Section 62 of Agreement No. LM-14; Section (t) of Agreement No. LM-20-1; and the penultimate paragraph of the preamble of Agreement No. LM-22 together with Section 22 of Agreement No. LM-22-2 to be approved on an interim basis; and (b) determined the balance of the above agreements, as amended and supplemented, and the entirety of Agreement Nos LM-13, LM-15, LM-16, LM-17, LM-18, LM-19 and LM-21, as amended and supplemented, to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending Federal Register notice, opportunity for comments, and subsequent determination by the Commission that the agreements (or any specific provision(s) thereof) should be permanently exempt from the filing and approval requirements of section 15, Shipping Act, 1916, or should be approved, modified, or disapproved under that section. This action was taken in accordance with the Commission's *Interim Policy Statement—Collective Bargaining Agreements*, served July 12, 1978 (46 CFR 530.9). The action described above is effective until February 23, 1980.

Interested parties may inspect the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218, or at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1979. Comments should include facts and arguments concerning the exemption, approval, modification or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos: Agreement Nos. LM-12, et al.

Filing Party: Edward Silver, Esq., Proskauer, Rose, Goetz & Mendelsohn, 300 Park Avenue, New York, New York 10022.

Summary: The following agreements constitute the 1978-1981 collective bargaining agreements between the Maritime Service Committee (MSC) and the Tanker Service Committee (TSC) on the one hand and the National Marine Engineers' Beneficial Association, AFL-CIO (NMEBA), American Radio Association, AFL-CIO (ARA), International Organization of Masters, Mates and Pilots (MMP), National Maritime Union of America (NMU), Staff Officers' Association of America, AFL-CIO (SOA), and Radio Officers' Union of the United Telegraph Workers, AFL-CIO (ROU), on the other hand:

LM-12: Basic MSC-NMEBA 1972-1975 collective bargaining agreement

LM-12-1: June 16, 1975, Memorandum of Understanding updating MSC-NMEBA collective bargaining agreement for 1975-1978

LM-12-2: December 16, 1976, MSC-NMEBA Memorandum of Understanding concerning cost of living bonus

LM-12-3: June 30, 1977, MSC-NMEBA letter agreement interpreting a December 2, 1974, Supplemental Agreement

LM-12-4: June 15, 1978, Memorandum of Understanding updating MSC-NMEBA collective bargaining agreement for 1978-1981

LM-12-A: Agreement and Declaration of Trust Establishing the NMEBA Pension and Welfare Plan

LM-12-B: NMEBA Pension Trust Declaration

LM-12-C: NMEBA Pension Fund Regulations

LM-12-D: Rules and Regulations of the NMEBA Health and Welfare Plan

LM-12-E: Agreement and Declaration of Trust Establishing the NMEBA Training Plan

LM-12-F: Rules and Regulations of the NMEBA Training Plan

LM-12-G: Agreement and Declaration of Trust Establishing the NMEBA Vacation Plan—Atlantic, Gulf and Pacific Coasts

LM-12-H: Rules and Instructions for Filing Claims under the NMEBA Vacation Plan

LM-13: Basic TSC-NMEBA 1972-1975 collective bargaining agreement

LM-13-1: June 16, 1973, TSC-NMEBA Memorandum of Understanding concerning wage and benefit increases

LM-13-2: December 2, 1974, Supplemental Memorandum concerning wage and benefit increases

LM-13-3: June 18, 1975, Memorandum of Understanding updating basic TSC-NMEBA collective bargaining agreement for 1975-1978

LM-13-4: June 15, 1978, Memorandum of Understanding updating TSC-NMEBA collective bargaining agreement for 1978-1981

LM-14: Basic MSC-ARA 1972-1975 collective bargaining agreement

LM-14-1: March 28, 1973, MSC-ARA Letter Agreement concerning Section 45 of basic collective bargaining agreement

LM-14-2: June 18, 1973, MSC-ARA Supplemental Memorandum concerning wage and fringe benefit increases

LM-14-3: September 24, 1974, MSC-ARA Memorandum of Agreement concerning Service Fees

LM-14-4: November 30, 1974, Memorandum of Agreement concerning Section 41 of basic MSC-ARA collective bargaining agreement

LM-14-5: December 2, 1974, Supplemental Memorandum concerning wage and fringe benefit increases

LM-14-6: July 3, 1975, Memorandum of Understanding updating MSC-ARA collective bargaining agreement for 1975-1978

LM-14-7: September 1, 1977, MSC-ARA Memorandum of Understanding concerning escrow

LM-14-8: June 6, 1978, Memorandum of Understanding updating MSC-ARA collective bargaining agreement for 1978-1981

LM-14-A: Agreement and Declaration of Trust Establishing the ARA Pension and Welfare Plan

LM-14-B: ARA Pension Trust Declaration

LM-14-C: ARA Pension Regulations

LM-14-D: ARA Welfare Regulations

LM-14-E: Agreement and Declaration of Trust Establishing the ARA Vacation Plan

LM-15: Basic TSC-ARA 1972-1975 collective bargaining agreement

LM-15-1: June 16, 1973, TSC-ARA Supplemental memorandum concerning wage and fringe benefit increases

LM-15-2: November 30, 1974, TSC-ARA Memorandum of Agreement concerning conversion of pension contribution basis

LM-15-3: December 2, 1974, TSC-ARA Memorandum of Understanding concerning wage and fringe benefit increases

LM-15-4: July 3, 1975, Memorandum of Understanding updating collective bargaining agreement for 1975-1978

LM-15-5: June 18, 1978, Memorandum of Understanding updating TSC-ARA collective bargaining agreement for 1978-1981

LM-16: Basic TSC-MMP 1972-1975 collective bargaining agreement

LM-16-1: June 18, 1973, TSC-MMP Supplemental Agreement concerning wage and fringe benefits

LM-16-2: December 7, 1973, TSC-MMP Memorandum of Agreement relating to arbitrators

LM-16-3: June 16, 1974, TSC-MMP Supplemental Agreement relating to wages and fringe benefits

LM-16-4: June 18, 1975, Memorandum of Understanding updating TSC-MMP collective bargaining agreement for 1975-1978

LM-16-5: June 18, 1978, Memorandum of Understanding updating TSC-MMP collective bargaining agreement for 1978-1981

LM-17: Basic MSC-MMP 1972-1975 collective bargaining agreement

LM-17-1: June 16, 1973, MSC-MMP Supplemental Agreement concerning wages and fringe benefits



LM-17-2: April 7, 1974, MSC-MMP Memorandum of Understanding concerning assignment of Licensed Deck Officers

LM-17-3: June 18, 1974, MSC-MMP Supplemental Agreement concerning wages and fringe benefits

LM-17-4: June 16, 1975, Memorandum of Understanding updating MSC-MMP collective bargaining agreement for 1975-1978

LM-17-5: December 16, 1978, MSC-MMP Memorandum of Understanding concerning cost of living bonus

LM-17-6: December 20, 1977, MSC-MMP Letter Agreement concerning surplus in the special operating account of the MMP Pension Plan

LM-17-7: June 16, 1978, Memorandum of Understanding updating MSC-MMP collective agreement for 1978-1981

LM-17-A: Agreement and Declaration of Trust Establishing the MMP Pension Plan

LM-17-B: MMP Welfare Plan—Rules and Regulations

LM-17-C: Agreement and Declaration of Trust Establishing the MMP Health and Benefit Plan

LM-17-D: Rules and Regulations of the MMP Welfare Plan

LM-17-E: Agreement and Declaration of Trust Establishing the MMP Vacation Plan

LM-17-F: Agreement and Declaration of Trust Establishing the MMP Joint Employment Committee

LM-17-G: Agreement and Declaration of Trust Establishing the MMP Maritime Advancement, Training, Education and Safety Program

LM-18: Basic MSC-NMU 1975-1978 collective bargaining agreement

LM-18-1: December 16, 1975, MSC-NMU Memorandum of Understanding concerning cost of living increases

LM-18-2: June 16, 1977, MSC-NMU Memorandum of Understanding concerning cost of living increases

LM-18-2: December 16, 1977, MSC-NMU Memorandum of Understanding concerning cost of living increases

LM-18-4: June 15, 1978, Memorandum of Understanding updating collective bargaining agreement for 1978-1981

LM-18-A: Agreement and Declaration of Trust Establishing the NMU Pension and Welfare Plan

LM-18-B: NMU Pension Trust Declaration

LM-18-C: NMU Pension Regulations

LM-18-D: NMU Welfare Plan Regulations

LM-18-E: Agreement and Declaration of Trust Establishing the NMU Upgrading and Retraining Plan

LM-18-F: Agreement and Declaration of Trust Establishing the NMU Vacation Plan

LM-18-G: Agreement and Declaration of Trust Establishing the NMU Joint Employment Committee

LM-19: Basic TSC-NMU 1975-1978 collective bargaining agreement

LM-19-1: June 15, 1978, Memorandum of Understanding updating TSC-NMU collective bargaining agreement for 1978-1981

LM-20: Basic MSC-SOA 1961-1965 collective bargaining agreement

LM-20-1: December 6, 1965, Memorandum of Agreement updating basic MSC-SOA collective bargaining agreement for 1965-1969

LM-20-2: January 11, 1966 MSC-SOA Supplementary Memorandum concerning wage increases

LM-20-3: July 30, 1966, MSC-SOA Memorandum of Agreement and Supplementary Memorandum concerning increases

LM-20-4: August 16, 1966, MSC-SOA Memorandum of Understanding concerning Purser-Trainee Program

LM-20-5: June 30, 1967, MSC-SOA Memorandum of Agreement concerning increases

LM-20-6: November 6, 1967, MSC-SOA Supplementary Memorandum of Agreement concerning Permanent Arbitrator's decision on June 1967 wage increase

LM-20-7: December 9, 1968, MSC-SOA Supplementary Memorandum of Agreement concerning arbitration ruling on wages and benefits

LM-20-8: August 4, 1969, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1969-1972

LM-20-9: December 30, 1969, MSC-SOA Memorandum of Understanding concerning training plan contributions

LM-20-10: June 15, 1973, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases

LM-20-11: June 17, 1974, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases

LM-20-12: September 26, 1975, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases

LM-20-13: June 16, 1976, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1976-1979

LM-20-14: April 28, 1977, MSC-SOA Supplemental Memorandum of Understanding concerning the reallocation of benefits

LM-20-15: September 20, 1978, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1979-1982

LM-20-A: Agreement and Declaration of Trust Establishing SOA Pension and Welfare Plan

LM-20-B: SOA Pension Trust Declaration

LM-20-C: SOA Pension Regulations

LM-20-D: Rules and Regulations of the SOA Welfare (Health-Benefit) Plan

LM-20-E: Agreement and Declaration of Trust for the SOA Pharmacist Mate (Marine Physician Assistant) Program

LM-21: Basic TSC-ROU collective bargaining agreement for 1969-1972

LM-21-1: June 16, 1972, Memorandum of Understanding updating TSC-ROU collective bargaining agreement for 1972-1975

LM-21-2: June 16, 1973, TSC-ROU Supplementary Memorandum concerning wage and benefit increases

LM-21-3: September 16, 1974, TSC-ROU Supplementary Memorandum concerning allocations

LM-21-4: August 4, 1975, Memorandum of Understanding extending TSC-ROU

collective bargaining agreement for 1975-1978

LM-21-5: June 16, 1978, Memorandum of Understanding updating TSC-ROU collective bargaining agreement for 1978-1981

LM-22: Basic MSC-ROU 1969-1972 collective bargaining agreement

LM-22-1: May 27, 1971, MSC-ROU Memorandum of Agreement concerning ROU apprentices' vacations

LM-22-2: June 16, 1972, MSC-ROU Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1972-1975

LM-22-3: June 16, 1978, MSC-ROU Supplementary Memorandum concerning allocation of wage and benefit increases

LM-22-4: September 16, 1974, MSC-ROU Supplementary Memorandum concerning fringe benefits

LM-22-5: January 30, 1975, MSC-ROU Memorandum of Understanding concerning allocation of wage and fringe benefit increases

LM-22-6: August 4, 1975, Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1975-1978

LM-22-7: September 23, 1975, MSC-ROU Memorandum of Understanding concerning vacations

LM-22-8: December 16, 1976, MSC-ROU Memorandum of Understanding concerning cost of living bonus

LM-22-9: August 12, 1977, MSC-ROU Memorandum of Understanding concerning Apprentice Program

LM-22-10: December 19, 1977, MSC-ROU Memorandum of Understanding concerning transfer of escrow monies

LM-22-11: June 16, 1978, Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1978-1981

LM-22-A: Agreement and Declaration of Trust Establishing ROU Pension Plan

LM-22-B: ROU Pension Regulations

LM-22-C: Agreement and Declaration of Trust Establishing the ROU Benefits Plan

LM-22-D: Rules and Regulations Providing Welfare Benefits of the ROU Benefits Plan

LM-22-E: Agreement and Declaration of Trust Establishing the ROU Joint Employment Committee

LM-22-F: Agreement and Declaration of Trust Establishing ROU Vacation Plan

Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-37717 Filed 12-7-79; 8:45 am]

BILLING CODE 6730-01-M

#### Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 31, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3879.  
Filing Party: John C. Barnett, Assistant Chief, Leases & Operating Division, The Port Authority of New York and New Jersey, On World Trade Center, New York, New York 10048.

Summary: Agreement No. T-3879, between the Port Authority of New York and New Jersey (Port) and C.A. Venezolana De Navegacion and Compania Peruana De Vapores (collectively called "the Lines"), provides for the month-to-month lease of Pier 1 at the Brooklyn, Port Authority Marine Terminal, New York, New York for use by the Lines as a public marine terminal facility. The agreement provides an increase in the rate per revenue ton payable by the lessees under a minimum/maximum rental formula. The agreement also defines revenue ton respecting specific enumerated types of cargo.

Agreements Nos. 8080-17 and 8240-15.  
Filing Party: Wade S. Hooker, Jr., Esquire, Burlington Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreements Nos. 8080-17 and 8240-15 modify the basic agreements of the Atlantic and Gulf-Indonesia Conference and the Atlantic and Gulf-Singapore, Malaya and Thailand Conference, respectively, by amending Article 1 of each to provide for substituted service between loading or discharging ports covered by each Agreement. Such ports shall be divided essentially, into three ranges, i.e., Gulf, South Atlantic and North Atlantic ports. Substituted service between ranges shall be by water

only and between ports within a range by any mode.

Agreement No. 10261-6.  
Filing Party: Stanley O. Sher, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10261-6, among the members of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement, would amend Article 3 of the basic agreement by adding new language to provide that "substituted service by land," (the movement of cargo by land at the member line's expense, from a port of discharge to a port within the scope of the agreement named as the port of discharge in the bill of lading,) between Italian ports, between French ports, and between Spanish ports, but not between ports located in different countries, may be permitted, prohibited or limited upon the member lines' majority vote to agree upon and file, cancel, or modify necessary tariff provisions.

By Order of the Federal Maritime Commission

Dated: December 5, 1979.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-37719 Filed 12-7-79; 8:45 am]

BILLING CODE 6730-01-M

#### FEDERAL RESERVE SYSTEM

##### Arvada Bankshares, Ltd., Formation of Bank Holding Company

Arvada Bankshares, Ltd., Arvada, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Arvada State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37764 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

##### Banc One Corp.; Acquisition of Bank

Banc One Corporation, Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Pomeroy National Bank, Pomeroy, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37771 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

##### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a



hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 27, 1979.

**A. Federal Reserve Bank of Philadelphia, 100 North 6th Street, Philadelphia, Pennsylvania 19105:**

1. **FIRST PENNSYLVANIA CORPORATION**, (financing and insurance activities; Ohio): To engage, through its subsidiary, Investors Loan Corporation, in making or acquiring, for its own account or the account of others, loans and other extensions of credit, servicing loans and other extensions of credit, and selling the following types of insurance in connection with its loans and other extensions of credit: Credit life insurance, credit accident and health insurance, and property damage and liability insurance as part of a package of insurance relating to physical damage of collateral. These activities would be conducted from an office to be relocated from Columbus, Ohio to Reynoldsburg, Ohio.

2. **FIRST PENNSYLVANIA CORPORATION**, (insurance activities, Ohio): to engage, through its subsidiary, Investors Mortgage Company of Ohio, in selling credit accident and health insurance to borrowers in connection with loans made pursuant to Investors Mortgage Company's second mortgage lending business. Such insurance will be sold at the following locations in Ohio: Cincinnati, Circleville, Reynoldsburg, Dayton, Findlay, Fostoria, Lancaster, Lima, Washington Courthouse, and Stubenville, and the immediate surrounding areas.

**B. Federal Reserve Bank of St. Louis, 411 Locust Street, St. Louis, Missouri 63166:**

**MARK TWAIN BANCSHARES, INC.**, (leasing activities; Missouri) to engage, through its subsidiary, Mark Twain Leasing Company, in making leases of personal property in accordance with the Board's Regulation Y. The activities would be conducted from the main office of the Applicant in St. Louis, Missouri, serving customers in and adjacent to St. Louis, Missouri.

**C. Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198:**

**G & R, INC.**, Troy, Kansas (insurance activities; Kansas): to engage, as insurance agent for the sale of fidelity

and other indemnity protection insurance for the benefit of its banking subsidiary, Troy State Bank, Troy, Kansas. Such activities will be conducted on the premises of Troy State Bank. Comments on this application must be received by January 3, 1980.

**D. Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, December 3, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37774 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

#### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 28, 1979.

**A. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:**

1. **BANKAMERICA CORPORATION**, San Francisco, California (financing,

industrial loan and insurance activities; Tennessee): To engage, through its subsidiary, FinanceAmerica Corporation, in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; engaging in the activities of an industrial loan company under the Tennessee Industrial Loan and Thrift Companies Act; and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans secured by real and personal property; and selling, as agent, life, accident and health and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. In accordance with Tennessee law, the credit-related property insurance will be limited to comprehensive physical damage insurance on motor vehicles, mobile homes, and recreational vehicles. All of the above described activities would be conducted from an office in Goodlettsville, Tennessee, serving the State of Tennessee.

2. **SECURITY PACIFIC CORPORATION**, Los Angeles, California (financing and credit-related insurance activities; Florida): To engage through its subsidiaries American Finance Corporation of Florida and American Consumer Finance Corporation, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices of American Finance Corporation of Florida and American Consumer Finance Corporation located in Orange Park, Florida 32073, serving the State of Florida.

**B. Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, November 30, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37775 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

#### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 28, 1979.

**A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045: CHEMICAL NEW YORK CORPORATION**, New York, New York (financing and insurance activities; Georgia): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of making direct loans, purchasing installment sales finance contracts, and acting as agent or broker for the sale of life, accident and health, and property damage and liability insurance directly related to its extensions of credit. These activities will be conducted from an office in Columbus, Georgia, serving the northeast and southeast sections of the city. This application is for the relocation of an office within the same city.

**B. Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago,**

Illinois 60690: **COURT ACCEPTANCE COMPANY**, Pekin, Illinois (insurance activities; Illinois): To continue to engage in acting as agent for credit life and credit accident and health insurance directly related to extensions of credit by its subsidiary, First State Bank of Pekin, Pekin, Illinois. This activity would be conducted from an office in Pekin, Illinois, serving Illinois.

**C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120: SECURITY PACIFIC CORPORATION**, Los Angeles, California (financing and insurance activities; Colorado): To engage through its subsidiary, The Bankers Investment Company (dba Security Pacific Finance Corp.) in making and acquiring, for its own account and for the account of others, loans and other extensions of credit, including consumer loans and loans to small businesses, such as would be made by a factoring company or a consumer finance company; and in acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office in Arvada, Colorado, serving the State of Colorado.

**D. Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37776 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

#### Buffalo National Bancshares, Inc.; Formation of Bank Holding Company

Buffalo National Bancshares, Inc., Buffalo, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of Buffalo National Bank, Buffalo, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minnesota. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37767 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

#### Cattle Crossing, Inc.; Formation of Bank Holding Company

Cattle Crossing, Inc., Seward, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.6 per cent of the voting shares of The Cattle National Bank of Seward, Seward, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-37768 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

#### First Fessenden, Inc.; Formation of Bank Holding Company

First Fessenden, Inc., Fessenden, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less director's qualifying shares) of the voting shares of First National Bank of Fessenden, Fessenden, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve



Bank, to be received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37760 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**First International Banking Corp.; Relocation of Corporation Doing Business Under Section 25(a) of the Federal Reserve Act**

An application has been submitted for the Board's approval of the relocation of First International Banking Corporation, a corporation doing business under section 25(a) of the Federal Reserve Act ("Edge Corporation") from Houston, Texas, to Dallas, Texas. First International Banking Corporation operates as a subsidiary of First National Bank in Dallas, Dallas, Texas. The factors that are considered in acting in this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 3, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 3, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37777 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**FNB Banshares, Inc.; Formation of Bank Holding Company**

FNB BanShares, Inc., West Union, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding

company by acquiring 80 percent or more of the voting shares of The First National Bank of West Union, West Union, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 3, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37763 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Fort Sam Houston BankShares, Inc.; Acquisition of Bank**

Fort Sam Houston BankShares, Incorporated, San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors qualifying shares, of the voting shares of Universal City Bank, N.A., Universal City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37772 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Marshall & Ilsley Corp.; Acquisition of Bank**

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of Merchants Bank & Trust, Rhinelander, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37770 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Prairie Bancshares, Inc.; Formation of Bank Holding Company**

Prairie Bancshares, Inc., Lester Prairie, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 per cent or more of the voting shares of Farmers State Bank of Lester Prairie, Lester Prairie, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37768 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Republic Bancshares, Inc.; Formation of Bank Holding Company**

Republic Bancshares, Inc., Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96 per cent or more of the voting shares of Republic Bank, Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37761 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**San Antonio Bancshares, Inc.; Formation of Bank Holding Company**

San Antonio Bancshares, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less director's qualifying shares) of Bank of San Antonio, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be

received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37782 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Trust Co. of Georgia; Acquisition of Bank**

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the successor by merger to The Citizens & Southern Bank of Rockdale, Conyers, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37769 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**United Bank Corp. of New York, Acquisition of Bank**

United Bank Corporation of New York, Albany, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Peninsula National Bank, Cedarhurst, New York.

The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37773 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M

**Verndale Bancshares, Inc.; Formation of Bank Holding Company**

Verndale Bancshares, Inc., Verndale, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94 per cent or more of the voting shares of The First National Bank of Verndale, Verndale, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-37766 Filed 12-7-79; 8:45 am]  
BILLING CODE 6210-01-M



# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Alcohol, Drug Abuse, and Mental Health Administration

### Prevention Research and Demonstration Grants on Impact of Severely Disturbed Parents on Children, Receipt Date for Applications

Notice is hereby given that pursuant to Sections 301 and 303 of the Public Health Service Act, as amended; Sections 311 and 501 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended; and Section 410 of the Drug Abuse Office and Treatment Act of 1972, as amended, applications are being accepted for research and demonstration grants related to the prevention of the harmful psychological effects on children of severe parental disturbance involving mental illness, alcoholism, and/or drug abuse. Applications may focus on parents with one or with multiple types of these disturbances. The Alcohol, Drug Abuse, and Mental Health Administration's objective is to encourage and provide support for two types of research and demonstration activities focused on children at high-risk because one (or both) parents are severely disturbed: (1) Intervention Model Development and (2) New Knowledge Development. Grants may be made to any public or private non-profit institution, or a unit of State or local government.

Applications submitted for a February 1, 1980 receipt date will be considered for funding in Fiscal Year 1980. For detailed information about program interests and application procedures, contact:

Office of Prevention, National Institute of Mental Health, Adamha, 5600 Fishers Lane, Room 17C-20, Rockville, Maryland 20857. Telephone 301/443-4233.

Dated: November 19, 1979.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-37720 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-98-M

### Office of the Assistant Secretary for Health

#### Intent To Grant Exclusive License to Starks Associates, Inc.

Pursuant to § 8.2(b), 45 CFR Part 8, and 41 CFR Part 1-9, notice is hereby given of an intent to grant to Starks Associates, Inc., an exclusive license to

make, use and sell the inventions disclosed and claimed in the following patent and patent applications:

1. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, U.S. Patent Application Serial No. 932,487.

2. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Robert J. Schultz, et al., U.S. Patent Application Serial No. 932,501.

3. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, et al., U.S. Patent Application Serial No. 954,579.

4. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, et al., U.S. Patent No. 4,154,759, issued May 15, 1979.

Copies of the patent or patent applications may be obtained upon written request addressed to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A03 Westwood Building, c/o National Institutes of Health, Bethesda, MD. 20205.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named hereinabove, receives in writing a statement from any person setting forth the reasons why it would not be in the best interest of the United States to grant the proposed license, together with supporting documents.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 8.2 and 41 CFR Part 1-9)

Dated: December 4, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-37743 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-95-M

#### Intent To Grant Exclusive License to Starks Associates, Inc.

Pursuant to § 6.3, 45 CFR, Part 6, and 41 CFR Part 101-4, notice is hereby given of an intent to grant to Starks Associates, Inc., an exclusive license to make, use, and sell the invention disclosed and claimed in U.S. Patent Application Serial No. 25,157, for "IMPROVED MULTI-STEP PROCESS FOR THE PRODUCTION OF METHANESULFON-M-ANISIDINE, 4'-(9-ACRIDINYLAMINO)-" by Henryk

Dubicki et al. Copies of the patent application may be obtained upon written request addressed to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A03 Westwood Building, c/o National Institutes of Health, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

(1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(2) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States submitted in accordance with 41 CFR 101-4-104-2, and the applicant stated that he has already brought the invention to practical application, or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR Part 101-4)

Dated: December 4, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-37744 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-85-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### [F-14885-A (Anch.)]

#### Alaska Native Claims Selection

##### Correction

In FR Doc. 79-34700, published at page 65192, on Friday, November 9, 1979, on page 65193, in the second column, make the following corrections:

1. Under the section "T. 6 S., R. 72 W.", in the second line, "Secs. 20 to 33, inclusive, all." should be corrected to read "Secs. 29 to 33, inclusive, all.";

2. Under the section "T. 3 S., R. 74 W.", in the fourth line, "Sec. 13 (fractional), all;" should be corrected to read "Sec. 31 (fractional), all;"

BILLING CODE 1505-01-M

#### [W-45070]

#### Sale of Public Lands in Rock Springs, Wyo.

##### Correction

In FR Doc. 79-34739, published at page 65195, on Friday, November 9, 1979, on page 65195, in the third column, in the first line of the table

"1 . . . . . 17 . . . . .  
20.17 . . . . . \$51,800" should be corrected to read "1 . . . . . 17 . . . . .  
20.71 . . . . . \$51,800".

BILLING CODE 1505-01-M

### Fish and Wildlife Service

#### Endangered Species Permit; Receipt of Application

Applicant: Northern Prairie Wildlife Research Center, Box 1747, Jamestown, North Dakota 58401.

The applicant requests a permit to capture bald eagles (*Haliaeetus leucocephalus*) in Nebraska for banding and release for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4803. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 3, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-37788 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

#### Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Charles E. Salter, PRT 2-4942, Salter Tree Farm, Route 2, Box 1332, Madison, Florida 32340.

The applicant requests a permit to sell in interstate commerce artificially propagated Chapman rhododendron (*Rhododendron chapmanii*) plants for enhancement of propagation and survival.

Applicant: National Zoological Park, PRT 2-4976, Washington, D.C. 20008.

The applicant requests a permit to import five (5) golden marmosets (*Leontideus rosalia*) from the Tijuca Biological Bank, Brazil for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: December 4, 1979.

Donald G. Donahoo,

Chief, Permit Branch.

[FR Doc. 79-37789 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

### National Park Service

#### Montezuma Castle National Monument and the Coconino National Forest; Exclusion and Addition of Certain Lands; Correction

In Federal Register Document 19170 appearing on page 36119 dated June 20, 1979, the last line of the legal description paragraph under the heading "Area Transferred From Coconino National Forest to Montezuma Castle National Monument", should read: "containing 14.84 acres, more or less"; and the last line of the legal description paragraph under the heading "Area Transferred From Montezuma Castle National Monument to Coconino National Forest", should read: "containing 3.03 acres, more or less".

For further information contact Curtis Hunigan, Land Acquisition Division, National Park Service, 1100 L Street NW., Washington, D.C. 20240, telephone: (202) 523-5120.

Dated: November 29, 1979.

John H. Davis,

Acting Regional Director, Western Region, National Park Service.

[FR Doc. 79-37747 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-70-M

### Water and Power Resources Service

#### Contract Negotiations with P&C Irrigation Association, Inc., Idaho; Intent To Begin Repayment Contract Negotiations

The Department of the Interior, through the Water and Power Resources Service, intends to open negotiations to amend the September 30, 1977, repayment contract with P&C Irrigation Association, Inc., Carey, Blaine County, Idaho. That contract was executed under the authority of the Emergency Drought Act of April 7, 1977 (91 Stat. 36), as amended. The proposed amendment will defer the time for payment of installments under that contract, pursuant to the Act of September 21, 1959 (73 Stat. 584).

Pursuant to the Emergency Drought Act and the 1977 contract, funds in the amount of \$24,707.66 were expended to construct emergency water supply facilities that were needed to alleviate the effects of the severe drought of 1977. The 1977 contract provided that those funds would be repaid by the contractor in annual installments beginning in 1979.

Blaine County suffered a serious drought in 1979. In addition a damaging hailstorm struck the area on August 15, 1979. As a result of the drought and hailstorm, Blaine County was declared a disaster area. P&C Irrigation Association, Inc., requested deferment of the annual installment due December 1979 due to significant crop losses.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished on request. Requests must be in writing and submitted at least 1 week prior to any session. Requests must specify that the requesting party is interested in the proposed contract with P&C Irrigation Association, Inc. Inquiries should be addressed to the Regional Director, attention code 440, Water and Power Resources Service, 550 West Fort Street, Box 043, Boise, Idaho 83724.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a 30-day period will be allowed for receipt of written comments from the public.

All written correspondence concerning the proposed contract will be



made available pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact: Mr. Richard M. Rigby, Water and Power Resources Service, Repayment and Statistics Branch, Division of Water, Power and Lands, 550 West Fort Street, Box 043, Boise, Idaho 83724, telephone (208) 334-9503.

Date: November 30, 1979.

Clifford I. Barrett,  
Assistant Commissioner of Water and Power Resources.

[FR Doc. 79-37881 Filed 12-7-79; 8:45 am]  
BILLING CODE 4310-09-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Proposed Consent Judgment, United States v. Chelsea Industries, Inc., et al., and Competitive Impact Statement Therein

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of Massachusetts in Civil Action No. 78-3224-C, *United States v. Chelsea Industries, Inc., et al.*

The complaint in this case alleges that two corporate defendants, engaged in the manufacture and sale of pressure sensitive tape products, conspired to fix the price of these products sold to the shoe industry between 1967 and April 1, 1978.

The proposed judgment prohibits each defendant from agreeing to fix, maintain, or stabilize prices with any other person or company and from communicating past, current and future price information concerning pressure sensitive tape products with any other manufacturer of these products. The proposed judgment, which is ten years in duration, requires the corporate defendants to distribute copies of the judgment to each of its officers and employees responsible for the pricing of pressure sensitive tape products. In addition, each defendant is required to review and publish new domestic prices for its pressure sensitive tape products within 60 days following the entry of the proposed judgment.

Public comment is invited within the statutory 60 day time period. Such comments and responses thereto will be published in the Federal Register and

filed with the Court. Comments should be directed to Anthony V. Nanni, Chief, Trial Section, Antitrust Division, Department of Justice, Room 3268, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Dated: November 30, 1979.

Joseph H. Widmar,  
Director of Operations.

U.S. District Court, District of Massachusetts  
[Civil Action No. 78-3224-C, Filed: November 30, 1979]

*United States of America, Plaintiff, v. Chelsea Industries, Inc., and Avon Tape, Inc., Defendants.*

#### Stipulation

*It is hereby stipulated* by and between the plaintiff, United States of America, and each of the above named defendants, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 18, and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendants and filing that notice with the Court.

2. In the event plaintiff withdraws its consent hereto, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall have no effect whatever and the making of this Stipulation shall be without prejudice to any consenting party in this or any other proceeding.

John H. Shenefield,  
Assistant Attorney General.

Richard J. Favretto,

Joseph H. Widmar,

Peter E. Halle,

Robert E. Bloch,

Attorneys, United States Department of Justice.

For the Defendants:

John J. Curtin, Jr.,

Daniel L. Goldberg,

Bingham, Dana & Gould, 100 Federal Street,  
Boston, Massachusetts 02110—Attorneys for  
Chelsea Industries, Inc.

Stanley H. Rudman,

Guterman, Horvitz, Rubin & Rudman, 3 Center  
Plaza, Boston, Massachusetts 02108—  
Attorney for Avon Tape, Inc.

U.S. District Court, District of Massachusetts  
[Civil Action No. 78-3224-C, Filed: November 30, 1979]

United States of America, Plaintiff, v. Chelsea Industries, Inc., and Avon Tape Inc., Defendants

#### Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on December 14, 1978, and plaintiff and defendants by their respective attorneys having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or admission by any party hereto with respect to any issue of fact or law herein:

*Now, Therefore*, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

*Ordered, Adjudged and Decreed* as follows:

#### I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

#### II

As used in this Final Judgment:

A. "Pressure Sensitive Tape Products" means tape of various sizes, widths and compositions with adhesive qualities which is manufactured and sold to the shoe industry. Pressure sensitive tape products within this definition include, but are not limited to, tapes with the following compositions or descriptions: nylon; cotton; nylon/cotton; paper and foam.

B. "Shoe Industry" means domestic manufacturers of shoes, distributors or other persons that purchase pressure sensitive tape products from the defendants for use in shoes manufactured in the United States.

#### III

The provisions of this Final Judgment shall apply to each of the defendants and to each of their domestic subsidiaries, successors and assigns and their officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, or employees.

#### IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer of pressure sensitive tape products or other person to:

A. fix, maintain or stabilize the price, discount, markup, or any other term or condition of sale for pressure sensitive tape products; or

B. furnish or request from any other manufacturer of pressure sensitive tape products any information concerning any

price, discount, markup, specific account, or any other term or condition of sale for pressure sensitive tape products.

#### V

Each defendant is enjoined and restrained from:

A. proposing, requiring, coercing or attempting to require or coerce any other manufacturer of pressure sensitive tape products or any other person to adopt, establish or adhere to any price, discount, markup, or other term or condition of sale for pressure sensitive tape products;

B. communicating or exchanging with, or requesting from any other manufacturer of pressure sensitive tape products any information concerning:

(1) Any past or present sale price, discount, markup or any other term or condition of sale for pressure sensitive tape products;

(2) Any future price, discount, markup, or any other term or condition of sale for pressure sensitive tape products; or

(3) Any price or discount announcement, list, schedule or book, or any revision or modification thereto.

#### VI

Nothing contained in Section V (B) of this Final Judgment shall prohibit defendants from negotiating or entering into any bona fide contract, agreement or understanding to purchase, sell or furnish pressure sensitive tape products to another manufacturer of pressure sensitive tape products.

#### VII

Each defendant is ordered and directed to take the affirmative steps enumerated below to ensure compliance with each provision of this Final Judgment:

A. Each defendant shall provide a copy of this Final Judgment to each of its officers and employees who sell, have responsibility for or authority over the sale of pressure sensitive tape products, or the establishment of prices therefor, and shall advise each such officer and employee of his or her obligations under this Final Judgment and of the criminal penalties for violation of this Final Judgment. Each officer or employee who receives a copy of this Final Judgment shall execute a written receipt therefor, which shall be retained by each defendant in its corporate files;

B. Each defendant shall review with its officers and employees described in subsection A, the terms of this Final Judgment and the requirement to comply therewith, at least once each year for five (5) years after the entry of this Final Judgment;

C. Each defendant shall within sixty (60) days following the entry of this Final Judgment:

(1) Independently review its prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of its individual cost figures, individual judgment as to profits, and other lawful considerations;

(2) Adopt and publish domestic prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of such independent review; and

(3) Submit an affidavit to the Court and plaintiff certifying that such new prices, discounts and terms and conditions of sale

were arrived at individually and independently;

D. Each defendant shall for a period of five (5) years certify by affidavit by an officer with responsibility for or authority over the establishment of prices for pressure sensitive tape products, at or about the time of every succeeding change in its published prices, discounts or terms and conditions of sale for pressure sensitive tape products, that such change was arrived at individually and independently and was not the result of any agreement or understanding with any other manufacturer of pressure sensitive tape products. Each affidavit executed to comply with the provisions of this subsection (D) shall be filed in accordance with and as part of the compliance requirements of Section VIII of this Final Judgment. A copy of each affidavit shall be retained by each defendant in its corporate files;

E. Each defendant shall submit an affidavit to the plaintiff within sixty (60) days after the entry date of this Final Judgment setting forth the manner in which it has complied with this Section.

#### VIII

For a period of five (5) years from the date of entry of the Final Judgment, each defendant is ordered to file with this Court and the plaintiff on each anniversary date of this Final Judgment, a written statement signed by an officer, setting forth the steps it has taken during the prior year to comply with Section VII of this Final Judgment.

#### IX

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

1. Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the

purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff pursuant to this Section, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

#### X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of any of the provisions herein, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith and for the punishment of violations thereof.

#### XI

Entry of this Final Judgment is in the public interest. This Final Judgment shall be effective for a period of ten (10) years from its date of entry.

Dated:

Andrew A. Caffrey,  
Chief Judge, United States District Court.

U.S. District Court, District of Massachusetts  
[Civil Action No. 78-3224-C, Filed: November 30, 1979]

United States of America, Plaintiff v. Chelsea Industries, Inc.; and Avon Tape Inc., Defendants.

#### Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

#### I

##### Nature and Purpose of the Proceeding

On December 14, 1978, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. 4) to enjoin the above named corporate defendants from continuing violations of Section 1 of the Sherman Act (15 U.S.C. 1).

The Complaint alleges that beginning in 1967 and continuing thereafter until at least April 1, 1978, the defendants engaged in a combination and conspiracy to restrain interstate commerce by fixing, maintaining and stabilizing the prices of pressure sensitive tape products sold to the shoe industry in the United States.

The Complaint seeks a judgment by the Court that the defendants have engaged in a combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman



Act together with an order by the Court to enjoin and restrain the defendants from such activities in the future.

Proceedings in this case were stayed pending disposition of a companion criminal prosecution before Judge Joseph Tauro. The criminal prosecution was initiated by a grand jury indictment returned on December 14, 1978, charging the same corporate defendants with a criminal violation of the Sherman Act arising out of the same conspiracy alleged in the Complaint. On February 1, 1979, pleas of *nolo contendere* were entered by both defendants before Judge David Mazzone. Chelsea Industries, Inc. was fined \$210,000.00; Avon Tape Inc. was fined \$45,000.00.

#### II The Terms of the Alleged Conspiracy

The pressure sensitive tape products involved in this case are a component used in the manufacture of shoes. These products have adhesive qualities so that the finished tape product can be affixed to different parts of a shoe to provide reinforcement. Pressure sensitive tape products are primarily purchased by shoe manufacturers, but are also purchased by distributors for resale to shoe manufacturers or other persons.

The defendants are the principal manufacturers and sellers in the United States of pressure sensitive tape sold to the shoe industry. During the period of time covered by the Complaint, the defendants sold approximately \$30 million of pressure sensitive tape products to the shoe industry pursuant to the conspiracy alleged in the Complaint. During 1977 the defendants' domestic sales of pressure sensitive tape products were approximately \$5 million which represented 75-90 percent of the total sales of these products in the United States.

The Complaint alleges that the defendants combined and conspired to restrain interstate commerce from 1967 until at least April 1, 1978 in violation of Section 1 of the Sherman Act by fixing, maintaining and stabilizing the prices of pressure sensitive tape products sold to the shoe industry. The defendants effectuated their unlawful conduct by conspiring to: increase the prices of pressure sensitive tape products; publish, disseminate, and exchange price announcements and price lists in accordance with and to implement agreements reached; solicit and encourage the participation of another competitor in their price-fixing activities; telephone, meet and otherwise contact each other to discuss, agree, coordinate, police and secure adherence to agreements reached; and exchange price information concerning the sale price of pressure sensitive tape products to specific customer accounts in order to maintain a fixed range of prices below which neither defendant would sell its products. According to the Complaint, the conspiracy among the defendants has had the effect of increasing the prices of pressure sensitive tape products and eliminating competition in the sale of said products between the defendants throughout the United States.

#### III Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the proposed Final Judgment

may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The Final Judgment between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment enjoins and restrains the defendants from directly or indirectly entering into or adhering to, maintaining or claiming any rights under any contract, agreement, understanding, plan, program, combination or conspiracy: to fix, maintain or stabilize the prices or any other term or condition of sale for pressure sensitive tape products; or to furnish or request from any information concerning prices, specific accounts or any other term or condition of sale for pressure sensitive tape products.

The Final Judgment also enjoins and restrains each defendant from proposing, requiring, coercing or attempting to require or coerce any manufacturer of pressure sensitive tape products or other person to adopt, establish or adhere to any price or other term or condition of sale for pressure sensitive tape products; or to communicate or exchange with, or request from any other manufacturer of pressure sensitive tape products any information concerning any price or other term or condition of sale for pressure sensitive tape products now or in the future, or any price or discount announcement, list, schedule or book, or any revision or modification thereto.

The only exception to the broad prohibitions of these provisions in the Final Judgment is found in Section VI which allows each defendant to enter into a bona fide contract or agreement to purchase, sell or furnish pressure sensitive tape products to another manufacturer of the same products.

In addition to the foregoing prohibitions, the Final Judgment orders and directs each defendant to take certain affirmative steps to insure compliance with its provisions. Each defendant is required to provide a copy of the Final Judgment to each of its officers and employees who sell, have responsibility for or authority over the pricing or sale of pressure sensitive tape products and to obtain a written receipt from each person receiving a copy of the Final Judgment. In addition, each officer and employee who receives a copy of the Final Judgment must be advised of his or her obligations under the Final Judgment and of the criminal penalties for violation thereof. Each defendant is required to review with each person receiving a copy of the Final Judgment the terms thereof and the requirement to comply therewith at least once each year for five years after the entry of the Final Judgment.

In addition, each defendant is required within sixty days following the entry of the Final Judgment to independently review its prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of its individual cost figures, individual judgment and other lawful considerations; to adopt and publish

domestic prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of such independent review; and to submit an affidavit to the Court and the United States certifying that such new prices, discounts and terms and conditions of sale were arrived at individually and independently. Each defendant is also required for a period of five years to have an officer with responsibility for or authority over the establishment of prices for pressure sensitive tape products certify by affidavit that every succeeding change in its published prices, discounts or terms and conditions of sale for said products was arrived at individually and independently and was not the result of any agreement or understanding with a competitor.

Each defendant is required to submit an affidavit to the United States within sixty days after the entry of the Final Judgment setting forth the manner in which it has complied with these provisions; and for a period of five years is required to file with the Court and the United States a written statement signed by an officer setting forth the steps taken during the prior year to assure compliance with the terms of the Final Judgment.

The Department of Justice is given access under the proposed Final Judgment to the files and records of the defendant corporations, subject to reasonable notice requirements, in order to examine such records to determine compliance or non-compliance with the Final Judgment. The Department is also granted access to interview officers, directors, agents or employees of the defendants to determine whether the defendants and their representatives are complying with the Final Judgment. Finally, the defendants, upon the written request of the Department of Justice, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in the Final Judgment.

#### IV

##### Remedies Available to Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. The entry of the proposed Final Judgment will not have any adverse effect on the right of any potential private plaintiff who was a direct purchaser of pressure sensitive tape products from the defendants and claims to have been damaged by the alleged violation. *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977). These potential private plaintiffs may sue for monetary damages or any other legal or equitable remedies, provided that such potential claim is timely under Sections 4 and 5(i) of the Clayton Act (15 U.S.C. 15, 16(j)). However, this Final Judgment may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act (15 U.S.C. 16(a)).

#### V

##### Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Anthony V. Nanni, Department of Justice, Antitrust Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530, within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the *Federal Register*. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is appropriate and necessary to the public interest. The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification or enforcement. The Final Judgment is to remain in effect for a period of ten (10) years from the date of its entry.

#### VI

##### Alternatives to the Proposed Final Judgment

The proposed Final Judgment will completely dispose of the United States' claim for injunctive relief. The only alternative available to the Department of Justice is a full trial of this case on the merits. The proposed Final Judgment provides essentially all the equitable relief requested in the Complaint. The Final Judgment absolutely prohibits the continuation or renewal of the price-fixing activities of the defendants. It severely limits the circumstances in which representatives of the defendants can communicate with each other or other competitors concerning prices or price related matters, and the affirmative action required by the defendants is designed not only to prevent and discourage such activity in the future, but to effectively restore competition to this industry. For these reasons, in addition to the substantial savings of public funds and judicial time that would result from the acceptance of this proposed Final Judgment, it is the view of the United States that the proposed Final Judgment is in the public interest.

#### VII

##### Determinative Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed Final Judgment. Consequently, none are filed herewith.

Dated: November 30, 1979.

Robert E. Bloch,  
Attorney, Department of Justice.

[FR Doc. 79-37750 Filed 12-7-79; 8:45 am]

BILLING CODE 4410-01-M

#### NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

##### Humanities Panel; Meeting

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following date:

January 10, 1979 (5th Floor Conference Room) NEH, 806 15th St., N.W.

The purpose of these meetings is to review NEH Libraries-Humanities Projects Program applications submitted to The National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,  
Advisory Committee Management Officer.

[FR Doc. 79-37802 Filed 12-7-79; 8:45 am]

BILLING CODE 7536-01-M

##### Humanities Panel; Meeting

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following date: January 8-9, 1979 (Room 807) NEH, 806 15th St., N.W., Washington, D.C. January 11 (Planning Panel) (12th Floor Conference Room), Washington, D.C.

The purpose of these meetings is to review NEH Media Humanities Projects Program applications submitted to The

National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephan McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,  
Advisory Committee Management Officer.

[FR Doc. 79-37803 Filed 12-7-79; 8:45 am]

BILLING CODE 7536-01-M

##### Humanities Panel; Meeting

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following dates:

January 3-4, 1979 (Room 897) NEH, 806 15th St., N.W., Washington, D.C. January 14-16, 1979 (Room 807) NEH, 806 15th St., N.W., Washington, D.C.

The purpose of these meetings is to review NEH Museums and Historical Organizations Humanities Projects Program applications submitted to The National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid



interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,  
Advisory Committee Management Officer.

[FR Doc. 79-37804 Filed 12-7-79; 8:45 am]

BILLING CODE 7530-01-M.

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

December 4, 1979.

#### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

#### List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or officer responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved

promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (\*).

#### Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

#### DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

#### Revisions

Agriculture Marketing Service \*Forms Under the Cotton Standards Act CN-246, 247, 248, 357 on Occasion Cotton industry, 3,516 responses; 307 hours Charles A. Ellett, 395-5080

Economic, Statistics, and Cooperatives Service \*Manufactured Dairy Products Other (see SF 83) Manufacturers of dairy products, 48,252 responses; 10,380 hours Off. of Federal Statistical Policy and Standard, 673-7974

Food Safety and Quality Service \*Request and Notice of Shipment of Sealed Meats MP-408 on Occasion Food inspector, 78,000 responses; 6,500 hours Charles A. Ellett, 395-5080

#### DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

#### New Forms

Bureau of the Census  
1980 Census of American Samoa, Guam, Northern Mariana Islands, Trust

Territory of the Pacific Islands, and Virgin Islands  
D 80AS, 80G, 80NM, 80TT, & 80VI  
Single time  
All households in the areas, 170,500 responses; 127,875 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

#### DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

#### New Forms

Fuel Consumed for All Purposes at Refineries  
EIA-173 (Formerly BOM 6-1335-A) Annually  
Petroleum refineries in U.S., 319 responses; 1,276 hours  
Jefferson B. Hill, 395-5867  
Evaluation of Low Cost/No Cost Program  
CS-445  
Single time  
Sample of households in NE and NY, 1,800 responses; 900 hours  
Jefferson B. Hill, 395-5867  
Weatherization Assistance Progress Report  
CS-434  
Quarterly  
Economic opportunity offices; community action agencies, 4,196 responses; 4,392 hours  
Jefferson B. Hill, 395-5867

#### Revisions

Report of Oil Imports Into the United States and Puerto Rico  
ERA-60  
Monthly  
Importers of oil & petroleum products, 5,400 responses; 10,800 hours  
Jefferson B. Hill, 395-5867  
Refiners' Monthly Cost Allocation Report  
EIA-14  
Monthly  
Crude oil refiners, 2,100 responses; 33,600 hours  
Jefferson B. Hill, 395-5867

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

#### New Forms

Center for Disease Control  
Tuberculosis Short Course  
Chemotherapy Questionnaire  
Single time  
State & city TB controllers & other TB experts, 128 responses; 43 hours  
Richard Eisinger, 395-3214  
Social Security Administration

\*Quality of Service Survey  
Questionnaires (District Office)/  
(Teleservice)  
SSA-4662 & SSA-4663  
On occasion  
SSA Clients Receiv. Serv. in DO's & Thru Teleserv. Centers, 12,000 responses; 4,000 hours  
Barbara F. Young, 395-6132

#### Extensions

Center for Disease Control  
Rat Control Project Activities—  
Quarterly Report  
CDC-7.15  
Quarterly  
Rat control projects grantees, 272 responses; 2,178 hours  
Richard Eisinger, 395-3214

#### DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

#### Revisions

Employment Standards Administration  
OFCCP Recordkeeping and Reporting Requirements  
CC-60-2  
Other (See SF 83)  
Employers and workers, 2,560,000 responses; 1,280,000 hours  
Arnold Strasser, 395-5080

#### Reinstatements

Bureau of Labor Statistics  
\*Characteristics of the Insured  
Unemployed  
BS-203  
Quarterly  
State employment security agencies, 212 responses; 106 hours  
Arnold Strasser, 395-5080

#### DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376-0436

#### Revisions

Bureau of Customs  
\*Declaration for Free Entry of Game  
Animals or Birds Killed by U.S.  
Residents

\*The Department of Labor, Office of Federal Contract Compliance Programs, request to revise an existing clearance covering the "definition of workforce analysis" has been approved by OMB on an interim basis. This clearance, which provides for consolidation and modification of a number of existing clearances as well as the addition of related new material has been granted to permit orderly implementation of E.O. 11246, as amended, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973, as amended. OMB will continue its review of the need for and utility of the data requirements covered by this clearance. Comments submitted to OMB prior to January 30, 1980 will be taken into consideration in this review. Any modification of these materials that may result from the OMB review will be published by the Department of Labor as a condition of continued clearance.

Customs 3315  
On occasion  
U.S. residents game & bird hunters, 30,000 responses; 3,000 hours  
Marsha D. Traynham, 395-6140

#### EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Stewart Gamage—456-7975

#### New Forms

State/Local Regulatory Reform Survey  
Single time  
Gov's Offices; AG's; State/Local Officials, 150 responses; 75 hours  
Richard Eisinger, 395-3214

#### OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632-7737

#### New Forms

\*Health Benefits Election Form  
SF-2813  
On occasion  
Retired Federal employees, 1,500 responses; 125 hours  
Laverne V. Collins, 395-3214

#### SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653-6081

#### Reinstatements

\*Application for Surety Bond Guarantee Assistance  
SEA-994  
On occasion  
Small contractors requesting assistance, 34,000 responses; 17,000 hours  
Richard Sheppard, 395-3211

#### UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

#### New Forms

Questionnaires—Sugars and Syrups  
From Canada  
Single time  
Producers of refined sugar & corn sweeteners, 41 responses; 1,188 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

Stanley E. Morris,  
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-37632 Filed 12-7-79; 8:45 am]

BILLING CODE 3110-01-M

### Agency Forms Under Review

#### Background

December 5, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping

requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

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The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (\*).

#### Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.



The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

**DEPARTMENT OF AGRICULTURE**

**Agency Clearance Officer—Richard J. Schrimper—447-6201**

*Revisions*

Farmer's Home Administration  
7 CFR 1945-B, Emergency Loan Policies.

Procedures, and Authorizations  
1945-22, 1940-38

On occasion

Farmers Suffering From a Natural

Disaster; Lenders, 675,000 responses;  
179,050 hours

Charles A. Ellett, 395-5080

**DEPARTMENT OF COMMERCE**

**Agency Clearance Officer—Edward Michals—377-3627**

*Revisions*

Bureau of the Census

Survey on Pollution Abatement Costs  
and Expenditures

MA-200

Annually

Manufacturing Establishments, 20,000  
responses; 30,000 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

Departmental and Other

\*Personal History Statement for  
Possible Nomination to an Advisory  
Committee

CD-555

On occasion

Individual experts, specialists, and  
leaders from the public, 500 responses;  
125 hours

Richard Sheppard, 395-3211

*Extensions*

Bureau of the Census

\*Export Sales and Orders by Month

M4-A

Monthly

Manufacturers of durable goods for  
export, 3,000 responses; 1,500 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

**DEPARTMENT OF HEALTH EDUCATION, AND WELFARE**

**Agency Clearance Officer—William Riley—245-7488**

*New Forms*

Office of Human Development

National Overview Survey

Questionnaire

Single time

Knowledgeable Staff in State Depts. of  
Human Resources, 51 responses; 51  
hours

Barbara F. Young, 395-6132

Office of Human Development

\*Process Measures for the CFMH

Evaluation

Semi-annually

Head Start staff, children and parents,  
2,250 responses; 2 hours

Barbara F. Young, 395-6132

*Revisions*

Center for Disease Control

\*National Venereal Disease Morbidity  
Program

CDC 9.688; 9.2638, and 9.98

Other (see SF-83)

State, Territorial, and Local Health  
Departments, 3,010 responses; 1,251  
hours

Office of Federal Statistical Policy and  
Standard, 673-7974

Food and Drug Administration

Survey of Nutrition Vocabulary and  
Quantitative Declarations

Single time

Food shopper for household, area  
probability, 1,600 responses; 1,200  
hours

Richard Eisinger, 395-3214

Office of the Assistant Secretary for  
Education

IMS Program Application

IMS No. 102 and 103

Annually

Predominantly private-nonprofit  
museums, 3,000 responses; 25,500  
hours

Laverne V. Collins, 395-3214

*Reinstatements*

Food and Drug Administration

\*The Conference of Radiation Control  
Programs

Directors Nationwide Evaluation of X-  
ray Trends

Survey form

FD 2578

On occasion

X-ray equipment operators, 4,900  
responses; 2,450 hours

Richard Eisinger, 395-3214

Office of Education

Guarantee Agency Monthly Report

OE 1130

Quarterly

State and Private Guarantee Agencies,  
212 responses; 477 hours

Laverne V. Collins, 395-3214

Office of Human Development

Project Head Start Program Information  
Report

Semi-annually

Head Start grantees and delegate

agencies, thruout here 3,900 responses;

5,850 hours

Barbara F. Young, 395-6132

Office of Human Development

Statement of Eligibility—Child Abuse  
and Neglect

HEW 627

Annually

50 State Social Service Agencies 50

responses; 100 hours

Barbara F. Young, 395-6132

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Agency Clearance Officer—Robert G. Masarsky—755-5184**

*Reinstatements*

New Communities

Title I Community Development Block

Grant Budget and Progress Report

HUD-2008 (formerly NCA-75-1 &  
NCDC-990)

On occasion

Federally Assisted New Communities

180 responses; 360 hours

Budget Review Division, 395-4775

**DEPARTMENT OF JUSTICE**

**Agency Clearance Officer—Donald E. Larue—633-3526**

*Revisions*

Immigration and Naturalization Service  
Application by a Lawful Permanent

Resident for an Alien Registration  
Receipt Card

I-90

On occasion

Lawful perm. resi. apply. for an alien  
registra. recpt. card 160,000 responses;  
53,333 hours

Laverne V. Collins, 395-3214

Immigration and Naturalization Service

\*Request for Determination That

Prospective Immigrant is an Investor

I-526

On occasion

Prospective Immigrants 4,000 responses;  
2,000 hours

Laverne V. Collins, 395-3214

**DEPARTMENT OF TRANSPORTATION**

**Agency Clearance Officer—Bruce H. Allen—426-1887**

*Extensions*

Federal Aviation Administration

Notice of Proposal (or actual)

Construction or Alteration

FAA 7460-1, 7460-2  
On occasion  
Contractors in private enterprises 13,600  
responses; 10,720 hours

Steed, Diane K., 395-3176

**FEDERAL RESERVE SYSTEM**

**Agency Clearance Officer—Carolyn B. Doying—452-3512**

*New Forms*

1980 Finance Company Survey

FR 3011S

Single time

Sample of Finance Companies 750

responses; 2,625 hours

Marsha D. Traynham, 395-6140

\*Report of Assets of Money Market

Mutual Funds

FR 2051A, FR 2051B

Monthly

All Money Market Mutual Funds 4,800

responses; 615 hours

Marsha D. Traynham, 395-6140

\*Report of Deposits at Credit Unions

FR 2055

Monthly

Sample of Credit Unions 8,800

responses; 2,200 hours

Marsha D. Traynham, 395-6140

Finance Company Questionnaire

FR 3011P

Single time

All Known Finance Companies 5,000

responses; 500 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

*Extensions*

\*Oil and Energy Company Reports

FR 2580, 2581

Annually

Major gasoline and home heating oil

retailers 19 responses; 5 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

\*Monthly Report of Negotiable Orders  
of Withdrawal

(now) accounts

FR-2015

Monthly

All Depository Institutions in NE and

NY 17,738 responses; 1,774 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

Finance Rates on Consumer Installment

Credit

FR2419, FR 2421, FR 2636

Quarterly

Major Finance Companies 84 responses;  
126 hours

Office of Federal Statistical Policy and  
Standard, 673-7974

**NATIONAL SCIENCE FOUNDATION**

**Agency Clearance Officer—Herman Fleming—634-4070**

*Revisions*

\*1980 Survey of Science and Engineering

Graduates

Annually

Bachelors and Masters Graduates from

1978 and 1979 21,530 responses; 5,383  
hours

Office of Federal Statistical Policy and  
Standard, 673-7974

**SMALL BUSINESS ADMINISTRATION**

**Agency Clearance Officer—John Reidy—653-6081**

*New Forms*

Pollution Control Study Questionnaire  
for Recipients of Loans from or

Guaranteed by SBA

Single time

Small Manufacturing Firms 250

responses; 125 hours

Richard Sheppard, 395-3211

**VETERANS ADMINISTRATION**

**Agency Clearance Officer—R. C. Whitt—389-2282**

*New Forms*

Survey of Volunteers and VA Hospital  
Inpatients

VAF 10-20699 (NR) A&B

Single time

Volunteers and inpatients at VA

Hospitals 1,324 responses; 221 hours

Richard Eisinger, 395-3214

*Revisions*

\*Letter to Veteran Requesting  
Information About Intentions to

Acquire Specially Adapted Housing

FL 26-583

Annually

Veterans 2,000 responses; 667 hours

Richard Eisinger, 395-3214

Application for Dependency and

Idemnity Compensation by Parent(s)

21-535

On occasion

Parent(s) 25,000 responses; 31,250 hours

Richard Eisinger, 395-3214

Stanley E. Morris,

Deputy Associate Director for Regulatory

Policy and Reports Management.

[FR Doc. 79-37805 Filed 12-7-79; 8:45 am]

BILLING CODE 3110-01-M

# Interim Guidelines for the Collection of Race, Ethnic Background, Age, and Sex Information on Applications Made by Individuals for Benefits From Federal Programs

*Summary*

The Office of Management and Budget is issuing interim guidelines regarding the collection of information on the race, ethnic background, age, and sex of individuals applying for a benefit under Federal programs (including employment by Federal agencies). The guidelines enable Federal Departments and agencies to collect such information to assure that they are complying with various civil rights provisions such as Titles VI and VII, of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the Age Discrimination Act of 1975, as amended, and other statutes while allowing OMB to assure that the reporting burden on respondents is kept to a minimum.

The guidelines were developed through extensive consultation with the Civil Rights Division of the Department of Justice and the Equal Employment Opportunity Commission. In addition, the proposed guidelines were circulated for comment to all Federal Departments and agencies. The published guidelines have been revised to take into consideration comments received from the earlier distribution.

We received several comments that the guidelines be expanded to cover the collection of information relating to handicap. We have asked the Department of Health, Education, and Welfare to begin work on a similar policy to cover the collection of information on handicap in conjunction with its responsibilities under Section 504 of the Rehabilitation Act of 1973.

We are publishing this notice to allow the public an opportunity to comment on these interim guidelines. Written comments should be sent to Stanley Morris, Deputy Associate Director, Regulatory Policy and Reports Management Division, Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503, on or before February 8, 1979. In the interim, these guidelines will be effective only for new requests for clearance submitted to the Office of Management and Budget under the Federal Reports Act of 1942 and OMB Circular No. A-40. The policy will not be put into effect for all reporting requirements until after receiving public comment and publication of a final notice. For further information contact: Mrs. LaVerne Vines Collins, Regulatory Policy and Reports Management



Division, Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503. Telephone: 202/395-3214; or Ms. Stewart Oneglia, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20530. Telephone: 202/724-6757; or Ms. Francesta Farmer, Office of Interagency Coordination, Equal Employment Opportunity Commission, Washington, D.C. 20506. Telephone: 202/653-5490.

Wayne G. Granquist,  
Associate Director for Management and Regulatory Policy.

Concurrence:  
Eleanor Holmes Norton,  
Chair, Equal Employment Opportunity Commission.

Drew S. Days III,  
Assistant Attorney General, Civil Rights Division.

#### Interim Guidelines for the Collection of Race, Ethnic Background, Age, and Sex Information on Applications Made by Individuals for Benefits From Federal Programs

Past OMB guidelines for controlling and reducing reporting burden state that a request for clearance of an application form, under the Federal Reports Act of 1942 and OMB Circular A-40, may not contain information other than that necessary to determine (1) whether an applicant is eligible to receive the benefit applied for or (2) the amount of benefit to which an eligible applicant may be entitled. As a consequence of these past guidelines, departments and agencies have had difficulty in obtaining sufficient information to assure themselves that they are fully meeting their obligations under civil rights provisions such as Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the Age Discrimination Act of 1975, as amended, and other statutes.

Under the new guidelines departments and agencies will be permitted to collect information on the race, ethnic background, age, and sex of applicants for benefits under Federal programs. This will enable agencies to meet their legal obligations while allowing OMB to assure that the reporting burden on respondents is kept to a minimum.

Accordingly, it is now OMB policy that information on an applicant's race, ethnic background, age, and sex may be collected from all persons applying for a Federal benefit when such information is necessary to:

(1) Determine eligibility to receive the benefit; or

(2) Determine the amount of benefit payable to an eligible applicant; or

(3) Determine whether a program is being administered to provide equal opportunity to all eligible groups in the population regardless of race, ethnic background, age or sex.

The Department of Justice, pursuant to its authority under Executive Order 11764, has directed that all agencies administering programs covered by Title VI and similar nondiscrimination provisions of other statutes must collect data on the race and ethnic background of persons applying for services or benefits under their programs when needed for compliance or enforcement purposes. Sex and age discrimination are not covered by Title VI, but are covered under a number of other civil rights laws. The Department of Justice has advised agencies to use their authority under such laws or their general authority under grant statutes to require recipients to collect data on the sex and age of persons applying for benefits.

The Equal Employment Opportunity Commission, has taken the position that the collection of racial, ethnic background, and sex information on applicants for employment does not violate Title VII of the Civil Rights Act of 1964, as amended, if done:

- (1) To fulfill the test validation and information requirements of the Equal Employment Opportunity Commission;
- (2) In connection with implementing an affirmative action program; or
- (3) In connection with the administration of fair employment practices programs; and
- (4) Not for any discriminatory purpose.

Information on these personal characteristics may be collected in the course of the application process in accordance with the following guidelines:

#### 1. Application for Employment

Questions relating to the race, ethnic background, age, and sex of an applicant must be collected on a separate or detachable portion of the application. The separate or detachable portion of the application may contain identifying information (e.g., name, serial number of the form, or social security number), but must be processed and maintained separately from the application form. When necessary for compliance or enforcement purposes, data may be cross-matched with application forms.

#### 2. Application for a Service or Benefit Other Than Employment

Questions relating to the race, ethnic background, age, and sex of an applicant for a service or benefit under a nonemployment program may be placed directly on the application form.

#### 3. Method of Collection

Self identification by the applicant is the preferred method of obtaining characteristic data. Where an applicant does not provide this information, the application taker shall through observation secure and record the information where possible. However, the application taker may not "second-guess," or in any other way change, a self-declaration made by the applicant as to his or her race, sex, age, or ethnic background unless such declaration is patently false.

#### 4. Voluntary Nature of Reporting for Applicants

Applicants may not be required to furnish information on their race, ethnic background, age or sex unless this information is necessary to determine the applicant's eligibility to receive a benefit or to determine the amount of benefit to which an eligible applicant may be entitled.

Except in those cases in which race, ethnic background, age or sex information is necessary to determine an applicant's eligibility to receive a benefit or to determine the amount of benefit to which an eligible applicant is entitled, each application which seeks to collect this information shall carry the following statement:

"This information is requested solely for the purpose of determining compliance with Federal civil rights law, and your response will not affect consideration of your application. By providing this information, you will assist us in assuring that this program is administered in a nondiscriminatory manner."

#### 5. Privacy Act

Agencies are reminded that in most cases Privacy Act requirements will apply to application forms. Even if a particular application form does not fall under the requirements of the Privacy Act, agencies should include on or with those forms notices containing the type of information required under 5 U.S.C. 552a(e)(3) concerning systems of records maintained by agencies on individuals.

#### 6. Race and Ethnic Standards

Departmenta and agencies collecting information on the race and ethnic background of applicants for benefits under Federal programs (including employment) will use the categories

specified in Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," issued by the Office of Federal Statistical Policy and Standards, Department of Commerce. Any exceptions to the categories specified in Directive No. 15 must be approved by the Office of Federal Statistical Policy and Standards.

#### 7. Department or Agency Responsibility

Any department or agency that collects or requires its recipients to collect information on the race, ethnic background, age, or sex of individuals applying for benefits or services is responsible for assuring that neither the information nor the method by which it is collected is used in any way to enable anyone to discriminate against the individual to whom the information pertains.

[FR Doc. 79-37748 Filed 12-7-79; 8:45 am]

BILLING CODE 3110-01-M

#### SMALL BUSINESS ADMINISTRATION

##### [Declaration of Disaster Loan Area # 1716; Amdt. 1]

##### Connecticut; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 61716), is amended by extending the filing date for physical damage until the close of business on January 3, 1980, and for economic injury until the close of business on August 14, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 4, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-37829 Filed 12-7-79; 8:45 am]

BILLING CODE 8025-01-M

#### WHITE HOUSE CONFERENCE ON SMALL BUSINESS

##### Public Forum

Small Business Conference Public Forum

January 14, 1980—2:00 p.m.—5:00 p.m.,  
Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, D.C.

##### Public Forum

Views on the future of small business in the national economy will be aired at public hearings scheduled by the White House Conference on Small Business on Monday, January 14, 1980 from 2:00 p.m.—5:00 p.m. at the Sheraton Washington Hotel.

The hearing, a part of the White House Conference's week-long activities, are intended to elicit positions

and opinions relative to this broad subject area from organizations and the public. The White House Conference on Small Business was established in May 1978 by executive order of President Carter. Recommendations emanating from the Conference will be presented to the President within 60 days of these hearings.

The Conference program is organized around 12 major issue areas: Capital Formation and Retention, Minority Business Development, Economic Policy and Government Programs, Women in Business, Government Regulations and Paperwork, Inflation, International Trade, Federal Procurement, Education Training/Assistance, Innovation and Technology, Energy and Veterans in Business. Witnesses should focus their remarks within these issue areas.

The Conference is an important opportunity for citizens' organizations, public interest groups, labor and business representatives and state and local officials to recommend ways in which the private sector and government at all levels can work toward a better future for small business.

Those interested in testifying personally or in submitting written statements should communicate in writing no later than December 28, 1979 at 5:00 p.m. EST to: Ms. Elise Knapp, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20006.

Dated: December 5, 1979.

Michael B. Kraft,  
Deputy Advocate for Advisory Councils,  
Small Business Administration.

[FR Doc. 79-37830 Filed 12-7-79; 8:45 am]

BILLING CODE 8025-01-M

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

[Summary Notice No. PE-79-30]

##### Summary of Petitions for Exemption Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I)

and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 31, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 30, 1979.

Edward P. Faberman,  
Acting Assistant Chief Counsel, Regulations and Enforcement Division.



## Petitions for Exemptions

| Docket No. | Petitioner              | Regulations affected                | Description of relief sought                                                                                                                                                                                                                                                        |
|------------|-------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19824      | Dave Prussner           | 14 CFR 141.35(c) (4) and (5)        | To allow petitioner to be designated as a Chief Flight Instructor for a course of training leading to the issuance of an instrument rating without meeting the eligibility requirements.                                                                                            |
| 19825      | World Aerobatics, Inc.  | 14 CFR 61.3, 91.27(a), and 91.71(d) | To permit foreign pilots and aircraft to participate in the Tenth World Aerobatic Championships without showing that they meet U.S. pilot and aircraft certification requirements. Instead, the standards of the Federation Aeronautique Internationale would be applied.           |
| 19827      | Frontier Airlines, Inc. | 14 CFR 121.310(d)(2)(i)             | To permit the petitioner to conduct Part 121 operation of Convair CV-580 aircraft with an emergency lighting system which cannot be operated manually from a point in the passenger compartment unless the flightcrew station emergency lighting switch is in the "armed" position. |

## Dispositions of Petitions for Exemptions

| Docket No. | Petitioner                                          | Regulations affected                      | Description of relief sought—disposition                                                                                                                                                                                                               |
|------------|-----------------------------------------------------|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12638      | Air Transport Association                           | 14 CFR 121.351(a)                         | To allow the petitioner to operate aircraft over water on oceanic routes with only one High Frequency (HF) radio. <i>Granted 11/21/79</i>                                                                                                              |
| 12738      | Union de Transports Aeriens                         | 14 CFR Parts 21, 61, 83, and 91           | To amend Exemption No. 1775S, as amended, to the extent necessary to add the names of certain flight crewmembers and the deletion of others from the Appendix to that exemption. <i>Granted 11/27/79</i>                                               |
| 15735      | Cessna Aircraft Co.                                 | 14 CFR 65.81(a) and 145.39(d)             | To extend for 1 year, Exemption No. 2353 covering the eighteen-month experience requirements for Propeller Reparmen. <i>Granted 11/26/79</i>                                                                                                           |
| 18238      | Flugleider, H. F. and Seaboard World Airlines, Inc. | 14 CFR Parts 21, 43, 61, 63, 91, and 121  | To amend Exemption No. 2602, as amended, to add two airmen and extend the exemption for one year. <i>Granted 11/20/79</i>                                                                                                                              |
| 18912      | Air Transcontinental Airlines                       | 14 CFR Parts 21, 61, 63, and 91           | To amend Exemption No. 2714, as amended, to permit certain foreign airmen to operate U.S.-registered B-707 aircraft N762TB. <i>Granted 11/27/79</i>                                                                                                    |
| 19246      | Trans World Airlines                                | 14 CFR 121.409(b)(2) and 121.441(a)(2)(i) | To permit pilot training in those maneuvers which best complement the TWA needs and satisfy the second-in-command pilot proficiency check each 24 calendar months. <i>Denied 11/16/79</i>                                                              |
| 19423      | Eastern Air Lines, Inc.                             | 14 CFR 121.291                            | To allow operation of the A300 aircraft configured for 244 passengers without conducting a full scale emergency evacuation. <i>Granted 11/20/79</i>                                                                                                    |
| 19425      | Garret E. Taylor                                    | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19432      | Edwin F. Herr Jr.                                   | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19433      | Edward R. Watson Jr.                                | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19434      | William B. Moody                                    | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19435      | Wayne E. Cook                                       | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19436      | Edward E. Wood                                      | 14 CFR 121.383(c)                         | To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79</i>                                                                                                          |
| 19444      | Kodiak-Western Alaska                               | 14 CFR 135.203                            | To allow the petitioner to operate aircraft below Visual Flight Rules minimums. <i>Granted 11/29/79</i>                                                                                                                                                |
| 19466      | Nevada Systems                                      | 14 CFR Parts 81, 91, and 121              | To permit the petitioner to operate its large transport aircraft for hire without a Part 121 certificate and to utilize both flight attendants and flight crewmembers who are not qualified in accordance with Parts 81 and 91. <i>Denied 11/21/79</i> |
| 19494      | Key Airlines                                        | 14 CFR 135.261(b)                         | To allow petitioner to operate a helicopter in hospital medical emergency service without meeting the flight and duty time limitations. <i>Partial grant 11/20/79</i>                                                                                  |
| 19496      | Windstar Aviation Corp.                             | 14 CFR 121.383(c)                         | To permit petitioner to use Mr. Henry J. Deutschendorf as pilot in air carrier operations after he reaches his 60th birthday. <i>Denied 11/20/79</i>                                                                                                   |
| 19506      | Hughes Airwest                                      | 14 CFR 121.443                            | To permit petitioner's pilots to serve on routes and into airports which are served by radar traffic control and precision landing systems, without meeting the route and airport qualifications. <i>Granted 11/20/79</i>                              |
| 19585      | Ms. Della L. Farris and Key West Airlines           | 14 CFR 135.39(b) and 135.243(a)           | To allow Ms. Farris to serve as Chief Pilot of Key West Airlines without having the prerequisite Airline Transport Pilot Certificate (ATPC). <i>Partial grant 11/20/79</i>                                                                             |
| 19586      | Mr. Brian Coast                                     | 14 CFR 135.243(a)                         | To permit Mr. Coast to serve as pilot in command for ZIA airlines, a commuter airline, without holding an Airline Transport Pilot Certificate (ATPC), due to the age 23 requirement. <i>Denied 11/20/79</i>                                            |
| 19595      | Windstar Aviation                                   | 14 CFR 121.155(a), (1), (b), and (c)      | To allow lease arrangements for the purpose of flight training and demonstration flights by companies leasing the petitioner's Learjet 35. <i>Granted 11/21/79</i>                                                                                     |
| 19600      | Chaffey Community College District                  | 14 CFR 65.77                              | To permit the petitioner's students who have completed the "general section" of Chaffey College's approved mechanics program to take the general written examination prior to obtaining a graduation certificate. <i>Denied 11/21/79</i>               |
| 19629      | Curtis Ciancetta                                    | 14 CFR 69.91(c)(1)                        | To permit the petitioner to take the required examinations for an inspection authorization without 3 years of mechanic experience. <i>Denied 11/26/79</i>                                                                                              |
| 19648      | Anthony Lindner                                     | 14 CFR 61.65(e)(1)                        | To permit the petitioner to apply for an additional category instrument rating (airplane) without obtaining the required cross country experience in the category of aircraft for which the instrument rating is sought. <i>Granted 11/26/79</i>       |
| 19822      | Pan American World                                  | 14 CFR 121.291                            | To allow the petitioner to introduce initial service in B-727-200 series aircraft in a 178 passenger seat configuration without first conducting a full scale emergency evacuation and ditching demonstration. <i>Partial grant 11/28/79</i>           |

[FR Doc. 79-37597 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

## Research and Special Programs Administration

[Docket No. 77-13W, Notice 1]

## Transportation of Natural Gas and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.707, which requires the marking of each gas pipeline with a sign at navigable water crossings, except for lines within 100 feet of a marker. The proposed waiver would apply to Tennessee Gas' pipeline systems 100 and 800, each containing multiple pipelines, which cross the Mississippi River near Greenville, Mississippi, and Lake Providence, Louisiana, respectively, in a catenary, or curved configuration.

In support of its petition, Tennessee Gas submits that the current regulation is adequate for multiple line straight crossings, but in the case of a catenary crossing, the required sign would be of little value a short distance from shore, and then of no value further from shore, as the curve of catenary pipelines is so great as to create a misconception of the pipeline's location.

Rather than mark each pipeline in System 100 and 800 as required by § 192.707, Tennessee Gas proposes a marking method which would delineate a zone, or corridor, containing all the pipeline crossings in that zone. This zone would be marked by placing signs slightly upstream of the intersection of the first pipeline in the zone and the bank, and downstream slightly past the apogee of the furthestmost pipeline in the zone. Tennessee Gas contends that this proposed marking method would provide better protection against the

dangers of anchoring and dredging than by complying with the specific requirements of § 192.707.

Tennessee Gas enclosed drawings showing the route, size, and location of each crossing of the multiple pipeline systems and the proposed sign locations. The drawings show that none of the pipelines are laid straight across the river, but form a catenary with the curve extending some 700 to 800 feet downstream from where the pipeline crosses the water's edge. Tennessee Gas also states that under the existing regulations, the 100 system crossing would require eight signs and the 800 system would require six signs.

Tennessee believes that a marking method consisting of four signs for each pipeline system crossing, two on each bank, will be more informative and provide better warning to boat and dredge operators. This method would delineate the entire warning zone as opposed to indicating only the point at which each catenary pipeline intersects the water's edge. The signs would be standard signs described by § 192.707 indicating (Warning, Do Not Anchor or Dredge, Gas Pipeline Crossing, Company Name and Phone Number), but in addition, each sign would contain an arrow of 8 feet by 6 inches long and two feet wide with 12-inch letters stating "Between Signs," with the arrows pointing in the appropriate direction. In addition, six fewer signs would be required by the proposed method, with an estimated cost savings of \$27,000 compared to compliance with the existing regulations.

MTB is considering granting the requested waiver from the requirements of § 192.707(2) and § 192.707(a)(1) for the following reasons:

1. The use of signs delineating a zone which includes the whole area in which there is danger of pipelines being

damaged by anchoring or dredging provides better safety for the public than the existing requirements of § 192.707 for those areas where pipelines crossing navigable waters have a curved configuration.

2. After consulting with the Coast Guard and the Corps of Engineers, MTB is of the opinion that the granting of the waiver would not impact adversely on their regulatory functions and would not adversely affect the public safety.

3. The granting of the waiver would lessen the cost to the operator while enhancing safety.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views or arguments as they may desire. Communications should identify the docket and notice numbers and be submitted between 8:30 a.m. to 5:00 p.m., to: Docket Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before February 1, 1980 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available at the Docket Branch, Materials Transportation Bureau, before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the Federal Register if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR Part 1.53(a), Appendix A of Part 1 and Appendix A of Part 106).

Issued in Washington, D.C., on December 3, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety  
Regulation Materials Transportation Bureau.

[FR Doc. 79-37591 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

## Imported Steel Mill Products Trigger Price Mechanism: First-Quarter 1980 Revision of Trigger Prices; Corrections

The Treasury Department Federal Register Notice on first quarter 1980 trigger prices dated November 27, 1979 contained several errors in Table 3 and omissions from revised page 14-23. The following table and page revision corrects these errors and omissions.

## A. Corrections to Table 3.

| Product            | Page | 1st quarter 1980 base price | 1st quarter ocean freight |    |    |    | 1st quarter interest |    |    |    |
|--------------------|------|-----------------------------|---------------------------|----|----|----|----------------------|----|----|----|
|                    |      |                             | W.                        | G. | A. | L. | W.                   | G. | A. | L. |
| Standard channels  | 3-4  | 281                         | 29                        | 36 | 39 | 46 | 9                    | 11 | 11 | 14 |
| Unequal angles     | 3-6  | 295                         | 29                        | 38 | 39 | 46 | 9                    | 12 | 12 | 15 |
| Equal angles       | 3-8  | 265                         | 29                        | 38 | 39 | 46 | 8                    | 11 | 11 | 13 |
| Standard "I" beams | 3-10 | 323                         | 29                        | 36 | 39 | 46 | 10                   | 13 | 13 | 16 |



| Product                                          | Page  | 1st quarter 1980 base price | 1st quarter ocean freight |    |    |     | 1st quarter interest |    |    |     |
|--------------------------------------------------|-------|-----------------------------|---------------------------|----|----|-----|----------------------|----|----|-----|
|                                                  |       |                             | W                         | G  | A  | L   | W                    | G  | A  | L   |
| Reinforcing bars                                 | 8-1   | 259                         | 29                        | 36 | 39 | 46  | 8                    | 11 | 11 | 13  |
| Bar size channel                                 | 9-1   | 389                         | 29                        | 36 | 39 | 46  | 12                   | 16 | 16 | 19  |
| Merchant quality squares, round cornered squares | 10-3  | 325                         | 29                        | 36 | 39 | 46  | 10                   | 13 | 13 | 16  |
| Merchant quality round bar                       | 10-5  | 325                         | 29                        | 36 | 39 | 46  | 10                   | 13 | 13 | 16  |
| Merchant quality flat bars                       | 10-7  | 295                         | 29                        | 36 | 39 | 46  | 9                    | 12 | 12 | 15  |
| CSW pipe                                         | 14-6  | 400                         | See freight table         |    |    |     | 13                   | 16 | 16 | 20  |
| ERW line pipe                                    | 14-8  | 419                         | See freight table         |    |    |     | 13                   | 16 | 16 | 20  |
| ERW standard pipe                                | 14-22 | 406                         | See freight table         |    |    |     | 13                   | 16 | 16 | 20  |
| ERW oil well casing                              | 15-13 | 439                         | See freight table         |    |    |     | 14                   | 18 | 18 | 22  |
| H.R. high carbon Cr steel tube AISI 52100        | 15-48 | 641                         | 69                        | 79 | 95 | 105 | 20                   | 26 | 26 | 32  |
| C.R. high carbon Cr steel tube AISI 52100        | 15-49 | 954                         | 67                        | 79 | 95 | 105 | 30                   | 39 | 39 | 47  |
| Seamless round ornamental tube AISI TP 304       | 15-50 | 2163                        | 65                        | 96 | 96 | 97  | 68                   | 88 | 88 | 107 |
| Seamless square ornamental tube AISI TP 304      | 15-52 | 2358                        | 65                        | 76 | 96 | 97  | 74                   | 96 | 96 | 117 |
| Galvanized sheet ASTM A525G90                    | 27-4  | 424                         | 30                        | 33 | 37 | 47  | 13                   | 17 | 17 | 21  |
| H.R. strip produced on bar mills, cut lengths    | 29-1  | 330                         | 29                        | 36 | 39 | 46  | 10                   | 13 | 13 | 17  |

B. Corrections to page 14-23.

The following size ranges were inadvertently omitted from revised page 14-23.

#### E.R.W. Standard Pipe Dollars Per Metric Ton

[1st Quarter 1980]

| Outside diameter            | 5 1/4 | 6 3/4 | 8 3/4 | 10 3/4 | 12 3/4 | 14  | 16  |
|-----------------------------|-------|-------|-------|--------|--------|-----|-----|
| Extra strong wall thickness | 426   | 426   | 409   | 409    | 409    | 409 | 409 |

Dated: December 4, 1979.

David R. Brennan,

Acting General Counsel.

[FR Doc. 79-37644 Filed 12-7-79; 8:45 am.]

BILLING CODE 4810-25-M

#### INTERSTATE COMMERCE COMMISSION

##### Office of Hearings

##### [Notice No. 152]

##### Assignment of Hearings

December 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 93649 (Sub-23F). Gaines Motor Lines, Inc., now assigned for hearing on December 3, 1979, is canceled and transferred to Modified Procedure.

MC 123091 (Sub-29F). Nick Strimbu, Inc., now assigned for hearing on November 29, 1979 is canceled and transferred to Modified Procedure.

MC 51018 (Sub-11F). The BESL Transfer Company, An Ohio Corporation, now assigned for hearing on December 5, 1979 at Cincinnati, OH., is canceled and transferred to Modified Procedure.

MC 145574 (Sub-1F). Russ's Motor Service, Inc., now assigned for hearing on December 5, 1979 at Chicago, IL in Room No. 350, 230 South Dearborn Street.

MC 146038 (Sub-1F). Quick Silver, Inc., Transferred to Modified Procedure.

MC 95098 (Sub-1F). Boonton Transport, A Corp., now assigned for hearing on December 17, 1979 at Newark, NJ, will be held in Room Salon E. Robert Treat Hotel, 50 Park Place, Newark, NJ.

MC 138469 (Sub-96F). Donco Carriers, Inc., now assigned for hearing on December 5, 1979 at Kansas City, MO, is canceled and transferred to Modified Procedure.

MC 138627 (Sub-49F). Smithway Motor Xpress, Inc., now assigned for hearing on December 5, 1979 at Omaha, NE, is canceled and transferred to Modified Procedure.

MC 114273 (Sub-409F). CRST, Inc., now assigned for hearing on December 10, 1979 at Chicago, IL, is canceled and Application Dismissed.

MC 114273 (Sub-409F). CRST, Inc., now assigned for hearing on December 10, 1979 at Chicago, IL, is canceled and Application Dismissed.

MC 142416 (Sub-1) (M1F). Hamilton Transfer, Storage & Feeds, Inc., now assigned for hearing on December 3, 1979 at Casper, WY, is postponed to February 25, 1980 (4 Days), at Casper, WY, in a hearing room to be designated later.

MC 119349 (Sub-12F). Starling Transport Lines, Inc., now assigned for hearing on December 4, 1979 at Washington, DC, is canceled and Application Dismissed.

MC 114569 (Sub-246F). Schaffer Trucking, Inc., now assigned for hearing on

December 3, 1979 is canceled and transferred to Modified Procedure.

MC 117730 (Sub-43F). Koubenec Motor Service, Inc., now assigned for continued hearing on December 4, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 1494 (Sub-26F). Gross Common Carrier, Inc., now assigned for hearing on December 3, 1979 at Madison, Wisconsin will be held at the Sheraton Inn, Sheraton Inn & Conference Center, 706 John Nolen Drive, Madison, Wisconsin.

MC 146467 F. Triad Motor Lines, Inc., now being assigned for hearing on January 22, 1980 (4 Days), at Durham, NC, in a hearing room to be designated later.

MC 133937 (Sub-31F). Carolina Cartage Company, Inc., now being assigned for hearing on January 28, 1980 (5 Days), at Columbia, SC, in a hearing room to be designated later.

MC 41406 (Sub-126F). Artim Transportation System, Inc., now assigned for hearing on March 10, 1980 (1 Day), at Louisville, KY, in a hearing room to be designated later.

MC 107403 (Sub-1186F). Matlack, Inc., now being assigned for hearing on March 11, 1980 (1 Day), at Louisville, KY, in a hearing room to be designated later.

MC 138882 (Sub-238F). Wiley Sanders Truck Lines, Inc., now being assigned for hearing on March 12, 1980 (3 Days), at Louisville, KY, in a hearing room to be designated later.

MC 135812 (Sub-1F). Professional Driver Services, Inc., now assigned for continued hearing on March 4, 1980 (4 Days), at Louisville, KY, in a hearing room to be designated later.

MC 144672 (Sub-6F). Victory Express, Inc., now assigned for hearing on December 10, 1979 (1 day) at New York, NY will be held in room D-2206, Federal Building, 26 Federal Plaza.

MC 135874 (Sub-147F) L11 Perishable, Inc., now assigned for hearing on December 11, 1979 (2 days) at New York, NY will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 144247 (Sub-3F). Downey Enterprises, Inc., now assigned for continued hearing on November 29, 1979 (7 days) at Los Angeles, CA will be held November 29, 1979 through December 2, 1979 at U.S. Tax Court, 8541, Federal Building, 300 North Los Angeles Street, and on December 3, 1979 through December 7, 1979 at the U.S. County Court House, 111 North Hill Street.

MC 108633 (Sub-16F). Barnes Freight Line, Inc., now for hearing on December 3, 1979 at the Ramada Inn, 854 N. Gloster, Tupelo, MS, December 8, 1979 at the Hilton Inn, Memphis Airport, Memphis, TN and also December 10, 1979 in the Ramada Inn, 5216 Airport Highway, Birmingham, AL.

MC 129615 (Sub-4F). American International Driveaway Extension—Hawaii, now assigned for hearing December 12, 1979 (3 days) at Chicago, IL in Room 672, 536 South Clark St., V.A. Administration Bldg.

MC 136774 (Sub-12F). MC-MOR-HAN Trucking Co., Inc., now assigned for hearing on December 4, 1979 at Chicago, IL in Room No. 350, 230 South Dearborn Street.

MC 83835 (Sub-153F). Wales Transportation, Inc., now assigned for hearing on December 3, 1979, is canceled and transferred to Modified Procedure.

MC 20824 (Sub-40F). Commercial Motor Freight, Inc., now assigned for hearing on December 3, 1979 at Indianapolis, IN, is postponed indefinitely.

MC 36448 (Sub-7F). Murfreesboro Freight Lines Company now assigned for Prehearing Conference on December 17, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 103051 (Sub-462F). Fleet Transport Company, Inc., A Georgia Corporation, now being assigned for hearing on January 23, 1980 (3 Days), at Memphis, TN, in a hearing room to be designated later.

MC 116254 (Sub-241F). Chem-Haulers, Inc., now being assigned for hearing on January 28, 1980 (2 Days), at Nashville, TN, in a hearing room to be designated later.

MC 145779F. Oil Service Company, Inc., now being assigned for hearing on January 30, 1980 (3 Days), at Nashville, TN, in a hearing room to be designated later.

MC 37958 (Sub-3F). Trenton Lambertville Bus Line, Inc., now assigned for hearing on December 10, 1979 will be held in Hearing Room 10, Third Floor, Wallace Building, 88 East State Street, Trenton, NJ.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37794 Filed 12-7-79; 8:45 am]

BILLING CODE 7035-01-M

#### [Revised Exception No. 5 to Corrected Second Revised Service Order No. 1301]

##### Burlington Northern, Inc.

Pursuant to the authority vested in me be Section (a)(4) of Corrected Second Revised Service Order No. 1301, Burlington Northern Inc. is authorized to use forty-foot narrow-door plain boxcars owned by Canadian National Railways or by CP Rail from stations in the State of Montana destined to Tacoma, or Seattle, Washington, subject to the following conditions.

1. Cars must be used in compliance with United States Customs regulations.
2. Cars must be used in compliance with Car Service Rules 1 and 2 adopted by the Commission in Docket Ex Parte No. 241.
3. Car Relocation Directives and Car Assistance Directives issued by the Car Service Division, Association of American Railroads, applicable to such cars remain fully in effect.

Effective November 14, 1979.

Expires January 31, 1980.

Issued at Washington, D.C., November 14, 1979.

Robert S. Turkington,

Assistant Director, Bureau of Operations.

[FR Doc. 79-37796 Filed 12-7-79; 8:45 am]

BILLING CODE 7035-01-M

#### [Amendment No. 1 to Revised I.C.C. Order No. 57 Under Service Order No. 1344]

##### Rerouting Traffic

To: All Railroads

Upon further consideration of Revised I.C.C. Order No. 57, and good cause appearing therefor:

It is ordered, Revised I.C.C. Order No. 57 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 10, 1979, unless otherwise modified, changed or suspended.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 23, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 23, 1979.

Robert S. Turkington,  
Agent.

[FR Doc. 79-37795 Filed 12-7-79; 8:45 am]

BILLING CODE 7035-01-M

#### [Notice No. 202]

##### Motor Carrier Temporary Authority Applications

November 7, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *Federal Register* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *Federal Register*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

##### Motor Carriers of Property

##### Notice No. 199

November 5, 1979.

MC 2229 (Sub-222TA), filed September 11, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie



Hill, 3177 Irving Blvd., Dallas, TX 75247. *Self-propelled mobile work platforms* from Los Angeles, CA to all points in the United States (except CA, AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keedon Enterprises, Inc., 5845 S. District Blvd., Los Angeles, CA 90040. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 36509 (Sub-35TA), filed June 28, 1979. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome St., San Francisco, CA 94111. Representative: R. C. Konkle (same address as above). Contract carrier; irregular routes: *Coin* between San Francisco, CA, on the one hand, and, on the other, Las Vegas, NV., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Services Administration, Representation, Negotiations, and Economics Division, Transportation and Public Utilities Service, Washington, D.C. 20406. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 48958 (Sub-201TA), filed September 24, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Compounds, fireproofing, or retardants, flame, dry or liquid* from Phoenix, AZ and its commercial zone, to points in AR, CA, CO, ID, IL, IN, IA, KS, MN, NO, NE, NV, NM, OH, OK, TX, UT, WI and WY for 180 days. Supporting Shipper(s): H.J.H. Chemicals Co., 2229 East Magnolia, Phoenix, AZ 85034. Send protests to: Roger Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 103798 (Sub-40TA), filed September 28, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Canned and preserved foodstuffs* from the facilities of Heinz, USA at or near Muscatine and Iowa City, IA to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 4th Street, Minneapolis, MN 55401.

MC 110988 (Sub-406TA), filed September 27, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Varnish* from Saukville, WI to Kansas City, KS,

for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delta Oil Products Corporation, 6263 N. Teutonia Ave., Milwaukee, WI 53209. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 111548 (Sub-22TA), filed September 20, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. and 13th St., NW, Washington, DC 20004. *Foodstuffs, canned or preserved* from the facilities of Heinz, USA at Muscatine and Iowa City, IA to the facilities of Heinz, USA at Greenville, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, PO Box 57, Pittsburgh, PA 15230. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC.

MC 113828 (Sub-278TA), filed September 25, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 21210. *Flour, in bulk, in tank vehicles* from Barksdale, MD to points in the District of Columbia, MD, PA, CT, DE, MA, NJ, NY, and VA for 180 days. Supporting shipper(s): Ross Industries, Department of Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 118468 (Sub-55TA), filed September 10, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract carrier—irregular routes. *Treated lumber and wood products* from Beardstown, IL, to points in IA under contract with Emmer-Eagle Grove, Inc. of Eagle Grove, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Emmer-Eagle Grove, Inc., 6800 France Ave., South, Minneapolis, MN 55435. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 123048 (Sub-469TA), filed September 10, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21 St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Crushed stone, in bags*, from DeMarco, Marble Falls and San Saba, TX; Tate and Whitestone, GA; and Canon City, CO to Chicago, IL and Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Terrazzo & Marble Supply Co. of IL, 5700

S. Hamilton Ave., Chicago, IL 60638. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123048 (Sub-470TA), filed September 18, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21 St., Racine, WI 53406. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. *Fire place logs* from facilities of D.G. Shelter Products at Austin, TX to points in IL, IN, IA, KS, MI, MN, MO, NE, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): D. G. Shelter Products, 401 Watt Ave., Sacramento, CA 95825. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 125689 (Sub-8TA), filed Sept. 17, 1979. Applicant: BEATTYVILLE TRANSPORT, INC., P.O. Box 357, Catlettsburg, Ky. 41129. Representative: Fred H. Daly, 2550 M St., N.W., Washington, D.C. 20037. Petroleum products, in bulk, in tank vehicles, from the facilities of Gulf Oil Corporation near Huntington, WV, to points in Johnson, Floyd, Lawrence and Magoffin Counties, KY, for 180 days. Supporting shipper(s): F. J. Reilly, Facilities & Distribution Mgr. Gulf Oil Corp., P.O. Box 15678, Nashville, TN 37215 and Marvin Music Distributors, Inc., Box 609, Prestonsburg, KY 41653. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 128709 (Sub-5TA), filed September 12, 1979. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Fort Smith, AR 72901. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Common carrier over regular routes: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between Mansfield, AR and Ft. Smith, AR, from Mansfield over U.S. Hwy 71 to Ft. Smith, AR and return over the same route, serving the commercial zones of Mansfield and Ft. Smith, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 35 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 133689 (Sub-309TA), filed September 11, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Games and toys and equipment, materials and supplies used or useful in the manufacture and distribution of*

*games and toys* between the facilities of Schaper Manufacturing Co. located at Minneapolis, MN and points in its Commercial Zone, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schaper Manufacturing Company, 9909 South Shore Drive, Minneapolis, MN 55441. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136819 (Sub-5TA), filed September 24, 1979. Applicant: SPIVEY, INC., P.O. Box 674, Franklin, VA 23851. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. *Contract; Irregular: Lumber and pallets*, between points in NC and VA, on the one hand, and, on the other, points in DC, DE, MD, NC, NJ, PA, VA, and NY (New York and points in the commercial zone thereof, and points in Nassau and Suffolk Counties), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farnham Manufacturing Co., Inc., Farnham, VA 22460. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106, Room 620.

MC 142059 (Sub-97TA), filed September 13, 1979. Applicant: Representative: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Structural steel*, from Milwaukee, WI to Clinton, IL; St. Louis, MO; Buffalo, NY and Cleveland and Toledo, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cardinal Fabricating Corporation, 3400 South Hanson, P.O. Box 07483, Milwaukee, WI 53207. Send protests to: Annie Booker, TA, ICC—219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143739 (Sub-35TA), filed September 26, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Canned and preserved foodstuffs* from the facilities of Heinz USA, Div. of H. J. Heinz Co. at or near Muscatine, IA and Iowa City, IA to points in MN, WI and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-36TA), filed September 27, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Foodstuffs, (except in bulk)*, from the facilities of Great American Basic Commodities, Inc. located at or near Plover, WI to points in AZ, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NV, ND, OH, OK, SD, TN, TX and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great American Basic Commodities, Inc., Plover, WI 54467. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146659 (Sub-3TA), filed September 27, 1979. Applicant: GOLDSTON TRANSFER, INC., P.O. Box 338, Eden, NC 27288. Representative: Archie W. Andrews, same as above. *Materials, equipment and supplies used in the manufacture of malt beverages* from points in NC to points in Rockingham Co., NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Co., 3939 West Highland Blvd., Milwaukee, WI 53201. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 146729 (Sub-6TA), filed September 24, 1979. Applicant: JAMES S. HELWIG and ALLEN L. CRIMLAND d.b.a. H & G LEASING, 2509 Inwood Road, Dallas, TX 75235. Representative: D. Paul Stafford, Winkle, Wells & Stafford, P.O. Box 45538, Dallas, TX 75245. *Hams, in containers, in vehicles equipped with mechanical refrigeration*, from the facilities of Garland Foods, Inc., Dallas, TX to points in NJ, NY, MD, MA, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Garland Foods, Inc., 5003 South Lamar, Dallas, TX 75215. Send protests to: Opal Jones, ICC 9A27 Fritz Garland Lanham Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 147659 (Sub-1TA), filed June 26, 1979. Applicant: CARTIN DELIVERY SERVICE, INC., 8911 Evergreen Way, P.O. Box 2976, Everett, WA 98203. Representative: Robert G. Gleason, 1127-10th East, Seattle, WA 98102. *General commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission and commodities in bulk*, between points in Pierce, King, Snohomish, Skagit and Whatcom Counties and between points in those counties and Ports of Entry on the International Boundary between the

U.S. and Canada, located at or near Blaine, Lynden and Sumas, WA, restricted to shipments of 500 lbs or less, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisheries Supply Co., 1900 N. Northlake, Seattle, WA 98103; Kaman Bearing Supply Corp., N.W., 4030—1st Ave. S., Seattle, WA 98134; Morgan Bros. of Everett, Inc., 3225 Cedar St., Everett, WA 98201; Kaman Bearing & Supply Northwest, 1106 Hewitt Ave., Everett, WA 98201. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148018 (Sub-1TA), filed September 6, 1979. Applicant: JAMES S. BATT d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83805. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Fertilizer, dry in bulk*, from Moab, Garfield and Wendover, UT to point in ID, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Applicant is a contract carrier over irregular routes. Supporting shipper(s): North Pacific Tracing Co., a division of North Pacific Lumber Co., Inc., Box 3915, Portland, OR 97208. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 148228 (Sub-1TA), filed September 12, 1979. Applicant: TRI-PAK, INC., 2 North Park East, Suite 406, Dallas, TX 75231. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Truck, machinery and equipment parts, used in the replacement, servicing and repairing of trucks, machinery and equipment* between Dallas, TX and the Commercial Area of Dallas, TX on the one hand, and, on the other points in AR, LA, OK, and NM for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Gardner-Denver Company, 3305 Wiley Post Road, Carrollton, TX 75006; Crane Carrier Company, 4832 Cash Road, Dallas, TX 75247. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148548TA, filed September 5, 1979. Applicant: KEIM TRANSPORTATION, INC., RFD No. 2, Box 10, Sabetha, KS 66534. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Contract carrier. *Iron and steel articles* (except "Mercer" commodities as defined in 74 MCC 459, 543, or earth drilling commodities as described in Roy L. Jones, et al 103, M.C.C. 825, 832) from the commercial zone of Sterling and Chicago, IL and Union, MO to points in KS east of US Hwy 81 and north of US Hwy 54, for 180 days, irregular routes, supporting shipper: Steel & Pipe Supply Co., Inc.,



P.O. Box 703, Manahattan, KS; send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 148549TA, filed September 11, 1979. Applicant: FRANK DONADIO trading as SOUTH PHILLY TRIPS, 1828 S. Mole St., Philadelphia, PA 19145. Representative: William Morrow, 2540 P.S.F.S. Bldg., Phila, PA 19107. *Common; regular: passengers in a limousine type van (Max. 12) via scheduled services from their homes in So. Phila. to casinos in Atlantic City, NJ over particular highways, and from A.C. to their homes in So. Phila. The van will leave So. Phila. via the Walt Whitman Bridge, travel So., on N.J. No. 42 South to the A.C. Expressway and south to A.C. and discharge at the Casinos. The return trip will depart from A.C. via the Atlantic City Expressway to Route No. 42 to Walt Whitman Bridge to So. Phila. for 180 days. Supporting shipper(s): Michael Ozzie Myers, 600 Arch St., Phila, PA 19106; James J. Tayoun, Rm. 404, City Hall, Phila., Pa. 19107. Joseph Aiello, 1317 Filbert St., Phila., PA. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 148608TA, filed April 17, 1979. Applicant: WAREHOUSE TRANSPORTATION COMPANY, INC., 750 W. Third St., Cincinnati, OH 45203. Representative: Richard Knock (same as applicant). *Contract carrier: irregular routes: Such commodities as are used, dealt in, or distributed by retail and wholesale department, hardware, drug and food stores and equipment, materials and supplies used in the conduct of the business described above, between Urbana, OH, and Detroit, MI; Elizabeth, NJ; Syracuse, NY; Pittsburgh, PA; and Nashville, TN; and between Dayton, OH, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Detroit, MI; Elizabeth, NJ; Syracuse, NY; Pittsburgh and E. Stroudsburg, PA; and Memphis and Nashville, TN; and between Nashville, TN, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Baltimore, MD; Detroit, MI; Minneapolis, MN; St. Louis, MO; Pittsburgh and E. Stroudsburg, PA; Memphis, TN; and Richmond, VA; and between Franklin, KY, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Cincinnati and Dayton, OH; and Pittsburgh, and E. Stroudsburg, PA; Kansas City, KS; Baltimore, MD; Detroit, MI; Minneapolis, MN; St. Louis, MO; Memphis and Nashville, TN; and Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Drackett Products Co., Randall D. Weis, Manager Transportation Services, 5020*

Spring Grove Avenue, Cincinnati, OH 45232. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 146378, filed June 1, 1979. Applicant: PAUL H. HARPOLE TRUCK SERVICE, INC., 22 Wilshire Ct., Belleville, IL 62223. Representative: William Gagen, 118 S. Charles St., Belleville, IL 62221. (1) *Tires, machinery, and supplies used in the manufacture of tires, between the facilities of the General Tire and Rubber Co. at Akron, OH and points in CA, IL, IN, KY, MI, MO, OH, PA, and WI; (2) Household appliances, equipment, materials and supplies used in the manufacture and distribution thereof, between the facilities of General Electric Co. at Appliance Park, Louisville, KY and points in WI, IL, MO, IN, MI, OH, and PA; (3) Automobile parts and accessories, related racks, and containers and related iron and steel articles, between points in CA, IL, OH, IN, KY, MI, MO, NJ, NY, PA, WI, and Louisville, KY and the Detroit, MI Commercial Zone, and from points in MI to the Ford Motor Plants at Claycomo, MO, St. Louis, MO, Pico Rivera, CA and Milpitas, CA; and (4) Candy and confectionary N.O.I., from the facilities of Hollywood Brands, Inc., at Centralia, IL to points in KY, MD, MI, NJ, NY, OH, PA, WI, and WV in vehicles equipped with mechanical refrigeration for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): The General Tire & Rubber Co., No. 1 General St., Akron, OH 44329; Ford Motor Co., One Parkland Blvd., Parkland Towers E., Suite 200, Dearborn, MI 48126; General Electric Co., Appliance Park, Louisville, KY 40225; Hollywood Brands, Inc., 836 S. Chestnut St., Centralia, IL 62801. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.*

#### Notice No. 202

Nov. 7, 1979

MC 2229 (Sub-224TA), filed October 4, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill, same as above. *Fired Clay Cat Litter* from the facilities of O.C.P.C. Inc. at or near Stroud, OK to points in the US (except OK, AK, and HI) for 180 days. Underlying ETA filed. Supporting shipper(s): O.C.P.C., Inc., 523 W. 1st St., Stroud, OK 74079. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 14138 (Sub-10TA), filed October 4, 1979. Applicant: HEAVY TRANSPORT INC., P.O. Box 727, Long Beach, CA

90801. Representative: William P. Jackson, Jr., P.O. Box 240, Arlington, VA 22210. *Contractor's material, equipment, and supplies (except in bulk), Between Los Angeles, CA and its commercial zone, on the one hand, and, on the other, points in Nevada, Arizona, Utah, Oregon, Texas and New Mexico, for 180 days. Supporting shipper(s): Peter Bawden Drilling, Inc., Mechanical Superintendent, 8242 Paramount Blvd., Long Beach, CA 90805. Send protests to: Irene Carlos, TA, ICC, Room 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.*

MC 17829 (Sub-17TA), filed October 15, 1979. Applicant: DISILVA TRANSPORTATION, INC., 50 Middlesex Ave., Somerville, MA 02145. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Contract carrier; irregular route: (1) such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business (except commodities in bulk) and such commodities as are dealt in by retail and discount department stores (except commodities in bulk), from Braintree, MA to points in VA. (2) returned shipments of the above-described commodities, from the above-described destinations to Braintree, MA. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with The Stop & Shop Companies, Inc., Boston, MA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Stop & Shop Companies, Inc., 393 D Street, South Boston, MA 02210. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA 02114.*

MC 35628 (Sub-422TA), filed October 2, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue NW, Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Avenue NW, Grand Rapids, MI 49501. *General Commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); serving Carrollton, KY as an off route point in connection with applicant's presently authorized operations. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roberts Corporation, 150 Orchard Street, Grand Ledge, MI 48837. Send protests to: C. R. Flemming, D/S,

201 Corr Bldg., 300 E. Michigan Ave., Lansing, MI 48933.

MC 35628 (Sub-423TA), filed October 3, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Representative: Michael P. Zell, same address as applicant. Part 1. (1) *Gypsum, gypsum products, building materials, and (2) materials and supplies used in the installation and distribution of commodities in (1) above* (except commodities in bulk) From the facilities of Georgia-Pacific Corporation in Marshall County, Kansas to all points in the United States. Part 2. *Materials, equipment, and supplies used in the manufacture, installation and distribution of gypsum, gypsum products, and building materials* (except in bulk) From points in the United States, to the facilities of Georgia-Pacific Corporation in Marshall County, KS. For 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: C. R. Flemming, I.C.C., Room 201, Corr Building, 300 East Michigan, Lansing, MI 48933.

MC 35628 (Sub-424TA), filed October 9, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue, NW, Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Ave. NW, Grand Rapids, MI 49501. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except frozen commodities and commodities in bulk); originating from The Clorox Company facilities located at Kansas City, MO and destined to Aberdeen, Brookings, Chamberlain, Ellsworth AFB, Huron, Mitchell, Rapid City, Sioux Falls, Sturgis, Watertown and Yankton, SD. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway Street, Oakland, CA 94612. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 43269 (Sub-74TA), filed October 10, 1979. Applicant: WELLS CARGO, INC., 1775 East Fourth Street, Reno, NV 89512. Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505. *Insulating materials and materials used in the installation of insulating materials* from Corona and Willows, CA, to points in the states of AZ, ID, OR, NV, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo, CA. Send protests to: W. J.

Huetig, ICC, 705 North Plaza Street, Carson City, NV 89701.

MC 48958 (Sub-203TA), filed October 12, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, 510 E. 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero, same address as applicant. *Carbonyl chloride (phosgene), in containers or cylinders, and empty containers or cylinders in a return movement* between Denver, CO and its commercial zone, on the one hand, and, on the other, Palacios, TX for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Hu-Mar Chemicals, Inc., P.O. Box 872, Palacios, TX 77465. Send protest to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 50069 (Sub-552TA), filed September 12, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: William P. Fromm (same as applicant). *Aviation gasoline, in bulk, in tank vehicles, from Clermont, IN, to Charlotte, NC; Greenville, SC & Spartanburg, SC, for 180 days. Supporting Shipper(s): Phillips Petroleum Company, 222 E. Ogden Ave., Hinsdale, IL 60521. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 52709 (Sub-377TA), filed October 3, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec Street, Denver, CO 80297. Representative: Rick Barker, (same address). *Explosives and Freight Trailers*, between points in the United States in and west of MN, IA, MO, AR, and LA for 180 days. Supporting Shipper(s): Explosive Sales Corp., 410 17th Street, Denver, CO 80202. Send protests to: District Supervisor R.L. BUCHANAN, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 56679 (Sub-145TA), filed October 2, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave., S.W., Atlanta, GA 30310. *Milk food liquid, milk food powder, drugs, and plastic or rubber articles* (except in bulk) from Altavista, VA; Columbus, OH, and Sturgis, MI, to points in the U.S. in and east of TX, OK, AR, TN, KY, IL, and WI, for 180 days. Supporting Shipper(s): Ross Laboratories, 625 Cleveland Ave., Columbus, OH 43216. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 56679 (Sub-146TA), filed October 2, 1979. Applicant: BROWN TRANSPORT CORP., 352 University

Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave., S.W., Atlanta, GA 30310. *Soybean flour, in intermodal containers* from Dawson, Minneapolis, and Redwing, MN; Hager City, WI and Louisville, KY to Wilmington, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 73688 (Sub-108TA), filed October 15, 1979. Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Rt. 6, Box 15, North Little Rock, AR 72118. *Meat, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766, (except in bulk) from Mansfield, OH to AL, GA, CT, FL, CA, IL, KY, LA, MD, MA, MO, MI, NC, PA, SC, TN, TX, VA and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Haring Meats, 1095 National Parkway, P.O. Box 2695, Mansfield, OH 44906. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.*

MC 81779 (Sub-3TA), filed September 20, 1979. Applicant: PAUL JOHNSON, INC., 340 West Adams St., Waterman, IL 60556. Representative: Paul C. Johnson, (same address as applicant). *Common carrier-irregular route, iron and steel articles* from the Chicago, IL Commercial Zone, to points in the state of IL, and to points in the state of IA, and to points in the St. Louis, MO Commercial Zone. Underlying ETA seeks 90 day authority. For 180 days. Supporting Shipper(s): 6 supporting shippers. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 98938 (Sub-4TA), filed September 27, 1979. Applicant: SEVERANCE TRUCKING CO., INC., 7 Walnut Hill Park, Woburn, MA 01801. Representative: Mary E. Kelley, Attorney, 22 Stearns Ave., Medford, MA 02155. *General commodities, usual exceptions, between Haverhill, Lawrence, Lowell and Newburyport, MA, on the one hand, and, on the other, points in NH on and south of NH Highway 202. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fifty-nine (59) supporting shippers* Send protests to:



John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 105289 (Sub-85TA), filed October 3, 1979. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. (1) *Agricultural insecticides or fungicides, weed killing compounds, medicinal feeding compounds, chemicals, drugs, medicines, and related articles and materials, equipment and supplies* used or useful in the manufacture, processing, sale and distribution of all such commodities between Kalamazoo, MI, and its commercial zone, on the one hand and on the other, Carle Place, Long Island, NY, Chamblee, GA, Cheektowaga, NY, Cincinnati, OH, Dallas, TX, Denver, CO, Hollywood, CA, Kansas City, MO, Memphis, TN, Miami, FL, Minneapolis, MN, Needham Heights, MA, Portland, OR and Washington, D.C. (2) *Equipment, materials and supplies* as are used or useful in the manufacture, processing, sale and distribution of agricultural insecticides or fungicides, weed killing compounds, medicinal feeding compounds, chemicals, drugs, medicines, and related articles from points in the United States (except AK and HI) to Kalamazoo, MI and its commercial zone. Restricted to equipment with temperature control devices and further restricted to either shipments from or destined to the facility of the Upjohn Company. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Upjohn Company, Kalamazoo, MI 49001. Send Protests To: C.R. Flemming, D/S, I.C.C., 201 Corr Building, Lansing, MI 48933.

MC 106398 (Sub-979TA), filed October 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Railroad wheels and Accessories* (1) from the facilities of Griffin wheel located at Keokuk, IA to points in PA, OH, VA, AL, CO, MI, and WV and (2) from the facilities of Griffin Wheel located at Keokuk, IA to points in PA, OH, VA, AL, CO, MI, and WV and (2) from the facilities of Griffin Wheel located at Colton, GA to points in PA, OH, VA, AL, CO, MI, WV and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel, P.O. Box 68, Keokuk, IA 52632. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-980TA), filed October 5, 1979. Applicant: NATIONAL

TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Iron and Steel Articles* from the facilities of Eppic Metals, Inc. located at Chicago, IL, to points in IN, WI, KY, TN, MO, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eppic Metals, Inc., 4343 South Askley Ave., Chicago, IL 60609. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd, Oklahoma City, OK 73002.

MC 106398 (Sub-981TA), filed October 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, Oklahoma 74100. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Ventilators and Accessories* from the facilities of Penn Ventilator Company, Inc., located at Junction City, KY, to points in AL, FL, GA, NC, SC, VA, PA, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn Ventilator Co., Inc., Red Lion and Gantry, Rd. Philadelphia, PA. 19115. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd., Oklahoma City, OK 73102.

MC 106398 (Sub-982TA), filed October 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. (1) *Fabricated steel articles used in the erection and construction of electrical substations and towers, and (2) Accessories used in the installation and erection of the commodities in (1) above* from the facilities of Charles Schuler Engineering Company located at Newark, OH to points in GA, NC, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charles Schuler Engineering Company, P.O. Box 800, Newark, OH. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-983TA), filed October 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Buildings, complete, knocked down or in sections and component parts and accessories* from the facilities of United Steel Structures, Inc., located at Houston, TX to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United Steel Structures, Inc., 1201 Dairy Ashford, Houston, TX 77079. Send protests to: Connie Stanley, RM. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-984TA), filed October 1, 1979. Applicant: NATIONAL

TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Lumber, lumber mill products, paneling, plywood and building materials*, from the facilities of Galveston Wharves, located at Galveston, TX, to all points in the United States, (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Board of Trustees of the Galveston Wharves, P.O. Box 328, Galveston, TX 77553. Send protests to: Connie Stanley, ICC, RM. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-985TA), filed October 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Composition board*, from the facilities of United States Gypsum Company, located at Greenville, MS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, RI, & VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Connie Stanley, ICC, RM. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-986TA), filed October 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Lumber*, from the facilities of Smith-Evans Lumber Company, located at Rome, GA, to points in TN, AL, SC, FL, & NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Smith-Evans Lumber Company, P.O. Box 81, Rome, GA 30161. Send protests to: Connie Stanley, ICC, RM. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-987TA), filed October 2, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Iron and steel articles*, from the facilities of Midwest Steel, Division of National Steel Corporation, located at Portage, IN, to all points in the United States, (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Midwest Steel, a division of National Steel Corporation, Route 12, Portage, IN 46368. Send protests to: Connie Stanley, ICC, RM. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-53TA), filed September 27, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., PO Box 2006, High Point, NC 27261.

Representative: C. T. Harris, PO Box 999, Wilson, NC 27893. *Particleboard, fibreboard and built up woods, including faced or finished* from Towanda, PA to points in CT, IL, IN, ME, MA, MI, NH, NY, OH, RI and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Masonite Corp., PO Box 378, Waverly, VA 23890. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd Rm CC516, Charlotte, NC 28205.

MC 109689 (Sub-363TA), filed October 11, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Chemicals*, in bulk, from Casper, WY to AZ, CA, CO, ID, MT, NV, NM, OR, ND, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521. Send Protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109689 (Sub-364TA), filed October 17, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Cupric Chloride and etchants* from Minneapolis, MN and Eau Claire, WI to Casa Grande, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): IMR Corporation, P.O. Box 573, 1508 VIP Blvd., Casa Grande, AZ 85222. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109818 (Sub-69TA), filed October 9, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (1) (a) *steel bar joists*, (b) *Metal roof deck*, (c) *metal siding*, (d) *accessories for the commodities named in (a), (b) and (c)*; and (2) *iron and steel articles*, from the facilities of Nucor Corporation located at or near Norfolk, NE, to points in IL, IN, IA, MN, WI, MI, and OH and (3) *Materials, equipment, and supplies used in the manufacture of the commodities in (1) (a), (b), (c), and (d) above* (except commodities in bulk), from points in IN, IL, IA, MN, WI, MI, and OH, to the facilities of Nucor Corporation located at or near Norfolk, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nucor Corporation, P.O. Box 59, Norfolk, NE 68701. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 110988 (Sub-404TA), filed September 24, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. (1) *Rolling processing fluids, wire drawing compounds and lubricating oil* from facilities of Ironsides Company at Columbus, OH to points in PA, MD, WV, KY, AL & SC; and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities names in (1) above from points in PA, MD, WV, KY, AL, SC, NJ & TN to Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ironsides Company, 270 W. Mound St., Columbus, OH 43215. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110988 (Sub-405TA), filed October 10, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Animal fats*, in bulk, from the facilities of Lauridsen Foods, Inc., at or near Britt, IA to points in IL, IN, IA, KY, MI, MO, MN, KS, SD & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 113388 (Sub-129TA), filed September 21, 1979. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. N.W., Washington, DC 20036. *Frozen potatoes products*, from Springfield, MA to pts. in PA, MD, NY, NJ, DE, WV, OH, VA, NC, SC, GA, FL, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Del Monte Corp., 160 N. MacQuesten Parkway, Mt. Vernon, NY 10550. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113678 (Sub-844TA), filed October 3, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Frozen and chilled foodstuffs*, from Vernon, CA, and its commercial zone, to points in GA, IL and VT (representative destinations—Atlanta, Macon, Columbus, GA; Chicago, Springfield, Rockford, IL; Salt Lake City, Ogden, and Provo, UT) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alex Xlnt Foods, Inc., 2750 E. 50th St.,

Vernon, CA 90058. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-845TA), filed October 4, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Candy and confectionery products* (except commodities in bulk) from facilities of Charms, Inc., Covington, TN, to points in and west of MI, OH, KY, AR, and LA (except AK, AZ, CO, HI, ID, KS, NM, OK, OR, TX, WA and WY), for 180 days. Supporting shipper(s): Charms Company, Halls Mill Road, Freehold, NJ 07728. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-846TA), filed October 16, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Canned goods*, from Walla Walla, WA, and Milton Freewater, OR, to points in CA (representative points: San Francisco, Los Angeles, San Diego), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rogers Walla Walla, Inc., P.O. Box 998, Walla Walla, WA 99362. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113828 (Sub-277TA), filed September 24, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 3006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 21210. *Natural latex, in bulk* from Baltimore, MD to Fort Myer, FL, for 180 days. Supporting Shipper(s): The Goodyear Tire & Rubber Co., 1144 E. Market St., Akron, OH 44316. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, Pa 19106.

MC 113908 (Sub-480TA), filed September 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, G. S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Vinegar*, in bulk, from Montgomery, AL and its commercial zone, to Holland, MI and its commercial zone. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands, Inc., Vinegar Division, 1900 Brand Ave., Baltimore, MD 21209. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-481TA), filed October 5, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G. S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Fruit juice and fruit juice concentrates, in bulk*, from points in OR



and WA to Denver and Golden, CO and their commercial zones. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Mountain Vineyards, 15740 West 6th Avenue, Golden, CO 80401. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-482TA), filed October 10, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Vinegar concentrate, in bulk*, from Chicago, IL and its C.Z., to Faison, NC and its C.Z. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Standard Brands, Midwest Vinegar Div., 999 Touhy Ave., Suite 350, Des Plaines, IL 60018. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 117119 (Sub-779TA), filed September 24, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Activated carbon* (except in bulk), from Marshall, TX to points in the U.S. (except TX, AK and HI), for 180 days. Supporting Shipper(s): ICI Americas Inc., Wilmington, DE 19897. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 11789 (Sub-65TA), filed June 13, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue S., Seattle, WA 98108. Representative: Michael D. Duppenhaler, 211 S. Washington St., Seattle, WA 98104. *Frozen foodstuffs* (except in bulk in tank vehicles), from Eugene, OR and Seattle, WA to the Commercial Zones of Denver, CO and Salt Lake City, UT and points in NM for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pauls Cheesecake, Inc., 1600 S. Lane, Seattle, WA 98144. Nobel, Inc., 1101 W. 48th Avenue, Denver, CO. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 117878 (Sub-17TA), filed August 9, 1979. Applicant: DWIGHT CHEEK d.b.a. DWIGHT CHEEK TRUCKING, 4831 E. 25th Street, Amarillo, TX 79104. Representative: Joe Lanham, 801 Vaughn Bldg., 807 Brazos Street, Austin, TX 78701. *Animal feed, feed ingredients, supplements, additives, and materials used in the manufacture and promotion of animal feeds* from the facilities of Kal Kan Foods, Inc., at or near Vernon, GA; Cerritos, CA; and Irvine, CA to all points in TX, NM, OR, WA, and AZ, for 180

days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kal Kan Foods, Inc., 3386 East 44th Stret, Vernon, CA 90058. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118159 (Sub-363TA), filed September 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Container ends*, from Tampa, FL, to San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jos. Schlitz Brewing Company, 235 W. Galena Street, Milwaukee, WI 53201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118959 (Sub-243TA), filed September 28, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Plastic articles* (except in bulk), between Nicholasville, KY, on the one hand, and, on the other, points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hoover Universal Rte. #4 St. Rd. 29, Nicholasville, KY 40350. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 119399 (Sub-111TA), filed October 1, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Doris Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Animal Feed Ingredients*, from the facilities of Progressive Grain Processing Corporation, Lubbock, TX, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, MO, NE, OK, SD, TN and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Progressive Grain Processing Corporation, P.O. Box 3520, Lubbock, TX 79452. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 119968 (Sub-13TA), filed October 1, 1979. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Ave., Dover, OH 44622. Representative: Beery & Spurlock Co. LPA, 275 E. State St., Columbus, OH 43215. *Sulfuric acid in tank vehicles* from the plant site of Asarco Incorporated at Columbus, OH to points in WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Asarco Incorporated, 611 Olive St., St. Louis, MO 63101. Send protests to: I.C.C., Fed.

Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 119789 (Sub-635TA), filed October 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as above). (1) *Steel buildings, knocked down*, from Dallas, TX to points in AZ, CA, CO, NJ, NM, UT, WA, and WY; (2) *Materials and supplies used in the manufacture and distribution of steel buildings*, from AL, IL, and MO to Dallas, TX for 180 days. Supporting Shipper(s): Delta Steel Building Co., P.O. Box 20877, Dallas, TX 75220. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 120098 (Sub-35TA), filed September 12, 1979. Applicant: UINTAH FREIGHTWAYS, 1030 Redwood Road, Salt Lake City, UT 84104.

Representative: William S. Richards, Post Office Box 2465, Salt Lake City, UT 84110. *Sand*, in bulk, from Brady, TX to Roosevelt and Vernal, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): B. J. Hughs, Box 968, Roosevelt, UT 84066. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 121598 (Sub-6TA), filed October 5, 1979. Applicant: SHELBYVILLE EXPRESS, INC., Seery St., P.O. Box 187, Shelbyville, TN 37160. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. *Common carrier: regular routes: General commodities, except household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment*. 1. Between Nashville and Shelbyville, TN via US Hwy 41-A, serving all intermediate points, and points within five miles of Shelbyville as off-route points. 2. Between Shelbyville and Memphis, TN. (a) From Shelbyville via US Hwy 231 to Fayetteville, thence via US Hwy 64 to Memphis, and return over the same route, serving no intermediate points. (b) From Shelbyville via US Hwy 231 to its junction with I-24, thence via I-24 to Nashville, thence via I-40 to Memphis, and return over the same route, serving Nashville as an intermediate point. Restriction: Restricted against the handling of traffic which originated at or is destined to points in Davidson County, on the one hand, and, on the other, that which originates at or is destined to Memphis, TN, and points in its commercial zone. 3. Between Memphis, TN and Greenville, MS. From Memphis via US Hwy 61 to Clarksdale, MS, thence via MS Hwy 322 to junction with MS Hwy 1, thence via

MS Hwy 1 to Greenville, and return over the same route, serving all intermediate points between Clarksdale (including Clarksdale) and Greenville, and serving points in MS within an area bounded by the above described route between Clarksdale and Greenville, and thence from Greenville via US Hwy 82 to Greenwood, thence via MS Hwy 7 to junction MS Hwy 35, thence via MS Hwy 35 to junction MS Hwy 32, at or near Charleston, thence via MS Hwy 32 to junction with US Hwy 49-E, thence via US Hwy 49-E to junction with US Hwy 49, thence via US Hwy 49 to Clarksdale for 180 days. Supporting Shipper(s): There are (78) Shippers, their statements may be examined at the office listed below and headquarters. Send protests to: Glenda Kuss, TA, Suite A-422, U.S., Court House, 801 Broadway, Nashville, TN 37203.

Note.—Applicant proposes to tack all of said routes set out above with each other, and to interline traffic with other carriers at all authorized points, and to serve the commercial zones of all authorized points.

MC 123649 (Sub-7TA), filed September 26, 1979. Applicant: MAGILL TRUCK LINES, INC., 211 West 53rd North, Wichita, KS 67204. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Iron and steel articles* from the facilities of Bull Moose Tube Company near Gerald, MO to points in CO, KS, NE, OK & TX; for 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting Shipper: Bull Moose Tube Company, Box 214, Gerald, MO 63037. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 124078 (Sub-996TA), filed October 11, 1979. Applicant: SCHWERTMAN TRUCKING CO., 811 S. 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Limestone slurry*, in bulk, in tank vehicles from Cartersville, GA, to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson, Weinman and Company, P.O. Box 130, Cartersville, GA 30120. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 124109 (Sub-18TA), filed October 3, 1979. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. Contract carrier—irregular routes. *Foodstuffs and pet foods and materials and supplies used in the manufacture and distribution of foodstuffs and pet foods* (except commodities in bulk and frozen foods)

from points in IL, MN, NE, and WI to Cedar Rapids, IA, under contract with The Quaker Oats Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124679 (Sub-107TA), filed October 3, 1979. Applicant: C.R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same as applicant). *Malt beverages* from the facilities of Blitz Weinhard Brewing Company (Pabst Brewing Company) at Portland, OR to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gateway Dist. Co., 130 - 26th Street, Ogden, UT 84401; Carlson Distributing, 11th West 200 South, Salt Lake City, UT; Big Four Dist. Co., 304 East 900 South, Provo, UT 84601; Grant's Distributing Co., Inc., 435 North Main, Helper, UT 84528. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124579 (Sub-108TA), filed October 11, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Meat and meat products* from the facilities of Otto & Sons, Inc., at or near West Jordan, UT to points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Otto & Sons, Inc., a Division of OSI Industries, 4980 West 9470 South, West Jordan, UT 84084. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125368 (Sub-92TA), filed September 14, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., PO Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, PO Box 26, Holly Ridge, NC 28445. *Glass and glass products* from the facilities of Libbey Owens Ford Co., at or near Toledo, OH to point in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, OH 43695. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC518, Charlotte, NC 28205.

MC 125368 (Sub-93TA), filed October 16, 1979. Applicant: CONTENTAL COAST TRUCKING CO., INC., PO Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, PO Box 26, Holly Ridge, NC 28445. *Such commodities as dealt in by wholesale, retail, chain grocery and food business*

house, (except in bulk); and (b) meats, meat products, meat by-products, and articles distributed by meat packinghouses (except hides and commodities in bulk) as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 between the facilities of Inland Storage Distribution Center, Kansas City, KS, on the one hand, and, on the other, points in the US, except AK and HI, for 180 days. Supporting shipper(s): Inland Storage Distribution Center, PO Box 2249, Kansas City, Kansas 66110. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm CC518, Charlotte, NC 28205.

MC 126018 (Sub-3TA), filed October 18, 1979. Applicant: PREM-PAK INC., 1 Exeter Rd., No. Hampton, NH 03862. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Paper, paper products, and papermaking material and supplies used in the manufacture or distribution thereof, (except in bulk), between the facilities of Scott Paper Company located in PA, DE, NJ, NY, and ME, on the one hand, and, on the other, points in MA, NJ, PA, NY, CT, RI, VT, ME, NH, and DE, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Ross J. Seymour, DS, ICC, Rm 3, 6 Loudon Rd., Concord, NH 03301.

MC 126118 (Sub-200TA), filed October 3, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Electrical appliances* from the facilities of Mid-South Electric located at or near Manchester, KY to Sparks, NV and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-South Electric, Jake T. Sandlin, Production Control Manager, Route 8, Box 400, Manchester, KY 40962. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 128648 (Sub-24TA), filed September 17, 1979. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract carrier: irregular routes: (1) Railway car and locomotive wheels, iron or steel, loose or mounted on axles, with or without bearings, and (2) railway car or locomotive brake shoes*, from the facilities of Griffin Wheel Company, Div. of Amsted Industries Incorporated, at or near Bessemer, AL, Colton, CA, Bensenville and West



Chicago, IL, Keokuk, IA, and Kansas City, KS, to points in the U.S. (except AK and HI), under continuing contract(s) with Amsted Industries Incorporated. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel Company, Division of Amsted Industries Incorporated, 200 W. Monroe Street, Chicago, IL 60606. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128709 (Sub-8TA), filed September 25, 1979. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Ft. Smith, AR 72901. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. *General commodities* (except commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), serving the junction of AR Hwy. 11 and U.S. Hwy. 70 for the purpose of joinder only, for 180 days. Underlying ETA seeks 90 days authority. NOTE: Applicant intends to tack this authority with its present authority in MC 29130 and Subs No. 40, 46, 56, and 57, and intends to interline with another carrier at Memphis, Little Rock and Oklahoma City. Supporting shipper(s): Approximately 9 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 129759 (Sub-30TA), filed September 7, 1979. Applicant: TRIANGLE TRUCKING CO., P.O. Box 490, McKees Rocks, PA 15136. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contact carrier: Irregular routes: Bagged clay*, from the facilities of Floridin Co. at or near Quincy and Magnet Cove, FL and Ochlocknee, CA to pts. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Restricted to service performed under a continuing contract or contracts with Floridin Co. Supporting shipper(s): Floridin Co., 3 Penn Center, Pittsburgh, PA 15235. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19108.

MC 129908 (Sub-17TA), filed October 15, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, Oklahoma City, OK 73107. Representative: T. J. Blaylock, 8125 Southwest, 15th Street, Oklahoma City, OK 73107. *Wooden and wooden upholstered furniture, in packages*, from the facilities of Broyhill Industries in North Carolina to points in the State of MO, for 180 days. Supporting shipper(s): Broyhill Industries, Broyhill Park, Lenoir, NC. Send protests to: Connie Stanley, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 133478 (Sub-20TA), filed Oct. 1, 1979. Applicant: D G TRANSPORT, INC., 8565 S.W. Beaverton-Hillsdale Hwy., P.O. Box 25448, Portland, OR 97225. Representative: Nick I. Goyak & Peter H. Glade, One S.W. Columbia, Suite 555, Portland, OR 97258. Contract, irregular, prefinished paneling and wood and plywood materials from the facilities of Vanply, Inc. at or near Vancouver, WA to points in the United States (except Alaska and Hawaii), for 180 days. A permanent will be filed. Supporting shipper(s): Vanply, Inc., P.O. Box 720, Vancouver, WA 98660. Send protests to: R. V. Dubay, DS/ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 133689 (Sub-311TA), filed October 15, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. N.E., Blaine, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Games and toys, and equipment, materials and supplies used or useful in the manufacture and distribution of games and toys* between the facilities of Tonka Toy Corporation located at Minneapolis, MN and Mound, MN and points in their respective commercial zones on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tonka Toy Corp., Transportation Analyst, 5300 Shoreline Blvd., Mound, MN 55364. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-312TA), filed October 10, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Printed matter, equipment, materials and supplies used in the manufacture of printed matter* between the facilities of Brown Printing Company, Inc., at Waseca, MN, East Greenville, PA and Franklin, KY, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Brown Printing Co., U.S. Hwy. 14 West, Waseca, MN 56093. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-313TA), filed October 17, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from the facilities of Geo. A. Hormel & Co. at Beloit, WI to

points in AR and TN and from the facilities of Geo. A. Hormel & Co. at Austin, MN to points in AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133828 (Sub-10TA), filed October 11, 1979. Applicant: CASAZZA TRUCKING COMPANY, 1250 Glendale Avenue, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Petroleum products in bulk in tank vehicles, and in metal containers* from points in Sacramento, Contra Costa and San Joaquin Counties, CA to points in Washoe, Humboldt and Lander Counties and Carson City, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Oil Company of California, P.O. Box 7600, San Diego, CA 92138. Send protest to: W. J. Huetig, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 134978 (Sub-19TA), filed October 10, 1979. Applicant: C. P. BELUE, d.b.a., BELUE'S TRUCKING, Rt. 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Aluminum dross and aluminum scrap*, between Spartanburg County, SC, on the one hand, and, on the other, points in IN, KS, MI, OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Batchelder Blassius, Box 5503, Spartanburg, SC 29304. Send protests to: E. E., Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 135399 (Sub-17TA), filed October 15, 1979. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Aluminum Siding and Scrap Aluminum* from the facilities of Reynolds Metals Company at or near Malakoff, TX to points in and east of MT, WY, CO, and NM for 180 days. Supporting shipper(s): Reynolds Metals Company, P.O. Box 768, Malakoff, TX 75148. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135399 (Sub-18TA), filed October 17, 1979. Applicant: HASKINS TRUCKING, INC., P.O. Box 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *(1) Plastic film and plastic sheeting* from Monroe, LA to points in and east of ND, SD, NE, CO, and NM, and *(2) materials, equipment and supplies used in the manufacture*

*and distribution of plastic film and plastic sheeting* from points in and east of ND, SD, NE, CO, and NM to Monroe, LA, restricted to shipments originating at or destined to the facilities of Sun Belt Plastics, a division of Sun Belt Manufacturing, Inc., for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Sun Belt Plastics, a div. of Sun Belt Manufacturing, Inc., P.O. Box 7400, Monroe, LA 71203. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor St., 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 135678 (Sub-8TA), filed October 17, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, 1411 N. Classen, Oklahoma City, OK 73106. *(a) Household Appliances, and (b) parts and accessories for household appliances* from the facilities of General Electric Co. at Little Rock, AR to all points in Oklahoma, New Mexico and Texas, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Co., 6901 Lindsey Road, Little Rock, AR 72206. Send protests to: Connie Stanley, Rm 200, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135989 (Sub-10TA), filed October 17, 1979. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Avenue, Chino, CA 91710. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, Colorado 80809. *Contract; Irregular; (1) plastic pipe and fittings and (2) materials, supplies and equipment used in the manufacture of plastic pipe and fittings*, (1) from Asheville, NC and Los Angeles, CA to points in the United States and (2) from Deer Park, TX, Baton Rouge, LA, Perth Amboy, NJ, and Erie, PA to Asheville, NC and Los Angeles, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Orangeburg Plastics Company, Manufacturing Manager, 2101 E. Washington Boulevard, Los Angeles, CA 90021. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 136828 (Sub-30TA), filed October 9, 1979. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, AL 35233. Representative: Ocie Cook, Jr. (same address as applicant). *Iron and steel articles* from Baytown, TX to all points in AL, AR, FL, GA, LA, MS, TN, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to:

Mabel E. Holston, T/a, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138308 (Sub-83TA), filed October 11, 1979. Applicant: KLM, INC., P.O. Box 6098, Old Hwy. 49 S., Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *New furniture parts* from the facilities of Kroehler Mfg. Co. at or near San Bernadino, CA to Dallas, TX; Meridian, MS; Charlotte, NC; Binghamton, NY; Kankakee (Bradley), IL; and Welcome, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kroehler Mfg. Co., 222 East Fifth Ave., Naperville, IL 60540. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138568 (Sub-5TA), filed October 16, 1979. Applicant: CROSS TRANSPORTATION, INC., 100 Factory St., Lewis, KS 67552. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Contract carrier Part 1 (A) Hydraulic cylinders, fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof; (B) Equipment materials and supplies used in the manufacture of hydraulic cylinders, fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof*. Between points in the 48 contiguous U.S. and the facilities of Cross Mfg. Inc., at or near LaJunta, CO and Heidelberg, MS. Part 3 *Hydraulic cylinders fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof* between facilities of Cross Mfg., Inc. at or near LaJunta, CO and Heidelberg, MS and points within the 48 contiguous U.S. Under contract with Cross Manufacturing, Inc., Lewis, KS. Part 1 *Bulk fertilizer handling equipment (except farm implements), bulk storage equipment and trenchers and component parts thereof* between facilities of R & R Industries, Inc., at or near Pratt, KS and points and places in the 48 contiguous U.S. Part 2 *Equipment, materials and supplies used in the manufacture of bulk fertilizer handling equipment (except farm implements), bulk storage equipment and trenchers and component parts thereof* between points in the 48 contiguous U.S. and the

facilities of R & R Industries, Inc. at or near Pratt, KS. Under contract with R & R Industries, Inc. of Pratt, KS, for 180 days, irregular routes; Supporting shippers: Cross Manufacturing, Inc., 100 Factory St., Lewis, KS 67552 and R & R Industries, Inc., P. O. Box 924, Pratt, KS 67124; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 140829 (Sub-325TA), filed October 18, 1979. Applicant: CARGO INC., P. O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as above. *Wire, cable and tape; materials, equipment and supplies utilized in the manufacture and distribution of wire, cable and tape (except in bulk, in tank vehicles)* from points in CT, MA and RI to Siloam Springs, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brand-Rex, Charles R. Bowers, Traffic Manager, P. O. Box 498, Willimantic, CT 06226. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140259 (Sub-100TA), filed September 24, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Ovens, furnaces, washers, conveyors and parts*, from Franklin, WI to Jackson, MS; New Haven, CT; Indianapolis, MN; Houston, TX; Pittsburgh, PA and Menomonee, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Heat Equipment, Inc., 9800 South 60th Street, Franklin, WI 53132. Send protests to: Annie Booker, TA, IC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 141489 (Sub-7TA), filed October 4, 1979. Applicant: HUNTER TRUCKING, INC., 805—32nd Avenue, Council Bluffs, IA 51501. Representative: Kenneth P. Weiner, 408 Executive Bldg., Omaha, NE 68102. *Lumber and lumber products* from Fredonia, Payson and Whiteriver, AZ; Craig and Eagle, CO; and Panguitch, UT to points in AR, IL, IA, KS, KY, MO, NE, TN, TX and OK for 180 days. Supporting shipper(s): Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036, John C. Kalisiak, Traffic Coordinator. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141969 (Sub-11TA), filed October 16, 1979. Applicant: MOBILE TRANSPORT, INC., 1555 Tremont Place, P.O. Box 17-B, Denver, CO 80217. Representative: Richard P. Kissinger, 50 South Steele St., Suite 330, Denver, CO 80209. *(1) Commodities which, by reason of size or weight require special*



handling or the use of special equipment, and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which, by reason of size or weight, require special handling or the use of special equipment; (2) Selfpropelled articles, each weighing 15,000 pounds or more, transported on trailers, and related machinery, tools, parts and supplies moving in connection therewith; and (3) Iron and steel articles as described in Appendix V, Ex Parte No. MC-45, in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, between points in CA on the one hand and on the other, points in AZ, CO, ID, MT, NV, NM, OR, UT, WA and WY for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Applicant supports to minimize fuel usage; provide more efficient service. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 142508 (Sub-119TA), filed September 21, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Barbecue grills and camping equipment* from Neosho, MO to points in and west of ND, SD, NE, KS, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neosho Products Company, D.A. Marty, Traffic Manager, P.O. Box 622, Neosho, MO 64850. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142519 (Sub-8TA), filed September 17, 1979. Applicant: DELIVERY SERVICE CORPORATION, 5000 Wyoming Avenue—Suite 218, Dearbon, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier: irregular routes: Chemicals, plastics, and materials and supplies distributed by manufacturers of chemicals and plastics*, from the facilities of Dow Chemical Corporation in LA to points in IL, IN, KY, MI, MN, MO, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical U.S.A., P.O. Box 150, Plaquemine, Louisiana 70764. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142619 (Sub-5TA), filed September 18, 1979. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale, Illinois 60108. Representative: Edward J. Kiley, 1730 M

Street, NW., Washington, D.C. 20038. *Contract carrier: irregular routes: Steel and aluminum pipe and tubing, and materials, supplies and equipment used in the transportation, sale and distribution of pipe and tubing*, between the facilities of Tubesales at or near Houston and Dallas, TX, on the one hand, and, on the other, the facilities of Tubesales at or near Los Angeles, CA; Carol Stream, IL; Atlanta, GA; and Cranberry, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tubesales, Carol Stream, IL. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142909 (Sub-7TA), filed October 1, 1979. Applicant: TIMBER TRUCKING, INC., 4100 South West Temple, Salt Lake City, UT 84107. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Salt, in bulk, from UT to WA, OR, MT, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leslie Salt Co., 868 W. 2600 S., Salt Lake City, UT 84119 Bonanza Salt Company, P.O. Box 2369, Salt Lake City, UT 84110.

MC 144258 (Sub-2TA), filed September 13, 1979. Applicant: PINEWOOD TRANSPORT, INC., P.O. Box 311, Glenwood, AR 71943. Representative: William G. Wright, P.O. Drawer 947, Arkadelphia, AR 71923. *Contract Carrier over irregular routes: Wood chips, dust, bark and residuals* in bulk from the Georgia-Pacific Plant at Glenwood, Pike County, AR, to Weyerhaeuser Company plants at Craig and Valiant, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, Georgia-Pacific St., Glenwood, AR 71943. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144678 (Sub-12TA), filed September 26, 1979. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Suite 500, Overland Park, KS 66210. Representative: Harold H. Clokey (same as applicant). *General commodities (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving the facilities of Tridon, Inc., at or near Smyrna, TN as an off-route point in connection with carrier's otherwise authorized regular route service. Applicant proposes to tack sought authority with its other authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tridon, Inc., P.O. Box 65, Smyrna, TN 37187. Send protests to: Vernon Coble D/S, 600

Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 144688 (Sub-38TA), filed September 4, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale, retail and chain grocery and foods business houses (except frozen commodities and commodities in bulk)* (1) from the facilities of Hunt-Wesson Foods, Inc., at or near Atlanta, GA to points in TN and KY (2) from the facilities of Hunt-Wesson Foods, Inc., at or near Jacksonville, FL to points in FL, GA and SC., for 180 days. Supporting shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 61770, New Orleans, LA 70161. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144989 (Sub-11TA), filed September 13, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Carpeting, carpet remnants, or rugs and other articles manufactured and used in the carpet industry, including yarn, padding, jute or sisal; also material used in the manufacture of carpets, carpeting or rugs (except in bulk)* between Dalton, GA and points in AL, AZ, FL, MS, NM, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cavalier Carpets, Inc., 910 S. Green St., Dalton, GA 30720. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 144989 (Sub-12TA), filed October 2, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Household and commercial laundry and kitchen appliances and related repair parts (except in bulk)*, between Newton, IA, and to points in AZ, CA, NV, ID, WA, OR, UT, FL, GA, AL, MS, SC, and NC, for 180 days. An underlying ETA seeks 90 days authority. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 145468 (Sub-24TA), filed October 19, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meats and packinghouse products

from the facilities of Custom Beef Fabricators of Iowa, Inc. at Hartley, IA to points in FL and GA (Representative points: Miami, FL and Atlanta, GA) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Custom Beef Fabricators of Iowa, Inc., P.O. Box 58, Hartley, IA 51346. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145468 (Sub-25TA), filed October 19, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meats, meat products; meat by-products, and articles distributed by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, C, and D of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) between the facilities of Armour and Company at Mason City, IA and the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the US in and east of MT, WY, CO, and NM, restricted to traffic originating at and destined to points in the above described territory. (Representative points include virtually all major cities in the states involved) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Towers, Phoenix, AZ 85077. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145688 (Sub-3TA), filed October 10, 1979. Applicant: FARMINGDALE TRUCKING CORPORATION, 22 Carnegie Drive, Smithtown, NY 11787. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh St., N.W., Washington, D.C. 20001. *Contract Carrier, irregular routes: Wines and liquors, in containers*, from the port of Baltimore, MD, to points in OH; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Banfi Products, Inc., 200 Sherwood Drive, Farmingdale, NY 11735. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 1007.

MC 146128 (Sub-8TA), filed October 10, 1979. Applicant: MERRITT FOODS COMPANY d.b.a. MERRITT REFRIGERATED SERVICES, 2840

Guinotte, Kansas City, MO 64141. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Confectionery, in mechanically refrigerated equipment*, from the facilities of Peter Paul Cadbury, Inc. at Frankfort, IN, to points in the commercial zones of Kansas City, MO and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Paul Cadbury, Inc., New Haven Ave, Naugatuck, CT 06770. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 146149 (Sub-14TA), filed September 10, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Clay absorbents*, (except commodities in bulk), from Wrens and Ochlocknee, GA and Quincy and Lowell, FL to pts. in MI, IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Auburn Automotive Supply Co., 1818 Sprott St., Auburn, IN 46706. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 146349 (Sub-1TA), filed September 20, 1979. Applicant: D. D. & B. TRUCKING, INC., R.R. #1, Shoals, IN 47581. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract Carrier: Irregular Routes: (1) Railroad cross-ties and lumber* from Winslow, IN to points in IL, IA, KS, KY, MN, MO, MI, OH, PA, TN, WV and WI; (2) *creosote, in bulk, in tank vehicles*, from points in OH to Winslow, IN; (3) *iron and steel articles* from Bedford Park, IL, Plymouth, MI and Sheffield, OH to points in IL, IN, IA, KS, KY, MN, MO, MI, OH, PA, TN, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. B. Fost Company, 1111 E. Touhy Avenue, Des Plaines, IL 60018. Send protests to: Beverly J. Wil Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 147148 (Sub-1TA), filed October 3, 1979. Applicant: GOLDEN TRIANGLE TRANSPORTATION, INC., Highway 82 E., Columbus, MS 39701. Representative: G. Lowrey Lucas, P.O. Box 1615, Jackson, MS 39205. *Contract carrier: Irregular routes: Titanium dioxide (pigment)* from Hamilton and Tupelo, MS to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr-McGee Chemical Corp., P.O. Box 25861, Kerr-McGee Center, Oklahoma City, OK 73125. Send protests to: Alan Tarrant,

D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 147858 (Sub-1TA), filed July 23, 1979. Applicant: SEA-TAC INTERNATIONAL WAREHOUSE, INC., 20 S. Idaho, Seattle, WA 98134. Representative: William H. Grady, 1100 Norton Building, Seattle, WA 98104. *General commodities, (except those of unusual value and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading)*, within the Seattle Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morflot & Fesco, 1505 Norton Bldg., Seattle, WA 98104; Kerr Steamship Company, 1001-4th Ave., Seattle, WA 98154; Eckert Overseas Agency, Inc., Seattle Tower, 1218 3rd Ave., Seattle, WA 98101. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 174998 (Sub-1TA), filed September 10, 1979. Applicant: STEVE POPE ENTERPRISES, INC. d.b.a. CRAIN WRECKER SERVICE, 344 Kathleen Drive, Marietta, GA 30065. Representative: Sue Foster, 507 Whistle Stop Drive, Woodstock, GA 30188. *Wrecked and disabled tractors and trailers, Mobile Homes and including those designed to be drawn by passenger vehicles, and trucks in secondary movements* AL, FL, GA, KY, MS, NC, SC, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frito-Lay Company, 4950 P'Tree Ind. Blvd., Chamblee, GA 30341; Consolidated Freightways, 2590 Campbell Road, Ellenwood, GA 30049; Ryder Truck Lines, Inc., 2300 Jonesboro Rd., Atlanta, GA. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 147999 (Sub-1TA), filed August 21, 1979. Applicant: J. R. THOMPSON, INC., Rt. 1, Haw River, NC 27258. Representative: Roger P. Ingram, Sr., P.O. Box 958, Graham, NC 27253. *Contract Carrier-Irregular routes: Lumber and lumber products* from Graham & Mebane, NC to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sawyer Lumber Co., Rt. 1, Haw River, NC; Walton Lumber Co., Box 218, Mebane, NC 27302. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 148149 (Sub-1TA), filed October 1, 1979. Applicant: INDUSTRIAL TRUCKING CO. INC., 382 Newbury



Street, Danvers, MA 01923.

Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109.

*Chemicals, in bulk, in containers, and in bags* 1) between Peabody, Beverly and Salem, MA, on the one hand, and, on the other, points in ME, and New York, N.Y.; 2) from Peabody, Beverly and Salem, MA to points in RI, NH, VT, NY, NJ and CT; and 3) from points in NJ to points in MA, NH, RI, and CT. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leon E. Monnier, Inc., 60 Pulaski St., P.O. Box 606, Peabody, MA 01960. Hamblet & Hayes Co., Colonial Road, Salem, MA 01970. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 148348 (Sub-1TA) filed September 25, 1979. Applicant: GILBERT FONT d.b.a., FONT TRUCKING COMPANY, Route 2, Hartford, AL 36344. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Lumber, lumber and forest products, and particle boards*, from Geneva, Covington, Houston and Escambia Counties, AL, on the one hand, and to points in the United States (except AK and HI), on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Casey Bros. Lumber Mills, Inc., Slocumb, AL 36375. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 148348 (Sub-2TA) filed September 25, 1979. Applicant: GILBERT FONT d.b.a., FONT TRUCKING COMPANY, Route 2, Hartford, AL 36344. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Plastic pipe, plastic pipe fittings, and connections, valves, and materials and supplies used in the installation thereof*; except commodities in bulk, from Geneva County, AL to points in the United States (except AK and HI) (2) *Materials and supplies used in the manufacture of commodities named in (1) above*, (except commodities in bulk), from points in the United States to Geneva County, AL; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Samson Plastic Conduit & Pipe Corp., 100 Industrial Drive, Samson, AL 36477. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 148349 (Sub-1TA), filed September 28, 1979. Applicant: AGRI PECK, INC., P.O. Box 86, Garneill, MT 59445. Representative: Harry B. Peck (same address as applicant). *Dry animal and poultry feed and feed ingredients*, in

bags and in bulk, from Great Falls and Billings, MT to Deeth, Montello, Wells and Elko, NV; and from Twin Falls, Burley and Pocatello, ID, Moses Lake, Wallula, Sunnyside, Spokane, Tacoma, Seattle and Blaine, WA and Portland, OR to all points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilbur Ellis Company, 1200 Westlake Ave N., No. 1000, Seattle, WA 98109, Big Sky Feed & Supply, Inc., 601-8th Ave. North, Great Falls, MT 59403. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 148369 (Sub-1TA), filed October 3, 1979. Applicant: WALTER J. GRIFFIN, JR., Box 327, Monroe, NC 28110. Representative: W.G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Textiles and textile products* between the facilities of Southern Industries located at or near Danville, VA and Jersey City, NJ and points in CA, FL and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Southern Industries, Inc., 1805 Williamsbridge Rd., Bronx, NY. Send protests to: Sheila Reece, T/A 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 148378 (Sub-1TA), filed October 2, 1979. Applicant: STOVER TRUCK LINE, INC., 809 E. Court, Beloit, KS 67420. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Dry animal and poultry feed* from Mitchell County, KS to points in NE; *Dry animal and poultry feed ingredients* from points in NE and MO to points in Mitchell Co., KS; *Blood meat and bone meal in bulk* from Liberal, KS to points in MO, OK, TX, NM, AR, TN, CO, NE, IL, AZ and IA; for 180 days, common, irregular. Supporting Shippers: National Beef Packing Company, Liberal, KS 67901 and Farmland Industries, Inc., 3315 N. Oak Trafficway, Kansas City, MO 64116; Send Protests to: M.E. Taylor, DS, ICC, 101 Litwing Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 148388 (Sub-1TA), filed September 25, 1979. Applicant: R.I.C. FREIGHT FORWARDERS, INC., 42 Sycamore Road, Jersey City, NJ 07305. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from the facilities of LAWI/CSA Consolidators, Inc. in Jersey City, NJ and New York, NY to the facilities of LAWI/CSA Consolidators, Inc. in Vernon and Oakland, CA and Phoenix and Tucson, AZ for 180 days. Supporting

shipper(s): LAWI/CSA Consolidators, Inc., P.O. Box 10100, Glendale, CA 91209. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148399 (Sub-1TA), filed October 3, 1979. Applicant: C. M. KILLION D/B/A C. M. KILLION TRUCKING CO., 4001 Dumont, Odessa, TX 79762. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, Lubbock, TX 79408. *Oilfield equipment and supplies pursuant to the Mercer description* between points in Ector, Andrews, Midland, Crane, Winkler, Ward, Reeves, Pecos, Gaines, Upton and Reagan Counties, TX, and points in NM, OK and LA for 180 days. Underlying ETA filed. Supporting shipper(s): There are seven (7) supporting shippers. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 148588, filed October 4, 1979. Applicant: LEROY COTTON d.b.a., RED CARPET BUS (CHARTER) LINES, 278 Regent Circle, Inglewood, CA 90301. Representative: Leroy Cotton (same address as above). *Passengers and baggage of passengers in same vehicle. Special and charter operations are both proposed*, Los Angeles, Orange, Ventura, Riverside, San Diego, San Bernardino and Kern Counties to or between: WA, OR, AZ, NM, TX, OK, NV, CT, ID, UT, for 180 days. Supporting shipper(s): There are approximately 10 supporting shippers. Send protests to: Irene Carlos, TA, ICC, Room 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148589, filed October 3, 1979. Applicant: STOREY TRUCKING COMPANY, INC., P.O. Box 128, Henegar, AL 35978. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Contract, Irregular: (1) *Synthetic yarn* from Stevenson, AL and Jackson, GA to all points in CA; (2) *Synthetic yarn* from Carroll, Floyd, and Polk counties, GA to points in CA and NC; (3) *Carpet* from Catoosa County, GA to all points in the U.S. (except AK and HI) west of the States of MS, TN, VA, WV, and PA; (4) *Synthetic yarn* from Boaz and Guntersville, AL to points in CA; (5) *Paper, plastic and textile bags and materials and supplies used in the manufacture and distribution of paper, plastic, and textile bags*: (1) between the facilities of Chase Bag Company located at Crossett, AR; Goshen, IN; New Orleans, LA; Chagrin Falls, OH; and Toledo, OH; (2) from Crossett, AR; Nashville, GA; Goshen, IN; New Orleans, LA; Chagrin Falls, OH and Toledo, OH to points in CA, IA, OR, and

WA; for 180 days. Supporting shipper(s): There are "6" Supporting Shippers, all of which can be examined at the Washington, DC Office or, Birmingham, AL Field Office. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 112049 (Sub-No. 21TA), filed July 5, published in the Federal Register September 7, 1979 and republished this issue. Applicant: McBride's Express, Inc., East Route 316, Mattoon, IL 61938. Representative: Guy H. Boles, 433 Thatcher Avenue, St. Louis, MO 63147. By order entered November 9, 1978, the Motor Carrier Board granted applicant 180 day temporary authority to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Clinton, IL and St. Louis, MO; and points in their respective commercial zones: From Clinton over Illinois Hwy 54 to junction Illinois Hwy 54 and Interstate Hwy 55 near Springfield, IL, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Bissell, Barclay, Buffalo Hart, Cornland, Chestnut, Lake Fork and Mt. Pulaski. From Clinton over U.S. Hwy 51 to junction U.S. Hwy 51 and Illinois Hwy 16, then over Illinois Hwy 16 to junction Illinois Hwy 16 and Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Osprey, Maroa, and Emery, IL, (2) Between Lincoln, IL and St. Louis, MO; and points in their respective commercial zones: From Lincoln over Interstate Hwy 55 to St. Louis and return over the route, serving the intermediate points of Middletown, Broadwell, Elkhart, Fancy Prairie, Williamsville, Sherman and Spaulding, IL. From Lincoln over Illinois Hwy 121 to junction Illinois Hwy 121 and Illinois Hwy 48 near Decatur, IL, then over Illinois Hwy 48 to junction Illinois Hwy 48 and Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Warrensburg, Latham, and Mt. Pulaski. Applicant is authorized to interline at St. Louis, MO. Supporting shipper—50 supporting shippers. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. Purpose of this republication is to show the

applicant's intent to interline at St. Louis, MO.

#### Notice No. 204

Nov. 16, 1979

MC 200 (Sub-405TA), filed October 3, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Rough castings*, Between Chattanooga, TN and Siloam Springs, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webb Wheel Divn, P.O. Box 8, Lebanon, IN 46052. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 2900 (Sub-404TA), filed October 12, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: Paul Dixon (same address as applicant). (1) *Raw or refined sugar in containers or trailers in bulk restricted to the transportation of shipments having prior or subsequent movement by water*, (2) *empty containers*, between Savannah, GA, and Jacksonville, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crowley Maritime Corporation, P.O. Box 2110, Jacksonville, FL 32203. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 3281 (Sub-15TA), filed November 2, 1979. Applicant: POWELL TRUCK LINE, INC., 800 S. Main St., Searcy, AR 72413. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Hydraulic pumps, hydraulic cylinders, and machinery and equipment related thereto, between Benton, AR on the one hand, and on the other, Memphis, TN, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline at Memphis, TN. Supporting shipper(s): Commercial Shearing, Inc., P.O. Box 239, Youngstown, OH 44501. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 4941 (Sub-83TA), filed October 11, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Paper and paper products* from the facilities of Lincoln Pulp & Paper Co., Inc. at Lincoln, ME to points in Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, North Carolina, Ohio, Virginia, and Wisconsin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lincoln Pulp & Paper Co., Inc., P.O. Box

155, Lincoln, ME 04457. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 4941 (Sub-84TA), filed October 2, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Wallboard, building board, insulation board, fiberboard, composition board and pulpboard*, from the facilities of the United States Gypsum Company at Auburn, ME to points in DE, IL, IN, MD, MI, NC, NJ, NY, OH, PA, SC, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 5470 (Sub-204TA), filed September 24, 1979. Applicant: TAJON, INC., R.D. No. 5, Mercer, PA 16137. Representative: Mary-Chutz Eshenbaugh, R.D. No. 5, Mercer, PA 16137. *Decorative stone and landscaping materials in dump vehicles* between points in the U.S. except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Old Dutch Materials, 350 Pfingsten Road, Northbrook, IL 60062. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 5470 (Sub-207TA), filed October 19, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Richard W. Sanguigni, (same as applicant). *Scrap carbon, in dump vehicles* from Alcoa, TN and Florence, AL to New Castle, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. W. Elliott & Sons, Inc., R.D. 1 Box 242, Ellwood City, PA 16117. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 5881 (Sub-1TA), filed October 15, 1979. Applicant: UNDERFANGER MOVING & STORAGE, INC., White Oaks Business Park, 3601 W. Mayflower Blvd., R.R. #4, Springfield, IL 62707. Representative: Douglas C. Brown, P.C. The INB Center—Suite 555, Springfield, IL 62701. *Used household goods*, from IL on the one hand, and, on the other hand, IN, IA, MO, NJ, NY and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Illinois Bell Telephone Company, 225 W. Randolph St., 26B, Chicago, IL 60606. The Horace Mann Insurance Companies, 1 Horace Mann Plaza, Springfield, IL 62715. Send protests to:



Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 7840 (Sub-23TA), filed April 24, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: Werner Steinaker, 650 Cooper St., Watertown, NY 13601. 1. *Paper and paper products and materials, equipment and supplies used and useful in the manufacture and shipping of paper and paper products, and 2. Plastic film and materials, equipment and supplies, used and useful in the manufacture and shipping of plastic film.* 1. Between Carthage, NY, South Glens Falls, NY, Florence, KY and Newark, DE, on the one hand, and, on the other, points in CT, DC, DE, IL, IN, IA, KY, MA, MD, ME, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT and WV, and 2. Between Greensburg, IN and New Castle, DE on the one hand, and, on the other, points in the 23 states mentioned in 1 above, for 180 days. ETA for 30 + 2 granted under R-15 with effective date of April 5, 1979. Supporting shipper(s): Crown-Zellerbach Corp., Mr. Dan Pryor, Transportation Analyst, Eastern District Transportation Office, 8966 Latty Road, Berkeley, MO 63134. Send protests to: Interstate Commerce Commission, 87 State Street—Room 303, P.O. Box 548, Montpelier, VT 05602.

MC 7840 (Sub-24TA), filed October 1, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Werner J. Steinaker, 650 Cooper Street, Watertown, NY 13601. Foundry sand and foundry sand additives from Columbus, OH to Watertown, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Colloids, Inc., 5100 Suffield Court, Skokie, IL. Send protests to: Interstate Commerce Commission, 87 State Street—Room 303, P.O. Box 548, Montpelier, VT 05602.

MC 7840 (Sub-25TA), filed October 18, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Werner J. Steinaker, (same address as applicant). *Feed and feed ingredients*, from Circleville, OH to points in NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company Milling Division, 327 East Mill Street, P.O. Box 380, Circleville, OH 43113. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 13651 (Sub-22TA), filed October 9, 1979. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th Street, Long Beach,

CA 90813. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Such commodities as are dealt in or used by (1) wholesale and retail grocers and food business houses, and (2) discount and variety stores, between points in California, Oregon, Washington, Arizona and Nevada, for 180 days.* An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 10 supporting shippers. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 19550 (Sub-6TA), filed October 10, 1979. Applicant: OBSERVER TRANSPORTATION COMPANY, INC., PO Box 34245, Charlotte, NC 28234. Representative: Joseph F. Radovanic, PO Box 34245, Charlotte, NC 28234. *General commodities in packages over 100 and 250 pounds between Charlotte, NC and points in North and South Carolina, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 22311 (Sub-25TA), filed October 1, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow (same address as applicant). *Railway track equipment, materials and supplies and iron and steel articles, between points in IL, MN, MI, TN, GA, IN, WI, OH, KY, PA, MO, IA, TX, OK, WV and VA: Restricted to shipments originating at or destined to the facilities of Hyman Michaels Company, A Division of Azcon Corporation for 180 days.* Supporting shipper(s): Hyman Michaels Company, A Division of Azcon Corporation, 180 North LaSalle Street, Chicago, IL 60601. Send protests to Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 35320 (Sub-360TA), filed September 19, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as above). *Common, regular route, General Commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Minneapolis/St. Paul, MN and San Antonio, TX. From Minneapolis over I-35 to San Antonio serving the intermediate points of Kansas City, KS; Kansas City, MO; Oklahoma City, OK;*

Dallas, TX; and Fort Worth, TX and return over the same route for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to tack its authority. It intends to interline with other carriers at points on regular route it is authorized to serve. Supporting shipper(s): Alternate route for the elimination of needless miles as well as fuel savings. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 60430 (Sub-29TA), filed September 20, 1979. Applicant: FRIEDMAN'S EXPRESS, INC., P. O. Box 480, Wilkes-Barre, PA 18773. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005. *Common; regular General Commodities, Except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Northumberland, PA and Williamsport, PA serving all intermediate points and the off route points of Hughesville, Montgomery, Turbotville, and Watsontown, PA. From Northumberland, PA over PA Hwy. 147 to Junction U.S. Hwy. 220, then over U.S. Hwy 220 to Williamsport, PA and return over the same route. Between Williamsport, PA and Northumberland, PA serving all intermediate points. From Williamsport, PA over U.S. Hwy. 15, then over U.S. Hwy. 11 to Northumberland, PA and return over the same route. Between Schuylkill Haven, PA and Pine Grove, PA serving all intermediate points. From Schuylkill Haven, PA over PA Hwy. 443, to Pine Grove, PA and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under docket number MC 60430. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 78400 (Sub-77TA), filed November 2, 1979. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg. St. Louis, MO 63101. (1) *Milking machines, peening machines, tanks, and industrial cleaning equipment (except commodities requiring special equipment), from Washington and Berger, MO to points in and east of ND, SD, NE, KS, OK, and TX: and, (2)*

*Materials and supplies used in the manufacture and distribution of commodities in (1) above, in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zero Manufacturing Company, 811 Duncan Ave., Washington, MO 63090. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.*

MC 93840 (Sub-53TA), filed October 15, 1979. Applicant: GLESS BROS., INC., P. O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Salt from the facilities of International Salt Company at Chicago, IL, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Salt Company, 1414 Rockefeller Bldg., 614 Superior Ave., Cleveland, OH 44113. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 93980 (Sub-83TA), filed October 9, 1979. Applicant: VANCE TRUCKING CO., INC., P.O. Box 1119, Henderson, NC 27536. Representative: Jim K. Wyatt, P.O. Box 1119, Henderson, NC 27536. *Lumber and building materials from Henniker, NH to GA, FL and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Log Systems, Inc., Box 101, West Chesterfield, NH 03466. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.*

MC 93980 (Sub-84TA), filed October 9, 1979. Applicant: VANCE TRUCKING CO., INC., P.O. Box 119, Henderson, NC 27536. Representative: Jim K. Wyatt (Same as above). *Lumber and lumber products from facilities utilized by Lawrence R. McCoy Co., in VA to points in NJ, DC, MD, PA, NY, OH, DE, CT, MA, RI, NH, VT and ME, for 180 days. A corresponding ETA has been filed. Supporting shipper(s): Lawrence R. McCoy Company, 120 Front St., Worcester, MA. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.*

MC 94201 (Sub-185TA), filed October 26, 1979. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chattanooga, TN and Chicago, IL (a) from Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to*

Hopkinsville, KY, then over U.S. Hwy. 41 to Chicago, and return over the same route, (b) From Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to Hopkinsville, KY, then over U.S. Hwy. 41 to junction Interstate Hwy. 64 (also over U.S. Hwy. 41 to junction U.S. Hwy. 51, then over U.S. Hwy. 51 to Bloomington, IL, then over U.S. Hwy. 66 to Chicago, and return over the same route, (c) from Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to Hopkinsville, KY, then over U.S. Hwy. 41 to junction Interstate Hwy. 64 (also over U.S. Hwy. 41 to junction U.S. Hwy. 460), then over Interstate Hwy. 64 (also over U.S. Hwy. 460) to junction Interstate Hwy. 57, then over Interstate 57 to Chicago, and return over the same route; (2) between Chattanooga, TN, and Indianapolis, IN, from Chattanooga, TN, over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over U.S. Hwy. 31-W to junction U.S. Hwy. 31 then over U.S. Hwy. 31 to Indianapolis (also over Interstate Hwy. 65 to Indianapolis), and return over the same route; (See attached), (3) between Chattanooga, TN, and Cincinnati, OH, from Chattanooga to Nashville, TN, as specified above, then over U.S. Hwy. 31-W (also over Interstate Hwy. 65) to Louisville, KY, then over Interstate Hwy. 71 (also over U.S. Hwy. 42) to Cincinnati, and return over the same route; (4) between Chattanooga, TN, and Louisville, KY, (A) from Chattanooga to Louisville as specified above and return over the same route, (b) from Chattanooga over U.S. Hwy. 27 (also over Interstate Hwy. 75) to Lexington, KY, then over U.S. Hwy. 60 (also over Interstate Hwy. 64) to Louisville, and return over the same route, (c) from Chattanooga over U.S. Hwy. 27 to junction U.S. Hwy. 150 at Stanford, KY, then over U.S. Hwy. 150 to Danville, KY, then over U.S. Hwy. 127 to junction Interstate Hwy. 64 to Louisville, and return over the same route; (5) between Chattanooga, TN, and Cleveland, OH, from Chattanooga over U.S. Hwy. 27 (also over Interstate Hwy. 75) to Lexington, KY, then over U.S. Hwy. 25 (also over Interstate Hwy. 75) to Cincinnati, then over U.S. Hwy. 42 (also over Interstate Hwy. 71) to Cleveland, OH, and return over the same route; (6) between Jackson, TN, and Chicago, IL, (a) from Jackson over U.S. Hwy. 45 to intersection U.S. Hwy. 45E and 45W approximately 6 miles southeast of Humboldt, TN, then over U.S. Hwy. 45W to junction U.S. Hwy. 51, then over U.S.

Hwy 51 to Bloomington, IL, then over U.S. Hwy. 66 to Chicago, and return over the same route, (b) from Jackson over U.S. Hwy. 45 to intersection U.S. Hwy. 45E and 45W, approximately 6 miles southeast of Humboldt, TN, then over U.S. Hwy. 45W to junction U.S. Hwy. 51, then over U.S. Hwy. 51 to Mendota, IL, then over U.S. Hwy. 34 to Chicago, and return over the same route; (7) between Jackson, TN and Evansville, IN, from Jackson over U.S. Hwy. 45 to Intersection U.S. Hwy. 45E and 45W, approximately 6 miles southeast of Humboldt, TN, then over U.S. Hwy. 45E to junction U.S. Hwy. 45, then over U.S. Hwy. 45 to junction U.S. Hwy. 60, then over U.S. Hwy. 60, at or near Paducah, KY, then over U.S. Hwy. 60 to junction U.S. Hwy. 41, at or near Evansville, IN, then over U.S. Hwy. 41 to Evansville, and return over the same route; (8) between Memphis, TN, and Chicago, IL, (a) from Memphis over U.S. Hwy. 51 to Bloomington, IL, then over U.S. Hwy. 66 to Chicago, and return over the same route, (b) from Memphis over U.S. Hwy. 51 to Mendota, IL, then over U.S. Hwy. 34 to Chicago, and return over the same route, (c) from Memphis over Interstate Hwy. 55 to Chicago, and return over the same route, (d) from Memphis over Interstate Hwy. 55 to junction Interstate Hwy. 57, at or near Sikeston, MO, then over Interstate Hwy. 57 to Chicago, and return over the same route; (9) between Memphis, TN, and Indianapolis, IN from Memphis over Interstate Hwy. 55 to junction Interstate Hwy. 57, at or near Sikeston, MO, then over Interstate Hwy. 57 to junction Interstate Hwy. 70, at or near Effingham, IL, then over Interstate Hwy. 70 to Indianapolis, and return over the same route; (10) between Knoxville, TN, and Chicago, IL, from Knoxville over Interstate Hwy. 75 to Lexington, KY, then over Interstate Hwy. 64 to Louisville, KY then over Interstate Hwy. 65 to Chicago, and return over the same route; (11) between Knoxville, TN, and Louisville, KY, from Knoxville over Interstate Hwy. 75 to Lexington, KY, then via Interstate Hwy. 64 to Louisville, and return over the same route; (12) between Knoxville, TN, and Cleveland, OH, from Knoxville over Interstate Hwy. 75 to Cincinnati, OH, then via Interstate Hwy. 71 to Cleveland, and return over the same route; (13) between Bristol, TN, and Louisville, KY, from Bristol over U.S. Hwy. 421 to Lexington, KY, then via Interstate Hwy. 64 to Louisville, and return over the same route; (14) between Bristol, TN, and Chicago, IL, from Bristol over U.S. Hwy. 421 to Lexington, KY, then over Interstate Hwy. 64 to Louisville, KY, then over Interstate Hwy. 65 to Chicago, and return over the same



route; (15) between Bristol, TN, and Toledo, OH, from Bristol over U.S. Hwy 11W to Kingsport, TN, then over U.S. Hwy 23 to Toledo, and return over the same route; (16) between Bristol, TN, and Cleveland, OH, from Bristol over Interstate Hwy 81 to junction Interstate Hwy 77, at or near Wytheville, VA, then over Interstate Hwy 77 to Cleveland, and return over the same route; (17) between Bristol, TN, and Cincinnati, OH, from Bristol over U.S. Hwy 421 to junction U.S. Hwy 23, at or near Gate City, VA, then via U.S. Hwy 23 to Portsmouth, OH, then over U.S. Hwy 52 to Cincinnati, and return over the same route; (18) between Memphis, TN, and Bristol, TN, (a) from Memphis over Interstate Hwy 40 to junction Interstate Hwy 81, at or near Jefferson City then via Interstate Hwy 81 to Bristol, and return over the same route; (b) from Memphis over U.S. Hwy 64 to junction U.S. Hwy 411, near Ocoee, TN, then over U.S. Hwy 411 to junction U.S. Hwy 11E, near Johnson City, TN, then over U.S. Hwy 11E to Bristol, and return over the same route; (19) between Decatur, IL, and Indianapolis, IN, from Decatur over U.S. Hwy 36 to Indianapolis, and return over the same route; (20) between Decatur, IL, and Chicago, IL, from Decatur over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route; (21) between Evansville, IN, and Decatur, IL, from Evansville over U.S. Hwy 460 to junction U.S. Hwy 45, at or near Crossville, IL, then over U.S. Hwy 45 to junction IL Hwy 130, at or near Grayville, IL, then over IL Hwy 130 to junction IL Hwy 33, at or near Newton, IL, then over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur, and return over the same route; (22) between Louisville, KY, and Decatur, IL, from Louisville over U.S. Hwy 150 to junction U.S. Hwy 50, at or near Shoals, IN, then over U.S. Hwy 50 to junction IL Hwy 130 at or near Olney, IL, then over IL Hwy 130 to junction IL Hwy 33, at or near Newton, IL, then over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur and return over the same route; (23) between Fort Wayne, IN, and Chicago, IL, from Fort Wayne over U.S. Hwy 33 to South Bend, IN, then over IN Hwy 2 to junction U.S. Hwy 20 at or near Rolling Prairie, IN, then over U.S. Hwy 20 to Chicago (also over IN Hwy 2 to junction combined Interstate Hwys 80 and 90, at or near Rolling Prairie, IN, then over combined Interstate Hwys 80 and

90 to Chicago), and return over the same route; (24) between Indianapolis, IN, and Chicago, IL, from Indianapolis over Interstate Hwy 65 to Gary, IN, then over Interstate Hwy 94 to Chicago, and return over the same route; (25) between Indianapolis, IN, and Fort Wayne, IN, from Indianapolis over Interstate Hwy 69 (also over IN Hwy 37) to Fort Wayne, and return over the same route; (26) between Indianapolis, IN, and junction U.S. Hwy 41 and 52 near Gravel Hill, IN, from Indianapolis over U.S. Hwy 52 to junction U.S. Hwy 41 near Gravel Hill, IN, and return over the same route; (27) between South Bend, IN, and Indianapolis, IN, from South Bend over U.S. Hwy 31 to Indianapolis, and return over the same route; (28) between Indianapolis, IN, and Cincinnati, OH, from Indianapolis over U.S. Hwy 52 route; (29) between Columbus, OH, and Indianapolis, IN from Columbus over U.S. Hwy 40 (also Interstate Hwy. 70) to Indianapolis, and return the same route; (30) between Chicago, IL, and Cleveland, OH, from Chicago over combined Interstate Hwys 80 and 90 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route; (31) between Cincinnati, OH, and Fort Wayne, IN, from Cincinnati over U.S. Hwy 27 to Fort Wayne, and return over the same route; (32) between Cincinnati, OH, and Cleveland, OH, from Cincinnati over U.S. Hwy 22 to Washington Court House, OH, then over U.S. Hwy 62 to Canton, OH, then over OH Hwy 800 to Akron, OH, then over OH Hwy 8 to Cleveland, and return over the same route; (33) between Cincinnati, OH, and Toledo, OH, from Cincinnati over combined U.S. Hwy 25 and Interstate Hwy 75 to junction Interstate Hwy 75, then over Interstate Hwy 75 (also over U.S. Hwy (25) to Toledo, and return over the same route; (34) between Columbus, OH, and Toledo, OH, from Columbus over U.S. Hwy 23 to Toledo, and return over the same route; (35) between Junction Interstate Hwys 76 and 71 approximately 13 miles south of Medina, OH, and Youngstown, OH, from junction Interstate Hwys 76 and 71 over Interstate Hwy 76 to junction OH Hwy 18, then over OH Hwy 18 (also over Interstate Hwy 76) to Youngstown, and return over the same route; serve is authorized in the above routes to and from the following intermediate and offroute points: (a) points in TN; (b) points within 10 miles of Louisville, KY; (c) points in IN; (d) points in the part of IL on and bounded by a line beginning at the IL-IN state line and extending along U.S. Hwy 36 to Springfield, IL, then along IL Hwy 29 to Peoria, IL, then

along IL Hwy 116 to Metamora, IL, then along IL Hwy 89 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IL Hwy 31, then along IL Hwy 31 to unnumbered hwy (Aurora Ave.), then along said unnumbered hwy to junction U.S. Hwy 34, then along U.S. Hwy 34 to Chicago, IL, then along Lake Michigan to the IL-IN state line, and then along IL-IN state line to points of beginning; and (e) points in that part of OH on, west, and north of a line beginning at a point on the OH-PA state line, near Sharon, PA, and extending along U.S. Hwy 62 to Columbus, OH, then along U.S. Hwy 23 to Circleville, OH, and then along U.S. Hwy 22 to Cincinnati, OH. RESTRICTION: The Service is restricted to service at terminal and intermediate and off-route points in the transportation of traffic moving from, to or through points in Tennessee. Applicant proposes to tack the authority herein granted with applicant's existing authority at Chattanooga, Jackson, Memphis, Nashville and Union City, TN to provide service between applicant's presently authorized regular, intermediate and off-route points in NC, SC, GA, FL, AL, MS, LA, AR, and TX, and by tacking the authority sought with existing authority at Evansville, Vincennes, Bedford, New Albany, Princeton, Shoals, Sullivan, Jasper, and Terre Haute, IN, which authorizes transportation between points in NC, SC, GA, FL, TN, AL, MS, LA, AR, and TX, on the one hand, and, on the other, Henderson and Louisville, KY, St. Louis, MO, Cincinnati, OH and points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are no statements of support. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 110410 (Sub-25TA), filed October 17, 1979. Applicant: BENTON BROS. FILM EXPRESS, INC., 723 Forrest Road, N.E., Atlanta, GA 30308. Representative: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. Distilled spirits between Jacksonville, FL, and Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dixie Bottle & Beverage Co., 600 Worchester Drive, N.E., Atlanta, GA 30306. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 110420 (Sub-843TA), filed October 17, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). Packinghouse products, in bulk, in tank vehicles from the facilities

of Lauridsen Foods, Inc. at or near Britt, IA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 113751 (Sub-32TA), filed October 1, 1979. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. Foodstuffs (except commodities in bulk), moving in vehicles equipped with mechanical refrigeration units, from the Chicago, IL Commercial Zone to points in IN, KY, MI, MO & WI. Restriction: restricted to traffic originating at the facilities of U.S. Cold Storage Division, American Consumer Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Consumer Industries, Inc., U.S. Cold Storage Division, 8424 W. 47th St., Lyons, IL 60534. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 113760 (Sub-18TA), filed October 10, 1979. Applicant: PETCO INC., INTERSTATE, 7627 Dahlia St., P.O. Box 478, Commerce City, CO 80037. Representative: Robert D. McAlister (same address as applicant). Petroleum products in bulk, in tank vehicles, between points in WY on the one hand, and on the other, points in CO for 180 days. Supporting shipper(s): Flatiron Paving Company of Greeley, P.O. Box 1137, Greeley, CO 80631. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113861 (Sub-79TA), filed October 29, 1979. Applicant: Wooten Transports, Inc., 153 Gaston Avenue, Memphis, TN 38106. Representative: James N. Clay, 2700 Sterick Building, Memphis, TN 38103. Cement, from the plant site of Marquette Cement Manufacturing Company at Memphis, TN to points in AR, LA, MS, and AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., 2200 First American Center, Nashville, TN 37238. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 115311 (Sub-381TA), filed October 1, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim E. Meyer, P.O. Box 56387, Atlanta, GA 30343. Cement from the facilities of Marquette Cement Co., at or near Rockmart, GA to points in

NC, SC, AL, FL and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., A wholly-owned Subsidiary of Gulf & Western Ind., 2200 First American Center, Nashville, TN 37238. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115311 (Sub-382TA), filed September 19, 1979. Applicant: J. & M. TRANSPORTATION CO., INC., a Georgia corporation, P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. Lime, cement and mortar mix from the facilities of Martin-Marietta Corporation at or near Roberta AL to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Martin-Marietta Corporation, 18th Floor, Daniel Building, 15 South 20th Street, Birmingham, AL 35233. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115331 (Sub-524TA), filed October 4, 1979. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St. Louis, MO 63122. Flint sand, in bulk, from Webb City, MO to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. & S. Abrasive Co., Inc., P.O. Box 2012, Birmingham, AL 35201. Send protests to: P. E. Binder, TS, ICC, Room 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115841 (Sub-741TA), filed October 10, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Drugs, medicines, health care products, toilet preparations, alumina calcined, and magnesium hydroxide (except in bulk) in vehicles equipped with mechanical refrigeration, from Philadelphia, PA and its commercial zone and from Greensboro, NC and its commercial zone to points in GA, CA, OH, IN, IL, MI, PA, NY, TX, KS, TN, OK, NE, MO, IA, NM, and CO, from 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vicks Health Care Division, Richardson-Merrill Inc., P.O. Box 8155, Philadelphia, PA 19101. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-742TA), filed October 12, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110,

Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Drug, toilet preparations, health care products, magnesium hydroxide, and alumina calcined, from Philadelphia, PA and its commercial zone and from Lewes, DL to points in AL, FL, GA, IL, CA, LA, MO, NC, SC, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William H. Rorer, Inc., Fort Washington, PA 19034; McNeil Laboratories, 500 Office Center Dr., Fort Washington, PA 19043. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-102TA), filed November 5, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Farm machinery from Racine, WI to points in NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case, 700 State Street, Racine, WI 53404. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 116300 (Sub-67TA), filed October 29, 1979. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Animal and Poultry Feed from the facilities of Allied Mills, Inc. located at or near Memphis, TN to points in AL, LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Mills, Inc., 5050 Poplar, Suite 1708, Memphis, TN 38157. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

MC 117370 (Sub-40TA), filed November 6, 1979. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Wet spent brewers grains from facilities of G. Heileman Brewing Co. at LaCrosse, WI to points in IL, IA & MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miracle Feeds, Inc., P.O. Box 1715, LaCrosse, WI 54601. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room 819, Milwaukee, WI 53202.

MC 118130 (Sub-116TA), filed September 17, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. (1) Such merchandise dealt in by wholesale, retail, chain



grocery and food business houses and agricultural feed business houses; soy products; paste; flour products; dairy base products; and (2) materials, ingredients, equipment and supplies used in the development, manufacture, distribution, and sale of the items in (1) above (except commodities in bulk); (1) from the facilities of Ralston Purina Co., at or near Oklahoma City, OK to points in AR, AL, CO, LA, MS, TN, and TX, and from the facilities of Ralston Purina Co., at or near Denver, CO to points in NM and TX; and (2) from points in AR, AL, CO, LA, MS, TN, and TX to the facilities of Ralston Purina Co., at or near Oklahoma City, OK, and from points in NM and TX to the facilities of Ralston Purina Co., at or near Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118431 (Sub-32TA), filed October 29, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam St., Omaha, NE 68102. Contract carrier over irregular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and articles which because of size or weight require the use of special equipment), between the facilities of SCM Corporation at or near Jackson, AL; Brisbane, Buena Park, City of Commerce, San Francisco and San Jose, CA; Jacksonville and Port Saint Joe, FL; Atlanta, Colonel's Island, Flowery Branch and Oakwood, GA; Hammond and Marion, IN; Salem, MA; Kalamazoo, MI; Minneapolis, MN; Maplewood and North Bergen, NJ; Brooklyn, Cortland, Rockville Centre, Syracuse and Wolcott, NY; Charlotte, Durham, Mount Airy and Southern Pines, NC; Ashtabula, Cleveland, Columbus, Leipsic, Sharonville and Wickliffe, OH; Portland, OR; Altoona, Johnstown, Parkesburg, Phoenixville and Reading, PA; Denison and El Paso, TX; and Petersburg, WV, on the one hand, and on the other, points in the U.S. (except AK and HI), restricted to services to be performed under a continuing contract or contracts with SCM Corporation, for 180 days. Supporting shipper(s): SCM Corporation, 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118831 (Sub-187TA), filed November 2, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III (same as above). *Liquid dye in bulk, in tank vehicles*, from Damascus, VA to Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Wayne, NJ 08470. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 119390 (Sub-19TA), filed July 9, 1979. Applicant: MAIRS TRANSPORT LTD., 976 Adair Avenue, P.O. Box 1188, Coquitlam, B.C., Canada V3J 6Z9. Representative: Wallace Aiken, 1215 Norton Bldg., Seattle, WA 98104. *Lumber and lumber products*, between points on the International Border between the United States and Canada in WA and points in the State of WA on and west of U.S. 97, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doubletree Forest Products, Ltd., Ste. 1, 4649 East Hastings, Burnaby, B.C., Canada V5C 2K6; Ralph S. Plant Ltd., P.O. Box 2089 M.P.O., Vancouver, B.C., Canada, V6B 3T2. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 119670 (Sub-51TA), filed September 8, 1979. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Ave., P.O. Box 32115, Cincinnati, OH 45232. Representative: William R. Dally (same as applicant). *Such commodities as are used or dealt in by manufacturers of glass, plastic, chinaware and metal products* (except commodities in bulk), between points in IL, IN, KY, MI, MO, OH, WV, WI and all points on and west of U.S. Hwy. 219 in PA, restricted to traffic originating at or destined to the facilities used by Anchor Hocking Corp. and/or its subsidiaries for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking, 109 N. Broad St., Lancaster, OH 43130. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 121470 (Sub-43TA), filed November 2, 1979. Applicant: TANKSLEY TRANSFER CO., 80 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Iron and steel articles*, between the plantsites and warehouse facilities of Bristol Steel and Iron Works, Inc., located at or near Bristol, VA and points in AL and TN, for 180 days. Restriction: Restricted to traffic originating and destined to facilities of Bristol Steel and Iron Works, Inc. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bristol Steel &

Iron Works, Inc., P.O. Box 471, Bristol, VA 24201. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121470 (Sub-44TA), filed November 2, 1979. Applicant: TANKSLEY TRANSFER CO., 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Steel footwalks, aluminum footwalks, and fiberglass footwalks*, from the facilities of IKG Industries, located at or near Nashville, TN to Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): IKG Industries, P.O. Box 479, Nashville, TN 37202. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 121661 (Sub-6TA), filed October 24, 1979. Applicant: VAN WYK FREIGHT LINES, INC., Box 70, Route 1, Grinnell, IA 50112. Representative: Russell H. Wilson, Suite 200, 3839 Merle Hay Rd., Des Moines, IA 50310. *General commodities (except those of unusual value, class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment)* between Moline, IL, and Ginnell, IA, for 180 days. Applicant intends to tack with its presently held authority and interline with other carriers at Moline, IL, and Grinnell, IA. An underlying ETA seeks 90 days authority. Application will be filed for conversion of applicant's Certificate of Registration. Supporting Shipper(s): There are 30 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124121 (Sub-13TA), filed November 2, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Lumber and dimensional hardwoods* from facilities of Ah-Ne-Pee Dimensional Hardwood, Inc. at or near Ogema, WI to Brownsville, TX; Tuscaloosa, AL; Akron, OH; Asheboro, NC; Sante Fe Springs, CA; and Chicago, IL and Minneapolis, MN and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ah-Ne-Pee Dimensional Hardwood, Inc., Rt. 2, Box 155, Ogema, WI 54559. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124141 (Sub-31TA), filed October 1, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Malt beverages and materials and supplies* used in the sales and distribution thereof, from points in IN, and WI to AR for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Beasley Distributing Co., Inc., 301 Winona St., Hot Springs, AR 71901. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124141 (Sub-32TA), filed October 31, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, Virginia 212101. *Confectionery and confectionery products* from Bethlehem, PA to points in the United States in and west of WI, IL, KY, TN and MS, for 180 days. Supporting Shipper(s): Just Born, Inc., 1300 Stefcro Blvd., Bethlehem, PA. Send protests to: William H. Land, DS, 3108 Federal Building, Little Rock, AR 72201.

MC 124151 (Sub-14TA), filed November 2, 1979. Applicant: VANGUARD TRANSPORTATION, INC., Lafayette Street, Carteret, NJ 07008. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, D.C. 20001. *Liquid chemicals, in bulk, in tank vehicles* from Philadelphia, PA and points in its commercial zone to New York, NY and points in its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rohm and Hass Company, Independence Mall West, Philadelphia, PA 19105; Shell Oil Company, Two Shell Plaza, P.O. Box 2099, Houston, TX 77001. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 124821 (Sub-68TA), filed October 5, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettsburg Rd., Camp Hill, PA 17011. *Cleaning compounds, bleach, mops and brooms, and mop parts* from Chicago, IL to Syracuse, NY; Elizabeth, NJ; Hanover, PA; Philadelphia, PA; Pittsburgh, PA; East Stroudsburg, PA; Richmond, VA; Saylesville, RI and Wilmington, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Drackett Co., 5020 Spring Grove Ave., Cincinnati, OH 45232. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124951 (Sub-44TA), filed October 12, 1979. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Malt Beverages*, in containers, (1) from the plantsite of Olympia Brewing Company, St. Paul, MN, to Owensboro, KY, and (2) from the plantsite of G. Heileman Brewing Company, Evansville, IN, to Bowling Green, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marilyn L. Schneller, Bowling Green Beer Distributors, Inc., P.O. Box 2250, Bowling Green, KY 42101; John A. Medley, Jr., Quality Beer Dist. Co., Inc., 1010 E. Sixth St., Owensboro, KY 42301. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 125470 (Sub-56TA), filed September 26, 1979. Applicant: MOORE'S TRANSFER, INC. P.O. Box 1151, Norfolk, NE 68701. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Canned and prepared foodstuffs* from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in AR, MO on and west of U.S. Highway 63 and points in Memphis, TN and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named facilities and destined to the named states. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, William L. Reeder, Coordinator-Transportation Planning, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 127840 (Sub-144TA), filed September 28, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Corn syrup, in bulk, in tank vehicles*, from Keokuk, IA to points in AR, AZ, CO, FL, KS, LA, MS, NM, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hubinger Company, 601 Main Street, Keokuk, IA 52632. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-145TA), filed October 11, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Packaginghouse commodities, in bulk, in tank vehicles*, from the plantsite and storage facilities of Lauridsen Foods, Inc. at or near Britt, IA to points in IL, IN, CO, KY, MI, MO,

MN, OK, OH, KS, NE, SD, ND, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-146TA), filed October 10, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Animal fats, products and blends thereof, in bulk, in tank vehicles*, (1) From Guymon, OK to points in AZ, CA, CO, KS, LA, NM, and TX and (2) From Clovis, NM to points in AZ, CA, CO, KS, LA, LK, and TX for 180 days. Supporting shipper(s): Swift Edible Oil Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133591 (Sub-82TA), filed October 31, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, 300 S. Thompson Ave. (P.O. Box 1103), Sioux Falls, SD 57101. *Canned goods*, from points in OR to points in KS, MO, AR, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Truitt Bros., Inc., 1105 Front St. NE, Salem, OR 97308. Send protests to: Vernon V. Coble, DS, 600 Fed. Bldg., ICC, 911 Walnut St., Kansas City, MO 64106.

MC 133630 (Sub-10TA), filed October 9, 1979. Applicant: KING BROS. TRUCKING, INC., Rural Route No. 2, Ashkum, IL 60911. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Phosphate, feed grade*, from the Hooker Chemical Company facilities at or near Montpelier, IA to Ashkum, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 134300 (Sub-45TA), filed October 11, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First St. NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 N. 5th St., Minneapolis, MN 55403. *Records and tapes, sound recording*, from the facilities utilized by K-Tel International, Inc. at Hauppauge, Ronkonkoma, and Rye, NY to the facilities of K-Tel International, Inc. at Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Tel International, Inc., 11311 K-Tel Dr., Minnetonka, MN 55343. Send protests



to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 134501 (Sub-69TA), filed October 24, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture*, from the facilities of Inter-Royal Corporation at or near Plainfield, CT, to points in ME, VT, MA, NH, RI, NY, PA, OH, WV, VA, MD, DC, NC, SC, GA, FL, AL, TN (except Shelby County), KY, IN, MI, WS, IL, MO, IA, MN, ND, SD, NE, WY, MT, CO (on and north of U.S. Hwy. 24), ID (on and north of U.S. Hwy. 12), KS (on and north of U.S. Hwy. 54), and WA (on and north of U.S. Hwy. 2) for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): InterRoyal Corporation, P.O. Box 91, Plainfield, CT 06374. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 134501 (Sub-70TA), filed October 30, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture* from the facilities of InterRoyal Corporation at or near Michigan City, IN to points in CA, AZ, NM, WY, NE, KS, IA, MO, LA, MS, TN (except Shelby County), AL, GA, FL, SC, NC, VA, DC, MD, DE, WV, OH, PA, NJ, NY, MA, CT, RI, VT, NH, and ME, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): InterRoyal Corporation, Royal Road, Michigan City, IN 46360. Send protests to: Opal M. Jones, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-110TA), filed September 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Chicago, IL; Los Angeles, CA; Boston, MA; Philadelphia, PA and Jersey City, NJ and points in their respective commercial zones and points in NC and SC, to the facilities of Houston Merchant Shippers Assn., at or near Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Houston Merchant Shippers Association, 2410 Commerce St., P.O. Box 2241, Houston, TX 77001. Send protests to: Opal M.

Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-111TA), filed September 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs*, (except frozen foods and commodities in bulk), from the facilities of Vlasic Foods, Inc., at or near Greenville, MS to points in TX, OK, KS, AR, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-114TA), filed September 27, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. (A) *Rubber articles, plastic articles, and rubber materials*, and (B) *equipment, materials, and supplies used in the manufacture and distribution of commodities in (A) between the facilities of ENTEK Corporation of America, at or near Irving, TX on the one hand, and, on the other, points in the US (except AK and HI) for 180 days.* Supporting shipper(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-115TA), filed September 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs* from San Francisco, CA and points in its commercial zone, to Florence, KY for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Sambo's Restaurants, Inc., 1000 North Cindy Lane, Carpinteria, CA 93013. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-116TA), filed September 28, 1979. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Artificial Christmas Trees and stands, Christmas decorations and lighting* from Los Angeles, CA to points in MN, OK, TX, KS, CO, NE, and IA for 180 days. Underlying ETA filed. Supporting shipper(s): Mr. Christmas, Inc., North Street, East Douglas, MA 01516. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-117TA), filed September 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE. *Coffee, green* from New Orleans, LA and points in its commercial zone to the facilities of The Folger Coffee Company, at or near Sherman, TX for 180 days. Underlying ETA filed. Supporting shipper(s): The Folger Coffee Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-118TA), filed September 20, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. (1) *Bananas*, and (2) *agricultural commodities, the transportation of which is otherwise exempt from economic regulation, in mixed loads with bananas* from Port Heuneme, CA to points in the U.S. in and west of IA, MN, MO, TX, and WI for 180 days. Supporting Shippers(s): Del Monte Banana Company, P.O. Box 011940, Miami, FL 33101. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135410 (Sub-95TA), filed October 10, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Chemicals, toilet preparations and buffing and polishing compounds (except in bulk)*, from the facilities of John H. Break, Inc. at Ft. Madison, IA to Chicago, IL; Ft. Wayne and Indianapolis, IN; Coldwater, Detroit and Plymouth, MI; Cincinnati, Columbus and Dayton, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, New Jersey 07470. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135861 (Sub-80TA), filed November 1, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 8335, Fort Worth, TX 76112. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract, Irregular, Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except hides and commodities in bulk, in tank vehicles, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Monfort of Colorado, Inc., Box G,

Greeley, CO 80631. Send protests to: Marianne Minnich, TCS, ICC, Rm. 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 136720 (Sub-9TA), filed October 10, 1979. Applicant: APEX BULK COMMODITIES, 11902 E. Washington Blvd., Santa Fe Springs, CA, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Cement*, from points in CA (except Colton, Creal, Crestmore, Monolith, Oro Grande, San Diego, Victorville, and the facilities of General Portland, Inc. at or near Gorman), to points in AZ, CA, and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Pyramid Stucco Products, Vice President and General Manager, 5004 East 59th Place, Maywood, CA. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138000 (Sub-55TA), filed September 10, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, CA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. 1. *Malt beverages and related advertising material* from Albany, GA to all points in and east of WI, IL, KY, TN, and MS. 2. *Materials, supplies and equipment used in the manufacture of malt beverages* from all points in and east of WI, IL, KY, TN, and MS, to Albany, GA for 180 days. Supporting shipper(s): Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138090 (Sub-3TA), filed September 25, 1979. Applicant: LOUIS MOLNAR d.b.a. L & M PRODUCE AND TRUCK LINES, 51 Luverne Avenue, Downsview, Ontario. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Doors, frames, jambs and related materials and supplies*, from the ports of entry on the International Boundary line between the U.S. and Canada on the Niagara River to Hallandale, FL, restricted to the transportation of traffic originating at the facilities of Premium Forest Products Ltd. at or near Scarborough, Ontario, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Premium Forest Products Ltd., 426 Ellesmere Rd., Scarborough, Ontario M1R 4E7. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 138420 (Sub-43TA) filed October 2, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Rt. 1, P.O. Box 147, Cleveland, WI 53063.

Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Malt beverages, advertising materials, malt beverage dispensing equipment* when shipped therewith from Pittsburgh, PA to points in IL on and south of U.S. Hwy. 136 and MO. (2) *Used empty malt beverage containers* from MO and points in IL on and south of U.S. Hwy. 136 to Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pittsburgh Brewing Co., 3340 Liberty Avenue, Pittsburgh, PA 15201. Send protests to: John E. Ryden, DS ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 139360 (Sub-12TA) filed September 28 1979. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53403 Representative: Wm. D. Brejcha, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. *Contract carrier; irregular routes; (1) Such commodities as are dealt in by wholesale and retail, chain, grocery and hardware and drug stores*, from the facilities of S.C. Johnson & Son, Inc. at or near Waxdale, WI to points in MN and (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities described in (1) above*, from points in MN to the facilities of S.C. Johnson & Son, Inc. at or near Waxdale, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): S.C. Johnson & Son, Inc., 1525 Howe St., Racine, WI 53403. Send protests to: John E. Ryden, DS, ICC 517 E. Wisconsin Ave., Rm. 619, Milwaukee 53202.

MC 140061 (Sub-10TA), filed October 26, 1979. Applicant: DONALD MULDER, d.b.a. DON MULDER TRUCKING, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holdeman, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. *Contract carrier, irregular routes: Sawdust and waximpregnated fireplace logs (except in bulk)* from Trenton, NJ and Fairless Hills, PA and points in their respective commercial zones to points in IL, IN, IA, KY, MI, MN, MO, OH and WI under contract with the Kingsford Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, Richard A. Parks, Distribution Manager, P.O. Box 1033, Louisville, KY 40201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140800 (Sub-3TA), filed October 30, 1979. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier; irregular*

routes: *Electric motors, generators, brake drums, disk brakes and parts thereto, and parts, materials & equipment and supplies used in the manufacture of above commodities (except commodities in bulk)*, between points in TN and Watertown, NY, on the one hand, and, on the other, points in CT, DE, FL, KS, KY, MD, MA, MS, NE, OK and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould, Inc., 1831 Chestnut St., St. Louis, MO 63166. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 141871 (Sub-20TA), filed October 11, 1979. Applicant: WNI, INC., 8560 S.W. Salish Lane, Wilsonville, OR 97070. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Foodstuffs*, from Portland, OR and points in its commercial zone to Santa Cruz and San Jose, CA, for 180 days. A corresponding ETA has been approved and a permanent will be filed. Supporting shipper(s): Grandma's Foods, 6220 S.W. 112th, Beaverton, OR 97005. Send protests to: A. E. Odoms, D/S, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 142461 (Sub-6TA), filed November 2, 1979. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Contract carrier-irregular routes; Fiberboard (1) from Lenoir and Greensboro, NC to Henry County, VA and Macon and Dublin, GA and (2) from Waverly, VA to Macon and Dublin, GA, under a continuing contract(s) with Bassett Furniture Industries, Inc., for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Bassett Furniture Industries, Inc., Box 626, Bassett, VA 24055. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 142640 (Sub-3TA), filed October 10, 1979. Applicant: P.W.K. TERMINALS, INC., 6 Highgate Course, St. Charles, IL 60174. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Contract Carrier: Irregular routes: Insulation and materials, equipment parts and supplies used in the manufacture, sale or distribution of insulation*, between Gilberts, IL on the one hand, and, on the other, points in IA, IN, MI, MN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mono-Therm of Illinois, P.O. Box 2, Gilberts, IL 60136. Send protests to:



Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142680 (Sub-12TA), filed October 23, 1979. Applicant: SUMTER TIMBER COMPANY, INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Lumber and lumber mill products*, from Tuscaloosa County, AL to Baldwin and Mobile Counties, AL, for subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stringfellow Lumber Co., Inc., P.O. Box 1117, Birmingham, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, 1616 Suite—2121 Building, Birmingham, AL 35203.

MC 142920 (Sub-10TA), filed October 1, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Keil, Suite 1832—2 Wold Trade Center, New York, NY 10048. *Contract carrier: Irregular routes: (1) Such merchandise as is dealt in or used by retail department stores, and (2) equipment, materials and supplies used in the conduct of such business (except commodities in bulk and those which, because of size or weight, require the use of special equipment)*, from New York, NY and Philadelphia, PA and points in the commercial zones thereof, to Indianapolis, IN and its commercial zone, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Ayr-Way Stores, Inc., 8520 Zionsville Road, Indianapolis, IN 46268. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

\*MC 142941 (Sub-54TA), filed October 12, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., P.O. Box 6716, Phoenix, AZ 85005. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. *Food preparations*, from the facilities of Roux Laboratories, Inc., located in Duval County, FL, to points in AL, LA, MS, OK, TX and Covington, KY and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roux Laboratories, Inc., 6831 Stuart Ave., Jacksonville, FL 32205. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143061 (Sub-6TA), filed October 9, 1979. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: Archie W. Andrews (same as above). *Contract carrier-Irregular routes: (1) Electrical equipment, devices, and products (2)*

*parts of the commodities in (1), and (3) commodities used by and dealt in by manufacturers of the commodities in (1), (except commodities in bulk, and those which because of size or weight, require special equipment between points in the US, except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 1285 Boston Ave., Bridgeport, CT 06602. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.*

MC 143331 (Sub-12TA), filed October 30, 1979. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton Blvd., P.O. Box 817, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract: Irregular: Plastic articles*, from Fort Worth, TX to points in CA, under a continuing contract(s) with Loma/Rubber Queen Corp., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Loma/Rubber Queen Corp., 9651 U.S. Highway 81 South, Fort Worth, TX 76140. Send protests to: Irene Carlos, T/A, ICC, Room 1321 Federal Bldg., 300 No. Los Angeles St., Los Angeles, CA 90012.

MC 144740 (Sub-20TA), filed October 4, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. *Contract carrier—Irregular routes: Candy and confectionery products and bakery products in vehicles equipped with mechanical refrigeration (1) from Brooklyn, NY and Philadelphia, PA to Atlanta, GA, Chicago, IL, Cleveland, OH, Dallas, TX, Detroit, MI, Hayward, CA, Jacksonville, FL, New Orleans, LA, Pennsauken, NJ, and Vernon, CA; and (2) from Chicago, IL to Atlanta, GA, Brooklyn, NY, Cleveland, OH, Dallas, TX, Detroit, MI, Hayward, CA, Jacksonville, FL, New Orleans, LA, Pennsauken, NJ, Philadelphia, PA, and Vernon, CA, under a continuing contract or contracts with Ward Johnston, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ward Johnston, Inc., 2 Pennsylvania Plaza, 250 W. 34th St., New York, NY 10001. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.*

MC 144740 (Sub-21TA), filed October 31, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. *Contract carrier—Irregular routes: Candy and confectionery products, chewing gum, beverage preparations, and bakery products, in vehicles*

*equipped with mechanical refrigeration from Brooklyn, NY, Linden, North Bergen, Edison, New Brunswick, and Cranford, NJ and Philadelphia, Reading and Duryea, PA to points in CA, OR, WA, NC, SC, GA, FL, TX, LA, UT, AZ, IL, MN, WI, and MO, under a continuing contract or contracts with Confectionary Consolidators, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Confectionary Consolidators, 797 Hillside Rd., Rahway, NJ 07065. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.*

MC 144810 (Sub-4TA), filed October 30, 1979. Applicant: FLOYD M. CROSS, 62911 Lopez Street, Espanola, NM 87532. Representative: ROger Eaton, P.O. Drawer 965, Albuquerque, NM 87103. *Contract carrier: irregular routes: Plastic containers, materials and supplies used or useful in the production and marketing, thereof, from Denver, CO to points in NM and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoover Universal, Inc., 4990 Ironton Street, Denver, CO 80239. Send protests to: Joyce E. Abbott, T/A, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.*

MC 145120 (Sub-6TA), filed November 5, 1979. Applicant: HOLMDEL TRUCKING CORPORATION, 3 Scout Avenue, South Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, D.C. 20036. *Contract carrier, irregular routes for 180 days. Such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk) from the facilities of Lady Rose Division located at or near New York, NY to points in MI, IN, OH, TX, MN, PA, NJ, and NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Master's, Inc., 215 Summa Avenue, Westbury, LI, NY 11590. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 145120 (Sub-7TA), filed November 5, 1979. Applicant: HOLMDEL TRUCKING COMPANY, 3 Scout Avenue, South Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. *Contract carrier, irregular routes for 180 days. Such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk) between the facilities of Unishops, Inc., located at points in the New York, NY commercial zone as defined by the Commission, on the one hand, and, on the other, points in the United States (except AK and HI) under a continuing*

*contract(s) with Unishops, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unishops, Incorporated, 21 Caven Pt. Avenue, Jersey City, NJ 07305. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 145381 (Sub-6TA), filed October 3, 1979. Applicant: S & P TRUCKING CO., INC., P.O. Box 1058, Fletcher, NC 28732. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. *Contract carrier—irregular routes: Dialysis supplies and equipment (except in bulk) between points in the US (except AK and HI) under a continuing contact or contracts with Erika, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Erika, Inc., 1 Erika Place, Rockleigh, NJ 07647. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.*

MC 145441 (Sub-75TA), filed October 1, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). *Plastic materials (except in bulk) from Lovelady, TX to all points in the U.S. (except AK, HI and TX), for 180 days. Supporting Shipper(s): Phillips Petroleum Company, 154 Phillips Bldg. Annix, Bartlesville, OK 74004. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 145701 (Sub-7TA), filed October 10, 1979. Applicant: D. C. TRANSPORT, INC., 916 South Riverside Avenue, St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48226. (1) *Salt and salt products, except in bulk, from facilities of Diamond Crystal Salt Company at or near Akron, OH, and St. Clair, MI to points in NC, SC, and VA, and (2) Fabrics, textiles, urethane foam, and laminations of such items from the facilities of Guilford Mills at or near Greensboro, NC, to facilities of Inmont Corporation at or near Port Huron, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inmont Corporation, 1905 Beard St., Port Huron, MI 48060: Diamond Crystal Salt Company, 916 S. Riverside, Ave., St. Clair, MI 48079. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.*

MC 145980 (Sub-3TA), filed October 10, 1979. Applicant: H. C. COOK & BOBBY JOE COOK, A Partnership d.b.a., Cook Trucking, 2200 Willow Creek Road, Casper, WY 82601. Representative: Bobby Joe Cook (same address as applicant). (1) *Machinery, equipment and supplies used in, or in connection with, the discovery,*

*development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, CO, UT, NV, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are ten (10) shippers. Their statements may be examined at the office shown below or at Headquarters office. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.*

MC 145981 (Sub-19TA), filed November 8, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals and cleaning compounds (except commodities in bulk), between points in NJ, on the one hand, and, on the other, points in the States of CA, FL, GA, IL, OH, NC, SC, TN, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oakite Products, Inc., 50 Valley Road, Berkley Heights, NJ 07922. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 146880 (Sub-3TA), filed October 4, 1979. Applicant: LOWELL DENTON, d.b.a. DENTON CARTAGE COMPANY, 7322 West 90th Street, Bridgeview, IL 60455. Representative: Lowell E. Denton, P.O. Box 40, Palos Park, IL 60464. *Steel tubing*, from the facilities of the National Metalware, Inc., located at or near Aurora, LaSalle and Chicago, IL, to points in IL, IN, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): National Metalware, Inc., 900 N. Russell Ave., Aurora, IL 60506. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146910 (Sub-2TA), filed October 31, 1979. Applicant: MOTOR CARGO TRANSPORT CORP., 21 D'Shibe Terrace, Vineland, NJ 08360. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. *Glass containers*. From Vineland, NJ to Gardner and Biglerville, Pa for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kerr Glass Manufacturing Corporation, P.O. Box 97, Sand Springs, OK 74063. Send

protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147941 (Sub-3TA), filed November 1, 1979. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). *Contract Carrier: Irregular Route: adhesives and paint, (except in bulk, in tank vehicles), from the facilities of Chemicals Products Development Corp., at or near Oklahoma City, OK, to points in IL, IN, NY, OH, PA, AL, FL, GA, NC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Chemical Products Development, Inc., 5001 So. MacArthur, Oklahoma City, OK 73119. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 148200 (Sub-1TA), filed October 24, 1979. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: Mark E. Bell, 229 Merchants Bank Bldg., Indianapolis, IN 46204. *Contract carrier: Irregular routes: (1) Plastics bottles or containers in all stages of manufacturing or production, (2) fibre board boxes or shipping material, pallets or skids, (3) production or manufacturing tools, equipment used in the manufacture of plastic bottles or containers, (4) scrap material related to the manufacturing process of plastic bottles or containers, between the plantsite of Hoover Universal, Inc., at Franklin, IN on the one hand, and, on the other points in IL, OH, KY, MI, TX, OK, KS, NE, SD, ND, LA, AR, MO, IA, MN, MS, AL, TN, WI, FL, GA, NC, SC, VA, WV, DE, MD, DC, NJ, PA, CT, RI, MA, NH, NY and VT, for 180 days. An underlying ETA seeks 90 days. SUPPORTING SHIPPER: Hoover Universal, Inc., 1100 Early Wood Drive, Franklin, IN. Under contract with Hoover Universal, Inc. at Franklin, IN. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN.*

MC 148291 (Sub-1TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *General commodities (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment): (1) Between Springfield, MO and Little Rock, AR and points in their commercial zones, serving all intermediate points in AR and points in their respective commercial zones; from*



Springfield over U.S. Hwy. 65 to Conway, AR, then over Interstate Hwy. 40 to junction Interstate Hwy. 30, then over Interstate Hwy. 30 to Little Rock and return over the same route; and (2) between Gateway, AR and Mountain Home, AR and points in their commercial zones, serving all intermediate points and points in their respective commercial zones, from Gateway over U.S. Hwy. 62 to Mountain Home and return over the same route, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers. Supporting shipper(s): Approximately 69 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148291 (Sub-2TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common carrier over regular routes: *General commodities*, (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment); (1) between Harrison, AR and Ft. Worth, TX and points in their commercial zones, serving all intermediate points in AR between Harrison and Little Rock, AR, including Little Rock and points in their respective commercial zones and the intermediate point of Dallas, TX and points in its commercial zone; from Harrison over U.S. Hwy. 65 to Conway, AR, then over Interstate Hwy. 40 to junction Interstate Hwy. 30, then over Interstate Hwy. 30 to Dallas, TX, then over U.S. Hwy. 80 to Ft. Worth and return over the same route; (2) between Mountain Home, AR and Gateway, AR and points in their commercial zones, serving all intermediate points and points in their respective commercial zones; from Mountain Home over U.S. Hwy. 62 to Gateway and return over the same route, restricted to transportation of shipments originating at, destined to, or passing through, points in the Dallas-Ft. Worth, TX commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Carrier intends to interline with other carriers. Supporting shipper(s): Approximately 101 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148291 (Sub-3TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common carrier over regular routes:

*General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment); (1) between Memphis, TN and Gateway, AR and points in their commercial zones, serving all intermediate points between Mountain Home and Gateway, AR, including Mountain Home and points in their respective commercial zones; from Memphis over Int. Hwy. 55 to junction U.S. Hwy. 63, then over U.S. Hwy. 63 to junction U.S. Hwy. 62, then over U.S. Hwy. 62 to Gateway and return over the same route; and (2) between Memphis, TN and Harrison, AR and points in their commercial zones, serving all intermediate points between Conway and Harrison, including Conway and points in their respective commercial zones; from Memphis over Int. Hwy. 40 to Conway, AR, then over U.S. Hwy. 65 to Harrison and return over the same route, restricted against transportation of shipments moving between Memphis, TN and Little Rock, AR and points in their commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers at Memphis, TN and Conway and Harrison, AR. Supporting shipper(s): Approximately 81 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148311 (Sub-1TA), filed September 14, 1979. Applicant: DELIVERY SERVICES, INC., 2044 S. Don Carlos, Mesa, AZ 85202. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Such merchandise, equipment and supplies as are sold, used or distributed by manufacturer of cosmetics*, having a prior or subsequent movement in interstate commerce, between points in AZ, restricted to transportation for Avon Products, Inc., only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 2949 E. Foothill Blvd., Pasadena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Applicant intends to interline with another carrier at Phoenix and Tucson, Arizona.

MC 1458381 (Sub-4TA), filed November 1, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 South Federal Hwy., Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Contract Carrier—Irrregular Route: *Adhesives, in containers*, (1) between Bloomfield, NJ and Hammond, IN; and (2) from Hammond, IN and Bloomfield,

NJ to points in NC, SC, GA, FL, WA, OR, and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roman Adhesives, Inc., 5 Lawrence St., Bloomfield, NJ 07003. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148401 (Sub-1TA), filed October 5, 1979. Applicant: HENRY F. JOHNSON, d.b.a., GREENLEAF TRANSPORTATION, 1150 Sunny Hill Avenue, Brea, California 92621. Representative: Henry F. Johnson, (same address as applicant). *Contract: Irregular: Such commodities as are dealt in by wholesale and retail grocery, food business, discount or variety houses, between the facilities of Lever Brothers Company in California and Tucson, Arizona, including all points within 25 miles thereof, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting Shipper(s): Lever Brothers Company, Traffic Manager, 6300 E. Sheila Street, Los Angeles, CA 90022. Send protests to: Irene Carlos, TA, ICC, 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.*

MC 148420 (Sub-1TA), filed October 25, 1979. Applicant: R. J. PRODUCE, INC., 2810 South Ellis, Elk Grove Village, IL 60007. Representative: John T. O'Connell, 521 South LaGrange Road, LaGrange, IL 60525. *Contract carrier: irregular routes: Steel shelving, for the account of Par Steel Products & Services Company, Inc., at Chicago Heights, IL, from the facilities of Par Steel Products Service Company, Inc., at Chicago Heights, IL, to points in CA for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Par Steel Product & Services Company, Inc., 383 E. 16th, Chicago Heights, IL 60411. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.*

MC 148440 (Sub-1TA), filed October 15, 1979. Applicant: LEIBY S. HALL, d.b.a. TCF INDUSTRIES, 525 North Franklin Street, Decatur, IL 62523. Representative: Michael W. O'Hara, 300 Reich Building, Springfield, IL 62701. *Contract carrier: irregular routes: Raw materials, parts and supplies for use in the manufacture of heavy machinery and equipment, and commodities for use in plant maintenance, for the account of Caterpillar Tractor Co., (a) Between the facilities of Caterpillar Tractor Co. in Scott County, IA, Burlington, IA, LaFayette, IN and Milwaukee, WI on the one hand, and on the other, points in IL and St. Louis, MO and (b) Between the facilities of Caterpillar Tractor Co. in Aurora, East Peoria, Joliet, Mapleton,*

Morton, Mossville, Peoria and Pontiac, IL on the one hand, and on the other, Chicago, IL and St. Louis, MO; and (c) Between the facilities of Caterpillar Tractor Co. in Scott County and Burlington, IA on the one hand, and on the other, LaFayette, IN and Milwaukee, WI; and (d) Between the facilities of Caterpillar Tractor Co. in LaFayette, IN on the one hand, and on the other, Milwaukee, WI (Restricted to vehicles having a capacity of 2,000 pounds or less) for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Caterpillar Tractor Co., 100 North Adams Street, Peoria, IL 61629. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148461 (Sub-1TA), filed October 24, 1979. Applicant: JOSEPH E. COBB d/b/a JEC TRUCKING, 202 Highway 3 South, Yerington, NV 89447. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Meats, meat products, meat by-products, and articles distributed by meat packing houses, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, excluding hides and excluding commodities in bulk. Restricted to service performed in vehicles equipped with mechanical refrigeration, between points in CA, NV, ID, CO, UT, and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): "There are 7 shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: W. J. Huetig, ICC, 705 N. Plaza Street, Carson City, NV 89701.*

MC 148480 (Sub-1TA), filed October 25, 1979. Applicant: WILSON TRUCKING COMPANY, P.O. Box 231, Wabasha, MN 55981. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Garage door sections from Wabasha, MN to points in CO, IL, IN, IA, KS, MI, MO, MT, NE, ND, OH, SD, WI, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Star Door Mfg. Co., Inc., Vice Pres., 4509 Minnetonka Blvd., Mpls., MN 55416. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.*

MC 148481 (Sub-1TA), filed November 1, 1979. Applicant: CARTER FREIGHT LINES, INC., P.O. Box 1128, 2205 Myers Rd., Albert Lea, MN 56007. Representative: Michael L. Carter (same address as applicant). *Raw rubber, rubber chemicals and materials, equipment and supplies used in the manufacture and repair of pollution*

*control equipment (except commodities in bulk) between the facilities of Rubber Engineering, Div. Envirotech Corp., in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rubber Engineering, Molded Products Div. of Envirotech Corp., 3459 S. 700 W., Salt Lake City, UT 84125. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.*

MC 148490 (Sub-1TA), filed October 31, 1979. Applicant: C & N EVANS TRUCKING CO., INC., Rt. 2, Box 39E, Stoneville, NC 27048. Representative: Clarence B. Evans, Rt. 2, Box 39E, Stoneville, NC 27048. (1) *Copper tubing (2) wearing apparel*; (1) from facilities of Halstead Metal Products Co. at or near Pine Hall, NC to points in GA, FL, MD, MI, MA, NC, NJ, NY, PA, AR, and VA; (2) from Alexander City, AL, Griffen, GA, Asheboro, Madison, Mayaden and Statesville, NC and Martinsville, VA to Appleton, WI and Dallas, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Downers, Inc., P.O. Box 535, Appleton, WI; Cambridge-Lee Industries, Inc., 14 Perimeter Park, Atlanta, GA 3031. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Room CC516, Charlotte, NC 28205.

MC 148500 (Sub-1TA), filed October 23, 1979. Applicant: BULK HAULERS, INC., P.O. Box 4186, Macon, GA 31208. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. (1) *Basic slag, in bulk, in dump vehicles, and (2) dolomite limestone, in bulk, in dump vehicles*; (1) from points in Jefferson County, AL, to points in FL, GA, and SC; and (2) from points in Lee County, AL, to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agri-Business Supply, Inc., 1102 Third Ave., Albany, GA 31709. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 148620 (Sub-1TA), filed October 31, 1979. Applicant: K.C.L. CONTRACTING SERVICES, INC., 2270 S.W. 36 St., Ft. Lauderdale, FL 33312. Representative: John T. Bond, Suite 410, 909 S. State Rd. 7, Hollywood, FL 33023. *Contract Carrier—Irrregular Route: Material and supplies (1) used in the operation and maintenance of clinical diagnostic laboratory instruments, and/or (2) used in the collection, preservation, and analysis of human laboratory specimens, and (3) material, supplies and equipment used in the production and distribution of the commodities as described in (1) and (2) above (except commodities in bulk) in*

vehicles equipped with mechanical refrigeration between Coulter Diagnostics facility at Hialeah, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI) under a contract with Coulter Diagnostics for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coulter Diagnostics, 740 West 83rd St., Hialeah, FL 33014. Send protests to: Donna M. Jones, T/A, ICC—BOP, Suite 101, Monterey Bldg., 8410 N.W. 53rd Ter., Miami, FL 33166.

#### Passengers

MC 56810 (Sub-2TA), filed September 7, 1979. Applicant: TEXAS MOTOR COACHES, INC., 710 E. Davis St., Grand Prairie, TX 75051. Representative: M. S. Rasins, Sr. (same as above). *Passengers and baggage in special operation from Dallas, Grand Prairie, Arlington and Fort Worth, TX to all points in the US excluding AK and HI for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Funseekers, USA, Inc. P.O. Box 5484, Arlington, TX 76011, Serendipity Travel Agency, Inc., Suite No. 132, Ryan Plaza Dr., Arlington, Anthony Tour Service, Inc., 6060 N. Central Expressway, Suite No. 672, Dallas, TX 75206. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 119961 (Sub-9TA), filed October 22, 1979. Applicant: MARSHALL MOTOR COACH, INC., P.O. Box 428, Marshalltown, IA 50158. Representative: James M. Hodge, 1980 Financial Cir., Des Moines, IA 50309. *Passengers and their baggage, in round-trip charter operations, beginning and ending at points in Mahaska County, IA, and extending to points in the United States (except HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marva Place, 1001 1st Ave., East, Oskaloosa, IA 52577; BPOE No. 340 (Elks), P.O. Box 1, Oskaloosa, IA 52577; Mahaska Shrine Club, Route 3, Oskaloosa, IA 52577. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 123481 (Sub-8TA), filed October 30, 1979. Applicant: BROWN LINES, INC., 22 First Street West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800 South, 1800 M Street NW, Washington, DC 20036. *Passengers and their baggage and express and newspapers in the same vehicle with passengers from Sandpoint, ID, southwest on U.S. Hwy. 2 to Spokane, WA, and return over the same route, serving all intermediate points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PUD*



No. 1 of Pend Orielle City, Box 190, Newport, WA 99156; Newport Miner, P.O. Box 349, Newport, WA 99156. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

#### Notice No. 215

Nov. 21, 1979.

MC 720 (Sub-72TA), filed November 13, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. (a) *Foodstuffs and (b) materials, equipment and supplies used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk)*, between Battle Creek, MI, on the one hand, and, on the other hand, various points in IL, IN & WI. Restricted to transportation performed to and from the facilities of The Kellogg Company, Battle Creek, MI, for 180 days. Supporting shipper(s): The Kellogg Company, 225 Porter, Battle Creek, MI 49016. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 730 (Sub-480TA), filed August 23, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 N. Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Petroleum crude oil*, in bulk, in tank vehicles, from Trapp Springs, NV to Fruita, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Oil Company, 600 S. Cherry Street, Denver, CO 80222. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2900 (Sub-405TA), filed November 8, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: Paul Dixon (same address as applicant). *Machines, equipment and supplies used in the manufacturing of mining equipment*, from Candler, FL to Eloy, AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Townley Engineering & Mfg., Co., Inc., P.O. Box 221, Candler, FL 32624. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 38921 (Sub-12TA), filed October 2, 1979. Applicant: KMA LEASING, INC., 1345 N. Mascher St., Philadelphia, PA 19122. Representative: James Rutherford (same as applicant). *Such merchandise as is dealt in by Wholesale or Retail Department Stores* between the facilities of Lionel Leisure, Inc., in Baltimore, MD, Brookpark, OH, and Philadelphia, PA, and points in CT, DE,

MA, MD, NJ, NY, OH, PA, RI and VA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under docket MC38921. Supporting shipper(s): Lionel Leisure, Inc., 2951 Grant Ave., Philadelphia, PA 19114. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm., 620, Philadelphia, PA 19106.

MC 52460 (Sub-269TA), filed November 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Michael A. Calvert (same address as applicant). *Foodstuffs*, from the facilities of Ashley's of Texas at El Paso, TX, to points in AL, AR, FL, GA, IL, IA, KS, LA, MS, MO, NC, OK, SC, & TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ashley's of Texas, 6590 Montana, El Paso, TX 79925. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 96881 (Sub-25TA), filed November 6, 1979. Applicant: FINE TRUCK LINE, INC., 801 W. Dodson Ave., Ft. Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. *Glass containers and container accessories*, between the facilities of Kerr Glass Manufacturing Corporation at or near Sand Springs, OK and all points in AR, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corporation, Box 97, Sand Springs, OK 74063. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 103051 (Sub-482TA), filed November 14, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Synthetic resins, in bulk, in tank vehicles*, from Birmingham, AL to points in AL, for 180 days. RESTRICTION: Restricted to traffic having a prior movement by rail. An underlying ETA seeks 90 days authority. Supporting shipper(s): Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 108520 (Sub-3TA), filed November 13, 1979. Applicant: DON WALDRON d.b.a. DONALD WALDRON TRUCKING, Route 1, Box 197, Franksville, WI 53126. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Feed ingredients*, from the facilities of Cargill, Inc., at Chicago, IL to points in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee,

Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago Counties, WI, for 180 days. Supporting Shipper(s): Cargill, Inc., 120th & Torrence, Chicago, IL 60617. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111170 (Sub-266TA), filed November 5, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Fred Worsham (same address as applicant). *Feed supplements*, in bulk, in tank vehicles, from Van Buren, AR to Cullman, AL, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Diamond Shamrock Corporation, 1100 Superior Ave., Cleveland, OH 44114. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 111401 (Sub-593TA), filed November 2, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum products*, in containers, from Tulsa, OK, to points in KS and TX, for 180 days. Supporting Shipper(s): Champlin Petroleum Company, P.O. Box 552, Enid, OK 73701. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112520 (Sub-378TA), filed November 6, 1979. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *JP-5 (Jet Fuel) in bulk, in tank vehicles*, from points in Escambia County, FL to Greenville, TX for 180 days. Supporting Shipper(s): Department of the Army, Headquarters, Military Traffic Management Command, Washington, DC 20315. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 114290 (Sub-93TA), filed November 8, 1979. Applicant: EXLEY EXPRESS, INC., 2610 S.E. 8th Avenue, Portland, OR 98202. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Malt Beverages* from the facilities of Blitz Weinhard at Portland, OR to points in CA and WA for 180 days. A permanent will be filed. Supporting Shipper(s): Blitz Weinhard Co., 1133 W. Burnside, Portland, OR. Send protests to: D. Merine Galbraith, T/A, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 115651 (Sub-67TA), filed October 25, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222

Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th Street, N.W., Washington, D.C. 20001. *Industrial Sand*, in bulk, and in packages, from Oregon, IL to points in the Continental U.S. on and east of Highway U.S. 85 for 180 days. Supporting shipper(s): Acme Resin Corporation, Oregon, IL. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 115821 (Sub-49TA), filed October 23, 1979. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Coke, in bulk, in dump vehicles*, from points in AL, to the facilities of ASARCO, Incorporated, at Glover, MO for 180 days. Supporting shipper(s): ASARCO, Incorporated, 611 Olive St., Suite 1755, St. Louis, MO 63101. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 121470 (Sub-45TA), filed November 7, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Building materials (except in bulk)* from the facilities of U.S. Gypsum Company at Chamblee and Morrow, GA to KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 53 Perimeter Center East, Atlanta, GA 30346. Send protests to: Glenda Kuss, TA, ICC, Suite A, 422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121470 (Sub-46TA), filed November 9, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Iron and Steel articles* from Chicago, IL and its commercial zone to points in AL, KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are thirteen (13) supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 126930 (Sub-29TA), filed September 14, 1979. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Petroleum products and lubricating oils, except in bulk, in containers* from the facilities of Mobil Oil Corporation located at or near

Omaha, NE to all points in IA and WY for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corp., 8350 N. Central Expressway, Suite 522, Campbell Centre, Dallas, TX 75206. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 128021 (Sub-45TA), filed October 26, 1979. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Popcorn not popped, and popcorn not popped in oil (except in bulk, in tank vehicles)* from Wall Lake, IA to points in the United States (except AK and HI); and (2) *Equipment, materials and supplies used in the manufacture and distribution of popcorn not popped and popcorn not popped in oil* (except commodities in bulk, in tank vehicles), from point in the United States (except AK and HI) to Wall Lake, IA, for 180 days. Supporting shipper(s): National Oats Company, Inc., 1515 H Avenue, NE, Cedar Rapids, IA 52402. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 129480 (Sub-45TA), filed November 7, 1979. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550-71st Avenue S.E., Calgary, AB, Canada T2H 0S6. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., Denver, CO 80264. (1)(A) *Such commodities as are manufactured or distributed by steel mills and metal fabricators*, and (B) *equipment, materials and supplies used in (A) above (except commodities in bulk, in tank vehicles)*, between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AL (except Anniston, Birmingham, Decatur, Gadsden and Tuscaloosa or points within ten miles thereof), AR, IL, IA, KY, LA, MS, MO and TN; (2) *Fabricated steel articles* between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IN, the Lower Peninsula of MI, and points in WI on and south of U.S. Hwy 8 (except Kenosha, Milwaukee and Racine), and points in PA and OH; and (3) *Farm machinery and parts* between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE and SD; Restriction: The authority in (1), (2) and (3) above is restricted to the transportation of commodities which because of size or weight require special handling or

special equipment, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 133591 (Sub-83TA), filed November 8, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel, same as applicant. Such commodities as are dealt in by wholesale, retail and food business houses (except commodities in bulk in tank vehicles). From the facilities of and used by Lever Brothers Co. located at or near St. Louis, MO. To Dallas and Houston, TX, Los Angeles and Richmond, CA, and Portland, OR. Supporting shipper(s): Lever Brothers Company, 390 Park Ave., New York, NY 10022. Send protests to: Vernon Coble, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 135070 (Sub-120TA), filed November 5, 1979. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 137 NW 17th, P.O. Box 82816, Lincoln, NE 68501. *Tires*, from Buffalo, NY, Frazer, PA, and Huntsville, AL to Amarillo, TX for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): York Tire Company, P.O. Box 663, Amarillo, TX 79109. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-121TA), filed November 9, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs*, from the facilities of Fearn International, Inc., at or near Chicago, IL to points in the United States in and east of MT, WY, CO, and NM (except AL, GA, FL, KY, MS, NC, SC, and TN) for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Fearn International, Inc., 9353 Belmont Ave., Franklin Park, IL. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-122TA), filed November 9, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Appliances, air conditioners, and parts and accessories thereof*, from the facilities of Gulf Atlantic Distribution Services, at or near Memphis, TN, to



points in AZ, NM, OK, and TX, for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Gulf Atlantic Distribution Services, Marketing & Distribution, P.O. Box 2588, Houston, TX 77001. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-61TA), filed November 9, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Texas 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract carrier, irregular routes: *Candy, confectionery, chewing gum, drugs and toilet preparations*, in temperature controlled vehicles, from Brooklyn, NY; Duryea, Philadelphia and Reading, PA; and points in NJ; to points in AR, AZ, CA, CO, KS, LA, MO, NM, OK and TX, under continuing contract(s) with Non Profit Shippers Assoc., Rahway, NJ. Supporting shipper(s): Non Profit Shippers Assoc., 797 Hillside Road, Rahway, NJ 07065. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 138741 (Sub-101TA), filed October 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Lumber and lumber products*, between the facilities of Thomas & Proetz Lumber Co. at or near Nashville, IL on the one hand and on the other points in IN, KS, MI, MO, NE, OK and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomas & Proetz Lumber Co., 3400 Hall St., St. Louis, MO. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 140511 (Sub-11TA), filed November 7, 1979. Applicant: AUTOLOG CORPORATION, 319 W. 101 St., New York, N.Y. 10025. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. *New motor vehicles, in secondary movements, in truckaway service*, between points in FL, on the one hand, and, on the other, points in NY; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polkowitz Motors, 233 New Brunswick Ave., Perth Amboy, NJ 08862; Universal Chevrolet Corp., 170 Ridgedale Ave., Morristown, NJ. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 142181 (Sub-15TA), filed November 9, 1979. Applicant: LIBERTY

CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier: irregular routes: Metal containers*, from Chicago, IL to Nashville, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bix Manufacturing Co., 1116 Fowler St., Old Hickory, TN 37138. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142920 (Sub-11TA), filed October 25, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46231. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract carrier: Irregular routes: *Such commodities as are sold by a printer or converter of paper products, and materials, supplies and equipment used in the conduct of such business (except in bulk)* from Terre Haute, IN to New York, Gloversville, NY, and Pinkneyville, IL from Philadelphia, PA to Terre Haute, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arco Press, Inc., 1330 Beech Street, Terre Haute, IN 47804. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 143311 (Sub-6TA), filed April 17, 1979. Applicant: FAMCO TRANSPORT, INC., P.O. Box 80007, Seattle, WA 98101. Representative: James T. Johnson, 1810 IBM Bldg., Seattle, WA 98101. *Contract carrier: irregular routes: Materials, supplies and equipment used by medical laboratories and hospitals*, from Edison, NJ and Chicago and Gurnee, IL to the facilities of American Hospital Supply Corporation at Redmond, WA., and Portland, OR, for the account of American Hospital Supply Corporation, for 180 days. Supporting shipper(s): McGaw Park, IL 60085. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 143311 (Sub-8TA), filed June 12, 1979. Applicant: FAMCO TRANSPORT, INC., 6640 Ellis Ave. S., Seattle, WA 98108. Representative: William J. Albright, President, P.O. Box 80007, Seattle, WA 98108. *Contract carrier: irregular routes: Wheat flour and related commodities*, from Seattle, WA, to points in OR and CA, for 180 days. Supporting shipper(s): Fisher Mills, Inc., 3235 16th Avenue SW., Seattle, WA 98134. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 144041 (Sub-40TA), filed September 13, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta GA 30345. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30343. *Automobile parts and accessories, materials and supplies used in the manufacturing, sale and installation thereof (except in bulk)* from Goldsboro, NC to Dayton, NJ, Mansfield, MA, Atlanta, GA, Toledo, OH, Grand Haven, MI, Pinola, IN, Chicago, IL, Arlington, TX, Carson, CA and Hayward, CA, restricted to traffic originating at or terminating at the facilities of AP Parts Company, Division of Questor Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Questor Corporation, One John Goerlich Square, Toledo, OH. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144630 (Sub-38TA), filed October 11, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Such merchandise as is dealt in by wholesale and retail grocery and food business houses and equipment, materials and supplies used in the conduct of wholesale and retail grocery and food business houses*, from Kansas City, KS, Kansas City, MO, Chicago, IL, Baltimore, MD, and St. Louis, MO to the facilities utilized by Marsh Super Markets located at Indianapolis, Richmond, Yorktown and Anderson, IN for 180 days. Supporting shipper(s): Marsh Supermarkets, Inc., Yorktown, IN 47396. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145441 (Sub-78TA), filed November 6, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). *Canned or preserved foodstuffs*, from the facilities of Heinz USA at or near Holland, MI, to points in CA, restricted to traffic originating at named origins and destined to named destinations, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145950 (Sub-58TA), filed October 30, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 8, Box 2611, Waco, TX 76706. Representative:

Michael D. Bromley, 805 McLachen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. *Chemicals, in drums*, from the facilities of Jefferson Chemical Co., at or near Austin, Port Neches, and Youens, TX and *Proprietary anti-freeze, in drums or packages*, from the facilities of Jefferson Chemical Co. in the Houston, TX commercial zone, to all points in the United States (except AK and HI); for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jefferson Chemical Co. Inc., 4800 Fournace Place, Bellaire, TX 77001. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-59TA), filed October 22, 1979. Applicant: BAYWOOD TRANSPORT, INC., Box 2611, Rt. 6, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. *Foodstuffs (except in bulk)* from the facilities of Anderson Clayton Foods Company at or near Jacksonville, IL to points in VA, NC, SC, GA, FL, AL, TN, MS, LA, AR, OK, and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods Company, P.O. Box 226165, Dallas, TX 75266. Send protests to: Marianne Minnich, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146520 (Sub-5TA) (Republication), filed April 6, 1979. Previously noticed in the Federal Register issue of August 8, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Appendixes A, C and D of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, between the facilities of Lauridsen Foods, Inc. at or near Britt, IA and the facilities of Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points in CT, DE, KY, IL, IN, MA, MD, ME, MI, NY, NH, NJ, OH, PA, RI, VA, VT, WV, and DC, for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc. at or near Britt, IA and/or the facilities of Armour and Company at or near Mason City, IA. Supporting shipper(s): Armour Food Co., Greyhound Tower, Phoenix, AZ 85077. Send

protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

Note.—The purpose of this republication is to include NY in the territorial description.

MC 146880 (Sub-4TA), filed October 17, 1979. Applicant: LOWELL E. DENTON d.b.a. DENTON CARTAGE COMPANY, P.O. Box 40, Palos Park, IL 60464. Representative: Lowell E. Denton (same address as applicant). *General Commodities (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)*, between Chicago, IL, on the one hand, and, on the other, Fenton, MI, South Bend, IN and points in IL. Restricted to traffic originating at or destined to the facilities of Playskool, Inc. located at Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Playskool, Inc., 4501 West Augusta Boulevard, Chicago, IL 60651. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 147131 (Sub-3TA), filed September 25, 1979. Applicant: KENNAMER BROTHERS, INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Meat, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, except hides and commodities in bulk. From the facilities of or used by George A. Hormel and Company at or near Austin, MN and the facilities of Hormel Foods at or near Albert Lee, MN to points in AL, TN, and GA. Supporting shipper(s): George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

Note.—Applicant intends to interline with other carriers at principal gateways in the destination states.

MC 147841 (Sub-2TA), filed August 3, 1979. Applicant: CENTENNIAL TRUCK LINES, INC., 301 Broadway, Jersey City, NJ 07306. Representative: Thomas F. X. Foley, State Highway #34, Colts Neck, NJ 07722. *Coffee, roasted and instant*, from the facilities of Chock Full O'Nuts at or near Brooklyn, and Jamaica, NY and St. Louis, MO to points in the states of AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MD, MI, MO, MS, NE, NV, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, UT, VI, WV, and WY; *Coffee beans*, from New

Orleans, Louisiana and points in TX located along the international boundary line between the U.S. and Mexico to the facilities of Chock Full O'Nuts at or near Brooklyn and Jamaica, NY and St. Louis, MO; *Frozen bakery goods*, from Secaucus to points in the states of AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MD, MI, MO, MS, NE, NV, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, UT, VI, WV, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chock Full O'Nuts, 425 Lexington Avenue, New York, NY 10017. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147891 (Sub-1TA), filed October 5, 1979. Applicant: W. E. FERGUSON, d.b.a. FERGUSON TRUCKING, 720 Brownell, Joplin, MO 64801. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract, irregular: Containers and/or container ends, sheet steel and accessories* for the above commodities, between Fenton, MO, on the one hand, and, on the other, Ft. Smith, Jacksonville, West Helen and West Memphis, AR; Atlanta, GA; Jacksonville, Mapleton, Marion, Des Moines, and Sioux City, IA; Coffeyville, Kansas City and Wichita, KS; Calver City, Carrollton, Elizabethtown, Henderson, Louisville, and Murray, KY; Ponca City and Tulsa, OK; Charleston, Chattanooga, Collierville, Kingsport, Memphis, and Mount Pleasant, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): USS Products Division, United States Steel Corporation, 600 Grant St. Pittsburgh, PA 15230. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 148060 (Sub-2TA), filed October 16, 1979. Applicant: STOVER LINES, INC., 5636 NW 17th, Topeka, KS 66618. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Feed ingredients* from Kansas City and St. Joseph, MO to Topeka, KS; Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625; 180 days, common, irregular; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 148200 (Sub-2TA), filed October 9, 1979. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: Mark E. Bell, 220 Merchants Bank Bldg., Indianapolis, IN 46204. *Contract Carrier: Irregular Routes: (1) Plastic bottles or containers in all stages of manufacturing or production; (2) Fiberboard boxes or shipping material, pallets or skids; (3)*



*Production or manufacturing tools, equipment, machinery or molds related to the manufacturing of plastic bottles or containers; (4) Scrap material, plastic or otherwise, related to the manufacturing process of plastic bottles or containers between Franklin, IN on the one hand, and on the other hand, all points in IL, KY, MI and OH, for 180 days. Under contract with Hoover Universal, Inc. Supporting shipper(s): Hoover Universal, Inc., 1100 Early Wood Drive, Franklin, IN 46131. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.*

MC 148271 (Sub-1TA) filed November 2, 1979. Applicant: ENTERPRISE SERVICE COMPANY, INC., 2210 S. Olden Avenue, Trenton, NJ 08610. Representative: Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, PA 15219. Contract, irregular. *Cleaning compounds, toilet preparations, jewelry, food supplements, cooking utensils, and other merchandise, equipment and supplies sold, used, or distributed by Amway Corporation*, from the facilities of Amway Corporation located in Somerville, NJ and Dayton, NJ to points in NY, MA, RI, and VT and vice versa; under continuing contract with Amway Corporation for 180 days. Supporting shipper(s): Amway Corporation, Monmouth, Junction Rd., P.O. Box 900, Dayton, NJ 08810. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 148340 (Sub-1TA), filed November 7, 1979. Applicant: CITIZENS CARPET SERVICE, INC., 652 South Lipan, Denver, CO 80223. Representative: Verlin R. Snider, 3587 South Hudson, Denver, CO 80010. *Floorcovering, carpet, rugs and/or samples in rolls or boxes*, from points in the counties of Bartow, Catoosa, Floyd, Gordon, Murray and Whitfield, all in the State of Georgia to the assembly point in Dalton, GA. Such commodities to have prior or subsequent movement in Interstate Commerce, for 180 days. An underlying ETA seeks identical authority. Carrier does intend to interline with other carriers. Supporting shipper(s): (52 supporting shippers). Send protests to: Herbert C. Ruoff, ICC, 492 U.S. Customs House, 721-19th Street, Denver, CO 80202.

MC 148510 (Sub-1TA), filed November 1, 1979. Applicant: THOMPSON TRUCK SERVICE, INC., 4714 Primm St., St. Louis, MO 63116. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Commodities as dealt in by retail department stores*, between Vandalia, IL on the one hand,

and, on the other, points in St. Louis and St. Louis County, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): P. N. Hirsch & Co. Stores, Inc., 2001 Walton Rd., St. Louis, MO 63114. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 148511 (Sub-1TA), filed October 30, 1979. Applicant: FOB TRANSPORTATION GROUP INC., 127 Davidson Avenue, Somerset, NJ 08873. Representative: W. G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Electrical components, machinery, electrical generators and components used in the manufacture thereof between facilities of Bogue Electric, Paterson, NJ on the one hand, and, on the other, U.S. Government installations in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bogue Electric Mfg., Co., 100 Pennsylvania Avenue, Paterson, NJ 07509. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 148690 (Sub-1TA), filed November 5, 1979. Applicant: GARY G. BUNDAY d.b.a. GARY BUNDAY TRUCKING, 35660 Frontage Road, Bozeman, MT 59715. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver CO 80202. *Beer and wine from points in CA to Bozeman, MT, restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract(s) with Bronkin's and Bronkin's Good Time Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bronkin's Good Time Co., 707 East Peach, Bozeman, MT 59715. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.*

MC 148700 (Sub-1TA), filed November 7, 1979. Applicant: JERICHO TRUCKING CO., INC., S9 W26422 Windsor Place, Waukesha, WI 53186. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; (1) *Concrete blocks and mortar, mortar coloring, and cement, in mixed loads with concrete blocks*, from facilities of Best Block Co., at Butler, WI; Best Block South, Inc., Milwaukee, WI; and Best Block Racine, Inc., at Racine, WI to points in IL, IN, & MI; (2) *Brick and brick products*, from facilities of American Brick Co., at Chicago, IL and Munster, IN to origins named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Block Co.,

Best Block South, Inc., and Best Block Racine, Inc., W 140 N5998 Lilly Rd., Butler, WI 53007. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

By the Commission.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37791 Filed 12-7-79; 8:45 am]  
BILLING CODE 7035-01-M

#### (Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Thirty-Fifth Revised Exemption No. 129)

##### Car Service Orders

*To all railroads: It appearing*, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

*It is ordered*, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company  
Reporting Marks: ASAB  
Chicago, West Pullman & Southern Railroad Company  
Reporting Marks: CWP  
Illinois Terminal Railroad Company  
Reporting Marks: ITC  
Louisville, New Albany & Corydon Railroad Company  
Reporting Marks: LNAC  
\*Missouri-Kansas-Texas Railroad Company  
Reporting Marks: MKT  
New Hope and Ivyland Railroad Company  
Reporting Marks: NHR  
North Stratford Railroad Corporation  
Reporting Marks: NSRC  
St. Louis Southwestern Railway Company  
Reporting Marks: SSW  
Southern Pacific Transportation Company  
Reporting Marks: SP

\* Addition.

*Effective November 16, 1979, and continuing in effect until further order of this Commission.*

Issued at Washington, D.C., November 16, 1979.

Interstate Commerce Commission.  
Robert S. Turkington,  
Agent.

[FR Doc. 79-37797 Filed 12-7-79; 8:45 am]  
BILLING CODE 7035-01-M

#### (I.C.C. Order No. 53-A Under Service Order No. 1344)

##### Rerouting Traffic

*To: All Railroads:* Upon further consideration of I.C.C. Order No. 53, and good cause appearing therefor:

*It is ordered:* I.C.C. Order No. 53 is vacated.

This order shall become effective November 19, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 19, 1979.

Interstate Commerce Commission.  
Joel E. Burns,  
Agent.

[FR Doc. 79-37798 Filed 12-7-79; 8:45 am]  
BILLING CODE 7035-01-M



# Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### 1

#### CONSUMER PRODUCT SAFETY COMMISSION.

##### Revised Agenda<sup>1</sup>

**TIME AND DATE:** Commission Meeting, Friday, November 30, 1979, 9:30 a.m.  
**LOCATION:** Eighth Floor Conference Room, 1111 18th St., NW., Washington, DC.

**STATUS:** Open to the Public.

**PRIORITY ITEMS:** The Commission will discuss several items which it may include on CPSC's list of priorities for Fiscal Year 1980. The Commission originally scheduled this discussion for November 29, 1979.

**FOR ADDITIONAL INFORMATION:** Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, DC 20207, (202) 634-7700.

[S-2389-79 Filed 12-5-79; 5:01 pm]  
BILLING CODE 6355-01-M

### 2

#### FEDERAL COMMUNICATIONS COMMISSION.

**TIME AND DATE:** 9:30 a.m., Wednesday, December 12, 1979.

**PLACE:** Room 856, 1919 M Street NW., Washington, D.C.

**STATUS:** Special Open Commission Meeting.

##### MATTERS TO BE CONSIDERED:

*Agenda, Item No., and Subject*

Common Carrier—1—Report and Recommendations on Docket 20778.

<sup>1</sup> Agenda revised November 29, 1979. The Commission decided to consider this matter November 30, 1979, rather than November 29, 1979, as previously scheduled. In deciding to revise the schedule, the Commission determined that agency business required consideration of this matter without the normal seven-day advance notice.

Preliminary Investigation and Audit of International Carriers and other International Communications Matters. The Commission is considering what action it should take in light of the Staff Report in Docket 20778, Audit of the International Carriers, and whether to release the Staff Report to the public.

Common Carrier—2—Title: International Record Carriers' Scope of Operations in the Continental United States. Summary: The Commission will consider applications to permit international record carriers (IRCs) to establish gateways in additional cities in the continental United States. Also being considered are requests for geographical expansion of existing and future gateways, requests for limited purpose gateway authority at INTELSAT earth station sites, and to permit IRCs to interconnect with domestic affiliates. The Commission will also consider free direct access proposals submitted by the IRCs.

Common Carrier—3—Title: Application by American Telephone Telegraph Company to modify existing Section 214 authorizations to permit use of MTS network for overseas Dataphone service. Summary: The Commission will consider the Application of American Telephone and Telegraph Company to modify its existing Section 214 certificate of authority so as to allow as a permissive use only, Dataphone transmission over the overseas MTS network between the U.S. and those foreign countries who agree to the removal of existing restrictions against such use. The issues to be considered are the application of the Commission's policy statements in Docket No. 19558, whether interconnection requirements relating to IRC facilities should be imposed as a condition to such authorizations, and if so, the scope and kinds of interconnections which should be provided.

Common Carrier—4—Title: Applications of Western Union International, ITT Worldcom and RCA Globcom for modification of Section 214 Authorizations. Western Union International Petition for Interconnection and Evidentiary hearing. Summary: The Commission will consider the applications of WUI, ITT Worldcom and RCA Globcom seeking modification of their Section 214 authorizations so as to remove the voice use restrictions and provide for expansion of their switched alternate voice-data services such as Datel. Issues which will be considered include the applicability of Commission Policy statements in Docket 19558, the scope and kinds of interconnection which are appropriate to the type of service expansion being considered, the need for modification of existing operating agreements, and whether or not an evidentiary hearing is required before the Commission may act on these applications.

Common Carrier—5—Report, Order and Further Notice of Proposed Rulemaking in

## Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

Docket 21005, Interconnection of International Telex. The Commission is considering whether to require that International Record Carriers interconnect with one another; whether the rate structure for international telex services should be unbundled in whole or in part; whether carriers providing domestic telex and telex-like services should be interconnected with all International Record carriers.

Common Carrier—6—Title: Complaint of ITT World Communications Inc. alleging that Western Union is providing an unauthorized international telex service. Summary: ITT has alleged that Western Union has offered international telex service by routing telex calls destined for overseas points through Mexico and Canada. The question is raised whether the Western Union service in question violates Sections 203, 214 and 222 of the Act.

Common Carrier—7—Title: ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), and Western Union International, Inc. (WUI) v. Consortium Communications International, Inc. (CCI); File Nos. TS 9-78, 10-78, and 78-1945. Summary: ITT, RCA, and WUI filed complaints against CCI alleging violation of the Communications Act by offering a common carrier service to the public without prior authorization from the FCC and without a proper tariff on file. The issues raised are whether CCI offers a communications service subject to FCC regulation.

Common Carrier—8—Title: Memorandum Opinion and Order, CC Docket No. 78-96, Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities other than the Western Union Telegraph Company and Proposed Amendment to Parts 63 and 64 of the Commission's Rules. Summary: The Commission will take up the issues designated in the *Notice of Inquiry and Proposed Rulemaking* in this proceeding which was released on July 23, 1979 (FCC 79-442). Those issues include the application of the international formula for the distribution of unrouted outbound international message traffic, a proposed definition of "public message service" and changes to Parts 63 and 64 of the FCC rules dealing with telegraph office and agency changes and telegraph speed of service studies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 5, 1979.

[S-2395-79 Filed 12-6-79; 2:57 pm]

BILLING CODE 6712-01-M

### 3

#### FEDERAL COMMUNICATIONS COMMISSION.

**TIME AND DATE:** 9:30 a.m., Wednesday, December 12, 1979.

**PLACE:** Room 856, 1919 M Street NW., Washington, D.C.

**STATUS:** Special Closed Commission Meeting following the Special Open Meeting which commences at 9:30 a.m.

##### MATTERS TO BE CONSIDERED:

*Agenda, Item No., and Subject*

General—1—Proposed 9 kHz Channel Spacing for AM Broadcast Service.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 5, 1979.

[S-6712-01-79 Filed 12-6-79; 2:57 pm]

BILLING CODE 6712-01-M

### 4

#### FEDERAL ELECTION COMMISSION.

##### FEDERAL REGISTER NO. 2336.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Thursday, December 6, 1979 at 10 a.m.

**CHANGE IN MEETING:** The Commission determined by a vote of 6-0 to hold an Executive Session for the purposes of discussing a personnel matter at the conclusion of the regular open meeting for this date.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

*Secretary to the Commission.*

[S-2393-79 Filed 12-6-79; 10:35 am]

BILLING CODE 6715-01-M

### 5

#### FEDERAL HOME LOAN BANK BOARD.

**TIME AND DATE:** 9:30 a.m., December 13, 1979.

**PLACE:** 1700 G Street NW., Sixth Floor, Washington, D.C.

**STATUS:** Open Meeting.

##### CONTACT PERSON FOR MORE INFORMATION:

Franklin D. Bolling (202-377-6677).

##### MATTERS TO BE CONSIDERED:

Application for Bank Membership—York County Savings Bank, Biddeford, Maine

Application for Bank Membership—Bethel Savings Bank, Bethel, Maine

Application for Bank Membership—Sanford Institution for Savings, Sanford, Maine

Application for Bank Membership and Insurance of Accounts—Golden Coin Savings and Loan Association, San Francisco, California

Request for a Commitment to Insure Accounts—Parish Building and Loan Association, Jennings, Louisiana

Request for Extension of Time and Relief From Condition of Insurance—Madison County Building and Loan Association, Madison, Nebraska

Application for Insurance of Accounts—Village Savings Association, West University Place, Texas

Designation of Supervisory Agent Amendment of Charter—Change of Name—First Federal Savings and Loan Association, Brunswick, Georgia

Merger—Home Savings and Loan Association, Manhattan, Kansas INTO Northwestern Federal Savings and Loan Association, Clay Center, Kansas

Application to Convert From the Federal Mutual to the Federal Stock Form of Organization—Citizens Federal Savings and Loan Association of Matteson, Matteson, Illinois

EFTS-RSU Application, Request to Waive a Condition—Portland Federal Savings and Loan Association, Louisville, Kentucky Service Corporation Activity—Gibraltar Savings and Loan Association, Beverly Hills, California

Petition for Reconsideration of Branch Office Approval—Metropolitan Federal Savings and Loan Association, Fargo, North Dakota

Branch Office Applications to be Considered Concurrently—Central Federal Savings and Loan Association, San Diego, California AND First Federal Savings and Loan Association of South Pasadena, South Pasadena, California

No. 298, December 6, 1979.

[S-2396 Filed 12-6-79; 3:26 pm]

BILLING CODE 6720-01-M

### 6

**FEDERAL RESERVE SYSTEM:** (Committee on Employee Benefits of the Board of Governors).

**TIME AND DATE:** 4 p.m., Wednesday, December 12, 1979.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Closed.

##### MATTERS TO BE CONSIDERED:

1. Personnel actions involving an individual Federal Reserve System employee.

2. Proposed administrative procedures relating to the Committee on Appeals and to Thrift Plan contributions.

Proposed amendment to the Life and Survivor Income Insurance Plan.

4. Any agenda items carried forward from a previously announced meeting.

## CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Theodore E. Allison, Secretary of the Board; (202) 452-3257.

Dated: December 5, 1979.

Mr. Theodore E. Allison,

*Secretary of the Board.*

[S-2390-79 Filed 12-6-79; 3:30 pm]

BILLING CODE 6210-01-M

### 7

#### NUCLEAR REGULATORY COMMISSION.

**TIME AND DATE:** Week of December 3 (Changes).

**PLACE:** Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

**STATUS:** Open and Closed.

##### MATTERS TO BE CONSIDERED:

Wednesday, December 5

10:30 a.m.—Discussion and Vote on Proposed Amendments to 10 CFR Part 50; Plans for Coping With Emergencies at Production 7 Utilization Facilities (continued from 12/3) (approximately 1½ hours, public meeting).

2 p.m.—Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—Ex. 2 and 6) rescheduled from 12/7.

Thursday, December 6

9:30 a.m.—Discussion of Commission's Decision-Making Role in Emergency Response (approximately 1½ hours, public meeting) additional item.

1:30 p.m.—Briefing on Policy, Planning and Program Guide (approximately 2 hours, public meeting) as announced.

Friday, December 7

9:30 a.m.—Discussion of Management-Organization and Internal Personnel Matters (continued from 12/5) (approximately 1½ hours, closed—Ex. 2 and 6).

1:30 p.m.—Discussion of Improving Commission Procedures (approximately 1½ hours, public meeting) as announced.

3:30 p.m.—Joint NRC/ACRS Meeting (approximately 1 hour, public meeting) as announced.

**ADDITIONAL INFORMATION:** The Discussion and Vote on UCS Petition, scheduled for December 7, was cancelled.

## CONTACT PERSON FOR MORE

**INFORMATION:** Walter Magee, (202) 634-1410.

Walter Magee,

*Office of the Secretary.*

[S-2397 Filed 12-6-79; 3:28 pm]

BILLING CODE 7590-01-M

### 8

#### SECURITIES AND EXCHANGE COMMISSION.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** [44 FR 69413 12/3/79].



**STATUS:** Closed meeting.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Monday, December 3, 1979.

**CHANGES IN THE MEETING:** Additional meeting.

The following additional closed meeting will be held on Thursday, December 6, 1979 at 1:30 p.m.

The subject matter of the closed meeting will be:

Institution of injunctive action.

Chairman Williams and Commissioners Loomis, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

December 5, 1979.

[S-2392-79 Filed 12-6-79; 10:34 am]

BILLING CODE 8010-01-M

9

#### SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 10, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, December 11, 1979, at 10 a.m., and immediately following a 2:30 p.m. open meeting, and on Wednesday, December 12, 1979, immediately following a 10 a.m. open meeting.

Open meetings will be held on Tuesday, December 11, 1979, at 2:30 p.m., and on Wednesday, December 12, 1979, at 10 a.m. and 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack,

and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 11, 1979, at 10 a.m., will be:

Amendment of formal order of investigation.  
Litigation matters.  
Freedom of Information Act appeals.  
Formal orders of investigation.  
Institution of injunctive action and administrative proceeding.  
Regulatory matters regarding financial institution.

The subject matter of the closed meeting scheduled for Tuesday, December 11, 1979, immediately following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Wednesday, December 12, 1979, immediately following the 10 a.m. open meeting, will be:

Litigation matter.  
Consideration of *amicus* participation.  
Legislation matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Tuesday, December 11, 1979, at 2:30 p.m., will be:

Oral argument in proceedings under Rule 2(e) of the Commission's Rules of Practice on an application by attorneys William R. Carter and Charles J. Johnson, Jr. for review of the adverse decision of an administrative law judge.

The subject matter of the open meeting scheduled for Wednesday, December 12, 1979, at 10 a.m., will be:

1. Consideration of an application by Ronald R. Michno, who is the subject of a bar from association with any broker or dealer, to become reassociated in the securities business with H. A. Brandt & Associated, Inc., an exchange-listed options market maker, as a supervised person in a nonsupervisory capacity. For further information, please contact David Tennant at (202) 272-2947.

2. Consideration of whether to affirm action, taken by the duty officer, authorizing the transmittal of a letter and memorandum commenting on Section 303 of S. 1946, the "Railroad Transportation Policy Act of 1979," to the Senate Committee on Commerce, Science and Transportation. For further information, please contact Alan Rosenblatt at (202) 272-2428.

3. Consideration of whether to authorize the publication of a release which provides interpretive views of the Division of Corporation Finance concerning the management remuneration disclosure requirements embodied in Item 4 of Regulation S-K. Among other things, such release would cover the mechanics of the remuneration table, bonus plans, personal benefits, pension information, and proposed

remuneration. For further information, please contact Bruce S. Mendelsohn at (202) 272-2589.

4. Consideration of whether to issue a release in connection with the preparation of a report to Congress, pursuant to Section 13(h) of the Securities Exchange Act of 1934, requesting public comment on the effectiveness of the ownership reporting requirements contained in that Act and on the desirability and feasibility of reducing or otherwise modifying the five percent reporting thresholds in Sections 13(d) and 13(g). For further information, please contact John A. Granda or W. Scott Cooper at (202) 272-2589.

5. Consideration of whether to issue: (1) a release announcing the adoption of technical amendments to Securities Exchange Act Rules 12f-1 and 12f-3 governing the information required in applications for the extension or termination of unlisted trading privileges; and (2) an order approving applications of the Midwest Stock Exchange for unlisted trading privileges in a large number of securities listed on the New York Stock Exchange. For further information, please contact Douglas Scarff at (202) 272-2866.

6. Discussion of the expansion of the options markets following the termination of the options moratorium. For further information, please contact Douglas Scarff at (202) 272-2866.

7. Consideration of whether to authorize the issuance of bonds by Middle South Energy, Inc., a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company. For further information, please contact William C. Weeden at (202) 523-5679 or Kenneth D. Israel at (202) 523-5688.

8. Consideration of whether to: (1) grant an application of Bondstock Corporation ("Bondstock"), et al., for an order of the Commission, pursuant to Sections 11(a), 17(d), and 26(b) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, approving certain transactions proposed to be effected in connection with the acquisition of substantially all of the assets of Bondstock by Security Equity Fund, Inc., each registered as an open-end, diversified, management investment company; and (2) amend the Commission's rule delegating authority to the Director of the Division of Investment Management to authorize the Director to issue notices and orders on applications pursuant to Section 26(b) of the Act. For further information, please contact Cathy G. Douglas at (202) 272-3921.

9. Consideration of two related releases which would: (1) announce the adoption of a rule having the effect of excluding accountants issuing reports on unaudited interim financial information from Section 11(a) liability under the Securities Act of 1933; and (2) propose for comment a similar rule for reports by accountants on unaudited supplemental information required by the Financial Accounting Standards Board. For further information, please contact James J. Doyle at (202) 272-2130.

The subject matter of the open meeting scheduled for Wednesday, December 12, 1979, at 2:30 p.m., will be:

Discussion with former members of the Advisory Committee on Corporate Disclosure of the Commission's response to the Committee's recommendations contained in its Report to the Commission dated November 3, 1977. For further information, please contact Michael P. Rogan at (202) 272-2091.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George C. Yearsich at (202) 272-2178.

December 5, 1979.

[S-2391-79 Filed 12-6-79; 10:33 am]

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# Reader Aids

Federal Register  
Vol. 44, No. 238  
Monday, December 10, 1979

## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

### Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)  
202-275-3054 Subscription problems (GPO)  
"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):  
202-523-5022 Washington, D.C.  
312-663-0884 Chicago, Ill.  
213-688-6694 Los Angeles, Calif.  
202-523-3187 Scheduling of documents for publication  
523-5240 Photo copies of documents appearing in the Federal Register  
523-5237 Corrections  
523-5215 Public Inspection Desk  
523-5227 Finding Aids  
523-5235 Public Briefings: "How To Use the Federal Register."

### Code of Federal Regulations (CFR):

- 523-3419  
523-3517  
523-5227 Finding Aids

### Presidential Documents:

- 523-5233 Executive Orders and Proclamations  
523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

### Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index  
-5282  
275-3030 Slip Law Orders (GPO)

### Other Publications and Services:

- 523-5239 TTY for the Deaf  
523-5230 U.S. Government Manual  
523-3408 Automation  
523-4534 Special Projects  
523-3517 Privacy Act Compilation

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## CFR PARTS AFFECTED DURING DECEMBER

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/SECRETARY*  | USDA/ASCS  |           | DOT/SECRETARY*  | USDA/ASCS  |
| DOT/COAST GUARD | USDA/APHIS |           | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/FHWA        | USDA/FSQS  |           | DOT/FHWA        | USDA/FSQS  |
| DOT/FRA         | USDA/REA   |           | DOT/FRA         | USDA/REA   |
| DOT/NHTSA       | MSPB/OPM   |           | DOT/NHTSA       | MSPB/OPM   |
| DOT/RSPA        | LABOR      |           | DOT/RSPA        | LABOR      |
| DOT/SLSDC       | HEW/FDA    |           | DOT/SLSDC       | HEW/FDA    |
| DOT/UMTA        |            |           | DOT/UMTA        |            |
| CSA             |            |           | CSA             |            |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

## Rules Going Into Effect Today

|       |                                           |                                                                                                                              |
|-------|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 65398 | CIVIL AERONAUTICS BOARD                   | 11-13-79 / Automatic market entry procedures                                                                                 |
| 64409 | FEDERAL COMMUNICATIONS COMMISSION         | 11-7-79 / FM broadcast station in Homasassa Springs, Fla.; Changes made in table of assignments                              |
| 64808 | FEDERAL EMERGENCY MANAGEMENT AGENCY       | 11-8-79 / Disaster Response and Recovery Regulations; evaluation and mitigation of natural hazards                           |
| 65072 | HEALTH, EDUCATION, AND WELFARE DEPARTMENT | Public Health Service—                                                                                                       |
|       |                                           | 11-9-79 / Consolidation of grants to the Insular Areas                                                                       |
| 65060 | HOUSING AND URBAN DEVELOPMENT             | Office of Assistant Secretary for Housing—Federal Housing Commissioner—                                                      |
| 65360 |                                           | 11-9-79 / Existing housing; special procedures for moderate rehabilitation program                                           |
| 65368 |                                           | 11-9-79 / Section 8 housing assistance; special assistance on behalf of mobile homeowners                                    |
|       |                                           | 11-9-79 / PHA-owned public housing projects; demolition of buildings or disposition of real property                         |
| 65002 | INTERIOR DEPARTMENT                       | Fish and Wildlife Service—                                                                                                   |
|       |                                           | 11-8-79 / Endangered and threatened wildlife and plant determination that <i>Abies guatemalensis</i> is a threatened species |
| 65025 | PERSONNEL MANAGEMENT OFFICE               | 11-9-79 / Administrative Claims Under Federal Tort Claims Act                                                                |
| 65031 |                                           | 11-9-79 / Personnel records and files; protection of privacy in personnel records                                            |

## TRANSPORTATION DEPARTMENT

Coast Guard—

64836 11-8-79 / Great Lakes Pilotage Regulations; pilot qualification standards

## List of Public Laws

Last Listing December 7, 1979

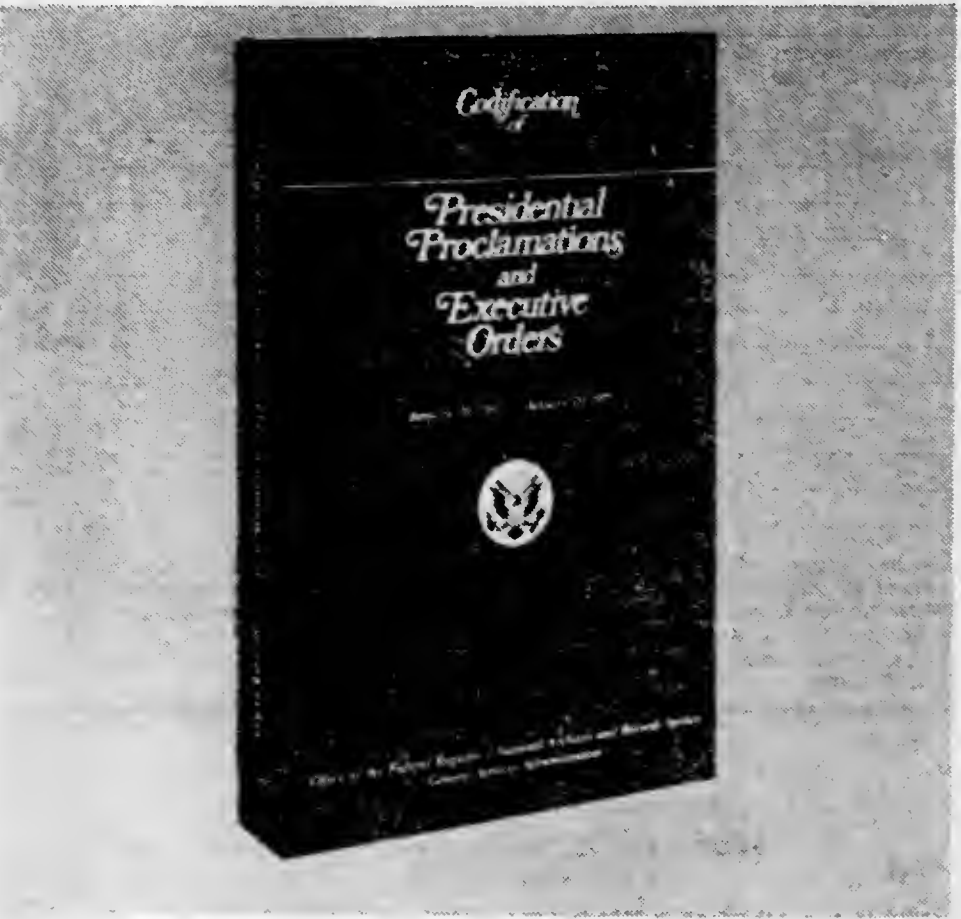
This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 1885 / Pub. L. 96-135 To amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies. (Dec. 5, 1979; 93 Stat. 1056). Price \$75.



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Book 2 of 2 Books  
Monday, December 10, 1979

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## CONSUMER AFFAIRS COUNCIL

## Open Letter to the American Consumer

THE WHITE HOUSE  
WASHINGTON

December 10, 1979

Dear Consumer:

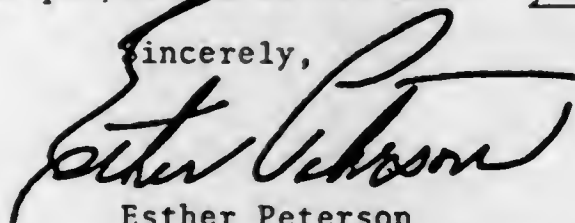
Do you ever feel there is a lack of information on food and drug labels? Does the absence of safety features in your automobile ever worry you? Do you think long distance railroad and trucking rates are set artificially high so you are paying more transportation costs than you should? Perhaps a better question would be, "How often do you get concerned about these kinds of problems?" Agencies of the Federal government make decisions every day that affect the health, safety, and pocketbooks of consumers. You are a consumer. For that reason, what the Federal government decides to do (or not to do) about food and drug labeling, automobile safety, freight rates and a host of other consumer-related issues, should be of direct and vital concern to you.

You probably think that there is little, if anything, you can do to make your government listen to you, and that nothing you say can change what government does. Not any more. We have been working long and hard over the past three years to make your government more responsive to your wants, needs and concerns.

The culmination of our efforts came in September 1979, when President Carter issued an Executive Order to change the way citizens can work with their government. The President ordered Federal agencies to take steps to improve dramatically the effectiveness of Federal consumer programs. The voice of the consumer must and will be heard and considered by agencies in making regulations and policy. Agencies will be responsive to you. Now, you can talk to us and we will listen.

This publication outlines programs Federal agencies have proposed to improve their consumer programs. I do hope you will read and think about the programs of the agencies that concern you. And just as importantly, I hope you will tell the agencies what you think about their programs. Only through your comments and suggestions will Federal agencies be able to fulfill the promise of the President's Executive Order and establish consumer programs that are useful to the people who matter most: you.

Sincerely,



Esther Peterson  
Chairperson, Consumer Affairs Council

[FR Doc. 79-37316 Filed 12-7-79; 8:45 am]  
BILLING CODE 3195-01-C

## CONSUMER AFFAIRS COUNCIL

## Draft Consumer Programs

AGENCY: Consumer Affairs Council.

ACTION: Draft consumer programs.

**SUMMARY:** In cooperation with the Consumer Affairs Council, agencies of the Federal government are proposing new or revised consumer programs. (These programs follow this introductory preamble.) We are taking this action in response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." We expect this action to result in improved and more effective Federal consumer programs, consumer programs more responsive to the needs and wishes of the public.

**DATES:** We are asking for comments on the consumer programs described in this publication. Any comments submitted must be received no later than March 10, 1980.

**ADDRESSES:** Send your comments to the agency or agencies proposing the consumer programs in which you are interested.

**FOR FURTHER INFORMATION CONTACT:** 1. For information on the consumer program of a particular agency, contact the person or persons listed in that agency's draft consumer program.

2. For general information on the Consumer Affairs Council or Executive Order 12160, contact Belle O'Brien, Mark Goldberg, or Gregory Jones at the Consumer Affairs Council, 495 Old Executive Office Building, Washington, DC 20500, 202/456-6226 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**HERE'S WHAT'S COMING**

- I. Tried To Talk With Your Government Lately?
- II. Have We Listened? (We Know We've Got Problems.)
- III. Why An Executive Order? (What's In It For You?)
- IV. What's Happened So Far?
- V. Want To Talk With Your Government? Here's How.
- VI. What's Next?
- VII. You Can Help Us Do More.

**Appendices**

1. Executive Order 12160.
2. Guidelines for Implementation of Executive Order 12160.
3. Consumer Response Form for Executive Order 12160.
4. Executive Order 12160 Compliance Checklist.
5. Documents Concerning Exemption from and Implementation of Executive Order 12160.

**I. TRIED TO TALK WITH YOUR GOVERNMENT LATELY?**

Are you worried about the high cost of food, health care, or fuel? Do you travel on interstate highways? Do

you ever visit national parks? Do you sometimes think about how much you pay in Social Security taxes? The chances are good that you answered "yes" to at least one of these questions. More than that, you probably answered "yes" to most, or all, of them. But whether your answers were mostly "yes" or mostly "no," you know that each of these areas is important to you, the consumer. As a result, your feelings are important to the Federal Government.

Unfortunately, Government programs, policies, and regulations often seem remote to consumers. It is sometimes hard to get answers to simple questions. Filing a complaint with a Federal agency and getting a satisfactory response can be a struggle. Making your voice heard in a meaningful way in regulatory and policymaking decisions, which may have a substantial effect on you, can be a formidable barrier. Unless you are an attorney, or are represented before Government agencies by an attorney, you may not be able to present your side of the story as persuasively as others. In the past, average consumers lacking legal counsel or an intimate understanding of how government agencies work were far too frequently at a disadvantage.

In September 1979, President Carter signed an Executive order, which we will discuss at greater length later, designed to improve Government consumer programs. The Order says that Government consumer programs must be responsive to the needs of the consumer and requires that the voice of the consumer be heard and taken into account by agency decisionmakers.

This preamble discusses the background of the Executive order, the need for more effective consumer programs in government, and the consumer programs agencies have proposed under the Executive order. It outlines the content of the Executive order, and explains what we have done so far to implement the provisions of the Executive order. It asks for your thoughts on some of the consumer programs agencies are proposing and tells you how to let the Government know what you think. Finally, it talks about steps still to be taken to make the promise of the Executive order a reality; and, it then seeks your continuing support and cooperation in making the consumer programs of the Federal government more responsive to your needs.

In reading this preamble, as well as the proposed consumer programs of agencies that interest you, you should recognize that one of our principal objectives in publishing detailed explanations of Government consumer programs is to let you know how to make your voice heard in government. Although the Executive order concerns itself with a number of procedural matters, which may appear to be internal to Government agencies, these matters do in fact affect you. Integrating consumer concerns into agency decisionmaking is at the base of the Executive order. We want to consider your thoughts and ideas and take them into account in making decisions, but we realize that we can do so only if you know how Government operates and how to talk to us. Read this preamble.



Then read the draft consumer programs of the agencies in which you are interested. If, having read this preamble and various proposed agency consumer programs, you do not understand how the Government intends to safeguard your interests, or how Government agencies plan to consider your views in making decisions, let us know. If you have suggestions on how consumer programs in Government might be improved, let us know that, too. Talking with your Government is your right. But it is a right that is meaningful only if you exercise it. Exercise it!

## II. HAVE WE LISTENED? (WE KNOW WE'VE GOT PROBLEMS)

There is no question that since the publication of Ralph Nader's "Unsafe at Any Speed," which is sometimes cited as the dawn of the age of the consumer, Government agencies have been more responsive to the needs of individual consumers than they were in the past. Over the past few years, many Government agencies have established programs designed to assist the consumer in dealing with those agencies. These programs have varied in their scope and ambitiousness. Some have been very successful and have resulted in substantial consumer participation in agency decisionmaking processes. Sometimes, however, agency consumer programs have been superficial attempts to deal with what agencies think are the needs of the consumer and have not actually considered the consumer's concerns.

President Carter recognized that there was much room for improvement in Federal consumer programs, and in April 1978, he asked his Special Assistant for Consumer Affairs to search for ways to bring about more meaningful consumer involvement in Government.

Specifically, the President asked the Special Assistant for Consumer Affairs to—

- Undertake a review of Federal agency consumer programs to determine if there was a meaningful consumer presence in each agency and whether existing programs were consistent with the consumer policies and goals of his Administration;
- Coordinate the activities of Federal agency consumer programs in order to avoid duplication and to ensure that they were efficiently administered;
- Make recommendations on how to improve consumer involvement in agency decisionmaking and advise him on the responsiveness of agencies to the needs of consumers.

To gather this information, the White House Consumer Affairs staff, with the cooperation of other Government agencies and consumer, farm, labor and business groups, began a comprehensive survey and review of Federal consumer programs. A consumer program review of this magnitude had never been conducted.

In late fall 1978, a final analysis of this review was submitted to the Special Assistant for Consumer Affairs. After reviewing all the pertinent material, the President's Special Assistant for Consumer Affairs

reached the following conclusions about Federal agency consumer activities:

1. Many consumer programs in Federal agencies are less effective now than they once were, and contain neither authority nor standards for their own maintenance. The decline in effectiveness of some agency consumer programs is a result principally of the low priority some agency heads give these programs, the lack of skilled management attention to the operation of existing programs, and the failure to allocate existing agency resources in a manner consistent with the Administration's consumer concerns. It is clear in most cases that a management problem exists in which no one person or office within an agency has the authority to set standards for consumer involvement and representation.
  2. All too often, "consumer representation" at an agency is taken to mean the dissemination of favorable information about the agency, its personnel, and its programs.
  3. Effective consumer involvement in agency decisionmaking depends upon the existence of agency procedures for public involvement. To ensure effective consumer involvement in agency decisionmaking, sufficient opportunity for citizen participation in each and every agency activity must be provided.
  4. There are five primary areas in which Federal consumer programs should be functioning:
    - Consumer advocacy;
    - Consumer participation;
    - Training of agency personnel in consumer affairs and technical assistance to consumer groups;
    - Consumer education and information; and,
    - Complaint handling.
- Very few Federal agencies measure up in all five areas, but some agencies have developed imaginative and successful programs for the performance of key consumer functions. Collectively, the agencies are weakest in advocacy; that is, few agencies have a regular method for ensuring that agency decisionmakers are informed of the potential impact on consumers of proposed or existing policies, programs, and legislation.

## III. WHY AN EXECUTIVE ORDER? (WHAT'S IN IT FOR YOU?)

On the basis of the findings highlighted in Section II, the Special Assistant for Consumer Affairs recommended that the President issue an Executive order to improve Government consumer programs. (An Executive order is a directive from the President to executive branch Government agencies.) The order was drafted, and then reviewed by and circulated to the affected agencies and senior White House staff. The details of the order were worked out in discussions with the Office of Management and Budget (OMB), the Office of Personnel Management, and the Department of Justice. OMB worked closely with the Special Assistant for Consumer Affairs to ensure that agency comments were considered. President Carter signed the order on September 26, 1979.

The Executive order establishes a comprehensive Federal policy to guide agencies in responding to consumer issues. It also stimulates the growth of a more effective group of Federal employees responsible for consumer affairs by giving them additional tools with which to serve consumers. More specifically, the order, which is reprinted in Appendix 1 of this document, seeks to improve Government services to consumers by mandating changes and reforms in a number of areas. A summary of the more significant provisions of the order follows:

**Consumer Affairs Council:** The order establishes the Consumer Affairs Council to provide leadership and coordination for government consumer programs. The Council is composed of representatives of the twelve Cabinet-level Departments and is chaired by the President's Special Assistant for Consumer Affairs.

**Consumer Program Reforms:** By June 9, 1980, each agency must have a consumer program designed to satisfy the needs and interests of consumers. The order requires the consumer program of each agency to have at least five elements:

- **Consumer Affairs Perspective.** Agencies must have consumer staff, and agency consumer staff must participate in the formulation of agency rules, policies, programs, and legislation.
  - **Consumer Participation.** Agencies must take steps to ensure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies, and programs.
  - **Informational materials.** Agencies must produce and distribute informational materials useful to consumers.
  - **Education and training.** Agencies must educate and train their staffs in the principles underlying the Executive order, and in the skills needed to implement the order effectively.
  - **Complaint Handling.** Agencies must establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy.
- Senior-level Oversight:** Each agency must designate a senior-level official to coordinate that agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be his or her only responsibility.

**Budget Review:** Each year, each agency must provide OMB with data showing the resources the agency intends to devote to its consumer program. The Chairperson of the Consumer Affairs Council must report to OMB on the adequacy of the resources devoted to agency consumer programs.

**Civil Service Initiatives:** The Office of Personnel Management must consult with the Consumer Affairs Council on the need for revised job classification standards for Federal employees engaged in consumer-related activities.

**Implementation of Consumer Program Reforms:** Each agency is required to publish a draft consumer program for public comment within 60 days of the signing of the Executive order. Within 30 days of the

close of the public comment period, each agency must submit a revised program to the Chairperson of the Consumer Affairs Council, who is responsible for approving agency programs. Final programs must be published in the *Federal Register* no later than 90 days after the close of the public comment period, and agency programs must take effect no later than 30 days after their publication.

**Agency Compliance Guidelines:** On October 4, 1979, the Chairperson of the Consumer Affairs Council issued guidelines to assist agencies in designing programs to comply with the Executive order. These guidelines are reproduced in Appendix 2 of this document. They provide the affected agencies with what is essentially a checklist the Chairperson of the Consumer Affairs Council will use to evaluate compliance with the terms of the order.

Although not every agency is subject to the Executive order—independent agencies, among others, are exempt—the order will help us protect your interests in an effective manner. By combining the expertise of the Office of Consumer Affairs, the Office of Management and Budget, and the Office of Personnel Management, the order will bring needed resources to bear on the effective delivery of consumer services.

## IV. WHAT'S HAPPENED SO FAR?

Since release of the Guidelines for Implementation of Executive Order 12160, the Office of the Special Assistant to the President for Consumer Affairs has been working with various Government agencies to implement the Executive order. That draft consumer programs appearing later in this document are the first tangible product of the Executive order and represent the first step in an attempt to make Federal consumer programs more responsive to the needs of consumers. (Publication of these proposals does not signify the approval or disapproval of any particular program by the Consumer Affairs Council.) You should know that not every Federal agency is required to comply with the Executive order; one or more agencies in which you are interested may not be participating directly in the implementation of the Executive order. The President has asked all independent agencies to take part on a voluntary basis, however.

Determining which agencies must comply with the requirements of the Executive order has been a concern of the Consumer Affairs Council. The order states that an agency is covered by the order if it is a "department or agency in the executive branch of the Federal government." Exempted, however, are:

- Independent regulatory agencies;
- Agencies to the extent their activities involve military or foreign affairs regulations, agency management or personnel regulations, procurement regulations, and regulations promulgated during an emergency; and,
- Agencies to the extent they are able to demonstrate to the satisfaction of the Chairperson of the Consumer Affairs Council that their activities have "no substantial impact" on consumers.



Requests from agencies which sought and were granted exemptions from the Executive order are reprinted in Appendix 5 of this document, as are copies of letters from agencies concerning other aspects of implementation of the Executive order. Several requests for exemption are pending. Moreover, several agencies, though entitled to exemptions from the Executive order, are complying, in whole or in part, on a voluntary basis. An exemption from the Executive order based on a finding that an agency has no substantial impact on consumers is not necessarily irrevocable. If an agency changes its programs at some point in the future, so that it begins to have a substantial impact on consumers, its status under the Order will be re-evaluated at that time.

#### V. WANT TO TALK WITH YOUR GOVERNMENT? HERE'S HOW

In Section I, we said that talking with your Government is your right, but that is a meaningless right unless you exercise it. The draft programs outlined here will guide agencies in the development and reform of their consumer programs for years to come. So if you wish to have an effect on the shape of consumer programs in the Federal agencies, this is your chance.

Keep in mind that agencies have had a very short time in which to prepare their proposals. Over the next five months, agencies will be revising and refining their programs, so programs not now in compliance with the order—and there are several—will be amended to comply with the Executive order before their final adoption.

To permit adequate time for comment, we will be providing 90 days for consumers to prepare and submit comments on the proposed consumer programs. In order to achieve maximum public participation, we have devised a number of ways in which you might make your views on particular agency consumer programs known. These include:

**Written Comments:** Traditionally, Government agencies have obtained much of their information from the public concerning proposed agency action from written comments. We encourage you to read and comment on the proposals of the agencies in which you are interested. We are *most* interested in receiving detailed analyses of proposed agency programs, containing concrete suggestions for ways in which proposed programs might be made more responsive to consumers; however, we welcome *all* comments, suggestions, and criticisms. Send your comments to the agency on whose program you are commenting. The correct address appears near the beginning of the agency's proposed program later in this document. If you have specific questions about the proposals an agency has made, contact the person listed at the beginning of the agency's proposed program. But whatever you do, comment. The deadline for the submission of comments is March 10, 1980. The following are two ways we are making it easier for you to submit written comments on agency consumer programs:

**Guidelines Checklist:** It would be very helpful for the agencies—and it might be easier for you—if your comments rate the agencies' proposed consumer programs against the specific requirements of the Executive order and the guidelines. To assist you in evaluating the proposed plans against the standards contained in the order and the guidelines, we have prepared a checklist that you may use as a tool for evaluating compliance with the Executive order. We have included three copies of this evaluative checklist for your use. If you wish to use the checklist to evaluate the proposed consumer programs of more than three agencies, you may make duplicate copies yourself, or you may write for additional copies. Send your request to: Checklist, Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500.

**Questionnaire:** If you do not have enough time to provide a detailed critique of an agency's proposal, we hope you will take a few moments to complete the brief questionnaire appearing in Appendix 3 of this document. The questionnaire is not detailed, but asks a few general questions concerning your thoughts about the proposed consumer programs of the Federal agencies that interest you.

**Oral Comments:** Frequent, Government agencies take particularly significant proposals directly to the public by organizing public hearings or workshops in various cities. To some degree, of course, it will be up to each agency to determine the amount of public participation it will encourage in this proceeding. But the Consumer Affairs Council is planning a workshop on the Executive order and consumer programs proposed under the order. The Workshop will be held in Washington, D.C. on February 6, 1980. This workshop will give consumers a chance to discuss the Executive order and to meet informally with representatives of the participating agencies. We will publish notice of all hearings or workshops in the *Federal Register*. We will also do our best to ensure widespread publicity for any workshops or hearings held. But please keep your eyes and ears open.

One last word on talking with the Government: Whether you submit written or oral comments, in reading an agency's proposal, there are a number of general questions you should bear in mind—questions which will help you prepare better comments than you otherwise might. For example, is an agency's proposal understandable? If you think a particular proposal is "gobbledygook," say so! Ask yourself whether the agency has made a conscious effort to take *your* needs and interests into account in designing its program. Is the program adequate; that is, does it achieve the goals of the Executive order effectively? Can you tell from the proposed program who is going to be responsible in the agency for providing decisionmakers with the consumer's perspective? Who will handle complaints, and how will complaints be handled? Unless an agency's proposal answers these and other related questions, it is deficient. And you should let the agency concerned know about it.

#### VI. WHAT'S NEXT?

As we indicated in the preceding section, publication of proposed agency consumer programs is only the first step in implementing Executive Order 12160. Over the next few weeks, agencies will be receiving and evaluating comments from consumers on the proposed programs under the Executive order. The Consumer Affairs Council will continue to work with Federal agencies to implement the Executive order and to design consumer programs that are truly responsive to the needs of consumers. The Consumer Affairs Council, which at present is in its infancy, will begin to evolve into the sort of organization contemplated by the Executive order. The Council will provide leadership and will do what it can to promote efficiency in Government consumer programs.

The following calendar outlines the things that still need to be done to implement Executive Order 12160 and gives the dates by which action needs to be taken:

December 10, 1979—Publication of proposal in the *Federal Register*.

March 10, 1980—Comments on proposed programs due.

April 9, 1980—Revised program due to Chairperson of Consumer Affairs Council.

June 9, 1980—Publication of final programs in the *Federal Register*.

In addition, non-exempt agencies failing to meet the established deadlines can be expected to publish their programs on a case-by-case basis.

#### VII. YOU CAN HELP US DO MORE

The Executive order on improving Government consumer programs is not a cure-all. It will not result in an overnight transformation of existing Government consumer programs into programs completely and perfectly responsive to the needs of consumers. But it is a much-needed first step towards bringing more accountability and responsibility to Federal consumer programs.

The Government has no monopoly on expertise in the area of consumer affairs. If we are to create useful and appropriate programs for the assistance of consumers, we will need your support and cooperation, both now and in the future. If you care about the activities of the Consumer Affairs Council and the activities of Federal agencies that affect consumers—and you should—please do what you can to assist us. Begin by commenting on the proposed consumer programs of the agency or agencies that interest you. But don't stop there. Continue to work with those agencies and with the Consumer Affairs Council. If you don't, Federal consumer programs will not be as effective as they should.

Esther Peterson,

Chairperson, Consumer Affairs Council.



## APPENDIX 1

Executive Order 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.

Note.—Executive Order 12160 was originally published in the Federal Register on September 28, 1979 (44 FR 44787).

BILLING CODE 3195-01-M

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1-1. *Establishment of the Consumer Affairs Council.*

1-101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1-102. The Council shall consist of representatives of the following agencies, and such other officers or employees of the United States as the President may designate as members:

- (a) Department of Agriculture.
- (b) Department of Commerce.
- (c) Department of Defense.
- (d) Department of Energy.
- (e) Department of Health, Education, and Welfare.
- (f) Department of Housing and Urban Development.
- (g) Department of the Interior.
- (h) Department of Justice.
- (i) Department of Labor.
- (j) Department of State.
- (k) Department of Transportation.
- (l) Department of the Treasury.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1-2. *Functions of the Council.*

1-201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1-3. *Designation and Functions of the Chairperson.*

1-301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1-302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1-303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1-4. *Consumer Program Reforms.*

1-401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1-402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1-5. *Implementation of Consumer Program Reforms.*

1-501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1-4 above. Each agency shall publish its draft consumer program in the Federal Register and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1-502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the Federal Register. Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1-503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the Federal Register.

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1-504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1-505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

#### 1-6. Budget Review.

1-601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

#### 1-7. Civil Service Initiatives.

1-701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

#### 1-8. Administrative Provisions.

1-801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1-802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1-803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1-804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

#### 1-9. Definitions.

1-901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1-902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

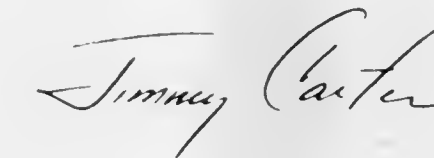
(a) independent regulatory agencies, except as noted in subsection 1-804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044.

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

THE WHITE HOUSE.  
September 26, 1979.

BILLING CODE 3195-01-C



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## APPENDIX 2

Guidelines for Implementation  
of Executive Order 12160

October 4, 1979.

Memorandum to the Heads of Executive Departments  
and Agencies

**FROM:** Esther Peterson, Special Assistant To the President for Consumer Affairs and Chairperson of the Consumer Affairs Council.

**SUBJECT:** Guidance Regarding the Development of Consumer Programs Required by Executive Order No. 12160.

On September 26, 1979, the President issued Executive Order No. 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs". He designated me Chairperson of the Consumer Affairs Council created by the order.

As Chairperson of the Council, I will be responsible, on behalf of the President, for reviewing and approving agency programs for compliance with the Order. Draft programs are to be completed, and published in the *Federal Register* for public comment, by November 25. (Section 1-5 of the Order sets out the timetable for development and implementation of these programs. A copy of the Order is attached.)

The Order requires each agency to develop and maintain a consumer program with, at a minimum, five elements:

- (1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
- (2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
- (3) Development of informational materials for consumers;
- (4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and
- (5) Systematic procedures for complaint handling.

The Order requires that each agency revise its operating procedures to incorporate the consumer program developed under the Order. Each agency's program should indicate the mechanism (for example, Departmental order or rule) by which this will be accomplished.

The head of each agency is required to designate a senior-level official within the agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official is to report directly to the agency head.

The purpose of this memorandum is to indicate briefly what I will be looking for in reviewing agency programs for compliance with the Order. I hope that you will find this preliminary guidance useful. If you have any questions about this memorandum, or about the Order itself, feel free to call me at 456-6590, or Belle O'Brien of my staff at 456-6534.

I look forward to working with you to make this Order a success. Thanks to the President, we now have an unprecedented opportunity to build into the structures and processes of government an enhanced responsiveness to the needs and interests of consumers.

*Consumer Affairs Perspective*

**Requirement:** Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1-401(a).)

**Comment:** Each agency's program for compliance with the Order should indicate:

- Where the consumer affairs staff will be located on the agency's organizational chart;
- How large it will be and what expertise and resources it will have;
- Whether the staff will have responsibilities in addition to those under 1-401(a);
- What its relationship will be to other staffs performing consumer affairs functions under the Order and to the principal operating components of the agency;
- How the consumer affairs staff will be apprised of opportunities for it to participate in the development and review of all rules, policies, programs, and legislation;
- At what stages of agency decisionmaking, in each of these four areas, participation by the consumer affairs staff will take place; and
- How the consumer affairs staff will participate (e.g., membership on agency task forces and working groups, meetings with key agency officials, written comments on proposals, and so forth).

*Consumer Participation*

**Requirement:** Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein. (Subsection 1-401(b).)

**Comment:** Each agency's program for compliance with the Order should indicate:

- At what stages of agency decisionmaking regarding rules, policies, and programs consumer participation will take place;
- What avenues of participation will be available to consumers in each of these types of processes (e.g., written comments, regional public hearings, membership in ad hoc working groups);

- What steps the agency will take to ensure that consumer concerns are adequately analyzed, and then considered, in decisionmaking;
- What staffs or officials in the agency will be responsible for implementing the agency's consumer participation responsibilities under the Order;
- The format, level of participating agency officials, geographical dispersion, and approximate number per year of forums the agency will hold to facilitate consumer interaction with agency officials; and
- What special efforts the agency will undertake to notify consumers of opportunities to participate in agency decisionmaking (e.g., publication of notices in periodicals other than the *Federal Register*).

*Informational Materials*

**Requirement:** Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1-401(c).)

**Comment:** Each agency should include in its consumer program a discussion of printed and audiovisual informational materials in each of the three areas identified in the Order (agency responsibilities and services, procedures for consumer participation, and marketplace information), including:

- An assessment of the currency, completeness, and utility of current informational materials in each area;
  - Plans for additional or revised informational materials to rectify present inadequacies;
  - The timetable for new informational materials;
  - The manner in which the informational materials will be distributed; and
  - The staffs or officials who will be responsible for planning and carrying out the agency's consumer information program.
- With respect to the requirement that agencies make available explanatory materials regarding meetings open to the public, each agency should indicate:
- Which staffs or officials will be responsible for preparing these materials;
  - The format of the materials; and
  - The manner in which their availability is to be publicized and their distribution effected.

*Education and Training*

**Requirement:** Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1-401(d).)

**Comment:** Each agency should indicate in its consumer program:

- Which staffs or offices will be responsible for educating staff members about the Order and the agency's activities under it;
- How that educational process will be carried out (e.g., briefing sessions for policymaking personnel, circulation of the Order and related materials);
- What steps the agency will take to ensure that significant changes in the structure or procedures of its consumer program will be promptly communicated to agency staff members;
- Who will be responsible for providing specialized training to consumer affairs personnel;
- In what areas (e.g., complaint-handling, consumer participation procedures, preparation of informational materials for consumers) training will be provided, and on what basis decisions will be made as to which consumer affairs personnel will be offered training and on what topics.

Agencies that decide to provide technical assistance to consumers and their organizations should indicate:

- By whom such assistance will be provided;
- What sort of technical assistance will be made available (e.g., answering scientific, technical, or procedural questions, assisting consumers and groups in the preparation of applications, forms, and other documents); and
- How decisions will be made as to which consumers and organizations, from among those seeking technical assistance, will be provided such assistance.

Agencies that decide not to provide technical assistance should include in their consumer programs a discussion of why such assistance is not considered appropriate.

*Complaint Handling*

**Requirement:** Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1-401(c).)

**Comment:** Each agency should develop procedures to govern each stage of the complaint-handling process. Thus, each agency should indicate what procedures will be followed, and which officials and staffs will be responsible, for:

- Heightening public awareness of the receptivity of the agency to complaints, and the manner in which, and offices with which, such complaints are to be filed;
- Logging in, in a standard format and in accordance with standard topical categories, all complaints received by the agency, including those received by telephone. (The format, and categories used in logging in complaints should be designed to facilitate subsequent performance of tracking and analysis functions);
- Routing complaints to appropriate agency offices for investigation and analysis;
- Tracking agency handling of complaints, from receipt forward, to ensure that they are investigated and responded to expeditiously and to permit



identification of key bottlenecks in the complaint-handling process;

- Responding to complaints (these procedures should include a format for acknowledgements and responses, and should establish a deadline for the transmittal of acknowledgement of complaints, outlining steps that will be taken by the agency, indicating who may be contacted for further information, and specifying an expected resolution date);

- Statistical reporting of complaints according to topical categories, and analysis of the patterns of issues raised and their implications for agency policymaking;

- Regular reports to key agency officials regarding the patterns and policy implications of the complaints received; and

- Evaluation of the agency's complaint-handling system to assess the promptness and quality of agency responses.

#### Oversight

**Requirement:** The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers or particular policy initiatives under development of review within the agency. (Subsection 1-402.)

**Comment:** Each agency should indicate the title, GS-level, and organizational placement of the designated official, and should describe with particularity the nature of the official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, including those who are performing consumer affairs responsibilities under the Order.

BILLING CODE 3195-01-M

Form Approved:  
OMB No. 116579021

#### APPENDIX 3

#### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

- Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
- After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
- Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
- Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
- We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
- After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
- Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
- Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

Form Approved:  
OMB No. 116579021

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## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

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1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

Form Approved:  
OMB No. 116579021

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☐ I am concerned about it, because I represent a private company or organization.
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☐ Yes, it is clear and I understand it.  
☐ Yes, I understand most of it.  
☐ No. Much of it is not clear to me.
- Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?  
☐ Yes.  
☐ No. Why? \_\_\_\_\_
- Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?  
☐ It seems adequate.  
☐ It is not adequate. Why? \_\_\_\_\_
- We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?  
☐ Adequate.  
☐ Not adequate. Why? \_\_\_\_\_
- After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:  
A complaint? ☐ Yes. ☐ No.  
A general question about the agency? ☐ Yes. ☐ No.  
A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
- Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
- Do you have any suggestions for improving our consumer program?  
☐ No.  
☐ Yes, in the following areas:  
Consumer participation \_\_\_\_\_  
Informational materials \_\_\_\_\_  
Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

FORM APPROVED:  
OMB No. 116879021

# APPENDIX 4

## EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

| AGENCY: _____                                                        | IS THE POINT COVERED? | WILL IT WORK? |
|----------------------------------------------------------------------|-----------------------|---------------|
| <u>CONSUMER AFFAIRS PERSPECTIVE</u>                                  |                       |               |
| Where is consumer staff on organization chart? _____                 |                       |               |
| Size, resources, expertise of staff? _____                           |                       |               |
| Staff have additional responsibility? _____                          |                       |               |
| What is relationship of consumer staff to other agency staff? _____  |                       |               |
| How will consumer staff be told of opportunity to participate? _____ |                       |               |
| When will consumer staff participate? _____                          |                       |               |
| How will consumer staff participate? _____                           |                       |               |
| <u>CONSUMER PARTICIPATION</u>                                        |                       |               |
| At what stages will it occur? _____                                  |                       |               |
| What avenues of participation are available? _____                   |                       |               |
| What steps will be taken to consider consumer concerns? _____        |                       |               |
| What staff will be responsible for implementation? _____             |                       |               |
| What about public forums? _____                                      |                       |               |
| Any other special efforts? _____                                     |                       |               |
| <u>INFORMATIONAL MATERIALS</u>                                       |                       |               |
| Currency, completeness and utility of existing material? _____       |                       |               |
| Plan to rectify inadequacy of existing material? _____               |                       |               |
| Timetable for new material? _____                                    |                       |               |
| How will it be distributed? _____                                    |                       |               |
| What staff is responsible? _____                                     |                       |               |
| For material concerning "open meetings" _____                        |                       |               |
| Who will prepare it? _____                                           |                       |               |
| What format will be used? _____                                      |                       |               |
| How about publicity/distribution? _____                              |                       |               |



|                                                                        | IS THE POINT COVERED? | WILL IT WORK? |
|------------------------------------------------------------------------|-----------------------|---------------|
| EDUCATION AND TRAINING OF AGENCY STAFF                                 |                       |               |
| Who is responsible for educating agency staff about the Order?         |                       |               |
| How will it be done?                                                   |                       |               |
| How will changes in the consumer program be communicated to the staff? |                       |               |
| Who is responsible for special training of consumer staff?             |                       |               |
| In what areas will training be offered?                                |                       |               |
| For technical assistance to consumers:                                 |                       |               |
| Who will provide it?                                                   |                       |               |
| What kind will be provided?                                            |                       |               |
| How will decisions about who gets it be made?                          |                       |               |
| COMPLAINT HANDLING                                                     |                       |               |
| Heighten public awareness?                                             |                       |               |
| Log all complaints?                                                    |                       |               |
| Route complaints properly?                                             |                       |               |
| Track complaints?                                                      |                       |               |
| Respond to complaints?                                                 |                       |               |
| Statistical reports on complaints?                                     |                       |               |
| Regular reports to key officials?                                      |                       |               |
| Evaluation program?                                                    |                       |               |
| OVERSIGHT                                                              |                       |               |
| Title?                                                                 |                       |               |
| GS (grade) level?                                                      |                       |               |
| Organizational placement?                                              |                       |               |
| Responsibilities?                                                      |                       |               |
| How will official interact with others?                                |                       |               |

your name  
street  
city, state, zip

FORM APPROVED:  
OMB No. 116S79021

APPENDIX 4

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| AGENCY:                                                        | IS THE POINT COVERED? | WILL IT WORK? |
|----------------------------------------------------------------|-----------------------|---------------|
| CONSUMER AFFAIRS PERSPECTIVE                                   |                       |               |
| Where is consumer staff on organization chart?                 |                       |               |
| Size, resources, expertise of staff?                           |                       |               |
| Staff have additional responsibility?                          |                       |               |
| What is relationship of consumer staff to other agency staff?  |                       |               |
| How will consumer staff be told of opportunity to participate? |                       |               |
| When will consumer staff participate?                          |                       |               |
| How will consumer staff participate?                           |                       |               |
| CONSUMER PARTICIPATION                                         |                       |               |
| At what stages will it occur?                                  |                       |               |
| What avenues of participation are available?                   |                       |               |
| What steps will be taken to consider consumer concerns?        |                       |               |
| What staff will be responsible for implementation?             |                       |               |
| What about public forums?                                      |                       |               |
| Any other special efforts?                                     |                       |               |
| INFORMATIONAL MATERIALS                                        |                       |               |
| Currency, completeness and utility of existing material?       |                       |               |
| Plan to rectify inadequacy of existing material?               |                       |               |
| Timetable for new material?                                    |                       |               |
| How will it be distributed?                                    |                       |               |
| What staff is responsible?                                     |                       |               |
| For material concerning "open meetings"                        |                       |               |
| Who will prepare it?                                           |                       |               |
| What format will be used?                                      |                       |               |
| How about publicity/distribution?                              |                       |               |



|                                                                        | IS THE POINT<br>COVERED? | WILL IT<br>WORK? |
|------------------------------------------------------------------------|--------------------------|------------------|
| <u>EDUCATION AND TRAINING OF AGENCY STAFF</u>                          |                          |                  |
| Who is responsible for educating agency staff about the Order?         |                          |                  |
| How will it be done?                                                   |                          |                  |
| How will changes in the consumer program be communicated to the staff? |                          |                  |
| Who is responsible for special training of consumer staff?             |                          |                  |
| In what areas will training be offered?                                |                          |                  |
| For technical assistance to consumers:                                 |                          |                  |
| Who will provide it?                                                   |                          |                  |
| What kind will be provided?                                            |                          |                  |
| How will decisions about who gets it be made?                          |                          |                  |
| <u>COMPLAINT HANDLING</u>                                              |                          |                  |
| Heighten public awareness?                                             |                          |                  |
| Log all complaints?                                                    |                          |                  |
| Route complaints properly?                                             |                          |                  |
| Track complaints?                                                      |                          |                  |
| Respond to complaints?                                                 |                          |                  |
| Statistical reports on complaints?                                     |                          |                  |
| Regular reports to key officials?                                      |                          |                  |
| Evaluation program?                                                    |                          |                  |
| <u>OVERSIGHT</u>                                                       |                          |                  |
| Title?                                                                 |                          |                  |
| GS (grade) level?                                                      |                          |                  |
| Organizational placement?                                              |                          |                  |
| Responsibilities?                                                      |                          |                  |
| How will official interact with others?                                |                          |                  |

your name

street

city, state, zip

FORM APPROVED:  
OMB No. 116S79021

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| AGENCY:                                                        | IS THE POINT<br>COVERED? | WILL IT<br>WORK? |
|----------------------------------------------------------------|--------------------------|------------------|
| <u>CONSUMER AFFAIRS PERSPECTIVE</u>                            |                          |                  |
| Where is consumer staff on organization chart?                 |                          |                  |
| Size, resources, expertise of staff?                           |                          |                  |
| Staff have additional responsibility?                          |                          |                  |
| What is relationship of consumer staff to other agency staff?  |                          |                  |
| How will consumer staff be told of opportunity to participate? |                          |                  |
| When will consumer staff participate?                          |                          |                  |
| How will consumer staff participate?                           |                          |                  |
| <u>CONSUMER PARTICIPATION</u>                                  |                          |                  |
| At what stages will it occur?                                  |                          |                  |
| What avenues of participation are available?                   |                          |                  |
| What steps will be taken to consider consumer concerns?        |                          |                  |
| What staff will be responsible for implementation?             |                          |                  |
| What about public forums?                                      |                          |                  |
| Any other special efforts?                                     |                          |                  |
| <u>INFORMATIONAL MATERIALS</u>                                 |                          |                  |
| Currency, completeness and utility of existing material?       |                          |                  |
| Plan to rectify inadequacy of existing material?               |                          |                  |
| Timetable for new material?                                    |                          |                  |
| How will it be distributed?                                    |                          |                  |
| What staff is responsible?                                     |                          |                  |
| For material concerning "open meetings"                        |                          |                  |
| Who will prepare it?                                           |                          |                  |
| What format will be used?                                      |                          |                  |
| How about publicity/distribution?                              |                          |                  |



|                                                                        | IS THE POINT COVERED? | WILL IT WORK? |
|------------------------------------------------------------------------|-----------------------|---------------|
| <b>EDUCATION AND TRAINING OF AGENCY STAFF</b>                          |                       |               |
| Who is responsible for educating agency staff about the Order?         |                       |               |
| How will it be done?                                                   |                       |               |
| How will changes in the consumer program be communicated to the staff? |                       |               |
| Who is responsible for special training of consumer staff?             |                       |               |
| In what areas will training be offered?                                |                       |               |
| For technical assistance to consumers:                                 |                       |               |
| Who will provide it?                                                   |                       |               |
| What kind will be provided?                                            |                       |               |
| How will decisions about who gets it be made?                          |                       |               |
| <b>COMPLAINT HANDLING</b>                                              |                       |               |
| Heighten public awareness?                                             |                       |               |
| Log all complaints?                                                    |                       |               |
| Route complaints properly?                                             |                       |               |
| Track complaints?                                                      |                       |               |
| Respond to complaints?                                                 |                       |               |
| Statistical reports on complaints?                                     |                       |               |
| Regular reports to key officials?                                      |                       |               |
| Evaluation program?                                                    |                       |               |
| <b>OVERSIGHT</b>                                                       |                       |               |
| Title?                                                                 |                       |               |
| GS (grade) level?                                                      |                       |               |
| Organizational placement?                                              |                       |               |
| Responsibilities?                                                      |                       |               |
| How will official interact with others?                                |                       |               |

your name

street

city, state, zip

BILLING CODE 3195-01-C

**APPENDIX 5****Documents Concerning Exemption From, and Implementation of, Executive Order 12160**

In implementing Executive Order 12160, the Consumer Affairs Council has been working with many government agencies. To assist in achieving government-wide compliance with the objectives of the Executive Order, the Consumer Affairs Council divided the agencies participating in the implementation of the Executive Order into five teams. These teams have met several times to discuss the Executive Order and to coordinate their proposed consumer programs. The table that follows outlines the composition of the teams:

**PART DESIGNATIONS<sup>1</sup>****Part III—Natural Resources**

- A Department of Agriculture
- B Department of Energy
- C Environmental Protection Agency
- D Department of Interior
- E Tennessee Valley Authority

**Part IV—Human Services**

- A Civil Rights Commission
- B Community Services Administration
- C General Services Administration
- D Department of Housing and Urban Development
- E Department of Labor
- F Merit Systems Protection Board
- G Veterans Administration
- H ACTION

**Part V—Economics and Commerce**

- A Department of Commerce
- B Commodity Futures Trading Commission
- C Consumer Product Safety Commission
- D Federal Communications Commission
- E Federal Deposit Insurance Corporation
- F Federal Reserve System
- G Federal Trade Commission
- H Securities & Exchange Commission
- I Department of Treasury

**Part VI—Transportation and Postal Service**

- A Civil Aeronautics Board
- B Interstate Commerce Commission
- C National Transportation Safety Board
- D Postal Rate Commission
- E U.S. Postal Service
- F Department of Transportation

**Part VII—Legal, Military and International Affairs**

- A Administrative Conference
- B Department of Justice
- C Department of State

<sup>1</sup> Some agencies not publishing programs in this issue of the Federal Register will publish programs in a later issue.

The proposed consumer programs that follow this Appendix are organized according to teams.

In preparing to implement Executive Order 12160, there has been considerable correspondence to and from the Chairperson of the Consumer Affairs Council concerning exemptions from, and implementation of, the Executive Order. To help you understand what has gone on so far in the implementation of the Executive Order, we are reprinting the relevant correspondence here.

**UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY****Agency for International Development**

November 7, 1979.

*Dear Mrs. Peterson:* President Carter's Executive Order of September 26, 1979, which requires Executive agencies to establish a Consumer Program, provides for an exemption from its provisions for those agencies whose activities have no substantial impact upon consumers. We believe that A.I.D. is such an agency.

We have carefully reviewed the Executive Order and supplementary guidance provided by your office. In addition, Agency representatives attended your briefing session for all Executive agencies on October 16 and have discussed with your staff the application of the Consumer Program to our activities.

However, A.I.D. has no programs whose purpose is to provide services or benefits to U.S. consumers.

Moreover, because the focus of our economic assistance programs is overseas, there are no U.S. consumers whom our programs directly impact. A.I.D.'s mission is to assist lesser-developed countries (LDC's) with their programs of development and, especially, in meeting the basic human needs of their populations.

In our programs, we use the skills from the U.S. private sector including universities, businesses, and private and voluntary organizations through both contract and grant arrangements. As we outlined in our letter to you of July 26, 1979 on public participation programs, we do have effective mechanisms in place for engaging their participation in the development of policies and procedures, specifically including the very few Agency regulations which apply to the private sector and which are for the purpose of guiding their involvement in our program or for providing information to the public in such areas as Freedom of Information and the Privacy Act.

There are, of course, potential long-term effects of the foreign economic assistance program on the American consumer. Success in fostering increased agricultural production overseas helps prevent food shortages that would be reflected in U.S. supermarket prices. Similarly, the program contributes to the capacity of many LDC's to participate actively in world trade through which we have gained important markets for both our agricultural and industrial products.

Nevertheless, the Agency neither provides services or benefits to the American consumer nor regulates in any manner the U.S. marketplace and, through it, the



consumer. Therefore, we request that A.I.D. be granted an exemption from the provisions of Executive Order 12160.

Sincerely,  
Douglas J. Bennet, Jr.  
[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Bennet: I am writing in response to your request dated November 7 that the Agency for International Development be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that AID should be exempted from mandatory compliance with the Order. AID's activities do not appear at the present time to have a substantial impact on domestic consumers. Accordingly, AID qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of AID for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. I would encourage you to consult with James Tarrant, who is the State Department's liaison with my office, in this regard. If my staff or I can be of any help, please let me know.

Sincerely,  
Esther Peterson,  
Special Assistant to the President for Consumer Affairs.  
[The Honorable Douglas J. Bennet, Jr., Administrator, Agency for International Development, Washington, D.C. 20523]

#### AMERICAN RED CROSS

October 24, 1979.

Dear Mr. McCaughlin: As Mr. Walhay in our Public Affairs office explained in phone conversation today, the American Red Cross is most grateful for being regularly informed through the wide variety of White House communications.

The American Red Cross has in the past and will in the future contribute when appropriate and when so informed by communications to "departments and agencies in the executive branch of the federal government." I should note that while the American Red Cross is a unique federal instrumentality (*Department of Employment v. United States*, 385 U.S. 355 (1966)), it is not a department or agency in the executive branch of the federal government (*Irwin Memorial Blood Bank v. American National Red Cross*, F. Supp., U.S. D.C.N.D. Cal., No. C78 0624 RHS, Feb. 1, 1979). Additionally, it does not have the right to publish material in the **Federal Register**.

In view of the foregoing, we did not respond to Mrs. Peterson's letter of October 4 concerning the development of Federal Consumer Affairs Programs under Executive Order No. 12160.

Thank you again for your consideration and continuing interest in Red Cross involvement with White House endeavors.

Sincerely,  
John E. Hendrickson, Jr.,  
Executive Assistant to the President.  
[Mr. Frank McCaughlin, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Hendrickson: I am writing in response to your letter dated October 24 regarding the status of the American Red Cross under Executive Order 12160 on Federal Consumer Programs.

Since the American Red Cross is not an executive agency, it is not required to comply with the Executive Order. I trust, however, that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the work of the Red Cross. If my staff or I can be of any help in this regard, please let me know.

Sincerely,  
Esther Peterson,  
Special Assistant to the President for Consumer Affairs.  
[Mr. John E. Hendrickson, Jr., Executive Assistant to the President, American Red Cross, National Headquarters, Washington, D.C. 20006]

#### CENTRAL INTELLIGENCE AGENCY

November 5, 1979.

Dear Madam Chairperson: I am writing to you on behalf of the Director of Central Intelligence with regard to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," (September 26, 1979).

It is my considered opinion that all of the activities of the Central Intelligence Agency fall outside the purview of Executive Order 12160 due to the exemption established in that Order by Section 1-902(b). Section 1-902(b) provides that the definition of the term "Agency," as used in the Executive Order, shall not include any agency or department to the extent its "... activities fall within the categories excepted in Sections 6(b) (2), (3), (4) and (6) of Executive Order 12044." The most significant exception established by Section 6 of Executive Order 12044 is subsection (b)(2) which indicates that the "military and foreign affairs functions of the United States" are excluded. Since this exemption is incorporated into Executive Order 12160, the activities of this Agency are, on their face, outside the scope of the programs overseen by the Consumer Affairs Council. Not only do the activities of the Central Intelligence Agency fall within the "military and

foreign affairs functions" exception, but it is also apparent that the missions and statutory responsibilities of this Agency are not compatible with the concerns of consumers insofar as those concerns are addressed by the Executive Order. For example, the Order's reference, in Section 1-401(c), to those "aspects of the marketplace for which ... [the agency] has responsibility" clearly reflects the Executive Order's orientation—consumer protection in the American marketplace. As you are aware, the CIA has no "marketplace" responsibilities, nor do its activities exert any influence upon the domestic marketplace which could affect consumers.

Since the missions and functions assigned to this Agency by law and Executive Order are not relevant to consumers, the budgetary, educational, informational, and managerial activities set forth in Executive Order 12160 should likewise not be undertaken by CIA, even if this Agency was required to comply with that Executive Order. Moreover, any voluntary compliance with the consumer program provisions of the Executive Order could conflict directly with the statutory responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure [Section 102(d)(3) of the National Security Act of 1947]. Similarly, even if this Agency was inclined to permit any consumer participation in its affairs, as specified in Section 1-401 of the Executive Order, it would be frustrated at the outset by the fact all the significant decisions made by CIA involve classified information and, accordingly, are not amenable to public disclosure.

From your note on your letter of 4 October to Admiral Turner, it appears that we both agree the activities of the CIA are outside the scope of the consumer affairs programs envisioned by the Executive Order and are not intended to be governed by that Order. Accordingly, it is my opinion no need exists for this Agency to request a formal exclusion from the consumer affairs provisions of the Executive Order. In the absence of any indications from you to the contrary, I will assume CIA compliance with Executive Order 12160 is not required nor is it necessary to submit a request for a formal exception in accordance with Section 1-902(c) of that Order.

If you have any questions regarding this request, please do not hesitate to call on me.

Yours truly,  
Daniel B. Silver,  
General Counsel.  
[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Silver: I am writing in response to your October 26 letter concerning the applicability to the Central Intelligence Agency of Executive Order 12160 on Federal Consumer Programs.

As I indicated in my note to Admiral Turner, I recognize that the CIA's activities fall within the exemption established by Section 1-902(b) of the Order for military and foreign affairs functions. I

appreciate your seeking a formal confirmation of that exemption, which is hereby granted.

Sincerely,  
Esther Peterson,  
Special Assistant to the President for Consumer Affairs.  
[Mr. Daniel B. Silver, General Counsel, Central Intelligence Agency, Washington, D.C. 20505]

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

October 11, 1979.

Dear Ms. Peterson: This is to request that the Committee for Purchase from the Blind and Other Severely Handicapped be exempted from the provisions of Executive Order No. 12160.

This Committee was established by the Javits-Wagner-O'Day Act (Public Law 92-28, June 23, 1971). The purpose of the Committee is to determine which commodities and services the Government procures are suitable for provision by qualified nonprofit agencies for the blind or other severely handicapped. Thus, the Federal Government is the "consumer" of the commodities and services which the workshops provide under the Act. The Committee's activities have virtually no impact on consumers as they are defined in Section 1-901 of Executive Order No. 12160.

In view of the above, the Committee should be exempted from the provision of Executive Order No. 12160 since its activities have no impact on consumers.

Sincerely,  
C. W. Fletcher,  
Executive Director.  
[Ms. Esther Peterson, Chairperson of the Consumer Affairs Council, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Fletcher: I am writing in response to your October 11 request that the Committee for Purchase from the Blind and Other Severely Handicapped be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Committee should be exempted from mandatory compliance with the Order. The activities of the Committee do not appear at the present time to have a substantial impact on consumers. Accordingly, the Committee qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Committee for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Committee's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,  
Esther Peterson,  
Special Assistant to the President for Consumer Affairs.  
[Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Suite 610, 2009 14th Street North, Arlington, VA 22201]



## DEPARTMENT OF DEFENSE

Washington, D.C. 20301

November 30, 1979.

Dear Mrs. Peterson: In compliance with provisions of Executive Order 12160 on Federal Consumer Programs, the Department of Defense is preparing a draft consumer program. We anticipate its publication in the *Federal Register* in the near future. For information concerning the Department's program, contact Ms. Barbara E. Schoenberger, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), Telephone (202) 697-9525.

Sincerely,

Robert B. Pirie, Jr.,

Assistant Secretary of Defense (MRA&amp;L).

[Honorable Esther Peterson, Chairperson of the Consumer Affairs Council, The White House, Washington, D.C. 20500]

## FARM CREDIT ADMINISTRATION

October 26, 1979.

Dear Ms. Peterson: On September 26, 1979, President Carter issued Executive Order 12160, which established the Consumer Affairs Council, of which you are Chairperson. Under section 1-4 of the Executive Order, you are responsible for assuring that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Among other things, the Order provides for the agencies' consumer programs to include five elements. These are (1) consumer affairs perspective, (2) consumer participation, (3) informational materials, (4) education and training, and (5) compliant handling, all of which are specifically described in subsection 1-401 of the Order.

The term consumer is defined in subsection 1-901 as meaning: "any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes."

Subsection 1-902 of the Order defines the term "agency" or "agencies" as meaning:

"any department or agency in the executive branch of the Federal Government, except that the term shall not include:

"(a) independent regulatory agencies, except as noted in subsection 1-804.

"(b) \* \* \*

"(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers."

It would appear that the Farm Credit Administration is one of the "independent regulatory agencies" which are not covered by the Executive Order. The Farm

Credit Administration is an independent agency in the Executive Branch of the Government. 12 U.S.C. 2241. It is composed of the Federal Farm Credit Board, the Governor of the Farm Credit Administration and such other personnel as necessary to carry out its functions. The function of the agency is to regulate, supervise, and examine the lending institutions of the Farm Credit System. The Federal Farm Credit Board is the policymaking body of the agency. There are 13 members on the Board; twelve of whom are appointed by the President with the advice and consent of the Senate for 6-year terms. The thirteenth member is appointed by, and serves at the pleasure of, the Secretary of Agriculture. 12 U.S.C. 2242. The Governor is the chief executive officer of the Agency and is appointed by, and serves at the pleasure of, the Federal Board. 12 U.S.C. 2244.

The institutions of the Farm Credit System which are regulated by this agency are the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, and the bank for cooperatives. These institutions are federally chartered and currently operate under the provisions of the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001 *et seq.* The Federal land banks make long-term loans secured by first liens on real estate primarily to farmers and ranchers through the local Federal land bank associations. The Federal intermediate credit banks provide financing through loans and discounts to the production credit associations and certain other financial institutions. The production credit associations makes short- and intermediate-term loans primarily to farmers, ranchers, and producers and harvesters of aquatic products. The banks for cooperatives provides financing to eligible agricultural and aquatic cooperative associations. These institutions are also authorized to provide technical and financially-related services to their member-borrowers.

Although we believe that the Farm Credit Administration is an "independent regulatory agency" and is not covered by the Executive Order except to the extent that you may invite us from time to time to participate in the functions of the Council pursuant to subsection 1-804, we would note the term "independent regulatory agency" is not defined in the Order. Therefore, if it is determined that the term is intended to include this agency within its meaning, we respectfully request that you exempt the Farm Credit Administration from coverage pursuant to section 1-901(c) on the basis that we regulate a group of lenders which primarily make agricultural loans and, therefore, our activities do not have a substantial impact upon consumers. If you require additional information in this regard, please do not hesitate to contact us.

Sincerely,

Donald E. Wilkinson,

Governor.

[Honorable Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, DC 20500]

November 6, 1979.

Dear Mr. Wilkinson: I am writing in response to your October 26 request that the Farm Credit Administration be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that it would be appropriate to treat the Farm Credit Administration as an independent agency for purposes of the Order. As you know, the President has requested that independent agencies comply voluntarily with the Order, and the response to that request has on the whole been heartening. I would urge you to develop a draft consumer program, for publication in the *Federal Register*, that covers those elements of the Order that you believe would be suitable for the Farm Credit Administration.

If my staff or I can be of any assistance in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[The Honorable Donald E. Wilkinson, Governor, Farm Credit Administration, 490 L'Enfant Plaza, Suite 4000, Washington, D.C. 20578]

## FEDERAL EMERGENCY MANAGEMENT AGENCY

December 3, 1979.

Dear Ms. Peterson: I very much appreciate your kind consideration in assisting the Federal Emergency Management Agency to establish some flexible dates in the development of a Consumer Affairs program.

The Federal Emergency Management Agency was recently created to consolidate emergency management activities from several departments and agencies into a single independent agency. A variety of program activities are currently undergoing extensive review and the consumer affairs program development will be a part of the agency's overall program development.

A consumer affairs representative is being recruited to develop a consumer affairs program that will conform to Executive Order 12160 and operate as an integral part of FEMA's overall activities.

The FEMA Consumer Affairs program is expected to be developed on or before June 1, 1980 and published for public comment at that time.

Prior to the publication of the Consumer Affairs program, consumer complaints or requests for additional information should be directed to: Consumer Affairs Representative, Office of the Director, Federal Emergency Management Agency, Washington, D.C. 20472.

Ms. Peterson, thank you very much for your cooperation and assistance and I look forward to working with you in the coming months.

Sincerely yours,

John W. Macy, Jr.,

Director.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]

## FEDERAL ENERGY REGULATORY COMMISSION

November 29, 1979.

Dear Mr. President: The Federal Energy Regulatory Commission (FERC) is committed to implementing a consumer affairs program along the lines outlined in Executive Order 12160. While, as an independent regulatory agency, the Commission is not required to comply with the Order, it intends to do so.

The Commission staff is currently reviewing the extent to which its structure and operations adequately meet the five major standards outlined in the Order. As part of that effort, the Commission staff is:

- Evaluating current Commission practices;
- Studying consumer affairs programs at other agencies;
- Soliciting recommendations from the public.

Preliminary evaluation of Commission practices in each of the five key areas identified in the Order indicates the following:

*Consumer Affairs Perspective*—The Commission's budget and structure provide for a professional consumer affairs staff to participate in the agency's work.

*Consumer Participation*—Based on its overall evaluation of its consumer affairs activity, the Commission is developing a variety of methods to encourage consumer participation. Earlier this year the Commission proposed and I testified for appropriations for funding public intervention in agency proceedings. I also wrote to you on May 24, 1979, asking assistance in our efforts to secure public participation funding. That letter is attached. Unfortunately, those appropriations were denied by Congress.

*Informational Materials*—The Commission maintains a list of interested consumer groups that are informed of relevant agency activities. Materials explaining agency proceedings are now being developed.

*Education and Training*—The Commission staff is reviewing with FERC Office Directors the federal consumer policy. Where appropriate, specialized consumer affairs training will be provided to personnel. Technical assistance to consumers and their organizations are provided as needed by the staff of the Commission.

*Complaint Handling*—Each Commission office logs, investigates, and responds to consumer complaints in its area of responsibility. As appropriate, analyses of complaints are used in the policy development process.

I support your efforts through Executive Order 12160 to establish effective consumer affairs programs throughout the federal government. As evidence of that support, the Commission is actively pursuing the



goal of implementing its own consumer affairs program and will be pleased to work with you and your staff in order to accomplish our objectives.

Sincerely,

Charles B. Curtis,

Chairman.

[The President, The White House, Washington, D.C. 20500]

#### FEDERAL MARITIME COMMISSION

November 2, 1979.

*Dear Mrs. Peterson:* This is in response to the September 26, 1979 issuance of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." The Federal Maritime Commission is an independent regulatory agency. It therefore is exempt from Executive Order 12160.

However, notwithstanding this exemption, I want you to know that, as the chief administrative officer of this Commission, I fully support the intent and the spirit of Executive Order 12160. Accordingly, you have my personal commitment to the future implementation of this Executive Order to the maximum extent practicable and subject, of course, to available resources.

We are currently exploring various strategies to enhance our Consumer Affairs Program, which focuses primarily on shippers and receivers of cargo in the U.S. ocean commerce. Our regulatory activities must serve the consumer of ocean transportation services.

In furtherance of this objective, our Special Task Force on Commission Organization, chaired by Vice Chairman Thomas Moakley, is currently addressing the subject of consumer advocacy. The Task Force is expected to submit its recommendations to the Chairman by the end of the calendar year.

We believe it is logical to defer implementation of Executive Order 12160 until the Task Force has completed its work. The Task Force is likely to recommend significant changes in our Consumer Affairs Program that will affect its functions as well as its organizational composition and placement within the Commission.

Mr. Norman Littlejohn, Special Assistant to the Managing Director and Coordinator for the Special Task Force on Commission Organization, attended your October 16, 1979 meeting of agency representatives, and I have asked him to continue to maintain liaison with your staff so that your office may be kept apprised of our progress. If we can be of any further assistance, please feel free to contact him.

Sincerely,

Richard J. Daschbach,

Chairman.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

#### INTERNATIONAL COMMUNICATION AGENCY

October 26, 1979.

*Dear Ms. Peterson:* Thank you for your letter of October 4. We did not send a representative to your

October 16 meeting on agency consumer affairs activities because, since the International Communication Agency is a foreign affairs agency, it did not seem to pertain to us. If this is not the case and we can indeed be of help in any way, however, please let me know.

Sincerely,

John E. Reinhardt,

Director.

[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House]

November 8, 1979.

*Dear Mr. Reinhardt:* I am writing in response to your October 26 letter regarding the status of the International Communications Agency under Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and as Chairperson of the Council, I have concluded that it would be appropriate to treat the ICA as exempt from the Order on the grounds that its activities appear to have no substantial impact on American consumers.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[The Honorable John E. Reinhardt, Director, International Communication Agency, Washington, D.C. 20547]

#### NATIONAL ACADEMY OF SCIENCES

October 19, 1979.

*Dear Ms. Peterson:* This is in response to your letter of October 4, 1979, to the President of the National Academy of Sciences on the implementation of the Executive Order to improve the effectiveness, manpower and coordination of agency consumer affairs activities.

The National Academy of Sciences is a private, nonprofit organization established under Congressional charter and is not a Federal agency. Thus, it is not subject to the provisions of the Executive Order referenced in your letter and it would seem inappropriate that our representatives participate in its implementation.

If there are any further questions that we may answer concerning this response, please call me at 389-6661.

Sincerely yours,

Paul L. Sitton,

Assistant to the President.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

[Attn.: Ms. Belle O'Brien]

November 6, 1979.

*Dear Mr. Sitton:* I am writing in response to your October 19 letter regarding the status of the National Academy of Sciences under Executive Order 12160 on Federal Consumer Programs.

Since the National Academy of Sciences is not a Federal agency, it is not required to comply with the Executive Order. I am aware, however, of studies the NAS has sponsored on topics of considerable concern

to consumers, and I would urge the NAS to consider what steps it might take to ensure that consumers are better informed about the Academy's activities and more involved, where this would be appropriate, in the selection of research priorities. If my staff or I can be of any assistance in these matters, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Paul L. Sitton, Assistant to the President, National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C. 20418]

November 9, 1979.

*Dear Ms. Peterson:* Thank you for your response concerning the status of the National Academy of Sciences under Executive Order 12160.

We are pleased to have your suggestion on increasing the availability of relevant Academy reports to consumers. I agree that due to our special relationship to the Federal government, it is incumbent upon us in carrying out the terms of our Congressional charter to be responsive to ways in which our reports can receive wider public distribution. For your further information, I am enclosing a list of current report publications of the National Academy of Sciences.

I will discuss your suggestion with the Director of our Office of Information and later we may call upon your staff for assistance. You may wish to include this further response with the information that you plan to place in the Federal Register.

Sincerely yours,

Paul L. Sitton,

Assistant to the President.

Enclosure.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

October 19, 1979.

*Dear Mrs. Peterson:* Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs" requires that agencies develop and implement consumer programs by reviewing and revising their operating procedures so that consumer needs and interests are adequately considered and addressed. This order, specifically Section 1-902, also provides that certain agencies can be excluded from these requirements.

Pursuant to Section 1-902, the National Aeronautics and Space Administration requests to be excluded from the provisions of this order on the basis that, (1) the Agency's activities have no substantial impact upon consumers, and (2) our extensive procurement activities meet the exception of Subsection 1-902(b).

The basic mission and purpose of this Agency in accordance with its charter, the "National Aeronautics and Space Act of 1958," as amended, 42 U.S.C. 2451, *et seq.*, is to do research and development primarily in the aeronautical and space activities area.

The term "aeronautical and space activities" is defined in Section 103(1) of the NAS Act as "(A) research into, and the solution of problems of flight within and outside the Earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space.

To leave no doubt as to the Congressional intent behind the creation of the National Aeronautics and Space Administration, the legislative history of the NAS Act states in part that, "The purpose is to make clear that the Act is concerned primarily with research, development, and exploration. The use of the word 'activities' is intended to be broad in the area of outer space because no one can predict with certainty what future requirements may be. . . ."

Section 1-901 of the Executive order defines "Consumer" as any individual who uses, purchases, acquires, attempts to purchase or acquire or is offered any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes." It is apparent, based on this definition juxtaposed with the above stated purpose of NASA that the consumer definition is not applicable of the unique mission of this Agency or the clientele with which NASA interfaces.

Although there have been many instances in which a product of commercial utility has been developed from NASA research, in no case has NASA manufactured or marketed any such product for the general public. The development of any such product for commercial purposes is left to the manufacturer.

Additionally, Subsection 1-902(b) of this Executive order provides for an exception to agencies to the extent their activities fall within the category of Section 6(b)(4) of Executive Order No. 12044. The exact language of that section states: "This order does not apply to: regulations related to Federal Government procurement."

NASA's activities are closely intertwined and dependent upon the Federal Government procurement process, so much so that for the past three fiscal years, the Agency has spent approximately 83% of its total obligations on procurement obligations. In FY-78, NASA's procurement obligations were \$3,659,600,000, while its total obligations were \$4,388,500,000. The balance of obligations is primarily for the payment of Civil Service personnel and related costs.

Procurement is such an integral part of accomplishing our mission that we have promulgated an Agency set of procurement regulations, which we have used for numerous years and which are recognized Government-wide.

In sum, although I agree with the basic purpose of this Executive order, it is not relevant to this Agency. To impose this requirement on NASA would be contrary to the President's often stated intent of streamlining and simplifying the Federal Government and require the establishment of an office within NASA with little to do. Based on the above set forth reasons, we feel that an exemption from this Executive



order is appropriate and in keeping within the intent of this order.

Very truly yours,

Robert A. Frosch,  
Administrator.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, DC 20500]

November 6, 1979.

*Dear Mr. Frosch:* I am writing in response to your October 19 request that the National Aeronautics and Space Administration be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that NASA should be exempted from mandatory compliance with the Order. NASA's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, NASA qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of NASA for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable Robert Frosch, Administrator, National Aeronautics and Space Administration, Washington, DC 20546]

#### NATIONAL CAPITAL PLANNING COMMISSION

October 26, 1979.

*Dear Ms. Peterson:* Our Chairman, David M. Childs, has asked me to respond to your letter of October 4, 1979, regarding the recent Executive Order issued by the President on October 16.

We are very much encouraged by the President's action and support fully this initiative. Although we are a very small agency of only 52 employees and have no consumer related activities, we feel our present Citizens Participation program can be strengthened in light of recent developments.

Due to the small size of our agency and the absence of any consumer related activities associated with our operations, we respectfully request an exception to the setting up of a formal program. We have discussed this with our OMB examiner and he concurs in our request. Many of the smaller agencies and commissions (those with under 100 employees and especially those with no consumer interface) may be asking for an exemption. I know, we have received similar exemptions in the past due to our small size.

This exemption would not in any way deter our Commission from carrying out any of the objectives of the Executive Order should a consumer related opportunity arise in our operations. We have

coordinated the information contained in this letter with our Team Leader, Mr. Charles R. Cavagnaro.

Sincerely yours,

Malcolm L. Trevor,  
Asst. Executive Director for Administration.

Enclosure: Copy of NCPA's Citizen Participation Program.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 23, 1979.

*Dear Mr. Trevor:* I am writing in response to your October 19 request that the National Capital Planning Commission be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Commission should be exempted from mandatory compliance with the Order. The Commission's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Commission qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Commission for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Mr. Malcolm L. Trevor, Assistant Executive Director for Administration, National Capital Planning Commission, Washington, D.C. 20576]

#### NATIONAL ENDOWMENT FOR THE HUMANITIES

October 16, 1979.

*Dear Ms. Peterson:* In your letter to me dated October 4, 1979, you asked that a representative of the National Endowment for the Humanities attend a meeting to improve the consumer affairs activities of the agencies of the Government.

The functions of this Endowment are limited to support of progress and scholarship in the humanities, a field which includes the study of languages, linguistics, history, jurisprudence, philosophy, archeology, comparative religion, ethics, the history, criticism, theory and practice of the arts and the humanistic aspects of the social sciences (See 20 U.S.C. Code 952(a) and 956). Therefore we have no consumer programs of the type covered by Executive Order No. 12160.

Pursuant to Section 1-902(c) of that Executive Order I request that you, with the advice of the Consumer Affairs Council, exempt the National Endowment for the Humanities from the Executive Order on the ground that the Endowment's activities have no substantial impact upon consumers.

Sincerely,

Joseph Duffey,  
Chairman.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

October 16, 1979.

*Dear Ms. Peterson:* On October 4, 1979, you wrote a letter to me as Chairman of the National Endowment for the Humanities, concerning Executive Order No. 12160, and I have written you a separate reply concerning the fact that that Endowment's activities have no substantial impact upon consumers.

I am also Chairman of the Federal Council on the Arts and the Humanities, an agency that advises Government agencies on humanistic and artistic matters (20 U.S.C. 958) and insures museum exhibits which are certified by the Secretary of State as being in the national interest (20 U.S.C. 972). The Federal Council has no programs of the type covered by Executive Order No. 12160.

Pursuant to Section 1-902(c) of that Executive Order I request that you, with the advice of the Consumer Affairs Council, exempt the Federal Council on the Arts and the Humanities from the Executive Order on the ground that its activities have no substantial impact upon consumers.

Sincerely,

Joseph Duffey,

*Chairman, Federal Council on the Arts and Humanities.*

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

*Dear Mr. Duffey:* I am writing in response to your October 11 request that the National Foundation on the Arts and the Humanities be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Foundation should be exempted from mandatory compliance with the Order. The activities of the Foundation do not appear at the present time to have a substantial impact on consumers. Accordingly, the Foundation qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Foundation for exemption from the Order, I do hope that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Foundation's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Mr. Joseph Duffey, Chairman, Federal Council on the Arts and Humanities, 2401 E Street, N.W., Washington, D.C. 20506]

November 13, 1979.

*Dear Ms. Peterson:* The National Endowment for the Humanities has no problem with the plan to publish our exemption requests in the Federal Register. Both the National Foundation on the Arts and the Humanities and the Federal Council on the Arts and the Humanities will pursue information on other activities consistent with Executive Order 12160 when the occasion arises.

Sincerely,

Joseph Duffey,

*Chairman.*

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]  
[cc: Livingston Biddle, Chairman, NEA]

#### NATIONAL LABOR RELATIONS BOARD

November 15, 1979.

*Dear Ms. Peterson:* This is in response to President Carter's Executive Order 12160 dated September 26, 1979, establishing the Consumer Affairs Council.

The National Labor Relations Board is an independent regulatory agency created in 1935 by Congress to administer the basic law governing relations between labor unions and business enterprises engaged in interstate commerce. As such, the NLRB is exempted from the basic provisions of the Executive Order in accordance with paragraph 1-902(a).

We further request exemption from the implementing actions which are contemplated under paragraph 1-804.

On its statutory assignment, the NLRB has two principal functions: (1) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions or both; and (2) to determine and implement, through secret-ballot elections, the free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union.

The NLRB does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections which are filed in the NLRB's regional, subregional and resident offices. The Agency is not authorized to, and does not, have any consumer programs and functions.

Please contact me if you have any questions.

Sincerely yours,

John H. Fanning,

*Chairman.*

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, Old Executive Office Building, Room 495, Washington, D.C. 20500]

November 30, 1979.

*Dear Mr. Fanning:* I am writing in response to your request dated November 15, that the National Labor



Relations Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Board should be exempted from mandatory compliance with the Order. The Board's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Board qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Board for exemption from the Order, I trust that you will pursue informational and other activities consistent with the order. If my staff or I can be of any help, please let me know.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable John H. Fanning, Chairman, National Labor Relations Board, Washington, D.C. 20570]

#### NATIONAL MEDIATION BOARD

October 26, 1979.

*Dear Ms. Peterson:* The purpose of this letter is to request an exemption for the National Mediation Board from coverage under Executive Order 12160 providing for enhancement and coordination of federal consumer affairs programs.

By way of background the National Mediation Board, pursuant to the Railway Labor Act, 45 U.S.C. § 151, *et seq.*, regulated labor relations in the railroad and airline industries. The Board has two principal functions: the mediation of collective bargaining disputes between carriers and labor organizations and the resolution of disputes among employees of carriers as to whether those employees desire representation for purposes of collective bargaining and if so by what individual or organization. The Board's statutory mandate with respect to such disputes is to facilitate their peaceful settlement. Diminutive in size by comparison with other agencies (less than 50 total employees) the Board pursues its mission without adjudicatory power in the area of mediation and acting as a referee in representation disputes. See *United Transportation Union v. Detroit & Toledo Shore Line R.R. Co.*, 396 U.S. 142 (1969) and *Switchmen's Union v. National Mediation Board*, 320 U.S. 297 (1943).

As an independent regulatory agency the National Mediation Board is excluded from the definition of "agency" or "agencies" as provided in Section 1-902(b) of the Executive Order. Established in 1934, the Board was created " \* \* \* as an independent agency in the executive branch of the Government, " 45 U.S.C. § 154, First.

The Board understands that the President has urged independent regulatory agencies to follow the provisions of the Executive Order in an effort to secure the broadest possible implementation of its provisions. However, the Board believes there are several

practical reasons, which would be equally compelling if the Board was not an independent regulatory agency, why the Board should not do so.

The Board is sensitive to the fact that its decisions and actions may have an indirect impact upon consumers in that the course of labor relations in the railroad and airline industries tend to affect the price of goods and services charged to the public by those industries.

Nevertheless, the Board's mission to facilitate labor peace in the railroad and airline industries simply does not comport with the aggressive program envisioned by the Executive Order for involving consumers in agency functions and affairs. More specifically, consumer participation in Board Mediation and representation proceedings would be at odds with such mission.

We hope the foregoing has demonstrated that the National Mediation Board should be exempt from the requirements of the Executive Order. If you wish additional information with respect to this matter or to discuss the matter personally, please do not hesitate to contact me.

Sincerely,

Robert O. Harris,

*Chairman.*

[Ms. Esther Peterson, Special Assistant to the President, for Consumer Affairs and Chairperson, of the Consumer Affairs Council, The White House, Washington, D.C. 20050]

November 6, 1979.

*Dear Mr. Harris:* I am writing in response to your October 16 request that the National Mediation Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that it would be appropriate to treat the National Mediation Board as an independent agency, and therefore exempt under Section 1-902(a).

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable Robert O. Harris, Chairman, National Mediation Board, 1425 "K" Street, N.W., Washington, DC 20572]

#### NATIONAL SCIENCE FOUNDATION

October 26, 1979.

*Dear Ms. Peterson:* Thank you for your letter dated October 4, 1979, and the attached materials concerning the new Executive Order on Federal Consumer Programs.

We have carefully considered these materials in relation to the National Science Foundation and have determined that the mission and activities of our agency are outside the scope of the Executive Order. We are therefore requesting an exemption under Paragraph 1-902(c).

We base this decision on the nature of our mission and the way in which we carry it out. The mission of the Foundation is the support of scientific research and

science education improvement in a broad range of scientific disciplines, including the mathematical, physical, natural and engineering sciences.

The Foundation does not itself conduct laboratory research or carry out education projects. Rather, support is provided primarily through assistance awards to colleges, universities and nonprofit research institutions, most of which are made on the basis of unsolicited proposals. The foundation makes these awards to academic institutions rather than to individual researchers. The funds are not for "personal, family, or household purposes," and the awards have no direct impact on consumers.

The development of the Foundation's programs and policies is assisted by input from the various scientific and engineering communities. A 24-member National Science Board, composed of scientists and nonscientists from the community, establishes policies for the National Science Foundation within the framework of applicable policies made by the President and the Congress. The Board, the Director of the Foundation, the Deputy Director, and four Assistant Directors are appointed by the President with the advice and consent of the Senate. These officials are assisted by outside advisors, primarily from the scientific community, who serve on formal advisory committees in the various scientific disciplines within the Foundation, or on the NSF Advisory Council which provides advice and guidance on broad issues that transcend the interests of the individual advisory committees.

In addition to these formal mechanisms, we maintain close contact with professional societies and organizations (such as the National Academy of Sciences, the National Academy of Engineering, the American Council on Education, the American Association of Universities, the National Association of State Universities and Land-Grant Colleges, the American Association for the Advancement of Science, and many other scientific and educational organizations). Thus, the Foundation is already in very close touch with the organizations most directly affected by its programs, policies, and procedures. In making its decisions on individual research proposals, the Foundation also relies heavily on the advice and assistance of advisory committees, outside reviewers, and other experts to ensure that NSF is able to reach fair and knowledgeable judgments. These scientists and educators come from colleges and universities, nonprofit research and educational organizations, industry, and other Government agencies.

On the basis of the facts presented above, we conclude that the Foundation should be exempt from the provisions of Executive Order 12160. If you would like to discuss this with us further, please contact Bruce Darling, Special Assistant to the director, at 632-4384.

Sincerely yours,

Richard C. Atkinson,

*Director.*

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]  
November 20, 1979.

*Dear Mr. Atkinson:* I am writing in response to your request, dated October 26, that the National Science Foundation be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council, and in my capacity as Chairperson of the Council, I have concluded that it would not be appropriate to exempt NSF from the Order. I am not persuaded that NSF's activities have no substantial impact upon consumers. NSF has funded a good many studies on issues of considerable importance to consumers—on product safety and product liability, for example.

We recognize that because of NSF's unique mission and operating procedures, the agency may have special problems in complying with particular portions of the Order. We would like to discuss these with you. Please contact Belle O'Brien or Mark Goldberg of my staff in this regard. They can be reached at 456-6226.

As you proceed with the preparation of a draft program for compliance with the Order, Please let me know if my staff or I can be of any assistance.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable Richard C. Atkinson, Director, National Science Foundation, Washington, DC 20550]

#### OFFICE OF PERSONNEL MANAGEMENT

October 26, 1979.

Subject: Executive Order 12160.

*Dear Ms. Peterson:* I am pleased that the President has designated you to chair the new Consumer Affairs Council, and I am certain the Council will play a vital and effective role in furthering the Government's commitment to the protection of consumer interests.

OPM fully supports the approach taken by Executive Order 12160, and we look forward to providing you with whatever assistance the Council may require in implementing the provisions concerning the consumer affairs staff. Further, although agencies like OPM are excluded from the specific requirements of the Order, we nonetheless, have taken a number of steps to implement the spirit and philosophy reflected in the Executive Order and will continue to be guided by the intent of the Order.

As you know, the responsibilities of OPM are exclusively those relating to the management of the federal personnel system. The primary function of the agency is to serve as an advisor to the President and to executive branch agencies regarding civil service matters; and to execute, administer, and enforce civil service laws, rules and regulations. 5 U.S.C. 1103(7), 1103(5). Accordingly, this agency does not have a substantial impact on consumers.



Section 1-902(c) of the Order excepts from the Order those agencies whose activities have no "substantial impact on consumers." The Order defines "consumer" as:

Any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family, or household use. E.O. 12160, section 1-901.

OPM affects federal employees only in their role as Government workers and its activities have no significant impact on a consumer's dealing with private suppliers of goods and services. OPM's activities are primarily concerned with the internal regulation of the Government. Thus, although OPM's actions have a significant effect on the federal personnel system, they do not have a substantial impact on those interests protected by the Order. Therefore, OPM falls within the exception set forth in section 1-902(c).

Although the Order does not apply to OPM, this agency intends to comply fully with the President's intent to increase the accessibility of the Federal Government. OPM is actively engaged in providing public access to federal employment information, in promoting broad-based participation in its regulatory decisions, and in responding to requests and complaints efficiently and completely. We intend to continue and strengthen our commitment to responsiveness and public participation in compliance with the philosophy and intent of Executive Order 12160. In this regard, I have asked Edward A. Schroer, Director of the Office of Planning and Evaluation, to serve as the contact person between the Council and OPM. Mr. Schroer can be reached at 632-4606.

OPM has already taken a number of steps to ensure public accessibility to employment information and assistance. We provide employment information nationwide through a large public information network administered by OPM's Staffing Services Group. OPM employees respond to over 12 million public information requests yearly at the 71 area and regional job information centers and at the Washington, D.C., central office. Three hundred job information brochures on specific topics are available upon request. All of this information clearly informs prospective employees of the steps they must follow and where they should turn for assistance.

Moreover, several OPM offices exist solely to respond to complaints related to federal employment. OPM's complaint-handling structure includes a large full-time staff in the retirement claims and compensation divisions who respond to complaints in those specific areas. In addition, a central office in Washington, the Federal Employees Advisory Service, responds to questions from federal employees throughout the nation. The full-time staff of the Advisory service handles over 12,000 complaints and questions every year, including requests from attorneys, union representatives, Members of Congress, federal employees or their survivors, and other interested members of the public. The staff of the

Advisory Service has a policy to answer questions directly whenever possible, rather than referring members of the public elsewhere. Thus, the office is more than simply a referral service, but is a place to which citizens and federal employees can turn for genuine assistance.

In addition to responding to general requests for information and complaints, OPM complies fully with specific information requests under the Freedom of Information and Privacy Acts. The Freedom of Information Act permits members of the public to request access to agency records, and these must be provided unless they fall within one or more of nine narrowly defined exceptions. The Privacy Act also allows individuals to request access to information on themselves contained in agency record systems. OPM is required to comply with tight statutory time deadlines in replying to such requests. Any person who believes information has been refused improperly may request a review of the refusal by our General Counsel. Each requestor is informed of this right to review as well as of the right to a court appeal.

OPM's rulemaking procedures provide for public involvement through general notice to the public, an opportunity for interested parties to participate in rulemaking proceedings, and the publication of rules and regulations in the *Federal Register*, 5 U.S.C. 553. Moreover, OPM prominently posts copies of its proposed rules and regulations in federal offices to facilitate comments from individual employees and agencies. OPM also has a statutory responsibility to ensure that employees have an opportunity to comment on our proposed regulations through consultation with their elected union representatives.

As you know, section 1-7 of the Order provides for OPM to consult with the Council regarding classification and qualification standards for consumer affairs positions, and the recruitment, selection and development of employees for those positions. We have already begun working with your staff on these matters and have given these tasks a high priority.

To ensure that these tasks are accomplished as quickly as possible, I have asked James W. Morrison, Assistant Director for Economics and Government, to serve as a central point of contact between OPM and the Council. He can be reached at 632-6806.

Again, I am very pleased that you will be heading the new Council, and I hope that you will feel free to contact me if I may be of assistance in any way.

Sincerely yours,

Alan K. Campbell,  
Director.

[Ms. Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, D.C. 20500]  
November 6, 1979.

*Dear Mr. Campbell:* I am writing in response to your October 26 request that the Office of Personnel Management be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have

concluded that it would be appropriate to exempt OPM from mandatory compliance with the Order on the ground that its activities fall within the exemption established by Section 1-902(b) for matters related to agency management or personnel.

We will be contacting your staff shortly regarding the consumer affairs personnel initiatives called for by Section 1-7 of the Order. We look forward to working with OPM in an effort to improve the recruitment, training, and career potential of consumer affairs personnel.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable Alan K. Campbell, Director, Office of Personnel Management, Washington, D.C. 20415]

#### RAILROAD RETIREMENT BOARD

*Dear Ms. Peterson:* In your letter dated October 4, 1979, you advised our agency of actions being taken to implement development of consumer programs required by Executive Order No. 12160. We are requesting that the U.S. Railroad Retirement Board be exempted from development of a consumer program as set forth in the Executive Order.

The consumers of the U.S. Railroad Retirement Board are those persons due benefits under the provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts. The Railroad Retirement Act provides for the payment of retirement and disability benefits to railroad employees and their spouses and survivors. The Railroad Unemployment Insurance Act provides for the payment of unemployment and sickness benefits to qualified railroad workers.

Currently, there are over 550,000 active railroad employees in the railroad industry, over one million beneficiaries on the Board's annuity rolls, and over 900 covered employers. The Nation's railroad community has been represented in the U.S. Railroad Retirement Board's decision-making activities since its inception.

Such representation is fostered by the unique composition of the three-member Board responsible for administration of the Acts. The members of the Board are appointed by the President with the advice of the Senate—one upon recommendation of representatives of railroad employees, one upon recommendation of railroad management, and the chairman, as a public member.

To better serve the consumer interest groups with which our agency has liaison, the U.S. Railroad Retirement Board initiated in 1957 "Informational Conferences" for representatives of railroad labor unions. These conferences, which are held throughout the country, serve as a means to explain the Acts we administer and to gain feedback for policy development from our consumers. During calendar year 1978, over 3000 people attended the 79 conferences which were held in 72 different cities. Board representatives also appeared at 158 labor meetings and conventions, attended by nearly 14,000

railroad workers, to discuss Board programs and answer questions. Board representatives from district offices appeared at town meetings to discuss railroad retirement. Any covered employer with any question concerning railroad retirement may make direct contact with the office of the Management Member of the Board and receive a prompt answer to the question. The Board's information service publishes pamphlets which reach virtually everyone in the railroad community each year.

In addition, our field offices in over 80 cities throughout the United States have a strong and ongoing public information role in the activities of the railroad community in their territories. They maintain close contact with railroad labor and management officials and act as the local source for information on the provisions and effectiveness of the programs administered by the Board. The Board has long recognized that the strong contacts and involvement with the segment of the public which the Board serves along with the promotion and adherence to a strong and responsive complaint handling program is vital for providing better service and maintaining good communications and relationships with our consumers.

We wish to assure you that should the U.S. Railroad Retirement Board be exempted from the consumer program directed under the Executive Order No. 12160, the Board will continue to expand the scope and effectiveness of its already established commitment to consumer affairs activities in the full spirit of the Executive Order.

Sincerely,

For the Board.

R. F. Butler,

*Secretary.*

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

*Dear Mr. Butler:* I am writing in response to your October 26 request that the Railroad Retirement Board be exempted from Executive Order 12160 on Federal Consumer Programs.

In order for me to reach a determination regarding this request, I will need clarification on one point: Which of the three grounds for exemption established in Section 1-902 of the Order is the Board relying on in seeking an exemption?

Please provide me with this information as soon as possible so that this matter may be resolved expeditiously. As you know, if the Board does not obtain an exemption from the Order, its draft program for compliance will be due to me by November 23.

If you have any questions regarding the grounds for exemption, please call Mark Goldberg of my staff at 456-6228.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Mr. R. F. Butler, Secretary, Railroad Retirement Board, 425 13th Street, N.W., Room 444, Washington, D.C. 20004]



November 16, 1979.

*Dear Ms. Peterson:* In reply to your letter of November 6, 1979, the U.S. Railroad Retirement Board is requesting exemption from Executive Order 12160 under Section 1-902(c) of the Order.

The laws and funds we administer apply only to and for the benefit of the railroad industry. Our clients are limited to the railroad workers and their families for whom we provide protection from loss of income due to the railroad worker's retirement, death, disability, unemployment or sickness. The conditions for the payments and the amounts are established by law.

Our activities have, at best, slight impact on consumers. Accordingly, it is on these grounds that we are seeking the exemption.

Sincerely,  
For the Board.

R. F. Butler,  
Secretary.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 30, 1979.

*Dear Mr. Butler:* I am writing in response to your request dated November 16, that the Railroad Retirement Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Board should be exempted from mandatory compliance with the Order. The Board's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Board qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Board for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help, please let me know.

Sincerely,  
Esther Peterson.

*Special Assistant to the President for Consumer Affairs.*

[Mr. R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611]

#### SELECTIVE SERVICE SYSTEM

October 15, 1979.

*Dear Ms. Peterson:* We request a determination, in accord with paragraph 1-902(c) of Executive Order 12160, that the activities of the Selective Service System "... have no substantial impact upon consumers."

The primary function of the Selective Service System is, in accord with the provisions of the Military Selective Service Act (50 U.S.C. App. 451 et seq.), to plan for the resumption of "the draft" in the event that should become necessary because of Department of Defense requirements for untrained military personnel.

The System's registration and induction activities have no significant impact upon consumers.

Sincerely,  
Robert E. Shuck,  
Acting Director.

[Honorable Esther Peterson, Chairperson, The Consumer Affairs Council, The White House, Washington, D.C. 20500]

November 6, 1979.

*Dear Mr. Shuck:* I am writing in response to your October 19 request that the Selective Service System be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Selective Service System should be exempted from mandatory compliance with the Order. The System's activities do not appear, at the present time, to have substantial impact on consumers.

Accordingly, the System qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Selective Service System for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,  
Esther Peterson.

*Special Assistant to the President for Consumer Affairs.*

[Mr. Robert E. Shuck, Acting Director, Selective Service System, 600 "E" Street, N.W., Washington, D.C. 20435]

November 13, 1979.

*Dear Mrs. Peterson:* Thank you for your letter of November 6, 1979 and accompanying memorandum of the same date.

The proposal in your memorandum is entirely satisfactory to us.

We will continue to "pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in," the work of our agency.

Sincerely,  
Robert E. Shuck,

*Acting Director.*

[The Honorable Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, D.C. 20500]

#### UNITED STATES GENERAL ACCOUNTING OFFICE

October 29, 1979.

*Dear Mrs. Peterson:* Executive Order No. 12160, dated September 26, 1979, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs" requires each agency of the executive branch to develop and maintain a consumer program. Such a program is to include: a professional consumer affairs staff that can help consumers and will receive needed training; the development of informational materials for consumers; procedures for assuring that

consumers participate in the development of agency rules, policies, and programs; and procedures for systematically investigating and responding to consumer complaints and for incorporating analysis of those complaints into the development of agency policies. The order also requires each agency head to appoint a senior-level official whose sole responsibility is to provide policy direction for, and coordination and oversight of, the agency's consumer affairs activities. As Chairperson of the Consumer Affairs Council, you are responsible for reviewing and approving agency programs for compliance with the Executive Order.

By letter dated October 4, 1979, you requested that the General Accounting Office (GAO) participate with the Executive agencies in discussions concerning the implementation of the Executive Order and establishing consumer programs. GAO representatives participated in meetings with your staff and the other Federal agencies on October 16 and 25, 1979. This letter is to advise you as to how we see the role of the General Accounting Office in relation to the objectives of the Executive Order.

As you know, the GAO is an agency in the legislative branch of the Federal Government and is not subject to the requirements of the Executive Order. Our work is not primarily directed toward the public as consumers.

Consequently, we do not plan to prepare a consumer program as defined in the Executive Order.

Although our activities generally do not result in rulemaking which affects consumers and do not involve the receipt of consumer complaints, we do respond to consumer concerns and interests. All inquiries received from the public regarding GAO studies, audits, or reports are answered either by telephone or correspondence. A monthly compilation and synopsis of reports issued by GAO is made available to the public, the media, and to colleges and universities, and includes information on how to obtain copies of our reports. We plan to review our distribution of this monthly status report to ensure that consumer groups and educators and others serving the consumers' interests are aware of and receive our reports on matters which affect consumers.

Much of our work is undertaken at the request of the Congress and its committees. However, when planning self-initiated studies in our consumer and worker protection issue area we give considerable attention to areas of consumer concern. For example, we are completing a study of the Government's role in helping consumers deal with auto repair problems, the consumers' number one complaint. We will continue to keep abreast of the problems and issues of concern to consumers and will consider them when planning future studies. Our recent contacts with members of your staff have been most helpful in this regard. We look forward to continuing cooperation with them during the months ahead.

If you or your staff should have any questions about our efforts to assist consumers, please contact Andrew

Kulanko, our issue area coordinator for consumer and worker protection on 523-8666.

Sincerely yours,  
Gregory J. Ahart,  
Director.

[Esther Peterson, Special Assistant to the President for Consumer Affairs]

November 20, 1979.

*Dear Mr. Ahart:* I am writing in response to your letter dated October 29 regarding the status of the General Accounting Office under Executive Order 12160 on Federal Consumer Programs.

As a legislative agency, the GAO is not required to comply with the Order. However, I am glad to learn of the GAO's plans to participate actively in our effort to make government more responsive to and reflective of consumer concerns. I look forward to working with you and your staff in monitoring and encouraging agency compliance with the Order and in developing new initiatives to help consumers.

Sincerely,  
Esther Peterson.

*Special Assistant to the President for Consumer Affairs.*

[Mr. Gregory J. Ahart, Director, Division of Human Resources, United States General Accounting Office, Washington, D.C. 20548]

#### UNITED STATES GOVERNMENT PRINTING OFFICE

October 19, 1979.

*Dear Mrs. Peterson:* The United States Government Printing Office is not an Executive Branch agency and, accordingly, is excluded from Executive Order 12160 by definition as set forth in section 1-902 of that Order. Moreover, the Government Printing Office is an internal service organization for the Government and is not primarily engaged in consumer programs.

However, it is my desire that members of my staff continue to work toward the objectives of the Consumer Affairs Council and, although not formally a part of the program, we will be active in carrying out those objectives.

Sincerely,  
John J. Boyle,

*Public Printer.*

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

*Dear Mr. Boyle:* I am writing in response to your October 19 letter regarding the status of the Government Printing Office under Executive Order 12160 on Federal Consumer Programs.

I agree that as a legislative agency, the GPO is not required to comply with the Order. However, I am glad to learn of the GPO's plans to participate actively in our effort to make government more responsive to and reflective of consumer concerns.

I would especially encourage you to consider what steps the GPO might take to facilitate the development and distribution of agency publications directed at consumers. I would very much like to work with you and your staff on this undertaking, and I am sure that



the other members of the Consumer Affairs Council would be pleased to offer their assistance as well.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[The Honorable John J. Boyle, Public Printer, United States Government Printing Office, Washington, D.C. 20401]

#### UNITED STATES INTERNATIONAL TRADE COMMISSION

October 26, 1979.

*Dear Ms. Peterson:* This is in response to your letter of October 4, 1979, concerning the implementation of Executive Order 12160.

This Commission conducts investigations concerning the impact of imports on the product markets of domestic manufacturers under several different statutory authorities. The character of the Commission's investigative responsibility depends upon the direction of the specific statute. In some cases, the Commission's investigation consists of a purely informational study, and no Government action is required as a result of its findings. In other cases, the executive branch is directed by statute to respond to Commission findings, recommendations, or determinations. Finally, the Commission is authorized to issue what are in effect final orders by statutory provisions requiring formal and informal adjudicative proceedings.

Some of these statutes direct the Commission to make an informal judgment concerning the impact of Government action on consumers and others preclude such considerations. Accordingly, the Commission has no consumer programs as such. Moreover, the Commission's outstanding regulations are procedural in nature and basically inform participants and other interested persons how they can bring information to the attention of the Commission in different types of investigations of the economic impact of imported products. The Commission's Assistant Secretary and Public Information Officer assists interested consumers and consumer organizations in their understanding of Commission investigations and their participation in them.

The definitions section of Executive Order No. 12160 exempts agencies from the program requirements of the order if their activities are exempted from Executive Order No. 12044, Improving Government Regulations. The Commission was exempted from the provisions of Executive Order No. 12044 on the basis that its provisions do not apply to our regulations. (A copy of this exemption is attached for your information.) In our opinion, the Commission is exempt from the provisions of Executive Order No. 12160 for the same reasons, and we hereby request such a ruling from the Consumer Affairs Council.

The Commission supports the goals of Executive Order No. 12160. If the Commission can be of any assistance to the Consumer Affairs Council, please contact Mr. Hal Sundstrom, Assistant Secretary and Public Information Officer (202-523-0161).

Sincerely,

Joseph O. Parker,

*Chairman.*

Enclosure.

[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]

November 26, 1979.

*Dear Mr. Parker:* I am writing in response to your request that the International Trade Commission be exempted from Executive Order 12160 on Federal Consumer Programs.

In order for me to reach a determination regarding this request, I will need clarification on one point: which of the grounds for exemption set out in Executive Order 12044 and carried over to Executive Order 12160 is the ITC relying on in seeking an exemption?

Please provide me with this information as soon as possible. As you know, if the ITC does not obtain an exemption from the Order, it will be required to proceed with the preparation of a draft program for compliance.

If you have any questions regarding the grounds for exemption, please call Mark Goldberg of my staff at 456-6226.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Honorable Joseph O. Parker, Chairman, United States International Trade Commission, Washington, D.C. 20436]

November 28, 1979.

*Dear Ms. Peterson:* This is in response to your letter of November 26, 1979, in which you requested that we indicate which of the grounds for exemption set out in Executive Order 12044 and carried over to Executive Order 12160 this Commission relies on in requesting an exemption from Executive Order 12160 on Federal Consumer Programs.

The exemption from Executive Order 12044 granted the Commission by the Office of Management and Budget was based upon a combination of considerations. First, Commission proceedings concern investigations on the impact of imports on domestic product markets of U.S. manufacturers and producers. Such proceedings are conducted on a case-by-case basis and are more like adjudications than they are like the regulatory programs covered by Executive Order 12044. Second, nearly all Commission investigatory proceedings are conducted under extremely short statutory or administrative deadlines. Proceedings subject to such deadlines are exempted under section 6(b)(6) of Executive Order 12044. Finally, all of the Commission's outstanding regulations are procedural. None concern the administration of programs or attempt to regulate behavior. Although the Commission is authorized to issue substantive regulations under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), prohibiting unfair conduct in U.S. import trade, no substantive regulations have been issued as of this time. Should the issuance of such regulations become appropriate,

they would be enforced by adjudicative proceedings on a case-by-case basis.

I hope this information is helpful to you. If we can be of further assistance, please let us know.

Sincerely,

Joseph O. Parker,

*Chairman.*

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

#### UNITED STATES WATER RESOURCES COUNCIL

*Dear Ms. Peterson:* Pursuant to Section 1-902(c) of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," I am transmitting for your consideration information which demonstrates that the activities of the U.S. Water Resources Council have no substantial impact upon consumers.

The Water Resources Council was created by the Water Resources Planning Act of 1965 (PL 89-80). By statute the Council Members are the Secretaries of Agriculture, Army, Commerce, Energy, Housing and Urban Development, Transportation, Interior, and the Administrator of the Environmental Protection Agency. The Council currently has a staff of about 60 persons who carry out the Council's responsibilities as directed by the Members.

The Council is responsible for preparing an assessment of the adequacy of U.S. water supplies; studying the relation of regional or river basin plans to requirements of the larger regions of the U.S. and the adequacy of administrative and statutory means for the coordination of Federal water resources programs; making recommendations to the President to meet the Nation's water needs with respect to Federal policies and programs; establishing principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects; reviewing river basin commission plans and transmitting such plans together with our views, comments, and recommendations to the President; and administering grants to the States for comprehensive water and related land resources planning.

Any water related action affecting consumers (e.g., recent Department of Energy distribution of flow restrictors in the Northeastern states) would be taken by a Member agency pursuant to its own authority rather than by the Council and would, of course, be subject to the Member agency's consumer program. As a coordinative body for Federal agencies having water planning responsibilities, the Council itself neither regulates nor is involved in nor does its activities have a substantial effect on the purchase or acquisition of

real or personal property, tangible or intangible goods, or services by individuals, or credit for personal, family or household purposes.

Sincerely,

Leo M. Eisel,

*Director.*

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 20, 1979.

*Dear Mr. Eisel:* I am writing in response to your request dated October 26 that the Water Resources Council be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Water Resources Council should be exempted from mandatory compliance with the Order. The activities of the Water Resources Council do not appear at the present time to have a substantial impact on consumers. Accordingly, the Water Resources Council qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Water Resources Council for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Council's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

*Special Assistant to the President for Consumer Affairs.*

[Mr. Leo M. Eisel, Director, United States Water Resources Council, 2120 "L" Street, N.W., Suite 800, Washington, D.C. 20037]

[FR Doc. 79-37317 Filed 12-7-79; 8:45 am]

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# Consumer Programs: Natural Resources

Monday  
December 10, 1979

## Part III

### Consumer Programs: Natural Resources

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# Test Report Federal Register

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Monday  
December 10, 1979

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Part III—Section A

Department of  
Agriculture

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Draft Consumer Program



## DEPARTMENT OF AGRICULTURE

## Office of the Secretary

## Draft Report—Establishment of USDA Office of Consumer Affairs, Procedures To Enhance Consumer Participation

AGENCY: U.S. Department of Agriculture.

ACTION: Request for Comments, Draft Report—Establishment of USDA Office of Consumer Affairs, Procedures to Enhance Consumer Participation.

DATES: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to: Elizabeth Webber, Acting Director, Public Participation, OBPE, U.S. Department of Agriculture, Office of the Secretary, Room 118-A, Washington, D.C. 20250, Phone (202/447-2113).

FOR FURTHER INFORMATION CONTACT: Dr. Linley Juers, Acting Associate Director, Decision System, OBPE, U.S. Department of Agriculture, Office of the Secretary, Room 118-A, Washington, D.C. 20250, Phone (202/447-6667).

Executive Order 12160 adds an important new initiative to the development and administration of USDA programs.

Under Executive Order 12044, the Department established a system for making decisions through an orderly, open process. The Department's decisionmaking procedures under Executive Order 12044 place emphasis on public participation—involving all members of the public in decisions. The views and ideas of the public are incorporated into the Impact Analysis, which is the basis for the decision. This new Executive Order, covering the enhancement and coordination of consumer programs, supplements that system by assuring consumers—the most diverse population group affected by government decisions—ample opportunity for substantive involvement in USDA decisionmaking.

The complexity of program effects on consumers and the difficulty of getting focused, meaningful comment and information from consumers in the decisionmaking process points up the need for this special effort.

Thus, the Department is establishing an Office of Consumer Affairs, reporting to the Secretary, which will establish specific guidelines and provide oversight for consumer involvement in USDA programs. This will include assuring consumers are informed of procedures and actions, that they are provided opportunity to participate and that consumer complaints are appropriately and efficiently handled.

USDA has procedures and staff, both at the Department level and in each agency, to insure broad public participation in all decisions. The Office of Consumer Affairs will work with the Department's Public Participation staff in the Office of Budget, Planning and Evaluation, using the established procedures to provide effective involvement of consumers in all USDA decisions.

Dated: November 23, 1979.

Jim Williams,  
Acting Secretary.

## CONSUMER AFFAIRS OFFICE AND RESPONSIBILITIES

## CONSUMER AFFAIRS PERSPECTIVE

At the Department level, an Assistant to the Secretary for Consumer Affairs will be appointed to head an Office of Consumer Affairs. This office will consist of the Assistant to the Secretary, functioning as the Director, Office of Consumer Affairs at the Senior Executive level, a Deputy Director and a secretary.

The responsibilities of the office will include:

- General oversight of the Department's consumer outreach and involvement actions and procedures including establishing Departmentwide general policy and philosophy on involving consumers in decisions and programs.
- Authority to provide policy guidance for informational materials on consumer affairs prepared and disseminated by the Department or agencies. Working with the Office of Governmental and Public Affairs, establish a Departmentwide consumer information working group and ensure procedures are established so that relevant notices on USDA actions covering consumer issues are directed to consumers and their representatives.
- Chairing a public advisory committee on consumer affairs established to advise the Secretary.
- Working with the Decision System staff of the Office of Budget, Planning, and Evaluation to ensure that guidelines and working procedures require monitoring of consumer impacts and assuring consumer involvement in each significant decision. The USDA has existing procedures for monitoring Public Participation and Impact Analysis including a requirement that a Decision Log be submitted at the inception of each decision process. The Office of Consumer Affairs, through the Office of Budget, Planning and Evaluation, will establish guidelines which:
  - Require that Public Participation Plans, prepared at the inception of actions, show specific consumer involvement initiatives; and
  - Require that each Impact Analysis address consumer impact.
- Requiring that all agencies will be subject to Department guidelines on any action affecting consumers. Specific agencies, with significant consumer program impact, will be required to have a designated Consumer Affairs' Specialist reporting to the agency Administrator. The size of agency effort will be tailored to the volume of program actions and degree to which they affect consumers and be set up to effectively use the agency information and analytic staff in meeting their responsibilities. The Assistant to the Secretary for Consumer Affairs must approve each agency's consumer affairs plan and staffing.
- Direct liaison with program Assistant Secretaries and USDA agencies' Administrators to assure proper

communication of policies and guidelines for consumer involvement and for monitoring the effectiveness of agency efforts.

- Regular meetings of agencies' Consumer Specialists with the Assistant for Consumer Affairs to review and evaluate agency problems and performance.

## CONSUMER PARTICIPATION

• The agency's Consumer Specialist will monitor the development of plans for analysis and public participation on each decision so that the magnitude of the impact and particular segments of the consumer public affected are known. Having identified the affected consumer public, the Consumer Specialist will recommend that the Public Participation Plan include avenues of participation (e.g., hearings, special mailings) which will facilitate meaningful input from the consumer segments.

• The Impact Analysis, which provides the analytic base for each decision, will contain an analysis of consumer impact and the response to consumer comment. On decisions where there is no consumer impact, the basis for determining there was no consumer impact will be stated.

• The Decision system staff, in the Office of Budget, Planning and Evaluation, through its decision tracking and clearance procedures, will be the checkpoint for assuring that the guidelines and procedures, as established by the Consumer Assistant's office, are followed by the agencies.

• Consumer participation will take place at all stages of USDA rulemaking. USDA has placed strong emphasis on early involvement of the public in Public Participation Plans. Public involvement in advance of proposed rulemaking has worked well in several important decisions. Consumer involvement at this prenotice stage, as well as during comment periods on proposed rules, would be built into Public Participation Plans.

• The number of forums, special efforts and level of officials involved in facilitating consumer involvement will vary from year to year depending on the number and significance of new programs or legislation being implemented. For example, the Food Safety and Quality Service has six meetings and hearings scheduled in connection with actions already in process. Additional proceedings, not yet contemplated, will undoubtedly arise and occasion added forums. This decision must be based on the usefulness of hearings or meetings to consumers, the public and to the best resolution of issues, rather than a goal of holding a stated number of meetings. Given the number and diversity of programs in USDA, this determination will have to be the result of continuing reviews under the guidance of the Consumer Office working through agencies' Consumer Specialists. Most significant USDA actions affecting consumers would be of national scope.

• The Office of Consumer Affairs will develop a manual advising consumers how to participate in USDA actions, and work with the Office of

Governmental and Public Affairs in the development of a communication that highlights major Department proceedings and consumer issues.

## INFORMATIONAL MATERIALS

- USDA will continue to publish its Decision Calendar in the *Federal Register* twice a year, as at present, and will make it available to consumers and other public participants.
- Working with agencies with programs having major consumer impact, the Department will establish periodic publications to advise consumers and the public of all scheduled hearings and meetings open to public participation. While formats may differ, these publications or notices should:
  - Clearly and adequately describe the issues,
  - Provide focused questions or issues open to comment,
  - Explain how and when consumer input should be made, and
  - Provide a contact or avenue for obtaining additional information or clarification.

## EDUCATION AND TRAINING

- Training of agency personnel will be coordinated by the Assistant to the Secretary for Consumer Affairs.
- Training of agencies' Consumer Specialists will be under the overall direction of the Assistant for Consumer Affairs.
- Continuing training will evolve through periodic meetings of the Assistant for Consumer Affairs with all Consumer Affairs Specialists. These meetings will draw on agency experience, the results of monitoring activities, new issues and constitute a continuing education effort.

## COMPLAINT HANDLING FUNCTIONS

The Department has an excellent computerized correspondence system under the direction of the Department's Correspondence Review Officer which is a basic requirement for complaint handling and tracking. Initiating the complaint tracking function requires two steps:

- Advising the public of the establishment of a complaint monitor function in the Department and how to address it. The Correspondence Review Officer in the Office of the Secretary will develop procedures for coding and directing complaints and establish Departmentwide standards for monitoring constructive response, follow-up actions, timeliness and use of complaint information.
  - Establish a consumer complaint monitoring function in the Office of Consumer Affairs under the Deputy Director to review and classify varying kinds of substantive consumer complaints and monitor the responsiveness of replies and follow-up actions. Complaints are a potentially important source of analytic and program evaluation information. The person in this position must have the analytic skill to develop and use the information received.
- The existing correspondence system has the computerized capability of directing correspondence



for reply, tracking the status of response, compiling data on the volume, and timeliness of responses. In addition to the existing subject codes used, complaint categories have been added.

The larger agencies of the Department have remote access to this system. The tracking of complaints handled by agency field offices may require that agencies develop their own subsystems to incorporate agency complaint handling data into the Departmentwide overview.

Agencies of the Department vary considerably in the degree of decentralization of control over field offices. The Office of Consumer Affairs, working with the Correspondence Review Officer, will establish procedures and guidelines for agencies in consumer complaint handling, monitoring and systematic reporting procedures.

#### OVERSIGHT

The Director of the Office of Consumer Affairs will report to the Secretary. This position will be at the Senior Executive level. The office will be established organizationally in the immediate Office of the Secretary and charged with Departmentwide responsibilities which will include:

- Establishing operational guidelines for consumer participation in USDA decisions.
- Policy guidance for procedures and informational materials to inform consumers of their opportunities to effectively participate in USDA decisions.
- Supervise and monitor consumer complaint monitoring in USDA.
- Provide advice and counsel to the Secretary and top officials of the Department on the effectiveness of consumer participation in USDA programs.

BILLING CODE 3410-01-M

Form Approved:  
OMB No. 116579021

#### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9 Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36656 Filed 12-7-79; 8:45 am]

BILLING CODE 3410-01-C

Monday  
December 10, 1979

Part III—Section B

Department of  
Energy

Draft Consumer Program

fedderal register



## DEPARTMENT OF ENERGY

## Office of the Secretary

## Draft Response to Executive Order 12160

**AGENCY:** Department of Energy.

**ACTION:** Request for Comments on Department of Energy Response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs".

**SUMMARY:** Executive Order 12160 requires Federal agencies to develop and maintain a consumer program with, at a minimum, the following five elements:

- (1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
- (2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
- (3) Development of information materials for consumers;

(4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and

(5) Systematic procedures for complaint handling. DOE is seeking public comment on this response to the Order, its consumer programs and the adequacy of procedures to ensure consumer involvement in DOE decisionmaking processes. Comments and recommendations are requested on all aspects of DOE's efforts to involve the public, including: how to improve the quality of information provided in response to requests; making consumer involvement easier and more productive; improving the opportunities for and quality of technical assistance; and procedural or structural changes that might be needed.

As defined by the Order, "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

**DATE:** Comments must be received by March 10, 1980.

**ADDRESS:** Comments should be addressed to: Liz Overstreet, Department of Energy, Office of Consumer Affairs, Room 8G031, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:** Liz Overstreet, at above address. Phone: 202-252-5877.

## I. CONSUMER AFFAIRS PERSPECTIVE

## Requirement

Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

## Current Status

The Department of Energy maintains an Office of Consumer Affairs (OCA), located in the Office of the Secretary. The address is DOE, Office of Consumer Affairs, Room 8G082, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585, and the phone number is 202-252-5877. The Director of OCA reports to the Secretary through the Executive Assistant. OCA currently has an authorized staff of 24 including consumer specialists with expertise in law, engineering, communications, economics and management/administration. OCA, as a Secretarial Office, is regularly apprised of and participates in those policy, program and regulatory activities which will require Secretarial approval.

The Director of OCA has primary responsibility for:

- Providing policy direction for, and coordination and oversight of, DOE's consumer activities,
- Apprising the Secretary of potential impacts on consumers of initiatives under consideration within the Department,
- Serving as Advisory Committee Management Officer for all DOE advisory committees, and as program official for the DOE Consumer Affairs Advisory Committee.

## II. CONSUMER PARTICIPATION

## Requirement

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

## Current Status

The legislation establishing DOE (Pub. L. 95-91, Title I, Sec. 102) directs DOE to provide for, encourage, and assist the public to participate in the development and execution of national energy programs.

DOE has developed procedures to ensure early and meaningful consumer participation in the development and review of its rules, policies, and programs. While OCA maintains responsibility for oversight of DOE's activities and procedures to reach and involve consumers, DOE Secretarial Officers are accountable for regular and substantive public participation programs in their areas of responsibility.

Procedures for providing public participation opportunities in the regulatory process are outlined in DOE Order 2030.1, *Procedures for the Development and Analysis of Regulations, Standards and Guidelines*. These include: providing minimum 60-day public comment periods for significant regulations; providing minimum 30-day comment periods for

nonsignificant regulations (with opportunity to challenge on determination of non-significance); publishing draft regulatory analyses on major significant regulations for public comment; making more use of Notices of Inquiry and Advance Notices of Proposed Rulemaking; publicizing notices by means other than the *Federal Register*; publishing a summary of public comments and the manner in which such comments have been addressed in a final rule; and republishing every regulation within five years of its effective date, with a minimum 60-day comment period, to ensure evaluation of the continued need for and effectiveness of the regulation.

DOE also publishes, in April and October of each year, a *Semiannual Agenda of Regulations*, that includes descriptions of all regulations in the development process as well as existing regulations which are scheduled for review.

DOE Order 1210.1, a *Citizen Participation Manual*, has been issued by OCA and provides guidance and procedures for program offices in making decisions on, planning and conducting effective public participation activities. Avenues for participation in these processes include opportunity to provide written and oral comments, participation in regional public hearings and workshops, membership on advisory committees, and other public forums. This Order also outlines various means of notifying consumers of opportunities to participate in agency decisionmaking, such as special invitations or notices, news releases, public service announcements, and speeches.

OCA publishes a monthly newsletter, *The Energy Consumer*, which provides information on existing and pending DOE policies and programs and lists upcoming opportunities for public involvement in hearings and other public forums. *The Energy Consumer* regularly lists state and local contacts for those areas and issues where decisionmaking or provision of assistance is a state or local organization's responsibility. OCA also prepares and distributes special notices to individuals and groups with expressed interest and to potentially impacted groups on issues that have significant consumer impact, and maintains a mailing list of interested citizens and organizations that is made available to all DOE program offices for targeted mailings of program office notifications. DOE also publishes a monthly *Energy Meetings* calendar, publishes press releases, and uses other means of notification. Members of the public can request to be on the mailing lists for all of these types of materials.

DOE currently has 14 advisory committees established to provide guidance and recommendations to the Secretary on various energy issues, and maintains a general policy that each committee have at least 10% consumer representation.

DOE's Secretary and Deputy Secretary regularly schedule meetings with individuals and representatives of consumer and other public interest organizations to discuss issues of concern to them.

## III. INFORMATIONAL MATERIALS

## Requirement

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

## Current Status

DOE currently distributes a number of printed and audiovisual informational materials on various energy issues, ranging from technical documents to consumer-oriented publications such as *Tips for Energy Savers*, *Winter Survival*, and *Making Energy Regulations: How the Public Gets Involved*, and films such as *Solar Energy: The Great Adventure*.

OCA will be working on improving these materials by:

- Gathering and quantifying information on the type and subject matter of public information requests,
- Sampling recipients of publications and audiovisual materials to determine the usefulness of materials,
- Communicating public information needs to technical staff,
- Assigning staff resources for producing needed information materials in a reasonable time,
- Producing a citizen-oriented directory that contains information on DOE program responsibilities, services and responsible personnel.

DOE Secretarial Officers will be responsible for preparing explanatory materials regarding meetings open to the public for which they are responsible and for developing plans for their distribution. OCA will provide support and guidance to each Office where appropriate.

## IV. EDUCATION AND TRAINING

## Requirement

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

## Current Status

The Office of Consumer Affairs will be responsible for educating staff members as to requirements and activities related to Executive Order 12160, and will coordinate with the Office of Personnel to provide specialized training to consumer affairs personnel.

OCA recently conducted workshops for DOE personnel on implementation of the *Citizen*



*Participation Manual.* OCA plans to work with the Office of Personnel to develop additional workshop sessions, which will include regional and field office staff, and cover any new activities that may be required under this Order.

Other significant activities or changes with respect to DOE consumer programs will be communicated to all DOE staff.

Through its Energy Extension Service, the Inventions Program, and the Appropriate Technology Small Grants Program, DOE provides technical and financial assistance to consumers and organizations. DOE program offices also have responsibilities for providing technical assistance, answering scientific, technical, or procedural questions, and assisting consumers and groups in effectively participating in decisionmaking processes.

## V. COMPLAINT HANDLING

### Requirement

Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

### Current Status

DOE maintains a correspondence control system within the Office of the Executive Secretary (ES) of correspondence addressed to the Secretary, Deputy Secretary, and Under Secretary. Such correspondence is assigned to the appropriate DOE program element for response. However, a significant amount of correspondence and other kinds of inquiries including consumer complaints is not routinely handled through ES, but is received directly in DOE program offices.

Therefore, DOE proposes to develop a decentralized complaint answering responsibility in each major DOE Office.

### Proposed Responsibilities

Because DOE believes that consumer complaints will receive the most rapid and thorough response if individual offices answer complaints dealing with their areas of responsibility, the heads of such offices will be responsible for developing a complaint handling system that will meet the requirements of the Order and operate efficiently.

The elements of the Consumer Complaint System will include:

#### 1. Statistical Reporting

The Consumer Complaint Manager in each such office will be responsible for collection and analysis of consumer complaint data for identification of problems and use in policy development processes.

#### 2. Audit

The Consumer Complaint Manager will, from time to time, audit Office consumer complaint handling to assure that complaints within an Office are expeditiously answered with accurate and adequate responses.

### 3. Policy Analysis

Written reports from Consumer Complaint Managers will be consolidated and circulated periodically to Office heads for use in assessing the impact of DOE policies and programs on consumers.

### 4. Accountability

The Consumer Complaint Manager will publish guidelines governing the handling of complaints.

### 5. Opportunity for Redress

Consumers who are dissatisfied with DOE action on their complaints may ask the Consumer Complaint Manager to review an Office's resolution of an original complaint where administrative review systems have not been created at the Office level.

### Proposed New Initiative

1. Each office within DOE which has significant consumer program impact will designate a Consumer Affairs Specialist(s) to prepare a plan that responds to the five required consumer program tasks and to monitor its implementation.

2. Secretarial Officers will submit plans for implementation of these procedures to the Director of OCA for approval.

3. Target dates for completion of each office program plan will be established, with the concurrence of OCA.

4. Secretarial Officers will be responsible for ensuring compliance with the plans.

5. OCA will develop more detailed guidelines for implementing procedures.

6. The DOE organizational elements which will be required to develop and implement a consumer plan are:

- (a) Economic Regulatory Administration
- (b) Energy Information Administration
- (c) Offices of the Assistant Secretaries for: Conservation and Solar Energy, Fossil Energy, Nuclear Energy, Resource Applications, Environment, Defense Programs, Offices of: Hearings and Appeals, Energy Research, Administration, Procurement.
- (d) Regional Offices
- (e) Operations Offices

7. DOE will improve consumer services by strengthening its Regional Office support to consumers, by activation of the Energy Extension Service in every State, and by reforms in its information and technical assistance capabilities.

### OVERSIGHT

The Director of the Office of Consumer Affairs has primary responsibility for giving policy direction to, and coordinating and monitoring DOE's consumer activities. The Office of Consumer Affairs is located in the Office of the Secretary and the Director reports to the Secretary through the Executive Assistant. The Director will have primary responsibility for apprising the Secretary of the potential impact on consumers of particular policy initiatives under development or review within the agency. The Director is a career member of the Senior Executive Service.

Issued in Washington, D.C., November 23, 1979.

Tina Hobson,  
Director, Office of Consumer Affairs.

BILLING CODE 6450-01-M

Form Approved:  
OMB No. 116579021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



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9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36711 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-C

Monday  
December 10, 1979

Part III—Section C

**Environmental  
Protection Agency**

Draft Consumer Program

federal register



**ENVIRONMENTAL PROTECTION AGENCY****Consumer Affairs Program in Compliance With Executive Order 12160, Providing for Enhancement and Coordination of Federal Consumer Programs****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed Consumer Program to Implement Executive Order 12160.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Joan M. Nicholson, Director, Office of Public Awareness (A-107), Environmental Protection Agency, Washington, D.C. 20460.**FOR FURTHER INFORMATION CONTACT:** Thomas F. Williams, Deputy Director, Office of Public Awareness (A-107), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-0700.**AUTHORITY:** By Administrative Directive, the Environmental Protection Agency will revise its operating procedures to incorporate the following draft consumer program.

**PREAMBLE:** The Environmental Protection Agency is responsible for protecting and restoring the Nation's air, land, and water systems. The laws governing EPA's environmental protection efforts are based, for the most part, on the need to protect the health and welfare of individual citizens from the serious effect of pollution. These laws affect a broad spectrum of consumer goods as traditionally understood, such as automobiles, drinking water, and pesticides, as well as the air, land, and water each of us depends on for our survival. In focusing on the health and welfare of individual citizens, EPA's programs are similar to the consumer protection programs of such agencies as the Consumer Product Safety Commission and the Food and Drug Administration, with which EPA works closely. Recognizing the impact of its programs on the public, EPA has conducted for many years, with the strong encouragement and support of Congress, active public information and involvement programs. These programs are fundamental to the decisionmaking processes of the agency, at all levels.

Executive Order 12160 provides EPA with valuable opportunities to strengthen its public representation mechanisms, and to reiterate to the public its opportunities for participation in EPA decisionmaking processes. The strong support of the President will help encourage EPA staff to take cognizance of consumer needs and consumer views in the development of its programs.

It is proposed here to implement the Executive Order by strengthening existing public information and involvement mechanisms within the Environmental Protection Agency in accordance with the requirements of the order. The vast majority of individuals now served by existing public information and participation programs are consumers as defined in the Executive Order. Efforts to distinguish, within EPA's organizational structure, between *consumer* representation and *public* representation would weaken programs of proven effectiveness. All of EPA's

authorizing laws call for public information programs, and many require public participation activities. These legislative mandates could be diluted by what would be, given EPA's responsibilities, an artificial division between the two notions.

In summary, the Office of Public Awareness and headquarters and regional program offices, in conjunction with the Administrator's Special Assistant for Public Participation, already carry out many of the programs required by the Executive Order. The staff of the Office of Public Awareness will be given certain additional responsibilities in accordance with the requirements of the order. Specifically, it will review all agency rules, policies, programs, and legislative proposals to insure that consumer interests have been adequately considered. That staff will help insure consumer participation in the decisionmaking processes of the agency. It will be given special training, as needed, to carry out these tasks. The Director of the Office of Public Awareness, in coordination with the Special Assistant for Public Participation, will be responsible for conducting training programs necessary to insure agency compliance with the Executive Order throughout the Environmental Protection Agency. The agency will conduct a reevaluation of its complaint handling procedures to insure that complaints play a proper role in the formation of agency policy. The Director of the Office of Public Awareness will be given the additional title of Special Assistant for Consumer Affairs, and in this capacity will report directly to the Administrator of the Agency. Finally, the Environmental Protection Agency will establish a high-level Consumer Affairs Coordinating Council responsible for oversight of consumer activities within the agency, and for insuring proper implementation of the Executive Order. Membership will include representatives from the program offices as well as the Special Assistant for Public Participation.

In compliance with Executive Order 12044, *Improving Government Regulations*, the Environmental Protection Agency reviewed its rulemaking procedures, and published a description of those procedures, revised in accordance with the Executive Order, in the **Federal Register** of May 29, 1979 (vol. 44, No. 1040), pp. 30988 to 30998. This document, entitled *Improving Environmental Regulations*, describes procedures to improve management oversight in the development of regulations, to involve the public and other governmental organizations in evaluating regulatory proposals, to analyze the effect of new and existing regulations, and to avoid unnecessary regulatory burdens on the public. It is recommended that the reader consult this material for a full understanding of the proposed changes to be made in accordance with Executive Order 12160. Copies of *Improving Environmental Regulations* may be obtained by writing to Public Information Center (PM-215), Environmental Protection Agency, Washington, D.C. 20460.

**I. CONSUMER AFFAIRS PERSPECTIVE****Requirement**

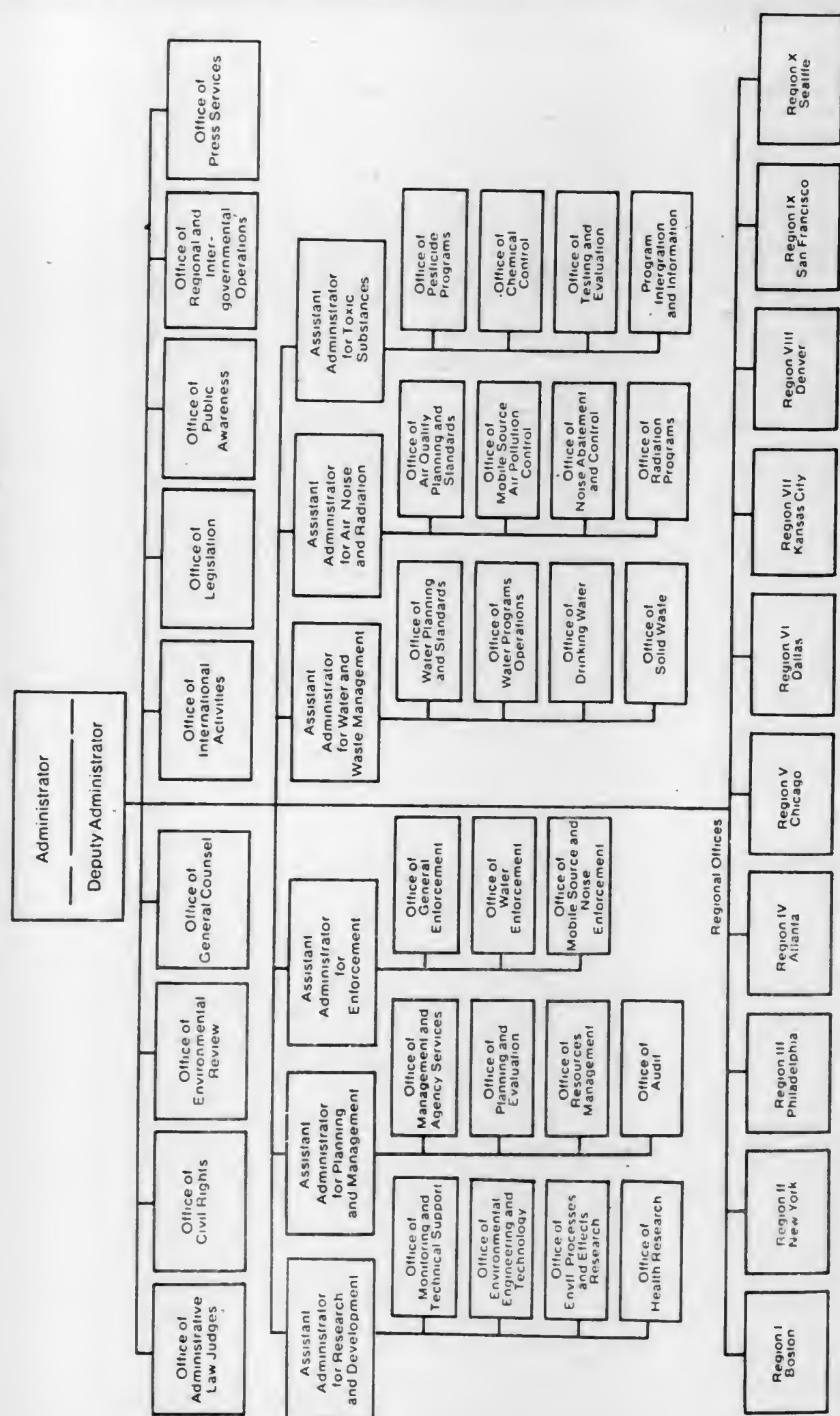
Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1-401(a))

The consumer affairs staff of the Environmental Protection Agency will be the staff of the present Office of Public Awareness. That office is a staff office to the Administrator, and in this capacity, the Director reports to the Executive Assistant to the Administrator. In her new capacity as Special Assistant for Consumer Affairs, the Director will report directly to the Administrator. The place of the Office of Public Awareness within the Environmental Protection Agency is indicated on the accompanying organization chart.

BILLING CODE 6560-01-M



# United States Environmental Protection Agency



BILLING CODE 6560-01-C

## Size and Resources

The Office of Public Awareness has a permanent, full-time staff of 48 and an annual budget of \$2.8 million. Program officers in headquarters and regions also have public information and participation personnel, and the total agency expenditure for these functions is several times that of the Office of Public Awareness.

The Director of the Office of Public Awareness is responsible, in cooperation with the appropriate Assistant Administrators of the agency, for the development and implementation of annual Public Awareness/Participation Support Plans for each major law administered by EPA, and additional Plans for agency-wide issues and for the Offices of Research and Development, Planning and Management, and Enforcement. Assigned to work with each of the six Assistant Administrators in the development and implementation of these plans are Office of Public Awareness Associate Directors. The Associate Directors are responsible for integrating, in the Public Awareness/Participation Support Plans, the objectives of the program offices, at both national and regional levels, with the needs and perceptions of public constituency groups. The Associate Director thus acts as an advocate for the public and consumer within the program offices. Public Awareness/Participation Support Plans are implemented utilizing the personnel and resources of both the Office of Public Awareness and the program offices.

Another major component of the Office of Public Awareness is the Constituency Development Unit, which is responsible for insuring adequate two-way information flow, as well as participation opportunities for the major constituency groups, such as the elderly, youth, labor, agricultural groups, and minorities, impacted by EPA programs.

A third component of the Office of Public Awareness is the Information Development Unit, which is responsible for developing and reviewing the documents, radio and television spots, films, and other information materials called for in the Public Awareness/Participation Support Plans.

The Administrator's Special Assistant for Public Participation works in close partnership with the Director of the Office of Public Awareness. The Special Assistant is responsible for the development of public participation activities in Agency programs. She chairs a Public Participation Task Force comprised of public participation representatives from the headquarters and regional program offices, as well as agency staff offices. The Director of the Office of Public Awareness is a member of the Task Force.

Through internal training of officials in the Office of Public Awareness, the Environmental Protection Agency will develop a cadre of specialists qualified to perform the review functions required by the Executive Order. The public awareness and public participation responsibilities of the Director of the Office of Public Awareness and its Associate Directors already require a high level of knowledge of consumer interests and concerns. Through the Constituency Staff

of the Office of Public Awareness, these officials maintain close contact and communication with a wide spectrum of consumer groups. This enables these officials to be apprised of concerns of those groups regarding the Environmental Protection Agency's regulations and policies.

## Responsibilities

The consumer affairs staff of the Environmental Protection Agency will have a number of responsibilities in addition to those required by this section of the Executive Order. These responsibilities are those described above for the major operational units of the Office of Public Awareness, and further described below under the Consumer Participation, Informational Materials, and Complaint Handling sections.

## Relationship With Other Consumer Personnel and Agency Operating Units

These relationships are fully described in the Size and Resources subsection above.

## Participation in Development and Review of Agency, Policies, Programs, and Legislation

The Environmental Protection Agency is a regulatory agency which develops and implements regulations in accordance with Congressional mandates. Thus, the focus of this section will be on participation in agency rulemaking and legislative proposals, as "policy decisions" and "program decisions" are virtually always made in the context of the rulemaking process.

### 1. Notification

When a program office of the Environmental Protection Agency intends to issue a significant new regulation, the Assistant Administrator of the program office sends a standard *notification form* to senior management. This notification form tells these persons that a regulation is contemplated and allows them to plan accordingly. To insure that consumer interests are represented at the earliest possible stage, Environmental Protection Agency procedures will require that the Director of the Office of Public Awareness be sent all such notification forms.

### 2. Stage at Which Participation Begins

Upon reviewing the notification form, the Director of the Office of Public Awareness may choose to be represented on a *work group*. This is a group of specialists drawn from various offices within EPA to advise and assist the lead office in preparing each significant regulation and its support material. Participation in these work groups, when appropriate, by officials of the Office of Public Awareness will insure that the consumer perspective is properly represented at the earliest possible stage of EPA rulemaking.

### 3. Methods of Participation

The program office developing a regulation is responsible for preparing a *development plan*, which identifies the purposes of the proposed regulation.



major alternatives to it, public participation measures desirable as part of the review process, and methods for identifying interested and affected parties of the regulation. Consumer affairs specialists will play an important advisory role in the preparation of these plans, as well as in the preparation of the subsequent *decision package*, in which a copy of the proposed rule is included along with analyses of the rule's impact on various sectors. EPA operating procedures will require that the economic analysis in such decision packages include a discussion of the impacts, if any, of proposed regulations on consumers. These decision packages are reviewed by agency officials in the next stages of the decisionmaking process, which occur twice for each regulation, once for the *proposed* rule, and once for the *final* rule.

The final stages of EPA rulemaking include a review of proposed rules by a *Steering Committee*, composed of representatives from each of the six program offices, and of appropriate staff offices. EPA operating regulations will require that the Director of the Office of Public Awareness be represented on the Steering Committee.

Before approval of the proposed rule by the Administrator, a *Red Border Review* is conducted by senior management. This is an internal review in which officials comment on proposed regulations and suggest modifications they believe necessary. The Director of the Office of Public Awareness, who is now part of the Red Border Review procedure, will insure, at this stage, that consumer concerns, as analyzed by the consumer affairs staff and as expressed in consumer participation forums, are properly called to the attention of the Administrator before a final decision is made.

Legislative proposals are developed by the Administrator and program offices in conjunction with the Office of Legislation. EPA operating procedures will insure that the Director of the Office of Public Awareness and Special Assistant for Consumer Affairs will be consulted in the development of these proposals.

## II. CONSUMER PARTICIPATION

### Requirement

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

The Environmental Protection Agency has established procedures for the early and meaningful review of agency rules, policies, and programs by the public. Requirements for such procedures are

contained throughout EPA's authorizing legislation and regulations. To insure early notice to the public, the Office of Planning and Management regularly publishes a Regulatory Agenda which gives six-month advance notice of proposed rulemaking. Public Awareness/Participation Support Plans require activities to notify the public of upcoming decisions concerning agency rules, policies, and programs and to inform the public of opportunities to participate in those decisions.

It is our judgment that the existing public and consumer participation procedures of the Environmental Protection Agency meet, and indeed exceed, the requirements of the Executive Order. These procedures are outlined in detail in the document *Improving Environmental Regulations*, cited above. The most pertinent part of EPA's policies, as promulgated in that document, are as follows:

"For each Significant regulation, EPA will:

"(1) Draw up a plan for external participation (as part of the development plan) that shows in detail how interested and affected parties will be identified and notified.

"(2) Provide early notice that regulation development is under way. This includes publishing a Federal Register notice (usually an Advance Notice of Proposed Rulemaking), which informs the public that work is beginning, provides the general approach and schedules, and identifies particular area where additional information is needed. This notice describes the purpose, schedule, issues, available alternatives, analyses, external participation measures, and the name, address, and telephone number of an EPA contact person for the regulation. EPA will mail this Notice directly to interested and affected groups and will use appropriate news articles and radio and television spots to provide timely notice that regulation development is beginning.

"(3) Meet to discuss issues and alternatives during the development of the regulation with representatives of consumer, environmental and minority associations; trade, industrial, and labor organizations; public health, scientific and professional societies; educational associations and other appropriate individuals or groups of interested and affected parties from outside the Agency.

"(4) Hold open conferences, workshops, hearings, meetings, and arrange direct mailings as appropriate to supplement other opportunities for public participation, and keep a mailing list of those interested in receiving draft regulations and background materials.

"(5) Provide suitable background information prior to any meeting to those who will be attending. This information may include such material as a description of EPA's regulation development process; a summary of the draft regulation and key supporting materials; a list of major issues; and the name, address and telephone number of persons who can supply additional information.

"(9) Write the regulation and explanatory materials clearly. To help lead officials write regulations that

people can understand, EPA is developing a style book for regulation writers, selecting several regulations and developing them as models of good writing, and hiring editors to assist work groups write selected regulations.

"(10) Make available a draft of the Regulatory Analysis (when one is required) by the time we publish a Notice of Proposed Rulemaking. The Federal Register preamble will have a summary of the Regulatory Analysis and information on how the public can obtain it. (Note: EPA will make public a final Regulatory Analysis when it publishes the final rule.)

"(11) Provide at least 60 days for public comment, measured from the date the proposal is published, and refrain from requiring commentators to supply multiple copies of their comments. When a 60-day comment period is not possible the proposal will contain a brief statement of the reasons for using a shorter time period.

"(12) Summarize outside comments, indicate EPA's response to major points and distribute both to interested and affected individuals and groups. (We summarize comments and our responses in preambles to our final regulations.)"

In order to insure a consistent, uniform approach to public/consumer participation in the Agency, the Public Participation Task Force is developing a Public Participation Policy which is in the final stages of internal approval before being placed in the Federal Register for comment. The proposed policy emphasizes the following elements, which are spelled out in greater detail in the regulations above: identification of interested and affected members of the public (1); outreach to them in terms of early and sufficient information so they can participate in forthcoming decisions (2); two-way communication between program officials and the public (3, 4, 5, 9, 10, 11); responsiveness to public recommendations and concerns in final decisions (11, 12); and feedback to the public on the results of their participation (12). The proposed policy calls upon the Assistant Administrators and Regional Administrators to set priorities, allocate resources, and assure that the policy is applied in their jurisdictions.

EPA's established structures and procedures encourage public and consumer access to decisionmaking within the headquarters organization as well as in EPA's ten regional offices and the 50 state governments having a prime role in implementing most of EPA's environmental laws. Many of the major laws implemented by EPA contain specific provisions for public participation in the development of policy and regulations. Hence, in addition to the efforts of the Office of Public Awareness and the Special Assistant for Public Participation, program managers in headquarters and in the regions are responsible for insuring adequate budgets and personnel resources to carry out public participation activities. Regulations requiring such activities apply as well to state and local governments receiving financial assistance under EPA's programs.

EPA's public participation policy provides an overall framework of purpose, objectives, procedures and responsibility, and outlines the general scope of activities to which it will be applied. It leaves, however, considerable discretion to Assistant Administrators, Regional Administrators and Deputy Assistant Administrators to develop more specific program guidance and to determine the extent of the decisions which will be covered by the policy. This flexibility provides room for the differences among programs. For example, the Office of Water and Waste Management has recently developed and implemented, after extensive comment from all sectors of the public, regulations for public participation in its programs. These regulations were first proposed in the Federal Register on August 2, 1978, and the final regulations were published on February 16, 1979.

Another ongoing method by which EPA insures consumer participation is by the award of contracts and grants to public interest organizations of many varieties, which conduct public education and participation programs for their constituent members and the general public. Such grants are awarded by the Office of Public Awareness as well as by program offices in the areas of air, water, drinking water, solid and hazardous waste management, noise, pesticides, and toxic substances. All elements of the public have easy access to agency decisionmakers. In part, this is a result of the decentralization of EPA authority, which results in major decisions occurring in more easily accessible regional offices. Various program managers are required by regulation to provide participation opportunities. These are facilitated by the Constituency Staff of the Office of Public Awareness and public participation staffs in the programs.

## III. INFORMATIONAL MATERIALS

### Requirement

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1-401(c))

It is our judgment that the current programs of information production of the Environmental Protection Agency are in compliance with the requirements of the Executive Order. Nevertheless, the Executive Order provides information specialists within the agency with a valuable opportunity to reassess the currency, relevance, and completeness of information available to consumers.

As described in the Section Consumer Affairs Perspective, above, Office of Public Awareness Associate Directors work with program offices in the development and implementation of annual, cooperative Public Awareness/Participation Support



Plans, which are designed to help the program offices achieve their goals.

In developing these plans each fiscal year, existing informational materials are reviewed for their currency and determinations are made as to the appropriate information tools necessary to convey specific messages or information about programs in the upcoming fiscal year. As public awareness/participation is a dynamic activity, the plans are amended as necessary when program objectives are influenced by current events.

A wide variety of informational materials are produced and distributed to explain the broad range of activities and regulation undertaken by the agency in carrying out its responsibilities for implementing the environmental laws enacted by Congress. These materials are produced by the Office of Public Awareness in headquarters and in the regions, and by headquarters and regional program offices. Publications, slide presentations, exhibits, radio and television public service announcements, fact sheets, films, print ads, brief documentaries, full length public television documentaries, speech reprints, the *EPA Journal* (published ten times a year), articles for placement in newspapers, magazines, and newsletters, are developed on air pollution, water quality, drinking water, waste management, pesticides, toxic substances, radiation, and noise pollution. Similar tools are developed explaining the planning and management, enforcement, and research and development activities of the agency. Materials are often produced to convey to the public in lay terms results of technical environmental research and development. Materials are also produced to convey cross-cutting issues such as energy, economics, health, regulatory reform initiatives, and public participation initiatives.

EPA informational materials typically include a description of environmental problems facing consumers, and accounts of specific agency programs, activities, or regulations designed to meet those problems, along with a discussion of steps consumers can take to protect their health or protect or enhance their environment. Frequently, this material provides information concerning how consumers may become involved in the public participation processes of the agency. Consumers are provided brief explanations of provisions of law or regulations calling for public involvement, and of the types of public meetings or hearings EPA conducts in compliance with these provisions. Some material is produced solely to help consumers wishing to become involved in agency decisionmaking. Consumers may be further directed to EPA regional Public Awareness Office for additional information or for assistance on public involvement procedures.

Informational materials are often developed for a specific constituency, such as youth, agricultural workers, pesticide applicators, and mechanics. To further enhance awareness and understanding of the agency's activities, materials are often produced in both English and Spanish.

Materials developed under Public Awareness/Participation Support Plans are reviewed by program representatives for technical accuracy, by editorial and constituency specialists and by other Office of Public Awareness officials to insure that they are comprehensible to consumers and accurately reflect agency information policies. Office of Public Awareness Associate Directors review all public information documents produced by the agency, and forward them with recommendations for approval or disapproval to the Director of the Office of Public Awareness.

#### Usefulness of Current Material

Periodic reviews of materials are conducted by Office of Public Awareness Associate Directors and Constituency representatives, as well as by program officers, to determine whether those materials are obsolete or in need of revision. At the present time more than 150 publications and 35 audiovisual presentations are available from EPA headquarters, and more from regional offices. For Fiscal Year 1980, Public Awareness/Participation Support Plans call for production of 73 new publications and 13 new audiovisual presentations at EPA headquarters.

#### Plans for Improvement

Numerous informational materials exist, or are in the process of development, for most agency programs. However, efforts are now being made to develop a series of informational materials in areas where consumers have not traditionally had an interest, such as planning and management and research and development, and in other previously neglected programs, such as radiation, where current events have increased public interest.

Executive Order 12160 clearly emphasizes the need for consumer education about all of the agency's activities. New efforts will be made to insure that all EPA informational materials convey the intent of the Executive Order. The Office of Public Awareness will produce informational materials to convey information concerning the EPA's response to the Executive Order to the public.

#### Distribution of Materials

##### 1. Printed Materials

Initial distributions of printed materials are routinely sent from EPA headquarters, in bulk, the EPA's ten Regional Public Awareness Offices, 27 laboratories and field offices, ten regional libraries, Visitors' Center, Public Information Center, and Printing Management Office, which handles subsequent nationwide distribution of publications. These entities are responsible for redistributing publications within their jurisdictions, or for providing them to organizations for distribution to consumers.

In addition to the above distribution, mailings of materials are made to individuals and organizations on selective Office of Public Awareness mailing lists. These lists consist of over 100 categories of individuals and contain over 67,000 individual addresses. These

mailings naturally tend to generate even further interest in EPA materials, as the categories include national organizations, their newsletters and magazines, and newspapers and magazines with general distribution.

EPA frequently purchases mailing lists from private sources such as Dun and Bradstreet, and from specific groups and organizations whose members may be particularly affected by EPA activities.

Last year, the Office of Public Awareness initiated monthly mailings of printed materials to over 350 State and local public information officers to assist them in carrying out their environmental responsibilities. These information officers have commented that such mailings have materially increased their effectiveness.

Another mechanism employed by the agency when it needs to reach consumers quickly is supermarket distribution through the facilities of Supermarket Communications, Inc. This company has display racks of publications in over 3,500 supermarkets throughout the country. A one month campaign routinely results in the dissemination of over one million copies of a document.

Each regional office also has a distributional network for informational materials produced in the region.

##### 2. Press Services

EPA Press Officers, at headquarters and in the ten regional offices and four major laboratories, are responsible for providing information, through the media, to consumers concerning current EPA rulemaking and other major activities of the agency.

News releases are issued as frequently as necessary, often several each day. Copies of headquarters releases are carried to the National Press Building and are thus made available to every major newspaper having a Washington office. In addition, copies of releases are routinely mailed to the nearly 3,000 daily newspapers and over 8,000 weekly newspapers throughout the country. Releases are sent out to wire services and specialized magazines, newsletters, and newspapers when appropriate.

Press conferences are held on major agency actions and are open to the public as well as the media. In order to more fully explain complicated environmental decisions to the media, press briefings are often held a day or two before a major action is announced in a press conference.

To insure that agency officials are kept current on consumer views, as expressed in the media, concerning agency regulations and other actions, the Office of Press Services compiles a daily briefing book from several major newspapers, and a weekly briefing book on environmental articles taken from newspapers from throughout the Nation.

##### 3. Audiovisuals

A variety of audiovisuals, such as films, radio and television public service announcements, full length public television documentaries, exhibits, slide presentations, etc., are developed by the Office of

Public Awareness and are seen and heard by consumers in a variety of ways.

Television public service announcements are sent to over 800 program managers of television stations, and radio spots are mailed to over 6,000 program managers of radio stations throughout the country. Brief documentaries for use on local and national news programs are also given nationwide distribution.

The agency awards grants to public television stations to defray some costs of producing documentaries on environmental issues. These shows are promoted initially throughout the 280 station PBS system, and then are subsequently placed in a motion picture distribution house for further distribution to public, commercial, and cable television stations. These grants also encourage public television stations to produce special public participation programs, such as talk shows with community leaders, business leaders, and concerned citizens, in which local issues are discussed using the documentary as a resource. These programs further emphasize the need for consumer participation in environmental decisions that might directly affect consumers and their communities. A show on drinking water produced in 1977 is still being shown, and has been seen by an estimated 20 million people. A public television show on chemicals in the environment has recently been released, and a show on hazardous waste is scheduled to be released in late 1979.

The documentary films produced for television, and other films produced by the agency, are distributed either through private distribution houses or through the National Audiovisual Center of the General Services Administration. The films are also promoted by headquarters and regional personnel, and are seen by thousands of school and community groups throughout the year. A short, animated film on water pollution has had enormous success as use as a short subject in movie theaters.

Slide presentations are produced in sufficient quantities so that supplies can be placed in EPA regional offices for use by their various constituencies. These presentations are also shown by many national organizations who assist the agency by conveying specific messages.

#### IV. EDUCATION AND TRAINING

##### Requirement

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1-401(d)).

As described above, EPA already has, in the professional staff of the Office of Public Awareness and in public participation staffs within its programs, a



staff well-trained and experienced in public information and participation processes. Through the Constituency staff of the Office of Public Awareness, and through other programs, EPA now provides technical and financial assistance to organizations of individuals affected by EPA programs. This assistance helps insure that the public will be able to participate knowledgeably and effectively in EPA decisionmaking. EPA recognizes a responsibility not only to allow public participation, but to encourage it with all available means at its disposal.

#### Specialized Training for Consumer Affairs Personnel

The Director of the Office of Public Awareness and Special Assistant for Consumer Affairs will be responsible for providing specialized training, as required, to consumer affairs personnel within the Environmental Protection Agency.

The Office of Public Awareness will develop information, in various media, for EPA staff relating specifically to Executive Order 12160, describing how it is being implemented and how staff members are responsible for insuring consumer representation in their programs. EPA's existing training component will develop, in-house and through contracts, training modules on the Executive Order and related consumer matters, which will be given to all EPA employees.

The Public Participation Task Force is currently developing a series of public participation training activities for the programs and regions so that EPA managers will be suitably prepared to implement the proposed Public Participation Policy. Consumer concepts and skills will be incorporated in the training package.

#### Selecting Consumers and Organizations To Receive Assistance

Technical assistance in the form of grants to prepare written material, conduct workshops and conferences, and participate in EPA's decisionmaking processes is provided through headquarters and regional program offices and through the Office of Public Awareness in accordance with Public Awareness/Participation Support Plans. Decisions on such grants are made by program officers and by the Director of the Office of Public Awareness.

#### V. COMPLAINT HANDLING

##### Requirement

Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1-401(c))

The Environmental Protection Agency's established complaint handling procedures substantially comply with the requirements of the Executive Order. All consumer complaints will continue to be received and processed by the Public Information Center, which is presently responsible for complaint handling.

Sources of complaints received by consumers include those sent to the Office of the President of the United States and his staff, and those which are sent directly to EPA regional or program offices. Less than one percent of complaints is received by telephone, and if pursued by the caller, these complaints are handled in the same manner as written complaints.

Upon receipt at the consumer complaint desk of the Public Information Center, complaints are categorized into major areas of agency concern: air, water, noise, waste, pesticides, radiation, toxic substances, and general. Once categorized, complaints are logged into a permanent record of receipt. The format for acknowledgements and responses is EPA Standard Form 5180-1. It indicates the date of receipt and deadline for reply, which has been established as nine working days after receipt. Complaints are copied and filed by a control number, which is indicated on the attached form.

Complaints are referred to one of four public information specialists, each of whom is in charge of assigned areas of interest. These specialists then determine the nature of the complaint and either answer it themselves, or refer it to the appropriate regional or program office for further consideration and reply.

The Public Information Center requires that a copy of the eventual reply be filed with the original complaint as verification. In some cases, when complaints are not promptly handled by the office to which they are sent, the Center will reroute the complaint to a more relevant authority. This is seldom required, however.

Once the complaint is answered, the material if filed in an inactive complaint file.

A weekly report is compiled which details the subject matter of public inquiries and indicates correspondence received, complaints, and other inquiries. Cumulative statistics are maintained of outstanding inquiries.

#### VI. OVERSIGHT

##### Requirement

The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency. (Subsection 1-402).

The Director of the Office of Public Awareness, a GS-17, will be designated as the senior-level official called for in the Executive Order. That person will be given the additional title of Special Assistant to the Administrator for Consumer Affairs. As Special Assistant for Consumer Affairs, this person will report directly to the Administrator of the agency. She will coordinate with the Special Assistant for Public

Participation in the implementation of the Executive Order.

The nature of this official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, have been discussed above in the Consumer Affairs Perspective, Consumer Participation, and Complaint Handling sections.

EPA will establish a Consumer Affairs Coordinating Council, which will be responsible for insuring continued EPA compliance with the letter and spirit of Executive Order 12160. The Council will have oversight and coordinating responsibility over the consumer affairs programs of EPA. It will be co-chaired by the Special Assistant to the Administrator for Consumer Affairs, and by the Assistant Administrator for Planning and Management or his designate. The Office of Planning and Management has budgetary and administrative oversight for all EPA programs. The Assistant Administrator's authority over EPA internal operations will help insure swift and effective implementation of the Executive Order. Represented on the Consumer Affairs Coordinating Council will be the Special Assistant to the Administrator for Public Participation, designees from each of EPA's program offices, and the head of the Public Information Center.

Douglas M. Costle,

Administrator.

November 21, 1979.

BILLING CODE 6560-01-M



Form Approved:  
OMB No. 116S79021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?  
☐ I am interested in it as an individual consumer.  
☐ I am concerned about it, because I represent a public interest consumer group.  
☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?  
☐ Yes, it is clear and I understand it.  
☐ Yes, I understand most of it.  
☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?  
☐ Yes.  
☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?  
☐ It seems adequate.  
☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?  
☐ Adequate.  
☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:  
A complaint? ☐ Yes. ☐ No.  
A general question about the agency? ☐ Yes. ☐ No.  
A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?  
☐ No.  
☐ Yes, in the following areas:  
Consumer participation \_\_\_\_\_  
Informational materials \_\_\_\_\_  
Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36608 Filed 12-7-79; 8:43 am]

BILLING CODE 6560-01-C

Monday  
December 10, 1979

Part III—Section D

## Department of the Interior

Draft Consumer Program

test report  
federal register



## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

**AGENCY:** Department of the Interior.

**ACTION:** Draft Consumer Affairs Program for the Department, and Invitation for Comment.

**SUMMARY:** The Department has drafted a Consumer Affairs Program to provide a policy framework, standards of performance, and an oversight mechanism ensuring effective access of the consumer public to the Department's activities of interest or concern to them.

**DATE:** Comments must be received by March 10, 1980.

**ADDRESS:** Send comments on the Interior draft program to Assistant Secretary-Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Cecil Hoffmann, Coordinating Officer for Public Participation and Consumer Affairs, 202-343-5106, address as for Assistant Secretary, above.

**AUTHORITY:** Executive Order 12160.

**SUPPLEMENTARY INFORMATION:** As called for by the President's Executive Order, "Providing for Enhancement and Coordination of Federal Consumer Programs," the Department has drafted a Consumer Affairs Program designed to ensure that "consumer needs and interests are adequately considered and addressed."

The goal of the program is to offer individuals who have an interest in this Department's business ready access and focussed information about their concerns—including information about the Department's procedures for addressing public concerns.

The program as published here is intended as a consumer's window on the Department of the Interior. It provides a framework for the separate programs of the Department's component bureaus and offices—there is a basic philosophy of awareness and advocacy, ready access no matter what the concern, standards of performance, and a mechanism for systematic monitoring and oversight carefully integrated with the systems for Secretarial policy determinations.

Component bureaus and offices of the Department have, or have under way, structured programs to meet consumer needs in line with their separate missions. Several recent pieces of legislation have set detailed requirements for individual bureaus to provide opportunities for citizen involvement. Newly designed programs or major revisions to existing programs relevant to public access and input to Department activities are offered for public comment separately. For information on those programs, contact the Bureau or Office directly or contact the Department's Coordinating Officer at the address above.

Comments received by March 10, 1980 on the draft program published here will be considered in drafting a final program for publication in the Spring. However, it is the Department's policy that members of the

public are encouraged to comment at any time on consumer access to the Department. Comments may address the access to a particular bureau or office, and such comments will be shared promptly with the unit and considered as part of the overall program.

The Department program calls for surveys of certain Department systems and performance. It is intended that, insofar as possible, these surveys will be completed by March 10, 1980, so that the results can be incorporated along with the public comment received.

The principal author of the Department's Program is Cecil Hoffmann, Office of the Assistant Secretary—Policy, Budget and Administration. Substantive input came from staff in all major Department Bureaus and Offices, including the Offices of the Solicitor and the Director of Public Affairs, and the immediate Office of the Secretary.

Larry E. Meierotto,

Assistant Secretary—Policy, Budget and Administration.  
November 21, 1979.

## I. CONSUMER AFFAIRS PERSPECTIVE

## Introduction

The missions of the Department of the Interior include:

—Management of lands and water resources, including access to publicly owned energy and other mineral resources;

—Regulation of energy and mineral development;

—Protection of fish and wildlife populations and their habitat;

—Protection and interpretation of historic, archaeological, and other cultural or recreation resources of national significance;

—Advocacy for American Indian and Alaska Native peoples for whom the Federal government has a trust responsibility;

—Oversight of Federal programs delivered to the various Territories of the U.S.

These responsibilities of the Department are carried out through the day-to-day operations of its eleven major Bureaus, Services or Offices. These offices are grouped by related functions under four Assistant Secretaries—or Land and Water Resources; Energy and Minerals; Fish, Wildlife and Parks; and Indian Affairs. The Office of Territories reports directly to the Secretary, and there is an Assistant Secretary for Policy, Budget and Administration—to whom the cross-cutting and coordinative staffs report.

The Department of the Interior acts as steward for the nation's storehouse of natural resources. As such, the Department's missions are carried out for all citizens, and any member of the public has a potential interest in the Department's business. The Department of the Interior consumer program, then, is its program for public participation in decisionmaking. It offers consumers—as individuals or in groups—access to Departmental decisions which may affect them, or which they may see as affecting them.

Traditional audiences for Department programs have been conservation and environmental groups, representatives of agriculture and industries who lease

or otherwise use public resources; academic, scientific or industrial communities working cooperatively in research on many areas of basic natural resources knowledge; and visitors to National Parks, Refuges, recreation areas and other lands, waters, or installations managed by the various Bureaus, Services and Offices which make up the Department of the Interior.

The traditional constituent groups still provide useful access to the Department's activities, because of the commonality of interest and the value of shared resources and thinking. However, any consumer has the same opportunities for access to the Department's information and its decisionmaking. The purpose of this program is to guide the interested consumer to:

—How and when people can get useful information about Department programs;

—How people can know what activities the Department is considering which may be of interest or concern to them;

—How and where people can make timely input to these considerations;

—How the Department will collect and use their input; and

—What will be done in response to the public's concerns.

Each bureau or office is responsible for its own public participation plan within the policy framework, reporting requirements, and oversight of the Department program presented here. Two major units, the Water and Power Resources Service (formerly the Bureau of Reclamation) and the Bureau of Land Management, have program plans which include extensive handbooks, field guidelines, etc., which have already scheduled wide review and public input, and which are expected to be in final in the same time frame as this.

Responsible officials of each Bureau and Office are accountable for early considerations of the need for the public—consumers—to participate in decisionmaking, at any level, if there is a potential for public concern or interest.

Because the public now expresses much of its concerns about Interior activities through the environmental impact review procedures under the National Environmental Policy Act the Department's public involvement guidance closely matches those government-wide procedures. Also, public participation planning for activities at any level closely follows Federal requirements for formal rulemaking, and intra-Departmental requirements for Secretarial Issue Documents, and for a Critical Issues Management System. This standardization of procedures and reporting patterns insures continuing attention to public input by officials who know enough and have enough authority to build consideration of public concerns, large or small, into their administration of Department activities.

It is the policy of the Department of the Interior to offer its public meaningful opportunities for participation in decisionmaking processes leading to actions and policies which may significantly affect or

interest them. This policy applies to development and review of agency rules, policies and program as well as to such other local or less formal kinds of program decisionmaking as might affect of interest the Department's public. The Department's guidelines governing public participation are in the Departmental Manual (Part 301, Chapter 2). "Public" means affected or interested individuals, including consumers; organizations and special interest groups official of local, State and Indian tribal governments; and officials of other Federal agencies.

The guidelines supplement laws, regulations, policies, and guidelines mandating or governing public involvement in administrative action. In determining whether to solicit public participation in a decision-making process, and in determining the form of the participation, Department officials must consider particularly:

(1) The notice-and-comment rulemaking requirements of the Administrative Procedures Act, 5 U.S.C. 553;

(2) The Federal Register publication requirements of the Freedom of Information Act, 5 U.S.C. 552(a);

(3) The advisory committee requirements of the Federal Advisory Committee Act, 5 U.S.C. Appendix I;

(4) The environmental impact consideration process of the National Environmental Policy Act, 42 U.S.C. 4321, et. seq.; and

(5) The procedures for development of significant rules under Executive Order 12044 (March 23, 1978).

## Staff Location and Resources

The central consumer affairs contact point for the Department of the Interior is the Departmental Coordinating Officer for Public Participation and Consumer Affairs. The officer serves on the immediate staff of the Assistant Secretary for Policy, Budget and Administration.

All Assistant Secretaries designate contacts on their immediate staff who are responsible for Public Participation and Consumer Affairs in the functional area under their jurisdiction—Fish, Wildlife and Parks; Energy and Minerals; Land and Water Resources; and Indian Affairs.

All Bureaus or Office Directors designate staff (not limited in number) from appropriate units. This group of designates includes public affairs officers (frequently the "consumer contact" for a bureau), Special Assistants; public participation specialists, training officers, program planners, policy analysts, evaluators, etc. The range of disciplines and the clearly assigned accountability and reporting procedures insure continuous, wide, appropriate consideration of the views of consumers—the public—on current issues. It also assures that institutional procedures are set in place so that the public's concerns are regularly heard and addressed even after current staff officials move on.

The bureau and office designates are accountable to their supervisors and through the normal chain of command to the Secretariat for the coordination, technical assistance, monitoring, and reporting to



insure effective public participation and attention to consumer concerns as appropriate to each of the many missions they carry out under the Department's banner.

#### Responsibilities and Relationships

The Departmental Coordinating Officer for Public Participation and Consumer Affairs reports to the Assistant Secretary for Policy, Budget and Administration. This office has immediate access for consultation, as needed, to the Director of the Office of Public Affairs, the Secretariat members, and other Department Senior Staff.

All Assistant Secretaries meet in council with the Secretary and the Under Secretary regularly during the week to report on and discuss issues. Public participation in Department decisionmaking, including consideration of consumer concerns, is systematically raised in these discussions, for the range of Departmental concerns, by the Assistant Secretary for Policy, Budget and Administration, and the Director of the Office of Public Affairs, if not by others.

The Assistant Secretary for Policy, Budget and Administration has continuing, ready access to all facets of the Department's work, throughout many stages from early problem definition through field implementation of final policies, and evaluation of program effectiveness. Thus it is the most effective location for the Departmental Coordinating Officer for Public Participation and Consumer Affairs. The location allows knowledge of, and access to, all the resources of the Department necessary for vigilant, systematic attention to consumer concern with Interior Department activities.

The Departmental Coordinating Officer for Public Participation and Consumer Affairs chairs regular meetings of the Assistant Secretaries', and Bureaus', and Offices' designates, forming a high-level staff Working Group. This system maintains formal contact for regular reporting, and for exchange of ideas, information, problems and advice. The group makes recommendations for discussion in the Secretary's Policy Staff Meetings. The group staffs initiatives raised by the Secretariat in the Secretary's Policy Staff Meetings.

The Executive Secretariat of the Department supports the communication linkages throughout the Department on a continuing systematic basis. It coordinates balanced documentation of issues presented to the Secretary, whether for decision or for information. The two intra-Departmental procedures for doing this are Secretarial Issue Documents and the Critical Issues Management System. The unit also oversees the routine circulation of memoranda, briefing papers and other documentation among the Secretariat, Senior Staff, and principal office heads.

Each Assistant Secretary and each head of Bureau or Office is responsible for maintaining effective procedures allowing public participation early and at intervals throughout decisionmaking processes which may significantly affect or interest them.

(1) The procedures will be available to the public.

(2) Procedures identify a staff contact point (public affairs office or other as appropriate) to deal with or refer to knowledgeable officials all matters bearing on public involvement and consumer affairs; and to circulate systematically key public involvement information among interested parties including policy and program officials, public affairs, training, and equal opportunity divisions, in Washington and the field.

3. Procedures provide for responsible officials to record enough information about any public participation process they undertake so that public participation efforts throughout the Department can be compared and evaluated. The record is to note as briefly as possible the usefulness of the bureau guidance, the public participation plans and the techniques selected, along with the adequacy of the manpower and other resources applied, and some judgment of the amount and kind of public input, and its application to the decision.

#### II. CONSUMER PARTICIPATION

Because of the nature of Interior's business—for example, as a land management agency, or as a regulator of the surface effects of mining—much of a consumer's concern with activities naturally arises locally or regionally rather than in Washington. For this reason, the Department of the Interior has established a policy that its managers at all levels must consider the needs of consumers, and must make allowance for the fact that the public may have an interest in participating in the development and review of not only rules, policies, and programs, but program activities on the regional or local levels. For this reason, program managers and support staff at any level can become the "responsible official," responsible for a public participation plan and its implementation integrated with the steps necessary to reach final decisions.

Rulemaking procedures are prescribed by the Administrative Procedures Act, Executive Order 12044, and in part 318 of the Departmental Manual. These procedures call for early notice of intent to write regulations, not only in the *Federal Register*, but by press release, and where applicable, by mailings to groups and individuals, and other means.

For major policy, program, or other Secretarial level decisions, the Department has specific procedures requiring input on options with Department-wide review before presentation to the Secretary. Part 301 of the Departmental Manual prescribes the steps for Secretarial Issue Documents. These instructions include a requirement to display the kind and amount of public participation in the preparation of options for decision.

Every six months, the Department publishes a calendar of regulations pending or planned, as do other Federal agencies. The Department is considering the feasibility of publishing a calendar of other significant activities, either in conjunction with the regulations calendar publication or separately. The usefulness of such a publication, what it would cover,

and how often and where it would appear are among the considerations.

A continuing source of information about Department activities is the public process in producing environmental impact statements. Widely publicized and discussed under a variety of agency auspices, the Department initiates, monitors, or reviews hundreds of such statements annually from its wide range of expertise as well as jurisdiction. Public comments on a wide range of natural resource concerns are registered, and become built in considerations for Departmental managers.

Officials throughout the Department look for opportunities to improve the general level of public knowledge about significant authorities and activities of the Department, with provision for recorded comment and feedback. Suggested means include periodic publication of calendars of anticipated actions printed in popular as well as official press; periodic open public meetings; periodic "open office" time; and other public involvement techniques which, being regularly scheduled, could lessen the need for numbers of separate public participation plans or events.

The best point of access to the Department of the Interior for an individual person anywhere in the country is a public information officer for the Bureau or Office carrying out the activity of interest. If a consumer does not know which unit is responsible for his/her area of concern, the best beginning point of contact would be the Secretary's Public Affairs Office or the Department Coordinating Officer for Public Participation and Consumer Affairs. The consumer will be directed to the best source of information about his/her concern, including information about the procedures and responsible officials which govern the decisionmaking or activity about which he/she is concerned.

#### Staffing Responsibility

Each Assistant Secretary and each head of Bureau, Service, or Office is responsible for:

(1) Up-to-date and consistent policy guidance on the kinds of decisions or activities in his/her area in which public involvement is or is not needed or useful, and

(2) Procedures for such public involvement in keeping with office missions.

Responsible officials will identify and assign qualified personnel with necessary technical skills with staff support and funding adequate to plan and carry out public participation effectively tied to the decisionmaking process.

Consumers' access to public involvement activities, if there have not been announcements, schedules, or other published material on the activity, is to write or call the nearest Bureau or Office Public Affairs unit, or if they need an advocate for their concerns beyond the access offered by these referrals, they may call the Departmental Coordinating Officer who will locate an appropriately trained respondent.

#### Timing for Participation

Before a proposed significant rule or regulation is drafted, a notice of intent to propose rule making will be published in the *Federal Register*. The notice of intent will advise the public where additional information can be obtained and where comments should be sent. A press release will be issued when public interest in the subject matter warrants notice beyond routine publication.

Officials will consider opportunities where public input might be necessary or useful in any decisionmaking process and in periodic work planning processes, as well as for the traditional procedures such as project planning, area management planning, environmental assessment, or established consumer affairs activities.

Responsible officials will consult with the public affairs division of their bureau or office, or of the Department, throughout their planning for public participation, starting with the earliest discussions as to whether public participation is needed or useful for the given instance.

The consumer public is encouraged to suggest the areas of their concern as early as possible in order to condition the responsible officials' judgments as to whether citizen involvement is needed or useful on a particular matter.

#### Avenues of Participation

The most regularly used ways to open avenues of participation are *Federal Register* notices of intent, press releases, and local or regional public information meetings, where a problem or needed activity is articulated, the public can hear presentations, see graphic displays, obtain written material, and ask questions. Among the information relayed at such meetings is a proposed schedule for decisionmaking or planning, and the opportunities for the public to be involved. Questions or comments on the processes themselves are duly considered, and may well result in changes. It is especially useful if consumers express themselves early in the process.

Responsible officials survey and select techniques for public participation which are appropriate both to the mission of the unit and to the extent of possible public interest. Sample techniques are listed below. These techniques may be used alone, or in sequence with others. They may be used once or repeated. In general, officials consider the degree of formality useful and appropriate to various stages of the decision process, and consumer opinion on these choices is valuable, also. In general, initial stages call for the less formal techniques (press releases, speeches, informal meetings, etc.). Near the final decision point, the more formal techniques may be suitable or necessary (public hearings, *Federal Register* publications, etc.).

The overall public participation plan, closely tied to the decisionmaking process, is intended to be flexible enough that techniques may be added or dropped as public input shows a new level of need or interest. Here is a check list of techniques used.



(1) For announcing possible actions or need for action and for supplying information (including public participation plans themselves); releases to press and other media, direct mail, brochures, reports, and speeches or presentations to interest groups, conferences, schools, clubs, etc.

(2) For gathering opinion or reaction to issues, questions or proposals: public hearings, less formal public meetings or forums, "hotlines" and surveys or questionnaires. (Any survey or questionnaire must conform to requirements of the Office of Management and Budget.)

(3) To allow interaction and exchange of information and opinions on issues, questions or proposals: workshops, advisory boards, informal contacts, and several varieties of structured "nominal group" discussions. These techniques may be structured to develop alternatives or modifications or to help resolve conflicts between used groups in cases where genuine trade-offs exist in the issues under discussion.

(4) For feedback to those interested, any of the techniques above may be used. Techniques using discussion and interaction provide some instant feedback to participants. Ideally, feedback should include not only intermediate or final decisions, but also reference to the public views heard and considered in the participation process.

The Assistant Secretary—Policy, Budget and Administration in consultation with the Director, Office of Public Affairs, the Solicitor, the Under Secretary, the line Assistant Secretaries, and Senior Staff of the Department will periodically evaluate the effectiveness of the Department's total effort to involve the public in a meaningful way in the decisionmaking processes of the Department. Data reviewed in the course of the evaluation will include reports of the Assistant Secretaries, heads of bureaus and offices, and responsible officials, and will also include both random and systematic comment from the public.

#### Consideration of Public Concerns

Each Assistant Secretary and each head of Bureau or Office is responsible for insuring that public concerns are adequately analyzed and then considered in the decisionmaking process. For a decisionmaking process where there was citizen involvement, the responsible official makes sure that all appropriate comments have been properly recorded, evaluated and considered. His/her administrative record reflects the amount and kind of public input and how it was used. Responsible officials compile periodic reports, at least annually, which briefly summarize and record enough information about any public participation process they undertake so that public participation efforts throughout the Department can be compared and evaluated as to adequacy in considering public concerns. More specific requirements for consideration of public concerns in the environmental impact statement are set out in 40 CFR 1503.4 of the regulations implementing the provisions of the National

Environmental Policy Act; agency rulemaking (Departmental Manual, Part 318), Secretarial Issue Documents (Departmental Manual, Part 301).

#### Special Efforts

The Department welcomes suggestions at any time as to how its outreach to consumers could be improved or its avenues for citizen involvement made easier to follow, or more effective.

Recent legislation has made extensive and detailed provision for citizen participation, starting with the intensive rulemaking procedures for activities mandated by the new laws. One outstanding example is the Federal Land Policy and Management Act governing activities of the Bureau of Land Management. Planning for multiple uses of the public lands—grazing, timber, prospecting and mining, backpacking, off-road vehicles, are but some of the potential or existing uses. The Bureau has established a policy staff position in the central office to design, coordinate, and oversee the many opportunities for public involvement as the Act is administered. Another significant law was the Surface Mining Control and Reclamation Act, which ordered a new bureau, the Office of Surface Mining and Reclamation Enforcement. The Heritage Conservation and Recreation Service has initiated a program targeted to urban recreation needs.

Each of these laws or initiatives has demanded, and the Department has provided, frequent highly publicized opportunities for the public, including State and local officials, to be integrally involved in designing the administration of new programs, or of program revisions.

Each of these programs is so large and so varied in their effects, and the kinds of people concerned with their effects so different, that it is impossible to summarize usefully all of the activities or access to the processes. Each of the Bureaus and Offices has an ongoing effort to heighten awareness of, and advocacy for, public or consumer concerns in line with its mission authorities.

Responsible officials make a special effort throughout all planning for public participation to reach and involve reluctant or unknown segments of the public.

For example, minorities are reached by such means as minority press, television, and radio. Likewise, special media channels exist to reach special segments of the public—the aged, young people, the handicapped, the disadvantaged. Information is posted or handed out in non-traditional places. Material inviting public participation can be supplied in languages other than English.

#### III. INFORMATIONAL MATERIALS

Each of the Bureaus and Offices produces and distributes materials to inform the public about overall responsibilities and services, as well as about individual facilities or locations of interest: National Parks, Monuments, Battlefields and other Historic sites, Seashores, and numerous other Recreation

Areas; Fish and Wildlife Refuges, Game Ranges, dams and reservoirs. Several units of the Department have missions for which their major audience are in the academic and scientific communities: the Geological Survey, the Bureau of Mines, the Office of Water Research and Technology, units of the Fish and Wildlife Service. Studies cover a wide range of natural resources concerns. The results of such work are expected to contribute to better natural environments, better quality of life, more economical use of irreplaceable resources, and the like. Work is done in conjunction with universities, with other State and local entities, and with other agencies of government. Technical forums and conferences, bulletins and paper are not generally of interest to the lay public or consumer. However, if there is interest, there is easy access to publication lists, research project lists and abstracts, etc., through the Public Affairs Offices of the Bureaus or Offices or of the Department.

#### Agency Information Services

Informational materials are distributed through a variety of methods with emphasis on the most effective techniques to reach specific interest groups and special publics for the particular project or program. The Department and the Bureaus, Services, and Offices maintain mailing lists of constituencies, specific groups and interested persons grouped by topical interests, to receive information materials. All use, as appropriate, additional outreach methods such as brochures; films; television; radio; public service announcements; workshops; seminars; public meetings; press conferences; press releases; public speaking; articles on periodicals; newsletters; fact sheets; and specially arranged briefings. Information and Public Affairs Offices and responsible program officials in each Bureau and Office are also encouraged to distribute the Department's public participation guidelines from the Departmental Manual and this Notice as widely as it may be useful to anyone interested in effective participation. If the consumer knows what kinds of opportunities are or can be available, he/she is better able to know when to go where, and what to ask for so he/she will be heard.

##### 1. Usefulness of Current Material

The Department publishes a number of brochures and other forms of information material giving an overview of the agency and its component Bureaus, Services, and Offices. These materials are kept up to date. The many complex and diverse roles of the numerous Interior agencies are laid out in informative and readable fashion for the laymen. Key materials describing the Department's overall responsibilities are:

- Information Please!
- U.S. Department of Interior, General Organization
- Creation of the Department of the Interior
- Interior, American's Guardian of Natural Resources

The Department publishes a Film Catalog listing over 70 outstanding Interior films and audiovisual aids

covering ten different areas of responsibility from parks to mineral resources. Each Bureau and Office produces and distributes current and more detailed material about its own responsibilities, missions and programs.

##### 2. Plans for Improvement

There is a need for a single publication which guides the consumer to the units of the Department whose activities are or might be of interest. The Department is considering a pamphlet that would focus the public's awareness of the Department's missions, responsibilities and expertise, explaining the opportunities for participation in the Department's decisionmaking process. Such a brochure would combine the following elements:

(1) A brief description of each Bureau and Office in the Department, their missions and overall responsibilities, including regional and field structures.

(2) Key points of the Public Participation and Consumer Affairs Program, and relationship to Interior programs and opportunities for citizen access.

(3) Contacts for various Bureaus and Offices for Inquiry or advocacy, in Washington and in the field. The Department's brochure would be planned for distribution after the Department's Consumer Affairs Program is approved. The information will be distributed to all Bureaus and offices for further distribution, use, and display at Regional, State and field offices. It could be useful in general inquiry responses, made available at the Consumer Information Center in Pueblo, Colorado, and at special exhibits regionally or locally, such as State fairs, conventions, etc.

In response to the Executive Order, the Departmental Office of Public Affairs will systematically review its information material and program and develop an information plan which evaluates and identifies appropriate information needs; constituent groups; materials assessment; dissemination strategies; and methods of outreach to insure consumer interests and needs are effective and properly met. With regard to information material, the Office of Public Affairs will develop methods for determining uses, goals, and priorities; coordinating relevant publication actions with the Consumer Affairs Council; coordinating with other agencies with similar missions; mechanisms for monitoring progress; budget and staff resources; timeliness; and evaluation of the overall effectiveness of the Department's program.

##### 3. Officials Responsible for Consumer Information Program

The Public Affairs or Information division of each Bureau, Service, or Office in the Department maintains responsibility for its Consumer Information.

The Secretary's Office of Public Affairs for the Department coordinates the public affairs activities of each Bureau's information office as well as being directly responsible for general Departmental publications and information material. The Department's Office of Public Affairs periodically assesses the effectiveness of its information material,



as does each Bureau and Office, and gives consideration to making content and distribution more effective through material revisions and increased distribution.

Because public affairs offices are integrally involved in consumer and public participation activities, as staff resources, as part of the reporting network, and as members of the Departmental working group chaired by the Coordinating Officer, information targeted and useful to the consumer citizen will result.

#### Materials for Public Meetings

Responsible program officials for each Bureau or Office, in consultation with Information Officers, assure that explanatory materials regarding meetings open to the public are available at a reasonable time prior to such meetings (usually 30 days) and that such materials are adequate, appropriate and understandable.

##### 1. Format of Material

Materials available for public meetings are designed in such a way as to facilitate the public's understanding of the issues under consideration. No standard format can be required given the wide range of topics and the variations in technical difficulty of subject matter to be discussed. There is good coordination among the Department's Bureaus, Services and Offices, and consequently a transfer of information on effective presentations developed over several years of experience under the National Environmental Policy Act. It remains the responsibility of each Bureau and Office to inform the public, on a regular basis, either through the publication of calendar schedules, newsletters, and fact sheets, or by other appropriate means, of the status of public participation programs currently being conducted and the issues before the public for discussion.

##### 2. Manner of Notification

How and where to get explanatory materials is made part of the notice of meeting if it is available at the time of the notice. Press releases—locally, regionally, or nationally as appropriate—announce available materials. Every reasonable effort is made to edit or target material for audiences which may have difficulty with the highly technical nature of information presented, or simply the bulk of it. People who need or wish technical assistance should make contact the office listed in the meeting notice as early as possible to see what is available. If no contact point is known, call an Office of Public Affairs.

#### IV. EDUCATION AND TRAINING

As in the other areas, each Bureau and Office of the Department has its own personnel office, and its own education and training plans and officials. (The Designated Working Group for Public Participation and Consumer Affairs, chaired by the Departmental Coordinating Officer had training officers among its members.) More and more emphasis is being given to those skills which public affairs staff, program planners and program managers and other need in

order to reach citizens with information useful to them, and allow them to make input to decisions affecting them and know they have been heard.

#### Staffing Responsibilities

Assistant Secretaries, and heads of Bureaus and Offices are responsible for training programs to assure the continuing quality and usefulness of public participation plans and techniques appropriate to Departmental actions in which the public may be interested, at all jurisdictional levels.

The Assistant Secretary—Policy, Budget and Administration in consultation with the Director, Office of Public Affairs, has oversight responsibility for adequate training in the technical skills necessary to plan and manage public participation or special consumer activities.

#### Areas in Which Training Is Provided

Pursuant to the Executive Order, the Department is surveying the kind and location of personnel with special skills in public participation and consumer methodology, listing people to form a skills bank with provision for access to those skills across bureau lines. This has been done informally for the past year with some success. From this skills bank will be drawn core participants and facilitators for an intra-Departmental orientation and training programs, each, to consist of at least two meetings in sequence (assuring follow-up and connection with longer range planning). The meetings will be structured to encompass demands of staff program managers at various levels, and Senior Staff of bureaus and the Secretariat, with some interactions between them. From these meetings and related assignments will come clearer view than a quick survey can provide about what and where are the gaps in knowledge and skills.

Meanwhile, several Bureaus, Services and Offices have been both offering and requiring training in areas relevant to Consumer Affairs. The Fish and Wildlife Service estimates that 40–60% of project leaders, interpretation and recreation specialists and public affairs officers have by now received some type of formal training in public involvement techniques. The Water and Power Resources Service (formerly the Bureau of Reclamation), the National Park Service and the Bureau of Land Management have differing kinds of training efforts planned and underway, suitable to their separate missions.

#### Educating Staff Members

It is the nature of most of Interior's missions that relevant technical knowledge must be brought to bear on decisionmaking at all levels—land characteristics, the effect on dry or otherwise fragile lands of even simple recreation activities, the forecasting of water supplies, mined land reclamation enforcement, the economics of leasing for mining, grazing drillings or other uses, ways to get the benefits of natural resources without using them up or otherwise foreclosing future options. For consumers to be provided enough information to contribute usefully to

such decisionmaking, the Department's expert public affairs personnel, program managers and staff at all levels have to sensitized and oriented to citizen concerns and the methods for surfacing and dealing with these concerns as an integral part of their daily work. To work well in this Department, the approach to training must be participatory in itself. It is important to plan the mechanical considerations like length and scheduling of training sessions and follow-up so that the key managers can absorb what they need to know, and are backed by staff with the right capabilities without unduly disrupting existing work schedules.

At the central office level, the Secretariat is briefed on the Executive Order and the Program. Public participation is highlighted in the annual two day policy orientation for Senior Executive Service people from all over the country. Follow-up is to go both ways between field offices and Washington. There will shortly be a directive to inventory capabilities and training needs and plans developed in light of the Executive Order.

#### Technical Assistance

The Department's Bureaus and Offices have traditionally supplied technical assistance in their varied fields of expertise. Traditional recipients have been State and local officials who shared administration responsibility for Department programs. But, for example, citizens or groups interested in reviewing or contributing to a specific element of their State's Comprehensive Outdoor Recreation Plan can obtain reports, technical information, even site visits as work schedules of knowledgeable personnel permit. On a similar basis, Bureaus/Offices can guide interested people to available information, and many units provide de facto technical assistance amounting to consultation on specific problems. It is important in this context to remember that the preparation of an environmental impact statement or other major reports in the course of a decision-path may extend over several years, such as for a major energy resources development facility. In the absence of a published contact point, a consumer should ask the closest Public Affairs Office of the Department. Such assistance can be provided at various levels of the agency. It usually occurs during interaction on agency programs through sharing of scientific data, answering procedural questions, assisting in preparation of application forms, etc. Bureaus and Offices make every effort to provide appropriate technical assistance to public organizations and to the general public upon request, in accordance with existing laws, regulations, policies and administrative procedures.

#### V. COMPLAINT HANDLING

Separate units of the Department have their own routine procedures for handling complaints in accordance with their authorities and delegated responsibilities. Correspondence directed to the Secretary or to Senior Officials or which concerns

major issues is controlled by the Executive Secretariat. In general, all correspondence procedures follow the Department model. There has not previously been a clear need for central control, or detailed central reporting.

Procedures for handling complaints made under the Freedom of Information Act are set forth in the Departmental Manual (Part 316). Those procedures provide prompt access to information as well as establishing responsibilities of Departmental, Bureau and Office officials.

It is known that most often written and oral complaints from the public call for an explanation of the limits of Bureau, Service or Office authorities, a clarification of procedures, need for basic information, or for a definition of policy.

In response to the Executive Order, the Department will survey Bureau and Office systems for complaint handling to evaluate such elements as logging techniques, routing time and efficiency (for incoming and for clearance of response), timeliness of response, and training or staffing needs. Having done this, and made any recommended improvements, the Department will have a system for aggregating and evaluating statistics on generic complaints, and making sure they are taken into account.

A standard contact for complaints or for inquiries about complaint handling systems is a Public Affairs Officer of the Bureau or Office in question, or of the Department, or the Department's Coordinating Officer for Public Participation and Consumer Affairs.

For any citizen concerned about management, preservation, or wise use of natural resources, the ever-increasing opportunities for informed public involvement, the quantity and quality of Interior publications timely press releases and special outreach efforts on special issues all provide evidence of the Department's concern for the views of the public. Publication of this Program in response to the Executive Order, and incorporation of public comment into the final Program should reinforce existing Department policy that is receptive to complaints.

Methods of filing vary by unit mission and the relationship of a consumer to that unit. Thus, in a National Park, someone dissatisfied with concessioner service, lodging or parking facilities, or whatever, would normally and properly address his complaint to the Park Superintendent. If addressed elsewhere, the complaint would be routed to the Park Superintendent for response. Repeated complaints, of course, would be reported to the appropriate supervisory level for action—conditioning future contracts with concessioner, requesting funding for additional parking or bus service, or affecting the performance rating of an employee—whatever the appropriate response was determined to be after due process.

The Office of Surface Mining Reclamation and Enforcement has a formal system for handling complaints of mining violations or emergency conditions resulting from mining operations, such as subsidence or underground fire. If circumstances warrant, a phone call to a close-by (Regional) Public



Information Officer can result in an inspector being dispatched within hours of the call.

Complaints of trespass on public domain lands, or questioning of mining claims, once filed with a district office, could well take as long as months or years to resolve. This is because public lands in many areas are "checkerboarded" with private lands. A survey might be required, or a search of old records in county courthouses and the like to determine previous uses. Many hours of skilled work might have to be planned, budgeted and spent.

Thus a Department-wide uniform standard of response to complaint is not possible. The guarantee of timely appropriate attention with some indication of a route for appeal of final responses viewed as unfavorable or inadequate, is a reasonable expectation, and one which this Department is pledged to fulfill.

#### Format for Logging Complaints

Given the varied nature of Bureau, Service, and Office duties, there is not a standard format requirement Department-wide. The Department is undertaking a survey of existing procedures, usefulness of standization, with special attention to the handling and recording of complaints received by telephone so as to be able to evaluate performance in timeliness and quality of response handling, and in gathering and analyzing information as to the nature of the complaints, and their implications for policymakers.

#### Investigation and Analysis

The Department's planned survey will cover routing of complaints from their initial receipt, no matter to whom addressed, through final response.

It is Department policy to process all complaints in a timely fashion. As a standard, inquiries are promptly acknowledged by the appropriate office unless a complete response can be processed in a reasonable time—say 5-10 working days. The format for acknowledgments and response outlines the steps that will be taken by the Department, indicates who may be contacted for further information, and specifies an expected resolution date. If the responsible official judges that the response may not be satisfactory to the correspondent, he/she should provide enough information that the correspondent may pursue the issue to a higher authority in the agency. This practice, modelled on the Freedom of Information Act requirements, is already widely used for all correspondence.

Under the present system, the Departmental Coordinating Officer is available to assist with routing and analysis advice if there is a question, if the complaint appears to be part of a larger issue, or if the complaint deals with more than one jurisdiction of the Department. This coupled with periodic reviews of the nature of Freedom of Information Act denials and appeals appears to provide a satisfactory oversight window on the Department's overall performance of complaint handling routines. The survey will produce

recommendations for more rigorous response procedures, if needed.

#### Evaluation of Complaint Handling System

Periodically, the Department reviews its correspondence handling mechanisms. Changes in administration at any level result often in changes of persons or levels of sign-off authority. At those times, correspondence system, including complaint handling, are scrutinized for timeliness. As a result of the Executive Order, and subsequent to the planned survey of existing procedures, the Department will institute specific procedures to allow continuous quality control of complaint handling, and to permit evaluation of the nature of complaints as evidence of need for policy or program change.

Each Assistant Secretary and each head of Bureau, Service or Office will be responsible for compiling periodic reports which will identify significant inquiries, analyze the patterns of issues raised and their implications for policymaking, and evaluate the inquiry-handling system to assess the promptness and quality of responses. Such reports and recommendations for improvement will be addressed by the Secretary's Policy Staff Group if controversial or conflicting. Otherwise, procedures would be properly amended by responsible officials.

#### VI. OVERSIGHT

The Assistant Secretary for Policy, Budget and Administration is accountable directly to the Secretary for initiating, coordinating or reviewing major policy initiatives which cut across the full range of Department programs. This Assistant Secretary provides oversight review and evaluation of individual programs; coordination of budget requests into the Department submission; setting of common standards of performance for initiatives which apply Department-wide regardless of unit mission; oversight of procedures at all levels of Department operation under the National Environmental Policy Act. This Assistant Secretary effectively has final clearance before the Secretary's signature on Interior-wide rules, policies, programs and legislative proposals or comments.

The Assistant Secretary—Policy, Budget and Administration, in consultation with the Director, Office of Public Affairs, has oversight responsibility for the Department's Public Participation and Consumer Affairs program which includes the following:

- (1) Periodic review of guidance issued by Assistant Secretaries and heads of bureaus and offices;
- (2) Response to questions, and resolution of issues and conflicts or complaints raised by public participation activities and not resolved at other levels;
- (3) Systematic exchange of information and expertise on public participation throughout the Department;
- (4) Periodic orientation on public participation strategy related to both Department-wide performance

and currently significantly issues for policy officials and program managers at all levels;

(5) Consideration of special budget needs for public participation and consumer affairs beyond legal and normal administrative overhead requirements. If he/she finds cause, the Assistant Secretary—Policy, Budget and Administration will make recommendation to the Secretary as to options for covering such costs.

[FR Doc. 79-36524 Filed 12-7-79; 8:45 am]

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# Federal Register

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Monday  
December 10, 1979

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Part III—Section E

**Tennessee Valley  
Authority**

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Draft Consumer Program



**TENNESSEE VALLEY AUTHORITY****Response to Executive Order No. 12160****AGENCY:** Tennessee Valley Authority (TVA).**ACTION:** Notice of intent to establish a Consumer Affairs Office.

**SUMMARY:** The Board of Directors of the Tennessee Valley Authority proposes the adoption of the following policies to comply with Executive Order No. 12160. The TVA Citizen Action Office (CAO), formed one year ago, will take the lead in establishing a consumer affairs program to ensure that citizens of the Tennessee Valley regions have the opportunity to participate in TVA's decisionmaking process. The Citizen Action Office has been assigned the specific responsibility to represent consumers' interest and to report their concerns to TVA's top management. It operates on a separate budget and reports to TVA's General Manager. A major function of this office is to coordinate all of TVA's public participation programs and recommend new processes by which citizens can become involved in TVA's decisions. The office will seek methods to institutionalize ways within TVA to facilitate the gathering of timely public views about proposed and ongoing TVA programs. A toll-free telephone system provides one mechanism for the public to voice their concerns. TVA expects the program to be flexible and dynamic, changing in response to public comments to meet changing needs.

**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be sent to Dawn S. Ford, Chief, Citizen Action Office, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902.**FOR FURTHER INFORMATION CONTACT:** Dawn S. Ford, Chief, Citizen Action Office, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, telephone (615) 632-4402.**SUPPLEMENTARY INFORMATION:** Under Executive Order 12160 there are five general criteria agency consumer affairs offices must meet. TVA proposes to comply as follows:**I. CONSUMER AFFAIRS PERSPECTIVE**

The CAO consists of a professional staff of consumer affairs personnel. This office shall report to TVA's General Manager and consist of approximately 15-20 people. Staff will serve a coordinating function, working with all divisions in TVA to ensure that opportunities are made for citizens of the Tennessee Valley region to participate in agency decisionmaking. In addition, they will be responsible for initiating and conducting agency-wide public participation functions such as town meetings involving the Board of Directors or consumer forums. The consumer affairs staff will review all agency draft programs and policies with an opportunity to comment on how a proposed policy will be received by the public and how the public should be involved in the process. The staff will have the opportunity to make written comments, work on agency task forces, and attend staff briefings to the TVA Board of Directors.

**II. CONSUMER PARTICIPATION**

TVA should seek public participation in all administrative processes to the extent allowable. Generally, a proposed action is significant unless it is not expected to affect important policy concerns. Citizen involvement in decisionmaking shall take place after TVA staff has developed preliminary studies and prior to a final decision by the Board of Directors. Avenues of participation will vary with the issue and public participation processes will be implemented by the CAO or by the initiating program division in cooperation with the CAO.

Prior to any policy decision a reasonable public comment period will be established. Written comments will be invited as well as comments via the toll-free telephone service. These comments will be recorded in the final record by the division responsible for initiating the proposed policy for the Board's consideration. The CAO staff will review the final record to ensure that consumer views are adequately expressed. Depending on the nature of the proposed policy, advertisements may be taken out in community newspapers and notice may be posted in the *Federal Register*. All proposed actions will be considered at open TVA Board meetings, and the public will be advised of them through news releases and mass mailings to a list of consumers maintained by the CAO. Other public participation processes will be employed as appropriate. TVA recognizes that one process by itself is rarely adequate to achieve public participation objectives.

In its effort to consult with the public and respond effectively, TVA will:

(A) Conduct consumer forums throughout the 7-state Tennessee Valley region. Issues will vary with the meeting and recognized experts on TVA-related issues who are not associated with the agency will be invited to speak. Responsible staff-CAO.

(B) Conduct Board meetings open to the public. At these meetings special time is made available for any member of the public to comment on and question Board members and responsible TVA officials about pending business or just express a view about TVA in general. Periodically the TVA Board of Directors will take Board meetings or town meetings "on the road" to various locations in the Tennessee Valley region, thus ensuring participation by a wide range of citizens. Responsible staff-CAO and the TVA Information Office.

(C) Utilize TVA regional offices as a gross roots link between local communities and the senior level management of the agency. The special knowledge and experience of field office personnel will help identify key publics, explain local impacts of major decisions, identify parties of interest on those impacts, provide logistical support at public sessions and implement publicity techniques. The CAO staff will work closely with all field office personnel.

(D) Conduct public meetings and hearings on major policy issues. In fiscal year 1979, TVA conducted over 100 public meetings on issues such as transmission line construction, land use, utility power rate

structures, and electric service practice standards. TVA will continue to employ this process when appropriate. All public meetings will be coordinated with the CAO. Responsible staff-CAO and program divisions.

(E) Expand funding programs as necessary. TVA conducted a public participation funding program in connection with its consideration of electric power service and rate standards under the Public Utility Regulatory Policies Act of 1978, making substantial contributions to the cost of representing consumers' interests in hearings held by TVA. The agency is now developing another program which will make contributions to the cost of assisting consumers in representing their interests in upcoming hearings to be held by TVA on rate reform pursuant to PURPA. Funding programs will be monitored and reassessed as the agency gains more experience in this facet of public participation. Responsible staff-CAO and program divisions.

(F) Sponsor similar workshops on subjects of mutual interest to the citizens of the region. On 3 occasions the agency funded the use of outside experts in conducting electric rate workshops in different locations in the region. Although results varied in these original attempts at public participation funding, overall impressions have been favorable, particularly with the workshop-type format. Responsible staff-CAO and program divisions.

(G) Consideration will be given to ad hoc citizen task forces as needed.

(H) Schedule numerous informal meetings between the CAO staff and outside groups. It is TVA's belief that outreach work is the essence of good public participation. These meetings will be kept informal in order to encourage open expression of views.

**III. INFORMATIONAL MATERIALS**

In order to participate effectively in TVA's decisionmaking process, the public must have accurate, understandable, and pertinent information about TVA-related issues. TVA currently publishes general brochures about agency programs supplemented by marketplace publications directly related to energy conservation, as well as technical papers. The Director of Information is responsible for production and distribution of general TVA brochures. Program divisions, in cooperation with the Information Office, are responsible for publishing other materials. Publications are continually updated and revised to reflect current programs. Distribution is through mailings in response to questions and via racks at public buildings. TVA will continue on elaborate consumer education consisting of the following elements:

1. Television and radio public service announcements,

2. Publications such as the TVA Annual Report, the TVA Handbook, A Short History of TVA, energy and conservation booklets, a TVA electric rate brochure and brochures on each TVA facility,

3. A new film about the agency to distribute to schools and civic organizations, and

4. An advertising program on energy conservation. The CAO staff is responsible for the distribution of summary, issue, and background papers in connection with public participation processes, as well as draft and final environmental impact statements. To fulfill TVA's desire to inform the public, the CAO will:

(A) Identify groups and individuals both inside and outside the region with an interest in TVA-related issues. An initial mailing list has been compiled. Categories include regional consumer groups, Tennessee Valley state and Federal legislative delegations, national and state organizations, private citizens who have participated in past public sessions, TVA power distributors, local government officials and industrial representatives.

(B) Distribute to persons on this list an educational packet consisting of a guide to TVA publications, a general brochure about the history of the agency, and material on the CAO.

(C) Establish and maintain information depositories in public libraries or universities. These depositories will contain copies of environmental impact statements, policy papers, and staff studies.

(D) Distribute timely information on a regular basis. The CAO will prepare information for wide distribution to keep interested parties advised of TVA's progress on any given issue. A consumer newsletter will be developed outlining public participation programs currently being conducted and issues before the public for discussion.

(E) Distribute information which facilitates the formal public comment process. The CAO will be responsible for distributing materials prior to public sessions and for gathering feedback on the results of a public session or decision by the TVA Board. As appropriate such material will be distributed prior to the decision so that the public can develop informed comments and TVA can carefully consider public views before taking final action.

(F) The Environmental Quality Staff has the final responsibility for the proper distribution of an environmental impact statement (EIS) and will work in cooperation with the CAO to ensure that distribution is made promptly to all interested groups and individuals. When a notice of intent to publish a draft EIS is placed in the *Federal Register*, the EQS and the CAO will begin developing a distribution list. When the draft EIS, including the distribution list, is approved, the CAO will ensure that copies are mailed promptly. All distribution of draft and final EIS will be the sole responsibility of the CAO.

**IV. EDUCATION AND TRAINING**

The CAO with TVA's Office of the General Counsel will be responsible for educating senior staff members and information personnel about Executive Order 12160 and any changes which will incur in the structure of the consumer affairs program as a result of the Order through briefings, employee publications, and circulation of material.



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The staff of the CAO has received extensive specialized training in public participation. This training is a continuing process. It is now being conducted for managers in program divisions who normally have contact with the public.

TVA remains the only Federal agency equipped by statute and administrative structure to reflect the total economic and environmental concerns of the people of an entire major river basin. TVA provides the facilities, technical assistance, and opportunities for learning. A continuing economic and community development program offers technical assistance in such areas as agricultural development, flood control, solid waste management, rural health care, energy conservation, river cleanup, reclamation, industrial development and townlift programs. This assistance will continue to be provided by program divisions.

**V. COMPLAINT HANDLING**

TVA has established a region-wide toll-free telephone service—a "hotline" that puts the public in direct personal touch with TVA at no personal cost to themselves. The lines are a part of the CAO. Although usually answered by full-time, specially-trained personnel, they are also occasionally staffed by the agency's Board of Directors and other senior TVA officials. Emphasis is on providing quick, reliable, and understandable answers, cutting red tape, and investigating complaints. Responses are monitored by a computer system and public opinion trend analyses are provided to TVA management.

Complaints received over the Citizen Action Lines are entered into the computer and the complaint form is routed to the program division involved. An answer is expected back in the CAO in two weeks. The Chief of the CAO is responsible for determining if, in fact, TVA staff has done all it can for a consumer or if other steps can be taken to correct the situation. A tickler system ensures that divisions are responsive within two weeks.

In an effort to be more responsive to public needs, staffs in the General Manager's office and district field offices, who regularly handle complaints, will provide a monthly statistical report of complaints handled, resolved, and unresolved to the CAO.

This staff will then prepare a uniform monthly report to the TVA Board and General Manager of all agency complaints. This report will contain an evaluation of the way in which complaints are being handled with suggestions for improving the system and a narrative on significant complaints received in any 1 program area. The General Manager's staff will ensure that program divisions provide a draft response to written complaints to the General Manager for review within 7 days.

The CAO will develop a "How to Complain Guide" outlining how and where to send complaints relating to a wide variety of TVA programs for public distribution. On a regular basis the CAO will survey consumers who have complained by mail or via the toll-free hotlines. The survey responses will be analyzed from the consumer viewpoint as to what

TVA can do to be more effective. The analyses will be sent to the program offices along with recommendations.

**VI. OVERSIGHT**

The TVA Board of Directors has already designated the Chief of the CAO M-7, a senior-level official, within TVA who exercises, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. Based on TVA's corporate structure, in which TVA's General Manager is the agency's principal administrative officer, the General Manager is the appropriate person in TVA to whom the CAO should report.

Dated: November 21, 1979.

W. F. Willis,  
General Manager.  
[FR Doc. 79-36587 Filed 12-7-79; 8:45 am]  
BILLING CODE 8120-01-M

test report  
federal register

Monday  
December 10, 1979

Part IV

Consumer Programs:  
Human Services

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# Register Federal

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Monday  
December 10, 1979

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Part IV—Section A

**United States  
Commission on Civil  
Rights**

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Draft Consumer Program



**UNITED STATES COMMISSION ON CIVIL RIGHTS****Proposed Consumer Affairs Program****AGENCY:** U.S. Commission on Civil Rights.**ACTION:** Notice of proposed program for consumer affairs.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to: Lawrence B. Glick, Solicitor, United States Commission on Civil Rights, Washington, D.C. 20425. **FOR FURTHER INFORMATION CONTACT:** Lawrence B. Glick, (202) 254-5633.**AUTHORITY:** Executive Order 12160; Enhancement and Coordination of Federal Consumer Programs.

The United States Commission on Civil Rights is an independent, bipartisan, factfinding agency established by Congress under the Civil Rights Act of 1957.

The Commission is authorized to:

Investigate complaints alleging that citizens are being deprived of their right to vote because of race, color, religion, sex, age, handicap, or national origin; or, in the case of Federal elections, by fraudulent practices.

Study legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Serve as a national clearinghouse for civil rights information.

Submit reports of its activities, findings, and recommendations to the President and Congress.

The Commission is not an enforcement agency and has no power to apply specific remedies in individual cases. Complaints about denials of rights are usually referred to the appropriate Federal agencies for action.

**Activities**

The Commission conducts factfinding hearings relating to discrimination or the denial of equal protection of the laws. Using its subpoena power, the Commission seeks facts from public officials, minority group members, and other citizens representing diverse interests and points of view.

The Commission conducts extensive research and investigation regarding the denial of equal protection of the laws in such fields as voting, education, employment, health services, housing, and administration of justice. The Commission also evaluates the Federal effort to further equal opportunity.

The Commission sponsors national, regional, and State conferences as part of its fact-gathering and as a method of disseminating information to specialized audiences. These conferences bring together Federal,

State, and local officials, community leaders, and representatives of business, labor, and civil rights and women's groups.

The Commission collects, compiles, and disseminates information concerning civil rights problems, the laws relating to them, and various procedures for resolving such problems. These materials are called "clearinghouse reports."

**State Advisory Committees**

The Commission has State Advisory Committees in each State and the District of Columbia to assist in factfinding, investigative, and clearinghouse functions. These Committees are composed of knowledgeable citizens who serve without compensation and who are familiar with local and State civil rights problems. The Committees issue reports to the Commission that are published when appropriate. They also make recommendations to the Commission that may be used in its reports to the President and Congress.

The Commission maintains 10 regional offices.

Addresses of these offices are:

Central States Regional Office, U.S. Commission on Civil Rights, 911 Walnut Street, Kansas City, Missouri 64106. (816) 374-2454.

Eastern Regional Office, U.S. Commission on Civil Rights, 75 Piedmont Ave., N.E., Room 362, Atlanta, Georgia 30303, (404) 221-4391.

Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, 2120 L St., N.W., Room 510, Washington, D.C. 20037, (202) 254-6717.

Midwestern Regional Office, U.S. Commission on Civil Rights, 230 South Dearborn St., 32nd Floor, Chicago, Illinois 60604, (312) 353-7371.

New England Regional Office, U.S. Commission on Civil Rights, 55 Summer St., 8th Floor, Boston, Mass. 02110. (617) 223-4671.

Northwestern Regional Office, U.S. Commission on Civil Rights, 915 Second Ave., Room 2852, Seattle, Washington 98174, (206) 442-1246.

Rocky Mountain Regional Office, U.S. Commission on Civil Rights, Executive Tower, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202, (303) 837-2211.

Southern Regional Office, U.S. Commission on Civil Rights, 75 Piedmont Ave., N.E., Room 362, Atlanta, Georgia 30303, (404) 221-4391.

Southwestern Regional Office, U.S. Commission on Civil Rights, Heritage Plaza, First Floor, 418 South Main, San Antonio, Texas 78204, (512) 229-5570.

Western Regional Office, U.S. Commission on Civil Rights, 312 North Spring St., Room 1015, Los Angeles, California 90012, (312) 688-3437.

Information regarding the organization and programs of the Commission may be directed to:

Office of the Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425.

Proposed consumer affairs program:

**I. CONSUMER AFFAIRS PERSPECTIVE**

The Commission on Civil Rights has an authorized strength of 285 staff members. Of these approximately 200 are located at headquarters in Washington, D.C., and the balance in the 10 regional offices. With only this small staff, it does not appear appropriate to

assign a senior level officer and a staff unit to work full-time on consumer affairs.

**Responsibilities**

The Assistant Staff Director for Program Planning and Evaluation, a position in the Senior Executive Service, reporting directly to the Staff Director, is designated as Director of Consumer Affairs and will serve, in addition to other duties, as the official responsible for the coordination and oversight of U.S. Commission on Civil Rights consumer activities.

**Staffing**

The seven-person staff of the Office of Program Planning and Evaluation, reporting to the Assistant Staff Director for Program Planning and Evaluation, will serve as the staff responsible for the consumer affairs program of the Commission, in addition to their other duties. This staff will relate to and communicate with other staff units of the Commission through the Assistant Staff Director who is a member of the Commission's executive staff.

**Staff Location**

The Consumer Affairs staff are located in the Office of Program Planning and Evaluation, a first level unit in the table of organization of the Commission. Through its chief, the Assistant Staff Director for Program Planning and Evaluation, this office reports directly to the Staff Director who is the administrative head of the agency, and laterally to the other Assistant Staff Directors of the Commission.

**II. CONSUMER PARTICIPATION**

Opportunities for consumer participation in the development of Commission policies and programs are available as follows:

(a) Attendance at Commission functions, including: open meetings, hearings, consultations, civil rights conferences, and press conferences. Such attendance may, at the discretion of the Commission, include an oral presentation or the submission of written statements.

The majority of witnesses who testify at Commission hearings appear in response to a Commission subpoena. Any person who wishes to testify and has not been subpoenaed may contact Commission staff during the course of the scheduled hearing and ask to appear and offer testimony. Such testimony must concern the subject matter of the hearing. Rules for the hearing will be stated and appropriate staff contacts will be identified during the opening remarks of the Commission's chairman. The testimony and written statements submitted by subpoenaed and nonsubpoenaed witnesses will be given full consideration in the formulation of Commission policies and recommendations and in the preparation of Commission reports.

(b) Attendance at the frequent open meetings of the Advisory Committees established by the Commission in each State and the District of Columbia and, at the

discretion of such committees, the presentation of oral and/or written testimony.

(c) Potential appointment by the Commission as members of such State Advisory Committees.

(d) Comment on Commission publications prior to publication as may be requested by the Commission and subsequent to publication at any individual's discretion.

**Staff Involvement in Consumer Participation**

All Commission staff members involved in the conduct and preparation of the activities outlined above are responsible for assisting in consumer participation in such activities and the analyzing and consideration of consumer views for the purpose of planning and executing future Commission programs.

**III. INFORMATIONAL MATERIALS****Mailing List**

Any individual or organization may be included on the Commission's mailing list by writing to:

Office of Management, Publications Management Division, U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, (202) 254-7381.

**Public Notice**

Notice of all Commission activities which are appropriate for public participation are widely publicized through press releases prepared and distributed by the Press and Communications Division and by staff contacts with interested organizations. The agenda for Commission meetings and other activities and response to inquiries regarding the agenda may be obtained by contacting:

Press and Community Relations Division, U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, (202) 254-6345.

**IV. EDUCATION AND TRAINING****Responsibility for Training**

The Assistant Staff Director for Program Planning and Evaluation and the staff of that Office are responsible for directing the attention of all agency staff members to their individual responsibility for consumer affairs. Such effort includes the preparation and dissemination of written material and oral briefings for headquarters and field staff members.

**Technical Assistance**

The Director of the Press and Community Relations Division or his/her designee response to consumer inquiries respecting consumer participation in Commission planning, programming and policymaking.

**V. COMPLAINT HANDLING****Complaints of Deprivations of Civil Rights**

The Commission has no authority to resolve individual complaints of deprivations of civil rights. To the extent complaints are received regarding such



deprivations they are transmitted to the appropriate Federal, or other agency.

**Complaints and Comments Regarding the Commission**

Complaints, views, comments and suggestions regarding Commission policies, programs and activities receive full consideration and a substantive response is made by senior Commission staff members.

Dated: November 30, 1979.

Louis Nunez,  
Staff Director.

[FR Doc. 79-37397 Filed 12-7-79; 8:45 am]  
BILLING CODE 6335-01-M

Monday  
December 10, 1979

**Part IV—Section B**

**Community Services  
Administration**

Draft Consumer Program

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federal register

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**COMMUNITY SERVICES ADMINISTRATION****Proposed Consumer Affairs Plan****AGENCY:** Community Services Administration.**ACTION:** Notice of Proposed Consumer Affairs Plan.

**SUMMARY:** The Community Services Administration is filing its proposed Consumer Affairs Plan. This action is taken in order to comply with Executive Order 12160, Providing for enhancement of Federal Consumer Programs. The plan details how CSA will carry out its functions in the area of consumer representation.

**DATE:** CSA encourages comments on this proposed rule. All comments received by March 10, 1980 will be considered in finalizing the plan.

**FOR FURTHER INFORMATION CONTACT:** Ms. Caroline Ramsay, Community Services Administration, Office of Community Action, 1200 19th Street, N.W., Washington, D.C. 20506. Telephone: 202-632-6694

Graciela (Grace) Olivarez,  
Director.

**COMMUNITY SERVICES ADMINISTRATION  
CONSUMER PROGRAM PLAN****Introduction**

The Community Services Administration (CSA)'s authorizing legislation requires maximum feasible participation of the poor in the planning, conduct, and evaluation of programs. Involvement of the poor in developing plans and priorities of local Community Action Agencies (CAAs) is required. CAA Boards must have at least one-third of their members represent the poor. Boards of other grantees either must comply with this one-third requirement or establish an advisory committee.

In a general sense, CSA serves low-income consumers in such programs as Senior Opportunities and Services, Community Food and Nutrition (CFNP), Emergency Energy Conservation (EEC), Community Economic Development (CED), and community action. This latter is CSA's major program and the projects it funds deal with such concerns as housing, employment, education, consumer affairs, day care, etc., all of which are locally designed with input from consumers in the planning process and from Board members in the decisionmaking process. CSA also is involved in specific consumer programs which include consumer education and protection and the development of alternative economic systems such as cooperatives and credit unions. The CSA consumer representative maintains a clearinghouse of consumer information including a National Consumer Directory, Consumer Resource Guide, and many booklets and pamphlets on consumer education and protection, cooperatives, and credit unions.

CSA served as the lead agency in coordinating efforts toward increased citizen participation. Its January 1978 publication *Citizen Participation*, identified requirements for citizen participation in over 300 Federally assisted programs and explained how individuals and groups can effect them. Ten Public

Policy Forums in the Fall of 1977 gave CSA staff the chance to hear directly what low-income consumers felt about Federal anti-poverty programs. In December 1978 CSA sponsored 13 public meetings where low-income consumers provided their concerns and recommendations to make the National Consumer Cooperative Bank a responsive source of support for marginal and emerging cooperatives.

Forthcoming CSA consumer efforts include:

1. A Regional grant whereby all consumer organizations in the Southeast are identified, their capacities to serve the needs of poor people identified, and a regional consumer network established with intra- and inter-state linkages to CSA grantees.
2. Interagency efforts which include a program with the Food and Drug Administration to broaden delivery of health information and education to low-income Hispanic groups and a pilot program with the Consumer Product Safety Commission whereby CAAs will serve as outreach vehicles to involve low-income communities in consumer education concerning fire related problems.
3. Efforts to involve consumers in eleven January 1980 meetings on the National Consumer Cooperative Bank draft regulations.
4. State and local programs involving financial and/or technical assistance to low-income consumers.

**PROPOSED PLAN****I. CONSUMER AFFAIRS PERSPECTIVE**

The Office of Community Action (OCA) and the Office of Interagency and External Affairs (OIEA) have primary responsibility for consumer programs and citizen participation respectively. There has been no consumer office *per se* and staff has worked on an *ad hoc* basis when comments were requested on major consumer reports, legislation, and on annual budget planning.

Pending receipt of a permanent slot for a staff member who will have sole responsibility for the function CSA has designated an on-board staff member as the consumer representative to help carry out the functions mandated by EO 12160. In this capacity she will coordinate consumer activities of OCA and OIEA as well as elements of such categorical programs as CFNP, Emergency Energy Conservation, Community Economic Development and others which have impact on consumers. She will coordinate with OCA's Office of Regional Operations, providing support and direction for field consumer activities. She will represent CSA at meetings of national consumer organizations, public and private. These include the Consumer Education and Information Liaison Panel and the Interagency Council on Citizen Participation. She will advise CSA Director and staff on how consumers perceive and react to CSA policies.

Pursuant to Executive Order 12044, CSA seeks to maximize public participation in its rulemaking process. CSA's semi-annual report lists rules and regulations being revised for various policies such as

organization of CAA Boards and for programs such as Community Food and Nutrition and Summer Youth Recreation. In preparation for the semi-annual report, published in May and November, the consumer coordinator will meet with each person developing such rules and regulations to determine how to involve CSA's constituency and to determine which rules are most relevant to CSA's consumer activities.

**II. CITIZEN PARTICIPATION**

The primary purpose of CSA's Citizen Participation Program is to provide consumers with the opportunity to participate in and influence planning, conduct, and evaluation of programs authorized under the Economic Opportunity Act, as amended.

In CSA's case, consumer representation—hence citizen participation—occurs most often at the neighborhood level through involvement of public, private, and poor sectors of every community.

However, to make public participation an integral part of agency decisionmaking, the consumer representative will identify issues which concern low-income consumers for the agency decisionmakers. In conjunction with OIEA and the Office of Community Action she will determine what public participation activities could be held to resolve these issues, and develop information explaining these issues and encouraging participation. One example cited above is public participation in the rulemaking process.

**III. INFORMATIONAL MATERIALS**

CSA currently has a considerable range of publications on all its programs—categorical (CFNP, Emergency Energy Conservation, etc.), and those in the filed (through publications of various associations of CAAs and CAA directors and grantees). Specific consumer books, pamphlets, and papers as well as directories of films and other audiovisual material are distributed by the Office of Community Action. The Office of Public Affairs uses a wide variety of materials describing a broad range of CSA programs in an effort to inform CSA's constituency, the media, and the general public.

Efforts should be made to provide information concerning all consumer activity to the publications CSA and its grantees publish. These efforts will educate low-income consumers and facilitate their involvement in the decisionmaking processes which affect their lives.

**IV. EDUCATION AND TRAINING**

The consumer representative, working with offices responsible for citizen participation, regional operations, and categorical programs, will educate staff members about Executive Order 12160. Provision of information and technical assistance to consumers can be delivered through the network of CSA's 878 CAAs and other grantees. Efforts are ongoing to translate publications into Spanish.

CSA's consumer plan will be published and circulated to other Federal agencies and to its staff and to grantees. A Staff Instruction detailing Regional

Office responsibilities will be developed and internal staff briefings held.

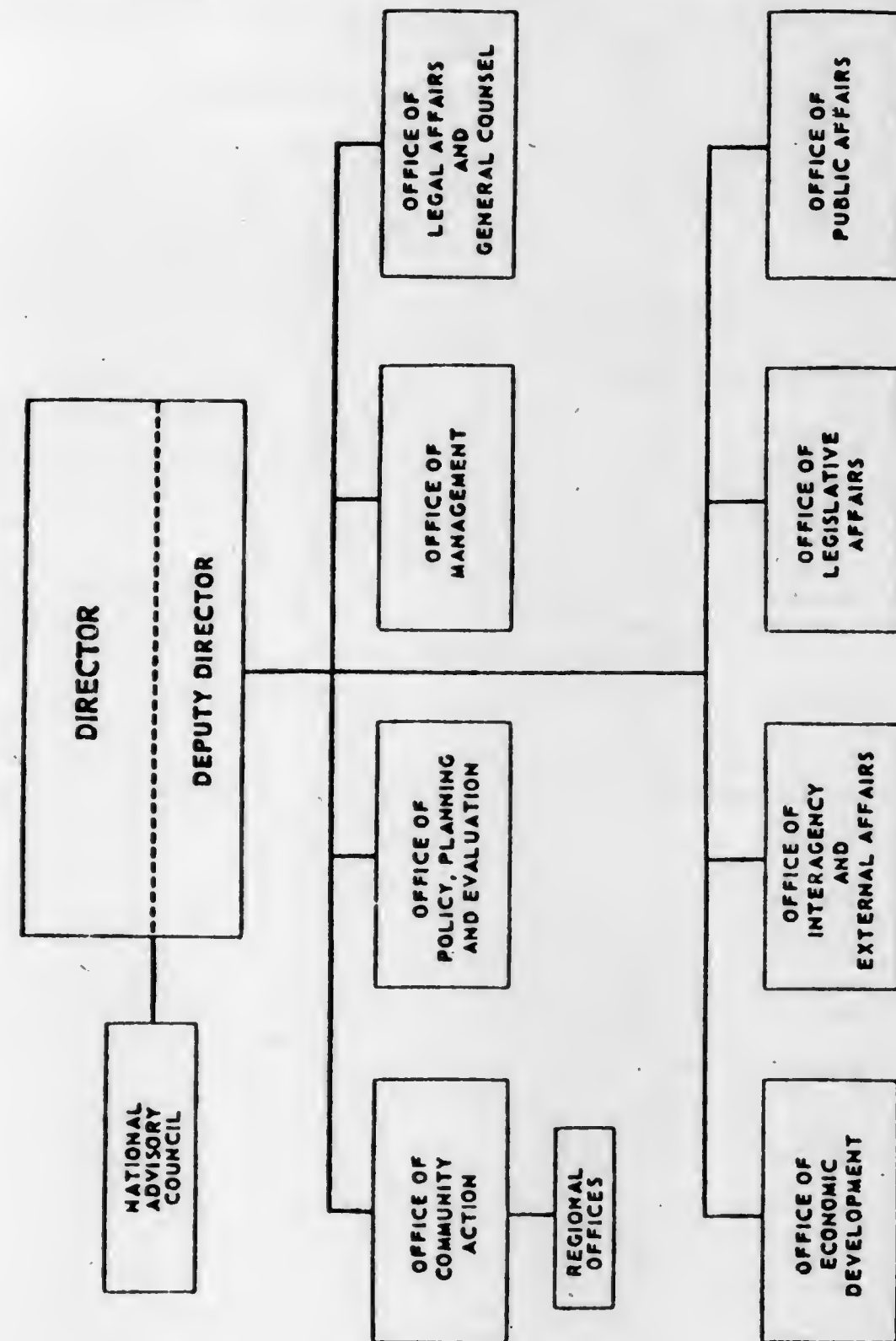
**V. COMPLAINT HANDLING**

Complaints and requests for information and assistance either will be handled by the consumer representative or sometimes referred to other staff and agencies. There will be efforts at increased coordination with other Federal and private agencies. The type of questions and opinions expressed through letters to the agency and its Grantees will be assessed and utilized to contribute to the consumer position being developed and will serve as guidance for consumer program emphasis and direction. Such questions and opinions will be used in developing rules and regulations issues by the agency semi-annually and is determining the need for various guidance papers as well as developing overall agency policy.

BILLING CODE 6315-01-M



## COMMUNITY SERVICES ADMINISTRATION



[FR Doc. 79-37651 Filed 12-7-79; 8:45 am]  
BILLING CODE 6315-01-C

# federal register

Monday  
December 10, 1979

## Part IV—Section C

### General Services Administration

Draft Consumer Program



**GENERAL SERVICES ADMINISTRATION****Consumer Program—Implementation of Executive Order 12160****AGENCY:** General Services Administration.**ACTION:** Proposed Consumer Program.

**SUMMARY:** The General Services Administration (GSA) is proposing an expansion of our current consumer activities. The proposed consumer program follows the guidelines in Executive Order 12160 (44 FR 55787, Sept. 26, 1979).

**DATE:** Written comments must be received by March 10, 1980.

**ADDRESS:** General Services Administration (XC), Washington, D.C. 20405.

**FOR FURTHER INFORMATION CONTACT:** David F. Peterson, Office of Consumer Affairs (202-566-1794).

**AUTHORITY:** In accordance with Executive Order 12160. The General Services Administration issues the following proposed consumer program:

**Background**

The General Services Administration (GSA) establishes policy and provides for the Government an economical and efficient system for the management of its property and records, including construction and operation of buildings; procurement and distribution of supplies; utilization and disposal of property; transportation, traffic, and communications management; stockpiling of strategic materials; and the management of the Government-wide automatic data processing resources program.

GSA's "public" is primarily other Federal agencies. However, there are three programs within GSA that are especially consumer-oriented: The Consumer Information Center (CIC), the Federal Information Center (FIC), and the Office of the Federal Register (OFR). GSA's consumer plan focuses on the activities of these three programs.

**I. CONSUMER AFFAIRS PERSPECTIVE**

The professional staffs of the Consumer Information Center and the Federal Information Center programs will constitute the Consumer Affairs staff of the General Services Administration. Those staff members comprising of Office of Federal Register consumer function will work closely with the Consumer Affairs staff of GSA.

**Staff Location**

The Consumer Information Center and Federal Information Center will report directly to the Director of Consumer Affairs for the General Services Administration. The Director of Consumer Affairs will monitor and coordinate the consumer activities performed by the Office of the Federal Register and other GSA operating components when appropriate. The Director of Consumer Affairs will regularly report to the GSA Administrator on implementation of this consumer plan.

**Size and Resources**

The Consumer Information Center was established by Executive Order 11566 in 1970, and its staff consists of 19 persons including consumer information and consumer media specialists. The Center has two basic responsibilities: To encourage Federal departments and agencies to develop and release relevant and useful consumer information, and to increase public awareness of and access to Federal consumer information. The Center maintains an active liaison program with more than two dozen Federal departments and agencies to accomplish these missions. Dissemination of consumer information is carried out by publication of the quarterly Consumer Information Catalog, in coordination with the media, to publicize the availability of consumer information; and distribution of Federal consumer publications through the Center's distribution facility in Pueblo, Colorado.

The Federal Information Center program was established to assist persons seeking information about the Federal Government and its programs. The program was established solely for the benefit of the consumers and users of Government services who have questions about the Government but do not know where to access the system to find the answers. An FIC headquarters staff of 7 persons and a field staff of 148 persons, located in 38 key cities across the country, provide in-person and toll-free telephone information services to approximately 50 percent of the U.S. population.

The Office of the Federal Register (OFR) is comprised of 90 persons and is responsible for the publishing of the daily *Federal Register*, which contains all Presidential proclamations, Executive orders, and Federal Government rules and regulations (final and proposed), and of the Code of Federal Regulations, which is the codification of the current general and permanent regulations of Federal agencies and is republished annually. Presidential speeches and other materials made public by the White House are published in the *Weekly Compilation of Presidential Documents* and annually in the *Public Papers of the Presidents*. The OFR provides additional information on Federal agencies in the annual *United States Government Manual*.

**Responsibilities**

The CIC, FIC, and OFR staffs will continue their regular operating procedures to accomplish the responsibilities listed above. These staffs will work closely together to coordinate consumer activities within GSA.

**Participation in Development and Review of Agency Rules, Policies, Programs, and Legislation**

The GSA Administrator will issue an agencywide order directing all operating components to notify the Director of Consumer Affairs of pending actions; e.g., rules, policies, and programs, that have potential significant impact on the economic well-being or quality of life of consumers. This order would be

effective within 30 days of publication of the final GSA consumer plan. Upon review of the proposed action, if the Director of Consumer Affairs determines that an agency action does significantly affect consumers, the Director of Consumer Affairs will meet with key officials, will submit written comments on proposals in order to present the consumer viewpoint, and will be included in the formal GSA clearance procedures before a final agency determination is made.

**II. CONSUMER PARTICIPATION**

When the Director of Consumer Affairs (DCA) determines that a proposed GSA program or policy significantly affects consumers, the DCA will ensure that the originating unit within GSA observes specific procedures for early and meaningful participation by consumers in the development and review of these proposals. These procedures will include the establishment of a plan for public comment that states how interested persons will be given the opportunity to comment on the proposed action or to participate in the rulemaking process. Among the options to be considered by the originating GSA unit for inviting consumer comments are: (1) Publishing an advance notice of proposed rulemaking in the *Federal Register*; (2) holding open conferences or public meetings; (3) sending notices of proposed actions to publications that are likely to be read by persons who will be affected; or (4) notifying interested persons directly. The DCA will assist the originating GSA unit in evaluating the comments received and in establishing an evaluation plan for the final action, focusing on its effect on consumers. The DCA will also establish a procedure for holding forums at which consumers can meet with GSA decisionmakers on topics of concern.

**Avenues of Participation**

The Consumer Information Center will continue to regularly conduct national consumer surveys to identify consumers' informational needs. These surveys involve interviewing 2,500 consumers with diverse demographic characteristics in order to pinpoint their need for specific publications. Survey results are reported by the age, sex, geographical location, income, and education of the respondents. The Center then encourages the development of Federal consumer information based on these consumer surveys and also learns what methods of information dissemination to use.

The Center also conducts audience surveys to obtain consumer views concerning ways to improve the CIC program. Once each quarter, questionnaires are enclosed with 1,500 randomly selected outgoing orders. They are designed to elicit advice and suggestions for new publications and also ask about the Center's service; e.g., whether the consumer was satisfied with the publications, how long it took to receive the order, and what the Center can do to improve the service.

The Center will establish publications evaluation surveys on a regularly scheduled basis to improve the quality of Federal consumer pamphlets. These surveys invite consumer suggestions for making revisions of

consumer publications more useful. The Center will undertake a more extensive analysis of consumer mail and telephone inquiries and will expand external liaison efforts with national, State, and local consumer organizations to obtain meaningful consumer participation in program direction and development.

The Federal Information Centers will encourage and assist consumers who are interested in participating in Federal agency rulemaking. The staff members will use the specialized training detailed in Section IV, Education and Training, to more fully assist the public in participating in the rulemaking processes. The FIC's will develop and keep current a list specifying the person within each department and agency responsible for public participation programs. Additionally, each FIC will obtain and post notices of public hearings. The Centers will have available for the public a 60-day file of *Federal Registers* if there is no library in the building with a more extensive file.

The Office of the Federal Register will continue and expand its consumer education workshops designed to assist consumers in using the *Federal Register*/Code of Federal Regulations system more effectively. A new segment will be added to specifically focus on the public's right to participate in the rulemaking process and to present guidelines for effective participation. The workshop information will be compiled into a self-teaching text. This text would be publicized by the U.S. Government Printing Office, the CIC, and the FIC and would be available for purchase through the Superintendent of Documents by consumers unable to attend the workshop.

**III. INFORMATION MATERIALS****Agency Information Services****1. Usefulness of Current Material**

The Consumer Information Center conducts programs to develop and disseminate consumer information. The Center encourages, coordinates, and assists Federal agencies in the development and distribution of consumer information publications through the Consumer Information Catalog and use of the Center's distribution facility in Pueblo, Colorado. The Catalog, published quarterly, lists more than 200 of the best Federal Government consumer booklets and covers a broad range of consumer topics. In FY 1979, the Center distributed more than 22 million consumer publications. The Center's media program includes the development of biweekly consumer news releases and monthly radio and television scripts that highlight publications in the Catalog and other topics of current consumer interest. The media staff also provides a media "hotline" service for consumer reporters seeking Federal consumer information assistance. Additionally, the Center conducts an annual public service campaign to increase awareness of the Catalog and Federal consumer publications. The campaign involves the development of television, radio, and print public service announcements. More than 450,000 Catalogs were distributed as a result of the FY 1979 public service campaign. Special efforts



are made to reach Spanish-speaking consumers through the *Lista de Publicaciones Federales en Espanol para el Consumidor*. This listing gives titles and ordering instructions for Federal consumer publications available in Spanish. The listing is distributed free to educators, libraries, community leaders, and consumer organizations. The Center also provides news releases and scripts to the Spanish media as well as prerecorded Spanish-language consumer features. In quarterly audience surveys the Center has consistently received an over-90-percent approval rate on questions concerning user satisfaction.

The Federal Information Center network is currently comprised of FIC's serving 85 major metropolitan areas. These centers provide in-person or toll-free telephone informational services to more than 50 percent of the U.S. population. The Centers currently distribute an information brochure describing the FIC services and listing the addresses and telephone numbers of the FIC's across the country, the Consumer Information Catalog, and a selection of other Federal Government consumer publications.

The Office of the Federal Register publishes the daily *Federal Register* and the Code of Federal Regulations, which is published annually. These publications inform consumers of the workings of their Government. The *Federal Register* is of particular importance to consumers because it is the only publication that covers all proposed Federal regulations and tells consumers how, when, and where to express their viewpoints.

## 2. Plans for Improvement

The Consumer Information Center will continue all of its consumer information programs listed above. The CIC media program will be expanded to include 26 additional consumer news releases annually and will increase its efforts to encourage major national magazines to promote consumer information through feature articles.

The CIC will encourage and assist the National Audiovisual Center, located in GSA, with the development and distribution of a listing of consumer education films. This pamphlet would be an interagency listing of educational films on consumer topics available through the National Audiovisual Center.

In FY 1980, the FIC program will begin an expansion effort as follows:

- Open the first statewide operation by expanding the two Florida FIC's to service the entire State.
- Expand FIC's in Missouri and Nebraska to statewide coverage.
- Open new FIC's in Kansas and Iowa that will provide immediate statewide service.
- Open a new FIC in Anchorage, Alaska.

The eventual goal of this expansion effort is to provide 100 percent of the U.S. population with toll-free telephone access to an FIC.

In FY 1980 the FIC program will begin an annual public service campaign to publicize the increased availability of FIC service. This campaign will use

television and radio public service announcements to inform consumers of the availability of FIC services.

New brochures detailing the FIC program and how to access it will be prepared and promoted widely within local communities. Additionally, the Centers will distribute other Federal consumer publications, especially the Consumer Resource Handbook from the Office of Consumer Affairs and the Consumer Information Center Catalog. The FIC's will also develop special resource lists to assist handicapped persons. These lists will identify Federal Government and local community programs that provide special services for persons with varying types of handicaps.

There will be a test program in the San Francisco FIC using a special telecommunications system that will allow deaf persons to use FIC services. This test, planned to begin in 1980, will be the first time deaf persons will have the opportunity to access an FIC.

The FIC headquarters staff will expand its liaison program with Federal agencies to offer assistance to those Federal agencies without an extensive field structure. In the past the Federal Communications Commission and the Office of Copyrights have used the FIC's to communicate vital information easily and quickly to consumers. The FIC's ability to dispense information and materials to consumers widely and with dispatch is a service that will be offered to Federal agencies.

With the cooperation of the issuing agencies, the Office of the Federal Register will establish a new research tool or "finding aid" for consumer-interest documents. This aid would appear in the daily *Federal Register* and would also be included in the monthly subject Index. It will state the matter being regulated in terms of the consumer issue impacted, the subject matter, and the name of the agency issuing the document; e.g., Nutrition; Food Labeling; Food & Drug Administration.

## 3. Officials Responsible for Consumer Information Program

The GSA Director of Consumer Affairs will be responsible for planning and carrying out the GSA consumer information program. The Director of Consumer Affairs will have direct responsibility for the CIC and FIC programs, and will monitor and coordinate the consumer information functions of the OFR.

## Information on Agenda of Public Meetings

Each GSA service and staff office will be responsible for preparing explanatory materials regarding meetings open to the public for which they are responsible. Each office will also be responsible for developing appropriate plans for their distribution of the materials. The DCA will provide support and guidance as appropriate.

## IV. EDUCATION AND TRAINING

### Areas in Which Training Provided

Executive Order 12160 requires that a consumer affairs staff be identified in Federal agencies, and that

this staff review proposed and final rules and regulations and policies issued by the agency in terms of their impact on consumers. Since the Office of the Federal Register has unique resources for conducting workshops and developing training materials to assist Federal consumer staffs in reviewing regulations, it will offer 1-day seminars in rulemaking and its relationship to the consumer affairs staff. These seminars will be offered on a continuous and regularly scheduled basis. Topics will include: What is "readability" in Federal regulations; basic administrative law; how to structure rulemaking to achieve maximum public participation; effective use of semiannual agendas as a consumer tool; and how to manage, digest, and analyze a large return of comments.

## Responsibility for Educating Staff Members About Consumer Program

The GSA Director of Consumer Affairs will be responsible for educating the heads of all GSA operating components about Executive Order 12160 and the GSA consumer activities planned in this consumer program.

## Method of Education

The GSA Director of Consumer Affairs will circulate Executive Order 12160, the proposed GSA consumer program, and other related materials to the heads of all GSA operating components. The GSA order mentioned in Section I, Consumer Affairs Perspective, will ensure the involvement of the Director of Consumer Affairs in all proposed agency actions that may significantly affect consumers.

## Specialized Training for Consumer Affairs Personnel

The Office of the Federal Register will conduct its 1-day seminars in rulemaking and its relationship to the consumer affairs staff (described above) for the Consumer Information Center and Federal Information Center headquarters staffs. The supervisors of the 38 FIC's will also attend the OFR seminar during the annual FIC supervisors' conference.

The CIC and FIC staffs will continue to attend and participate in training courses and workshops on topics on consumer interest. Additional training for the consumer affairs staff will be offered for complaint handling, consumer participation procedures, and preparation of consumer informational materials as needed. The CIC and headquarters staff of the FIC program will arrange and regularly attend training sessions conducted by Federal and non-Federal resource persons who will provide detailed explanations of issues and programs on current consumer topics. Information from these briefings will be furnished to the 38 FIC's through FIC bulletins.

## Technical Assistance

The consumer education workshops for consumers, described in Section II, Consumer Participation, will be conducted by the Office of the Federal Register. These workshops will focus on the public's right to

participate in the rulemaking process and will present guidelines for effective participation.

## V. COMPLAINT HANDLING

The Consumer Information Center, the Federal information Center program, and the Office of the Federal Register will establish procedures for systematically logging in, routing, handling, responding, and analyzing consumer complaints and inquiries.

The CIC currently acts as a collection point for a wide variety of consumer complaints and inquiries. The Center forwards these to the appropriate Federal agencies and directs consumers to either local consumer agencies or private groups that can help with their particular problems. To better serve consumers, the Center is consolidating all the complaint handling in one clearly defined area and is designating a full-time professional staff member to serve as coordinator. The coordinator will:

—Maintain a log of the number of written and telephone complaints received, by specific topic; the logs will state what help was given to the consumer or to what agency he or she was referred;

—Send a followup letter to each consumer whose complaint is referred to another Federal agency. On a regular basis, the CIC will invite consumers to let us know if their problems have been resolved;

—Prepare, on a monthly basis, a summary of complaints and inquiries, both for internal use and to be sent to the U.S. Office of Consumer Affairs (USOCA); and

—Maintain liaison with consumer complaint units in other Federal agencies.

The CIC will also promote to the media and the public the availability of USOCA's Consumer Resource Handbook. This free publication tells consumers how to complain and get results, and gives a descriptive listing of Federal, State, and local governmental agencies and private organizations that can help.

Each year the FIC's receive between 7 million and 8 million inquiries, some of which are complaints about Federal programs or services and suggestions regarding how to make them more effective. The FIC program, both at the Center level and the Washington level, will analyze these complaints and suggestions and report quarterly to the appropriate agency the concerns voiced by the public. Where the situation requires immediate actions, the FIC's or the headquarters staff will promptly bring the matter to the appropriate agency official for resolution. Responses to inquiries or complaints received by the FIC's are immediate—either over the telephone or in person.

The OFR will maintain a reading file of complaint letters with the response letter attached, which will be available for public inspection upon request.

## OVERSIGHT

The Administrator of General Services will designate the Director of Consumer Affairs (DCA), at



the GS-15 level, to be solely responsible for policy direction, coordination, and oversight of the agency's consumer activities. The Director of Consumer Affairs will regularly report to the Administrator on implementation of this consumer plan. The DCA will coordinate the consumer activities performed by the agency's consumer affairs staffs in the Consumer Information Center, the Federal Information Center programs, the Office of the Federal Register, and other agency components as appropriate. The Administrator will issue an agencywide order directing all GSA operating components to notify the Director of Consumer Affairs of pending actions; e.g., rules, policies, and programs, that have potential significant impact on the economic well-being or the quality of life of consumers. Upon review of the proposed action, if the Director of Consumer Affairs determines that an agency action does affect consumers nationally, the DCA will meet with key officials, will submit written comments on proposals in order to present the consumer viewpoint, and will be included in the formal GSA clearance procedures before a final agency determination is made.

Dated: November 26, 1979.

Ray Kline,  
Acting Administrator of General Services.  
BILLING CODE 6820-34-M

Form Approved:  
OMB No. 116579021

### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36937 Filed 12-7-79; 8:45 am]  
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Monday  
December 10, 1979

Part IV—Section D

Housing and Urban  
Development  
Department

Draft Consumer Program

Registered Federal Reporter



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Secretary

[Docket No. N-79-960]

AGENCY: HUD.

ACTION: Notice Inviting Public Comment on Draft Consumer Program.

DATE: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 5218, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Sandra J. Alexander or Kathy Dexter, Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, U.S. Department of Housing and Urban Development, Room 4100, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-0950. This is not a toll-free number.

## I. CONSUMER AFFAIRS PERSPECTIVE

In 1976 the Secretary of the Department of Housing and Urban Development created the Office of Consumer Affairs and Regulatory Functions and delegated primary responsibility for consumer matters within the Department to the Assistant Secretary heading this office. (See 41 Fed. Reg. 19365—May 12, 1976.) The Office of Consumer Affairs and Regulatory Functions was delegated expanded responsibilities in 1977 and was renamed the Office of Neighborhoods, Voluntary Associations, and Consumer Protection (NVACP). Many of the responsibilities outlined in Executive Order No. 12160 are already being performed by the professional staff of consumer affairs personnel currently maintained by the Department under the Assistant Secretary for NVACP.

### Staff Location

The consumer affairs staff will continue to be located under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, in the Office of Consumer Affairs and the Office of Policy and Program Development. The Office of Consumer Affairs is divided into four divisions: Housing Counseling Division, Consumer Complaints Division, Consumer Liaison Division and Community Services Division.

### Size and Resources

The size of the full-time or part-time professional staff of consumer affairs personnel that will be needed within the Department to serve the full mandates of the Executive Order is not readily ascertainable. The Agency finds that a certain level of expertise is required by each of the divisions under the Office of Consumer Affairs and the Office of Policy and Program Development in order that the responsibilities and obligations outlined by this program can be met. The staffing needs of the Department will be met

through the application of the discretion granted to the Department's Assistant Secretaries to hire staff sufficient to meet their delegated responsibilities.

The effective operation of the *Consumer Complaints Division* depends upon a staff having experience working effectively with individuals, and developing and maintaining consumer complaint systems, including systems for equitably resolving complaints. The staff must also have an ability to monitor the processing of consumer complaints by other HUD Headquarters and field offices and to analyze data gathered by the consumer complaint management system.

The *Consumer Liaison Division* requires a staff possessing familiarity with HUD's organizational structure and major departmental programs, a thorough working knowledge of methods of ascertaining public views, and the ability to analyze and evaluate the views and positions of the public and to summarize them into policy recommendations. Experience is also needed in conducting and analyzing extensive studies in the fields of housing, in collecting and evaluating facts, in drawing conclusions, interpreting and applying regulations and policies to programs related to housing issues. The staff will include at least one Housing Specialist, having knowledge about housing policies, programs and organization at the Federal, State and local levels. There will also be at least one Community Development Specialist with knowledge about the community development programs, policies and organizations at the Federal, State and local levels. This division will also include at least one Education Specialist with the capability to develop consumer publications, and interpret regulations. This individual must also be familiar with management information systems.

In order for the *Office of Policy and Program Development* to be effective, its staff members must be familiar with one or more HUD programs, and have the ability to perform systematic and high level analyses of HUD issues, policies, programs, procedures and regulations, from the perspective of the affected consumers. Staff members must have proven high-level writing abilities, knowledge of regulatory program operations, and the ability to articulate and advocate a minority position.

### Responsibilities

The Assistant Secretary for NVACP has oversight responsibility, establishes policy direction for and coordinates the Department's consumer activities. The Assistant Secretary will report directly to the Secretary on matters related to this program, and has authority to directly appeal to the Secretary or Under Secretary any determination of agency officials adversely affecting the consumer interest.

The Director of the Office of Consumer Affairs will directly support and assist the Assistant Secretary in meeting his or her responsibilities under this program.

Oversight of the consumer affairs activities within the Department is not the only responsibility of the

Assistant Secretary for Neighborhoods, Voluntary Association and Consumer Protection. The Assistant Secretary will continue to meet his or her delegated responsibilities in the consumer-related subject areas of neighborhood development, public-private partnerships and regulatory enforcement. The Secretary of HUD has determined that these delegated responsibilities are complementary to the consumer affairs function and will not detract from, but will enhance, the Assistant Secretary's ability to represent the consumer interests within the Department.

The Consumer Complaints Division has total responsibility for monitoring and coordinating all consumer complaints activity within the Department. The Consumer Liaison Division acts as liaison between the Department and public and private organizations concerned with consumer matters, and develops an effective means by which consumers can gain access to the Department and communicate their concerns. The Office of Policy and Program Development analyzes and comments upon all proposed and newly drafted final Departmental regulations, major Handbooks, and policy documents, in order to identify and represent the interests and views of the consumers.

The Community Services Division provides technical advice and guidance to designated staff of HUD Regional Offices on the social science aspects of housing management and on planning with people to improve social and economic opportunities and to better the quality of life. The Housing Counseling Division administers a housing counseling grant program. The Counseling division also recruits, trains and certifies community-based public and private non-profit organizations which provide housing counseling services to homebuyers, tenants and homeowners. The Community Services Division and Housing Counseling Division are primarily responsible for program functions which are not related to the consumer affairs responsibilities outlined by this program.

### Relationship With Other Consumer Personnel and Agency Operating Units

The Office of the Assistant Secretary for NVACP will also coordinate its oversight responsibility with the activities of the Office of Citizen Participation within the Office of Community Planning and Development. Development of consumer educational and informational materials, and participation in public events will be coordinated with the Office of Public Affairs in the Secretary's Office. Development of an education and training strategy for HUD personnel will be coordinated with the Assistant Secretary for Administration. The Office of the Assistant Secretary for Administration will also support the Office of the Assistant Secretary for NVACP by providing expertise in preparing publications, and preparing presentations and exhibits for the public.

The Department will establish a Consumer Affairs Advisory Council consisting of members from the HUD program offices (of at least Deputy Assistant Secretary

rank), the General Counsel's office, Office of Policy Development and Research and the Office of Public Affairs. The Director of the Office of Consumer Affairs will serve as secretary for the Council. The purpose of the Council is to provide a mechanism through which high level officials of the Department can meet with the Secretary on a regular basis to discuss consumer issues. The regular agenda for the Council meetings will include consumer affairs issues of concern to the public and other Federal, State and local agencies. The Advisory Council will appoint a chairperson, who will serve for a term of one year.

### Participation in Development and Review of Agency Rules, Policies, Programs and Legislation

#### 1. Notification Procedure

—The HUD Handbook prescribes a Departmental clearance process for *Federal Register* documents, work plans and semiannual lists of routine, special and significant rules. The Office of Regulations in the Office of the General Counsel distributes copies of the items subject to Departmental clearance to the Assistant Secretaries and other heads of major organizational units in HUD Headquarters for simultaneous review. The Office of the Assistant Secretary for NVACP will receive all items distributed by the Office of Regulations along with an invitation to participate in the clearance process. The Office of Policy and Program Development will notify the Office of Consumer Affairs and its Division that items have been received by the Assistant Secretary and are available for review by their staffs.

—The Consumer Affairs staff may be invited by various Departmental program offices to participate during the development of rules, policies, programs and legislation.

#### 2. Stage at Which Participation Begins

—Consumer Affairs staff participation takes place during the Departmental clearance process for the following items:

(a) Substantive rules relevant or applicable to the general public which prescribe a penalty or course of conduct; confer a right, privilege, authority, or immunity; or impose an obligation.

(b) Rules of procedure (e.g., description of forms available, places where forms may be obtained, instructions as to the scope and contents of reports).

(c) Statements of general policy or interpretations of general applicability relating to public property, loans, grants, benefits, or contracts.

(d) Advance Notices of Proposed Rulemaking; Task Force charters and Notices of Task Force Meetings.

(e) Descriptions of HUD's central and field organizations (e.g., Delegations or re-delegations of final authority regarding Departmental programs; Orders of Succession; Established places at which, and methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

(f) Work plans and semi-annual lists of routine, special and significant rules.



### 3. Methods of Participation

—The Office of Regulations will send a copy of the clearance item to the Assistant Secretary for NVACP for review. The Office of Policy and Program Development will examine the clearance item and make recommendations to the Assistant Secretary. The reviewing office may concur without comment, concur with comment, or nonconcur. The Office should nonconcur only if it insists that it cannot approve the clearance items until the substantive concern causing the nonconcurrence is satisfactorily resolved or decided by the Secretary/Under Secretary. The Office would concur with comment if it has editorial suggestions or substantive concerns not sufficiently serious to warrant a nonconcurrence. The Office will have to distinguish between comments which are the basis for nonconcurrence, and those it considers not sufficiently serious to warrant a nonconcurrence. The Office would negotiate directly with the drafting office in an initial attempt to resolve a nonconcurrence.

—The staff may be assigned, either as working staff or as the official consumer representative, to a variety of agency task forces or working groups.

—The staff may meet with key officials to resolve disputes over appropriate program directions.

—The staff may develop and propose program initiatives in response to a perceived consumer need or actual requests for rulemaking by the Department on specific consumer concerns.

—The staff may participate in program reviews or program development when a specific consumer interest is identified.

—The staff may also participate on evaluation panels for research contracts awards on particularly relevant issues.

## II. CONSUMER PARTICIPATION

The Department of Housing and Urban Development's Consumer Participation Programs are designed to fulfill the following objectives:

—To provide the public with the opportunity for input into rulemaking and policy or program development;

—To provide consumer educational and informational exchanges;

—To provide technical assistance in the utilization of available program resources; and

—To facilitate the monitoring of program input.

### Stage of Agency Decisionmaking Participation Begins

#### 1. Required Procedures—Rules

Departmental procedures as outlined in the HUD Handbook required that before drafting a significant regulation, the drafting office must prepare a work plan which outlines the entire rule formulation process. The drafting office must indicate in its work plan the methods by which it will obtain public participation in the development of the regulation.

—The first step in developing the plan is to identify who should be invited to comment on the regulation. Participants should include:

(a) Those persons and groups to whom the beneficiaries or obligations of the regulation are directed.

(b) Those persons or groups who assist HUD in providing services, such as counseling agencies, or other government agencies.

(c) Interest groups, such as civil rights or consumer organizations.

(d) General purpose state and local governments and national organizations representing those general purpose governments which notified the drafting office of their interest in the regulation following publication of the Semiannual Regulations Agenda.

The drafting office will list the participants in the public participation portion of its work plan. If a participating group is large, the drafting office will identify the method by which it will obtain a representative sample of the group. In reviewing the work plan, Assistant Secretaries or other heads of major organizational units in HUD headquarters may recommend additional participants.

—The principal means of encouraging public participation at the early, pre-drafting stage of rule development is to publish an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register. The ANPR will briefly outline:

(a) The proposed new program or proposed changes, and why they are needed;

(b) The major policy issues involved;

(c) A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal that will elicit detailed comments;

(e) If known, an estimate of the reporting and recordkeeping requirements likely to be necessitated by the proposal; and

(f) Where comments should be addressed and the time within which they must be submitted.

The drafting office shall attach the ANPR to the work plan, so that the documents may be reviewed at the same time.

—After the Secretary/Under Secretary approves the work plan and the ANPR, the Office of Regulations will forward the ANPR to the Federal Register for publication. In addition, the drafting office will mail copies of the ANPR to the participants identified in the work plan. If a proposed regulation is subsequently published, the drafting office will mail copies of it to the same participants who received the ANPR.

—An ANPR will be published for each significant regulation, unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints.

In addition to publishing an ANPR and a proposed regulation, the drafting office may provide for further public participation by one or more of the following methods:

- (a) Random or media based surveys;
- (b) Panels, conferences, or forums; and
- (c) Public hearings.

## 2. Policies and Programs

The determination of the actual point for consumer participation in general policy and program development not involving rulemaking is left to the discretion of the drafting program office. The public participation components employed by these offices may include consultation with advisory Committees, meetings with representatives of affected consumer groups, and discussions in forums and public hearings.

### Avenues of Participation

#### 1. Consumer Forums

Perhaps the most visible mechanism for informing consumers about HUD and soliciting their views on issues and programs has been the Consumer Forums. These forums are designed to encourage a working relationship between HUD's program offices and policymakers and the consumers of the Department's programs. Approximately 100 open consumer forums have been held in the past 12 months, focusing on major, timely issues. The forums are of three types: national, state and local.

Several *national forums* are held annually. They are generally conducted in Washington, D.C. The forums serve as catalysts for discussions on issues of concern to the Department and the public. Staff from the specific programs being discussed are present and take part in discussions with representatives of industry, consumers and government. Assistant Secretaries make presentations at these forums. Occasionally the Secretary and Under Secretary are participants.

—Eighty to ninety *local consumer forums* are planned annually throughout the country by HUD field offices. The intent of these meetings is to inform consumers about HUD programs and solicit their views on program performance. Area Office Managers or Regional Administrators make major presentations at virtually all of these forums. Other HUD field staff serve as panelists and workshop leaders. In addition, there is generally representation on the panels by State and local officials, community organizations, consumers and private business firms involved in HUD programs. Audiences average from 100 to 250 people.

—Approximately fifteen states per year conduct *State Consumer Forums* on behalf of HUD. These forums are structured to pull state and HUD resources together to jointly address, in a public setting, major consumer issues in housing and community development. The state offices involved include housing and community development, urban affairs, housing finance, and consumer affairs.

The state agencies develop the forums to acquaint the public with:

- (a) HUD's programs and personnel;
- (b) City/state/Federal role in housing and community development;
- (c) Ways in which the public can help government meet its needs;

(d) Ways in which the public could provide feedback on the effectiveness of HUD's state and local programs;

(e) Ways in which the Federal, state and local agencies may meet the public's needs;

(f) Community Development Block Grant Entitlement Cities;

(g) Office of Housing Finance;

(h) Consumer Affairs Office;

(i) State Economic Opportunity Office;

(j) State legislative committees that have jurisdiction over HUD issues; and

(k) Consumer, neighborhood and community groups.

They are encouraged, where appropriate, to invite either HUD Area Office Managers, Regional Administrators, or Assistant Secretaries as speakers.

#### 2. Consumer Network

HUD has established a Consumer Network that now numbers approximately 24,000 groups and individuals. It is composed of local consumer and community groups, national organizations, state and local consumer affairs agencies, tenant associations, public housing authorities and other groups or individuals who request that they be listed in the Network. It also includes groups with special concerns, such as women, Spanish-speaking individuals, Indians, the elderly, and coalitions working on specific issues. The Consumer Network is a computerized system with the ability to assemble and update various mailing lists, cross-indexed by consumer interests in Departmental policies or programs. This system has the capacity to limit its distribution to any State or Regional jurisdiction.

#### 3. Consumer Newsletter

A monthly *Consumer Bulletin* is sent to the entire Consumer Network highlighting HUD activities and soliciting comments. A *Consumer Notice* is distributed only to those consumers who have expressed an interest in a specific topic. It announces upcoming consumer forums and provides background material on the issues and programs to be discussed.

#### 4. Mailings

Direct solicitation of comments about major regulations is conducted by sending mailings of published proposed regulations, with a cover letter highlighting the major issues, to various groups and individuals to ensure that they have notice of the proposal and to encourage them to formally comment. These are groups and individuals from the Consumer Network who have indicated an interest in the particular subject matter. Mailings are also made to special consumer groups, such as Hispanics, Indians, and women, on issues directly related to their interests.

#### 5. Informal Working Groups

These small groups of consumers and consumer representatives are brought together to discuss a particular issue. The working groups then prepare papers stating their views and recommended HUD actions.



#### 6. Advisory Committees

When it is desirable that a group of consumers and consumer representatives meet on a regular, long-term basis with HUD staff to discuss a particularly important issue or program, an Advisory Committee is established. This is mandated by the Federal Advisory Committee Act.

#### Analysis of Consumer Concerns

With regard to rulemaking, the preamble to a final regulation is required by HUD procedures to include an analysis of significant comments submitted to the Rules Docket Clerk. The preamble also explains why comments were or were not adopted. During the clearance process the consumer affairs staff in the Office of Policy and Program Development reviews the preamble to evaluate its adequacy. When the consumer affairs staff identifies an issue which appears to have a negative impact on consumers, or when the commentators raise an issue which the staff determines was not adequately addressed by the responsible program official, then the Assistant Secretary for NVACP nonconcurs on the clearance item. The program office is obligated by HUD procedures to attempt to resolve the nonconcurrence. If NVACP and the Program Office cannot agree on a resolution, the issue may then be escalated to the Under Secretary or the Secretary of HUD for decision.

In addition to the formal rulemaking process, when an issue has been highlighted and consumer views solicited through one of the avenues of participation previously discussed, those views are analyzed, presented to, and discussed with responsible HUD program officials. The objective is to affect current or future rulemaking and program design by insuring that the consumer viewpoint has been presented and considered.

A Consumer Affairs Working Group, consisting of representatives from each program, is designated in each Field Office. This group coordinates the development of a forum and insures that followup activities are carried out. An evaluation report is required after each meeting describing the forum design, audience mix, major issues raised and the recommendations and commitments made. A schedule for resolving issues and fulfilling commitments must be furnished. Periodically, Area Managers, Regional Administrators, and Assistant Secretaries are required to submit status reports to track the progress made in resolving these consumer concerns. Forum participants and others receive a newsletter summarizing the issues and describing the actions that will be taken to implement recommendations made.

#### Notice to Consumers of Opportunities To Participate in Decisionmaking

Consumer Notices are sent to the members of the previously described Consumer Network to provide information concerning forums, special meetings, newly proposed regulations, and any other significant matters. In addition, the Office of Public Affairs

notifies the local news media each time a Consumer Forum is scheduled.

### III. INFORMATIONAL MATERIALS

#### Agency Information Services

The Department has established on national, regional and area levels special networks of consumers with whom we regularly communicate. The highest priority goes into creating opportunities for two-way communications between consumers and HUD. Consumers are prepared to protect themselves in the marketplace, and to participate effectively as advocates in the HUD policymaking process. In order to accomplish this, the Department prepares informational and educational consumer materials about the Department and its program and encourages the expression of consumer viewpoints through forums, public hearings, seminars, meetings and mailings.

#### 1. Usefulness of Current Material

HUD publications produced by program offices are reviewed for clarity and sensitivity to the consumer viewpoint (by the Consumer Liaison Division) and to identify where new publications are needed. Additionally, summaries of major new program initiatives or revisions are written and sent to consumers by the Consumer Liaison Division. A draft *Consumer's Primer of HUD* has been prepared, which explains how the Department works and its major programs. Brochures with pictures and diagrams explaining the functions of the Office of Consumer Affairs and the procedures for consumer participation have also been prepared. The Office of Public Affairs has developed a booklet entitled *More Than Shelter* which describes HUD's major programs in "Plain English" with photographs for consumers. The Neighborhood Relations Division has also developed a 28-page booklet entitled *Neighborhood Oriented Programs of the Federal Government*, which is a compendium of funding and technical assistance resources for neighborhood organizations. This was published in November 1979.

HUD program offices produce brochures and fact sheets on each program, which are updated periodically. An information book summarizing all HUD programs is produced annually by the Office of Public Affairs. The Office of Policy Development and Research regularly produces studies and reports on HUD programs and policies. These materials are available to the public. Films and slide presentations on HUD programs and consumer participation are carefully developed to avoid any sexual, racial or ethnic bias.

#### 2. Plans for Improvement

Due to inadequacies identified over the past years by HUD staff or by outside groups and individuals, several new materials or methods for communicating with HUD's clientele have been developed for FY 1980. These include:

—A continuation of the FY 1979 initiative *Women and Mortgage Credit Campaign*. This Campaign is specifically designed: (1) to educate women about the availability of credit for home mortgages, and about past and current discriminatory practices; and (2) inform lending institutions about the credit worthiness of women. During FY 1980, the campaign will be brought to women and lending institutions via public service announcements on T.V., radio, and newspapers. The Office of Policy Development and Research monitors this campaign through a contract with an outside consultant.

—The National Association of Housing and Redevelopment Officials (NAHRO) will develop a series of teaching classes for housing authority managers to instruct them on what public housing authorities are doing and should be doing. The classes will include a segment about the special needs of the tenants of public housing.

—The Neighborhood Information Sharing Exchange System began official operations in November, 1979. This computerized system is designed to provide information to neighborhood organizations about neighborhood revitalization programs and activities around the country. It operates outside the HUD Headquarters at K Street, N.W., Washington, D.C., and is maintained by an outside contractor.

—HUD has developed a video film about an energy conservation conference held in 1978. The film is designed to encourage local groups to undertake the same type of conference activity. HUD will develop more of this kind of consumer-oriented films. The energy film, and others not yet developed, will be distributed to HUD Area and Regional Offices and to other Federal Agencies which indicate an interest in the particular consumer item. Also, the availability of the films will be made known through HUD's consumer mailing list as well as through the White House consumer bulletin.

—HUD will begin an experimental project called "Yellow Pages" in five cities in January 1980. In this demonstration, we will place ads directed toward persons who are looking for mortgage money and insurance in the local Yellow Pages. The ads will include a toll free number for consumers to call and is designed to explain the FHA process to consumers. This project results from Department awareness that many or most people do not understand the FHA process. If this demonstration is successful, it will be expanded to other cities.

—HUD will continue its Supermarket Communications program, under which a contractor to HUD puts informational material in supermarkets around the country on a regular basis.

—The Department will initiate a series of Public Service Announcements (PSA's) for television aimed at informing consumers about such subjects as:

- The Real Estate Settlement Procedures Act
- Lead-Based Paint Poisoning Prevention
- Fair Housing
- Housing Counseling

#### 3. Officials Responsible for Consumer Information Program

Each program office has responsibility for developing material relevant to its area. The Office of Public Affairs, which is headed by an Assistant to the Secretary assists in the development of this material in several ways.

First, every publication and proposal by a program office is submitted to the Publications Review Board (Chaired by the Office of Public Affairs) for a determination of its need, whether it duplicates existing material, and whether it should be translated into Spanish. Once the Board so decides, a communication may go forward.

Second, the Office of Public Affairs manages the graphic and visual arts staff for the entire department and therefore assists in illustrating publications.

Third, the Office of Public Affairs can assist a program office financially if the program office lacks funds to support a necessary publication.

#### 4. Manner of Distribution

In addition to the Consumer Bulletins, the Office of Neighborhood Development, under the Assistant Secretary of NVACP, periodically publishes "Alert Memos." The Alert Memos provide updated information on the programs of HUD and other Federal agencies which are relevant and accessible to neighborhood organizations. These memos are sent to an expanding national network of neighborhood organizations and individuals. As of October 1979 the mailing list included 5,600 organizations and individuals.

HUD also has an Information Center in its Headquarters Office where the public can obtain informational materials about programs as well as technical and research publications. Each Area and Regional HUD Office has program material for distribution to the public. Often information about HUD activities of interest to consumers is made available to national magazines and regional and local journals.

Television spots are occasionally used to highlight specific consumer issues. These television spots are often followed-up by newsletters and Consumer Forums. Films and slide presentations are shown at most Consumer Forums. Press conferences are frequently held in conjunction with these meetings and press releases are always prepared and sent to the local news media announcing the meetings. Consumer Forums, public hearings and seminars are preceded by careful background work, such as selected participants and HUD staff researching and writing discussion papers. Packages of informational material about a specific issue or program are distributed at these meetings.

The Product Dissemination and Transfer Division of the Office of Policy Development and Research (PD&R) is responsible for assuring that consumers have access to research products and programs. The consumer population includes state and local public officials, members of the building industry, representatives of



neighborhood organizations, researchers in universities, and consumers. Highlights of the division's dissemination program include:

(a) A computer-based information service, called HUD USER. The data base contains short abstracts on all HUD-funded research. The service assists PD&R in providing the following services on a rapid basis:

- (1) Personalized literature searches from the computerized data base to answer consumers' questions.
- (2) A semi-annual annotated compendium of research results.
- (3) A bi-monthly bulletin announcing the latest PD&R research reports.
- (4) A document distribution service which supplies consumers with copies of research results.
- (5) Special products including topical bibliographies, brochures and announcements of important future research results.

(b) Publications especially for consumers on selected subjects have been prepared and disseminated. Examples of this type of publication include "The Energy-Wise Home Buyer" and "In the Bank . . . or Up the Chimney?"

(c) The Division also has developed new types of publications which summarize research results (bi-monthly bulletins, flyer, with order forms) which are designed to give the user enough information to decide whether to order the full report.

#### Information on Agenda of Public Meetings

The program office sponsoring a public meeting is responsible for preparing materials designed to make the meeting comprehensible to the public. Since the purpose and type of meeting may vary, the Department has not prescribed a format for the public meeting materials. The sponsoring office is granted the widest latitude to develop the types of materials which will make the public's involvement in the meeting most beneficial.

Notification of interested persons about the availability of the materials and the distribution of materials is also left to the discretion of the sponsoring officials. In general, the program offices notify the public about public meetings in the same manner that they inform consumers about HUD programs.

#### IV. EDUCATION AND TRAINING

##### Areas in Which Training Provided

The Department has a substantial professional staff which has performed most of the activities outlined in this program for several years. It is not anticipated that the Department will need to develop or offer specialized training to existing personnel in consumer participation, complaint handling and preparation of informational and educational materials. Recruiting procedures and on-the-job orientation processes will insure that the professional staff will have the requisite skills to meet their responsibilities under this program.

#### Responsibility for Educating Staff Members About Consumer Program

The Assistant Secretary for NVACP will coordinate with the Assistant Secretary of Administration and the other program Assistant Secretaries in developing a strategy to educate HUD staff members about the President's Executive Order and about HUD's activities for carrying out its consumer affairs program.

##### Method of Education

HUD will conduct briefing sessions, including a slide show for all of the Assistant Secretaries' offices within HUD. These briefings will explain the Executive Order, HUD's policy and program response and the implementation strategy.

The Assistant Secretary for NVACP will provide the Secretary's Principal Staff a short summary of the Executive Order and the proposed plans at Principal Staff Meeting.

The staff of the Office of Consumer Affairs in conjunction with the Office of Public Affairs will prepare a video cassette film and a slide presentation about the Executive Order, the new Federal policy and HUD's programs and policies developed in response to the Order. The audiences will include:

- a. Regional Administrators and Area Managers
- b. Headquarters and Field Staff
- c. Neighborhood and Consumer Affairs Representatives
- d. HUD's consumers

A special briefing will be held at the HUD Executive Management Review meeting (an internal management meeting) in which Regional Administrators, Area Managers and Assistant Secretaries meet to discuss program and policy implementation strategies.

A course will be developed in conjunction with the Department's Division and offered as part of HUD's annual curriculum.

Field training programs in Columbia, Maryland, will include a module on Executive Order No. 12160 and HUD's Consumer Program. The NVACP Management Training Program, which will be held in December 1979, and the Citizen Participation training sessions (CPD) will have a specific section on this subject.

#### Selecting Consumers and Organizations To Receive Assistance

Procedures may be established which specify certain periods during the administrative process when citizens may affect the decisionmaking process. The Department will review several approaches for providing assistance to consumers and their organizations which would encourage their participation and enhance the effectiveness of their input.

HUD personnel currently answer technical and procedural questions, and assist consumers and groups in the preparation of applications, forms and other documents.

The Department also has a Technical Assistance Program which is designed to transfer skills and

knowledge in planning, developing, and administering the Community Development Block Grant program to eligible applicants who have a need for this assistance.

#### V. COMPLAINT HANDLING

The Division of Consumer Complaints, within the Office of Consumer Affairs, has total responsibility for monitoring and coordinating all consumer complaint activity within the Department. A network of consumer complaint coordinators is in place to assure compliance with the prescribed procedures by all 52 HUD field offices as well as every major Headquarters Assistant Secretary's Office. Consumer complaint coordinators report to the Division of Consumer Complaints through written analysis as well as regular telephone communication.

The overall purpose of HUD's consumer complaint system is:

—To assure that all consumer complaints receive timely and responsive replies;

—To provide decision-makers at HUD with up-to-date information about areas of frequent consumer concern;

—To put the consumer complaint data to practical use in assessing the impact of HUD policies and programs.

Since 1977 the Division has functioned under provisions of the HUD Handbook which establishes its explicit roles in the monitoring of all complaints. These provisions are currently being revised to further strengthen the role of the Division of Consumer Complaints.

#### Agency Interest In and Methods for Filing

Realizing that many consumers are: (1) unaware of the Departmental Consumer Complaints System, (2) unaware of the proper way to file a complaint to get timely and quality action, and (3) unaware of what the Department is capable of doing for consumers, the Division of Consumer Complaints has instituted an intensive public awareness program.

—The Division has developed a "How to Complain Guide," which outlines how and where to send complaints relating to a wide variety of housing matters.

—On a regular basis, the Division puts out press releases on the current, most common complaints to increase awareness about problems and solutions.

—The Division writes, revises and issues HUD publications based on complaint activity.

#### Format for Logging Complaints

According to the requirements of the Departmental Consumer Complaint Handling System, all complaints received (by letter, telephone and walk-in) must be accurately logged. Information on these logs must include name, address, date of receipt, HUD program category of complaint, the nature of the complaint, and the date when all remedies within HUD's jurisdiction have been exhausted and the consumer has been so advised.

#### Response Procedure

Since the staff of HUD field offices are more aware of local and state resources available to consumers in their areas, they are usually assigned responsibility for providing a reply to clearly local complaints. When a letter is referred to the field an interim letter is sent to the consumer explaining the referral, along with the name, address and telephone number of a contact and a date for the next response.

If a complaint is determined not to be within HUD's jurisdiction, every effort is made to find another agency that can provide assistance. The complaint is directly referred to the other agency and a response explaining this referral is sent to the consumer.

#### Evaluation of Complaint-Handling System

As part of the monitoring responsibility of the Division of Consumer Complaints, a Department-wide automated tracking system will be put in place in FY 81.

A formal monitoring process is being implemented to insure that a workable system for recording and reporting complaint data is operational in Headquarters and field offices. Final reports are written up and submitted to the Regional Administrators or Assistant Secretaries as applicable.

Every field office has a management goal, submitted by the Division of Consumer Complaints and approved by the Secretary, for resolving 95% of the consumer complaints received by the Department within 30 calendar days. This is closely monitored through a computerized system. Offices that fall below this goal are highlighted in monthly Secretarial meetings.

The importance of being timely and responsive to complaints is stressed to all HUD employees by the Division of Consumer Complaints, Consumer Complaint Coordinators, and Principal Staff. The Division of Consumer Complaints is now developing several methods to teach employees how to be responsive. A guidance manual is now being printed which outlines exactly what is expected of complaint handlers at each step of the complaint handling process. Plans are underway to develop a video package on complaint handling to be shown in every Area Office. Specific guidelines for complaint handlers are also highlighted in the Handbook.

By the 15th of every month each field and Headquarters office is responsible for submitting a statistical report on complaint activity for the previous month. These figures are categorized by HUD program category. The Division of Consumer Complaints then combines the individual reports into one monthly consumer complaint report.

On a quarterly basis each office is responsible for submitting a narrative analysis of the complaint activity during the previous 3-month period.

The quarterly narrative reports are thoroughly analyzed and a consolidated feedback report is developed which is sent to key HUD officials as well as all field offices.

The Division of Consumer Complaints highlights significant consumer complaint issues each month.



The issues are written in an issue-problem-recommendation style. The Secretary/Under Secretary's office is supportive of the consumer complaint handling system and operations and uses its authority to assure follow through by HUD offices. If program offices do not follow through on recommendations, they are required by the Secretary or Under Secretary to explain why the suggestions are not feasible.

On a regular basis the Division of Consumer Complaints surveys consumers who have written to the Department. The survey responses are analyzed to determine what the Department can do to be more effective. The analyses are sent to the program offices along with recommendations.

#### VI. OVERSIGHT

The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection will have authority to exercise policy direction for, and coordination and oversight of, HUD's consumer activities under the terms of this program. The Assistant Secretary will continue to report directly to the Secretary and will regularly apprise the Secretary of the potential impact on the consumers of particular policy initiatives under development or review within the Department.

The Assistant Secretary will receive substantial support and direct assistance from the Director of the Office of Consumer Affairs (a career professional) in meeting his or her oversight responsibilities.

Authority: Executive Order 12160 (44 Fed. Reg. 55787—September 28, 1979).

Issued at Washington, D.C., December 4, 1979.

Moon Landrieu,

Secretary of Housing and Urban Development, Washington, D.C.

BILLING CODE 4210-01-M

Form Approved:  
OMB No. 116579021

#### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-37675 Filed 12-7-79; 8:45 am]  
BILLING CODE 4210-01-C

Monday  
December 10, 1979

Part IV—Section E

**Labor Department**

Draft Consumer Program

federal register



## DEPARTMENT OF LABOR

## Office of the Secretary

DOL Consumer Programs; Plan of Action—  
Executive Order No. 12160

**AGENCIES:** Employment and Training Administration, Occupational Safety and Health Administration, Labor-Management Services Administration, Mine Safety and Health Administration, Employment Standards Administration, Bureau of International Labor Affairs, Bureau of Labor Statistics, and Women's Bureau.

**ACTION:** Proposed plan of action.

**SUMMARY:** The Department is proposing a plan of action for insuring that DOL Consumer programs adequately consider and address consumer needs and interests. This plan of action establishes specific guidelines for agencies to follow in establishing or reforming consumer programs to comply with the requirements of President Carter's Executive Order on Federal Consumer Programs. The Department is taking action to ensure that the consumer interest is incorporated as an integral part of its decisionmaking process and that DOL policies, programs, and rules are responsive to expressed consumer concerns.

**DATE:** Comments by March 10, 1980.

**ADDRESS:** Written comments to: Special Assistant for Consumer Affairs, U.S. Department of Labor, Room S-2018, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Judy A. Sorum, Special Assistant for Consumer Affairs, U.S. Department of Labor, Room S-2018, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210, Phone: (202) 523-9184.

Accordingly it is proposed to issue a Plan of Action for DOL Consumer Programs which reads as set forth below.

Signed at Washington, D.C. on the 27th day of November, 1979.

Ray Marshall,  
Secretary of Labor.

## U.S. DEPARTMENT OF LABOR

## Consumer Program Plan

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## I. STATEMENT OF PURPOSE

The Department of Labor is required by Executive Order No. 12160, entitled "providing for Enhancement and Coordination of Federal Consumer Programs," dated September 26, 1979, to develop and maintain an agency consumer program with:

- (1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
- (2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
- (3) Systematic development of informational materials for consumers;
- (4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and
- (5) Systematic procedures for complaint handling.

This Department is committed to revising its present operating procedures to incorporate the consumer program elements mandated by the Executive Order.

The purpose of the Department's Consumer Plan is to be more responsive to consumer needs and concerns and to carry out the objectives of the Executive Order. Where the mechanisms for consumer participation already exist, they will be strengthened and where they do not exist, they will be instituted.

## II. EXECUTIVE SUMMARY

In some Department agencies, procedures for consumer input already exist, and in others where programs are relatively new, procedures are in the developing stages.

A first goal of the new Department Consumer Plan will be to incorporate the five elements of Executive Order No. 12160 to enable the strengthening of basic opportunities for consumer participation throughout all of the Department's Agencies in each of the consumer impact areas.

The first section of the plan will provide for general actions that will be implemented by all the agencies in a uniform manner. There are several new actions that go beyond the mechanisms that already exist.

The second section contains the specific actions each agency with consumer impact will take as part of their consumer affairs program to implement the Department Consumer Plan.

The final section establishes a structure and organization for consumer affairs in the Department incorporating the mandate of Executive Order No. 12160. The appointment of a Special Assistant to the Secretary of Labor for the consumer affairs function is a first step. This senior level official will have sole responsibility for policy direction for, coordination and oversight of, the Department's consumer activities.

## III. OPERATING UNITS INVOLVED

The Department of Labor enforces laws that protect the rights of workers to safe and healthful working conditions, a minimum hourly wage and overtime pay, unemployment insurance, worker's compensation and

freedom from employment and pay discrimination. In addition, the Department protects workers' pension rights, helps them train for and find jobs, works to strengthen free collective bargaining and keeps track of changes in employment, prices, and other national economic statistics. The Department is concerned about the quality of worklife in America and with the relationship between workers, employers and jobs. It provides a variety of services and information to workers, employers, teachers, students, business people, government officials and others. Its programs are not concerned with any specific product in the consumer sense which is available in the marketplace.

The following specific Department agencies conduct rulemaking, and provide program services and information activities that impact on consumers:

## A. Employment and Training Administration (ETA)

ETA provides training, placement services, transitional public service jobs and unemployment compensation from State and local agencies to people who are unemployed or seeking new work.

1. *Comprehensive Employment and Training Program (CETA)*—Provides State and local governments with funds to design and operate job training programs to meet local needs. During periods of high unemployment these governments provide federally-funded public service jobs for unemployed workers. CETA also provides special assistance to disadvantaged workers including Indians, migrant and seasonal farm workers, offenders and older workers.

2. *Bureau of Apprenticeship and Training*—Promotes apprenticeship programs in skilled trades under the National Apprenticeship Act.

3. *Job Corps*—Provides job training and basic education for disadvantaged youth in a residential environment.

4. *Work Incentive Program (WIN)*—Helps welfare recipients get and keep jobs. WIN is conducted in cooperation with the U.S. Department of Health, Education and Welfare.

5. *U.S. Employment Service (USES)*—Directs the Federally-funded State employment service system which provides job placements through computerized job banks, counseling, testing and referral to training and offers a variety of employer services. USES also administers special programs to aid veterans and disadvantaged people.

6. *Unemployment Insurance Service*—Directs the Federal-State unemployment insurance system and other unemployment compensation programs, including those for veterans, Federal employees and persons jobless due to foreign imports or natural disasters such as floods.

7. *Office of Policy, Evaluation and Research*—Supports and conducts research into employment and training problems, develops projects to test new ways of serving workers with particular job-related needs and evaluates employment and training programs.

8. *Office of National Programs*—Provides special Federal assistance to Indians, migrant and seasonal

farmworkers, older workers, and others with particular job disadvantages.

## B. Occupational Safety and Health Administration (OSHA)

OSHA develops, issues and enforces safety and health standards to protect workers on the job. OSHA inspects workplaces for standard violations, issues citations and proposes penalties for noncompliance with regulations. OSHA aids States in developing their own job safety and health plans and conducts education, training and information programs to promote workplace safety and health practices.

## C. Labor-Management Services Administration (LMSA)

LMSA supervises and regulates certain union activities, protects participants' rights in private pension and welfare benefit plans, protects reemployment rights of veterans, and administers laws intended to protect employees in certain industries who may be adversely affected by Federal grant programs or other governments actions.

1. *Pension and Welfare Benefit Programs*—Administers the Employee Retirement Income Security Act (ERISA), which protects the pension and certain other benefit rights of workers in private industry. The ERISA program is jointly administered with the Internal Revenue Service and the Pension Benefit Guaranty Corporation.

2. *Labor-Management Standards Enforcement*—Enforces the Labor-Management Reporting and Disclosure Act requiring unions to make annual financial reports and to comply with standards for conducting union elections.

3. *Veterans Reemployment Rights*—Assists veterans and members of military reserve units in exercising their reemployment and other rights.

## D. Mine Safety and Health Administration (MSHA)

MSHA is responsible for making working conditions for the Nation's miners as safe and healthful as possible. Safety and Health standards development activities represent the basic area of MSHA work having a substantial impact on consumers, most of whom are associated in some manner with the country's mining activities. The actual application of such standards by MSHA's enforcement, civil penalty assessment, technical assistance, approval and testing, and education and training activities is limited in terms of the numbers of consumers affected, e.g., operators, miners, etc. Because MSHA activities have a direct impact on all mining in the Nation, MSHA will handle any consumer contacts on an individual basis, as received.

## E. Employment Standards Administration (ESA)

ESA enforces laws and regulations setting employment standards; provides workers' compensation to longshore, harbor workers and Federal workers injured on the job, and benefits to miners suffering from black lung and their dependents;



and enforces equal employment opportunity by government contractors for women and minority groups.

1. *Wage and Hour Division*—Enforces Federal wage and hour laws which set the minimum wage, overtime pay, child labor and record-keeping standards; enforces laws establishing wage garnishment procedures, requiring registration by farm labor crew leaders, requiring safe and healthy work conditions for farm workers, and setting wage and hour standards for Government contract work.

2. *Office of Federal Contract Compliance Programs*—Administers the Federal government's program requiring equal employment opportunity for workers regardless of race, color, sex, religion, national origin, handicap or veterans' status on Federal contract work.

3. *Office of Workers' Compensation Programs*—Provides compensation for Federal employees and other groups who suffer job-related injuries, diseases and deaths; provides compensation for maritime workers or their survivors, and compensation benefits and medical treatment to miners with black lung disease as well as benefits for their survivors.

#### F. Bureau of Labor Statistics (BLS)

BLS collects, analyzes and publishes data on the labor force, employment, unemployment, occupational outlook, wages, industrial relations, prices, family budgets, consumer expenditures, labor turnover, productivity, economic growth and occupational safety and health.

#### G. Bureau of International Labor Affairs (ILAB)

ILAB administers trade adjustment assistance program for workers adversely affected by imports, participates in bilateral and multilateral trade negotiations, conducts programs of technical cooperation with foreign countries, and helps represent the U.S. on such international agencies as the Organization for Economic Cooperation and Development (OECD).

#### H. Women's Bureau (WB)

The Women's Bureau develops policy and programs which have an impact on women's employment and employability, and through outreach to target groups of women with special employment-related needs, develops programs to meet those needs. It does not enforce laws, nor is it directly responsible for issuing guidelines or regulations that affect women. The Women's Bureau consumer affairs program is primarily information oriented.

### IV. DEPARTMENT PLAN

#### A. General Department Actions

This part of the Department Plan outlines general actions the Department will take agency-wide to standardize and increase opportunities for consumer participation and representation in each of the consumer impact areas. These actions set the basic

framework within which each of the specific agencies will conduct their consumer affairs programs. This framework incorporates the basic elements for a consumer program required by Executive Order No. 12160.

#### 1. Consumer Affairs Perspective

Consumer affairs staff will be located in the Office of the Secretary, and as appropriate, in consumer offices, public information offices, and policy planning offices of the eight major Department program units which have substantial consumer impact activity. The Office of the Secretary already has primary responsibility for the Department's consumer affairs activities.

In order to visibly show the Department's support of consumer affairs activities, the Secretary will establish a full-time, policy-level position within his immediate office. This position will be established as a Special Assistant function and assigned the responsibility of developing, coordinating, and administering the Department's Consumer Affairs Program. The Special Assistant will provide support for all Department Consumer Affairs activities and represent DOL with national consumer organizations and public interest groups. The Special Assistant additionally will serve as the principal advisor to the Secretary on how consumers perceive and react to DOL policies and regulatory decisions.

DOL will make both an organizational and resource commitment to consumer affairs. By establishing the Special Assistant as a member of the Secretary's immediate staff, DOL will ensure that the Special Assistant is apprised of the actively involved in the policy development and regulations review process. In addition, the Department will provide the Special Assistant with the staff and resources necessary for bringing consumer views to impact on issues and decisions of the Department.

In addition to the staff that DOL designates, the Department will establish a Consumer Affairs Advisory Council made up of members from each of the program units (who are at least at the Deputy Assistant Secretary level) the Deputy Solicitor, the Director of the Office of Information, Publications and Reports, and two Regional Representatives chosen by the Secretary on a rotating basis. The Council will meet with the Secretary on a quarterly basis and propose an agenda focusing on consumer affairs issues of concern to the public and the Agencies. The Council will appoint a chairperson to serve for one year.

#### 2. Consumer Participation

The Department of Labor's consumer participation programs are designed to fulfill the following objectives:

- To provide the public with the opportunity for input into rule making and policy or program development;
- To provide consumer educational and informational exchanges;
- To provide technical assistance in the utilization of available program resources, and

- To facilitate the monitoring of program input. Specifically the Department will:

1. Assure that deadlines for public comment, submission of data, notification of intent to appear at hearings and committee meetings are reasonable and permit maximum participation by consumers.
2. Assure balanced representation of consumer viewpoints on advisory committees including the appointment of public members knowledgeable in consumer matters.
3. Increase contacts with general consumer groups to obtain information and technical data for use in rulemaking and program development.
4. Better utilize Department conferences and seminars to encourage consumer input and involvement in decisionmaking.
5. Develop new methods to involve consumers in pre-proposal stage of regulations development.
6. Hold an annual open meeting in each of our regional cities for consumers to evaluate program operations, regulations and policy.
7. Develop new procedures to expand consumer input into program and policy evaluation and to incorporate the input into the evaluation process.
8. Increase contacts with general consumer groups to encourage their input into the evaluation of existing and proposed Department programs.

#### 3. Informational Material

The Department of Labor prepares many publications each year on its activities. It issues information on such subjects as collective bargaining, employment standards, foreign labor, labor law and administration, labor organization, employment and training, prices and living conditions, safety, wages, and youth employment. Its periodicals include the *Monthly Labor Review* and *Occupational Outlook Quarterly*.

The Department will continue to prepare consumers both to protect themselves as individuals in the marketplace and to participate effectively as advocates in the DOL policymaking process. In order to continue to accomplish this, we will prepare informational and educational consumer materials about the Department and its programs and encourage the expression of consumer view points through forums, public hearings, seminars, meetings and mailings.

DOL publications produced by program offices are reviewed for clarity and sensitivity to the consumer viewpoint and to identify where new publications are needed. Additionally, summaries of major new program initiatives or revisions are written and sent to consumers.

DOL will continue to publish a summary of significant consumer comments on proposed policy and rulemaking in the Federal Register. The Department will also develop new methods for feedback to consumers about their program and policy comments.

The Department will prepare a mailing list of general consumer organizations for use in mailing out consumer news releases and other consumer

information materials. To get on the mailing list for lists of DOL publications, consumers are asked to write to the Office of Information, Publications and Reports, U.S. Department of Labor, Washington, D.C. 20210.

Many of the Department's publications may be obtained without charge.

#### 4. Education and Training

The Special Assistant for Consumer Affairs shall coordinate with the Assistant Secretary of Administration (or designee) and the appropriate program Assistant Secretaries (or designees) in the development of an Education and Training strategy program consistent with the spirit of the Executive Order.

##### (a) Staff Training

DOL will undertake a specialized training program that will give all "consumer affairs" personnel a complete understanding of the Federal Policy and DOL's specific policies and programs that are developed in response to the Executive Order.

The Special Assistant for Consumer Affairs will prepare in conjunction with the Office of Information, Publications and Reports training materials and visual presentations about the Executive Order, the new Federal policy and DOL's programs and policies developed in responses to the Order. The audiences shall be:

- Program Administrators
- Headquarters and Field Staff
- Consumer Affairs Staff
- DOL's consumers

There will be a timetable developed for implementation of this program with the goal that over the next 6 to 12 months the Department of Labor (Headquarters and field) and its consumers understand the nature of the Executive Order and its impact on their lives and work.

##### (b) Technical Assistance

Procedures exist specifying the period during the administrative process when citizens may affect decisionmaking. However, the lack of knowledge and understanding about DOL activities, programs and procedures may render the public's participation in the administrative process ineffective at first.

The Department will review several approaches to providing the assistance to consumers and their organizations which would enhance the effectiveness of their participation.

#### 5. Complaint Handling

The objectives of the Department's consumer complaint system are:

1. To assure that all consumer complaints receive timely and responsive replies;
2. To provide decisionmakers at DOL with accurate information about areas of frequent consumer concern;
3. To compile and utilize consumer complaint data in assessing the impact of DOL policies and programs.

The Department is presently developing a formal complaint handling system coordinated by the Special Assistant to the Secretary for Consumer Affairs to



facilitate timely and responsive replies to all consumer complaints received in the Department, and to provide decision makers in DOL with accurate complaint information about areas of frequent consumer concern and DOL issues, policies and procedures that may require attention and review. This proposed system establishes a focal point in Headquarters and Regional Offices for effective quality control of responses to consumers; assurance of timeliness; and appraisal of system performance.

**Reporting.** Each DOL agency will be the focal point in the Department for the collection and analysis of consumer complaint data about their own programs which may be used by policymakers as tools to identify problems and develop policy recommendations.

**Monitoring.** The Special Assistant for Consumer Affairs will monitor the effectiveness of the consumer complaint handling system to assure that DOL responses are of sufficient speed and quality to give reasonable promise of substantial progress toward meeting the needs of consumers.

**Analysis.** Written reports from the Agency Consumer Representatives and the Special Assistant's evaluative data will be consolidated and distributed on a regular basis to Assistant Secretaries and Regional Administrators to provide feedback on complaints to them for use in assessing the impact of DOL policies and programs on the consuming public.

**Accountability.** The Special Assistant will monitor specific guidelines governing the handling of complaint-written, telegraphic, or personal visits.

**Opportunity for Review.** The Special Assistant will seek a review opportunity for consumers dissatisfied with any DOL Agency resolutions for their original complaints in those instances where administrative appeal or review systems do not exist at the program level.

**Responsibility.** The Assistant Secretaries and the Program Administrators will be responsible for the implementation of this system. Agency Consumer Representatives will be responsible for management of the control, reporting, and monitoring procedures necessary for the successful operation of the consumer complaint system. Responsibility for the implementation of the consumer complaint system in the Regional Offices will rest with the Regional Administrators. Regional Consumer Representatives appointed by the Regional Administrators will be responsible for management of the control, reporting, and monitoring procedures necessary for the successful operation of the consumer complaint system. The Special Assistant will monitor the overall Consumer Complaint Handling System to insure that complaints received in DOL are expeditiously routed to the program official best able to respond to the complaint. Where complaints received are not within the Department's jurisdiction, the Special Assistant will so advise the consumer, and may, if feasible, suggest alternate means or resources for seeking remedies.

## B. Specific Agency Actions

This section of the Department Plan contains the specific actions each specific agency with consumer impact activity will take to implement the plan. As a minimum, each agency will incorporate into their planned action the basic elements mandated by Executive Order No. 12160.

### Employment and Training Administration (ETA)

#### Consumer Affairs Perspective

ETA at present has assigned an information staff member the responsibility for consumer affairs and is considering a full-time consumer affairs representative whose sole responsibility will be to enhance and coordinate ETA's consumer program and participate in the review and development of consumer program policies, programs, and legislation.

#### Consumer Participation

ETA will undertake an active program to encourage consumer participation in the various phases of decisionmaking and improve communications with consumers in all its programs. ETA will communicate regularly with consumers and consumer groups to disseminate policy and program information and elicit comments and recommendations for consideration in decisionmaking.

ETA will notify prime sponsors of programs under the Comprehensive Employment and Training Act (CETA), apprenticeship programs registered by the Bureau of Apprenticeship Training and State Agencies of its support for consumer participation in policy and program decisions. ETA will consider the amount of consumer participation as one criterion upon which the program will be evaluated. ETA will consider knowledge in the consumer areas as a criterion in selecting public members for new advisory committees or replacing members of existing committees. ETA will respond promptly to consumer proposal.

#### Informational Material

ETA will continue to publish a series of consumer leaflets on current programs. Leaflets covering major program changes and new developments will be published and given wide distribution. ETA will also participate in Departmentwide programs of consumer education by (a) analyzing consumer needs as indicated by questions and problems they raise (b) developing consumer education materials and (c) providing personnel to conduct or participate in consumer education sessions.

ETA will continue to prepare news releases announcing information published in the **Federal Register** to be issued to the press and wire services. In some cases, depending on the nature of the notice, spot announcements will be produced for radio and television.

#### Education and Training

Education and training of the ETA staff in consumer affairs is unstructured at the moment, but a learning process is ongoing through daily contact with consumers involved in ETA's programs. Training on

the basic elements of the Executive Order will be provided as made available from the department level. Training will be provided on complaint handling specifically.

#### Complaint Handling

ETA will improve its complaint handling procedures that respond to consumer questions and complaints. Consumer questions and complaints will be handled at the point closest to their origin wherever possible. Problems that are not resolved at local State or regional levels will be referred to the National Office for handling. While each office in ETA will exercise their own methodologies for handling complaints, these efforts will be within the guidelines of the proposed Department system.

### Occupational Safety and Health Administration (OSHA)

#### Consumer Affairs Perspective

The Office of Information and Consumer Affairs advises the Assistant Secretary for Occupational Safety and Health on information and consumer affairs matters, supports the operations of the agency's public hearings and advisory committees, and directs and guides its information and consumer affairs programs. The Director of OICA monitors on behalf of the Assistant Secretary, opportunities for the public to participate in the development of regulations, policies, and programs. This office schedules and coordinates public hearings and supports advisory committees in their development of recommendations regarding proposed regulations, programs and policies. The office also plans, develops and coordinates the distribution of informational material and coordinates consumer information activities with OSHA's ten regional offices.

#### Consumer Participation

OSHA's advisory committees provide an avenue for public input to the agency's decision making process. Positions on each advisory committee are apportioned to achieve a balanced representation of labor, management, government, and the public. OSHA actively encourages public participation in the proceedings of the advisory committees and their working subgroups, which are open to the public. Notification is provided by an announcement of the meetings published in the **Federal Register** two weeks in advance.

OSHA considers petitions for occupational health and safety standards from interested groups in the standards development activities. In some instances, an ad hoc standards advisory committee is appointed to assist in developing the proposal for a standard.

Following the public comment period on a proposal, an informal hearing is held. This hearing is conducted in an informal legal manner before an administrative law judge. The hearing is designed to furnish interested parties with the opportunity to present evidence and opinions in oral and written form. Moreover, it provides a forum for the interaction of different points of view.

#### Information Material

In August, 1979 OSHA published a pamphlet entitled "OSHA Publications and Training Materials" describing and telling how to obtain these publications and training materials. Over 50 free publications covering such topics as Workers' Rights, Safe Work Practices, Health Hazards, and OSHA regulations are made available.

OSHA also utilizes other media to encourage concern for occupational health and safety. The agency makes slide, slide-tape and tape programs available through the National Audiovisual Center, in Washington, D.C.

The agency is continually adding additional materials to its range of consumer education matter available to the public. Further, studies are currently being conducted of how best to make these materials rapidly available to the public and to identify new areas for consumer information.

#### Education and Training

The Assistant Secretary of Labor for OSHA shall issue a memorandum to the Directors of all Directorates within the agency and to the field staff explaining the Federal Consumer Policy embodied in E.O. 12160 and circulating the Executive Order to these individuals.

A determination will be made if further education or training is needed for agency personnel, particularly those in the Office of Information and Consumer Affairs.

#### Complaint Handling

Complaint rights for employees are detailed in the OSHA poster, which OSHA requires to be displayed in every workplace. The agency's complaint procedures are under continual scrutiny to assure appropriate, prompt response. The latest revision of OSHA's complaint handling procedures was issued on September 1, 1979. All formal complaints and informal complaints of imminent danger or extremely serious working conditions are scheduled for inspection. Informal complaints of less serious hazards are pointed out by letter to the responsible employer who must correct the hazard and inform the area director by letter that this has been done.

### Labor-Management Services Administration (LMSA)

#### Consumer Affairs Perspective

LMSA supervises and regulates certain union activities through its Office of Labor-Management Standards Enforcement (LMSE); protects participants rights in private pension and welfare benefit plans through its Office of Pension and Welfare Benefits Programs (PWBP); and assists veterans and members of military reserve units in their reemployment rights and other job rights through the office of Veterans Reemployment Rights (OVRR). At present LMSA has designated an identifiable consumer affairs representative to assist the Department's Special Assistant for Consumer Affairs.



*Consumer Participation*

PWBP publishes all regulations on its programs as proposals with adequate notice and time for comment by interested parties. PWBP develops and maintains contacts with consumer groups through meetings and correspondence to gain their input in the early stages of the development of regulations and policy. An Advisory Council composed of 15 members advises the Secretary of Labor on his administration of the Employer Retirement Income Security Act of 1974. LMSE publishes all regulations on their programs as proposals with adequate time for comments by interested parties. Efforts are made to obtain the views of interested parties in the early stages of the development of regulations and policy.

Because OVRP does not develop regulations or have rulemaking authority under the reemployment law, consumer participation consists primarily of getting feedback from clients about how their cases were handled and about the adequacy of their rights under the law.

*Informational Material*

PWPB and LMSE will continue to issue news releases on all major regulations to coincide with publication of proposals in the Federal Register. In addition to the general news media, special distribution of press releases will be made to major trade media, national and international unions, practitioner associations, general consumer organizations and small business groups. A large number of technical and general publications are designed to help these groups impacted by LMSA's activities. LMSA will also provide speakers to discuss its programs.

*Education and Training*

LMSA will provide for educating national and regional staff members about Executive Order 12160 and the agency's activities under it. PWBP, LMSE and OVRP field investigators and other staff personnel will attend training as necessary to assure that they are informed on new regulations and case law that may affect their complaint handling and enforcement responsibilities.

*Complaint Handling*

Complaints to PWBP are handled by the Office of Communications and Public Services and by field investigators as promptly and completely as possible. LMSE field investigators handle complaints regarding labor organization officer elections, trusteeships, union finances, and reports required of labor organizations, officers, union employees, employers and consultants. Complaints are investigated promptly and enforcement sought through voluntary compliance or, where necessary, through litigation. OVRP field investigators look into all complaints relating to the exercising of veterans' or reservists' reemployment rights under the federal law to determine merit.

**Mine Safety and Health Administration (MSHA)***Consumer Affairs Perspective*

In line with the Departmental commitments, MSHA's policy is to provide interested consumer groups, organizations, and individuals with the opportunity of having their views heard and considered relative to mine safety and health regulatory matters impacting on the mineral industries of the United States. Consumers will also be given opportunities to provide input into other areas of the decision-making processes that affect MSHA policies and programs.

The Director of Administration and Management is responsible for coordinating MSHA's consumer program. The Chief, Division of Management Research will serve as point of contact for consumer activities.

Each Administrator and Director will maintain information on the extent of consumer participation in the everyday business of MSHA.

*Consumer Participation*

MSHA will continue to give consumers the opportunity to obtain information and express their views by means of public meetings whenever the magnitude of a proposed action is of significant impact. Current lists of consumer groups, organizations, and individuals expressing an interest in MSHA activities, will be maintained. MSHA staff will advise the MSHA Office of Information of significant matters impacting on consumers so that local and/or national news media outlets can be utilized to inform the public.

The media of questionnaires and surveys to develop ideas on issues affecting the general public will be used to ensure that information obtained from consumers, in response to proposed actions, is given an objective and considered evaluation before decisions are reached.

*Informational Material*

News releases, brochures, and audiovisual materials concerning MSHA programs with considerable consumer impact activity will be expanded and distributed.

*Education and Training*

Staff members, both in the National office and the field, will be educated on Executive Order 12160 and the agency's activities and responsibilities under it. Employees will be informed about Federal consumer policy, in general, and MSHA consumer policy, in particular.

*Complaint Handling*

MSHA will provide for logging, investigating, and responding to consumer complaints, consistent with the procedures of the proposed Department System. Information will be collected on the subject matter and number of individual consumer letters, and the nature of MSHA responses; and on the volume and types of consumer complaints and nature of MSHA resolutions.

**Employment Standards Administration (ESA)***Consumer Affairs Perspective*

ESA administers and enforces more than 90 Federal Labor laws and programs that establish workplace standards, equal opportunity provisions and workers' compensation. These laws and programs protect the rights in one way or another of almost all the workers of the country. ESA has designated an identifiable Consumer Affairs representative, and changed the name of its Office of Information to Office of Information and Consumer Affairs, in order to provide a central point for the agency administration of its consumer affairs.

*Consumer Participation*

ESA will continue to put emphasis on the publicizing of proposed rulemaking published in the Federal Register, to give more consumers a better opportunity to participate in the comment stage of the regulations process.

Where appropriate, ESA will hold public hearings. The consultation process will be formalized and expanded. Public members of advisory committees will be asked to represent consumer views. Where possible, new public members will be selected to reflect consumer opinions.

ESA will assure that all public comments are fed directly into the evaluation process.

*Informational Material*

ESA will continue to produce and distribute radio and television public service announcements and film materials to inform consumers of their rights and responsibilities under ESA laws.

ESA will continue to disseminate news articles on subjects of consumer interest to the media.

ESA will continue to utilize an exhibit system in regional and area offices.

Press releases, pamphlets and fact sheets, motion pictures, speeches and other informational materials produced will continue to stress the information consumers should know.

*Education and Training*

ESA's Office of Information and Consumer Affairs, in collaboration with the ESA Division of Employee Development and Training, will be responsible for educating staff members about Executive Order 12160 and the agency's activities under it.

The Office of Information and Consumer Affairs will be made responsible for scheduling briefing sessions as necessary for policy-making personnel, for circulation of the Order and related materials throughout the agency in D.C. and the field, and for ensuring that significant changes in the structure or procedures in the consumer program will be promptly communicated to agency staff members in Washington and in the field.

*Complaint Handling*

ESA's complaint-handling system will be re-evaluated to assess the promptness and quality of agency responses, and to consider ways in which the

system can be improved and coordinated with the proposed Department system.

**Bureau of International Labor Affairs (ILAB)***Consumer Affairs Perspective*

ILAB consumer affairs staff will be located in the Office of Management, Administration, and Planning. ILAB operating units (Mainly the Office of Trade Adjustment Assistance) will afford the consumer staff an opportunity to comment on the potential impact on consumers of new regulations, policies and proposed legislation relating to the trade adjustment assistance program. Participation in these areas will take place at the development stage of such policies and legislation.

*Consumer Participation*

Before ILAB puts in effect regulations to implement legislative changes in the trade adjustment assistance program, consumers of the program will be provided with an opportunity to comment and make recommendations. This process will be achieved through the publication of Federal Register Notices, private mailings, and meetings with representatives of selected trade union organizations. During 1980 approximately six regional meetings with program consumers will be held, at which consumers will be given a forum to express their views on the program in person. Letters and news releases will be utilized to convey information to consumers on opportunities to present such views.

*Information Material*

News releases, brochures, and audiovisual materials concerning the adjustment assistance program will be distributed widely. The Director of the Office of Trade Adjustment Assistance, in consultation with the consumer affairs staff, will be responsible for planning and carrying out the ILAB consumer information program. The Director will also assume responsibility for preparing materials on public hearings and Federal Register Notices concerning such hearings.

*Education and Training*

Copies of Executive Order No. 12160 will be circulated to Bureau staff concerned with consumer interests. The ILAB consumer affairs staff will promptly alert concerned Bureau staff about significant changes in the structure or procedures of the ILAB consumer program. Training will be provided on complaint handling as necessary.

*Complaint Handling*

The Office of Trade Adjustment Assistance will respond promptly and adequately to consumer complaints, which will be filed with the Office of Trade Adjustment Assistance. Complaints about the management of the adjustment assistance program or about the specific details of an individual case will be handled by that office. Complaints will be reported to the Bureau head on patterns and policy implications, if any, of the complaints received. An analysis will be compiled of significant patterns of complaint.



The complaint handling system will undergo periodic review to evaluate the quality of agency responses, and to assure compliance with the proposed Department system.

#### Bureau of Labor Statistics (BLS)

##### Consumer Affairs Perspective

The BLS Consumer Affairs Program is primarily information-oriented. At present, BLS has assigned an information staff member the responsibility for consumer affairs.

BLS is continuing its consumer information program to help consumers understand changes in its consumer and producer price programs and to make users aware of changes in other Bureau programs.

##### Consumer Participation

The National Commission on Employment and Unemployment Statistics recently completed an evaluation of the Bureau's labor force statistics. BLS is reviewing recommendations for improving its productivity statistics, made by a National Academy of Sciences panel. A major revision of the Bureau's industrial price program is under way. A panel of outside experts has begun an evaluation of the Bureau's family budget program. A review of the Bureau's establishment employment survey has begun.

##### Informational Material

In an attempt to reach the widest consumer audience, BLS will continue to:

(a) Work with the Government Printing Office to keep the prices of BLS publications low in order to make them available to as many consumers as possible.

(b) Publish for consumer use, a monthly list of its new publications, a semi-annual publication directory, and a periodic report about Bureau programs.

(c) Issue fact sheets on its various program.

##### Education and Training

BLS will be responsible for educating staff members about Executive Order 12160 and the agency's activities and responsibilities under it. BLS will advise its employees about Federal consumer policy in general, and BLS consumer policy in particular.

##### Complaint Handling

BLS is improving handling of periodical subscriptions and publications order by the Government Printing Office. The difference components of the Bureau have their own procedures for handling consumer complaints and these will be adopted to conform to the proposed Department system.

#### Womens Bureau, Office of the Secretary (WB)

##### Consumer Affairs Perspective

WB does not specifically identify a consumer affairs staff. All WB staff will continue to work with DOL agencies to insure that the needs and concerns of the consumers (women workers) are being addressed by DOL policymakers and program planners; by

participating in the process of writing regulations and guidelines issued by DOL, and by commenting or regulations of other Federal agencies.

##### Consumer Participation

The Women's Bureau through its quarterly meetings with constituency groups—women's organizations; union women; community groups; and Federal, State, and local agencies—gains input from their review of agency rules, policies, and programs that are pertinent to the woman consumer.

##### Informational Material

WB disseminates information on subjects of consumer interests through publications (including consumer fact sheets), speeches, news releases, and written and oral correspondence. Based on consumer demand, the WB prepares new publications and revised old ones. The major responsibility for coordinating and consolidating consumer affairs information is absorbed by the Bureau's Division of Information and Publications.

WB will distribute a new exhibit on the Bureau's activities and services through its 10 regional offices and the national office for appropriate showing to the consumer.

##### Education and Training

WB will be made responsible for educating staff members about Executive Order 12160 and the agency's activities under it and for scheduling briefing sessions as necessary for policy making personnel.

##### Complaint Handling

WB procedures for handling complaints will be evaluated, improved, and coordinated with the proposed Department system.

#### C. ORGANIZATIONAL STRUCTURE/OVERSIGHT

Taking into consideration the comments received during the review period, and any adjustments made to the consumer perspective and oversight section of the General Department Plan, the Department will structure an oversight component containing the organizational lines of responsibility necessary to coordinate and consolidate consumer affairs activities. This section of the plan will outline the policy, organization, and responsibilities that establish the Department's overall consumer program. Amendments as necessary will be made to the existing Secretary's Order 12-76 to incorporate any new procedures into the Operating Policy of the Department. The present order already delegates authority for implementing the Department of Labor Consumer Affairs Program Plan. The Order further delegates authority and assignment of responsibility to:

- (a) Special Assistant to the Secretary
- (b) DOL Agency Heads
- (c) Regional Representatives
- (d) Agency consumer staff
- (e) Members of the Secretary's Committee on Consumer Affairs

BILLING CODE 4510-23-M

Form Approved:  
OMB No. 116579021

#### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36967 Filed 12-7-79; 8:45 am]  
BILLING CODE 4510-23-C

Monday  
December 10, 1979

Part IV—Section F

**Merit Systems  
Protection Board**

Draft Consumer Program

federal register



**MERIT SYSTEMS PROTECTION BOARD****Consumer Affairs Program****AGENCY:** Merit Systems Protection Board.**ACTION:** Proposed Consumer Affairs Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Consumer Affairs Officer, Information Office, Merit Systems Protection Board, 1717 H Street, N.W., Room 255, Washington, D.C. 20419.**FOR FURTHER INFORMATION CONTACT:** Wayne Phillips, (202) 653-7124.

**SUMMARY:** On September 26, 1978, the President of the United States issued Executive Order 12160 which required each agency, other than an independent Federal regulatory agency, to establish a mechanism to give consumers early and meaningful opportunity to participate in the policymaking aspects of the agency's functions.

The Merit Systems Protection Board is an independent quasi-judicial agency designed to protect the integrity of Federal merit systems against partisan political and other abuse and to ensure adequate protection for employees against unlawful abuses by agency management.

The Board was established on January 1, 1979, by Reorganization Plan No. 2. The Civil Service Reform Act of 1978, which became effective January 11, 1979, abolished the Civil Service Commission and put in its place the Office of Personnel Management which manages the Federal work force; the Federal Labor Relations Authority which deals with labor relations in the Federal establishment; and the Merit Systems Protection Board which ensures both taxpayer and the Federal employee are protected.

The Board consists of a Chair, a Vice Chair and a member, each appointed by the President and confirmed by the Senate. No more than two may be from the same political party; they serve non-renewable seven-year terms, and may be removed only for inefficiency, neglect of duty or malfeasance in office. Executive Order 12160, provides for an exemption from participation for independent federal agencies. Even though the Merit Systems Protection Board is an independent Federal regulatory agency and is not legally required to establish a program pursuant to the Executive Order, it nonetheless believes that consumers should have an opportunity to express their views on significant aspects of the agency's policy, in keeping with the spirit of this Order.

**STATEMENT OF PURPOSE**

The Board is a new agency, and, since its creation, consumers and other interested persons have always had an opportunity to express their views by commenting on proposed agency regulations which are published in the *Federal Register*. The main purpose of this publication is to inform consumers about the Board's Consumer Affairs Program which has been established and coordinated to give consumers a

specific mechanism through which they may routinely express their views regarding the agency's policy.

**I. CONSUMER AFFAIRS PERSPECTIVE**

The Merit Systems Protection Board, in keeping with the spirit of Executive Order 12160, has appointed a Consumer Affairs Officer to carry out all functions relating to its consumer responsibility.

The Consumer Affairs Officer and staff will be located in the Board's Information Office which will better facilitate the coordination of the consumer affairs functions with the other function of the Board. The Consumer Affairs Officer will report directly to the Chair, participate in meetings, advise the Chair regarding the impact of proposed regulations on consumers and will have other major responsibilities as follows:

(1) to receive, coordinate and respond, as appropriate, to consumer complaints, suggestions, and expressions of concern regarding the Board's policy in matters over which the Board has jurisdiction.

(2) to bring to the attention of the Chair those consumer complaints and concerns which relate to the overall policies of the agency. This will be done by participating in senior staff meetings to brief the Chair, the Board members, and all senior staff members regarding particular concerns that have been raised by consumers. Consumer complaints and concerns will also be brought to the attention of the Chair through memoranda and periodic meetings called to address these concerns.

(3) to review and group these complaints according to subject matter and refer them to the Chair for appropriate action.

(4) to coordinate with other offices and operating units to bring to their attention those consumer complaints which relate to their specific functions.

(5) to gather from other office of the Board the information necessary to respond to complaints. Based upon the evaluation of existing policies and consumer complaints, the Chair will determine which if any of the agency's policies should be revised.

**II. CONSUMER PARTICIPATION**

Participation begins: (1) when a consumer responds to a proposed rule or regulation which has been published in the *Federal Register*, and (2) when a consumer expresses an interest in the agency's function by making a written complaint regarding one or more of the agency's policies.

The Board will distribute copies of its *Federal Register* notices on proposed rules and regulations to the Central Personnel Offices of Federal agencies, for their use in notifying employees of the opportunity to comment on the proposals.

With reference to proposed rules and regulations, comments and recommendations may be made by responding in writing within the time limit and in the manner set out in the *Federal Register* at the time the regulations or rules are published in proposed form. Once the time for responding to the proposed regulations has expired, all of the responses will be

reviewed and given full consideration during the time the final regulations are being drafted. When the final regulations are published, they will be accompanied by a preamble that discusses the major comments and issues raised by consumers.

Consumers who wish to comment on other aspects of the agency's policy may do so at any time by writing to the Merit Systems Protection Board, Consumer Affairs Officer, 1717 H Street, N.W., Room 255, Washington, D.C. 20419.

**III. INFORMATIONAL MATERIALS**

The Board maintains an Information Office which coordinates with the Consumer Affairs Officer and disseminates various brochures and pamphlets to be used as informational materials regarding the jurisdiction, procedures and many policy aspects of the Board's functions. These materials are useful to consumers and may be obtained from the Board's Information Office in person or by writing to the Consumer Affairs Officer, Merit Systems Protection Board, 1717 H Street, N.W., Room 255, Washington, D.C. 20419.

Materials which are available as of December, 1979, include:

(1) Regulation on organization and procedure. These materials set out procedures for filing formal adverse action appeals with the Board, as well as for filing of cases by the Special Counsel of the Board.

(2) Regulations regarding the Freedom of Information Act. This publication includes information on procedures for obtaining records controlled by the Board.

(3) Regulations regarding the Privacy Act. This publication sets out procedures by which an individual may make an inquiry regarding a record, gain access to such record or amend the record.

(4) Regulations regarding the Sunshine Act set forth procedures pursuant to the Government Sunshine Act (5 U.S.C. 552b) by which the Board will conduct open meetings. The regulations set out specifically how notices of meetings will be published in the *Federal Register*, how records of the meeting will be kept, how information will be provided to the public and also includes information regarding the conduct of meetings.

(5) Organizational chart of the Merit Systems Protection Board showing the names of the various offices and/or divisions within the Board.

(6) Civil Service Reform Act of 1978, the law which sets out the power and duties of the Board.

(7) Question and Answer pamphlet answering the most frequently asked questions regarding the Board.

In addition to the various informational materials described above, the agency will make available to consumers who attend meetings which are opened to the public, materials which are designed to make those meeting understandable to them. For example, the materials will include the subject of the meeting and a short statement explaining the issues to be discussed.

**IV. EDUCATION AND TRAINING**

The Board will provide education and training to its staff on various issues and/or matters relating to consumer concerns and on policies which have a significant consumer impact.

The Consumer Affairs Officer will have responsibility to coordinate training efforts designed to educate the entire staff of the Board on such matters as: (1) the methods used to develop materials to ensure that the necessary information is included for the benefit of consumers and (2) the methods used to publish to ensure that the materials published are comprehensible to the consumer and that these materials are disseminated in such a manner designed to reach the consumer.

The educational aspects of the consumer program will also include holding meetings with various persons from several offices of the Board to acquaint these officers with any problems which consumers may be experiencing in dealing with the agency or any of its offices.

The Consumer Affairs Officer will also have the responsibility to coordinate the Board's field offices to ensure that consumer information is available in the field offices.

There will be periodic briefing sessions with the officers of the Board to discuss relevant regulations which may have an impact upon the agency's relationship with consumers.

The Consumer Affairs Officer and/or other appropriate staff of the Board will from time to time attend and participate in conferences outside of the agency to keep abreast with consumer concerns and to provide an additional mechanism for dissemination to consumers materials relating to the policymaking aspects of the Board's functions.

The Consumer Affairs Officer and staff will also attend sessions to receive training on issues and problems relating to the Board's consumer population, including intra-agency and inter-agency sessions which deal with problems relating to issues over which the Board may share overlapping jurisdiction with one or more other Federal agencies.

**V. COMPLAINT HANDLING**

The agency will ensure that a record of all complaints is kept for a reasonable period of time.

The record of each complaint will include (1) a complaint number, (2) the date received, (3) name and address of the person making the complaint, (4) a short statement regarding the nature of the complaint, (5) a short statement regarding the disposition of the complaint, including a notation as to whether the problem was solved, referred, or needed further action of a general nature.

When complaints are received, the Consumer Information Officer will review and analyze the complaints to determine the nature and will investigate and follow through to collect the information and/or materials necessary to respond to the consumer.



Each consumer complaint will be dealt with on an individual basis and a response given to the consumer. Even though the individual consumer will be given a response to his/her complaint, the Consumer Affairs Officer will also periodically group the complaints into various categories, depending upon the nature of the complaints, to provide statistical data to the Head of this agency and the Board members. Such data will be used to determine whether the consumer is complaining about an isolated matter or whether there exists a problem which is affecting a larger number of consumers to the extent that the policy or matter needs to be re-evaluated for possible revision.

The Consumer Affairs Officer will be at least a grade GS-15 and will be placed in the organizational structure at the level which will provide the individual with direct reporting responsibilities to the Head of the agency.

In addition, the Consumer Affairs Officer and staff will provide assistance to consumers who have questions regarding particular Board proposals and/or procedures for commenting on them.

Issued: November 26, 1979.

By Order of the Board.

Ruth T. Prokop,  
Chairwoman, Merit Systems Protection Board.

BILLING CODE 6325-20-M

Form Approved:  
OMB No. 116579021

### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36744 Filed 12-7-79; 8:45 am]

BILLING CODE 6325-20-C

Monday  
December 10, 1979

Part IV—Section G

## Veterans Administration

Draft Consumer Program

federal register



**VETERANS ADMINISTRATION****Draft VA Consumer Affairs Program****AGENCY:** Veterans Administration.**ACTION:** Draft VA Consumer Affairs Program.

**SUMMARY:** The Veterans Administration has drafted a VA Consumer Affairs Program which addresses the ongoing Agency consumer activities and integrates the programs of the Departments of Medicine and Surgery, Veterans Benefits, and Memorial Affairs. The primary goal of this program is to ensure that veterans, their dependents, and their surviving beneficiaries have the opportunity to provide input to the decisionmaking process. The program described complies with the requirements established by Executive Order 12160 on Federal Consumer Programs.

**EFFECTIVE DATE:** Comments must be received by March 10, 1980.

**ADDRESS:** Written comments should be addressed to: Veterans Administration, Consumer Affairs Staff, Office of Planning and Program Evaluation (07), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

**FOR FURTHER INFORMATION CONTACT:** Mr. Errol D. Clark, (202) 389-3496.

Approved:

John J. Leffler,

Associate Deputy Administrator.

Proposed VA Consumer Affairs Program

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**VA CONSUMER AFFAIRS PROGRAM****I. PURPOSE**

This directive establishes procedures and policies for administering the VA Consumer Affairs Program and implements the requirements of Executive Order 12160, entitled "Providing For Enhancement and Coordination of Federal Consumer Programs."

**II. SCOPE**

The Consumer Affairs Program requirements are applicable to all VA departments, staff offices, and field stations. The Consumer Affairs Program is in support of the mission of the VA to provide benefits and services to eligible veterans, their dependents and beneficiaries. The success of the program depends upon each organizational element within the VA contributing to the program. Therefore, included in this directive are descriptions of the individual department consumer affairs programs. These are presented in Parts VIII through X. Staff offices having significant involvement in support of the consumer program are presented in Part XI. The combination of these individual programs constitutes the VA Consumer Program.

**III. POLICY**

It is the policy of the VA to effectively involve consumers in VA activities including the development of agency regulations, policies, and programs which have a substantial consumer interest. Such participation will recognize the VA's responsibilities to the consumer, and will help provide the VA with a broad range of views on regulations and policies, will facilitate the conduct of agency business, thus having a positive effect on the quality of services provided by the agency.

**IV. GOAL**

The goal of this program is to provide high quality service to consumers by increasing the VA's sensitivity to the needs and desires of veterans and their dependents, by being responsive to inquiries, by incorporating their views into the policymaking process, by ensuring their awareness of programs and opportunities available through the VA, and by evaluating the effectiveness of existing programs to assure the VA is meeting the needs of consumers as well as the mission of the VA.

**V. OBJECTIVES**

- A. That the Administrator and senior decisionmakers be kept aware of the needs and problems of VA consumers.

B. That productive channels of communications be maintained with veterans' organizations to include technical assistance when needed.

C. That the dissemination of information on VA programs and procedures for citizen participation be effective and timely.

D. That the views of special consumer groups (e.g., minorities, handicapped, elderly, etc.) be given consideration in areas directly affecting them.

E. That all proposed agency rules, policies, programs and legislation be reviewed to determine their impact upon consumers.

F. That there be meaningful participation by consumers in the development and review of all agency rules, policies and programs.

G. That the VA educate staff members on the provisions of the Federal Consumer Program and provide special training for agency consumer affairs personnel as deemed appropriate.

H. That consumer satisfaction with each major VA program be continuously measured to determine their degree of satisfaction with the agency activity.

**VI. RESPONSIBILITIES****A. General**

The Veterans Administration has three departments: the Department of Medicine and Surgery, the Department of Veterans Benefits, and the Department of Memorial Affairs. Although each department is involved in providing benefits and services to veterans and their dependents, each has distinct functions. Each is, therefore, responsible for developing its own consumer affairs program consistent with the overall VA program.

Responsibility for the implementation of the Consumer Affairs Program at the operational level rests with the department heads who, using their appointed consumer affairs representatives, will be responsible for the control, reporting, and monitoring procedures necessary for the successful operation of the Consumer Affairs Program. In this regard representatives will review responses to complaints from the standpoint of timeliness and quality, and will provide guidance to employees on the handling of consumer complaints. Representatives will also bring to the attention of top management those consumer complaint issues requiring their advice or of which they should be aware.

**B. Department and Staff Office Heads Are Responsible for**

- 1. Designating a senior level individual to serve as "consumer affairs representative" for their respective elements.
- 2. Ensuring that the consumer affairs representative is included in decisionmaking as early as possible, and at all significant subsequent stages, in matters of substantial consumer interest.
- 3. Including in the Five Year Planning process sufficient funding and staff for an effective consumer involvement program designed to give consumers opportunities to participate in the organization's decisionmaking processes.

4. Managing the control, reporting, and monitoring of procedures necessary for the successful operation of VA consumer complaint handling and the Complaint/Compliment Reporting System.

5. Implementing the Consumer Affairs Program at all field stations, and ensuring that field station directors:

(a) Designate a senior level individual to serve as consumer affairs representative for their respective stations. The representatives' duties will be similar to their Central Office counterparts and related to their level of duty.

(b) Ensure that the consumer affairs representative is included in decisionmaking as early as possible, and at all significant subsequent stages, in matters of substantial consumer interest in their area of operations.

6. Ensuring that there is adequate opportunity for meaningful consumer participation when substantive changes are proposed to policies, procedures, or programs which affect consumers.

7. Producing and distributing materials to inform consumers about department programs, procedures for obtaining services or benefits, and ways to register their complaints.

8. Maintaining a meaningful outreach program for consumers.

9. Educating and training their staff on the Consumer Affairs Program purpose and objectives.

**C. Department and Staff Office Consumer Affairs Representatives Are Responsible for**

1. Developing, in consultation with the Agency Consumer Affairs Coordinator, a consumer affairs program tailored to their element's functions. This program shall be submitted to the department or staff office head for approval and publication.

2. Using all appropriate means to notify consumers of each proposed regulation, policy, or program having substantial consumer interest, to include coordination with the Veterans' Service Organization Liaison.

3. Monitoring and recommending improvement in his/her element's procedures for notifying consumers about hearings and public meetings; monitoring and recommending any necessary changes in locations of meetings and advance notice requirements to assure maximum consumer participation.

4. Identifying and advocating the consumer interest in appropriate issues. Carrying out this responsibility will include, but not be limited to:

- (a) Ascertaining consumers' positions on relevant issues through such devices as maintaining contacts with consumer groups and analyzing consumer mail;
- (b) Keeping senior officials informed of consumers' opinions, concerns, and needs;
- (c) Providing consultation to staff members who draft proposed rules and regulations.

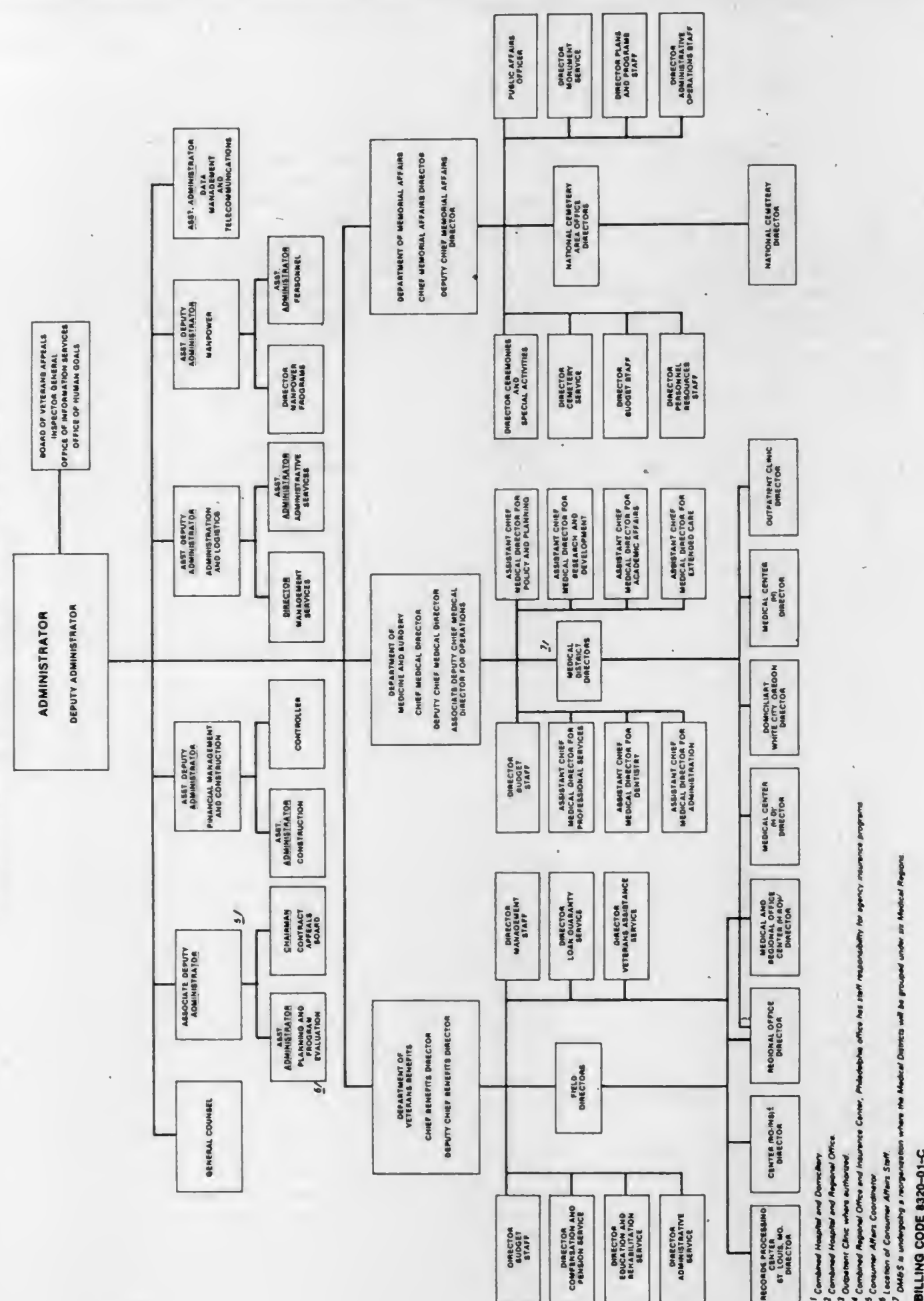
**D. VA Consumer Affairs Coordinator (002)**

The Associate Deputy Administrator is the Agency's Consumer Affairs Coordinator and reports directly to the Administrator of Veterans Affairs. (See Figure 1, Organization of the Veterans Administration.) He is responsible for:

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**FIGURE 1**  
**ORGANIZATION OF THE VETERANS ADMINISTRATION**



1. Coordinating all VA consumer affairs activities and ensuring that the provision of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," are implemented.
2. Providing the administrative policy direction for and oversight of VA consumer activities.
3. Reporting directly to the Administrator the potential impact on consumers of particular VA policy or program initiatives under review or development.
4. Chairing the VA Consumer Affairs Coordinating Committee which consists of the Consumer Affairs Representatives from each department and staff office. The committee will meet as needed, but at least monthly to exchange information about consumer-oriented actions within the VA; increasing efficiency, cost-effectiveness, and consistency of VA consumer affairs programs; and avoiding duplication of effort. The committee will also analyze the consumer implications of proposed changes to rules, policies and programs.
5. Providing coordination with other Government agencies on consumer/community veteran's interests to include coordination with the U.S. Office of Consumer Affairs Special Assistant to the President.
6. Supporting the interests of consumers by communicating their concerns to officials within the VA in order that such concerns may be recognized and considered in VA policies, programs, and actions.
7. Promoting consumer education/information programs and consumer involvement within the agency.
8. Ensuring that consumers have adequate opportunity for participation before significant regulations, policies, or procedures are initiated.
9. Ensuring that consumer views and concerns are adequately considered in agency decisionmaking.

#### E. Veterans' Service Organization Liaison (00A3) Is Responsible for

The Veterans' Service Organization Liaison (VSOL) is responsible for establishing and maintaining a systematic method of internal coordination for national-level communications between veterans' service organizations (VSOs) and the Office of the Administrator and department and staff offices of the Veterans Administration.

#### F. VA Consumer Affairs Staff—Office of Planning and Program Evaluation (07) Is Responsible for

1. Maintaining a Consumer Affairs Program to assist the Consumer Affairs Coordinator in the management and coordination of the VA Consumer Affairs. (See Figure 1, Organization of the Veterans Administration.)
2. Acting as point of contact for the U.S. Office of Consumer Affairs and other consumer groups, except veterans' service organizations who contact the Veterans' Service Organization Liaison.
3. Coordinating and integrating, in consultation with consumer affairs representatives, comprehensive agencywide guidelines governing the handling, classification and analysis of complaints.

4. Reviewing VA consumer policies and procedures for consistency with national consumer policy established by the President and the U.S. Office of Consumer Affairs.

5. Collaborating with department, staff offices, and Veterans' Service Organization Liaison in the development of procedures for early and meaningful participation by consumers in the development of agency rules, policies, and programs.

6. Collaborating with the Veterans' Service Organization Liaison (VSOL) activity to obtain input from veterans' organizations into the consumer program.

7. Evaluating information obtained from the Consumer Complaint/Compliment Reporting System and other feedback systems and providing such information to the Consumer Affairs Coordinator, departments and staffs.

8. Coordinating with departments and staff offices to assure VA responsiveness to complaints, and monitoring consumer feedback systems to see that views and concerns are adequately analyzed and considered in policy and regulation formulation.

9. Coordinating with the Office of Information Services to ensure that information about VA programs reaches consumers.

10. Developing a Consumer Affairs Education and Training Program.

11. Coordinating the conduct of surveys and research studies concerning the needs, interests and problems of consumers.

12. Coordinating the development of a system of statistical sampling of recipients of the agency's services to obtain a complete and comprehensive picture of consumer attitudes toward the agency and to illuminate areas where improvements could be made in the dispensing of such services.

#### G. Office of Human Goals (09) Is Responsible for

Identifying views of special consumer groups, such as minorities, handicapped, elderly, etc., and ensuring that such information is relayed to program officials as input for future decisions.

#### H. General Counsel (02) Is Responsible for

Analyzing Congressional correspondence to identify strengths and weaknesses in VA programs and ensure that such information is relayed to program officials as input for future decisions. Reviewing the proposed VA consumer actions and initiatives for legal and legislative implications and recommending any necessary changes.

#### I. Information Services (06) Is Responsible for

Informing consumers through the use of publications and other media forms about VA programs, including where and how to apply for benefits.

#### J. Controller (04) Is Responsible for

Controlling consumer reports within the agency, serving as a liaison for OMB clearance of public use



reports, providing statistical support, and preparation of agency consumer affairs budget.

**K. Office of Data Management and Telecommunications (30) Is Responsible for**

Providing ADP support to departments and staff offices consumer programs and activities.

**L. Inspector General (50) Is Responsible for**

Reviewing consumer compliant mail referred by departments and staff offices to determine if an investigation is warranted and processing complaints received from the "Employee Hot Line." As part of their audit activities, they will examine field station consumer activities.

**VII. OVERVIEW OF VA CONSUMER AFFAIRS PROGRAM**

**A. Perspective**

**1. Operation of Consumer Affairs Program**

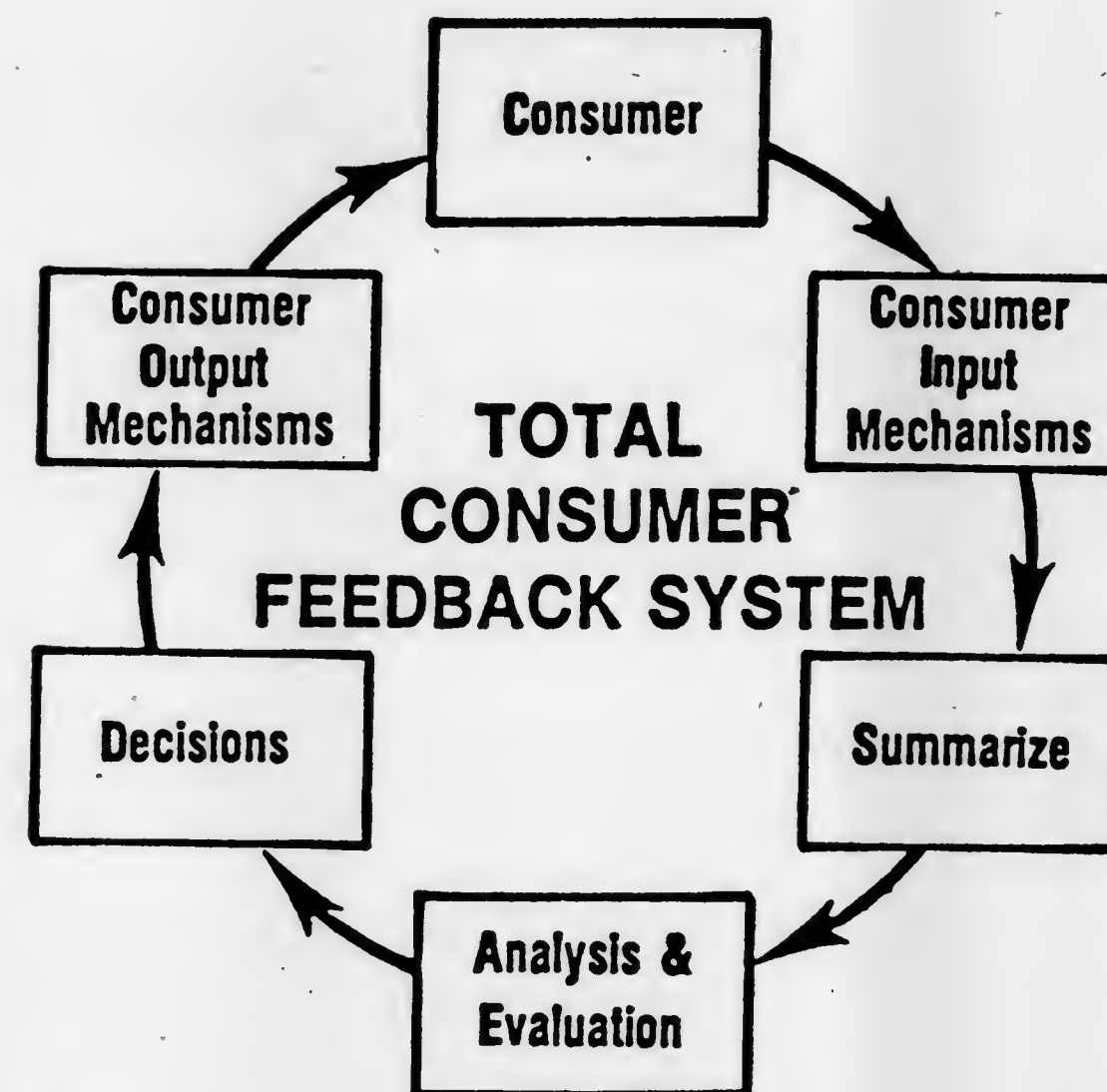
The Veterans Administration's mission is to provide service and benefits to eligible veterans and their dependents. Benefits and services are provided in a broad range of areas which include compensation and pension payments, educational and vocational rehabilitation assistance, insurance, mortgage credit assistance (home loans), burials, government monuments, health care, and hospitalization. These programs must be responsive to the needs of the recipients by providing the best service possible within the resources available. It is recognized that implementation of consumer initiatives can be accomplished only to the extent that resources are available to the Departments.

Although the VA always had the interest of its consumer as its primary concern, the consumer program brings with it a new philosophy seeking greater consumer participation in the development of rules, policies and programs. It emphasizes that the beliefs of the recipient need to be considered as an important ingredient in the decisionmaking process. This approach relies upon active consumer participation and the establishment of effective feedback mechanisms to keep each level of management and program officials informed of the needs and concerns of veterans. The process of consumer participation is shown in Figure 2, Total Consumer Feedback System. It begins with input from consumers expressing desires and needs through a variety of *mechanisms* (e.g., complaints, veterans' organizations' impact surveys, veteran civic councils, etc.). This information is to be *summarized* in a format meaningful to management for further *analysis and evaluation* to determine where possible problem areas or changes may be indicated. With this consumer information available, management can then make more informed *decisions* to help improve VA programs or services through *output mechanisms* which

implement changes in rules, regulations, policies, or resources.

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**FIGURE 2**



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The veterans' organizations play an important role in the VA Consumer Program. There are over 50 national veterans' organizations representing veterans' concerns. The Veterans Administration maintains working relationships with these groups at both the national and local levels. These organizations provide one of the best sources of feedback from VA consumers, as well as effective organizations to inform consumers about VA programs. They represent the interests of VA consumers and most have program specialists who can intercede on a veteran's behalf when assistance is needed. Veterans' organizations are consulted whenever major changes in procedures are under consideration. On the national level, the primary point of contact in the VA with the veterans' organizations is a Special Assistant to the Administrator, the Veterans' Service Organization Liaison (VSOL), whose primary duty is to work with the veterans' organizations to obtain their views and assist them in obtaining information they may need.

## 2. VA Consumer Program Organizational Structure

The Associate Deputy Administrator has been designated as the VA Consumer Affairs Coordinator. He has direct access to the Administrator and is in a position to advise the Administrator and oversee consumer affairs activities throughout the VA. The coordinator is the agency's primary consumer affairs advocate and with the help of a consumer affairs staff, analyzes all rules, regulations, policies, and proposed legislation for consumer implications. He recommends changes as needed to make procedures and policies more responsive to consumer interests. In addition to help from the consumer staff, the Consumer Affairs Coordinator chairs the Organization and Management Improvement (OMI) committee which also functions as the Consumer Affairs Coordinating Committee. The committee members are senior level employees from each major staff and the operating departments. Major management initiatives on consumer affairs, management improvement, organizational changes, and proposed changes to regulations, policies, procedures, and legislation are brought before the committee.

Each major staff office and department in Central Office and each field facility has a consumer affairs representative responsible for consumer activities and reports directly to the department head or station director. The consumer affairs representatives act as consumer advocates resolving problems of an immediate nature, crossing organization lines when necessary. The consumer affairs representatives interact with consumer affairs personnel at all other levels in the VA Consumer Affairs Program network to resolve problems of both general and specific natures.

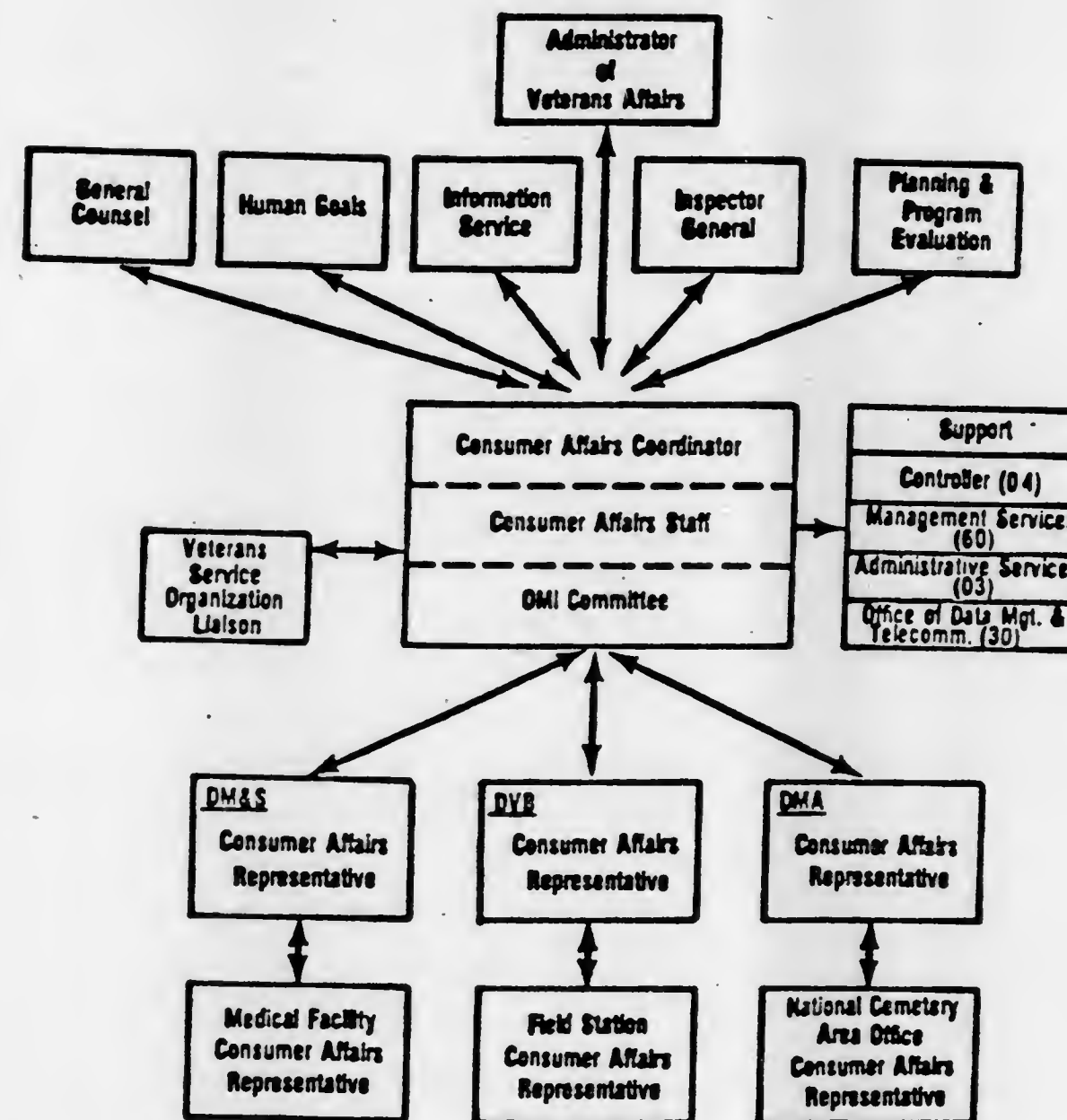
The basic interrelationships under the Consumer Affairs Program are shown in Figure 3, Operating Structure of VA Consumer Affairs Program. The specific duties and responsibilities of the Consumer Affairs Coordinator, the consumer staff, departments and staff offices are shown in Part VI, *Responsibilities*.

## 3. Organization of Agency Consumer Affairs Staff

The agency Consumer Affairs Staff is a separate element located in the Office of Planning and Program Evaluation. It directly supports the Consumer Affairs Coordinator (CAC). Its location in Planning and Program Evaluation gives it needed access to expertise in the areas of agency planning, special studies, and program evaluations. The staff is composed of a director, two analysts, and clerical support. Two additional staff positions are planned for FY 1981.

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**FIGURE 3**  
**OPERATING STRUCTURE**  
**OF THE**  
**VA CONSUMER AFFAIRS PROGRAM**



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The agency Consumer Affairs Staff is in continuous contact with each of the departments' consumer affairs staffs and the consumer affairs representatives for each of the staff offices. Coordination is routinely accomplished with the departments through working committees which expedite necessary actions. The staff will collaborate with department and staff representatives in the review of proposed legislation and in policies, regulations, and procedures to determine their impact on VA consumers.

## B. Consumer Participation

### 1. General

The VA has an extensive and comprehensive system to encourage consumer participation both at the local and national levels. Responsibility for ensuring adequate participation by consumers rests with the Administrator and heads of departments and staff offices. The major methods of obtaining information from the consumer to use in the decisionmaking process are as follows:

- (a) Person-to-person contact with consumers.
- (b) Meetings and informal consultations with consumer organizations (veterans' service organizations).
- (c) Advance copies of proposed regulations, policies, and procedures sent to veterans' organizations for comment prior to release in the *Federal Register*.
- (d) Information obtained from complaints and proposed consumer feedback cards.
- (e) Impact, attitudinal, and opinion surveys of the recipients of benefits.
- (f) Vietnam Veteran Civic Councils at each VA Regional Office.
- (g) Representation of consumers on advisory committees.
- (h) Conferences on VA programs with participation from consumer groups.
- (i) Program evaluations to determine the effectiveness of the delivery of benefits.
- (j) Evaluation of VA facilities conducted by veterans' organizations.
- (k) On-site representatives of veterans' organizations at VA facilities who meet with the director on a regular basis.
- (l) Public appearances by VA managers before community and civic groups and professional organizations.

### 2. Avenues and Forms of Consumer Participation

There are many avenues and forms by which VA consumers can make their views known. The major ways are shown below:

- (a) The Veterans Administration provides opportunities for consumers to express their views at both field station and Central Office organizational levels and at several points in the agency policy making process. Some consumer contacts are direct and informal, such as a veteran inquiring about VA programs; others are formal, such as the Administrator and VA staff attending the annual conventions of national veterans' organizations.

(b) Consumers may express their opinions of VA benefits and service in a variety of ways. Inquiries, utilization of VA benefits, and general information obtained about consumers provide input into the decisionmaking process. Personal contact between VA employees and consumers provides an opportunity for input into decisionmaking; information obtained from these contacts ultimately becomes a source of agency knowledge regarding consumer concerns. To aid in this effort the VA has an extensive outreach program which includes toll-free telephone calls to all VA Regional Offices and veterans assistance personnel located at each VA Medical Center and VA Regional Office.

(c) Each department currently is developing a consumer feedback card. These are voluntary means by which consumers can express their satisfaction or dissatisfaction with the service obtained or about a program.

(d) An agency wide Complaint/Compliment Reporting System is also under development. When implemented, this system will provide computerized reports showing the number of complaints, their subject matter and source. (See Paragraph VII. E)

(e) Veterans' organizations periodically evaluate individual field station operations. Representatives of the organizations also provide on-site assistance to consumers within VA facilities. A consumer need not be a member of a veterans' organization to utilize its services. Information provided by the veterans' organizations at the local level is an important source of consumer input for decisionmakers.

### 3. Analysis of Consumer Concern and Stages of Consumer Participation in Decisionmaking

Consumer views are interjected at several levels when policy decisions are being made:

(a) Veterans' organizations provide the major opportunities for consumer viewpoints to be heard early in agency policy formulation processes. The organizations are consulted regularly on an informal basis and receive advance drafts of proposed changes in programs and major procedures. Veterans organizations also provide comments and analyses when they believe existing programs should be modified.

(b) Comments and suggestions are provided by third party participants (e.g., mortgage lenders, educators, and professional organizations) who interact with consumers.

(c) Individual suggestions from consumers and information received from complaint/compliment and other feedback mechanisms are used.

(d) Information is obtained from surveys and program evaluations showing where improvements or changes are needed.

(e) Each state or VA Regional Office has a Vietnam Veteran Civic Council. The councils meet quarterly to discuss local issues with a VA representative. Council recommendations for remedies to problems are forwarded to Central Office for consideration.

(f) Professional advisory committees are another mechanism for consumer input. The advisory

committees represent diverse groups, including veterans and members of the community who are prominent in the fields of medicine, education, construction, and law. The committees provide management with professional evaluations of VA programs and serve as a source of new ideas to improve VA services to consumers.

(g) VA sponsors conferences on agency programs and veteran-related issues. Experts convene to share ideas and discuss solutions to consumer problems.

## C. Consumer Informational Material

Informational materials on VA programs are comprehensive and widely distributed. They are an integral part of the outreach effort. Information is provided to veterans through the following seven primary means:

1. television and radio
2. newspapers and magazines
3. VA pamphlets and literature
4. Veterans Assistance Discharge System (VADS) which provides information directly to new military discharges
5. personal contact with VA employees
6. VA nationwide toll-free telephone system
7. conferences with veterans' organizations

In addition to VA publications, third party participants in VA programs (e.g., mortgage lenders) supplement VA publications by providing additional information to the potential beneficiary. Most veterans' organizations also publish monthly magazines at the national level and special material at the local level containing information about VA programs. VA surveys of veterans and dependents show that as a result of these efforts, almost all veterans receive some information about VA programs and activities and that the needed information is readily available to veterans in all parts of the country.

There is a continuous assessment of the effectiveness of informational materials being provided and they are under continuous review to update and simplify the information for VA consumers. Responsibility for developing information about the programs rests with department and program officials. As new legislation is passed or procedures are changed, program administrators are also responsible for making the necessary changes to the appropriate informational publications. Dissemination of information by radio, television, and newspapers is arranged for at both the national and local levels.

An important function of VA facilities at the local level is to disseminate information. Within the Department of Medicine and Surgery, hospitals, outpatient clinics, domiciliarys, and nursing homes furnish a full spectrum of health care information. Regional Offices, within the Department of Veterans Benefits, are the contact points for veterans wishing to obtain information about their benefits, and serve also as distribution points for all non-medical programs. National Cemeteries, within the Department of

Memorial Affairs, furnish information on VA burial benefits.

All of the regional offices, hospitals, and cemeteries are covered by seven regional information specialists who work with the station director and program officials to develop information about VA programs for media use.

VA publications are routinely made available at convenient locations such as military installations, veterans' service organizations, libraries, universities/college campuses, and community information centers. The VA toll-free telephone system is also a source for consumers to request VA benefits information.

## D. Education and Training

### 1. Employee Education and Training

Employee education and training includes informing all VA personnel regarding the requirements of Presidential Executive Order 12160 and the enhanced VA Consumer Affairs Program; additional education and training in consumer service for those VA personnel involved in direct contact with consumers; and specialized training and education for employees directly involved in the Consumer Affairs Program.

Training of employees is the responsibility of the departments and staff offices. Each department and staff office develops its own training program to meet the special needs of its personnel in providing the best possible service within available resources. Currently each department having public contact has a training program for employees on answering questions and on sensitivity toward the individual. The best ways to serve or care for the individual are emphasized.

A specific training program designated as Consumer Affairs is to be established by each department to include field stations. The current training programs for employees relating to consumer affairs are to be integrated into one training program. An agency training directive providing guidance for establishing departmental consumer programs will be developed and will include the requirements of the Presidential Executive Order.

### 2. Consumer Education and Training

Consumer education and training includes informing the consumer of the benefits and services and how to obtain them; providing technical assistance on VA matters to consumer organizations (e.g., Veterans' Organizations); and providing technical assistance and training to intermediaries through which some VA benefits are delivered (e.g., builders, educational institutions, contract health care facilities, and funeral homes).

## E. Complaint Handling

A major source of consumer opinion is from complaints, most of which are received and resolved by the field stations. There is a formal written procedure to ensure that special review of complaints is made, whether it comes to the station staff, the station director, or a veterans' organization. Complaints are forwarded to the Office of the Director



to ensure prompt reply and to be certain corrective measures are taken to avoid similar complaints from other veterans. It is the policy of all VA field stations to respond immediately to complaints and to resolve them in an expeditious manner. In addition to complaints about service received, veterans, their dependents, or their beneficiaries can appeal decisions made regarding claims for benefits. In these instances, the VA instructs the consumers of the proper procedures for having the case heard by the Board of Veterans Appeal. If a VA field station discerns a pattern which indicates a consumer problem is more than local in scope, the appropriate Central Office official is contacted.

Complaints received at Central Office receive similar priority handling, each request being answered promptly and reviewed, together with other data, to determine if there is any need for change. As a result of this method, complaints received at the field stations and Central Office have influenced VA policies, procedures, and regulations.

With the implementation of the TARGET computer system, the VA has been able to provide immediate answers to consumer inquiries, and thus possibly avoid a formal complaint. This system when fully operational will allow the VA field stations to immediately make inquiries on individual veteran's status of eligibility and benefits.

Under the enhanced Consumer Affairs Program, a system is under development to collect topical data on all complaints. This data will be computerized and used to produce statistical information on "who" (e.g., veteran, Congressional, White House, professional, etc.), "what program" (e.g., DVB's housing, education, pension, DM&S's Inpatient, Dental, Contract Care, etc.; or DMA's headstone/marker, National Cemetery maintenance, etc.), and "specific concern" (e.g., timeliness, denied benefits, treatment, etc.) that are involved. With this information the VA will be able to establish a more representative picture of the views and opinions held by veterans on VA performance. This will be accomplished through the use of statistical reports showing the number and percentage of complaints during a period by facility, program area, and concern. These reports will also show the timeliness of VA's response to complaints. As a management tool for all levels of management, the information from these reports can help increase the VA's sensitivity to consumer concerns and more effectively alert management to possible problems.

Appropriateness of response will also be reviewed through a sampling procedure as part of the field station systematic analyses, the departmental station evaluations, and the Inspector General audits.

#### VIII. DEPARTMENT OF MEDICINE AND SURGERY CONSUMER AFFAIRS PROGRAM

##### A. Consumer Affairs Perspective

###### 1. Operating Structure

The DM&S Consumer Affairs Operating Structure (Figure 4) shows the key program representatives in

the Department of Medicine and Surgery (DM&S) at each level of management.

###### 2. Responsibilities

(a) The Chief Medical Director (CMD) has overall responsibility for development, implementation and management of the Department of Medicine and Surgery Consumer Affairs Program.

(b) Currently, the Executive Assistant to the Medical Director has been designated as the Department Consumer Affairs Representative.

(c) The Communication and Inquiries Staff, a part of CMD's immediate office, is responsible for the development, conduct and coordination of the Department program with inputs from all Department elements whose activities impact on consumer affairs.

(d) A coordinating committee on Consumer Affairs has been established to facilitate communication and cooperation in this process. The coordinating committee's members are key staff from the major operational, policy and management offices of the Department.

(e) Medical Center and Clinic Directors are responsible for the consumer affairs activities at their facility.

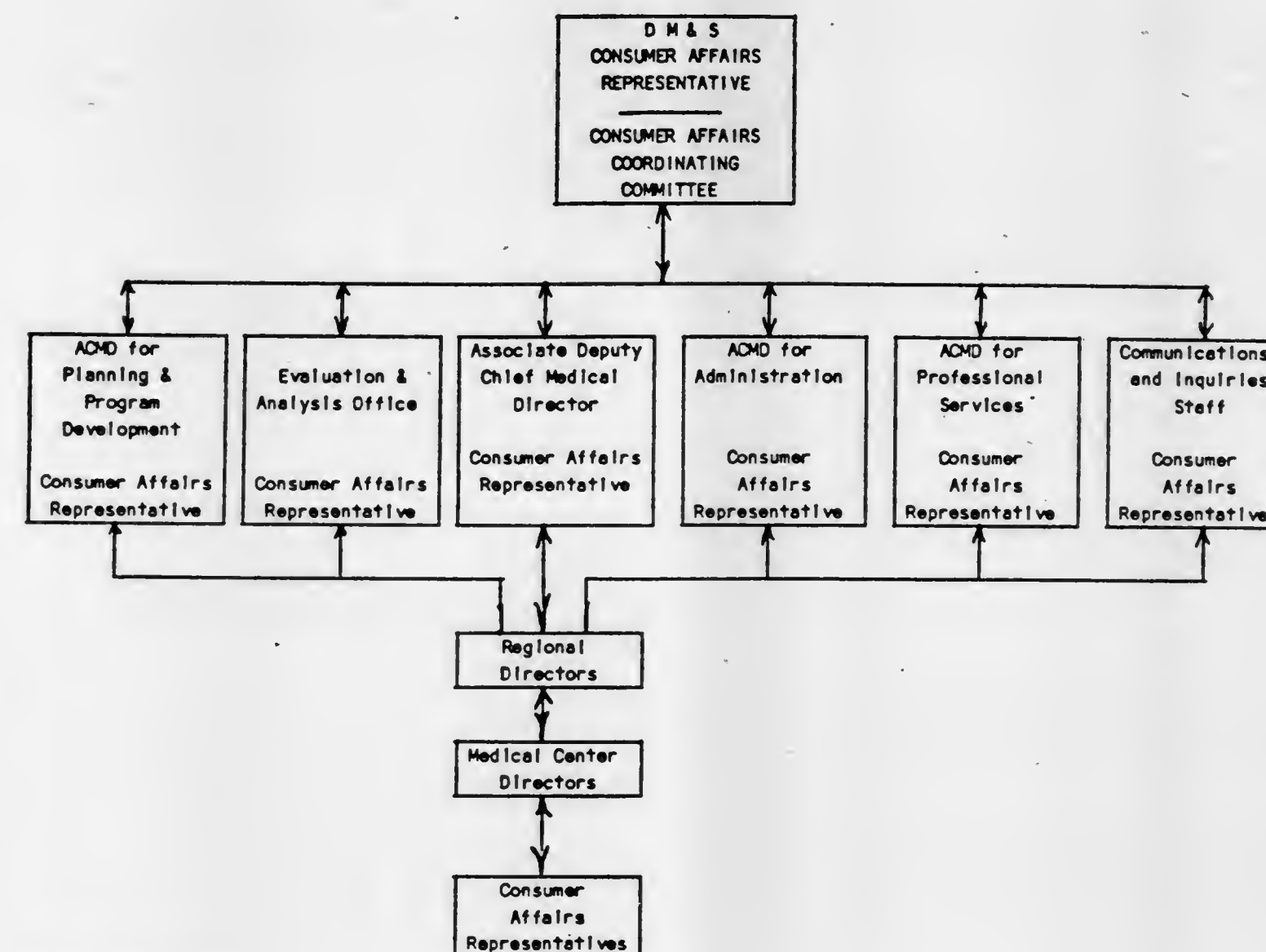
###### 3. Department Initiatives

(a) Final development of the Complaint/Compliment Reporting System will include information on written, telephonic and personal contacts. This will provide information about consumer views at all levels of management.

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FIGURE 4

OPERATING STRUCTURE  
OF THE  
DM&S CONSUMER AFFAIRS PROGRAM



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(b) The Patient Satisfaction Survey will be made an annual evaluation to assure still more information.

(c) The continued implementation of the Medical Administration Service education system to assure that all staff who have patient interaction responsibility are trained and have refresher courses.

(d) A program to make patient assistance personnel more identifiable will be pursued.

(e) The continued input of Veterans' Service Organizations will be sought in planning and development of new initiatives.

(f) In order to assure more structured coordination of the entire DM&S Consumer Affairs Program and a single point of contact for all involved, the Department will explore the development of a DM&S Consumer Affairs Office. This function will include coordination of the Department's efforts, evaluation of data generated and overall administration of the Department program.

## B. Consumer Participation

### 1. Avenues and Forms of Participation

Veteran medical care consumers have significant input into the policy and program planning processes. This input comes through formal and informal channels at both the local and national levels. The VA's highly decentralized medical care system fosters rapid transmission of individual consumer concerns to appropriate management officials.

The systematic program review in the Health Services Review Organization program, observations of Patient Representatives, and reports or comments from Veterans Service Organization visits feed information to the Medical Center Director. Consumers are encouraged to participate locally through Veterans' Civic Councils, various *ad hoc* committees, and the Veterans Administration Voluntary Service program. In many facilities, representatives of various veterans' organizations are provided office space and meet regularly with key medical center officials. In addition, veterans service organizations are represented on most of the Deans Committees that serve affiliated medical centers. These veterans' organizations promote consumer interests and are a major source of consumer representation at the Central Office level.

At all levels, patient complaints are given priority attention. In addition, veterans' organization representatives, who tour or formally survey VA medical care facilities, provide written and verbal comments to the Directors. These formal reviews are used in the development of the facility's five-year plans and as a source of information which is carefully evaluated by Central Office. These reports are followed up by the Evaluation and Analysis Office to ensure that deficiencies noted are corrected. Nationally, veterans' organizations respond to proposed VA regulations. The results of patient satisfaction surveys are carefully monitored and facilities with deficiencies are required to take steps toward their correction. Also, their annual legislative packages are carefully studied. The Communication

and Inquiries Staff keeps top department managers informed of individual complaints, emerging trends, and potential consumer impact of proposed changes in policy.

Proposed changes in DM&S regulations are printed in the **Federal Register** for public comment. Advance copies are circulated to the veteran's organizations for comment. Consumers are also informed of available benefits and programs through service organization publications. Through attendance at local, regional and national veterans' organization meetings, DM&S officials attempt to maintain a high level of consumer awareness. This awareness is also fostered through written, telephonic, and personal contacts with individual veterans. VA officials at all levels also participate in meetings of other consumer and health planning organizations.

### 2. Initiatives To Be Taken

Presently, a new consumer feedback card (Tell it to the Administrator) is being developed and field tested. Following any necessary modifications, these cards will be introduced system-wide. The results of these cards will provide to both Central Office and local management an additional feedback mechanism to determine consumer satisfaction.

## C. Consumer Informational Materials

### 1. Current Informational Materials

To facilitate consumer awareness of available medical services, the VA employs a multimedia approach in addition to the numerous veterans' organization publications to reach the widest possible audience.

The Department works closely with the agency's Information Service in developing press releases, TV and radio announcements, and a variety of informational pamphlets. These pamphlets, include "Federal Benefits for Veterans and Dependents," "Fast Facts," and "Medical Benefits—Veterans Administration" and "CHAMPVA (Civilian Health and Medical Program of the Veterans Administration)." These are available from medical centers, regional offices and veterans' organization representatives. Many other publications are also mailed to veterans on request. Information bulletins in benefits checks and hand-out materials at local facilities are used to reach directly affected groups of veterans.

### 2. Proposed Information Initiatives

The Code of Patient Concern is currently being revised and will be reprinted in the next few months. The Code will be widely distributed and reemphasized to both patients and employees.

Since a veteran's first impression is so vital, the Department is exploring the use of specially trained personnel in the admissions and clinic areas of the medical centers to assist patients with their health care benefits and treatment program questions. Also being explored are means of making those who can best assist the veteran more identifiable, especially in outpatient areas. Patient representatives may also require similar special identification.

## D. Education and Training

### 1. Current Training

The Department recognizes the importance of training for medical care personnel, especially for employees in constant contact with consumers. Training of 17,000 Medical Administration Service employees has recently been completed. To assist them in being more effective in dealing with veterans' needs, both in person and through written correspondence, Medical Center Directors receive training in community affairs and communications through the Regional Medical Education Centers. Familiarizing employees with the Code of Patient Concern indicates the Department's commitment to the consumer.

### 2. Planned Training Initiatives

New Medical Administration Service employees receive a minimum of 30 hours of training which includes a consumer awareness component. Consumer Awareness Training is being explored as a regular part of all medical care inservice training programs. Also, special training will be provided for all employees responsible for the consumer affairs program, both at the medical facilities and in the Central Office.

Development of these new initiatives and improvements in existing programs will be a joint venture involving the medical center staff, the Department's Public Information Officer, Continuing Education and Staff Development Service, the Agency's Consumer Affairs Staff, and the Office of Personnel.

## E. Complaint Handling

### 1. Complaint Processing

A central element in a comprehensive consumer affairs program is the prompt and effective resolution of consumer complaints. Consumer comments are a valuable management tool in the identification of strengths and weaknesses at all levels. These comments are therefore given priority attention.

Most consumer comments and complaints are resolved at the medical center level. Those comments received in Central Office are either coordinated by the Communications and Inquiries Staff or routed to the appropriate medical facility for response. Correspondence, including that sent to the field, is logged to ensure prompt response. Copies of the responses by field facilities are returned so that they can be monitored for timeliness and quality. In DM&S Central Office, the Patient Care and Administrative Inquiries Units in conjunction with medical specialists answer the bulk of the consumer mail. These units, along with the Hospital Administration Specialists in the Regional Directors' Offices, respond to telephonic inquiries received from consumers. These comments and questions which require particular expertise are referred to appropriate Department elements. Before signature, all replies are carefully reviewed by the Communications and Inquiries Staff to ensure that they are appropriate and in compliance with agency policy. Copies of all contacts are retained and monthly

reports are generated. Each medical facility follows similar procedures to ensure prompt attention and appropriateness of reply. Differences in size, complexity and clientele preclude a completely uniform system.

### 2. Planned Initiatives

A consumer Complaint/Compliment Reporting System is under development in conjunction with the other departments and the agency's Consumer Affairs Staff. The DM&S portion will be initially field tested at four medical centers. When implemented, this system will be the nucleus from which a comprehensive reporting system on consumer comments will be developed. Comments will be categorized by source, program involved, area of specific concern and timeliness of response. This data will be analyzed, evaluated and considered along with other factors in the decisionmaking process at Central Office and medical centers.

## IX. DEPARTMENT OF VETERANS BENEFITS CONSUMER AFFAIRS PROGRAM

### A. Consumer Affairs Perspective

#### 1. Operating Structure

The DVB Consumer Affairs Operating Structure (Figure 5) depicts the organization and relationships of key consumer affairs representatives at each level of management.

#### 2. Responsibilities

The DVB Consumer Affairs Program is the responsibility of the Chief Benefits Directors; its development and implementation are under the direct guidance of the Deputy Chief Benefits Director (DCBD), DVB's senior level Consumer Affairs Representative.

(a) The DCBD has direct access to the Chief Benefits Director and possesses the authority to make decisions regarding matters of consumer interest. The Director, Veterans Assistance Service, has been designated as DVB's alternate senior level Consumer Affairs Representative.

(b) A DVB working committee has been established at VA Central Office, Washington, D.C. to provide input and support to DVB's Consumer Affairs Program.

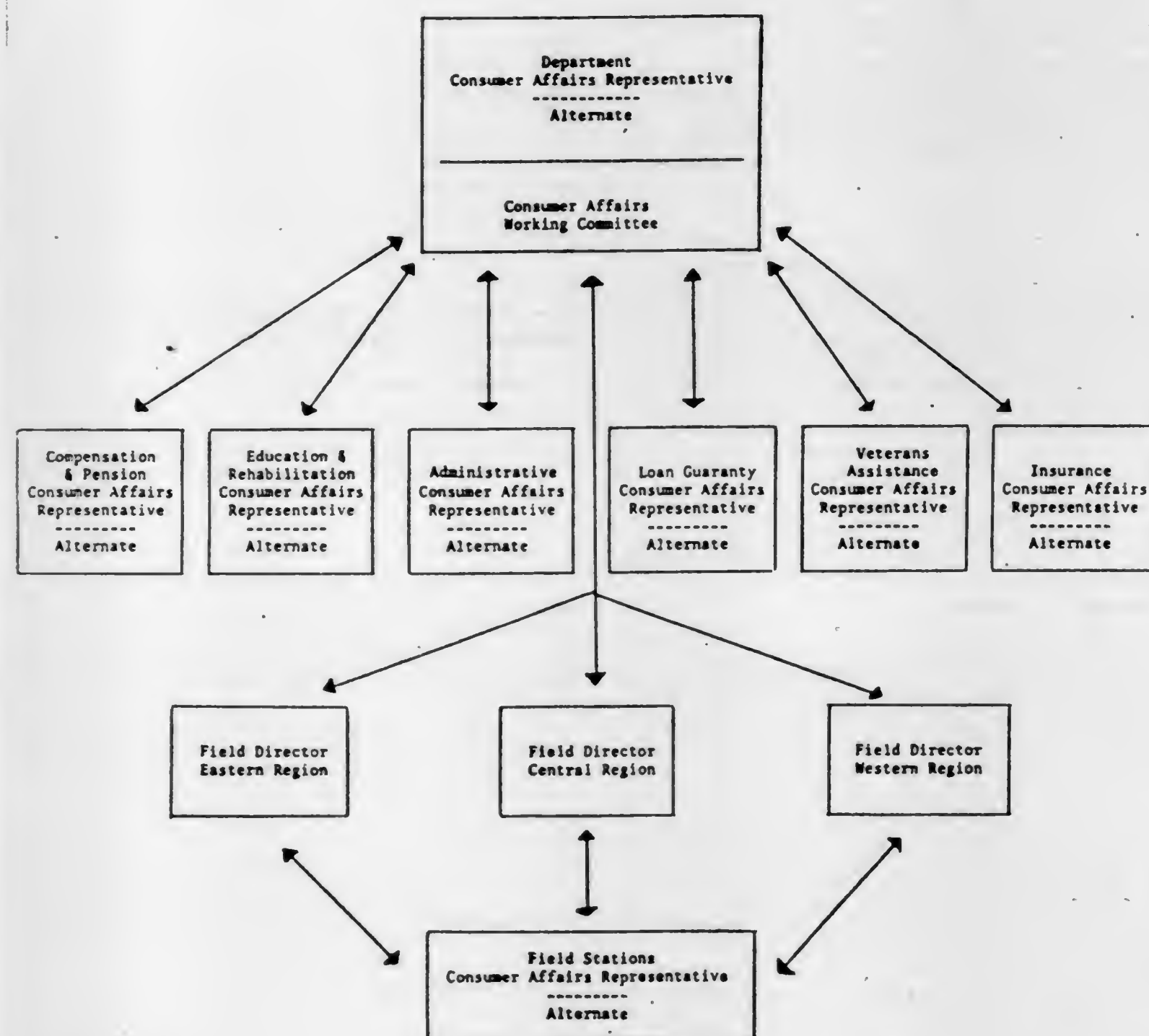
(c) Consumer Affairs Representatives and alternates have been designated in each DVB program area (Compensation and Pension, Education and Rehabilitation, Loan Guaranty, Insurance, Veterans Assistance and the Administrative Services). These representatives have responsibility for providing program expertise in the development of new consumer initiatives, providing guidance in the implementation phase, and reviewing the operation of existing consumer programs in their respective program areas.

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FIGURE 5

OPERATING STRUCTURE OF DVB CONSUMER AFFAIRS PROGRAM



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(d) Each DVB field station has named the Veterans Services Officer and an alternate as Consumer Affairs Representatives who have responsibility for providing input to and implementing DVB-wide consumer programs, as well as initiating, implementing, and advertising consumer related programs tailored to the needs of their particular station, as appropriate.

(e) All Consumer Affairs Representatives provide input on the development of new programs, rules, policies, and legislative actions which involve consumerism in DVB and the VA as a whole.

### 3. Department Initiatives

(a) Field station Consumer Affairs Representatives will be requested to find new and innovative ways to improve service to veterans and their dependents residing within their field station jurisdiction.

(b) In coordination with the Office of Planning and Program Evaluation, DVB has developed a five-year program on consumerism which includes the following actions: (1) Implementation of a computerized Complaint Reporting System; (2) Establishment of Baseline of Service Delivery Standards; and (3) Implementation of a DVB Consumer Feedback Card System.

### B. Consumer Participation

#### 1. Avenues and Forms of Participation

Consumer participation in DVB's decisionmaking processes occurs in every phase of the Department's operations on a continuous basis. Consumer input on the need for changing rules, policies and programs is solicited through both formal and informal channels. Input leading to program changes comes from the following mechanisms/sources:

(a) Review of claims referred to Central Office by field stations.

(b) Comments from other VA departments and staff offices.

(c) Analysis of correspondence from Members of Congress and the general public.

(d) Recommendations from national veterans' service organizations; housing, education and insurance interest groups; and *ad hoc* committees.

DVB consumers can participate in the decisionmaking processes through involvement in local Vietnam Veterans Civic Councils, through correspondence, or personal visits to DVB field stations or Central Office. VA employee suggestions concerning the needs and concerns of veterans also play an important role in policy and procedure formulation.

Prior to their effective date, all proposed regulations are published in the Federal Register for public review and comment. Interested persons are invited to submit written comments, suggestions or objections regarding the proposals. Comments received are analyzed by program staffs and where appropriate incorporated into the final regulation, which is then republished in the Federal Register for additional comments before implementation.

Along with publication in the Federal Register, draft copies of new issues are regularly sent to a large number of concerned organizations for their review and comment(s). For example, an educational issue affecting the school approval process would be sent to the National Association of State Approving Agencies (NASAA) for their comments. Veterans' service organizations play an important role as consumer advocates in this process.

Consumers are given the opportunity to express their views on the effectiveness of DVB's programs and services through a variety of channels, such as, toll-free telephone service to our field stations, consumer satisfaction letters, Vietnam Veterans Civic Councils, DVB's outreach programs, Compliance surveys, and *ad hoc* committees. Also, representatives from DVB participate in consumer-oriented meetings to establish rapport with consumers and technical groups, to keep abreast of current trends and to solicit suggestions for improving service to veterans.

To ensure that consumer concerns are adequately analyzed, ongoing reviews are undertaken by each service within DVB. These include statistical quality control, systematic analysis, field station surveys, and administrative review of selected cases.

The quality control system alerts field stations of any areas needing attention on a technical basis and informs Central Office of recurring problems at local facilities. The system also acts as an indicator for possible policy or procedural changes or other corrective actions when Central Office review indicates a trend of similar problems at a number of field stations.

#### 2. Department Initiatives

DVB is developing a consumer feedback card which will provide veterans and their dependents a means of expressing their view on the timeliness and quality of the service they are furnished at DVB offices.

A Baseline of Service Delivery Standards will be developed to measure how well DVB programs meet their mission of service to veterans and beneficiaries.

Expanding the role of the Vietnam Veterans Civic Council (VVCC) as a consumer advocate group is also being explored. As is currently done with veterans' service organizations and other concerned groups, VVCC's may be provided copies of proposed legislation and policy changes and requested to review and comment on these issues. Since a significant portion of the VVCC membership consists of potential VA beneficiaries, this could be an effective means of involving more consumers in the VA's decisionmaking processes.

### C. Consumer Informational Materials

#### 1. Current Informational Materials

Current informational materials available to DVB's consumers include a wide range of publications, pamphlets, and booklets which describe the scope of benefits that veterans and their beneficiaries are entitled to receive. Special interest publications, such as, "Your VA Counseling Service Can Help You,"



"Veteran-Student Work-Study Program," "Pointers for the Veteran Homeowner," "National Service Life Insurance," and "Minority Businesses" are also published regularly by the VA. Most of the above publications are routinely made available to military bases, veterans' service organizations, libraries, schools and community information centers, as well as all DVB field stations.

Newly discharged veterans are sent computer-generated certificates of eligibility for educational assistance and loan guaranty benefits through the computerized Veterans Assistance Discharge System (VADS), in Austin, Texas. Pamphlets describing benefits available to veterans are also included with the certificates. Six months after the initial VADS mailing, a follow-up package of similar information is sent.

DVB conducts a number of special outreach programs to assist a particular group of veterans with common types of problems. Currently, these outreach efforts are being directed to such groups as elderly veterans, educationally disadvantaged Vietnam era veterans, veterans in jeopardy of losing their homes through foreclosure, minority veteran homebuyers, and incarcerated veterans.

Career Development Centers (CDSs) which help veterans plan their career and find jobs have been established or are planned for 38 field stations located throughout the country. This program is receiving the support of the Department of Labor's Veterans Employment Representatives located in the field stations and who assist veterans in job placement.

#### 2. Proposed Informational Materials

When DVB's publications, pamphlets and booklets are revised to reflect policy and procedural changes, they will also emphasize the importance of consumer involvement in the day-to-day operations of the VA.

#### D. Education and Training

##### 1. Current Training

Veterans' Services Division personnel, located in all VA field facilities, provide information and assistance to veterans in applying for benefits from the VA and other agencies, as well as receiving complaints. Currently, these employees receive one-half hour training daily.

Adjudication personnel in DVB field stations participate in the "Venture in Progress" training program which is composed of three hours of training weekly. Additional training may be scheduled if deemed necessary by field station management.

Representatives of Central Office Loan Guaranty Service periodically conduct training sessions for field station Loan Service Representatives. Among other things, these sessions include tips to Loan Service Representatives in making contact with borrowers and how to provide financial counseling to delinquent borrowers.

##### 2. Planned Training Initiatives

An essential element in the success of DVB's programs is through training and educating employees

to be understanding, responsive and courteous to our consumers. Actions will be taken to encourage and emphasize the need for effective employee training in all phases of DVB's operations which directly involve the consumer.

The Education and Rehabilitation Service is planning staff development training in three geographical areas in 1980 for the counseling and rehabilitation staffs. The purpose of the training will be to ensure that the practices and methods utilized in the Veterans Vocational Rehabilitation Program are in accord with modern concepts and advanced knowledge in the field of rehabilitation.

DVB will participate in three seminars on Community Relations sponsored by the Department of Medicine and Surgery in 1980. Techniques for improving communication within VA facilities and the surrounding community will be stressed.

Consumer Affairs Representatives from DVB services will meet regularly to discuss ways to improve and expand consumerism in DVB.

#### E. Complaint Handling

##### 1. Complaint Processing

(a) *Central Office.* Complaint mail received in DVB is identified and analyzed according to the type of complaint and area of responsibility. Either the Chief Benefits Director's office or one of the DVB program offices logs the complaint, sets up timeliness controls, and assigns it to the appropriate office for action or forwards it to the field station of jurisdiction for action.

(b) *Field Stations.* All complaint mail received in a DVB field station is given priority handling and forwarded directly to the station Director's office. The complaint correspondence is then logged, analyzed as to type and area of responsibility, and timeliness controls set up.

Department directives provide complaint handling and analysis guidelines. For example, DVB Quality Control Manual, M20-2, requires that all complaint mail receive the personal attention of the station Director to assure prompt and correct disposition of all pertinent issues. Also required are regular studies of complaint situations to identify underlying causes which can be eliminated, and referral to Central Office of situations beyond field station control.

Loan Guaranty Divisions in each field station reported to Central Office during FY 1979 the number and status of all written complaints involving newly constructed homes. Additionally, the stations analyzed complaint mail received for a three-month period on existing, previously occupied homes according to type, frequency, and timing.

##### 2. Planned Initiatives

DVB is currently developing a computerized Complaint Reporting System which when implemented will enable the Department to collect complaint data by Central Office Service or field station, program area, source, and specific area of concern and will also show how prompt DVB is in responding to complaints.

Computer-generated reports showing data for each of the above categories will provide management, both in Central Office and the field, and necessary information for improving the delivery of veterans' benefits.

#### X. DEPARTMENT OF MEMORIAL AFFAIRS CONSUMER AFFAIRS PROGRAM

##### A. Consumer Affairs Perspective

###### 1. Operating Structure

The DMA Consumer Affairs Operating Structure (Figure 6) shows the key program representatives in the Department of Memorial Affairs (DMA) Consumer Affairs Program. DMA administers its Consumer Affairs Program through normal management channels, since the program is considered an essential management function of DMA staff and line managers.

###### 2. Responsibilities

The DMA Consumer Affairs Program is the responsibility of the Chief Memorial Affairs Director; its development and implementation are under the direct guidance of the Deputy Chief Memorial Affairs Director. DMA staff and service directors are the Consumer Affairs Representatives directly responsible for the implementation of DMA programs. They are directly involved with consumer concerns on a regular basis and are responsible for responding to consumer complaints and other consumer feedback.

DMA organizational responsibilities for consumer affairs are vested in:

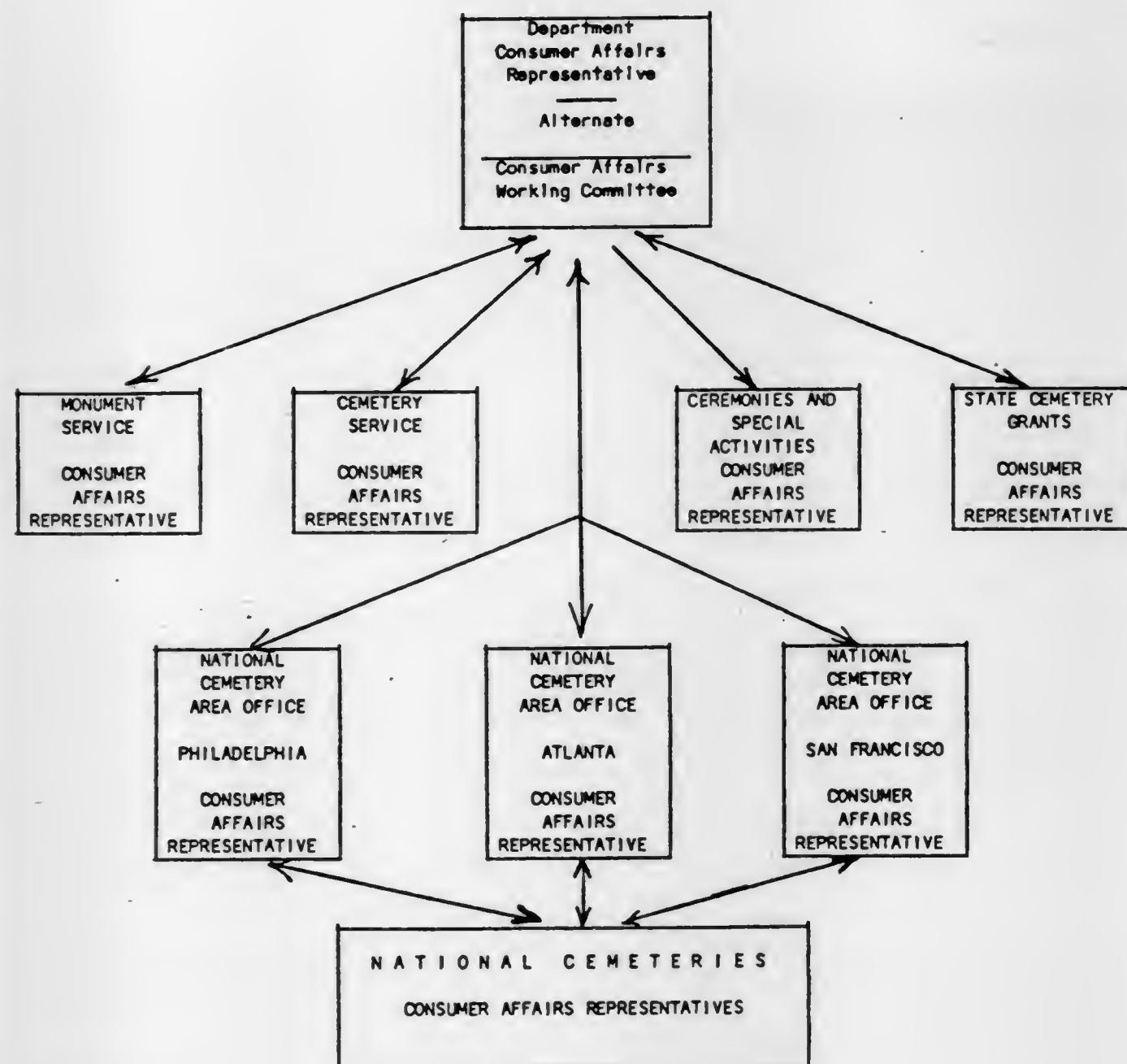
(a) *The Director, Plans and Programs Staff*, who has been designated as the DMA Consumer Affairs Representative and is responsible for coordinating the DMA Consumer Affairs Program. This individual will act as a consumer affairs advocate by ensuring the responsibilities in Paragraph VI, B & C, are accomplished.

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FIGURE 6

OPERATING STRUCTURE  
OF THE  
DEPARTMENT OF MEMORIAL AFFAIRS  
CONSUMER AFFAIRS PROGRAM



BILLING CODE 8320-01-C

(b) DMA Staff and Service Directors who are responsible for Consumer Affairs within their organizational elements.

(c) *National Cemetery Area Office (NCAO)* Directors who are responsible for coordinating and monitoring the Consumer Affairs Program for their respective areas.

(d) *Cemetery Directors* who implement the program at the station level.

### 3. Department Initiatives

In coordination with Office of Planning and Program Evaluation, DMA has developed a five-year consumer program which will incorporate the following significant actions:

(a) Develop automated consumer Complaint Reporting System.

(b) Develop baseline measurement of service delivery standards.

(c) Test and implement the National Cemetery Consumer Feedback Card.

(d) Develop, test, and implement the Headstone and Marker Consumer Feedback Card.

(e) Implement DMA Consumer Feedback Information System.

(f) Establish a quality control review system to determine appropriateness of responses to consumer complaints.

(g) Reactivate the Advisory Committee on Cemeteries and Memorials.

(h) Implement automated processing methods to provide more effective and timely benefits and services to consumers.

(i) Implement the State Cemetery Grants Program.

### B. Consumer Participation

#### 1. Avenues and Forms of Participation

Based on analysis and awareness of consumer expressions, DMA incorporates consumer viewpoints directly into the formation of its programs. Major decisions regarding Department operations are based almost entirely on consumer dissatisfaction with current operating procedures in a given area.

Proposed DMA regulations are published in the *Federal Register*, affording the public the opportunity to comment.

Consumers participate in the DMA decisionmaking processes through the following mechanisms:

(a) Consumer Complaint Reporting System, including complaint analysis from White House and Congressional sources, veterans' organizations, and professional sources.

(b) Appearances of Cemetery Directors and DMA program managers before community and civic groups, veterans' organizations, and professional groups (such as State or regional funeral directors' associations; cemetery associations).

(c) Review of environmental impact statements for proposed cemetery sites.

(d) Program evaluation surveys of next-of-kin, clergy, and funeral and cemetery associations.

(e) DMA participation in Vietnam Veterans' Civic Councils (established by the VA Department of Veterans Benefits).

(f) DMA participation in ongoing VA studies, such as the Survey of Veterans.

The DMA Consumer Complaint Reporting System provides for classifying the nature of complaints received. Input is reviewed by DMA management at every organizational level, including the Chief Memorial Affairs Director. This system provides opportunities for consumer participation in the DMA decisionmaking process. Consumers are informed of proposed or revised regulations through publication in the *Federal Register*. Proposed procedural changes at the cemetery level are coordinated with officials of local funeral homes and veterans' organizations. Proposed cemetery development projects are communicated to community groups and veterans' organizations.

#### 2. Department Initiatives

New initiatives include the direct notification to State program officials of the State Cemetery Grants Program to assure consumer participation in the program; increased participation of Cemetery Directors in public appearance activities (hearings, meetings); increased efforts at all national cemeteries to involve the community in special observances and ceremonies (Veterans Day, Memorial Day, Vietnam Veterans Week, etc.).

The automated Consumer Complaint Reporting System will provide data for a more effective Consumer Information System to ensure consumer viewpoints are formally incorporated into the decisionmaking process.

New DMA consumer feedback mechanisms will include the consumer feedback card (national cemeteries), consumer feedback card (headstones and markers), automated consumer Complaint Reporting System, and the Advisory Committee on Cemeteries and Memorials.

### C. Consumer Informational Materials

#### 1. Current Informational Materials

Informational materials are continually revised. They cover National Cemeteries, Headstones and Markers, history and maps of individual cemeteries, and DMA Newsletters. For methods of distribution, see VII.C, Informational Materials.

#### 2. Proposed Information Initiatives

An information bulletin on the State Cemetery Grants Program and Guidelines for Participation in State Cemetery Grants is being developed for distribution to State officials interested in participating in the State Cemetery Grants Program. The proposed State Cemetery Grants regulations appeared in the *Federal Register* on September 28, 1979, marking a sixty-day period for public comment.



**D. Education and Training****1. Current Training**

The sensitive nature of DMA programs (interments and monuments) has dictated the need for training Cemetery Directors and personnel directly involved with consumers. Each Cemetery Director and employee is evaluated in areas relating to direct dealings with the public. Special training sessions on consumer awareness are held at the Annual Directors' Conference. The presentations feature professional persons from the private sector who are skilled in the area of human relations and communication.

Continuous emphasis is placed on improving written communications as a follow-up to the VA Better Letters program, as well as oral communications, using the "VA—MAY I HELP YOU" approach.

**2. Planned Training Initiatives**

DMA is assembling a briefing package on the DMA Consumer Affairs Program, which will include the five-year plan on consumerism. Briefings will be given to DMA Staff and NCAO Directors. The need for training in human relations, effective writing, effective oral communications, will be emphasized to each Cemetery Director; formal training completed will be made a matter of record.

Consumerism will be a major item on the agenda of the 1980 Cemetery Directors' Conference.

Consumer Affairs briefings will be developed under the guidance of the Deputy Chief Memorial Affairs Director and the Director, Plans and Programs Staff.

DMA consumer representatives will be responsible for implementing the Consumer Affairs Program, including recommended training courses, for their respective organizational elements.

DMA Staff and NCAO Directors will receive the complete briefing package on the Consumer Affairs Plan. NCAO Directors will disseminate the briefing package at the field level and will be responsible for ensuring adequate training for cemetery personnel.

Formal training in consumerism undertaken by cemetery personnel will be reported to VACO through the NCAO's.

The minimum requirement for Consumer Affairs representatives and other DMA personnel will consist of orientation sessions on the VA Consumer Affairs Program and participation at meetings and workshops on consumerisms, human relations, and communications at the annual DMA Directors' Conference.

**E. Complaint Handling****1. Complaint Processing**

Complaint records are maintained by assigned personnel at national cemeteries and at each VACO Staff and Service Office. Complaints are logged from correspondence, telephone calls, and personal visits. The log reflects name of complainant, type and nature of complaint, and date of response. A separate VACO log identifies special sources of complaints: Congressional referrals, White House referrals, other high-level consumer sources. The log also shows

referrals to other DMA facilities or VA organizational elements responsible for preparing replies to complainants, or to another Federal Agency.

Complaints are targeted for reply within five work days. Additional follow-up procedures have been established to ensure timely responses to White House, Congressional, or other "special" mail. Interim responses are used where needed or in cases where target date cannot be met.

**2. Planned Initiatives**

In April 1979, DMA established a manual Consumer Complaint Reporting System, in which complaints were classified into five separate categories. Monthly reports are tabulated, analyzed, and distributed. This system will be replaced by the automated Consumer Complaint Reporting System which provides 27 specific areas of concern in which complaints may be classified. The automated system will:

(a) produce quarterly reports and facilitate more indepth analyses. The number and type of complaints per facility, overall timeliness of responses, and total number of complaints will be shown.

(b) distribute reports to the Chief Memorial Affairs Director, DMA Staff and Service Directors, NCAO Directors, and Cemetery Directors. Additional procedures will be developed to provide for a random review of responses to consumer complaints to assess the appropriateness and quality of response.

The aforementioned reports will constitute a means of involving the consumer in DMA plans and operations. Consumer viewpoints will be considered in improving services at the operating level, as well as in the decisionmaking process, and will be incorporated directly with DMA policies and programs.

**XI. STAFF OFFICE CONSUMER ACTIVITIES****A. Veterans Service Organization Liaison**

The Veterans Service Organization Liaison (VSOL) is responsible for establishing and maintaining systematic internal coordination for national-level communications between Veterans' Service Organizations (VSOs) and the Office of the Administrator and department and staff offices of the Veterans Administration. The VSOL activity augments veterans' service organization communications with program officials and is not intended to replace direct communications to VA officials.

The VSOL maintains open channels of communications, assists veterans' service organizations in matters involving the VA, and performs the following functions:

1. Provides internal administrative coordination for communications by department and staff offices with veterans' service organizations.
2. Maintains current names and addresses of veterans' service organizations.
3. Coordinates annual VA briefings for new officers of each of the major veterans' organizations.
4. Conducts an annual reception and briefing for new officers, executive staffs, and auxiliary officers of all veterans' service organizations.

5. Coordinates quarterly conferences between major organizations and the Deputy Administrator to update activities, exchange information, and discuss issues and concerns.

6. Ensures control of resolutions and important correspondence received from veterans' service organizations.

7. Provides advance notifications to veterans' service organization presiding officers and/or VSOL primary contacts about major appointments, announcements and activities of the VA as determined appropriate.

8. Assists with appointments of veterans' service organization officials to federally chartered advisory committees of the VA.

9. Provides information to the Consumer Affairs Coordinator about veterans' organizations concerns and areas of interest.

**B. General Counsel**

The General Counsel serves as the chief legal officer of the Veterans Administration in all matters of law and legislation and is responsible for all litigation, legal advice and legislative services. These responsibilities include: (1) review of regulations proposed by program units, to assure their legality; (2) drafting legislation for presentation to the Congress; (3) interpretation of laws affecting the VA; (4) advice, opinions, and assistance to VA officials in legal problems arising in their work; (5) litigation in local, State and Federal courts brought by or against the VA; (6) assisting the Department of Justice in litigation brought by or against the United States, involving the VA; and (7) working with Congressional Committees in legislative matters.

The Work of the General Counsel involves contact with consumers in responding to letters from the general public on legal or legislative issues. When the correspondence indicates a potential need for legislative or regulatory changes, it is reviewed with program officials who are primarily responsible for recommending such changes. The General Counsel personnel also have direct contact with claimants and witnesses in processing claims and conducting litigation under the Federal Tort Claims Act and the Medical Care Recovery Act; in commitment and guardianship proceedings involving orphans, mentally ill and incompetent persons; in insurance, education and housing programs; in criminal prosecution; in bankruptcy and probate proceedings; and in other types of cases.

The General Counsel functions in the VA Consumer Affairs Program include: (1) legal advice and services to VA officials on problems arising in their consumer affairs programs; (2) continued sensitivity to consumer impact in drafting or reviewing legislation and regulations; (3) continued sensitivity to information received from legislative, judicial, public and other sources to insure that potential weaknesses in VA programs are communicated to program officials and considered in future decisions; and (4) protecting interests of consumers by assuring that accredited

service organizations and representatives have the required qualifications.

**C. Controller**

The Office of Controller is responsible for coordination and submission of the Agency budget, and for the reports management function. The reports management function includes controlling reports within the agency, serving as a liaison for OMB clearance of public use reports, and providing statistical support. The Controller also prepares demographic reports for the public and for Congress as well as for VA use.

The Office of the Controller provides support to department and staff consumer affairs programs as follows:

1. Assisting with design of reports for handling consumer data.
2. Assisting in identifying consumer data already available in Agency reporting systems and studies.
3. Providing statistical assistance in surveys and consumer reporting systems (Complaint/Compliment Reporting System and Consumer Feedback Cards).
4. Inclusion of a separate consumer program exhibit in yearly budget submissions to OMB.

**D. Information Services**

Information Services is responsible for consumer education regarding Veterans Administration benefits. Utilizing print and electronic media, the office seeks to directly increase the awareness among veterans, their dependents, spouses and the general public of VA benefits, new benefit laws, important deadlines and changes in policies and regulations. Veterans and their dependents are encouraged to contact the VA for information and assistance.

Approximately 600 local and national news releases are distributed each year to 11,000 daily and weekly newspapers, the Associated Press, United Press International, Reuters, Copley, and other national news services. These news releases are also distributed to veterans service organizations and military publications. Written, recorded and videotaped and filmed spot announcements are distributed to 8,100 radio and television stations and a weekly news insert is distributed to the Armed Forces network. Question-and-answer features, benefit filler facts, cartoon features, magazine articles and information are prepared and sent to the print media. The office also publishes a comprehensive booklet, "Federal Benefits for Veterans and Dependents," which is disseminated to the media and public through all VA facilities, and is sold in volume by the Government Printing Office.

The service also publishes a biweekly *Public Opinion Digest* for distribution to agency officials and field stations. This condensation of critical and favorable comment on VA programs and activities serves to alert all stations to new trends, as well as potential problem areas that might impede service to consumers.



### E. Office of Planning and Program Evaluation (OP&PE)

Planning and Program Evaluation is responsible for (1) coordinating and integrating Agency planning to support the agency's missions and goals, (2) identifying agency top management information requirements and developing plans for a supporting information system, (3) conducting program evaluations, special studies, and systems analyses, and (4) supporting the agency Consumer Affairs Program through coordination of plans, procedures, and consumer complaint handling and feedback information systems. The Consumer Affairs Staff is located in this office.

In addition to the functions performed by the Consumer Affairs Staff, OP&PE has the following activities related to the consumer program:

1. Conducting program evaluations and special studies of the delivery of services. These studies may be initiated as a result of an analysis of complaint mail or other feedback systems which indicate a potential problem with service or delivery of benefits.
2. Developing from the planning effort characteristics of the veteran population which could indicate that special attention is needed toward a special group of VA consumers (e.g., aging veterans).
3. Contracting for or conducting attitudinal surveys of consumer groups concerning the VA in order that attention can be given the areas which most concern veterans.
4. Coordinating and monitoring the five-year consumer planning of the departments and staff offices to ensure that the consumer initiatives approved by the Administrator are included in the Agency plan and that there is adequate planning to enhance the consumer program.

### F. Office of Human Goals

The primary responsibility of the Office of Human Goals is to ensure that benefits, services, employment, training, and advancement in every element and program administered by the Veterans Administration are provided for all groups and individuals on an equal basis and in a compassionate, competent, and sensitive manner. Activities are designed to keep the agency especially attuned to the unique needs, aspirations, and concerns of those who are minority, disabled, handicapped, female, or elderly.

OHG reviews reports made by veterans' organizations as well as internal reports for indications of problem areas. It participates in conferences of minority, women's and veterans organizations and those for handicapped individuals to secure insight into how VA is perceived by specific groups of individuals. OHG receives correspondence from special interest groups, the general public, and Congress regarding programs and practices affecting equal opportunity. The Office examines the composition of the work force and other equal opportunity factors of the Veterans Administration as they relate to VA's responsiveness in providing benefits and services. For example: Do VA employees have the ability to communicate with the consumer in

a language other than English, e.g., Spanish, as needed? Is there understanding and regard by VA employees for cultural differences? Is VA meeting the religious needs of hospitalized minority veterans? What are the consumers' perceptions of the loan guaranty program and staff?

### G. Office of Data Management and Telecommunications (ODM&T)

The Office of Data Management and Telecommunications provides staff offices and departments with a complete range of data processing and telecommunication services, including consultation, ADP planning, technical evaluation, systems design and development, and systems production. Since the consumer program is an Agency effort, ODMT supports all departments and staff offices involved in the development of computerized consumer feedback systems.

ODMT is currently providing support in the design and development of the VA Consumer Complaint/Complaint Reporting System and consumer feedback cards of the departments. When these systems are fully developed, the office will computerize the source data and produce the necessary management reports for both field stations and Central Office. In addition, ODM&T is a member of a committee working to develop new and improved computerized feedback mechanisms for the consumer.

### H. Inspector General

Each of the offices under the Inspector General have specific duties and responsibilities in the area of Consumer Affairs. The Office of Investigation is responsible for handling complaint mail, including consumer complaints, referred by department and staff offices to determine if a Central Office investigation is warranted. The Risk Analysis Staff is responsible for handling the Consumer complaints it receives from the employee telephone "Hotline," General Accounting Office and Members of Congress. The Office of Audit is responsible for reviewing field station activities relating to consumer affairs.

Complaints received by the Office of Investigation or the Risk Analysis Staff that fall under the jurisdiction of department or staff offices are referred to those offices for indicated action. Department and staff offices are requested to furnish reports of actions taken to the Office of Investigation or the Risk Analysis Staff on referred complaints that are of interest to the Inspector General. Information concerning consumer complaints handled by the Office of Investigation or the Risk Analysis Staff and copies of consumer complaint mail received by these offices are forwarded to the Consumer Affairs Staff.

The mechanisms utilized by the Office of Audit in examining consumer affairs issues at medical centers or regional offices include:

1. Reviews of the facility's complaint files and the assessment of the handling of selected complaints.
2. Reviews of the facility's community-oriented activities and relations with the media.

3. Reviews of timeliness and responsiveness of replies by the Veterans Assistance and/or Medical Administration Services.

4. Reviews of the VAF 2633 files, Report of Incident, and further reviews of the system that governs this Patient Care File.

5. Interviews with representatives of Veterans' Service Organizations and Veterans' Benefits Counselors to collect their comments regarding hospital operations and any consumer problems.

6. Reviews of applications for admission to a health care facility which have been denied and the controls that are in place to determine whether proper procedures were utilized.

### APPENDIX—Definitions

**Consumer**—Any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

**Consumer Complaint**—An allegation, oral (telephone and personal visit) or written, including an anonymous one, that adversely reflects upon the service, responsiveness or sensitivity of the VA, its employees or organizations or individuals having official dealings with the VA towards the needs of veterans, their dependents and beneficiaries.

**VA Consumer**—Veterans, their dependents, and beneficiaries as set forth in sections 101-103, Title 38, United States Code.

**Veterans' Service Organization (VA Consumer Organization)**—Any national group organized to serve veterans. For purposes of this operating plan, veterans' organizations shall be identical to those listed in the Administrator's Memorandum No. 00-78-16, dated November 16, 1978, entitled "Veterans' Service Organizations Liaison."

**Veterans' Service Organizations Liaison (VSOL)**—A staff with the primary mission of maintaining communication with veterans' organizations and obtaining their input into the VA policy, rules, and procedures.

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Monday  
December 10, 1979

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Part IV—Section H

**ACTION**

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Consumer Affairs Program



**ACTION****CONSUMER AFFAIRS PROGRAM**

This notice is issued to inform the public that ACTION is establishing a formal plan to correspond to the major elements of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," dated September 26, 1979.

**1. STATEMENT OF PURPOSE**

On September 26, 1979, the President of the United States signed Executive Order 12160 which requires each agency to formally establish a consumer affairs program in order to improve the management, coordination, and effectiveness of those programs on a government-wide basis.

Additionally, the Executive order contained a provision for the exemption of those agencies which do not affect the consumer.

ACTION does not have a statutorily established regulatory role in the marketplace nor does it affect the provision of property, goods, services, or credit to consumers.

However, ACTION, with its mission of assisting the poor and disadvantaged to become a part of the mainstream of American life, has utilized the consumer affairs mechanism as a primary means to achieve its goals. This is accomplished with a relatively small staff of employees backed by a much larger number of volunteers.

Thus, while the Agency has requested exemption from full compliance with the provisions of the Executive order based on its small staff and limited mission, it is committed to an active role in support of the President's consumer affairs program. To this end, ACTION is establishing a formal plan to correspond to the major elements of the Executive order. In addition, the Agency, based on its mission to assist the poor and disadvantaged, proposes to make its consumer interest programs a part of the larger Federal effort by assuming an advisory role on the President's Consumer Affairs Council and by providing a bridge between the overall Federal effort and those poor and disadvantaged citizens with whom ACTION works in its established programs.

**2. CONSUMER AFFAIRS PERSPECTIVE****A. Executive Order Requirements**

Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

**B. ACTION Program**

Due to ACTION's relatively small size and narrow scope of activities the Agency will utilize existing organizations and staff to promote the consumer affairs perspective. The Office of Compliance, which

reports directly to the Agency Director, has been designated as the ACTION unit responsible for these activities. This office is currently assigned responsibility for and will continue to exercise its duties relative to agency inspections, audits and the EEO program.

The additional responsibility for the consumer affairs program is compatible with that office's current activities in assuring agency compliance with legal and regulatory requirements and with the coordinative role that the office now plays. In as much as the other offices will have responsibility for the operational aspects of parts of this program the Office of Compliance will exercise overall program management authority and responsibility.

While the Office of Compliance, as a primary staff office to the Agency Director, currently participates in the development and review of all rules, policies programs and legislation, the assignment of the consumer affairs program will require that the office consider that program in its deliberations. Thus, the consumer affairs perspective will specifically and automatically be a component of the Agency decision processes.

Additionally, the Assistant Director for Compliance will chair the ACTION Consumers Affairs Council which, as outlined in part 8 of this plan, will play a major role in promoting and coordinating the ACTION consumer interest activities of ACTION programs with those of other Federal agencies.

**3. CONSUMER PARTICIPATION****A. Executive Order Requirement**

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decision-making. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decision-makers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

**B. ACTION Program**

The "consumers" affected by ACTION programs are the poor and disadvantaged who are most likely to benefit from the Agency programs. It is this group of people who make up the grassroots organizations who shape and guide the individual Agency activities. Through their requests for volunteers, informational materials, technical assistance or funding they determine which programs best fit their needs and, in the form of "sponsoring organizations", supervise the conduct of the projects on on-going basis. Additionally, the Agency field structure through its Regional and State offices provides a direct line of communication and cooperation between Agency officials and community members/volunteers, assuring

that these individuals are provided the opportunity for expressing their concerns to Agency officials.

In order to further promote a unified consumer affairs perspective, each office with domestic concerns shall be represented on the ACTION Consumer Affairs Council. The Council shall be charged with providing a forum whereby consumer concerns may be the primary focus in the consideration of Agency rules, policies and programs.

**4. INFORMATIONAL MATERIALS****A. Executive Order Requirement**

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

**B. ACTION Program**

The Agency currently publishes and distributes a wide variety of informational material to state, local and community organizations. These materials explain the Agency, its programs and services available and how the citizen may participate, but are not specifically oriented toward the consumer program required by the Executive Order. A list of these materials and/or copies may be obtained by writing: ACTION, Office of Recruitment and Communications, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Additionally, the Office of Recruitment and Communications will prepare an information pamphlet that describes the ACTION consumer affairs program required by the Executive Order in terms of agency responsibilities and services, procedures for consumer participation and marketplace information. This pamphlet will be distributed by July 1980 through the Agency field structure to the state, local and community organizations that sponsor Agency projects or that are potential sponsors for Agency programs.

**5. EDUCATION AND TRAINING****A. Executive Order Requirement**

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

**B. ACTION Program**

The Agency currently provides extensive training for those staff members and volunteers who are responsible for providing Agency services to the sponsoring organizations and individuals.

Additionally, new courses will be designed and written material provided to assure that the appropriate individuals are fully versed in the requirements of the Executive Order and ACTION's implementing program. Further, the Agency will take steps to provide training and training materials regarding "consumer interests" programs as reflected in the programs of other agencies and the activities of the President's Consumer Affairs Council.

**6. COMPLAINT HANDLING****A. Executive Order Requirement**

Agencies shall establish procedures for systematically logging in, investigating, and responding, to consumer complaints, and for integrating analyses of complaints into the development of policy.

**B. ACTION Program**

The agency's public information program proposed in part 4 of this plan will serve to heighten public awareness of the agency's receptivity to complaints. Any complaints received by the Agency will be processed through the controlled correspondence system maintained by the Office of Administration and Finance. This office is responsible for logging in, routing, monitoring, and dispatching correspondence requiring special attention. While consumer complaints must be routed to the appropriate ACTION office for resolution, a copy of each complaint will also be provided to the Office of Compliance as the agency focal point for consumer affairs. All such complaints will be answered within two weeks of receipt by the Agency. The Office of Compliance will monitor this system and, as necessary, assist the appropriate program office in the investigation and reply. Additionally, the Office of Compliance will prepare periodic reports to Agency management with an analysis of the complaints and will assure that the ACTION Consumer Affairs Council is advised of the content and analysis of such complaints. Thus, consumer complaints will become a part of the policy making process by the program offices, by agency management and, specifically by the Office of Compliance and the ACTION Consumer Affairs Council.

**7. OVERSIGHT****A. Executive Order Requirement**

The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.



**B. ACTION Program**

The Assistant Director for Compliance is designated as the agency senior level official responsible for the oversight of the agency's consumer activities. The Assistant Director for Compliance reports directly to the ACTION Director and currently is classified as a FSR-1. In addition to heading the Office of Compliance, the organization that comprises the consumer affairs staff, and serving as the chairman of the ACTION Consumer Affairs Council, the Assistant Director is also responsible for coordinating the individual parts of ACTION's consumer affairs program described above in parts 2 through 6 and providing policy direction to the Agency program.

**8. ACTION's Consumer Affairs Council**

Due to ACTION's intense interest in the success of the Federal Consumer Affairs Program and desire to be an integral part of that program the Agency shall form an ACTION Consumer Affairs Council.

**A. Membership**

The following Agency offices shall be represented on the Council:

- Office of Compliance.
- Office of Domestic and Anti-Poverty Operations.
- Office of Recruitment and Communications.
- Office of Administration and Finance.
- Office of Voluntary Citizen Participation.
- Office of Policy and Planning.

**B. Purpose**

The Council shall provide for overall coordination of the Agency's Consumer Affairs Program. In this capacity the Council shall:

- In the form of the chairman, represent ACTION on the President's Consumer Affairs Council;
- Consider the consumer complaints received by ACTION in its deliberations;
- Participate in the formulation and review of Agency rules, policies, programs and legislation;
- Act as a mechanism to transmit information received from the President's Council through the ACTION headquarters and field structure to the volunteers and community grassroots organizations.
- Act as a mechanism to transmit consumer concerns received from the volunteers and community grassroots organizations to the President's Council and other Federal Agencies.

This Agency contact for this program is Raul Rodriquez, Assistant Director for Compliance, ACTION, Washington, D.C. 20525, telephone (202) 254-5940.

Signed at Washington, D.C., this 4th day of December 1979.

Sam Brown,

Director of ACTION.

[FR Doc. 79-37726 Filed 12-7-79; 8:45 am]

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Monday  
December 10, 1979

**Part V****Consumer Programs:  
Economics and  
Commerce**

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Part V—Section A

**Department of  
Commerce**

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Draft Consumer Program



**COMMERCE DEPARTMENT****AGENCY:** U.S. Department of Commerce.**ACTION:** Draft Consumer Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Office of Consumer Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 5889, Washington, D.C. 20230.**FOR FURTHER INFORMATION CONTACT:** Meredith M. Fernstrom, Director of Consumer Affairs, (202) 377-5001.**AUTHORITY:** Executive Order 12160.**BACKGROUND**

The major goal of the Department of Commerce is to encourage the economic progress of the United States and its citizens. Its mission encompasses a broad spectrum of programs designed to promote technological advancement, improve research and scientific development, manage and conserve the Nation's natural resources, provide the basis for the Nation's measurement standards, provide social and economic statistics and analyses, promote business and economic development, and strengthen the international and domestic trade position of the Nation.

Some programs and policies of the Department of Commerce have a direct impact on consumers: for example, the product standards work of the National Bureau of Standards, the seafood inspection program of the National Marine Fisheries Service, and the telecommunications activities of the National Telecommunications and Information Administration. Other actions have a more indirect, although no less significant, effect on consumers; these include activities of units such as the Census Bureau, the Patent and Trademark Office, the National Weather Service, and the Bureau of Economic Analysis, as well as the broad area of trade policy analysis.

In carrying out its mission of promoting economic growth, the Department must be as responsible and accountable to the consumer as it is to business. This Draft Consumer Program describes a plan for assuring that consumer needs and interests are solicited and adequately considered in decisionmaking processes of the Department. When the Draft Program is finalized, it will be implemented in the form of a Department Administrative Order.

**I. CONSUMER AFFAIRS PERSPECTIVE****Office of Consumer Affairs**

The Office of Consumer Affairs (OCA), as coordinator of the Consumer Program, is authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs and legislation.

**Staff Location**

OCA is located in the Office of the Secretary (see Appendix A, Organizational Chart). The Director of

the OCA currently reports to the Deputy Under Secretary; this reporting channel is under review pending a Departmental reorganization which is expected to be completed by January, 1980.

**Size and Resources**

The OCA staff is presently limited to two professional and one secretarial positions. The staff is supplemented with college interns when available through semester-long work/study programs. A Commerce Management Information System is now under development, to be administered by the Deputy Under Secretary's Office, which the OCA can use to monitor consumer activities throughout the Department.

In order to more fully comply with the requirements of the Executive Order, a review of OCA staffing needs is being made to determine possible expansion in line with the current Departmental reorganization.

**Responsibilities**

The Director of the Office of Consumer Affairs presents consumer views to policy makers, facilitates consumer involvement in Department activities, and maintains contact with consumer-related organizations in the public and private sectors. The Director serves as the Department's consumer advocate in reviewing rules, policies, programs and legislation which impact the consumer, and recommends actions that are responsive to consumers' needs.

The other major responsibility of the OCA is to encourage greater responsiveness to consumer concerns from the business community. In this regard, OCA works closely with corporate consumer affairs directors, other corporate executives, and trade associations to develop policies and programs which address consumer issues. OCA's efforts currently include seminars for business, individual consultations and advice to corporate leaders, and the establishment of business-consumer "roundtables" on specific problem areas. In fiscal year 1980, a major new project will be the reissuance of consumer affairs guidelines for business which were previously developed under the auspices of the Department of Commerce.

**Relationship With Other Consumer Personnel and Agency Operating Units**

The following operating units are regularly involved in major policies and programs that have direct or significant consumer impact: National Bureau of Standards (NBS), National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), National Telecommunications and Information Administration (NTIA).

These operating units have developed plans for implementing the Executive Order within their agencies, as follows:

**National Bureau of Standards (NBS)**

NBS has designated the Director of the Center for Consumer Product Technology (CCPT) as the Bureau's

representative for consumer matters. The Director will oversee implementation of the Consumer Program within the CCPT, and will act on behalf of the Director of the National Bureau of Standards on all consumer issues within the Bureau and in conjunction with the Commerce Consumer Connection (described below) and the Office of Consumer Affairs.

**National Marine Fisheries Service (NMFS)**

The National Marine Fisheries Service has a Consumer Affairs Division located in the Office of Utilization and Development. Plans are currently in progress to reconstitute the Division as a Consumer Affairs Branch under a combined Seafood Inspection, Research, and Consumer Affairs Division. The Consumer Affairs Branch is planned to include 3 consumer affairs professionals, 1 economist, 1 home economist, and 1 clerical position.

The National Marine Fisheries Service also has twelve home economists and marketing specialists who are engaged in consumer development activities at the NMFS regional centers. While these regional specialists do not presently report to the Consumer Affairs Division at NMFS headquarters, there is a continuing exchange of information between the field and the headquarters.

The objective of the NMFS Consumer Affairs Division is to provide the Assistant Administrator of Fisheries with current consumer views relative to fishery policies, coordinate the activities of the Marine Fisheries Advisory Committee (MAFAC) Consumer Affairs Subcommittee, facilitate consumer involvement in fisheries activities, function as the point of contact for consumer inquiries and complaints, act as the NOAA representative in consumer related councils and committees at Departmental and interagency levels, and to coordinate citizen participation in fisheries policies. The head of this Division will serve as a consumer advocate within the Assistant Administrator's office in reviewing programs and legislation which impact on the consumer and recommend actions that are responsive to consumer needs. The Division will maintain contact with consumer and other public groups and will be responsible for consumer educational and informational activities for both consumers and fisheries related industry groups. The head of the Division is a member of the Commerce Consumer Connection.

**National Telecommunications and Information Administration (NTIA)**

The National Telecommunications and Information Administration was established on April 1, 1978, and does not have a consumer affairs staff at present. The Office of Planning and Policy Coordination (OPPC) has been designated as NTIA's consumer representative for purposes of compliance with the Executive Order. During fiscal year 1980, the Director of OPPC will coordinate consumer activities within NTIA. The agency is also exploring the possibility of establishing a consumer office, and will seek budget approval to do so. If funding is approved, some resources will be

devoted this fiscal year to planning for and implementing the new office.

**Other Operating Units**

Other operating units of the Department which do not have consumer staffs will be directed to designate a "consumer contact person" within their agency as liaison to the OCA (See Appendix B, Department of Commerce Offices and Operating Units). This "consumer contact" should be at the highest level possible to be aware of the unit's activities which impact consumers and to have access to the agency head. Contact persons must be designated within 30 days of the effective date of the Program. These individuals will be kept apprised of the Department's Consumer Program through the Commerce Consumer Connection notices as well as through informal communication with the OCA.

**Procedures for Consumer Policy Coordination**

The OCA acts as the "umbrella" to coordinate all consumer participation and outreach activities in the Office of the Secretary, through the field office networks, and in the operating units. OCA will assist existing consumer staffs within the operating units in the development of their policies and programs. All appropriate means of participation in policy and program development will be used by OCA, including membership on intradepartmental task forces; representation of the Department on interagency consumer projects; consultation with operating unit officials and staffs; written comments on legislative and other proposals; circulation of proposals to consumer representatives, the media, etc. Consumer affairs staffs of operating units will carry out similar policy review functions within their agencies.

Specific procedures through which OCA will participate in policy development and review include:

**1. Commerce Consumer Connection**

The OCA chairs the Commerce Consumer Connection, an intradepartmental committee which meets at least monthly to review consumer-related policies and programs throughout the Department and develop recommendations for the Secretary and other officials on actions appropriate to consumers' interests. Through this mechanism, OCA will also be made aware of emerging programs or problems of consumer staffs within the operating units.

Membership of the Connection consists of representatives of the operating units' consumer staffs, and in the future will include the designated consumer contact persons from other operating units.

**2. Policy and Legislation Review**

The OCA will be included in the development and clearance of rules, policies, programs and legislation which have consumer implications through coordination with the Assistant Secretary for Policy and the Assistant General Counsel for Legislation. OCA will review the Department's 6-month regulatory agenda and disseminate monthly public notices of regulatory activities to consumer organizations and



consumer media. Consumer staffs of the operating units should be involved in all stages of their agency review process. OCA will work directly with operating units and consumer staffs on the development of proposed and final rules.

### 3. Advisory Committees

The Secretary has directed that one or more qualified consumer representatives be included in the membership of the Department's public advisory committees, except where there are statutory constraints. It is also the Department's policy to reimburse, upon request, advisory committee members, which includes consumer representatives, for travel and expenses associated with membership on advisory committees. OCA serves as a clearinghouse for locating consumer candidates for membership, and will be included in the clearance of proposed committee members to assure that adequate consumer representation occurs. The Office will conduct a survey within 30 days of the effective date of this Program, and at least annually thereafter, to determine the status of consumer representation on advisory committees.

## II. CONSUMER PARTICIPATION

### Where Consumer Participation Will Occur

OCA and consumer staffs of the operating units will be responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the Department's rules, policies and programs, including the initial formative stages of the process. To provide participation at the appropriate stages of policy development, the following actions, and others as needed, will be taken:

1. Notices of proposed and final rules, programs, and policies will appear in the **Federal Register**.
2. Monthly notices of upcoming rulemaking activities will be disseminated to consumer representatives and consumer media by OCA.
3. Funds will be made available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. (Recent examples include the Department's development of recommendations on the problem of product liability, where a series of Consumer Forums was funded; and a pilot project on voluntary consumer product information labeling, for which a national consumer organization was a consultant to the Department.)
4. Informal meetings will be arranged between Commerce officials and consumer leaders to discuss emerging or on-going problems and issues.

### How Consumer Participation Will Occur

All appropriate avenues of participation in policy development and review will be made available to consumers, including, for example:

1. Written comments and oral testimony in rulemaking procedures and public hearings (Washington and regional)

2. Membership on Commerce Advisory Committees, task forces and similar working groups

3. Special briefings by Commerce personnel for consumer representatives on policy and program developments

4. Regional Forums on Regulatory Agenda

5. Commerce Consumer Forums on major issues (A proposed format has been approved and utilized for recent Consumer Forums on product liability. Future locations, frequency and level of participating Commerce officials will be determined by the nature of issues involved and the availability of resources.)

6. Mailings from OCA and/or relevant operating units to consumer groups and media to solicit specific feedback

7. Meetings between consumer and Commerce leaders to discuss specific trends or programs

Specific consumer participation activities on-going or planned during the coming year within the operating units include:

#### National Bureau of Standards

Sponsorship and utilization of a network of Consumer Sounding-Boards in concert with private sector standards developing organizations. The Consumer Sounding-Boards are composed of a demographic cross section of consumers convened for the purpose of providing standards-making organizations with direct consumer involvement in their programs. The Center for Consumer Product Technology is the focal point for NBS activities with the 4 Metropolitan Washington area Sounding-Boards.

#### National Marine Fisheries Service

Marine Fishery Advisory Committee (MAFAC)—This committee of approximately 20 representatives from industry and academia advises NOAA on fishery activities. MAFAC includes a subcommittee on consumer affairs. The NMFS Consumer Affairs Branch is active in this subcommittee.

Fishery Management Councils—NMFS Consumer Affairs personnel are actively pursuing consumer representation on the Regional Fishery Management Councils.

#### National Telecommunications and Information Administration

Public Participation Funding Program—The Public Telecommunications Facilities Program (PTFP) is a \$22 million dollar grant program within NTIA. To ensure enhanced public participation in this program, NTIA is developing a plan to reimburse participants in rulemaking proceedings relating to this program.

Public Telecommunications Advisory Committee on Minorities and Women—Also in connection with the PTFP program, a Public Telecommunications Advisory Committee on Minorities and Women is being planned. The purpose of this Committee is to advise NTIA concerning procedures by which the needs of minorities and women might better be served through the grant-in-aid program for public telecommunications entities administered by NTIA.

### Analysis of Consumer Views

In order to ensure that consumer views are adequately analyzed and considered in policy development, operating units will be directed to document to the OCA, or to their consumer staffs, consumer comments received in the rulemaking process or on policy or program proposals, and the response provided to such comments. When substantive minority opinions exist, these should be addressed as optional considerations in recommendations to policy officials. OCA and consumer staffs of the operating units will participate in efforts to reconcile major disparities in policy recommendations, through the formal mechanism of the Commerce Consumer Connection or other informal channels. OCA will be included in the final clearance of consumer-related policies, rules, programs and legislation.

### Staff Responsibilities

OCA will coordinate consumer participation responsibilities throughout the Department, in conjunction with the Office of Regulatory Economics and Policy (OREP) which oversees public participation activities under Executive Order 12044. Within 90 days of the effective date of the Program these offices will develop general guidelines for consumer participation for use by agencies which do not have consumer affairs staffs. Consumer staffs in operating units will be required to implement consumer participation procedures within their agencies.

### Special Efforts To Notify Consumers

OCA and consumer staffs in the operating units, in conjunction with public affairs staffs, will conduct special efforts to notify consumers and their representatives of opportunities to participate in the Department's policy development process. Several current efforts in this regard will be continued and expanded, where possible, including:

1. Mailings of policy and program proposals to OCA's list of approximately 1,000 national, state and local consumer organizations, consumer media, and state and local government consumer agencies as well as the mailing lists of the operating units. These recipients will be requested to conduct further outreach efforts to reach their constituent groups.
2. Use of electronic media (Commerce radio tapes, appearances of consumer staffs on radio and TV programs) and print media interviews.
3. Public speaking appearances by consumer staffs.
4. For the PTFP program, NTIA plans to prepare special informational materials concerning the grant process by which it makes funds available for telecommunications facilities. This information will be distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

In addition, a major new effort to notify the public of Commerce regulatory activities is currently being developed. This effort will consist of monthly notices to be derived from the Department's "Semi-Annual Agenda of Regulations," which OCA and operating

units consumer staffs will send to appropriate consumer organizations, agencies and media. The monthly notices will provide a synopsis of upcoming activities from the Agenda of Regulations, including the agency contact person.

### Funding of Consumer Participation

Special attention will be given to developing new procedures and funding sources to finance consumer participation in the Department's proceedings, where necessary. One operating unit, the National Oceanic and Atmospheric Administration, issued regulations in 1978 for funding public participation in its rulemaking proceedings (see 43 FR 17806-17812, Wednesday, April 26, 1978). The National Telecommunications and Information Administration is preparing recommendations for funding public participation related primarily to the Public Telecommunications Facilities Program (PTFP), which awards grants yearly for the development and expansion of public telecommunications services. The agency's proposed rules will appear in the **Federal Register** in the near future. Other operating units are being asked to explore similar funding procedures. These will be issued within 90 days of the effective date of this Program.

## III. INFORMATIONAL MATERIALS

### Agency Information Services

Operating units of the Department of Commerce produce a vast array of informational materials. According to the function of the unit, some materials are consumer-oriented for general public interest while others serve business or statistical purposes. In reviewing the materials presently available, the OCA has identified new efforts to be developed which are highlighted in each area required by the Executive Order. Operating units will be directed during fiscal year 1980 to evaluate the adequacy of their current information materials and make a determination as to new materials which are needed.

#### 1. Department of Commerce Responsibilities and Services

Informational materials concerning responsibilities and services of the Department are produced by all major operating units in the form of agency newsletters, press releases, and other publications. Some units also provide conference exhibits; teacher kits; posters; radio and television spots; free film loans and tours of facilities including the National Marine Fisheries Service and the weights and measures laboratories, Center for Consumer Product Technology, Center for Fire Research and other facilities and testing laboratories of the National Bureau of Standards. NBS also conducts community outreach programs in the form of career days for secondary school students and presentations to local schools by scientists from the Science and Technology Enrichment Program (STEP).

OCA maintains a current *Inventory of Consumer Affairs Activities* which outlines the consumer-related



functions of Commerce operating units. The *Inventory* will be available upon request. During the coming year, OCA also plans to develop a Departmental brochure and a conference exhibit depicting Commerce consumer services, resources permitting. A preliminary assessment of the Department's informational activities has determined that these materials are needed to apprise consumers of the variety of Commerce services available, of the correct agency to contact regarding its services, and of the opportunities to participate in agency proceedings.

## 2. Marketplace Information

Due to the diverse activities of Commerce operating units, a wide variety of marketplace information is available to the public. Of broad general interest are the monthly economic trend reports; energy conservation and fire safety publications and free film loans on varied subjects from the National Bureau of Standards; fishery supply and "best buy" data which is supplied to the "National Consumer Buying Alert" and other bi-weekly and monthly publications, seafood recipes, and Truth in Menuing Guidelines from the National Marine Fisheries Service; and a series of Consumer Affairs Guidelines for business produced by a former advisory council to the Secretary of Commerce. NMFS has also provided nutritional research to Nutribank, a computer service program which provides nutritional values for recipes. Some Commerce publications are available free or at a nominal charge through the GSA Consumer Information Center at Pueblo, Colorado. Proceedings of a Consumer Dispute Resolution Conference co-sponsored by the Department and the Chamber of Commerce of the United States are available from OCA.

The Department also has extensive media liaison, distributing monthly NBS radio interviews to 500 radio stations, circulating monthly NBS reports to consumer writers and broadcast stations; and, issuing news text, black and white photographs and color transparencies on fishery products to 900 food editors and local media representatives from the NMFS.

Marketplace information on operating unit programs such as the economic data, dietary and nutritional guides, energy, and product standards and testing will continue to be developed in accordance with relevant issues and the availability of resources. OCA also plans to begin updating and reissuing the Consumer Affairs Guidelines for business and to co-sponsor other consumer dispute resolution conferences in fiscal year 1980. Operating units will be directed to produce bi-lingual versions of key consumer informational materials wherever possible.

## 3. Consumer Participation Information

Consumer information materials which outline general procedures for consumer participation in policy development in the Department will be made available to consumers as they are developed. Public comment will be solicited on the proposed procedures. (As cited previously, the National Oceanic and Atmospheric Administration issued regulations for

funding consumer participation in its proceedings in the *Federal Register* of April 26, 1978. Similar proposed regulations are expected to be issued by the National Telecommunications and Information Administration in the near future.) Also mentioned previously, OCA will issue monthly notices of Commerce regulatory activities to consumer organizations and the media. Consumer staffs will assist in reviewing their agency's proposed rules, policies and notices of such actions, to assure the use of "plain English."

## Manner of Distribution

The selection of specific distribution channels for informational materials produced by the Department will be determined by the nature of the material, target audience(s), time constraints, and resource availability. In general, distribution channels will include: OCA's mailing list of state and local consumer offices, private consumer organizations, professional consumer societies, etc. Secretarial Representatives in the ten Federal Regions; the 44 District offices of the Industry and Trade Administration and other field office networks; mailing lists of news and public affairs offices and operating units; public speaking engagements of consumer staffs; media events such as the monthly NBS radio spots and NMFS quarterly mailings to food editors; and direct mail in response to requests. The information disseminated through these channels will include instructions for additional outreach efforts to the constituent groups of each channel.

## Officials Responsible for Consumer Information Program

Specific responsibility for planning and carrying out the consumer information function resides with the consumer staffs within the operating units, with assistance as appropriate from public information and program staffs. OCA will consult with the Office of Public Affairs to develop Departmental consumer information activities. OCA and/or the Commerce Consumer connection will review all future consumer publications in draft stage for content and clarity.

Regional Secretarial Representatives, District and Field offices of appropriate operating units will assist in dissemination of informational materials through their facilities.

## Information on Agenda of Public Meetings

Explanatory materials for open meetings will be prepared by OCA, the Office of Regulatory Economics and Policy and/or the consumer staffs of operating units, as appropriate to the meeting. Such material will include a summary of the background and issues to be discussed, key word categories, and an agency contact person.

Technical assistance materials will be publicized and distributed through such channels as *Federal Register* notices, the "Calendar of Federal Regulations," Commerce Secretarial Representatives, District and field offices, OCA and operating units'

consumer mailing lists, advisory committees, and the consumer media.

## IV. EDUCATION AND TRAINING

### Responsibilities for Educating Staff Members About Consumer Program

In order to effectively implement the Consumer Program, efforts must be made to apprise all Commerce managers and employees of the components of the Federal consumer policy and actions to be taken in the Department to comply with that policy. The Deputy Under Secretary has issued a memorandum to the Department's Secretarial Officers and Heads of Operating Units, conveying the Executive Order and directing them to make their staffs and employees aware of it. OCA will work with the heads of the agencies, the Secretarial Representatives and other District and field office networks to disseminate information regularly about the status of the Program and to solicit their comments and recommendations on its implementation. Consumer staffs in major operating units will be required to conduct similar employee education efforts within their agencies.

OCA further plans to conduct briefings on the Consumer Program for top Commerce management, through the Commerce Council, a weekly meeting of Department officials, and on an individual basis with appropriate Assistant Secretaries and Administrators. OCA will work with public affairs and personnel staffs of the operating units to develop news articles on the Program for inclusion in employee and public newsletters. Other activities designed to heighten employee awareness of the Department's consumer programs will also be developed during the coming year.

### Specialized Training for Consumer Affairs Personnel

OCA and the consumer staffs of the operating units will obtain professional development through attendance at consumer-related conferences and seminars. OCA will also work with the Employee Development Division of the Department's Personnel Office to identify in-house or outside sources of training, as appropriate. It will also examine the possibility of university credits in specialized areas of concern. Specific areas in which training would be desirable include complaint handling, consumer participation procedures, consumer education techniques, preparation of print and audio visual consumer information materials, and mediation and arbitration skills. College interns receive on-the-job training and counsel in complaint handling from the Director and the consumer Affairs Specialist. Research assignments and other projects are conducted under the direct supervision of the Director.

### Technical Assistance for Consumers

Operating units, with advice from OCA, will determine the staff responsibilities, procedures and types of technical assistance for consumers which are

appropriate to their programs. For example, NTIA's Public Telecommunications Facilities Program will provide technical assistance upon request to groups interested in public telecommunications, and plans to prepare special informational materials explaining the grants process to obtain funds for the telecommunications facilities. NTIA will distribute this information to individuals, public interest groups, the trade press, publishers, journals, and other media.

## V. COMPLAINT HANDLING

The Department's authority in the area of consumer protection is limited to a few specific responsibilities of some of its operating units, for example, the seafood inspection program administered by the National Marine Fisheries Service, and portions of the Fair Packaging and Labeling Act administered by the National Bureau of Standards. The Department has no authority to force business or industry to resolve consumer problems of a more general nature; however, the OCA may be of assistance in mediating disputes when other efforts have failed. Future consumer information materials outlining Commerce services and responsibilities, developed by the OCA and the operating units, will include statements explaining the Department's authority in complaint handling and instructions for consumers' use in submitting complaints.

The following procedures for handling consumer complaints were developed and are practiced by the OCA. Operating units follow these basic procedures with modifications in some areas, as appropriate to that unit.

### Format for Logging Complaints

DOC receives consumer complaints and requests for information through direct consumer contact, Congressional and White House referrals, assignment of miscellaneous correspondence from the Department's Executive Secretariat, or from other government agencies.

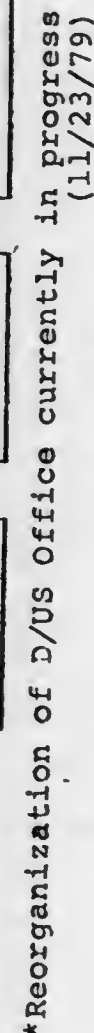
The OCA secretary logs in communications by name and date as it is received, whether by mail or telephone, assigning a reference number based on the fiscal year and a running tally; a subject matter category; the nature of the complaint; and the consumer's state of residence. The OCA Director or the Consumer Affairs Specialist reviews each communication to determine if it will be retained for action within OCA or assigned to other commerce operating units for investigation.

### Investigation, Analysis and Response Procedures

In the majority of cases, OCA staff contacts the business in question directly, hears its side of the dispute, and attempts to seek resolution that is agreeable to both parties. Some complaints requiring more extensive investigation are also referred in writing to the business in question. The consumer is notified by letter or telephone of the resolution or referral of the complaint.



BILLING CODE 3510-17-M





# APPENDIX B—DEPARTMENT OF COMMERCE OFFICES AND OPERATING UNITS

## Office of the Secretary

Under Secretary  
Deputy Under Secretary  
General Counsel  
Assistant Secretary for Policy  
Assistant Secretary for Administration  
Assistant Secretary for Congressional Affairs  
Office of Public Affairs  
Inspector General

## Federal Co-Chairmen of Regional Commissions

## Industry and Trade Administration

## National Oceanic and Atmospheric Administration

National Marine Fisheries Service  
Office of Coastal Zone Management  
National Weather Service

## United States Travel Service

## National Telecommunications and Information Administration

## Maritime Administration

## Economic Development Administration

## Office of Assistant Secretary for Science and Technology

National Bureau of Standards  
Patent and Trademark Office  
National Technical Information Service

## Minority Business Development Agency

## Office of Chief Economist

Bureau of the Census  
Bureau of Economic Analysis  
Office of Economic Affairs  
Office of Federal Statistical Policy and Standards  
Office of Industrial Economics

BILLING CODE 3510-17-M

Form Approved:  
OMB No. 116S79021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

- Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
- After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
- Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
- Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
- We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
- After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
- Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
- Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36441 Filed 12-7-79; 8:45 am]

BILLING CODE 3510-17-C

Monday  
December 10, 1979

Part V—Section B

## Commodity Futures Trading Commission

Draft Consumer Program

federal register



**COMMODITY FUTURES TRADING COMMISSION****AGENCY:** Commodity Futures Trading Commission.**ACTION:** Report on consumer program.**FOR FURTHER INFORMATION CONTACT:** David Rosen, 202/254-8630 or Barbara Leventhal, 202/254-7574.**AUTHORITY:** Executive Order No. 12160 established a Consumer Affairs Council and directed agencies to review and when warranted revise their procedures to assure that consumer needs are met. In voluntary compliance with the spirit of the Order, the CFTC, an independent regulatory agency, is publishing this report.**PUBLIC COMMENT:** Members of the public are urged to comment on or by March 10, 1980 on this report and recommend ways in which the CFTC can strengthen its efforts in the area of consumer affairs. Comments and recommendations may be forwarded in writing or by telephone to: Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-6314.**I. CONSUMER AFFAIRS PERSPECTIVE**

The Commodity Futures Trading Commission (CFTC) was established by Congress in 1974 to, among other things, regulate futures trading and the activities of members of commodity exchanges, public brokerage houses, futures industry salespeople, commodity trading advisors and commodity pool operators. In accordance with the objectives established in the Commodity Futures Trading Commission Act of 1974, the Commission's regulatory and enforcement programs are designed to prevent deliberate market distortions and manipulations, insure fair trade practices, protect the financial integrity of the marketplace and assure the rights of customers while providing a forum for redress of their legitimate grievances. The Commission's activities have a direct impact on members of the public who buy and sell futures contracts, and farmers and other producers of commodities which are traded in the futures markets. The Commission's actions also indirectly affect consumers of goods whose prices may be influenced by prices in the futures markets. The Commission is required by statute to consider the public interest prior to taking certain regulatory actions.

In accordance with this general orientation, the Commission believes there is merit to the suggestion contained in Executive Order 12160 that agencies have identifiable, accessible personnel with responsibility for coordination and oversight of the agency's consumer activities. Although the agency is too small and its impact on consumers is too indirect to warrant the establishment of a separate full-time Office of Consumer Affairs, two senior level officials, reporting directly to the Chairman, have been designated to perform these functions in addition to their other duties. David Rosen, Director of the Office of Public Information, is responsible for coordination of contact with and dissemination of information to consumers. Barbara Leventhal, Director of Policy Review, is responsible for considering the impact on consumers

of all Commission rules and programs, throughout their development.

**II. CONSUMER PARTICIPATION IN DEVELOPMENT AND REVIEW OF RULES****Policies and Programs**

Perhaps because of the indirect effect of the Commission's activities on consumers, the Commission has not experienced extensive consumer participation in the development and review of its rules, policies and programs. However, on several occasions the Commission has held public hearings in and out of Washington, D.C. in an effort to obtain the broadest possible public input in the regulatory process. In 1977, for example, the Commission undertook a unique program designed to encourage public involvement in its rulemaking process. Preparatory to drafting regulations to protect customers who trade commodity futures and commodity options, the Commission sponsored a series of nationwide newspaper advertisements and radio public service announcements appealing to farmers, producers and speculators who use the futures markets to get involved in the regulatory process by either writing to the CFTC with their ideas or participating in a series of grass roots hearings on customer protection. Despite the Commission's efforts to contact consumer organizations, farmer groups, producer organizations, state government officials, academics and individual customers, the public response was disappointing.

In 1978, the Commission conducted its second nationwide survey of farmers to determine the extent to which they understand and utilize the futures markets. The results generally confirmed those of a 1976 survey and indicated that only a small percentage (5%) of American farmers use the futures markets directly. The Chairman has recently assigned a staff member to work directly with farm groups, in order to establish a better understanding of the needs of farmers with respect to the regulation of futures trading. Further efforts to identify and reach affected consumers will be undertaken.

**III. INFORMATIONAL MATERIALS**

The Office of Public Information prepares and publicly disseminates a wide variety of informational materials. Each year, more than 600 press releases and advisories are distributed free of charge to everyone on the Commission's general mailing list. Several informational publications are also available on request. Recently, the Commission has produced a film and several radio and television public service announcements. Consideration is presently being given to the possible use of newspaper ads to alert the public to new schemes and frauds as they develop.

Another means of providing information to the public is the Commission's Consumer Hotline. Members of the public are encouraged to call the hotline, toll free, for information about companies selling commodity futures to make complaints about

possible violations of law. In the last quarter of fiscal 1979 alone, the hotline received more than 3,000 calls. The Commission's staff is currently considering ways in which the hotline could be made more effective.

**IV. COMPLAINT HANDLING**

In addition to the Consumer Hotline described above, the Commission administers a reparations system for the benefit of customers and commodity professionals. The reparations system was originally designed to provide a quick and inexpensive means of dispute resolution which members of the public could use as an alternative to exchange arbitration, or time consuming and costly litigation. Although conceptually sound, the program has experienced some difficulties because of the high volume of complaints submitted to it and a resulting backlog. In order to remedy these problems, a senior level Judicial Administrator was recently appointed and directed to explore means of streamlining and expediting the Commission's complaint handling system. The Commission will consider recommendations for improving its reparations system in the near future.

**V. CONCLUSION**

The Commission supports the principles embodied in Executive Order 12160 and intends to comply with the spirit of that Order in a manner consistent with its size, structure and status as an independent agency.

Issued in Washington, D.C. on November 30, 1979 by the Commission.

Jean Webb,

*Deputy Secretary of the Commission.*

[FR Doc. 79-37398 Filed 12-7-79; 8:45 am]

BILLING CODE 6351-01-M



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# federal register

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Monday  
December 10, 1979

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Part V—Section C

## Consumer Product Safety Commission

Statement of Support for the President's  
Executive Order No. 12160



**CONSUMER PRODUCT SAFETY COMMISSION****Statement of Support for the President's Executive Order No. 12160****AGENCY:** Consumer Product Safety Commission.**ACTION:** Statement of support for Executive Order.

**SUMMARY:** In September 1979, President Carter issued an executive order to provide for the enhancement and cooperation of federal consumer programs. The consumer Product Safety Commission, an independent agency, fully supports this effort. In this initial document, the Commission describes its activities that increase consumer participation. The Commission anticipates that it will publish a final version at a later date.

**FOR FURTHER INFORMATION CONTACT:** Ken Rashid, Acting Associate Executive Director for Communications, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6580.

**SUPPLEMENTARY INFORMATION:****INTRODUCTION**

The Consumer Product Safety Commission (CPSC), an independent federal regulatory agency, is charged with the responsibility of protecting the public against unreasonable risk of injury associated with consumer products. Since its creation, the Commission has recognized the vital role that consumers have in assisting the agency in carrying out its mission. The unique provisions of the Consumer Product Safety Act with respect to consumer participation and consumer information require the Commission to provide meaningful access to consumers and to consider their views in the development of major Commission programs. The Agency also has developed and used internal mechanisms to process inquiries and complaints to insure that the public's interests and concerns are met.

One important tool the Commission has is the regulations it promulgates. The CPSC, when developing consumer product safety standards and regulations under the consumer Product Safety Act, is directed by statute to provide for the participation of representatives of consumers and consumer organizations in the regulatory development process. The Commission has also sought consumer participation in other areas of agency rulemaking and other program activities. Additionally, Commission policies and requirements affecting the day-to-day conduct of agency business have benefited from this commitment to meaningful consumer participation.

**CONSUMER AFFAIRS PERSPECTIVE**

Within the CPSC, staff of the directorate for Communications, the Office of the Secretary, and the Commission's thirteen Area Offices work most directly with meeting the needs of consumers. Consumer affairs professionals in the Directorate for Communications are responsible for a broad range of communications activities including the composition

and production of CPSC audio-visual and print information and education material for consumers, the dissemination of this material, and the management of the agency's coordinated efforts to alert and educate consumers about the hazards of consumer products. This latter activity necessitates the consumer affairs professionals in both Headquarters and Area Offices to be in almost constant communication with consumers and representatives of a wide range of consumer organizations.

In 1977, the Commission established a program management system in which multidisciplinary program teams drawn from the agency's technical directorates handle regulatory development and other program issues. Consumer affairs personnel from the Directorate for Communications are included on these teams, and fully participate in the development and review of all agency rules, policies, and programs.

**CONSUMER PARTICIPATION**

The Commission seeks the participation of all segments of the public in its rulemaking proceedings and other activities. While industry representatives usually make certain that their views are communicated to the Commission, the expertise and views of non-industry individuals and groups, who can be affected by the rules, may be absent. Therefore, the Commission makes a special effort to encourage the widest possible participation in CPSC activities.

As one example, the CPSC has broadened public participation by conducting meetings outside of Washington, D.C. the Commission has held meetings in cities throughout the country, especially in areas where consumers might be particularly affected by a Commission project. Top agency officials—in many cases, the Commissioners—conduct these regional meetings.

In meetings, hearings, and other proceedings, consumer participation is possible only when all segments of the public are fully informed about them. The Commission notifies the public about these proceedings through its public calendar, the *Federal Register*, press releases, notices sent directly to interested individuals, and notices placed in periodicals.

Even if consumers are aware of Commission activities, they often lack the financial resources to participate. When consumers do participate, the degree and nature of their participation is often limited for the same reason. To address this problem, the Commission has established procedures by which qualifying consumers and other parties can be compensated for expenses incurred in participating in CPSC proceedings. These procedures apply to all of the Commission's informal notice and comment rulemaking activities, including the early stage in which the Commission obtains outside assistance in developing proposed rules. The Commission does not always specifically solicit funding requests, but consumers are welcome to submit them in every proceeding. Funding is available for transportation to CPSC meetings, payment for time spent on preparing

written comments, and all other expenses related to participation in rulemaking, such as document duplication and babysitting.

The major responsibility for administering the funding programs comes under the direction of the Commission's public participation personnel. Further information on funding is available from the Office of the Secretary (ATTN: Public Participation), Consumer Product Safety Commission, Washington, D.C. 20207

**INFORMATIONAL MATERIALS**

Immediately after its establishment in 1973, the Commission began public awareness programs aimed at informing consumers about its existence, its responsibilities, and the services it could provide. Some of the first consumer information material were specifically designed to make the public aware of the agency, its mission, and the ways to communicate with it.

The Commission's dedication to informing the public about consumer participation avenues is demonstrated in its activities associated with the agency's open meetings policy. Under this policy, all meetings are open to the public, unless there is a specific and compelling reason to close them. As one of the first such policies among federal agencies, it is the subject of a pamphlet and Fact Sheet and is frequently mentioned in other CPSC materials. All of these items have been widely disseminated to consumers.

The CPSC has conducted "educational diagnoses" to determine consumers' needs for product safety information. These surveys, based on a random sampling of households across the country, focused on consumers' knowledge levels and awareness of hazards in relation to dozens of consumer products. The Commission studied habits of consumers with regard to selection, use, maintenance, storage, and disposal of consumer products. The CPSC has also periodically commissioned research projects that investigate and analyze human usage factors and patterns in connection with specific consumer products.

The Commission is constantly striving to better serve the needs of consumers through its informational materials. The creation of many of the CPSC materials has often directly resulted from consumer inquiries or concerns on specific products or hazard areas. The most widely used and disseminated material, the CPSC Fact Sheets, evolved from the need to satisfy consumer inquiries received through correspondence and through our toll-free telephone Hotline (see "Inquiries and Complaint Handling").

The Commission has, from its earliest days, been committed to the principle of conducting the public's business in public with participation by all interested parties. The CPSC open meetings policy and standards development processes, mandating the opportunity for direct public participation, are examples of this commitment. Both of these examples are supported by various consumer information materials.

The identification of particular constituent groups to be reached with product safety information is

considered during the formulation of specific product safety information and education campaigns. The segments of the population that may be at highest risk of those likely to purchase or use the product are targeted as the recipients of the bulk of the Commission's planned informational activities. Additionally, the CPSC has initiated a minorities research project which is aimed, in part, at discovering what consumer products are associated with the highest number of accidents among certain minority consumers.

In its efforts to reach as many consumers as possible, the CPSC continually strives to reach and influence group or opinion leaders who can transmit information to a significant number of consumers. This "multiplier" or "ripple" effect is an efficient and productive way to reach the greatest number of consumers while expending a minimum of resources.

The Consumer Product Safety Commission uses a wide variety of mechanisms to transmit product safety information to consumers. A list of those the Commission has used is contained in Attachment I. The choice of which method to use depends on the characteristics and nature of the population segments to be reached, their size, and the type of information to be transmitted.

The Commission has completed various assessments of its informational materials and programs. Examples of some of these measures are:

- (1) Pre-testing of new materials under development.
- (2) Informal assessment by consumers in telephone, correspondence, and face-to-face conversations with staff in Headquarters and the Area Offices.
- (3) A one-year formal review of all CPSC print material based on a questionnaire accompanying all requesters for informational materials and seeking consumer viewpoints on the usefulness and timeliness of the material and whether it was shared with others.
- (4) Formal evaluations that measure the effectiveness of specific materials or approaches and/or programs.

All of these kinds of assessments are done continually in order that the CPSC may revise its old publications or consider the comments and concerns emerging from assessments in the development of any new materials.

The Commission produces a number of radio and television public service announcements annually. Each of these announcements gives the CPSC address and/or Hotline telephone numbers so that consumers can easily obtain further information. The material that is sent usually contains currently available informational materials.

As previously mentioned, the CPSC does formulate plans for specific product safety information and education campaigns. These plans are formulated yearly and provide guidance to the Commission's consumer affairs professionals in both the Headquarters and Area Office locations, on how to conduct targeted and concentrated informational efforts. The plans include: the identification of target groups, scope of effort, national consistency



requirements, overall goals, materials to be used, suggested outreach activities, time frames, reporting requirements, and indications of resources to be used. When appropriate, the plans call for the coordination of efforts with other federal agencies or entities.

The Office of the Secretary issues the CPSC Public Calendar, which lists in advance all meetings of Commission employees and non-Commission representatives in which matters of substantial interest will be discussed. Since most of the listed meetings will be open, members of the public can plan to attend meetings that interest them. The Public Calendar notice includes the intent of the meeting and the subject to be discussed, the time and location of the meeting, and the name and telephone number of the Commission employee to contact for further information. The Public Calendar, which also describes recent Commission actions and notifies the public of the matters to be considered at regularly scheduled Commission meetings and briefings, is published and mailed weekly free of charge to interested persons who request it.

#### EDUCATION AND TRAINING

The Directorate for Communications will be responsible for informing CPSC staff members about the Executive Order. Part of this has already been accomplished by the circulation of the Executive Order to the Commissioners and senior staff officials in the Commission's headquarters and Area Offices with accompanying instructions to notify all staff members of the Order. Additionally all of the agency's Associate Executive Directors will be briefed on the Order.

During fiscal 1980, the Directorate for Communications will help prepare an orientation session for the consumer affairs personnel in each one of the agency's thirteen Area Offices on points relating to the Executive Order. During these orientation sessions, information and procedures will be provided to the consumer affairs personnel that will aid them in being better able to offer technical assistance to consumers upon request.

#### INQUIRIES AND COMPLAINT HANDLING

Since December of 1973, the Consumer Product Safety Commission has collected consumer complaint and consumer contact data. What began as a "Hotline" and consumer correspondence program has evolved into an agency-wide consumer contact system which is supported by a computerized data base, "CONTACT." This data base provides computerized facilities for the collection and retrieval of consumer contact data and information. The Data is composed of public inquiries, requests for publications, complaints about products, reports of product safety hazards, and injury reports. The agency has established procedures to ensure that consumer inquiries and complaints are handled in a timely and effective manner. All CPSC Headquarters and field offices can contribute and retrieve consumer complaint data by using the

computer terminals installed in many Commission offices.

In a number of instances, consumer communications are petitions for rulemaking that identify unreasonable risks of injury presented by consumer products and lead to Commission proceedings for safety regulations.

In fiscal 1979, the agency received 500,000 inquiries and complaints from the public, an increase of over 200 percent from the previous year. Of the total inquiries and complaints, 300,000 were received on the toll-free telephone "Hotline" and 200,000 were from letters. Over 80% of the complaints and inquiries were handled in less than three weeks by the Directorate of Communications. Complaints of a technical and legal nature are referred to other CPSC units for analysis and appropriate follow-up. By the end of fiscal 1979, only 100 of the more complex letters had not been answered.

Within CPSC, the Directorate for Communications has been delegated the responsibility for maintaining the agency's CONTACT program. Both monthly reports and an annual report summarizing a full year's trends have been issued.

During the past year, CPSC has taken significant steps towards improving its consumer complaint data system by conducting training sessions for all agency offices to assure uniformity in coding and use of the data in policy making and priority setting.

Any consumer can request information and report a product hazard by writing to the U.S. Consumer Product Safety Commission, Washington, D.C. 20207. Consumers can also call the toll-free Hotline at the following numbers: Continental U.S.A. (800) 638-8326; in Maryland only, (800) 492-8363; in Alaska, Hawaii, Puerto Rico, Virgin Islands, (800) 638-8333. A teletype for the deaf is available from 8:30 a.m. to 5:00 p.m. EST on the following numbers: national (including Alaska and Hawaii), (800) 638-8270; in Maryland only, (800) 492-8104.

Dated: November 23, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

#### Attachment 1

##### CPSC Outreach Methods and Mechanisms

Pamphlets  
Brochures  
Booklets  
Fact Sheets  
Curriculum Guides  
Teacher and Student Readings  
Discussion Leader Guides  
Counter Cards  
Transit Cards  
Posters  
Coloring Books  
Comic Books  
Newspaper Articles  
Magazine Articles  
Bill Stuffers  
TV Public Service Announcements  
Radio Public Service Announcements  
Announcer Copy  
Newsettes

Slide-Tape Presentations  
Films  
Film Strips  
Press Releases  
Speeches  
Staff Appearances on Mass Media  
Consumer Hotline  
Periodic Mailings  
Workshops  
Seminars  
Public Display of Information  
Exhibits  
Conferences  
Conventions  
Hearings  
Agency Newsletter  
Spotmaster Service  
Free Loan of Audio-Visual Materials  
Consumer Information Center Distribution of Materials

[FR Doc. 79-36667 Filed 12-7-79; 8:45 am]

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# test report federal register

Monday  
December 10, 1979

Part V—Section D

**Federal  
Communications  
Commission**

Consumer Assistance Program



## FEDERAL COMMUNICATIONS COMMISSION

## Consumer Assistance Program

**AGENCY:** Federal Communications Commission.

**ACTION:** FCC Consumer Program.

**SUMMARY:** The Consumer Assistance Office's program represents a blend of existing programs, future programs now in the planning stages, and a long-range forecast of programs to be tried in the future. The FCC is publishing this program as an information item only.

**DATE:** November 23, 1979.

**FOR FURTHER INFORMATION CONTACT:** Zora Brown, Consumer Assistance Office, Federal Communications Commission, (202) 632-7000.

## I. CONSUMER AFFAIRS PERSPECTIVE

## A. Organization

The FCC has an Office of Consumer Assistance. The Consumer Assistance Office serves as the focal point within the Office of Public Affairs, for responding to a variety of written, telephone and walk-in requests for information assistance from individual consumers. The Consumer Assistance Office has the responsibility for facilitating public participation in the Commission's decisionmaking processes.

## B. Resources

## 1. Budget

Consumer Assistance Office has an adequate operating budget. Presently, Consumer Assistance Office assists in administering an FCC-wide consumer budget of approximately \$7 million through its liaison committees and other mechanisms. Each Bureau has primary responsibility for its own budget and expends a portion for consumer programs such as complaint handling, "plain-English" publications, training programs, travel to public participation workshops and meetings and for other methods of outreach.

(a) Federal Communications Commission budget for FY 1978-1979—\$70.5 million. Consumer activity budget FCC-wide for FY 1978-1979—\$6.99 million. Consumer Assistance Office budget for FY 1977-1979—\$432,000.

## 2. Staff

The staff will consist of high-level professionals and paraprofessionals, and will include:

Consumer Assistance Officer  
Deputy Consumer Assistance Officer (with management and program analyst responsibilities)  
Consumer Assistance Specialists  
Contact Representatives  
Attorney(s)/Paralegal Specialist(s)  
Secretary(ies)  
Clerk(s)  
Consultant(s)

## 3. Intra-Agency Relationship

(a) Consumer Assistance Office advises and assists the Chairman, Commissioners and Bureaus and Offices with respect to public participation and consumer assistance matters.

(b) CAO is a focal point for organizing briefings for international groups, schools, licensees, and other organizations.

(c) In coordination with the program bureaus and offices, CAO evaluates the effectiveness of the FCC in communicating the Commission's regulatory requirements and proposed requirements to FCC licensees and the general public. CAO develops and recommends strategies and new initiatives for solving problems in communicating with consumers of various types of communications services.

(d) CAO develops "plain-English" materials explaining FCC proposals, policies and requirements and shares responsibility for FCC publications management.

(e) CAO has opportunities to participate in the development and review of FCC rules, policies, programs and legislation. CAO receives advance copies of all open meeting Agenda items (which are staff recommendations of proposed Commission action). CAO schedules Agenda briefings with all Divisions of Public Affairs Office to apprise one another of rulemakings which may have a consumer impact.

(f) CAO will improve the FCC's consumer communications mechanisms. CAO will propose a plan to automate field offices' consumer contacts and a plan for improved dissemination of information. CAO will assist in training FOB contact representatives in handling consumer communications.

## II. CONSUMER PARTICIPATION

## A. Citizens Participation Policy Statement

Develop, recommend and implement policies and objectives to encourage active participation in policymaking proceedings by the consumers of communication services, with the objective of insuring that the FCC has the benefit of a wider spectrum of information and viewpoints in its decisionmaking processes.

## B. Modes of Involvement

1. Maintain liaison with individual consumers and organizations of consumers concerned with FCC regulatory activities to insure a continuing interchange of views and information on matters of common interest. Maintain liaison with other government agencies on consumer education and public participation matters.

2. Promote increased understanding of the concerns and viewpoints of consumers of communications services at all levels within the Commission.

3. Consumer Assistance Office will conduct regular discussion sessions with consumer groups, informing them of the Commission's top issues and how they can effectively participate in the Commission's rulemaking process.

## C. Implementation

The Consumer Assistance Office will have primary responsibility for implementing the Commission's

consumer participation program, drawing on the resources and expertise of other Bureaus and Offices, as needed:

1. CAO will work with the General Counsel's Office to propose new guidelines for simplifying the comment and petition filing procedure.

2. Coordinating with the Office of the Secretary, CAO will propose a procedure for notification to acknowledge receipt of petitions and comments.

3. CAO will study a proposal to install an 800 telephone line, enabling consumers to file complaints and inquiries. CAO will consider an alternative proposal to install an 800 telephone line with a recording of the FCC's weekly meeting agenda.

4. CAO will continue to publish *Feedback* (a "plain-English" summary of the major consumer notices before the Commission) as well as *Actions Alert* (a weekly status report of the top issues before the Commission), and other information publications.

## III. INFORMATION MATERIALS

## A. Services

CAO will continue to distribute the FCC's *Open Meeting Guide*; <sup>1</sup> *Sunshine Agenda*; <sup>2</sup> and other materials to inform consumers about Agency procedures.

CAO will publish new bulletins and procedure manuals in "plain-English" and, where appropriate, in a bilingual format.

## B. Media Usage

CAO will explore the use of the mass media and other forms of media as an appropriate distribution channel for information about FCC proposals, policies and decisions:

1. Sunday Newspaper Supplements
2. Video and Audio Taped Programs
3. Ethnic Media (i.e., Black, Hispanic, bilingual, and other special interest groups)
4. Public Service Announcements
5. Edited Tapes of major Commission Meetings
6. Participation in public affairs forums

## C. Publications

## 1. Consumer Notices

CAO prepares periodic bulletins which give information about Commission activities that are of primary interest to the public.

## 2. Feedback

CAO prepares a "plain-English" summary of the major consumer related proposals before the Commission.

## 3. Yellow Page Ads

CAO will explore the possibility of purchasing advertising space in telephone company yellow page

<sup>1</sup> A Guide to Open Meetings is a pamphlet designed to help those individuals attending Commission meetings to understand what is taking place during the meeting; who is participating in the meeting; and what conduct is expected.

<sup>2</sup> The Sunshine Agenda lists the titles and brief summary of those items to be considered at the Commission meetings. The Sunshine Agenda is issued seven days prior to the meeting date and briefly explains what the discussions will be about.

supplements to publicize the availability of CAO's (and Field Office Contact Representatives) information services.

## 4. FCC Information Bulletins

CAO provides a wide range of information publications informing the public of its services and activities.

## 5. Procedure Manual

CAO distributes a pamphlet outlining the respective roles of the industry we regulate, the Commission and the concerned consumer in the establishment and preservation of quality communication services, outlining procedures available to consumers and outlining practical advice concerning their use.

## 6. Curriculum Materials

CAO will continue to expand its set of consumer communication course materials used to illustrate skills required for participating in FCC proceedings.

## D. FCC Field Offices

1. CAO will aid in the production of FCC's Field Operation Bureau's information bulletins. CAO will aid the Field in the distribution of Sunshine Agenda, news releases, and public notices.

2. A facsimile machine has been installed at headquarters and Field Offices to expedite delivery of major Agency decisions to the Field Offices.

3. CAO will assist Field Operations Bureau's Public Information Specialists in conducting training sessions for FOB Contact Representatives.

## IV. EDUCATION AND TRAINING

## A. Staff Responsibilities

1. Consumer Assistance Office, coordinating with Bureau and Office heads, will have primary responsibility for informing FCC staff of CAO programs available for consumers seeking assistance from the FCC.

## B. Procedure

1. After Commission adoption, the Chairman will issue a memorandum, along with the Executive Order and Agency guidelines, informing policymakers and other personnel of implementation plans. Each Bureau will establish procedures for complying and assisting in implementing the FCC's Consumer Program.

## C. Personnel Training

1. The Consumer Assistance Office, working with the Personnel Division, will establish job descriptions and general consumer assistance training programs for the Agency.

2. CAO will establish staff positions with various specialties. The CAO staff will receive training, as needed, in consumerism, complaint handling, citizen participation and outreach efforts.

3. CAO personnel will receive training by attending consumer affairs conferences, professional development seminars and participating in programs aimed at enhancing consumer affairs/participation.



4. Workshops will play an integral part in CAO training programs for other staffs and groups.

#### D. Technical Assistance

1. As needed, those offices with responsibility for implementation and oversight programs, will provide technical assistance to consumers. CAO, through its Public Participation Workshops, will set aside a portion of its resources to discuss technical assistance needs and requirements (it will also make time available during its other programs).

2. Consumer Assistance Office employs bi-lingual personnel to aid those individuals and groups who may have difficulty communicating with FCC staff.

#### V. COMPLAINT HANDLING

The Consumer Assistance Office is setting up guidelines for a complaint handling and reporting system, working with coordinators within each Bureau on the design and implementation of a low-cost, modern system for facilitating timely and responsive replies to all complaints/inquiries. The reports submitted will provide decision makers at the FCC with accurate information about areas of frequent complaints/inquires.

#### A. Responsibilities of Complaint/Inquiry Coordinators

1. Monitoring of complaints/inquiries.
  - (a) Complaint/inquiry coordinator is the focal point for all complaint activity with the respective Bureaus.
2. The coordinator will oversee the timely response to all complaints and inquires.

#### B. Evaluation and Follow-Up

1. Coordinator will monitor responsiveness of the office.
2. On a regular basis a formal follow-up procedure with the complainant/inquirer will be established in order to measure the impact of the system from the complainant/inquirer's perspective.
  - (a) Conduct surveys.
  - (b) Regular evaluation of responses to complainants/inquiries.

#### C. Types of Complaints

##### 1. Written

- (a) A reasonable amount of time will be set for responding to complaints/inquiries. If a response cannot be issued within a reasonable amount of time, an informative interim reply will be issued.
- (b) Each complaint/inquiry will be logged in upon receipt:
  1. Complaints will be identified by program area and nature of complaint. A determination will be made as to whether the agency can assist.
  2. Each complaint will be assigned a reply due date.

##### 2. Telephone

- (a) Telephone complaints will be treated in a manner similar to written complaints.

(b) Telephone calls will be included in the monthly tally of complaint activity.

(c) Reasonable time for responding to telephone complaint/inquiry is 24 hours.

(d) A written report will be made of the final disposition of a telephone complaint/inquiry.

##### 3. Walk-in

(a) Walk-in complaints/inquiries can be logged on the same form as telephone complaints.

(b) Walk-in visitors will be immediately assisted.

#### D. Monthly Reporting Requirements

1. Complaint/Inquiry Coordinator will collect statistics on complaint/inquiry activity for respective offices and provide Consumer Assistance Office with appropriate reports.

(a) Indicate problem area and type of complaint/inquiry, including the number of complaints/inquiries.

(b) Number of complaints/inquiries received and resolved for the month.

2. A descriptive narrative will accompany the complaint/inquiry statistical report and include the following:

- (a) Specific nature of complaint.
- (b) Suggested action to be taken to correct problem areas (i.e., rule amendment, issuance of brochure, bulletin).

##### 3. Explanation of Backlog and Overdue Responses

(a) Statistical report will include the number of complaints/inquiries received and the number resolved. If there is an extensive backlog, an explanation will be included in the narrative report.

Federal Communications Commission.

William J. Tricarico,  
Secretary.

#### Appendix I—Federal Communications Commission

Dear Esther: I am responding to your October 9 request that independent federal agencies like the Federal Communications Commission, as well as executive branch agencies subject to the requirements of Executive Order 12160, send to you a copy of our Consumer Assistance program and indicate whether it meets the spirit of the President's Executive Order.

I can assure you that the FCC is working to insure that those providing communications services do so in the public interest. We are also working to insure that consumers of communications services know about our policy deliberations and how they can provide input into our decisions. We have shown that we are committed to the goals of Executive Order 12160.

I realize that the public is not always aware of the rights and responsibilities that go along with either being a user or provider of communications services. Because of this the Consumer Assistance Office was established at the FCC. We have gradually but substantially expanded the resources and role of the Consumer Assistance Office over the past three years.

Our Consumer Assistance Office's enclosed model program represents a blend of existing programs, future programs that CAO has in the planning stages, and a long range forecast of programs they intend to experiment with in the future. Your memorandum asks each agency to develop

and maintain a consumer program with, at a minimum, five elements:

(1) an identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;

(2) effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;

(3) development of information materials for consumers;

(4) consumer affairs training for agency staff members and to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and

(5) systematic procedures for complaint handling.

You will see from the outline of our enclosed consumer program that all five of the elements that you proposed in your memorandum are included in that program.

Because our program has been in place for some time and because we are not proposing a new program, we are not formally inviting public comments. We do, however, welcome the public's input at any time about any of the services we provide.

I am designating the Chief of the Consumer Assistance Office as the FCC's senior official responsible for our consumer program.

Sincerely,

Charles D. Ferris,  
Chairman.

Hon. Esther Peterson,

Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.

[FR Doc. 79-36838 Filed 12-7-79; 8:45 am]

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# **Federal Deposit Insurance Corporation**

Monday  
December 10, 1979

Part V—Section E

## **Federal Deposit Insurance Corporation**

Consumer, Civil Rights, and Community  
Relations Programs



**FEDERAL DEPOSIT INSURANCE CORPORATION****AGENCY:** Federal Deposit Insurance Corporation.**ACTION:** Notice of Consumer, Civil Rights, and Community Relations Programs.**DATE:** Comments must be received by February 1, 1980.**ADDRESS:** Comments should be addressed to the Director, Office of Consumer Affairs and Civil Rights, Federal Deposit Insurance Corporation, Washington, D.C. 20429.**FOR FURTHER INFORMATION CONTACT:** Henry S. Newport, Director (202-389-4668), Thomas C. O'Neill, Chief of Consumer Affairs Branch (202-389-4213) or Robert E. Cook, Chief, Civil Rights Branch (202-389-4427) Office of Consumer Affairs and Civil Rights, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

Executive Order 12160, issued by President Carter on September 26, 1979, establishes criteria for improving the management, coordination, and effectiveness of Federal consumer affairs activities. The FDIC programs are presented as they relate to the five elements of the Executive Order.

**I. CONSUMER AFFAIRS PERSPECTIVE**

The Office of Consumer Affairs and Civil Rights (Office of Bank Customer Affairs) was established by the Board of Directors in April 1975 to serve as a focal point within the Corporation for protecting the interests of banks customers in nonmember banks supervised and examined by the FDIC.

**Staff Location**

The FDIC's Office of Consumer Affairs and Civil Rights is one of the Executive Offices. This Office is responsible for protecting the statutory rights of insured State nonmember bank customers; conveying the public's viewpoint to the Board of Directors in consumer protection/civil rights matters; encouraging, through an effective education program, bank customers to become aware of their rights and to participate in policy formulation and execution of consumer protection/civil rights enforcement program; and identifying areas for further study or research to determine the extent of consumer awareness or need for additional protection measures. Matters involving the civil rights of FDIC employees, Equal Employment Opportunity, Labor Relations, Upward Mobility and Women's Programs are handled by other offices within the FDIC.

**Size and Resources**

The Director of the Office of Consumer Affairs and Civil Rights serves as the primary advisor to the Board of Directors for policy development. The Director is assisted by a Staff Attorney, two other professionals and two clerical personnel. The Office has two branches: Consumer Affairs and Civil Rights. These two branches were established to promote greater specialization and expertise in consumer and civil rights matters. The entire Office has a staff of 15

professionals and eight administrative support personnel.

**Statutory Responsibilities**

The Office of Consumer Affairs and Civil Rights is involved with eleven pieces of Federal consumer and civil rights legislation over which the FDIC has supervisory and enforcement jurisdiction. These laws include the Truth in Lending Act, Fair Credit Billing Act, Consumer Leasing Act, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, Community Reinvestment Act, Federal Trade Commission Improvement Act, Fair Housing Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, and the Electronic Fund Transfer Act. In addition, there are other laws, regulations, and policy statements affecting consumers which the Office regularly handles in its complaint processing and other functions.

**Participation in Development and Review of Agency Rules, Policies, Programs, and Legislation**

One of the major responsibilities of the Office is to participate in the review and development of all agency regulations, rules, policies, programs and legislation having a consumer impact. This input from the Office is requested by senior officials, including the Board of Directors. Staff members of the Office provide input by membership on various task forces and other working groups, by commenting on current issues and proposals, and by direct consultation with key officials of the FDIC.

**Other Responsibilities**

In carrying out its mission of protecting and promoting the bank customer interest, the Office of Consumer Affairs and Civil Rights, in addition to the input function discussed above, is involved in a number of other programs. The Office coordinates and monitors the receipt and appropriate disposition of consumer complaints and inquiries directed to the FDIC. The Office processes bank customer complaints and inquiries received directly in the Washington Office and reviews and coordinates the activities of the Regional Offices in responding to consumer complaints and inquiries. This service to the bank customer has recently been expanded by installation of a toll-free telephone in the Washington Office for consumers' use in contacting the Office. The Office has also developed a Consumer Information pamphlet which is distributed to banks and consumer offices. This pamphlet summarizes the consumer and civil rights laws and provides a preprinted form for customers to use in mailing their complaints, questions, or comments to the FDIC.

For monitoring the complaint handling function, the Office has developed a sophisticated tracking system. The computer tracking system provides detailed information on complaints which is made available to field examiners for follow-up activities in individual banks. No less important, the system provides information to the various management levels of the

FDIC for both operational purposes and policy determination.

The FDIC conducts specialized examination of banks under its jurisdiction for compliance with consumer protection and civil rights laws and regulations. The Compliance Reports are reviewed by the Regional Offices and by the Consumer Affairs Section of the Division of Bank Supervision in Washington. The reports which indicate supervisory problems are reviewed by the staff of the Office of Consumer Affairs and Civil Rights. Based on these reviews, the Office may recommend formal enforcement actions and provide other input to the examination function.

In order to promote the expertise of the field examiners who conduct complaint investigations and compliance examinations, the Office is active in their training. Staff members of the Office serve as instructors at the FDIC Training Center and develop both instructional material and case problems. The staff also serve as speakers at Regional Conferences, special seminars, and other training sessions. The Office has promoted special training in Fair Housing, Community Reinvestment, and workshops for the 14 Regional Office Review Examiners (Consumer Affairs/Civil Rights).

The Office is also active in the education of bankers. Staff members have developed materials to facilitate compliance by banks and have participated in numerous seminars, conferences, and other educational forums for bankers.

**Relationship With Other Consumer Personnel**

Within the FDIC, the Office of Consumer Affairs and Civil Rights takes the leadership role in matters involving consumer protection and civil rights. The Office coordinates consumer and civil rights activities with the Legal Division and the Division of Bank Supervision to ensure a uniform agency approach.

In carrying out its function, the Office maintains a close working relationship with the Office of the Comptroller of the Currency, the Federal Reserve Board, Federal Home Loan Bank Board, National Credit Union Administration as well as the staffs of the Department of Housing and Urban Development and Department of Justice.

**II. CONSUMER PARTICIPATION****Stages of Agency Decisionmaking (When Public Participation Begins)**

Public participation usually takes place when a rule or regulation has been proposed for public comment. However, because of the direct contact by the Office with the public, ideas or suggestions for policies, programs and regulations which originate from private citizens are included in recommendations for policy changes which the Office makes to the FDIC Board of Directors.

**Avenues of Participation**

In order to promote the opportunity for public participation in the rulemaking process, the Board of Directors has established procedures in Subchapter A of the FDIC Rules and Regulation. The opportunity for public participation is announced in the **Federal Register** and also by news releases. The public is generally given 60 days to comment on proposed regulations. The name and telephone number of the staff member handling the proposal appears in the **Federal Register** and also in the news release.

When the Board of Directors determines it to be appropriate, hearings on proposals are held. These hearings are announced in the **Federal Register** and by news release. The public is invited to testify or present written comment. Transcripts of the public hearings are part of the public record and are used by staff and the Board of Directors to formulate policy.

Certain of the meetings of the Board of Directors are open to the public under the Government in the Sunshine Act. The public is invited to attend these meetings.

In order to enlarge the contact with consumers and encourage their participation in activities of the FDIC, the Office of Consumer Affairs and Civil Rights maintains liaison with both consumer and civil rights organizations. The Office maintains six mailing lists: consumer groups; consumer educators; consumer media; fair housing groups; State, county and municipal consumer protection offices; and Federal consumer protection offices. These lists include approximately 1,400 organizations. List of community and Hispanic groups are under development. The Office also receives regular input from consumers through its complaint and inquiry system. The addition of the toll-free telephone is expected to greatly expand the contacts with consumers throughout the country.

**Special Programs of Citizen Participation**

The Office has budgeted a Minority Consumer Outreach program. This undertaking will involve a contract initiative to design a market penetration program specifically tailored to the information needs of Blacks and Hispanics. This program is expected to improve communications with and participation by the Black and Hispanic populations. The program will also support the minority business 8(a) set-aside program of Public Law 95-507.

The Office has added a Consumer Affair Specialist (Hispanic Liaison) staff member. This staff person will concentrate on improving contacts with Hispanic groups and individuals and will provide staff expertise for other programs.

The Office is recruiting for a Media Liaison staff member. With the addition of this staff person the Office will be able to consolidate current programs and concentrate on improving the level and effectiveness of the overall citizen participation program.

The Office has developed a new program of Community Group Interaction. This program is reflective of the FDIC's commitment to active liaison



with the public at large and community groups in particular. To more fully carry out the FDIC's role under the Community Reinvestment Act, the Office will provide staff to meet and speak before community groups. The Office staff will also serve as advisors to the Regional Directors in their public meetings with community and civil rights activists.

### III. INFORMATIONAL MATERIALS

The FDIC publishes the following seven pamphlets describing basic areas of consumer protection for bank customers:

*Truth in Lending*—explains what disclosures must be made in connection with credit finance charges and annual percentage rates; protections against unauthorized credit card use; advertisement of credit terms; and cancellation rights when a credit transaction is secured by a home.

*Fair Credit Billing*—describes how to deal with billing errors and defective merchandise or services, and how to protect one's credit rating.

*Fair Credit Reporting Act*—sets forth an individual's right to information compiled by a Consumer Reporting Agency (credit bureau) and to have inaccurate information corrected or deleted from his or her file; outlines steps to take if credit, insurance or employment is denied because of an inaccurate or unfair Consumer Report.

*Equal Credit Opportunity and Age*—explains the extent to which a creditor can consider an applicant's age in granting or continuing credit.

*Equal Credit Opportunity and Women*—details how the law ensures equal treatment in determining a credit applicant's "creditworthiness" and prohibits discrimination based on sex or marital status.

*Consumer Information*—cites six consumer protection statutes of importance to bank customers and briefly explains the laws' requirements; contains a detachable form for a consumer's use in submitting a complaint, question or suggestion to the FDIC.

*Your Insured Deposit*—provides examples, in question and answer form, of insurance coverage under the FDIC's regulations.

The FDIC makes these free publications available in quantity to banks for display in their lobby/reception areas. The availability of these pamphlets has been announced by news releases and by special mailings to consumer groups and offices. The FDIC has distributed over 32,000,000 of these pamphlets.

In addition, the FDIC provides a number of other publications regarding the FDIC's operations and financial statistics on commercial and savings banks in the United States. Consumers having an interest in these publications should contact the FDIC's Information Office.

The Office of Consumer Affairs and Civil Rights has specific plans for improving and expanding its consumer materials. One of the main objectives of the Media Liaison staff person is to rewrite the pamphlets, based on psychological and effective communication principles, so that they are more understandable to the

average consumer. The pamphlets will also be issued in bilingual format (English-Spanish).

The Director of the Office of Consumer Affairs and Civil Rights has the primary responsibility for consumer education at the FDIC. The Director is assisted by the Media Liaison staff person and by the entire Office staff.

Public meetings are announced in the *Federal Register* and by news release. Information on how the public can participate at these meetings is contained in these announcements. The Executive Secretary of the FDIC may be contacted for specific information on hearings and on attendance at open Board meetings.

### IV. EDUCATION AND TRAINING

Information on the Executive Order 12160 has been disseminated to staff of the Office, and specific aspects of the Executive Order have been discussed with the staff. The Executive Order was one of the agenda items covered at a recent seminar for the Review Examiners (Consumer Affairs/Civil Rights) who manage the consumer and civil rights activities in the 14 Regional Offices.

Staff training in the Office of Consumer Affairs and Civil Rights includes all aspects of consumer protection: complaint handling, consumer participation, consumer education, and consumer and civil rights laws and regulations.

The Director of the Office is responsible for staff training. He is assisted by the staff training coordinator whose job it is to review training needs and select appropriate training to fill these needs.

The type of training selected is based on the individual's position in the Office and on any special educational needs. New employees are assigned a senior staff member who orients the new person in all aspects of the new job. While the training is individualized, staff members generally receive four basic types of training: (1) on the job training; (2) required reading and attendance at staff training meetings; (3) attendance at formal FDIC training sessions, e.g., Consumer and Civil Rights Compliance Schools; and (4) formal educational courses offered outside the FDIC including university courses.

In addition, senior staff members participate in consumer compliance examinations and investigations in the field. Staff personnel are also members of consumer professional organizations which allow them to stay abreast of current issues and to associate with other professionals in the field.

### V. COMPLAINT HANDLING

The Office of Consumer Affairs and Civil Rights has had a complaint handling system for logging in, investigating, responding to consumers, and integrating the results into the development of policy since 1975.

#### Public Awareness

In order to increase public awareness of the FDIC's complaint handling service, the FDIC has published and disseminated the pamphlet "Consumer

Information" which cites six Federal consumer and civil rights laws and provides a preprinted form for submitting complaints or other comments. To provide even better service to consumers, a toll-free telephone system was recently established in the Office. This service has been announced by news release and by special mailings to consumer groups and others.

#### Format for Logging Complaints

The Office has a standardized system for logging complaints, inquiries, and comments from consumers whether received by telephone, letter or walk in. This standardized data collection method permits easy tracking of cases and great flexibility in analyzing results for management purposes.

#### Investigation and Analysis

Office procedures ensure proper referrals, and the tracking system indicates the status of cases and any unusual delays in processing. Procedures also exist for investigations, types of responses, and appropriate follow-up action.

Statistical reports are generated which highlight patterns, indicate exceptions, and provide input for agency policymaking. Reports are provided to the 14 Regional Offices for use in their administration of complaint handling and for use in individual investigations of banks. Reports are furnished by key agency officials for policy formulation.

#### Evaluation of Complaint-Handling System

The complaint-handling system is constantly monitored by the Office to ensure the proper resolution of individual cases. Summary data is evaluated quarterly to determine the operating efficiency of the system and for patterns which suggest management action.

The Office has recently conducted a survey of complainants to determine their satisfaction with the FDIC's resolution of their requests. These responses are being coded into a computerized database for analysis and identification of any areas that may need improvement.

#### Oversight

In May 1979, the Board of Directors appointed Henry S. Newport as the Director of the Office of Consumer Affairs and Civil Rights. Mr. Newport has sole responsibility for policy direction and coordination of the FDIC's consumer and civil rights activities. He reports directly to the Chairman of the FDIC and is the Chairman's chief advisor in consumer and civil rights matters.

Henry S. Newport,

Director, Office of Consumer Affairs and Civil Rights.

BILLING CODE 6714-01-M



Form Approved:  
OMB No. 116579021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?  
☐ I am interested in it as an individual consumer.  
☐ I am concerned about it, because I represent a public interest consumer group.  
☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?  
☐ Yes, it is clear and I understand it.  
☐ Yes, I understand most of it.  
☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?  
☐ Yes.  
☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?  
☐ It seems adequate.  
☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?  
☐ Adequate.  
☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:  
A complaint? ☐ Yes. ☐ No.  
A general question about the agency? ☐ Yes. ☐ No.  
A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?  
☐ No.  
☐ Yes, in the following areas:  
Consumer participation \_\_\_\_\_  
Informational materials \_\_\_\_\_  
Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36486 Filed 12-7-79; 8:45 am]

BILLING CODE 6714-01-C

Monday  
December 10, 1979

Part V—Section F

## Federal Reserve System

Consumer and Community Affairs Program

federal register



## FEDERAL RESERVE SYSTEM

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of Consumer and Community Affairs Program.

**FOR FURTHER INFORMATION CONTACT:** Ann Marie Bray, Staff Assistant, Board of Governors of the Federal Reserve System, Washington, D.C., 202-452-3616.

A recent presidential action, Executive Order 12160, established a Consumer Affairs Council of Executive agency departments "to improve the management, coordination, and effectiveness of agency consumer programs" (44 FR 55787, September 28, 1979). These agencies were directed to prepare and publish draft consumer programs that would meet certain criteria specified in the order. Although not specifically represented on the Council, the Board is publishing a description of the components of its current consumer program, which it believes is in conformity with the President's order. The Board's report will include the areas noted in Section 1-4 of the Executive order: consumer perspective, consumer participation, informational materials, education and training, and complaint handling.

At the outset, mention should be made of the Board's Consumer Advisory Council, a forum that greatly enhances the Board's consumer and community affairs program. Creation of the Council was mandated by the Congress in the fall of 1976, at the suggestion of the Board. It was established to assist the Board in implementing legislation passed in the consumer credit protection area, and to advise and consult with the Board on any other consumer related matters.

The Council consists of approximately 30 individuals from all parts of the nation, representing a broad range of consumer and creditor perspectives. As such, it presents a unique mechanism for interaction between the Board and the public. Meetings of the Council are held quarterly and are open to the general public.

To date, the Council has considered a broad range of consumer issues, including implementation of the Electronic Fund Transfer Act and of the Board's responsibilities under the Federal Trade Commission Improvement Act to ban unfair or deceptive bank practices, cost-impact statements for Board regulations, uniform regulatory policies, right to financial privacy recommendations, and various issues concerning the implementation and enforcement of the Truth in Lending and Equal Credit Opportunity Acts.

## I. CONSUMER AFFAIRS PERSPECTIVE

The Board has assigned primary responsibility for consumer-related matters to its Division of Consumer and Community Affairs (DCCA). This division is charged with assisting the Board in seeing that the interests of savers and consumers are given adequate and specific attention in considerations leading to relevant Board decisions. In addition, the division is responsible for implementing a number of specific consumer-related programs mandated to the Board by

the Congress, as well as civil rights laws having to do with consumer credit.

Currently there are eleven major pieces of legislation for which the Board has rulewriting authority or enforcement responsibility or both. These include the Truth in Lending, Fair Credit Billing, Consumer Leasing, Equal Credit Opportunity, Home Mortgage Disclosure, Community Reinvestment, Federal Trade Commission Improvement, Fair Housing, Fair Credit Reporting, Fair Debt Collection Practices, and most recently, Electronic Fund Transfer Acts.

## Responsibilities

Generally the Board's responsibilities include (1) drafting, amending, and interpreting regulations that implement those laws; (2) developing and monitoring programs to enforce those laws with regard to state chartered banks that are members of the Federal Reserve System; (3) disseminating educational materials concerning the rights and responsibilities of creditors and consumers under those laws; and (4) administering its consumer complaint handling system.

The director of DCCA reports directly to the Board and is charged with making policy recommendations to the Board on matters involving consumer credit regulation, implementing Board policy directives, setting divisional priorities, and ensuring a high degree of inter- and intra-agency coordination, where appropriate, for both regulatory and compliance activities. The director monitors the Board's consumer programs, reviews proposed changes to or new consumer-oriented policy initiatives and communicates to the Board the potential effect that such actions may have upon consumers.

## Size and Resources

The Board's professional staff of consumer affairs personnel is centralized in the DCCA. The staff currently consists of 4 senior level officials, 16 attorneys, 7 review examiners, 2 consumer affairs specialists, 2 staff assistants, and other general program support and clerical personnel.

The Consumer and Community Affairs legal staff has major responsibility for drafting regulations and interpretations concerning eight of the statutes listed above. This staff is also responsible for advising state member banks and the System's consumer affairs bank examiners regarding the legal interpretations of the laws listed above. In addition, the staff analyzes proposed legislation in the consumer and civil rights areas that might affect the Board's work, and prepares testimony for Congressional hearings.

The division's staff of review examiners coordinates the consumer and community affairs compliance examination program by developing examination procedures and by reviewing, evaluating, and assisting in the regulatory and compliance activities in the Federal Reserve Bank districts. The staff reviews consumer and community affairs compliance examination reports submitted by the Reserve Banks to determine the quality of the examinations, and communicates its findings to the Reserve Banks. Based

upon review of the reports and application of the statutes and regulations, the staff develops programs to eliminate inconsistencies and enhance uniformity in compliance efforts in the banking community.

The division's consumer affairs specialists are responsible for handling complaints received from consumers regarding banks and a broad range of other creditors, including merchants. This includes advising Federal Reserve Bank staff members on questions concerning complaints, and following up Reserve Bank investigations to determine the resolution of complaints. They also respond directly to requests for information, statistics and advice from consumers, and persons in federal, state and local agencies, and in the private sector. In addition, these staff members compile data for annual reports to Congress and provide information regarding consumer complaints for use by the division officials and the Board in their deliberations.

The division's staff assistants handle requests for information related to the division's work that are filed under the Freedom of Information Act, and process the division's *Federal Register* notices for publication. Other duties include preparing the Board's Annual Reports to the Congress on Truth in Lending, Equal Credit Opportunity, and Section 18(f) of the Federal Trade Commission Improvement Act, occasional speechwriting, providing general information services to the public, and performing ad hoc projects as the need arises.

## Participation in Development and Review of Agency Rules, Policies, Programs and Legislation

The director of the division informs the Consumer and Community Affairs staff of the opportunities for its participation in the proceedings of the Board with regard to consumer matters. The division's staff provides information and input during all stages of agency decisionmaking. Generally, the question, proposal, or subject at hand is researched by the staff. Staff knowledge and expertise is then used to develop staff recommendations for submission to the Board. This involves attending public hearings, reviewing written comments from the public, meeting with agency task forces and outside representatives, applying applicable laws and regulations, reporting findings to the division's director and other officials, preparing materials for and attending the Board meetings at which decisions are made, and finally, implementing those decisions with an eye toward future improvements or changes.

## II. CONSUMER PARTICIPATION

The Board has established procedures to ensure the opportunity for public participation in its rulemaking process (12 C.F.R., Part 226). Depending upon the circumstance, the opportunity for such participation is published in the *Federal Register* and in press release format. All press releases concerning consumer affairs proposals and other actions are routinely distributed to interested parties via a mailing list maintained by

the Board. Persons interested in being added to this list should contact the Board's Publications Services.

## Written Comments on Proposals

Generally, the public is given 60 days after the proposal appears in the *Federal Register* to submit written comments or arguments concerning the material. The name and telephone number of the staff member handling the action appears in the *Federal Register* notice as well as in the press release so that question may be easily answered and additional information provided to interested members of the public.

After the comment period has closed, the Board's Division of Consumer and Community Affairs prepares for the Board a summary of the comments received. After reviewing and considering all comments received, the staff formulates recommendations and drafts language for the proposed or final regulations or amendments for submission to the Board. The staff is present at the Board meetings to explain its recommendations and to discuss considerations raised in the comment letters.

## Public Hearings

In certain instances, the Board, either in response to a public request or on its own initiative, considers it appropriate to hold public hearings on a proposal. Whenever a hearing is ordered by the Board, notice is usually published in the *Federal Register* no less than 20 days prior to the hearing and notice appears in the form of a press release. Persons interested in testifying at the hearing are instructed to contact the Board in advance of the hearing so that appropriate scheduling can be handled. Transcripts are made of all public hearings, which become part of the public record and are used by the DCCA's staff during their deliberations on the proposals.

## III. INFORMATIONAL MATERIALS

Consumers' awareness of their rights and responsibilities under the credit laws and regulations is a continuing concern of the Federal Reserve Board. To further this awareness, the Board and the Reserve Banks have prepared, and continue to prepare, written and audiovisual materials covering a range of topics of interest to consumers. Usually, the Board's involvement in the education of consumers is carried out by the Board's Office of Public Affairs and the Federal Reserve Banks in coordination with the Division of Consumer and Community Affairs.

## Agency Responsibilities and Services

Several pamphlets and fact sheets outlining the purpose of the Federal Reserve System have been prepared by the Board's staff for dissemination to the public. The most comprehensive of these is *The Federal Reserve System—Purposes and Functions*. Completely rewritten and revised in 1974, this 125-page booklet provides a concise account of the responsibilities and operating techniques of the



System in the areas of monetary policy, banking and financial regulation, and international finance.

While not specifically directed toward the consumer credit regulations, this publication does present an overview of the workings of the Federal Reserve. A *Guide to Federal Reserve Regulations*, published in April 1978, is designed to provide consumers with a general understanding of the goals and scope of each Federal Reserve regulation. Copies of the individual regulations are available to consumers from the Board of Governors or from the Federal Reserve Banks.

More detailed information concerning consumer credit regulations is available through two fact sheets continually updated by the Division of Consumer and Community Affairs. The first, most recently revised in October 1979, discusses the specific regulatory and enforcement responsibilities of the Division of Consumer and Community Affairs. The second discusses unofficial staff interpretations prepared by staff members of the Board of Governors in response to questions from the public concerning the Board's consumer credit protection regulations.

Other sources of information concerning the Board's activities in the consumer credit area are the Board's Annual Reports to Congress on Truth in Lending, Equal Credit Opportunity, and Section 18(f) of the Federal Trade Commission Improvement Act (under which the Board's consumer complaint program is administered). A recent pamphlet outlining the Board's consumer complaint handling process will be discussed in the section of this report concerning complaint handling. All of the above mentioned materials are available to interested persons and some are routinely distributed to persons on the Board's general consumer affairs mailing list mentioned earlier in this report.

#### Marketplace Information

An important aspect of the Board's enforcement function in the area of consumer credit protection regulation is educating both creditors and consumers of their rights and responsibilities. Explanatory pamphlets are a principal method of achieving this goal.

The Board's *Consumer Handbook to Credit Protection Laws*, published in December 1978 and reprinted in April 1979, is a comprehensive compilation of information about consumers' rights under credit laws and regulations. Many different techniques were used to bring about its broad distribution. The Board sent a copy of the booklet, with instructions on how to request additional copies, to over 35,000 high schools, junior colleges, and colleges. In addition, each member of Congress received a copy as did approximately 150 Better Business Bureaus. Copies were provided in bulk to the other federal agencies that enforce the consumer credit laws and a regular distribution was made to the Reserve Banks. Copies are also being distributed through the Consumer Information Center in Pueblo, Colorado. Other selected brochures currently available

from the Board with their dates of preparation appear below:

The Equal Credit Opportunity Act and Credit Rights in Housing (1/78).  
The Equal Credit Opportunity Act and Age (5/77).  
The Equal Credit Opportunity Act and Women (5/77).  
The Equal Credit Opportunity Act and Doctors, Lawyers, Small Retailers, and Others who may Provide Incidental Credit (5/77).  
Fair Credit Billing (12/76).  
If You Use a Credit Card (12/78).  
Truth in Lending (3/78).  
What Truth in Lending Means to You (Rev. 4/78).  
How to File a Consumer Complaint (7/78).

Since short pamphlets such as those mentioned above are suitable for classroom use, multiple copies are available without charge.

In the area of audio-visual communication, the Federal Reserve recently began national TV distribution of a film entitled *To Your Credit*. Produced by the Federal Reserve Bank of Philadelphia, this film examines common problems faced by consumers during the course of credit transactions and offers solutions by informing consumers of their rights under the many consumer credit protection laws. School, consumer and civic groups may obtain copies of this film without charge by contacting the Federal Reserve Bank of their district.

This year, the Board inaugurated teacher workshops. Topics covered include an overview of the Federal Reserve System, its consumer credit regulations, its resources available in the areas of economic and consumer education, and methods of teaching consumer education in the classroom. Some Reserve Banks have also initiated similar programs for their own districts. Along the same line, the Federal Reserve Bank of Minneapolis is developing a comprehensive consumer credit curriculum for use in high schools and colleges. The package is expected to be available in the spring of 1980.

A game entitled "You're the Banker" has been devised primarily for classroom use by the Minneapolis Reserve Bank. It familiarizes the players with the basics of banking and demonstrates the effect that banking transactions have upon the general economy. "You're the Banker" is available from that Bank's Public Information Office at a cost of \$15.00.

As part of the educational effort, staff members of the Board's Division of Consumer and Community Affairs regularly make public speaking appearances before creditor and consumer groups interested in various consumer credit topics.

Finally, a *Federal Reserve System Compliance Handbook*, published in the spring of 1979, contains explanations of federal consumer credit laws and regulations, guidelines for enforcing Regulations B and Z, System procedures for handling consumer complaints, and examiner instructions. This manual was prepared primarily for use by System examiners and state member banks.

#### IV. EDUCATION AND TRAINING

Staff members of the Board's Division of Consumer and Community Affairs receive regular briefings and copies of related materials concerning the Board's consumer program and policies. In addition, the staff's opportunities for professional development include participating in on-site consumer affairs bank examinations as well as attending the Board's Consumer Affairs and Civil Rights School for bank examiners, which is held 2-4 times each year.

Where needed, special seminars are conducted to familiarize staff with recent developments in areas such as civil rights enforcement. Recently, selected staff members have been conducting weekly training sessions for members of the division on topics relevant to the division's work.

#### V. COMPLAINT HANDLING

The Federal Reserve System continues to reply to complaints and inquiries about many areas of consumer activity. Responses range from providing consumers with information or explanations to investigating and resolving complaints against state member banks. Complaints that involve creditors or businesses not under the Board's supervisory jurisdiction and that require more than information are forwarded to the appropriate enforcement agency.

To help consumers report complaints against state member banks, the Board, in July 1978, published *How to File a Consumer Complaint*. The pamphlet explains what a consumer should do when experiencing a problem with a bank and the procedures the Board will follow in investigating the complaint. It also contains a complaint form that is addressed to the Board, and that solicits specific information about the problem.

#### Response Procedures

Within 15 business days of receipt of an oral or written complaint, a substantive response or an acknowledgement setting a reasonable time for a substantive response will be sent to the individual making the complaint. Complainants will also be informed if their complaint has been referred to another agency. In an ongoing effort to monitor the effectiveness of the System's efforts to resolve consumer complaints, the Board sends followup letters to individuals who contact the Board about problems concerning state members banks, asking the complainants whether they were satisfied with the promptness with which their complaints were handled, whether they found the System staff courteous, whether they were content with the resolution of the problem, and whether they would contact the Federal Reserve in the event of future problems.

#### Tracking Complaints

Information about all consumer complaints received by the System (the Board and the 12 Federal Reserve Banks) is manually recorded on data sheets that are later used to transfer this information to the Board's

computer system. The type of complaint, the name of the bank against which it has been lodged, and that bank's corresponding Federal Reserve district are included on the sheet. This system gives the computer program the capacity to retrieve information concerning, for example, the number of complaints on a particular topic or against a particular bank.

Board of Governors.

Theodore E. Allison,

Secretary of the Board.

November 23, 1979.

[FR Doc. 79-36626 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M



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Monday  
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Part V—Section G

**Federal Trade  
Commission**

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Draft Consumer Program



**FEDERAL TRADE COMMISSION**

**AGENCY:** Federal Trade Commission.

**ACTION:** Voluntary Compliance with Executive Order No. 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.

**DATES:** Written comments must be received no later than January 9, 1980.

**ADDRESS:** Comments should be addressed to "Consumer Program Comments," Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Room 136, Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:** Charles C. Shepherd, Jr., Associate Director for Consumer Education, Bureau of Consumer Protection (202) 724-1870.

On September 26, 1979, the President issued an Executive Order designed to improve the management, coordination, and effectiveness of agency consumer programs. Although the Federal Trade Commission is an independent regulatory agency not subject to this Executive Order, it has determined to comply voluntarily with the Order.

**I. CONSUMER AFFAIRS PERSPECTIVE**

Unlike other federal agencies which have the responsibility of policing a particular segment of the economy, such as communications or interstate transportation, the Federal Trade Commission has a responsibility of ensuring that businesses across the entire range of the economy are dealing fairly with consumers. The Commission is statutorily charged with prohibiting "unfair methods of competition" and "unfair or deceptive practices" in or affecting commerce. Accordingly, the Commission does not have just one identifiable office handling consumer affairs. Rather, the entire agency is devoted actively to furthering the interests of consumers and ensuring that the consumer affairs perspective is considered fully in the development and review of all agency rules, policies, and programs.

**II. CONSUMER PARTICIPATION**

Established procedures at the Federal Trade Commission ensure the early and meaningful participation by consumers, small businesses, and other interested parties in their development and review of agency law enforcement initiatives, rules, policies, and other programs.

Commission investigations often are initiated as a result of consumer inquiries. These investigations sometimes lead to adjudicative orders. In any matter where a consent order is negotiated, that order, after it is accepted by the Commission, is placed on the public record for sixty days for the receipt and consideration by the Commission of comments by interested individuals. After receipt and consideration of these comments, the Commission may decide to withdraw its acceptance of the consent order, seek a modification to it, or issue it as accepted. Information concerning these consent orders is distributed through

the agency's Office of Public Information and Office of the Secretary. Comments on accepted consent orders are received in the Office of the Secretary.

In trade regulation rulemaking proceedings, consumer participation is available through several procedures. Trade regulation rules may be commenced by the Commission upon its own initiative or pursuant to a written petition from any interested person. If a petition is not deemed sufficient to warrant beginning a rulemaking, the petitioner is expressly notified of the Commission's decision and given the opportunity to submit additional information. If a rulemaking is commenced, and initial notice of proposed rulemaking is published in the *Federal Register* and made available to all interested individuals. The notice includes, among other things, the substance of the proposed rule or a description of the issues involved, the reasons for the rule, and a request for comments. The rulemaking proceeding provides several opportunities for interested individuals to submit written comments on the issues and to participate in the rulemaking proceeding. Public notice of these proceedings are made through the Office of Public Information, as well as in the *Federal Register*.

Since 1975, the Commission has had a public participation program designed to provide compensation for certain costs incurred by individuals representing an interest in a rulemaking that otherwise would not be represented adequately in the proceeding. Recipients must represent a point of view which is necessary for a fair determination of the rulemaking issues, and be unable to bear the full costs of such representation. This program is directed by the Special Assistant for Public Participation, Office of the General Counsel. A major outreach effort involves conducting seminars or workshops to explain the rule proposal and to encourage participation in the rulemaking proceeding and applications for reimbursement from qualified persons or groups. The Commission, through its Office of Federal-State and Consumer Relations, has conducted several one-day seminars concerning specific rulemaking proceedings. Additionally, the agency has published and distributed widely two booklets designed to inform all individuals of the rulemaking and public participation programs. "Rulemaking and Public Participation Under the FTC Improvement Act" and "Applying for Reimbursement for FTC Rulemaking Participation" are available from the Office of the Secretary of the Federal Trade Commission.

**III. INFORMATIONAL MATERIALS**

Through its consumer education program, the Federal Trade Commission produces and distributes materials to consumers on three broad topics. Information about the agency's responsibilities and services, including descriptions of FTC law enforcement programs and the identification of program directors; semiannual publications listing investigations and reports upon which action is scheduled; and publications explaining the FTC's role in the marketplace, are updated regularly and are

available from the Office of the Secretary. Additionally, the Office of Consumer Education, Bureau of Consumer Protection, will initiate regular mailings of these informational materials to consumer organizations and to any requesters. Procedures for consumer participation also are published and cover specific programs such as public participation in rulemaking.

The Federal Trade Commission provides information on consumer rights and remedies through an assortment of publications available from the Office of the Secretary, public service announcements distributed to radio and television stations, and public service notices made available to print media. The Office of Consumer Education, Bureau of Consumer Protection, is responsible for planning and carrying out the agency's consumer information program and assessing its currency, completeness, and utility of current materials. In 1979, the Commission distributed television public service announcements on the Equal Credit Opportunity Act and the Commission's Mail Order Trade Regulation Rule. Two additional television PSA's will be prepared and distributed in Fiscal 1980. Radio PSA's on warranties laws, the cooling off rule for door-to-door sales, and the Equal Credit Opportunity Act were distributed in 1979. 1980 plans call for radio PSA's on shopping for bargains in eyeglasses, debt collection, mail order rule, and one other area. These radio PSA's also include Spanish language versions. The Commission plans to produce four print media public service notices per year; 1980 plans include notices on the mail order rule and generic drugs.

The Commission provides two types of written informational materials for consumers. These include "Facts for Consumers," which are plain language fact sheets of the law on various topics of FTC jurisdiction. Seventeen topics, such as vocational schools, gasoline saving devices, and various credit statutes, are covered. Second, the Commission produces approximately six brochures per year on trade regulation rules, statutes, or other areas of FTC jurisdiction. These brochures generally are four to six pages in length and have been issued on subjects such as care labeling, equal credit opportunity, and warranties law. A complete list of the titles of these facts sheets and brochures, as well as copies of individual fact sheets and brochures, are available from the Office of the Secretary. Additionally, many of the Commission's brochures are distributed through the Consumer Information Center of the General Services Administration.

**IV. EDUCATION AND TRAINING**

The Federal Trade Commission provides direct services to consumers in several areas, including processing of information requests and consumer complaints, public participation in the rulemaking program, and the consumer education program. Specialized training has been provided to the individuals staffing the information and complaints sections of the Office of the Secretary to ensure that

consumer inquiries and complaints are answered properly and expeditiously. For example, consumer complaints are assigned to paralegals with expertise in specific subject areas, such as credit, auto warranties, mail order, or land sales. The public participation and rulemaking staff has considerable expertise in the Commission's rulemaking procedure and is knowledgeable in each area in which the Commission has commenced rulemaking. Thus, the information this staff provides to the public is current and accurate. Finally, the consumer education program is staffed by professionals in the preparation and distribution of public service announcements and consumer brochures to ensure that the presentations are effective.

**V. COMPLAINT HANDLING**

The Office of the Secretary generally oversees the complaint handling procedures of the agency. To ensure a complete and timely response, specific complaints may be answered by staff within the Secretary's Office or may be referred to staff within the bureaus or to staff in regional offices. Paralegals with expertise in specific subject areas answer consumer inquiries in the Office of the Secretary. While the Commission does not act to resolve private controversies between consumers and businesses, the Commission does use consumer complaints in determining how to allocate the Commission's resources toward fulfilling its statutory responsibilities. In responding to or investigating complaints, staff may provide information concerning steps that are necessary to ensure compliance with existing law or provide consumers with information that will assist them in the marketplace. Information about each consumer complaint, including company name, product, and alleged violation, is captured by computer for management reports and for future policy planning. The Secretary of the Commission produces a quarterly report on the categories of the complaints received. This report lists the types of violations, the percentage of all complaints that the particular violation commanded, the rank among all types of violations, and the rank for the previous quarter.

**VI. OVERSIGHT**

Because the mission of the Federal Trade Commission actively furthers the interest of all consumers, it is inappropriate for the agency to have a single identifiable official whose sole responsibility is to provide direction, coordination, and oversight of the agency's consumer activities. For the purposes of voluntary compliance with the Executive Order, the following individuals are designated to report directly to the Commission on the potential impact on consumers of policy and law enforcement initiatives: Executive Director (primary responsibility for overall agency policy implementation and coordination of consumer education activities); Director, Bureau of Consumer Protection (for the Consumer Protection Mission); Director, Bureau of Competition



(Competition Mission); General Counsel (Public Participation in Rulemaking Programs).

By Direction of the Commission.

Dated: November 23, 1979.

Loretta Johnson,

Acting Secretary.

[FR Doc. 79-36843 Filed 12-7-79; 8:45 am]

BILLING CODE 6750-01-M

Monday  
December 10, 1979

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Part V—Section H

**Securities and  
Exchange  
Commission**

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Draft Consumer Program

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## SECURITIES AND EXCHANGE COMMISSION

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of Statement Concerning Commission Consumer Affairs Activities.

**SUMMARY:** The Securities and Exchange Commission is issuing this release to inform the public of the nature, scope, and future direction of its consumer affairs program. The release discusses five elements of the Commission's program—the Commission's efforts to institutionalize the consumer perspective, the Commission's mechanisms for consumer participation in Commission decision-making, the Commission's dissemination of informational materials concerning its work, the Commission's program to educate and train its staff with respect to consumer interests, and the Commission's investor complaint handling procedures. In addition, the Commission is soliciting public comment concerning the effectiveness of its existing consumer affairs efforts and the specific points covered in this release.

**DATE:** Comments must be received by March 10, 1980.

**ADDRESS:** Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, in triplicate and refer to File No. 4-228.

**FOR FURTHER INFORMATION CONTACT:** Ann C. Stansbury, 202-523-3952.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission is issuing this release to advise the public of the nature, scope, and future direction of its consumer affairs programs. The Commission has long been sensitive to the need to take the views of individual investors into account in its decision-making process and to be responsive to their needs and viewpoints. In May 1976, the Commission established its Office of Consumer Affairs to institutionalize within the Commission responsibility for matters affecting the interests of individual investors. Because the Office has now been in existence for a significant length of time, the Commission believes it appropriate to obtain the views of the investing public concerning its operations.

Moreover, on September 28, 1979, President Carter issued Executive Order No. 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs." That order, which is not binding on the independent regulatory agencies like the Commission, directs the executive agencies to implement consumer affairs programs, similar to the Commission's existing consumer affairs activities. While the Commission is not subject to the executive order, it has elected to respond to the objectives of the President's directive by publishing this release concerning the Commission's existing program.

Executive Order No. 12160 asks that the agencies subject thereto promulgate a "draft consumer program" in the Federal Register. In order to assist the public in comparing the Commission's program with those now required of the executive agencies, the

\*In the context of the Commission's activities, the word "consumer" is used to refer to individual investors.

Commission has set forth below a description of its program under the same five headings—consumer affairs perspective, consumer participation, informational materials, education and training, and complaint handling—as are mandatory for those agencies subject to the Executive Order.

## I. CONSUMER AFFAIRS PERSPECTIVE

Information about the needs and interests of individual investors is important to the Commission's decisionmaking and to the fulfillment of its statutory purposes. In order to enhance its awareness of and responsiveness to such needs and interests, the Commission in May of 1976 established an Office of Consumer Affairs ("OCA"). OCA is responsible for processing complaints, as well as representation of the interests of individual investors as a class in matters before the Commission. For administrative purposes OCA is among those offices which report to the Executive Director, as reflected on the organization chart. The OCA, however, has independent program responsibility and may submit its views and recommendations directly to the Commission without prior review by any intermediate program manager. The Commission's OCA staff includes attorneys, consumer affairs specialists, and support staff.

OCA is apprised of opportunities for participation in policy and program development through regular contact with the staff members of other offices and divisions. OCA routinely receives copies of items scheduled for Commission consideration, which are reviewed for the potential effect on individual investors of proposed Commission action. OCA may then formulate its position on such matters and make recommendations accordingly.

OCA may participate at every level of agency decisionmaking. Such participation may be through informal discussion, exchange of memoranda, membership on agency task forces and working groups where appropriate, meetings with Commission members and their staffs, and memoranda to the Commission. Memoranda submitted to the Commission by OCA are considered together with those of other offices in decisionmaking. The staff of OCA is authorized to participate in Commission meetings in order to present recommendations and to articulate its views on matters before the Commission.

In addition to participating in policy and program development, OCA has primary responsibility within the Commission for responding to investor complaints and inquiries. OCA uses material obtained primarily from analysis of complaints to carry out its role of advising the Commission and staff about the concerns and interests of investors. Other offices, including the regional offices of the Commission, have staff members who respond to investor complaints and inquiries, and OCA frequently refers complaints to staff members who are most familiar with the subjects of complaints. OCA is, however, responsible for overall coordination of the Commission's complaint processing program.

## II. CONSUMER PARTICIPATION

Investors may participate in Commission decisionmaking through the regular public comment process. Comment may be solicited through advance notices of proposed rulemaking, proposed rules and announcements of applications, in accordance with the Administrative Procedures Act. In addition, public hearings occasionally are held at various locations throughout the country in order to obtain a broad range of viewpoints on subjects of Commission rulemaking.

Participation in decisionmaking by individual investors also may take place indirectly through the Office of Consumer Affairs, which considers letters from the public to be valuable sources of information about investor interests and needs. Participation by OCA in staff discussions can result in representation of investor interests at earlier stages of decisionmaking than the public comment periods.

In the releases announcing final actions on matters for which public comment has been sought, the Commission undertakes to respond to all comments received, including those from individual investors. In this connection, the Commission may ask OCA to prepare separate analyses of investor comments for Commission consideration, as appropriate.

The Commission, through its OCA and Office of Public Affairs, strives to provide meaningful information to individual investors about opportunities for participation in agency decisionmaking for the purpose of soliciting the views of those persons who may be affected by the implementation of Commission proposals.

In general, the Commission has an ongoing system for informing the press about Commission actions, including those matters for which comment is solicited. The Commission provides information to a broad range of publications, as well as the broadcast media, which may be more accessible to individual investors than the Federal Register.

In addition, the Commission has a system for mailing proposals to interested persons to encourage submission of comments for inclusion in the public record. The Commission is interested in receiving comments and suggestions from the public regarding ways in which the Commission might communicate more effectively with and obtain the views of individual investors regarding Commission proposals.

## III. INFORMATIONAL MATERIALS

The Commission recognizes that individual investors must be informed about the functions and responsibilities of the Commission in order to respond to proposed agency actions. In addition, the Commission believes that investors should be better informed about the services offered by the Commission, particularly the complaint handling functions of OCA.

The Commission has published several brochures and audiovisual materials to educate investors about aspects of the market place, the work of the

Commission, and types of fraudulent schemes of which investors ought to be aware.

The Commission plans to revise and upgrade its informational materials for the public to include more practical advice and information. With respect to services offered by the Commission, the Commission plans to update its booklet *The Work of the SEC* to include additional information about its services, including public information and complaint handling. In addition, a separate pamphlet will be published to explain the Commission's procedures for handling complaints and the type and degree of assistance that can be rendered to individuals.

Pamphlets will be distributed by the Commission's staff upon request and through the Federal Information Center in Pueblo, Colorado.

The Commission also furnishes materials to the press from time to time for the purpose of educating investors, and also to inform investors about pending Commission rulemaking proceedings, in an effort to enhance investor participation in such proceedings.

With respect to information about matters to be considered at public Commission meetings, the office responsible for an agenda item currently submits a clear, concise summary to the Office of the Secretary prior to the Commission meeting at which the item will be considered. The Secretary is responsible for making these summaries available to members of the public who attend public meetings, at the entrance to the meeting room. The summaries are required to be easily comprehensible, listing the issues expected to be considered by the Commission during the course of the discussion. An announcement is made at the opening of each public meeting that the summaries are available.

## IV. EDUCATION AND TRAINING

The Commission's OCA is responsible for educating other Commission staff members about the Order and the Commission's consumer program. For example, OCA will participate in orientation programs for new personnel, for the purpose of explaining the purposes and role of OCA in the work of the Commission. In addition, information about the Order and programs concerned with individual investors will be circulated to Commission members and senior Commission staff members by memorandum.

Consumer affairs personnel assigned to OCA currently receive on-the-job training by responding to investor complaints of increasing degrees of difficulty. In addition, they are encouraged to participate in training programs on technical subjects both within and outside the Commission in order to provide more informative responses to investor inquiries and complaints. Selection of consumer affairs personnel for participation in such training programs is based primarily on budget.

## V. COMPLAINT HANDLING

The Commission views investor complaints as an important source of information about investor concerns and about possible violations of the federal



securities laws. The Commission therefore seeks to heighten public awareness of the Commission's complaint handling facilities in a number of ways. For example, the Commission has a number of educational brochures for public distribution. Each brochure contains a list of regional and branch offices of the Commission, including the addresses, telephone numbers and states covered by each regional office. The brochures also provide the address and telephone numbers of the Commission's OCA and Office of Public Affairs.

From time to time the Commission issues releases regarding securities industry practices that may be harmful to investors. At the end of each such release, we advise the public to contact OCA if they have any inquiries or complaints, giving the address of the office. See, for example, Securities Exchange Act Release No. 15194 (September 28, 1978) [43 FR 46397] regarding certain practices of broker-dealers.

In addition, writers of financial columns sometimes advise investors with inquiries and complaints to contact the Commission's OCA. Any informational materials on topics of interest to individual investors which are distributed to the press will include the address of the Commission's OCA, to which complaints and inquiries may be addressed.

OCA's procedures for complaint processing are as follows: OCA requests that most complaints be in writing and be sent directly to OCA. OCA's system for logging in complaints and inquiries in standard format, including telephone complaints, is computerized. Each complaint or inquiry is assigned its own unique number and certain information is extracted from each complaint or inquiry for retention in the computer. The information includes the name of the complainant, the name of the entity involved, the type of complaint and the dates of correspondence.

Certain complaints received by OCA are forwarded to other offices, divisions or regional or branch offices of the Commission for investigation and analysis where appropriate. OCA has a system for tracking all complaints handled by the office and forwarded to other divisions and offices, including regional and branch offices, for responses. This system advises the receiving office of an expected due date (generally two to three weeks from the date of referral). A monthly computer printout advises the receiving office of all outstanding complaints.

OCA has a format for acknowledging complaints and inquiries which are forwarded to another office or division, including regional and branch offices, for responses. In most cases acknowledgments are sent within 5 days from the receipt of a complaint or inquiry. Acknowledgments are signed by a senior OCA staff member.

OCA has a format for responding to complaints and inquires which it handles. In general, it is OCA's goal to handle such correspondence within three weeks from the date received. In those matters in which a report is requested from the entity involved, OCA requests an expected date of return from the entity and, if it is not obliged, OCA sends follow-up requests. Responses are

signed by either the person handling the complaint or a senior OCA staff member. OCA receives monthly computer reports of statistics on complaints and inquiries, which are used for agency policymaking. Such reports reflect the number and types of complaints received against an entity. Other computer reports also are available to the staff.

OCA reports to the Chairman and division directors regarding the number and types of complaints received involving registered entities, and the pattern and policy implications of such complaints.

OCA has an ongoing program for assessing its own procedures. OCA has performed two surveys in the past year to determine if complainants were satisfied or not satisfied with the promptness and quality of handling of their complaints. We plan to continue these surveys in the future. OCA can also evaluate the promptness of agency responses from its computer systems for complaint handling. Certain computer reports reflect the number of days between the date on which a letter is received and the date on which a matter is closed. In addition, the system has a code for "thank you" letters, which are letters from correspondents indicating that their complaint has been satisfactorily resolved by us on their behalf.

The Commission's complaint handling system was evaluated in 1975 and reevaluated in 1978 by Technical Assistance Research Programs, Inc. (TARP) contracted by the United States Office of Consumer Affairs. In 1978, the Commission received an excellent rating on all categories involved in this study.

#### OVERSIGHT

The Director of the Commission's OCA reports to the Commission through the Executive Director, as described in Part I. The Director is compensated at the GS-14/15 level. The Director is responsible for coordination of all consumer affairs functions within the agency, including complaint handling and representation of consumer interests in development of agency programs. The Director interacts with other senior level staff members to see that the interests of individual investors are adequately considered in decisionmaking.

#### CONCLUSION

The Commission is publishing information about its consumer affairs program in order to increase public awareness and understanding of the Commission's responsibilities and services. The Commission invites public comment on the operation and structure of its program. In particular, the Commission is interested in receiving suggestions for ways in which to encourage the submission of views by interested individual investors regarding those items on which public comment is solicited.

Dated: November 28, 1979.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-36983 Filed 12-7-79; 8:45 am]

BILLING CODE 8010-01-M

Monday  
December 10, 1979

## Part V—Section I

# Treasury Department

Draft Consumer Program

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## TREASURY DEPARTMENT

**AGENCY:** Department of the Treasury.

**ACTION:** Proposed Consumer Program.

**DATE:** Comments must be received by March 10, 1980.

**ADDRESS:** Comments should be addressed to Special Assistant to the Secretary (Consumer Affairs), Room 4406 Main Treasury Building, Department of the Treasury, Washington, D.C. 20220.

**FOR FURTHER INFORMATION CONTACT:** Joseph Maty, 202-566-8118.

**AUTHORITY:** Executive Order 12160.

## I. CONSUMER AFFAIRS PERSPECTIVE

## Statement of Purpose

The purpose of the Department of the Treasury's Consumer program is to insure that persons who are affected by any Treasury-sponsored regulation, or program decision have the opportunity to present their views on the subject, and that these views are duly considered in the Department's decisionmaking process. It is Treasury's intent to more actively solicit consumer opinion, to make Treasury bureaus and offices more responsive to the consumer, and to assure that the machinery and the techniques of consumer representation within Treasury are regularly and effectively applied.

## Staffing and Responsibilities

Treasury's diverse activities preclude the establishment of just a single consumer office or a single set of procedures within the Department to handle requests from consumers for information or to process complaints by consumers against Treasury's constituent units. Instead, the Department intends to continue to use its existing mechanisms and follow current lines of authority to fulfill the requirements of E.O. 12160. Additionally, the following actions will be taken to assure that the underlying philosophy and specific requirements of E.O. 12160 are carried out by program managers in the Department.

1. *The Special Assistant to the Secretary (Consumer Affairs)*

The position of Special Assistant to the Secretary (Consumer Affairs) has been established in the Office of the Secretary. The incumbent has the responsibility for developing consumer policies, coordinating Departmentwide consumer activities and overseeing the implementation of E.O. 12160 within the Department.

2. *Consumer Monitoring Systems*

Each bureau and office will have a contact person familiar with the structure and detail of the consumer effort within that organization. Current lines of authority from the Secretary to bureaus and offices shall be maintained. Bureau and office heads are charged with the responsibility of insuring that their organizations comply with the spirit and requirements of E.O. 12160. The Special Assistant to the Secretary

(Consumer Affairs) is available to advise on the development of consumer efforts within those organizations. The Special Assistant will keep the Secretary apprised as to the status of the Departmentwide effort.

3. *Consumer Program Guidelines*

The Secretary will issue guidelines for all Treasury bureaus to follow in planning and evaluating their consumer programs in order to assure compliance with the requirements of E.O. 12160.

Bureau consumer program plans will be made available as they are developed. Public comment will be solicited on the proposed plans and programs.

## II. CONSUMER PARTICIPATION

## Impact Upon Consumers

Consumers of Treasury Department services and products fall into many categories: taxpayers, travelers, bondholders, welfare recipients, and many others. For the purpose of the Treasury Consumer Program, "consumer" means any individual (not an organization or intermediary) who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes.

Treasury bureaus and offices fall into three categories according to the frequency of contact with, and the impact these activities have upon, consumers. These bureaus and offices are categorized by their end-user contact frequency, not by contact with intermediaries. During the implementation of E.O. 12160, additional data will be collected and analyzed to further refine these categories, but for the present Treasury's bureaus and offices may be considered as falling into three categories: High Consumer Impact; Moderate Consumer Impact; and Low Consumer Impact. Treasury bureaus and offices, regardless of which category they may be located in, are subject to the provisions of E.O. 12160 and the Treasury Consumer Program.

Treasury bureaus have consumer impact as follows:

1. *High Consumer Impact*

—(a) Internal Revenue Service; (b) Bureau of Alcohol, Tobacco and Firearms; (c) U.S. Customs Service; (d) Comptroller of the Currency; (e) U.S. Savings Bonds Division; (f) Bureau of Government Financial Operations; and (g) Bureau of the Public Debt.

2. *Moderate Consumer Impact*

—(a) Bureau of the Mint; (b) Bureau of Engraving and Printing.

3. *Low Consumer Impact*

—(a) U.S. Secret Service; and (b) Federal Law Enforcement Training Center.

Units of the Office of the Secretary fall into each of these categories. Examples range from the Assistant Secretary (Tax Policy) and the Assistant Secretary (Public Affairs), who have high consumer impact, to

the Special Assistant to the Secretary (National Security), who has almost no public contact or direct effect on consumers. The Special Assistant to the Secretary (Consumer Affairs) is responsible for contacting these and other offices within the Office of the Secretary to assure their compliance with E.O. 12160.

## Avenues of Participation

1. *Consumer Representatives*

Each bureau has or will have a consumer representatives or an office to handle the bureau's consumer affairs. The consumer representative will be responsible for developing consumer policies, coordinating bureauwide consumer activities and overseeing the implementation of E.O. 12160 within the bureau. Examples: The Public Affairs Division, U.S. Customs Service, monitors the implementation of E.O. 12160 within the Customs Service. The Internal Revenue Service has established the position of Problem Resolution Officer in the Office of the Commissioner. This person serves as the primary advocate for the taxpayer within the Service and will plan and administer the Servicewide Problem Resolution Program. The Office of Regulatory Enforcement's Procedures Branch, Bureau of Alcohol, Tobacco, and Firearms, is responsible for the development and implementation of and compliance with ATF's consumer affairs program.

The names and addresses of these consumer offices and representatives will be published in the **Federal Register**.

2. *Advisory Committees*

Treasury uses the services of advisory committees which are representative of such constituencies as consumers, providers, technical tax specialists, bankers and so on. The membership of the present committees and future committees will be reviewed by the Special Assistant to the Secretary (Consumer Affairs) and the Assistant Secretary (Administration) with the objective of securing consumer representation, where appropriate.

3. *Public Hearings*

Bureaus and offices use public hearings when substantial consumer impact is anticipated from a policy decision, or regulation.

The use of public hearings will be maintained. Where consumer participation appears limited, direct solicitation of opinion will be employed. Use of evening hearings and regional hearings away from Washington will be encouraged to obtain a full range of opinion on the issues.

4. *Public Interest Groups*

These groups bring a unique and specialized viewpoint to issues affecting their vital interests. Treasury program managers encourage their participation at public hearings and solicit comments from them on new programs or changes to existing programs. Solicitation of comments and continued

participation by these groups in decisionmaking will continue to be encouraged by program managers.

## III. INFORMATIONAL MATERIALS

## Agency Information Services

Specific responsibility for developing and implementing consumer information programs rests with the public affairs and consumer affairs staffs within Treasury bureaus. The distribution channels for information material vary depending upon the nature of the material, the audience, and the availability of resources.

1. *Distribution of Consumer's Resource Handbook*

The Consumer's Resource Handbook has been distributed to Treasury bureaus and offices and these organizations are being urged to maximize the use of this volume. The Special Assistant to the Secretary (Consumer Affairs) will also possess a library of materials on consumer organizations and related topics.

2. *Concurrent Publication of News Releases with Federal Register Notices*

The Treasury will continue, where feasible, the practice of concurrently publishing a news release when a notice of proposed rule making is published in the **Federal Register**. This action will be taken to insure that the broadest audience is reached and comments are solicited from them on matters affecting their interests.

3. *Public Opinion Surveys*

These instruments are frequently used by Treasury bureaus and offices, e.g., the IRS solicits the opinions of taxpayers on tax matters, and the Office of Revenue Sharing requests comments from State and local government officials on matters pertaining to the General Revenue Sharing Program.

4. *General Publicity*

Press releases, speeches, special publications, publications in the **Federal Register**, and news media coverage are used by Treasury's bureaus to inform the public of Treasury's services and responsibilities. Steps have been taken by various bureaus and offices to assure that such issuances are topical, logical, and comprehensive to the consumer.

## Examples

The Internal Revenue Service (IRS) relies on the mass and specialized media to alert taxpayers to tax law changes and to provide tax information which will help them correctly prepare and file their returns. Information is distributed to more than 17,000 radio and TV stations, daily and weekly newspapers, magazines and specialized publications. IRS publicity also alerts taxpayers to the large number of free tax publications available to them, the availability of IRS toll-free telephone assistance, and to the assistance available through the Volunteer Tax Assistance (VITA) program to taxpayers who have special needs.

Other high consumer impact Treasury bureaus use similar approaches to providing information to their consumer-clients. The Special Assistant to the



Secretary (Consumer Affairs) will be involved in studying and analyzing these information programs.

#### IV. EDUCATION AND TRAINING

Many Treasury units have implemented measures to sensitize their employees to the needs and interests of Treasury consumers. Conversely, consumers are also being educated concerning the responsibilities of and services available from the Department.

##### Examples

The Internal Revenue Service (IRS) Problem Resolution Program (PRP) Handbook, IRM 1279, October 8, 1979, requires training for all IRS employees who have contact with the public on PRP criteria and procedures. The IRS conducts tax courses for specific groups of taxpayers (small business associations, victims of natural disasters, and so on) and the Secret Service conducts classes in the detection of counterfeit currency and how to safeguard against check and bond forgery. The Public Affairs Division, U.S. Customs Service, uses the services of large numbers of technical specialists to provide information to travelers and organizations in the travel industry. Treasury officials at all levels make themselves available as speakers to local groups in order to further Departmental consumer educational goals.

#### V. COMPLAINT HANDLING

Most written consumer complaints are answered in person, in writing, or, when appropriate, by telephone. Freedom of Information (FOI) requests from consumers are handled according to published FOI regulations and legislation. Special interest groups or individual citizens are encouraged to place their names on mailing lists for current information on programs that affect their interests. Reciprocal exchange of ideas and views is also strongly encouraged and will continue to be encouraged by the Special Assistant to the Secretary (Consumer Affairs).

##### Examples

The Internal Revenue Service's (IRS) Problem Resolution Program serves as an effective complaint handling system. During FY 79, 72,000 individual taxpayer problems were resolved through PRP. Each problem is systematically logged in, investigated and responded to by IRS employees. If a case cannot be resolved within five workdays, the taxpayer is contacted, advised of the status of the case and provided the name and telephone number of the IRS employee responsible for resolution of the case. A PRP case is not closed until all actions have been taken to resolve the problem. Analysis is also conducted of the underlying causes of taxpayer problems and if an organizational, procedural, or systemic problem is identified, it is corrected.

The U.S. Customs Service has a policy statement and an internal operations manual Chapter (Customs 2100-38 and 2111-02) that deals with consumer complaints. The public is made aware of the Service's complaints processing system through Customs' "courtesy program," travel industry publications and personnel, and press announcements.

#### VI. OVERSIGHT

##### Responsibilities

##### 1. Office of the Special Assistant to the Secretary (Consumer Affairs) Responsibilities

The Special Assistant to the Secretary (Consumer Affairs) is the senior-level advisor for consumer matters to the Secretary and Deputy Secretary of the Treasury. The Special Assistant reports, on a constant basis, to the Deputy Secretary who provides general direction, establishes broad policy goals, and evaluates performance on the basis of how well objectives are achieved.

The Special Assistant to the Secretary (Consumer Affairs) has the following responsibilities:

##### (a) Consumer Affairs Council

Represents the Department of the Treasury of the Consumer Affairs Council performing all responsibilities assigned to individual members of the Council.

##### (b) Monitoring System

Develops policies, coordinates activities and oversees the implementation of E.O. 12160 within the Department.

##### (c) Office of the Secretary (OS)

Coordinates all consumer participation and outreach activities in the Office of the Secretary and assists bureaus which do not have consumer staffs with consumer planning, program development and outreach activities.

##### (d) Policy Directives

Advises Treasury officials concerning consumer goals and improvements within their respective areas, and recommends Departmental policy to the Secretary.

##### (e) Public Participation

Encourages or initiates public discussions on Treasury-related matters (e.g., hearings on proposed rules).

##### (f) Policy Review

Reviews legislation, speeches and press releases, and encourages more consumer-related content.

##### (g) Public Information

Works with the Office of Public Affairs and the bureaus to identify and publicize consumer programs in the Treasury and samples consumer correspondence to determine the extent to which such correspondence is sensitive to consumer needs.

##### (h) Procedural Review

Reviews procedures in the bureaus and serves as a consultant to the various bureaus to help improve their relationships with the consumer.

##### 2. Bureau Responsibilities

Each bureau has the following responsibilities:

##### (a) Consumer Representative

Designates a contact person within the organization to act as consumer representative. The person will be

thoroughly familiar with the organization and will be at a level that assures a complete overview of consumer contact. The person shall have the responsibility for developing policies, coordinating activities and overseeing bureau or office consumer programs.

##### (b) Consumer Program Plan and Procedures

Prepares and has published in the Federal Register, for purposes of soliciting comments from consumers, bureau consumer program plans and procedures that implement the provisions of E. O. 12160 and appropriate Treasury guidelines.

#### VII. JUDICIAL REVIEW

Nothing in this Program is intended to provide new grounds for judicial review or be interpreted as superseding any existing statutory obligation regarding rulemaking.

Signed the 26th day of November, 1979.

Robert Carswell,

Acting Secretary of the Treasury.

[FR Doc. 79-36872 Filed 12-7-79; 8:45 am]

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# Postmaster Federal Register

Monday  
December 10, 1979

## Part VI

### Consumer Programs: Transportation and Postal Service

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# Register Federal

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Monday  
December 10, 1979

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Part VI—Section A

**Civil Aeronautics  
Board**

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Draft Consumer Program



**CIVIL AERONAUTICS BOARD****Draft Consumer Program****AGENCY:** Civil Aeronautics Board.**ACTION:** Publication of Draft Consumer Program.**SUMMARY:** The CAB invites public comment on its draft consumer program which is being published in voluntary compliance with Executive Order 12160.**DATES:** Comments should be received by March 10, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.**ADDRESSES:** Five copies of written or typed comments should be sent to Docket 37145, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individual consumers may submit their views and comments without filing multiple copies.

Comments may be examined at the Docket Section of the Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Desta B. McDowell, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5482.**INTRODUCTION**

The Civil Aeronautics Board, with a staff of approximately 760 employees, regulates the economic aspects of air transportation. The Airline Deregulation Act of 1978 phases out regulation of domestic airline routes at the end of 1981, air fares at the beginning of 1983, and the CAB itself in 1985. The guiding principle in air travel is free competition, with the Board's main job being to assure that market forces and consumer choices determine the fares and services airlines offer. At the same time, the Board continues to put a strong emphasis on educating the public and on consumer protection activities in areas where market forces have not proved adequate.

The commitment to serve the traveling public comes from the Chairman and Members of the Board, and is transmitted from them through the entire agency. Every person who helps form agency policies must pay careful attention to what effect any decision will have on the general public, and in a very real sense the entire agency is involved in consumer affairs and consumer protection activities. Staff members who prepare the Board's rulemaking proposals, orders, and regulations must be sure they use language that ordinary people can understand.

The Bureau of Consumer Protection, a major operating bureau of the Board, was created in mid-1978. The main reasons for this reorganization were to increase the Board's ability to inform, assist and protect consumers in their dealings with the air transportation industry, to underscore the commitment to have consumer interests adequately considered in matters that come before the Board, to increase the Board's capability in the antitrust enforcement area,

and to help consumers and airlines resolve their disputes in a fair, effective and timely manner.

The Airline Deregulation Act guarantees essential air service to small communities. Under this program, the Board's Office of Community and Congressional Relations (OCCR) assists communities in seeking replacement carriers when air service dislocations occur. Regional representatives of OCCR serve as a link between the Board and State and local governments.

Given the decision made by Congress for the agency to go out of business on December 31, 1984, we will be continually reassessing our programs and priorities over the next five years. During this period, we will be studying our consumer protection role to determine what assistance consumers will need after the sunset of the Board and the best way to provide that assistance. This may involve transferring functions to other federal agencies or to state and local governments. The following program, which we are publishing at this time in voluntary compliance with Executive Order 12160, is already in place and will be revised as the needs of the public change, and as the CAB phases out its activities.

**I. CONSUMER AFFAIRS PERSPECTIVE****Staff Location**

The consumer affairs staff of the CAB is located in the Bureau of Consumer Protection (BCP). This Bureau is responsible for assuring adequate evaluation and representation of consumer interests in matters that come before the Board. The Director of BCP, who reports to the Chairman of the agency, directs the Board's programs to provide consumers with information and assistance, advises the Board on the consumer interest aspects of current and proposed policies, programs and decisions, and develops and proposes to the Board positions it should take on consumer issues.

Organizational chart #1 shows the placement of the Bureau of Consumer Protection within the Board. Organization chart #2 shows the structure of the Bureau.

The principal office of the Bureau of Consumer Protection is located on the fifth floor of the Universal Building, 1825 Connecticut Avenue, N.W., in Washington, D.C. BCP regional offices are located in Chicago, Fort Worth, Miami, New York, Los Angeles, and Seattle.

**Size and Resources**

The Bureau of Consumer Protection is currently staffed with 70 professional and 32 clerical employees, including temporary and part-time personnel. Ninety-eight of these are permanent positions, of which 12 are assigned to antitrust enforcement on a full-time basis, 23 are involved in legal analysis and litigation activities to enforce the Federal Aviation Act and CAB regulations, 13 are involved in investigation and audit functions, and 15 are assigned to BCP regional assistance activities. The Bureau employs 12

professional consumer protection analysts who deal directly with air travellers and airlines in providing information and assistance in resolving complaints. The distribution of positions in BCP is shown in the attached staffing plan. We expect the BCP's staffing level will decrease gradually over the next five years as the agency prepares for sunset.

**Responsibilities**

In addition to providing a consumer affairs perspective, as described in Subsection 1-401(a) of Executive Order 12160, the Bureau of Consumer Protection works to educate, assist and protect consumers in their dealings with the airline and air travel industries. It also has responsibility for monitoring and promoting observance of the federal antitrust laws by companies under the Board's jurisdiction, and for enforcing the economic provisions of the Federal Aviation Act, and the Board's orders, regulations and other requirements.

**Relationship With Other Consumer Personnel and Agency Operating Units**

BCP cooperates and works with other federal, state and local government agencies in connection with a broad spectrum of antitrust and consumer issues. It also assists Congressional offices in handling and responding to individual consumer problems encountered by constituents. The Bureau is currently developing a program to transfer consumer affairs functions that may still be required after 1985 to state and local authorities and to other federal agencies.

**Participation in Development and Review of Agency Rules, Policies, Programs and Legislation**

BCP participates at all levels of the Board's decision-making process and is on an equal footing with other principal operating components of the agency. The Bureau is actively involved in reviewing and proposing rules, policies and programs of the agency, including recommended legislative changes, and is responsible, under delegated authority, for instituting legal actions in court and before the agency to enforce consumer protection regulations and to prevent unfair or deceptive practices in air transportation. BCP has access to and frequently calls on the expertise of other staff elements to assist in developing programs and policies for the Board.

BCP is kept fully informed of all proceedings that come before the Board through internal communications and public dockets. The staff of the Bureau receives copies of all Board orders, regulations and other publications, and has access to comments filed in the dockets.

Because the CAB is a relatively small agency, the Bureau's staff is in daily contact with the policy-making components of other bureaus and offices on a routine basis. BCP has excellent communication with other key staff components.

Through formal internal coordination procedures, BCP is consulted on policy and regulatory matters significantly affecting consumers, before submission of

staff recommendations for Board action. It is also represented on and takes active part in agency-wide task forces working on specific policy issues and programs affecting consumers. Documents prepared for Board action are routinely circulated to BCP for review and comment. The Director and professional staff members attend Board sunshine meetings in which members discuss and vote on proposals, and they participate actively in the discussion before the Board makes its final decision.

BCP has the opportunity to participate fully in all phases of the Board's decision-making process from the initial stage of policy development at the staff level, through drafting of regulations and orders, and in making recommendations to the Board for adoption of final orders and rules. However, when the Bureau intervenes or participates as a party in a formal hearing matter, its staff communicates with the Board only through briefs and other filings in the docket and does not advise the Board in a staff capacity.

BCP has the authority to propose rulemaking, institute enforcement cases, seek assessments of civil penalties for violations, and participate in other proceedings before the Board.

**II. CONSUMER PARTICIPATION****When Consumer Participation in Agency Decisionmaking Begins**

Part 302 of the Board's Economic Regulations (14 CFR 302) provides for broad public participation in Board proceedings. In addition to informal complaints, individuals or consumer groups may petition for rulemaking, comment on show cause orders or proposed regulations, file formal third-party enforcement complaints, and initiate other proceedings. They may also participate as a party in other docketed matters, and file written comments and testify in public hearings. If consumers disagree with a Board decision, they may file petitions asking for reconsideration.

The Board has simplified procedures for consumer participation. In rulemaking cases, individual members of the public may submit a single copy of comments or other filings in the docket, rather than the 19 usually required. The Board liberally applies the criteria for formal intervention in its proceedings to facilitate and encourage effective participation by members of the public.

In order to insure a balanced record in proceedings directly affecting the consumer interest, the Board adopted a regulation (14 CFR 304) in 1978 to provide funding for public participation. A committee made up of the Managing Director, the Director of the Office of Economic Analysis, and the General Counsel, was set up to evaluate applications and made selections for funding. The purpose of providing public participation funds is to attract points of view that otherwise would not be represented.

Information about how to apply for public participation funding was included in several Notices of Proposed Rulemaking issued by the CAB. The Board



has also published a booklet detailing the application procedure.

The Board has provided funding under this program to promote participation by public interest organizations in this field of consumer protection and the rights of the handicapped. However, the program was terminated as of September 30, 1979, due to budgetary constraints.

#### Avenues of Participation

Consumers and consumer groups may communicate informally with BCP and other staff elements on any matter of concern to them through correspondence, telephone or personal conferences. Informal contacts of this nature relating to a specific case are generally not allowed once a formal hearing has been instituted, under the Board's "ex parte" rules.

Regional public hearings have been held by the Board and its Office of Community and Congressional Relations to allow consumers to provide input on essential air service determinations and meetings with individual communities are held on a continuing basis to assist with air service problems. BCP's regional consumer representatives also frequently communicate with consumers through the media and participate in meetings and other public functions of consumer groups. In formal proceedings, public hearings may be conducted by administrative law judges in communities significantly affected by the matters to be decided.

When consumers become parties to formal proceedings, they may file written comments and answers to comments filed by other parties, submit evidence, and take part in hearings before an Administrative Law Judge. The Board's rules also allow limited participation by interested persons without formal intervention.

Notices of all Board proceedings are published in the *Federal Register*. In addition, the Bureau of Consumer Protection has a special mailing list including state and local consumer offices, public interest organizations, consumer reporters and travel writers, and other interested individuals, to alert them to Board actions and proposals that may significantly affect consumers. On specific subjects, the Board's staff obtains mailing lists of groups and individuals who would be likely to have a particular interest in the proceeding. In our contacts with the press, such as the attached press release on proposed rulemaking to protect handicapped travelers, we provide information about proceedings and interested consumers may send their views and comments for consideration.

### III. INFORMATION MATERIALS

#### Agency Publications

The Board publishes a consumer guide to domestic air travel which is intended to inform and to educate the traveling public about their rights and air carrier responsibilities. The guide, "Fly-Rights," was completely revised and issued in a new format in July 1979.

Consumer booklets are available to the public free of charge through the Consumer Information Center in Pueblo, Colorado and the Board's Publication Section. Regional offices distribute copies of publications to individuals and state and local consumer groups in their respective regions. Plates are made available to any organization that wishes to reprint the booklets in quantity.

In addition, the Board publishes a monthly statistical report of consumer complaints, listing the airlines and subject matter. Other statistical reports of interest to consumers provide data about airline on-time performance and bumping records. Consumer Alerts and other press releases are issued from time to time dealing with specific topics of interest to travelers, proposed airline fare increases, travel during the holiday season, and service reductions or changes that may affect travel plans. (An example is attached.)

The Board also publishes its orders and regulations on a current basis. Single copies of these are available without charge to individual members of the public and consumer organizations on request, or on a subscription basis.

To facilitate the dissemination of information in public hearings on essential air service, the Office of Community and Congressional Relations developed a booklet explaining Board policies and procedures. The booklet has been distributed to more than a thousand community and organization officials.

The Board also requires airlines to give consumers certain information and warnings with each ticket, and to post notices in airports and ticket offices. These notices cover oversale rules and procedures, the limits imposed by carriers on their liability for lost, damaged or delayed baggage, limitations on liability for personal injury or death in international air travel, and the rights of consumers to inspect the carriers' tariffs at all airline ticket counters and offices.

#### Usefulness of Current Material

"Fly-Rights" gives air travelers comprehensive information about air travel in plain English. Since its publication in July 1979, it has been a best-seller at GSA's Consumer Information Center. We think "Fly-Rights" is a very useful publication, but the information is not complete since it covers only air travel within the United States.

Consumer Alert press releases are useful and timely because they provide a quick way to get information out to the public on specific current problems.

Monthly consumer complaint statistics are somewhat less useful to individuals, since the information is presented in a summary, tabular format that requires some expertise to understand and is not designed for the general public. However, newspapers frequently publish articles based on the monthly complaint summary and the Board's staff provides detailed background information to reporters calling for assistance in interpreting the statistics.

Although the Board has a policy of applying "plain English" standards to the orders and regulations it issues, most of these documents are probably not

immediately useful to many individual consumers because of their legal nature and the complexity of the material. Individuals with particular problems or disputes involving an airline, however, may find particular orders or regulations extremely helpful in obtaining resolution, and the Board's staff attempts to provide copies of the relevant documents to consumers who have made complaints or requested information from us.

Tariffs and airport and ticket notices are not very useful because of the legalistic phrasing used. Tariffs also are lengthy, complex, and poorly indexed, which makes it difficult to locate specific information about air fares or the rules governing passenger transportation.

#### Plans for Improvement

"Fly-Rights" is being revised to include information and advice about special features of international travel. The Board also plans to issue a pamphlet on charter flights within the next few months. The new edition of "Fly-Rights" will be developed during the coming fiscal year and revised as needed when regulations change.

A new computer system for compiling consumer complaint information is being developed and will be in place early in 1980. The monthly complaint statistics will be reformatted and include topics which should be more informative and helpful to the public.

The Bureau of Consumer Protection is conducting a comprehensive review of all the notices given to passengers through airport counter signs and material printed on ticket notices. We are especially focusing on a "plain English" approach to drafting these notices.

BCP's staff is also drafting an Advance Notice of Proposed Rulemaking soliciting comments from the industry and the public on how a plain English approach might be applied to airline-passenger contracts in place of the tariff system.

#### Officials Responsible for Consumer Information Program

The Bureau of Consumer Protection, under the supervision of its Director, has primary responsibility for the Board's consumer information program. Within BCP, the Policy Development and Consumer Action Divisions share the job of developing materials for publication, as assigned by the Director.

#### Information on Agenda of Public Meetings

The Secretary of the Board publishes a meeting announcement one week before every scheduled Board meeting. On the morning of the Board meeting, a revised agenda is made available to everyone attending the meeting. Notices are printed in the *Federal Register* and published in widely distributed trade publications.

Each meeting announcement contains the time, date, and place of meeting, and an agenda of each item scheduled for discussion of decision at the meeting. Each matter is identified by the title of the proceeding

or other caption, the docket number, if any, and an indication of what action is to be considered by the Board in the meeting.

### IV. EDUCATION AND TRAINING

The Director of BCP or his designated representative is responsible for informing the Board and staff about the Order and the agency's activities under it. Executive Order 12160, together with a memorandum summarizing it, has been circulated to the Chairman, Members, and all other senior officials of the Board. Copies of the draft consumer program will be circulated to the Board and appropriate staff for review and comment, before adoption by the Board.

No significant changes in structure are planned at the present time, since our consumer program has been in operation for more than a year. If any changes occur in the future, the staff will be notified by desk-to-desk distribution of staff notices.

BCP management provides in-house training for consumer affairs personnel, as part of its ongoing program of staff training. All BCP staff members have received a copy of the Executive Order and the description of the Board's consumer program.

### V. COMPLAINT HANDLING

During the past year, the Board has made intensive efforts to heighten public awareness about the agency's receptivity to complaints. Our field representatives sent mailings throughout their region to notify the public of the presence of a CAB office in the area and our willingness to assist consumers with air transportation problems. Field representatives made numerous contacts with the press which resulted in articles and broadcasts publicizing the regional offices. With the diminishing of CAB's activities over the next few years, we will concentrate on working with state and local agencies to educate them in the handling of air transportation complaints and to teach consumers to be their own consumer advocates.

All consumer publications and Consumer Alert press releases contain the statement that consumers may write to BCP for assistance with air transportation problems. Our staff is interviewed regularly by the press, and we make it a practice to ask reporters to include the mailing address for complaints in each article.

#### Format for Logging Complaints

All complaints received by BCP (written and telephone) are analyzed and coded in standard topical categories. Information is entered into a computerized system.

Consumer complaints received by the Board's Washington office are routinely directed by BCP by the mail room staff, with the exception of essential air service problems which are handled by the Office of Community and Congressional Relations. Complaints directed to regional offices are handled in the field. Consumer analysts and field representatives bring to the attention of BCP management any problems which they believe warrant field investigation.



**Response Procedure**

A computerized complaint-handling system keeps track of complaints from date received until date closed. Complaints involving airlines, travel agents, and tour operators are referred to the company involved with the request that they respond directly to the complainant and provide a copy of their response to BCP. A copy of the standard computer-generated acknowledgement is attached. The standard for sending routine acknowledgement letters is 15 working days from date of receipt of the complaint. Individual responses are prepared to answer requests for information and complaints about the Board's activities.

If the complaint involves an apparent violation of Board regulations, we prepare a letter to the carrier asking them to pay compromise civil penalties. Carriers are given 20 days to respond to civil penalty letters. Followup letters are generated by computer every 30 days for all pending cases. Weekly reports are submitted to the Director of BCP showing the number of new cases opened, cases closed, cases pending and acknowledgement backlog.

Monthly statistical reports are produced which tabulate the number of complaints by airline and subject category. These reports are issued as press releases.

Consumer analysts and field representatives prepare weekly narrative reports for the Director of BCP, highlighting significant consumer problems handled.

In June of 1979, BCP conducted a survey of twenty percent of the consumers who sent complaints to the Bureau during a three-month period in 1978. Similar surveys will be conducted annually.

**OVERSIGHT**

The Chairman of the CAB has designated the Director of the Bureau of Consumer Protection as the senior-level official to exercise policy direction for, and coordination and oversight of the Board's consumer activities. The Director of BCP is specifically responsible for the following:

—Plans, develops and directs programs to carry out the Bureau's mission.

—Advises the Board on the effects of proposed policies, programs and decisions on consumers.

—Proposes to the Board positions it should take on consumer issues.

—Approves and supervises BCP participation in Board proceedings; proceedings of other federal, state and local agencies; and litigation on behalf of BCP or the Board in federal, state or local courts as a party or intervenor.

—Maintains liaison with other federal, state and local government agencies in connection with antitrust and consumer issues.

—Represents the Board with outside groups in consumer matters. Serves as liaison with the President's Special Assistant for Consumer Affairs. Works with the Bureau of Pricing and Domestic Aviation and the Office of Community and Congressional Relations to resolve specific community

or congressional problems involving consumer interest issues.

—Provides technical and administrative direction to the organizational components of the Bureau of Consumer Protection.

—Exercises authority delegated by the Board in Parts 302 and 285 of its regulations.

—Supervises BCP's program to encourage competition among entities under the Board's jurisdiction.

—Provides the Board, its staff and the public with reports of the Bureau's activities.

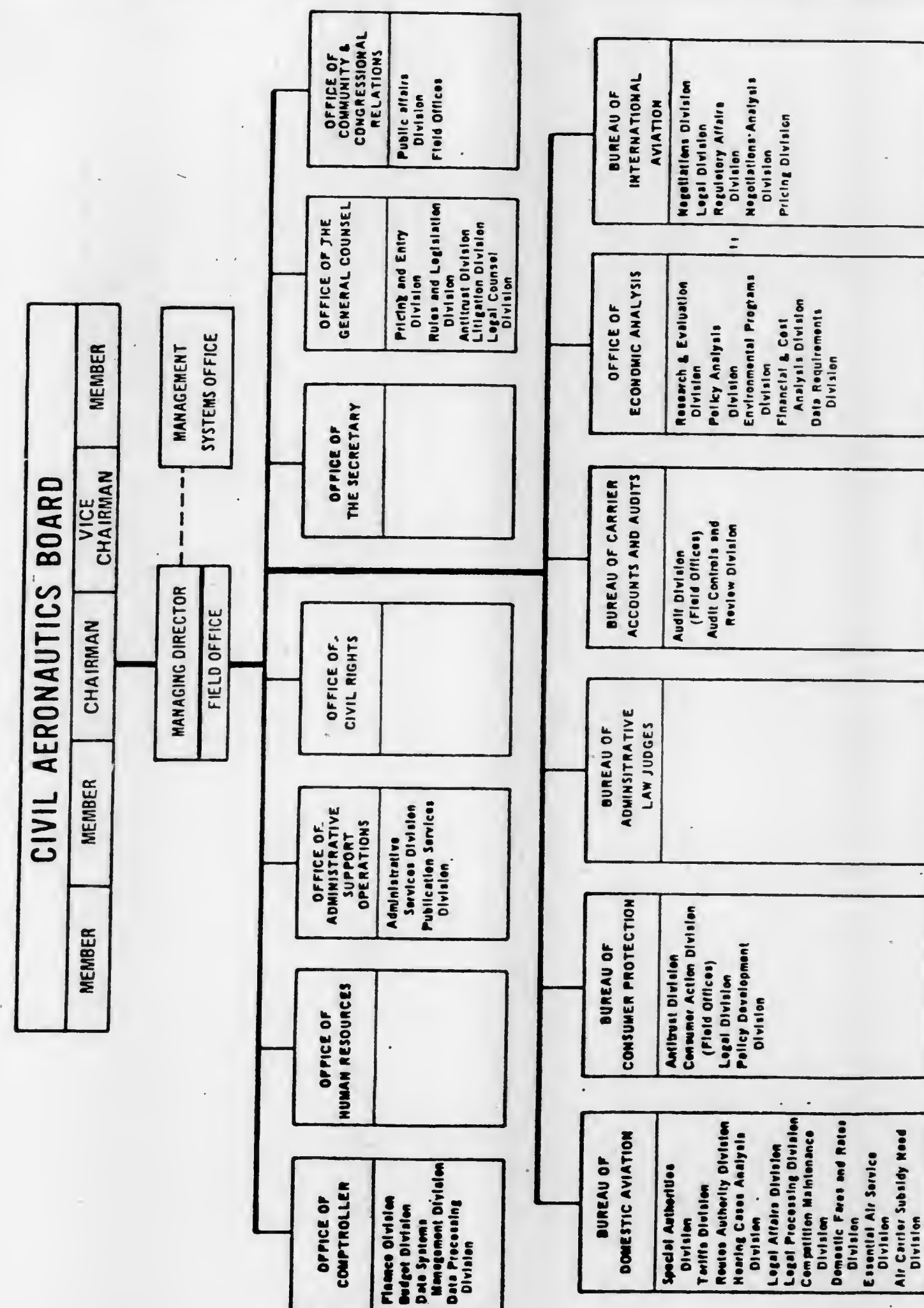
Dated: November 23, 1979.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

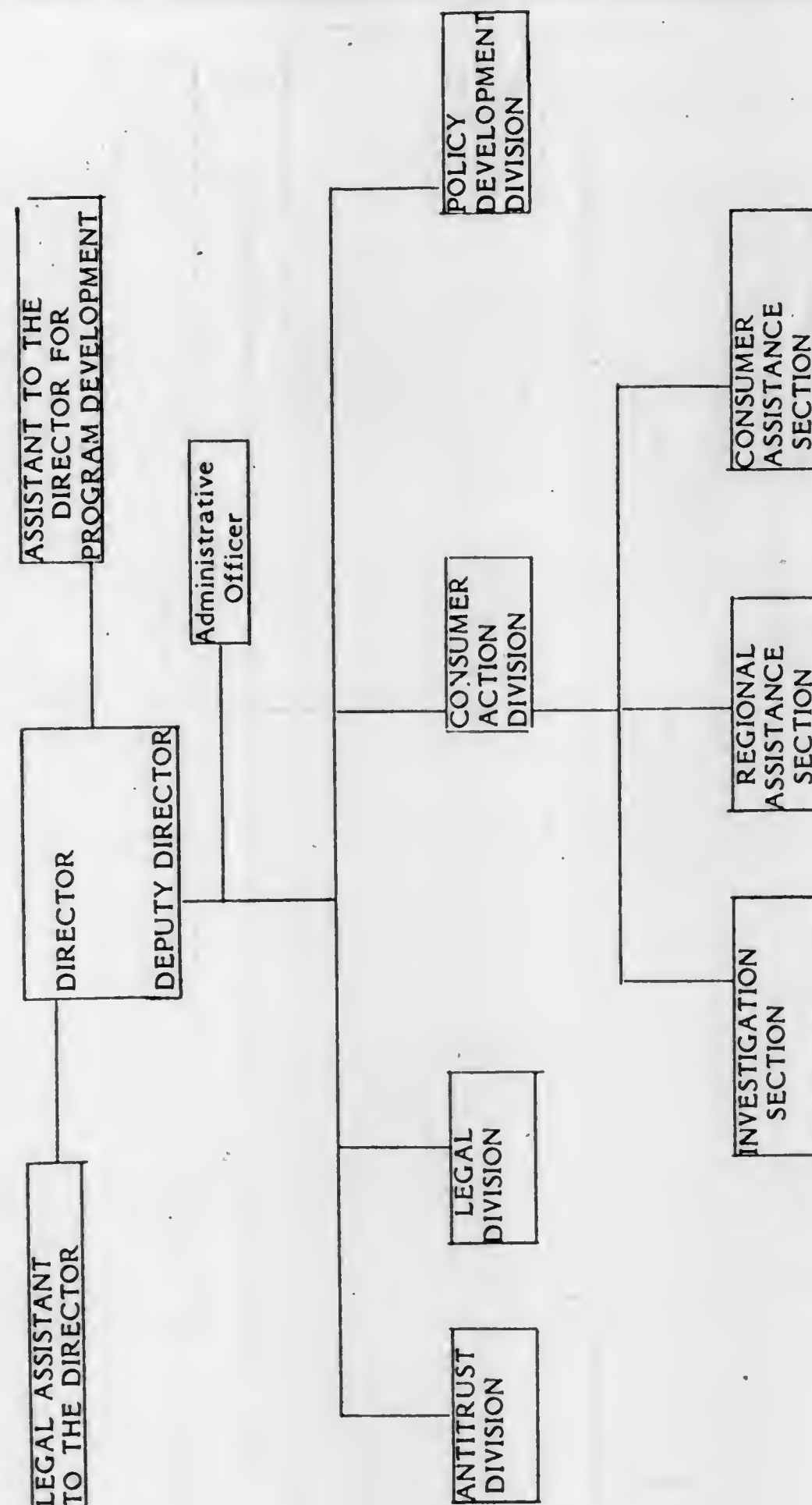
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**ATTACHMENT I**



ATTACHMENT 2

## BUREAU OF CONSUMER PROTECTION



## CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO:

B-95: 79-XXXX

December 1, 1979

Mr. John Doe  
1234 American Avenue  
Anywhere, New York 12345

Dear Mr. Doe:

We have received your letter about the difficulty you've had with Etcetera Airlines.

We will contact the company and ask them to review your complaint. I have asked Glenn Wienhoff, the Chief of our Consumer Action Division, to make sure you receive a response from them. If after hearing from them you have any questions, please contact Mr. Wienhoff.

If you write us about this again, please refer to the number at the top of this page so that we can locate the case in our files as quickly as possible.

Sincerely,

Reuben B. Robertson  
Director  
Bureau of Consumer Protection

BILLING CODE 6320-01-C



Staffing Plan, CAB, Bureau of Consumer Protection as of October 31, 1979.

#### OFFICE OF THE DIRECTOR (9)

Director  
Deputy Director  
Assistant to the Director for Program Development  
Legal Assistant to the Director  
Secretaries (2)  
Administrative Officer  
Administrative Assistants (2)

#### LEGAL DIVISION (23)

Chief  
Assistant Chief  
Attorneys (14)  
Paralegal Specialist  
Clerical/Secretarial (5)  
Law Clerk

#### ANTITRUST DIVISION (12)

Chief  
Assistant Chief  
Attorneys (6)  
Economists (1)  
Clerical/Secretarial (3)

#### POLICY DEVELOPMENT DIVISION (5)

Chief  
Attorney  
Economists (2)  
Secretary

#### CONSUMER ACTION DIVISION (53)

##### Office of the Division Chief (3)

Chief  
Assistant Chief  
Secretary (1)

##### Consumer Assistance Section (22)

Chief  
Assistant Chief (Vacant)  
Consumer Protection Analysts (11)  
Clerical/Secretarial (7)  
Data Control (3)

##### Regional Assistance Section (15)

Chief  
Assistant Chief  
Field Representatives (7)  
Air Transport Program Assistants (6)

##### Investigation Section (13)

Chief  
Assistant Chief  
Investigators (7)  
Auditors (3)  
Clerical/Secretarial (1)

BILLING CODE 6320-01-M

## CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

### FOR RELEASE:

Contact: Wallace C. Stefany  
(202) 673-5990

ON OR AFTER  
Tuesday  
June 5, 1979  
CAB 79-122

### CAB PROPOSES RULE BARRING UNLAWFUL DISCRIMINATION IN AIR TRANSPORTATION OF HANDICAPPED PERSONS

WASHINGTON, D. C. (June 5)--The Civil Aeronautics Board today asked for public comment on a rule it is proposing to prohibit unlawful discrimination in air transportation on the basis of handicap.

The Board also invited applications for public participation compensation in this rulemaking. Those applications are due by July 6, 1979.

The CAB said that its proposed rule reflects the need to insure that handicapped travelers have adequate access to air transportation and to affirm that the handicapped are protected by the adequate service and antidiscrimination provisions of the Federal Aviation Act, which apply to all airlines. As a general matter, the CAB said the air carrier should have the burden of showing that air service to the handicapped cannot be provided.

The rule would also limit the situations in which carriers could:  
(a) insist that handicapped people give advance notice of their travel, and (b) require a handicapped person to be accompanied by an attendant.

The CAB said that two tentative decisions are basic to the structure of these proposed rules. First, all passengers, regardless of handicap, should be given reasonable access to commercial air transportation. Second, the handicapped should be given a reasonable opportunity to use the ordinary, unaltered services of airlines.



The Board said that it believes that its rules will help set the boundaries of travelers' rights and carriers' obligations. Only significant and clearly demonstrable safety concerns or the most extreme considerations of carrier inconvenience should justify refusal to carry a handicapped passenger. Among these conditions would be contagious disease, drunkenness, and serious illness that may require immediate treatment. Handicapped people would be presumed fit to travel unless there is clear evidence to the contrary.

To make air travel truly accessible to the handicapped, the Board proposed to require carriers to accommodate travelers' desires to transport their own equipment and aids, and to have available various types of service and equipment to be provided at the traveler's request. Except for pressing safety reasons, the Board noted, the carrier could not require a handicapped passenger to accept unrequested special services.

Because it lacks sufficient information on the subject, the Board is not now proposing to require structural modifications of aircraft.

Interested persons have until Sept. 4, 1979 to submit comments to the CAB Docket Section, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. (Docket 34030)

-30-

SPDR-70

## CIVIL AERONAUTICS BOARD

WASHINGTON D.C. 20428

**CONSUMER  
ALERT**

FOR RELEASE:

Contact: Wallace C. Stefany  
(202) 673-5990

ON OR AFTER  
Friday  
June 8, 1979  
CAB 79-131

CAB CONSUMER UNIT OFFERS TRAVELERS ADVICE ON HOW TO MINIMIZE THE EFFECT OF POSSIBLE FUEL-RELATED PRICE INCREASES

WASHINGTON, D. C. (June 8 )--Recent sharp price increases for jet fuel will likely be reflected in charter and regular fare prices, the Civil Aeronautics Board's Bureau of Consumer Protection (BCP) said today, but knowledgeable consumers may be able to minimize the effect on their pocketbooks.

Airlines have reported that they are experiencing substantial fuel price increases, BCP Director Reuben B. Robertson said. Supplemental (charter) carriers have indicated they will be paying as much as 75 cents a gallon for fuel in July, compared with the 45 cents a gallon paid in January. Scheduled carriers also have experienced substantial fuel price increases.

For charter passengers this will likely translate into price increases in the form of fuel surcharges, Robertson said. This can occur on short notice even after one has signed up for a tour and paid the full tour price. But whether or not a charter passenger must accept the surcharges imposed by the airline, Robertson noted, depends on the tour operator-participant contract. In many cases, the tour operator reserves the right to assess fuel-related price increases without giving the consumer the right to cancel with a full refund. Charter tour purchasers should review their contracts to see whether or not they have the option to cancel and not be subject to such increases, BCP urged.



Under new CAB consumer protection rules effective May 1, charter contracts for flights departing in July or later must limit price increases to not more than 10 percent of the total trip cost. When additional collections are greater than 10 percent, the tour operator must allow passengers to cancel without penalty. The contract must provide for increases before any additional collection can be assessed. The rule also requires that, for flights after July 1, charter participants must be given notice of any increase at least 10 days before departure.

Consumers who question whether or not an increase that the charter tour operator is passing along is really due to rising fuel costs can verify that fact by contacting the airline providing the charter transportation. Those who question whether they must pay the increase should read their contract and check with the tour operator or their travel agent.

In the case of scheduled transportation in the United States, the fare in effect on the day a ticket is purchased is the total price that a traveler has to pay. If a consumer wants to be sure that the price of the ticket will not rise, he or she should purchase the ticket as soon as possible. For scheduled international flights, the same protection is being offered to a limited extent by most, but not all, U.S. and foreign airlines.

Consumers can protect the price they will have to pay if tickets are purchased now on the carriers that offer the fare protection. Airlines that do not follow this procedure can make an additional collection when the passenger shows up to board the flight, if the fare has increased in the interim. The consumer can save money when planning for international travel by inquiring about the carrier's practice and buying the ticket to preserve the current price if the carrier offers protection for the fare now in effect. On other carriers, a passenger may be charged additional money if the fare is increased in the interim.

Monday  
December 10, 1979

## Part VI-Section B

# Interstate Commerce Commission

Consumer Affairs Activities

Interstate Commerce  
Commission  
Consumer Affairs Activities



## INTERSTATE COMMERCE COMMISSION

## Consumer Affairs Activities

November 28, 1979.

*Dear Consumer:* The Interstate Commerce Commission is pleased to comply voluntarily with the President's Executive Order to improve the effectiveness, management, and coordination of agency consumer affairs activities. The ICC's mission has always included consumer protection.

Over the past three years, the Commission has made great strides in developing and implementing programs to ensure the ICC's responsiveness to consumer needs. We have established a consumer complaint center, created an Office of Special Counsel to aid in addressing the public interest in transportation matters before the Commission, and improved programs providing legal and information services to consumers.

Following is a report of the ICC's consumer activities.

Sincerely,

Daniel O'Neal,  
Chairman.

Enclosure.

## SECTION I. CONSUMER AFFAIRS PERSPECTIVE

The Interstate Commerce Commission has specialized consumer affairs staffs located in four organizational units of the Commission: the Office of Special Counsel, the Bureau of Operations, the Bureau of Traffic, and the Small Business Assistance Office. The Office of Communications and Consumer Affairs, which reports directly to the Commission Chairman, serves as a coordinator for consumer information and outreach programs.

## Part. 1. Specialized Consumer Staffs

A description of each specialized consumer staff follows:

*Office of Special Counsel*

The Office of Special Counsel is subject to the administrative supervision of the Chairman but, in all other respects, is not accountable to the Commission. The office is fully staffed with six attorneys and two paralegals with particular expertise in administrative law procedures and consumer issues related to transportation industries, especially those regulated by the ICC.

The Special Counsel's responsibilities are entirely to aid in the determination of the public interest in proceedings before the Commission, including formulation of agency rules, policies, programs, and legislation. The office formulates a complete record by developing evidence on the public interest, generating public participation in cases before the ICC, and counseling consumers and public representatives on transportation issues and the administrative process.

The Office of Special Counsel works closely with all other staffs performing consumer affairs functions. For example, when the Bureau of Operations schedules

informal public conferences to explore possible changes in the Commission's consumer regulations, the Special Counsel assists consumers—individuals or groups—in presenting their views.

The Bureau of Traffic, which reviews all rates and charges of interstate transportation companies, furnishes the Special Counsel with a copy of each tariff rejection letter issued by the consumer tariff examining units. The Special Counsel is also furnished with a copy of each decision of the Suspension Board which suspends and investigates proposed transportation rates. In addition, the Bureau of Traffic consumer specialists advise the Special Counsel on transportation rates that have possible adverse consumer impact. All these actions are to give the Special Counsel an opportunity to provide appropriate input to the decisionmaking process on rate matters which affect consumers. ge a10de3.062

The Special Counsel works closely with the Office of Communications and Consumer Affairs (OCCA) to ensure that outreach and communications programs are effectively planned and implemented. OCCA provides planning, editorial, and information dissemination assistance.

To keep apprised of all opportunities to participate in agency proceedings, the Special Counsel attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, program, and policies.

The Special Counsel reviews all draft notices of proposed rulemaking. The office may also petition the Commission to institute rulemakings or other proceedings in matters of public interest. Policy statements are reviewed in draft, and the Special Counsel may comment on the draft.

The Special Counsel also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the Special Counsel comments from a consumer and public interest point of view prior to completion of the Commission's proposed legislative package and testimony.

*Bureau of Operation' Consumer Assistance Section*

The Bureau of Operations reports jointly to the Commission Chairman and the Managing Director. Within the Bureau is a Section of Consumer Assistance staffed by 4 transportation specialists and 12 consumer representatives.

The Section of Consumer Assistance operates a sophisticated consumer complaint and inquiry center, using a nationwide toll-free hotline with computer capability for logging, referral, retention, and update of complaint information. The Consumer Assistance Section is tied to six regional Consumer Assistance Centers in Boston, Philadelphia, Atlanta, Chicago, Fort Worth, and San Francisco and three subregional centers in New York, Los Angeles, and Seattle. (See Section V)

The Bureau of Operations' Section of Consumer Assistance draws upon the resources of the Commission's field staff, Small Business Assistance Office, the Special Counsel, the Bureau of Traffic, and the Office of Proceedings (which processes formal cases) to handle complaints and inquiries ranging from problems encountered by consumers during an interstate move, to complaints about interstate bus or train travel, to small shippers who are unable to find transportation services, to users of railroad services who are unable to obtain freight cars or other freight services.

The Bureau of Operations initiates many of the proposals to revise, update, and change Commission policies, rules, and programs affecting consumers. For those actions not initiated by this office, the bureau director participates in weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies. The bureau director reviews all draft policy statements and notices of proposed rulemaking to respond to the decision-making process. Also, the bureau director reviews and comments upon proposed legislation that is being formulated by the Commission and that has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the director has an opportunity to comment prior to completion of the Commission's legislative package and testimony and whenever necessary appears before Congressional committees and answers or assists in answering technical questions.

*Bureau of Traffic Consumer Units*

The Bureau of Traffic reports jointly to the Chairman and the Managing Director and advises the entire Commission on the publication, filing and interpretation of tariffs. The Bureau of Traffic has responsibility for reviewing and interpreting tariffs containing the rates and charges of buses, trains, trucks, inland water carriers, and surface freight forwarders and suspending rates and charges before they become effective if they appear unreasonable or unlawful.

There are six units in the Bureau of Traffic with significant consumer-oriented responsibilities. They are:

- *The Suspension Board.* The Board has a chairman and two full-time voting members and is supported by 21 transportation rate and tariff specialists. The Board analyzes protested rate changes to determine whether there is sufficient cause to suspend the effective date of the proposal pending formal investigation of its lawfulness (or reasonableness) by the Commission. The Board is empowered to suspend motor, water, and forwarder tariffs on its own initiative. The Board is a classic example of consumer protection activity.

- *The Consumer Impact Analysis Unit.* This Unit is staffed with 6 Traffic Analysts. They review newly-filed tariffs to identify rates, charges, or provisions that impact unfairly on the consumer and explore ways to eliminate items which may hinder or injure the consumer financially. The Unit provides immediate

response to tariff interpretation questions from the unsophisticated consumer and shipper.

- *The Consumer Tariff Examining Units.* The Bureau has a total of 25 tariff examiners who analyze certain tariffs in depth, searching for proposed rules, provisions, or rates which will impact unexpectedly, unfairly, and unreasonably on shippers or travelers who may not be in a position to watch tariff filings in their own behalf. "Bad" proposals are rejected out of hand and do not become effective.

- *The Tariff Integrity Board.* This Board was established in October 1979 to provide an expedited procedure for tariff users who wish to challenge unlawfully established rates. The Tariff Integrity Board is designed to afford a fast, effective remedy to rates and charges which were unlawfully established. The Board is empowered to order such tariffs stricken from the files.

- *The Special Docket Board.* Assistant consumers in obtaining refunds of freight charges which are unreasonable.

- *The Special Permission Board.* This Board acts on transportation companies' requests to file experimental or incentive rates or to advance the effective date of rate reductions.

The Bureau of Traffic answers inquiries on transportation rates and charges received on the ICC nationwide toll-free hotline. The Bureau of Traffic works closely with the Office of Communications and Consumer Affairs to disseminate information on ICC rate actions that impact on consumers, using all available media tools.

To keep apprised of all opportunities to participate in agency proceedings, the Bureau of Traffic director attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies.

From the point of view of providing as much consumer protection as possible, the Bureau of Traffic director reviews all draft notices of proposed rulemaking and policy statements and comments on them prior to their submission to the Commission for a vote and public release. The Traffic director also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings—prior to completion of the Commission's proposed legislative package and testimony. In all cases, the Bureau's focus is on the projected impact of the legislation upon consumers.

*Small Business Assistance Office*

The Small Business Assistance Office (SBAO) reports directly to the Chairman and advises the entire Commission on small business concerns.

The office is staffed with one permanent attorney, one rotating attorney, one paralegal, and one program analyst. SBAO has a specific consumer constituency—small carriers, owner-operators, small shippers, new entrants, and minority truckers. The functions performed by SBAO range from advising and assisting



small business entities and individuals in understanding and coping with regulatory procedures to providing the Commission with a broad perspective of the impact of its decisions on small businesses and individuals.

SBAO, the Bureau of Operations and the Office of Proceedings (the ICC office which processes formal cases) work together in resolving small businesses' transportation problems. SBAO and Proceedings answer inquiries from small businesses on obtaining operating rights—licenses to perform interstate transportation. The ICC nationwide toll-free hotline is used to receive telephone inquiries and complaints from small businesses.

The Small Business Assistance Office conducts an informational outreach program to its consumer constituency. The office has prepared and disseminated a series of public advisory booklets designed to answer some basic questions on the transportation industry and to help resolve problems small businesses confront in entering the trucking business. SBAO also designed a nationwide ICC small business conference program. Six conferences have been conducted in different regions of the country. Since its creation in June 1977, the office has responded to over 30,000 complaints and requests for assistance. Additionally, SBAO works closely with the Office of Communications and Consumer Affairs to disseminate information on ICC actions that impact small businesses, using all available media tools including press releases, public service announcements, and interviews targeted particularly at small business trade newspapers and magazines.

To keep apprised of all opportunities to participate in agency proceedings, the Small Business Assistance Office Director attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies. The SBAO director reviews all draft notices of proposed rulemaking and policy statements to make comments prior to their submission to the Commission for a vote and public release. The SBAO director also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the SBAO makes input prior to finalization of the Commission's proposed legislative package and testimony.

#### Part 2. Coordination

The Office of Communications and Consumer Affairs serves as the Chairman's coordinator for consumer activities. The Office provides a readily accessible contact point for the general consuming public. Its functions include:

- participates in developing consumer policy and program objectives;
- develops and implements a comprehensive consumer information program designed to keep the

public informed of Commission actions affecting individual consumers;

- reports to the Chairman and advises the President's Office of Consumer Affairs on ICC consumer programs, policies, and initiatives;
- assists specialized consumer staffs in preparing informational and outreach materials to ensure full consumer participation in agency programs and proceedings.

The Office of Communications and Consumer Affairs (OCCA) is fully staffed with 5 communications and consumer affairs professionals, two para-professionals, one administrative officer, and one clerk. Its responsibilities include the Commission's general media program as well as the consumer information and coordination program.

OCCA communicates directly with the Commission Chairman and all office managers to ensure that the office is apprised of all agency rules, policies, programs, and legislation and is given an opportunity to comment—either in writing or orally—on all agency plans.

OCCA participates in the development of policies and programs, and often assists in drafting the initial language for internal agency review.

The office participates on internal agency task forces and working groups which initiate ideas for rule, policy, program, and legislative change and is active in all meetings with key agency officials.

#### SECTION II. CONSUMER PARTICIPATION

Interstate Commerce Commission procedures encourage and allow for early and meaningful consumer participation in the development and review of agency rules, policies, and programs.

##### Part 1. The ICC's Office of Special Counsel

The Office of Special Counsel was established in November 1978 to ensure that the public interest is fully represented in ICC proceedings. The Special Counsel's principal mission is to assist both the Commission and the public by ensuring that the Commission has a complete record before it—complete from the public viewpoint—so that it will be able to make a fully-informed decision. The Special Counsel has input at all stages of the decisionmaking process to Commission rules, policies, and programs.

The Special Counsel performs its mission primarily by:

- participating in appropriate Commission proceedings;
- petitioning the Commission to institute rulemakings and other proceedings in matters of public interest;
- counselling and assisting members of the public in obtaining information, dealing with the Commission and its complex regulatory procedures, and complying with the Commission's rules and regulations;
- assisting the Commission in ascertaining the public viewpoint to incorporate consumer concerns in the preparation of congressional testimony, policy formulations, and proposed legislative packages;

—acting as a "suggestion box" where members of the public can easily channel ideas relating to the public interest; and

—representing consumers, individuals and groups, or other parties who may have been unjustly treated by an ICC-regulated company or industry.

In its efforts to generate a balanced record in Commission proceedings the Special Counsel acts in an outreach capacity, as an advocate, or some combination of both. The outreach function includes locating, notifying, and assisting consumers, small businessmen, and other persons not familiar with Commission procedures, to enable them to make their views known effectively—either informally, in formal written comments, or orally at hearings. The advocacy role places the Special Counsel in the posture of a "party" to a formal commission administrative proceeding. Frequently, the Office will be an advocate at the same time it performs an outreach service. For example, it will obtain testimony (either oral or written) from individual consumers and incorporate that testimony into the Office's case to be presented to the Commission.

The most significant criterion for the Special Counsel's involvement in cases before the Commission is whether important public viewpoints will be represented without participation by the Special Counsel. The Office's goal is to ensure that the interests of parties who have a very real stake in the outcome of the proceeding are adequately represented. For example, in proceedings involving the household goods moving industry, which the ICC regulates, many individuals move only once or twice in a lifetime and have neither expertise nor incentive to intervene formally in an ICC proceeding. Their moving experiences, taken as a group, however, can provide the Commission decisionmakers with valuable guidance in making necessary changes to the rules and regulations governing the interstate moving industry. Also, passengers of the intercity bus industry are generally the young, the old, and the poor, and are not usually capable of representing themselves in cases such as major rate changes. As a last example, the general consuming public is affected by almost everything the motor carrier (trucking) industry does, because the cost of transportation is a factor in the retail price of many goods. No effective consumer group, however, regularly participates in major motor carrier proceedings before the Commission, and the Special Counsel is charged with ensuring that the public interest is represented.

The Special Counsel, in conjunction with the Commission's Office of Communications and Consumer Affairs, will take affirmative action to ensure consumers are notified of opportunities to participate in agency decisionmaking. Press releases will be targeted to consumer reporters nationwide or to specific locales, if the particular Commission action has a regional rather than nationwide impact. Television and radio public service announcements will be used to encourage consumer contacts with the

Special Counsel when that Office is attempting to obtain evidence in particular rulemakings or cases.

Consumers who have written or telephoned the Commission with complaints or suggestions will be individually contacted through letter campaigns when their contributions could be valuable to the Special Counsel's formulation of a position in a particular proceeding. Additionally, the Special Counsel has staff available at many Commission conferences (regular meetings of the Commission), Administrative Law Judges' hearings, and informal staff conferences throughout the Nation to assist individual consumers and groups in understanding the purpose of the meeting or hearing, how they may participate or have their views included, and the administrative procedures under which the Commission must operate.

Notification of these conferences, hearings, and meetings is made through the Office of Communications and Consumer Affairs which prepares press releases or media announcements for nationwide dissemination and a weekly calendar of Commission events available to consumers requesting to be on the mailing list. Also, for each Commission conference, oral argument before the Commission, and informal staff conference, OCCA prepares a complete public information kit describing the agenda items, options available to the Commission, background information on specific cases which will be discussed, and general ICC information.

#### Part 2. Informal Conferences and Meetings

Another avenue provided by the Commission to consumers wishing to participate in the formulation of ICC programs, policies, and rules is staff-conducted informal conferences. Informal conferences are chaired by senior staff officials who report to the Commission. Conferences will be scheduled upon recommendations by senior program officials on subjects that have direct consumer impact.

For example, the Bureau of Operations has specific oversight responsibility for the Commission's regulation of the interstate moving industry. To initiate a review of the regulations through which the ICC supervises the moving industry, the Commission recently scheduled a series of informal conferences in five cities across the Nation. The conferences were designed to provide a forum in which consumers and industry representatives could address necessary changes to the way in which the ICC regulates the moving industry.

All informal conferences will be publicized by the Office of Communications and Consumer Affairs, using press releases with nationwide dissemination, radio and television public service announcements, and wire service reports. The Office of Special Counsel will also contact public and consumer representatives to interest them in participating in such events.



### Part 3. Administrative Procedures for Consumer Comment

All major policy and rule changes are made available to the public for comment in the form of draft policy statements or notices of proposed rulemaking. These are published in the **Federal Register**. Press releases will continue to be issued announcing the proposals and encouraging all interested persons to submit written comments, in accordance with the Administrative Procedures Act. Additionally, the Office of Special Counsel notifies consumer representatives of proceedings with public impact.

### SECTION III. INFORMATIONAL MATERIALS

This section outlines the current and proposed procedures for production and distribution of materials to inform consumers about: (1) the ICC's responsibilities and services, (2) procedures for consumer participation in ICC proceedings, and (3) the transportation marketplace. A task force will be established to study the ICC's needs for consumer information, to develop further information programs, and to review the consumer information program on a regular basis. Procedures will be established to make available understandable materials to consumers attending open agency meetings.

#### Part 1. Needs Assessment and Information Plans

A special task force will be created consisting of the Directors of the Office of Communications and Consumer Affairs (Chairman); Small Business Assistance Office; Bureaus of Operations and Traffic; and the Special Counsel. This task force will study the need for consumer information about the agency's responsibilities and services, procedures for consumer participation, and the transportation marketplace.

The task force will report to the ICC Chairman by June 30, 1980, on consumer information needs, identifiable constituent groups, current materials assessment, dissemination strategies, and new methods of outreach. Other issues to be considered include methods for determining issues, goals, and priorities; coordination of actions with the Consumer Affairs Council; coordination with other federal agencies with similar missions; mechanisms for monitoring progress; budget and staff resources; timelines for producing information materials; and methods of evaluation.

#### Part 2. Constituent Groups

The special task force will identify specific constituent groups which should be reached with consumer information. For example, the specialized consumer staffs at the ICC have identified the following constituent groups:

Office of Communications and Consumer Affairs—general public  
Special Counsel—all consumers and public/consumer representatives  
Small Business Assistance Office—small truckers, small shippers, independent owner-operators,

minority truckers, new entrants in the transportation business

Bureau of Operations—consumers moving their household goods interstate; bus and train travelers, and users of rail freight transportation  
Bureau of Traffic—small shippers, small carriers, and consumers affected by transportation rate changes.

The Commission's present consumer program considers various constituent groups and their informational needs when planning dissemination of consumer materials.

#### Part 3. Outreach Methods

The Office of Communications and Consumer Affairs (OCCA) will work with all Commission specialized consumer staffs to ensure that outreach and communications programs are effectively planned and implemented. OCCA will continue to produce routinely brochures, press releases, video tape presentations, press conferences, articles for publication in periodicals and journals, fact sheets, and consumer briefings.

Radio and television public service announcements have been produced to inform consumers of assistance available from the ICC. Television and radio PSA's currently in circulation deal with the household goods industry and encourage consumers to contact the Commission's toll-free "hotline" if they encounter a problem with an interstate move. These PSA's, with a five-year shelf life, have been disseminated to the major media markets in the country, have been targeted to the areas where moves are concentrated, and are redisseminated each year just prior to the spring/summer peak moving season.

Efforts are made by the agency to place the Chairman, Commissioners and staff on public affairs media programs, often in conjunction with a speaking engagement outside Washington, D.C.

A consumer toll-free "hotline"—in operation 12 hours each workday—is a critical component of the ICC's complaint handling system.

Small Business Assistance Workshops designed to help small businesses in their dealings with the ICC and the transportation industry have been held in six major cities and the Bureau of Operations has conducted informal conferences nationwide to review railroad freight car shortages and ICC regulations of the moving industry. Opportunities for other consumer-oriented workshops, educational forums and town meetings will be considered by the consumer information task force.

The Office of Special Counsel consistently informs public and consumer representatives, as well as individual consumers, of Commission proceedings and programs of interest or assistance.

#### Part 4. Assessment of Current Materials

The Commission has available a publication—*In The Public Interest*—which outlines the responsibilities of the ICC. It serves as an historical document and lists some of the services provided by the ICC but not extensively. The brochure will be republished by the

close of the fiscal year, with a concentrated emphasis on available services.

The Commission's Annual Report to Congress, published each April, includes actions taken during the preceding fiscal year to assist and protect consumers.

A series of Public Advisories has been published to advise the consumer on various aspects of the transportation marketplace. These advisories cover a wide range of subjects including: transportation of small shipments; filing of loss and damage claims; how to enter the trucking business; and rights, responsibilities, and remedies of the independent truck driver.

The ICC also widely distributes an informational booklet dealing with consumers' rights when moving their household goods interstate. This publication, which the agency requires movers to give to their prospective customers, also contains a consumer questionnaire which assists the ICC in resolving problems in household goods moving. This booklet will be updated in early 1980.

Each year, the agency publishes two performance reports on the 20 largest interstate moving companies. These reports can assist consumers in selecting a moving company. Information in the reports is derived from: (1) the performance reports filed by moving companies with the ICC; and (2) information received through the ICC's consumer assistance program.

The Commission also publishes a weekly calendar of upcoming events—public hearings and speeches—and a biweekly review of major ICC actions. These publications are disseminated to consumers who request to be on the mailing list.

The task force of ICC specialized consumer staffs, in cooperation with the Office of Communications and Consumer Affairs, will analyze the effectiveness of these current consumer information materials and develop a coordinated information program, with production schedules for new and revised materials and dissemination plans. All agency reports and publications will be reviewed to ensure they are written in plain, easy-to-understand English rather than technical, legalistic language.

#### Part 5. Public Materials for Open Meetings

For each public meeting of the ICC Commissioners, the Office of Communications and Consumer Affairs issues a notice one week prior to the meeting announcing the day, time, location, agenda items, and staff information sources on the subject of the meeting. The notice is posted and distributed to the public and is run on the wire services and delivered to major media.

Additionally, this office prepares a background information kit for public dissemination at the meeting. The kit includes the meeting agenda, a summary of the issues and options to be discussed by the Commission, related Commission decisions and/or reports, a listing of Commissioners who will participate in the meeting, and any other relevant information.

Staff from the Office of Communications and Consumer Affairs, Office of Special Counsel and the

legal and program offices are always available at public meetings to answer questions or explain items discussed by the Commission.

For informal public meetings conducted by ICC staff, similar background information packages are prepared whenever appropriate. Generally, press releases, rather than public notices, are issued to announce these informal meetings, and if the subject matter of the meeting has particular consumer impact, the Office of Special Counsel will initiate letter and telephone campaigns to solicit consumer and public representation at the meeting.

### SECTION IV. EDUCATION AND TRAINING

#### Part 1. Educating ICC Staff

The Interstate Commerce Commission, through its National Training Center, will provide training to its consumer affairs personnel. Future training will include reference to the policies embodied in Executive Order 12160. Two courses, to be conducted annually, have been designed to ensure effective consumer assistance:

- *Consumer Assistance Center Training*: This 3-day course is designed for ICC personnel who staff the Washington consumer assistance center to ensure participants are able to:

- (1) Identify the functions of the ICC in relation to consumer assistance;
- (2) Process all consumer complaints and inquiries received at the consumer assistance center; and
- (3) Identify specialized consumer assistance responsibilities of bureaus and offices within the ICC.

- *School for Transportation Consumer Specialists*: This annual training, consisting of two 1-week sessions, is designed for transportation assistants and transportation consumer specialists in the ICC field and regional offices. The purposes of the training are to better qualify recently appointed employees to handle ICC-related consumer complaints and inquiries; to upgrade the performance of experienced employees in dealing with consumers; to provide for uniform interpretation of ICC rules and regulations; and to ensure uniformity, consistency, and quality in complaint handling.

Because effective communications play a vital role in ensuring that consumers understand ICC rules, policies, programs, and legislation, the ICC conducts two communications training programs for Commission employees:

- *Public Information Training Seminars*: These 1-day seminars are designed to introduce Washington and regional employees to methods of effectively disseminating clear, concise information on ICC activities. The seminars focus on dealing with the media, including consumer reporters.

- *Effective Writing Workshop*: These 1-day workshops are held monthly for all ICC employees to improve the format, style, and clarity of Commission documents. The intent is to encourage substitution of plain English for the archaic, legalistic language too often used by Government.



**Part 2. Internal Agency Communication**

The Office of Communications and Consumer Affairs will be responsible for communicating to agency staff changes in the structure and procedures of the ICC's consumer program. This will be accomplished through the Commission's internal newsletter to all ICC employees, memoranda to all employees, or appropriate staff meetings.

**Part 3. Technical Assistance**

The ICC provides technical assistance to consumers through: the Office of Special Counsel, the Bureau of Traffic, the Bureau of Operations, and the Small Business Assistance Office.

The Office of Special Counsel will answer procedural and legal questions related to ICC proceedings and will assist consumer groups in the preparation of formal documents, e.g., complaints, interventions, comments, to be filed in cases before the Commission. All consumers, individuals or groups, will be assisted upon request.

The Bureau of Traffic will answer consumers' technical inquiries on the rates and charges of transportation companies, and the Bureau of Operations will respond to technical questions on railroad and motor carrier—trucks and buses—transportation matters. Assistance from these bureaus includes production of informational materials on technical issues and direct communication with consumers through the nationwide toll-free hotline system.

The Small Business Assistance Office (SBAO) will provide technical assistance to a specific constituency of consumers—small businesses, minority truckers, new entrants, small shippers, and small carriers. SBAO's technical assistance includes production of brochures explaining ICC procedures; direct communication, both in person and via telephone, with persons needing assistance; and help in preparing applications and other formal documents to be filed with the ICC. The assistance provided is both legal and technical. Additionally, this office will analyze the changing problems and concerns of small business and will plan and design recommended programs—both in-house projects and public outreach forums—to meet identified needs. Any person or organization which considers itself a small business will be assisted.

**SECTION V. COMPLAINT HANDLING**

The Interstate Commerce Commission's procedures for consumer complaint handling provide for systematic logging, investigating, and responding to consumer complaints. Statistical reporting of complaint data, analysis, and a means of presenting this information to the Commission are currently under study.

**Summary of Complaint Handling Procedures**

The Commission's fully automated complaint handling system became effective at the Interstate Commerce Commission on October 1, 1979, and provides for:

- Establishment of a National Consumer Assistance Center (Section of Consumer Assistance, Bureau of Operations) with expanded toll-free "hotline" telephone capabilities;
- Establishment of six Regional Consumer Assistance Centers and three subregional centers;
- Complaint information to be placed in a computerized system upon receipt;
- Computer capability—for both national and regional centers—for input, referral, and updating complaint data;
- "Emergency hardship complaints" to be immediately handled by national and regional centers;
- Non-emergency complaints to be handled by the regional center with supervision over the regulated transportation carrier's domicile;
- A random sampling procedure to contact complainants for the purposes of evaluating the system and satisfaction levels.

**Part 1. Public Awareness of the Complaint Handling Procedures**

The Office of Communications and Consumer Affairs will be responsible for heightening public awareness of the ICC's receptivity to consumer complaints.

This office will initiate public awareness programs to educate the consumer on the Commission's mission and the assistance available to consumers. This program would include, but not be limited to: pamphlets, press releases, and radio and television public service announcements which "advertise" the services provided by the Commission and the means to contact the agency. The office will contact consumer groups to ensure their awareness of the role the Commission plays in handling consumer complaints.

All "educational" material will advise the consumer to contact the Commission's toll-free "hotline" when they have a complaint. This "hotline" is maintained by the Consumer Assistance Section, Bureau of Operations. The consumer who wishes to write his/her complaint will be advised to write the Bureau of Operations, Section of Consumer Assistance, Room 7310, Interstate Commerce Commission, Washington, D.C. 20423.

**Part 2. Complaint Receiving, Logging, and Referral**

A. *Complaints received on the "hotline."* The initial telephone contact and referral action is an essential element to the overall success of the complaint handling system. Immediately upon receipt, specified information on the complainant and the complaint will be entered in a sophisticated computer program to ensure timely and accurate referral and response.

If the complaint requires immediate action, the national center will be responsible.

Non-emergency complaints will be referred to the ICC office in Washington with expertise in the subject or to the regional center with jurisdiction over the carrier involved.

B. *Complaints received by telephone in the regional centers.* There are six regional complaint centers: Boston, MA; Philadelphia, PA; Atlanta, GA; Chicago, IL; Fort Worth, TX; and San Francisco, CA. The regional center staff members will respond to incoming telephone calls involving inquiries and complaints. If the call involves a complaint, the staff member will develop the required essential information for entry into the computer system.

If the call involves an "emergency hardship" complaint, the staff member will either handle the complaint to a resolution or will refer the complaint to the National Complaint Center for immediate handling.

If the call is a non-emergency complaint involving a carrier within that region, the regional center will handle the complaint to conclusion. If the call is a non-emergency involving a carrier outside the receiving region, the complaint will be referred via computer to the appropriate regional center.

C. *Complaints received by telephone in the field offices.* Field personnel (the ICC has 51 field offices) will encourage the complainant to use the toll-free "hotline" to the national center or will refer the caller to the closest regional center.

D. *Written complaints received in Washington.* Written complaints received in the Bureau of Operations are included in the computerized complaint system. A study will be conducted to determine the means of entering all written complaints received by the Commission. Written complaints will be referred and responded to by Washington staffs with subject matter expertise.

E. *Written complaints received in the regional centers.* All written complaints received in the regional centers, involving transportation companies (carriers) in that region, will be handled to conclusion. If the complaint involves carriers domiciled outside of the receiving region, the complaint will be acknowledged and the file forwarded for response to the appropriate regional center having jurisdiction over the carrier.

F. *Written complaints received in the field offices.* All written complaints will be acknowledged at the point of receipt and forwarded for response to the regional center with jurisdiction over the carrier.

**Part 3. Tracking of Complaints**

A "Complaint Assistance Report" will be used to provide the staff with data on the number and types of complaints received; the status of pending complaints; the responsible Commission office; how complaints were handled to conclusion; and identification of the carrier(s) involved. The computer program has been designed so that information can be retrieved in any desired category.

When a complaint has been resolved, the original computer-generated Complaint Assistance Report, with all working papers or notes, will be filed in the regional center with jurisdiction over the carrier involved.

**Part 4. Responding to Complaints**

A. Written complaints will be acknowledged within 5 working days after receipt unless the complaint handling can be concluded earlier.

B. Telephone emergency hardship complaints will receive immediate handling and will generally be resolved within 8 hours of receipt. Non-emergency telephone complaints are generally disposed of by a call-back or letter. If investigation is not complete within 60 days, an interim notice will be sent to the complainant explaining the delay.

**Part 5. Statistical Reporting and Analysis of Complaints**

Since the Commission's new complaint handling system has only been in effect since October 1, 1979, a system of statistical reporting, analysis, and input into Commission policymaking has not been implemented.

The system was designed to provide reports on the number and types of complaints received, how complaints were resolved, the transportation companies involved, and the status of pending complaints. This information will be routinely provided to Commission decisionmakers.

The formal and reporting periods for submission C of this data to the Commission is under study.

**Part 6. Evaluation of the Complaint Handling System**

Complainants, through a computerized random sampling procedure, will be periodically contacted by the Bureau of Operations for purposes of evaluating the Commission's complaint handling system and complainant satisfaction.

An independent task force of Commission personnel has been established to review periodically the complaint handling system and consumer satisfaction with the agency's responsiveness during the first year of the new program's operation. Their report, findings and recommendations will be forwarded to the Chairman for review and evaluation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-36982 Filed 12-7-79; 8:45 am]

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Monday  
December 10, 1979

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Part VI—Section C

**National  
Transportation  
Safety Board**

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Draft Consumer Program



**NATIONAL TRANSPORTATION SAFETY BOARD****Guidelines on Consumer Information****AGENCY:** National Transportation Safety Board.**ACTION:** Guidelines on Consumer Information.

**SUMMARY:** The National Transportation Safety Board (NTSB) is issuing this Notice in order that consumer information regarding the NTSB will be included within the body of published information on Government consumer programs. The public is also invited to submit comments on this program.

**DATES:** Comments must be received on or before March 10, 1980.

**ADDRESS:** Comments should be sent to the Director, Bureau of Administration, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

**FOR FURTHER INFORMATION CONTACT:** Mr. B. Michæl Levins, Director, Bureau of Administration, (202-472-6111), National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The NTSB has been exempted from the provisions of Executive Order 12160 regarding Federal consumer programs. However, in order that information about the NTSB will be included within the body of published information on Government consumer programs, we are herein summarizing the elements of the NTSB program as published in Parts 800 and 801 of Title 49, Code of Federal Regulations, that fall within the scope of the Executive Order.

The NTSB is an independent agency with responsibility for the investigation of transportation accidents and other safety problems in the five modes of transportation which are regulated by other agencies of the Federal Government. In accomplishing this function, the NTSB:

1. Investigates and determines the facts, conditions, and circumstances and the cause or probable cause of:

(a) All civil aviation accidents and certain incidents which involve previously identified safety issues (certain accidents are investigated by the Federal Aviation Administration for the NTSB—see 49 CFR Part 800, Appendix);

(b) All railroad accidents involving a fatality, property damage in excess of \$150,000, or a passenger train, and other selected accidents which involve previously identified safety issues or problems;

(c) Selected highway accidents involving five or more fatalities, all school bus accidents involving three or more fatalities, all catastrophic highway accidents which are of high regional or national interest, including railroad grade crossing accidents, and other selected highway accidents involving previously identified safety issues or problems;

(d) Marine casualties involving a public vessel and a nonpublic vessel; and major marine casualties occurring in the navigable waters of the United States or that involved a resale of the United States that

result in the loss of six or more lives; the loss of a mechanically propelled vessel of 100 or more gross tons; property damage initially estimated as \$500,000 or more; or serious threat, as determined by the Commandant of the United States Coast Guard and concurred in by the Chairman of the NTSB, to life, property, or the environment by hazardous materials (certain accidents are investigated, upon request, by the United States Coast Guard for the NTSB); and

(e) All pipeline accidents in which there is a fatality or property damage in excess of \$100,000 and other pipeline accidents which involve previously identified safety issues or problems.

2. Initiates and conducts special studies, special investigation, and safety effectiveness evaluations on matters pertaining to safety in transportation.

3. Makes transportation safety recommendations to Federal, State, and local agencies and interested persons to reduce the likelihood of recurrence of transportation accidents.

4. Reviews airmen and seamen appeals resulting from certificate denials, suspensions or revocations.

The five-Member Board of the NTSB conducts meetings which are open to the public, and announced in the *Federal Register*, to discuss the major reports of the Board, such as major accident investigations, safety recommendations, special studies, special investigations, and safety effectiveness evaluations. In addition, it conducts public hearings of selected accidents which are open to the public and announced in the *Federal Register*. Notice concerning the availability of the major NTSB public documents, including safety recommendations and the responses thereto by the parties to whom they are addressed, are also published in the *Federal Register*. The NTSB publicizes all significant accident investigations, accident hearings, and recommendations through press releases.

The results of the NTSB program activity are made available to the public in the form of the following documents in either report form or files for inspection and copying, except that documents (or more usually parts thereof) which the Board specifically determines must not be not disclosed in the national interest, or for the protection of individual rights, or for the efficient conduct of public business are withheld as authorized by the Freedom of Information Act:

1. Factual reports, including public hearing transcripts and exhibits, if applicable, and the determination of probable cause in aviation, railroad, highway, marine, and pipeline accident investigations.

2. Safety recommendations issued by the Board, and responses thereto.

3. Special studies, special investigations, safety effectiveness evaluations, and safety reports.

4. Press releases.

5. The NTSB's rules as published in the Code of Federal Regulations, Title 49, Parts 800-899.

6. Quarterly indices and copies of the initial decisions of the Administrative Law Judges.

7. Quarterly indices and copies of the Board's Opinions and Orders in aviation and maritime enforcement cases.

8. Staff manuals.

9. Annual Report to Congress.

This information is available from the Public Inquiries Section, National Transportation Safety Board, 800 Independence Avenue, S.W., Room 808G, Washington, D.C. 20594. In requesting records concerning particular accidents, it is necessary to identify the mode of transportation, date, and location of the occurrence.

Any other consumer information concerning the programs of the NTSB should be requested from the Office of Public Affairs, National Transportation Safety Board, 800 Independence Avenue, S.W., Room 810D, Washington, D.C. 20594, telephone 202-472-6100

Dated: November 26, 1979.

James B. King,

Chairman.

[FR Doc. 79-36795 Filed 12-7-79; 8:45 am]

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# Postmaster Federal Register

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Monday  
December 10, 1979

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Part VI—Section D

## Postal Rate Commission

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Draft Consumer Program



**POSTAL RATE COMMISSION****AGENCY:** Postal Rate Commission.**ACTION:** Draft Consumer Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Secretary, Postal Rate Commission, 2000 L Street, NW., Washington, D.C. 20268.**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, Officer of the Commission, (202) 254-3840.**AUTHORITY:** By direction of the Commission, this draft consumer program is published in order to elicit public comment.

Executive Order No. 12160, "Program for Enhancement and Coordination of Federal Consumer Programs," was issued on September 26, 1979. Under Section 1-902 of that Order, independent regulatory agencies are exempt from mandatory compliance, but Section 1-804 invites these agencies to participate. Pursuant to Section 1-804, the Postal Rate Commission, an independent regulatory agency responsible for recommending postal rates and service classifications; for considering formal complaints about postal rates and service schedules; for advising on changes in the nature of postal services; and for reviewing appeals of Postal Service determinations to close post offices; voluntarily presents this program for implementing Executive Order No. 12160.

**I. CONSUMER AFFAIRS PERSPECTIVE****A. Establishment of the Office of the Officer of the Commission**

Section 3624(a) of title 39 of the United States Code provides that in every postal rate and classification proceeding an "officer of the Commission" shall be appointed "who shall be required to represent the interests of the general public." The duties and responsibilities of the Officer of the Commission have been expanded by the establishment of a permanent, separate Office of the Officer of the Commission. This office is responsible for representing the needs and interests of consumers in the development and review of all agency rules, policies, programs and legislation.

Previously, an Officer of the Commission appeared in formal Commission proceedings supported by employees assigned from various Commission divisions. Establishment of a permanent office with continuing responsibility for considering and addressing consumer needs and interests provides informed, expert representation of consumer interests during the development and review of all Commission actions.

The Office of the Officer of the Commission is managed by the Officer of the Commission who reports directly to the Commission itself. The Office of the Officer of the Commission employs a multi-disciplined staff including attorneys, economists, accountants, statisticians, industrial engineers and rate analysts. This staff comprises approximately one-third of the professional staff of the Commission.

**B. Participation in Formal Commission Proceedings**

Substantive Commission policies are established during consideration of proposals to change postal rates and/or services. Section 3624 of title 39 requires that such decisions be made on the basis of an evidentiary record developed in conformance with 5 U.S.C. §§ 556 and 557. These standards, and the formal procedural requirements applicable to Commission proceedings, insure consumer access to the decisionmaking process and that fair consideration is given to consumer needs and interests raised during these proceedings.

Whenever a formal proceeding has been initiated under 39 U.S.C. § 3624, an Officer of the Commission is appointed immediately to represent the interests of the general public. As a party to all formal proceedings, the Office of the Officer of the Commission is able to utilize continuing analyses to evaluate proposals, present evidence relating to the public interest, and to rebut other participants when necessary to adequately present consumer viewpoints.

During the course of a formal proceeding, the Office of the Officer of the Commission is provided sufficient resources to insure complete representation of the interests of the general public. This representation includes explication and presentation of the public policy positions, development of a complete evidentiary record on matters at issue, and provision of assistance to interested members of the public who wish to present their concerns to the Commission individually.

Consumers who wish to present their views to the Commission have several options available to them. Commission rules allow formal intervention by any interested person or group. This enables individual consumers and consumer groups to present their positions directly. The Office of the Officer of the Commission provides procedural assistance to consumers presenting their own views. Additionally, the Officer of the Commission's own presentation may develop a particular consumer's position more comprehensively.

The Commission also provides for participation in its proceedings through a "commenter" process. Members of the public may present their views to the Commission in writing at any stage in a proceeding as commenters. Commenters' views are made a part of the Commission file in every case and are available for review by the Officer of the Commission, other parties, Commissioners and the Commission staff. Parties, or the Commission itself, can act to make a comment part of the decisional record, and the Officer of the Commission may incorporate the views expressed in comments in its presentation to the Commission, or may assist commenters who wish to appear before the Commission to present their views personally.

Another type of formal proceeding is one initiated to enact rules for use in formal Commission proceedings. Pursuant to Executive Order 12044, dated March 24, 1978, the Commission undertakes an annual review of its rules. In all rulemaking the Officer of the

Commission is a party and presents the views of the Office of the Officer of the Commission to the Commission. The position of the Office of the Officer of the Commission reflects both the experience gained in previous litigation on behalf of the public, and the complaints, suggestions, and requests of individuals or groups received by the Office during the previous year.

**C. Participation in Informal Commission Proceedings**

The Officer of the Commission is responsible for insuring that consumer needs and interests are considered in the informal development and review of agency rules, policies, programs and legislation. Internal Commission procedures insure the participation of the Officer of the Commission. Staff proposals to change, initiate, develop or review agency rules, policies, programs and legislation not at issue in formal proceedings must be circulated to the Officer of the Commission for comment. Each office, including the Office of the Officer of the Commission, suggests legislative and substantive programs to the Commission on an ongoing basis, and the Officer of the Commission is charged with suggesting Commission programs relevant to the needs and interests of consumers.

Pursuant to its general authority to recommend postal rates and services in the public interest, the Commission initiates a broad range of fact-finding programs to ascertain trends in utility regulation applicable to postal matters. The Office of the Officer of the Commission, under the overall direction of the Chairman, is responsible for initiating and implementing programs aimed at identifying areas of consumer needs and public interests related to postal services.

Additionally, it is Commission policy for Officer of the Commission personnel to attend public meetings which will expand Commission awareness of consumer attitudes and desires, and responsible Commission employees are available to participate in such programs.

**II. CONSUMER PARTICIPATION**

The primary policy and rulemaking duties of the Commission are discharged in quasi-judicial proceedings, subject to the provisions of the Administrative Procedures Act. Consumers are able to participate on an equal footing with other parties and have available all of the alternatives described in Section I. The Office of the Officer of the Commission provides procedural assistance to consumers at every stage of formal Commission proceedings.

Consumer participation in the development of non-case-related Commission activities is also quite extensive. These programs are designed to investigate areas of identified concern, and consumer input is often a major factor leading to the establishment of a fact-finding effort. Comments and suggestions the Commission receives from the public are reviewed by the Office of the Officer of the Commission, which has

direct access to the Commission and is responsible for recommending subjects for Commission inquiries which reflect consumer needs and interests.

It is Commission policy to seek consumer input, and both Commissioners and responsible Commission officials participate in consumer-oriented programs particularly at locations where postal matters are likely to be discussed. At such appearances the procedures applicable to participation in Commission proceedings are emphasized.

Notice of Commission proceedings is provided through extensive media publicity, as well as through formal notice procedures. An extensive mailing list of interested persons and groups is maintained and those listed are notified of each new Commission proceeding.

**III. INFORMATIONAL MATERIALS**

Commission policy is to disseminate to consumers a broad range of materials which describe Commission activities and responsibilities. An Information office has been established [(202) 254-5614] which is responsible for performing this function.

Several documents of interest to consumers are available by contracting the Information Office. First, the Information Office publishes and distributes a biweekly document review which describes all pending Commission proceedings and notes important events in each proceeding. Second, the Information Office publishes and distributes a pamphlet which includes a general description of Commission operations and activities. A third pamphlet is available which outlines procedures followed in formal proceedings, and interested members of the public may also obtain, free of charge, copies of the Commission rules of practice and procedure, which detail the steps to be followed to participate in formal proceedings. Finally, the Information Office will commence publication and distribution of a comprehensive annual report in 1980 which will describe important activities and events that occurred in the previous year.

The Public Information Office is available to answer general questions concerning Commission responsibilities and services, and the Office of the Officer of the Commission will provide technical assistance to any consumer seeking information on the scope of Commission authority, or on the subject matter of current or past Commission proceedings.

Commission meetings are open to the public with notice published in the **Federal Register**. Personal assistance from either the Public Information Office or the Office of the Officer of the Commission will be provided to members of the public attending Commission meetings. All documents filed in formal Commission proceedings are available in a public dockets room and may be examined during Commission office hours.

**IV. EDUCATION AND TRAINING**

Materials shall be prepared which describe and explain Executive Order 12160 and the Commission



Consumer Affairs Program as herein described. These materials shall be distributed throughout the Commission.

Employees in the Office of the Officer of the Commission are required to have educational and professional experience and training which will prepare them to recognize and represent consumer interests. The Commission employee improvement program provides funds to assist employees to further their education in relevant fields such as economics, marketing and law.

#### V. COMPLAINT HANDLING

An important Commission function is to hear formal complaints from persons who believe that the Postal Service is charging rates or providing postal services not in accordance with the policies of Title 39 of the United States Code. Such complaints are considered in formal proceedings, and an Officer of the Commission participates, representing the interests of the general public.

Persons seeking less formal recourse may lodge an informal complaint with the Commission orally or in writing. Complaints of this nature are normally received by the Secretary of the Commission or by the Public Information Office. It is Commission policy to investigate and respond promptly to informal consumer complaints. When investigation reveals that a serious problem remains unresolved, the Commission will take appropriate action to resolve the difficulty. This may involve initiation of a formal proceeding, as described in the preceding paragraph, in which case an Officer of the Commission shall be appointed to represent the interests of the general public.

David F. Harris,  
Secretary.

BILLING CODE 7715-01-M

#### APPENDIX

##### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The Postal Rate Commission wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

- ☐ I am interested in it as an individual consumer.
- ☐ I am concerned about it, because I represent a public interest consumer group.
- ☐ I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

- ☐ Yes, it is clear and I understand it.
- ☐ Yes, I understand most of it.
- ☐ No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

- ☐ Yes
- ☐ No. Why? \_\_\_\_\_

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

- ☐ It seems adequate.
- ☐ It is not adequate. Why? \_\_\_\_\_

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers.

How good is our plan?

- ☐ Adequate.
- ☐ Not adequate. Why? \_\_\_\_\_



6. After reading our proposed consumer program, do you know whom or which office in the Postal Rate Commission to contact if you have:

A complaint? ☐ Yes ☐ No

A general question about the agency? ☐ Yes ☐ No

A question about how to take part in agency proceedings? ☐ Yes ☐ No

7. Do you know who or which office in the Postal Rate Commission speaks for the consumer? ☐ Yes ☐ No  
Any suggestions for improvement? \_\_\_\_\_

8. Do you have any suggestions for improving our consumer program?

☐ No

☐ Yes, in the following areas:

Consumer participation \_\_\_\_\_

Informational materials \_\_\_\_\_

Complaint handling \_\_\_\_\_

9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
your name

\_\_\_\_\_  
your address

\_\_\_\_\_  
city, state, zip

SEND THIS FORM DIRECTLY TO: Secretary

Postal Rate Commission

2000 L Street, N. W.

Washington, D. C. 20268

[FR Doc. 79-36625 Filed 12-7-79; 8:45 am]  
BILLING CODE 7715-01-C

Monday  
December 10, 1979

Part VI—Section E

Postal Service

Draft Consumer Program

Postal Service  
Federal Register



**POSTAL SERVICE****Draft Consumer Program; Report on Implementation of Executive Order 12160**

**AGENCY:** Postal Service.

**ACTION:** Draft Consumer Program.

**SUMMARY:** This notice responds to section 1-501 of Executive Order 12160, Providing for Enhancement and Coordination of Federal Consumer Programs (the Order). Section 1-501 of the Order requires that each executive agency publish in the *Federal Register* for public comment a draft report on its consumer programs, including the following five elements: (1) Consumer Affairs Perspective, (2) Consumer Participation, (3) Informational Materials, (4) Education and Training, and (5) Complaint Handling. Although the Postal Service is not subject to the Order, it has chosen to participate to the extent practical and feasible consistent with the public interest and fulfillment of the primary mission of the Postal Service. **DATE:** Comments must be received on or before March 10, 1980.

**ADDRESS:** Written comments should be mailed or delivered to the Consumer Advocate, Headquarters, U.S. Postal Service, Room 5806, 475 L'Enfant Plaza West, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, at the above location.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Chadwick, (202) 245-4550.

**SUPPLEMENTARY INFORMATION:** The President issued Executive Order 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs" on September 26, 1979. The Order establishes a Consumer Affairs Council consisting of representatives of twelve named Federal departments, plus such other officers or employees as the President may designate.

The Chairperson of the Council, assisted by the Council, is required to insure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. To this end agency consumer programs are to be reviewed and revised, as necessary, to meet the five elements outlined in the Summary above. Since the Order is not based on statutory authority made applicable to the Postal Service, the Order does not cover the Postal Service as a matter of law. Nevertheless, the consumer program of the Postal Service has been tailored to meet the five elements specified in the Order, and reads as follows:

**DRAFT POSTAL SERVICE CONSUMER PROGRAM****1. CONSUMER AFFAIRS PERSPECTIVE****(a) Consumer Advocate**

In 1971 the Office of the Consumer Advocate was created to provide a direct channel of communication

between postal customers and the Postal Service. The Consumer Advocate is the spokesman for the individual mail user. He provides an independent evaluation of mail service to the individual customer. He also expedites action on customer inquiries and complaints and is responsible for seeing that the appropriate office takes corrective action. He makes recommendations for policy changes to improve the individual user's mail service and acts as liaison with consumer groups.

The Consumer Advocate is an officer of the Postal Service with authority to cut redtape and enter anywhere in the Postal Service to obtain solutions to consumer problems. The Consumer Advocate manages the Office of Consumer Affairs. The Office of Consumer Affairs is organized into two divisions: the Consumer Response Division and the Consumer Support Division. Responsibility for investigating, resolving and responding to consumer complaints and inquiries rests with the Consumer Response Division, which also recommends policy changes affecting services in top management deliberations and decisionmaking.

The Support Division has the responsibility for analyzing consumer complaints received at post offices and national Headquarters. This division also is charged with administering the National Consumer Service Card Program.

**(b) Location of Consumer Affairs**

The Office of Consumer Affairs is located in the Customer Services Department at Postal Service Headquarters. 39 CFR 224.1(c)(3)(iv). The Consumer Advocate reports to the Assistant Postmaster General, Customer Services, but as an officer maintains a dotted-line relationship to the Postmaster General and other officers, which entitles him to direct access to each of them. 39 CFR 221.7.

**(c) Consumer Affairs Staffing**

The consumer affairs staff includes project and program managers, complaints analysts, clerk typists and secretaries. The immediate Headquarters staff has an authorized complement of twenty-seven positions. It should be noted that several other organizations at Postal Service Headquarters perform some consumer affairs functions, and thousands of field employees handle consumer affairs matters as part of their jobs, in part at the direction of the Office of Consumer Affairs.

**(d) Other Consumer Affairs Staff Responsibilities**

The Office of Consumer Affairs has associates who investigate, resolve and respond to consumer complaints, inquiries and suggestions received at Postal Service Headquarters. Consumer Affairs also administers the national Consumer Service Card Program for recording and analyzing consumer complaints received at post offices. A detached unit with an authorized complement of ten positions supports the card program.

**(e) Relationship to Other Staffs**

The Office of Consumer Affairs, Customer Services Department, acts in conjunction with the Public and Employee Communications Department to educate consumers concerning postal services and products. Consumer Affairs also cooperates with the Postal Inspection Service and the Consumer Protection Division of the Law Department in solving mail order problems and in protecting consumers from mail fraud and misrepresentation. Consumer Affairs works with market research specialists to develop information on consumer awareness of and satisfaction with postal consumer programs. Complaints analysis reports prepared by Consumer Affairs are used by operations managers in their efforts to improve services.

**(f) Review of Policies and Programs**

To the extent appropriate, proposed changes in rules, policies, programs and legislation are referred to the Office of Consumer Affairs for comment prior to final decision.

**(g) Stages of Participation in the Decisionmaking Process**

Consumer Affairs staff participates in the decision-making process by serving on task forces, performing independent studies of services and policies, meeting with top agency officials, and submitting written comments on proposals.

**2. CONSUMER PARTICIPATION****(a) Stages of Consumer Participation**

(1) The Postal Service takes steps to provide for early and effective public participation in the rulemaking process. While a regulation is in the early stages of development, the Postal Service ordinarily calls it to the attention of parties known to have an interest in it. For example, the Postal Service, prior to the publication of its packaging regulations in proposed rule form, conducted an intensive packaging task force study with the cooperation of major mailers' associations. The packaging regulations thus were able to reflect commercial standards identified during the study.

When the Postal Service determines that the general public would be interested to comment on a proposed new or amended regulation, the Service publishes the proposed regulation in the *Federal Register*, generally with 30 days allowed for comment. At or about the same time, if it is believed that the rule has or might have a wide effect on the general public, the Postal Service issues a press release informing the public of the proposal and inviting their comments.

(2) Consumers can participate in proceedings before the Postal Rate Commission. The Commission is an independent agency established by the Postal Reorganization Act (39 U.S.C. 3601-04). The Commission conducts formal hearings on proposed changes in postal rates, fees, and mail classification and issues recommended decisions to the Governors of the Postal Service. The Commission also holds

formal hearings on proposed changes in the nature of postal service on a nationwide or substantially nationwide basis. An officer of the Commission is designated to represent the interests of the general public in these proceedings.

(3) Before making a determination as to the necessity for closing or consolidating any post office, the Postal Service must notify the persons served by such post office, at least 60 days before the proposed date of closing or consolidation, to insure that they will have an opportunity to present their views. Persons served may appeal a decision by the Postal Service to close or consolidate a post office to the Postal Rate Commission.

(4) The Postmaster General considers the views of the Citizens Stamp Advisory Committee before selecting the subjects and artwork for stamps designed for philatelic purposes. Members of the Committee are expert in the fields of art, printing, history and philately.

(5) The Postal Service recently started a program to expand Postal Customer Councils to involve consumers. Consumer Affairs also experimented with the Town Hall meeting concept but this has not been fully tested.

**(b) Avenues of Participation**

(1) Users of postal services participate in the development of postal regulations by commenting in writing or orally on proposed regulations published by the Postal Service in the *Federal Register*.

(2) Consumers may participate in Postal Rate Commission proceedings in accordance with Commission rules, and may appeal decisions of the Governors of the Postal Service to any U.S. court of appeals.

(3) Persons served by a post office being considered for closing or consolidation may comment in writing on the proposal, and may file a written appeal to the Postal Rate Commission of any determination to close or consolidate a post office.

(4) Postal customers may make written recommendations to the Citizens Stamp Advisory Committee concerning their choices for new stamps.

(5) The Postal Service welcomes suggestions and comments from postal customers. In many communities the Postal Service sponsors Postal Customer Councils, which provide an opportunity for discussion with customers about service problems and suggestions and to help the public better understand the Postal Service. The Councils conduct mailing clinics, discussion panels, seminars, and tours of postal facilities. Local postal officials are encouraged to meet with consumer representatives to discuss plans for changes in local policies and services.

**(c) Analysis and Consideration of Consumer Concerns**

A variety of research is done to determine consumer concerns. Customer attitude surveys are prepared by market research specialists. Complaint analysis reports are circulated to management. Surveys are



made to determine consumer satisfaction with consumer affairs programs.

#### (d) Responsibility for Citizen Participation

Except for public rulemaking proceedings, post office closings, and proceedings before the Postal Rate Commission, the Consumer Advocate will be responsible for implementing agency consumer participation responsibilities under Executive Order No. 12160. Responsibility for citizen participation in public rulemaking proceedings and post office closings rests on the staff of the operating division.

#### (e) Consumer Participation Forums

Details concerning the format, level of participating agency officials, geographical dispersion, and approximate number per year of forums to facilitate consumer interaction with agency officials are not available at this time. This information will be available when tests of various methods for citizen participation have been completed.

#### (f) Publicity for Consumer Participation

As noted above, the Postal Service issues press releases requesting public comment when a rule is proposed that the Service believes might have a wide effect on the public. In addition, major mailers are frequently notified orally or by mail of such proposed rule changes. As to post office closings, the Postal Service posts a notice on the bulletin board of the post office affected. We are also developing a communications program as part of our tests of citizen participation methods.

### 3. Informational Materials

#### (a) Current Informational Materials

The Postal Service produces and distributes to post offices several booklets and pamphlets to inform consumers about the various classes of mail and mail services in general and about specific areas of interest such as packaging and mail fraud.

There are also major informational efforts each year to promote an awareness to "Shop Early—Mail Early" at Christmas, and a Postal Consumer Protection Week (held this year from Sept. 24–29, 1979) to warn the public about mail fraud and false representation through the mails. The latter program has done much to increase the public's knowledge of these problem areas, and how the work of the Postal Service's Inspection Service, Consumer Protection Division, Consumer Advocate and the Judicial Officer protects the public.

A basic publication available at post offices that contains much useful and general information about postal services is the *Mailers Guide* (Publication 19). It has information about each class of mail, service standards and background on special services. A shorter, more concise pamphlet containing much of the same material is *A Consumer's Directory to Postal Services and Products* (Publication 201). Also available at post offices, it touches on such subjects of

interest to consumers as claims for lost or damaged mail; passport applications; mail forwarding; Self-Service Postal Centers and Stamps by Mail.

There are several pamphlets on specialized areas such as parcel post, packaging, mail fraud and services like Express Mail that contain information of interest to consumers. These various publications are available at post offices where copies can be had free of charge.

These various publications are updated periodically, but some of the information is subject to change and will not always be current. The new *Domestic Mail Manual* and the weekly *Postal Bulletin*, maintained at all post offices and available to the public for reference, are the primary sources for current postal rates and regulations. Subscription to these publications can be purchased by writing the Government Printing Office, Washington, D.C. 20402. The *National ZIP Code and Post Office Directory* combines ZIP Code information for every mailing address in the nation with listings of post offices arranged in several convenient ways. It also can be ordered by writing the Government Printing Office.

Business consumers may find *Memo to Mailers*, a monthly publication that advises on rate and classification changes as well as other postal news, quite helpful. It can be ordered free of charge by writing to: Memo to Mailers, P.O. Box 1600, La Plata, MD 20646.

#### (b) Plans for Additional or Revised Informational Materials

Plans this year for revised informational materials center on the introduction of the new Consumer Service Card, tentatively scheduled for introduction in early calendar 1980. These materials will be developed at headquarters and distributed to post offices through the postal supply system. The promotion effort will be carried out by headquarters, regional communication staff and by public information officers at various postal facilities in cooperation with Regional Consumer Service Card Coordinators.

The communication efforts to promote the revised card and increase the public's perception of the existence of a way to make complaints and suggestions about service will likely include the following elements: television and radio public service announcements; localized news releases; newspaper advertisements; speeches and press conferences by postmasters; briefings and a possible slide show for postal employees; and possible media tours by the Consumer Advocate.

There are also likely to be lobby displays and a redesigned card holder to increase public awareness of the Consumer Service Card when visiting the post office.

#### (c) Timetable for New Informational Materials

The materials mentioned in the previous section will be produced during 1980.

#### (d) Distribution of Informational Materials

A variety of methods are employed to distribute informational materials. Some publications are available free in post office lobbies, others are available by subscription. Television and radio public service announcements, newspaper advertisements, press releases and speeches are other methods currently used to inform consumers.

#### (e) Responsibility for Consumer Information Program

The Public and Employee Communications Department and the Office of Consumer Affairs, Customer Services Department, are responsible for the planning and performance of the consumer information program. The Office of Consumer Affairs publishes *A Consumer's Directory to Postal Services and Products* (Publication 201) and advises and assists the Public and Employee Communications Department on consumer information matters. As noted above, responsibility for informing consumers of public rulemaking proceedings and post office closings rests upon the staff of the operating division proposing the change.

#### (f) Informational Materials Regarding Meetings Open to the Public

With respect to providing material about Postal Service meetings open to the public, the Law Department prepares and publishes in the *Federal Register* the Government in the Sunshine Act notice announcing the time, location, and agenda of the monthly meeting of the Board of Governors. Based on this information the Public and Employee Communications Department prepares news releases concerning the Board of Governors' meetings. These releases are distributed to the national press in Washington, D.C., posted in the lobby of the postal facility at the site of the meeting, and made available at the start of each meeting. Public and Employee Communications Department personnel and other postal employees are present at each meeting to explain the order of business and agenda items.

### 4. EDUCATION AND TRAINING

#### (a) Education Responsibility

The Office of Consumer Affairs will be responsible for educating the USPS staff about the Order and related activities.

#### (b) Information Dissemination

Policymaking personnel (APMGs and above) will receive in-person briefings. Regional RPMGs will receive packets containing the briefing script and copies of the Order. The Order will be published in postal publications with an explanation of USPS activities.

#### (c) Communication of Significant Changes

Significant changes in the consumer program as a result of the Order will be communicated through the use of a Headquarters Circular.

#### (d) Specialized Training

The Consumer Advocate will be responsible for providing specialized training to Consumer Affairs personnel.

#### (e) Areas of Training

Training has been provided and will continue to be provided as follows:

- (1) Consumer Affairs Associates—will provide training in complaint-handling, administrative management, Postal Service operations, telephone techniques, communicating through writing, and post office procedures.
- (2) Technical Staff Members—will provide training in statistical techniques, computer technology, administrative management, and systems analysis.

#### (f) Technical Assistance Responsibility

Technical assistance is provided to all large companies and organizations through Customer Service Representatives at the local level. It is provided for individual customers at the local post office.

#### (g) Type of Technical Assistance

The assistance relates to mail preparation, the availability and applicability of products and services, cost savings techniques, and customer needs analysis.

#### (h) Who Receives Technical Assistance

All customers receive technical assistance from their local post offices upon request. The Office of Consumer Affairs also provides technical assistance, when appropriate, from the national level to consumers and major customers.

### 5. COMPLAINT HANDLING

An independent contractor recently completed a four-year study of complaint-handling procedures in twenty-two Federal agencies. The Postal Service received the highest available ratings in each category reviewed. While pleased with progress to date, the Postal Service continues to improve complaint handling through testing and implementation of the latest developments in systems and equipment.

#### (a) Public Awareness

The Office of Consumer Affairs, Customer Services Department, works with the Public and Employee Communications Department to increase public awareness of postal complaint-handling programs. Consumer Service Cards are placed in display units located in prominent positions in every post office lobby. *A Consumer's Directory to Postal Services and Products* (Publication 201) is available free at all post offices and explains how customers may register complaints locally and with the Consumer Advocate. Every year, as part of Consumer Protection Week, the



Consumer Service Card Program is promoted through press releases.

#### (b) Logging Complaints

All complaints received by the Office of Consumer Affairs at Postal Service Headquarters in Washington are logged in, coded by complaint category and coded for routing to the proper complaint-handling group.

Copies of all Consumer Service Cards completed by postal personnel from customer phone calls, letters, or in person visits as well as those cards completed by customers are received in Washington. These are coded for complaint type and date.

#### (c) Routing to Proper Office

Complaints received at the Office of Consumer Affairs needing specialized attention are routed to the proper office within Postal Service Headquarters or a field office for investigation and a report on which the Office of Consumer Affairs can base a response.

Mail Order problems, fraud, etc., are referred to the Inspection Service for referral to field inspectors.

#### (d) Tracking Complaints

All complaints, other than those referred to the Inspection Service, received by the Office of Consumer Affairs are tracked through use of a weekly computer report. This assures timely response.

All complaints registered on Consumer Service Cards by USPS employees or customers are tracked through the use of a computer report. Complaints appearing on this report are followed up directly with the post office involved.

#### (e) Responding to Complaints

All customer complaints received at the Office of Consumer Affairs which must be referred to field offices receive an interim response. This response notifies the customer of the referral to the post office and the person who may be contacted for further information. The Post Office is instructed to contact the customer within seven days.

#### (f) Statistical Reporting

Statistical Reports are provided quarterly for all complaints received at the Consumer Affairs Office. National Profile and trend analysis by complaint type are included in the reports. The reports are forwarded to decision-making management levels at USPS Headquarters.

Analytical, follow-up, and maintenance reports are produced each accounting period from Consumer Service Cards data. Profile and trend analysis for each level of management including postmasters is produced and distributed.

#### (g) Evaluation

Periodic National Consumer Satisfaction Surveys are conducted. These surveys deal with complaints handled exclusively by the Consumer Affairs Office and those referred to field offices for resolution. Major

areas covered include timeliness of response, effectiveness of the resolution, and recurring problems.

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

BILLING CODE 7710-12-M

Form Approved:  
OMB No. 116579021

### CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate.
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36535 Filed 12-7-79; 8:45 am]  
BILLING CODE 7710-12-C

Monday  
December 10, 1979

Part VI—Section F

## Department of Transportation

Draft Consumer Program

federa register



**DEPARTMENT OF TRANSPORTATION****Office of the Secretary; Draft Consumer Program**

**AGENCY:** Department of Transportation.

**ACTION:** Request for public comment on DOT's draft consumer program as required by Executive Order 12160.

**DATES:** Comments must be received by March 10, 1980.

**ADDRESS:** Comments should be addressed to: Division of Consumer Affairs, 1-39, 400, 7th Street SW., Room 9402, U.S. Department of Transportation, Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** Lee Gray, Acting Assistant Director for Consumer Affairs; 202/426-4520.

Executive Order 12160 requires Federal agencies to review and revise their operating procedures to ensure that consumer needs and interests are adequately addressed. The Order specifically requires each agency program to include provisions for oversight, a consumer perspective within the agency, consumer participation, development of informational materials for consumers, education and training for agency staff, and systematic procedures for complaint handling.

The DOT, since its establishment in 1968, has developed extensive programs for transportation consumers, focusing largely on consumer information/education, consumer outreach, and citizen participation in transportation decisionmaking.

DOT plans to maintain and enhance the many activities and procedures that have provided effective and productive services for transportation consumers. In addition, the Department is proposing certain new structures and procedures to strengthen its consumer efforts and bring it into compliance with the Executive Order. In developing this Draft Consumer Program DOT continues to consider its consumers to be final users or purchasers of transportation goods and/or services as well as those people who are directly affected by a transportation mode.

DOT looks forward to receiving public comments on its proposed consumer program and seeks recommendations on additional ways that the Department might improve its consumer and citizen participation efforts.

DOT will give careful consideration to public comment in developing its final consumer program which will be put into force under a DOT Order on Management of Consumer Programs.

**I. CONSUMER AFFAIRS PERSPECTIVE**

In light of the Executive Order, DOT proposes certain changes in the structure and responsibilities of its consumer affairs staff. At present the Office of the Secretary (OST) has a Division of Consumer Affairs headed by an Assistant Director in the Office of Public and Consumer Affairs which is located in the Assistant Secretariat for Governmental and Public Affairs. This consumer unit will remain in this Assistant Secretariat and will be upgraded to become the Office of Consumer Liaison. The office will be headed by a Director who will report to the Deputy Assistant Secretary for Intergovernmental Affairs. The

Director will have access to the Secretary on significant issues of concern to consumers.

The upgrading of the consumer affairs function in OST will allow DOT to expand and better coordinate its consumer activities. The responsibilities of the new office will incorporate those of the present Division of Consumer Affairs and other new functions required by the Executive Order.

DOT presently has modal consumer offices in two Administrations—the National Highway Traffic Safety Administration and the Federal Aviation Administration. Four other modal Administrations—Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration, and the Coast Guard—have identified an official or staff member to serve as a consumer contact. A consumer representative from each of these Administrations serves on the Department's Consumer Affairs Coordinating Committee, which will be upgraded to the Consumer Affairs Coordinating Council with additional responsibilities. DOT's Research and Special Programs Administration does not at this time have a consumer officer.

To further strengthen the Department's overall consumer program, the Office of the Secretary is developing guidelines for the consumer programs of modal Administrations. The Administrations will then plan their own draft programs to conform with OST guidelines and the Executive Order.

In the Office of the Secretary, the Office of Consumer Liaisons' staff will consist of at least four professional positions, including the Director, and one secretarial position. The Office of Consumer Liaison's staff will have special expertise in transportation issues, consumer and citizen participation issues, and in management functions.

The Office of Consumer Liaison will be responsible for the five consumer functions enumerated in Executive Order 12160 and will:

- Inform and advise the Deputy Assistant Secretary for Intergovernmental Affairs and other senior officials, including the Secretary, concerning emerging issues bearing on the five consumer functions identified in Executive Order 12160.
- Represent the consumer perspective and provide staff support on Departmental work groups, task forces, committees, field trips, public meetings, and other forums.
- Provide the Executive Secretariat for the Departmental Consumer Affairs Coordinating Council (CACC), composed of senior consumer affairs specialists from OST and the modal Administrations.
- Work through the DOT Consumer Affairs Coordinating Council (CACC) to maintain close liaison with modal consumer affairs specialists.
- Develop and maintain ongoing liaison with national, state, and local consumer and citizen organizations.
- Maintain liaison with state and local consumer protection agencies in relation to their concerns about transportation issues.

- Provide for necessary research bearing on the five consumer functions identified in the Executive Order.

The Director of the Office of Consumer Liaison will attend each meeting of the DOT Regulations Council and will be responsible for representing the consumer perspective during development and review of rules, policies, programs, and legislation. The Office of Consumer Liaison will be placed on OST distribution lists for all review-and-comment procedures dealing with proposed rules, policies, programs, and legislation.

The Office of Consumer Liaison will be responsible for distributing proposed significant DOT rules, policies, programs, and legislation to modal consumer affairs officers, and for incorporating their comments into the response which the Office of Consumer Liaison provides during these reviews.

**II. OVERSIGHT FOR CONSUMER AFFAIRS**

DOT's senior-level consumer official will be the Director of the Office of Consumer Liaison situated in the Assistant Secretariat for Governmental and Public Affairs. The Director will be appointed by the Secretary and will be a member of the Senior Executive Service. The Director will have access to the Secretary on significant issues of concern to consumers.

The Director will have prime responsibility for representing the consumer perspective within the Office of the Secretary (OST) when policies are being planned and developed. The Director will be involved at the earliest stage when policies are being considered and at all subsequent decisionmaking stages of policy development.

The Director will be the Secretary's representative to the interdepartmental Consumer Affairs Council established by Executive Order 12160.

The Director will be responsible for consumer programs in the Office of the Secretary and will oversee and monitor consumer programs in the Department's modal Administrations. Each modal Administration will develop its own consumer program which will comply with the DOT Consumer Program and with Executive Order 12160. The Director will report to the Deputy Assistant Secretary for Intergovernmental Affairs and other senior officials, including the Assistant Secretary for Governmental and Public Affairs and the Secretary, on the progress and status of all consumer activities within the Department, making recommendations for strengthening and improving the management, coordination, and effectiveness of all DOT consumer programs and activities.

The Director will require consumer offices in the modal Administrations to make reports concerning all aspects of those elements' consumer activities.

The Director will chair the Department's Consumer Affairs Coordinating Council (CACC) and will utilize the CACC to coordinate the Department's consumer activities.

The Office of Consumer Liaison will be responsible for monitoring consumer/citizen participation in development and review of DOT policies and programs.

**III. CONSUMER PARTICIPATION**

It is DOT policy to encourage effective citizen participation early in and throughout the Department's decisionmaking processes. Citizen participation is monitored by DOT's consumer affairs staff.

Consumer participation in DOT decisionmaking concerning rules, policies, and programs will be governed by DOT procedures for public participation and citizen participation, as well as by the following specific provisions:

**Consumer/Citizen Participation In Rulemaking**

Consumer/citizen participation in DOT rulemaking is governed by the Department's Regulatory Policies and Procedures, issued in compliance with the Executive Order 12044. These policies were published in the *Federal Register*, February 26, 1979, and became effective March 1, 1979. Several of the consumer-oriented features of these policies are discussed below.

These policies are designed to increase public awareness of planned regulatory activity and to enhance opportunities for public participation. For example, DOT provides the public with advance notice of planned regulatory activity through publication of its semi-annual Regulations Agenda, which includes decision dates and officials to contact for more information about specific rulemaking actions. Consumers can be placed on the mailing list to receive the Regulations Agenda on a regular basis by contacting the DOT Office of General Counsel, C-50, Washington, DC 20590. The Regulations Agenda contains details on how consumers can request to be placed on special mailing lists to receive specific rulemaking proposals.

Under DOT procedures, the office that initiates a significant rulemaking proposal must develop a work plan that includes a tentative plan for how and when the Congress, interest groups, other agencies, and the general public will have opportunities to participate in the regulatory process.

DOT's regulatory policies also provide for: a 60-day comment period on significant regulations, where possible (45 days are generally provided for non-significant rules); the use of Advance Notices of Proposed Rulemaking, where appropriate; and, in appropriate circumstances, the notification of publications likely to be read by those affected by a rulemaking proposal.

OST's consumer affairs staff has responsibility for monitoring compliance with requirements for public participation by reviewing and commenting on opportunities for public participation provided for in DOT Notices and Advance Notices of Proposed Rulemaking. When DOT publishes Notices and Advance Notices of Proposed Rulemaking in the *Federal Register*, the public can comment on the



adequacy of the opportunities for participation. Members of the public may request enhanced opportunities for participation on specific rulemaking proposals by contacting the appropriate initiating office or the Office of Consumer Liaison, which will work with the initiating office to explore additional participation channels.

On significant rulemaking proceedings, DOT frequently holds formal public hearings in Washington and in affected regions. In addition, the Office of the Secretary and the modal Administrations on a continuing basis provide additional opportunities for the public to participate in DOT decisions on transportation policies, rules, and programs. Workshops, consultative planning sessions, and conferences have been conducted on such topics as auto safety, airport noise, and public transportation.

Under the Department's Regulatory Policies and Procedures, when a significant final rule is prepared the initiating office must provide a summary of public comment received. This aids DOT decisionmakers in determining how responsive the rule has been to public comment.

#### Consumer Participation In Decisionmaking on Policies and Programs

The Office of Consumer Liaison will be responsible for monitoring consumer/citizen participation in development and review of DOT policies and programs.

Each modal Administration in DOT will develop a Standard Procedure for Consumer/Citizen Participation in significant policy and program development. The purpose will be to assure that consumers have early and continuing opportunities to learn about and express their concerns about significant consumer-oriented policies and programs which are under discussion and development.

For each significant policy development or program development action, the initiating office will develop a timetable, based on the Standard Procedure for Consumer/Citizen Participation, indicating when and how consumers/citizens will be involved in that policy or program development process. This timetable will become the Consumer/Citizen Participation Plan for that process, and will be submitted to the Director of the Office of Consumer Liaison for review. Each plan will enumerate the participatory techniques that will be used at each stage, and will describe how consumer/citizen concerns will be analyzed and considered in decisionmaking.

The Office of Consumer Liaison will provide technical assistance to initiating offices in the development of their Consumer/Citizen Participation Plans and, on request, will also provide guidance to initiating offices concerning ways to improve their contacts with consumer/citizen constituencies.

#### Consumer/Citizen Participation in Local Transportation Planning

In response to consumer/citizen recommendations made at the Department's Conference on

Transportation and the Consumer (see below), the Office of the Secretary established the DOT Work Group on Citizen Participation. The Work Group is charged with developing recommendations, for the Secretary's consideration, concerning a Departmental policy pertaining to increased DOT support for citizen participation in local transportation planning.

Toward that end, the Work Group prepared an Advance Notice of Proposed Policy, asking the public to make suggestions on this issue (*Federal Register*, August 9, 1979); more than 16,000 copies of this notice were mailed to consumer/citizen organizations, State and local governments, and the media. More than 300 written responses have been received. In addition, the Work Group conducted more than 175 informal in-depth interviews with citizens, State and local officials, and DOT officials and staff members. Comments, interview, and other pertinent data are now being analyzed.

The Work Group is chaired by the Deputy Assistant Secretary for Intergovernmental Affairs. Management or the Work Group is the responsibility of OST's consumer affairs staff. The Work Group will continue to provide the mechanism for Departmental coordination of issues bearing on consumer/citizen participation in local transportation planning.

#### Consumer Conferences

In May 1979, DOT held its first national conference on Transportation and the Consumer in order to give consumers/citizens opportunities to become better informed on transportation issues, to develop increased consumer access to DOT decisionmaking, and to make suggestions for future DOT actions on issues of concern to consumers. The two-day conference agenda focused largely on workshop sessions, with informal interaction between transportation officials and consumer/citizens. The major concern expressed by consumer/citizen conferees was for DOT to give increased support to citizen participation in the local transportation planning and decisionmaking process. The Department responded by establishing the DOT Work Group on Citizen Participation, which prepared the Advance Notice of Proposed Policy described above.

DOT's Office of the Secretary is now considering the possibility of planning regional conferences for transportation consumers.

#### Consumer Forums

The Department is giving careful consideration to developing additional innovative and practical techniques for arranging ongoing contacts with consumers/citizens. The goal is to stimulate the broadest possible range of interaction between consumers/citizens and transportation officials.

The possibility of regularly scheduled Washington-based consumer forums is being examined. DOT would welcome comments and suggestions on this topic, in particular.

#### Notifying Consumers

The Office of Consumer Liaison publishes a newsletter which describes opportunities for participation on proposed DOT rules. Twice each year the newsletter includes a fact sheet summarizing those items on the Department's Regulations Agenda of most interest to consumers. When time is a critical factor, the office sends press releases on proposed actions to its consumer mailing list. OST's consumer mailing list totals about 4,000 and includes consumer press, State and local consumer offices, consumer/citizen groups, and individuals. In addition, modal Administrations in DOT are developing their own specialized consumer mailing lists. DOT's Office of General Counsel also maintains a mailing list for the Regulations Agenda.

#### IV. INFORMATIONAL MATERIALS

The Office of the Secretary and the modal Administrations now have many publications and fact sheets of interest to consumers on such topics as no-fault insurance, auto repair and safety, boating safety, and the accessibility of airports to handicapped consumers. DOT regularly issues consumers advisories in the form of news releases on matters of consumer safety and opportunities for public participation. In addition, the OST consumer affairs staff publishes a consumer newsletter on a bimonthly basis to inform consumers of current happenings in transportation. However, the Department recognizes that its consumer information efforts could be enhanced by better planning and coordination. This is particularly true in the preparation of easy-to-read material on technical matters. For this reason, the Department plans to assess its current publications, identify additional needs, and develop a coordinated program.

The first phase of this coordinated program will be the Consumer Publication Program for FY-81, to start on October 1, 1980. This FY-81 program will be a pilot to test the mechanism for a long-range DOT Consumer Information Program.

The pilot program is designed to:

- (1) produce a limited number of transportation consumer publications in FY-81;
- (2) move into high gear with production of transportation consumer publications in FY-82; and
- (3) lay plans for starting production of transportation consumer audiovisual materials in FY-83.

#### Assessment of Current Consumer Publications

The DOT Consumer Affairs Coordinating Council (CACC) will be responsible for making an in-depth assessment of current DOT consumer publications.

This material will be evaluated by the CACC, based on criteria suggested by requirements in DOT's Draft Consumer Program. The CACC will then develop two sets of recommendations: (1) suggestions for revising current consumer publications; and (2) suggestions for new publications. In each category, high-priority items will be identified; these items will be scheduled for development during the pilot period of FY-81.

DOT invites public comment on the adequacy of its current publications and solicits ideas on possible new publications.

#### Responsibility and Timetable for DOT Consumer Information Program

The DOT Consumer Affairs Coordinating Council (CACC) will be responsible for drafting the Department's Consumer Information Program, in consultation with the DOT Public Affairs Council (PAC), comprised of the Department's Directors of Public Affairs.

The CACC and PAC will jointly discuss and make decisions on the CACC's recommendations for high-priority consumer publications to be revised and developed during the FY-81 pilot program. The CACC and the PAC will, at the same time, discuss and decide on procedures for planning future development of consumer audiovisual materials. Attention will be paid to coordinating development of print and audiovisual materials, so that both types of media complement and reinforce one another.

Each modal Administration and the Office of the Secretary will be responsible for preparing, publishing, and distributing the consumer publications that focus on its own area of responsibility and expertise. The CACC will be responsible for tasks that require Departmentwide coordinating efforts, such as: (a) preparation and publication of a bibliography of all DOT consumer publications and a bibliography for teachers; and (b) efforts to combine all appropriate DOT consumer mailing lists in order to publicize new consumer publications.

The tentative timetable for the consumer publication program will be:

- Undertake needs assessment, January 15, 1980
- Complete needs assessment, March 30, 1980
- Develop recommendations for pilot consumer publications program, May 30, 1980
- Final decisions on DOT Pilot Consumer Publication Program for FY-81 and tentative decisions to explore production of consumer audiovisual materials, August 15, 1980
- Implement Pilot Consumer Publication Program; October 1, 1980
- Implement ongoing DOT Consumer Publication Program, October 1, 1981
- Implement first phase of DOT Consumer Audiovisual Program, October 1, 1982

#### Distribution of Consumer Publications

Each DOT consumer publication will be introduced with a DOT news release to the general media as well as the consumer press.

Each DOT consumer publication will be mailed, with a letter from the Director of the Office of Consumer Liaison, to the consumer mailing list of the DOT element producing the publication, as well as to other appropriate DOT mailing lists.

Distribution of DOT consumer publications will utilize the facilities of GSA's Consumer Information Center, to the extent that funding exists for such GSA distribution.



Whenever possible, single copies of DOT consumer publications will be available free, on request.

When funds permit, DOT will provide for free bulk mailings to consumer constituencies and to schools, for all DOT consumer publications. Such bulk distribution will include consumer-oriented meetings, forums, conferences, and appropriate public hearings.

On large publication orders, OST's consumer affairs staff will make negatives of its publications available for printing by State and local governments or consumer groups.

#### Information Materials for DOT Meetings

The Office of Consumer Liaison will provide technical assistance to DOT offices in developing information materials for public meetings with special attention to their readability, format, and appropriateness for the meeting audience.

#### V. EDUCATION AND TRAINING

Under the proposed plan, DOT will make substantial efforts to familiarize all DOT staff with its new consumer policies and to provide increased training opportunities for those involved in consumer affairs and public participation.

#### Responsibility for Notification and Education Concerning E.O. 12160

The Secretary will notify DOT officials concerning Departmental actions that will be taken to comply with E.O. 12160.

DOT's final Consumer Program will be issued in July 1980 as the DOT Order on Management of Consumer Programs. It will be circulated to all DOT staff members on the date of issuance.

The Director for Consumer Liaison will be responsible for briefing OST officials and modal Administrations' officials on the DOT Order. The DOT Consumer Affairs Coordinating Council will assist in these briefing sessions.

The Office of Consumer Liaison will be responsible for developing an ongoing education program to inform DOT staff concerning new procedures and activities that will be required under the DOT Order.

The Director for Consumer Liaison will consult with the OST Office of Personnel and Training to institute plans for training consumer personnel in the general area of consumer affairs responsibilities, with specific focus on citizen participation, preparation of consumer information materials, and handling of consumer complaints. To the extent that interagency training courses or contractors' courses are available on these topics, arrangements will be made for DOT staff to enroll in such courses. The Director for Consumer Liaison and the DOT Consumer Affairs Coordinating Council will make joint decisions concerning which training courses will be mandatory for consumer personnel and which will be made available to consumer personnel on an optional basis.

The Federal Highway Administration now provides public participation training for regional, State, and local transportation officials; and the Federal Aviation

Administration has a public participation training program for those involved in airport decisions. It is expected that such training opportunities will be expanded and enhanced under the Executive Order.

#### Training Opportunities and Technical Assistance for Consumers

DOT's Office of Consumer Liaison will develop an ongoing program of consumer internships, designed to offer training opportunities in transportation consumerism for college students and for members of disadvantaged or minority communities.

DOT's Office of Consumer Liaison will explore the possibility of providing training and expanded technical assistance in transportation consumerism for members of grassroots consumer organizations. Possible alternative forms for such activities may be: regional conferences; DOT-sponsored workshops; print materials for distribution to consumer organizations; part-time or short-term internships with DOT's Office of Consumer Liaison, for members of grassroots consumer organizations.

#### VI. COMPLAINT HANDLING

Under the Executive Order, DOT will enhance its efforts in informing the public about DOT programs and complaint mechanisms. The Department will also study ways to improve its handling and analysis of consumer complaints.

#### Heightening Public Awareness

DOT has made broad distribution of a brochure titled *Finding Your Way in DOT*, published in March 1978. This describes complaint-handling procedures for the entire Department and includes phone numbers of consumer affairs officers and of sub-agencies that are responsible for answering consumers' complaints on specific topics.

*Finding Your Way in DOT* will be updated in June 1980, following implementation of the DOT Order on Management of Consumer Programs. Broad mail distribution will be made of this publication, using all DOT consumer lists and media lists. In addition, the brochure will be made available for DOT meetings and conferences; and DOT officials and staff members will be encouraged to refer on public occasions to the brochure and to DOT's concern for adequate response to consumers' questions.

#### Logging, Routing, Responding to, Reporting on, and Evaluation Complaints

Priority mail addressed to the Secretary is logged into an automated system by DOT's Executive Secretariat and routed to the appropriate offices, with a deadline for response. The OST Executive Secretariat monitors compliance with established deadlines. Modal Administrations have similar systems for tracking their priority correspondence.

Most consumer complaints addressed to DOT are delivered to the Division of Consumer Affairs which either answers them directly or forwards them to the appropriate OST or modal office for response. Each

modal Administration has its own system for handling general consumer complaints.

Because the procedures on general mail vary considerably throughout the operating elements of DOT, there is need for an assessment of current practices as well as an examination of options for developing a uniform Department-wide system. The Director of the Office of Consumer Liaison will consult with the staff of the Assistant Secretary for Administration concerning the possible development of an automated information system for dealing with and utilizing consumer complaints. An extensive long-range program will be undertaken including:

- (a) a Department-wide study on how complaints are currently handled;
- (b) recommended options for improved handling of consumer complaints received by all elements of the Department;
- (c) recommended options for effective utilization of complaint data in development of DOT policy;
- (d) recommended options for evaluation of the Department's complaint-handling procedures.

Comments on any proposals of this DOT Draft Consumer Program should be submitted on or before March 3, 1980, to the address above. All comments received will be available for review at that address. Based on the Department's review, a consumer program will be developed and put into effect by July 1, 1980.

Issued in Washington, D.C., on November 29, 1979.

Neil E. Goldschmidt,

Secretary of Transportation.

[FR Doc. 79-37289 Filed 12-7-79; 8:45 am]

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# federal register

Monday  
December 10, 1979

## Part VII

### Consumer Programs: Legal, Military, and International Affairs

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| State Department.....                               | 71392 |



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# **Federal Register**

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Monday  
December 10, 1979

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Part VII—Section A

**Administrative  
Conference of the  
United States**

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Draft Consumer Program



## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

**AGENCY:** Administrative Conference of the United States.

**ACTION:** Draft Report on Implementation of Executive Order 12160.

**DATES:** Comments should be received by March 10, 1980.

**ADDRESS:** Comments should be addressed to Jeffrey S. Lubbers, Senior Staff Attorney, Administrative Conference of the U.S., Suite 500, 2120 L Street, N.W., Washington, D.C. 20037.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lubbers (202-254-7065).

### INTRODUCTION

This report has been prepared pursuant to Executive Order 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs." Section 1-4 of the order sets forth a number of requirements for agency consumer programs. Section 1-5 requires agencies to prepare a draft report setting forth its program for complying with the requirements of Section 1-4.

### BACKGROUND

The Administrative Conference of the United States was established as a permanent independent agency by the Administrative Conference Act, 5 U.S.C. § 571-576, enacted in 1964. It is an advisory agency, not a regulatory agency. Its mandate is to "study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies" and to make recommendations for the improvement of those procedures to the agencies, Congress, the President and the courts. Many of these recommendations of the Conference prove to be of interest to consumers, and for that reason, the agency is participating, to the extent feasible, in implementing this order.

### STRUCTURE AND ORGANIZATION OF ACUS

The Chairman of the Administrative Conference of the United States is appointed by the President, with the advice and consent of the Senate, for a 5-year term. The Council, which is the executive board, consists of the Chairman and 10 other members appointed by the President for 3-year terms. Federal officials named to the Council may constitute no more than one-half of the total Council membership. In addition to the Chairman and the other members of the Council, the membership of the Administrative Conference is composed of 44 high-level officials designated from 37 departments and agencies of the Federal Government (or their designees) and 36 private lawyers, university faculty members, and others specially informed in law and government. Members representing the private sector are appointed by the Chairman, with the approval of the Council, for 2-year terms. The Chairman is the only full-time

compensated member, and he also heads a small full-time staff in the Office of the Chairman which serves the membership, manages the research program, and performs advisory, consultative and clearinghouse duties.

The entire membership of the Conference is divided into nine committees, each assigned a broad area of interest as follows: Agency Decisional Processes; Agency Organization and Personnel; Claims Adjudications; Compliance and Enforcement Proceedings; Grants, Benefits, and Contracts Programs; Informal Action; Judicial Review; Licenses and Authorizations; Ratemaking and Economic Regulation; and Rulemaking and Public Information. The membership meeting in plenary session is called the Assembly of the Administrative Conference, which by statute must meet at least once, and customarily meets twice, each year.

The Administrative Conference is unique within Federal Government in its composition, in its quasi-legislative method of operation and in its standing to make recommendations directly to the agencies as well as the three coordinate branches of our government. This role as an advisory body, along with its relatively small full-time staff makes some of the specific requirements of E.O. 12160 inapposite to the Administrative Conference (as recognized by the chairperson of the Consumer Affairs Council). Nevertheless, the Office of the Chairman if pleased to heed the message of the E.O. 12160 by reporting to the public on the extent to which the operations of the agency are now in compliance with the President's order and on such additional actions it plans to take in order to improve its interaction with consumers.

### REQUIREMENTS OF E.O. 12160

#### (A) Consumer Affairs Perspective

This section of the order requires agencies to maintain an identifiable professional staff of consumer affairs personnel authorized to participate in the development and review of all agency rules, policies, programs and legislation.

Since the Administrative Conference's Office of the Chairman employs only 11 full-time professional staff members, all of whom are located in the same office and already participate fully in the development and review of office policies and programs, no change is necessary or feasible in this regard.

#### (B) Consumer Participation

This section of the order requires agencies to establish procedures for early and meaningful consumer participation in the development and review of all agency rules, policies and programs and to make affirmative efforts to inform consumers of pending proceedings.

The Administrative Conference has procedures in place designed to obtain consumer participation in its activities. The Conference's formal activity consists of the development of official statements and recommendations on matters of administrative

procedure; the only rules issued pertain solely to organizational matters.

The Conference conducts its program in the following manner: subjects for inquiry are developed by the Chairman's Office, the Council, and the membership, either in committee or in plenary session. Suggestions are often received from members of the bar, agency personnel and members of the general public. The Committees, through open publicized meetings and with the assistance of staff and consultants, conduct thorough studies of the subjects and develop proposed recommendations and supporting reports. These proposals are widely circulated for comment both inside and outside of government. The proposals and comments are evaluated by the Council and, if ready for Assembly consideration, are distributed to the membership with the supporting reports and placed on the agenda of the next plenary session. The Assembly has complete authority to approve, amend, remand, or reject recommendations presented by the committees. The meetings of the Assembly are publicized and open to the public.

The Office of the Chairman has recently begun to step up its effort to ensure that public participation (including consumer participation) in Conference activities is enhanced. We have more frequently published our tentative and proposed statements and recommendations in the *Federal Register* and other publications for comments. We have made (and will continue to make) a greater effort to affirmatively solicit the comments of persons and groups possibly interested in proposed recommendations. We have in the past often solicited the views of consumer organizations and will make it a regular practice in the future. (It should be noted at this point that the Conference's membership includes several officials of national, non-profit consumer organizations.) Finally, as an experiment, one of our committees has recently scheduled our first public hearing on a proposed recommendation to hear the views of the interested public. If this proves successful, use of public hearings will be continued.

—The Conference will promote consumer participation at all stages of its recommendation-development process—from project initiation to committee consideration to full membership consideration to implementation of recommendations.

—The Conference will offer the following avenues for consumer participation: attendance at open meetings, written comments on proposals, and participation in public hearings where such hearings are feasible.

—The Conference will make sure that all concerns expressed or comments made by consumers are circulated to relevant staff, consultants and Conference members who are developing Conference positions.

—Each project or inquiry undertaken by the Conference is assigned to the direct supervision of one of the professional staff members in the Office of the Chairman. It is that staff member's duty to ensure that

consumer concerns are adequately considered in the development and review of the project. In addition, the Research Director of the Conference has the responsibility of considering all suggestions for new projects or inquiries, including those made by consumers.

—The conference will develop a listing of major consumer organizations so as to circulate draft reports and proposed recommendations and regularly solicit comments on proposals from such organizations. The Office of the Chairman staff will periodically meet with representatives of such organizations to solicit their views and brief them on Conference activities. In addition, the Conference will continue to use the *Federal Register* and other publication services to publicize its open meetings, hearings and proposals.

### (C) Informational Materials

This section of the order requires agencies to produce and distribute materials designed to adequately inform consumers about the agency's activities that may concern them.

The Administrative Conference, as an advisory and clearinghouse agency, regularly produces and distributes (normally free of charge) information about its activities. The Office of the Chairman maintains a mailing list for those who wish to receive its annual reports and occasional newsletters.

In addition the Conference has published the following materials:

1. Organizational regulations and bylaws, 1 CFR 301-304.
2. Recommendations and statements, 1 CFR 305, 310.
3. Selected bibliography of ACUS Reports (1968-1977). Reprints of the reports are available from the Administrative Conference librarian and, if supplies permit, are usually free of charge.
4. Manual for Administrative Law Judges (1974).
5. Federal Administrative Law Judge Hearings—Statistical Report for 1975 (1977).
6. An Interpretive Guide to the Government in the Sunshine Act (1978).
7. Guide to Agency Reports under Executive Order 12044 on Improving Government Regulations (1978).

In addition, the Conference will maintain a supply of this report as an additional information guide.

The Administrative Conference's publications are designed to purvey information about its activities and about administrative procedure generally.

With respect to the requirement that adequate explanatory materials be provided to those attending public meetings, we have made it a practice to circulate copies of proposals at those meetings. Our notices of meetings, as published in the *Federal Register* explain how to obtain relevant materials. Staff attorneys will be regularly reminded of their duty in this regard. Where feasible we also circulate draft studies although we reserve the right to withhold tentative drafts until a revised draft is available.

We welcome any comments on improvements we might make in the above regards.



**(D) Education and Training**

This section of the order requires agencies to educate their staff members about the order and about the agency's program for implementing it. Appropriate specialized training is required for agency consumer affairs personnel and technical assistance is to be made available to consumers wishing to participate in agency programs.

The Office of the Chairman will see to it that a copy of the Executive Order and this draft report will be distributed to all professional staff members.

Technical assistance to outside participants will be given if necessary to facilitate their participation in particular matters. Requests for such assistance can be made by telephone or in writing to the Office of the Chairman.

**(E) Complaint Handling**

This section of the order requires agencies to establish procedures for systematically handling consumer complaints.

The Administrative Conference rarely, if ever, receives complaints from consumers about its activities. When more generalized consumer complaints are received about the government's performance in some regard, such complaints are promptly answered by a staff member and, if appropriate, are referred to the applicable agency. Consumer suggestions about projects or inquiries are handled promptly by the Research Director.

The volume of such complaints in the past has not required the Office of the Chairman to institute specialized logging procedures for handling them. We will establish such a system whenever the volume so requires, and will seek assistance from the Consumer Affairs Council.

**(F) Oversight**

Jeffrey S. Lubbers, Senior Staff Attorney in the Office of the Chairman, has been designated to oversee the Administrative Conference's effort to implement Executive Order 12160. He will be responsible for putting into place the increased emphasis on obtaining consumer participation in Conference activities, and will report directly to the Chairman on the potential impact upon consumers of Conference activities.

Dated: November 23, 1979.

Richard K. Berg,

*Executive Secretary.*

[FR Doc. 79-38594 Filed 12-7-79; 8:45 am]

BILLING CODE 6110-01-M

Monday  
December 10, 1979

**Part VII—Section B****Department of  
Justice**

Draft Consumer Program

federal register



**DEPARTMENT OF JUSTICE**

AGENCY: Department of Justice.

ACTION: Draft consumer program.

DATE: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to Lupe Salinas, Office of the Attorney General, Room 5132, Main Justice Building, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Lupe Salinas, (202) 633-2927.

**I. CONSUMER AFFAIRS PERSPECTIVE****Staff Location**

The Department intends to establish the position of Consumer Affairs Advisor to the Attorney General. The Advisor shall be located in the Attorney General's office and shall report directly to the Attorney General.

**Size and Resources**

The Advisor shall be assisted on a regular basis by permanent designees from the Executive Office of the United States Attorneys, the Justice Management Division, the Consumer Affairs Section of the Antitrust Division and the Office for Improvements in the Administration of Justice, and shall be given such additional legal, paralegal, secretarial and other support as needed to fulfill his/her functions under the Order. The Consumer Affairs Advisor's responsibilities shall include but not be limited to:

1. Assisting in the development, review and coordination of Departmental policies, procedures, programs, rules and legislation that affect consumers (to the extent that his/her participation is not inconsistent with the law);
2. Seeking to generate a public constituency for the enforcement of Federal laws;
3. Serving as the representative of the Department of Justice on the Consumer Affairs Council and as liaison with other Federal, State, and local agencies, the activities of which affect consumers with regard to matters within the jurisdiction of the Department;
4. Providing support and advice to the Attorney General to insure proper consideration of the potential effect of Departmental activities on consumers;
5. Obtaining consumer views on Departmental operations, policies, procedures, programs, rules and legislation, as appropriate;
6. Establishing adequate Departmental procedures for prompt and complete response to consumer inquiries and complaints; and
7. Coordinating, enhancing and clarifying information, disseminated to consumers by the Department, and determining which of the information shall be provided in more than one language. That information is currently disseminated in five principal ways: (a) response to consumer complaints; (b) general information supplied through the media about Departmental actions; (c) speeches and policy statements by Department representatives; (d)

consumer education programs; and (e) brochures and publications.

**Relationship With Other Consumer Personnel and Agency Operating Units**

Policy development and program planning and evaluation in consumer-related matters are conducted primarily by the individual operating units of the Department. Such units shall continue to have primary responsibility for addressing consumer concerns related to the unit's activities. To implement this plan and to coordinate consumer-related activities in the Department, a Consumer Affairs Committee will be created within the Department. The Committee shall consist of one person designated by the head of each unit of the Department (division, board, bureau or office). Such designee shall be a person with responsibility for handling public inquiries and complaints and/or programs with significant public involvement and/or impact.

**Participation in Development and Review of Agency Rules, Policies, Programs and Legislation****1. Notification Procedure**

The advisor shall be notified whenever a unit of the Department is contemplating a new policy or program initiative that may have impact on consumers. He/she shall be consulted by the Office of Legal Counsel on regulations under consideration and by the Office of Legislative Affairs on legislative matters.

The Advisor shall also initiate communications with appropriate officials at all levels of the Department to keep informed about rules, policies, programs and legislation under consideration.

**2. Stage at Which Participation Begins**

The Advisor may participate at any stage of decisionmaking to the extent permitted by law to facilitate consideration of consumer concerns.

**3. Methods of Participation**

The Advisor may participate in whatever manner he/she deems appropriate. If a unit head and the advisor disagree on the proper role of the Advisor, the Attorney General will resolve the question.

**II. CONSUMER PARTICIPATION****Stage of Agency Decisionmaking Participation Begins**

The Attorney General will issue a statement supporting direct consumer participation in early policy and program development in appropriate matters. He will direct that each unit consider the viewpoint of consumers in matters of consumer concern. To implement this goal, the Advisor shall consult with the head of each unit of the Department to consider matters appropriate for consumer participation. The Advisor and the head of each unit shall devise and implement a plan for early and meaningful consumer participation in such matters. Should the Advisor and the unit head disagree on the appropriateness of consumer participation or of a

particular form of consumer participation in a given matter, the Attorney General will resolve the question. Consumer participation shall begin in designated matters at the policy development stage or at the rule or legislative drafting stage.

**Avenues of Participation**

1. The Attorney General will direct all units of the Department to give full consideration in the course of decisionmaking to concerns of consumers.

2. The Department will maintain a calendar of all matters issued for public comment with the appropriate closing date and, through its Public Information Office, inform interested consumer groups that such matters are pending for public comment. The Advisor shall compile a list of persons interested in notification and they shall be placed on the appropriate mailing list.

3. On a semi-annual basis, the Attorney General, on consultation with the Advisor, will designate senior level officials to conduct a forum for direct expression of consumer views on Departmental programs and policies. Each forum shall address a specific area, e.g., immigration policy; role of the FBI; use of LEAA funds. Such forums shall be conducted as town meetings with a general statement of policies and issues followed by an opportunity for direct public comment and response. Such meetings shall be held in appropriate major cities, generally outside of Washington.

4. The Advisor may recommend to units of the Department and/or to the Attorney General other appropriate mechanisms and opportunities for consumer participation.

5. Consumer participation shall occur only in accordance with the plans devised jointly by the Advisor and units, as directed by the Attorney General, or as invited by the unit.

**III. INFORMATIONAL MATERIALS****Agency Information Services****1. Usefulness of Current Material**

The Department has publications available that provide information about the Department or areas of public concern.

(a) A 24-page booklet entitled "Legal Activities" describes the legal activities of the Department by division and other operating unit.

(b) The Antitrust Division publishes a booklet entitled "Antitrust and the Consumer," which explains the purposes of the antitrust laws.

(c) The Immigration and Naturalization Service publishes booklets on immigration laws, naturalization requirements, and many other immigration matters.

(d) The Community Relations Service has published booklets on effective human relations commissions, minority problems in prisons, racial disputes in high schools, tips for educators and police in school disputes and others.

(e) The Drug Enforcement Administration has available a coloring book on drugs and health, and other publications regarding drug abuse.

(f) The Law Enforcement Assistance Administration, the Federal Bureau of Investigation, and other units of the Department publish materials about their responsibilities and about matters of general concern.

The Department believes these materials are comprehensive and helpful but recognizes that there is always room for improvement. (A comprehensive listing of current publications is set forth at the end of the plan.)

**2. Plans for Improvement**

The Advisor shall review the Department's informational materials and make recommendations for improvement. The Advisor shall also determine which materials should be translated into one or more foreign languages.

The Advisor shall consult appropriate governmental entities, including the General Services Administration Consumer Information Center/Federal Information Center, regarding methods for achieving optimum distribution of the Department's informational materials.

The Department will assist in publication of a brochure regarding the Freedom of Information Act and Privacy Act. The Department is reviewing available literature on small claims court procedures and plans to develop a guide for consumers on small claims court practice. The Department will give priority to publishing a brochure regarding small claims court procedures and/or, if appropriate, a brochure on the Dispute Resolution Act.

As noted elsewhere, the Department will distribute the Consumer Resource Handbook to all U.S. Attorneys and Departmental Offices to provide guidance on handling public inquiries and complaints. It will publish on a monthly basis a summary of all matters pending for public comment and provide copies to consumer groups and other interested persons.

**3. Officials Responsible for Consumer Information Program**

the Advisor, together with his/her permanent designees and the Consumer Affairs Committee, shall review current informational materials and shall provides advice regarding the preparation of new materials. The Public Information Office shall publish and distribute the summary of matters pending for public comment.

**Information on Agenda of Public Meetings****1. Format of Materials****2. Manner of Notification and Distribution**

Explanatory materials for consumer meetings of the Department shall be prepared by the unit involved with appropriate assistance from the Advisor. The materials shall describe general topics of concern as well as the date, time, place and format for the meeting. They shall invite suggestions for additional topics to be addressed at the meeting. These materials shall be made available through the Public Information Office and shall be mailed to appropriate



organizations in the area in which the meeting is to take place.

#### IV. EDUCATION AND TRAINING

##### Areas in Which Training Provided

Training shall be provided in complaint handling and in other matters the Advisor concludes would help implement the plan.

##### Responsibility for Educating Staff Members About Consumer Program

##### Method of Education

The Attorney General will advise each unit of the Department of the existence of the final consumer plan and of their responsibilities under the plan by circulating copies of the Order and plan with a cover memorandum. The Advisor to the Attorney General shall respond to inquiries about the plan and shall help units in implementation of the plan.

##### Specialized Training for Consumer Affairs Personnel

The Department's training staff shall train individuals in complaint handling and other consumer affairs responsibilities. The training shall cover the major consumer resources of the Department and other government agencies, courtesy and attitude in responding to mail and telephoned inquiries, guidelines for appropriate responses to inquiries and disclosure policies regarding pending Departmental matters.

The Department will sponsor the attendance of appropriate personnel at training sessions provided by such other agencies as the Federal Trade Commission.

##### Selecting Consumers and Organizations To Receive Assistance

The Dispute Resolution Act, (S. 423), is currently pending before Congress and has been strongly endorsed by the Department of Justice. If enacted, the bill would provide for the establishment of a Dispute Resolution Resource Center within the U.S. Department of Justice. The functions of the Center would be: (1) to serve as a clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new ones; (2) to provide technical assistance to improve and create such mechanisms; (3) to conduct research on mechanisms and to encourage the development of new ones; (4) to conduct surveys of all such mechanisms and to collect relevant data on them; (5) to identify the mechanisms or aspects which are the most effective and fair and suitable for adoption; and (6) to make grants to enter into contracts with public agencies, educational institutions, and qualified persons to conduct research, demonstrations or special projects. The Center would undertake an information program to advise potential grant recipients and states of the availability of funds and eligibility requirements. In addition under the legislation, the Center would identify the types of

minor disputes most amenable to resolution through informal methods.

The proposed Dispute Resolution Resource Center would complement the efforts of the Advisor to the Attorney General for consumer matters and other Departmental consumer programs, and would provide technical assistance to state and local governments and non-profit consumer-related organizations. Once the Center is established, assuming all requests for assistance cannot be met, Center officials in consultation with the Advisor shall decide on a method for selecting consumer and organizations to receive assistance.

#### V. COMPLAINT HANDLING

##### Agency Interest in and Methods for Filing

The Department's Public Information Office, after consultation with the Advisor, shall issue press releases containing information to educate consumers on the Department's mission, to invite information, comment and complaints and to encourage the reporting of violations of law to federal law enforcement officials. The releases shall specify the offices within the Department to which written comments, reports and complaints should be directed.

Departmental informational publications shall be reviewed by the Advisor, in conjunction with a designated official in each unit, to consider whether revisions are appropriate, to indicate Departmental receptivity to comments and complaints, and to designate a point of contact within the Department.

##### Format for Logging Complaints

The Advisor shall survey all units of the Department to determine the volume and types of consumer inquiries received and the procedures used in handling inquiries. The Advisor shall also review mailroom and telephone switchboard procedures to ascertain whether inquiries are receiving appropriate internal routing. After considering current procedures, the Advisor shall issue directives establishing the standards to be met in each system of complaint handling. The directives shall seek to insure that complaints receive timely, courteous and appropriate responses, and that the complaint procedures facilitate the gathering of statistical and summary information for analysis by Departmental officials. The Advisor shall ascertain whether current procedures are adequate or whether a uniform Department-wide format for logging in complaints is necessary. The Advisor shall help designated officials in each unit establish a system to categorize complaints for statistical analysis.

##### Investigation and Analysis

The standards issued by the Advisor shall seek to insure that complaints received by each unit are considered promptly and appropriately by agency officials.

#### Response Procedure

The Advisor shall prepare a resource guide for use in responding to consumer mail. The guide shall include sample responses. Each office, including U.S. Attorneys' offices and field offices, shall be provided a copy of the resource guide and a copy of the Consumer Resource Handbook for its use in responding to consumer inquiries.

#### Evaluation of Complaint Handling System

After issuing and implementing standards, the Advisor shall regularly evaluate the results of the systems and the promptness and quality of the Departmental responses to consumer inquiries.

#### Statistical Analysis

The Advisor shall prepare an annual report to the Attorney General, to be circulated to all unit heads, analyzing the complaints received by the Department. The Attorney General and each unit head shall consider the patterns of complaints received and the concerns generally expressed regarding Departmental policies and practices.

#### VI. OVERSIGHT

The Department is establishing a position of Consumer Affairs Advisor to the Attorney General. (See Section I.) This position shall be filled at either the GS-15 or GS-14 level. The Advisor shall be located in the Attorney General's office. The Advisor shall report directly to the Attorney General as to all matters referred to in this Consumer Plan. The responsibilities of the Advisor are specifically set forth in Sections I-V of the Plan. The Advisor shall work in conjunction with designated officials in various units in the Department, as articulated heretofore in this Plan, and may bring to the direct attention of the Attorney General any matters relevant to a unit's performance under this Plan for consideration and action.

Dated: November 23, 1979.

Benjamin R. Civiletti,  
Attorney General.

#### LISTING OF CURRENT DEPARTMENT OF JUSTICE PUBLICATIONS

##### Department of Justice—General

Legal Activities.

##### Department of Justice—Antitrust Division

Antitrust Enforcement and the Consumer.

##### Immigration and Naturalization Service

United States Immigration Laws.  
Naturalization Requirements and General Information.  
Our Immigration—A Brief Account of Immigration to the U.S.

##### Federal Bureau of Investigation

The FBI National Academy.

Cooperation The Backbone of Effective Law Enforcement.  
Search by Cohesent.  
The FBI Laboratory.  
FBI Law Enforcement Bulletin.  
Fingerprint Identification.  
Crime Resistance.  
The National Crime Information Center and You.  
The Story of the FBI.  
99 Facts About the FBI, Questions and Answers.  
FBI—Career Opportunities.  
Crime in the United States 1978.  
Profiles in Crime.

#### Community Relations Service

Guidelines for Effective Human Relations Commissions.  
Nobody would argue that prison administrators shouldn't control their institutions. But when minority group inmates feel their rights are violated, the result is predictable (Corrections Brochure).  
Like they say experience teaches. And it has taught us something about racial disputes in high schools and colleges (Education Brochure).  
Police Use of Deadly Force.  
School Security—Guidelines for Maintaining Safety in School Desegregation.  
A Synopsis—the CRS.  
Viewpoints and Guidelines on Court-Appointed Citizens Monitoring Commissions in School Desegregation.  
CRS 1978 Annual Report.  
It isn't easy for people caught up in a racial dispute to find a way out. Emotions run high. Issues may be complex. And a basic problem often prevents working out a solution \* \* \*. (General Brochure).  
School Disruptions: Tips for Educators and Police.  
Desegregation Without Turmoil: The Role of the Multiracial Coalition in Preparing for Smooth Transitions.  
Examples of CRS Aid to Communities.

#### Law Enforcement Assistance Administration

Improving Juvenile Justice.  
LEAA Newsletter.  
Police and Public Safety.  
This is NCJRS.<sup>1</sup>  
The NCJRS Collection.  
NCJRS Document Loan Program.  
Home Security Starts at Your Door.  
Sourcebook of Criminal Justice Statistics—1978.

#### Drug Enforcement Administration

Drug Abuse and Misuse.  
Soozie (a coloring and cut and paste book).  
Drogas—Un Folle to De Bosillo.  
Drugs of Abuse.  
Controlled Substances: Uses and Effects (chart).  
Drug Enforcement Administration (DEA) [Summary of functions].  
DEA Fact Sheet (Variety of Subjects).

<sup>1</sup> NCJRS—National Criminal Justice Reference Service. Established 1972. NCJRS collects materials and maintains a library of close to 40,000 documents on criminal justice subjects and a computerized data base of bibliographic descriptions and abstracts. LEAA has granted the NCJRS a contract to perform this work.



Form Approved:  
OMB No. 116579021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
  - ☐ I am interested in it as an individual consumer.
  - ☐ I am concerned about it, because I represent a public interest consumer group.
  - ☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
  - ☐ Yes, it is clear and I understand it.
  - ☐ Yes, I understand most of it.
  - ☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
  - ☐ Yes.
  - ☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
  - ☐ It seems adequate.
  - ☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
  - ☐ Adequate
  - ☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:
  - A complaint? ☐ Yes. ☐ No.
  - A general question about the agency? ☐ Yes. ☐ No.
  - A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?
  - ☐ No.
  - ☐ Yes, in the following areas:
    - Consumer participation \_\_\_\_\_
    - Informational materials \_\_\_\_\_
    - Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

[FR Doc. 79-36655 Filed 12-7-79; 8:45 am]

BILLING CODE 4410-01-M

Monday  
December 10, 1979

Part VII-Section C

Department of State

Draft Consumer Program

federal register



## DEPARTMENT OF STATE

[Public Notice 695]

## CONSUMER AFFAIRS

AGENCY: Department of State.

ACTION: Proposed Consumer Affairs Program.

**SUMMARY:** This Notice is issued to invite public comments on a proposed consumer affairs program to be implemented in response to Executive Order No. 12160. The following information describes the program the Department of State plans to undertake to meet the President's objective of ensuring that consumer needs and interests are adequately considered and addressed.

**DATE:** Comments are due on or before March 10, 1980.

**ADDRESS:** Send comments to James R. Tarrant, Special Assistant for Consumer Affairs, Room 6822, Department of State, Washington, D.C. 20520. Telephone (202) 632-8836.

**FOR FURTHER INFORMATION CONTACT:** James R. Tarrant, Special Assistant for Consumer Affairs, Room 6822, Department of State, Washington, D.C. 20520. Telephone (202) 632-8836.

## I. GENERAL

The central objective of the Department of State in consumer affairs is to ensure that the needs and interests of American consumers are adequately considered and addressed in the formulation of foreign economic policies. Participation by consumers in this process is fundamental to achieving this aim.

Since the Department is concerned with foreign rather than domestic policy, its consumer affairs program is unique and limited in scope compared to those in other Federal Government Agencies. The Department's program deals principally with a relatively small number of frequently complex economic negotiations that tend to continue over a period of time. These subjects include, for example, international commodity agreements on rubber, coffee, sugar, tin and other products as well as trade, civil aviation and telecommunications matters. These issues are largely within the jurisdiction of the Bureau of Economic and Business Affairs. In addition, however, there are a few consumer-related issues that arise in two other areas of the Department. The Bureau of International Organization Affairs has responsibility for matters occurring in the United Nations system where consumer-related issues include restrictive business practices, a code of conduct for trans-national corporations, illicit payments and resolutions on consumer protection. The Bureau of Consular Affairs issues passports and provides other consular services to the public. While it is primarily the activities within the responsibility of these three Bureaus for which the Department undertakes to carry out the consumer affairs program described in this Notice, the Department's Special Assistant for Consumer Affairs will have oversight responsibility for all consumer-related issues arising the Department

and will seek to ensure that any issues of this type are also subject to the procedures outlined in this Notice.

## II. CONSUMER AFFAIRS PERSPECTIVE

The primary consumer affairs staff of the Department of State will consist of two full time individuals whose sole responsibility will be consumer affairs: a professional international economist who will be Department's Special Assistant for Consumer Affairs and an assistant for handling administrative matters concerned with consumer affairs. The Special Assistant will be attached to the Office of the Assistant Secretary for Economic and Business Affairs who has direct access and reporting responsibility to the Secretary of State. In addition to the Special Assistant's responsibility to provide a consumer affairs perspective (subsection 1-401(a) of the Executive Order), this official will have responsibility for carrying out other consumer affairs work in the Department. There will also be a number of other officers in the Department who will work on a range of economic issues having a consumer element to them.

The Special Assistant will have overall responsibility for coordinating consumer affairs issues arising within any component of the Department of State. The Special Assistant will be authorized to participate in the development and review of all departmental policies, programs, legislation and rules on consumer-related issues. In carrying out these responsibilities this official will work directly with other Department economists and officials, attend appropriate staff meetings and be designated a member of the Commodity Task Force. The Special Assistant will participate throughout the policy formulation process on consumer-related issues, from initial discussions through the final decision. To ensure the Special Assistant is kept fully abreast of activities, the Bureau of International Organization Affairs and the Bureau of Consular Affairs will be responsible for keeping the Special Assistant informed on all consumer-related issues in their areas of authority and for systematically reporting to the Special Assistant each quarter on the status of these issues as well as issues of this type expected to arise in the future.

In addition, the Office of the Legal Adviser will inform the Special Assistant in all cases of proposed rule-making by the Department in which there appears to be a consumer-related issue.

## III. CONSUMER PARTICIPATION

The Office of the Special Assistant for Consumer Affairs will be in charge of carrying out the Department of State's consumer participation responsibilities under the Executive Order.

As a matter of general policy, the Department will seek to exercise considerable flexibility in providing opportunities for consumer views to be heard in the course of its decisionmaking process. The Department will accept and consider consumer views submitted at any time in the policy formulation process on an issue. Views may be provided in writing, by telephone or personal visit to the Special Assistant.

Given the unique and limited scope of the Department's responsibilities in the area of consumer affairs, its primary method for ensuring consumer participation is the following. First, the Department engages in an ongoing program of direct letter and telephone contacts with state and local consumer organizations as well as with consumer and public interest groups represented in Washington, D.C. This is a continuous outreach program designed to maintain contact and solicit views from consumer groups and individuals who may have an interest or expertise in those particular consumer-related issues within the responsibility of the Department. In addition to these activities, Department representatives attend various consumer meetings and publicize the Department's program in the media as part of a broader effort to make consumers aware of the opportunity for them to make their views known.

Second, the Department seeks out representative consumers, frequently affiliated with a consumer or public interest organization, for a more intensive form of briefing and exchange of views. This often involves bringing the individual to Washington, D.C. with travel and per diem expenses paid by the Department and is usually done in connection with preparing consumer representatives to serve on international conference delegations which are accredited officially by the Department's Office of International Conferences.

Third, the Department selects consumer representatives to act as advisers on U.S. delegations to international meetings that are negotiating or discussing issues with a significant impact on American consumers. In such cases, travel and per diem expenses are paid by the Department of State during the period of the meeting. Both the program of Washington consultations and participation on official delegations are subject to the availability of Department funds.

The Department of State's regulations for selecting and funding consumer and public interest representatives, as well as guidelines covering the actual participation of private sector advisers on delegations, are described in more detail in *Federal Register* notices No. 624 of August 24, 1978, and No. 655 of March 23, 1979.

A number of consumer and public interest representatives also serve, along with other private sector individuals, on advisory committees to the Department of State. The Department will continue this program and its policy of meeting the travel and per diem expenses of consumer representatives, as funding is available.

The Department will undertake a new program, as funds are available, to hold a meeting once each year of a group of consumer representatives who have served as advisers on U.S. Government delegations. This will be done to improve the effectiveness and usefulness of positions presented to the Department on consumer matters.

To further inform consumers of the opportunities available for participation in State Department policy formulation, the Department's program will be

incorporated into a brochure which will be made widely available as part of its informational program. The Special Assistant will also maintain a mailing list of interested consumer groups and individuals for the purpose of informing them of specific opportunities to make their views known on issues under consideration by the Department of State.

The Special Assistant will act within the Department of State to ensure consumer concerns are adequately considered. Where possible, the effects on consumers will be specified in position papers for international negotiations on issues having a significant impact on American consumers.

## IV. INFORMATIONAL MATERIALS

The Office of the Special Assistant for Consumer Affairs will be responsible for planning and carrying out the Department's information program concerning consumer participation in the economic-related activities of the Department of State.

The Department will continue its policy of making available individually tailored written materials and providing specific oral briefings for consumer advisers on particular issues and for consumer representatives on U.S. delegations negotiating issues relevant to U.S. consumers. Given the relatively limited number of consumer issues of an economic nature within the responsibility of the Department of State, this procedure meets a significant portion of the need for informational materials for consumers.

In addition, the Department of State will produce and distribute to broad consumer audiences a brochure to inform consumers about the Department's responsibilities and services in consumer affairs and its procedures for consumer participation in these matters. This material will be made available within six months of the publication in the *Federal Register* of the Department's final consumer affairs program. Distribution will be made to consumer organizations throughout the country for direct distribution to their membership and to the public at large.

For meetings open to the public on consumer related issues, the specific office within the Department having responsibility for the meeting will ensure that clear, descriptive material is available to all participants on the issues to be discussed. Such materials will be available at the time of the meeting or may be obtained upon request from the Office of the Special Assistant for Consumer Affairs or the specific office having responsibility.

The Bureau of Consular Affairs will be responsible for the Department's information program on consular services that are available to the public. These include:

(A) Issuance of passports. Numerous publications and notices are used to inform the public about this service. Proposed changes in passport regulations are subject to established rule-making, procedures and are published in the *Federal Register* for public comment prior to taking effect. Questions about passports should be directed to the Public Inquiries Section, Passport Office, Department of State, Washington, D.C.



(B) Overseas Citizens Services. These services include the overseas travel advisory program, the welfare/whereabouts system for inquiring about U.S. citizens abroad and the availability of personnel after normal business hours to handle emergencies. These services are widely publicized through the Public Affairs Office of the Bureau of Consular Affairs. Inquiries may be made with the Office of Citizens Consular Services, Department of State, Washington, D.C.

#### V. EDUCATION AND TRAINING

The Office of the Special Assistant for Consumer Affairs will be responsible for informing Department officials about the provisions of Executive Order No. 12160 and the specific elements of the Department's consumer affairs program. This will be accomplished by written briefings for senior, policy-making officials and by circulation of a Departmental Notice. The final consumer affairs program will be circulated to all personnel who are expected to be involved in any facet of consumer activities. Any significant changes in the consumer program will be communicated within 30 days to Departmental personnel.

The Special Assistant will be responsible for ensuring that any specialized training in consumer affairs is provided. Given the Department's small consumer affairs staff, such specialized training would probably be requested from another department or agency having such facilities.

The Department will assist consumer representatives in the completion of "Biden questionnaires" for those seeking this form of financial assistance and in developing any additional substantive expertise to serve most effectively on U.S. negotiating delegations for which they have been accredited.

#### VI. COMPLAINT HANDLING

The central point of responsibility for handling consumer complaints of an economic nature will be the Office of the Special Assistant for Consumer Affairs.

Telephone, personal visit and mail complaints will be directed to this office for initial handling. The following procedures will be carried out:

(A) Screening. Complaints will be screened by the Special Assistant's office to determine their applicability to the Department of State. Those complaints falling within the responsibility of another agency will be forwarded to that agency for action.

(B) Logging and classifying. Telephone and personal visit complaints that cannot be resolved during the first contact will be logged. All mail complaints will be logged. Every consumer complaint communication will be entered into the Central Complaint Log with a numeric indicator assigned to it. The following topical categories will be used to classify complaints: commodities, civil aviation, telecommunications, business and general. The date received, nature of the complaint, name of complainant, office assigned responsibility for replying, due date for responding and

eventually the date reply sent will be noted in the log for each complaint.

(C) Routing. Consumer complaints will then be routed to the responsible office in the Department of State with instructions on how replies are to be handled.

(D) Responding. The office assigned responsibility will investigate the complaint and reply within ten working days or send an interim communication acknowledging receipt and indicating when a reply can be expected. All replies will be sent within twenty working days. Responses may take the form of telephone calls, letters or other written communications, depending on the circumstances of the particular complaint. A "tickler" file will be maintained by the Office of the Special Assistant and complainant responses will be monitored to ensure that timely replies are made. A copy of the response or notices of a telephone call will be sent to the Special Assistant's office where it will be maintained on file for a minimum period of two years.

(E) Analyzing and Reporting. An analysis of the consumer complaints received and the implications for the Department of State will be done by the Special Assistant at intervals not to exceed one year in duration. At the end of each calendar year a report will be sent to the Secretary of State, the Assistant Secretary for Economic and Business Affairs or other senior officials having responsibility for issues covered in that particular report. The report will describe the pattern of complaints received, their policy implications for the Department and any appropriate action that should be taken. This annual report will also include an evaluation of the Department of State's consumer complaint handling system.

The Bureau of Consular Affairs maintains a similar but separate complaint handling system. Complaints concerning the Passport Office, the Visa Office or the Overseas Citizens Services Office may be sent directly to these Offices, Department of State, Washington, D.C.

The Department of State's receptivity to complaints and its system for handling them will be made known to consumer and consumer groups. This will be done primarily by publicizing the programs in brochures to be sent to consumer organizations throughout the country for direct distribution to their membership and to the public at large.

#### VII. OVERSIGHT

The Department's Special Assistant for Consumer Affairs will be designated by the Secretary of State to be the responsible official for policy guidance, coordination and oversight of consumer affairs activities.

The positions of Special Assistant for Consumer Affairs (S-46557-00) will be filled by a senior-level Department of State officer. The Special Assistant will be attached to the office of the Assistant Secretary for Economic and Business Affairs.

The Department will consider all comments received in response to this Notice and after approval by the

Chairperson and the Consumer Affairs Council will publish a final consumer affairs program, no later than May 25, 1980. This final consumer affairs program will be incorporated into the Department's regulations by inclusion in the Foreign Affairs Manual.

Michael M. Conlin,

*Acting Undersecretary for Management.*

BILLING CODE 4710-07-M



Form Approved:  
OMB No. 116579021

## CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The \_\_\_\_\_ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?  
☐ I am interested in it as an individual consumer.  
☐ I am concerned about it, because I represent a public interest consumer group.  
☐ I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?  
☐ Yes, it is clear and I understand it.  
☐ Yes, I understand most of it.  
☐ No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?  
☐ Yes.  
☐ No. Why? \_\_\_\_\_
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?  
☐ It seems adequate.  
☐ It is not adequate. Why? \_\_\_\_\_
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?  
☐ Adequate.  
☐ Not adequate. Why? \_\_\_\_\_
6. After reading our proposed consumer program, do you know whom or which office in \_\_\_\_\_ (agency) to contact if you have:  
A complaint? ☐ Yes. ☐ No.  
A general question about the agency? ☐ Yes. ☐ No.  
A question about how to take part in agency proceedings? ☐ Yes. ☐ No.
7. Do you know who or which office in \_\_\_\_\_ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? \_\_\_\_\_
8. Do you have any suggestions for improving our consumer program?  
☐ No.  
☐ Yes, in the following areas:  
Consumer participation \_\_\_\_\_  
Informational materials \_\_\_\_\_  
Complaint handling \_\_\_\_\_



9. Other comments or suggestions? (Use additional pages, if necessary.)

\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Your address)

\_\_\_\_\_  
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON  
WHICH YOU ARE COMMENTING

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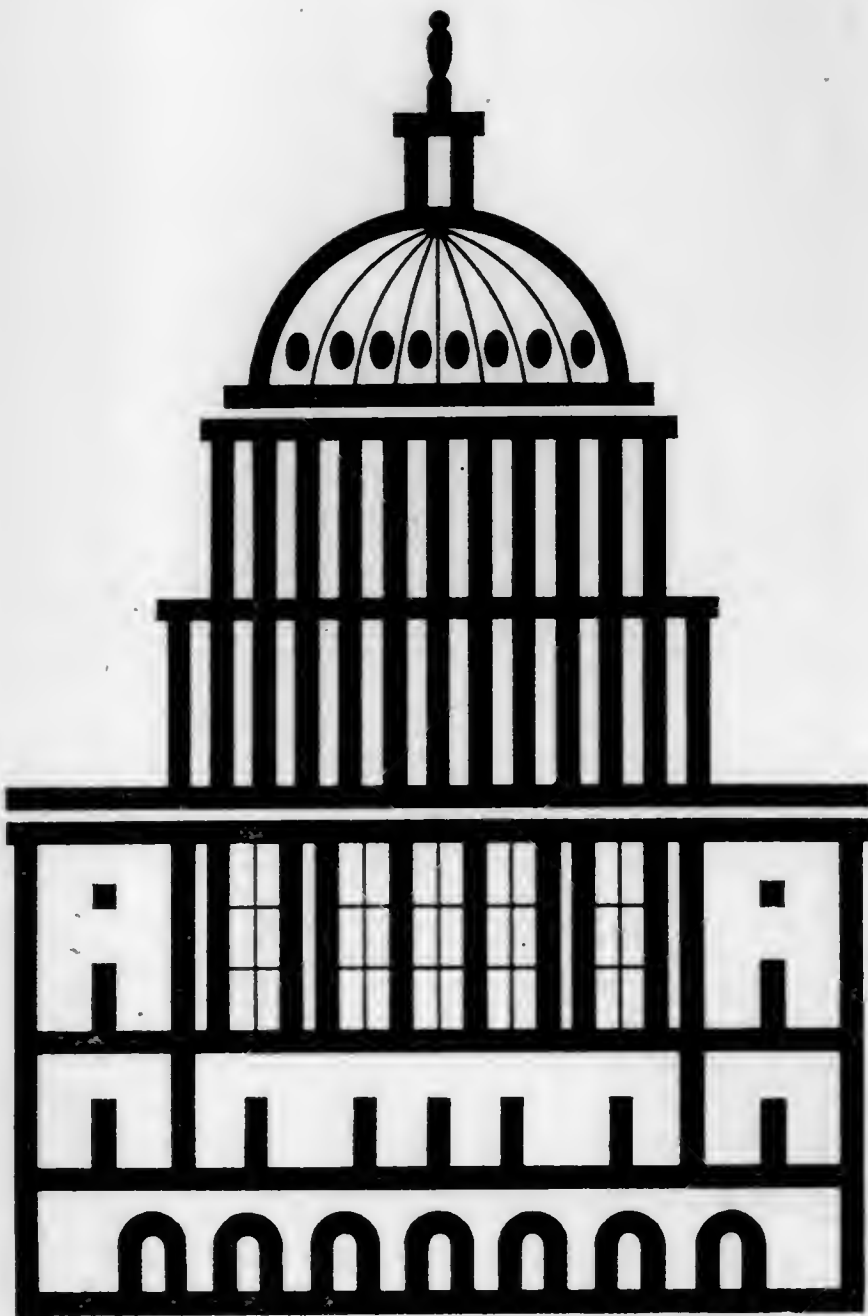
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For those citizens interested in where to go and who to see about a subject of particular concern, the Manual provides the "Guide to Government Information" section, a reference to an agency's statement of organization in the *Federal Register* or *Code of Federal Regulations*, and comprehensive name, subject, and agency indexes. Particularly helpful is each agency's "Sources of Information" section, which provides addresses and telephone numbers for obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

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# ESTABLISHED 1930

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Tuesday  
December 11, 1979

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- 71399 **Scouting Recognition Week** Presidential proclamation
- 71462 **Citizen Education for Cultural Understanding Program** HEW/OE invites applications for new projects for fiscal year 1980; Apply by 2-25-80
- 71468 **National Displaced Homemakers Program** Labor/ETA solicits applications for grants under the Comprehensive Employment and Training Act; deadline to apply extended to 2-1-80
- 71413 **Intercollegiate Athletics: Sex Discrimination** HEW/Secretary/Civil Rights Office issues policy interpretation of Title IX Education Amendments of 1972; effective 12-11-79
- 71790, 71793, 71794 **Disaster Assistance** FEMA sets forth rules on Community Disaster Loans, General Insurance Requirements, and Fire Suppression Assistance; effective 1-10-80 (Part VIII of this issue) (3 documents)
- 71430 **Taxes** Treasury/IRS and ATF proposes a rule relating to the timeliness of tax returns, payments and deposits; comments by 2-11-80
- 71612 **Distilled Spirits** Treasury/ATF issues temporary rule implementing the Distilled Spirits Tax Revision Act of 1979; effective 1-1-80 (Part II of this issue)

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**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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- 71454 Environmental Research** EPA solicits institutional letters of intent to develop Long-Term Exploratory Research Centers; deadline for letters of intent 1-30-80
  - 71742 Environment** HEW/FDA proposes policies for compliance with the National Environmental Policy Act; comments by 2-11-80 (Part IV of this issue)
  - 71438 Motor Common Carriers of Property** ICC proposes to establish temporary rule permitting service to intermediate points along authorized regular service routes; comments by 1-10-80
  - 71780 Air Pollution** EPA issues rules regarding recommendation for alternative emission reduction options; effective 12-11-79 (Part VII of this issue)
  - 71754 Institutional Health Services** HEW/PHS sets forth requirements on appropriateness of existing services by health systems agency and state agency; effective 12-11-79 (Part V of this issue)
  - 71429 Income Tax** Treasury/IRS proposes rules on treatment of outdoor advertising displays as real property; comments by 2-11-80
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  - 71446 Textile Products From Taiwan** CITA adjusts the import levels for certain cottons; effective 12-6-79
  - 71728 Diagnostic Radiology Facilities** HEW/FDA issues rule recommending voluntary establishment of quality assurance programs; effective 12-11-79 (Part III of this issue)
  - 71547 Sunshine Act Meetings**
- Separate Parts of This Issue**
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Federal Register

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Tuesday, December 11, 1979

## Presidential Documents

Title 3—

The President

Proclamation 4706 of December 7, 1979

Scouting Recognition Week, 1979

By the President of the United States of America

## A Proclamation

Scouting teaches boys and girls self-reliance, physical fitness and good citizenship. It fosters character development and nurtures a love and understanding of nature and of other people.

Scouting has a long and proud tradition of service and leadership training. Many of our Nation's most accomplished men and women in every field of endeavor are former Scouts, and cite Scouting as one of their most important early experiences.

Through the years Scouts have broadened their activities to meet the changing needs of young Americans and help them prepare for useful and rewarding lives.

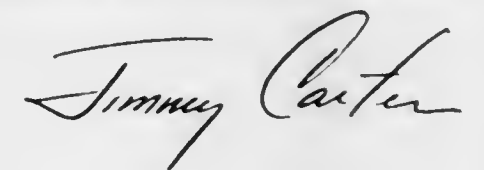
In recent years Scouts have been particularly active in promoting energy awareness and conservation, and are continuing this important effort. They are also planning activities designed to aid in taking an accurate census next year.

By House Joint Resolution 448, the Congress has designated the week of December 3 through December 9, 1979 as "Scouting Recognition Week."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to recognize the contributions of Scouting and to support Scouting programs in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

[FR Doc. 79-38130  
Filed 12-10-79; 10:33 am]  
Billing code 3195-01-M





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Rules and Regulations

Federal Register  
Vol. 44, No. 239  
Tuesday, December 11, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 230

[Amdt. 3]

Food Service Equipment Assistance Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This document restores to Food and Nutrition Service regulations on the food service equipment assistance program several paragraphs which were designated incorrectly in previous interim amendments to the regulations.

EFFECTIVE DATE: Effective December 11, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8130.

SUPPLEMENTARY INFORMATION: On June 29, 1979 in Volume 44 of the Federal Register page 37899 Amendment 2, Part 230 was published. Amendment 2 added new paragraphs (b) and (c) to § 230.8 Use of Funds. On October 26, 1979 in Volume 44 of the Federal Register page 61562, interim regulations to § 230.8 paragraphs (b), (c), (d) and (e) were published, thereby superceding paragraphs (b) and (c) as set forth in Amendment 2. This action was inadvertently caused by the simultaneous clearance of two dockets to amend Part 230 regulations. This amendment, Amendment 3, restores to the record the contents of § 230.8(b) and (c) as set forth by Amendment 2, but renumbers these paragraphs as new

paragraphs (f) and (g) under § 230.8.

Accordingly, Part 230 is amended as follows:

Previous §§ 230.8(b) and 230.8(c) as set forth in Amendment 2 and deleted by the interim rule of October 26, 1979 are restored as new paragraphs (f) and (g) as follows:

§ 230.8 Use of funds.

(f) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department shall—

(1) If such funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than 5 years or both; or

(2) If such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

(g) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department knowing such funds, assets, or property have been embezzled willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (f) of this section.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has not been prepared because this regulatory action is deemed to be technical and corrective in nature in that it restores to the record regulatory provisions for which (1) impact statements have been developed, and (2) which were inadvertently omitted. (Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760)); (sec. 10(d)(1), Pub. L. 95-627, 92 Stat. 3625, 3626 (42 U.S.C. 1757)); (sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626)

Dated: December 4, 1979.

Carol Tucker Foreman,  
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-37989 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 928

Papayas Grown in Hawaii; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and a rate of assessment for the 1980 fiscal period, to be collected from handlers to support activities of the Papaya Administrative Committee which locally administers the Federal marketing order covering papayas grown in Hawaii.

DATES: Effective January 1, 1980, through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This document is issued under Marketing Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the committee, established under this marketing order, and upon other information. It is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable papayas handled from the beginning of such year. To enable the committee to meet fiscal obligations, approval of the expenses and assessment rate is necessary. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.



Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under the USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

#### § 928.209 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Papaya Administrative Committee during the period January 1, 1980, through December 31, 1980, will amount to \$408,000.

(b) The rate of assessment for said year payable by each handler in accordance with § 928.41 is fixed at \$0.006 per pound of papayas.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 5, 1979.

Charles R. Brader,  
Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc. 79-37956 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-02-M

#### 7 CFR Part 1049

[Milk Order No. 49; Docket No. AO-319-A30]

#### Milk in the Indiana Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This action changes the present order provisions for milk in the Indiana marketing area based on proposals by three cooperative associations that were considered at a public hearing held July 24, 1979. The amendments increase the funding rate of the Advertising and Promotion program of the order and tie such rate to the level of the blend price to producers. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

**EFFECTIVE DATE:** The order provisions set forth herein shall become effective on April 1, 1980, except that the provisions amending § 1049.121 (e) and (f) shall become effective on March 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing

Service, U.S. Department of Agriculture, Washington, D.C., 202-447-7311.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Hearing: Issued July 6, 1979, published July 11, 1979 (44 FR 40520).

Recommended decision: Issued September 13, 1979, published September 19, 1979 (44 FR 54303).

Final decision: Issued November 7, 1979, published November 14, 1979 (44 FR 65594).

#### Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indiana marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations

specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order relative to the advertising and promotion program is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

*Order relative to handling.* It is therefore ordered that on and after the effective dates hereof the handling of milk in the Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

1. In § 1049.61, paragraphs (c) through (h) and (j) are revised and new paragraphs (k) and (l) are added to read as follows:

#### § 1049.61 Computation of uniform price (including weighted average price).

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price";

(f) For the months of January through March and August, subtract from the weighted average price computed in paragraph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e). The result shall be the "uniform price" for the applicable month;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer-settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (l) of this section;

(j) Divide the resulting sum by the hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1049.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

#### § 1049.71 [Amended]

2. In § 1049.71(a)(2)(ii) the words "plus 5 cents" are deleted.

3. Section 1049.75 is revised to read as follows:

#### § 1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a), except that the adjusted uniform price plus the withholding rate for the Advertising and Promotion program computed in § 1049.121(e), and, for the months of April through July plus an additional 20 cents, or for the months of September through December minus the amount computed pursuant to § 1049.61(l) shall be not less than the Class III price for the month.

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

#### § 1049.76 [Amended]

4. In § 1049.76(a)(4) the words "plus 5 cents" are deleted.

5. In § 1049.113, paragraph (c)(1) is revised to read as follows:

#### § 1049.113 Selection of Agency members.

(c) \* \* \*

(1) In June of each year the market administrator shall give notice to

participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

6. In § 1049.120, paragraphs (b) and (c) are revised and a new paragraph (d) is added to read as follows:

#### § 1049.120 Procedure for requesting refunds.

(b) Except as provided in paragraphs (c) and (d) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July and October, respectively.

(c) Except as provided in paragraph (d) of this section, a dairy farmer who first acquires producer status under this part after the 15th day of December, March, June or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1049.121(b).

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed a request for the refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible on the basis of his request filed under the other order for a similar refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1049.121(b).

7. Section 1049.121 is revised to read as follows:

#### § 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) In July of each year, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c).

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if



there is any change in the rate from the previous period.

(Secs. 1-19, 48 Stat. 31, as amended: (7 U.S.C. 601-674))

**Effective date.** The order provisions set forth herein shall become effective on April 1, 1980, except that the provisions amending § 1049.121(e) and (f) shall become effective on March 1, 1980.

Signed at Washington, D.C., on December 5, 1979.

P. R. "Bobby" Smith,  
Assistant Secretary for Marketing and  
Transportation Services.

[FR Doc. 79-37967 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-02-M

#### Agricultural Marketing Service

#### Agricultural Stabilization and Conservation Service

#### 7 CFR Part 1260

[Amdt. 1]

#### Procedure for the Conduct of Referendums in Connection With Beef Research and Information Order

**AGENCIES:** Agricultural Marketing  
Service and Agricultural Stabilization  
and Conservation Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this rule is to amend the regulations for conducting referendums with respect to any Beef Research and Information Order or amendment issued pursuant to The Beef Research and Information Act. This amendment provides for (1) voting by secret ballot, (2) reducing the registration period from 12 days to 10 days, (3) reducing the voting period from 12 days to 4 days, (4) reducing the number of producers needed to approve the issuance of a Beef Research and Information Order from two-thirds to a majority of the producers voting in a referendum, (5) reducing the time allowed for challenging a producer's eligibility to register and vote; and (6) reducing the time for the county ASCS executive director to make a determination on challenges. Several editorial changes were also made to reflect a recent Departmental reorganization. The amendments would provide for confidentiality in balloting and would shorten the periods for registration, voting, challenging, and determination of challenges.

**EFFECTIVE DATE:** December 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Robert Cook, Emergency and Indemnity Programs Division, ASCS, USDA, 4095 South Building, Washington, D.C. 20013 (202) 447-7997.

**SUPPLEMENTARY INFORMATION:** The Beef Research and Information Act (7 U.S.C.

2901), hereafter "The Act", provides that the Secretary of Agriculture shall issue a Beef Research and Information Order applicable to producers and slaughterers of cattle to effectuate the declared policy of the Act if the issuance of an Order is approved or favored by cattle producers in a referendum conducted among cattle producers. As enacted, the Act required that 50 percent of the registered producers has to cast votes and that two thirds of the producers voting in the referendum had to approve the Order, for the Order to become effective.

Rules for conducting referendums pursuant to the Act were published in the Federal Register on May 17, 1977, and a referendum was held in June (registration) and July (voting) 1977. In that referendum, the required two-thirds of the producers voting did not approve the Order. In August 1978, the Act was amended, and now requires that a majority, instead of two-thirds, of the producers voting in a referendum must favor the Order for it to be approved. Section 1260.203 is amended to reflect this change in the law. The proposal for amending the referendum regulations was published in the Federal Register on August 7, 1979 (44 FR 46288) and interested persons were invited to submit comments on the proposal by October 9, 1979. A total of 78 responses were received. Except for the change to permit voting by secret ballot, the correspondents generally were opposed to the proposed changes. Thirty-five responses (45%) were opposed to a referendum of any kind. Forty-four responses (56%), including 14 State farm groups, were opposed to shortening the registration and voting periods to 4 days. Twelve responses (15%) opposed the change permitting approval of the referendum by a simple, rather than a two-thirds majority. Three cattlemen's associations favored the amendments as published. With respect to the comments opposing a referendum under the Act, it should be noted that the Secretary, under section 9 of the Act, is required to conduct a referendum as soon as practicable for the purpose of ascertaining whether the issuance of an Order is approved or favored by cattle producers. In this connection, a proposed Order was published on April 23, 1979, and public hearings on the proposed Order were, thereafter, held throughout the country. On September 21, 1979, a Recommended Decision and proposed Order was published in the Federal Register for 45 days of public comment.

There is no latitude with respect to the change in the regulations permitting

a majority approval in the referendum since this change is mandated by the amendment to the Act.

The reasons given by the commentators for opposing the shortening of the registration and voting periods to 4 days were that it would restrict the number of producers who would be able to vote and that it favors large producers. After due consideration of these comments, it has been determined that the length of the registration period should be 10 days and the voting period should be 4 days. The 10 day registration period will allow adequate time for all producers to register.

It is believed that the 4 day voting period will provide a more efficient voting procedure and reduce the cost and administrative burden of conducting the referendum. A 4 day voting period will not give preference to any group of producers, whether large or small, but all producers will be affected equally by the 4 day voting period. It is expected that the referendum will be widely publicized by this Department, producer organizations and others well in advance of the referendum with special emphasis on the registration and voting periods so that producers will have adequate time to arrange their schedules to register and vote during the allotted periods. Since local, state, and national elections are conducted on a one day basis, it is further felt that a one day voting period should be adequate. Moreover, if it is difficult or inconvenient for a producer to vote in person at the ASCS county office, the producer may request a ballot by mail which may be marked and returned to the ASCS county office by mail with a postmark not later than midnight of the final day of the voting period.

The amendment will also reduce the time allowed for making challenges as to eligibility to register and vote, and for making determinations on such challenges. The period during which challenges may be made will end as of the beginning of the voting period rather than the end of the voting period. There will still be sufficient time for challenges since challenges may be made anytime during the 10-day registration period as well as during the ten days between the registration and voting periods. The period for the county ASCS executive director to make a determination on a challenge will terminate at the end of the voting period rather than on the date of the opening of the ballot box. The county ASCS executive director will still have the four days of the voting period to make a decision should a challenge be made on the last day prior to the beginning of the voting period.

#### Final Rule

Accordingly, 7 CFR Part 1260—Beef Research and Information, Subpart—Procedure for the Conduct of Referendums in Connection with Beef Research and Information Order is amended to read as follows:

#### § 1260.201 [Amended]

1. Section 1260.201 is amended as follows:

(a) By substituting for the word "Programs" in paragraph (d) the words "State and County Operations".

(b) By substituting for the word "12-day" in paragraph (m) the word "10-day."

(c) By substituting for the word "12-day" in paragraph (n) the word "4-day."

#### § 1260.203 [Amended]

2. Section 1260.203 is amended by substituting for the words "not less than two thirds" the words "a majority".

3. Section 1260.208 is amended by revising paragraph (b) to read as follows:

#### § 1260.208 Voting.

(b) *Voting.* Voting may be in person or by mail. A producer wishing to vote by mail may request the county ASCS office to mail the producer a ballot. Ballots will be issued only to eligible cattle producers who have registered to vote. Ballots will not be provided prior to the voting period except to producers requesting ballots to vote by mail. Each registered cattle producer voting shall obtain and cast a ballot on Form ASCS-151A with the county ASCS office where that producer registered to vote. The ballot shall be marked to indicate "yes" or "no". Producers voting in person shall place their own ballots in the ballot box and have their names checked off the registration list. Producers voting by mail shall mark their ballots and place them in an envelope marked BEEF BALLOT. This envelope shall be placed in a second envelope marked BEEF REFERENDUM. Producers shall print and sign their names on the second envelope and mail the ballot to the county ASCS office where the producer registered to vote. Upon receiving the ballot, the county office shall open the outer envelope, place the envelope marked BEEF BALLOT in the ballot box unopened and note on the registration list that the producer has voted.

#### § 1260.209 [Amended]

4. Section 1260.209 is amended as follows:

(a) By substituting for the words "end of the voting period" at the end of

paragraph (a) the words "beginning of the voting period".

(b) By substituting for the words "opening of ballot box" at the end of paragraph (b) the words "end of the voting period".

(c) After the first sentence in paragraph (c), insert a new sentence to read as follows: "Challenged ballots shall be placed in the envelope marked BEEF BALLOT which in turn shall be placed in the envelope marked BEEF REFERENDUM with the name of the producer and the word "challenged" written in large letters across the envelope and placed in the ballot box.

#### § 1260.211 [Amended]

5. Section 1260.211 is amended as follows:

(a) By deleting the word "unsigned," and the comma after the word "mutilated" in paragraph (b).

(b) By deleting the material after the words "interfere with the tabulation" and putting a period after the word "tabulation" in paragraph (c).

#### § 1260.214 [Amended]

6. Section 1260.214 is amended by substituting for the word "Programs" in paragraph (a) the words "State and County Operations".

This rule has been reviewed under the USDA criteria established to implement E.O. 12044 and has been determined nonsignificant. A pre-hearing investigation (draft impact analysis) was prepared in connection with the Department's decision to hold a public hearing on the proposed Beef Research and Information Order. This analysis is available from Ralph Tapp, AMS, USDA, (202) 447-3970. In addition, a Recommended Decision concerning a proposed Beef Research and Information Order was published in the Federal Register on September 21, 1979.

(Sec. 17, Pub. L. 94-294, 90 Stat. 537 (7 U.S.C. 2916))

Signed at Washington, D.C., on December 4, 1979.

Ray Fitzgerald,  
Acting Administrator, Agricultural  
Stabilization and Conservation Service.

William T. Manley,  
Administrator, Agricultural Marketing  
Service.

[FR Doc. 79-37787 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-06-M

#### Rural Electrification Administration

#### 7 CFR Part 1701

#### REA Bulletins; Electric Distribution Borrowers' Financial and Statistical Report

**AGENCY:** Rural Electrification  
Administration.

**ACTION:** Final rule.

**SUMMARY:** REA hereby revises REA Bulletin 108-1, "Electric Distribution Borrower's Financial and Statistical Report." The revised bulletin will provide REA and others with more accurate information, which can be used in analyzing the borrowers' operations, especially conservation activities.

**EFFECTIVE DATE:** December 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Edward Moran, telephone number (202) 447-3234.

**SUPPLEMENTARY INFORMATION:** REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). A Notice of Proposed Rulemaking was published in the Federal Register on August 24, 1979, Vol. 44, No. 166, page 49695. However, no public comments were received in response to the notice.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: December 4, 1979.

Robert W. Feragen,  
Administrator.

[FR Doc. 79-37877 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-15-M

#### 7 CFR Part 1701

#### REA Bulletins; Power Supply Borrowers and Distribution Borrowers with Generating Facilities Operating Report

**AGENCY:** Rural Electrification  
Administration.

**ACTION:** Final rule.

**SUMMARY:** REA hereby revises REA Bulletin 108-2, Operating Report—Power Supply Borrowers and Distribution Borrowers with Generating Facilities.



The bulletin was last revised in 1977 and at that time changed from a monthly to an annual report. We are now changing the format to provide yearly and/or year-to-date information with respect to load and demand data as well as certain labor and production data. We are requesting information which will enable REA to better analyze the borrowers' finances.

**EFFECTIVE DATE:** December 4, 1979.

**FOR FURTHER INFORMATION CONTACT:**

• Edward Moran, telephone number (202) 447-3234.

**SUPPLEMENTARY INFORMATION:** REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. et seq.). A Notice of Proposed Rulemaking was published in the *Federal Register* on August 24, 1979, Vol. 44, No. 166, page 49696. However, no public comments were received in response to the notice.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: December 4, 1979.

Robert W. Feragen,  
Administrator.

[FR Doc. 79-37878 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-15-M

**Animal and Plant Health Inspection Service**

**9 CFR Part 112**

**Label Requirements for Certain Canine Vaccines**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment requires that a statement concerning the occurrence of corneal opacity be added to carton labels or enclosures for all biological products containing modified live canine hepatitis virus or modified live canine adenovirus type 2.

Uniform label statements that indicate whether or not corneal opacity has been associated with each product are required. The addition of such statements to the labeling provides more complete information concerning the

characteristics of these products to the user.

**EFFECTIVE DATE:** This amendment becomes effective January 10, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

**SUPPLEMENTARY INFORMATION:** Modified live canine hepatitis and canine adenovirus type 2 vaccines have been licensed for use in dogs for the prevention of infectious canine hepatitis. Dogs vaccinated with some of these products occasionally develop an adverse reaction in the form of transient corneal opacity. This reaction may be rather severe in some instances and can result in permanent damage to the eye. Such adverse reaction has not been associated with all of the above products, however, and it is therefore important to the user of the products to be informed about the characteristics of each of the available vaccines. This amendment requires that a uniform statement concerning the occurrence of corneal opacity be added to carton labels or circulars for these products. Either a statement indicating corneal opacity may occur following the administration of the product or one indicating corneal opacity has not been associated with the use of the product is required.

On August 7, 1979, a notice of the proposed rulemaking was published in the *Federal Register* at 44 FR 46290.

Comments were solicited and four responses were received. One response was favorable to the proposal as written. One response suggested that the word "transient" be deleted from the statement "Occasionally transient corneal opacity may occur following the administration of this product," since permanent corneal opacity may develop in dogs due to natural infection with virulent hepatitis virus or other secondary bacterial organisms coincidental to the use of such products. This suggestion was rejected, since the intent of the statement is to indicate the possible adverse reactions that may occur that are directly due to the use of the product. Corneal opacities associated with the use of these vaccines are generally considered to be transient in nature; therefore, the proposed statement is considered to be more appropriate. Licensees may provide additional information in their labeling concerning the various other etiologies of corneal opacity if they so desire.

One response supported the statement indicating that transient corneal opacities may occur, but objected to the provision that data may be submitted to demonstrate that the use of some of these products is not associated with the development of corneal opacity. To require all licensees of this product to add a statement that the development of corneal opacity is associated with the use of their product would be arbitrary and could result in inaccurate or false labeling for some products. This suggestion was, therefore, rejected since it would not accomplish the purpose of providing label information that is complete and accurate concerning the characteristics of these products.

One response stated that the proposal was acceptable but made the suggestion that, in the case of products that are not associated with the development of corneal opacity, no statement be required on the labeling, since such was not considered to be necessary. It was intended in the proposed rulemaking that the issue of corneal opacity be addressed in the labeling of all modified live virus products intended for the prevention of canine hepatitis, so that the user would be more completely informed when selecting a product for use. The lack of any statement on the labels of some products with respect to opacity was not considered to be effective enough to accomplish this purpose.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice, is hereby adopted with the following exceptions:

1. The spelling of "bear" has been corrected.

2. In the last sentence, the word "such" has been deleted and "may" has been changed to "shall."

Section 112.7 is amended by adding paragraph (m) to read:

**§ 112.7 Special additional requirements.**

(m) In the case of a biological product containing modified live canine hepatitis virus or modified live canine adenovirus type 2, the carton label or enclosure shall bear the following statement: "Occasionally transient corneal opacity may occur following the administration of this product." *Provided*, That, if acceptable data have been filed with Veterinary Services to indicate that the development of corneal opacity is not

associated with the use of a product, the following alternate statement shall be used: "Data indicate that the development of corneal opacity is not associated with the use of this product."

(21 U.S.C. 151 and 154; 37 FR 28477, 28648; 38 FR 19141.)

Done at Washington, D.C., this 3rd day of December 1979.

Note.—This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-37818 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-34-M

**9 CFR Part 112**

**Certain Desiccated Poultry Vaccines; Revised Packaging Requirements**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises the packaging requirements in § 112.8 of the regulations to permit the diluent for certain desiccated poultry vaccines to be packaged and shipped separately from the vaccine under certain conditions.

This revision is a relaxation of the present requirement. Its purpose is to permit the marketing of new diluent packaging systems for use with poultry vaccines that are intended to be administered individually to birds using automatic vaccinating equipment.

**EFFECTIVE DATE:** This amendment becomes effective January 10, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

**SUPPLEMENTARY INFORMATION:**

Regulations concerning the packaging of desiccated vaccines in § 112.6 presently require that each final container of desiccated biological product, except Marek's Disease Vaccine, be packaged in a carton with an accompanying container of diluent, if such is required for rehydration of the product before administration.

An exception to this requirement was provided for Marek's Disease Vaccine because of the special handling and

packaging that are required for marketing.

A new diluent container has been developed that provides a "closed system" for the rehydration and administration of products. This system is specifically applicable to poultry vaccines that are administered individually to birds using automatic vaccinating equipment. It is the opinion of the Department that the concept of a "closed system" for rehydration and administration of these vaccines has merit, as it will minimize the amount of bacterial contamination often encountered when using the systems that are presently available.

Because of transportation and packaging problems, however, the marketing of this new diluent container for the "closed system" is not economically feasible if it must shipped together with the vaccine.

The purpose of this amendment is to facilitate the introduction of this new development by revising the present packaging requirements to permit diluent for desiccated poultry vaccines intended to be administered individually to birds using automatic vaccinating equipment to be packaged and shipped separately from the vaccine.

Although diluent is permitted to be shipped separately, this amendment still requires that the proper amount of diluent necessary for rehydration of the vaccine be provided to the user.

On August 7, 1979, notice of proposed rulemaking was published in the *Federal Register* at 44 FR 46290.

Comments on this proposal were solicited and three responses were received. All three of these responses favored the proposal as written.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted.

Section 112.6 is amended by revising paragraph (a) and by adding paragraph (f) to read:

**§ 112.6 Packaging desiccated products.**

(a) Except as prescribed in paragraphs (e) and (f) of this section and § 112.8, each final container of a desiccated biological product, produced by a licensee or a subsidiary, or presented for importation by a permittee, shall be packaged in a carton with an accompanying container of diluent if

such diluent is required for rehydration of the product before administration.

(f) Diluent for desiccated poultry vaccines to be administered individually to birds using automatic vaccinating equipment shall be prepared and labeled in accordance with the regulations, except that such diluent need not be packaged in the same carton with the vaccine for shipment, in which case the licensee shall provide the proper amount of diluent to the user. (21 U.S.C. 151 and 154, 37 FR 28477, 28648; 38 FR 19141.)

Done at Washington, D.C., this 3rd day of December 1979.

Note.—This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-37817 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-34-M

**9 CFR Part 113**

**Revision of Erysipelothrix Rhusiopathiae Bacterin Potency Test**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises the potency test in the standard requirement for *Erysipelothrix Rhusiopathiae* Bacterin by amending the test procedures for 2 ml dose products and by amending the statistical method that is used to judge the validity of test results. The procedure for interpretation of test results is also amended.

When serials of bacterin with very high potency are tested by the present standard requirement, the test is often judged to be invalid because of the statistical procedure that is used. This amendment provides a simplified statistical procedure for judging test validity which is considered to be more appropriate for this purpose and which eliminates the need for retesting that occurs when serials of product are tested.

**EFFECTIVE DATE:** This amendment becomes effective January 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS,



Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

**SUPPLEMENTARY INFORMATION:** The present standard requirement for Erysipelothrix Rhusiopathiae Bacterin contains a potency test that consists of a vaccination-challenge test which is conducted in mice. In this test, the number of mice protected by the test bacterin is compared to the number of mice protected by a standard reference bacterin. Before such comparisons can be made, however, test data must be evaluated to determine if the results are statistically valid. The statistical procedure that is used for this determination in the present standard is complex and does not provide the flexibility that is needed to make a proper determination when the potency of the test bacterin greatly exceeds the potency of the standard reference bacterin. When such products are tested, results are often determined to be statistically invalid although the products should be considered to be satisfactory. Since a product must be shown to be satisfactory through valid test data before it is released for marketing, numerous retests are often required. This amendment simplifies the statistical procedures used to determine the validity of test results and provides a procedure which is more appropriate. This new procedure provides for a valid evaluation of results when a very high potency product is tested and thus avoids the unnecessary retesting that occurs when using the present procedure. Some editorial changes are also made to update the interpretation of results for this test so that they are consistent with the validity test procedures.

The present standard requirement requires that bacterins with a 2 ml recommended dose for swine be diluted 1:2.5 with physiological saline solution and then tested the same as bacterins with a 5 ml recommended dose. This amendment revises this procedure and requires that a mouse dose for the test be 1/10 of the least dose recommended on the label for swine. This new procedure eliminates unnecessary dilution of 2 ml dose products and provides for more valid and consistent test results.

On August 3, 1979, a notice of proposed rulemaking was published in the Federal Register at 44 FR 45635.

Comments were solicited and three responses were received, all of which were favorable to the proposal as written. Two of the responses contained a suggestion that was considered appropriate and constructive. This

suggestion has been incorporated in this final rule and is explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice, is hereby adopted with the following exceptions:

Since the results of the test involved in this rulemaking are determined by comparing the total number of surviving mice treated with the Standard with the total number of surviving mice treated with the Unknown, the number of mice used to initiate the test can influence the final test result. Paragraph (d)(2) has, therefore, been amended by changing "at least 16 mice" to "16 mice." This change standardizes the number of mice to be used for the test and provides a more uniform and valid test procedure.

Section 113.104 is amended by revising the introductory portion of paragraphs (d)(1), (d)(2), (d)(4), and (d)(5) and deleting subparagraphs (d)(4)(i), (ii), (iii), (iv), and (v) to read:

**§ 113.104 Erysipelothrix Rhusiopathiae Bacterin.**

(d) \* \* \*

(1) A mouse dose in this test shall be 1/10 of the least dose recommended on the label for swine. Such swine dose shall not be less than 1 ml. At least three threefold dilutions shall be made with the Unknown. Dilutions shall be made with physiological saline solution.

(2) For each dilution of the Standard and each dilution of the Unknown, a group of 16 mice, each weighing 16 to 20 grams, shall be used. Each mouse in a group shall be injected subcutaneously with one mouse dose of the appropriate dilution.

(4) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(5) Determine the total number of surviving mice in three consecutive dilutions of the Standard that satisfy validity require requirements of subparagraph (4). Determine the total number of surviving mice in the same three dilutions of the Unknown. If the total number of survivors for the

Standard exceeds the total number of survivors for the Unknown by a number greater than six, the Unknown is unsatisfactory.

(21 U.S.C. 151 and 154, 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 5th day of December 1979.

**Note.**—This final rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 79-37961 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-34-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[Docket No. 9115]

#### George's Radio & Television Company, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Final order.

**SUMMARY:** This order, among other things, requires a Washington, D.C. retailer of furniture and home appliances to cease failing to properly designate written warrantees; clearly identify in written warrantees the product, parts, components, and properties covered or excluded; the items or services furnished by the warrantor; and a statement advising that the warrantee provides purchasers with specific legal rights. The firm must make the text of written warrantees readily available to prospective purchasers prior to sale; and conspicuously post signs advising consumers that all warrantees are not the same, and that written warrantees are available for their review. Additionally, the firm is required to instruct its employees as to their obligations under the law, and to institute a surveillance program designed to detect violations of the order.

**DATES:** Complaint issued July 25, 1978. Final order issued November 7, 1979.<sup>1</sup>

<sup>1</sup> Copies of the Complaint, Initial Decision and Final Order filed with the original document.

**FOR FURTHER INFORMATION CONTACT:** FTC/PR, Michael E.K. Mpras, Washington, D.C. 20580. (202) 523-1642.

**SUPPLEMENTARY INFORMATION:** In the Matter of George's Radio and Television Company, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-75 Warranties. Subpart-Failing To Comply With Affirmative Statutory Requirements: § 13.1048 Failing to comply with affirmative statutory requirements; 13.1048-35 Magnuson-Moss Warranty Act. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-55 Magnuson-Moss Warranty Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190 [15 U.S.C. 2310])

The Final Order, including further order requiring report of compliance therewith, is as follows:

[Docket No. 9115]

#### George's Radio & Television Co. Inc.

##### Final Order

This matter has been heard by the Commission upon the appeal of complaint counsel from the initial decision and upon complaint counsel's brief in support of its appeal. The parties submitted a joint motion to waive oral argument, which was granted. Complaint counsel have argued only for certain modifications in the order recommended by the administrative law judge, and respondent's counsel has stated in writing that respondent agrees to the proposed order and does not oppose complaint counsel's appeal.

The Commission has granted complaint counsel's appeal, because we believe the violations established in the record warrant the modifications in the order that complaint counsel have proposed. These include specific requirements for the manner of implementing a binder system and affirmative disclosures about warranties, both on signs to be posted in the stores and in the warranties themselves. These requirements, and the others hereby imposed, are necessary to ensure compliance with the Magnuson-Moss Warranty Act ("Warranty Act") (15 U.S.C. 2301 *et seq.*), as implemented

by the Commission's Rule on the Disclosure of Written Consumer Product Warranty Terms and Conditions ("Disclosure Rule") (16 CFR Part 701), and the Commission's Rule on Pre-Sale Availability of Written Warranty Terms ("Pre-Sale Rule") (16 CFR part 702), and with Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45). Therefore,

*It is ordered,* That the initial decision of the administrative law judge be adopted as Findings of fact and Conclusions of Law of the Commission, except for the last two sentences on page 16, the first paragraph on page 17, and the last sentence of each of the following findings: 39, 49.

*It is further ordered,* That the following order to cease and desist be entered:

##### Order

###### I. Definitions

For the purpose of this Order the definitions of the terms "consumer product" and "written warranty" as defined in section 101 of the Warranty Act shall apply. The definition of the term "binder" as defined in § 702.1(g) of the Pre-Sale Rule shall apply.

###### II.

*It is ordered,* That respondent George's Radio and Television Co., Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or indirectly, through any corporation, subsidiary, division or any other device in connection with the advertising, offering for sale and sale of appliances, furniture and any other merchandise and services, do forthwith cease and desist from:

1. Offering or granting a written warranty upon consumer products actually costing the consumer in excess of \$10.00 which is not clearly and conspicuously designated exclusively as either a "full (statement of duration) warranty" or a "limited warranty."

2. Offering or granting a written warranty upon consumer products actually costing the consumer in excess of \$15.00, which fails to clearly and conspicuously disclose, in a single document, in simple and readily understood language, the following items of information:

(a) A clear description and identification of products, parts, characteristics, components or properties covered by, and where necessary for clarification excluded from, the warranty. For purposes of this paragraph, identification of products shall be by brand name, except, if

respondent offers the identical warranty on all brands of a particular product it sells, then a statement to that effect will be sufficient identification of the products covered;

(b) A statement of what the warrantor will do in the event of a defect, malfunction or failure to comply with the written warranty, including the items or services the warrantor will pay for or provide, and where necessary for clarification, those which the warrantor will not pay for or provide;

(c) The point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of warranty duration. If the warranty runs concurrently with the warranty offered by the manufacturer, then that fact shall be disclosed in simple and readily understood language on the face of the warranty document;

(d) A statement in the following language:

This warranty is offered by [name of respondent]. Compare this with the warranty offered by the manufacturer.

This statement shall be the first paragraph of any warranty offered by respondent and shall be printed in bold face type;

(e) A statement in the following language:

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

3. Failing to make available for the prospective buyer's review, prior to sale, the text of any written warranty offered or granted by the respondent.

4. Failing to make available for the prospective buyer's review, prior to sale, the text of any written warranties offered or granted by the manufacturers of consumer products sold by respondent.

5. Choosing to implement a binder system to satisfy the requirements of Paragraphs 3 and 4 above unless the binder system includes, at a minimum, one binder located in each department of the retail outlet, and such binder includes at least one copy of each written warranty applicable to consumer products sold in that particular department.

6. Choosing to implement a binder system to satisfy the requirements of Paragraphs 3 and 4 above unless, in implementing a binder system, respondent:

(a) Provides the prospective buyer with ready access to such binder system;

(b)(1) Displays the binders in a manner reasonably calculated to elicit the prospective buyer's attention or



(2) (A) Make such binder available to prospective buyers upon request, and (B) Places signs reasonably calculated to elicit the prospective buyer's attention in prominent locations within each store, advising such prospective buyers of the availability of binders, including instructions for obtaining access;

(c) Indexes such binders according to product; and

(d) Clearly entitles such binders as "Warranties" or other similar title.

*It is further ordered*, That respondent:

A. Post a sign, with approximate minimum dimensions of two feet (length) by two feet (width), with the following information printed in black against a solid white background:

**Important!**

Not all warranties are the same. You can see manufacturers' warranties and store warranties before you buy. Please ask.

B. Post the sign describe in Paragraph A. above:

(1) In a manner reasonably calculated to elicit the prospective buyer's attention;

(2) For a period of not less than two years from the effective date of the order;

(3) In each department of its retail outlets that sells consumer products costing over \$15.00 and carrying a written warranty;

(4) In a uniform manner; and

(5) Printed as follows:

(i) The word "Important!" shall serve as the title of the notice and shall be printed in capital letters in 42 point boldface type followed by an exclamation mark.

(ii) The next phrase shall be printed on a separate line in capital letters and in 42 point boldface type.

(iii) The next two phrases shall be printed on a separate line and in 24 point medium face type.

C. Deliver a copy of this order to cease and desist to all present and future salesperson, store managers and other representatives engaged in the direct sale of consumer products to consumers on behalf of respondent and secure a signed statement acknowledging receipt of this order from each such person.

D. Instruct, in writing, all present and future salesperson, store managers and other representatives engaged in the direct sale of consumer products to consumers on behalf of respondent as to their specific obligations and duties under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 *et seq.*), all present and future implementing Rules promulgated under

the Act and the order, and secure a signed statement acknowledging receipt of the written instructions from each such person.

E. Institute a program of continuing surveillance to reveal whether respondent's salesmen, store managers, and other representatives engaged in the direct sale of consumer products to consumers are engaged in practices which violate this order.

F. Maintain, for a period of not less than three (3) years from the effective date of the order, complete business records, including but not limited to, records described in Paragraphs C. and D. above, to be furnished upon request to the staff of the Federal Trade Commission, relating to the manner and form of its continuing compliance with the terms and provisions of this order.

G. Notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

H. File with the Commission, within sixty (60) days after service upon it of this order, a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission. Commissioner Bailey did not participate.

**Synopsis of Determinations for 15 U.S.C. § 45 (m)(1)(B), George's Radio and Television Company, Inc., Docket No. 9115**

1. It is an unfair or deceptive act or practice and a violation of section 103 of the Magnuson-Moss Warranty Act (15 U.S.C. 2303), and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to offer or grant a written warranty on consumer products which cost the consumer more than \$10.00, if such warranty is not clearly and conspicuously designated exclusively as either a "full (statement of duration) warranty" or a "limited warranty".

2. It is an unfair or deceptive act or practice and a violation of the Rule on Disclosure of Written Consumer Product Warranty Terms and Conditions, ("Warranty Disclosure Rule") (16 CFR Part 701) and section 5 of the Federal Trade Commission Act to offer or grant a written warranty on consumer products which cost the consumer more than \$15.00 if such warranty fails to disclose, in a single document, in simple and readily understood language, the following items of information:

(a) A clear description and identification of products, parts, characteristics, components or properties covered by, and, where necessary for clarification, those excluded from, the warranty, as set forth in § 701.3(a)(2) of the Warranty Disclosure Rule;

(b) A statement of what the warrantor will do in the event of a defect, malfunction or failure to comply with the written warranty, including the items or services the warrantor will pay for or provide, and where necessary for clarification, those which the warrantor will not pay for or provide, as set forth in § 701.3(a)(3) of the Warranty Disclosure Rule;

(c) The point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of warranty duration, as set forth in § 701.3(a)(4) of the Warranty Disclosure Rule;

(d) A statement in the following language:

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state, as set forth in § 701.3(a)(9) of the Warranty Disclosure Rule.

3. It is an unfair or deceptive act or practice and a violation of § 702.3(a)(1) of the Rule on Pre-Sale Availability of Written Warranty Terms ("Pre-Sale Rule") (16 CFR 702.3(a)(1)) and section 5 of the Federal Trade Commission Act to fail to make available for the prospective buyer's review, prior to sale, the text of any written warranty offered on consumer products which cost the consumer more than \$15.00.

4. It is an unfair or deceptive act or practice and a violation of § 702.3(a)(1)(ii) of the Pre-Sale Rule (16 CFR 702.3(a)(1)(ii)) and section 5 of the FTC Act to implement a binder system, in satisfying the obligation to make available for the prospective buyer's review, prior to sale, the text of the manufacturer's written warranty terms, unless the binder system includes, at a minimum, one binder located in each department of the retail outlet, and such binder includes at least one copy of each written warranty applicable to consumer products sold in that particular department.

5. It is an unfair or deceptive act or practice and a violation of § 702.3(a)(1)(ii) of the Pre-Sale Rule (16 CFR 702.3(a)(1)(ii)) and section 5 of the FTC Act to implement a binder system, in satisfying the obligation to make available for the prospective buyer's review, prior to sale, the text of the manufacturer's written warranty terms, unless the seller:

(a) Provides prospective buyers with ready access to such binder(s);

(b)(1) Displays such binder(s) in a manner reasonably calculated to elicit the prospective buyer's attention; or

(2)(A) Makes the binder(s) available to the prospective buyers on request; and

(B) Places signs reasonably calculated to elicit the prospective buyer's attention in prominent locations within the store, advising such prospective buyers of the availability of the binder(s), including instructions for obtaining access;

(c) Indexes such binder(s) according to product or warrantor; and

(d) Clearly entitles such binder(s) as "Warranties" or other similar title.

Carol M. Thomas,

Secretary.

[FR Doc. 79-37834 Filed 12-10-79; 8:45 am]

BILLING CODE 6750-01-M

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1500**

**Federal Hazardous Substances Act Labeling Requirements; Partial Grant of Enforcement Stay for Combustible Paint Products**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Grant of petition; partial stay of enforcement.

**SUMMARY:** The Commission partially grants a petition from the National Paint and Coatings Association (Petition HP 79-3) requesting that the requirement under the Federal Hazardous Substances Act that combustible paint products bear on their main panel a statement of the combustibility hazard be applied only to products manufactured after October 5, 1979. The request was granted only as to containers containing 1 pint or less. This action was taken because: (1) The statement of the combustibility is present on the containers in an area other than the main panel, (2) the cost of requiring relabeling does not seem to be justified by the benefit to consumers of having the warning on the main panel, and (3) the burden of correcting the labels could fall primarily on retailers and distributors rather than on the manufacturers who initially labeled the product.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission,

Washington, D.C. 20207; phone (301) 492-6400.

**SUPPLEMENTARY INFORMATION:** Section 2(f)(1)(A) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(f)(1)(A), defines the term "hazardous substance" to include any substance or mixture of substances that is "combustible." Under section 2(p)(1) of the act, a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is required to bear a label that includes an affirmative statement of the principal hazard or hazards (such as "Combustible"). The regulations issued under the act require that this affirmative statement of combustibility be placed on the main panel of the label (16 CFR 1500.121(a)).

Prior to the creation of the Consumer Product Safety Commission (CPSC), the Commissioner of Food and Drugs administered the Federal Hazardous Substances Act. In 1971, the National Paint and Coatings Association petitioned the Food and Drug Administration (FDA) for an exemption from the FHSA front panel labeling requirement for combustible paint products. This request was not acted on before the CPSC was created, but the FDA informally suspended enforcement of the requirement while the petition was being considered. After responsibility for administering the FHSA was transferred to the Consumer Product Safety Commission, NPCA again petitioned for this exemption on May 17, 1974. On March 23, 1976, the NPCA amended the petition to request the exemption only for those products having viscosities greater than 150 Saybolt-Universal Seconds at 100°F. On October 6, 1977, the Commission voted to deny the petition for exemption. However, in order to avoid any unnecessary burden on manufacturers and to assure that all affected companies would have sufficient time to bring their products into compliance, the Commission decided to delay enforcement of the requirement as to these products for 24 months from the date of the petition's denial. This means that all combustible paint products in the chain of distribution on October 6, 1979, would have been required to bear on their main panel a statement of the combustibility hazard.

On July 23, 1979, the Commission received a petition from NPCA requesting that the statement of policy be modified so that only products manufactured on or after October 6, 1979, would be subject to enforcement, rather than all products in the chain of distribution on October 6, 1979.

Alternatively, NPCA requested that enforcement be delayed until 90 days after December 29, 1979, or action on the petition, whichever is later. NPCA stated that although paint manufacturers would be able to comply with the requirement by October 6, 1979, as to current production, changeover of all products in the chain of distribution was a considerably greater task than had been anticipated. NPCA argued that to attempt to bring the relatively small number of remaining noncomplying products into compliance (by overprinting or affixing a sticker label to the main panel of noncomplying products) would be an economic hardship and administrative burden on manufacturers, distributors, and retailers. The problem was described as most acute in the smaller sizes of containers which remain in the chain of distribution longer than larger size containers.

After considering the petition in light of the factors specified in the Commission's regulations governing consideration of emergency exemption requests (16 CFR 1009.9), the Commission concluded that some relief was appropriate because: (1) The statement of the combustibility is present on the containers in an area other than the main panel, (2) the cost of requiring relabeling does not seem to be justified by the benefit to consumers of having the warning on the main panel, and (3) the burden of correcting the labels could fall primarily on retailers and distributors rather than on the manufacturers who initially labeled the product. Accordingly, the Commission decided not to enforce the requirement for front panel labeling of the combustibility hazard of paint products in sizes of 1 pint or less that are manufactured before October 6, 1979.

This relief is not extended to those products that would be deemed to be "flammable" or "extremely flammable" under the FHSA.

The relief was also not extended to containers larger than 1 pint since fewer of these larger sizes remain in the marketplace and since the hazard from the combustible nature of the product would be greater for the larger size containers.

**Conclusion**

Therefore, the Commission announces that the front panel labeling requirement for the hazard of combustibility will not be enforced as to paint products in containers of 1 pint or less that are manufactured before October 6, 1979.



Dated: December 5, 1979.

Sadye E. Dunn,  
Secretary, Consumer Product Safety  
Commission.

[FR Doc. 79-37951 Filed 12-10-79; 8:45 am]  
BILLING CODE 6355-01-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

21 CFR Parts 510, 520, 522, 526, and  
558

### Animal Drugs, Feeds, and Related Products—Norwich-Eaton Pharmaceuticals; Change of Sponsor Name

#### Correction

In FR Doc. 79-35981, published on  
page 67113, on Friday, November 23,  
1979, in the third column, in  
§ 510.600(c)(2) reads:

"Firm Name, Address and Drug Labeler Code

Norwich-Eaton Pharmaceuticals, Division of  
Morton-Norwich Products, Inc., P.O. Box  
191, Norwich, NY 13815—000149".

Should be corrected to read:

"Drug Labeler Code, Firm Name and Address

000149—Norwich-Eaton Pharmaceuticals,  
Division of Morton-Norwich Products, Inc.,  
P.O. Box 191, Norwich, NY 13815.

BILLING CODE 1505-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Government National Mortgage Association

24 CFR Part 300

[Docket No. R-79-751]

#### List of Attorneys-in-Fact

AGENCY: Department of Housing and  
Urban Development.

ACTION: Final rule.

**SUMMARY:** This amendment updates the  
current list of attorneys-in-fact by  
amending paragraph (c) of 24 CFR  
300.11. These attorneys-in-fact are  
authorized to act for the Association by  
executing documents in its name in  
conjunction with servicing GNMA's  
mortgage purchase programs, all as  
more fully described in paragraph (a) of  
24 CFR 300.11.

**EFFECTIVE DATE:** February 6, 1980.

**ADDRESSES:** Rules Docket Clerk, Office  
of General Counsel, Room 5218,  
Department of Housing and Urban  
Development, 451 7th Street SW.,  
Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. William J. Linane, Office of General  
Counsel, on (202) 755-7186.

**SUPPLEMENTARY INFORMATION:** Notice  
and public procedure on this  
amendment are unnecessary and  
impracticable because of the large  
volume of legal documents that must be  
executed on behalf of the Association.

### Part 300—GENERAL

#### § 300.11 [Amended]

1. Paragraph (c) of § 300.11 is  
amended by adding the following names  
to the current list of attorneys-in-fact:

##### Name and region

Barbara Berry—Atlanta, Georgia.  
Fran Cusmus—Dallas, Texas.  
Susan T. Smith—Dallas, Texas.

2. Paragraph (c) of § 300.11 is  
amended by deleting the following  
names from the current list of attorneys-  
in-fact:

##### Name and region

S. C. Crabb—Dallas, Texas.  
Michael C. Parker—Dallas, Texas.  
(Sec. 309(d), National Housing Act, 12 U.S.C.  
1723a(d); and sec. 7(d), Department of  
Housing and Urban Development Act (42  
U.S.C. 3535(d)))

Issued at Washington, D.C., November 30,  
1979.

R. Frederick Taylor,  
Executive Vice President, Government  
National Mortgage Association.

[FR Doc. 79-37897 Filed 12-10-79; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 300

[Docket No. R-79-752]

#### List of Attorneys-in-Fact

AGENCY: Department of Housing and  
Urban Development.

ACTION: Final rule.

**SUMMARY:** This amendment updates the  
current list of attorneys-in-fact by  
amending paragraph (c) of 24 CFR  
300.11. These attorneys-in-fact are  
authorized to act for the Association by  
executing documents in its name in  
conjunction with servicing GNMA's  
mortgage purchase programs, all as  
more fully described in Paragraph (a) of  
24 CFR 300.11.

**EFFECTIVE DATE:** February 6, 1980.

**ADDRESSES:** Rules Docket Clerk, Office  
of General Counsel, Room 5218,

Department of Housing and Urban  
Development, 451 7th Street, SW.,  
Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. William J. Linane, Office of General  
Counsel, on (202) 755-7186.

**SUPPLEMENTARY INFORMATION:** Notice  
and public procedure on this  
amendment are unnecessary and  
impracticable because of the large  
volume of legal documents that must be  
executed on behalf of the Association.

### § 300.11 [Amended]

1. Paragraph (c) of § 300.11 is  
amended by adding the following name  
to the current list of attorneys-in-fact:

| Name                    | Region       |
|-------------------------|--------------|
| Robert L. Smithers, Jr. | Dallas, Tex. |

(Sec. 309(d), National Housing Act, 12 U.S.C.  
1723a(d), sec. 7(d), Department of Housing  
and Urban Development Act, (42 U.S.C.  
3535(d)))

Issued at Washington, D.C., November 30,  
1979.

R. Frederick Taylor,  
Executive Vice President, Government  
National Mortgage Association.

[FR Doc. 79-37896 Filed 12-10-79; 8:45 am]

BILLING CODE 4210-01-M

## POSTAL SERVICE

39 CFR Part 601

### Procurement of Property and Services; Amendments to Postal Contracting Manual on Cleaning Services Contracts

AGENCY: Postal Service.

ACTION: Final rule

**SUMMARY:** The Postal Service announces  
the establishment of a uniform policy for  
entering into and administering cleaning  
services contracts. New, revised, or  
replacement forms for such contracts  
have been included in the Manual.

**EFFECTIVE DATE:** October 28, 1979.

**FOR FURTHER INFORMATION CONTACT:**  
William J. Jones, (202) 245-4603.

**SUPPLEMENTARY INFORMATION:** The  
Postal Contracting Manual, which has  
been incorporated by reference in the  
Federal Register (see CFR 601.100), has  
been amended by the issuance of  
Transmittal Letter 29, dated Septem-  
ber 28, 1979.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office for Civil Rights

#### Office of the Secretary

45 CFR Part 86

### Title IX of the Education Amendments of 1972; a Policy Interpretation; Title IX and Intercollegiate Athletics

AGENCY: Office for Civil Rights, Office of  
the Secretary, HEW.

ACTION: Policy interpretation.

**SUMMARY:** The following Policy  
Interpretation represents the  
Department of Health, Education, and  
Welfare's interpretation of the  
intercollegiate athletic provisions of  
Title IX of the Education Amendments  
of 1972 and its implementing regulation.  
Title IX prohibits educational programs  
and institutions funded or otherwise  
supported by the Department from  
discriminating on the basis of sex. The  
Department published a proposed Policy  
Interpretation for public comment on  
December 11, 1978. Over 700 comments  
reflecting a broad range of opinion were  
received. In addition, HEW staff visited  
eight universities during June and July,  
1979, to see how the proposed policy  
and other suggested alternatives would  
apply in actual practice at individual  
campuses. The final Policy  
Interpretation reflects the many  
comments HEW received and the results  
of the individual campus visits.

**EFFECTIVE DATE:** December 11, 1979

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#### SUPPLEMENTARY INFORMATION:

##### I. Legal Background

##### A. The Statute

Section 901(a) of Title IX of the  
Education Amendments of 1972  
provides:

No person in the United States shall, on the  
basis of sex, be excluded from participation,  
in, be denied the benefits of, or be subjected  
to discrimination under any education  
program or activity receiving Federal  
financial assistance.

Section 844 of the Education  
Amendments of 1974 further provides:

The Secretary of (of HEW) shall prepare  
and publish . . . proposed regulations  
implementing the provisions of Title IX of the  
Education Amendments of 1972 relating to  
the prohibition of sex discrimination in  
federally assisted education programs which  
shall include with respect to intercollegiate  
athletic activities reasonable provisions  
considering the nature of particular sports.

Congress passed Section 844 after the  
Conference Committee deleted a Senate  
floor amendment that would have  
exempted revenue-producing athletics  
from the jurisdiction of Title IX.

##### B. The Regulation

The regulation implementing Title IX  
is set forth, in pertinent part, in the  
Policy Interpretation below. It was  
signed by President Ford on May 27,  
1975, and submitted to the Congress for  
review pursuant to Section 431(d)(1) of  
the General Education Provisions Act  
(GEPA).

During this review, the House  
Subcommittee on Postsecondary  
Education held hearings on a resolution  
disapproving the regulation. The  
Congress did not disapprove the  
regulation within the 45 days allowed  
under GEPA, and it therefore became  
effective on July 21, 1975.

Subsequent hearings were held in the  
Senate Subcommittee on Education on a  
bill to exclude revenues produced by  
sports to the extent they are used to pay  
the costs of those sports. The  
Committee, however, took no action on  
this bill.

The regulation established a three  
year transition period to give institutions  
time to comply with its equal athletic  
opportunity requirements. That  
transition period expired on July 21,  
1978.

##### II. Purpose of Policy Interpretation

By the end of July 1978, the  
Department had received nearly 100  
complaints alleging discrimination in  
athletics against more than 50  
institutions of higher education. In  
attempting to investigate these  
complaints, and to answer questions  
from the university community, the  
Department determined that it should  
provide further guidance on what  
constitutes compliance with the law.  
Accordingly, this Policy Interpretation  
explains the regulation so as to provide  
a framework within which the  
complaints can be resolved, and to  
provide institutions of higher education  
with additional guidance on the  
requirements for compliance with Title  
IX in intercollegiate athletic programs.

##### III. Scope of Application

This Policy Interpretation is designed  
specifically for intercollegiate athletics.  
However, its general principles will  
often apply to club, intramural, and  
interscholastic athletic programs, which  
are also covered by regulation.<sup>1</sup>

<sup>1</sup> The regulation specifically refers to club sports  
separately from intercollegiate athletics.  
Accordingly, under this Policy Interpretation, club  
Footnotes continued on next page



Accordingly, the Policy Interpretation may be used for guidance by the administrators of such programs when appropriate.

This policy interpretation applies to any public or private institution, person or other entity that operates an educational program or activity which receives or benefits from financial assistance authorized or extended under a law administered by the Department. This includes educational institutions whose students participate in HEW funded or guaranteed student loan or assistance programs. For further information see definition of "recipient" in Section 86.2 of the Title IX regulation.

#### IV. Summary of Final Policy Interpretation

The final Policy Interpretation clarifies the meaning of "equal opportunity" in intercollegiate athletics. It explains the factors and standards set out in the law and regulation which the Department will consider in determining whether an institution's intercollegiate athletics program complies with the law and regulations. It also provides guidance to assist institutions in determining whether any disparities which may exist between men's and women's programs are justifiable and nondiscriminatory. The Policy Interpretation is divided into three sections:

- **Compliance in Financial Assistance (Scholarships) Based on Athletic Ability:** Pursuant to the regulation, the governing principle in this area is that all such assistance should be available on a substantially proportional basis to the number of male and female participants in the institution's athletic program.

- **Compliance in Other Program Areas (Equipment and supplies; games and practice times; travel and per diem; coaching and academic tutoring; assignment and compensation of coaches and tutors; locker rooms, and practice and competitive facilities; medical and training facilities; housing and dining facilities; publicity; recruitment; and support services):** Pursuant to the regulation, the governing principle is that male and female athletes should receive equivalent treatment, benefits, and opportunities.

- **Compliance in Meeting the Interests and Abilities of Male and Female Students:** Pursuant to the regulation, the governing principle in this area is that the athletic interests

and abilities of male and female students must be equally effectively accommodated.

#### V. Major Changes to Proposed Policy Interpretation

The final Policy Interpretation has been revised from the one published in proposed form on December 11, 1978. The proposed Policy Interpretation was based on a two-part approach. Part I addressed equal opportunity for participants in athletic programs. It required the elimination of discrimination in financial support and other benefits and opportunities in an institution's existing athletic program. Institutions could establish a presumption of compliance if they could demonstrate that:

- "Average per capita" expenditures for male and female athletes were substantially equal in the area of "readily financially measurable" benefits and opportunities or, if not, that any disparities were the result of nondiscriminatory factors, and
- Benefits and opportunities for male and female athletes, in areas which are not financially measurable, "were comparable."

Part II of the proposed Policy Interpretation addressed an institution's obligation to accommodate effectively the athletic interests and abilities of women as well as men on a continuing basis. It required an institution either:

- To follow a policy of development of its women's athletic program to provide the participation and competition opportunities needed to accommodate the growing interests and abilities of women, or
- To demonstrate that it was effectively (and equally) accommodating the athletic interests and abilities of students, particularly as the interests and abilities of women students developed.

While the basic considerations of equal opportunity remain, the final Policy Interpretation sets forth the factors that will be examined to determine an institution's actual, as opposed to presumed, compliance with Title IX in the area of intercollegiate athletics.

The final Policy Interpretation does not contain a separate section on institutions' future responsibilities. However, institutions remain obligated by the Title IX regulation to accommodate effectively the interests and abilities of male and female students with regard to the selection of sports and levels of competition available. In most cases, this will entail development of athletic programs that substantially expand opportunities for

women to participate and compete at all levels.

The major reasons for the change in approach are as follows:

(1) Institutions and representatives of athletic program participants expressed a need for more definitive guidance on what constituted compliance than the discussion of a presumption of compliance provided. Consequently the final Policy Interpretation explains the meaning of "equal athletic opportunity" in such a way as to facilitate an assessment of compliance.

(2) Many comments reflected a serious misunderstanding of the presumption of compliance. Most institutions based objections to the proposed Policy Interpretation in part on the assumption that failure to provide compelling justifications for disparities in per capita expenditures would have automatically resulted in a finding of noncompliance. In fact, such a failure would only have deprived an institution of the benefit of the presumption that it was in compliance with the law. The Department would still have had the burden of demonstrating that the institution was actually engaged in unlawful discrimination. Since the purpose of issuing a policy interpretation was to clarify the regulation, the Department has determined that the approach of stating actual compliance factors would be more useful to all concerned.

(3) The Department has concluded that purely financial measures such as the per capita test do not in themselves offer conclusive documentation of discrimination, except where the benefit or opportunity under review, like a scholarship, is itself financial in nature. Consequently, in the final Policy Interpretation, the Department has detailed the factors to be considered in assessing actual compliance. While per capita breakdowns and other devices to examine expenditures patterns will be used as tools of analysis in the Department's investigative process, it is achievement of "equal opportunity" for which recipients are responsible and to which the final Policy Interpretation is addressed.

A description of the comments received, and other information obtained through the comment/consultation process, with a description of Departmental action in response to the major points raised, is set forth at Appendix "B" to this document.

#### VI. Historic Patterns of Intercollegiate Athletics Program Development and Operations

In its proposed Policy Interpretation of December 11, 1978, the Department

published a summary of historic patterns affecting the relative status of men's and women's athletic programs. The Department has modified that summary to reflect additional information obtained during the comment and consultation process. The summary is set forth at Appendix A to this document.

#### VII. The Policy Interpretation

This Policy Interpretation clarifies the obligations which recipients of Federal aid have under Title IX to provide equal opportunities in athletic programs. In particular, this Policy Interpretation provides a means to assess an institution's compliance with the equal opportunity requirements of the regulation which are set forth at 45 CFR 86.37(c) and 86.41(c).

##### A. Athletic Financial Assistance (Scholarships)

1. **The Regulation**—Section 86.37(c) of the regulation provides:

[Institutions] must provide reasonable opportunities for such award [of financial assistance] for members of each sex in proportion to the number of students of each sex participating in . . . inter-collegiate athletics.<sup>2</sup>

2. **The Policy**—The Department will examine compliance with this provision of the regulation primarily by means of a financial comparison to determine whether proportionately equal amounts of financial assistance (scholarship aid) are available to men's and women's athletic programs. The Department will measure compliance with this standard by dividing the amounts of aid available for the members of each sex by the numbers of male or female participants in the athletic program and comparing the results. Institutions may be found in compliance if this comparison results in substantially equal amounts or if a resulting disparity can be explained by adjustments to take into account legitimate, nondiscriminatory factors. Two such factors are:

a. At public institutions, the higher costs of tuition for students from out-of-state may in some years be unevenly distributed between men's and women's programs. These differences will be considered nondiscriminatory if they are not the result of policies or practices which disproportionately limit the availability of out-of-state scholarships to either men or women.

b. An institution may make reasonable professional decisions concerning the awards most appropriate for program development. For example, team development initially may require

spreading scholarships over as much as a full generation (four years) of student athletes. This may result in the award of fewer scholarships in the first few years than would be necessary to create proportionality between male and female athletes.

3. **Application of the Policy**—a. This section does not require a proportionate number of scholarships for men and women or individual scholarships of equal dollar value. It does mean that the total amount of scholarship aid made available to men and women must be substantially proportionate to their participation rates.

b. When financial assistance is provided in forms other than grants, the distribution of non-grant assistance will also be compared to determine whether equivalent benefits are proportionately available to male and female athletes. A disproportionate amount of work-related aid or loans in the assistance made available to the members of one sex, for example, could constitute a violation of Title IX.

4. **Definition**—For purposes of examining compliance with this Section, the participants will be defined as those athletes:

a. Who are receiving the institutionally-sponsored support normally provided to athletes competing at the institution involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport's season; and

b. Who are participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and

c. Who are listed on the eligibility or squad lists maintained for each sport, or

d. Who, because of injury, cannot meet a, b, or c above but continue to receive financial aid on the basis of athletic ability.

##### B. Equivalence in Other Athletic Benefits and Opportunities

1. **The Regulation**—The Regulation requires that recipients that operate or sponsor interscholastic, intercollegiate, club, or intramural athletics, "provide equal athletic opportunities for members of both sexes." In determining whether an institution is providing equal opportunity in intercollegiate athletics, the regulation requires the Department to consider, among others, the following factors:

- (1)<sup>3</sup>
- (2) Provision and maintenance of equipment and supplies;

<sup>2</sup> 86.41(c) (1) on the accommodation of student interests and abilities, is covered in detail in the following Section C of this policy interpretation.

(3) Scheduling of games and practice times;

(4) Travel and per diem expenses;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training services and facilities;

(9) Provision of housing and dining services and facilities; and

(10) Publicity

Section 86.41(c) also permits the Director of the Office for Civil Rights to consider other factors in the determination of equal opportunity. Accordingly, this Section also addresses recruitment of student athletes and provision of support services.

This list is not exhaustive. Under the regulation, it may be expanded as necessary at the discretion of the Director of the Office for Civil Rights.<sup>4</sup>

2. **The Policy**—The Department will assess compliance with both the recruitment and the general athletic program requirements of the regulation by comparing the availability, quality and kinds of benefits, opportunities, and treatment afforded members of both sexes. Institutions will be in compliance if the compared program components are equivalent, that is, equal or equal in effect. Under this standard, identical benefits, opportunities, or treatment are not required, provided the overall effect of any differences is negligible.

If comparisons of program components reveal that treatment, benefits, or opportunities are not equivalent in kind, quality or availability, a finding of compliance may still be justified if the differences are the result of nondiscriminatory factors. Some of the factors that may justify these differences are as follows:

a. Some aspects of athletic programs may not be equivalent for men and women because of unique aspects of particular sports or athletic activities. This type of distinction was called for by the "Javits' Amendment"<sup>5</sup> to Title IX, which instructed HEW to make "reasonable (regulatory) provisions considering the nature of particular sports" in intercollegiate athletics.

Generally, these differences will be the result of factors that are inherent to the basic operation of specific sports. Such factors may include rules of play, nature/replacement of equipment, rates of injury resulting from participation,

<sup>4</sup> See also § 86.41(a) and (b) of the regulation.

<sup>5</sup> Section 844 of the Education Amendments of 1974, Pub. L. 93-380, Title VIII, (August 21, 1974) 88 Stat. 612.

Footnotes continued from last page  
teams will not be considered to be intercollegiate teams except in those instances where they regularly participate in varsity competition.



nature of facilities required for competition, and the maintenance/upkeep requirements of those facilities. For the most part, differences involving such factors will occur in programs offering football, and consequently these differences will favor men. If sport-specific needs are met equivalently in both men's and women's programs, however, differences in particular program components will be found to be justifiable.

b. Some aspects of athletic programs may not be equivalent for men and women because of legitimately sex-neutral factors related to special circumstances of a temporary nature. For example, large disparities in recruitment activity for any particular year may be the result of annual fluctuations in team needs for first-year athletes. Such differences are justifiable to the extent that they do not reduce overall equality of opportunity.

c. The activities directly associated with the operation of a competitive event in a single-sex sport may, under some circumstances, create unique demands or imbalances in particular program components. Provided any special demands associated with the activities of sports involving participants of the other sex are met to an equivalent degree, the resulting differences may be found nondiscriminatory. At many schools, for example, certain sports—notably football and men's basketball—traditionally draw large crowds. Since the costs of managing an athletic event increase with crowd size, the overall support made available for event management to men's and women's programs may differ in degree and kind. These differences would not violate Title IX if the recipient does not limit the potential for women's athletic events to rise in spectator appeal and if the levels of event management support available to both programs are based on sex-neutral criteria (e.g., facilities used, projected attendance, and staffing needs).

d. Some aspects of athletic programs may not be equivalent for men and women because institutions are undertaking voluntary affirmative actions to overcome effects of historical conditions that have limited participation in athletics by the members of one sex. This is authorized at § 86.3(b) of the regulation.

3. *Application of the Policy—General Athletic Program Components—*a. *Equipment and Supplies* (§ 86.41(c)(2)). Equipment and supplies include but are not limited to uniforms, other apparel, sport-specific equipment and supplies, general equipment and supplies,

instructional devices, and conditioning and weight training equipment.

Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) The quality of equipment and supplies;
- (2) The amount of equipment and supplies;
- (3) The suitability of equipment and supplies;
- (4) The maintenance and replacement of the equipment and supplies; and
- (5) The availability of equipment and supplies.

b. *Scheduling of Games and Practice Times* (§ 86.41(c)(3)). Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) The number of competitive events per sport;
- (2) The number and length of practice opportunities;
- (3) The time of day competitive events are scheduled;
- (4) The time of day practice opportunities are scheduled; and
- (5) The opportunities to engage in available pre-season and post-season competition.

c. *Travel and Per Diem Allowances* (§ 86.41(c)(4)). Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) Modes of transportation;
- (2) Housing furnished during travel;
- (3) Length of stay before and after competitive events;
- (4) Per diem allowances; and
- (5) Dining arrangements.

d. *Opportunity to Receive Coaching and Academic Tutoring* (§ 86.41(c)(5)).

(1) *Coaching*—Compliance will be assessed by examining, among other factors:

- (a) Relative availability of full-time coaches;
- (b) Relative availability of part-time and assistant coaches; and
- (c) Relative availability of graduate assistants.

(2) *Academic tutoring*—Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (a) The availability of tutoring; and
- (b) Procedures and criteria for obtaining tutorial assistance.

e. *Assignment and Compensation of Coaches and Tutors* (§ 86.41(c)(6)).<sup>6</sup> In

<sup>6</sup>The Department's jurisdiction over the employment practices of recipients under Subpart E, §§ 86.51–86.61 of the Title IX regulation has been successfully challenged in several court cases. Accordingly, the Department has suspended enforcement of Subpart E. Section 86.41(c)(6) of the regulation, however, authorizes the Department to

general, a violation of Section 86.41(c)(6) will be found only where compensation or assignment policies or practices deny male and female athletes coaching of equivalent quality, nature, or availability.

Nondiscriminatory factors can affect the compensation of coaches. In determining whether differences are caused by permissible factors, the range and nature of duties, the experience of individual coaches, the number of participants for particular sports, the number of assistant coaches supervised, and the level of competition will be considered.

Where these or similar factors represent valid differences in skill, effort, responsibility or working conditions they may, in specific circumstances, justify differences in compensation. Similarly, there may be unique situations in which a particular person may possess such an outstanding record of achievement as to justify an abnormally high salary.

(1) *Assignment of Coaches*—

Compliance will be assessed by examining, among other factors, the equivalence for men's and women's coaches of:

- (a) Training, experience, and other professional qualifications;
- (b) Professional standing.

(2) *Assignment of Tutors*—

Compliance will be assessed by examining, among other factors, the equivalence for men's and women's tutors of:

- (a) Tutor qualifications;
- (b) Training, experience, and other qualifications.

(3) *Compensation of Coaches*—

Compliance will be assessed by examining, among other factors, the equivalence for men's and women's coaches of:

- (a) Rate of compensation (per sport, per season);
- (b) Duration of contracts;
- (c) Conditions relating to contract renewal;
- (d) Experience;
- (e) Nature of coaching duties performed;
- (f) Working conditions; and
- (g) Other terms and conditions of employment.

(4) *Compensation of Tutors*—

Compliance will be assessed by examining, among other factors, the equivalence for men's and women's tutors of:

consider the compensation of coaches of men and women in the determination of the equality of athletic opportunity provided to male and female athletes. It is on this section of the regulation that this Policy Interpretation is based.

- (a) Hourly rate of payment by nature of subjects tutored;
- (b) Pupil loads per tutoring season;
- (c) Tutor qualifications;
- (d) Experience;
- (e) Other terms and conditions of employment.

f. *Provision of Locker Rooms, Practice and Competitive Facilities* (§ 86.41(c)(7)).

Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) Quality and availability of the facilities provided for practice and competitive events;
- (2) Exclusivity of use of facilities provided for practice and competitive events;
- (3) Availability of locker rooms;
- (4) Quality of locker rooms;
- (5) Maintenance of practice and competitive facilities; and
- (6) Preparation of facilities for practice and competitive events.

g. *Provision of Medical and Training Facilities and Services* (§ 86.41(c)(8)).

Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) Availability of medical personnel and assistance;
- (2) Health, accident and injury insurance coverage;
- (3) Availability and quality of weight and training facilities;
- (4) Availability and quality of conditioning facilities; and
- (5) Availability and qualifications of athletic trainers.

h. *Provision of Housing and Dining Facilities and Services* (§ 86.41(c)(9)).

Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) Housing provided;
- (2) Special services as part of housing arrangements (e.g., laundry facilities, parking space, maid service).

i. *Publicity* (§ 86.41(c)(10)).

Compliance will be assessed by examining, among other factors, the equivalence for men and women of:

- (1) Availability and quality of sports information personnel;
- (2) Access to other publicity resources for men's and women's programs; and
- (3) Quantity and quality of publications and other promotional devices featuring men's and women's programs.

4. *Application of the Policy—Other Factors* (§ 86.41(c)). a. *Recruitment of Student Athletes*.<sup>7</sup> The athletic

<sup>7</sup>Public undergraduate institutions are also subject to the general anti-discrimination provision at § 86.23 of the regulation, which reads in part:

"A recipient . . . shall not discriminate on the basis of sex in the recruitment and admission of

recruitment practices of institutions often affect the overall provision of opportunity to male and female athletes. Accordingly, where equal athletic opportunities are not present for male and female students, compliance will be assessed by examining the recruitment practices of the athletic programs for both sexes to determine whether the provision of equal opportunity will require modification of those practices.

Such examinations will review the following factors:

- (1) Whether coaches or other professional athletic personnel in the programs serving male and female athletes are provided with substantially equal opportunities to recruit;

- (2) Whether the financial and other resources made available for recruitment in male and female athletic programs are equivalently adequate to meet the needs of each program; and

- (3) Whether the differences in benefits, opportunities, and treatment afforded prospective student athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex.

b. *Provision of Support Services*. The administrative and clerical support provided to an athletic program can affect the overall provision of opportunity to male and female athletes, particularly to the extent that the provided services enable coaches to perform better their coaching functions.

In the provision of support services, compliance will be assessed by examining, among other factors, the equivalence of:

- (1) The amount of administrative assistance provided to men's and women's programs;
- (2) The amount of secretarial and clerical assistance provided to men's and women's programs.

5. *Overall Determination of Compliance*. The Department will base its compliance determination under § 86.41(c) of the regulation upon an examination of the following:

- a. Whether the policies of an institution are discriminatory in language or effect; or
- b. Whether disparities of a substantial and unjustified nature exist in the benefits, treatment, services, or opportunities afforded male and female

students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action . . . and may choose to undertake such efforts as affirmative action . . .

Accordingly, institutions subject to § 86.23 are required in all cases to maintain equivalently effective recruitment programs for both sexes and, under § 86.41(c), to provide equivalent benefits, opportunities, and treatment to student athletes of both sexes.

athletes in the institution's program as a whole; or

c. Whether disparities in benefits, treatment, services, or opportunities in individual segments of the program are substantial enough in and of themselves to deny equality of athletic opportunity.

C. *Effective Accommodation of Student Interests and Abilities*.

1. *The Regulation*. The regulation requires institutions to accommodate effectively the interests and abilities of students to the extent necessary to provide equal opportunity in the selection of sports and levels of competition available to members of both sexes.

Specifically, the regulation, at § 86.41(c)(1), requires the Director to consider, when determining whether equal opportunities are available—

Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes.

Section 86.41(c) also permits the Director of the Office for Civil Rights to consider other factors in the determination of equal opportunity. Accordingly, this section also addresses competitive opportunities in terms of the competitive team schedules available to athletes of both sexes.

2. *The Policy*. The Department will assess compliance with the interests and abilities section of the regulation by examining the following factors:

- a. The determination of athletic interests and abilities of students;
- b. The selection of sports offered; and
- c. The levels of competition available including the opportunity for team competition.

3. *Application of the Policy—Determination of Athletic Interests and Abilities*.

Institutions may determine the athletic interests and abilities of students by nondiscriminatory methods of their choosing provided:

- a. The processes take into account the nationally increasing levels of women's interests and abilities;
- b. The methods of determining interest and ability do not disadvantage the members of an underrepresented sex;
- c. The methods of determining ability take into account team performance records; and

d. The methods are responsive to the expressed interests of students capable of intercollegiate competition who are members of an underrepresented sex.

4. *Application of the Policy—Selection of Sports*.

In the selection of sports, the regulation does not require institutions



to integrate their teams nor to provide exactly the same choice of sports to men and women. However, where an institution sponsors a team in a particular sport for members of one sex, it may be required either to permit the excluded sex to try out for the team or to sponsor a separate team for the previously excluded sex.

a. **Contact Sports**—Effective accommodation means that if an institution sponsors a team for members of one sex in a contact sport, it must do so for members of the other sex under the following circumstances:

(1) The opportunities for members of the excluded sex have historically been limited; and

(2) There is sufficient interest and ability among the members of the excluded sex to sustain a viable team and a reasonable expectation of intercollegiate competition for that team.

b. **Non-Contact Sports**—Effective accommodation means that if an institution sponsors a team for members of one sex in a non-contact sport, it must do so for members of the other sex under the following circumstances:

(1) The opportunities for members of the excluded sex have historically been limited;

(2) There is sufficient interest and ability among the members of the excluded sex to sustain a viable team and a reasonable expectation of intercollegiate competition for that team; and

(3) Members of the excluded sex do not possess sufficient skill to be selected for a single integrated team, or to compete actively on such a team if selected.

#### 5. *Application of the Policy—Levels of Competition.*

In effectively accommodating the interests and abilities of male and female athletes, institutions must provide both the opportunity for individuals of each sex to participate in intercollegiate competition, and for athletes of each sex to have competitive team schedules which equally reflect their abilities.

a. Compliance will be assessed in any one of the following ways:

(1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or

(2) Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest

and abilities of the members of that sex; or

(3) Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

b. Compliance with this provision of the regulation will also be assessed by examining the following:

(1) Whether the competitive schedules for men's and women's teams, on a program-wide basis, afford proportionally similar numbers of male and female athletes equivalently advanced competitive opportunities; or

(2) Whether the institution can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex as warranted by developing abilities among the athletes of that sex.

c. Institutions are not required to upgrade teams to intercollegiate status or otherwise develop intercollegiate sports absent a reasonable expectation that intercollegiate competition in that sport will be available within the institution's normal competitive regions. Institutions may be required by the Title IX regulation to actively encourage the development of such competition, however, when overall athletic opportunities within that region have been historically limited for the members of one sex.

#### 6. *Overall Determination of Compliance.*

The Department will base its compliance determination under § 86.41(c) of the regulation upon a determination of the following:

a. Whether the policies of an institution are discriminatory in language or effect; or

b. Whether disparities of a substantial and unjustified nature in the benefits, treatment, services, or opportunities afforded male and female athletes exist in the institution's program as a whole; or

c. Whether disparities in individual segments of the program with respect to benefits, treatment, services, or opportunities are substantial enough in and of themselves to deny equality of athletic opportunity.

#### VIII. The Enforcement Process

The process of Title IX enforcement is set forth in § 86.71 of the Title IX regulation, which incorporates by reference the enforcement procedures applicable to Title VI of the Civil Rights

Act of 1964.<sup>8</sup> The enforcement process prescribed by the regulation is supplemented by an order of the Federal District Court, District of Columbia, which establishes time frames for each of the enforcement steps.<sup>9</sup>

According to the regulation, there are two ways in which enforcement is initiated:

• **Compliance Reviews**—Periodically the Department must select a number of recipients (in this case, colleges and universities which operate intercollegiate athletic programs) and conduct investigations to determine whether recipients are complying with Title IX. (45 CFR 80.7(a))

• **Complaints**—The Department must investigate all valid (written and timely) complaints alleging discrimination on the basis of sex in a recipient's programs. (45 CFR 80.7(b))

The Department must inform the recipient (and the complainant, if applicable) of the results of its investigation. If the investigation indicates that a recipient is in compliance, the Department states this, and the case is closed. If the investigation indicates noncompliance, the Department outlines the violations found.

The Department has 90 days to conduct an investigation and inform the recipient of its findings, and an additional 90 days to resolve violations by obtaining a voluntary compliance agreement from the recipient. This is done through negotiations between the Department and the recipient, the goal of which is agreement on steps the recipient will take to achieve compliance. Sometimes the violation is relatively minor and can be corrected immediately. At other times, however, the negotiations result in a plan that will correct the violations within a specified period of time. To be acceptable, a plan must describe the manner in which institutional resources will be used to correct the violation. It also must state acceptable time tables for reaching interim goals and full compliance. When agreement is reached, the Department notifies the institution that its plan is acceptable. The Department then is obligated to review periodically the implementation of the plan.

An institution that is in violation of Title IX may already be implementing a corrective plan. In this case, prior to informing the recipient about the results of its investigation, the Department will determine whether the plan is adequate.

<sup>8</sup> Those procedures may be found at 45 CFR 80.6-80.11 and 45 CFR Part 8.

<sup>9</sup> *WEAL v. Horris*, Civil Action No. 74-1720 (D. D.C., December 29, 1977).

If the plan is not adequate to correct the violations (or to correct them within a reasonable period of time) the recipient will be found in noncompliance and voluntary negotiations will begin.

However, if the institutional plan is acceptable, the Department will inform the institution that although the institution has violations, it is found to be in compliance because it is implementing a corrective plan. The Department, in this instance also, would monitor the progress of the institutional plan. If the institution subsequently does not completely implement its plan, it will be found in noncompliance.

When a recipient is found in noncompliance and voluntary compliance attempts are unsuccessful, the formal process leading to termination of Federal assistance will be begun. These procedures, which include the opportunity for a hearing before an administrative law judge, are set forth at 45 CFR 80.8-80.11 and 45 CFR Part 81.

#### IX. Authority

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374, 20 U.S.C. 1681, 1682; sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 612; and 45 CFR Part 86)

Dated: December 3, 1979.

Roma Stewart,

Director, Office for Civil Rights, Department of Health, Education, and Welfare.

Dated: December 4, 1979.

Patricia Roberts Harris,

Secretary, Department of Health, Education, and Welfare.

#### Appendix A—Historic Patterns of Intercollegiate Athletics Program Development

1. Participation in intercollegiate sports has historically been emphasized for men but not women. Partially as a consequence of this, participation rates of women are far below those of men. During the 1977-78 academic year women students accounted for 48 percent of the national undergraduate enrollment (5,496,000 of 11,267,000 students).<sup>1</sup> Yet, only 30 percent of the intercollegiate athletes are women.<sup>2</sup>

The historic emphasis on men's intercollegiate athletic programs has also contributed to existing differences in the number of sports and scope of competition offered men and women. One source indicates that, on the average, colleges and universities are

providing twice the number of sports for men as they are for women.<sup>3</sup>

2. Participation by women in sports is growing rapidly. During the period from 1971-1978, for example, the number of female participants in organized high school sports increased from 294,000 to 2,083,000—an increase of over 600 percent.<sup>4</sup> In contrast, between Fall 1971 and Fall 1977, the enrollment of females in high school decreased from approximately 7,600,000 to approximately 7,150,000 a decrease of over 5 percent.<sup>5</sup>

The growth in athletic participation by high school women has been reflected on the campuses of the nation's colleges and universities. During the period from 1971 to 1976 the enrollment of women in the nation's institutions of higher education rose 52 percent, from 3,400,000 to 5,201,000.<sup>6</sup> During this same period, the number of women participating in intramural sports increased 108 percent from 276,167 to 576,167. In club sports, the number of women participants increased from 16,386 to 25,541 or 55 percent. In intercollegiate sports, women's participation increased 102 percent from 31,852 to 64,375.<sup>7</sup> These developments reflect the growing interest of women in competitive athletics, as well as the efforts of colleges and universities to accommodate those interests.

3. The overall growth of women's intercollegiate programs has not been at the expense of men's programs. During the past decade of rapid growth in women's programs, the number of intercollegiate sports available for men has remained stable, and the number of male athletes has increased slightly. Funding for men's programs has increased from \$1.2 to \$2.2 million between 1970-1977 alone.<sup>8</sup>

4. On most campuses, the primary problem confronting women athletes is

<sup>1</sup> U.S. Commission on Civil Rights, Comments to DHEW on proposed Policy Interpretation: Analysis of data supplied by the National Association of Directors of Collegiate Athletics.

<sup>2</sup> Figures obtained from National Federation of High School Associations (NFHS) data.

<sup>3</sup> *Digest of Education Statistics 1977-78*, National Center for Education Statistics (1978), Table 40, at 44. Data, by sex, are unavailable for the period from 1971 to 1977; consequently, these figures represent 50 percent of total enrollment for that period. This is the best comparison that could be made based on available data.

<sup>4</sup> *Ibid.*, p. 112.

<sup>5</sup> These figures, which are not precisely comparable to those cited at footnote 2, were obtained from *Sports and Recreational Programs of the Nation's Universities and Colleges*, NCAA Report No. 5, March 1978. It includes figures only from the 722 NCAA member institutions because comparable data was not available from other associations.

<sup>6</sup> Compiled from NCAA Revenues and Expenses for Intercollegiate Athletic Programs, 1978.

the absence of a fair and adequate level of resources, services, and benefits. For example, disproportionately more financial aid has been made available for male athletes than for female athletes. Presently, in institutions that are members of both the National Collegiate Athletic Association (NCAA) and the Association for Intercollegiate Athletics for Women (AIAW), the average annual scholarship budget is \$39,000. Male athletes receive \$32,000 or 78 percent of this amount, and female athletes receive \$7,000 or 22 percent, although women are 30 percent of all the athletes eligible for scholarships.<sup>9</sup>

Likewise, substantial amounts have been provided for the recruitment of male athletes, but little funding has been made available for recruitment of female athletes.

Congressional testimony on Title IX and subsequent surveys indicates that discrepancies also exist in the opportunity to receive coaching and in other benefits and opportunities, such as the quality and amount of equipment, access to facilities and practice times, publicity, medical and training facilities, and housing and dining facilities.<sup>10</sup>

5. At several institutions, intercollegiate football is unique among sports. The size of the teams, the expense of the operation, and the revenue produced distinguish football from other sports, both men's and women's. Title IX requires that "an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulations in the administration of any revenue producing intercollegiate athletic activity."<sup>11</sup> However, the unique size and cost of football programs have been taken into account in developing this Policy Interpretation.

#### Appendix B—Comments and Responses

The Office for Civil Rights (OCR) received over 700 comments and recommendations in response to the December 11, 1978 publication of the proposed Policy Interpretation. After the formal comment period, representatives of the Department met for additional discussions with many individuals and

<sup>8</sup> Figures obtained from *AIAW Structure Implementation Survey Data Summary*, October, 1978, p. 11.

<sup>9</sup> 121 Cong. REC. 29791-95 (1975) (remarks of Senator Williams); Comments by Senator Bayh, Hearings on S. 2106 Before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, 94th Congress, 1st Session 48 (1975); "Survey of Women's Athletic Directors," AIAW Workshop (January 1978).

<sup>11</sup> See April 18, 1979, Opinion of General Counsel, Department of Health, Education, and Welfare, page 1.



groups including college and university officials, athletic associations, athletic directors, women's rights organizations and other interested parties. HEW representatives also visited eight universities in order to assess the potential of the proposed Policy Interpretation and of suggested alternative approaches for effective enforcement of Title IX.

The Department carefully considered all information before preparing the final policy. Some changes in the structure and substance of the Policy Interpretation have been made as a result of concerns that were identified in the comment and consultation process.

Persons who responded to the request for public comment were asked to comment generally and also to respond specifically to eight questions that focused on different aspects of the proposed Policy Interpretation.

**Question No. 1:** Is the description of the current status and development of intercollegiate athletics for men and women accurate? What other factors should be considered?

**Comment A:** Some commentors noted that the description implied the presence of intent on the part of all universities to discriminate against women. Many of these same commentors noted an absence of concern in the proposed Policy Interpretation for those universities that have in good faith attempted to meet what they felt to be a vague compliance standard in the regulation.

**Response:** The description of the current status and development of intercollegiate athletics for men and women was designed to be a factual, historical overview. There was no intent to imply the universal presence of discrimination. The Department recognizes that there are many colleges and universities that have been and are making good faith efforts, in the midst of increasing financial pressures, to provide equal athletic opportunities to their male and female athletes.

**Comment B:** Commentors stated that the statistics used were outdated in some areas, incomplete in some areas, and inaccurate in some areas.

**Response:** Comment accepted. The statistics have been updated and corrected where necessary.

**Question No. 2:** Is the proposed two-stage approach to compliance practical? Should it be modified? Are there other approaches to be considered?

**Comment:** Some commentors stated that Part II of the proposed Policy Interpretation "Equally Accommodating the Interests and Abilities of Women" represented an extension of the July

1978, compliance deadline established in § 86.41(d) of the Title IX regulation.

**Response:** Part II of the proposed Policy Interpretation was not intended to extend the compliance deadline. The format of the two stage approach, however, seems to have encouraged that perception; therefore, the elements of both stages have been unified in this Policy Interpretation.

**Question No. 3:** Is the equal average per capita standard based on participation rates practical? Are there alternatives or modifications that should be considered?

**Comment A:** Some commentors stated it was unfair or illegal to find noncompliance solely on the basis of a financial test when more valid indicators of equality of opportunity exist.

**Response:** The equal average per capita standard was not a standard by which noncompliance could be found. It was offered as a standard of presumptive compliance. In order to prove noncompliance, HEW would have been required to show that the unexplained disparities in expenditures were discriminatory in effect. The standard, in part, was offered as a means of simplifying proof of compliance for universities. The widespread confusion concerning the significance of failure to satisfy the equal average per capita expenditure standard, however, is one of the reasons it was withdrawn.

**Comment B:** Many commentors stated that the equal average per capita standard penalizes those institutions that have increased participation opportunities for women and rewards institutions that have limited women's participation.

**Response:** Since equality of average per capita expenditures has been dropped as a standard of presumptive compliance, the question of its effect is no longer relevant. However, the Department agrees that universities that had increased participation opportunities for women and wished to take advantage of the presumptive compliance standard, would have had a bigger financial burden than universities that had done little to increase participation opportunities for women.

**Question No. 4:** Is there a basis for treating part of the expenses of a particular revenue producing sport differently because the sport produces income used by the university for non-athletic operating expenses on a non-discriminatory basis? If, so, how should such funds be identified and treated?

**Comment:** Commentors stated that this question was largely irrelevant because there were so few universities

at which revenue from the athletic program was used in the university operating budget.

**Response:** Since equality of average per capita expenditures has been dropped as a standard of presumed compliance, a decision is no longer necessary on this issue.

**Question No. 5:** Is the grouping of financially measurable benefits into three categories practical? Are there alternatives that should be considered? Specifically, should recruiting expenses be considered together with all other financially measurable benefits?

**Comment A:** Most commentors stated that, if measured solely on a financial standard, recruiting should be grouped with the other financially measurable items. Some of these commentors held that at the current stage of development of women's intercollegiate athletics, the amount of money that would flow into the women's recruitment budget as a result of separate application of the equal average per capita standard to recruiting expenses, would make recruitment a disproportionately large percentage of the entire women's budget. Women's athletic directors, particularly, wanted the flexibility to have the money available for other uses, and they generally agreed on including recruitment expenses with the other financially measurable items.

**Comment B:** Some commentors stated that it was particularly inappropriate to base any measure of compliance in recruitment solely on financial expenditures. They stated that even if proportionate amounts of money were allocated to recruitment, major inequities could remain in the benefits to athletes. For instance, universities could maintain a policy of subsidizing visits to their campuses of prospective students of one sex but not the other. Commentors suggested that including an examination of differences in benefits to prospective athletes that result from recruiting methods would be appropriate.

**Response:** In the final Policy Interpretation, recruitment has been moved to the group of program areas to be examined under § 86.41(c) to determine whether overall equal athletic opportunity exists. The Department accepts the comment that a financial measure is not sufficient to determine whether equal opportunity is being provided. Therefore, in examining athletic recruitment, the Department will primarily review the opportunity to recruit, the resources provided for recruiting, and methods of recruiting.

**Question No. 6:** Are the factors used to justify differences in equal average per capita expenditures for financially

measurable benefits and opportunities fair? Are there other factors that should be considered?

**Comment:** Most commentors indicated that the factors named in the proposed Policy Interpretation (the "scope of competition" and the "nature of the sport") as justifications for differences in equal average per capita expenditures were so vague and ambiguous as to be meaningless. Some stated that it would be impossible to define the phrase "scope of competition", given the greatly differing competitive structure of men's and women's programs. Other commentors were concerned that the "scope of competition" factor that may currently be designated as "non-discriminatory" was, in reality, the result of many years of inequitable treatment of women's athletic programs.

**Response:** The Department agrees that it would have been difficult to define clearly and then to quantify the "scope of competition" factor. Since equal average per capita expenditures has been dropped as a standard of presumed compliance, such financial justifications are no longer necessary. Under the equivalency standard, however, the "nature of the sport" remains an important concept. As explained within the Policy Interpretation, the unique nature of a sport may account for perceived inequities in some program areas.

**Question No. 7:** Is the comparability standard for benefits and opportunities that are not financially measurable fair and realistic? Should other factors controlling comparability be included? Should the comparability standard be revised? Is there a different standard which should be considered?

**Comment:** Many commentors stated that the comparability standard was fair and realistic. Some commentors were concerned, however, that the standard was vague and subjective and could lead to uneven enforcement.

**Response:** The concept of comparing the non-financially measurable benefits and opportunities provided to male and female athletes has been preserved and expanded in the final Policy Interpretation to include all areas of examination except scholarships and accommodation of the interests and abilities of both sexes. The standard is that equivalent benefits and opportunities must be provided. To avoid vagueness and subjectivity, further guidance is given about what elements will be considered in each program area to determine the equivalency of benefits and opportunities.

**Question No. 8:** Is the proposal for increasing the opportunity for women to

participate in competitive athletics appropriate and effective? Are there other procedures that should be considered? Is there a more effective way to ensure that the interest and abilities of both men and women are equally accommodated?

**Comment:** Several commentors indicated that the proposal to allow a university to gain the status of presumed compliance by having policies and procedures to encourage the growth of women's athletics was appropriate and effective for future students, but ignored students presently enrolled. They indicated that nowhere in the proposed Policy Interpretation was concern shown that the current selection of sports and levels of competition effectively accommodate the interests and abilities of women as well as men.

**Response:** Comment accepted. The requirement that universities equally accommodate the interests and abilities of their male and female athletes (Part II of the proposed Policy Interpretation) has been directly addressed and is now a part of the unified final Policy Interpretation.

#### Additional Comments

The following comments were not responses to questions raised in the proposed Policy Interpretation. They represent additional concerns expressed by a large number of commentors.

**(1) Comment:** Football and other "revenue producing" sports should be totally exempted or should receive special treatment under Title IX.

**Response:** The April 18, 1978, opinion of the General Counsel, HEW, concludes that "an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulation in the administration of any revenue producing activity". Therefore, football or other "revenue producing" sports cannot be exempted from coverage of Title IX.

In developing the proposed Policy Interpretation the Department concluded that although the fact of revenue production could not justify disparity in average per capita expenditure between men and women, there were characteristics common to most revenue producing sports that could result in legitimate non-discriminatory differences in per capita expenditures. For instance, some "revenue producing" sports require expensive protective equipment and most require high expenditures for the management of events attended by large numbers of people. These characteristics and others described in the proposed Policy Interpretation were

considered acceptable, non-discriminatory reasons for differences in per capita average expenditures.

In the final Policy Interpretation, under the equivalent benefits and opportunities standard of compliance, some of these non-discriminatory factors are still relevant and applicable.

**(2) Comment:** Commentors stated that since the equal average per capita standard of presumed compliance was based on participation rates, the word should be explicitly defined.

**Response:** Although the final Policy Interpretation does not use the equal average per capita standard of presumed compliance, a clear understanding of the word "participant" is still necessary, particularly in the determination of compliance where scholarships are involved. The word "participant" is defined in the final Policy Interpretation.

**(3) Comment:** Many commentors were concerned that the proposed Policy Interpretation neglected the rights of individuals.

**Response:** The proposed Policy Interpretation was intended to further clarify what colleges and universities must do within their intercollegiate athletic programs to avoid discrimination against individuals on the basis of sex. The Interpretation, therefore, spoke to institutions in terms of their male and female athletes. It spoke specifically in terms of equal, average per capita expenditures and in terms of comparability of other opportunities and benefits for male and female participating athletes.

The Department believes that under this approach the rights of individuals were protected. If women athletes, as a class, are receiving opportunities and benefits equal to those of male athletes, individuals within the class should be protected thereby. Under the proposed Policy Interpretation, for example, if female athletes as a whole were receiving their proportional share of athletic financial assistance, a university would have been presumed in compliance with that section of the regulation. The Department does not want and does not have the authority to force universities to offer identical programs to men and women. Therefore, to allow flexibility within women's programs and within men's programs, the proposed Policy Interpretation stated that an institution would be presumed in compliance if the average per capita expenditures on athletic scholarships for men and women, were equal. This same flexibility (in scholarships and in other areas) remains in the final Policy Interpretation.



(4) *Comment:* Several commentors stated that the provision of a separate dormitory to athletes of only one sex, even where no other special benefits were involved, is inherently discriminatory. They felt such separation indicated the different degrees of importance attached to athletes on the basis of sex.

*Response:* Comment accepted. The provision of a separate dormitory to athletes of one sex but not the other will be considered a failure to provide equivalent benefits as required by the regulation.

(5) *Comment:* Commentors, particularly colleges and universities, expressed concern that the differences in the rules of intercollegiate athletic associations could result in unequal distribution of benefits and opportunities to men's and women's athletic programs, thus placing the institutions in a posture of noncompliance with Title IX.

*Response:* Commentors made this point with regard to § 86.6(c) of the Title IX regulation, which reads in part:

"The obligation to comply with (Title IX) is not obviated or alleviated by any rule or regulation of any . . . athletic or other . . . association . . ."

Since the penalties for violation of intercollegiate athletic association rules can have a severe effect on the athletic opportunities within an affected program, the Department has re-examined this regulatory requirement to determine whether it should be modified. Our conclusion is that modification would not have a beneficial effect, and that the present requirement will stand.

Several factors enter into this decision. First, the differences between rules affecting men's and women's programs are numerous and change constantly. Despite this, the Department has been unable to discover a single case in which those differences require members to act in a discriminatory manner. Second, some rule differences may permit decisions resulting in discriminatory distribution of benefits and opportunities to men's and women's programs. The fact that institutions respond to differences in rules by choosing to deny equal opportunities, however, does not mean that the rules themselves are at fault; the rules do not prohibit choices that would result in compliance with Title IX. Finally, the rules in question are all established and subject to change by the membership of the association. Since all (or virtually all) association member institutions are subject to Title IX, the opportunity exists for these institutions to resolve

collectively any wide-spread Title IX compliance problems resulting from association rules. To the extent that this has not taken place, Federal intervention on behalf of statutory beneficiaries is both warranted and required by the law. Consequently, the Department can follow no course other than to continue to disallow any defenses against findings of noncompliance with Title IX that are based on intercollegiate athletic association rules.

(6) *Comment:* Some commentors suggested that the equal average per capita test was unfairly skewed by the high cost of some "major" men's sports, particularly football, that have no equivalently expensive counterpart among women's sports. They suggested that a certain percentage of those costs (e.g., 50% of football scholarships) should be excluded from the expenditures on male athletes prior to application of the equal average per capita test.

*Response:* Since equality of average per capita expenditures has been eliminated as a standard of presumed compliance, the suggestion is no longer relevant. However, it was possible under that standard to exclude expenditures that were due to the nature of the sport, or the scope of competition and thus were not discriminatory in effect. Given the diversity of intercollegiate athletic programs, determinations as to whether disparities in expenditures were nondiscriminatory would have been made on a case-by-case basis. There was no legal support for the proposition that an arbitrary percentage of expenditures should be excluded from the calculations.

(7) *Comment:* Some commentors urged the Department to adopt various forms of team-based comparisons in assessing equality of opportunity between men's and women's athletic programs. They stated that well-developed men's programs are frequently characterized by a few "major" teams that have the greatest spectator appeal, earn the greatest income, cost the most to operate, and dominate the program in other ways. They suggested that women's programs should be similarly constructed and that comparability should then be required only between "men's major" and "women's major" teams, and between "men's minor" and "women's minor" teams. The men's teams most often cited as appropriate for "major" designation have been football and basketball, with women's basketball and volleyball being frequently selected as the counterparts.

*Response:* There are two problems with this approach to assessing equal

opportunity. First, neither the statute nor the regulation calls for identical programs for male and female athletes. Absent such a requirement, the Department cannot base noncompliance upon a failure to provide arbitrarily identical programs, either in whole or in part.

Second, no subgrouping of male or female students (such as a team) may be used in such a way as to diminish the protection of the larger class of males and females in their rights to equal participation in educational benefits or opportunities. Use of the "major/minor" classification does not meet this test where large participation sports (e.g., football) are compared to smaller ones (e.g., women's volleyball) in such a manner as to have the effect of disproportionately providing benefits or opportunities to the members of one sex.

(8) *Comment:* Some commentors suggest that equality of opportunity should be measured by a "sport-specific" comparison. Under this approach, institutions offering the same sports to men and women would have an obligation to provide equal opportunity within each of those sports. For example, the men's basketball team and the women's basketball team would have to receive equal opportunities and benefits.

*Response:* As noted above, there is no provision for the requirement of identical programs for men and women, and no such requirement will be made by the Department. Moreover, a sport-specific comparison could actually create unequal opportunity. For example, the sports available for men at an institution might include most or all of those available for women; but the men's program might concentrate resources on sports not available to women (e.g., football, ice hockey). In addition, the sport-specific concept overlooks two key elements of the Title IX regulation.

First, the regulation states that the selection of sports is to be representative of student interests and abilities (86.41(c)(1)). A requirement that sports for the members of one sex be available or developed solely on the basis of their existence or development in the program for members of the other sex could conflict with the regulation where the interests and abilities of male and female students diverge.

Second, the regulation frames the general compliance obligations of recipients in terms of program-wide benefits and opportunities (86.41(c)). As implied above, Title IX protects the individual as a student-athlete, not as a basketball player, or swimmer.

(9) *Comment:* A coalition of many colleges and universities urged that there are no objective standards against which compliance with Title IX in intercollegiate athletics could be measured. They felt that diversity is so great among colleges and universities that no single standard or set of standards could practically apply to all affected institutions. They concluded that it would be best for individual institutions to determine the policies and procedures by which to ensure nondiscrimination in intercollegiate athletic programs.

Specifically, this coalition suggested that each institution should create a group representative of all affected parties on campus.

This group would then assess existing athletic opportunities for men and women, and, on the basis of the assessment, develop a plan to ensure nondiscrimination. This plan would then be recommended to the Board of Trustees or other appropriate governing body.

The role foreseen for the Department under this concept is:

(a) The Department would use the plan as a framework for evaluating complaints and assessing compliance;

(b) The Department would determine whether the plan satisfies the interests of the involved parties; and

(c) The Department would determine whether the institution is adhering to the plan.

These commentors felt that this approach to Title IX enforcement would ensure an environment of equal opportunity.

*Response:* Title IX is an anti-discrimination law. It prohibits discrimination based on sex in educational institutions that are recipients of Federal assistance. The legislative history of Title IX clearly shows that it was enacted because of discrimination that currently was being practiced against women in educational institutions. The Department accepts that colleges and universities are sincere in their intention to ensure equal opportunity in intercollegiate athletics to their male and female students. It cannot, however, turn over its responsibility for interpreting and enforcing the law. In this case, its responsibility includes articulating the standards by which compliance with the Title IX statute will be evaluated.

The Department agrees with this group of commentors that the proposed self-assessment and institutional plan is an excellent idea. Any institution that engages in the assessment/planning process, particularly with the full participation of interested parties as

envisioned in the proposal, would clearly reach or move well toward compliance. In addition, as explained in Section VIII of this Policy Interpretation, any college or university that has compliance problems but is implementing a plan that the Department determines will correct those problems within a reasonable period of time, will be found in compliance.

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BILLING CODE 4110-12-M



## Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

#### Agricultural Stabilization and Conservation Service

##### 7 CFR Part 723

#### Proclamations of Marketing Quotas for the 1980-81, 1981-82 and 1982-83 Marketing Years—Maryland (Type 32) and Cigar-Filler (Type 41) Tobaccos

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Secretary of Agriculture is preparing to proclaim national marketing quotas for Maryland (type 32) and Cigar-Filler (type 41) tobaccos. These announcements are required by law to be made by February 1, 1980. You are invited to submit written comments and other information with respect to the determination of the quotas and related matters.

**DATES:** Written comments must be received by January 10, 1980 in order to be sure of consideration.

**ADDRESSES:** Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Tarczy, ASCS, (202) 447-6733.

**SUPPLEMENTARY INFORMATION:** The Agricultural Adjustment Act of 1938, as amended ("the Act") requires the Secretary to proclaim national marketing quotas for Maryland (type 32) and cigar-filler (type 41) tobaccos for the 1980-81, 1981-82, and 1982-83 marketing years. Within 30 days after the proclamation of such national marketing quotas a referendum will be conducted of farmers engaged in the 1979 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for such years. A national marketing quota, national acreage allotment, national factor for apportioning the national acreage allotment (less reserve) to old farms,

and the amount of the national reserve and parts thereof available for new farms and for making corrections and adjusting inequities in old farm allotments will be determined and announced for each of these kinds of tobacco for the 1980-81 marketing year.

The Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever he determines with respect to such kinds of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers. *Provided*, That if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he/she may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Producers of both Maryland (type 32) and cigar-filler (type 41) tobaccos have disapproved national marketing quotas for three successive years subsequent to 1952. Quotas for these kinds of tobacco were last proclaimed for the 1977-78, 1978-79, and 1979-80 marketing years (42 FR 6817). Producers of both

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Maryland (type 32) and cigar-filler (type 41) tobaccos disapproved marketing quotas in separate referenda held during the period February 22-25, 1977 (42 FR 27208).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 and 14;

Fire-cured tobacco, comprising type 21;

Fire-cured tobacco, comprising types 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54 and 55; and

Cigar-filler tobacco, comprising type 41.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1980 with respect to the kinds of tobacco covered by this notice, the amount of the national marketing quota which will be in effect for the 1980-81 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1980-81 national marketing quota (determined pursuant to such section) may, not later than March 1, 1980, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carry over at the beginning of the marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal

supply plus 5 percent thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but results shall in no way affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in section 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 percent thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The Act (7 U.S.C. 1313(g)) also provides that any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955 or any subsequent crop shall not be taken into account in establishing farm acreage allotments.

### Proposed Rule

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the national marketing quota for each kind of tobacco for the 1980-81 marketing year.

2. The conversion of the national marketing quotas into national acreage allotments and apportionment of same, less reserve of not to exceed 1 percent, among old farms.

3. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

4. The date(s) or period(s) of the two referenda on quotas for the 1980-81, 1981-82, and 1982-83 marketing years for Maryland (type 32) and cigar-filler (type 41) tobacco, and whether either or both of the referenda should be conducted at polling places rather than by mail ballot (31 FR 12011).

All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741, U.S.D.A. South Building, 14th and Independence Avenue, SW., Washington, D.C.

This amendment has not been classified "significant", and is being published under emergency procedures, as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by Jerome F. Sitter, Director, Price Support and Loan Division that an emergency situation exists which warrants less than a full 60-day comment period on this proposal because quotas must be proclaimed for these kinds of tobacco by February 1, 1980.

A Draft Impact Analysis has been prepared and is available from Robert L. Tarczy, Price Support and Loan Division, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C., on December 4, 1979.

John W. Goodwin,  
Acting Administrator, Agricultural  
Stabilization and Conservation Service.

[FR Doc. 79-37806 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-05-M

### Animal and Plant Health Inspection Service

#### 9 CFR Part 113

#### Viruses, Serums, Toxins, and Analogous Products; Amended Potency Tests; Leptospira and Clostridium Bacterin Standards

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed amendment would revise the potency tests in eight standard requirements. Four standard requirements for leptospira bacterins and four standard requirements for clostridium bacterins and bacterin-toxoids would be revised to permit the use of more animals than are required for the challenge phase of a test when initiating potency tests. This proposal would permit the use of one or two extra vaccinates and one or two extra controls. The number of animals required for challenge would remain unchanged.

During potency testing under the present standards, if a test animal dies due to causes not attributable to the product, the test may be declared a "no test" because insufficient animals remain for challenge. This proposed amendment would provide a means of avoiding such "no tests."

Procedures for the injection of guinea pigs used in the potency tests in the four standard requirements for clostridium bacterins and bacterin-toxoids would also be revised by increasing the time interval between the first and second injection of product from 9 to 10 days to 21 to 23 days. Data provided to the Department indicates this proposed revision would increase the level of protection seen in the test guinea pigs, while retaining an acceptable dose-response relationship and would improve the correlation of the test with protection in the host animal.

A change would also be made in the standard requirement for Clostridium Sordellii Bacterin to clarify and correct its intended meaning.

**DATE:** Comments must be received on or before February 11, 1980.

**ADDRESS:** Interested parties are invited to submit written data, views, or arguments regarding the proposed regulation to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

**FOR FURTHER INFORMATION CONTACT:** Dr. R. J. Price, 301-436-8245.



**SUPPLEMENTARY INFORMATION:** Present standard requirements for leptospira bacterins and clostridium bacterins require that potency tests be initiated with the same number of test animals as required for challenge. If one or more of the test animals dies between vaccination and challenge due to causes not attributable to the product, the test may be ruled as a "no test" because an insufficient number of animals remain for challenge. This proposed amendment would add flexibility to the potency tests for these products by permitting the initiation of such tests with more test animals than is needed for challenge. Therefore, it would provide added assurance that if an occasional death occurs after the test is initiated, there would still be an adequate number of survivors for completion of the test. In this manner, a "no test" result would be avoided, providing that at least 10 animals are still remaining for the challenge phase.

Potency tests provided in the present standard requirements for clostridium bacterins and bacterin-toxoids consist of vaccination-challenge tests conducted in guinea pigs. For such tests to be valid, they must demonstrate an acceptable dose-response relationship and correlate with efficacy in the host. Data developed by veterinary biologists licensees indicates an acceptable dose-response relationship can be maintained and correlation with protection in the host can be improved by changing the time interval that is used in these tests between the injection of the first and second dose of product. Increasing the present injection interval of 9 to 10 days to an interval of 21 to 23 days has been shown to increase the level of protection seen in guinea pigs without reducing the validity of the test. Data also indicate this change results in a potency test that more adequately reflects the expected product efficacy in the host animal.

On December 2, 1977, an amendment to § 113.94 was published in 42 FR 61246. This amendment added a potency test to the standard requirement for products containing *Clostridium Sordellii* Bacterin-Toxoid. It provided that potency of these products could be evaluated by using either the test written into the filed Outline of Production or the two-stage test provided in the amendment. The supplementary information indicated that host animals, such as calves, may be used in tests done according to filed Outlines of Production. It was the Department's intent that in potency tests conducted according to filed Outlines of Production in lieu of the standard guinea pig test provided in the regulations, only

the use of host animals would be allowed. This is to assure that only valid and reliable procedures are used in evaluating products for potency. This proposed amendment would, therefore, clarify and correct this intent by changing the introductory paragraph of § 113.94(c) to indicate if an alternate test is provided in the Outline of Production, it must be a host animal test.

**§§ 113.86-113.89 and 113.91-113.94 [Amended]**

1. The first letter in each word of the headings for §§ 113.86, 113.87, 113.88, 113.89, 113.91, 113.92, 113.93, and 113.94 are to be capitalized.

2. Section 113.86 would be amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

**§ 113.86 *Leptospira Pomona* Bacterin.**

(c) \* \* \*

(1) *Vaccinates*. Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls*. Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge*. From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira Pomona* organisms, using a dose of 10-10,000 hamster LD<sub>50</sub> as determined by titration.

3. Section 113.87 would be amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

**§ 113.87 *Leptospira Icterohaemorrhagiae* Bacterin.**

(c) \* \* \*

(1) *Vaccinates*. Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls*. Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge*. From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira icterohaemorrhagiae*

organisms using a dose of 10-10,000 hamster LD<sub>50</sub> as determined by titration.

4. Section 113.88 would be amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

**§ 113.88 *Leptospira Canicola* Bacterin.**

(c) \* \* \*

(1) *Vaccinates*. Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls*. Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge*. From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira canicola* organisms using a dose of 10-10,000 hamster LD<sub>50</sub> as determined by titration.

5. Section 113.89 would be amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read:

**§ 113.89 *Leptospira Grippotyphosa* Bacterin.**

(c) \* \* \*

(1) *Vaccinates*. Inject each of at least 10 but not more than 12 young adult hamsters, each weighing 50 to 90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly, in accordance with the label recommendations for use.

(2) *Controls*. Retain at least 10 but not more than 12 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge*. From 14 to 18 days postvaccination, challenge each of 10 vaccinates and each of 10 controls intraperitoneally with a suspension of virulent *Leptospira grippotyphosa* organisms using a dose of 10-10,000 hamster LD<sub>50</sub> as determined by titration.

6. Section 113.91 would be amended by revising paragraphs (c)(1) and (c)(2) to read:

**§ 113.91 *Clostridium Chauvoei* Bacterin.**

(c) \* \* \*

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first

dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium chauvoei* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD<sub>50</sub> of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

7. Section 113.92 would be amended by revising paragraphs (c)(1) and (c)(2) to read:

**§ 113.92 *Clostridium Haemolyticum* Bacterin.**

(c) \* \* \*

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium haemolyticum* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD<sub>50</sub> of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

8. Section 113.93 would be amended by revising paragraphs (c)(1) and (c)(2) to read:

**§ 113.93 *Clostridium Novyi* Bacterin-Toxoid.**

(c) \* \* \*

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium novyi* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD<sub>50</sub> of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

9. Section 113.94 would be amended by revising the introductory portion of paragraph (c) and paragraphs (c)(1) and (c)(2) to read:

**§ 113.94 *Clostridium Sordellii* Bacterin-Toxoid.**

(c) *Potency test*. Bulk or final container samples of completed product from each serial shall be tested for potency by one of the following methods: A host animal test written into the filed Outline of Production, or the two-stage test provided in this paragraph.

(1) Each of at least 8 but not more than 10 guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 21 to 23 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium sordellii* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the second injection of the product. Each of eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD<sub>50</sub> of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days postchallenge and all deaths recorded.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 3rd day of December 1979.

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, MD 20782.

M. T. Goff,  
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-37818 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-34-M

**Food Safety and Quality Service**

**9 CFR Part 319**

**Pizza Standard; Solicitation of Information**

**AGENCY:** Food Safety and Quality Service, USDA.

**ACTION:** Solicitation of information.

**SUMMARY:** The Food Safety and Quality Service is seeking information from all interested members of the public to advise on the need for modification of the pizza standard contained in the Federal meat inspection regulations. The Agency has received requests to revise the standard to adjust the amount of meat to be required, and to make new provisions for the labeling of cheese-like substances. Prior to deciding what, if anything, to propose with respect to these matters, the Agency will consider all comments in response to this notice. **DATE:** Comments and information must be received on or before February 11, 1980.

**ADDRESS:** Written comments to: Executive Secretariat, ATTN: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3807, South Agriculture Building, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

**SUPPLEMENTARY INFORMATION:**

**Comments**

Interested persons are invited to submit comments and information concerning this request. Written comments must be sent in duplicate to the Executive Secretariat. Comments



should bear reference to the date and page number of this issue of the Federal Register. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

#### Background

Pizza which include meat are subject to the jurisdiction of the Food Safety and Quality Service (FSQS), as meat food products pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*). Section 7(c) of the Act authorizes the Secretary of Agriculture to prescribe standards of identity or composition for such products.

The Department's standard for pizza, since it was first adopted almost a decade ago, has been modified only once to permit the use of mechanically processed product. In 9 CFR 319.600, "Pizza with Meat" is defined as "... a bread base meat food product with tomato sauce, cheese, and meat topping. It shall contain cooked meat from not less than 15 percent raw meat. Mechanically Processed (Species) Product may be used in accordance with § 319.6." A similar definition is included in the regulations for "Pizza with Sausage" although the meat content requirement for this product is 12 percent cooked or 10 percent dry sausage.

In 1973, the Animal and Plant Health Inspection Service, the predecessor agency of FSQS, published a proposal to change the standard of composition for products labeled "pizza" (38 FR 16363-16364). That proposal would have allowed the use of uncooked meat in pizza products, and required that the currently unspecified content of cheese in this food item be specified at 12 percent. In response to that notice, the Department received 80 comments. Thirty-eight were from consumers of which approximately half opposed the use of uncooked meat as it might affect wholesomeness. Twenty-one processors commented. Most of the industry commenters strongly opposed the 12 percent cheese requirement and/or the inability to use cheese-like substances. Twenty-one other comments were received from State officials, trade organizations, Congressmen, consumer organizations, and the academic community. Most of these expressed opposition to one or more of the proposal's provisions. The proposal was never finalized.

Recently, the Department has received a request from industry to modify the pizza standard. Jenó F. Paulucci, representing Jenó's Pizza, Duluth, Minnesota, has petitioned the

Secretary requesting that the pizza standard be revised to provide for three new classes of pizza: (1) "Pizza with meat sauce", containing no less than 6 percent fresh meat; (2) "pizza flavored with meat", containing no less than 3 percent fresh meat; and (3) "pizza", containing no less than 3 percent fresh meat.

The Wisconsin Cheese Makers Association has also petitioned the Department to provide informative labeling for products containing cheese-like ingredients. It is their contention that consumers expect pizza to contain cheese. Unless such item is properly labeled, this Association suggests that consumers could be deceived if a cheese-like ingredient is used on a pizza that looks like cheese. The use of a cheese-like ingredient is now only listed in the statement of ingredients.

The Administrator believes that there may be other viewpoints on these specific issues and that there also may be other aspects of the present pizza standard which are of concern to the general public. Therefore, before deciding whether to propose any modifications of the present standard, the Administrator is requesting that interested parties present their view on this matter. These comments will assist the Department in regulating a popular food product so as to assure that it is not adulterated and properly labeled.

Done at Washington, D.C., on December 4, 1979.

Donald L. Houston,  
Administrator, Food Safety and Quality Services.

[FR Doc. 79-37758 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-0M-M

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### 18 CFR Part 46

[Docket No. RM80-9]

##### Interlocking Positions Under Section 211 of the Public Utility Regulatory Policies Act of 1978; Extension of Time To File Comments

December 6, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of extension of time to file comments.

SUMMARY: Deadline for filing of comments regarding the above-identified proposed rulemaking is extended from Monday, December 10,

1979 to Friday, December 21, 1979. (44 FR 66205, November 19, 1979.)

DATE: Comments due December 21, 1979.

ADDRESS: Comments should be directed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426 and should reference Docket No. RM80-9.

FOR FURTHER INFORMATION CONTACT: Colette K. Bohatch, Regulatory Development, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8079

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37957 Filed 12-10-79; 8:45 am]  
BILLING CODE 6450-01-M

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Food and Drug Administration

##### 21 CFR Ch. I

[Docket No. 79N-0200]

##### Lead in Food; Advance Notice of Proposed Rulemaking; Extension of Comment Period

##### Correction

In FR Doc. 79-36230, appearing in the issue of Tuesday, November 27, 1979, at page 67673, make the following correction on page 67674, the first column, the fourth blocked paragraph designated as "FOR FURTHER INFORMATION CONTACT:", the second line, correct "(HEF-334)" to read "(HFF-334)".

BILLING CODE 1505-01-M

##### 21 CFR Part 333

[Docket No. 75N-0183]

##### Topical Antimicrobial Products for Over-the-Counter Use; Amended Reopening of the Administrative Record

AGENCY: Food and Drug Administration.

ACTION: Amended Reopening of the Administrative Record.

SUMMARY: This document amends a notice that was published in the Federal Register of Friday, October 26, 1979 reopening the administrative record for topical antimicrobial products for over-the-counter (OTC) human use.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health,

Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 9, 1979 (44 FR 13041), the Food and Drug Administration (FDA) published a notice reopening the administrative record of the proposed monograph establishing conditions for the safety, effectiveness, and labeling of OTC topical antimicrobial drug products for human use, for example, antibacterial soaps, surgical scrubs, skin cleanser, and first-aid preparations. Interested persons were invited to submit new or additional data and comments by June 7, 1979 and reply comments by July 9, 1979. In that notice, the agency announced that FDA would publish an updated tentative final order and monograph based on a review and evaluation of these new submissions and on a reevaluation of existing data.

In the Federal Register of October 26, 1979 (44 FR 61609), FDA published a notice reopening the administrative record again for this category of drugs from October 26, 1979 to March 26, 1980 to permit interested persons to submit further new data on those conditions classified in Category II or Category III in a previously published tentative final order (43 FR 1210, January 6, 1978). Comments on these new data may be filed with the Hearing Clerk, FDA, on or before May 27, 1980, at which time the administrative record will be closed. In that notice the agency inadvertently omitted reference to FDA's commitment to publish an updated tentative final order and monograph prior to a final monograph. Therefore, this notice reaffirms that commitment.

The updated tentative final order and monograph will be based on the administrative record developed through May 27, 1980. Following publication of an updated tentative final order and monograph, interested persons will be given 30 days in which to file written objections and requests for an oral hearing. Additional data on conditions addressed in the updated tentative final monograph, but not considered in the panel report or in the tentative final monograph published on January 6, 1978, may also be submitted during a period of time to be specified in the revised tentative final order.

Dated: December 3, 1979.

William F. Randolph,  
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-37740 Filed 12-10-79; 8:45 am]  
BILLING CODE 4110-03-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

##### 26 CFR Parts 1 and 7

[LR-268-76]

##### Election To Treat Outdoor Advertising Displays as Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the involuntary conversion of real property. These proposed regulations provide rules regarding the making of an election to treat property that constitutes certain outdoor advertising displays as real property for income tax purposes. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations would provide the guidance needed to make the election allowed by law.

DATES: Written comments and requests for public hearings must be delivered or mailed by February 11, 1980. The amendments are proposed to be effective for taxable years beginning after December 31, 1970.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-268-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Douglas W. Charnas of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3346).

##### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) under section 1033 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2127 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1920) and are to be issued under the authority contained in sections 1033 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1920, 26 U.S.C. 1033; 68A Stat. 917, 26 U.S.C. 7805).

##### Explanation of Provisions

Section 2127 of the Tax Reform Act of 1976 amended section 1033 to allow taxpayers an election to treat property that constitutes certain outdoor advertising displays as real property. In

general, the election is available for taxable years beginning after December 31, 1970, including, in the case of an election made by the 180th day after finalization of the proposed regulations, taxable years which otherwise would be closed because the period for filing a claim for credit or refund has expired. No election may be made, however, with respect to any property for which (i) the investment credit under section 38 has been claimed, or (ii) an election of additional first-year depreciation allowance for small businesses under section 179 (a) is in effect.

Under the proposed regulations, the election is to be made by attaching a statement to the return (or amended return) for the first taxable year to which the election is to apply. Once made it is irrevocable without the consent of the Commissioner and applies to all outdoor advertising displays of the taxpayer which may be made the subject of an election under section 1033 (g)(3), including all outdoor advertising displays acquired or constructed by the taxpayer in a taxable year after the taxable year for which the election is made.

These proposed regulations would also supersede certain temporary regulations (26 CFR 7.0 (c)(6)) relating to the election.

##### Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

##### Drafting Information

The principal author of these proposed regulations is Douglas W. Charnas of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

##### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Parts 1 and 7 are as follows:



**§ 1.1033(a)-1 [Amended]**

Paragraph 1. Paragraph (b) of § 1.1033(a)-1 is amended by striking out "§ 1.1033(f)-1" and inserting in lieu thereof "§ 1.1033(g)-1".

**§ 1.1033(a)-2 [Amended]**

Par. 2. Paragraph (c)(3) of § 1.1033(a)-2 is amended by striking out "section 1033(f)(4)" and inserting in lieu thereof "section 1033(g)(4)", and by striking out "§ 1.1033(f)-1" and inserting in lieu thereof "§ 1.1033(g)-1".

**§ 1.1033(g)-1 Redesignated as § 1.1033(h)-1.**

Par. 3. Section 1.1033(g)-1 is redesignated as § 1.1033(h)-1 and is amended by striking out "§ 1.1033(f)-1" and inserting in lieu thereof "§ 1.1033(g)-1".

Par. 4. Section 1.1033(f)-1 is redesignated as section 1.1033(g)-1 and is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) and by adding a new paragraph (b) to read as set forth below:

**§ 1.1033(g)-1 Condemnation of real property held for productive use in trade or business or for investment.**

(b) *Election to treat outdoor advertising displays as real property*—  
(1) *In general.* Under section 1033(g)(3) of the Code, a taxpayer may elect to treat property which constitutes an outdoor advertising display as real property for purposes of chapter 1 of the Code. The election is available for taxable years beginning after December 31, 1970. In the case of an election made on or before the 180th day after the date of publication of this notice of proposed rulemaking as a Treasury decision, the election is available whether or not the period for filing a claim for credit or refund under section 6511 has expired. No election may be made with respect to any property for which (i) the investment credit under section 38 has been claimed, or (ii) an election of additional first-year depreciation allowance for small business under section 179(a) is in effect. The election once made applies to all outdoor advertising displays of the taxpayer which may be made the subject of an election under this paragraph, including all outdoor advertising displays acquired or constructed by the taxpayer in a taxable year after the taxable year for which the election is made. The election applies with respect to dispositions during the taxable year for which made and all subsequent taxable years (unless an effective revocation is made pursuant to paragraph (b)(2)(ii)).

(2) *Election—(i) Time and manner of making election—(A) In general.* Unless otherwise provided in the return or in the instructions for a return for a taxable year, any election made under section 1033(g)(3) shall be made by attaching a statement to the return (or amended return if filed on or before the 180th day after the date of publication of this notice as a Treasury decision) for the first taxable year to which the election is to apply. Any election made under this paragraph must be made not later than the time, including extensions thereof, prescribed by law for filing the income tax return for such taxable year or 180 days after the date of publication of this notice as a Treasury decision, whichever occurs last. If a taxpayer makes the election for a taxable year for which he or she has previously filed a return, the return for that taxable year and all other taxable years affected by the election must be amended to reflect any tax consequences resulting from the election. However, no return for a taxable year for which the period for filing a claim for credit or refund under section 6511 has expired may be amended to make any changes other than those resulting from the election.

(B) *Statement required when making election.* The statement required when making the election must clearly indicate that the election to treat outdoor advertising displays as real property is being made.

(ii) *Revocation of election by Commissioner's consent.* An election under section 1033(g)(3) shall be irrevocable unless consent to revoke is obtained from the Commissioner. In order to secure the Commissioner's consent to revoke an election, the taxpayer must file a request for revocation of election with the Commissioner of Internal Revenue, Washington, D.C. 20224. The request for revocation shall include—

(A) The taxpayer's name, address, and taxpayer identification number,  
(B) The date on which and taxable year for which the election was made and the Internal Revenue Service office with which it was filed,  
(C) Identification of all outdoor advertising displays of the taxpayer to which the revocation would apply (including the location, date of purchase, and adjusted basis in such property),  
(D) The effective date desired for the revocation, and  
(E) The reasons for requesting the revocation.

The Commissioner may require such other information as may be necessary in order to determine whether the requested revocation will be permitted. The Commissioner may prescribe

administrative procedures (subject to such limitations, terms and conditions as he deems necessary) to obtain his consent to permit the taxpayer to revoke the election. The taxpayer may submit a request for revocation for any taxable year for which the period of limitations for filing a claim for credit or refund or overpayment of tax has not expired.

(3) *Definition of outdoor advertising display.* The term "outdoor advertising display" means a rigidly assembled sign, display, or device that constitutes, or is used to display, a commercial or other advertisement to the public and is permanently affixed to the ground or permanently attached to a building or other inherently permanent structure. The term includes highway billboards affixed to the ground with wood or metal poles, pipes, or beams, with or without concrete footings.

(4) *Character of replacement property.* For purposes of section 1033(g), an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display (with respect to which an election under this section is in effect) shall be considered property of a like kind as the property converted even though a taxpayer's interest in the replacement property is different from the interest held in the property converted. Thus, for example, a fee simple interest in real estate acquired to replace a converted billboard and a 5-year leasehold interest in the real property on which the billboard was located qualifies as property of a like kind under this section.

**PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976**

Par. 5. Paragraph (c)(6) of § 7.0 is hereby deleted.

Jerome Kurtz,  
Commissioner of Internal Revenue.

[FR Doc. 79-37847 Filed 12-10-79; 8:45 am]

BILLING CODE 4830-01-M

**Bureau of Alcohol, Tobacco and Firearms**

26 CFR Parts 1, 31, 36, 46, 48, 49, 154, 301, and 601

[CC:LR-1406]

**Timely Mailing and Paying; Proposed Rulemaking**

AGENCY: Internal Revenue Service and Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the timeliness of tax returns, payments and deposits. Changes to the applicable tax law were made by the Act of November 2, 1966, the Revenue and Expenditure Control Act of 1968, the Tax Reform Act of 1976, and the Act of October 28, 1977. The regulations would provide the public with the guidance needed to benefit from the provisions of those Acts and would affect all taxpayers.

**DATES:** Written comments and request for a public hearing must be delivered or mailed by February 11, 1980. The amendments are proposed to be effective for deposits mailed after June 28, 1968 and returns, other documents, and payments mailed after November 2, 1966, except as otherwise provided.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey B. Lanning of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3909, not a toll-free call.

**SUPPLEMENTARY INFORMATION:****Background**

This document generally contains proposed amendments to the Regulations on Procedure and Administration under sections 6302, 6402, and 7502 of the Internal Revenue Code of 1954. These amendments are designed to conform the regulations to changes made by section 5(a) of the Act November 2, 1966 (Pub. L. 89-713; 80 Stat. 1110), section 106(a) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266), section 1210(a) of the Tax Reform Act of 1976 (90 Stat. 1711), and section 3 of the Act of October 28, 1977 (Pub. L. 95-147; 91 Stat. 1228), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

**Explanation of Proposed Regulations**

Prior to amendment in 1966, section 7502 generally provided that if the requirements of that section were met, a claim, statement, or other document (other than a return) delivered by mail after the last date prescribed for filing the document would be considered timely filed if it was timely mailed. The Act of November 2, 1966, amended section 7502 to provide generally the same rules for the payment of taxes and the filing of returns. The Revenue and

Expenditure Control Act of 1968 amended section 7502 to provide similar rules for deposits of tax.

The proposed amendments to the regulations contained in this document would conform the regulations to the expanded scope of section 7502 and would provide guidance with respect to the mailing and delivery requirements that must be met under section 7502.

The proposed amendments would also conform the regulations to reflect the addition of building and loan associations and credit unions as financial institutions that the Secretary of the Treasury may authorize to accept tax deposits.

**Comments and Requests for a Public Hearing**

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

**Drafting Information**

The principal author of these proposed regulations was Geoffrey B. Lanning of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other office of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

**Proposed amendments to the regulations.**

The proposed amendments to 26 CFR Parts 1, 31, 36, 46, 48, 49, 154, 301 and 601 are as follows:

**§ 1.1461-3 [Amended]**

Paragraph 1. Paragraph (c) of § 1.1461-3 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 1.6151-1 [Amended]**

Par. 2. Paragraph (d)(1) of § 1.6151-1 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

Par. 3. Paragraph (d)(2) of § 1.6151-1 is amended by striking out "such banks" and inserting in lieu thereof "such financial institutions".

**§ 1.6152-1 [Amended]**

Par. 4. Paragraph (a)(3) of § 1.6152-1 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 1.6154-4 [Amended]**

Par. 5. Section 1.6154-4 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 1.6302-1 [Amended]**

Par. 6. Paragraph (a) of § 1.6302-1 is amended by adding to the end thereof the following sentence: "A deposit required to be made by this section may be deposited, at the election of the corporation, with a commercial bank, trust company, domestic building and loan association, or credit union authorized by the Secretary to accept tax deposits".

Par. 7. Paragraph (b) of § 1.6302-1 is amended to read as follows:

**§ 1.6302-1 Use of Government depositaries in connection with corporation income and estimated income taxes.**

(b) *Depositary forms.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. A corporation may make one, or more than one, remittance of the amount required by this section to be deposited. Each remittance shall be accompanied by a Federal Tax Deposit, Corporation Income Taxes, form (FTD Form 503) which shall be prepared according to the instructions that apply to such form. The remittance, together with FTD Form 503, shall be forwarded to a Federal Reserve bank or, at the election of the corporation, to a financial institution authorized under Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the tax for transmission to a Federal Reserve Bank. The timeliness of the deposit will be determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e). Each corporation making deposits under this section shall report on the return or declaration, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return or declaration. Amounts deposited under this section shall be considered as payment of the tax.



**§ 1.6302-2 [Amended]**

Par. 8. Paragraph (a)(1) of § 1.6302-2 is amended by striking out "commercial bank" wherever it appears and inserting in lieu thereof "financial institution".

Par. 9. Paragraph (b)(1)(ii) of § 1.6302-2 is amended to read as follows:

**§ 1.6302-2 Use of Government depositaries for payment of tax withheld on nonresident aliens and foreign corporations.**

(b) *Depositary forms*—(1) *Remittances.*

(ii) *Deposits for 1968 and later years.* Each remittance of amounts required to be deposited by paragraph (a) of this section for years after 1967 shall be accompanied by a Federal Tax Deposit, Tax Withheld at Source on Nonresident Aliens, Foreign Corporations, Tax-Free Covenant Bonds, form (FTD Form 512) which shall be prepared according to the instructions that apply to such form.

The remittance, together with FTD Form 512, shall be forwarded to a Federal Reserve bank or, at the election of the withholding agent, to a financial institution authorized under Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the tax for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502 (e) applies, by the date the deposit is treated as received under section 7502 (e). Each withholding agent making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return.

**§ 1.6071(a)-1 [Amended]**

Par. 10. Paragraphs (a)(1) and (c) of § 1.6071(a)-1 are amended by striking out "commercial bank" wherever it appears and inserting in lieu thereof "financial institution".

**§ 1.6151-1 [Amended]**

Par. 11. Paragraph (b) of § 1.6151-1 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 1.6302(c) [Amended]**

Par. 12. Paragraph (a)(1)(i) and (iv) and (3)(iii) of § 1.6302(c)-1 is amended by striking out "commercial bank" wherever it appears and inserting in lieu thereof "financial institution".

**§ 1.6302(c)-2 [Amended]**

Par. 13. Paragraph (a) § 1.6302(c)-2 is amended by striking out "commercial bank" wherever it appears and inserting in lieu thereof "financial institution".

Par. 14. Paragraph (b)(3) of § 1.6302(c)-2 is amended to read as follows:

**§ 1.6302 (c)-2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.**

(b) *Depositary forms.*

(3) *Deposits for 1968 and later years.* Each remittance of amounts required to be deposited for periods after 1967 shall be accompanied by a Federal Tax Deposit, Railroad Retirement Taxes, form (FTD Form 507) which shall be prepared according to the instructions that apply to such form. The remittance, together with FTD Form 507, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a financial institution authorized under Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e). Each employer making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return and pay at that time (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

**§ 1.6302 (c)-3 [Amended]**

Par. 15. Paragraph (a) of § 1.6302(c)-3 is amended by striking out "commercial bank" wherever it occurs and inserting in lieu thereof "financial institution".

Par. 16. Paragraph (b)(2) of § 1.6302(c)-3 is amended to read as follows:

**§ 1.6302 (c)-3 Use of Government depositaries in connection with tax under the Federal Unemployment Tax Act.**

(b) *Depositary forms.*

(2) *Use of Federal Unemployment Tax Deposit Form.* Each remittance of amounts required to be deposited under this section shall be accompanied by a preprinted and prescribed Federal Unemployment Tax Deposit form (FTD

Form 508) which shall be prepared according to the instructions that apply to such form. The employer shall forward such remittance, together with FTD Form 508, to a Federal Reserve bank or, at the employer's election, to a financial institution authorized in accordance with Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of deposits is determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e).

**§ 36.3121(l)(10)-4 [Amended]**

Par. 17. Section 36.3121(l)(10)-4 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

**§ 46.6071(a)-1 [Amended]**

Par. 18. Paragraph (a) of § 46.6071(a)-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

**§ 46.6151-1 [Amended]**

Par. 19. Section 46.6151-1 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 46.6302(c)-1 [Amended]**

Par. 20. Paragraph (a)(2) of § 46.6302(c)-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

**§ 46.6302(c)-1 [Amended]**

Par. 21. Paragraph (c)(3) of § 46.6302(c)-1 is amended to read as follows:

**§ 46.6302(c)-1 Use of Government depositaries.**

(c) *Depositary forms.*

(3) *Deposits for 1968 and later years.* Each remittance of amounts required to be deposited for periods after 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (FTD Form 504) which shall be prepared according to the instructions that apply to such form. The remittance, together with FTD Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a financial institution authorized in accordance with Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit is

determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e). Each person making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return and pay at that time (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

**§ 48.6071(a)-1 [Amended]**

Par. 22. Paragraph (a) of § 48.6071(a)-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

**§ 48.6151-1 [Amended]**

Par. 23. Section 48.6151-1 is amended by striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 48.6302(c)-1 [Amended]**

Par. 24. Paragraph (a)(2) of § 48.6302(c)-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

Par. 25. Paragraph (c)(3) of § 48.6302(c)-1 is amended to read as follows:

**§ 48.6302 (c)-1 Use of Government depositaries.**

(c) *Depositary forms.*

(3) *Deposits for 1968 and later years.* Each remittance of amounts required to be deposited for periods after 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (FTD Form 504) which shall be prepared according to the instructions that apply to such form. The remittance, together with FTD Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a financial institution authorized under Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit is determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e). Each person making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits

according to the instructions that apply to such return and pay at that time (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

**§ 49.6151-1 [Amended]**

Par. 26. Paragraph (a) of § 49.6151-1 is amended to striking out "commercial banks" and inserting in lieu thereof "financial institutions".

**§ 49.6302(c)-1 [Amended]**

Par. 27. Paragraph (a)(2) of § 49.6302(c)-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution".

Par. 28. Paragraph (c)(3) of § 49.6302(c)-1 is amended to read as follows:

**§ 49.6302 (c)-1 Use of Government depositaries.**

(c) *Depositary forms.*

(3) *Deposits for 1968 and later years.* Each remittance of amounts required to be deposited for periods after 1967 shall be accompanied by a Federal Tax Deposit, Excise Taxes, form (FTD Form 504) which shall be prepared according to the instructions that apply to such form. The remittance, together with FTD Form 504, shall be forwarded to a Federal Reserve bank or, at the election of the person making the remittance, to a financial institution authorized under Treasury Department Circular No. 1079 (31 CFR Part 214) to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit is determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e). Each person making deposits under this section shall report on the return, for the period with respect to which such deposits are made, information regarding such deposits according to the instructions that apply to such return and pay at that time (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

**§ 154.2-1 [Amended]**

Par. 29. Paragraph (f)(3) of § 154.2-1 is amended by striking out "commercial bank" and inserting in lieu thereof "financial institution" and by striking out "authorized bank" and inserting in lieu thereof "authorized financial institution".

Par. 30. Paragraph (a) of § 301.6302-1 is amended to read as follows:

**§ 301.6302-1 Manner or time of collection of taxes.**

(a) *Certain employment and excise taxes.* For provisions relating to the manner or time of collection of certain employment and excise taxes and the use of Federal Reserve banks and authorized financial institutions in connection with the payment of such taxes, see the regulations relating to the particular tax. The timeliness of a deposit is determined by the date stamped on the Federal Tax Deposit form by the Federal Reserve bank or the authorized financial institution or, if section 7502(e) applies, by the date the deposit is treated as received under section 7502(e).

**§ 301.6302-1 [Amended]**

Par. 31. Paragraph (b) of § 301.6302-1 is amended by striking out "commercial banks" wherever it appears and inserting in lieu thereof "financial institutions".

**§ 301.6402-4 [Amended]**

Par. 32. The last sentence of § 301.6402-4 is amended to read as follows:

"The provisions of section 6405 (relating to reports of refunds of more than \$200,000 to the Joint Committee on Taxation) do not apply to the overpayment described in this section caused by timely payments of tax which exceed the amount of tax shown on a return."

**§ 301.7502 [Deleted]**

Par. 33. Section 301.7502 is deleted.  
Par. 34. Section 301.7502-1 is amended to read as follows:

**§ 301.7502-1 Timely mailing of documents and payments treated as timely filing and paying.**

(a) *General rule.* Section 7502 provides that, if the requirements of such section are met, a document or payment (within the meaning of paragraph (b) of this section) is deemed to be filed or paid on the date of the postmark stamped on the cover in which such document or payment was mailed. Thus, if the cover containing such document or payment bears a timely postmark, the document or payment is considered timely filed or paid although it is received after the last date, or the last day of the period, prescribed for filing such document or making such payment. However, if a document or payment is not considered timely filed or timely paid under section 7502, the document or payment is not deemed to be filed or paid on the date of the postmark stamped on the cover in which



such document or payment was mailed. Thus, section 7502 does not apply to determine the period of time during which there is a failure to file a return or pay a tax for purposes of computing the penalties and additions to tax imposed by section 6651. Except as provided in section 7502(e) and § 301.7502-2, relating to the timely mailing of deposits, section 7502 is applicable only to those documents or payments that come within the definition of such terms provided by paragraph (b) of this section and only if the document or payment is mailed in accordance with paragraph (c) of this section and is delivered in accordance with paragraph (d) of this section.

(b) *Document and payment defined.* (1)(i) The term "document", as used in this section, means any return, claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws, except as provided in paragraph (b)(1)(ii), (iii) or (iv) of this section.

(ii) The term does not include returns, claims, statements, or other documents that are required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than mailing. For example, if under regulations certain documents relating to alcohol excise taxes must be delivered by hand to an internal revenue officer located on the premises of the person required to file the documents, section 7502 does not apply to determine the timeliness of the filing of such documents if they are mailed.

(iii) The term does not include any document filed in any court other than the Tax Court, but the term does include any document filed with the Tax Court, including a petition for redetermination of a deficiency and a petition for review of a decision of the Tax Court.

(iv) The term does not include any document that is required to be filed with a bank or other depository under section 6302(c). However, see § 301.7502-2 for special rules relating to the timeliness of deposits and documents required to be filed with deposits.

(2)(i) The term "payment", as used in this section, means any payment required to be made within a prescribed period or on or before a prescribed date under the authority of any provision of the internal revenue laws, except as provided in paragraph (b)(2)(ii), (iii), (iv) or (v) of this section.

(ii) The term does not include any payment that is required under any provision of the internal revenue laws or

the regulations thereunder to be delivered by any method other than mailing.

(iii) The term does not include any payment, whether it is made in the form of currency or other medium of payment, unless it is actually received and accounted for. For example, if a check is used as the form of payment, this section does not apply unless such check is honored upon presentation.

(iv) The term does not include any payment to any court other than the Tax Court.

(v) The term does not include any deposit that is required to be made with a bank or other depository under section 6302(c). However, see § 301.7502-2 for rules relating to the timeliness of deposits.

(c) *Mailing requirements.* (1) Section 7502 is not applicable unless the document or payment is mailed in accordance with the following requirements:

(i) The document or payment must be contained in an envelope or other appropriate wrapper, properly addressed to the agency, officer, or office with which the document is required to be filed or to which the payment is required to be made.

(ii) The document or payment must be deposited within the prescribed time in the mail in the United States with sufficient postage prepaid. For this purpose, a document or payment is deposited in the mail in the United States when it is deposited with the domestic mail service of the U.S. Postal Service. The domestic mail service of the U.S. Postal Service, as defined by the postal regulations, includes mail transmitted within, among, and between the United States, its possessions, and Army-Air Force (APO) and Navy (FPO) post offices (see 39 CFR 2.1). Section 7502 does not apply to any document or payment that is deposited with the mail service of any other country.

(iii)(A) If the postmark on the envelope or wrapper is made by the U.S. Postal Service, such postmark must bear a date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment. If the postmark does not bear a date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment, the document or payment is considered not to be timely filed or paid, regardless of when the document or payment is deposited in the mail.

Accordingly, the sender who relies upon the applicability of section 7502 assumes the risk that the postmark will bear a date on or before the last date, or the last day of the period, prescribed for

filing the document or making the payment, but see paragraph (c)(2) of this section with respect to the use of registered mail or certified mail to avoid this risk. If the postmark on the envelope or wrapper is made by the U.S. Postal Service and is not legible, the person who is required to file the document or make the payment has the burden of proving the time when the postmark was made. Furthermore, in case the cover containing a document or payment bearing a timely postmark made by the U.S. Postal Service is received after the time when a document or payment postmarked and mailed at such time would ordinarily be received, the sender may be required to prove that it was timely mailed.

(B) If the postmark on the envelope or wrapper is made other than by the U.S. Postal Service, (1) the postmark so made must bear a legible date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment and (2) the document or payment must be received by the agency, officer, or office with which it is required to be filed not later than the time when a document or payment contained in an envelope or other appropriate wrapper that is properly addressed and mailed and sent by the same class of mail would ordinarily be received if it were postmarked at the same point of origin by the U.S. Postal Service on the last date, or the last day of the period, prescribed for filing the document or making the payment. However, in case the document or payment is received after the time when a document or payment so mailed and so postmarked by the U.S. Postal Service would ordinarily be received, such document or payment is treated as having been received at the time when a document or payment so mailed and so postmarked would ordinarily be received if the person who is required to file the document or make the payment establishes (i) that it was actually deposited in the mail before the last collection of the mail from the place of deposit which was postmarked (except for the metered mail) by the U.S. Postal Service on or before the last date, or the last day of the period, prescribed for filing the document or making the payment, (ii) that the delay in receiving the document or payment was due to a delay in the transmission of the mail, and (iii) the cause of such delay. If the envelope has a postmark made by the U.S. Postal Service in addition to the postmark not so made, the postmark which was not made by the U.S. Postal Service is to be disregarded, and

whether the envelope was mailed in accordance with this subdivision (B) shall be determined solely by applying the rule of paragraph (c)(1)(iii)(A) of this section.

(2) If the document or payment is sent by U.S. registered mail, the date of registration of the document or payment is treated as the postmark date. If the document or payment is sent by U.S. certified mail and the sender's receipt is postmarked by the postal employee to whom such document or payment is presented, the date of the U.S. postmark on such receipt is treated as the postmark date of the document or payment. Accordingly, the risk that the document or payment will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered or certified mail.

(3) As used in this section, the term "the last date, or the last day of the period, prescribed for filing the document or making the payment" includes any extension of time granted for such action. When the last date, or the last day of the period, prescribed for filing the document or making the payment falls on a Saturday, Sunday, or legal holiday, section 7503 is also applicable, so that, in applying the rules of this paragraph, the next succeeding day that is not a Saturday, Sunday, or legal holiday is treated as the last date, or the last day of the period, prescribed for filing the document or making the payment.

(d) *Delivery.* (1) Section 7502 is not applicable unless the document or payment is delivered by U.S. mail to the agency, officer, or office with which the document is required to be filed or to which payment is required to be made. However, in the case of a document (but not a payment) sent by registered or certified mail, proof that the document was properly registered or that a postmarked certified mail sender's receipt was properly issued therefor and that the envelope or wrapper was properly addressed to such agency, officer, or office constitutes prima facie evidence that the document was delivered to such agency, officer, or office.

(2) Section 7502 is applicable only when the document or payment is delivered after the last date, or last day of the period, prescribed for filing the document or making the payment. Thus, section 7502 is applicable when a claim for credit or refund is delivered after the last day of the period specified in section 6511 or in any other corresponding provision of law relating to the limit on the amount of credit or refund that is allowable. For example, taxpayer A was required to file an

income tax return for 1974 on or before April 15, 1975, but A secured an extension until June 15, 1975, to file such return. A filed the return on June 15, 1975, but no tax was paid at such time because the tax liability disclosed by the return had been completely satisfied by the income tax that had been withheld on A's wages and by the payment of estimated tax that was remitted with A's application for extension of time to file the return. On June 14, 1978, A mailed in accordance with the requirements of this section a claim for refund of a portion of this 1974 tax. The envelope containing the claim was postmarked on such day, but it was not delivered to the internal revenue service center until June 16, 1978. Under section 6511 A's claim for refund is timely if filed within three years from June 15, 1975. Thus, since A's claim for refund was mailed in accordance with the requirements of this section and was delivered after the last day of the period specified in section 6511, section 7502 is applicable and the claim is deemed to have been filed on June 14, 1978.

(e) *Applicability.* Section 7502 and this section apply to any payment or document (as those terms are defined in paragraph (b) of this section) mailed and delivered in accordance with the requirements of this section in an envelope or other appropriate wrapper bearing a postmark dated after November 2, 1966. For rules relating to the applicability of section 7502 with respect to mail postmarked before November 3, 1966, see 26 CFR Part 301.7502-1(e), revised as of April 1, 1978.

Par. 35. There is added immediately following § 301.7502-1 the following new section:

#### § 301.7502-2 Timely mailing of deposits.

(a) *General rule.* Section 7502(e) provides that, if the requirements of such section are met, a deposit is deemed to be received on the date the deposit was mailed. If the date of mailing is on or before the second day preceding the date prescribed for making the deposit, the deposit will be considered timely received even though it is received after the date prescribed for making the deposit. If the date of mailing is not on or before the second day preceding the date prescribed for making the deposit, the deposit will not be considered timely received unless it is actually received on or before the date prescribed for making the deposit. Section 7502(e) only applies to deposits mailed to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit. Thus, section 7502(e) does not apply to any remittance mailed to an

internal revenue service center. Section 7502(e) applies to only those deposits mailed after June 28, 1968, that come within the definition of such term provided in paragraph (b) of this section, that are mailed in accordance with the requirements of paragraph (c) of this section, and that are delivered in accordance with paragraph (d) of this section.

(b) *Deposit defined.* The term "deposit", as used in this section, means any deposit of tax required to be made and any document required to be filed on or before a prescribed date under regulations prescribed by the Commissioner under section 6302(c).

(c) *Mailing requirements—(1) In general.* Section 7502(e) does not apply unless the deposit is mailed in accordance with the requirements of paragraph (c)(2) of this section.

(2) *Requirements.* The date of mailing must fall on or before the second day preceding the prescribed date for making the deposit (including any extension of time granted for making such deposit). For example, if a deposit is due on or before January 15, the date of mailing must fall on or before January 13. The deposit must be contained in an envelope or other appropriate wrapper approved for use in the mails by the U.S. Postal Service, properly addressed to the bank, trust company, domestic building and loan association or credit union authorized to receive such deposit. The deposit must be deposited with sufficient postage prepaid on or before such second day in the mail in the United States within the meaning of § 301.7502-1(c)(1)(ii).

(3) *Registered and certified mail.* The provisions of § 301.7502-1(c)(2) apply to a deposit sent by U.S. registered mail or U.S. certified mail as if such deposit were a "payment", except that the date of registration or the date of the postmark on the sender's receipt shall be considered the date of mailing of such deposit.

(d) *Delivery.* Section 7502(e) does not apply unless the deposit is actually delivered by U.S. mail to the authorized financial institution with which such deposit is required to be made and is accepted by such financial institution. For rules relating to the acceptance of deposits by authorized financial institutions, see 31 CFR 214.6 and 214.7.

The fact the deposit is sent by U.S. registered or U.S. certified mail does not constitute prima facie evidence that the deposit was delivered to the financial institution authorized to receive the deposit. Section 7502(e) does not apply unless the deposit is delivered after the date prescribed for making the deposit.



**§ 601.401 [Amended]**

Par. 36. Paragraph (a)(5) of § 601.401 is amended by striking out "Commercial banks" and inserting in lieu thereof "financial institutions" and by striking out "commercial bank" wherever it appears in paragraph (a)(5) (iv) and (v) and inserting in lieu thereof "financial institution".

G. R. Dickerson,

Director of Bureau of Alcohol, Tobacco and Firearms.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-37848 Filed 12-10-79; 8:45 am]

BILLING CODE 4830-01-M

**Internal Revenue Service****26 CFR Part 20**

[LR-203-76 Part IV]

**Definition of Gross Cash Rentals for Valuation of Certain Farm Real Property According to Actual Use; Public Hearing on Proposed Regulations**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Public hearing on proposed regulations.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations defining "gross cash rental" for purposes of electing to value certain farm real property according to its actual use.

**DATES:** The public hearing will be held on January 16, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by January 2, 1980.

**ADDRESS:** The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, D.C. The outlines of oral comments on the proposed regulations should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-203-76, Part IV), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224; telephone 202-566-3935, not a toll-free call.

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations defining "gross cash rentals" for purposes of electing to value certain farm real property according to its

actual use under section 2032A(e)(7) of the Internal Revenue Code of 1954. The proposed regulations appeared in the *Federal Register* for Monday, September 10, 1979, at page 52696 (44 FR 52696).

On July 19, 1978, the *Federal Register* published proposed Income Tax Regulations (26 CFR Part 1) under section 1402 and Estate Tax Regulations (26 CFR Part 20) under section 2032A (43 FR 31039). On April 3, 1979, the Internal Revenue Service held public hearings on the proposed regulations. On September 10, 1979, a notice withdrawing the portion of the proposed regulations concerning the definition of "gross cash rental" was published in the *Federal Register* (44 FR 52698). The current proposed regulations replace the withdrawn definition of "gross cash rental."

The rules of § 601.401(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the September 10, 1979, notice of proposed rulemaking, and who desire to present oral comments at the hearing on the proposed regulations, must submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject. As stated above, outlines must be delivered or mailed by January 2, 1980. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time taken by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, those attending the hearing cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 6 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-37848 Filed 12-10-79; 8:45 am]

BILLING CODE 4830-01-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 65**

[FRL 1372-8]

**Proposed Delayed Compliance Order for Pervel Industries, Inc., Plainfield, Connecticut**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to issue an administrative order to Pervel Industries, Inc., pursuant to section 113(d)(4) of the Clean Air Act, 42 U.S.C. 7413(d)(4). The order requires Pervel to bring air emissions from its manufacturing processes into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP). Because Pervel is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by May 1, 1980. Interim requirements include production trials by December 1, 1979, submittal of emission data within 30 days of effective date of the order, and 50% reduction of violative emissions by March 1, 1980. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

**DATES:** Written comments must be received on or before January 10, 1980, and requests for a public hearing must be received on or before December 26, 1979.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time and place of the hearing has been given in this publication.

**ADDRESSES:** Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, John F. Kennedy Building, Boston, MA 02203, Attn: Air Compliance Clerk. Material supporting this order and public comments received in response to this notice may be inspected and copied (for appropriate

charges) at this address during normal business hours.

For further information contact: Mr. Michael J. Parise, attorney (617/223-5470) or Mr. Steven P. Fradkoff, engineer (617/223-5610), both at EPA, Region I, Room 2103, JFK Building, Boston, MA 02203.

**SUPPLEMENTARY INFORMATION:** Pervel Industries, Inc. conducts urethane coating of fabric as one of its manufacturing processes. The proposed order addresses emissions from the drying of urethane resins which are subject to 19-508-20(f)(4) of the Connecticut Regulations for the Abatement of Air Pollution. The regulation limits the emissions of organic solvent, and is part of the federally-approved Connecticut State Implementation Plan. The order requires final compliance with the regulation by May 1, 1980, and the source has consented to its terms.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded. However, source compliance with the order will not preclude assessment of any non-compliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2)(B) or (C).

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the *Federal Register* the Agency's final action on the Order in 40 CFR Part 65. (42 U.S.C. 7413, 7601.)

Dated: November 19, 1979.

William Adams,

Regional Administrator, Region I.

I. The text of the Order reads as follows:

**Environmental Protection Agency—Region I**  
[Order No. A-SS 76-206]

In the matter of Pervel Industries, Inc., Plainfield, Connecticut; Proceedings under Section 113 of the Clean Air Act, 42 U.S.C. 7413.

This order is issued pursuant to section 113(d)(4) of the Clean Air Act, 42 U.S.C. 7413(d)(4). This order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Connecticut have been provided pursuant to section 113(d)(1) of the Act.

**Findings**

1. Section 19-508-20(f)(4) of the Connecticut Regulations for the Abatement of Air Pollution ("Regulations") limits the amount of organic solvents which may be discharged into the atmosphere from any machine or equipment in which any non-photo-chemically reactive organic solvent is employed or applied.

2. Section 19-508-20(f)(4) of the Regulations is part of the Connecticut implementation plan submitted to and approved by EPA pursuant to section 110 of the Act, and is therefore a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the Act.

3. Pervel Industries, Inc., located in Plainfield, Connecticut, conducts urethane coating of fabrics as one of its manufacturing processes. During the drying of the coated fabric, organic solvent is emitted into the atmosphere in amounts exceeding the 800 lb/day limit established by the Regulations. These violations have been documented by data submitted by Pervel and by state and federal inspections.

4. On November 17, 1975, the Regional Administrator of EPA notified Pervel that it was in violation of section 19-508-20(f) of the Connecticut Regulations for the Abatement of Air Pollution. On December 30, 1975, representatives of Pervel conferred with EPA concerning the violations, pursuant to section 113(a)(4) of the Act.

5. On January 22, 1976, the Regional Administrator of EPA issued an administrative order to Pervel. In accordance with its terms, Pervel submitted a proposed schedule of compliance. The order was modified on June 17, 1977, incorporating this schedule which included a final compliance date for the urethane coating operations of October 1, 1979. The order required certain process and equipment alterations to achieve compliance with the regulations.

6. Section 113(d)(12) of the amended Clean Air Act voided all orders which provided for final compliance deadlines beyond July 1, 1979 unless modified within one year of enactment to conform with the amended provisions of section 113. All provisions of the June 17, 1977 order will be satisfactorily complied with prior to July 1, 1979 with the exception of those relating to the urethane coating operations. It is necessary at this time, therefore, to issue a new administrative order pursuant to section 113(d)(12) of the new Clean Air Act regarding the reduction of emissions for urethane operations.

7. Pervel is presently engaged in certain innovative process and production equipment changes which are expected to result in

significant emission reduction. Specifically, Pervel is developing new water base coating formulations which will substantially reduce, if not eliminate, the emissions of organic solvent from its urethane coating operations. The development of such a water base coating constitutes a new means of emission limitation within the meaning of section 113(d)(4).

8. On April 27, 1978, Pervel requested that a delayed compliance order be granted, with a final compliance date of March 1981. This request was subsequently modified, proposing a compliance date of May 1, 1980.

9. It has been determined on the basis of submittals by Pervel on April 27, July 27, and August 15, 1978, that this new means of emission reduction is not likely to be used but for this ORDER. This technology is likely to be adequately demonstrated, within the meaning of section 111(a)(1), and as required by section 113(d)(4), no later than May 1, 1980. There is a substantial likelihood of achieving greater continuous emission reduction than that which would otherwise be required of the Company. Full compliance by Pervel with the requirements of the Connecticut implementation plan would be impracticable prior to, or during, installation of said new means of emission reduction. Pervel will, however, insofar as it is practicable, comply with the applicable emission limits during the entire effective period of this Order.

**Order**

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act.

**It Is Hereby Ordered**

I. That Pervel Industries, Inc. will comply with the Connecticut implementation plan regulations in accordance with the following schedule for implementation of process and production equipment modification presently being developed by Pervel as a means of emission reduction:

1. Initiate production trials with reformulated coating no later than five (5) days after the effective date of this Order.

2. Complete production trials with reformulated coating by December 1, 1979.

3. Within thirty days of the effective date of this Order, submit emissions data showing daily emissions from the urethane coating operation during days of operation for the period beginning December 1, 1978 and ending February 28, 1979.

4. By March 1, 1980, reduce by 50 percent the amount of organic solvent emitted from urethane coating operations in excess of 800 lbs./day. This calculation will be based upon the average daily emissions as reported pursuant to No. 3, above.

5. Achieve full compliance with all applicable air pollution control regulations by May 1, 1980.

6. Submit a progress report to the Director



of the Enforcement Division not later than November 1, 1979. (report received)

II. That Pervel is not relieved by this ORDER from compliance with any requirement imposed by the Connecticut implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

III. That Pervel shall comply with the following reporting requirements on or before the dates specified below:

A. Not later than five days after any date for achievement of an incremental step or final compliance specified in this order, Pervel shall notify EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, Pervel shall immediately notify EPA in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notification to EPA pursuant to this order shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, Massachusetts 02203, Attn: Air Compliance Clerk.

IV. Pervel is hereby notified that failure to achieve final compliance by May 1, 1980, may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, Pervel will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

V. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with section 19-508-20(f)(4) of the Regulations no longer exists.

VI. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of section 19-508-20(f)(4) of the Regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after May 1, 1980, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VII. This order is effective December 11, 1979. Pervel Industries, Inc. consents to the issuance of the subject order and acknowledges that it is a reasonable means to comply with the applicable regulations.

Date: October 11, 1979.

M. K. White,

Administrator.

[FR Doc. 79-37869 Filed 12-10-79; 8:45 am]

BILLING CODE 8560-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

41 CFR Part 24-1

[Docket No. R-79-753]

### Procurement Responsibility and Authority—Selection, Designation and Termination of Designation of Contracting Officers; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6207.

#### SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

#### 41 CFR Part 24-1, Subpart 24-1.4—Procurement Responsibility and Authority—Selection, Designation and Termination of Designation of Contracting Officers

This proposed rule would set forth detailed criteria for the appointment of Contracting Officers. It revises the existing policy and guidelines by providing specific requirements for selection, designation and termination of designation of contracting officers.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., December 5, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-37843 Filed 12-10-79; 8:45 am]

BILLING CODE 4210-01-M

## INTERSTATE COMMERCE COMMISSION

49 CFR Part 1041

### Interpretation—Certificates and Permits; Intermediate Point Restrictions

[Ex Parte No. MC-132]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission has decided to institute a rulemaking proceeding to establish a temporary rule of construction [effective for a period of 180 days] permitting (but not requiring) regular-route motor common carriers of property to serve all intermediate points on their authorized regular service routes. The proposed temporary rule is expected to reduce energy consumption in the transportation industry through improved operating efficiencies and assure that an adequate level of transportation service is maintained during the current fuel shortage. Also, the Commission is seeking comments on the desirability of making the proposed changes permanent.

DATES: Comments must be filed with the Commission on or before January 10, 1980.

PROPOSED EFFECTIVE DATE: Upon publication of a final rule in the Federal Register.

ADDRESSES: Send an original and 15 copies (if possible) of comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Karlheinz Morell, Telephone: (202) 275-7905, or Donald J. Shaw, Telephone: (202) 275-7292.

SUPPLEMENTARY INFORMATION: A fuel energy shortage exists within the United States. Shortages in fuel supplies and the precipitous increases in the price of diesel fuel have recently caused disruptions in service to those shippers dependent on motor carrier transportation.

Events earlier this year upset the delicate balance in the diesel fuel supply of the Nation. The Department of Energy gave a priority allocation of fuel to agriculturally oriented users and placed the supply of diesel fuel for truckers (and the entire transportation industry) in jeopardy. Major dislocations occurred in the normal supply chains. Severe reductions in supply to trucking users caused major shortages, closings of truck stops, limitations on fuel

purchases, and a resort to spot market supplies at highly elevated costs. Ultimately, frustration at the impact of this combination of factors precipitated an owner-operator "strike" which drew attention to the special problems confronting these small businessmen at the end of the fuel supply chain.

The Department of Energy's priority allocation order was subsequently lifted and supplies, although very tight, became more readily available to the trucking industry. Nevertheless, the adequacy of supply available to users of middle distillates for heating, diesel truck supplies, and other uses continues to be tenuous and appears likely to be exacerbated as trucking operations continue to grow.

Limited opportunity exists to shift refining capacity to increase total diesel supply. Recognizing the limitation in supply, the President has made the need to reduce consumption an urgent national mandate.

Our action today is part of an overall effort to assure that an adequate level of transportation service is maintained during the current fuel shortage and to reduce energy consumption in the transportation industry through improved operating efficiencies. One way to accomplish both goals is to modify the manner in which regular-route, general commodities carriers are permitted to operate.

Regular-route motor common carriers of general commodities have traditionally been granted operating authority to handle freight in regularly scheduled service along designated routes between named termini. Frequently points on these routes are intentionally omitted from the operating authorities issued by the Commission. In our Bureau of Economics' 1965 study, *Profile of Motor Carriers of Property Industry Subject to ICC Regulation* it was found that, while 11,014 regular-route operating authorities in the sample required service between all intermediate points, 7,467 regular-route authorities.

The regulated highway freight system in the first quarter of 1979 transported 172,552,000 tons of intercity freight and operated 4,126,755,000 equipment miles. The general freight carriers (those whose operations are basically restricted to prescribed routes and points of service on those routes) account for 34.5 percent of the total tons and 1,928,272,000 or 46.7 percent of the miles. [ATA Division of Research and Economics, *Motor Carrier Statistical Summary First Quarter 1979*.]

The total number of outstanding certificates which limit or restrict against service at intermediate points is

not known. Nor is it precisely known how traffic moves to and from points which are restricted in a carrier's regular-route certificate. It would seem clear, however, that the shippers located at the restricted intermediate points receive less competitive service and have fewer options to move their goods. Also, carriers not holding authority to serve a point directly participate in the traffic moving to and from that point by interlining with other carriers which do hold their authority.

To preclude a carrier from picking up or delivering traffic on its route while a second carrier serves those points which the first carrier is foreclosed from serving, results in overall inefficient operations and needless fuel consumption. The extent to which this occurs is impossible to quantify. The 1965 study, however, gives some indication that this is a widespread condition.

To estimate the diseconomy, however, one may assume that a point not served by one carrier is being served by another in substitution, thereby increasing the probability of unnecessary interline service and some duplication of truck miles where carriers operating through a point could otherwise serve that point if full authority for pickup and delivery were available.

Current figures show that about 29 percent of all general freight motor carrier tonnage (65,977,000 tons annually) is being moved on an interline basis. *TRINCS* Blue Book of the Trucking Industry 1976 Edition, page S-3. Most of this interline traffic is moving to or from points not categorized as "intermediate". Some percentage of this traffic however is being interlined as a direct result of one of the participating carriers not holding authority to serve certain intermediate points on its regular-routes. Even if only 5 percent of the total traffic interlined falls within this category, it would equate to 3,298,850 tons of freight and, assuming 30 mile movements for an average ton, 98,965,500 ton miles.

The movement of freight by truck has been estimated to require 1 gallon of diesel fuel for each 50 net ton miles of transportation. Leilich, Prokopy, and Ruiwa, *Industrial Energy Studies of Ground Freight Transportation*, 1974. Therefore, assuming that 5 percent of all interlined traffic could be handled directly by one of the carriers, as an intermediate drop-off in connection with its normal scheduled service over its regular routes, up to 1,939,310 gallons of fuel could be saved on an annual basis. Accordingly, the proposed temporary

rule has the potential for vast savings in energy.

The purpose of the proposed temporary rule is to reduce energy demand by improving the operating efficiencies of regular-route motor carriers of property. However, not all regular-route operations will be more fuel efficient as a result of this rule. Therefore, if the authority conferred by the proposed rule were mandatory, it could, in certain instances, be counterproductive and force carriers to perform less efficient operations. To give carriers the needed flexibility to adjust their operations in a manner that will improve their overall operating efficiencies the proposed rule should be permissive.

#### Proposed Rule

We propose to adopt the following temporary rule:

#### § 1041. Regular-route, general-commodity certificates—temporary rule of construction.

All certificates of public convenience and necessity authorizing the transportation of general commodities, with or without exceptions, over a regular service route or routes, issued by this Commission, shall be construed as permitting, but not requiring, service at all intermediate points on and within one airline mile of the route or routes to the extent not otherwise authorized for a period of 180 days.

#### Comments and Procedural Matters

Oral hearings do not appear to be necessary at this time and none are contemplated. Anyone wishing to present views and evidence, either in support of or in opposition to this proposal, is invited to submit written data, views, or arguments. An original and 15 copies (wherever possible) shall be filed with the Commission within 30 days after publication of this notice in the Federal Register. At this time, we are proposing to establish a temporary rule, effective for a period of 180 days. We do, however, invite all interested persons to comment on the desirability of making these changes permanent. We also invite comments on the issue of whether the proposed rule should be permissive in nature.

The Commission intends to reach a decision on this matter within a short time after comments are received. If a final rule is adopted, it will be made effective upon publication in the Federal Register. The purpose of the proposed rule is to relieve restrictions in outstanding authorities and, therefore, would not require the normal 30 days notice before its effective date. See 5



U.S.C. 553(d)(1). Also, any delay in the effective date would prevent carriers from taking full advantage of this fuel conservation measure during the winter months when the demand for middle distillates is greatest. There, if a final rule is adopted there is good cause to make it effective upon publication. See 5 U.S.C. 553(d)(3). Appropriate tariffs would, of course, have to be in effect before service could commence.

We do not believe that the proposed rule will have an adverse effect on the quality of the human environment. This is, however, a major regulatory action under the Energy Policy and Conservation Act of 1975. Affected carriers should be able to improve their operating efficiencies, which would lead to substantial energy savings. It is extremely difficult to quantify the potential energy savings at this time beyond the data and assumptions already set forth in this decision. We therefore request comments on the energy policy and conservation issues. A more detailed energy analysis will be issued when we serve our decision on the need for the temporary rule.

Written materials submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.E., Washington, DC, during regular business hours.

Notice to the general public of this matter will be given by depositing a copy of this notice in the office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Office of the Federal Register.

This notice of proposed rulemaking is promulgated under the authority contained in 49 U.S.C. 10321, 10922 and 11101 and 5 U.S.C. 553 and 559.

Decided: November 20, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford absent and not participating. Commissioner Clapp concurring.

Agatha L. Mergenovich,  
Secretary.

Commissioner Clapp Concurring:

Although I think that it is important for the Commission to develop a plan promptly, my own inclination would be to put this on a standby basis. I will reserve judgment, however, until we have received comments.

[FR Doc. 79-37941 Filed 12-10-79; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 651

#### Atlantic Groundfish; Permit Sanctions

##### Correction

In FR Doc. 79-36999, published at page 69312, on Monday, December 3, 1979, on page 69314, in the first column, paragraph 5 reading "Add a new § 561.4(e) as follows:" should be corrected to read "Add a new § 651.4(e) as follows:".

BILLING CODE 1505-01-M

## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### ADVISORY COUNCIL ON HISTORIC PRESERVATION

#### Potsdam Relief Route, St. Lawrence County, N.Y.; Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on December 18, 1979, at 7:00 p.m., a public information meeting will be held at the Town of Potsdam Offices located at the corner of Elm and Market Street, Potsdam, New York.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Potsdam Relief Route, St. Lawrence County, New York, an undertaking assisted by the Federal Highway Administration that will adversely affect the Potsdam Depot, Potsdam, New York, a property eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

- I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
- II. A description of the undertaking and an evaluation of its effects on the property by the Federal Highway Administration.
- III. A statement by the New York State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW, Suite 430, Washington, D.C. 20005, 202-254-3967.

Dated: December 7, 1979.

Robert R. Garvey, Jr.,  
Executive Director.

[FR Doc. 79-36121 Filed 12-10-79; 9:02 am]

BILLING CODE 4310-10-M

### DEPARTMENT OF AGRICULTURE

#### Agricultural Stabilization and Conservation Service

#### Flue-Cured Tobacco; Notice of Referendum

Notice is hereby given that on December 18, 1979, a referendum will be held of farmers engaged in the production of the 1979 crop of flue-cured tobacco. Notice was given (44 FR 57932) that consideration would be given to data, views and recommendations in establishing the 1980 national quota, the national reserve, and the date or period for holding the referendum and whether the referendum should be conducted at polling places rather than by mail ballot. No comments were received with respect to the holding of the referendum.

It is hereby determined that the referendum will be held at polling places on Tuesday, December 18, 1979. The purpose of this referendum is to determine whether flue-cured farmers are in favor of or opposed to marketing quotas for the 1980-81, 1981-82, and 1982-83 marketing years. The referendum will be conducted in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(c)), and the regulations contained in 7 CFR 717.

### Federal Register

Vol. 44, No. 239

Tuesday, December 11, 1979

Signed at Washington, D.C. on: December 4, 1979.

John W. Goodwin,  
Acting Administrator, Agricultural  
Stabilization and Conservation Service.

[FR Doc. 79-37781 Filed 12-10-79; 8:45 am]

BILLING CODE 3410-05-M

### Forest Service

#### Huron-Manistee National Forests Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

In the matter of Huron-Manistee National Forests Land and Resource Management Plan, Crawford, Iosco, Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Oscoda, Wexford, and Ogemaw Counties, Michigan; Notice of Intent to Prepare an Environmental Impact Statement.

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for a Land and Resource Management Plan for the Huron-Manistee Forests in Michigan.

The plan is being prepared in accordance with requirements of the Secretary's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the natural and human resources on the Huron-Manistee National Forests.

The planning process will begin with identification of public issues, management concerns, and resource use and development opportunities. Planning criteria will be developed, and data will be collected and analyzed to determine how the identified issues and concerns can be resolved. An assessment of the capability of the land to produce resource outputs, and a determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information, and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of



management practices which can best meet the objectives of the alternative. In addition, each identified major public issue will be addressed; each alternative will specify methods to restore renewable resources; and a no-change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social, and economic effects. It will include the best combination of resource uses on the Forest, and will also provide for a continuous monitoring and evaluation process.

A draft environmental impact statement will be released around August 1982. The final land and resource management plan and environmental impact statement will be released approximately 6 months later.

Public participation will be an integral part of the planning process. Meetings to identify issues to be addressed will be held early in the process. Dates and locations for these meetings will be announced thru the news media and mailings to interested agencies, organizations and individuals.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official and Wayne K. Mann, Forest Supervisor for the Huron-Manistee National Forests, is the person in charge of the project.

Further information about the planning process or written comments on this Notice of Intent should be directed to: Forest Supervisor, Huron-Manistee National Forests, 421 South Mitchell Street, Cadillac, Michigan 49601, Telephone: (616) 775-2421.

Dated: November 28, 1979.

James H. Freeman,  
Director, Planning, Programming and Budgeting.

[FR Doc. 79-37883 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-11-M

#### Rural Electrification Administration

##### Sunflower Electric Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$510,617,000 to Sunflower Electric Cooperative, Inc., of Hays, Kansas. These funds will be used to finance a project consisting of a 280 MW coal-

fired generating unit, approximately 160 miles of 345 kV transmission line and related facilities and headquarters facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Arthur J. Schnose, Manager, Sunflower Electric Cooperative, Inc., P.O. Box 980, Hays, Kansas 67601.

In order to be considered, proposals must be submitted January 10, 1980, to Mr. Schnose. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Sunflower Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 3rd day of December, 1979.

Robert W. Feragen,  
Administrator, Rural Electrification Administration.

[FR Doc. 79-37859 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-15-M

##### Plains Electric Generation and Transmission Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$319,000,000 to Plains Electric Generation and Transmission Cooperative, Inc., of Albuquerque, New Mexico. These loans will be used to finance a project consisting of a 210 MW coal-fired generating unit, approximately 37 miles of 115 kV transmission line, switching facilities, and related transmission system improvements.

Legally organized lending agencies capable of making, holding and

servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule of advances to the borrower of the guaranteed loan funds from Mr. Stanley K. Bazant, Manager, Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, N.E., Albuquerque, New Mexico 87747.

In order to be considered, proposals must be submitted January 10, 1980, to Mr. Bazant. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Plains Electric Generation and Transmission Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 4th day of December, 1979.

Robert W. Feragen,  
Administrator, Rural Electrification Administration.

[FR Doc. 79-37860 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-15-M

#### Soil Conservation Service

##### Little River Watershed, S.C.; Intent To Prepare an Environmental Impact Statement

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of Intent to Prepare an Environmental Impact Statement.

**FOR FURTHER INFORMATION CONTACT:** Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Columbia, South Carolina 29201, telephone number (803) 765-5681.

**NOTICE:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Little River Watershed proposal, Laurens County, South Carolina.

To reduce floodwater damages in and around Laurens, South Carolina, a floodwater retarding structure is being considered. Other alternatives being evaluated include channel enlargement, land acquisition, and flood-proofing. The retarding structure would commit about 150 acres of land presently used as woodland and pastureland to sediment pool and temporary flood water storage. The most significant change would be the clearing of 50 acres and restricting the use of another 100 acres for temporary floodwater storage.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals in the preparation of plans. The draft environmental impact statement will be developed by Mr. George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Columbia, South Carolina 29201, telephone number (803) 765-5681.

Dated: December 3, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008))

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

[FR Doc. 79-37839 Filed 12-10-79; 8:45 am]  
BILLING CODE 3410-16-M

#### COMMISSION ON CIVIL RIGHTS

##### Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on January 17, 1980 at the Holiday Inn, East Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 6, 1979.

John I. Binkley,  
Advisory Committee Management Officer.

[FR Doc. 79-37964 Filed 12-10-79; 8:45 am]  
BILLING CODE 6335-01-M

##### Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on January 22, 1980, at the Tavern Motor Inn, Montpelier, Vermont 05602.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is the Franco-American project; closing the Ethnic Gap questionnaires on teacher preparation; the census project; and legislative update.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 5, 1979.

John I. Binkley,  
Advisory Committee Management Officer.

[FR Doc. 79-37962 Filed 12-10-79; 8:45 am]  
BILLING CODE 6335-01-M

##### Washington Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 p.m., on January 18, 1980, at the Federal Building, 915 Second Avenue, Room 2854, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss Tacoma-Pierce County Employment Study recommendations; and Affirmative Action Monitoring Project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 5, 1979.

John I. Binkley,  
Advisory Committee Management Officer.

[FR Doc. 79-37963 Filed 12-10-79; 8:45 am]  
BILLING CODE 6335-01-M

#### DEPARTMENT OF COMMERCE

##### National Bureau of Standards

##### Proposed Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the Federal Register on June 29, 1979 (44 FR 37968), the National Bureau of Standards announced the availability of an initial exclusion list pertaining to Federal Information Processing Standards Publication 60, I/O Channel Interface; Federal Information Processing Standards Publication 81, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The exclusion list also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the Federal Register on August 27, 1979 (44 FR 50078). The June 29, 1979, notice solicited written comments or recommendations from interested parties regarding the initial exclusion list. Comments specifically identifying candidate systems which should be added or removed from the initial exclusion list were especially encouraged.

As a result of a review and analysis of comments received in response to that announcement, NBS is proposing the following additions to and removal from the exclusion list:

| Manufacture     | Model                                      |
|-----------------|--------------------------------------------|
| Additions       |                                            |
| NCR .....       | System 15.                                 |
| NCR .....       | System 150.                                |
| Pertec .....    | XL40 Series.                               |
| Pertec .....    | XL20 Series.                               |
| Pertec .....    | 1800 Series.                               |
| Pertec .....    | PCC 2000 series.                           |
| Prime .....     | 450.                                       |
| Prime .....     | 550.                                       |
| Prime .....     | 650.                                       |
| Prime .....     | 750.                                       |
| Tektronix ..... | 4050 series graphic computing system.      |
| Tektronix ..... | 4052 graphic computing system.             |
| Tektronix ..... | 4054 graphic computing system.             |
| Tektronix ..... | 4080 series interactive graphics terminal. |
| Tektronix ..... | MEG 121.                                   |
| Tektronix ..... | MEG 131.                                   |
| Tektronix ..... | WP1110 digitizing oscilloscope system.     |



| Manufacturer | Model                                  |
|--------------|----------------------------------------|
| Tektronix    | WP1200 digitizing oscilloscope system. |
| Tektronix    | WP2200 transient digitizer.            |
| Tektronix    | WP2250 programmable digitizer system.  |
| Tektronix    | S-3030 automated test system.          |
| Tektronix    | S-3270 automated LSI system.           |
| Tektronix    | S-3250 automated LSI test system.      |
| Removal      |                                        |
| Pertec       | MITS/ALTAIR 8800B.                     |

Interested parties will be allowed until January 25, 1980, to submit written comments regarding the proposed changes. Such written comments should be submitted to the Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Following review of comments received in response to this notice, NBS will make a determination on the proposed changes and will announce that determination in a subsequent notice published in the *Federal Register*.

NBS is maintaining a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments in response to this notice.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: December 8, 1979.  
Ernest Ambler,  
Director.  
[FR Doc. 79-37862 Filed 12-10-79; 8:45 am]  
BILLING CODE 3510-13-M

#### Verification Procedures for I/O Channel Level Interface Standards

On February 16, 1979, notice was given in the *Federal Register* (44 FR 10098-10101) that the Secretary of Commerce had approved three Federal Information Processing Standards: (1) I/O Channel Interface Standard, (2) Channel Level Power Control Interface Standard, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal

Information Processing Standards Publication (FIPS PUB) 60, FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the *Federal Register* (44 FR 50078-50079) that the Secretary of Commerce had approved the Federal Information Processing Standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63. These standards each include provision for verification of conformance to be made by demonstration or other means acceptable to the Government prior to acceptance of equipment having an interface required to conform.

The National Bureau of Standards intends to provide a verification service for these standards that is expected to result in equipment being placed on a list to be maintained and distributed by the General Services Administration for use in Federal ADP procurement.

Since there is widespread use in the computer industry of interfaces that are believed to conform or that are similar to the interface defined by these standards, the principal initial means for verification will be a review by the Government of equipment interface documentation. For each of the above standards for which review is requested, a determination in one of the following categories will result.

I. The documentation provided has been compared to the standard and no significant deviations have been identified. The equipment identified will be included on the verification list maintained by GSA. Any subsequent indication, based on attempts to use equipment actually delivered or to test that equipment with suitable instrumentation, that the equipment does not conform to the standard will result in removal from the verification list.

II. Review of the documentation provided shows significant deviations from the standard. In this case, the nature of such deviations will be clearly summarized with specific details provided.

III. Inadequate documentation has been provided to complete the review.

The result of each review will be reported to the supplier submitting the equipment documentation and to GSA, and will be publicly available.

The general policy for test procedures is specified in Part 200 of Title 15, Code of Federal Regulations, and in the publication "Calibration and Test Services of the National Bureau of Standards" (NBS Special Publication 250). Procedures for formally requesting services, and use of a certificate are included. Specific instructions for a

manufacturer desiring a formal review are provided below.

NBS does not approve, recommend, or endorse any commercial product. NBS in no way guarantees that equipment reviewed conforms to the standard. However, a manufacturer may certify that equipment bearing the same identification as the equipment reviewed by NBS, for which no significant deviations were identified, conforms to the standard. Such a claim will make the equipment eligible for procurement and use by Government agencies. However, no express or implied agreement for such procurement can be nor is made by NBS.

In accordance with Federal law (15 U.S.C. 275a), fees are chargeable for services performed by the National Bureau of Standards. Fees will include the cost of labor, materials, and contractor support, if needed, used in performing the review and in issuing a validation certificate. NBS labor costs will include administrative and engineering personnel participating in the review; labor rates will be determined by the cost of the personnel, including applicable overhead. Materials cost will be actual cost to NBS. Travel costs, when necessary, will be actual costs to NBS. Bills will be issued upon completion or termination of the review. A verification certificate will be issued upon receipt of payment.

The initial service will provide for review for interfaces for which documentation has been provided to NBS for its permanent retention along with a suitable statement from the supplier that it has evaluated its interface and believes it to be in conformance with the specific standards (initially, FIPS 60, 61, or 62) against which the documentation is to be reviewed. This service will later be made available to verify conformance with FIPS 63 for interfaces for which a similar statement and documentation have been provided. Any supplier desiring to initiate such a review must make a request identifying by make and model the interface and providing the documentation. The Government will provide, within 20 days, an estimate of the costs which will be incurred to perform the review. If the costs are subsequently authorized by the supplier, the review will be performed on a fully reimbursable basis.

At a later time, NBS may make additional provisions for verification, possibly including procedures for supplier self-verification, employing equipment already on the GSA verification list for that purpose. NBS is developing interface instrumentation which is expected to be employed by

Federal agencies. This interface instrumentation will be employed especially in cases where conformance with one or more of these standards for delivered equipment is in question as a result of the inability of equipment to function successfully in conjunction with equipment connected to it that is already on the GSA verification list.

Persons requesting this service or desiring any further information about this announcement may contact Dr. John P. Riganati, Chief, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-2705.

Dated: December 6, 1979.  
Ernest Ambler,  
Director.  
[FR Doc. 79-37861 Filed 12-10-79; 8:45 am]  
BILLING CODE 3510-13-M

#### Office of the Secretary

[Dept. Organization Order 1-1]

#### Mission and Organization of the Department of Commerce

This order effective November 26, 1979 amends the material appearing at 35 FR 19704 of December 29, 1970.

Department Organization Order 1-1 dated December 15, 1970 is hereby further amended as shown below. The purpose of this amendment is to update the list of Secretarial Officers.

In Section 3. *Organization Structure*, subparagraph .01a. is revised to read as follows:

"a. The Office of the Secretary consists of the Secretary and the Secretarial Officers, designated staff immediately serving these officials, and a number of 'Departmental offices' which have Departmentwide functions or perform special program functions directly on behalf of the Secretary. The Secretarial Officers are:

"Under Secretary,  
"General Counsel,  
"Assistant Secretary for Administration,  
"Assistant Secretary for Congressional Affairs,  
"Assistant Secretary for Policy,  
"Administrator, National Oceanic and Atmospheric Administration,  
"Assistant Secretary for Industry and Trade,  
"Assistant Secretary for Maritime Affairs,  
"Assistant Secretary for Communications and Information,  
"Assistant Secretary for Tourism,  
"Assistant Secretary for Science and Technology,

"Assistant Secretary for Economic Development,  
"Chief Economist, and  
"Inspector General."

Effective date: November 26, 1979.

Elsa A. Porter,  
Assistant Secretary for Administration.  
[FR Doc. 79-37953 Filed 12-10-79; 8:45 am]  
BILLING CODE 3510-17-M

[Dept. Organization Order 25-1]

#### United States Travel Service; Statement of Organization, Functions, and Delegations of Authority

This order effective November 4, 1979 supersedes the material appearing at 43 FR 57174 of December 6, 1978 and 44 FR 66232 of November 19, 1979.

#### Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the United States Travel Service (USTS). The scope of authority and functions of USTS are set forth in Department Organization Order 10-7.

.02 This revision, reflecting a major reorganization and reassignment of functions:

a. Abolishes the Offices of Market Development and International Operations, the Advertising and Media Services, and Marketing and Conventions Divisions, and assigns their functions to the newly established Office of Marketing and Field Operations (Section 5).  
b. Places the Regional Offices and the International Congress Office under the Office of Marketing and Field Operations (Section 5).  
c. Abolishes the Office of Policy and Research and the Office of Governmental Affairs, deletes their domestic tourism functions, and assigns the remainder of their functions to the newly established Office of Management and Administration (Section 6).

d. Abolishes the Office of Administration and assigns its functions to the Office of Management and Administration (Section 6).

#### Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted on the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

#### Section 3. Office of the Assistant Secretary

.01 The *Assistant Secretary for Tourism* (hereinafter the "Assistant Secretary") has overall responsibility for the policies and direction of USTS. The Assistant Secretary establishes basic policies and objectives for USTS, chairs the Department's Travel Advisory Board, establishes and maintains relations with government and industry officials at all levels to facilitate tourism policies and programs, and advises the Secretary and the Under Secretary on all matters related to tourism.

.02 The *Deputy Assistant Secretary for Tourism* (hereinafter the "Deputy Assistant Secretary") serves as the principal advisor to the Assistant Secretary and performs the duties of the Assistant Secretary in the latter's absence or disability, or in the event of a vacancy in that office; supervises and directs day-to-day operations of USTS including Congressional liaison, provides policy guidance for programs and projects developed within USTS, makes recommendations to the Assistant Secretary on all matters related to tourism, and carries out other responsibilities as assigned by the Assistant Secretary.

#### Section 4. Management and Policy Council

The *Management and Policy Council* consists of the Assistant Secretary, the Deputy Assistant Secretary, and the Directors of the Office of Marketing and Field Operations, and Management and Administration; and provides a management forum for the Assistant Secretary and the Deputy Assistant Secretary to plan, coordinate, and manage the principal activities of USTS. The Council provides a forum for the clarification of policies, the discussion of issues, planning functions as required, the expressions of alternative viewpoints and options, and the assignment of responsibilities for carrying out policy and program decisions made by the Assistant Secretary.

#### Section 5. Office of Marketing and Field Operations

.01 The *Office of Marketing and Field Operations* plans and develops marketing programs based on international tourism policies as approved by the Office of the Assistant Secretary; develops specific program plans and procedures for implementation; recommends to the Office of the Assistant Secretary allocation of budget resources for the offices abroad; and directs the



implementation of approved programs, projects, and procedures to promote international travel to the United States from USTS-designated markets abroad. The Office supervises the overall operations of the Regional Offices and the International Congress Office; develops and coordinates international advertising, media relations, trade and consumer information programs, and the production and distribution of all information materials; reviews and recommends action on market development and supporting programs; develops, coordinates, and processes all familiarization and inspection tours for representatives of the travel trade and the media; develops and supervises joint USTS/industry promotion programs; plans and develops programs to motivate and persuade U.S. Associations to host International Congresses and to increase foreign attendance at conventions, trade shows and other events to be held in the U.S.; develops incentive travel programs for implementation by USTS offices abroad; and maintains working relationships with U.S. travel industry representatives for development of cooperative programs. The Office also coordinates with the Office of Management and Administration in the collection of travel data from selected foreign markets to be used in analyzing and formulating effective marketing strategies and programs; provides information, advice and assistance to the Office of the Assistant Secretary by establishing and maintaining relations with government officials at all levels, particularly those of tourism offices in regions, states, territories and local governments; and develops, coordinates, and implements programs with these entities.

.02 *Regional Offices* perform the primary role in implementing programs of USTS in their respective markets, and are responsible for travel information and services to be provided to the foreign travel trade and to the consumer. Regional Offices develop marketing strategies for their markets and prepare annual marketing plans for approval by headquarters. They are responsible for implementing and monitoring all travel promotion programs such as research, market development, consumer information, sales promotion, advertising and product information in their primary and special markets.

.03 *The International Congress Office* is responsible for implementing the International Conventions Program in countries abroad. The Office identifies international conventions and congresses which are prime prospects for selecting the U.S. as a site for their

meetings; motivates and persuades those prospects to hold congresses in the U.S.; promotes foreign attendance at national U.S. conventions; and collects, analyzes, and furnishes International Association profile data for sales follow-up by headquarters as well as State and city convention and visitors bureaus.

#### Section 6. Office of Management and Administration

The *Office of Management and Administration* advises and assists the Office of the Assistant Secretary in developing and implementing overall policies in the areas of administrative, personnel, and financial matters; ensures that proper administrative and financial procedures are carried out; performs budget formulation and execution functions; develops and conducts administrative evaluations and management analyses to assist the Office of the Assistant Secretary in assuring that effective management practices are utilized throughout USTS; and provides administrative services as required to execute policy and program operations. The Office also develops policies, legislative positions, and strategies in the area of international agreements; represents the Department as official participants in international tourism meetings; collects, analyzes, and provides economic and tourism data; develops, coordinates, and administers joint data collection projects; assists in establishing overall USTS performance goals; develops program evaluation studies to determine individual program effectiveness; reviews and recommends action on research projects proposed in markets abroad; and administers international visitor facilitation programs and the matching grants program. In addition, the Director is responsible for assisting the Deputy Assistant Secretary in carrying out the day-to-day operations of USTS.

*Effective date:* November 4, 1979.

Elsa A. Porter,

*Assistant Secretary for Administration.*

[FR Doc. 79-37954 Filed 12-10-79; 8:45 am]

BILLING CODE 3510-17-M

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

##### Adjusting the Import Levels for Certain Cotton Textile Products From Taiwan

December 5, 1979.

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Increasing by the application of swing the import levels established for cotton coats in Category 333/334/335 and the applicable sublimits, cotton knit shirts and blouses in Category 340, and cotton trousers in Category 347/348 and the applicable sublimits, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

**SUMMARY:** The bilateral agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan provides for percentage increases in certain specific ceilings during an agreement year (swing). Pursuant to the terms of the bilateral agreement, the import levels for Categories 333/334/335, 338/339, 340 and 347/348 are being adjusted for the twelve-month period which began on January 1, 1979 and extended through December 31, 1979.

**EFFECTIVE DATE:** December 8, 1979.

**FOR FURTHER INFORMATION CONTACT:** Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On December 28, 1978, there was published in the *Federal Register* (43 FR 60633) a letter dated December 22, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 333/334/335, 338/339, 340 and 347/348, produced or manufactured in Taiwan, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint established for cotton textile products in Categories 333/334/335, 338/339, 340, and 347/348 during that period. The level for Categories 338/339 has been adjusted to

account for 1977 overshipments amounting to 16,243 dozen.

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*  
December 5, 1979.

#### Committee for the Implementation of Textile Agreements

Commissioner of Customs,  
*Department of the Treasury,*  
Washington, D.C.

Dear Mr. Commissioner: On December 22, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specific categories, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1979, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.<sup>1</sup>

Under the terms of the Arrangement Regarding International Trade in Textiles done in Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972 as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on December 8, 1979, the levels of restraint established in the directive of December 22, 1978, for Categories 333/334/335, 338/339, 340 and 347/348 to the following levels:

#### Category and Amended Twelve-Month Levels of Restraint<sup>2</sup>

333/334/335—101,564 dozen of which not more than 53,191 dozen shall be in Category 333/334 and not more than 63,608 dozen shall be in Category 335.  
338/338—478,901 dozen.  
340—637,609 dozen.  
347/348—840,320 dozen of which not more than 412,709 dozen shall be in Category 347 and not more than 637,691 dozen shall be in Category 348.

The actions taken with respect to Taiwan, and with respect to imports of cotton textile products from Taiwan have been determined

<sup>1</sup> The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

<sup>2</sup> The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-37833 Filed 12-10-79; 8:45 am]

BILLING CODE 3510-25-M

#### Importers' Textile Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Importers' and Retailers' Textile Advisory Committee will be held on January 10, 1980 at 10:30 a.m. in Room 5611, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects, on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows: 1. Review of import trends. 2. Implementation of textile agreements. 3. Report on conditions in the domestic market. 4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: December 3, 1979.

Arthur Garel,

*Director, Office of Textiles.*

[FR Doc. 79-36129 Filed 12-10-79; 10:26 am]

BILLING CODE 3510-25-M

#### DEPARTMENT OF DEFENSE

##### Department of the Army

##### Command and General Staff College Advisory Committee; Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting: Name: Command and General Staff College (CGSC) Advisory Committee. Date: 9-11 January 1980. Place: College Conference Room, Bell Hall, Ft. Leavenworth, KS 66027. Time: 2000-2200, 9 January 1980; 0900-1630, 10 January 1980; 0900-1130, 11 January 1980.

Proposed Agenda: 2000-2200, 9 January 1980: Review of CGSC educational program. 0900-1630, 10 January 1980: Continuation of review. 0900-1000, 11 January 1980: Continuation of review. 1000-1130, 11 January 1980: Executive session.

The purpose of the meeting is for the Advisory Committee to examine the entire range of College operations and, where appropriate, to provide advice and recommendations to the College Commandant and Faculty.

The meeting will be open to the public to the extent that space limitations of the meeting space permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committee's Executive Secretary.

Philip J. Brookes,

*Executive Secretary, CGSC Advisory Committee.*

[FR Doc. 79-37882 Filed 12-10-79; 8:45 am]

BILLING CODE 3710-08-M

##### Corps of Engineers; Department of the Army

##### Intent To Prepare Draft Supplement No. 2 to the Final Environmental Impact Statement for Red River Waterway Project, Mississippi River to Shreveport, La., Reach

**AGENCY:** U.S. Army Corps of Engineers, DOD, New Orleans District.

**ACTION:** Notice of intent to prepare a draft supplement environmental impact statement.

**SUMMARY:** 1. *Proposed Action.* The proposed work to be analyzed in this statement is the construction and operation of the Red River Waterway Project which consists of a 9- by 200-foot navigation channel, with five locks and dams and related bank stabilization extending from the Mississippi River to Shreveport, Louisiana. The navigation feature will consist of a stabilized channel 236 miles in length which is generally confined within the limits of the existing river channel. The locks will



| Date          | Name and location of applicant                                      | Case No.              | Type of submission                                                                                                                                                                                                                                                                              |
|---------------|---------------------------------------------------------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Oct. 26, 1979 | Dechert, Price & Rhoads, Philadelphia, Pennsylvania                 | BFA-0032              | Appeal of an Information Request Denial. If granted: The August 23, 1979, Information Request Denial issued by the Office of Utility and Industrial Energy Applications to Dechert, Price & Rhoads would be rescinded and the firm would receive access to certain DOE documents.               |
| Oct. 26, 1979 | Getty Oil Company, New York, New York                               | BRH-0009 and BRD-0009 | Motion for Discovery and Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted with respect to a Proposed Remedial Order (Case No. DRO-0382) issued to Getty Oil Company.                                                         |
| Oct. 26, 1979 | Lawrence & Sons Oil Co., Inc., Panama City, Florida                 | BEE-0237              | Allocation Exception. If granted: Lawrence & Sons Oil Co., Inc., would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.                                       |
| Oct. 26, 1979 | Romana Gas Authority, Romana, Oklahoma                              | BEE-0242              | Exception to the Reporting Requirements. If granted: Romana Gas Authority would not be required to file Form EIA-50.                                                                                                                                                                            |
| Oct. 29, 1979 | Architectural Woodwork Institute, Arlington, Virginia               | BEE-0248              | Exception to the Emergency Building Temperature Restrictions. If granted: The Architectural Woodwork Institute would receive an exception from the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.                                                   |
| Oct. 29, 1979 | Department of Aging, Harrisburg, Pennsylvania                       | BEE-0262              | Exception to the Emergency Building Temperature Restrictions. If granted: The Department of Aging would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.                                                                                |
| Oct. 29, 1979 | Emergency Small Independent Refineries Task Force, Washington, D.C. | SSG-0002              | Motion for Special Redress. If granted: The Emergency Small Independent Refineries Task Force would receive an exception from the provisions of 10 CFR 211, with respect to the Crude Oil Buy/Sell Program and the Entitlements Program.                                                        |
| Oct. 29, 1979 | Exxon Company, U.S.A., Washington, D.C.                             | BEA-0034 and BES-0034 | Appeal of an ERA Assignment Order. If granted: The October 9, 1979, Assignment Order issued by the Economic Regulatory Administration Region IV to Exxon Company would be rescinded regarding the firm's supply obligations to Marine Oil Company.                                              |
| Oct. 29, 1979 | Mobil Oil Corporation, New York, New York                           | BEA-0035              | Appeal of Allocation Notice. If granted: The September 28, 1979, Allocation Notice issued by the Economic Regulatory Administration under the Canadian Crude Oil Allocation Program, 10 CFR 214, for the allocation period commencing October 1, 1979, would be rescinded.                      |
| Oct. 29, 1979 | Navajo Refining Company, Washington, D.C.                           | BEE-0247              | Allocation Exception. If granted: Navajo Refining Company would receive an exception from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.                                                                                                        |
| Oct. 30, 1979 | Casson, Calligaro & Mutryn, Washington, D.C.                        | BFA-0037              | Appeal of an Information Request Denial. If granted: The DOE's October 1, 1979, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Casson, Calligaro & Mutryn would receive access to certain DOE documents.                                    |
| Oct. 30, 1979 | Consumers Service Stations, Tulsa, Oklahoma                         | BEE-0259              | Allocation Exception. If granted: Consumers Service Stations would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.                                           |
| Oct. 30, 1979 | Daigh Automotive Engineering Corporation, Wilmington, California    | BXE-0255              | Extension of relief granted in <i>Daigh Automotive Engineering Corp.</i> , 3 DOE Par. (August 1, 1979). If granted: Daigh Automotive Engineering Corporation would continue to receive an increased allocation of motor gasoline for the purposes of automotive testing.                        |
| Oct. 30, 1979 | Dow Chemical, U.S.A., Washington, D.C.                              | BEE-0285              | Allocation Exception. If granted: Dow Chemical, U.S.A., would receive an exception from the provisions of 10 CFR 211.65, regarding the Buy/Sell Program.                                                                                                                                        |
| Oct. 30, 1979 | Energy Cooperatives, Inc., Rosemont, Illinois                       | BED-0011              | Motion for Discovery. If granted: Discovery would be granted to Energy Cooperatives, Inc., with respect to information which Chevron U.S.A., Inc., has or will file in response to Energy Cooperatives, Inc.'s Application for Exception relief.                                                |
| Oct. 30, 1979 | Good Hope Refineries, Inc., Washington, D.C.                        | BEE-0250              | Allocation Exception. If granted: Good Hope Refineries, Inc., would receive an exception from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.                                                                                                    |
| Oct. 30, 1979 | Haber Oil Products, Pleasant Hill, California                       | BEE-0253              | Allocation Exception. If granted: Haber Oil Products would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.                                                   |
| Oct. 30, 1979 | Jackson Oil Company, Baltimore, Maryland                            | BEE-0260              | Allocation Exception. If granted: Jackson Oil Company would receive an exception from the provisions of 10 CFR 211, permitting the firm an increased allocation of home heating oil.                                                                                                            |
| Oct. 30, 1979 | Milner Super Gas, Inc., Aiken, South Carolina                       | BEE-0252              | Allocation Exception. If granted: Milner Super Gas, Inc., would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.                                              |
| Oct. 30, 1979 | Mobil Oil Corporation, Washington, D.C.                             | BEX-0006              | Supplemental Order. If granted: An evidentiary hearing would be convened in connection with the appeals of certain Canadian allocation program notices filed by Mobil Oil Corporation (Case No. DEA-0589, DEA-0387, and DEA-0235).                                                              |
| Oct. 30, 1979 | Oil Products Company, Inc., Council Bluffs, Iowa                    | BEE-0258              | Allocation Relief. If granted: Oil Products Co., Inc., would be granted an exception from the provisions of 10 CFR 211, permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.                                                 |
| Oct. 30, 1979 | Union Oil Company of California                                     | BEH-0001              | Motion for Evidentiary Hearing. If granted: An Evidentiary Hearing would be convened on behalf of Union Oil Company of California with respect to a Proposed Decision and Order issued to Howie Oil Company (Case No. DEE-2549).                                                                |
| Oct. 31, 1979 | Giant Industries, Inc., Phoenix, Arizona                            | BEE-0272              | Allocation Exception. If granted: Giant Industries, Inc., would receive an exception from the provisions of 10 CFR 211.65, permitting the firm to receive an allocation of crude oil under the Buy/Sell Program.                                                                                |
| Oct. 31, 1979 | Inexco Oil Company, Washington, D.C.                                | BEE-0270              | Price Exception. If granted: Inexco Oil Company would receive an exception from the provisions of 10 CFR 212, Subpart L, with respect to the permissible average markup for crude oil purchased and sold by marketers.                                                                          |
| Oct. 31, 1979 | Puerto Rico Water Resources Authority, San Juan, Puerto Rico        | BEE-0271              | Allocation Exception. If granted: The Puerto Rico Water Resources Authority would receive an exception from the provisions of 10 CFR 211.67, permitting the firm to receive entitlement benefits with respect to residual fuel oil imported into Puerto Rico.                                   |
| Oct. 31, 1979 | R. H. Engelke, San Antonio, Texas                                   | BXE-0265              | Extension of relief granted in <i>R. H. Engelke</i> , DOE Par. (June 13, 1979). If granted: R. H. Engelke would be permitted to continue to sell the crude oil produced from the Bertha Copsy Lease, located in Jackson County, Texas, at upper tier ceiling prices.                            |
| Oct. 31, 1979 | Western Refining Company, Denver, Colorado                          | BEE-0263              | Allocation Exception. If granted: Western Refining Company would receive an exception from the provisions of 10 CFR 211.67, with respect to the firm's entitlements purchase obligations.                                                                                                       |
| Nov. 1, 1979  | Cities Services Company, Tulsa, Oklahoma                            | BEA-0038              | Appeal of the Entitlements Notice. If granted: The July 1979 Entitlements Notice issued by the Economic Regulatory Administration would be rescinded with respect to the National Domestic Crude Oil Supply Ratio which effects the entitlement purchase obligations of Cities Service Company. |
| Nov. 1, 1979  | E. I. du Pont de Nemours and Company                                | BEE-0309 and BEE-0310 | Exception from the Emergency Building Temperature Restrictions. If granted: E. I. du Pont de Nemours and Company would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.                                                                 |
| Nov. 1, 1979  | Fina Jobbers Association, Inc., Washington, D.C.                    | BEX-0007              | Supplemental Order. If granted: Fina Jobbers Association, Inc., and American Petrofina Inc., would show cause why the temporary exception granted on August 29, 1979, should not be rescinded and why Application for Exception should not be discussed.                                        |



| Date          | Name and location of applicant                                                 | Case No.              | Type of submission                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------|--------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nov. 1, 1979. | Fina Jobbers Association, Inc., and American Petrofina Inc., Washington, D.C.  | BMR-0009              | Motion for Modification. If granted: The August 29, 1979, Decision and Order (Case No. DEL-5568) issued by the Office of Hearings and Appeals would be modified, requiring Fina to supply motor gasoline to each class member according to their adjusted base period volume rather than its actual purchases from the firm. The Order would also be modified, permitting Fina jobbers to determine whether they desire to be recognized as members of the class of September 1, 1979. |
| Nov. 1, 1979. | Fina Jobbers Association, Inc., and American Petrofina, Inc., Washington, D.C. | BMR-0010              | Motion for Modification. If granted: The August 28, 1979, Decision and Order (Case No. DEL-5568) issued by the Office of Hearings and Appeals would be modified, with respect to the stay of the obligations of suppliers to supply American Petrofina, Inc., with motor gasoline.                                                                                                                                                                                                     |
| Nov. 1, 1979. | F S Services, Inc., Bloomington, Illinois                                      | BEE-0274 and BEL-0274 | Price Exception and Request for Temporary Exception. If granted: F S Services, Inc., would receive an exception from the provisions of 10 CFR 212.83, permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasoline. The firm would receive a Temporary Exception pending a final determination of its application for exception.                                                                                |
| Nov. 1, 1979. | Fullbright and Jaworski, Washington, D.C.                                      | BFA-0039              | Appeal of Information Request Denial. If granted: The September 27, 1979, Information Request Denial issued by the Office of Special Counsel for Compliance to Fullbright and Jaworski would be rescinded and the firm would be granted access to certain DOE documents.                                                                                                                                                                                                               |
| Nov. 1, 1979. | Giant Industries, Inc., Phoenix, Arizona                                       | BEL-0272              | Temporary Exception. If granted: Giant Industries, Inc., would receive a Temporary Exception from the provisions of 10 CFR 211.65, permitting the firm to receive an allocation of crude oil under the Buy/Sell Program pending a final determination of its Application for Exception.                                                                                                                                                                                                |
| Nov. 2, 1979. | United Oil Company, Washington, D.C.                                           | BSG-0003              | Petition for Special Redress. If granted: The DOE would review the proceedings involved in a Proposed Remedial Order issued to United Oil Company (Case No. DRO-0241) by the Office of Enforcement Northeast District.                                                                                                                                                                                                                                                                 |

## Notices of Objection Received

(Week of October 26, 1979 thru November 2, 1979)

| Date      | Name and location of applicant                        | Case No. |
|-----------|-------------------------------------------------------|----------|
| 10/29/79. | Kelly Lakeside Standard Service, Suning, Wis.         | BEO-0075 |
| 10/26/79. | Gold Key Shell, Fort Lauderdale, Fla.                 | BEO-0074 |
| 10/29/79. | Archie's Standard Service, New Hope, Minn.            | BEO-0072 |
| 10/29/79. | Philip David Dowd Sunoco, Scottsburg, Ind.            | BEO-0073 |
| 10/29/79. | Keaton's Shell Service, Chicago, Ill.                 | BEO-0068 |
| 10/29/79. | Acme Amoco, Traver City, Mich.                        | BEO-0077 |
| 10/29/79. | Rawji's Texaco Service, Studio City, Calif.           | DEE-8007 |
| 10/29/79. | Kansas-Nebraska Natural Gas Co., Washington, D.C.     | DEE-4485 |
| 10/30/79. | American Management Associations, New York, N.Y.      | DEE-7750 |
| 10/30/79. | Mower County Senior Citizens Center, Austin, Minn.    | BEO-0084 |
| 10/30/79. | Rehoboth Amoco, Rehoboth, Del.                        | BEO-0092 |
| 10/30/79. | Earl B. Plank, Los Angeles, Calif.                    | BEO-0083 |
| 10/30/79. | Viger's Shell Service, Lincoln Park, Mich.            | DEE-6332 |
| 10/30/79. | New Jersey Highway Authority, Woodbridge, N.J.        | DXE-8279 |
| 10/30/79. | Lantern Lane Shell, Houston, Tex.                     | DEE-7192 |
| 10/30/79. | H & S Gulf, Fruitdale, Tex.                           | BEO-0091 |
| 10/30/79. | Woodruff Standard Service, Woodruff, Wis.             | BEO-0085 |
| 10/30/79. | Ken's Standard, Pevety, Miss.                         | BEO-0079 |
| 10/30/79. | Sam's Standard Service, Flint, Mich.                  | BEO-0078 |
| 10/30/79. | Main Street Chevron Service, Morro Bay, Calif.        | BEO-0080 |
| 10/30/79. | The Oasis, Inc., Hartland, Mich.                      | BEO-0081 |
| 10/30/79. | Frank Thompson's Chevron Service Ctr., Spokane, Wash. | BEO-0082 |
| 10/31/79. | Independent Oil & Tire Company, Elyria, Ohio.         | DEE-4273 |
| 10/30/79. | Jacob's Service Station, Bloomington, Minn.           | BEO-0086 |
| 10/30/79. | Vince Pisopo, Glen Ellyn, Ill.                        | BEO-0087 |
| 10/30/79. | Nashotah Garage, Nashotah, Wis.                       | BEO-0088 |
| 10/30/79. | Budd's Standard Service, Platteville, Wis.            | BEO-0089 |
| 10/31/79. | Baxter's Marathon Service, Indianapolis, Ind.         | BEO-0096 |
| 10/31/79. | Kents Standard Service, Hays, Kans.                   | BEO-0095 |

## List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of October 26 through November 2, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

October 26, 1979

Avis Rent A Car, BEE-0236, Indiana.  
Booth Oil Co., BEE-0240, Oregon.  
Boss Oil, BEE-0236, Minnesota.  
Naph-Sol Refining Co., Inc., BEE-0243, Michigan.  
Oakville Amoco Station, BEE-0241, Maryland.

October 29, 1979

Bob Becker's Union 76, BEE-0244, Florida.  
Tuscaloosa City Schools, BEE-0246, Alabama.

October 30, 1979

Brown's Exxon, BEE-0257, Georgia.  
Daeco, BXE-0255, California.  
Harrison Gas & Oil Inc., BEE-0245, California.  
Orlaski's Service Stations, BEE-0280, Pennsylvania.  
Shell Oil Co., BEE-0273, Ohio.

October 31, 1979

Budget Oil Company, BEE-0268, Minnesota.  
Central Service & Repair Inc., BEE-0269, Maryland.  
Isabella Arco, BEE-0264, California.  
Mickey's Anchor, BEE-0277, Massachusetts.  
Mt. Reba, Inc., BEE-0275, California.  
Petrolics, Inc., BEE-0266, Texas.  
Rodello's Service, BEE-0287, California.

November 2, 1979

Red Bluff Mobil Service Center, BXE-0283, Texas.

Items Retrieved, 20.

[FR Doc. 79-37960 Filed 12-10-79; 8:45 am]

BILLING CODE 6450-01-M

## Issuance of Proposed Decisions and Orders; November 12 through November 16, 1979

Notice is hereby given that during the period November 12 through November 16, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual

notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

December 6, 1979.

## Proposed Decision and Orders

Central Florida Gas Corp., White Haven, Fla.; DEE-8022, reporting requirements

Central Florida Gas Corporation (Central Florida) filed an Application for Exception from the reporting requirements set forth in Form EIA-149 ("Natural Gas Supply, Requirements, and Usage.") If granted, the firm would not be required to complete and submit the Form. On November 15, 1979, the DOE issued a Proposed Decision and Order which determined that exception relief should be denied.

City of Long Beach, Calif., Long Beach, Calif.; DXE-8240, crude oil

City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block III Unit for the benefit of the working interest owners at upper tier ceiling prices. On November 15, 1979, the DOE issued a Proposed Decision and Order which determined that an extension of exception relief should be granted.

Farm Fuel Products Corp., Spencer, Iowa; DEE-7059, motor gasoline

Farm Fuel Products Corporation (FFP) filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit FFP to receive a base period allocation of unleaded motor gasoline to be used in the production of an alcohol blend for mixing gasoline. On

November 16, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Fasgo, Inc. Brookhaven, Pa.; DEE-7922, motor gasoline

Fasgo, Inc. (Fasgo) filed an Application for Exception from the provisions of 10 CFR 211.105(a)(2). The exception request, if granted, would permit Fasgo to utilize the procedures of 10 CFR 211.105(d) to designate the Mobil Oil Corporation as the sole base period supplier for two retail gasoline outlets operated by the firm. On November 15, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gama, Arlington, Va., DEE-8028, testing requirements

GAMA, the Gas Appliance Manufacturers Association, Inc., filed an Application for Exception from the testing requirements set forth in 10 CFR 430, the Energy Conservation Program for Consumer Products. If granted, GAMA's member firms would not be required to perform energy efficiency and fuel utilization tests on combination heating and cooling units when either the heating or the cooling units exceed the applicable specification for classification as a consumer product. On November 15, 1979, the DOE issued a Proposed Decision and Order which determined that GAMA's application should be denied.

George H. Coates, Starr County, Tex., BEE-0138, natural gas liquids

George H. Coates filed an Application for Exception from the provisions of 10 CFR 212, Subpart K. The exception request, if granted, would permit Coates to increase its selling price for natural gas liquids above the price permitted by DOE regulations. On November 15, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Grace Petroleum Corp., Oklahoma City, Okla., DXE-8238, crude oil

Grace Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 292, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the C.I. Lovett Lease for the benefit of the working interest owners at upper tier ceiling prices. On November 15, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Gulf Oil Corp., Tulsa, Okla., DXE-8239, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Kiefer Unit for the benefit of the working interest owners at upper tier ceiling prices.

On November 15, 1979, the DOE issued a Proposed Decision and Order which tentatively determined that an extension of exception relief should be granted.

Pennsylvania and Southern Gas Co., Sayre, Pa.; DEE-8127.

Lone Star Gas Co., Dallas, Tex.; DEE-8285.  
Anderson Clayton Oilseed, Processing Division, Phoenix, Ariz.; DEE-8296.  
City Public Service, Board of San Antonio, Tex., San Antonio, Tex.; DEE-8297, reporting requirements.

The four petitioners identified above filed Applications for Exception from the reporting requirements set forth in Form EIA-149 ("Natural Gas Supply, Requirements and Usage"). In their exception requests, the applicants ask that the Office of Hearings and Appeals issued an Order relieving them of their obligation to prepare and submit Form EIA-149. On November 15, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DEE-4500-05, crude oil

R. W. Tyson Producing Co., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from six properties located in Jones County, Mississippi, at market prices. On November 16, 1979, the DOE issued a Proposed Decision and Order which determined that the exception relief should be granted.

United Specialties Co., Houston, Tex., DXE-8222, crude oil

United Specialties Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the State of Texas Tract No. 723-A Lease for the benefit of the working interest owners at upper tier ceiling prices. On November 15, 1979, the DOE issued a Proposed Decision and Order which determined that an extension of exception relief should be granted.

## Petitions Involving the Motor Gasoline Allocation Regulations

Week of November 12 through November 16, 1979

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

## Company Name and Case No.

Cave Springs Chevron No. 8044; DEE-6876.  
Fasgo, Inc.; DEE-7922.  
J & B Automotive; DXE-6585.



Pine Grove Exxon; BXE-0278.  
Sharon Motors; DEE-6724.  
The Carport; DEE-5570.  
Thompson's Texaco; DEE-6629.

#### Petitions Involving the Motor Gasoline Allocation Regulations

Week of November 12 through November 16, 1979

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

#### Company Name and Case No.

Economy Oil Co.; DEE-3745.  
Action Gas Co.; DXE-8324.  
Bartel Oil Co.; DEE-6858.  
Boulevard Gulf; DEE-3798.  
Drum Hill Gulf; DEE-5635.  
Environmentals, Inc.; DEE-5995.  
H. A. Wallace; DEE-6840.  
James P. Burns; DEE-3641.  
Joe Rucker; DEE-7247.  
Johnny's Sunoco; DEE-6450.  
Johnson's Gulf; DEE-5629.  
Mat Hurwitz & Sons; DEE-7482.  
North Side Services; DEE-3341.  
PCH Co.; DXE-3409.  
George W. Prescott Publishing Co.; DEE-7696.  
Will-Mart Shell; DEE-4367.  
Pinehurst Citigo; DEE-3524.  
Ray's Standard Serv.; DEE-6303.  
Ace Pest Control; DEE-6629.  
Air Conditioning Systems; DEE-5871.  
All-Dade Driveway Maintenance; DEE-7615.  
Bay Export Services; DEE-6419.  
Bell of Pennsylvania; BEE-0073.  
Brown & Root, Inc.; DEE-4532.  
Budget Rent a Car of St. Louis; DEE-7631.  
Burgman Supply Co.; DEE-6446.  
Central Delivery Service of Massachusetts, Inc.; DEE-7423.  
Central New York State Park and Recreation Comm.; DEE-6163.  
Chromalloy; DEE-4245.  
D & W Sanitation Service; DEE-6796.  
General Rental Co.; DEE-6846.  
Hawthorne Mazda; DEE-5773.  
Montebello Land & Water Co.; DEE-5572.  
Pacific Soils Engineering, Inc.; DEE-6195.  
Perry M. Alexander Construction Co.; DEE-7225.  
Plasticrete Block & Supply Corp.; DEE-7420.  
Polaris Plating, Inc.; DEE-6622.  
Sav-Way Auto Leasing & Rental, Inc.; DEE-4627.  
Sears Roebuck & Co.; DEE-5805.  
Smithkline Clinical Labs; DEE-5436.  
Southern Tours; DEE-6337.  
Van Nuys Publishing Co.; DEE-6254.  
Weatherite; DEE-6511.  
Ted's Rent-a-Car; DEE-6105.  
Greenhome & O'Mara, Inc.; DEE-6901.  
Pacific Galvanizing; DEE-7055.  
Bay Alarm Co.; DEE-5617.  
Benton Brothers Film Express, Inc.; DEE-7732.  
Kim Electric Service; DEE-5830.  
Affiliated Brokers, Inc.; DXE-5949.  
Budget Rent-a-Car of Louisville; DEE-6992.  
New Jersey Bell Telephone Co.; BEE-0118.

Michael Feldman; DEE-7697.  
Grazzolo Drug & Chemical Co.; DEE-7311.  
Temp Rite Engineering Co.; DEE-3536.  
Hyster Company; DEE-6514.  
Hartge Yachtyard; DEE-7586.  
Somerset District; DEE-6715.  
Spruce Creek Golf & Country Club; DEE-3606.  
Federal Express Corp.; DEE-6526.  
Brooks, Inc.; DEE-6784.  
A. J. LeBlanc Heating Co., Inc.; DXE-7687.  
Tri-City Rentals, Inc.; DEE-7494.  
Coca Cola Bottling of Southeastern New England, Inc.; DEE-5406.  
Johnson Roofing Inc.; DEE-6176.  
Tab Transportation, Inc.; DEE-4153.  
Greenlawn Transport; DEE-6078.  
Bieber Lighting Corp.; DXE-6222.  
Charles George Trucking Co., Inc.; DEE-7685.  
Ogden Food Service Corp.; DEE-7056.  
Jerry Cox Co.; DEE-7944.  
Marie Groticelli; DEE-7185.  
Metz Gulf Service; DEE-6646.  
Bob's Marina Service; DEE-6230.  
Don's Dodge Street Car Wash; DEE-6642.  
Irv's Service Center; DXE-6111.  
[FR Doc. 79-37959 Filed 12-10-79; 8:45 am]

BILLING CODE 6450-01-M

#### Issuance of Proposed Decisions and Orders; November 19 through November 23, 1979

Notice is hereby given that during the period November 19 through November 23, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved person within the time period specified in the regulations, the person will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved person that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved person must specify each issue of fact or law contained in the Proposed Decision and Order which it

intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

Melvin Goldstein,  
Director, Office of Hearings and Appeals.  
December 6, 1979

Aminoil USA, Inc., Washington, D.C., DEE-2187, crude oil

Aminoil USA, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the North Bolsa Lease located in Huntington Beach, California, at upper tier ceiling prices. On November 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

Furrr, Moon and Hines, Jackson, Miss., DEE-4103, crude oil

James B. Furrr, Robert Moon and E. R. Hines, filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the applicants to sell crude oil produced from a currently undeveloped tract at market prices. On November 20, 1979 the DOE issued a Proposed Decision and Order in which it determined that the exception request should be dismissed without prejudice to a refiling at a later date.

H-30, Inc., Wichita, Kans., DEE-5735, crude oil

H-30 Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The H-30 request, if granted, would permit the firm to retroactively certify the crude oil produced from the Lukens lease during the period August 1976 through November 1978 as new crude oil. On November 21, 1979, the DOE tentatively determined that the H-30 request should be denied.

Marshall Oil company, Wake Forest, N.C., DEE-7869, gasoline

Marshall Oil company filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211. The exception request, if granted, would permit Marshall to purchase 700,000 gallons of unleaded motor gasoline per month over and above its base period allocation. On November 23, 1979, the U.S. Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

William T. Burton Industries, Inc., Sulphur, La., DEE-0886, crude oil

On March 7, 1978, William T. Burton Industries, Inc. filed an Application for

Exception from the provisions of 10 CFR 212.72 and 212.131(a)(2). The exception request, if granted, would permit Burton to recertify a portion of the crude oil which it produced and sold from the Simon Pass Field in St. Martin Parish, Louisiana during the period between September 1973 and December 1976, as new crude oil and would also permit the firm to retroactively charge upper tier ceiling prices for that crude oil. On November 21, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

#### Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

#### Company Name, Case No., and Location

C&B Exxon, DXE-8243; Huntsville, Ala.  
Delta Pet. Corp., DEE-2368; Ft. Lauderdale, Fla.  
Lipscomb Oil Co., DEE-2856; Greenville, Miss.  
Rally Oil Co., DEE-2542; Washington, D.C.  
Ray's Auto Station, DEE-7528; Pawtucket, R.I.

#### Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

#### Company Name, Case No., and Location

Bullock's Exxon, DEE-7541; Mason, Ohio  
Colorado Cty. Oil Co., DEE-6656; Columbus, Tex.  
Ferndale Shell, DEE-5976; Ferndale, Md.  
Fork Shell Service, DEE-5126; Fork, Md.  
Greenfield's Service, DEE-5647; Monroe, Conn.  
Lloyd Link, DEE-7762; Kingston Springs, Tenn.  
Norris Supply Co., DEE-5596; Sparks, Nev.  
Saveway Super Service, DEE-3522; Washington, D.C.  
Service Oil Co., DEE-5996; Harrisburg, Pa.  
Wilsey Auto Service, DEE-7358; St. Petersburg, Fla.

[FR Doc. 79-37958 Filed 12-10-79; 8:45 am]

BILLING CODE 6450-01-M

#### Office of the Special Counsel for Compliance

#### Proposed Consent Order With Getty Oil Company

AGENCY: Department of Energy (DOE).

**ACTION:** Notice of proposed consent order and opportunity for public comment.

**SUMMARY:** The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199] that it entered into a consent order with Getty Oil Company on December 4, 1979. The consent order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted below, for the period August 19, 1973, through December 31, 1978. To remedy any overcharges that may have occurred during the period, Getty Oil Company agrees to \$75 million in remedies.

As required by the regulation cited above, OSC will receive comments on the consent order for a period of not less than 30 days following publication of this notice (January 10, 1980). OSC will consider any comments received before determining whether to make the consent order final. Although the consent order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the consent order and attempt to obtain a modification of the consent order or issue the consent order as proposed.

**COMMENTS:** Comments must be received by 5:00 p.m., January 14, 1980 to be considered. Address comments to: Getty Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue NW., Rm. 3109, Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Wolf, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-9165.

Copies of the consent order may be received free of charge by written request to: Getty Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue NW., Rm. 3109, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Room GB-145.

**SUPPLEMENTARY INFORMATION:** Getty Oil Company is one of the 34 major refiners presently subject to audit by the Special Counsel to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). Getty Oil engages in the production, refining and marketing of crude oil and refined petroleum products. The audit included a review of Getty's records relating to

compliance with the Regulations during the period August 19, 1973 through December 31, 1978. During the audit, questions and issues were raised and enforcement documents were issued. This consent order resolves all issues not previously resolved, with the exceptions noted below, concerning the allocation and sale of covered products during the audit period, whether or not raised in a previous enforcement action.

#### Conclusion of OSC Audit

The consent order addresses all aspects of Getty's compliance with applicable price and allocation regulations pertaining to the production, refining and marketing of crude oil, motor gasoline, residual fuel oil, No. 2 heating oil, No. 2 diesel fuel, natural gas liquids (NGL), natural gas liquid products (NGLP) and other refined petroleum products. OSC's audit examined all areas of compliance including but not limited to: The sales and certifications of crude oil, including property determinations; the calculation of monthly increased costs of product, including NGLs and NGLPs; nonproduct costs increases; the determination of, and prices charged to, different classes of purchaser; and the crude oil transfer pricing, entitlements and mandatory oil import regulations. Three matters have been excepted from the settlement: Crude oil issues associated with the Kern River field as set forth in a Notice of Probable Violation, Case No. 940R00054, June 27, 1978; claims against Getty as described in the Decision and Order in Getty Oil Company, 1DOE ¶ 8.102 (October 7, 1977), and *Getty Oil Company v. Department of Energy*, Civ. No. 77-434 (D. Del.); and issues concerning costs reported by Getty for interaffiliate purchases of natural gas liquids or natural gas liquid products. In addition, although DOE does not agree with Getty's regulatory interpretation, as part of the consent order agreement DOE will withdraw its enforcement proceeding and discharge claims against Getty relating to Getty's calculation of the increased cost of foreign proprietary crude oil through September 1, 1979.

Neither OSC nor Getty has retreated from the positions taken previously on the issues addressed by this consent order and each believes that its position on these issues is meritorious. Notwithstanding DOE's position to the contrary, Getty Oil maintains that it has calculated its costs and determined its maximum allowable prices in accordance with applicable statutes and regulations. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC



believes that the terms and conditions of this consent order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Getty audit, and thus the consent order is in the best interests of the United States.

#### Terms and Conditions of the Consent Order

Getty has agreed to pay \$25 million into an escrow fund that will be used to defray heating oil costs of economically disadvantaged persons. In addition, Getty will reduce its banks of gasoline and propane price increases in the amount of \$50 million. The consent order covers all outstanding compliance issues under the DOE's pricing and allocation regulations except for natural gas liquid products pricing and one previous enforcement action that is pending in federal court. The details of the agreement follow.

1. Getty's payment of \$25 million will be deposited in an escrow account with National Savings and Trust Company, Washington, D.C., as escrow agent. Getty will not have any claim on or right to participate in the withdrawal, distribution or investment of the escrow fund. It is intended that the funds, including any accumulated interest, will be used to defray heating oil costs of low income persons.

2. Getty's banks of gasoline and propane costs will be reduced by a total of \$50 million. The precise manner of such reduction will be promptly agreed upon by DOE and the company. The bank reduction will be carried forward by Getty to all subsequent months. Normally, banked costs may be passed through to purchasers in future prices, an opportunity for higher prices which is no longer available to Getty because of the Consent Order.

Getty and OSC have excluded three significant matters from the settlement. The Notice of Probable Violation against Getty, issued June 27, 1978, involving crude oil produced at the Kern River field remains pending. The United States District Court action in *Getty Oil Company v. Department of Energy*, Civ. No. 77-434 (D. Del.) and the underlying Office of Hearings and Appeals decision and order are unresolved. Finally, issues relating to the propriety of the costs reported by Getty or its predecessors for interaffiliate purchases of natural gas liquids or natural gas liquid products or shrinkage costs under 10 CFR Part 212, Subpart K, have not been settled.

The consent order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the consent order. Upon becoming final after consideration of public comments,

the order will be a final order of DOE to which Getty has waived its right to an administrative or judicial appeal. The consent order does not constitute an admission by Getty or a finding by OSC of a violation of any price and allocation statute or regulation.

#### Submission of Written Comments

Interested persons are invited to submit written comments concerning this consent order to the address noted above. All comments received by 5:00 p.m. on January 14, 1980 will be considered by OSC before determining whether to adopt the consent order as a final order. Modifications of the consent order which, in the opinion of OSC, significantly change the terms or impact of the consent order will be published for comment.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., December 4, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-37800 Filed 12-10-79; 8:45 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

(FRL 1372-7)

#### Solicitation for Institutional Letters of Intent To Develop Long-Term Exploratory Research Centers

The U.S. Environmental Protection Agency's Office of Research and Development has begun to establish a series of Institutional Centers to focus on long-term environmental problems and provide support for ongoing EPA programs. Three such Centers have initiated studies in the areas of Groundwater Research, Effects of Pollution on Human Health and Advanced Pollution Control Technology. Three new centers focusing on Inter-Media Transport of Pollutants, Integrated Ecosystem Studies and Ultimate Waste Elimination will be funded in 1980.

This Notice describes the existing and proposed centers, the mechanism of formation and support, and the application procedure. *Deadline for Letters of Intent is January 30, 1980.*

#### Introduction

The U.S. Environmental Protection Agency (EPA) was established in December of 1970 and was charged with a single overall mission—the protection and enhancement of the environment.

The Agency was created by Presidential Reorganization Order involving the transfer and integration of 15 separate units of previously existing agencies. A single organization entity was thereby established for the control of environmental pollution, drinking water quality, environmental radiation and noise, solid wastes, pesticides, and other toxic substances. The purpose was to mount an integrated national attack on environmental pollution and to allow progression toward a full understanding of the total environment as a single system consisting of separate but interrelated parts.

The Office of Research and Development (ORD) functions as the principal scientific component of EPA. Its fundamental role is to produce scientific data and technical tools on which to base sound national policy in the development of effective pollution control strategies and the promulgation of adequate and viable environmental standards. ORD's research is supplemented by general scientific and technical research in other Federal agencies, the academic community, and elsewhere. ORD also supports the Agency's involvement in many international organizations with mutual environmental research and development (R&D) concerns.

#### Exploratory Research Centers

Public Law 95-155, section 6(b) of EPA's Research and Development Act of 1978 contained a Congressional request for examination of alternative approaches for conducting long-term environmental research within EPA. In response, in April 1978 EPA published a report to the President and the Congress entitled "Laboratories Needed to Support Long-Term Research in EPA" (EPA 600/8-78-003). Subsequent Congressional action on EPA's FY-1979 and FY-1980 Appropriations Bills provided funds under ORD's Anticipatory Research Program for the establishment of Institutional Centers.

To start this program ORD in FY-1979 established three new, innovative, exploratory research centers to focus on long-term environmental problems. The projected annual budget for each center is \$0.5 million, under EPA's Anticipatory Research Program. The Centers have been established at the University of Pittsburgh, the University of Illinois, and one under a consortium arrangement between the University of Oklahoma, Oklahoma State University, and Rice University. It is headquartered at the University of Oklahoma. Research at the University of Pittsburgh will focus on the human effects of pollution. Advanced pollution control technology

will be the emphasis of research at the University of Illinois, Champaign-Urbana. There will be a concentration on groundwater research (e.g., drinking water, leachate problems) through the Rice-Oklahoma-Oklahoma State consortium.

The center concept is intended to obtain the assistance of the best available researchers to establish a focal point of continuing research in specific areas fundamental to environmental sciences.

The focus of center programs will generally be on long-term (3-5 years or longer) exploratory research which provides the link between basic and applied research as related to EPA's mission. The intent of EPA in employing the center mechanism is to integrate and build upon existing expertise and resources which are already developed. Center programs will be expected to provide an added capability and potential for accomplishments greater than those possible by support of individual projects alone. ORD plans to develop additional centers in this Fiscal Year to concentrate in the areas of Ultimate Waste Elimination, Intermedia Transport, and Integrated Ecosystems Studies.

Centers will be supported primarily through institutions or organizations with well-established expertise in a specified research area, and a demonstrated commitment to such research. Support will therefore require moderate staff increases and limited investments in facilities and equipment.

Centers and their programs shall have a multimedia and multidisciplinary orientation, either by virtue of the expertise available on the center staff or by arrangements with the parent institution, other institutions or individuals. Centers can be based within a single institution or within a consortium. Centers must have a firm basis within the institution that has a common interest in the public need as perceived by EPA and its advisors. This commonality of interest should be shared by leaders within the institution and EPA.

Center programs must be responsive to the long-term needs as perceived by all EPA laboratories whose activities are related to the center objectives. While each EPA laboratory has a central research emphasis, it is not an exclusive one. Thus, care must be exercised in order that center programs be representative of this diversity of EPA activities. Centers will therefore become, as intended, EPA-wide research resources rather than a resource responsible to a single laboratory.

In order to qualify as a center, the applicant institution must demonstrate an administrative structure that will foster successful scientific and administrative management. A key figure is the center director, who must be a recognized scientific or technical leader/manager and who must make a major time commitment to the scientific programs and administration of the center. Because the center funds will be in addition to the funds of the institution's ongoing programs, the center director must have the ability to coordinate center activities in a manner that will benefit the overall program.

The scope of center activities includes: (1) Serving as a resource for EPA laboratories within a given research area;

(2) Filling of research gaps and addressing areas requiring expansion;

(3) Stimulation of EPA's applied research programs;

(4) Providing a bridge between EPA and the academic/scientific community; and

(5) Serving as a source of new talent.

In general, center resources are not to be used to provide augmented support for ongoing projects within the purview of the center staff per se. Likewise, center resources are not generally to be used to augment ongoing EPA short-term or applied programs. Exception to these restrictions may occur, for example, if an ongoing program is long-term, fills an objective of the center, and requires a substantially expanded effort.

The experience of other Agencies with similar center programs suggests three elements are of critical importance if the intent of center activities both in terms of the agency and institutional objectives and needs is to be accomplished. These are:

(1) The active participation of a Policy board whose membership includes as a minimum: EPA headquarters personnel, the appropriate EPA laboratory(s), and the Center director. This board has the responsibility of providing overall guidance to the center and periodically reviewing progress.

(2) A dedicated Center Director whose responsibility includes design and conduction of a research program consistent with the guidelines developed by the Policy Board.

(3) Periodic interaction of the Center Director with a scientific advisory committee for purposes of programmatic review and recommendations.

The scientific advisory committee members should be external to the Agency and the institution and be broadly representative of the national perception of the research area.

#### Mechanism of Support

Support will take the form of a cooperative agreement as provided for by the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224).

Cooperative agreements differ from grants and contracts in that substantial involvement of the sponsoring agency in the center's direction and investigations takes place on a continuing basis. This involvement extends to exchange of center and agency personnel as appropriate to objectives of the center. As in a joint venture between two private parties, the whole range of factors affecting the venture and its outcome are the subject of negotiation. Responsibility for assuring performance is shared by the agency and the center.

Cooperative agreements are subject to provisions of EPA's General Grant Regulations (40 CFR Part 30 and Part 40, Research and Demonstration Grant Resolutions), and to special conditions to be set in each agreement executed by the authorized official of the center and EPA.

In the long-term, a minimum of \$500,000 per year of support for each center is anticipated. However, budget considerations may require a more limited support in the initial years. The support covers both direct and indirect costs. Execution of a cooperative agreement requires the recipient institution to contribute not less than five percent of the allowable project costs.

#### Application and Selection Process

Because of the time and resources required for preparation of detailed proposals, each applicant is required to submit a letter of intent prior to generation of a proposal. Criteria and guidelines for preparation of this letter are presented in this notice under the subheading, Letter of Intent. The EPA contact is: MR. EDWARD A. SCHUCK (RD-675), Director, Center Support Program, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The original and nine (9) copies of letters of intent are due at this contact point by January 30, 1980. Please provide a stamped, self-addressed envelope so that we may acknowledge receipt of your letter.

For each proposed center a committee composed of internal and external scientists, appointed by the Assistant Administrator, ORD, will rank all letters and select several of the top applicants. These latter will be notified of their eligibility to submit a formal proposal and be supplied with instructions for



proposal preparation. All applicants submitting letters of intent will be notified of the outcome of the review process not later than April 15, 1980.

#### Letter of Intent

##### A. General

In order to be eligible for consideration the letter of intent must adhere to the following format and limitations. (Further details on each center's research activities are presented in subsections B, C, and D.)

I. *Staff*—Identity of proposed center director, his time commitment, his staff and their working relationships.

II. *Strategy*—Plan for building upon the institution's expertise and resources.

III. *Program*—Description of present scientific program and proposed center activities.

IV. *Management*—Proposed approach for operating center and coordination with EPA.

V. *Background*—Experience of staff and institution in the area of proposed center activities.

VI. *Facilities*—Resources of the institution and their availability for use by the Center.

VII. *Local Review Statement*—A one to two page letter signed by the institution's chief executive officer which indicates how the proposed center relates to overall institutional goals, the institution's general support for the proposed effort, and its willingness to provide the necessary institutional resources for successful implementation of the center.

VIII. *Curriculum Vitae*—Curriculum vitae of the proposed center director and summarized (two pages for each one) curriculum vitae of key staff members (no more than five staff members).

That portion of the letter of intent covered by Section I through VI should not exceed 15 double-spaced pages typed on one side only. Sections VII and VIII may be single spaced. Do not append additional material to the letter of intent as it will not be forwarded to the review committee.

Highly detailed descriptions of ongoing or proposed programs should be avoided in the letter of intent. The review committee will primarily focus their evaluations on the institution's stated intent and ability to meet the need as broadly stated in this Notice. If the review committee requires further information, all eligible institutions (those submitting letters of intent by the stated deadline) will be given the opportunity for additional response.

##### B. Intermedia Transport Research Center

EPA has traditionally supported research to investigate the movement of materials between the land, water and atmosphere. Certain of these such as nitrogen materials (compounds) etc., have received considerable attention. However, the chemical/physical processes which govern the movement of toxic chemicals is not nearly as well understood. Nor are the consequences of such exchanges and the impact or interaction of these pollutants with natural ecosystems.

During the past decades the growth of the power and chemical industries alone resulted in both an increased volume and diversity of emissions. As these products are dispersed into the biosphere they interact with each other and may produce undesirable reaction products. This complex relationship can best be understood by examining the various components in depth. Thus, an understanding of the sunlight-induced reactions that air pollutants frequently undergo which produce physical and chemical changes is necessary to an understanding of the intermedia transport process, since directly emitted oxides of sulfur and nitrogen are transformed in the atmosphere to produce acidic particles and vapors. These atmospheric reaction products are primarily responsible for acid rain. Likewise, volatile organic compounds can be transformed in the atmosphere to more or less toxic organic gases and aerosols and be deposited on land or water surfaces. Pollutants removed from the atmosphere by virtue of gravitational fallout, impaction, or washout also end up as land and water contaminants. Some of these, such as lead, are relatively inert and remain in place on land surfaces with minimal interaction with solid or plants. Others, like particulate mercury compounds from coal-fired electric power facilities, interact with soil or organisms and plants to form the volatile and toxic gases methyl and ethyl mercury. Thus, we now recognize that there exists the need for better understanding of the chemical and physical processes which govern these and other intermedia transfers along with their long-term environmental effects and impact for human health.

Recent awareness of potential adverse effects of acid rain has focused considerable attention on the interaction between compounds of sulfur and nitrogen in the atmosphere and soils, biota, water and sediments. As a consequence EPA, under its Anticipatory Research Program, has

mounted an intense research effort to determine causes and effects of acid precipitation. Much less effort has gone into investigation of the interactions and cycling of other atmospheric constituents, e.g., organics, and most metals. Thus, the research of this Center would focus on the interactions of those pollutants, i.e., organics, metals, and other particulates, which are little understood. The investigations should be directed to the interface of these pollutants with land masses and large water bodies. Questions such as the following should be considered:

What organic and inorganic chemicals are deposited as a result of dry and wet fall out?

How does temperature, humidity, vegetation growth and other factors influence the pollutant condensing process?

How are chemicals purposefully placed on the land by man entrained into the atmosphere?

What are the mechanisms of action which control the exchange of pollutants between the land, atmosphere and large water bodies?

Are chemicals accumulating in the atmosphere which have heretofore not been recognized?

Will some of man's interventions into natural biogeochemical cycle lead to serious long term impact?

What can be done to ameliorate the effects of man's intervention into natural biogeochemical processes?

Investigations of well researched pollutants and phenomena as well as those pollutants or issues currently under intense study should be minimized. Acid rain, lead, and ozone as well as runoff should only be considered to the extent they influence the interactions of the pollutants under investigation. The essential purpose of this center would be to advance the basic understanding of these phenomenon in order to influence environmental decision making.

In planning and conducting its research activities the Center will work closely with the EPA's Environmental Sciences Research Laboratory in Research Triangle Park, North Carolina and other EPA labs concerned with the cycling of pollutants.

##### C. Ecosystems Research Center

Decisions on protecting the environment have been based largely upon data from individual biological species or individual physical/chemical processes. Usually, little or no pertinent information has been available from the level of the biological community or ecosystem. Even when systems level information has been available, its

significance has been very difficult to interpret. Indeed, the assumption is still not generally accepted that there are systems level processes or phenomena which are critical for maintaining desirable communities or ecosystems.

Although there has been considerable interest on the part of decisionmakers in ecosystem level data, ecologists have not been generally successful in providing such data in useful form. This may be due to the complexity of the systems and the expense of generating data, or it may be due to sparsity of simplifying ecological concepts. During the past several years, interest in ecological data and assessment has sharply increased as public and private officials face increasingly difficult decisions regarding the benefits of additional levels of pollution control or the significance of chronic, low-level or intermittent exposure to harmful substances. Among the questions being asked are:

Are there systems level functions which are critical to the maintenance of desirable ecosystems or communities?

Are there systems level structural properties, e.g., food webs, which are critical to ecosystem functioning?

Are these structural properties or functions more sensitive to stress than individual components of the system?

How can ecosystems be described in terms of their value to man? For example, are there characteristics of ecosystems that can be evaluated to determine if, in response to stress, they contribute to different conditions, but of equal value to man?

Are there inherently stable or unstable states for ecosystems relating to their value for man?

Assuming there are sets of conditions to which ecosystems return when stressed, are there limits beyond which they can be stressed and not return? What is their rate of return to their original state?

How can an ecosystem be most simply and economically characterized to determine whether or not it is under stress and, if so, how severe and how persistent a stress?

What is the significance of variations in the severity or timing, e.g., continuous versus intermittent, of the stress?

Can an ecosystem's "condition" be usefully estimated by describing only its physical and chemical characteristics?

What systems level process or phenomena are significant for the transport and fate of toxic substances?

Are there certain components of ecosystems which are more useful or accurate in predicting toxic exposure levels than others?

The purpose of an Ecosystems Research Center would be to conduct the theoretical and empirical research necessary to answer these and other fundamental ecological questions relevant to public and private decisions on environmental protection. The Center would aim to advance the capability of ecological science to develop and apply systems level concepts in a manner useful to environmental protection decisions. A capability to assess and integrate both the terrestrial and aquatic ecosystem is necessary.

In planning and conducting research activities the Center will work closely with the EPA laboratories in Corvallis, Oregon; Duluth, Minnesota; Athens, Georgia; Ada, Oklahoma; Las Vegas, Nevada, and coordinate its activities with EPA's Science Advisory Boards Ecology Committee and the ecosystem studies conducted by the National Science Foundation.

##### D. Research on Waste Elimination

As technologies advance, so do the variety, quantity and complexity of unwanted by-products. Reducing or disposing the wastes, which are often toxic, has become a major and rapidly growing problem. The opportunity for accident and human exposure will increase as the population grows and chemical production increases. Heightened public awareness of these risks and resistance to their acceptance can be expected to mount rapidly, perhaps explosively.

Until recently the improper disposal of many hazardous wastes dispersed these wastes into the air and water. However, the ability of the environment to accept such materials without damage is limited. Recognition of the degradation of our air and water led to control methods to prevent pollution from entering these media. The control efforts generally employed techniques such as filtration, extraction and precipitation. Although such techniques change the character or concentration of the pollutants, they often create other problems of waste disposal. As a consequence, these concentrated manufacturing or environmental control, liquid and solid wastes are applied to land or buried in shallow landfills and deep wells. At best, such disposal practices represent a delaying tactic, since they have a great potential for subsequent water and air pollution.

A reexamination of the basic approaches for eliminating wastes is warranted. The expense of controlling waste and the unknown environmental effect of disposal implies the future need to reduce, eliminate or reuse the unwanted by-products. Alternative low-

waste production processes may have costs which appear to be prohibitive until the longer term costs are considered. The inevitable future costs of correcting environmental effects resulting from improper disposal practices must be added to the cost of high-waste production process.

The purpose of this center would be to develop new approaches to reduce, eliminate or reuse hazardous by-product pollutants. Such approaches would eventually be utilized by environmental control programs. A complete range of institutional and technological approaches might be pursued. Questions which should be addressed include:

Can the manufacturing processes or process characteristics that produce hazardous waste materials be described and categorized?

Are there new pollution avoidance methods, i.e., clean technologies, which could be developed and used commercially?

Are there new approaches to recycle or reuse which would enable hazardous waste to be utilized as raw materials?

Are there manufacturing process controls that will prevent or reduce the formulation of hazardous wastes?

Are there new destructive technologies which could be developed to dispose of hazardous wastes?

The Center will work closely with EPA's Industrial Environmental Research Laboratories in Cincinnati, Ohio, and Research Triangle Park, North Carolina, the Municipal Environmental Research Laboratory in Cincinnati, Ohio, the Advanced Control Technology Research Center at the University of Illinois, as well as with industrial research organizations with similar interests and programs. EPA is interested in understanding the proposer's qualifications in industrial processes and the experience in the broad spectrum of hazardous waste generation. Experience in organic chemical manufacturing is of particular interest.

The Agency may seek to broaden the mission of this center at a future date to include consideration of unique environmental transformation processes, measurement methods and health effects of hazardous wastes. Individual parties are urged to identify capabilities in these related areas.

Dated: November 29, 1979.

Stephen J. Gage,  
Assistant Administrator for Research and Development.

[FR Doc. 79-37867 Filed 12-10-79; 8:45 am]  
BILLING CODE 6560-01-M



## FEDERAL RESERVE SYSTEM

**BankAmerica Corp.; Proposed Expansion of Nonbank Activities of BA Insurance Co., Inc.**

BankAmerica Corporation, San Francisco, California has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the nonbank activities of its subsidiary BA Insurance Company, San Francisco, California to include underwriting credit life insurance limited to reinsuring a home life insurance program. These activities would be performed from offices of Applicant's subsidiary in San Francisco, California, and the geographic area to be served is the State of California. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 4, 1980.

Board of Governors of the Federal Reserve System, December 4, 1979.

William N. McDonough,  
Assistant Secretary of the Board.  
[FR Doc. 79-37865 Filed 12-10-79; 8:45 am]  
BILLING CODE 6210-01-M

**Beutler, Inc.; Formation of Bank Holding Company**

Beutler, Inc., Ness City Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 55 percent or more of the voting shares of The First State Bank, Ness City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 3, 1979.

William N. McDonough,  
Assistant Secretary of the Board.  
[FR Doc. 79-37866 Filed 12-10-79; 8:45 am]  
BILLING CODE 6210-01-M

**Great Southern Bancshares, Inc.; Formation of Bank Holding Company**

Great Southern Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Great Southern Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

William N. McDonough,  
Assistant Secretary of the Board.  
[FR Doc. 79-37863 Filed 12-10-79; 8:45 am]  
BILLING CODE 6210-01-M

**Louisburg Bancshares, Inc.; Formation of Bank Holding Company**

Louisburg Bancshares, Inc., Louisburg, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Louisburg, Louisburg, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

William N. McDonough,  
Assistant Secretary of the Board.  
[FR Doc. 79-37864 Filed 12-10-79; 8:45 am]  
BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

**Eastmet Corp.; Early Termination of Waiting Period of the Premerger Notification Rules**

**AGENCY:** Federal Trade Commission.  
**ACTION:** Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

**SUMMARY:** Eastmet Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of U.I.P. Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by U.I.P. Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

**EFFECTIVE DATE:** November 28, 1979.

**FOR FURTHER INFORMATION CONTACT:** Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

**SUPPLEMENTARY INFORMATION:** Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the Federal Register.

By direction of the Commission.  
Carol M. Thomas,  
Secretary.

[FR Doc. 79-37861 Filed 12-10-79; 8:45 am]  
BILLING CODE 6750-01-M

**GENERAL SERVICES ADMINISTRATION****Ad Hoc Panel for Review of Qualifications of Candidates for the Position of Archivist of the United States; Establishment**

**Establishment of Ad Hoc Panel.** This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the establishment of an Ad Hoc Panel for review of the qualifications of all applicants for the position of Archivist of the United States. The Administrator of General Services has determined that this panel is in the public interest.

**Designation.** Ad Hoc Panel for Review of Qualifications of Candidates for the Position of Archivist of the United States.

**Purpose.** To develop qualifications criteria, to review the qualifications of all applicants for the position of Archivist of the United States, and to make recommendations as appropriate to the Deputy Administrator of General Services, Chairman of the Executive Selection Panel, with respect to those applicants considered best qualified for the position. The objective is to utilize the experience and expertise of various experts in the fields of archival science, history, records management, and information science.

**General Information.** Pursuant to Office of Management and Budget Circular A-63, the Committee Management Secretariat has authorized a period of less than fifteen days between publication of this notice and the filing of the committee charter.

Dated: December 3, 1979.

Ray Kline,  
Acting Administrator of General Services.  
[FR Doc. 79-37837 Filed 12-10-79; 8:45 am]  
BILLING CODE 6820-34-M

**Ad Hoc Panel for Review of Qualifications of Candidates for the Position of Archivist of the United States; Meeting**

Notice is hereby given of the convening of the Qualifications Review Panel for the position of Archivist of the United States on December 19, 1979, and on January 15, 1980, from 9:00 a.m. to 4:30 p.m. in Room 6137 General Services Administration, 18th and F Streets NW., Washington, D.C. The panel will:

On Wednesday, December 19, 1979, (1) determine how best to fill the Archivist position; (2) determine qualifications of Archivist position. On Tuesday, January 15, 1980, (3) review applications for the Archivist position and recommend those candidates best qualified.

For items (1) and (2) above, the meeting will be opened to the public. During deliberations under item (3), the meeting will be closed to the public in accordance with exemption (6) of the Government in the Sunshine Act (5 U.S.C. 552b(c)).

Pursuant to OMB Circular A-63, a period of less than 15 days between publication of this Notice and the date the meeting is scheduled to be held is necessary because of scheduling difficulties.

Dated: December 4, 1979.

W. M. Paz,  
Assistant Administrator for Human Resources and Organization.

[FR Doc. 79-37886 Filed 12-10-79; 8:45 am]  
BILLING CODE 6820-24-M

**Federal Property Resources Service****Conducting Stockpile Transactions Competitively; GSA's Policy**

The purpose of this notice is to announce, in general, GSA policy and procedures to be followed under the Strategic and Critical Materials Stock Piling Revision Act of 1979, Pub. L. 96-41, which became law on July 30, 1979. This Act revises the basic Strategic and Critical Materials Stock Piling Act (50

U.S.C. 98-98h-1) and consolidates other stockpiling authority.

This act provides the standards and guidelines for managing and operating the National Defense Stockpile, a Government-owned reserve of strategic and critical materials. By Executive Order 12155, dated September 10, 1979, the President delegated his authority to manage the stockpile to the Administrator of General Services. The stockpile is operated under policy guidance from the Federal Emergency Management Agency.

Strategic and critical materials are retained in the stockpile to meet the national defense needs for a period of not less than 3 years in the event of a national emergency. Legislative authorization is required before disposal or acquisition of any material for the National Defense Stockpile can be made. For acquisitions, congressional authority as well as appropriations are necessary.

For stockpile acquisitions and disposals, the Act stipulates that to the maximum extent feasible—

- (1) Competitive procedures shall be used;
- (2) Efforts shall be made to avoid undue disruption of markets of producers, processors and consumers and to protect the Government against avoidable loss; and
- (3) Disposals shall be made for domestic consumption.

To implement the Act, GSA is putting into effect the following internal GSA policies:

- (1) Acquisitions and disposals shall be conducted by the formal advertising method unless compelling circumstances require other methods;
- (2) Competitive negotiation methods shall be used only if the formal advertising method is not feasible; and
- (3) Noncompetitive methods shall be used only if formal advertising and competitive negotiations are not feasible.

In implementing the above policies GSA will exercise its acquisition authority, in accordance with Federal procurement practices, by either formal advertising or competitive negotiation as provided in 41 CFR 1-2.1 and 41 CFR 1-3.1 and 1-2.2; likewise excess stockpile materials will be disposed of by either formal advertising or competitive negotiation and such disposals will be patterned, to the extent applicable, on regulations governing the disposal of surplus personal property (see Federal Property Management Regulations, 41 CFR 101-45). The application of the foregoing regulations will be determined to apply to the



degree that such regulations are consistent with, and do not impair, the objectives of the stockpile program and the Act.

Under the Act the Administrator may waive the requirement that acquisition of strategic and critical materials be made in accordance with established Federal procurement practices or that the disposal be made by formal advertising and competitive negotiation procedures. Such waiver will be based on a finding and determination that usual competitive procedures are not feasible for the particular procurement or disposal.

The foregoing waiver authority of the Administrator will be exercised as follows:

Any acquisition or disposal to be effected by competitive negotiations shall be the subject of a finding and determination which justifies that the formal advertising method is not feasible for the particular stockpile transaction. The finding shall incorporate all information necessary to substantiate the decision and be signed by the Commissioner, Federal Property Resources Service (FPRS).

In the case where acquisition or disposal is to be made through noncompetitive negotiations, a finding and determination justifying the decision that neither the formal advertising nor the competitive negotiation method is feasible for the particular stockpile transaction shall be made. The finding shall incorporate all information necessary to substantiate the decision and will be signed by the Commissioner, FPRS.

In accordance with provisions of the Act, written notice from GSA to the Committees on Armed Services of the Senate and House of Representatives will be furnished when proposed methods of disposal or acquisition by GSA necessitate waiver of established Federal procurement practices with respect to acquisitions or competitive procedures with respect to disposals. Such notice will also be furnished when a proposed acquisition or disposal may disrupt the usual markets of producers, processors and consumers of a particular commodity or when the acquisition or disposal is to protect the Government against avoidable loss. Additionally, when a proposed disposal is not to be made for domestic consumption, the Committees will be notified. Such notices will be furnished to the respective Committees thirty days prior to obligating the United States and will specify the reasons why the usual procedures are not considered feasible.

In addition to the foregoing policies

and procedures governing acquisitions and disposals, the Act encourages the use of barter of stockpile material when acquiring needed strategic and critical materials where such arrangements are practical and in the best interests of the Government. GSA will therefore, to the extent practicable, utilize available excess stockpile material for transfer under a barter arrangement at fair market value. Consistent with the underlying policy considerations of the Act and in consonance with the foregoing guidelines, barter arrangements, where feasible, will be formally advertised or competitively negotiated. The same findings and determinations supporting the particular method effecting any barter transaction by competitive or noncompetitive methods will apply as outlined for other acquisitions and disposals.

Dated: November 26, 1979.

Roy Markon,  
Commissioner.

[FR Doc. 37836 Filed 12-10-79; 8:45 am]

BILLING CODE 6820-96-M

**[GSA Bulletin FPR 37, Federal Procurement Supplement 2]**

**Additions to List of Companies Not in Compliance With Voluntary Wage and Price Standards**

November 16, 1979.

To: Heads of Federal Agencies.

Subject: Companies Not in Compliance with the Voluntary Wage and Price Standards.

1. *Purpose.* This supplement adds additional companies to the list of companies that have been determined to be in noncompliance with the Voluntary Wage and Price Standards formulated pursuant to Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* The following companies are added to the companies listed in paragraph 4 of GSA Bulletin FPR 37, dated August 17, 1979, and Supplement 1, dated September 14, 1979.

American Hoechst Corporation, Route 202-206 North, Somerville, New Jersey 08876.  
SCOA Industries, Inc., 155 East Broad Street, Columbus, Ohio 43215.

National Electrical Contractors Association (Oregon-Columbia Chapter), 201 S.W. Arthur Street, Portland, Oregon 97201.

Gerald McBride,  
Assistant Administrator for Acquisition Policy.

[FR Doc. 79-37886 Filed 12-10-79; 8:45 am]

BILLING CODE 6820-61-M

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

[Docket No. 79G-0372]

**Novo Laboratories, Inc.; Filing of Petition for Affirmation of GRAS Status**

**Correction**

In FR Doc. 79-36392, appearing in the issue of Tuesday, November 27, 1979, on page 67731, in the last column, the last paragraph, the last line, correct "MC" to read "MD".

BILLING CODE 1505-01-M

[Docket No. 79P-0342]

**Laser Products Corp.; Approval of Variance for Laser-Armed Firearms**

**Correction**

In FR Doc. 79-36217, appearing in the issue of Tuesday, November 27, 1979, on page 67731, in the middle column, under the third blocked paragraph, designated as "SUPPLEMENTARY INFORMATION", the 12th line down, correct "(\$ 1040.10(f)(4), by inserting a closed parenthesis after the "I)" and before the comma; and on the same page, same column, same paragraph, 13th line down, correct "(\$ 104.10(f)(5)(ii) by inserting a "0" after the "4" and before the point.

BILLING CODE 1505-01-M

[Docket No. 75N-0232]

**Food Flavoring; Additional Flavoring Substances in GRAS Review; Extension of Effective Date for Compliance With Bulk Flavor Ingredient Declaration Requirements**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** This document announces the addition of 54 flavoring substances to the agency's safety review of substances that are generally recognized as safe (GRAS) and the extension of the effective date for compliance with a bulk flavor labeling regulation for these ingredients. The flavors are listed in the Flavor and Extract Manufacturers' Association (FEMA) GRAS List No. 12 (published in *Food Technology*, July 1979).

**DATE:** Compliance with bulk labeling requirements by July 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C ST. SW., Washington, DC 20204, 202-472-4750.

**SUPPLEMENTARY INFORMATION:** In notices published in the *Federal Register* of July 26, 1973 (38 FR 20051) and March 28, 1978 (43 FR 12941), the Food and Drug Administration (FDA) announced that, as part of its GRAS review program, Scientific Literature Reviews (SLR's) were being prepared on several chemical classes of flavoring ingredients. The July 26, 1973 notice also announced that these reviews would include all flavoring ingredients listed in §§ 182.10, 182.20, 182.30, 182.40, 182.50, 182.60, and Part 172, Subpart F (21 CFR 182.10, 182.20, 182.30, 182.40, 182.50, 182.60, and Part 172, Subpart F) or flavoring ingredients otherwise submitted to the agency.

In the *Federal Register* of February 3, 1976 (41 FR 4954), FDA extended until July 1, 1979, the effective date for compliance with bulk labeling requirements of § 101.22(g)(2) (21 CFR 101.22(g)(2)) for those flavor ingredients that are listed as GRAS in a reliable industry association list and are included by FDA in its review of GRAS food ingredients. The July 1, 1979 effective date for compliance with § 101.22(g)(2) was recently extended to July 1, 1981 in a notice published in the *Federal Register* of July 31, 1979 (44 FR 44940) in order to allow the agency adequate time to complete its safety evaluation of these flavoring ingredients.

The February 3, 1976 *Federal Register* notice also announced a procedure under which FDA would accept additional substances for incorporation into its safety review and thereby bring the additional substances within the category of substances that are subject to the delayed effective date for compliance with § 101.22(g)(2). The procedure provided for the inclusion of additional flavoring ingredients if the SLR for each chemical class of flavors is appropriately amended before the safety evaluation begins. In this way, all available data for each chemical class of flavors will be included and evaluated at the same time. If individual flavor ingredients cannot be added to the SLR's by these provisions, extension of the effective date for compliance with bulk labeling requirements and exemptions from specific ingredient listing as specified in § 101.22(g)(2) will not be granted except by FDA approval of food additive or GRAS affirmation petitions for the ingredients.

In the February 3, 1976 *Federal Register* notice, the FDA recognized as reliable industry GRAS lists the FEMA GRAS Lists III and 4 through 9, which were published in *Food Technology* of February 1965, May 1979, May 1972, January 1973, November 1973, September 1974, and August 1975, respectively. In *Federal Register* notices of October 18, 1977 (42 FR 55643) and May 26, 1978 (43 FR 22784), FDA also recognized as reliable industry association GRAS lists the FEMA GRAS Lists Nos. 10 and 11, which were published in *Food Technology* of January 1977 and February 1978, respectively. Furthermore, the substances included in the FEMA GRAS Lists Nos. 10 and 11 were determined to have been added to the FDA's safety review of flavors in accordance with the procedure outlined in the February 3, 1976 *Federal Register* notice, whereby the inclusion of additional flavoring ingredients can be made only if the SLR for each chemical class of flavors is appropriately amended before the safety evaluation begins.

FEMA has recently published its GRAS List No. 12 (*Food Technology*, Vol. 33, No. 7, July 1979), comprising an additional 54 flavoring substances. FEMA has included 13 of these ingredients in already-completed SLR's and the remaining 41 have been submitted as supplements to previously prepared SLR's. The 54 flavoring ingredients that constitute the FEMA GRAS List No. 12 are the following:

2-Acetyl-5-methylfuran  
Benzenethiol  
Benzyl disulfide  
Benzyl methyl sulfide  
2-(2-Butyl)-4,5-dimethyl-3-thiazoline  
Butyl salicylate  
Cyclohexylmethyl pyrazine  
Δ-Damascone  
ε-Decalactone  
3-Decanol  
Dihydro-β-ionol  
Dihydro-α-ionone  
Dihydro-β-ionone  
4,5-Dimethyl-2-ethyl-3-thiazoline  
4,5-Dimethyl-3-hydroxy-2,5-dihydrofuran-2-one  
4,5-Dimethyl-2-isobutyl-3-thiazoline  
2-trans-5-cis-Dodecadial  
ε-Dodecalactone  
Ethyl trans-2-decenoate  
Ethyl trans-4-decenoate  
2-Ethyl-4-hydroxy-5-methyl-3(2H)furanone  
Ethyl trans-2-octenoate  
1-Hexen-3-ol  
3-Hexenyl phenylacetate  
4-Hydroxy-5-methyl-3(H)furanone  
α-Ionol  
β-Ionol  
cis-5-Isopropenyl-cis-2-methylcyclopentan-1-carboxaldehyde  
2-Methoxy-4-propylphenol  
3-Methyl-2-butenal

trans-2-Methyl-2-butenic acid  
3-Methyl-2-buten-1-ol  
2-Methylbutyl acetate  
p-Methylcinnamaldehyde  
4-Methyl-2-pentyl-1,3-dioxolane 2-Methyl-4-phenyl-2-butanol  
2-Methyl-3-thioacetox-4,5-dihydrofuran  
4-(Methylthio)butanol  
2-[(Methylthio)methyl]-2-butenal  
3-Octen-2-ol  
2-Octen-4-one  
1-Octen-3-yl butyrate  
Octyl 2-methylbutyrate  
Phenethyl 2-methylbutyrate  
5-Phenylpentanol  
2-Propionylpyrrole  
2-Propionylthiazole  
Propyl 2,4-decadienoate  
Propyl 2-methyl-3-furyl disulfide  
p-Propylphenol  
Thiazole  
2-trans-4-cis-7-cis-Tridecadial  
2,6,6-Trimethyl-1,8-cyclohexen-1-carboxaldehyde  
D-Xylose

The Commissioner of Food and Drugs has determined that the 54 ingredients have been properly added to the safety review. The effective date of compliance with § 101.22(g)(2) for these ingredients is extended to July 1, 1981.

SDLR's on all synthetic flavor ingredients have been completed and are currently being reviewed and evaluated by FDA scientists. Therefore, by the terms of the procedures for including new flavors in this review (see 41 FR 4954), no additional synthetic flavors will be included as supplements to SLR's. By the terms of this procedure, all such additional synthetic flavoring ingredients will be exempted from § 101.22(g)(2) only by FDA approval of food additive or GRAS affirmation petitions for the ingredients.

Dated: November 30, 1979.

William F. Randolph,  
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-37835 Filed 12-10-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0419]

**Tate & Lyle Process Technology, Ltd.; Filing of Food Additive Petition**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** Tate & Lyle Process Technology, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acrylate-acrylamide resins as a flocculent in the clarification of corn starch hydrolyzate.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Department of Health,



Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9A3454) has been filed by Tate & Lyle Process Technology, Ltd., Cosmos House, Bromley Common, Bromley BR2 9NA, England, proposing that § 173.5 *Acrylate-acrylamide resins* (21 CFR 173.5) be amended to provide for the safe use of acrylate-acrylamide resins as a flocculent in the clarification of corn starch hydrolyzate.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required. The notice of availability of the environmental impact analysis report statement of exemption, and environmental assessment, as applicable, will be published in the Federal Register regulation, as permitted by 21 CFR 25.25(b).

Dated: November 30, 1979.

Sanford A. Miller,  
Director, Bureau of Foods.  
[FR Doc. 79-37718 Filed 12-10-79; 8:45 am]  
BILLING CODE 4110-03-M

#### Health Resources Administration

##### Graduate Medical Education National Advisory Committee; Notice of Filing of Annual Report

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

##### Graduate Medical Education National Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Paul Schwab, Executive Secretary for Graduate Medical Education National Advisory Committee, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7170.

Dated: December 4, 1979.

James A. Walsh,  
Associate Administrator for Operations and Management.  
[FR Doc. 79-37840 Filed 12-10-79; 8:45 am]  
BILLING CODE 4110-03-M

#### Office of Education

##### Citizen Education for Cultural Understanding Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Citizen Education for Cultural Understanding Program.

Authority for this program is contained in Section 603 of the National Defense Education Act of 1958, as amended (20 U.S.C. 512a).

This program issues awards to any public or private agency or organization including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers.

The purpose of the awards is to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures, actions, and policies of other nations in order to allow them to better evaluate the international and domestic impact of major policies of the United States and other nations.

**Closing Date for Transmittal of Applications:** Applications for awards must be mailed or hand delivered by February 25, 1980.

**Applications Delivered by Mail:** An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.581, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

**Applications Delivered by Hand:** An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m.

(Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing day.

**Program Information:** Funds under this program may be used to carry out the following activities:

- (1) The in-service training of teachers and other educational personnel with regard to the cultures, actions, and policies of other nations;
- (2) The compilation of existing information and resources about other nations in forms useful to various types of educational programs; or
- (3) The dissemination of information and resources pertaining to the cultures, actions, and policies of other nations to educators and education officials upon their request.

##### Available Funds and Program Priorities:

It is estimated that \$2 million will be available for this program for fiscal year 1980. This will provide for up to 20 major grants averaging approximately \$100,000 each; up to 20 mid-level grants averaging approximately \$60,000 each; and/or up to 40 mini-grants averaging approximately \$25,000 each.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

For all levels of funding priority will be given to those projects which propose new programs, or modify existing programs, to increase students' understanding, knowledge and information about the cultures, actions and policies of other nations and/or issues of global concern to enhance their ability to make informed judgments with respect to the policies and actions of the United States, through:

- (1) Inservice training of teachers and other education personnel, and/or

(2) Dissemination of information to educators and education officials. Specifically, priority will be given to projects which:

- (a) Are developed by or in conjunction with local or State education agencies;
- (b) Offer clear evidence of regional or state-wide training and dissemination activities;
- (c) Demonstrate the potential to produce educational impact through television, radio, film, print or other mass media programs;
- (d) Are conducted as part of community, adult or continuing education programs.

The applications for all grants will be evaluated competitively under the funding criteria in 45 CFR Part 146a and 100a.28.

There are no continuation grants in the Citizen Education for Cultural Understanding Program for this year, and awards will be made for a one-year period.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by January 2, 1980. They may be obtained by writing to the Division of International Education, U.S. Office of Education (Room 3919, Regional Office Building #3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

**Applicable Regulations:** Regulations applicable to this program include the following:

- (a) Regulations for the Citizen Education for Cultural Understanding Program (45 CFR Part 146a) published in the Federal Register on May 12, 1978, and as amended on May 2, 1979.
- (b) Office of Education General Provisions Regulations 45 CFR Parts 100 and 100a.

**Note.**—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs. If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsibilities for a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Dr. Stewart Tinsman, Division of International

Education, U.S. Office of Education (Room 3082, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2661.

(20 U.S.C. 512a)

(Catalog of Federal Domestic Assistance Program No. 13.581, Citizen Education for Cultural Understanding Program.)

Dated: December 6, 1979.

John Ellis,  
Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-37866 Filed 12-10-79; 8:45 am]  
BILLING CODE 4110-02-M

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

[W-69992]

##### Wyoming; Application

November 30, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct two 4½ inch pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 90 W.,  
Sec. 10, NE¼, NE¼, NE¼NW¼.  
T. 22 N., R. 92 W.,  
Sec. 12, E¼SW¼,  
Sec. 24, E¼W¼.

The proposed pipelines will transport natural gas from the Champlin 573 A-1 and the P-Federal 3-12 Wells to points of connection with existing pipelines.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-37864 Filed 12-10-79; 8:45 am]  
BILLING CODE 4310-04-M

[W-69595 and W-69619]

##### Wyoming; Applications

November 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado and Mountain Fuel Supply Company of Salt Lake City, Utah filed applications for rights-of-way to construct two 4" buried pipelines and related facilities and a 4½" buried pipeline, respectively, for the purpose of transporting natural gas across the public lands described below for each application:

##### Panhandle Eastern Pipe Line Co.

| Serial No. | Pipe size                        | Land description, Sixth Principal Meridian, Wyoming      |
|------------|----------------------------------|----------------------------------------------------------|
| W-69595    | Two 4 in and related facilities. | T. 19 N., R. 103 W., Secs. 10 and 14, Sweetwater County. |

##### Mountain Fuel Supply Co.

| Serial No. | Pipe size | Land description, Sixth Principal Meridian, Wyoming |
|------------|-----------|-----------------------------------------------------|
| W-69619    | 4½ in.    | T. 19 N., R. 104 W., Sec. 2, Sweetwater County      |

Panhandle Eastern's proposed pipelines and related facilities will transport natural gas from the proposed Husky Well Nos. 26 and 27 located in sections 10 and 14 to points of connection with existing pipelines located in sections 15 and 23, all within T. 19 N., R. 103 W., Sweetwater County, Wyoming.

Mountain Fuel Supply Company's proposed pipeline will transport natural gas from their existing pipeline to Colorado Interstate Gas Company's existing pipeline, all located within section 2, T. 19 N., R. 104 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway



187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 79-37878 Filed 12-10-79; 8:45 am]  
BILLING CODE 4310-84-M

#### (W-69993)

#### Wyoming; Application

November 30, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana-Dakota Utilities Company of Bismarck, North Dakota filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

#### Sixth Principal Meridian, Wyoming

T. 54 N., R. 95 W.,  
Sec. 31, lot 3, NE¼SW¼, NW¼SE¼.  
T. 54 N., R. 96 W.,  
Sec. 36 lot 3.

The proposed pipeline will transport natural gas from the Emblem State No. 1 Well located in section 36, T. 54 N., R. 96 W., to a point of connection with an existing pipeline located in the NW¼SE¼ of section 31, T. 54 N., R. 95 W., Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 79-37879 Filed 12-10-79; 8:45 am]  
BILLING CODE 4310-84-M

[W-69600, W-69610, W-69618, W-69626,  
W-69627, W-69628, W-69629]

#### Wyoming; Applications

November 28, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed applications for rights-of-way to construct, operate, maintain, repair,

replace and remove 4½" O.D. buried pipelines and related facilities consisting of 4' x 6' meter houses and metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

| Serial No. | Pipe size                           | Land description<br>Sixth Principal Meridian,<br>Wyoming         |
|------------|-------------------------------------|------------------------------------------------------------------|
| W-69600    | 4½ in.                              | T. 17 N., R. 83 W., Sec. 34,<br>Carbon County.                   |
| W-69610    | 4½ in and<br>related<br>facilities. | T. 14 N., R. 92 W., Secs. 1<br>and 2, Carbon County.             |
| W-69618    | 4½ in and<br>related<br>facilities. | T. 15 N., R. 94 W., Sec. 30,<br>31 and 32, Sweetwater<br>County. |
| W-69626    | 4½ in.                              | T. 15 N., R. 92 W., Sec. 25,<br>Carbon County.                   |
| W-69627    | 4½ in and<br>related<br>facilities. | T. 15 N., R. 94 W., Secs. 14<br>and 15, Sweetwater<br>County.    |
| W-69628    | 4½ in and<br>related<br>facilities. | T. 18 N., R. 92 W., Sec. 30,<br>Carbon County.                   |
| W-69629    | 4½ in and<br>related<br>facilities. | T. 14 N., R. 96 W., Sec. 27,<br>Sweetwater County.               |

The proposed pipelines and related facilities located entirely within a 50' right-of-way width will serve to transport natural gas from several wells to points of connection with existing pipeline facilities all located within Carbon and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 79-37880 Filed 12-10-79; 8:45 am]  
BILLING CODE 4310-84-M

[W-69272, W-69593, W-69603, W-69605,  
W-69633 W-69948]

#### Wyoming; Applications

November 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed applications for rights-of-way to construct 4½" and 6½" buried pipelines and related facilities consisting of aboveground meters and dehydrators located at well sites for the

purpose of transporting natural gas across the following described public lands:

| Serial No. | Pipe size             | Land description<br>Sixth Principal Meridian,<br>Wyoming                                                                 |
|------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------|
| W-69272    | 6½ in.                | T. 17 N., R. 118 W., sec. 16,<br>T. 17 N., R. 119 W., sec. 14,<br>20 and 22, Uinta County.                               |
| W-69593    | 6½" and two<br>4½ in. | T. 24 N., R. 111 W., sec. 3<br>and 4, T. 25 N., R. 111 W.,<br>Secs. 14, 23, 24, 25, 35,<br>and 36, Sweetwater<br>County. |
| W-69603    | 4½ in.                | T. 27 N., R. 112 W., sec. 23,<br>24 and 26, Sublette County.                                                             |
| W-69605    | 4½ in.                | T. 25 N., R. 110 W., sec. 27<br>and 28, Sweetwater<br>County.                                                            |
| W-69633    | 4½ in.                | T. 19 N., R. 112 W., sec. 12,<br>Sweetwater County.                                                                      |
| W-69948    | 4½ in.                | T. 19 N., R. 113 W., sec. 4,<br>T. 20 N., R. 113 W., sec. 32,<br>Lincoln County.                                         |

The proposed pipelines and related facilities will serve to transport natural gas from several wells as additions to Northwest Pipeline Corporation's existing gathering system within Uinta, Sublette, Sweetwater and Lincoln Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P. O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 79-37881 Filed 12-10-79; 8:45 am]  
BILLING CODE 4310-84-M

#### Heritage Conservation and Recreation Service

#### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before December 30, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments or a request for additional time to prepare comments should be submitted by December 21, 1979.

Carol Shull,

Acting Chief, Registration Branch.

#### DELAWARE

##### New Castle County

Smyrna vicinity, *Fleming House*, NE of Smyrna on DE 9.

#### ILLINOIS

##### Ford County

Paxton, *Paxton First Schoolhouse*, 406 E. Franklin St.

##### Richland County

Olney, *Ridgway, Robert, House*, 1030 S. Morgan St.

##### Winnebago County

Rockford, *East Rockford Historic District*, U.S. 20 and U.S. 51.

#### INDIANA

##### Vanderburg County

Evansville, *Ridgway Building*, 313-315 Main St.

#### NEBRASKA

##### Douglas County

Omaha, *St. Philomena's Cathedral and Rectory*, 1335 S. 10th St.

#### NEW HAMPSHIRE

##### Strafford County

Dover, *Strafford County Farm Alms House, County Jail, Laundry and Boiler Houses, County Farm Rd.*

#### NEW YORK

##### Bronx County

Bronx, *Mott Haven Historic District*, An irregular pattern along Alexander Ave. and E. 140th St.

#### NORTH CAROLINA

##### Alamance County

Burlington, *Southern Railway Passenger Station*, Main and Webb Sts.

##### Buncombe County

Asheville, *Biltmore Industries, Inc., Groveswood Rd.*

##### Currituck County

Shawboro vicinity, *Culong*, S of Shawboro on SR 1147.

##### Guilford County

Greensboro, *Hillside (Julian Price House)* 301 Fisher Park Circle.

##### Halifax County

Enfield vicinity, *Strawberry Hill*, E of Enfield on SR 1100.

##### Martin County

Hamilton, *Hamilton Historic District*, NC 125.

##### Nash County

Rocky Mount, *Rocky Mount Mills*, NC 43 and NC 48.

#### Wake County

Raleigh, *Norburn Terrace*, 216 Lafayette St. Raleigh, *St. Augustine's College Campus*, Oakwood Ave.

#### OHIO

Seven Early Office Buildings at Central Square Thematic Resources. Reference—see individual listings under Mahoning County.

#### Allen County

Delphos, *St. John Catholic Church*, 110 N. Franklin St.

#### Athens County

Millfield vicinity, *Weethee Historic District*, N of Millfield.

#### Brown County

Ripley, *Parker, John P., House*, 300 Front St.

#### Butler County

Oxford, *Kumler, Elias, House*, 120 S. Main St.

#### Clark County

Springfield, *Bookwalter, Francis, House*, 611 S. Fountain Ave.

Springfield, *Third Presbyterian Church (Northminster Presbyterian Church)* 714 N. Limestone St.

#### Columbiana County

East Fairfield, *Eckis, Nicholas, House*, High St.

#### Coshocton County

West Lafayette vicinity, *Miller, Daniel, House*, W of West Lafayette at 52357 County Rd. 16.

#### Franklin County

Columbus, *Sharp House*, 935 Broad St.

#### Guernsey County

New Concord vicinity, *Harper, Samuel, Stone House*, N of New Concord on SR 416.

#### Hamilton County

Cincinnati, *Showboat Majestic*, Broadway St.

#### Mahoning County

Youngstown, *Central Tower Building (Seven Early Office Buildings at Central Square Thematic Resources)* 1 Federal Plaza West. Youngstown, *Federal Building (Seven Early Office Buildings at Central Square Thematic Resources)* 18 N. Phelps St. Youngstown, *First National Bank Building (Seven Early Office Buildings at Central Square Thematic Resources)* 6 Federal Plaza West. Youngstown, *Mahoning National Bank Building (Seven Early Office Buildings at Central Square Thematic Resources)* 23 Federal Plaza West. Youngstown, *Realty Building (Seven Early Office Buildings at Central Square Thematic Resources)* 47 Federal Plaza. Youngstown, *Stambaugh Building (Seven Early Office Buildings at Central Square Thematic Resources)* 44 Federal Plaza. Youngstown, *Wick Building (Seven Early Office Buildings at Central Square Thematic Resources)* 34 Federal Plaza West.

#### Marion County

Morrall vicinity, *Bretz Farm*, 197 Morrall-Kirkpatrick Rd.

#### Montgomery County

Dayton, *Dunbar Historic District*, N. Summit St.

#### Muskingum County

Adamsville vicinity, *Hunter, James, Stone House*, E of Adamsville on Mercer Rd.

Stovertown vicinity, *St. John's Evangelical Lutheran Church*, S of Stovertown on OH. 555

Zanesville, *Harper-Cosgrave Block*, N. 3rd St.

#### Scioto County

Portsmouth, *Greenlawn Cemetery Chapel*, Offner St.

#### Stark County

Hartsville, *Hartsville Hotel*, 101 N. Prospect St.

#### OREGON

##### Marion County

Salem, *Adolph Block*, 360-372 State St. Salem, *Gill, J. K., Building*, 356 State St.

#### TENNESSEE

##### Hardeman County

Bolivar, *Bills-McNeal Historic District*, Irregular pattern along Lafayette, McNeal, Bills, Union, Lauderdale and Washington Sts.

##### Hardin County

Savannah, *Savannah Historic District*, An irregular pattern along Main, Deford, Guinn, Church, College, Williams and Cook Sts.

##### Lauderdale County

Ripley, *Wardlaw-Steele House*, 128 Wardlaw Pl.

##### Overton County

Livingston, *Overton County Courthouse*, Court Sq.

##### Rutherford County

Murfreesboro, *Childress-Ray House*, 225 N. Academy St.

#### TEXAS

##### Burnet County

Marble Falls, *Roper Hotel*, TX 281 and 3rd St.

##### Travis County

Austin, *Boardman-Webb-Bugg House*, 602 W. 9th St.

#### UTAH

##### Salt Lake County

Salt Lake City, *Chapman Branch Library*, 577 S. 900 West.

##### Sevier County

Salina vicinity, *Gooseberry Valley Archeological District*, E of Salina.

##### Wayne County

Hanksville vicinity, *Bull Creek Archeological District*.



## VERMONT

Windham County

Brattleboro, Brooks House (Hotel Brooks) 4  
High St. and 128 Main St.

## WISCONSIN

Brown County

Suamico, Henry House (Weed Mill Boarding  
House) 1749 Riverside Dr.

Rock County

Janesville, East Milwaukee Street Historic  
District, N. Parker Dr. and E. Milwaukee St.  
Janesville, North Main Street Historic  
District, N. Main St. and N. Parker Dr.

Waukesha County

Oconomowoc, Oconomowoc Depot, 115  
Collins St.

[FR Doc. 79-37562 Filed 12-10-79; 8:45 am]

BILLING CODE 4310-03-M

## National Park Service

Eleanor Roosevelt National Historic  
Site, Hyde Park, N.Y.; General  
Management Plan Finding of No  
Significant Impact

A review of alternatives report in which the National Park Service outlines its preferred alternative for the General Management Plan for Eleanor Roosevelt National Historic Site is now available at the North Atlantic Regional Office, 15 State Street, Boston, MA 02109; Federal Hall National Memorial, 26 Wall Street, New York, NY 10005; or the Superintendent's Office, Home of Franklin D. Roosevelt and Vanderbilt Mansion National Historic Sites, Hyde Park, NY 12538.

An assessment of the alternatives was made available in August 1979. Public and other agency commentaries were considered in identifying the preferred alternative which is a composite of selected elements from each of the alternatives. The preferred plan provides for the preservation of all existing facilities; nonintrusive bus access and parking facilities; public restrooms and quarters for a few resident conferees and site-management personnel; the installation of an independent waste water disposal system; public visitation primarily by guided tours originating from the Home of Franklin D. Roosevelt National Historic Site; and the management of conferences and the production of crafts by the cooperating organization, Eleanor Roosevelt's Val-Kill, Inc.

The assessment and the review of alternatives report evaluate and discuss the probable effects of the plan. The National Park Service finds that no significant impact will be caused, therefore, no environmental impact statement will be prepared. No

implementation of the preferred plan will be initiated prior to 30 days from the date of this notice.

Dated: November 28, 1979.

Richard W. Marks,

Acting Regional Director, National Park  
Service.

[FR Doc. 79-37562 Filed 12-10-79; 8:45 am]

BILLING CODE 4310-70-M

## Water and Power Resources Service

Safety of Dams Report on Modification  
of Stony Gorge Dam, Orland Project,  
Calif.; Public Information Meeting

In accordance with section 5 of the Reclamation Safety of Dams Act of 1978, Pub. L. 95-578, the Water and Power Resources Service is preparing a report on proposed modifications at Stony Gorge Dam in Glenn County, California. The modifications are considered to be necessary to ensure the safety of the dam. A public meeting to discuss the alternative modifications is scheduled for 7:00 p.m., January 10, 1980, at the City Hall in Willows, California.

Six alternatives are being considered.

- A spillway through the north end of the dam with an ungated overflow crest. Discharges would flow into Stony Creek immediately downstream from the dam.
- A spillway through the saddle at the north end of the reservoir with a gated overflow crest. Discharges would flow into Stony Creek approximately 2 miles downstream from the dam.
- A spillway through the saddle south of the dam with an ungated overflow crest. Discharges would first flow into Briscoe Creek and eventually into Stony Creek immediately downstream from the dam.
- Modify the existing dam to allow it to be overtopped without endangering the safety of the structure.
- A tunnel spillway with a side channel or glory hole intake under the north abutment of the dam.
- A series of gated conduits through the dam to act as emergency outlets.

Details of the alternatives will be presented at the January 10 meeting. The meeting will include a question and answer period. Further information regarding the meeting may be obtained by contacting Cliff Quinton, MP-430, Water and Power Resources Service, 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484-4210.

Dated: December 6, 1979.

Clifford I. Barrett,

Assistant Commissioner, Water and Power  
Resources Service

[FR Doc. 79-37528 Filed 12-10-79; 8:45 am]

BILLING CODE 4310-09-M

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

[Docket No. 79-16]

James Waymon Mitchell; Revocation  
of Registration

On June 4, 1979, the Administrator of the Drug Enforcement Administration (DEA) directed to James Waymon Mitchell, M.D., the Respondent herein, an Order to Show Cause as to why the Respondent's DEA Certificate of Registration (AM7929740) should not be revoked for reason that the Tennessee Board of Medical Examiners on September 11, 1978, ordered the suspension of his license to practice medicine in the State of Tennessee, thereby terminating his authority to prescribe, dispense, administer or otherwise handle controlled substances in Tennessee. The suspension of Respondent's medical license is grounds for revocation of his DEA Certificate of Registration under 21 U.S.C. 824(a)(3). The Order to Show Cause was returned as undeliverable, and Respondent was personally served on July 2, 1979. Respondent requested a hearing in a letter dated July 30, 1979. In response, the Hearing Clerk, on August 6, 1979, sent Respondent a copy of 21 CFR 1316.47 and a letter requesting Respondent to provide the

Administrative Law Judge the specific information with respect to the issues or objections which Respondent wished to be heard, as required by this Section. The letter requested Respondent provide the Administrative Law Judge this information by August 20, 1979. Respondent did not send the information requested, nor otherwise inform the Administrative Law Judge of other issues which he requested to be heard.

On September 27, 1979, counsel for the Government filed a Motion for Summary Judgment, pointing out that Respondent had failed to identify any issues of fact calling for an evidentiary hearing. Government counsel submitted with the motion a copy of the Order of Suspension entered by the Tennessee Board of Medical Examiners on September 11, 1978. The Order suspended Dr. Mitchell's license to practice medicine in Tennessee, apparently indefinitely, on two conditions. First, Respondent must spend a period of time in a psychiatric hospital and receive treatment by a psychiatrist approved by the board. Second, Dr. Mitchell must take 150 hours of continuing education approved by the American Medical Association.

On October 30, 1979, the Honorable Francis L. Young, Administrative Law Judge, certified to the Administrator, pursuant to 21 CFR 1316.85, the record in this matter, together with his opinion, and recommendations, and a recommended decision. Pursuant to 21 CFR 1316.66, the Administrator hereby publishes his Final Order in this matter, based upon the opinion, and recommendation set forth below.

On October 2, 1979, Judge Young entered an order terminating the proceedings, and recommended that the Administrator of DEA issue a Final Order revoking Respondent's DEA registration effective immediately. Judge Young found that Respondent had not responded to the Hearing Clerk's request nor otherwise advised as to the existence of any issues or questions of fact which he would raise and with respect to which he desires to be heard. The Administrative Law Judge concluded that Dr. Mitchell is not licensed to practice medicine and to prescribe or otherwise dispense controlled substances in the State of Tennessee, the jurisdiction in which he is registered with DEA. Judge Young accordingly concluded that Respondent is not entitled to have a DEA registration, and that DEA has no authority to grant him such registration under 21 U.S.C. 823(f).

Judge Young found, as a matter of law, that Dr. Mitchell's DEA Registration should be revoked, and there is no longer any statutory authority for DEA to register Respondent. Judge Young further found that, since Respondent had failed to advise of any issue of fact which would call for an evidentiary hearing, DEA is under no obligation to hold a "plenary, adversary administrative proceeding involving evidence, cross-examination of witnesses, etc." *U.S. v. Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971); Opinion And Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of Administrative Law Judge in *In The Matter of David Sachs, M.D.*, DEA Docket No. 77-2, and the Administrator's Final Order in that case dated June 1, 1977, published at 42 FR 29112 (1977).

The Administrator hereby adopts the Administrative Law Judge's recommendation that Respondent's registration be revoked pursuant to 21 U.S.C. 824(a)(2). Having reviewed the record of this matter in its entirety, and having concluded that the subject registration should be revoked for reason that Respondent's Tennessee medical license has been suspended, it

is the decision of the Administrator that said registration be revoked. Accordingly, pursuant to the authority vested in the Attorney General by Section 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Certificate of Registration AM7929740 previously issued to James Waymon Mitchell, M.D., be, and is, hereby revoked, effective January 10, 1980.

Dated: November 29, 1979.

Peter B. Bensinger,  
Administrator.

[FR Doc. 79-37949 Filed 12-10-79; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 78-21]

Taft Street Drugs; Revocation of  
Registration

On November 13, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued to Taft Street Drugs (Respondent), and to Charles C. Cox, R.Ph., its owner and operator, an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AC2673564, and to deny the Respondent's pending application for a new annual registration as a retail pharmacy dispensing controlled substances. The Order to Show Cause specified, as reason for the action proposed therein, Mr. Cox's conviction of felony offenses relating to controlled substances. The Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and this matter was placed on the docket of the Administrative Law Judge.

A hearing date was not set initially because Mr. Cox was incarcerated when the Order to Show Cause was issued. Subsequently, it was learned that on September 4, 1979, Mr. Cox was to be transferred from the Federal Correctional Institution at Sandstone, Minnesota, to the Community Treatment Center in Chicago, Illinois, where Mr. Cox would be readily available to participate in a hearing. Accordingly, the Administrative Law Judge scheduled a hearing to commence on September 12, 1979, in Chicago.

On August 22, 1979, the Administrative Law Judge, indicating his concern over the fact that no prehearing statement had been filed on behalf of the Respondent, ordered that a prehearing conference be held in Washington, D.C., on August 31, 1979. Late in the day on August 30, 1979, counsel for the Respondent advised the

Administrative Law Judge's office that the Respondent had decided not to contest the revocation of its registration and that the said attorney would not be present for the scheduled prehearing conference. In view of this advice, and other communications between Respondent's counsel and counsel for the Government, the Administrative Law Judge cancelled both the hearing and the prehearing conference and has reported this matter to the Administrator for disposition in accordance with Title 21, Code of Federal Regulations, §1301.54(e), which provides that: "If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant in §1301.57 without a hearing." The Administrative Law Judge subsequently received a written withdrawal of the Respondent's request for a hearing.

Accordingly, pursuant to 21 CFR 1301.57 and 1316.67, as amended, the Administrator hereby issues his final order in this matter based upon the findings of fact and conclusions of law set forth below.

The Administrator finds that on September 22, 1978, in the United States District Court for the Northern District of Indiana, Hammond Division, in Docket No. H-CR-78-3, Charles C. Cox, R.Ph., the owner and operator of the Respondent pharmacy, was convicted of one count of conspiracy, in violation of 21 U.S.C. 846, and seven counts of knowingly, intentionally and unlawfully dispensing Schedule II controlled substances, in violation of 21 U.S.C. 841(a)(1), all felony offenses relating to controlled substances. The Administrator concludes, as a matter of law, that there is a lawful basis for the revocation of the Respondent's DEA Registration and for the denial of its pending application for such registration. The file in this matter contains more than sufficient information to cause the Administrator to conclude that such revocation and denial are required in this case. The Respondent has submitted no information which would cause the Administrator to conclude that any lesser remedy would adequately protect the public interest. For these reasons, it is the Administrator's decision that the Respondent's registration must be revoked and its pending application for registration denied.

Accordingly, pursuant to the authority vested in the Attorney General by



Sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 824, and redelegated to the Administrator of the Drug Enforcement Administration in Title 28, Code of Federal Regulations, §0.100, the Administrator hereby orders that the application of Taft Street Drugs, for registration as a retail pharmacy under the Controlled Substances Act, be, and it hereby is, denied, effective immediately. The Administrator further orders that DEA Certificate of Registration AC 2673564, previously issued to Taft Street Drugs, be, and it hereby is, revoked, effective immediately.

Dated: November 29, 1979

Peter B. Bensinger,  
Administrator, Drug Enforcement  
Administration.

[FR Doc. 79-37950 Filed 12-10-79; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### National Displaced Homemakers Program Under the Comprehensive Employment and Training Act; Extension of Deadline for Grant Applications

On Friday, October 26, 1979, the Department of Labor published a notice in the Federal Register (44 FR 61932) to solicit grant applications in connection with the National Displaced Homemakers Program. The notice stated that the deadline for filing grant applications was 4:30 p.m., December 10, 1979. This deadline was subsequently extended to December 21, 1979 (44 FR 66098). Due to unexpected delays in mailing grant application materials, the Department has found it necessary to further extend the filing deadline. Accordingly, completed applications will be accepted if postmarked no later than February 1, 1980.

As explained in the Solicitation for Grant Application, only one application per organization or agency will be considered for funding. Any applicant which has filed an application may substitute a revised application postmarked no later than February 1, 1980.

Signed at Washington, D.C., this 4th day of December, 1979.

Ernest G. Green,  
Assistant Secretary for Employment and  
Training.

[FR Doc. 79-37942 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-30-M

#### Mine Safety and Health Administration [Docket No. M-79-160-C]

##### Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, AL 35283 has filed a petition to modify the application of 30 CFR 75.326 (Aircourses and belt haulage entries) to its No. 3 Mine, located in Jefferson County, Alabama, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

1. The petitioner operates both continuous miner and longwall sections. 2. The coal seam contains large quantities of methane (CH<sub>4</sub>); the porosity of the seam is high, but the permeability is low.

3. Future additional sections and track branches will require more air for dilution of methane from the already severely limited intake capacity of track entries, leaving only one entry for intake air.

4. To reduce the risk of methane buildup in the belt entries, the petitioner proposes to use air from the belt entries, to supplement intake air for diluting methane at the working faces. Thus, there would be increased air volume in the last open crosscut, while providing extra flexibility to occasionally direct additional air for diluting methane at some needed working face(s).

5. To control and monitor the air quality in the belt entries and the belt entry air used as intake air, the petitioner proposes to install an Energetics Science Inc., Ecolyzer Model 4000, or equivalent, system for monitoring carbon monoxide (CO) every 20 minutes, coupled to a remotely installed datalogger 2000, or equivalent, and alert signal which are located at a surface work station of a responsible person having a telephone or other equivalent communications system to all miners who work in the vicinity of the CO monitor. The CO monitor would be visually inspected at least once each day and calibrated every 30 days. The petitioner will keep a written record of all examinations for at least 1 year.

6. The petitioner will employ the automatic fire warning devices required by 30 CFR 75.1103.

7. The petitioner will comply with the respirable dust requirement of 30 CFR 75.100(e) in belt entries used for supplemental intake air.

8. The petitioner will continue to isolate intake air entries from belt

entries used to supplement the intake air thereby maintaining the integrity of the intake air escape route.

9. In the event of failure or malfunction of the CO monitor, a miner trained and qualified in the use of a Bacharach carbon monoxide detector, or equivalent, will monitor the air at 15 minute intervals whenever any person is in by the defective monitor; however, the belt conveyors would continue to operate.

10. An additional intake entry should be completed and connected during November 1979. Another return air is projected for November 1980.

#### Request for Comments

Persons interested in this petition may furnish written comments on or before January 10, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203. Copies of the petition are available for inspection at that address.

Dated: November 30, 1979.

Robert B. Lagather,  
Assistant Secretary for Mine Safety and  
Health.

[FR Doc. 79-37943 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-79-164-C]

##### Itmann Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.321 (fans) to its Itmann Coal Company, Mine No. 1 located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to continue the regular operation of an area of the mine in which the ventilation is insignificantly affected by the stopping of one fan in another area of the mine.

2. The mine is ventilated by four fans. Two fans primarily ventilate an area known as Pinacle Mains, A-1 Right and A-1 Left. Two other fans primarily ventilate another area known as Guyan Right and Guyan 2 Panel.

3. It is implied that when four fans are operating, some excess ventilation capacity exists. The petitioner states that if one of the Pinacle Mains area fans stop, there will be no adverse effect on the ventilation of the Guyan Right and Guyan 2 Panel. Similarly, no

adverse effect will result to the Pinacle Mains ventilation if one of the Guyan Right and Guyan 2 Panel fans stop.

4. If one of the fans in one area stops, the petitioner will comply with 30 CFR 75.321 for that area, but requests permission to continue regular operation of the other area.

5. The petitioner states that if any two fans stop, all provisions of 30 CFR 75.321 will be complied with throughout the mine.

#### Requests for Comments

Persons interested in this petition may furnish written comments on or before January 10, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 30, 1979.

Robert B. Lagather,  
Assistant Secretary for Mine Safety and  
Health.

[FR Doc. 79-37945 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-43-M

#### [Docket No. M-79-159-C]

##### United States Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230 has filed a petition to modify the application of 30 CFR 75.305 (hazardous conditions) to its Robena Mine No. 3 located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Because the mine is old with many worked-out areas, certain return air entries between Bailey Shaft and Blaker Shaft which ventilate only abandoned areas have deteriorated with resulting roof falls.

2. It is considered virtually impossible to examine these return air entries as required by the standard without great personal risk to the examiner. Attempts at restoring these entries have been unsatisfactory and further attempts are considered to be not feasible.

3. As an alternative to weekly examinations of the return entries, the petitioner proposes to establish a number of air quality measuring stations, record daily measurements, and maintain each station, and the access to it, in a safe and travelable condition. Immediate corrective action shall be taken if a marked variation in

air quality in the return air entries occurs as determined by the readings taken at each measuring station.

#### Requests for Comments

Persons interested in this petition may furnish written comments on or before January 10, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 30, 1979.

Robert B. Lagather,  
Assistant Secretary for Mine Safety and  
Health.

[FR Doc. 79-37944 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-43-M

#### Occupational Safety and Health Administration

##### Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the Federal Register (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart O of Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974 in the Federal Register.

The Oregon plan provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the Occupational Safety and Health Act of 1970. An initial public hearing was held on September 29, 1977 and temporary rules were adopted governing the use of Thiram. A second public hearing to consider adoption of permanent rules for the use of Thiram was held on January 4, 1978 for the purpose of affording interested persons an opportunity to present written and oral data statements

and arguments concerning the proposed adoption. After hearing testimony, considering the evidence, and reviewing the need for such rules, the Thiram standard was adopted on March 6, 1978, upon the filing of an Order of Adoption with the Secretary of the State of Oregon.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that there is no comparable Federal standards and that, therefore, the State standard exceeds Federal requirements.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers Compensation Board, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, 3rd and Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is one for which there is no comparable Federal standard and therefore the State standard exceeds the Federal standards.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 11, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 13th day of July, 1979.

John A. Granchi,  
Acting Regional Administrator.

[FR Doc. 79-37947 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-26-M

#### Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of



1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the *Federal Register* (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974, in the *Federal Register* (39 FR 11881).

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

By letter dated July 6, 1979 from Darrel D. Douglas, Administrator of the Accident Prevention Division, Workers' Compensation Department, to James W. Lake, Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.1044, 1, 2, Dibromo-3-Chloropropane, as published in the *Federal Register* (43 FR 11514) dated March 17, 1978. These standards, which are contained in Chapter 437-110-031 OAR became effective January 5, 1979.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The significant areas of difference are: § 1910.1044(c), the State has included a short-term exposure limit which the Federal regulation does not have; and § 1910.1044(e)(2), the State requires regulated areas where any exposure to DBCP occurs. Other minor areas of differences are editorial in nature and do not change the effectiveness of the standard.

The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational

Safety and Health Administration, Room 6002, 909 First Avenue, Federal Office Building, Seattle, Washington 98174; Workers' Compensation Department, Room 204, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, 3rd Street and Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternate procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason: The standards were adopted in accordance with the procedural requirements of State law.

The decision is effective December 11, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 13th day of July 1979.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 79-37946 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-26-M

#### Puerto Rico State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the *Federal Register* (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the decision.

The Puerto Rico plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to a Federal standard change, the State has submitted by letter dated June 1, 1979, from Assistant Secretary John Cinque to Assistant Regional Administrator Richard Andree, and incorporated as part of the plan, State standards comparable to the Occupational Safety and Health Administration Permanent Standards for Cotton Dust in Cotton Gins (29 CFR 1910.1048 and 29 CFR 1928.21), as published in the *Federal Register* (43 FR 27418) dated June 23, 1978, and corrections as published in the *Federal Register* (43 FR 28474) dated June 30, 1978 and (43 FR 35035) dated August 8, 1978; the State revoked Selected General and Special (Cooperage and Laundry Machinery, and Bakery Equipment) Industry Safety and Health Standards (29 CFR Part 1910), as published in the *Federal Register* (43 FR 49726) dated October 24, 1978. These standards, which are contained in the Puerto Rico Regulations, Number Four (equivalent to 29 CFR Part 1910) and Number Eleven (equivalent to 29 CFR Part 1910) and Number Eleven (equivalent to 29 CFR Part 1928), were promulgated by resolution adopted by the Puerto Rico Department of Labor and Human Resources on July 20, 1978, pursuant to the Puerto Rico Act Number 18 and Chapter 43 of the Puerto Rico Rules and Regulations Act of 1958.

2. *Decision.* Through review of the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Puerto Rico Department of Labor and Human Resources, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917; and the Technical Data Center, Room N2439R, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2 (c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Puerto Rico State plan as a proposed change and making the Assistant Regional Director's approval effective

upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

The decision is effective December 11, 1979.

(Sec. 18 Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at New York City, New York. This eighteenth day of June 1979.

Alfred Barden,

Regional Administrator.

[FR Doc. 79-37946 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-26-M

#### Office of the Secretary

[TA-W-6159]

#### AMM Industries, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' sportswear and dresses at AMM Industries, Incorporated, Harrison, New Jersey. The investigation revealed that the plant primarily produces dresses, skirts, blazers, blouses, pants and vests. It is concluded that all of the requirements have been met.

U.S. imports of Women's, Misses' and Children's knit dresses increased absolutely from January-June 1978 to January-June 1979. U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of Women's, Misses' and Children's knit skirts increased absolutely and relative to domestic production from 1977 to 1978 and increased absolutely in the January-June 1979 period compared to the same

period of 1978. U.S. imports of women's, misses' and children's skirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of Women's, Misses' and Children's coats and jackets increased absolutely and relative to domestic production in each year from 1976 through 1978 compared to the preceding year.

U.S. imports of Women's, Misses' and Children's blouses and shirts increased absolutely in each year from 1974 through 1978 compared to the preceding years and increased relative to domestic production in 1978 compared to 1977.

U.S. imports of Women's, Misses' and Children's slacks and shorts increased absolutely and relative to domestic production from 1977 to 1978.

Women's vests are included in the import and production category of Women's, Misses' and Children's suits. U.S. imports of Women's, Misses' and Children's suits increased absolutely and relative to domestic production from 1977 to 1978.

The Departmental investigation revealed that customers decreased purchases of ladies' dresses and suits from AMM Industries in 1978 compared to 1977 and in January-September 1979 compared to the same period in 1978. The Department of Labor conducted a random sample of retail customers who purchased ladies' dresses and suits (skirts and tops) from AMM Industries Incorporated. The survey revealed that, in aggregate, customers increased their purchases of imported ladies' dresses and suits both on an absolute basis and as a percentage of their total demand in 1978 as compared to 1977 and in the January-September period of 1979 compared to the January-September period of 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses, skirts and tops produced at AMM Industries, Incorporated, Harrison, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of AMM Industries, Incorporated, Harrison, New Jersey who became totally or partially separated from employment on or after September 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management  
Administration and Planning.

[FR Doc. 79-37899 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6135]

#### Amoruso Dress Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 2, 1979 in response to a worker petition received on September 27, 1979 which was filed on behalf of workers and former workers producing women's dresses and suits at Amoruso Dress Company, Incorporated, Brooklyn, New York. The investigation revealed that the plant also produced women's coordinated jackets, skirts, blouses and pants. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to U.S. production in each year from 1975 through 1978 compared to the preceding years.

U.S. imports of women's, misses', and children's skirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's blouses and shirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's slacks and shorts increased absolutely and relative to domestic production in each year from 1974 through 1978 compared to the preceding years.

A Departmental survey was conducted with manufacturers from whom Amoruso Dress Company, Incorporated received contract work. The survey revealed that the manufacturer from whom Amoruso received work, for many years, closed in



December 1977. A secondary survey was conducted with retail customers of this manufacturer. The secondary survey revealed that customers, representing a substantial portion of the manufacturer's sales declines, increased their reliance on foreign sources for their supply of ladies' dresses and suits in 1977 compared to 1976 and decreased their purchases from the manufacturer during that same time period.

The closure of the manufacturer, which represented Amoruso's major source of business through 1977, had an adverse effect on Amoruso's financial position, ultimately leading to Amoruso's closure in November 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses and coordinated jackets, skirts, blouses and pants produced at Amoruso Dress Company, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Amoruso Dress Company, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after September 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,  
Director, Office of Foreign Economic Research.

[FR Doc. 79-37900 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-5719 and 5760]

**Amstar Corp., American Sugar Division, Boston, Mass., Refinery, Brooklyn, N.Y., Refinery, Philadelphia, Pa., Refinery, Baltimore, Md., Refinery, Chalmette, La., Refinery; Affirmative Determination Regarding Application for Reconsideration**

On November 3 and 9, 1979, workers requested administrative reconsideration of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Amstar Corporation's American Sugar Division refineries at Baltimore, Maryland, and Chalmette, Louisiana. This Notice of Determinations was published in the Federal Register on October 12, 1979, (44 FR 59002).

The workers claim in their application for reconsideration that the Baltimore, Maryland, and Chalmette, Louisiana, refineries, contrary to what the Department understood, supplied the bulk of their refined sugar to market areas where Amstar Corporation workers were found meeting all the statutory criteria for trade adjustment assistance.

#### Conclusion

After review of the application, I conclude that the claim of the workers is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 5th day of December 1979.

James F. Taylor,  
Director, Office of Management, Administration and Planning.

[FR Doc. 79-37901 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6137]

**Ancur Textile Printing Corp.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 2, 1979 in response to a worker petition received on September 27, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing screen printed fabrics at Ancur Textile Printing Corporation, East Newark, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric declined absolutely in the first six months of 1979 when compared with the same period in 1978. Imports have

remained at or below two percent of domestic production in each of the last four full years.

Ancur Textile Printing Corporation was a commission printer of fabric, whose sales were to fabric converters. The Department surveyed all of Ancur Textile's customers. Most of these customers did not purchase imported fabric during the period under investigation.

#### Conclusion

After careful review, I determine that all workers of Ancur Textile Printing Corporation, East Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

James F. Taylor,  
Director, Office of Management, Administration and Planning.

[FR Doc. 79-37902 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6168, 6211, and 6212]

**The Anderson Co. of Indiana; Notice of Negative Determinations Regarding Eligibility To Apply for Workers Adjustments Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

Investigations were initiated on October 9, 1979 and October 16, 1979 in response to worker petitions received on October 2, 1979 which was filed on behalf of workers and former workers producing automobile windshield wipers at the Anderson Company of Indiana; Gary, Indiana (TA-W-6168), Valparaiso, Indiana plant (TA-W-6211) and its Burns Harbor, Indiana warehouse (TA-W-6212). All three facilities operate in an integrated manner. The investigation revealed that windshield wiper blades, arms and refills are produced. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or

threat thereof, and to the absolute decline in sales or production.

Total sales by the Anderson Company increased in 1978 from 1977.

The Department conducted a survey of some of the customers buying windshield wiper blades, arms and refills from the Anderson Company. Most of these customers did not purchase any imports in 1977, 1978 or 1979. Two customers decreased purchases from the Anderson Company and increased purchases of imports. For one of these customers, purchases of imports constituted a negligible proportion of its total purchases of windshield wiper blades, arms and refills. The decline in purchases from Anderson Company by the other customer who increased purchases of imports represented an insignificant proportion of the Anderson Company's total decline in sales in the first nine months of 1979.

#### Conclusion

After careful review, I determine that all workers of the Gary, Valparaiso and Burns Harbor, Indiana facilities of the Anderson Company of Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of December 1979.

James F. Taylor,  
Director, Office of Management, Administration and Planning.

[FR Doc. 79-37904 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6292]

**Bethlehem Steel Corp., South San Francisco Plant; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 30, 1979 in response to a worker petition received on October 22, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of carbon steel products at the San Francisco Works of the Bethlehem Steel Corporation. The investigation revealed that the correct name of the plant is the South San Francisco Plant.

All workers of the South San Francisco Plant separated on or after October 27, 1975 were certified eligible to apply for adjustment assistance benefits on April 18, 1977 (TA-W-1234). The South San Francisco plant officially shutdown on September 30, 1977. Nine workers were retained on the company's

payroll to handle the phasing out of activities connected with the plant shutdown. Seven of these nine workers were laid off on September 28, 1979. The original certification (TA-W-1234) was extended to encompass these workers. Since all workers of the South San Francisco Plant are covered under an existing certification, a new investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 6th day of December 1979.

Harold A. Brett,  
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-37907 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6256]

**Brown Shoe Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 24, 1979 in response to a worker petition received on October 18, 1979 which was filed on behalf of workers and former workers producing women's shoes at the Potosi, Missouri plant of Brown Shoe Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that average employment of production workers at the Potosi, Missouri plant of Brown Shoe Company increased from 1977 to 1978 and increased in the first nine months of 1979 compared with the same period of 1978. Average employment increased in each of the first three quarters of 1979 compared with the same periods of 1978. Any total or partial separations that occurred at the plant from 1977 to the

present were a result of seasonal fluctuations.

#### Conclusion

After careful review, I determine that all workers of the Potosi, Missouri plant of Brown Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,  
Director, Office of Foreign Economic Research.

[FR Doc. 79-37908 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

[TA-W-6177]

**Cohen Brothers Specialties, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Worker's Union on behalf of workers and former workers producing men's formal wear at Cohen Brothers Specialties, Incorporated, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicated that imports of formal wear are negligible. Since these items are made-to-order, importing them would be difficult.

A Department survey of the customers of Cohen Brothers Specialties, Incorporated revealed that none of the customers surveyed purchased imported men's formal wear from 1977 through 1979.



**Conclusion**

After careful review, I determine that all workers of Cohen Brothers Specialties, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-38938 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6228]**

**Dickerson Trucking Co., Inc., Dehue, W. Va.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 18, 1979, in response to a worker petition received on October 16, 1979, which was filed on behalf of workers and former workers hauling coal, rock and gravel.

The investigation revealed that Dickerson Trucking Company, Inc., is engaged in providing the service of transportation of coal.

Thus, workers of Dickerson Trucking Company, Inc. do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Dickerson Trucking Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Dickerson Trucking Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transportation of coal at Dickerson Trucking Company,

Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Dickerson Trucking Company, Inc. All employee benefits are provided and maintained by Dickerson Trucking Company, Inc. Workers are not, at any time, under employment or supervision by customers of Dickerson Trucking Company, Inc. Thus, Dickerson Trucking Company, Inc., and not any of its customers, must be considered to be the "workers' firm".

**Conclusion**

After careful review, I determine that all workers of Dickerson Trucking Company, Inc., Dehue, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-37912 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6229]**

**Dietrich Brothers, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 18, 1979 in response to a worker petition received on October 15, 1979 which was filed on behalf of workers and former workers producing fabricated structural steel, reinforcing bars and ornamental iron at Dietrich Brothers, Inc., Baltimore, Maryland. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Dietrich Brothers obtains its contracts for the production of fabricated

structural steel for building projects through competitive bidding. The Department of Labor's survey of the contracts upon which Dietrich Brothers bid unsuccessfully in 1978 and 1979 disclosed that none of the contracts was awarded to a foreign firm.

**Conclusion**

After careful review, I determine that all workers of Dietrich Brothers, Incorporated, Baltimore, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-37912 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6149, 6150]**

**Donaldson Manufacturing Co. Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 4, 1979 in response to a worker petition received on September 26, 1979 which was filed on behalf of workers and former workers producing ladies' dresses and sportswear at the Donaldson, Pennsylvania and Cumbola, Pennsylvania plants of Donaldson Manufacturing Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted by the Department of Labor of the major manufacturers for whom Donaldson Manufacturing Company performed contract work. The survey revealed that none of the manufacturers purchased imported ladies' dresses or sportswear

or contracted out to foreign sources in 1977, 1978 and the first ten months of 1979. Manufacturers accounting for the the majority of Donaldson's decline in contract work from the first half of 1978 to the first half of 1979 indicated increased sales in 1979 compared to 1978.

**Conclusion**

After careful review, I determine that all workers of the Donaldson, Pennsylvania and Cumbola, Pennsylvania plants of Donaldson Manufacturing Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-37913 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6189]**

**E. Weinshel & Brother Manufacturing Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979, in response to a worker petition received on October 9, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing vests, raincoats and outerwear for men and women at E. Weinshel and Brother, Milwaukee, Wisconsin. The investigation revealed that the plant produced primarily men's topcoats and jackets. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outer coats and jackets increased in quantity and relative to domestic production from 1976 to 1977. Imports remained relatively constant in quantity and decreased slightly relative to domestic production from 1977 to 1978. Imports decreased in quantity in the January-June period of 1979, compared with the same period of the previous year. U.S.

imports of women's, girls' and infants' cloth raincoats increased in quantity and relative to domestic production from 1977 to 1978, and decreased in quantity in the January-June period of 1979, compared with the same period of the previous year.

The Department of Labor conducted a survey of major customers of E. Weinshel and Brother Manufacturing Company. The survey revealed that customers decreased contract orders of men's topcoats and jackets from Weinshel and increased contract orders of men's topcoats and jackets from foreign contractors in the January-September period of 1979, compared with the same period of the previous year.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's topcoats and jackets produced at E. Weinshel and Brother Manufacturing Company, Milwaukee, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of E. Weinshel and Brother Manufacturing Company, Milwaukee, Wisconsin who became totally or partially separated from employment on or after October 3, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-37914 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6178]**

**Eastern Knitting Mills; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker

petition received on October 9, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's knitted sweaters and shirts at Eastern Knitting Mills, Blenheim, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans, and pullovers increased both absolutely and relative to domestic production from 1977 to 1978. The ratio of imports of sweaters to domestic production exceeded 94 percent in 1978.

Total company imports of men's sweaters and knit shirts by Eastern and its parent company, Somerset Knitting Mills of Philadelphia, increased substantially in both quantity and value in the February through September period of 1979 compared to the like period in 1978. The ratio of the sales value of the imports to total sales by both Eastern and Somerset increased in the February through September period of 1979 compared to the like period in 1978.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sweaters and men's knit shirts produced at Eastern Knitting Mills, Blenheim, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Eastern Knitting Mills, Blenheim, New Jersey who became totally or partially separated from employment on or after October 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-37915 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-6258]**

**Eastmoor Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.



In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 24, 1979 in response to a worker petition received on October 22, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing pants and skirts, blouses and jackets at Eastmoor Company, Incorporated, Michigan City, Indiana. The investigation revealed that the plant produced primarily pants and skirts. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks and shorts increased absolutely and relative to domestic production in each year from 1975 through 1978 compared to the preceding year.

U.S. imports of women's, misses', and children's skirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's blouses and skirts increased absolutely in each year from 1975 through 1978 compared to the preceding year and increased relative to U.S. production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in each year from 1975 through 1978 compared to the preceding year.

The investigation revealed that Eastmoor Company produced primarily ladies' pants and skirts during the 1977 through September 1979 period.

In a survey conducted by the Department of Commerce, customers accounting for a significant proportion of Eastmoor's sales declines indicated that they had decreased purchases of ladies' pants and skirts from Eastmoor and had increased purchases of imported ladies' pants and skirts in 1978 compared to 1977. The Department of Commerce on July 5, 1979 certified Eastmoor Company, Incorporated as eligible to apply for firm adjustment assistance.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' pants and skirts produced at Eastmoor Company, Incorporated, Michigan City, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of

that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Eastmoor Company, Incorporated, Michigan City, Indiana who became totally or partially separated from employment on or after October 11, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37916 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6347]

#### Excel Corp.; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1979 in response to a worker petition received on October 18, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers engaged in the production of window assemblies at the Elkhart, Indiana plant of the Excel Corporation.

On October 11, 1979, a petition was filed on behalf of the same group of workers (TA-W-6230).

Since the identical group of workers is the subject of the ongoing investigation TA-W-6230, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 30th day of November 1979.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 79-37917 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6124]

#### First Place Juniors, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 1, 1979 in response to a worker petition received on September 18, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses and ladies' sportswear at First Place Juniors, Incorporated, New York, New York. The investigation revealed that ladies' sportswear included jackets, skirts, blouses, vests and slacks. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely and relative to U.S. production in each year from 1975 through 1978 compared to the preceding years.

U.S. imports of women's, misses' and children's skirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses', and children's blouses and shirts increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, girls' and infants' cotton vests increased absolutely in each year from 1975 through 1978 compared to the preceding years.

U.S. imports of women's, misses', and children's slacks and shorts increased absolutely and relative to domestic production in each year from 1974 through 1978 compared to the preceding years.

A Departmental survey was conducted with major customers of First Place Juniors, Incorporated. The survey revealed that major customers increased their reliance on foreign sources for supply of ladies' dresses, jackets, shirts, blouses, vests and slacks in 1978, compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978 and decreased their reliance on domestic sources during these same time periods. The customers have further increased their reliance on foreign sources since First Place Juniors ceased operations.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses and ladies' jackets, skirts, blouses, vests and slacks produced at First Place Juniors, Incorporated, New York, New York contributed importantly to the decline in sales or production and

to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of First Place Juniors, Incorporated, New York, New York who became totally or partially separated from employment on or after September 8, 1978 and before May 15, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after May 15, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 30th day of November 1979.

C. Michael Aho,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37919 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

#### [TA-W-6245]

#### International Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 12, 1979 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers receiving and transshipping materials and finished shoes at the Gratiot Street Truck Terminal of International Shoe Company, St. Louis, Missouri. It is concluded that all of the requirements have been met.

U.S. imports of nonrubber footwear, including men's, women's and children's shoes, increased absolutely and relative to domestic production and consumption in 1978 compared to 1977 and in the first half of 1979 compared to the same period of 1978.

Workers at the Gratiot Street Truck Terminal receive supplies and raw

materials and transport these materials and finished shoes to and from the company's production facilities and warehouse. In previous determinations involving a majority of production facilities of the International Shoe Company, workers were certified eligible to apply for adjustment assistance. Among the most recent certifications, eligibility applies to workers producing children's shoes (TA-W-4506, issued February 21, 1979), men's shoes (TA-W-4559, issued February 27, 1979) and women's shoes (TA-W-6061, issued November 16, 1979).

In each of these investigations, surveys of customers revealed that customers decreased their purchases of men's, women's and children's shoes from International Shoe Company and increased their purchases of imported men's, women's and children's shoes in 1978 compared to 1977 and in 1979 compared to 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's shoes produced at International Shoe Company, St. Louis, Missouri contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Gratiot Street Truck Terminal of International Shoe Company, St. Louis, Missouri who became totally or partially separated from employment on or after July 28, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

C. Michael Aho,  
Director, Office of Foreign Economic  
Research.

[FR Doc. 79-37919 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

#### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and

are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of December 1979.

Marvin M. Fooks,  
Director, Office of Trade Adjustment  
Assistance.



## Appendix

| Petitioner: Union/workers or former workers of— | Location           | Date received | Date of petition | Petition No. | Articles produced                             |
|-------------------------------------------------|--------------------|---------------|------------------|--------------|-----------------------------------------------|
| Angel Knitwear, Inc. (ILGWU)                    | North Bergen, N.J. | 11/26/79      | 11/20/79         | TA-W-6,510   | Sweaters.                                     |
| Angie Dress Shop (ILGWU)                        | East Newark, N.J.  | 11/26/79      | 11/20/79         | TA-W-6,511   | Contractor of ladies dresses.                 |
| Belissima Knitwear, Inc. (ILGWU)                | North Bergen, N.J. | 11/26/79      | 11/20/79         | TA-W-6,512   | Suits and skirts.                             |
| Campos Dress (ILGWU)                            | Newark, N.J.       | 11/26/79      | 11/20/79         | TA-W-6,513   | Contractor of ladies' dresses.                |
| Cheryl Lee, Inc. (ILGWU)                        | Elizabeth, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,514   | Girl's dresses.                               |
| Coronet Manufacturing Company (ILGWU)           | Union City, N.J.   | 11/26/79      | 11/20/79         | TA-W-6,515   | Men's and women's sweaters.                   |
| Creative Fashions Corporation (ILGWU)           | Avenel, N.J.       | 11/26/79      | 11/20/79         | TA-W-6,516   | Scarves and blouses.                          |
| Dickerson Sportswear, Inc. (ILGWU)              | Newark, N.J.       | 11/26/79      | 11/20/79         | TA-W-6,517   | Contractor of ladies dresses and sportswear.  |
| Diolinda Sportswear, Inc. (ILGWU)               | Newark, N.J.       | 11/26/79      | 11/20/79         | TA-W-6,518   | Ladies' blouses.                              |
| Grand Garment Company, Inc. (ILGWU)             | Elizabeth, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,519   | Contractor of ladies' dresses and sportswear. |
| Holiday Fashions (ILGWU)                        | Bloomfield, N.J.   | 11/26/79      | 11/20/79         | TA-W-6,520   | Ladies' dresses.                              |
| Just Sew, Inc. (ILGWU)                          | Rockaway, N.J.     | 11/26/79      | 11/20/79         | TA-W-6,521   | Contractor of ladies' blouses.                |
| Kanner Dress Company, Inc. (ILGWU)              | Elizabeth, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,522   | Ladies' sportswear.                           |
| Lafayette Casuals, Inc. (ILGWU)                 | Elizabeth, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,523   | Contractor of ladies' blouses.                |
| Lafayette Sportswear, Inc. (ILGWU)              | Elizabeth, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,524   | Contractor of ladies' sportswear.             |
| Mania Scafa Sportswear, Inc. (ILGWU)            | West Orange, N.J.  | 11/26/79      | 11/20/79         | TA-W-6,525   | Contractor of ladies' sportswear.             |
| Maxim Knitting Mills, Inc. (ILGWU)              | Jersey City, N.J.  | 11/26/79      | 11/20/79         | TA-W-6,526   | Sweaters.                                     |
| Tedima Knitwear Fashions, Inc. (ILGWU)          | Fairview, N.J.     | 11/26/79      | 11/20/79         | TA-W-6,527   | Knit sweaters and dresses.                    |

[FR Doc. 79-37903 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or

production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request

is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1979.

Harold A. Bratt,  
Acting Director, Office of Trade Adjustment Assistance.

## Appendix

| Petitioner: Union/workers or former workers of—                | Location            | Date received | Date of petition | Petition No. | Articles produced                                      |
|----------------------------------------------------------------|---------------------|---------------|------------------|--------------|--------------------------------------------------------|
| Barbara Leslie, Inc. (ILGWU)                                   | Florence S.C.       | 11/26/79      | 11/20/79         | TA-W-6,486   | Cotton house dresses.                                  |
| Bin Machinery & Equipment Corp. (workers)                      | Newark, N.J.        | 11/27/79      | 11/21/79         | TA-W-6,487   | Electrical push buttons.                               |
| Coming Distribution Company (workers)                          | Coming, Ark.        | 11/27/79      | 11/21/79         | TA-W-6,488   | Packing and warehousing of auto components to jobbers. |
| General Tire & Rubber Co., Industrial Products Division (IURW) | Logansport, Ind.    | 11/24/79      | 11/12/79         | TA-W-6,489   | Silent bloc motor mount assembly and channeling belt.  |
| Ginger Laces, Inc. (workers)                                   | Haledon, N.J.       | 11/23/79      | 11/21/79         | TA-W-6,490   | Knitted lace scarves.                                  |
| Irrin and Uls (ILGWU)                                          | Hauppauge, N.Y.     | 11/27/79      | 11/21/79         | TA-W-6,491   | Ladies' sportswear.                                    |
| Jones & Laughlin Steel Corp. (USWA)                            | Louisville Ohio     | 11/27/79      | 11/26/79         | TA-W-6,492   | Stainless steel and sheets and coils.                  |
| Kinnert Contracting, Inc. (ILGWU)                              | New York, N.Y.      | 11/26/79      | 11/21/79         | TA-W-6,493   | Women's clothing.                                      |
| Motor Wheel Corp. (UAW)                                        | Newark, Del.        | 11/27/79      | 11/18/79         | TA-W-6,494   | Wheels automobiles.                                    |
| Pretty Bags, Inc. (workers)                                    | New York, N.Y.      | 11/26/79      | 11/21/79         | TA-W-6,495   | Ladies' handbags.                                      |
| Renco Manufacturing, Inc. (company)                            | Long Branch, N.J.   | 11/26/79      | 11/26/79         | TA-W-6,496   | Girls' coats.                                          |
| S & M Manufacturing Company (workers)                          | Fayetteville, Tenn. | 11/28/79      | 11/14/79         | TA-W-6,497   | Ladies' dresses and sportswear.                        |
| Shelburne Shirt Co., Inc. (ACTWU)                              | Fall River, Mass.   | 11/26/79      | 11/21/79         | TA-W-6,498   | Men's dress shirts also ladies' blouses.               |
| Sherman Manufacturing Company (ILGWU)                          | Darlington, S.C.    | 11/26/79      | 11/20/79         | TA-W-6,499   | Cotton house dresses.                                  |

[FR Doc. 79-37905 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the

Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this

notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has

instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under

Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

Interested persons are invited to

submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1979.

Marvin M. Fooks,  
Director, Office of Trade Adjustment Assistance.

## Appendix

| Petitioner Union/workers or former workers of— | Location            | Date received | Date of petition | Petition No. | Articles produced                                 |
|------------------------------------------------|---------------------|---------------|------------------|--------------|---------------------------------------------------|
| Best Made, Inc. (ILGWU)                        | Carteret, N.J.      | 11/26/79      | 11/20/79         | TA-W-6,500   | Contractors of ladies' and girls' blouses.        |
| Carteret Novelty Company (ILGWU)               | Carteret, N.J.      | 11/26/79      | 11/20/79         | TA-W-6,501   | Blouses.                                          |
| E & F Associates (ILGWU)                       | Newark              | 11/26/79      | 11/20/79         | TA-W-6,502   | Slacks and skirts.                                |
| Elizabeth Undergarment (ILGWU)                 | Hackettstown, N.J.  | 11/26/79      | 11/20/79         | TA-W-6,503   | Slips and undergarments.                          |
| Felicia Frocks (ILGWU)                         | Newark, N.J.        | 11/26/79      | 11/20/79         | TA-W-6,504   | Sport dresses.                                    |
| Gasby Fashions, Inc. (ILGWU)                   | Newark, N.J.        | 11/26/79      | 11/20/79         | TA-W-6,505   | Contractor of ladies' blouses, skirts, and pants. |
| Kent Knitting Mills, Inc. (ILGWU)              | Jersey City, N.J.   | 11/26/79      | 11/20/79         | TA-W-6,506   | Contractor of ladies' sweaters.                   |
| Qual Fashions Contractors, Inc. (ILGWU)        | Newark, N.J.        | 11/26/79      | 11/20/79         | TA-W-6,507   | Ladies' rainwear, also coats and jackets.         |
| Ronan Contractors (ILGWU)                      | Roselle, N.J.       | 11/26/79      | 11/20/79         | TA-W-6,508   | Ladies' skirts, blouses and jackets.              |
| Superior Electric Products Corp. (IBEW)        | Cape Girardeau, Mo. | 11/26/79      | 11/19/79         | TA-W-6,509   | Small household electrical appliances.            |

[FR Doc. 79-37906 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or

production, or both, of such firm or subdivision and to the actual or threatened or partial separation of a significant or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request

is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of December 1979.

Harold A. Bratt,  
Acting Director, Office of Trade Adjustment Assistance.

## Appendix

| Petitioner: Union/workers or former workers of— | Location       | Date received | Date of petition | Petition No. | Articles produced                               |
|-------------------------------------------------|----------------|---------------|------------------|--------------|-------------------------------------------------|
| Cannon Corp. (workers)                          | Milroy, Ind.   | 12/3/79       | 11/28/79         | TA-W-6,542   | Interior decorative trim parts for automobiles. |
| Chrysler Corp., Detroit Universal (UAW)         | Detroit, Mich. | 11/26/79      | 11/14/79         | TA-W-6,543   | Universal joints.                               |
| Chrysler Corp., Interplant Transportation (UAW) | Detroit, Mich. | 11/26/79      | 11/14/79         | TA-W-6,544   | Transporting part from plant to plant.          |
| Chrysler Corp., Vemor Tool & Die (UAW)          | Detroit Mich.  | 11/26/79      | 11/14/79         | TA-W-6,545   | Dyes, jigs, and fixtures.                       |
| Chrysler Corp., Winfield Foundry (UAW)          | Detroit, Mich. | 11/26/79      | 11/14/79         | TA-W-6,546   | Castings.                                       |
| Chrysler Corp., Trenton Engine (UAW)            | Trenton, Mich. | 11/26/79      | 11/14/79         | TA-W-6,547   | Engines.                                        |



## Appendix—Continued

| Petitioner: Union/workers or former workers of—       | Location             | Date received | Date of petition | Petition No. | Articles produced                                                   |
|-------------------------------------------------------|----------------------|---------------|------------------|--------------|---------------------------------------------------------------------|
| Chrysler Corp., California Emission (UAW) .....       | Los Angeles, Calif.  | 11/26/79      | 11/14/79         | TA-W-6,548   | Emissions testing.                                                  |
| Chrysler Corp., General Office (UAW) .....            | Highland Park, Mich. | 11/26/79      | 11/14/79         | TA-W-6,549   | General office.                                                     |
| Chrysler Corp., Engineers, Proving Ground (UAW) ..... | Chelsea, Mich.       | 11/26/79      | 11/14/79         | TA-W-6,550   | Engineering testing.                                                |
| Firestone Tire & Rubber Company (URIW) .....          | Salinas, Calif.      | 11/29/79      | 11/16/79         | TA-W-6,551   | Passenger radial tires, bias passenger tires and light truck tires. |
| Janet Knitting Mills, Inc. (ILGWU) .....              | Jersey City, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,552   | Contractions of ladies' and children's sweaters.                    |
| M & G Convoy, Inc. (Teamsters) .....                  | Murrysville, Pa.     | 11/23/79      | 11/10/79         | TA-W-6,553   | Transports Chrysler cars.                                           |
| Realiti Dress Company (ILGWU) .....                   | East Orange, N.J.    | 11/20/79      | 11/20/79         | TA-W-6,554   | Contractions of ladies' blouses.                                    |
| Valentino Fashions, Inc. (ILGWU) .....                | North Bergen, N.J.   | 11/29/79      | 11/26/79         | TA-W-6,555   | Ladies' coats.                                                      |
| Western Trails, Inc. (workers) .....                  | Bend, Oreg.          | 11/30/79      | 11/27/79         | TA-W-6,556   | Outerwear for men and women.                                        |

[FR Doc. 79-37909 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

**Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firms or an appropriate subdivision thereof have contributed importantly to

an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which the total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request

a public hearing, provided such request is filed in writing with a Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 21, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of December 1979.

Marvin M. Fooks,  
Director, Office of Trade Adjustment Assistance.

## Appendix

| Petitioner: Union/workers or former workers of—                  | Location            | Date received | Date of petition | Petition No. | Articles produced                           |
|------------------------------------------------------------------|---------------------|---------------|------------------|--------------|---------------------------------------------|
| Chester Pants Corp. (workers) .....                              | Brooklyn, N.Y.      | 11/27/79      | 11/23/79         | TA-W-6,528   | Men's pants.                                |
| Donara Sportswear Company, Inc. (ACTWU) ..                       | Donara, Pa.         | 11/26/79      | 11/26/79         | TA-W-6,529   | Men's outerwear.                            |
| Essex International, Inc. (USWA) .....                           | Clare, Mich.        | 11/7/79       | 10/31/79         | TA-W-6,530   | Wire harnesses—Chrysler cars and trucks.    |
| Garden Dress Company, Inc. (ILGWU) .....                         | Bloomfield, N.J.    | 11/26/79      | 11/20/79         | TA-W-6,531   | Contractor of ladies' dresses.              |
| Guterl Special Steel Corp., Simmonds Steel Division (USWA) ..... | Lockport, N.Y.      | 11/20/79      | 11/14/79         | TA-W-6,532   | High alloy special steel.                   |
| K-W Equipment Rental (USWA) .....                                | Buffalo, N.Y.       | 11/20/79      | 11/13/79         | TA-W-6,533   | Rent and lease trucks.                      |
| Kristone Mills, Inc. (ILGWU) .....                               | West New York, N.J. | 11/26/79      | 11/20/79         | TA-W-6,534   | Sweaters.                                   |
| Kulp-Waco (USWA) .....                                           | Buffalo, N.Y.       | 11/20/79      | 11/13/79         | TA-W-6,535   | Material haulers.                           |
| Manila Mining Co. (workers) .....                                | Ramage, W. Va.      | 11/9/79       | 11/6/79          | TA-W-6,536   | Metallurgical coal.                         |
| Needlecraft Dress Manufacturing Corp. (workers) ..               | Fall River, Mass.   | 11/29/79      | 11/26/79         | TA-W-6,537   | Dresses.                                    |
| Steven Knitting Mills, Inc. (workers) .....                      | Hialeah, Fla.       | 11/29/79      | 11/2/79          | TA-W-6,538   | Double knit fabrics.                        |
| U.S. Steel Corp (USWA) .....                                     | Pittsburg, Calif.   | 11/26/79      | 11/26/79         | TA-W-6,539   | Rod and wire products.                      |
| Weldon Manufacturing Company of Pa. (workers) ..                 | Williamsport, Pa.   | 11/26/79      | 11/26/79         | TA-W-6,540   | Men's robes and pajamas.                    |
| Yeis Steel Corp. (USWA) .....                                    | Wallingford, Conn.  | 11/29/79      | 11/26/79         | TA-W-6,541   | Steel reinforcement bars and smooth rounds. |

[FR Doc. 79-37910 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

## [TA-W-6162 and TA-W-6162A]

**Jersey Miniere Zinc Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc ore and concentrate at the Jersey Miniere Zinc Company mine at Gordonsville, Tennessee. The investigation was expanded to include the Elmwood, Tennessee mine of Jersey Miniere Zinc Company. It is concluded that all of the requirements have been met.

U.S. imports of slab zinc increased absolutely and relative to domestic production from 1977 to 1978. The ratio of U.S. imports to domestic production of slab zinc was 141.0 in 1978.

All company production of zinc concentrate from the Elmwood, Tennessee mine is sent to the Clarksville, Tennessee refinery.

The Gordonsville mine has not yet produced zinc and is currently in the development stage. The mine was scheduled to begin producing zinc in August 1979, and to ship all zinc concentrate produced to the company's refinery in Clarksville, Tennessee. The refinery converts zinc concentrate into slab zinc. Prior to August 1979 Jersey Miniere Zinc cut back the mine's development schedule, postponing Gordonsville's commencement date indefinitely.

As an alternative to the commencement of zinc production at the Gordonsville mine, Jersey Miniere Zinc began importing zinc concentrate in the third quarter of 1979. In that quarter, company imports exceeded production at the Elmwood mine in both quantity and value. Presently, it is more advantageous for the company to import zinc rather than produce it at the Gordonsville mine. The company is importing zinc concentrate at a price lower than the projected cost of producing it at the Gordonsville mine.

## Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with zinc ore and concentrate produced at Jersey Miniere Zinc Company, Gordonsville and Elmwood, Tennessee contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gordonsville and Elmwood, Tennessee, Jersey Miniere Zinc Company, who became totally or partially separated from employment on or after June 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37920 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

## [TA-W-6181]

**Magerman Trousers, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers formerly producing trousers at Magerman Trousers, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the trousers were for men's suits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boy's tailored suits decreased absolutely and relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first six months of 1979 compared to the same period of 1978.

Magerman Trousers, Incorporated is a contractor that produces trousers for men's suits. The Department surveyed manufacturers of Magerman Trousers, Incorporated. The survey revealed that sales of the manufacturers decreased. A survey of the customers of the manufacturers revealed that most customers did not purchase imported men's suits. Those customers who did purchase imported men's suits constituted an insignificant proportion of the manufacturers' sales.

## Conclusion

After careful review, I determine that all workers of Magerman Trousers, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

James F. Taylor,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37921 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

## [TA-W-6165]

**Meco Knitting Mills; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed on behalf of workers and former workers producing ladies' and men's sweaters on a contract basis at Meco Knitting Mills, Brooklyn, New York. The investigation revealed that the company primarily produces ladies' sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 1977 to 1978. The ratio of imports of sweaters to



domestic production was 115 percent or greater in 1976, 1977 and 1978.

A Department of Labor investigation revealed that Mecos Knitting Mills primarily produces ladies' sweaters on a contract basis. The Department conducted a survey of the manufacturers from whom Mecos receives contract work. The survey revealed that manufacturers representing a substantial portion of Mecos's sales reduced contract work with Mecos from 1977 to 1978. These manufacturers also increased their purchases of imports of ladies' sweaters in 1978 compared to 1977.

The investigation also revealed that while both Mecos's sales and the average number of production workers employed declined from 1977 to 1978, both sales and employment increased in the January through November period of 1979 when compared to the same period in 1978. The declines in sales and employment from 1977 to 1978 can be attributed to increased aggregate imports of ladies' sweaters and to the increased reliance of Mecos's manufacturers on foreign produced sweaters. However, this influence from imports did not continue into 1979 as both sales and employment at Mecos increased.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Mecos Knitting Mills, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Mecos Knitting Mills, Brooklyn, New York who became totally or partially separated from employment on or after September 20, 1978 and before January 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after January 31, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37922 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6153]

#### Merit Plastics, Inc., East Canton Division; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 4, 1979, in response to a worker petition received on September 24, 1979, which was filed on behalf of workers and former workers producing plastic auto parts at Merit Plastics, Incorporated, East Canton, Ohio. The investigation revealed that the East Canton, Ohio plants combined with the Winesburg and Dover, Ohio plants form the East Canton Division of Merit Plastics, Incorporated. All of these facilities of the company produce plastic auto parts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources indicate that U.S. imports of plastic auto parts were negligible in 1977, 1978 and 1979.

Total company sales in value of plastic auto parts at the East Canton Division of Merit Plastics, Incorporated increased from 1977 to 1978, and increased in the first nine months of 1979 compared to the same period of 1978.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at the East Canton Division of Merit Plastics, Incorporated. Although imported automobiles incorporate plastic auto parts, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of plastic auto parts must be considered in determining import injury to workers producing plastic auto parts at the East Canton Division of Merit

Plastics, Incorporated, East Canton, Ohio.

#### Conclusion

After careful review, I determine that all workers at the East Canton Division of Merit Plastics, Incorporated, East Canton, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37923 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6084]

#### National Mines Corp., Pocahontas Division; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 21, 1979 in response to a worker petition received on September 3, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Pocahontas Division, Wyoming County, West Virginia of the National Mines Corporation. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that National Mines Corporation sells all of its coal to a single domestic steel producer who converts the coal to coke. During 1979 some of the steel producer's coke batteries were shutdown temporarily while others were shutdown permanently.

The steel producer significantly increased purchases of domestic coke in

1978 compared to 1977 and in the first eight months of 1979 compared to the first eight months of 1978. The steel producer is beginning a planned long-term trend to increase its reliance on domestic coke.

#### Conclusion

After careful review, I determine that all workers of the National Mines Corporation, Pocahontas Division, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37924 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5826]

#### Newark Textile Printing, Inc.; Notice of Negative Determination Regarding Application for Reconsideration

By the application dated November 8, 1979, a former worker requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing finished fabric at Newark Textile Printing, Inc., East Newark, New Jersey. The determination was published in the Federal Register on October 16, 1979 (44 FR 59682).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

A former worker claims in his application for reconsideration that the Department was inconsistent with its determinations relative to workers at Newark Textile Printing, Inc., East Newark, New Jersey, TA-W-5826, and to workers at the Union Textile Printers, Secaucus, New Jersey, TA-W-1831. The former worker also challenges the veracity of the Department's customer survey.

The department's review of the investigative file revealed that workers

at Newark Textile Printing, Inc., East Newark, New Jersey, were denied eligibility because they did not meet the "contributed importantly" test of section 222 of the Trade Act of 1974. The Department's survey of Newark Textile's customers, which represented nearly half of Newark Textile's 1979 sales revealed that they did not increase their purchases of imported finished fabric while at the same time decreasing their commission work with Newark Textile Printing.

The former worker claimed that the Department was inconsistent in citing the low ratio of imports of finished fabric to domestic production since at least 1974. The Department would point out that it did not deny workers at Newark Textile as a result of the less than two percent ratio of imports to domestic production but only used this fact to illustrate the generally low level of import competition in finished fabric. The Department sees little validity in the former worker's claim of inconsistency between the two cases since all the statutory criteria including the "contributed importantly" test were met for workers at the Union Textile Printers, whereas the "contributed importantly" test was not met for workers at Newark Textile Printing. Case determinations are not made on an industry-wide basis but on the basis of an appropriate worker group.

With respect to the former worker's challenge to the veracity of the Department's survey of Newark Textile's customers, it should be noted that the Department's survey represented customers accounting for a substantial share of Newark Textile's 1978 and 1979 sales with several customers indicating reasons other than import competition for their cutting back work with Newark Textile Printing.

#### Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37925 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6163]

#### Olin Corp., Brass Group, New Haven Brass Mill; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 174 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing brass alloy (sheet and strip) at the New Haven Brass Mill, New Haven, Connecticut. The investigation revealed that Olin Corporation, Brass Group, New Haven Brass Mill, New Haven, Connecticut produces copper-base alloy sheet and strip. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of copper-base alloy sheet and strip declined both absolutely and relative to domestic production in the first half of 1979 compared with the same period in 1978.

Employment at the New Haven Brass Mill increased in 1978 compared with 1977 and during the first half of 1979 compared with the same period in 1978. A strike at the mill began in July 1979.

Copper-base alloy sheet and strip is produced by the Brass Group of Olin Corporation at two facilities, New Haven, Connecticut and East Alton, Illinois. In September 1979, a corporate decision was made to close the New Haven mill and consolidate production at East Alton.

No product lines will be dropped. The East Alton mill began absorbing New Haven production in the third quarter of 1979, during the strike.

Production of copper-base alloy sheet and strip by the Brass Group of Olin Corporation increased in 1978 compared



with 1977 when the effect of a strike at the East Alton, Illinois plant is properly accounted for. In view of the substantial adverse impact of the East Alton, Illinois strike upon Brass Group production during the first quarter 1978, copper-base alloy production for the first three quarters of 1979 was compared with the similar period in 1977 instead. This comparison revealed that production by the Brass Group was greater during the first three quarters of 1979 than during the same period in 1977 in spite of the strike at the New Haven Brass Mill which began on July 15, 1979.

#### Conclusion

After careful review, I determine that all workers of the New Haven Brass Mill, New Haven, Connecticut of Olin Corporation, Brass Group are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of December 1979.

Harry J. Gilman,  
Supervisory International Economist, Office  
of Foreign Economic Research.

[FR Doc. 79-37928 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### [TA-W-6222]

#### Publix Shirt Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 17, 1979 in response to a worker petition received on October 10, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' shirts at the Huntingdon, Tennessee plant of Publix Shirt Corporation. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S. imports of men's and boys' woven dress, business, sport and uniform shirts increased in 1978 compared to 1977, and increased in the first half of 1979 compared to the same period of 1978.

Publix Shirt Corporation's imports of men's and boys' shirts increased in 1979

compared to 1978. This increase in imports represented more than 100 percent of the company's 1978 to 1979 domestic sales decline in men's and boys' shirts.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' woven shirts produced at the Huntingdon, Tennessee plant of Publix Shirt Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Huntingdon, Tennessee plant of Publix Shirt Corporation, who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37927 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### [TA-W-6167]

#### RCA Corp., Consumer Electronics Division; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing color television sets at the Bloomington, Indiana plant of the Consumer Electronics Division of RCA Corporation. The investigation revealed that workers are engaged in the production of components and subassemblies (parts) for color televisions, and in the final assembly of color televisions. It is concluded that, with respect to components and

subassemblies, all of the requirements have been met.

U.S. imports of chassis for monochrome and color televisions increased in terms of quantity and value in 1978 compared with 1977, and increased during the first half of 1979 compared with the same period in 1978.

U.S. imports of printed circuit boards increased in terms of quantity in 1978 compared with 1977, and increased during the first half of 1979 compared with the same period in 1978.

U.S. imports of tuners increased relative to domestic production in 1978 compared with 1977.

Company imports of components and subassemblies, including chassis, increased in 1977 compared with 1978, increased in 1978 compared with 1977, and increased in 1979 (full year based on estimates from orders) compared with 1978.

Company imports represent an increasing share of the firm's color television chassis, subassembly and component demand. The Company has increasingly transferred the more labor intensive operations of component production to company facilities offshore. Employment declines at the Bloomington plant are related to the firm's decreased domestic component demand.

With respect to final assembly operations, sales and production of RCA finished color televisions assembled at the Bloomington plant increased in 1977 compared with 1978, increased in 1978 compared with 1977 and increased in 1979 (full year based on estimates from orders) compared with 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with color television components and subassemblies (parts) produced at the Bloomington, Indiana plant of the Consumer Electronics Division of RCA Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bloomington, Indiana plant of RCA Corporation, Consumer Electronics Division who became totally or partially separated from employment related to the production of color television components and subassemblies (parts) on or after October 4, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,  
Director, Office of Foreign Economic  
Research.

[FR Doc. 79-37928 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### [TA-W-6184]

#### RCA Corp., Solid State Division; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 9, 1979 which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing power solid state devices at RCA Corporation, Solid State Division, Mountaintop, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of transistors increased in 1978 compared to 1977 and during January-June 1979 compared to January-June 1978.

Company imports of power transistors increased in 1978 compared to 1977 and during January-October 1979 compared to the same period of 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with power solid state devices produced at RCA Corporation, Solid State Division, Mountaintop, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of RCA Corporation, Solid State Division, Mountaintop, Pennsylvania who became totally or partially separated from employment on or after June 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37929 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### [TA-W-6068-6071]

#### Reltec Manufacturing Co., Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 18, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's slacks and jeans at the Winfield, Alabama plant (TA-W-6068); at the Carbon Hill, Alabama plant (TA-W-6069); at the Florence, Alabama plant (TA-W-6070); and at the Beaverton, Alabama plant (TA-W-6071) of Reltec Manufacturing Company, Incorporated. The investigation revealed that the Winfield and Beaverton plants produce both men's slacks and jeans; the Florence plant produces only men's jeans; and the Carbon Hill plant produces only men's jackets.

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' dress and sport trousers, jeans and dungarees, and dress coats and sportcoats decreased absolutely in the first nine months of 1979 compared with the same period of 1978.

The Department surveyed a list of customers of Reltec Manufacturing Company, Incorporated that represents a significant proportion of the subject firm's sales. The survey revealed that the customers either decreased their

purchases of imported men's slacks, jeans and jackets or increased their purchases from the subject firm.

#### Conclusion

After careful review, I determine that all workers at the Winfield, Carbon Hill, Florence and Beaverton, Alabama plants of Reltec Manufacturing Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

James F. Taylor,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 79-37930 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### [TA-W-6238]

#### Sands Fashions, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 18, 1979 in response to a worker petition received on October 16, 1979 which was filed on behalf of workers and former workers producing ladies' leather and suede coats at Sands Fashions, Incorporated, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's, women's and children's leather coats and jackets, which includes suede coats, increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey conducted by the Department revealed that several of Sands Fashions' customers decreased purchases from Sands Fashions and increased purchases of imported ladies' leather coats from 1977 to 1978.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' leather coats produced at Sands Fashions, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the



total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sands Fashions, Incorporated, New York, New York who became totally or partially separated from employment on or after October 11, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-37931 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6173 and 6174]

**Sharpe Manufacturing Co.;  
Certification Regarding Eligibility To  
Apply for Worker Adjustment  
Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 10, 1979 in response to a worker petition received on September 24, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing women's outerwear at the Sharpe Manufacturing Company, Minneapolis, Minnesota and Brainerd, Minnesota. The investigation revealed that the plants primarily produce women's and children's coats. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977.

Company imports of women's and children's coats increased in 1978 compared to 1977 and in 1979 compared to 1978. These increases in company imports coincided with declines in production and employment at the Minneapolis and Brainerd, Minnesota plants of the Sharpe Manufacturing Company.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with women's and children's coats produced at the Minneapolis and Brainerd, Minnesota plants of the Sharpe Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Sharpe Manufacturing Company, Minneapolis, Minnesota and Brainerd, Minnesota who became totally or partially separated from employment on or after September 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,

Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37932 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6317]

**Shenango, Inc.; Notice of Negative  
Determination Regarding Eligibility To  
Apply for Worker Adjustment  
Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed by the United Steelworkers of America Local Union on behalf of workers and former workers producing ingot molds and stools at the Buffalo, New York plant of Shenango, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Buffalo, New York plant of Shenango, Incorporated produces cast iron ingot molds and stools that are sold to domestic steel producers for

transferring raw material from steel furnaces to rolling mills.

Imports of ingot molds and stools, and not imports of steel products, must be considered in determining import injury to workers producing ingot molds and stools at the Buffalo, New York plant of Shenango, Incorporated.

U.S. imports of ingot molds and stools are negligible.

**Conclusion**

After careful review, I determine that all workers at the Buffalo, New York plant of Shenango, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-37933 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6253]

**Smart Maid Coat & Suit Corp.; Notice  
of Negative Determination Regarding  
Eligibility To Apply for Worker  
Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 23, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing misses' and juniors' coats at Smart Maid Coat and Suit Corporation, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that reductions in employment at Smart Maid were the result of seasonal factors.

Smart Maid is a manufacturer engaged in the sale of women's wool coats and raincoats. The only in-house production operations performed by Smart Maid consists of cutting wool to be distributed to its contractors. The production season for wool coats normally runs from March through the end of October of each year. Layoffs of cutters by Smart Maid occur during the slow period.

Compared to the same quarter of the previous year, the average number of cutters employed by Smart Maid either increased or remained the same in each quarter from the first quarter of 1978 through the third quarter of 1979. Average weekly hours have remained steady during the same period. All declines in employment can be traced to the normal seasonal slowdown.

**Conclusion**

After careful review, I determine that all workers of Smart Maid Coat and Suit Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,

Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37934 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6157]

**Stafford Printers, Division of Gaynor-  
Stafford Industries, Inc.; Notice of  
Negative Determination Regarding  
Eligibility To Apply for Worker  
Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 4, 1979 in response to a worker petition received on October 1, 1979 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers producing print and finish synthetic fabrics for women's wear. The investigation revealed that the Stafford Printers Division of Gaynor-Stafford Industries, Incorporated, Stafford Springs, Connecticut produces finished fabric. In

the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric have remained at or below two percent of domestic production in each of the last four full years.

Customers of the three sales divisions of Gaynor-Stafford Industries, Incorporated who were surveyed indicated that they did not decrease purchases of finished fabric from the subject firm and increase imports of finished fabric during the period under investigation.

**Conclusion**

After careful review, I determine that all workers of the Stafford Printers Division of Gaynor-Stafford Industries, Incorporated, Stafford Springs, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of December 1979.

James F. Taylor,

Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37935 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6266]

**Textron, Inc., Talon Division; Notice of  
Negative Determination Regarding  
Eligibility To Apply for Worker  
Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 24, 1979 in response to a worker petition received on October 5, 1979 which was filed on behalf of workers and former workers producing Talon zippers at Textron, Incorporated, Talon Division, Meadville, Pennsylvania. In the following determination, at least one of the criteria has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of zippers increased both absolutely and relative to domestic production during 1978 compared with 1977. Imports decreased both absolutely and relative to domestic production during the first six months of 1979 compared with the first six months of 1978.

The Department conducted a survey of customers of the Talon Division. Nearly all of the surveyed customers indicated that they did not increase purchases of imported zippers while reducing purchases from Talon. Customers who did increase purchases of imports represented only a small percentage of Talon's total sales decline in 1979 and 1978.

**Conclusion**

After careful review, I determine that all workers of Textron, Incorporated, Talon Division, Meadville, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1979.

James F. Taylor,

Director, Office of Management,  
Administration and Planning.

[FR Doc. 79-37936 Filed 12-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-59-5948]

**Winn Branch Coal Co.; Notice of  
Negative Determination Regarding  
Eligibility To Apply for Worker  
Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 30, 1979 in response to a worker petition received on August 21, 1979 which was filed on behalf of workers and former workers mining coal at the Winn Branch Coal Company, Winn Branch, Kentucky. In the following determination, without regard to whether any of the other criteria have



been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that since the Winn Branch Coal Company had mined coal for only seven months, it is not possible to discern any trends in production or to statistically measure the impact of imports.

The Winn Branch Coal Company entered into a contract agreement with another company to mine coal in July of 1978. The Winn Branch Coal Company mined coal for this company until January 1979 when it was instructed to cease mining operations. Since the Winn Branch Coal Company has mined coal for less than one year, the impact of imports can not be accurately measured.

#### Conclusion

After careful review, I determine that all workers of Winn Branch Coal Company, Winn Branch Kentucky are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1979.

C. Michael Aho,  
Director, Office of Foreign Economic Research.

[FR Doc. 79-37937 Filed 12-10-79; 8:45 am]  
BILLING CODE 4510-28-M

#### NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-373 and 50-374]

#### Commonwealth Edison Co. (LaSalle County Station, Units 1 and 2); Director's Denial of Request

By petition dated August 21, 1979, Jan L. Kodner, Esq. on behalf of Citizens Against Nuclear Power, *et al.*, requested, pursuant to 10 CFR 2.206 of the Commission's regulations that the Director of Nuclear Reactor Regulation institute a proceeding to suspend or revoke construction permits for the LaSalle County Station, Units 1 & 2, until confirmatory review of possible design changes to the facilities containment systems are completed.

After consideration of the information submitted by Citizens Against Nuclear Power *et al.*, I have concluded that sufficient information now exists to establish acceptance criteria for the design and evaluation of the Mark II

containment system at the LaSalle facility. Consequently, the request to institute a proceeding to suspend or revoke the construction permits is denied.

A copy of this determination will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and the local public document room for the LaSalle County Station at Illinois Valley Community College, Rural Route #1, Oglesby, Illinois 61348.

Dated at Bethesda, Md., this 4th day of December 1979.

Harold R. Denton,  
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-37888 Filed 12-10-79; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. PRM-150-1]

#### Chem-Nuclear Systems, Inc.; Denial of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Denial of Petition for Rule Making.

By letter dated December 9, 1977, Mr. John L. West, on behalf of Chem-Nuclear Systems, Inc., filed with the Nuclear Regulatory Commission a petition for rule making (PRM 150-1).

#### The Petition.

Under the NRC's regulation, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," 10 CFR Part 150, any person who holds a specific license from an Agreement State where the licensee maintains an office for directing a license and at which radiation safety records are normally maintained, is granted a general license to conduct the same activity in non-Agreement States (10 CFR 150.20(a)). Among the conditions imposed on the general license, 10 CFR 150.20(b)(3) states that any person who engages in activities in non-Agreement States under the general license shall not possess or use radioactive materials, or engage in authorized activities for more than 180 days in any calendar year.

In the letter of December 9, 1977, the petitioner requested that the Commission amend 10 CFR Part 150 by removing 10 CFR 150.20(b)(3).

#### Basis for the Request

As the basis for the request, the petitioner stated that the 180 days per calendar year limitation creates additional paperwork and expense for Chem-Nuclear Systems and may in the

future limit the performance of its services to public utilities.

The petitioner noted that if licensed activities are appropriate and in the public interest for 180 days of the year, they would remain so for the balance of the year as well, and as a matter of public policy, all of the reasons why such activities are considered proper for a substantial portion of the year tend to argue against the limit of 180 days on such activities.

#### Request for Comments on Petition

A notice of filing of petition for rule making was published in the *Federal Register* on February 8, 1978 (43 FR 5442). The comment period expired April 10, 1978. No letters of comment were received in response to the notice.

#### Previous Actions

Under section 274b. of the Atomic Energy Act of 1954, as amended, the Commission is authorized to enter into an agreement with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials (in quantities not sufficient to form a critical mass).

The agreement entered into provides, among other things, that the Commission and the Agreement State will use their best efforts to develop rules, regulations, and procedures by which reciprocal recognition of licenses covering agreement materials will be accorded.

The Commission first implemented the reciprocal recognition provision when it established on February 14, 1962 (27 FR 1351), new 10 CFR 150.20, "Recognition of State licenses," granting a general license to any person (holding a valid specific license from an Agreement State) to conduct the licensed activity in non-Agreement States. One condition of that general license was that the general licensee must not, in any non-Agreement State, possess or use radioactive material or engage in activities authorized under the general license for more than 20 days in any period of 12 consecutive months.

In the first 6 years of experience with the reciprocity general license, just over 100 notifications were filed by Agreement State specific licensees for conducting activities in non-Agreement States. Following a review of this experience, the Commission proposed on December 20, 1969 (34 FR 19996) to amend 10 CFR 150.20 to increase the time from 20 days in any period of 12 consecutive months to 180 days in any calendar year.

In the preamble to the proposed rule, the Commission addressed the issue of administrative and financial burdens:

The limitation of 20 days in 12 consecutive months has discouraged use of the general license by Agreement State specific licensees who are engaged in transient field operations of uncertain duration, and results in the issuance by the Commission and Agreement States of multiple specific licenses for the same activity. Thus persons conducting transient operations throughout the United States may obtain specific licenses covering the same activity from the AEC and each of the 21 Agreement States. Under such circumstances multiple specific licenses impose an administrative and financial burden upon licensees and the license-issuing agencies without significant improvement of the health and safety aspects of the transient operations.

The Commission, however, did not intend to eliminate entirely the administrative and financial burdens but rather to reduce them as much as possible consistent with protecting the public health and safety. Accordingly, it proposed to increase the time for engaging in activities in non-Agreement States under 10 CFR 150.20:

To facilitate use of the general license in § 150.20 and to reduce the number of specific licenses which need to be issued by the Commission and Agreement States for the same activity, the Commission has under consideration amendments of the general license in § 150.20 to permit Agreement State specific licensees to engage in activities in non-Agreement States up to 180 days in any calendar year.

The Commission provided additional discussion of the increase in time on May 20, 1970 (35 FR 7725), in the preamble to the final rule to amend 10 CFR 150.20:

This increase in time will encourage the use of the general license by Agreement State specific licensees who are engaged in transient field operations.

The Commission expects that the amendments of the general license in § 150.20 will permit a greater number of Agreement State specific licensees to use the general license, reduce the need for multiple specific licenses, and reduce the number of reports required of persons proposing to engage in activities under the general license. The amendments will simplify licensing of radioactive materials without compromising health and safety.

Recently, about 130 Agreement State specific licensees per year (compared to 100 total in the first 6 years) have been conducting in non-Agreement States transient field operations such as industrial radiography, decontamination services, pickup and transportation of prepackaged radioactive wastes, well logging, tracer studies, and similar

services. Not all of the increased use of the reciprocity general license can be attributed to the increase in time to 180 days in any calendar year because the number of Agreement State specific licensees has increased significantly in the last 9 years.

In view of the Commission's statements when it adopted amended 10 CFR 150.20(b)(3) to increase the time to 180 days in any calendar year for the conduct of activities in non-Agreement States, the Commission selected a balance point between a restrictive time limitation (20 days in 12 consecutive months) that discouraged use of the reciprocity general license and no time limitation (the effect if the petitioner's request were granted) that would have eliminated the need for multiple specific licenses.

Long-term field operations of this type should be controlled through specific licensing either by NRC or the Agreement States. Conversely, it is appropriate and reasonable to give weight to Agreement State licenses by general licensing of operations which are clearly of a short term and transitory nature. The regulatory burden of processing every short-term operation to a specific license would be prohibitive, and would not lead to any significant improvement in public health and safety. The problem is to find the proper balance, that is, the proper breakpoint at which an operation ceases to short term and begins to take on a more permanent character. Regulatory experience with the 180-day breakpoint previously adopted by the Commission would indicate that it is a reasonable breakpoint even though somewhat arbitrarily arrived at. Petitioner has not made a case to change this breakpoint nor does our reexamination of licensing experience lead to the conclusion that it should be changed.

#### Grounds for Denial

The Commission has given careful consideration to this petition for rule making (PRM 150-1) and has decided to deny the petition on the grounds that the limit of 180 days in any calendar year should not be removed from 10 CFR 150.20 because it is still appropriate to have a breakpoint between NRC's recognition of Agreement State licenses for transient field operations in non-Agreement States and issuance of NRC licenses for longer-term activities and transient operations throughout the United States.

Copies of the petition for rule making, the Commission's letter of denial, and the value/impact analysis prepared in connection with the denial are available for public inspection at the

Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the value/impact analysis may be obtained from J. J. Henry, SD Task Leader, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 20th day of November, 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,  
Executive Director for Operations.

[FR Doc. 79-37890 Filed 12-10-79; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-155]

#### Consumers Power Co. (Big Rock, Point Nuclear Plant) Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated November 4, 1979, Ms. JoAnn Bier and Ms. Shirley Johns requested that an order be issued to Consumers Power Company to delay restart of the Big Rock Point facility until seven alleged safety questions, identified in the petition, were resolved. The petition was not received by the Commission before restart of the Big Rock facility. Consequently, the petition is being treated as a request for an order to show cause why the operating license for the Big Rock facility should not be suspended pending resolution of the issues raised. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland this 4th day of December, 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,  
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-37892 Filed 12-10-79; 8:45 am]  
BILLING CODE 7590-01-M

[Docket No. 50-302]

#### Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility



Operating License No. DPR-72, issued to the Florida Power Corporation (FPC), City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment becomes effective 90 days after issuance of provide time to train additional fire brigade members.

This amendment modifies the Technical Specifications to require a five man fire brigade. The evaluation relating to this change is contained in the Commission's document entitled "Evaluation of Minimum Fire Brigade Shift Size" dated June 8, 1979, which was transmitted to FPC by letter from the Commission dated August 28, 1979.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 1, 1979, (2) Amendment No. 28 to License No. DPR-72, and (3) the Commission's letters to FPC dated August 28, 1979, and November 27, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of November 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,  
Chief Operating Reactors Branch # 4,  
Division of Operating Reactors.

[FR Doc. 79-37889 Filed 12-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309-SP]

**Maine Yankee Atomic Power Co.;  
Establishment of Atomic Safety and  
Licensing Board To Preside in  
Proceeding**

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register* (37 F.R. 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Maine Yankee Atomic Power Co.

(Maine Yankee Atomic Power Station)

*Proposed Issuance of Amendment to  
Facility Operating License No. DPR-36*

This action is in reference to an Order published by the Commission on October 24, 1979, in the *Federal Register* (44 Fed. Reg. 61273-61274) entitled, "Maine Yankee Atomic Power Co.; Proposed Issuance of Amendment to Facility Operating License."

The Chairman of this Board and his address is as follows:

Robert M. Lazo, Esq., Atomic Safety and  
Licensing Board Panel, U.S. Nuclear  
Regulatory Commission, Washington, D.C.  
20555.

The other members of the Board and  
their addresses are as follows:

Dr. Cadet H. Hand, Jr., Director, Bodega  
Marine Laboratory, University of  
California, P.O. Box 247, Bodega Bay,  
California 94923.

Mr. Gustave A. Linenberger, Atomic Safety  
and Licensing Board Panel, U.S. Nuclear  
Regulatory Commission, Washington, D.C.  
20555.

Dated at Bethesda, Maryland, this 3rd day  
of December, 1979.

Robert M. Lazo,  
Acting Chairman, Atomic Safety and  
Licensing Board Panel.

[FR Doc. 79-37894 Filed 12-10-79; 8:45 am]

BILLING CODE 7590-01-M

[NUREG CP-0009]

**Proceedings of the Radiological  
Emergency Preparedness Trainee  
Conference; Issuance and Availability  
of Report**

The Office of State Programs, Nuclear Regulatory Commission, has issued the proceedings of a training seminar it sponsored on July 24-25, 1979 in Kansas City, Missouri, for Federal officials involved in the review of State and local radiological emergency response plans. The major purpose of the seminar was to discuss the methods used to review response plans for accidents involving radioactive materials.

A single copy of NUREG CP-0009, "Proceedings of the Radiological Emergency Preparedness Conference," will be provided free of charge, while the supply lasts, upon written request of a full participant in an ongoing NRC proceeding. The request must identify the requester as a participant and should be addressed to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Copies may be purchased at current rates from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555 or the National Technical Information Service, Springfield, Virginia 22161.

A copy of the report is available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland this 27th of November 1979. For the Nuclear Regulatory Commission.

Robert G. Ryan,  
Director, Office of State Programs.

[FR Doc. 79-37893 Filed 12-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-296]

**Tennessee Valley Authority; Issuance  
of Amendment to Facility Operating  
License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-68 issued to the Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 3, located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications to: (1)

incorporate the limiting conditions for operation during the third fuel cycle, (2) reflect facility modifications made during the current refueling outage to eliminate the low pressure coolant injection loop selection logic (an action which the Commission required to be accomplished and the design for which the Commission approved in Amendment No. 23 to Operating License No. DPR-68 dated May 11, 1979), (3) reflect rerouting of the reactor water cleanup system piping to reduce thermal cycling on the feedwater nozzles (and thus provide increased margin against the initiation and propagation of cracks in these nozzles), and (4) reflect replacement of two of the 11 safety-relief valves with valves of an improved design that will provide a slightly increased simmer margin (i.e., the two replacement valves will be set to relieve at 1150 psig rather than 1125 psig).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 6, 1979, as supplemented by two letters dated September 26, 1979 and letters dated October 10, 1979 and October 25, 1979, (2) Amendment No. 28 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 30th day of November 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,  
Chief, Operating Reactors Branch No. 3,  
Division of Operating Reactors.

[FR Doc. 79-37891 Filed 12-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-338SP and 50-339SP]

**Virginia Electric & Power Co. (North  
Anna Nuclear Power Station, Units 1  
and 2); Proposed Amendment to  
Operating License NPF-4 To Permit  
Storage Pool Modification**

Order

December 5, 1979.

The pending appeal of intervenors Potomac Alliance and Citizens Energy Forum, Inc., is hereby calendared for oral argument at 9:30 a.m. on Thursday, January 3, 1980 in the NRC Public Hearing Room, 5th floor, 4350 East-West Highway, Bethesda, Maryland. A total of one hour will be allotted to each side for the presentation of argument. The appellants may reserve a portion of their time for rebuttal.

In preparing for argument, counsel may assume that the members of the Board will be reasonably familiar with the record below, as well as with the positions of the respective parties on the appeal (as reflected in their briefs). For this reason, there will be no necessity for any counsel to devote a portion of his argument to a detailed recitation of the background of the controversy.

Each party is to notify the Secretary to this Board, by letter mailed no later than December 21, of the name of the counsel who will present argument on its or their behalf.

It is so ordered.

For the Appeal Board.

C. Jean Bishop,  
Secretary to the Appeal Board.

[FR Doc. 79-37895 Filed 12-10-79; 8:45 am]

BILLING CODE 7590-01-M

**OFFICE OF MANAGEMENT AND  
BUDGET**

**Privacy Act; New Systems**

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable

or potential effects on such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between November 12, 1979 through November 23, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

**Department of Labor**

**System Names:**

- (1) MSHA Education and Training Activities Report,
- (2) Coal Mine Safety and Health Management Information System.

**Report Date:**

August 20, 1979 (Not received in ISP until November 16, 1979)

**Point-of-Contact:**

Sofia Petters, Office of the Secretary,  
Department of Labor, Washington, DC  
20210.

**Summary:**

The first is a new system to be maintained by the Mine Safety and Health Administration in order to provide MSHA management with comprehensive personnel, time utilization, and work history records to determine workloads and scheduling, as well as budget and staffing needs. Information will be used only within the Mine Safety and Health Administration. The second system will include records on MSHA personnel and officials at surface and underground coal mine installations, and will be used to assess mine violations and compliance, as well as staffing, workload, budgetary, and personnel training needs.



# Department of Housing and Urban Development

## System Names:

(1) Mobile Home Standards Complaint, Production, and Compliance Analysis System.

(2) Income Certification Evaluation Data Files.

## Report Date:

November 5, 1979.

## Point-of-Contact:

Mr. Robert English, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, DC 20410.

## Summary:

The Mobile Home system will be used to assist in the enforcement and administration of the Federal Mobile Home Construction and Safety Standards Program through monitoring of complaints and manufacturer performance regarding complaints. Records will be maintained on purchasers of mobile homes, and will be disseminated as necessary to HUD-approved State administrative agencies who participate in the enforcement of the statute. The second system will be used to evaluate the effectiveness and accuracy of income certification for eligibility for various HUD-administered housing projects.

## Department of State

## System Name:

Parking Permit and Car Pool Records.

## Report Date:

November 8, 1979.

## Point-of-Contact:

Mr. Frank M. Machak, Department of State, Washington, DC 20520.

## Summary:

This new system of records will be used by the State Department to control the allocation of parking spaces within the State Department buildings and facilitate the formation of carpools for employees of the State Department, Agency for International Development, and U.S. Arms Control and Disarmament Agency.

## Department of Defense

## System Name:

Unit Training Records.

## Report Date:

November 14, 1979.

## Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1735 N Lynn Street, Arlington, VA 22209.

## Summary:

The Air Force proposes this new system of records to record annual or other periodic training in subjects "unique to or required by the type of unit." The records, to be maintained on Air Force active duty and reserve and National Guard personnel and civilian employees, will be used to manage local training programs which are governed by Air Force or local command directives.

## Waiver Requests

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between November 12, 1979 and November 23, 1979. Public inquires or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be direct to OMB.

## Department of the Treasury

## System Name:

Legislative Affairs Vote Tracking System.

## Report Date:

November 20, 1979.

## Point-of-Contact:

Ruth Hargraves, Office of Legislative Affairs, Department of the Treasury, Washington, DC 20220.

## Summary:

The Department of the Treasury proposes this new system of records to track Treasury-related votes on the Congress and other background information, such as party, State, and district of Members of Congress, voting records on Treasury related legislation, and ratings by selected public interest organizations. All of this information is

currently available as a matter of public record.

## Waiver Status:

No action as of November 30, 1979.

## Department of Defense

## System Name:

Uniformed Services University of the Health Sciences.

## Report Date:

November 9, 1979.

## Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1735 N Lynn Street, Arlington, VA 22209.

## Summary:

The Department of the Treasury proposes this new system of records to track Treasury-related votes on the Congress and other background information, such as party, State, and district of Members of Congress, voting records on Treasury-related legislation, and ratings by selected public interest organizations. All of this information is currently available as a matter of public record.

## Waiver Status:

No action as of November 30, 1979.

David R. Leuthold,

Budget and Management.

[FR Doc. 79-37968 Filed 12-10-79; 8:45 am]

BILLING CODE 3110-01-M

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## Granting of Relief From Disabilities Incurred by Conviction

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF).

**ACTION:** Notice of Granting of Relief From Disabilities Incurred by Conviction.

**SUMMARY:** The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

**FOR FURTHER INFORMATION CONTACT:** Special Agent in Charge Michael L. Hall, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026 (202-566-7457).

**SUPPLEMENTARY INFORMATION:** In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Aanensen, Dennis G., Mile 112½ Sterling Highway, Soldotna, Alaska, convicted on June 10, 1974, in the Waupaca County Branch II Court, Waupaca, Wisconsin.

Abatangelo, Mark N., 4856 Del Monte, San Diego, California, convicted on May 12, 1969, in the United States District Court, Tucson, Arizona.

Adell, Michael A., W. 198 N16949 Ridgeway Drive, Jackson, Wisconsin, convicted on June 13, 1974, in the County Court, Marinette County, Wisconsin.

Akridge, James C., P.O. Box 331, Alapaha, Georgia, convicted on October 15, 1975, in the United States District Court, Middle District of Georgia, Valdosta Division.

Allen, Herbert R., II, 5414 Rivershore Drive, Tampa, Florida, convicted on February 8, 1971, in the United States District Court, Southern District of Texas.

Alwine, Cabot L., 1832 9th Avenue, Olympia, Washington, convicted on May 22, 1968, in the Superior Court of the State of Washington in and for the County of Thurston, Olympia, Washington.

Anderson, Paula D., Apt. 12-A, Hawkins Place, Pittsburg, Texas, convicted on October 8, 1973, in the United States District Court of Hunt County, 196th Judicial District of Texas.

Ashor, Jacob, 218 W. Hildale, Detroit, Michigan, convicted on August 8, 1967, in the Recorder's Court for the City of Detroit, Michigan.

Ballard, J. C., Route 4, Wills Point, Texas, convicted on June 29, 1962, in the United States District Court, Eastern District of Texas.

Bates, Wayne, 1259 Horton Drive, Mobile, Alabama, convicted on May 28, 1964, in the Montgomery County Circuit Court, Montgomery, Alabama.

Baumgartner, David L., 4019½ Luverne Street, Duluth, Minnesota, convicted on February 12, 1970, in the Wilkin County District Court, Brackinridge, Minnesota; and on March 17, 1972, in the St. Louis County District Court, Duluth, Minnesota.

Beeler, Ronald H., 3402 South 1st Street, Union Gap, Washington, convicted on October 24, 1973, in the Washoe County Second Judicial District Court, Reno, Nevada.

Bell, Otis S., 5034 Bricker, Houston, Texas, convicted on or about May 27, 1976, in the 178th District Court of Harris County, Texas.

Bias, Jewel W., 1322 Ruby Avenue, Kansas City, Kansas, convicted on December 9, 1954, in the Circuit Court of Ray County, Richmond, Missouri; on September 1, 1957, and on November 8, 1968, in the Wyandotte District Court, Kansas City, Kansas.

Blank, Robert M., 4702 Nicholson Road, Franksville, Wisconsin, convicted on April 14, 1952, in the United States District Court, Eastern District of Missouri.

Borsch, Walter R., Jr., P.O. Box 627, St. Joseph, Louisiana, convicted on August 18, 1971, in the United States District Court, Western District, Alexandria Division, Alexandria, Louisiana.

Brantley, Edward M., 1621 Brantley Road, Fort Myers, Florida, convicted on October 12, 1973, in the United States District Court, Middle District of Florida, Tampa, Florida.

Brule, Leslie C., 2707 Jerome Street, Yakima, Washington, convicted on August 2, 1971, in the Superior Court, Yakima County, Washington.

Bruner, Gerald D., 607 E. McKissock, Knob Noster, Missouri, convicted on June 3, 1970, in the Circuit Court of Holt County, Missouri.

Bruner, Mark C., 3845 Reed Street, Garden City, Idaho, convicted on October 14, 1975, in the District Court of the Sixth Judicial District, Pocatello, Idaho.

Bullard, James H., Route 1, Edgewood, Texas, convicted on October 26, 1972, and on February 9, 1970, in the Sixth Judicial District Court of Fannin County, Texas.

Busell, Charles M., 843 Victoria Avenue, Lincoln, Nebraska, convicted on October 27, 1967, in the District Court of Hall County, Nebraska.

Buzzanco, Charles D., 4724 Cherry Street, Erie, Pennsylvania, convicted on November 1, 1962, and on October 7, 1963, in the Court of Quarter Sessions, Erie County, Pennsylvania.

Carman, Stephen R., 12008 Maybrook Street, Whittier, California, convicted on June 21, 1968, in the Superior Court, Los Angeles County, California.

Carney, Roy M., Route 4, Box 557, Picayune, Mississippi, convicted on December 3, 1962, in the United States District Court, Southern District of Mississippi.

Carr, Walter D., 1878 Pierpont Avenue, Charleston, South Carolina, convicted on March 7, 1974, in the Court of General Sessions, Charles County, South Carolina.

Chojnacki, John B., 1704 Harcor Drive, Pittsburgh, Pennsylvania, convicted on January 28, 1964, in the Court of Oyer and Terminer and General Jail Delivery, County of Allegheny, Pennsylvania.

Cockrell, Paul K., Route 3, Fredrick, Ohio, convicted on May 9, 1975, in the Court of Common Pleas, Ashland County, Ohio.

Condon, Gary E., 508 S. Willow, Douglass, Kansas, convicted on April 13, 1961, in the Superior Court for the State of Washington for the County of King, Washington.

Crawford, Norvel, 3543 West Outerdrive, Detroit, Michigan, convicted on February 28, 1952, in the United States District Court for the Eastern District of Michigan, Southern Division.

Cuthbertson, Robert P., 19 Elm Street, Millbury, Maine, convicted on or about January 31, 1957, in the Worcester County Superior Court, Worcester, Massachusetts.

Davis, Frank H., Jr., 703 East 5th Street, North Platte, Nebraska, convicted on July 21, 1975, in the District Court of Lincoln County, Nebraska.

DeMarco, Raymond J., 858 Park Avenue, Fairfield, Alabama, convicted on December 3, 1959, in the Volusia County Circuit Court, Deland, Florida; and on September 4, 1963, in the Jefferson County Circuit Court, Birmingham, Alabama.

DeVassie, John R., 326 Hager Street, Hubbard, Ohio, convicted on October 15, 1943, in the Cuyahoga County Court of Common Pleas, Cleveland, Ohio.

Disney, Walter D., Sr., R.D. 1, Box 343, Orrstown, Pennsylvania, convicted on April 22, 1970, in the Court of Common Pleas, Criminal Division, Franklin County, Pennsylvania.

Dunn, James L., Route 6, Georgetown Pike, Lexington, Kentucky, convicted on November 13, 1972, in the Graves County Circuit Court, Kentucky.

DuVall, David R., 11824 MacCorkle Avenue, Chesapeake, West Virginia, convicted on February 7, 1972, in the United States District Court, Southern District, West Virginia.

Elliott, Howard, J., 415 Alpine Way, Talent, Oregon, convicted on June 14, 1955, on June 26, 1961, and on February 18, 1963, in the Superior Court of California, Shaster County.

Fogle, Robert L., Route 2, Box 1, Neeses, South Carolina, convicted on April 10, 1961, in the United States District Court, Orangeburg, South Carolina.

Foley, Lanny L., Route 2, Box 205AA, Ferrum, Virginia, convicted on May 5, 1975, in the United States District Court for the Western District of Virginia, Roanoke, Virginia.

Foster, James T., Route 7, Box 117, North Wilkesboro, North Carolina, convicted on April 27, 1933, on May 27, 1937, on May 20, 1949, on November 22, 1955, and on May 22, 1959, in the United States District Court, Wilkesboro, North Carolina.

Gober, Joseph R., 1453 Westbury Drive, Macon, Georgia, convicted on October 7, 1974, in the United States District Court, Middle Judicial District, Macon, Georgia.

Georgetown, Leonerd C., 131 NE. 100 Street, Portland, Oregon, convicted on July 10, 1951, in the Circuit Court of Oregon.

Multnomah County; on August 5, 1952, in the Circuit Court, Linn County, Oregon; and on July 12, 1954, in the District Court, Marion County.

Grant, Malloyd, 3012 Seamon Avenue, Baltimore, Maryland, convicted on or about July 7, 1954, in the District Court of Maryland, Baltimore City.

Gravitt, Henry F., R.R. No. 2, Pea Ridge Road, Moberly, Missouri, convicted on June 7, 1968, in the Randolph County Circuit Court, Huntsville, Missouri.

Grover, Mark H., Route 2, Box 161, Hoquiam, Washington, convicted on June 23, 1971, in the Superior Court, Grays Harbor County, Washington.

Hampton, John W., Jr., R.D. 5, Box 162, Waynesboro, Pennsylvania, convicted on



August 22, 1962, in the Adams County Criminal Court, Gettysburg, Pennsylvania.

Harrell, Robert L., 1300 W. 7th Avenue, Anchorage, Alaska, convicted on September 4, 1973, in the Circuit Court of Hendricks County, Indiana.

Harris, Howard C., 2205 Butterfield Road, Space 243, Yakima, Washington, convicted on July 28, 1948, in the Superior Court of the State of Washington in and for Yakima County.

Harris, Willie L., 14201 Oak Park Boulevard, Oak Park, Michigan, convicted on or about October 8, 1937, in the United States District Court, Middle District of Alabama; on or about October 1, 1939, in the United States District Court, Middle District of Alabama; and in October 1948 in the Court of Common Pleas, Cuyahoga County, Ohio.

Hert, James L., 1807 S. 9th Avenue, Yakima, Washington, convicted on July 16, 1954, in the District Court for the City and County of Denver, Colorado.

Hicks, Duane B., 912 South 8th Street, Pasco, Washington, convicted on November 16, 1973, in the Whatcom County Superior Court, Bellingham, Washington.

Horney, Larry C., 5550 Denney Avenue, North Hollywood, California, convicted on March 8, 1965, in the Superior Court for the County of Los Angeles.

Hummel, Edward, 6156 Garrett Avenue, Cornwells Heights, Pennsylvania, convicted on March 5, 1968, in the Bucks County Criminal Court, Doylestown, Pennsylvania.

Hutchinson, William D., Route 1, Box 156-D, Wellston, Oklahoma, convicted on October 24, 1949, in the Union Circuit Court, Union County, Kentucky.

Jones, Robert T., 287 Silver Street, Manchester, New Hampshire, convicted on December 9, 1975, in the Superior Court, Hillsborough County, New Hampshire.

Karg, Leroy, 1300 North Concord Street, South St. Paul, Minnesota, convicted on December 13, 1976, in the District Court, First Judicial District, Dakota County, Minnesota.

Kennedy, Karl P., 28251 Terrence Drive, Livonia, Michigan, convicted on June 26, 1961, in the District Court, Third Judicial District, Lancaster County, Nebraska.

Kenworthy, Charles N., 6113 W. Coldwater Road, Flushing, Michigan, convicted on March 26, 1975, in the Genesee County Circuit Court, Michigan.

Kitchell, Lonny S., 437 NW. 35th, Redmond, Oregon, convicted on November 10, 1975, in the Circuit Court of the State of Oregon for Lane County.

Landgraf, Larry L., Route 2, Garden City, Kansas, convicted on February 18, 1972, in the District Court for Scott County, Kansas.

Lizotte, Isidore, 4205 Aller, Yakima, Washington, convicted on March 10, 1950, and on April 6, 1953, in the Yakima County Superior Court, Yakima County, Washington.

McCloud, Jay W., Sr., Route 1, Box 282A, Bloomingdale, Michigan, convicted in April 1953, in the Circuit Court of Van Buren County, Michigan.

McComas, Clifford M., 5701 E. 97th, Anchorage, Alaska, convicted on or about October 30, 1968, in the Alaska Superior Court, Third Judicial District.

Majerus, Frank M., N. 219 Flora, Box 224, Greenacres, Washington, convicted on September 27, 1966, in the Municipal Court of the City of Sacramento, California.

Mann, Ronald K., Route 1, Box 8, New Castle, Virginia, convicted on July 14, 1958, in the Circuit Court, Campbell County, Virginia; on August 12, 1960, in the Circuit Court, Appomattox County, Virginia; and on June 2, 1962, in the Circuit Court, Appomattox County, Virginia.

Marcott, Robert A., 2551 S. 81st, West Allis, Wisconsin, convicted on June 8, 1977, in the United States District Court, Eastern District of Wisconsin, Milwaukee, Wisconsin.

Margadonna, Thomas A., 1741 N. 1st Street, Jacksonville, Florida, convicted on September 10, 1965, in the Criminal Court, Duval County, Florida.

Miller, Stephen D., 3937 North Sixth Street, Harrisburg, Pennsylvania, convicted on May 12, 1970, in the Dauphin County Criminal Court, Harrisburg, Pennsylvania.

Minor, Davage, 2960 21st Avenue, Gary, Indiana, convicted on December 17, 1971, in the United States District Court for the Northern District of Indiana, Hammond Division.

Mobley, Ernest I., Route 4, Box 370, Tampa, Florida, convicted on December 1, 1939, and on January 23, 1947, in the United States District Court, Tampa, Florida.

Montgomery, Nehemiah, 9612 Prairie Street, Detroit, Michigan, convicted on March 3, 1960, in the United States District Court, Eastern District of Michigan.

Mullaley, John F., 47 Navarre Street, Roslindale, Massachusetts, convicted on December 29, 1958, in the West Roxbury Court, Boston, Massachusetts.

Muse, Bill, Route 4, Box 162AA, Pittsburg, Kansas, convicted on April 14, 1972, in the District Court of Crawford County, Kansas.

Norton, Gene T., 114 Lakeview Terrace, Colonial Heights, Virginia, convicted on November 5, 1964, in the Martinsville City Circuit Court, Martinsville, Virginia; and on May 11, 1965, in the United States District Court, Western District of Virginia, Roanoke, Virginia.

Oski, Pete, 204 E. Rundell, Pontiac, Michigan, convicted on April 30, 1954, in the Superior Court, King County, Washington; on September 13, 1955, and on October 24, 1958, in the Ingham County Circuit Court, Michigan.

Owens, Edward E., 1409 Pad Street, Lenoir, North Carolina, convicted on October 13, 1969, in the Superior Court, Caldwell County, North Carolina.

Paschedag, Edward W., 19A Carol Louise Lane, Caseyville, Illinois, convicted on April 6, 1972, in the Circuit Court of the Third Judicial Circuit, Madison County, Illinois.

Pine, Vernon S., Jr., 24 Main Street, Wallace, Idaho, convicted on December 22, 1971, in the Superior Court of California for the County of Sacramento.

Pool, Tom S., Route 1, Box 113, San Saba, Texas, convicted on January 28, 1975, in the 104th District Court, Taylor County, Texas.

Presnell, Donald R., 8532 Little Rock Road SW, Olympia, Washington, convicted on March 12, 1975, in the Superior Court of the

State of Washington in and for Grays Harbor County.

Pruitt, Garvey E., Route 1, Box 253, Traphill, North Carolina, convicted on November 8, 1969, in the United States District Court, Winston-Salem, North Carolina.

Ray, James P., 606 Whitney, Poteau, Oklahoma, convicted on November 8, 1963, in the United States District Court, District of New Mexico, Albuquerque, New Mexico; and on March 4, 1965, in the District Court of Leflore County, Poteau, Oklahoma.

Reed, John, 69 Lux Street, Rochester, New York, convicted on August 5, 1972, in the Livingston County Court, New York.

Riddick, Jesse L., Jr., 4216 Hacienda Street, Norfolk, Virginia, convicted on March 3, 1969, in the United States District Court, Norfolk, Virginia.

Riggins, John, 706 S. 4th Street, Yakima, Washington, convicted on August 18, 1968, in the Superior Court, Yakima County, Washington.

Robinson, Bessie, M., 3521 John C. Lodge B. 404, No. 822, Detroit, Michigan, convicted on April 27, 1951, in the United States District Court, Detroit, Michigan, and on May 6, 1954, in the United States District Court, Detroit, Michigan.

Robinson, Jay W., 10476 Highway 160 E., Alamosa, Colorado, convicted on March 29, 1963, in the Court of Common Pleas, Montgomery County, Pennsylvania.

Robinson, Robert L., Route 3, Box 253A, Kemp, Texas, convicted on July 31, 1969, in the Dallas County Criminal District Court, Dallas, Texas.

Ronding, Brian N., 2411 Florence Avenue, Duluth, Minnesota, convicted on October 29, 1957, in the District Court of Minnesota, St. Louis County.

Salisbury, Robert C., 129 Sylvester Street, Pasco, Washington, convicted on July 17, 1970, in the Multnomah County Circuit Court, Portland, Oregon.

Scott, Billie H., 1135 Cass Street, Gary, Indiana, convicted on July 21, 1972, in the United States District Court, Hammond, Indiana.

Seiler, David V., 1829 Spaight Street, Madison, Wisconsin, convicted on March 13, 1975, in the Dane County Circuit Court, Madison, Wisconsin.

Shew, James T., Route 3, Box 447-A, North Wilkesboro, North Carolina, convicted on November 17, 1954, in a United States District Court, North Carolina; on November 18, 1957, in the United States District Court, Wilkesboro, North Carolina; and on June 4, 1957, in the United States District Court, Greensboro, North Carolina.

Shew, Jessie C., Route 3, Box 438, Wilkesboro, North Carolina, convicted on May 21, 1963, in the United States District, Wilkesboro, North Carolina.

Siegel, James R., 830 W. Bonneville, Pasco, Washington, convicted on December 5, 1952, in the Superior Court, King County, Washington.

Sigers, Leo, 701 East Depot Street, Marion, Kentucky, convicted on May 28, 1948, in the Muhlenberg Circuit Court, Greenville, Kentucky.

Simcox, Michael, 430 Center Street, Millersburg, Pennsylvania, convicted on

December 4, 1973, in the Court of Common Pleas, Criminal Division, Clinton County, Pennsylvania.

Sobania, Frederick R., Box 36, Maple Hills, Grand Marais, Minnesota, convicted on January 20, 1969, in the District Court for the Fifth Judicial District in the County of Blue Earth, State of Minnesota.

Sroczyk, Joseph E., 3637 Whitehall Lane, Philadelphia, Pennsylvania, convicted on March 13, 1962, in the Camden Municipal Court, Camden, New Jersey.

Stoe, Andrew F., 104 Brown Street, Penn Yan, New York, convicted on November 13, 1957, in the Monroe County Court, Monroe County, Rochester, New York.

Stubblefield, Lloyd D., 2437 Edison Avenue, Granite City, Illinois, convicted on October 21, 1957, in the Circuit Court for the Seventh Judicial Circuit, County of Macoupin, State of Illinois.

Swegles, Donald E., 8334 Neubourg Drive, Stockton, California, convicted on June 10, 1976, in the Superior Court, Stanislaus County, California.

Taylor, Jesse L., 5401 2nd Court East, Tuscaloosa, Alabama, convicted on April 7, 1970, in the Circuit Court of the Fourth Judicial Circuit of Alabama, Hale County, Greensboro, Alabama.

Ulasewicz, Anthony T., Box 151, Star Route, Town of Day, Hadley, New York, convicted on February 18, 1977, in the United States District Court for the Eastern District of New York.

Vander Meer, John H., 407 North Walnut, Ellensburg, Washington, convicted on January 15, 1974, in the Superior Court of the State of Washington in and for the County of Kittitas.

Vinson, James R., 722 Lexington Avenue, Indianapolis, Indiana, convicted on September 25, 1935, in the Allen County Circuit Court, Kentucky.

Way, Gary C., P.O. Box 826, Basin, Wyoming, convicted on September 8, 1962, in the United States District Court for the District of Wyoming.

Wertis, Raymond A., 330 NE. 160 Terrace, North Miami Beach, Florida, convicted on March 11, 1974, in the United States District Court, Miami, Florida.

Westphal, Robert W., Route 1, Box 1440, Ellensburg, Washington, convicted on June 18, 1962, in the Superior Court for the State of Washington in the County of Yakima.

Wheeler, Ronald A., 4080 W. 1st Street, Space 137, Santa Ana, California, convicted on November 20, 1961, in the Superior Court of California for Los Angeles County.

White, Ronald C., 8503 Colonial Drive, Stockton, California, convicted on December 27, 1956, in the Calaveras County Superior Court, San Andreas, California.

Williams, Robert H., 1401 River Road, Box #9, Elizabeth City, North Carolina, convicted on March 17, 1975, in the Camden County Superior Court, Camden, North Carolina.

Wilson, Cornelius E., 1923 Mandeville Street, New Orleans, Louisiana, convicted on December 9, 1970, in the United States District Court for the Eastern District of Louisiana.

Wolk, Harold G., 4011 County D, West Bend, Wisconsin, convicted on August 15, 1972, in Ruak County, County Court, Wisconsin.

Woodman, Robert P., P.O. Box 427, Mead, Washington, convicted on January 23, 1975, in the Superior Court, State of Washington, Spokane County.

Worsham, Robert W., Route 2, Box 522, Willis, Texas, convicted on February 14, 1975, in the District Court for the Ninth Judicial District of Texas, Montgomery County, Texas.

**Compliance With Executive Order 12044**

This notice of granting of relief does not meet the Department's criteria for significant regulations as set forth in the Federal Register November 8, 1978.

Signed: November 15, 1979.  
G. R. Dickerson,  
Director.

[FR Doc. 79-37855 Filed 12-10-79; 8:45 am]

BILLING CODE 4810-31-M

#### Internal Revenue Service

[Delegation Order No. 42 (Rev. 13)]

#### Revenue Representative Supervisors; Delegation of Authority

**AGENCY:** Internal Revenue Service.

**ACTION:** Delegation of Authority.

**SUMMARY:** Authorizes Revenue Representative Supervisors to sign consents fixing the period of limitations on assessments or collection. The text of the Delegation Order appears below.

**EFFECTIVE DATE:** December 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Donald R. Schumacher, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 7527, Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

J. R. Starkey,  
Acting Director, Collection Division.

Date of issue: December 4, 1979.  
Effective Date: December 4, 1979.

Subject: Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120, dated July 31, 1950; Order No. 150-2, dated May 15, 1952; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the

period of limitations on assessment or collection is delegated to the following officials:

- a. Regional Directors of Appeals;
  - b. Service Center Directors;
  - c. District Directors;
  - d. Director of International Operations.
2. This authority may be redelegated but not below the following levels for each activity:
- a. Service Centers—Chief, Accounting Branch; Chief, Correspondence and Processing Section; Revenue Officers; and Chief, Quality Review Staff.
  - b. Collection—Chiefs, Office Branches and Office Groups; Revenue Officers; Chiefs, Technical and Office Compliance Branches and Groups; Revenue Representative Supervisors;
  - c. Examination—Reviewers, Grade GS-11; Group Managers; Case Managers; and Returns Program Managers;
  - d. Criminal Investigation—Chiefs, Criminal Investigation Divisions, except this authority in streamlined districts is limited to the District Director;
  - e. Appeals—Appeals Officers;
  - f. Office of International Operations—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and
  - g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS-11; Group Managers.
3. This Order supersedes Delegation Order No. 42.

Issued: May 24, 1979.

Jerome Kurtz,  
Commissioner.

[FR Doc. 79-37845 Filed 12-10-79; 8:45 am]  
BILLING CODE 4830-01-M

#### INTERSTATE COMMERCE COMMISSION

##### Environmental Impact Statement for Motor Carrier Regulatory Reform

**AGENCY:** Interstate Commerce Commission, Energy and Environment Branch.

**ACTION:** Notice of Intent to Prepare an Environmental Impact Statement for Motor Carrier Regulatory Reform Initiatives.

**SUMMARY:** The Commission's Energy and Environment Branch intends to prepare a programmatic environmental impact statement (EIS) dealing with the environmental consequences of recent proposals by the Commission's Motor Carrier Task Force to ease or eliminate entry controls and to promote greater rate flexibility in the regulated motor



carrier industry. It is alleged that implementation of these proposals will result in heightened competition among motor carriers and lower transportation costs to the consumer.

A proposed scope for the draft EIS is set forth as supplemental information. No formal public scoping meeting is contemplated. Written comments on the proposed scope of study are invited.

**COMMENTS AND DATES:** Written comments should be submitted to: Energy and Environment Branch, Rm. 5377, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423, on or before January 10, 1980.

**FOR FURTHER INFORMATION CONTACT:** Steve Botts or Bob Maestro at (202) 275-7916.

**SUPPLEMENTAL INFORMATION:** At present motor carriers may associate with rate bureaus which establish uniform rates for transportation services. Member carriers are allowed to dissent from established rates. Tariff filings are subject to protest by shippers and other carriers and may be suspended upon a showing that they are unreasonable. The Task Force's motor carrier reform proposals call for the abolition of rate bureaus. Under the proposed reforms, motor carriers would establish individual tariffs. After a carrier has established a base rate (which is subject to protest and suspension), it would be permitted to file rates with a zone of reasonableness around the base rate, which could not be suspended unless they were clearly unreasonable, discriminatory, or likely to produce an embargo on traffic. Reform proposals also contemplate a "no notice" zone around the base rate, within which the carrier could negotiate rates without publishing tariffs or providing notice of its actions.

The motor carrier reform proposals under consideration would also substantially alter the manner in which operating authority is granted to carriers. Motor carriers now apply for authority to transport specified commodities between named points or areas. Such applications may be protested by other carriers on grounds that the public convenience and necessity or the public interest and the National Transportation Policy do not require the proposed service. Under the Task Force's reform proposals transportation of specified commodity groups between all points in the United States would be permitted upon a showing by the applicant that it is fit, financially and otherwise, to provide service as sought. Protests based on grounds other than applicant's alleged

unfitness would not be entertained. However, an applicant would not be permitted to serve an area larger than that to which it was willing to provide reasonably continuous and adequate service.

#### PROPOSED SCOPE FOR ENVIRONMENTAL IMPACT STATEMENT ON MOTOR CARRIER REGULATORY REFORM.

**A. Introduction**—The environmental consequences of regulatory reform will be determined largely by economic considerations.

1. Summary of past regulatory reform experiences: (a) The Australian experience; (b) The Canadian experience; (c) The air freight forwarder experience; (d) Other experiments in deregulation.

2. Summary of economic forecasts concerning probable effects of motor carrier regulatory reform in this country.

3. Economic assumptions, derived from previous experiences and forecasts, upon which the study will be developed.

**B. Environmental Impacts**—The environmental impacts associated with assumed conditions caused by motor carrier regulatory reform will be examined. Major areas of concern include, but are not limited to, the following:

1. *Energy impacts.* Assuming that regulatory reform heightens competition for available traffic, would the added competition create operational imbalances (e.g. more empty miles traveled) and result in less energy efficient transportation? Would added competition produce lower rates and a smaller profit margin, thereby increasing the incentive to operate in a fuel efficient manner?

2. *Safety impacts.* If carriers are permitted to establish virtually any compensatory rates they choose, is it possible that added competition may drive rates down to the point where carriers might overlook regular vehicle maintenance thereby creating potential safety hazards? Is there already sufficient incentive to defer maintenance?

3. *Socio-economic impacts.* (a) If under reform proposals, carriers tend to concentrate in major urban traffic centers, would service to rural areas and rural development be adversely affected? Would the job market in rural areas be affected? (b) What employment and business ramifications might be caused by increased rate flexibility? (c) How would carrier operations be affected if operating certificates (against which carriers may now borrow) are

rendered worthless by regulatory reform?

4. *Air and noise impacts.* If deregulation produces concentrations of carriers in major traffic centers, would the expected rise in noise and air pollution levels be significant?

5. Impacts on historic and archeologically significant properties.

6. Impacts on wildlife and water resources.

7. Impacts on other modes of transportation, including the unregulated sector of the industry. If deregulation results in lower motor carrier rates, would so much traffic be diverted from railroads as to significantly affect their profitability or viability?

**C. Alternative courses of action.**

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-37856 Filed 12-10-79; 8:45 am]

BILLING CODE 7035-01-M

#### Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission on or before January 10, 1980. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

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Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the

application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the

public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by the petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before January 10, 1980, (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring on a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notice on or before January 10, 1980, or the application shall stand denied.

**Note.**—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

#### Volume No. 220

Decided: November 19, 1979.

By the Commission, Review Board No. 2, Members Boyle, Eaton and Liberman.

MC 531 (Sub-410F), filed June 11, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *chemicals*, in bulk, in tank vehicles from Winder, GA, to points in AL, AR, LA, MS, NC, SC,

OK, TX, and TN. (Hearing site: Atlanta, GA.)

MC 730 (Sub-446F), filed June 7, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge, P.O. Box 8004, Walnut Creek, CA 94596.

Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, (1) from El Paso, TX, to points in NM and AZ, and (2) from points in NM, to points in AZ. (Hearing site: Albuquerque or Santa Fe, NM.)

MC 730 (Sub-447F), filed June 7, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge, P.O. Box 8004, Walnut Creek, CA 94596. Transporting *liquid weed killing compound*, in bulk, in tank vehicles, from Portland, OR, to points in KS, MO, IA, and IL. (Hearing site: Portland, OR, or San Francisco, CA.)

MC 5470 (Sub-194F), filed June 7, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St., NW, Washington, DC 20006. Transporting *coke*, in dump vehicles, from Conshohocken, PA, to Clarksburg, WV. (Hearing site: Washington, DC, or New York, NY.)

MC 16831 (Sub-31F), filed June 8, 1979. Applicant: MID SEVEN TRANSPORTATION COMPANY, a corporation, 2323 Delaware Ave., Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *steel*, from points in IL, IN, and OH, to Adel, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 5320 (Sub-13F), filed February 21, 1979, and previously notices in FR issue of June 8, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and ammunition parts), between the facilities of King Plastics, Inc., at Orange CA, on the one hand, and, on the other, Denison, TX, Waseca, MN, and Mt. Sterling, IL, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Los Angeles or Orange, CA.)



Note.—This republication clarifies the territorial description.

MC 5320 (Sub-31F), filed June 8, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of T G & Y Stores Company, at or near Shelbyville, KY, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 5320 (Sub-32F), filed June 8, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Genesco, Inc., at or near (a) Fulton, MS (b) Fayetteville, AL, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC.)

MC 5320 (Sub-33F), filed June 8, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of C. H. Clowers Supply Co. Inc., at or near Pine Bluff, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 35320 (Sub-334F), filed June 11, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate

as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Springs Mills, Inc., at or near (a) Kershaw, Lancaster, Mullins, Chester, Ft. Lawn, Ft. Mill, and Grace, SC, and (b) Biscoe and Laurel Hill, NC, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 52460 (Sub-246F), filed June 6, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *plumbing fixtures and fittings*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between Brownwood, TX, and Spartanburg, SC, on the one hand, and, on the other, points in AL, AR, CO, GA, FL, KS, LA, MS, MO, NM, NC, OK, SC, TN, and TX. (Hearing site: Milwaukee, WI.)

MC 61231 (Sub-154F), filed June 11, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a., ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *railroad ties*, (1) from points in IA, to points in IL, KS, MN, MO, NE, SD, and WI and (2) from Quincy, IL, to points in IA. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 68860 39 (Sub-39F), filed June 11, 1979. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, N.W., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting *glass containers*, from the facilities of Owens-Illinois, at Huntington, WV, to points in NC and VA. (Hearing site: Washington, DC, or Charleston, WV.)

MC 82841 (Sub-261F), filed May 21, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting (1) *such commodities* as are dealt in or used by manufacturers and dealers of (a) agricultural and industrial, equipment

and (b) lawn and leisure products, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), (a) between the facilities of Deere & Company, in Black Hawk and Dubuque Counties, IA, on the one hand, and, on the other, points in CO, NE, SD and WY, (b) between the facilities of Deere & Company, in (i) Polk, Scott, and Wapello Counties, IA, (ii) Rock Island County, IL, and (iii) Dodge County, WI, on the one hand, and, on the other, points in CO, KS, MO, NE, SD, and WY, and (c) between points in CO, KS, MO, NE, SD, and WY, restricted in (a) and (b) above to the transportation of traffic originating at or destined to the named facilities and in (c) above to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers.

Note.—Dual operations may be involved. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 82841 (Sub-262F), filed June 5, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting (1) *brass tubing, bronze tubing, and copper tubing*; and (2) *materials* used in the manufacture of the commodities named in (1) above, from Pulaski, TN, to points in AR, AZ, CO, IA, IL, KS, LA, MS, MO, NE, NM, OK, and TX.

Note.—Dual operations may be involved. (Hearing site: Washington, DC, or New York, NY.)

MC 82841 (Sub-264F), filed June 11, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting *zinc, zinc dross, and zinc residue*, between the facilities of St. Joe Zinc Company, at Josephstown, PA, on the one hand, and, on the other, those points in the United States in and west of WI, IN, IL, MO, AR, and LA (except AK and HI). (Hearing site: Pittsburgh, PA.)

Note.—Dual operations may be involved.

MC 94990 (Sub-2F), filed June 11, 1979. Applicant: NASSAU WORLD WIDE MOVERS, INC., 57 Central Ave., Farmingdale, NY 11735. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036. Transporting *household goods*, as defined by the Commission, between points in Bergen, Hudson, Passaic, Sussex, Morris, Union, Essex, Warren, Hunterdon, Somerset, Middlesex,

Mercer, Monmouth, and Ocean Counties, NJ, Richmond, Kings, Queens, New York, Bronx, Nassau, Suffolk, Rockland, Westchester, Putnam, and Orange Counties, NY, and Fairfield County, CT, on the one hand, and, on the other, points in CA, AZ, MN, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, MI, OH, FL, GA, NC, VA, WV, PA, NY, NJ, MD, DE, CT, RI, MA, NH, VT, ME, and DC. (Hearing site: New York, NY.)

MC 95540 (Sub-1106F), filed April 27, 1979, and previously noticed in FR issue of October 4, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West-Griffin road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *chemicals, cleaning, scouring and washing compounds, liquid plastic, defoaming compounds, ink, plastic sheeting, laminating machinery, and parts* for laminating machinery, from points in CA, to points in IN, IL, TX, NY, NJ, MA, MS, and VA. (Hearing site: Los Angeles, CA, or Washington, DC)

Note.—This republication shows CA as an origin point.

MC 110420 (Sub-824F), filed June 11, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *spent aluminum sulfate and spent phosphoric acid*, in bulk, in tank vehicles, from Grand Rapids and Muskegon, MI, to Milwaukee, WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 110420 (Sub-825F), filed June 11, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th St., NW, Washington, DC 20004. Transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of ICI Americas, Inc., at Memphis, TN, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing Site: Washington, DC.)

MC 114211 (Sub-415F), filed June 11, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adolor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in by (a) lumber distributors and stores, and (b) home improvement and home furnishing stores, (except commodities in bulk), from the facilities of Temple Eastex, Inc., in Angelina and San Augustine

Counties, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Shreveport, LA.)

MC 115331 (Sub-506F), filed June 5, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Transporting *dry plastics*, in bulk, in tank and hopper-type vehicles, from Henry, IL, to points in IN, OH, MI, WI, MN, IA, MO, KS, AR, KY, PA, NE, TN, OK, LA, MS, and TX. (Hearing Site: Washington, DC.)

MC 115651 (Sub-60F), filed June 11, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW, Washington, DC 20001. Transporting *fertilizer and fertilizer materials*, in bulk, from Lemont, Erie, Belvidere, Marseilles, Seneca, and Cordova, IL, and Clinton, IA, to points in IA, IN, and WI. (Hearing Site: Chicago, IL.)

MC 116300 (Sub-48F), filed June 11, 1979. Applicant: NANCE AND COLLUMS, INC., Post Office Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller Jr., 17th Floor, Deposit Guaranty Plaza, Post Office Box 22567, Jackson, MS 39205. Transporting *dry fertilizer*, from Cherokee, AL, to points in AR, LA, and MS. (Hearing site: Atlanta, GA.)

MC 118420 (Sub-4F), filed June 11, 1979. Applicant: BULLDOG TRUCKING OF GEORGIA, INC., P.O. Box 357, Carnesville, GA 30521. Representative: Paul P. Watkins, Sr., P.O. Box 56387, Atlanta, GA 30343. Transporting *synthetic staple fibre and synthetic yarn*, between the facilities of Courtauld's North America, Inc., at or near LeMoyne and Mobile, AL, on the one hand, and, on the other, points in GA, NC, and SC. (Hearing site: Atlanta, GA, or Mobile, AL.)

MC 119641 (Sub-169F), filed May 21, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *such commodities* as are dealt in or used by manufacturers and dealers of (a) agricultural and industrial equipment and (b) lawn and leisure products (except commodities in bulk); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), (a) between the facilities of Deere & Company, in (i) Black Hawk, Dubuque, Polk, Scott, and Wapello

Counties, IA, (ii) Rock Island County, IL, and (iii) Dodge County, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IN, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and the Lower Peninsula of MI, restricted to the transportation of traffic originating at or destined to named facilities and (b) between points in AL, AR, CT, DE, FL, GA, IN, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and the Lower peninsula of MI, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 119741 (Sub-195F), filed June 7, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W. P.O. box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *Meats, Meat products and meat by products, and articles distributed by meat-packing houses*, as described in sections A and C, of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at Britt, IA, and Armour & Company, at Mason City, IA, on the one hand, and, on the other, points in AR, CO, CT, DE, IL, IN, KS, MD, MA, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, WV, and DC, restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Phoenix, AZ.)

MC 121060 (Sub-114F), filed June 11, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. BOX 1416, Birmingham, AL 35201. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *plastic pipe and fittings*, from Henderson, KY, to points in IL, SC, and NC. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 124170 (Sub-134F), filed June 7, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from New Haven, CT, Wilmington, DE, and Philadelphia, PA, to points in IL, IN, OH, and MI. (Hearing site: New York, NY, or Washington, DC.)



MC 125951 (Sub-46F), filed June 8, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *foodstuffs*, from the facilities of Globe Products Company, Inc., at or near Clifton, NJ, to points in SD, NE, KS, MN, IA, MO, WI, IL, IN, KY, TN, OH, MI, and AR, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Newark, NJ.)

Note.—Dual operations may be involved.

MC 127651 (Sub-53F), filed May 31, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *iron and steel articles*, from Chicago, IL, to points in MN and WI. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 133590 (Sub-23F), filed June 7, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St.—Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *automotive accessories*; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automotive accessories (except commodities in bulk), between points in MA, on the one hand, and, on the other, points in the United States (except AK, HI, CT, RI, NH, and points in Albany, Schenectady, Rensselaer, and Columbia Counties, NY), under continuing contract(s) with Mark Fore-Vatco Industries, of Boston, MA. (Hearing site: Boston, MA.)

MC 135410 (Sub-75F), filed June 11, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *paper and paper products* (except commodities in bulk), from Glens Falls, NY, to points in IL, IN, IA, MI, MO, OH, and WI. (Hearing site: Washington, DC.)

MC 136511 (Sub-63F), filed June 1, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 23502. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *extruded and injection molded rubber and plastic products*; and (2) *materials,*

*supplies, and equipment* used in the manufacture, sale, and distribution of the commodities named in (1) above, from the facilities of Entek Corporation or America, at or near Irving and Saginaw, TX, to points in the United States (except AK, HI, ME, MT, NH, RI, VT, and WY). (Hearing site: Dallas, TX.)

MC 142811 (Sub-6F), filed June 11, 1979. Applicant: S.R.I. TRUCKING CO., a corporation, 1000 N. Cindy Lane, Carpinteria, CA 93013. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from points in FL to points in OH, MI, IL, IN, KY, and TN, under continuing contract(s) with (1) Citrus Central, Inc., of Orlando FL, and (2) Lykes Pasco Packing Company, of Dade City, FL. (Hearing site: Orlando, FL, or Los Angeles, CA.)

MC 144061 (Sub-3F), filed June 8, 1979. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac St., Wyckoff, NJ 07481. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum wax*, in bulk, in tank vehicles, from points in AR, IL, IN, KY, LA, NJ, OK, PA, TX, and WV, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MD, MI, MO, NJ, NY, OH, PA, SC, TN, TX, WV, and WI, under continuing contract(s) with Moore & Munger Marketing, Inc., of Fairfield, CT. (Hearing site: New York, NY, or Newark, NJ.)

MC 144061 (Sub-4F), filed June 8, 1979. Applicant: SICOMAC CARRIERS, INC., 347 Sicomac Avenue, Wyckoff, NJ 07481. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing ink*, in bulk, in tank vehicles, from East Rutherford, NJ, to points in CT, DE, MD, MA, NJ, NY, NC, OH, PA, VA, and WV, under continuing contract(s) with Sun Chemical Corp., of Ft. Lee, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 145760 (Sub-6F), filed June 4, 1979. Applicant: JOHNSON TRANSPORTATION CO., a corporation, 1614 Highway 13 North, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *pipe, valves, and hydrants*, from the facilities of Can-Tex Industries, at or near (a) Cannelton, IN, (b) Sparta, TN, and (c) Mineral Wells, TX, to points

in AL, AR, CO, DE, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NJ, NM, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Fort Worth, TX, or Jackson, MS.)

MC 145981 (Sub-7F), filed May 31, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *conveyor systems*, and (2) *materials, equipment, and supplies* used in the manufacture and sale of conveyor systems (except commodities in bulk), between Carlstadt, NJ on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 146541 (Sub-2F), filed June 4, 1979. Applicant: DAVIS BROTHERS, INC., P.O. Box 499, Savannah, TN 38372. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Transporting *limestone, lightweight aggregate, sand, gravel, lime, and base materials*, between Savannah, TN, on the one hand, and, on the other, points in AL, AR, and MS. (Hearing site: Memphis, TN.)

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Decided: November 16, 1979.

By the Commission, Review Board Number 3. Members Parker, Fortier & Hill.

MC 2095 (Sub-21F), filed June 11, 1979. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth, RFD 2, Box 10, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *gypsum and gypsum products*, in bulk, from the facilities of Georgia-Pacific Corp Gypsum Div., at or near Blue Rapids, KS, to the facilities of Ashgrove Cement Co. at or near Louisville, NE. (Hearing site: Kansas City, Mo.)

MC 3854 (Sub-52F), filed June 13, 1979. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, DC 20004. Transporting (1) *boards, building boards, wallboards, and insulating materials*, and (2) *supplies* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of Armstrong Cork Company, at or near Macon, GA, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Philadelphia, PA.)

MC 13134 (Sub-69F), filed June 14, 1979. Applicant: GRANT TRUCKING,

INC., P.O. Box 256, Oak Hill, OH 45658. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. Transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in DE, IL, IN, KY, MD, MI, MO, NJ, OH, PA, VA, WV, WI and DC. (Hearing site: Columbus, OH.)

MC 14314 (Sub-30F), filed June 13, 1979. Applicant: DUFF TRUCK LINE, INC., Broadway & Vine St., Lima, OH 45802. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over alternate routes for operating convenience only transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Fort Wayne, IN, and Detroit, MI, from Fort Wayne over U.S. Hwy 27 to junction U.S. Hwy 12 near Coldwater, MI, then over U.S. Hwy 12 to Detroit, MI, and return over the same route, (2) between Fort Wayne, IN, and Hillsdale, MI, from Fort Wayne over IN Hwy 37 to the IN-OH State line, then over OH Hwy 2 to Bryan, OH, then over OH Hwy 15 to OH-MI State line, then over MI Hwy 99 to junction MI Hwy 34 near Osseo, MI, then over MI Hwy 34 to Hillsdale, and return over the same route, (3) between Fort Wayne, IN, and Toledo, OH, over U.S. Hwy 24, (4) between Fort Wayne, IN, and Van Wert, OH, over U.S. Hwy 30, (5) between Fort Wayne, IN, and St. Marys, OH, from Fort Wayne over U.S. Hwy 33 to junction U.S. Hwy 127, then over U.S. Hwy 127 to St. Marys, OH, (6) between Fort Wayne, IN, and Dayton, OH, from Fort Wayne over U.S. Hwy 27 near Richmond, IN, then over U.S. Hwy 35 to Dayton, and return over the same route, (7) between Huntington, IN, and Van Wert, OH, from Huntington, IN, over U.S. Hwy 224 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Van Wert, and return over the same route, (8) between Marion, IN, and St. Marys, OH, from Marion over IN Hwy 18 to junction IN Hwy 67 near Bryant, IN, then over IN Hwy 67 to the IN-OH State line, then over OH Hwy 29 to St. Marys, and return over the same route, (9) between Marion, IN, and Dayton, OH, from Marion over IN Hwy 9 to junction U.S. Hwy 35, then over U.S. Hwy 35 to Dayton, and return over the same route, (10) between Indianapolis, IN, and Lima, OH, from Indianapolis over IN Hwy 67 to the IN-OH State line, then over OH Hwy 29 to junction U.S. Hwy 33 near St.

Marys, OH, then over U.S. Hwy 33 to junction Interstate Hwy 75 near Wapakoneta, OH, then over Interstate Hwy 75 to Lima, and return over the same route, (11) between Indianapolis, IN, and junction U.S. Hwy 40 and Interstate Hwy 75, over U.S. Hwy 40, (12) between Indianapolis, IN, and Jasper, IN, from Indianapolis over IN Hwy 37 to junction U.S. Hwy 50 (Near Bedford, IN), then over U.S. Hwy 50 to Loogotee, IN, then over U.S. Hwy 231 to Jasper, and return over the same route, (14) between Indianapolis, IN, and Vincennes, IN, over IN Hwy 67, (15) between Terra Haute, IN, and Vincennes, IN, over U.S. Hwy 41, (16) between Indianapolis, IN, and St. Louis, MO, over U.S. Hwy 40, and (17) between Indianapolis, IN, and Piqua, OH, over U.S. Hwy 36, serving no intermediate points in (1) through (17) above. (Hearing site: Columbus, OH.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 26825 (Sub-38F), filed June 11, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *aluminum products*, from Waynesboro, GA, Linton, IN, Muscatine, IA, Williamsburg, KY, Calwell, TX, and McKenney and Milford, VA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 44605 (Sub-52F), filed June 13, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Harry J. Jordan, 1000 Sixteenth St., NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Sacramento, CA, and Seattle, WA, over Interstate Hwy 5, serving all intermediate points, (2) between Vacaville, CA, and junction Interstate Hwys 5 and 505, over Interstate Hwy 505, serving no intermediate points, (3) between Reno, NV, and Red Bluff, CA, from Reno over U.S. Hwy 395 to junction CA Hwy 36, then over CA Hwy 36 to Red Bluff, and return over the same route, serving no intermediate points, (4) between Ogden, UT, and junction

Interstate Hwys 5 and 205, from Ogden over Interstate Hwy 80N to Portland, OR, then over Interstate Hwy 205 to junction Interstate Hwy 5, and return over the same route, serving all intermediate points, (5) between Winnemucca, NV and Spokane, WA, from Winnemucca over U.S. Hwy 95 to junction U.S. Hwy 195, then over U.S. Hwy 195 to Spokane, and return over the same route, serving all intermediate points, (6) between Spokane, WA, and Ellensburg, WA, over Interstate Hwy 90, serving all intermediate points, (7) between junction Interstate Hwy 80N and U.S. Hwy 395 near Stanfield, OR, and Seattle, WA, from junction Interstate Hwy 80N and U.S. Hwy 395 near Stanfield, OR over U.S. Hwy 395 to junction U.S. Hwy 730, then over U.S. Hwy 730 to junction WA Hwy 14, then over WA Hwy 14 to junction U.S. Hwy 12, then over U.S. Hwy 12 to junction WA Hwy 22, then over WA Hwy 22 to junction U.S. Hwy 97, then over U.S. Hwy 97 to junction Interstate Hwy 82, then over Interstate Hwy 82 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Seattle, and return over the same route, serving all intermediate points, (8) between junction U.S. Hwys 12 and 395 near Pasco, WA, and junction U.S. Hwy 395 and Interstate Hwy 90 near Ritzville, WA, over U.S. Hwy 395, serving all intermediate points, (9) between junction Interstate Hwy 80N and U.S. Hwy 30, and Bliss, ID, over U.S. Hwy 30, serving all intermediate points, and (10) between junction U.S. Hwy 95 and ID Hwy 78, and Boise, ID, from junction U.S. Hwy 95 and ID Hwy 78 over ID Hwy 78 to junction ID Hwy 55, then over ID Hwy 55 to junction Interstate Hwy 80N, then over Interstate Hwy 80N to Boise, and return over the same route, serving all intermediate points. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing sites: Phoenix, AZ, Portland, OR, Salt Lake City, UT, and San Francisco, CA.)

Note.—Applicant intends to join this authority with his presently existing authority.

MC 49304 (Sub-34F), filed June 13, 1979. Applicant: BOWMAN TRUCKING CO., INC., P.O. Box 6, Stephens City, VA 22655. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *Lime, Limestone, and limestone products*, from points in Frederick and



Shenandoah Counties, VA, to points in IN, KY, and NC. (Hearing site: Washington, DC.)

MC 83835 (Sub-160F), filed June 11, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: James W. Hightower, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *refractory material, ferro carbo briquets, silico manganese, ferro-manganese, and alloy material*, between Bond and Daingerfield, TX, on the one hand, and on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Irvin Enterprises. (Hearing site: Dallas, TX.)

MC 83835 (Sub-161F), filed June 11, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *construction materials, equipment, and supplies*, between points in the United States (except HI but including AK) restricted to the transportation of traffic originating at or destined to the facilities of (a) Fish Engineering and Construction Co., (b) Litwin Engineers and Constructors, Inc., (c) Foster-Wheeler Corporation, and (d) McKee and Co. (Hearing site: Houston or Dallas, TX.)

MC 83835 (Sub-163F), filed June 13, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: James W. Hightower, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting (1) *fabricated iron and steel articles, alloy iron castings, and coal tippie parts*; and (2) *equipment, material, and supplies* used in the fabrication and manufacture of the commodities named in (1) above between the facilities of McNally Pittsburg Mfg. Corp., at or near Pittsburg, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas TX.)

MC 94265 (Sub-300F), filed May 23, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs*, (except in bulk, in tank vehicles, from the facilities of Universal Foods Corp., at or near (a) Campbellsport, Dodgeville, Milwaukee, and Beloit, WI, (b) Franklin Park, IL, and

(c) Peru, IN, to points in CT, DE, OH, MA, MD, NJ, NY, PA, RI, VA, WV, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 94265 (Sub-306F), filed June 14, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs and food ingredients*, (except in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Decatur, IL, to points in AL, GA, FL, MS, NC, SC, VA, and WV, restricted to the transportation of traffic destined to the indicated destinations. (Hearing Site: Chicago, IL, or Washington, DC.)

MC 105045 (Sub-110F), filed June 12, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting (1) *Sewage treatment plants, aerators, lift stations*, and (2) *parts and accessories* used in the installation of the commodities in (1) above, from the facilities of Clow Corporation, at Richwood, KY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 106074 (Sub-117F), filed June 11, 1979. Applicant: B and P MOTOR LINES, INC., Shiloh Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *canned goods*, from the facilities of Woldert Canning, Inc., at or near Lindale, TX, to points in AL, GA, KY, NC, SC, TN, VA, and WV. (Hearing site: Dallas, TX, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106644 (Sub-281F), filed June 14, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III, P.O. Box 916, Atlanta, GA 30301. Transporting *most electrodes, and iron and steel articles*, between the facilities of Leckenby Company of Arkansas, at or near Fort Smith, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Little Rock, AR, or Washington, DC.)

MC 106074 (Sub-118F), filed June 13, 1979. Applicant: B & P MOTOR LINES, INC., Shiloh Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *foodstuffs* (except in bulk), from the facilities of Sunmark, Inc., at St. Louis MO, to points in TN;

and (2) *confectionery*, from the facilities of Breaker Confections, Division of Sunmark, IN, at Itasca, IL, to St. Louis, MO, and points in AL, FL, GA, SC, and TN. (Hearing site: St. Louis MO, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1247F), filed June 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities as are dealt in or used by retail gift shops, curio shops, and catalog distribution centers*, from points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, to the facilities of Swiss Colony Stores, Inc., at or near Monroe and Madison, WI. (Hearing site: Madison, WI.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1249F), filed June 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, Georgia 30309. Transporting *foodstuffs* (except commodities in bulk), from the facilities of M&M/Mars, Snack-Master Division, at or near Albany, GA to points in AL, AZ, AR, CA, CO, FL, IL, IN, IA, KS, LA, ME, MO, NE, NV, NH, NJ, NM, NY, OK, TX and UT. (Hearing site: Atlanta, GA.)

Note.—Dual operations be involved.

MC 107605 (Sub-23F), filed May 22, 1979, and previous notice in the FR November 23, 1979. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Rd. N.E., Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Mora, MN, and Fort Worth, TX, from Mora over MN Hwy 65 to its junction with Interstate Hwy 35; then over Interstate Hwy 35 to Fort Worth, and return over the same route, serving the intermediate and off-route points of Cambridge and Isanti, MN, Kansas City, MO, Kansas City, KS, and Dallas, TX. (Hearing site: St. Paul, MN.)

Note.—This republication is to add Dallas, TX, and show that this is a regular route instead of irregular route.

MC 112304 (Sub-192F), filed June 11, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting (1) *iron and steel articles*, between the facilities of Allegheny Ludlum Steel Corp., at Bagdad, Brackenridge, Coatesville, and West Leechburg, PA, and New Castle, IN, on the one hand, and, on the other, points in AL, AR, GA, LA, MS, MO, NC, SC, and TN; and (2) *nickel iron chromium alloys*, between the facilities of Allegheny Ludlum Steel Corporation, at Brackenridge and West Leechburg, PA, on the one hand, and, on the other, points in AL, AR, GA, LA, MS, MO, NC, SC, and TN. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 115654 (Sub-148F), filed May 14, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW., Washington, DC 20004. Transporting *such commodities as are dealt in by chain grocery and good business houses* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, GA, IL, IN, KY, MI, MO, MS, OH, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 117765 (Sub-265F), filed June 13, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting *yarn*, in containers, from facilities of Hollytex Carpet Mills, at or near Milledgeville, GA, to facilities of Hollytex Carpet Mills, at or near Anadarko, OK. (Hearing site: Oklahoma City, OK.)

MC 117765 (Sub-266F), filed June 13, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting *foodstuffs* (except frozen), in containers, from the facilities of Vlastic Foods, Inc., at or near Greenville, MS, to points in KS, MO, and OK. (Hearing site: Oklahoma City, OK.)

MC 123405 (Sub-70F), filed June 14, 1979. Applicant: FOOD TRANSPORT, INC. R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *foodstuffs* (except frozen

foods and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Dauphin Distribution Services Co., in Cumberland County, PA, to points in AR, FL, GA, LA, SC, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123744 (Sub-56F), filed June 11, 1979. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (1) *refractories*, from the facilities of North American Refractories Co. at or near: (a) Curwensville, PA, to points in AR and OK, (b) Mt. Union, PA, to points in NJ, PA, DE, MD, DC, VA, WV, OH, AR, OK, and NY (except port of entry on the international boundary between the US and Canada), and DC, (c) Womelsdorf, PA, to points in ME, NH, VT, PA, OH, AR, OK, and NJ (except points in Atlantic, Burlington, Cape May, Monmouth, Ocean and Sussex Counties), points in Washington, Frederick, Carroll Baltimore, Harford, Montgomery, Howard, Prince Georges, Anne Arundel, Charles and Calvert, and Baltimore City, MD; points in Frederick, Clark, Fauquier, Loudon, Prince William, Fairfax, Arlington and Stafford Counties, VA, and Alexandria, VA; and points in Jefferson and Berkeley Counties, WV, and DC (d) Vanport, PA, to points east of ND, SD, NE, KS and NM (except FL, GA, SC and TX), (e) White Cloud, MI, to points in and east of MN, IA, MO, OK, and TX (except NC, SC, GA, FL, MS, AL and TN), and (f) Farber, MO, to points in and east of MN, IA, MO, OK, and TX (except OH, PA, NY, NJ, MD, WV, and KY); (2) *Materials and supplies* used in the manufacture and installation of refractories (except refractory scrap), from points in and east of MN, IA, MO, OK and TX, to the facilities of North American Refractories Co. at or near (a) Curwensville, Mt. Union Womelsdorf and Vanport, PA, (b) White Cloud, MI and (c) Farber, MO, restricted in (1) and (2) above to transportation originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg PA.)

MC 123744 (Sub-58F), filed June 11, 1979. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (a) *refractories*, and *materials and supplies* used in the

manufacture of refractories, from the facilities of Harbison Walker Refractories, Division of Dresser Industries, Inc., at or near (1) Fulton and Vandalia, MO; to points in IN, IL, MI, OH, PA, WV, NY, NJ, DE, MD and VA, (2) Templeton, PA, and Portsmouth and Windham, OH, to points in PA, NY, NJ, MD, DE, and VA, and (3) Leslie and Jennings, MD, to points in PA, NY, OH, MI, IN, IL, MO, and WI; and (b) *materials* used in the manufacture of refractories, from points in MS, AL, AR, GA, SC, NC, VA, MD, PA, DE, NJ, NY, OH, MI, IN, IL, TN, and KY to the facilities of Harbison Walker Refractories, Division of Dresser Industries, Inc., at or near Clearfield, PA, restricted in (a) and (b) above to transportation originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 125254 (Sub-61F), filed June 11, 1979. Applicant: MORGAN TRUCKING CO., a Corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *frozen foodstuffs*, between the facilities of Monument Distribution Warehouse, Inc., at or near Indianapolis, IN, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Indianapolis, IN.)

MC 125335 (Sub-69F), filed June 13, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *meats, meat products, and meat by-products, articles distributed by meat-packinghouses, and commodities used by meat-packing houses*, as described in sections A, C, and D of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), between the facilities of (1) Lauridsen Foods, Inc., at or near Britt, IA, and (2) Armour & Company, at or near Mason City, IA, on the one hand, and, on the other, points in KY, TN, MS, AL, GA, FL, NC, and SC. (Hearing Site: Phoenix, AZ, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 133095 (Sub-268F), filed June 11, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore (same address as applicant). Transporting



meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), from the facilities used by Armour and Company, at or near Hereford and Lubbock, TX, to Houston, TX, restricted to the transportation of traffic having a subsequent movement by water. (Hearing Site: Ft. Worth, TX.)

MC 134105 (Sub-51F), filed June 11, 1979. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *canned and preserved foodstuffs (except in bulk)*, from the facilities of Heinz USA, a division of H. J. HEINZ Co., at or near Greenville, SC to, points in AL, MS, TN, those in FL on and west of FL Hwy 79, and New Orleans, LA, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing Site: Washington, DC.)

MC 134105 (Sub-53F), filed June 14, 1979. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *clay*, (except in bulk), from Waverly Mineral Products Company, at or near Meigs, GA, and in Thomas County, GA, to those points in the United States in and east of NM, CO, NE, SD, and ND, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Washington, DC.)

MC 136605 (Sub-122F), filed June 12, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *cement and cement products*, in bags, from the facilities of BMD-Sakrete, at or near Denver, CO, to points in WY and NE. (Hearing Site: Denver, CO.)

MC 138824 (Sub-27F), filed June 11, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. La Salle St., Rm. 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *glass containers and closures*, from the facilities of Ball Corporation, at or near Mundelein, IL, and in Lake and Cook Counties, IL, on

the one hand, and, on the other, points in IA, MN, and WI, under continuing contract(s) with Ball Corporation, of Muncie, IN. (Hearing site: Chicago, IL.)

MC 138824 (Sub-28F), filed June 14, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers*, and (2) *materials and supplies* used in the manufacture of glass containers (except commodities in bulk); between the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Lawrenceburg, Indiana and Streator, Illinois, on the one hand, and, on the other, points in MS, MO, KY, IA, IN, IL, WI, MI, OH, and MN, under continuing contract(s) with Thatcher Glass Manufacturing Co., of Elmira, NY. (Hearing site: Chicago, IL.)

MC 139495 (Sub-460F), filed June 11, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6)(1978) when moving in mixed loads with bananas, from Port Hueneme, Ca, to points in AZ, CO, ID, IL, IN, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Washington, DC.)

MC 139495 (Sub-461F), filed June 12, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in or used by drug, grocery, and department stores, from the facilities of Colgate Palmolive Company, at or near Kansas City, KS, to points in AR, CO, IA, LA, NE, NM, OK, and TX. (Hearing site: Washington, DC.)

MC 139495 (Sub-462F), filed June 13, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *flour and grain products* (except commodities in bulk), between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OK, SC, TN, and TX. (Hearing site: Washington, DC.)

MC 141804 (Sub-237F), filed June 11, 1979. Applicant: WESTERN EXPRESS,

Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761.

Transporting *alcoholic beverages* (except commodities in bulk, in tank vehicles), from points in CA, to those points in the United States in and east of MN, IA, MO, AR, and LA (except WI, IL, IN, MI, OH, KY, TN and MS). (Hearing site: Los Angeles or San Francisco, CA.)

MC 142545 (Sub-2F), filed June 13, 1979. Applicant: DICK TAZER TRUCKING, INC., 1635 N.W. Mall, Issaquah, WA 98005. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *shortening*, from Vernon, CA, to points in OR and WA, under continuing contract(s) with Continental Commodities, Inc., of Vernon, CA. (Hearing site: Seattle, WA.)

MC 142715 (Sub-34F), filed April 5, 1979, previously noticed in the *Federal Register* of August 30, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), (a) from the facilities of Geo. A. Hormel & Co., at Beloit, WI, to points in AL, AR, CO, CT, DE, GA, FL, IN, IL, KY, LA, MD, ME, MA, MI, MN, MS, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC; (b) from the facilities of Geo. A. Hormel & Co., at Minneapolis-St. Paul, and Owatonna, MN, to points in CT, DE, GA, ME, MD, MA, NH, NY, OH, PA, RI, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations (except in foreign commerce); and (2) *meats, meat products, meat byproducts, foodstuffs, and materials, equipment, and supplies* (except commodities in bulk), from points in AL, AR, CO, CT, DE, FL, IN, IL, KY, IA, MD, ME, MA, MI, MN, MS, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, to the facilities of Geo. A. Hormel & Co., at Beloit, WI, restricted to the transportation of traffic originating at the named origin and destined to the named destinations (except in foreign commerce). (Hearing site: St. Paul, MN.)

Note.—This republication modifies the territorial descriptions and includes NJ and NH in Part (1)(a), and includes NJ in (1)(b), and (2) includes GA and LA, and deletes IA.

MC 145025 (Sub-5F), filed June 14, 1979. Applicant: CONSIGNOR'S, INC., P.O. Box 42, Centerville, OH 45459.

Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *parts and accessories*, for truck, trailer, mobile home, and recreational vehicles, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, and those commodities which because of size or weight require the use of special equipment), between the facilities of Dayton Walther Corporation, at (a) Cincinnati, Dayton, Moraine, Fayette, and Portsmouth, OH, (b) Carrollton and Franklin, KY, (c) Muncie and Richmond, IN, (d) Amherst, GA, (e) Union City, TN, and (f) Commerce, TX, on the one hand, and, on the other, points in GA, IN, IL, KY, LA, MD, MI, NY, OH, PA, TN, and TX, under continuing contract(s) with Dayton Walther Corporation, of Dayton, OH. (Hearing site: Columbus, OH.)

MC 145525 (Sub-4F), filed May 21, 1979. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44144. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *aluminum articles, plastic articles, building materials*, and (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of Alcan Aluminum Corporation, at or near Woodbridge, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Alcan Aluminum, of Cleveland, OH. (Hearing site: Cleveland, OH.)

MC 145525 (Sub-5F), filed May 21, 1979. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44144. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum articles, plastic articles, building materials*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in

(1) above, (except commodities in bulk), between the facilities of Alcan Aluminum Corporation, at or near (a) Pineville, NC, and (b) Buena Park, CA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Alcan Aluminum Corporation, of Cleveland, OH. (Hearing site: Cleveland, OH.)

MC 145525 Sub-6F), filed May 21, 1979. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44144. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metals and metal articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Alcan Aluminum Corporation, at or near (a) Buffalo, NY, (b) Philadelphia, PA, (c) Edison, NJ, (d) Marlborough, MA, (e) Windsor, CT, and (f) Baltimore, MD, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Alcan Aluminum Corporation, of Cleveland, OH. (Hearing site: Cleveland, OH.)

MC 145685 (Sub-1F), filed June 13, 1979. Applicant: CHARLES OTTO d.b.a. OTTO TRANSFER, 417 Elm Street, Delano, MN 55328. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. Transporting *poles, posts, sawn timbers, pilings and lumber*, from Minneapolis, MN, to points in OH, PA, WV, IN, MI, IL, ND, SD, MO, KS, NE, TN, KY, IA, and WI. (Hearing Site: St. Paul or Minneapolis, MN.)

MC 146145 (Sub-1F), filed February 26, 1979, previously noticed in *Federal Register* issue of June 21, 1979, as MC 145145 Sub-1F. Applicant: TOWER TRANSPORT, INC., 528 South Cumberland Ave., Park Ridge, IL 60068. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs* (a) from the facilities of Continental Freezers of Illinois, at Chicago, IL, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, and WI, and (b) from points in CO, IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, SD, and WI to the facilities of Continental Freezers of Illinois, at Chicago, IL. (Hearing site: Chicago, IL.)

Note.—This republication corrects the docket number.

MC 146174 (Sub-1F), filed May 8, 1979, previously published in the *Federal Register* issue of October 4, 1979. Applicant: PD EXPRESS, INC., 817 West Fifth Ave., Columbus, OH 43212. Representative: David H. Rowe (same address as applicant). Transporting *beer* (except in bulk), (1) from Evansville, IN, to Chicago, IL, and (2) from Newport, KY, to Chicago, IL and points in OH. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—This republication indicates the correct destinations in the second territorial description.

MC 146695 (Sub-2F), filed June 11, 1979. Applicant: YANKEE S. & L., INC., d.b.a. YANKEE MOTOR FREIGHT, 1136 East 500 South, Marion, IN 46952. Representative: Thomas F. Quinn, 11 North Pennsylvania St., 1301 First Federal Bldg., Indianapolis, IN 46204. Transporting (1) *containers*, and *container components*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, between Gas City, IN, on the one hand, and, on the other, points in IL, MI, OH, KY, WI, AND MO. (Hearing Site: Indianapolis, IN, or Chicago, IL.)

MC 146775 (Sub-1F), filed June 11, 1979. Applicant: J. L. N. DISTRIBUTING, INC., 7305 North Loop Rd., El Paso, TX 79915. Representative: Richard Hubbert, P.O. Box 10236, Lubbock TX 79408. Transporting (1) *building materials*, from El Paso, TX, to points in NM and AZ, and (2) *lumber, lumber products, and waste paper*, in the reverse direction. (Hearing site: El Paso or Lubbock, TX.)

MC 147385 (Sub-1F), filed June 11, 1979. Applicant: D & B TRUCKING, INC., 14463 Foothill Blvd., Los Angeles, CA 91342. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *furniture, and materials and supplies used in the manufacture and distribution of furniture*, between Los Angeles, CA, and Poplar Bluff, MO, on the one hand, and, on the other, points in AZ, CA, CO, KS, MO, NM, NV, OK, OR, TX; UT, and WA, restricted to the transportation of traffic originating at or destined to the facilities of Rowe Furniture Corp. (Hearing site: Los Angeles, CA.)

MC 147584F, filed June 14, 1979. Applicant: TIMBER BY-PRODUCTS, INC., 1113 S. Hill St., P.O. Box 869, Albany, OR 97321. Representative:



Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *woodchips, sawdust, and hog fuel*, from Polk and Yamhill Counties, OR, to Longview and Camas, WA. (Hearing site: Portland, OR.)

#### Volume No. 224

Decided: November 14, 1979.

By the Commission review Board No. 3. Members Parker, Fortier and Hill. Member Hill not participating.

MC 1977 (Sub-34F), filed March 30, 1979, and previously noticed in the FR issue of October 2, 1979. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of size or weight, require special equipment), (1) from Denver, CO, north over I-25 to Junction I-90, then westerly over I-90 to Spokane, WA, and return over the same route, serving no intermediate points, (2) from Salt Lake City, UT, north over I-15 to Junction I-90, then westerly over I-90 to Spokane, WA, and return over the same route, serving no intermediate points, and (3) between Salt Lake City, UT, north over I-15 to Junction I-80 N, then over I-80 N to Junction U.S. 395, thence north U.S. 395 to Junction I-90 to Spokane, WA, and return over the same route, serving the intermediate point of Pasco, WA. (Hearing site: Denver, CO.)

MC 11207 (Sub-472F), filed March 21, 1979, and previously noticed in the FR issue of August 21, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *metal articles*, between the facilities of O'Neal Steel, Inc., at or near (a) Birmingham and Mobile, AL, (b) Little Rock, AR, (c) Jacksonville and Tampa, FL, (d) Atlanta, GA, (e) Lafayette, Monroe, and Shreveport, LA, (f) Jackson, MN, and (g) Chattanooga and Knoxville, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MD, MS, MO, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Birmingham, AL, or Washington, DC.)

Note.—This republication is to show MS as a destination point.

MC 21866 (Sub-121F), filed May 18, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102.

Transporting *food and food products*, and *materials and supplies* used in the manufacture and distribution of food and food products (except commodities in bulk, in tank vehicles) between the facilities of Red Cheek, Inc., at Fleetwood and Richmond Township (Berks County), PA and Hendersonville, NC, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 26396 (Sub-241F), filed May 1, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *agricultural chemicals*, from Luling, LA, to ports of entry on the international boundary line between the United States and Canada located at points in WA, MT, NE, and MN. (Hearing site: Billings, MT.)

MC 32166 (Sub-14F), filed May 2, 1979. Applicant: BRONAUGH MOTOR EXPRESS, INC., 1025 Nandino Blvd., Lexington, KY 40511. Representative: Francis W. McInerney, 1000 16th St., NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Lexington, KY, over U.S. Hwy 60 to its junction with Blue Grass Parkway to its junction with Interstate Hwy 65, then over Interstate Hwy 65 to Nashville, TN, and return over the same route, serving all intermediate points east and north of the Anderson-Washington, KY, county line, (2) from the intersection of U.S. Hwy 150 with the Boyle-Washington county line over U.S. Hwy 150 to its junction with Blue Grass Parkway, then over Blue Grass Parkway to its junction with Interstate Hwy 65, then over Interstate Hwy 65 to Nashville, TN, and return over the same route, serving no intermediate points and serving the intersection of U.S. Hwy 150 with the Boyle-Washington, KY, county line for joinder only; (3) from the intersection of KY Hwy 80 with the Laurel-Rockcastle, KY county line over KY Hwy 80 to its junction with Cumberland Parkway, then over Cumberland Parkway to its

junction with Interstate Hwy 65, serving no intermediate points and serving the intersection of KY Hwy 80 with the Laurel-Rockcastle, KY county line for joinder only, and (4) From Louisville, KY, over Interstate Hwy 71 to Cincinnati, OH, and return over the same route, serving no intermediate points. (Hearing site: Lexington, KY, and Nashville, TN.)

MC 42487 (Sub-912F), filed April 29, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Glens Falls, NY, and ports of entry on the international boundary line between the United States and Canada at or near Champlain, NY, over U.S. Hwy 9, serving the intermediate points of Plattsburgh and Champlain, NY, and serving junction U.S. Hwy 9 and NY Hwy 149, and junction U.S. Hwy 9 and NY Hwy 314 for purposes of joinder only, (2) between Pittsfield, MA, and ports of entry on the international boundary line between the United States and Canada at or near Highgate Springs, VT over U.S. Hwy 7, serving all intermediate points and the off-route point of Pownal, VT, (3) between junction U.S. Hwy 9 and NY Hwy 149 and Rutland, VT; from junction U.S. Hwy 9 and NY Hwy 149 over NY Hwy 149 to junction U.S. Hwy 4, then over U.S. Hwy 4 to Rutland, and return over the same route, serving no intermediate points, (4) between junction U.S. Hwy 9 and NY Hwy 314, and junction U.S. Hwy 2 and U.S. Hwy 7; from junction U.S. Hwy 9 and NY Hwy 314 over NY Hwy 314 to VT Hwy 314, (via ferry), then over VT Hwy 314 to U.S. Hwy 2 then over U.S. Hwy 2 to junction U.S. Hwy 7, serving no intermediate points, (5) between Rutland, VT, and Lebanon, NH, over U.S. Hwy 4, serving the intermediate points of Woodstock and White River Junction, VT, (6) between Champlain, NY, and Swanton, VT; from Champlain over U.S. Hwy 2 to junction VT Hwy 78, then over VT Hwy 78 to Swanton, and return over the same route, serving the intermediate point of Rouses Point, NY, and (7) between Champlain, NY, and Malone, NY, over U.S. Hwy 11, serving no intermediate points serving all intermediate and off

route points in Chittenden and Rutland Counties, VT, in routes (2) through (5) as described above. (Hearing site: Burlington, VT.)

Note.—Applicant indicates its intention to tack this authority with existing authority.

MC 45716 (Sub-12F), filed March 23, 1979. Applicant: WELSH BROS. MOTOR SERVICE, INC., 920-150th St., Hammond, IN 46320. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, gypsum and gypsum products, and building materials*, (except commodities in bulk), and (2) *materials and supplies used in the manufacture or distribution of the commodities named in (1)*, (except commodities in bulk), between the facilities of the United States Gypsum Company, at East Chicago, IN, on the one hand, and, on the other, points in IL, IN, IA, KY, MO, and WI, restricted to the transportation of traffic originating at or destined to the facilities of United States Gypsum Company, at East Chicago, IN. (Hearing site: Chicago, IL.)

MC 61396 (Sub-371F), filed May 10, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). Transporting *cement*, from Joppa, IL, to points in IA and NE. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Omaha, NE, or St. Louis, MO.)

Note.—Dual operations may be involved.

MC 111956 (Sub-49F), filed April 12, 1979. Applicant: SUWAK TRUCKING COMPANY, a corporation 1105 Fayette St., Pittsburgh, PA 15301. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), in containers or in trailers, between points in DE, MD, NY, NJ, and VA, on the one hand, and, on the other, points in OH, the lower peninsula of MI, and Allegheny, Bedford, Blair, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland

Counties, PA, restricted to the transportation of traffic having an immediately prior or subsequent movement by water in foreign commerce. (Hearing site: Washington, DC, or Pittsburgh, PA)

Note.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 114416 (Sub-9F), filed February 28, 1979. Applicant: WESTERN TRANSPORT CRANE & RIGGING, a corporation, Route 11, Grant Creek Road, Missoula, MT 59807. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *contractors, sawmill, and mining materials, equipment, and supplies*, between points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OR, SD, TX, VT, WA, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Washington Corporations, Washington Construction Co., Modern Machinery, and Rental Equipment Co. Condition: The person or persons who appear to be in common control must file either an application for approval of such common control under 49 U.S.C. 11343 and 11344 (formerly Section 5(2) of the Interstate Commerce Act) or an affidavit indicating why approval is unnecessary. (Hearing site: Missoula, MT, or Spokane, WA.)

MC 116457 (Sub-46F), filed April 10, 1979. Applicant: GENERAL TRANSPORTATION INCORPORATED, 1804 S. 27th Ave., Phoenix, AZ 85005. Representative: D. Parker Crosby (same address as applicant). Transporting (1) *insulation materials, polystyrene products, urethane products, insulated building panels, paint, wood fibre products and (2) tools, equipment and supplies* used in the installation of the commodities in (1) above (except in bulk), from points in AZ, and UT, to points in CA, CO, OR, WA, ID, NV, UT, NM, AZ, WY, MT, TX, MO, AR, KS, OK, NE, MN, IA, ND, and SD. (Hearing site: Phoenix, AZ.)

MC 116947 (Sub-72F), filed May 25, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., S.W., Atlanta, GA 30310. Representative: Wm. Addams, P.O. Box 720434, Atlanta, GA 30328. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *adhesives, caulks, specialty chemicals, in containers*, (b) *empty plastic containers*, and (2)

*materials and supplies* (except commodities in bulk) used in the manufacture of the commodities named in (1) above, between the facilities of Franklin Chemical Industries at or near Columbus, OH, and points in the United States (except AK and HI), under continuing contract(s) with Franklin Chemical Industries, Inc., of Columbus, OH. (Hearing site: Atlanta, GA.)

MC 119176 (Sub-22F), filed March 29, 1979. Applicant: THE SQUAW TRANSIT COMPANY, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting (1)(a) *machinery, equipment, materials, and supplies*, used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (b) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking-up thereof (except in connection with main pipe lines) and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in CA, AS, and NV, on the one hand, and, on the other, points in KS, IL, LA, MO, NM, OH, OK, PA, TX, MS, AR, AL, GA, FL, IN, MI, and WV. (Hearing site: Houston, TX, or Tulsa, OK.)

MC 119777 (Sub-379F), filed May 23, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *gypsum wallboard*, from the facilities of Weyerhaeuser Company, Inc. at Briar, AR, to points in the United States (except AK and HI), (2) *posts, poles and piling*, from the facilities of Weyerhaeuser Company, Inc. at DeQueen, AR, to points in the United States (except AK and HI), (3) *crossties*, from the facilities of Weyerhaeuser Company, Inc. at Wright City, OK, to points in the United States (except AK and HI), (4) *particleboard and board or*



sheets, from the facilities of Weyerhaeuser Company, Inc. at Craig, OK, to points in the United States (except AK and HI), (5) *lumber and plywood* (a) from the facilities of Weyerhaeuser Company, Inc. at DeQueen, Dierks, Murfreesboro, and Mountain Pine, AR, to points in Logan County, KY, and (b) between the facilities of Weyerhaeuser Company, Inc. at DeQueen, Dierks, Murfreesboro, and Mountain Pine, AR and Wright City, OK and those points in the United States in and west of MT, WY, UT, AZ, and NM (except AK and HI), (6) *materials, equipment and supplies* (except commodities in bulk) used in the production and distribution of commodities named in (1), (2), (3), (4) and (5) above, from points in the United States (except AK and HI), to the facilities of Weyerhaeuser Company, Inc. at DeQueen, Dierks, Murfreesboro, Briar and Mountain Pine, AR and Wright City, and Craig, OK, restricted in (1), (2), (3), (4) and (6) above to the transportation of traffic originating at or destined to the facilities of Weyerhaeuser Company, Inc. (Hearing site: Little Rock, AR, or Dallas, TX.)

MC 121046 (Sub-8F), filed May 29, 1979. Applicant: B. A. MILLER & SONS TRUCKING, INC., State Route 109, Liberty Center, OH 43532. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting (1) *plastic articles* (except commodities in bulk), from the facilities of S. F. Plastics, Inc., at or near Liberty Center, OH, to points in MI, and (2) *materials and supplies* (except commodities in bulk), used in manufacture and sale of plastic articles, in the reverse direction. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 126346 (Sub-24F), filed March 26, 1979. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured or distributed by manufacturers of (1) power transmission and fluid handling equipment; (2) heat transfer, refrigeration, and air conditioning units; (3) avionics, actuating, generating, control and power systems; (4) pumps; (5) castings and weldments; (6) parts and components for (1), (2), (3), (4) and (5); and (7) *equipment, materials and supplies* for (1), (2), (3), (4), (5) and (6) (except commodities in bulk), between points in

the United States (except AK and HI), under continuing contract(s) with Sundstrand Corporation, Sundstrand Heat Transfer, Inc., Sundstrand Tubular Products, Inc., The Falk Corporation, Sundstrand Data Control, Inc., and Global Navigation, Inc. (Hearing site: Chicago, IL or Milwaukee, WI.)

MC 129166 (Sub-2F), filed May 22, 1979. Applicant: RED WING TRANSPORTATION CORPORATION, 3154 North Service Drive, Red Wing, MN 55066. Representative: Harry P. Strong, 201 Security Bldg., 2395 University Ave., St. Paul, MN 55114. To operate as a *contract carrier*, by motor vehicle, in interstate for foreign commerce, over irregular routes, transporting *chromed hides*, from points in AL, AR, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, NC, ND, OH, OK (except points in that part of Oklahoma on and east of U.S. Hwy 81), SC, SD, TN, TX, (except points in the Dallas-Ft. Worth commercial zone), and WI, to Red Wing, MN, under continuing contract(s) with S. B. Foot Tanning Co. of Red Wing, MN. (Hearing site: Minneapolis-St. Paul, MN.)

MC 129326 (Sub-33F), filed May 24, 1979. Applicant: CHEMICAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, FL 33660. Representative: Mark D. Russell, Suite 406-9, Walker Bldg., 734 15th St. NW., Washington, DC 20005. Transporting (1) *animal feed, feed ingredients, supplements and additives*, and (b) *materials, equipment and supplies* used in the manufacture, and distribution of animal feeds, from points in GA, to points in FL, (2) *styrene monomer*, in bulk, in tank vehicles, from Baton Rouge, Carville and Donaldson, LA, to Bartow, FL, and (3) *feed*, from points in AL, GA, and MS, to points in FL. (Hearing site: Atlanta, GA, or Tampa, FL.)

MC 134477 (Sub-342F), filed May 2, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *toilet preparations and soap products*, and (2) *commodities* used in the sale of the commodities named in (1) above, from Chaska, MN, to points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

MC 136886 (Sub-4F), filed May 24, 1979. Applicant: MASTERSON TRANSFER CO., INC., 3000 Pennsylvania Ave. West, Warren, PA 16365. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Transporting *waste water treatment equipment and fabricated steel*, from Warren, PA, to those points

in the United States east of MN, IA, MO, AR and LA (except points in Chautauqua, Erie and Cattaraugus Counties, NY). (Hearing site: Buffalo, NY.)

MC 141577 (Sub-2F), filed May 3, 1979. Applicant: RED STAR EXPRESS LINES OF ONTARIO, LIMITED, 1608 The Queensway, Toronto, ON M8Z 1V4. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Detroit, MI, and the ports of entry on the international boundary line between the United States and Canada at Port Huron, MI, over Interstate Hwy 94, serving no intermediate points, as an alternate route for operating convenience only in connection with applicants otherwise authorized regular route operations. (Hearing site: Rochester or Auburn, NY.)

MC 143077 (Sub-3F), filed March 27, 1979. Applicant: GERARD S. REDER, d.b.a. BERKSHIRE ARMORED CAR SERVICE, P.O. Box 62, 343 Pecks Road, Pittsfield, MA 01201. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. To operate as *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, (1) *such commercial papers, documents, and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, and (2) *coins, currency and instruments and documents* used in the business of banks and banking institutions in armored motor vehicles escorted by armed guards, between points in CT, MA, ME, and RI, all services are to be performed under continuing contract(s) with banks or banking institutions. (Hearing site: Springfield, MA, or Washington, DC.)

MC 143276 (Sub-15F), filed May 10, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Road #795, Atlanta, GA 30326. Transporting *mortar and cement mixes, dry concrete mix, cement, fly ash* (in bags), *fly ash cement and lime, sand, rock and stone, and acrylic paints*, (except in bulk), from the facilities of Williams Brothers Concrete, Inc., at or near Atlanta, GA, to points in AL, FL, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 143696 (Sub-11F), filed May 21, 1979. Applicant: AMERICAN

INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *springs, wheels, tubing, and (2) iron and steel articles*, between points in the United States (except AK and HI), under continuing contract(s) with Standard Commodities Import and Export Corp. of Canoga Park, CA. (Hearing site: Dallas, TX.)

MC 145636 (Sub-2F), filed May 10, 1979. Applicant: BOB BRINK, INC., 165 Stueben St., Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. Transporting (1) *processed grain products*, and (2) *commodities* which are otherwise exempt from economic regulation under Section 10526(6) (formerly Section 203(b)(6) of the Interstate Commerce Act when moving in mixed loads with commodities named in (1) above, from (a) Bunker Hill, KS, (b) Minneapolis, (c) St. Charles and Stockton, MN, to points in CA, CO, OR and WA. (Hearing site: Minneapolis or St. Paul, MN.)

MC 145187 (Sub-1F), filed March 26, 1979. Applicant: HERBERT TRUCKING, INC., R.R. #1, Macon, IL 62544. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fork lift trucks, yard tractors, trackmobiles, aerial platform lifts, and material handling equipment*, between points in AR, IL, IN, IA, KY, KS, MN, MI, MO, OH, PA, TN, and WI, under continuing contract(s) with Wiese Planning & Engineering, Inc. of Decatur, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 145856 (Sub-2F), filed May 22, 1979. Applicant: TIME CONTRACT CARRIERS, INC., 17734 Sierra Highway, Canyon Country, CA 91351. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Transporting (1) *foods, food products and commodities dealt in by retail gift shops*, and (2) *plants and bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above, from the facilities of Harry and David at or near Medford, OR, to points in the United States (except AK, OR and HI), and (3) *materials, equipment and supplies* used in or incidental to the packing of items in (1) and (2) above, between the facilities of Harry and David at or near

Medford, OR, and Dinuba, Kingsburg and Santa Ana, CA, Clearwater, FL, Newark, NY, Edinburg, TX and Chelan Falls, WA. (Hearing site: Los Angeles, CA.)

MC 145986 (Sub-1F), filed May 25, 1979. Applicant: EVERETT P. GLAZE, 38 West Hinman Ave., Columbus, OH 43207. Representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting (1) *glassware and glass articles*, from points in Pickaway County, OH, to Columbus, OH, and (2) *materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Columbus, OH.)

MC 146006 (Sub-2F), filed March 15, 1979. Applicant: RODCO LEASING, INC., 380 Union St., West Springfield, MA 01089. Representative: James M. Burns, 1383 Main St.—Suite 413, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stationery, office and school supplies*, between Springfield, MA, Meridian, MS, Chicago, IL, and Los Angeles, CA, under continuing contracts with National Blank Book Company of Springfield, MA. (Hearing site: Springfield, MA, or Washington, DC.)

MC 146946 (Sub-1F), filed April 14, 1979. Applicant: LINTEN HEAVY HAULERS, 3211 Gilman Road, El Monte, CA 91732. Representative: M. E. Otten (same address as applicant). Transporting (1)(a) *new and used factory machinery* and (1)(b) *industrial machinery* and (2) *components* for the commodities in (1)(a) and (1)(b), (3) *scrap metal*, (4) *tanks*, (5) *water purifying equipment*, (6) *construction equipment*, and (7) *over-sized or over-weight specialized machinery* from points in the United States to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA or Washington, DC.)

MC 147156F, filed April 20, 1979. Applicant: MANUFACTURER'S MOBILE HOME TRANSPORT, INC., P.O. Box 1519, Athens, TX 75751. Representative: Thomas F. Sedberry, 801 Vaughn Bldg., Austin, TX 78701. Transporting (1) *trailers and mobile homes* designed to be drawn by passenger automobiles, and (2) *buildings and modular structures* in sections mounted on wheeled undercarriages, from points in Henderson and Ellis, Counties, TX, to points in AR, LA, OK and NM. (Hearing site: Dallas or Houston, TX.)

MC 147447F, filed May 29, 1979. Applicant: R. P. CASAGRANDE, d.b.a. R.P. CASAGRANDE, 494 Main St., Oxford, MA 01540. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *orange juice and orange juice containers* (except commodities in bulk, in tank vehicles), between Dudley, MA, on the one hand, and, on the other, points in ME, NH, VT, CT, RI, and NJ, under a continuing contract(s) with Deary Bros., of Dudley, MA. (Hearing site: Boston, MA.)

MC 147427F, filed May 29, 1979. Applicant: DOOR TRANSPORTATION, INC., 50450 East Russell Schmidt Blvd., Mt. Clemens, MI 48043. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors*, and (2) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between Mt. Clemens, MI, on the one hand, and, on the other, points in CT, DE, IA, IL, IN, KS, KY, MA, MD, ME, MN, MO, NC, ND, NE, NH, NJ, NY, OH, PA, RI, SD, TN, VA, VT, WI, WV, and DC, under a continuing contract(s) with Michigan Birch Door Manufacturers, Inc., of Mt. Clemens, MI. (Hearing site: Detroit, MI.)

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Decided: November 9, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 906 (Sub-5F), filed May 22, 1979. Applicant: CONSOLIDATED CARTAGE CO., INC., 4528 South McDowell Avenue, Chicago, IL 60609. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Transporting (1) *bulb subassemblies, tube subassemblies, face plates, implosion plates, fiberboard boxes, and glassware*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Corning Glass Works, at Bluffton, IN, on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL.)

MC 2229 (Sub-212F), filed May 29, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign



commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Mobile, AL, and Atlanta, GA, from Mobile over U.S. Hwy 31 to Montgomery, then over Interstate Hwy 85 to Atlanta, and return over the same route, serving no intermediate points, (2) between Mobile and Montgomery, AL, over Interstate Hwy 65, serving no intermediate points but serving Montgomery, AL, for the purpose of joinder only, and (3) between Atlanta, GA, and Chattanooga, TN, over Interstate Hwy 75, serving no intermediate points, and (4) between Atlanta, GA, and Greenville, SC, over Interstate Hwy 85, serving no intermediate points. (Hearing site: Atlanta, GA, or Greenville, SC.)

Note.—Applicant intends to tack with existing certificates, to interline at published interchange points and to interline at Greenville, SC, and Chattanooga, TN, with ET & WNC Transportation Company.

MC 2359 (Sub-24F), filed May 29, 1979. Applicant: DAMEO TRUCKING, INC., 568 Central Ave., Bridgewater, NJ 08807. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting *talc*, in bulk, from West Windsor, VT, to Royston, GA, under continuing contract with Johnson & Johnson, of Piscataway, NJ. (Hearing site: New York, NY.)

MC 6319 (Sub-9F), filed May 29, 1979. Applicant: CALIFORNIA CARTAGE COMPANY, INC., 20021 Susana Rd., Compton, CA 90221. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *borax, boric acid, and borate rock*, in marine containers, from the facilities of U.S. Borax & Chemical Corp., at or near Boron, CA, to Los Angeles, Long Beach, Oakland, Port Hueneme, Richmond, San Diego, San Francisco, and Stockton, CA. (Hearing site: Los Angeles, CA.)

MC 18088 (Sub-61F), filed May 29, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW, Washington, DC 20036. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and distributors of (1) *paper and paper products*, (2) *cellulose or synthetic materials and products*, and (3) *consumer service and specialty products* (except commodities in bulk), between the facilities of Kimberly-Clark

Corporation, of Corinth, MS., on the one hand, and, on the other, points in the United States, (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities of Kimberly-Clark Corporation, at or near Corinth, MS. (Hearing site: Washington, DC.)

MC 18738 (Sub-59F), filed May 30, 1979. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 810 West 138th Street, Riverdale, IL 60627. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Transporting *iron and steel articles*, between Portage, IN, and Joliet and Chicago, IL, on the one hand, and, on the other, points in Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties, WI. (Hearing site: Chicago, IL.)

MC 23618 (Sub-52F), filed April 30, 1979. Applicant: McALISTER TRUCKING COMPANY d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Lexus J. Atchison (same as applicant). Transporting (1) *metal articles*, from points in Callahan and Taylor Counties, TX, to points in the United States (except TX, AK, and HI), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 25798 (Sub-379F), filed May 29, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Transporting *paper, paper products, and wood pulp board*, from West Point, VA, to points in IL, IN, IA, and OH. (Hearing site: Tampa, FL.)

MC 25798 (Sub-380F), filed May 29, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Transporting *chewing gum and confectionery products*, from the facilities of Topps Chewing Gum, Inc., at Duryea and Scranton, PA, to points in AL, CA, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NC, OH, TX, and WI. (Hearing site: Tampa, FL.)

MC 25798 (Sub-381F), filed May 29, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Transporting (1) *paper and paper products, plastic and plastic products, chemicals, and building products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation

of traffic originating at or destined to the facilities of Union Camp Corp. (Hearing site: Tampa, FL.)

MC 48948 (Sub-13F), filed May 29, 1979. Applicant: THE HOCKING CARTAGE COMPANY, R.R. #2, P.O. Box 373, Logan, OH 43138. Representative: Robert W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. Transporting (1) *pipe, pipe fittings, and chimney assemblies*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between Logan, OH, on the one hand, and, on the other, points in MI, PA, IN, KY, and WV. (Hearing site: Columbus, OH.)

MC 57239 (Sub-45F), filed May 29, 1979. Applicant: RENNER'S EXPRESS, INC., 1350 S. West St., Indianapolis, IN 46225. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Indianapolis, and Evansville, IN: from Indianapolis, over IN Hwy 67 to junction IN Hwy 57, then over IN Hwy 57 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, and return over the same route, and (2) between Evansville, IN, and Louisville, KY: from Evansville, over U.S. Hwy 41 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville, and return over the same route, serving no intermediate points in routes (1) and (2) above. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 57778 (Sub-30F), filed May 29, 1979. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Ave., Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting (1) *foodstuffs*, from the facilities of Globe Products Co., Inc., at or near Clifton, NJ, to points in AR, IN, IL, LA, MI, MN, OH, OK, PA, TN, TX, and WI, and (2) *frozen fruit*, from Brownsville and Laredo, TX, and points in Grand Traverse County, MI, to the facilities of Globe Products Co., Inc., at or near Clifton, NJ (Hearing site: Lansing, MI.)

MC 57778 (Sub-31F), filed May 29, 1979. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile

Road, St. Clair Shores, MI 48080. Transporting *such merchandise as is dealt in by chain grocery and food business houses* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in IA, IL, IN, KY, MI, MO, MS, NY, OH, PA, TN, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Lansing, MI.)

MC 61129 (Sub-8F), filed May 29, 1979. Applicant: B & H FREIGHT LINES, INC., P.O. Box 354, Harrisonville, MO 64701. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, motor vehicles, liquid commodities, in bulk, in tank vehicles, and those which because of six size or weight require the use of special equipment), between Kansas City, MO, and Warsaw, MO, (1) from Kansas City over U.S. Hwy 50 to junction MO Hwy 13, then over MO Hwy 13 to Clinton, then over MO Hwy 52 to junction U.S. Hwy 65, then over U.S. Hwy 65 to Warsaw, and return over the same route, and (2) from Kansas City, over U.S. Hwy 71 to Harrisonville, MO, then over U.S. Hwy 7 to Warsaw and return over the same route, serving in routes (1) and (2) above, Clinton, Calhoun, Windsor, Lincoln, and Warsaw, MO, as intermediate points, and points in Henry, Johnson, and Pettis Counties, MO, as off-route points. (Hearing site: Kansas City, MO.)

MC 78228 (Sub-123F), filed May 31, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting (1) *prefabricated metal building products, and materials and supplies used in the manufacture of prefabricated metal building products*, (a) between Ambridge, PA, and Connersville, IN, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, ND, NM, NV, OR, SD, UT, WA, and WY, and (b) between Stockton, CA, and St. Louis, MO, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) (a) *ventilators, ventilator parts, air louvers, prefabricated building metal work, and (b) materials and supplies used in the manufacture of the commodities in (2) (a) above*, between Batavia, OH, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, ND, NM, NV, OR,

SD, UT, WA, and WY. (Hearing site: Pittsburgh, PA, or Washington, DC.) MC 78228 (Sub-124F), filed May 31, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *petroleum fuel oil flue dust, in bulk, in dump vehicles*, from Oswego, NY, Portsmouth, VA, Strasburg and Yorktown, VA, to Bellaire, OH, Freeport and West Elizabeth, PA. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 82509 (Sub-7F), filed May 25, 1979. Applicant: RICHARD C. NOERR, JR., d.b.a. METAL TRANSPORT, Rd 3, Lewistown, PA 17044. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transporting *iron and steel products, aluminum products, and plastic products* from the facilities of Joseph T. Ryerson & Son, Inc., at Chicago, IL, to the facilities of Joseph T. Ryerson & Son, Inc., at Jersey City, NJ, and Philadelphia, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 85718 (Sub-14F), filed May 29, 1979. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, NE 68434. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501. Transporting *animal feed* (except in bulk, in tank vehicles), from the facilities of (a) Allen Products Corp., at Crete, NE, and (b) Gooch Feed Mill Corp., at Lincoln, NE, to Billings, MT, and points in CO, ID, OR, UT, and WA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 85718 (Sub-15F), filed May 29, 1979. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *automotive parts and accessories, automotive hand, electric, and pneumatic tools, and shock absorbers*, between the facilities of Walker Manufacturing Company, at (a) Seward, NE, and (b) Batavia, IL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Chicago, IL, to the facilities of Walker Manufacturing Company, at Seward, NE. (Hearing site: Lincoln, NE.)

MC 106398 (Sub-913F), filed May 29, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same as applicant). Transporting

*iron and steel pipe*, from the facilities of Special Steels Co. of N.Y. Inc., at Houston, TX, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of Special Steels Co. of N.Y. Inc., at Houston, TX. (Hearing site: Dallas, TX.)

MC 107478 (Sub-48F), filed May 29, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *iron and steel articles* from Buffalo, NY, Cleveland, Canton, Elyria, Warren, Massillon, and Youngstown, OH, Sharon, PA, and Ferndale, MI, to points in AL, DE, GA, KY, MD, NC, SC, and VA. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 108119 (Sub-160F), filed June 1, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *air pollution control equipment and parts for air pollution control equipment*, between Paramount and Eureka, CA, Grove City, OH, and Tempe, AZ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 108119 (Sub-162F), filed June 1, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting (1) *pollution control equipment, and (2) parts and accessories* for pollution control equipment, from points in Solano County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 109449 (Sub-37F), filed May 22, 1979. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). Transporting *meats, meat products and meat byproducts, articles distributed by meat-packing houses, and such commodities as are used by meat-packers in the conduct of their business when destined to and for use by meat packers*, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, at Britt, IA, and the facilities of



Armour and Co., at Mason City, IA, on the one hand, and, on the other, points in IL, IN, MN, ND, OH, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN, or Washington, DC.)

MC 109818 (Sub-51F), filed May 29, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Rock Falls and Sterling, IL, to points in IN, IA, MN, NE, CO, KS, and MO. (Hearing site: Chicago, IL.)

MC 109818 (Sub-52F), filed May 31, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in section A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in IL, IN, KS, MN, MO, NE, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 110988 (Sub-390F), filed May 29, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. Transporting *acids and chemicals*, in bulk, from Memphis, TN, to points in IL, IN, IA, MI, MN, MT, NY, ND, OH, PA, and WI. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 113678 (Sub-815F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). Transporting *foodstuffs*, (except in bulk), from Dallas, TX, to Albuquerque, NM, and Denver, CO. (Hearing site: Denver, CO.)

MC 113678 (Sub-816F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *frozen human plasma*,

from Denver, CO, to Louisville, KY, Chicago, IL, and Abilene and San Antonio, TX. (Hearing site: Denver, CO.)

MC 113678 (Sub-817F), filed May 10, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *plastic containers, and materials and supplies* used in the manufacture and distribution of plastic containers (except commodities in bulk, in tank vehicles), (1) between Denver, CO, on the one hand, and, on the other, those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (2) from Denver, CO, to New Castle, DE, Indianapolis, IN, and Columbus, OH. (Hearing site: Denver, CO.)

MC 113678 (Sub-818F), filed May 29, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). Transporting *charcoal, charcoal briquettes, hickory chips, charcoal lighter fluid, and compressed sawdust fireplace logs*, from the facilities of Husky Industries, Inc., at or near White City, OR, to points in AZ, CA, ID, CO, MT, NV, UT, WA, AND WY. (Hearing site: Atlanta, GA.)

MC 114569 (Sub-318F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). Transporting *such merchandise* as is dealt in or used by chain restaurants, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of International House of Pancakes. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-319F), filed May 30, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting: (1) *metal building materials, parts for metal buildings, sealing compounds, and accessories for metal buildings*, from Philadelphia, PA, to points in AZ, CA, CO, GA, FL, ID, MT, NC, NE, NM, ND, NV, OR, SC, SD, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114939 (Sub-53F), filed June 1, 1979. Applicant: BULK CARRIERS LIMITED, P.O. Box 10, Cooksville Post Office, Mississauga, Ontario, Canada L5A 2W7. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *normal pentane*, in bulk; in tank

vehicles, from Shreveport, LA, to ports of entry on the international boundary line between the United States and Canada. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 115669 (Sub-189F), filed May 25, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). Transporting *iron and steel articles*, (a) from Chicago, IL, and Gary and Hammond, Ind, to points in KS, and (b) from Portage, IN, to points in KS and MO, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO, or Chicago, IL.)

MC 116519 (Sub-62F), filed May 29, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R. R. No. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *alloys, animal litter, calcium carbonate, clay, fertilizer and fertilizer ingredients, foundry supplies, nepheline syenite ores, sand, and stone*, in containers, between ports of entry on the International Boundary line between the United States and Canada, in MI and NY, on the one hand, and, on the other, points in the United States, (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY). (Hearing site: Buffalo, NY.)

MC 118959 (Sub-225F), filed May 29, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, between the facilities of Sorg Paper Company, at or near Middletown, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 119399 (Sub-97F), filed April 30, 1979. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 David Boulevard, Joplin, MO 64801. Representatives: David L. Sitton (same address as applicant). Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compound* (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND,

OH, OK, SD, TX, and WI, and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodities in bulk, in tank vehicles), and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles) from points in IL, KY, OH, and OK to points in Warren County, MS. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123048 (Sub-443F), filed May 30, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting: *materials, equipment and supplies* used in the manufacture and distribution of agricultural equipment and parts for agricultural equipment, (except commodities in bulk), from points in the United States (except AK and HI), to facilities of Gehl Company, at West Bend, WI, and Madison, SD. (Hearing site: Chicago, IL, or Washington, DC.)

MC 123048 (Sub-444F), filed May 29, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting (1) *trailers* (except those designed to be drawn by passenger automobiles), *agricultural machinery, and agricultural implements*, (2) *parts, accessories, and attachments* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between Marysville, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Chicago, IL.)

MC 123048 (Sub-445F), filed May 29, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting *such commodities* as are dealt in or used by manufacturers of iron and steel articles between the facilities of Feralloy Corporation, at or near Birmingham, IL, on the one hand, and, on the other, points in AR, FL, GA, KY, IL, IN, IA, LA, MI, MO, MS, NC, OH, SC, TN, TX, and WI. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 123048 (Sub-446F), filed May 31, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC.,

5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting *materials, equipment, and supplies* used in the manufacture of agricultural equipment and parts, (except AK and HI), to the facilities of Kasten Manufacturing Corporation, at Allenton, WI. (Hearing site: Chicago, IL or Washington, DC.)

MC 134439 (Sub-4F), filed May 25, 1979. Applicant: JAMES G. FERNEYHOUGH, d.b.a. J. G. F. TRUCKING COMPANY, P.O. Box 2173, Lynchburg, VA 24501. Representative: Calvin F. Major, 200 West Grace St., Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *corrugated paper sheets, corrugated paper containers, and parts of corrugated paper containers*, from Lynchburg, VA, to points in DE, NJ, and KY, and (2) *materials, equipment and supplies* (except commodities in bulk, in tank vehicles) used in the manufacture and sale of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Weyerhaeuser Company of Plymouth Meeting, PA. (Hearing site: Richmond, VA.)

MC 135639 (Sub-13F), filed May 29, 1979. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *such commodities as are dealt in or used by food distribution facilities*, between points in NY on and west of Interstate 81, on the one hand, and, on the other, Scranton, Wilkes-Barre, and Philadelphia, PA, and points in NJ on and north of NJ Hwy 33. (Hearing site: Harrisburg, PA.)

MC 136898 (Sub-4F), filed May 31, 1979. Applicant: BAKER TRANSPORT, INC., P.O. Box 870, Hartselle, AL 35640. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products*, from points in Hot Spring, Garland, and Clark Counties, AR, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture or distribution of aluminum and aluminum products (except commodities in bulk, in tank vehicles), in the reverse direction, under continuing contract(s) with the Reynolds Metal Company, of Malvern, AR. (Hearing site: Birmingham, AL, or Memphis, TN.)

Note.—Dual operations may be involved.

MC 136919 (Sub-4F), filed May 29, 1979. Applicant: B. A. MILLER & SONS TRUCKING, INC., State Route 109, Liberty Center, OH 43532. Representative: A. Charles Tell, 100 East Co Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food products, foodstuffs, and materials and supplies* used in the production of food products (except commodities in bulk in tank vehicles), between Napoleon, OH, on the one hand, and, on the other, points in MD, VA, and DC, under continuing contract(s) with Campbell Soup Company, of Camden, NJ. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 138469 (Sub-150F), filed May 29, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting (1) *rubber and plastic articles, automotive parts and accessories, paper and paper products, kitchen and tablewares, glass products, athletic equipment, candles, floor coverings and accessories, television and cathode ray tubes, gloves, pottery, and food products*, (except commodities in bulk), from points in IN and OH, to points in the United States in and west of ND, SD, NE, KS, OK, and TN (except AK and HI), restricted to the transportation of traffic originating at the facilities of Lancaster Colony Corporation and destined to the indicated destinations, and (2) *rubber and plastic articles and plastic housewares*, from the facilities of Lancaster Colony Corporation, at Ft. Worth, TX, to Coshocton, OH, and points in the United States in and west of ND, SD, NE, KS, OK, and NM, (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 139638 (Sub-8F), filed May 30, 1979. Applicant: N. L. MONTGOMERY, INC., P.O. Box 626, Rocky Mount, VA 24151. Representative: Winston T. Jones (same address as applicant). Transporting *lumber and lumber mill products* between points in VA, on the one hand, and, on the other, points in NC. (Hearing site: Roanoke, VA, or Greensboro, NC.)

MC 140389 (Sub-64F), filed May 29, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O.



Box 12566, Atlanta, GA 30315.

Transporting *such commodities* as are dealt in or by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between point in AL, AR, AZ, FL, GA, IA, KY, MS, MT, NC, SC, and TN, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing Site: Washington, DC., or Chicago, IL.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(s) or submit an affidavit indicating why such approval is unnecessary.

MC 140768 (Sub-41F), filed May 30, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048.

Transporting: (1)(a) *lawn movers and grass catchers*, and (b) *accessories* for the commodities in (1)(a) above, from Genoa, IL to points in the United States (except AK and HI) and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing Site: New York, NY.)

Note.—Dual operations may be involved.

MC 140829 (Sub-259F), filed May 29, 1979. Applicant: CARGO, INC., P.O. Box 206, US Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *outdoor recreational equipment, and heating and air conditioning apparatus* (1) from the facilities used by The Coleman Company, Inc., at or near Wichita, KS, to points in AR, CO, CT, DE, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SD, TN, TX, VT, VA, WY, WI, and DC, and (2) from the facilities of The Coleman Company, Inc., at or near New Braunfels, TX, to points in AR, CO, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SD, TN, VT, VA, WY, WI, and DC, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing Site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-260F), filed May 31, 1979. Applicant: CARGO, INC., P.O. Box 206, US Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting: *printed matter*, from the facilities used by Commerce Clearing House, Inc., at or

near Chicago, IL to points in AR, CO, CT, IA, KS, LA, ME, MA, MO, NE, NH, NJ, NM, NY, ND, OK, PA, RI, SD, TX, and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Washington, DC.)

Note.—Dual operations may be involved in this proceedings.

MC 140829 (Sub-281F), filed May 31, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *vinyl siding*, from the facilities used by Robintech Incorporated, at or near Weatherford, TX, to points in CO, CT, KY, MD, MA, MN, MO, NH, NJ, NY, OH, PA, RI, and TN, restricted to the transportation of traffic originating at the name origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved in this proceeding.

MC 141628 (Sub-2F), filed May 29, 1979. Applicant: OVERROAD CONTAINER SERVICE, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *container chassis*, between points in CA, OR, and WA, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Los Angeles, CA, or E Seattle, WA.)

Note.—The persons who appear to be involved in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 142308 (Sub-1F), filed May 29, 1979. Applicant: BOB FORMAN ASSOCIATES, INC., 1401 Cedar Springs, Dallas, TX 75202. Representative: Jack L. Coke, Jr., 4555 First National Bank Building, Dallas, TX 75202. Transporting: *new furniture* between points in TX, on the one hand, and, on the other, points in OK and MN. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 142559 (Sub-97F), filed May 29, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215.

Transporting (1) *paper, paper products, and plastic articles*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to shipments originating at or

destined to the facilities of Container Corporation of America. (Hearing site: Columbus, OH.)

Note.—Dual operations and common control may be involved..

MC 143059 (Sub-83F), filed May 29, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting *roofing materials*, from the facilities of Masonite Corporation, at or near Meridian, MS, and Little Rock, AR, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, NC, OK, SC, TN, and TX, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143168 (Sub-4F), filed May 29, 1979. Applicant: TREASURE STATE TRANSPORT, INC., 1502 16th Avenue Southwest, Great Falls, MT 59404. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and forest products*, from Judith Gap, MT, to points in CO, IL, IA, KS, MN, MO, ND, NE, SD, UT, WI, and WY, under continuing contract(s) with Spring Creek Forest Products, Inc., of Kalispell, MT. (Hearing site: Great Falls, MT.)

MC 143499 (Sub-10F), filed April 23, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 50 South Main Street, Pearl River, NY 10965. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals* (except in bulk, in tank vehicles), and (2) *Materials and supplies* used in the manufacture of the commodities in (1) above, (except in bulk), between points in the United States (except AK, HI, ID, MT, NM, UT, and WY), under continuing contract(s) with Ciba-Geigy Corporation, of Ardsley, NY. (Hearing site: White Plains, NY.)

Note.—(1) The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary, and (2) Dual operations may be involved.

MC 144829 (Sub-3F), filed May 29, 1979. Applicant: MUCHMORE TRUCKING, LTD., 1881 S.E. "N" Street, Grants Pass, OR 97526. Representative: Jerry R. Woods, Suite 1440-200 Market Bldg., Portland, OR 97201. Transporting *foodstuffs*, in vehicles equipped with

mechanical refrigeration, (1) between points in OR and WA, on the one hand, and, on the other, points in CA, and (2) between points in OR and WA. (Hearing site: Portland, OR.)

MC 145588 (Sub-12F), filed May 30, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. Transporting *chemicals* between points in Brazoria, Harris, Jefferson, LaVaca, Orange, and Wharton Counties, TX, on the one hand, and, on the other, points CA, FL, GA, MA, MI, NJ, NY, and OH. (Hearing site: Denver, CO, and Omaha, NE.)

MC 145588 (Sub-14F), filed May 29, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. Transporting *plastics* (except in bulk, and plastic pipe and fittings), (a) from points in Brazoria, Galveston, Harris, Jefferson, LaVaca, and Orange Counties, TX, to points in CA, GA, IL, IN, IA, LA, MI, MN, NJ, NY, NC, OH, PA, TN, WV, and WA, and (b) between points in CA, GA, IL, IN, IA, LA, MI, MN, NJ, NY, NC, OH, PA, TN, WV, and WA. (Hearing site: Denver, CO, or Omaha, NE.)

MC 145588 (Sub-15F), filed May 30, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. Transporting *woven synthetic material, and chemicals* between Houston, TX, on the one hand, and, on the other, points in AZ, CA, FL, LA, NJ, PA, SC, TN, and WA. (Hearing site: Denver, CO, or Omaha, NE.)

MC 145928 (Sub-2F), filed May 31, 1979. Applicant: PANTEGO DISTRIBUTING CO., INC., P.O. Box 176, Pantego, NC 27860. Representative: Peter A. Greene, 900-17th Street NW., Washington, DC 20006. Transporting *manufactured forest products*, from points in NC, to points in CT, FL, ME, MA, NH, NJ, NY, RI, VT, SC, GA, AL, MS, KY, TN, WV, OH, MI, IL, IN, and WI, restricted to the transportation of traffic originating at the facilities of Weyerhaeuser Co., Inc. (Hearing site: Washington, DC.)

MC 146068 (Sub-8F), filed May 29, 1979. Applicant: CONSOLIDATED CARRIERS CORPORATION, Box 25842, Charlotte, NC 28205. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425-13th Street NW., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment), between points in AL, GA, NC, SC, TN, and VA, on the one hand, and, on the other, points in AZ, CA, NV, OR, UT, and WA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing site: Charlotte, NC.)

Note.—Dual operations may be involved.

MC 146138 (Sub-2F), filed May 31, 1979. Applicant: TONYAN BROS., INC., 512 W. Bay Rd., McHenry, IL 60050. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *sand*, in bulk, (1) from points in LaSalle County, IL, and Berrien County, MI, to points in IL and IN, and (2) between points in LaSalle County, IL, on the one hand, and, on the other, points in OH, IN, MI, and WI. (Hearing site: Chicago, IL.)

MC 146148 (Sub-3F), filed May 29, 1979. Applicant: B-RIGHT TRUCKING CO., a corporation, 492 Old State Route 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *iron and steel articles*, (a) from the facilities of Wheeling-Pittsburgh Steel Corporation, at Allentown and Monessen, PA, to points in IL, IN, MI, OH, NY, and WV, and (b) from the facilities of Wheeling-Pittsburgh Steel Corporation, at Beechbottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, IN, MI, OH, and PA; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (a) from the destinations named in (1) (a) above, to the origin facilities named in (1) (a) above, and (b) from the destinations named in (1) (b) above to the origin facilities named in (1) (b) above. (Hearing site: Washington, DC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) or submit an affidavit indicating why such approval is unnecessary.

MC 146569 (Sub-2F), filed May 31, 1979. Applicant: WELTON MOTOR FREIGHT, INC., 1301 Hermitage Road, Richmond, VA 23220. Representative: Clavin F. Major, 200 West Grace Street, Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lime, limestone products, and rock*, from points in VA to points in NC on and east of Interstate Hwy 95, under continuing contract(s) with Albemarle Chemical Company, of Hertford, NC, and (2) *prilled nitrogen*, in bulk from Tunis, NC to points in VA, MD, DE, and WV, under continuing

contract(s) with Southern States Cooperative, Inc., of Richmond, VA. (Hearing site: Richmond, VA.)

MC 146699 (Sub-3F), filed May 31, 1979. Applicant: KENNETH E. JONES AND JAMES H. PARRISH, d.b.a. DESOTO TRAIL, 282 East Main Street, Franklin, NC 28734. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mica*, (except in bulk), from the facilities of Franklin Mineral Products, in Franklin, NC, to points in the United States, (including AK but excluding HI) under continuing contract(s) with Franklin Mineral Products, of Franklin, NC. (Hearing site: Charlotte, NC, or Atlanta, GA.)

MC 147259 (Sub-1F), filed May 31, 1979. Applicant: CHURCHILL TRANSPORTATION, INC., 500 Wyoming, Dearborn, MI 48126. Representative: Gerald E. Churchill (same address as applicant). Transporting (1) *automotive parts, and (2) materials, equipment, and supplies* used in the manufacture of motor vehicles, between points in MI, OH, IN, IL, and KY on the one hand, and, on the other hand, points in FL, GA, and TX. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 147339 (Sub-1F), filed May 29, 1979. Applicant: MID-NORTHERN TRANSFER CO., Box 141, Grand Ridge, IL 61325. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *sand*, in bulk, from points in LaSalle County, IL, to the facilities of Thatcher Glass Manufacturing Co., Div. of Dart Industries, Inc., at Lawrenceburg, IN. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 147448F, filed May 25, 1979. Applicant: LUCIEN MENARD TRUCKING CO. LTD., 1 Main St., Belle Valee, Ontario, Canada POJ 1A0. Representative: Robert D. Gundersman, 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *lumber and composition board*, between ports of entry on the international boundary line between the United States and Canada in ME, NH, VT, NY, MI, and MN, on the one hand, and, on the other, points in IN, ME, MA, MI, MN, NY, OH, PA, VT, and WI. (Hearing site: Buffalo, NY.)

MC 148059F, filed May 30, 1979. Applicant: TRI-AREA TRUCKING CO., 320 West Edgerton Street, Bryan, OH 43506. Representative: Robert W. Gardier, Jr., 100 East Broad Street,



Columbus, OH 43215. Transporting *raw foundry sand and resin coated foundry sand*, from Muskegon, MI, Bridgman MI, and Chicago, IL, to the facilities of the General Motors Corporation Central Foundry Division, at or near Defiance, OH. (Hearing site: Columbus, OH, or Detroit, MI.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37855 Filed 12-11-79; 8:45 am]  
BILLING CODE 7035-01-M

#### [Volume No. 42]

#### Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate.

#### Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if: (1) Holds operating authority permitting performance of any of the service which the applicant seeks authority to perform; (2) Has the necessary equipment and facilities for performing that service; and (3) Has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of

those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 2229 (Sub-119 (MIF)) (Notice of Filing of Petition to Modify Certificate), filed May 14, 1979. Petitioner: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247.

Representative: Jackie Hill (same address as Petitioner.) Petitioner holds a motor common carrier certificate in MC 2229 (Sub-119), issued July 20, 1964, authorizing transportation over:

#### (A) Regular Routes:

*General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock, and commodities requiring the use of special equipment), serving all off-route points within five miles of either side of Louisiana Highway 1 between Port Allen and Donaldsonville, La., and Louisiana Highway 18 between Donaldsonville and Ama, La., restricted against tacking or joining with any other authority held by carrier herein for the purpose of providing through service between Memphis, Tenn., and New Orleans, La.

*General Commodities*, including Classes A and B explosives, but excepting household goods as defined by the Commission, commodities of unusual value, and commodities requiring special equipment, serving the plantsite of the United Gas Pipe Line Company located at a point approximately five miles southwest of Effie, La., as an off-route point in connection with carrier's regular-route operations authorized herein between Alexandria and Bunkie, La.

*General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special

equipment, serving the site of the Alexandria, La., Air Force Base, and Alexandria, La., Municipal Airport, near Alexandria, as off-route points in connection with regular-route operations authorized herein to and from Alexandria, La. serving Belle Chasse, La., as an off-route point in connection with regular-route operations authorized herein to and from New Orleans, La.

Between Minden, La., and McNeil, Ark., serving the intermediate points of Emerson, Kerlin, and Magnolia, Ark., and the off-route point of Lisbon, La.: From Minden over U.S. Highway 79 to McNeil, and return over the same route.

*General Commodities*, between Baton Rouge, La., and Junction Louisiana Highway 433 and U.S. Highway 90 serving all intermediate points; and off-route points within ten miles of the following-described route: From Baton Rouge over U.S. Highway 190 to junction U.S. Highway 11, then over U.S. Highway 11 to Slidell, La., then over Louisiana Highway 433 to junction U.S. Highway 90, and return over the same route.

Between Slidell, La., and Junction U.S. Highway 190 and U.S. Highway 90, serving all intermediate points; and off-route points within ten miles of the following-described route: From Slidell over U.S. Highway 11 to junction U.S. Highway 190, then over U.S. Highway 190 to junction U.S. Highway 90, and return over the same route.

Between New Orleans, La., and Mobile, Ala., serving all intermediate points: From New Orleans over U.S. Highway 90 to Mobile, and return over the same route.

Between Alexandria, La., and Ferriday, La., serving all intermediate points except Pollock, La., and the off-route point of Camp Livingston, La., restricted to the transportation of *General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk: From Alexandria over U.S. Highway 165 to Pollock, La., then over Louisiana Highway 8 to Trout, La., then over U.S. Highway 84 to Ferriday, and return over the same route.

Between North Little Rock, Ark., and West Monroe, La., serving intermediate points of Crossett, Ark., Bastrop and Monroe, La., and those between North Little Rock and Crossett, Ark., and off-route points within three miles of West Monroe, La.: From North Little Rock over U.S. Highway 65 via Pine Bluff, Ark., to junction Arkansas Highway 81, then over Arkansas Highway 81 to Monticello, Ark. (also from Pine Bluff over Arkansas Highway 15 to Warren, Ark., then over Arkansas Highway 4 to

Monticello), then continuing over Arkansas Highway 81 to Hamburg, Ark., then over unnumbered highway, to junction U.S. Highway 82, then over U.S. Highway 82 to Crossett, Ark., then over Arkansas Highway 133 to the Arkansas-Louisiana State line, then over Louisiana Highway 142 to junction Louisiana Highway 139 then over Louisiana Highway 139 to Bastrop, La., then over U.S. Highway 165 to Monroe, La., then over U.S. Highway 80 to West Monroe, and return over the same routes.

Between Alexandria, La., and Monroe, La., serving no intermediate points: From Alexandria over U.S. Highway 165 to Monroe, and return over the same route.

Between Mobile, Ala., and Crichton, Ala., serving all intermediate points, and the off-route nurseries of Blackwell, Overlook, Kiyono, Mobala, and Flowerwood. From Mobile over unnumbered highway to Crichton, and return over the same route.

Between Mobile, Ala., and Navco, Ala., serving all intermediate points, and the off-route nurseries of Blackwell, Overlook, Kiyono, Mobala, and Flowerwood: From Mobile over unnumbered highway to Navco, and return over the same route.

Between Mobile, Ala., and Chickasaw, Ala., serving all intermediate points, and the off-route nurseries of Blackwell, Overlook, Kiyono, Mobala, and Flowerwood: From Mobile over Alabama Highway 13 to Chickasaw, and return over the same route.

Between Mobile, Ala., and Spring Hill, Ala., serving all intermediate points: From Mobile over Old Shell Road to Spring Hill, and return over the same route.

Between Mobile, Ala., and Semmes, Ala., serving all intermediate points: From Mobile over Alabama Highway 42 to Semmes, and return over the same route.

Between Natchitoches, La., and Boyce, La., serving all intermediate points: From Natchitoches over Louisiana Highway 1 to Boyce, and return over the same route.

Between Ville Platte, La., and Bunkie, La., serving all intermediate points: From Ville Platte over Louisiana Highway 29 to Bunkie, and return over the same route.

Between Lecompte, La., and a Point on Louisiana Highway 112, Five miles from Lecompte, La., serving all intermediate points: From Lecompte over Louisiana Highway 112 to a point on said highway five miles from Lecompte, and return over the same route.

Between Leesville, La., and Camp Polk, La., serving all intermediate points: From Leesville over unnumbered highway to Camp Polk, and return over the same route.

Between Leesville, La., and Camp Polk, La., serving all intermediate points: From Leesville over U.S. Highway 171 to junction unnumbered highway, then over unnumbered highway to Camp Polk, and return over the same route.

*General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading:

Between New Orleans, La., and Monroe, La., serving all intermediate points, and the off-route points of Angola, Extension, Harrisonburg, and Fort Necessity, La., those on Louisiana Highway 17 between Winnsboro and Delhi, La., points on those portions of Louisiana Highways 4 and 128 between Winnsboro and St. Joseph, La., points on Louisiana Highway 137 between Archibald and Rayville, La., and off-route points within five miles of the following-described route: From New Orleans over U.S. Highway 61 to Natchez, Miss., then over U.S. Highway 65 via Ferriday, La., to junction Louisiana Highway 15, then over Louisiana Highway 15 to Monroe, and return over the same route.

Between Ferriday, La., and Tallulah, La., serving all intermediate points, and the off-route points of Newlight, La., points on Louisiana Highway 4 between Newlight and Newellton, La., (including Newellton), and all other off-route points within five miles of the following-described route: From Ferriday over U.S. Highway 65 to junction Louisiana Highway 128 west of St. Joseph, La., then over Louisiana Highway 128 to St. Joseph then over Louisiana Highway 605 via Osceola, Lake Bruin, Newellton, and Balmoral, La., to junction U.S. Highway 65 at or near Somerset, La., then over U.S. Highway 65 to Tallulah, and return over the same route.

Between Woodville, Miss., and Scotlandville, La., serving all intermediate points; and off-route points within five miles of the following described route: From Woodville over Mississippi Highway 24 to Centreville, Miss., then over Mississippi Highway 33 to the Mississippi-Louisiana State line, then over Louisiana Highway 19 to Scotlandville, and return over the same route.

Between Jackson, Miss., and Shreveport, La., serving all intermediate points: From Jackson over U.S. Highway 80 via Vicksburg, Miss., and Monroe,

La., to Shreveport, and return over the same route.

Between Shreveport, La., and Monroe, La., serving all intermediate points: From Shreveport over U.S. Highway 71 to junction Louisiana Highway 4, then over Louisiana Highway 4 via Ringgold, Castor, and Lucky, La., to junction Louisiana Highway 155 (also from Lucky over Louisiana Highway 9 to junction Louisiana Highway 155), then over Louisiana Highway 155 to junction Louisiana Highway 4, then over Louisiana Highway 4 via Friendship and Jonesboro, La., to Chatham, then over Louisiana Highway 34 to junction Louisiana Highway 144, then over Louisiana Highway 144 to junction U.S. Highway 80, then over U.S. Highway 80 to Monroe (also from Louisiana Highway 144 and Louisiana Highway 34, over Louisiana Highway 34 to Monroe), and return over the same route. From Shreveport over U.S. Highway 71 to Clarence, La., then over U.S. Highway 84 to Winnfield, La., then over U.S. Highway 167 to Jonesboro, La., then to Monroe, as specified immediately above, and return over the same route.

Between Lucky, La., and Arcadia, La., serving all intermediate points: From Lucky over Louisiana Highway 9 to Arcadia, and return over the same route.

Between Jonesboro, La., and Ruston, La., serving all intermediate points: From Jonesboro over U.S. Highway 167 to Ruston, and return over the same route.

Between Shreveport, La., and Cloutierville, La., serving all intermediate points: From Shreveport over Louisiana Highway 1 via Gayles, Hanna, and Natchitoches, La., to Cloutierville, and return over the same route.

Between Shreveport, La., and Leesville, La., serving all intermediate points, except points between Shreveport and Gloster, La.: From Shreveport over U.S. Highway 171 via Mansfield, Converse, and Many, La., to Leesville, and return over the same route. From Shreveport to Mansfield, as specified immediately above, then over Louisiana Highway 175 to Pleasant Hill, La., then over unnumbered highway to Converse, La., then over U.S. Highway 171 to Leesville, and return over the same route.

Between Natchitoches, La., and Many, La., serving all intermediate points: From Natchitoches over Louisiana Highway 6 to Many, and return over the same route.

*General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special



equipment, and those injurious of contaminating to other lading. (Concluded):

Between Hanna, La., and Many, La., serving all intermediate points: From Hanna over Louisiana Highway 1 to junction Louisiana Highway 174, then over Louisiana Highway 174 to Ajax, La., then over Louisiana Highway 487 to Marthaville, La., then over Louisiana Highway 120 to Belmont, La., then over Louisiana Highway 175 to Many and return over the same route.

Between Ajax, La., and Belmont, La., serving all intermediate points: From Ajax over Louisiana Highway 174 to Pleasant Hill, La., then over Louisiana Highway 175 to Belmont, and return over the same route.

Between Marthaville, La., and Cloutierville, La., serving all intermediate points: From Marthaville over Louisiana Highway 120 to Robeline, La., then over unnumbered highway via Cypress, La., to junction Louisiana Highway 1, then over Louisiana Highway 1 to Cloutierville, and return over the same route.

Between Natchez, La., and Cypress, La., serving all intermediate points: From Natchez over Louisiana Highway 1 to junction unnumbered highway, then over unnumbered highway to Cypress, and return over the same route.

Between Gayles, La., and Mansfield, La., serving all intermediate points: From Gayles over Louisiana Highway 175 to Mansfield and return over the same route.

Between Junction Louisiana Highway 175 and unnumbered highway, and Benson, La., serving all intermediate points: From junction Louisiana Highway 175 and unnumbered highway over unnumbered highway to Benson, and return over the same route.

Between Monroe, La., and the Louisiana-Arkansas State Line, serving all intermediate points, and off-route points of Swartz, Sterlington, Fowler, and Fairbanks, La.: From Monroe over U.S. Highway 165 to Bastrop, La., (also from Monroe over U.S. Highway 80 to junction Louisiana Highway 139, then over Louisiana Highway 139 to Bastrop), then over U.S. Highway 165 to the Louisiana-Arkansas State line, and return over the same routes; also return from the Louisiana-Arkansas State line over U.S. Highway 165 to Bonita, La., then over Louisiana Highway 140 to Bastrop, La., then to Monroe as specified above.

Between Oak Grove, La., and Tallulah, La., serving all intermediate points: From Oak Grove over Louisiana Highway 2 to junction U.S. Highway 65, then over U.S. Highway 65 to Tallulah, and return over the same route.

Between Oak Grove, La., and Delhi, La., serving all intermediate points: From Oak Grove over Louisiana Highway 17 to Delhi, and return over same route.

*General Commodities*, except those of unusual value, Classes A and B explosives other than dynamite, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment:

Between Pine Bluff, Ark., and Pine Bluff Municipal Airport, Ark., serving no intermediate points: From Pine Bluff over U.S. Highway 65 to junction unnumbered highway, then over unnumbered highway to Pine Bluff Municipal Airport, and return over the same route.

*General Commodities*, except household goods as defined by the Commission and commodities injurious or contaminating to other lading:

Between Alexandria, La., and Winnfield, La., serving all intermediate points: From Alexandria over U.S. Highway 167 to Winnfield, and return over the same route.

Between Junction U.S. Highway 80 and Louisiana Highway 7, West of Minden, La., and Springhill, LS., serving all intermediate points: From junction U.S. Highway 80 and Louisiana Highway 7, west of Minden, La., over Louisiana Highway 7 to Springhill, and return over the same route.

*General Commodities*, except those of unusual value and household goods as defined by the Commission:

Between Hamburg, Ark., and Memphis, Tenn., serving the intermediate points of Montrose and Lake Village, Ark.: From Hamburg over U.S. Highway 82 to Leland, Miss., then over U.S. Highway 61 to Memphis, and return over the same route.

Between Junction U.S. Highways 65 and 82 Southeast of Lake Village, Ark., and Bastrop, La., as an alternate route for operating convenience only, serving no intermediate points: From Junction U.S. Highways 65 and 82 over U.S. Highway 65 to Eudora, Ark., then over Arkansas Highway 159 to the Arkansas-Louisiana State line, then over Louisiana Highway 17 to Oak Grove, La., then over Louisiana Highway 2 to Bastrop, and return over the same route.

Between Oak Grove, La., and Delhi, La., as an alternate route for operating convenience only, serving no intermediate points: From Oak Grove over Louisiana Highway 17 to Delhi, and return over the same route.

Restriction: No shipments shall be transported over the three routes next above which is moving between Memphis, Tenn., on the one hand, and, on the other (1) Little Rock, Ark.,

Shreveport, Monroe, and West Monroe, La., (2) points on carrier's herein authorized routes in Alabama; (3) points in Mississippi on U.S. Highway 90 and that part of U.S. Highway 80 between Jackson, Miss., and the Mississippi-Louisiana State line, including Jackson; (4) points in Louisiana on U.S. Highway 190 and 90 east of Baton Rouge, La.; and (5) New Orleans, La., and points in the New Orleans, La., Commercial Zone.

#### ALTERNATE ROUTES FOR OPERATING CONVENIENCE ONLY:

*General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities injurious to other lading:

Between Natchez, Miss., and Vicksburg, Miss., serving no intermediate points: From Natchez over U.S. Highway 61 to Vicksburg, and return over the same route.

*General Commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading:

Between Mobile, Ala., and Natchez, Miss., serving no intermediate points: From Mobile over Alabama Highway 42 to the Alabama-Mississippi State line, then over U.S. Highway 98 to junction unnumbered highway then over unnumbered highway to junction U.S. Highway 49, then over U.S. Highway 49 to Collins, Miss., then over U.S. Highway 84 to Natchez, and return over the same route.

*General Commodities*, except those of unusual value, Classes A and B explosives, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment:

Between Winnfield, La., and Trout, La., serving no intermediate points: From Winnfield over U.S. Highway 84 to Trout, and return over the same route.

*General Commodities*, except those of unusual value, Classes A and B explosives, households goods as defined by the Commission, commodities in bulk, livestock, commodities requiring the use of special equipment, and those injurious or contaminating to other lading:

Between Little Rock, Ark., and Springhill, La., serving no intermediate points, and serving Magnolia, Ark., for joinder purposes only: From Little Rock over U.S. Highway 167 to junction U.S. Highway 79 at or near Fordyce, Ark., then over U.S. Highway 79 to junction Arkansas Highway 132 at Magnolia, Ark., then over Arkansas Highway 132 to the Arkansas-Louisiana State line.

and then over Louisiana Highway 7 to Springhill, and return over the same route.

Between Memphis, Tenn., and Springhill, La., serving no intermediate points, and serving Pine Bluff and Magnolia, Ark., for joinder purposes only: From Memphis over U.S. Highway 79 to junction Arkansas Highway 132 at Magnolia, Ark., then over Arkansas Highway 132 to the Arkansas-Louisiana State line, and then over Louisiana Highway 7 to Springhill, and return over the same route.

Restriction: Service at joinder points limited and restricted as follows; (a) No freight shall be transported over the alternate route between Memphis, Tenn., and Pine Bluff, Ark., that originates at Memphis, and is destined to Pine Bluff, or that originates at Pine Bluff and is destined to Memphis, but with no restrictions as to joinder of operations, alternate route with present routes at Memphis and Pine Bluff, (b) No shipment shall be transported over the alternate route between Memphis, Tenn., and Springhill, La., that is moving between Memphis, on the one hand, and, on the other, (1) Little Rock, Ark., Shreveport, Monroe, and West Monroe, La.; (2) points on carrier's herein authorized routes in Alabama; (3) points in Mississippi on U.S. Highway 90 and that part of U.S. Highway 80 between Jackson, Miss., and the Mississippi-Louisiana State line, including Jackson; (4) points in Louisiana on U.S. Highways 190 and 90 east of Baton Rouge, La.; and (5) New Orleans, La., and points in the New Orleans, La., Commercial Zone.

*General Commodities*, except Classes A and B explosives, households goods as defined by the Commission, commodities of unusual value, and commodities requiring special equipment:

Between Leland, Miss., and Vicksburg, Miss., serving no intermediate points, but serving Leland and Vicksburg for the purpose of joinder only: From Leland over U.S. Highway 61 to Vicksburg, and return over the same route.

Restriction: The service authorized under the commodity described next above is restricted against the use of such alternate route on all traffic moving between Memphis, Tenn., on the one hand, and, on the other, Baton Rouge, La.

#### (B) Regular Routes:

*General Commodities*, except households goods defined by the Commission:

Between Shreveport, La., and New Orleans, La., serving all intermediate points: From Shreveport over U.S. Highway 71 to junction U.S. Highway

190, then over U.S. Highway 190 to Baton Rouge, La., then over U.S. Highway 61 to New Orleans, and return over the same route.

Between Shreveport, La., and Clarence, La., serving all intermediate points: from Shreveport over Louisiana Highway 1 to Natchitoches, La., then over Louisiana Highway 6 to Clarence, and return over the same route.

Between Alexandria, La., and Colfax, La., serving all intermediate points: From Alexandria over Louisiana Highway 1 to Boyce, La., then over Louisiana Highway 8 to Colfax, and return over the same route.

Between Meeker, La., and Crowley, La., serving all intermediate points: From Meeker over U.S. Highway 167 to Turkey Creek, La., then over Louisiana Highway 13 to Crowley, and return over the same route.

Between Turkey Creek, La., and Krotz Springs, La., serving all intermediate points: From Turkey Creek over U.S. Highway 167 via Bayou Chicot, La., to Opelousas, La., then over U.S. Highway 190 to Krotz Springs, and return over the same route.

Between Lebeau, La., and Junction Louisiana Highway 10 and U.S. Highway 167 North of Opelousas, La., serving all intermediate points: From Lebeau over Louisiana Highway 10 via Beggs, La., to junction U.S. Highway 167, and return over the same route.

Between Alexandria, La., and Bunkie, La., serving all intermediate points: from Alexandria over Louisiana Highway 1 to Marksville, La., then over Louisiana Highway 115 to Bunkie, and return over the same route.

Between Echo, La., and Mansura, La., serving all intermediate points: From Echo over Louisiana Highway 1 to junction Louisiana Highway 114, then over Louisiana Highway 114 to Mansura, and return over the same route.

Between Marksville, La., and Long Bridge, La., serving all intermediate points: From Marksville over unnumbered highway to Long Bridge, and return over the same route.

Between Bunkie, La., and Junction Louisiana Highway 1 and U.S. Highway 190 near Erwinville, La., serving all intermediate points: From Bunkie over Louisiana Highway 29 to junction Louisiana Highway 1, then over Louisiana Highway 1 to junction U.S. Highway 190 near Erwinville, La., and return over the same route.

Between Port Allen, La., and New Orleans, La., serving all intermediate points: From Port Allen, La., over Louisiana Highway 1 to Donaldsonville, La., then over Louisiana Highway 18 to

New Orleans, and return over the same route.

#### (C) Regular Routes:

*Wrapping Paper, Paper Bags, and Machinery Parts*, Serving Elizabeth, La., as an off-route point in connection with carrier's regular route operations authorized herein for pick-up only, restricted to the transportation of shipments originating at Elizabeth, La.

*General Commodities*, except those of unusual value, Classes A and B explosives, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment:

Between Sterlington, La., and Junction Louisiana Highway 553 and U.S. Highway 165, serving all intermediate points: From Sterlington over Louisiana Highway 553 to junction U.S. Highway 165, and return over the same route.

*General Commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment:

Between Sarepta, La., and Bossier City, La., as an alternate route for operating convenience only in connection with carrier's regular route operations authorized herein, serving no intermediate points: From Sarepta over Louisiana Highway 2 to Plain Dealing, La., then over Louisiana Highway 3 to Bossier City, and return over the same route.

#### (D) Irregular Routes:

*General Commodities*, except household goods as defined by the Commission: From points on the regular routes specified under Part (B) above, to Elizabeth, La., with no transportation for compensation on return except as otherwise authorized. From points on the regular routes specified under Part (B) above, except New Orleans and Baton Rouge, La., to Hammond and Covington, La., with no transportation for compensation on return except as otherwise authorized. From points on the regular routes specified under Part (B) above, except Shreveport and Alexandria, La., to Haynesville, Homer, Jonesboro, Ruston (restricted to truckloads) and Winnfield, La., with no transportation for compensation on return except as otherwise authorized. From points on the regular routes specified under Part (B) above, except New Orleans, Baton Rouge, and Lake Charles, La., to Franklin, Houma, Jeanerette, Lafayette, Morgan City, New Iberia, Paterson, St. Martinville, Thibodaux, and Welsh, La., with no transportation for compensation on return except as otherwise authorized; From points on U.S. Highway 190



between Kinder and Eunice, La., to the irregular route destination points specified above, with no transportation for compensation on return except as otherwise authorized.

Any duplication of authority granted herein or to the extent that such authority duplicates any heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. By instant petition, Petitioner seeks to have amend as follows:

(E) Irregular routes:

*General Commodities*, except household goods as defined by the Commission: From and to points on the regular routes specified under Part (B) above, to and from Elizabeth, La; From and to points on the regular routes specified under Part (B) above, except New Orleans and Baton Rouge, La., to and from Hammond and Covington, La; From and to points on the regular routes specified under Part (B) above, except Shreveport and Alexandria, La., to and from Haynesville, Homer, Jonesboro, Ruston (restricted to truckloads), and Winnfield, La; From and to points on the regular routes specified under Part (B) above, except New Orleans, Baton Rouge, and Lake Charles, La., to and from Franklin, Houma, Jeanerette, Lafayette, Morgan City, New Iberia, Paterson, St. Martinville, Thibodaux, and Welsh, La; From and to points on U.S. Highway 190 between Kinder and Eunice, La., to and from the irregular routes destination and origin points specified above. Petitioner states the purpose of this amendment is to allow both an inbound and outbound service to Franklin, Houma, Jeanerette, Morgan City, New Iberia, Paterson, St. Martinville, Thibodaux, and Welsh, La. where petitioner has only inbound authority presently. Common control may be involved. (Hearing site: Baton Rouge, New Orleans or Lake Charles, La.)

MC 13300 (Sub-91) (M1F) (Notice of filing of petition to modify certificate), filed May 3, 1979. Applicant: CAROLINA COACH COMPANY, d.b.a. CAROLINA TRAILWAYS, 1201 S. Blount St., Raleigh, NC 27611. Representative: Lawrence E. Lindeman, 425 13th St., N.W., Suite 1032, Washington, DC 20004. Petitioner holds motor common carrier certificates in MC-13300 (Sub 91), issued July 27, 1978, authorizing transportation, over regular routes, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) between the junction of U.S. Hwy 13 and U.S. Hwy 9 and Harbeson, DE, over

U.S. Hwy 9, serving all intermediate points, and (2) between Lewes, DE, and Atlantic City, NJ, from Lewes, across the Delaware Bay (via the Lewes, DE-Cape May, NJ Ferry) to Cape May Point, NJ, then over U.S. Hwy 9 to its junction with NJ Hwy 109, then over NJ Hwy 109 to its junction with the Garden State Parkway, then over the Garden State Parkway to its junction with the Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, NJ and return over the same route, serving no intermediate points. By the instant petition, petitioner seeks to modify the authority by eliminating the restriction against serving all intermediate points and to add the following route descriptions: (1) between junction Garden State Parkway and New Jersey Hwy 47 and Wildwood, NJ, over New Jersey Hwy 47, serving all intermediate points, and (2) between junction Garden State Parkway and New Jersey Hwy 585 and Garden State Parkway and New Jersey Hwy 52, from junction Garden State Parkway and New Jersey Hwy 585 over New Jersey Hwy 585 to junction New Jersey Hwy 52, then over New Jersey Hwy 52 to junction New Jersey State Hwy 52 and Garden State Parkway, and return over the same route, serving all intermediate points.

MC 58940 (M1F) (Notice of filing of petition to modify certificate), filed May 8, 1979. Applicant: L. E. CLAPP, INC., 20 Woodard Road, Greenfield, MA 01301. Representative: James M. Burns, Johnson's Bookstore Bldg., 1383 Main St., Suite 413, Springfield, MA 01103. Petitioner holds motor common carrier certificate in MC-58940 issued February 25, 1959, authorizing transportation, over irregular routes, of (1) *machinery, tools, and looms*, from Greenfield, MA, to points in CT and PA, (2) *rakes and shovels*, from Greenfield, MA, to points in NH, VT, RI, CT, NY, and NJ, (3) *iron castings*, from Greenfield, MA, to points in VT, (4) *shooks and wooden containers*, from Wilmington, VT, to points in ME, NH, MA, RI, CT, NY, and PA, (5) *agricultural commodities*, from Greenfield, MA and points in MA within 10 miles of Greenfield, to points in NH, VT, and NY, (6) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Greenfield, MA, on the one hand, and, on the other, points in Franklin County, MA (7)(a) *such commodities* as are dealt in by department stores and mail order houses, and (b) *materials, equipment and supplies* used in the conduct of such business, between Greenfield, MA, on

the one hand, and, on the other, points in Windham County, VT and Cheshire County, NH, (8) *household goods* as defined by the Commission, between Greenfield, MA, and points in MA within 10 miles of Greenfield, on the one hand, and, on the other, points in RI, CT, NY, NH, and VT, (9) *household goods*, between Greenfield, MA, and points within 10 miles of Greenfield, on the one hand, and, on the other, points in ME, PA, and NJ. By the instant petition, petitioner seeks to modify the territorial description in (8) and (9) above by substituting "within 10 miles" with "within 25 miles".

**Broker, Water Carrier and Freight Forwarder Operating Rights Applications**

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the *Federal Register*. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

**Permanent Authority Decisions—Decision-Notice**

Decided: November 14, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*.

Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

*Findings:* With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the

requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Boyle, Eaton, and Liberman.

MC 130576F, filed May 21, 1979. Applicant: LINCOLN TOURS, INC., 10 West Elm Ave., Hanover, PA 17331. Representative: Norman T. Petow, 43 North Duke St., York, PA 17401. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hanover, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in York County, PA, and extending to points in the United States, (including AK and HI). Note: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauk Tours, Inc., Extension—New York, NY, 54 M.C.C. 291 (1952)*. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 130588F, filed May 29, 1979. Applicant: B & J TRAFFIC, INC., 116-18 Queens Blvd., Forest Hills, NY 11375. Representative: George Carl Pezold, 120 Main St., P.O. Box Z, Huntington, NY 11743. To engage in operations, in interstate or foreign commerce, as a *broker*, in Queens County, NY, in arranging for the transportation, by motor vehicle, of *general commodities*, between points in the New York, NY, commercial zone, on the one hand, and, on the other, points in the United States

(including AK and HI). (Hearing site: New York, NY.)

**Permanent Authority Decisions—Decision-Notice; Substitution Applications: Single-Line, Service for Existing Joint-Line Service**

Decided: November 14, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before January 10, 1979.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*



Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

**Findings:** With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before January 10, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1. Members Boyle, Eaton, and Liberman.

MC 1074 (Sub-19F), filed June 8, 1979. Applicant: ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, Va 22601. Representative: Francis W. McInerney, 1000 16th St. NW., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Washington, PA, and Cincinnati, OH; from Washington over Interstate Hwy 70 to junction Interstate Hwy 71, then over Interstate Hwy 71 to Cincinnati, and return over the same route, serving the intermediate point of Columbia, OH; and (2) between Athens and Columbus, OH, over U.S. Hwy 33, serving no intermediate points. *The sole purpose of this application is to substitute single-line for joint-line operations in which applicant has participated in traffic moving to and from Columbus, OH.*

MC 63417 (Sub-203F), filed April 19, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in DE, MD, NJ, NY, PA, and WV, to points in NC, SC, and VA. (Hearing site: Roanoke, VA, or Washington, DC.)

**Note.**—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 88380 (Sub-36F), filed June 1, 1979. Applicant: REB TRANSPORTATION, INC., 2400 Cold Springs Road, P.O. Box 4309, Fort Worth, TX 76106. Representative: Dennis Fuchshuber (same address as applicant). Transporting *machinery, materials, supplies, and equipment* incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in TX and LA. (Hearing site: Fort Worth, Dallas, or Houston, TX.)

**Note.**—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 134755 (Sub-191F), filed June 6, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox,

606 Hubbell Bldg., Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, (a) from Toledo, OH, to Bolivar and Springfield, MO; (b) from Pittsburgh, PA, and Chicago, IL, to Springfield, MO; and (c) from Beaumont, TX, to Kansas City, MO; and (2) *tires*, from Fayetteville, NC, to Kansas City, MO. *The sole purpose of this application is to substitute single-line for joint-line operations.* (Hearing site: Kansas City, MO.)

**Note.**—Dual operations may be involved.

#### Permanent Authority Decisions— Decision-Notice; Substitution Applications: Single-Line, Service for Existing Joint-Line Service

Decided: November 20, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before January 10, 1979.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the

rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

**Findings:** With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before January 10, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority,

such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3. Members Parker, Hill, and Fortier.

MC 95540 (Sub-1114F), filed May 29, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, GA, and Cuba, AL, from Atlanta over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to Cuba, and return over the same route, (2) between Atlanta, GA, and Tuskegee, AL, over U.S. Hwy 29, (3) between Tuskegee and Montgomery, AL, over U.S. Hwy 80, (4) between Montgomery and Gran Bay, AL, from Montgomery over U.S. Hwy 31 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Grand Bay, and return over the same route, (5) between Columbus, GA, and Tuskegee, AL, over U.S. Hwy 80, (6) between Montgomery and Cuba, AL, over U.S. Hwy 80, (7) between Bainbridge, GA, and Ardmore, AL, from Bainbridge over U.S. Hwy 84 to Dothan, AL, then over U.S. Hwy 231 to Montgomery, AL, then over U.S. Hwy 31 to junction AL Hwy 251, then over AL Hwy 251 to junction AL Hwy 53, then over AL Hwy 53 to Ardmore, and return over the same route, (8) between Dothan and Isney, AL, over U.S. Hwy 84, (9) between Montgomery and Stafford, AL, over U.S. Hwy 82, (10) between Birmingham, AL, and junction U.S. Hwy 27 and GA Hwy 2, from Birmingham over U.S. Hwy 11 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction GA Hwy 2 and return over the same route, (11) between junction U.S. Hwy 27 and GA Hwy 2 and Rossville, GA, over U.S. Hwy 27, (12) between Birmingham and Bexar, AL, over U.S. Hwy 78, (13) between Atlanta, GA, and Hamilton, AL, over U.S. Hwy 278, (14) between Rossville, GA, and Cherokee, AL, from Rossville over U.S. Hwy 27 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 72, then over U.S.

Hwy 72 to Cherokee, and return over the same route, (15) between Anniston, AL, and junction U.S. Hwy 72 and Alternate U.S. Hwy 72, from Anniston over U.S. Hwy 431 to Huntsville, AL, then over Alternate U.S. Hwy 72 to junction U.S. Hwy 72, and return over the same route, (16) between Columbus, GA and Mobile, AL, from Columbus, over U.S. Hwy 431 to Dothan, AL, then over U.S. Hwy 231 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Mobile and return over the same route, (18) between Bainbridge, GA and Pensacola, FL, from Bainbridge over U.S. Hwy 27 to Tallahassee, FL, then over U.S. Hwy 319 to Carrabelle, FL, then over U.S. Hwy 98 to Pensacola, and return over the same route, (19) between Pensacola, FL, and Flomaton, AL, over U.S. Hwy 29 and (20) between junction U.S. Hwy 27 and GA Hwy 2 and Atlanta, GA, from junction U.S. Hwy 27 and GA Hwy 2 over GA Hwy 2 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Atlanta and return over the same route, serving all intermediate points, and serving points in AL, those in FL on and west of U.S. Hwy 319, and those in GA on, north, and west of U.S. Hwy 411 as off-route points, restricted in (1), (2), (5), (7), (10), (11), (13), (14), (16), (17), (18), and (20), to the transportation of traffic moving from, to or through a point in AL.

**Note.**—Applicant indicates intention to tack with existing authority in MC-95540 Subs 733 and 999. The purpose of this application is to substitute single-line for joint-line operations.

#### Permanent Authority Decisions— Decision-Notice

Decided: November 20, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased



generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal. Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

**Findings:** With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes

unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

#### Brokers

MC 130435 (Sub-1F), filed October 18, 1979. Applicant: DESTINATIONS UNLIMITED, INC., 8120 Penn Avenue South, Bloomington, MN 55431. Representative: James M. Christenson, 4444 IDS Center, Minneapolis, MN 55402. To engage in operations, in interstate or foreign commerce, as a *broker*, at Bloomington, MN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage* in special or charter operations, beginning and ending at points in MN, and extending to points in FL. (Hearing site: Minneapolis, MN.)

MC 130599F, filed August 21, 1979. Applicant: CHARLES R. ROBINSON, d.b.a. ROBINSON TRAVEL SERVICE, 7604 Edgewater Drive, Columbia, SC 29204. Representative: Charles R. Robinson (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Columbia, SC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in SC, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Columbia, SC.)

**Note.**—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Touck Tours, Inc. Extension—New York, NY, 54 M.C.C. 291(1964).*

MC 130615F, filed October 17, 1979. Applicant: ELK TOURS INC., 20 Revolutionary Rd., Peekskill, NY 10566. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. To engage in operations, in interstate or foreign commerce, as a *broker*, at Peekskill, NY, in arranging for the transportation, by motor vehicle, of

*passengers and their baggage*, in special and charter operations, between points in Rockland and Westchester Counties, NY, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT.

**Note.**—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Touck Tours, Inc. Extension—New York, NY, 54 M.C.C. 291(1952).*

MC 130644F, filed November 5, 1979. Applicant: MARIAN M. GEISLER, d.b.a., M & M TRAVEL AGENCY, 1137 Logan Road, Bethel Park, PA 15102. Representative: Mark F. Geary, 826 Frick Bldg., Pittsburgh, PA 15219. To engage in operations, in interstate or foreign commerce, as a *broker*, at Bethel Park, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Allegheny County, PA, and extending to points in the United States (including AK and HI). (Hearing site: Pittsburgh, PA.)

**Note.**—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Touck Tours, Inc. Extension—New York, NY, 54 M.C.C. 291(1952).*

#### Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-14036F, filed May 10, 1979. Authority sought for the purchase by Pilot Freight Carriers, Inc., 4103 Cherry

Street NW., Winston-Salem, NC 27102 of the operating rights of Edward W. Bachman d/b/a Motor Express, 242 Greenfield Drive, Bridgeport, CT 06601, and for acquisition by R. Y. Sharpe, 4103 Cherry Street NW., Winston-Salem, NC 27102 of control of such rights through the transaction. Applicant's attorney: William F. King, Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, VA 22312. Operating rights sought to be purchased are contained in a Certificate of Registration and authorize the transportation as a motor common carrier of: (1) *Property*, over a regular-route between New Haven, CT and Greenwich, CT serving: New Haven, West Haven, Orange, Milford, Devon, Stratford, Bridgeport, Fairfield, Rowayton, Southport, Westport, Saugatuck, East Norwalk, Norwalk, South Norwalk, Darien, New Canaan, Springdale, Glenbrook, Stamford, Old Greenwich, Mianus, Riverside, Cos Cob and Greenwich, CT; and (2) *General Commodities* (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment), between any points within CT over such routes and highways within CT as may be necessary in the performance of a common carrier service. Pilot Freight Carriers, Inc. is authorized to operate as a *common carrier* in the States of AL, CT, DE, FL, GA, MA, MD, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and DC. Application has been filed for temporary authority under 49 U.S.C. § 11349. (Hearing sites: Charlotte, NC and New Haven, CT.)

**Note.**—MC 61264 (Sub—) is a directly related matter.

MC 14045F, filed June 3, 1979.

Transferee: AJAX TRANSFER COMPANY, 550 E. 5th St. So., So. St. Paul, MN 55075. Transferor: CRX CORPORATION, 5016 7th Place, Winona, MN 55987. Representatives: Paul Nelson, 550 E. 5th St. So., So. St. Paul, MN 55075 and Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Authority sought for purchase by Ajax Transfer Company of the operating rights of CRX Corporation. Operating rights sought to be transferred are set out in Docket No. MC-135003 (Sub-No. 1) authorizing transportation of frozen foods and poultry commodities from Faribault and St. Charles, MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Transferee is authorized to operate as a common carrier in the continental United States. No duplicate authority is sought. No application for temporary authority

under Section 210a(b) has been filed. (Hearing site: St. Paul, MN.)

MC-F-14093F, filed July 16, 1979.

Authority sought for control by Schiavone Charters, Inc., 243 Universal Drive, North Haven, CT 06473, of Valley Transportation, Inc., 516 Oxford Road, Oxford, CT, and subsequent merger of Valley Transportation, Inc. into Schiavone Charters, Inc., and for acquisition by Schiavone Transportation Corp., Michael Schiavone & Sons, Inc. and Joel Schiavone, Michael Schiavone and Esther Schiavone, through the acquisition by Schiavone Charters, Inc. of control of Valley Transportation, Inc. Applicant's attorneys: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103 and L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, VA 22312. Operating rights sought to be controlled and merged: authority to operate as a *common carrier* in the transportation of passengers and their baggage and express and newspapers in the same vehicle with passengers over regular routes between Waterbury, and Bridgeport, CT and between Port Chester, NY and Stamford, CT; passengers and their baggage in charter operations: (1) from Trumbull, CT and points within 30 miles of Trumbull to points in NY, NJ, MA, RI and PA and (2) from points in CT (except points in New London County) to points in 11 states and DC; and special operations (1) between numerous specified points in CT and named racetracks in NY, (2) from points in CT (except points in New London County) to points in 4 states and DC, (3) from numerous specific points in CT to portions of NY and MA, (4) beginning and ending at specified points in CT and extending to points in 7 specified states, (5) beginning and ending at specified points in CT and extending to Yankee and Shea Stadiums in New York City, all as more fully described in Certificates of Public Convenience and Necessity issued in MC-109865 Subs 5 and 13 and certificate to be issued in MC-10986 Sub 14F and brokers license issued in MC-12723 authorizing brokerage operations at Bridgeport, CT in arranging transportation for passengers in special and charter operations in roundtrip, all expense tours beginning and ending at points in Fairfield, New Haven and Hartford Counties, CT and extending to points in the U.S. (including AK and excepting HI). Schiavone Charters, Inc. holds no authority from the I.C.C. but is affiliated with Connecticut Limousine Service, Inc. which conducts bus and limousine operations between nineteen points in CT, on the one hand, and, on

the other, the John F. Kennedy International Airport and La Guardia Airport in New York City and Newark Memorial Airport, Newark, NJ. Application has been filed for temporary authority under Section 210a(b).

MCF 14137F, filed August 23, 1979.

Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Representatives: Kenneth G. Thomas, c/o T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Fred H. Mackensen, c/o Murchison & Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier* of general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, motor vehicles and livestock) between the Los Angeles area, as defined below, and San Diego and Goleta, CA serving all intermediate points and off-route points within ten miles of the designated Hwys.: From San Clemente to San Diego over Interstate Hwy. 5, and return over the same route. From Temecula to San Diego over Interstate Hwy. 15, and return over the same route. From Los Angeles to Goleta over U.S. Hwy. 101, and return over the same route. The *Los Angeles Area* includes all points within the following: beginning at the intersection of the Ventura-Los Angeles County boundary and the Pacific Ocean, then northeast along the said County line to its intersection with CA Hwy. 118, then east along CA Hwy. 118 to Sepulveda Boulevard, then north along Sepulveda Boulevard to Chatsworth Drive, then northeast along Chatsworth Drive to the San Fernando city line, then west, north and then east along the said city line to McClay Avenue, then northeast along McClay Avenue and its prolongation to the Angeles National Forest boundary, then southeast and east along the southern boundaries of the Angeles and San Bernardino National Forest to Mill Creek Road (near Redlands), then southwest on Mill Creek Road to the intersection of a County road 3.8 miles north of Yucaipa, then south along said county road (in part known as Bryant Street) to Yucaipa, serving all points in Yucaipa, then west along Yucaipa-Redlands Boulevard to U.S. Hwy. 70, then west along U.S. Hwy. 70 to the Redlands city line, then around the south side of Redlands to Brookside Avenue, then west along Brookside Avenue to Barton road (Barton Avenue), then west along Barton Road (Barton Avenue) and its prolongation to Palm Avenue, then west along Palm Avenue to LA Cadena Drive, then south along



LA Cadena Drive to Iowa Avenue, then south along Iowa Avenue to U.S. Hwy. 60, then southwest along U.S. Hwy. 395 to Nuevo Road, then east along Nuevo Road to Nuevo, then northeast along Lakeview Avenue to Lakeview, then east along Pico and Mead Roads and Central Avenue to the San Jacinto city limits, then east, south, and then west along the said city limits to San Jacinto Avenue, then south along San Jacinto Avenue to California Hwy. 74, then west on CA Hwy. 74 to the city limits of Hemet, then south, west, and then north along the city limits to the railroad right of way of the Atchison, Topeka & Santa Fe Railway Company, then southwest along said railroad right of way to Winchester Road, then south along Winchester Road to Washington Street and south along Washington Street to Benton Road, then west along Benton Road to the County Road which extends from such intersection southwest to U.S. Hwy. 395 at a point 2.1 miles north of Temecula, then south along the said County Road to U.S. Hwy. 395, then southeast along U.S. Hwy. 395 to the San Diego County boundary line, then west along the said County line to the Pacific Ocean, and then along the Pacific Coast to the point of beginning. (Hearing site: Los Angeles, CA).

Note.—The purpose of this Application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This Application is directly related to Sections 5(2) Finance Proceeding docketed MC-F and published in a previous section of the Federal Register Issue.

MC-F-14140F, filed: August 22, 1979. Authority sought by Central Transport, Inc., 34200 Mound Road, Sterling Heights, MI 48077, to purchase all of the operating rights and properties of Leelanau Motor Freight, Inc., 3868 Rennie School Road, Traverse City, MI 49684, and for acquisition of control of the rights and properties of Transferor by CenTra, Inc. and in turn by T. J. Moroun and M. J. Moroun, all of the same address, through the transaction. Applicant's attorneys, Walter N. Bieneman, 100 West Long Lake Road—Suite 102, Bloomfield Hills, MI 48013, for Transferee and Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48932, for Transferor. Operating rights sought to be transferred as follows: 1. General commodities (with the usual exceptions) over regular routes from Traverse City, MI north over M-22 to Northport and thence south over M-22 to Sugar Loaf Mountain, serving all intermediate points including Suttons Bay, Omena, Northport, Leland, and Lake Leelanau. 2. General commodities (with the usual exceptions) over regular

routes from Traverse City, MI north over M-37 to Old Mission, MI; and from Traverse City, MI south over M-37 to Grawn, MI, serving all intermediate points. Central Transport, Inc. is authorized to operate as a common carrier in IL, IN, KY, MI, NY, OH, PA, WV and WI. Hearing site: Lansing or Detroit, MI. Application has been filed for temporary lease authority. A directly related application has also been filed by Central Transport, Inc. for conversion to certificates of those portions of the authority of Leelanau Motor Freight, Inc. now held under registration in MC-57622 Subs 1 and 2.

MC-F-14148F, filed: August 30, 1979. Authority sought for purchase by DEL TRANSPORT, INC., 4 Crow Point Road, Lincoln, RI 02865 of the operating rights of Merrimack Motor Trans. Co., Inc., 31 Arthur Street, Bellingham, MA 02109, and for acquisition by Filomena Del Farno, 100 Yorkshire Street, Providence, RI 02908 of control of such rights through the purchase. Applicants' attorney: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Operating rights sought to be purchased: *General commodities*, as a common carrier, between points in MA, as more fully described in Certificate of Registration No. MC-85545 (Sub No. 1). Vendee is authorized to operate as a common carrier in Massachusetts and Rhode Island pursuant to MC-26639 and Subs. Application has been filed for temporary authority under 49 U.S.C. 11349. A directly related application seeking conversion of the certificate of registration to a certificate of public convenience and necessity is being simultaneously filed.

Note.—MC-26639 (Sub No. —F) is directly related matter.

MC-F-14185F, filed: October 8, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Sycamore, Alabama 35149. Representative: Charles Ephraim, Ephraim and Flint, Suite 600, 1250 Connecticut Avenue, N.W., Washington, DC 20036. Authority is sought by Floyd & Beasley Transfer Company, Inc. to purchase all of the operating authority of Barnett Transportation, Inc., and for Jule D. Beasley and Gertrude B. Floyd to acquire control of said operating rights through the purchase. Operating rights sought to be transferred: *Packing-house products, groceries, and fresh fruit and vegetables*, from Gadsden, Ala., to points within 35 miles of Gadsden, Ala.; *Cotton yarn*, from Sylacauga and Talladega, Ala., to Port Ewen, N.Y., Reynolds, White Haven, Reading, and Hazleton, Pa., and Pompton Lakes, Yardville, and Mount Holly, N.J.; *Fruit*

*juices*, from points in Florida and Texas to Birmingham, Ala.; *Methyl vinyl pyridine*, in bulk, in tank vehicles, from Pasadena, Tex., to Decatur, Ala.; *Methyl vinyl pyridine*, in bulk, in tank vehicles, between Pace, Fla., and Pasadena, Tex.; *Nylon salt solution*, in bulk, in tank vehicles equipped with mechanical temperature-control devices, from Gonzalez, Fla., to Decatur, Ala.; *Synthetic fiber yarn*, and *containers* used for the transportation thereof, between Gonzalez and Pensacola, Fla., on the one hand, and, on the other, Atlanta, Ga., with services at Atlanta, restricted as an interchange point; *Tire cord yarn*, and *containers* used in the transportation thereof, between Gonzalez and Pensacola, Fla., on the one hand, and, on the other, Barnesville, Ga.; *Synthetic fiber, synthetic fiber yarns*, and *tire cord yarn*, from Decatur, Ala., to points in Louisiana and Mississippi; *Synthetic fiber* and *synthetic fiber yarn* (a) from the plant sites and warehouses of Monsanto Company at Decatur and Huntsville, Ala., to points in North Carolina and Virginia; and (b) from the plant sites and warehouses of Monsanto Company at Gonzalez and Pensacola, Fla., to points in Georgia, North Carolina, South Carolina, and Virginia; *Textiles, textile products, equipment, materials*, and *supplies* used in the manufacture and distribution of textiles (except commodities in bulk and those which require the use of special equipment), between the plant site of Monsanto Company in Marshall County, Ala., on the one hand, and, on the other, points in Louisiana, Mississippi, North Carolina, and Virginia; (1) *Textiles and textile products*, and (2) *equipment, materials, and supplies*, used in the manufacture and distribution of textiles (except commodities in bulk and commodities requiring the use of special equipment in both (1) and (2) above), from the facilities of Monsanto Textiles Company, a division of The Monsanto Company, at Gonzalez and Pensacola, Fla., to points in Georgia, North Carolina, South Carolina, and Virginia. A directly related gateway elimination application was simultaneously filed. (Hearing site: Birmingham, AL or Washington, DC.)

MC-F-14200F, filed: Nov. 9, 1979. Transferee: IOWA PACKERS XPRESS, INC., 920 32nd Ave. West, Box 231, Spencer, IA 51301. Transferor: JONES TRANSFER, INC., 430 West 7th Street, Spencer, IA 51301. Representative: Bill E. Husby, P.O. Box 231, Spencer, IA 51301. Authority sought for purchase by Transferee of a portion of the operating rights of transferor, as set forth in MC-

11862 issued April 7, 1971 as follows: Irregular routes: *Malt beverages*, from Peoria, Ill., Minneapolis, Minn., and Omaha, Nebr., to Spencer, Iowa; and from Minneapolis, and St. Paul, Minn., and Omaha, Nebr., to Algona, Iowa; and from Milwaukee, Wisc., and Omaha, Nebr., to Arnolds Park, Iowa; and from Milwaukee, Wisc., to Britt and Spencer, Iowa; and from La Crosse, Wisc., to Spencer and Storm Lake, Iowa; and *Empty malt beverage containers*, from Spencer, Iowa, to Peoria, Ill., Minneapolis, Minn., and Omaha, Nebr. From Algona, Iowa, to Minneapolis and St. Paul, Minn., and Omaha, Nebr. From Arnolds Park, Iowa, to Milwaukee, Wisc., and Omaha, Nebr. From Britt and Spencer, Iowa, to Milwaukee, Wisc. From Spencer and Storm Lake, Iowa, to La Crosse, Wisc.

MCF (14206F), filed October 26, 1979. Authority sought by DUGAS EXPRESS COMPANY, 101 Knox Street, Lewiston, ME 04240, for the purchase of the operating rights of WARREN'S EXPRESS, INC., 371 Payne Road, Scarborough, ME 04074, and control of such rights through the purchase by Fernand Doyon, Richard Doyon and Normand Doyon, 101 Knox Street, Lewiston, ME 04240. Applicant's representative: Normand Doyon, 101 Knox Street, Lewiston, ME 04240.

Operating rights sought to be transferred are contained in Certificate of Public Convenience and Necessity No. MC-59505, authorizing the transportation, over *Regular Routes*, by motor vehicle, as a *Common Carrier, General Commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Portland, ME and specified points in NH, as follows, serving the intermediate and off-route points set out below: from Portland over ME Hwy 25 to Standish, ME, then over ME Hwy 113 to Fryeburg, ME (also from Portland over U.S. Hwy 302 to Fryeburg), then over U.S. Hwy 302 via Bartlett, NH to junction U.S. Hwy 3, then over U.S. Hwy 3 to Colebrook, NH, and return over the same route. From Portland over ME Hwy 25 to the ME-NH State line, then over NH Hwy 25 to Center Ossipee, NH, then over NH Hwy 16 to junction U.S. Hwy 302, and return over the same route. From Portland to Center Ossipee, NH, as specified above, then over NH Hwy 16 to junction NH Hwy 28, then over NH Hwy 28 to Wolfeboro, NH, and return over the same route. Service is authorized from and to all intermediate points, and off-

route points of S. Portland, ME, and Center Tuftonboro, Tuftonboro, Water Village, S. Wolfeboro, Mountainview, Granite, Whittier, Tamworth, S. Tamworth, Silver Lake, Madison, Eaton Center, Wonolancet, N. Sandwich, Ossipee, Jackson, Kearsage, and Passaconaway, NH, and over *Irregular Routes*, by motor vehicle, as a *common carrier, General Commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Portland, ME, on the one hand, and, on the other, points in the territory bounded by a line beginning at Portland, ME and extending in a northerly direction through Crescent Lake, ME, to Bethel, ME, then in a northwesterly direction through Milan, NH to N. Stratford, NH, thence in a southerly direction through Passumpsic, VT to Groton, VT, then in a southerly direction through Orfordville, NH to New London, NH, then in a southeasterly direction through Boscaawen, NH to Portsmouth, NH, and then in a northeasterly direction along U.S. Hwy 1 to Portland, ME, including the points named and points on that portion of U.S. Hwy 1 specified.

#### Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before January 10, 1980. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request

shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-78176, filed May 22, 1979. Transferee: WOLF OIL CO., INC., Hwy 24 W., Box 574, Moberly, MO 65270. Transferor: CLIVER OIL COMPANY, INC., Hwy 24 W., P.O. Box 633, Moberly, MO 65270. Representative: Jonathan M. Graves, P.O. Box 574, Moberly, MO 65270. Authority sought for the purchase by transferee of the operating rights of transferor set forth in Permit MC-106150, issued October 19, 1960, as follows: *petroleum products*, in bulk, in tank vehicles, from Kansas City, KS, to Richmond, Carrollton, Brunswick, Moberly, Macon, Centralia, Mexico, Montgomery City, Shelby, Monroe City, Fulton, Herman, Kirksville, and Brookfield, MO, and rejected shipments on return. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78209, filed June 26, 1979. Transferee: EASTERN TANK LINES, INC., 5536 Brentlinger Dr., Dayton, OH 45414. Transferor: SKYLINE TRANSPORT, INC., 1910 Russell St., Baltimore, MD 21230. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC-128642 (Sub 8), issued August 12, 1977, as follows: *corn products*, in bulk except corn oil in bulk, from Dayton, OH, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the facilities of Cargill, Incorporated and CAR-MI Incorporated, at Dayton, OH. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78211, filed June 25, 1979. Authority sought for transfer to Chicagoland Quad Cities Express, Inc., 907 West 19th Street, Chicago, IL 60608, of a portion of the operating rights issued in Docket No. MC 53752 to Western Transportation Inc., 1300 West 35th Street, Chicago, IL 60608. Transferee's attorney: Earl H. Scudder, Jr., P.O. Box 82028, Lincoln, NE 68501. Transferor's attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be purchased:



General commodities, with exceptions, as a common carrier over regular routes between Chicago, IL and Moline, IL, as more fully described in certificate No. MC 53752. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78235, filed July 23, 1979. Transferee: Ronald W. Nathan, d.b.a. Chandler's Auto Express, 162 Chandler St., Duxbury, MA 02332. Transferor: Emilio C. Bruno, (Margaret Bruno, Administratrix), d.b.a. E. C. Bruno Transportation, 60 Annesse Road, Chelsea, MA 02150. Representative: John E. Heraty, 60 State St., Boston, MA 02109. Authority sought for purchase by transferee of authority held by transferor in Certificate No. MC-19432, issued March 19, 1942, authorizing groceries and light machinery, over a regular route between Boston, MA, and Providence, RI. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78236, filed July 17, 1979. Transferee: Guignard Service Company, P.O. Box 26276, Charlotte, NC 28213. Transferor: Northeastern Trucking Company, 2700 Starita Road, Charlotte, NC 28213. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn. Ave. & 13th St., NW, Washington, DC 20004. Authority sought for purchase by transferee of operating rights held by transferor in Certificates No. MC-64112 Subs 11 and 24, authorizing the transportation of petroleum and petroleum products, from Charleston, SC, to points in FL (except Duval County); and such commodities as are dealt in by gasoline service stations, and gasoline service station equipment and supplies, from the facilities of Exxon Company, U.S.A., at or near Charleston, SC, to points in FL (except those in Duval and Escambia Counties), with restrictions. Transferee holds authority from the Commission in No. MC 143858. An application for temporary lease has not been filed.

MC-FC-78246, filed July 25, 1979. Transferee: Z & S Construction Co., Inc., P.O. Box 310, Kimball, NE 69145. Transferor: J & M Trucking, Inc., 881 East Magnolia, Casper, WY 82601. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Ron Brown, Petroleum Bldg., Casper, WY 82601. Authority sought for purchase by transferee of a portion of the operating rights of transferor in Certificates No. MC-128674 as follows: Generally, oil field equipment and supplies, between points in CO on and east of U.S. Hwy 87,

on the one hand, and, on the other, points in NE. Transferee holds no authority from the Commission. An application seeking temporary lease has been filed.

MC-FC-78253, filed July 31, 1979. Transferee: Domtar, Inc., 395 de Maisonneuve Blvd., West, Montreal, Quebec, Canada H3A 2L6. Transferor: Charles Harris & Sons Transport Limited, P.O. Box 4, Burlington, Ontario, Canada L7R 3X8. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC-123503, issued March 18, 1978, authorizing lumber, between ports of entry on the United States-Canada Boundary line at the St. Lawrence, Niagara, and Detroit Rivers, on the one hand, and, on the other, points in MI, OH, PA, and NY (except points in Kings, Queens, Nassau, and Suffolk Counties, NY); and between ports of entry on the United States-Canada Boundary line, located in MI and NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, NH, NJ, RI, VT, VA, WV, WI, points in Kings, Queens, Nassau, and Suffolk Counties, NY, and the District of Columbia. Transferee holds no authority from this Commission. An application seeking temporary lease has been filed.

MC-FC-78256, filed July 31, 1979. Transferee: HOYA EXPRESS, INC., P.O. Box 543, West Middlesex, PA 16159. Transferor: GEORGE W. KUGLER, INC., 2800 E. Waterloo Rd., Akron, OH 44312. Representatives: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, Attorney for Transferee; John P. McMahon, 100 E. Broad St., Columbus, OH 43215, Attorney for Transferor. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificates MC-125533 (Sub-23F) and all of the operating rights set forth in Certificate MC 125533 (Sub-29F), as follows: (1) *Such commodities* as are made or dealt in by manufacturers of rubber and steel products, and *equipment materials and supplies* used by such manufacturers, (except motor vehicles and commodities in bulk), from points in a described part of OH, to points in CT, MA, and in described parts of NY and NJ; (2) *tire fabric*, from Fall River and New Bedford, MA, to points in a described part of OH; (3) *chemicals*, (except in bulk), from Naugatuck, CT, to points in a described part of OH; (4) *scrap tires and tubes*, from Boston, Cambridge, New Bedford, Pittsfield, Fall River and Springfield, MA, Hartford, CT, Newark, NJ, and Albany, NY, and points on Long Island, NY, to points in a

described part of OH. *Silica gel and silica gel catalysts* (except commodities in bulk), from Paulsboro, NJ, to points in OH and those in a described part of PA; and *Petroleum and petroleum products* (except in bulk) and *materials and supplies* normally dealt in by retail gasoline service stations in mixed loads with petroleum and petroleum products (except in bulk), from Paulsboro, NJ, to points in OH and PA. Transferee presently holds no authority from this Commission. Application for temporary authority under 49 U.S.C. 11349 has not been filed.

MC-FC-78260, filed August 6, 1979. Transferee: L & J MOTOR LINES, INC., Route 5, P.O. Box 433, High Point, NC 27263. Transferor: MURROW'S TRANSFER, INC., P.O. Box 4095, High Point, NC 27263. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleven Street, NW., Washington, D.C. 20001. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificates MC 99644 Sub-2, issued November 8, 1974, MC 99644 Sub-3, issued April 8, 1970, and MC 111936 Sub-4, issued July 15, 1960, as follows: (1) *new furniture*, from points in GA, NC, SC, and VA to points in NJ, NY, and PA, and (2) *rejected shipments of new furniture*, from points in NJ, NY, and PA to points in GA, NC, SC, and VA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

Note.—By order served March 21, 1979, in MC-F-12708 and MC 111936 (Sub-15), the Commission approved the purchase by Morrow's Transfer, Inc., of certain authority from D & D Trucking Co. (Louis J. Fisher, Receiver), enabling the transferee here to perform the service described above.

MC-FC-78266, filed August 20, 1979. Transferee: LINCOLN TRANSFER COMPANY, INC., 305 S. Main St., Lincoln, IL 62656. Transferor: LINCOLN TRANSFER CO., INC. AKA LINCOLN TRANSFER LIQUIDATING CO., INC., 305 S. Main St., Lincoln, IL 62656. Representative: Robert T. Lawley, 300 Reich Bldg., Springfield, IL 62701. Authority sought for the purchase by transferee of the operating rights of transferor, issued under the name of Lincoln Transfer Co., Inc. in Certificate of Registration MC-98025 (Sub-1) on August 19, 1968, as follows: *Commodities* general within a fifty mile radius of 1018 Pulaski St., Lincoln, IL and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area. Transferee presently holds no authority

from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78267, filed August 15, 1979. Transferee: ALL METHODS MOVING SYSTEM, INC., 1212 W. Fairmount, Tempe, AZ 85282. Transferor: SPRINGER VAN LINES, INC., 7300 Lomas Blvd. NE, Albuquerque, NM 87110. Representatives: Phil B. Hammond, Suite 1705, 3003 N. Central, Phoenix, AZ 85012; Roy A. Jacobson, Jr., 1016 Bank of New Mexico Bldg., Albuquerque, NM 87101. Authority sought for the purchase by transferee of the operating rights of Springer Van Lines, Inc. (AKA Benton/Springer Van Lines, Inc.), as set forth in Certificate MC 143040 (Sub-1), issued March 21, 1978, as follows: *Used household goods*, between points in Arizona, restricted to the transportation of shipments having a prior or subsequent movement in interstate or foreign commerce, and restricted to the performance of pickup and delivery service in connection with the packing, crating or containerization or unpacking, uncrating or decontainerization of such traffic. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78269, filed August 16, 1979. Transferee: LESLIE J. BURTON d.b.a. B & L TRUCKING, P.O. Box 163, Orleans, IN 47452. Transferor: LESLIE JOE BURTON AND EDDIE LAWYER, A PARTNERSHIP, d.b.a. B & L TRUCKING, R.R. 1 Orleans, IN 47452. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 129902 issued November 4, 1974 as follows: *Commercial feed*, from the plant site of Ralston Purina Chow Co., in Louisville, KY, to points in a described part of IN; *Commercial feed and commercial feed ingredients*, from Vandalia, IL to points in Daviess, Dubois, Gibson, Knox, Marton, Pike, Posey, and Vanderburgh Counties, IN. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78270, filed August 14, 1979. Transferee: ROBERT H. BOLDUC, 15 Madline Terrace, P.O. Box 91, Tyngsboro, MA 01879. Transferor: JOSEPH L. EDELSTEIN, INC., P.O. Box 965, Peabody, MA 01960. Representative: Shirley A. Phelan, 33 Nahant St., Lynn, MA 01902. Authority sought for purchase by transferee of operating

rights held by transferor in Certificate of Registration MC 57211 (Sub-1), issued December 20, 1974, authorizing transportation of general commodities between points in Massachusetts. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC-FC-78277, filed August 13, 1979. Transferee: CMR TRANSPORTATION, INC., P.O. Box 267, Bound Brook, NJ 08805. Transferor: MONMOUTH LEASING CORP., 6 Woodlot Rd., East Brunswick, NJ 08816. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 136004 issued January 7, 1974, as follows: *General commodities* (except Classes A and B explosives, other small ammunition, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), from Philadelphia, PA, to points in that part of NJ north of a line extending from Trenton to Ashbury Park, not including points on the said line. Transferee presently holds authority from this Commission under MC 62254 and MC 62254 (Sub-3). Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78279, filed August 20, 1979. Transferee: A & L TRUCKING, INC., Frontage Road, West Haven, CT 06516. Transferor: ALBERT SCHUCKIE d.b.a. SCHUCKIE'S EXPRESS, Frontage Road, West Haven, CT 06516. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Authority sought for purchase by A & L Trucking, Inc. of the operation rights of Albert Schuckie d.b.a. Schuckie's Express in MC 144235, issued March 6, 1979: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) which at the time moving on bills of lading of freight forwarders as defined in Section 402(a)(5) of the Interstate Commerce Act, between points in Connecticut. Vendee presently holds no authority from the Commission. Application has been filed for Temporary Authority under 49 U.S.C. 11349.

MC-FC-78280 filed August 23, 1979. Transferee: AFFILIATED TRANSPORT SERVICES, INC., 201 East Township Line Road, Upper Darby, PA 19082. Transferor: C & F TRUCKING, INC., 19

Mac Arthur Avenues, Garfield, NJ 07026. Representatives: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, Franklin Rand Weiss, 40-20 Junction Blvd., Corona, NY 11368. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 59463 Sub-1, issued June 8, 1979, authorizing general commodities, with the usual exceptions, between New York, NY, on the one hand, and, on the other, points in NJ within 40 miles of NY. Transferee holds no authority from the Commission. An application for temporary lease authority has been filed.

MC-FC-78281 filed August 23, 1979. Transferee: FRANCOIS TRUCKING, INC., RR #4, Box 58, Centralia, IL 62801. Transferor: WAYNE F. BARGER and MAXINE KLEINE, a Partnership, d.b.a. BARGER TRUCKING CO., P.O. Box 96, Hoffman, IL 62250. Representative: Delmar Koebel, 109 W. St. Louis, Lebanon, IL 62254. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 66724, issued August 14, 1975, authorizing general commodities with the usual exceptions over regular routes, (1) between Shattuc, IL, and St. Louis, MO, serving points within 12 miles of Shattuc, and points in the St. Louis, MO-East St. Louis, IL, Commercial Zone; and (2) between Carlyle, IL, and Centralia, IL, serving Hoffman, IL, as an intermediate point and Central City and Wama, IL, as off-route points. Transferee holds no authority from this Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78284, filed August 17, 1979. Transferee: DAWSON'S CHARTER SERVICE, INC., Box 144, Sandy Spring, MD 20860. Transferor: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought for the purchase by Transferee of that portion of operating rights of Transferor in Docket MC 1501 Sub-211 (renumbered MC 1515 Sub-8, but not yet reissued) which authorize the transportation of passengers and their baggage and express and newspapers in the same vehicle with passengers, as follows: (1) between Washington, DC and Leonardtown, MD, serving all intermediate points: from Washington over city streets to the DC-MD State Line, then over MD Hwy 5 to Leonardtown, and return over the same route; (2) between Leonardtown, MD and Patuxent River Naval Air Station, MD, serving all intermediate points: from Leonardtown over MD Hwy 5 to



junction MD Hwy 246, then over MD Hwy 246 to Patuxent River Naval Air Station, and return over the same route; and (3) Alternate route for operating convenience only, between junction MD Hwys 5 and 235, near Mechanicsville, MD and Lexington Park, MD, serving no intermediate points: from junction MD Hwys 5 and 235 over MD Hwy 235 to Lexington Park, and return over the same route. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78287 filed August 30, 1979. Transferee: J. POSA, INC., 1 N. First St., Fulton, NY 13069. Transferor: POSA, INC., 122 Kingsland Ave., Brooklyn, NY 11222. Representative: Arthur J. Piken, 95-25 Queens Blvd., Rego Park, NY 11374. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 123424 (Sub-5) issued May 18, 1977, as follows: (1) *Malt beverages*, between Fulton (South Volney), NY, on the one hand, and, on the other, points in CT, NJ and NY; (2) *materials, equipment and supplies* used in the production packaging and sale of malt beverages (except new metal cans and can ends and except commodities in bulk), from points in CT, NJ, and NY, to Fulton (South Volney), NY, restricted against the transportation of glass containers from Wharton Township, NJ, to Fulton (South Volney), NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78291 filed September 10, 1979. Transferee: SONIC DELIVERY, INC., West Virginia Route 31 at Airport Road, Williamstown, WV 26187. Transferor: A. C. ENTERPRISES, INC., same address as Transferee. Representative: E. H. van Deusen, P. O. Box 97, 220 West Bridge St., Dublin, OH 43017. Authority sought for purchase by transferee of transferor's operating rights in Certificates MC 129340 and Sub-1. The authority involves operations in the transportation of general commodities, with exceptions, restricted to shipments having a prior or subsequent movement by air, generally between named counties in WV, OH, on the one hand, and, on the other, named airports (Kanawha County Airport near Charleston, WV, the Huntington Ashland Airport, Near Huntington, WV, the Wood County Airport, near Parkersburg, WV, the Cleveland-Hopkins Airport, near Cleveland, OH, the Greater Cincinnati Airport, near Cincinnati, OH, and the Greater

Pittsburgh Airport, near Pittsburgh, PA). Transferee holds authority in MC 147629. An application seeking temporary lease has not been filed.

MC-FC-78293 filed September 11, 1979. Transferee: ROBERT JAY SPENCER an individual d.b.a. SPENCER BROS. TRUCKING, 212 South Lincoln Street, Lake Crystal, Minnesota 56055. Transferor: L. J. KREUTZER an individual d.b.a. KREUTZER MOTOR EXPRESS, P.O. Box 1056, Mankato, Minnesota 56001. Transferee's and Transferor's Representative: James T. Flescher 1745 University Avenue, St. Paul, Minnesota 55104. Authority sought for purchase by transferee of the operating rights of transferor as set forth in permits MC-111301 Subs 16 and 17 both issues July 3, 1978 as follows: MC 111301 Sub-16. *Plastic pipe*, From Mankato, Minn., to points in IL, IN, IA, KS, MI, MO, NE, ND, OK, SD, and WI. MC 111301 Sub-17. *Plastic pipe*, From Mankato, Minn., to points in MT and WY. Restriction: The operations authorized in both Subs are limited to a transportation service to be performed under a continuing contract(s) with Western Plastics Corporation, of Mankato, Minn. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

MC-FC-78296 filed September 4, 1979. Transferee: AIR TRANSPORT, INC., 220 West Second St., Boston, MA 02127. Transferor: W & D EXPRESS, INC. (same address as transferor). Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Authority sought for purchase by transferee of operating rights held by transferor in Permit MC 144745F, issued November 29, 1978, and those granted in MC 144745 (Sub-1F), as follows: Frozen bakery products and frozen onion rings, and exempt commodities, from Boston, Gloucester, Lawrence, Wilmington, and Worcester, MA, to points in AR, AZ, CA, CO, FL, GA, IL, IN, KS, KY, MI, MN, MO, NC, NE, OH, SC, TX, WV, WI, AL, IA, LA, MS, TN, VA, and DC, under contract with Boston Bonnie, Inc., and Boston Bonnie Bakers, Inc. Transferee holds authority from the Commission under MC 141008. An application seeking temporary lease has not been filed.

MC-FC-78299, filed August 28, 1979. Transferee: TONY TERAMANA, JR., 3226 Sunset Boulevard, Steubenville, OH 43952. Transferor: TONY TERAMANA, SR., P.O. Box 850, Steubenville, OH 43952. Applicant's Representative: Andrew Jay Burkholder, 275 East State Street, Columbus, OH 43215. Authority sought for purchase by transferee of the

operating rights of Transferor, as set forth in Certificate MC 48302, as issued February 8, 1941, as follows: *Such bulk commodities as are transported in dump trucks*, over irregular routes, between points and places in Belmont County, OH and Brooke, Hancock, Marshall and Ohio Counties, WV, on the one hand, and, on the other, points and places in Allegheny, Fayette, Greene, Washington and Westmoreland Counties, Pa., Mahoning, Columbiana, Stark, Carroll, Jefferson, Belmont, Harrison, Tuscarawas, Monroe, Guernsey, and Washington Counties, Ohio. *Machinery, and mill and mine supplies*, over irregular routes, between points and places in Belmont County, Ohio, and Brooke, Hancock, Marshall, and Ohio Counties, W. Va., on the one hand, and, on the other, Cincinnati, Columbus, Cleveland, and Martins Ferry, Ohio, Pittsburgh, Pa., and Wheeling, W. Va., with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78301 filed September 4, 1979. Transferee: MT. STERLING GRAIN CO., LTD., BOX 127, Pulaski, IA 52584. Transferor: MELVIN C. SAUCIER, d.b.a. SAUCIER TRUCKING, R.R. #2, Canton, MO 63248. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Authority sought for purchase by transferee of the transferor's operating rights in Permit MC 28180, acquired in MC-FC-77792, authorizing generally feed, animal and poultry tonics and medicines, fertilizer, such general merchandise as is dealt in by feed and seed houses, grain, and similar commodities, from and to named points in IL, MN, WI, and IA. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

MC-FC-78303 filed September 7, 1979. Transferee: J. POSA, INC., 1 N. First St., Fulton, NY 13069. Transferor: CAP MOTOR LINES, INC. (JOHN V. SALIERNO, TRUSTEE IN BANKRUPTCY), 65-12 69th Place, Middle Village, NY 11379. Representatives: John P. Tynan, P.O. Box 771, Jupiter, FL 33458; Arthur J. Piken, One Lefrak City Plaza Suite 1515, Flushing, NY 11368. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 39161 and MC 39161 (Sub-2), as follows: *Such general merchandise as is usually dealt in by wholesale and retail chain variety stores*, between New York, NY, on the

one hand, and, on the other, Perth Amboy, NJ and points in Essex, Hudson and Union Counties, NJ. *Electrical Goods, equipment and supplies*, between New York, NY, and Hoboken, NJ, on the one hand, and, on the other, points in NJ and NY within 50 miles of Hoboken, NJ and those in NJ and NY within 50 miles of New York, NY, restricted against the transportation of traffic to or for the use of manufacturers of paper. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78317 filed September 17, 1979. Transferee: LINEHAUL EXPRESS CORP., P.O. Box 5078, Manchester, NH 03108. Transferor: SAV-ON TRANSPORTATION, INC., P.O. Box 5216, Manchester, NH 03108. Representative: Gregg M. Lewis, P.O. Box 5078, Manchester, NH 03108. Authority sought for purchase by transferee of transferor's common carrier operating rights contained in Nos. MC-141921 Subs 8, 14, 15, 16, 17, 19, 20, 22, 25, 26, 27, 33, 34, 36, 44, 45, 48, 51, 54, 56, and 57. The rights proposed for transfer authorize numerous named commodities, including meats, foodstuffs, frozen bakery products, confectionery, plastic film and plastic sheeting, and malt beverages from and to points in numerous states. An application seeking temporary lease has not been filed. Applicant holds no authority from this Commission.

MC-FC-78323 filed September 17, 1979. Transferee: H and M TRUCKING COMPANY, P.O. Box 176, Riegelwood, NC 28456. Transferor: SPECIALTY TRANSPORT, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. Authority sought for purchase by transferee of operating rights held by transferor in Permit MC-134765 Sub-15, issued November 13, 1975, authorizing paper and paper articles and materials, supplies, and equipment used in connection therewith (except in bulk), between Riegelwood, NC, and Cape Fear Warehouse, Leland, NC, on the one hand, and, on the other, points in MD, DE, PA, NY, NJ, CT, RI, MA, VT, NH, ME, and DC, under contract with Federal Paper Board Co., Inc., Riegelwood Operations, of New York, NY; and between Riegelwood, NC, and Cape Fear Warehouse, Leland, NC, on the one hand, and, on the other, points in OH, KY, TN, MO, IL, IN, MI, MN, IA, and WI, under contract with Federal Paper Board Co., Inc., of New York, NY. Transferee holds no authority from this Commission. An application seeking temporary lease has not been filed.

#### Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission on or before January 10, 1979. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly

affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 18088 (Sub-64F) filed October 8, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Sycamore, Alabama 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tire cord yarn* and *containers* used in the transportation thereof, between Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in SC [Eliminating the gateway of Barnesville, GA]; (2) *Synthetic fiber, synthetic fiber yarns* and *tire cord yarn*, (a) from points in AL, GA, SC and TN to points in MS [Eliminating the gateway of Decatur, AL and (as to AL and TN) a shipper's facilities at or near Gonzalez and Pensacola, FL], (b) from points in NC and VA to points in LA and MS [Eliminating the gateways of Decatur, AL and a shipper's facilities in Marshall County, AL]; (3) *Synthetic fiber* and *synthetic fiber yarn*, (a) from points in AL, GA, SC and TN to points in NC and VA [Eliminating the gateways of facilities of a shipper at Decatur and Huntsville, AL and (as to AL and TN) at or near Gonzalez and Pensacola, FL], (b) between points in NC and VA, on the one hand, and, on the other, points in LA and MS [Eliminating the gateways of Decatur, AL and shipper's facilities at Decatur, Huntsville, and Marshall County, AL, and at or near Gonzalez and Pensacola, FL]; (4) *Textiles, textile products, equipment, materials, and supplies* used in the manufacture and distribution of textiles (except commodities in bulk and those which require the use of special equipment), (a) between points in AL, GA, SC and TN, on the one hand, and, on the other, points in LA, MS, NC and VA [Eliminating the gateways of the facilities of a shipper in Marshall County, AL and (as to traffic to and from AL and TN) at or near Gonzalez and Pensacola, FL], (b) from points in LA and MS to points in NC and VA [Eliminating the gateways of a shipper's facilities in Marshall County, AL, and at or near Gonzalez and Pensacola, FL]; (5) *textiles and textile products*, and *equipment, materials, and supplies* used in the operation of textile mills and warehouses, (except commodities the transportation of which because of size or weight require the use of special equipment), between the facilities of Monsanto Company at or near Gonzalez



and Pensacola, FL, on the one hand, and, on the other, points in LA, MS, NC and VA [Eliminating the gateways of a shipper's facilities in Marshall County, AL]. (Hearing Site: Birmingham, AL or Washington, DC.)

**Note.**—This matter is directly related to a finance proceeding docketed MC-F-14185F, by Floyd & Beasley Transfer Company, Inc. seeking to purchase all of the operating rights of Barnett Transportation, Inc. The purpose of filing this application is to eliminate the gateways specified above.

MC 19311 (Sub-64F), filed August 24, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Road—Suite 102, Bloomfield Hills, MI 48033. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, in the transportation of: General commodities, (except those of unusual value.) Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as follows: (1) Between Lake Leelanau, MI and Traverse City, MI, serving all intermediate points; from Lake Leelanau west over county road 204 to junction M-22, then north over M-22 to Northport, then south over M-22 to Traverse City, and return over the same route. (2) Between Suttons Bay, MI and Sugar Loaf, MI, serving all intermediate points; from Suttons Bay west over county road 204 to junction M-22, then south over M-22 to junction Sugar Loaf Mountain Road, then over Sugar Loaf Mountain Road to its terminus, and return over the same route. (3) Between Traverse City, MI and Old Mission, MI, serving all intermediate points; from Traverse City, MI, north over M-37 to Old Mission, and return over the same route.

**Note.**—The purpose of filing this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a finance proceeding, docketed MC-F-14140, published in a previous section of this *Federal Register* issue.

MC 26639 (Sub-2F), filed August 28, 1979. Applicant: DEL TRANSPORT, INC., 4 Crow Point Road, Lincoln, RI 02865. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment), between points in MA. (Hearing site: Boston, MA).

**Note.**—The purpose of this application is to convert a certificate of registration into a certificate of public convenience and necessity. This matter is directly related to a finance proceeding under 49 U.S.C. 11343 in Docket MC-F-14148 published in a previous section of this *Federal Register*.

MC 35320 (Sub-311F), filed April 24, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular and regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) over irregular routes—between Big Spring, Sweetwater, Odessa, and El Paso, TX, and those points in TX on and east of a line beginning at the Red River and extending along U.S. Hwy 277 through Wichita Falls, TX, to Abilene, TX, then along U.S. Hwy 83 to Ballinger, TX, then along U.S. Hwy 67 to San Angelo, TX, then along U.S. Hwy 87 to San Antonio, TX, then long U.S. Hwy 181 to Floresville, TX, to Corpus Christi, TX, on the one hand, and, on the other, Houston, TX, and (B) over regular routes—(1) Between Oklahoma City, OK, and Houston, TX: From Oklahoma City, OK, over Interstate Hwy 35 to Denton, TX, then over Interstate Hwy 35E to Dallas, TX, then over Interstate Hwy 45 to Houston, TX, and return over the same route, serving the intermediate point of Dallas, TX, (2) Between Little Rock, AR, and Houston, TX: From Little Rock, AR over Interstate Hwy 30 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route, serving no intermediate points, and (3) Between El Paso, TX, and Houston, TX: From El Paso, TX over U.S. Hwy 80 to junction U.S. Hwy 290, then over U.S. Hwy 290 to junction U.S. Hwy 87, then over U.S. Hwy 87 to San Antonio, TX, then over U.S. Hwy 90 to Houston, TX, and return over the same route, serving the intermediate point of San Antonio, TX. (Hearing Site: Houston, TX.)

**Note.**—This application is directly related to MC-F-1391F—T.I.M.E.-DC, INC. (Purchase) Texas Interstate Motor Express, Inc. The purpose of this application is to convert to two-way authority the one-way authority which applicant seeks to purchase from Texas Interstate Motor Express, Inc. in MC-F-1391F and, in connection therewith,

to obtain shorter regular routes into Houston, TX from specified points on T.I.M.E.-DC's present authority. The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 35320 (Sub-361F), filed August 23, 1979. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408. Representatives: Kenneth G. Thomas, c/o T.I.M.E.-DC, INC., 2598 74th Street, Lubbock, TX 79408; Fred H. Mackensen c/o MURCHINSON & DAVIS, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, over regular routes, transporting general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, motor vehicles and livestock) between the Los Angeles area, as defined below, and San Diego and Goleta, CA serving all intermediate points and off-route points within ten miles of the designated Hwys: From San Clemente to San Diego over Interstate Hwy 5, and return over the same route. From Temecula to San Diego over Interstate Hwy. 15, and return over the same route. From Los Angeles to Goleta over U.S. Hwy. 101, and return over the same route. The *Los Angeles Area* includes all points within the following: beginning at the intersection of the Ventura-Los Angeles County boundary and the Pacific Ocean, then northeast along the said County line to its intersection with CA Hwy. 118, then east along CA Hwy. 118 to Sepulveda Boulevard, then north along Sepulveda Boulevard to Chatsworth Drive, then northeast along Chatsworth Drive to the San Fernando city line, then west, north and then east along the said city line to McClay Avenue, then northeast along McClay Avenue and its prolongation to the Angeles National Forest boundary, then southeast and east along the southern boundaries of the Angeles and San Bernardino National Forest to Mill Creek Road (near Redlands), then southwest on Mill Creek Road to the intersection of a County road 3.8 miles north of Yucaipa, then south along said County road (in part known as Bryant Street) to Yucaipa, serving all points in Yucaipa, then west along Yucaipa-Redlands Boulevard to U.S. Hwy. 70, then west along U.S. Hwy. 70 to the Redlands city line, then around the south side of Redlands to Brookside Avenue, then west along Brookside Avenue to Barton Road (Barton Avenue), then west along Barton Road (Barton Avenue) and its prolongation to Palm Avenue, then west

along Palm Avenue to La Cadena Drive, then south along La Cadena Drive to Iowa Avenue, then south along Iowa Avenue to U.S. Hwy. 60, then southwest along U.S. Hwy. 395 to Nuevo Road, then east along Nuevo Road to Nuevo, then northeast along Lakeview Avenue to Lakeview, then east along Pico and Mead Roads and Central Avenue to the San Jacinto city limits, then east, south, and then west along the said city limits to San Jacinto Avenue, then south along San Jacinto Avenue to California Hwy. 74, then west on CA Hwy. 74 to the city limits of Hemet, then south, west, and then north along the city limits to the railroad right of way of the Atchinson, Topeka & Santa Fe Railway Company, then southwest along said railroad right of way to Winchester Road, then west along Benton Road to the County road which extends from such intersection southwest to U.S. Hwy. 395 at a point 2.1 miles north of Temecula, then south along the said County Road to U.S. Hwy. 395, then southwest along U.S. Hwy. 395 to the San Diego County boundary line, then west along the said County line to the Pacific Ocean, and then along the Pacific Coast to the point of beginning. (Hearing site: Los Angeles, CA.)

**Note.**—The purpose of this Application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This Application is directly related to Sections 5(2) Finance Proceeding docketed MC-F-14137, published in a previous section of the *Federal Register* issue.

MC 61264 (Sub-33F), filed May 10, 1979. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 615, Winston-Salem, NC 27102. Applicant's Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Danbury, CT, and junction U.S. Hwys 44 and 202, at or near Canton, CT, from Danbury over U.S. Hwy 7/202 to New Milford, CT, then over U.S. Hwy 202 to junction U.S. Hwy 44, and return over the same route; (2) between Waterbury, CT, and New Boston, MA, from Waterbury over CT Hwy 8 to the CT-MA State Line, then over MA Hwy 8 to New Boston, and return over the same route; (3) between Winsted, CT, and Willimantic, CT, from Winsted over U.S. Hwy 44 to junction U.S. Hwy 202, then over U.S. Hwy 44/202 to Hartford, CT,

then over U.S. Hwy 6 (also over Interstate Hwy 84) to Bolton Center, CT, then over U.S. Hwy 6 to junction Interstate Hwy 84, then over U.S. Hwy 6 (also over Interstate Hwy 84) to Willimantic, and return over the same route; (4) between Hartford, CT, and Longmeadow, MA, from Hartford over U.S. Hwy 5 to Longmeadow, and return over the same route; (5) between Hartford, CT, and Sturbridge, MA, from Hartford over Interstate Hwy 86 to Sturbridge, and return over the same route; (6) between Hartford, CT, and Norwich, CT, from Hartford over CT Hwy 2 to Norwich, and return over the same route; (7) between Danbury, CT, and Southbury, CT, from Danbury over U.S. Hwy 6 to Southbury, and return over the same route; (8) between Southbury, CT, and Reynolds Bridge, CT, from Southbury over U.S. Hwy 6 to Reynolds Bridge, and return over the same route; (9) between Reynolds Bridge, CT and Hartford, CT, from Reynolds Bridge over U.S. Hwy 6 to Hartford, and return over the same route; (10) between Willimantic, CT, and Danielson, CT, from Willimantic over U.S. Hwy 6 to Danielson, and return over the same route; (11) between New Haven, CT, and Sandy Hook, CT, from New Haven over CT Hwy 34 to Sandy Hook, and return over the same route; (12) between New Haven, CT, and Meriden, CT, from New Haven over U.S. Hwy 5 to Meriden, and return over the same route; (13) between Meriden, CT, and Willimantic, CT, from Meriden over CT Hwy 66 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Willimantic, and return over the same route; (14) between Southbury, CT, and Hartford, CT, from Southbury over Interstate Hwy 84 to Hartford, and return over the same route; (15) between New Haven, CT, and Meriden, CT, from New Haven over Interstate Hwy 91 to Meriden, and return over the same route; (16) between Hartford, CT, and Springfield, MA, from Hartford over Interstate Hwy 91 to Springfield, and return over the same route; (17) between East Lyme, CT, and Danielson, CT, from East Lyme over CT Hwy 52 (CT Turnpike) to Danielson, and return over the same route; (18) between Hopkinton, RI, and Phillipsburg, NJ, from Hopkinton over Interstate Hwy 95 to junction Interstate Hwy 95/NJ Turnpike, then over Interstate Hwy 95 (also over Interstate Hwy 95/NJ Turnpike) to Newark, NJ, then over Interstate Hwy 78 to Phillipsburg, and return over the same route; (19) between junction Interstate Hwys 95 and 80, at or near Ridgefield Park, NJ, and junction Interstate Hwy 80 and NJ Hwy 94, at or near Columbia, NJ, from junction Interstate Hwy 95 over

Interstate Hwy 80 to junction NJ Hwy 94, and return over the same route; (20) between junction U.S. Hwy 1 and Interstate Hwy 287, at or near Port Chester, NY, and Norwalk, CT, from junction Interstate Hwy 287 over U.S. Hwy 1 to Norwalk, and return over the same route; (21) between Norwalk, CT, and Danbury, CT, from Norwalk over U.S. Hwy 7 to Danbury, and return over the same route; (22) between Norwalk, CT, and Bridgeport, CT, from Norwalk over U.S. Hwy 1 to Bridgeport, and return over the same route; (23) between Bridgeport, CT, and Waterbury, CT, from Bridgeport over CT Hwy 8 to Waterbury, and return over the same route; (24) between Bridgeport, CT, and New Haven, CT, from Bridgeport over U.S. Hwy 1 to New Haven, and return over the same route; (25) between Milford, CT, and Meriden, CT, from Milford over CT Hwy 15 to Meriden, and return over the same route; (26) between New Haven, CT, and Old Saybrook, CT, from New Haven over U.S. Hwy 1 to Old Saybrook, and return over the same route; (27) between Old Saybrook, CT, and Hartford, CT, from Old Saybrook over U.S. Hwy 1 to junction CT Hwy 9, then over CT Hwy 9 to junction Interstate Hwy 91, then over Interstate Hwy 91 to Hartford, and return over the same route; (28) between Meriden, CT and Hartford, CT, from Meriden over U.S. Hwy 5 to Hartford, and return over the same route; (29) between Meriden, CT, and junction Interstate Hwy 91 and CT Hwy 9, from Meriden over Interstate Hwy 91 to junction CT Hwy 9, and return over the same route; (30) between Old Saybrook, CT, and Westerly, RI, from Old Saybrook over U.S. Hwy 1 to Westerly, and return over the same route; (31) between Southbury, CT, and Port Jervis, NY, from Southbury over Interstate Hwy 84 to Port Jervis, and return over the same route. Serving all points in CT as intermediate or off-route points in connection with carrier's operations over the routes described above; and serving all terminal and intermediate points on the above routes in MA, NJ, NY and RI for joinder only. (Hearing sites: Charlotte, NC and New Haven, CT.)

**Note.**—This application is directly related to MC-F-14036F published in a previous section of this *FEDERAL REGISTER*. The purpose of this application is to convert the Certificate of Registration of Transferor to a Certificate of Public Convenience and Necessity. The application also requests conversion of Transferor's irregular-route authority between all points in CT to regular routes consistent with the existing authority of Transferee.



**Motor Carrier Alternate Route Deviations**

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before January 10, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

**Motor Carriers of Property**

MC 80430 (Deviation No. 24), GATEWAY-TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601, filed November 16, 1979. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Nashville, TN, over Interstate Hwy 24 to junction alternate US Hwy 41, then over alternate US Hwy 41, to junction US Hwy 41, then over US Hwy 41 to junction Interstate Hwy 64, then over Interstate Hwy 64 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, TN, over US Hwy 31W to Louisville, KY, then over US Hwy 31E to Seymour, IN, then over US Hwy 50 to St. Louis, MO.

**Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices**

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 21, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will

not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

MC 107012 (Sub-E739), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Cartoned—Benton*, from Benton, AR to points in Cochise, Gila, Graham and Greenlee Counties, AZ. (Gateway Eliminated: Mexia, TX.)

MC 107012 (Sub-E740), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Cartoned—Waldron* (1) From Waldron, AR, to points in AZ, NV & UT (\*Mexia, TX Albuquerque, NM). (2) From Waldron, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA (\*Albuquerque, NM); Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (\*Albuquerque, NM). (Gateways eliminated: asterisked.)

MC 107012 (Sub-E741), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New furniture, cartoned*, from Albuquerque and Clovis, NM, and Houston and Mexia, TX, to points in AK. (Gateways eliminated: Sedgewick County, KS.)

MC 107012 (Sub-E7742), filed November 22, 1976. Applicant: NORTH

AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *Aluminum Windows, Aluminum Doors, and Aluminum Extrusions, all Uncartoned*. (1) From Kentland, IN to points in AL, FL, GA, NC, SC and TN (\*Indianapolis, IN). (2) From Kentland, IN to points in MT and WY (\*Chicago, IL). (Gateways eliminated: asterisked.)

MC 107012 (Sub-E743), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Commercial & Institutional Equipment, Uncrated*. (1) From points in WA to points in AR, CT, DE, DC, IL, IN, ME, MD, MA, MI, MO, NH, NJ, NY, OH, OK, PA, RI, VT and WV. (2) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA to points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Mortague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley,

Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Erio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX points in WI. (3) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, WA in points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM; points in TX: Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (4) From points in Adams, Asotim, Benton, Columbia, Franklin,

Garfield, Walla Walla and Whitman Counties, WA to points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and

Wood Counties, TX; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (Gateway eliminated: points in NE.)

MC 107012 (Sub-E744), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet, Uncartoned*. (1) From El Segundo, CA to points in AL, KY & TN (\*Dallas, TX and Vinita or Oklahoma City, OK). (2) From El Segundo, CA to points in NC and VA (\*Dallas, TX and Vinita or Oklahoma City, OK and points in MO). (3) From El Segundo, CA to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (\*Dallas, TX and Vinita or Oklahoma City, OK and points in MO); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (\*Dallas, TX and Vinita or Oklahoma City, OK); Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunica, Union, Webster and Yalobusha Counties, MS (\*Dallas, TX and Vinita or Oklahoma City, OK). (Gateway eliminated: asterisked.)

MC 107012 (Sub-E745), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box



988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, all uncartoned.* (1) From points in ID, to points in AZ, CO, KS & NM (\*Salt Lake City, UT A). (2) From points in ID, to points in AR, OK & TX (\*Salt Lake City, UT and points in CO B). (3) From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID to points in IA (\*Salt Lake City, UT and Laramie, WY); Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (\*Salt Lake City, UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaw, Ziebach, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (\*Salt Lake City, UT and Laramie, WY). (4) From points in Benewah, Bonner, Boudry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID to points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (\*Salt Lake City, UT and Laramie, WY). (5) From points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte,

Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID to points in IA (\*Salt Lake City, UT and Laramie, WY); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (\*Salt Lake City, UT and Laramie, WY); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (\*Salt Lake City, UT); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (\*Salt Lake City, UT and Laramie, WY). (Gateway eliminated asterisked.)

MC 107012 (Sub-E746), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, all uncartoned:* (1) From points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater and Sweet Grass Counties, MT, to points in AZ (\*Salt Lake City, UT); points in AR (\*Salt Lake City, UT and Sedgewick County, KS); Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties CA (\*Salt Lake City, UT); Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek,

Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO (\*Salt Lake City, UT); Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgewick, Smith, Stafford, Sumner and Washington Counties, KS (\*Salt Lake City, UT); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (\*Salt Lake City, UT); points in NM (\*Salt Lake City, UT); points in OK (\*Salt Lake City, UT and points in CO); points in TX (\*Salt Lake City, UT and points in CO). (2) From points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan and Valley Counties, MT to points in AZ (\*Salt Lake City, UT); Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA (\*Salt Lake City, UT); Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan, San Miguel Counties, CO (\*Salt Lake City, UT); points in NV (\*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (\*Salt Lake City, UT); (3) From points in

Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole and Wheatland Counties, MT, to points in AZ (\*Salt Lake City, UT); Inyo, Fresno, Kings and Tulare Counties, CA (\*Salt Lake City, UT); Garfield, Mesa, Moffat, Rio Blanco, Routt, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan and San Miguel Counties, CO (\*Salt Lake City, UT); Clark, Lincoln, Esmeralda, Eureka, Lander, Nye, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV (\*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (\*Salt Lake City, UT); Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (\*Salt Lake City, UT and points in CO); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Rear, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort

Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (\*Salt Lake City, UT and points in CO); (4) From points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT, to points in AZ (\*Salt Lake City, UT); points in AR (\*Salt Lake City, UT and Sedgewick County, KS); Inyo, Fresno, Kings, Tulare, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside and San Diego, CA (\*Salt Lake City, UT); points in CO (\*Salt Lake City, UT); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (\*Salt Lake City, UT and Laramie, WY); points in KS (\*Salt Lake City, UT); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (\*Salt Lake City, UT); points in NM (\*Salt Lake City, UT); points in OK (\*Salt Lake City, UT and points in CO); points in TX (\*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Goshen, Laramie, Niobrara and Platte Counties, WY (\*Salt Lake City, UT); (5) From points in Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ (\*Salt Lake City, UT); points in CA (\*Salt Lake City, UT); points in NV (\*Salt Lake City, UT); (Gateway eliminated asterisked)

MC 107012 (Sub-E747), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures,*

*all uncartoned:* (1) From points in NV to points in WY (\*Salt Lake City, UT). (2) From points in NV to points in IA, MN & SD (\*Salt Lake City, UT and Laramie, WY). (3) From points in Clark and Lincoln Counties, NV, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (\*Salt Lake City, UT); points in ID (\*Salt Lake City, UT); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgewick, Smith, Stafford, Sumner and Washington Counties, KS (\*Salt Lake City, UT); points in MT (\*Salt Lake City, UT); points in ND (\*Salt Lake City, UT and Laramie, WY). (4) From points in Esmeralda, Eureka, Lander and Nye Counties, NV, to points in AR (\*Salt Lake City, UT and points in CO); points in CO (\*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (\*Salt Lake City, UT); points in KS (\*Salt Lake City, UT); points in LA (\*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX 23A); points in MT (\*Salt Lake City, UT); McKinley, Rio, Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM (\*Salt Lake City, UT); points in ND (\*Salt Lake City, UT and Laramie, WY); points in OK (\*Salt Lake City, UT and points in CO); Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson,



Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (\*Salt Lake City, UT and points in CO). (5) From points in Elko and Whitepine Counties, NV, to points in AR (\*Salt Lake City, UT and points in CO); Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz, AZ (\*Salt Lake City, UT); points in CO (\*Salt Lake City, UT); points in KS (\*106A + 44A); points in LA (\*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (\*Salt Lake City, UT); points in NM (\*Salt Lake City, UT); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (\*Salt Lake City, UT and Laramie, WY); points in OK (\*Salt Lake City, UT and points in CO); points in TX (\*Salt Lake City, UT and points in CO). (6) From points in Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV, to points in AR (\*Salt Lake City, UT and points in CO); Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ (\*Salt Lake City, UT); points in CO (\*Salt Lake City, UT); points in KS (\*Salt Lake City, UT); points in LA (\*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (\*Salt Lake City, UT); points in NM (\*Salt Lake City, UT);

Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (\*Salt Lake City, UT and Laramie, WY); points in OK (\*Salt Lake City, UT and points in CO); points in TX (\*Salt Lake City, UT and points in CO). (Gateway eliminated: asterisked.)

MC 107012 (Sub-E748), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, all uncartoned:* (1) From points in NM, to points in ID & WA. (2) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (3) From points in McKinley, Rio Arriba and San Juan Counties, NM, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin,

Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Esmeralda, Elko, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. (4) From points in Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM, to points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. (5) From points in Colfax, Harding, Mora, Taos and Union Counties, NM, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties,

MT; Esmeralda, Elko, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR. (Gateway eliminated: Salt Lake City, UT)

MC 107012 (Sub-E749), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, all uncartoned:* (1) From points in OR, to points in AR, OK & TX. (2) From points in OR to points in CO. (3) From Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake and Malheur Counties, OR to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ; points in NM. (4) From points in Coos, Curry, Douglas, Jackson and Josephine Counties, OR to points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM. (5) From points in Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR to points in AZ; points in NM. (Gateway eliminated: Salt Lake City, UT and points in CO in (1) above; Salt Lake City, UT in (2)(3)(4)(5) above.

MC 107012 (Sub-E750), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, all uncartoned:* (1) From points in UT, to points in AR, (\*Points in CO or points in TX). (2) From points in UT to points in IA, MN & SD (\*Laramie, WY). (3) From points in UT, to points in KS & OK (\*Points in CO). (4) From points in UT, to points in LA (\*Points in TX). (5) From points in Beaver, Iron, Washington, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Umatilla, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT to points in ND (\*Laramie, WY). (6) From points in

Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch and Weber Counties, UT to points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (\*Laramie, WY). (Gateway eliminated: asterisked.)

MC 107012 (Sub-E751), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures all uncartoned:* (1) From points in WA to points in AR, OK & TX (\*Salt Lake City, UT and points in CO). (2) From points in WA to points in CO & NM. (3) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, and Yakima Counties, WA, to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ; San Bernardino County, CA; Clark and Lincoln Counties, NV. (4) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, WA, to points in AZ; San Bernardino, Imperial, Riverside and San Diego Counties, CA; Clark and Lincoln Counties, NV. (5) From points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason and San Juan Counties, WA, to points in AZ; San Bernardino County, CA; Clark and Lincoln Counties, NV. (6) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA. (6) From points in Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY to points in AZ; Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson and Josephine Counties, OR. (Gateway eliminated: Salt Lake City, UT.)

MC 107012 (Sub-E752), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures all uncartoned:* (1) From points in WY to points in CA and NV. (2) From points in Albany, Carbon, Converse, Goshen, Laramie, Niobrara and Platte Counties, WY, to points in Yuma County, AZ; points in ID; Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; points in OR; points in WA. (3) From points in Park, Teton and Yellowstone National Park Counties, WY to points in AZ; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID; Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson and Josephine Counties, OR. (4) From points in Lincoln, Sublette, Sweetwater and Uinta Counties, WY to points in AZ; Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; points in OR; points in WA. (5) From points in Fremont, Hot Springs and Natrona Counties, WY to points in AZ; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID; points in OR; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA. (6) From points in Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY to points in AZ; Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson and Josephine Counties, OR. (Gateway eliminated: Salt Lake City, UT.)

MC 107012 (Sub-E753), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of*



loading with new institutional fixtures, all uncartoned, from Benson, AZ, to points in Coos, Curry, Douglas, Jackson and Josephine Counties, OR. (Gateway eliminated: points in UT.)

MC 109478 (Sub-E57) (correction), filed May 15, 1974, published in the Federal Register September 28, 1975. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, North East, PA 16428. Representative: Joseph F. Mackrell, 23 West Tenth St., Erie, PA 16501. . . . (4) Grape juice, tomato juice, honey, jams, jellies, and preserves, and frozen fruits, frozen fruits juices, and frozen tomato juice, from points in NY to points in IL. (Gateway eliminated. Le Roy, NY and North East, PA) Purpose of correction—reflect correct NY territory. The remainder stands as previously published.

MC 115840 (Sub-E113), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT, INC., 1215 Bankhead Highway, West, P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heasley, 666 Eleventh St. NW., Washington, DC 20001. *Iron and steel pipe, fittings, gaskets, and accessories as encompassed by iron and steel mill products used in the agricultural water treatment, food processing, wholesale grocery, and institutional supply industries* (except commodities in bulk), (1) between points in TN, on the one hand, and, on the other, points in CA, OR and FL, (2) between points in CA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, COM, MX, ND, SD, NE, KS, OK, TX, LA and AR, (3) between points in FL, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, CO, NM, ND, SD, NE, KS, OK, MO, MN, IA, WI, IL, MI and IN (4) between points in MS, on the one hand, and, on the other, points in CA, OR, WA, MI, IN, OH, WV, VA, NC, SC, MD, DE, NJ, PA, NY, VT, NH, ME, MA, CT and RI. (Gateways eliminated: Birmingham and Holt, AL.)

MC 117574 (Sub-E90), filed July 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements and agricultural machinery, tractors, cranes, industrial and processing machinery, which are also cultural, industrial or construction machinery, and equipment, or farm and logging equipment, or machinery* (except tractors with vehicle beds, bed frames, and fifth wheels, and such commodities which because of size or weight require the use of special equipment). (a) from points in Hampton and Jasper Counties, SC, to points in CT,

ME, MA, MT, NH, OR, NY, RI, WA, and points in CA north of a line beginning at the Pacific Ocean extending along US Hwy 101 to junction I Hwy 80, then along I Hwy 80 to the CA-NV State line, points in ID north and west of a line beginning at the ID-NV state line extending along US Hwy 93 to junction US Hwy 30, then along US Hwy 30 to junction I Hwy 15, then along I Hwy 15 to junction US Hwy 20, then along US Hwy 20 to the ID-WY State line points in NV north of a line beginning at the CA-NV State line extending along I Hwy 80 to junction US Hwy 40, then along US Hwy 40 to junction US Hwy 93 to the NV-ID State line; points in NJ on and north of a line beginning at the PA-NJ state line extending along NJ Hwy 70 to junction NJ Hwy 37, then along NJ Hwy 37 to the Atlantic Ocean at Imis River, points in ND north and west of a line beginning at the SD-ND State line extending along ND Hwy 6 to junction I Hwy 94, then along I Hwy 94 to junction US Hwy 81, then along US Hwy 81 to junction I Hwy 29, then along I Hwy 29 to the US-CD International Boundary line; points in OH east of a line beginning at Ashtabula extending along OH Hwy 11 to junction I Hwy 76, then along I Hwy 76 to the OH-PA State line, points in PA north of I Hwy 76, points in SD west and north of a line beginning at the SY-SD State line extending along US Hwy 14 to junction US Hwy 212, then along U.S. Hwy 212 to junction SD Hwy 65, then along SD Hwy 65 to junction US Hwy 12, then along US Hwy 12 to junction SD Hwy 63, then along SD Hwy 63 to the SD-ND State line, and points in WY north of a line beginning at the WY-ID State line extending along US Hwy 16 to junction I Hwy 90 then along I Hwy 90 to the WY-SD State line, (b) from points in Beaufort and Colleton Counties, SC, to points in ME, OR, WA, WI, points in CA north of a line beginning at San Francisco, extending along I Hwy 80 to junction CA Hwy 99, then along CA Hwy 99 to the CA-NV State line, points in ID north and west of a line beginning at the OR-ID State line extending along US Hwy 30 to junction US Hwy 191, then along US Hwy 191 to the ID-MT State line, points in MN north of a line beginning at the ND-MN State line extending along US Hwy 2 to junction US Hwy 61, then along US Hwy 61 to the US-CD International Boundary line, points in MT north and west of a line beginning at the MT-ID State line extending along I Hwy 90 to junction I Hwy 94, then along I Hwy 94 to the MT-ND State line, points in NC north and west of a line beginning at the CA-NV State line extending along I Hwy 80 to junction US Hwy 40, then along US Hwy

40 to junction US Hwy 93, then along US Hwy 93 to the NV-ID State line, points in NJ north of a line beginning at the PA-NJ State line extending along US Hwy 22 to junction I Hwy 287, then along I Hwy 287 to junction NJ Hwy 35, then along NJ Hwy 35 to Asbury Park, points in ND north of a line beginning at the ND-MT State line extending along I Hwy 94 to junction ND Hwy 3, then along ND Hwy 3 to junction ND Hwy 200, then along ND Hwy 200 to junction I Hwy 29, then along I Hwy 29 to the ND-MN State line, points in OH east of a line beginning at Ashtabula extending along OH Hwy 11 to junction OH Hwy 193, then along OH Hwy 193 to junction US Hwy 422, then along US Hwy 422 to the OH-PA State line; and points in PA north and east of a line beginning at the OH-PA State line extending along US Hwy 422 to junction US Hwy 22, then along US Hwy 22 to the PA-NJ State line, (c) from points in Calhoun and Orangeburg Counties, SC, to points in OR, WA, and points in CA on and north of a line beginning at the CA-NV state line along US Hwy 50 to junction I Hwy 80, then along I Hwy 80 to San Francisco, points in ID on and west of a line beginning at the ID-WY state line extending along US Hwy 20 to junction US Hwy 93, then along US Hwy 93 to the ID-NV state line points in MT on and north of a line beginning at the ND-MT state line extending along US Hwy 12 to junction US Hwy 312, then along US Hwy 312 to junction US Hwy 212, then along US Hwy 212 to junction US Hwy 310 then along US Hwy 310 to junction MT Hwy 308, then along MT Hwy 308 to junction with MT Hwy 397, then along MT Hwy 397 to the MT-WY state line, points in NV on and west of a line beginning at the ID-NV state line extending along US Hwy 93 to junction US Hwy 40, then along US Hwy 40 to junction US Hwy 95, then along US Hwy 95 to junction US Hwy 50, then along US Hwy 50 to the NV-CA state line, points in ND on, north and west of a line beginning at the US-CD International Boundary line extending along ND Hwy 1 to junction ND Hwy 200, then along ND Hwy 200 to junction with US Hwy 85, then along US Hwy 85 to junction US Hwy 12, then along US Hwy 12 to the ND-MT state line, points in WY on and north of a line beginning at the MT-WY state line extending along WY Hwy 120 to junction US Hwy 20, then along US Hwy 20 to the WY-ID state line, and Ashtabula, OH, (d) from points in Berkeley and Dorchester Counties, SC, to points in ID, MT, ND, OR, WA, points in CA on, north and west of a line beginning at San Francisco extending along I Hwy 80 to junction US Hwy 50,

then along US Hwy 50 to the CA-NV state line, points in MN on, north and west of US Hwy 75, points in NV on, north and west of US Hwy 50, points in OH on and east of a line beginning at Ashtabula extending along OH Hwy 48 to junction US Hwy 422, then along US Hwy 422 to the OH-PA state line points in SD on, north and west of a line beginning at the WY-SD state line extending along US Hwy 212 to junction US Hwy 281, then along US Hwy 281 to junction US Hwy 12 then along US Hwy 12 to the SD-MN state line, points in UT on, north and west of a line beginning at the NV-UT state line extending along I Hwy 80 to junction US Hwy 89, then along US Hwy 89 to the UT-WY state line, points in WY on, north and west of a line beginning at the UT-WY state line extending along US Hwy 30 to junction I Hwy 80, then along I Hwy 80 to junction US Hwy 287, then along US Hwy 287 to junction WY Hwy 220, then along WY Hwy 220 to junction I Hwy 25, then along I Hwy 25 to junction I Hwy 90, then along I Hwy 90 to the WY-SD state line, (e) from points in Charleston County, SC, to points in ID, MT, ND, OR, WA, points in CA on, north and west of a line beginning at San Francisco extending along I Hwy 80 to junction US Hwy 50, then along US Hwy 50 to the CA-NV state line, points in MN on, north and west of US Hwy 75, points in NV on, north and west of US Hwy 50, points in OH on and east of a line beginning at Ashtabula extending along OH Hwy 46 to junction US Hwy 422, then along US Hwy 422 to the OH-PA state line, points in SD on, north and west of a line beginning at the WY-SD state line extending along US Hwy 212 to junction US Hwy 12, then along US Hwy 12 to the SD-MN state line, points in UT on, north and west of a line beginning at the NV-UT state line extending along I Hwy 80 to junction US Hwy 89, then along US Hwy 89 to the UT-WY state line, points in WY on, north and west of a line beginning at the UT-WY State line extending along US Hwy 30 to junction I Hwy 80, then along I Hwy 80 to junction US Hwy 287, then along US Hwy 287 to junction WY Hwy 220, then along WY Hwy 220 to junction I Hwy 25, then along I Hwy 25 to junction I Hwy 90 then along I Hwy 90 to the WY-SD state line, (f) from points in Clarendon, Lee and Sumter Counties, SC, to points in ID, MT, ND, OR, WA, points in CA on and west of a line beginning at the CA-NV state line extending along US Hwy 6 to junction CA Hwy 168, then along CA Hwy 168 to junction CA Hwy 145, then along CA Hwy 145 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy

152, then along CA Hwy 152 to Santa Cruz, points in CO on, north and west of a line beginning at the CO-WY state line extending along CO Hwy 125 to junction CO Hwy 14, then along CO Hwy 14 to junction US Hwy 40, then along US Hwy 40 to the CO-UT state line, points in MI on and west of a line beginning at Sault Ste. Marie extending along I Hwy 75 to junction MI Hwy 28, then along MI Hwy 28 to junction US Hwy 41, then along US Hwy 41 to Lake Superior, points in MN on and west of a line beginning at International Falls extending along US Hwy 71 to junction I Hwy 90, then along I Hwy 90 to the MN-SD state line points in NV on and north of US Hwy 6, points in OH on and east of a line beginning at Lake Erie extending along OH Hwy 534 to junction US Hwy 422, then along US Hwy 422 to junction US Hwy 224, then along US Hwy 224 to the OH-PA state line, points in SD on and north of a line beginning at the MN-SD state line extending along I Hwy 90 to junction SD Hwy 79, then along SD Hwy 79 to junction US Hwy 18, then along US Hwy 18 to the SD-WY state line, points in UT on and west of a line beginning at the CO-UT state line extending UT Hwy 33 to junction US Hwy 6, then along US Hwy 6 to the UT-NV state line, points in WY on and west of a line beginning at the SD-WY state line extending along US Hwy 18 to junction I Hwy 25, then along I Hwy 25 to junction WY Hwy 34, then along WY Hwy 34 to junction US Hwy 287, then along US Hwy 287 to junction WY Hwy 230, then along WY Hwy 230 to the CO-WY state line, (g) from Cherokee, Union and Spartanburg Counties, SC, to points in CT, ME, MA, NH, NY, OR, RI, VT, VA, WA, points in CA north of a line beginning at San Mateo extending along US Hwy 101 to junction I Hwy 80, then along I Hwy 80 to the CA-NV state line, points in ID north and west of a line beginning at the NV-ID state line extending along US Hwy 93 to junction US Hwy 30, then along US Hwy 30 to junction I Hwy 15, then along I Hwy 15 to junction US Hwy 20, then along US Hwy 20 to the ID-MT state line, points in MT west of a line beginning at the WY-MT state line extending along I Hwy 90 to junction US Hwy 87, then along US Hwy 87 to junction US Hwy 191, then along US Hwy 191 to junction MT Hwy 242, then along MT Hwy 242 to the US-CD International Boundary line, points in NV north of a line beginning at the CA-NV state line extending along I Hwy 80 to junction US Hwy 40, then along US Hwy 40 to the NV-ID state line, points in NJ north of a line beginning at the PA-NJ state line extending along the New Jersey

Turnpike to junction NJ Hwy 33, then along NJ Hwy 33 to the Atlantic Ocean, points in OH east of a line beginning at Ceshtabula extending along OH Hwy 11 to junction I Hwy 76, then along I Hwy 76 to the OH-PA state line, points in PA north of I Hwy 76, and points in WY north of a line beginning at the ID-WY state line extending along US Hwy 14 to junction I Hwy 90 then along I Hwy 90 to the WY-MT state line, (h) from points in Fairfield and Richland Counties, SC, to points in ID, MT, OR, WA and points in CA on, north and west of a line beginning at San Mateo extending along CA Hwy 92 to junction I Hwy 580, then along I Hwy 580 to junction CA Hwy 99, then along CA Hwy 99 to junction US Hwy 50, then along US Hwy 50 to the CA-NV state line, points in ND on and west of a line beginning at the SD-ND state line extending along ND Hwy 8 to junction I Hwy 94, then along I Hwy 94 to junction US Hwy 83, then along US Hwy 83 to the US-CD International Boundary line, points in NV on, north and west of US Hwy 50, points in SD on, north and west of a line beginning at the WY-SD state line extending along I Hwy 90 to junction SD Hwy 79, then along SD Hwy 79 to junction US Hwy 212, then along US Hwy 212 to junction SD Hwy 73, then along SD Hwy 73 to the SD-ND state line, points in UT on, north and west of a line beginning at NV-UT state line extending along US Hwy 50 to junction US Hwy 89, then along US Hwy 89 to the UT-WY state line, points in WY on, north and west of a line beginning at the UT-WY state line extending along US Hwy 189 to junction US Hwy 187, then along US Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction US Hwy 20, then along US Hwy 20 to junction US Hwy 18, then along US Hwy 18 to junction I Hwy 90, then along I Hwy 90 to the WY-SD state line, and Ashtabula, OH, and (i) from points in Harry County, SC, to points in CA, ID, MN, MT, NV, ND, OR, UT, SD, WA, WY, points in AZ on and west of a line beginning at the US-MX International Boundary line extending along US Hwy 89 to junction US Hwy 160, then along US Hwy 160 to the AZ-CO state line, points in CO on and north of a line beginning at the AZ-CO state line extending along US Hwy 160 to junction US Hwy 285, then along US Hwy 285 to junction US Hwy 6, then along US Hwy 6 to the CO-NE state line, points in IA on and north of US Hwy 20, points in MI on and north of I Hwy 96, points in NE on and north of a line beginning at the CO-NE state line extending along US Hwy 8 to junction US Hwy 183, then along US Hwy 183 to



junction US Hwy 20, then along US Hwy 20 to the NE-IA state line and points in WI on and north of US Hwy 151. (Gateways eliminated: Shadygrove or Waynesboro or Carlisle, PA, and New Holland or Belleville, PA).

MC 117574 (Sub-E95), filed July 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, which are also agricultural, industrial or construction machinery, and equipment, or farm and logging equipment, or machinery, (except tractors with vehicle beds, bed frames and fifth wheels, and such commodities which because of size or weight require the use of special equipment), (1) from points in Ware County, GA, to points in that portion of CA on and north of a line beginning at Eureka, and extending along U.S. Hwy. 101 to junction U.S. Hwy. 199, then along U.S. Hwy. 199 to the CA-OR State line; points in that portion of ID on and north of U.S. Hwy. 12; points in that portion of MT on and north of a line beginning at the MT-ID State line and extending along U.S. Hwy. 12 to junction I Hwy. 15, then along I Hwy. 15 to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to junction with U.S. Hwy. 2, then along U.S. Hwy. 2 to termination at Glasgow; points in that portion of OH on and east of a line beginning at Cleveland, on Lake Erie and extending along OH Hwy. 14 to junction with OH Hwy. 45, then along OH Hwy. 45 to junction with U.S. Hwy. 30, then along U.S. Hwy. 30 to the OH-PA State line; points in that portion of OR on and west of a line beginning at the WA-OR State line and extending along U.S. Hwy. 199 to junction with I Hwy. 5, then along I Hwy. 5 to junction with OR Hwy. 126, then along OR Hwy. 126, to junction with U.S. Hwy. 97, then along U.S. Hwy. 97 to the OR-WA State line; points in that portion of WA on, west and north of a line beginning at the WA-OR State line and extending along WA Hwy. 14 to junction U.S. Hwy. 12, then along U.S. Hwy. 12 to the WA-ID State line; (2) from points in Long and McIntosh Counties, GA, to points in WA; points in that portion of CA on and west of a line beginning at the CA-OR State line and extending along U.S. Hwy. 395 to junction CA Hwy. 36, then along CA Hwy. 36 to junction with CA Hwy. 32, then along CA Hwy. 32 to junction with CA Hwy. 99, then along CA Hwy. 99 to junction with CA Hwy. 20, then along CA Hwy. 20 to the Pacific Ocean; points in the*

Benevah, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID; points in that portion of MT on and north of a line beginning at the ND-MT State line and extending along MT Hwy. 200 to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to junction with U.S. Hwy. 12, then along U.S. Hwy. 12 to junction with U.S. Hwy. 287, then along U.S. Hwy. 287 to junction with U.S. Hwy. 10, then along U.S. Hwy. 10 to junction with MT Hwy. 38, then along MT Hwy. 38 to the MT-ID State line; points in that portion of ND on and west of a line beginning at the US-CD International Boundary line and extending along U.S. Hwy. 85 to junction ND Hwy. 200, then along ND Hwy. 200 to the ND-MT State line; points in that portion of OR on and west of U.S. Hwy. 395; (3) from Appling, Bacon, and Pierce Counties, GA, to points in that portion of MT north of a line beginning at the ID-MT State line and extending along I Hwy. 90 to junction with U.S. Hwy. 12, then along U.S. Hwy. 12 to its junction with I Hwy. 15, then along I Hwy. 15, to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to its termination at Havre; points in that portion of OH east of a line beginning at Ashtabula and extending along OH Hwy. 11 to junction with I Hwy. 76, then along I Hwy. 76 to the OH-PA State line; points in that portion of OR west of a line beginning at Coquille on the Pacific Ocean and extending along U.S. Hwy. 101, to junction OR Hwy. 18, then along OR Hwy. 18 to junction with I Hwy. 5, then along I Hwy. 5 to OR-WA State line; points in that portion of ID north of I Hwy. 90; points in that portion of WA north of a line beginning at WA Hwy. 14 and extending along WA Hwy. 14 to junction U.S. Hwy. 97, then along U.S. Hwy. 97 to junction with I Hwy. 82, then along I Hwy. 82 to junction with I Hwy. 90 then along I Hwy. 90 to the WA-ID State line; (4) from points in Brantley and Wayne Counties, GA, to points in WA; points in Del Norte County, CA; points in that portion of Humboldt and Trinity Counties, CA, on and north of CA Hwy. 36; points in Siskiyou County, CA, on and west of a line beginning at the CA-OR State line and extending along U.S. Hwy. 97 to junction I Hwy. 5, then along I Hwy. 5 to the Siskiyou-Shasta County line; points in that portion of ID on and north of a line beginning at the MT-ID State line extending along U.S. Hwy. 12 to the ID-WA State line, then along the ID-WA State line to junction with the OR-WA State line, then along the OR-WA State line to junction with U.S. Hwy. 97; points in that portion of MT on

and west of a line beginning at the US-CD International Boundary line and extending along MT Road 247 to junction with U.S. Hwy. 2, then along U.S. Hwy. 2 to junction with U.S. Hwy. 191, then along U.S. Hwy. 191 to junction U.S. Hwy. 12, then along U.S. Hwy. 12 to the MT-ID State line; and points in OR on and west of U.S. Hwy. 97; (5) from points in Atkinson, Clinch, Echols and Lanier Counties, GA, to points in that portion of MT north of a line beginning at the ID-MT State line and extending along I Hwy. 90 to junction MT Hwy. 200, then along MT Hwy. 200 to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to its termination at Havre; points in that portion of OH east of a line beginning at Ashtabula, and extending along OH Hwy. 11 to junction OH Hwy. 7, then along OH Hwy. 7, to junction with U.S. Hwy. 30, then along U.S. Hwy. 30 to the OH-PA State line; points in that portion of OR west of a line beginning at Coquille, on the Pacific Ocean and extending along U.S. Hwy. 101 to junction with OR Hwy. 18, then along OR Hwy. 18 to the OR-WA State line; points in that portion of ID north of I Hwy. 90; points in that portion of WA west of a line beginning at the OR-WA State line and extending along WA Hwy. 14 to junction WA Hwy. 142, then along WA Hwy. 142 to junction U.S. Hwy. 97, then along U.S. Hwy. 97 to junction with I Hwy. 90, then along I Hwy. 90 to the WA-ID State line; (6) from points in Chatham and Effingham Counties, GA, to points in OR; WA; points in that portion of CA north of a line beginning at Santa Rosa, on the Pacific Ocean and extending along U.S. Hwy. 101 to junction with I Hwy. 80, then along I Hwy. 80 to the CA-NV State line; points in that portion of ID north and west of a line beginning at the ID-NV State line and extending along U.S. Hwy. 93 to junction U.S. Hwy. 93 alternate, then along U.S. Hwy. 93 alternate to junction with U.S. Hwy. 20, then along U.S. Hwy. 20 to the ID-MT State line; points in that portion of MT north of a line beginning at the ID-MT State line and extending along U.S. Hwy. 191 to junction I Hwy. 90, then along I Hwy. 90 to junction with I Hwy. 94, then along I Hwy. 94 to the MT-ND State line; points in that portion of NV north of a line beginning at the CA-NV State line and extending along I Hwy. 80 to junction with U.S. Hwy. 40, then along U.S. Hwy. 40 in an easterly direction to junction U.S. Hwy. 93, then along U.S. Hwy. 93, to the NV-ID State line; points in that portion of ND north of a line beginning at the MT-ND State line and extending along I Hwy. 94

to junction with ND Hwy. 1, then along ND Hwy. 1 to its termination at Maids; (7) from the Lincoln and Wildes Counties, GA, to points in WA; points in that portion of ID on and north of I Hwy. 90; points in that portion of MT on and north of a line beginning at the US-CD International Boundary line and extending along the Boundary line to junction I Hwy. 15, then along I Hwy. 15 to junction with U.S. Hwy. 2, then along U.S. Hwy. 2 to junction with U.S. Hwy. 93, then along U.S. Hwy. 93 to junction with MT Hwy. 28, then along MT Hwy. 28 to junction with MT Hwy. 200, then along MT Hwy. 200 to junction MT Road 461, then along MT Road 461 to junction I Hwy. 90, then along I Hwy. 90 to the MT-ID State line, and Astoria, OR; (8) from points in Columbia, Glascock, McDuffie and Warren Counties, GA, to points in WA; points in Del Norte County, CA, points in that portion of Humboldt and Trinity Counties, CA, on and north of CA Hwy. 36; points in that portion of Siskiyou County, CA, on and west of I Hwy. 5; points in Benewah, Bonner, Boundary, Clearwater, Kootenai, Letah, Lewis, Nez Perce and Shoshone Counties, ID; points in that portion of MT on and west of a line beginning at the US-CD International Boundary line and extending along MT Road 233, then along MT Road 233 to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to junction with MT Hwy. 200, then along MT Hwy. 200 to junction with MT Road 209, then along MT Road 209 to junction with unidentified State road, then along unidentified State road to its junction with U.S. Hwy. 93, then along U.S. Hwy. 93 to its junction with I Hwy. 90, then along I Hwy. 90 to junction with unidentified State road, then in a southerly direction along unidentified State road to junction with U.S. Hwy. 12, then along U.S. Hwy. 12 to the ID-MT State line; and points in that portion of OR on and west of I Hwy. 5; (9) from points in Colquitt, Tift, Turner and Worth Counties, GA, to points in that portion of OH east of a line beginning at Ashtabula, and extending along OH Hwy. 11 to junction U.S. Hwy. 30, then along U.S. Hwy. 30 to the OH-PA State line; points in that portion of WA west of a line beginning at Aberdeen, and extending along U.S. Hwy. 12 to junction with WA Hwy. 8, then along WA Hwy. 8 to junction with I Hwy. 5, then along I Hwy. 5 to junction with U.S. Hwy. 2, to junction with U.S. Hwy. 97, then along U.S. Hwy. 97 to its termination at the US-CD International Boundary line; (10) from points in Brooks, Coak and

Lowdes Counties, GA, to points in that portion of OH east of a line beginning at Cleveland, and extending along OH Hwy. 14 to junction with U.S. Hwy. 30, then along U.S. Hwy. 30 to the OH-PA State line; points in that portion of WA north and west of a line beginning at Aberdeen, and extending along U.S. Hwy. 12 to junction I Hwy. 5, then along I Hwy. 5 to junction with I Hwy. 90, then along I Hwy. 90 to junction U.S. Hwy. 97, then along U.S. Hwy. 97 to its termination at the US-CD International Boundary line; (11) from points in Montgomery, Treutlen and Wheeler Counties, GA, to points in that portion of ID on and north of U.S. Hwy. 12; points in that portion of MT on and west of a line beginning at the US-CD International Boundary line and extending along I Hwy. 15 to junction with U.S. Hwy. 91, then along U.S. Hwy. 91 to junction with MT Road 434, then along MT Road 434 to junction with MT Hwy. 200 then along MT Hwy. 200 to junction with MT Road 209, then along MT Road 209 to junction with unidentified State road, then along unidentified State road to junction with U.S. Hwy. 93, then along U.S. Hwy. 93 to junction with I Hwy. 90, then along I Hwy. 90 to junction with unidentified state road, then along unidentified state road to junction with U.S. Hwy. 12 to the MT-ID State line; points in that portion of OR and west of a line beginning at the OR-WA State line and extending along I Hwy. 5 to junction with OR Hwy. 99W, then along OR Hwy. 99W to junction with U.S. Hwy. 20, then along U.S. Hwy. 20 to its termination at the Pacific Ocean; (12) from points in Crisp, Dooly, and Wilcox Counties, GA, to points in that portion of OH east of a line beginning at Ashtabula, and extending along OH Hwy. 11 to junction U.S. Hwy. 422, then along U.S. Hwy. 422 to the OH-PA State line, Astoria, OR; points in that portion of WA north and west of a line beginning at the OR-WA line and extending along I Hwy. 5 to its junction with U.S. Hwy. 12, then along U.S. Hwy. 12 to its junction with I Hwy. 82, then along I Hwy. 82 to junction I Hwy. 90, then along I Hwy. 90 to its junction with WA Hwy. 21, then along WA Hwy. 21 to termination at the US-CD International Boundary line; (13) from Ben Hill, Berrien and Irwin Counties, GA, to points in that portion of ID on and north of a line beginning at the WA-ID State line and extending along U.S. Hwy. 95 to junction I Hwy. 90, then along I Hwy. 90 to the ID-MT State line; points in that portion of MT on and north of a line beginning at the

ID-MT State line and extending along I Hwy. 90 to junction MT Hwy. 200, then along MT Hwy. 200 to junction with U.S. Hwy. 87, then along U.S. Hwy. 87 to its termination at Havre; points in that portion of OH on and east of a line beginning at Ashtabula, on Lake Erie and extending along OH Hwy. 11 to junction U.S. Hwy. 422, then along U.S. Hwy. 422 to the OH-PA State line; points in that portion of OR on, north and west of a line beginning at Newport, on the Pacific Ocean and extending along U.S. Hwy. 20 to junction I Hwy. 5, then along I Hwy. 5 to the OR-WA State line; points in that portion of WA on, north and west of a line beginning at the WA-OR State line and extending along WA Hwy. 14 to junction U.S. Hwy. 12, then along U.S. Hwy. 12 to the WA-ID State line; (14) from points in Grady and Thomas Counties, GA, to points in that portion of OH on and east of a line beginning at Ashtabula, and extending along OH Hwy. 11 to junction U.S. Hwy. 30, then along U.S. Hwy. 30 to the OH-PA State line; points in that portion of WA on, north and west of a line beginning at Aberdeen and extending along U.S. Hwy. 12 to its junction with WA Hwy. 8, then along WA Hwy. 8 to junction with U.S. Hwy. 101, then along U.S. Hwy. 101 to its termination at Port Angeles; (15) from points in Habersham, Rabun and Stephens Counties, GA, to points in that portion of ID, on and north of a line beginning at the US-CD International Boundary line and extending along U.S. Hwy. 95 to junction with U.S. Hwy. 2, then along U.S. Hwy. 2 to the ID-WA State line; points in that portion of WA on and west of a line beginning at the ID-WA State line and extending along U.S. Hwy. 2 to junction with WA Hwy. 31, then along WA Hwy. 31 to junction with U.S. Hwy. 395, then along U.S. Hwy. 395 to junction with WA Hwy. 231, then along WA Hwy. 231 to junction with U.S. Hwy. 395, then along U.S. Hwy. 395 to the WA-OR State line, then along the OR-WA State line to the Pacific Ocean; and Astoria, OR; (16) from points in Banks, Franklin and Madison Counties, GA, to points in that portion of WA, on and west of a line beginning at Aberdeen; and extending along I Hwy. 5, to Bellingham, WA; (17) from Morgan, Newton and Walton Counties, GA, to Port Angeles, and Bellingham, WA, and the port of entry on the US-CD International Boundary line at Ososyoos; (18) from points in Hall, Lumpkin, Towns, Union and White Counties, GA, to points in that portion of WA on and west of a line beginning at Aberdeen, and extending along I Hwy. 5, to Bellingham, WA. (Gateway



eliminated; Shady Grove, Waynesboro, and Belleville, PA.)

MC-117574 (Sub-No. E96), filed July 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. box 38, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements machinery, tractors with or without attachments, cranes, industrial and processing machinery, which are also agricultural, industrial or construction machinery, and equipment or farm and logging equipment, or machinery, (except tractors with vehicle beds, bed frames and fifth wheels, and such commodities which because of size or weight require the use of special equipment)* (1) from points in Charleston County, GA to points in WA; points in Del Norte County, CA, points in that portion of Humboldt and Trinity Counties on and north of CA Hwy. 36, points in that portion of Siskiyou County, CA, on and west of a line beginning at the CA-OR State line and extending along U.S. Hwy. 97 to junction with I Hwy. 5 thence along I Hwy. 5 to the Siskiyou-Shasta County line; points in that portion of ID on and north of a line beginning at the MT-ID State line and extending along U.S. Hwy. 12 to the ID-WA State line, thence along the ID-WA State line to junction with the OR-WA State line, thence along the OR-WA State line to junction with U.S. Hwy. 97; points in that portion of MT on and west of a line beginning at the US-CD International Boundary line and extending along MT Road 247, to junction with U.S. Hwy. 2, thence along U.S. Hwy. 2 to junction with U.S. Hwy. 291, thence along U.S. Hwy. 191 to junction with U.S. Hwy. 12 thence along U.S. Hwy. 12 to the MT-ID State line, points in that portion of OR on and west of U.S. Hwy. 97, (2) from Coffee, Jeff Davis, and Telfair Counties, GA, to points in that portion of CA west of a line beginning at Eureka, and extending along U.S. Hwy. 101 to junction with U.S. Hwy. 199, thence along U.S. Hwy. 199 to the CA-OR State line; points in that portion of ID north of a line beginning at the WA-ID State line and extending along I Hwy. 90 to the ID-MT State line; points in that portion of MT north of a line beginning at the ID-MT State line and extending along I Hwy. 90 to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to junction with I Hwy. 15, thence along I Hwy. 15 to junction with U.S. Hwy. 87, thence along U.S. Hwy. 87 to its termination at Havre; points in that portion of OR west of I Hwy. 5; points in that portion of OH beginning at Ashtabula, and extending along OH Hwy. 11 to junction with U.S. Hwy. 30, thence along U.S. Hwy. 30 to the OH-PA

State line; points in that portion of WA west of a line beginning at the WA-OR State line and extending along WA Hwy. 14 in an easterly direction to junction with U.S. Hwy. 97, thence along U.S. Hwy. 97 to junction I Hwy. 82, thence along I Hwy. 82 to junction I Hwy. 90, thence along I Hwy. 90 to the WA-ID State line; (3) from points in Brian and Liberty Counties, GA, to points in MT; ND; OR; WA; points in that portion of CA on and northwest of a line beginning at Santa Rosa, and extending along U.S. Hwy. 101 to junction I Hwy. 80, thence along I Hwy. 80 to the CA-NV State line; points in that portion of ID on and northwest of a line beginning at the NV-ID State line and extending along U.S. Hwy. 93 to junction I Hwy. 15, thence along I Hwy. 15 to junction U.S. Hwy. 26, thence along U.S. Hwy. 26 to the ID-WY State line; points in that portion of MN on and northwest of a line beginning at the SD-MN State line and extending along U.S. Hwy. 12 to junction U.S. Hwy. 71, thence along U.S. Hwy. 71 to International Falls; points in that portion of NV on and west of a line beginning at the CA-NV State line and extending along U.S. Hwy. 40, thence along U.S. Hwy. 40 to junction U.S. Hwy. 93, thence along U.S. Hwy. 93 to the NV-ID State line; points in that portion of OH on and east of a line beginning at Cleveland and extending along OH Hwy. 21 to junction I Hwy. 80, thence along I Hwy. 80 to the OH-PA State line; points in that portion of SD on and northwest of a line beginning at the WY-SD State line and extending along U.S. Hwy. 212 to junction U.S. Hwy. 281 thence along U.S. Hwy. 281 to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to the SD-MN State line; points in that portion of WY on and west of a line beginning at the ID-WY State line and extending along U.S. Hwy. 26, thence along U.S. Hwy. 26 to junction I Hwy. 25, thence along I Hwy. 25 to junction I Hwy. 90, thence along I Hwy. 90 to the WY-SD State line, (4) from Evans, Tattnall and Toombs Counties, GA, to points in that portion of CA on and west of a line beginning at Eureka and extending along U.S. Hwy. 101 to junction U.S. Hwy. 199, thence along U.S. Hwy. 199 to the CA-OR State line; points in that portion of ID on and north of U.S. Hwy. 12; points in that portion of MT north of a line beginning at ID-MT State line and extending along U.S. Hwy. 12 to junction U.S. Hwy. 191, thence along U.S. Hwy. 191 to junction with MT Hwy. 200, thence along MT Hwy. 200 to the MT-ND State line; points in that portion of ND west of U.S. Hwy. 85; points in that portion of OH east of a line beginning at Ashtabula

and extending along OH Hwy. 11 to junction U.S. Hwy. 422, thence along U.S. Hwy. 422 to the OH-PA State line; points in that portion of OR on and west of a line beginning at the OR-CA State line and extending along U.S. Hwy. 199 to junction I Hwy. 5, thence along I Hwy. 5 to junction OR Hwy. 62, thence along OR Hwy. 62 to junction U.S. Hwy. 97 thence along U.S. Hwy. 97 to junction with U.S. Hwy. 26, thence along U.S. Hwy. 26 to junction with U.S. Hwy. 395, thence along U.S. Hwy. 395 to junction OR Hwy. 11, thence along OR Hwy. 11 to the OR-WA State line; points in that portion of WA on and north of U.S. Hwy. 12; (5) from points in Camden and Glynn Counties, GA, to points in WA; points in that portion of CA on and west of a line beginning at Eureka and extending along CA Hwy. 299, to junction with I Hwy. 5, thence along I Hwy. 5 to junction with U.S. Hwy. 97, thence along U.S. Hwy. 97 to the CA-OR State line; points in that portion of ID on and west of U.S. Hwy. 12; points in that portion of MT on and west of a line beginning at the ID-MT State line and extending along U.S. Hwy. 12 thence along U.S. Hwy. 12 to junction U.S. Hwy. 191, thence along U.S. Hwy. 191 to junction U.S. Hwy. 2, thence along U.S. Hwy. 2 to junction with U.S. Hwy. 247, thence along U.S. Hwy. 247 to the US-CD International Boundary line; points in that portion of OH on and east of a line beginning at Ashtabula and extending along OH Hwy. 46 to junction U.S. Hwy. 422, thence along U.S. Hwy. 422 to the OH-PA State line; points in that portion of OR on and west of a line beginning at the CA-OR State line and extending along U.S. Hwy. 97 to junction U.S. Hwy. 26, thence along U.S. Hwy. 26 to the OR-ID State line, (6) from points in Bullock and Screven Counties, GA, to points in MT; ND; OR; WA; points in that portion of CA on and northwest of a line beginning at Santa Rosa and extending along U.S. Hwy. 101 to junction I Hwy. 80, thence along I Hwy. 80 to the CA-NV State line; points in that portion of ID on and northwest of a line beginning at the NV-ID State line and extending along U.S. Hwy. 93, thence along U.S. Hwy. 93 to junction I Hwy. 15, thence along I Hwy. 15, to junction U.S. Hwy. 26, thence along U.S. Hwy. 26 to the ID-WY State line; points in that portion of MN on and northwest of a line beginning at the SD-MN State line and extending along U.S. Hwy. 12, to junction U.S. Hwy. 71, thence along U.S. Hwy. 71 to the International Falls; points in that portion of NV on and west of a line beginning at the CA-NV State line and extending along U.S. Hwy. 40, to junction with U.S. Hwy. 93, thence along

U.S. Hwy. 93 to the NV-ID State line; points in that portion of OH and east of a line beginning at Cleveland and extending along OH Hwy. 21 to junction I Hwy. 80, thence along I Hwy. 80 to the OH-PA State line; points in that portion of SD on and northwest of a line beginning at the WY-SD State line and extending along U.S. Hwy. 212, to junction with U.S. Hwy. 281, thence along U.S. Hwy. 281 to junction with U.S. Hwy. 12, thence along U.S. Hwy. 12 to the SD-MN State line; points in that portion of WY on and west of a line beginning at the ID-WY State line and extending along U.S. Hwy. 26, thence along U.S. Hwy. 26 to junction I Hwy. 25, thence along I Hwy. 25 to junction I Hwy. 90, thence along I Hwy. 90 to the WY-SD State line; (7) from Elbert and Hart Counties, GA, to points in WA; points in that portion of ID on and west of U.S. Hwy. 12; points in that portion of MT on and west of a line beginning at the US-CD International Boundary line and extending along I Hwy. 15 to junction U.S. Hwy. 91, thence along U.S. Hwy. 91 to junction MT Road 434, thence along MT Road 434 to junction MT Hwy. 200, thence along MT Hwy. 200 to junction MT Road 209, thence along MT Road 209 to junction unidentified State road, thence along unidentified State road, to junction U.S. Hwy. 93, thence along U.S. Hwy. 93 to junction I Hwy. 90, thence along I Hwy. 90 to junction unidentified State road, thence along unidentified State road to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to the MT-ID State line; points in that portion of OR on and west of a line beginning at the OR-WA State line and extending along I Hwy. 5 to junction U.S. Hwy. 20, thence along U.S. Hwy. 20 to its termination at the Pacific Ocean; (8) from points in Candler and Emanuel Counties, GA, to points in that portion of CA on and west of a line beginning at Eureka and extending along U.S. Hwy. 101 to junction with U.S. Hwy. 199, thence along U.S. Hwy. 199 to the CA-OR State line; points in that portion of ID north of U.S. Hwy. 12; points in that portion of MT north of a line beginning at the ID-MT State line and extending along U.S. Hwy. 12 to junction I Hwy. 15, thence along I Hwy. 15 to junction U.S. Hwy. 87, thence along U.S. Hwy. 87 to junction with U.S. Hwy. 87, thence along U.S. Hwy. 87 to its termination at Glasgow; points in that portion of OH on and east of a line beginning at Ashtabula and extending along OH Hwy. 11 to junction with U.S. Hwy. 422, thence along U.S. Hwy. 422 to the OH-PA State line; points in that portion of OR west of a line beginning at

CA-OR State line and extending along U.S. Hwy. 199 to junction I Hwy. 5, thence along I Hwy. 5 to junction OR Hwy. 126, thence along OR Hwy. 126 to junction with U.S. Hwy. 97, thence along U.S. Hwy. 97 to the OR-WA State line; points in that portion of WA on and west and north of a line beginning at the OR-WA State line and extending along WA Hwy. 14 to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to WA-ID State line; (9) from points in Jefferson and Washington Counties, GA, to points in WA; points in that portion of CA on and northwest of a line beginning at Eureka and extending along CA Hwy. 299, to junction I Hwy. 5, thence along I Hwy. 5 to junction U.S. Hwy. 97, thence along U.S. Hwy. 97 to the CA-OR State line; points in that portion of ID on and northwest of a line beginning at the OR-ID State line and extending along U.S. Hwy. 95, to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to the ID-MT State line; points in that portion of MT on and northwest of a line beginning at the ID-MT State line and extending along MT Hwy. 200 to junction U.S. Hwy. 87, thence along U.S. Hwy. 87 to Havre; points in that portion of OH on and north of a line beginning at Cleveland, and extending along OH Hwy. 21 to junction I Hwy. 80, thence along I Hwy. 80 to the OH-PA State line; points in that portion of OR on and northwest of a line beginning at the CA-OR State line and extending along U.S. Hwy. 97 to junction U.S. Hwy. 26 thence along U.S. Hwy. 26, to the OR-ID State line, (10) from points in Johnson, Laurens and Wilkinson Counties, GA, to points in WA; points in that portion of CA on and northwest of a line beginning at Eureka and extending along CA Hwy. 299 to junction I Hwy. 5, thence along I Hwy. 5 to junction U.S. Hwy. 97, thence along U.S. Hwy. 97 to the CA-OR State line; points in that portion of ID on and northwest of U.S. Hwy. 12; points in that portion of MT on and northwest of a line beginning at the IA-MT State line and extending along U.S. Hwy. 12 to junction I Hwy. 15, thence along I Hwy. 15 to junction U.S. Hwy. 87, thence along U.S. Hwy. 87 to Harve; points in that portion of OH on and east of a line beginning at Cleveland and extending along OH Hwy. 21 to junction I Hwy. 80, thence along I Hwy. 80 to the OH-PA State line; points in that portion of OR on and northwest of a line beginning at the CA-OR State line and extending along U.S. Hwy. 97, thence along U.S. Hwy. 97 to junction U.S. Hwy. 26, thence along U.S. Hwy. 26 to the OR-ID State line; (11) from points in Beckley, Dodge and Pulaski Counties, GA, to points in that portion of ID on and northwest of a line

beginning at the US-CD International Boundary line along U.S. Hwy. 95 to junction U.S. Hwy. 2, thence along U.S. Hwy. 2 to the ID-WA State line; points in that portion of WA on and northwest of a line beginning at the ID-WA State line and extending along U.S. Hwy. 2 to junction WA Hwy. 31, thence along WA Hwy. 31 to junction unidentified State road, thence along unidentified State road to junction U.S. Hwy. 395, thence along U.S. Hwy. 395 to junction WA Hwy. 231, thence along WA Hwy. 231 to junction U.S. Hwy. 2, thence along U.S. Hwy. 2 to junction U.S. Hwy. 97, thence along U.S. Hwy. 97 to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to junction I Hwy. 5, thence along I Hwy. 5 to junction WA Hwy. 6, thence along WA Hwy. 6 to Raymond and the Pacific Ocean; (12) from points in Decatur and Seminole Counties, GA, to points in that portion of OH east of a line beginning at Ashtabula, and extending along OH Hwy. 11 to junction U.S. Hwy. 30 in an easterly direction to OH-PA State line; (13) from points in Greene, Hancock and Tallo-Ferro, Counties, GA, to points in that portion of ID on and west of U.S. Hwy. 2, points in that portion of MT on and north of a line beginning at the US-CD International Boundary line extending along U.S. Hwy. 89 to junction with U.S. Hwy. 2, thence along U.S. Hwy. 2 to the MT-ID State line; Astoria, OR; points in that portion of WA north of a line beginning at the ID-WA State line and extending along U.S. Hwy. 2 to junction U.S. Hwy. 395, thence along U.S. Hwy. 395 to the OR-WA State line, thence along the WA-OR State line to the Pacific Ocean, (14) from points in Baldwin and Putnam Counties, GA, to points in that portion of WA on and west of a line beginning at the US-CD International Boundary line and extending along U.S. Hwy. 97 to junction I Hwy. 90, thence along I Hwy. 90 to junction WA Hwy. 18, thence along WA Hwy. 18, to junction I Hwy. 5, thence along I Hwy. 5 to junction U.S. Hwy. 12, thence along U.S. Hwy. 12 to the Pacific Ocean; (15) from points in Oconee and Aglathorpe Counties, GA, to points in that portion of ID on and north and west of a line beginning at the WA-ID State line and extending along U.S. Hwy. 95, thence along U.S. Hwy. 95 to Eastport; Ashtabula, OH; points in that portion of OR on and north and west of a line beginning at Astoria and extending along U.S. Hwy. 30 to the OR-WA State line; points in that portion of WA on and north and west of a line beginning at the OR-WA State line and extending along U.S. Hwy. 12, to junction I Hwy. 90, thence along I Hwy. 90 to the WA-ID State line, (16) from points in Jasper and



Jones Counties, GA, to Aberdeen, Bellingham, Bremerton and Port Angeles, WA, (17) from points in Burke, Jenkins and Richmond Counties, GA, to points in WA; points in that portion of CA west of a line beginning at Santa Rosa on the Pacific Ocean and extending along U.S. Hwy. 101 to junction CA Hwy. 20, thence along CA Hwy. 20 to junction I Hwy. 2, thence along I Hwy. 2 to junction CA Hwy. 299, thence along CA Hwy. 299 to junction U.S. Hwy. 395, thence along U.S. Hwy. 395 to the CA-OR State line; points in that portion of ID north of a line beginning at the OR-ID State line and extending along I Hwy. 80 to junction ID Hwy. 68, thence along ID Hwy. 68 to junction U.S. Hwy. 93, thence along U.S. Hwy. 93 to the ID-MT State line; points in that portion of MT north of a line beginning at ID-MT State line and extending along MT Hwy. 43 to junction I Hwy. 90, thence along I Hwy. 90 to junction I Hwy. 94, thence along I Hwy. 94 to junction MT Hwy. 16, thence along MT Hwy. 16 to junction MT Hwy. 200, thence along MT Hwy. 200 to the MT-ND State line; points in that portion of ND west of a line beginning at MT-ND State line and extending along ND State line to junction ND Hwy. 200, to junction U.S. Hwy. 85, thence along U.S. Hwy. 85 to the US-CD International Boundary line, points in that portion of OR north and west of a line beginning at the CA State line and extending along U.S. Hwy. 395 to U.S. Hwy. 20, thence along U.S. Hwy. 20 to the OR-ID State line. (Gateways eliminated: Shady Grove, Waynesboro and Belleville, PA.)

MC 124211 (Sub-E113), filed August 26, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (Same as above). *Processed meats meat products meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except frozen foods, hides and commodities in bulk), (a) between Plainview, TX and points in TX on, west and north of a line beginning at the OK-TX State line extending along US Hwy 287 to junction US Hwy 87, then along US Hwy 87 to junction US Hwy 380, then along US Hwy 380 to the TX-NM State line (except points in Dallam, Hartley, Moore, and Sherman Counties), on the one hand, and, on the other, points in MO on and north of a line beginning at the MO-NE State line extending along US Hwy 136 to junction US Hwy 65, then along US Hwy 65 to

junction MO Hwy 6, then along MO Hwy 6 to the MO-IL State line and points in NE on and east of US Hwy 81 (except points in Thayer County, NE) (Lincoln, NE, commercial zone\*), and (b) from Plainview, TX, and points in TX on, west and north of a line beginning at the OK-TX State line extending along US Hwy 287 to junction US Hwy 87, then along US Hwy 87 to junction US Hwy 380, then along US Hwy 380 to the TX-NM State line (except points in Dallam, Hartley, Moore and Sherman Counties), to points in IL on and north of US Hwy 36, points in IN and north of US Hwy 36, points in IA, MI, MN, ND on and east of US Hwy 281, and points in WI. (Lincoln, NE, commercial zone and points in Saunders County NE\*) (Gateways eliminated: asterisked.)

MC 124211 (Sub-E117), filed August 29, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (Same as above). *Processed meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except frozen foods, hides and commodities in bulk), (a) between points in TX on, south and west of a line beginning at the NM-TX State line extending along US Hwy 380 to junction US Hwy 84, then along US Hwy 84 to Snyder, then along TX Hwy 208 to San Angelo, then along US Hwy 277 to Del Rio then along unnumbered highway to the US-MX International Boundary line (except points in El Paso County), on the one hand, and, on the other, points in MO on and north of a line beginning at the MO-NE State line extending along US Hwy 136 to junction US Hwy 65, then along US Hwy 65 to junction MO Hwy 6, then along MO Hwy 6 to the IL-MO State line, and points in NE on and east of US Hwy 281 (except points in Webster County) (Lincoln, NE, commercial zone\*), and (b) from points in TX described in (a) above, to points in IL on and north of US Hwy 136, IN on and north of US Hwy 24, IA, MI, MN, ND on and east of US Hwy 83, OH on and north of US Hwy 36, SD on and east of US Hwy 281, and WI (Lincoln, NE, commercial zone, and points in Saunders County, NE\*). (Gateways eliminated: asterisked.)

By the Commission.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37854 Filed 12-10-79; 8:45 am]  
BILLING CODE 7035-01-M

## DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

### National Institute of Education

#### Teaching and Learning Research Grant Competition; Reminder About Closing Dates for Receipt of Proposals

This notice is to remind persons who are planning to submit proposals under the unsolicited proposal process on or before the announced deadline of January 3, 1980 (44 FR 39619, July 6, 1979 and 44 FR 63581, November 5, 1979) that there is also a deadline of January 21, 1980 (44 FR 57996, October 9, 1979) for submitting proposals under the Teaching and Learning Research Grant Competition.

According to NIE regulations, any unsolicited proposal which in substance closely resembles a pending competitive solicitation may not be funded as an unsolicited proposal.

In accordance with published guidelines, the Institute will determine whether in substance any unsolicited proposal submitted for the January 3 deadline resembles closely the content of the current Teaching and Learning announcement, and will return any such proposal or transfer it to the Teaching and Learning Competition after consultation with the proposer.

Interested persons can receive a copy of the Unsolicited Proposal Guidelines from Dr. Warren Kaufman, telephone (202) 254-7920 and a copy of the Teaching and Learning Research Grants Announcement from Dr. Lawrence G. Goebel, telephone (202) 254-5672 at the National Institute of Education, Washington, D.C. 20208.

Dated: December 7, 1979.

John W. Christensen,  
Associate Director, Administration,  
Management and Budget.

[FR Doc. 79-38153 Filed 12-10-79; 11:49 am]  
BILLING CODE 4110-39-M

## Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### 1

[M-258, Amdt. 6; Dec. 6, 1979]

#### CIVIL AERONAUTICS BOARD.

Notice of Deletion of Item from the December 6, 1979, Board Meeting.

TIME AND DATE: 9:30 a.m., December 6, 1979.

PLACE: Room 1027 (Open)—1825 Connecticut Avenue NW., Room 1011 (Closed) Washington, D.C. 20428.

SUBJECT: 3. Dockets 36091 and 36196; Applications of American and Braniff for Texas-Eastern Canada exemptions (Memo 9332, BIA, OGC).

STATUS: 1-15 (Open), 16 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Legal Division of the Bureau of International Aviation has requested the deletion of Item 3 in order to allow additional time for coordination with the Office of the General Counsel. Accordingly, the following Members have voted that agency business requires the deletion of Item 3 from the December 6, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2407-79 Filed 12-7-79; 3:42 pm]  
BILLING CODE 6320-01-M

### 2

[M-260, Dec. 6, 1979]

#### CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., December 13, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

#### SUBJECT:

1. Ratification of Items adopted by notation.

2. Dockets 27048, 32661, 32750, 32855, and 33699; applications of various foreign air carriers for 402 permits. (Memo No. 9340, BIA, OGC, BALJ)

3. Docket 36182, Brock Air Services Ltd. application for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (BIA, OGC, BALJ)

4. Dockets 32608, 32609, and 33363; application of Transglobal Airlines, Inc., formerly known as Global American Airlines, Inc., Former Large Irregular Air Service Investigation; Order on Discretionary Review. (OGC)

5. Docket 35518, Trans-Mediterranean Airways, S.A.L. (TMA)—application to renew and amend its foreign air carrier permit to operate New York-Lebanon all-cargo operations via Basel, Amsterdam, Copenhagen, Stockholm, Frankfurt, Paris and London. (Memo No. 9333, BIA, OGC, BALJ)

6. Dockets 36091 and 36196, applications of American and Braniff for Texas-Eastern Canada exemptions. (Memo No. 9332, BIA, OGC)

7. Dockets 33363, 33232, and 33233; (Application of AIAL, Inc. and Former Large Irregular Air Service Investigation. (Memo No. 9334, OGC)

8. Dockets 34292, 34293, and 33363; Former Large Irregular Air Service Investigation (Homer International Airlines, Inc.)—Order on discretionary review. (Memo No. 9338, OGC)

9. Docket 34226, Eastern Airline' motion to dismiss its merger application. (Memo No. 8593-A, OGC)

10. Docket 36815, Southwest Alaska Service Investigation. Order acting on petition. (Memo No. 9192-A, OGC)

11. Docket 36672, application of Sky West Aviation pursuant to Subpart Q, to add Flagstaff, Arizona, as an intermediate point on its certificate. (Memo No. 9341, BDA)

12. Docket 36945 and NR-111, Delta's notice of intent to suspend nonstop or single-plane service in seven markets. (BDA)

13. Dockets 35805, 36016, 36008, 36022, 36040, 36041, 36028, 36047, 36030, 36006, 36056, 36048, 36060, 36050, 36061, 36025, and 36053; Order granting authority to operate nonstop service from Newark, N.J., as a terminal point to other domestic or overseas terminal points as requested in the new applications of Air

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New England, Braniff Airways, Continental Airlines, Eastern Airlines, Evergreen International Airlines, Frontier Airlines, National Airlines, Ozark Airlines, Piedmont Aviation, Republic Airlines, Texas International Airlines, Trans Carib Air, Trans World Airlines, USAir, Western Airlines, and World Airways filed in the *Newark Show-Cause Proceeding* (Memo No. 8585-A, BDA)  
14. Dockets 36638, 36467, 36647, 36948, 36483, and 36482; Boise-San Francisco/San Jose/Oakland/Portland/Reno/Salt Lake City Show-Cause Proceeding; new applications of Hughes Airwest, Pacific Southwest, Republic, USAir, and Western. (Memo No. 9117-A, BDA)

15. Dockets 36174, 36397, 36384, 36321, 36395, 36389, 36392, 36386, and 36460; Pittsburgh/Houston-El Paso/Albuquerque/San Diego Show Cause Proceeding; new applications of American, Continental, Eastern, Hughes Airwest, Pan American, Republic, Southwest, Texas International and USAir. (BDA)

16. Docket 36799, Braniff Airways' ninety day notice of suspension of all service at Birmingham, Alabama. (Memo No. 9342, BDA, OCCR)

17. Docket 36806, Texas International's notice under section 401(j)(1) to terminate its certificate obligations at Brownwood, Longview/Kilgore/Gladewater, Temple, Tyler, Victoria, and Waco, Texas. (BDA, OCCR)

18. Docket 35634, Agreements CAB 27928-R1 through R3: Agreements among members of IATA establishing an exception to the IATA cargo agency accreditation standards. (Memo No. 9339, BDA)

19. Agreement CAB 27548 and 27370; Agreement between American Airlines, Inc. (American) and Pan American World Airways, Inc., concerning the placement of an automated reservations system in travel agents' offices; Agreement between American and Western Air Lines, Inc., concerning the placement of an automated reservations system in travel agents' offices. (Memo No. 9337, BDA, OGC)

20. Docket 36798—expansion of commuter replacement agreement between USAir and Suburban Airlines. (BDA, OGC, BCP)

21. Docket 37109, Limitation of Excess Baggage Allowance Proposed by Eastern Airlines, Inc., in Certain Caribbean Markets—report of an informal conference of interested persons. (Memo No. 9286-B, BDA)

22. Dockets 36508 and 37041. Application of Air Illinois for interim compensation for losses in providing essential air service at El Dorado/Camden, Arkansas, and Natchez, Mississippi. (BDA, OGC, OCCR, OC, BCP)

23. Dockets 35268 and 35274, *World Airways Enforcement Proceeding*. Petition by World for review of an initial decision holding that the form of certain newspaper advertisements constituted an "unfair practice" under section 411, and ordering World to cease and desist. (OGC)



24. Dockets 34802 and 37165, Emergency Motion of Wien Air Alaska, Inc. for issuance of final order to fix temporary service mail rates: *Great Northern Airlines Service Mail Rate Investigation*. (Memo No. 9243, BDA)

25. Board position on cargo rate flexibility as proposed in H.R. 5882. (Memo No. 9336, OGC)

**STATUS:** Open (Items 1-24), Closed (Item 25).

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673-5068.

**SUPPLEMENTARY INFORMATION:** The Board is to consider various options for providing rate flexibility for foreign cargo. This matter involves questions of foreign rate policy which could be the subject of international negotiations. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies prior to such negotiations could seriously compromise the position of the United States to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of the proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting on this item should be closed:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

#### Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.

Managing Director.—Mr. Cressworth Lander.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Director.—Mr. Michael E. Levine.

Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.

Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Vance Fort, Mr. John H. Kiser, Mr. Richard M. Loughlin, and Mr. Ivars V. Mellups.

Bureau of Domestic Aviation.—Ms. Barbara A. Clark, Mr. Paul L. Gretch, and Mr. Mark S. Kahan.

Office of Economic Analysis.—Mr. Robert H. Frank and Ms. Julie Moll.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Ms. Patricia Kennedy, and Mr. Glenn W. Wienhoff.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

#### General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to the public observation.

Mary McInnis Schuman,  
General Counsel.

[S-2406-79 Filed 12-7-79; 3:42 pm]  
BILLING CODE 6320-01-M

### 3

#### FEDERAL ELECTION COMMISSION.

**DATE AND TIME:** Thursday, December 13, 1979 at 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C.

**STATUS:** Portions of this meeting will be open to the public and portions will be closed to the public.

#### MATTERS TO BE CONSIDERED IN OPEN SESSION:

Setting of dates for future meetings.  
Correction and approval of minutes.  
Certifications.  
Advisory Opinions: Draft AO 1979-65, L. James Gibbs, Chairman, Virginia Democrats for Leadership and Commitment (a draft Kennedy Committee). Draft AO 1979-67, James T. Lynn, General Counsel, Republican National Committee and Ronald D. Eastman, Democratic National Committee.  
Audit advisory panel.  
1980 election and related matters.  
House and Senate bookkeeping manual.  
Convention reporting form.  
Index and xeroxing pricing policy.  
Management report for fiscal year 1979.  
Budget execution report for November 1979.  
Appropriations and budget.  
Pending legislation.  
Classification actions.  
Routine administrative matters.

#### MATTERS TO BE CONSIDERED IN EXECUTIVE SESSION: (Closed to the public):

Compliance.  
Personnel.

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2403-79 Filed 12-7-79; 1:34 p.m.]

BILLING CODE 6715-01-M

### 4

December 5, 1979.

#### FEDERAL ENERGY REGULATORY COMMISSION.

**TIME AND DATE:** December 12, 1979, 10 a.m.

**PLACE:** 825 North Capitol Street, NE., Washington, D.C. 20428, Room 9308.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

#### CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

**Power Agenda—349th Meeting, December 12, 1979, Regular Meeting (10 a.m.)**

CAP-1. Docket No. E-9578, Texas Power & Light Co.

CAP-2. Docket Nos. E-8187, E-8700, ER76-203 and ER76-238, Boston Edison Co., Docket No. ER78-518, Boston Edison Co.

CAP-3. Docket No. ER79-535, Kansas City Power & Light Co.

CAP-4. Docket No. ER79-526, El Paso Electric Co.

**Miscellaneous Agenda—349th Meeting, December 12, 1979, Regular Meeting**

CAM-1. Docket No. RA79-10, Milltown Skelgas, Inc.

CAM-2. Docket No. CP79-118, U.S.G.S./Louisiana, Section 102(d) NGPA Determination, Forest Oil Corp., JD79-13023.

CAM-3. Docket No. CP79-102, State of Wyoming, Section 103 NGPA Determination, Sante Fe Energy Co., ODC Tribal Gulf Ute Nos. 3-9, JD79-11745.

CAM-4. Docket No. GP79-103, U.S.G.S. (New Mexico) Section 108 NGPA Determinations, Trans Delta Oil & Gas Co., Inc., Jicarilla B-4 Well, JD79-11675 and Peggy Federal 1, JD79-11868.

CAM-5. Docket No. GP80, State of Oklahoma, NGPA Determination, Grahams Michaels Corp., JD80-4765.

**Gas Agenda—349th Meeting, December 12, 1979, Regular Meeting**

CAG-1. Docket Nos. RP-73-3 (PGA76-1) and RP74-52 (PGA76-1), Transcontinental Gas Pipe Line Corp. & Transwestern Pipe-Line Co.

CAG-2. Docket No. TC79-147, Algonquin Gas Transmission Co.

CAG-3. Petro-Lewis Funds, Inc.

CAG-4. Docket No. CI79-116, Amoco Production Co.

CAG-5. Docket No. CI79-640, Texas Gas Exploration Corp.

CAG-6. Docket No. CI79-153, Gulf Oil Corp.

CAG-7. Docket No. CI79-620, Exxon Corp.

CAG-8. Docket No. CI80-8, Sun Oil Co., Docket No. CI79-419, Case-Pomeroy Oil Corp., Docket No. CP79-418, Felmont Oil Corp., Docket No. CI79-357, Marathon Oil Co., Docket Nos. CI79-366, CI79-367, CI79-368, CI79-369, CI79-370, CI79-371, CI79-389, and CI79-390, Multistate Oil Properties, N.V. Docket Nos. CS79-531, et al., Logan T. Monsees & Vivian V.

Monsees. Docket No. CS79-534, R. Lewis Chandler Trust. Docket No. CI79-651, Conoco, Inc., Docket No. CS79-536, Goodrich Oil Co., Docket No. CS79-538, Henry B. Martin. Docket No. CS79-540, Merland Resources, Inc. Docket No. CI79-699, The Louisiana and Land Offshore exploration Co. Docket No. CI79-670, Louisiana Land Offshore Exploration Co., Inc. Docket No. CI79-666, Quintana Oil and Gas Corp.

CAG-9. Docket No. CI78-916, Amerada-Hess Corp.

CAG-10. Docket No. CI79-524, Sun Oil Co.

CAG-11. Docket No. CP79-228, Transcontinental Gas Pipe Line Corp.

CAG-12. Docket Nos. CP79-214 and CP79-275, Transcontinental Gas Pipe Line Corp. Docket No. CP79-221, National Fuel Gas Supply Corp. Docket No. CP79-260, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. Docket No. CP79-278, Texas Eastern Transmission Corp.

CAG-13. Docket No. CP79-365, Columbia Gulf Transmission Co.

CAG-14. Docket No. CP79-460, Columbia Gas Transmission Corp.

CAG-15. Docket No. CP80-32, Columbia Gas Transmission Corp.

CAG-16. Docket No. CP79-361, The Inland Gas Co., Inc.

CAG-17. Docket No. CP79-429, United Gas Pipe Line Co.

CAG-18. Docket No. CP78-33, Transcontinental Gas Pipe Line Corp.

CAG-19. Docket No. CP78-87, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

CAG-20. Docket No. CP78-544, Columbia Gulf Transmission Co. and Transcontinental Gas Pipe Line Corp.

CAG-21. Docket No. CP79-372, United Gas Pipe Line Co., Michigan Wisconsin Pipe Line Co. & Transcontinental Gas Pipe Line Corp.

CAG-22. Docket No. CP79-201, Northern Natural Gas Co.

CAG-23. Docket No. CP79-230, Transcontinental Gas Pipe Line Corp.

**Power Agenda—349th Meeting, December 12, 1979, Regular Meeting**

**I. Licensed Project Matters**

P-1. Project No. 2909, Town of Vidalia, Louisiana.

P-2. Docket No. EL78-24, *Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York*.

**II. Electric rate matters**

ER-1. Docket No. ER80-8, Florida Power & Light Co.

ER-2. Docket No. EL79-20, Buckeye Power, Inc.

ER-3. Docket Nos. EL78-15 and ER78-339, Public Service Co. of New Hampshire.

**Miscellaneous Agenda—349th Meeting, December 12, 1979, Regular Meeting**

M-1. Docket No. RM79-8, Procedures Governing the Collection and Reporting of Information Associated With the Cost of Providing Electric Service.

M-2. Reserved.

M-3. Reserved.

M-4. Docket No. RM80-, Revision of Monthly Statements of Electric Utility Companies

Form No. 5 and Natural Gas Pipe Line Companies Form No. 11.

M-5. Docket No. RM79-21, Regulations Implementing Alternative Fuel Price Ceilings on Incremental Pricing Under the Natural Gas Policy Act of 1978.

M-6. Docket No. RM79-14, Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978.

M-7. Docket No. RM80-14, Final Regulations Under Sections 105 and 106 (B) of the Natural Gas Policy Act of 1978.

M-8. Docket No. RM80-, Part 274 Regulations, Subpart B, of the Natural Gas Policy Act of 1978.

M-9. Docket No. RM79-66, Amendment to Interim Regulation Permitting Withdrawal of and Application for NGPA Determination.

M-10. New Mexico Energy and Minerals Department, Oil Conservation Division—Alternative Filing Requirements.

M-11. Docket No. RM80-, Delegation of Authority to the General Counsel.

**Gas Agenda—349th Meeting, December 12, 1979, Regular Meeting**

**I. Pipeline Rate Matters**

RP-1. Docket No. RP78-88, Transwestern Pipe Line Co.

**II. Producer Matters**

CI-1. Docket Nos. RI74-188 and RI75-21, Independent Oil and Gas Association of West Virginia

**III. Pipeline Certificate Matters**

CP-1. Docket No. TC80-26, Southern Natural Gas Co.

CP-2. Docket No. RP72-6 (Environmental Phase), El Paso Natural Gas Co.

CP-3. Docket No. CP78-238, United Gas Pipeline Co.

CP-4. Docket Nos. CP77-71, Natural Gas Pipeline Co. of America. Docket No. CP77-118, Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co. Docket No. CP77-125, Texas Gas Transmission Corp.

CP-5. Docket No. CP-, Delhi Gas Pipeline Corp.

CP-6. Docket Nos. CP75-140 et al., Pacific Alaska LNG Co., et al. Docket Nos. CP74-160, et al., Pacific Indonesia LNG Co., et al. Docket No. CI78-453, Pacific Lighting Gas Development Co., Docket No. CI78-452, Pacific Simco Partnership.

Kenneth F. Plumb,  
Secretary.

[S-2404-79 Filed 12-7-79; 3:08 pm]

BILLING CODE 6450-01-M

### 5

#### FEDERAL MARITIME COMMISSION.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** December 3, 1979, 44 FR 69412.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** December 11, 1979, 10 a.m.

**CHANGE IN THE MEETING:** Time of the meeting changed from 10 a.m. to 9 a.m. on December 11, 1979.

[S-2401-79 Filed 12-7-79; 11:35 am]  
BILLING CODE 6730-01-M

### 6

**FEDERAL RESERVE SYSTEM** (Board of Governors).

**TIME AND DATE:** 10 a.m., Friday, December 14, 1979.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding S. 998, state usury ceilings on certain loans.
2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Griffith L. Garwood,  
Deputy Secretary of the Board.

Dated: December 7, 1979.

[S-2400-79 Filed 12-7-79; 11:16 am]  
BILLING CODE 6210-01-M

### 7

**FEDERAL RESERVE SYSTEM** (Board of Governors).

**TIME AND DATE:** Approximately 10:30 a.m., Friday, December 14, 1979

(following a recess at the conclusion of the open meeting).

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Proposed building expansion (including contracts) for the Omaha Branch of the Federal Reserve Bank of Kansas City.
2. Proposed purchases, under competitive bidding, of computers and other equipment within the Federal Reserve System.
3. Negotiation involving the proposed site preparation of the computer installations for the Federal Reserve Bank of New York.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.



**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 8, 1979.

Griffith L. Garwood,  
Deputy Secretary of the Board.

[S-6210-79 Filed 12-6-79; 4:27 p.m.]

BILLING CODE 6210-01-M

8

[USITC SE-79-46]

**INTERNATIONAL TRADE COMMISSION.**

**TIME AND DATE:** 10:00 a.m., Tuesday, November 18, 1979.

**PLACE:** Room 117, 701 E Street, NW., Washington, D.C. 20436.

**STATES:** Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Portions Open to the Public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Sodium acetate from Canada (Inv. AA1921-211)—vote.
6. Any items left over from previous agenda.

Portions Closed to the Public

5. Sodium acetate from Canada (Inv. AA1921-211)—Briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2405-79 Filed 12-7-79; 2:11 pm]

BILLING CODE 7020-02-M

9

**NATIONAL CREDIT UNION ADMINISTRATION.**

**TIME AND DATE:** 2 p.m., December 13, 1979.

**PLACE:** 1776 G Street NW., Washington, D.C., 6th Floor Conference Room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Review of Central Liquidity Facility Lending Rates.
2. Central Liquidity Facility Repayment Agreements.
3. Conforming changes to Central Liquidity Facility Regular Member Agreements.
4. Semi-Annual Agenda of Regulations.
5. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.
6. Any items carried over from previously announced open meeting.

**RECESS:** 3 p.m.

**TIME AND DATE:** 3:15 p.m., December 13, 1979.

**PLACE:** 1776 G Street NW., Washington, D.C., 6th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel Actions. Closed pursuant to exemptions (2) and (6).
2. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Actions under Section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).
4. New Charter applications and request to serve in conformance with Section 205(d) of the Federal Credit Union Act. Closed pursuant to exemptions (6).
5. Merger with a loan portfolio guarantee and other 208 assistance. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. State credit union insurance applications. Closed pursuant to exemptions (9)(A)(ii).
7. Waiver of Investment Valuation Requirements. Closed pursuant to exemption (9)(A)(ii).
8. Waiver of Reserve Transfer Requirements. Closed pursuant to exemption (9)(A)(ii).

**CONTACT PERSON FOR MORE INFORMATION:** Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-2398-79 Filed 12-6-79; 4:24 pm]

BILLING CODE 7535-01-M

10

**SECURITIES AND EXCHANGE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** [44 FR 69075 11/30/79].

**STATUS:** Closed meeting.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Friday, November 30, 1979.

**CHANGES IN THE MEETING:** Additional item.

The following additional item was considered at the closed meeting held on Tuesday, December 4, 1979, at 9 a.m.:

Personnel matter.

Chairman Williams and Commissioners Loomis, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted

or postponed, please contact: Paul Lowenstein at (202) 272-2092.

December 8, 1979.

[S-2402-79 Filed 12-7-79; 11:49 am]

BILLING CODE 8010-01-M

federal register

Tuesday  
December 11, 1979

Part II

## Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Implementing the Distilled Spirits Tax  
Revision Act of 1979 (Pub. L. 96-39)



## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[Notice No. 329]

## Implementing the Distilled Spirits Tax Revision Act of 1979 (Public Law 96-39)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF).

**ACTION:** Proposed rulemaking cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this Federal Register, the Bureau of Alcohol, Tobacco and Firearms is issuing temporary regulations regarding the implementation of the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96-39). The temporary regulations also serve as a notice of proposed rulemaking for final regulations.

**DATES:** The effective date of the temporary regulations is January 1, 1980. Written comments must be delivered or mailed by September 11, 1980.

**ADDRESS:** Send comments to Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044. (Attn: Chief, Regulations and Procedures Division).

**Disclosure of Comments:** Any person may inspect the written comments or suggestions during normal business hours at the ATF Reading Room, Office of Public Affairs, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20226.

**FOR FURTHER INFORMATION CONTACT:** Edward J. Sheehan, E. J. Ference, John V. Jarowski, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

## SUPPLEMENTARY INFORMATION:

**Public Participation:** Interested persons may submit written comments and suggestions regarding the temporary regulations. All communications received within the comment period will be considered before final regulations are issued. Any person who desires an opportunity to comment orally at a public hearing on the temporary regulations should submit a written request to the Director within the comment period. However, the Director

reserves the right to determine whether a public hearing should be held.

The temporary regulations in this Part of this issue of the Federal Register revised, rescind, and add new regulations in 27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252. For the text of the temporary regulations, see [T.D. ATF-82] published in this Part of this issue of the Federal Register.

Signed: November 14, 1979.

J. R. Dickerson,  
Director.

Approved: November 30, 1979.

Richard J. Davis,  
Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-37531 Filed 12-3-79; 4:07 pm]

BILLING CODE 4810-31-M

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[T.D. ATF-62]

## Implementing the Distilled Spirits Tax Revision Act of 1979 (Public Law 96-39)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF).

**ACTION:** Temporary Rule (Treasury decision).

**SUMMARY:** This temporary rule implements the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Public Law 96-39). In addition, detailed rules for transition to the new distilled spirits excise tax system are provided. The Bureau of Alcohol, Tobacco and Firearms will issue final regulations only after careful consideration of the comments received on these temporary regulations.

**EFFECTIVE DATE:** Effective date of temporary regulations: January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Edward J. Sheehan, E. J. Ference, John V. Jarowski, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone 202/566-7626.

**SUPPLEMENTAL INFORMATION:** This document contains temporary regulations implementing the Distilled Spirits Tax Revision Act of 1979 (Public Law 96-39). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject. A notice of proposed rulemaking with respect to final regulations appears elsewhere in this issue of the Federal Register.

## Legislative Background

As a result of the Tokyo Round of multilateral trade negotiations, the United States agreed to eliminate the wine gallon method for imposing the distilled spirits tax. Accordingly, the Administration proposed and the Congress passed a legislative package for eliminating the wine gallon method of taxing distilled spirits, which is cited as the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Public Law 96-39).

Public Law 96-39 amended or repealed other provisions of 26 U.S.C. Chapter 51 in the interest of tax parity

for all distilled spirits products, both domestic and imported. The new law also modernizes and simplifies the distilled spirits tax system by providing for the all-in-bond method of tax administration.

The following paragraphs provide a discussion of the major points of (1) existing law and (2) the changes effected by Pub. L. 96-39.

## Existing Law (Prior to January 1, 1980)

## 1. Wine gallon and proof gallon methods of taxing distilled spirits.

Under present law, an excise tax is imposed on all distilled spirits produced in or imported into the United States. Depending on the proof of spirits, the tax is determined at \$10.50 on each proof or wine gallon (or proportionate part thereof).

One of two methods is used to compute the tax. Under the first of these methods, the proof-gallon method, the distilled spirits tax is based both upon the volume of spirits and the alcohol content when the tax is determined. The proof gallon method applies to spirits at or above 100° proof at the time of tax determination.

The second method is the wine-gallon method, which is based solely upon the volume of liquid, measured in U.S. gallons (wine gallons), and applies to spirits that are below 100° proof at the time the tax is determined.

Generally, domestic producers withdraw bulk spirits from bond for bottling when they are above 100° proof, and subsequently reduce the spirits to the proof at which they are bottled (for example, 80° or 86° proof) by the addition of water and other ingredients. Because these domestic spirits are usually at or above 100° proof when the tax is determined, the tax is computed on the basis of proof gallons. Some foreign produced spirits are imported in bulk at or above 100° proof; these spirits are also taxed on a proof gallon basis when removed from bond. However, most foreign produced spirits are bottled in the country of origin and imported below 100° proof. Such spirits are taxed at \$10.50 on each wine gallon when removed from bond, resulting in a higher effective rate of tax on bottled imported spirits than on spirits taxed on a proof gallon basis.

## 2. Rectification.

In addition to the \$10.50 per gallon distilled spirits tax, a commodity tax is imposed on rectified distilled spirits or wines at a rate of \$.30 per proof gallon (or proportionate part thereof).

Rectified distilled spirits or wines are those which have been blended, purified, refined, processed or otherwise changed from their original state. This

tax is subject to numerous complicated statutory exceptions. It applies only to spirits rectified in the United States and does not apply to imported products (either bottled or in bulk) which have been rectified abroad but have not been further rectified in the United States. Similar rectification taxes are imposed on cordials, liqueurs and similar compounds of distilled spirits which contain more than 2.5 percent, by volume, of wine which has an alcohol content of more than 14 percent (\$1.92 per wine gallon) and on some mixed or blended rums or fruit brandies which have been aged in wood for less than two years (\$.30 per proof gallon). In addition, rectifiers must pay a special occupational tax before engaging in the business.

## 3. Government supervision of distilled spirits operations.

Under existing law, the Director has strict control of distilled spirits, including those for beverage and industrial purposes, from the beginning of the production process to the point where the spirits are removed from bond. This control has been maintained through a rigid system of separate premises, permits, inspections, investigations and on-site supervision. However, in recent years the Bureau has recognized the need for modernizing this system of control.

The production and processing of distilled spirits involves a number of separate operations. Under present law only some operations are conducted on the bonded premises portion of the distilled spirits plant, which is the part of the plant where distilled spirits may be held before tax determination. Operations on bonded premises include fermentation, distillation, storage and aging distilled spirits in bulk, denaturation, and bottling in bond. Subsequent operations including processing, rectifying, bottling, and storage of bottled spirits are conducted on nonbonded premises. Existing law also limits the permissible activities that may be performed within the bonded premises of a plant to the extent of requiring separate bonded facilities, for production, denaturation, bottling in bond, export storage, and warehousing.

In addition to segregation of facilities, present law requires the physical presence of an ATF officer before certain operations on bonded premises may be performed. Currently, distilled spirits may be produced only in a closed distilling system, with the spirits required to be kept under Government lock or seal until the production gauge is made and the spirits have been entered for deposit, denatured, tax-determined, or removed for a legitimate tax-exempt



or tax-free purpose, such as use for exportation, testing or experimental purposes. Rooms and buildings in which undenatured distilled spirits are stored may not be unlocked or remain open except when an ATF officer is on the plant premises. Gauges for spirits produced, transferred, tax-determined, or removed tax-free, must be either made or supervised by an ATF officer.

#### 4. Tax payment provisions.

With the physical separation required under existing law between bonded premises and the premises where tax-determined or taxpaid spirits are rectified or bottled, tax determination for domestically bottled spirits occurs in almost all cases when they are removed from bond for bottling or rectification at the same plant. Although the tax is determined when spirits are removed from bond, payment may be deferred. As a result of this deferral procedure, existing law has established a system of crediting the proprietor with the amount of tax on spirits lost during rectifying and bottling operations.

Under existing regulations, distilled spirits products for beverage use, which have been bottled and cased, may be stored by a proprietor on nonbonded premises of a distilled spirits plant (designated as "control premises") as part of the proprietor's controlled stock. A rather complex procedure to account for the distilled spirits tax liability on controlled stock assures payment of the tax at the appropriate time. The effect of this procedure is to require the tax to be paid upon shipment from the control premises, or, if the spirits are kept in controlled stock inventory, payment of the tax can be delayed on the average for not more than six months.

Present law also includes a complicated system of requirements to insure that the distilled spirits tax liability of the plant proprietor (or importer) is adequately secured from the time these taxes are imposed until they are finally paid. This security is provided through a series of liens and surety bonds, at some points with overlapping coverage.

For example, the taxes are a first lien on the spirits from the time they are created. The taxes on distilled spirits produced are also a first lien on the distillery premises (including land, buildings and equipment).

Collection of the tax is further secured by a series of surety bonds to cover different operations or combinations of operations within a distilled spirits plant. For example, separate bonds are available for distilling, warehousing, and rectification operations. In addition, other bonds may be used for combined operations at a distilled spirits plant

(such as at a plant with an adjacent bonded wine cellar) and to cover operations at more than one distilled spirits plant located in a single geographical area. Finally, a withdrawal bond is required in order to defer payment of the tax between the time the tax is determined and the actual payment of the tax. Each of these bonds is subject to differing maximum and minimum amounts.

Both the distilled spirits tax and the rectification tax are collected on the basis of returns under regulations prescribed by the Secretary of the Treasury. These regulations provide semi-monthly return periods which run from the 1st day through the 15th day of the month and from the 16th day through the last day of the month. Where tax becomes payable during one return period, the liability must be reported and the tax paid by the end of the following return period. For example, if the distilled spirits tax becomes payable on January 10 (during the January 1-15 return period) the liability must be reported and the tax paid by January 31, the last day of the succeeding return period which runs from January 16 through January 31.

#### Changes Due to Public Law 96-39 (Effective January 1, 1980)

##### 1. In general.

The provisions of Public Law 96-39 significantly change the existing methods for the taxation of distilled spirits and the control of distilled spirits production. These revisions will result in a more uniform system of taxation by eliminating the tax differential between spirits of less than 100° proof and spirits which are 100° proof or higher at the time of tax determination. In addition, the bonded premises of a distilled spirits plant have been redefined to encompass all operations of a plant, from original production of the spirits through bottling, and the mechanism for Government supervision and control of distilled spirits operations is substantially simplified. Finally, the timing of distilled spirits excise tax payments has been amended, in order to address disparity under present law between the time the tax is required to be paid by the domestic bottler and the time the tax amount is collected by the bottler from distributors upon payment for the goods.

##### 2. Repeal of wine gallon method of taxing distilled spirits.

The wine-gallon method for determining the excise tax on distilled spirits is repealed. Consequently, the basis for determination of the distilled spirits tax will be the proof-gallon method. Under this method, the tax will

be computed on the basis of alcohol content (including that which is derived from wine, alcoholic flavorings, etc.), of distilled spirits or distilled spirits products when withdrawn from bond. The uniform determination of tax on this basis eliminates the differential under present law between distilled spirits which are 100° proof or higher and distilled spirits which are below 100° proof at the time of tax determination.

##### 3. Repeal of rectification taxes.

The new law repeals rectification taxes on rectified distilled spirits and wines, as well as the rectification taxes on cordials and liqueurs which contain wine, and on certain blended rums and fruit brandies. The repeal of these rectification taxes and related administrative rules will eliminate the disparity in tax treatment which exists between domestically rectified distilled spirits products and similar products of foreign origin. The present rectifier's occupational tax is also repealed.

##### 4. All-in-bond system.

Adoption of the all-in-bond system results in the taxation of both domestic and imported products on the basis of the alcohol content of the finished product, including that part of the alcohol content derived from wine or other alcoholic ingredients added to a distilled spirits product. The bonded premises of a distilled spirits plant will be expanded to include all distilled spirits operations. This new system will simplify the operations of a distilled spirits plant by eliminating the distinction between bonded and non-bonded operations and premises. Also eliminated are claim procedures which presently must be followed for relief from tax on operational losses.

The provisions relating to distilled spirits bottled in bond, the 20-year statutory force-out rule for spirits in storage, and the lien provisions applicable to the bonded premises of a distilled spirits plant producing distilled spirits are also eliminated.

The repeal of the existing bottling in bond provisions eliminates the distinct status of "bottled in bond" products for tax purposes since all spirits will now literally be bottled in bond. However, "bottled-in-bond" whiskey has achieved recognition as a specific type of whiskey. "Bottled-in-bond" as a distinctive product designation will continue under the labeling regulations of the Federal Alcohol Administration Act with specific standards so that "bottled-in-bond" as a domestic labeling term will continue to have the same meaning as before.

The requirement for a distinctive strip stamp for "bottled-in-bond" spirits was eliminated from law. The existing strip

stamp for these spirits for domestic consumption is green, while a red stamp is used on other domestic products. Although for tax purposes it will no longer be necessary to have a distinctive strip stamp for these goods, the green stamp has gained considerable consumer recognition as a distinctive mark of the "bottled-in-bond" spirits. In view of this fact, and consistent with the retention of "bottled-in-bond" as a domestic labeling designation, the use of a green strip stamp as a distinctive feature will be continued.

##### 5. Establishment and operation of distilled spirits plants.

Under the all-in-bond system, the business and operations of a distiller, warehouseman, or processor (a new term, which includes but is not limited to, a rectifier, a bottler and a denaturer) of distilled spirits may be conducted only on the bonded premises of a distilled spirits plant by a person qualified to carry on these operations. The purpose of this provision is to clarify that persons may not engage in these operations except at a qualified distilled spirits plant or as otherwise provided by law. (This latter phrase recognizes that activities, such as those of apothecaries, customs bonded warehouses, manufacturers of nonbeverage products, and users of specially denatured alcohol may continue to be carried on outside a distilled spirits plant.) The law also precludes the establishment of a distilled spirits plant for the processing and storage in bulk of taxpaid distilled spirits.

The establishment of a distilled spirits plant will be restricted to persons who intend to conduct operations as either a distiller, or a warehouseman, or both. Any person so qualified may also, upon application and after approval, process distilled spirits. No operation other than those set forth in the application may be conducted at a plant unless further registration has been submitted and approved. In addition, the Secretary of the Treasury has the authority to prescribe, for each type of operation, minimum capacity and level of activity requirements for distilled spirits plants. This provision is designed to prevent the establishment of token distilled spirits plants which would jeopardize revenue collections and cause excessive administrative and supervisory costs.

Each person not qualified by a basic permit under the Federal Alcohol Administration Act is required to obtain an operating permit under the internal revenue code. The operating permit must be obtained prior to beginning operations. However, the term processor is not covered under the Federal Alcohol

Administration Act and regulations. This new term encompasses (but is not limited to) all of the activities performed by rectifiers and bottlers. If the rectifier or bottler proposes to denature or to manufacture articles on bonded premises, he will have to qualify as a processor.

The all-in-bond system also substantially simplifies the qualification and use of distilled spirits plant premises by eliminating the requirement that separate facilities for the various distilled spirits operations be maintained within a plant. Since the tax under the all-in-bond system will be determined when spirits are removed from the plant, there is no longer any need for the delineation and physical separation requirements. Under the all-in-bond system, these operations will be accounted for within recordkeeping accounts (i.e., production, storage, or processing). Commercial records will replace prescribed Government forms in many instances. Tanks, rooms or buildings may be used for multiple purposes, with the accountability of the spirits being maintained by appropriate records. However, operations on the bonded premises of a distilled spirits plant will be restricted to those with respect to distilled spirits, denatured distilled spirits or articles.

While wines may no longer be either rectified or bottled at a distilled spirits plant, they may be received on the premises for use in the manufacture of a distilled spirits product. The transfer of wine in bond between a bonded wine cellar and a distilled spirits plant or between distilled spirits plants is now authorized. Wine received at a distilled spirits plant may be used in the manufacture of a distilled spirits product but may not be removed for consumption or sale as wine. The liability for wine tax will continue until the wine is used in a distilled spirits product or until the proprietor is relieved from liability for the tax. To the extent that they do not involve the addition of distilled spirits (other than wine spirits as authorized under 26 U.S.C. 5373(a)), operations involving the rectification or bottling of wines formerly permitted on the premises of a distilled spirits plant will be required to be conducted at a bonded wine cellar or taxpaid wine bottling house, as appropriate.

Under existing law, no proprietor of a bonded wine cellar or taxpaid wine bottling house engaged in producing, receiving, storing or using any standard wine, may produce, receive, store or use any wine other than standard wine, except to the extent authorized by law.

With the establishment of the all-in-bond system for distilled spirits plants, and the termination of the use of the bottling premises of a distilled spirits plant for the rectification or bottling of wines, a taxpaid wine bottling house may bottle other than standard wines, and a bonded wine cellar may rectify and bottle other wine products.

In addition, Pub. L. 96-39 does not authorize the in bond transfer of bottled distilled spirits. Only bulk distilled spirits may be transferred in bond. Consistent with this restriction, the return of distilled spirits to the bonded premises of a distilled spirits plant with abatement, credit or refund of tax will be authorized only for destruction, denaturation, redistillation, reconditioning, or rebottling.

##### 6. Simplification of bonding requirements.

Another significant change made with the adoption of the all-in-bond system involves the treatment of surety bonds to secure unpaid liabilities for the distilled spirits tax. While the present requirements for surety bonds are continued, the bond system is simplified to reflect the expansion of bonded premises under the all-in-bond system.

The bonding requirements have been completely revised, and the provisions relating to liens on distillery property and the furnishing of indemnity bonds as methods of securing tax payment were repealed. A bond is required in order to engage in distilled spirits operations and a withdrawal bond is required for removal of spirits from bonded premises before the tax has been paid. A proprietor is allowed to provide one bond to cover all operations and a separate withdrawal bond for removal of spirits from bonded premises before the tax has been paid. In addition, the operations bond may cover the operations at a bonded wine cellar adjacent to the distilled spirits plant and operated by the same person, and also operations at two or more distilled spirits plants (and adjacent bonded wine cellars), where these plants are located in the same geographical area, and are operated by the same person.

Withdrawal bonds may cover withdrawals from one or more bonded premises where the operations on these multiple premises could be covered under the same operations bond. A new category of bond, called a unit bond, covers both operations and withdrawals of one or more distilled spirits plants which could be covered by the same operations bond.

##### 7. Controls and supervision.

The new law repealed the requirement that bonded warehouses must be kept under Government lock



and that certain activities on the bonded premises could be conducted only when an ATF officer is on the premises. The Secretary now has discretionary authority to assign ATF officers and require Government locks at plants where necessary, or to eliminate the supervision where it is unnecessary.

In addition, the requirement for a closed distilling system is eliminated. Discretionary authority is retained to prescribe controls over the distilling system as necessary to adequately protect the revenue. The controls may be exercised over the entire distilling system, regardless of whether the spirits are in a potable or readily recoverable state.

#### 8. Extension of time for payment of tax on distilled spirits bottled in the United States.

An additional semimonthly period is provided for the payment of the distilled spirits tax on spirits withdrawn from bonded premises. The additional deferral will be phased in over three years at 5 additional days for 1980, 10 additional days for 1981, and an entire semimonthly period for 1982 and subsequent years. For example, for distilled spirits tax that becomes payable during the January 1-15 tax return period, the first semimonthly return period in 1980, the taxpayer will have until February 5 to pay the tax. After this provision is fully phased-in during 1982, the taxpayer will have until February 15 to pay the tax for the January 1-15 period.

#### 9. Transitional rules.

Transitional rules are provided to facilitate an orderly changeover to the all-in-bond system on January 1, 1980, so that taxable distilled spirits products will neither escape tax nor be subjected to double taxation.

The change, under the all-in-bond system, of nonbonded premises to bonded premises means that, if any tax which is due and payable on January 1, 1980, on controlled stock is to be credited or refunded, the spirits in controlled stock must be converted from tax-determined to nontax-determined spirits.

Under the transitional rules, the tax on all distilled spirits in controlled stock will become immediately due. The proprietor may elect, to the extent applicable, to extinguish this liability either by paying the tax or by converting any part of the controlled stock to bonded stock. Converting the spirits to bonded stock will allow the proprietor credit for the taxes previously paid or determined on the spirits or wine contained in the controlled stock. The election to convert controlled stock is intended to permit proprietors to pay the

taxes already determined under the old system if it is more advantageous to them. Bulk wine in distilled spirits plants may also be converted to bonded stock with credit or refund of taxes paid.

Distilled spirits may be returned to bond for certain purposes with a credit or refund of tax. Under the transitional rules, distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, may be returned only to the plant from which withdrawn, so that the amount of tax paid on the products can be determined from records at that plant.

All proprietors are required to have filed and have approval of new bonds effective January 1, 1980, if they are to continue operating after that date. Proprietors must also file new applications for registration and (except where all operations are conducted pursuant to basic permits) new applications for operating permits before January 1, 1980. However, operations may be continued under the former registration and operating permit pending final action on the new applications. In addition, no plants which were qualified as of May 1, 1979, will be denied new qualification by reason of the new conditions placed on qualification.

#### Advance Notice of Proposed Rulemaking

ATF published an advance notice of proposed rulemaking in the Federal Register on July 18, 1979 [44 FR 41833]. The advance notice highlighted major areas of the distilled spirits plant and wine regulations affected by the Distilled Spirits Tax Revision Act of 1979 and solicited comments from consumers and industry to assist the Bureau in drafting these temporary regulations. The advance notice invited general suggestions and recommendations relating to the then proposed law with specific emphasis on the following areas: (1) Qualification; (2) Records and Reports; (3) Bonds; (4) Transition; and (5) Elimination of Standard Wine Premises.

#### Discussion of Comments

##### 1. General.

Twenty written comments were received in response to the advance notice of proposed rulemaking. Fifteen of these comments were from members of the distilled spirits industry or their trade associations. The remaining comments were from wine interests (2), importers/wholesalers (2), and a consumer group.

In general, commenters favored the

all-in-bond system in concept and submitted proposals and suggestions for its implementation. In some areas, however, commenters believed either that the law had failed to provide for certain operations or that the implementing regulations might pose too great an administrative burden on the industry. In contrast, the one consumer comment opposed any liberalization of the regulations governing the industry.

With regard to specific issues, commenters who addressed a point generally agreed in principle as to the best course of action. The following paragraphs summarize the comments on the major issues that were addressed.

##### 2. Qualifying documents.

As to qualification of distilled spirits plants, all commenters who responded favored reduction and simplification of the qualifying documents. Plans and plans, corporate documents and reporting of changes in the application data were areas where simplification was suggested.

The temporary regulations simplify the requirements as to plans, listing of equipment, and reporting of changes in construction and equipment. Required corporate information has not been significantly reduced at this time.

##### 3. Records and reports.

Commenters favored reduction and/or elimination of required Government forms for internal plant transactions. Required periodic reports were viewed as subject to reduction in number and simplification. One commenter pointed to the time and study which would be required for some industry members to replace all Government transaction forms with their own commercial records, and suggested that supplies of obsolete Government forms continue to be made available to proprietors who want to use them through the end of 1980.

The temporary regulations have eliminated some forms, modified others and left some essentially unchanged. Further reductions are anticipated in the final rule. Alternate records and forms provisions under the temporary regulations allow proprietors to substitute commercial records for required forms on notice to the regional regulatory administrator so long as the substitute records contain all information which would have been included on the form and certain conditions are met. Proprietors who desire to use obsolete forms, appropriately modified to conform to the new system, may do so where a new form has not been prescribed by regulations.

##### 4. Bonds.

Commenters addressing bonding

requirements unanimously opposed any increase in the maximum penal sums. Experience factors were cited as support for the contention that current amounts are adequate. The temporary regulations leave the bond amounts generally the same as before. However, the Bureau will study further the sufficiency of bond penal sums in light of the new tax system.

##### 5. Conversion of controlled stock.

With respect to treatment of the tax liability on controlled stock on hand at the close of business December 31, 1979, commenters suggested converting all remaining controlled stock to bond, taking credit at \$10.50 for each proof gallon in the controlled stock inventory. Without considering any other adjustments, this would offset the outstanding tax liability reported on the final Form 4077. While simple, the method suggested by the commenters would result in excessive credit or refund of taxes to those proprietors who hold in controlled stock inventory products containing wine and alcoholic flavorings, which would be credited at the distilled spirits rate. Proprietors who had no products containing wines or alcoholic flavorings in their inventory, on similarly converting all controlled stock, would exactly satisfy their outstanding tax liability. Subpart X of 27 CFR Part 19 provides regulations to allow conversion of controlled stock and bulk wine as simply as possible, consistent with the legal requirement that credit or refund may be given only for those taxes actually paid or determined.

The question in the advance notice relative to "standard conversion rates" was not understood by most commenters. Commenters were concerned that a standard rate would be inequitable by failing to allow for differences between plants and variations in the formulation of products. As provided in the regulations, standard conversion rates are to be established on a plant-by-plant basis and will apply only where alcoholic ingredients are consistently used in the same proportion in preparing batches of a product. Standard rates are an alternative method for computing the taxes actually paid or determined on products in the controlled stock inventory. If standard rates would give a false computation of taxes actually paid or determined, i.e., where ingredients are used in varying proportions from one batch to another, average rates may be used.

6. Separation of stock. Commenters who addressed the separation of taxpaid goods, which are allowed to remain on bonded premises through December 31, 1980, favored achieving separation by means of tagging, separate pallets, and other methods short of designating specific rooms or buildings on bonded premises where such goods may be stored. The law calls for physical separation of taxpaid goods remaining on bonded premises. Subpart X of 27 CFR Part 19 provides that this separation can be maintained by separate tanks, rooms, buildings, by partitions or by other means acceptable to the regional regulatory administrator.

7. Nonstandard wines and alternate operations.

In connection with the elimination of standard wine premises from the regulations, commenters suggested that particular requirements for maintaining segregation of standard from nonstandard wines not be spelled out in the regulations. The regulations allow proprietors flexibility in determining how separation will be maintained.

With respect to alternation of premises between distilled spirits plants and bonded wine cellars, commenters suggested that separation of alternated areas be maintained by the boundaries of bottling lines, tanks and so on, which are being alternated. The temporary regulations provide for this method.

8. Other issues. Many commenters addressed issues which were not included in the advance notice, but which nonetheless are appropriate to the implementation of the all-in-bond system. Some provided detailed recommendations for change directed at specific sections of regulations. These suggestions have been considered in drafting the temporary regulations to the extent possible, given the short time available for study. The following paragraphs discuss some of the major concerns brought out in the comments.

A few commenters suggested that imported cased goods should be permitted entry into ATF bond in the same manner as bulk imported spirits. Others urged that we allow cased goods specifically designated for export to be transferred in bond or returned to bond at other plants to allow for movement of the goods closer to the point of shipment. The law does not provide for transfer in bond of bottled distilled spirits and allows returns to bond only for certain enumerated purposes. Thus, these suggestions would require enabling legislation.

Movement of wines and taxpaid spirits across bonded premises was another point raised by commenters. Concern was expressed that required separation of taxpaid stocks during 1980 and the prohibition against taxpaid spirits on bonded premises thereafter could result in additional plant space requirements or cause delays in shipping. While taxpaid spirits and wines may not be stored or allowed to remain on bonded premises, except as provided in regulations for 1980, conveyance of such spirits and wines across bonded premises is provided for in 27 CFR 19.97.

The provisions for taxpayment of unexplained shortages of bottled distilled spirits were addressed by most commenters in light of the present procedures for treatment of casualty losses on plant premises. Such losses are reported to ATF officers and the proprietor may file a claim for the tax if the loss exceeds 10 proof gallons. Under the temporary regulations, reports may be required at the discretion of the regional regulatory administrator, but are not required as a general rule. However, records of all losses are required, including explanations for bottled distilled spirits lost. Unexplained shortages of bottled distilled spirits are to be taxpaid on discovery.

Several commenters recommended simplification of the requirements for samples withdrawn for research, development and testing. The temporary regulations simplify these requirements. Regarding proof and fill tolerances, several commenters recommended broadening the determination of compliance to include more than just a single run or batch. Some suggested raising the permissible drop in proof to 0.5 degrees in the case of cordials. The temporary regulations make no change in the current standard for proof. With respect to fill, an overall objective of 100 percent fill for all bottled products is prescribed in lieu of the former standard, "substantially as much overfill as underfill for each lot of spirits bottled."

The temporary regulations incorporate many of the commenters' suggestions. Others may be implemented in the final regulations after further study. The Bureau will consider all comments on the temporary regulations before final regulations are issued.

Major Changes to the Regulations

1. General. The following paragraphs enumerate some of the principal differences between existing regulations and the provisions of this temporary rule. Matters which were treated in discussion of the comments are not repeated here. In the interest of making this preamble more useful as an



overview, no attempt is made to discuss every change from existing regulations.

## 2. Recodification of Parts 186 and 201.

Although the regulations in this document represent temporary rules, Part 186, Gauging Manual, and Part 201, Distilled Spirits Plants, are being recodified in furtherance of a program instituted in 1975 with redesignation of ATF regulations from Title 26 of the Code of Federal Regulations (CFR) to Title 27 CFR.

## 3. Strip stamps and alternative devices.

ATF Notice No. 312 proposed amendment of regulations in several parts of Title 27 CFR concerning the use of strip stamps and devices other than strip stamps on containers of spirits. After careful consideration of all comments on the notice, regulations are included in the temporary rules to provide for the use of alternative devices by domestic distilled spirits plants. In addition, the stamp regulations are amended to delete the serial numbering of strip stamps and eliminate blue and white strip stamps. Red strip stamps will be used in lieu of blue and white stamps.

## 4. Denaturation of spirits.

Title 27 CFR 201.120 currently provides that spirits may be denatured by a proprietor authorized to produce spirits. Section 201.120 further provides that a subsidiary corporation may denature spirits based on the production qualification of a parent corporation and vice versa. Section 201.120 has been revoked. The temporary regulations provide for denaturation of spirits by any proprietor of a distilled spirits plant qualified to process.

## 5. Manufacture of articles.

The temporary regulations provide for the manufacture of articles by qualified proprietors. Under existing regulations, articles such as proprietary solvents and special industrial solvents may not be manufactured on distilled spirits plant premises. This prohibition necessitated the establishment of specially denatured alcohol users premises adjacent to distilled spirits plants to permit proprietors to manufacture industrial solvents. The temporary regulations eliminate the necessity for this dual qualification.

## 6. Statement of security.

The temporary regulations require proprietors to submit a statement of plant security to the regional regulatory administrator for approval. The statement will generally outline security measures employed at the distilled spirits plant and will include a description of locks to be utilized by proprietors in lieu of Government locks. Regional regulatory administrators will

notify proprietors when the initial statement of security is due.

## 7. ATF supervision.

Existing regulations provide for the direct or general supervision of numerous distilled spirits plant operations by ATF officers. Direct supervision requires the presence of an ATF officer on the plant premises or the premises of an adjacent bonded wine cellar. The temporary regulations provide that the regional regulatory administrator may require supervision of plant operations when considered necessary for protection of the revenue. Three types of supervision are defined in the temporary regulations. "General supervision" which does not require the presence of an ATF officer on the plant premises. "Direct supervision" is provided when an ATF officer is on the plant premises. "Immediate supervision" requires that an operation be conducted in the immediate presence of an ATF officer. This system will provide regional regulatory administrators flexibility in providing ATF supervision on a plant-by-plant basis.

## 8. Mingling, blending and mixing of spirits.

Existing regulations prescribe detailed eligibility requirements for the mingling, blending, and mixing of spirits. Rigid age spreads and additional eligibility requirements currently restrict operational flexibility by limiting the manipulation of spirits on bonded premises. The temporary regulations prescribe the extent to which spirits may be mingled or blended during storage operations. Additionally, operational flexibility is broadened by increasing the extent of manipulation of spirits permitted for processing operations on bonded premises.

## 9. Elimination of operational applications.

Numerous sections currently in Part 201 require the submission of letterhead applications to ATF officers assigned to the distilled spirits plant or to the regional regulatory administrator. The majority of these applications cover transactions or operations which have minimal impact on the security of the revenue. Therefore, the temporary regulations replace many letterhead applications with notices and/or requirements for recording the transaction or operation in required daily records. Letterhead applications are kept to a minimum to allow operational flexibility for distilled spirits plant operations.

## 10. Bottling record.

Existing regulations prescribe preparation of ATF Form 2637 to document bottling operations on bottling

premises with a separate Form 2637 required for each tank of spirits bottled. ATF Form 1515 is prescribed for the bottling of spirits on bonded premises. Form 1515 may be prepared to cover the contents of multiple tanks of spirits. The temporary regulations do not prescribe a standard form to cover the bottling of spirits. The bottling record which is prescribed permits accounting for the bottling of spirits on the basis of lots of spirits, which may encompass multiple tanks. To ensure proper accounting for spirits, the temporary regulations require a gauge for each tank of spirits to be bottled, with resultant losses or gains recorded for each tank.

## 11. Bottling-in-bond.

A labeling standard for bottled in bond spirits is provided in 27 CFR 5.42 as amended in this temporary rule. The standard is essentially the same as was previously included in Part 201, except that no standard for spirits to be exported is provided because Part 5 does not apply to exports. Green strip stamps will be used on spirits labeled as bottled in bond, but overprinting is optional.

## 12. Form 27-B Supplemental.

Proprietors are currently required to file each formula and process utilized in rectification of spirits with the Director for approval on Form 27-B Supplemental. The formula enables a proper determination with respect to tax classification and labeling of the finished product. With the elimination of rectification tax, the primary significance of formulation will concern labeling of the finished product. Therefore, the requirement for Form 27-B Supplemental is moved to Part 5 to ensure proper labeling. In addition the form has been redesignated as ATF Form 5110.38. Proprietors holding current approved formulas on Form 27-B Supplemental need not resubmit them merely to reflect the change in the form number or change in the regulatory provisions.

## 13. Physical inventories.

Existing regulations prescribe bulk physical inventories of spirits in production facilities and in storage facilities each month. Inventories of controlled stock are conducted on a semiannual or an annual basis. The temporary regulations provide for quarterly inventories of bulk spirits in production, storage and processing. Semiannual inventories are prescribed for bottled spirits in processing, with the current provision for such inventories on an annual basis when approved by the regional regulatory administrator.

## 14. Record accounts.

The records maintained pursuant to the temporary regulations will be

arranged into operational accounts to coincide with the tri-operational concept of bonded premises. Operational accounts will be maintained for production, storage and processing. Daily records for each account will note receipts, movement between accounts and dispositions of spirits, denatured spirits, articles and wines.

## 15. Modified forms and substitute records.

The temporary regulations provide for the modification of prescribed forms and utilization of substitute records in lieu of prescribed forms on notice to the regional regulatory administrator. Certain forms are excluded to ensure uniformity, e.g., claims, tax returns and operational reports.

Generally, however, the temporary rules permit proprietors to utilize commercial records in lieu of prescribed forms if the commercial records contain all mandatory data.

## 16. Forms.

Numerous forms are eliminated or revised due to changes in the temporary regulations. These changes are detailed in ATF Industry Circular 79-12.

## 17. Reporting Puerto Rican and Virgin Islands spirits tax-determined.

Proprietors who remove products containing Puerto Rican or Virgin Islands spirits on determination of tax are required to report monthly (on ATF Form 5110.28, Monthly Report of Processing Operations) the total taxes determined attributable to such spirits. Under the existing system, these spirits are tax-determined on Form 179, and ATF personnel at the regional level prepare comparable reports based on copies of Forms 179 received. Due to the elimination of Form 179, a substitute procedure is necessary to obtain data for settlement of tax accounts between the United States and the treasuries of Puerto Rico and the Virgin Islands.

## 18. Tax determination/tax payment.

The system of withdrawal on determination and payment of tax under the temporary regulations differs greatly from existing regulations. Under the temporary regulations, a record of tax determination (e.g., invoice or shipping document) is required to document the basis for computing tax. If taxes on spirits are to be prepaid, Form 5110.32 shall be executed before the spirits are withdrawn from bond. If tax is to be deferred, the proprietor shall summarize all records of tax determination on a daily summary record. Tax for the return period will be paid by filing Form 5110.35 with remittance.

## 19. Exportation with benefit of drawback.

The change in the method of tax determination required addition of new

§§ 252.195a and 252.195b to cover export drawback claims for spirits tax-determined before January 1, 1980 and after January 1, 1980, respectively.

## 20. Manufacturing bonded warehouses.

The provisions in 26 U.S.C. Chapter 51 relating to manufacturing bonded warehouses have been repealed. Manufacturing bonded warehouses are also provided for under 19 U.S.C. and Title 19 of the Code of Federal Regulations. Because such facilities are operated under Customs supervision, the parallel provisions under 26 U.S.C. were superfluous.

## 21. Changes relating to Puerto Rican and Virgin Islands spirits (Parts 170 and 250).

Subparts F and G of 27 CFR Part 170 are revoked. Similar provisions have been incorporated in Parts 19 and 250, as applicable. Repeal of the wine gallon method of tax determination eliminates the need for a gauge of the spirits prior to their use in the manufacture of distilled spirits products or articles. The tax will now be computed on the alcoholic content of the finished product when it is ready for shipment to the United States. The extension of the tax deferral period and the requirement for a new bond effective January 1, 1980, both of which were previously discussed, apply to Puerto Rican manufacturers who defer taxes.

## 22. Rectification taxes and formulas (Puerto Rico and Virgin Islands).

All references to rectification tax are eliminated from Part 250. Segregation of spirits to be rectified from spirits to be bottled without rectification is no longer required. The formula requirements for Puerto Rican and Virgin Islands liquors and articles are revised to conform with requirements for similar products made in the United States.

## 23. Changes specific to bonded wine cellars and taxpaid wine bottling houses.

A number of sections in 27 CFR Parts 231 and 240 have been amended to provide for alternation of premises with distilled spirits plant premises, and to allow, by approved formula, for production of other than standard wine on bonded wine cellar premises. Another major revision in 27 CFR Part 240 provides for the transfer of wine in bond between a bonded wine cellar and a distilled spirits plant.

## 24. Conforming changes.

Minor conforming and editorial changes have been made to other regulations in Title 27 (aside from recodified Parts 13 and 19 and changes in wine regulations). The principal reasons for these changes are as follows: (1) the all-in-bond system; (2)

repeal of rectification taxes; (3) the recodifications; (4) changes in references; and (5) obsolescence of certain regulations.

## Proposed Revisions

### 1. General.

The Bureau has identified several additional operational matters which may merit further liberalization or clarification. Due to time constraints associated with the drafting of this document, a decision has been made to propose further regulatory revision in these areas and obtain public and industry input prior to implementation of the revisions in final regulations. The following paragraphs provide a summary of the proposed revisions.

### 2. Elimination of forms.

The Bureau proposes to eliminate some distilled spirits plant operational forms in the final rule. Commercial records would be prescribed in lieu of the forms. Public comments are invited to assist the Bureau in determining which forms may be eliminated.

### 3. Monthly reports.

The monthly operational reports submitted by proprietors are used to compile industry-wide statistics. Other governmental agencies and industry groups, as well as the Bureau, make use of these statistics. The Bureau proposes to reduce the required filings of operational reports to a quarterly basis.

### 4. Alternative devices.

The temporary regulations authorize domestic bottlers to use alternative devices in lieu of strip stamps on bottled distilled spirits. The Bureau proposes to extend this option to foreign, Puerto Rican and Virgin Islands bottlers.

### 5. Proof tolerance for cordials.

Some commenters on the Advance Notice of Proposed Rulemaking for these temporary regulations proposed raising the permissible drop in proof during bottling to 0.5 degrees in the case of cordials. The Bureau will consider implementing this proposal for products which contain solids in excess of 600 mg per 100 ml. Other products would remain subject to the current limit of 0.3 degrees of proof.

### 6. Elimination of labeling designation for gin and vodka as bottled-in-bond.

The temporary regulations incorporate in 27 CFR 5.42 the same standards for bottled-in-bond spirits which were previously in 27 CFR Part 201. The intent was to preserve the existing meaning of the term "bottled-in-bond" despite the repeal of tax provisions under 26 U.S.C. 5233. Since it appears that the labeling designation for bottled in bond gin or vodka is not used today, the Bureau proposes to delete this label designation.



**Statement of Administrative Action****1. On-premises supervision.**

With repeal of the present statutory obligation to assign ATF officers to distilled spirits plants, the Bureau anticipates the gradual removal of ATF officers from such plants to be accomplished on a plant-by-plant basis. This will provide the Government with an opportunity to evaluate the degree of control needed at each plant, and will provide proprietors the opportunity to adjust to their new responsibilities. However, the removal of ATF officers assigned at distilled spirits plants will necessitate an expanded inspection-audit program to ensure the protection of the revenue. Unless otherwise notified, proprietors may assume that the level of supervision in effect on December 31, 1979, will be continued on and after January 1, 1980.

**2. Manufacturers of nonbeverage products.**

Some manufacturers of alcoholic flavorings may wish to establish distilled spirits plants in order to receive spirits in bond and transfer finished flavorings in bond to distilled spirits plants. In considering such applications, where the exclusive purpose is to manufacture flavorings as intermediate distilled spirits products, the Bureau may waive the minimum storage capacity requirements for warehousing set forth in 27 CFR 19.134.

**Drafting Information**

The authors of this document are numerous headquarters and field personnel of the Bureau of Alcohol, Tobacco and Firearms, assigned or detailed to the Research and Regulations Branch (Regulatory Enforcement). Other personnel of the Bureau and the Treasury Department participated in the preparation of this document, both in matters of substance and style.

**Waiver of Procedural Requirements of Treasury Directive**

Expedient adoption of the provisions contained in this document is necessary in order to provide immediate guidelines for use by the distilled spirits and wine industries in implementing the Distilled Spirits Tax Revision Act of 1979. For this reason, Richard J. Davis, Assistant Secretary (Enforcement and Operations) of the Treasury, has determined that the provisions of paragraph 10 of the Treasury Department directive implementing Executive Order 12044 must be waived.

**Effective Date**

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section. Accordingly, this Treasury decision becomes effective on January 1, 1980.

**Authority and Issuance**

These regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended) and in 27 U.S.C. 205 (49 Stat. 981, as amended).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

Section A. Part 5 is amended as follows:

**PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS**

Paragraph 1. The table of contents is amended to reflect the addition of Subpart Ca—Formulas, immediately following Subpart C—Standards of Identity for Distilled Spirits, and the table of contents is also amended to delete § 5.49, Bottles per shipping case. As amended, the table of contents reads as follows:

**Subpart Ca—Formulas**

|      |                                     |
|------|-------------------------------------|
| Sec. |                                     |
| 5.25 | Application.                        |
| 5.26 | Formula requirements.               |
| 5.27 | Formulas for processing operations. |
| 5.28 | Adoption of predecessor's formulas. |

**Subpart E—Standards of Fill for Bottled Distilled Spirits**

|      |           |
|------|-----------|
| 5.49 | [Deleted] |
|------|-----------|

**§ 5.2 [Amended]**

Paragraph 2. Section 5.2 is amended to delete the phrase "27 CFR Part 201—Distilled Spirits Plants." and to insert immediately after "27 CFR Part 7—Labeling and Advertising of Malt Beverages." the phrase "27 CFR Part 19—Distilled Spirits Plants."

Paragraph 3. Section 5.11 is amended, in alphabetical order, by revising the definition of "Distilled spirits" and by adding the definitions "Area Supervisor" and "Season". As amended, § 5.11 reads as follows:

**§ 5.11 Meaning of terms.**

**Area supervisor.** The supervisory officer of the Bureau of Alcohol, Tobacco and Firearms area office.

**Distilled spirits.** Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

**Season.** The period from January 1 through June 30 is the spring season and the period from July 1 through December 31 is the fall season.

Paragraph 4. Section 5.22 is amended by changing the last sentence in paragraph (b)(1)(iii) to read as follows:

**§ 5.22 The standards of identity.**

- (b) \* \* \*
- (1) \* \* \*
- (iii) \* \* \* "Straight whisky" includes mixtures of straight whiskies of the same type produced by the same proprietor at the same distillery all of which are not less than four years old.

Paragraph 5. Subpart Ca—Formulas, is added immediately following the regulations in Subpart C—Standards of Identity for Distilled Spirits. As added, Subpart Ca reads as follows:

**Subpart Ca—Formulas****§ 5.25 Application.**

The requirements of this subpart shall apply to:

- (a) Proprietors of distilled spirits plants qualified as processors under 27 CFR Part 19;
- (b) Persons in Puerto Rico who manufacture distilled spirits products for shipment to the United States. Formulas need only be filed for those products which will be shipped to the United States; and
- (c) Persons who ship into the United States, Virgin Islands distilled spirits products.

**§ 5.26 Formula requirements.**

(a) **General.** An approved formula is required to blend, mix, purify, refine, compound, or treat spirits in a manner which results in a change of character, composition, class or type of the spirits. Form 5110.38 (27-B Supplemental) shall be filed with the Director in accordance with the instructions on the form and shall designate all ingredients and, if required, the process used. Any approved formula on Form 27-B Supplemental or Form 5110.38 shall remain in effect until revoked, superseded, or voluntarily surrendered.

Any existing qualifying statements as to the rate of tax or the limited use of drawback flavors appearing on a Form 27-B Supplemental are obsolete.

(b) **Change in formula.** Any change in an approved formula shall require the filing of a new Form 5110.38. After a change in a formula is approved, the original formula shall be surrendered to the Director.

**§ 5.27 Formulas for processing operations.**

Formulas are required for processing operations which change the character, composition, class or type of spirits as follows:

- (a) The compounding of spirits through the mixing of any coloring, flavoring, wine, or other material with distilled spirits;
- (b) Any filtering or stabilizing process which results in a product which does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits; and, in the case of straight whisky, results in the removal of more than 15 percent of the fixed acids, volatile acids, esters, soluble solids, or higher alcohols, or more than 25 percent of the soluble color;
- (c) The mingling of spirits (including merchandise returned to bond) produced by different distillers, or at different distilleries, or which differ in class or type of materials from which produced;
- (d) The mingling of spirits stored in charred cooperage with spirits stored in plain or reused cooperage, or the mixing of spirits that have been treated with wood chips with spirits not so processed, or the mixing of spirits that have been subjected to any treatment which changes their character with spirits not so treated, unless it is determined that the composition of the spirits is the same; notwithstanding the storage in different kinds of cooperage or the treatment of a portion of the spirits;
- (e) The use (except as authorized for production or storage operations as provided by 27 CFR Part 19) of any physical or chemical process or any apparatus which accelerates the maturing of the spirits;
- (f) The steeping or soaking of fruits, berries, aromatic herbs, roots, seeds, etc., in spirits or wines;
- (g) The artificial carbonating of spirits;
- (h) The blending in Puerto Rico of spirits with any liquors manufactured outside of Puerto Rico;
- (i) The production of gin by—(1) Redistillation over juniper berries and other natural aromatics, or the extracted oils of such, of spirits distilled at or above 190 degrees of proof, free from

impurities, including spirits of such a nature recovered by redistillation of imperfect gin spirits; and

(2) Mixing gin produced by redistillation with other spirits;

(j) The treatment of gin by—(1) The addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation; and

(2) The addition of any substance or material other than juniper berries or other natural aromatics, or the extracted oils of such, or pure water to the spirits, before or during redistillation, in a manner that would change its class and type designation;

(k) The production of vodka by—(1) The treatment of neutral spirits with not less than one ounce of activated carbon per 100 wine gallons of spirits;

(2) Redistillation of pure spirits so as to be without distinctive character, aroma, taste, or color;

(3) Mixing with other spirits or with any other substance or material except pure water, after production; and

(4) Adding any substance or material which imparts to the product any distinctive character, aroma, taste, or color before or during production.

**§ 5.28 Adoption of predecessor's formulas.**

The adoption by a successor of approved Forms 5110.38 (27-B Supplemental) shall be in the form of an application filed with the Director. The application shall list the formulas for adoption by—

- (a) formula number,
- (b) name of product, and
- (c) date of approval.

The application shall clearly show that the predecessor has authorized the use of his previously approved formulas by the successor.

Paragraph 6. Section 5.31 is amended by revising paragraph (b) to read as follows:

**§ 5.31 General.**

(b) **Alteration of labels.** It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except—

- (1) As authorized by Federal law;
- (2) That the area supervisor may, on written application, permit additional labeling or relabeling of bottled distilled spirits with labels covered by certificates of label approval which comply with the requirements of this part and with State law;

(3) That there may be added to the bottle, after removal from customs custody, or prior to or after removal from bonded premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

Paragraph 7. Section 5.36 is amended by revising paragraph (a)(2) to read as follows:

**§ 5.36 Name and address.**

(a) "Bottled by".

(2) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", "packed by", or "filled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits labeled as bottled in bond) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

Paragraph 8. Section 5.40 is amended by revising the first sentence of paragraph (a) to read as follows:

**§ 5.40 Statements of age and percentage.**

(a) **Statements of age and percentage for whisky.** In the case of domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years old or more, statements of age and percentage are optional. \* \* \*

Paragraph 9. Section 5.42(b) (1), (3) and (4) are amended to read as follows:

**§ 5.42 Prohibited practices.**

(b) **Miscellaneous.** (1) Labels shall not be of such design as to resemble or simulate a stamp of the U.S. Government or any State or foreign government. Labels, other than stamps authorized or required by this or any other government, shall not state or indicate that the distilled spirits are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, Federal, or foreign authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, municipal, or foreign law or regulations. The statements authorized by this part to appear on labels for domestic distilled spirits are "Distilled (produced, barreled, warehoused, blended, or bottled, or any combination thereof, as



the case may be) under United States (U.S.) Government supervision, or in the case of distilled spirits labeled as bottled in bond, "Bottled in bond under United States (U.S.) Government supervision". If the municipal, State, or Federal Government permit number is stated on a label, it shall not be accompanied by any additional statement relating thereto.

(3) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless the distilled spirits are—

(i) Composed of the same kind of spirits produced from the same class of materials;

(ii) Produced in the same distilling season by the same distiller at the same distillery;

(iii) Stored for at least four years in wooden containers wherein the spirits have been in contact with the wood surface except for gin and vodka which must be stored for at least four years in wooden containers coated or lined with paraffin or other substance which will preclude contact of the spirits with the wood surface;

(iv) Unaltered from their original condition or character by the addition or subtraction of any substance other than by filtration, chill proofing, or other physical treatments (which do not involve the addition of any substance which will remain incorporated in the finished product or result in a change in class or type);

(v) Reduced in proof by the addition of pure water only to 100 degrees of proof; and

(vi) Bottled at 100 degrees of proof.

In addition to the requirements of § 5.36(a) (1) or (2), the label shall bear the real name of the distillery or the trade name under which the distillery produced and warehoused the spirits, and the plant (or registered distillery) number in which produced; and the plant number in which bottled. The label may also bear the name or trade name of the bottler.

(4) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless the distilled spirits meet in all respects the requirements applicable to distilled spirits bottled for domestic consumption, so labeled, and unless the laws and regulations of the country in which such distilled spirits are produced

authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as "bonded", "bottled in bond", or "aged in bond" pursuant to the provisions of this subparagraph shall bear in direct conjunction with such statement and in script, type, or printing substantially as conspicuous as that used on such statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

Paragraph 10. Section 5.46 is amended by revising paragraph (b) to read as follows:

#### § 5.46 Standard liquor bottles.

(b) *Headspace*. A liquor bottle of a capacity of 200 milliliters or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

Paragraph 11. Section 5.47a deletes paragraph (e) and redesignates paragraph (f) as (e). As amended, paragraph (e) of § 5.47a reads as follows:

#### § 5.47a Metric standards of fill.

(e) *Distilled spirits bottled before January 1, 1980*. Distilled spirits bottled domestically before January 1, 1980, may be marketed after December 31, 1979, if such distilled spirits were bottled in accordance with § 5.47. (See § 5.53 for similar provisions relating to distilled spirits imported in original containers.)

#### § 5.49 [Deleted]

Paragraph 12. Section 5.49 is deleted because a requirement to pack a set number of bottles in a shipping case has been found to be unnecessary.

### PART 186 [REVISED AND REDESIGNATED]

Section B. Part 186 is revised and renumbered as Part 13 as follows:

*Preamble* 1. The regulations in this part supersede 27 CFR Part 186 in its entirety.

2. These regulations do not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part are effective on January 1, 1980.

### PART 13—GAUGING MANUAL

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13.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.

13.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit.

Authority: Sec. 7805, 68A Stat. 917, as amended; 26 U.S.C. 7805, unless otherwise noted.

#### Subpart A—Scope of Regulations

##### § 13.1 Gauging of distilled spirits.

This part, the "Gauging Manual", relates to the gauging of distilled spirits. By "gauging" is meant the determination of the proof and the quantity of distilled spirits. Tables 1-7, together with their instructions, are provided as a part hereof and should be used, wherever applicable, in making the necessary computations from gauge data. Table 1 provides a method of correcting hydrometer indications at temperatures between 0 and 100 degrees Fahrenheit to true proof. If distilled spirits contain dissolved solids, temperature-correction

of the hydrometer reading by the use of this table would result in apparent proof rather than true proof. Tables 2 and 3 show the gallonage of spirituous liquor according to weight and proof, Table 4 shows the gallons per pound at each one-tenth proof from 1 to 200 proof, Table 5 shows the weight per wine gallon and proof gallon at each proof, Table 6 shows the volumes of alcohol and water, and the specific gravity (air and vacuum) of spirituous liquor at each proof, and Table 7 provides a means of ascertaining the volume (at 60 degrees Fahrenheit) of spirits at various temperatures ranging from 18 degrees through 100 degrees Fahrenheit. The procedures prescribed in, or authorized under the provisions of, this part shall, except as may be otherwise authorized in this chapter, be followed in making any determination of quantity or proof of distilled spirits required by or under the authority of regulations in this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### Subpart B—Definitions

##### § 13.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

*ATF officer*. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

*Bulk conveyance*. Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits) in bulk.

*CFR*. The Code of Federal Regulations.

*Container*. Any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring or conveying distilled spirits.

*Denatured spirits or denatured alcohol*. Spirits to which denaturants have been added pursuant to formulas prescribed in Part 212 of this chapter.

*Director*. The Director, Bureau of Alcohol, Tobacco and Firearms, the

Department of the Treasury, Washington, DC.

*Gallon or wine gallon*. The liquid measure equivalent to the volume of 231 cubic inches.

*I.R.C.* The Internal Revenue Code of 1954, as amended.

*Package*. Any cask, barrel, drum, or similar container approved under the provisions of this chapter.

*Proof*. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

*Proof gallon*. A United States gallon of proof spirits, or the alcoholic equivalent thereof.

*Proof spirits*. That liquid which contains one-half its volume of ethyl alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (0.7939) in vacuum at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

*Regional regulatory administrator*. The principal ATF regional official responsible for administering regulations in this part.

*Spirits, spirituous liquor, or distilled spirits*. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, but not denatured spirits unless specifically stated.

*This chapter*. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

*U.S.C.* The United States Code.

#### Subpart C—Gauging Instruments

##### § 13.21 General requirements.

ATF officers shall use only hydrometers and thermometers furnished by the Government. However, where this part requires the use of a specific gravity hydrometer, ATF officers shall use precision grade specific gravity hydrometers conforming to the provisions of § 13.24, furnished by the proprietor. However, the Director may authorize ATF officers to use other instruments approved by the Director as being equally satisfactory for determination of specific gravity and for gauging. From time to time ATF officers shall verify the accuracy of hydrometers and thermometers used by proprietors. The proof of distilled spirits shall be determined by the use of gauging instruments as prescribed in this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.22 Hydrometers and thermometers.

The hydrometers furnished to ATF officers are graduated to read the proof

of aqueous alcoholic solutions at 60 degrees Fahrenheit; thus, they read, 0 for water, 100 for proof spirits, and 200 for absolute alcohol. Because of temperature-density relationships and the selection of 60 degrees Fahrenheit for reporting proof, the hydrometer readings will be less than the true percent of proof at temperatures below 60 degrees Fahrenheit and greater than the true percent of proof at temperatures above 60 degrees Fahrenheit. Hence, corrections are necessary for hydrometer readings at temperatures other than 60 degrees Fahrenheit. Precision hydrometers shall be used for gauging spirits. Hydrometers and thermometers shall be used and the true percent of proof shall be determined in accordance with § 13.31. Hydrometers are designated by letter according to range of proof and are provided in ranges and subdivisions of stems as follows:

| Precision | Range      | Subdivision |
|-----------|------------|-------------|
| F         | 0 to 20    | 0.2°        |
| G         | 20 to 40   | 0.2°        |
| H         | 40 to 60   | 0.2°        |
| I         | 60 to 80   | 0.2°        |
| K         | 80 to 100  | 0.2°        |
| L         | 100 to 120 | 0.2°        |
| M         | 120 to 140 | 0.2°        |
| N         | 140 to 160 | 0.2°        |
| P         | 160 to 180 | 0.2°        |
| Q         | 180 to 200 | 0.2°        |
| R         | 200 to 220 | 0.2°        |

Thermometers are designated by type according to range of degrees Fahrenheit and are provided in ranges and subdivisions of degrees as follows:

| Type                        | Range       | Subdivision |
|-----------------------------|-------------|-------------|
| Pencil type                 | 10° to 100° | 1°          |
| V-back                      | 10° to 100° | 1°          |
| Glass shell (earlier model) | 40° to 100° | 1/4°        |
| Glass shell (later model)   | 40° to 100° | 1/4°        |

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.23 Use of precision hydrometers and thermometers.

Care should be exercised to obtain accurate hydrometer and thermometer readings. In order to accomplish this result, the following precautions should be observed. Bulk spirits should be thoroughly agitated so that the test samples will be representative of the entire quantity. The hydrometers should be kept clean and free of any oily substance. Immediately before readings are taken, the glass cylinder containing the thermometer should be rinsed several times with the spirits which are to be gauged so as to bring both the cylinder and the thermometer to the temperature of the spirits (if time



permits, it is desirable to bring both the spirits and the instruments to room temperature). If the outer surface of the cylinder becomes wet, it should be wiped dry to avoid the cooling effect of rapid evaporation. During the readings the cylinder should be protected from drafts or other conditions which might affect its temperature or that of the spirits which it contains. The hands should not be placed on the cylinder in such a manner as to warm the liquid contained therein. The hydrometer should be inserted in the liquid and the hydrometer bulb raised and lowered from top to bottom 5 or 6 times to obtain an even temperature distribution over its surface, and, while the hydrometer bulb remains in the liquid, the stem should be dried and the hydrometer allowed to come to rest without wetting more than a few tenths degrees of the exposed stem. Special care should be taken to ascertain the exact point at which the level of the surface liquid intersects the scale of proof in the stem of the hydrometer. The hydrometer and thermometer should be immediately read, as nearly simultaneously as possible. In reading the hydrometer, a sighting should be made slightly below the plane of the surface of the liquid and the line of sight should then be raised slowly, being kept perpendicular to the hydrometer stem, until the appearance of the surface changes from an ellipse to a straight line. The point where this line intersects the hydrometer scale is the correct reading of the hydrometer. When the correct readings of the hydrometer and the thermometer have been determined, the true percent of proof shall be ascertained from Table 1.

Another sample of the spirits should then be taken and be tested in the same manner so as to verify the proof originally ascertained. Hydrometer readings should be made to the nearest 0.05 degree and thermometer readings should be made to the nearest 0.1 degree, and instrument correction factors, if any, should be applied. It is necessary to interpolate in Table 1 for fractional hydrometer and thermometer readings.

*Example.* A hydrometer reads 192.85° at 72.10° F. The correction factors for the hydrometer and thermometer, respectively are minus 0.03° and plus 0.05°. The corrected reading, then, is 192.82° at 72.15° F.

From Table 1

192.0° at 72.0° F 190.2

192.0° at 72.0° F 189.1

Difference 1.1

192.0° at 72.0° F 189.1

192.0° at 72.0° F 188.9

Difference 0.2

The hydrometer difference (1.1°) multiplied by the fractional degree of the hydrometer reading (0.82°) = 0.902.

The temperature difference (0.2°) multiplied by the fractional degree of the temperature reading (0.15°) = 0.03°.

Proof at 60° F = 189.1 + 0.902 - 0.03 = 189.972° = 190.0°.

As shown, the final proof is rounded to the nearest tenth of a degree of proof. In such cases, if the hundredths decimal is less than five, it will be dropped; if it is five or over, a unit will be added.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### § 13.24 Specific gravity hydrometers.

The specific gravity hydrometers furnished by proprietors to ATF officers shall conform to the specifications of the American Society for Testing Materials or the National Bureau of Standards for such instruments. Such specific gravity hydrometers shall be of a precision grade, standardization temperature 60°/60° F., and provided in the following ranges and subdivisions:

| Range            | Subdivision |
|------------------|-------------|
| 1.0000 to 1.0500 | 0.0005      |
| 1.0500 to 1.1000 | 0.0005      |
| 1.1000 to 1.1500 | 0.0005      |
| 1.1500 to 1.2000 | 0.0005      |
| 1.2000 to 1.2500 | 0.0005      |

No instrument shall be in error by more than 0.0005° specific gravity. A certificate of accuracy prepared by the instrument manufacturer for the instrument shall be furnished to the ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### § 13.25 Use of precision specific gravity hydrometers.

The provisions of § 13.23 respecting the care, handling, and use of precision instruments shall be followed with respect to the care, handling, and use of precision grade specific gravity hydrometers. Specific gravity hydrometers shall be read to the nearest subdivision. Because of temperature density relationships and the selection of the standardization temperature of 60°/60° F., the specific gravity readings will be greater at temperatures below 60 degrees Fahrenheit and less at temperatures above 60 degrees Fahrenheit. Hence, correction of the specific gravity readings will be made for temperatures other than 60 degrees Fahrenheit. Such correction may be ascertained by dividing the specific gravity hydrometer reading by the applicable correction factor in Table 7.

*Example:* The specific gravity hydrometer reading is 1.1525, the thermometer reading is 68 degrees Fahrenheit, and the true proof of the spirits is 115 degrees. The correct specific gravity reading will be ascertained as follows:

(a) From Table 7, the correction factor for 115° proof at 68° F. is 0.996.

(b) 1.1525 divided by 0.996 = 1.1571, the corrected specific gravity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### Subpart D—Gauging Procedures

##### § 13.31 Determination of proof.

The proof of spirits shall be determined to the nearest tenth degree which shall be the proof used in determining the proof gallons. The proof of spirits shall be determined by the use of a hydrometer and thermometer in accordance with the provisions of § 13.23 except that (a) if such spirits contain solids in excess of 400 milligrams per 100 milliliters at gauge proof, there shall be added to the proof so determined the obscuration determined as prescribed in § 13.32, or

(b) If such spirits contain solids in excess of 600 milligrams per 100 milliliters at gauge proof, the proof shall be determined on the basis of true proof determined as follows:

(1) By the use of a hydrometer and a thermometer after the spirits have been distilled in a small laboratory still and restored to the original volume and temperature by the addition of pure water to the distillate; or

(2) By a recognized laboratory method which is equal or superior in accuracy to the distillation method.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

##### § 13.32 Determination of proof obscuration.

Solids or other substances in solution in beverage spirits have an effect on the specific gravity of the spirits and, depending on the density or specific gravity of the substances, obscure the true proof of the liquid. Experience has shown that 0.1 gram (100 milligrams) of solids per 100 milliliters will obscure the true proof by 0.4 of 1 degree of proof. The amount of solids in the spirits may be determined

(a) By evaporating the water and alcohol from a carefully measured 25 milliliter sample of the spirits, drying the residue at 100 degrees centigrade for 30 minutes and then weighing the residue precisely. The number of grams of solids thus determined, multiplied by 4, will give the amount of solids in 100 milliliters of the spirits, and that figure, multiplied by 4, will give the obscuration. For example, if a blended whisky contains 0.25 gram of solids per 100 milliliters, the obscuration is 4 times 0.25, which is one degree of proof. This value, added to the temperature

corrected hydrometer reading, will give the true proof; or

(b) By determining the apparent proof and temperature of the sample of spirits and then by distilling a carefully measured sample in a small laboratory still, and collecting a quantity of the distillate, 1 or 2 milliliters less than the original sample. The distillate is adjusted to the original temperature and restored to the original volume by addition of distilled water. The proof of the restored distillate is then determined by use of a precision hydrometer and thermometer in accordance with the provisions of § 13.23 to the nearest 0.1 degree of proof. The difference between the proof so determined and the apparent proof of the undistilled sample is the obscuration; or

(c) By determination of the specific gravity of the undistilled sample, distillation and restoration of the samples as provided in paragraph (b) of this section and determination of the specific gravity of the restored distillate by means of a pycnometer. The specific gravities so obtained will be converted to degrees of proof by interpolation of Table 6 to the nearest 0.1 degree of proof. The difference in proof so obtained is the obscuration.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### Determination of Quantity

##### § 13.36 General requirements.

The quantity determination of distilled spirits that are withdrawn from bond in bulk upon tax determination or payment shall be by weight. The quantity of other distilled spirits or denatured spirits may be determined by weight or by volume. When the quantity of distilled spirits or denatured spirits is determined by volume, such determination may be by meter as provided in 27 CFR Part 19, or when approved by the Director, another device. The Director may also authorize the determination of quantity of distilled spirits or denatured spirits by a statistical control method.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### Determination of Quantity By Weight

##### § 13.41 Bulk spirits.

When spirits (including denatured spirits) are to be gauged by weight in bulk quantities, the weight shall be determined by means of weighing tanks, mounted on accurate scales. Before each use, the scales shall be balanced at zero load; thereupon the spirits shall be run into the weighing tank and proofed as prescribed in § 13.31. However, if the spirits are to be reduced in proof, the

spirits shall be so reduced before final determination of the proof. The scales shall then be brought to a balanced condition and the weight of the spirits determined by reading the beam to the nearest graduation mark. From the weight and the proof thus ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 4. However, in the case of spirits which contain solids in excess of 400 milligrams per 100 milliliters, the quantity in proof gallons shall be determined by first ascertaining the wine gallons per pound of the spirits and multiplying the wine gallons per pound by the weight, in pounds, of the spirits being gauged and by the true proof (determined as prescribed in § 13.31) and dividing the result by 100. The wine gallons per pound of spirits containing solids in excess of 400 milligrams per 100 milliliters shall be ascertained by:

(a) Use of a precision hydrometer and thermometer, in accordance with the provisions of § 13.23, to determine the apparent proof of the spirits (if specific gravity at the temperature of the spirits is not more than 1.0) and reference to Table 4 for the wine gallons per pound, or

(b) Use of a specific gravity hydrometer, in accordance with the provisions of § 13.25, to determine the specific gravity of the spirits (if the specific gravity at the temperature of the spirits is more than 1.0) and dividing that specific gravity (corrected to 60 degrees Fahrenheit) into the factor 0.120074 (the wine gallons per pound for water at 60 degrees Fahrenheit). When withdrawing a portion of the contents of a weighing tank, the difference between the quantity (ascertained by proofing and weighing) in the tank immediately before the removal of the spirits and the quantity (ascertained by proofing and weighing) in the tank immediately after the removal of the spirits shall be the quantity considered to be withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.42 Denatured spirits.

The quantity, in gallons, of any lot or package of specially denatured spirits may be determined by weighing it and then dividing its weight by the weight per gallon of the formula concerned, as given in the appropriate tables in Subpart H of 27 CFR Part 212. In the case of completely denatured spirits, the gallonage of any lot or package may be ascertained by determining its weight and apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit) and then multiplying the weight of the wine gallons per pound

factor shown in Table 4 for the (apparent) proof.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.43 Packaged spirits.

When the quantity of spirits (including denatured spirits when gauged by weight) in packages, such as barrels, drums, and similar portable containers, is to be determined by gauge of the individual packages, such quantity shall, except as provided in paragraph (b) of this section, be determined by weighing each package on an accurate weighing beam or platform scale having a capacity in excess of 10 wine gallons are to be gauged, or in pounds and ounces, or pounds and hundredths of a pound, where packages designed to hold 10 wine gallons or less are to be gauged. In either case the tare must be determined and subtracted from the gross weight to obtain the net weight. From the proof and weight ascertained, the quantity of the spirits in proof gallons shall be determined by reference to Table 2, 3, or 4. However, if the spirits contain solids in excess of 400 milligrams per 100 milliliters, the proof gallons shall be determined as prescribed for such spirits in § 13.41. Notwithstanding the provisions of this section or of § 13.44, (a) gross weights and tares of packages being filled need not be taken in any case where the gauge of the spirits is not derived from such weights under the gauging procedure being utilized, and (b) meters, other devices, or other methods may be used for determining the quantity of spirits in individual packages, when such meter is used as provided in 27 CFR Part 19, or, when such other device or method has been approved by the Director.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

##### § 13.44 Entry or filling gauge for packages.

(a) *General.* The spirits in the tank from which the packages are to be filled shall be thoroughly agitated before taking the proof. The proof determined (as prescribed in § 13.31) after such agitation shall be regarded as the proof of the spirits run into all packages filled from the tank. No package which contains or has on its interior or exterior any substance which will prevent the correct ascertainment of tare shall be used. An average tare (rounded to the nearest half pound) may be ascertained and used for metal packages of the same kind and capacity produced by the same manufacturer which are to be filled with



spirits for industrial use, or with denatured spirits, by weighing not less than 20 percent of any lot of such packages. The quantity of spirits in packages which have been filled from tanks may be determined in wine gallons (if desired) and proof gallons, from the proofs and net weights of the packages, by use of Table 2, 3, or 4, whichever is applicable. However, if the spirits contain solids in excess of 400 milligrams per 100 milliliters, the wine gallon and proof gallon contents shall be determined as prescribed for such spirits in § 13.41.

(b) *Weighting packages of more than 10 wine gallons.* The weight of packages having a capacity in excess of 10 wine gallons shall be determined and recorded in pounds and half pounds.

(c) *Weighting containers of 10 wine gallons or less.* The weight for packages and other containers of a capacity of 10 wine gallons or less shall be determined in pounds and ounces, or pounds and hundredths of a pound, and shall be recorded in pounds and hundredths of a pound. The equivalent pounds and hundredths of pounds and the corresponding wine gallons and proof gallons shall be expressed as shown in the following table for the respective weights in pounds and ounces and proofs shown therein or, as applicable, computed in accordance with rules in this section.

| Weight of contents |        |      |                              |       |         |
|--------------------|--------|------|------------------------------|-------|---------|
| Size <sup>1</sup>  | Pounds | Ozs. | Weight <sup>2</sup> Contents | Proof | gallons |
| 190 Proof Spirits  |        |      |                              |       |         |
| 1                  | 6      | 13   | 6.81                         | 1     | 1.9     |
| 2                  | 13     | 10   | 13.63                        | 2     | 3.8     |
| 5                  | 34     | 00   | 34.00                        | 5     | 9.5     |
| 10                 | 68     | 00   | 68.00                        | 10    | 19.0    |
| 192 Proof Spirits  |        |      |                              |       |         |
| 1                  | 6      | 13   | 6.81                         | 1     | 1.9     |
| 2                  | 13     | 9    | 13.56                        | 2     | 3.8     |
| 5                  | 33     | 13   | 33.81                        | 5     | 9.6     |
| 10                 | 67     | 10   | 67.63                        | 10    | 19.2    |
| 200 Proof Spirits  |        |      |                              |       |         |
| 1                  | 6      | 10   | 6.63                         | 1     | 2.0     |
| 2                  | 13     | 4    | 13.25                        | 2     | 4.0     |
| 5                  | 33     | 1    | 33.06                        | 5     | 10.0    |
| 10                 | 66     | 2    | 66.12                        | 10    | 20.0    |

<sup>1</sup> Of container, wine gallons.

<sup>2</sup> In pounds and hundredths of a pound.

<sup>3</sup> In wine gallons.

(d) *Packages of other proofs or sizes.* Where packages of proofs or sizes not shown above are to be filled, the following rule may be used for ascertaining the weight of the spirits to be placed in the package: Divide the number of gallons representing the quantity of spirits to be placed in the container by the fractional part of a

gallon equivalent to 1 pound, to obtain the weight of the spirits in pounds and fractions of a pound to two decimal places. Reduce the decimal fraction of a pound to ounces by multiplying by 16, calling any fraction of an ounce a whole ounce. The pounds and ounces thus obtained will determine the point to which the spirits must be weighed to produce the results desired. If the weight must be marked on the package in pounds and decimal fractions of a pound, it will be necessary to convert the ounces to hundredths of a pound. The fraction of a gallon equivalent to 1 pound at any given proof shall be ascertained by reference to Table 4. However, if the spirits contain solids in excess of 400 milligrams per 100 milliliters, the fraction of a gallon equivalent to 1-pound shall be determined as prescribed for such spirits in § 13.41.

*Example.* It is desired to fill a 1-gallon can with precisely 1 wine gallon of 194 proof spirits:

1.00 divided by 0.14886 = 6.73 pounds.  
0.73 multiplied by 16 = 11.68 ounces, rounded to 12 ounces.

Weight of spirits—6 pounds, 12 ounces.  
Weight, if required, to be marked on can—6.75 pounds.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

#### § 13.45 Withdrawal gauge for packages.

(a) *Wooden packages.* When wooden packages are to be individually gauged for withdrawal, actual tare of a package shall be determined. The actual tare of the packages shall be determined by weighing it after its contents (including rinse water, if any) have been temporarily removed to a separate container or vessel. Where the contents of packages have been temporarily removed for determination of tare, the proof, if any rinse water is added to the spirits, shall be determined after a thorough mixing of the rinse water and the spirits and before return of the spirits to the rinsed packages, and the gross weight shall be determined after the spirits and any added rinse water have been returned to the packages.

(b) *Metal packages.* When metal packages are to be individually gauged for withdrawal, the tare established at the time of filling shall be used unless it appears that there has been a change in tare or the established tare is incorrect, in which case a new tare will be established. From the proofs and the net weights of the packages, the wine gallon (if desired) and the proof gallon contents shall be determined by the use of Table 2. However, if the spirits contain solids in excess of 400 milligrams per 100 milliliters, the wine gallon and proof

gallon contents shall be determined as prescribed for such spirits in § 13.41. If either the weight or the proof is beyond the limitations of Table 2, either Table 3 or Table 4 may be used.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### Determination of Quantity By Volume

##### § 13.51 Procedures for measurement of bulk spirits.

Where the quantity of spirits (including denatured spirits) in bulk is to be determined by volume as authorized by this chapter, the measurement shall be made in tanks, by meters as provided in 27 CFR Part 19, or by other devices or methods authorized by the Director, or as otherwise provided in this chapter, or such measurement may be made in tank cars or tank trucks if calibration charts for such conveyances are provided and such charts have been accurately prepared, and certified as accurate, by engineers or other persons qualified to calibrate such conveyances. Volumetric measurements in tanks shall be made only in accurately calibrated tanks equipped with suitable measuring devices, whereby the actual contents can be correctly ascertained. If the temperature of spirits (including denatured spirits) is other than the standard of 60 degrees Fahrenheit, gallonage determined by volumetric measurements shall be corrected to the standard temperature by means of Table 7. In the case of denatured spirits, the temperature-correction factor for the proof of the spirits used in denaturation will give sufficiently accurate results, except that the temperature-correction factor used for specially denatured spirits, Formula No. 18, should be that given in Table 7 for 100 proof spirits. When the quantity of spirits, in wine gallons, has been determined by volumetric measurement, the number of proof gallons shall be obtained by multiplying the wine gallons by the proof of the spirits.

*Example.*  
Gauge glass reading inches..... 88  
Wine gallons per inch..... 48.96  
Temperature °F..... 72  
Proof of spirits..... 86.8  
Temperature correction factor (Table 7)..... .995  
48.96 W.G. × .995 = 48.80 wine gallons.  
48.80 W.G. × 86.8 = 4236.64 wine gallons.  
4236.64 W.G. × 0.868 = 3721.06392 = 3721.1 proof gallons.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.52 Procedure for measurement of cased spirits.

Where the quantity of spirits in a case is to be determined by volume, such determination shall be made by ascertaining the contents of one bottle in the case and multiplying that figure by the number of bottles in the case. For

cases containing bottles filled according to the metric system of measure, the quantity determined shall be converted to wine gallons, as provided in § 19.742 of this chapter. The wine gallons of spirits thus determined for one case may then be multiplied by the number of cases containing spirits at the same proof when determining the quantity of spirits for more than one case. The proof gallons of spirits in cases shall be determined by multiplying the wine gallons by the proof (divided by 100).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### Subpart E—Prescribed Tables

##### § 13.61 Table 1, showing the true percent of proof spirit for any indication of the hydrometer at temperatures between zero and 100 degrees Fahrenheit.

This table shows the true percent of proof of distilled spirits for indications of the hydrometer likely to occur in practice at temperatures between zero and 100 degrees Fahrenheit and shall be used in determining the proof of spirits. The left-hand column contains the reading of the hydrometer and on the same horizontal line, in the body of the table, in the "Temperature" column corresponding to the reading of the thermometer is the corrected reading or "true percent of proof." The table is computed for tenths of a percent.

|                            |       |
|----------------------------|-------|
| Temperature, °F.....       | 75    |
| Hydrometer reading.....    | 183   |
| True percent of proof..... | 189.5 |

Where fractional readings are ascertained, the proper interpolations will be made (see § 13.23). If the distilled spirits contain dissolved solids, temperature-correction of the hydrometer reading by the use of this table would result in apparent proof rather than true proof.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.62 Table 2, showing wine gallons and proof gallons by weight.

The wine and proof gallon content by weight and proof of packages of distilled spirits usually found in actual practice will be ascertained from this table. The left-hand column contains the weights. The true percent of proof is shown on the heading of each page in a range from 90 degrees to 200 degrees. Under the true percent of proof and on the same horizontal line with the weight will be found the wine gallons (at 60 degrees Fahrenheit) and the proof gallons respectively. Where either the weight or the proof of a quantity of spirits is beyond the limitations of this table, the number of proof gallons may be ascertained by reference to Table 3. This table may also be used to ascertain the wine gallons (at 60 degrees

Fahrenheit) and proof gallons of spirituous liquor containing dissolved solids where the weight, apparent proof (hydrometer indication corrected to 60 degrees Fahrenheit), and obscuration factor have been determined.

*Example.*  
334 lbs. of distilled spirits.  
Apparent proof—105.0°.  
Obscuration—0.8°.  
True Proof 105.0° + 0.8° = 105.8° = 106°.  
334 lbs. at 105.0° apparent proof = 43.2 wine gallons.  
43.2 wine gallons × 1.06 = 45.8 proof gallons.

In addition this table may be used to obtain the wine gallons, at the prevailing temperature, of most liquids within the range of the table, from the weight of the liquid and the uncorrected reading of the hydrometer stem. An application of this would be in determining the capacity of a package.

*Example.* It is desired to determine, or to check, the rated capacity of a package having a net weight of 395 pounds when completely filled with spirits having an uncorrected hydrometer reading of 113.0°. The full capacity of the package, 51.5 wine gallons, would be found by referring to the table at 395 pounds and 113° proof (hydrometer reading).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

##### § 13.63 Table 3, for determining the number of proof gallons from the weight and proof of spirituous liquor.

When the weight or proof of a quantity of distilled spirits is not found in Table 2, the proof gallons may be ascertained from Table 3. The wine gallons (at 60 degrees Fahrenheit) may be ascertained by dividing the proof gallons by the proof.

*Example.* A tank car of spirits of 190 degrees of proof weighed 60,378 pounds net. We find—

|                             |               |
|-----------------------------|---------------|
|                             | Proof gallons |
| 60,000 pounds equal to..... | 16,778.4      |
| 300 pounds equal to.....    | 83.9          |
| 70 pounds equal to.....     | 19.6          |
| 8 pounds equal to.....      | 2.2           |
|                             | 16,884.1      |

That is, the total weight of 60,378 pounds of spirits at 190 proof is equal to 16,884.1 proof gallons. The equivalent gallonage for 70 pounds is found from the column 700 pounds by moving the decimal point one place to the left; that for 8 pounds from the column 800 pounds by moving the decimal point two places to the left.

*Example.* A package of spirits at 86 proof weighed 321½ pounds net. We find—

|                          |               |
|--------------------------|---------------|
|                          | Proof gallons |
| 300 pounds equal to..... | 32.7          |
| 20 pounds equal to.....  | 2.2           |
| 1 pound equal to.....    | .1            |
| ½ pound equal to.....    | .1            |
|                          | 35.1          |

That is, 321½ pounds of spirits at 86 proof is equal to 35.1 proof gallons. The equivalent gallonage for 20 pounds is found from the

column 200 pounds by moving the decimal point one place to the left; that for 1 pound from the column 100 pounds by moving the decimal point two places to the left; that for the ½ pound from the column 500 pounds by moving the decimal point three places to the left. Fractional gallons beyond the first decimal ascertained through use of this table will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more.

The wine gallons (at 60 degrees Fahrenheit) may be determined by dividing the proof gallons by the proof. For example: 35.1 divided by 0.86 equals 40.8 wine gallons. (Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 13.64 Table 4, showing the fractional part of a gallon per pound at each percent and each tenth percent of proof of spirituous liquor.

This table provides a method for use in ascertaining the wine gallon (at 60 degrees Fahrenheit) and/or proof gallon contents of containers of spirits by multiplying the net weight of the spirits by the fractional part of a gallon per pound shown in the table for spirits of the same proof. Fractional gallons beyond the first decimal will be dropped if less than 0.05 or will be added as 0.1 if 0.05 or more.

*Example.* It is desired to ascertain the wine gallons and proof gallons of a tank of 190 proof spirits weighing 81,000 pounds.  
81,000 × 0.14718 = 11,921.58 = 11,921.6 wine gallons.  
81,000 × 0.27964 = 22,650.84 = 22,650.8 proof gallons.

This table may also be used for ascertaining the quantity of water required to reduce to a given proof. To do this, divide the proof gallons of spirits to be reduced by the fractional part of a proof gallon per pound of spirits at the proof to which the spirits are to be reduced, and subtract from the quotient the net weight of the spirits before reduction. The remainder will be the pounds of water needed to reduce the spirits to the desired proof.

*Example.* It is desired to ascertain the quantity of water needed to reduce 1,000 pounds of 200 proof spirits, 302.58 proof gallons, to 190 proof:  
302.58 divided by 0.27964 equals 1,082.03 pounds, weight of spirits after reduction.  
1,082.03 minus 1,000 equals 82.03 pounds, weight of water required to reduce to desired proof.

The slight variation between this table and Tables 2, 3, and 5 on some calculations is due to the dropping or adding of fractions beyond the first decimal in those tables. This table may also be used to determine the wine gallons (at 60 degrees Fahrenheit) of distilled spirits containing dissolved solids from the total weight of the liquid and its apparent proof (hydrometer indication, corrected to 60 degrees Fahrenheit). The proof gallons may then be found by multiplying the wine gallons by the true proof.



Example.

|                                                        |       |
|--------------------------------------------------------|-------|
| 5,350 pounds of blended whisky containing added solids |       |
| Temperature of "F" .....                               | 75.0° |
| Hydrometer reading .....                               | 92.0° |
| Apparent proof .....                                   | 85.5° |
| Obscuration .....                                      | 0.5°  |
| True proof .....                                       | 86.0° |

5,350.0 lbs.  $\times$  0.12676 (W.G. per pound factor for apparent proof of 85.5°) = 678.2 wine gallons.

678.2 W.G.  $\times$  0.86 = 583.3 proof gallons.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended 1962, as amended (26 U.S.C. 5204, 5211))

**§ 13.65 Table 5, showing the weight per wine gallon (at 60 degrees Fahrenheit) and proof gallon at each percent of proof of spirituous liquor.**

This table may be used to ascertain the weight of any given number of wine gallons (at 60 degrees Fahrenheit) or proof gallons of spirits by multiplying the pounds per gallon by the given number of gallons of the spirits. The table should be especially useful where it is desired to weigh a precise quantity of spirits.

Example. It is desired to ascertain the weight of 100 wine gallons of 190 proof spirits:

6,794.34  $\times$  100 equals 679,434 pounds, net weight of 100 wine gallons of 190 proof spirits.

Example. It is desired to ascertain the weight of 100 proof gallons of 190 proof spirits:

3,575.97  $\times$  100 equals 357,597 pounds, net weight of 100 proof gallons of 190 proof spirits.

The slight variation between this table and Tables 2 and 3 on some calculations is due to dropping or adding of fractions beyond the first decimal on those tables. This table also shows the weight per wine gallon (at the prevailing temperature) corresponding to each uncorrected reading of a proof hydrometer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

**§ 13.66 Table 6, showing respective volumes of alcohol and water and the specific gravity in both air and vacuum of spirituous liquor.**

This table provides an alternate method for use in ascertaining the quantity of water needed to reduce the strength of distilled spirits by a definite amount. To do this, divide the alcohol in the given strength by the alcohol in the required strength, multiply the quotient by the water in the required strength, and subtract the water in the given strength from the product. The remainder is the number of gallons of water to be added to 100 gallons of spirits of the given strength to produce a spirit of a required strength.

Example. It is desired to reduce spirits of 191 proof to 188 proof. We find that 191 proof spirits contains 95.5 parts alcohol and 5.59

parts water, and 188 proof spirits contains 94.0 parts alcohol and 7.36 parts water.

95.5 (the strength of 100 wine gallons of spirits at 191 proof) divided by 94.0 (the strength of 100 wine gallons of spirits at 188 proof) equals 1.01.

7.36 (the water in 188 proof) multiplied by 1.01 equals 7.43.

7.43 less 5.59 (the water in 191 proof spirits) equal 1.84 gallons of water to be added to each 100 wine gallons of 191 proof spirits to be reduced.

This rule is applicable for reducing to any proof; but when it is desired to reduce to 100 proof, it is sufficient to point off two decimals in the given proof, multiply by 53.73, and deduct the water in the given strength. Thus, to reduce 112 proof spirits to 100 proof:

1.12  $\times$  53.73 = 47.75 equals 12.42 gallons of water to be added to each 100 wine gallons of spirits to be reduced.

This table may also be used to obtain the proof gallonage of spirituous liquor according to weight and percent of proof.

Example.

It is desired to determine the number of gallons in 400 pounds of spirits of 141 percent of proof. Multiply the weight of one gallon of water in air by the specific gravity in air of the spirits—8.32823 by 0.88862—the product (7.40063) divided into 400 gives 54.049 wine gallons, which rounded to the nearest hundredth is 54.05 and multiplied by 1.41 gives 76.2 proof gallons. In rounding off where the decimal is less than five, it will be dropped; if it is five or over a unit will be added.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

**§ 13.67 Table 7, for correction of volume of spirituous liquors to 60 degrees Fahrenheit**

This table is prescribed for use in correcting spirits to volume at 60 degrees Fahrenheit. To do this, multiply the wine gallons of spirits which it is desired to correct to volume at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The product will be the corrected gallonage at 60 degrees Fahrenheit. This table is also prescribed for use in ascertaining the true capacity of containers where the wine gallon contents at 60 degrees Fahrenheit have been determined by weight in accordance with Tables 2, 3, 4, or 5. This is accomplished by dividing the wine gallons at 60 degrees Fahrenheit by the factor shown in the table at the percent of proof and temperature of the spirits. The quotient will be the true capacity of the container.

Example. It is desired to ascertain the volume at 60 degrees Fahrenheit of 1,000 wine

gallons of 190 proof spirits at 76 degrees Fahrenheit.

1,000  $\times$  0.991 equals 991 wine gallons, the corrected gallonage at 60 degrees Fahrenheit.

Example. It is desired to ascertain the capacity of a container of 190 proof spirits at 76 degrees Fahrenheit, shown by Table 2 to contain 55.1 wine gallons at 60 degrees Fahrenheit:

55.1 divided by 0.991 equals 55.6 wine gallons, the true capacity of the container when filled with spirits of 60 degrees temperature.

It will be noted that the table is prepared in multiples of 5 percent of proof and 2 degrees temperature. Where the spirits to be corrected are of an odd temperature, one-half of the difference, if any, between the factors for the next higher and lower temperature, should be added to the factor for the next higher temperature.

Example. It is desired to correct spirits of 180 proof at 51 degrees temperature:

1.006 (50°) — 1.005 (52°) = 0.001 divided by 2 = 0.0005

0.0005 + 1.005 = 1.0055 correction factor at 51° F.

Example. It is desired to correct spirits of 180 proof at 53 degrees temperature:

1.005 (52°) — 1.003 (54°) = 0.002 divided by 2 = 0.001

0.001 + 1.003 = 1.004 correction factor at 53° F.

Where the percent of proof is other than a multiple of five, the difference, if any, between the factors for the next higher and lower proofs should be divided by five and multiplied by the degrees of proof beyond the next lower proof, and the fractional product so obtained should be added to the factor for the next lower proof (if the temperature is above 60 degrees Fahrenheit, the fractional product so obtained must be subtracted from the factor for next lower proof), or if it is also necessary to correct the factor because of odd temperature, to the temperature corrected factor for the next lower proof.

Example. It is desired to ascertain the correction factor for spirits of 112 proof at 47 degrees temperature:

1.006 (46°) — 1.005 (48°) = 0.001 divided by 2 = 0.0005

0.0005 + 1.005 = 1.0055 corrected factor at 47° F.

1.007 (115 proof) — 1.006 (110 proof) = 0.001 divided by 5 = 0.0002 (for each percent of proof)  $\times$  2 (for 112 proof) = 0.0004

0.0004 + 1.0055 (corrected factor at 47° F.) = 1.0059 correction factor to be used for 112 proof at 47° F.

Example. It is desired to ascertain the correction factor for spirits of 97 proof at 93 degrees temperature:

0.986 (92°) — 0.985 (94°) = 0.001 divided by 2 = 0.0005

0.0005 + 0.985 = 0.9855 corrected factor at 93° F.

0.986 (95 proof) — 0.985 (100 proof) = 0.001

0.001 divided by 5 = 0.0002 (for each percent of proof)  $\times$  2 (for 97 proof) = 0.0004

0.9855 (corrected factor at 93° F.) — 0.0004 = 0.9851 correction factor to be used for 97 proof at 93° F.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

**PART 201 [REVISED AND REDESIGNATED]**

Section C. Part 201 is revised and renumbered as Part 19 as follows:

Preamble 1. The regulations in this part supersede 27 CFR Part 201 in its entirety.

2. These regulations do not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part are effective on January 1, 1980.

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Sec.

19.786 Reports.

**Subpart X—Transitional Rules for the All-in-Bond Method of Distilled Spirits Plant Operation**

- 19.901 Scope of subpart.
- 19.902 Filing of final returns.
- 19.903 Liability for payment of tax.
- 19.904 Physical inventory.
- 19.905 Rectification and wine taxes.
- 19.906 Election to convert controlled stock and bulk wine.
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- 19.908 Nondrawback alcoholic flavoring ingredients.
- 19.909 Taxpayment from Customs bond.
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- 19.926 New sign.

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

**Subpart A—Scope****§ 19.1 General.**

The regulations in this part relate to the location, construction, equipment, arrangement, qualification, and operation (including activities incident thereto) of distilled spirits plants.

**§ 19.2 Territorial extent.**

This part applies to the several States of the United States and the District of Columbia.

**§ 19.3 Related regulations.**

Regulations relating to this part are listed below:

- 27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
- 27 CFR Part 2—Nonindustrial Use of Distilled Spirits and Wine.
- 27 CFR Part 3—Bulk Sales and Bottling of Distilled Spirits.
- 27 CFR Part 4—Labeling and Advertising of Wine.
- 27 CFR Part 5—Labeling and Advertising of Distilled Spirits.
- 27 CFR Part 13—Gauging Manual.

27 CFR Part 170—Miscellaneous Regulations Relating to Liquor.

27 CFR Part 173—Returns of Substances, Articles, or Containers.

27 CFR Part 194—Liquor Dealers.

27 CFR Part 196—Still.

27 CFR Part 197—Drawback on Distilled

Spirits Used in Manufacturing

Nonbeverage Products.

27 CFR Part 200—Rules of Practice in Permit

Proceedings.

27 CFR Part 211—Distribution and Use of

Denatured Alcohol and Rum.

27 CFR Part 212—Formulas for Denatured

Alcohol and Rum.

27 CFR Part 213—Distribution and Use of

Tax-Free Alcohol.

27 CFR Part 231—Taxpaid Wine Bottling

Houses.

27 CFR Part 240—Wine.

27 CFR Part 250—Liquors and Articles from

Puerto Rico and the Virgin Islands.

27 CFR Part 251—Importation of Distilled

Spirits, Wines, and Beer.

27 CFR Part 252—Exportation of Liquors.

31 CFR Part 225—Acceptance of Bonds,

Notes, or Other Obligations Issued or

Guaranteed by the United States as

Security in Lieu of Surety or Sureties on

Penal Bonds.

**Subpart B—Definitions****§ 19.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class.

**Alcoholic flavoring materials.** The term "alcoholic flavoring materials" means those nonbeverage products on which drawback has been or will be claimed under 26 U.S.C. 5131-5134 or flavors imported free of tax which are unfit for beverage purposes. The term does not include flavorings or flavoring extracts manufactured on the bonded premises of a distilled spirits plant as an intermediate product.

**Application for registration.** The application required under 26 U.S.C. 5171(c).

**Area supervisor.** The supervisory officer of the Bureau of Alcohol, Tobacco and Firearms area office.

**Article.** A product, containing denatured spirits, which was manufactured under 27 CFR Part 211 or this part.

**ATF bond.** For purposes of this part, ATF bond means the internal revenue bond as prescribed in 26 U.S.C. Chapter 51.

**ATF officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Basic permit.** The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

**Bonded premises.** The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

**Bottler.** A proprietor of a distilled spirits plant qualified under this part as a processor who bottles distilled spirits.

**Bulk container.** Any approved container having a capacity in excess of one wine gallon.

**Bulk conveyance.** A tank car, tank truck, tank ship, tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of spirits, including denatured spirits, and wines.

**Bulk distilled spirits.** The term "bulk distilled spirits" means distilled spirits in a container having a capacity in excess of one gallon.

**Business day.** Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in the particular State in which the claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

**Carrier.** Any person, company, corporation, or organization, including a proprietor, owner, consignor, consignee, or bailee, who transports distilled spirits (including denatured spirits) or wine in any manner for himself or others.

**CFR.** The Code of Federal Regulations.

**Completions.** The spirits products bottled and cased or otherwise packaged or placed in approved containers for removal from the bonded premises.

**Container.** A receptacle, vessel, or form of bottle, can, package, tank or pipeline (where specifically included) used or capable of being used to contain, store, transfer, convey, remove, or withdraw spirits (including denatured spirits).

**Denaturant or denaturing material.** Any material authorized under 27 CFR Part 212 for addition to spirits in the production of denatured spirits.

**Denatured spirits.** Spirits to which denaturants have been added as provided in 27 CFR Part 212.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** A director of an internal revenue service center.

**Distilled spirits operations.** Any authorized distilling, warehousing, or processing operations conducted on the bonded premises of a plant qualified under this part.

**Distillery.** A distilled spirits plant, as described in the application for registration, authorized for the production of spirits.

**Distilling material.** Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.

**District director.** A district director of internal revenue.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this . . . (insert type of

document, such as, statement, report, claim, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

**Export or exportation.** A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa, and Guam, and to the Panama Canal Zone shall also be treated as exportations.

**Fermenting material.** Any material which is to be subjected to a process of fermentation to produce distilling material.

**Fiduciary.** A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

**Gallon or wine gallon.** The liquid measure equivalent to the volume of 231 cubic inches.

**In bond.** When used with respect to spirits (including denatured spirits), articles, or wine refers to spirits, articles, or wine possessed under bond

to secure the payment of the taxes imposed by 26 U.S.C. Chapter 51, and on which such taxes have not been determined. The term includes such spirits, articles, or wine on the bonded premises of a distilled spirits plant, such spirits or wines in transit between bonded premises (including, in the case of wine, bonded wine cellar premises). Additionally, the term refers to spirits in transit from customs custody to bonded premises, and spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not occurred under the provisions of 26 U.S.C. 5005(e)(2).

**Intermediate product.** Any product manufactured pursuant to an approved formula under 27 CFR Part 5, not intended for sale as such but for use in the manufacture of a distilled spirits product.

**I.R.C.** The Internal Revenue Code of 1954, as amended.

**Kind.** As applied to spirits, except as provided in § 19.597, kind shall mean class and type as prescribed in 27 CFR Part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR Part 4.

**Liquor bottle.** A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

**Liter.** A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

**Lot identification.** The lot identification described in § 19.593.

**Mash, wort, wash.** Any fermented material capable of, or intended for, use as a distilling material.

**Nonindustrial use.** As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

**Operating permit.** The document issued pursuant to 26 U.S.C. 5171(d), authorizing the person named therein to engage in the business or operation described therein.

**Package.** A cask or barrel or similar wooden container, or a drum or similar metal container.

**Package identification number.** The package identification number described in § 19.593.

**Person.** An individual, trust, estate, partnership, association, company, or corporation.

**Plant or distilled spirits plant.** An establishment qualified under this part for distilling, warehousing, processing or any combination thereof.

**Plant number.** The number assigned to a distilled spirits plant by the regional regulatory administrator.

**Processor.** Except as otherwise provided under 26 U.S.C. 5002(a)(6), any person qualified under this part who manufactures, mixes, or otherwise processes distilled spirits (including denatured spirits), or manufactures any article.

**Proof.** The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

**Proof of distillation.** The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

**Proof gallon.** A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

**Proprietor.** The person qualified under this part to operate the distilled spirits plant.

**Reconditioning.** The dumping of distilled spirits products in bond after their original bottling or packaging, for purposes other than destruction, denaturation, redistillation, or rebottling. The term may include the filtration, clarification, stabilization, or reformulation of a product.

**Recovered article.** An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under 27 CFR Part 211.

**Region.** A Bureau of Alcohol, Tobacco and Firearms region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Secretary.** The Secretary of the Treasury or his delegate.

**Spirits or distilled spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but not denatured spirits unless specifically stated.

**Spirits residues.** Residues, containing distilled spirits, of a manufacturing process related to the production of an article under 27 CFR Part 211.



*Tax-determined or determined.* When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that the taxable quantity of spirits has been established.

*Taxpaid.* When used with respect to distilled spirits shall mean that all applicable taxes imposed by law in respect of such spirits have been determined or paid as provided by law.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

*Transfer in bond.* The removal of spirits (including denatured spirits) and wines from one bonded premises to another bonded premises.

*Unfinished spirits.* Spirits in the production system prior to production gauge.

*U.S.C.* The United States Code.

*Warehouseman.* A proprietor of a distilled spirits plant qualified under this part to store bulk distilled spirits.

*Wine spirits.* The term "wine spirits" means spirits authorized for use in wine production by 26 U.S.C. 5373.

#### Subpart C—Taxes

##### Spirits

##### § 19.21 Tax.

A tax is imposed by 26 U.S.C. 5001 on all spirits produced in or imported into the United States at the rate prescribed in such section on each proof gallon and a proportionate tax at a like rate on all fractional parts of a proof gallon. Wines containing more than 24 percent of alcohol by volume are taxed as spirits. All products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, are considered and taxed as spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

##### § 19.22 Attachment of tax.

Under the provisions of the 26 U.S.C. 5001(b), the tax attaches to spirits as soon as the substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production, or by any subsequent process.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

##### § 19.23 Lien.

Under 26 U.S.C. 5004, the tax becomes a first lien on the spirits from the time the spirits come into existence as such.

The conditions under which the first lien shall be terminated are described in 26 U.S.C. 5004.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1317, as amended (26 U.S.C. 5004))

##### § 19.24 Persons liable for tax.

(a) *Distilling.* 26 U.S.C. 5005 provides that the distiller of spirits is liable for the tax and that each proprietor or possessor of, and person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced. However, a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of that proprietor, is not liable by reason of the stock ownership or control. Persons transferring spirits in bond so liable for the tax are relieved of liability if (1) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and (2) no person so liable for the tax on the spirits transferred retains any interest in the spirits.

(b) *Storage on bonded premises.* 26 U.S.C. 5005(c) provides that each person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on the premises, and on all spirits which are in transit to the premises from the time of removal from the transferor's bonded premises, pursuant to an approved application. Liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until the liability for tax is relieved under the provisions of 26 U.S.C. 5008(a). Claims for relief from liability for spirits lost are provided for in § 19.41. Voluntary destruction of spirits in bond is provided for in Subpart T of this part.

(c) *Withdrawals without payment of tax.* Under 26 U.S.C. 5005(e), any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in 26 U.S.C. 5214, shall be liable for the tax on the spirits from the time of withdrawal. The person shall be relieved of any liability at the time the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs bonded warehouse, laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, or used for certain research, development or testing, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) of this section, are relieved of the liability on spirits withdrawn from bonded premises

free of tax under this part, at the time the spirits are withdrawn.

(e) *Withdrawal from customs custody without payment of tax.* 26 U.S.C. 5232(a) provides that when imported distilled spirits in bulk containers are withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the tax imposed on imported distilled spirits by 26 U.S.C. 5001, the person operating the bonded premises of the distilled spirits plant to which spirits are transferred shall become liable for the tax on the spirits upon their release from customs custody, and the importer shall there upon be relieved of liability for the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended (26 U.S.C. 5005); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

##### § 19.25 Time for tax determination.

The tax on spirits in bond shall be determined when the spirits are withdrawn from bond. The tax on spirits withdrawn from the bonded premises of a distilled spirits plant shall be determined upon completion of the gauge for determination of tax and before withdrawal from bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006))

##### Occupational Taxes

##### § 19.26 Liquor dealer's special (occupational) tax.

A proprietor shall be subject to or exempt from a liquor dealer's occupational tax as provided in 27 CFR Part 194.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended (26 U.S.C. 5111, 5113))

##### § 19.27 Still manufacturer's special tax.

Special occupational tax as a still manufacturer and a commodity tax for each still or condenser manufactured is imposed by 26 U.S.C. 5101 on certain persons who manufacture stills or condensers to be used in distilling. Provisions for occupational and commodity taxes imposed on manufacturers of stills or condensers are contained in 27 CFR Part 196.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1339 (26 U.S.C. 5101))

##### Assessments

##### § 19.31 Production not accounted for.

Where the regional regulatory administrator finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the difference between the

quantity reported and the quantity found to have been actually produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006))

##### § 19.32 Assessment of tax on spirits or wines in bond which are lost, destroyed or removed without authorization.

When spirits (including denatured spirits) or wines in bond are lost or destroyed (except spirits or wines on which the tax is not collectible by reason of the provisions of 26 U.S.C. 5008 (a) or (d) or 26 U.S.C. 5370, as applicable) and the proprietor or other person liable for the tax on the spirits or wines fails to file a claim for remission as provided in § 19.41(a) or when the claim is denied, the tax shall be assessed. In any case where spirits or wines in bond are removed from bonded premises other than as authorized by law, the tax shall be assessed. In the case of losses under circumstances described in 26 U.S.C. 5006(b) with respect to packages of spirits deposited in storage in bond or spirits filled on bonded premises into packages after entry and deposit, the tax shall be assessed if the tax is not paid upon the demand of the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1323, as amended, 1381, as amended (26 U.S.C. 5006, 5008, 5370))

##### Wine

##### § 19.36 Tax.

(a) *Imposition of tax.* A tax is imposed by 26 U.S.C. 5041 on wines (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into the United States. Proprietors of distilled spirits plants may become liable for wine taxes under 26 U.S.C. 5362(b)(3) in connection with wine transferred in bond to a distilled spirits plant.

(b) *Liability for tax.* Except as otherwise provided by law, the liability for tax on wine transferred in bond from a bonded wine cellar to a distilled spirits plant, or transferred in bond between distilled spirits plants, shall continue until the wine is used in a distilled spirits product.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended, 1330, as amended, (26 U.S.C. 5041, 5362))

##### Claims

##### § 19.41 Claims on spirits, articles, or wines lost or destroyed in bond.

(a) *Claims for remission.* All claims for remission of tax required by this part, relating to the destruction or loss of spirits (including denatured spirits), articles, or wines in bond, shall be filed

with the regional regulatory administrator and shall set forth the following:

(1) Identification (including serial numbers if any) and location of the container or containers from which the spirits (including denatured spirits), articles, or wines were lost, or removed for destruction;

(2) Quantity of spirits (including denatured spirits), articles, or wines lost or destroyed from each container, and the total quantity of spirits or wines covered by the claim;

(3) Total amount of tax for which the claim is filed;

(4) Name, number, and address of the plant from which withdrawn without payment of tax or removed for transfer in bond (if claim involves spirits so withdrawn or removed or if claim involves wines transferred in bond) and date and purpose of such withdrawal or removal, except that in the case of imported spirits lost or destroyed while being transferred from customs custody to ATF bond as provided in § 19.481, the name of the customs warehouse, if any, and port of entry will be given instead of the plant name, number, and address;

(5) Date of the loss or destruction (or, if not known, date of discovery), the cause or nature thereof, and all the facts relative thereto;

(6) Name of the carrier, where a loss in transit is involved;

(7) The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development or testing;

(8) If lost by theft, facts establishing that the loss did not occur as the result of any negligence, connivance, collusion or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(9) In the case of a loss by theft, whether the claimant is indemnified or recompensed for the spirits or wines lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wines, less the tax.

(b) *Claims for abatement, credit or refund.* Claims for abatement of an assessment, or for credit or refund of tax which has been paid or determined, for spirits (including denatured spirits), articles, or wines lost or destroyed in bond shall be filed with the regional regulatory administrator. The claims shall set forth the information required under paragraph (a) of this section and, in addition, shall set forth (1) the date of assessment or payment (or of tax determination, if the tax has not been assessed or paid) of the tax for which

abatement, credit or refund is claimed, and (2) the name, plant number, and the address of the plant where the tax was determined, paid, or assessed (or name, address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

(c) *Supporting document.* (1) Claims under paragraphs (a) and (b) of this section shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction. For claims on spirits (including denatured spirits), articles, or wines lost while being transferred by carrier, the claim shall be supported by a copy of the bill of lading.

(2) For claims pertaining to losses of spirits withdrawn without payment of tax and lost prior to being used for research, development or testing, the claim shall be supported by a copy of the proprietor's approved application or schedule prescribed in Subpart V of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381 as amended (26 U.S.C. 5008, 5370))

##### § 19.42 Claims on spirits returned to bonded premises.

Claims for credit or refund of tax on spirits which have been withdrawn from bonded premises on payment or determination of tax and which are returned under 26 U.S.C. 5215 shall be filed with the regional regulatory administrator and shall set forth the following:

(a) Quantity of spirits so returned;

(b) Amount of tax for which the claim is filed;

(c) Name, address, and plant number of the plant to which the spirits were returned and the date of the return;

(d) The purpose for which returned; and

(e) The serial number of ATF F 5110.17 recording the gauge of spirits returned to bonded premises. If the spirits contain Puerto Rican or Virgin Islands spirits, the claim shall show: (1) The precise quantity (in proof gallons) of the finished product derived from Puerto Rican or Virgin Islands spirits; and (2) The amount of tax and the applicable rate of tax imposed by 26 U.S.C. 7652, determined at the time of withdrawal from bond on the Puerto Rican or Virgin Islands spirits contained in the product. Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. If the claim is allowed, refund (without interest) will be made or credit (without interest) will be allowed.



(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

#### § 19.43 Claims relating to spirits lost after tax determination.

Claims for abatement, credit, or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, shall be prepared and filed as provided in, and contain the information called for under § 19.41(b) and be supported by documents as provided under § 19.41(c).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

#### § 19.44 Execution of claims and supporting documents.

All claims filed under this part for abatement or refund shall be filed on Form 843. All claims filed under this part for credit or remission of tax shall be filed on Form 2835. Claims for abatement, remission, credit, or refund shall (a) show the name, address, and capacity of the claimant, (b) be signed by the claimant or his duly authorized agent, and (c) be executed under the penalties of perjury as provided in § 19.100. Forms, supporting statements, and any other documents required by this part to be submitted with a claim shall be attached to the claim and shall be deemed to be a part thereof. The regional regulatory administrator may require the submission of additional evidence in support of any claim filed under this part when deemed necessary for proper action on the claim.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

#### § 19.45 Claims for credit of tax.

Claims for credit of tax, as provided in this part, may be filed after determination of the tax whether or not the tax has been paid. The claimant may not anticipate allowance of a credit or make an adjusting entry in a tax return pending action on the claim.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

#### § 19.46 Adjustments for credited tax.

When notification of allowance of credit is received from the regional regulatory administrator, including notification of credit for tax on spirits exported with benefit of drawback as provided in 27 CFR Part 252, the claimant shall make an adjusting entry and explanatory statement (specifically identifying the notification of allowance of credit) in the next distilled spirits tax return (or returns) to the extent necessary to exhaust the credit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1336, as amended (26 U.S.C. 5008, 5062))

#### Subpart D—Administrative and Miscellaneous Provisions

##### Authorities of the Director

##### § 19.61 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.62 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures.* The proprietor, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, shall be authorized under this paragraph. Where the proprietor desires to employ an alternate method or procedure, he shall submit a written application to do so to the regional regulatory administrator, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The proprietor shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized

or the effective administration of this part is hindered by the continuation of such authorization. As used in this paragraph, alternate methods or procedures shall include alternate construction or equipment.

(b) *Emergency variations from requirements.* The Director may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the regional regulatory administrator for transmittal to the Director. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended, 1395, as amended (26 U.S.C. 5176, 5552))

##### § 19.63 Pilot operations.

The Director may waive any regulatory provisions of 26 U.S.C. Chapter 51, and of the regulations in this part, for temporary pilot or experimental operations for the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over plants. For this purpose, the Director may, with the approval of the proprietor thereof, designate any plant for such operations. The provision of law and regulations

waived and the period of time during which such waiver shall continue shall be stated in writing by the Director. The provisions of this section shall not be construed as authority to waive the filing of any bond or the payment of any tax provided for in 26 U.S.C. Chapter 51.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5554))

##### § 19.64 Experimental distilled spirits plant.

The Director may authorize the establishment and operation of experimental plants for specific and limited periods of time solely for experimentation in, or development of—

(a) Sources of materials from which spirits may be produced;

(b) Processes by which spirits may be produced or refined; or

(c) Industrial uses of spirits.

The Director may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312) and of this part (other than this section and § 19.65) to the extent he deems necessary to effectuate the purposes of 26 U.S.C. 5312(b), except that he may not waive the payment of any tax on spirits removed from such plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

##### § 19.65 Application to establish experimental plants.

Any person desiring to establish an experimental plant shall make written application to the Director, through the regional regulatory administrator, and obtain the Director's approval of the proposed establishment. The applicant shall file with such application a bond in such form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the operations and equipment, the location of the plant (including the proximity to other premises or operations subject to the provisions of 26 U.S.C. Chapter 51) and the security measures to be provided. The Director may require the submission of additional information as he deems necessary. The regional regulatory administrator shall not permit operations until he has found that the plant conforms to the specifications set forth in the application, as approved, and the applicant has complied with provisions of 26 U.S.C. Chapter 51, and this part not specifically waived by the Director.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

##### § 19.66 Spirits produced in industrial processes.

Distillers are persons producing spirits in industrial processes (including spirits produced as a byproduct in connection with chemical or other processes). They are required to qualify under the provisions of 26 U.S.C. Chapter 51 and this part. Where nonpotable chemical mixtures containing spirits are produced

(a) for transfer to the bonded premises of a distilled spirits plant for completion of distilling, or (b) as a by-product (which would require expensive and complex equipment for the recovery of spirits therefrom) (1) which is destroyed on the premises where produced, or (2) which contains the minimum quantity of spirits practicable with the procedure employed and will not be subjected to further operations to purify or remove the spirits and which the Director finds is as nonpotable as completely denatured alcohol and the recovery of spirits therefrom would be at least as difficult as the recovery of spirits from completely denatured alcohol, the Director may waive any provision of 26 U.S.C. Chapter 51, or this part, with respect to the production of such mixture, including any provision relating to qualification. Where the producer of such nonpotable mixtures desires to secure a waiver of any of such provisions he shall file an application therefor with the Director through the regional regulatory administrator. The application shall be submitted and shall set out the name and address of the producer, the chemical composition and source of the nonpotable mixture, and the approximate percentages of the chemicals and of the spirits in the mixture, the method of operation proposed, and, if applicable, the bonded premises whereat the mixture will be distilled, and such other information as the Director may require. If the Director finds that the waiver of the requirements, or any of them, will not jeopardize the revenue and will not unduly hinder supervision of the operations, he may approve the application under such terms and conditions as he deems advisable, and subject to the furnishing of any bond which he deems necessary.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.67 Other businesses.

The director may authorize the carrying on of other businesses (not specifically prohibited by 26 U.S.C. 5601(a)(6)) on premises of plants as he finds will not jeopardize the revenue, hinder effective administration of this part, or be contrary to law. The

authorization will designate the premises (i.e., bonded or general) on which such other business is authorized to be conducted.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

##### § 19.68 Recovery and reuse of denatured spirits in manufacturing processes.

The following persons are not, by reasons of the activities listed below, subject to the provisions of this part but they shall comply with the provisions of 27 CFR Part 211 relating to the use and recovery of spirits or denatured spirits:

(a) Manufacturers who use denatured spirits, or articles or substances containing denatured spirits in a process wherein any part or all of the spirits, including denatured spirits, are recovered.

(b) Manufacturers who use denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a by-product.

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended (26 U.S.C. 5273))

##### § 19.69 Disaster exemptions.

The Director may, whenever he finds that it is necessary or desirable, by reason of disaster, temporarily exempt the proprietor of any plant from any provision of the internal revenue laws and this part relating to spirits, except those requiring the payment of tax on spirits, to the extent he may deem necessary or desirable.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1397, as amended (26 U.S.C. 5562))

##### § 19.70 Exemptions to meet the requirements of national defense.

The Director may temporarily exempt proprietors from any provision of the internal revenue laws or this part relating to spirits except those requiring payment of tax thereon whenever in his judgment it is expedient to do so to meet the requirements of the National defense.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1397, as amended (26 U.S.C. 5561))

##### § 19.71 Discontinuance of storage facilities.

When the Director finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or the spirits contained therein are subject to great loss or wastage, he may



require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the Director may require and the expense of the transfer shall be paid by the owner or the warehouseman of the spirits. Whenever the owner of such spirits or the warehouseman fails to make such transfer within the time prescribed or to pay the just and proper expense of such transfer, as ascertained and determined by the Director, such spirits may be seized and sold in the same manner as goods sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance shall be paid over to the owner of such spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5236))

**§ 19.72 Experimental or research operations by scientific institutions and colleges of learning.**

(a) *General.* The Director may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in quantities as may be reasonably necessary for such purposes. The Director may waive any provision of 26 U.S.C. Chapter 51 (other than 26 U.S.C. 5312), or this part (other than this section) to the extent necessary to effectuate the purposes of 26 U.S.C. 5312(a), except he may not waive the payment of any tax on distilled spirits removed from any university, college, or institution.

(b) *Qualification.* Any university, college, or institution desiring to conduct any of the experimental or research operations listed in the preceding paragraphs shall make written application, to the Director, through the regional regulatory administrator, and obtain the Director's approval of the proposed operations. The applicant shall file with the application a bond in a form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the operations and equipment, the location at which operations will be conducted (including identification of the building or buildings, or the portions thereof to be used), and the security measures to be provided. The Director may require any additional information.

Operations shall not be commenced until authorized by the Director.

(c) *Records.* Reports concerning the operations need not be submitted unless required by the Director, but records of the quantities of spirits produced, received, and used each day shall be made and retained for inspection by ATF officers.

(d) *Discontinuance of operations.*

When operations authorized by the Director are discontinued, all remaining spirits shall be disposed of by destruction. Notice of the proposed destruction shall be given to the regional regulatory administrator at least 5 days in advance of the destruction. When these spirits have been destroyed notice of the discontinuance of operations shall be given to the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5312))

**Authorities of the Regional Regulatory Administrator**

**§ 19.73 Other businesses.**

Application to conduct at a distilled spirits plant a type of business other than that of a distiller, warehouseman, or processor may be approved by the regional regulatory administrator if the Director has, as provided in § 19.67, authorized the carrying on of a business of the type proposed, unless the regional regulatory administrator finds that there are particular conditions in respect of the applicant's plant that would cause the carrying on of such business to be a danger to the revenue or a hindrance to the effective administration of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.75 Assignment of officers and hours of operation.**

The regional regulatory administrator may assign such number of ATF officers to plants as necessary to maintain supervision of operations conducted on such premises. When operations at a plant are to be conducted under the direct supervision of an ATF officer, such operations shall not be conducted on Sunday unless specifically authorized by the regional regulatory administrator in each instance on the showing of an emergency. All operations requiring direct supervision shall be conducted during an 8-hour period between 7 a.m. and 5 p.m. unless, pursuant to the proprietor's application the regional regulatory administrator authorizes the performance and supervision of operations during other hours. The regional regulatory administrator, in administering this provision, shall not restrict such

operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5553); Sec. 806, Pub. L. 96-39 93 Stat. 279 (26 U.S.C. 5202))

**§ 19.76 Allowance of remission, abatement, credit, or refund of tax.**

The regional regulatory administrator is authorized to allow claims for remission, abatement, credit, and refund of tax, filed under the provisions of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

**§ 19.77 Installation of meters, tanks, and other apparatus.**

The regional regulatory administrator is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the regional regulatory administrator deems advisable for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install such apparatus when so required shall not be permitted to conduct business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

**§ 19.78 Approval of qualifying documents.**

The regional regulatory administrator is authorized to approve, except as otherwise provided in this part, all qualifying documents required by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1394, as amended (26 U.S.C. 5172, 5551); Sec. 805, Pub. L. 96-39, 93 Stat. 275, 276 (26 U.S.C. 5171, 5173))

**Authorities of ATF Officers**

**§ 19.80 Right of entry and examination.**

Any ATF officer may at all times, as well by night as by day, enter any distilled spirits plant, or any other premises where distilled spirits operations are carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any ATF officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

**§ 19.81 Authority to break up ground or walls.**

Any ATF officer, and any person acting in his aid, may break up the ground on any part of a distilled spirits plant, or any other premises where distilled spirits operations are carried on, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

**§ 19.82 Detention of containers.**

Any ATF officer may detain any container containing, or supposed to contain, spirits when he has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this part, or that such container is being removed in violation of law or this part, and every such container may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the regional regulatory administrator, unless the person in possession of the container immediately prior to its detention, in consideration of the container being kept on his premises during detention, executes a waiver of the 72-hours limitation on detention of the container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, (26 U.S.C. 5311))

**§ 19.83 Samples for the United States.**

Any ATF officer is authorized to take samples of spirits (including denatured spirits), articles, wines, or any other materials which may be added to such products for analysis, or testing, other determinations to ascertain whether there is compliance with the provisions of law and regulations.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1357, as amended (26 U.S.C. 5201, 5203))

**§ 19.84 Gauging and measuring equipment.**

All gauging and measuring equipment and means required by 27 CFR Part 13 and this part to be furnished by the proprietor for the purpose of ascertaining the quantity, alcoholic content, specific gravity, and producing capacity of any materials denaturants - mash, wort, or beer, or the quantity and alcoholic content of spirits (including denatured spirits) or wines, shall be maintained by the proprietor in accurate and readily usable condition. Any ATF officer may disapprove the use of any equipment or means if he finds it would be insufficiently accurate and the proprietor shall promptly provide accurate equipment or means in lieu of the disapproved facilities.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1358, as amended (26 U.S.C. 5006, 5204))

**Entry and Examination of Premises**

**§ 19.85 Premises to be kept accessible.**

The proprietor shall furnish the regional regulatory administrator as many keys to such of the proprietor's locks as the regional regulatory administrator may require for ATF officers to gain access to the premises and any structures thereon, and such premises shall always be kept accessible to any ATF officer having such keys.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

**§ 19.86 Furnishing facilities and assistance.**

On the demand of any ATF officer or agent, the proprietor shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on the distilled spirits plant premises. The proprietor shall also, on demand of an ATF officer or agent, open all doors, and open for examination all containers on the plant premises. The proprietor shall, on request of an ATF officer, furnish the exact locations (including the number of containers at each location) of all packages and similar portable approved containers within a given lot, and the exact location of each case stored on bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1357, as amended (26 U.S.C. 5203))

**Gauging of Spirits or Wines**

**§ 19.91 General.**

Gauges shall be made by the proprietor unless the regional regulatory administrator requires that such gauges be made by or made in the presence of an ATF officer. Gauges of spirits (including denatured spirits) or wine shall be made by determining the proof and quantity pursuant to 27 CFR Part 13. However, the gauge for wine that is to be transferred to a bonded wine cellar shall be recorded by kind and percentage of alcohol. When spirits (including denatured spirits) or wines are to be volumetrically measured, the measurement shall be in a tank or bulk conveyance for which a calibration chart is provided, or by a meter or by other methods approved by the Director. Such calibration charts must have been prepared and certified as accurate by persons qualified to calibrate such conveyances.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended; 1396, as amended (26 U.S.C. 5204, 5559); Sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202))

**§ 19.92 Quantity determination of spirits in bond.**

Where bulk spirits in bond are gauged for determination of tax, or are gauged in packages, the quantity shall be determined by weight and proof pursuant to the provisions of 27 CFR Part 13. In all other instances where spirits are gauged in bond, or are gauged for transfer in bond or for withdrawal from bond free of tax or without payment of tax, unless a determination by weight (or by another method approved by the regional regulatory administrator) is required by this part, the quantity may be determined by volume.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1396, as amended (26 U.S.C. 5559))

**Sealing of Conveyances Used for Transporting Spirits**

**§ 19.96 Sealing of conveyances.**

(a) *Construction for sealing.* If a conveyance is required by this part to be sealed, the conveyance shall be constructed in such manner that all openings, including valves (if any) on bulk conveyances, may be closed and secured.

(b) *Approval of certain sealing devices.* (1) All seals, locks, or other devices that are to be used on conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, shall be approved by the Director prior to use.



(2) Seals, locks or other devices that are used on conveyances to transport: (i) Taxpaid spirits, or (ii) denatured spirits transferred in bond or withdrawn free of tax, need not be approved.

(c) *Furnishing and affixing seals.* (1) Seals, locks, or other devices for use on conveyances shall be furnished and affixed by the proprietor.

(2) The regional regulatory administrator may, if he deems necessary, require conveyances in which spirits are: (i) Transferred in bond, (ii) withdrawn free of tax, or (iii) withdrawn without payment of tax, to be secured by seals, locks, or other devices approved and furnished by the Bureau and affixed by an ATF officer.

(3) Seals, locks, or other devices shall be affixed: (i) As soon as the conveyances is loaded for shipment, and (ii) in such a manner that access to the contents of the conveyance cannot be gained without showing evidence of tampering.

(d) *Numbers and marks on proprietor's seals.* Seals, locks, or other devices that are furnished by the proprietor for use on conveyances shall be serially numbered.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### Conveyance of Spirits or Wines on Plant Premises

##### § 19.97 Taxpaid spirits or wines on bonded premises.

Spirits or wines on which the tax has been paid or determined may be conveyed within a plant across bonded premises, but such spirits or wines shall not be stored or allowed to remain on the bonded premises and shall be kept separate and apart from spirits or wines on which the tax has not been paid or determined. However, bulk spirits in the process of prompt removal from bonded premises on payment or determination of the tax shall be allowed to remain on the bonded premises until the close of the business day following the day on which the tax was paid or determined, and spirits returned to bonded premises in accordance with the provisions of 26 U.S.C. 5215 shall be allowed to remain on the bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1404, as amended, (26 U.S.C. 5201, 5612))

##### § 19.98 Conveyance of untaxed spirits or wines within a distilled spirits plant.

Untaxed spirits or wines may be conveyed between different portions of the bonded premises of the same distilled spirits plant, across any other premises of such plant; or (by uninterrupted transportation) over any

public thoroughfare; or (by uninterrupted transportation) over a private roadway if the owner, or lessee, of the roadway agrees, in writing, to allow ATF officers access to the roadway to perform their necessary duties. The conveyance of spirits as authorized in this section is subject to the following conditions:

(a) The spirits or wines are not stored or allowed to remain on any premises of such plant other than bonded premises,

(b) The spirits or wines are kept completely separate and apart from spirits on which the tax has been paid or determined,

(c) A description of the means and route of the conveyance and of the portions of the distilled spirits plant between which spirits or wines will be conveyed, and a copy of any agreement furnished by the owner, or lessee, of a private roadway have been submitted to and approved by the regional regulatory administrator, and

(d) Consent of surety on the operations or unit bond has been furnished by the proprietor, on Form 1533, extending the terms of the bond to cover conveyance of the spirits or wines.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1398, as amended, (26 U.S.C. 5201, 5601))

##### § 19.99 Spirits in customs custody.

Spirits in customs custody may be conveyed, when necessary, across distilled spirits plant premises if (a) the spirits are not stored or allowed to remain on the premises of the distilled spirits plant, (b) the spirits are kept separate and apart from other spirits on the premises and are moved expeditiously, (c) a description of the means and route of conveyance of the spirits across the plant premises has been submitted to and approved by the regional regulatory administrator, and (d) consent of surety on the operations or unit bond has been furnished by the proprietor, on Form 1533, extending the terms of the bond to cover the conveyance of the spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, (26 U.S.C. 5201))

#### Penalties of Perjury

##### § 19.100 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be so executed, as defined in Subpart B of this part, and shall be signed by the

proprietor, or other duly authorized person.

(Act of August 16, 1954, Pub. L. 591—Chapter 736, 68A Stat. 749 (26 U.S.C. 8065))

#### Subpart E—Supervision of Operations

##### § 19.111 General.

The regional regulatory administrator may require supervision of a distilled spirits plant by ATF officers to the extent necessary to protect the revenue and to ensure compliance with provisions of 26 U.S.C. Chapter 51.

(Sec. 806, Pub. L. 96-39, 93 Stat. 279, (26 U.S.C. 5202))

##### § 19.112 Supervision of operations.

(a) *Types of supervision.* (1) Supervision of distilled spirits plant operations by an ATF officer may include, but is not limited to—

(i) General supervision, when an ATF officer may be on the plant premises; or

(ii) Direct supervision, when an ATF officer is on the plant premises; or

(iii) Immediate supervision, when an operation is required to be conducted in the immediate presence of an ATF officer.

(2) The regional regulatory administrator may require a proprietor to delay any operation so that it may be conducted under the direct or immediate supervision of an ATF officer.

(b) *Gauging.* The regional regulatory administrator may require any gauge made pursuant to this part to be made or supervised by an ATF officer.

(c) *Sealing of conveyances.* The regional regulatory administrator may require conveyances in which spirits are transferred in bond or removed (except on tax determination) to be secured with Government locks, seals, or other devices affixed by ATF officers.

(d) *Locking and sealing.* When a proprietor is required by the provisions of this part to affix locks and/or seals to buildings, rooms, tanks, or other items of equipment, the regional regulatory administrator may require the affixing of Government locks and/or seals in addition to, or in lieu of the proprietor's locks and/or seals.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.113 Schedule of operations.

When the regional regulatory administrator requires supervision of operations at a distilled spirits plant by ATF officers, the proprietor shall furnish the ATF officer or the area supervisor with a written schedule of operations at least one business day in advance of the operations to be conducted. The schedule of operations shall list all operations related to production, storage

or processing which are required to be supervised by ATF officers. The schedule shall also indicate specific hours of plant operation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 806, Pub. L. 96-39, 73 Stat. 279 (26 U.S.C. 5202))

##### § 19.114 Breaking Government locks or seals.

Except as provided in § 19.923, government locks or seals shall not be removed from a distilling system or other equipment without the authorization of an ATF officer or the regional regulatory administrator, except where persons or property is in imminent danger from a disaster or other emergency occurs, and it is impractical to first obtain authorization from an ATF officer. Government seals or locks may be removed, by the proprietor, or by police or firefighters. When such action is taken, the proprietor shall see that security measures are taken to prevent illegal removal of spirits and, as soon as practical, shall notify the area supervisor of the action taken and then submit within 5 days a written report, executed under the penalties of perjury, describing the emergency and the action.

(Sec. 806, Pub. L. 96-39, 93 Stat. 279, (26 U.S.C. 5202))

##### § 19.115 Submission of forms and reports.

The regional regulatory administrator may require the proprietor to submit copies of prescribed transaction forms, records, and reports to an ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1398, as amended (26 U.S.C. 5201, 5555))

#### Subpart F—Location and Use

##### § 19.131 Restrictions as to location.

Distilled spirits plants shall not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is produced, or liquors of any description are retailed, or (except as provided in § 19.133) on premises where any other business is conducted.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

##### § 19.132 Continuity of premises.

The continuity of the distilled spirits plant shall be unbroken except for separations by public waterways, thoroughfares, or carrier rights-of-way. However, where there are other separations of the plant premises and all parts of the plant premises are in the

same general location, the regional regulatory administrator may approve the registration of the distilled spirits plant if he finds no jeopardy to the revenue.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

##### § 19.133 Use of distilled spirits plant premises.

(a) *General.* No business or operation shall be conducted on the premises of a distilled spirits plant other than those authorized to be carried on or conducted by the notice of registration.

(b) *Bonded premises.* Bonded premises shall be used exclusively for the purpose of production, warehousing and processing operations, except that the use of bonded premises for other businesses may be authorized as provided in Subpart D. Spirits in packages, cases, or other portable containers on bonded premises shall be stored in a room or building.

(c) *General premises.* General premises are any portion of the distilled spirits plant described in the notice of registration other than bonded premises. General premises may not be used for any of the operations required to be conducted on bonded premises. Business offices and service facilities may be included as a part of general premises. General premises may be utilized for the conduct of other business as may be authorized under the provisions of Subpart D.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353 as amended (26 U.S.C. 5178))

##### § 19.134 Bonded warehouses not on premises qualified for production of spirits.

A bonded warehouse, other than one established on the bonded premises of a distilled spirits plant qualified for production of spirits, or contiguous to a distillery operated by the warehouseman, may be established if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of bulk distilled spirits. However, where commercial bonded warehouses are not available in an area and it is impractical to have a warehouse of 250,000 wine gallon capacity, the regional regulatory administrator may approve the establishment of a warehouse without regard to the minimum storage requirements. The application for registration to establish a warehouse shall be accompanied by a separate written application setting forth the necessity for the establishment of the warehouse, the approximate quantity of bulk distilled spirits that will be

received, stored, and withdrawn annually, the probable number of depositors of spirits, and the approximate number of persons to be served from the warehouse, together with any other data or documents indicating the prospective volume of business or need for establishment. The regional regulatory administrator may approve the application for registration if the proposed location of the warehouse will not be a jeopardy to the revenue and there is satisfactory evidence of the need for establishing a warehouse. The regional regulatory administrator may also limit the type of operation to be conducted at a bonded warehouse established with less than the minimum storage requirements. The proprietor of a warehouse established for a limited type of operation shall not, in any manner, expand or change his operation to include any other type of operations until pursuant to written application to make such change, he has obtained the approval of the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 805a, Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### Subpart G—Qualification of Distilled Spirits Plants

##### § 19.151 General requirements for registration.

(a) *Operations.* Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person qualified to carry out such operations under this subpart.

(b) *Establishment.* A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) *Registration.* Each person shall, before commencing operations at a distilled spirits plant, make application for and receive notice of registration of his plant with respect to such operations as provided in this part. Application for registration shall be made on Form 5110.41 to the regional regulatory administrator. Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof. The regional regulatory administrator may, in any instance where the outstanding notice of registration is inadequate or incorrect in any respect, require by registered or certified mail the filing of an application on Form 5110.41 to amend the notice of



registration, specifying the respects in which amendment is required. Within 60 days after the receipt of such notice, the proprietor shall file such application.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.152 Data for application for registration.

Application on Form 5110.41 shall be prepared in accordance with the instructions on the form, and shall include the following information:

(a) Serial number and statement of purpose for which filed.

(b) Name and principal business address of the applicant, and the location of the distilled spirits plant if different from the business address.

(c) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.167.

(d) Statement of the operations to be conducted.

(e) In respect of the plant to which the Form 5110.41 relates, a list of applicant's operating and basic permits, and of the operations, withdrawal, or unit bonds (including those filed with the application) with the name of the surety or sureties for each bond.

(f) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the proprietor's name.

(g) Plans (see § 19.171).

(h) Description of the plant (see § 19.168).

(i) List of major equipment (see § 19.166).

(j) Statement of maximum proof gallons that will be produced in the distillery during a period of 15 days, stored on bonded premises, and in transit to the bonded premises. (Not required if the operations or unit bond is in the maximum sum.)

(k) As applicable, the following:

(1) With respect to the operations of a distiller:

(i) Statement of daily producing capacity in proof gallons.

(ii) Statement of production procedure (see § 19.170).

(2) With respect to the operations of a warehouseman:

(i) Description of the system of storage.

(ii) Statement of bulk storage capacity in wine gallons.

(3) With respect to the operations of a processor:

(i) Statement whether bottling operations will be conducted.

(ii) Statement whether denaturing operations will be conducted.

(iii) Statement whether articles will be manufactured.

(iv) Statement whether gin and/or vodka will be produced by other than original and continuous distillation.

(v) Description of the system of storage of spirits bottled and cased or otherwise packaged or placed in approved containers for removal from bonded premises.

(4) If any other business is to be conducted on the distilled spirits plant premises, as provided by Subpart D of this part, a description of the business, a list of the buildings and/or equipment to be used, and a statement as to the relationship, if any, of the business to distilled spirits operations at the plant.

If any of the information required by paragraph (c) or paragraph (g) of this section is on file with the regional regulatory administrator, that information, if accurate and complete, may by incorporation by reference, be made part of the application. The applicant shall, when required by the regional regulatory administrator, furnish as a part of the application for registration, additional information as may be necessary to determine whether the application for registration should be approved.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.153 Notice of registration.

The application for registration, when approved, shall constitute the notice of registration of the distilled spirits plant. A distilled spirits plant shall not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or operations in which the applicant intends to engage. A plant shall not be operated unless the proprietor has a valid notice of registration covering the businesses and operations to be conducted at such plant. In any instance where a bond is required to be given or a permit is required to be obtained with respect to a business or operation before notice of registration of the plant may be received with respect thereto, the notice of registration shall not be valid with respect to such business or operation in the event that such bond or permit is no longer in effect. An application for reregistration shall be filed and notice of registration again obtained before thereafter engaging in such business or operation at such plant. Reregistration is not required when a new bond or a

strengthening bond is filed pursuant to § 19.246 or 19.247.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805a, Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.154 Maintenance of registration file.

The proprietor shall maintain the registration file in looseleaf form in complete and current condition, readily available at the plant for inspection by ATF officers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.155 Powers of attorney.

The proprietor shall execute and file with the regional regulatory administrator a Form 1534, in accordance with the instructions on the form, for each person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application for registration.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.156 Operating permits.

Except as provided in § 19.158, each person required to file an application for registration under § 19.151 shall make application for and obtain an operating permit before commencing any of the following operations:

(a) Distilling for industrial use.

(b) Warehousing of spirits for industrial use.

(c) Denaturing spirits.

(d) Warehousing of spirits (without bottling) for nonindustrial use.

(e) Bottling or packaging of spirits for industrial use.

(f) Manufacturing articles.

(g) Any other distilling, warehousing, or processing operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978, 27 U.S.C. 203, 204). Application for such operating permit shall be made on Form 5110.25 to the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.157 Data for application for operating permits.

Each application on Form 5110.25 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 5110.25 shall be prepared in accordance with the instructions on the form, and shall include the following information:

(a) Name and principal business address of the applicant.

(b) Plant address, if different from the business address.

(c) Description of the operation to be conducted for which an operating permit must be obtained.

(d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in § 19.167.

(e) Trade names (see § 19.165).

(f) On specific request of the regional regulatory administrator, furnish a statement as to whether the applicant or any of the persons whose names and addresses are required to be furnished under the provisions of § 19.167(a)(4) and (c) has ever—(1) been convicted of a felony or misdemeanor under Federal or State law, (2) been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to subparagraphs (1) and (2) of this paragraph, if these violations are not felonies), or (3) applied for, held, or been connected with a permit, issued under Federal law to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of the permit, the period of operation, and state in detail whether the permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) of this section is on file with the regional regulatory administrator, the applicant may, by incorporation or by reference, state that the information is made a part of the application for an operating permit. The applicant shall, when required by the regional regulatory administrator, furnish as a part of his application for an operating permit additional information as may be necessary for the regional regulatory administrator to determine whether the applicant is entitled to the permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.158 Exceptions to operating permit requirements.

The provisions of § 19.156 shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for the agency.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.159 Issuance of operating permits.

Only one operating permit will be issued for a plant. The operating permit shall designate the operations permitted. All of the provisions of this part relating to the performance of the operations covered by the permit shall be included in the provisions and conditions of the permit. Operating permits shall be kept posted available for inspection at the distilled spirits plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.160 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in § 19.163, or voluntarily surrendered. The provisions of § 19.181 shall be a part of the terms and conditions of all operating permits issued under this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.161 Denial of permit.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation), the regional regulatory administrator has reason to believe that—

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) The applicant has failed to disclose any material information required, or has made any false statement, as to any material fact, in connection with the application; or

(c) The premises on which the applicant proposes to conduct the operations are not adequate to protect the revenue; the regional regulatory administrator may institute proceedings for the denial of the application in accordance with the procedures set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.162 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the regional regulatory administrator, immediately return the permit for correction.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.163 Suspension or revocation.

Whenever the regional regulatory administrator has reason to believe that any person holding an operating permit—

(a) Has not in good faith complied with the provisions of 26 U.S.C. Chapter 51, or regulations issued thereunder; or

(b) Has violated conditions of the permit; or

(c) Has made any false statement as to any material fact in the application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C. punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the regional regulatory administrator may institute proceedings for the revocation or suspension of the permit in accordance with the procedures set forth in 27 CFR Part 200.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.164 Rules of practice in permit proceedings.

The regulations in 27 CFR Part 200 are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and in connection with the suspension and revocation of such permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.165 Trade names.

Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list that trade name on Form 5110.25 (showing the operations in which the trade name will be used), and the offices where the name is registered, supported by copies of any certificate or other document filed or issued in respect to the trade name. Where any distilling, warehousing, or processing operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204), regulations issued under such Act govern the approval and use of trade names for those operations. Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.



(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

#### § 19.166 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Tanks (serial number and capacity) used in the production, storage, and processing of distilled spirits, wine, denatured spirits and articles;

(b) Bottling lines (list separately by serial number or other designation); and  
(c) Stills (serial number, kind, capacity and intended use). The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.

A statement of certification of accurate calibration shall be included in the description of tanks that are to be used for gauging distilled spirits or wine for any purpose.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1352, as amended (26 U.S.C. 5172, 5179))

#### § 19.167 Organizational documents.

The supporting information required by paragraph (c) of § 19.152, and paragraph (d) of § 19.157, includes, as applicable, copies of—

(a) *Corporate documents.* (1) Articles of incorporation and any amendments thereto.

(2) Corporate charter or a certificate of corporate existence or incorporation.

(3) Certificate authorizing the corporation to operate in the State where the plant is located (if other than that in which incorporated).

(4) List of directors and officers, showing their names and addresses.

(5) Bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(7) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and

the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the regional regulatory administrator.

(2) In the case of an individual owner or partnership, the name and address of each person interested in the plant, whether the interest appears in the name of the interested party or in the name of another for that person.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

#### § 19.168 Description of plant.

The application for registration shall include a description of each tract of land comprising the distilled spirits plant. The description shall be by courses and distances, in feet and inches (or hundredths of feet), with the particularity required in conveyances of real estate. Each building and outside tank shall be described (location, size, construction, arrangement, and means of protection and security), referring to each by its designated number or letter. If a plant consists of a room or floor of a building, a description of the building in which the room or floor is situated and its location shall be given.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.169 Registry of stills.

The provisions of 27 CFR Part 196 are applicable to stills located on plant premises. The listing of stills in the application for registration, and the approval of the application for registration, shall constitute registration of stills as required by 27 CFR 196.45.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1355, as amended (26 U.S.C. 5172, 5179))

#### § 19.170 Statement of production procedure.

The statement of production procedure in the application for registration shall set forth a step-by-step description of the procedure employed to produce spirits, commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, redistilling, purifying and refining procedure to the production gauge. The kind and approximate quantity of each material or substance

used in producing, purifying, or refining each type of spirits shall be shown.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.171 Plans.

(a) *General.* Each person filing an application for registration shall submit, in duplicate, a plan showing the boundaries of the distilled spirits plant. If the distilled spirits plant has any buildings of more than one floor and the floors differ in the descriptions required by (d) of this section, an additional plan shall be prepared for each floor.

(b) *Preparation.* Each plan shall be drawn to scale on paper having outside measurements of not less than 8½×11 inches and shall show the cardinal points of the compass. Each plan sheet shall have a distinctive title and be numbered in consecutive order with the first plan sheet #1. Any revised plan sheet shall have the same number as the sheet superseded, but given a new date.

(c) *Certificate of accuracy.* The plans shall bear a certificate of accuracy on each sheet, signed by the proprietor, substantially as follows:

(Name of Proprietor)

(Distilled spirits plant No.)

(Address)

Accuracy certified by:

(Name and capacity—for the proprietor)  
Sheet No. —, Date —

(d) *Plan details.* The plan shall show the boundaries of the bonded premises and any other premises to be included as a part of the distilled spirits plant and shall agree with the boundary descriptions given in the application for registration. The plan shall also show:

(1) Buildings and other enclosed areas, including the means of ingress and egress, on the distilled spirits plant premises used for the production, storage and processing of spirits (including denatured spirits), articles or wines;

(2) All driveways, public thoroughfares, and railroad rights-of-way on or leading to the distilled spirits plant premises;

(3) The relative location of any contiguous premises on which spirits, wine or beer are manufactured, stored or sold, and any pipelines or other connections between a contiguous premises and the distilled spirits plant (public utility pipelines and similar connections excepted);

(4) The entire building and the land on which located if the distilled spirits plant is less than an entire building; and

(5) Tanks and bottling equipment if alternated to bonded wine cellar

premises, taxpaid wine bottling housed premises or customs custody. A separate diagram shall be submitted to show the location of tanks and bottling equipment after alternation to other premises.

(e) *Revised plans.* Proprietors shall submit revised plans as provided in §§ 19.189 and 19.190 to cover changes in location or premises. Submission of revised plan sheets for changes in construction and use of buildings and equipment may be delayed, unless the regional regulatory administrator requires immediate amendment as provided in § 19.193.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### Changes After Original Qualification

##### § 19.180 Application for amended registration.

Where there is a change with respect to the information shown in the notice of registration, the proprietor shall submit, within 10 days of such change (except as otherwise provided in this subpart and § 19.193), an application on Form 5110.41 for amended registration. Such application shall set forth, on sheets appropriately numbered or otherwise identified, the information necessary to make the notice of registration accurate and current. Where the change affects only pages or parts of pages of the notice of registration, such complete pages shall be submitted as will enable the replacement of the pages affected and maintenance of the file as provided in § 19.154.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

##### § 19.181 Automatic termination of permits.

(a) *Permits not transferrable.* Operating permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized thereby, the permit shall thereupon automatically terminate.

(b) *Corporations.* In the case of a corporation holding an operating permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permittee shall, within 10 days of such change, give written notice thereof, executed under the penalties of perjury, to the regional regulatory administrator; such permit may remain in effect with respect to the operation covered thereby until

the expiration of 30 days after such change, whereupon such permit shall automatically terminate. However, if within such 30-day period an application for a new permit covering such operation is made, then the outstanding operating permit may remain in effect with respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding operating permit shall thereupon automatically terminate.

(c) *Basic permits.* The termination of basic permits is governed by the provisions of 27 CFR Part 1.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

##### § 19.182 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file application to amend the registration and to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new name prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

##### § 19.183 Change of trade name.

If there is to be a change in, or addition of, a trade name, the proprietor shall file application to amend the operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new trade name prior to issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

##### § 19.184 Changes in stockholders.

Changes in the list of stockholders furnished under the provisions of § 19.167(c)(1) may, in lieu of submission within 10 days of the change under the provisions of § 19.180 be submitted annually by the proprietor on May 1, except where the sale or transfer of capital stock results in a change in the control or management of the business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

##### § 19.185 Changes in officers.

Where there is any change in the list of officers furnished under the provisions of § 19.167(a)(4), the proprietor shall submit, within 10 days of any such change, an application on Form 5110.41 for amended registration, supported by a new list of officers and a statement of the changes reflected in

such list. If the operations of a distilled spirits plant are conducted pursuant to an operating permit, but not a basic permit, the regional regulatory administrator may extend to 30 days the time within which applications for amended registration to cover such changes in officers shall be filed. Where the proprietor has shown to the satisfaction of the regional regulatory administrator that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the registration, the regional regulatory administrator may waive the requirements for submitting applications for amended registration to cover changes in such corporate officers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

##### § 19.186 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 19.211, and the successor shall, before commencing operations, apply for and obtain the required permits, file the required bonds, and file application for and receive notice of registration of the plant in the same manner as a person qualifying as the proprietor of a new plant, except that the successor may, in the manner provided in § 19.187, adopt the plans and approved Forms 5110.38 and 1479-A of the predecessor. Spirits may be transferred from an outgoing proprietor of a plant to a successor in the manner provided in § 19.201.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, he shall comply with the provisions of paragraph (a) of this section except that he may, in lieu of filing a new bond, furnish consent of surety extending the terms of the predecessor's bond, and he may also incorporate by reference in the application for registration on Form 5110.41 any pertinent information contained in the predecessor's notice of registration. The fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing qualification as such fiduciary. The effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of assuming control shall coincide with the effective date of the qualifying documents filed by the fiduciary.



(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.187 Adoption of plans and formulas.

(a) *Plans.* The adoption by a successor of the plans of his predecessor shall be in the form of a certificate to be made a part of the application for registration, in which shall be set forth the identity of the plant and of the predecessor. The required certificate shall set forth a description (by sheet number and title) of each plan sheet adopted, and a certification that the adopted plans accurately depict the premises.

(b) *Forms 5110.38.* The adoption by a successor of approved Forms 5110.38 (27-B Supplemental) shall be in the form of an application, filed with the Director. The application shall list the formulas for adoption by (1) formula number, (2) name of product, and (3) date of approval. The application shall clearly show that the predecessor has authorized the use of its previously approved formulas by the successor.

(c) *Forms 1479-A.* The adoption by a successor of approved Forms 1479-A shall be in accordance with 27 CFR 211.62.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.188 Continuing partnerships.

If under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety is filed, wherein the surety and the surviving partner agree to remain liable on the operations or unit bond. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 19.186(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.189 Change in location.

Where there is a change in the location of the plant, the proprietor shall file applications to amend the registration of the plant and the operating and/or basic permit, new plans, and either a new bond or a consent of surety on Form 1533.

Operation of the plant may not be commenced at the new location prior to approval of the amended registration and issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 805(c), Pub. L. 96-39, 93 Stat. 278 (26 U.S.C. 5173))

#### § 19.190 Changes in premises.

Except as provided in §§ 19.202, 19.203 and 19.204, where bonded premises, or any other premises included as a part of the plant are to be extended or curtailed, the proprietor shall file (a) an application for registration, Form 5110.41, to cover such extension or curtailment, and (b) amended plans. Premises and equipment to be included by extension or to be excluded by curtailment shall not, prior to approval by the regional regulatory administrator of the required documents, be used for other than previously approved purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.191 Change in operations.

If the proprietor proposes to conduct a new business or operation involving spirits, he shall file applications to amend the registration of the plant and the operating and/or basic permit. If the proprietor desires to engage, on the plant premises, in a business, other than operations as a distiller, warehouseman, or processor, he shall submit application to amend the registration of the plant to include the information required under § 19.152(k)(4). The additional operation or business may not be carried on prior to approval of the amended registration and (if required) issuance of the amended permit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271); Sec. 805(a), Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

#### § 19.192 Change in production procedure.

If the proprietor desires to produce a new product or make a change in a production procedure which would affect the designation, or substantially affect the character of his product, the proprietor shall file an application to amend the registration of the plant to include the amended or new statement of production procedure. The new or changed procedure may not be used prior to approval of the amended registration.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### § 19.193 Changes in construction and use of buildings and equipment.

Where a material change is to be made (a) in the buildings or equipment of a plant (other than a change covered by §§ 19.190, 19.202, 19.203, or 19.204), (b) in the use of any portion of a plant, or (c) with respect to plant equipment, which affects the accuracy of the notice of registration (including the plans), the proprietor shall, before making such change, submit a letterhead notice, to the regional regulatory administrator through the area supervisor. The letterhead notice shall describe the proposed change specifically and in detail. When the change has been completed, the proprietor shall file an amended notice of registration, Form 5110.41 to reflect the change covered by the letterhead notice. Such change may be reflected in the next required amendment of the plans unless the regional regulatory administrator requires immediate amendment. The proprietor may make emergency repairs without prior notification, but where such emergency repairs are made, the proprietor shall promptly notify the area supervisor and file with him a report.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172))

#### Operations by Alternating Proprietors

##### § 19.201 Procedure for alternating proprietors.

(a) *General.* A plant, or any part thereof which is suitable for qualification as a separate plant, may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas, rooms or buildings, or combination thereof, which will be alternated, and shall be accompanied by special plans designating the parts of the plant which are to be alternated. A special plan shall be submitted for each arrangement, other than that reflected by the basic plan, under which the premises will be operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated by the proprietor filing notices on Form 5110.34 with the regional regulatory administrator. Any transfer of spirits (including denatured spirits), and wines shall be indicated on Form 5110.34 filed by each proprietor. Bottled spirits in containers of 1 gallon or less shall not be transferred and shall

be removed from premises affected by the notices prior to the effective date and hours shown in the notices.

(b) *Production.* Distilling materials and unfinished spirits in any bonded areas, rooms or buildings to be alternated shall be processed to completion by the outgoing proprietor unless transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor.

(c) *Warehousing.* Spirits and wines in any bonded areas, rooms, or buildings to be alternated shall be transferred to the incoming proprietor on Form 5110.27. The outgoing proprietor shall execute a consent of surety on Form 1533 to continue in effect the operations or unit bond whenever operation of the areas, rooms, or buildings is to be resumed by him following suspension of operations by an alternate proprietor.

(d) *Processing.* Spirits (including denatured spirits), wines and articles in any rooms, areas, or buildings to be alternated shall be processed to completion and removed from the affected areas, rooms, or buildings by the outgoing proprietor prior to the effective date and hours given in the notice unless transferred or retained in locked tanks as provided in this paragraph. Spirits (including denatured spirits) and wines may be transferred to the incoming proprietor. In this case, the outgoing proprietor shall execute Form 5110.27 transferring the spirits (including denatured spirits) and wines to the incoming proprietor. Further, the outgoing proprietor shall execute a consent of surety on Form 1533 to continue in effect the operations or unit bond whenever operation of the affected areas, rooms, or buildings is to be resumed by him following suspension of operations by the alternate proprietor. Denatured spirits and articles may be retained in tanks locked by approved locks, the keys to which are in the custody of the outgoing proprietor. In this case, the outgoing proprietor shall execute a consent of surety on Form 1533 to continue liability on the operations or unit bond for the tax on such denatured spirits or articles retained in such tanks, notwithstanding the change in proprietorship.

(e) *Records.* Each proprietor shall maintain separate records and submit separate reports. All transfers of distilling materials, unfinished spirits, spirits (including denatured spirits), and wines shall be reflected in the records of each proprietor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

#### Alternate Operations

##### § 19.202 Alternate use of premises and equipment for customs purposes.

(a) *General.* The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the facilities of the distilled spirits plant to be used temporarily by customs officers, under applicable customs law and regulations, for the purpose of gauging or processing distilled spirits. The use of the excluded portion of the premises for customs purposes is subject to the approval of the district director of customs. When it is necessary to convey spirits in customs custody across the premises of a distilled spirits plant, the proprietor shall comply with the provisions of § 19.99. When a portion of the distilled spirits plant premises is first to be excluded as provided in this section, the proprietor shall file with the regional regulatory administrator (1) an application for registration, Form 5110.41, to cover alternate curtailment and extension of premises, (2) a special plan delineating the premises as they will exist, both during extension and curtailment, and (3) a special diagram, in duplicate, clearly depicting all buildings, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence. Once such qualifying documents have been approved by the regional regulatory administrator, the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits from the premises or equipment affected by the notice prior to the effective date and hours of the notice. However, on release by customs, spirits being transferred to bonded premises under 26 U.S.C. 5232, may remain on the premises to be reincluded in bonded premises.

(b) *Separation of premises.* The portion of the premises which is to be excluded from the distilled spirits plant premises as provided in this section shall be separated from the remaining portion of the distilled spirits plant premises in a manner satisfactory to the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1358, as amended (26 U.S.C. 5172, 5178))

#### § 19.203 Alternation of distilled spirits plant and bonded wine cellar premises.

(a) *General.* A proprietor of a distilled spirits plant operating a contiguous bonded wine cellar desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the regional regulatory administrator.

(b) *Qualifying documents.* The proprietor shall file with the regional regulatory administrator:

(1) Form 5110.41 and Form 698 to cover the proposed alternation of premises;

(2) Plans, in duplicate, showing the distilled spirits plant premises and bonded wine cellar premises after alternation. The plan should include diagrams of equipment on the alternated premises so that the area designated for each premises can be determined; and

(3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.

(c) *Proprietor's responsibility.* After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34, Notice of Change in Status of Plant, each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits (including denatured spirits), articles, and wines from the distilled spirits plant premises alternated to bonded wine cellar premises. Any wine on bonded wine cellar premises shall be removed prior to alternation to distilled spirits plant premises unless wine is being simultaneously transferred in bond to the distilled spirits plant.

(d) *Separation of premises.* Separation of distilled spirits plant premises from bonded wine cellar premises after alternation shall be in a manner which satisfies the regional regulatory administrator that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

#### § 19.204 Alternation of distilled spirits plant and taxpaid wine bottling house premises.

(a) *General.* A proprietor of a distilled spirits plant operating a contiguous taxpaid wine bottling house desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the regional regulatory administrator.

(b) *Qualifying documents.* The proprietor shall file with the regional regulatory administrator:



(1) Form 5110.41 and Form 2975 to cover the proposed alternation of premises;

(2) Plans, in duplicate, showing the distilled spirits plant premises and taxpaid wine bottling house premises after alternation. The plan should include diagrams of equipment on the alternated premises so that the area designated for each premises can be determined; and

(3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.

(c) *Proprietor's responsibility.* After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34, Notice of Change in Status of Plant, each time the premises are alternated. Prior to the effective hour of the date shown on the Form 5110.34, the proprietor shall remove all spirits (including denatured spirits), articles, and wines from the distilled spirits plant premises alternated to taxpaid wine bottling house premises. Any wine on taxpaid wine bottling house premises shall be removed prior to alternation to distilled spirits plant premises.

(d) *Separation of premises.* Separation of distilled spirits plant premises from taxpaid wine bottling house premises after alternation shall be in a manner which satisfies the regional regulatory administrator that the revenue will not be jeopardized.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

#### Permanent Discontinuance of Business

##### § 19.211 Notice of permanent discontinuance.

When the proprietor permanently discontinues any or all of the operations listed in the notice of registration, he shall, after completion of the operations, file a Form 5110.41 to cover such discontinuance. Form 5110.41 shall be accompanied (a) by all permits issued to the proprietor under this subpart covering the discontinued operations, any by his request that such permits be canceled; (b) by the proprietor's written statement disclosing, as applicable, whether (1) all spirits (including denatured spirits), articles, wines, indicia bottles, strip stamps, and other pertinent items have been lawfully disposed of, (2) any spirits (including denatured spirits), wines, indicia bottles, or strip stamps are in transit to the premises, (3) all approved applications for transfer of spirits (including denatured spirits) to the premises have been secured and returned to the

regional regulatory administrator for cancellation; and (c) by pertinent reports covering the discontinued operations (each report shall be marked "Final Report").

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

#### Subpart H—Bonds and Consents of Surety

##### § 19.231 General.

Every person intending to establish a distilled spirits plant shall file an operations or unit bond as prescribed in this subpart, covering distilled spirits operations at such plant, with the regional regulatory administrator, at the time of filing the original application for registration of the plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regulations relating to activities covered by such bond, will pay all taxes imposed by 26 U.S.C. Chapter 51, and shall pay all penalties incurred or fines imposed for violation of any such provisions. The regional regulatory administrator may require, in connection with any operations or unit bond, a statement, executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 19.239(a) or has been convicted of any offense set forth in § 19.239(b). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. No person shall commence or continue distilled spirits operations at such plant unless he has a valid operations or unit bond (and consent of surety, if necessary), as required in respect of such operations by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended, (26 U.S.C. 5551); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.232 Additional condition of operations bond.

In addition to the requirements of § 19.231, the operations bond shall be conditioned on payment of the tax now or hereafter in force, except as provided by law, including taxes on all unexplained shortages of bottled distilled spirits.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.233 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 (6 U.S.C. 6, 7))

##### § 19.234 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The regional regulatory administrator who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 (6 U.S.C. 6, 7))

##### § 19.235 Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 (6 U.S.C. 6, 7))

##### § 19.236 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(Ch. 390, Pub. L. 80-280, 61 Stat. 650 (6 U.S.C. 15))

##### § 19.237 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

(Sec. 805(c) Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.238 Authority to approve bonds and consents of surety.

Regional regulatory administrators are authorized to approve all bonds and consents of surety required by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

##### § 19.239 Disapproval of bonds or consents of surety.

The regional regulatory administrator may disapprove any bond or consent of surety submitted in respect to the operations of a distiller, warehouseman, or processor, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or

(b) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

##### § 19.240 Appeal to Director.

Where a bond or consent of surety is disapproved by the regional regulatory administrator, the person giving the bond may appeal from such disapproval to the Director, who will hear such appeal. The decision of the Director shall be final.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

##### § 19.241 Operations bond—distilled spirits plant and adjacent bonded wine cellar.

(a) *General.* No wine cellar under the provisions of 27 CFR Part 240 shall be treated as being adjacent to a distilled spirits plant unless—

(1) such distilled spirits plant is qualified under Subpart G for the production of distilled spirits; and

(2) such wine cellar and distilled spirits plant are operated by the same person (or in the case of a corporation, by such corporation and its controlled subsidiaries). For the purpose of this section a controlled subsidiary is a corporation where more than 50 percent of the voting shares are owned by the parent corporation.

(b) *Bond in lieu of wine cellar bond.* In the case of an adjacent bonded wine cellar, a bond furnished under this subpart which covers operations at such bonded wine cellar shall be in lieu of any bond which would otherwise be required under 26 U.S.C. 5354 with respect to such wine cellar (other than

supplemental bonds required under the second sentence of 26 U.S.C. 5354) and the operations bond listed in § 19.245(a)(1).

(c) *Liability.* Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given. The total amount of such operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.242 Area operations bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating more than one plant in a region may give an area operations bond covering the operation of any two or more of such plants, and any bonded wine cellars which are adjacent to such plants and which otherwise could be covered by an operations bond. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting shares are owned by the parent corporation. Bonds given under this section shall be in lieu of the bonds which would be required under § 19.245(a) and shall contain the terms and conditions of such bonds. If the area operations bond covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation. The total amount of the area operations bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.243 Withdrawal bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) operating one or more distilled spirits plants within a region and who intends to withdraw spirits from bond on determination, but before payment, of the tax shall, before making any such withdrawal, furnish a withdrawal bond to secure payment of the tax on all spirits so withdrawn. Such bond shall be in addition to the operations bond, and if the distilled spirits are withdrawn under the withdrawal bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting shares are owned by the parent corporation.

The bond, if it covers more than one plant, shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with § 19.245) for each such plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (where the bond covers more than one plant), is in an amount less than the maximum prescribed in § 19.245, withdrawals from such plant shall not exceed the quantity permissible, as reflected by the penal sum in the bond for such plant. Such withdrawal bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.244 Unit bond.

Any person (or, in the case of a corporation, a corporation and its controlled subsidiaries) who would otherwise be required to give bonds for both operations at one or more distilled spirits plants (and any adjacent bonded wine cellars) and withdrawals from one or more distilled spirits plants within a region may, in lieu of furnishing separate bonds for operations and withdrawals, furnish a unit bond containing the terms and conditions of the bonds in lieu of which it is given. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting shares are owned by the parent corporation. The unit bond shall show as to each plant covered by the bond the part of the total sum which represents the penal sum (computed in accordance with § 19.245) for operations at and withdrawals from each plant. If the penal sum of the bond covering a plant, or the penal sum allocated to any plant (if the bond covers more than one plant), is in an amount less than the maximum prescribed in § 19.245, operations at and/or withdrawals from such plant shall not exceed the quantity permissible as reflected by the penal sum in the bond for such plant. The unit bond shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

##### § 19.245 Bonds and penal sums of bonds.

The bonds, and the penal sums thereof, required by this subpart, are as follows:



## Penal Sum

| Type of bond                                                                                                                                                                                                 | Basis                                                                                                                                                                                                             | Minimum                                                 | Maximum          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|------------------|
| (a) Operations bond:                                                                                                                                                                                         |                                                                                                                                                                                                                   |                                                         |                  |
| (1) One plant bond:                                                                                                                                                                                          |                                                                                                                                                                                                                   |                                                         |                  |
| (i) Distiller .....                                                                                                                                                                                          | The amount of tax on spirits produced during a period of 15 days.                                                                                                                                                 | \$5,000                                                 | \$100,000        |
| (ii) Warehouseman .....                                                                                                                                                                                      | The amount of tax on spirits and wines deposited in, stored on, and in transit to bonded premises.                                                                                                                | 5,000                                                   | 200,000          |
| (iii) Distiller and warehouseman .....                                                                                                                                                                       | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits and wines deposited in, stored on, and in transit to bonded premises.                                          | 10,000                                                  | 200,000          |
| (iv) Distiller and processor .....                                                                                                                                                                           | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits (including denatured spirits), articles, and wines deposited in, stored on, and in transit to bonded premises. | 10,000                                                  | 200,000          |
| (v) Warehouseman and processor .....                                                                                                                                                                         | The amount of tax on spirits (including denatured spirits), articles, and wines deposited in, stored on, and in transit to bonded premises.                                                                       | 10,000                                                  | 250,000          |
| (vi) Distiller, warehouseman, and processor .....                                                                                                                                                            | The amount of tax on spirits produced during a period of 15 days, and the amount of tax on spirits (including denatured spirits), articles, and wines deposited in, stored on, and in transit to bonded premises. | 15,000                                                  | 250,000          |
| (2) Adjacent bonded wine cellars:                                                                                                                                                                            |                                                                                                                                                                                                                   |                                                         |                  |
| (i) Distiller and bonded wine cellar .....                                                                                                                                                                   | The sum of amount of tax calculated in (a)(1)(i) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.                                         | 6,000                                                   | 150,000          |
| (ii) Distiller, warehouseman and bonded wine cellar .....                                                                                                                                                    | The sum of amount of tax calculated in (a)(1)(iii) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.                                       | 11,000                                                  | 250,000          |
| (iii) Distiller, processor and bonded wine cellar .....                                                                                                                                                      | The sum of amount of tax calculated in (a)(1)(iv) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.                                        | 11,000                                                  | 250,000          |
| (iv) Distiller, warehouseman, processor and bonded wine cellar .....                                                                                                                                         | The sum of amount of tax calculated in (a)(1)(vi) and with respect to bonded wine cellar operations, the amount of tax on wines and wine spirits possessed and in transit.                                        | 16,000                                                  | 300,000          |
| (b) Area operations bond: The penal sum shall be calculated in accordance with the following table:                                                                                                          |                                                                                                                                                                                                                   |                                                         |                  |
| Total penal sums as determined under (a)                                                                                                                                                                     |                                                                                                                                                                                                                   | Requirements for penal sum of area operations bond.     |                  |
| Not over \$300,000 .....                                                                                                                                                                                     |                                                                                                                                                                                                                   | 100 percent.                                            |                  |
| Over \$300,000 but not over \$600,000 .....                                                                                                                                                                  |                                                                                                                                                                                                                   | \$300,000 plus 70 percent of excess over \$300,000.     |                  |
| Over \$600,000 but not over \$1,000,000 .....                                                                                                                                                                |                                                                                                                                                                                                                   | \$510,000 plus 50 percent of excess over \$600,000.     |                  |
| Over \$1,000,000 but not over \$2,000,000 .....                                                                                                                                                              |                                                                                                                                                                                                                   | \$710,000 plus 35 percent of excess over \$1,000,000.   |                  |
| Over \$2,000,000 .....                                                                                                                                                                                       |                                                                                                                                                                                                                   | \$1,060,000 plus 25 percent of excess over \$2,000,000. |                  |
| (c) Withdrawal bond:                                                                                                                                                                                         |                                                                                                                                                                                                                   |                                                         |                  |
| (1) One plant qualified for distilled spirits operations .....                                                                                                                                               | The amount of tax which, at any one time, is chargeable against such bond but has not been paid.                                                                                                                  | \$1,000                                                 | \$1,000,000      |
| (2) Two or more plants in a region qualified for distilled spirits operations .....                                                                                                                          | Sum of the penal sums for each plant calculated in (c)(1) of this section.                                                                                                                                        | ( <sup>1</sup> )                                        | ( <sup>2</sup> ) |
| (d) Unit bond:                                                                                                                                                                                               |                                                                                                                                                                                                                   |                                                         |                  |
| (1) Both operations at a distilled spirits plant (and any adjacent bonded wine cellar) and withdrawals from the bonded premises of the same distilled spirits plant .....                                    | Total penal sums of (a) and (c)(1) of this section.                                                                                                                                                               | 6,000                                                   | 1,300,000        |
| (2) Both operations at two or more distilled spirits plants (and any adjacent bonded wine cellar) within the same region and withdrawals from the bonded premises of the same distilled spirits plants ..... | Total penal sums of (b) and (c)(2) of this section in lieu of which given.                                                                                                                                        | ( <sup>1</sup> )                                        | ( <sup>1</sup> ) |

<sup>1</sup> Sum of the minimum penal sums required for each plant covered by the bond.<sup>2</sup> Sum of the maximum penal sums required for each plant covered by the bond (The maximum penal sums for one plant is \$1,000,000).<sup>3</sup> Sum of the minimum penal sums for operations and withdrawal bonds required for each plant covered by the bond.<sup>4</sup> Sum of the maximum penal sums for area operations bonds and withdrawal bonds required for the plants covered by the unit bond.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## § 19.246 Strengthening bonds.

In all cases when the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5551); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## New or Superseding Bonds

## § 19.247 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the regional regulatory administrator, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, under the provisions of § 19.250, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended, 1394, as amended (26 U.S.C. 5175, 5176, 5551); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## § 19.248 New or superseding bond.

(a) *Operations bond.* When a new or superseding operations bond is not given as required in § 19.247, the principal shall immediately discontinue the business or distilled spirits operations to which such bond relates.

(b) *Withdrawal bond.* When a new or superseding withdrawal bond is not given as required by § 19.247, the principal may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.

(c) *Unit bond.* When a new or

superseding unit bond is not given as required by § 19.247, the principal shall immediately discontinue the business or distilled spirits operations to which such bond relates and may not withdraw any distilled spirits from bonded premises (other than distilled spirits withdrawn under 26 U.S.C. 5214 or 7510) except on prior payment of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## Termination of Bonds

## § 19.249 Termination of bonds.

Operations, withdrawal, or unit bonds may be terminated as to liability for future withdrawals and/or to future production or deposits (a) pursuant to application of the surety as provided in § 19.250, (b) on approval of a superseding bond, (c) on notification by the principal that he has discontinued withdrawals under the bond if such bond was filed solely as a withdrawal bond, or (d) on notification by the principal that he has discontinued business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## § 19.250 Application of surety for relief from bond.

A surety on any operations, withdrawal, or unit bond may at any time in writing notify the principal and the regional regulatory administrator in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall not be not less than 10 days after the date the notice is received by the regional regulatory administrator in the case of a withdrawal bond, and not less than 90 days after the date the notice is received in the case of an operations or unit bond. The surety shall also file with the regional regulatory administrator an acknowledgement or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 19.251.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5175, 5176); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## § 19.251 Relief of surety from bond.

(a) *General.* The surety on an operations, withdrawal, or unit bond who has filed application for relief from liability as provided in § 19.250 shall be relieved from liability under such bond as set forth in this section.

(b) *Operations or unit bonds.* Where a

new or superseding bond is filed, the surety shall be relieved of future liability with respect to production and deposits wholly subsequent to the effective date of the new or superseding bond. Notwithstanding such relief, the surety shall remain liable for the tax on all distilled spirits or wines produced, or for other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety shall, in addition to the continuing liabilities above specified, remain liable under the bond for all spirits or wines on hand or in transit to the bonded premises or bonded wine cellar, as the case may be, on the date named in the notice until all such spirits or wines have been lawfully disposed of, or a new bond has been filed by the principal covering the same.

(c) *Withdrawal or unit bonds.* The surety shall be relieved from liability for withdrawals made wholly subsequent to the date specified in the notice, or the effective date of a new bond, if one is given.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5176); Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

## § 19.252 Release of pledged securities.

Securities of the United States pledged and deposited as provided in § 19.236 shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the regional regulatory administrator until liability under the bond for which they were pledged has been terminated. When the regional regulatory administrator is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the regional regulatory administrator may extend the date of release for such additional length of time as he deems necessary.

(Ch. 390, Pub. L. 80-280, 61 Stat. 650 (6 U.S.C. 15))

## Subpart I—Construction, Equipment and Security

## § 19.271 Construction of buildings.

Buildings in which spirits (including denatured spirits), articles, or wines are produced, stored, or processed shall be constructed with substantial material (e.g., masonry, concrete, wood, metal, etc.), and arranged, equipped, and protected to provide adequate security to the revenue.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))



**§ 19.272 Equipment.**

The proprietor shall provide equipment suitable for the operations conducted on the distilled spirits plant. The equipment shall also meet the needs for revenue protection.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.273 Tanks.**

(a) *General.* (1) Tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped to be suitable for the intended purpose and to allow ready examination the intended purpose and to allow ready examination.

(2) An accurate means of measuring the contents of each tank shall be provided by the proprietor.

(3) When a means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device to allow the approximate contents to be determined readily.

(4) Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales and an additional suitable device shall be provided so that the volume of the contents can be quickly and accurately determined.

(5) The proprietor shall install walkways, landings, and stairways which will permit safe access to all parts of a tank.

(6) Tanks in which gauges required by this part are to be made shall not be used until they are accurately calibrated and a statement of certification of accurate calibration is included in the notice of registration.

(7) If tanks or their fixed gauging devices are moved in location or position subsequent to original calibration, the tanks shall not be used until recalibrated.

(8) All openings in the tanks shall be equipped for locking or have a similar means of revenue protection.

(9) Any tank vents, flame arresters, foam devices, or other safety devices shall be constructed to prevent extraction of spirits or wines.

(b) *Scale tanks.* (1) Beams or dials of scale tanks used for determining the tax imposed by 26 U.S.C. 5001 shall have minimum graduations not greater than the following:

| Quantity to be weighed           | Minimum graduation |
|----------------------------------|--------------------|
| Not exceeding 2,000 pounds       | 1/2 pound          |
| Between 2,000 and 6,000 pounds   | 1 pound            |
| Between 6,000 and 20,000 pounds  | 2 pounds           |
| Between 20,000 and 50,000 pounds | 5 pounds           |
| Over 50,000 pounds               | 10 pounds          |

(2) For scales having a capacity greater than 2,000 pounds, the minimum quantity which may be entered onto the weighing tank scale for gauging for tax determination shall be the greater of (i) 1,000 times the minimum graduation of the scale or (ii) 5 percent of the total capacity of the weighing tank scale.

(3) The weighing of lesser quantities for determination of tax may be authorized by the regional regulatory administrator where the beam of the scale is calibrated in 1/2 pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation.

(4) Lots of spirits weighing 1,000 pounds or less shall be weighed on scales having 1/2 pound graduations.

(c) *Testing of scale tanks.* (1) Proprietors shall ensure the accuracy of scales used for weighing lots of spirits (including denatured spirits) through tests conducted by responsible scale companies or governmental agencies at intervals of not more than 6 months.

(2) When a scale is tested, adjusted or repaired, the proprietor shall prepare or secure a signed statement certifying that the scale has been tested, adjusted, or repaired, as the case may be, and found to be accurate.

(3) Proprietors shall also test, at least once a month, the gallonage represented to be in a scale tank against the gallonage indicated by volumetric determination of the contents of the tank. However, if the scale is not used during a month the volumetric determination need only be verified at the next time actually used.

(4) The volumetric determination shall be made in accordance with Part 13 of this chapter, and if the variation exceeds 0.5 percent of the quantities shown to be in the tank, the proprietor shall take appropriate steps to have the accuracy of the scale verified.

(5) When an ATF officer determines that a tank scale may be inaccurate, the proprietor shall have the accuracy of the scale tested.

(6) A record shall be maintained of test results at the distilled spirits plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1356, as amended, 1391, as amended (26 U.S.C. 5008, 5204, 5505))

**§ 19.274 Pipelines.**

(a) *General.* (1) Pipelines for the conveyance of spirits (including denatured spirits), articles, or wines shall be of permanent character and constructed, connected, arranged, and secured so as to afford adequate protection to the revenue and to permit ready examination. However, the regional regulatory administrator may approve pipelines which may not be

readily examined if no jeopardy to the revenue is created.

(2) Where a pipeline connection must be flexible, a hose may be used if connected and secured so as to protect the revenue.

(b) *Identification.* The regional regulatory administrator may require permanent pipelines for conveyance of spirits (including denatured spirits) to be color coded to provide identification.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.275 Continuous distilling system.**

The distilling system shall be continuous, and designed, constructed, and connected in such a manner as to prevent the unauthorized removal of distilled spirits. Security of the distilling system shall be maintained by locks, or by other methods affording comparable protection.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.276 Package and case scales.**

The proprietor shall provide a scale suitable for the weighing of packages. The proprietor shall, not less than once each month, test the accuracy of the scales. However, if the scales are not used during a month, the scales need only be tested prior to use. A record shall be maintained of test results. Scales used to weigh packages or cases designed to hold 10 wines gallons or less shall indicate weight in ounces or in hundredths of a pound.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

**§ 19.277 Measuring devices and proofing instruments.**

The proprietor shall provide for his own use accurate hydrometers, thermometers, and other necessary equipment to determine proof or volume.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

**§ 19.278 Identification of structures, areas, apparatus, and equipment.**

(a) Each room or enclosed area where spirits (including denatured spirits), articles, wine, distilling or fermenting materials, or containers are held, and each building, within the plant, shall be appropriately marked with a distinguishing number or letter.

(b) Each tank or receptacle for spirits (including denatured spirits) or wine shall be marked to show its serial number and capacity.

(c) Each still, fermenter, cooker, and yeast tank shall be numbered and marked to show its use.

(d) All other major equipment used for processing or containing spirits (including denatured spirits) or wine, or distilling or fermenting material, and all

other tanks, shall be identified as to use unless the intended purpose is readily apparent.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.279 Government office.**

The proprietor shall provide an office at the distilled spirits plant for the exclusive use of ATF officers in performing supervisory and administrative duties and safeguarding Government records and property. The office shall be provided with adequate office furniture, lighting, ventilation, heating, and toilet and lavatory facilities. A secure cabinet, fitted for locking with a Government lock and of adequate size, shall also be provided by the proprietor. The office and facilities provided by the proprietor shall be subject to the approval of the regional regulatory administrator. Where suitable facilities are otherwise available, the regional regulatory administrator may waive the requirements for a separate Government office.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178))

**§ 19.280 Signs.**

The proprietor shall place a sign conspicuously on the outside entrance to the distilled spirits plant. The sign shall have legible and durable characters that state:

(a) The real name of the proprietor. However, where registered to operate under a basic operating name (i.e., the name of a division of a corporation or the name of a partnership), the operating name shall be on the sign;

(b) The distilled spirits plant number; and

(c) The operations conducted (distiller, warehouseman, or processor) or designations which have obtained public and commercial significance (i.e., industrial alcohol plant, registered distillery).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5180))

**§ 19.281 Security.**

(a) *General.* The proprietor shall provide adequate security measures at the distilled spirits plant to protect the revenue. The proprietor shall upon request of the regional regulatory administrator file a statement of security. After the regional regulatory administrator approves the statement of security prescribed in this section, the proprietor shall affix his locks to buildings, rooms and outside tanks as designated in the statement of security.

(b) *Buildings.* The buildings, rooms, and partitions shall be constructed of

substantial materials. Doors, windows, or any other openings to the building shall be locked or fastened during times when distilled spirits plant operations are not being conducted.

(c) *Outdoor tanks.* Outdoor tanks in use for the storage of spirits (including denatured spirits), or wine shall remain locked unless operations are involving the tanks. The outdoor tanks need not be locked if another secure barrier (i.e., tank farm fence) has been provided and the entrance is locked when no outdoor tank operations are occurring.

(d) *Indoor tanks.* Tanks used for the storage of spirits (including denatured spirits), or wines, which are located in a secure room or building, shall be equipped for locking or affixing other similar security devices. Indoor tanks need not be locked if the entrances to rooms or buildings are secured with locks when no tank operations are occurring.

(e) *Approved locks.* Locks, which proprietors affix in place of Government locks on outside tanks or outside doors to rooms or buildings containing bulk distilled spirits in storage, shall meet the following minimum specifications:

(1) Corresponding serial number on the lock and on the key;

(2) Case hardened shackle at least one-fourth inch in diameter, with heel and toe locking;

(3) Body width of at least 2";

(4) Captured key feature (key may not be removed while shackle is unlocked);

(5) Tumbler with at least 5 pins; and

(6) Lock or key contains no biting data. Master key locking systems may be used at the option of the proprietor. Locks meeting the specifications in this section are approved locks for the purpose of 26 U.S.C. 5682. Proprietors who wish to use locks of unusual design, which do not meet the specifications in this part, shall submit an example or prototype of the lock to the Director with a request that the lock be approved for use.

(f) *Additional security.* Where the regional regulatory administrator finds the construction, arrangement, equipment, or protection inadequate, additional security shall be provided (i.e., fences, flood lights, alarm systems, watchman services) or changes in construction, arrangement, or equipment shall be made to the extent necessary to protect the revenue.

(g) *Statement of security.* Prior to commencing operations, or as provided in § 19.922, the proprietor shall submit a statement of security describing the security measures at the distilled spirits plant to the regional regulatory administrator for approval. The regional regulatory administrator may require

that the statement of security be modified prior to approval. The statement of security shall include:

(1) A general description of the physical security at the distilled spirits plant, including methods utilized to secure buildings and outdoor tanks;

(2) If guard personnel are employed, the number of guards and their shifts and responsibilities;

(3) If any electronic or mechanical alarm system is used, how this system works;

(4) The type of locks used (including brands, models, and serial numbers);

(5) A statement certifying that locks used meet the specifications provided in paragraph (e) of this section;

(6) A list of persons by position or title having responsibility for the custody of and access to keys for approved locks used at the distilled spirits plant.

The proprietor shall report to the regional regulatory administrator any change in personnel or procedures as contained in the statement of security on file. The proprietor shall fully comply with the approved statement of security.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended, 1410, as amended (26 U.S.C. 5178, 5682); Sec. 806, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202))

**Subpart J—Production****§ 19.311 Notice by proprietor.**

(a) *Commencement of operations.* The proprietor shall, before commencing production operations or resuming production operations after having given notice of suspension, file a notice on Form 5110.34 with the area supervisor, specifying the date on which he desires to commence or resume operations for the production of spirits. The notice shall be filed in accordance with the instructions on the form. The proprietor shall not commence or resume operations prior to the time specified in the notice.

(b) *Suspension of operations.* Any proprietor desiring to suspend production operations for a period of 90 days or more shall file notice on Form 5110.34 with the area supervisor specifying the date on which he will suspend operations. The notice shall be filed in accordance with instructions on the form. In case of an accident which makes it apparent that operations cannot be conducted for 90 days or more, the proprietor shall give immediate notice of suspension on Form 5110.34.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1364, as amended (26 U.S.C. 5221))



**§ 19.312 Receipt of materials.**

The quantities of fermenting and distilling materials received shall be determined by the proprietor and reported as provided in Subpart W of this part. Distilling materials, as used in this section, means: spirits (including denatured spirits), articles and spirits residues, for redistillation, and extracted oils of juniper berries and other natural aromatics to be used in the course of original and continuous distillation of gin and, nonpotable chemical mixtures containing spirits produced in accordance with § 19.66. Fermented material (except apple cider exempt from tax under 26 U.S.C. 5042(a)(1)) to be used in the production of spirits shall be produced on the bonded premises where used or must be received on the premises from (a) a bonded wine cellar, in the case of wine, or (b) a contiguous brewery where produced, in the case of beer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended (26 U.S.C. 5201, 5222, 5223))

**§ 19.313 Use of materials in production of spirits.**

The proprietor may produce spirits from any suitable material in accordance with statements of production procedure in his notice of registration. The distillation of nonpotable chemical mixtures received pursuant to application as provided in § 19.66 shall be deemed to be the original and continuous distillation of the spirits in such mixtures and to constitute the production of spirits. Materials from which alcohol will not be produced may be used in production only if the use of the materials is described in approved statements of production procedure.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended (26 U.S.C. 5172, 5178))

**§ 19.314 Removal of fermenting material.**

Material received for use as fermenting material may be removed from or used on bonded premises for other purposes. A record of use or removal shall be kept, as provided in Subpart W.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, (26 U.S.C. 5201); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

**§ 19.315 Removal or destruction of distilling material.**

Except as provided in this section, distilling material shall not be removed from bonded premises before being distilled. On submission of a letter notice to the area supervisor, the proprietor may remove mash, wort wash

or other distilling material—(a) to plant premises, other than bonded premises for use in such businesses as may be authorized under § 19.73; (b) to other premises for use in processes not involving the production of (1) spirits (2) alcoholic beverages, or (3) vinegar by the vaporizing process; (c) for destruction. The residue of distilling material not introduced into the production system may be removed from the premises if the liquid is expressed from the material before removal and such liquid is not received at any distilled spirits plant or bonded wine cellar. Residue of beer used as distilling material may be returned to the producing brewery. Distilling material produced and wine and beer received for use as distilling material may be destroyed. A record of removal or destruction shall be kept as provided in Subpart W of this Part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended, 1381, as amended (26 U.S.C. 5222, 5370))

**§ 19.316 Distillation procedure.**

The procedure for distillation shall be such that the spirits pass through a continuous system from the first still where entry into the system would constitute a jeopardy to the revenue until the production procedure is completed. The distiller may, in the course of production, convey the product through as many distilling operations as desired, provided the operations are continuous. Distilling operations are continuous when the spirits are conveyed through the various steps of production as expeditiously as plant operation will permit. The collection of unfinished spirits for the purpose of redistillation is not deemed to be a break in the continuity of the distilling procedure. However, the quantity and proof of any unfinished spirits produced from distilling materials, the quantity of which was ascertained in the manner authorized in § 19.752(c) for such materials, shall be determined and recorded before any mingling with other materials or before any further operations involving the unfinished spirits. Spirits may be held, prior to the production gauge, only for so long as is reasonably necessary to complete the production procedure.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended, 1362, as amended, 1365, as amended (26 U.S.C. 5178, 5211, 5222))

**§ 19.317 Treatment during production.**

Spirits may, in the course of original and continuous distillation, be purified or refined through, or by use of, any material which will not remain incorporated in the finished product.

Juniper berries and other natural aromatics, or the extracted oils of such, may be used in the distillation of gin. Spirits may be percolated through or treated with oak chips which have not been treated with any chemical. Materials used in treatment of spirits, and which do not remain in the spirits, shall be destroyed or so treated as to preclude the extraction of potable spirits therefrom.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.318 Addition of caramel to rum or commercial brandy and addition of oak chips to spirits.**

Caramel possessing no material sweetening properties may be added to rum or commercial brandy on bonded premises prior to production gauge. Oak chips which have not been treated with any chemical may be added to packages prior to or after production gauge; however, notation to that effect shall be made on the gauge form prescribed by § 19.319.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.319 Production gauge.**

(a) *General.* All spirits shall be gauged (by measuring and proofing) within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, by meter, or, when approved by the Director, by another method which accurately determines the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after the addition. Spirits in a tank shall be gauged before and after each removal of spirits therefrom. The gauges shall be recorded by the proprietor in the records required by § 19.756.

(b) *Tax to be determined on production gauge.* Tax may be determined on the basis of the production gauge if:

(1) Spirits are weighed into bulk conveyances; or

(2) Spirits are uniformly filled by weight into metal packages.

Production and deposit forms shall be marked "Withdraw on Original Gauge."

(c) *Tax not to be determined on production gauge.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and the containers are filled to capacity, and the tax is not to be determined on the basis of the production gauge, the gauge may be made by: (1) Weighing in a tank, converting the weight into proof gallons,

and determining the average content of each container; or

(2) Measuring volumetrically, in a calibrated tank, converting the wine gallons determined into proof gallons, and determining therefrom the average content of each container. However, the regional regulatory administrator may require the use of meters or other measuring devices in lieu of a calibrated tank; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by a device or method approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container.

Rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer, or in the case of used cooperage, as determined by the proprietor.

(d) *Records of production gauge.* In computing the production gauge on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons shall be rounded to the nearest one-tenth and the average content so determined shall be used in computing the quantity produced. A separate Form 5110.26 shall be prepared for each lot of packages filled (see § 19.593(b)) and for each removal by pipeline or bulk conveyance for deposit in bond on the same plant premises. Form 5110.26 shall indicate "Deposit in storage" or "Deposit in processing." If spirits are to be transferred in bond, or withdrawn from bond, as authorized by this part, the production gauge shall be made on the form required by this part for the transaction (accompanied by Form 5110.45, if required). Each transaction form and Form 5110.45, if any, shall show:

(1) The real name (or basic operating name as provided in § 19.280) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual proof gallons in the container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1362, as amended (26 U.S.C. 5204, 5211))

**§ 19.320 Identification of spirits.**

At the time of production gauge, containers of spirits shall be identified by the proprietor in accordance with Subpart Q of this part. When the proprietor desires to enter spirits into bonded storage for subsequent packaging in wooden packages, he may identify such spirits with the specific

designation to which they would be entitled if drawn into wooden packages, followed by the word "Designate", for example, "Bourbon Whisky Designate."

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

**§ 19.321 Entry.**

Pursuant to the production gauge, the proprietor shall make appropriate entry for (a) deposit of the spirits on bonded premises for storage or processing, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, or (e) transfer of the spirits for redistillation. Entry for deposit on the bonded premises of the same plant premises shall be made on Form 5110.26. When spirits are entered for deposit on another plant premises or are entered for withdrawal or redistillation, the provisions of Subpart O of this part shall be followed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5211))

**§ 19.322 Receipts for redistillation.**

A proprietor authorized to produce distilled spirits may receive and redistill spirits (including denatured spirits), which: (a) have not been removed from bond; (b) have been withdrawn from bond on payment or determination of tax, and are eligible for return to bond as provided in Subpart U of this part; (c) have been withdrawn from bond free of tax or without payment of tax, and are eligible for return to bond as provided in Subpart U; or (d) have been abandoned to the United States and sold to the proprietor without the payment of internal revenue tax. The proprietor may also receive and redistill recovered denatured spirits and recovered articles returned under the provisions of § 19.703, and articles and spirits residues received under the provisions of § 19.704.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended, 1370, as amended (26 U.S.C. 5223, 5243); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

**§ 19.323 Redistillation.**

Spirits shall not be redistilled at a proof lower than that prescribed for the class and type at which such spirits were originally produced, unless the redistilled spirits are to be used in wine production, to be used in the manufacture of gin or vodka, or to be designated as alcohol. Different kinds of spirits must be redistilled separately, or with distilling material of the same kind or type as that from which the spirits were originally produced. However,

such restriction shall not apply when (a) brandy is redistilled into "spirits-fruit" or "neutral spirits-fruit" (not for use in wine production), (b) whisky is redistilled into "spirits-grain" or "neutral spirits-grain", (c) spirits originally distilled from different kinds of material are redistilled into "spirits-mixed" or "neutral spirits-mixed", or (d) the spirits are redistilled into alcohol. All spirits redistilled subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this part and 26 U.S.C. Chapter 51 (including liability for tax attaching to spirits at the time of production) applicable to the original production of spirits shall be applicable thereto, except that spirits recovered by redistillation of denatured spirits, articles, or spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. Any redistillation of spirits, unless accomplished pursuant to § 19.383 shall be done as a production operation by a person qualified as a distiller. Nothing in this section shall be construed as affecting any provision of this chapter or of 27 CFR Part 5 relating to the labeling of distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223))

**§ 19.324 Losses in production.**

The distiller shall report any unusual loss of distilling material or spirits in the production facilities to the area supervisor as soon as practical after discovery of the loss. The regional regulatory administrator may require the distiller to submit proof as to the cause of such loss and, where deemed necessary, to file a claim for remission of tax, as provided in Subpart C of this part. In every case where it appears that the loss was by theft, the burden shall be on the proprietor to establish to the satisfaction of the regional regulatory administrator that such theft did not occur as a result of connivance, collusion, fraud, or negligence on his part or on the part of any of his employees or agents.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

**§ 19.325 Distillates containing extraneous substances.**

(a) *Use in production.* Distillates containing substantial quantities of fusel oil, aldehydes, or other extraneous substances may be removed from the distilling system prior to the production gauge for addition to fermenting or distilling material at the distillery where produced. Distillates removed from the distilling system under the provisions of



this paragraph shall be added promptly to the fermenting or distilling material.

(b) *Use at bonded wine cellar.* Distillates containing aldehydes may be removed, without payment of tax, to an adjacent bonded wine cellar for use therein for fermentation of wine to be used as distilling material at the distilled spirits plant from which the distillates were removed. The gauge and removal of distillates to an adjacent bonded wine cellar shall be in accordance with the applicable provisions of Subpart O of this part relating to withdrawal of wine spirits for use in wine production and the receipt and use of such distillates at an adjacent bonded wine cellar shall be in accordance with the provisions of 27 CFR Part 240.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5201, 5222, 5273))

#### Chemical By products

##### § 19.326 Spirits content of chemicals produced.

All chemicals produced, including chemical by-products of the spirits production system, shall be substantially free of spirits before being transferred to tanks or removed from the bonded premises of the distilled spirits plant. Except as authorized by the Director, the spirits content of such chemicals shall not exceed 10 percent by volume. Proprietors will test chemicals for spirits content in accordance with methods approved by the Director. Records of the tests will be maintained as prescribed by Subpart W.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.327 Disposition of chemicals.

Chemical by-products of the spirits production system may be removed from the plant premises by pipeline or in such containers as the proprietor may desire. The quantities of such chemicals removed from the plant premises shall be determined by the proprietor and records of removals maintained as prescribed by Subpart W. Packages of such chemicals shall be appropriately marked by the proprietor to show the nature of the contents. Products to be removed shall be subject to such sampling by ATF officers as may be deemed necessary.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended (26 U.S.C. 5201, 5222))

##### § 19.328 Wash water.

Water used in washing chemicals to remove spirits therefrom may be run into a wash tank or a distilling material

tank, or otherwise properly destroyed or disposed of on the premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201))

#### Inventories

##### § 19.329 Inventories.

Each distiller shall take a physical inventory of the spirits and denatured spirits in tanks and other vessels at the close of each calendar quarter. The inventory shall differentiate between spirits and denatured spirits received for redistillation and other spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Subpart K—Storage

##### § 19.341 General.

Proprietors who are qualified as warehousemen as provided in this part, and who have otherwise complied with the requirements of this part for the storage of bulk distilled spirits and wines, may conduct such operations pursuant to the provisions of this part. Proprietors shall not conduct storage operations except as provided in this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.342 Receipt and storage of bulk spirits and wines.

(a) *Deposit.* All spirits entered for deposit in storage after production as provided in Subpart J shall be deposited on the bonded premises designated in the entry for deposit. Spirits withdrawn from customs custody without payment of tax under the provisions of this part shall be received on the bonded premises to which so withdrawn and (unless to be immediately redistilled) shall be deposited on such premises. Spirits transferred in bond as provided in Subpart O shall be deposited on the bonded premises designated on the transfer form.

(b) *Tanks.* If spirits or wines are being deposited in a partially filled tank in storage on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits or wines into and out of the tank is being measured by meters or other devices approved by the Director which permit a determination of the quantity being deposited and the quantity being removed. Proprietors shall maintain Form 5110.29 in accordance with the instructions on the form, for each tank in which spirits of less than 190 degrees of proof or wines are stored.

(c) *Storage.* Spirits or wines may be stored on bonded premises in tanks or portable bulk containers into which

spirits or wines may be filled on bonded premises. Containers used for such storage shall be so stored that they can be readily inspected or inventoried by ATF officers. The provisions of § 19.133 are applicable to storage of bulk spirits or wines in portable containers. However, on application submitted to, and approval by, the regional regulatory administrator, the proprietor may be authorized to store packages in any manner which adequately safeguards the interests of the Government.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1362, as amended, 1366, as amended, 1398, as amended (26 U.S.C. 5201, 5211, 5212, 5232, 5601); sec. 806(a), Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5202); sec. 807 (a), Pub. L. 96-39, 93 Stat. 288 (26 U.S.C. 5231))

##### § 19.343 Addition of oak chips to spirits and addition of caramel to brandy and rum.

Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling; if added prior to gauge for withdrawal from storage notation shall be made on the deposit form and, if transferred, on the transfer form. Caramel possessing no material sweetening properties may be added to rum or commercial brandy in packages or tanks.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Filling and Changing Packages

##### § 19.344 Filling of packages from tanks.

Spirits or wines may be drawn into packages from storage tanks on bonded premises. The spirits or wines in the tank shall be gauged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits or wines remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor in the records required by § 19.760. The provisions of § 19.319 regarding the filling of packages, the taking of production gauge of packages, and the preparation of gauge reports shall be applicable to the filling and gauging of packages of spirits under this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.345 Change of packages.

Spirits or wines in storage may be transferred from one package to another. Except in the case of spirits of 190 degrees or more of proof, each new package shall contain spirits from only one package. Packages shall be marked and branded as provided in Subpart Q of this part. The proprietor shall note the record covering the deposit of the spirits in bond to show the proof gallons contained in each new package. In the

case of wines, each package shall bear the same marks as the package from which the wine was transferred.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Mingling of Blending or Spirits

##### § 19.346 Mingling or blending of spirits for further storage.

The following mingling or blending operations are permissible in the storage account of a warehouseman:

(a) *Mingling of spirits distilled at 190 degrees or more of proof.* Spirits distilled at 190 degrees or more of proof, whether or not subsequently reduced, may be mingled in storage.

(b) *Mingling of spirits distilled at less than 190 degrees of proof.* Spirits distilled at less than 190 degrees of proof may be mingled for withdrawal or further storage if—

(1) In the case of domestic spirits:  
(i) Such spirits are of the same kind; and

(ii) Such spirits were produced by the same proprietor (under his own or any trade name) at the same distillery.

(2) In the case of imported spirits:  
(i) Such spirits are of the same kind;

(ii) Such spirits were produced by the same proprietor at the same foreign distillery; and

(iii) Such spirits were treated, blended, or compounded at the same foreign plant by the same person, and the duty was paid at the same rate.

(c) *Permissible blending of beverage rums or brandies.* Fruit brandies distilled from the same kind of fruit at not more than 170 degrees of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be blended with each other, or with any blend of such fruit brandies in storage. Rums may, for the sole purpose of perfecting them according to commercial standards, be blended with each other, or with any blend of rums.

(d) *Packaging of mingled spirits or blended rums and brandies.* Packaging after mingling or blending shall be conducted under the provisions of § 19.344. If so desired, the mingled or blended spirits may be returned to the packages from which they were dumped for mingling or blending, or as many of such packages as are necessary.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.347 Packages dumped for mingling or blending.

When dumping packages of spirits of less than 190 degrees of proof in storage for mingling or blending, the proprietor shall record such mingling or blending on Form 5110.29 in accordance with the

instructions on the form. When packages of spirits of 190 degrees or more of proof are to be mingled, the proprietor shall prepare Form 5110.26 to reflect the dumping of the packages for mingling and, when applicable, the repackaging, of the spirits. Each package of spirits to be mingled or blended under this subpart shall be examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, such package shall not be dumped until the area supervisor has been notified and releases the package. Each disposition of spirits of less than 190 degrees of proof from a tank shall be recorded on Form 5110.29 as it occurs.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.348 Determining age of mingled or blended spirits or date of fill for imported spirits.

(a) *Age.* When spirits are mingled or blended in accordance with § 19.346 (b) or (c), the age of the spirits for the entire lot shall be the age of the youngest spirits contained in the lot. Age shall be stated in years, months and days.

(b) *Date of fill for imported spirits.* For purposes of this part, the date of fill for spirits imported in packages shall be the date of release from customs custody.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 807, Pub. L. 96-39 (26 U.S.C. 5207))

##### § 19.349 Mingled or blended spirits or wines held in tanks.

When spirits of less than 190 degrees of proof or wines are mingled or blended in a tank, the proprietor shall gauge the spirits or wines in the tank and record the mingling gauge on Form 5110.29.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.350 Transfer, withdrawal, or movement between accounts.

Spirits mingled or blended under the provisions of § 19.346 may be transferred in bond, moved between accounts or withdrawn from bond for any purpose for which the spirits could have been withdrawn before mingling or blending. Transfer forms, except as to spirits mingled under § 19.346(a) shall be noted to show the age of the spirits after mingling, determined as provided in § 19.348.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended 1362, as amended (26 U.S.C. 5201, 5212))

#### Inventories

##### § 19.353 Inventories.

Each warehouseman shall take a physical inventory of all spirits and wines in storage tanks and other vessels (except packages) at the close of each calendar quarter and at such other times as the regional regulatory administrator may require. The inventory shall separately identify spirits and wines. The results of the inventory shall be recorded in accordance with Subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Subpart L—Processing Operations Other Than Denaturation and Manufacture of Articles

##### § 19.371 General.

Proprietors, who are qualified as processors as provided in this part, shall conduct operations relating to the manufacture, treatment, mixing or bottling of distilled spirits on bonded premises pursuant to the provisions of this subpart. Proprietors, who conduct operations relating to the denaturation of spirits or the manufacture of articles on bonded premises, pursuant to the provisions of Subpart M of this part, shall be qualified as processors.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Receipt of Spirits and Wines

##### § 19.376 Receipt of spirits and wines for processing.

(a) Proprietors may receive into the processing account—

(1) Bulk spirits (i) from the production or storage account at the same plant, (ii) by transfer in bond from another distilled spirits plant, or (iii) on withdrawal from customs custody under 26 U.S.C. 5232;

(2) Wines (i) from the storage account at the same plant, or (ii) by transfer in bond from a bonded wine cellar or another distilled spirits plant;

(3) Spirits returned to bond under the provisions of 26 U.S.C. 5215; or

(4) Nonbeverage products manufactured under 26 U.S.C. 5131-5134.

(b) Spirits and wines received in bulk containers shall be recorded as dumped on receipt, but may be retained in the containers in which received until used. Spirits and wines received by pipeline or in bulk conveyances shall be deposited in tanks, gauged by the proprietor, and recorded as dumped. Alcoholic flavoring materials may be retained in the containers in which received or may be transferred to another container if the proprietor marks or otherwise indicates thereon,



the full identification of the original container, the date of receipt, and the quantity deposited. Alcoholic flavoring materials and nonalcoholic ingredients shall be considered dumped when mixed with spirits or wines. The proof gallon content of spirits, wines, and alcoholic flavoring materials shall be determined at the time of dumping.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.377 Receipt of Puerto Rican and Virgin Islands spirits.

Proprietors shall maintain a separate accounting in proof gallons of Puerto Rican or Virgin Islands spirits received in the processing account for nonindustrial use, showing spirits from the storage account of the same or another plant or from customs custody. Each month proprietors shall determine the percentage of overall monthly processing gains or losses of nonindustrial spirits. The proof gallons of Puerto Rican or Virgin Islands spirits received in processing during any month shall be adjusted by the percentage of overall gains or losses for the month. Proprietors shall file monthly reports on Form 5110.28 showing separately the adjusted proof gallons of Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits received in processing as provided in § 19.786.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5555))

#### § 19.378 Tank record of alcoholic flavoring materials.

When alcoholic flavoring materials are deposited in a tank for storage prior to dumping, the proprietor shall prepare a tank record showing the date and quantity received, and the name of the product. The proprietor shall enter on such record the date and quantity of each removal from the tank and each loss ascertained to have occurred therefrom.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.379 Containers bearing evidence of theft or unusual loss.

The proprietor shall inspect containers of spirits or wines at the time of their receipt for processing. If the proprietor finds evidence of unusual loss or loss due to theft, he shall promptly report the matter to the area supervisor and hold the container pending the area supervisor's advice as to its disposition. If the proprietor finds that any container is missing from the shipment, he shall promptly report such fact to the area supervisor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201))

#### Use of Alcoholic Ingredients

##### § 19.381 Record of use.

(a) *Dump record.* When spirits, wines, and alcoholic flavoring materials are dumped for use in the manufacture of a distilled spirits product, and spirits are to be removed by pipeline or bulk conveyance, the proprietor shall prepare a dump record.

(b) *Batch record.* Proprietors shall prepare a batch record to report—

(1) The dumping of spirits which are to be used immediately and in their entirety in preparing a batch of a product manufactured under an approved formula;

(2) The use of spirits or wines previously dumped, reported on dump records and retained in tanks or receptacles; and

(3) Any combination of ingredients in paragraphs (b) (1) and (2) of this section used in preparing a batch of a product manufactured under an approved formula. Batch records shall be annotated to separately identify alcoholic flavoring materials.

(c) *Format of dump/batch records.* Proprietor's dump/batch records shall contain, as applicable, the following—

- (1) Serial number;
- (2) Name and distilled spirits plant number of the processor;
- (3) Kind of spirits used, with a notation to indicate treatment with oak chips, addition of caramel, imported spirits, and spirits from Puerto Rico and the Virgin Islands;
- (4) Serial number of tank or container to which ingredients are added for use;
- (5) Serial or identification number of tank or container from which spirits are removed;
- (6) Quantity of each alcoholic ingredient used, identifying any alcoholic flavoring materials;
- (7) Serial number of source transaction record (e.g., record covering spirits previously dumped);
- (8) Date of each transaction;
- (9) Quantity, by ingredient, of nonalcoholic ingredients used;
- (10) Formula number;
- (11) Quantity of ingredients used in the batch that have been previously dumped, reported on dump records, and retained in processing;
- (12) Total quantity of all ingredients used;
- (13) Identification of each form or record to which spirits are transferred;
- (14) Quantity in each lot transferred;
- (15) Date of each transfer;
- (16) Total quantity transferred; and
- (17) Gain or loss.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201))

(Sec. 807, Pub. L. 96-39, 92 Stat. 284 (26 U.S.C. 5207))

#### § 19.382 Manufacture of nonbeverage or intermediate products.

Spirits and wines may be used for the manufacture of flavors or flavoring extracts as intermediate products to be used exclusively in the manufacture of other distilled spirits products on bonded premises. Nonbeverage products (alcoholic flavoring materials) on which drawback under 26 U.S.C. 5131-5134 is to be claimed may not be manufactured on bonded premises. Premises used for the manufacture of nonbeverage products eligible for drawback shall be completely separated from any contiguous bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.383 Production of gin or vodka in processing.

The production of gin or vodka by other than original and continuous distillation is a processing operation. Such production requires an approved formula on Form 5110.38. Formulas on Form 5110.38 shall be filed as required by Part 5 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Bottling, Packaging, and Removal of Products

##### § 19.391 Removals from processing.

Spirits shall not be transferred from processing to the storage account. Processors may remove—

- (a) Spirits upon tax determination or withdrawal under the provisions of 26 U.S.C. 5214 or 26 U.S.C. 7510;
- (b) Spirits to the production account at the same plant for redistillation;
- (c) Bulk spirits by transfer in bond to the production or the processing account at another distilled spirits plant for redistillation or further processing;
- (d) Spirits or wines for authorized voluntary destruction; or
- (e) Wines by transfer in bond to a bonded wine cellar or to another distilled spirits plant. Spirits may be bottled and cased for removal. Spirits and wines may be removed in any approved bulk container, by pipeline or in bulk conveyances on compliance with the provisions of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1320, as amended, 1323, as amended, 1356, as amended, 1360, as amended, 1362, as amended, 1365, as amended, 1380, as amended (26 U.S.C. 5001, 5006, 5008, 5201, 5206, 5212, 5214, 5223, 5362))

##### § 19.392 Bottling tanks.

All spirits shall be bottled from tanks certified as being accurately calibrated

and suitable for the intended purpose. However, the regional regulatory administrator may authorize bottling from original packages or special containers where it is impracticable to use a bottling tank. Bottlers desiring to bottle from packages or special containers shall make application to the regional regulatory administrator under Subpart D. The application shall show the necessity for the operation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.393 Bottling tank gauge.

When distilled spirits products are to be bottled or packaged, the proprietor shall make an actual gauge of the product, on completion of any filtering, reduction, or other treatment, and prior to commencement of bottling or packaging. Any gauge made under this section shall be made at bottling proof in the tank from which the product is to be bottled or packaged, and the details of the gauge shall be entered on the bottling record prescribed in § 19.394.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.394 Bottling record.

Each proprietor shall maintain a record for each lot of spirits bottled or packaged. This record shall contain the following information:

- (a) Tank number(s);
- (b) Serial number of the record (beginning with "1" each January 1);
- (c) Formula number (if any) of the lot;
- (d) Serial number of the dump/batch record;
- (e) Kind of product (including age, if claimed);
- (f) Details of the tank gauge (including proof, wine gallons, proof gallons, and, if applicable, obscuration);
- (g) The date the cases or packages were filled;
- (h) The size of the bottles or packages, the number of bottles or containers per case, and the number of cases filled;
- (i) The serial numbers of the cases or other containers filled;
- (j) The proof of the spirits bottled or packaged (if different from subsection (f));
- (k) The total quantity bottled or packaged in wine gallons and proof gallons; and
- (l) Gain or loss for each tank.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 807(a), Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.395 Labels to agree with contents of tanks and containers.

Labels affixed to bottles shall agree in every respect with the spirits in the tanks from which the containers were

filled, if they do not the proprietor shall relabel such spirits with a proper label. The proprietor's records shall be such that they will enable ATF officers to readily determine, by case serial number, which label was used on any given filled container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.396 Liquor bottles.

Liquor bottles may be used, but need not be used, in bottling spirits for export. (See Subpart R of this part for provisions respecting liquor bottles.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.397 Filling of bottles.

(a) *Proof and fill tests.* (1) Proprietors shall test and examine bottles of spirits bottled at frequent intervals during bottling operations to determine whether the spirits contained in such bottles agree in proof and quantity (fill) with that stated on the label or bottle.

(2) If the regional regulatory administrator finds that a proprietor's test procedures do not protect the revenue and insure the label accuracy of the bottled product, he may require corrective measures.

(b) *Variations in proof and fill.* If the contents do not agree with the respective data on the label or bottle as to—

- (1) Quantity (fill), except for such variations in measuring as may occur in filling conducted in compliance with good commercial practice with the overall objective of maintaining 100 percent fill for all bottled products; and/or
- (2) Proof, subject to a normal drop in proof occurring during bottling operations not to exceed three-tenths of a degree of proof—the proprietor shall rebottle, recondition, or relabel the spirits in such manner that the label will correctly describe the contents.

(c) *Proof and fill test records.* (1) Proprietors shall record the results of all proof and fill tests made.

(2) The daily record shall be maintained in a manner and provide information that will enable ATF officers to determine whether the proprietor—

- (i) Monitors filling operations by conducting proof and fill tests, and
- (ii) Employs procedures to correct variations in proof and fill described in paragraph (b).

(3) Proof and fill test records shall contain, at a minimum, the following information—

- (i) Date and time of test,
- (ii) Serial number of bottling record,
- (iii) Size of bottle,

- (iv) Label proof,
- (v) Test proof,
- (vi) Percentage of variation from 100 percent fill, and
- (vii) Corrective action taken (if any).

(4) Where the content, format and arrangement of the daily records does not comply with the provisions of (c)(2) or (c)(3) of this section, the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect proof and fill test information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1394, as amended, 1395, as amended (26 U.S.C. 5201, 5301, 5555); Sec. 807(a), Pub. L. 96-39 (26 U.S.C. 5207))

##### § 19.398 Completion of bottling.

When the contents of a bottling tank are not completely bottled at the close of the day, the bottler shall make entries on the bottling record covering the total quantity bottled that day from the tank. Entries shall be made not later than the morning of the following business day unless the bottler maintains auxiliary or supplemental records as provided in § 19.751.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.399 Strip stamps or alternative devices.

The proprietor shall affix to each bottle of spirits filled under the provisions of this subpart a red or green strip stamp or approved alternative device. Such stamps shall be procured, overprinted (when required), affixed, and accounted for as provided in Subpart S of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5205))

##### § 19.400 Cases.

On completion of bottling, the filled bottles with labels and properly affixed strip stamps or alternative devices shall be placed in cases, and the cases shall be sealed. However, the proprietor may be authorized to retain, on bonded premises, unsealed cases, pending the affixing of brand labels or State stamps, upon approval of written application to the area supervisor. Where the mandatory information required by Part 5 of this chapter appears on the brand label rather than a separate label, the brand label shall be affixed at the time of bottling. Each case of spirits filled shall be marked as prescribed by Subpart Q of this part before removal from such premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))



**§ 19.401 Remnants.**

Where on completion of bottling there remain bottles less than the number necessary to fill a case, the bottles, after being stamped or affixed with alternative devices and labeled, may be marked as a remnant case as provided in Subpart Q of this part or kept uncased on the bonded premises until spirits of the same kind are again bottled. Appropriate notation shall be made on the bottling record to cover the bottling and disposition of the remnant. If the remnant is subsequently used to complete the filling of a case, an accounting shall be made on the subsequent bottling record showing the use of the remnant by adding the remnant gallonage to the quantity to be accounted for, together with an appropriate notation explaining the transactions.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1360, as amended (26 U.S.C. 5201, 5206))

**§ 19.402 Filling packages.**

Spirits may be drawn into packages from a tank (conforming to the requirements of § 19.273). Such packages shall be gauged by the proprietor, and he shall report the details of such gauge on Form 5110.45 and attach a copy of Form 5110.45 to each copy of the bottling tank record covering the product. Such packages shall be marked as prescribed by Subpart Q of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.403 Removals in bulk.**

Where spirits in processing are to be removed in bulk conveyances or by pipeline, the proprietor shall record the filling of the conveyance or the transfer by pipeline on the bottling record. The spirits shall be removed from bonded premises in accordance with Subpart O of this part. The consignor shall forward to the consignee a statement of composition or a copy of any formula under which such spirits were processed for determining the proper use of the spirits, or for the labeling of the finished product. Bulk conveyances shall be marked as provided in Subpart Q of this part, and distilled spirits stamps, if required, shall be affixed to the conveyances as provided in Subpart S of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.404 Rebottling.**

When the spirits are dumped, bottlers desiring to rebottle distilled spirits shall prepare a bottling record, appropriately modified. If the spirits were originally bottled by another bottler, a statement

from the original bottler consenting to the rebottling must be secured by the proprietor. When the spirits are rebottled, the strip stamps or alternative devices on the original bottles shall be destroyed and new strip stamps or alternative devices used. Liquor bottles used for rebottling shall comply with the provisions of Subpart R of this part. Bottlers shall have a certificate of label approval or certificate of exemption from label approval issued under 27 CFR Parts for labels used on rebottled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 807, Pub. L. 96-39, 93 Stat. 280 (26 U.S.C. 5215))

**§ 19.405 Restamping, reaffixing alternative devices and relabeling.**

The proprietor may restamp, reaffix alternative devices, or relabel distilled spirits, either before removal from bonded premises or after return thereto. Spirits returned to bonded premises for restamping, reaffixing of alternative devices, or relabeling must be promptly removed from bonded premises after such operation has been completed. When spirits were originally bottled by another bottler, the bottler shall have on file a statement from the original bottler consenting to any relabeling. When spirits are relabeled, bottlers shall have a certificate of label approval or certificate of exemption from label approval issued under 27 CFR Part 5 for labels used on relabeled spirits. Daily bottling records shall be prepared by the proprietor to cover the relabeling, restamping or the reaffixing of alternative devices. For spirits returned to bond under 26 U.S.C. 5215(c), the proprietor shall annotate such information on his daily bottling records.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1358, as amended (26 U.S.C. 5201, 5205); Sec. 807 Pub. L. 96-39, 93 Stat. 280 (26 U.S.C. 5215))

**§ 19.406 Bottled-in-bond spirits.**

Spirits which are to be labeled and stamped as bottled-in-bond for domestic consumption shall meet the eligibility and labeling requirements in 27 CFR Part 5 and shall be stamped as provided in Subpart S of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.407 Labels for export spirits.**

All bottles containing spirits bottled for export shall have securely affixed thereto a label showing the following:

- (a) Kind of spirits;
- (b) Proof of the spirits;
- (c) Net contents, unless the markings on the bottle indicate such contents; and

- (d) The name (or, if desired, the trade name) of the bottler.

The bottler may place on the label any additional information that he may desire if it is not inconsistent with the required information. The label information may be stated in the language of the country to which the spirits are to be exported provided the proprietor maintains on file an English translation of the information. The net contents and proof may be stated in the units of measurement of the foreign country provided the proprietor maintains a record of the equivalent units as they would be required to be expressed if bottled for domestic consumption. The Director may waive the requirement of showing any of the information required by this section, other than the kind of spirits, upon a showing that the country to which the spirits are to be exported prohibits the showing of such information.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1374, as amended (26 U.S.C. 5201, 5301))

**§ 19.408 Spirits removed for shipment to Puerto Rico.**

Spirits removed for shipment to Puerto Rico with benefit of drawback or without payment of tax under the provisions of Part 252 of this chapter are subject to the provisions of Part 5 of this chapter in respect of labeling requirements and standards of fill for bottles.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.409 Spirits not originally intended for export.**

Spirits manufactured, produced, bottled in bottles, packed in containers, or which are packaged in casks or other bulk containers in the United States, originally intended for domestic use may be exported with benefit of drawback or without payment of tax if:

- (a) The strip stamp or alternative device affixed to each bottle is legibly overprinted with the word "Export" by means of a rubber stamp or other suitable method; and

- (b) Each case, package or other bulk container is marked as required by Part 252 of this chapter. The proprietor may relabel the spirits to show any of the information provided for in § 19.407. Where the proprietor desires to file claim for drawback on spirits prepared for export under this section, the provisions of § 252.195b of this chapter shall be followed. Where the proprietor desires to withdraw spirits without payment of tax, he shall file a notice in accordance with § 252.92 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1358, as amended, 1362, as amended (26 U.S.C. 5062, 5205, 5214))

**Alcohol****§ 19.410 General.**

(a) *Bottled alcohol.* Alcohol of 190 degrees or more of proof may be bottled in containers of 1 gallon or less, or in bottles complying with the provisions of § 19.584; however, the proprietor is required to comply with the provisions of Subpart R of this part where applicable. The proprietor shall prepare dump and batch records and bottling records as provided in this subpart.

(b) *Encased containers.* Containers of alcohol, authorized under § 19.584, which are enclosed in and attached to individual cartons, as provided in § 19.585, shall be filled and recorded as provided in paragraph (a) of this section, but the filled containers are not considered to be bottled alcohol, and are not subject to the provisions of § 19.411 relating to stamps, labels, and marks. The cartons or cases shall be marked in the manner provided in §§ 19.585 and 19.608.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1369, as amended (26 U.S.C. 5201, 5235))

**§ 19.411 Stamps, labels, marks and brands.**

The proprietor shall affix to each bottle of alcohol filled by him a red strip stamp or alternative device procured and affixed as provided in Subpart S of this part. All bottles of alcohol shall have securely affixed thereto a label showing (a) alcohol and (b) the name, address, and plant number of the bottler. In addition, bottled alcohol to be withdrawn on tax determination shall be labeled in accordance with the provisions of Subpart R of this part or Part 5 of this chapter, as applicable. The proprietor may place on the label any additional information that he may desire if it is not inconsistent with the required information. Each case of bottled alcohol shall bear the marks and brands prescribed therefor by Subpart Q of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1369, as amended (26 U.S.C. 5205, 5235))

**Records****§ 19.416 Daily summary record of spirits bottled or packaged.**

The proprietor shall maintain a separate daily summary record of spirits bottled or packaged as provided in § 19.769.

(Sec. 807, Pub. L. 96-39, 93 Stat. 283 (26 U.S.C. 5207))

**Inventories****§ 19.421 Inventories of wines and bulk spirits (except packages).**

Each proprietor shall take a physical inventory of wines and bulk spirits (except packages) in the processing account at the close of each calendar quarter. The results of the inventory shall be recorded in accordance with Subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**§ 19.422 Inventories of bottled and packaged spirits.**

(a) *Physical inventories.* (1) Physical inventories of bottled and packaged spirits shall be taken for the return periods ending June 30 and December 31 of each year, and for other return periods as may be required by the regional regulatory administrator.

(2) On approval of an application filed with the regional regulatory administrator, required physical inventories may be taken on dates other than June 30 and December 31 if the dates established for taking such inventories:

- (i) Coincide with the end of a return period, and
- (ii) Are approximately six months apart.

(3) On approval of the application, the designated inventory dates shall take effect with the first inventory scheduled to be taken within six months of the previous June 30 or December 31 inventory.

(4) Physical inventories may be taken within a period of a few days before or after June 30 or December 31 (or other dates approved by the regional regulatory administrator), if:

- (i) Such period does not include more than one complete weekend; and
- (ii) Necessary adjustments are made to reflect pertinent transactions, so that the recorded inventories will agree with the actual quantities of bottled or packaged spirits on hand in processing at the prescribed times.

(b) *Waiver of physical inventory.*

(1) The regional regulatory administrator, on receipt of an application, may relieve a proprietor of the requirement of taking the June 30 or December 31 physical inventory, (or other date approved under paragraph (a) of this section) if he finds that only one such inventory during any 24 consecutive return periods is necessary.

(2) The regional regulatory administrator may reimpose the requirement for the waived inventory if he finds that it is necessary for law enforcement or protection of the revenue.

(c) *Notification of physical inventory.* Whenever a physical inventory of bottled or packaged spirits is to be taken, the proprietor shall, at least 5 business days in advance, notify the area supervisor, of the date and time he will take such inventory.

(d) *Supervision of physical inventories.* Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner, as the regional regulatory administrator may require.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

**Subpart M—Denaturing Operations and Manufacture of Articles****§ 19.451 General.**

Proprietors who are qualified as processors may conduct denaturing operations or manufacture articles pursuant to the provisions of this part. Proprietors shall not conduct denaturing operations or manufacture articles except as provided in this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1353, as amended (26 U.S.C. 5178); Sec. 807(a), Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

**Denaturation****§ 19.452 Formulas.**

Spirits authorized under Part 212 of this chapter to be denatured, may be denatured in accordance with formulas prescribed in that part. Denaturing materials shall be thoroughly mixed with the spirits to be denatured.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

**§ 19.453 Testing of denaturants.**

(a) *Testing.* Proprietors shall assure that the materials they receive for use in denaturing conform to the specifications prescribed therefor in Part 212 of this chapter. The regional regulatory administrator may require the testing of denaturants at any time.

(b) *Samples.* Samples of denaturants shall be taken in such manner as to represent a true composite of the total lot being sampled. When samples are tested by persons other than a proprietor, a copy of the analysis or a statement, signed by the chemist performing the test, shall be secured and filed by the proprietor for each test. Samples of denaturants may be taken by ATF officers at any time for testing by Government chemists.

(c) *Conformity.* When a denaturant does not conform to the specifications prescribed under Part 212 of this chapter, the proprietor shall not use the material unless he treats or manipulates



the denaturant to make it conform to such specifications. Such treated or manipulated denaturant shall again be tested.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

#### § 19.454 Gauge for denaturation.

(a) The proprietor shall gauge spirits before and after denaturation and record each gauge in a commercial record as prescribed in paragraph (b) of this section. However, spirits dumped from previously gauged containers or spirits transferred directly to mixing tanks from gauge tanks where they were gauged, need not again be gauged. Measurements of spirits and denaturants shall be made by volume, weight, by meter, or, another device when approved by the Director.

(b) The information to be recorded for each gauge shall include the formula number, the tank in which denaturation takes place, the proof gallons of spirits before denaturation, the quantity of each denaturant used (in gallons, or in pounds and ounces), and the wine gallons of denatured spirits produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, (26 U.S.C. 5204); Sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

#### § 19.455 Dissolving of denaturants.

Denaturants which are difficult to dissolve in alcohol at usual working temperatures, which are highly volatile, or which become solid at such usual temperatures may be liquefied or dissolved in a small quantity of alcohol or water in advance of their use in the production of specially denatured alcohol, pursuant to the prescribed formula, so long as the proof of the denatured spirits manufactured does not fall below the proof prescribed for the applicable formula in Part 212 of this chapter. Any ethyl alcohol used in dissolving denaturants and contained in the resulting solution shall be included as part of the total quantity of alcohol denatured in each batch.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

#### § 19.456 Adding denaturants.

Denaturants and spirits shall be mixed in packages, tanks, or bulk conveyances on bonded premises. The regional regulatory administrator may, on written application, authorize other methods of mixing denaturants and spirits if he deems such denaturation will not hinder effective administration of this part or jeopardize the revenue. If requested by the regional regulatory administrator, the proprietor shall submit a flow diagram of the intended

process or method of adding denaturants.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

#### § 19.457 Restoration and redenaturation of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles received on bonded premises, as provided in Subpart U of this part, for restoration (including redistillation, if necessary) and/or redenaturation may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. If the recovered or restored denatured spirits or recovered articles are to be redenatured and do not require the full amount of denaturants for redenaturation, a notation to that effect will be made on the record required by § 19.454.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

#### § 19.458 Mixing of denatured spirits.

(a) Denatured spirits produced under the same formula may be mixed on bonded premises.

(b) Denatured spirits may be mixed on bonded premises for immediate redistillation at the same plant or at another plant in accordance with the provisions of §§ 19.322 and 19.323. If such denatured spirits are to be redistilled at another plant, the transfer form shall show that the spirits are for redistillation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242); Sec. 807, Pub. L. 96-39, 93 Stat. 286 (26 U.S.C. 5241))

#### § 19.459 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3-A and No. 30, may be converted into specially denatured alcohol, Formula No. 1, by the addition of methyl alcohol and denatonium benzoate, N.F. (Bitrex) or methyl isobutyl ketone in accordance with the formulations prescribed in § 212.18 of this chapter. For specially denatured alcohol Formulas No. 3-A and No. 30, the methyl alcohol content shall be reduced to the level prescribed for specially denatured alcohol Formula No. 1 by the addition of ethyl alcohol before adding the other ingredient prescribed in § 212.18 of this chapter.

(b) *Conversion to Formula No. 29.* Any specially denatured alcohol may be converted to specially denatured alcohol, Formula No. 29, by the addition of acetaldehyde or ethyl acetate, in accordance with the formulations prescribed in § 212.39(a) of this chapter.

(c) *Conditions governing conversion and use.* The quantities of denaturants required for conversions authorized in paragraphs (a) and (b) of this section shall be determined on the basis of the alcohol in the formulations. Specially denatured alcohol resulting from such conversions shall be manufactured into articles or used in processes by the proprietor who converted it, or by his controlled or wholly owned subsidiaries (as defined in § 19.242), unless the Director authorizes its use by another manufacturer or user (as defined in Part 211 of this chapter). Specially denatured alcohol converted to Formula No. 29 may be used as authorized in § 212.39(b) of this chapter except that it shall not be used in the manufacture of vinegar, drugs, or medicinal chemicals, and the conditions governing use provided in § 212.39(c) of this chapter shall apply.

(d) *Conversion to completely denatured alcohol.* Any specially denatured alcohol not containing methanol or wood alcohol may be converted to any one of the completely denatured alcohol formulas, prescribed in Part 212 of this chapter, by adding the required denaturants.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1369, as amended (26 U.S.C. 5242))

#### § 19.460 Receipt and storage of denatured spirits.

(a) *Deposit.* Denatured spirits produced, received in bond as provided in Subpart O or returned to bonded premises as provided in Subpart U of this part, shall be deposited on the bonded premises.

(b) *Tanks.* If denatured spirits are being deposited in a partially filled tank on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of denatured spirits both into and out of the tank is being measured by meters, or other devices approved by the Director, which permit a determination of the quantity being deposited and the quantity being removed. Proprietors shall maintain a record in accordance with § 19.770 for tanks in which denatured spirits are stored.

(c) *Storage.* Denatured spirits may be stored on bonded premises in any container into which denatured spirits may be filled on bonded premises. Such containers shall be so stored that they can be readily inspected by ATF officers and inventoried. The provisions of § 19.133 are applicable to storage of denatured spirits in portable containers. However, upon application, the regional regulatory administrator may authorize the proprietor to store packages and cases in any manner which safeguards the interests of the Government.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.461 Filling of packages from tanks.

Denatured spirits may be drawn into packages from tanks on bonded premises. The denatured spirits in the tanks shall be gauged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the denatured spirits remaining in the tank shall be again gauged and such gauges shall be recorded by the proprietor. The provisions of § 19.319 shall be applicable to the filling and gauging of packages under this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.462 Containers for denatured spirits.

Packaging of denatured spirits and the marking of packages of such denatured spirits shall be in accordance with requirements of Subpart Q of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### Inventories

##### § 19.463 Inventories.

Each proprietor shall take a physical inventory of all denatured spirits on bonded premises at the close of each calendar quarter or at such other times as the regional regulatory administrator may require. The results of the inventory shall be recorded as provided in Subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Articles

##### § 19.471 Manufacture of articles.

Proprietors use of denatured spirits in the manufacture, formulation, labeling, marking, and distribution of articles, shall be as provided in Part 211 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended (26 U.S.C. 5273))

#### Subpart N—Importation

##### Spirits Imported Into the United States

##### § 19.481 Importation of spirits.

The proprietor may withdraw from customs custody, without payment of the tax imposed on imported spirits by 26 U.S.C. 5001, imported spirits in bulk containers and transfer such spirits to his bonded premises in such bulk containers or by pipeline. A proprietor intending to receive imported spirits from customs custody shall obtain an approved application, Form 5100.16, in the manner provided in § 251.172 of this chapter. Imported spirits transferred to bonded premises, as provided in this section, (a) may be redistilled or

denatured only if of 185 degrees or more of proof, and (b) may be withdrawn for any purpose authorized by 26 U.S.C.

Chapter 51, in the same manner as domestic spirits. Imported spirits shall be kept separate at the bonded premises and shall not be mixed with domestic spirits or with other imported spirits, except as follows: imported spirits (1) may, if of 185 degrees or more of proof, be mingled with domestic spirits or with other such imported spirits if the mingled spirits are to be immediately denatured, (2) may, if eligible under § 19.346 be mingled with other imported spirits similarly eligible which have been duty paid at the same rate, and (3) may, if imported as beverage spirits, be mixed with other spirits in processing in accordance with Subpart L of this part or in storage in accordance with Subpart K of this part. Imported spirits shall not be filled into packages, or subjected to treatment, which would modify the taste, aroma, or other characteristics generally attributed to that class and type of spirits. The provisions of this section with respect to the separation from other spirits and of §§ 19.482 and 19.483 are applicable to imported spirits received on bonded premises under this section, whether or not redistilled. Imported spirits to be redistilled shall be appropriately identified on Form 5110.28 (Sec. 201, Pub. L. 85-859, 72 Stat. 1366, as amended (26 U.S.C. 5232))

##### § 19.482 Transfers and withdrawals of imported spirits.

Imported spirits transferred to ATF bond under 26 U.S.C. 5232, may, under the provisions of Subpart O of this part, be transferred in bond or withdrawn from bond for any purpose authorized by 26 U.S.C. Chapter 51, in the same manner as domestic distilled spirits. The rates of duty specified by the customs officer at the time of release from customs custody shall be shown on transaction forms and records, which shall also be marked with the designation "IMPORTED" (see § 251.173 of this chapter).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1366, as amended (26 U.S.C. 5201, 5232))

##### § 19.483 Markings for containers of imported spirits.

Each portable bulk container of imported spirits shall, when received on bonded premises under the provisions of § 19.481, or when filled on bonded premises, be marked with:

- The name of the importer;
- The country of origin;
- The kind of spirits;
- The package serial number;

(e) The date of release from customs custody, or if filled in ATF bond, the date of fill;

(f) The proof; and  
(g) The proof gallons of spirits in the package. Packages of imported spirits received from customs custody or filled from tanks on bonded premises shall be assigned package identification numbers as provided in § 19.593. Such numbers shall be preceded by the symbol "IMP" and any distinguishing prefix of suffix used as provided in § 19.594. The proprietor who files Form 5100.16 to receive packages of imported spirits under the provisions of § 19.481 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit forms or records by the proprietor who filed the Form 5100.16 to receive the spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.484 Exceptions to specifications for package marking requirements.

The package marks prescribed by § 19.483 shall be placed on each package of imported spirits received from customs custody in the manner required by § 19.595, except that, proprietors are relieved from placing prescribed marks on such packages where the packages will be dumped within 30 days of the date of receipt at such distilled spirits plant. Packages not dumped as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 19.595. The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit forms or records, and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.485 Recording gauge.

At the time of receipt into ATF bond of packages of imported spirits, the proprietor shall use the last official gauge to compute and record on deposit forms or records for each entry the average content of the packages being received, in the manner provided for package summary accounts in § 19.761. If the last official gauge indicates a substantial variation in the contents of the packages, the proprietor shall group



the packages into lots according to their approximate contents, and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### Deposit, Storage, Transfer, and Withdrawal of Puerto Rican and Virgin Islands Spirits

##### § 19.486 Transaction forms and records.

Deposit, transfer, and withdrawal forms, and records pertaining to spirits transferred to ATF bond from Puerto Rico or the Virgin Islands shall be marked to show that the spirits are from Puerto Rico or the Virgin Islands. Separate records shall be maintained for Puerto Rican or Virgin Islands spirits in the same manner as for imported spirits, except that the record of deposits and the summary of deposits and withdrawals, Form 5110.37, shall be arranged alphabetically by name of producer in Puerto Rico or the Virgin Islands.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.487 Marks on containers.

(a) *Packages received in bond.* (1) When packages of Puerto Rican spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by § 250.40 of this chapter, modified to show the serial number of the Form 4776 prefixed by "Form 4776", rather than the serial number and identification of the Form 487-B, shall be accepted in lieu of the markings prescribed in § 19.483. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages the date of entry for deposit of the spirits, and the words "PUERTO RICAN" or the abbreviation "P.R."

(2) When packages of Virgin Islands spirits are received on the bonded premises of a distilled spirits plant under the provisions of this subpart, the markings prescribed by § 250.206 of this chapter that are on such packages shall be accepted in lieu of the markings prescribed in § 19.483. On receipt of packages so marked the proprietor of the distilled spirits plant shall show on such packages the date of entry for deposit of the spirits and the words "VIRGIN ISLANDS" or the abbreviation "V.I."

(b) *Portable bulk containers.* Portable bulk containers of Puerto Rican or Virgin Islands spirits filled in ATF bond shall, in addition to the required marks

prescribed in § 19.596, be marked to show the serial number of the approved formula under which produced, and with the words "PUERTO RICAN" or "VIRGIN ISLANDS" or the abbreviation thereof. Portable bulk containers containing spirits received in ATF bond under the provisions of this subpart shall, in addition to other required marks, be marked with the words "PUERTO RICAN" or "VIRGIN ISLANDS" or the abbreviation thereof.

(c) *Cases of bottled alcohol.* In addition to other mandatory marks prescribed by § 19.608 for cases of bottled alcohol, the words "PUERTO RICAN" or "VIRGIN ISLANDS", as appropriate, or the abbreviation "P.R." or "V.I." shall precede or follow the word "alcohol" on cases of alcohol from Puerto Rico or the Virgin Islands that are bottled and cased on bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

##### § 19.488 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(9), on imported spirits withdrawn from customs custody without payment of tax and thereafter withdrawn from bonded premises for beverage purposes, and the related provisions of § 19.517, are not applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Miscellaneous Provisions

##### § 19.489 Abatement, remission, credit, or refund.

The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit and refund for loss or destruction of distilled spirits, shall apply to spirits brought into the United States from Puerto Rico or the Virgin Islands, with respect to the following:

- (a) Spirits lost while in ATF bond;
- (b) Voluntary destruction of spirits in bond;
- (c) Spirits returned to bonded premises; and
- (d) Spirits returned to bonded premises after withdrawal upon tax determination.

Claims relating to spirits lost in bond, in addition to the information required by § 19.41 of this chapter, shall show the name of the producer, and the serial number and date of the Form 5110.38 (Form 27-B Supplemental), where required, under which produced.

(Sec. 201, Pub. L. 95-859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

#### General

##### § 19.501 Authority to withdraw

Spirits (including denatured spirits) and wines shall be removed from bonded premises only as provided in this subpart. Spirits entered into bonded storage for subsequent packaging in wooden packages, as provided in § 19.320, which have not been drawn into such packages at the time of withdrawal from bond shall be redesignated to conform to the classes and types set out in Subpart Q of this part and in Part 5 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended 1362, as amended (26 U.S.C. 5201, 5212, 5214); Sec. 807(a), Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

##### § 19.502 Examination of containers.

Each bulk container of spirits (including denatured spirits) or wine to be removed from bonded premises, or to be dumped on bonded premises, shall be examined by the proprietor. If any bulk container bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such container shall not be removed or dumped until the area supervisor has been notified and releases such container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1361, as amended (26 U.S.C. 5008, 5370))

##### § 19.503 Withdrawal of spirits on original gauge.

When the filling or production gauge is made under the provisions of § 19.319(b), spirits may be withdrawn from bonded premises for any lawful purpose on the filling or production gauge. Spirits not so filled or produced must be gauged when they are withdrawn from bonded premises on determination of tax. When spirits which are to be withdrawn on determination of tax on the original gauge are transferred in bond, all copies of Form 5110.27 shall be marked by the proprietor "Withdraw on Original Gauge".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

##### § 19.504 Determination of tare.

When packages are to be individually gauged for withdrawal from bonded premises, actual tare shall be determined in accordance with Part 13 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### Transfers Between Bonded Premises

##### § 19.505 Authorized transfers.

(a) *Spirits.* Pursuant to approval of an application therefor as provided in § 19.506, bulk spirits (including denatured spirits) may be transferred in bond between bonded premises in bulk conveyances, or by pipeline, or in bulk containers into which spirits may be filled on bonded premises.

(b) *Wine.* (1) Wines may be transferred (i) from a bonded wine cellar to the bonded premises of a distilled spirits plant, (ii) from the bonded premises of a distilled spirits plant to a bonded wine cellar, or (iii) between the bonded premises of distilled spirits plants.

(2) Wines transferred to the bonded premises of a distilled spirits plant may be used in the manufacture of a distilled spirits product, and may not be removed from such bonded premises for consumption or sale as wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

##### § 19.506 Application to receive spirits in bond.

When a proprietor desires to have spirits or denatured spirits transferred to him in bond he shall make application for such transfer to the regional regulatory administrator on Form 5100.16. Application to receive such spirits by transfer in bond shall not be approved unless the applicant's operations or unit bond is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits (including denatured spirits) to be transferred in addition to all other liabilities chargeable against such bond. The applicant shall deliver one of the approved copies of the application to the consignor proprietor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5212))

##### § 19.507 Termination of application.

A proprietor may terminate an approved application, Form 5100.16, at any time by (a) retrieving the consignor's copy, and (b) returning this copy, together with his own, to the regional regulatory administrator for cancellation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended (26 U.S.C. 5005))

##### § 19.508 Consignor premises.

(a) *General.* (1) Form 5110.27 shall be prepared by the consignor proprietor of a distilled spirits plant (i) to cover the transfer of spirits or denatured spirits in

bond, pursuant to an approved application on Form 5100.6, or (ii) to cover the transfer of wine in bond to the bonded premises of a distilled spirits plant or bonded wine cellar. Except as otherwise provided herein, a Form 5110.27 shall be prepared for each conveyance. Each Form 5110.27 shall show the real name (or the basic operating name as provided in § 19.280) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging proprietor in the case of spirits of 190 degrees or more of proof) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. The proprietor shall also enter on Form 5110.27 the serial numbers of any seals or other devices affixed to a conveyance used for shipment of spirits, or denatured spirits. On completion of lading (or completion of transfer by pipeline), the proprietor shall dispose of the remaining copies of Form 5110.27 as provided in the instructions on the form.

(2) The proprietor may cover on one Form 5110.27 all packages of spirits shipped by truck on the same day from his bonded premises to another distilled spirits plant located in the same region. In such case, the proprietor shall prepare a shipment and delivery order for each shipment, showing the number of packages, their package identification numbers, the name of the producer, and the serial numbers of the seals or other devices (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. A copy of each shipping and delivery order shall be retained by the consignor. On completion of the lading of the last truck for the day, the Form 5110.27 shall be disposed of as provided in the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor, or (3) when this requirement has been waived by the regional regulatory administrator on a finding that, because of the location of the premises and the proposed method of operation, there will be no jeopardy to the revenue. When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipment weight on Form 5110.45. A copy of Form 5110.45 shall accompany each copy of Form 5110.27.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gauge the spirits, denatured spirits, or wines and record the quantity so determined on Form 5110.27. Bulk conveyances of spirits shall be sealed by the proprietor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

##### § 19.509 Reconsignment in transit.

Where, prior to or on arrival at the premises of a consignee, spirits transferred in bond (including denatured spirits) or wines are found to be unsuitable for the purpose for which intended, were shipped in error, or, for any other bona fide reason, are not accepted by such consignee, or are not accepted by a carrier, they may be reconsigned, by the consignor, to himself, or to another consignee on notification to the regional regulatory administrator of the consignor's region of such reconsignment. In such case, application to receive spirits by transfer in bond (on Form 5100.16) shall have been previously approved for the consignee (not required in the case of wines) and the bond of the proprietor to whom the spirits or wines are reconsigned shall cover such spirits while in transit after reconsignment. Notice of cancellation of the Form 5110.27 covering the shipment to the original consignee shall be made by the consignor to each person receiving a copy of Form 5110.27. Where the reconsignment is to another proprietor, a new Form 5110.27 shall be prepared and prominently marked with the word "Reconsignment".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1367, as amended, 1380, as amended (26 U.S.C. 5212, 5362))

##### § 19.510 Consignee premises.

(a) *General.* When spirits, denatured spirits, or wines are received by transfer in bond the consignee proprietor shall examine each conveyance to determine whether the seals, if any, are intact upon arrival at his premises. If the seals are not intact, he shall immediately notify the area supervisor before removal of any spirits from the conveyance. The proprietor shall follow the provisions of Subpart P of this part to determine, record and report losses, if any. After execution on the transfer forms of his receipt of the shipment of spirits, denatured spirits, or wines the consignee shall dispose of Form 5110.27 or (in the case of wines from a bonded wine cellar) Form 703, as provided in the instructions on the respective forms.



(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals or other devices are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 19.508(b)(3). The proprietor shall record the receiving weight of each package on Form 5110.45 (if any) which accompanied the shipment or on a list showing the identification number and receiving weight of each package. A copy of such list or Form 5110.45 shall be attached to each copy of Form 5110.27 in his possession.

(c) *Bulk conveyances and pipelines.* When spirits, denatured spirits, or wines are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits, denatured spirits, or wines and record the gauge on Form 5110.27 or, in the case of wines received from a bonded wine cellar, on Form 703. However, the regional regulatory administrator may waive the requirement for gauging spirits, denatured spirits, or wines on receipt by pipeline if he finds that, because of the location of the premises, there will be no jeopardy to the revenue.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1380, as amended (26 U.S.C. 5204, 5362); Sec. 807(a), Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

#### Removal of Spirits to Production

##### § 19.511 Removal of spirits for redistillation.

A proprietor intending to remove spirits (including denatured spirits) from processing or storage to production on the same bonded premises for redistillation, in accordance with the provisions of §§ 19.322 and 19.323, shall prepare Form 5110.26 to cover such removal. Each lot of spirits (except bottled spirits) shall be gauged by the proprietor. Such gauge shall be recorded on Form 5110.26. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, such loss shall be reported to the area supervisor and the package or case shall not be dumped until released by him; Form 5110.26 shall be amended when necessary.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Withdrawals on Determination and Payment of Tax

##### § 19.512 Determination and payment of tax.

(a) *General.* Distilled spirits may be withdrawn from bonded premises on determination of tax in approved containers, or, to the contiguous premises of a manufacturer of nonbeverage products, by pipeline.

(b) *Record of tax determination.* A serially numbered invoice or shipping document, signed or initialed by an agent or employee of the proprietor, shall constitute the record of tax determination. For purposes of this part, the total proof gallons determined from each numbered invoice or shipping document shall constitute a single withdrawal and is the basis for computation of the tax. All tax which is to be prepaid or deferred shall be determined prior to the physical removal of the spirits from bonded premises.

(c) *Payment of tax.* The tax on the spirits shall be paid on Form 5110.32 before removal of the spirits from bonded premises unless the proprietor has furnished a withdrawal or unit bond to secure payment of the tax. Where such bond is in less than the maximum penal sum, the proprietor shall prepay the tax for any withdrawal which would cause the outstanding liability for tax to exceed the limits of coverage under the bond. Where the payment of tax is to be deferred, the proprietor shall keep the daily summary record of tax determinations as required by § 19.518.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285, (26 U.S.C. 5213))

##### § 19.513 Bond account.

Where the proprietor has furnished a withdrawal or unit bond to cover the tax on spirits withdrawn on determination of tax, and such bond is in less than the maximum penal sum, he shall maintain an account of his bond and he shall charge the bond with the amount of liability incurred on each withdrawal on determination of tax. He shall credit the bond on payment of the amount of tax required to be remitted with a return and by authorized credits taken on a return. Where a bond in less than the maximum penal sum has been allocated among two or more plants, as provided in §§ 19.243 and 19.244, the proprietor shall maintain an account at each plant of that part of the penal sum allocated to that plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.514 Proprietor's statement.

When tax is to be paid pursuant to a return on Form 5110.35, the proprietor

shall execute on all copies of the daily summary record of tax determinations, as prescribed in § 19.518, a statement in which he (a) agrees to pay, in accordance with law and this part, the amount of tax shown on such summary record, or to be shown thereon, and (b) certifies, under the penalties of perjury, that he is not in default in any payment of tax chargeable against his withdrawal or unit bond, as applicable, and that the penal sum of such bond (1) is in the maximum penal sum or (2) is sufficient to cover such amount in addition to all other amounts chargeable against such bond. When tax is to be prepaid on return Form 5110.32, the proprietor shall note the serial number of the return and the date and time such return was filed on the individual record of tax determination. The full amount of tax determined shall be included for payment in a tax return on Form 5110.32 or Form 5110.35 filed as provided in §§ 19.522 and 19.523. Nothing in this part shall be construed as precluding an adjustment after tax payment, pursuant to law and regulations, of any overpayment or underpayment of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.515 Gauge for tax determination.

(a) *Packages.* When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of an individual package gauge, each package shall be gauged unless the tax is to be determined on the original gauge. When the packages are to be withdrawn, the proprietor shall prepare Form 5110.45 in such a manner as to reflect the identification and gauge of each package. On completion of gauge (if any) and computation of tax, the Form 5110.45 shall be attached to the appropriate record of tax determination, and a copy of each shall be furnished to the consignee.

(b) *Tanks.* Spirits in tanks which are to be withdrawn on determination of tax shall be gauged (by weighing and proofing) as prescribed in § 19.92, and the elements of the gauge shall be recorded on the record of tax determination or on a separate record of the gauge for attachment to the record of tax determination.

(c) *Cases.* Cases of distilled spirits to be withdrawn from bonded premises shall be tax determined on the basis of the contents thereof. The proof gallonage contained in cases shall be determined in accordance with Part 13 of this chapter and the method prescribed in § 19.742. The record of tax determination shall contain all data

necessary to calculate the amount of spirits tax determined.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5204); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

##### § 19.517 Imported spirits.

When spirits which have been imported for non-beverage purposes and transferred to bonded premises pursuant to 26 U.S.C. 5232 are withdrawn for beverage purposes, there shall be paid, in addition to the internal revenue tax imposed by 26 U.S.C. 5001, a tax equal to the duty which would have been paid had the spirits been imported for beverage purposes, less the duty already paid thereon. The additional tax shall be referred to as "additional tax—less duty", and shall be paid at the time and in the manner that the basic tax is paid. The total quantity in proof gallons withdrawn shall be the basis of computing the tax at the rates indicated. The amount of the "additional tax—less duty" shall be stated separately and identified as such on the tax return.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

##### § 19.518 Daily summary record of tax determinations.

Every proprietor of a distilled spirits plant who withdraws distilled spirits on determination, but before payment, of tax shall maintain a daily summary record of tax determinations. The summary record shall show, for each day on which tax determinations occur, (a) the serial number of each record of tax determination, (b) the total proof gallons on which tax was determined, and (c) the total tax. The proprietor shall execute on the daily summary record the statement required by § 19.514. The daily summary record of tax determinations shall be maintained in accordance with Subpart W of this part.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

##### § 19.519 Methods of tax payment.

The tax on spirits shall be paid pursuant to a return on Form 5110.32 or on Form 5110.35, filed as provided in §§ 19.523 and 19.524. Remittance for the tax in full shall accompany the return and may be in any form which the district director is authorized to accept under the provisions of 26 CFR 301.6311-1 and which is acceptable to him. However, where a check or money order tendered in payment for taxes is not paid on presentment, or where the taxpayer is otherwise in default in payment, any remittance made during the period of such default, and until the regional regulatory administrator finds that the revenue will not be jeopardized

by the acceptance of a personal check (if acceptable to the district director), shall be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State, territory, or possession of the United States, or a money order, as provided in 26 CFR 301.6311-1. Checks and money orders shall be made payable to "Internal Revenue Service".

(Act of August 16, 1954, Ch. 736, 68A Stat. 777, as amended (26 U.S.C. 6311); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

##### § 19.520 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each return on Form 5110.32 or Form 5110.35 filed pursuant to the provisions of this part. Failure of the taxpayer to include his employer identification number on Form 5110.32 or Form 5110.35 may result in assertion and collection of the penalty specified in 26 CFR 301.6676-1.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

##### § 19.521 Application for employer identification number.

(a) An employer identification number will be assigned pursuant to application on Form SS-4 filed by the taxpayer. Form SS-4 may be obtained from the director of the service center or from the district director.

(b) An application on Form SS-4 for an employer identification number shall be made by every taxpayer who files a return on Form 5110.32 or Form 5110.35, but who prior to the filing of his first return on Form 5110.32 or Form 5110.35 has neither secured an employer identification number nor made application therefor. Such application on Form SS-4 shall be filed on or before the seventh day after the date on which such first return on Form 5110.32 or Form 5110.35 is filed.

(c) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a tax return under the provisions of this part.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109))

##### § 19.522 Taxes to be collected by returns.

(a) *Semimonthly periods.* The tax on spirits to be withdrawn from bond for deferred payment of tax shall be paid pursuant to a return on Form 5110.35. The periods to be covered by returns on

Form 5110.35 shall be semimonthly; such periods to run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month. A return, Form 5110.35, shall be executed and filed to cover each return period notwithstanding that no tax is due for payment for such period. The proprietor of each bonded premises shall include, for payment, on his return on Form 5110.35 the full amount of distilled spirits tax determined in respect of all spirits released for withdrawal from the bonded premises on determination of tax during the period covered by the return (except spirits on which tax has been prepaid).

(b) *Conditions under which deferral is denied.* Notwithstanding the posting of a withdrawal or unit bond by the proprietor, the tax shall be prepaid as provided in paragraph (c) of this section—

(1) Where a proprietor has defaulted in any payment of tax under this section, during the period of such default and until the regional regulatory administrator finds that the revenue will not be jeopardized by deferral; and

(2) Where a proprietor, who, after having been notified of his deficiency by the regional regulatory administrator (i) fails to maintain records required by this part to substantiate the correctness of his tax returns or (ii) otherwise fails to comply with any provisions of this part, is so notified by the regional regulatory administrator.

(c) *Prepaid taxes.* The tax on distilled spirits shall be paid pursuant to a return on Form 5110.32 in all cases where the tax is required to be paid before the spirits are withdrawn from bond. A single return on Form 5110.32 may cover one or more transactions.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1395, as amended (26 U.S.C. 5061, 5555))

##### § 19.523 Time for filing returns.

(a) *Payment pursuant to semimonthly return, Form 5110.35.* Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, he shall file a tax return covering such spirits on Form 5110.35, with remittance, as follows:

(1) If the return period is in calendar year 1980, not later than the last day of the first succeeding return period plus five days;

(2) If the return period is in calendar year 1981, not later than the last day of the first succeeding return period plus ten days;

(3) If the return period is in calendar year 1982 or in any year thereafter, not later than the last day of the second



succeeding return period. Where the due date for filing a return falls on a Saturday, Sunday, or legal holiday, the time for filing is extended to the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(b) *Payment pursuant to prepayment return, Form 5110.32.* If the proprietor of a distilled spirits plant desires to withdraw spirits from bonded premises on determination of tax and does not have on file an approved withdrawal or unit bond of sufficient penal sum to cover the withdrawal, if there is default by him in any payment of tax under this part, or the proprietor is notified by the regional regulatory administrator as provided in § 19.522(b)(2), the proprietor shall not remove the spirits from the bonded premises until the tax thereon has been paid. To pay the tax, the proprietor of the bonded premises shall file a prepayment return, Form 5110.32, with remittance, before removal of the spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

#### § 19.524 Manner of filing returns.

(a) *General.* All returns on Form 5110.32 and Form 5110.35 with remittance shall be filed with the district director or an ATF officer designated by the regional regulatory administrator.

(b) *Filing with district director.* Where the remittance is in cash, the return and remittance shall be filed directly with the district director. Where the return and remittance are delivered by U.S. mail to the office of the district director, the date of the official postmark of the cover in which the return and remittance were mailed shall be deemed to be the date of filing. However, if the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the proprietor. If the return is sent by registered mail or by certified mail, the date of registry postmark or the sender's receipt, as applicable, shall be treated as the filing date of the return and remittance.

(c) *Filing with an ATF officer.* Where the return and remittance are to be filed with a designated ATF officer, the proprietor shall file the return and remittance no later than 2 p.m. on the date the return is required to be filed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

#### § 19.525 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been paid or determined. A record of tax determination shall be prepared

for each removal of spirits as provided in § 19.512. The proprietor shall apply distilled spirits stamps to the packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart S of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be promptly removed from the bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

#### Withdrawal of Spirits Without Payment of Tax

##### § 19.531 Authorized withdrawals without payment of tax.

Spirits may be withdrawn from bonded premises, without payment of tax for:

- Export, as authorized under 26 U.S.C. 5214(a)(4);
- Transfer to customs manufacturing bonded warehouses, as authorized under 19 U.S.C. 1311;
- Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c;
- Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309;
- Transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9);
- Use in wine production, as authorized under 26 U.S.C. 5373;
- Transfer to any university, college of learning, or institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a); or
- Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10). The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in Part 252 of this chapter.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); Sec. 201 Pub. L. 85-859, 72 Stat. 1362, as amended, 1375, as amended, 1382, as amended (26 U.S.C. 5214, 5312, 5373); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

##### § 19.532 Withdrawals of spirits for use in wine production.

Wine spirits withdrawn without payment of tax for use in wine production may be removed, in accordance with Part 240 of this chapter, to a bonded wine cellar.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1382, as amended (26 U.S.C. 5214, 5373))

##### § 19.533 Withdrawal of spirits without payment of tax for experimental or research use.

Any scientific university, college of learning, or institution of scientific research (which has qualified under the provisions of § 19.72 to withdraw spirits from a bonded premises), desiring to withdraw a specific lot of spirits for experimental or research use, shall file a letterhead application with the regional regulatory administrator of the region in which the applicant's premises are located.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1975, as amended (26 U.S.C. 5312))

#### Withdrawal of Spirits Free of Tax

##### § 19.536 Authorized withdrawals free of tax.

Pursuant to the regulations in this chapter, spirits may be withdrawn from bonded premises free of tax—

- On receipt of a valid permit, issued under Part 213 of this chapter, to procure spirits for nonbeverage purposes and not for resale or use in the manufacture of any product for sale, as provided in 26 U.S.C. 5214(a)(3);
- On receipt of a valid permit, issued under Part 213 of this chapter, to procure spirits by and for the use of the United States or any governmental agency, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes as provided in 26 U.S.C. 5214(a)(2);
- On receipt of a valid permit, issued under this part, to procure spirits by and for the use of the United States, under the provisions of 26 U.S.C. 7510, for purposes other than as provided in paragraph (b) of this section and 26 U.S.C. 5214(a)(2);
- After being specially denatured—

(1) On receipt of a valid permit to procure such spirits, issued under Part 211 of this chapter;

(2) For export;

(3) After being completely denatured, for any lawful purpose;

(4) When contained in an article.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

##### § 19.537 Withdrawal of spirits free of tax.

Spirits withdrawn free of tax under § 19.536 (a), (b), and (c) shall be withdrawn in approved containers and shipped to the consignee designated in the permit. Unless the spirits are in cases or are to be withdrawn on the original gauge, the proprietor shall gauge each container. For each shipment, the proprietor shall prepare Form 1473 and distribute the form in accordance with the instructions thereon. Bulk

conveyances used to transport spirits withdrawn free of tax under this section shall be sealed. (See § 19.96.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

##### § 19.538 Permits for withdrawal of spirits by the United States.

Where the United States or a governmental agency thereof intends to procure spirits free of tax for nonbeverage purposes, application for a permit shall be filed on Form 1444 under the provisions of Part 213 of this chapter.

Where the United States or a governmental agency thereof intends to procure spirits free of tax for other purposes, application for a permit shall be filed on Form 1444 under the provisions of this part. The application shall be signed by the head of the department, independent bureau, or agency to which such spirits are to be shipped, or by some person duly authorized by such head of a department, independent bureau, or agency, and forwarded to the Director.

Evidence of authority to sign for the head of a department, independent bureau, or agency shall be furnished to the Director. If the Director finds the application in order, he will issue a permit to the applicant. At the time the spirits are to be procured, the permit on Form 1444 and a purchase order shall be submitted by the governmental agency to the proprietor. At the time of shipment, the consignor shall return the permit to the governmental agency unless he has been authorized by such governmental agency to retain the permit for the purpose of making future shipments. On receipt of a shipment of spirits, the representative of the governmental agency receiving the same shall execute the certificate of receipt on both copies of Form 1473 received from the plant proprietor, after noting thereon any loss or deficiency in the shipment, and shall forward one copy to the regional regulatory administrator of the region in which the plant proprietor is located and shall retain the other copy for his files. Every appropriate precaution shall be taken by the governmental agency to ensure that the procured spirits will be used only for governmental purposes. When no more spirits will be procured under a permit, the governmental agency shall return it to the Director for cancellation.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

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returned to a plant on approval of the regional regulatory administrator of the region in which the plant is located, or shall be disposed of otherwise as may be authorized by the Director. In no case may such spirits be disposed of to the general public, or otherwise, than as provided in this section.

(Act of August 16, 1954, Ch. 736, 68A Stat. 900 (26 U.S.C. 7510))

##### § 19.540 Removal of denatured spirits and articles.

(a) *Specially denatured spirits.*

Specially denatured spirits withdrawn free of tax under § 19.536(d) shall be shipped in approved containers to the consignee designated in the permit. If such spirits are for export or for transfer to a foreign-trade zone, they shall be withdrawn under the applicable provisions of Part 252 of this chapter. If such spirits are for shipment to a qualified user or a bonded dealer, the proprietor shall prepare a notice of shipment on Form 1473 and distribute the copies of the form in accordance with the instructions thereon. Bulk conveyances used to transport specially denatured spirits shall be sealed in accordance with the provisions of § 19.96.

(b) *Completely denatured alcohol.* No permit, application, or notice is required for removal of completely denatured alcohol from bonded premises, except that completely denatured alcohol may be transferred from bonded premises by pipeline only when the consignee has obtained authority to receive completely denatured alcohol by such means pursuant to the provisions of Part 211 of this chapter. The proprietor is required to keep a record of such removals, as prescribed in Subpart W of this part.

(c) *Samples of denatured spirits.* The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business. The proprietor may furnish samples of specially denatured spirits:

- To dealers in, and users of, specially denatured spirits in advance of sales;
- To users and to applicants or prospective applicants for permits to use specially denatured spirits, for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of 1 liter, shall be furnished only after a permit on Form 1512 is issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of 1 liter. Form 1473 shall show the permit number of the Form 1512. The proprietor shall retain the Form 1512 on file as a part of the record transaction.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

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(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

(d) *Labels for samples of denatured spirits.* Each sample of denatured spirits withdrawn under the provisions of paragraph (c) of this section shall have a label affixed showing the following information: (1) The word "Sample", and the words "Specially Denatured Alcohol", "Specially Denatured Spirits", or "Completely Denatured Alcohol", whichever is applicable; (2) the name, address, and plant number of the proprietor; (3) the formula number; and (4) the name and address of the consignee.

(e) *Articles.* Removal of articles from bonded premises shall be in accordance with the provisions of Part 211 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

##### § 19.541 Reconsignment in transit.

Where, prior to or on arrival at the consignee's premises, spirits (including specially denatured spirits) withdrawn free of tax under § 19.536 are not accepted by the consignee or by a carrier, they may be reconsigning by the proprietor making the shipment on notification to the proprietor's regional regulatory administrator of the reconsignment. Such reconsignment may be made to himself or to another proprietor for return to bonded premises under the provisions of § 19.705 or to another person holding an industrial use permit authorizing receipt or use of such spirits or specially denatured spirits. In case of reconsignment to bonded premises, the provisions of § 19.705, relating to consents of surety in respect of return of spirits (including denatured spirits) withdrawn free of tax shall be applicable. Notice of cancellation of Form 1473 covering the shipment to the original consignee shall be given by the proprietor to each person receiving a copy of the form. Where reconsignment is to another person as provided in this section, a new Form 1473 shall be prepared and the word "Reconsignment" placed thereon. The entry on the permit covering the original withdrawal shall be voided.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### Withdrawals Authorized by Puerto Rico

##### § 19.546 Withdrawals authorized by Puerto Rico.

Distilled spirits (including denatured spirits) may be withdrawn from the bonded premises of a distilled spirits plant in Puerto Rico pursuant to authorization issued under the laws of the Commonwealth of Puerto Rico; such spirits so withdrawn and products containing such spirits so withdrawn,



may not be brought into the United States free of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5314))

#### Subpart P—Losses and Shortages

##### § 19.561 Allowable losses.

Tax shall not be collected (or, if paid, such tax shall be refunded) with respect to spirits (including denatured spirits) or wines lost or destroyed while in bond, except that such tax shall be collected in the case of—

(a) Theft, unless the regional regulatory administrator finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. The abatement, remission, credit, or refund of taxes on spirits (including denatured spirits) or wines, lost by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such tax.

(b) Voluntary destruction, unless such destruction is carried out as provided in Subpart T of this part.

(c) Unexplained shortage of bottled distilled spirits.

In every case where it appears that the loss was by theft, the burden shall be on the proprietor of the distilled spirits plant or other person responsible for the distilled spirits tax or wine tax to establish to the satisfaction of the regional regulatory administrator that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. Claims in respect of losses allowable under this section shall be filed in accordance with the applicable provisions of Subpart C of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1361, as amended (26 U.S.C. 5008, 5370))

##### § 19.562 Losses of spirits from packages.

(a) *Original quantity.* Where there is evidence satisfactory to the regional regulatory administrator that any loss of spirits (including denatured spirits) from any package deposited on bonded premises is due to theft (except where the regional regulatory administrator has made the finding provided for in § 19.561(a)) or is due to unauthorized voluntary destruction, the regional regulatory administrator may require the immediate taxpayment of the quantity of spirits lost, except where the extent of any loss from causes other than theft or unauthorized voluntary destruction can

be established by the proprietor to the satisfaction of the regional regulatory administrator, the regional regulatory administrator may credit the tax on the loss so established against the tax on the original quantity.

(b) *Alternative method.* Where there is evidence satisfactory to the regional regulatory administrator that there has been access, other than as authorized by law, to the contents of packages entered for deposit on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the regional regulatory administrator may (in lieu of the procedure prescribed in paragraph (a) of this section) assess an amount equal to the tax on 5 proof gallons of spirits on each of the total number of such packages as determined by him.

(c) *Applicability to packages filled after entry.* The provisions of this section apply to spirits (including denatured spirits) which are filled into casks or packages as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from tanks, mingling, or otherwise. The quantity filled into those casks or packages is considered to be the original quantity for the purpose of this section in the case of loss from those casks or packages.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006))

##### § 19.563 Losses in bond.

(a) *General.* Where a bulk container of spirits (including denatured spirits) or wines in bond sustains a loss in excess of normal storage or transit losses, or as a result of theft or unauthorized voluntary destruction, the loss shall be determined at the time of discovery. When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss shall be taxpaid or reported promptly by the proprietor to the area supervisor. Proprietors shall record on deposit and transfer forms for each container sustaining such a loss, the container identification number, the quantity lost, and the apparent cause of the loss. If the proprietor pays the tax as provided in § 19.562, such fact, including the details of the method used to determine the tax to be paid, shall be shown on the record of deposit, and the tax shall be included on the next tax return filed. Unusual losses from obvious cause other than theft or unauthorized voluntary destruction occurring or discovered at the time of withdrawal from bond or transfer in

bond shall be noted on the appropriate withdrawal or transfer form in the manner prescribed in this paragraph. When a loss appears to be due to theft or unauthorized voluntary destruction, the container shall be segregated (if applicable) and the area supervisor shall be notified, unless the proprietor acknowledges liability and elects to pay the tax on the quantity lost. Where it is found that the contents of a container have been tampered with, or where a material deficiency is found without evidence of loss by leakage or casualty, or where deterioration in proof not accountable by variation in gauge is disclosed, the container shall be segregated (if applicable) and the area supervisor shall be notified, unless the proprietor acknowledges liability and elects to pay the tax on the quantity lost. In any case in which spirits (including denatured spirits) are lost or destroyed in bond, whether by theft or otherwise, the regional regulatory administrator may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with the applicable provisions of Subpart C of this part. Losses of spirits (including denatured spirits) sustained from the tanks and bulk conveyances in bonded warehouses shall be determined by the proprietor each time a tank or bulk conveyance is emptied and on the basis of the physical inventories required by §§ 19.329, 19.353, 19.421, and 19.463. All losses of spirits, whether by theft, voluntary destruction, or otherwise, shall be recorded on the date of discovery in the records prescribed by § 19.781. If at any time any package recorded as deposited on bonded premises cannot be located or otherwise lawfully accounted for, such fact shall be immediately reported to the area supervisor, and the proprietor shall either pay the tax or file a claim with respect thereto under the provisions of § 19.41.

(b) *Storage account loss limitation.* When the quantity lost from all the storage tanks and bulk conveyances exceeds 1 percent of the total quantity contained in the tanks and bulk conveyances during the calendar quarter, or where any loss from storage tanks or bulk conveyances is due to illegal withdrawal, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 19.41 and is allowed by the regional regulatory administrator.

(c) *Bottled distilled spirits.* In any case where bottled distilled spirits are lost or destroyed in bond, whether by theft or otherwise, the regional regulatory administrator may require the

proprietor to file a claim for relief from the tax in accordance with the applicable provisions of Subpart C of this part. All losses of spirits, whether by theft, voluntary destruction, or otherwise, shall be recorded on the date of discovery, in the records prescribed by § 19.416.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008, 5201))

##### § 19.564 Shortages of bottled distilled spirits.

Any unexplained shortage of bottled distilled spirits shall be taxpaid on Form 5110.32 or Form 5110.35. Unexplained shortages shall be determined by comparing the bottled spirits recorded to be on hand (book figure) with the results of any quantitative determination of any part of the bottled spirits found to be on hand by actual count (physical inventory). When the record balance of spirits is greater than the actual count, the difference shall be taken as an unexplained shortage. Whether the record balance is larger or smaller than the actual count, any overage or shortage shall be recorded in the records prescribed in § 19.769, and the record balance shall be adjusted accordingly.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

##### § 19.565 Losses after tax determination.

In the case of spirits lost after determination of tax and before completion of physical removal from bonded premises, the tax thereon may, pursuant to claim filed in accordance with Subpart C, be abated, remitted, or, without interest, refunded or credited to the proprietor of the bonded premises where the loss occurred, provided the tax would not, by reason of the provisions of 26 U.S.C. 5008(a)(1) have been collectible if such loss had occurred on bonded premises before determination of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

##### § 19.566 Losses of wine in bond.

In the case of wine lost or destroyed in bond other than by theft, whether disclosed by examination of records, inventories, or otherwise, the regional regulatory administrator may require the proprietor to file a claim for remission of tax in accordance with the applicable provisions of Subpart C of this part. In any case where wine is lost by theft and the proprietor has not paid the tax, a claim for remission of tax shall be filed in accordance with the provisions of Subpart C of this part. All losses shall be recorded in the records prescribed by Subpart W of this part on the date of discovery of the loss.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended, 1332, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5041, 5043, 5362, 5370))

#### Subpart Q—Containers and Marks and Brands

##### Containers

##### § 19.581 General.

Proprietors shall use for any purpose of containing, storing, transferring, conveying, removing, or withdrawing spirits or denatured spirits under this part only containers which are authorized by, or under the provisions of this part for such purpose, and a container so authorized will be deemed to be an approved container for such purpose. Except where stated otherwise, the provisions of Part 211 of this chapter apply to containers used for containing, storing and shipping of articles, and the provisions of Part 240 of this chapter apply to containers used for storage or transfer of wine. In addition to the types of containers specifically authorized by this part for a particular purpose, a container of another type may be authorized for that purpose by the Director on a finding by him that the use of such container will afford protection to the revenue equal to or greater than that afforded by the containers specifically authorized by this part, and that the use will not cause administrative difficulty. If another container is so authorized by the Director, he shall prescribe the detail and manner in which such container shall be constructed, protected, marked, and branded, consistent with the provisions of this part and the extent of such use. Similarly, where a container authorized for a particular purpose is required by this subpart to be made of specified materials, the Director may authorize the use of containers made of other materials which he has found to be suitable for the intended purpose. This subpart does not regulate or prohibit the use on plant premises of any container for purposes other than containing alcoholic substances.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended, 1374, as amended- (26 U.S.C. 5206, -5212, 5214, 5301); Sec. 805, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5002); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

##### § 19.582 Containers of 1 gallon (3.785 liters) or less.

The provisions of Subpart L of this part govern the containers to be used in bottling alcohol under 26 U.S.C. 5235. The provisions of Subpart R of this part govern the containers to be used in bottling spirits for domestic use.

Denatured spirits may be filled on bonded premises into metal or glass containers of a capacity of 1 gallon (3.785 liters) or less. The provisions of Part 211 of this chapter apply to containers to be used for packaging articles. Liquor bottles shall not be used for bottling denatured spirits or articles. Spirits in bottles of a capacity of 1 gallon (3.785 liters) or less, except anhydrous spirits and spirits to be withdrawn from bond free of tax, are deemed to be for nonindustrial use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended- 1374, as amended, (26 U.S.C. 5206, 5301); Sec. 805, Pub. L. 96-39, 93 Stat. 278 (26 U.S.C. 5002))

##### § 19.583 Cases.

Spirits or denatured spirits which have been filled in containers of 1 gallon (3.785 liters) or less, in accordance with the provisions of § 19.582, shall be placed in cases so constructed as to afford reasonable protection against breakage or theft. Pursuant to the provisions of this part, cases of spirits, including denatured spirits may be stored on bonded premises or withdrawn from bond.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.584 Containers holding from 1 gallon to 10 gallons.

(a) *Spirits for industrial use.* Spirits in bond, including denatured spirits, for industrial use, may be filled into glass containers of a capacity greater than 1 gallon but not greater than 10 gallons, and metal containers of a capacity of 1 gallon but not greater than 10 gallons.

(b) *Spirits for nonindustrial use.* Spirits in bond, for nonindustrial use, may be filled into metal containers holding 10 gallons and, if for export, such spirits may be filled into metal containers holding 5 gallons. Spirits may be filled into glass containers of a capacity greater than 1 gallon but not greater than 5 gallons and into metal containers of a capacity greater than 1 gallon but not greater than 10 gallons during bottling operations. Pursuant to the provisions of this part, and of Part 5 of this chapter, containers filled in bond under this section may be stored on bonded premises, transferred in bond (except containers holding 1 gallon or less may not be transferred in bond), or withdrawn from bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206); Sec. 805, Pub. L. 96-39, 93 Stat. 278 (26 U.S.C. 5002))

##### § 19.585 Encased containers.

Unlabeled containers of denatured spirits and spirits of 190 degrees of proof or more for industrial use filled in



accordance with the provisions of § 19.584 may be completely encased in wood, fiberboard, or similar material in such a manner that the surface (including opening) of the actual container is not exposed. Required marks, brands, and stamps (if any) shall be applied to an exposed surface of the case, and the case shall be so constructed that the portion containing such marks, brands, and stamps will remain attached to the inner container until all of the contents have been removed therefrom. A statement reading "Do Not Remove Inner Container Until Emptied" or of similar import, shall be placed on the portion of the case bearing the marks, brands, and stamps.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.586 Packages.

Packages of more than 10 gallons capacity may be used on bonded premises for original entry of spirits, and for packaging from tanks, storing, transferring in bond, and withdrawing from bonded premises of spirits and denatured spirits. Metal drums shall be so constructed that all openings therein may be sealed and other packages shall be constructed so as to be capable of secure closure.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.587 Bulk conveyances.

Bulk conveyances which conform to the requirements of § 19.590 may be used on bonded premises for original entry of spirits, and for filling from tanks, storing, transferring in bond, and withdrawing from bond of taxpaid spirits and of denatured spirits. Spirits may be withdrawn free of tax, pursuant to the provisions of this part, in a bulk conveyance only for use of the United States, or if the Director has authorized the proprietor, as provided in § 19.581, to so withdraw such spirits to a specified consignee. Spirits may be withdrawn without payment of tax, pursuant to the provisions of this part, in bulk conveyances for the purposes provided in § 19.531(a), (b), (c), (e), and (f).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.588 Tanks.

Tanks which conform to the requirements of § 19.273 may be used on bonded premises as containers for distilled spirits, denatured spirits, articles, and wines.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.589 Pipelines.

Pursuant to the provisions of this part, pipelines which conform to the requirements of § 19.274 may be used for (a) the conveyance on bonded premises of spirits, denatured spirits, articles, and wines, and (b) the conveyance to and from bonded premises of spirits, denatured spirits, articles, and wines, where the premises from or to which conveyed is in the immediate vicinity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.590 Construction of bulk conveyances.

(a) *Construction.* All bulk conveyances authorized by this part shall conform to the following:

(1) If the conveyance consists of two or more compartments, each shall be so constructed or arranged that emptying of any compartment will not afford access to the contents of any other compartment.

(2) The conveyance (or in the case of compartmented conveyances, each compartment) shall be so arranged that it can be completely drained.

(3) Each tank car or tank truck shall have permanently and legibly marked thereon its number, capacity in wine gallons, and the name or symbol of its owner.

(4) If the conveyance consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities shall be provided on tank trucks and tank cars to permit ready examination of manholes or other openings.

(6) A route board, or other suitable device, for carrying required marks, brands, and stamps shall be provided on each bulk conveyance.

(7) Calibrated charts, prepared or certified by competent and recognized authorities or engineers, showing the capacity of each compartment in wine gallons for each inch of depth, shall be carried with each tank truck, tank ship, or barge.

(b) *Proprietor's responsibility.* Before filling any bulk conveyance, the proprietor shall examine it to ascertain that it meets the requirements of this section and is otherwise suitable for receiving the spirits, denatured spirits, or wines, and he shall refrain from, or discontinue, using any such conveyance found by him or by an ATF officer to be unsuitable.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended (26 U.S.C. 5206, 5212, 5214); Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

#### § 19.591 Restrictions on disposition of bulk spirits.

(a) *For nonindustrial use.* Spirits for nonindustrial use may be sold or disposed of in containers holding more than 1 wine gallon only to the persons and for the purposes set forth in Part 3 of this chapter.

(b) *For industrial use.* Shipment or delivery of spirits (other than alcohol or neutral spirits) withdrawn from bond in containers holding more than 1 wine gallon for industrial use shall, as provided in Part 3 of this chapter, be made directly to the user of the spirits.

(Sec. 201, Pub. L. 85-895, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### Marks and Brands

##### § 19.592 General.

Proprietors shall mark, brand, identify, label, and stamp all containers of spirits (including denatured spirits) as provided by this part. Containers of wine shall be marked and branded in accordance with Part 240 of this chapter. Containers of articles shall be marked and branded in accordance with Part 211 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1360, as amended (26 U.S.C. 5204, 5206))

##### § 19.593 Package identification numbers.

(a) *General.* Packages of spirits filled during production or storage operations after December 31, 1979, shall be marked with a package identification number, consisting of a lot identification and serial number as follows:

(1) A lot identification representing the date the package is filled, and consisting in the order shown, of—

(i) The last two digits of the calendar year;

(ii) An alphabetical designation from "A" through "L", representing January through December, in that order;

(iii) The digits corresponding to the day of the month; and

(iv) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix, in alphabetical order, with "A" representing the second lot, "B" representing the third lot, and so forth. The first three lots filled into packages on January 2, 1980, would be identified as "80A02", "80A02A", "80A02B".

(2) A serial number for each package of spirits within a lot consecutively numbered by the proprietor commencing with "1" for each lot and appearing adjacent to the lot identification as "80A02-1" or "80A02A-25".

(b) *Packages constituting a lot.* Packages of spirits filled during any one day shall be given the same lot

identification subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantities by weight or other method provided in § 19.319;

(2) They are filled with spirits of the same kind and same proof;

(3) They are filled with spirits which are mingled or blended in accordance with § 19.346; and

(4) They are filled with imported spirits, Puerto Rican spirits, or Virgin Islands spirits, as applicable.

Any remnant package shall itself constitute a lot.

(c) *Waiver of requirement for serial numbers.* Notwithstanding the provisions of paragraph (a) of this section, the regional regulatory administrator may, upon application from the proprietor, waive the requirement for assigning serial numbers to packages of spirits at the time of filling or receipt on bonded premises if he finds that the revenue will not be jeopardized, and no administrative difficulties will be caused by such waiver. When such waiver has been granted, the lot identification shall constitute the package identification number. When it becomes necessary, as a result of a transaction (such as the transfer in bond of the packages in an unsealed conveyance, withdrawal of the packages from bond on the basis of an individual package gauge, etc.) occurring after deposit of such unnumbered packages, the proprietor who is conducting the transaction shall consecutively number each package involved in the transaction and such number, in conjunction with the lot identification, shall thereafter constitute the package identification number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.594 Numbering of packages and cases.

Packages of spirits filled during processing operations, including packages of denatured spirits, and cases containing bottles or other containers of spirits (including denatured spirits) shall, when filled, be consecutively numbered in a separate series by the proprietor commencing with "1" in each series of serial numbers, except that any series of such numbers in use may be continued. When the numbering in any series reaches "1,000,000", the proprietor may recommence the series. However, a new series for packages of spirits filled during processing operations, including packages of denatured spirits, shall be given an alphabetical prefix or suffix.

For additional identification, separate

series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written notice to the regional regulatory administrator. Remnant cases shall be given the serial number of the last full case followed by the letter R. Where there is a change in the individual, firm, corporate name, or trade name, all series in use at that time shall be continued. However, for a change in proprietorship, a new series shall be commenced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.595 Specifications for marks and brands.

The proprietor shall place the prescribed marks and brands on cases and encased containers of spirits by printing, stenciling, or stamping and shall place the prescribed marks and brands on packages of spirits by burning, cutting, printing, or stenciling; the prescribed marks and brands may also be made by any equally legible and durable method approved by the regional regulatory administrator. The marks required to be placed on packages by this subpart shall be placed on one head, which shall be called the Government head, and the marks for other containers, and for cases, on one side, which shall be called the Government side. However, the proprietor may, on application, to, and approval by, the regional regulatory administrator, locate the required marks on a container at a place other than that prescribed by this section. The letters and figures shall be large enough to be easily read and, when printed, stamped, or stenciled, shall be in permanent ink and in a color distinctly in contrast to that of the background. The prescribed marks on packages, cases, and encased containers of specially denatured spirits may be placed thereon in the manner provided in this section, or may be placed thereon by means of labels if the labels are clearly legible and securely affixed to the package, case, or container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.596 Marks on packages of spirits filled on bonded premises.

(a) *Packages filled in production or storage.* Except as otherwise provided in this part packages of spirits filled in production or storage shall be marked with—

(1) The name of the producer, or his trade name as provided in paragraph (c) of this section;

(2) The plant number of the producer, such as "DSP-KY-708";

(3) The kind of spirits or, in the case of distillates removed under § 19.325, the kind of distillates such as "Grape distillate", "Peach distillate", etc;

(4) The package identification number;

(5) The date of fill;

(6) "BSA" or "OC" when spirits are treated with caramel or oak chips, as the case may be;

(7) The rated capacity of the package in gallons shown as "RC-G"; and

(8) If packages of spirits of 190 degrees or more of proof are filled by other than the producer, the name (or trade name) and plant number of the packaging proprietor shall be substituted for that of the producer.

(b) *Packages filled in bond during processing.* Except as otherwise provided in this part, packages of spirits filled on bonded premises during processing shall be marked with—

(1) The name of the processor, or his trade name as provided in paragraph (c) of this section;

(2) The plant number of the processor, such as "DSP-KY-708";

(3) The kind of spirits (in the case of an intermediate, the product name shown on Form 5110.38);

(4) The serial number, as applicable;

(5) The date of filling; and

(6) If manufactured under an approved formula, the serial number of the formula.

(c) *Real or trade names.* The producer's real name or any trade name authorized (as provided in § 19.165), at the time of production, may be placed on any package filled at the time of production gauge, or at the time of original packaging of the spirits in wood when, as provided in § 19.320, the spirits were not filled into wooden packages at the time of production gauge. When spirits have been mingled under § 19.346, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits. However, if the proprietor was the actual producer of the spirits, he may in any case use his real name. The processor's real name or any trade name authorized (as provided in § 19.165) may be placed on any package filled with spirits during processing operations.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

##### § 19.597 Kind of spirits.

(a) *Designation.* The designations as to kind of spirits required by § 19.596 shall be in accordance with the classes and types of spirits set out in Part 5 of this chapter, except that:



(1) Spirits distilled at more than 160 degrees of proof, which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, and which are substantially neutral in character, may be designated as "Alcohol". When alcohol is withdrawn on determination of tax, the designation shall consist of the word "Alcohol" preceded or followed by a word or phrase descriptive of the material from which the alcohol was produced.

(2) The designations for vodka, neutral spirits, or gin shall include a word or phrase descriptive of the material from which the spirits so designated were produced.

(3) Spirits distilled at less than 190 degrees of proof which lack the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin, may be designated "Spirits", preceded or followed by a word or phrase descriptive of the material from which produced. However, spirits distilled on or after July 1, 1972, distilled as provided in this paragraph may not be designated "Spirits grain" or "Grain spirits".

(4) Spirits distilled from fruit at or above 190 degrees of proof, if intended for use in wine production, shall be designated "Neutral Spirits—Fruit", preceded or followed by the name of the fruit from which produced.

(5) Spirits distilled at not more than 160 degrees of proof from a fermented mash of not less than 51 percent rye, corn, wheat, malted barley, or malted rye grain, packaged in reused cooperage, may be designated "Whisky" if further qualified with the words "Distilled from rye mash" (or bourbon, wheat, malt, or rye malt mash, as the case may be). However, such spirits shall, if distilled from a fermented mash of not less than 80 percent corn, be designated "Corn Whisky."

(b) *Change of designation.* A proprietor may, on written application to, and approval of the regional regulatory administrator, change the original designation for spirits at any time, before their withdrawal from bonded premises, to a new designation properly describing the spirits in accordance with the provisions of this section.

(c) *Other designations.* If the proprietor proposes to produce spirits for which a designation has not been prescribed, he shall first make written application to the Director for a designation for such spirits and such spirits shall be branded accordingly.

(d) *Spirits for nonindustrial use.* The provisions of this section shall not be construed as authority for applying

designations to spirits withdrawn for nonindustrial use which designations do not comply with provisions of 27 CFR Part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.598 Authorized abbreviations to identify spirits.

The following abbreviations may be used, either alone or in conjunction with descriptive words, to identify the kind of spirits on transaction forms and records:

| Kind of spirits:                  | Abbreviations |
|-----------------------------------|---------------|
| Alcohol.....                      | A             |
| Brandy.....                       | BR            |
| Bourbon Whisky.....               | BW            |
| Canadian Whisky.....              | CNW           |
| Completely Denatured Alcohol..... | CDA           |
| Corn Whisky.....                  | CW            |
| Grain Spirits.....                | GS            |
| Irish Whisky.....                 | IW            |
| Light Whisky.....                 | LW            |
| Malt Whisky.....                  | MW            |
| Neutral Spirits.....              | NS            |
| Neutral Spirits Grain.....        | NSG           |
| Rye Whisky.....                   | RW            |
| Scotch Whisky.....                | SW            |
| Specialty Denatured Alcohol.....  | SDA           |
| Specialty Denatured Rum.....      | SDR           |
| Tequila.....                      | TEQ           |
| Vodka.....                        | V             |
| Whisky.....                       | W             |

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.599 Change of packages.

When spirits are transferred from one package to another as authorized in § 19.345, each new package shall be given the same package identification number, marks, and brands as the original package. The proprietor shall prepare and sign a label to be affixed to the head of each new package in the manner prescribed for affixing distilled spirits stamps. The label shall be in the following form:

The spirits in this \_\_\_\_\_  
(Kind of cooperage) \_\_\_\_\_  
(Barrel or drum) \_\_\_\_\_  
package identification No., \_\_\_\_\_  
were transferred from a \_\_\_\_\_  
(Kind of cooperage) \_\_\_\_\_  
(Barrel or drum) \_\_\_\_\_  
on \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Proprietor) \_\_\_\_\_

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.600 Packages of blended brandy or rum.

When brandy or rum is blended in accordance with the provisions of § 19.346(c), packages containing such spirits shall be marked to show the words "Blended by" followed by the

name and the plant number of the blending proprietor in lieu of showing the name and plant number of the producer. However, if the blender was the actual producer of the spirits, he may mark the packages to show "Produced and Blended by" followed by his name and plant number where the spirits were blended. Such packages shall otherwise be marked in accordance with the provisions of this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.601 Marks on approved containers of specially denatured spirits.

(a) *General.* Each package, case, and encased container of specially denatured spirits filled on bonded premises shall be marked or labeled to show:

- (1) Quantity in gallons;
- (2) Serial number;
- (3) Plant number of the denaturer;
- (4) Designation or abbreviation of the specially denatured spirits by kind (alcohol or rum);
- (5) Formula number; and
- (6) Proof of spirits which were denatured at other than 190 degrees of proof.

(b) *Location of marks.* Marks or labels shall be affixed to the head of the package or side of the container or case.

(c) *Alternate formulations.* When spirits are denatured under a formula authorizing a choice of types and quantities of denaturants, the container or case shall be marked to show actual types and quantities of denaturants used.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.602 Marks on containers of completely denatured alcohol.

Each approved container of completely denatured alcohol (except pipelines and bulk conveyances) shall have marked on the head of the package (or side of the can or casing) the name of the proprietor by whom the containers were filled, the plant number where filled, the contents in wine gallons, the apparent proof, the words "Completely Denatured Alcohol", and the formula number.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.603 Marks on tanks.

When denatured spirits or articles are held in a tank, the formula number of the denatured spirits or article (if applicable) shall be marked or otherwise indicated on the tank.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.604 Caution label.

Each container of completely denatured alcohol containing 5 gallons or less, sold or offered for sale, shall be labeled to show in plain, legible letters (red or white) the words "Completely Denatured Alcohol" and the following statement: Completely denatured alcohol; contains ingredients which render the product wholly unfit for beverage purposes; if taken internally, will cause serious consequences to health. The name and address of the denaturer may be printed on such label, but no other extraneous matter will be permitted thereon without the approval of the Director. The word "pure", qualifying denatured alcohol, will not be permitted to appear on the label or the container.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.605 Additional marks on portable containers.

In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits (including denatured spirits, as applicable) to be withdrawn from the bonded premises—

- (a) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft, shall be marked as provided in 27 CFR Part 252; or
- (b) Tax-free alcohol shall be marked to show the number of the permit of the tax-free user and the date of withdrawal.

The proprietor may show on the Government head or side other information such as brand or trade name; caution notices and other material required by Federal, State, or local law or regulations; wine or proof gallons; and plant control data. However, marks or attachments shall not conceal, obscure, interfere with or conflict with the markings required by this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.606 Marks on bulk conveyances.

The provisions of 27 CFR Part 240 apply to marks on bulk conveyances used to transport wine. The provisions of 27 CFR Part 211 apply to marks on bulk conveyances used to transport articles. The proprietor shall securely attach to the route board, or other suitable device, of each bulk conveyance used to transport spirits (including denatured spirits) a label (coated with transparent shellac or otherwise adequately protected) to

identify each conveyance or, when applicable, each compartment as follows:

(a) In-bond shipments and shipments of spirits on which the tax has been determined shall bear a label showing the name, plant number, location (city or town and State) of both the consignor and the consignee, and the date of shipment. In the case of in-bond shipments, the words "Shipped in bond by" shall precede the name of the consignor. In addition, such label shall show the quantity in proof gallons (wine gallons for denatured spirits), and the formula number for denatured spirits.

(b) Shipments of spirits (including denatured spirits) for tax-free use shall bear a label showing the name, location (city or town and State) of both the consignor and the consignee, the plant number of the consignor, the permit number the consignee, the date of shipment, the quantity in proof gallons (wine gallons for denatured spirits), and the formula number for denatured spirits.

(c) Shipment of spirits withdrawn without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use in wine production, shall bear a label showing the name and location (city or town and State) of both the consignor and consignee, the plant number of the consignor, the registry number, if any, of the consignee, the quantity in proof gallons, the date of shipment, and the purpose of the withdrawal, as, for example, "For Export", "For Deposit in CMBW Cl. 8", "For Trans. to F.T.Z. No. \_\_\_\_\_", or "For Use in Wine Production". In addition export shipments shall conform to the requirements of Part 252 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.607 Marks on cases.

(a) *Mandatory marks.* Except for cases marked as provided in §§ 19.601, 19.602, and 19.608, the following information shall be plainly marked on the Government side of each case of spirits filled in processing:

- (1) Serial number;
- (2) Kind of spirits;
- (3) Plant number where bottled;
- (4) Date filled;
- (5) Proof; and
- (6) Proof gallons.

Cases removed for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses transfer to foreign-trade zones, or for use as supplies on certain vessels and

aircraft, shall bear the additional marks required by 27 CFR Part 252.

(b) *Other marks.* In addition to the required marks on cases filled in processing, the proprietor may include on the Government side of cases, marks as follows:

(1) Name or trade name, and location if desired of the bottler, and in conjunction therewith the word "Bottler";

(2) For products actually distilled or processed by the proprietor, his name or trade name, and location, if desired, and in conjunction therewith the words "Distiller" or "Processor" as applicable;

(3) For products actually imported and bottled by the proprietor, the words "Imported and Bottled By", followed by his name or trade name, and location if desired;

(4) For products bottled for a dealer, the words "Bottled For", followed by the name of such dealer;

(5) Other material required by Federal or State law and regulations.

The marks authorized by this paragraph shall not interfere with or detract from the mandatory marks prescribed in paragraph (a) of this section. No other marks may be placed on the Government side except as authorized by the Director as provided in § 19.609.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206); Sec. 3(a), Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

#### § 19.608 Cases of bottled alcohol.

(a) *Mandatory marks.* The Government side of each case of alcohol bottled for industrial use in accordance with Subpart L shall be marked as applicable, to show—

- (1) Designation as "alcohol";
- (2) Serial number;
- (3) Plant number;
- (4) Proof;
- (5) Proof gallons;
- (6) Permit number of the tax-free user;
- (7) Information required by 27 CFR Part 252, for cases withdrawn for export, transferred to customs bonded warehouses, transferred to foreign trade zones, or supplies for certain vessels and aircraft.

(b) *Other marks.* (1) The Government side of cases may be marked to show the brand or trade name, or information required by Federal, State, or local law and regulations.

(2) Other marks shall not interfere with or distract from mandatory case marks.

(3) Additional marks may be placed on the Government side of cases if authorized by the Director pursuant to § 19.609.



(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1369, as amended (26 U.S.C. 5206, 5235))

#### § 19.609 Additional marks for cases.

Labels or data describing the contents for commercial identification purposes, or indicating payment of State or local taxes, may appear on the Government side of cases. The Director may authorize designs or other marks on the Government side of cases. Labels, marks, or designs shall not conflict with, or obscure, the markings required by this part. Applications for approval of designs or other marks shall be submitted through the regional regulatory administrator and be accompanied by drawings or other representations showing the proposed marks and the colors in which they will appear.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.610 Obliteration of marks, brands, stamps, and labels.

Except as to change of designation as provided in § 19.597(b), the marks, brands, stamps, and labels required on any container or case by this part shall not be destroyed or altered until the container or case is emptied. When the proprietor empties any container, the stamps shall be destroyed, and the marks, brands, and labels shall be effaced or obliterated. However, the marks and brands on packages emptied on distilled spirits plant premises need not be effaced or obliterated until the packages are reused or removed from the plant. The provisions of this section shall not apply to containers stamped with strip stamps or alternative devices, or to the permanent marks on tanks required by § 19.278.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### § 19.611 Relabeling and restamping off bonded premises.

The proprietor of a distilled spirits plant may relabel, affix brand labels, reapply alternative devices, or restamp bottled taxpaid spirits on wholesale liquor dealer premises or at a taxpaid storeroom on, contiguous to, adjacent to, or in the immediate vicinity of the plant, if such wholesale liquor dealer premises or taxpaid storeroom is operated in connection with the plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5201))

#### § 19.612 Authorized abbreviations to identify required marks.

In addition to the abbreviations and symbols which are authorized in this part for use in marking containers, the

following abbreviations may be used to identify certain required marks:

| Required Mark                | Abbreviation |
|------------------------------|--------------|
| Completely denatured alcohol | CDA          |
| Distilled spirits stamps     | DSS          |
| Gallon or wine gallon        | WG           |
| Gross weight                 | G            |
| Proof                        | P            |
| Specialty denatured Alcohol  | SDA          |
| Specialty denatured Rum      | SOR          |
| Tare                         | T            |
| Tax determined               | TD           |
| Wine spirits addition        | WSA          |

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

#### § 19.613 Identification marks on devices other than strip stamps.

Devices approved by the Director as an alternative to strip stamps when affixed to containers of distilled spirits shall be marked at the distilled spirits plant with a permanent and legible identification as follows:

- An abbreviation of the State in which the plant is located; and
- The plant number.

For example, the identification on devices other than strip stamps for DSP-VA-280 would be identified on the device as "VA280".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### Subpart R—Liquor Bottle and Label Requirements

##### § 19.631 Scope of subpart.

The provisions of §§ 19.632 through 19.640 of this subpart shall apply only to liquor bottles having a capacity of 200 ml or more except where expressly applied to liquor bottles of less than 200 ml capacity. The provisions of §§ 19.641 through 19.650 of this subpart shall apply to all liquor bottles, regardless of size.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

##### Liquor Bottle Requirements

##### § 19.632 Bottles authorized.

Liquor bottles shall conform to the applicable standards of fill provided in Subpart E of 27 CFR Part 5, including those for liquor bottles of less than 200 ml capacity. The use of any bottle size other than as authorized in Subpart E of 27 CFR Part 5 is prohibited for the packaging of distilled spirits for domestic purposes. Bottles bearing the indicia required under 27 CFR Part 173 may be used, but need not be used, in bottling spirits for export.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.633 Indicia for bottles.

Except as provided in § 19.634, liquor bottles used for packaging spirits for domestic use shall bear the indicia prescribed in § 173.33 or § 173.34 of this chapter. Additional information may, as provided in Part 173 of this chapter, be permanently marked on such liquor bottles.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.634 Distinctive liquor bottles.

A proprietor desiring approval of a domestic liquor bottle of distinctive shape or design, including bottles of less than 200 ml capacity, whether or not such bottles bear the indicia required under 27 CFR Part 173, or, to use such distinctive liquor bottle, shall submit a letter application to the Director for approval. Each application shall be accompanied by ten 5" x 7" photographs and, if the bottle has not previously been declared distinctive, an actual bottle or an authentic model or other representation acceptable to the Director. Each application shall contain the following information as applicable:

- Date of application;
- Name, address and permit number of applicant;
- Description of the bottle;
- Size of the bottle;
- Kind of spirits to be contained in the bottle;
- A request to have the bottle declared distinctive (if the bottle has not previously been so declared by the Director);
- Distinctive container number (if the bottle has been previously declared distinctive by the Director);
- A request to have the bottle declared distinctive, and names, addresses and distilled spirits plant numbers of the plants where the bottle will be used;
- A request for waiver of headspace requirements, as provided in § 5.46 of this chapter; and
- Signature and title of applicant.

Properly submitted applications for approval of a distinctive liquor bottle, or for use of a distinctive liquor bottle, will be approved provided such bottles are found by the Director to meet the requirements of 27 CFR Part 5, to be distinctive, not to jeopardize the revenue, to be suitable for their intended purpose, and not to be deceptive to consumers. If the application is approved, the Director will send one photocopy of the approved application and one approved photograph of the distinctive bottle to the applicant and to each regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.635 Receipt and storage of liquor bottles.

No proprietor shall accept shipment or delivery of liquor bottles except from the manufacturer thereof, a supplier abroad, or another proprietor. However, the Director may, pursuant to letterhead application, authorize a proprietor to receive and reuse liquor bottles assembled for such proprietor as provided in 27 CFR 194.263. Liquor bottles, including those of less than 200 ml capacity, shall be stored in a safe and secure place, either on the proprietor's qualified premises or at another location.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.636 Bottles to be used for display purposes.

Liquor bottles may be furnished to liquor dealers for display purposes, provided that each bottle is marked to show that it is to be used for such purpose. Any paper strip used to seal the bottle shall be of solid color and without design or printing, except that the use of a border or a design, formed entirely of the legend, "not genuine—for display purposes only" is permissible. The Disposition of such bottles, showing names and addresses of consignees, dates of shipment, and size, quantity, and description of bottles, shall be included in the records required under § 19.779.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.637 Bottles for testing purposes.

A proprietor may, on notice to the regional regulatory administrator of the region in which the plant is located, ship a reasonable number of liquor bottles for bona fide testing purposes, such as the testing of bottling machinery by the manufacturer thereof. The notice shall show the name and address of the person to whom the bottles are shipped and the number of bottles shipped. Such shipments shall be reflected in the records required under § 19.779.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.638 Bottles not constituting approved containers.

The Director may disapprove for use as a liquor bottle any bottle, including a bottle of less than 200 ml capacity, which he determines to be deceptive. Any such bottle, whether or not it bears the indicia required under 27 CFR Part 173, is not an approved container for the purposes of § 19.581 of this part, and

shall not be used for packaging distilled spirits for domestic purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.639 Disposition of stocks of liquor bottles.

When a proprietor discontinues operations, or permanently discontinues the use of a particular size or type of liquor bottle, the stocks of such bottles on hand shall either be disposed of to another person authorized to receive liquor bottles, or destroyed (including disposition for purposes which will render them unusable as bottles). However, on approval of a written application by the regional regulatory administrator of the region in which the proprietor's plant is located, liquor bottles may be otherwise disposed of.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### § 19.640 Use and resale of liquor bottles.

No proprietor shall use any liquor bottle except for packaging distilled spirits, or dispose of any empty liquor bottle except to another person authorized to receive liquor bottles or as provided in § 19.639. Bottles may be furnished to others for display and testing purposes as provided in §§ 19.636 and 19.637, respectively.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

##### Bottle Label Requirements

##### § 19.641 Certificate of label approval or exemption.

Proprietors are required by 27 CFR Part 5 to obtain approval of labels, or exemption from label approval, for any label to be used on bottles of spirits for domestic use and shall exhibit evidence of label approval, or of exemption from label approval, on request of an ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.642 Statements required on labels under an exemption from label approval.

All labels to be used on bottles of spirits for domestic use under an exemption from label approval shall contain the applicable information required in §§ 19.643 through 19.650. Where a statement of age or age and percentage is required, it shall have the meaning given, and be stated in the manner provided in 27 CFR Part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.643 Brand name, class and type, alcohol content, and State of distillation.

The brand name, class and type as set out in 27 CFR Part 5, and alcohol content

of the distilled spirits, by proof, shall be shown on the label except that on labels for liqueurs, cordials, bitters, cocktails, highballs, or other such specialties, the alcohol content may be stated in percentage by volume. Except in the case of "light whisky", "blended light whisky", "blended whisky", "a" "blend of straight whiskies", or "spirit whisky", the State of distillation shall be shown on the label of any whisky produced in the United States if the whisky is not distilled in the State given in the address on the brand label. The Director may, however, require the State of distillation to be shown on the label or permit such other labeling as may be necessary to preclude any misleading or deceptive impression which might otherwise be created as to the actual State of distillation. In the case of "light whisky", as defined in 27 CFR 5.22(b)(3), the State of distillation shall not appear in any manner on any label if the Director finds such State is associated by consumers with an American type whisky (as provided in 27 CFR 5.22), except as part of a name and address as set forth in 27 CFR 5.36(a).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.644 Net contents.

The net contents of liquor bottles shall be shown on the label, unless the statement of the net contents is permanently marked on the side, front, or back of the bottle.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.645 Name and address of bottler.

There shall be stated on the label of distilled spirits the phrase "Bottled by", "Packed by", or "Filled by" immediately followed by the name (or trade name) of the bottler and the place where such spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants. However—

(a) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "Bottled by", "Packed by", or "Filled by", followed by the bottler's name (or trade name) and address, the phrase "Distilled by", followed by the name (or trade name) under which the particular spirits were distilled, or any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller;



(b) Where distilled spirits are bottled by or for the proprietor of a distilled spirits plant, there may be stated, in lieu of the phrase "Bottled by", "Packed by", or "Filled by", followed by the bottler's name (or trade name) and address, the phrase "Blended by", "Made by", "Prepared by", "Manufactured by", or "Produced by" (whichever may be appropriate to the process involved), followed by the name (or trade name) and the address (or addresses) of the distilled spirits plant proprietor; and

(c) On labels of distilled spirits bottled for a retailer or other person who is not the actual distilled spirits plant proprietor of such distilled spirits, there may also be stated the name and address of such retailer or other person, immediately preceded by the words "Bottled for", or "Distributed by", or other similar statement.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.646 Age of whisky containing no neutral spirits.

In the case of whisky containing no neutral spirits, statements of age and percentage shall be stated on the label as provided in 27 CFR Part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.647 Age of whisky containing neutral spirits.

In the case of whisky containing neutral spirits, the age of the whisky or whiskies and the respective percentage by volume of whisky or whiskies and neutral spirits, shall be stated on the label as provided in 27 CFR Part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.648 Age of brandy.

If brandy is aged for a period of less than two years, the age thereof shall be shown on the label.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.649 Presence of neutral spirits and coloring, flavoring, and blending materials.

The presence of neutral spirits or coloring, flavoring, or blending materials shall be stated on labels in the manner provided in 27 CFR Part 5.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

#### § 19.650 Country of origin.

On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form: Product of \_\_\_\_\_, the blank to be filled in with the name of the country of origin.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

### Subpart S—Stamps

#### Strip Stamps and Alternative Devices

##### § 19.661 General.

(a) *Spirits bottled-in-bond.* Each bottle of spirits, qualified for the labeling designation "bottled-in-bond" under 27 CFR Part 5, shall when filled, be stamped by the proprietor with a green strip stamp or affixed with an approved alternative device.

(b) *Alcohol and other distilled spirits.* Each bottle or other container of alcohol bottled under 26 U.S.C. 5235, and other distilled spirits bottled on bonded premises, except spirits which are eligible for the labeling designation "bottled-in-bond" under 27 CFR Part 5, as described in paragraph (a) of this section, shall, when filled, be stamped by the proprietor with a red strip stamp or affixed with an approved alternative device.

(c) *Overprinting.* If bottled spirits are to be exported, the word "EXPORT" shall be legibly and durably overprinted on the strip stamp or alternative device. Subject to approval by the Director, strip stamps or alternative devices may be similarly overprinted with the class and type of product or with an appropriate abbreviation or symbol (for example, "BW" for bourbon whisky).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1369, as amended (26 U.S.C. 5205, 5235))

##### § 19.662 Strip stamp format.

All prescribed strip stamps shall be issued in (a) a standard size for bottles or containers of 200 ml capacity or more, and in (b) a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.663 Alternative devices.

(a) *Application to use alternative devices in lieu of red or green strip stamps.* Distilled spirits plant proprietors who wish to use devices other than red or green strip stamps on containers of distilled spirits shall file an application with the Director. The application shall contain:

(1) The name, address, and distilled spirits plant number;

(2) A description of the alternative device and method of affixing to containers. Two samples of the proposed alternative device (including designs and lettering) affixed to empty containers shall accompany the application; and

(3) The signature of the proprietor or authorized agent.

(b) *Alternative devices used as an alternative to red or green strip stamps.*

(1) Alternative devices shall be approved by the Director prior to use;

(2) Alternative devices, after the containers are filled, shall:

(i) Be marked as required by § 19.613,

(ii) Be securely affixed, and

(iii) Leave a portion of the device remaining on the container after opening.

(3) Any designs or lettering appearing on the alternative device shall also be approved by the Director prior to use.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.664 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the regional regulatory administrator. Requisitions shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt, noting any discrepancies, on both copies of Form 428 returned by the regional regulatory administrator, forward one copy of the Form 428 to the regional regulatory administrator and retain one copy on file.

(b) *Alternative method.* When the regional regulatory administrator determines that the interests of the Government will be best served, the stamps may be shipped directly to the proprietor from a location other than the office of the regional regulatory administrator. In that case, the regional regulatory administrator shall notify the proprietor that the strip stamps will be delivered by an alternative method and the minimum quantity, if any, of each size stamp which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form shall be returned to the proprietor. Upon receipt of the stamps, the proprietor shall (1) indicate the quantity of stamps received and acknowledge receipt, noting any discrepancies, on both copies of Form 428 and (2) return one copy to the regional regulatory administrator, and retain one copy.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.665 Affixing stamps or alternative devices.

The proprietor shall affix strip stamps to containers with a suitable adhesive.

The proprietor shall affix alternative devices to containers of distilled spirits as described in the approved

application. Upon opening the container, the stamp or alternative device shall be broken and a portion shall remain attached to the container. Strip stamps or alternative devices affixed to containers shall not be concealed or obscured in any manner except that (a) the Director may authorize labels or State stamps to be so affixed as to partially obscure strip stamps or alternative devices, if a need exists, and the manner of affixing the labels or State stamps does not obscure essential information on the strip stamps which is not clearly shown on the bottle or on the labels affixed to the bottle, and (b) a stamp or alternative device may be covered by a cup, cap, seal, carton, wrapping, or other item which can readily be removed without injury to the stamp or which is sufficiently transparent to be able to read all data on the stamp or alternative device. If a cup, cap, or seal is placed over a stamp or alternative device, a portion of the stamp or alternative device must remain plainly visible. If containers are enclosed in sealed opaque cartons or wrappings, the cartons or wrappings must bear the words, "This package may be opened for examination by ATF Officers". ATF officers have the right to open the cartons and wrappings and examine the containers. Where there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director for approval.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.666 Strip stamp and alternative device accounting.

Proprietors are responsible for the proper control of and accounting for all strip stamps or alternative devices. Strip stamps that have been mutilated shall be destroyed by the proprietor, and unused stamps for which the proprietor has no use, shall be disposed of in accordance with the instructions of the regional regulatory administrator.

Proprietors shall not transfer or dispose of strip stamps charged to their account except as provided in this part. Proprietors shall keep records and submit reports relating to strip stamps and alternative devices in accordance with Subpart W of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (27 U.S.C. 5207))

##### § 19.667 Restamping of spirits.

Bottles of distilled spirits filled on bonded premises may be restamped

under the provisions of Subpart L of this part. Bottles of distilled spirits to which strip stamps or alternative devices have been affixed may also be restamped under the provisions of § 19.611.

Replacement of mutilated or missing strip stamps or alternative devices by persons other than proprietors of plants shall be made in accordance with 27 CFR Part 194.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### Distilled Spirits Stamps

##### § 19.668 General.

(a) *Containers to be stamped.* Except for containers required to be stamped under § 19.661 and pipelines for the conveyance of spirits, containers of spirits withdrawn from bonded premises on determination of tax, or without payment of tax for the purposes authorized in § 19.531(a)-(d), shall be stamped with a prescribed distilled spirits stamp evidencing compliance with the provisions of 26 U.S.C. Chapter 51, and this part.

(b) *Information on stamp.* The prescribed distilled spirits stamp is serially numbered. It shall be marked, in the space provided, by the proprietor withdrawing or removing the spirits, to show the name and plant number of such proprietor, the date of affixing the stamp to the container, and the serial number or package identification number, as applicable, of the container. When spirits are withdrawn under the provisions of § 19.531(a)-(d), the proprietor shall insert the word "Export" on the stamp.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.669 Procurement of distilled spirits stamps.

(a) *General.* Distilled spirits stamps may be obtained by the proprietor, without charge, in reasonable anticipation of current needs, from the regional regulatory administrator of the region in which the plant is located, by requisition on Form 428. Such stamps may not be procured by one proprietor from another proprietor or transferred between plants operated by the same proprietor, except on authorization by the regional regulatory administrator. On receipt of the stamps from the regional regulatory administrator, the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned by the regional regulatory administrator, (3) forward one copy of the receipted Form 428 to the regional regulatory

administrator, and (4) retain a copy for his files.

(b) *Alternate method.* When the regional regulatory administrator determines that the interests of the Government will be best served, the distilled spirits stamps may be supplied to the proprietor from a location other than the office of the regional regulatory administrator. In such case, the regional regulatory administrator shall notify the proprietor that the stamps will be supplied from an alternate location and inform him of the minimum or maximum quantity, if any, which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form will be returned to the proprietor. Upon receipt of the stamps, the proprietor shall (1) verify the quantity received, (2) acknowledge receipt thereof, noting any discrepancies on both copies of Form 428 returned, (3) forward one copy of Form 428 to the regional regulatory administrator, and (4) retain a copy for his files.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.670 Affixing of distilled spirits stamps.

Distilled spirits stamps shall be affixed and canceled by the proprietor before packages or conveyances are removed from the bonded premises. The stamps shall be securely affixed to the Government head of the package, or the route board, or other suitable device of the bulk conveyance, or to an appropriate part of any other approved container, and thereupon canceled by drawing or otherwise imprinting a line (not less than one-eighth inch wide) in durable red ink diagonally across the stamp. Such stamps (except in the case of packages to be transferred to contiguous premises) shall be covered with a transparent coating of shellac, lacquer, varnish, or equally suitable material to protect the markings on the stamp. Where the bulk conveyance consists of separate compartments, a separate stamp shall be canceled and affixed to the appropriate route board for each compartment. Distilled spirits stamps shall remain on the containers or conveyances until the spirits therein are emptied. Such stamps shall be destroyed, as provided in § 19.610, when the containers are emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

##### § 19.671 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost



or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Notice of restamping shall be made in writing to the regional regulatory administrator for the region in which the package, conveyance, or other container to be restamped is located. The notice, which shall be executed under the penalties of perjury, shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### § 19.672 Distilled spirits stamp accounting.

Proprietors are responsible for proper control of and accounting for all distilled spirits stamps received. Stamps that have been mutilated shall be destroyed by the proprietor and unused stamps for which the proprietor has no use shall be disposed of in accordance with the instructions of the regional regulatory administrator. Proprietors shall not transfer or dispose of distilled spirits stamps charged to their account except as provided in this part. Proprietors shall keep records and submit reports relating to such stamps in accordance with the provisions of Subpart W.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### Imitation Stamps

#### § 19.673 Imitation of prescribed stamps prohibited.

No person shall affix to any container containing or intended to contain distilled spirits, any stamp, mark, brand, or label, in imitation or simulation of any prescribed ATF stamp required to be affixed to any container of distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

### Subpart T—Voluntary Destruction

#### § 19.681 General.

The tax liability terminates on spirits (including denatured spirits), articles, or wines when voluntarily destroyed in accordance with this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

#### § 19.682 Voluntary destruction procedures.

(a) *Notice required.* A proprietor who desires to destroy spirits (including denatured spirits), articles or wines shall file a notice of his intention with the area supervisor at least 7 days prior to the proposed date of destruction. However, the notice may be submitted directly to an ATF officer present at the distilled spirits plant, who may either supervise the destruction or transmit the notice to the area supervisor. The notice shall include, as applicable, the information required for the record of voluntary destruction in § 19.683.

(b) *Destruction.* If, by the date and time specified in the notice, an ATF officer has not supervised the destruction and the area supervisor has not advised the proprietor that the destruction must be supervised, the proprietor may complete the destruction in the manner stated in the notice.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370))

#### § 19.683 Record of destruction.

The proprietor shall record details of the voluntary destruction of spirits (including denatured spirits), articles, or wines as follows:

(a) Identification of the spirits (including denatured spirits), articles, or wines to include, as applicable, kind, quantity, elements of gauge, name, and permit number of the producer, and identification and type of container;

(b) The reason for the destruction;

(c) The date, time, place, and manner of the destruction;

(d) A statement of whether or not the spirits had previously been withdrawn and returned to bond; and

(e) The name and title of the proprietor's representative who accomplished or supervised the destruction.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

### Subpart U—Return of Spirits to Bonded Premises

#### § 19.701 Return of taxpaid spirits to bonded premises.

(a) *Taxpaid spirits returned for destruction, denaturation, redistillation, reconditioning, or rebottling.* Distilled spirits on which tax has been paid or determined may be returned to the bonded premises of a distilled spirits plant only for:

(1) Destruction in accordance with § 19.682;

(2) If eligible for denaturation, denaturation in accordance with Subpart M of this part;

(3) Redistillation in accordance with Subpart J of this part;

(4) Reconditioning; or

(5) Rebottling.

Spirits returned under this paragraph shall be gauged upon receipt on bonded premises and the gauge recorded in the appropriate records maintained under Subpart W of this part.

(b) *Restrictions.* When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 19.610. Distilled spirits products to which alcoholic ingredients other than distilled spirits have been added and which were withdrawn from a distilled spirits plant before January 1, 1980, may be returned only to the bonded premises of the distilled spirits plant from which withdrawn, for disposition as authorized by this section.

(c) *Applicability of 26 U.S.C. Chapter 51.* All provisions of 26 U.S.C. Chapter 51 and this part, applicable to spirits in ATF bond, shall be applicable to spirits when returned to bonded premises under this section. The provisions of this subpart do not apply to taxpaid bottled spirits returned to bond solely for relabeling or restamping and under the provisions of Subpart L of this part. (Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

#### § 19.702 Receipt and disposition of returned taxpaid spirits.

(a) *General.* (1) Spirits returned to bonded premises pursuant to § 19.701 shall be immediately dumped.

(2) All returned spirits shall be supported by credit memoranda or other documents evidencing the return.

(b) *Gauge and disposition.* (1) On receipt of taxpaid spirits returned to bonded premises, the proprietor shall gauge the spirits for immediate disposition as provided in § 19.701.

(2) The receipt and report of gauge shall be reported on ATF F 5110.17.

(3) The completed ATF F 5110.17 shall be prepared and filed in accordance with instructions on the form.

(4) ATF F 5110.17 shall have attached to it sufficient evidence to establish:

(i) Class and type of the product;

(ii) Proof;

(iii) Distilled spirits plant number from which the spirits were withdrawn upon tax determination;

(iv) Date of tax determination;

(v) If processed under ATF F 5110.38 (Form 27-B Supplemental), the serial number of the form and if withdrawn from a distilled spirits plant prior to January 1, 1980, data sufficient to establish the distilled spirits (and wine, if returned during a calendar year 1980) taxes paid.

(5) A copy of ATF F 5110.17 shall accompany any claim filed under § 19.42 for spirits returned in accordance with this section.

(Sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5215))

#### § 19.703 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenaturation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of Part 211 of this chapter. When containers are emptied, the proprietor shall comply with the applicable requirements of § 19.610. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce spirits. When recovered denatured spirits or recovered articles are received, the proprietor shall gauge the materials and record the gauge on Form 5110.26. Spirits recovered by the redistillation of recovered denatured spirits and recovered articles may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller. These spirits and articles shall be kept apart from all other spirits (including denatured spirits and recovered articles) and shall be promptly redenatured and removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1363, as amended, 1372, as amended (26 U.S.C. 5223, 5273))

#### § 19.704 Articles and spirits residues received for redistillation.

Articles manufactured under Part 211 of this chapter, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits,

for the recovery by redistillation of the distilled spirits contained in those materials. The proprietor shall gauge the materials when received and record the gauge on Form 5110.26. Spirits recovered by the redistillation of articles and spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223))

#### § 19.705 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.

(a) *General.* Specially denatured spirits withdrawn free of tax under the applicable provisions of Part 252 of this chapter for exportation or for deposit in a foreign-trade zone, and spirits (including denatured spirits) withdrawn free of tax under the applicable provisions of Part 211 or 213 of this chapter, may be returned: (1) To bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or (2) To any bonded premises of a distilled spirits plant pending subsequent lawful withdrawal free of tax. Recovered tax-free spirits may, as provided in Part 213 of this chapter, be returned for redistillation to bonded premises of any distilled spirits plant authorized to produce distilled spirits or to any bonded premises of a distilled spirits plant for restoration (not including redistillation). The return shall be made under the applicable provisions of this part and Part 211, 213, or 252 of this chapter, as appropriate.

(b) *Bonding requirements.* Before spirits (including denatured spirits) are returned to bonded premises, except spirits (including denatured spirits) returned for redistillation, the proprietor shall file a consent of surety on Form 1533 to extend the terms of the operations or unit bond to cover the return of the spirits. The proprietor may file one consent of surety on the bond to extend the terms thereof to cover all spirits which may be returned.

(c) *Procedure.* If the shipment was reported on a Form 1473, the proprietor shall execute the certificate of receipt on that form and forward the original to the regional regulatory administrator. When recovered tax-free spirits, spirits, or denatured spirits are received, they shall be gauged, and the gauge shall be recorded on Form 5110.26. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 19.610. When containers of spirits removed for export

are returned to bond, pending subsequent removal for a purpose other than export, the export marks shall be destroyed.

(d) *Limitation.* Spirits recovered by the redistillation of denatured spirits may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 3, Act of June 13, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223))

#### § 19.706 Return of spirits withdrawn without payment of tax.

(a) *Spirits withdrawn for export.* Spirits lawfully withdrawn without payment of tax under the provisions of Part 252 of this chapter for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and Part 252 of this chapter: (1) To the bonded premises of any plant authorized to produce distilled spirits, for redistillation; or (2) To the bonded premises from which withdrawn pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under § 19.532 for use in wine production, and not so used, may be returned to the bonded premises of a distilled spirits plant. The consignee proprietor shall obtain approval, as provided in § 19.506. The wine spirits shall be removed from the winery in accordance with the provisions of Part 240 of this chapter.

(c) *Spirits withdrawn for research, development, or testing.* Spirits withdrawn without payment of tax, under the provisions of Subpart V of this part, for research, development, or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. After returning these spirits to bonded premises, they shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* When spirits are received, they shall be gauged by the proprietor; and the gauge shall be recorded on Form 5110.26. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 19.610. When



containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks and the stamps, if any, shall be destroyed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

#### § 19.707 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the tax, to a proprietor of a plant for denaturation or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits (including denatured spirits) until denatured. The receipt, gauging, handling, and recordkeeping provisions of § 19.703 are applicable to these spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5243))

#### Subpart V—Spirits Withdrawn for Research, Development or Testing

##### § 19.721 General.

(a) *Withdrawal of spirits without payment of tax.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant by the proprietor without payment of tax for testing or laboratory analysis, in accordance with § 19.724, or for research, development, or testing, in accordance with § 19.725.

(b) *Withdrawal of brandy or wine spirits free of tax.* In addition to being withdrawn under the provisions of paragraph (a) of this section, brandy or wine spirits may be withdrawn from the bonded premises of a distilled spirits plant by the proprietor free of tax for testing or laboratory analysis, in accordance with § 19.724.

(c) *Restrictions.* Distilled spirits shall not be withdrawn under the provisions of this subpart in containers which have been filled and stamped with the strip stamp or affixed with the alternative device as provided in Subpart S.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5005, 5214, 5373))

##### § 19.722 Taxable withdrawals.

Spirits withdrawn from bonded premises for research, development, or testing are taxable if the spirits are found to have been withdrawn, used, or disposed of in a manner not authorized by this part. If the proprietor is qualified to defer payment of the tax, the tax due shall be included in the proprietor's tax

return on Form 5110.35. If a proprietor is not qualified to defer the payment of tax, the tax on spirits shall be paid by return on Form 5110.32.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1318, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5001, 5005, 5214, 5373))

##### § 19.723 Labels.

On each container of spirits to be withdrawn under the provisions of § 19.724 or § 19.725, the proprietor shall affix a label showing the following information:

- The words "Research", "Development", or "Testing", as appropriate;
- The kind of spirits (and for imported spirits, the word "Imported");
- The size of the container and the proof of the spirits;
- If the spirits are to be removed to other than the immediate or contiguous premises of the proprietor, the name and address of the consignee;
- The name of the proprietor and the plant number;
- The date of the sample taken.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5206, 5214, 5373))

##### § 19.724 Withdrawals for testing or laboratory analysis.

(a) *General.* Subject to the conditions prescribed in this subpart, the proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, from the bonded premises, for testing or laboratory analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing, if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by a prospective purchaser of spirits or denatured spirits.

(b) *Limitations.* Except for spirits furnished to a prospective customer, as provided in paragraph (a) of this section, spirits withdrawn for testing or laboratory analysis shall be removed to the proprietor's laboratory located at the same distilled spirits plant or to a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, to the proprietor's central laboratory, or, if approved by the regional regulatory administrator to a recognized commercial laboratory. These spirits shall be withdrawn in containers not exceeding 1 liter, unless the regional regulatory administrator has authorized removal in larger containers. Taxes shall be paid when

the spirits are used for any purpose other than the purpose authorized under this section. Taxes shall also be paid when the quantities of spirits withdrawn under this section are in excess of the amount necessary for the conduct of the proprietor's operations.

(c) *Recording samples.* At the time of withdrawal, the proprietor shall record the removal in the record required by § 19.776.

(d) *Disposition.* Remnants or residues of spirits remaining after testing may not be accumulated beyond a reasonable time. Accumulated spirits shall be destroyed or returned to the continuous distilling system containing similar spirits. If the spirits are tested in a laboratory at the plant premises from which removed, the date and manner of disposition shall be recorded in the record maintained under § 19.776.

(e) *Losses.* When spirits are lost prior to their use in testing or laboratory analysis, the proprietor shall either pay the tax or file a claim for remission of tax, as prescribed by § 19.41.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5005, 5214, 5373))

##### § 19.725 Withdrawals for research, development or testing.

(a) *General.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations. The amount withdrawn shall be limited to an amount necessary for conduct of the proprietor's operations.

(b) *Consignee's statement.* The proprietor shall secure a written statement, executed by the consignee under the penalties of perjury, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers. However, a statement will not be required when the spirits are removed to the proprietor's laboratory located at the same plant, or to a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation.

(c) *Limitation.* The regional regulatory administrator shall proceed to collect the tax on any spirits withdrawn under this section which are found to have been used or disposed of in a manner not authorized by this subpart.

(d) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall either pay the tax or file a claim for remission of tax, prescribed by § 19.54.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1316, as amended, 1362, as amended (26 U.S.C. 5005, 5214))

#### Subpart W—Records and Reports

##### General

##### § 19.741 Records.

(a) *In general.* The records required by this part to be maintained by proprietors shall include:

- (1) All records and summaries specifically required by this part;
- (2) All supplemental, auxiliary, and source data utilized in the compilation of required forms, records, and summaries, and for preparation of reports, returns, and claims;
- (3) Substitute records authorized under the provisions of this part;
- (4) Copies of notices, reports, returns, and approved applications and other documents relating to operations and transactions; and
- (5) Proprietor's copies of individual transaction forms.

(b) *Accounts.* The records required by this part to be maintained by proprietors shall be arranged into three primary operational accounts:

- (1) Production,
- (2) Storage, and
- (3) Processing. Records shall indicate receipts, movements between accounts, transfers in bond, or withdrawals of spirits, denatured spirits, articles, or wines.

(c) *Exceptions.* The term "records" as used in this subpart does not include copies of qualifying documents required under Subpart G or of bonds required under subpart H of this part.

(d) *Special provisions.* See 27 CFR 70.22 for information with respect to ATF examination of financial records and books of account.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.742 Conversion between metric and U.S. units.

Whenever liters are converted to wine gallons, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. If the conversion from liters to U.S. units is made before multiplying by the number of cases, the quantity in U.S. units shall be rounded off to the nearest sixth decimal place. If the conversion is made after multiplying by the number of cases, the quantity in U.S. units shall be rounded off to the nearest hundredth.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201))

##### § 19.743 Maintenance and preservation of records.

Records required by this part shall be prepared and kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any ATF officer during business hours. Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the regional regulatory administrator under § 19.746 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original shall be applicable to such reproduction. Records required by this part shall be preserved for a period of not less than four years from the date thereof or the date of the last entry required to be made thereon, whichever is later. Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the original transaction (source) records required by §§ 19.756-19.778 and the reports required by § 19.786 are kept available for inspection at the plant premises. Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within five business days. The applicable data processing program shall be made available for examination if requested by an ATF officer.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.744 Variations from prescribed forms or records.

(a) *Notice.* Proprietors may, upon the filing of a serially numbered letter notice to the Director, modify certain prescribed forms, or maintain substitute records in lieu thereof, or may, upon the filing of a serially numbered letter notice to the regional regulatory administrator, maintain substitute records in lieu of the records required by this part in order to adapt the use of such forms and records to data processing equipment or special operations, to provide additional information, or for other good cause, if such changes are not inconsistent with the general requirements of clarity and accuracy and do not result in difficulty in processing or filing such forms or difficulty in maintaining and examining such records. Such modified forms or substitute records shall (1) contain the

information which would have been on the prescribed form or record, (2) constitute the record or report required by this part, and (3) be subject to the same requirements as the prescribed forms or records. Copies of modified forms or substitute records shall be filed with the applicable notice.

(b) *Exceptions.* No modification shall be permitted on qualification documents, bond forms, claim forms, tax return forms, or forms covering the reports required by § 19.786, unless such modification has been approved by the Director as provided in paragraph (c) of this section.

(c) *Application.* An application to use a modified form in an excepted category shall be submitted to the Director through the regional regulatory administrator. It shall be accompanied by (1) three copies of each proposed form with typical entries thereon and (2) a statement explaining the need for the use of the modified forms. Such modified forms shall not be used until approved by the Director.

(d) *Restrictions.* The use of substitute records or modified forms shall not relieve a proprietor from any requirements of this part. The Director or the regional regulatory administrator, as applicable, may require a proprietor to immediately discontinue the use of any modified form or substitute record when in his opinion the administration of this part will be served thereby.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.745 Symbols for proof of distillation.

Where the proof of distillation is required by this part to be shown, the following symbols may be used to designate the proof of distillation: "D190P" for "Distilled 190 proof or over"; "D160P-190P" for "Distilled between 160 and 190 proof"; and "D160P" for "Distilled not over 160 proof"; or in the case of spirits derived from fruit, "D170-190P" for "Distilled between 170 and 190 proof"; and "D170P" for "Distilled not over 170 proof". However, brandy distilled between 140 and 170 proof, not reduced with water, and intended for use in wine production, shall be marked "D-140-170P."

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

##### § 19.746 Photographic copies of records.

Proprietors who desire to record, copy, or reproduce records, required by this part, by any process which accurately reproduces or forms a durable medium for so reproducing the original of such records, shall apply to



the regional regulatory administrator for permission to do so, describing:

- (a) The records to be reproduced;
- (b) The reproduction process to be employed;
- (c) The manner in which the reproductions are to be preserved, and
- (d) The provisions to be made for examining, viewing, and using such reproductions.

The regional regulatory administrator shall not approve any application unless the manner of preservation of the reproductions and the provisions for examining, viewing, and using such reproductions are satisfactory. Whenever records are reproduced under this section, the reproduced records shall be preserved in conveniently accessible files, and provisions shall be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it shall be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original shall be applicable to the reproduced record. As used in this section, "original record" shall mean the record required by this part to be maintained or preserved by the proprietor, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

#### Daily Records

##### § 19.751 General.

- (a) *Entries.* (1) Each entry required by this part to be made in daily records shall be made on the day on which the operation or transaction occurs.
- (2) When the proprietor prepares supplemental or auxiliary records concurrent with the individual operation or transaction, and these records contain all the required information with respect to the operation or transaction, entries in daily records may be deferred not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.
- (b) *Content.* (1) All entries in the daily records required by this subpart shall show the date of the operation or transaction.
- (2) Daily records shall accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable—
- (i) Identification and proper marking, branding, and labeling of spirits, denatured spirits, or wines;

- (ii) proprietors to prepare summaries, reports, and returns required by this part; and
- (iii) ATF officers to—

(A) verify and trace the quantity and movement of materials, spirits, denatured spirits, wines, or alcoholic flavoring materials involved in each transaction or operation;

(B) verify tax determinations and claims; and

(C) ascertain whether there has been compliance with law and regulations.

(c) *Format.* (1) Proprietor's copies of prescribed forms which bear all required details shall be utilized as daily records.

(2) In instances when a form is not prescribed, the proprietor's commercial records (e.g., invoices, bills of lading) which bear all required details shall be utilized as required daily records.

(3) Daily records required by this part shall be so maintained that they clearly and accurately reflect all mandatory information. Where the format or arrangement of the daily records is such that the information is not clearly or accurately reflected, the regional regulatory administrator may require a format or arrangement which will clearly and accurately reflect the information.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284, (26 U.S.C. 5207))

##### § 19.752 Details of daily records.

The daily records required by this part shall conform to the following requirements:

(a) Spirits shall be recorded by kind and by quantity in proof gallons, except that removals of bottled products from bonded premises shall be either in wine gallons or liters and proof.

(b) Denatured spirits shall be recorded by formula number and by quantity in wine gallons.

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons. When nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded. When it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the proprietor may estimate the weight or volume of the material.

(d) Wines received for and used in processing operations shall be recorded by quantity in proof gallons.

(e) Alcoholic flavoring materials shall be recorded by kind (and formula number, if any) and by quantity in proof gallons.

(f) Containers (other than packages bearing package identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. Package identification numbers, number of packages, and proof gallons per package shall be recorded on storage deposit records reflecting production gauges or filling of packages from tanks; however, only the lot identification numbers, number of packages, and proof gallons per package need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part.

(g) Materials intended for use in the production of spirits shall be recorded by kind and by quantity, recording liquids in gallons and other materials in pounds, and giving the sugar content for molasses.

(h) The name and address of the consignee or conignor, and if any, the plant number or industrial use permit number of such person, shall be recorded for each receipt or removal of materials, spirits (including denatured spirits), articles, spirits residues, and wine.

(i) The serial number of the tank used for each operation or transaction.

(j) All records shall be specifically noted to indicate spirits designated for bottling-in-bond, or for bottling of industrial alcohol.

(k) When spirits are required to be gauged, all elements of the gauge shall be shown on the required records.

(l) The rate of duty paid on imported spirits shall be shown on the transaction forms or records.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### Production Account

##### § 19.756 Daily production records.

(a) *Spirits production.* Each proprietor shall maintain daily records of production operations showing:

(1) The receipt of fermenting material or other nonalcoholic material intended for use in the production of spirits.

(2) The receipt and use of spirits, denatured spirits, articles, and spirits residues received for redistillation.

(3) The receipt and use of extracted oils of juniper berries and other natural

aromatics received for use in gin production.

(4) The fermenting material set in each fermenter or other material used in the production of spirits.

(5) The distilling material produced, received for production, and used in production of spirits, or destroyed or removed from the premises before being distilled (including the residue of beer returned to the producing brewery).

(6) The gauge of spirits in each receiving tank both before and after the production gauge of spirits removed therefrom, the production gauge (in proof gallons) of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering each removal. The details of packages filled pursuant to production gauge shall also be recorded.

(7) The fermenting materials or other nonalcoholic materials removed from the premises.

(8) The quantity and alcoholic content of fusel oil or other chemicals removed from the production system and the disposition thereof with the name of the consignee, if any.

(9) The kind and quantity of distillates removed from the production system.

(10) The kind and quantity of spirits lost or destroyed prior to production gauge.

Records pertaining to production shall be maintained in such a manner that the spirits produced may be traced through the distilling system to the mash or other material from which produced, and the identity of the spirits thus traced may be clearly established.

(b) *Byproduct spirit production.* Each proprietor who manufactures substances other than spirits, in a process which produces spirits as a byproduct, shall maintain daily production records as to each such process showing:

(1) The kinds and quantity of materials received, unless included in records maintained under paragraph (a) of this section.

(2) The spirits produced and disposed of.

(3) The kind and quantity of other substances produced.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284, (26 U.S.C. 5207))

#### Storage Account

##### § 19.760 Daily storage records.

Each warehouseman shall maintain daily transaction records which shall show as applicable:

(a) Spirits or wines received in storage;

(b) Spirits mingled or blended;

(c) Spirits or wines filled into packages from tanks and retained for storage;

(d) Spirits of less than 190 degrees of proof or wines transferred from one tank to another;

(e) Spirits returned to bond;

(f) Spirits or wines voluntarily

destroyed;

(g) Spirits or wines lost during storage;

(h) The change of packages;

(i) Addition of oak chips to spirits and the addition of caramel to brandy or rum; and

(j) Disposition of spirits or wines.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284, (26 U.S.C. 5207))

##### § 19.761 Storage summary records.

Each warehouseman shall keep current summary records of spirits and wines in storage as follows:

(a) Package accounts shall be maintained on Forms 5110.37, and shall show the number of packages and proof gallons received in and withdrawn from storage as follows:

- (1) Separate accounts for—
- (i) domestic spirits;
- (ii) imported spirits;
- (iii) Virgin Islands spirits;
- (iv) Puerto Rican spirits; and
- (v) wines.

(2) The spirits accounts shall be arranged by—

- (i) producer, blender, or warehouseman;
- (ii) kind of spirits;
- (iii) season or year of filling; (for imported spirits by (A) date of release from customs custody or (B) if filled in ATF bond, the date of fill); and
- (iv) except for spirits of 190 degrees or more of proof, (A) state (alphabetically) and (B) plant number (numerically).

(3) The wine accounts shall be composite accounts of each wine by kind in packages.

(b) Tank accounts shall show the proof gallons deposited, in, withdrawn from, and remaining in the tank or tanks covered by such account as follows:

(1) Wines or spirits of less than 190° of proof. Separate accounts shall be maintained on Form 5110.29 for each tank (including tank cars, tank trucks, and similar vessels) containing wines or spirits of less than 190° of proof.

(2) Spirits of more than 190° of proof. A separate account shall be maintained on Form 5110.37 for each kind (class) of spirits of 190° or more of proof, stored in tanks (including tank cars, tank trucks, or similar vessels).

(c) *Summarization.* Package accounts and tank account records shall—

(1) Be summarized at the end of each month to show for each type of container, by each kind, the total proof

gallons received in, withdrawn from, and remaining in storage;

(2) Be summarized for lesser periods when required by the regional regulatory administrator; and

(3) Include all losses and gains.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284, (26 U.S.C. 5207))

#### Processing Account

##### § 19.766 Processing.

Each processor shall maintain daily records of transactions and operations with respect to:

(a) Manufacture and bottling of distilled spirits products;

(b) Production of gin or vodka by other than original and continuous distillation;

(c) Finished products in inventory;

(d) Denaturation of spirits; and

(e) Manufacture of articles.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284, (26 U.S.C. 5207))

##### § 19.767 Daily records of bottling operations.

Each processor shall maintain daily records of the details of his manufacturing and bottling operations, showing:

(a) The spirits, wines, and alcoholic flavoring materials received from all sources.

(b) The spirits, wines, and alcoholic flavoring materials and nonalcoholic flavoring materials and other ingredients used in the manufacture of a distilled spirits product, as required by § 19.381.

(c) The bottling or packaging of each lot of spirits as required by § 19.394.

(d) The results of bottling proof and fill tests as required by § 19.397.

(e) The rebottling, relabeling, and restamping (including reaffixing alternative devices) of bottled products as required by §§ 19.404 and 19.405.

(f) The spirits, wines, and alcoholic flavoring materials removed from the premises. The total removals for each day shall be summarized by showing (1) the spirits and wines removed without bottling or packaging, (2) spirits products removed after bottling or packaging, (3) the spirits and wines transferred in bond, and (4) alcoholic flavoring materials removed.

(g) The samples of spirits and wines transferred or withdrawn, and the name and address of the consignee of such samples.

(h) The spirits moved to the production account for redistillation.

(i) The voluntary destruction of spirits, in accordance with Subpart T of this part.

(j) The losses as provided in Subpart P of this part.



The records required by paragraph (a) of this section shall also show the name and plant number of the producer or processor (warehouseman in the case of blended beverage rums or brandies or spirits of 190 degrees or more of proof received from storage) for domestic spirits, the name of the importer and the country of origin for imported spirits, and the name and address of the producer of wines and alcoholic flavoring materials.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.768 Production of gin or vodka.

Each processor shall maintain daily records in addition to the record required by § 19.381, of the production of gin or vodka, by means other than original and continuous distillation, as follows:

- (a) Spirits used in the production of gin or vodka;
- (b) Receipt and use of extracted oils of juniper berries and other natural aromatics; and
- (c) Gin or vodka produced.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.769 Records of finished products.

Each processor shall maintain daily records and a summary of spirits bottled or packaged in processing as follows:

- (a) A beginning quantity of bottled or packaged spirits on hand (book record);
- (b) The quantity of spirits bottled or packaged;

(c) The quantity of bottled or packaged spirits disposed of by:

- (1) Withdrawal on tax determination;
- (2) Transfer in bond (in bulk containers);

(3) Withdrawal free of tax or without payment of tax;

(4) Dumping to bulk for further processing;

(5) Transfer to the production account for redistillation;

(6) Voluntary destruction;

(7) Accountable breakage;

(8) Sampling;

(9) Inventory shortages, overages, and losses; and

(10) Other dispositions.

(d) An ending quantity of bottled or packaged spirits on hand (book record). Daily summary records shall be totaled monthly and used to compile the report required by § 19.786.

(Sec. 807, Pub. L. 96-39, 93 Stat. 283, as amended (26 U.S.C. 5207))

#### § 19.770 Records of denaturation operations.

Each processor qualified to denature spirits shall maintain the following daily records of denaturation:

(a) The kind and quantity of denaturants received, used in denaturation of spirits, or otherwise disposed of;

(b) The spirits used;

(c) The quantity of denatured spirits produced, received, removed, or otherwise disposed of;

(d) The recovered denatured spirits or recovered articles received, restored, and/or redenatured;

(e) Packages of denatured spirits filled with a separate record for each formula number and filed in numerical order according to the serial number of the packages;

(f) Losses; and

(g) Disposition of denatured spirits.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.771 Records for manufacture of articles.

Each processor qualified to manufacture articles shall maintain daily records arranged by the name and authorized use code of the article to show the following:

(a) Quantity, by formula number of denatured spirits used in the manufacture of the article.

(b) Quantity of each article manufactured; and

(c) Quantity of each article removed, or otherwise disposed of, including the name and address of the person to whom sold or otherwise disposed of.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### Other Records

##### § 19.776 Record of spirits withdrawn for research, development, or testing, or laboratory analysis.

The proprietor shall maintain a record of spirits withdrawn without payment of tax or free of tax under the provisions of § 19.724 or § 19.725. The record shall show for each withdrawal—

(a) Date sample taken;

(b) Full identity of the laboratory in which to be tested or consignee;

(c) Whether withdrawn without payment of tax or free of tax;

(d) Kind of spirits;

(e) Identification of container from which withdrawn;

(f) Description of the purpose for which withdrawn;

(g) The size of container(s) in which withdrawn;

(h) The wine gallons and proof withdrawn; and

(i) Date and manner of final disposition after testing (unless withdrawn free of tax).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.777 Daily record of strip stamps and alternative devices.

Each proprietor bottling spirits shall maintain, for each day a transaction in strip stamps or alternative devices occurs, a daily record showing the following for:

(a) *Strip stamps.* A record by kind (green or red) and by size (small or standard) showing, by quantity, the strip stamps—

(1) Received,

(2) Affixed (by bottle size),

(3) Lost,

(4) Multitied,

(5) Unaccounted for,

(6) Destroyed or otherwise disposed of, and

(7) On hand at the beginning and at the end of the day.

(b) *Alternative devices.* The number of alternative devices affixed by size of bottle. The record shall be in sufficient detail to enable proprietors to prepare the semiannual report, Form 5100.8, for strip stamps as required by § 19.786.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.778 Daily record of distilled spirits stamps.

Each proprietor of bonded premises shall maintain, for each day a transaction in distilled spirits stamps occurs, a daily record of distilled spirits stamps, showing the quantity—

(a) Received;

(b) Used, with annotation to show the applicable transaction form or record and its serial number (if any);

(c) Destroyed or otherwise disposed of; and

(d) On hand at the beginning of the day and at the end of the day.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.779 Record of liquor bottles.

Proprietors who bottle distilled spirits shall keep records covering the receipt, use, and disposition of liquor bottles in such manner as to enable any ATF officer to verify and trace the receipt and disposition of such bottles.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

#### § 19.780 Daily record of wholesale liquor dealer and taxpaid storeroom operations.

Where the proprietor, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates taxpaid storage premises at another location from which distilled spirits are not sold at wholesale, he shall maintain daily records of the receipt and disposition of

all distilled spirits and wines at such premises, and of all restamping or relabeling operations. The provisions of this section shall also apply to products returned to a wholesale liquor dealer or taxpaid storeroom from the market. A separate record shall be kept for each such premises. The records in respect of the receipt and disposition of distilled spirits and wines shall contain all data necessary (supported by records including bills of lading and invoices) to enable ATF officers to identify and trace such receipts and dispositions and to ascertain whether there has been compliance with all laws and regulations relating thereto. In addition to any other information shown therein, such records shall include:

(a) *As to receipts and dispositions—*

(1) The date of the transaction (or date of discovery in the case of casualty or theft);

(2) The name and address of each consignor or consignee, as the case may be;

(3) The brand name;

(4) The kind of spirits;

(5) The actual quantity of distilled spirits involved (proof and proof gallons if in packages; wine gallons or liters and proof if in bottles);

(6) The package identification numbers or serial numbers of packages involved;

(7) The name of the producer; and

(8) The country of origin, if imported spirits.

(b) *As to case dispositions—*In addition to the requirements listed in paragraph (a) of this section, the serial numbers of cases involved; however, the regional regulatory administrator may, upon receipt of an application and a finding that such recording is not necessary to law enforcement or protection of the revenue, relieve a dealer from the requirement of recording such case serial numbers.

(c) *As to restamping or relabeling operations—*

(1) The date of the transaction;

(2) The serial numbers of cases involved;

(3) The total number of bottles;

(4) The name of the bottler; and

(5) The number and kind of strip stamps used and/or the number of alternative devices used.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

#### Procedures Which Affect All Account Categories

##### § 19.781 Inventories.

(a) *General.* Each proprietor shall make a record of inventories of spirits, denatured spirits, and wines required by

§§ 19.329, 19.353, 19.421, 19.422, and 19.463. The following information shall be shown:

(1) Date taken;

(2) Identification of container(s);

(3) Kind and quantity of spirits, denatured spirits, and wines;

(4) Losses, gains or shortages; and

(5) Signature, under penalties of perjury, of the proprietor or person taking the inventory.

(b) *Production.* Each proprietor shall record the quarterly inventory of spirits as provided in paragraph (a) of this section.

(c) *Storage.* (1) Each proprietor shall record the quarterly inventory of spirits and wines (except those in packages) as provided in paragraph (a) of this section.

(2) Gains or losses disclosed for each container shall be recorded on the current Form 5110.29 or 5110.37.

(d) *Processing.* Each proprietor shall record inventories as provided in paragraph (a) of this section, and for—

(1) Bulk spirits and wines in process, any gains or losses shall be recorded on the individual dump, batch, or bottling record;

(2) Finished products in bottles and packages, any overages, losses, and shortages shall be recorded in records required by § 19.769; and

(3) Denatured spirits, any gains or losses shall be recorded in the record prescribed by § 19.770.

(e) *Retention.* Inventory records shall be retained by the proprietor and made available for inspection by ATF officers.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.782 Submission of transaction forms, records, and reports.

(a) *Transaction forms.* Completed copies of transaction forms and records which must be submitted under the provisions of this part shall be submitted by the proprietor no later than the close of the business day next succeeding the date of the transaction, as provided by this part and by instructions on the individual forms.

(b) *Timely submission of operational notices.* Where this part requires an advance copy of a notice to be submitted before commencing an operation, such notice shall be submitted at such time to provide the area supervisor sufficient opportunity to determine whether such operation should be conducted under supervision.

(c) *Reports.* Reports required by this part shall be submitted by the proprietor in accordance with this part and the instructions on the form.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### § 19.786 Reports.

(a) Reports required by this section shall be prepared as of the end of the applicable reporting period. The original shall be submitted to the regional regulatory administrator and a copy retained by the proprietor.

(b) Proprietors shall submit the following reports of their operations:

| Title and function                                                                                                                | Form No. | Reporting period |
|-----------------------------------------------------------------------------------------------------------------------------------|----------|------------------|
| (1) Production report: Summary of production operations.                                                                          | 5110.40  | Monthly          |
| (2) Storage report: Summary of storage operations.                                                                                | 5110.11  | Monthly          |
| (3) Processing reports: Summary of processing operations.                                                                         |          |                  |
| (i) Manufacture/bottling                                                                                                          | 5110.26  | Monthly          |
| (ii) Denaturation (including article manufacture).                                                                                | 5110.43  | Monthly          |
| (4) Report of stamps and alternative devices: Summary of strip stamp, alternative device, and distilled spirits stamp activities. | 5100.8   | Quarterly        |

(c) All reports required by this part shall be prepared and submitted to the regional regulatory administrator not later than the 15th day of the month following the close of the reporting period.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

#### Subpart X—Transitional Rules for the All-In-Bond Method of Distilled Spirits Plant Operation

##### § 19.901 Scope of subpart.

This subpart provides regulations for conversion to the all-in-bond method of producing, storing, and processing of distilled spirits, denatured spirits, articles, and wines at distilled spirits plants. This subpart addresses the continued operation of distilled spirits plants qualified to operate on December 31, 1979, and includes provisions for (a) filing of new bonds; (b) filing of applications for registration and necessary operating permits; (c) conversion of controlled stock and bulk wines; (d) filing of final returns; and (e) the payment of taxes determined but not paid by the close of business on December 31, 1979.

##### § 19.902 Filing of final returns.

(a) *General.* Applicable taxes paid or determined on converted controlled stock and bulk wine under § 19.906, may be taken as an offset for taxes that will be paid with final returns filed under this section. Such credits (without interest) determined under § 19.907 shall first be applied by proprietors to the tax payable with any final returns provided for in this subpart. Any excess credit remaining after the filing of final returns may be applied to returns filed on ATF Form 5110.35. For each amount of tax



credit taken on filed returns, proprietors shall show on the return "credit taken as provided in 27 CFR 19.902".

(b) **ATF Form 4077.** A final return on ATF Form 4077 shall be filed by proprietors on January 15, 1980, to pay all outstanding unsatisfied liability on tax determined distilled spirits which have been withdrawn from bond under 26 U.S.C. 5174(a)(2) through December 31, 1979.

(c) **ATF Form 2527.** A final tax return on ATF Form 2527 shall be filed by proprietors on January 15, 1980, to pay all outstanding unsatisfied liability for taxes incurred under 26 U.S.C. 5021, 5022 and/or 5041 on bulk spirits and wines at distilled spirits plants at the close of business on December 31, 1979. In the remarks section on the ATF Form 2527, proprietors shall show the total taxes reported at line 17, columns (d), (e), and (f). The total taxes shall be reduced by (1) the amount of taxes determined as prescribed in § 19.905, and (2) any taxes determined on rectified spirits and wines on hand at the time of the inventory prescribed in § 19.904 which were reported on ATF Form 2637 but which were not bottled. The difference thus determined shall be reported at line 18 of ATF Form 2527 as the "adjusted total tax" to be paid with the final return.

(d) **ATF Form 2522.** A final return on ATF Form 2522 shall be filed by proprietors on January 15, 1980, to pay all outstanding unsatisfied liability on tax determined distilled spirits which have been withdrawn from bond under 26 U.S.C. 5174(a)(1) through December 31, 1979.

(e) **Returns to be filed and marked.** Final returns shall be filed whether or not taxes are due, and each return shall be conspicuously marked "Final Return".

#### § 19.903 Liability for payment of tax.

Except as otherwise provided in this subpart, the tax on all distilled spirits which have been withdrawn from bond on determination of tax, and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable, in accordance with 26 U.S.C. 5061, on the applicable final return, as provided in § 19.902.

#### § 19.904 Physical inventory.

A physical inventory of all distilled spirits which were designated as controlled or taxpaid stock on December 31, 1979, and bulk wine on distilled spirits plant premises, shall be taken to establish the quantities of each to remain on bonded premises after December 31, 1979, and to provide the

basis for filing final claim for operational loss. The inventory shall differentiate between products to be converted to bonded stock and taxpaid products that will remain on bonded premises. The physical inventory may be taken within a period of a few days before or after December 31, 1979, if such period does not include more than one complete weekend and if necessary adjustments are made to reflect pertinent transactions, so that the recorded inventory will agree with the actual quantities of converted bonded stock and taxpaid stock on hand as of close of business December 31, 1979. Records of the inventory shall be prepared and shall indicate the tax established on converted products in accordance with § 19.907(b). All inventory records shall be maintained in sufficient detail to enable ATF officers to verify the amount of any tax established for the purpose of a return, claim, or credit, and shall be executed under the penalties of perjury, as provided in § 19.11.

#### § 19.905 Rectification and wine taxes.

When taking the inventory prescribed in § 19.904, proprietors shall determine all liability for taxes incurred under 26 U.S.C. 5021, 5022, and/or 5041 on bulk distilled spirits and wines which at the close of business on December 31, 1979, were not determined and reported on ATF Form 2637. Such taxes not yet determined shall be determined for all bulk spirits and wines and reported on a modified ATF Form 2637. Inventory records shall be kept to support taxes reported on the modified ATF Form 2637, and such taxes shall be included with other taxes to be shown on the final return prescribed in § 19.902.

#### § 19.906 Election to convert controlled stock and bulk wine.

Proprietors may, subject to the provisions in Section 808 of The Distilled Spirits Tax Revision Act of 1979, elect to convert to bonded stock any controlled stock or bulk wine on distilled spirits plant premises at the beginning of business on January 1, 1980. Proprietors may elect to convert all or any part of such controlled stock or wine by designating in the final inventory under § 19.904 the applicable portion thereof as bonded stock. Controlled stock which is not designated as converted to bonded stock becomes taxpaid stock, subject to the filing of returns and payment of tax as prescribed in 27 CFR 19.903. Any distilled spirits, wine, or rectification tax previously paid or determined on controlled stock or wine which is converted shall be without interest,

credited, or refunded. At the time of election, converted products shall become distilled spirits or wines in bond on which tax has not been paid or determined. Proprietors shall establish the amount of tax to be credited or refunded on products to be converted as provided in § 19.907.

#### § 19.907 Tax on converted products.

(a) **Credit or refund.** The amount of tax to be credited or refunded on products converted to bonded stock, as provided in § 19.906, shall be established by the proprietor making the election, as follows:

(1) The tax on products containing only distilled spirits shall be established by determining the quantity and proof of such products, and calculating the proof gallons and tax therefrom. The quantity and proof of bottled products shall be based on the case markings or label information.

(2) The tax on bulk wines shall be established by determining the quantity in wine gallons of each tax rate of wines to be converted, and calculating the total tax on all wines therefrom.

(3) The tax on products containing alcoholic ingredients, other than distilled spirits which were withdrawn from bond on payment or determination of tax shall be established on the basis of the formulation under which such products were manufactured. The amount of tax to be credited or refunded shall be the taxes which were actually paid or determined on the distilled spirits and wines contained in a product, plus applicable rectification tax. The taxes on spirits and wines in these products shall be established as follows:

(i) The taxes actually paid or determined may be calculated for the spirits and wines contained in each lot of product bottled, and therefrom the taxes to be credited or refunded may be established for any part of the lot remaining in the controlled stock to be converted.

(ii) The taxes on products, regardless of kind or brand, which were manufactured under a standard formulation, (i.e., always manufactured with the same amount of spirits and wines) may be established by calculating the actual rate of taxes paid or determined on the spirits and wines in a typical product and then applying the rate to all such product remaining in the controlled stock to be converted.

(iii) The taxes on products that are formulated with varying amounts of spirits and wines may be established by first determining the total wines (at each tax rate) and the total spirits used in each product, from July 1, 1979, to September 30, 1979, then calculating

from the totals an average rate of taxes paid or determined on the spirits and wines in the product, and then applying the average rate to the remaining product in the controlled stock to be converted. If the product to be converted was not manufactured during the period from July 1, 1979 to September 30, 1979, the proprietor may make the same calculations from the last batch of the product produced prior to July 1, 1979.

(b) **Amount of Tax.** The total distilled spirits, wine, and rectification taxes paid or determined, as established in this section, may be credited or refunded as provided in § 19.902 upon conversion of controlled stock and bulk wine to which the tax pertains. Credit for converted stock may be taken on returns without filing a claim for credit on Form 2635.

#### § 19.908 Nondrawback alcoholic flavoring ingredients.

Alcoholic flavoring ingredients on which drawback of tax has not and will not be claimed may be considered distilled spirits in controlled stock for the purpose of conversion of controlled stock for tax credit. Proprietors with such nondrawback alcoholic flavoring ingredients on their control premises on December 31, 1979, may convert the ingredients for tax credit in the same manner as provided for distilled spirits in controlled stock in § 19.906.

#### § 19.909 Taxpayment from Customs bond.

Bulk distilled spirits which were withdrawn on payment or determination of tax from Customs bond to the control premises of a distilled spirits plant may be considered controlled stock for the purpose of conversion of controlled stock for tax credit. Proprietors who on December 31, 1979, have such bulk spirits, shall remove the spirits prior to January 1, 1980, or convert the spirits to bonded stock as provided in § 19.906.

#### § 19.910 Disposition of on-hand bulk spirits.

Entries in the records of processors after December 31, 1979, for all operations involving the bottling and packaging of distilled spirits shall be made as bonded operations in the bonded processing account. Therefore, all bulk distilled spirits in controlled stock and bulk wine on distilled spirits plant premises on December 31, 1979, must be removed from the bonded premises prior to January 1, 1980, or be converted to bonded stock as provided in § 19.906.

#### § 19.911 Spirits in export storage.

Distilled spirits held in an export storage facility at the close of business

on December 31, 1979, shall be treated as any other distilled spirits in bond, and may, subject to the provisions of this chapter, be withdrawn for any purpose authorized by 26 U.S.C. Chapter 51.

#### § 19.912 Final operational loss claim.

On or after January 1, 1980, proprietors may file final claims for operating losses incurred from July 1, 1979, through December 31, 1979. Such claims shall be filed in the manner provided for final computational year claims in Subpart O of 27 CFR Part 201 in effect on December 31, 1979, and shall be supported by the physical inventory prescribed in § 19.904.

#### § 19.913 Continuation of business under new bond.

As provided in Section 809(c) of The Distilled Spirits Tax Revision Act of 1979, each proprietor who is qualified to operate a distilled spirits plant on December 31, 1979, shall, prior to continuing operations on the premises of such plant, furnish a bond as provided in 26 U.S.C. 5173 to cover the operations to be continued. No person shall continue operations on a distilled spirits plant after December 31, 1979, unless the person has a valid operations or unit bond.

#### § 19.914 Qualification of distilled spirits plants in existence on December 31, 1979.

(a) **New application.** Each proprietor (and alternate proprietor) of a distilled spirits plant who intends to continue operation after December 31, 1979, shall file a new application for registration with the regional regulatory administrator before January 1, 1980. The approved registration in effect on December 31, 1979, shall remain in effect until the new application is acted upon by the regional regulatory administrator.

(b) **Continuing operations.** With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under Section 5171 of the Internal Revenue Code of 1954, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

(1) the person engaged in operations at such premises is registered under such section as a distiller or warehouseman, and

(2) such premises meet the capacity requirements for a bonded warehouse. An example of such an application would be one filed by a distilled spirits plant proprietor qualified as a rectifier and bottler, without bonded premises.

#### § 19.915 Establishment of finished products records.

Records of finished products in bond shall be established January 1, 1980, to include—

(a) Stock held in an export storage facility at the close of business December 31, 1979;

(b) Other stock on bonded premises at the close of business on December 31, 1979; and

(c) Controlled stock converted in accordance with § 19.906 on January 1, 1980.

Subsequent entries in finished products records shall be made in accordance with Subpart W of this part.

#### § 19.916 Taxpaid stock on bonded premises.

(a) **Retention of stocks.** Distilled spirits and wines on which the tax has been paid, and distilled spirits in controlled stock on which the tax will be paid, may remain on the bonded premises of the distilled spirits plant during calendar year 1980.

(b) **Separation of stocks.** Such taxpaid spirits and wines shall be physically separated from other distilled spirits and wines on bonded premises. Separation shall be accomplished by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods equally protective of the revenue which the regional regulatory administrator finds will properly distinguish between bonded and taxpaid distilled spirits or wines. The locations on bonded premises where taxpaid stock will be kept shall be appropriately identified to show the tax status of the stock held there.

(c) **Special conditions.** The taxpaid stock referred to in this section shall consist of all distilled spirits and wine on which tax has been paid or is due on January 1, 1980, and which are stored in buildings or rooms on distilled spirits plant premises that become bonded premises as of January 1, 1980.

#### § 19.917 Records of taxpaid stock remaining on bonded premises during 1980.

Records shall be kept to show full accountability for taxpaid distilled spirits and wines that remain on bonded premises, as provided in § 19.916, and they shall be maintained separately from the records required to be kept for taxpaid storeroom and wholesale liquor dealer operations. When taxpaid distilled spirits and wines are removed from the bonded premises of a distilled spirits plant to a taxpaid storeroom or wholesale liquor dealer premises, operated in connection with a distilled spirits plant, during 1980, the receipt of



the products shall be shown in the records required by § 19.780 (records of taxpaid storeroom and wholesale liquor dealer operations).

#### § 19.918 Filing of tax return, ATF Form 5110.35.

Every proprietor, who on January 1, 1980, is qualified under a withdrawal or unit bond to defer payment of distilled spirits tax, shall file a tax return on ATF Form 5110.35, as provided in this section, and in § 19.522. Such return shall be filed for each prescribed return period, whether or not liability is incurred during a period, with the first return to be filed by February 5, 1980, for the return period inclusive of January 1 through January 15, 1980.

#### § 19.919 Return of products containing taxpaid wine.

With respect to distilled spirits returned to the bonded premises of a distilled spirits plant during calendar year 1980, the proprietor may claim a credit or refund of the tax imposed under 26 U.S.C. 5001(a)(1) (or the tax equal to such tax imposed under 26 U.S.C. 7652) on the spirits so returned as well as any tax imposed under 26 U.S.C. 5041 on the wine contained in the product. With respect to such spirits returned after calendar year 1980, the proprietor may claim a credit or refund of only the tax imposed under 26 U.S.C. 5001(a)(1) (or the tax equal to such tax imposed under 26 U.S.C. 7652) on the spirits so returned.

#### § 19.920 Curtailment and extension of distilled spirits plant and bonded wine cellar premises.

A proprietor of a contiguous or adjacent distilled spirits plant and bonded wine cellar which on December 31, 1979, are subject to alternate curtailment and extension of premises for the conduct of operations required to be carried on under the opposite registration may continue such curtailment and extension to conduct the operations for which they were qualified on December 31, 1979, until the required new application for registration of the distilled spirits plant has been acted upon by the regional regulatory administrator.

#### § 19.921 Continuation of alternate methods or procedures.

Proprietors following alternate methods or procedures which were approved prior to January 1, 1980, shall determine the propriety of continued operation under the methods or procedures. If any approved alternate method or procedure is inconsistent with any regulatory provisions in this chapter after January 1, 1980, operations

under the approval shall be immediately discontinued.

#### § 19.922 Supervision.

(a) *General.* Notwithstanding the provisions in Subpart E of this part, the same degree and extent of on-premises ATF supervision exercised at distilled spirits plants under law and regulations in effect prior to January 1, 1980, shall be continued at each plant until the regional regulatory administrator requests, receives, and approves a proprietor's statement of security as provided in § 19.281. Such on-premises supervision by ATF officers shall include, but is not limited to, the gauging or the supervision of the gauge of spirits transferred to or received in a processing account and the affixing of Government locks to tanks of spirits and rooms or buildings containing packages of spirits.

(b) *Curtailment.* The regional regulatory administrator may curtail ATF on-premises supervision at a proprietor's distilled spirits plant, after approval of the proprietor's statement of security.

(c) *Notification.* The proprietor shall be notified, in writing, of any intended curtailment of supervision.

(d) *Statement of security.* Upon request of the regional regulatory administrator, the proprietor shall promptly prepare and submit a statement of security as required by § 19.281.

#### § 19.923 Removal of seals from the distilling system and other equipment.

Government cap seals affixed to a distilling system and other equipment prior to January 1, 1980, may be removed by the proprietor. Proprietors shall destroy Government cap seals when they are removed.

#### § 19.924 Approval of locks.

Proprietors who, on January 1, 1980, do not have approved locks that may be utilized as required by this part, shall submit to the regional regulatory administrator for approval, a timetable for the acquisition of such locks. The timetable shall be prepared according to guidelines established by the regional regulatory administrator for the replacement of Government locks with the approved locks of distilled spirits plant proprietors at plants where direct supervision is to be suspended.

#### § 19.925 Pilot operations.

Proprietors authorized under pilot operations to affix their locks on tanks, rooms, buildings, pipelines, etc., in place of Government locks affixed by ATF officers may continue the use of their locks for such purposes, subject to a

determination of the need therefor by the regional regulatory administrator, and pending final approval of the locks as provided in § 19.924.

#### § 19.926 New sign.

Proprietors, who were qualified to conduct business on May 1, 1979, who qualify to conduct business after December 31, 1979, and whose required sign does not conform to the requirements in § 19.280, may continue to conduct business during 1980 with the existing sign after which time they must place the new sign.

Section D. Part 170 is amended as follows:

#### PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Paragraph 1. The table of contents is amended to delete Subparts C, F, G and W and to amend the contents of Subpart U. As amended, the table of contents reads as follows:

#### Subparts B-D—[Reserved]

#### Subparts F-N—[Reserved]

#### Subpart U—Manufacture and Sale of Certain Compounds, Preparations, and Products Containing Alcohol

Sec.  
170.611 Scope of subpart.  
170.612 Meanings of terms.  
170.613 Products to which exemptions relate.  
170.614 U.S.P. and N.F. preparations.  
170.615 Change of formula; when required.  
170.616 Products classed as liquors.  
170.617 Apothecaries and manufacturers exempt from qualification.  
170.618 Sale of products for beverage use; special tax.

#### Subparts V-Y—[Reserved]

Paragraph 2. Section 170.2 is revised to change a law citation. As revised, § 170.2 reads as follows:

#### § 170.2 Statutory authority.

Section of 5205(d), 26 U.S.C., provides that the Secretary may, under regulations prescribed by him, issue stamps for restamping packages of distilled spirits which have been duly stamped, but from which the stamps have been lost or destroyed by unavoidable accident.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 3. Section 170.3 is revised to reflect revised withdrawal procedures under the all-in-bond system. As revised, § 170.3 reads as follows:

#### § 170.3 Applications.

Applications for restamping packages of distilled spirits should be made in writing to the regional regulatory administrator. The applicant should state in detail the number of packages, description of the contents, the place where the packages are located, the kind of stamps lost or destroyed, and the nature of the applicant's interest in the property. The applicant shall submit with his application a certified copy of the document showing lawful withdrawal of the packages of spirits from a distilled spirits plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 4. Subpart C is revoked in its entirety. The center headings "Subpart B—[Reserved]" and "Subpart D—[Reserved]" are combined to read as follows:

#### Subparts B-D—[Reserved]

Paragraph 5. Subparts F and G are revoked in their entirety; however, provisions in these Subparts are being incorporated into 27 CFR Parts 19 and 250 as applicable. As amended, the center heading "Subparts H-N—[Reserved]" reads as follows:

#### Subparts F-N—[Reserved]

#### § 170.30 [Amended]

Paragraph 6. Section 170.301 is amended to delete the term "rectified products," in paragraph (a), and the term "rectified products," in paragraph (c).

Paragraph 7. Section 170.303 is amended to update definitions by deleting references to rectified products and by amending the definition of distilled spirits. As amended, § 170.303 reads as follows:

#### § 170.303 Meaning of terms.

*Alcoholic liquors or liquors.* Distilled spirits, wines, and beer, lost, made unmarketable, or condemned, as provided in this subpart.

*Distilled spirits, or spirits.* Ethyl alcohol and other distillates, such as whisky, brandy, rum, gin, and vodka, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), on which the internal revenue tax has been paid or determined and, if imported, on which duties have been paid.

*Major disaster.* \* \* \*  
*Region.* \* \* \*

*Tax.* (a) With respect to distilled spirits, "tax" means the internal revenue

tax that is paid or determined on the spirits.

(c) With respect to beer, "tax" means the internal revenue tax that is paid or determined on the beer.

*United States.* \* \* \*

#### § 170.304 [Amended]

Paragraph 8. Section 170.304 is amended by deleting the term "rectified products," in paragraphs (a) and (b).

Paragraph 9. Section 170.611 is revised to reflect the repeal of the commodity and occupational taxes relating to rectification. As revised, § 170.611 reads as follows:

#### § 170.611 Scope of subpart.

This subpart contains provisions relating to persons who compound, mix, manufacture, or sell compounds, mixtures, preparations, or products containing taxpaid distilled spirits or wines.

(Sec. 805, Pub. L. 96-39, 93 Stat. 278 (26 U.S.C. 5002))

Paragraph 10. Section 170.612 is revised to bring the definitions of certain terms into conformity with 26 U.S.C. Chapter 51, as amended. As revised, § 170.612 reads as follows:

#### § 170.612 Meanings of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, term shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

*Distilled spirits, or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced.

*Liquors.* Distilled spirits and/or wines.  
*Person.* An individual, trust, estate, partnership, association, company, or corporation.

*Processor.* Except as otherwise provided under 26 U.S.C. 5002(a)(6), any person qualified under Part 19 of this chapter who manufactures, mixes, or otherwise processes distilled spirits (including denatured spirits), or manufactures any article.

*Regional regulatory administrator.* The principal ATF regional official responsible for administering regulations in this part.

*Special tax.* The special (occupational) tax imposed by 26 U.S.C. 5111 and 5121 on dealers in liquors.

*Taxpaid distilled spirits or wines.*

Distilled spirits or wines as the case may be, on which the distilled spirits tax imposed by 26 U.S.C. 5001, or the wine taxes imposed by 26 U.S.C. 5041, have been paid or determined.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

*U.S.C.* The United States Code.

Paragraph 11. The center heading immediately preceding § 170.613 is deleted and § 170.613 is amended due to the repeal of rectification taxes. As amended, the introductory clause in paragraph (a) and paragraph (b) of § 170.613 reads as follows:

#### § 170.613 Products to which exemptions relate.

(a) *Products meeting requirements.* Apothecaries, pharmacists, and manufacturers are not required to qualify as processors under 26 U.S.C. 5171 before manufacturing or compounding medicines, medicinal preparations, food products, flavors, and flavoring extracts, if the tax has been paid or determined on all of the distilled spirits and/or wines contained therein, as follows:

(b) *Formulas and samples; when required.* On request of the Director, or when in doubt as to the classification of a product, the manufacturer shall submit to the Director the formula for and a sample of the product for examination to verify the manufacturer's claim of exemption from qualification requirements.

(Sec. 805, Pub. L. 96-39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

Paragraph 12. Section 170.614 is revised due to repeal of rectification taxes. As revised, § 170.614 reads as follows:

#### § 170.614 U.S.P. and N.F. preparations.

The following United States Pharmacopoeia and National Formulary preparations which are used by physicians and pharmacists principally as vehicles may be made with distilled spirits without qualification by the manufacturer as a processor under 26 U.S.C. 5171 and without incurring liability for special taxes for their sale:

Elixir aromaticum.  
Elixir aromaticum rubrum.  
Elixir aurantii amari.



Elixir cardamom compositum.  
Elixir glycyrrhizae.  
Elixir taraxaci compositum.  
Elixir terpinii hydratis.  
Spiritus aetheris.  
Spiritus myrciae compositus.  
Tinctura aurantii dulcis.  
Tinctura limonis.  
(Sec. 805, Pub. L. 96-39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

Paragraph 13. Section 170.615 is revised due to repeal of rectification taxes. As revised, § 170.615 reads as follows:

**§ 170.615 Change of formula; when required.**

If the regional regulatory administrator finds at any time that any product manufactured under this subpart as an unfit product is being used for beverage purposes, or for mixing with beverage liquors other than by a processor, he shall notify the manufacturer to desist from manufacturing the product until the formula is changed to make the product not susceptible of beverage use and the change is approved by the Director. However the provisions of this section shall not prohibit the use of unfit products in small quantities for flavoring drinks at the time of serving for immediate consumption. Where, pursuant to notice, the manufacturer does not desist, or the formula is not so modified as to make the product unsuitable for beverage use, the manufacturer shall immediately qualify as a processor.

(Sec. 805, Pub. L. 96-39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

Paragraph 14. Section 170.616 is revised due to repeal of rectification taxes. As revised, § 170.616 reads as follows:

**§ 170.616 Products classed as liquors.**

United States Pharmacopoeia tincture of ginger is held to be liquor. Bitters, patent medicines, and similar alcoholic preparations which are fit for beverage purposes, although held out as having certain medicinal properties, are also classed as liquors. These preparations are required to be manufactured on the bonded premises of a distilled spirits plant, bottled or packaged, stamped, recorded, and disposed of in accordance with the procedure prescribed in Part 19 of this chapter for other distilled spirits products. Sellers of such preparations shall be subject to the provisions of Part 194 of this chapter with respect to special taxes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1343, as amended (26 U.S.C. 5111, 5121); Sec. 805, Pub. L. 96-39, 93 Stat. 275 (26 U.S.C. 5171))

Paragraph 15. The center heading immediately preceding § 170.617 is deleted and § 170.617 is revised due to repeal of the rectifier's occupational tax. As revised, paragraphs (a) and (b) of § 170.617 reads as follows:

**§ 170.617 Apothecaries and manufacturers exempt from qualification.**

(a) *Compounders or manufacturers.* An apothecary, a pharmacist, or a manufacturer is not required to qualify as a processor or, except as provided in § 170.618, to qualify as a dealer in liquors in order to prepare, manufacture, or sell products described in § 170.613 or § 170.614, or products declared by the Director to be unfit for use for beverage purposes.

(b) *Manufacturers recovering taxpaid alcohol.* A manufacturer who recovers taxpaid distilled spirits from dregs or marc of percolation or extraction, or from medicines, medicinal preparations, food products, flavors, or flavoring extracts, which do not meet the manufacturer's standards, is not required to qualify as a processor if such manufacturer uses the recovered distilled spirits exclusively in the manufacture of medicine, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for use for beverage purposes.

(Sec. 805, Pub. L. 96-39, 93 Stat. 275, 278 (26 U.S.C. 5002, 5171))

Paragraph 16. Section 170.618 is revised due to repeal of the rectifier's occupational tax. As revised, § 170.618 reads as follows:

**§ 170.618 Sale of products for beverage use; special tax.**

Any person (including the manufacturer) who sells for beverage purposes any of the products described in §§ 170.613 to 170.614, or any other product declared by the Director to be unfit for use for beverage purposes, or any distilled spirits recovered as provided in § 170.617(b), or who sells any such substance under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, is required to pay special tax as a wholesale dealer in liquors or a retail dealer in liquors, as the case may be.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1343, as amended (26 U.S.C. 5111, 5121))

Paragraph 17. Subpart W is obsolete and is revoked in its entirety. The center headings "Subpart V—[Reserved]" and "Subparts X—Y—[Reserved]" are combined to read as follows:

**Subparts V—Y—[Reserved]**

**§ 170.683 [Amended]**

Paragraph 18. Section 170.683 is amended to delete the phrase "Form 2601" and to insert in lieu thereof the phrase "operations or unit bond". Section E, Part 173 is amended as follows:

**PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS**

**§ 173.35 [Deleted]**

Paragraph 1. The table of contents of 27 CFR Part 173 is amended to delete § 173.35.

Paragraph 2. Section 173.5 is amended to delete a reference to rectified distilled spirits in the definitions. As amended, § 173.5 reads as follows:

**§ 173.5 Meaning of terms.**

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka.

**§ 173.33 [Amended]**

Paragraph 3. Section 173.33 is amended to delete the phrase "Parts 201" and to insert in lieu thereof the phrase "Parts 19".

Paragraph 4. Section 173.34 is amended to delete reference to Part 201 and insert the recodified Part 19. As amended, paragraph (c) of § 173.34 reads as follows:

**§ 173.34 Indicia for imported liquor bottles.**

(c) *Additional information permanently marked on liquor bottles.* Additional information, such as the name of the foreign manufacturer of the spirits or of the exporter abroad, or the symbol and permit number of the domestic bottler, as applicable, may be permanently marked on liquor bottles provided the information does not conflict with information required to be placed on labels and is so located as not to obscure indicia required by this section or interfere with the labeling or stamping of the bottle, when filled, as provided in Parts 19, 250, and 251 of this chapter.

(46 Stat. 890, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended (19 U.S.C. 1309, 81c, 26 U.S.C. 5062))

**§ 173.35 [Deleted]**

Paragraph 5. Section 173.35 is obsolete and is deleted in its entirety.

Section F. Part 194 is amended as follows:

**PART 194—LIQUOR DEALERS**

Paragraph 1. The table of contents is amended to reflect a change in the wording of a subpart and a few sections, and the deletion of a section. As amended, the table of contents reads as follows:

Sec.  
194.38 [Deleted]

**Subpart P—Strip Stamps or Alternative Devices**

- 194.251 Strip stamps or alternative devices required on all bottles.
- 194.252 Breaking of strip stamp or alternative device on opening bottle.
- 194.253 Mutilated or missing strip stamps or alternative devices.
- 194.254 Affixing strip stamps on containers found to have missing strip stamps or alternative devices.
- 194.255 Strip stamps or alternative devices found by ATF officers to be mutilated or missing.
- 194.256 Strip stamp or alternative device replacement not required.

**Subpart T—Miscellaneous**

- 194.293 Mixing cocktails in advance of sale.

Paragraph 2. Section 194.11 is amended to change the definitions of "Distilled spirits or spirits" and "Distilled spirits plant" to conform to the all-in-bond concept of operation. As amended, § 194.11 reads as follows:

**§ 194.11 Meaning of terms.**

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced.

*Distilled spirits plant.* An establishment qualified under Part 19 of this chapter for the production, storage or processing of distilled spirits.

**§ 194.38 [Deleted]**

Paragraph 3. Section 194.38 is deleted because special occupational tax for a rectifier has been repealed.

Paragraph 4. Section 194.224 is revised to delete reference to Part 201 and to insert the recodified Part 19. As revised, § 194.224 reads as follows:

**§ 194.224 Records to be kept by proprietors of distilled spirits plants.**

Wholesale liquor dealer operations conducted by proprietors of distilled spirits plants shall be recorded and reported in accordance with the applicable provisions of Part 19 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114); Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207))

Paragraph 5. Section 194.251 and the title to Subpart P are revised to include the use of alternative devices. As revised, the title to Subpart P and § 194.251 read as follows:

**Subpart P—Strip Stamps or Alternative Devices**

**§ 194.251 Strip stamps or alternative devices required on all bottles.**

Except as provided in §§ 194.264, 194.271, and 194.272, all distilled spirits in the possession of wholesale or retail dealers in liquors shall be in bottles or similar containers of a capacity of 1 gallon (3.785 liters) or less and shall have the prescribed strip stamps or alternative devices evidencing bottling in compliance with internal revenue law. The strip stamp or alternative device shall be affixed in such manner as to be broken when the container is opened.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 6. Section 194.252 is revised to include the use of alternative devices in lieu of strip stamps. As revised, § 194.252 reads as follows:

**§ 194.252 Breaking of strip stamp or alternative device on opening bottle.**

The strip stamp or alternative device affixed to a container of distilled spirits (whether affixed over the mouth of the container or in some other authorized manner) shall be broken on opening the container. A portion of the strip stamp or alternative device shall remain attached to the container while any part of the contents remain.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 7. Section 194.253 is revised to include the use of alternative devices in lieu of strip stamps. As revised, § 194.253 reads as follows:

**§ 194.253 Mutilated or missing strip stamps or alternative devices.**

Any unopened bottle or other approved container of distilled spirits—

(a) From which the strip stamp or alternative device is missing,

(b) On which the strip stamp or alternative device is mutilated to the

extent that the genuineness of the stamp or device cannot be determined, or

(c) The contents of which are accessible without breaking the stamp or device, shall be restamped under §§ 194.254-194.255, or be returned to a distilled spirits plant for restamping or to have alternative devices replaced. Where the containers of distilled spirits are to be returned to a distilled spirits plant for restamping or to have devices replaced, the dealer shall record the transaction in his record of disposition and include in this record an accurate description of the containers of distilled spirits to be restamped or to have devices replaced, and the name and address of the proprietor who has agreed to accept the liquors for restamping or for reaffixing alternative devices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 8. Section 194.254 is revised to include provisions for alternative devices to be used in lieu of strip stamps. As revised, § 194.254 reads as follows:

**§ 194.254 Affixing strip stamps on containers found to have mutilated or missing strip stamps or alternative devices.**

Containers requiring restamping, as described in § 194.253, shall be set aside by the dealer and an application for necessary stamps submitted with Form 428, Requisition for Bottle Strip Stamps, to the regional regulatory administrator. Copies of Form 428 may be obtained from the regional regulatory administrator. The application shall state the cause of mutilation or absence of stamps or alternative devices and contain evidence that the spirits are eligible for stamping under 26 U.S.C. 5205. The evidence may consist of invoices covering purchase of the spirits, in addition to other available documents. The application shall be signed by the dealer or his authorized agent under the penalties of perjury immediately below a declaration, worded as follows:

I declare under the penalties of perjury that I have examined this application and to the best of my knowledge and belief it is true and correct.

If the regional regulatory administrator is satisfied from the evidence submitted that the mutilation or absence of the strip stamps or alternative devices has been satisfactorily explained, he will approve the requisition for stamps, Form 428, and deliver the stamps to the applicant by mail or by a representative of his office, with instructions for affixing them to the containers. If an overprinted stamp is to be replaced by



the dealer, the word "Restamped," the name of the dealer, and the date of restamping shall be imprinted, or written in ink, in lieu of overprinting the replacement stamp.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 9. Section 194.255 is revised to include provisions for alternative devices to be used in lieu of strip stamps. As revised, § 194.255 reads as follows:

**§ 194.255 Strip stamps or alternative devices found by ATF officers to be mutilated or missing.**

When an ATF officer discovers an unopened bottle of distilled spirits which requires restamping or replacement of an alternative device due to conditions specified in § 194.253, the bottle will be set aside. If the officer is satisfied that the spirits are eligible for restamping or for having an alternative device replaced, he will secure from the dealer the application for strip stamps and Form 428 required under the provisions of § 194.254 and forward this information to the regional regulatory administrator. When the ATF officer has reason to believe that the distilled spirits have not been lawfully marked with a strip stamp or alternative device, or that the original contents of the bottle have been replaced or increased by the addition of any substance whatsoever, the spirits will be seized for forfeiture.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1404 (26 U.S.C. 5205, 5613))

Paragraph 10. Section 194.256 is revised to include the use of alternative devices in lieu of strip stamps. As revised, § 194.256 reads as follows:

**§ 194.256 Strip stamp or alternative device replacement not required.**

Where a minor portion of the stamp or alternative device is missing, or where the strip stamp has dropped off a container and may be reaffixed by the dealer, it will not be necessary to restamp the container or to replace the alternative device.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 11. Section 194.264 is amended to change a reference citation. As amended, § 194.264 reads as follows:

**§ 194.264 Mixed cocktails.**

A retail liquor dealer who mixes cocktails or compounds any alcoholic liquors in advance of sale, as provided in § 194.293, may not use liquor bottles in which distilled spirits have been previously packaged for the storage of the mixture pending sale.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

Paragraph 12. Section 194.271 is revised to conform to the changes made in 27 CFR Part 19, and to include the use of alternative devices in lieu of strip stamps. As revised, § 194.271 reads as follows:

**§ 194.271 Requirements and procedure.**

On compliance with the provisions of Part 19 of this chapter applicable to persons repackaging distilled spirits, a dealer in liquor engaged in the business of supplying alcohol for industrial use may obtain bulk alcohol on which the tax has been paid or determined and repackaged the alcohol for sale for industrial use in containers of a capacity in excess of 1 wine gallon and not more than 5 wine gallons.

(a) *Qualification procedure.* Application for registration, Form 5110.41, and application for an operating permit, Form 5110.25, modified in accordance with instructions of the regional regulatory administrator, shall be executed and filed with the regional regulatory administrator. No alcohol shall be repackaged until the approved application for registration and the operating permit are received.

(b) *Operations.* Repackaging operations shall be conducted in accordance with the bottling and packaging requirements of Part 19 of this chapter, except—

(1) Requisitions for strip stamps on Form 428 shall be submitted directly to the regional regulatory administrator, and

(2) Packaging and labeling operations may be carried on without supervision of an ATF officer unless the regional regulatory administrator requires supervision.

(c) *Records.* The dealer shall keep records, daily, showing the bulk alcohol received, dumped for packaging, packaged, strip stamped, and disposed of, including the name and address of each consignor and consignee. A report, on Form 5100.8, of strip stamp transactions shall be prepared as of the close of business March 31, June 30, September 30, and December 31 of each year. The dealer shall also prepare a monthly report on Form 5110.28 of bulk alcohol received, packaged, and disposed of. Reports on Form 5100.8 and Form 5110.28 shall be submitted to the regional regulatory administrator not later than the 15th day of the month succeeding the period for which rendered. Records, documents, or copies of documents supporting the records, and copies of reports submitted to the regional regulatory administrator shall

be filed and retained as prescribed in §§ 194.241 and 194.242.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1343, as amended, 1358, as amended, 1360, as amended (26 U.S.C. 5116, 5205, 5206))

Paragraph 13. Section 194.281 is revised to include the use of alternative devices in lieu of strip stamps. As revised, § 194.281 reads as follows:

**§ 194.281 General.**

A State, or political subdivision thereof, or a person holding a wholesale liquor dealer's basic permit issued pursuant to Part 1 of this chapter may export bottled taxpaid distilled spirits with benefit of drawback to the extent provided in § 252.171 of this chapter. The overprinting of stamps or alternative devices, restamping of bottles, marking of cases, preparation of notice of shipment on Form 5110.30, the removal and exportation of the distilled spirits, and the filing of claims by the processor of the spirits shall be in accordance with the applicable provisions of Parts 19 and 252 of this chapter.

Paragraph 14. Section 194.292 is revised to delete a distilled spirits plant as a place to bottle taxpaid wines. As revised, § 194.292 reads as follows:

**§ 194.292 Wine bottling.**

Each person desiring to bottle, package, or repackage taxpaid wines shall, before carrying on such operations, apply and receive permission from the regional regulatory administrator, as required under Part 231 of this chapter. The decanting of wine by caterers or other retail dealers for table or room service, banquets, and similar purposes shall not be considered as "bottling," if the decanters are not furnished for the purpose of carrying wine away from the area where served.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended (26 U.S.C. 5352))

Paragraph 15. Section 194.38 was deleted because of a reference to rectification tax. However, other requirements of § 194.38 have been retained and appear as a new section, § 194.293. As added, § 194.293 reads as follows:

**§ 194.293 Mixing cocktails in advance of sale.**

A retail liquor dealer shall not mix cocktails, or compound any alcoholic liquors in advance of sale, except for the purpose of filling, for immediate consumption on the premises, orders received at the bar or in the expectation of the immediate receipt of orders. (For further provisions, see § 194.264.)

(Sec. 805, Pub. L. 96-39, 93 Stat. 277 (26 U.S.C. 5002))

Section G. Part 195 is amended as follows:

**PART 195—PRODUCTION OF VINEGAR BY THE VAPORIZING PROCESS**

Section 195.10 is amended to update the definition of distilled spirits. As amended, § 195.10 reads as follows:

**§ 195.10 Meaning of terms.**

*Distilled spirits.* "Distilled spirits" shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), and includes low wines produced by the vaporizing process in the manufacture of vinegar.

Section H. Part 196 is amended as follows:

**PART 196—STILLS**

Section 196.5 is amended to update the definitions of distilled spirits or spirits, and distilling. As amended, § 196.5 reads as follows:

**§ 196.5 Meaning of terms.**

*Distilled spirits or spirits.* Distilled spirits or spirits shall mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced).

*Distilling.* "Distilling" shall mean the distillation of spirits as defined by 26 U.S.C. 5002. Such distillation shall include: (a) the original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits; (d) the distillation, redistillation, or recovery of spirits or of completely or specially denatured spirits, or of articles containing spirits or completely or specially denatured spirits; and (e) the redistillation or recovery of tax-free spirits.

Section I. Part 197 is amended as follows:

**PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS**

Paragraph 1. Section 197.5 is amended to change the definition of distilled spirits to conform with the new statutory definition. As amended, § 197.5 reads as follows:

**§ 197.5 Meaning of terms.**

*Distilled spirits.* Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), which are fully taxpaid or tax-determined at the distilled spirits rate.

Paragraph 2. Section 197.112 is amended to eliminate references to Form 179. As amended, § 197.112 reads as follows:

**§ 197.112 Distilled spirits received in tank cars or tank trucks.**

Each claim covering distilled spirits received in tank cars or tank trucks shall be accompanied by a statement showing in respect of each shipment received: The date or receipt; the name and address of the vendor; the number or other identification mark of the tank car or tank truck; the serial number of the distilled spirits stamp and the date it was affixed to the tank car or tank truck; the name of the producer, blender, or warehouseman, and the kind, quantity, and proof of the spirits. If the tank car or tank truck is received without the stamp affixed, the vendee shall note the fact on the bill of lading and immediately notify the regional regulatory administrator. (The distilled spirits stamp shall be completely destroyed when the distilled spirits have been removed from the tank car or tank truck.)

Paragraph 3. Section 197.113 is revised to delete a reference to Form 179. As revised, § 197.113 reads as follows:

**§ 197.113 Distilled spirits received in barrels, drums, or other portable containers.**

Each claim covering distilled spirits received in barrels, drums, or other portable containers bearing distilled spirits stamps shall be accompanied by a statement showing: the date of receipt; the name and address of the vendor; the kind and serial number of the stamp affixed to the container and the date the stamp was issued or affixed as stated on the stamp; the serial number, if any, of the container; the name of the producer,

blender, or warehouseman as shown on the commercial invoice provided for in § 197.130b; and the kind, quantity, and proof of the spirits. (When the container is emptied, the stamp shall be completely destroyed.)

Paragraph 4. Section 197.115 is revised to limit the requirement for showing eligible and ineligible proof gallon content to rectified products taxpaid before January 1, 1980. As revised, § 197.115 reads as follows:

**§ 197.115 Use of distilled spirits.**

Each claim covering the use of distilled spirits in the manufacture of nonbeverage products shall be accompanied by a statement showing the name, description, and formula number, if any, of each nonbeverage product in the manufacture of which distilled spirits were used, the alcoholic content by volume of each product, the number of proof gallons and kind of distilled spirits used in the manufacture, and the quantity produced. If a rectified product containing alcoholic ingredients (other than spirits) on which the tax was paid or determined prior to January 1, 1980, was used as an ingredient in the manufacture of a nonbeverage product, the statement shall show, as to such ingredient, the proof gallon content eligible for drawback and the proof gallon content ineligible for drawback.

Paragraph 5. Section 197.130 is revised due to the repeal of rectification provisions and the elimination of the requirement for strip stamp serial numbers from regulations. As revised, paragraphs (c) and (e) of § 197.130 reads as follows:

**§ 197.130 Nature of records.**

(c) Kind and serial number of container (such as tank car, drum, case of bottles) and the kind and serial number, if any, of the stamp or alternative device affixed to the container.

(e) Number of proof gallons and kind of distilled spirits used in the manufacture of each product, and the date of use. (The record of rectified distilled spirits products which were taxpaid or tax-determined at the premises of a distilled spirits plant prior to January 1, 1980, and contain spirits not fully taxpaid (or tax-determined) at the distilled spirits rate shall also show the percent of spirits fully taxpaid at the distilled spirits rate and the percent of spirits not so taxpaid.)

Paragraph 6. Section 197.130a is revised to delete references to Form 179 and to reflect recodification of the



Gauging Manual as 27 CFR Part 13. As revised, § 197.130a reads as follows:

**§ 197.130a Distilled spirits received and used.**

(a) *Receipts.* Each manufacturer shall, at the time of receipt, determine, preferably by weight, and record in his permanent records, the exact quantity of distilled spirits received: *Provided*, That if the spirits are received in a tank car or tank truck and the result of the manufacturer's gauge of the spirits is within 0.2 percent of the quantity reported on the invoice covering the tax-determination of the spirits, the quantity reported on the invoice may be recorded in the manufacturer's permanent records as the quantity received. However, the receiving gauge shall be noted on the record of receipt. Losses in transit, other than those attributable to variations in gauge not exceeding the 0.2 percent limitation as provided in this paragraph, shall be determined but shall not be recorded in the manufacturer's permanent records as distilled spirits received.

(b) *Use.* Each manufacturer shall accurately determine, by weight or volume, the quantity of all distilled spirits used and enter the quantity in the permanent records. Where the quantity used is determined by volume, adjustments shall be made if the temperature of the spirits is above or below 60 degrees Fahrenheit. A correction table, Table No. 7, is available in 27 CFR Part 13, Gauging Manual. Losses after receipt, due to leakage, spillage, evaporation, or other causes shall be accurately recorded in the manufacturer's permanent records at the time the losses are determined.

Paragraph 7. Section 197.130b is amended to reflect replacement of Form 179 by commercial records. As amended, paragraph (a) of § 197.130b reads as follows:

**§ 197.130b Evidence of tax payment of distilled spirits.**

(a) *Domestic spirits.* All shipments of spirits made from a distilled spirits plant shall be supported by the vendor's commercial invoice which must bear a certification as to tax payment by the person who paid the tax, and include the following information:

- (1) The name and address of vendor;
- (2) The registry number of the distilled spirits plant from which the spirits were withdrawn on determination of tax;
- (3) The number of the applicable invoice;
- (4) the name of the producer, blender, or warehouseman of the spirits;
- (5) The serial number of the container;

- (6) The serial number and date of the distilled spirits stamp; and
- (7) The kind of spirits, proof, and proof gallons in the container.

Paragraph 8. Section 197.133 is revised due to the elimination of Form 179. As revised, § 197.133 reads as follows:

**§ 197.133 Retention of records.**

Each manufacturer shall retain for a period of not less than 2 years all records required by this part, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer shall be retained for not less than 2 years from the date he files his last claim for drawback under the formula. The records, forms and formulas shall be readily available during the manufacturer's regular business hours for examination and taking abstracts by ATF officers.

Section J. Part 200 is amended as follows:

**PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS**

Section 200.16 is amended to incorporate the correct statutory citation for operating permits. As amended, paragraph (c) of § 200.16 reads as follows:

**§ 200.16 Other terms.**

*Permit.* (a) \* \* \*

(c) *Operating permit.* "Operating permit" shall mean the document issued pursuant to 26 U.S.C. 5171, authorizing the person named therein to engage in the business described therein.

Section K. Part 211 is amended as follows:

**PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM**

Paragraph 1. Section 211.3 is revised to show recodification of Part 201 of this chapter as Part 19. As revised, § 211.3 reads as follows:

**§ 211.3 Related regulations.**

Regulations relating to this part are listed below:

- 27 CFR Part 19—Distilled Spirits Plants.
- 27 CFR Part 196—Stillts.
- 27 CFR Part 200—Rules of Practice in Permit Proceedings.
- 27 CFR Part 212—Formulas for Denatured Alcohol and Rum.

- 27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
- 27 CFR Part 251—Importation of Distilled Spirits, Wines, and Beer.
- 27 CFR Part 252—Exportation of Liquors.
- 31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Paragraph 2. Section 211.11 is amended to conform with statutory changes and amendments to distilled spirits plant regulations. As amended, § 211.11 reads as follows:

**§ 211.11 Meaning of terms.**

*Alcohol.* Those spirits known as ethyl alcohol, ethanol, or spirits of wine in any form, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, or vodka.

*Denaturer.* The proprietor of a distilled spirits plant who denatures alcohol or rum pursuant to 27 CFR Part 19.

*Manufacturer or user.* A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum or to recover completely or specially denatured alcohol, specially denatured rum, or articles, or a distilled spirits plant proprietor qualified as a processor.

Paragraph 3. Section 211.42 is revised to reflect new provisions allowing distilled spirits plant proprietors to use denatured spirits in the manufacture of articles. As revised, § 211.42 reads as follows:

**§ 211.42 Application, Form 1479, for permit to use or recover.**

Each person, except a distilled spirits plant proprietor qualified under Part 19 of this chapter, desiring to use specially denatured alcohol or specially denatured rum, or both, and each person desiring to recover denatured alcohol, specially denatured rum, or articles shall, before commencing business, apply for and obtain an industrial use permit, Form 1481. Except as provided in § 211.42a, application for an industrial use permit shall be on Form 1479. The application, and necessary supporting documents as required by this subpart for the permit, shall be filed with the regional regulatory administrator. All data, written statements, affidavits, and other documents submitted in support of the application shall be a part of the application. The application shall be accompanied by evidence which will

establish the authority of the officer or other person who executes the application to execute the same and, where applicable, by the application for a withdrawal permit, Form 1485, required by § 211.161.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370 as amended (26 U.S.C. 5271))

Paragraph 4. Section 211.215 is revised to reflect recodification of Part 201 of this chapter as Part 19. As revised, § 211.215 reads as follows:

**§ 211.215 Denaturants.**

Manufacturers shall comply with the applicable requirements of Part 19 of this chapter governing the procurement, use and recordkeeping of denaturants by denaturers.

Paragraph 5. Section 211.219 is revised to reflect recodification of Part 201 of this chapter as Part 19. As revised, § 211.219 reads as follows:

**§ 211.219 Shipment of articles and spirits residues for redistillation.**

Articles, containing denatured spirits, manufactured under this part, and spirits residues of manufacturing processes related thereto, may, on receipt of an approved copy of the application filed under the provisions of Part 19 of this chapter by the proprietor of a distilled spirits plant authorized to produce distilled spirits, be shipped to the distilled spirits plant for redistillation. Packages of articles or spirits residues shall be identified as to contents and shall otherwise be marked and serially numbered in the manner provided in § 211.217. Notice of shipment shall be prepared on Form 1473, appropriately modified, in the manner provided in § 211.218.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223))

Section L. Part 212 is amended as follows:

**PART 212—FORMULAS FOR DENATURED ALCOHOL AND RUM**

Paragraph 1. Section 212.1 is revised to show the distilled spirits plant regulations as recodified into Part 19 of this chapter. As revised, § 212.1 reads as follows:

**§ 212.1 Formulas for denatured spirits.**

The regulations in this part relate to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the specifications for denaturants; and to the uses of denatured spirits. The procedural and substantive requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in Part 19

of this chapter and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in Part 211 of this chapter.

Paragraph 2. Section 212.4 is revised to show the distilled spirits plants regulations as recodified into 27 CFR Part 19. As revised, § 212.4 reads as follows:

**§ 212.4 Related regulations.**

Regulations related to this part are listed below:

- 27 CFR Part 19—Distilled Spirits Plants.
- 27 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum.

Paragraph 3. Section 212.5 is amended to reflect modified definitions for the terms "alcohol" and "manufacturer or user." As amended, § 212.5 reads as follows:

**§ 212.5 Meaning of terms.**

*Alcohol.* Those spirits known as ethyl alcohol, ethanol, or spirits of wine in any form, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, or vodka.

*Manufacturer or user.* A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum, or to recover completely or specially denatured alcohol, specially denatured rum, or articles manufactured with denatured spirits, or a distilled spirits plant proprietor qualified as a processor.

Section M. Part 213 is amended as follows:

**PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL**

Section 213.3 is revised due to recodification of Parts 186 and 201 as 27 CFR Parts 13 and 19, respectively. As revised, § 213.3 reads as follows:

**§ 213.3 Related regulations.**

Regulations related to this part are listed below:

- 27 CFR Part 13—Gauging Manual.
- 27 CFR Part 19—Distilled Spirits Plants.
- 27 CFR Part 196—Stillts.
- 27 CFR Part 200—Rules of Practice in Permit Proceedings.
- 27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
- 27 CFR Part 251—Importation of Distilled Spirits, Wines, and Beer.
- 31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Section N. Part 231 is amended as follows:

**PART 231—TAXPAID WINE BOTTLING HOUSES**

Paragraph 1. The table of contents is amended to add Subpart K to provide for alternation of premises. As added, the Table of Contents reads as follows:

**Subpart K—Alternation of Premises**

231.140 Alternation.

Paragraph 2. Section 231.1 is revised to delete a reference to distilled spirits plant premises for the bottling of taxpaid wine. As amended, § 231.1 reads as follows:

**§ 231.1 Bottling or packaging of taxpaid wine.**

The regulations in this part relate to the bottling and packaging of taxpaid United States and foreign wines.

Paragraph 3. Section 231.30 is revised to allow for bottling of other than standard wine on taxpaid wine bottling premises. As amended § 231.30 reads as follows:

**§ 231.30 General.**

Each person desiring to bottle or package taxpaid wine shall provide premises, make application on Form 2975, and receive approval from the regional regulatory administrator, as required in § 231.50, to operate a taxpaid wine bottling house for that purpose. Notwithstanding the provisions of this section and of § 231.50, any proprietor of a taxpaid wine bottling house who has qualified under an application which was not made on Form 2975 need not make a new application on Form 2975 solely by reason of the Form being prescribed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5356))

Paragraph 4. Section 231.81 is revised to delete a reference to rectification tax. As amended § 231.81 reads as follows:

**§ 231.81 Prohibited practices.**

While more than one lot of wine of the same kind (class and type), taxable grade, and country of origin, may be deposited in the same storage container or bottling tank to facilitate handling, the blending of taxpaid wine at a taxpaid wine bottling house is prohibited. Water shall not be added to wine nor the wine subjected to any treatment which will alter its basic character. Unauthorized treatment of wine may result in liability for additional wine tax. The proprietor of a



taxpaid wine bottling house may incur civil or criminal liability by reason of unauthorized treatment of wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1407 (26 U.S.C. 5661))

Paragraph 5. Subpart K title and Section 231.140 are added to provide for an alternation of taxpaid wine bottling house premises and distilled spirits plant premises. As added, Subpart K and § 231.140 read as follows:

#### Subpart K—Alternation of Premises

##### § 231.140 Alternation.

Each proprietor of a taxpaid wine bottling house operating a contiguous distilled spirits plant desiring to alternate the use of each premises by extension or curtailment shall file the necessary documents with the regional regulatory administrator as required by 27 CFR 19.204.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1353, as amended, 1379, as amended (26 U.S.C. 5172, 5178, 5356))

Section O. Part 240 is amended as follows:

#### PART 240—WINE

Paragraph 1. The table of contents is revised to reflect a change in the wording of subparts and sections, and the deletion of several sections. As amended, the table of contents reads as follows:

| Sec.                |                                                 |
|---------------------|-------------------------------------------------|
| 240.221a            | Operations bond or unit bond.                   |
| 240.281             | Amended Form 698 and basic permit.              |
| 240.311             | Alternation of premises.                        |
| 240.313             | Pipeline change approvals.                      |
| 240.351             | [Deleted]                                       |
| 240.352             | Production of other than standard wine.         |
| 240.355             | [Deleted]                                       |
| Use of Wine Spirits |                                                 |
| 240.374             | General.                                        |
| 240.375             | [Deleted]                                       |
| 240.376             | [Deleted]                                       |
| 240.377             | [Deleted]                                       |
| 240.378             | [Deleted]                                       |
| 240.379             | [Deleted]                                       |
| 240.380             | [Deleted]                                       |
| 240.480             | [Deleted]                                       |
| 240.491             | Notice to use distillates containing aldehydes. |

Sec. 240.575 [Deleted]

#### Subpart BB—Transfer of Wine in Bond

240.611 [Deleted]

#### Subpart PP—Receipt and Use of Wine Spirits

240.820 General.  
240.821 Supervision requirements.  
240.822 Withdrawal.  
240.823 Annual withdrawals.

##### Receipt of Wine Spirits

240.824 Transfer of wine spirits by pipeline for immediate use.  
240.825 Transfer of wine spirits by pipeline to wine spirits storage tank.  
240.826 Tank car and tank truck requirements.  
240.827 Examination of tank car or tank truck.  
240.828 Wine spirits in packages.

##### Wine Spirits Additions

240.830 Wine spirits added to wine.  
240.831 Gauge of wine spirits.  
240.832 Report of addition of wine spirits.

##### Other Dispositions of Wine Spirits

240.835 Withdrawal from distilled spirits plant.  
240.836 Application to dispose of wine spirits.  
240.837 Disposition of spirits.  
240.838 Taxpayment.  
240.839 Transfer to a distilled spirits plant or wine cellar.

##### Samples of Wine Spirits

240.840 Limitations.  
240.841 Notice.

#### Subpart QQ—Losses of Wine Spirits in Bond

240.854 Losses in wine cellar.

#### Subpart RR—[Reserved]

240.870 [Deleted]  
240.871 [Deleted]  
240.872 [Deleted]  
240.873 [Deleted]  
240.874 [Deleted]

240.890 Notice required.

240.904 Forms 5120.28 and 5110.28.

240.1041 Withdrawal.  
240.1042 Notice on Form 5120.38.

Paragraph 2. Section 240.1 is revised to include all wine. As amended, § 240.1 reads as follows:

##### § 240.1 Production and removal of wine.

Regulations in this part relate to the production and removal of wine from bonded wine cellars. The regulations cover the establishment and operation

of bonded wine cellars for the production, amelioration, sweetening, addition of wine spirits, blending, and other cellar treatment, storage, taxpayment, transfer to customs manufacturing warehouse and removal for exportation, for experimental or research purposes by scientific institutions, for analysis or testing by or for the proprietor of a bonded wine cellar, for use of the Government of the United States, for analysis, testing, research or experimentation by the governments of the several States, for use as distilling material, or for use in the manufacture of vinegar.

Paragraph 3. Section 240.10 is amended, in alphabetical order, by revising the definitions of "Distilled spirits plant" and "Wine". As amended, § 240.10 reads as follows:

##### § 240.10 Meaning of terms.

*Distilled spirits plant.* "Distilled spirits plant" shall mean an establishment qualified under 27 CFR Part 19 for the production, warehousing, or processing of spirits (including denatured spirits), or articles.

*Wine.* "Wine", when used without qualification, includes all still wines, champagne and other sparkling wines, artificially carbonated wine and special natural wine or other wine products produced on bonded wine cellar premises.

Paragraph 4. Section 240.124 is revised to delete a reference to bottling taxpaid wine on a distilled spirits plant premises. As amended, § 240.124 reads as follows:

##### § 240.124 Bottling of taxpaid wine.

Each person desiring to bottle or rebottle taxpaid wine shall establish taxpaid wine bottling house premises in compliance with the provisions of regulations set forth in 27 CFR Part 231.

Paragraph 5. Section 240.130 is revised to delete reference to standard wine. As amended, § 240.130 reads as follows:

##### § 240.130 Activity on bonded wine cellar premises.

Except as authorized in this subpart, bonded wine cellar premises shall be used exclusively for 9(a) the receipt, production, blending, packaging, repackaging and removal of untaxpaid wine, and (b) the receipt, preparation, use, or removal of fruit, concentrated or unconcentrated fruit juice, or other materials authorized by this part or an approved formula under Subpart U of this part, for use in the production and cellar treatment of wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1386, as amended (26 U.S.C. 5351, 5361))

Paragraph 6. Section 240.142 is revised to delete a reference to Government locks and the wine spirits storage room sign. As amended, § 240.142 reads as follows:

##### § 240.142 Wine spirits storage room.

Where wine spirits are to be received and stored in packages at a bonded wine cellar for use in wine production, a wine spirits storage room shall be provided. The room shall be securely constructed of substantial material so as to prevent unlawful access to the wine spirits. The door shall be equipped with a hasp and staple for locking.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5357))

Paragraph 7. Section 240.143 is revised to liberalize the Government office requirements at a bonded wine cellar using wine spirits. As amended, § 240.143 reads as follows:

##### § 240.143 Office facilities.

Where wine spirits are to be used in the production of wine, other than use in small quantities for dosages or preparation of essences, the proprietor shall provide and maintain on the wine cellar premises in a convenient location a secure cabinet of adequate strength and size, suitably equipped for locking with a Government lock, for use in safeguarding Government property. Each cabinet shall contain shelving or compartments of proper size for the filing of Government records. Conveniently located toilet and lavatory facilities shall also be provided and made available for the use of ATF officers. The facilities shall be subject to approval by the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5357))

Paragraph 8. Section 240.169 is revised to change old Part 201 to the recodified Part 19 and delete pipeline color identification. As amended, § 240.169 reads as follows:

##### § 240.169 Wine spirits pipelines.

Pipelines used for the conveyance of wine spirits from the bonded premises of a distilled spirits plant to wine spirits storage tanks, measuring tanks, weighing tanks, and wine spirits addition tanks shall be constructed in accordance with the requirements of regulations prescribed in 27 CFR Part 19. If wine spirits are to be received by tank car or tank truck, a secure pipeline shall be provided from the unloading point to the storage tank, measuring tank,

weighing tank or wine spirits addition tank. Where wine spirits are stored in wine spirits storage tanks, a fixed pipeline, unbroken except for necessary short hose connections to pumps or weighing tanks, shall be provided from the wine spirits storage tank to the wine spirits addition tank. All joints in the pipelines shall be brazed, welded, or otherwise permanently joined. Valves, suitably equipped for locking, shall be provided to control the flow of the wine spirits from or into each tank.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Paragraph 9. Section 240.171 is revised to delete reference to taxpaid wine bottled at a distilled spirits plant. As amended, § 240.171 reads as follows:

##### § 240.171 Taxpaid wine pipeline.

The pipeline used to transfer taxpaid wine from the bonded wine cellar to a taxpaid wine bottling house shall be a fixed unbroken line of permanent character, securely constructed and connected, and so arranged as to be exposed to view throughout its entire length. The pipeline shall be permanently connected with the taxpayment tank, or tanks, required by § 240.170. The valves in the pipeline shall be equipped for locking. The pipeline shall be shown on the bonded wine cellar plat.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Paragraph 10. Section 240.190 is revised to delete a reference to standard wine premises. As amended, § 240.190 reads as follows:

##### § 240.190 Application, Form 698.

Each person establishing a bonded wine cellar premises shall file application on Form 698 with the regional regulatory administrator. Except as provided in § 240.199, in the case of amended or supplemental applications, all the information required by this part and by the instructions on the form shall be furnished. Application on Form 698 (including all attachments and inserts) shall contain or be verified by a written declaration that it is made under the penalties of perjury. Applications shall be numbered serially, starting with "1", and continuing in numerical sequence for all applications filed, whether amended or supplemental, and shall indicate the purpose of the application. All data, written statements, and other documents submitted in support of the application, shall be a part of the application.

(Act of August 16, 1954, 68A Stat. 749, as amended (26 U.S.C. 6065); Sec. 201, Pub. L.

85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 11. Section 240.198 is revised to delete the need to return tank gauge sheets. As amended, § 240.198 reads as follows:

##### § 240.198 Wine spirits addition tanks.

If tanks are to be used for the addition of wine spirits to wine, the proprietor shall ensure that tanks are accurately calibrated and shall maintain accurate calibration charts at the bonded wine cellar.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 12. Section 240.202 is revised to delete a reference to the number of documents filed with Form 698. As amended, § 240.202 reads as follows:

##### § 240.202 Individual owners, partnerships, or associations.

Where application, Form 698, is filed by an individual owner, partnership, or association, the name and address of each person interested in the bonded wine cellar, whether active, passive, or silent, shall be given on Form 698. If there are articles of partnership or association, copies shall be submitted with the Form 698.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

Paragraph 13. Section 240.203 is revised to delete a reference to the number of documents filed with Form 698. As amended, § 240.203 reads as follows:

##### § 240.203 Corporate documents.

Where application, Form 698, is filed by a corporation, there shall be filed with the original or initial application copies of the following documents: (a) articles of incorporation; (b) certificate of incorporation; (c) certificate authorizing the corporation to operate in the State where the bonded wine cellar is located, if other than that in which incorporated; (d) certified extracts of the minutes of meetings of the board of directors authorizing certain officers or other persons to sign for the corporation and specifying what documents may be signed; and (e) a list of the names and addresses (business and residence) of the officers, directors, and stockholders as required by § 240.204. Where these documents have been filed with the regional regulatory administrator in connection with qualification of other premises in the same region, and a statement to that effect is made on Form 698, additional copies of the documents are not required.



Paragraph 14. Section 240.204 is revised to delete a reference to the number of documents filed with Form 698. As amended, § 240.204 reads as follows:

**§ 240.204 List of officers, directors, and stockholders.**

In the case of corporations and similar legal entities, there shall be submitted with Form 698 at the commencement of business, a list giving the names and addresses (business and residence) of all officers, directors, stockholders, and other persons interested in the corporation, or other legal entity, and the amount and nature of the stock holding or other interests of each, whether the interest appears in the name of the interested party or in the name of another for him. However, if there are more than ten holders of any class of stock, only the names, addresses and holdings of the ten persons having the largest ownership or other interest in each of the classes of stock need be included in the list of stockholders.

Paragraph 15. Section 240.209 is revised to delete the reference to the number of copies of plats required. As amended, § 240.209 reads as follows:

**§ 240.209 Plat.**

Each person filing an application to establish a bonded wine cellar shall file with the regional regulatory administrator an accurate plat conforming to the requirements of Subpart J of this part.

Paragraph 16. Section 240.221 is revised to delete a reference to rectification tax. As amended, § 240.221 reads as follows:

**§ 240.221 Bond, Form 700.**

Each proprietor of a bonded wine cellar shall give bond on Form 700 for the payment of taxes imposed by the United States for which the proprietor shall become liable. This includes liability for occupational taxes and penalties and interest. The bond on Form 700 shall apply to wine and wine spirits and the operation of the bonded wine cellar, whether the transaction or operation upon which the liability is based occurred on the bonded wine cellar premises (including transfers between noncontiguous portions) or in transit. The bond shall also be for the faithful compliance, without fraud or evasion, with all requirements of the laws of the United States and regulations respecting wine and wine spirits and the operation of the bonded wine cellar. The penal sum of the bond shall be not less than the tax on all wine and wine spirits possessed at the

bonded wine cellar, in transit to the bonded wine cellar, wine spirits authorized to be withdrawn under approved applications, or wine or wine spirits unaccounted for, at any one time. The penal sum of the bond shall also cover the tax on all wine removed for export or for use as supplies on vessels or aircraft, but not exported or otherwise accounted for. The penal sum of the bond shall be not less than \$1,000 or more the \$50,000, except that where the amount of tax exceeds \$250,000, the penal sum of the bond shall be \$100,000. However, the obligation on any bond on Form 700, shall apply with respect to taxes not in excess of \$100, which have been determined on wine removed from the bonded wine cellar or transferred to a taxpaid wine room on the bonded wine cellar premises and which have not been paid.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5354))

Paragraph 17. Section 240.221a is revised to include the new distilled spirits operations bond or unit bond. As amended, § 240.221a reads as follows:

**§ 240.221a Operations bond or unit bond.**

Notwithstanding the provisions of §§ 240.208 and 240.221, each person intending to commence or continue business as a proprietor of a bonded wine cellar with an adjacent distilled spirits plant qualified under 27 CFR Part 19 for the production of distilled spirits shall, in lieu of the bond on Form 700 and the bonds required under the provisions of 26 U.S.C. 5173 as amended, give an operations bond or unit bond in accordance with the applicable provisions of 27 CFR Part 19.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

Paragraph 18. Section 240.270 is revised to reduce the number of plat sheets required. As amended, § 240.270 reads as follows:

**§ 240.270 Plat required.**

Each person intending to establish a bonded wine cellar shall, as required by § 240.209, file an accurate plat of the premises with the regional regulatory administrator.

Paragraph 19. Section 240.281 is revised to delete a reference to the number of Forms 698 required. As amended, § 240.281 reads as follows:

**§ 240.281 Amended Form 698 and basic permit.**

Where there is a change in the individual, firm, or corporate name, the proprietor shall submit to the regional regulatory administrator an amended Form 698 for the new name. The Form

698 shall be approved before operations are commenced under the new name. The proprietor shall also obtain from the regional regulatory administrator an amended basic permit under the Federal Alcohol Administration Act authorizing operations under the new name.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 20. Section 240.282 is revised to delete a reference to the number of documents filed with Form 698. As amended, § 240.282 reads as follows:

**§ 240.282 Amended articles of incorporation, etc.**

Where there is a change in the corporate name, the proprietor shall submit to the regional regulatory administrator copies of the amended articles of incorporation, and the amended certificate of incorporation issued under the laws of the State in which incorporated covering the change in the corporate name. If the operations are conducted in a State other than the State in which incorporated, there shall also be submitted to the regional regulatory administrator copies of the amended certificate issued under the laws of the State in which the operations are conducted authorizing the corporation to operate under its new name in the State. If documents other than those specified are required under the laws of the State to effect a change in the name of the corporation, copies of the documents shall be submitted.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 21. Section 240.283 is revised to delete a reference to the number of documents required. As amended, § 240.283 reads as follows:

**§ 240.283 Amended articles of partnership or association.**

Where there is a change in the name of a partnership or association, the proprietor shall submit to the regional regulatory administrator copies of the amended articles of partnership or association, if any.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 22. Section 240.286 is revised to delete a reference to the number of documents required. As amended, § 240.286 reads as follows:

**§ 240.286 Fiduciary.**

If the bonded wine cellar is to be operated by an administrator, executor, receiver, trustee, assignee, or other fiduciary, the fiduciary shall comply with provisions of Subpart G of this part to the extent that the provisions are

applicable, except that in lieu of filing a new bond and a new plat, the fiduciary may furnish a consent of surety extending the terms of the predecessor's bond, may adopt the plat of the predecessor, and, as provided in § 240.290a, may also adopt the formulas of the predecessor. The fiduciary shall furnish certified copies of the order of the court, or other pertinent documents, showing qualification as a fiduciary. The effective date of the qualifying documents filed by a fiduciary shall be the same as the date of the court order, or the date specified for assuming control. If the fiduciary was not appointed by the court, the date of assuming control shall coincide with the effective date of the qualifying documents filed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5354, 5356))

Paragraph 23. Section 240.290 is revised to delete a reference to the number of plat certificates. As amended, § 240.290 reads as follows:

**§ 240.290 Plat.**

The adoption by a successor of the plat of a predecessor shall be in the form of a certificate in which shall be set forth the name of the predecessor, registry number and address of the bonded wine cellar, the date of preparation, and the date of approval of the plat, and a certification as to the accuracy of the plat adopted.

Paragraph 24. Section 240.292 is revised to delete a reference to the number of application copies required. As amended, § 240.292 reads as follows:

**§ 240.292 Successor to bonded wine cellar with bonded wine warehouse.**

Where a bonded wine warehouse has been established at a bonded wine cellar under the provisions of § 240.201, and it is desired to continue the operation of the bonded wine warehouse subsequent to a change in proprietorship of the bonded wine cellar, the proprietor of the bonded wine warehouse shall file a new letter application accompanied by a statement from the new proprietor (applicant) of the bonded wine cellar requesting the continuation of the warehouse, and a consent of surety.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

Paragraph 25. Section 240.296 is revised to delete a reference to the number of document copies. As amended, § 240.296 reads as follows:

**§ 240.296 Change in officers, directors, or stockholders of a corporation.**

Where there is a change in officers or directors, or in the stockholders required to be listed under § 240.204, the proprietor shall submit, within 10 days of the change, a written notice to the regional regulatory administrator. However, changes in the list of stockholders may be submitted annually on May 1, except where the sale or transfer of capital stock results in a change in the control or management of a business. The notice shall describe the changes and be prepared as required by § 240.204.

Paragraph 26. Section 240.311 is revised to provide for alternation of bonded wine cellar premises with taxpaid wine bottling house premises or distilled spirits plant premises. As amended, § 240.311 reads as follows:

**§ 240.311 Alternation of premises.**

Each proprietor desiring to curtail or extend the bonded wine cellar premises shall file an amended Form 698 and plat with the regional regulatory administrator. An additional bonded wine cellar premises created by extension shall not be used for the proposed purposes, and the portion to be excluded by curtailment shall not be used for other than the approved purposes, prior to the approval of the amended Form 698 and plat. Proprietors of a bonded wine cellar desiring to extend or curtail a contiguous distilled spirits plant premises shall also comply with 27 CFR 19.203. Proprietors desiring to extend or curtail a contiguous taxpaid wine bottling house shall also comply with 27 CFR 231.140.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Paragraph 27. Section 240.313 is revised to clarify the language of the section. As amended, § 240.313 reads as follows:

**§ 240.313 Pipeline change approvals.**

No change shall be made in any wine or wine spirits pipeline not wholly on the bonded wine cellar premises prior to the approval of the changes by the regional regulatory administrator. A letterhead application filed with the regional regulatory administrator shall be serially numbered in sequence with serial numbers required by § 240.312, identify the premises by name and registry number, and describe in detail the changes to be made. A sketch should accompany the application where it will be helpful to an understanding of the changes desired.

**§ 240.351 [Deleted]**

Paragraph 28. Section 240.351 is deleted as a reference to a standard bonded wine cellar is no longer applicable.

Paragraph 29. Section 240.352 is revised to allow the use of a bonded wine cellar premises for both standard and other than standard wine production. As amended, § 240.352 reads as follows:

**§ 240.352 Production of other than standard wine.**

Wine which is other than standard as a result of fermentation with sugar and water in excess of limitations prescribed for standard wine shall have a basic character derived from the primary winemaking material. The aggregate weight of the sugar used before and during fermentation shall be less than the weight of the primary wine producing material. Molasses, malts, cereals, and grains shall not be used in the production of wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended, 1380, as amended (26 U.S.C. 5041, 5361))

**§ 240.355 [Deleted]**

Paragraph 30. Section 240.355 is deleted as a reference to rectification tax is no longer applicable.

Paragraph 31. Section 240.356 is amended by changing the last sentence to delete a reference to rectification tax. As amended, the last sentence in § 240.356 reads as follows:

**§ 240.356 Use of essences, flavors, or coloring.**

\* \* \* The use in wine of essences, flavoring, or coloring, other than as authorized in this part, results in the production of an other than standard wine and is subject to the formula requirements of § 240.482.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended, 1386, as amended (26 U.S.C. 5382, 5386, 5387))

Paragraph 32. Section 240.374 is revised to delete the Government supervision requirement for wine spirits additions. As amended, § 240.374 reads as follows:

**Use of Wine Spirits**

**§ 240.374 General.**

Grape wine spirits may be added only to natural grape wine in a bonded wine cellar, the proprietor of which produces natural wine by fermentation of juice or must, and which is located in the same State as the bonded wine cellar where the natural grape wine was produced. If the wine has been ameliorated, wine spirits may be added (whether or not wine spirits were previously added)



only if the wine contains not more than 14 percent of alcohol by volume derived from fermentation. The wine spirits shall be received and used as provided in Subpart PP of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended, 1384, as amended (26 U.S.C. 5366, 5373, 5382, 5383))

**§§ 240.375, 240.376, 240.377, 240.378, and 240.379 [Deleted]**

Paragraph 33. Sections 240.375, 240.376, 240.377, 240.378 and 240.379 are deleted and the requirements of these sections moved to Subpart PP—Receipt and Use of Wine Spirits.

**§ 240.380 [Deleted]**

Paragraph 34. Section 240.380 is deleted because Government samples are no longer required for each wine spirits addition.

Paragraph 35. Section 240.381 is revised to reference Subpart PP. As amended, § 240.381 reads as follows:

**§ 240.381 Addition of wine spirits to other grape wine.**

The provisions of Subpart PP of this part shall be followed where proprietors desire to use wine spirits in the production of heavy bodied blending wine, Spanish type blending sherry and similar products produced under the provisions of Subpart U of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5361, 5373, 5382).)

Paragraph 36. Section 240.382 is revised to delete a reference to standard wine premises. As amended, § 240.382 reads as follows:

**§ 240.382 Addition of wine spirits to juice or concentrated juice.**

Wine spirits may be added to the juice or concentrated juice of grapes in the same manner as to wine, as provided in Subpart PP of this part. The alcohol content of the juice or concentrated juice shall not exceed 24 percent by volume after the addition of wine spirits. Juice or concentrated juice to which wine spirits have been added is not wine, but shall be accounted for as wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended, 1383, as amended (26 U.S.C. 5373, 5382))

Paragraph 37. Section 240.406 is revised to change the wine spirits addition procedure references. As amended, § 240.406 reads as follows:

**§ 240.406 Use of pure dry sugar or liquid sugar.**

A winemaker producing wine from fruit or berries, other than grapes, or

from mixtures (which may include grapes) of two or more fruits or berries, with the addition of pure dry sugar or liquid sugar, but without water added to reduce acid content, may add pure dry sugar or liquid sugar to the juice in the fermenters, or to the wine after fermentation. However, such wine shall have not more than 14 percent alcohol by volume after complete fermentation, or after complete fermentation and sweetening, and a total solids content not in excess of 21 percent by weight. The use of liquid sugar under this section shall be limited so that the resultant volume will not exceed the volume which could result from the maximum authorized use of pure dry sugar only. Where pure dry sugar or liquid sugar is added to the juice in the fermenters, the winemaker shall maintain a separate record showing the kind and quantity of juice (exclusive of pulp) deposited in fermenters and the quantity of pure dry sugar or liquid sugar added. Where wine produced as provided in this section is sweetened after complete fermentation with liquid sugar, a record of sweetening shall be kept in accordance with § 240.914b. Where wine produced as provided in this section is sweetened after complete fermentation with pure dry sugar, the gallons of wine before and after sweetening shall be determined and entered on the record provided for in § 240.908. After completion of fermentation of the wine, wine spirits may be added in accordance with the provisions of Subpart PP of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended, 1385, as amended (26 U.S.C. 5382, 5384))

Paragraph 38. Section 240.411 is revised to reflect the deletion of §§ 240.375 thru 240.380. As amended, § 240.411 reads as follows:

**§ 240.411 Addition of wine spirits.**

To fruit wine produced from one kind of fruit under the provisions of § 240.401 or § 240.407, wine spirits from the same kind of fruit may be added according to the procedures prescribed in Subpart PP of this part. Wine spirits may not be added to fruit wine made from mixtures of two or more fruits. Where the proprietor desires to add wine spirits made from the same kind of fruit to juice or concentrated juice, the provisions of §§ 240.382 and 240.383 (relative to the addition of wine spirits to grape juice or concentrated grape juice) shall be followed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended, 1383, as amended (26 U.S.C. 5373, 5382))

Paragraph 39. Section 240.460 is revised to delete a reference to standard wine premises. As amended, § 240.460 reads as follows:

**§ 240.460 General.**

Agricultural wine may be made on bonded wine cellar premises from suitable agricultural products other than the juice of fruit. Water or pure dry sugar, or both, or liquid sugar or invert sugar syrup may be used within the limitations of this subpart in the production of agricultural wine. Agricultural wine shall not be flavored or colored, except that hops may be used in the production of honey wine; wine spirits shall not be used in the production of the wine; and a wine made from one agricultural product shall not be blended with a wine made from another agricultural product. Agricultural wine made with sugar other than pure dry sugar; or with pure dry sugar or water, liquid sugar, or invert sugar syrup in excess of the limitations of this subpart shall be segregated as required by § 240.131.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1386 as amended (26 U.S.C. 5387))

**§ 240.480 [Deleted]**

Paragraph 40. Section 240.480 is deleted because a reference to standard wine is no longer needed.

Paragraph 41. Section 240.481 is revised to delete a reference to standard wine premises. As amended, § 240.481 reads as follows:

**§ 240.481 Classes of wine other than standard wine.**

The following classes of wine are not standard wines:

- (a) High fermentation wine, produced as provided in § 240.483;
- (b) Heavy bodied blending wine, produced as provided in § 240.484;
- (c) Spanish type blending sherry, produced as provided in § 240.485;
- (d) Wine products not for beverage use, produced as provided in § 240.485a;
- (e) Distilling material, produced as provided in § 240.486;
- (f) Vinegar stock, produced as provided in § 240.487;
- (g) Wines other than those in classes listed in paragraphs (a), (b), (c), (d), (e), and (f) of this section, not produced within the limitations for standard wine; and
- (h) Spoiled wine, of the kind described in § 240.489.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1387 as amended (26 U.S.C. 5388))

Paragraph 42. Section 240.483 is revised to delete a reference to standard wine premises. As amended, § 240.483 reads as follows:

**§ 240.483 High fermentation wine.**

High fermentation wine is a wine made within the limitations of § 240.365 for grape wine or § 240.405 for fruit wine, except (a) that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent; and (b) that wine spirits are not added. While high fermentation wine is not a natural wine or a standard wine, it is produced, stored, and handled on bonded wine cellar premises, subject to appropriate marking or labeling.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

Paragraph 43. Section 240.484 is revised to delete a reference to standard wine premises. As amended, § 240.484 reads as follows:

**§ 240.484 Heavy bodied blending wine.**

Wine made from grapes or other fruit without added sugar, and with or without added wine spirits, may be made for blending purposes with a total solids content in excess of 21 percent. Heavy bodied blending wine may be used in blending with other wine made from the same kind of fruit, or for removal upon payment of tax, not for sale or consumption as beverage wine. A separate record shall be kept showing the quantities of heavy bodied blending wine produced, received, used, shipped, and on hand. Upon removal, the shipping containers (and Form 703, if in bond) shall be marked "Heavy Bodied Blending Wine—Not for Sale or Consumption as Beverage Wine."

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended, 1387, as amended (26 U.S.C. 5361, 5388))

Paragraph 44. Section 240.488 is revised to delete a reference to standard wine premises. As amended, § 240.488 reads as follows:

**§ 240.488 Other wines.**

Wine produced with sugar, water, liquid sugar, or invert sugar syrup beyond the limitations prescribed for standard wine, or wine made with sugar other than pure sugar, or wine made with materials not authorized for use in standard wine, may be produced on bonded wine cellar premises, but shall remain segregated from other wines. Upon removal, the wine shall be marked or labeled with a designation which will adequately disclose the nature and composition of the wine.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

Paragraph 45. Section 240.489 is amended by revising the first sentence of such section and reads as follows:

**§ 240.489 Spoiled wine.**

Whenever a standard wine becomes spoiled by reason of its condition, the spoiled wine shall be immediately removed from the bonded wine cellar, unless the condition is corrected, the wine is removed in due course for redistillation, or is destroyed under government supervision. \* \* \*

Paragraph 48. Section 240.490 is revised to change old Part 201 to the recodified Part 19. As amended, § 240.490 reads as follows:

**§ 240.490 General.**

Distillates containing aldehydes, withdrawn under the provisions of 27 CFR Part 19, may be used in fermentation of wine to be used as distilling material at the distilled spirits plant from which distillates were withdrawn. Distillates produced from one kind of fruit shall not be used in the fermentation of wine made from a different fruit.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

Paragraph 47. Section 240.491 is revised to change Part 201 to the recodified Part 19 and change an application to a notice. As amended, § 240.491 reads as follows:

**§ 240.491 Notice to use distillates containing aldehydes.**

Where a distillate containing aldehydes is to be used in fermentation of wine to be used as distilling material the proprietor of the bonded wine cellar, unless he is also the proprietor of the distilled spirits plant from which the distillates are to be withdrawn, shall submit a notice to the regional regulatory administrator stating: (a) the name, address, and registry number of the distilled spirits plant from which the distillate is to be withdrawn, (b) the kind of distillate, (c) the kind of wine in which the distillate will be used, and (d) a statement describing the method by which the distillate will be added in fermentation of wine to be used as distilling material. Where the proprietor of the bonded wine cellar is also the proprietor of the distilled spirits plant, the notice required under 27 CFR Part 19 shall also be for the receipt and use of the distillates at the bonded wine cellar. Distillates containing aldehydes shall be received and used as provided by Subpart YY of this part. Record of receipt and use of distillates shall be kept in accordance with Subpart UU of this part and reported on Form 5720.17(702).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended 1382, as amended (26 U.S.C. 5367, 5373))

Paragraph 48. Section 240.537 is revised to change the size of samples. As amended, § 240.537 reads as follows:

**§ 240.537 Application.**

When a proprietor desires to reduce the acid content of wine below 5 parts per thousand, other than as authorized in § 240.1051, an application shall be submitted in letter form to the regional regulatory administrator. The application shall contain the following information:

- (a) Name, address, and registry number of the proprietor;
- (b) Statement of process or method to be used in effecting the acid reduction;
- (c) Gallons of wine to be treated; and
- (d) Kind of wine to be treated.

A 125 ml sample of the wine prior to treatment shall be submitted by the proprietor direct to the regional laboratory at the same time the application is filed. The sample shall be labeled and marked in a manner that it may be readily identified. The proprietor shall not proceed to reduce the acid content of the wine until receiving approval from the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

Paragraph 49. Section 240.538 is revised to change the size of the sample. As amended, § 240.538 reads as follows:

**§ 240.538 Sample of treated wine.**

After completion of the acid reduction treatment a 125 ml sample of the wine shall be submitted by the proprietor to the regional laboratory. The sample will be labeled and marked in a manner that it may be readily identified and associated with the sample submitted prior to treatment.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1363, as amended (26 U.S.C. 5382))

Paragraph 50. Section 240.562 is revised to include a reference to wine products made with other than natural materials. As amended, paragraph (a)(3) of § 240.562 reads as follows:

**§ 240.562 Marks.**

- (a) Required marks. \* \* \*
- (3) The kind (class and type) and the alcohol content of the wine. The kind of wine shall be stated in accordance with 27 CFR Part 4. The formula number shall be marked on bulk containers of special natural wine or wine produced under § 240.488.

Paragraph 51. Section 240.574 is revised to delete a reference to



rectification tax. As amended, § 240.574 reads as follows:

**§ 240.574 Reused barrels.**

Barrels previously used for the storage of distilled spirits may be used by proprietors as storage and shipping containers for wine, provided the barrels are treated to remove distilled spirits from the heads and staves before the deposit of wine. The spirits extracted from the barrels shall be destroyed in each instance. This authorization to use barrels should not be construed as relieving proprietors from tax liability in the event barrels are not treated to remove the distilled spirits. A person mixing distilled spirits with wine shall incur distilled spirits tax liability on the entire contents of the barrel.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1383, as amended (26 U.S.C. 5001, 5381))

**§ 240.575 [Deleted]**

Paragraph 52. Section 240.575 is deleted.

Paragraph 53. Section 240.590a is revised to include the new distilled spirits plant operations bond or unit bond. As amended, § 240.590a reads as follows:

**§ 240.590a Qualification for extended deferral.**

(a) *Deferral covered by operating bond only.* A proprietor who has not given a tax deferral bond on Form 2053, may file returns, Form 2050, with remittances, with benefit of extended deferral under an existing bond Form 700, operations bond or unit bond without further qualification provided the amount of tax unpaid at any one time does not exceed \$100.

(b) *Deferral covered by bond on Form 2053.* A proprietor who desires to file returns, Form 2050, with remittances, with benefit of the extended deferral prescribed by § 240.591, and who has on file a tax deferral bond on Form 2053 in a penal sum which is less than that required under § 240.222, shall give a new bond in a sufficient penal sum on Form 2053 or give a strengthening bond to increase the total penal sum of the bonds in force to a sufficient penal sum.

(c) *Consents of surety.* A proprietor who desires to file returns or Form 2050, with benefit of extended deferral under an existing bond on Form 2053, shall file a consent of surety on Form 1533 to extend the terms of the bond. Each consent on Form 1533 shall identify the particular bond to which it applies and contain a statement of purpose as follows:

To continue in effect said bond (including all extensions or limitations of terms and conditions previously consented to and approved), notwithstanding that the time for payment of the tax may be deferred as provided by 27 CFR 240.591(d).

(d) *Commencement of extended deferral.* A proprietor may file returns with benefit of extended deferral only after the applicable bonds and consents of surety required by this section have been filed with and approved by the regional regulatory administrator. However, a proprietor qualified for extended deferral on the date immediately preceding the effective date of this section is qualified for deferral as of the effective date of this section without further qualification under this section. The benefit of extended deferral shall commence with the return for the first return period fully covered by the bonds and consents of surety.

Paragraph 54. Section 240.598 is revised to delete a reference to case marking requirements. As amended, § 240.598 reads as follows:

**§ 240.598 Marking of containers.**

Each container of wine removed taxpaid, except cases, shall be marked with the word "Taxpaid" in addition to the marks required by § 240.562.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5368))

Paragraph 55. Section 240.599 is revised to delete a reference to taxpaid wine being sent to the bottling premises of a distilled spirits plant. As amended, § 240.599 reads as follows:

**§ 240.599 General.**

The proprietor may remove tax determined wine by pipeline from a bonded wine cellar to a taxpaid wine bottling house, contiguous to, or in the immediate vicinity of the bonded wine cellar.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

Paragraph 56. The title of Subpart BB is revised to delete "to other bonded wine cellars" because wine may also be transferred in bond to distilled spirits plants. As revised, the title of Subpart BB reads as follows:

**Subpart BB—Transfer of Wine in Bond**

Paragraph 57. Section 240.610 is revised to add a reference to distilled spirits plants for wine transferred in bond. As amended, § 240.610 reads as follows:

**§ 240.610 General.**

Wine may be removed for transfer in bond, from one bonded wine cellar to another bonded wine cellar, or a

distilled spirits plant, as provided in this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

**§ 240.611 [Deleted]**

Paragraph 58. Section 240.611 is deleted.

Paragraph 59. Section 240.612 is revised to add a reference to a distilled spirits plant for wine transferred in bond. As amended, § 240.612 reads as follows:

**§ 240.612 Transfer of wine by pipeline.**

Wine may be transferred in bond between contiguous or adjacent bonded wine cellars or to a contiguous or adjacent distilled spirits plant by a pipeline constructed and approved as provided in § 240.172, provided one or more accurately calibrated tanks for measuring the wine have been installed on at least one of the premises. The quantity of wine transferred by pipeline shall be recorded to the nearest whole gallon, 5 tenths gallons being converted to the next full gallon.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended, 1395, as amended (26 U.S.C. 5362, 5552))

Paragraph 60. Section 240.613 is revised to update the information included in the transfer in bond Form 703. As amended, § 240.613 reads as follows:

**§ 240.613 Use of Form 703.**

When wine is transferred in bond from a bonded wine cellar to other premises, the proprietor shall prepare Form 703, showing the date of transfer; name, address and registry number of the consignee and of the consignor; the number of cases, packages or tanks; serial numbers (except where not required for cases by § 240.561); gallons; percentage of alcohol; and kind of wine shipped. However, when wine (including distilling material and vinegar stock) is transferred in bond by pipeline to adjacent premises, and commercial records are kept to show details of each shipment as would appear on a separate Form 703, a monthly Form 703 may be prepared for shipments to each premises instead of a separate Form 703 for each shipment. The alcohol content of the wine shall be stated on Form 703 as 13 percent, 18 percent, etc., rather than by taxable grade. The kind of wine shall be stated according to class and type, including vintage and varietal designation, if applicable, except in the case of unfinished grape wine, distilling material, or vinegar stock.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Paragraph 61. Section 240.615 is revised to add a reference to a distilled spirits plant for wine received in bond. As amended, § 240.615 reads as follows:

**§ 240.615 Receipt of wine in bond.**

When wine is received in bond from a bonded wine cellar or a distilled spirits plant, the proprietor shall check the shipment against a copy of Form 703 or Form 5110.27, as applicable, and determine by measure or weight the quantity received, except that packages received without apparent loss need not be measured or weighed. A record of wine received in bond shall be maintained as required by Subpart UU of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Paragraph 62. Section 240.616 is revised to include a distilled spirits plant proprietor for filing claims on any wine losses in transit. As amended, § 240.616 reads as follows:

**§ 240.616 Losses in transit.**

The proprietor of the premises to which the wine is shipped in bond shall be liable for the tax on any wine lost in transit. The tax on wine lost in transit shall be assessed or remitted in accordance with the provisions of Subpart NN of this part. Where there is a loss in transit from any shipment, the consignee shall, as required by § 240.785, file a claim for allowance of the loss.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

Paragraph 63. Section 240.618 is revised to liberalize the provisions for reconsignment of wine shipments. As amended, § 240.618 reads as follows:

**§ 240.618 Reconsignment by consignor.**

When a consignor reconsigns a shipment of wine, the consignor shall notify the regional regulatory administrator of the consignor region by preparing a new Form 703 and attaching a statement of diversion. The substitute consignee is liable for the tax on all losses sustained in shipment, and shall file a consent of surety with the regional regulatory administrator of his region, in accordance with § 240.231, extending the terms of his bond to cover any losses.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Paragraph 64. Section 240.619 is revised to add a reference to the Form 5110.27 for wine transferred in bond from a distilled spirits plant. As amended, § 240.619 reads as follows:

**§ 240.619 Reconsignment by consignee.**

When a consignee reconsigns a shipment of wine, the consignee shall notify the regional regulatory administrator of his region by acknowledging receipt of the full amount on Form 703 or Form 5110.27, at which point the reconsignment is a shipment in bond subject to the requirements of §§ 240.613 to 240.616. The substitute consignee is liable for tax on all losses sustained in shipment, and shall file a consent of surety with the regional regulatory administrator of his region, in accordance with § 240.231 extending the terms of his bond to cover any losses.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Paragraph 65. Subpart PP is revised to consolidate all provisions relating to the receipt and use of wine spirits within a single subpart. The title of Subpart PP is changed to "Receipt and Use of Wine Spirits." Provisions formerly included at sections 240.375 through 240.379 and in Subpart RR are included in Subpart PP as revised. In addition, the following specific changes have been made: (1) government supervision of the receipt and use of wine spirits is no longer mandatory but may be required by the regional regulatory administrator; (2) references to 27 CFR Part 201 are changed to the recodified Part 19; (3) provisions requiring an application for taking samples of wine spirits are changed to provide for a notice; and (4) Forms 2629, 257, and 275 are designated as ATF Forms 5110.26, 5120.38, and 5120.28, respectively, in order to conform with the ATF subject classification system. As revised, Subpart PP reads as follows:

**Subpart PP—Receipt and Use of Wine Spirits**

**§ 240.820 General.**

The wine spirits authorized for use in wine production shall be produced from the distilling material authorized for use in distillery operations under 26 U.S.C. 5373, but shall not be reduced with water from distillation proof, nor be distilled at less than one hundred forty degrees proof. However, commercial brandy aged in wood for a period of not less than two years and barreled at not less than one hundred degrees proof shall be deemed wine spirits for purposes of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

**§ 240.821 Supervision requirements.**

The regional regulatory administrator may require that the receipt and use of

wine spirits at a bonded wine cellar be supervised by an ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5366))

**§ 240.822 Withdrawal.**

The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of a distilled spirits plant for use in the production of natural wine, or for addition to concentrated or unconcentrated juice for use in wine production, or for other uses as are authorized in this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

**§ 240.823 Annual withdrawals.**

(a) *Contiguous premises.* If the distilled spirits plant and the wine cellar are located on contiguous premises and wine spirits are to be transferred to the bonded wine cellar from time to time, the Form 5120.38 may cover all wine spirits to be transferred to the wine cellar during the calendar year. However, if the bond of the proprietor is not in the maximum penal sum, the proprietor shall specify on Form 5120.38 the maximum quantity of wine spirits that will be on hand, removed from the distilled spirits plant, and unaccounted for, on any one day.

(b) *Noncontiguous premises.* If the distilled spirits plant and the wine cellar are not located on contiguous premises, and the proprietor's bond is in the maximum penal sum, the proprietor's Form 5120.38 may cover all wine spirits to be transferred from the noncontiguous distilled spirits plant to the wine cellar during the calendar year. A separate Form 5120.38 shall be submitted for each noncontiguous distilled spirits plant from which wine spirits will be transferred during the calendar year.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

**Receipt of Wine Spirits**

**§ 240.824 Transfer of wine spirits by pipeline for immediate use.**

Wine spirits transferred by pipeline for immediate use shall be gauged either by weight or by volume in the bonded premises of the distilled spirits plant. Where the spirits are gauged in the bonded premises of the distilled spirits plant, the pipeline shall be directly connected, as provided in § 240.169, with wine spirits addition tanks. The valves in the pipeline shall be closed and locked with a lock at all times except when necessary to be opened for the transfer of wine spirits. Where the proprietor has placed wine in a wine



spirits addition tank and has ascertained the quantity of wine spirits to be added, the wine spirits may be transferred.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

#### § 240.825 Transfer of wine spirits by pipeline to wine spirits storage tank.

Where it is desired to transfer wine spirits by pipeline to bonded wine cellar premises and store the spirits prior to use, there shall be provided a suitable tank for storing the wine spirits. The pipeline from the adjacent bonded premises of the distilled spirits plant shall be connected to the tank as provided in § 240.169. The wine spirits to be transferred, if not gauged in the bonded premises of the distilled spirits plant, shall be gauged by weight or volume on the bonded wine cellar premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

#### § 240.826 Tank car and tank truck requirements.

Railroad tank cars and tank trucks used to transport wine spirits for use in wine production shall be constructed, marked, filled, labeled, and inspected, in the manner required by regulations in 27 CFR Part 19.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1382, as amended (26 U.S.C. 5206, 5214))

#### § 240.827 Examination of tank car or tank truck.

Upon arrival of the tank car or tank truck at the bonded wine cellar, the proprietor shall carefully examine the car or truck to see whether the seals are intact and whether there is any evidence of tampering or loss by leakage or otherwise. Any evidence of loss shall be reported to the area supervisor. The contents of the tank car or tank truck shall be gauged by weight or volume at the time of receipt by the proprietor. If the tank car or tank truck has been accurately calibrated, and the calibration chart is available at the wine cellar, the wine spirits may be gauged by volume in the tank car or tank truck. In any case where a volume gauge is made, the actual measurements of the spirits in the gauging tank, tank car, or tank truck, and the temperature of the spirits shall be recorded on Form 5110.26. The label attached to the tank car or tank truck at the distilled spirits plant shall be destroyed by the proprietor immediately after the car or truck is emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1382, as amended, 1381, as amended (26 U.S.C. 5206, 5214, 5366))

#### § 240.828 Wine spirits in packages.

The proprietor shall gauge (proof and weigh) each package to be used for the wine spirits addition, except that if a metal gauging tank accurately calibrated or mounted on scales is provided, the contents of the packages may be transferred into the gauging tank and a bulk gauge obtained by weight or by volume. If the packages have been received from contiguous bonded premises of a distilled spirits plant for immediate use, the packages need not be regauged in the bonded wine cellar unless there is some indication that the contents of the packages are not in agreement with the withdrawal gauge. If the quantity of wine spirits needed for the wine spirits addition is not equal to the contents of full packages, a portion of one package may be used and the remnant package returned to the wine spirits storage room. The proprietor shall weigh and proof the remnant package and attach a label showing the date of gauge, serial number of the Form 5120.28, the gross weight, and proof. The remnant shall be used at the first opportunity. The proprietor shall prepare Form 5110.26 for each release of wine spirits and attach a copy to each Form 5120.28.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5366, 5367, 5368, 5373))

#### Wine Spirits Additions

##### § 240.830 Wine spirits added to wine.

Prior to the addition of wine spirits, the wine shall be placed in tanks (approved for the addition of wine spirits) located, equipped, and calibrated as provided in Subpart F of this part. The proprietor shall accurately measure the wine, determine its alcohol content, determine the proof of the wine spirits to be added, calculate the quantity of wine spirits required, and enter the details on Form 5120.28. The alcohol content of the wine after the addition of wine spirits shall not exceed 24 percent by volume. The proprietor shall certify on Form 5120.28 that the wine has been produced in accordance with the requirements of this subpart and is eligible for the addition of wine spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5373))

##### § 240.831 Gauge of wine spirits.

(a) If the wine spirits to be used are in a wine spirits storage tank on the

bonded wine cellar premises, or received immediately prior to use from a distilled spirits plant not adjacent to the bonded wine cellar, the proprietor shall determine the quantity used, by volume gauge or by weight, and the proof of the spirits. Upon completion of the transfer of wine spirits from the wine spirits storage tank to the wine spirits addition tank, the proprietor shall lock the wine spirits storage tank. The proprietor shall prepare Form 5110.26 according to the instructions on the form.

(b) If the wine spirits made on the adjacent bonded premises of a distilled spirits plant are transferred directly into a wine spirits addition tank, the gauge of the wine spirits made on the distilled spirits plant premises shall be used. The proprietor at the distilled spirits plant premises shall deliver two copies of Form 5110.26 to the proprietor of the bonded wine cellar who shall acknowledge receipt of the wine spirits on both copies of the form and forward one copy to the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5373))

##### § 240.832 Report of addition of wine spirits.

After the wine spirits have been added to the wine, the proprietor shall thoroughly agitate the contents of the tank to assure a complete mixture of the wine and wine spirits. The proprietor shall then measure the quantity of wine in the tank, take a representative sample of the wine, and test for alcohol content. The result of the measurement and test and the quantity of wine spirits added as shown by Form 5110.26 shall be recorded on Form 5120.28. The original of Form 5120.28 (with Form 5110.26, if the wine spirits have been regauged) shall be submitted to the regional regulatory administrator and the other copy retained for the proprietor's files. The quantity of wine and wine spirits used, and the quantity of wine resulting from addition of wine spirits, shall be entered in the cellar records.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373, 5382))

#### Other Dispositions of Wine Spirits

##### § 240.835 Withdrawal from distilled spirits plant.

Proprietors of bonded wine cellars engaged in the production of sparkling wine, or artificially carbonated wine, or special natural wine, or any other wine products, for which wine spirits are required for dosage, or for the preparation of approved essences or

similar approved flavorings on the wine cellar premises, may make application on Form 5120.38 to withdraw tax-free wine spirits. The wine spirits shall be received by the proprietor and placed under his lock in a secure room or locker on the bonded premises. The wine spirits shall remain in the original packages in the storeroom until withdrawn for use. Record of receipt and use shall be kept in accordance with Subpart UU of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended, 1383, as amended (26 U.S.C. 5373, 5382))

##### § 240.836 Application to dispose of wine spirits.

Application for permission to transfer wine spirits to the bonded premises of a distilled spirits plant or bonded wine cellar or to taxpay or destroy wine spirits, shall be filed with the regional regulatory administrator. The application shall set forth the serial numbers of the packages or storage tanks in which the wine spirits are contained, the kind and quantity of wine spirits involved, the name and registry number of the distilled spirits plant, the date of receipt of the wine spirits in the wine cellar, and the reason it is desired to taxpay, destroy, or transfer the wine spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

##### § 240.837 Disposition of spirits.

If the application is approved, the proprietor shall dispose of the spirits in accordance with the application and any instructions given by the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

##### § 240.838 Taxpayment.

When it is desired to taxpay the wine spirits, the application shall describe the containers in which the spirits will be removed upon taxpayment and the name and address of the person or persons to whom the spirits will be shipped and whether the spirits will be used for beverage or nonbeverage purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

##### § 240.839 Transfer to a distilled spirits plant or wine cellar.

When it is desired to transfer wine spirits to the bonded premises of a distilled spirits plant or to a bonded wine cellar the application shall specify the name, number and location of the premises, and the means or containers by or in which it is proposed to transfer the wine spirits. The application shall

also specify whether the proprietor of the designated distilled spirits plant or wine cellar has agreed to receive the wine spirits and file consent of surety on his bond, extending the terms of the bond to cover transfer to his premises and any storage.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

#### Samples of Wine Spirits

##### § 240.840 Limitations.

Samples of wine spirits may be withdrawn, free of tax, from any bonded wine cellar for analysis or testing. A sample may be withdrawn from each lot of wine spirits received, or from each wine spirits storage tank, or from a package representative of a lot of wine spirits on hand in the wine spirits storage room. Each sample shall be not more than 750 ml in size, and only one sample may be taken from any lot of wine spirits, unless authority is received from the regional regulatory administrator for larger or additional samples, upon a showing of necessity. All spirits produced at the same production facility of a distilled spirits plant on the same day, if received in the same shipment, will be considered as constituting a lot of spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

##### § 240.841 Notice.

The proprietor shall file a notice with the regional regulatory administrator whenever samples of wine spirits are desired. The notice shall identify the lot or lots of spirits from which samples are desired, the size of the sample to be withdrawn from each lot, and the disposition to be made of the samples. Remnants or residues of samples remaining after analysis or testing, and which are not retained for laboratory specimens, shall be destroyed or returned to the bonded wine cellar for use in wine production.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

Paragraph 66. Section 240.853 is revised to delete reference to two obsolete sections. As amended, § 240.853 reads as follows:

##### § 240.853 In transit.

Losses in transit shall be ascertained at the time the wine spirits are received at the wine cellar.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

Paragraph 67. Section 240.854 is revised to delete a reference to Government supervision. As revised, § 240.854 reads as follows:

##### § 240.854 Losses in wine cellar.

Losses by theft, or from other causes, in the bonded wine cellar, shall be determined and reported at the time the losses are discovered. A physical inventory of wine spirits storage tanks shall be taken at the close of the month during which wine spirits are used in wine production, or upon completion of the use for the month and at any other time required by the regional regulatory administrator. Any losses which have not previously been reported shall be determined by the inventory. Where a loss is discovered requiring filing of a claim as provided in § 240.855, the proprietor shall gauge the contents of the container from which the loss occurred and prepare a report of gauge on Form 5110.26.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

Paragraph 68. Subpart RR is deleted in its entirety and §§ 240.870 through 240.874 requirements have been moved to Subpart PP. As amended, the center heading "Subpart RR—Disposition of Unused Wine Spirits" reads as follows:

#### Subpart RR—[Reserved]

Paragraph 69. Section 240.890 is revised to change former part 198 to the recodified Part 18 and change the application to a notice. As amended, § 240.890 reads as follows:

##### § 240.890 Notice required.

A proprietor desiring to produce or prepare for market commercial fruit products, or recover by-products (including volatile fruit-flavor concentrates) and store the products on bonded wine cellar premises shall file a notice with the regional regulatory administrator setting forth the details of the activity. In addition to the notice, if the proprietor desires to establish a volatile fruit flavor concentrate plant, he shall file Form 27-G and otherwise comply with the provisions of 27 CFR Part 18. Activities permitted shall be limited to those in which fruit or fruit juice is the principal material used in production. The operations shall not be conducted prior to the notice being submitted to the regional regulatory administrator. Wine shall not be used in the production of allied products.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5361))

Paragraph 70. Section 240.904 is revised to delete a reference to sections which are obsolete. As amended, § 240.904 reads as follows:



**§ 240.904 Forms 5120.28 and 5110.26.**

Each proprietor of a bonded wine cellar using wine spirits in the production of wine shall prepare Forms 5120.28 and 5110.28 at the time wine spirits are gauged and added to wine. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

Paragraph 71. Section 240.943 is revised to delete a reference to rectification tax. As amended, § 240.943 reads as follows:

**§ 240.943 Assessment of tax.**

If an investigation or an examination of records discloses that liability for wine tax, distilled spirits tax, or occupational tax has been incurred by the proprietor of a bonded wine cellar, the regional regulatory administrator will notify the proprietor by letter of the basis and the amount of the proposed assessment in order to afford the proprietor an opportunity to submit a protest, with supporting facts, within 45 days, or to request a conference with regard to the tax liability.

Paragraph 72. Section 240.1041 is revised to delete the requirements for Government supervision. As amended, § 240.1041 reads as follows:

**§ 240.1041 Withdrawal.**

The proprietor of a bonded wine cellar may, as provided in this part, withdraw, without payment of tax, distillates containing aldehydes for use in the fermentation of wine which is to be used as distilling material. Withdrawals shall be made only from an adjacent distilled spirits plant. A proprietor of a bonded wine cellar who is operating under bond, Form 700, and who intends to receive and use distillates containing aldehydes, shall furnish a consent of surety, Form 1533, which shall contain the following statement of purpose:

To extend the terms and conditions of said bond to cover payment of all taxes imposed by law now or hereinafter in force (plus penalties, if any, and interest) for which the principal may become liable on all distillates containing aldehydes removed from the bonded premises of a distilled spirits plant to his bonded wine cellar.

The facilities may include short detachable hose connections between pipelines and tanks on the bonded wine cellar premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

Paragraph 73. Section 240.1042 is revised to change an application requirement to a notice. As amended, § 240.1042 reads as follows:

**§ 240.1042 Notice on Form 5120.38.**

A proprietor who intends to withdraw distillates containing aldehydes shall submit a notice on Form 5110.46.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

Paragraph 74. Section 240.1043 is revised to update the section. As revised, § 240.1043 reads as follows:

**§ 240.1043 Receipt and deposit of distillates containing aldehydes.**

Distillates containing aldehydes which are received at the bonded wine cellar (if not immediately used) shall be placed under the proprietor's lock in a secure room or tank on the bonded premises. Distillates containing aldehydes shall not be mingled with wine spirits. If distillates contain less than one-tenth of one percent of aldehydes, they shall be subject to additional conditions relating to the receipt, storage, and use as the regional regulatory administrator shall require to assure that the distillates are properly used and accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

Section P. Part 250 is amended as follows:

**PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

Paragraph 1. The table of sections for Part 250 is amended to reflect (1) the addition of §§ 250.36c, 250.66a, 250.201c, and Subparts Ib and Oa, (2) the revision of Subparts D and K, (3) the revocation of §§ 250.83, 250.85, 250.96a, 250.112a, 250.204, and Subpart I, (4) the deletion of §§ 250.99, 250.100, and the undesignated center heading which preceded § 250.98, and (5) the amendment of the titles of §§ 250.66, 250.78, 250.98, 250.108, 250.110, 250.260 and Subpart E. As amended, the table of sections for Part 250 reads as follows:

|         |                                                                                  |
|---------|----------------------------------------------------------------------------------|
| 250.36c | Shipments of bulk distilled spirits to the United States without payment of tax. |
|---------|----------------------------------------------------------------------------------|

**Subpart D—Formulas for Products From Puerto Rico**

|        |                                                                         |
|--------|-------------------------------------------------------------------------|
| Sec.   |                                                                         |
| 250.50 | Formulas for liquors.                                                   |
| 250.51 | Formulas for articles and products manufactured with denatured spirits. |
| 250.52 | Still wines containing carbon dioxide.                                  |
| 250.53 | Changes of formulas.                                                    |
| 250.54 | Filing and disposition of formulas.                                     |
| 250.55 | Previously approved formulas.                                           |

**Subpart E—Taxpayment of Liquors and Articles in Puerto Rico**

|         |                                              |
|---------|----------------------------------------------|
| Bonds   |                                              |
| Sec.    |                                              |
| 250.66  | Bond, ATF Form 5110.50—Distilled Spirits.    |
| 250.66a | New bond required effective January 1, 1980. |
| 250.78  | Application and permit, ATF Form 5110.51.    |

**Packages of Distilled Spirits**

|        |                                                                            |
|--------|----------------------------------------------------------------------------|
| 250.98 | Liqueurs, cordials and similar distilled spirits products containing wine. |
|--------|----------------------------------------------------------------------------|

**Beer**

|         |                                                            |
|---------|------------------------------------------------------------|
| 250.108 | Application for permit, ATF Form 5110.51 and/or Form 2900. |
| 250.110 | Release of articles or liquors.                            |

**Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond**

|          |                                                   |
|----------|---------------------------------------------------|
| 250.196  | General.                                          |
| 250.197  | Furnishing formula to consignee.                  |
| 250.198  | Application to receive spirits in bond.           |
| 250.199  | Application and permit to ship, ATF Form 5110.31. |
| 250.199a | Action by revenue agent.                          |
| 250.199b | Issuance and disposition of permit.               |
| 250.199c | Action by carrier.                                |
| 250.199d | Customs inspection and release.                   |
| 250.199e | Transfer by pipeline at dock.                     |
| 250.199f | Consignee premises.                               |

**Subpart J**

|          |                                                                                  |
|----------|----------------------------------------------------------------------------------|
| 250.201c | Shipments of bulk distilled spirits to the United States without payment of tax. |
|----------|----------------------------------------------------------------------------------|

**Subpart K—Formulas for Products From the Virgin Islands**

|         |                                                                         |
|---------|-------------------------------------------------------------------------|
| 250.220 | Formulas for liquors.                                                   |
| 250.221 | Formulas for articles and products manufactured with denatured spirits. |
| 250.222 | Still wines containing carbon dioxide.                                  |
| 250.223 | Changes of formulas.                                                    |
| 250.224 | Filing and disposition of formulas.                                     |
| 250.225 | Previously approved formulas.                                           |

**Subpart L**

|         |              |
|---------|--------------|
| 250.250 | Certificate. |
|---------|--------------|

**Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond**

|         |                                |
|---------|--------------------------------|
| 250.300 | General.                       |
| 250.301 | Application, ATF Form 5100.16. |
| 250.302 | Gauge and certification.       |

|         |                                 |
|---------|---------------------------------|
| Sec.    |                                 |
| 250.303 | Customs inspection and release. |
| 250.304 | Bulk conveyances to be sealed.  |
| 250.305 | Transfer by pipeline at dock.   |

Paragraph 2. Section 250.1 is amended to add reference to provisions which were redesignated from Subparts F and G of Part 170, to Subparts Ib and Oa of this part. As amended, § 250.1 reads as follows:

**§ 250.1 Alcoholic products coming into the United States from Puerto Rico and the Virgin Islands.**

This part, "Liquors and Articles from Puerto Rico and the Virgin Islands," relates to:

(a) The production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax;

(b) The collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands; and

(c) The transfer, without payment of tax, of Puerto Rican and Virgin Islands spirits in bulk containers or by pipeline from customs custody to the bonded premises of a distilled spirits plant qualified under Part 19 of this chapter.

Paragraph 3. Section 250.11 is amended (1) to add definitions of *Bottler*, *Bulk container*, *Bulk distilled spirits*, and *Rectifier*, (2) to amend the definitions of *Distilled spirits or spirits*, and *Wine*, and (3) to correct the statutory authority. As amended, § 250.11 reads as follows:

**§ 250.11 Meaning of terms.**

**Bottler.** Any person required to hold a basic permit as a bottler under 27 U.S.C. 203(b)(1).

**Bulk container.** Any container having a capacity of more than 1 gallon.

**Bulk distilled spirits.** The term "bulk distilled spirits" means distilled spirits in a container having a capacity in excess of 1 gallon.

**Distilled spirits or spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

**Rectifier.** Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

**Wine.** Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205))

**§ 250.36b [Amended]**

Paragraph 4. Section 250.36b is amended to reflect the addition of Subpart Ib to this part by deleting the last sentence.

Paragraph 5. Immediately after § 250.36b, a new § 250.36c is added to reflect the addition of Subpart Ib to this part. As added, § 250.36c reads as follows:

**§ 250.36c Shipments of bulk distilled spirits to the United States without payment of tax.**

Bulk distilled spirits may be brought into the United States from Puerto Rico without payment of tax for transfer from customs custody to the bonded premises of a distilled spirits plant qualified under Part 19 of this chapter. Such shipments are subject to the provisions of Subpart Ib.

Paragraph 6. Section 250.40 is amended to reflect the addition of Subpart Ib to this part by adding a new paragraph (e). As amended, § 250.40 reads as follows:

**§ 250.40 Marking containers of distilled spirits.**

(e) In the case of bulk containers shipped to the United States under Subpart Ib, the serial number of the application and permit to ship, ATF Form 5110.31, instead of the serial number of Form 487-B.

**§ 250.41 [Amended]**

Paragraph 7. Section 250.41 is amended to replace "Part 201" with "Part 19".

Paragraph 8. Subpart D is revised (1) to make formula requirements for Puerto Rican liquors and articles shipped to the United States conform with formula requirements for domestic manufacturers, (2) to add a requirement for a notice relating to still wines containing carbon dioxide, similar to the notice required for domestic

winemakers, and (3) to add a qualification that previously approved formulas are valid. As revised, Subpart D reads as follows:

**Subpart D—Formulas for Products From Puerto Rico****§ 250.50 Formulas for liquors.**

(a) *Distilled spirits products.* Formulas are required by Part 5 of this chapter for distilled spirits products shipped to the United States from Puerto Rico. If any product contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. These formulas shall be submitted on ATF Form 5110.38, in accordance with § 250.54.

(b) *Wine.* Persons in Puerto Rico who ship wine to the United States shall comply with the formula requirements of Part 240 of this chapter. If any wine contains liquors made outside of Puerto Rico, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on ATF Form 698-A Supplemental, in accordance with § 250.54.

**§ 250.51 Formulas for articles and products manufactured with denatured spirits.**

(a) *Formulas for articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, or the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine.

(b) *Formulas for products manufactured with denatured spirits.* Formulas for products manufactured with denatured spirits shall be submitted as provided in Part 211 of this chapter for products manufactured in the United States with denatured spirits.

(c) *ATF Form 1479-A.* Formulas required by this section shall be submitted on ATF Form 1479-A, in accordance with § 250.54.

**§ 250.52 Still wines containing carbon dioxide.**

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance



will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the Chief, Puerto Rican Operations. The notice shall show the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in quintuplicate to the Chief, Puerto Rican Operations, who shall retain one copy, forward one copy to the Officer-in-Charge, one copy to the Secretary, and one copy to the revenue agent at the proprietor's premises, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by revenue agents.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

#### § 250.53 Changes of formulas.

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

#### § 250.54 Filing and disposition of formulas.

Prior to shipment, formulas required by this subpart shall be submitted in quintuplicate to and approved by the Director. The Director shall retain one copy, forward one copy to the Officer-in-Charge, one copy to the Secretary, and one copy to the revenue agent at the premises of the applicant, and return one copy to the applicant. The applicant shall maintain copies of approved formulas available for examination by revenue agents.

#### § 250.55 Previously approved formulas.

Any formula approved on Form 27-B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27-B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the

notice requirement of § 250.52 shall not apply.

Paragraph 9. The title of Subpart E is amended to delete reference to rectification and to add reference to taxpayment of articles in Puerto Rico. As amended, the title of Subpart E reads as follows:

#### Subpart E—Taxpayment of Liquors and Articles in Puerto Rico

Paragraph 10. Section 250.66 is amended (1) to clarify who is required to file a bond, (2) to change the number of an ATF form, (3) to revoke the bond requirement for rectification tax, and (4) to correct the statutory authority. As amended, § 250.66 reads as follows:

#### § 250.66 Bond, ATF Form 5110.50—Distilled spirits.

(a) *General.* If any person intends to ship to the United States, distilled spirits products of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), he shall, before making any such shipment, furnish a bond ATF Form 5110.50, for each premises from which shipment will be made, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all distilled spirits products shipped. The bond shall be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond shall not exceed \$1,000,000, but in no case shall the penal sum be less than \$1,000.

(b) *Blanket bond.* Any person who is the proprietor of more than one premises in Puerto Rico from which shipment of spirits to the United States will be made, may, in lieu of furnishing two or more separate bonds on ATF Form 5110.50 as required by paragraph (a) of this section, furnish a blanket bond on ATF Form 5110.50. The penal sum of such blanket bond shall be equal to the sum of the penal sums of all the bonds in lieu of which it is given. Such blanket bond on ATF Form 5110.50 shall show each bonded warehouse and/or bonded processing room and/or rectifying plant to be covered by the bond, and the part of the total penal sum (computed in accordance with paragraph (a) of this section) to be allocated to each of the designated premises. If the penal sum of the bond allocated to a designated premises is in an amount less than the maximum prescribed in paragraph (a) of this section, transactions at such premises shall not exceed the quantity permissible, as reflected by the penal

sum allocated in the bond to such premises. Such blanket bond shall contain the terms and conditions of the bonds in lieu of which it is given and shall be conditioned that the total amount of the bond shall be available for satisfaction of any liability incurred under the terms and conditions of such bond.

(Act of August 16, 1954, 68A Stat. 847, as amended, 907, as amended (26 U.S.C. 7101, 7102, 7652))

Paragraph 11. Immediately after § 250.66, a new § 250.66a is added to require a new bond for persons who intend to continue deferral of taxes after January 1, 1980. As added, § 250.66a reads as follows:

#### § 250.66a New bond required effective January 1, 1980.

Any person holding a valid bond on Form 2896 who desires to continue deferred payment of taxes on distilled spirits released for shipment on and after January 1, 1980, shall file and obtain approval of a new bond, ATF Form 5110.50, with an effective date of January 1, 1980. The new bond shall comply with the penal sum requirements prescribed by § 250.66 and shall be conditioned on compliance with the new tax deferral system prescribed by § 250.112. The proprietor shall prepay taxes, in accordance with § 250.113, if a new bond is not filed with and approved by the Officer-in-Charge.

Paragraph 12. Section 250.68a is amended (1) to delete reference to a revoked paragraph of regulation, (2) to change reference to a redesignated paragraph of regulation, and (3) to change the numbers of ATF forms. As amended, § 250.68a reads as follows:

#### § 250.68a Bond account.

Every person who files a bond under this subpart shall keep an account of the charges against and credits to the bond if the penal sum of his bond is less than the maximum prescribed in §§ 250.66(a), 250.67, or 250.68, or if the penal sum allocated to his premises under § 250.66(b) is less than the prescribed maximum. He shall charge the bond with the amount of liability he accepts at the time he executes ATF Form 5110.51 or 2900, and shall credit the bond with the amount of the tax paid at the time he files each return, ATF Form 5110.32, 2927, or 2929, and remittance. The account shall also show the balance available under the bond at any one time.

#### § 250.76 [Amended]

Paragraph 13. Section 250.76 is amended to replace "Form 2899" with "ATF Form 5110.51".

Paragraph 14. Section 250.77 is amended to reflect the imposition of distilled spirits tax on alcoholic ingredients added to distilled spirits products, and to delete references to rectification tax. As amended, § 250.77 reads as follows:

#### Distilled Spirits

##### § 250.77 Subject to tax.

Distilled spirits of Puerto Rican manufacture, and any products containing such spirits, including any alcoholic ingredients added to such spirits or products, coming into the United States and withdrawn for consumption or sale are subject to a tax equal to the internal revenue tax imposed in the United States by 26 U.S.C. 5001(a)(1).

(Act of August 16, 1954, Pub. L. 591, 66A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

Paragraph 15. Section 250.78 is amended to clarify who is required to obtain a permit to ship distilled spirits products to the United States and to change the number of an ATF Form. As amended, § 250.78 reads as follows:

#### § 250.78 Application and permit, ATF Form 5110.51.

Application for permit to compute the tax on, and to withdraw, distilled spirits shall be made on ATF Form 5110.51, in sextuplicate, by the proprietor. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and forward the original and remaining copies of the form to the revenue agent at the premises where the products are located.

#### § 250.79 [Amended]

Paragraph 16. Section 250.79 is amended to change the numbers of ATF forms (1) by replacing "Form 2899" with "ATF Form 5110.51", (2) by replacing "Form 2630" with "ATF Form 5110.45", and (3) by replacing "Forms 2899 and 2630" with "ATF Forms 5110.51 and 5110.45".

Paragraph 17. Sections 250.80 and 250.81 are amended to reflect the new method of tax payment on finished distilled spirits products and to change the numbers of ATF forms. As amended, §§ 250.80 and 250.81 read as follows:

#### § 250.80 Deferred payment of tax—release of spirits.

(a) *Action by proprietor.* Where the proprietor has furnished bond on ATF Form 5110.50, and payment of the tax is to be deferred, he shall execute an

agreement on ATF Form 5110.51 to pay the amount of tax which has been computed and entered on the form. He shall also certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable against his bond. The proprietor shall deliver all copies of ATF Forms 5110.51 and 5110.45 to the revenue agent.

(b) *Action by revenue agent.* On receipt of the ATF Forms 5110.51 and 5110.45, the revenue agent shall verify the computation of the tax entered on the ATF Form 5110.51, and if the proprietor has on file a good and sufficient bond, ATF Form 5110.50; so indicate on ATF Form 5110.51. The revenue agent shall then execute his report of release on the ATF Form 5110.51 and release the spirits for shipment to the United States. He shall forward the original ATF forms 5110.51 and 5110.45 to the Officer-in-Charge, one copy of each form to the Bureau of Alcoholic Beverage Taxes, and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the proprietor, and retain one copy of each for his file. Where the revenue agent finds that the proprietor does not have good and sufficient bond coverage, or where the revenue agent has received information that the proprietor is in default of payment of any taxes previously charged to his bond, he shall return all copies of ATF Forms 5110.51 and 5110.45 to the proprietor, giving his reasons for such action.

#### § 250.81 Prepayment of tax and release of spirits.

(a) *Action by proprietor.* Where the distilled spirits are to be released after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of ATF Form 5110.51 and execute the statement that such tax is being prepaid. He shall then prepare ATF Form 5110.53 in quadruplicate, and send the original and two copies, with all copies of ATF Forms 5110.51 and 5110.45 and his remittance in full for the tax, to the Officer-in-Charge.

(b) *Action by Officer-in-Charge.* On receipt of ATF Forms 5110.51, 5110.53, and 5110.45, with remittance covering prepayment of tax, the Officer-in-Charge shall execute his receipt on all copies of ATF Form 5110.53 and his report of prepaid taxes on all copies of ATF Form 5110.51. He shall then forward one copy

of ATF Form 5110.53 to the Secretary and one copy of ATF Form 5110.53 and four copies of ATF Forms 5110.51 and 5110.45 to the revenue agent, and retain the original of each form for his files.

(c) *Action by revenue agent.* On receipt of ATF Form 5110.51 executed by the Officer-in-Charge to show receipt of ATF Form 5110.53 and remittance, and a copy of the ATF Form 5110.53, the revenue agent shall execute his report of release on the ATF Form 5110.51 and release the spirits for shipment to the United States. He shall forward one copy of the ATF Form 5110.51 and one copy of ATF Form 5110.45 to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the proprietor, and retain one copy of each and the copy of ATF Form 5110.53 for his file.

#### § 250.82 [Amended]

Paragraph 18. Section 250.82 is amended to reflect the new method of taxpayment on finished distilled spirits products by deleting the words "released from bonded storage under § 250.80 or § 250.81".

Paragraph 19. Section 250.84, relating to the stamping of bottles is amended to include the affixing of distilled spirits stamps on bulk containers. As amended, § 250.84 reads as follows:

#### § 250.84 Stamping of bottles and bulk containers.

(a) *Bottles.* Every bottle of distilled spirits of Puerto Rican manufacture to be shipped to the United States must have affixed thereto a red strip stamp of proper size. Red strip stamps will be procured and used as provided in Subpart G of this part.

(b) *Bulk containers.* Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon (3.785 liters), distilled spirits stamps shall be procured and affixed as provided in §§ 250.88 through 250.91.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### §§ 250.83 and 250.85 [Revoked]

Paragraph 20. Section 250.83, relating to segregation of rectified and unrectified spirits, and § 250.85, relating to rectification tax, are revoked.

#### § 250.87 [Amended]

Paragraph 21. Section 250.87 is amended (1) to delete reference to rectification tax by deleting the phrase, "and that all rectification taxes incurred have been paid or deferred in the same manner as provided in § 250.85 for



rectified spirits bottled and cased, or packaged," and, (2) to replace "Form 2899" with "ATF Form 5110.51".

Paragraph 22. Section 250.89 is amended to delete reference to rectification tax. As amended, § 250.89 reads as follows:

**§ 250.89 Issuance of distilled spirits stamps.**

On receipt of Form 3039, and the copy of the approved Form 487B, the Officer-in-Charge shall issue the required number of distilled spirits stamps. He shall enter, on each stamp, the name of the proprietor removing the spirits and the serial number of the container for which the stamp is issued. When the stamps have been issued, the issuing officer shall enter the serial numbers thereof on each copy of the Form 3039; return the copy of Form 487B and one copy of the Form 3039, with the stamps, to the applicant; forward one copy of Form 3039 to the Secretary; and retain the original of Form 3039 for his files.

Paragraph 23. Section 250.93 is amended to reflect the new tax computation procedure, whereby Form 2900 will be prepared only when wine is used in a finished product containing no distilled spirits. A sentence relating to "wines containing more than 24 percent of alcohol by volume" is deleted; since the definition of wine makes it clear that such products are not wines, but are rather distilled spirits. As amended, § 250.93 reads as follows:

**§ 250.93 Application and permit, Form 2900.**

When wine of Puerto Rican manufacture is to be withdrawn for shipment to the United States, or for use in an article made with wine only or with wine and beer only, for shipment to the United States, application for permit to compute the tax on, and to withdraw, the wine shall be made on Form 2900, in sextuplicate, by the proprietor of the bonded premises where the wine is stored. If the withdrawal is to be made in casks, barrels, kegs or similar containers, the proprietor shall enter the name of the winemaker producing the wine, the serial numbers of the packages, the total number of wine gallons contained therein, and the taxable grade of the wine, for example, "not more than 14 percent" if the wine contains not more than 14 percent of alcohol by volume, "14-21 percent" if the wine contains more than 14 percent and not exceeding 21 percent of alcohol by volume, "21-24 percent" if the wine contains more than 21 percent but not exceeding 24 percent of alcohol by volume. If the application covers more than one taxable grade of wine, the

quantity in each taxable grade shall be reported separately. If the withdrawal is to consist of bottled wine, the proprietor shall show the number of cases, size of the bottles, the number of bottles per case, the total quantity in wine gallons, and the taxable grade of the wine in the manner stated above. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and return the original and four copies to the proprietor.

**§§ 250.95 and 250.96 [Amended]**

Paragraph 24. Sections 250.95 and 250.96 are amended to replace "Form 2899" with "ATF Form 5110.51".

**§ 250.96a [Revoked]**

Paragraph 25. Section 250.96a, dealing exclusively with rectification tax, is revoked.

Paragraph 26. The undesignated center head immediately preceding § 250.98 is deleted. Section 250.98 is totally revised to indicate that all distilled spirits products containing wine are classed and taxed entirely at the distilled spirits rate. As revised, § 250.98 reads as follows:

**§ 250.98 Liqueurs, cordials, and similar distilled spirits products containing wine.**

The entire alcohol content of liqueurs, cordials, and similar distilled spirits products containing wine is taxable at the distilled spirits rate. The procedures for taxpayment, shipment, stamping containers, and release of such products shall be as prescribed in §§ 250.77 through 250.91.

**§§ 250.99 and 250.100 [Revoked]**

Paragraph 27. Sections 250.99 and 250.100, dealing with taxpayment and shipment of liqueurs, cordials, and similar products, are revoked. These products will be taxpaid and otherwise treated exactly the same as distilled spirits.

**§§ 250.104 and 250.105 [Amended]**

Paragraph 28. Sections 250.104 and 250.105 are amended to replace "Form 2899" with "ATF Form 5110.51".

Paragraph 29. Section 250.107 is revised to describe the new basis for taxation of articles. As revised, § 250.107 reads as follows:

**Articles**

**§ 250.107 Taxable status.**

Articles of Puerto Rican manufacture which are to be shipped to the United States and which are not exempt from tax under the provisions of § 250.36 are

subject, under section 7652(a) to a tax equal to the tax imposed by the internal revenue laws of the United States. If such articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Such articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. A formula covering the manufacture of each article shall be filed by the manufacturer in accordance with Subpart D of this part.

Paragraph 30. Section 250.108 is revised to conform the procedure, regarding application for permit to taxpay articles, to the new taxation structure. Form 2900 may be used only if the finished article contains no distilled spirits. As revised, paragraphs (a) and (b) of § 250.108 read as follows:

**§ 250.108 Application for permit, ATF Form 5110.51 and/or Form 2900.**

(a) *Distilled spirits.* Where distilled spirits of Puerto Rican manufacture are to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 5110.51, in accordance with the applicable provisions of § 250.78.

(b) *Wine and/or beer.* Where wine and/or beer of Puerto Rican manufacture is to be used in the manufacture of the articles to be shipped to the United States, the manufacturer shall make application on Form 2900, in accordance with the applicable provisions of §§ 250.93 and/or 250.102. Wine and beer may be included in the same application.

Paragraph 31. Section 250.109 is amended to conform to the new taxation structure and to the all-in-bond system to be imposed in the United States. The wine and beer tax rates may apply only if the finished article contains no distilled spirits. As amended, § 250.109 reads as follows:

**§ 250.109 Taxpayment.**

(a) *Distilled spirits.* The tax on distilled spirits contained in articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), shall be computed in accordance with § 250.79 and paid in accordance with the applicable provisions of §§ 250.80, 250.81, and 250.111 through 250.113.

(b) *Wine.* The tax on wine used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5041, shall be computed in accordance with § 250.94 and paid in

accordance with the applicable provisions of §§ 250.95, 250.96, and 250.111 through 250.113.

(c) *Beer.* The tax on beer used in the manufacture of articles to be shipped to the United States, equal to the tax imposed in the United States by 26 U.S.C. 5051, shall be computed in accordance with § 250.103 and paid in accordance with the applicable provisions of §§ 250.104, 250.105, and 250.111 through 250.113.

Paragraph 32. Section 250.110 is amended to conform to the new taxation structure and the all-in-bond system being imposed in the continental United States. In the case of articles containing distilled spirits, release for shipment occurs after completion of the finished product, whereas for articles made only with beer and wine, release occurs when the liquors are withdrawn for use in manufacturing. As amended, § 250.110 reads as follows:

**§ 250.110 Release of articles or liquors.**

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of ATF Form 5110.51 or Form 2900 executed by the Officer-in-Charge to show receipt of ATF Form 5110.53, 2928, or 2930, and remittance, the revenue agent shall execute his report of release on ATF Form 5110.51 or Form 2900 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of ATF Form 5110.51 or Form 2900, and of ATF Form 5110.45 (if any) to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy of each for his file. In the case of deferred payment, the original ATF Form 5110.51 or Form 2900 and the original ATF Form 5110.45 (if any) shall be forwarded to the Officer-in-Charge. A permit shall be obtained as provided in §§ 250.114 through 250.116 before the articles manufactured from such liquors may be shipped to the United States.

Paragraph 33. Section 250.112 is revised (1) to change the numbers of certain ATF Forms, (2) to eliminate reference to rectification tax, and (3) to impose the new extended deferral periods for distilled spirits prescribed by Pub. L. 96-39. As revised, § 250.112 reads as follows:

**§ 250.112 Taxes to be collected by returns for semimonthly periods.**

(a) *Distilled spirits.* The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States

by 26 U.S.C. 5001(a)(1)), the payment of which has been deferred under the provisions of § 250.80, shall be paid pursuant to a return on ATF Form 5110.52 prepared in quadruplicate. The proprietor shall list on his return the serial numbers of all ATF Forms 5110.51 covered by the return.

(b) *Wine.* The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States by 26 U.S.C. 5041), the payment of which has been deferred under the provisions of § 250.95, shall be paid pursuant to a return on Form 2927 prepared in quadruplicate. The proprietor shall list on his return the serial numbers of all Forms 2900 covered by the return.

(c) *Beer.* The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States by 26 U.S.C. 5051), the payment of which has been deferred under the provisions of § 250.104, shall be paid pursuant to a return on Form 2929 prepared in quadruplicate. The brewer shall list on his return the serial numbers of all Forms 2900 covered by the return.

(d) *Periods.* The periods to be covered by returns on ATF Forms 5110.52, 2927, and 2929, shall be semimonthly; such periods to run from the 1st day through the 15th day of each month and from the 16th day through the last day of each month.

(e) *Filing.* The original and two copies of returns on ATF Forms 5110.52, 2927, and 2929, with remittance covering the full amount of the tax, shall be filed with the Officer-in-Charge not later than the last day for filing as prescribed by paragraph (f) or (g) of this section. Where the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. If the last day for filing a return under this paragraph falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

(f) *Last day for filing ATF Form 5110.52.* The last day for filing ATF Form 5110.52, distilled spirits deferred tax return, is as follows:

(1) For return periods in 1980, the return shall be filed not later than the last day of the first succeeding return period plus five days.

(2) For return periods in 1981, the return shall be filed not later than the

last day of the first succeeding return period plus ten days.

(3) For return periods in and after 1982, the return shall be filed not later than the last day of the second succeeding return period.

(g) *Last day for filing ATF Forms 2927 or 2929.* The last day for filing ATF Forms 2927 and 2929, deferred tax returns wine and beer, respectively, shall be the last day of the next succeeding return period.

(h) *Default.* Where a taxpayer has defaulted in any payment of tax under this section, during the period of such default and until the Officer-in-Charge finds that the revenue will not be jeopardized by deferred payment of tax under this section, the tax shall be prepaid by such taxpayer in accordance with the provisions of § 250.113. During such period, distilled spirits, wine, or beer shall not be released from bonded premises before the proprietor of the bonded premises has paid the tax thereon. In the event of default, the Officer-in-Charge shall immediately notify the Secretary and the revenue agent at the premises that tax is to be prepaid until further notice, and when he finds that the revenue will not be jeopardized by resumption of deferred payment of tax under this section, he shall notify the Secretary and the revenue agent that deferred payment may be resumed.

**§ 250.112a [Revoked]**

Paragraph 34. Since all Puerto Rican taxpayers are being required to file a new bond, which will automatically qualify them for the new extended deferral periods, § 250.112a (relating to qualification for extended deferral) is revoked.

Paragraph 35. Section 250.113 is amended to delete a reference to rectification taxes and to replace "withdrawn from bonded storage" with "released for shipment". As amended, paragraph (c) of § 250.113 reads as follows:

**§ 250.113 Returns for prepayment of taxes.**

(c) *Distilled spirits.* In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1) are to be paid before distilled spirits may be released for shipment, the proprietor shall pay such taxes pursuant to a return on Form 2925, as prescribed in § 250.81.

**§ 250.135 [Amended]**

Paragraph 36. The last sentence of § 250.135, which refers to § 250.185, is deleted; since § 250.185 is being



revoked. Furthermore, the prohibition of this sentence against affixing red strip stamps prior to taxpayment is considered unnecessary.

#### § 250.137 [Amended]

Paragraph 37. Section 250.137 is amended to delete reference to serial numbers on strip stamps by deleting the words, "serially numbered."

#### § 250.143 [Amended]

Paragraph 38. Section 250.143 is amended to delete reference to serial numbers on strip stamps by replacing, in the first sentence of paragraph (a), the words, "serial numbers of the", with the words, "quantity of".

#### Subpart I [Revoked]

Paragraph 39. Subpart I, relating to taxpayment in Puerto Rico of liquors withdrawn after rectification or bottling, is no longer necessary; since the repeal of rectification tax removes the necessity of distinguishing between liquors which have, and liquors which have not, been bottled or rectified. All taxpayment will be handled under the revised procedures of Subpart E. Accordingly, Subpart I is revoked.

Paragraph 40. Immediately after Subpart Ia, the following Subpart Ib is added. Sections 170.155, 170.156, 170.157, 170.159, 170.160, 170.161, 170.162, 170.163, 170.164, 170.165 and 170.166 from Subpart G of Part 170 are redesignated as Subpart Ib of Part 250. The requirements of the redesignated regulations are substantially revised (1) to reflect the changes in formula requirements, (2) to eliminate reference to on premises supervision at domestic distilled spirits plants, (3) to eliminate an obsolete requirement for a consent of surety, (4) to delete instructions which are now found on ATF forms and (5) to change the numbers of ATF forms. As added, Subpart Ib reads as follows:

#### Subpart Ib—Shipment of Bulk Distilled Spirits from Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond

Authority: The provisions of this Subpart Ib issued under Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232), unless otherwise noted.

#### § 250.196 General.

Under the provisions of this subpart and § 250.86, distilled spirits brought into the United States from Puerto Rico in bulk containers may be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant,

without payment of the internal revenue tax, if any, imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof; and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to applicable provisions of Part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody and the person bringing the spirits into the United States shall thereupon be relieved of liability for the tax.

#### § 250.197 Furnishing formula to consignee.

Prior to the first shipment, the person shipping the spirits to the United States shall furnish a reproduced copy of the approved formula covering such spirits to the proprietor of the distilled spirits plant to receive the spirits.

#### § 250.198 Application to receive spirits in bond.

(a) *Application.* The proprietor of a distilled spirits plant desiring to withdraw Puerto Rican spirits as authorized in § 250.196 of this subpart shall submit an application to the regional regulatory administrator on ATF Form 5100.16 in accordance with the instructions on the form.

(b) *Approval.* The application may be approved if the applicant's operations or unit bond is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the internal revenue tax on the spirits to be withdrawn in addition to all other liabilities chargeable against such bond. However, no application may be approved unless the applicant has provided suitable facilities as provided in Part 19 of this chapter.

(c) *Termination.* An applicant may terminate an approved application, by retrieving and returning all outstanding copies, in accordance with the instructions on ATF Form 5100.16.

#### § 250.199 Application and permit to ship, ATF Form 5110.31.

Before spirits of Puerto Rican manufacture may be shipped to the United States without payment of tax for withdrawal from customs custody and transfer to internal revenue bond, an application by the consignor on ATF Form 5110.31 for permit to ship must be approved by the Secretary. All copies of the application (original and five copies) shall be delivered to the revenue agent.

#### § 250.199a Action by revenue agent.

(a) *Gauge.* Puerto Rican spirits to be withdrawn for shipment to the United States as provided in this subpart shall be gauged by the revenue agent prior to withdrawal from the consignor premises. The revenue agent shall report the gauge on ATF Form 5110.31. If the spirits are in packages, the revenue agent shall report the details of the gauge of each package on ATF Form 5110.45. The revenue agent shall distribute the forms in accordance with the instructions on ATF Form 5110.31.

(b) *Sealing bulk conveyances.* When a shipment is made in a tank, van, or other bulk conveyance (other than barrels, drums, or similar packages that are not containerized), all openings affording access to the spirits shall be sealed by the Puerto Rican revenue agent in such manner as will prevent unauthorized removal of spirits without detection.

(c) *Disposition of ATF Form 5110.31.* The revenue agent shall retain one copy of ATF Form 5110.31 (and any accompanying ATF Form 5110.45) and shall submit the remaining copies to the Secretary.

#### § 250.199b Issuance and disposition of permit.

When the Secretary receives an application on ATF Form 5110.31, he shall ascertain that the consignee has on file a currently valid ATF Form 5100.16 for the spirits covered by the ATF Form 5110.31. If the Secretary finds that the applicant is in compliance with law and regulations, he will execute the permit to ship on all copies of ATF Form 5110.31, retain one copy (and any accompanying ATF Form 5110.45) and return the remaining copies to the consignor who shall distribute them in accordance with the instructions on ATF Form 5110.31.

#### § 250.199c Action by carrier.

The carrier of the spirits specified on the ATF Form 5110.31 shall, at the time of unloading at the port of arrival in the United States, segregate and arrange the containers of spirits of convenient customs examination and shall assume any expense incurred in connection therewith.

#### § 250.199d Customs inspection and release.

On receipt of a properly executed ATF Form 5110.31 and any accompanying ATF Form 5110.45 from the consignor, the customs officer at the port of arrival in the United States shall inspect shipments in bulk conveyances, and if the seals are intact, he shall release the shipment. If such seals are not intact, the customs officer shall, before release of the shipment, affix customs seals. In addition, barrels, drums, or similar packages not shipped in a sealed van or other sealed conveyance shall be inspected, and if it appears that any such package has sustained a loss, it shall be weighed and reported on ATF Form 5110.45. The serial numbers of any seals affixed by the customs officers shall be reported on ATF Form 5110.31 under remarks with an explanation and description of any evidence of loss. After completing his inspection, the customs officer shall execute his certificate on each copy of ATF Form 5110.31 and show thereon any exceptions found at the time of his release for transfer of the spirits to internal revenue bond. Missing packages should be reported separately from packages which have sustained losses. The customs officer shall then release the spirits to the consignee's representative and distribute all forms in accordance with the instructions on ATF Form 5110.31.

#### § 250.199e Transfer by pipeline at dock.

If the distilled spirits plant is equipped with suitable dock facilities, the distilled spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the vessel or barge through weighing tanks or other suitable measuring tanks into tanks on the bonded premises of the distilled spirits plant, or directly into tanks on such premises provided such tanks are equipped with suitable measuring devices for accurately indicating the actual contents therein. In all such cases of pipeline transfers, the distilled spirits shall be released by a customs officer to the proprietor for deposit in the distilled spirits plant.

#### § 250.199f Consignee premises.

(a) *General.* When Puerto Rican spirits are received from customs custody under the provisions of this subpart the consignee proprietor shall examine all containers for evidence of loss in transit or of loss due to theft. Spirits after examination shall be immediately deposited in the warehouse. The consignee shall execute the certificate of receipt on ATF Form 5110.31. Losses of spirits shall be

determined and reported on ATF Form 5110.31 and losses of spirits in packages shall also be shown on ATF Form 5110.45, with a notation as to the apparent cause thereof.

(b) *Packages.* Packages shall be received on bonded premises by the proprietor on the basis of the most recent official gauge. If any package in a consignment is reported on more than one gauge report, a consolidated gauge report, in duplicate, (on ATF Form 5110.45) reflecting the most recent data shall be prepared, and such consolidated report shall become the active detailed record of deposit for the packages in the consignment. The original of all superseded gauge reports shall be so identified and filed in an inactive file and any remaining copies may be destroyed.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gauge the spirits and record the receiving gauge on all copies of ATF Form 5110.31.

(d) *Distribution of forms.* The proprietor shall retain the original of ATF Form 5110.31 (and ATF Form 5110.45, if any) and submit the copy of each to the regional regulatory administrator.

#### § 250.201 [Amended]

Paragraph 41. Section 250.201b is amended to reflect the addition of Subpart Oa to this part by deleting the last sentence.

Paragraph 42. Immediately after § 250.201b, a new § 250.201c is added to reflect the addition of Subpart Oa to this part. As added, § 250.201c reads as follows:

#### § 250.201c Shipments of bulk distilled spirits to the United States without payment of tax.

Bulk distilled spirits may be brought into the United States from the Virgin Islands without payment of tax for transfer from customs custody to the bonded premises of a distilled spirits plant qualified under Part 19 of this chapter. Such shipments are subject to the provisions of Subpart Oa.

#### § 250.204 [Revoked]

Paragraph 43. Section 250.204, relating to gauging spirits prior to rectification or bottling, is revoked.

Paragraph 44. Section 250.205 is amended (1) to add a provision for wine, (2) to clarify requirements for distilled spirits, (3) to eliminate references to formulas for liquors and articles, (4) to add a requirement for information relating to liquors and articles containing liquors produced outside of

the Virgin Islands, which was previously required on formulas and (5) to delete reference to gauging spirits prior to rectification or bottling. As amended, § 250.205 reads as follows:

#### § 250.205 Certificate.

Every person bringing liquors or articles under this part into the United States from the Virgin Islands, except tourists, shall obtain a certificate in the English language from the manufacturer showing, for each shipment, the following information:

- The name and address of the consignee;
- The kind and brand name;
- The quantity thereof as follows:
  - If distilled spirits, the proof gallons, or liters and degree of proof.
  - If wine, the taxable grade and wine gallons.
  - If beer, the gallons, liquid measure, and the percent of alcohol by volume.
  - If articles, the kind, quantity, and proof of liquors used therein.
- The name and address of the producer;
- For liquors or articles containing liquors produced outside of the Virgin Islands, the country of origin for each such liquor.

The person bringing the liquors or articles into the United States shall file the certificate with the district director of customs at the port of entry, as provided in § 250.260.

#### § 250.207 [Amended]

Paragraph 45. Section 250.207 is amended to replace "Part 201" with "Part 19".

Paragraph 46. Subpart K is revised (1) to make formula requirements for Virgin Islands liquors and articles shipped to the United States conform with formula requirements for domestic manufacturers, (2) to add a requirement for a notice relating to still wines containing carbon dioxide, similar to the notice required for domestic winemakers, and (3) to add a qualification that previously approved formulas are valid. As revised, Subpart K reads as follows:

#### Subpart K—Formulas for Products from the Virgin Islands

#### § 250.220 Formulas for liquors.

(a) *Distilled spirits products.* Persons in the Virgin Islands who ship distilled spirits beverage products to the United States shall comply with the formula requirements of Part 5 of this chapter. If any product contains liquors made outside of Virgin Islands, the country of origin for each such liquor shall be stated on the formula. All formulas



required by this paragraph shall be submitted on ATF Form 5110.38, in accordance with § 250.224.

(b) *Wine.* Persons in the Virgin Islands who ship wine to the United States shall comply with the formula requirements of Part 240 of this chapter. If any wines contains liquors made outside of the Virgin Islands, the country of origin for each such liquor shall be stated on the formula. All formulas required by this paragraph shall be submitted on ATF Form 698-A Supplemental, in accordance with § 250.224.

**§ 250.221 Formulas for articles and products manufactured with denatured spirits.**

(a) *Formulas for articles.* Formulas for articles made with distilled spirits must show the quantity and proof of the distilled spirits used, or the percentage of alcohol by volume contained in the finished product. Formulas for articles made with beer or wine must show the kind and quantity thereof (liquid measure), and the percent of alcohol by volume of such beer or wine.

(b) *Formulas for products manufactured with denatured spirits.* Formulas for products manufactured with denatured spirits shall be submitted as provided in Part 211 of this chapter for products manufactured in the United States with denatured spirits.

(c) *ATF Form 1479-A.* Formulas required by this section shall be submitted on ATF Form 1479-A, in accordance with § 250.224.

**§ 250.222 Still wines containing carbon dioxide.**

(a) *General.* Still wines may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices.

(b) *Notice required.* Proprietors intending to add carbon dioxide to, or retain carbon dioxide in, still wines to be shipped to the United States shall submit a notice to the Chief, Puerto Rican Operations. The notice shall show

the name and address of the proprietor and shall identify the method or process, the kinds (class and type) of wine, and the type of equipment to be used. A corrected notice shall be filed if there is any change (except for minor changes) in the information contained in the notice.

(c) *Filing and disposition of notice.* The notice required by paragraph (b) of this section shall be submitted in triplicate to the Chief, Puerto Rican Operations, who shall retain one copy, forward one copy to the Commissioner of Finance of the Virgin Islands, and return one copy to the proprietor. The proprietor shall keep the notice available for examination by insular agents.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

**§ 250.223 Changes of formulas.**

Any change in the ingredients composing a product covered by an approved formula will necessitate the submission of a new formula.

**§ 250.224 Filing and disposition of formulas.**

Prior to shipment formulas required by this subpart shall be submitted in triplicate to and approved by the Director. The Director shall retain one copy, forward one copy to the Commissioner of Finance of the Virgin Islands, and return one copy to the applicant. The applicant shall maintain copies of approved formulas available for examination by insular agents.

**§ 250.225 Previously approved formulas.**

Any formula approved on Form 27-B Supplemental prior to January 1, 1980, shall continue to be valid until revoked or voluntarily surrendered. Any person holding such a formula is not required to submit a new formula. If an approved formula on Form 27-B Supplemental indicates that carbon dioxide will be added to, or retained in, still wine, the notice requirement of § 250.222 shall not apply.

**§§ 250.232, 250.240, and 250.240a [Amended]**

Paragraph 47. Sections 250.232, 250.240 and 250.240a are amended to delete references to serial numbers on strip stamps (a) in § 250.232 by deleting "serially numbered," (b) in § 250.240, by replacing "serial numbers of the" with "quantity of", and (c) in § 250.240a, by replacing "serial numbers (if any)" with "quantity".

Paragraph 48. Section 250.252 is revised (1) to liberalize requirements on destruction of strip stamps in the Virgin Islands and (2) to delete reference to

serial numbers on strip stamps. As revised, § 250.252 reads as follows:

**§ 250.252 Destruction or transfer of red strip stamps in the Virgin Islands.**

When for any reason a Virgin Islands bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for shipment to the United States, and it is impractical to return the stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the Virgin Islands bottler or exporter may destroy the stamps upon notice to the regional regulatory administrator of the region in which the importer's place of business is located. The importer shall file the notice identifying the size and quantity of stamps, the name and address of the Virgin Islands bottler or exporter who has possession of the stamps, and the reasons for destruction in the Virgin Islands. The importer shall prepare the applicable items on Form 1627 covering the stamps to be destroyed and forward it to the Virgin Islands bottler or exporter. Upon destruction of the stamps, the Virgin Islands bottler or exporter shall complete the applicable items on Form 1627 and return it to the importer. The importer may then take credit for the stamps on his strip stamp record and on Form 96.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 49. Section 250.260 is amended to delete references to a revoked regulation and to clarify the language. As amended, § 250.260 reads as follows:

**§ 250.260 Certificate.**

Persons (except tourists) bringing liquors or articles from the Virgin Islands into the United States shall file the certificate provided for in § 250.205 with the district director of customs at the port of entry in the United States.

**§ 250.261 [Amended]**

Paragraph 50. Section 250.261 is amended to replace reference to formulas with reference to a requirement which will enable a customs officer to determine the rate of tax, by replacing "approved formula" with "certificate required by § 250.205".

Paragraph 51. Section 250.262 is amended to reflect the new method for determining the tax on distilled spirits. As amended, § 250.262 reads as follows:

**§ 250.262 Determination of tax on distilled spirits.**

If the certificate required by § 250.205 covers distilled spirits, the tax on

distilled spirits (and alcoholic ingredients contained in distilled spirits products), equal to the tax imposed by 26 U.S.C. 5001(a)(1), shall be collected on each proof gallon, and fractional part thereof, contained in the shipment.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

Paragraph 52. Section 250.265 is revised to reflect the new definition of distilled spirits. As revised, § 250.265 reads as follows:

**§ 250.265 Determination of tax on articles.**

Where articles contain distilled spirits, the tax will be collected at the rate prescribed by 26 U.S.C. 5001(a)(1) on all alcohol contained therein, regardless of the source. Articles containing only wine and/or beer will be taxed at the rates prescribed by 26 U.S.C. 5041 and/or 5051, respectively. The quantities and kinds of liquors will be shown on the certificate prescribed in § 250.205.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001, 5007))

Paragraph 53. Immediately after Subpart O, the following new Subpart Oa is added. Sections 170.124, 170.126, 170.127, 170.128 and 170.129 from Subpart F of Part 170 are redesignated as Subpart Oa of Part 250. The requirements of the redesignated regulations are substantially revised (1) to reflect the new definition of "bulk container", (2) to delete reference to rectification tax, (3) to reflect the new regulatory provisions relating to bottling in bond (which replace repealed sections of law on that subject), (4) to change references to "Part 201" to "Part 19", (5) to delete instructions in the regulations that are now found on ATF forms, (6) to delete reference to gauging by an insular gauger, which is no longer prescribed, and (7) to change the numbers of ATF forms. As added, Subpart Oa reads as follows:

**Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands, Without Payment of Tax, for Transfer From Customs Custody to Internal Revenue Bond**

Authority: The provisions of this Subpart Oa issued under Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232) unless otherwise noted.

**§ 250.300 General.**

Distilled spirits brought into the United States from the Virgin Islands in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by

pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on such spirits by 26 U.S.C. 7652. Such spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if 185 degrees or more of proof, and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. Chapter 51, in the same manner as domestic distilled spirits. Spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the provisions of Part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which spirits are transferred under the provisions of this subpart shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the person bringing the spirits into the United States shall thereupon be relieved of his liability for such tax.

**§ 250.301 Application, ATF Form 5100.16.**

(a) *Application.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 250.300 shall submit an application to the regional regulatory administrator on ATF Form 5100.16, in accordance with the instructions on the form.

(b) *Approval.* The application may be approved if the applicant's operations or unit bond is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond. However, no application may be approved unless the applicant has provided suitable facilities as provided in Part 19 of this chapter.

(c) *Termination.* An applicant may terminate an approved application, by retrieving and returning all outstanding copies, in accordance with the instructions on ATF Form 5100.16.

**§ 250.302 Gauge and certification.**

(a) *Gauge.* Virgin Islands spirits to be transferred from customs custody to internal revenue bond as provided in this subpart shall be gauged by the consignor, who shall prepare a report of such gauge, in duplicate, and attach both copies to the certificate required by § 250.205 of this chapter.

(b) *Certification.* The certificate prescribed by § 250.205 shall be prepared in duplicate if the Virgin Islands spirits are to be transferred from

customs custody to internal revenue bond. Both copies of the certificate, with the applicable gauge report attached, shall be filed with the district director of customs at the port of entry. The original of the certificate and related report of gauge shall be attached to the original of ATF Form 5110.27 by the customs officer responsible for preparation of the ATF Form 5110.27 in accordance with § 250.303 of this subpart. The remaining copy of the certificate and related report of gauge shall be retained by the customs officer.

**§ 250.303 Customs inspection and release.**

The customs officer will not release distilled spirits without payment of internal revenue tax until he has determined that he has on file an approved ATF Form 5100.16 as prescribed in § 250.301 of this subpart, from the proprietor of the distilled spirits plant to which the spirits are to be transferred. Prior to release from customs custody, the customs officer shall inspect the spirits, and, if it appears that losses in transit were sustained from any container, he shall gauge the spirits in such container. The customs officer shall then prepare ATF Form 5110.27 in triplicate in accordance with the instructions on the form. When shipments are made in tanks, tank barges, cargo containers, or similar bulk containers (other than barrels, drums, or similar portable containers), the results of the inspection or the details of the gauge of each such bulk container shall be reported separately. In the case of barrels, drums, or similar portable containers, the results of the inspection shall be reported on the ATF Form 5110.27 and the details of the gauge, if any, shall be reported on ATF Form 5110.45. In compliance with the requirements of customs regulations, and on completion of ATF Form 5110.27 (and ATF Form 5110.45, if prepared) the customs officer shall release the spirits for transfer.

**§ 250.304 Bulk conveyances to be sealed.**

When a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank, tank barge, cargo container, tank car, tank truck, or similar bulk conveyance, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

**§ 250.305 Transfer by pipeline at dock.**

If the distilled spirits plant is equipped with suitable dock facilities, the distilled



spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the vessel or barge through weighing tanks or other suitable measuring tanks into storage tanks on the bonded premises of the distilled spirits plant, or directly into storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents therein. In all such cases of pipeline transfers, the distilled spirits shall be transferred under customs supervision, and released for deposit in the distilled spirits plant.

#### § 250.312 [Amended]

Paragraph 54. Section 250.312 is amended to replace "§ 201.540b" and "Part 201" with "Part 19". Section Q. Part 251 is amended as follows:

#### PART 251—IMPORTATION OF DISTILLED SPIRITS, WINE AND BEER

Paragraph 1. The table of sections for Part 251 is amended to change the number of "Form 2609" to "ATF Form 5100.16" where it appears in the title of § 251.172. As amended, the table of sections reads as follows:

251.172 Application, ATF Form 5100.16.

Paragraph 2. The definitions in § 251.11 are amended to conform terminology to changes made by Pub. L. 96-39, and to reflect a substantive change in the definition of "distilled spirits" made by that law. Additionally, the statutory authority is amended to delete irrelevant citations. As amended, § 251.11 reads as follows:

#### § 251.11 Meaning of terms.

**Bonded premises—distilled spirits plant.** The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

**Bulk container.** Any container having a capacity of more than 1 gallon.

**Bulk distilled spirits.** The term "bulk distilled spirits" means distilled spirits in a container having a capacity in excess of 1 gallon.

**Distilled spirits or spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all mixtures or dilutions thereof, from whatever source or by whatever process produced).

**Distilled spirits plant.** An establishment qualified under the provisions of Part 19 of this chapter for the production, storage, or processing of

spirits, or for authorized combinations of such operations.

(68A Stat. 917, as amended (28 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205))

Paragraph 3. Sections 251.40 and 251.43 are amended to reflect elimination of the wine gallon method for imposing distilled spirits tax, and to reflect the imposition of distilled spirits tax on all alcoholic ingredients added to distilled spirits products. As amended, §§ 251.40 and 251.43 read as follows:

#### § 251.40 Distilled spirits.

A tax is imposed by 26 U.S.C. 5001, on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed in such section on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon. All products of distillation, by whatever name known, which contain spirits, and any alcoholic ingredient added to such products, are considered to be spirits and are taxed as such. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5201); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

#### § 251.43 Liqueurs, cordials, and similar compounds.

A tax is imposed by 26 U.S.C. 5001 on all liqueurs, cordials, and similar compounds, containing distilled spirits, in a customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1331, as amended (26 U.S.C. 5001, 5041))

#### §§ 251.48 and 251.58 [Amended]

Paragraph 4. Sections 251.48 and 251.58 are amended to replace "Part 201" with "Part 19".

Paragraph 5. Sections 251.63, 251.66, and 251.66a are amended to eliminate

reference to serial numbers on strip stamps. As amended, §§ 251.63, 251.66, and 251.66a read as follows:

#### § 251.63 Size of red strip stamps.

Red strip stamps shall be issued in a standard size for bottles or containers of 200 ml capacity or more, and in a small size for bottles or containers of less than 200 ml capacity.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### § 251.66 Approval of requisition and issuance of stamps.

The regional regulatory administrator will approve Form 428 and issue the stamps if:

(a) The importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1;

(b) The quantity requisitioned is reasonable and necessary; and

(c) There is no information on which a denial of a requisition should be made under the provisions of § 251.92

When satisfied that Form 428 may be approved, the regional regulatory administrator shall enter the quantity of stamps issued and the date of issue and approve all copies of the form. The stamps shall be delivered to the applicant, and, if the stamps are mailed, or are delivered to anyone other than the applicant, two copies of the Form 428 shall accompany the stamp. Upon receipt of the stamps, the applicant shall acknowledge receipt on both copies of Form 428 and return one copy to the regional regulatory administrator who issued the stamps and, if an agent, one copy to the importer. In each instance when the regional regulatory administrator approves a requisition which has been submitted by an agent of an importer, the regional regulatory administrator shall immediately forward a copy of Form 428 to the importer, and, if the importer's place of business is located in another region, the regional regulatory administrator shall forward a copy to the regional regulatory administrator of the region in which the importer's place of business is located. If a requisition is disapproved for any reason, the regional regulatory administrator shall return a copy of Form 428 marked "disapproved" to the applicant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### § 251.66a Alternative method for issuance of stamps.

(a) **Action by regional regulatory administrator.** When the regional regulatory administrator determines that the interest of the Government will be

best served, strip stamps may be shipped directly to the applicant, as shown on Form 428, from a location other than the office of the regional regulatory administrator. In that case, the regional regulatory administrator shall notify the applicant that strip stamps will be delivered by an alternative method and state the minimum quantity, if any, of each size of stamp which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form shall be returned to the applicant, and, if the Form 428 was prepared by an agent of an importer, a copy of the form shall be forwarded to the importer and, if applicable, to the regional regulatory administrator of the region in which the importer's place of business is located.

(b) **Action by applicant.** Upon receipt of the stamps, the applicant shall (1) indicate the quantity of stamps received and acknowledge receipt of the stamps on both copies of Form 428, and (2) return one copy to the regional regulatory administrator to whom the Form 428 was submitted for approval and, if an agent, one copy to the importer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 6. Section 251.89a is amended to liberalize requirements for destruction of red strip stamps abroad, and to delete reference to serial numbers on strip stamps. As amended § 251.89a reads as follows:

#### § 251.89a Destruction or transfer of red strip stamps abroad.

When for any reason a foreign bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for export to the United States, and it is impractical to return the stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the foreign bottler or exporter may destroy the stamps upon notice to the regional regulatory administrator of the region in which the importer's place of business is located. The importer shall file the notice identifying the size and quantity of stamps, the name and address of the foreign bottler or exporter who has possession of the stamps, and the reasons for destruction abroad. The importer shall prepare the applicable items on Form 1627 covering the stamps to be destroyed and forward it to the foreign bottler or exporter. Upon destruction of the stamps, the foreign bottler or exporter shall complete the applicable items on Form 1627 and return it to the importer. The importer

may then take credit for the stamps on his strip stamp record and on Form 96. (Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

Paragraph 7. Section 251.171 is amended (1) to change the minimum size of bulk containers from 5 gallons to more than 1 gallon, (2) to replace reference to a repealed section of law on bottling in bond with a reference to new regulatory requirements on the same subject in 27 CFR Part 5, and (3) to replace "Part 201" with "Part 19". As amended, § 251.171 reads as follows:

#### § 251.171 General provisions.

Imported distilled spirits in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of his plant, without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001. Imported spirits so withdrawn and transferred to a distilled spirits plant (a) may be redistilled or denatured only if of 185 degrees or more of proof, and (b) may be withdrawn from internal revenue bond for any purpose authorized by 26 U.S.C. Chapter 51, in the same manner as domestic distilled spirits. Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of Part 19 of this chapter. The person operating the bonded premises of the distilled spirits plant to which imported spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232, upon release of the spirits from customs custody, and the importer shall thereupon be relieved of his liability for such tax.

(Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

Paragraph 8. Section 251.172 is amended (1) to change the numbers of ATF forms, (2) to eliminate references to supervision by ATF officers assigned to distilled spirits plants, (3) to replace references to "Part 201" with "Part 19", and (4) to delete requirements that have been incorporated as instructions on ATF Form 5100.16 (formerly Form 2609). As amended, § 251.172 reads as follows:

#### § 251.172 Application, ATF Form 5100.16.

(a) **Application.** The proprietor of a distilled spirits plant desiring to withdraw distilled spirits, as authorized in § 251.171, shall submit an application

to the regional regulatory administrator on ATF Form 5100.16, in accordance with instructions on the form.

(b) **Approval.** The application may be approved if the applicant's operations or unit bond, required by Part 19 of this chapter, is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond. However, no application may be approved unless the applicant has provided suitable facilities as provided in Part 19 of this chapter.

(c) **Termination.** An applicant may terminate an approved application, by retrieving and returning all outstanding copies, in accordance with instructions on ATF Form 5100.16.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended 1322, as amended (26 U.S.C. 5001, 5007); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

Paragraph 9. Section 251.173 is amended (1) to change the numbers of ATF forms, (2) to eliminate reference to ATF officers assigned to distilled spirits plants, and (3) to delete requirements that have been incorporated as instructions on ATF Form 5110.27 (formerly Form 206). As amended, § 251.173 reads as follows:

#### § 251.173 Customs gauge and release.

The customs officer will not release distilled spirits without payment of internal revenue tax until he has determined that he has on file an approved ATF Form 5100.16 from the proprietor of the distilled spirits plant to which the spirits are to be transferred. Prior to release from customs custody, the customs officer shall prepare ATF Form 5110.27, in accordance with the instructions on the form. When shipments are made in tank cars or tank trucks, the details of the gauge of each tank car or tank truck shall be reported separately. In the case of barrels, drums, or similar portable containers, the details of the gauge shall be shown on ATF Form 5110.45, in triplicate. On compliance with the requirements of customs regulations (including determination of duties due), and on completion of ATF Form 5110.27 (and ATF Form 5110.45, if required), the customs officer shall release the spirits for transfer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended 1322, as amended (26 U.S.C. 5001, 5007); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

Paragraph 10. Section 251.175 is amended to delete the requirement for locks on tanks on the bonded premises of a distilled spirits plant and to change



the number of an ATF form. Editorial changes in the statutory citation are also made. As amended, § 251.175 reads as follows:

**§ 251.175 Transfer by pipeline at dock.**

Where the distilled spirits plant is equipped with suitable dock facilities, the distilled spirits may, subject to all requirements of the customs laws and regulations, be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into empty storage tanks on the bonded premises of the distilled spirits plant, or directly into storage tanks on such premises provided such storage tanks are equipped with suitable measuring devices for correctly indicating the actual contents. In all such cases of pipeline transfers, the distilled spirits shall be transferred under customs supervision, gauged immediately by a customs officer, and thereupon released for deposit in the distilled spirits plant. The details of the gauge shall be reported on ATF Form 5110.27 and distribution of the form made in accordance with the instructions thereon.

(Sec. 3, Pub. L. 90-630 82 Stat. 1328, as amended (26 U.S.C. 5232))

**§ 251.184 [Amended]**

Paragraph 11. Section 251.184 is amended to replace "Form 2629", wherever it appears, with "ATF Form 5110.26".

Paragraph 12. Section 251.202 is amended to delete reference to an obsolete regulation and to change references to "Part 201" to references to "Part 19". As amended, § 251.202 reads as follows:

**§ 251.202 Standards of fill.**

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in § 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of Part 19, or Subpart E of Part 5 of this chapter, may be imported for packaging distilled spirits in the United States as provided in Part 19 of this chapter. Section R. Part 252 is amended as follows:

**PART 252—EXPORTATION OF LIQUORS**

Paragraph 1. The table of sections for Part 252 is amended to reflect (1) amendments to titles of some sections, (2) revocation of §§ 252.91a, 252.97,

252.173 (and the undesignated center head immediately preceding it), Subpart J, and § 252.263, and (3) addition of new § 252.195b. As amended, the table of sections reads as follows:

252.58 Operations or unit bond—distilled spirits.

252.92 Application or notice, ATF Form 5100.11.

252.96 Approval of application.

252.102 Bottles to be stamped or have alternative devices affixed.

252.116 Notice of return of spirits withdrawn without payment of tax.

252.118 Receipt of spirits.

252.122 Application or notice, ATF Form 5100.11.

252.152 Notice, ATF Form 5100.11.

252.161 Notice of return of specially denatured spirits.

252.163 Receipt of specially denatured spirits.

**Filing of Notice and Removal**

252.190 Notice, ATF Form 5110.30.

252.195 Disposition of ATF Form 5110.30.

252.195a Claims on spirits tax determined before January 1, 1980.

252.195b Claims on spirits tax determined on and after January 1, 1980.

**Subpart J—[Revoked]**

**§ 252.3 [Amended]**

Paragraph 2. Section 252.3 is amended (1) to replace "Part 186" with "Part 13" and (2) to replace "Part 201" with "Part 19".

Paragraph 3. Section 252.11 is amended (1) to amend the definitions of "Bonded premises—distilled spirits plant", "Bulk container", "Distilled spirits or spirits", "Distilled spirits plant" and "Tax", (2) to delete definitions of "Export storage facilities", "Rectifier" and "Tax gallon", and (3) to correct the statutory authority. As amended, § 252.11 reads as follows:

**§ 252.11 Meaning of Terms.**

**Bonded premises—distilled spirits plant.** The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

**Bulk container.** any container having a capacity of more than 1 gallon.

**Distilled spirits or spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits.

**Distilled spirits plant.** An establishment qualified under the provisions of Part 19 of this chapter for the production, warehousing, or processing of spirits, or for authorized combinations of such operations.

**Exportation . . . . .**  
**Foreign-trade zone or zone. . . . .**

**Proprietor. . . . .**  
**Region. . . . .**

**Tax.** The distilled spirits tax, the beer tax, or the applicable wine tax, as the case may be, imposed by 26 U.S.C. Chapter 51.

**U.S.C. . . . .**  
(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205))

**§ 252.22 [Amended]**

Paragraph 4. Section 252.22 is amended to replace "Form 206, 1582", wherever this phrase appears, with "ATF Form 5100.11, 5110.30".

Paragraph 5. Section 252.25 is revised to delete reference to provisions which were repealed from Title 26 of the United States Code. As revised, § 252.25 reads as follows:

**§ 252.25 General.**

The proprietor of a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR Chapter I, may withdraw distilled spirits or wines from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax, for use in the manufacture of products for export, or shipment in bond to Puerto Rico or in the case of distilled spirits, for transfer to a customs bonded warehouse, as provided for in 26 U.S.C. 5066. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of § 252.63 or § 252.64.

(Sec. 311, Tariff Act of 1930, 46 Stat. 691, as amended (19 U.S.C. 1311); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

Paragraph 6. Section 252.26 is amended (1) to delete references to spirits bottled in bond and to

withdrawals from export storage facilities at distilled spirits plants, and (2) to add a reference to alternative devices affixed in lieu of strip stamps. As amended, § 252.26 reads as follows:

**§ 252.26 Entry into customs bonded warehouses.**

(a) **Distilled spirits withdrawn without payment of tax.**

(1) Bottled distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 252.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(4).

(2) Distilled spirits may, subject to this part, be withdrawn from bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported. These withdrawals shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(9).

(b) **Bottled distilled spirits eligible for export with benefit of drawback.** Bottled distilled spirits stamped, restamped, or affixed with alternative devices, and marked, especially for export with benefit of drawback may, subject to this part, be transferred to customs bonded warehouses in which imported distilled spirits are permitted to be stored, and entered pending withdrawal as provided in § 252.27, as if such spirits were for exportation.

**§ 252.27 [Amended]**

Paragraph 7. Section 252.27 is amended to replace the first word in the section, "Distilled", with the words "Bottled distilled".

**§ 252.36 [Amended]**

Paragraph 8. Section 252.36 is amended to replace "Form 206, 1582," with "ATF Form 5100.11, 5110.30".

Paragraph 9. The statutory authority for § 252.45 is amended to reflect recodification of one section of law. As amended, the statutory authority for § 252.45 reads as follows:

**§ 252.45 Retention of records.**

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1381, as amended, 1390, as amended, 1395, as amended (26 U.S.C. 5114, 5367, 5415, 5555); Sec. 807, Pub. L. 96-39, 93 Stat. 283 (26 U.S.C. 5207))

Paragraph 10. Section 252.51 is amended to clarify the language and to

replace "Part 201" with "Part 19". As amended, § 252.51 reads as follows:

**§ 252.51 General.**

Every person required by this part to file a bond or consent of surety shall prepare and execute it on the prescribed form and file it with the regional regulatory administrator of the region in which is located the premises from which the withdrawal or removal of spirits or wines is made without payment of tax, or, in the case of taxpaid or tax-determined spirits or wines on which claim for drawback of tax will be filed, with the regional regulatory administrator for the region in which the claim will be filed, in accordance with the procedures of this part. The procedures in Parts 19, 240, or 245 of this chapter shall govern bonds covering distilled spirits plants, bonded wine cellars and breweries, respectively.

**§ 252.56 [Amended]**

Paragraph 11. The statutory authority for § 252.56 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

Paragraph 12. Section 252.58 is amended (1) to replace "bond, Form 2601," with "operations or unit bond," (2) to change "Part 201" to "Part 19", (3) to delete an obsolete provision, and (4) to correct the statutory authority. As amended, § 252.58 reads as follows:

**§ 252.58 Operations or unit bond—distilled spirits.**

(a) **Spirits.** Where spirits are withdrawn without payment of tax, as authorized in § 252.91, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the operations or unit bond, given by the proprietor and approved under the provisions of Part 19 of this chapter, shall cover such withdrawals.

(b) **Wine.** Where, under the provisions of Part 19 of this chapter, an operations or unit bond has been given and approved to cover the operations of a distilled spirits plant and an adjacent bonded wine cellar, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 252.121, from such bonded wine cellar on application for such withdrawal by the proprietor.

(c) **Specially denatured spirits.** Where specially denatured spirits are withdrawn free of tax, as authorized in § 252.151, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the proprietor shall file a consent of surety extending

the terms of the operations or unit bond, which consent shall be in the following form:

The obligors agree to extend the terms of said bond to cover all liability that may be incurred on all specially denatured spirits withdrawn by the principal for exportation or transfer to a foreign-trade zone, for which satisfactory evidence of exportation, or of deposit in a foreign-trade zone, as required by law and regulations, is not submitted to the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1362, as amended (26 U.S.C. 5175, 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066); Sec. 805, Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

**§ 252.61 [Amended]**

Paragraph 13. Section 252.61 is amended to delete reference to a revoked paragraph of regulation by deleting "or (b)," where it appears immediately after "(a) (5)."

**§ 252.62 [Amended]**

Paragraph 14. Section 252.62 is amended (1) to delete reference to a revoked paragraph of regulation by deleting "or (b)," where it appears immediately after "(a) (5).", and (2) to delete paragraph (d), pertaining to on premises supervision.

Paragraph 15. The statutory authority for § 252.63 is corrected. As amended, § 252.63 reads as follows:

**§ 252.63 Bond, Form 2736.**

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

Paragraph 16. Section 252.64 is amended (1) to clarify requirements for apportioning bonds and (2) to correct the statutory authority. As amended, paragraph (b) of § 252.64 reads as follows:

**§ 252.64 Bond, Form 2737.**

(b) **Apportioning bonds.** If the bond, Form 2737 is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The principal may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, Form 1533, for approval by the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

**§ 252.65 [Amended]**

Paragraph 17. Section 252.65 is amended to delete reference to an obsolete form by deleting "1629," from



the listing of form numbers used for filing export drawback claims.

#### § 252.67 [Amended]

Paragraph 18. The statutory authority for § 252.67 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

#### § 252.70 [Amended]

Paragraph 19. Section 252.70 is amended to replace "Form 206" with "ATF Form 5100.11". The statutory authority for § 252.70 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

Paragraph 20. Sections 252.71, 252.72 and 252.73 are amended to correct the statutory authorities. As amended, §§ 252.71, 252.72 and 252.73 read as follows:

#### § 252.71 Termination of bonds, Forms 2735, 2737 and 2738.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

#### § 252.72 Application of surety for relief from bond.

(68A Stat. 749, as amended (26 U.S.C. 6065); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended (26 U.S.C. 5062, 5175))

#### § 252.73 Relief of surety from bond.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

#### § 252.91 [Amended]

Paragraph 21. Section 252.91 is amended to delete reference to export storage facilities at a distilled spirits plant by revoking paragraph (b) and redesignating paragraph (c) as paragraph (b). The statutory authority for § 252.91 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

#### § 252.91a [Revoked]

Paragraph 22. Section 252.91a, relating to export storage facilities at a distilled spirits plant, is revoked.

Paragraph 23. Section 252.92 is revised (1) to change an ATF form number, (2) to delete references to on premises supervision and (3) to correct the statutory authority. As revised, § 252.92 reads as follows:

#### § 252.92 Application or notice, ATF Form 5100.11.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse.* Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on ATF Form 5100.11. If the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. If the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare ATF Form 5100.11 as an application, in accordance with the instructions on the form, and shall forward all copies of the form to the regional regulatory administrator of the region in which the distilled spirits plant is located. If the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare ATF Form 5100.11 as a notice in accordance with the instructions on the form.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on ATF Form 5100.11, in quadruplicate. The proprietor shall forward all copies of the application to the regional regulatory administrator of the region in which the distilled spirits plant is located.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

#### § 252.93 [Amended]

Paragraph 24. The statutory authority for § 252.93 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the U.S. Code citation.

Paragraph 25. Section 252.94 is amended (1) to change "Part 201" to "Part 19", (2) to provide for the use of alternative devices in lieu of strip stamps, and (3) to correct the statutory authority. As amended, § 252.94 reads as follows:

#### § 252.94 Containers.

Distilled spirits authorized to be withdrawn without payment of tax from the bonded premises of a distilled spirits plant under the provisions of this subpart may be withdrawn from such

establishment in such containers as may be authorized in Part 19 of this chapter. Except as otherwise provided in this part, the gauging, packing, bottling, casing, marking, stamping or affixing of alternative devices, and reporting of distilled spirits prior to withdrawal shall be in accordance with the provisions of Part 19 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1360, as amended, 1374, as amended (26 U.S.C. 5205, 5206, 5301))

Paragraph 26. Section 252.95 is amended (1) to change "Part 201" to "Part 19", (2) to delete language relating to a repealed section of law, (3) to change an ATF form number, and (4) to correct the statutory authority. As amended, § 252.95 reads as follows:

#### § 252.95 Change of packages for exportation.

Whenever the exporter desires to transfer distilled spirits from packages filled in internal revenue bond to such other suitable packages as may be desired for exportation, such change of packages shall be made under the procedures of Part 19 of this chapter, prior to the preparation of ATF Form 5100.11 covering the removal of the distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1360, as amended, 1374, as amended (26 U.S.C. 5205, 5206, 5301))

Paragraph 27. Section 252.96 is revised to reflect elimination of on premises supervision. As revised, § 252.96 reads as follows:

#### § 252.96 Approval of application.

If ATF Form 5100.11 has been properly executed, and the required bond has been filed in a sufficient amount, the regional regulatory administrator shall approve the application on all copies of the form and send them to the proprietor of the bonded premises from which the spirits will be withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

#### § 252.97 [Revoked]

Paragraph 28. Section 252.97, relating to the repealed 20 year bonded storage limitation, is revoked.

Paragraph 29. Section 252.98 is amended (1) to change the numbers of ATF forms, (2) to change "Part 201" to "Part 19", (3) to delete reference to on premises supervision, and (4) to correct the statutory authority. As amended, § 252.98 reads as follows:

#### § 252.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to ATF Form 5100.11 and shall regauge all

packages. However, if distilled spirits are contained in bottles, or in tin, glass, or similar containers, or in sealed metal drums, or if they are to be withdrawn on the filling or original gauge (as authorized in Part 19 of this chapter), a regauge of such spirits need not be made. When a container bears evidence of tampering, or of unusual loss, the proprietor shall provide satisfactory explanation and file a report in accordance with the applicable provisions of Subpart P of Part 19 of this chapter. If the withdrawal is to be made subject to regauge, the proprietor shall make such regauge and shall make a report of regauge on ATF Form 5110.45, in quadruplicate. He shall attach a copy of ATF Form 5110.45 to each copy of ATF Form 5100.11 and shall enter his report of regauge on all copies of ATF Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### § 252.99 [Amended]

Paragraph 30. Section 252.99 is amended to delete reference to on premises supervision by deleting the last sentence from the section.

Paragraph 31. Section 252.100 is amended (1) to delete reference to on premises supervision, (2) to change the numbers of ATF forms, (3) to change "Part 201" to "Part 19", and (4) to correct the statutory authority. As amended, § 252.100 reads as follows:

#### § 252.100 Gauge after reduction.

Where spirits in packages have been reduced in proof under the provisions of § 252.99, the proprietor shall again gauge the packages and report the details thereof on another set of ATF Form 5110.45, in quadruplicate. Any unusual loss ascertained after reduction shall be satisfactorily explained by the proprietor and reported in accordance with the applicable provisions of Part 19 of this chapter. Each such report of gauge shall have noted thereon the statement "Gauge After Reduction", and a copy thereof shall be attached to each copy of ATF Form 5100.11 in addition to the copy of the ATF Form 5110.45 covering the withdrawal gauge. After the spirits have been reduced and gauged, the proprietor shall also enter a report of such gauge on all copies of ATF Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5204))

#### § 252.101 [Amended]

Paragraph 32. Section 252.101 is amended by changing "Part 201" to "Part 19".

Paragraph 33. Section 252.102 is revised to add provisions relating to

alternative devices and to delete reference to export strip stamps for spirits bottled in bond. As revised, § 252.102 reads as follows:

#### § 252.102 Bottles to be stamped or have alternative devices affixed.

Every bottle containing distilled spirits to be withdrawn under the provisions of this subpart shall have a strip stamp or alternative device procured and affixed in accordance with the provisions of Part 19 of this chapter, and the strip stamp or alternative device shall be legibly and permanently overprinted or stamped with the word "EXPORT".

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5205))

#### § 252.103 [Amended]

Paragraph 34. Section 252.103 is amended by changing "Part 201" to "Part 19". The statutory authority for § 252.103 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the U.S. Code citation.

#### § 252.104 [Amended]

Paragraph 35. Section 252.104 is amended to delete reference to on premises supervision by replacing the words "ATF officers in charge of distilled spirits plants from which such spirits are withdrawn," with the words "the regional regulatory administrator".

#### § 252.105 [Amended]

Paragraph 36. Section 252.105 is amended to change "Form 206" to "ATF Form 5100.11".

#### § 252.107 [Amended]

Paragraph 37. Section 252.107 is amended to change "Form 206" to "ATF Form 5100.11" and to change "Form(s) 2630" to "ATF Form(s) 5110.45".

Paragraph 38. Sections 252.116, 252.117 and 252.118 are revised to substantially liberalize the requirements for returning spirits to a distilled spirits plant after withdrawal for exportation. As revised, the introductory paragraph and paragraph (e) of § 252.116 are revised, the last two sentences of § 252.116 are deleted and §§ 252.117 and 252.118 are revised to read as follows:

#### § 252.116 Notice of return of spirits withdrawn without payment of tax.

If a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 252.115, he shall file a notice with the regional regulatory administrator for the region in which the plant is located. A copy of the notice shall be prepared for submission to the customs official, as required by

§ 252.117. The notice shall be executed under the penalties of perjury and shall show:

(e) Serial number of the ATF Form 5100.11 and the date withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

#### § 252.117 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 252.116 to the appropriate customs official. If the spirits are returned before the ATF Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the spirits are eligible for return under § 252.115, accept the notice as authority for the return of the spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of ATF Form 5100.11 "Canceled", note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled ATF Form 5100.11 and file one copy with the regional regulatory administrator identified on the form.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

#### § 252.118 Receipt of spirits.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Subpart U of Part 19 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

#### § 252.121 [Amended]

Paragraph 39. The statutory authority for § 252.121 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the U.S. Code citation.

#### § 252.122 [Amended]

Paragraph 40. Section 252.122 is amended to change "Form 206" and "Forms 206," wherever these phrases appear, to "ATF Form 5100.11" and to "ATF Forms 5100.11", respectively. The



statutory authority for § 252.122 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the U.S. Code citation.

#### § 252.123 [Amended]

Paragraph 41. The statutory authority for § 252.123 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the U.S. Code citation.

#### §§ 252.125, 252.131, 252.132 and 252.133 [Amended]

Paragraph 42. Sections 252.125, 252.131, 252.132 and 252.133 are amended to change "Form 206" and "Forms 206", wherever these phrases appear, to "ATF Form 5100.11" and to "ATF Forms 5100.11", respectively.

Paragraph 43. Section 252.151 is amended to change a reference to an ATF form number. As amended, § 252.151 reads as follows:

#### § 252.151 General.

(b) All such withdrawals shall be made under a consent of surety on the proprietor's operations or unit bond, as prescribed in § 252.58(c).

Paragraph 44. Section 252.152 is amended to change an ATF form number and to delete reference to on premises supervision. As amended, § 252.152 reads as follows:

#### § 252.152 Notice, ATF Form 5100.11.

Notice of withdrawal of specially denatured spirits, as authorized in § 252.151 shall be made on ATF Form 5100.11, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. Upon removal from the bonded premises, a copy of the form shall be submitted to the regional regulatory administrator.

#### § 252.154 [Amended]

Paragraph 45. Section 252.154 is amended by changing "Part 201", wherever it appears, to "Part 19".

#### § 252.160 [Amended]

Paragraph 46. Section 252.160 is amended to replace the words, "bond, Form 2601," with the words, "operations or unit bond".

Paragraph 47. Sections 252.161, 252.162 and 252.163 are revised to substantially liberalize requirements for returning specially denatured spirits to a distilled spirits plant after withdrawal for exportation. As revised, the introductory paragraph and paragraphs (c) and (g) of

§ 252.161, and §§ 252.162 and 252.163 read as follows:

#### § 252.161 Notice of return of specially denatured spirits.

If a proprietor of a distilled spirits plant desires to return specially denatured spirits to his plant as provided in § 252.160, he shall file a notice with the regional regulatory administrator for the region in which his plant is located. A copy of the notice shall be prepared for submission to the customs official, as required by § 252.162. The notice shall be executed under the penalties of perjury and shall show:

(c) Serial number of the ATF Form 5100.11 and the date withdrawn.

(g) Disposition to be made of specially denatured spirits, i.e. redistillation or return to processing on the bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

#### § 252.162 Responsibility for return of specially denatured spirits.

The principal on the bond under which the specially denatured spirits were withdrawn free of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 252.161 to the appropriate customs official. If the specially denatured spirits are returned before the ATF Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the specially denatured spirits are eligible for return under § 252.160, accept the notice as authority for the return of the specially denatured spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of ATF Form 5100.11 "Canceled", note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled ATF Form 5100.11 and file one copy with the regional regulatory administrator identified on the form.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

#### § 252.163 Receipt of specially denatured spirits.

The receipt, gauge, and disposition of the specially denatured spirits at the

distilled spirits plant shall be in accordance with the applicable provisions of Subpart U of Part 19 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

Paragraph 48. Section 252.171 is amended to add provisions relating to alternative devices in lieu of strip stamps and to change "Part 201" to "Part 19". As amended the introductory clause of § 252.171 reads as follows:

#### § 252.171 General.

Distilled spirits manufactured, produced, bottled in bottles, packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which have been marked (if in packages) or stamped, restamped, or affixed with alternative devices, and marked (if in cases), under the provisions of Part 19 of this chapter and of this part, as applicable, especially for export with benefit of drawback may be:

#### § 252.173 [Revoked]

Paragraph 49. Section 252.173 and the undesignated center head immediately preceding it, relating to standard export drawback rates, are revoked.

#### § 252.190 [Amended]

Paragraph 50. Section 252.190 is amended to replace "Form 1582" with "ATF Form 5110.30".

Paragraph 51. Section 252.192 is amended to change the numbers of ATF forms and to eliminate on premises supervision. As amended, § 252.192 reads as follows:

#### § 252.192 Packages of distilled spirits to be gauged.

Distilled spirits in packages or other bulk containers which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on ATF Form 5110.30. However, if an inspection discloses no evidence of loss and removal is made within 30 days from the time of packaging the distilled spirits, the filling gauge shall be considered the gauge at the time of removal. A report of gauge shall be made by the proprietor on ATF Form 5110.45, in quadruplicate (appropriately modified), and a copy of the report of gauge shall be attached to each copy of ATF Form 5110.30 and considered a part of the claim.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

#### § 252.193 [Amended]

Paragraph 52. Section 252.193 is amended to replace "Part 201", wherever it appears, with "Part 19".

#### § 252.195 [Amended]

Paragraph 53. Section 252.195 is amended (1) to replace "Form 1582", wherever it appears, with "ATF Form 5110.30," and (2) to add a reference to a new section of regulations by adding "or § 252.195b" after "§ 252.195a".

Paragraph 54. Section 252.195a is completely revised to cover only claims on spirits tax determined before January 1, 1980. As revised, § 252.195a reads as follows:

#### § 252.195a Claims on spirits tax determined before January 1, 1980.

The bottler or packager of the spirits shall compute the drawback rate, unless the regional regulatory administrator established a standard drawback rate before January 1, 1980. The bottler or packager shall complete Parts II and III on both copies of ATF Form 5110.30. If a standard drawback rate was established, the date of approval of the formula and the number shall be shown in any available space in Part II of ATF Form 5110.30. The bottler or packager shall file one copy as the claim for drawback of tax with the regional regulatory administrator of the region in which the claimant's premises are located, and retain one copy on file. Each claim on ATF Form 5110.30 shall be supported, as applicable, by a copy of each related dump and batch record, package gauge report and/or bottling report, covering the dumping and bottling or packaging of the spirits; and in the case of spirits bottled in bond on bonded premises, a copy of each Form 179 covering the taxpayment. Where distilled spirits stamped and marked, or restamped and marked (if in cases), or marked (if in packages), especially for export with benefit of drawback were manufactured (rectified) in the United States before January 1, 1980, with the use of imported spirits (other than such spirits withdrawn from internal revenue bond) or imported wines, the proprietor shall furnish evidence of tax payment for the distilled spirits or wines (such as Customs Forms 7505 or 7501 receipted to indicate payment of taxes) as may be requested by the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

#### Subpart J [Revoked]

#### §§ 252.201, 252.202, 252.203 and 252.204 [Revoked]

Paragraph 56. Subpart J, and §§ 252.201, 252.202, 252.203 and 252.204, relating to export drawback under a repealed section of law, are revoked.

#### § 252.216 [Amended]

Paragraph 57. Since wine may no longer be bottled at a distilled spirits plant, reference to distilled spirits plant regulations is deleted from § 252.216 by deleting "201", where it appears after the word "Parts".

#### § 252.244 [Amended]

Paragraph 58. The statutory authority for § 252.244 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

#### §§ 252.250 and 252.261 [Amended]

Paragraph 59. Sections 252.250 and 252.261 are amended to change "Form 206, 1582," to "ATF Form 5100.11, 5110.30,".

#### § 252.195b Claims on spirits tax determined on and after January 1, 1980.

(a) *Preparation.* Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by § 252.171, shall be prepared in duplicate by the bottler or packager on Parts II and III of ATF Form 5110.30.

(b) *Supporting documents.* Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by § 252.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the drawback rate exceeds \$10.50 per proof gallon (e.g., a product containing alcoholic flavoring materials on which drawback is claimed under 26 U.S.C. 5131-5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge report (ATF Form 5110.45), and/or bottling record. The regional regulatory administrator may also require these or other supporting documents for any distilled spirits product.

(c) *Filing.* One copy of the claim, with supporting documents, if required, shall be filed with the regional regulatory administrator. The bottler or packager shall retain the other copy on file.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

#### Subpart J [Revoked]

#### §§ 252.201, 252.202, 252.203 and 252.204 [Revoked]

Paragraph 56. Subpart J, and §§ 252.201, 252.202, 252.203 and 252.204, relating to export drawback under a repealed section of law, are revoked.

#### § 252.216 [Amended]

Paragraph 57. Since wine may no longer be bottled at a distilled spirits plant, reference to distilled spirits plant regulations is deleted from § 252.216 by deleting "201", where it appears after the word "Parts".

#### § 252.244 [Amended]

Paragraph 58. The statutory authority for § 252.244 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

#### §§ 252.250 and 252.261 [Amended]

Paragraph 59. Sections 252.250 and 252.261 are amended to change "Form 206, 1582," to "ATF Form 5100.11, 5110.30,".

#### § 252.263 [Amended]

Paragraph 60. Section 252.263 is amended to delete reference to a repealed section of law by deleting "1393, as amended" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

#### § 252.264 [Amended]

Paragraph 61. Section 252.264 is amended to change "Form 206, 1582," wherever these phrases appear, to "ATF Form 5100.11, 5110.30", and to change "Form 696" to "ATF Form 5180.1".

#### § 252.265 [Amended]

Paragraph 62. Section 252.265 is amended to change "Form 206" to "ATF Form 5100.11" and to change "Form 206, 1582," to "ATF Form 5100.11, 5110.30,". The statutory authority for § 252.265 is amended to delete reference to a repealed section of law by deleting "1393" from the Statutes at Large citation and by deleting "5522" from the United States Code citation.

Paragraph 63. Section 252.267 is amended to eliminate performance of customs officer duties by ATF officers assigned to distilled spirits plants and to change ATF form numbers. As amended, § 252.267 reads as follows:

#### § 252.267 Exportation from interior port.

Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may be entered for exportation at an interior customs port. The inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of U.S. Customs regulations (19 CFR Ch. I). However, where, under the provisions of § 252.263 an ATF officer has been authorized to perform such duties, the ATF officer may perform the duties of the customs officer. On completion of the lading, the seals shall be affixed and the designated officer shall execute the certificate of lading on both copies of the application, notice, or claim, ATF Form 5100.11, 5110.30, 1582-A, 1582-B or 1689, as the case may be, and forward them, with attachments (if any), to the district director of customs at the interior port of entry. The collector shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the



district director of customs at the interior port of entry.

**§§ 252.269, 252.275 and 252.281 [Amended]**

Paragraph 64. Sections 252.269, 252.275 and 252.281 are amended to change "Form 206, 1582," wherever these words appear, to "ATF Form 5100.11, 5110.30,".

Paragraph 65. Section 252.285 is revised to change ATF form numbers and to correct the statutory authority. As revised, § 252.285 reads as follows:

**§ 252.285 Receipt in manufacturing bonded warehouse.**

On receipt of the distilled spirits or wines and the related ATF Form 5100.11 (and ATF Form 5110.45, if any), the customs officer in charge of the manufacturing bonded warehouse shall make such inspection as is necessary to establish that the shipment corresponds with its description on ATF Form 5100.11 (and ATF Form 5110.45, if any) and shall make a report of gauge on ATF Form 5180.1, in duplicate. However, where, under the provisions of § 252.263, an ATF officer has been authorized to perform the duties of the customs officer, the ATF officer may perform such duties. If the inspection and gauge disclose any discrepancy, the designated officer shall make note of such discrepancy on each copy of ATF Form 5100.11. Where the officer is satisfied that the shipment corresponds with the description on ATF Form 5100.11 (and ATF Form 5110.45, if any), he shall execute the certificate of deposit on both copies of ATF Form 5100.11 and forward the original of ATF Forms 5100.11 and 5180.1, and a copy of ATF Form 5110.45 (if any), to the regional regulatory administrator. The remaining copies shall be kept on file.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1380, as amended (26 U.S.C. 5214, 5362))

**§ 252.286 [Amended]**

Paragraph 66. Section 252.286 is amended to change "Form 206 or 1582" to "ATF Form 5100.11 or 5110.30".

**§ 252.290 [Amended]**

Paragraph 67. Section 252.290 is amended (1) to change to "Form 206, 1582" to "ATF Form 5100.11, 5110.30", (2) to change both instances to "Form 696" to "ATF Form 5180.1", and (3) to change "Form 2630" to "ATF Form 5110.45".

**§§ 252.302 and 252.316 [Amended]**

Paragraph 68. Sections 252.302 and 252.316 are amended to change "Form 206" to "ATF Form 5100.11".

**§ 252.333 [Amended]**

Paragraph 69. Section 252.333 is amended to change "Form 1582, Form 1582-A or Form 1629" to "ATF Form 5110.30 or 1582-A". The statutory authority for § 252.333 is amended to delete reference to a repealed section of law by deleting "1327" from the Statutes at Large citation and by deleting "5009" from the United States Code citation.

**§ 252.334 [Amended]**

Paragraph 70. Section 252.334 is amended to change "Form 2639" to "ATF Form 5620.2" and to change "Part 201" to "Part 19". The statutory authority for § 252.334 is amended to delete reference to a repealed section of law by deleting "1327" from the Statutes at Large citation and by deleting "5009" from the United States Code citation.

**§ 252.335 [Amended]**

Paragraph 71. The statutory authority for § 252.335 is amended to delete reference to a repealed section of law by deleting "1327" from the Statutes at Large citation and by deleting "5009" from the United States Code citation.

Signed: November 14, 1979.

G. R. Dickerson,  
Director.

Approved: November 30, 1979.

Richard J. Davis,  
Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-37532 Filed 12-3-79; 4:07 pm]

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December 11, 1979

Part III

Department of  
Health, Education,  
and Welfare

Food and Drug Administration

Quality Assurance Programs for  
Diagnostic Radiology Facilities; Final  
Recommendation



DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Food and Drug Administration

## 21 CFR Part 1000

(Docket No. 76N-0145)

Quality Assurance Programs for  
Diagnostic Radiology Facilities

AGENCY: Food and Drug Administration.

ACTION: Final recommendation.

**SUMMARY:** The agency is issuing a recommendation that encourages voluntary establishment of quality assurance programs by all diagnostic radiology facilities. The recommendation suggests some aspects of the programs, but recognizes that the programs will vary with each facility's size, type, and needs. The agency wants to minimize unnecessary public exposure to electronic product radiation.

**EFFECTIVE DATE:** December 11, 1979.**FOR FURTHER INFORMATION CONTACT:**

Charles P. Froom, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of April 28, 1978 (43 FR 18207), the Food and Drug Administration (FDA) proposed to add new § 1000.55 (21 CFR 1000.55) to Subpart C—Radiation Protection Recommendations, Part 1000 of Chapter I of Title 21 of the Code of Federal Regulations. New § 1000.55 would recommend that health practitioners and others responsible for operating diagnostic radiology facilities establish quality assurance programs. Seven professional organizations, 14 representatives of government agencies (from 9 agencies), 1 processing chemicals manufacturer, 3 medical facilities, and 33 individual dentists, engineers, physicists, radiologists, technologists, and state employees submitted substantive comments. These comments and the agency's response to them follow:

**Comments on the Approach Taken**

1. Seven comments endorsed the voluntary approach for encouraging the implementation of quality assurance programs: three said the recommendation would eventually have to be made a regulation to be effective. One of these three suggested that, as an intermediate step, the recommendation be tested in Federal hospitals. Several

other comments interpreted the publication as a proposed regulation instead of a proposed recommendation (an error that two other comments predicted would occur more generally). These comments indicated that the recommendation would require that all facilities monitor all of the parameters listed, establish all of the levels of responsibility mentioned, keep extensive records to satisfy some agency outside the facility, include in their manual all items suggested, and comply with other requirements. Some apparently also interpreted the recommendation as saying that facilities already consistently producing good quality images with minimum patient exposure would have to add the recommended actions to their existing program. They feared this would add costs to the facility without giving added benefits.

FDA emphasizes that establishing quality assurance programs in accordance with the recommendation is indeed voluntary. In § 1000.55(a) and in the definition of "diagnostic radiology facility" in § 1000.55(b), the agency attempted to make clear its belief that quality assurance programs would be beneficial in all types of diagnostic radiology facilities. In § 1000.55(c), the recommendation suggests 10 elements for this program. Proposed § 1000.55(a) stated, however, that the extent to which each element of a quality assurance program is implemented in a particular facility would be determined by that facility after its analysis of its objectives and resources. Especially for some small facilities, the cost of implementing every suggestion might exceed the need and benefit. However, the agency believes that the savings resulting from implementing an appropriate program would, in most cases, offset the cost of the actions. Each facility is, therefore, encouraged to implement only those recommendations it believes would lead to benefits in improved image quality, reduced radiation exposure, and/or reduced costs sufficient to compensate for the costs of the action.

To highlight the flexibility enjoyed by the facility with this voluntary approach, the following changes were made in the introductory section: (1) The second sentence of § 1000.55(a) was made the second sentence of § 1000.55(c). (2) A third sentence was added to § 1000.55(c) to emphasize further the flexibility given to each facility. Some additional changes were made in the wording of the specific elements of § 1000.55(c) to emphasize that the program is voluntary. These changes are discussed

in response to the comments on the specific paragraphs of the recommendations.

**Comments on the Data**

Several comments addressed the studies cited to support the need for and value of quality assurance programs.

2. One comment supplied information on the changes made in the pneumoconiosis compensation program since it was studied for the Department of Health, Education, and Welfare's National Institute of Occupational Safety and Health (NIOSH) by the late Dr. Dale Trout. Before participating in the current pneumoconiosis program, facilities must submit to NIOSH sample chest radiographs and a radiograph of a test object developed by Trout. These radiographs must be considered of acceptable quality for the proper classification of pneumoconiosis before NIOSH approves a facility for participation. The reader system has also been changed. C readers are no longer used, and the B readers have been expanded from members of the three major medical centers mentioned in the proposed recommendation to all physicians who have passed an examination administered by NIOSH.

As noted in the proposed recommendation, Trout found in his study that 44 percent of the certified facilities examined had 10 percent or more of their radiographs rejected by the B or the C readers, which were then being used. The total rejection rate for all facilities was 3 percent. As a result of NIOSH's efforts, in the second round of examinations only approximately 9 percent of the facilities had a rejection rate of over 10 percent. During the January 1 to September 30, 1976 period, the average rejection rate was only 0.6 percent. For the third round of examinations, NIOSH has stated that all X-ray facilities that have a rejection rate of 5 percent or more will have to be reapproved.

Because the improvement is attributed by NIOSH to their "quality control requirements for equipment and expert reading for radiographic quality by B readers," comparison of the new data with the Trout results gives a "before" and "after" picture for judging the impact of quality assurance. FDA commends NIOSH and the participating facilities for their outstanding efforts in reducing unnecessary patient exposure.

3. Another comment questioned the cost savings that several studies attributed to quality assurance programs, on the ground that facilities that already had successful programs would not be able to achieve additional savings of the magnitude seen in these

studies. Referring to facilities with successful quality assurance programs, this comment argues further that "additional regulations, imposed on an effective quality assurance program would in fact raise cost."

The savings found in all the various studies were determined by comparing conditions before implementation of a quality assurance program with conditions thereafter. The FDA estimate of the cost and exposure reduction impact of nationwide quality assurance programs was likewise based on before and after conditions. Quality assurance actions implemented by facilities, with or without effective quality assurance programs already in place, will indeed involve some cost. The crucial question the facility must ask itself is, whether these actions provide sufficient benefits in terms of money savings, reduced radiation exposure, or improved image quality to compensate for the costs. If the benefits outweigh the costs, then FDA encourages the facility to undertake the quality assurance actions. The facilities involved in the studies referred to by the comment found that the money savings alone more than paid for the costs of the quality assurance program. Thus, the benefits exceeded the costs even without taking into account any benefits from reduced exposure to radiation and from improved image quality.

Facilities that now have little or no quality assurance activity are likely to obtain the largest savings from establishing a quality assurance program. Facilities that have established quality assurance programs are probably doing many of the things suggested by the recommendation. The latter may achieve some additional benefits by incorporating the remaining suggestions into their program, but if additional benefits do not seem likely, then there would be no reason to increase their quality assurance efforts in the ways suggested. At any rate, the agency reemphasizes that implementation of the program is voluntary. Contrary to the comment's suggestion, no rules are being "imposed" and no "regulations" are involved.

4. Another comment criticized the use of the Nationwide Evaluation of X-Ray Trends (NEXT) data. The preamble to the proposed recommendation noted that the results of the NEXT study indicate that a "standard patient" would have received widely different exposures for the same examination in different facilities or even with different machines within the same facility. This range of exposures is as much as a factor of 100 with some of the 12

examinations considered by NEXT and at least a factor of 10 for any of the examinations. FDA suggested in the preamble to the proposal that unnecessary radiation exposure may be caused by exposure variation that could be eliminated by quality assurance. The comment argued, however, that the differences among facilities are "chiefly due to the wide variety of image receptor sensitivities and peak kilovoltages employed."

The original analysis of the NEXT data did not divide the measured exposure data into groups based on the values of the various technical factors. However, the values of certain technique factors, among them peak kilovoltage (kVp), were collected. An analysis of the effect of different techniques has been done (Bunge, et al., 1976, Midyear Symposium of the Health Physics Society), and it has been found that, even with kVp and half-value layer (HVL) limited to a narrow range, there was still a large variation in the output of the machines. For example, with a kVp range of 78 to 82 and HVL range of 2.3 to 2.7 mm of Al, the output in milliroentgens per milliamperes-seconds (mR/mAs) at 12 inches varied from less than 5 to 100. Choice of kVp by the practitioner thus does not explain the wide variation in exposures from facility to facility.

FDA has concluded that machine malfunction leading to the actual kVp and mAs values deviating from the machine settings is a major contributor to the large variation in the output values. (In the NEXT system, the kVp and mAs values are recorded from the machine settings, in contrast to the exposure values, which are measured, and the HVL values, which are calculated from exposure measurements.) For example, if a practitioner chooses to set a machine at 80 kVp, this does not mean that this is the kVp actually produced. Machine malfunction would be a problem that could be minimized by an effective quality assurance program.

The other factor mentioned by the comment, "the wide variety of image receptor sensitivities," has been studied in the last 2 years with the use of an image receptor module add-on to the main NEXT system. When a sufficient number of surveys was completed, multiple regression analysis of the P/A chest projection data was carried out using the factors of kVp, HVL, relative speed of the image receptor, grid, type of processing, and mAs. It was found that these factors could account for only 50 percent of the exposure variation (Showalter, et al., *Proceedings of the*

*Society of Photo-Optical Instrumentation Engineers*, 127:136-139). Thus, the exposure variation cannot be explained solely on the basis of the practitioner's choice of technique factor, image receptor, etc. This analysis will be continued with more examinations as sufficient data become available. At present, it supports the conclusion drawn in the preamble of the proposed recommendation, that part of the exposure variation seen by NEXT represents unnecessary patient exposure due to equipment malfunction that might be reduced or eliminated by quality assurance programs.

5. The comment referred to in paragraph 4 argued further that the mR/mAs variation was due to the method used in calculating the HVL from the NEXT measurements, not machine malfunction. The comment said the method resulted in erroneous HVL values, which accounted for the wide variation in mR/mAs found with machines with similar HVL's.

The NEXT method, which is designed to allow a rapid survey to minimize disruption of facility routine, calculates HVL using a linear least-squares fit to three exposure measurements. FDA has evaluated the potential error in HVL's however, and found that for the kVp and HVL range reported, the maximum value would not exceed 12 percent. FDA does not believe that the small potential errors in the NEXT HVL measurements can account for the wide range in output found in machines with similar kVp and HVL values. Thus, the agency still concludes that a significant part of the mR/mAs variation is due to deviation of the actual kVp and mAs values from the machine settings. Again, this is a problem that can be minimized with a quality assurance program. The agency concludes that the comment does not invalidate the use of the NEXT data for this recommendation.

6. The comment discussed in paragraphs 4 and 5 also argued that the practitioner should be free to choose whatever techniques lead to radiographs that meet the practitioner's requirements.

This comment indicates a philosophical difference with FDA. FDA agrees that the practitioner must have the latitude to select equipment and techniques that meet the practitioner's special imaging requirements. There is, however, generally a range of exposures that will produce radiographs with roughly the same quality. FDA believes that practitioners should be encouraged to choose those techniques that give the least radiation exposure. Secondly, even when a set of technique factors is shown to be appropriate for a specific imaging



task, quality assurance programs can ensure that the practitioner's equipment is actually delivering the technique values the practitioner has selected. This helps avoid the possibility that the practitioner or the practitioner's operator may repeatedly have to change the technique factors (usually toward higher exposures) due to the decreasing ability to get a satisfactory image with the old values.

7. Another comment criticized the NIOSH and Pennsylvania Blue Shield studies because, in its view, the "vast majority" of problems revealed by these studies "were due to human error" and, therefore, would be unaffected by an equipment quality assurance program.

In the NIOSH study, Trout simply listed the problems he found, without indicating their relative magnitudes. Some were probably due to human error and some to equipment malfunction, but there was no basis for concluding that either category was responsible for a "vast majority" of the problems. However, the later data from this study indicate that, regardless of the source of the problems, the quality assurance program was effective in solving many of the problems identified.

The Blue Shield study did provide a breakdown of the reasons for judging the submitted radiographs to be unsatisfactory. A little over 30 percent of the submitted radiographs were rejected for reasons that were probably due to human error. However, another approximately 20 percent of the submitted radiographs were rejected for reasons that were probably due to equipment malfunction. Once again, equipment malfunction was proven not to be an insignificant problem.

FDA agrees that "people errors" lead to unsatisfactory radiographs and unnecessary patient exposure. But this does not mean that the equipment problems can be ignored. FDA has launched or is developing several programs in the "people" areas, but the agency is also supporting quality assurance programs to deal with equipment problems. Quality assurance actions may also help solve some of the "people" problems. For example, evaluation measures such as retake analysis can help identify operator performance problems. Identification is, of course, the first step in solving the problem.

8. The comment referred to in paragraph 7 also criticized the NIOSH and Blue Shield studies as not reflecting the general practice of radiology because they are limited only to pneumoconiosis and dental examinations.

FDA did not present the studies as representative of the total field, but only as an indication of problems in certain specialties. A study by a major film company of more than 150 general radiographic facilities was presented as evidence that the problems found with pneumoconiosis and dental examinations might be present in all types of facilities (Reference 3 in the April 28, 1978 proposal). This study found an average retake rate of 9 percent and an average rejection rate of 13 percent in facilities without quality assurance programs. (The difference between the 9 and 13 percent is partly due to blank films and is also probably partly due to radiographs that were not repeated because other views gave adequate information.) When the facilities established quality assurance programs, they were able to reduce their average rejection rate to 7 percent.

9. The same comment criticized the use of the film company study by noting that the retake rate of 9 percent of the radiographs due to unsatisfactory quality was close to twice that found in previous studies. The comment suggested that the lower retake rate was more representative of national experience than the 9 percent rate.

This assertion is not well founded. Comprehensive studies have not been done. However, the film company study, which examined more than 150 facilities, shows that many hospitals have higher rates. In contrast, the studies relied on in the comment in most cases included only 1 or 2 facilities, a slim basis on which to estimate representative conditions for the nation. In addition, the authors of at least two of the studies cited by the comment indicated their retake rates were probably underestimated (perhaps by as much as 100 percent in one case) due to various factors including lack of technologist cooperation.

10. The same comment also criticized the agency's estimate in its environmental impact analysis report (Ref. 11 in the proposal) of the dose savings impact of quality assurance programs in terms of a total national figure (209,000 to 333,000 rems of active bone marrow dose or 195,000 to 330,000 rems of whole body dose). The comment suggested instead that it would be more accurate simply to state it in terms of the percentage of per capita dose saved.

FDA believes this is simply a difference in philosophy. Physicians, such as the one who commented, treat individual patients, and the agency recognizes that per capita dose might have more meaning to them. As an agency with public health responsibilities, however, FDA must

look at the impact on the genetic pool and cost of medical care for the entire population. Thus, the total nationwide savings has more meaning to the agency. It should also be noted that other groups concerned with population exposure, such as the Advisory Committee on the Biological Effects of Ionizing Radiations of the National Academy of Sciences and the United Nations Scientific Committee on the Effects of Atomic Radiation also report dose figures in terms of population dose rather than individual dose. Further, although the savings can be calculated on a per capita basis, the actual dose savings to an individual who did not have to undergo a repeated examination is far greater than the per capita savings, which is only an average figure. Thus, in this particular case the use of per capita dose savings is somewhat misleading even if the concern is with the individual rather than the entire population.

11. In another criticism of the supporting references, the same comment questioned the figure, \$37,000 per 300,000 radiographs, for the cost savings due to quality assurance at the University of Alabama at Birmingham (Reference 12 in the proposal). The comment noted that the savings reported were \$27,000 per 300,000 radiographs.

The \$27,000 figure represented the savings using the discount prices for supplies purchased by the University of Alabama. The \$37,000 figure was obtained by using the retail prices. Because discounts vary from facility to facility, the agency believes that retail prices should be used for a fair comparison. Using retail prices, the University of Alabama staff reported an average annual savings in supply costs of \$67,566 after quality assurance was initiated. From this the FDA staff subtracted the reported annual quality assurance labor costs of \$27,625, the estimated \$1,500 a year for supplies for the quality assurance program, and \$1,500 for the prorated cost of the quality assurance equipment to obtain an annual savings of approximately \$37,000. Because the annual workload at the University of Alabama is approximately 300,000 radiographs, the savings were expressed as \$37,000 per 300,000 radiographs.

12. The comment further criticized the agency's use of the Alabama data because, according to the comment, the authors of the study stated that had their department been better organized at the outset, such large savings as they report would not have been possible.

The comment's concern is apparently based on a narrower definition of

quality assurance than that used by FDA. FDA believes that quality assurance is not limited to taking physical measurements or repairing equipment but is fundamentally a matter of good departmental management. This is one reason why the recommendation is primarily concerned with administration. If implementation of a quality assurance program stimulates or permits an improvement in the general organization of the department (as apparently occurred at the University of Alabama), then the savings from that improvement in organization should be credited to the quality assurance program. This belief is supported by the Alabama authors in their statement that: "The abrupt difference between the 1971-2 and 1972-3 fiscal years is attributed to the implementation of the main aspects of the quality assurance program."

#### Comments on the Paragraphs of the Recommendation

Many comments focused on one or more of the paragraphs of the proposed recommendation. For each of these paragraphs, the comments are presented, and FDA's reply to them is given.

#### Applicability

13. The comments addressing § 1000.55(a) chiefly concerned the application of the recommendation to small facilities. Two comments stressed that small facilities should be included. In contrast, one comment said that the major emphasis should be put on the large facilities because their example would stimulate small facilities to join the quality assurance effort. Six comments said that assistance would be needed by small facilities in implementing these programs. Their suggestions as to the nature of the assistance needed ranged from a request to prescribe a program specifically for small facilities to the establishment of regional quality assurance consulting centers. Finally, three comments said it would be impossible for small facilities to implement a quality assurance program as described in the recommendation. This belief seemed to stem in part at least from interpreting the recommendation as having to be implemented verbatim.

FDA recognizes that quality assurance programs for small facilities would be quite different from those for large facilities. For example, a committee such as that described in § 1000.55(c)(9), would obviously be valuable only for larger facilities. All facilities, small or large, are also encouraged to modify FDA's other general suggestions to meet

their specific needs where necessary, although the agency believes that the vast majority of its recommendations are applicable to all facilities.

FDA also recognizes that most of the guidance now available on the details of quality control monitoring and maintenance is designed for large facilities. There is a need for guidance directed specifically to small facilities, especially because they do not have their own physicists and quality assurance technologists who could adapt large facility procedures to fit their needs. FDA has begun to collect information on quality assurance programs already available to small facilities. After this information is collected, additional techniques will be developed as needed, and information on both existing and new techniques will be distributed to the facilities. The comments that made suggestions as to appropriate programs for small facilities will be considered in the projects to provide aid to these facilities. FDA believes that these methods of providing assistance to small facilities should be tried before the concept of regional quality assurance consulting centers is considered further because of the expected costs of such centers.

To emphasize that FDA does not expect small facilities to duplicate the programs of large facilities, a sentence has been added at the end of § 1000.55(b)(3), the definition of a quality assurance program, specifically recognizing that any program will vary with the size and type of facility as well as other criteria.

#### Responsibility

14. A number of comments addressed § 1000.55(c)(1) on the assignment of responsibility for the quality assurance program and of the duties within that program.

Most of the comments addressed the suggested roles for the various segments of the staff, especially the relative roles of the practitioner in charge and of the technologists. Two comments supported the statement that the primary responsibility for the quality assurance program belonged to the medical practitioner in charge of the facility. A third comment implicitly agreed when it criticized the recommendation as not recognizing the importance of the trained radiologist in achieving the goal of reducing unnecessary radiation exposure. In contrast, three other comments argued that the recommendation should give more emphasis to the importance of the staff members involved either with production of images or with maintenance of the equipment. One of

these comments specifically criticized § 1000.55(c)(1)(iii) for emphasizing physicists, engineers, and radiologists to the exclusion of staff technologists. A third position was taken by a comment that opposed the entire recommendation because too much emphasis was put on monitoring by technologists rather than on preventive and corrective maintenance by trained personnel. Another comment suggested that the role of the consultants to the facility should be spelled out in more detail. In the proposed § 1000.55(c)(1)(v), it was merely suggested that in some cases it would be of value to assign certain responsibilities to consultants.

In contrast to those comments that argued for increased responsibility for one or another segment of the staff, a response from a professional organization representing a nonradiologist specialty area that makes extensive use of x-ray systems indicated that the practitioners in that area were ready to yield primary if not total responsibility for the quality assurance program to "professionals trained in radiation safety and diagnostic radiology."

Finally, two comments said § 1000.55(c)(1) should be rewritten, though only one included specific suggestions. The latter comment suggested that the responsibilities should be described to fit a program for small facilities, with the roles for specialized personnel as alternatives available to large facilities. This comment voiced concern that small facilities, on viewing the suggestion that responsibilities be assigned to personnel they could not afford, would assume that they could not conduct a quality assurance program.

FDA emphasizes its belief that there are two fundamental areas of quality assurance responsibility in facilities of all sizes, from the individual practitioner's office to the largest medical facility. First, FDA firmly believes that the owner of the equipment, or the practitioner in charge, if different from the owner, must have primary responsibility for the quality assurance program even as that individual has primary responsibility for all other aspects of the facility's activities. This is true whether the owner or practitioner in charge is a radiologist, dentist, cardiologist, or any other specialist. The owner or practitioner in charge may, especially in large facilities, delegate part or all of his or her responsibility to other staff members, but this does not relieve that individual of final responsibility. Furthermore, free and open



communication between the practitioner and his or her staff is essential to the quality assurance program. The owner or practitioner in charge cannot simply set up the program and then forget it if the program is to achieve maximum success.

Second, FDA recognizes that the staff technologists will play a major role in the execution of the program. In a small facility, staff technologists may often be responsible for all the monitoring and maintenance performed by the facility and may also be responsible for recommending when outside help should be called in for more complex monitoring and maintenance. In a larger facility, staff physicists, quality assurance technologists, service engineers, or supervisory technologists may assume much of the quality assurance monitoring and maintenance responsibility, but the staff technologists will always have the important role of bringing possible problems to the attention of the specialized personnel. This alerting of the specialized personnel makes possible the prompt corrective action that is essential to the quality assurance program.

FDA agrees with the comments that noted that § 1000.55(c)(1)(iii) as proposed did not properly recognize the importance of the staff technologists and maintenance personnel. Therefore, this section has been revised to remedy this deficiency. Section § 1000.55(c)(1)(iv) has also been revised to answer the concern of the comment that stated that small facilities would be discouraged by the listing of personnel they could not afford.

Although the suggestions of the comment concerning consultant duties were valuable, FDA has decided not to incorporate them into the recommendation. If more details on consultant duties were included, the duties of other quality assurance personnel should be described in more detail also. In view of the wide variety of diagnostic radiology facilities throughout the country, FDA does not believe that such a detailed description would be appropriate for the recommendation. However, the possibility of providing more detailed suggestions in future technical publications is being considered.

#### Purchase Specifications

15. One comment noted that one of the greatest problems of a quality assurance program is that manufacturers may simply state that their equipment will not perform within a hospital's specifications.

Section 1000.55(c)(2) recognizes that, in developing purchase specifications,

the state-of-the-art should be considered and the need for a specification balanced against the cost of meeting it. If a reasonable set of purchase specifications is developed, then the problem described by the comment should disappear. The facility would deal only with vendors who are willing to meet the specifications and agree to acceptance testing to show that they are meeting the specifications.

16. Another comment on proposed § 1000.55(c)(2) warned that the radiology staff often is not consulted on the purchase of new equipment, or their recommendations are overruled for reasons of finance or convenience.

FDA hopes that the quality assurance program will create channels of communication, such as the suggested quality assurance committee, that will allow the medical and administrative staffs to reach satisfactory compromises on purchase specifications for new equipment.

17. A third comment commended the mention of the alternative of stating the specifications in terms of functional requirements. It also suggested that the availability of experienced service personnel be taken into account in writing purchase specifications.

FDA agrees with this suggestion and has inserted a sentence in § 1000.55(c)(2) to emphasize this point.

18. The same comment also expressed concern about the suggestion that acceptance of the equipment be withheld until the necessary corrections have been made by the vendor. The comment feared that a "self-appointed expert" could break the vendor by being too unreasonable.

The vendor, of course, is entitled to assure himself or herself that the specifications and channels of acceptance are not ambiguous or dependent upon the whim of members of the facility staff. Conversely, if the vendor agrees to meet certain specifications, it is reasonable to require the vendor to meet them. Withholding payment until corrections are made is obviously a powerful weapon, and FDA believes this suggestion should remain in the recommendation. It is, of course, the facility's decision whether to accept this suggestion.

19. Two comments indicated some confusion about the relationship of the purchase specifications and acceptance testing suggested for the quality assurance programs and the requirements of FDA's diagnostic X-ray equipment performance standard (21 CFR 1020.30 through 1020.32). Both comments focused on the report in the preamble to the proposed recommendation from one of the

persons commenting on the May 7, 1976 notice of intent to propose the recommendations (41 FR 18863). This individual had tested 50 new rooms of equipment after the vendor had completed installation and adjustment. Not one of the rooms met the purchase specifications. One of the comments on the April 28, 1978 proposal suggested that the vendor be reported for failure to comply with FDA's diagnostic X-ray equipment performance standard, while the other suggested that this was evidence that the performance standard had failed in its mission to remedy problems of improperly performing X-ray equipment.

FDA advises that the purchase specifications suggested as part of a facility's quality assurance program are not synonymous with the requirements of the diagnostic X-ray equipment performance standard. The purchase specifications would be developed by the facility itself based upon its needs. They would most likely address parameters in addition to those minimum requirements covered by the performance standard, which is concerned with radiation safety. Even when the purchase specifications refer to parameters discussed by the performance standard, the facility might decide to put more stringent requirements on the vendor than do the regulations. Thus, the failure of a vendor to meet purchase specifications, as in the case referred to, may have little or no bearing on the question of the value of the performance standard. The incident does underline, however, the importance of not only establishing purchase specifications but of carrying out acceptance testing to see whether they are met.

#### Monitoring

20. One comment on proposed § 1000.55(c)(3) differed with FDA's approach by arguing that monitoring had been overemphasized greatly. It argued that it is futile to monitor the system if quality radiographs are being produced and that it is also futile to monitor if the system is failing because the failure will be obvious.

FDA disagrees that it is futile to monitor the X-ray system under either of these conditions. If the system is producing satisfactory radiographs, monitoring may still allow detection of problems that exist but have not yet grown to the point where they seriously affect image quality. Thus, if the monitoring is followed by corrective maintenance, problems can be eliminated before they adversely affect patient care. FDA does agree that, if monitoring of a particular parameter

does not reveal any change over a period of time, then it would be appropriate to reevaluate the monitoring program for that parameter.

Similarly, FDA believes that monitoring of parameters after quality control problems appear in the radiograph is of value. The comment suggested that examination of the radiograph in such cases will reveal that a problem exists without the need for monitoring. This is true, but such examination often cannot tell the source of the problem. Monitoring of the parameters and comparing the results with the values from before the problems occurred can be valuable in pinpointing the source of difficulty.

Interestingly, despite its apparent opposition to monitoring tests, the comment stated, "The quality control test can only give information which verifies that a problem does exist or which helps to pinpoint the source of the problem." This statement indicates that the comment recognized these benefits. The comment also correctly noted that testing after a service call can reveal that problems were not resolved because a "manufacturer's service personnel do not always install and maintain X-ray equipment within acceptable standards."

FDA thus has concluded that the importance of monitoring in the quality assurance program should not be deemphasized.

21. The same comment further stated that "testing can only identify a possible problem but will not provide the solution." It also asked, "what good is any test which pinpoints a problem, if there is no one available who is capable of correcting the deficiency?", a question echoed by another comment. The comment also suggested that a major cause of "technologist's apathy" noted in some quality assurance programs was the feeling that quality assurance testing was a waste of time because no one ever did anything when problems were found.

Although FDA does not agree that monitoring should be deemphasized, the agency does agree that maintenance, both preventive and corrective, is important. Preventive maintenance has been shown effective in existing programs (Nelson, et al., *Radiologic Technology*, 49:129-134), and the essential nature of corrective maintenance both to improve equipment performance and to overcome "technologists' apathy" is obvious. Although corrective maintenance has been mentioned in the Evaluation, Records, Manual, and Review elements (§ 1000.55(c) (5), (6), (7), and (10)), further emphasis should be given. Thus,

§ 1000.55(c)(3) has been retitled "Monitoring and Maintenance", the introduction to this element has been rewritten; and a new subdivision (iv) has been added to provide further comments on maintenance and on the need for trained service personnel.

22. Four comments on the list of possible parameters to be monitored noted that the long list might be discouraging to facilities. The comments suggested various systems for reorganizing the list, such as pointing out the general areas of importance or listing the parameters in their order of importance. Two comments made opposing suggestions: One suggested shortening the list to only key tests; the other suggested general descriptions of the specific quality assurance procedures that should be included.

The agency is concerned that two general problems hamper the reorganization or shortening of the list of parameters. The first is that the field of quality assurance is still rapidly developing, and a consensus on the relative importance of a number of the parameters does not yet exist. In addition, the wide variety of types and sizes of diagnostic radiology facilities and their equipment will probably make it impossible ever to develop a single list of parameters that apply generally to all facilities. Thus, FDA has preferred to develop as comprehensive a list as possible and to encourage the facilities to select the ones to monitor based on what is important to them. FDA has accepted the suggestion of one comment that general areas that probably should be monitored in all programs be listed. This is done in a new § 1000.55(c)(3)(ii). The old § 1000.5(c)(3)(ii) is now § 1000.55(c)(3)(iii). The introduction to § 1000.55(c)(3)(iii) has been rewritten, and the parameter list rearranged to correspond to the areas of new § 1000.55(c)(3)(ii).

23. Two comments referred to the list of parameters to be monitored as reasonable and very important, but other comments made a number of suggestions on adding or deleting parameters.

FDA has added four parameters to the list in response to these suggestions. These are "view box surface conditions", added to § 1000.55(c)(3)(iii)(d), "continuity of exposure" and "flatness of cassette" added to § 1000.55(c)(3)(iii)(f), and "representative entrance skin exposures" added to § 1000.55(c)(3)(iii)(b) and (f). In addition, suggestions that mechanical and electrical components undergo visual inspection have been added to new § 1000.55(c)(3)(iv) on maintenance. FDA did not accept

suggestions that nominal voltage and latent images in intensifying screens be monitored. The comment did not provide documentation to support the belief that variations in these parameters cause problems, and FDA is unaware of any evidence that they do.

As suggested, FDA has dropped the parameter, "solution compositions" from § 1000.55(c)(3)(iii). It is now generally accepted that pH measurements of the solutions are of little value in quality assurance monitoring and that specific gravity measurements are of value only in determining whether a fresh batch of solution has been correctly mixed (and then only if the proper value is known for comparison). FDA also agrees that other methods of monitoring solution composition require a strong knowledge of chemistry and more effort than is warranted by the results.

The suggestion that focal spot measurement should be dropped until there is a consensus standard for such measurements was not accepted. FDA believes that any of the existing methods are accurate enough for quality assurance purposes as long as the same method is used consistently. FDA also did not agree that "linearity of mA stations" should be dropped. Although this measurement is perhaps covered by the monitoring of the parameters of automatic exposure control devices, it would not be covered with machines lacking these devices.

A suggestion that it was too early to establish quality assurance protocols for computed tomography (CT) systems was not accepted. It is not too early to develop an awareness that quality assurance monitoring is necessary for these devices even though the methods might require more effort. (Most CT manufacturers even provide a test device that can be used to monitor some parameters).

One comment also suggested dropping daily measurement of fixer temperature, while another suggested that with tomographic units, "thickness of cut plane," "flatness of field," and "exposure angle" could be dropped because these parameters would not change very rapidly. It appears that the disagreement is not so much with these parameters as with the frequency of monitoring. It should be noted that the frequency of monitoring of the parameters has been left to the facility to decide. Thus if the tomographic parameters do not change rapidly, semi-annual or annual monitoring of these might be sufficient, while other parameters, such as some of those involved in film processing, might have to be done daily. Similarly, the frequency of fixer temperature



monitoring could be chosen to correspond to facility needs. Facilities are encouraged to consider revision of the monitoring schedules for the different parameters as part of the evaluation and review elements.

24. Comments also suggested that the parameters "response capability" in proposed § 1000.55(c)(3)(ii)(e) and "accuracy of SID indicators" in proposed § 1000.55(c)(3)(ii)(d) are not clear.

FDA agrees and, in an effort to solve this problem, has changed these parameter names to "minimum response time" and "accuracy of SFD indicators," respectively. (With the reorganization of the parameter list mentioned above, these parameters are now under § 1000.55(c)(3)(iii)(b)).

25. With respect to monitoring parameters, several comments pointed out that work remains to be done on the procedures for monitoring many of them.

Fortunately, efforts are under way in both the private and public sectors to fill these gaps, and FDA will continue to encourage progress in these areas.

#### Standards for Image Quality

26. Three comments addressed § 1000.55(c)(4) on setting standards for image quality. Two comments remarked about the difficulty of setting standards for quality in view of the many different opinions of what constitutes adequate quality and whether that quality should be measured or be determined by "the eye of the beholder." One comment urged that, because of this, the paragraph should either be rewritten or deleted. In contrast, a third comment urged that FDA go further by helping the facilities set standards of quality and by conducting frequent inspections to ensure that the standards are met.

FDA believes that some definition of acceptable standards of image quality is essential if quality control monitoring and maintenance is to be effective. The purpose of the monitoring is to detect parameter variations that may cause or are causing image quality problems. Appropriate standards of image quality would serve as a guide to indicate when these variations have become serious enough to require corrective action.

Ideally, if the values of these parameters are kept within certain defined limits, the image quality will be acceptable. If such limits can be agreed upon, they can serve as the standards for image quality. Such objective standards may be emerging with respect to processor performance. FDA realizes, however, that, for most parameters of the x-ray system, the standards of image quality will remain subjective for some time. This is largely because of a lack of consensus among medical practitioners

as to what is "good" quality, and in some cases means for measuring the relationship between parameter variation and quality may be lacking.

FDA believes that it is not now possible or desirable to develop uniform nationwide standards. Instead, the practitioners in each facility are encouraged to determine their own standards of image quality based on their training and experience and to relate these standards to system parameter values. FDA has suggested and will suggest in other publications objective standards of image quality as they become known from research and the experience of medical facilities. In the future these objective standards (or those from other sources) may become the national norm. However, even if this should occur, the implementation of these standards would still be on a voluntary basis.

In conclusion, FDA does not agree that changes in § 1000.55(c)(4) are warranted at present.

#### Evaluation

27. Three comments on § 1000.55(c)(5) said that the importance of reject analysis in evaluating both the total program and the individual technologist's performance should be further emphasized.

Reject analysis is referred to in § 1000.55(c)(5)(ii) as "ongoing studies of the reject rate and the causes of the repeated radiographs." FDA agrees with the comment that the emphasis should be increased to reflect the fact that reject analysis is probably the most useful evaluation method now available. Several sentences have been added to § 1000.55(c)(5)(ii) to emphasize the value of studies of the reject rate and to suggest study characteristics and frequencies.

#### Records

28. Many comments were received on the recordkeeping recommendations in proposed § 1000.55(c)(6). Several comments urged that FDA emphasize the importance of maintaining records by conducting inspections of them. Others interpreted the recordkeeping suggestions as regulatory requirements and opposed them as being an added burden. One comment took an intermediate position. It recognized that the proposals on recordkeeping were recommendations, but feared that states might adopt them as regulations. This might make the recordkeeping an end in itself rather than a tool for achieving improved performance.

The importance of recordkeeping cannot be overemphasized. FDA is convinced that accurate and complete

records are essential for guaranteeing that necessary monitoring and maintenance have been performed, for making effective use of the equipment warranty provisions and the services of manufacturers' representatives, for aiding in future equipment selection, for planning the replacement schedule for x-ray equipment, and for evaluating the quality assurance program so that it can be modified for maximum effectiveness.

The agency recognizes, however, that the extent of the recordkeeping, just as all other aspects of the quality assurance program, should be determined by the facility itself on the basis of what is necessary for support of its program. Because recordkeeping recommendations, like all others, are voluntary, FDA inspections to enforce them would be unauthorized by law and inappropriate.

FDA shares the concern of the comment that suggested recordkeeping might become an end in itself. Obviously the purpose of keeping quality assurance records is not just to record numbers, but to collect data that can be used. These data should be used in the evaluation (§ 1000.55(c)(5)) and review (§ 1000.55(c)(10)) elements to determine whether either the equipment or the quality assurance program itself requires adjustment to ensure effective performance. Furthermore, some problems occur periodically. Therefore, records of successful past corrective actions will help to solve the problems quickly when they recur. Clear records may also be quite useful to the facility in demonstrating the need to change vendors or improve purchase specifications.

In a further response to the comments on recordkeeping, and to clarify FDA's views, § 1000.55(c)(7) has been rewritten. In response to a question raised by one comment, § 1000.55(c)(7)(vii) has also been changed to make it clear that the facility decides how long records are to be kept.

#### Manual

29. The several comments on § 1000.55(c)(7) generally agreed upon the importance of a manual. One comment, however, said that for its purposes a series of manuals already in use in its agency would be preferable to that suggested in the recommendation. Two other comments made opposing suggestions. One urged that some details, specifically the suggestion for a loose-leaf format, should be deleted, while the other suggested that more details, even a complete sample manual, should be provided, though not necessarily as part of the recommendation.

Facilities are encouraged to modify the recommendations to meet their own needs. Any facility or agency may use materials of a different type or content to meet the goal of keeping all concerned personnel informed about the quality assurance program and their own quality assurance responsibilities. The introduction to § 1000.55(c)(7) has been rewritten to make this clearer. The "loose-leaf" format suggestion has also been dropped. In response to the request for more detail, other FDA publications, available or planned, will provide details on some of the items suggested for the manual. A sample manual for individual practitioners may result from a project to provide guidance to small facilities, which has recently been initiated by the FDA.

#### Training

30. Several comments urged that the agency expand proposed § 1000.55(c)(8) both to emphasize the importance of training and to specify further its nature.

FDA does not believe that this recommendation is the place to give detailed descriptions of training requirements because these requirements are likely to change with time. However, the training element has been expanded somewhat to emphasize the need for both initial and continuing education and the value of supervised instruction.

31. Several other comments suggested training programs that FDA might initiate or support.

The agency advises that it will continue its efforts, through the production of training materials and through cooperation with professional organizations and industry, to increase the quality assurance training available.

32. Two comments in reference to § 1000.55(c)(1), asked what is meant by the term "qualified" when referring to personnel who might be assigned quality assurance duties.

Again, FDA does not believe that these recommendations provide the proper forum for a detailed list of qualifications because these might well change with time. However, § 1000.55(c)(1) has been modified by addition of the words "by training or experience" following the word "qualified" wherever it appears.

33. Another comment related to training said the recommendation did not recognize the training in radiation protection received by radiologists.

Section 1000.55(c)(1)(ii) states that the practitioner in charge of the facility has primary responsibility for the quality assurance program. If a radiologist is a staff member at the diagnostic radiology facility, that specialist will almost

certainly be in charge of the facility. Thus, the recommendation does give recognition to the training received in that specialty. However, FDA does not believe that it can single out any medical specialty as being especially qualified by its general training for quality assurance duties. Although some radiologists have been very active in the quality assurance area and have pioneered in the development of quality assurance programs, FDA's information on the training of these specialists indicates that quality assurance techniques and procedures are not routinely made a part of their education or certification examinations.

#### Committee

34. The comments on the suggestion that a quality assurance committee (§ 1000.55(c)(9)) be established at large facilities were mixed. Some comments endorsed the idea and suggested that the membership and duties of the committee be expanded. Other comments, however, expressed fears that such a group might "throttle" or "frustrate" the program.

The recommendation to establish a committee resulted from a comment on the May 7, 1976 notice that described the success of a quality assurance committee in a facility as well as from the agency's knowledge of the value of committees in other areas. FDA still believes that a quality assurance committee can be useful in facilitating open and frequent communication among the various groups in a facility and that such communication is essential for the quality assurance program. FDA does recognize, however, that, depending upon the attitude of its membership, a committee might act to frustrate the quality assurance program. To help forestall this possibility, changes have been made in § 1000.55(c)(9) to clarify the agency's belief that any quality assurance committee should serve communications and policy-making roles rather than an operational role. The proposed recommendation recognized that small facilities would not find a committee useful. Large facilities also do not need to organize such a committee if it is believed to be unneeded or counterproductive. Also, § 1000.55(c)(9) has been reworded slightly to indicate that the facility may not wish to assign all the suggested responsibilities to the committee. Other wording changes are intended to make clear that representatives of all departments with x-ray equipment should be included, if possible, to ensure maximum communication. Also, changes have been made to indicate that the duties of

the committee could be given to an already existing committee, as one comment suggested, rather than a newly established committee. All the groups involved with diagnostic radiology should be represented on that committee.

#### Comments Suggesting Additional Actions

35. One comment urged that an eleventh quality assurance element—on "patient exposure"—be added to the recommendation. The comment suggested that, just as § 1000.55(c)(4) suggests establishing acceptability limits for variations of image quality parameter values, a patient exposure element could contain acceptability criteria for variation in exposure for different examinations.

FDA's quality assurance activities, including the proposed recommendation, are directed at achieving optimal diagnostic x-ray equipment performance. The agency believes that such performance will lead to reduced patient exposure as well as high image quality and reduced medical costs. A separate patient exposure recommendation would significantly expand the proposed recommendations beyond their intended scope, which is limited to equipment performance. Injection of this new consideration would involve the practitioner's choice of technique factors and raise the complex question of striking the proper balance between patient exposure and image quality. For these reasons, FDA believes that the establishment of standards for patient exposure is too important and too complex to be dealt with merely as one of eleven elements in a quality assurance recommendation directed at equipment performance. Instead, FDA published in the *Federal Register* of August 17, 1979 (44 FR 48354) a notice of intent requesting information on a number of aspects of the patient exposure problem. This is a preliminary action to possible future recommendations dealing specifically with patient exposure.

Although FDA is not now prepared to recommend standards for patient exposure, the agency does recognize that exposure measurements may be useful in evaluating equipment performance. Thus, as noted above, the "representative entrance skin exposures" has been added to the list of parameters to be considered for monitoring in § 1000.55(c)(3)(iii).

36. Several comments suggested that FDA publish recommendations or regulations in areas other than quality assurance to reduce radiation exposure. These suggestions included limitations



on the types of equipment that could be used, film-screen standards, new designs of equipment to provide for easy quality assurance testing; specification of techniques to be used, and certification programs to ensure that the owners and operators of x-ray equipment are adequately trained.

FDA appreciates these expressions of concern and will consider them in planning future programs. The agency advises that activities in cooperation with professional groups or other agencies are already being planned or are under way in some of these areas, e.g., film-screen standards and certification programs. However, inclusion of recommendations in these added areas as part of the basic quality assurance recommendation would significantly expand this recommendation beyond its intended scope. The agency believes that it is more appropriate to proceed independently in these other areas.

37. One comment suggested that patient exposure reductions could be achieved if the States were encouraged to make more frequent inspections of radiology facilities.

FDA believes that this suggestion is worthy of consideration, but it falls outside the area of a quality assurance recommendation. FDA notes, however, that the Bureau of Radiological Health has undertaken some activities designed to help solve the problem of limited resources for State inspections. The Bureau's efforts have been designed to enable the States to locate facilities with problems so that their resources may be concentrated on them. Two such efforts, the Dental Exposure Normalization Technique (DENT) and the Breast Exposure Nationwide Trends (BENT) programs, have been under way for some time. Both programs use thermoluminescent dosimeter (TLD) mailers to locate facilities with problems. These facilities are then visited by State personnel, who work with them on a voluntary, nonregulatory basis to help solve the problems. Average exposure reductions of 40 percent in dental facilities and 20 percent in mammography facilities have been achieved. Development of similar programs for other types of examinations as well as a program that could be used with facilities doing a number of types of examinations is currently under way.

38. Two comments suggested that the government establish some means of providing quality assurance services, especially for private offices.

The agency's BENT and DENT programs do provide some such services and, as discussed in paragraph 37, this

concept is being expanded to other examinations. The time intervals between the BENT and DENT type of contacts, however, are too long for routine quality assurance actions. The option of setting up regional quality assurance centers, equivalent to the Regional Radiological Physics Centers, or programs through professional organizations or private facilities will be kept open. However, owing to the expense of such centers or programs, action will not be taken until the need is more clearly demonstrated.

39. Some comments suggested that FDA enlist the aid of the Joint Commission on Accreditation of Hospitals (JCAH) to encourage the adoption of quality assurance programs. Others asserted that the FDA efforts were not needed because the JCAH already "mandated" quality assurance programs.

FDA received a comment from the JCAH, which made clear its interest in quality assurance and radiation protection, and which in general endorsed the FDA approach. It does not appear that FDA suggestions for quality assurance programs for diagnostic radiology facilities either conflict with or duplicate the JCAH efforts to encourage quality assurance in all hospital departments. FDA will continue to coordinate its efforts with those of the JCAH.

40. Three comments mentioned the problem of motivating personnel to initiate and maintain a quality control program.

FDA recognizes that this is perhaps the central problem that must be solved if the quality assurance program is to be successful. The agency believes that the first step in solving this problem is to win the support of the person in charge. Thus, through pilot tests of quality assurance techniques and through its publication program, FDA is attempting to collect and disseminate information on the benefits of quality assurance. FDA believes that this information is essential to convince the practitioner in charge, the facility administrator, and the administrative technologist initially to establish a quality assurance program. FDA is also working to disseminate information (by this recommendation, manuals, etc.) to help the program succeed in the facility once it has been implemented, for such success is the best method of motivation.

41. A conference conducted by the American College of Radiology with FDA support is planned for the fall of 1979. One comment suggested that this conference might be used to write a recommendation to replace the one

proposed. The comment suggested further that this could serve as a motivating influence.

In view of the general support for the proposed recommendation, FDA has decided to proceed with publication of this final recommendation. The conference can then be devoted to its original purpose of discussing means to motivate facilities to use the recommendation and other guidance to establish quality assurance programs.

42. One comment suggested that the availability of "sources of information, consultants, and other resources" should be included for the benefit of facilities developing quality assurance programs.

FDA notes that, because such resources would be constantly changing, it would be impractical to include a list in the recommendation. FDA recognizes, however, that it may be difficult for a facility to locate the information, equipment, training, and other items needed for a quality assurance program. To assist in solving this problem, FDA published a Diagnostic Radiology Quality Assurance Catalog in the summer of 1977. The catalog contains information on available quality assurance equipment, services, training materials, and publications. A supplement to the catalog (covering the same types of items) was published in the fall of 1978. More than 12,000 copies of each of these volumes have been distributed, and FDA's Bureau of Radiological Health will continue to provide individual copies free of charge for as long as supplies last.

43. One comment suggested that "any quality control programs should stress conservation of silver and other resources vital to radiology."

FDA notes that quality assurance programs can indirectly conserve resources by reducing retakes and thus by reducing film usage, which in turn would conserve resources such as silver. FDA believes, however, that including direct conservation suggestions would be beyond the scope of this recommendation, which concerns equipment performance. This should not be interpreted as downgrading the value of the important conservation effort.

44. The agency advises that the new references cited in this final recommendation have been added to the administrative record for this matter. These references as well as those cited in the April 28, 1978 proposal are on file in the office of the FDA Hearing Clerk under Docket No. 76N-0145, and are available for public review in Rm. 4-65, 5600 Fishers Lane, Rockville, MD, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174-1175 (42 U.S.C. 263d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), 21 CFR Part 1000 is amended in Subpart C by adding new § 1000.55, to read as follows:

**§ 1000.55 Recommendation for quality assurance programs in diagnostic radiology facilities.**

(a) *Applicability.* Quality assurance programs as described in paragraph (c) of this section are recommended for all diagnostic radiology facilities.

(b) *Definitions.* As used in this section, the following definitions apply:

(1) "Diagnostic radiology facility" means any facility in which an x-ray system(s) is used in any procedure that involves irradiation of any part of the human body for the purpose of diagnosis or visualization. Offices of individual physicians, dentists, podiatrists, and chiropractors, as well as mobile laboratories, clinics, and hospitals are all examples of diagnostic radiology facilities.

(2) "Quality assurance" means the planned and systematic actions that provide adequate confidence that a diagnostic x-ray facility will produce consistently high quality images with minimum exposure of the patients and healing arts personnel. The determination of what constitutes high quality will be made by the facility producing the images. Quality assurance actions include both "quality control" techniques and "quality administration" procedures.

(3) "Quality assurance program" means an organized entity designed to provide "quality assurance" for a diagnostic radiology facility. The nature and extent of this program will vary with the size and type of the facility, the type of examinations conducted, and other factors.

(4) "Quality control techniques" are those techniques used in the monitoring (or testing) and maintenance of the components of an x-ray system. The quality control techniques thus are concerned directly with the equipment.

(5) "Quality administration procedures" are those management actions intended to guarantee that monitoring techniques are properly performed and evaluated and that necessary corrective measures are taken in response to monitoring results. These procedures provide the organizational framework for the quality assurance program.

(6) "X-ray system" means an assemblage of components for the

controlled production of diagnostic images with x-rays. It includes minimally an x-ray high voltage generator, an x-ray control, a tube-housing assembly, a beam-limiting device, and the necessary supporting structures. Other components that function with the system, such as image receptors, image processors, view boxes, and darkrooms, are also parts of the system.

(c) *Elements.* A quality assurance program should contain the elements listed in subparagraphs (1) through (10) of this paragraph. The extent to which each element of the quality assurance program is implemented should be determined by an analysis of the facility's objectives and resources conducted by its qualified staff or by qualified outside consultants. The extent of implementation should be determined on the basis of whether the expected benefits in radiation exposure reduction, improved image quality, and/or financial savings will compensate for the resources required for the program.

(1) *Responsibility.* (i) Responsibility and authority for the overall quality assurance program as well as for monitoring, evaluation, and corrective measures should be specified and recorded in a quality assurance manual.

(ii) The owner or practitioner in charge of the facility has primary responsibility for implementing and maintaining the quality assurance program.

(iii) Staff technologists will generally be delegated a basic quality assurance role by the practitioner in charge. Responsibility for specific quality control monitoring and maintenance techniques or quality administration procedures may be assigned, provided that the staff technologists are qualified by training or experience for these duties. The staff technologists should also be responsible for identifying problems or potential problems requiring actions beyond the level of their training. They should bring these problems to the attention of the practitioner in charge, or his or her representative, so that assistance in solving the problems may be obtained from inside or outside the facility.

(iv) In facilities where they are available, physicists, supervisory technologists, or quality control technologists should have a major role in the quality assurance program. Such specialized personnel may be assigned responsibility for day-to-day administration of the program, may carry out monitoring duties beyond the level of training of the staff technologist or, if desired by the facility, may relieve the staff technologists of some or all of

their basic monitoring duties. Staff service engineers may also be assigned responsibility for certain preventive or corrective maintenance actions.

(v) *Responsibility for certain quality control techniques and corrective measures* may be assigned to personnel qualified by training or experience, such as consultants or industrial representatives, from outside of the facility, provided there is a written agreement clearly specifying these services.

(vi) In large facilities, responsibility for long-range planning of quality assurance goals and activities should be assigned to a quality assurance committee as described in paragraph (c)(9) of this section.

(2) *Purchase specifications.* Before purchasing new equipment, the staff of the diagnostic radiology facility should determine the desired performance specifications for the equipment. Initially, these specifications may be stated in terms of the desired performance of the equipment, or prospective vendors may be informed solely of the functions the equipment should be able to perform and asked to provide the performance specifications of items from their equipment line that can perform these functions. In either case, the responses of the prospective vendors should serve as the basis for negotiations to establish the final purchase specifications, taking into account the state of the art and balancing the need for the specified performance levels with the cost of the equipment to meet them. The final purchase specifications should be in writing and should include performance specifications. The availability of experienced service personnel should also be taken into consideration in making the final purchase decisions. Any understandings with respect to service personnel should be incorporated into the purchase specifications. After the equipment is installed, the facility should conduct a testing program, as defined in its purchase specifications, to ensure that the equipment meets the agreed upon specifications, including applicable Federal and State regulatory requirements. The equipment should not be formally accepted until any necessary corrections have been made by the vendor. The purchase specifications and the records of the acceptance testing should be retained throughout the life of the equipment for comparison with monitoring results in order to assess continued acceptability of performance.

(3) *Monitoring and maintenance.* A routine quality control monitoring and



maintenance system incorporating state-of-the-art procedures should be established and conducted on a regular schedule. The purpose of monitoring is to permit evaluation of the performance of the facility's x-ray system(s) in terms of the standards for image quality established by the facility (as described in paragraph (c)(4) of the section) and compliance with applicable Federal and State regulatory requirements. The maintenance program should include corrective maintenance to eliminate problems revealed by monitoring or other means before they have a serious deleterious impact on patient care. To the extent permitted by the training of the facility staff, the maintenance program should also include preventive maintenance, which could prevent unexpected breakdowns of equipment and disruption of departmental routine.

(i) The parameters to be monitored in a facility should be determined by that facility on the basis of an analysis of expected benefits and cost. Such factors as the size and resources of the facility, the type of examinations conducted, and the quality assurance problems that have occurred in that or similar facilities should be taken into account in establishing the monitoring system. The monitoring frequency should also be based upon need and can be different for different parameters.

(ii) Although the parameters to be monitored will vary somewhat from facility to facility, every diagnostic radiology facility should consider monitoring the following five key components of the x-ray system:

- (a) Film processing.
- (b) Basic performance characteristics of the x-ray unit.
- (c) Cassettes and grids.
- (d) View boxes.
- (e) Darkroom.

(iii) Examples of parameters of the above-named components and of more specialized equipment that may be monitored are as follows:

(a) For film processing:

- An index of speed.
- An index of contrast.
- Base plus fog.
- Solution temperatures.
- Film artifact identification.

(b) For basic performance characteristics of the x-ray unit:

- (1) For fluoroscopic x-ray units:

- Table-top exposure rates.
- Centering alignment.
- Collimation.

- kVp accuracy and reproducibility.
- mA accuracy and reproducibility.
- Exposure time accuracy and reproducibility.

- Reproducibility of x-ray output.
- Focal spot size consistency.

Half-value layer.

Representative entrance skin exposures.

(2) For image-intensified systems:

- Resolution.
- Focusing.
- Distortion.
- Glare.

- Low contrast performance.
- Physical alignment of camera and collimating lens.

(3) For radiographic x-ray units:

- Reproducibility of x-ray output.
- Linearity and reproducibility of mA stations.

- Reproducibility and accuracy of timer stations.

- Reproducibility and accuracy of kVp stations.

- Accuracy of source-to-film distance indicators.

- Light/x-ray field congruence.

- Half-value layer.

- Focal spot size consistency.

- Representative entrance skin exposures.

(4) For automatic exposure control devices:

- Reproducibility.
- kVp compensation.
- Field sensitivity matching.
- Minimum response time.
- Backup timer verification.

(c) For cassettes and grids:

(1) For cassettes:

- Film/screen contact.
- Screen condition.
- Light leaks.
- Artifact identification.

(2) For grids:

- Alignment and focal distance.
- Artifact identification.

(d) For view boxes:

- Consistency of light output with time.
- Consistency of light output from one box to another.
- View box surface conditions.

(e) For darkrooms:

- Darkroom integrity.
- Safe light conditions.

(f) For specialized equipment:

(1) For tomographic systems:

- Accuracy of depth and cut indicator.
- Thickness of cut plane.
- Exposure angle.
- Completeness of tomographic motion.
- Flatness of tomographic field.
- Resolution.

- Continuity of exposure.

- Flatness of cassette.

- Representative entrance skin exposures.

(2) For computerized tomography:

- Precision (noise).

- Contrast scale.

- High and low contrast resolution.

- Alignment.

- Representative entrance skin exposures.

(iv) The maintenance program should include both preventive and corrective aspects.

(a) *Preventive maintenance.*

Preventive maintenance should be performed on a regularly scheduled basis with the goal of preventing breakdowns due to equipment failing without warning signs detectable by monitoring. Such actions have been found cost effective if responsibility is assigned to facility staff members. Possible preventive maintenance procedures are visual inspection of the mechanical and electrical characteristics of the x-ray system (covering such things as checking conditions of cables, watching the tomographic unit for smoothness of motion, assuring cleanliness with respect to spilling of contaminants in the examination room or the darkroom, and listening for unusual noises in the moving parts of the system), following the manufacturer's recommended procedures for cleaning and maintenance of the equipment, and regular inspection and replacement of switches and parts that routinely wear out or fail. The procedures included would depend upon the background of the staff members available. Obviously, a large facility with its own service engineers can do more than an individual practitioner's office.

(b) *Corrective maintenance.* For maximum effectiveness, the quality assurance program should make provision, as described in paragraph (c)(5) of this section, for ascertaining whether potential problems are developing. If potential or actual problems are detected, corrective maintenance should be carried out to eliminate them before they cause a major impact on patient care.

(4) *Standards for image quality.*

Standards of acceptable image quality should be established. Ideally, these should be objective, e.g., acceptability limits for the variations of parameter values, but they may be subjective, e.g., the opinions of professional personnel, in cases where adequate objective standards cannot be defined. These standards should be routinely reviewed and redefined as needed, as described in paragraph (c)(10) of this section.

(5) *Evaluation.* The facility's quality assurance program should include means for two levels of evaluation.

(i) On the first level, the results of the monitoring procedures should be used to evaluate the performance of the x-ray system(s) to determine whether corrective actions are needed to adjust the equipment so that the image quality consistently meets the standards for image quality. This evaluation should

include analysis of trends in the monitoring data as well as the use of the data to determine the need for corrective actions on a day-by-day basis. Comparison of monitoring data with the purchase specifications and acceptance testing results for the equipment in question is also useful.

(ii) On the second level, the facility quality assurance program should also include means for evaluating the effectiveness of the program itself. Possible means include ongoing studies of the retake rate and the causes of the repeated radiographs, examination of equipment repair and replacement costs, subjective evaluation of the radiographs being produced, occurrence and reasons for complaints by radiologists, and analysis of trends in the results of monitoring procedures such as sensitometric studies. Of these, ongoing studies of the retake rate (reject rate) and its causes are often the most useful and may also provide information of value in the first level of evaluation. Such studies can be used to evaluate potential for improvement, to make corrections, and to determine whether the corrective actions were effective. The number of rejects should be recorded daily or weekly, depending on the facility's analysis of its needs. Ideally, the reasons for the rejection should also be determined and recorded. Should determining these reasons be impossible on a regular basis with the available staff, the analysis should be done for a 2-week period after major changes have occurred in diagnostic procedures or the x-ray system and at least semi-annually.

(6) *Records.* The program should include provisions for the keeping of records on the results of the monitoring techniques, any difficulties detected, the corrective measures applied to these difficulties, and the effectiveness of these measures. The extent and form of these records should be determined by the facility on the basis of its needs. The facility should view these records as a tool for maintaining an effective quality assurance program and not view the data in them as an end in itself but rather as a beginning. For example, the records should be made available to vendors to help them provide better service. More importantly, the data should be the basis for the evaluation and the reviews suggested in paragraph (c)(5) and (10) of this section.

(7) *Manual.* A quality assurance manual should be written in a format permitting convenient revision as needed and should be made readily available to all personnel. The content of the manual should be determined by

the facility staff, but the following items are suggested as providing essential information:

(i) A list of the individuals responsible for monitoring and maintenance techniques.

(ii) A list of the parameters to be monitored and the frequency of monitoring.

(iii) A description of the standards, criteria of quality, or limits of acceptability that have been established for each of the parameters monitored.

(iv) A brief description of the procedures to be used for monitoring each parameter.

(v) A description of procedures to be followed when difficulties are detected to call these difficulties to the attention of those responsible for correcting them.

(vi) A list of the publications in which detailed instructions for monitoring and maintenance procedures can be found. Copies of these publications should also be readily available to the entire staff, but they should be separate from the manual. (Publications providing these instructions can usually be obtained from FDA or private sources, although the facility may wish to make some modifications to meet its needs more effectively.)

(vii) A list of the records, with sample forms, that the facility staff has decided should be kept. The facility staff should also determine and note in the manual the length of time each type of record should be kept before discarding.

(viii) A copy of each set of purchase specifications developed for new equipment and the results of the acceptance testing for that equipment.

(8) *Training.* The program should include provisions for appropriate training for all personnel with quality assurance responsibilities. This should include both training provided before the quality assurance responsibilities are assumed and continuing education to keep the personnel up-to-date. Practical experience with the techniques conducted under the supervision of experienced instructors, either in the facility or in a special program, is the most desirable type of training. The use of self-teaching materials can be an adequate substitute for supervised instruction, especially in continuing education programs, if supervised instruction is not available.

(9) *Committee.* A facility whose size would make it impractical for all staff members to meet for planning purposes should consider the establishment of a quality assurance committee whose primary function would be to maintain lines of communication among all groups with quality assurance and/or image production or interpretation

responsibilities. For maximum communication, all departments of the facility with x-ray equipment should be represented. The committee may also be assigned policy-making duties such as some or all of the following: Assign quality assurance responsibilities; maintain acceptable standards of quality; periodically review program effectiveness, etc. Alternatively, the duties of this committee could be assigned to an already-existing committee such as the Radiation Safety Committee. In smaller facilities, all staff members should participate in the committee's tasks. The Quality Assurance Committee should report directly to the head of the radiology department, or, in facilities where more than one department operates x-ray equipment, to the chief medical officer of the facility. The committee should meet on a regular basis.

(10) *Review.* The facility's quality assurance program should be reviewed by the Quality Assurance Committee and/or the practitioner in charge to determine whether its effectiveness could be improved. Items suggested for inclusion in the review include:

(i) The reports of the monitoring and maintenance techniques to ensure that they are being performed on schedule and effectively. These reports should be reviewed at least quarterly.

(ii) The monitoring and maintenance techniques and their schedules to ensure that they continue to be appropriate and in step with the latest developments in quality assurance. They should be made current at least annually.

(iii) The standards for image quality to ensure that they are consistent with the state-of-the-art and the needs and resources of the facility. These standards should be evaluated at least annually.

(iv) The results of the evaluations of the effectiveness of the quality assurance actions to determine whether changes need to be made. This determination should be made at least annually.

(v) The quality assurance manual should also be reviewed at least annually to determine whether revision is needed.

Effective date: This recommendation shall become effective December 11, 1979. However, interested persons may at any time submit written comments on the recommendation to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. The comments will be considered in determining whether further amendments to or revisions of the



recommendation are warranted. Comments should be in four copies (except that individuals may submit single copies), identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 356, 82 Stat. 1174-1175 (42 U.S.C. 263d))

Dated: December 4, 1979.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

(FR Doc. 79-37739 Filed 12-10-79; 8:45 am)

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Tuesday  
December 11, 1979

#### Part IV

### Department of Health, Education, and Welfare

Food and Drug Administration

National Environmental Policy Act;  
Proposed Policies and Procedures

Registered Federal



DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Food and Drug Administration

## 21 CFR Part 25

(Docket No. 79N-0335)

National Environmental Policy Act;  
Proposed Policies and ProceduresAGENCY: Food and Drug Administration.  
ACTION: Proposed Rule.

**SUMMARY:** The agency proposes policies and supplemental procedures for compliance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations. This proposal expands the environmental impact consideration regulations to include all programs administered by FDA and adopts in full the CEQ regulations.

**DATES:** Comments are due on or before February 11, 1980.

**ADDRESS:** Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Kenneth E. Taylor, Bureau of Veterinary Medicine (HFV-2), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4500.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of April 15, 1977 (43 FR 19986), the Food and Drug Administration (FDA) revised its rules governing the need and procedures for preparing environmental impact statements under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), and revised guidelines on such procedures issued by the Council on Environmental Quality (CEQ) in the Federal Register of August 1, 1973 (38 FR 20550).

This proposal, which was developed in consultation with the CEQ staff, revises the procedures FDA uses for implementing NEPA to comply with CEQ regulations (40 CFR Parts 1500-1508) published November 29, 1978 and effective July 30, 1979. This proposal includes procedures FDA will use for implementing NEPA in all its programs. Several FDA administrative and regulatory programs are categorically excluded from requirements to prepare an EIS (environmental impact statement). The term "EIS" (environmental impact analysis report), formerly used by FDA to identify a

document containing an analysis of proposed actions for potential environmental impacts, is replaced by the term "EA (environmental assessment)" as required by the CEQ regulations (40 CFR 1508.9). The new term refers to a document containing a similar environmental analysis of proposed actions. Other terms have been changed to conform with CEQ terminology.

A detailed explanation of this proposal is not being provided because the proposal responds to mandatory requirements established by the CEQ regulations. The CEQ regulations were subject to public review and comment. The following specific requirements of the CEQ regulations are addressed in this proposal:

1. 40 CFR 1501.2(d) requires that agencies provide guidance and advice sufficient to apply NEPA early in the process of actions planned by private applicants or other non-Federal entities. This proposed regulation, in general, provides necessary guidance to applicants and petitioners. (See, in particular, proposed 21 CFR 25.10(a), 25.22, 25.23, 25.24, 25.30, and 25.31.)

2. 40 CFR 1501.4(a), 1507.3(b), and 1508.4 require that agencies identify actions normally requiring the preparation of EIS's, those normally requiring the preparation of EA's, and those which normally do not require the preparation of either EIS's or EA's. (See proposed 21 CFR 25.20 through 25.24.)

3. 40 CFR 1502.9 requires that agencies adopt procedures for introducing supplemental EIS's into a formal administrative record, if such a record exists. (See proposed 21 CFR 25.42(d).)

4. 40 CFR 1505.1 requires that agencies adopt procedures to ensure that decisions are made in accordance with the policies and purposes of NEPA. (See proposed 21 CFR 25.40.)

5. 40 CFR 1506.8 requires that agencies explain where interested persons can obtain information or status reports on EIS's and other elements of the NEPA process. (See proposed 21 CFR 25.41(b) and 25.42(b).)

6. 40 CFR 1507.3 requires that agencies adopt procedures to implement the CEQ regulations, including procedures required by 40 CFR 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4 of the CEQ regulations.

Other sections of the CEQ regulations are addressed in this proposal to provide additional details on FDA's NEPA procedures and policy. Sections, such as the one on terminology (21 CFR 25.15), are provided to ensure that FDA procedures and requirements are clear. The requirements of FDA's present environmental regulations are treated

similarly in the proposal insofar as their being consistent with the CEQ regulations. In an effort to provide guidance for compliance with the regulations, the rationale for a number of requirements has been incorporated into the proposal.

Because the scope of this proposal includes each area now subject to the existing Part 25 and also provides terminology and supplemental procedures consistent with the CEQ regulations, which impose mandatory requirements for Federal agencies, FDA will follow the procedures required by this proposal pending publication of the final rule. The public (e.g., applicants and petitioners) are not obligated to follow this proposal until it is published as a final rule. However, in most cases the public may prefer to comply with the supplemental guidance and procedures provided in this proposal in addition to the binding CEQ regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055-1056 as amended (21 U.S.C. 371); the National Environmental Policy Act of 1969 (sec. 102(2)(C), 83 Stat. 853 (42 U.S.C. 4332)); 40 CFR 1500-1508 (43 FR 55978-56007); EO 11514 as amended by EO 11991; and EO 12114 of January 4, 1979; and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 25 be revised to read as follows:

PART 25—ENVIRONMENTAL IMPACT  
CONSIDERATIONS

## Subpart A—General Provisions

## Sec.

25.1 Purpose.

25.5 Policies.

25.10 NEPA planning.

25.15 Terminology.

Subpart B—Agency Actions Requiring  
Environmental Consideration

25.20 General procedures.

25.21 Actions requiring preparation of an environmental impact statement.

25.22 Actions requiring preparation of an environmental assessment.

25.23 Actions that are excluded from the requirement for the preparation of an environmental assessment.

25.24 Categorical exclusions.

25.25 Retroactive environmental consideration.

Subpart C—Preparation of Environmental  
Documents

25.30 Content and format.

25.31 Environmental assessment.

25.32 Finding of no significant impact.

25.33 Notice of intent.

25.34 Draft, final, and supplemental environmental impact statements.

## Subpart D—Agency Decisionmaking

## Sec.

25.40 Procedures for incorporating environmental considerations into agency decisionmaking.

25.41 Actions for which an environmental assessment and finding of no significant impact are prepared.

25.42 Actions for which an environmental impact statement is prepared.

## Subpart E—Other Requirements

25.50 Environmental effect abroad of major agency actions.

**Authority.**—Sec. 701, 52 Stat. 1055-1056 as amended (21 U.S.C. 371); sec. 102(2)(C), 83 Stat. 853 (42 U.S.C. 4332); 40 CFR Parts 1500-1508 (43 FR 55978-56007); Executive Order 11514 of March 4, 1970 (35 FR 4247) as amended by Executive Order 11991 of May 24, 1977; Executive Order 12144 of January 4, 1979.

## Subpart A—General Provisions

## § 25.1 Purpose.

(a) The Food and Drug Administration (FDA) recognizes the National Environmental Policy Act of 1969 (NEPA) as the national charter for protection, restoration, and enhancement of the environment. NEPA establishes policy, sets goals (section 101), and provides procedures (section 102) for carrying out the policy. This part supplements the regulations for implementing the procedural provisions of NEPA, which were published by the Council on Environmental Quality (CEQ) in 40 CFR Parts 1500-1508. This part incorporates the CEQ regulations.

(b) These supplemental procedures overlap with the CEQ regulations. The overlap is necessary to highlight items of importance for FDA. It is not intended that any overlap supersede the existing body of the CEQ regulations.

(c) These supplemental procedures provide that: (1) Environmental information is to be available to the public and the decisionmaker before decisions are made about actions that may significantly affect the human environment; (2) FDA regulatory actions are to be supported by accurate scientific analyses; (3) FDA-prepared environmental documents are to be available for public scrutiny; and (4) environmental documents are to concentrate on the issues that are timely and significant to the action in question rather than amassing needless detail.

(d) These supplemental procedures for implementing NEPA are intended to ensure that environmental consequences are considered in decisionmaking, as required by NEPA. They allow FDA to assist individuals and non-Federal public entities to take actions that protect and enhance environmental quality.

(e) to avoid delays in decisionmaking, these supplemental procedures made possible the early identification of actions that may have significant effects on the quality of the human environment.

## § 25.5 Policies.

All FDA policies and programs will be planned, developed, and implemented so as to achieve the policies declared by NEPA and to satisfy the requirements of the CEQ regulations to ensure responsible stewardship of the environment for present and future generations.

## § 25.10 NEPA planning.

(a) Environmental impact consideration is an integral part of FDA's regulatory process. The process begins when FDA receives an environmental assessment from an applicant or petitioner or when FDA personnel consult with applicants or petitioners requesting FDA action on the NEPA-related aspects of their request. FDA also may issue a public call for environmental data or otherwise consult with affected individuals or groups when a contemplated action in which it is or may be involved poses potentially significant environmental impacts. Assessment of environmental factors continues throughout planning and is integrated with other program planning at the earliest possible time. FDA's assessment of environmental factors included the identification of the environment that may be affected by the action, the evaluation of pertinent environmental data, and the consideration of alternatives consistent with 40 CFR 1502.14. The level of study committed to environmental factors is to be consistent with planning objectives.

(b) FDA will be the lead agency for actions under programs it administers. If an action affects more than one bureau, the Commissioner of Food and Drugs will designate one bureau to be responsible for the preparation of any environmental documentation that may be required. FDA, as lead agency, will coordinate the participation of all concerned agencies in developing an environmental impact statement according to provisions of 40 CFR 1501.6(a).

(c) FDA and Federal agencies outside HEW will agree which will be the lead agency and which will be the cooperating agencies for actions under programs not administered by FDA. If an agreement cannot be reached, the procedures contained in 40 CFR 1501.5(e) will be followed.

(d) FDA will act as a cooperating agency if requested. FDA may request to

be designated a cooperating agency if proposed actions may affect areas of FDA responsibility. FDA, as a cooperating agency, will comply with the requirements of 40 CFR 1501.6(b) to the extent possible, depending on priority and the availability of funds and personnel.

## § 25.15 Terminology.

(a) Definitions that apply to the terms used in this part are set forth in the CEQ regulations under 40 CFR Part 1508. The terms and the sections of the CEQ regulations in which they appear are as follows:

- (1) Categorical Exclusion (40 CFR 1508.4).
- (2) Cooperating Agency (40 CFR 1508.5).
- (3) Cumulative Impact (40 CFR 1508.7).
- (4) Effects (40 CFR 1508.8).
- (5) Environmental Assessment (40 CFR 1508.9).
- (6) Environmental Document (40 CFR 1508.10).
- (7) Environmental Impact Statement (40 CFR 1508.11).
- (8) Federal Agency (40 CFR 1508.12).
- (9) Finding of No Significant Impact (40 CFR 1508.13).
- (10) Human Environment (40 CFR 1508.14).
- (11) Lead Agency (40 CFR 1508.16).
- (12) Legislation (40 CFR 1508.17).
- (13) Major Federal Action (40 CFR 1508.18).
- (14) Mitigation (40 CFR 1508.20).
- (15) NEPA Process (40 CFR 1508.21).
- (16) Notice of Intent (40 CFR 1508.22).
- (17) Proposal (40 CFR 1508.23).
- (18) Scope (40 CFR 1508.25).
- (19) Significantly (40 CFR 1508.27).

(b) The following terms are defined solely for the purpose of implementing the supplemental procedures provided by this part and are not necessarily applicable to any other statutory or regulatory requirements:

(1) "Agency" means the U.S. Food and Drug Administration (FDA).

(2) "Emissions requirements" specifies the limits on the quantities of pollutants allowed to be released into the work place and the area outside a production site or facility. These requirements or standards are set and enforced by local, State, and Federal (e.g., Environmental Protection Agency, Occupational Safety and Health Administration) government components.

(3) "Frequency of use" means the number of times a product is used in a given period of time as specified by the directions for use or label of the product. "Continuous use" means the product is intended to be used without interruption on a daily basis or for extended periods of time. For example, directions for use for animal drugs and feed additives are often continuous and include those for the "control of" and "prevention of" diseases, "increased rate of weight gain," "growth promotion," "increased



feed efficiency," and "improved pigmentation." "Noncontinuous use" means the product is used only on an infrequent, interrupted, or unscheduled basis. For example, directions for use for animal drugs and feed additives are often noncontinuous and include those "for treatment of" or "for diagnosis of" diseases.

(4) "Mode of administration" means the condition under which the product is used. For animals, when the product is used after a few individuals in a herd or flock have been diagnosed and segregated for receiving the product, then the mode of administration is termed "individual basis." Products administered on an "individual basis" are generally marketed and used in small quantities, and the proportion of the population receiving the product is small. Other products are used, generally without diagnosis of individuals, on whole populations of animals. This mode of administration is termed "whole population." An example of a "whole population" product would be an anthelmintic drug (wormer) for swine, which is generally administered because it is probable that the animals are infected, even though they have not been diagnosed.

(5) "Production" includes manufacture, processing (including reprocessing), and packaging operations for items to be introduced into the marketplace.

(6) "Responsible agency official" means the agency decisionmaker designated in Part 5 of this chapter; the Commissioner of Food and Drugs or the Commissioner's designated representative.

(7) "Toxic substance" means any substance that is harmful to some biological mechanism or system. A substance is considered to be toxic if, based on the data available to the agency, it is harmful to any organism at expected environmental concentration even though it may be relatively harmless to man or other organisms and may even be used by man because of its toxic properties. A substance is considered to be toxic if the maximum concentration of the substance at any point in the environment (i.e., either at any point of entry or any point where higher concentrations are expected as a result of bioaccumulation or other types of concentration processes) exceeds the concentration of the substance that causes any effect in a test organism (minimum effect level) or exceeds 1/100 of the concentration that causes 50 percent mortality in a test organism, whichever concentration is less.

## Subpart B—Agency Actions Requiring Environmental Consideration

### § 25.20 General procedures.

(a) These procedures apply to all FDA actions that are not covered by environmental documents prepared under environmental regulations previously in effect.

(b) All agency actions are subject to environmental consideration. Actions are individually examined for potential environmental impact unless excluded as a class by categorical exclusions under § 25.24.

### § 25.21 Actions requiring preparation of an environmental impact statement.

(a) There are no categories of agency actions that usually have a significant impact upon the quality of the human environment and therefore would normally require the preparation of an environmental impact statement.

(b) Environmental impact statements are prepared for agency actions when:

(1) Evaluation of data in an environmental assessment leads to a finding by the responsible agency official that a proposed action will have a significant impact upon the quality of the human environment.

(2) Initial evaluation by the responsible agency official of any action, including any action for which an environmental assessment would otherwise be required, establishes that significant environmental effects may be associated with one or more of the courses of action being considered for proposal.

### § 25.22 Actions requiring preparation of an environmental assessment.

(a) Proposed actions of the types specified in this paragraph (a)(1) through (18) normally require the preparation of an environmental assessment, unless they qualify for categorical exclusion under §§ 25.23 and 25.24:

(1) Major recommendations or reports made to Congress on proposals for legislation in instances where the agency has primary responsibility for the subject matter involved.

(2) Destruction of articles condemned after seizure or whose distribution or use has been enjoined.

(3) Destruction of articles following detention or recall at agency request.

(4) Disposition of Food and Drug Administration (FDA) laboratory waste materials.

(5) Approval or issuance of licenses for biological products.

(6) Establishment by regulation of labeling or other requirements for marketing articles other than through

any of the other types of actions specified in this paragraph.

(7) Establishment by regulation of standards for articles.

(8) Approval of new drug and abbreviated new drug applications.

(9) Approval of new animal drug applications and supplements and amendments to new animal drug applications.

(10) Approval of requests to provide for certification of new antibiotic drugs (antibiotic form 5 or 6).

(11) Approval of food additive petitions.

(12) Approval of color additive petitions.

(13) Withdrawal of approval of drugs, Class III devices, food or color additives, and biological products.

(14) Amendments or exemptions with respect to existing regulations and approval of supplements to existing approvals.

(15) Establishment of tolerances or action levels for unavoidable poisonous or deleterious substances in food for human consumption or in packaging materials to be used for food for human consumption.

(16) Approval of premarketing approval applications or declaration that product development protocols have been completed for Class III medical devices.

(17) Actions other than those listed in paragraph (a)(1) through (16) of this section, except those subject to categorical exclusion under §§ 25.23 and 25.24, that could significantly affect the quality of the human environment.

(b) A person who submits an application or petition requesting action by the agency of a type specified in paragraph (a) of this section shall include an environmental assessment of the requested action in the format prescribed in § 25.31, unless the action qualifies for categorical exclusion under §§ 25.23 and 25.24. Failure to submit an adequate environmental assessment in an application or petition if one is required shall be sufficient grounds to refuse to accept or file the application or petition.

(c) A manufacturer, distributor, or dealer who proposes to destroy or otherwise dispose of a food, drug, cosmetic, device, or electronic product that has been condemned, detained, recalled, or whose distribution or use has been enjoined shall submit to the agency an environmental assessment in the format prescribed in § 25.31 analyzing the environmental impact of the proposed disposition of such article, unless the action qualifies for categorical exclusion under §§ 25.23 and 25.24.

(d) The responsible agency official will evaluate the information contained in the environmental assessment to determine whether it is accurate, whether the proposed action will have a significant effect on the quality of the human environment and whether an environmental impact statement (EIS) will be prepared. FDA is responsible for assuring the accuracy of the environmental assessment, as required by 40 CFR 1506.5(b). When significant effects requiring the preparation of an environmental impact statement are identified, a "Notice of Intent" to prepare an EIS will be published in the Federal Register. When significant effects requiring the preparation of an environmental impact statement are not present and the decision is made not to prepare an EIS, the responsible agency official will prepare a "Finding of No Significant Impact."

### § 25.23 Actions that are excluded from the requirement for the preparation of an environmental assessment.

(a) Actions of a type that individually or cumulatively have been determined under § 25.24 not to have a significant impact on the quality of the human environment do not normally require the preparation of an environmental impact statement. In extraordinary circumstances the preparation of an environmental assessment may be required under paragraph (b) of this section for specific actions.

(b) An environmental assessment will be required for any specific action, normally excluded, if there is sufficient evidence available to the agency to establish that the proposed action may have significant environmental effects.

(c) An applicant or petitioner requesting action of a type subject to categorical exclusion under § 25.24 is not required to submit an environmental assessment if the applicant or petitioner specifies the provision of this part that exempts the action from the requirement for an environmental assessment and provides information that establishes to the agency's satisfaction that the action requested is included within an excluded category and meets the criteria for the applicable categorical exclusion.

(d) If an applicant or petitioner fails to specify the provision of this part that exempts the action from the requirement for an environmental assessment or fails to provide sufficient information to establish that the requested action is subject to a categorical exclusion under § 25.24, the agency may refuse to accept or file the application or petition.

### § 25.24 Categorical exclusions.

(a) General actions belonging to any of the classes designated in paragraph (b) of this section as categorical exclusions normally do not require the preparation of an environmental assessment because, as a class, they will not result in the production or distribution of any substance and, therefore, will not result in the introduction of any substance into the environment. Actions belonging to any of the classes designated in paragraph (c) of this section as categorical exclusions normally do not require the preparation of an environmental assessment because, as a class, they are routine maintenance or minor construction activities conducted or contracted for by the Food and Drug Administration (FDA). Actions belonging to any of the classes designated in paragraph (d) of this section as categorical exclusions normally do not require the preparation of an environmental assessment because they meet specific criteria that are intended to ensure that they will not cause significant environmental effects.

(b) Actions of any of the following classes are categorically excluded:

(1) Routine administrative and management activities, including action on personnel matters; provision of legal services; conduct of public affairs activities, program evaluations, or inspections; issuance of field compliance programs, program circulars, as investigative field assignments.

(2) Recommendation for enforcement action to be initiated in a Federal court.

(3) Data processing and systems analysis.

(4) Liaison functions with other Federal, State, and local government agencies, foreign governments, the public, and industrial firms or organizations.

(5) Exchange of technical assistance with other Federal, State, and local government agencies, foreign governments, and the public.

(6) Promulgation of an interim food additive regulation.

(7) Extramural contracts, grants or other agreements for statistical and epidemiological studies, surveys and inventories, literature searches, and report and manual preparation, or any other studies meeting the criteria specified in paragraph (a) of this section;

(8) Training grants and contracts.

(9) Publication of notices in the Federal Register.

(10) Agency requests for the initiation of recalls.

(11) Activities of voluntary Federal-State cooperative programs, including

issuance of model regulations proposed for state adoption.

(12) Issuance of procedural or administrative regulations.

(13) Issuance, amendment, or repeal of standards for foods, class II devices, and radiological products or variances from standards for radiological products.

(14) Testing and certification of batches of colors, antibiotics, or insulin.

(15) Establishment of action levels for natural or unavoidable defects in food for human use that present no health hazard (pursuant to section 402(a) of the Federal Food, Drug, and Cosmetic Act).

(16) Changes in new drug applications (NDA) and new animal drug applications (NADA) described in §§ 314.8(a)(5) and 514.8(a)(5) of this chapter, respectively.

(17) Promulgation of regulations governing the submission of a "Notice of Claimed Investigational Exemption for New Drug" (IND), "Notice of Claimed Investigational Exemption for New Animal Drug" (INAD), or "Investigational Device Exemption" (IDE).

(18) Approval of an animal feed bearing or containing a drug approved under the provisions of § 514.2 of § 514.9 of this chapter.

(19) Device premarket notifications and submissions.

(20) Reclassification of devices under Subpart C of Part 860 of this chapter.

(21) License applications for transfusable blood and blood products.

(22) Corrections and technical changes to regulations, including those providing for certification of antibiotic and antibiotic-containing drugs.

(c) Actions of any of the following classes are categorically excluded:

(1) Repair to or replacement of equipment or structural components (door, roof, window, etc.) of facilities controlled by FDA.

(2) Lease extensions, renewals, or succeeding leases.

(3) Construction or lease construction of 10,000 square feet or less of occupiable space.

(4) Relocation of employees into existing owned or currently leased office space.

(d) Actions of any of the following classes are categorically excluded:

(1) Approval of an NADA or supplemental NADA for a previously approved animal drug of the following types if the drug product will not be administered at higher dosage levels, for longer duration or for different indications than were previously in effect; and, if data available to the agency do not establish that the substance may be toxic to organisms in



the environment at the expected level of exposure:

- (i) An animal drug to be distributed under conditions of approval of a previously approved animal drug;
- (ii) A combination of previously approved animal drugs;
- (iii) A new premix for a previously approved animal drug;
- (iv) Changes specified in § 514.8(d) of this chapter; and
- (v) Approval for additional distributors of a previously approved animal drug.

(2) Withdrawal of NDA's and NADA's when the drug is no longer being marketed or at the request of the application holder.

(3) Promulgation of an animal drug monograph if the monograph will not permit the animal drug that is the subject of the monograph to be administered at higher dosage levels, for longer duration, or for significantly different indications that were previously in effect.

(4) Approval of a request for diversion of adulterated or misbranded human food or animal feed to use as animal feed if such disposition of the article, including packaging material, will not result in the release of a toxic substance into the environment.

(5) Approval of a color additive petition to change a provisional listing to permanent listing if the additive is already marketed for the petitioned use and data available to the agency do not establish that it may be toxic to organisms in the environment at the expected levels of exposure.

(6) Affirmation of or approval of a petition for affirmation that a substance is generally recognized as safe (GRAS) for humans and animals under Part 182, 184, or 582 of this chapter if the substance is already marketed for the use for which affirmation is sought and data available to the agency do not establish that the substance may be toxic to organisms in the environment at the expected levels of exposure.

(7) Promulgation of regulations relating to the control of communicable disease and to interstate conveyance sanitation under:

(i) Part 1240 of this chapter if the method of destruction or disposition of any article, including packaging material, does not result in the release of a toxic substance into the environment; or

(ii) Part 1250 of this chapter.

(8) Approval of a supplement or amendment to an NDA for any of the types of changes specified in § 314.8(d) of this chapter if the proposed approval provides that the drug will not be administered at higher dosage levels, for

longer duration, or for different indications than were previously in effect.

(9) Promulgation of a monograph for a "not new" drug, antibiotic drug, over-the-counter (OTC) drug, or in vitro diagnostic product if the proposed monograph will not permit the article to be administered at higher dosage levels, for longer duration, or for significantly different indications than were previously in effect.

(10) Promulgation of additional standards for licensed biological products or amendment to licenses for biological products if there is no change in the existing levels of use or intended uses for the product.

(11) Destruction or disposal of articles condemned after seizure or whose distribution or use has been enjoined or following detention or recall at agency request if the method of destruction or disposition of any article, including packaging material, will not result in the release of a toxic substance into the environment.

(12) Promulgation of current good manufacturing practices regulations (CGMPR's), emergency permit control regulations, and permits, exemptions, or variances issued under these regulations if there is no change in the existing uses of the product and if there is no increase in the quantities or toxicity of wastes entering the environment as a direct or indirect result of the action.

(13) Establishment by regulation of labeling requirements for marketing articles if there will be no increase in the existing levels of use or change in the intended uses of the product or its substitutes.

(14) Promulgation of good laboratory practice (GLP) regulations if there is no increase in the quantities or toxicity of wastes entering the environment as a direct or indirect result of the action.

(15) Action on a "Notice of Claimed Investigational Exemption for New Drug" (IND), "Notice of Claimed Investigational Exemption for New Animal Drug" (INAD), or "Investigational Device Exemption" (IDE) if the drug or device shipped under such notices is intended to be used for clinical studies or research in which waste will be controlled or the amount of waste be expected to enter the environment may reasonably be expected to be nontoxic.

(16) Extramural contracts, grants, and other agreements for research to develop analytical methods or other test methodologies if the waste from such research will be controlled or the amount of waste expected to enter the environment may reasonably be expected to be nontoxic.

#### § 25.25 Retroactive environmental consideration.

(a) The need for preparing an environmental impact statement for existing regulations or approvals of any of the types specified in §§ 25.21 through 25.24 that have not previously received environmental analysis shall be considered when such consideration is necessary to the consideration of the environmental effects of an amendment, supplement, or exemption proposed with respect to such a regulation or approval. Environmental documents prepared on existing regulations under this paragraph may govern classes of existing regulations as well as existing individual regulations. For existing regulations or approvals for which an amendment, supplement, exemption, or any other action based on existing approvals is proposed:

(1) The current applicant or petitioner shall submit an environmental assessment as described by § 25.31 with respect to the existing regulation or approval if notified by the agency in writing that one is required.

(2) Any applicant or petitioner who initiated the existing regulation, if different from the current applicant of petitioner, and other persons governed by such regulations or approvals shall submit an environmental assessment as described by § 25.31 with respect to the existing regulation or approval if notified by the agency in writing that one is required.

(b) The need for preparing an environmental impact statement for existing regulations or approvals of any of the types specified in §§ 25.21 through 25.24, whether or not previously subject to environmental analysis, may be considered by the agency when an amendment, supplement, or exemption is proposed with respect to such regulation or approval or there is new information before the agency with respect to the environmental effects of such regulation or approval.

#### Subpart C—Preparation of Environmental Documents

##### § 25.30 Content and format.

(a) Sections 25.31 through 25.34 describe the environmental documents that may be required in the course of the agency's consideration of the environmental aspects of an action, their purpose, contents and format, and the relationships of these documents to each other. Additional information concerning the nature and scope of information required to be submitted in environmental documents by an applicant or petitioner may be obtained from the bureau or other office of the

agency having responsibility for the action that is the subject of the environmental evaluation.

(b) Data and information that are protected from disclosure by 18 U.S.C. 1905 or 21 U.S.C. 331(j) shall not be included in environmental documents prepared under this Part 25. When pertinent to the environmental review of a proposed action, such information shall be submitted separately as a confidential section of the application or petition. Such information shall be referenced in the environmental document and summarized there to the extent permissible.

##### § 25.31 Environmental assessment.

(a) As defined by the Council on Environmental Quality (CEQ) in 40 CFR 1508.9, the environmental assessment is the public document in which the agency evaluates environmental and other pertinent information on a proposed action for the purpose of determining whether to prepare an environmental impact statement or a finding of no significant impact.

(b) An environmental assessment shall be prepared in the following format:

##### Environmental Assessment

1. Date:
2. Name of applicant/petitioner:
3. Address:
4. Description of the proposed actions: Briefly describe the purpose and need for the action, the locations where the action and activities consequent to the action will occur, and the types of environments present at those locations.
5. Introduction of substances into the environment: Specify to the extent possible the quantities and composition of substances expected to enter the environment at the sites of production, use, and/or disposal of products affected by the action. The physical/chemical characteristics, locations and duration of emissions, the controls exercised, and a citation of and statement of compliance with applicable emissions requirements at the state, local and Federal level should be specified.
6. Fate of emitted substances in the environment: "Worst case" environmental concentrations and exposures to compounds entering the environment as a consequence (direct or indirect) of the action shall be predicted for the following environmental compartments, including when possible the area (e.g., square miles, hectares, etc.) of each compartment affected, and consideration of the major environmental transport and transformation processes involved:

- (a) Air—taking into account volatilization, photochemical and chemical degradation, rainout, dispersion, etc., to the extent possible;
- (b) Freshwater, estuarine, and marine ecosystems—taking into account chemical and biodegradation; exchange between the water column and sediments via adsorption/

desorption processes; accumulation in plantlife, plankton, and fish through bioconcentration, excretion, and decomposition processes; introductions due to rainfall; losses due to volatilization, etc.;

(c) Terrestrial ecosystems—taking into account chemical and biodegradation, adsorption/desorption and leaching in soils, bioaccumulation in animal and plantlife, inputs due to rainfall, losses due to volatilization, etc.

7. Effects on the environment of released substances: Given the information developed on the introduction (item 5) and fate (item 6) of substances which would be released as a consequence of an action, relevant toxicological data, worst case analyses, or other appropriate methods shall be used to predict effects, including chronic and subchronic effects on humans and other organisms and ecosystem-level effects in each of the environmental compartments listed in item 6.

8. Utilization of natural resources and energy: Specify the natural resources, including land use and energy, used to produce a given amount of any products which are the subject of the action, including the resources and energy used to dispose of wastes generated, as a consequence of the production, use, and/or disposal of the product.

9. Disruptions of the physical environment: Describe any noise, odors, construction, or other disruptions associated directly or indirectly with the action.

10. Mitigation measures: Describe measures taken to avoid or mitigate potential adverse environmental effects associated with the proposed action.

11. Alternatives to the proposed action: If potential adverse environmental effects have been identified for the proposed action, describe in detail the environmental impact of all reasonable alternatives (including no action) to the proposed action, particularly those that will enhance the quality of the environment and avoid some or all of the adverse environmental effects of the proposed action. Discuss in detail the environmental benefits and risks of each such alternative.

12. List of preparers: Those persons preparing the assessment and their areas of expertise shall be presented. Persons and agencies consulted and their areas of expertise shall also be listed.

13. Certification: The undersigned official certifies that the information presented is true, accurate, and complete to the best of the knowledge of the firm or agency responsible for preparation of the environmental assessment.

(Date)

(Signature of responsible official)

(Title)

14. References: List complete citations for all referenced material. Copies of referenced articles not generally available should be attached.

15. Appendices: (a) Data summary charts (e.g., structural formula, vapor pressure,

water solubility, octanol/water partition coefficient, biodegradation LC<sub>50</sub> half-life for each species tested, etc.)

(b) Test reports (for each experiment: research objective, experimental design and procedure, all data relevant to interpretation of the test result given in item 15(a), sample calculations, and statistical analyses).

(c) Wherever consistent with a reasonable scientific approach, the existing scientific and engineering literature, chemical/physical properties of the substances released, the levels of production (environmental introduction) and any other existing knowledge shall be used, in lieu of conducting additional environmental impact studies. Where such studies are required to predict the potential environmental impacts associated with a proposed action, applicants and petitioners should consult with the agency to determine the most efficient, scientifically sound approach to gather the needed information.

(d) To the extent possible, the environmental impacts associated with the entire production-use-disposal cycle (raw materials to final product to disposal) of the product(s) which is the subject of a requested action should be addressed. When the petitioner or agency responsible for supplying information required in the environmental assessment has no direct control over some aspect of the production-use-disposal cycle, it will often not be possible to directly measure the environmental effects associated with those aspects. In those cases, the scientific and engineering literature may be used to develop a worst case analysis as the basis for predicting potential environmental effects of the proposal under 40 CFR 1502.22.

(e) The agency has determined that, for the following actions, only the factors specified in this paragraph are required to be assessed in items 5, 6, and 7 of the environmental assessment. Agency evaluation of these data may require that additional environmental information applicable to items 5, 6, or 7 of the environmental assessment be gathered and assessed.

(1) For the approval of NADA's and supplements and amendments to NADA's for animal drugs intended for use under prescription or veterinarian's order, for treatment of a disease, for use in nonfood animals, for ophthalmic or topical application, for local or general anesthesia, or as in vitro diagnostics, the following factors are required to be assessed:

(i) The expected environmental concentrations of the product, its metabolites and degradation products resulting from the use of the product



based on the frequency of use, mode of administration, and availability of the product; and

(ii) Environmental impacts that are expected to occur at the site of production of the product.

(2) For the approval of food additive petitions for substances to be used as minor constituents of food-packaging material, the following factors are required to be assessed:

(i) Whether the substance, in the quantities that will enter the environment through use and disposal, estimated by a worst-case analysis, may reasonably be expected to be a toxic substance;

(ii) Whether the substance will materially change the potential uses or disposal methods of the packaging material to which it is added;

(iii) Whether the substance is for the same use as another additive already in use; and

(iv) The environmental impacts that are expected to occur at the site(s) of production of the food additive and the packaging material.

(3) For approval of food additives to be used as components of food-contact surfaces of permanent or semipermanent equipment or of other food-contact articles intended for repeated use, the following factors are required to be assessed:

(i) Whether the substance, in the quantities that will enter the environment through use and disposal, estimated by a worst case analysis, may reasonably be expected to be a toxic substance; and

(ii) The environmental impacts that are expected to occur at the site of production.

(4) For approval of NDA's for human drugs intended for use for the prevention, treatment, or diagnosis of a rare disease or for a similarly infrequent use; for ophthalmic or topical application; or for local or general anesthesia, the following factors are required to be assessed:

(i) The expected environmental concentrations of the product, its metabolites, and degradation products resulting from the use of the product based on the frequency of use, mode of administration, and availability of the product; and

(ii) Environmental impacts that are expected to occur at the site of production of the drug product.

(5) For approval of licenses for biological products intended for the prevention, treatment, or diagnosis of a rare disease or for a similarly infrequent use, the following factors are required to be assessed:

(i) The expected environmental concentrations of the product, its metabolites and degradation products resulting from the use of the product based on the frequency of use, mode of administration, and availability of the product; and

(ii) Environmental impacts that are expected to occur at the site of production of the product.

(6) When the agency approves or issues, for a substance that occurs naturally in the environment, an NDA, abbreviated or supplemental NDA, NADA, supplemental NADA, food or color additive petition, or biological product license, the following factors are required to be assessed:

(i) Whether the substance, its metabolites, degradation products, and its constituent parts may reasonably be considered to be a toxic substance in the amounts used;

(ii) Whether the use of the substance can reasonably be expected on the basis of all available evidence to alter significantly the prevalence and/or distribution of the substance, its metabolites, degradation products, or its constituent parts in the environment; and

(iii) Environmental impacts that are expected to occur at the site of production of the product.

(7) For withdrawal of approval of drugs, class III devices, animal drugs, food or color additives, and biological products, the following factors are required to be assessed:

(i) Whether there are substitute products or components for the restricted article; and

(ii) The environmental impact of increased use of any substitutes for the restricted article which have not been considered for their potential environmental impacts or have been previously considered by the agency and found to cause significant environmental effects.

(8) For approval or issuance by the agency of an NDA, abbreviated and supplemental NDA, NADA, supplemental NADA, food or color additive petition, or biological product license for a regulated product that has received approval from the Environmental Protection Agency (EPA) under section 4 or 5 of the Toxic Substances Control Act (TSCA) or under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or its amendments for a use similar to that proposed under the Federal Food, Drug, and Cosmetic Act, the following information is required:

(i) A brief description and summary of results of each study submitted to EPA for review under TSCA or FIFRA;

(ii) An adequate explanation of the basis for the environmental review performed by EPA being accepted as sufficient to cover the environmental impact(s) resulting from the production, use, and disposal of the product for its proposed use regulated by FDA; and

(iii) A description of any potential environmental impacts determined to be adverse by EPA and how these are to be mitigated.

(9) For extramural contracts, grants, or other agreements subject to environmental assessment, specific information requirements will be provided in subsequent guidelines made available to prospective contractors and grantees.

#### § 25.32 Finding of no significant impact.

(a) As defined by the Council on Environmental Quality regulation (40 CFR 1508.13), this document includes the environmental assessment and a finding that the action is one that "will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared."

(b) The finding of no significant impact will be prepared by the agency as appropriate for all proposed actions, including those for which an applicant or petitioner has prepared the environmental assessment.

(c) The finding of no significant impact will evaluate the information presented in the environmental assessment for potential environmental impacts, for its accuracy, and to identify any unknowns which remain. If the environmental assessment has been prepared by an applicant or petitioner, the agency may choose to include further evidence of its own in the finding of no significant impact.

(d) The agency official responsible for the preparation and approval of the finding of no significant impact will sign the document, thereby establishing that the official approves the conclusion not to prepare an environmental impact statement for the action under consideration.

#### § 25.33 Notice of intent.

(a) As defined by the Council on Environmental Quality regulation (40 CFR 1508.22), the "Notice of Intent" notifies the public that the agency has determined that an environmental impact statement (EIS) will be prepared. This determination may occur after evaluation of the information contained in an environmental assessment or if other information available to the agency indicates that potentially significant effects may be associated with a proposed action.

(b) As required by 40 CFR 1508.22, the "Notice of Intent" will describe the proposed action, possible alternatives, the agency's proposed scoping process (which may include a request for information or suggestions regarding the scope of the EIS and notice of public meetings), and the identification of persons within the agency to contact for further information.

#### § 25.34 Draft, final, and supplemental impact statements.

(a) The Council on Environmental Quality (CEQ) regulations (40 CFR Part 1502) provide detailed requirements for the preparation of environmental impact statements (EIS).

(b) The format recommended by CEQ for EIS's (40 CFR 1502.10) will be followed unless "the agency determines that there is a compelling reason to do otherwise."

(c) When chemical substances enter the environment as a result of a proposed action or other alternatives, the portion of the EIS format "Environmental Consequences" (40 CFR 1502.10(g)) will include discussions of the routes of environmental fate and effects of those substances similar to that described in § 25.31.

(d) Final EIS's will contain revisions and corrections resulting from comment or additional information gathered by the agency subsequent to the publication of the draft EIS and will contain the comments received on the draft and agency responses as required in 40 CFR Part 1503.

(e) Supplemental EIS's will conform to the EIS format (40 CFR 1502.10) when this is consistent with the concise presentation of changes, revisions, or clarification of issues raised after the publication of a final EIS.

#### Subpart D—Agency Decisionmaking

##### § 25.40 Procedures for incorporating environmental considerations into agency decisionmaking.

(a) These procedures are to ensure that environmental information is provided to decisionmakers in a timely manner. The National Environmental Policy Act of 1969 (NEPA) process is an integral part of the Food and Drug Administration (FDA) decisionmaking (Fig. 1):

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draft EIS is available upon request, and soliciting comments by all interested persons.

(iv) Comments will be solicited from Federal agencies having jurisdiction by law or special expertise with respect to the environmental impact of a proposed action by sending them a copy of a draft EIS.

(v) All comments on draft EIS's are required to be submitted in five copies to the Hearing Clerk (HFA-305), Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, where they will be available for public inspection from 9 a.m. to 4 p.m., Monday through Friday.

(vi) Draft EIS's will be prepared, forwarded to EPA, and made available to the public early enough in the consideration of the proposed action to permit meaningful review of the environmental issues involved. Except in emergencies, no final action will be taken on the proposal earlier than 90 days after a draft environmental impact statement has been prepared, forwarded to EPA, and made available to the public.

(4) The final text of an EIS will be prepared by the responsible agency official after comments on the draft statement have been reviewed and will receive full consideration in the agency's decisionmaking process. The responsible agency official will forward 10 copies of the final statement to the Office of the Secretary and 5 copies to EPA, and copies of the final statement will be made available for public inspection in the FDA Hearing Clerk's office. Copies of each final EIS will be forwarded to those persons who requested or submitted comments on the pertinent draft statements and upon request.

(5)(i) The weighing of environmental factors in choosing a final course of action, as described in paragraph (a) of this section, will be reflected in the agency record of formal decisionmaking as required by 40 CFR 1505.2.

(ii) Except in emergencies, no agency action will be effective earlier than 30 days after the final statement has been forwarded to EPA and made available by FDA for public inspection. Where the subject of a final statement is also the subject of a regulation published in the Federal Register, this requirement may be met by simultaneous publication of a notice of availability of the final statement and the regulation, provided the regulation becomes effective at least 30 days after the date of publication.

(iii) Where the subject of an EIS is an FDA action governed by specific time requirements under statute or

regulation, those time requirements shall be extended, if at all, only as long as necessary to permit the agency to consider or issue an EIS for the action.

(c) As described in 40 CFR 1505.3, the agency may provide for monitoring to ensure that its decisions, any mitigating measures, and other conditions are carried out.

(d) Under the conditions prescribed in 40 CFR 1502.9(c), the agency will prepare a supplement for a draft or final EIS and introduce the supplement into its formal administrative record.

(e)(1) The responsible agency official designated in Part 5 of this chapter ensures that there will be a balancing of environmental impacts with objectives of the agency in choosing an appropriate course of action and that the public is involved and notified of the decision, as described in paragraphs (a) through (d) of this section.

(2) The Office of the Commissioner is responsible for preparing a draft or final EIS on actions not delegated by the Commissioner.

(3) The director of each bureau is responsible for preparing a draft or final EIS on actions delegated to that bureau by the Commissioner under Subpart B of Part 5 of the chapter.

(4) The Executive Director for Regional Operations is responsible for preparing a draft or final EIS on the destruction of articles condemned after seizure, subject to an injunction, under import detention, or under detention or recalled at agency request.

#### Subpart E—Other Requirements

##### § 25.50 Environmental effects abroad of major Federal actions.

(a) In accordance with Executive Order 12114 "Environmental Effects Abroad of Major Federal Actions" of January 4, 1979 (44 FR 1957; January 9, 1979), the responsible agency official shall analyze actions under his/her program delegation authority giving due regard for the environmental effects abroad of such actions. The responsible agency official shall consider whether such actions involve:

(1) Potential environmental effects on the global commons (e.g., oceans and the upper atmosphere).

(2) Potential environmental effects on a foreign nation not participating with or otherwise involved in Food and Drug Administration activity.

(3) The export of products (or emissions) which in the United States are prohibited or strictly regulated because their effects on the environment create a serious public health risk.

(4) Potential environmental effects on natural and ecological resources of global importance.

(b) Before deciding on any action falling into the categories specified in paragraph (a) of this section, the responsible agency official shall determine whether such actions may have a significant environmental effect abroad.

(c) If the responsible agency official determines that an action may have a significant environmental effect abroad, the responsible agency official shall determine whether the subject action requires:

(1) An environmental impact statement; or

(2) Bilateral or multilateral environmental study and review of environmental issues.

Interested persons may, on or before February 11, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 29, 1979.

Joseph P. Hile,  
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-37741 Filed 12-10-79; 8:45 am]  
BILLING CODE 4110-03-M

Tuesday  
December 11, 1979

## Part V

# Department of Health, Education, and Welfare

Public Health Service

Health Systems Agency and State  
Agency Reviews of the Appropriateness  
of Existing Institutional Health Services;  
Final Regulations

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DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Public Health Service

## 42 CFR Parts 122 and 123

Health Systems Agency and State  
Agency Reviews of the  
Appropriateness of Existing  
Institutional Health Services

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

**SUMMARY:** These regulations set forth the requirements for the review of the appropriateness of existing institutional health services by health systems agencies (Part 122, Subpart F) and State health planning and development agencies (Part 123, Subpart G). These reviews are required by sections 1513(g) and 1523(a)(6) of the Public Health Service Act and are intended to result in careful reviews by these agencies of all existing institutional health services, public findings as to the appropriateness of each service, and recommendations for remedial action when a service is found inappropriate.

EFFECTIVE DATE: December 11, 1979.

## FOR FURTHER INFORMATION CONTACT:

Colin C. Rorrie, Jr., Ph.D., Acting Director, Bureau of Health Planning, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436-6850.

**SUPPLEMENTARY INFORMATION:** On May 16, 1978, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (43 FR 21274-82), proposing to amend 42 CFR Part 122 and 42 CFR Part 123. That Notice set forth proposed regulations governing health systems agency and State health planning and development agency reviews of the appropriateness of existing institutional health services. These reviews are required by sections 1513(g) and 1523(a)(6) of the Public Health Service Act and are intended to result in careful reviews by these agencies of all existing institutional health services, public findings as to the appropriateness of each service, and recommendations for remedial action when a service is found inappropriate. Interested persons were invited to submit written comments, suggestions, or objections on or before June 30, 1978. Because of the interest raised by the proposed rules and numerous requests to allow more time for review, the comment period was reopened on August 1, 1978, for an additional 30 days. By the August 31 deadline, a total of 216 comments were received. All comments were considered in developing these final regulations.

These regulations include several changes based on the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96-79). There are a number of technical changes regarding reviews of HMO services based on a revised definition of "institutional health services," and changes to the review criteria at § 122.607. Changes to the required review procedures resulting from the amendments are not being made at this time. Planning agencies are to use the procedures prescribed in these regulations, which reflect the Act prior to the amendments. The Secretary will issue proposed regulations for the necessary revisions to procedures in the near future. Furthermore, the Secretary wishes to point out that other changes in appropriateness reviews required by the amendments are effective one year from the enactment of the amendments; proposed regulations or guidance, as required, will be issued before that time.

Because of the similarity in the content and structure of Subpart F, Part 122, and Subpart G, Part 123, many individual comments addressed points included in both subparts or raised questions regarding aspects of one subpart which affect aspects of the other. This Preamble is organized to reflect this parallel structure. The first part of the Preamble includes general comments and those specific comments which are not readily encompassed in the discussion of the particular sections. The second part includes comments specific to particular sections of the proposed regulation. The comments received, the Department's responses, and the changes that have been made in the regulations are discussed below.

## Comments of a General Nature

Many commenters objected to the implication that appropriateness reviews may serve a regulatory function. Some maintained that any sanctions imposed as a result of State health planning and development agency ("State Agency") findings would be counter to Congressional intent, and should be prohibited. Others expressed concern that a finding of inappropriateness would amount to an implicit sanction, creating financial hardships for many providers. One commenter felt that since appropriateness reviews are very similar to reviews of new institutional health services, providers might assume that the same sanctions apply.

On the other hand, several commenters felt that without sanctions, appropriateness reviews would have only limited impact, because agencies

would not be able to enforce recommendations for remedial action.

To clarify this issue, the Secretary calls attention to the evolution of the concept of appropriateness review as reflected in the legislative history of Pub. L. 93-641 which enacted Title XV of the Act. The function of periodically reviewing existing institutional health services developed from a review combined with recertification authority, to a periodic determination as to the continuing need for a service (with sanctions not required), to the present requirement for periodic reviews of services as to their "appropriateness." While the required application of sanctions was dropped as the legislation evolved, there is no indication that Congress wished to prohibit agencies from considering sanctions. In fact, as stated in the Report of the House Committee on Interstate and Foreign Commerce on this legislation:

The Committee has not required any sanction related to these reviews which would require that unneeded existing institutional health services be eliminated or closed. However, were a State to decide on its own initiative to create such a sanction the Committee would of course have no objection to this. The Committee did indicate its intent to consider requiring such a sanction at a later date. (H.R. Rep. No. 93-1382, 93d Cong. 2d Sess., Sept. 26, 1974, p. 79.)

Thus, the intent of Congress with respect to sanctions based on these reviews is clear: Sanctions are not required, but neither are they prohibited. Accordingly, the Secretary is not requiring the imposition of sanctions based on State Agency findings from an appropriateness review, nor is he prohibiting sanctions. He expects, however, that planning agencies will be extremely cautious in considering them.

The Secretary is concerned that there has been too much emphasis on the possible negative outcomes of appropriateness reviews. He sees these reviews as an excellent and exciting opportunity for providers and health planners to assess cooperatively the current health system and to make changes that can benefit the community. These reviews should not only address areas of excess and duplication but should also identify areas needing additional or improved services.

Several commenters felt that planning agencies would react in an arbitrary and capricious manner to a finding of inappropriateness. The Secretary points out that criteria developed with public input are used in making appropriateness review recommendations and findings and that these regulations contain procedural

safeguards which should help ensure an open and fair process.

Many commenters endorsed either linking appropriateness reviews to, or having these reviews replace, other project reviews, such as certificate of need reviews. The nature of appropriateness reviews differs from the other project reviews in that it is initiated by the planning agencies and may involve a service as it is provided in a number of facilities. In addition, appropriateness reviews are concerned only with existing institutional health services, whereas certificate of need reviews are concerned with proposed new institutional health services. Consequently, it may be overly burdensome to require the integration or coordination of reviews, and the Secretary has chosen not to require it. Nevertheless, where the regulatory and statutory provisions are satisfied, he would not object to having one review serve more than one purpose. The Secretary agrees with the commenter who suggested that the procedures and criteria developed for the various types of reviews should be largely in agreement, and, to the extent feasible, the same. He has therefore specified, where appropriate, minimal procedural requirements and considerations for criteria which are similar to those required for other types of reviews.

Several commenters objected to or asked for clarification of the phrase in the Preamble of the NPRM which indicated that appropriateness reviews "bridge the gap between planning and regulation." HSAs have no formal regulatory authority. Their responsibilities are limited in reviews of both proposed and existing institutional health services to making recommendations to the appropriate State Agency, which is then authorized to issue a certificate of need or make a finding, depending on the review performed. Because of the Act's emphasis on and the Secretary's endorsement of locally based health planning, it is expected that State Agency determinations will conform in most cases to the HSA's recommendations. These regulations therefore require the State Agency to justify any finding which is inconsistent with an HSA's recommendation, and enable the HSA to appeal any such State Agency finding.

Appropriateness reviews can be a valuable and logical extension of the health planning process. Through the process of using health plans as the basis for regulatory decisions, and using the results of reviews to aid in the development of better plans, planning

agencies will have two effective tools, each complementing the other, for having a positive influence on the health care system. This process of adjustment and modification can be as effective in reviews of existing services, even without explicit sanctions, as are reviews of new services with sanctions.

The Secretary noted in the Preamble to the proposed rules that he was concerned that the appropriateness review workload was "potentially enormous" and that therefore he was proposing regulations which would "permit the gradual assumption of this function in accordance with agency capabilities." Commenters suggested that this be accomplished in the following ways: (1) To allow HSAs more than three years after full designation to complete their reviews; (2) not require all existing institutional health services to be reviewed in three years; and (3) exclude some HSAs, e.g., minimally funded agencies, from the three year requirement. The Secretary is unable to accept any of these recommendations because the Act requires that HSAs complete appropriateness reviews of all existing institutional health services within three years of their initial full designation.

To assist agencies, the Department has issued technical assistance documents on conducting appropriateness reviews, including recommended criteria and procedures for these reviews. These documents are available from the National Health Planning Information Center, 3700 East-West Highway, Hyattsville, Maryland 20782. In addition, the Department will issue further guidance on the development of these reviews, including recommendations on how appropriateness reviews of some institutional services may be conducted in more detail than those of other services. The Secretary understands the need to emphasize appropriateness reviews of acute care services, given the general excess of hospital beds in this country and the proliferation of expensive medical equipment. This approach is consistent with the resource standards of the National Guidelines for Health Planning issued on March 28, 1978. (See 43 FR 13040-13050).

One commenter noted that HSAs are being asked to assume other new responsibilities, such as the review of proposed uses of certain Federal funds, at the same time as appropriateness reviews and was concerned that the possibility of funding cutbacks might further lessen the capability of HSAs to perform reviews. HSAs have known for some time that both of these functions

must be performed, and many HSAs have begun preparations for them. In addition, the conduct of appropriateness reviews is a statutory requirement; thus, the Secretary has no authority to delete it. The Secretary also notes that appropriation levels for the HSAs have risen in the last few years and he does not expect them to be reduced.

Several commenters noted the problems the HSAs have experienced in completing acceptable Health Systems Plans ("HSPs") and wondered how it is reasonable to expect such agencies to succeed in accomplishing quality appropriateness reviews. The Report of the House Committee on Interstate and Foreign Commerce (H.R. Rep. No. 93-1382, cited above, at p. 65) that accompanied the National Health Planning and Resources Development Act of 1974 noted that, "Good planning cannot be accomplished without an analysis of community needs, and how what it has already compares with those needs \* \* \* either excesses or deficiencies \* \* \*". The Secretary sees the appropriateness review function as integrally tied to the plan development function of each HSA. As the HSPs and Annual Implementation Plans ("AIPs") described more specifically resource needs and deficiencies, appropriateness reviews will become less burdensome. Departmental staff have noted that a number of initial HSPs have incorporated appropriateness reviews of some institutional health services.

One commenter recommended that the work program require specific information on the budget and staff resources to be used for appropriateness reviews. While the Secretary intends to monitor carefully the use of resources for this function, he feels that such a requirement would constitute overregulation of HSAs.

Some commenters were concerned about the apparent lack of experience of health planners in the delivery of health services, and the lack of information available to make reasoned judgments in areas such as pediatric services. The Secretary believes that judgments can be made by those who have not directly participated in the delivery of a service. In addition, providers of services and consumers are on project review and plan development committees of most HSAs. The Secretary believes that the professional expertise present in these committees will benefit the appropriateness review process. Additionally, appropriateness reviews, as well as other HSA activities, are conducted through a process in which the public, including health providers, is invited to participate. The Department



has issued detailed guidelines on the acquisition, analysis, use and development of data for health planning. The Secretary believes, therefore, that with consumer and provider involvement and with technical assistance from the Department, planning agencies can make fair and technically accurate findings on the appropriateness of services.

Many comments addressed the impact of appropriateness review on the providers of institutional health services. One commenter was concerned about the impact of reviews on the ability of providers to plan long term capital investments which might be judged inappropriate over the short range. This concern had been brought to the attention of Congress during hearings on the bills which were to become Pub. L. 93-641, and to the attention of the Department during the initial phases of developing these regulations. While the Secretary understands this concern, there is a statutory mandate for the conduct of these reviews. The Secretary encourages State Agencies, HSAs, and providers of institutional health services to work together in planning new services and the expansion of existing institutional health services to assure that they are needed by the residents of the health service area and the State and that they will be appropriate over the short range or immediate planning horizon. This does not guarantee that the emergence of new technology or unforeseen changes in demographics will not cause the service to be inappropriate at some future date.

Several commenters expressed concern that findings of inappropriateness would deter institutions from expanding. Appropriateness reviews are not intended to duplicate the activities of existing licensing and accreditation organizations. If a determination is made that the provision of that service is inappropriate for a particular institution, it might be inconsistent to grant a certificate of need or approve reimbursement under section 1122 of the Social Security Act, so as to permit the expansion of the inappropriate service. Other services could, of course, be expanded in accordance with the State's certificate of need program and section 1122 agreement with the Secretary.

Another commenter expressed concern that rate setters and third party reimbursers may use appropriateness review findings in making reimbursement decisions. Realizing the impact of these sanctions on providers, she urges providers, planners, and third

party payors to work together to correct any situation found inappropriate.

One commenter expressed concern that appropriateness review would have a negative impact on the long-term care industry. The Secretary does not anticipate that appropriateness review will have a negative impact on any particular segment of the health care industry.

Numerous comments addressed the impact on providers of submitting data to State Agencies and HSAs for appropriateness reviews. To avoid duplication, these suggestions, while of general applicability, are discussed below in the specific section dealing with data (§ 123.603(c)).

#### Comments on Specific Portions of the Regulations

##### Sections 122.501 and 123.601 Definitions

These sections include definitions of appropriateness, areawide reviews and the services which are to be covered by appropriateness reviews. The comments on these sections were quite extensive and tended to fall into three categories: those which (1) requested further clarification of "appropriateness review"; (2) asked for clarification of the term "areawide"; and (3) questioned the definition of "existing institutional health services."

With respect to the proposed definition of "appropriateness," a few commenters believed that HSAs should be allowed to define appropriateness, although the vast majority felt that the regulations should define appropriateness more completely and specifically to prevent arbitrary and capricious decisions by local planning agencies. A few commenters suggested that "appropriateness" could be clarified by describing in greater detail the six characteristics agencies are to consider in developing criteria, i.e., availability, accessibility, acceptability, continuity, cost, and quality. Another commenter felt the need for elaboration on how planning agencies should weigh each of these six characteristics in making the "appropriateness" determinations. Finally, one commenter asked whether the certificate of need criteria (42 CFR 123.409) should be applied in the appropriateness review process.

The Secretary believes that it is of paramount importance to retain considerable flexibility in the way HSAs and State Agencies are able to conduct reviews and to relate these reviews to their other health planning responsibilities. Therefore, the proposed rules set forth only those minimal requirements which the Secretary

considers necessary to achieve compliance with the statute and to insure an adequate level of coordination between HSAs and State Agencies. Appropriateness review is not only a logical outgrowth of the plan development process, but also it clearly has a regulatory aspect to it in that in all likelihood appropriateness review findings will influence other project review decisions.

Thus, the Secretary feels that further clarification of the term "appropriateness" is not desirable. The Guidelines for the Development of HSPs and AIPs, as well as other technical assistance materials, provide additional guidance on what agencies should consider within the six categories.

With respect to the definition of the term "areawide review," one commenter suggested that the definition be expanded to include contiguous areas, particularly in large metropolitan centers. The Secretary believes that while expanded areawide reviews may be desirable, they should not be required by regulation, since they would require local planning agencies to conduct reviews in areas outside of their jurisdiction. The Secretary strongly recommends, however, that HSAs governing contiguous areas with overlapping institutional service areas develop mechanisms for sharing information about institutions and services as part of an appropriateness review. He also calls attention to § 123.607(a)(7), which requires that consideration be given to the special needs and circumstances of those entities which provide a substantial portion of their services to individuals who do not reside in the health service area.

A second respondent requested that it be made clear that the planning agencies in conducting areawide reviews are not precluded from reviewing services on the basis of areas which are smaller or larger than an HSA's health service area. The Secretary notes that there may be circumstances where larger or smaller areas are proper, depending on institutional service areas, service areas for types of services (especially tertiary care services), and available data. Because of the wide local variations in these matters, the Secretary does not prescribe any one approach in regulation, believing they can best be addressed by specification of service and planning areas in HSPs and AIPs and by agency adoption of review criteria which address service area differences.

Finally, several commenters asked for clarification of the relationship between

areawide reviews and institution-specific reviews. One commenter suggested that the term "institution-specific reviews" be used to emphasize that the review is directed toward the service, and not the institution. The Secretary wishes to emphasize that the distinction between areawide reviews and institution-specific reviews was to be the nature of the findings, and not necessarily the techniques of analysis or data requirements for performing the reviews. For that reason, the term "institution-specific reviews" has been deleted as misleading, and the description of the two types of findings which may result are dealt with in the definition of "areawide reviews." Comments on required levels of review are discussed in this Preamble under § 122.503 and § 123.603, "Appropriateness review work program."

Other comments questioned the definition of the phrase "existing institutional health services" or asked that the definition be expanded to include services provided through community mental health centers, home health agencies, and alcohol and drug abuse treatment centers. The NPRM incorporated by reference the definition of institutional health services as it appears in the regulations governing reviews of new institutional health services (42 CFR 122.301). This definition includes services provided by HMOs and other health care facilities. The Amendments to the Health Planning Act contain a new definition of institutional health services which was effective on enactment and is included in these regulations. The statute now specifies that the services required to be reviewed include, at a minimum, those provided through private and public hospitals, rehabilitation facilities, and nursing homes, but that the Secretary may, by regulation, include other facilities. The Secretary has chosen not to expand the regulatory definition at this time. Rather, he will explore issues related to coverage in the proposed revisions to the certificate of need regulations which will be issued in the near future. At that time, the Department will entertain comments on whether "institutional health services" should be limited to facilities identified in the statute or whether coverage should be broader. In the interim, the Secretary encourages agencies to review all health services regardless of their setting and expects that any health services not reviewed will be addressed in the agencies' plan development activities, since they are part of the community's health system.

Sections 122.501 and 123.601 have been revised to include among the "existing institutional health services" which are subject to review, those services which will be offered during the 12 months following an appropriateness review. This will result in more complete appropriateness reviews.

Numerous commenters questioned whether the term "all existing health services" includes services provided through Federal health institutions. Many argued that the exclusion from review of Federal facilities (Veterans Administration, the Public Health Service, Department of Defense, and Indian Health Service hospitals) would present a less accurate view of the health care system's characteristics. The Secretary feels that a thorough review of the health care delivery system requires a review of the availability of Federal services to any population group which also is served by non-Federal services, and consideration of the impact of Federal services on the non-Federal system. Accordingly, the Secretary has chosen to submit services provided through the nine Public Health Service Hospitals to appropriateness reviews as well as other reviews. Departmental staff are working with other Federal agencies to encourage them to share data and plans with HSAs and SHPDAs. The Secretary notes, however, that States may not regulate Federal facilities, and that any regulation which States might choose to attach to appropriateness reviews would not apply to Federal facilities, and that any findings of inappropriateness would have the effect only of recommendations. Nonetheless, the Department will be encouraging the Federal facilities to cooperate with HSAs and State Agencies in supplying necessary operating data and statistics which are relevant in the review of the appropriateness of services.

Several commenters suggested that the review for appropriateness should include high cost services which are provided outside of institutions subject to review but which are made available to patients of these institutions (e.g., CT scanners located in physicians' offices). The Secretary agrees that agencies should attempt to review all existing institutional health services regardless of the settings in which they are located. He points out that the definition of "institutional health services" at Section 1531(5) of the Act includes health services provided through covered facilities, and that this provides a basis for review of some of these services.

A number of commenters suggested that in order to avoid confusion between

planning agencies and providers, the terms "affected persons," and "directly affected persons," should be defined by the Secretary. The Secretary notes that the proposed rules defined these terms by reference to Subpart D of 42 CFR Part 122 and Subpart E of 42 CFR Part 123. However, because these terms as referenced are not entirely applicable to appropriateness reviews, (i.e., references are to "proposals"), they have been modified and placed in these regulations at § 122.505(a)(1) and § 123.605(a)(1). Furthermore, since the distinction between "affected persons" and "directly affected persons" is a small one and has little substantive impact on the conduct of appropriateness reviews, the term "affected persons" has been used for both categories.

#### Sections 122.503 and 122.603 Appropriateness Review Work Program

Sections 122.503 and 122.603 require HSAs and State Agencies to submit annual work programs to the Secretary which describe their plans for assuming the appropriateness review function and for performing appropriateness reviews on a continuing basis.

In order to address fully the issues raised, the comments received on these sections have been divided into six separate categories, as follows: (1) The coordination of the reviews between State Agencies and HSAs; (2) the timing and criteria for Departmental review; (3) the role of the State Agencies as to definitions, priorities and schedules; (4) the collection, transfer, and use of data; (5) the initiation of reviews; and (6) the level of reviews.

#### Coordination

Some commenters felt that the amount of coordination required by this regulation is excessive and will tend to hamper the expeditious development of a satisfactory program for performing appropriateness reviews. However, others suggested that additional coordination is necessary, including coordination with contiguous HSAs and with HSAs sharing common standard metropolitan statistical areas. And finally, a number of commenters suggested that a greater degree of coordination ought to be specified with provider groups in the health service areas involved.

The Secretary concurs that the additional coordination suggested would be of value in many instances. However, he believes that it is unnecessary to require this by regulation inasmuch as coordination between contiguous HSAs and HSAs sharing standard metropolitan statistical areas has been



dealt with in other regulations (at 42 CFR 122.107(c)(10), (11), and (12)) and Health Systems Agency Application Guidelines previously issued by the Department (November 1978) which apply to appropriateness review as well as to other agency functions.

One respondent asked how the State Agency should handle appropriateness review until all of the HSAs in the State are conducting appropriateness reviews. The Secretary recognizes that agencies will be developing their capabilities to conduct appropriateness reviews at different rates, and the local circumstances will require different strategies on the part of State Agencies which intend to proceed in the absence of recommendations from all HSAs in the State. There is no single answer to this question, and the actual response of State agencies to their situations rests with them; however, the Secretary does suggest that State Agencies review carefully their proposed strategies with members of the public, with their Statewide Health Coordinating Councils (SHCCs), and with all HSAs in the State regardless of whether those HSAs are able to assist them in appropriateness review at the time. Once a newly capable HSA is prepared to make its recommendations, the State agency should be willing to reevaluate any of its own previous findings and conclusions. Since appropriateness reviews are meant to be repeated every five years at the State level, and appropriateness review findings must be reconsidered when good cause is shown, both State Agencies and providers should be prepared to respond more than once to the same issue. The ability to reevaluate the appropriateness of any existing institutional health service in response to system changes should become an integral part of HSA and State Agency programs.

A commenter was concerned about the duplication of HSA and State Agency staff and volunteer time and suggested that whenever possible, one agency should take primary responsibility. The Secretary agrees that wherever feasible the planning agencies ought to assist one another in performing their respective functions, and that if arrangements can be made which satisfy the agencies involved, staff and volunteer time can be applied to reviews in a fashion which reflects State and local circumstances. He notes, however, that each agency must always retain its prerogative to reach its own conclusion.

#### Departmental Review—Timing and Criteria

One respondent questioned how the Department would judge the capability of agencies to carry out appropriateness review solely on the basis of their work programs. The Department's judgment will be made on the basis of many factors, such as their performance in other activities, in addition to the quality of agency work programs. Agencies which have shown that they are capable of carrying out an approved work program will find the Department willing to accept that past performance in combination with a satisfactory appropriateness review work program as sufficient evidence of their ability to do these reviews. Agencies whose past performance indicates that they frequently miss deadlines or fail to achieve adequate quality in essential actions will find that the Department requires evidence more convincing than a minimally satisfactory work program.

It was suggested that the regulations specify when agencies will be required to submit their work programs to the Department and that the agencies should be required to publish their appropriateness review work program in advance to obtain public comment. The Secretary agrees in general that greater public involvement at this point is warranted. In the NPRM neither HSA amendments to their work programs (for the performance of appropriateness reviews) nor State Agency changes to the State Administrative program were required to be subjected to public scrutiny prior to their adoption. The lack of a requirement for advance public comment on work program amendments at the HSA level is less of a problem than at the State Agency level because: (1) The requirements for adoption of procedures and criteria assure public participation for this element of reviews, (2) all meetings held by an HSA for whatever purpose are open to the public, and (3) it is not the HSA but the State Agency which prescribes the definitions of services to be reviewed, the priorities for reviews, and the schedule for reviews. Accordingly, no requirement for public comment on the HSA work program has been added. The State Agency lead role in coordinating appropriateness reviews poses a more difficult situation because there is no opportunity for public review of the State Agency's decision regarding the administrative framework for reviews. Accordingly, the regulations now require that the State Agency submit to the Secretary, with the work program, evidence that the public was afforded

an opportunity to comment on it, and a summary of the comments.

One respondent suggested that the work program should allow for the development of review criteria over a number of years rather than a single deadline for the development of all criteria. The Department agrees, and § 123.503(a) has been amended to indicate that the work program developed by the health systems agency must "specify the steps to be taken to develop" procedures and criteria. This revision is intended to permit agencies to develop applicable procedures and criteria over time, rather than a one-time effort. The Secretary points out, however, that applicable procedures and criteria must be adopted prior to a review.

#### Sections 122.503(b) and 123.603(b) Lead Role of State Agency With Respect to Definitions, Priorities and Schedules

These regulations give the State Agency a lead role in defining the services to be reviewed and in establishing the review priorities and schedules. In addition, they establish that it is the State Agency's responsibility to collect and transfer data used in appropriateness reviews. However, in the event that a State Agency does not assume leadership, a provision has been added which would still enable HSAs to proceed with their reviews. The proposed regulations placed the lead role in the State Agency, which, after consultation with HSAs and the SHCC, would: (1) Define services to be reviewed, (2) establish review priorities, and (3) establish review schedules. The Secretary solicited public comment using the SHCC as a mediator when HSAs and the State Agency could not agree on these matters.

Although a number of those who commented on this issue, including many HSAs, endorsed this State Agency lead role provision, a greater number expressed concern because: (1) It preempts HSA prerogatives, and (2) in practice, it puts some HSAs in a difficult position because of review timing conflicts. It was also felt to be inconsistent with the intent of the Act, which the commenters felt emphasizes a more balanced HSA and State Agency approach. The Secretary believes, however, that the effectiveness of appropriateness review is largely dependent on coordination, and that designation of a leadership role is necessary. He has chosen the State Agency to provide this leadership, but notes that the responsibility for

developing procedures and criteria remains with each reviewing agency.

A great number of comments dealt with the proposed role of the SHCC as a mediator in the resolution of differences between HSAs and State Agencies. Some commenters felt that the SHCC ought to have a much stronger role, while others indicated that it would be overwhelmed with the volume of coordination required in States where there are many HSAs. Others thought the staff of the SHCC would have a conflict of interest, since as a rule it is also the State Agency staff. Additionally, some commenters suggested that the representatives of the HSAs on the SHCC would be in a position of conflict.

Since various strategies to health planning are being pursued, no single approach could be expected to work equally well in all of the States. Therefore, the Secretary has chosen to retain the flexible provisions of the proposed rules with respect to the SHCC's role in this process, recognizing that there will be differences in the effectiveness of the SHCC in mediating State Agency and HSA differences. The Secretary is confident that both agencies will realize the need to work closely with the SHCC to assure that it will have a positive role in resolving issues which may arise. The Department intends to develop technical assistance materials which will describe the roles that agencies are to play in the various States.

A number of commenters expressed concern that the review timing provisions of the proposed rules would allow a State Agency which is reluctant or not ready to proceed with appropriateness reviews to retard an HSA's ability to do so or to delay inordinately reviews of controversial services. Others pointed out that the statutory requirement for HSAs to complete their first reviews within three years of full designation, along with the fact that very few State Agencies have been fully designated, present potentially serious timing problems.

This timing problem stems primarily from some unavoidable overlapping of responsibilities among reviewing agencies during their early years of development, and from differences in the receipt of full designation status by the HSAs and State Agencies. The Secretary believes that this situation will improve over time.

In addition, the regulations now permit HSAs to develop their own definitions, priorities, and schedules if the State Agency has failed to do so within six months of the publication of these regulations. See § 122.503(b)(2). In

this event, coordination will be achieved through requirements for common service definitions and schedules for reviews among HSAs in a given State and for giving priority to reviews of the services specified in the National Guidelines.

Review schedule may be established so that health systems agencies can complete their reviews prior to the deadlines established in the State schedule, rather than exactly on the dates set forth. This flexibility will enable different HSAs in a State to concentrate on different issues. Any schedule developed, whether by the State Agency or by the HSAs collectively, should be flexible enough to allow HSAs to proceed with certain appropriateness reviews as long as they complete them prior to the date set forth in the agreed schedule. A few comments suggested that the regulations define services which are subject to review in order to avoid unnecessary debate at the State level. The Secretary intends to assist agencies in their definitions of services and will provide technical assistance for that purpose. However, it would be inappropriate for her to define specifically the services covered, since there are many and varied State laws which provide long established definitions of services. Therefore, the Secretary has chosen not to specify and define the services which will be covered. She does, however, expect that agencies will (at a minimum) specify definitions for those services which are identified in the National Guidelines for Health Planning.

Another respondent suggested that the priorities among services should be tied in to those identified in the HSA's annual implementation plan (AIP). The relationship of the objectives of the AIP to the priorities of services which need to be reviewed for appropriateness is one which will vary from HSA to HSA. Further, the priorities will then be negotiated with the State Agency and other HSAs in the State. However, the Secretary believes that the HSP and AIP provide the analytical bases for this function and as a result that services which have been analyzed in the HSP form the basis for services selected for appropriateness review. The Secretary also agrees that in establishing the AIP and the appropriateness review work program, agencies should carefully examine the linkages between these two functions, including an assessment of staff time involved and a review of program priorities as they relate to the effectiveness of overall implementation of agency goals and objectives. It is possible, for example, that on the basis

of an areawide appropriateness review the agency might determine that some aspect of the service is inappropriate, and subsequently and immediately decide that the issue is important enough to merit inclusion in the agency's AIP.

#### Section 123.603(c) Data

The largest number of public comments received respecting coordination matters concerned data issues. Discussed below are the most important and most frequently cited issues.

Commenters questioned the authority of State Agencies and HSAs to require data from appropriateness review purposes, citing both practical and legal problems. For example, alluding to lack of authority for sanctions, several commenters asked what would happen if providers simply refused to supply the required data. A commenter from one State noted that there is no existing State legislation which would "permit the State Agency to require institutions to submit such data." Another suggested that the State Agency be required to document its State legislative authority for requiring data submission for appropriateness review purposes on grounds that "State Agencies can perform only such functions as they are by State statute authorized to perform." Another stated that providers should be able to challenge the need for required data. Others said that the reviewing agency should justify its need for certain data and that an institution should not be required to submit certain information to the reviewing agencies if it could show that it must report that or similar information to other Federal or State Agencies. While one commenter stated that HSAs in particular do not have authority under terms of the Act to collect data, and that that task should be left to the State Agency, others suggested that HSAs should be able to collect data independently. Another recommended making a provision for submitting proprietary data in summary form as a protection against public revelation of competitive information. Finally, an opinion was offered that data would be required in such specificity that the effect of the appropriateness review function would be harassment of institutions and public revelation of management prerogatives.

The Secretary is aware of the practical and legal problems associated with performance of appropriateness reviews, including problems of data collection, transfer, and use. Nevertheless, the function must be performed under the terms of the Act, which establishes data responsibilities



in the State Administrative Program in section 1522(b)(7) and in mandated review procedures, 1532(b)(3) of the Act. The former section requires that as a prerequisite for designation and funding renewal a State Agency must make certain operational provisions respecting data acquisition and use, including a requirement that "providers of health doing business in the State make statistical and other reports of such information (related to health and health care) to the State Agency." Also, while the Secretary agrees that State enabling legislation for securing data is desirable, she realizes that the advent of such authority is not imminent in every State, and urges States to use whatever means are available to obtain the data required for their functions.

While the State Agency must require certain data for use in these and other reviews, which data will be shared with the HSAs in the State, HSAs can go beyond the State requirements and request additional data from providers. However, they may lack the authority to require that it be submitted. The Act and these regulations require HSAs and State Agencies to use existing data sources before collecting new data and to coordinate data collection with the Cooperative Health Statistics System. Secretarial approval must also be obtained before any new data systems can be established. To avoid any duplicative data collection requirements, the Department will coordinate the implementation of these data provisions with that of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142) data requirements. The Department has issued data guidelines which provide technical assistance to agencies in developing a cost-effective empirical base for planning and regulation. In addition, to prevent numerous requests during the course of a review, the Secretary has added language to § 122.505(a)(3) and § 123.605(a)(3) to require that agencies may not demand information of a person subject to review unless it is prescribed and published as being required. She also wishes to call attention to the Department's policy (at 42 CFR 122.107(c)(1), and "Guidelines for the Acquisition and Use of Data Under Pub. L. 93-641," June, 1978, p. 2.4) that new data systems are not to be established without Secretarial approval and that all reasonable efforts be made to avoid duplicative data requirements.

Other commenters registered the following complaints as to the data provisions: (1) The lack of availability and/or existence of the kind of data

necessary for determining the appropriateness of services; (2) the inability of reviewing agencies to effectively analyze and use data, because of limited agency staff expertise and experience, heavy staff workload, etc. and (3) the significant adverse cost implications for both providers and patients with little or no increased benefit in improved health care. The Secretary is aware of such problems but does not believe them to be so overwhelming as to negate the mandate to perform the reviews. She agrees that some additional costs may be incurred by providers and passed on to consumers, but she believes that the potential benefits to be derived from appropriateness review as discussed above reasonably outweigh the costs incurred. The Secretary does not wish to impose additional requirements on the agencies relating to the costs of providing data.

A number of commenters were concerned about the interpretation of data in the course of a review. One suggested starting with pilot reviews which would identify data used problems. Another suggested that agencies should develop and test sample data in limited situations to gain experience about the usefulness of those data, time required to conduct reviews, etc. Several commenters repeated or endorsed the requirement that notices of the kinds of data to be required be published in advance. There was considerable concern that data requirements not be duplicative. Several commenters advocated a more prominent role for the SHCC in data collection activities including approval of the reviewing agencies' data requirements. The Secretary has not adopted these suggestions, believing that to do so would be to overregulate in the absence of experience. She does, however, offer them to the planning agencies for their consideration.

Several commenters advocated strong coordination between State Agencies and HSAs respecting data. The Secretary concurs and calls attention to similar requirements respecting other key elements of reviews. Some commenters stated that in establishing data requirements State Agencies must take into account different review criteria which precipitate various data needs, and that limitations of data would necessarily affect review outcomes. The Secretary concurs with both statements, but she believes that like many of the problems cited above, these difficulties will be ameliorated with the passage of time and the expansion of data resources.

Other commenters raised the problem of the time required to obtain and forward data to the reviewing agency. Some advocated that such time not be included in the review period. The Secretary notes that data may be gathered well before reviews begin, and that agencies may wish to begin collecting it as soon as schedules are established for reviews. A few commenters indicated that data requirements should be allowed to vary according to the type of service reviewed and purpose of the review. The Secretary believes this approach is consistent with the regulations and the general philosophy of the appropriateness review program.

One commenter suggested that State Agencies and HSAs submit their data requests to providers simultaneously. The Secretary does not believe such requirements should be established in regulations but encourages that approach, see § 122.505(c) and § 123.605(c). While the suggestion that agencies requesting data be interviewed as to its intended use is probably not time and cost effective, the Secretary agrees that intended uses of data should be made clear by requesting agencies. Details of doing so are left to agency discretion and forthcoming guidances.

Many commenters expressed concern about the inability of agencies to collect data in the absence of sanctions for providers who refuse to meet the agencies' requests. The Department has been aware of this concern during the process of formulating these regulations; however, it has chosen not to go beyond the statute and specifically require sanctions for noncompliance with data requests. Rather, it relies on the individual States to decide whether or not sanctions are necessary and to develop them in their State Administrative Program if needed. The Secretary, however, urges both providers and planning agencies to cooperate in determining data requirements and the provision of required data so that these sanctions are not necessary.

Finally, several comments were received which indicated concern over the confidentiality of certain financial and medical data. Any data collected by a State Agency or HSA must be made available to the public under section 1532(b)(10) of the Act. The Secretary understands this concern, however, and has asked HSAs and State Agencies not to request data that have confidentiality or privacy requirements associated with them.

#### Section 123.603(d) Initiation of Appropriateness Reviews

One commenter asked the meaning of "initiating appropriateness reviews." The Secretary intends for State Agencies to develop work plans which call for areawide appropriateness reviews for some services to begin no later than the dates indicated in the regulations (§ 123.603(d)). If the process were allowed to be postponed any further, it would be very unlikely that all of the required appropriateness reviews could be completed within the total time available. This means, therefore, that definitions of at least some services to be reviewed and a schedule for their review will have to be worked out rapidly. The Secretary recommends that agencies give immediate consideration to early scheduling and definition of services which are dealt with in the National Guidelines for Health Planning.

Some commenters suggested that the initiation of appropriateness reviews be delayed until State Agencies and HSAs are fully designated in a State. Others suggested that the work program of the State should be developed first, and then the HSAs could develop their programs. Another commenter recommended that a common timeframe be developed for all agencies in the State which would be mandatory and which might be specified by regulation. Because of the statutory requirements, the Secretary has retained the time requirements specified in the proposed rules.

#### Sections 122.503(d) and 123.603(e) Levels of Review

When the NPRM was drafted, there was much discussion within the Department concerning whether HSAs and State Agencies should be performing institution-specific appropriateness reviews. While there were many in favor of requiring these reviews, others felt just as strongly that such reviews would alienate providers, require more sophisticated and detailed data, and make significant demands on planning agencies' manpower and time resources.

Numerous comments have been received on this issue. Some commenters objected to institution-specific reviews. Some questioned the ability of planning agencies to do the reviews, arguing that current staffing and funding levels of planning agencies are not sufficient to undertake the potentially enormous work load associated with these reviews. Some also suggested that agencies gain more experience before performing institution-specific reviews or that

areawide reviews be done first in order to ensure an adequate aggregate data base before embarking on more specific reviews. Additional commenters expressed the view that the statute does not authorize institution-specific reviews and therefore, the Department has no authority to require them.

Some of the commenters pointed out that the distinction between areawide review and institution-specific review would become meaningless in some instances, particularly in the review of services which are provided by institutions in rural areas. Since all of the HSA's data and records must be made available to the public, there is no way to preclude public knowledge of the locations (hence, in a sparsely populated area, the institutions themselves). Moreover, one commenter suggested that the service area being considered for areawide review should be tailored to the type of service being reviewed. That is, if the services are highly sophisticated and provided by only a small number of institutions within the entire health service area, then it may be appropriate for purposes of that review to use the entire health service area as the "area" for conducting areawide review. On the other hand, at the secondary and primary care level, smaller service areas should be used in order to make the results of the review useful in the conduct of all the agencies' functions. Finally, one respondent indicated that a finding of inappropriateness on an areawide basis might be construed as a comment against all providers of that service within the area.

The Secretary wishes to reiterate that the principal distinction between areawide reviews and institution-specific reviews as defined in the proposed regulations was intended to be in their respective findings rather than the techniques of analysis. Areawide reviews require much of the same data and analysis as institution-specific reviews but were not to involve institution-specific recommendations or findings. In any event, the final regulations clarify that it is in the findings and recommendations that agencies may address specific institutions.

A large number of commenters supported reviews which would result in institution-specific findings. Reasons cited included: (1) Possible links to rate setting agencies, (2) areawide reviews already duplicate plan development activities, (3) institution-specific findings would be much more effective in eliminating excess capacity, and (4) areawide findings of inappropriateness

could penalize all providers in the aggregate rather than those for which difficulties actually exist. The Secretary agrees that appropriateness reviews which result in institution-specific findings may be quite helpful. However, he has chosen not to require these findings at this time but to allow agencies to make institution-specific findings at their option as their capabilities and resources permit.

Many comments were received from provider organizations recommending that HSAs and State Agencies be precluded from conducting institution-specific reviews. Many of these commenters expressed the view that such a review is not authorized by the statute. Nearly all, including some planning agencies, indicated that they believed that HSAs and State Agencies would be unable to handle these reviews.

The Secretary emphasizes that under the statute, agencies are to review all services although the nature and depth of each review is best left to the judgment of the agencies. The Secretary agrees that in States where rate setting activities are carried out, HSAs and State Agencies should be sensitive to the need for a fairly high degree of specificity in their findings. Although he has not chosen to require institution-specific findings, he expects that planning agencies and rate setting agencies will work together to support one another's activities toward that end. Whether or not rate setting agencies are present, the Secretary strongly recommends that agencies convey any findings of inappropriateness in a fashion which indicates that the findings do not necessarily apply to all providers of that service. The Secretary feels that agencies must be aware of the problems associated with using vague criteria and standards to render decisions that may be viewed as regulatory in nature.

One correspondent raised the question as to whether the 180-day review period was mandatory for both areawide reviews and institution-specific reviews. The commenter felt that institution-specific reviews would probably take longer than areawide reviews. The Secretary points out that since the regulations now require all appropriateness reviews to take place within the 180-day review period, regardless of the nature of the findings (i.e., areawide or institution-specific), the specification of two time periods is not necessary.

Numerous commenters suggested that HSAs and State Agencies would be unable to complete their reviews of all existing institutional health services within the required time. The Secretary



agrees that this provision will be difficult to implement, but points out that the time limits for completing reviews of all services are statutory and cannot be waived. He notes, however, that the definition of services rests with the State Agencies, in consultation with the HSAs, and that this mechanism should allow agencies to collapse subcategories of services so that resources may be devoted to those specific services which merit the most attention. Agencies should concentrate initially on the services for which the National Guidelines for Health Planning have been issued.

Several commenters recommended additions to the list of requirements for HSA and State Agency work programs for appropriateness review. These include suggestions that: (a) Work programs specify the new data which must be obtained from providers as well as those which can be obtained from secondary sources, (b) work programs include a description of how agencies intend to coordinate their appropriateness reviews with their plan development and project reviews, (c) a section be added to encourage the participation of task forces in appropriateness review and to advise agencies on the development of procedures and criteria, (d) work programs describe the agency budget and staff resources that will be applied to the appropriateness reviews, and (e) the State Agency document its authority for conducting appropriateness review. The Secretary will consider these suggestions if and when requirements for work programs are revised, but finds it unnecessary to do so at this time.

Finally, several editorial improvements have been made to this section of the regulations as a result of comments received. These include the following:

Section 123.603 (a) has been revised to clarify that the review procedures and criteria which a State Agency is required to develop and apply are those which that State Agency will be applying; thus these do not govern HSAs in that State. Sections 123.603(a) and (c) have been amended to indicate the need for coordination with agencies in all of the States (as opposed to both States) where health service areas are shared by more than one State.

*Sections 122.504 and 123.604 Adoption and Public Notice of Review Procedures and Criteria*

One commenter emphasized that all review procedures should be made known to providers subject to appropriateness review prior to the initiation of a review. Sections 122.305

and 123.406 of 42 CFR provide ample opportunity for providers (as well as consumers) to become aware of appropriateness review procedures prior to their initiation.

Another commenter suggested that State Agency appropriateness review procedures should be approved by the SHCC so that consumers and providers would have direct input into decisions affecting the health care delivery system. While the intent of Title XV of the Act is to involve consumers and providers in these decisions at the local level, there is no statutory authority for the SHCC to approve or disapprove the State Agency's appropriateness review procedures. However, residents of a State may comment on the State Agency's proposed procedures under 42 CFR 123.406, as may the SHCC. Furthermore, SHCCs are required to advise the State Agencies generally on the performance of their functions.

*Sections 122.505 and 123.605 Health Systems Agency and State Agency Procedures; General Comments*

One commenter suggested that these procedures be expanded to enable use of a screening process in setting the priorities of services to be reviewed or in defining the services subject to review. While the Secretary realizes that the HSAs and State Agencies may elect to perform a screening process for this purpose, it is not expected that a screening process would result in recommendations and finding as to the appropriateness or inappropriateness of a specific service. If a recommendation or findings were to be made as a result of a screening process, these procedures would be applicable. It should be pointed out that there are two ways in which State Agencies and HSAs have an opportunity to perform "non-substantive" or "non-intensive" reviews. The provisions found in § 122.505(b) and § 123.605(b) permit health planning agencies to adopt review procedures which, while meeting all the requirements of § 122.505 and § 123.605, may vary according to the type of health service being reviewed. In addition, § 122.506 and § 123.606 permit the agencies to seek an exception to the requirements of § 122.505 and § 123.605. One possible use of this latter provision is for an HSA or a State Agency to propose alternative procedures which it will utilize in the case of services defined by the HSA to require a less intensive or expedited review.

*Sections 122.505(a)(1) and 123.605(a)(1) Notification of the Beginning of a Review by Health Systems Agencies and State Agencies*

A number of commenters suggested that the written notification should include what service is to be reviewed, the review authority of the agency (including citations to the statute and regulations), review procedures and criteria, the work program, and the review timetable. While the Secretary agrees that this information should be made available to providers and persons subject to appropriateness review, in the interest of allowing agencies flexibility in establishing procedures beyond the minimum statutory requirements, he has not chosen to require this of the agencies at this time. Furthermore, review procedures and criteria are available to the community through the agencies' process for adoption and public notice of procedures and criteria as required by §§ 122.504 and 123.604.

One commenter asked clarification on when notification was required and suggested that it be required 30 days before the initiation of a review.

Another writer asked for a specific definition of the term "initiate," as a review could be judged to have been initiated at any time from its initial planning until its implementation. The Secretary agrees that providers need ample advance notice of the beginning of a review, but he wishes to allow planning agencies flexibility to establish procedures to suit local circumstances.

Another commenter suggested that a newsletter or a legal notice in a newspaper of general circulation could serve to notify affected persons of the beginning of a review. In view of the demands that appropriateness review will place on HSAs' and State Agencies' resources, the Secretary has added language to §§ 122.505(a)(1) and 123.605(a)(1) to permit agencies to provide written notification to members of the public through newspapers of general circulation in the area and other public information channels. However, notification to all other affected persons shall be by mail (which may be as part of a newsletter).

*Sections 122.505(a)(2) and 123.605(a)(2) Health Systems Agency and State Agency Schedules for Reviews*

In addition to the previously cited comments on schedules for and the timing of reviews, a number of commenters questioned the Secretary's authority to establish procedures not specified in the statute. When the proposed regulations were drafted, careful consideration was given to the

problem of the amount of time for conducting an appropriateness review. The Secretary decided that the statutory time limit was insufficient because of the complexity of these reviews and extended the time limit under section 1532(a) of the Act. The Secretary also views this matter as falling within his general rulemaking authority under the Act.

One commenter urged that there be a provision for deferring a scheduled review under extenuating circumstances. The procedures in these regulations are minimal requirements, and agencies may adopt procedures beyond those required in this subpart. The Secretary encourages agencies to consider concerns such as this one when developing and adopting their review procedures, and points out that agencies may wish to define "to the extent practicable" to cover just such circumstances.

Another commenter urged that there be a mechanism for extending the review period, upon request and for good reason. Sections 122.506 and 123.606 permit HSAs and State Agencies to request an exception to the requirement that they use review procedures which meet the requirements of §§ 122.505 and 123.605; a mechanism of this sort may be proposed in such a request.

On the other hand, one commenter suggested deletion of the phrase, "to the extent practicable," as some agencies would routinely extend the review period. The Secretary notes that this phrase is derived from the statute and has determined in any event that an absolute limit on the time period for conducting these reviews is too rigid and would generate an excessive number of requests for exceptions under §§ 122.506 and 123.606.

Another commenter requested clarification on what activities take place in the 180-day review period. One commenter requested that the regulations specifically define and restrict the activities to be performed by the agencies in conducting these reviews. The Secretary believes that the regulations should allow sufficient flexibility for State Agencies and HSAs to implement this function consistent with other review and planning activities within the State or health service area. Therefore, he has chosen not to define further or restrict the agencies' activities in this regard.

Another commenter suggested that persons and institutions subject to review be given 30 days to submit data and that the 180 days should be counted from the date the materials are submitted. The Secretary believes that

the review periods specified in the regulations provide adequate time for submission of data and performance of the review and has rejected this suggestion.

Another commenter suggested that the regulations should stipulate that more than one service may be reviewed simultaneously. While the Secretary does not choose to add language to the regulations as suggested, he does wish to indicate here that agencies may need to conduct simultaneous reviews of more than one service.

Several commenters recommended that State Agency reviews be sequential to those of the HSAs so that determinations regarding a specific service will be made within a reasonable time frame. In this regard, there is no language in the statute which mandates either a sequential or concurrent review by the State Agency. Although the Secretary believes that sequential reviews best permit State Agencies to consider HSA's recommendations, he has chosen not to require this result by regulation, leaving this to the State Agencies' discretion.

*Sections 122.505(a)(3) and 123.605(a)(3) Submission of Information by Persons Subject To Review to Health Systems Agencies and State Agencies*

The issues raised by commenters concerning the procedures for submitting data for appropriateness review have already been addressed in the section on data, above, at § 123.603(c).

*Sections 122.505(a)(4) and 123.605(a)(4) Provision for Written Findings*

One commenter recommended that the regulations should specify which parties should receive written notification of an HSA recommendation or State Agency finding, including the institutions offering the service under review, the State Agency, contiguous HSA's, and others upon request. Another commenter asked how the public will be informed about the HSA's and State Agency's recommendations and findings. Sections 122.505(a)(5) and 123.605(a)(5) require the HSA's and State Agencies to notify providers of health services and other persons subject to review of the status of reviews, findings made in the course of the reviews, and other appropriate information respecting the reviews. Section 122.5503(c) also requires the establishment of procedures for transmittal of the HSA's recommendations to the State Agency. Finally, §§ 122.505(a)(8) and 123.605(a)(8) require that the planning agencies give the general public access

to all written materials pertinent to their reviews. Accordingly, the Secretary has concluded that no further notification requirements are necessary.

One commenter recommended that § 123.605(a)(4) be revised to require that a finding of inappropriateness made by a State Agency should be accompanied by (1) a detailed statement of the reasons for the finding, (2) the data and evidence upon which the finding was based, and (3) identification of which published criteria were not used in the review and the reasons why. Section 123.608(b) requires the State Agency to state in a finding of inappropriateness that the service has not met one or more of its established criteria and the ways in which the service failed to meet the criteria, including any that are beyond the control of the persons providing that service. The Secretary believes that this requirement will provide sufficient detail to the providers and the public as to the inappropriateness of a particular service. This does not preclude State Agencies from providing additional information to support their findings, and the Secretary encourages the agencies to do so to the extent practicable.

*Sections 122.505(a)(5) and 123.605(a)(5) Notification of providers and other Persons Subject To Review of the Status of the Review*

A number of comments were received requesting that this requirement be further clarified as to who should receive this notification, how frequently this notification is to be made, the substance of the notification, and the process for providing the notification. The Secretary does not wish to elaborate on this subparagraph through regulation. While planning agencies are required to notify only the providers of health services and other persons subject to review, they may and are encouraged to inform other providers and persons at their discretion. Furthermore, since §§ 122.505(a)(8) and 123.605(a)(8) require that the general public be given access to all written materials concerning reviews, the concerns expressed by the commenter are satisfied.

Several commenters suggested that State Agencies and HSAs notify providers of the service being reviewed of their interim recommendations and findings. Similarly, several commenters suggested that persons subject to review be provided an opportunity to respond to the HSA's recommendations and that this response be forwarded to the State Agency with the HSA recommendations. Again, the Secretary does not wish to restrict planning agencies in developing



their procedures through regulation. Rather, he chooses to allow these agencies flexibility in developing their procedures, to receive comments from providers and consumers through the public notice and adoption process and to modify these procedures to reflect local and State concerns.

*Sections 122.505(a)(6) and 123.605(a)(6) Provision by Health Systems Agencies and State Agencies of Public Hearings in the Course of Agency Review and Hearings for Good Cause Shown*

Several commenters suggested that public hearings should not be required during the course of the review while many others suggested that a public hearing be required for all appropriateness reviews. The Secretary notes that the statute requires that persons directly affected by a review be given the opportunity to request a public hearing in the course of a review. The Secretary believes that the present requirement is fair and equitable to all parties concerned.

One commenter requested that the regulations provide the procedures for conducting a public hearing. Planning agencies have already established procedures for conducting public hearings during certificate of need and new institutional health service reviews. These procedures may be applicable to appropriateness reviews and should be adopted by the agencies with any necessary changes.

One commenter suggested that health systems agencies be required to post notices of hearings in public locations at the institutions providing the service under review. While the Secretary believes that the planning agencies have generally established effective mechanisms for notifying affected persons of a public hearing, he does urge the agencies to evaluate the adequacy of their procedures and to modify them as appropriate.

A large number of commenters urged that the procedures provide an opportunity for providers to appeal or ask for a reconsideration of an HSA recommendation or State Agency finding of inappropriateness. These commenters pointed out that even though there are no official sanctions attached to this function, there may be some impact on providers, and therefore, as a matter of due process, the provider should have an opportunity to appeal the finding. In addition, since the State Agency has a year to make findings after the HSA recommendations, providers are concerned that adverse recommendations will be public for a full year and they will have no formal

channel through which to refute the findings. The proposed regulations called for hearings during the course of a review for persons directly affected at both the HSA and State Agency level. They also included a requirement that a State Agency provide the opportunity for a public hearing at which it would reconsider its findings if a person can show good cause for reconsideration. For purposes of this subparagraph, "good cause" has the same meaning as that in § 123.407(a)(8) of the regulations for review of new institutional health services.

This provision states that a request for a public hearing will be deemed by the HSA or State Agency to have shown good cause if it (1) presents significant, relevant information not previously considered by the agency, (2) demonstrates that there have been significant changes in factors or circumstances relied upon by the agency in reaching its decision, (3) demonstrates that the HSA or State Agency has materially failed to follow its adopted procedures in reaching its decision, or (4) provides such other basis for a public hearing as the planning agency determines constitutes good cause.

The Secretary has given careful consideration to these arguments. Accordingly, the regulations now provide for "good cause" hearings at the HSA level after a recommendation derived from a review which results in an institution-specific finding (§ 122.505(a)(6)) and also add a requirement for an administrative appeal after the State Agency finding at the request of any provider whose services have been found inappropriate in such a review (§ 123.605(a)(10)). Because these procedures tend to be expensive and time-consuming, he has decided to require that they be available only with respect to institution-specific findings.

*Sections 122.505(a)(7) and 123.605(a)(7) Preparation and Publication by Health Systems Agencies and State Agencies of Regular Reports of the Reviews Being Conducted*

Several commenters requested clarification of the term "regular." One commenter questioned the statutory basis for this requirement, while others suggested that agencies be permitted to use existing mechanisms to comply with this requirement or that only the State Agency be required to prepare and publish these reports. Section 1532(b)(9) of the Act mandates that both HSAs and State Agencies prepare and publish reports of this nature. The Secretary has chosen not to elaborate on the statutory

language in these regulations and believes that the details of meeting this requirement should be determined by State Agencies and HSAs.

*Sections 122.505(a)(8) and 123.605(a)(8) Access by the General Public to all Written Materials Pertinent to Reviews*

Numerous comments were received expressing concern about the confidentiality of data submitted by providers to health planning agencies. These concerns have been addressed in the Preamble under section 123.603(c).

*Section 123.605(a)(9) Health Systems Agency Appeal of a State Agency Finding*

One commenter expressed concern that allowing HSAs to appeal State Agency decisions would weaken the leadership role of the State Agency. While the Secretary is sensitive to this concern, the HSA's right to appeal is required by section 1522(a)(13)(A) of the Act.

Numerous comments were received which urged that the regulations permit providers to appeal a State Agency finding of inappropriateness particularly when specific institutions are cited. The Secretary agrees with the suggestion and has amended this section, providing that if a State Agency makes a finding regarding the appropriateness of an existing institutional health service on an institution-specific basis, the providers of that service may appeal the State Agency's finding under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor and that the finding of the reviewing agency shall be considered the final finding of the State Agency. This requirement does not preclude providers from appealing a finding of inappropriateness on an areawide basis; however, the States are not required to provide a mechanism for such an appeal.

*Section 123.605(a)(11) State Agency Decisions Inconsistent with Health Systems Agency Plans*

**Note.**—This subparagraph was numbered § 123.605(a)(10) in the NPRM.

Several comments were received which indicated confusion as to the intent of this requirement. This provision clearly provides that the emphasis of this procedure is to be on the inconsistency of the State Agency's findings with the goals of the HSP or the priorities of the AIP, not the inconsistency of the service with the goals of HSP or the priorities of the AIP.

*Sections 122.505(c) and 123.605(c) Provision for Corresponding Procedures*

The Secretary has concluded that because of the length of time (up to one year) between the HSA's and the State Agency's reviews of an existing institutional health service, both agencies should provide procedures for written notification to affected persons of the beginning of their reviews and procedures for the provisions of public hearings in the course of the review if requested by persons directly affected by the review. The provisions permitting one agency to satisfy these requirements for both agencies have therefore been deleted. However, since the State Agency has been given the responsibility to establish requirements for submission of data after consultation with the SHCC and the HSAs of the State (§ 123.604(c)), the Secretary has maintained the provision that § 122.505(a)(3) is deemed satisfied for the HSA if the State Agency has provided for a corresponding procedure.

*Sections 122.506 and 123.606 Exceptions To Use of Procedures*

One commenter urged that no exceptions be allowed to the procedures required in § 122.505 and 123.605. The statute does not require that the procedures adopted by the planning agencies be the same for every HSA or State Agency, and permits every agency to develop and publish its own set of procedures. Agencies may find it necessary, with respect to any type or group of reviews, to deviate from the minimal requirements set forth in section 1532(b) of the Act. The Secretary has the authority, under section 1532(a) of the Act, to permit exceptions to use of these procedures, although he anticipates doing so only in unusual circumstances.

*Sections 122.507 and 123.607 Criteria for Health Systems Agency and State Agency Reviews; General Comments*

A number of comments revealed that there is a great deal of confusion concerning the respective roles of the State Agencies and the HSAs in developing the criteria to be used in appropriateness reviews. Unlike the role accorded to the State Agency in coordinating and establishing definitions, schedules, and priorities for reviews, no comparable role has been assigned for the development of review procedures or criteria. The agencies must, under § 122.503(b)(1) and 123.603(a), consult with each other and the SHCC before they decide on the criteria they will use, but neither agency is bound by the decisions of the other.

Several commenters were concerned over how the criteria would be used in determining appropriateness. Specific concerns were expressed over how the criteria will be balanced by the State Agency and whether or not all criteria will be used in making a finding of appropriateness. The Secretary intends that the State Agency and the HSAs use judgment in developing specific criteria to be applied in the review of each type of existing service which they undertake. The regulations allow considerable latitude in § 123.607(a) and (b) and § 123.608(b) in the selection and application of criteria. A minimum of one negative finding must be made in order to support a finding of inappropriateness. The Secretary believes mechanistic formulas for the weighing of criteria would overly simplify a complex set of local judgments.

Several respondents sought either additional considerations for criteria or more detail in those listed in § 123.607(a). The Secretary believes that the considerations as presently enumerated enable the agencies to develop all the criteria relevant and necessary to make a recommendation or a finding concerning appropriateness. He prefers that the regulations allow flexibility so that the agencies can develop and apply criteria suitable to local situations rather than to regulate fixed and rigid considerations aimed at meeting all possible needs.

A number of respondents felt strongly that providers should be involved in the development of review criteria. Since providers are represented on the governing bodies of each HSA, they should be directly involved in the development of criteria at the local agency level. The State Agency, however, might not have direct provider participation. The Secretary, therefore, strongly urges that the State Agencies give proper consideration to both provider and consumer concerns which are conveyed in the consultation meetings that take place between the State Agency, the HSA, and the SHCC. In addition, the Secretary reminds all interested parties that under § 122.504 and § 123.604 the HSAs and the State Agencies must give the public an opportunity to comment on criteria as well as procedures prior to their adoption. The Secretary feels that through these means, participation by government officials, providers, consumers, and planners in the formulation of review criteria is assured.

One commenter thought that since quality of care is monitored by Professional Standards Review

Organizations (PSROs), it should not be included as a consideration. The Secretary does not agree with this suggestion, but rather believes that the quality of health care is important and that to remove it from consideration in appropriateness reviews would be contrary to the best interests of the public. It should be noted that section 1513(d)(1) of the Act requires each HSA to coordinate its activities with those of the PSRO in its area. It is through this mechanism that PSROs are expected to have a significant role in identifying quality considerations for use as review criteria.

The Secretary notes that Pub. L. 95-619, the National Energy Conservation Policy Act, which became law on November 9, 1978, amends section 1532(c)(9) of the Act to provide that in the case of a construction project, the "costs and methods of the proposed construction" to be considered must include the "costs and methods of energy provision." Because appropriateness reviews do not include reviews of proposed construction projects, the original provisions of section 1532(c)(9) of the Act were not included in the proposed regulation; for the same reason the amended provisions are not included in these regulations. Reviews of proposed construction projects are already required to employ this criterion when they are conducted as reviews of new institutional health services (including certificate of need) by 42 CFR 123.409(a)(12)(i).

Pub. L. 95-619 also added paragraph (c)(10) to section 1532(c) of the Act, providing for an additional criterion. This requires consideration of the special circumstances of health care facilities and HMOs with respect to the need for conserving energy. This provision has been incorporated into the regulations as § 123.607(a)(11).

*Section 123.607(a)(1) Relationship of Services Reviewed to Plans*

Several respondents stated that review criteria should not be required to include the relationship of the health services to the State health plan (SHIP). The major reason given for this assertion is that these plans may not have been completed in time to allow the HSAs to complete their reviews in the required time. Since the new health planning amendments now require that reviews consider the relationship to the State health plan, these regulations continue to contain this provision.

The Secretary has revised this paragraph to describe more fully the "population" served as including low income persons, racial and ethnic minorities, women, handicapped



persons, and other underserved groups. Further discussion of these population groups is set forth below in regard to § 123.607(a)(10).

#### Section 123.607(a)(3) Need for the Services

Several commenters requested that the regulation make provision for the special needs and circumstances of osteopaths, including their facilities and patients. The Secretary has considered these comments and concludes (as noted in the Preamble to the final regulations governing the reviews of new institutional health services (42 FR 4018) January 21, 1977) that to include such a provision in Federal regulations would interfere with the local planning process which the statute was designed to foster. As the distribution of osteopathic services varies greatly from State to State, and as the governing bodies of the HSAs must include consumers, public officials, and representatives of provider groups, the Secretary feels that osteopathic concerns can be adequately voiced on the boards of the HSAs. Furthermore, he notes that the statute provides for public hearings by a planning agency and that there is opportunity for community input in the development of both the HSP and the SHP, as well as in the adoption of other review criteria. Thus, osteopathic concerns, in areas where they are a factor, may be addressed in the applicable health plans and criteria.

The Secretary reiterates his intent that there be no discrimination against populations which wish to have osteopathic services and facilities available. He therefore encourages State Agencies and HSAs to incorporate consideration of the needs of those being served by such services into the health plans. However, he is not advocating the development of duplicative systems of health care and of expensive facilities and equipment.

Other requests for special consideration were received from rural providers, the developmentally disabled, and clinical health manpower training facilities. The Secretary feels that the rationale regarding opportunity to participate in HSA and State Agency decisions in areas of the country where a particular need exists, as discussed above, is applicable to a number of the other requests for special consideration.

One writer asked whether a service ought to be considered inappropriate if it is insufficient to meet the needs of the community. The Secretary believes that an insufficiency might be a basis for a finding of inappropriateness, but should be weighed against the availability of the service outside the immediate

community, the alternative services to meet the same health needs, and other adopted criteria. The Secretary encourages the use of appropriateness reviews to identify areas in need of additional services, as well as to identify excess capacity and he calls attention to § 123.608(d), which requires that a finding of inappropriateness lead to a recommendation for remedial action.

#### Section 123.607(a)(4) Availability of Alternatives

One commenter suggested that consideration be given to making comparisons of the costs of services by institutions in a health service area. Another suggested that the alternate form of care also be judged as to whether it is less restrictive, citing court decisions which state that disabled persons have the right to treatment in the least restrictive environment appropriate to their needs. The Secretary declines to accept this suggestion. He feels that the revised language for § 123.607(a)(3) and (10) provides adequate assurance that the needs of handicapped persons will be considered in reviewing existing services, and although he is not prescribing language for the handicapped (nor for that matter any other group), he expects planning agencies to develop criteria consistent with these considerations as local circumstances require.

#### Section 123.607(a)(5) The Relationship of Services Reviewed to Existing System

One commenter pointed out the relativity of the term "inappropriate," suggesting the decision depended on determining which services were least appropriate. Clarification was also requested as to whether the term relates to oversupply. While the Secretary is concerned with excess capacity, he maintains that appropriateness review must address, to the extent practicable, all of the characteristics of health service delivery systems in the State. As discussed above, the insufficiency of a service should also be identified during appropriateness reviews, and the agencies have a responsibility for recommending remedial action.

#### Section 123.607(a)(6) Availability of Resources

A number of providers requested deletion of this section, which addresses the availability of resources for the provision of the service being reviewed and the possible alternate use of these resources for the provision of other health care services. They asserted that

this provision is an unwarranted intrusion into the way providers conduct their day to day business and that such a provision would lead to the destruction of free enterprise in the health care system. The Secretary believes that health care resources are not infinitely expandable, that decisions need to be made concerning their allocation, and that he would be undermining the planning process if he complied with this request.

#### Section 123.607 (a)(8) and (c) Reviews of Health Maintenance Organizations

The Secretary notes (see the Preamble to the NPRM for appropriateness review, 43 FR 21277, May 16, 1977) his expectation that *areawide* appropriateness reviews will not impact adversely on HMOs. It was with this expectation that the special HMO related provisions of the regulations (specifying and limiting criteria and providing for required findings) apply only with regard to institution-specific findings. He notes, however, that the Act clearly requires that institutional health services provided by or through an HMO be subject to appropriateness reviews, even if the findings are stated only on an areawide basis. Accordingly, planning agencies are now required to review only those services of HMOs which are provided through public and private hospitals, rehabilitation facilities and nursing homes. Other services provided by HMOs, such as outpatient services, are no longer required by statute to be reviewed.

A few respondents felt that if the Federal government wants to foster the development and growth of HMOs, the Secretary should exclude them from all planning and regulatory activities. The Secretary has no authority to exempt HMOs from all planning and regulatory activities, and he does not agree that the special criteria place HMOs outside the regulatory process. The purpose of these regulations is to ensure that reviews of HMOs are performed in a manner consistent with the Federal initiative to aid in their development, as mandated by section 117(a) of the HMO Amendments of 1976 (Pub. L. 94-460) and the National Health Priorities in section 1501 of the Act. He submits further that the history of the development of the HMO system of health delivery shows that they have been the object of discrimination by some in the medical community. He feels that these regulations will establish a process which may help protect them from this discrimination and will place them on an equal footing with other providers.

Other commenters asserted that HMOs should not be given special privileges or be judged by special criteria, since this approach is discriminatory against other health care providers and sets a precedent for other exceptions. The Secretary does not agree that this regulation discriminates against other providers. It simply implements the Congressional intent, as set forth in Pub. L. 93-641, 93-222, 96-79 and 94-460, that the development of HMOs be encouraged and that HMOs be given special consideration in the health planning process.

One commenter suggested that HMO members be subtracted from the population base which is used to justify new non-HMO services. The Secretary notes that it is the responsibility of health planning agencies to plan for health services for the total population of their planning areas for all types of services. Nothing in these regulations lessens the responsibility of health planning agencies to plan for the segment of the population who are HMO enrollees, or to implement their plans within the requirements of the regulations. However, the Secretary does feel that population based planning must take into consideration that certain populations obtain service from separate providers, such as Federal health care facilities or HMOs.

The Secretary has reviewed these sections and agrees with the commenters who questioned the applicability of § 122.508(d) and § 123.608(d) (as well as § 123.607(a)(8)(iii)) to appropriateness reviews. He notes that while it is necessary to consider the relationship of HMO services to the health system services as a whole, it is not advisable to evaluate the HMO services in such a way as to encourage their being deemed inappropriate simply because the service may be, or may become, available from non-HMO providers. He feels that these proposed provisions, although helpful in certificate of need reviews, would create unintended hardships for HMO's in appropriateness reviews. Therefore, the Secretary has: (1) Deleted two of these paragraphs (§ 122.508(d) and § 123.608(d)) from the regulations, and (2) clarified the other provision (§ 123.607(a)(8)(ii)) to state that the agencies shall consider whether the services could be obtained from non-HMO, or other HMO, providers in a reasonable and cost-effective way, consistent with the HMO mode of operation. He does not, however, agree with the commenter who also advised deleting § 123.607(a)(8)(iii). He urges health planning agencies to submit,

under the provisions of § 123.607(a)(8)(iii), any other factors which they propose to use to determine the appropriateness of these HMOs within the health delivery system, including the relationship of one HMO to other HMOs or to non-HMO providers.

#### Section 123.607(a)(9) Special Needs and Circumstances of Biomedical and Behavioral Research Projects

One commenter asked whether specific criteria should be used by the State Agency for review of research projects of national importance and whether, in fact, findings regarding such projects would have the effect of recommendations to the Secretary. The Secretary points out that this subparagraph requires the HSAs and State Agencies to take into consideration needs of projects which may extend beyond their boundaries. Appropriateness reviews, based in part on this consideration, result in findings, not in recommendations to the Secretary. He points out that these findings may provide the basis for HSA's reviews of proposed uses of Federal funds within their areas under section 1513(e) of the Act. Nevertheless, the Secretary encourages the State Agencies to notify the appropriate Federal funding agency when it determines that a Federally funded research project is inappropriate, although he is not requiring by regulation that they do so.

#### Section 123.607(a)(10) Needs of medically underserved groups and groups with problems of equal access to health care.

Commenters both praised and criticized the proposal that consideration be given the contribution of the institutional health service in meeting the health related needs of women, minorities and the handicapped. Some suggested that the regulations be expanded to include additional groups such as the elderly, children, pregnant women and the medically underserved generally, whose health care problems merit special consideration.

Others thought that there is no evidence that women and minorities have special unmet health care needs and that requiring their consideration places HSAs in the role of civil rights investigators. Another commenter questioned the legal basis for the section and said that § 123.607(a)(3), (the "need that the population served \* \* \* has for such services") logically includes consideration of any special needs. One commenter suggested that such consideration prevented giving equal

consideration to needs of *all* individuals in the health service area. And finally, a State Agency stated that this provision was unnecessary because consideration of the needs of these and other groups would already be part of an agency's planning process.

After thoughtful consideration of the comments, the Secretary is revising § 123.607(a)(10) by stating that special consideration shall be given to the needs of "members of medically underserved groups and members of groups which have traditionally experienced difficulties in obtaining equal access to health services."

The regulation then cites low income persons, racial and ethnic minorities, women, and handicapped persons as examples of these groups. The Secretary points out that these are only illustrative and that there may be other groups whose needs merit special attention in particular health service areas or States. The regulation also calls attention to those health related needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.

The Secretary believes the revision serves several purposes. First, while highlighting several of the more prominent groups which are underserved or have problems of access, it does not limit consideration exclusively to them. Second, it enables agencies to identify the groups in their area which have traditionally experienced access problems and to provide special consideration as to how the health related needs of these groups can be met. Third, the section is designed to remind the agencies that the Secretary is vitally interested in the health care that is accorded to these example groups and will be monitoring their situations closely.

While the Secretary agrees that consideration of the "need the population served \* \* \* has for such (proposed) services" can be read broadly to include the needs of these groups, he has concluded that this more explicit statement is necessary because it is the most appropriate way to call attention to problems of equal access and medical underservice, given the Department's strong commitment to resolving these problems.

The Secretary views the promulgation of paragraph (a)(10) as clearly being authorized because: (1) Section 1532(c) of the Act refers to criteria which include consideration of "at least" the factors specified in the Act, (2) the Secretary views paragraph (a)(10) as being a more explicit statement of paragraph (a)(3) (which is derived from Section 1532(c)(3) of the Act), and (3)



issues of equal access and medical underservice were so explicitly referred to by the Congress in enacting Title XV (see, for example, Sections 2(a)(2) and (3) of Pub. L. 93-641, Sections 1502 and 1532(c) of the Act).

**Section 123.607(b) Criteria for different types of reviews.**

The individual character of each State and health service area will dictate the criteria to be used in reviewing the services offered in that area. Different factors will assume different degrees of importance, depending on such considerations as the nature of the service under review and the characteristics of the area where the review is being conducted. The recommendation or finding that results from an appropriateness review should be based on the integrated application of all criteria, rather than absolute compliance with each set. The Secretary agrees that additional clarity is needed and therefore, is revising § 123.607(b), by adding that "should an agency fail to use criteria addressing all six of the characteristics of appropriateness in a review, it must explain this in the finding." Technical assistance, in the form of suggestions of possible measures of the six characteristics of appropriateness, will be made available to the agencies. Definitions of these six characteristics are in the *Guidelines for the Development of Health Systems Plans and Annual Implementation Plans*, distributed with the Bureau of Health Planning's Program Policy Notice 79-05.

**Sections 122.508 and 123.608 Required recommendations/findings.**

One commenter questioned the negative impact on an institution of making public a finding of inappropriateness. In the absence of regulatory sanctions, planning agencies can rely only on voluntary actions which may be stimulated (in part) by the public finding. While this may have a negative impact upon a given institution, it should result in better overall health care by stimulating the institutions affected, the community, and the planning agency to seek solutions through suggested remedial action to the causes of the finding.

Several commenters objected to paragraphs (e) of these sections, regarding inpatient facilities of HMOs. Some advised deleting the provisions entirely because it was not suitable for use in appropriateness reviews. The Secretary has reexamined the proposed required findings and has deleted proposed § 122.508(e) and § 123.608(e) as superfluous. He has also deleted

§ 122.508(d) and § 123.608(d) because he has concluded that the limited review criteria which may be applied to HMOs are sufficient to prevent discrimination against HMOs in the review process.

**Sections 122.508(f) and 123.608(f) (Renumbered as § 122.508(d) and § 123.608(d) Plan for remedial action.**

A number of commenters were concerned about the requirement that HSAs and State Agencies suggest remedial actions whenever they find a service inappropriate. Some commenters felt it should be clear that the remedial actions would be voluntary, and one felt that development of remedial action plans should not be a function of HSAs or State Agencies; rather it should be performed by the governing body of the institutions in question.

Another commenter was concerned that the kinds of findings and recommendations which might be developed would need to provide an adequate basis for administrative or judicial review which might occur in the event of an appeal. Several other commenters believed that the language in the proposed rule did not adequately emphasize that HSAs and State Agencies should actively work with all affected groups to change or eliminate inappropriate services.

The Secretary believes that a finding of inappropriateness carries with it an obligation for suggesting remedial action which is consistent with the planning functions of Sections 1513 and 1523 of the Act. This requirement to develop remedial action suggestions is intended to encourage HSAs and State Agencies to refine their analyses of the appropriateness of services to the point where specific actions can be suggested. The Secretary intends that it will serve as a check on health planning agencies, preventing them from arbitrarily finding services provided in the area to be inappropriate.

Although some States may wish to develop regulatory programs around the appropriateness review function, the Secretary expects that most States and agencies will rely, at least initially, on the voluntary efforts of institutions to implement the remedial actions suggested to them. Moreover, the Secretary feels strongly that planning agencies should work closely with institutions which provide services that have been deemed inappropriate in order to obtain agreement on reasonable remedial actions.

With regard to the need for findings and recommendations to constitute an adequate basis for further administrative or judicial review, the Secretary concurs that such findings and

recommendations need to go beyond the mere statement of whether a service is deemed appropriate or inappropriate. Any finding or recommendation should be supported by a summary of major comments and information received. It should also explain how any concerns or problems raised were resolved by the agency and what led the agency to its ultimate finding or recommendation. Moreover, although findings and recommendations need not address all six characteristics in detail, the record should show that the agency gave consideration during the course of its review to all six of those characteristics (availability, accessibility, acceptability, continuity, cost, and quality) as well as all other criteria which apply to the service being reviewed, or explain in its findings why it has chosen not to do so.

Remedial action plans should be developed by the HSA and the State Agency after due consideration of the suggestions received from the institutions involved, major creditors, third party insurers, consumers, and providers of health services which would be affected by the proposed remedial action. Examples of potential remedial action would include the possibility of conversion of some services to other health care uses, use of facilities that are nearby, or the elimination of the service together with some plan for providing patient access to other convenient facilities.

One commenter felt that the remedial plans could not be effective unless they dealt with specific institutions. As indicated previously, the Secretary agrees that remedial plans which address changes in individual institutions will ultimately have a greater impact on the health care system than those which deal generally with services being provided in the area. However, remedial plans which are applicable to services provided over an entire health service area will still have value which will vary as a function of the services being reviewed. For example, if there is a widespread problem of access to primary care in a health service area, such a finding and the formulation of a remedial action plan could be used to assist in the development of additional primary care resources. A second example is a finding that the delivery of a particular service is inappropriate because of the setting in which it is offered or most frequently offered in the area (e.g., end stage renal disease services provided primarily at clinics, as opposed to a home setting). Another example might be psychiatric services provided primarily on an inpatient basis instead

of community alternatives such as outpatient services or partial hospitalization services.

As agencies gain experience with appropriateness reviews, the nature of remedial actions which they suggest will provide a basis to evaluate the need for further action. The Secretary will be carefully monitoring the effectiveness of remedial action plans. If it becomes evident that remedial action plans lack adequate specificity, the Secretary will consider changing the requirements for these plans. For the time being, however, he feels that the lack of experience with appropriateness review does not justify any greater degree of specificity than was set forth in the NPRM.

One change, however, has been adopted to make § 122.508(f) and § 123.608(f) of the NPRM, now numbered § 122.508(d) and § 123.608(d) more consistent. That is, both sections now require agency plans for remedial action only to the extent practicable.

Accordingly, 42 CFR Parts 122 and 123 are amended in the manner set forth below.

Dated: February 6, 1979.

Julius B. Richmond,  
Assistant Secretary for Health.

Approved: November 28, 1979.

Patricia Roberts Harris,  
Secretary.

**PART 122—HEALTH SYSTEMS AGENCIES**

1. Part 122 of Title 42, CFR, is amended by adding thereto a new Subpart F, to read as follows:

**Subpart F—Health Systems Agency Reviews of Existing**

**Institutional Health Services for Appropriateness**

- Sec.
- 122.501 Definitions.
  - 122.502 Purpose and applicability.
  - 122.503 Appropriateness review work program.
  - 122.504 Adoption and public notice of review procedures and criteria.
  - 122.505 Procedures for health systems agency review.
  - 122.506 Exceptions to use of procedures.
  - 122.507 Criteria for health systems agency review.
  - 122.508 Required recommendations.
- Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); sections 1513 and 1532 of the Public Health Service Act, as amended, 93 Stat. 592-630 (42 U.S.C. 300l-2, 300n-1).

**Subpart F—Health Systems Agency Reviews of Existing Institutional Health Services for Appropriateness**

**§ 122.501 Definitions.**

Except for the term "institutional health services," terms used in this subpart shall have the meaning given them in Subparts A (Definitions) and D (Procedures and Criteria for Review of New Institutional Health Services) of this part. In addition, as used in this subpart:

The term "institutional health services" means health services which (a) are provided through private or public hospitals, rehabilitation facilities, and nursing homes, and (b) entail annual operating costs of at least the expenditure minimum. For purposes of this paragraph, the term "expenditure minimum" means \$75,000 for the twelve month period beginning with October 1979, and for each twelve month period thereafter, \$75,000 or, at the discretion of the State, the figure in effect for the preceding twelve month period, adjusted to reflect the change in the preceding twelve month period in an index to be specified by the Secretary.

The term "existing institutional health services" or "services" means institutional health services:

- (a) Being offered in the health service area at the time of review for appropriateness, or
  - (b) Offered at any time in the 12 months prior to the review and also planned to be offered at any time in the 12 months following the review, or
  - (c) which will be offered during the 12 months following the review.
- A finding of "appropriateness" means a finding that a service meets the needs of a population, in accordance with the criteria development and published under § 122.507.

The term "areawide review" means the review of a specific institutional health service as delivered by all the institutions providing the service in the health service area (a) which shall culminate in recommendations regarding the appropriateness of that service over the entire health service area, and (b) which may result in recommendations regarding the appropriateness of that service in a particular institution.

**§ 122.502 Purpose and applicability.**

Section 1513(g) of the Act requires each health systems agency to review on a periodic basis, but at least every 5 years, all institutional health services offered in its health service area and to make recommendations to the State Agency for each State in which any part of the health systems agency's health

service area is located respecting the appropriateness in the area of such services (hereinafter referred to as an appropriateness review). Section 1532(a) of the Act requires that in performing its review functions under section 1513(g) of the Act or in conducting any other reviews of existing health services, each health systems agency shall follow procedures and apply criteria developed and published by the health systems agency in accordance with regulations of the Secretary. This subpart sets forth minimum procedures and criteria to be used by health systems agencies in conducting these reviews and the requirements respecting the assumption, conduct, and timing of the appropriateness review function by health systems agencies; requirements respecting the coordination with the State Agency and the Statewide Health Coordinating Council; and the administrative steps which are necessary for the effective performance of the appropriateness reviews.

Note.—Under 42 CFR 122.106(c), a health systems agency may not perform the appropriateness review function during its first year of conditional designation, and may not in any event perform this function during its period of conditional designation until it has established a health systems plan and annual implementation plan in accordance with sections 1513(b)(2) and (3) of the Act, and the Secretary has in writing authorized the agency to perform this function.

**§ 122.503 Appropriateness review work program.**

(a) Each appropriateness review shall be performed on an areawide basis and shall result in a finding as to the appropriateness of the service being reviewed as it is delivered in the health service area. The health systems agency may, at the same time, make findings as to the appropriateness of that service in particular institutions.

(b) The work program submitted by each health systems agency in accordance with 42 CFR 122.104(a)(3) or (b)(9), whichever is applicable, shall with respect to the assumption and continuing performance of the appropriateness review function:

- (1) Specify the steps to be taken to develop procedures and criteria to be applied in performance of appropriateness reviews, in consultation with the Statewide Health Coordinating Council and State Agency of each State in which any part of the health systems agency's health service area is located;
- (2) Include an assurance (i) that the health systems agency will abide by the decision of the State Agency with respect to the definitions of services, priorities among services, and the schedule for areawide reviews of such



services if the State Agency written decision is communicated to the health systems agency within 6 months following publication of these regulations; or after such time (ii) that the health systems agency will abide by the definitions of services and schedules for reviews agreed to by the majority of the health systems agencies in the State, and will give priority in its reviews to services for which National Guidelines for Health Planning have been issued.

(3) Provide for the establishment of administrative procedures governing the transmittal of appropriateness review recommendations to the State Agency in accordance with procedural requirements established by the State Agency; and

(4) Specify the steps necessary to complete areawide appropriateness reviews of all existing institutional health services within 3 years of the date of the health systems agency's initial full designation and during each succeeding 5-year period. Review schedule priorities may be established, but such review priority setting shall not result in the exclusion from review of any existing institutional health service during any applicable time period.

(c) Each health systems agency shall, within three months after the effective date of these regulations, submit to the Secretary a revised work program under § 122.104(a)(3) or (b)(9) of this title, whichever is applicable, which conforms to the requirements of this section.

#### § 122.504 Adoption and public notice of review procedures and criteria.

The provisions of 42 CFR 122.305 apply to the adoption and public notice of review procedures and criteria under this subpart.

#### § 122.505 Procedures for health systems agency review.

(a) The procedures adopted and used by a health systems agency conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review. Written notification to members of the public may be provided through newspapers of general circulation in the area and public information channels; notification to all other affected persons shall be by mail (which may be as part of a newsletter). "Affected persons" include at a minimum, the person whose service is being reviewed, the State Agency for each State in which all or any part of the agency's health service area is located, health systems agencies serving contiguous health service areas, health care facilities and HMOs located

in the health service area which provide institutional health services, entities with which the health systems agency must coordinate its activities pursuant to section 1513(d) of the Act, any agency which establishes rates for health care facilities or HMOs in its health service area, and those members of the public who are to be served by the service subject to review.

(2) Schedules for areawide reviews which provide that no review shall, to the extent practicable, take longer than 180 days from the date of notification to affected persons made in accordance with paragraph (a)(1) of this section to the date of submission of the health systems agency's recommendations to the State Agency.

(3) Provision for persons subject to a review to submit to the health systems agency such information as the health systems agency may require concerning the subject of such review, in the form and manner and containing the information which the health systems agency shall prescribe and publish. Such information requirements may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed; however, the health systems agency may require no information of a person subject to review which is not prescribed and published as being required in accordance with § 122.504.

(4) Provision for written findings which state the basis for any recommendations made by the health systems agency.

(5) Notification of providers of health services and other persons subject to the health systems agency review of the status of the health systems agency's review of the institutional health services, findings made in the course of the review, and other appropriate information respecting the review.

(6) Provision for (i) public hearings in the course of the health systems agency review if requested by persons affected by the review, and (ii) that any person may, for good cause shown, request in writing a public hearing for purposes of reconsideration of a health systems agency recommendation derived from an institution-specific finding.

(7) Preparation and publication of regular reports by the health systems agency of the reviews being conducted (including a statement concerning the status of each such review), and of the reviews completed by the health systems agency (including a general statement of the findings made in the course of these reviews and the recommendations made to the State Agency) since the publication of the last report.

(8) Access by the general public to all written materials pertinent to any health systems agency review.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed.

(c) The procedures adopted for reviews may provide that the requirements of paragraph (a)(3) of this section shall be deemed satisfied for any health service area within the State if the State Agency has provided for a corresponding procedure.

#### § 122.506 Exceptions to use of procedures.

A health systems agency may, with respect to any type or group of reviews, request from the Secretary an exception to the requirement that it use review procedures which meet the requirements of § 122.506. The requirements of 42 CFR 122.307 apply to such a request for an exception.

#### § 122.507 Criteria for health systems agency review.

The provisions of 42 CFR 123.607 apply to the adoption and use of review criteria under this subpart.

#### § 122.508 Required recommendations.

(a) After completing its review of an existing institutional health service a health systems agency shall make recommendations respecting the appropriateness of the service in its health service area to the State Agency of each State in which all or any part of the health systems agency's health service area is located.

(b) A health systems agency may not recommend that a State Agency find an existing institutional health service to be inappropriate unless the health systems agency has stated in writing that the service has not met one or more of the established criteria of the health systems agency and the ways in which the service failed to meet the criteria, including any that are beyond the control of the person(s) providing that service.

(c) A health systems agency, in conducting an areawide review which results in institution-specific findings may not recommend that an existing institutional health service provided by or through an HMO be found inappropriate solely because there is an HMO of the same type, as specified in section 1310(b) of the Act, in the same health service area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, or State health plan.

(d) When a health systems agency recommends to a State Agency that a service be found inappropriate, the health systems agency shall, to the extent practicable, suggest to the State Agency a plan for remedial action.

### PART 123—STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

2. Part 123 of Title 42, is amended by adding thereto a new Subpart G, to read as follows:

#### Subpart G—State Agency Reviews of Existing Institutional Health Services for Appropriateness

Sec.

123.601 Definitions.

123.602 Purpose and applicability.

123.603 Appropriateness review work program.

123.604 Adoption and public notice of review procedures and criteria.

123.605 Procedures for State Agency review.

123.606 Exceptions to use of procedures.

123.607 Criteria for State Agency review.

123.608 Required findings.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1523 and 1532 of the Public Health Service Act, as amended, 93 Stat. 592-630 (42 U.S.C. 300m-2, 300n-1).

#### Subpart G—State Agency Reviews of Existing Institutional Health Services for Appropriateness

##### § 123.601 Definitions.

Except for the term "institutional health services," terms used in this subpart shall have the meaning given them in Subparts A (definitions) and E (certificate of need and review of new institutional health services) of this part. In addition, as used in this subpart:

The term "institutional health services," means health services which (a) are provided through private or public hospitals, rehabilitation facilities, and nursing homes, and (b) entail annual operating costs of at least the expenditure minimum. For purposes of this paragraph, the term "expenditure minimum" means \$75,000 for the twelve month period beginning with October 1979, and for each twelve month period thereafter, \$75,000 or, at the discretion of the State, the figure in effect for the preceding twelve month period, adjusted to reflect the change in the preceding twelve month period in an index to be specified by the Secretary.

The term "existing institutional health services" or "services" means institutional health services:

(a) Being offered in the State at the time of review for appropriateness, or

(b) Offered at any time in the 12 months prior to the review and also

planned to be offered at any time in the 12 months following the review, or

(c) Which will be offered during the 12 months following the review.

A finding of "appropriateness" means a finding that the service meets the needs of a population in accordance with the criteria developed and published under § 123.607. The term "areawide review" means the review of a specific institutional health service as delivered by all the institutions providing the service in a health service area or State (a) which shall culminate in findings regarding the appropriateness of that service over the entire health service area or State, and (b) which may result in recommendations regarding the appropriateness of that service in a particular institution.

##### § 123.602 Purpose and applicability.

Section 1523(a)(6) of the Act requires each State health planning and development agency to review on a periodic basis (but not less often than every 5 years) all institutional health services being offered in the State (hereinafter referred to as an appropriateness review) and, after consideration of the recommendations submitted by health systems agencies under Section 1513(g) of the Act and 42 CFR Part 122, Subpart F, to make public its findings as to the appropriateness of such services. Section 1523(b)(3) of the Act requires the State Agency to complete its findings as to the appropriateness of any existing institutional health service within one year after the date a health systems agency has made its recommendation with respect to the appropriateness of the service under Section 1513(g) of the Act and 42 CFR Part 122, Subpart F. Section 1532(a) of the Act requires that in performing its review functions under Section 1523 of the Act (which includes reviews conducted under Section 1523(a)(6)), each State Agency shall (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the State Agency in accordance with regulations of the Secretary. This subpart sets forth minimum procedures and criteria to be used by State Agencies in conducting these reviews; requirements respecting the assumption, conduct, and timing of the appropriateness review function; requirements respecting the coordination with health systems agencies and statewide health coordinating councils and the administrative steps which are necessary for the effective performance of appropriateness reviews.

##### § 123.603 Appropriateness review work program.

(a) Each appropriateness review shall be performed on an areawide basis and shall result in a finding as to the appropriateness of the service being reviewed as it is delivered in the State or health service area. The State Agency, may, at the same time, make findings as to the appropriateness of that service in particular institutions.

(b) Each State Agency must, within three months after the effective date of these regulations, develop and submit to the Secretary a work program for the orderly assumption and/or continued performance of appropriateness reviews. This work program will be used in the Secretary's determination of the State Agency's capability of assuming and performing the appropriateness review function in a satisfactory manner as required by Sections 1521(b)(1)(B), (b)(2)(A), and (b)(4) of the Act. The State Agency must submit to the Secretary, with the work program, evidence that prior to its adoption, the public was afforded an opportunity to comment in writing or at a public hearing. It shall also submit a summary of the comments received. The work program shall provide for:

(1) The development of the review procedures and criteria to be applied by the State Agency in the performance of appropriateness reviews, in consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State Agency(s) and statewide health coordinating council(s) of any contiguous State(s) where a health service area is shared by more than one State.

(2) The establishment of the definitions of services to be reviewed, priorities among services, and the schedule for reviews of such services, after consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State Agency(s) and statewide health coordinating council(s) of any contiguous States where a health service area is shared by both States. In establishment of these definitions, priorities, and schedules, the State Agency must take into account the statutory time limits applicable to appropriateness reviews by health systems agencies, and the need within the State for priority reviews of the services for which National Guidelines for Health Planning have been issued.

(3) The establishment of requirements for submission by providers of data to be used in performance of appropriateness reviews to the State Agency and to the health systems



agencies, after consultation with the statewide health coordinating council and all the health systems agencies in the State, and the State Agency(s) and statewide health coordinating council(s) of any contiguous States where a health service area is shared by more than one State. At a minimum, the State Agency shall establish such data requirements for services provided by hospitals and nursing homes during the first and second years, respectively, of its reviews of appropriateness. Data requirements shall be limited to data reasonably needed for appropriateness reviews and the State Agencies shall use existing data sources to the maximum extent feasible.

(4) Plans for initiating appropriateness reviews:

(i) No later than 6 months after the effective date of these regulations if: (A) The State Agency is fully designated prior to the date of publication of these regulations, or (B) the State Agency is conditionally designated and the Secretary has determined that the State Agency is capable of performing appropriateness reviews (see 42 CFR 123.105) prior to the effective date of these regulations; or

(ii) In the case of a State Agency not covered by paragraph (b)(4)(i) of this section, no later than 6 months after: (A) The date of full designation, or (B) the date the Secretary determines that the State Agency, although conditionally designated, is capable of performing appropriateness reviews, whichever is earlier.

(5) Plans for completing areawide reviews of all existing institutional health services within 5 years of the date of the State Agency's initial full designation and during each succeeding 5-year period, but in any event within 1 year of receipt of an appropriate health system agency recommendation. Review schedule priorities may be established, but such review priority setting shall not result in the exclusion from review of any existing institutional health service during any applicable time period.

#### § 123.604 Adoption and public notice of review procedures and criteria.

The provisions of 42 CFR 123.406 apply to the adoption and public notice of review procedures and criteria under this subpart.

#### § 123.605 Procedures for State Agency review.

(a) The procedures adopted and used by a State Agency for conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review.

Written notification to members of the public may be provided through newspapers of general circulation in the area and public information channels; notifications to all other affected persons shall be by mail (which may be part of a newsletter). "Affected persons" include at a minimum, the person(s) whose service is being reviewed, the State Agency for each State in which all or any part of the agency's health service area is located, health systems agencies serving contiguous health service areas, health care facilities and HMOs located in the health service area which provide institutional health services, any agency which establishes rates for health care facilities or HMOs in its health service area, and those members of the public who are to be served by the service subject to review.

(2) Schedules for review which provide that no areawide review shall, to the extent practicable, take longer than 180 days from the date of notification to affected persons made in accordance with paragraph (a)(1) of this section to the date of the written findings made in accordance with paragraph (a)(4) of this section.

(3) Provisions for persons subject to a review to submit to the State Agency any information which the State Agency may require in accordance with its work program under § 123.603(c) concerning the subject of the review in the form and manner and containing the information which the State Agency shall prescribe and publish. These information requirements may vary according to the purpose for which the particular review is being conducted or the type of health service being reviewed; however, the State Agency may require no information of a person subject to review which is not prescribed and published as being required in accordance with § 123.604.

(4) Provision for written findings which state the basis for any findings made by the State Agency.

(5) Notification of providers of health services and other persons subject to the State Agency review of the status of the State Agency's review of the institutional health services, findings made in the course of the review, and other appropriate information respecting the review.

(6) Provision for (i) public hearings in the course of the State Agency review if requested by persons affected by the review; and for (ii) public hearings, for good cause shown, respecting the State Agency finding.

(7) Preparation and publication of regular reports by the State Agency of the reviews being conducted (including a statement concerning the status of

each review), and of the reviews completed by the State Agency (including a general statement of the findings made in the course of these reviews) since the publication of the last report.

(8) Access by the general public to all written materials pertinent to any State Agency review.

(9) Provision that if the State Agency makes a finding regarding the appropriateness of an existing institutional health service which is inconsistent with a recommendation made with respect thereto by the health systems agency making such recommendation pursuant to 42 CFR 122.508: (i) the finding (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and (ii) the finding of the reviewing agency shall be considered the final finding of the State Agency.

(10) Provision that a decision of the State Agency resulting in an institution-specific finding of inappropriateness shall, upon request of the person(s) providing that service, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State Agency) designated by the Governor. The decision of the reviewing agency shall be considered the final decision of the State Agency.

(11) Provision that if a State Agency (or a reviewing agency, under paragraph (a)(9) of this section) makes a finding regarding an existing institutional health service which the State Agency determines is not consistent with the goals of the applicable health systems plan (established under Section 1513(b)(2) of the Act) or the priorities of the applicable annual implementation plan (established under Section 1513(b)(3) of the Act), the State Agency (or the reviewing agency, as appropriate) shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed.

(c) The procedures adopted for reviews may provide that the requirements of paragraph (a)(3) of this section shall be deemed satisfied for

any health service area within the State if the health systems agency has provided for a corresponding procedure.

#### § 123.606 Exceptions to use of procedures.

A State Agency may, with respect to any type or group of reviews, request from the Secretary an exception to the requirement that it use review procedures which meet the requirements of § 123.605. The requirements of 42 CFR 123.408 apply to such a request for an exception.

#### § 123.607 Criteria for State Agency review.

(a) The State Agency shall adopt, and use as appropriate, specific criteria for conducting the reviews covered by this subpart. These criteria shall relate to availability, accessibility, acceptability, continuity, cost, and quality and shall include at least the general considerations listed below, but in the case of areawide reviews which result in institution-specific findings of services provided by or through HMOs, the considerations shall be limited to those set forth in paragraph (a)(8) of this section.

(1) The relationship of the health services being reviewed to the applicable health systems plans, annual implementation plans, and State health plan.

(2) The relationship of the services reviewed to the long-range development plan (if any) of the person providing the services.

(3) The need that the population served has for the services, and the extent to which low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups have access to those services.

(4) The availability of less costly or more effective alternative methods of providing the services.

(5) The relationship of the services reviewed to the existing health care system of the area in which the services are provided.

(6) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services reviewed and the availability of alternative uses of these resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health services

areas. These entities may include medical and other health professions schools, multidisciplinary clinics, and specialty centers.

(8) The special needs and circumstances of HMOs. In the case of areawide reviews which result in institution-specific findings regarding services provided by or through an HMO, the needs and circumstances shall be limited to:

(i) The needs of enrolled members and reasonably anticipated new members of the HMO for the existing institutional health services provided by the organization.

(ii) Whether the services could be obtained from non-HMO, or other HMO, providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO.

(iii) Any other factors which the State Agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of Title XIII of the Act.

(9) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(10) The contribution of the existing institutional health services in meeting the health related needs of members of medically underserved groups and groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons) particularly those needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.

(11) The special circumstances of health service institutions with respect to the need for conserving energy.

(12) In accordance with Section 1502(b) of the Act, the effect of competition on the supply of the health services being reviewed.

(13) Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with Section 1502(b) of the Act, and serve to promote quality assurance and cost effectiveness.

(14) The quality of care provided by the services or facilities in the past.

(b) Criteria adopted for reviews in accordance with paragraph (a) of this section may vary according to the type of health service being reviewed and the purpose of the review. Furthermore, the criteria used in the review of a particular service need not address all

six of the characteristics of appropriateness (availability, accessibility, acceptability, continuity, cost, and quality). Should an agency fail to use criteria addressing all six of the characteristics of appropriateness in a review, it must explain this in the finding.

(c) Where a State Agency proposes under paragraph (a)(8)(iii) of this section that it be permitted to base areawide reviews resulting in institution-specific findings of services provided by or through HMOs on criteria which consider factors not set forth in paragraph (a)(8) of this section, it shall do so in a written request to the Secretary, specifying the reasons for the proposal. The Secretary will approve the request if he finds the additional factors to be consistent with the purpose of Title XIII of the Act. Unless the Secretary has approved the additional factors, the State Agency shall base its review solely on the factors set forth in paragraph (a)(8) of this section.

#### § 123.608 Required findings.

(a) A State Agency shall, in accordance with the requirements of this subpart, make public its findings with respect to the appropriateness of existing institutional health services.

(b) A State Agency may not make a finding that an existing institutional health service is inappropriate unless it has stated in writing that the service has not met one or more of the established criteria of the State Agency and the ways in which the service failed to meet the criteria, including any that are beyond the control of the person(s) providing that service.

(c) A State Agency, in conducting an areawide review resulting in institution-specific findings, may not make a finding that an existing institutional health service provided by or through an HMO is inappropriate solely because there is an HMO of the same type, as specified in section 1310(b) of the Act, in the same health service area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, or State health plan.

(d) Where a State Agency has made a finding that a service is inappropriate, the State Agency shall, to the extent practicable, at the same time, make recommendations for remedial action.

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# Federal Register

Tuesday  
December 11, 1979

## Part VI

### Department of the Interior

Office of the Secretary

Proposed Policy for Federal Land  
Acquisition/Protection Studies and  
Recommendations Under the Land and  
Water Conservation Fund Program; Public  
Meetings



## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

**Proposed Policy for Federal Land Acquisition/Protection Studies and Recommendations Under the Land and Water Conservation Fund Program; Public Meetings on Proposed Policy Statement**

The Assistant Secretary for Fish and Wildlife and Parks is proposing to adopt a policy statement concerning land acquisition/protection studies and recommendations. This policy statement is intended to provide general guidance concerning the study of new areas that could result in use of the Federal portion of the Land and Water Conservation Fund (LWCF) by the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and USDA—Forest Service. This policy will not address studies or acquisition programs within the boundaries of areas previously authorized by Congress or the Secretary of the Interior.

The Land and Water Conservation Fund Act of 1965, as amended, authorizes appropriations for acquisitions of land, waters, or interests in land or waters for certain additions to the National Park System, National Wildlife Refuge System, other areas authorized to be administered by the Secretary of the Interior (Bureau of Land Management) for outdoor recreation purposes, and the National Forest System. Each Federal agency with authority to use LWCF moneys for acquisition currently follows its own policies and procedures in developing studies and recommendations for potential new national areas or major expansions of existing areas. These studies and recommendations are coordinated by the Land and Water Conservation Fund Policy Group (LPG) which is composed of the Directors of the Bureau of Land Management, Fish and Wildlife Service, Heritage Conservation and Recreation Service, National Park Service, the Chief of the Forest Service—USDA, and the Deputy Assistant Secretary for Fish and Wildlife and Parks as chairman. The LPG was established in 1974 to review, comment, and make recommendations on studies and preliminary legislative proposals which may require significant expenditures from the Federal portion of the Land and Water Conservation Fund. The LPG has developed the proposed statement of general policy as recommended by the Nationwide Outdoor Recreation Planning Program to improve administration of the Federal

portion of the Land and Water Conservation Fund.

This proposed policy is not intended to replace the more detailed policies and procedures currently guiding each agency's study programs. However, the proposed statement is intended to provide general guidance on what type of areas will be studied, how priorities will be established, and what alternative protection techniques will be considered. The policy also addresses schedules for implementing adopted protection strategies in newly authorized areas.

The Assistant Secretary for Fish and Wildlife and Parks requests public participation in the formulation of this policy statement. Therefore, public meetings have been scheduled to receive comments on the proposed policy. Written and oral comments will be compiled, reviewed, and considered by the Land and Water Conservation Fund Policy Group. The intent is to have a general statement of policy by April 16, 1980.

*Statement of policy.* The following policy statement will be the basis for comments and discussion:

**Policy for Federal Land Acquisition/Protection Studies and Recommendations Under the Land and Water Conservation Fund Program**

*General.* It is the policy of the member agencies of the Land and water Conservation Fund Policy Group (National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Heritage Conservation and Recreation Service in the Department of the Interior and Forest Service in the Department of Agriculture) to identify and develop recommendations to protect, for the use and benefits of present and future generations, those natural, cultural, and recreational resources which exhibit sufficient qualities to merit Federal action.

*Studies.* Studies of potential new national areas or major expansions of existing areas will be conducted as part of an adopted planning process. Areas eligible for study will be identified by systematic inventories and analytical procedures as having natural, cultural, or recreational qualities of importance to the nation.

*Priorities.* Priorities for studying potential new areas and formulating budget requests will be determined in light of agency program missions and responsibilities by a combination of relevant criteria which may include:

- Relationship to national goals established by congressional and administrative directives, including the Nationwide Outdoor Recreation Plan.
- Adequacy of representation in areas already being protected by Federal, State, local, or private action.
- Potential to increase benefits from land already in Federal ownership or from other Federal program expenditures.
- Potential to generate complementary activities by State, local, private, or other Federal agencies.
- Unique, threatened, or outstanding characteristics of the resource.
- Proximity to population concentration and accessibility.
- Price escalation.
- Support or opposition by State and local governments, citizen organizations, individuals, or other interests.
- Relationship to Statewide Comprehensive Outdoor Recreation Plans (SCORP) and other adopted plans at the State, local, or regional level.

*Alternatives.* Protection strategies may involve various types of direct or indirect Federal action. Recommendations concerning the appropriate Federal role in resource protection and management will consider a full range of applicable alternatives including:

- Reliance on State, local, or private initiatives.
- Registration (natural or historic landmarks, etc.).
- Technical and financial assistance.
- Coordination and consistency of existing Federal or federally-assisted programs.
- Implementation of Federal, State, or local regulatory authorities.
- Acquisition of less-than-fee interests.
- Purchase with reserved interests or provisions for leaseback.
- Acquisition of fee-simple interests.

For potential new areas, recommendations to use any individual technique will be based upon an analysis of alternatives with respect to their ability to protect resource values and meet management objectives, considering long and short term costs as well as benefits.

*Implementation.* Adopted protection and management strategies for potential new national areas or major expansions of boundaries of existing areas will be implemented as promptly as possible to protect resource values and maintain purchasing power of available funds. Each newly authorized area of major expansion will have a plan for management and development, including a schedule for implementation which identifies primary values to be protected, land to be acquired in fee, and land to be protected through other means.

*Meeting Schedule.* Public meetings will be held on the following schedule:

- January 9, 1980, at 10:00 a.m., Ceremonial Courtroom, U.S. Courthouse, 450 Golden Gate, San Francisco, California.
- January 11, 1980, at 10:00 a.m., Geological Survey Lecture Hall, Building 25, Denver Federal Center, Denver, Colorado.
- January 15, 1980, at 10:00 a.m., Main Interior Auditorium, Interior Building, 18th and C Streets, NW., Washington, D.C.

*Written comment.* Written remarks, offered independent of, or in addition to, any oral comments given at the public hearings, will be accepted through January 31, 1980. Comments should be addressed to:

John G. Tkach, Staff Director, Land and Water Conservation Fund Policy Group, Department of the Interior, Heritage Conservation and Recreation Service, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:**

John Tkach at the address given above. Telephone # (202) 343-7665.

Dated: December 5, 1979.

David F. Hales,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 79-37824 Filed 12-10-79; 8:45 am]

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# **federal register**

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Tuesday  
December 11, 1979

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Part VII

## **Environmental Protection Agency**

Air Pollution Control; Recommendation  
for Alternative Emission Reduction  
Options Within State Implementation  
Plans; Policy Statement



## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

(FRL 1360-3)

## Air Pollution Control; Recommendation for Alternative Emission Reduction Options Within State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Policy Statement.

**SUMMARY:** The policy statement set forth below (1) outlines how states can revise their State Implementation Plans to permit sources to place a greater burden of control where the marginal cost of control is low and to reduce control requirements where the cost is high and (2) encourages states to be receptive to proposals from sources seeking to employ a more economically efficient mix of controls.

This policy statement, commonly referred to as the "bubble" concept, is one in a series of steps designed to produce a coherent, easy-to-use system, which we have sometimes called "controlled trading." Other steps have included the offset and banking policies. This system will reconcile improved air quality with economic growth at the least possible cost, encourage firms to develop new ways to control pollution, and enable government and industry to solve problems more flexibly.

EFFECTIVE DATE: December 11, 1979.

## FOR FURTHER INFORMATION CONTACT:

General inquiries regarding the policy may be directed to:

Deborah Taylor, Office of Planning and Evaluation (PM-220), EPA Headquarters, 401 M Street, SW., Washington, DC 20460, (202) 755-2770.

Leo Stander, Control Programs Operations Branch, Control Programs Development Division, EPA, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, NC 27711, (919) 541-5365.

Inquiries regarding specific proposals for alternative control strategies should be directed to the appropriate regional contact:

Linda Murphy, Chief, Stationary Source Section, Air Branch, EPA Region I, JFK Federal Building, Boston, MA 02203, (617) 233-4448 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, EPA Region II, 26 Federal Plaza, New York, NY 10007, (212) 264-4711 (New York, New Jersey, Puerto Rico, Virgin Islands).

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## SUPPLEMENTARY INFORMATION:

## Summary of Key Changes

EPA has extensively evaluated the alternative emission control approach and has considered comments submitted regarding the proposed policy. As a result, the Agency has made three key changes in the policy: (1) Sources may use alternative strategies involving more than one plant; (2) states may consider open dust trades in some circumstances, though EPA will closely scrutinize such requests and will require conclusive demonstrations of equivalence before granting approval; and (3) EPA may approve compliance date extensions in special cases. The policy also contains many clarifications and less significant changes. These are discussed in the summary of comments, which follows the policy statement.

This policy statement does not establish conclusively how EPA will resolve issues in individual cases. The Clean Air Act and the Administrative Procedure Act guarantee the opportunity

for public comment in each proceeding that places alternative control requirements into effect as a State Implementation Plan revision. Therefore, although the public has had the opportunity to comment on the issues in this policy statement, EPA will consider additional comment on these same issues in individual proceedings.

## Policy Statement on Alternative Emission Reduction Options Within State Implementation Plans

## Introduction

The Clean Air Act requires states to develop State Implementation Plans (SIPs) and source-specific compliance schedules to attain and maintain ambient air quality standards. In developing these plans, states establish emission limits which, when applied to emission points contributing to the ambient air problem, are calculated to ensure that the standards are met. In making these decisions, states regularly take into account the nature and amount of emissions from each emission point, the control technology available, and the time required for its installation.

SIPs, however, are not always as economically efficient as they could be, and current regulations and policies do not prompt companies to seek innovations in control technology. For these reasons, the Environmental Protection Agency is adopting this policy explaining how plants can reduce control where costs are high in exchange for a compensating increase in control where abatement is less expensive. We strongly recommend that the states (1) inform sources that the alternative emission reduction approach is available, (2) explain this policy's advantages and conditions of use, and (3) be receptive to proposals from sources that want to use a more cost-effective mix of controls. Properly applied, this policy should promote greater economic efficiency and increased innovation by providing plant managers with an economic incentive to develop new control strategies. This is a rare opportunity to provide such positive incentives.

It is important to note, however, that with one exception EPA can only approve alternative control strategies in areas where states have successfully demonstrated that they can meet air quality standards by the statutory deadlines. Therefore, EPA will not allow sources to use the alternative approach in a way that jeopardizes attaining requirements of the Clean Air Act by permitting degradation of air quality in excess of the SIP requirements or by weakening enforcement. To avoid these

problems, EPA has carefully stipulated the use of the alternative approach, as described in detail in the body of this statement.

With this policy, we are urging states to be receptive to alternative emission reduction applications whenever eligible sources propose them and particularly when the states are drawing up or revising SIPs.<sup>1</sup> EPA will work with the states in expediting the SIP revision process, especially where the trades are straightforward. The Agency is committed to promptly reviewing alternative proposals so that the maximum benefits can be derived from this policy.

## The Alternative Emission Reduction Concept

## A. What Is the Concept?

The primary tests to which EPA subjects State Implementation Plans include:<sup>2</sup>

- Do their provisions ensure the attainment and maintenance of ambient air quality standards as expeditiously as practicable?
  - Do their provisions ensure reasonable further progress toward attainment?
  - Are their provisions enforceable?
- If the control method adopted meets these requirements, EPA generally does not stipulate the degree to which a source must control individual emission points.

Under the alternative emission reduction concept, a source with multiple emission points (stacks, vents, ports, etc.)—each of which is subject to specific emission limitation requirements under an approved SIP—may propose to meet the SIP's total emission control requirements for a given criteria pollutant with a mix of controls that is different from that mandated by the existing or proposed regulations. Sources will have the opportunity to come forward with alternative abatement strategies that would result in the same air quality impact but at less expense by placing relatively more control on emission points with a low marginal cost of control and less on emission points with a high cost.

Of course, these strategies are subject to restrictions that might apply under the Clean Air Act, such as National Emission Standards for Hazardous Pollutants (NESHAPS) or rules for the

<sup>1</sup> Under the Clean Air Act, in certain cases, EPA may draw up or revise SIPs. In those cases, we will advise eligible sources and will be receptive to such applications where appropriate.

<sup>2</sup> See 44 FR 20373 for a complete list and discussion.

## Prevention of Significant Deterioration (PSD).

EPA has already introduced the concept of trading emissions in previous policies. For example, the concept is generally similar to the offset policy (40 CFR, Part 51, Appendix S).

## B. Eligibility

1. *Applicability.* Sources may apply for alternative emission approaches for existing<sup>3</sup> emission limitations established under Section 110 and/or Part D as part of the SIP. Sources may also propose alternative approaches for SIP requirements that are under development. This policy statement does not apply to or supersede the conditions that sources must meet under nonattainment or PSD permit programs, New Source Performance Standards (NSPS), NESHAPS<sup>4</sup>, or other conditions that the Act specifically requires for new or modified sources. Separate Federal Register notices<sup>5</sup> discuss requirements for trading under permit programs for new or modified stationary sources.

2. *Demonstration of Attainment by Statutory Deadlines.* Sources may use alternative emission reduction approaches only in areas that can demonstrate attainment by the statutory deadlines (and reasonable further progress toward attainment) for those pollutants included in emission reduction alternatives. An adequate demonstration may include commitments to specific control measures on a specified schedule. However, trades involving emission points that will be regulated in the future under such commitments may not be undertaken until the state adopts the measures. A state may submit an alternative control strategy involving these emission points at the same time or after it submits its newly adopted general regulation to EPA for approval.

There is one exception to the condition that areas demonstrate attainment before alternative control strategies are allowed. Under certain circumstances, ozone SIPs may be approved by EPA despite a failure to

<sup>3</sup> "Existing" emission limitations are those requirements that the state has adopted or EPA has promulgated at the time a source proposes an alternative strategy. States may submit alternative strategies to EPA at the same time or after they submit their applicable newly adopted state regulations.

<sup>4</sup> Under limited circumstances, sources may include pollutants that are listed or regulated under Section 112 in alternative control strategies. Section D.1.c. discusses this further.

<sup>5</sup> See the Emission Offset Interpretative Ruling, 40 CFR Part 51, Appendix S, as revised 44 FR 3274 (January 16, 1979); proposed rule, 44 FR 51924 (September 5, 1979).

demonstrate attainment by 1982. Such SIPs must require use of Reasonably Available Control Technology (RACT) for sources of Volatile Organic Compounds (VOC) included in Control Techniques Guidelines (CTG) categories. These sources may use alternative control strategies to meet RACT, but only for those emission points that are within the same CTG category.<sup>6</sup>

3. *Effect of Compliance Status.* Sources that wish to use an alternative approach to existing SIP requirements will be requesting that emission limitations and compliance schedules for individual emission points be changed. In order to properly evaluate whether the alternative approach is equivalent to the existing requirement, it is necessary to have established compliance agreements for all of the emission points affected by the alternative approach. Thus, any source that is adhering to its compliance agreements for the emission points included in the alternative approach, regardless of any past history of noncompliance, is eligible to apply.

In the absence of such compliance, consideration of SIP revisions setting forth alternative control strategies would only protract and confuse efforts to enforce the SIP. Sources that have successfully deferred compliance would be tempted to use the alternative approach to argue for further delay or to alter emission requirements so as to frustrate enforcement efforts. Permitting use of the alternative approach in such instances would only serve to continue unlawful pollution and increase the inequity between sources that have incurred the expense and difficulty of compliance and those that have so far avoided compliance.

Accordingly, sources that wish to use an alternative control strategy, but have not yet reached an EPA-approved agreement with the state (or reached agreement with EPA as appropriate) on their compliance schedules for all of the emission points included in the alternative approach<sup>7</sup> or are not complying with these agreements, may apply for the alternative approach only if they:

- i. Come into compliance; or
- ii. Meet an EPA-approved compliance schedule; or
- iii. Become subject to court decree; (1) In an action in which EPA was a party or which decree EPA has found to be

<sup>6</sup> For further information regarding the use of CTGs, see 44 FR 53762-63.

<sup>7</sup> Of course, this consideration does not apply to those emission points for which EPA or the state have not required controls.



satisfactory, and (2) which decree recognizes the possibility of SIP revision and allows for timely modification of the decree without delay in the final compliance date.

To be acceptable, any compliance schedule under ii and any decree under iii (1) must set out a timetable and emissions limitations with which the source has agreed to comply (i.e., is not appealing or otherwise contesting), (2) must provide for a resolution of penalty issues and other sanctions, and (3) must not contain any provisions allowing the source to delay its compliance or to avoid sanctions for noncompliance with the existing requirement until EPA has promulgated the alternative proposal as a SIP revision.

#### C. Implementing the Alternative Approach

1. *Sources Initiate Alternatives.* It is the regulatee's responsibility to come forward with the alternative control approach. EPA encourages the states also to require the regulatee to demonstrate satisfactorily, *entirely at its expense*, that the proposal is equivalent to the existing SIP requirements in enforceability and environmental impact. Because of the cost, we advise sources to discuss the demonstration requirements with control agencies before preparing the demonstration. Control agencies, however, should not begin to formally review proposals until the source has completed the demonstrations. In this way the resource demands on control agencies are limited primarily to deciding what kind of demonstration is required and to reviewing the results. To minimize the possibility of subsequent delays, EPA also encourages control agencies to discuss issues with EPA as they arise.

The process of approving alternative control strategies will differ depending on whether the source is proposing an alternative to existing SIP requirements or to requirements that are under development. Where existing SIP requirements are concerned, overall emission limits and compliance deadlines are known. Once a plant comes forward with a promising alternative proposal that seems capable of attaining the goals of the current compliance schedule, the control agency will decide on a test to verify the equivalency of the proposed trade. If the source is able to present evidence that the control agency judges to be sufficient, the control agency may submit the alternative approach to EPA as a SIP revision.

Although sources may propose an alternative for existing SIP requirements

at any time, it is clearly to their advantage to do so as early as possible. Control agencies should expect sources to meet the requirements of their existing schedules on time until EPA approves the alternative approach. In some cases, a source may have to make a pollution control investment that it would not have to make under the alternative approach. By presenting alternative proposals as early as possible (preferably during the engineering and design period that is provided at the beginning of most compliance schedules), sources can avoid such conflicting investments.

When a state (or EPA) is developing a new SIP, sources may present a counterproposal in anticipation of overall emissions limits or in response to limits being proposed. The source would then have to show that its alternative mix of controls would be environmentally equivalent to the process-specific standards. If the demonstration is successful, the state can adopt the counterproposal as part of the SIP.

The SO<sub>2</sub> regulation for the Cincinnati Gas and Electric Company's Beckjord Power Plant in Ohio provides one example of how a source can use the alternative emission reduction approach. This SIP regulation contains an alternative set of limits that the power plant may use in lieu of a uniform limit at each of its five boiler stacks. The plant still must meet specific limits at its individual stacks, but it can select these limits by using equations that make the air quality effects of the emissions under the emission reduction alternative equal to the air quality impact permitted under the uniform emissions limit. This flexibility allows the power plant to apply the lowest-cost mix of low sulfur coal, and/or stack gas cleaning controls among the plant's five boilers. In this case, a clear and conclusive demonstration has been made that differences in emissions from each of the stacks will not result in overall differences in ambient air quality attainment or maintenance.

Another situation where a source can apply this approach is in different stages of a plant's production process that emit the same kind of pollutant. For example, the surface coating and miscellaneous metal categories within an automotive assembly plant are both sources of hydrocarbons. A source may want to continue using lacquer in its repair operation within the assembly plant. By applying greater control to the miscellaneous metal category (such as switching to powder coating) the source could reduce the amount of control

needed for the auto assembly category. This approach would allow the source to achieve the same overall emissions requirement at a lower cost.

2. *SIP Revisions Required.* Each alternative approach must be adopted in a SIP revision approved or promulgated by EPA.<sup>8</sup>

#### D. Conditions for Using the Alternative Approach

States applying the alternative approach must continue to ensure (1) attainment and maintenance of ambient air quality standards as expeditiously as practicable, (2) reasonable further progress, (3) enforceability, and (4) compliance with all other requirements of the Act. To assist states in achieving this basic requirement, EPA has established certain conditions that an alternative approach must meet before it can be approved.

1. *Air Quality Considerations.*—a. *Air quality standards must be met.* The overriding command of the statute is to attain and maintain ambient air quality standards. Many states have been required to submit revised SIPs because existing regulations were insufficient to meet this basic condition of the Act. Where the revised plans are inadequate to meet the statutory deadlines contained in the Clean Air Act, as amended, states may not approve alternative control strategies except as discussed in Section B, Eligibility. Furthermore, if attainment is not achieved as expected in the areas where the revised plans were approved, control agencies may require sources to install more stringent controls on emission points where the requirements were relaxed under this policy.

The treatment of certain low-emitting processes deserves special mention with regard to ensuring that attainment is achieved as expected. Some existing emission points may be releasing less pollutants than existing SIP regulations allow, for example, because they are burning a clean fuel or operating at less than full capacity. Sources may not use the difference between the SIP allowable emissions and the lower actual emissions to increase emissions from another emission point unless they can show that the SIP is not relying on the actual emissions of the low-emitting process to attain and maintain the ambient air quality standard and achieve reasonable further progress toward attainment in the interim. Similarly, if a source proposes to include an emission point in an alternative

<sup>8</sup> Revisions to construction or operating permits are not adequate unless they are made part of the SIP.

control strategy that is not accounted for in the state's control strategy, the source must demonstrate that consideration of the additional emission does not affect the state's demonstration of attainment.

States must also disapprove proposals where controlling one emission point less and another more might violate a basic condition of attainment, even though total emissions do not increase. For example, particulates emitted from a stack might have a totally different and more harmful impact upon ambient air quality than road dust stirred up by trucks within the plant site.

EPA will insist on an adequate equivalency demonstration proving that the alternative emission reduction approach will result in attainment and maintenance of standards and will comply with Prevention of Significant Deterioration requirements. The greater the difference in the types of emissions to be traded, the more detailed the demonstration must be. Thus, a trade between a stack emission and a fugitive emission will require a more detailed demonstration of equivalence than would a trade between two emissions of a more similar nature, such as two closely located stacks of the same height.

This condition will apply with particular force to trades involving open dust emissions (such as emissions from roads and storage piles). It is especially difficult to ensure equivalent effects on air quality for such trades because of (1) the uncertainty in determining emission rates from open dust sources, (2) the difficulty of predicting the effectiveness of control technology, and (3) the shortcomings of air quality models for this type of source. In addition, the adequacy of modeling techniques has not been verified for certain situations. As a result, there is substantial uncertainty regarding the accuracy of some model projections, such as for the complex interaction between open dust sources and structures at industrial sites, although these techniques may be verified and improved in the future. In such situations, EPA believes that the economic benefits that might result from a reduced marginal cost of control are not sufficiently great to outweigh the risk of having trades approved that would not adequately protect air quality standards. Therefore, EPA generally will not approve any proposed alternative emission strategy based on a modeling demonstration that proposes to substitute controls on open dust emissions for reasonable controls on the more significant sources of process emissions.

Sources may use modeling demonstrations for open dust trades that

do not affect the use of such process controls. These modeling demonstrations must be particularly comprehensive, and states should review them with special care. The diffusion models used for open dust demonstrations are generally more complex and more sensitive to input data than those used for stack emissions. EPA will insist on a thorough justification and explanation of the basis for all critical inputs to the emission and air quality calculations. There are a number of factors that control agencies should keep in mind when evaluating open dust modeling demonstrations.

- Control agencies should require that the best and most appropriate models be used, such as the Industrial Complex Source Model. Both annual and short-term concentrations must be examined, and particle deposition and fallout should be taken into account.
- Control agencies should ensure that the emission factors of different sources involved in trades are of equal reliability. Where they are not and a range of values is possible, the more conservative values in the range should be used. This determination should include consideration of any relative uncertainty in the effectiveness of control technology and of any expected variation in emissions with plant utilization.
- In demonstrating the adequacy of a particular mix of controls to attain the National Ambient Air Quality Standards, the modeling must use the maximum emission rates that are legally enforceable.

As an alternative to modeling, sources may demonstrate the equivalency of the trades by installing the open dust source controls and monitoring the results. In making this showing sources and control agencies should be sure that monitors are properly sited and that data are collected over an appropriate period of time.

b. *All emissions under the alternative approach must be quantifiable, and trades among them must be even.* A source that wishes to control one emission point less in exchange for controlling another emission point more must demonstrate that the trade will in fact be even. This can only be done if the emissions from both emission points (and increases and decreases in them) can be acceptably quantified and related to ambient air quality considerations. Direct measurement is preferred, although indirect quantification is acceptable if a source establishes a clear and convincing link between the emissions and other quantifiable measures, such as application rates, work practices, or equipment standards. Section IV.C of EPA's Emission Offset Ruling contains guidance on such items as operating

rates, source shutdowns, and averaging times in determining whether a trade will result in equal emissions.

The test for equivalence will generally be consistent with the SIP's demonstration of attainment. Some SIP demonstrations are based on atmospheric simulation modeling, while others are based on more simplified techniques, such as linear rollback or an "example" region approach. Sources in areas where a simplified demonstration of attainment has been used may show equivalence by establishing that the overall emissions level will not increase if the alternative approach is implemented.

Where the alternative strategies involve more than one plant, EPA will always require air quality modeling to demonstrate that the increases and decreases in plant emissions will not adversely affect air quality in the area affected by the sources. Such demonstrations are described in the offset policy (see Federal Register, January 18, 1979, pp. 3274-82).

In those cases where the SIP requirements are derived through modeling, EPA will require a modeling demonstration to ensure that the trades will result in the same air quality level overall, and emissions may vary accordingly. Ideally, in all instances, total emissions levels will also be equivalent. However, more than one-for-one emissions trades may be necessary in some cases to protect ambient air quality. This could occur, for example, where stack heights are different or where emissions are so difficult to quantify or model that a margin of safety is necessary.

EPA recognizes that the Clean Air Act permits states to revise their SIPs to allow increases in total emissions. There are significant restrictions on this authority: The revised SIP must demonstrate attainment and maintenance of the standards; the requirements for reasonable further progress in reducing emissions and for attainment as expeditiously as practicable must be satisfied; and the revisions must not interfere with the Prevention of Significant Deterioration program. However, the fact that the Act does not completely prohibit SIP revisions that increase overall emissions does not lead EPA to encourage such revisions as an element of this policy statement.

In EPA's opinion there are important policy reasons to discourage SIP revisions that increase overall emissions. A growing number of serious air quality problems are now recognized as covering broad regions of the country: Ozone violations, elevated sulfates and



"acid rain," and visibility reduction. SIP revisions that permit significant increases in total emissions of the criteria pollutants can exacerbate some or all of the current wide-scale air quality problems. Therefore, EPA does not encourage by this policy, or as a more general matter, SIP revisions that result in overall emissions increases. More specifically, EPA will not approve such SIP revisions to the extent consistent with its current legal authority.

c. *The pollutants under the alternate proposal must be comparable.* Clearly, sources cannot apply trade-offs across criteria pollutant categories, e.g., they cannot trade SO<sub>2</sub> against hydrocarbons. Further, even within a category, pollutants that pose significant health hazards cannot be traded against less harmful pollutants. For example:

i. Coke oven particulate emissions, because of their carcinogenicity, should not be traded against particulate emissions from any other source.

ii. Some criteria pollutants are also hazardous pollutants (e.g., vinyl chloride and benzene are hydrocarbons that have been designated as hazardous under section 112). Emissions of criteria pollutants that contain hazardous pollutants can be used in alternative emission control strategies subject to the following restrictions:

• In all cases, sources must meet applicable section 112 regulations. Except as permitted under specific NESHAPS regulations, a source may not use an alternative emission control approach to meet section 112 regulations (as discussed in Eligibility), and a source may not increase emissions regulated under section 112 beyond the levels that the applicable section 112 regulation allows. Furthermore, when new section 112 regulations become effective, sources must comply with those regulations, notwithstanding any previously approved trades.

• The emission of asbestos, beryllium, vinyl chloride, or benzene, which are listed under section 112, may be increased at one emission point (subject to the above constraints) only as long as there is a compensating decrease in the emission of the same pollutants at another emission point at the same location or at a contiguous location. For example, a source may increase one vinyl chloride emission as long as there is an equal decrease in another vinyl chloride emission. Since EPA believes that the limited number of pollutants it expects to list over the next several years under section 112 will be significantly more hazardous than others in the same criteria pollutant category, restraints on trading similar to

those discussed above will apply when such pollutants are listed. Should EPA list a pollutant that it judges to be less hazardous than those currently listed, EPA will indicate what pollutant-specific trading restraints are appropriate. Trading restrictions will not apply to alternative emission control strategies that EPA has approved before the announcement of the trading restraints. As noted above, however, even previously approved trades may not be continued if they conflict with section 112 regulations when they become effective.

• In addition, where the hazardous pollutant is an insignificant contaminant of the emission, exceptions to the trading restraints may be appropriate. This is likely to be the case when the source is not using the hazardous material in question as a raw material or when the source is not producing the hazardous material. Control agencies should consult EPA when considering such exceptions.

• Sources may equally trade hazardous pollutants with nonhazardous pollutants in the same criteria pollutant category only in those cases where the source decreases the emission of the hazardous pollutant. For example, a source may equally trade vinyl chloride with any nonhazardous hydrocarbon if it reduces the vinyl chloride emission.

iii. EPA will closely examine the comparability of particle size distribution in particulate emission trades because fine particles disperse more widely in the air than coarse particles and stay in the air longer. Sources should also be aware that EPA is considering an inhalable particulate standard. If EPA promulgates such a standard, some alternative approaches that EPA has approved may no longer be adequate to meet new standards. Trades involving open dust sources are of particular concern in this regard.

2. *Enforcement Considerations.* If the alternative emission reduction policy is improperly carried out, it could delay compliance and impede effective enforcement. Therefore, to avoid any additional grounds for legal challenges to revised SIPs, delays in enforcement, or any weakening of the enforceability or sanctions of SIP requirements, EPA has established the following conditions.

a. *Specific, enforceable control requirements are mandatory.* EPA will approve alternative proposals only if they contain (1) enforceable, specific emissions limits (including limits on quantity of emissions or quantifiable surrogates, such as equipment or work practice standards) on each regulated emission point or (2) an easily

enforceable technique for multiple emissions points. Of course, these limits must be accompanied by enforceable testing techniques, which may include specific control measures, performance measures, and performance standards. In general, the new limits must be at least as enforceable as the existing requirements. This applies with special force to alternative control strategies that involve multiple sources.

b. *Existing SIP provisions submitted under Section 110 must not be replaced.* Litigation for SIP requirements established under Section 110 of the Clean Air Act has long since run its course. In almost all cases these section 110 SIP requirements are enforceable and are being enforced. EPA will not allow these SIP provisions to be replaced by new alternative SIP requirements that are subject to litigation and that could result in a delay or lapse in enforceability. Therefore, states must incorporate any control strategy that is an alternative to § 110 requirements as an addition to the SIP, not as a replacement. This principle of coexisting old and new requirements is consistent with EPA's guidance to the states regarding the continuity of the SIPs when establishing Part D SIP revisions.<sup>9</sup>

It should be noted that under the "continuity of the SIPs" policy, the section 110 requirements can be replaced only if a Part D requirement is unavoidably incompatible with an existing SIP. Alternative control strategies to Part D requirements are optional. Therefore, if the original part D requirement is compatible with the section 110 requirement, but the alternative control strategy is not, section 110 SIP provisions cannot be replaced merely because they are incompatible with the alternative approach. Otherwise, sources might be encouraged to develop incompatible alternative strategies solely to avoid the consequences of noncompliance with section 110 requirements. Thus, EPA will only approve alternative strategies to section 110 requirements as additions to the existing SIPs.

c. *Compliance dates generally should not be extended.* Some sources have not yet achieved final compliance with SIP requirements that took effect several years ago. States are free if they wish, subject to the conditions in this statement, to apply the alternative approach to these requirements as well. However, that revision should not have the effect of relieving sources of the

<sup>9</sup> See General Preamble for Proposed Rulemaking on the Approval of SIP Revisions for Nonattainment Areas 44 FR 20373 (April 4, 1979).

consequences of such delay. To make sure of this, any such alternative requirement should have the same SIP compliance deadline as the existing requirements. Of if the new requirement allows controls that a source can adopt more quickly than those included in the existing compliance schedule, the states should consider establishing earlier compliance dates.

In some cases, it may be impossible for a source to implement alternative control strategies within the time frame allowed in the existing schedule. EPA does not have the statutory authority to extend compliance schedules solely for the purpose of implementing alternative strategies. However, EPA's statutory authority does provide for the extension of compliance schedules for Part D requirements under certain conditions. Where sources need additional time to implement the alternative approach and where they qualify for a time extension, they should apply for a time extension for their existing Part D requirements before or when they apply for the alternative approach.

d. *There will be no delay of existing enforcement actions.* Since sources may not delay compliance with existing schedules while awaiting the review of the alternative approach, states should continue to pursue enforcement actions and seek compliance with the existing SIP as expeditiously as practicable.

Further, until EPA approves the alternative proposal, all noncompliance penalties under authority of Section 113 or 120 of the Clean Air Act or equivalent state provisions will be based on the pre-alternative proposal definition of cost. Afterward, noncompliance penalties will be based on the cost of the alternative control strategy.

e. *Requirements in some court decrees should not be changed.* Control agencies in routine situations frequently obtain court decrees to ensure compliance. In these circumstances, it may be appropriate to modify court decrees if a source presents an approvable alternative approach.

Over the past few years, control agencies and EPA have devoted considerable time and effort to arrive at decrees with some important sources, often involving several plants. EPA considers such court decrees to be of critical importance in achieving air quality objective. Therefore, alternative control strategies should not be used to change the requirements specified in these existing court decrees. The only exception is the use of alternatives to remedy the failure of control strategies specified in the consent decrees to work as expected.

In the future, important sources may be involved in similar negotiations to which the states and EPA have devoted considerable resources. These sources may wish to use the alternative approach. Under these conditions, sources should be sure either to: (1) Come forward with their alternatives and obtain agreement from the control agencies that the proposal is acceptable before entering into the court decree or (2) include a provision in the decree that explicitly allows for consideration of alternatives. Otherwise they may well find that the states and EPA will be unwilling to modify the requirements of the court decree to allow the use of an alternative approach because of the amount of effort already invested to obtain a settlement. Consent decree negotiations now nearing completion should not be delayed for the formulation of alternative plans.

#### Conclusion

EPA believes that the alternative emission reduction approach, properly applied, will be of significant benefit to the states and to industry. We therefore encourage states to review the policy carefully, to inform sources of the options, to explain the policy's advantages and conditions of use, and to be receptive to industry proposals.

#### Summary of Comments

Many individuals and organizations took the opportunity to comment on the policy statement as it was proposed on January 18, 1979 (44 FR 3740). Our responses to the issues raised follow.

#### Innovative Technology

The Environmental Protection Agency believes that the alternative emission reduction concept will promote economic efficiency and increase innovation, since it offers plant managers an economic incentive to develop new control strategies. Some commenters expressed concern with the statement in the proposed policy which suggested that EPA could use the new control strategies developed in response to this policy as a basis for setting tighter standards in the future. They mistakenly interpreted this to mean new standards would be set regardless of ambient air quality considerations.

Under the Clean Air Act, EPA cannot limit emissions of criteria pollutants from existing sources unless this is necessary to meet the National Ambient Air Quality Standards (NAAQS) or NESHAPS. If an existing source is in an area that has already attained the standards or will attain them by the statutory dates, then EPA will not require further control. However, if a

source is in an area where the State cannot make a satisfactory demonstration of attainment by the statutory date, then a source may have to meet tighter standards which may necessitate using innovative technology.

One comment suggested that EPA exempt a plant that develops an innovative control technique from any new emission limitation that may be set as a result of that technique. EPA is not in a position to do this, since it is usually the state that sets specific source emission limitations in the State Implementation Plan (SIP). However, if a state chooses to exempt a source and this exemption does not violate the statutory requirements of the Clean Air Act, then EPA will approve it.

#### Resource burden

In the proposed policy, the Agency specifically solicited comments on the resource burden that final adoption of an alternative emission reduction policy might place on state air pollution control agencies. In addition, EPA contacted 38 states to further explore this question. We found that the expected volume of alternative proposals and the resulting resource requirements vary widely. Some states believe they may experience resource problems because: (1) They may receive a large number of applications, including some complex ones that could take a lot of time to review; (2) processing the applications through case-by-case SIP revisions is a lengthy process, and rejected proposals may tie up resources with appeals; and (3) it may take more time and testing to determine compliance with an alternative plan than if the source used a traditional control approach.

Recognizing that some states' resource burdens may increase, the Agency has tried to incorporate safeguards into the proposed policy and has made some changes to the final policy to further reduce any additional demands on the states. EPA has taken measures to avoid overloading the state staffs with alternative approach applications that are not well prepared. First, the Agency has tried to minimize demands on state resources by specifying that the source must initiate the proposal if it wishes to use an alternative approach. EPA also encourages states to require that the source pay for all demonstrations relevant to its proposal and that the proposal be complete before the state review process begins. There are also provisions that help to screen out applications submitted for the purpose of delaying compliance. For instance, the policy does not create any new opportunities for extensions of compliance schedules beyond those



already available under existing laws. Additionally, enforcement of existing requirements continues while the applications are under review. Applicants do not qualify for stays against their compliance schedule or exemptions from noncompliance fees (unless they otherwise would under the law). It should be noted that the section 110 SIP requirements can be replaced only if a Part D requirement is unavoidably incompatible with an existing SIP. However, since alternatives to Part D requirements are optional, existing SIP provisions cannot be replaced merely because they are incompatible with the alternative approach. Therefore, alternative strategies to section 110 requirements may only be adopted as an addition to the SIP, not as a replacement.

Some states thought that enforcing an alternative approach might be more time consuming since (1) such an approach requires that the enforcement staff become familiar with the source-specific plan, as opposed to relying on knowledge of traditional means of control, and (2) there may be an increased need for testing because, under traditional approaches, states infrequently test installations whose emissions are well below their allowable limit. In some cases enforcement may be more time consuming, but we feel the differences will be small. Although states may have to initially invest some additional time to learn about an alternative approach, once familiar with the source's alternative plan, they can proceed as rapidly as before with testing and enforcement. On the other hand, some alternative approaches will require less enforcement resources. For example, alternative control strategies may lead sources to focus their control efforts on fewer emission points so that the overall frequency of testing may be reduced. In any event, if a state does believe that reviewing or enforcing a particular alternative approach would require excessive resources, the state is free under Section 116 of the Clean Air Act to reject the approach on that basis.

Some commenters requested guidance for evaluating equivalency among pollutants and means of quantifying emissions. EPA does not think a new guidance document is necessary. In general, the Agency will require the same type of demonstrations that were necessary for comprehensive SIP revisions, except where trades involve open dust source emissions, increases in overall emissions, or multiple plants. In those cases, EPA may require additional monitoring data or source-specific

modeling data (these requirements are spelled out in the policy). EPA is, however, taking measures to ease any problems that might arise in implementing this policy. First, we will hold workshops around the country to explain the policy. Second, we have appointed coordinators to answer any questions about the policy. We have also designated a contact person in each Regional office to answer technical questions. These people are listed at the beginning of this policy statement.

#### Clarifications

1. *Definition of terms and relationship to other policies.* In the proposed policy, some readers found that such terms as source, facility, plant, and site were unclear or inconsistent with definitions used in other EPA air-related regulations. We believe these terms are commonly understood and the precise definitions are not important since this policy is no longer restricted to a single source, facility, plant, or site.

Several commenters also asked how this policy affected Best Available Control Technology (BACT), New Source Performance Standards (NSPS), Lowest Achievable Emission Rate (LAER), and Prevention of Significant Deterioration (PSD). This policy applies only to emission limitations approved or promulgated as part of a SIP. It does not apply to BACT, LAER NSPS, or other conditions specifically required by the Act for new or modified sources. However, EPA is applying a similar "bubble" policy to some conditions for new and modified sources. (See footnote 5 of the policy.) PSD concerns are explicitly mentioned in the policy where appropriate.

One commenter requested clarification of the relationship between this policy statement and the RACT emission limitations recommended in the Control Techniques Guidelines (CTG). The policy states that it is essential to have specific limits for each of the emission points included in alternative control strategy. Under some circumstances, states must require the use of RACT in establishing these limits and must establish these RACT requirements in EPA-approved regulations. EPA published in the Federal Register (see 44 FR 53762-63) the role of CTGs in the development and approval of the state RACT regulations.

2. *Specific emission limits.* One commenter asked which emission points must have a specified emission limit if a source uses an alternative plan. The policy requires that the source specify an emission limitation only for those points actually involved in the alternative trades. For example, if a

source has five emission points that emit SO<sub>2</sub> but wants to use an alternative approach that involves only three of them, then for the purposes of this policy the source has to specify an emission limitation for those three points only. The other emission points would continue to be subject to the level of control (if any) specified in the SIP.

3. *Compliance status.* Commenters frequently misunderstood the intent of the policy regarding the restrictions on eligibility for noncomplying sources. To clarify our intent, there is a new section in the policy entitled "Eligibility." Basically, the alternative approach does not prevent those sources not now in compliance with emission limitations from ever using a bubble. Rather, the policy requires that a source agree to a legally enforceable schedule for achieving the appropriate standards in order to establish an adequate basis for considering alternative control strategies. Without such an agreement, consideration of an alternative approach can only lead to further delays in compliance. A source can apply for an alternative approach to achieve compliance after it agrees to an appropriate schedule.

#### Processing Alternative Proposals

1. *SIP revisions.* Some commenters suggested that EPA would not need to use a case-by-case SIP revision for alternative approaches if the state incorporated a general regulation for alternative control strategies in its SIP that EPA has approved. Instead, EPA should depend on spot audits to determine if the state is faithfully adhering to the requirements of the general SIP revision.

In response, the Agency believes that case-by-case SIP revisions are necessary for an alternative approach to be legally enforceable. The Clean Air Act requires EPA to review and process all SIP revisions, and this cannot be eliminated or delegated. Additionally, a spot audit would not be a practical means of oversight, since any errors it would turn up are not easily reversible.

EPA realizes that promptness in processing the SIP revisions is necessary if the maximum benefits are to be derived from this policy. Therefore, the Agency is committed to expediting the SIP revision process, especially for those proposals where the trades are straightforward.

There was some question concerning EPA's authority to impose conditions on the use of alternative approaches. EPA has carefully evaluated each of the conditions in this statement and is convinced that each condition is

necessary to protect air quality and is fully consistent with the Clean Air Act.

2. *Actual vs. SIP allowable emission limits.* Some existing installations may be emitting a lesser amount of pollutants than existing SIP regulations allow because, for example, they may be burning a clean fuel, such as natural gas. Several commenters were concerned that the policy would allow a source to use the difference between such a low-emitting installation's actual emissions and the SIP's allowable emissions to offset any proposed higher emissions from another installation, with a resulting increase in overall emissions from this source.

EPA's primary concerns in any alternative approach are that the trades will be equal and result in attainment and maintenance of air quality standards as demonstrated by the SIP. In those cases where the SIP's demonstration of attainment is implicitly or explicitly based on the source maintaining the actual emission level, even though that level is lower in practice than what the SIP allows, that source cannot use the difference to increase its emissions through trading. But EPA will consider alternative approaches where the SIP can demonstrate attainment using the difference between the emission levels to offset proposed higher emissions from another installation. However, states should realize if they approve such trades they will be consuming part of their margin for growth and should explicitly take that into consideration before approving the trades.

3. *Testing techniques and determination of specific emission limits.* The proposed policy stated that each emission point must have a specific emission limit, and the limit must be tied to enforceable testing techniques. Several commenters pointed out that these requirements would prevent some sources, such as those that emit Volatile Organic Compounds (VOCs), from using the alternative approach. EPA did not intend to preclude the use of quantifiable surrogate measures that would allow such sources to use the alternative approach. Therefore, the policy now states that enforceable testing techniques can include specific control measures, performance measures, and performance standards.

4. *Attainment and nonattainment.* The alternative emission reduction approach may be used in those areas currently in attainment or in areas where EPA has judged the SIP adequate to achieve attainment by the future statutory deadlines (this means use of the alternative approach is allowed for control of oxidants beyond 1982 for

states that obtain an extension of the deadline, if the SIP can demonstrate attainment by 1987). The alternative approach can also be used within CTG categories in areas that fail to demonstrate attainment (see Section B.2 of the policy).

Some commenters asked what happens to the sources that are using an alternative approach if attainment is not achieved as expected in the area where the source is located. If such a situation arises, the sources may have to install more stringent controls on facilities where the requirements have been relaxed under the alternative approach because the statute requires that all reasonable control measures have to be taken in an effort to meet NAAQS.

5. *Limited review period.* A few commenters mentioned that by inaction on an alternative proposal, EPA or a state could cause a source to come into compliance late. Consequently, they suggested that the policy specify a reasonable time limit during which the state and EPA must act on the proposal.

Although EPA agrees that prompt review is needed, it does not believe it can limit this process to a specific time period. The amount of time necessary to review an alternative approach depends on many factors, such as the complexity of the proposal and the quality of the demonstration the source submits. EPA will handle the alternative approach proposals as quickly as possible, but it must have enough time to ensure that these proposals are consistent with air quality goals. The Agency will make every attempt to expedite the processing of those proposals that are straightforward. The Agency is asking the states to work with it in expediting the SIP revision process.

6. *Time extensions.* As originally proposed, the alternative emission reduction policy stated that existing compliance dates could not be extended in any case. Several commenters argued that this stipulation is unfair because in some cases it may be impossible for a source to implement alternative control strategies within the time allowed in the existing schedule. They also felt that equity requires EPA to consider delaying compliance dates in some instances, since the states can establish earlier dates where the alternative approach can be implemented more quickly than the existing compliance schedule.

EPA agrees that for some it may be difficult to implement an alternative approach on the existing schedule. This is an important reason for sources to submit their alternative proposals as early as possible. However, EPA does not have the authority to extend compliance schedules for the purpose of

implementing alternative strategies. Nevertheless, there are circumstances where sources can obtain time extensions for Part D requirements under existing law.

For example, a Part D SIP submission may have established a new particulate requirement for a source with an immediately effective compliance date. Assuming that immediate compliance is not truly practicable for that source (except by shutdown), the Clean Air Act would allow a new schedule with a final compliance date no later than December 31, 1982, to be established for the source as long as the new schedule requires compliance as expeditiously as practicable and reasonable further progress is not jeopardized. An alternative emission limitation could be adopted for that source with an expeditious compliance date even though that expeditious date is later than the immediately effective compliance date for the existing SIP requirement.

The policy for alternative emission reduction approaches is not intended to prohibit sources from applying for time extensions where they would otherwise qualify for them under the law. Thus, under some circumstances sources may be able to obtain additional time to implement alternative approaches for meeting Part D requirements. Applications for time extensions should be made prior to or simultaneously with the application for the alternative strategy.

Several commenters objected to the requirement that they agree in writing not to seek stays of compliance with the existing requirement or avoidance of sanction if the alternative proposal is disapproved, challenged, or delayed. EPA no longer asks this. However, before considering alternative approaches, we will require sources to come to an agreement with the control agency regarding compliance with existing SIPs. These agreements must not contain provisions that grant the source stays or waivers of sanctions to consider an alternative approach.

There were requests for guidance in handling noncompliance penalties associated with an alternative approach. Under Section D.2. of the policy, paragraphs b, c and d deal with penalty fees. The appropriate regional contact person can answer questions that arise in conjunction with a particular application.

7. *Comparable trades.* The alternative emission reduction policy only allows trading of comparable pollutants. Some commenters said that when determining comparability of pollutants the policy must consider that pollutants within the



same criteria category may have different effects on air quality. However, other commenters were of the opinion that without any specific standards for individual pollutants within a criteria category, EPA cannot prevent trades between pollutants in the same category. EPA recognizes that pollutants in the same category may have different impacts, and will take this into consideration to the extent legally possible when reviewing proposed trades.

8. *Open dust source trades.* The proposed policy did not allow trading particulate emissions from open dust sources against particulate emissions from stacks or industrial processes. Many commenters objected to this prohibition and the reasoning that EPA used to support its decision. EPA has reviewed this issue and has decided to no longer categorically prohibit open dust trades. However, the Agency still believes it is especially difficult to ensure equivalent air quality impacts for such trades. Due to the shortcomings of air quality models for open dust sources, EPA will insist on a thorough justification and explanation of all critical inputs to the emission and air quality calculations for any proposals based on modeling demonstrations. Generally, EPA will not approve any proposed alternative emission strategy based on a modeling demonstration that proposes to substitute controls on open dust emissions for reasonable controls on the more significant sources of process emissions. EPA will accept good modeling demonstrations for trades that do not affect the use of basic controls. As an alternative to modeling, sources can propose trades without these restrictions if they demonstrate the equivalency of the trades by installing open dust source controls and monitoring the results.

9. *Hazardous pollutant trades.* Several commenters suggested that the policy should allow trades between the same hazardous pollutant. We have clarified our position on this matter and have stated that the emissions of pollutants that are currently listed under Section 112 (but not specifically regulated) may be increased at one emission point only as long as there is a compensating decrease in the emission of the same pollutant at another point. For those pollutants listed under §112 in the future, similar trading restraints will apply. However, in all cases, sources must comply with applicable Section 112 regulations and they cannot use an alternative emission control to do this.

10. *Trades between criteria pollutant categories.* Other commenters urged

EPA to consider allowing trades between criteria categories if the results will be beneficial, e.g., trading a decrease in a pollutant seriously violating NAAQS for an increase in a pollutant with a minor violation. EPA cannot consider any trades involving pollutants from different criteria categories because the Clean Air Act requires SIPs to provide for attainment for every standard. EPA may not approve a revision that makes a violation worse for one standard, regardless of any offsetting benefits for another standard.

11. *Equal emissions.* There were comments that suggested that it was unduly restrictive to require trades under an alternative approach to be equal, since in some cases this is more control than is necessary to protect ambient air quality. One commenter thought that the policy should not prevent VOC sources from increasing emissions because, unlike other pollutants, they do not create a localized nonattainment problem.

EPA recognizes that the Clean Air Act permits states to revise their SIPs in ways that allow increases in total emissions from a source, a plant, or an area. But, there are significant restrictions on this authority. The revised SIP must demonstrate attainment and maintenance of the standards; the requirements for reasonable further progress in reducing emissions and for attainment as expeditiously as practicable must be satisfied; and the revision must not interfere with the Prevention of Significant Deterioration program. However, the fact that the Act does not completely prohibit SIP revisions that increase overall emission does not lead EPA to encourage such revisions as an element of this policy statement.

In EPA's opinion there are important policy reasons to discourage SIP revisions that increase overall emissions. A growing number of serious air quality problems are now recognized as covering broad regions of the country: ozone violations, elevated sulfates and "acid rain," and visibility reduction. SIP revisions that permit significant increases in total emissions of the major criteria pollutants can exacerbate some or all of the current wide-scale air quality problems. Therefore, EPA does not encourage by this policy, or as a more general matter, SIP revisions that result in overall emission increases. In particular, EPA will not approve such SIP revisions to the extent consistent with its current legal authority.

12. *Multiplant emissions trades.* Several commenters said that use of an alternative approach should not be

restricted to a single plant. They said that this restriction creates an arbitrary boundary for trading emissions since the policy already requires a source to demonstrate that the alternative strategy will not harm air quality.

EPA has changed the policy to allow more than one plant in the same area to be included in an alternative emissions abatement strategy. However, EPA will require modeling (except in the case of hydrocarbons and ozone) to show that air quality will be protected.

#### Other Issues

1. *Worker exposure.* The Agency received a recommendation that it disapprove any alternative approach that will increase the concentration of pollutants to which any group of workers is exposed. EPA has specifically forbidden trades involving coke oven particulate emissions. In many instances emissions close to ground level, where workers are located, may have to be weighed differently than emissions from high stacks. While EPA does not have the statutory authority to specifically prohibit a trade because of increased worker exposure, we encourage states to examine this issue and avoid decisions that would increase worker exposure.

2. *Energy management.* There was a suggestion that the alternative emission policy should encourage innovative energy management approaches by providing for greater flexibility in the use of alternative fuels to meet SIP requirements. EPA feels that the alternative approach provides flexibility for fuel switching to balance emission limits, and to the extent that energy is a growing component of the cost of meeting pollution control requirements, sources will seek to minimize energy use. However, EPA does not have the authority to take into account such factors as energy savings or choice of fuel when it reviews alternative strategies.

Dated: November 29, 1979.

Douglas M. Costle,  
Administrator.

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Tuesday  
December 11, 1979

## Part VIII

# Federal Emergency Management Agency

Disaster Assistance: Community Disaster  
Loans; Fire Suppression Assistance; and  
General Insurance Requirements

71788 Federal Register



FEDERAL EMERGENCY  
MANAGEMENT AGENCY

## 44 CFR Part 205

(Docket No. FEMA-DR 205)

Disaster Assistance: Community  
Disaster LoansAGENCY: Federal Emergency  
Management Agency.

ACTION: Final rule.

**SUMMARY:** This rule describes policies, procedures, and responsibilities for local governments and State and Federal officials concerning the Community Disaster Loan program under the Disaster Relief Act of 1974. It includes material previously in the program regulations and material published in the Federal Disaster Assistance Administration's Community Disaster Loan Handbook. The regulations concern loan eligibility, applications, administration, cancellations, and repayment.

EFFECTIVE DATE: January 10, 1980.

## FOR FURTHER INFORMATION CONTACT:

Gene Morath, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone (202) 634-7835.

**SUPPLEMENTARY INFORMATION:** A notice issued in the Federal Register on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A-E) indicated that Disaster Assistance would be Subchapter D, Parts 200-299.

On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200-2205 to 44 CFR Part 200 *et seq.*

The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93-288 (44 CFR Part 205), are in the process of reorganization and revision.

On August 10, 1979, the Acting Director for Disaster Response and Recovery (then the Administrator, Federal Disaster Assistance Administration) published in the Federal Register (44 FR 47105) a proposed rule to revise and recodify the material in the existing 44 CFR 205.56, as a new Subpart F. The rule is expanded to incorporate material previously published in the FEMA Community Disaster Loan Handbook, 3300.14, concerning loan eligibility, applications, administration, cancellations, and repayment. Portions of the material have been revised to

clarify existing policy and procedures. Comments were invited to September 24, 1979. In addition, copies were sent to the Senate and the House Banking Committee for review. One comment was received and incorporated: the American Institute of Certified Public Accountants suggested that the proposed language of § 205.96 (c)(1)(iii) be revised to follow GAO's guidelines concerning qualification of public accountants. A Finding of Inapplicability of Section 102 (2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

Accordingly, 44 CFR Part 205 of the Federal Disaster Assistance Regulations is revised by deleting § 205.56 and adding a new Subpart F as follows:

## § 205.56 [Deleted]

## Subpart F—Community Disaster Loans.

Sec.

205.90 Purpose.

205.91 Loan program.

205.92 Responsibilities.

205.93 Eligibility criteria.

205.94 Loan application.

205.95 Loan administration.

205.96 Loan cancellation.

205.97 Loan repayment.

**Authority.** Secs. 601, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 143 (42 U.S.C. 5201); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792).

## Subpart F—Community Disaster Loans

## § 205.90 Purpose.

This subpart provides policies and procedures for local governments and State and Federal officials concerning the Community Disaster Loan program under Section 414 of the Act.

## § 205.91 Loan program.

(a) *General.* The Associate Director, Disaster Response and Recovery (the Associate Director) may make a Community Disaster Loan to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster or emergency and which demonstrates a need for financial assistance in order to perform its governmental functions.

(b) *Amount of loan.* The amount of the loan is based on need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs. The term

"fiscal year" as used in this subpart means the local government's fiscal year.

(c) *Interest rate.* The interest rate is the rate determined by the Secretary of the Treasury in effect on the date that the loan (i.e., Promissory Note) is executed. This Treasury rate takes into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity adjusted to the nearest 1/8 percent.

(d) *Time limitation.* The Associate Director may approve a loan in either the fiscal year in which the disaster occurred or the fiscal year immediately following that year, when requested by the local government. Only one loan may be approved for any local government as the result of a single disaster.

(e) *Term of loan.* The term of the loan is three years, unless otherwise approved by the Associate Director. The Associate Director may consider requests for an extension of the term based on the local government's financial condition. The total term of any loan may not exceed 10 years.

(f) *Use of loan funds.* The local government shall use the loaned funds to carry on existing local government functions of a municipal operation character or to expand such functions to meet disaster-related needs. The funds shall not be used to finance capital improvements nor the repair or restoration of damaged public facilities. Neither the loan nor any cancelled portion of the loans may be used as the non-Federal share of any Federal program, including those under the Act.

(g) *Cancellation.* The Associate Director shall cancel repayment of all or part of a Community Disaster Loan to the extent that revenues of the local government during the three fiscal years following the disaster are insufficient to meet the operating budget of that local government because of disaster-related revenue losses and additional disaster-related municipal operating expenses.

(h) Any community disaster loans including cancellations made under this subpart shall not reduce or otherwise affect any commitments, grants, or other assistance under the Act or these regulations.

## § 205.92 Responsibilities.

(a) The local government shall submit the financial information required by FEMA and, if a loan is made, comply with the assurances on the application and the terms of the Promissory Note.

(b) The Governor's Authorized Representative shall certify on the loan application that the local government

can legally assume the proposed indebtedness and that any proceeds will be used and accounted for in compliance with the Federal-State Agreement.

(c) The Regional Director shall review each loan application or loan cancellation request received from a local government and monitor the local government's use of the loan. He/She shall inform the Associate Director and submit recommendations when appropriate.

(d) A loan officer, designated by the Associate Director, shall execute a Promissory Note with the local government, establish and maintain a loan account, and administer the loan until repayment or cancellation is completed and the Promissory Note is discharged.

(e) The Associate Director, or a person designated by the Associate Director, shall approve or disapprove each loan request, taking into consideration the information provided in the local government's request and the recommendations of the Governor's Authorized Representative and the Regional Director. The Associate Director, or the Associate Director's designee, shall approve or disapprove a request for loan cancellation in accordance with the criteria for cancellation in these regulations.

## § 205.93 Eligibility criteria.

(a) *Local government.* The local government must be located within the area designated by the Associate Director as being eligible for assistance under a major disaster or emergency declaration. In addition, State law must not prohibit the local government from incurring the indebtedness resulting from a Federal loan. Factors considered by FEMA in determining the eligibility of a local government for a Community Disaster Loan include the loss of tax and other revenues as a result of a disaster, a demonstrated need for financial assistance in order to perform its governmental functions as a political entity, the maintenance of an annual operating budget, and its responsibilities for providing essential municipal operating services to the community. Eligibility for other assistance under the Act does not, of itself, establish entitlement to such a loan.

(b) *Loan eligibility.*—(1) *General.* To be eligible, the local government must show that it may suffer or has suffered a substantial loss of tax and other revenues as a result of a disaster and must demonstrate a need for financial assistance in order to perform its governmental functions. Loan eligibility is based on the financial condition of the

local government and a review of financial information and supporting justification accompanying the application.

(2) *Substantial loss of tax and other revenues.* The fiscal year of the disaster or the succeeding fiscal year is the base period for determining whether a local government may suffer or has suffered a substantial loss of revenue. Guidelines include the following disaster-related factors:

(i) A large enough reduction in cash receipts from normal revenue sources, excluding borrowing, which affects significantly and adversely the level and/or categories of essential municipal services provided prior to the disaster.

(ii) A revenue loss of over 5 percent of total revenue estimated for the fiscal year in which the disaster occurred or for the succeeding fiscal year.

(3) *Demonstrated need for financial assistance.* The local government must demonstrate a need for financial assistance in order to perform its governmental functions. Guidelines include the following:

(i) Sufficiency of funds to meet current fiscal year operating requirements;

(ii) Availability of cash on other liquid assets which can be applied from the prior fiscal year;

(iii) Current financial condition considering projected expenditures for governmental services and availability of other financial resources;

(iv) Fixed debt requirements;

(v) Debt ratio (relationship of annual receipts to debt service);

(vi) Ability to obtain financial assistance or needed revenue from State and other Federal agencies for direct program expenditures;

(vii) Displacement of revenue-producing business due to property destruction;

(viii) Necessity to reduce or eliminate essential municipal services; and

(ix) Danger of municipal insolvency.

## § 205.94 Loan application.

(a) *Application.* (1) The local government shall submit an application for a Community Disaster Loan through the Governor's Authorized Representative. The loan must be justified on the basis of need and shall be based on the actual and projected expenses, as a result of the disaster, for the fiscal year in which the disaster occurred and for the three succeeding fiscal years. This loan request shall be prepared by the affected local government and certified as legal by the Governor's Authorized Representative.

(2) Waiver of state review. The Regional Director may waive the requirement for a State review if an

otherwise eligible applicant is not subject to State administrative authority and the State cannot legally participate in the loan application process.

(b) *Financial requirements.* (1) The loan application shall be developed from financial information contained in the annual operating budget (§ 205.94(b)(2) below) and shall include a Summary of Revenue Loss and Disaster-Related Expenses, a Statement of the Applicant's Operating Results-Cash Position, a Debt History, Tax Assessment Data, Financial Projections, Other Information, a Certification, and the Assurances listed on the application. Copies of the local government's financial reports (Revenue and Expense and Balance Sheet) for the three fiscal years prior to the fiscal year of the disaster must accompany the application.

(2) Operating Budget. For purposes of the loan, the operating budget is that document or documents approved by an appropriating body, which contains an estimate of proposed expenditures, other than capital outlays for fixed assets for a stated period of time, and the proposed means of financing the expenditures.

(3) Operating budget increases. Budget increases due to increases in the level of, or additions to, municipal services not rendered at the time of the disaster or not directly related to the disaster shall be identified.

(4) Revenue and assessment information. The applicant shall provide information concerning its method of tax assessment, to include assessment dates and the dates payments are due. Tax revenues assessed but not collected or other revenues which the local government chooses to forgive, stay, or otherwise not exercise the right to collect are not a legitimate revenue loss for purposes of evaluating the loan application.

(5) Estimated disaster-related expenses. Disaster-related expenses of a municipal operation character should be estimated. These are discussed in § 205.96(b).

(c) *Federal review.* (1) The Associate Director shall approve a community disaster loan to the extent it is determined that the local government may suffer a substantial loss of tax and other revenues and demonstrate a need for financial assistance needed to perform its governmental function as the result of the disaster.

(2) The loan shall not exceed the lesser of: (i) The amount of projected loss plus the projected disaster-related expenses of a municipal operating character or (ii) 25 percent of the annual



operating budget for the fiscal year in which the disaster occurred.

(3) Promissory note. Upon approval of the loan by the Associate Director, FEMA, the Loan Officer will execute a Promissory Note with the applicant. The applicant should indicate its funding requirements on the Schedule of Loan Increments.

#### § 205.95 Loan administration.

(a) *Funding.* (1) FEMA will disburse funds to the local government when requested, generally in accordance with the Schedule of Loan Increments. As funds are disbursed, interest will accrue.

(2) When each incremental payment is requested, the local government shall submit a copy of its most recent financial report (if not submitted previously) for consideration by FEMA in consultation with the borrower of whether or not the level and frequency of periodic payments continue to be justified. The local government shall also provide the latest available data on anticipated and actual tax and other revenue collections for the most recent period. Desired adjustments in the disbursement schedule shall be submitted in writing at least 30 days prior to the proposed disbursement date in order to ensure timely receipts of the funds.

(b) *Financial management.* Each local government with an approved Community Disaster Loan shall establish necessary accounting records, consistent with the local government's financial management system, to account for loan funds received and disbursed and to provide an audit trail.

(c) *Loan Servicing.* Whether or not all loan funds have been drawn, FEMA will reevaluate the total loan justification periodically. The purpose of the reevaluation is to determine whether projected revenue losses, disaster-related expenses, operating budgets, and other factors have changed significantly to warrant adjustment of the scheduled payments of the loan proceeds.

(d) *Inactive loans.* If no funds have been disbursed from the Treasury, and if the local government does not anticipate a need for such funds, the note may be cancelled at any time upon a written request to FEMA. However, since only one loan may be approved, cancellation precludes submission of a second loan application request by the same local government for the major disaster.

#### § 205.96 Loan cancellation.

(a) *Policies.* (1) FEMA shall cancel repayment of all or any part of a Community Disaster Loan to the extent that the Associate Director determines that revenues of the local government

during the full 3 fiscal year period following the disaster are insufficient, as a result of the disaster, to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operating character.

(2) If the local government reduces the tax and other revenue rates or the tax assessment valuation of property which was not damaged or destroyed by the disaster, the tax and other revenue rates and tax assessment valuation factors applicable to such property in effect at the time of the major disaster or emergency shall be used without reduction for purposes of computing revenues received. This may result in decreasing the amount of any potential loan cancellations as a result of a general reduction in property tax.

(b) *Disaster-related expenses of a municipal operation character.* (1) For purposes of this loan, expenses of a municipal operation character are those incurred for general government purposes, such as police and fire protection, trash collection, collection of revenues, maintenance of public facilities, flood and other hazard insurance, and those other expenses normally budgeted for in special revenue, enterprise, and general funds, as defined by the Municipal Finance Officers Association.

(2) Disaster-related expenses do not include expenditures associated with debt service, any major repairs, rebuilding, replacement or reconstruction of public facilities or other capital projects, intragovernmental services, special assessments, and trust and agency fund operations. Disaster expenses which are eligible for reimbursement under project applications or other Federal programs are not eligible for loan cancellation.

(c) *Cancellation application.* A local government which has drawn loan funds from the Treasury may request cancellation of the principal and related interest by submitting an Application for Loan Cancellation prior to the expiration date of the loan through the Governor's Authorized Representative to the Regional Director.

(1) Financial information submitted with the application shall include the following:

(i) Annual Operating Budgets for each fiscal year;

(ii) Financial Records (Revenue and Expense and Balance Sheet) for each fiscal year;

(iii) Audit reports for each fiscal year certifying to the validity of the Operating Statements. The financial statements of the local government shall be examined in accordance with

generally accepted auditing standards by independent certified public accountants or independent licensed public accountants licensed on or before December 31, 1970, who are certified by a regulatory authority of a State or other political subdivision of the United States. As required by the American Institute of Certified Public Accountants standards, or the equivalent thereof, the auditor must be independent within the meaning of the code of professional ethics of the AICPA; and

(iv) Other financial information specified in the Application for Loan Cancellation.

(2) Narrative justification. The applicant may include an appropriate narrative presentation to amplify the financial material accompanying the application and to present any extenuating circumstances which the local government wants to be considered.

(3) Audit report. The audit report accompanying the application shall certify to the fiscal integrity of financial transactions and reports and to compliance with applicable laws, regulations, and administrative requirements. The report should not include recommendations concerning cancellation or repayment.

(d) *Determination.* (1) If, based on a review of the Application for Loan Cancellation and a State and/or Federal audit, the Associate Director determines that all or part of the Community Disaster Loan funds should be cancelled, the principal amount which is cancelled will become a grant and the related interest will be forgiven.

(2) A loan or cancellation of a loan does not reduce or affect other disaster-related grants or other disaster assistance. However, no cancellation may be made that would result in a duplication of benefits to the applicant.

(3) The uncanceled portion of the loan must be repaid in accordance with 205.97 below.

#### § 205.97 Loan repayment.

(a) *Prepayments.* The local government may make prepayments against the loan at any time.

(b) *Repayment.* To the extent not otherwise cancelled, Community Disaster Loan funds become due and payable in accordance with the terms and conditions of the promissory note. The note shall include the following provisions:

(1) The term of a loan made under this program is three years, unless extended by the Associate Director. Interest will accrue on outstanding cash from the actual date of its disbursement by the Treasury.

(2) Each payment made against the loan will be applied first to the interest computed to the date of the payment, and then to the principal. Prepayments of scheduled installments, or any portion thereof, may be made at any time and shall be applied to the installments last to become due under the loan and shall not affect the obligation of the borrower to pay the remaining installments.

(3) The Associate Director may defer payments of principal and interest until he makes his final determination with respect to any application for loan cancellation which the borrower may submit.

(4) Any costs incurred by the Federal Government in collecting the note shall be added to the unpaid balance of the loan, bear interest at the same rate as the loan, and be immediately due without demand. Default on the note shall also constitute default under any other debt of the Borrower owing to, or insured by, the Federal Government. Upon any such default, the Federal Government may declare all or part of the note immediately due.

(Secs. 601, 414, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 143 (42 U.S.C. 5201 and 5184); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792))

Issued at Washington, D.C., December 4, 1979.

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-37849 Filed 12-10-79; 8:45 am]

BILLING CODE 6718-01-M

#### 44 CFR Part 205

[Docket No. FEMA-DR 205]

#### Disaster Assistance: Fire Suppression Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

**SUMMARY:** This final rule amends FEMA's regulations regarding fire suppression assistance costs eligible for reimbursement. Based on experience in administering the fire suppression assistance program under the Disaster Relief Act of 1974, and upon consultation with the Forest Service, USDA, and the Bureau of Land Management, DOI, it was determined that the existing eligibility criteria should be expanded to include the cost of certain field support personnel, direct travel and per diem costs, and the operation of field camps.

**EFFECTIVE DATE:** January 10, 1980.

#### FOR FURTHER INFORMATION CONTACT:

Gene Morath, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone (202) 634-7835.

**SUPPLEMENTARY INFORMATION:** A notice issued in the Federal Register on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44 Chapter I, Federal Emergency Management Agency, with Subchapters A-E) indicated that Disaster Assistance would be Subchapter D, Parts 200-299.

On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200-2205 to 44 CFR Part 200 *et seq.* The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93-288 (44 CFR Part 205) are in the process of reorganization and revision.

On February 15, 1979, the Acting Director, Disaster Response and Recovery (then the Administrator, Federal Disaster Assistance Administration) published in the Federal Register (44 FR 9770) a proposed rule to amend the cost reimbursement policies contained in 44 CFR 205.38 by incorporating into the regulations existing cost eligibility criteria contained in the FEMA Fire Suppression Assistance Handbook, 3300.9 (Rev.), and redesignating § 205.38 as a new § 205.104. Comments were invited to April 16, 1979. No comments were received.

Consistent with the recodifications of FEMA regulations, the balance of Subpart C, 44 CFR Part 205 with minor editorial changes, is redesignated as a new Subpart G with §§ 205.34-205.38 redesignated as §§ 205.100-205.104.

A Finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

Accordingly, 44 CFR Part 205 of the Federal Disaster Assistance Regulations is revised by deleting §§ 205.34-205.38 and adding new §§ 205.100-205.104 as follows:

#### § 205.34-205.38 [Deleted]

#### Subpart G—Fire Suppression Assistance

Sec.  
205.100 General.  
205.101 Federal-State agreements.  
205.102 Request for assistance.  
205.103 Providing assistance.  
205.104 Reimbursement.

Authority: (Sec. 601 and 417, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 143 (42 U.S.C. 5201 and 5187); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792).]

#### Subpart G—Fire Suppression Assistance

##### § 205.100 General.

When the Associate Director for Disaster Response and Recovery (the Associate Director) determines that a fire or fires threaten such destruction as would constitute a major disaster, he/she may authorize assistance, including grants, equipment, supplies, and personnel to any State for the suppression of any fire on publicly or privately owned forest or grassland.

##### § 205.101 Federal-State agreements.

Federal assistance under section 417 of the Act is provided in accordance with a continuing Federal-State Agreement for Fire Suppression (the Agreement) signed by the Governor and the Regional Director. The Agreement contains the necessary terms and conditions consistent with the provisions of applicable laws, Executive orders, and regulations, as the Associate Director may require and specifies the type and extent of Federal assistance. The Governor may designate authorized representatives to execute requests and certifications and otherwise act for the State during fire emergencies. Supplemental agreements shall be executed at least annually in advance of the fire season to update the continuing Agreement.

##### § 205.102 Request for assistance.

When a Governor determines that fire suppression assistance is warranted, his/her request for assistance shall specify in detail the facts supporting the request. In order that all actions in processing a State request are executed as rapidly as possible, the State may submit a request to the Regional Director by telephone, promptly followed by a confirming telegram or letter.

##### § 205.103 Providing assistance.

Following the Associate Director's decision on the State request, the Regional Director will notify the Governor and the Federal fire-fighting agency involved. The Regional Director



may request assistance from Federal agencies if requested by the State. For each fire or fire situation, the State shall prepare a separate Fire Project Application and submit it to the Regional Director for approval.

#### § 205.104 Reimbursement.

(a) Payment is made to the State for its actual eligible costs, subject to verification, as necessary, by Federal inspection and audit. When requested by the State, such payments may be made directly to other Federal agencies for eligible assistance provided by them.

(b) Eligible State costs are reimbursed in accordance with the terms and provisions of the Agreement. Only certain costs incurred in fire suppression operations are eligible for reimbursement. The following paragraphs describe those specific items which are clearly eligible or clearly ineligible.

(1) Eligible costs of the State consist of the following costs reasonably and directly related to fire suppression:

(i) All compensation for employees, except as noted under paragraph (b)(2)(i) of this section, directly engaged in authorized fire suppression activities. Included are field support personnel, such as cooks, guards, timekeepers, and supply personnel.

(ii) Travel and per diem costs for employees directly engaged in fire suppression activities.

(iii) Expenses to provide field camps and meals when made available to the eligible employees in lieu of per diem costs.

(iv) Cost for use of publicly-owned equipment used on eligible fire suppression work is based on the FEMA Schedule of Equipment Rates.

(v) Cost for use of privately-owned equipment is based on the rental rate. Provided, Such costs are comparable to the going rate for the same or similar equipment in the locality, as determined by the Regional Director.

(vi) Cost to the State for use of U.S. Government-owned equipment is based on reasonable costs as billed by the Federal agency and paid by the State.

(vii) Cost of firefighting tools, materials, and supplies expended or lost, to the extent not covered by reasonable insurance.

(viii) Repair and reconditioning costs of tools and equipment used in eligible fire suppression activities (other than equipment covered by the FEMA Schedule of Equipment Rates).

(ix) Replacement value of equipment lost in fire suppression, to the extent not covered by reasonable insurance.

(x) Costs for personal comfort and safety items normally provided by the

State under field conditions for firefighter health and safety.

(xi) Mobilization and demobilization costs directly relating to the Federal fire suppression assistance approved by the Associate Director.

(xii) Eligible costs of local governmental fire-fighting organizations reimbursed by the State, pursuant to an existing cooperative agreement, in suppressing an approved incident fire.

(xiii) State costs for suppressing fires on Federal land in cases where the State has a responsibility under a cooperative agreement to perform such action on a nonreimbursable basis.

(2) Costs which are ineligible for reimbursement are:

(i) Any clerical or overhead costs other than field administration and supervision.

(ii) Any costs for presuppression, salvaging timber, restoring facilities, seeding and planting operations.

(iii) Any costs not incurred during the incidence period as determined by the Regional Director other than reasonable and directly related mobilization and demobilization costs.

(iv) State costs for suppressing a fire on Federal land where such costs are reimbursable to the State by another Federal agency under another statute.

(3) In those instances in which assistance under section 417 of the Act is provided pursuant to existing Interstate Forest Fire Protection Compacts, third party eligible costs are reimbursed in accordance with paragraph (b) of this section.

Issued at Washington, D.C., December 4, 1979.

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-37850 Filed 12-10-79; 8:45 am]

BILLING CODE 6718-01-M

#### 44 CFR Part 205

[Docket No. FEMA-DR 205]

#### Disaster Assistance; General Insurance Requirements

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

**SUMMARY:** This rule implements Section 314 of the Disaster Relief Act of 1974. It describes specific requirements concerning insurance, other than flood insurance, which are conditions for approving certain forms of disaster assistance. These requirements include matter relating to type, extent, and

duration of coverage and the required assurances by grantees.

**EFFECTIVE DATE:** January 10, 1980.

**FOR FURTHER INFORMATION CONTACT:** Gene Morath, Office of Public Assistance, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone (202) 634-7835.

**SUPPLEMENTARY INFORMATION:** A notice issued in the Federal Register on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Chapter I, Federal Emergency Management Agency, with Subchapters A-E) indicated that Disaster Assistance would be Subchapter D, Parts 200-299.

On September 28, 1979, FEMA published a Notice of Transfer and Redesignation that transferred the Federal Disaster Assistance Regulations from 24 CFR Parts 2200-2205 to 44 CFR Part 200 *et seq.*

The regulations implementing the Disaster Relief Act of 1974, Pub. L. 93-288, (44 CFR Part 205) are in the process of reorganization and revision. On July 5, 1979, the Acting Director, Disaster Response and Recovery (then the Administrator, Federal Disaster Assistance Administration), published in the Federal Register (44 FR 39198) a proposed rule to redesignate the existing Subpart F (Other Insurance) of 44 CFR Part 205 as a new Subpart J (General Insurance Requirements) and combine §§ 205.14 and 205.65-205.74 of the existing disaster assistance regulations. Comments were invited to September 5, 1979. No comments were received. A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

Accordingly, 44 CFR Part 205 of the Federal Disaster Assistance Regulations is revised by deleting the existing Subpart F and adding a new Subpart J as follows:

#### Subpart F—Other Insurance (Deleted)

#### Subpart J—General Insurance Requirements

Sec.

205.200 General.  
205.201 Definitions.  
205.202 Exclusions.  
205.203 Applicability.  
205.204 Type of insurance.  
205.205 Extent of insurance.  
205.206 Duration of insurance coverage.

Sec.

205.207 Assurances for categorical grants.  
205.208 Assurances for flexible funding.  
205.209 Self-insurance.

Authority: Sec. 601, Disaster Relief Act of 1974, as amended, Pub. L. 93-288, 88 Stat. 143 (42 U.S.C. 5201); Executive Order 12148 (44 FR 43239); and Delegation of Authority (44 FR 44792).

#### Subpart J—General Insurance Requirements

##### § 205.200 General.

(a) Section 314 of the Act, and the Flood Disaster Protection Act of 1973, Pub. L. 93-234, establish insurance requirements as a condition for approving certain disaster assistance under the Act. This subpart pertains to assistance under sections 402 and 419 of the Act. Specific requirements pertaining to flood insurance under Pub. L. 93-234, as amended, are contained in Subpart K of this regulation.

(b) Prior to approval of a Federal grant for the restoration of property, the applicant shall notify the Regional Director of any entitlement to insurance settlement or recovery for such property. The Regional Director shall reduce the grant by the actual amount of insurance proceeds received by the applicant. In the event that insurance recovery is contingent upon the amount of reimbursement under the Act, reimbursement shall be limited to eligible costs as determined by the Regional Director after deducting the maximum amount otherwise recoverable under and to the limit of the applicant's insurance policy.

##### § 205.201 Definitions as used in this subpart.

(a) "Assistance" means any form of Federal grant under sections 402 or 419 of the Act to replace, restore, repair, reconstruct, or construct any property as the result of a major disaster or emergency declaration and which property is not excluded pursuant to § 205.202.

(b) "Property" means any structure, vehicles, equipment, materials, or supplies.

##### § 205.202 Exclusions.

The following categories of Federal disaster assistance are excluded from the requirements to obtain and maintain such insurance as is required by section 314 of the Act and by this subpart:

(a) Emergency assistance provided under section 305 or 306 of the Act.

(b) Assistance otherwise eligible under section 402 or 419 of the Act for any State-owned property that is covered by an adequate State policy of self-insurance approved by the Associate Director for Disaster

Response and Recovery (the Associate Director).

(c) Assistance under section 402 or 419 of the Act for any property for which insurance is not reasonably available, adequate, and necessary, such as: Roads, streets, bridges, and other highway facilities; traffic controls; parking meters; drainage channels and debris basins; dikes and levees; pumping stations; and utility distribution systems.

(d) Assistance for which flood insurance is required under Pub. L. 93-234, as implemented by 44 CFR Part 205, Subpart K.

##### § 205.203 Applicability.

(a) The requirements of this subpart shall apply to all assistance pursuant to section 402 or 419 of the Act with respect to any major disaster or emergency declared by the President after May 22, 1974, unless excluded under § 205.202.

(b) The Regional Director may not approve any such assistance unless the applicant has provided assurances, acceptable to the Regional Director, that the applicant will obtain and maintain any insurance required under these regulations.

(c) The Regional Director may defer approval of otherwise eligible project applications for up to 6 months to permit the applicant to provide such assurances referred to in paragraph (b) of this section. The Associate Director may extend the time for submission of such assurances by the applicant.

(d) No applicant for assistance under sections 402 or 419 of the Act shall receive assistance for any property or part thereof for which it has previously received assistance under the Act unless the applicant obtained and maintained the insurance required under section 314 of the Act and these regulations with respect to such property. In cases where insurance was not maintained, any assistance shall be reduced by the insurance settlement which would have been received had the required insurance coverage been maintained in force.

(e) Insurance requirements prescribed in this subpart shall apply equally to private nonprofit facilities which receive assistance under section 402(b) of the Act. Private nonprofit organizations shall submit the necessary documentation and assurances required by this subpart through the appropriate applicant.

(f) The Regional Director shall require flood insurance as the result of the flooding major disaster, when reasonably available, adequate, and necessary under section 314 of the Act

for assistance even though the flood damaged building concerned is located outside the base floodplain.

##### § 205.204 Type of insurance.

(a) Assurances by the applicant under this subpart to obtain reasonably available, adequate, and necessary insurance shall be required only for the type or types of hazard for which the major disaster was declared. The Regional Director shall not require greater types and extent of insurance than are certified to him/her as reasonable by the appropriate State Insurance Commissioner responsible for regulation of such insurance.

(b) The Regional Director shall make a determination as to the type and extent of insurance that is reasonable when he/she is unable to obtain a prompt certification by the State Insurance Commissioner in response to a formal written request.

##### § 205.205 Extent of insurance.

Prior to approval of assistance under section 402 or 419 of the Act to replace, restore, repair, reconstruct, or construct any property for which insurance is required under this subpart, the applicant shall provide assurances acceptable to the Regional Director that it will obtain and maintain reasonably available, adequate, and necessary insurance to protect against future loss in an amount equal to the amount of the grant under section 402 or 419.

##### § 205.206 Duration of insurance coverage.

The applicant shall provide assurances that the required insurance coverage will be maintained for the anticipated life of the restorative work or of the insured property, which is the lesser.

##### § 205.207 Assurances for categorical grants.

Where insurance is required under this subpart, the applicant shall submit evidence of applicable insurance coverage or other related assurances with the project application. The type and extent of such insurance coverage shall be subject to approval by the Regional Director.

##### § 205.208 Assurances for flexible funding.

When applying for assistance under the provisions of sections 402(f) and 419 of the Act, the applicant shall provide assurances acceptable to the Regional Director that it will obtain and maintain such insurance as required by section 314 of the Act and the regulations in this subpart. As part of such assurance, the applicant shall agree to provide to the Regional Director a listing of insured property, including location, description,



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extent and duration of insurance coverage, name and address of the insurer, and applicable insurance policy numbers. The Regional Director, after a review of the listing and schedule required by Subpart H (Project Administration) and other reviews as he/she considers necessary shall, if appropriate, require the applicant to obtain additional insurance under the Act and these regulations.

§ 205.209 Self-insurance.

A state may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under sections 402 or 419 of the Act or subsequently, and if accompanied by a plan for self-insurance which is satisfactory to the Associate Director, shall be considered as complying with subsection 314(a) of the Act. After approval as self-insurer by the Associate Director, no State shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under the Act, to the extent that insurance for such property or part thereof would have been reasonably available.

Issued at Washington, D.C., Dec. 4, 1979.  
William H. Wilcox,  
*Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.*

[FR Doc. 79-37851 Filed 12-10-79; 8:45 am]  
BILLING CODE 6718-01-M

Tuesday  
December 11, 1979

Part IX

Department of the  
Interior

Office of Surface Mining Reclamation and  
Enforcement

Wyoming Permanent Regulatory Program;  
Notice of Public Hearing and Public  
Comment Period

Federal Register



## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## Notice of Public Hearing and Public Comment Period on the Wyoming Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

**ACTION:** Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

**SUMMARY:** OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Wyoming regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Wyoming program is available for public inspection; additions and/or modifications to the submission made since August 15, 1979; the date when and location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

**DATES:** A public hearing to review the substance of the Wyoming program submission will be held at 9:00 a.m., on January 7, 1980, at the address listed below. Written comments, data or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before the close of business on January 7, 1980, or at the conclusion of the public hearing in Cheyenne, Wyoming, on January 7, 1980, whichever is later, in order to be considered in the Secretary's initial decision on the Wyoming proposed state program.

**ADDRESSES:** The public hearing will be held at the Hitching Post Motel, located at Interstate 25, in Cheyenne, Wyoming. Written comments should be sent to Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Department of the Interior, Brooks Towers, Room 5010, 1020—15th Street, Denver, Colorado 80202, or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region V Office and central office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Reclamation and Enforcement, Department of Interior, Region V, Brooks Towers, Room 5010, 1020—15th Street, Denver, Colorado 80202. Wyoming Land Quality Division, Department of Environmental Quality, Hathaway Building, Cheyenne, Wyoming 82002.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region V Office and the central office of the State Regulatory Authority listed below, and the field offices of the State Regulatory Authority listed below:

Land Quality Division, 30 East Grinnell Street, Sheridan, Wyoming 82801.  
Land Quality Division, 933 Main Street, Lander, Wyoming 82520.

A copy of this notice along with a copy of the Wyoming state statutes and regulations regarding the proposed Wyoming regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

**For Further Information Contact:** Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation & Enforcement, Department of the Interior, Region V, Brooks Towers, Room 5010, 1020—15th Street, Denver, Colorado 80202, Telephone: (303) 837-4731.

**SUPPLEMENTARY INFORMATION:** On August 15, 1979, the state of Wyoming submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328, March 13, 1979) the Regional Director published notification of receipt of the program submission in the August 22, 1979, *Federal Register* (Vol. 44, No. 164, Page 49313) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting was held on September 20, 1979, on the issue of the program's completeness.

On October 24, 1979, the Regional Director published notice in the *Federal Register* announcing that he had determined the program to be complete (Vol. 44, No. 207, Page 61266). The notice specified that the program submission was complete in accordance with the Federal Act and regulations, as required by 30 CFR 731.14(c). Since the program submission, there has been correspondence concerning analysis of the proposed program. This material may be reviewed at the Region V Office of Surface Mining.

As a complete submission the proposed program may now be considered for permanent regulatory program approval. Subsequent to the

public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326-15327). For further details, refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326-15327) and corresponding sections of the preamble (44 FR 14959-14961).

At the public hearing parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the regional office or in person, or on before the day of the hearing. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.
2. Each participant will be allowed 15 minutes.
3. Participants will be called in the order requests for testifying are received.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published Guidelines in the *Federal Register* (44 FR 54444-54445) governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Wyoming program:

1. Wyoming's existing State laws and regulations and proposed laws and regulations.
2. Other existing and proposed State laws and regulations.
3. Attorney General opinions as to adequacy of existing and proposed State laws and rules and regulations to meet the requirements of Pub. L. 95-87.

4. Designation of Land Quality Division Department of Environmental Quality as the State Regulatory Authority.

5. Comparison of State and Federal laws and regulations.

6. Descriptions and organization charts for agencies involved in the State program.

7. Description of the systems for the proposed permanent program.

- a. Exploration and mining permits.
- b. Permit application fees.
- c. Bonding and insurance.
- d. Inspection and monitoring.
- e. Enforcement of administrative, civil and criminal sanctions.
- f. Administering and enforcing permanent program standards.
- g. Assessing and collecting civil penalties.

h. Public notices and hearings.

i. Coordination with other agencies on permits.

j. Consultation with other agencies on environmental, historical, cultural and archeological resources.

k. Lands unsuitable for surface mining.

l. Restrictions on financial interests.

m. Trainings, examining and certifying blasters.

n. Public participation.

o. Administrative and judicial review.

p. The small operator assistance program.

8. Description of mining, reclamation and exploration statistics for 1979-1983

9. Description of Land Quality Division existing and proposed staff.

10. Staff adequacy for implementation of the State program.

11. Description of use of other agencies by the State Regulatory Authority for the State program.

12. Land Quality Division budget.

13. Land Quality Division Offices and Equipment.

14. Special environmental protection performance standards.

15. Other programs administered by Land Quality Division.

16. Proposed Cooperative Agreement between Department of the Interior and State of Wyoming.

On October 18, 1979, OSM published in the *Federal Register* a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closed on November 21, 1979, and publication of the final amended rule will occur shortly. OSM believes that publication of the complete text of the Wyoming statutes and regulations would severely burden both OSM and the Government Printing Office and may be impossible to

accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Wyoming statute and regulations. Instead, OSM announces that single copies of the Wyoming statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without unnecessary expense or confusion to the public.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Wyoming program. Under section 702(d) of SMCRA (30 U.S.C. section 1292(d)) approval does not constitute a major action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: December 4, 1979.

Donald A. Crane,  
Regional Director.

[FR Doc. 79-37887 Filed 12-7-79; 8:45 am]

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Tuesday  
December 11, 1979

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Part X

## Department of Agriculture

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Agricultural Marketing Service

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Plan for Review of Existing Regulations  
and Policy Statements; Request for  
Comments



## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 9 CFR Parts 201 and 203

## Plan for Review of Existing Regulations and Policy Statements; Request for Comments

**AGENCY:** Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture.

**ACTION:** Request for comments on plan for review of existing regulations and policy statements.

**SUMMARY:** The agency is planning to review the regulations and statements of general policy issued under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), including reporting and recordkeeping requirements, under the procedures described in the report, "Improving USDA Regulations," 43 FR 50988 (November 1, 1978), and hereby invites comments on the plan for such review. A schedule for complete review will be based on the response to this notice.

**DATES:** Comments must be received on or before February 11, 1980.

**ADDRESS:** Send comments to: Paschal O. Drake, Acting Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service, Room 3039 South Building, 14th and Independence Avenue, S.W., United States Department of Agriculture, Washington, D.C. 20250. All comments received may be reviewed by any interested person in Mr. Drake's office during normal business hours.

## FOR FURTHER INFORMATION CONTACT:

John A. Sands, Director, Packer and Poultry Division, P&S, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-6771.

Harry L. Williams, Director, Livestock Marketing Division, P&S, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-6951.

**SUPPLEMENTARY INFORMATION:** The Packers and Stockyards Act is a fair trade practices law regulating business practices of those engaged in livestock, meat and poultry marketing in interstate and foreign commerce.

Regulations issued under the Act are intended to provide for fair business practices and for free, open competition in the marketing of livestock, meat, meat food products, poultry, and poultry products.

The Act was passed by Congress in 1921 and recently amended in 1976 and 1978. The 1976 amendment provided

greater financial protection to those who sell livestock to meat packers, and clarified and strengthened other portions of the Act. The 1978 amendment dealt with rates and charges.

All sections of 9 CFR Chapter II, Parts 201 and 203 are, for purposes of the plan for review, divided into three categories:

**Category I**—Sections which are believed not to need review at this time because they have been deleted, reviewed, promulgated or repromulgated since July 1976;

**Category II**—Sections proposed for deletion; and

**Category III**—Sections proposed for complete review. Categories II and III comprise all the sections that have not been reviewed, revised, deleted or promulgated within the past five years.

The schedule for this complete review will be determined by Packers and Stockyards, AMS, based upon the response to this notice. Comments on the overall review (Categories I, II, and III) should address whether sections of the regulations are in the proper category for review. Comments on Category III should include the specific needs and reasons for changes in any of the sections which will be analyzed in the course of the review.

An additional section in the notice lists the reporting and recordkeeping requirements. Comments may also be addressed to the needs and reasons for review and specific changes to be considered in revising the items in this section.

After the review, all changes in reporting forms will be subject to approval by the Office of Management and Budget under the Federal Reports Act of 1942.

## Category I

This category contains sections which are believed not to need review at this time because they have been considered since 1976. However, with respect to regulations in effect, the agency is open to comment as to whether this determination is correct. If substantive comment is received indicating the need to review any particular sections listed in this category, those sections will be reviewed and revised as needed. This category includes sections 72-1, 72-2, 73-1, 78-1, 106-1, 106-2, and 108-1, which deal with scales and weighing, and also the following:

## Section and Title

- 201.1 Meaning of words.
- 201.8 Investigation.
- 201.9 Publication.
- 201.13 Registrants to report changes in name, address, control, or ownership.
- 201.14 Requirements and procedures.

## Section and Title

- 201.15 Licensee must maintain satisfactory financial condition or furnish surety bond or equivalent.
- 201.18 Licensee to report changes in name, address, control, or ownership.
- 201.18 Requirements as to filing by licensees.
- 201.25 Proposed increases in existing charges must be supported by specific data.
- 201.27 Underwriter; equivalent in lieu of bonds; standard forms.
- 201.28 Duplicates of bonds or equivalents to be filed with Regional Supervisor.
- 201.29 Market agencies, packers and dealers required to file and maintain bonds.
- 201.30 Amount of market agency, dealer and packer bonds.
- 201.31 Conditions in market agency, dealer and packer bonds.
- 201.32 Trustee in market agency, dealer and packer bonds.
- 201.33 Persons damaged may maintain suit; filing and notification of claims; time limitations; legal expenses.
- 201.34 Termination of market agency, dealer and packer bonds.
- 201.35 Standards for bonds submitted by applicants for licenses and licensees.
- 201.36 Trustee in licensee bonds.
- 201.37 Persons damaged may maintain suit to recover on licensee bonds.
- 201.38 Termination of licensee bonds.
- 201.43 Payment and accounting for livestock and live poultry.
- 201.48(b) Stockyard owners, market agencies, dealers, and licensees to keep daily record.
- 201.48 Sellers of live poultry to issue sales tickets at designated markets.
- 201.83 Live poultry: care and promptness in feeding, watering, weighing, transporting and handling.
- 201.100 Records to be furnished poultry growers and sellers.
- 201.101 Records; disposition.
- 201.102 Live and dressed poultry market conditions and prices.
- 201.103 Inspection of records and property of packers and live poultry dealers and handlers.
- 201.104 Packers, live poultry dealers, or handlers; information concerning business not to be divulged.
- 201.105 Accurate weights.
- 201.106 Scales: Testing, repairs, adjustments, replacement and use.
- 201.107 Requirements regarding scale tickets evidencing weighing of live poultry.
- 201.108 Scale operators to be competent.
- 201.109 Reweighing.
- 201.110 Time of weighing.
- 201.111 Purchasers to pay promptly for live poultry purchases.
- 201.200 Sale of livestock to a packer on credit.
- 203.11 Statement with respect to vacation of rate orders under the Packers and Stockyards Act.
- 203.15 Trust benefits under Section 206 of the Act.
- 203.16 Mailing of checks in payment for livestock purchased for slaughter, for cash and not on credit.
- 203.17 Statement with respect to rates and charges at posted stockyards.

## Category II

This category contains sections proposed for deletion.

## Section and Title

- 201.82 Livestock; care and promptness in yarding, feeding, watering, weighing, and handling.
- 201.84 Feed and water furnished livestock or live poultry.
- 201.85 Livestock auctions; requirements as to accommodations and persons entering auction ring.
- 201.94 Information as to business; furnishing of by packers; stockyard owners, market agencies, dealers, and licensees.
- 201.95 Inspection of records and property of packers; stockyard owners, market agencies, dealers, and licensees.
- 201.96 Packers, stockyard owners, market agencies, dealers, or licensees; information concerning business not to be divulged.
- 203.1 Statement of general policy with respect to lamb buying practices.
- 203.6 Statement with respect to the purchase of livestock by packers for export.
- 203.13 Statement with respect to voluntary filing of surety bonds under the Packers and Stockyards Act.

## Category III

This category contains sections proposed for complete review.

- 201.2 Terms defined.
- 201.3 Authority.
- 201.4 Bylaws, rules and regulations, and requirements of exchanges, associations, or other organizations; applicability, establishment.
- 201.5 Investigation, notice, and posting of stockyards.
- 201.6 Investigation, notice and deposting of stockyards.
- 201.7 Change in name, address, management, control, or ownership to be reported by stockyard owner.
- 201.10 Requirements and procedures.
- 201.11 Officers, agents and employees of registrants whose registrations have been suspended or revoked.
- 201.12 Registrants whose registrations have been suspended or revoked.
- 201.17 Requirements as to filing by stockyard owners and market agencies operating at a stockyard; use of term "yardage" in stockyard schedules.
- 201.19 Size, style, and number of copies.
- 201.20 Numbering, arrangement, and substance of schedules and amendments.
- 201.21 Rules or regulations affecting rates and charges.
- 201.22 Time and place stockyard owners market agencies, and licensees are to file schedules and amendments.
- 201.23 Joint schedules.
- 201.24 Prescribed rates, charges, practices, and regulations.
- 201.26 Form.
- 201.39 Payment to be made to consignor or shipper by market agencies and licensees; exceptions.
- 201.40 Market agencies or licensees not to use shippers' proceeds or funds received from purchases on commission for own purposes through "bank float" or otherwise.
- 201.41 Market agencies and licensees to make faithful and prompt accounting to consignors or shippers or other interested persons of whom they have knowledge.
- 201.42 Custodial accounts for trust funds.
- 201.44 Market agencies and licensees to render prompt accounting for purchases on order.
- 201.45 Market agencies and licensees to make records available for inspection by owners, consignors, and purchasers.
- 201.46(a) Stockyard owners, market agencies, dealers, and licensees to keep daily record.
- 201.47 Market agencies and licensees to disclose business relationships, if any, with purchasers.
- 201.49 Requirements regarding scale tickets evidencing weighing of livestock.
- 201.50 Records; disposition.
- 201.51 Contracts; stockyard owners to furnish copies of.
- 201.52 Information as to sales on commission or agency basis not to be furnished to unauthorized parties.
- 201.53 Livestock and live poultry market conditions and prices; persons subject to the act not to circulate misleading reports.
- 201.54 Gratuities.
- 201.55 Purchases and sales to be made on actual weights.
- 201.56 Filling orders; price to be paid.
- 201.57 Livestock sold at auctions; purchases form consignments.
- 201.58 Sales to be made openly and in a manner to promote interests of consignors and not conditioned on sales of other consignments.
- 201.59 Taking consignments into own account; accounting; resales.
- 201.60 Consignments on commission; sale of livestock.
- 201.61 Market agencies engaged in selling or purchasing livestock on commission.
- 201.62 Using consigned livestock to fill orders.
- 201.63 Consignments; when not to be solicited or intercepted.
- 201.64 Consignments; guaranties not to be given.
- 201.65 Restrictions on employment of salesmen on split commission basis.
- 201.66 Market agencies not to employ persons engaged in buying livestock.
- 201.67 Packers or dealers not to own or finance selling agencies.
- 201.68 Packers not to own or finance dealers or buying agencies; dealers and buying agencies not to own or finance packers.
- 201.69 Furnishing information to competitor buyers.
- 201.70 Restriction or limitation of competition between packers and dealers prohibited.
- 201.70a Packers not to own or finance custom feedlots; custom feedlots not to own or finance packers.
- 201.71 Accurate weights.
- 201.72 Scales; testing of.
- 201.73 Scale operators to be competent.
- 201.74 Scales; reports of tests and inspections.
- 201.75 Scales; repairs, adjustments, or replacements after inspection.

## Section and Title

- 201.76 Reweighing.
- 201.77 Weighing for purposes other than purchase or sale.
- 201.78 Packer scales.
- 201.79 Facilities and services at stockyards or designated cities, markets, or places.
- 201.80 Stockyard facilities or services to be furnished only to unsuspended, properly registered, and bonded parties.
- 201.81 Suspended registrants and persons whose licenses have been suspended or revoked.
- 201.86 Application for authorization by State agencies and duly organized State livestock associations; requisites.
- 201.87 Two or more applications from same State; procedure.
- 201.88 Registration and filing of schedules.
- 201.89 Records of authorized agencies or associations.
- 201.90 Fees; deduction and accounting.
- 201.91 Inspections; reciprocal arrangements by authorized agencies or associations.
- 201.92 Maintenance of identity of consignments; inspection to be expedited.
- 201.93 Existing contracts between authorized agencies; recognition and continuation.
- 201.97 Annual reports.
- 201.98 Packers and dealers not to charge, demand, or collect commission, yardage, or other service charges.
- 201.99 Purchase of livestock by packers on a carcass grade, carcass weight, or carcass grade and weight basis.
- 203.2 Statement of general policy with respect to the giving by meat packers of meat and other gifts to Government employees.
- 203.3 Statement with respect to meat packer sales promotion programs.
- 203.4 Statement with respect to the disposition of certain records made or kept by packers.
- 203.5 Statement with respect to market agencies paying the expenses of livestock buyers.
- 203.7 Statement with respect to meat packer sales and purchase contracts.
- 203.8 Statement with respect to regulations and practices of stockyard owners and market agencies.
- 203.9 Statement with respect to the handling of custodial funds by livestock market agencies and poultry licensees.
- 203.10 Statement with respect to insolvency; definition of current assets and current liabilities.
- 203.12 Statement with respect to providing services and facilities at stockyards on a reasonable and nondiscriminatory basis.
- 203.14 Statement with respect to advertising allowances and other merchandising payments and services.

## Reporting and Recordkeeping Requirements

## Section and Reporting Requirements (No forms)

- 201.7 Stockyard owners to report changes in name, address, control, or ownership of posted stockyards. (Letter)
- 201.13 Registrants to report changes in name, address, control, or ownership of business. (Letter)
- 201.22 through 201.26 Market agency and stockyard owner to submit copies of



**Section and Reporting Requirements (No forms)**

- schedule of rates, rules of operations, and changes thereto. (Format specified)
- 201.51 Stockyard owners to submit copies of contract. (Contracts)
- 201.86 Application for authorization to inspect brands, marks, etc. (Letter)
- 201.94 Packer, stockyard owner, market agency, dealer, licensee to supply information on business as requested. (Letter)

**Reporting Requirements (Specific Forms Requiring OMB Clearance)**

- 201.10(a) and 201.11 through 201.14 Application for Registration under P&S Act (P&S-116,116-1).
- 201.27 Trust Fund Agreement—Special Report (P&S-5)
- 201.42 Special Report—Status of Custodial Bank Account for Shippers' Proceeds (P&S-131)
- 201.43 Special Report—Statement of Accounts Payable for Livestock (P&S-135).
- 201.74 Livestock Scale Test Reports and Instructions (P&S-212).
- 201.78 Monorail Scale Test Reports and Instructions (P&S-218).
- 201.97 Annual Report of Packers (P&S-125); Annual Report of Brokers or Clearing Agencies (P&S-122); Annual Report of Posted Stockyards (P&S-129); Annual Report of Auction and Commission Firms and Dealers or Market Agencies and Supplemental Balance Sheet (P&S-130, 124, 124-1, 126 and 134); and Packer Inquiry under P&S Act (P&S-132).
- 201.106 Poultry Scale Test Reports and Instructions (P&S-122).

**Section and Recordkeeping Requirements**

- 201.42(f) Market agency and licensee to keep adequate accounts and records of handling custodial accounts.
- 201.43(b)(3) Record of agreement for payment and accounting for livestock and live poultry.
- 201.46(a) Stockyard owner, market agency or dealer to keep daily record of receipt and sales of livestock.
- 201.49 Stockyard owner, market agency or dealer, licensee requirements for scale tickets to be retained.
- 201.50 and 201.101 Business records to be retained two years (minimum).
- 201.89 Agency or association authorized to inspect brands, marks, etc., to maintain adequate records of operations.
- 201.95 Packer, stockyard owner, market agency, dealer, licensee to permit inspection of records and property, as required.
- 201.99(b) Packers to maintain record of purchases made on a carcass grade, carcass weight, or carcass grade and weight basis.
- 201.200(a)(1) Sale of livestock to a packer on credit—record of acknowledgment.
- 203.4 Specific retention periods stipulated for various types of records retained by packers.

**Section and Recordkeeping Requirements**

- 203.15 Trust benefits under Section 206—record for notice of preservation.
- 203.16 Mailing of checks in payment for livestock purchased for cash and not on credit—record of notification.
- Done at Washington, D.C., December 5, 1979.

Paschal O. Drake,

Acting Deputy Administrator, Packers and Stockyards, AMS.

[FR Doc. 79-37875 Filed 12-10-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/SECRETARY*  | USDA/ASCS  |           | DOT/SECRETARY*  | USDA/ASCS  |
| DOT/COAST GUARD | USDA/APHIS |           | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/FHWA        | USDA/FSQS  |           | DOT/FHWA        | USDA/FSQS  |
| DOT/FRA         | USDA/REA   |           | DOT/FRA         | USDA/REA   |
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| DOT/RSPA        | LABOR      |           | DOT/RSPA        | LABOR      |
| DOT/SLSDC       | HEW/FDA    |           | DOT/SLSDC       | HEW/FDA    |
| DOT/UMTA        |            |           | DOT/UMTA        |            |
| CSA             |            |           | CSA             |            |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Public Health Service—

58911 10-12-79 / Disinsection of aircraft

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 10, 1979



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# Federal Register

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Wednesday  
December 12, 1979

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## Highlights

**Briefings on How To Use the Federal Register**—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue.

- 71805 Federal Government Pension Plans** Executive orders
- 71807 Foreign assistance functions** Executive order
- 71809 Ammonia imports** Presidential memorandum
- 71811 Closing of Government Departments and Agencies on Monday, December 24, 1979** Executive order
- 71906 Minority Oriented Primary Care Medical Education Programs** HEW/HRA publishes application announcement for grants; apply by 12-21-79
- 71910 Occupational Safety and Health** HEW/NIOSH announces grants for research and demonstrations; application deadlines 3-1, 7-1, and 11-1-80
- 71908 Adolescent Pregnancy Prevention and Services** HEW/PHS announces competitive grant applications; apply by 3-14-80
- 72036 Comprehensive Planning Assistance** HUD/CPD sets requirements and procedures for managing a grant; effective 1-11-80 (Part III of this issue)

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- 72048 National Priority and Discretionary Programs** Justice/LEAA publishes draft program announcements; comments by 1-11-80 (Part IV of this issue)
- 72067 Occupational Information System** National Occupational Information Coordinating Committee publishes fiscal year 1980 policy and grant announcement; (Part V of this issue)
- 71857 Privacy Act** CPSC publishes document affecting systems of records
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- 71821 Electric Utility Reporting** DOE/FERC issues rules on measures to implement conservation of natural resources; effective 1-1-80
- 71824 National Housing** HUD/FHC amends rules to change minimum number of units required for projects insured under the Act; effective 1-2-80
- 71825 User Charges** DOD/Air Force issues rules regarding charges for special services and for selling or leasing property to persons or organizations outside the Federal Government; effective 3-23-79
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Federal Register

Vol. 44, No. 240

Wednesday, December 12, 1979

## Presidential Documents

Title 3—

The President

Executive Order 12177 of December 10, 1979

### Federal Government Pension Plans

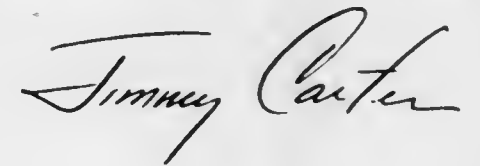
By the authority vested in me as President of the United States of America by Section 121(a)(1) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541, Public Law 95-595, 31 U.S.C. 68a), and Section 301 of Title 3 of the United States Code, and in order to provide consistency among the financial and actuarial statements of Federal Government pension plans, it is hereby ordered as follows:

1-101. All the functions vested in the President by Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a), are delegated to the Director of the Office of Management and Budget. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

1-102. The head of an Executive agency responsible for the administration of any Federal Government pension plan within the meaning of Section 123(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68c), except subsection (a)(9) and (b), shall ensure that the administrators of those plans comply with the form, manner, and time of filing as required by the Director of the Office of Management and Budget.

1-103. Subject to the provisions of Section 1-101 of this Order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to the development of the form and content of the annual reports, shall perform the functions set forth in Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a). In performing this function, the Secretary shall also be responsible for consulting with the Comptroller General.

THE WHITE HOUSE,  
December 10, 1979.



[FR Doc. 79-38283  
Filed 12-11-79; 11:05 am]  
Billing code 3195-01-M



Presidential Documents

Executive Order 12178 of December 10, 1979

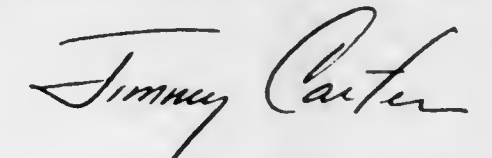
Functions Under the Foreign Assistance Act of 1961, as Amended

By the authority vested in me as President of the United States of America by Section 633 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2393), Executive Order No. 11223 of May 12, 1965, is hereby amended by adding at the end thereof the following Section:

"Sec. 6. I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act, relating to air base construction in Israel, be performed without regard to the following additional specified provisions of law:

- (1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541-544);
- (2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a);
- (3) Section 719 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2168); and
- (4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759)."

THE WHITE HOUSE,  
December 10, 1979.



[FR Doc. 79-38284  
Filed 12-11-79; 11:15 am]  
Billing code 3195-01-M

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## Presidential Documents

### Determination Under Section 406 and 202 of the Trade Act of 1974; Anhydrous Ammonia From the Union of Soviet Socialist Republics

#### Memorandum for the Special Representative for Trade Negotiations

Pursuant to section 406(b) and 202 of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC), transmitted to me on October 12, 1979, concerning the results of its investigation of a petition for import injury filed on behalf of 12 U.S. producers and one U.S. distributor of anhydrous ammonia provided for under items 417.22 and 480.65 of the Tariff Schedules of the United States (TSUS).

After considering all relevant aspects of the case, including those considerations set forth in section 202(c) of the Trade Act of 1974, I have determined that provision of import relief is not in the national economic interest for the following reasons:

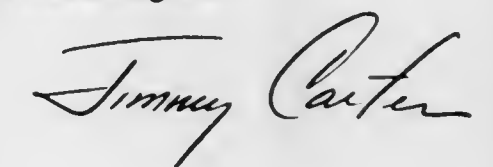
1. Anticipated conditions in the U.S. and overseas markets for anhydrous ammonia do not warrant import relief at this time. The industry is currently operating at 86 percent of capacity and should continue to operate at comparable levels, prices are sharply higher and expected to continue rising, and strong market conditions are projected for the current and next marketing years. Given anticipated growth in demand for grains and other crops, it is critical that farmers have access to sufficient fertilizer supplies at reasonable prices.

2. Relief would not limit the growth in U.S. imports of anhydrous ammonia but will merely shift the source of foreign supplies from the Soviets to other low-cost producers. Thus, the domestic industry would realize little benefit from relief and relief would be unlikely to promote industry adjustment.

You should request the U.S. International Trade Commission to issue a factual report on overall market conditions for ammonia as prescribed under section 332 of the Tariff Act of 1930. This report should be prepared on an annual basis, beginning in November 1980, until further notice. I would plan to have these reports discussed with appropriate Soviet officials through existing channels.

This determination is to be published in the Federal Register.

THE WHITE HOUSE,  
Washington, December 11, 1979.



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## Presidential Documents

Executive Order 12179 of December 11, 1979

### Providing for the Closing of Government Departments and Agencies on Monday, December 24, 1979

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

#### Section 1-1. *General Provisions.*

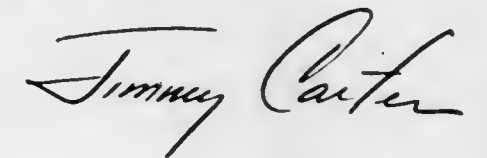
1-101. All Executive departments and agencies shall be closed and their employees excused from duty on Monday, December 24, 1979, the day before Christmas Day, except as provided by Section 1-102 below.

1-102. The heads of Executive departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 24, 1979, for reasons of national security or defense or for other public reasons.

#### Section 1-2. *Pay and leave for Employees.*

1-201. Monday, December 24, 1979, shall be considered a holiday for the purposes of the pay and leave of employees of the United States.

THE WHITE HOUSE,  
December 11, 1979.



[FR Doc. 79-38296  
Filed 12-11-79; 12:11 pm]  
Billing code 3195-01-M

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Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 402

[Amdt. No. 2]

Raisin Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Raisin Crop Insurance Regulations for the 1979 and Succeeding Crop Years by (1) changing the designation "chapter" to "part" in the last sentence in § 402.1 of the regulations, and (2) adding an appendix to the regulations, which lists the counties where Raisin Crop Insurance is available as required by the provisions of § 402.1. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 12, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On Monday, June 25, 1979, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (44 FR 36929), prescribing procedures for insuring raisin crops effective with the 1979 crop year.

These regulations are found in 7 CFR 402 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 402.1 of the Raisin Crop Insurance Regulations for the 1979 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be

published by appendix to this chapter the names of the counties in which raisin insurance will be offered."

In prior years, the requirement of § 402.1 has been met by publishing an amendment to the Raisin Crop Insurance Regulations to list those counties where raisin crop insurance is available, with the last such publication published as Amendment No. 1 (44 FR 1963, Tuesday, January 9, 1979). The Appendix "B" outlined below, supersedes the list of counties in Amendment No. 1.

Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Raisin Crop Insurance Regulations for the 1979 and Succeeding Crop Years (7 CFR Part 402), are amended as follows:

1. By amending the last sentence of 7 CFR 402.1 to read as follows:

§ 402.1 Availability of raisin insurance. \* \* \* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which raisin insurance will be offered.

2. By amending the Raisin Crop Insurance Regulations by adding at the end thereof, an Appendix "B" to read as follows:

Appendix "B"

Counties Designated For Raisin Crop Insurance—7 CFR Part 402

In accordance with the provisions of 7 CFR 402.1, the following counties are designated for raisin crop insurance:

California

|        |            |
|--------|------------|
| Fresno | Merced     |
| Kern   | Stanislaus |
| Kings  | Tulare     |
| Madera |            |

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the word "chapter" to "part" is minor and nonsubstantive, and the publication of the list of counties where raisin crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the

Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole, Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by: James D. Deal.

[FR Doc. 79-38080 Filed 12-11-79; 8:45 am]  
BILLING CODE 3410-08-M

7 CFR Part 408

[Amdt. No. 2]

Eastern U.S. Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years by (1) amending the last sentence of § 408.1, relative to listing counties where apple crop insurance is available, and (2) adding an appendix to provide such listing, as required by the provisions of § 408.1 of the regulations. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 12, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: On December 9, 1976, the Federal Crop



Insurance Corporation published a notice of Final Rule in the Federal Register (41 FR 53803), prescribing procedures for insuring apple crops in the Eastern United States effective with the 1977 crop year.

These regulations are found in 7 CFR Part 408 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 408.1 of the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years provides that "The counties designated by the Manager shall be published by appendix to this section."

In prior years, the requirements of the provisions of § 408.1 have been met by publishing an amendment to the regulations to list those counties where apple crop insurance is available, with the last such publication in the Federal Register being made on Tuesday, January 9, 1979 (44 FR 1965), as Amendment No. 1.

The Corporation is presently conforming its regulations for insuring various commodities to a uniform format which includes publication of an "Appendix", which lists the counties where the insurance is available, to the respective part number of 7 CFR for the particular crop to be insured. In the case of the Eastern United States Apple Crop Insurance Regulations, it is necessary, therefore, to change the language of the last sentence of § 408.1 to indicate that such an appendix to this "part" instead of "section" will be published and, at the same time, conforming the language of the section to match the language in the other crop insurance regulations of the Corporation.

Amendment No. 1 to the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years is hereby superseded by the appendix outlined below.

#### Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Eastern United States Apple Crop Insurance Regulations for the 1977 and Succeeding Crop Years (7 CFR Part 408), are amended as follows:

1. By deleting the last sentence of 7 CFR 408.1 and substituting the following therefor:

#### § 408.1 Availability of apple crop insurance.

\*\*\* Before insurance is offered in any county, there shall be published by appendix to this part the names of the

counties in which apple insurance will be offered.

2. By amending the Eastern United States Apple Crop Insurance Regulations by adding at the end thereof, an appendix to read as follows:

#### Appendix

*Counties Designated for Apple Crop Insurance—7 CFR Part 408*

In accordance with the provisions of 7 CFR 408.1, the following counties in the Eastern United States are designated for apple crop insurance:

#### North Carolina

Alexander                      Wilkes  
Henderson

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the change in the language in § 408.1 is minor and nonsubstantive, and the publication of the list of counties in the Eastern United States where apple crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by:

James J. Deal.

[FR Doc. 79-38061 Filed 12-11-79; 8:45 am]

BILLING CODE 3410-06-M

#### 7 CFR Part 409

[Amdt. No. 2]

#### Arizona-Desert Valley Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** This rule amends the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years by (1) amending the last sentence of § 409.30 relative to listing counties where citrus crop insurance is available, and (2) adding an appendix to provide such listing as required by the provisions of § 409.30 of the regulations. This action is promulgated under the authority of the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** December 12, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On August 8, 1977, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (42 FR 39956), prescribing procedures for insuring citrus crops in the Arizona-Desert Valley effective with the 1977 crop year.

These regulations are found in 7 CFR Part 409 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

In § 409.30 of the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years, the second sentence provides for the designation by the Manager of the counties in which Arizona-Desert Valley citrus crop insurance will be offered.

Amendment No. 1 to the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years, published in the Federal Register on Tuesday, January 9, 1979 (44 FR 1966), listed the counties where such insurance was available.

Amendment No. 2 to the Arizona-Desert Valley Citrus Crop Insurance Regulations, as outlined below, will correct the language of § 409.30 to conform with the language presently being adopted in similar sections in other crop insurance regulations of the Corporation. Amendment No. 2 will also provide for the addition of an appendix which lists the counties as required by the amended § 409.30.

Amendment No. 1 to the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years is hereby superseded by the appendix outlined below.

#### Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Arizona-Desert Valley Citrus Crop Insurance Regulations for the 1977 and Succeeding Crop Years (7 CFR Part 409), are amended in two instances as follows:

1. By deleting the last sentence of 7 CFR 409.30 and substituting the following therefor:

#### § 409.30 Availability of Arizona-Desert Valley citrus insurance.

\*\*\* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which Arizona-Desert Valley citrus insurance will be offered.

2. By amending the Arizona-Desert Valley Citrus Crop Insurance Regulations by adding at the end thereof, an appendix to read as follows:

#### Appendix

*Counties Designated for Arizona-Desert Valley Citrus Crop Insurance—7 CFR Part 409*

In accordance with the provisions of 7 CFR 409.30, the following counties in the Arizona-Desert Valley are designated for citrus crop insurance:

#### Arizona

Maricopa

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the change in the language in § 409.30 is minor and nonsubstantive, and the publication of the list of counties where citrus crop insurance is available in the Arizona-Desert Valley merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this

action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by:

James D. Deal.

[FR Doc. 79-38062 Filed 12-11-79; 8:45 am]

BILLING CODE 3410-06-M

#### 7 CFR Part 415

[Amdt. No. 1]

#### Forage Production Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** This rule amends the Forage Production Crop Insurance Regulations for the 1979 and Succeeding Crop Years by (1) amending the third sentence of § 415.1, relative to publishing the names of the counties where forage production crop insurance is available, and (2) adding an appendix to the regulations which lists such counties, as required by the provisions of § 415.1 of the regulations. This action is promulgated under the authority of the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** December 12, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On August 30, 1978, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (43 FR 38682), prescribing procedures for insuring forage crops as forage production effective with the 1979 crop year.

These regulations are found in 7 CFR 415 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The third sentence in § 415.1 of the Forage Production Crop Insurance Regulations for the 1979 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be published by appendix to this

section the name of the county and the crops on which insurance will be offered."

The word "section," as found in the third sentence of § 415.1 of the regulations cited above, is incorrect and is changed to read "part".

In § 415.1 of the Forage Production Crop Insurance Regulations for the 1979 and Succeeding Crop Years (43 FR 38682), the counties where such insurance is available is listed at the end thereof. Such listing is superseded by the appendix outlined below.

The Corporation is presently conforming its regulations to a uniform format which includes the publication of an "Appendix", which lists the counties where insurance is available, to the respective part number of 7 CFR for the particular crop to be insured. In the case of the Forage Production Crop Insurance Regulations, it is necessary, therefore, to change the language of the third sentence of § 415.1 to indicate that such an appendix to this Part 415 will be published and, at the same time, conforming the language of the section to match the language in the other crop insurance regulations of the Corporation.

#### Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Forage Production Crop Insurance Regulations for the 1979 and Succeeding Crop Years (7 CFR Part 415), are amended as follows:

1. By deleting the last two sentences of 7 CFR 415.1 and substituting the following therefor:

#### § 415.1 Availability of forage production insurance.

\*\*\* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which forage production insurance will be offered.

2. By amending the Forage Production Crop Insurance Regulations by adding at the end thereof, an appendix to read as follows:

#### Appendix

*Counties Designated for Forage Production Crop Insurance—7 CFR Part 415*

In accordance with the provisions of 7 CFR 415.1, the following counties are designated for forage production crop insurance:

|              |           |
|--------------|-----------|
| New York     | Wisconsin |
| Ontario      | Dane      |
| North Dakota |           |
| Morton       |           |



(Secs. 506, 516, 52 Stat. 73, as amended 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the language of § 415.1 is minor and nonsubstantive, and the publication of the list of counties where forage production crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by:

James D. Deal.

[FR Doc. 79-38083 Filed 12-11-79; 8:45 am]

BILLING CODE 3410-08-M

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 708

#### Mergers of Credit Unions

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Part 708 of the NCUA Rules and Regulations in two respects. First, it provides for a more democratic process in approving a merger proposal by eliminating the requirement that at least 20 per centum of the total membership must participate in the voting in order to validate the merger. Instead, the will of the majority of members who vote will determine the

merger question. Second, the rule permits the NCUA Board to approve a merger without requiring membership approval of the merger proposal in those cases where the Board has determined that the credit union is in danger of becoming insolvent and the merger is sought as an alternative to liquidation of the credit union.

**EFFECTIVE DATE:** This final rule is effective December 12, 1979.

**ADDRESS:** National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** James J. Engel, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202) 357-1030.

**SUPPLEMENTARY INFORMATION:** On October 24, 1979, the National Credit Union Administration (Administration) issued a proposed rule, "Mergers of Credit Unions" (12 CFR Part 708, published at 44 FR 61189). The proposed rule eliminated the requirement that at least 20 percent of the total membership must participate in voting on a merger proposal. It also eliminated the need for membership approval when the NCUA Board determined that a Federal credit union was in danger of becoming insolvent. Public comment was invited to be received on or before November 26, 1979. Nine comment letters were received during the comment period and all comments have been considered in arriving at the final rule.

#### Analysis of Comments

##### 1. Section 708.7(b)

All nine commenters agreed with or posed no objection to the elimination of the 20 percent voting requirement. Therefore, the Administration has adopted the proposed amendment to § 708.7(b) without change.

One commenter also requested the Administration to consider an amendment to part 706—Conversion from Federal to State Credit Unions—suggesting a change from the present requirement that a majority of the members of record must approve the conversion. Because the issue of conversions goes beyond the proposed amendment, no change has been made to part 706.

##### 2. Section 708.6(b)

Only one commenter objected to the proposal that would permit a merger after NCUA Board approval without a membership vote in those cases where the NCUA Board determines that the

Federal credit union is in danger of becoming insolvent and the merger is sought as an alternative to liquidation of the credit union. The commenter was concerned that by edict, the NCUA Board could require a merger without membership approval and that such power could be easily abused by arbitrary decisions as to a Federal credit union's solvency.

The proposed amendment did not empower the Board to force or require a merger. Under the existing regulation, after the board of directors of a Federal credit union has complied with the provisions of § 708.4, preparation of a merger plan, and § 708.5, submittal of the plan to the Administration, the NCUA Board may approve the merger. After the NCUA Board approval, § 708.7 provides the membership with the right to vote on the merger proposal. The effect of the proposed amendment is that when a merger proposal is submitted to the NCUA Board, and the Board, in reviewing the proposal, determines that the merging Federal credit union is in danger of insolvency and the merger would reduce the risk of loss to the National Credit Union Share Insurance Fund, the Board may approve the merger and allow it to become effective without the approval of the merging Federal credit union's membership. It does not permit the NCUA Board to require the merger. Thus the proposed amendment would not lead to the result that the commenter raised.

Another commenter, though favoring the amendment, asked whether the amendment would permit the Board to require a merger where the credit union could demonstrate ultimate viability despite present difficulties. The commenter suggested that the Board adopt guidelines for determining "danger of insolvency." As noted above, the amendment would not authorize the Board to require a merger. Because the credit union itself is requesting the merger, the situation presented by the commenter would not arise.

This commenter also suggested a change to permit the approval of mergers without membership approval when a sponsoring business fails or shuts down one of its plants. Although the commenter provides support for the suggestion, because it goes beyond the original proposed amendment and would require an additional comment period, no change has been made to the final regulation.

One other commenter suggested broadening common bond requirements in emergency situations and another suggested wording to clarify that no membership vote, either surviving or

merging, be required. Neither suggestion has been adopted. The NCUA Board does not believe a change to common bond requirements for emergency situations is presently warranted although it appreciates the commenter's views. With respect to clarifying language, the Board is of the opinion that Part 708, with the inclusion of the amendments, is already sufficiently clear.

The final amendments are effective immediately. This action is taken under the authority granted in section 553(d) (1) and (3) of the Administrative Procedure Act (5 U.S.C. 553(d) (1) and (3)) to dispense with publication of a substantive rule not less than 30 days before its effective date when the rule relieves a restriction and because the Administration finds it is in the best interests of credit unions, their members and the National Credit Union Share Insurance Fund. Also, certain procedures provided for in NCUA's Report on Improving Government Regulations were not followed because the proposal is in response to an emergency and the process is unnecessary for the public interest. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, Part 708 is amended as set forth below.

Rosemary Brady,  
Secretary NCUA Board.

December 6, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)).

#### §§ 708.3, 708.6 and 708.9 [Amended]

1. Part 708 is amended by deleting the term "Administrator" each time it appears therein and by inserting the term "Board" in lieu thereof; by deleting the term "his" in § 708.3(c) and by inserting the term, "its" in lieu thereof; and by deleting the term "he" in §§ 708.6(a) and 708.9(b) and by inserting the term "it" in lieu thereof.

#### § 708.7 [Amended]

2. Paragraph (b) of 12 CFR 708.7 is amended by deleting the words "in a vote in which at least 20 per centum of the total membership of the credit union participates."

#### § 708.6 [Amended]

3. Paragraph (a) of 12 CFR 708.6 is amended by deleting the period at the end of the subsection and inserting in lieu thereof the following: "; *Provided, however,* That in the event the Board determines that the merging credit union, if it is a Federal credit union, is in danger of insolvency, and that the proposed merger would reduce the risk or avoid a threatened loss to the

National Credit Union Share Insurance Fund, the Board may permit the merger to become effective without an affirmative vote of the membership of the merging Federal credit union, not withstanding the provisions of § 708.7."

[FR Doc. 79-37977 Filed 12-11-79; 8:45 am]

BILLING CODE 7535-01-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

#### Records of Commodity Futures Transactions; Temporary Exemption

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Adoption of rule granting temporary exemption.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is adopting rule 1.35a-(T) to exempt contract markets from the provisions of rule 1.35(g)(1) until January 1, 1981. In taking this action, the Commission also announced that it is the sense of the Commission that all contract markets should move as rapidly as possible during the period of this exemption to implement systems which would permit them to comply with rule 1.35(g)(1).

Rule 1.35(g)(1) basically requires contract markets to record to the nearest minute the time of execution of each futures transaction. Rule 1.35a-(T) exempts a contract market from this requirement on a temporary basis if, among other things, the contract market records for each futures transaction the time period (no longer than thirty minutes) within which the transaction occurred. The Commission is adopting the exemption provisions of rule 1.35a-(T) for one year to provide contract markets with an opportunity to demonstrate whether recording the time of transactions by thirty-minute periods (or less) is an effective means of achieving the objectives of recording the time of transactions to the nearest minute. Rule 1.35a-(T) also requires, until January 1, 1981, that if a contract market is exempt from the provisions of rule 1.35(g)(1), its members must record the time period (no longer than thirty minutes) within which transactions occur.

**EFFECTIVE DATE:** January 11, 1980.

**FOR FURTHER INFORMATION CONTACT:** Neal H. Stults, Executive Assistant to the Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 (telephone: 202-254-8955).

**SUPPLEMENTARY INFORMATION:** On February 20, 1979, the Commission published in the Federal Register for comment proposed amendments to rules 1.35 (d), (e) and (g) (17 CFR 1.35 (d), (e) and (g)), which require contract markets and members of contract markets to make and keep records of commodity futures transactions. 44 FR 10392. In that notice, the Commission also described the regulatory history of rule 1.35(g). Rule 1.35(g)(1) requires that contract markets show on the record of each futures trade required under rule 1.35(e) the mechanically or electronically verified time of execution of the futures trade to at least the nearest minute (generally referred to as "one-minute timing"). The proposed amendments to rule 1.35 would have replaced the one-minute timing system with a system of recording the time period within which the futures transaction was executed (generally known as the "bracketing" of a transaction). Under the proposed amendments, time periods, or bracket periods, would be limited to thirty minutes in length.

After further consideration of this issue and the comments received in response to the proposed amendments, the Commission believes that substantial questions remain concerning whether thirty-minute bracket periods can achieve the objectives of one-minute timing. The Commission believes that it would be inappropriate to adopt a bracketing approach in lieu of one-minute timing when such doubts persist concerning the efficacy of the former system.

Moreover, the Commission believes that the purpose and objectives of rule 1.35(g)(1), as initially adopted, remain valid and that, as a means of assuring more effective regulation of trading on designated contract markets, the exchanges should move as rapidly as possible to implement systems which would enable them to show on the record of each futures trade the mechanically or electronically verified time of execution of such futures trade to at least the nearest minute. However, because some exchanges may need to design and install new systems as a means of complying with rule 1.35(g)(1) and because questions with respect to the regulatory value of thirty-minute bracketing have not been resolved, the Commission believes that, before compliance with rule 1.35(g)(1) is required of all exchanges, an additional interim period may be of value in determining, as a final matter, whether thirty-minute bracket periods can achieve the objectives of one-minute timing. The Commission has decided



therefore, to provide contract markets with additional time to comply with rule 1.35(g)(1) and with an opportunity to demonstrate whether bracketing is an effective alternative to one-minute timing. To implement this decision, the Commission is adopting rule 1.35a-(T) to exempt from the one-minute timing requirement until January 1, 1981 those contract markets that institute an accurate system of bracketing trades within time periods that are each no more than thirty minutes long.

In adopting this amendment to rule 1.35, the Commission wishes to make clear that it is not granting or assenting to any extension or further extension of any exemption, pursuant to the procedures established under rule (g)(2) which permitted a contract market to employ thirty-minute bracketing, and that any contract market which utilizes thirty-minute bracketing may do so only under the exemption provided by rule 1.35a-(T). The adoption of rule 1.35a-(T), however, does not affect the status under rule 1.35(g)(1) of those exchanges whose petitions for an exemption under rule 1.35(g)(2) demonstrate substantial compliance with rule 1.35(g)(1) by establishing and maintaining a means of recording the time of execution of each futures trade which, in general, is within one minute of the actual time of execution. Therefore, any extension or exemption existing or understood to exist for any contract market and which permitted that market to employ thirty-minute bracketing shall terminate with the effectiveness of rule 1.35a-(T) and shall not operate, should rule 1.35a-(T) expire, to allow noncompliance with paragraph (g)(1) of rule 1.35.

#### Temporary Exemption

The Commission previously has stated that the system of one-minute timing was designed to meet four objectives: (1) To help prevent dual trading abuses, (2) to enable each contract market and the Commission to reconstruct the sequence of transactions to facilitate the detection of other trade practice abuses, (3) to make available further data to prove trade practice abuses detected by other means, and (4) to provide accurate time of execution information for the purpose of conducting general market studies to evaluate the impact of trading activity over a given period of time.<sup>1</sup> As the Commission noted in proposing the amendments to rule 1.35, some of the

<sup>1</sup> The Commission stated these objectives in connection with its adoption of rules to prevent dual trading and other trade practice abuses (41 FR 56139, December 23, 1976), and again in connection with its proposal to amend rule 1.35 (44 FR 10395, February 20, 1979).

exchanges which had petitioned the Commission under rule 1.35(g)(2) for time extensions to comply with the one-minute timing rule stated that one-minute timing involves substantial costs and that they believe the purposes of one-minute timing can be accomplished by other less costly means, specifically, by a system of bracketing trades<sup>2</sup> by time of execution. See 44 FR 10395.

The proposed amendment to rule 1.35 and the comments received in response to the proposal were discussed at the Commission's meeting of May 8, 1979. The merits of both thirty-minute bracketing and one-minute timing were evaluated and there was sharp disagreement with the judgment of certain exchanges that bracketing is an effective alternative to one-minute timing. The Commission's tentative conclusions as a result of that discussion were that one-minute timing rather than thirty-minute bracketing would be the basis of any effective program for surveillance of the markets; that rapid, accurate market reconstruction could be accomplished through use of the information provided by one-minute timing but not through that provided by thirty-minute bracketing; and that contentions of various exchanges concerning the impact on trading of the one-minute timing requirement had been overstated.

Although the Commission is stating here its desire to see rapid implementation of one-minute timing, it believes that before it makes a final determination on this matter, those exchanges that contend that an accurate system of thirty-minute bracketing is an effective means of achieving the objectives of one-minute timing should be given an opportunity to demonstrate that capability. And, the Commission believes that this test of thirty-minute bracketing should be conducted under conditions of actual trading for a length of time that will yield sufficient data upon which to make a decision based on empirical analysis. The Commission's decision to provide this opportunity for a test is based on its belief that exchanges are capable of achieving a high degree of accuracy in reporting and recording information required under rule 1.35(e), including bracket information, and its expectation that an exchange will be permitted to avail itself of the rule 1.35a-(T) exemption only if it does achieve such a degree of accuracy.<sup>3</sup>

<sup>2</sup> A trade is "bracketed" by identifying the specific time period during the trading day within which the trade was executed.

<sup>3</sup> The pendency of this exemptive period does not preclude the Commission from taking enforcement

The Commission has determined, therefore, that a contract market will be exempt from the one-minute timing requirement of rule 1.35(g)(1) until January 1, 1981 if, basically, the contract market establishes an accurate system for bracketing transactions within time periods each no longer than thirty minutes. After considering the comments received in response to the proposed amendments to rule 1.35, the Commission is adopting rule 1.35a-(T) to implement this decision. During the year-long exemption period under rule 1.35a-(T), the Commission will review the operation of thirty-minute bracketing to determine whether the temporary exemption from one-minute timing in lieu of an accurate system of thirty-minute bracketing should be adopted on a permanent basis, modified, or allowed to expire.

Those contract markets that choose to avail themselves of the exemption under rule 1.35a-(T) will be required to submit reports to the Commission concerning their bracketing programs. The Commission will base its determination of whether to adopt thirty-minute bracketing on a permanent basis on its evaluation of these reports, which will include each exchange's analysis of the degree of accuracy achieved by its thirty-minute bracketing system, and on staff studies analyzing whether bracketing of trades within thirty-minute periods meets the Commission's stated objectives of one-minute timing. The Commission notes, in addition, that two essential aspects of a contract market's responsibilities under the Act are to (1) protect the trading public from abusive trading practices,<sup>4</sup> and, (2) since transactions conducted on contract markets are affected with a national public interest,<sup>5</sup> to promote public confidence in such public institutions by its effectiveness in protecting customers' interests. The implementation of an effective means of establishing the time of execution and sequence of

action, or any other action permitted under the Act, (see e.g., Section 8a(7) of the Act) if an exchange fails to fulfill its responsibilities to assure the accuracy of transaction information as required by rule 1.35a-(T) or rule 1.35(e).

<sup>4</sup> See, e.g., section 4c of the Commodity Exchange Act, 7 U.S.C. 6c 1976, as amended, Pub. L. 95-405, Sec. 3, 92 Stat. 887. The Commission also notes that the General Accounting Office, in its report assessing the Commission's performance since its inception, stated that, "[a]ssuring that the trading public is protected from abusive trading practices on the floor of exchange is one of the primary reasons for Federal regulation of the commodity futures industry." General Accounting Office, *Report to the Congress, Regulation of the Commodity Futures Markets—What Needs to Be Done*, at p. 56 (May 18, 1978).

<sup>5</sup> See section 3 of the Commodity Exchange Act, 7 U.S.C. 5.

transactions is consistent with these responsibilities. Thus, the Commission will also take these responsibilities into consideration in its determination of whether to adopt bracketing on a permanent basis.

#### Summary of Rule and Review of Comments

Rule 1.35a-(T) adopts the substance of the proposed amendments to rules 1.35 (d), (e) and (g), but on a temporary basis. Rule 1.35a-(T)(a) provides that a contract market is exempt from the one-minute timing requirement until January 1, 1981, if it (1) divides its trading day into time periods, or bracket periods, that are no more than thirty minutes long, (2) includes as part of the record of a futures transaction required under rule 1.35(e) the bracket period within which the transaction was executed, and (3) submits to the Commission certain reports as requested by the Director or Deputy Director of the Division. These reports concern the accuracy of the records of futures transactions required under rule 1.35(e)—and in particular the accuracy of the thirty-minute period required under rule 1.35a-(T)(a)(2)<sup>6</sup>—and the use by the contract market of the information generated from those records in its surveillance of market activity required under the Commodity Exchange Act and rule 1.51. The Commission will be concerned, specifically, with how contract markets use bracket period information and other information about a futures transaction in meeting the previously noted four objectives of one-minute timing. Exchanges that have contract markets that have implemented bracketing programs under rule 1.35a-(T) will be expected to submit periodic reports addressing issues of the following nature:

1. What questionable transaction prices or unusual price movements will result in an examination by the exchange of bracket information? Were such prices or price movements detected during the period and, if so, what procedures did the exchange use to

<sup>6</sup> The Commission is requiring contract markets that use a bracketing system under rule 1.35a-(T) to prepare a statistical analysis of the accuracy of information required to be reported and recorded under rule 1.35(e), including bracket information, to assist the Commission in its evaluation of whether bracketing is an effective alternative to one-minute timing. In proposing the amendments to rule 1.35, the Commission stated that: "[b]efore the Commission can make a final determination . . . that bracketing is an appropriate substitute for one-minute timing, the contract markets that use bracketing must first attain a much higher degree of accuracy in recording information about executions. The Commission emphasizes that inaccuracies in recording the correct bracket indicator reduce significantly the effectiveness of bracketing as a means to reconstruct trading sequences." 44 FR 10395 (February 20, 1979).

conduct its examinations and what did the examinations disclose?

2. What suspect trade practices examined by the exchange require an analysis of the time relationship or trading sequence involved? For example, exchanges are expected to examine and analyze the time sequence of trades for evidence of indirect bucketing through accommodation trades, trading ahead of customers, and wash trades. Were any such suspect practices examined during the period? If so, (i) how many such examinations were made, (ii) what procedures did the exchange follow and (iii) what information did the examinations disclose?

3. During the first month of each two-month reporting period, what degree of accuracy with respect to the reporting and recording of transaction information required by rule 1.35(e), including bracket information, did the exchange achieve? What percentage of the inaccuracies observed overall were attributable to inaccuracies in the reporting or recording of bracket information? The exchange may use valid random sampling techniques to estimate the degree of accuracy achieved.

4. What general market studies did the exchange conduct to evaluate trading in its contract markets? What procedures did the exchange follow and what results did the studies disclose?

5. What other examinations or tests did the exchange conduct that required the use of bracket information? What was the purpose of the examinations or tests, what procedures did the exchange follow and what information did the examinations or tests disclose?

Rule 1.35a-(T)(b) provides that if a contract market is exempt from the one-minute timing rule under the provisions of rule 1.35a-(T)(a), then the members of that contract market who execute purchases and sales of commodity futures must include the time period within which each purchase and sale was executed as part of the record they are required to prepare under rule 1.35(d). Rule 1.35a-(T)(b) essentially adopts, effective until January 1, 1981, the substance of the proposed amendment to rule 1.35(d).

The Commission received comments on the proposed amendments from eight persons: five exchanges, a floor broker, a member of an exchange, and the clearing house for an exchange. Most of the commentators strongly supported the Commission's proposed substitution of the thirty-minute bracketing system for the one-minute timing system. One of the commentators strongly opposed this substitution.

Two commentators suggested that the Commission revise the proposed amendments to allow bracket periods longer than thirty minutes. These commentators said that longer bracket periods should be allowed to accommodate variances in the length of

opening and closing periods of trading and because various contract markets on the same exchange often begin and end their trading hours at different times.

The Commission has decided that bracket periods under the temporary exemption should be no longer than thirty minutes. The Commission believes that a time period of thirty minutes is the maximum period which conceivably might permit an exchange to reconstruct trading sequences "accurately and rapidly".<sup>7</sup> Lengthening a time period beyond thirty minutes would make it correspondingly more difficult to accomplish reconstruction of trading sequences in an accurate and timely fashion—particularly if the longer period included the opening or closing period when trading tends to be heaviest.

In conjunction with its publication of the proposed amendments, the Commission asked for comment on various means to insure the accuracy of bracket indicia that would have been required under the proposed amendments to rule 1.35. The Commission is still considering this issue and the comments received in response to its request.

Rule 1.35a-(T) is being made effective thirty days after publication to allow contract markets, as necessary, to conform their bracketing systems to the requirements of rule 1.35a-(T).

In consideration of the foregoing and pursuant to sections 4f, 4g, 4j, 5 and 8a of the Commodity Exchange Act, 7 U.S.C. 6f, 6g, 6j, 7 and 12a (1978), as amended by the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865 *et seq.* the Commission hereby amends Part 1 of Chapter I of Title 17 of the Code of Federal Regulations by adding a new § 1.35a-(T) to read as follows:

#### PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

##### § 1.35a-(T) Temporary exemption for certain contract markets.

(a) A contract market is exempt from the provisions of § 1.35(g)(1) until January 1, 1981, if it:

(1) Divides its trading day into consecutive, separately identified time periods, each of which is no more than thirty minutes long.

(2) Includes as part of the record for each futures trade that it is required to

<sup>7</sup> The Commission has previously stated that the fundamental purpose of any system for recording information about the time of futures transactions is to provide a contract market with such information that it has "the ability to reconstruct, accurately and rapidly, the time and sequence of transactions on any given trading day." See 44 FR 10394 (February 20, 1979) and 41 FR 56139 (December 23, 1976).



maintain or cause to be maintained under § 1.35(e) the time period (as described in § 1.35a-(T)(1)) within which the trade was executed, and

(3) Submits to the Commission such reports as the Director or Deputy Director of the Division of Trading and Markets may request concerning (i) the accuracy of the information recorded under § 1.35a-(T)(2) and § 1.35 (e), and (ii) the use of that information by the contract market in the conduct of its surveillance of market activity required under the Act and § 1.51 of the regulations.

(b) If a contract market is exempt from the provisions of § 1.35(g)(1) pursuant to the provisions of § 1.35a-(T)(a), each member of that contract market which is required to prepare a trading card or other record of purchases and sales in accordance with § 1.35(d) must include as part of the trading card or other record the time period (as described in § 1.35a-(T)(1)) within which each purchase and sale was executed.

Issued in Washington, D.C. on December 7, 1979, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 79-38128 Filed 12-11-79; 8:45 am]

BILLING CODE 6351-01-M

#### 17 CFR Part 155

##### Trading Standards for Futures Commission Merchants

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is amending § 155.3 of its regulations which sets forth the trading standards for futures commission merchants ("FCMs"), which are the minimum safeguards which must be provided to customers. At present, such safeguards must only be provided by FCMs which are members of a contract market.<sup>1</sup> When the amendment becomes effective, the trading standards will apply to all futures commission merchants.

**EFFECTIVE DATE:** February 11, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Esq., Office of Chief

<sup>1</sup> A contract market is a board of trade designated by the Commission as a contract market under the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 1 *et seq.*). The term "board of trade" includes any exchange or association, whether incorporated or unincorporated, of persons engaged in the business of buying or selling any commodity or receiving the same for sale on consignment (Section 2 of the Act; 7 U.S.C. 2).

Counsel, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8955.

**SUPPLEMENTARY INFORMATION:** On December 18, 1975, the Commission published proposed Part 155 of its regulations, denominated "Standards Regarding Dual Trading."<sup>2</sup> In proposed § 155.2(b)(2), the Commission set forth trading standards for each member of a contract market acting as an FCM<sup>3</sup> and stated that it would "propose a rule adopting similar standards for transactions by futures commission merchants who are not members of any contract market and their associated persons."<sup>4</sup>

On December 23, 1976, the Commission announced the adoption of regulations entitled "Part 155—Trading Standards."<sup>5</sup> With certain modifications, the proposed § 155.2(b)(2) was adopted as part of these regulations but renumbered as § 155.3 (17 CFR 155.3). Section 155.3 of the regulations only applies to FCMs which are members of a contract market because paragraph (e) thereof states that:

[T]he provisions of paragraphs (a) through (d) of this section shall not apply to a futures commission merchant which is not a member of any contract market or to the affiliated persons of such futures commission merchant.

The Commission stated in the Federal Register release announcing adoption of Part 155 that:

To a large extent, these and many of the other requirements of regulation 155.3 are, in the Commission's view, no more than specific codifications of minimal safeguards which a futures commission merchant must employ to carry out its responsibilities to customers under common-law agency principles. Consequently, while the Commission's original proposal would have imposed specific requirements on only those futures commission merchants which hold memberships on contract markets permitting their FCM members to dual trade, the Commission believes that customers of all futures commission merchants should have the benefit of the specific minimum safeguards set forth in regulation 155.3. However, because regulation 155.3, as originally proposed, would not have extended to non-member FCM's, the newly adopted regulation applies only to those FCM's which are members of a contract market. In a separate Federal Register release issued concurrently with these regulations, the

Commission is proposing the extension of regulation 155.3 to non-member FCM's as well.<sup>6</sup>

The Commission stated, in the Federal Register release referred to above which was issued concurrently with the announcement of the adoption of Part 155, that:

For purposes of this regulation no meaningful distinction can be drawn between non-member FCM's and those FCM's which are members of a contract market. However, the Commission specifically requests comment on the proposed revocation of this exemption for non-member FCM's and on any possible distinction which can be drawn between member and non-member FCM's for purposes of the minimal safeguards provided to customers under regulation 155.3.<sup>7</sup>

No comments were received by the Commission addressing the proposed revocation of paragraph (e) of § 155.3. Accordingly, for the reasons it stated in proposing the amendment, the Commission has decided to revoke paragraph (e) of § 155.3 of its regulations.<sup>8</sup>

<sup>2</sup> 41 FR 58134, at 58138 n.17.

<sup>3</sup> 41 FR 55887 (December 23, 1976). This release also proposed certain amendments to Section 1.35 of the regulations which are not being acted upon by the Commission in connection with the instant proceeding to amend Section 155.3. One of the proposed amendments to Section 1.35 would have eliminated the exemption contained in subparagraph (a-1)(3) relating to recording of customers' orders received by a contract market member on the exchange floor if the customer is another member of the contract market present on the floor when the order is received and a record is made of the time of execution, to the nearest minute, of the order. The other proposed amendment, a new paragraph (j), had as its purpose the insuring of the accuracy of the time and sequence of execution indicia required under the newly adopted paragraph (g) of Section 1.35 (alternative proposals were presented for comment).

<sup>4</sup> The standards that will apply to all FCMs upon the effective date of the revocation of paragraph (e) of § 155.3 are as follows:

(a) Each futures commission merchant shall, at a minimum, establish and enforce internal rules, procedures and controls to:

(1) Insure, to the extent possible, that each order received from a customer which is executable at or near the market price is transmitted to the floor of the appropriate contract market before any order in the same commodity for any proprietary account or any other account in which an affiliated person has an interest or for which an affiliated person may originate orders without the prior specific consent of the account owner is transmitted or caused to be transmitted to the floor of a contract market by any affiliated person who gains knowledge of such customer order prior to its transmission to the floor of the appropriate contract market; and

(2) Prevent affiliated persons from placing orders, directly or indirectly, with another futures commission merchant in a manner designed to circumvent the provisions of paragraph (a)(1) of this section.

(b) No futures commission merchant or any of its affiliated persons shall:

(1) Disclose that an order of another person is being held by the futures commission merchant or any of its affiliated persons, unless such disclosure is necessary to the effective execution of such order

Footnotes continued on next page

As the Commission stated when it first proposed Part 155, the trading standards embodied in that Part are to a certain extent merely a codification of agency law principles. Further, some of the conduct prohibited by the trading standards, such as prearranged trading and other illegal noncompetitive trading, was already prohibited by the Act and other Commission regulations.<sup>9</sup> Thus, to the degree that FCMs which are not members of a contract market were already governed by provisions similar to those in § 155.3, such firms should have no difficulty in complying with the section. The application of § 155.3(a)-(d) to such firms may, however, require them to institute certain new procedures. The Commission, therefore, will not make the revocation of paragraph (e) of § 155.3 of the regulations effective until sixty days following publication of this notice.<sup>10</sup>

Footnotes continued from last page or is made at the request of an authorized representative of the Commission, the contract market on which such order is to be executed, or a futures association registered with the the Commission pursuant to section 17 of the Act; or

(2) Knowingly take, directly or indirectly, the other side of any order of another person revealed to the futures commission merchant or any of its affiliated persons by reason of their relationship to such other person, except with such other person's prior consent and in conformity with contract market rules approved by the Commission.

(c) No futures commission merchant shall knowingly handle the account of any affiliated persons of another futures commission merchant unless the futures commission merchant:

(1) Receives written authorization from a person designated by such other futures commission merchant with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for such account a written record of such order, including the account identification and order number, and records thereon, by timestamp or other timing device, the date and time to the nearest minute the order is received; and

(3) Transmits on a regular basis to such other futures commission merchant copies of all statements for such account and of all written records prepared upon the receipt of orders for such account pursuant to paragraph (c)(2) of this section.

(d) No affiliated person of a futures commission merchant shall have an account, directly or indirectly, with another futures commission merchant unless:

(1) Such affiliated person receives written authorization to maintain such an account from a person designated by the futures commission merchant with which such person is affiliated with responsibility for the surveillance over such account pursuant to paragraph (a)(2) of this section; and

(2) Copies of all statements for such account and of all written records prepared by such other futures commission merchant upon receipt of orders for such account pursuant to paragraph (c)(2) of this section are transmitted on a regular basis to the futures commission merchant with which such person is affiliated.

<sup>9</sup> 40 FR 58660, at 58661 & n. 6.

<sup>10</sup> When Part 155 was first promulgated, it was not made effective until sixty days thereafter. The effective date was later postponed for an additional thirty days. 42 FR 4120 (January 24, 1977).

#### PART 155—TRADING STANDARDS

In consideration of the foregoing and pursuant to the authority in Sections 4b, 4g, 4j, and 8a of the Commodity Exchange Act, 7 U.S.C. 6b, 6g, 6j, and 12a, as amended, 92 Stat. 865 *et seq.*, the Commission hereby amends Part 155 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

##### § 155.3 [Amended]

1. By amending 17 CFR 155.3 by revoking paragraph (e).

Issued in Washington, D.C. on December 7, 1979, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-38124 Filed 12-11-79; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

##### 17 CFR Part 240

[Release No. 34-16348A]

##### Information Required in Solicitation of Proxies Other Than by the Issuer; Correction

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules; correction.

**SUMMARY:** This release corrects FR Doc. 36033 appearing at page 67107 in the Federal Register of November 23, 1979. The amendatory paragraph on page 67108 should have read as follows: Accordingly, 17 CFR Part 240 is amended by deleting the word "duplicate" in paragraph (c)(1), (2), (3) and (4) of § 240.14a-11 and substituting the word "triplicate" therefor.

**FOR FURTHER INFORMATION CONTACT:** Mary A. Binno, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (272-2604).

George A. Fitzsimmons,

Secretary.

December 4, 1979.

[FR Doc. 79-38029 Filed 12-11-79; 8:45 am]

BILLING CODE 8010-01-M

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### 18 CFR Part 2

[Docket No. RM79-25]

##### Electric Utility Reporting on Measures To Implement Conservation of Natural Resources

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission hereby revokes its voluntary annual reporting procedures concerning the conservation activities of electric utilities. These procedures are no longer a cost effective effort in the public interest.

**EFFECTIVE DATE:** Effective January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Bernard Chew, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 376-9264 or Christine P. Benagh, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

December 6, 1979.

##### Background

This order amends the Federal Energy Regulatory Commission's (Commission) general rules by revoking § 2.14. Section 2.14 was established pursuant to the authority of section 202(a) of the Federal Power Act, as amended, 49 Stat. 848, 16 U.S.C. 824(a). The provisions of § 2.14 instituted a voluntary procedure under which electric utilities reported with respect to their conservation activities. This procedure was intended to facilitate government and public awareness of such activities and to promote the conservation and effective use of natural resources in electric power production.

In March of this year, however, in view of the greatly expanded scope of Federal and State programs to promote energy conservation, the Commission suggested via a Notice of Proposed Rulemaking that the continued reporting of this generalized information might not any longer represent a cost-effective effort in the public interest.

##### Summary of Comments

The referenced Notice of Proposed Rulemaking was issued on March 22, 1979 (44 FR 2274, April 17, 1979). Eleven parties responded to the Notice. The



eleven utilities which responded to the Notice argued that revocation of § 2.14 would be in the public interest.

Niagara-Mohawk Power Company stated that the same information is reported to the New York Energy Office, to the New York Public Service Commission as part of rate cases, and to the Electric Power Research Institute where it is catalogued and made available to the public. Georgia Power Company stated that the § 2.14 reports are redundant because of other reports required by other agencies. Consolidated Edison Company of New York noted its belief that reports filed under this section were not susceptible to use as a basis for Commission findings.

#### Effective Date

This rule is to be effective January 1, 1980.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Department of Energy Organization Act, 40 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 2, Subchapter A of Chapter I, Title 18, Code of Federal Regulations is hereby amended as set forth below, effective January 1, 1980.

By the Commission.

Kenneth F. Plumb,  
Secretary.

#### § 2.14 [Revoked]

Section 2.14 is revoked.

[FR Doc. 79-38066 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

### DEPARTMENT OF JUSTICE

#### Drug Enforcement Administration

##### 21 CFR Part 1308

#### Schedules of Controlled Substances; Schedule II Placement of Phenylacetone; (Phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone)

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final Order.

**SUMMARY:** This is a Final Order issued by the Administrator of the Drug Enforcement Administration placing the substance, phenylacetone, also known as phenyl-2-propanone, benzyl methyl ketone, methyl benzyl ketone and P2P, into Schedule II of the Controlled Substances Act. This action results from the increasing evidence of use of phenylacetone as a major immediate chemical precursor to methamphetamine

and amphetamine in their illicit clandestine synthesis. The effect of the present Order provides regulatory controls upon the manufacture, distribution, dispensing, importation and exportation of this immediate precursor to methamphetamine and amphetamine.

**EFFECTIVE DATE OF SCHEDULE II CONTROL:** February 11, 1980, except as otherwise provided in SUPPLEMENTARY INFORMATION Section of this Order.

**FOR FURTHER INFORMATION CONTACT:** Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: 202-633-1366.

**SUPPLEMENTARY INFORMATION:** In enacting the Controlled Substances Act in 1970, Congress provided in Section 201(e) of the Act a mechanism for allowing the Attorney General to place a drug or chemical into a schedule of control without the requirement of first obtaining a medical and scientific evaluation and recommendation from the Secretary of Health, Education, and Welfare, without having to make findings of his own on abuse and public health risk, or concerning the schedule considered, and without the need to provide an opportunity for a rulemaking hearing on the record in accordance with the Administrative Procedures Act (5 U.S.C. 551-559). In lieu of these procedures otherwise required for the traditional scheduling of drugs or other substances, Congress allowed the Attorney General to schedule a drug or substance if it was found by him to be an immediate precursor as defined in Section 102(22) of the Act. That section provides as follows:

The term "immediate precursor" means a substance—(A) Which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance; (B) Which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and (C) The control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

In establishing this alternative scheduling procedure, Congress intended to dispense with the formal, and sometimes lengthy, administrative regulatory rulemaking process in cases where the risk was that clandestine laboratories were making controlled substances with chemicals which themselves were not controlled, but which were one step removed from turning out or becoming the controlled substances illicitly manufactured.

Congress recognized the need for this summary scheduling mechanism as it considered testimony provided to the House Select Committee on Crime, 91st Congress, 2nd Session, 1970-1971, (H. Rept. No. 91-1807, p. 25-6), which stated that entrepreneurs willing to set up clandestine laboratories to manufacture amphetamine and methamphetamine would find easy manufacture and realize high profits.

DEA's own investigations have documented 268 illicit methamphetamine and 45 illicit amphetamine laboratories, seized from 1975 to November 1979. More important, the illicit methamphetamine laboratories seized in the first eleven months of this year is 106, compared with 11 seized in all of 1975. These statistics appear more alarming when one considers that DEA's enforcement effort obviously cannot account for 100% of the illicit laboratories in operation. Better control by DEA over this illicit activity could be obtained if essential ingredients used in the illicit manufacture of methamphetamine and amphetamine were regulated as are the end-products—controlled substances.

DEA's investigations have shown that at least three out of four methamphetamine laboratories seized since 1976 made, purchased, or used phenylacetone in one of two synthetic methamphetamine manufacturing processes. Of those, the more popular process to make methamphetamine is the reductive amination of phenylacetone with methylamine in ethanol with aluminum foil and mercuric chloride catalysts. The second mentioned process to make methamphetamine is designated as the Leuckart synthesis where phenylacetone is heated with formic acid and methylamine and hydrolyzed with hydrochloric acid. Both processes can produce amphetamine if methylamine is simply replaced by ammonia (salts). DEA laboratories have analyzed seized samples of methamphetamine and amphetamine of illicit manufacture and have identified in those samples trace amounts of phenylacetone.

These investigations and laboratory analyses support the conclusion that most of the illicit methamphetamine and amphetamine produced by clandestine laboratories resulted from their use of phenylacetone as an essential ingredient in the process.

Other trace substances have been found in the above-mentioned methamphetamine and amphetamine samples seized and analyzed. The trace substances have been identified as by-products of syntheses and side-reactions where phenylacetone or its precursor,

phenylacetic acid, was an essential ingredient. This further establishes an additional concern that illicit laboratories, manufacturing methamphetamine and amphetamine, in some cases made, rather than purchased, their own phenylacetone. This capability drives the exposure of illicit laboratory activity deeper from law enforcement's view by replacing the marketplace transaction of purchasing phenylacetone with the hidden activity of making it.

Currently, the Drug Enforcement Administration relies upon its Precursor Liaison Program to identify excessive or suspicious sales, by manufacturers and wholesalers to questionable purchasers, of chemicals for their likely use in the illicit manufacture of controlled substances. Participating in this program are at least one manufacturer and numerous wholesalers of phenylacetone. However, participation is voluntary, and in the face of dramatically rising numbers of seizures of illicit methamphetamine and amphetamine laboratories in recent years, the obvious present need calls for requiring, not requesting, sales and distribution records and reports, security measures and import restrictions, to control this essential chemical used in the illicit manufacture of methamphetamine and amphetamine.

Such requirements would include DEA registration of purchasers and sellers of phenylacetone, and likely would result in diminishing the unhindered sales transactions now occurring.

Therefore, in view of the foregoing, the Administrator of the Drug Enforcement Administration hereby finds in accordance with Section 102(22) of the Act (21 U.S.C. 802(22)), that phenylacetone:

- (1) Is the principal compound used, or produced primarily for use, in the manufacture of the Schedule II controlled substances methamphetamine or amphetamine;
- (2) Is an immediate chemical intermediary used or likely to be used in the manufacture of such substances; and
- (3) The control of which is necessary to prevent, curtail or limit the manufacture of such controlled substances.

Therefore, phenylacetone is an "immediate precursor" of methamphetamine and amphetamine as defined in Section 102(22) of the Act (21 U.S.C. 802(22)) and thus may be placed in Schedule II as are methamphetamine and amphetamine, without the necessity of making the findings otherwise required by Sections 201(a) and 202(b) of the Act (21 U.S.C. 811(a) and 812(b)) and

without regard to the procedures otherwise required by Section 201(a) and (b) of the Act (21 U.S.C. 811(a) and (b)). Such procedures which, under the authority of Section 201(e) of the Act (21 U.S.C. 811(e)), need not be required in controlling immediate precursors, include the rulemaking procedures as set forth in the Administrative Procedures Act (5 U.S.C. 551-559), and the opportunity for a hearing on the record.

Therefore, the Administrator of the Drug Enforcement Administration hereby dispenses with issuing Notice of Proposed Rulemaking, and the opportunity for a hearing on the record, and issues this Final Order placing phenylacetone into Schedule II of the Act as an immediate precursor to methamphetamine and amphetamine, out of high regard for the need for prompt controls over phenylacetone without undue delay, which effective amphetamine and methamphetamine control demands, and in recognition of the statutory authority to regulate precursors expeditiously in any event.

Even so, the Administrator is establishing the dates on which the first Schedule II controls shall be imposed upon the legitimate manufacture, distribution, dispensing, importation, and exportation of phenylacetone to be no sooner than February 11, 1980. Within this two month period between publication of this Order and the first effective dates imposing regulatory controls for phenylacetone, all interested persons may submit comments and objections related to the issue whether, and to what extent, the required compliance by industry with Schedule II controls will or might likely hinder their legitimate manufacturing and sales activities with phenylacetone so as to outweigh the expected benefit to result from Schedule II placement of phenylacetone in curbing illicit manufacture of methamphetamine and amphetamine. The Administrator affords this opportunity for comment notwithstanding that he has earlier asked for comments by interested persons on this same issue (40 FR 47525, October 9, 1975). In response thereto, twenty-nine letters were received and the general nature of them was that phenylacetone is used in the pharmaceutical industry to make amphetamine and amphetamine-like products, and minimally in research. Most respondents stated phenylacetone was not used in their industrial processes, which included rubber processing and the manufacture of chemicals. Five opposed control citing

that additional recordkeeping and security measures could be burdensome.

The Administrator, however, intends to learn how industry would currently regard this present control action, and for this reason, is offering the sixty day comment period established by this Order.

Should the Administrator receive comments or objections on the aforementioned issue which raise significant questions on the ability of industry to comply with Schedule II controls for phenylacetone, he shall immediately suspend the effectiveness of this Order as it relates to this imposition of Schedule II regulatory controls until he may reconsider that portion of this Order in light of such comments and objections so filed. Thereafter, he may reinstate, revoke or amend this Order as he determines is appropriate.

Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative. Dated: December 7, 1979.

Therefore, pursuant to 21 U.S.C. 811(e) and regulations of the Drug Enforcement Administration and of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that phenylacetone be included in Schedule II of the Act, and that § 1308.12 of Title 21, Code of Federal Regulations (CFR) be amended by creating a new subsection (f), designated *Immediate precursors*, and including therein phenylacetone as set forth below. Additionally, the Administrator takes the present opportunity to make a non-substantive change in the listing of other immediate precursors, by removing 1-phenylcyclohexylamine, and 1-piperidinocyclohexanecarbonitrile (PCC), which are immediate precursors to phencyclidine (PCP), from where they currently appear in subsection (e) (Depressants) of § 1308.12 and re-listing them in the new subsection (f), and by re-numbering Secobarbital as item (5) in § 1308.12(e).

#### 1308.12 Schedule II.

(f) *Immediate precursors.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:



(i) Phenylacetone—8501  
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine—7460  
(ii) 1-piperidinocyclohexanecarbonitrile (PCC)—8603

#### Effective Dates

1. **Registration.** Any person who manufactures, distributes, dispenses, imports or exports phenylacetone or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before February 11, 1980. Applications for registration should be sent by registered mail, return receipt requested, to: United States Department of Justice, Drug Enforcement Administration, Registration Section, P.O. Box 28083, Central Station, Washington, D.C. 20005.

2. **Security.** Phenylacetone must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72(a), (c), and (d), 1301.73, 1301.74(a)–(f), 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations on or before June 12, 1980. From now until the effective date of this provision, it is expected that manufacturers and distributors of phenylacetone will initiate whatever preparations as may be necessary, including undertaking handling and engineering studies and construction programs, in order to provide adequate security for phenylacetone in accordance with DEA regulations so that substantial compliance with this provision can be met by June 12, 1980. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. **Labeling and Packaging.** All labels on commercial containers of, and all labeling of phenylacetone packaged after June 12, 1980, shall comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in Section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. **Inventory.** Every registrant required to keep records who possesses any quantity of phenylacetone shall take an

inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substance on hand on February 11, 1980.

5. **Records.** All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on phenylacetone commencing on the date on which the inventory of such substance is taken.

6. **Reports.** All registrants required to file reports with the Drug Enforcement Administration pursuant to §§ 1304.37–1304.41 of Title 21 of the Code of Federal Regulations shall report on the inventory taken under paragraph 4 above and on all subsequent transactions.

7. **Order Forms.** The order form requirements of §§ 1305.01–1305.18 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of this Schedule II controlled substance is taken, March 11, 1980.

8. **Quotas.** Quotas shall be established in 1980 for phenylacetone pursuant to §§ 1303.01–1303.37 of Title 21 of the Code of Federal Regulations.

Applications for procurement quotas and manufacturing quotas should be submitted not later than February 11, 1980.

9. **Importation and Exportation.** All importation and exportation of phenylacetone shall, on or after February 11, 1980, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. **Criminal Liability.** The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to phenylacetone as a Schedule II controlled substance not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after February 11, 1980, shall be unlawful, except that any person who is not now registered to handle phenylacetone as a Schedule II controlled substance but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with phenylacetone between the date on which this Order is published and the date which he obtains or is denied registration; provided, that application for such registration is submitted on or before February 11, 1980.

11. **Other.** In all other respects, this Order is effective February 11, 1980.

Dated: December 7, 1979.

Peter B. Bensinger,  
Administrator, Drug Enforcement  
Administration.

[FR Doc. 79-38114 Filed 12-11-79; 8:45 am]  
BILLING CODE 4410-09-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for  
Housing—Federal Housing  
Commissioner

### 24 CFR Part 207

[Docket No. R-79-754]

#### Amendments to Part 207 To Change the Minimum Number of Units Required for Projects Insured Under Section 207 of the National Housing Act

**AGENCY:** Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

**ACTION:** Final rule.

**SUMMARY:** Sections 207.24 (a) and (b) and 207.32a of Subpart A are being amended to reflect the change from 8 to 5 in the minimum number of units required for projects insured under section 207 of the National Housing Act as authorized by the Housing and Community Development Amendments of 1978.

**EFFECTIVE DATE:** January 2, 1980.

**ADDRESS:** Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** George O. Hipps, Jr., Office of Multifamily Housing Development, Room 6128, 451 Seventh Street SW., Washington, D.C. 20410; Phone: (202) 755-5720. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Section 207 of the National Housing Act has required that a multifamily project or a mobile home park have a minimum of eight units to be eligible for mortgage insurance. This minimum number was changed to five by the Housing and Community Development Amendments of 1978 enacted October 27, 1978. With this change, proposed projects of 5, 6, and 7 units will be eligible for mortgage insurance. Existing multifamily apartment housing projects of five to seven units will also be eligible under Part 207 pursuant to section 223(f) of the National Housing Act.

Since these amendments to Part 207 implement a statutory provision which is beneficial to the public and does not involve the exercise of policy judgment by this Department, the Secretary has determined that advance publication, notice and public procedure would be contrary to the public interest and that good cause exists for making these amendments effective as soon as possible.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, Part 207 is amended as stated below:

### PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

#### Subpart A—Eligibility Requirements

##### § 207.24 [Amended]

1. In 207.24(a) in the eighth line and in § 207.24(b) in the tenth line, the word "eight" is changed to "five".

##### § 207.32a [Amended]

2. In § 207.32a in the ninth line, the word "eight" is changed to "five".

(Sec. 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d))

Issued in Washington, D.C., on December 6, 1979.

Lawrence B. Simons,  
Assistant Secretary for Housing—Federal  
Housing Commissioner.

[FR Doc. 79-38085 Filed 12-11-79; 8:45 am]  
BILLING CODE 4210-01-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### 32 CFR Part 812

#### Sales and Services; User Charges

**AGENCY:** Department of the Air Force, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Air Force is revising Part 812 of Chapter VII, Title 32, of the Code of Federal Regulations. This revision prescribes general policy for developing an equitable and uniform system of charges for special services and for selling or leasing property to persons or organizations outside the Department of

Defense and outside the Federal Government. It implements DOD Instruction 7230.7, August 15, 1978, and portions of DOD Instruction 7730.53, July 15, 1970. It applies to all Air Force activities providing special benefits outside the Federal Government.

**EFFECTIVE DATE:** March 23, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry A. Williamson, Air Force Accounting and Finance Center, AFAPC/XSCB, Denver, Colorado 80279, telephone (303) 370-7471.

**SUPPLEMENTARY INFORMATION:** Part 812 of Subchapter B, Chapter VII, Title 32, of the Code of Federal Regulations has been revised. The revision eliminates references to the User Charges Report (no longer required); provides for charges for civilian salaries and fringes based upon predetermined rates in AFP 173-13; provides for a 4 percent of direct costs asset use charge to cover depreciation and interest on investment in DOD-owned fixed assets; provides for an administrative surcharge at 3 percent of total costs to cover general and administrative costs; provides for applying a 10 percent interest factor to the asset net book value to facilitate computation of an annual rental of leased property; and provides that lessees must assume all risks on leased property.

Accordingly, Title 32 of the Code of Federal Regulations is amended by revising Part 812 to read as follows:

### PART 812—USER CHARGES

Sec.  
812.0 Purpose.  
812.1 Policy.  
812.2 Responsibilities assigned.  
812.3 Non-user charge transactions.  
812.4 Waived or reduced charges.  
812.5 User charge exclusions.  
812.6 Charges for special services.  
812.7 Charges for lease or sale of property.  
812.8 Processing collections.  
812.9 Accounting and control.  
812.10 Conflicts or recommendations.

Authority.—Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 177-8, March 23, 1979, and Interim Message Change 79-1, October 23, 1979.

Note.—Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

#### § 812.0 Purpose.

This part prescribes general policy for developing an equitable and uniform system of charges for special services and for selling or leasing property to persons or organizations outside DOD

and outside the Federal Government; states the scope of user charges activities; furnishes guidelines and requirements for determining amounts of user charges, disposing of receipts, and accounting control of revenue from such charges. It implements DOD Instruction 7230.7, August 15, 1978, and portions of DOD Instruction 7730.53, July 15, 1970. This part applies to all AF activities providing special benefits to non-DOD and non-Government recipients.

#### § 812.1 Policy.

Air Force activities should not compete with available commercial facilities in providing special benefits or in selling or leasing property to recipients outside DOD or outside the Federal Government. However, impose a reasonable charge when authorized special benefits are provided that:

(a) Enable the recipient to obtain more immediate or substantial gain or values (which may or not be measurable in monetary terms) than those accruing to the general public, or

(b) Are performed at the request of the recipient and are above and beyond the services regularly received by or available without charge to the general public.

#### § 812.2 Responsibilities assigned.

Responsibility for initiating and developing schedules of charges and fees consistent with the policies in this part rests with:

(a) HQ USAF for common types of assistance furnished on a department-wide basis (these schedules are in AF functional area directives).

(b) Major commands for types of assistance peculiar to their respective commands.

(c) Each activity concerned for items or types of assistance furnished for which standard fees are not prescribed by higher authority. Each activity:

(1) Identifies the benefits or services covered by this part.

(2) Determines the extent of the special benefits provided.

(3) Determines cost or fair market value.

(4) Establishes the charges.

#### § 812.3 Non-user charge transactions.

The provisions of this part do not cover or apply to the areas listed below. This does not necessarily mean charges are not made in these areas but, if made, they are determined under the provisions of other AF directives and are not considered user charges. Charges for services furnished non-Government audiovisual media, for example, are made under Part 837 of this chapter. Similarly, charges for Armed



Forces participation in public events are governed by Part 824 of this chapter. Additional non-user charge areas include:

- (a) Morale, welfare, and recreation services to military personnel and civilian employees.
- (b) Sale or disposal of surplus property under approved programs.
- (c) Services furnished the general public relating to or furthering the AF recruiting program.
- (d) Any services furnished representatives of public information media or the general public in the interest of public understanding of the Air Force.
- (e) Any records made available to the public under the Freedom of Information Act.
- (f) Any request for release of Air Force-developed computer programs to non-Government customers.
- (g) Foreign military sales of material and services.

#### § 812.4 Waived or reduced charges.

In general, charges may be waived or reduced when:

- (a) Payment of the full cost or fee by a State or local government or by a nonprofit group would not be in the interest of the program.
- (b) Furnishing the service without charge is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country.
- (c) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

#### § 812.5 User charge exclusions.

Although of a user charge nature, the following are considered exempt from the requirement to assess a charge. The list is not all-inclusive.

- (a) Any services requested by members of the Armed Forces when the document or information requested is required by such personnel in their capacity as members of the Armed Forces of the United States.
- (b) Any services requested by members of the Armed Forces who are in a casualty status, or by their next of kin or legal representative, and requests for information from any source relating to a casualty.
- (c) The address of record of an active duty member or former member of the Armed Forces, when it can be furnished informally through local directory (locator) reference, when requested by a member of the Armed Forces, a relative, or legal representative of a member of the Armed Forces, or the address of record requested by any source, when

the address is required for the purpose of paying monies or forwarding property to a member or former member of the Armed Forces.

(d) Any services requested by or on behalf of a member or former member of the Armed Forces, or, if deceased, their next of kin or legal representative pertaining to requests for:

- (1) Information required to obtain financial benefits regardless of the terms of separation from the service;
- (2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions except as provided in paragraph (d) (1) and (4) of this section;
- (3) Information relating to a decoration or award or information required for memorialization purposes;
- (4) Review or change in type of discharge or correction of records;
- (5) Personal documents, for example, birth certificates, when such documents were required to be furnished by the individual.

(e) Services which are furnished free in accordance with statutes or executive orders.

(f) Information from or copies of medical and dental records and or X-ray films or patients or former patients of military medical or dental facilities, when such information is required and requests for such data are submitted by an accredited medical facility, physician or dentist, or requested by the patient, next of kin, or legal representative.

(g) Any services involving confirmation of employment, disciplinary or other records, salaries of active or separated civilian or military personnel when requested by prospective employers, or recognized sources of inquiry for credit or financial purposes.

(h) Any services requested by and furnished to a member of Congress for official use.

(i) Any services requested by State, territorial, county, or municipal government, or an agency thereof, which is carrying on a function related to or furthering an objective of DOD.

(j) Any services requested by a court when the furnishing of such will serve as a substitute for personal court appearance of a military or civilian employee of DOD.

(k) Any services requested by a nonprofit organization which is carrying on a function related to or furthering an objective of the Federal Government or in the interest of public health and welfare.

(l) Any services requested by an individual or corporation which is carrying on a function related to or

furthering an objective of the Federal Government, when the cost of such services would be chargeable directly to a Federal Government contract or grant held by the individual or corporation.

(m) Any services requested by donors with respect to their gifts.

(n) Requests for services which are occasional and incidental (including any request from a resident of a foreign country), of a type that is not requested often, if it is administratively determined that a fee would be inappropriate in such an occasional case.

(o) Any request from Federal employees for completion of forms applicable to claims for reimbursement in connection with the Federal Employees Health Benefit Act of 1959.

(p) Administrative services normally provided in reference or reading rooms for public inspection of records, except for copies of records or documents furnished.

(q) Any request for military locator service by a financial institution located on a DOD installation.

(r) Any request for military locator service from financial organizations, engaged in the composite check program, that are not located on a DOD installation. Each request for an address of record must include:

(1) A statement that the organization is listed as a composite check recipient in the current U.S. Treasury Bureau of Accounts, Financial Organizations Directory.

(2) A statement that the individual whose address is requested has his or her pay forwarded as a direct deposit by DOD disbursing officer.

(3) The financial organization's account number for the individual.

(s) Any services rendered in response to requests for classification review of DOD classified records, submitted under Executive Order 11652, as implemented by DOD Regulation 5200.1-R, which consist of the work performed in conducting the classification review, or in granting and carrying to completion an appeal from a denial of declassification after such review.

(t) Any services of a humanitarian nature performed in certain emergency situations, such as: Life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a site of disaster. This does not mean inter- and intra-Governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary is not assessed a user charge.

#### § 812.6 Charges for special services.

(a) *Establishing fees.* Establish user charge fees for special services on the basis of total costs or fair market value, whichever is higher, and not by the value of the services to the recipient.

When applicable, determine fair market value in accordance with commercial rates in the local geographical area by referring to public pricing information, trade association information, market surveys, and other available information; do not conduct surveys solely for this purpose. Whenever feasible, establish and publish rates and fees in advance to facilitate uniformity of charges. Review rate and fee schedules annually or whenever significant changes in costs occur. Primary user charge rate and fee schedules are contained in Part 813 of this chapter, Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material, and Part 811 of this chapter, Sale or Release of Audiovisual Documentation.

(b) *Determining costs.* Determine or estimate costs from the best available records in the activity. Use existing cost systems; however, do not establish cost accounting systems solely to determine user charges. The following direct and indirect costs are included within the definition and determination of total costs:

(1) Civilian salaries or wages and associated AF share of fringe expenses. Use predetermined rates in AFP 173-13, USAF Cost and Planning Factors Guide, as the basis for assessing charges.

(2) Military personnel costs and associated AF share of fringe expenses. The rates to be charged and the basis for charging DOD, non-DOD Federal, and non-Federal agencies are in AFM 177-101, part 5, chapter 2.

(3) Costs for materials, supplies, travel, communications, utilities, equipment and property rental, and maintenance of property and equipment.

(4) An asset use charge at 4 percent of direct costs to cover depreciation and interest on investment in DOD-owned fixed assets.

(5) Cost of research, and of establishing standards and regulations when directly associated with the service performed.

(6) An administrative surcharge at 3 percent of total costs paragraph (b) ((1) through (5) of this section) to cover general and administrative costs.

#### § 812.7 Charges for lease or sale of property.

When Federally owned property or resources are leased or sold, assess a rental cost or sales price based on a

determination of fair market value. Determine fair market value by applying sound business management principles in accordance with comparable commercial practices. Charges need not be limited to recovery of costs; they may produce net revenues to the Government.

(a) *Sale of Material.* In the absence of a known market value, determine the fair value for sale of material on the basis of an aggregate of the:

(1) Standard price of the item carried in inventory (or at a reduced price when so authorized for sale within DOD).

(2) Accessorial and administrative costs provided in AFR 172-5, Reimbursement for accessorial and Administrative Costs.

(b) *Lease or Rental of Property.* Fair market value for lease or rental of property is normally determined according to commercial rates for similar property in the local geographical area.

(1) In cases involving lease or rental of military equipment, where there is no commercial counterpart, base fair market value on a computation of an annual rent made up of the sum of annual depreciation and interest on investment. Determine amount of interest on investment by applying a 10 percent interest factor to the net book value (acquisition cost plus additions less depreciation) of the asset. Add the cost of support, including general and administrative expenses, if support is furnished.

(2) In determining the fair market value of property to be leased, consideration may be given to the degree lessee assumes risk of loss or damage to the property and holds the government harmless against claims or liabilities by the lessee or third parties.

#### § 812.8 Processing collections.

(a) Dispose of receipts per existing instructions.

(b) Normally, collect charges and fees before rendering the service. In some instances it may be more practical to collect charges and fees when conveying the service or property to the recipient.

(c) Normally, deposit fees and charges collected to the appropriate receipt account. However, when authorized by law or AF directives, deposit fees and charges collected to the credit of the appropriation or fund responsible for the principal financial support of the services. Deposit collections in excess of recovery of full costs to the appropriate receipt account. Deposit collections for utilities and services in connection with the lease of property to the appropriation or fund responsible for

financing the operations of the equipment and facility.

#### § 812.9 Accounting and control.

(a) Activities providing special benefits or leasing and selling property must make sure user charges imposed are in accordance with this part. Request revisions, through appropriate OPR channels, when rate and fee schedules included in functional area regulations do not appear adequate in view of current experience. When charges are determined locally, give special attention to ensure compliance with this part.

(b) Activities generating user charge transactions furnish the AFO all pertinent information necessary to voucher, collect, and otherwise account for each user charge being imposed. AFOs or their designees verify the accuracy and completeness of documentation supporting each user charge transaction. AFOs or designees also periodically review records, documentation, and procedures to ensure compliance with this part. An effective working relationship must be maintained between the AFO and activities generating user charge transactions.

#### § 812.10 Conflicts or recommendations.

If this part conflicts with other regulations or law, or otherwise appears to require modification, submit recommendations to AFAFC/XSGB, Denver CO 80279.

Carol M. Rose,  
Air Force Federal Register Liaison Officer.  
[FR Doc. 79-38071 Filed 12-11-79; 8:45 am]  
BILLING CODE 3910-01-M

#### 32 CFR Part 813

#### Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 813 of Chapter VII, Title 32, of the Code of Federal Regulations. This revision updates the schedule of fees the public is charged for services rendered by DOD components related to copying, certifying and searching records and other documentary material. It implements DOD Instruction 7230.7, enclosure 3, June 12, 1979.

EFFECTIVE DATE: October 9, 1979.



**FOR FURTHER INFORMATION CONTACT:** Mr. Charlie C. Ratcliffe, telephone (202) 694-3488.

**SUPPLEMENTARY INFORMATION:** On June 20, 1979, the Department of Defense published in the *Federal Register* (44 FR 36029) a final rule which revised the schedule of fees and rates charged for copying, certifying and searching records and other documentary material. The Department of the Air Force will apply the same schedule of fees and rates as that applied by the Department of Defense in 32 CFR 288.9.

Accordingly, Title 32 CFR, Chapter VII, is amended by revising Part 813 to read as follows:

**PART 813—SCHEDULE OF FEES FOR COPYING, CERTIFYING AND SEARCHING RECORDS AND OTHER DOCUMENTARY MATERIAL**

- Sec.  
813.0 Purpose.  
813.1 Sales charge.  
813.2 Service fees.  
813.3 Fee schedule review.  
813.4 Collecting and depositing fees.  
813.5 Schedule of fees and rates.

Authority.—10 U.S.C. 81012, except as otherwise noted.

Note.—This part is derived from Air Force Regulation 12-32, October 9, 1979.

Note.—Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

**§ 813.0 Purpose.**

This part tells what fees are collected for services related to copying, certifying, and searching records and other documentary material when release has been authorized. It implements DOD Instruction 7230.7, enclosure 3, June 12, 1979. This part applies to all Air Force activities.

**§ 813.1 Sales charge**

A charge is made for any service or sale that conveys a special benefit to the recipient beyond any benefits that accrue to the general public. For guidance see Part 812 of this chapter.

**§ 813.2 Service fees.**

The fee schedule in § 813.5 is used to set fees for services provided. This schedule will not be used for records furnished under Part 806 of this chapter. For other exclusions and exceptions see Part 812 of this chapter.

**§ 813.3 Fee schedule review.**

HQ USAF/DAA(S) reviews the fee schedule once a year to decide what changes are needed. An activity may send recommended changes to these

fees, through channels, to HQ USAF/DAA(S).

**§ 813.4 Collecting and depositing fees.**

Persons responsible for collecting and depositing fees must comply with Part 812 of this chapter, AFMs 177-101 and 177-108, and other Accounting and Finance directives that apply.

**§ 813.5 Schedule of fees and rates.**

The schedule of fees and rates that the Air Force will apply are the same as those the Department of Defense published in the *Federal Register* on June 20, 1979 (44 FR 36029). (See 32 CFR 288.9.)

Carol M. Rose,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 79-38073 Filed 12-11-79; 8:45 am]

BILLING CODE 3910-01-M

**DEPARTMENT OF THE INTERIOR**

**Water and Power Resources Service**

**43 CFR Chapter I**

**Public Lands; Bureau of Reclamation**

**AGENCY:** Water and Power Resources Service, Interior.

**ACTION:** Notification of Name Change—Final Rule.

**SUMMARY:** By Secretarial Order No. 3042, dated November 6, 1979, the Secretary of the Interior changed the name of the Bureau of Reclamation to the Water and Power Resources Service, to more appropriately reflect the mission of the organization. This action was in accordance with the Reorganization Plan Number 3 of 1950 (64 Stat. 1262). Chapter I of Title 43 must therefore be retitled to reflect this change. Nomenclature changes throughout the text of Chapter I will be made at a later date.

**DATE:** Effective November 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl O. Rowe, Staff Assistant to the Commissioner, Commissioner's Office, Water and Power Resources Service, Washington, D.C. (202) 343-6833.

Dated: December 7, 1979.

Guy R. Martin,

*Assistant Secretary of the Interior.*

Accordingly, 43 CFR Chapter I is retitled Water and Power Resources Service.

[FR Doc. 79-38123 Filed 12-11-79; 8:45 am]

BILLING CODE 4310-09-M

**INTERSTATE COMMERCE COMMISSION**

**49 CFR Part 1033**

[Fifth Rev. Service Order No. 1323]

**Car Service; Distribution of Freight Cars**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order, Fifth Revised Service Order No. 1323.

**SUMMARY:** There is a shortage of tri-level auto rack flat cars on the Union Pacific and on Chicago, Milwaukee, St. Paul and Pacific Railroad for the shipment of automobiles. Fifth Revised Service Order No. 1323 adds MILW to this order.

**EFFECTIVE DATE:** 11:59 p.m., December 6, 1979, and continuing in effect until February 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter (202) 275-7840.

**SUPPLEMENTARY INFORMATION:** Decided: December 5, 1979.

There are shortages of tri-level type multi-level auto rack flat cars on the Union Pacific Railroad Company (UP) and on Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), required to transport automobiles subject to tariff restrictions requiring the use of such tri-level cars. These railroads have available supplies of bi-level cars of similar type which could be used for transporting these automobiles if tariff provisions permitted. The economic loss suffered by shippers dependent upon the UP and MILW for their car supplies can be alleviated by the substitution of bi-level cars for tri-level cars at the ratio of three bi-level cars for each two tri-level cars ordered.

In the opinion of the Commission present regulations and practices with respect to the use and supply of auto rack flat cars are ineffective to overcome these shortages and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,*

**§ 1033.1323 Fifth Revised Service Order No. 1323.**

<sup>1</sup>(a) *Distribution of Freight Cars.* Subject to the concurrence of the

<sup>1</sup> Chicago, Milwaukee, St. Paul and Pacific Railroad Company added.

shipper the Union Pacific Railroad Company (UP) and Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) may substitute three bi-level auto rack flat cars, listed in the Official Railway Equipment Register, ICC RER No. 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FA" for each two tri-level auto rack flat cars ordered by the shipper for transporting automobiles.

(b) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied to shipments for which three bi-level cars have been substituted for two tri-level cars ordered as authorized by paragraph (a) of this section shall be the rates applicable to the larger cars ordered. The minimum weight to be applied to each group of three bi-level cars substituted for two tri-level cars shall be the combined minimum weights applicable to the two tri-level cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this section shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Two tri-level cars ordered. Three bi-level cars furnished authority I.C.C. Fifth Revised Service Order No. 1323."

(e) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(f) *Exception.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Effective date.* This order shall become effective at 11:59 p.m., December 6, 1979.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 29, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 79-38077 Filed 12-11-79; 8:45 am]

BILLING CODE 7035-01-M

**49 CFR Part 1033**

[Service Order No. 1412]

**Car Service; Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co. at Washington, Iowa**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Service Order No. 1412.

**SUMMARY:** Service Order No. 1412 authorizes the MILW to operate over tracks of the RI in Washington, Iowa, in order to serve shippers located adjacent to these tracks.

**EFFECTIVE DATE:** 12:01 a.m., December 6, 1979.

**EXPIRATION DATE:** 11:59 p.m., March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

**SUPPLEMENTARY INFORMATION:** Decided: December 6, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) serving Washington, Iowa, is not included in Directed Service Order No. 1398 (Sub-No. 1), depriving shippers located adjacent to these tracks in Washington of essential railroad service by the RI. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) connects with the RI at Washington and has consented to operate over the tracks of the RI in Washington to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the MILW.

It is the opinion of the Commission that an emergency exists requiring the

operation of MILW trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,*

**§ 1033.1412 Service Order No. 1412.**

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Washington, Iowa.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Company (RI) in Washington, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MILW over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MILW over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., December 6, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 79-38078 Filed 12-11-79; 8:45 am]

BILLING CODE 7035-01-M



## 49 CFR Part 1033

[Service Order No. 1413]

**Car Service; St. Louis Southwestern Railway Co. Authorized To Operate over Tracks of Chicago, Rock Island & Pacific Railroad Co. at Camden, Ark.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Service Order No. 1413

**SUMMARY:** Authorizes the St. Louis Southwestern Railway Company to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company at Camden, Arkansas, in order to serve industries which would otherwise be deprived of railroad service.

**EFFECTIVE DATE:** 12:01 a.m., December 8, 1979, and continuing in effect until March 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

**SUPPLEMENTARY INFORMATION:** Decided: December 6, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) between Fordyce and Camden, Arkansas, is not included in Directed Service Order No. 1398 (Sub-No. 1). The Kansas City Terminal Railway (KCT) the directed operator of the RI, has returned the yard tracks at Camden to the Trustee of the RI because they cannot be used in directed service. RI shippers in Camden are deprived of essential railroad service.

The St. Louis Southwestern Railway Company (SSW) serves Camden and has consented to operate over the tracks of the RI in Camden in order to serve these industries. The Trustee of the RI has consented to use of these tracks by the SSW.

It is the opinion of the Commission that an emergency exists requiring the operations of SSW trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,*

§ 1033.1413 Service Order No. 1413.

(a) St. Louis Southwestern Railway Company Authorized to Operate over Tracks of Chicago, Rock Island and Pacific Railroad Company at Camden, Arkansas. The St. Louis Southwestern Railway Company (SSW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Camden, Arkansas for

the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the SSW over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the SSW over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., December 6, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-38078 Filed 12-11-79; 8:45 am]  
BILLING CODE 7035-01-M

# FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 64

[Docket No. FEMA 5745]

## List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the

program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The date listed in the fifth column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows: Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

## § 64.6 List of eligible communities.

| State          | County     | Location                   | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community                  | Special flood hazard area identified |
|----------------|------------|----------------------------|---------------|--------------------------------------------------------------------------------------------------------|--------------------------------------|
| New York       | Steuben    | Thurston, town of          | 361213A       | Nov. 14, 1979, emergency.                                                                              | Oct. 25, 1974 and Aug. 13, 1976.     |
| North Carolina | Surry      | Unincorporated areas       | 370364        | Nov. 9, 1978, emergency                                                                                | Aug. 11, 1978.                       |
| Pennsylvania   | Butler     | Clay, township of          | 422343        | Nov. 14, 1979, emergency.                                                                              | Jan. 17, 1975.                       |
| Texas          | Liberty    | Daisetta, city of          | 481101        | do                                                                                                     | July 2, 1976.                        |
| Indiana        | Orange     | Paoli, town of             | 180189        | do                                                                                                     | Nov. 23, 1973 and Oct. 31, 1975.     |
| Vermont        | Calendonia | Stannard, town of          | 500197        | Nov. 16, 1979, emergency.                                                                              | do                                   |
| Wyoming        | Natrona    | Mills, town of             | 560076-A      | do                                                                                                     | Aug. 16, 1977.                       |
| Pennsylvania   | Lackawanna | Old Forge, borough of      | 420535B       | July 25, 1974, emergency, Oct. 16, 1979, regular, Oct. 16, 1979, suspended, Nov. 16, 1979, reinstated. | June 28, 1974 and July 23, 1976.     |
| North Carolina | Gaston     | Belmont, city of           | 370320A       | Mar. 26, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended, Nov. 23, 1979, reinstated.   | June 27, 1975.                       |
| Alabama        | Tuscaloosa | Tuscaloosa, city of        | 010203A       | Nov. 15, 1979, suspension withdrawn.                                                                   | Oct. 24, 1975.                       |
| California     | San Mateo  | Woodside, town of          | 060330B       | do                                                                                                     | June 14, 1974 and April 9, 1976.     |
| Florida        | Brevard    | Melbourne Village, town of | 120329C       | do                                                                                                     | Feb. 15, 1974 and Feb. 13, 1976.     |
| Idaho          | Bingham    | Unincorporated areas       | 160018B       | do                                                                                                     | June 20, 1978.                       |
| Illinois       | Du Page    | West Chicago, city of      | 170219B       | do                                                                                                     | April 12, 1974.                      |
| Indiana        | Clark      | Charlestown, city of       | 180025B       | do                                                                                                     | April 12, 1974.                      |
| Maine          | Kennebec   | Hallowell, city of         | 230069B       | do                                                                                                     | Feb. 1, 1974 and April 21, 1976.     |
| Michigan       | Barrien    | Bridgman, city of          | 260033B       | do                                                                                                     | June 7, 1974 and June 11, 1976.      |
| Mississippi    | Madison    | Canton, city of            | 280109B       | do                                                                                                     | June 7, 1974 and May 21, 1976.       |
| New Jersey     | Bergen     | Elmwood Park, borough of   | 340500A       | do                                                                                                     | Jan. 4, 1974.                        |
| Pennsylvania   | Montgomery | Hatfield, township of      | 420699B       | do                                                                                                     | July 26, 1974 and Aug. 13, 1976.     |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: November 20, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38041 Filed 12-11-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 64

[Docket No. FI 5746]

## List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities'

participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The date listed in the fifth column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150,

451 Seventh Street, SW., Washington, DC 20410.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood



Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a

condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and

public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows: Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

#### § 64.6 List of eligible communities.

| State         | County                | Location                     | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---------------|-----------------------|------------------------------|---------------|---------------------------------------------------------------------|------------------------|
| Missouri      | Stoddard County       | Pendergast, city of          | 290427        | 750519 emerg., 790903 reg.                                          | 770603                 |
| Ohio          | Mahoning County       | Campbell, city of            | 390368        | 750617 emerg., 790903 reg.                                          | 740301                 |
| Ohio          | Mahoning County       | Lowellville, village of      | 390620        | 750709 emerg., 790903 reg.                                          | 740405                 |
| Ohio          | Portage County        | Mogadore, village of         | 390528        | 750611 emerg., 790903 reg.                                          | 740208                 |
| Ohio          | Butler County         | Trenton, city of             | 390047        | 750512 emerg., 790903 reg.                                          | 740510                 |
| Alabama       | Morgan County         | Decatur, city of             | 010178        | 731105 emerg., 790905 reg.                                          | 740524                 |
| Alabama       | Tuscaloosa County     | Northport, city of           | 010202        | 730613 emerg., 790905 reg.                                          | 731228                 |
| Alaska        | Anchorage Division    | Anchorage, municipality of   | 020005        | 700612 emerg., 790905 reg.                                          | 790905                 |
| Arizona       | Maricopa County       | Buckeye, town of             | 040039        | 741217 emerg., 790905 reg.                                          | 790905                 |
| California    | Napa County           | Napa, city of                | 060207        | 750725 emerg., 790905 reg.                                          | 740322                 |
| Florida       | Indian River County   | Indian River Shores, town of | 120121        | 730815 emerg., 790905 reg.                                          | 731026                 |
| Florida       | Orange County         | Maitland, city of            | 120184        | 741010 emerg., 790905 reg.                                          | 740719                 |
| Georgia       | Broward County        | Pompano Beach, city of       | 120055        | 711210 emerg., 790905 reg.                                          | 730316                 |
| Idaho         | Walker County         | Chickamauga, city of         | 130181        | 740110 emerg., 790905 reg.                                          | 740322                 |
| Idaho         | Bannock County        | Bannock County*              | 160009        | 740430 emerg., 790905 reg.                                          | 750117                 |
| Idaho         | Shoshone County       | Blackfoot, city of           | 160019        | 750619 emerg., 790905 reg.                                          | 740123                 |
| Idaho         | Shoshone County       | Osburn, city of              | 160116        | 740530 emerg., 790905 reg.                                          | 740123                 |
| Indiana       | Morgan County         | Shoshone County*             | 160114        | 740409 emerg., 790905 reg.                                          | 770705                 |
| Iowa          | Ida County            | Ida County                   | 180334        | 750604 emerg., 790905 reg.                                          | 740201                 |
| Iowa          | Van Buren County      | Ida County                   | 190156        | 740426 emerg., 790905 reg.                                          | 740123                 |
| Kentucky      | Harlan County         | Ida County                   | 190268        | 750114 emerg., 790905 reg.                                          | 740116                 |
| Kentucky      | Christian County      | Ida County                   | 210055        | 750205 emerg., 790905 reg.                                          | 740517                 |
| Louisiana     | Grant Parish          | Ida County                   | 210055        | 740603 emerg., 790905 reg.                                          | 740201                 |
| Maine         | Kennebec County       | Ida County                   | 230244        | 730521 emerg., 790905 reg.                                          | 740628                 |
| Massachusetts | Bristol County        | Ida County                   | 250063        | 750725 emerg., 790905 reg.                                          | 740726                 |
| Massachusetts | Norfolk County        | Ida County                   | 250255        | 721222 emerg., 790905 reg.                                          | 740621                 |
| Missouri      | Cass County           | Ida County                   | 290062        | 740903 emerg., 790905 reg.                                          | 740524                 |
| Missouri      | Jackson County        | Ida County                   | 290694        | 740903 emerg., 790905 reg.                                          | 750711                 |
| Missouri      | Pemiscot County       | Ida County                   | 290279        | 740313 emerg., 790905 reg.                                          | 740329                 |
| New Jersey    | Morris County         | Ida County                   | 340340        | 720602 emerg., 790905 reg.                                          | 730316                 |
| New York      | Albany County         | Ida County                   | 360007        | 740225 emerg., 790905 reg.                                          | 740920                 |
| North Dakota  | Westchester County    | Ida County                   | 360921        | 740530 emerg., 790905 reg.                                          | 740628                 |
| North Dakota  | Stark County          | Ida County                   | 380116        | 750701 emerg., 790905 reg.                                          | 740524                 |
| Ohio          | Morton County         | Ida County                   | 380071        | 740409 emerg., 790905 reg.                                          | 740628                 |
| Ohio          | Licking County        | Ida County                   | 390332        | 750214 emerg., 790905 reg.                                          | 740215                 |
| Oregon        | Columbia County       | Ida County                   | 390120        | 741202 emerg., 790905 reg.                                          | 740405                 |
| Oregon        | Douglas County        | Ida County                   | 410062        | 760114 emerg., 790905 reg.                                          | 740913                 |
| Pennsylvania  | Clatsop County        | Ida County                   | 410032        | 740325 emerg., 790905 reg.                                          | 731207                 |
| Pennsylvania  | Beaver County         | Ida County                   | 420104        | 750707 emerg., 790905 reg.                                          | 740315                 |
| Pennsylvania  | Delaware County       | Ida County                   | 420402        | 720225 emerg., 790905 reg.                                          | 740719                 |
| Pennsylvania  | Washington County     | Ida County                   | 422143        | 741108 emerg., 790905 reg.                                          | 750117                 |
| Pennsylvania  | Clearfield County     | Ida County                   | 420300        | 730824 emerg., 790905 reg.                                          | 740116                 |
| Pennsylvania  | Lancaster County      | Ida County                   | 420549        | 740927 emerg., 790905 reg.                                          | 760730                 |
| Pennsylvania  | Dauphin County        | Ida County                   | 420379        | 740117 emerg., 790905 reg.                                          | 761210                 |
| Pennsylvania  | Northampton County    | Ida County                   | 420723        | 711112 emerg., 790905 reg.                                          | 730208                 |
| Pennsylvania  | Beaver County         | Ida County                   | 420113        | 750218 emerg., 790905 reg.                                          | 740208                 |
| Pennsylvania  | Northumberland County | Ida County                   | 421015        | 740130 emerg., 790905 reg.                                          | 740913                 |
| Pennsylvania  | Schuylkill County     | Ida County                   | 422023        | 750319 emerg., 790905 reg.                                          | 741115                 |
| Pennsylvania  | Dauphin County        | Ida County                   | 420399        | 730405 emerg., 790905 reg.                                          | 740201                 |
| Pennsylvania  | Lancaster County      | Ida County                   | 421789        | 740830 emerg., 790905 reg.                                          | 740531                 |
| South Dakota  | Minnehaha County      | Ida County                   | 460057        | 741111 emerg., 790905 reg.                                          | 770524                 |
| Virginia      | Independent City      | Ida County                   | 510080        | 750527 emerg., 790905 reg.                                          | 740614                 |
| West Virginia | Albemarle County      | Ida County                   | 510007        | 730412 emerg., 790905 reg.                                          | 760910                 |
| Minnesota     | Harrison County       | Ida County                   | 540061        | 740909 emerg., 790905 reg.                                          | 740301                 |
| New York      | Washington County     | Ida County                   | 270560        | 790907 emerg., 790907 reg.                                          | 741227                 |
| New York      | Wayne County          | Ida County                   | 361235        | 750929 emerg., 790907 reg.                                          | 741101                 |
| Louisiana     | Averyelles Parish     | Ida County                   | 361226        | 750715 emerg., 790907 reg.                                          | 741220                 |
| Arizona       | Gila County           | Ida County                   | 220024        | 730430 emerg., 790911 reg.                                          | 740830                 |
| Arizona       | Gila County           | Ida County                   | 040104        | 750529 emerg., 790914 reg.                                          | 760423                 |
| California    | Riverside County      | Ida County                   | 040031        | 750715 emerg., 790914 reg.                                          | 740123                 |
| California    | Riverside County      | Ida County                   | 060254        | 750403 emerg., 790914 reg.                                          | 740628                 |
| California    | Orange County         | Ida County                   | 060255        | 790913 emerg., 790914 reg.                                          | 740531                 |
| California    | Riverside County      | Ida County                   | 060212        | 710430 emerg., 790914 reg.                                          | 750110                 |
| California    | Orange County         | Ida County                   | 060259        | 750626 emerg., 790914 reg.                                          | 790914                 |
| California    | Orange County         | Ida County                   | 060231        | 750807 emerg., 790914 reg.                                          | 740510                 |
| California    | Orange County         | Ida County                   | 060232        | 750130 emerg., 790914 reg.                                          | 740621                 |
| California    | Orange County         | Ida County                   | 060235        | 750617 emerg., 790914 reg.                                          | 740621                 |
| Florida       | Collier County        | Ida County                   | 120067        | 700710 emerg., 790914 reg.                                          | 790914                 |
| Illinois      | Cook County           | Ida County                   | 170068        | 721117 emerg., 790914 reg.                                          | 740628                 |
| Illinois      | Cook County           | Ida County                   | 170108        | 741009 emerg., 790914 reg.                                          | 740329                 |
| Maryland      | Garrett County        | Ida County                   | 240035        | 750506 emerg., 790914 reg.                                          | 740628                 |
| Massachusetts | Bristol County        | Ida County                   | 250059        | 750210 emerg., 790914 reg.                                          | 740315                 |
| Massachusetts | Franklin County       | Ida County                   | 250132        | 750724 emerg., 790914 reg.                                          | 740906                 |
| New Jersey    | Cottonwood County     | Ida County                   | 270090        | 740219 emerg., 790914 reg.                                          | 731109                 |
| New Jersey    | Camden County         | Ida County                   | 340127        | 750718 emerg., 790914 reg.                                          | 740621                 |
| New Jersey    | Burlington County     | Ida County                   | 340095        | 720324 emerg., 790914 reg.                                          | 731005                 |

| State          | County              | Location                                  | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|----------------|---------------------|-------------------------------------------|---------------|---------------------------------------------------------------------|------------------------|
| New Jersey     | Morris County       | Florham Park, borough of                  | 340342        | 720721 emerg., 790914 reg.                                          | 740628                 |
| New Jersey     | Camden County       | Gloucester, city of                       | 340132        | 741219 emerg., 790914 reg.                                          | 740628                 |
| New Jersey     | Union County        | Hillside, township of                     | 340465        | 711203 emerg., 790914 reg.                                          | 740109                 |
| New Jersey     | Ocean County        | Stafford, township of                     | 340393        | 720815 emerg., 790914 reg.                                          | 709902                 |
| New York       | Genesee County      | Le Roy, town of                           | 360280        | 750618 emerg., 790914 reg.                                          | 740308                 |
| New York       | Orleans County      | Ridgeway, town of                         | 361257        | 761214 emerg., 790914 reg.                                          | 750207                 |
| New York       | Columbia County     | Stuyvesant, town of                       | 361323        | 750818 emerg., 790914 reg.                                          | 741018                 |
| Pennsylvania   | Columbia County     | Catawissa, borough of                     | 420341        | 730621 emerg., 790914 reg.                                          | 731012                 |
| Pennsylvania   | Columbia County     | Catawissa, township of                    | 420342        | 730820 emerg., 790914 reg.                                          | 740201                 |
| Pennsylvania   | Allegheny County    | Duquesne, city of                         | 420028        | 740814 emerg., 790914 reg.                                          | 740412                 |
| Pennsylvania   | Allegheny County    | Leet, township of                         | 420175        | 740705 emerg., 790914 reg.                                          | 740531                 |
| Pennsylvania   | Allegheny County    | Sewickley, borough of                     | 420070        | 741122 emerg., 790914 reg.                                          | 740109                 |
| Pennsylvania   | Allegheny County    | White Oak, borough of                     | 420088        | 750130 emerg., 790914 reg.                                          | 740116                 |
| Pennsylvania   | Northampton County  | Williams, township of                     | 421036        | 731217 emerg., 790914 reg.                                          | 740517                 |
| Texas          | Waller County       | Waller, city of                           | 480641        | 750610 emerg., 790914 reg.                                          | 741101                 |
| Utah           | Utah County         | Lehi, city of                             | 490209        | 741018 emerg., 790914 reg.                                          | 750207                 |
| Washington     | Lewis County        | Winlock, town of                          | 530306        | 750610 emerg., 790914 reg.                                          | 750718                 |
| Louisiana      | Webster Parish      | Doyline, village of                       | 220236        | 780721 emerg., 790918 reg.                                          | 740405                 |
| Texas          | Sabine County       | Hempill, city of                          | 460997        | 770401 emerg., 790918 reg.                                          | 761029                 |
| Washington     | Spokane County      | Spangle, town of                          | 530182        | 750801 emerg., 790918 reg.                                          | 780606                 |
| Louisiana      | Madison Parish      | Delta, village of                         | 220123        | 730521 emerg., 790925 reg.                                          | 741108                 |
| Missouri       | Mississippi County  | East Prairie, city of                     | 290232        | 730520 emerg., 790925 reg.                                          | 740503                 |
| Utah           | Garfield County     | Henrieville, town of                      | 490069        | 750207 emerg., 790925 reg.                                          | 750207                 |
| Texas          | Kimble County       | Junction, city of                         | 480421        | 750227 emerg., 790928 reg.                                          | 740322                 |
| Alabama        | Limestone County    | Athens, city of                           | 010148        | 740411 emerg., 790928 reg.                                          | 740628                 |
| Alabama        | Colbert County      | Cherokee, city of                         | 010206        | 740117 emerg., 790928 reg.                                          | 740628                 |
| Alabama        | Marion County       | Guin, town of                             | 010162        | 740117 emerg., 790928 reg.                                          | 740614                 |
| Arkansas       | Chicot County       | Chicot County*                            | 050025        | 740724 emerg., 790928 reg.                                          | 780606                 |
| Arkansas       | Chicot County       | Dermott, city of                          | 050026        | 741231 emerg., 790928 reg.                                          | 740322                 |
| California     | Lee County          | Marianna, city of                         | 050124        | 750318 emerg., 790928 reg.                                          | 731026                 |
| California     | Napa County         | Calistoga, city of                        | 060206        | 750618 emerg., 790928 reg.                                          | 740510                 |
| California     | Orange County       | Laguna Beach, city of                     | 060223        | 750422 emerg., 790928 reg.                                          | 740621                 |
| Colorado       | Boulder County      | Superior, town of                         | 080203        | 750715 emerg., 790928 reg.                                          | 760604                 |
| Florida        | Brevard County      | Cocoa, city of                            | 120020        | 740702 emerg., 790928 reg.                                          | 740215                 |
| Florida        | Brevard County      | Malabar, town of                          | 120024        | 740828 emerg., 790928 reg.                                          | 740301                 |
| Florida        | Seminole County     | Oviedo, city of                           | 120293        | 750423 emerg., 790928 reg.                                          | 740123                 |
| Georgia        | Chattooga County    | Chattooga County*                         | 130028        | 731219 emerg., 790928 reg.                                          | 0                      |
| Georgia        | Bibb County         | Fairburn, city of                         | 130314        | 750821 emerg., 790928 reg.                                          | 770819                 |
| Georgia        | Walker County       | Macon, city of and Bibb County            | 130011        | 710611 emerg., 790928 reg.                                          | 740524                 |
| Georgia        | Walker County       | Roseville, city of                        | 130183        | 731218 emerg., 790928 reg.                                          | 740322                 |
| Georgia        | Dade County         | Trenton, city of                          | 130063        | 740121 emerg., 790928 reg.                                          | 740308                 |
| Georgia        | Chattooga County    | Trion, town of                            | 130038        | 740123 emerg., 790928 reg.                                          | 740503                 |
| Georgia        | Fulton County       | Union City, city of                       | 130038        | 740123 emerg., 790928 reg.                                          | 750404                 |
| Georgia        | Walker County       | Walker County*                            | 130180        | 740123 emerg., 790928 reg.                                          | 780303                 |
| Illinois       | Jo Daviess County   | Stonington, village of                    | 170037        | 750512 emerg., 790928 reg.                                          | 740607                 |
| Indiana        | Warrick County      | Chandler, town of                         | 180274        | 760402 emerg., 790928 reg.                                          | 740109                 |
| Kentucky       | Fayette County      | Lexington-Fayette urban county government | 210067        | 730817 emerg., 790928 reg.                                          | 740215                 |
| Kentucky       | Kenton County       | Ludlow, city of                           | 210266        | 741029 emerg., 790928 reg.                                          | 740201                 |
| Louisiana      | Washington Parish   | Franklin, town of                         | 220233        | 750114 emerg., 790928 reg.                                          | 731109                 |
| Louisiana      | St. Tammany Parish  | Mandeville, town of                       | 220202        | 740312 emerg., 790928 reg.                                          | 740628                 |
| Louisiana      | Tangipahoa Parish   | Tangipahoa, village of                    | 220213        | 750331 emerg., 790928 reg.                                          | 740830                 |
| Maine          | Androscoggin County | Lewiston, city of                         | 230004        | 740321 emerg., 790928 reg.                                          | 740405                 |
| Maryland       | Allegany County     | Barton, town of                           | 240002        | 750613 emerg., 790928 reg.                                          | 760213                 |
| Maryland       | Allegany County     | Lonaconing, town of                       | 240005        | 750619 emerg., 790928 reg.                                          | 740920                 |
| Maryland       | Frederick County    | Thurmont, town of                         | 240031        | 741115 emerg., 790928 reg.                                          | 740628                 |
| Michigan       | Ingham County       | Alelodon, township of                     | 260670        | 760409 emerg., 790928 reg.                                          | 770513                 |
| Michigan       | Kalamazoo County    | Cooper, township of                       | 260428        | 770506 emerg., 790928 reg.                                          | 770401                 |
| Michigan       | Calhoun County      | Homer, township of                        | 260654        | 751224 emerg., 790928 reg.                                          | 770401                 |
| Michigan       | Calhoun County      | Porterville, city of                      | 260711        | 780309 emerg., 790928 reg.                                          | 781020                 |
| Michigan       | Calhoun County      | Southfield, city of                       | 260179        | 711201 emerg., 790928 reg.                                          | 740517                 |
| Mississippi    | Marion County       | Springfield, city of                      | 280054        | 750206 emerg., 790928 reg.                                          | 740628                 |
| Mississippi    | Marion County       | Columbia, city of                         | 280111        | 750206 emerg., 790928 reg.                                          | 740531                 |
| Mississippi    | Marion County       | Crenshaw, town of                         | 280127        | 750317 emerg., 790928 reg.                                          | 740607                 |
| Mississippi    | Coahoma County      | Jonestown, town of                        | 280041        | 750728 emerg., 790928 reg.                                          | 760303                 |
| Mississippi    | Marion County       | Marion County*                            | 280230        | 750318 emerg., 790928 reg.                                          | 771223                 |
| Mississippi    | Madison County      | Ridgeland, city of                        | 280110        | 731227 emerg., 790928 reg.                                          | 740628                 |
| Mississippi    | Sunflower County    | Sunflower County*                         | 280195        | 730504 emerg., 790928 reg.                                          | 771111                 |
| Mississippi    | Yazoo County        | Yazoo County*                             | 280199        | 730514 emerg., 790928 reg.                                          | 740913                 |
| Montana        | Silver Bow County   | Butte-Silver Bow                          | 300077        | 740917 emerg., 790928 reg.                                          | 740614                 |
| New Hampshire  | Merrimack County    | Franklin, city of                         | 330113        | 750721 emerg., 790928 reg.                                          | 740308                 |
| New Jersey     | Essex County        | Belleville, town of                       | 340177        | 730628 emerg., 790928 reg.                                          | 740109                 |
| New Jersey     | Burlington County   | Delanco, township of                      | 340093        | 750627 emerg., 790928 reg.                                          | 740621                 |
| New Jersey     | Passaic County      | Passaic, city of                          | 340403        | 730408 emerg., 790928 reg.                                          | 730831                 |
| New York       | Dutchess County     | La Grange, town of                        | 361011        | 750226 emerg., 790928 reg.                                          | 741101                 |
| New York       | Clinton County      | Plattsburgh, town of                      | 360169        | 730525 emerg., 790928 reg.                                          | 740830                 |
| New York       | Westchester County  | Rye, town of                              | 360930        | 730726 emerg., 790928 reg.                                          | 731228                 |
| North Carolina | Chernung County     | Van Etten, town of                        | 361045        | 750711 emerg., 790928 reg.                                          | 740621                 |
| North Carolina | Watauga County      | Boone, town of                            | 370253        | 740822 emerg., 790928 reg.                                          | 740621                 |
| North Carolina | Gaston County       | Mount Holly, city of                      | 370102        | 740115 emerg., 790928 reg.                                          | 740109                 |
| North Carolina | Carteret County     | Pine Knoll Shores, town of                | 370267        | 731025 emerg., 790928 reg.                                          | 750711                 |
| North Carolina | Iredell County      | Statesville, city of                      | 370135        | 740212 emerg., 790928 reg.                                          | 750601                 |
| North Carolina | Davidson County     | Thomasville, city of                      | 370082        | 741203 emerg., 790928 reg.                                          | 740322                 |
| North Dakota   | Bottineau County    | Bottineau, city of                        | 380007        | 740701 emerg., 790928 reg.                                          | 731228                 |
| North Dakota   | Ward County         | Carpio, city of                           | 380143        | 751231 emerg., 790928 reg.                                          | 750131                 |
| North Dakota   | Ward County         | Donnybrook, city of                       | 380145        | 780925 emerg., 790928 reg.                                          | 781029                 |
| North Dakota   | Ward County         | Sawyer, city of                           | 380011        | 760527 emerg., 790928 reg.                                          | 741115                 |
| Ohio           | Richland County     | Lexington, village of                     | 390618        | 750703 emerg., 790928 reg.                                          | 7                      |



| State          | County              | Location                       | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|----------------|---------------------|--------------------------------|---------------|---------------------------------------------------------------------|------------------------|
| Pennsylvania   | Lycoming County     | Armstrong, township of         | 420635        | 730330 emerg., 790928 reg.                                          | 740222                 |
| Pennsylvania   | Beaver County       | Baden, borough of              | 420103        | 750114 emerg., 790928 reg.                                          | 740322                 |
| Pennsylvania   | Greene County       | Carmichaels, borough of        | 420475        | 750702 emerg., 790928 reg.                                          | 740628                 |
| Pennsylvania   | Lycoming County     | Clinton, township of           | 420637        | 730410 emerg., 790928 reg.                                          | 730914                 |
| Pennsylvania   | York County         | Dillsburg, borough of          | 420919        | 750918 emerg., 790928 reg.                                          | 760319                 |
| Pennsylvania   | Lackawanna County   | Dunmore, borough of            | 420529        | 740319 emerg., 790928 reg.                                          | 740201                 |
| Pennsylvania   | Lancaster County    | East Hempfield, township of    | 420548        | 730606 emerg., 790928 reg.                                          | 740719                 |
| Pennsylvania   | Erie County         | Elgin, borough of              | 422411        | 751014 emerg., 790928 reg.                                          | 740124                 |
| Pennsylvania   | Lancaster County    | Elizabeth, township of         | 421773        | 750731 emerg., 790928 reg.                                          | 740906                 |
| Pennsylvania   | Union County        | Gregg, township of             | 420830        | 730511 emerg., 790928 reg.                                          | 740621                 |
| Pennsylvania   | Lancaster County    | Lancaster, city of             | 420552        | 720512 emerg., 790928 reg.                                          | 730831                 |
| Pennsylvania   | Lancaster County    | Lincoln, borough of            | 420049        | 750402 emerg., 790928 reg.                                          | 731228                 |
| Pennsylvania   | Northampton County  | Lower Saucon, township of      | 420982        | 740130 emerg., 790928 reg.                                          | 740628                 |
| Pennsylvania   | Delaware County     | Media, borough of              | 420421        | 760518 emerg., 790928 reg.                                          | 750221                 |
| Pennsylvania   | Lebanon County      | North Annville, township of    | 420970        | 731019 emerg., 790928 reg.                                          | 740108                 |
| Pennsylvania   | Lebanon County      | North Londonderry, township of | 420577        | 730829 emerg., 790928 reg.                                          | 740123                 |
| Pennsylvania   | Luzerne County      | Nuangelia, borough of          | 422272        | 751015 emerg., 790928 reg.                                          | 741220                 |
| Pennsylvania   | Lackawanna County   | Olyphant, borough of           | 420538        | 730417 emerg., 790928 reg.                                          | 730907                 |
| Pennsylvania   | Allegheny County    | Port Vue, borough of           | 420066        | 740430 emerg., 790928 reg.                                          | 740119                 |
| Pennsylvania   | York County         | Railroad, borough of           | 420935        | 750501 emerg., 790928 reg.                                          | 740809                 |
| Pennsylvania   | Lackawanna County   | Roaring Brook, township of     | 420999        | 740130 emerg., 790928 reg.                                          | 740628                 |
| Pennsylvania   | York County         | Seven Valleys, borough of      | 420938        | 741213 emerg., 790928 reg.                                          | 740503                 |
| Pennsylvania   | Lycoming County     | Susquehanna, township of       | 420659        | 730419 emerg., 790928 reg.                                          | 731012                 |
| Pennsylvania   | Lackawanna County   | Throop, borough of             | 420540        | 740405 emerg., 790928 reg.                                          | 740531                 |
| Pennsylvania   | Westmoreland County | Trafford, borough of           | 420903        | 750530 emerg., 790928 reg.                                          | 740630                 |
| Pennsylvania   | Washington County   | Twilight, borough of           | 422564        | 750703 emerg., 790928 reg.                                          | 750131                 |
| Pennsylvania   | Erie County         | Union City, borough of         | 420453        | 740416 emerg., 790928 reg.                                          | 740412                 |
| Pennsylvania   | Lawrence County     | Volant, borough of             | 421790        | 750723 emerg., 790928 reg.                                          | 741108                 |
| Pennsylvania   | Chester County      | West Brandywine, township of   | 421496        | 750806 emerg., 790928 reg.                                          | 740913                 |
| Pennsylvania   | Westmoreland County | West Leechburg, borough of     | 420905        | 780322 emerg., 790928 reg.                                          | 740621                 |
| Pennsylvania   | Union County        | White Deer, township of        | 421034        | 731004 emerg., 790928 reg.                                          | 741018                 |
| Pennsylvania   | Lycoming County     | Woodward, township of          | 420664        | 730604 emerg., 790928 reg.                                          | 740315                 |
| South Carolina | Horry County        | Conway, town of                | 450106        | 741107 emerg., 790928 reg.                                          | 740517                 |
| South Carolina | Greenville County   | Greer, city of                 | 450200        | 740327 emerg., 790928 reg.                                          | 740517                 |
| South Carolina | Lexington County    | South Congaree, town of        | 450137        | 750725 emerg., 790928 reg.                                          | 740515                 |
| Texas          | Jackson County      | Ganado, city of                | 480381        | 750422 emerg., 790928 reg.                                          | 740412                 |
| Texas          | Jackson County      | La Ward, city of               | 481074        | 730323 emerg., 790928 reg.                                          | 760507                 |
| Vermont        | Windsor County      | Windsor, town of               | 500159        | 740618 emerg., 790928 reg.                                          | 740918                 |
| Washington     | Franklin County     | Connell, town of               | 500280        | 780929 emerg., 790928 reg.                                          | 750711                 |
| Washington     | Franklin County     | Mesa, town of                  | 500252        | 790218 emerg., 790928 reg.                                          | 781119                 |
| West Virginia  | Brooke County       | Bethany, town of               | 540012        | 750718 emerg., 790928 reg.                                          | 740208                 |
| West Virginia  | Monongalia County   | Osage, town of                 | 540142        | 750228 emerg., 790928 reg.                                          | 740607                 |
| West Virginia  | Ohio County         | Valley Grove, village of       | 540151        | 750723 emerg., 790928 reg.                                          | 740201                 |
| West Virginia  | Hancock County      | Wheaton, city of               | 540014        | 750320 emerg., 790928 reg.                                          | 740201                 |
| Wisconsin      | Brown County        | Ashwaubenon, village of        | 550600        | 790928 emerg., 790928 reg.                                          | 781027                 |
| Kentucky       | Kenton County       | Taylor Mill, city of           | 210246        | 740913 emerg., 790928 reg.                                          | 740215                 |
| Iowa           | Carroll County      | Carroll, city of               | 190041        | 741213 emerg., 791002 reg.                                          | 760312                 |
| Kansas         | Lyon County         | Emporia, city of               | 200203        | 750610 emerg., 791002 reg.                                          | 770510                 |
| Kansas         | Harvey County       | Newton, city of                | 200133        | 740913 emerg., 791002 reg.                                          | 740201                 |
| New Jersey     | Monmouth County     | Upper Freehold, township of    | 340332        | 760302 emerg., 791002 reg.                                          | 740322                 |
| Washington     | Spokane County      | Rockford, town of              | 530181        | 760315 emerg., 791002 reg.                                          | 741206                 |
| Louisiana      | Richland Parish     | Mangham, town of               | 220156        | 740802 emerg., 791009 reg.                                          | 731207                 |
| Missouri       | Jackson County      | Gran Valley, city of           | 290737        | 791009 emerg., 791009 reg.                                          | 760718                 |
| Oklahoma       | Wagoner County      | Red Bird, town of              | 400321        | 761021 emerg., 791009 reg.                                          | 750627                 |
| Texas          | McLennan County     | Lacy-Lakeview, city of         | 480927        | 780126 emerg., 791009 reg.                                          | 761119                 |
| Alabama        | Lawrence County     | Moulton, city of               | 010142        | 740401 emerg., 791018 reg.                                          | 740322                 |
| California     | Yolo County         | Woodland, city of              | 060426        | 730611 emerg., 791016 reg.                                          | 0                      |
| Connecticut    | Middlesex County    | East Hampton, town of          | 060426        | 740621 emerg., 791018 reg.                                          | 740510                 |
| Connecticut    | New Haven County    | Middlebury, town of            | 090080        | 750718 emerg., 791018 reg.                                          | 740906                 |
| Connecticut    | Hartford County     | Newington, town of             | 090033        | 740702 emerg., 791018 reg.                                          | 740726                 |
| Illinois       | Logan County        | Lincoln, city of               | 170428        | 750616 emerg., 791016 reg.                                          | 740308                 |
| Louisiana      | Calcasieu Parish    | Lake Charles, city of          | 220040        | 730209 emerg., 791016 reg.                                          | 741101                 |
| Louisiana      | East Carroll Parish | Lake Providence, town of       | 220063        | 730525 emerg., 791016 reg.                                          | 740329                 |
| Minnesota      | Mower County        | Waltham, city of               | 270311        | 750908 emerg., 791016 reg.                                          | 740809                 |
| New Jersey     | Monmouth County     | Fair Haven, borough of         | 340295        | 731002 emerg., 791018 reg.                                          | 730706                 |
| New York       | Monroe County       | Webster, town of               | 360436        | 730309 emerg., 791016 reg.                                          | 740628                 |
| Pennsylvania   | Allegheny County    | Clairton, city of              | 420024        | 750731 emerg., 791016 reg.                                          | 740118                 |
| Texas          | Archer County       | Archer City, city of           | 480698        | 760430 emerg., 791018 reg.                                          | 750627                 |
| Texas          | Wichita County      | Wichita Falls, city of         | 480662        | 731219 emerg., 791018 reg.                                          | 740628                 |
| Washington     | Spokane County      | Fairfield, town of             | 530177        | 751117 emerg., 791016 reg.                                          | 741108                 |
| Kansas         | Harper County       | Harper, city of                | 200129        | 750711 emerg., 791023 reg.                                          | 740818                 |
| Texas          | San Patricio County | Mathis, city of                | 480557        | 750611 emerg., 791023 reg.                                          | 740329                 |
| Louisiana      | Rapides Parish      | Woodworth, village of          | 220260        | 790228 emerg., 791025 reg.                                          | 760326                 |
| New Jersey     | Morris County       | Mount Arlington, borough of    | 340541        | 760114 emerg., 791026 reg.                                          | 750411                 |
| South Carolina | Dorchester County   | Harleyville, town of           | 450070        | 750805 emerg., 791026 reg.                                          | 740524                 |
| Kansas         | Sevier County       | Herndon, city of               | 200281        | 751229 emerg., 792030 reg.                                          | 741122                 |
| Utah           | Sevier County       | Annabella, town of             | 490122        | 760414 emerg., 791030 reg.                                          | 750110                 |
| Washington     | King County         | Black Diamond, town of         | 530272        | 780727 emerg., 791030 reg.                                          | 750725                 |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 20, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38040 Filed 12-11-79; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 65

[Docket No. FEMA 5744]

#### List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final Rule.

**SUMMARY:** This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

**EFFECTIVE DATES:** The date listed in the eighth column of the table or January 11, 1980, whichever is later.

#### § 65.3 List of communities with special hazard areas (FHBM's in effect).

| State, county, community name and number of panels                      | Community number and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)        | Effective date of this map action | Local map repository                                                                                                   |
|-------------------------------------------------------------------------|-----------------------------|-------------------------|-------------------|--------------|-------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Alaska, Unincorporated area, Matanuska-Susitna Borough, 0002B-0004B.    | 020021B                     | E-11.....               | I                 | F            | Feb. 28, 1978.....            | Dec. 4, 1979.....                 | Mr. Michael Klepinger, Planning Director, Matanuska-Susitna Borough, Box "B" Palmer, AK 99645, (907) 745-3248.         |
| Colorado, Ouray, City of Ouray, 01B-02B.....                            | 080137B                     | E-11,12.....            | I                 | F            | May 24, 1974, Sept. 3, 1976.  | Dec. 4, 1979.....                 | Honorable Albert Fedel, Mayor, P.O. Box 468, 320 Sixth Avenue, Ouray, CO 81427, (303) 325-4323.                        |
| Montana, Unincorporated area, Roosevelt County, 0014A, 0021A.           | 300166A                     | N-5.....                | I                 | F            | Dec. 4, 1979.....             | Dec. 4, 1979.....                 | Mr. Alfred Kaschube, Chairman, Roosevelt County, Office of County Commissioners, Wolf Point, MT 59201, (406) 653-1322. |
| New Mexico, Bernalillo, City of Albuquerque, 0001B-0009B.               | 350002B                     | E-8, 11, 12, 15....     | I                 | F            | Aug. 20, 1976, Feb. 14, 1978. | Dec. 4, 1979.....                 | Mr. Bruno Conegliano, Assistant City Engineer, Hydrology, P.O. Box 1293, Albuquerque, NM 87103, (505) 766-7441.        |
| Maine, Lincoln, Town of South Bristol, 0001-0004.                       | 230220A                     | E-11, 12.....           | I                 | F            | Apr. 11, 1975.....            | Dec. 7, 1979.....                 | Phillip W. Hatch, Chairman of the Board, Town of South Bristol, Town Office, Walpole, Maine 04573, (207) 563-3977.     |
| New Hampshire, Stratford, Town of Farmington, 01-12.                    | 330147B                     | E-12.....               | I                 | F            | Feb. 21, 1975, Apr. 16, 1976. | Dec. 7, 1979.....                 | Office of the Selectman, Town of Farmington, Farmington, NH 03835, (603) 755-2208.                                     |
| Tennessee, Hawkins, Town of Bulls Gap, 01-04.                           | 470297A                     | E-11, 12.....           | I                 | F            | May 28, 1976.....             | Dec. 7, 1979.....                 | Town Clerk's Office, Town of Bulls Gap, Bulls Gap, TN 37711, (615) 235-5218.                                           |
| Tennessee, Hickman, Town of Centerville, 0001.                          | 470092B                     | E-8, 11, 12.....        | I                 | F            | Feb. 1, 1974, Oct. 1, 1976.   | Dec. 7, 1979.....                 | Benny J. Mayberry, Mayor, Town of Centerville, P.O. Box 226, Centerville, TN 37033, (615) 729-4248.                    |
| Tennessee, Sevier, Town of Pittman Center, 0001.                        | 470378A                     | E-5.....                | I                 | F            | Dec. 7, 1979.....             | Dec. 7, 1979.....                 | Mr. Conley Huskey, Mayor, Town of Pittman Center, Route 3, Gatlinburg, TN 37738, (615) 436-4584.                       |
| Michigan, Lenawee, Village of Blissfield, 0001A.                        | 260339                      | E-11, 12, 14.....       | I                 | F            | Sept. 12, 1975.....           | Dec. 7, 1979.....                 | Eugene Peifer, Mayor, 117 West Adrian Street, Blissfield, MI 49228, phone: (517) 486-4347.                             |
| Ohio, Fulton, Village of Delta, 0001B.....                              | 390183                      | E-8, 11, 12, 14....     | I                 | F            | May 31, 1974, May 21, 1978.   | Dec. 7, 1979.....                 | Richard McKibben, Mayor, 401 Main Street, Delta, OH 43515, phone: (419) 822-4004.                                      |
| Pennsylvania, Crawford, Township of South Shenango, 0001A & 0003A only. | 422397                      | E-11, 12, 14.....       | I                 | F            | Jan. 3, 1975.....             | Dec. 7, 1979.....                 | Gerald Skelton, Chairman, Twp. Suprs., R.D. No. 1, Jamestown, PA 16134, phone: (412) 832-3483.                         |

insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:



| State, county, community name and number of panels                                 | Community number and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)                      | Effective date of this map action | Local map repository                                                                                                             |
|------------------------------------------------------------------------------------|-----------------------------|-------------------------|-------------------|--------------|---------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Wisconsin, Price, Price County, <sup>1</sup> 008B & 0013B only.                    | 550343                      | E-12.....               | I                 | F            | Jan. 17, 1975, Dec. 29, 1978.               | Dec. 7, 1979.....                 | Edgar Granberg, Chairman, County Board, Courthouse, Phillips, WI 54555, phone: (715) 339-3272.                                   |
| Wisconsin, Monroe, Village of Wyeville, 01.....                                    | 550293B                     | E-11, 12, 14.....       | I                 | F            | Aug. 23, 1974, June 11, 1976.               | Dec. 7, 1979.....                 | Thomas W. Petersen, Village President, Box 47, Wyeville, WI 54671, phone: (608) 372-5139.                                        |
| Arizona, Unincorporated area, Cochise County, 0035B.                               | 040012B                     | E-12.....               | I                 | F            | Sept. 5, 1974, Oct. 3, 1978.                | Dec. 11, 1979.....                | Mr. James Allenstadter, Planning Director, Cochise County, P.O. Drawer "AC", Bisbee, AZ 85603, (602) 432-5162.                   |
| California, Los Angeles, City of Beverly Hills, 0003A.                             | 060655A                     | N-5.....                | I                 | F            | Dec. 11, 1979.....                          | Dec. 11, 1979.....                | Honorable Charles Aronberg, Mayor, 450 North Crescent Drive, Beverly Hills, CA 90210, (213) 550-4700.                            |
| Illinois, Kendall, Village of Lisbon, 01.....                                      | 170342A                     | N-8, 11, 12, 14.....    | I                 | F            | Nov. 1, 1974.....                           | Dec. 14, 1979.....                | Leo D. Morris, Village President, Rt. 1, Newark, IL 60541, phone: (815) 738-6363.                                                |
| Indiana, Harrison, Town of Lanesville, 01.....                                     | 180420B                     | E-12, 14.....           | I                 | F            | Aug. 5, 1977.....                           | Dec. 14, 1979.....                | William Hussung, President, Town Board, Rt. 1, Lanesville, IN 47136, phone: (812) 952-2549.                                      |
| Ohio, Ross, Village of Frankfort, 0001B.....                                       | 390484                      | E-8, 11, 12, 14.....    | I                 | F            | Apr. 12, 1974, July 9, 1976.                | Dec. 14, 1979.....                | Eugene Rankin, Mayor, 269 North Main, Frankfort, OH 45626, phone: (614) 998-2896.                                                |
| Ohio, Marion, Village of Green Camp, 0001B.....                                    | 390374                      | E-11.....               | I                 | F            | Nov. 16, 1973, May 21, 1976.                | Dec. 14, 1979.....                | Lowell Ault, Mayor, 301 Pearl Street, Green Camp, OH 43222, phone: (614) 528-2224.                                               |
| Ohio, Washington, Village of Matamoras, 0001B.....                                 | 390573                      | E-8, 11, 12, 14.....    | I                 | F            | Apr. 5, 1974, Apr. 15, 1977.                | Dec. 14, 1979.....                | John Knowlton, Mayor, 1022 Grandview Avenue, New Matamoras, OH 45767, phone: (614) 865-3749.                                     |
| Pennsylvania, Clearfield, Township of Covington, 0001A-0003A.                      | 421521                      | E-11, 12, 14.....       | I                 | F            | Dec. 6, 1974.....                           | Dec. 14, 1979.....                | Lewis Garmon, Chairman, Twp. Board of Supervisors, P.O. Box 25, Frenchville, PA 16836, phone: (814) 263-4656.                    |
| Georgia, Worth, City of Sylvester, 0001.....                                       | 130198B                     | E-8, 12.....            | I                 | F            | May 10, 1974, Mar. 26, 1978.                | Dec. 14, 1979.....                | Mr. Thomas Longhorn, Mayor, City of Sylvester, P.O. Box 368, Sylvester, GA 31791, phone: (912) 775-3346.                         |
| Pennsylvania, Dauphin, Township of Williams, 0001 A.                               | 421601                      | E-11, 12, 14.....       | I                 | F            | Dec. 13, 1974.....                          | Dec. 14, 1979.....                | Carl Bowerman, Chairman, 215 Julian Street, Williamstown, PA 17098, phone: (717) 647-9009.                                       |
| New Mexico, Colfax, Village of Eagle Nest, 0001A.                                  | 350140A                     | N-5.....                | I                 | F            | Dec. 18, 1979.....                          | Dec. 18, 1979.....                | Honorable Ben C. Burt, Mayor, Village of Eagle Nest, Box 168, Eagle Nest, NM 87718, (505) 377-2434.                              |
| Texas, Wheeler, Town of Mobeetie 0001A.....                                        | 481524A                     | N-5.....                | I                 | F            | Dec. 18, 1979.....                          | Dec. 18, 1979.....                | Honorable Glen Sherrell, Mayor, Town Hall, Mobeetie, TX 79061, (806) 845-2781.                                                   |
| Wyoming, Uninc. Area, Sheridan County 0019B.                                       | 560047B                     | N-11.....               | I                 | F            | July 4, 1978.....                           | Dec. 18, 1979.....                | Mr. William J. Laya, Chairman, Board of County Commissioners, Sheridan County, P.O. Box 686, Sheridan, WY 82801, (307) 674-6822. |
| New Hampshire, Carroll, Town of Moultonborough, 0001-0008.                         | 330015B                     | E-9, 11, 12.....        | I                 | F            | Feb. 11, 1977.....                          | Dec. 21, 1979.....                | Mr. Harold Martin, Chairman, Board of Selectmen, Town of Moultonborough, P.O. Box 103, Moultonborough, NH 03452, (603) 476-8477. |
| New York, Warren, Town of Hague, 0001.....                                         | 360873C                     | E-9, 11, 12.....        | I                 | F            | Nov. 5, 1978, Mar. 10, 1976.                | Dec. 21, 1979.....                | Mr. Danny Biden, Town Commissioner, Hague Township, Hague, New York 12836, (518) 543-6161.                                       |
| Pennsylvania, Blair, Township of Allegheny, 0001B-0003B.                           | 420961                      | E-11, 12, 14.....       | I                 | F            | Aug. 2, 1974, May 21, 1976.                 | Dec. 21, 1979.....                | William E. Baumgartel, Chairman, Twp. Bd. of Supervisors, Carson Valley, R.D. 1, Duncansville, PA 16835.                         |
| Pennsylvania, Bedford, Township of East Providence, 0001A, 0003A, 0004A only.      | 421336                      | E-11, 12, 14.....       | I                 | F            | Jan. 17, 1975.....                          | Dec. 21, 1979.....                | Dale Meerkle, Chairman, R.D. 1, Breezewood, PA 15533, phone: (814) 735-4675.                                                     |
| Pennsylvania, Somerset, Township of Upper Turkeyfoot, 0001A-0004A.                 | 422525                      | E-11, 12, 14.....       | I                 | F            | Dec. 27, 1974.....                          | Dec. 21, 1979.....                | Elden Faidley, Chairman, Twp. Supervisors, R.D. 1, Markleton, PA 15551, phone: (814) 926-4849.                                   |
| California, Tehama, City of Red Bluff, 0001C-0002C.                                | 065053 C                    | E-8, 11, 12, 15.....    | I                 | F            | June 7, 1974, June 11, 1976, Dec. 26, 1978. | Dec. 26, 1979.....                | Ms. Catherine L. Bantling, City Clerk, 555 Washington Street, P.O. Box 400, Red Bluff, CA 96080, (916) 527-2605.                 |
| ID, Unincorporated area, Washington County 0001A; 0003A-0004A; 0005A; 0008A-0019A. | 160221 A                    | E-5.....                | I                 | F            | Dec. 26, 1979.....                          | Dec. 26, 1979.....                | Mr. Garold D. Dick, Chairman, Board of County Commissioners, Washington County, Route 2, Weiser, ID 83672, (208) 549-2092.       |
| Oklahoma, Mayes, Town of Chouteau, 0001B                                           | 400115 B                    | E-5, 15.....            | I                 | F            | Dec. 26, 1979.....                          | Dec. 26, 1979.....                | Mr. Lyman Carter, Jr., Town President, 111 North McCracken, Drawer "C", Chouteau, OK 74337, (918) 476-8311.                      |
| Tennessee, Polk, City of Copperhill, 0001.....                                     | 470269B                     | E-8, 11.....            | I                 | F            | May 10, 1974, Sept. 3, 1978.                | Dec. 28, 1979.....                | City Clerk, City of Copperhill, Box 640, Copperhill, TN 37317, (615) 496-5141.                                                   |
| Georgia, Murray, City of Chatsworth, 0001.....                                     | 130141B                     | E-8.....                | I                 | F            | June 21, 1974, Jan. 23, 1978.               | Dec. 28, 1979.....                | City Clerk, City of Chatsworth, P.O. Box 516, Chatsworth, GA 30705, (404) 695-2834.                                              |

| State, county, community name and number of panels        | Community number and suffix | Program and change code | Inland or coastal | Hazard F/M/E | Identification date(s)        | Effective date of this map action | Local map repository                                                                                                |
|-----------------------------------------------------------|-----------------------------|-------------------------|-------------------|--------------|-------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Georgia, Henry, City of McDonough, 0001.....              | 130342A                     | N-8, 11, 12.....        | I                 | F            | April 11, 1975.....           | Dec. 28, 1979.....                | Mayor Coppland, P.O. Box 193, McDonough, GA 30253, (404) 957-5112.                                                  |
| Alabama, Walker, Town of Nauvoo, 0001.....                | 010394A                     | E-5.....                | I                 | F            | Dec. 28, 1979.....            | Dec. 28, 1979.....                | Emma Lawson, Clerk, Town of Nauvoo, P.O. Box 121, Nauvoo, AL 35578, (205) 697-5890.                                 |
| North Carolina, Northampton, Town of Gaston, 0001.        | 370413B                     | N-12.....               | I                 | F            | Dec. 15, 1979.....            | Dec. 28, 1979.....                | Mr. Firman Myrick, Mayor, Floor M, Gaston, NC 27632, (919) 537-1046.                                                |
| Illinois, Fulton, Village of Liverpool, 01.....           | 170762B                     | E-8, 11, 12, 14.....    | I                 | F            | Dec. 28, 1973, Aug. 1, 1975.  | Dec. 28, 1979.....                | John Barton, President of Village Board, General Delivery, Liverpool, IL 61543, phone: (309) 668-2164.              |
| Pennsylvania, Armstrong, Township of Bradys Bend, 0001A.  | 421302                      | E-11, 12, 14.....       | I                 | F            | Nov. 29, 1974.....            | Dec. 28, 1979.....                | Frank E. Bratkovich, Chairman, Kaylor, PA 16042, phone: (412) 526-5621.                                             |
| Pennsylvania, Pike, Township of Lehman, 0001A-0004A.      | 421967                      | E-11, 12, 14.....       | I                 | F            | Jan. 3, 1975.....             | Dec. 28, 1979.....                | Larry Vanwhy, Chairman, Township Supervisors, R.D. No. 1, Bushkill, PA 18324, phone: (717) 588-6812.                |
| Pennsylvania, Jefferson, Township of Polk, 0001A-0003A.   | 421733                      | E-11, 12, 14.....       | I                 | F            | Dec. 6, 1974.....             | Dec. 28, 1979.....                | Gene Dixon, Chairman, Portland Mills, PA 15850, phone: (814) 328-2546.                                              |
| Pennsylvania, Clearfield, Township of Union, 0001B-0002B. | 421531                      | N-11, 12, 14.....       | I                 | F            | Jan. 17, 1975, Oct. 22, 1976. | Dec. 28, 1979.....                | Paul Orcutt, Chairman, Board of Supervisors, Township Building, Rockton, PA 15856, phone: (814) 583-7184.           |
| Pennsylvania, Cambria, Township of West Taylor, 0001A.    | 421450                      | E-11, 12, 14.....       | I                 | F            | Nov. 22, 1974.....            | Dec. 28, 1979.....                | John Beltz, Chairman, Township Board of Supervisors, 755 Cooper Avenue, Johnstown, PA 15906, phone: (814) 539-4427. |
| Wisconsin, Sauk, Village of Rock Springs, 01.....         | 550403B                     | E-11, 12, 14.....       | I                 | F            | Dec. 17, 1973, May 21, 1976.  | Dec. 28, 1979.....                | Ireland Wagner, Village President, 405 West Broadway, Rock Springs, WI 53961, phone: (608) 524-3775.                |

<sup>1</sup>Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 20, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38039 Filed 12-11-79; 8:45 am]

BILLING CODE 6718-03-M



## Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

##### 7 CFR Parts 1421 and 1446

#### 1980 Peanut Program; Proposed Determinations Regarding a Loan and Purchase Program for the 1980 Crop of Peanuts

**AGENCY:** Commodity Credit Corporation, U.S. Department of Agriculture.

**ACTION:** Shortening Comment Period on Proposed Determination.

**SUMMARY:** On December 4, 1979, a notice was published in the Federal Register (44 FR 69656) that the Secretary of Agriculture proposed to make determinations and issue regulations concerning a loan and purchase program, sales policy, and other related matters, for the 1980 crop of peanuts. The loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"). The comment period is being shortened in order that these determinations be made at an earlier date.

**DATES:** Written comments must be received on or before January 11, 1980, in order to be sure of consideration.

**ADDRESS:** Send comments to Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Gypsy Banks, ASCS, (202) 447-6733.

**SUPPLEMENTARY INFORMATION:** The notice published on December 4, 1979, requested comments with respect to the following 1980-crop peanut program determinations pursuant to the Agricultural Act of 1949, as amended:

1. *The National level of support for 1980 crop quota peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts at such levels as he finds appropriate, but not

less than \$420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration: (a) Any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 31, 1979, inclusive, and (b) the the eight factors specified in section 401(b) of the Act, namely, the supply of the commodity in relation to the demand therefore, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

2. *The national level of support for 1980 crop additional peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on "additional peanuts", which are defined as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not produced in excess of the farm acreage allotment. This subsection requires that the loan rate for 1980 crop additional peanuts shall be announced no later than February 15, 1980, and in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

3. *Sales policy.* The Department also invites comments on a sales policy for additional peanuts received under loan or acquired by CCC under the 1980 program and sold for export for edible use.

Section 359(j) of the Agricultural Adjustment Act of 1938, contained in the Food and Agriculture Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at not less than all costs incurred with respect to the peanuts sold, plus: (1) 100 percent of the quota loan value if sold and paid for during the harvest season and upon delivery by the producer, or (2) 105

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percent of the quota loan value if sold after delivery but before December 31 of the marketing year, or (3) 107 percent of the quota loan value if sold later than December 31 of the marketing year. In addition to these restrictions on sales of additional peanuts, for domestic edible use, Section 407 of the Agricultural Act of 1949 provides that when giving consideration to establishing sales policy, the Commodity Credit Corporation should give consideration to price, terms, and conditions which will not discourage or deter manufacturers, processors and dealers from acquiring and carrying normal inventories of the current crop. The Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 5 percent above current support price for such commodity plus reasonable carrying charges. These restrictions do not apply to the sales of peanuts for the extraction of oil or sales for export.

#### Proposed Rule

The Secretary of Agriculture proposes to make determinations and issue regulations with regard to the following for 1980-crop peanuts:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) Sales policy for additional peanuts received under loan or acquired by the Commodity Credit Corporation under the 1980 program, and sold for export for edible use.

The December 4 notice provided that written comments must be received on or before February 4 in order to be considered. Producers need to know these program provisions prior to planting in order to make production plans, obtain financing, acquire fuel and seed, and make effective marketing decisions. It is important that producers know the 1980 levels of support and sales policy as early as possible in order that they can make these plans and decisions accordingly.

Although Executive Order 12044 (43 FR 12661) requires at least a 60 day public comment period on proposed significant regulations, exceptions may be made when the Agency determines that this is not possible or not in the public interest. It is hereby found and determined that compliance with the 60-day public comment period is contrary

to the public interest. Accordingly, the comment period is shortened and public comments must be received by January 11, 1980, to be sure of consideration.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

The proposed determination as outlined in 44 FR 69656 has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An approved Draft Impact Analysis is available from Gypsy Banks, ASCS (202) 447-6733.

Signed at Washington, D.C., on December 7, 1979.

Ray Fitzgerald,  
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-38113 Filed 12-11-79; 8:45 am]

BILLING CODE 3410-05-M

#### 7 CFR Part 1438

#### 1980 Crop Gum Naval Stores Support Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Proposed Rule.

**SUMMARY:** The purpose of this notice is to advise that the Commodity Credit Corporation, as authorized by the Agricultural Act of 1949, as amended, is considering whether a price support program for 1980-crop gum naval stores should be established, and if so, at what level of support.

The support program would stabilize market prices and protect producers, processors and consumers, and would enable producers to obtain price support for 1980-crop gum naval stores. Written comments are invited from interested persons.

**DATE:** Written comments must be received on or before February 11, 1980, in order to be sure of consideration.

**ADDRESS:** Send comments to: Producer Associations Division, Agricultural Stabilization and Conservation Services, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** A. James Firth (ASCS) (202) 447-5978.

**SUPPLEMENTARY INFORMATION:** The Secretary of Agriculture is granted the authority under Title III ("Other Nonbasic Agricultural Commodities"), Sec. 301, of the Agricultural Act of 1949, as amended, to make available a loan and/or purchase program "to producers for any nonbasic commodity not

designated in Title II at a level not in excess of 90 per centum of the parity price for the commodity \* \* \*". Sec. 302 provides that "price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a loan program is in effect and who are complying with such program".

Sec. 401 of the Act requires that the Secretary, in determining whether there shall be a program, consider: (1) The supply of the commodity in relation to the demand therefore, (2) the price levels at which other commodities are being supported, (3) availability of funds, (4) perishability and storability of the commodity, (5) importance of the commodity to agriculture and the national economy, (6) ability to dispose of stocks acquired through a support operation, and (7) the ability and willingness of producers to help keep supplies in line with demand.

#### Proposed Rule

In view of the interest shown by producers in a support program, the Secretary will consider the alternatives of a loan program for the 1980-crop of gum naval stores, a loan-purchase program for the 1980-crop, or no program in 1980. The loan program to be considered would be a non-recourse loan program as was in effect for the 1979-crop of gum naval stores. The loan-purchase program would be similar to that in effect for the 1976-crop of gum naval stores.

Before making any determination the Department will give consideration to comments, data, views and recommendations submitted in writing, within the comment period, to the Director, Producer Associations Division. All submissions received will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5750-South Building, 14th and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27 (b)).

**Note.**—This proposal has been determined not significant under USDA criteria for implementing Executive Order 12044, "Improving Government Regulations". A draft Impact Analysis is available from A. James Firth (ASCS) (202) 447-5978.

Signed at Washington, D.C. on December 3, 1979.

John W. Goodwin,  
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-38068 Filed 12-11-79; 8:45 am]

BILLING CODE 3410-05-M

### Farmers Home Administration

#### 7 CFR Part 1960

#### Special Servicing of Delinquent and Problem Case FmHA Farm Borrowers

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to add regulations pertaining to the servicing of delinquent and problem case farm borrowers to the code of Federal Regulations (CFR). The intended effect of these regulations is to lessen the number of delinquent and problem case borrowers by providing for better loan servicing actions through County Supervisors and District Directors. The proposed addition is needed to enable County Supervisors and District Directors to better serve the needs of borrowers who are delinquent or have other problems which may result in them becoming delinquent.

**DATES:** Comments must be received on or before February 11, 1980.

**ADDRESSES:** Submit written comments in duplicate to the Office of Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lynn L. Pickinpaugh, FmHA, USDA, Washington, D.C. 20250, (202) 447-2288.

**SUPPLEMENTARY INFORMATION:** FmHA proposes to add its regulations for special servicing of delinquent and problem case farm borrowers to the CFR by establishing a new Subpart A of Part 1960, Chapter XVIII, Title 7, Code of Federal Regulations.

As proposed, Subpart A of Part 1960 is added and reads as follows:

#### PART 1960—GENERAL

#### Subpart A—Special Servicing of Delinquent and Problem Case FmHA Farm Borrowers

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Sec.

1960.13 Followup servicing actions by District Directors and State Office Staff.  
1960.14-1960.50 [Reserved]

Authority: 7 USC 1989; SUS 301; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Assistant Secretary for Rural Development, 7 CFR 2.70

#### § 1960.1 Introduction.

(a) This Subpart prescribes the policies and procedures to be followed in the special servicing of Farmers Home Administration (FmHA) delinquent and problem cases involving farm loans to individuals, farm cooperatives, partnerships, and corporations. It supplements but does not duplicate other FmHA regulations with respect to supervision and servicing activities.

(b) Federal law prohibits discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided that a person has the capacity to enter into a binding contract), because all or part of a person's income derives from any public assistance program, because a person in good faith has exercised any right under the Federal Consumer Credit Protection Act, or because of a physical or mental handicap (provided the applicant can execute a legally binding contract).

#### § 1960.2 Definitions.

(a) "Delinquent" includes all active borrowers owing FmHA loans which are behind schedule.

(b) "Problem case" includes borrowers who are not delinquent on their loans but who are likely to become so or have major problems impairing their progress such as: (1) the lack of adequate resources or income to meet their full scheduled annual operating payment; (2) incomplete planned development that has exceeded the estimated completion date shown on Form FmHA 424-1, "Development Plan," without an acceptable reason; (3) the need for improved farm, home, business, or financial management; (4) serious health or family problems; (5) deferring payments for reasons other than development work; (6) deviating from the scheduled Farm and Home Plan without first consulting the County Supervisor, and (7) disposing of security without first getting the consent of the County Supervisor.

#### § 1960.3 Purpose.

(a) The purpose of the special servicing of delinquent and problem cases is to assist borrowers to overcome the major problems retarding their progress and to remove any delinquency on FmHA loans. This will be done by: (1) determining the specific reasons for

the delinquency or problem; (2) deciding upon corrective actions that should be taken; and (3) initiating and carrying out the actions agreed upon.

(b) The delinquent and problem case review will also be used in training personnel in the proper evaluation of applicants and resources and in the planning, supervising, and servicing aspects of the program.

#### § 1960.4 Period for initiating the annual review of delinquent and other problem cases.

(a) Generally, the most effective time to initiate the review is after a reasonable determination can be made with respect to the major production and income for the year and before the major analysis and subsequent planning period. Ordinarily, the period for the initial review should not extend over 60 days.

(b) Once each year the County Supervisor and the District Director will initiate the annual review of delinquent and other problem cases. This will be done during the period established by a State Supplement.

(c) The annual review will be reflected in the State and district plans of work.

#### § 1960.5 Conducting the annual review.

The District Director and County Supervisor will review the delinquent and problem cases to determine the special servicing actions to be taken in each case. State Office loan chiefs and specialists will participate in a sufficient number of reviews to keep currently informed about the problems confronting borrowers and the adequacy of the corrective action being taken.

(a) *Determining the causes of delinquency or other problems.* The District Director and County Supervisor will review the case file and other sources to determine the basic reasons for the delinquency or other problems.

(1) They will consider such things as:

(i) The borrower's background, experience, ability, assets and liabilities, and change in financial status.

(ii) The type and scope of operations being carried out.

(iii) The production and income received from each farm and nonfarm source.

(iv) The adequacy and potential of the chattel, land, and other resources.

(v) The amount and purpose of the FmHA and other credit provided and the amount of outstanding debts.

(vi) The repayments made on the indebtedness and whether such payments were in accordance with the borrower's ability.

(vii) The amount spent for capital goods.

(viii) The type and extent of supervisory assistance provided and the attitude of the borrower and the borrower's family toward such assistance.

(ix) Whether the total operation can be successful.

(x) Whether the borrower has maintained and accounted properly for the security and is current on real estate taxes and property insurance.

(2) The review should clearly identify the borrower's major problems. Failure should not be attributed to such factors as adverse weather conditions and low prices when the *major problem actually involves* lack of resources, need for major adjustments in the operations, consolidation, extension or adjustment of debts, or unsatisfactory farm, home, business, or financial management including the acquisition of unnecessary equipment.

(b) *Determining corrective actions to be taken.* During the review a decision must be made as to whether FmHA will continue with the borrower or whether FmHA assistance will be discontinued and action initiated to liquidate the loan. In some instances, it is possible to determine from the information available in the file or from the knowledge of the County Office staff the corrective action that should be taken. In other cases, a visit to the borrower's farm, home, or business enterprise may be required in order to evaluate the possible plans and alternatives for corrective action. The District Director will participate in visits to evaluate especially difficult cases and will make sure that appropriate action is taken. State Office loan chiefs or specialists also will participate in visits in appropriate cases.

(1) For those borrowers who will continue to receive FmHA assistance, decisions must be made as to the specific actions to be taken to correct the major deficiencies, when is the best time to initiate the action, and whether additional FmHA credit will be needed.

(2) There may be a limited number of cases in which neither immediate corrective nor liquidation action is feasible. With such borrowers, decisions will be made concerning the specific servicing actions to be taken to protect both the interest of the Government and the borrower and to collect the loan as soon as practicable under the appropriate policies set forth in Subpart A of Part 1962 of this Chapter and Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1).

(3) For those borrowers with whom FmHA services will be discontinued,

liquidation action will be initiated in accordance with Subpart A of Part 1962 of this Chapter or Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1).

(c) *Routines.* (1) State Directors will develop a State form for use in tabulating information on cases to be included in the review. When completed, the form will be prepared in an original and two copies. The original is to be retained in the County Office with a copy for the District Director and a copy for the State Office. The form will include as a minimum the following:

(i) Borrower's name.  
(ii) Amount owed.  
(iii) Problem or amount delinquent.  
(iv) Reasons for problem or delinquency.

(v) Actions to be taken.

(vi) Date actions will be taken.

(vii) Any additional information.

(2) Before the annual review, the County Office Assistant will list all cases which are delinquent, the cases which the County Supervisor indicates are to be reviewed because they are likely to become delinquent in the near future, and those with other serious problems. At the time of the review the County Office Assistant also will assemble the files and area guide cards for use in the review.

(3) Appropriate entries will be made in the running case record to indicate the agreement reached by the District Director and County Supervisor as to the reasons for the delinquency or problems, the actions to be taken, and the time such actions will be initiated. The District Director and the County Supervisor will agree on the information to be entered and will initial the entry.

(4) The County Office Assistant will make appropriate entries on the management system card for followup action.

(5) As actions on the cases are taken, the County Supervisor will indicate briefly such actions on the County Office copy of the list of delinquent borrowers and problem cases. The County Supervisor will also make appropriate entries in the running case record.

(6) The District Director will report to the State Director on Form FmHA 401-1, "Operations Review Questionnaire," when the annual review of all delinquent and problem cases has been accomplished in each County Office unit.

(7) As the District Director follows up on the actions taken in accordance with the provisions of § 1960.13(a) of this Subpart, appropriate notations will be made on the district Directors list of delinquent or problem case borrowers to

keep it up-to-date along with the appropriate notations in the running case record. Progress in servicing cases will also be noted in the summary section of Form FmHA 401-1.

#### §§ 1960.6-1960.10 [Reserved]

#### § 1960.11 Use of county committee.

After the annual review, the County Supervisor should discuss with the County Committee any special problems encountered and the nature of the decision made for the corrective actions. The County Supervisor will seek the advice of the County Committee on those borrowers: (a) with complex problems, (b) for whom a tentative decision to discontinue FmHA services has been made, (c) for whom neither corrective action nor immediate liquidation action is feasible, and (d) for whom he/she and the District Director determine that Committee advice is needed. During the year the County Supervisor will report to the Committee the progress being made in carrying out the actions agreed upon for removing delinquencies or correcting other problems.

#### § 1960.12 Supervision and servicing by the county supervisor.

(a) The borrowers referred to in this Subpart have unusual circumstances to overcome. Therefore, it is necessary that they receive effective supervision and that diligent loan and security servicing actions are carried out.

(b) The County Supervisor should use the release authority to meet only minimum essential needs when liens are held on crops, livestock, and other chattels. When real estate security is involved and partial releases, leases, or subordination agreements are requested, the County Supervisor should assure that such actions will aid the borrower in overcoming the problem.

(c) When the corrective action agreed upon by the County Supervisor and District Director did not provide for extending additional FmHA assistance, the County Supervisor will not approve or submit for approval any type of FmHA loan application until the facts concerning the need for the loan and the manner in which it will assist the borrower in overcoming the problem have been concurred in by the District Director.

(d) The County Supervisor will conduct a complete analysis on all delinquent and problem case borrower's reported on the annual review who will be continuing their farming operations. Form FmHA 1960-12, "Financial Farm Analysis Summary" will be completed after the analysis is conducted.

#### § 1960.13 Followup servicing actions by District Directors and State office staff.

(a) *Followup by the District Director.* The District Director is responsible for seeing that the County Office staff makes specific plans for corrective action with the borrower and that actions agreed upon are carried out. On visits to the County Office, the District Director will review the list of delinquent and other problem cases and take the necessary steps to assure that the actions agreed upon are being carried out in an effective and timely manner. This will include visits to evaluate a sufficient number of such cases to determine whether the desired results are being obtained and to determine what further training is needed by the County Supervisor in servicing such cases. The District Director should continue followup actions periodically as needed to obtain the desired results in each County Office area. The followup should include a thorough review of any subsequent loans being made to the borrower to assure that the plan incorporates the corrective action agreed upon.

(b) *Followup by State Office Staff.* (1) The State Director is responsible for seeing that the special servicing actions prescribed by this Subpart are carried out by the County Supervisors and District Directors.

(2) Loan chiefs and specialist should review a representative sample of delinquent and problem cases during each visit to the County Office to assure a thorough analysis has been made, that appropriate followup action has taken, and to determine what further training, if any, is needed for the District Director and County Supervisor.

(3) The State and/or District offices should periodically review the progress made in servicing these cases.

#### §§ 1960.14-1960.50 [Reserved]

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250.

This document has been reviewed in accordance with Subpart G of Part 1901 of this Chapter (FmHA Instruction 1901-G), "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly



affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Dated: November 30, 1979.  
Gordon Cavanaugh,  
Administrator, Farmers Home  
Administration.

[FR Doc. 79-38112 Filed 12-11-79; 8:45 am]  
BILLING CODE 3410-07-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### 10 CFR Part 570

[Docket No. ERA-R-79-54]

#### Standby Gasoline Rationing Plan

##### Correction

In FR Doc. 79-37970, appearing at page 70799 in the issue of Monday, December 10, 1979, the file line was inadvertently omitted from the end of the document. It should have read as follows:

[FR Doc. 79-37970 Filed 12-7-79 10:47 am]  
BILLING CODE 6450-01-M

## INFORMATION SECURITY OVERSIGHT OFFICE

### 32 CFR Part 2002

#### Guidelines for Systematic Review of Foreign Government Information 30 Years Old or Older

**AGENCY:** Information Security Oversight Office.

**ACTION:** Proposed rule.

**SUMMARY:** Executive Order 12065 (43 FR 28949, July 3, 1978) Section 3-404 and Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978) require that guidelines for systematic review of foreign government information be developed. The purpose of this proposed rule is to achieve consistency in the declassification of foreign government information by promulgating a single guideline rather than having each agency with original classification authority publish its own version.

**DATE:** Comments must be received by February 11, 1980.

**ADDRESS:** Mail comments to the Director, Information Security Oversight Office, GSA/ISOO/Z, 18th and F Streets, NW., Washington, D.C. 20405.

**FOR FURTHER INFORMATION CONTACT:** Robert W. Wells, Deputy Director, ISOO, at (202) 633-6880.

**SUPPLEMENTARY INFORMATION:** These guidelines have been coordinated with all agencies having original classification authority.

Michael T. Blouin,  
Director, Information Security Oversight  
Office.  
December 7, 1979.

Title 32, Code of Federal Regulations, Chapter XX is amended by adding Part 2002 to read as follows:

#### PART 2002—GUIDELINES FOR SYSTEMATIC REVIEW OF FOREIGN GOVERNMENT INFORMATION 30 YEARS OLD OR OLDER

Sec.  
2002.1 Purpose.  
2002.2 Definitions.  
2002.3 Scope.  
2002.4 Agency responsibilities.  
2002.5 Effect of publication.  
2002.6 Categories requiring item-by-item review.  
2002.7 Referral and decision.  
2002.8 Downgrading.

Authority: Sec. 3-404, E.O. 12065, 43 FR 28949, July 3, 1978.

##### § 2002.1 Purpose.

These guidelines for the systematic review and declassification of foreign government information have been developed in accordance with the provisions of Section 3-404 of Executive Order 12065, "National Security Information," and Section III.C of Information Security Oversight Office Directive No. 1. All foreign government information constituting permanently valuable records of the United States Government, for which a prior declassification date has not been established, shall be systematically reviewed for declassification as it becomes thirty years old. Foreign government information found to be within one of the specific categories of information listed in § 2002.6 shall be reviewed item-by-item by authorized personnel of the agency or agencies concerned to determine whether continued protection beyond thirty years is needed. All foreign government information not identified in these Guidelines as requiring item-by-item review and for which a prior declassification date has not been established shall be declassified at the end of thirty years from the date of original classification subject, when appropriate, to consultation with the foreign governments or international organizations of governments concerned.

##### § 2002.2 Definitions.

"Foreign government information" as used in these Guidelines consists of:

(a) Documents or material provided by a foreign government or governments, international organization of governments, or any element thereof in the expectation, expressed or implied, that the document, material, or the information contained therein is to be held in confidence;

(b) Documents originated by the United States that contain classified information provided, in any manner, to the United States by foreign governments, international organizations of governments, or elements thereof, with the expectation, express or implied, that the information will be held in confidence;

(c) Classified information or material produced by the United States pursuant to or as a result of a joint arrangement, evidenced by an exchange of letters, memorandum of understanding, or other written record, with a foreign government or organization of governments requiring that the information, the arrangement, or both be kept in confidence.

##### § 2002.3 Scope.

(a) These Guidelines apply to 30-year old foreign government information which has been received or classified by the United States Government or its agents.

(b) Atomic energy information (including that originated prior to 1947 and not marked as such, that received from the United Kingdom or Canada marked "Atomic," and that received from NATO marked "Atomal") which is defined and identified as Restricted Data or Formerly Restricted Data in Sections 11y and 142d of the Atomic Energy Act of 1954, as amended, is outside the scope of these Guidelines and is not subject to systematic review and may not be automatically downgraded or declassified. Any document containing information within the definition of Restricted Data or Formerly Restricted Data that is not so marked will be referred to the Department of Energy Office of Classification for review and appropriate marking, except for licensing and related regulatory matters which shall be referred to the Division of Security, U.S. Nuclear Regulatory Commission.

##### § 2002.4 Agency responsibilities.

(a) Foreign government information transferred to the General Services Administration for accession into the National Archives of the United States shall be reviewed for declassification by the Archivist of the United States in accordance with Executive Order 12065, the directives of the Information

Security Oversight Office, these Guidelines, any applicable terms of accession, and any supplemental guidelines provided by the agency with classification jurisdiction over the information.

(b) Foreign government information constituting permanently valuable records of the Government (as defined in 44 U.S.C. 2103) that is 30 years old and undergoing systematic review for declassification while in the custody of an agency shall, except as provided in § 2002.3 be reviewed for declassification and downgrading by that agency in accordance with Executive Order 12065, the directives of the Information Security Oversight Office, these Guidelines, and any supplemental internal agency guidelines.

(c) Foreign government information falling within any of the categories listed in § 2002.6 of these guidelines shall be declassified or downgraded only upon specific authorization of the agencies to which the information was furnished by the foreign government or international organization of governments concerned and/or which have classification jurisdiction over it. When such information is in the custody of an agency but was furnished to or classified by, or is otherwise under the classification jurisdiction of another agency or agencies the information shall be referred thereto for review. Information so referred shall remain classified until all review agencies have authorized its declassification. If the custodial agency cannot readily identify the agency or agencies having classification jurisdiction, the information shall be referred in accordance with § 2002.7 of these Guidelines for review or further referral.

(d) Foreign government information falling within any of the categories listed in § 2002.6 of these Guidelines appearing in White House documents, which is either identifiable as having been furnished or appears to have been furnished by a foreign government shall be reviewed by designated White House personnel and further referred for review to any other agencies whose classification interest is indicated by the nature or content of the documents.

##### § 2002.5 Effect of publication.

(a) Foreign government information is declassified if already published in or cleared by executive branch officials authorized to declassify the information, and/or by the foreign government(s) involved, as appropriate, for publication in any unclassified executive branch publication; or if officially published as unclassified by the foreign government or international organization of

governments that furnished the information, unless the fact of the U.S. Government's possession of the information requires continued protection.

(b) The unofficial publication, in any manner, of foreign government information contained in United States or foreign documents, or of substantially similar information, does not in or of itself constitute or permit the declassification of such documents. The original sources of the information, or the means whereby it was acquired by the United States Government, may require continued protection and could preclude declassification. Nevertheless, unofficial publication is a factor to be considered in the systematic review of information and may affect determinations as to requirements for its continued classification protection. However, the classification status of information which concerns or derives from intelligence activities, sources or methods shall not be affected by any unofficial publication of similar or identical information. Final determinations as to the declassification of information identical with or similar to unofficially published information shall be made by the agency or agencies holding classification jurisdiction over the information.

##### § 2002.6 Categories requiring item-by-item review.

Foreign government information falling into the specific categories listed below shall be reviewed for declassification in accordance with § 2002.1.

(a) Information exempted from declassification under any joint arrangement evidenced by an exchange of letters, memorandum of understanding, or other written record, with the foreign government or international organization of governments, or element(s) thereof, that furnished the information. Questions concerning the existence or applicability of such arrangements shall be referred to the agency or agencies holding classification jurisdiction over the records under review.

(b) Information related to the safeguarding of nuclear materials or facilities, foreign and domestic, including but not necessarily limited to vulnerabilities and vulnerability assessments of nuclear facilities and Special Nuclear Material.

(c) Nuclear arms control information (see also K).

(d) Information regarding foreign nuclear programs (other than Restricted Data and Formerly Restricted Data), such as:

- (1) Nuclear weapons testing.
- (2) Nuclear weapons storage and stockpile.
- (3) Nuclear weapons effects, hardness, and vulnerability.
- (4) Nuclear weapons safety.
- (5) Cooperation in nuclear programs including, but not limited to, peaceful and military applications of nuclear energy.
- (6) Exploration, production and import of uranium and thorium from foreign countries.
- (e) Information concerning intelligence or counterintelligence sources, methods or activities including but not limited to intelligence, counterintelligence and covert action programs, plans, policies, operations, or assessments; or which would reveal or identify:
  - (1) Any present, past or prospective undercover personnel, installation, unit, or clandestine human agent, of the United States or of a foreign government;
  - (2) Any present, past or prospective method, procedure, mode, technique or requirement used or being developed by the United States or by foreign governments, individually or in combination, to produce, acquire, transmit, analyze, correlate, assess, evaluate or process intelligence or counterintelligence, or to support an intelligence or counterintelligence source, operation, or activity;
  - (3) The present, past or proposed existence of any joint United States and foreign government intelligence, counter-intelligence, or covert action activity or facility, or the nature thereof.
  - (f) Information that could result in or lead to actions which would place an individual in jeopardy directly attributable to disclosure of the information, including but not limited to:
    - (1) Information identifying any individual or organization as a confidential source of intelligence or counterintelligence.
    - (2) Information revealing the identity of an intelligence, counterintelligence or covert action agent or agents.
    - (g) Information about foreign individuals, organizations, or events which, if disclosed, could be expected to:
      - (1) Adversely affect a foreign country's or international organization's relations with the United States.
      - (2) Adversely affect present and/or future confidential exchanges between the United States and any foreign government or international organization of governments.
      - (h) Information related to plan (whether executed or not, whether presented in whole or in part), programs,



operations, negotiations, and assessments shared by one or several foreign governments with the United States, including but not limited to those involving the territory, political regime or government of another country, and which if disclosed could be expected to adversely affect the conduct of U.S. foreign policy or the conduct of another country's foreign policy with respect to a third country or countries. This item would include contingency plans, plans for covert political, military or paramilitary activities or operations by a foreign government acting alone or jointly with the United States Government, and positions or actions taken by a foreign government alone or jointly with the United States concerning border disputes or other territorial issues.

(i) Information concerning arrangements with respect to foreign basing of cryptologic operations and/or foreign policy considerations relating thereto.

(j) Scientific information such as that concerning space, climatology, communications, maritime, undersea, and polar projects, that could be expected to adversely affect current and/or future exchanges of such information between the United States and any foreign governments or international organizations of governments.

(k) Information on foreign policy aspects of nuclear matters, the disclosure of which could be expected to adversely affect cooperation between one or more foreign governments and the United States Government.

(l) Nuclear propulsion information.

(m) Information concerning the establishment, operation, and support of nuclear detection systems.

(n) Information concerning or revealing military or paramilitary escape, evasion, cover or deception plans, procedures, and techniques whether executed or not.

(o) Information which could adversely affect the current or future usefulness of military or defense policies, programs, weapon systems, operations, or plans.

(p) Information concerning research, development, testing and evaluation of chemical and biological weapons and defense systems; specific identification of chemical and biological agents and munitions; and chemical and biological warfare plans.

(q) Technical information concerning weapons systems and military equipment that reveals the capabilities, limitations, or vulnerabilities of such systems or equipment and that could be exploited to destroy, counter, render

ineffective or neutralize such weapons or equipment.

(r) Cryptologic information, including cryptologic sources and methods, currently in use. This includes information concerning or revealing the processes, techniques, operations, and scope of signal intelligence comprising communications intelligence, electronics intelligence, and telemetry intelligence, the cryptosecurity and emission security components of communications security, and the communications portion of cover and deception plans.

(s) Information concerning electronic intelligence, telemetry intelligence and electronic warfare (electronic warfare support measures, electronic counter-countermeasures) or related activities, including but not necessarily limited to:

(1) Nomenclature, functions, technical characteristics or descriptions of communications and electronic equipment, its employment/development, and its association with weapon systems or military operations.

(2) The processes, techniques, operations or scope of activities involved in the acquisition, analysis and evaluation of such information, and the degree of success achieved by the above processes, techniques, operations or activities.

(t) Present, past or proposed protective intelligence information relating to the sources, plans, techniques, equipment and methods in carrying out assigned duties of protecting United States Government officials or other protectees abroad and foreign officials while in the United States or United States possessions. This includes information concerning the identification of witnesses, informants and persons suspected of being dangerous to persons under protection.

(u) Information on deposits of foreign official institutions in United States banks and on foreign official institutions' holdings, purchases and sales of long-term marketable securities in the United States.

(v) Information concerning economic and policy studies and sensitive assessments or analyses of economic conditions, policies or activities of foreign countries or international organizations of governments received through the Multilateral Development Banks or through the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development (OECD).

(w) Information described in § 2002.6 (b) thru (v) contained in correspondence, transcripts, memoranda of conversation, or minutes of meetings between the

President of the United States and a current or former government official.

(x) Information described in § 2002.6 (b) thru (v) contained in documents originated by or sent to the Assistant to the President for National Security Affairs, his Deputy, members of the National Security Council staff, or any other person performing national security functions on behalf of the White House.

(y) Federal agency originated documents bearing NSC or White House comments relating to categories of information described in § 2002.6 (b) thru (v).

(z) Information as described in § 2002.6 (b) thru (v) contained in correspondence to or from the President, including background briefing memoranda and talking points for meetings between the President and foreign government officials, and discussions of the timing and purposes of such meetings.

(aa) Information as described in § 2002.6 (b) thru (v) contained in agency message traffic originated by White House staff members but sent through agency communication networks.

#### § 2002.7 Referral and decision.

(a) When the identity of agencies holding classification jurisdiction over foreign government information is not apparent upon initial inspection, or when reviewing officials do not possess the requisite expertise, the information shall be referred as follows to an agency competent to make the decisions required or further to refer the information for review by the appropriate agency or agencies:

(1) Categories 2002.6 (b) thru (d). Department of Energy or Nuclear Regulatory Commission (as appropriate).

(2) Categories 2002.6 (e) and (f). Central Intelligence Agency.

(3) Categories 2002.6 (g) thru (k). Department of State.

(4) Categories 2002.6 (l) thru (s). Department of Defense.

(5) Categories 2002.6 (t) and (v). Department of the Treasury.

(6) Categories 2002.6 (w) thru (aa). National Security Council.

(b) When agencies have determined on their own authority, and/or after consultation when necessary with other U.S. agencies and with foreign governments or international organizations of governments which furnished the information as appropriate, that information under their jurisdiction no longer requires classification protection, such information shall then be declassified. Such action may involve the

declassification of an entire document, or only portions of a document. If it is determined that classification must be extended beyond 30 years, the provisions of Section III, C, 2(b) of Information Security Oversight Office Directive No. 1 apply.

#### § 2002.8 Downgrading.

Foreign government information classified Top Secret may be downgraded to Secret after 30 years unless an agency with classification jurisdiction over it determines on its own authority, or after consultation, as appropriate, with the foreign government or international organization of governments which furnished the information, that it requires continued protection at the Top Secret level.

[FR Doc. 79-38042 Filed 12-11-79; 8:45 am]  
BILLING CODE 6820-27-M

### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 32A CFR Part 166

[Docket No. FEMA-PP-32A-166]

#### Voluntary Agreements: Proposed Standards and Procedures

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

**SUMMARY:** The Federal Emergency Management Agency proposes standards and procedures to develop and carry out voluntary agreements under Section 708 of the Defense Production Act of 1950, as amended. Antitrust immunity may be given to representatives of industry or other interests who, under prescribed conditions and with appropriate governmental approval, enter into these voluntary agreements to help provide for the defense of the United States. The Departments of Defense, Interior, Agriculture, Commerce, and Transportation have concurred with the Federal Emergency Management Agency in proposing these rules and intend, after consideration of comments, to promulgate the final rules jointly.

**DATE:** All comments received on or before February 11, 1980, will be considered before final action is taken on the proposed rules.

**ADDRESS:** Persons wanting to comment should submit comments in duplicate to the Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

**FOR FURTHER INFORMATION CONTACT:** Mr. Arnold C. Lewis, Acting Chief, Resources Management Division, Federal Emergency Management Agency, Washington, D.C. 20472, telephone number 202/566-1630.

#### SUPPLEMENTARY INFORMATION:

Subsection 708(c)(1) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), hereafter referred to as DPA, provides that:

... upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements to help provide for the defense of the United States through the development of preparedness programs and the expansion of productive capacity and supply beyond levels needed to meet essential civilian demand in the United States.

The authority of the President was delegated to the Administrator of General Services Administration by Section 501 of Executive Order 10480, as amended by Executive Order 11956; and, pursuant to Section 1 of Executive Order 12148 has been transferred to the Director of the Federal Emergency Management Agency. This authority, subject to the direction and control of the Director of FEMA, has also been delegated to the Secretaries of Defense, the Interior, Agriculture, Commerce and Transportation, except that for the purpose of carrying out the objectives of Title I of the DPA concerning priority performance of contracts and orders and allocations of materials and facilities, the authority may be exercised only by the Director of the Federal Emergency Management Agency.

Under Subsection 708(e) of the DPA, the individual or individuals to whom the President has delegated his voluntary agreement authority shall promulgate rules, in addition to those in 5 U.S.C. 553, by which voluntary agreements may be developed and carried out. The following rules, establishing the basic framework for the development and carrying out of voluntary agreements, are therefore proposed for joint promulgation by the six officials to whom the President has delegated his voluntary agreement functions under Section 708 of the DPA. The rules are arranged in a chronological manner, leading from the initiation of events to develop a voluntary agreement to the carrying out of an approved voluntary agreement. It should be noted that these proposed rules, if adopted, would apply only to

the development and carrying out of voluntary agreements to effectuate the purposes of the DPA and would not apply to the development or carrying out of voluntary agreements under the Energy Policy and Conservation Act.

In addition to the requirements of these rules, once adopted, certain other requirements may pertain to the development of carrying out of voluntary agreements to effectuate the purposes of the DPA. Section 708(i) of the DPA directs the Attorney General and the Chairman of the Federal Trade Commission to promulgate such rules as each deems necessary or appropriate to carry out his responsibility under Section 708 of the DPA.

Interested persons are invited to participate in the making of these rules by submitting written comments or views on or before February 11, 1980. Interested persons shall also have the right at any time to petition for the issuance, amendment, or repeal of a rule. However, as this proposed Rule has been in informal interagency coordination process for some period of time, its immediate adoption upon completion of this notice and public procedure is essential to continuation of existing voluntary agreements. Hence, the effective date of this rule will be the date of publication of the final rule.

This proposal has been reviewed in accordance with Executive Order 12044 and has been determined not to require regulation analysis pursuant to Section 6(b)(2) of that order.

In consideration of the foregoing, the Federal Emergency Management Agency proposes, with the Departments of Defense, the Interior, Agriculture, Commerce, Transportation and the General Services Administration in agreement, to add a new 32A CFR, Part 166 as set forth below.

Dated: December 6, 1979.

John W. Macy, Jr.,  
Director, Federal Emergency Management Agency.

#### PART 166—VOLUNTARY AGREEMENTS UNDER SECTION 708 OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

- Section 1 General provisions.
- Section 2 Developing voluntary agreements.
- Section 3 Carrying out voluntary agreements.
- Section 4 Terminating or modifying voluntary agreements.
- Section 5 Public access to records and meetings.

Authority: Sec. 708, Defense Production Act of 1950, as amended (50 U.S.C. App. 2158); E.O. 10480, 3 CFR 1949-1953 Comp. p. 961, as amended.



**Sec. 1 General provisions.**

(a) Pursuant to Section 708 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2158), the President, may consult with representatives of industry, business, financing, agriculture, labor, or other interests, and may approve the making of voluntary agreements to help provide for the defense of the United States by developing preparedness programs and expanding productive capacity and supply beyond levels needed to meet essential civilian demand.

**(b) Sponsor**

(1) As used in this part, the "sponsor" of a voluntary agreement is an officer of the Government who, pursuant to a delegation or redelegation of the functions given to the President by Section 708 of the Defense Production Act of 1950, as amended (DPA), proposes or otherwise provides for the development of carrying out of a voluntary agreement.

(2) The use of voluntary agreements, as authorized by Section 708 of the DPA to help provide for the defense of the United States through the development of preparedness programs, is an activity coordinated by the Director of the Federal Emergency Management Agency, as provided by Sections 101 and 501 (a) of Executive Order 10480, as amended.

(3) The sponsor of a voluntary agreement shall carry out sponsorship functions subject to the direction and control of the Director of the Federal Emergency Management Agency.

(c) This part applies to the development and carrying out under Section 708 of the DPA, as amended, of all voluntary agreements, and the carrying out of any voluntary agreement which was entered into under former Section 708 of the DPA and in effect immediately prior to April 14, 1976, and which is in a period of extension as authorized by Subsection 708(f)(2) of the DPA.

(d) The rules in this part void any provision of a voluntary agreement to which they apply, if that provision is contrary to or inconsistent with them. Each voluntary agreement shall be construed as containing every substantive provision that these rules require, whether or not a particular provision is included in the agreement.

(e) Pursuant to Subsection 708(d) of the DPA, the sponsor may establish such advisory committees as he deems to be necessary for developing or carrying out voluntary agreements. Such advisory committees shall comply with this part as well as with the requirements and procedures of the Federal Advisory

Committee Act (Pub. L. 92-463, as amended).

**Sec. 2 Developing voluntary agreements.**

(a) *Purpose and scope.* This section establishes the standards and procedures by which voluntary agreements may be developed through consultation, pursuant to Subsection 708(c) of the DPA.

**(b) Proposal to develop an agreement.**

(1) A sponsor who wishes to develop a voluntary agreement shall submit to the Attorney General and the Director of the Federal Emergency Management Agency a document proposing the agreement. The proposal will include statements as to: The purpose of the agreement; the factual basis for making the finding required in Subsection 708(c)(1) of the DPA; the proposed participants in the agreement; and any coordination with other Federal agencies accomplished in connection with the proposal.

(2) If the Attorney General, after consultation with the Chairman of the Federal Trade Commission, approves this proposal the sponsor shall then initiate one or more meetings of interested persons to develop the agreement.

(c) *Conduct of meetings held to develop the agreement.* (1) The sponsor shall give to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate written notice of each meeting to develop a voluntary agreement. The sponsor shall also publish in the *Federal Register* notice of the time, place, and nature of each meeting at least seven days prior to the meeting.

(2) The sponsor shall chair each meeting held to develop a voluntary agreement. Both the Attorney General and the Chairman of the Federal Trade Commission, or their delegates, shall attend each of these meetings.

(3) Any interested person may attend a meeting held to develop a voluntary agreement, unless the sponsor of the agreement limits attendance pursuant to Section 5 of this part.

(4) Any interested person may, as set out in the *Federal Register* meeting notice, submit written data and views concerning the proposed voluntary agreement, and at the discretion of the chairman of the meeting, may be given the opportunity for oral presentation.

(d) *Maintenance of records.* (1) The sponsor is responsible for the making of a full and verbatim transcript of each meeting. The chairman shall send this transcript, and any voluntary agreement resulting from the meeting, to the

Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, and any other repository required by law.

(2) The sponsor of a voluntary agreement shall maintain each meeting transcript and voluntary agreement, and make them available for public inspection and copying to the extent required by Section 5 of this part.

(e) *Effectiveness of agreements.* The following steps must occur before a new voluntary agreement or an extension of an existing agreement may become effective:

(1) The sponsor must certify in writing that the agreement is necessary to carry out the purposes of Subsection 708(c)(1) of the DPA;

(2) The Director of the Federal Emergency Management Agency must approve this certification, and submit it to the Attorney General with a request for a written finding; and

(3) The Attorney General, after consulting with the Chairman of the Federal Trade Commission, must issue a written finding that an agreement with less anticompetitive effect than the one proposed would not reasonably achieve these purposes.

**Sec. 3 Carrying out voluntary agreements.**

(a) *Purpose and scope.* This section establishes the standards and procedures by which the participants in each approved voluntary agreement shall carry out the agreement.

(b) *Participants.* The participants in each voluntary agreement shall be reasonably representative of the appropriate industry or segment of that industry.

(c) *Conduct of meetings held to carry out an agreement.* (1) The sponsor of a voluntary agreement shall initiate, or approve in advance, each meeting of the participants in the agreement held to discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement.

(2) The sponsor shall provide to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency adequate prior notice of the time, place, and nature of each meeting, and a proposed agenda of each meeting. The sponsor shall also publish in the *Federal Register*, reasonably in advance of each meeting, a notice of the time, place, and nature of the meeting. If the sponsor has determined, pursuant to Sections 5 of this part, to limit attendance at the meeting, the sponsor shall publish this *Federal Register* notice within ten days of the meeting.

(3) Any interested person may attend a meeting held to carry out a voluntary agreement unless the sponsor has restricted attendance pursuant to Section 5 of this part. A person attending a meeting under this section may present oral or written data, views, and arguments subject to any limitations on the manner of presentation that the sponsor may impose.

(4) No meeting shall be held to carry out any voluntary agreement unless a Federal employee, other than a individual employed pursuant to 5 U.S.C. 3109, is in attendance. Any meeting to carry out a voluntary agreement may be attended by the sponsor of the agreement, the Attorney General, the Chairman of the Federal Trade Commission, the Director of the Federal Emergency Management Agency, or their delegates.

(5) Notwithstanding any other provision of this section, a meeting between a single participant and the sponsor solely to deliver or exchange information is not subject to the requirements and procedures of this section provided, that a copy of the information is promptly delivered to the Attorney General, the Chairman of the Federal Trade Commission, and the Director of the Federal Emergency Management Agency.

(d) *Maintenance of records.* (1) The participants in any voluntary agreement shall maintain for five years all minutes of meetings, transcripts, records, documents, and other data, including any communications among themselves or with any other member of their industry, related to the carrying out of the voluntary agreement. The participants shall agree, in writing, to make available to the sponsor, the Attorney General, the Chairman of the Federal Trade Commission and the Director of the Federal Emergency Management Agency for inspection and copying at reasonable times and upon reasonable notice any item that this section requires them to maintain.

(2) Any person required by this paragraph to maintain records shall indicate specific portions, if any, that that person believes should not be disclosed to the public pursuant to Section 5 of this part, and the reasons therefore. Any item made available to a Government Official named in this paragraph shall be available from that official for public inspection and copying to the extent set forth in Section 5 of the part.

**Sec. 4 Terminating or modifying voluntary agreements.**

The Attorney General may terminate or modify a voluntary agreement, in writing, after consultation with the Chairman of the Federal Trade Commission and the sponsor of the agreement. The sponsor of the agreement, with the concurrence of or at the direction of the Director of the Federal Emergency Management Agency, may terminate or modify a voluntary agreement, in writing, after consultation with the Attorney General and the Chairman of the Federal Trade Commission. Any person who is a party to a voluntary agreement may terminate his participation in the agreement upon written notice to the sponsor. Any antitrust immunity conferred upon the participants in that agreement by Subsection 708(j) of the DPA shall not apply to any act or omission occurring after the termination of the voluntary agreement. Immediately upon modification of a voluntary agreement, no antitrust immunity shall apply to any subsequent act or omission that is beyond the scope of the modified agreement.

**Sec. 5 Public access to records and meetings.**

(a) Interested persons may, pursuant to 5 U.S.C. 552, inspect or copy any voluntary agreement, minutes of meetings, transcripts, records, or other data maintained pursuant to these rules.

(b) Except as provided by paragraph (c) of this section, interested persons may attend any part of a meeting held to develop or carry out a voluntary agreement pursuant to these rules.

(c) The sponsor of a voluntary agreement may withhold material from disclosure and restrict attendance at meetings only on the grounds specified in —

(1) Section 552(b)(1) of 5 U.S.C., which applies to matter specifically required by executive order to be kept secret in the interest of the national defense or foreign policy. This section shall be interpreted to include matter protected under Executive Order 11652 of March 8, 1977 (3 CFR 1971-1975 Comp. p. 678), establishing categories and criteria for classification, and

(2) Section 552(b)(3) of 5 U.S.C., which applies to matter specifically exempted for disclosure by statute.

[FR Doc. 79-38028 Filed 12-11-79; 8:45 am]  
BILLING CODE 6710-01-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[FRL 1373-1]****Ohio; Approval and Promulgation of Implementation Plans****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

**SUMMARY:** U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO<sub>2</sub>) for Columbus and Southern Ohio Electric Company's Poston Power Plant. The revision is requested in order to implement an alternative strategy in which two 200-foot exhaust stacks have been replaced by a single 500-foot stack which is in conformance with "Good Engineering Practice" stack height design. USEPA further proposes to temporarily suspend the October 19, 1979 compliance date established by the Ohio State Implementation Plan for sulfur dioxide pending final rulemaking on the proposed revision to that implementation plan for the Columbus & Southern Ohio Electric Company's Poston Power Plant. In no case will the compliance date be later than June 17, 1980. It is the opinion of Region V that this revision to the Ohio State Implementation Plan should be approved. The purpose of this notice is to invite public comment on USEPA's proposed revision to the Ohio State Implementation Plan.

**DATE:** Comments must be received on or before January 11, 1980. Requests for a public hearing on this revision must be received no later than December 27, 1979.

**ADDRESSES:** Comments and requests for a hearing should be submitted to: Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6030.

The docket #5A-79-5 for this revision is on file at the above address and at: Central Docket Section, Room 2903B, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The docket may be inspected and copied during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Patricia Powell, Assistant Regional Counsel, U.S. Environmental Protection



Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-8062.

**SUPPLEMENTARY INFORMATION:** This proposed rule is an amendment to the federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO<sub>2</sub>). The revision is specifically for the Columbus & Southern Ohio Electric Company's Poston Power Plant.

On August 27, 1976, [41 CFR 36324] the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the SIP for the control of SO<sub>2</sub> for the State of Ohio. On September 19, 1978, Columbus & Southern requested a revision of the federally promulgated sulfur dioxide (SO<sub>2</sub>) plan as it applies to Columbus & Southern Ohio Electric's Poston Generating Station in Athens, Ohio. Columbus & Southern Ohio Electric submitted additional information on February 16, March 9, and March 30, 1979.

Columbus & Southern Ohio Electric Company has replaced two 200-foot exhaust stacks with a single 500-foot stack to service Poston's Units 1 through 4. This new stack is a result of a consent and abatement order issued by the Ohio EPA in April of 1975 which required that Columbus & Southern build a 500-foot stack in order to prevent aerodynamic downwash caused by turbulent interference from housing units 5 and 6.

Columbus & Southern submitted an alternative strategy using the CRSTER computer modeling utilizing 5 years of meteorological data from 1970 through 1974 for Huntington, West Virginia for both surface and upper air. The 500-foot stack presently serves units 1 through 4 with an emission limitation of 7.90 lbs. of SO<sub>2</sub> per million BTU. The stack serving units 5 and 6 were modeled to conform to a Good Engineering Practice of 600 feet and at emission levels subject to the New Source Performance Standards. The strategy will attain and maintain the ambient air quality standards.

Since final rulemaking has not occurred, it would be inequitable to require Columbus & Southern to meet the 3.94 emission limitation which is now in existence, because USEPA is now proposing a 7.90 emission limitation for units 1 through 4 based on a modeling analysis that incorporates the use of the 500 foot stack that is presently serving units 1 through 4.

Requiring Columbus to comply with the existing emission limitation based on a stack configuration which is no longer utilized by the Poston facility could cause possible economic disruption due to fuel switching by

Columbus & Southern from high sulfur coal to lower sulfur coal. Fuel switching could affect the employment of miners and disrupt Ohio coal production. The economic dislocation in the mining areas due to fuel switching is unwarranted since compliance with existing limitations would not serve a benefit if the emission limitations are revised as we are proposing. Therefore, for the above reasons we are proposing suspending the October 19, 1979, compliance date in addition to revising the emission limitations. In no case will the compliance date be later than June 17, 1980. Final promulgation of this revision will follow an analysis of any comments submitted and will depend on consistency with section 110 of the Clean Air Act. Comments are being solicited.

**Note.**—The USEPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

#### Subpart KK—Ohio

1. Section 52.1881 is amended by revision paragraph (b)(14) as follows:

##### § 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

(14) In Athens County:

(ii) The Columbus & Southern Ohio Electric Company or any subsequent owner or operator of the Poston Power Plant in Athens County, Ohio shall not cause or permit the emission of sulfur dioxide from the 500 foot stack serving units 1 through 4 at the Poston Power Plant in excess of 7.90 pounds of sulfur dioxide per million BTU actual heat input. The stack serving units 5 and 6 is subject to New Source Performance Standards and is limited to 1.2 pounds of sulfur dioxide per million BTU of actual heat input.

(iii) (Reserved).

Dated: November 29, 1979.

John McGuire,  
Regional Administrator.

[FR Doc. 79-38027 Filed 12-11-79; 8:45 am]

BILLING CODE 6560-01-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1036

[Ex Parte 252 (Sub 5)]<sup>1</sup>

#### Elimination of Incentive Per Diem Charges

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is considering whether the incentive per diem (IPD) charges on boxcars and gondolas prescribed in 49 CFR Part 1036 should be eliminated, maintained or modified. Interested parties should comment on:

(a) The effectiveness of the IPD program for plain boxcars, XF boxcars, and plain gondolas,

(b) IPD's effect on rail car shortages, fleet size, and railroad system efficiency,

(c) Whether the incentive per diem (IPD) program should be eliminated or modified based on the full implementation of the revised car-hire formula adopted in Ex Parte No. 334, *Car Service Compensation—Basic Per Diem Charges*.

It has been suggested that the Commission's IPD program has not accomplished the goals it was designed to achieve.

**DATES:** Statements of intent to participate (an original and one copy) should be filed no later than December 19, 1979. Parties actively participating will be required (1) to file an original and 15 copies with the Commission and (2) to serve on all parties appearing on the service list a copy of all written representations. A service list will be sent to all parties in sufficient time to enable them to comply with the filing deadline. Opening written representations should be filed with the Commission on or before February 11, 1980. Replies should be filed on or before 20 days thereafter.

**ADDRESSES:** An original and 15 copies of comments, marked "Ex Parte No. 252 (Sub-No. 5)" should be sent to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:** Richard Felder, (202) 275-7893.

**SUPPLEMENTAL INFORMATION:** The Board of Directors of the Association of

<sup>1</sup>This proceeding embraces Ex Parte No. 334, *Car Service Compensation—Basic Per Diem Charges*, Ex Parte No. 252 (Sub-No. 1), *Incentive Per Diem Charges (1968) and XF Cars*, and Ex Parte No. 252 (Sub-No. 2), *Incentive Per Diem Charges—Gondolas*.

American Railroads and the American Short Line Railroad Association filed a petition on August 2, 1979, seeking the institution of a rulemaking proceeding to eliminate all IPD charges, rules, and regulations in 49 CFR Part 1036.

A number of letters and petitions requesting institution of or intervention in this proceeding have been received. Preliminary views appear to differ widely. For example, the proposal is endorsed by some boxcar shippers but opposed by some gondola shippers. One carrier suggests that the American Short Line Railroad Association's Board of Directors has acted against the wishes of its membership in sponsoring the August 2 petition. Another carrier supports the AAR-ASLRA petition at the same time that it is intervening in a court proceeding to support our decision extending IPD to gondolas.

The petition offers two basic reasons for eliminating IPD. First, IPD has not been effective, and second, it is alleged that revised basic car hire charges established in *Car Service Compensation—Basic Per Diem Charges*, 361 I.C.C. 189 (1979) will provide sufficient incentive to encourage the purchase, acquisition, and efficient utilization of freight cars without the levying of IPD charges. These concerns of the railroad industry and our previously announced intention to review the IPD program, *Car Service Compensation—Basic Per Diem Charges*, *supra*, at 195, are more than ample grounds to institute this proceeding. An added factor is the recent completion of a study of the IPD program by our Office of Policy and Analysis. That staff study, along with comments on the study, prepared by several other Commission offices, is being released to the public to coincide with the institution of this proceeding. These documents are intended to highlight many of the issues which we will explore in this rulemaking. Copies may be obtained from the Office of the Secretary, Publications (Room 2229) Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7307.

The petitioners have raised the critical issue of the effectiveness of the IPD program. They are not convinced that the program has achieved the goals it was designed to accomplish. They question whether IPD is needed to stimulate the purchase of equipment in view of the June 1, 1979 backlog of 125,354 cars on order with car builders. This is the highest level since December 1, 1958. In the area of car utilization and distribution they note the dramatic decline in the number of trips per year

each car has made over the ten-year life of the IPD program. Plain unequipped boxcars made 17.4 trips in 1969 and only 12.0 trips in 1978. During the same period, equipped boxcars, which are not subject to IPD charges, experienced a decline from 15.3 trips to 14.0 trips per year. It is the petitioners' belief that the IPD program's most demonstrable effect has been the rapid empty movement of cars off line to minimize IPD costs. Without IPD, they envision more cars being loaded and placed in return revenue service. Deterioration of freight car utilization appears not to be limited to those car types subject to IPD. Accordingly, the comments should try to isolate the impact of IPD on car utilization and distribution.

We are extremely concerned by the railroad industry's perception of the effectiveness of the IPD program. The bulk of this proceeding will be devoted to evaluating the public response to the railroad industry's assessment of IPD. We are particularly interested in receiving comments which analyze the costs and benefits of the IPD program to the railroad industry and to the public.

The comments should specifically address the adequacy of revised basic per diem charges and the idea that IPD charges are not necessary to stimulate investment in cars found to be in short supply. Revised basic per diem charges include a cost of capital component of 11.94%. The combined interest rate provided by basic per diem and incentive per diem is 20% on gondolas, 24% on XF boxcars, and 18% on XM boxcars. Petitioners are concerned that the combined charges are resulting in a transfer of income from railroads to outside investors at levels beyond what is required to induce investment in railroad equipment.

We are prepared to eliminate our IPD regulations in the public comments persuade us that the IPD program should not be continued. To prepare for this possibility comments should be submitted concerning the disposition of earmarked IPD funds. While this proceeding is pending, we intend to continue to process matters which relate to the IPD program. Ex Parte No. 252 (Sub-No. 3), *Use of Incentive Per Diem Funds*, served April 21, 1978, and Ex Parte No. 252 (Sub-No. 4) *Level of Incentive Per Diem Charges*, served October 11, 1979, will be decided in the near future. We approach this proceeding with an open mind and the intention to adopt changes in the IPD program or order its elimination if these options are appropriate. We will, of course, continue the judicial defense of

our decision to impose IPD on gondolas in the interim.

This proceeding does not appear to be a major Federal action significantly affecting the quality of the human environment or the consumption of energy. However, comments on environment on environment issues, if any, should be filed in response to this notice.

[49 U.S.C. 11122, 5 U.S.C. 553.]

Decided: November 29, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Commissioner Christian not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-38074 Filed 12-11-79; 8:45 am]

BILLING CODE 7035-01-M

### 49 CFR Parts 1060 and 1082

[Ex Parte No. 372]

#### Notice to Shippers of Freight Refused or Unclaimed at Destination

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Commission proposes to adopt rules requiring motor common carriers of property and freight forwarders to notify shippers by wire, within specified time limits, when freight is refused or unclaimed at destination. The purpose of the proposal is to prevent the accrual of unnecessary storage charges, to expedite the release of carrier equipment, and to conserve carrier terminal and warehouse space.

**DATES:** Interested persons may submit written comments on or before January 28, 1980.

**ADDRESS:** Send comments and 10 copies, if possible, to: Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:** Martin E. Foley, (202) 275-7348.

**SUPPLEMENTARY INFORMATION:** At the present time the Commission has no regulations which govern notifying shippers that their freight has been refused or unclaimed. Although rail carriers have long held themselves out to notify consignors by wire within 24 hours of a shipment's refusal, most motor common carriers and forwarders hold themselves out only to make a "diligent effort" to notify them. Their tariffs, in many cases, do not explicitly state that this effort will be made by any certain method (or within any specified period of time); but the customary



method of notification consists of mailing—either by regular, certified or registered mail—a Notice of Refused or Undelivered Freight.

Under the present postal service, these notices may not reach their destination until several days, and sometimes weeks, after they are mailed. Nevertheless, motor carrier and forwarders tariffs almost uniformly stipulate that refused and unclaimed freight will be considered stored "immediately" and that storage charges will begin to accrue the first 7:00 a.m. after the date of mailing.

The effects of these provisions are threefold: First, they insure that storage charges begin to accumulate before the onhand notice is even received by the shipper, effectively eliminating any free time for the owner to give further disposition advice to the carrier; second, they shift the carrier's liability from that of a common carrier (insurer of the goods) to that of a warehouseman (for negligence only) as soon as the shipment is refused or becomes otherwise undeliverable; third, carrier equipment and dock space is needlessly tied up while awaiting disposition from the consignor.

To counteract the unnecessary accrual of storage charges, shippers have tried various tactics—from printing "contingency" disposition instructions on bills of lading and shipping labels to issuing blanket letters authorizing carriers to return all refused shipments without waiting for notification and written disposition. The carriers, in turn, have negated these efforts with tariff rules which declare that such methods will not be recognized as authority to return or re consign undelivered or refused shipments. In Docket No. 36820, *Disposition of Undelivered Freight, Eastern Central Carriers* (no print), decided October 16, 1978, Review Board No. 4 found that such rules were just, reasonable and otherwise lawful. As a result, it is a virtual impossibility for a shipper whose freight has been refused or unclaimed to avoid paying storage charges.

The rules proposed in the appendix to this notice are designed to balance these "instant" storage provisions with a mandatory notification process that is both prompt and inexpensive. Basically, the rules would require carriers to notify the shipper within 24 hours after a shipment's refusal. Where refusal is not involved but unclaimed freight is still on hand at destination after three days, the notice would, have to be transmitted within 24 hours of the three-day period's expiration. These notices would be required to be transmitted by "wire", which encompasses, for our purposes here, all

methods of electronic communication. The rules also provide for a waiver of storage charges (when the carrier fails to send notice as required) and for appropriate tariff publication.

The anticipated effects of the proposed rules, if adopted are: (1) The prevention of unnecessary storage charge accrual; (2) the prompt release of carrier equipment; and (3) the conservation of carrier terminal and warehouse space now used to house refused and unclaimed shipments awaiting disposition. By decreasing the time that shipments are held in storage, the rules should also reduce the likelihood of loss and damage occurring to those shipments.

While the rules in some instances could increase carrier notification costs, they could reduce them in others. For example, the cost of mailing a certified letter from Washington, D.C. to New York City is \$1.40 if a return receipt is requested. The cost for a registered letter is \$3.15. A mailgram, however, which would comply with the proposed rules, can be sent for \$2.95. The cost of a direct-dialed three-minute telephone call during regular business hours is only 71 cents (excluding tax).

In many cases, compliance with the rules would require neither a telegram, a mailgram nor a long-distance telephone call, since almost all carriers' terminals and offices are equipped with teletype, telex, "long" lines, or other in-house communications devices. On refused or unclaimed single-line shipments the carrier's destination agent could transmit the information by one of these devices to its origin agent, who in turn could notify the shipper by a local telephone call.

While some motor carrier and forwarder tariffs now allow for notification by "telegraph" in certain instances, this will usually be done only upon specific shipper requests and at shipper expense. Rail carriers, on the other hand, have traditionally borne the cost of wire notification themselves. Since the benefits of prompt notification accrue to the carrier as well as to the shipper, the proposed rule makes no provision for the expense of notification to be passed on to consignors.

This rulemaking proceeding is instituted under the authority of sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and section 10321 of Subtitle IV (49 U.S.C. 10321).

This decision does not appear to affect significantly the quality or the human environment of energy consumption.

We propose to adopt the rules set forth in the appendix to this notice.

Decided: November 16, 1979.

By the Commission, Chairman O'Neil, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Commissioners Trantum and Gaskins dissenting.

Agatha Mergenovich,  
Secretary.

#### Commissioner Trantum, Dissenting

I vote to reject the draft notice.

While I recognize the concerns of the Bureau of Traffic, and indeed of shippers, I find the stated intention difficult to reconcile with economic fact. If electronic communication is both cheaper and faster than the mail, carriers in a competitive environment will necessarily begin to use it or suffer a cost disadvantage. Moreover, given a choice, shippers will prefer those carriers whose "diligent efforts" are considerable and adequate to those whose are not. Thus, our intent to encourage carriers (a) to notify shippers, and (b) to use electronic means to do so would appear to be achieved most effectively by continuing our efforts to introduce more competition into the trucking industry.

#### Commissioner Gaskins, Dissenting

I vote to reject the draft notice.

I am not convinced that the actions of a Director General taken 60 years ago in regulating another transportation mode form any basis at all for this proposal. Notification of unclaimed shipments is an aspect of good service. Putting household goods movements aside, it seems that shippers can recognize bad service when confronted with it and have the solution right at hand—move their business to another carrier. This proposal to directly regulate particular aspects of service seems unnecessary and incongruous in light of the Commission's apparent intention to rely more heavily on competition to ensure adequate service.

#### Appendix.—Proposed Rules

The Commission proposes to amend Chapter X, Subchapter A, of Title 49 of the Code of Federal Regulations, by adding Parts 1060 (Motor Carriers) and 1082 (Freight Forwarders) to read as follows:

#### PART 1060—NOTICE TO CONSIGNORS OF FREIGHT REFUSED OR UNCLAIMED AT DESTINATION

Sec.

- 1060.1 Notice by wire required.
- 1060.2 Failure to send required notice.
- 1060.3 Tariff requirements.
- 1060.4 Bills of lading conditions.

Authority: Secs. 553, 559, Administrative Procedure Act (5 U.S.C. 553, 559); sec. 10321 of Subtitle IV (49 U.S.C. 10321)

##### § 1060.1 Notice by wire required.

(a) When freight is refused or unclaimed at destination, notice to that effect shall be transmitted by wire to the consignor or owner within the time limitations set forth in paragraphs (b)

and (c) of this section. For the purposes of applying this rule, the term "wire" shall be construed to mean any form of electronic communications, including telephone, telegram, teletype, telex and mailgram. If notice is transmitted by telephone, a written record shall be maintained by the carrier.

(b) *Refused Freight.* When freight is refused at destination, a notice to that effect shall be transmitted as required by paragraph (a) of this section within 24 hours (exclusive of Saturdays, Sundays and legal holidays) after the carrier is advised of refusal.

(c) *Unclaimed Freight.* When freight is unclaimed or undeliverable at destination through no fault of the carrier and remains on hand undelivered at the expiration of three days (exclusive of Saturdays, Sundays and legal holidays) after the date notice of arrival has been sent or given to the consignee, a notice to that effect shall be transmitted as required by paragraph (a) of this section within 24 hours of the three day period's expiration.

##### § 1060.2 Failure to send required notice.

When a carrier fails to send the consignor the required notice of refused or unclaimed freight, the consignor shall not be charged storage from the first 7:00 a.m. after the notice should have been sent to the first 7:00 a.m. following the date notice is actually sent: *Provided*, That if, through error, the required notice is transmitted by mail instead of by wire, this waiver of liability for storage charges shall be terminated with the date the mailed notice is received by the consignor.

##### § 1060.3 Tariff requirements.

All motor common carriers of property subject to 49 U.S.C. 10521 *et seq.*, shall publish notification rules in their tariffs consistent with the regulations in this section.

##### § 1060.4 Bills of lading conditions.

Nothing in this part shall be construed as waiving or nullifying the conditions of the bill of lading contract with respect to the disposition of refused or unclaimed freight.

#### PART 1082—NOTICE TO CONSIGNORS OF FREIGHT REFUSED OR UNCLAIMED AT DESTINATION

Sec.

- 1082.1 Notice by wire required.
- 1082.2 Failure to send required notice.
- 1082.3 Tariff requirements.
- 1082.4 Bills of lading conditions.

Authority: Secs. 553, 559, Administrative Procedure Act (5 U.S.C. 553, 559); sec. 10321 of Subtitle IV (49 U.S.C. 10321)

##### § 1082.1 Notice by wire required

(a) When freight is refused or unclaimed at destination notice to that effect shall be transmitted by wire to the consignor or owner within the time limitations set forth in paragraphs (b) and (c) of this section. For the purposes of applying this rule, the term "wire" shall be construed to mean any form of electronic communications, including telephone, telegram, teletype, telex and mailgram. If notice is transmitted by telephone, a written record shall be maintained by the forwarder.

(b) *Refused Freight.* When freight is refused at destination, a notice to that effect shall be transmitted as required by paragraph (a) of this section within 24 hours (exclusive of Saturdays, Sundays and legal holidays) after the freight forwarder is advised of refusal.

(c) *Unclaimed Freight.* When freight is unclaimed or undeliverable at destination through no fault of the freight forwarder and remains on hand undelivered at the expiration of three days (exclusive of Saturdays, Sundays and legal holidays) after the date notice of arrival has been sent or given to the consignee, a notice to that effect shall be transmitted as required by paragraph (a) of this section within 24 hours of the three-day period's expiration.

##### § 1082.2 Failure to send required notice.

When a freight forwarder fails to send the consignor the required notice of refused or unclaimed freight, the consignor shall not be charged storage from the first 7:00 a.m. after the notice should have been sent to the first 7:00 a.m. following the date notice is actually sent: *Provided*, That if, through error, the required notice is transmitted by mail instead of by wire, this waiver of liability for storage charges shall be terminated with the date the mailed notice is received by the consignor.

##### § 1082.3 Tariff requirements.

All freight forwarders subject to 49 U.S.C. 10561 shall publish notification rules in their tariffs consistent with the regulations in this section.

##### § 1082.4 Bills of lading conditions.

Nothing in this part shall be construed as waiving or nullifying the conditions of the bill of lading contract with respect to the disposition of refused or unclaimed freight.

[FR Doc. 79-38076 Filed 12-11-79; 8:45 am]

BILLING CODE 7035-01-W

#### 49 CFR Part 1127

##### [Ex Parte 293 (Sub-2)]

#### Standards for Determining Rail Service; Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Rail Service Planning Office (RSPO) is withdrawing the proposed amendment to the Standards for Determining Rail Service Continuation Subsidies (Standards), which would have altered the method for assigning of fringe benefit costs for train and engine employees. After conducting further analysis and after reviewing the comments received, RSPO believes that the proposed amendment would not provide the intended improvement in the accuracy of the assignment of fringe benefit costs.

EFFECTIVE DATE: December 7, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Wells, 202-275-7283.

SUPPLEMENTARY INFORMATION: On September 19, 1979 (44 FR 54324), RSPO published a proposed amendment to the Standards that would have modified the assignment of fringe benefit costs for train and engine employees. The fringe benefit costs, for these employees, would have been allocated to a branch line based solely upon straight time and overtime wages paid and would have excluded any constructive allowance payments.

Comments on the proposed amendment were received from the New York State Department of Transportation (NY DOT), Consolidated Rail Corporation (Conrail), and the Maryland Department of Transportation (MD DOT). Conrail and NY DOT indicated that RSPO had not established that a change in the assignment of fringe benefit costs was necessary. MD DOT supported the proposed amendment.

As noted in the report accompanying the proposed amendment, RSPO believed that a change in the basis of assignment of fringe benefit costs was necessary in order to preclude the assignment of greater fringe benefit costs to a branch line than were actually incurred by the carrier. The overassignment could occur in the operation of a subsidized line where employees are entitled to substantial payments for constructive allowances. There are situations where crew members may receive, in addition to their normal daily wages, as much as eight hours extra pay for deadheading. In such a situation, the current



methodology could result in the assignment of fringe benefit costs in excess of those actually incurred, assuming that an employee's total monthly compensation, including constructive allowances, exceeds the \$1,908 maximum taxable base for railroad retirement. However, some crew members are not continuously employed during a month. Consequently, these employees may not receive total compensation, including constructive allowances, in excess of \$1,908, and their fringe benefit costs would be understated if the assignment were based solely on straight time and overtime compensation.

RSPO has no desire to provide a remedy for one problem while creating another and consequently is withdrawing the proposed amendment until such time as more data and information are developed that would result in a practical resolution of this problem.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

This withdrawal of the proposed rule is published under the authority of 49 U.S.C. 10362.

Issued: December 7, 1979 by Alexander Lyall Morton, Director, Rail Services Planning Office.

By the Commission.  
Agatha Mergenovich,  
Secretary.

[FR Doc. 79-38075 Filed 12-11-79; 8:45 am]  
BILLING CODE 7035-01-M

## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### DEPARTMENT OF AGRICULTURE

#### Federal Grain Inspection Service

##### Limited Interim Exemption From Mandatory Inspection and Weighing Requirements

**AGENCY:** Federal Grain Inspection Service (FGIS).

**ACTION:** Notice of limited exemption from the mandatory inspection and weighing requirements.

**SUMMARY:** Notice is given that a 15,000 metric-ton interim exemption from the mandatory grain inspection and weighing requirements of section 5 of the United States Grain Standards Act, as Amended (7 U.S.C. 71, *et seq.*, hereafter the "Act"), will again be available during calendar year 1980 to exporters who in 1979 exported less than 15,000 metric tons of grain from the United States, provided certain requirements are met.

**EFFECTIVE DATE:** January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, U.S. Department of Agriculture, FGIS, Compliance Division, Washington, D.C. 20250, telephone (202) 447-9300.

**SUPPLEMENTARY INFORMATION:** The Federal Grain Inspection Service has again decided to grant, on an interim basis, a limited exemption from the mandatory inspection and weighing requirements of section 5 of the Act. The provisions for this exemption will terminate on December 31, 1980, or upon the effective date of regulations implementing Public Laws 94-583 and 95-113 which amended the Act (7 U.S.C. 71, *et seq.*). These regulations were proposed in the Federal Register on March 2, 1979 (44 FR 11920). The exemption will apply for the first 15,000 metric tons of grain exported from the United States during the 1980 calendar year by an exporter who qualifies under the conditions hereinafter set out.

Exemptions granted to exporters during 1979 expire on December 31, 1979. These exporters who qualify and would like to avail themselves of the exemption during 1980 must reapply for the exemption as hereinafter set out.

To be eligible to apply for this interim exemption, an exporter must have exported less than 15,000 metric tons of grain during the 1979 calendar year and must have exported less than 15,000 metric tons of grain from the United States prior to the date of request during the 1980 calendar year. For the purposes of this Notice, the term "exporter" means:

(1) Any grain elevator, warehouse, or other storage or handling facility that loads or ships any bulk or sacked grain in a final carrier or container in which the grain is to be transported from the United States; or

(2) Any person who acquires ownership of grain and thereafter directly exports the grain or causes the grain to be directly exported from the United States without further handling of the grain by a grain elevator, warehouse, or other grain storage or handling facility.

A request for interim exemption shall be filed in writing with FGIS by the exporter. The request must contain a statement showing the total quantity of grain exported during the 1979 calendar year and the total quantity of grain exported to date during the 1980 calendar year. Upon review by FGIS, the applicant will be notified of approval or denial of the exemption.

Reporting requirements on shipments by exporters have been modified. FGIS will no longer require notification by telephone of each shipment and will no longer require information on the approximate date the shipment will leave the United States.

For each shipment under the exemption, the following information shall be submitted in writing to FGIS by or on the day of loading:

1. The kind and quantity of grain to be shipped.
2. Type of shipment (bulk, sacked, containerized).
3. Name and location of the facility from which the grain is being shipped (include FGIS control number assigned to the facility).
4. Date of loading of shipment.
5. Point of export.
6. Destination of shipment.

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7. Identification of shipment, which shall include either railcar number(s), truck or trailer license number(s), container number(s), or name of the export vessel (as applicable).

This information shall be forwarded to the U.S. Department of Agriculture, FGIS, Compliance Division, Washington, D.C. 20250, telephone (202) 447-9300.

Exporters using this interim exemption must also:

1. Maintain complete records of all export shipments, including the exempted shipments.

2. Make these records available to FGIS upon request for verification purposes.

The exemption from official weighing for truck and rail shipments of grain exported into Canada from other than export port locations, published in the Federal Register dated October 20, 1978, shall not be affected by any of the provisions in this Notice. (See Federal Register, Vol. 43, No. 204, page 49027).

Date: December 7, 1979.

D. R. Gallart,

Acting Administrator.

BILLING CODE 3410-02-M

### Forest Service

#### AMAX Inc., Proposed Molybdenum Mining and Milling Operation, Gunnison National Forest, Gunnison County, Colo.; Public Meetings To Review and Comment on the Scope of the AMAX, Inc., Mt. Emmons Project Environmental Impact Statement

The Department of Agriculture, Forest Service shall hold meetings for the public to review and comment on the scope of the Mt. Emmons Project Environmental Impact Statement.

Meetings will be held at the following locations and times:

Gunnison, CO.; County Courthouse, 201 W. Virginia Ave., Commissioner's Meeting Room, January 10, 1980, 1:30-3:30 p.m.  
Denver, CO.; Jefferson County Library, 10200 W. 20th Ave., January 14, 1980, 7:00-9:00 p.m.  
Crested Butte, CO.; Town Hall, 308 3rd St., January 16, 1980, 7:00-9:00 p.m.  
Paonia, CO.; Moller Memorial Hall, Grand Ave., January 17, 1980, 7:00-9:00 p.m.

Principal topics to be addressed are: (1) Public Issues; (2) Coordination with other Agencies; (3) Environmental Analysis Schedule; (4) Standards and Criteria; and (5) Air Quality Related



Values, Land Exchange, and Electrical Power Supply.

A preliminary scoping paper will be available to the public and cooperating agencies in late December, 1979. Copies of the paper or additional information can be obtained by contacting: Mt. Emmons Project Team Leader, 216 N. Colorado, Gunnison, Colorado, 81230, (303) 641-0471.

Written comments concerning the scope of the proposed project are encouraged. These should be sent to: Jimmy R. Wilkins, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests, 11th and Main, Delta, Colorado, 81416. Comments should be submitted by January 25, 1980.

Dated: November 30, 1979.

Jimmy R. Wilkins,  
Forest Supervisor.

Nels A. Arneson,  
Acting Forest Supervisor.

[FR Doc. 79-38092 Filed 12-11-79; 8:45 am]  
BILLING CODE 3410-11-M

#### Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet at 10:00 a.m., January 22, 1980, at the Federal Building, Room 7X, 301 W. Congress, Tucson, Arizona. The purpose of this meeting is to discuss allotment management planning and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602-792-6418. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

K.R. Weissenborn,  
Forest Supervisor.

November 29, 1979.  
[FR Doc. 79-37972 Filed 12-11-79; 8:45 am]  
BILLING CODE 3410-11-M

#### CIVIL AERONAUTICS BOARD

[Docket 37199]

#### American Airlines, Inc., Civil Penalties for Violations of Part 250; Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Chief Judge Joseph J. Saunders.

Dated at Washington, D.C., December 8, 1979.

Joseph J. Saunders,  
Chief Administrative Law Judge.

[FR Doc. 79-38101 Filed 12-11-79; 8:45 am]  
BILLING CODE 6320-01-M

[Order 79-12-17; Docket 37221]

#### Atlanta-Chicago/Rockford Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-12-17, The Atlanta-Chicago/Rockford Show Cause Proceeding, Docket 37221.

SUMMARY: The Board is proposing to grant Atlanta-Chicago/Rockford unrestricted nonstop authority to Republic Airlines, Inc., and any other fit, willing and able applicant, the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than January 14, 1980, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections, (additional data:) All existing and further applicants who have not filed (A) illustrative service proposals, (B) environmental evaluations, and (C) estimates of fuel to be consumed in the first year are directed to do so no later than December 27, 1980.

ADDRESSES: Objections to issuance of a final order should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 37221, which we have entitled the Atlanta-Chicago/Rockford Show Cause Proceeding.

FOR FURTHER INFORMATION CONTACT: Lucille J. Mellema, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673-5105.

SUPPLEMENTARY INFORMATION: Objections should be served upon: Republic Airlines, Inc., the Michigan Aeronautics Commission, the mayors of the cities of Atlanta, Chicago, and Rockford, the Governors of the States of Georgia, Illinois and Michigan, the Departments of Transportation and the Aviation Administrations of the States of Georgia, Illinois and Michigan, and the managers of Chicago Midway Airport, Chicago O'Hare Airport and Greater Rockford Airport.

The complete text of Order 79-12-17 is available from our Distribution

Section, Room 516, 1825 Connecticut Avenue, N.W. Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Bureau of Domestic Aviation:  
December 5, 1979.

Phyllis T. Kaylor,  
Secretary.

[FR Doc. 79-38102 Filed 12-11-79; 8:45 am]  
BILLING CODE 6320-01-M

[Dockets 33361, 32645, and 32646]

#### Former Large Irregular Air Service Investigation; (Application of Royal Air Service, Inc.)

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 22, 1980, at 9:30 a.m. (local time), in Courtroom 203B, United States Court House and Federal Building, 299 East Broward Boulevard, Ft. Lauderdale, Florida, before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 5, 1979.

Marvin H. Morse,  
Administrative Law Judge.

[FR Doc. 79-38100 Filed 12-11-79; 8:45 am]  
BILLING CODE 6320-01-M

#### COMMISSION ON CIVIL RIGHTS

##### Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 7:00 p.m., on January 9, 1980, at the Third World Center, 115 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to continue work on planning conference and the census project.

This meeting will be conducted pursuant to the provision of the Rules and Regulations of the Commission

Dated at Washington, D.C., December 7, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-38043 Filed 12-11-79; 8:45 am]  
BILLING CODE 6335-01-M

#### DEPARTMENT OF COMMERCE

##### Industry and Trade Administration

##### Computer Systems Technical Advisory Committee; Changed Meeting

The meeting of the Computer Systems Technical Advisory Committee scheduled for Wednesday, December 19, 1979, has been rescheduled for Wednesday, January 9, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. The agenda and other information relating to the Committee meeting, as published in the Federal Register (44 FR 68503) on Thursday, November 29, 1979, remain unchanged.

Dated: December, 7 1979.

Kent Knowles,

Director, Office of Export Administration,  
Bureau of Trade Regulation.

[FR Doc. 79-38118 Filed 12-11-79; 8:45 am]  
BILLING CODE 3510-25-M

##### Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Changed Meeting

The meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee scheduled for Tuesday, December 18, 1979, has been rescheduled for Tuesday, January 8, 1980, at 1:30 p.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW, Washington, D.C. The agenda and other information relating to the Subcommittee meeting, as published in the Federal Register (44 FR 68003) on Wednesday, November 28, 1979, remain unchanged.

Dated: December 7, 1979.

Kent Knowles,

Director, Office of Export Administration,  
Bureau of Trade Regulation.

[FR Doc. 79-38119 Filed 12-11-79; 8:45 am]  
BILLING CODE 3510-25-M

##### Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Changed Meeting

The meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee scheduled for Tuesday, December 18, 1979, has been rescheduled for Tuesday, January 8, 1980, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. The agenda and other information relating to the Subcommittee meeting, as published in the Federal Register (44 FR 67489) on Monday, November 26, 1979, remain unchanged.

Dated: December 7, 1979.

Kent Knowles,

Director, Office of Export Administration,  
Bureau of Trade Regulation.

[FR Doc. 79-38117 Filed 12-11-79; 8:45 am]  
BILLING CODE 3510-25-M

##### National Oceanic and Atmospheric Administration

##### Issuance of Permit To Take and Import Endangered Species

On October 15, 1979, Notice was published in the Federal Register (44 FR 59262), that an application had been filed with the National Marine Fisheries Service by Dr. Howard E. Winn, Graduate School of Oceanography University of Rhode Island, Kingston, Rhode Island 02881, for a Scientific Research and Scientific Purposes permit to take 50 humpback whales by biopsy dart sample, to import specimen materials from 25 humpback whales taken in the aboriginal hunt in Bequia, to import specimen materials from humpback whales found dead, and to perform acoustic and underwater observations which may cause potential harassment to 60 individuals.

Notice is hereby given that on December 7, 1979, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit, as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), and the Endangered Species Act (16 U.S.C. 1531-1543) to Dr. Howard E. Winn subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the

Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries,  
National Marine Fisheries Service, 3300  
Whitehaven Street, N.W., Washington,  
D.C.;  
Regional Director, National Marine Fisheries  
Service, Southwest Region, 300 South Ferry  
Street, Terminal Island, California 97031;  
Regional Director, National Marine Fisheries  
Service, Northeast Region, 14 Elm Street,  
Federal Building, Gloucester,  
Massachusetts 01930;  
Regional Director, National Marine Fisheries  
Service, Southeast Region, 9450 Koger  
Boulevard, St. Petersburg, Florida 33702;  
Regional Director, National Marine Fisheries  
Service, Northwest Region, 1700 Westlake  
Avenue, North, Seattle, Washington 98109;  
and  
Regional Director, National Marine Fisheries  
Service, Alaska Region, P.O. Box 1668,  
Juneau, Alaska 99802.

Dated: December 7, 1979.

Winfred H. Meibohm,

Executive Director, National Marine  
Fisheries Service.

[FR Doc. 79-38105 Filed 12-11-79; 8:45 am]  
BILLING CODE 3510-22-M

##### Issuance of Permit

On October 30, 1979, Notice was published in the Federal Register (44 FR 62323), that an application had been filed with the National Marine Fisheries Service by Dr. David C. Schneider and Ms. Ann F. Mason, Manomet Bird Observatory, Box 936, Manomet, Massachusetts 02345, to take by marking up to 200 harbor seals (*Phoca vitulina*) for the purpose of scientific research.

Notice is hereby given that on December 7, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Dr. Schneider and Ms. Mason, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.



Dated: December 7, 1979.  
**Winfred H. Meibohm,**  
*Executive Director, National Marine Fisheries Service.*  
 [FR Doc. 79-38106 Filed 12-11-79; 8:45 am]  
**BILLING CODE 3510-22-M**

#### Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name: Dr. Daniel P. Costa, (b) Address: Scripps Institute of Oceanography, La Jolla, California 92093.

2. Type of Permit: Scientific Research.  
 3. Name and Number of Animals: Northern elephant seals (*Mirounga angustirostris*) 25.

4. Type of Take: Blood samples will be collected from 15 lactating females to study changes in blood metabolites during fasting. Five lactating females will be injected with radioisotopes to follow rates of energy and water production. Blood will also be sampled from their pups to follow energy and water transfer in the pups. Those five females will also be radio-tagged to monitor their activities when they return to feeding.

5. Location of Activity: Ano Nuevo State Park, San Mateo, CA; the Farallon Islands off San Francisco, CA; or the mainland.

6. Permit of Activity: 3 years.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before January 11, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statement and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available

for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 4, 1979.

**William Aron,**  
*Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service.*

[FR Doc. 79-38103 Filed 12-11-79; 8:45 am]  
**BILLING CODE 3510-22-M**

#### [Docket No. Sub-B-38A]

#### Trans-Pacific Fish Co., et al.; Permission To Transfer Operation of Fishing and Processing Vessel

Trans-Pacific Fish Co. (a wholly owned subsidiary of Trans-Pacific International Industries, Inc.), Sjong Enterprises, Inc., Uri Enterprises, Inc., Hasting Enterprises, Inc. (State of Washington corporations), and John R. Boggs, each of whom own an undivided twenty percent interest in the fishing and processing vessel ARCTIC TRAWLER (ex SEAFREEZE ATLANTIC), have applied for permission to transfer the operation of this 267-foot, 1,593-gross-ton vessel which was constructed with the aid of a fishing vessel construction-differential subsidy pursuant to the Fishing Fleet Improvement Act, 46 U.S.C. 1401-1413 (the "Act"). The vessel is presently authorized to operate in the fishery for groundfish (consisting of cod, cusk, haddock, hake, pollock, and ocean perch), whiting, herring, squid, mackerel, and calico scallops.

The application seeks additional authority to operate in the fishery for bottomfish (consisting of true cod, ling cod, atka mackerel, cod, Pacific hake, Pacific pollock, all Pacific rockfish of the genus *sebastes* and *sebastolobus*, all Pacific flounders and sole of the genus *pleuronectidae bothidiae* (except halibut), capelin and other smelts, and sablefish in the Pacific Ocean).

The Act provides in relevant part:

The Secretary in the exercise of his discretion, after notice and a public hearing, may approve the transfer of any vessel constructed with the aid of a subsidy to another fishery . . . where he determines that such transfer would enable such vessel to operate in a newly developed fishery not yet utilized to its capacity by operators of efficient vessels.

Notice is hereby given that the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, has under

consideration approval of the applicant's request as outlined. The principal factors and conditions under consideration in reviewing the applicant's request are described below.

The ARCTIC TRAWLER's fishery would primarily be Pacific bottomfish if this change of the vessel's fishery is authorized. Applicant considers the Pacific bottomfishery to be a newly developed fishery within the meaning of the Act. United States vessels utilize only a small fraction of Pacific bottomfishery resources and the Pacific bottomfishery has been largely exploited by foreign vessels. A world market has already been developed for Pacific bottomfish, most of which is utilized by foreign fishermen and a percentage of which is subsequently imported into the United States. An increased U.S. catch and/or increased U.S. exports of Pacific bottomfish could replace imported products and/or increase U.S. exports of fisheries products. Further, the entrance of the ARCTIC TRAWLER into Pacific bottomfishing could demonstrate the willingness and capacity of U.S. vessels to compete with and displace foreign fishing effort within the U.S. Fishery Conservation Zone and its successful operation could stimulate commitment of more vessels to the development of the domestically underutilized Pacific bottomfishery. The U.S. catch of bottomfish off Alaska amounted in 1978 to approximately 1 percent of the optimum yield for bottomfish in that area of the U.S. Fishery Conservation Zone.

The applicant's request for an expanded fishery also includes capelin and other smelts and sablefish. A domestically underutilized capelin resource is reported to be available in the Bering Sea. There are no U.S. vessels presently engaged in this fishery. Any capelin harvested by the ARCTIC TRAWLER would probably be converted into fish meal. Other smelts, if any, would probably be caught incidentally in the harvesting of capelin. The domestic harvest of sablefish presently equals only 50 percent of the estimated optimum yield of sablefish in the U.S. Fishery Conservation Zone. About 30 percent of the total available sablefish resource in the U.S. Fishery Conservation Zone is presently allocated to foreign vessels.

There is presently no evidence that the operation by the applicant of the ARCTIC TRAWLER in the fishery for bottomfish (consisting of true cod, ling cod, atka mackerel, cod, Pacific hake, Pacific pollock, all Pacific rockfish of the genus *sebastes* and *sebastolobus*, all

Pacific flounders and sole of the genus *pleuronectidae bothidiae* (except halibut), capelin and other smelts, and sablefish) would cause economic hardship to the operation of U.S. vessels operating in this fishery. Present evidence indicates that this fishery is a newly developed fishery not yet utilized to its capacity by operators of domestic vessels. Based on the foregoing, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is currently reviewing this application in light of the purposes of the Act and is soliciting public comments on the merits of the application as well as the necessity for a public hearing prior to making an administrative determination about the application.

Comments should be submitted in writing to the Chief, Financial Services Division, National Marine Fisheries Service, NOAA, Washington, D.C. 20235, and received no later than January 11, 1980.

In your comments please indicate whether you desire to participate in a public hearing and, if so, the convenient location for such a hearing. No public hearing will be scheduled unless public comment indicates a significant reason for doing so.

**Winfred H. Meibohm,**  
*Executive Director, National Marine Fisheries Service.*

[FR Doc. 79-38104 Filed 12-11-79; 8:45 am]  
**BILLING CODE 3510-22-M**

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### New Export Visa and Exempt Certification System for Cotton, Wool and Man-Made Fiber Textile Products from India; Correction

In FR Doc. 79-36762, appearing at page 68504 in the issue for Thursday, November 29, 1979, paragraph four of the notice document appearing on page 68405 should have read as follows:

Effective Date: On January 7, 1980 for textile and apparel products exported on and after that date. Textile and apparel products that have been exported before January 7, 1980 and which have been visaed or certified in accordance with the previous administrative arrangement shall not be denied entry.

On page 68505, paragraph two of the letter to the Commissioner of Customs should have read as follows:

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to

the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on January 7, 1980, and until further notice, to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile and apparel products in Categories 300-369, 400-469 and 600-669, produced or manufactured in India and exported on or after January 7, 1980 which are not visaed or certified in accordance with the procedures outlined below. Merchandise exported before January 7, 1980 which has been visaed or certified in accordance with previously established procedures shall not be denied entry.

**Edward Gottfried,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-37976 Filed 12-11-79; 8:45 am]  
**BILLING CODE 3510-25-M**

#### CONSUMER PRODUCT SAFETY COMMISSION

#### Privacy Act of 1974; System of Records

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Announcement of New System of Records.

**SUMMARY:** The purpose of this document is to announce the intention of the Consumer Product Safety Commission, Directorate for Field Operations, to create a new Field Work Tracking System of Records to monitor the assignment and completion of tasks within the Directorate.

**DATES:** Comments must be received on or before February 11, 1980.

**ADDRESSES:** Comments should be sent to the Secretary Consumer Product Safety Commission, Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:** Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7770.

**SUPPLEMENTARY INFORMATION:** Many of the enforcement, data collection, and education activities of the Consumer Product Commission are performed by the thirteen Area Offices administered by the Commission's Directorate for Field Operations. The Directorate currently utilizes its computerized Field Work Tracking System to manage these activities. Whenever a task is assigned to an Area Office investigator, a record is entered into a computer on the nature of the task, the Area Office performing

it, the office where it originated, and the estimated date of completion. When the task is completed, the computer record is updated by adding the actual hours spent and the actual completion date. Management can use this Field Work Tracking System to review outstanding or completed assignments for a given assigning office or Area Office, for a specified type of task, for a specified time period or, more generally, for specified values of any one or any combination of data elements contained in the records. These records presently do not identify the person to whom a task is assigned and do not constitute a system of records as defined by the Privacy Act.

The Directorate for Field Operation intends to modify its Field Work Tracking System by adding the employee number of the employee to whom a task is assigned. This is a unique number assigned to each employee of the Consumer Product Safety Commission. The additional capability of retrieving records by employee number will enable Area Office management to assure efficient distribution of assignments to employees and to track employees' ability to meet target dates. Access to these records will continue to be limited to authorized employees of the Consumer Product Safety Commission.

If no adverse comments are received from the public, the Office of Management and Budget, or the Congress, the new system of records will be implemented on February 11, 1980.

Dated: December 7, 1979.

**Sadye E. Dunn,**  
*Secretary, Consumer Product Safety Commission.*

#### SYSTEM NAME:

Field Work Tracking System—CPSC-20

#### SYSTEM LOCATION:

Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Washington, D.C. 20207, and the Area Offices listed in Appendix I.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional, non-managerial, staff members of CPSC Area Offices who are performing work assignments covered by the system.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain information on work assignments performed by CPSC Area Offices. The data included are: CPSC identification number of the



assigned employee; assignment identification number; organizational unit initiating the assignment and Area Office performing the assignment; program, project and activity codes; assignment, target, interim, and completion dates; number of activities performed; actual hours required to complete the assignment; and a narrative description of the assignment.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2051 et seq.; 44 U.S.C. 3101.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or a compilation of these records, are used by the Directorate for Field Operations and its Area Offices as a management aid to:

- Track the status of field assignments
  - Track the progress against planned goals.
  - Compare Area Office performance
  - Identify resource allocation deficiencies
  - Provide reports to top level CPSC management on field accomplishment.
- In addition, within each Area Office, the Area Office management will use the records, or a compilation of information from the records, to:
- Assure efficient distribution of assignments to employees.
  - Track employees' ability to meet target dates in relation to performance standards.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Records are stored on computer magnetic media. Hard copies of the records are stored at the Consumer Product Safety Commission, Directorate for Field Operations, 5401 Westbard Avenue, Bethesda, Maryland 20207, and the Area Offices listed in Appendix I.

##### RETRIEVABILITY:

The records may be retrieved by any one or any combination of the data items.

##### SAFEGUARDS:

Access to the computer data is restricted to Area Office personnel and Field Operations Directorate staff at Headquarters through the use of computer access passwords. Hard copies of the records are kept in lockable file drawers.

##### RETENTION AND DISPOSAL:

Records are retained indefinitely.

#### SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director for Field Operations, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207

#### NOTIFICATION PROCEDURE:

Same as System Manager.

#### RECORD ACCESS PROCEDURES:

Same as System Manager.

#### CONTESTING RECORD PROCEDURES:

Same as System Manager

#### RECORD SOURCE CATEGORIES:

Information in this system of records comes from employees performing the recorded assignments and their supervisors.

#### Appendix I

##### Area Offices:

Atlanta Area Office, 1330 West Peachtree Street, NW., Atlanta, Georgia 30309.

Boston Area Office, 100 Summer Street, 16th Floor, Room 1607, Boston, Massachusetts 02110.

Chicago Area Office, 230 S. Dearborn Street, Room 2945, Chicago, Illinois 60604.

Cleveland Area Office, Plaza Nine Building, Room 520, 55 Erie View Plaza, Cleveland, Ohio 44114.

Dallas Area Office, Room 410C, 500 South Ervay, Dallas, Texas 75201.

Denver Area Office, Suite 938, Guaranty Bank Bldg., 817 17th Street, Denver, Colorado 90202.

Kansas City Area Office, Suite 1500, Traders National Bank Bldg., 1125 Grand Avenue, Kansas City, Missouri 64206.

Los Angeles Area Office, 3660 Wilshire Boulevard, Suite 1100, Los Angeles, California 90010.

Minneapolis Area Office, Room 650, Federal Bldg., Fort Snelling, Twin Cities, Minnesota 55111.

New York Area Office, 6 World Trade Center, Vesey Street, 6th Floor, New York, New York 10048.

Philadelphia Area Office, 10th Floor, 400 Market Street, Philadelphia, PA 19106.

Seattle Area Office, Federal Building, Room 3240, 915 Second Avenue, Seattle, Washington 98174.

San Francisco Area Office, Suite 500, 100 Pine Street, San Francisco, California 94111.

[FR Doc. 79-38115 Filed 12-11-79; 8:45 am]

BILLING CODE 6355-01-M

#### DEPARTMENT OF DEFENSE

##### Department of the Army

##### Fort Hood, Tex.; Filing of Environmental Impact Statement

The Army, on December 7, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Hood, Texas. The alternatives of maintaining, discontinuing, or changing missions at Fort Hood are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Directorate of Facilities Engineering, Environmental Office, Fort Hood, Texas 76544.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E678, Pentagon, Washington, DC 20310, telephone: (202) 694-3434.

John T. Nash,

Acting Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 79-38067 Filed 12-11-79; 8:45 am]

BILLING CODE 3710-08-M

##### Corps of Engineers, Department of the Army

##### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Port Gibson, Miss., Small Navigation Project.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Action:* The proposed project, under study in accordance with Section 107 of the River and Harbor Act of 1960, as amended, provides for port facilities on the Mississippi River in Claiborne County near Port Gibson, Mississippi.

2. *Reasonable Alternatives.* No action; an on-river port, using the Mississippi River as harbor, together with adjacent 10-acre industrial fill and access road constructed above 100-year flood frequency elevation; and a proposal for dredging an off-river channel 400 feet long, 150 feet wide, and a minimum of 9 feet deep, an 800-foot-long and 400-foot-wide turning basin, together with 10-acre raised industrial landfill and access road, are alternatives being considered.

#### 3. Description of Scoping Process.

a. *Public involvement.* Coordination has been maintained with the general public and interested agencies during project studies. One or more public meetings involving interested governmental agencies, groups, and individuals will be held during the study period.

b. *Issues analyzed in the EIS.* Impacts of the project on water quality, recreational opportunities, the aquatic and terrestrial ecosystems, endangered species, socioeconomic elements, and archeological sites.

c. *Assignment for input into the EIS.* No specific assignments other than the Corps of Engineers as lead agency.

d. *Environmental review and consultation requirements.* Review by Federal, state, and local agencies and interested groups and individuals.

4. *Scoping Meeting Schedule.* A scoping meeting will not be held.

5. *Date DEIS Will Be Available to Public.* April 1980.

ADDRESS: Questions about DEIS can be answered by: Mr. Jack Hurdle, U.S. Army Corps of Engineers, Vicksburg District, P.O. Box 60, Vicksburg, Mississippi, Phone: FTS 542-5961, Commercial (601) 634-5961.

Dated: December 5, 1979.

Samuel P. Collins, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-38095 Filed 12-11-79; 8:45 am]

BILLING CODE 3710-GX-M

#### Office of the Secretary

##### Defense Science Board Task Force on ECM; Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session January 8-9, 1980 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic counter-measure.

In accordance with 5 U.S.C. App. I 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: December 7, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-38110 Filed 12-11-79; 8:45 am]

BILLING CODE 3810-70-M

##### Defense Science Board Task Force on B-52 Structural Response; Meeting

The Defense Science Board Task Force on B-52 Structural Response will meet in closed session 9-10 January 1980 at Defense Nuclear Agency, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review nuclear blast and thermal structural response of B-52 aircraft and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: December 7, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-38111 Filed 12-11-79; 8:45 am]

BILLING CODE 3810-70-M

##### Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense; Meeting

Pursuant to the Federal Advisory Committee Act, as amended, Section 10, 5 U.S.C. app. Section 10 (1976), notice is hereby given that a meeting of the Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will be held on 27 December 1979 from 1000 to 1100 in room 3D973, The Pentagon, Washington, D.C.

The mission of the Task Force is to advise Congress and the Secretary of Defense with respect to the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The meeting will be open to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 6, 1979.

[FR Doc. 79-38109 Filed 12-11-79; 8:45 am]

BILLING CODE 3810-70-M

#### DEPARTMENT OF ENERGY

##### Compliance With the National Environmental Policy Act; Intent To Prepare Environmental Impact Statement and Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) for a processing facility to immobilize high-level liquid radioactive wastes in Cattaraugus County, New York, and to conduct a public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare a DEIS to assess the environmental implications of a proposed DOE action to fund or cost-share the construction and operation of a processing facility to immobilize high-level liquid radioactive wastes currently being stored in underground tanks at the Western New York Nuclear Service Center in Cattaraugus County, West Valley, New York.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of this DEIS are invited to do so. Interested agencies, organizations, and the general public are also invited to attend a public scoping meeting which will be held on February 2, 1980 in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Upon completion of the DEIS, its availability will be announced in the Federal Register, at which time comments will be solicited.

Written comments may be submitted to: Dr. Goetz K. Oertel, Director, Division of Waste Products, Mail Station B-107, GTN, U.S. Department of Energy, Washington, DC 20545, (301) 353-3641.

For general information on the EIS process contact: NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, ATTN: Ms. Carol M. Borgstrom, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-4600.



**DATES:** Scoping meeting, February 2, 1980, in West Valley, N.Y.; written comments due, February 20, 1980.

#### Background Information

The Nuclear Service Center is located in a rural area about 30 miles southeast of Buffalo, New York. The site encompasses about 3,445 acres, of which less than 250 acres are dedicated to a nuclear reprocessing plant and supporting facilities. The existing facilities at the Center include a spent fuel receiving and storage facility, the only commercial nuclear fuel reprocessing plant ever to operate in the United States, a high-level liquid waste storage facility, a Nuclear Regulatory Commission-licensed waste burial ground and a New York State-licensed waste burial ground.

The chemical reprocessing operation used to recover uranium and plutonium produced high-level liquid radioactive wastes, which are being stored safely in two underground tanks. The plant is now being maintained in a shutdown condition.

The largest volume of the liquid waste was produced from the normal operation of the reprocessing plant using the Purex process. Initially this waste was highly acidic, but was neutralized by the addition of excess sodium hydroxide before transfer to one of the waste storage tanks. The neutralization process caused the fission product elements, with the exception of cesium, to precipitate and form a "sludge" at the bottom of the tank. Approximately 560,000 gallons of neutralized waste is stored in a carbon steel tank.

A second type of liquid waste was produced from processing a small batch of thorium-uranium fuel using the Thorex process. This waste was not neutralized because the thorium would have precipitated out of solution. The approximate 12,000 gallons of acidic waste is stored in a cooled stainless steel tank.

In 1978 Congress directed DOE to conduct a study of the Center. That study was to particularly address disposal of the stored high-level liquid waste including a program for the solidification of the wastes for permanent burial. In November 1978 DOE issued a report entitled "Western New York Nuclear Service Center Study," TID-28905-1 and -02, for public comment. Public meetings were held in West Valley and in Buffalo, New York, for the purpose of soliciting comments on that study. Those comments, as well as written comments received, were transmitted with the report to the Congress on February 23, 1979.

A major public recommendation was that the high-level liquid wastes should be immobilized as soon as practicable. The West Valley Tank Decontamination and Decommissioning Task Group, comprised of concerned members of the public as well as members of local, state and federal organizations, stated that "Our strongest recommendation which we intend to carry the highest priority and urgency, is that development of technology for immobilizing the high-level liquid wastes at West Valley be started immediately and work begun as soon as the technology is developed. . . . However, action taken under this criterion must not be construed to qualify as completion of the work needed to properly decommission the facility."

The EIS will provide environmental input to decisions on immobilization, selection of an immobilization strategy option, and construction of a proposed immobilization facility. The preferred alternative of waste immobilization for shipment to an off-site Federal repository is compared to "interim" immobilization, "on-site" and "no-action" alternatives. The EIS will analyze whether the proposed action will preclude any reasonable alternatives for the remainder of the Center. Additionally, the EIS will address the cumulative effect of the impacts of the proposed action and the impacts of reasonably foreseeable future actions which may be taken with respect to other areas of the Center.

Conceptual design studies on this project will begin in 1980. Detailed design activities could be initiated in 1981 to be followed by construction activities which would support facility operation in 1987. Immobilization process operations could be completed in 1990 with subsequent transport off-site. On-site storage of the immobilized waste would be provided, as necessary, until a Federal repository is available.

The conceptual design phase will be funded by the Federal Government. The detailed design, procurement, construction, and operation phases for the project could either be funded by the Government or cost-shared with New York State.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the draft EIS and to solicit comments and suggestions for consideration in its preparation. The environmental and socioeconomic impacts of the proposed immobilization facility will be assessed in the DEIS.

#### Identification of Environmental and Socioeconomic Issues

The following issues will be analyzed during the preparation of the EIS. This list is not intended to be all inclusive, nor is it intended to be a predetermination of impacts:

- (1) The effects of the proposed action on the community of Cattaraugus County, New York, including labor immigration.
- (2) The exposure of the public to radiation.
- (3) The effects of potential accidents and radioactive releases on human health, water supply and ecology.
- (4) The effects of the project on present and future land use.
- (5) The effects of the project on local water resources including the Buttermilk and Cattaraugus creeks.
- (6) The effects of potential natural phenomena.
- (7) The effects of off-site transportation of the immobilized waste.

#### Alternatives including the Proposed Action:

##### A. Preferred Alternative

Removal of the high-level liquid wastes from the storage tanks, conversion to an immobile form suitable for shipment to a high-level waste Federal repository, followed by decontamination and decommissioning of the facilities used in connection with the project. The EIS will address all three phases of the project: immobilization, transport, and decontamination and decommissioning of the facilities used in connection with the project, including potential mitigating measures.

Within this alternative, there are several strategy options.

**Option 1:** The project will remove the high-level wastes from the storage tanks, separate the major fraction of the radioactivity from the salt, concentrate

\* Glass will be used as the reference waste form for the immobilization process. Because of their advanced stage of development, borosilicate glass monoliths are utilized as the reference waste form in the analyses in this statement. However, these analyses do not imply a decision to actually use this waste form. An updated environmental review of the waste form options will be prepared at the time the waste form selection is made.

These analyses are carried out using glass properties and characteristics which are believed reasonably attainable with near-term technology. Since another waste form would not be chosen unless it had equal or better processing and product characteristics than assumed herein for borosilicate glass monoliths, the EIS calculations can be considered limiting for any waste form in that they should represent the worst conditions expected. A large R&D program is being conducted on other waste forms at a variety of national laboratories, universities, and industrial plants. The decision on waste form is expected in the 1984 time frame.

and immobilize the high-level radioactivity into a solid suitable for disposal, provide for on-site interim storage of the immobilized product until a federal repository is available, and provide for on-site disposal of the decontaminated salt cake.

**Option 2:** Remove all high-level liquid wastes from the Center. Option 2 is the same as Option 1 except that the decontaminated salt is transported off-site for disposal upon completion of the immobilization process.

**Option 3:** Immobilize the entire contents of the waste tanks without chemical separation. This option is similar to Option 1 except that the salt is solidified with the other wastes and transported off-site.

##### B. "Interim" Immobilization Alternative

This alternative provides for removal of the waste from the storage tanks and conversion to an interim waste from which is subsequently transported off-site for conversion into a form suitable for disposal in a federal repository. On-site and off-site disposal of decontaminated salt cake will be analyzed.

Each of the above strategy options will be analyzed for the case of deferred availability of the Federal repository.

##### C. "On-Site" Alternative

In-tank solidification of high-level liquid wastes. This option incorporates the wastes in a concrete mixture and lets the mixture solidify in the existing tanks.

##### D. "No-Action" Alternatives

**Option 1:** Indefinite storage of wastes in tanks. This is the "no action" option.

**Option 2:** Defer action until a decision is made regarding the site of the first Federal repository with interim storage in tanks.

##### E. Options Excluded from Detailed Consideration

(1) On-Site Hydraulic Shale Fracture. Shale fracture has been eliminated from consideration in the EIS. There is the potential for natural gas recovery operations near the site at a future date. Massive hydraulic fracturing techniques used to recover the natural gas may reduce the isolation capacities of the shales and also cause changes in the groundwater system. For these reasons this alternative is not being included in the EIS.

##### Comments and Scoping Meeting

All interested parties are invited to submit comments or suggestions and to

attend a scoping meeting in connection with the preparation of the EIS. Those desiring to submit comments or suggestions for issues to be addressed in the Draft EIS should submit them to the following address:

Outline for West Valley Draft EIS, ATTN: Dr. Goetz K. Oretel, Director, Division of Waste Products, Mail Station B-107, GTN, U.S. Department of Energy, Washington, DC 20545.

Those wishing to participate in the scoping process may also attend a public meeting to be held at West Valley Central School gymnasium, West Valley, New York, beginning at 8:30 am and extending through 6:00 pm, if necessary, on February 2, 1980. Written and oral comments will be given equal weight.

The meeting will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the Department of Energy with as much pertinent information as possible and as many views as can reasonably be obtained, and to provide interested persons with equitable opportunities to express their views:

1. Those individuals desiring to make oral comments should mail their requests to:

Mrs. Joanne M. Passaglia, West Valley Scoping Meeting, Mail Station B-107, GTN, U.S. Department of Energy, Washington, DC 20545.

DOE reserves the right to arrange the schedule of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE of their desire to speak prior to January 24, 1980, so that DOE may, in turn, notify prospective speakers of the schedule for presentation, prior to the date of the meeting. Requests should include a telephone number for such notification. In order to maximize the number of presentations and assure a broad spectrum of viewpoints, five minutes will be allotted to each speaker. Depending upon the number of persons requesting to be heard, DOE may allow more time for representatives of organizations. Those persons wishing to speak on behalf of an organization should identify their organizational affiliation in their request. Persons who have not submitted a request to speak in advance, may register to speak at the scoping meeting, and will be called on to present their comments, if time permits.

2. Should any speaker desire to provide further information for the record subsequent to the meeting, it may

be submitted in writing by February 20, 1980.

A transcript of the meeting will be retained by DOE and made available for inspection at the Public Reading Room, Room GA-152, Forrestal Bldg., 1000 Independence Ave., NW, Washington DC 20585 between the hours of 8:00 am and 4:30 pm, Monday through Friday.

Upon completion of the Draft EIS, its availability will be announced in the Federal Register and public comments will again be solicited.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comments when it is issued should notify G. K. Oretel at the above address. Those seeking further information may inquire with the above contact or:

NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, ATTN: Ms. Carol M. Borgstrom, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-4600.

Copies of the documents currently planned to be used in the preparation of the Draft EIS are available for public inspection at: the West Valley Central School, West Valley, New York 14171; the Town of Concord Public Library, 123 North Buffalo Street, Springville, New York 14141; the Buffalo and Erie County Public Library, Repository #3, Lafayette Square, Buffalo, New York 15203; the Albany Public Library, 161 Washington Avenue, Albany, New York 12210; and the Tompkins County Public Library, Ithaca, New York 14850. Copies of report TID-28905-1 and -2 may be obtained by writing to the following address: West Valley Center Report, ATTN: Mr. Randy Wilson, Department of Energy, New York Regional Office, Room 3200, 26 Federal Plaza, New York, New York 10007.

In addition, copies of the documents are available for inspection at the following DOE locations:

Public Reading Room, Room GA-152, 1000 Independence Ave., SW, Washington, DC 20585.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60639

Chicago Operations and Regional Office, 175 West Jackson Boulevard, Chicago, Illinois 60604.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada 89114.

Albuquerque Operations Office, National Atomic Museum, Kirkland Air Force Base East, Albuquerque, New Mexico 87715.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee 37830.

Richland Operations Office, Federal



Building, Richland, Washington 99352.  
Energy Information Center, 215 Fremont  
Street, San Francisco, California 94105.  
Savannah River Operations Office,  
Savannah River Plant, Aiken, South Carolina  
29801.

Regional Energy/Environment Information  
Center, Denver Public Library, 1357  
Broadway, Denver, Colorado 80210.

All suggestions, comments and  
questions submitted to G. K. Oertel prior  
to February 20, 1980 will be carefully  
considered in the preparation of the  
Environmental Impact Statement.

Dated at Washington, DC this 6th of  
December 1979.

For the United States Department of  
Energy.

Ruth C. Clusen,

*Assistant Secretary for Environment.*

[FR Doc. 79-37974 Filed 12-10-79; 8:45 am]

BILLING CODE 6450-01-M

#### Office of Assistant Secretary for International Affairs

#### Proposed Subsequent Arrangement; Peaceful Uses of Atomic Energy

Pursuant to section 131 of the Atomic  
Energy Act of 1954, as amended (42  
U.S.C. 2160) notice is hereby given of a  
proposed "subsequent arrangement"  
under the Agreement for Cooperation  
Between the Government of the United  
States of America and the International  
Atomic Energy Agency (IAEA) on the  
Peaceful Uses of Atomic Energy.

The subsequent arrangement to be  
carried out under the above mentioned  
agreement involves the provisions of the  
following materials as the U.S. gift of  
special nuclear material to the IAEA for  
1979:

5.65 kilograms of uranium, containing 1.124  
kilograms of U-235 (19.9%) for an IAEA  
research reactor project in Indonesia.

In accordance with section 131 of the  
Atomic Energy Act of 1954, as amended,  
it has been determined that the  
furnishing of this nuclear material will  
not be inimical to the common defense  
and security. This subsequent  
arrangement will take effect no sooner  
than fifteen days after the date of  
publication of this notice.

For the Department of Energy.

Dated: December 10, 1979.

Fred F. McGoldrick,

*Acting Director for Nuclear Affairs,  
International Nuclear and Technical  
Programs.*

[FR Doc. 79-38258 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

#### Economic Regulatory Administration

[ERA Docket No. 79-CERT-098]

#### Florida Power & Light Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Florida Power & Light Company  
(Florida Power) filed an application for  
certification of an eligible use of natural  
gas to displace fuel oil at six of its  
power plants in Florida with the  
Administrator of the Economic  
Regulatory Administration (ERA)  
pursuant to 10 CFR Part 595 on  
September 27, 1979. Notice of that  
application was published in the *Federal  
Register* (44 FR 65432, November 13,  
1979) and an opportunity for public  
comment was provided for a period of  
ten (10) calendar days from the date of  
publication. No comments were  
received.

The ERA has carefully reviewed  
Florida Power's application in  
accordance with 10 CFR Part 595 and  
the policy considerations expressed in  
the Final Rulemaking Regarding  
Procedures for Certification of the Use  
of Natural Gas to Displace Fuel Oil (44  
FR 47920, August 16, 1979). The ERA has  
determined that Florida Power's  
application satisfies the criteria  
enumerated in 10 CFR Part 595, and,  
therefore, has granted the certification  
and transmitted that certification to the  
Federal Energy Regulatory Commission.  
A copy of the transmittal letter and the  
actual certification are appended to this  
notice.

Issued in Washington, D.C., on December  
5th, 1979.

Paul T. Burke,

*Acting Assistant Administrator, Office of  
Petroleum Operations, Economic Regulatory  
Administration.*

#### Appendix I

Department of Energy,  
Washington, D.C.

Re ERA Certification of Eligible Use; ERA  
Docket No. 79-CERT-098; Florida Power  
& Light Co.

December 6, 1979.

Mr. Kenneth F. Plumb,

*Secretary, Federal Energy Regulatory  
Commission, 825 North Capitol Street  
N.E., Washington, D.C.*

Dear Mr. Plumb: Pursuant to the provisions  
of 10 CFR Part 595, I am hereby transmitting  
to the Commission the enclosed certification  
of an eligible use of natural gas to displace  
fuel oil. This certification is required by the  
Commission as a precondition to interstate  
transportation of fuel oil displacement gas in  
accordance with the authorizing procedures  
in 18 CFR Part 284, Subpart F. As noted in the  
certificate, it is effective for one year from the  
date of issuance, unless a shorter period of  
time is required by 18 CFR Part 284, Subpart

F. A copy of the enclosed certification is also  
being published in the *Federal Register* and  
provided to the applicant.

Should the Commission have any further  
questions, please contact Mr. Finn K. Neilsen,  
Director, Import/Export Division, Economic  
Regulatory Administration, 2000 M Street,  
N.W., Room 4126, Washington, D.C. 20461,  
telephone (202) 254-8202. All correspondence  
and inquiries regarding this certification  
should reference ERA Docket No. 79-CERT-  
098.

Sincerely,

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum  
Operations, Economic Regulatory  
Administration.*

**Certification by the Economic Regulatory  
Administration to the Federal Energy  
Regulatory Commission of the Use of Natural  
Gas for Fuel Oil Displacement by the Florida  
Power & Light Co.**

[ERA Docket No. 79-CERT-098]

#### Application for Certification

Pursuant to 10 CFR Part 595, Florida Power  
& Light Company (Florida Power) filed an  
application for certification of an eligible use  
of 75,000 Mcf of natural gas per day at six of  
its power plants in Florida with the  
Administrator of the Economic Regulatory  
Administration (ERA) on September 27, 1979.  
The application states that the eligible seller  
of the gas is Consumers Power Company  
(Consumers) and that the gas will be  
transported by the Trunkline Gas Company  
and the Florida Gas Transmission Company.  
The application indicates that the use of this  
natural gas is estimated to displace 1,818  
barrels of No. 6 fuel oil (1.0% sulfur) per day  
at the Cape Canaveral Plant, 602 barrels of  
No. 2 fuel oil (0.3% sulfur) per day at the  
Lauderdale Plant, 2,705 barrels of No. 2 fuel  
oil (0.3% sulfur) per day at the Port  
Everglades Plant, 3,275 barrels of No. 6 fuel  
oil (1.0% sulfur) per day at the Riviera Plant,  
124 barrels of No. 6 fuel oil (1.0% sulfur) per  
day at the Sanford Plant, and 2,840 barrels of  
No. 6 fuel oil (1.0% sulfur) per day at the  
Turkey Point Plant. The application also  
indicates the neither the gas nor the  
displaced fuel oil will be used to displace  
coal in the applicant's facilities.

#### Certification

Based upon a review of the information  
contained in the application, as well as other  
information available to ERA, the ERA  
hereby certifies, pursuant to 10 CFR Part 595,  
that the use of 75,000 Mcf of natural gas per  
day at Florida Power's Cape Canaveral,  
Lauderdale, Port Everglades, Riviera,  
Sanford, and Turkey Point power plants  
purchased from Consumers is an eligible use  
of gas within the meaning of 10 CFR Part 595.

#### Effective Date

This certification is effective upon the date  
of issuance, and expires one year from that  
date, unless a shorter period of time is  
required by 18 CFR Part 284, Subpart F. It is  
effective during this period of time for the use  
of up to the same certified volumes of natural  
gas at the same facilities purchased from the  
same eligible seller.

Issued in Washington, D.C., on December  
5th, 1979.

Doris J. Dewton,

*Assistant Administrator, Office of Petroleum  
Operations, Economic Regulatory  
Administration.*

[FR Doc. 79-37975 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Docket No. E-8851]

#### Alabama Power Co.; Filing

December 4, 1979.

The filing Company submits the  
following:

Take notice that on November 1, 1979,  
Alabama Power Company tendered for  
filing a revised cost of service study and  
amendments to its rate schedules for the  
period September 12, 1974 to October 1,  
1976. This filing is in accordance with  
the Commission's Opinion No. 54 in the  
above captioned case.

A copy of this filing has been served  
upon all parties to this proceeding.

Any person desiring to be heard or to  
protest said filing should file a protest  
with the Federal Energy Regulatory  
Commission, 825 North Capitol Street,  
N.E., Washington, D.C. 20426 in  
accordance with the Commission's  
Rules of Practice and Procedure (18 CFR  
1.8, 1.10) All such protests should be  
filed on or before December 24, 1979.  
Protests will be considered by the  
Commission in determining the  
appropriate action to be taken. Copies of  
this filing are on file with the  
Commission and are available for public  
inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 79-38005 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-93, et al.; Docket No.  
ST80-12]

#### Border Gas, Inc., and Lo-Vaca Gathering Co.; Application and Consolidation

December 5, 1979.

Take notice that on November 16,  
1979, Lo-Vaca Gathering Company (Lo-  
Vaca), Post Office Box 500, San Antonio,  
Texas 78292, filed an application  
pursuant to Section 311(a)(2) of the  
Natural Gas Policy Act of 1978 (NGPA)  
and §§ 281.122 and 284.127 of the  
Commission's regulations to transport  
gas for Transwestern Pipeline Company  
(Transwestern) for a term of twelve (12)  
years, all as more fully described in the

application on file with the Commission  
and available for public inspection.

Lo-Vaca states that said  
transportation is necessary to effectuate  
delivery of excess Mexican natural gas  
delivered to Border Gas, Inc. (Border)  
and resold to domestic interstate  
pipelines. This Mexican gas is to be  
transported through the interstate  
facilities of Texas Eastern Transmission  
Corporation (Tetco), it is stated. Lo-  
Vaca avers that Tetco has requested to  
resell one third of its entitlement in the  
Mexican volumes to Transwestern and  
deliver said volumes to an existing  
connection of Tetco with Lo-Vaca near  
Angleton, Brazoria County, Texas, with  
redelivery to Transwestern near Waha,  
Pecos County, Texas.

It is stated that the charge for such  
transportation by Lo-Vaca will be based  
on a rate schedule, presently on file with  
the Railroad Commission of Texas,  
permissible under § 284.123(b) of the  
Commissions regulations. Total  
maximum daily quantities to be  
transported are stated to be up to 27,500  
Mcf per day with additional volumes  
from time to time as may be agreed  
between the parties. Lo-Vaca also states  
that deliveries will commence pursuant  
to § 284.122 of the Commission's  
regulations for a period of up to two  
years.

On November 30, 1979, six  
applications filed pursuant to sections 3  
and 7 of the Natural Gas Act were  
noticed and consolidated in Docket Nos.  
CP80-93, et al. Since this application  
may involve common questions of law  
and fact, it will therefore be  
consolidated in Docket Nos. CP80-93, et  
al. for all purposes pursuant to  
§§ 1.20(b) and 3.5(a)(6) of the  
Commission Rules and Regulations.

Any person desiring to be heard or to  
make any protest with reference to said  
application should, on or before  
December 14, 1979, file with the  
Commission, 825 North Capitol Street,  
N.E., Washington, D.C. 20426, a petition  
to intervene or a protest in accordance  
with the requirements of the  
Commission's Rules of Practice and  
Procedure (18 CFR 1.8 or 1.10). All  
protests filed with the Commission will  
be considered by it in determining the  
appropriate action to be taken but will  
not serve to make the protestants  
parties to the consolidated proceeding.  
Any person wishing to become a party  
to the consolidated proceeding or to  
participate as a party in any hearing  
therein must file a petition to intervene  
in accordance with Commission's Rules.

Any party filing a notice of  
intervention or petition to intervene in

Docket Nos. CP80-93, et al., need not file  
in this docket.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 79-37999 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-495]

#### Carolina Power & Light Co.; Filing

December 4, 1979.

The filing company submits the  
following:

Take notice that on November 1, 1979,  
Carolina Power and Light Company  
(CPL) filed the following documents  
pursuant to the Commission's letter  
order of October 2, 1979 in the above-  
styled proceeding:

1. Resale Service Schedule RS-11E, as  
contained in 2nd Revised Sheet Nos. 5  
through 7 of the Company's FERC Electric  
Tariff, Original Volume No. 1, for service to  
electric membership corporations during the  
period May 1, 1978 through December 28,  
1977;

2. Resale Service Schedule RS-11F, as  
contained in the Company's FERC Electric  
Tariff, Original Volume No. 1, for service to  
municipal and private distribution utilities  
during the period May 1, 1978 through  
December 28, 1977; and

3. Carolina Power & Light's cost of service  
study, dated October 23, 1979, which is the  
underlying document for the above rate  
schedules.

The enclosed cost of service study  
complies with the requirements of the  
Commission's October 2, 1979 order and  
Opinion Nos. 19 and 19-A, except with  
regard to the Commission's  
determination of the net salvage ratio  
for steam production plants.

This filing is without prejudice to the  
Company's appeal of Opinion Nos. 19  
and 19-A, and by making it, the  
Company does not waive any rights it  
may have as a result of that appeal.

A copy of this filing has been sent to  
all parties to this proceeding.

Any person desiring to be heard or to  
protest said filing should file a protest  
with the Federal Energy Regulatory  
Commission, 825 North Capitol Street,  
N.E., Washington, D.C. 20426, in  
accordance with Sections 1.8 and 1.10 of  
the Commission's Rules of Practice and  
Procedure (18 CFR 1.8 and 1.10). All such  
protests should be filed on or before  
December 28, 1979. Protests will be  
considered by the Commission in  
determining the appropriate action to be  
taken. Copies of this filing are on file



with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38008 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. EL79-8]

**Central Power & Light Co. et al.; Order Granting Rehearing for Further Consideration**

Issued: December 3, 1979.

An "Application for Rehearing" of the "Order Denying Rehearing and Modifying Prior Order," issued in this docket on October 3, 1979 has been filed by Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and West Texas Utilities Company (collectively referred to as "CSW").

In the October 3, 1979 order, the Commission, *inter alia*, denied CSW's request for exemption from certain orders of the Texas Public Utility Commission under section 205 of the Public Utility Regulatory Policies Act.<sup>1</sup>

In order to afford additional time for consideration of the issues raised in CSW's pleading, it is appropriate and proper in the administration of the Federal Power Act and in the public interest to grant rehearing of the Commission's October 3, 1979 order for the limited purpose of further consideration.

The Commission Orders: (A) Rehearing of the order in this docket issued October 3, 1979 is hereby granted for the limited purpose of further consideration.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission,  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38000 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP79-76]

**Cities Service Gas Co.; Revised Notice of Proposed Rate Changes**

December 4, 1979.

Take notice that on November 28, 1979, Cities Service Gas Company (Cities Service) tendered for filing a revised tariff sheet in Docket No. RP79-76. Such sheet is Substitute Fifth Revised Sheet No. 6.

Cities Service states that the purpose of Substitute Fifth Revised Sheet No. 6 is to reflect certain adjustments or

<sup>1</sup> 16 U.S.C. 824, Public Law No. 95-617 (1978).

revisions as required by the Commission's orders issued July 20, 1979 and September 17, 1979, in Docket No. RP79-76.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP79-76 and RP72-142.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38009 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Dockets Nos. RP74-82, et al.]

**Columbia Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans**

December 4, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 18, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,  
Secretary.

**Appendix**

| Filing date | Company                         | Docket No.   | Type filing |
|-------------|---------------------------------|--------------|-------------|
| 6/29/79..   | Columbia Gas Transmission Corp. | RP74-82..... | Report.     |
| 10/16/79..  | Midwestern Transmission Co.     | RP71-16..... | Report.     |
| 11/15/79..  | Tennessee Gas Pipeline Co.      | RP75-13..... | Report.     |

**Appendix—Continued**

| Filing date | Company                  | Docket No.   | Type filing |
|-------------|--------------------------|--------------|-------------|
| 11/21/79..  | Southern Natural Gas Co. | RP77-31..... | Report.     |

[FR Doc. 79-38010 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. CP80-68]

**Columbia LNG Corp.; Application**

December 4, 1979.

Take notice that on November 9, 1979, Columbia LNG Corporation (Applicant), 20 Montchanin Road, Wilmington, Delaware 19807, filed in Docket No. CP80-68 an application pursuant to section 3 of the Natural Gas Act for authorization to change the point of importation of volumes of liquefied natural gas (LNG) which Applicant has been previously authorized to import at Cove Point, Maryland, to a point of importation at Elba Island, Georgia, during the period from November 1, 1979, through March 31, 1980; for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the financing of the related increase in the transportation costs for such LNG deliveries to Elba Island; the resale of regasified LNG received during such period to Columbia Gas Transmission Corporation (Columbia Transmission); and the recovery of the related costs of the proposed transaction, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to import volumes of LNG equivalent to approximately 300,000 Mcf of natural gas per day at Cove Point, Maryland, pursuant to the Commission order in Docket No. CP71-68 issued August 22, 1979, at an import ceiling price of \$1.15 per million Btu's adjusted for boil-off pursuant to Applicant's LNG sales agreement with El Paso Algeria Corporation (El Paso Algeria), plus transportation charges and additional costs incurred in serving the public convenience and necessity.

It is stated that Southern Energy Company (Southern Energy) is presently authorized to import volumes of LNG equivalent to approximately 350,000 Mcf of natural gas per day at its terminal in Elba Island, Georgia, pursuant to its LNG sales agreement with El Paso Algeria, under terms and conditions similar to those of Columbia LNG.

Applicant states that on October 8, 1979, an explosion occurred at the receiving terminal at Cove Point,

Maryland, which has resulted in the inability of such terminal to receive and regasify the previously authorized quantities of LNG which El Paso Algeria had scheduled for delivery to Applicant at Cove Point.

Applicant states that in order to restore the LNG supply that had been scheduled for delivery to the Cove Point terminal, Applicant and Southern Energy entered into a cargo sharing agreement dated October 31, 1979, and into a related terminaling agreement, also dated October 31, 1979. Applicant further states that by terms of said agreements Applicant and Southern Energy would share certain cargoes of LNG to be delivered to Elba Island during the period from November 1, 1979, to March 31, 1980, to the extent that the damage to Cove Point prevents Applicant from receiving full deliveries of its LNG from El Paso Algeria. Applicant asserts that the cargo sharing agreement would enable it to receive at Elba Island volumes of LNG up to the difference between the volumes which are scheduled to be delivered to Applicant at Cove Point from November 1, 1979, to March 31, 1980, and the amounts which are to be delivered by Applicant to Columbia Transmission at Loudoun, Virginia, during such period. It is stated that the terminal agreement provides Southern Energy would receive, regasify and deliver to Southern Natural Gas Company (Southern Natural), for the Applicant's account, the regasified LNG to be received at Elba Island, pursuant to the cargo sharing agreement. Applicant asserts that it would pay a charge of 4.0 cents per million Btu of regasified LNG delivered to Southern Natural at Elba Island, for Applicant's account. Applicant further states that it would provide the volumes of LNG necessary for the fuel requirements for the regasification of its share of the LNG.

Applicant states that the LNG volumes that it would receive at Elba Island would be subject to adjustment necessitated by significant variations from projected levels in Southern Natural's gas supply, storage volumes or system requirements, including such adjustments as would cause a cargo destined for Elba Island to be sold in full to Southern Energy.

Applicant states that such volumes of LNG as it requests authority to import are required by its sole customer, Columbia Transmission, in order to meet its design market requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1979, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and import authorization are required by the public convenience and necessity and not inconsistent with the public interest. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38011 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-114]

**Columbus & Southern Ohio Electric Co.; Filing**

December 4, 1979.

The filing Company submits the following:

Take notice that Columbus and Southern Ohio Electric Company on November 30, 1979, tendered for filing proposed changes in its F.P.C. Electric Service Tariff contained in FERC Docket No. ER77-529. The proposed changes would increase revenues from jurisdictional sales and service by \$3,563,758 based on the twelve-month period ending December 31, 1980. The form of the fuel adjustment clause contained in the proposed rate schedule has not been changed or altered from

that which was in effect prior to the filing and conforms with present Commission regulations concerning the form of such clauses.

The Company requests waiver of the notice requirements contained in § 35.3 of the Commission's regulations and asks that the rate schedule be made effective February 1, 1980. The Company states that the additional revenue is needed to help to offset increases in the cost of providing electric service as well as increases in the cost of facilities and capital required to provide such services.

A copy of the filing has been served upon the Cities of Westerville, Jackson and Columbus, and the Village of Glouster.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38012 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-106]

**Commonwealth Edison Co.; Proposed Tariff Change**

December 4, 1979.

The filing Company submits the following:

Take notice that Commonwealth Edison Company on November 27, 1979 tendered for filing proposed changes in its FERC Electric Service Tariff, Rate 78. The proposed changes would not increase or decrease revenues from jurisdictional sales and service.

The changes proposed are an increase in the base cost of fuel per kilowatt-hour stated in Rider 20 Fuel Adjustment and an offsetting change in the stated energy charges of Rate 78.

Copies of the filing were served upon the public utility's jurisdictional customers and the Illinois Commerce Commission.



Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38013 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. ER80-105]

##### Connecticut Light & Power Co.; Initial Rate Schedule

December 4, 1979.

The filing Company submits the following:

Take Notice that on November 27, 1979, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule of an exchange agreement (the "Agreement") between CL&P and The Hartford Electric Light Company (HELCO) (the NU Companies); and Ludlow Electric Light Department (Ludlow). The Agreement, dated as of June 1, 1979, provides for the NU Companies to exchange capacity in Middletown Unit No. 4 and Montville Unit No. 6, both mid-range fossil-fired steam units, for gas turbine capacity from the Ludlow system.

The Agreement provides that the parties will determine prior to Monday of each week during the term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week. Ludlow will pay capacity charges to the NU Companies in an amount equal to the capacity exchanged during the week times \$0.00274 times the number of hours during each week subject to a pro rata deduction for any hour during which Ludlow calls for receipts from or deliveries to the NU Companies and the NU Companies are unable to meet such demands. Ludlow will purchase energy from such units at the incremental cost of providing such energy. The NU Companies will pay Ludlow's

incremental cost of providing any energy taken by the NU Companies pursuant to the Agreement.

CL&P requests an effective date of November 16, 1979 for the Agreement.

HELCO and Ludlow have filed certificates of concurrence in this docket.

The Agreement has been executed by the NU Companies and by Ludlow and copies have been mailed to each of them.

CL&P further states that the filing is in accordance with section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38014 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. EL80-2]

##### City of Gallup, N. Mex. v. Public Service Co. of New Mexico; Extension of Time

December 5, 1979.

On November 23, 1979, Public Service Company of New Mexico filed a motion with the Commission for an extension of time to respond to the Complaint filed October 9, 1979, by the City of Gallup, New Mexico. The motion states that the Company requires additional time to adequately respond to certain statements in the Complaint concerning their contract with the City of Gallup and to certain questions of fact and law which are set forth in the Complaint.

Upon consideration, notice is hereby given that an extension of time is granted to an including December 17, 1979, for the filing of a response to the Complaint of the City of Gallup in the subject proceeding.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38001 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. ER80-107]

##### Illinois Power Co.; Filing Modification No. 8

December 4, 1979.

The filing Company submits the following:

Take notice that Illinois Power Company ("Illinois Power") on November 27, 1979, tendered for filing proposed Modification No. 8 to the Interconnection Agreement ("Agreement") dated March 30, 1973 between Central Illinois Light Company ("CILCO") and Illinois Power. The Commission has previously designated the March 30, 1973 Agreement as Illinois Power Rate Schedule FPC No. 63 and CILCO Rate Schedule FPC No. 14.

The parties state that Modification No. 8 incorporates a proposed revision to Service Schedule D, Interchange Energy, which provides for revised treatment of Economy Energy transactions between Illinois Power and CILCO to become effective January 15, 1980.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38015 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Dockets Nos. ER80-9 and ER79-166]

##### Kansas City Power & Light Co.; Order Accepting and Suspending Rate Increase, Granting Intervention, Establishing Procedures, and Consolidating Proceedings

December 4, 1979.

On October 5, 1979, Kansas City Power & Light Company (KCPL) tendered for filing increased rates for firm power service under service agreements with four partial-

requirements municipal customers.<sup>1</sup> The tendered rates are identical to those for firm power sales to KCPL's full-requirements municipal customers under adjudication in Docket No. ER79-166. On March 28, 1979, the proposed full-requirements rates were accepted for filing and suspended for five months to become effective August 31, 1979, subject to refund.<sup>2</sup>

The proposed rates in this docket would increase by \$139,470, or 14 percent revenues from the three of the four partial-requirements customers who reserved capacity during the year ending November 30, 1979. There were no sales to the fourth customer during this period. KCPL requests a waiver of the Commission's notice requirements to permit an effective date of August 31, 1979, for the increased rates to partial-requirements customers.

Notice of the filing in Docket No. ER80-9 was issued on October 15, 1979. On November 5, 1979, Garnett and Osawatomie, Kansas (Cities) filed a petition to intervene and request for suspension.

KCPL's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. We shall accept the proposed rates for filing and suspend their effectiveness for five months to become effective May 5, 1980, subject to refund. Because the proposed rates are identical to those proposed in Docket No. ER79-166, these two dockets will be consolidated for purposes of hearing and decision. The hearing in Docket No. ER79-166 has been scheduled to commence on December 10, 1979, by order of Presiding Judge David W. Miller.<sup>3</sup> If the Cities conclude that there will be inadequate time to prepare for this hearing, they should immediately bring the matter to the attention of the Presiding Judge.

The Commission orders: (A) KCPL's request for waiver of the notice requirements of § 35.3 of the Commission's Regulations is hereby denied.

(B) Pending a hearing and decision thereon, KCPL's proposed rates are hereby accepted for filing and suspended for five months to become effective May 5, 1980, subject to refund.

<sup>1</sup>The four customers are the City of Carrollton, Missouri, and the Cities of Garnett, Osawatomie, and Baldwin City, Kansas. See Appendix for rate schedule designations.

<sup>2</sup>In an order issued on August 30, 1979, we accepted for filing a revised cost of service and rates conforming to certain summary dispositions in the March 28, 1979, order.

<sup>3</sup>Order Changing Procedural Dates, Docket No. ER79-166 (September 25, 1979).

(C) Docket No. ER80-9 hereby is consolidated with Docket No. ER79-166 for the purpose of a hearing and decision thereon.

(D) The Cities are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of these intervenors shall be limited to matters set forth in their petition to intervene; and *Provided, further*, that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,  
Secretary.

#### Appendix—Rate Schedule Designations; Service Schedule C-MPA-5 for Firm Power Service

Baldwin City, Kansas: Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 85.

Garnett, Kansas: Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 78.

Osawatomie, Kansas: Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 77.

Carrollton, Missouri: Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 86.

[FR Doc. 79-38002 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. ER80-109]

##### Louisiana Power & Light Co.; Filing December 4, 1979.

The filing Company submits the following:

Take notice that on November 28, 1979, Louisiana Power & Light Company (LP&L) tendered for filing a Letter Agreement dated September 18, 1979 between LP&L and Gulf States Utilities Company (GSU).

This Letter Agreement provides for the transmission of power and energy by LP&L to GSU.

LP&L proposed an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

LP&L states that copies of the filing were served on Gulf States Utilities Company and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1979. Protests will be considered in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38016 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. ER80-108]

##### Missouri Public Service Co.; Proposed Tariff Change

December 4, 1979.

The filing Company submits the following:

Take notice that Missouri Public Service Company, on November 27, 1979, tendered for filing proposed changes in F.E.R.C. Electric Service Tariffs for Wholesale Firm Power Service to supersede and replace those rate provisions of contract rate schedules presently in effect and on file with the Commission which relate to eight (8) wholesale customers located in the State of Missouri as follows:

| Wholesale customer               | Superseding and replacing                                                |
|----------------------------------|--------------------------------------------------------------------------|
| 1. City of El Dorado Springs.... | Supplements No. 3 and 4 to Supplement No. 2 to FPC Rate Schedule No. 35. |
| 2. City of Galt.....             | Supplements No. 4 and 5 to FERC Rate Schedule No. 38.                    |
| 3. City of Gilman City.....      | Supplements No. 1 and 2 to FPC Rate Schedule No. 29.                     |
| 4. City of Harrisonville.....    | Supplements No. 4 and 5 to FERC Rate Schedule No. 39.                    |
| 5. City of Liberal.....          | Supplements No. 3 and 4 to Supplement No. 2 to FPC Rate Schedule No. 36. |
| 6. City of Odessa.....           | Supplements No. 1 and 2 to FPC Rate Schedule No. 31.                     |
| 7. City of Pleasant Hill.....    | Supplements No. 3 and 4 to Supplement No. 2 to FPC Rate Schedule No. 34. |
| 8. City of Rich Hill.....        | Supplements No. 3 and 4 to Supplement No. 2 to FPC Rate Schedule No. 37. |

The purposes of filing the proposed Municipalities—Resale Rate Schedule are:

(1) To cover the increased cost of service including fuel, labor, materials, cost of money, taxes and environmental requirements.

(2) To increase revenues to produce a more reasonable rate of return of 9.22 percent on the Company's investment. Company earned 1.46 percent rate of



return from Municipalities—Resale for the test year ending June 30, 1979.

(3) To encourage municipalities to improve their load factor in a manner that will help improve the Company's load factor thus tending to lower the system cost per KWH. A summer-winter differential has been retained for this specific purpose.

(4) To revise the fuel adjustment rider for the Municipalities of Gilman City and Odessa to comply with FPC Order No. 517 issued November 13, 1974 in Docket No. R-479 and Section 35.14 of the Commission's Regulations.

(5) To establish a uniform rate and fuel adjustment rider for all Municipalities—Resale customers.

(6) To revise the fuel adjustment rider base cost through a roll-in to base rate energy charges.

Copies of the filing were served upon the eight (8) Municipalities—Resale customers whose rates and charges would be affected thereby, and upon the Public Service Commission of Missouri.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38017 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76-91]

#### Montana-Dakota Utilities Co.; Order Approving Settlement

November 30, 1979.

On October 10, 1979, Montana-Dakota Utilities Co. (MDU) filed, pursuant to § 1.18(e) of the Commission's rules of practice and procedure, a Stipulation and Agreement in Settlement of Remaining Issues. The proposed settlement resolves all remaining issues concerning MDU's curtailment plan, except for matters related to the Staff's investigation of environmental matters. The settlement is joined in by all the

active participants in the proceeding, including the Staff.

By this order, we approve the settlement, find the proposed revisions of MDU's curtailment plan to be just reasonable, and grant the necessary waivers and adjustments under our regulations so as to allow the settlement to be implemented as of December 1, 1979.

#### Background

On April 26, 1976, MDU filed certain tariff sheets constituting its proposed curtailment plan. MDU's plan called for the phased reduction of deliveries to certain low priority customers and, as originally filed, had no limitation on the attachment of new customers. Several of MDU's customers protested, claiming *inter alia*, that there was no justification for MDU to curtail deliveries, but if there was, then there was no justification for MDU to continue attaching new customers. By order issued June 17, 1976, the Federal Power Commission accepted MDU's curtailment tariff sheets, suspended their effectiveness until October 1, 1976, and convened a hearing on the justness and reasonableness of MDU's curtailment plan.<sup>1</sup>

During the course of the hearing, MDU negotiated a settlement agreement with all the intervenor-customers. The settlement was not unanimous, however, since it was objected to by the Commission Staff.

As part of the settlement agreement MDU proposed on an interim basis to restrict its attachment of new customers as follows:

MDU will limit its new connections to 4,000 for each calendar year beginning January 1, 1977, and will restrict such connections to residential and small commercial customers and those hospitals, schools, and public institutions for which commitments have already been made. Such new connections will only be made as long as new reserve additions since January 1, 1976, average 30 Bcf per year. MDU may continue adding new customers within such limitation at least until December 31, 1978, and any Commission order of permanent duration which prohibits growth will be prospective in effect from the later of December 31, 1978, or sixty days after such order becomes final and no longer subject to judicial review.

The parties hereto believe this proposal is equitable to everyone concerned and that it should be approved as an interim disposition of the 'growth' issue. The permanent 'growth'

<sup>1</sup>"Order Accepting for Filing and Suspending Effectiveness of Tariff Sheets, Providing for Formal Hearing and Granting Petitions to Intervene."

issue will be reserved for final disposition by the Commission after hearing.<sup>2</sup>

MDU filed the Stipulation and Agreement with the Commission, offering it in settlement of its curtailment proceeding, Docket No. RP76-91. In addition, MDU filed with the Commission certain revised curtailment tariff sheets intended to implement the terms of the Settlement. The Commission, however, rejected a portion of the "Interim Restriction on Growth" provision quoted above, and required MDU to file a revised tariff sheet whose restriction on growth reads as follows:

2.10 *Interim Restriction on Growth.* Seller will limit its new connections to 4,000 for each calendar year beginning January 1, 1977 and will restrict such connections to residential and small commercial customers and those hospitals, schools, and public institutions for which commitments have already been made. Such new connections will only be made as long as new reserve additions since January 1, 1976 average 30 Bcf per year.<sup>3</sup>

While the Commission considered MDU's settlement proposal, the Presiding Judge pursued the hearing to a conclusion on the issues contested by Staff. The Presiding Judge issued two initial decisions: the first, issued April 19, 1977, dealt with Staff's objections to the curtailment plan as proposed in MDU's settlement; the second, issued May 16, 1977, addressed the so-called permanent growth issue, i.e., whether MDU should continue attaching new customers after December 31, 1978. Exceptions were taken to both initial decisions.

By order issued November 17, 1978, in Docket Nos. RP72-89, *et al.*, the Commission, *inter alia*, temporarily suspended its consideration of the MDU curtailment proceeding pending a more thorough consideration of the effects upon MDU's curtailment plan of the Natural Gas Policy Act of 1978 (NGPA). Further, the Commission remanded the proceeding to the Presiding Judge for the convening of a conference among the parties to assess the impact of NGPA.

It was in this procedural context that MDU filed, on January 15, 1979, its proposed "First Revised Sheet No. 56" which would change the then-effective Section 2.10 to read as follows:

2.10 *Interim Restriction on Growth.* Seller will limit its new connection to 7,500 for each calendar year beginning January 1, 1979 and will restrict such connections to residential

<sup>2</sup>Stipulation and Agreement in Settlement of Curtailment Proceeding filed with the Commission on August 31, 1976, p. 9.

<sup>3</sup>"Substitute Original Sheet No. 56." Issued on November 26, 1976 to comply with Commission order dated November 17, 1976.

and small commercial customers. Such new connections will only be made as long as new reserve additions since January 1, 1978 average 40 Bcf per year.

The proposed effective date of the new tariff sheet was February 15, 1979. Over objections by certain of MDU's customers, the Commission accepted the tariff submittal for filing, but suspended its effectiveness for five months until July 15, 1979.<sup>4</sup>

Certain of MDU's customers applied for rehearing of the February 14, 1979 order, but in an order issued on June 11, 1979, the Commission denied rehearing.<sup>5</sup> In the June 11, 1979 order, the Commission also affirmed, for the most part, the Presiding Judge's first initial decision, finding the curtailment plan agreed upon in the settlement to be just and reasonable. Certain parties<sup>6</sup> petitioned the United States Court of Appeals for the District of Columbia Circuit for review of the Orders of February 14 and June 11, 1979.<sup>7</sup>

After MDU's January 15, 1979 filing, the Commission issued Order No. 29<sup>8</sup> to implement section 401(a) of the NGPA, which prescribed permanent rules with respect to the preference accorded to high priority and essential agricultural uses in the curtailment plans of interstate pipelines. The Commission has also issued Order No. 55,<sup>9</sup> which made alternative fuel determinations for certain essential agricultural uses.

Pursuant to the orders of February 14 and June 11, 1979 in Docket No. RP76-91, several prehearing conferences have been held, and evidentiary hearings were held in Billings, Montana on August 14 and 15, 1979, on the issue of limiting growth on the MDU system in the future.

Settlement discussions have also been held, resulting in the filing of the instant settlement in which MDU, all the active intervenors in this proceeding, and the Commission Staff have joined.

<sup>4</sup>"Order Accepting for Filing But Suspending Tariff Sheet, Providing for Evidentiary Hearing, and Granting Intervention," issued February 14, 1979.

<sup>5</sup>*Columbia Gas Transmission Corporation, et al.*, Docket Nos. RP72-89 *et al.*, "Order Following 180-Day Suspension of Curtailment Proceedings to Permit Assessment of Effects of NGPA," pages 9-13, 15.

<sup>6</sup>The Great Western Sugar Company, Holly Sugar Corporation, Pete Lien & Sons, Inc., Dakota Block Company, and Hardy Salt Company.

<sup>7</sup>Case No. 79-1878.

<sup>8</sup>"Final Regulation for the Implementation of Section 401 of the Natural Gas Policy Act," Docket No. RM79-15, issued May 2, 1979 (18 CFR 281.201, *et seq.*).

<sup>9</sup>"Interim Rule-Determination of Alternative Fuels for Essential Agricultural Users," Docket No. RM79-40, issued October 26, 1979.

#### Summary of Proposed Settlement

The proposed settlement can be summarized as follows:

**Growth:** Article II of the Settlement Agreement allows MDU to make up to 5,000 new high priority connections in 1979 and up to 7,500 new high priority connections in each of the calendar years 1980 through 1983. The connection of customers in 1980 through 1983 is subject to reduction, however, in the event that MDU is not successful in attaching enough reserves to support the permissible growth. Under the terms of the settlement, the availability of 40,000 MMcf of net reserve additions justifies 7,500 new high priority connections. Article II also contains the rules for determining the availability of reserves, including a carry-forward formula applicable to those years when reserve additions are above or below 40,000 MMcf. If MDU is required pursuant to Article II to reduce the number of new connections which it might make in a calendar year, it will do so by filing a new tariff sheet setting forth the permissible number of connections. If MDU desires to change the rule governing new connections after December 31, 1983, it must file tariff sheets doing so no later than July 31, 1983, with a proposed effective date of January 1, 1984. Article III provides that conservation realized by MDU's residential and commercial customers shall be treated the same as reserve additions.

**New Priorities of Service:** Article IV provides new priorities of service under MDU's curtailment plan as follows:

**Priority 1—Residential, small commercial** (less than 50 Mcf on a peak day) schools, hospitals and similar institutions, and any other requirements the curtailment of which the Secretary of Energy determines would endanger life, health or maintenance of physical property.

**Priority 2(a)—Essential agricultural** use requirements of less than 300 Mcf on a peak day at a single location and essential agricultural use requirements at locations using 300 Mcf or more on a peak day for non-boiler fuel purposes.

**Priority 2(b)—Large commercial** requirements (50 Mcf or more on a peak day); industrial requirements for plant protection; essential industrial process or feedstock use; small industrial requirements (less than 50 Mcf on a peak day); and requirements of the U.S. Government for national defense purposes.

**Priority 2(c)—Essential agricultural** use requirements at locations using 300 Mcf or more on a peak day for boiler fuel purposes.

**Priority 3—All industrial requirements** not specified in Priorities 2(a), 2(b), or 2(c) where the total annual industrial requirements at a single location are 36,720 Mcf or less.

**Priority 4—All large industrial** requirements not specified in Priorities 2(a), 2(b), 2(c), or 3.

Article IV also provides new definitions of essential industrial feedstock and process gas and of boiler fuel and states that the classification of MDU's customers in accordance with the new priorities and definitions will be set forth in the index of requirements to be filed by MDU in implementation of the settlement.

**Agricultural Rule:** Article V provides that MDU will offer its essential agricultural users annual contracts for 100 percent of their essential agricultural uses (including boiler fuel) through June 30, 1983. If MDU desires to change the treatment accorded to its essential agricultural users after that date, it shall file new tariff sheets effecting the change no later than February 1, 1983, with a proposed effective date of July 1, 1983. Any such new tariff sheets may not be suspended beyond July 2, 1983.

**Large Industrial Service:** Article VI provides that MDU will offer its large industrial customers annual contracts for 100 percent of their Priority 2(b) or 3 base period requirements, if any, and for at least 20 percent of their Priority 4 base period requirements, if any, through the period ending June 30, 1983. The annual requirements of two customers are increased somewhat in order to reflect recent market changes, although there has been no increase in plant capacity.

**Curtailment:** Article VII provides that if MDU is unable to deliver to its customers the annual contract quantities specified in Articles V and VI, MDU will curtail its customers in accordance with the priorities of service set forth in Article IV.

**Interruptions:** Article VIII provides for plant protection service to those customerse without alternate fuel capability and establishes the interruption priority for those customers who have converted to coal under Section 2.6(c) of MDU's curtailment plan.

**Master Meters:** Article IX provides that all new mobile home court connections will be on an individual meter basis and that all existing master meter mobile home courts which desire to convert to individual meters may do so.

**Definitions:** Article X provides that, to the extent permitted by law, the meaning of terms specifically defined in the settlement shall not be changed by



any inconsistent definitions promulgated after filing of the settlement.

**Modifications:** Article XI provides that MDU shall not have the right to file any tariff changes inconsistent with the settlement during the period of its effectiveness.

**Withdrawal of Appeal:** Article XII provides that the appeal of the Commission's orders of February 14 and June 11, 1979 shall be held in abeyance pending Commission consideration of the settlement and, upon approval of the settlement, shall be the subject of a motion to dismiss.

**Effectiveness:** Article XIII provides that the settlement is effective as among the parties ratifying it as of the date of filing the settlement with the Secretary of the Commission. This effectiveness is subject to the right to withdraw within 15 days after issuance of a final Commission order that conditions or substantially modifies the settlement to the detriment of the party withdrawing. Article XIII also provides that the settlement shall terminate as of 12:00 a.m. on January 1, 1984.

**Interim Implementation:** Article XIV provides that MDU shall apply for an adjustment under section 502(c) of the NGPA so as to allow the settlement to become effective pending Commission action thereon, if the Commission has not acted in time for the settlement to become effective on December 1, 1979.

**Reservations and Termination of Proceedings:** Article XV contains the standard reservation provisions, and Article XVI provides that upon issuance of a final and non-appealable Commission order approving the settlement, the proceedings in Docket No. RP76-91 shall be terminated as to all issues except those related to the Staff's investigation of environmental matters.

#### Discussion

The settlement is significantly broader than the single issue raised by MDU's tariff sheet filing of January 15, 1979, which provided for an increase in the number of new high priority connections permissible each year. In addition to allowing such an increase, subject to the conditions set forth in Article II, the parties have provided for specific treatment of essential agricultural uses over the period ending on June 30, 1983, have revised the priorities of service in the curtailment plan, and have made other changes as described above.

In our order of June 11, 1979 we said:

Our evaluation of this case indicates the controversies here should, once again, be resolvable through negotiation. Accordingly, the Administrative Law Judge shall convene a settlement conference in the near future.

but at his and the parties' mutual convenience. Hearings shall commence only after the Judge determines further settlement discussions will likely be futile.

In addition, in issuing our permanent rule concerning the treatment of essential agricultural uses, we said at page 10:

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission. This procedure may be appropriate here and nothing in the rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our rule. Such a settlement will be evaluated by the Commission in light of its responsibility to meet the statutory goal of protecting, to the maximum extent practicable, high-priority users and essential agricultural users.

The parties have proposed what is essentially a four-year settlement that embraces not only the growth issue, but also the issues raised by passage of section 401 of the NGPA. Strong evidence of the reasonableness of this settlement for MDU's system is derived from the wide range of interests represented by those persons who have ratified and commented favorably on the settlement. Those persons include MDU, Holly Sugar Corporation, Pete Lien & Sons, Inc., Dakota Block Company, Hardy Salt Company, Homestake Mining Company, Midwestern Homes, Inc., Baroid Petroleum Services Division of NL Industries, Inc., Pierce Packing Company, Lovell Clay Products Company, Midland Empire Packing Company, Midland Foods Distributors, Inc., Dresser Industries, Inc., Hebron Brick Company, The Great Western Sugar Corporation, and Commission Staff. After reviewing the comments that had been filed, the Presiding Judge certified the proposed settlement as uncontested and recommended that it be approved as a "reasonable accommodation which will eliminate lengthy and expensive litigation."

The proposed settlement varies from Order No. 29 in three respects. First, large commercial requirements, industrial requirements for plant protection, essential industrial process or feedstock use, other small industrial requirements and requirements of the United States Government for national defense purposes are placed in Priority 2(b) ahead of large boiler fuel requirements of essential agricultural users. Second, the current requirements of essential agricultural users would not be increased to take account of plant expansion that would increase essential agricultural requirements to a level of

300 Mcf or more on a peak day at a single location. Third, essential agricultural users would not be subjected to an alternative fuel test until July 1, 1983. MDU has requested an adjustment under section 502(c) of the NGPA of the requirements of Commission Order Nos. 29 and 55 to the extent necessary to implement the proposed settlement.<sup>10</sup>

None of these three variances in contested by any party. These variances form an integral part of a comprehensive settlement that was arrived at through accommodation and compromise by many competing interests. Accordingly, we will grant MDU the requested adjustment exempting it from the application of Order No. 29 and Order No. 55.

We find that the proposed settlement provides the requisite measure of protection for high priority and essential agricultural uses mandated by the NGPA. The proposal presents a suitable alternative to the requirements of Order No. 29 for meeting those statutory objectives. Moreover, the proposed settlement provides a reasonable resolution of the remaining issues present in this lengthy curtailment proceeding. Accordingly, we approve the settlement.

**The Commission finds and orders:** (1) The Stipulation and Agreement filed by MDU on October 10, 1979, constitutes a fair and reasonable means of implementing section 401 of the Natural Gas Policy Act and is consistent with the objectives of Commission Order Nos. 29, 29-A, 29-B and 29-C.

(2) MDU is hereby granted an adjustment in accordance with Section 502(c) of the NGPA exempting it from the application of Order Nos. 29, 29-A, 29-B and 29-C and Order No. 55 to the extent necessary to implement the proposed settlement.

(3) The October 10, 1979 Stipulation and Agreement is hereby approved.<sup>11</sup> The tariff provisions proposed by MDU to implement the settlement are just and reasonable. MDU is directed to file tariff sheets implementing the settlement within 15 days of issuance of this order. The Commission finds it appropriate to waive its regulations to the extent necessary to permit the tariff sheets to become effective as of December 1, 1979.

<sup>10</sup> Order No. 55 was issued on October 26, 1979, after MDU had filed its settlement proposal. On October 31, 1979, MDU filed an "Application for Adjustment in Order to Implement Settlement Agreement." That application requested the adjustment from Order Nos. 29 and 55 so that MDU could implement its settlement without modification.

<sup>11</sup> Our action here makes further proceedings in Docket No. SA80-19 unnecessary, and that proceeding will be terminated.

(4) Docket No. RP76-91 is hereby terminated as to all issues except those arising from continuation by Staff of its investigation of environmental matters.

(5) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle of issue in this proceeding.

By the Commission, Commissioner Holen, dissenting, filed a separate statement as part of the original document.

Kenneth F. Plumb,  
Secretary.

BILLING CODE 6450-01-M

#### [Docket No. RP80-54]

#### Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

December 4, 1979.

Take notice that on November 30, 1979, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Second Revised Volume No. 2, the below listed tariff sheets:

Second Revised Sheet No. 390  
Third Revised Sheet No. 653  
Third Revised Sheet No. 668  
Third Revised Sheet No. 695  
Second Revised Sheet No. 1097

Natural states that these tariff sheets have been revised to reflect rate reductions to various transportation charges under Rate Schedules X-46, X-62, X-63, X-67, and X-93 in accordance with the terms of their respective tariffs.

Natural states that the basic factors used, e.g. rate of return, depreciation rate, tax rates, etc., are those approved in Docket No. RP78-78 and that the cost of service used is either identical to that approved in RP78-78 or derived therefrom.

Copies of this filing were served upon parties to Docket No. RP78-78 and the affected customers listed below:

El Paso Natural Gas Company  
Columbia Gas Transmission Corporation  
Texas Eastern Transmission Corporation  
Northern Natural Gas Company  
Sea Robin Pipeline Company

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Kenneth F. Plumb,  
Secretary.

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38019 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. RP79-75]

#### Northwest Pipeline Corp.; Change in Rates

December 4, 1979.

Take notice that on November 27, 1979, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, Original Volume No. 1, Twenty-fifth Revised Sheet No. 10.

Twenty-fifth Revised Sheet No. 10, inter alia, reflects the revised funding unit for the Gas Research Institute ("GRI") approved by the Commission in Opinion No. 64 issued October 2, 1979. Such revised funding unit is to become effective January 1, 1980.

Northwest is concurrently filing at Docket No. RP72-154 its "Reduced PGA" pursuant to FERC Order No. 49 issued September 28, 1978 at Docket No. RM79-14. Such filing contains certain rate adjustments required by FERC Order No. 49 also to be effective January 1, 1980. Accordingly both rate adjustments are reflected on Twenty-fifth Revised Sheet No. 10 which is proposed to be effective January 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37990 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. TA80-1-37]

#### Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment and Incremental Pricing Provision

December 4, 1979.

Take notice that on November 27, 1979, Northwest Pipeline Corporation ("Northwest") tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to revised Article 16, *Purchased Gas Cost Adjustment and Incremental Pricing Provision* contained in its FERC Gas Tariff, Original Volume No. 1. Such change is for the purpose of implementing Order No. 49 issued by the Commission on September 28, 1979 at Docket No. RM79-14. Order No. 49 implements the Incremental Pricing Provisions of Title II of the Natural Gas Policy Act of 1978 ("NGPA").

As part of the instant notice, Northwest tendered Twenty-fifth Revised Sheet No. 10 setting forth a revised Statement of Rates and Original Sheet No. 10-B reflecting projected incremental surcharges pursuant to Order No. 49, all as more fully explained in the instant filing.

Northwest is concurrently filing a notice of change in rates pursuant to the Article 17, *Gas Research Adjustment Charge Provision*, also contained in Northwest's Volume No. 1 Tariff. Such rate change is made pursuant to Opinion No. 64 issued by the Commission on October 2, 1979 at Docket No. RP79-75. Both rate adjustments are to become effective pursuant to their respective Commission authorizations on January 1, 1980. Therefore Twenty-fifth Revised Sheet No. 10 includes both rate adjustments and is proposed to become effective January 1, 1980. Original Sheet No. 10-B is also proposed to become effective on January 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file



with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37991 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Project No. 2814]

**City of Paterson; Extension of Time**

December 6, 1979.

On November 7, 1979, the City of Paterson filed a motion with the Commission for an extension of time to submit responses to Petitions to Intervene, filed October 24, 1979 and October 29, 1979, respectively, by the North Jersey District Water Supply Commission and the Hackensack Water Company, in this proceeding. The Motion states that the City of Paterson needs additional time to prepare a comprehensive analysis of the complex issues in the case and to explore the factual and legal contentions of the petitioners.

Upon consideration, notice is hereby given that an extension is granted to and including December 12, 1979, for the filing of responses to Petitions to Intervene in this proceeding.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38003 Filed 12-7-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER77-277]

**Pennsylvania Power Co.; Extension of Time**

December 6, 1979.

On November 29, 1979, the Pennsylvania Power Company filed a request with the Commission for an extension of time to file Briefs on Exceptions to the Initial Decision issued November 7, 1979, in the above-docketed proceeding. In support of this request, the motion states that parties to this proceeding are presently engaged in settlement discussions and that Commission Staff and intervening parties support this request for an extension.

Upon consideration, notice is hereby given that an extension of time for filing Briefs on Exceptions is granted to and including January 7, 1980. Briefs Opposing Exceptions shall be filed on or before January 28, 1980.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38004 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER78-410]

**Philadelphia Electric Co.; Compliance Filing**

December 4, 1979.

The filing Company submits the following:

Take notice that on November 19, 1979, Philadelphia Electric Company (Philadelphia) filed a notice of compliance with the Commission's order of October 4, 1979 in the above captioned case.

Philadelphia states that in accordance with the settlement agreement, a refund of \$115,578.57 was made by Philadelphia to Conowingo Power Company, and a refund of \$16,873.69 was made the Susquehanna Electric Company. These refunds, which include interest at 9% per annum, were made to Conowingo Power Company on November 3, 1979.

A copy of this filing has been supplied to the Pennsylvania Public Utility Commission, the Public Service Commission of Maryland and Peoples Counsel of Maryland.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before December 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37993 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-110]

**Public Service Co. of Colorado; Filing an Amendment to Rate Schedule**

December 4, 1979.

Take notice that Public Service Company of Colorado (PSCo) on November 28, 1979 tendered for filing an Amendment to FERC Rate Schedule No. 20 with the Town of Julesburg, Colorado (Town).

PSCo states that the Amendment provides for an additional 6 percent loss factor pursuant to a wheeling service agreement and adjusts that rate to reflect the Settlement Agreement in Docket No. ER78-507.

PSCo states that copies of the filing were served upon all parties to the Amendment and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before December 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to serve to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37994 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-111]

**Tampa Electric Co.; Filing**

December 4, 1979.

The filing Company submits the following:

Take notice that on November 27, 1979, Tampa Electric Company (Tampa) tendered for filing an Agreement for Interchange Service between Utilities Commission City of New Smyrna Beach (New Smyrna Beach) and Tampa. Tampa asks that the Agreement be permitted to become effective on December 1, 1979, so that Economy Interchange transactions between Tampa and New Smyrna Beach may be initiated as soon as possible. Tampa requests waiver of the Commission's notice requirements to allow for such effective date.

Copies of the filing were served upon New Smyrna Beach and the Florida Public Service Commission, according to Tampa.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the requirements of Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party should file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37995 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-112]

**Upper Peninsula Power Co.; Proposed Rate Change**

December 4, 1979.

The filing Company submits the following:

Take notice that on November 29, 1979 the Upper Peninsula Power Company (UPPCO) tendered for filing proposed changes in the rate schedules for service to the Alger-Delta Cooperative Electric Association, The Ontonagon County Rural Electrification Association, Village of Baraga, City of Gladstone, Village of L'Anse, City of Negaunee, and to the Wisconsin Electric Power Company.

The Upper Peninsula Power Company asserts that the filing is in accordance with Part 35 of the Commission's Regulations. UPPCO states that the schedule in the rate filed will supersede the schedule presently on file with this Commission.

The proposed changes would increase revenue from these jurisdictional sales by \$237,332 based on the 12-month period ended August 31, 1979. UPPCO requests an effective date for the proposed increase of January 31, 1980.

The reason stated by UPPCO for the increase is to overcome the revenue deficiency from this type of service occasioned by the continued inflationary impact on its costs.

Copies of the filing were served upon UPPCO's affected jurisdictional customers, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37997 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. ER80-113]

**Western Power Division, Central Telephone & Utilities Corp.; Notice of Proposed Changes in Rates and Charges**

December 4, 1979.

The filing Company submits the following:

Take notice that on November 30, 1979, Western Power Division, Central Telephone & Utilities Corporation (Western Power) tendered for filing proposed changes to its present rate schedules for service to its REA Cooperative customers as follows:

Substitute Rate Schedule 80-CWh-2 for Rate Schedule 78-CWh-2.

for service to its Municipal Wholesale customers as follows:

Substitute Rate Schedule 80-MWh-2 for Rate Schedule 78-MWh-2.

for service to Central Kansas Electric Cooperative, Inc. (an interconnected transmission and distribution utility) as follows:

Substitute Schedule 80-A for firm power service for present Schedule 78-A.

and for service to interconnected municipal utilities (the cities of Anthony, Attica, Beloit, Hoisington, Kingman, Pratt, Osborne, Stockton, Russell and Washington, Kansas) as follows:

Substitute revised Schedule 80-A1 for firm power service for present Schedule 78-A1.

Western Power proposed February 1, 1980, as the effective date of these new rate schedules and states that copies of this filing were served upon each of its wholesale customers affected by this filing and the Kansas State Corporation Commission.

The proposed rate schedules, according to Western Power, will produce in the case of its REA Cooperative customers a 38.21% increase in revenue, in the case of its Municipal Wholesale customers a 39.72% revenue, in the case of Central Kansas Electric Cooperative, Inc., a 29.81% increase in revenue and in the case of the interconnected municipal utilities a 38.36% increase in revenue over projected unadjusted test period revenue, the test period being the 12 months ending December 31, 1980.

The fuel adjustment clause in the present rate schedules for all wholesale

customers affected by this filing are in conformity with Section 35.14 of the Commission's Regulations as amended by Order No. 517 issued November 13, 1974. The rate of return projected for the test year of 1980 under present rates on sales to REA Cooperatives is 0.33% on sales to the Municipal Wholesale customers 1.44%, on sales to Central Kansas Electric Cooperatives, Inc., 1.13% and on sales to the interconnected municipal utilities 1.26%.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37998 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

[Dockets Nos. CS67-25, Et al.]

**Applications for "Small Producer" Certificates<sup>1</sup>**

December 4, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 12, 1979, file with the Federal Energy Regulatory Commission.

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.



Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

| Docket No. | Dated filed | Applicant                                                                                                                        |
|------------|-------------|----------------------------------------------------------------------------------------------------------------------------------|
| CS97-25... | 13-12-79    | Parker & Parsley, Inc., et al. (Parker & Parsley, et al.) P.O. Box 3178, One Marriemfeld Place, Suite 333, Midland, Texas 79702. |
| CS71-1052. | 16-4-79     | A. O. Phillips Oil Company (Estate of A. O. Phillips), 603 Wilson Building, Corpus Christi, Texas 78476.                         |
| CS75-275.  | 16-1-79     | Worldwide Energy Corporation (WECO Development Corporation), Ste. 1600, 1700 Broadway, Denver, Colorado 80290.                   |
| CS78-112.  | 18-5-79     | Antelope Production Company (Antelope Gas Products Company), 800 Building of the Southwest, Midland, Texas 79701.                |

<sup>1</sup>NGPA filing reflecting change in designation. Certificate holder has confirmed that certificate should be redesignated accordingly.

[FR Doc. 79-37992 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

#### [No. 123]

#### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

December 3, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

#### Arkansas Oil and Gas Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06667
2. 03-131-00000-0000-1
3. 108 000 000
4. Diamond Shamrock Corporation
5. Ben R Dolan No 1-C
6. Witcherville
7. Sebastian AR
8. 8.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company

1. 80-06668
2. 03-131-00000-0000-2
3. 108 000 000
4. Diamond Shamrock Corporation
5. Ben R Dolan No 1-T
6. Witcherville
7. Sebastian AR
8. 1.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company

1. 80-06670
2. 03-131-10062-0000-2
3. 108 000 000
4. Diamond Shamrock Corporation
5. C W Casaway No 1-T
6. Witcherville
7. Sebastian AR
8. 3.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company

1. 80-06671
2. 03-131-10023-0000-1
3. 108 000 000
4. Diamond Shamrock Corporation
5. James A Gilker No 1-UT
6. Witcherville
7. Sebastian AR
8. 1.0 million cubic feet
9. November 16, 1979

10. Arkansas Louisiana Gas Company
1. 80-06672
2. 03-131-10023-0000-2
3. 108 000 000
4. Diamond Shamrock Corporation
5. James A Gilker No 1-LT
6. Witcherville
7. Sebastian AR
8. 1.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company
1. 80-06673
2. 03-131-10058-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. J D Kezer No 1-35
6. Witcherville
7. Sebastian AR
8. 6.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company

1. 80-06674
2. 03-131-10029-0000
3. 108 000 000
4. Diamond Shamrock Corporation
5. Herman Sterling No 1
6. Witcherville
7. Sebastian AR
8. 7.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company
1. 80-06675
2. 03-131-10127-0000
3. 103 000 000
4. Diamond Shamrock Corporation
5. Henry Hearn #1
6. Witcherville
7. Sebastian AR
8. 73.0 million cubic feet
9. November 16, 1979
10. Arkansas Louisiana Gas Company

#### New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or Block No.
8. Estimated Annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06677
2. 30-045-22541-0000
3. 103 000 000
4. Northwest Pipeline Corporation
5. Cox Canyon Unit #20
6. Blanco PC
7. San Juan NM
8. 135.0 million cubic feet
9. November 19, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Co

1. 80-06678
2. 30-045-22573-0000
3. 103 000 000
4. Northwest Pipeline Corporation
5. Cox Canyon Unit #21
6. Blanco PC
7. San Juan NM
8. 161.0 million cubic feet
9. November 19, 1979

10. Northwest Pipeline Corporation El Paso Natural Gas Co
1. 80-06679
2. 30-025-26236-0000
3. 102 000 000
4. Getty Oil Company
5. Getty 36 State Com No 1
6. East Grama Ridge-Morrow
7. Lea NM
8. 657.0 million cubic feet
9. November 19, 1979
10. Tuco Inc

1. 80-06680
2. 30-025-25324-0000
3. 102 000 000
4. Getty Oil Company
5. Getty 35 State No 1
6. East Grama Ridge-Morrow
7. Lea NM
8. 913.0 million cubic feet
9. November 19, 1979
10. Tuco Inc
1. 80-06681
2. 30-015-22475-0000
3. 102 000 000
4. J C Barnes Oil Company
5. No 1 Little Squaw Comm
6. Wildcat
7. Eddy NM
8. 1095.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

#### Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or Block No.
8. Estimated Annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06493/07460
2. 34-167-25006-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. J Loar #1

- 6.
7. Washington OH
8. 3.5 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06494/0761
2. 34-053-20464-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Hobet Mining #1
6. Addison Twp
7. Gallia OH
8. 3.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06495/0762
2. 34-053-20465-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Hobet Mining #1
6. Addison Twp
7. Gallia OH
8. 3.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06496/07463
2. 34-127-24018-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Greenlawn Memory Gardens #1
6. Reading Twp
7. Perry OH
8. 6.0 million cubic feet
9. November 15, 1979
10. Foraker Gas Company
1. 80-06497/07464
2. 34-127-24140-0014
3. 103 000 000
4. Altheirs Oil Inc
5. David Nash #2
6. Reading Twp (Golf course)
7. Perry OH
8. 7.0 million cubic feet
9. November 15, 1979
10. Foraker Gas Company

1. 80-06498/07465
2. 34-127-24139-0014
3. 103 000 000
4. Altheirs Oil Inc
5. D. R. Nash #1
6. Reading Twp (Golf course)
7. Perry OH
8. 7.5 million cubic feet
9. November 15, 1979
10. Foraker Gas Company
1. 80-06499/07466
2. 34-127-24122-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Ben Ricketts—USA #3
6. Saltlick Twp
7. Perry OH
8. 7.5 million cubic feet
9. November 15, 1979
10. Nico-Fibers Inc

1. 80-06500/07467
2. 34-127-24212-0014
3. 103 000 000
4. Altheirs Oil Inc
5. Forquer-Bowe #1
6. Saltlick Twp
7. Perry OH
8. 5.5 million cubic feet
9. November 15, 1979
10. Nico-Fibers Inc
1. 80-06501/07468
2. 34-127-24328-0014
3. 103 000 000
4. Altheirs Oil Inc
5. James Ricketts/USA #3
6. Monday Creek Twp
7. Perry OH
8. 6.0 million cubic feet
9. November 15, 1979
10. Nico-Fibers Inc

1. 80-06502/07469
2. 34-133-22072-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. S R S Unit #1
- 6.
7. Portage OH
8. 30.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Company
1. 80-06503/06622
2. 34-067-20228-0014
3. 108 000 000
4. Resource Exploration Inc
5. Pyle #1

- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06504/06623
2. 34-067-20180-0014
3. 108 000 000
4. Resource Exploration Inc
5. Cutlip #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06505/06624
2. 34-067-20206-0014
3. 108 000 000
4. Resource Exploration Inc
5. Floyd #1

- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06506/06625
2. 34-067-20223-0014
3. 108 000 000
4. Resource Exploration Inc
5. Anderson #2
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06507/06626
2. 34-067-20286-0014
3. 108 000 000
4. Resource Exploration Inc
5. Phillips #6

- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06508/06627
2. 34-067-20162-0014
3. 108 000 000
4. Resource Exploration Inc
5. Overholt #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06509/06628
2. 34-067-20170-0014
3. 108 000 000
4. Resource Exploration Inc
5. Lorie Minerals #1

- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06510/06630
2. 34-067-20173-0014
3. 108 000 000
4. Resource Exploration Inc
5. R Dunlap #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp



1. 80-06511/06631
2. 34-067-20175-0014
3. 108 000 000
4. Resource Exploration Inc
5. Burkhardt #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp

1. 80-06512/06632
2. 34-067-20177-0014
3. 108 000 000
4. Resource Exploration Inc
5. Traster #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp

1. 80-06513/06633
2. 34-067-20185-0014
3. 108 000 000
4. Resource Exploration Inc
5. Ireland #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp

1. 80-06514/06634
2. 34-067-20218-0014
3. 108 000 000
4. Resource Exploration Inc
5. Smith #4
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp

1. 80-06515/07174
2. 34-157-21513-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. Tonelotti Unit #1
- 6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. November 15, 1979
10. The East Ohio Gas Company

1. 80-06516/07237
2. 34-115-21623-0014
3. 103 000 000
4. O'Neal Productions Inc
5. Paul Smith #1
- 6.
7. Morgan OH
8. 13.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Company

1. 80-06517/07288
2. 34-119-24433-0014
3. 103 000 000
4. Charles O Lighthizer
5. Anderson Well #1
6. Dorothy Anderson #1
7. Muskingum OH
8. 0 million cubic feet
9. November 15, 1979
10. Columbia Gas Trans Co

1. 80-06518/07399
2. 34-115-21806-0014
3. 103 000 000
4. The Benatty Corporation
5. Harlan Rex #2
- 6.
7. Morgan OH
8. 25.0 million cubic feet
9. November 15, 1979
10. The East Ohio Gas Company

1. 80-06519/07400
2. 34-119-24712-0014
3. 103 000 000
4. The Benatty Corporation
5. J Staley #1
- 6.
7. Muskingum OH
8. 25.0 million cubic feet
9. November 15, 1979
10. The East Ohio Gas Company

1. 80-06520/07401
2. 34-167-24087-0014
3. 103 000 000
4. Tri-City Drilling Company
5. Silas Woodruff #2
- 6.
7. Washington OH
8. 5.0 million cubic feet
9. November 15, 1979
10. River Gas Company

1. 80-06521/07402
2. 34-151-23013-0014
3. 103 000 000
4. MB Operating Co Inc
5. M & L Garman Jr #1
- 6.
7. Stark OH
8. 5.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06522/07403
2. 34-153-20704-0014
3. 103 000 000
4. City of Cuyahoga Falls
5. City Cuyahoga Falls #1
- 6.
7. Summit OH
8. 50.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co

1. 80-06523/07405
2. 34-157-23346-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. Swihart-Andrews #1
- 6.
7. Tuscarawas OH
8. 14.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06524/07506
2. 34-157-23363-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. L Marburger #1
- 6.
7. Tuscarawas OH
8. 31.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06525/07407
2. 34-157-23385-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. William Marino #4
- 6.
7. Tuscarawas OH
8. 25.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06526/07408
2. 34-031-23394-0014
3. 103 000 000
4. Jadoil Inc
5. Archie & Louise Williamson #1
- 6.
7. Coshocton OH
8. 5.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06527/07409
2. 34-031-23389-0014
3. 103 000 000
4. Jadoil Inc
5. Archie & Louise Williamson #2
- 6.
7. Coshocton OH
8. 7.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06528/07411
2. 34-089-23631-0014
3. 103 000 000
4. American Well Management Company
5. Kreager No 1
- 6.
7. Licking OH
8. 0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06529/07412
2. 34-089-23678-0014
3. 103 000 000
4. American Well Management Company
5. Fisk No 2
- 6.
7. Licking OH
8. 18.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06530/07413
2. 34-089-23636-0014
3. 103 000 000
4. American Well Management Company
5. Boyd No 2
- 6.
7. Licking OH
8. 18.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06531/07414
2. 34-089-23635-0114
3. 103 000 000
4. American Well Management Company
5. Boyd No 3
- 6.
7. Licking OH
8. 18.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06532/07415
2. 34-007-21182-0014
3. 103 000 000
4. Clarence K Tussell Jr
5. G Hill #1
- 6.
7. Ashtabula OH
8. 30.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06533/07416
2. 34-075-22235-0014
3. 103 000 000
4. Berwell Energy Inc
5. Victor Neal No 1
- 6.
7. Holmes OH
8. 36.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Trans Co

1. 80-06534/07417
2. 34-119-24923-0014
3. 103 000 000
4. Patrick T Donnelly DBA Landprovest
5. L A Robertson #2
- 6.
7. Muskingum OH
8. 35.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06535/07418
2. 34-167-24860-0014
3. 103 000 000
4. Page P Blakemore
5. Ralph Lindamood #1
6. Liberty
7. Washington OH
8. 19.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06536/07419
2. 34-167-24693-0014
3. 103 000 000
4. Page P Blakemore
5. Loyd Romick #1
6. Grandview
7. Washington OH
8. 28.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06537/07420
2. 34-167-24438-8001-4
3. 103 000 000
4. Page P Blakemore
5. Virgil Amos #1
6. Grandview
7. Washington OH
8. 23.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06538/07421
2. 34-167-24372-0014
3. 103 000 000
4. Page P Blakemore
5. Knowlton Heirs #1
6. Grandview
7. Washington OH
8. 25.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06539/07422
2. 34-167-24692-0014
3. 103 000 000
4. Page P Blakemore
5. Orville Brown #1
6. Grandview
7. Washington OH
8. 16.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06540/07423
2. 34-007-21183-0014
3. 103 000 000
4. Clarence K Tussell Jr
5. Leventhal-Oas #1
- 6.
7. Ashtabula OH
8. 30.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06541/07424
2. 34-167-24642-0014
3. 103 000 000
4. Trend Exploration Limited
5. Trend #1 Cunningham
6. Coolville
7. Washington Oh
8. 10.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission

1. 80-06542/07425
2. 34-009-21941-0014
3. 103 000 000
4. Trend Exploration Limited
5. Trend #1 Lamp
6. Coolville
7. Athens OH
8. 130.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission

1. 80-06543/07427
2. 34-075-22183-0014
3. 103 000 000
4. B T Simpson Jr
5. John & Marble Mackey #2 2183
6. Killbuck
7. Holmes OH
8. 62.5 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06544/07428
2. 34-167-24983-0014
3. 103 000 000
4. Berresford Inter Prises Inc
5. Thomas Davis #1
6. Big Run Allotment
7. Washington OH
8. 15.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06545/07429
2. 34-155-21260-0014
3. 103 000 000
4. Berea Oil and Gas Corp
5. Markovich #1
- 6.
7. Trumbull OH
8. 32.4 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co

1. 80-06546/07430
2. 34-119-24902-0014
3. 103 000 000
4. The Oxford Oil Co
5. Kinkade-Swingle Unit #2
6. N-R
7. Muskingum OH
8. 9.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06547/07431
2. 34-031-23552-0014
3. 103 000 000
4. The Oxford Oil Co
5. Paul E Robinson #1
6. N-R
7. Coshocton OH
8. 11.0 million cubic feet
9. November 15, 1979
- 10.

1. 80-06548/07432
2. 34-157-23307-0014
3. 103 000 000
4. The Oxford Oil
5. E Markley Unit #1
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06549/07433
2. 34-157-23393-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. D&B Becker #1-904
- 6.
7. Tuscarawas OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06550/07434
2. 34-151-23073-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. C & F Yates Comm 2-908
- 6.
7. Stark OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06551/07435
2. 34-151-23069-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. W & E Frase Comm #1-909
- 6.
7. Stark OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06552/07436
2. 34-151-23063-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. J & S Ritzert Comm #1-910
- 6.
7. Stark OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06553/07437
2. 34-151-23066-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. Ben Willen #3-916
- 6.
7. Stark OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06554/07438
2. 34-151-23056-0014
3. 103 000 000
4. Belden & Blake and Co L P No 72
5. C Ianello Comm #2-906
- 6.
7. Stark OH
8. 36.5 million cubic feet
9. November 15, 1979
- 10.

1. 80-06555/07439
2. 34-155-21293-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06556/07440
2. 34-155-21294-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06557/07441
2. 34-155-21295-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06558/07442
2. 34-155-21296-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06559/07443
2. 34-155-21297-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06560/07444
2. 34-155-21298-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06561/07445
2. 34-155-21299-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06562/07446
2. 34-155-21300-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp

1. 80-06563/07447
2. 34-155-21301-0014
3. 103 000 000
4. Gasearch Inc
5. #1 Karagis-Ziegler
- 6.
7. Trumbull OH
8. 100.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp



1. 80-06556/07440
  2. 34-155-21294-0014
  3. 103 000 000
  4. Gasearch Inc
  5. #2 Karagis
  - 6.
  7. Trumbull OH
  8. 100.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corporation
  1. 80-06557/07441
  2. 34-099-21111-0014
  3. 103 000 000
  4. Rowley & Brown Petroleum Corp
  5. Keich #1
  - 6.
  7. Mahoning OH
  8. 27.0 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Company
  1. 80-06558/07442
  2. 34-167-24687-0014
  3. 103 000 000
  4. Braden Development Company
  5. Lloyd Cullen #1
  - 6.
  7. Washington OH
  8. 73.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Trans Corp
  1. 80-06559/07443
  2. 34-119-24820-0014
  3. 103 000 000
  4. Berea Oil and Gas Corporation
  5. Herron #1
  - 6.
  7. Muskingum OH
  8. 21.6 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission
  1. 80-06560/07444
  2. 34-119-24825-0014
  3. 103 000 000
  4. Berea Oil and Gas Corporation
  5. Herron Unit #2
  - 6.
  7. Muskingum OH
  8. 7.2 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission
  1. 80-06561/07446
  2. 34-155-21289-0014
  3. 103 000 000
  4. Berea Oil and Gas Corporation
  5. Mosora #2
  - 6.
  7. Trumbull OH
  8. 18.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission
  1. 80-06562/07447
  2. 34-121-24702-0014
  3. 103 000 000
  4. Guernsey Petroleum Corporation
  5. Watson 3ME
  - 6.
  7. Noble OH
  8. 12.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Trans Co East Ohio Gas Co
  1. 80-06563/07448
  2. 34-121-24703-0014
  3. 103 000 000
  4. Guernsey Petroleum Corporation
  5. Watson 4ME
- 8.
  7. Noble OH
  8. 12.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Trans Co East Ohio Gas Co
  1. 80-06564/07449
  2. 34-073-22098-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Sunday Creek Coal #8 69141-8
  - 6.
  7. Hocking OH
  8. 36.5 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06565/07450
  2. 34-073-22134-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Sunday Creek Coal #23 69141-23
  - 6.
  7. Hocking OH
  8. 12.8 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06566/07451
  2. 34-073-22130-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Sunday Creek Coal #24 69141-24
  - 6.
  7. Hocking OH
  8. 36.5 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06567/07452
  2. 34-073-22133-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Sunday Creek Coal #25 69141-25
  - 6.
  7. Hocking OH
  8. 7.3 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06568/07453
  2. 34-073-22132-0014
  3. 103 000 000
  4. Quaker State Oil Refining Corp
  5. Sunday Creek Coal #26 69141-26
  - 6.
  7. Hocking OH
  8. 7.3 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06569/07454
  2. 34-075-22151-0014
  3. 103 000 000
  4. William F Hill
  5. Robert L Starner #1
  - 6.
  7. Holmes OH
  8. 9.0 million cubic feet
  9. November 15, 1979
  - 10.
  1. 80-06570/01231
  2. 34-121-21732-0014
  3. 108 000 000
  4. Guernsey Petroleum Corporation
  5. Phelps-Rayner 2G
  - 6.
  7. Noble OH
  8. 3.0 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Co

1. 80-06571/01174
2. 34-059-21229-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Nicholson 1
- 6.
7. Guernsey OH
8. 8.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06572/01232
2. 34-119-23439-0014
3. 108 000 000
4. Guernsey Petroleum Corporation
5. Mitchell-Mell 1G
- 6.
7. Muskingum OH
8. 6.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co
1. 80-06573/01252
2. 34-121-21978-0014
3. 108 000 000
4. Guernsey Petroleum Corp
5. Williams 1 MD
- 6.
7. Noble OH
8. 8.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co
1. 80-06574/02089
2. 34-157-22210-0014
3. 108 000 000
4. Resource Exploration Inc
5. Hartzler #1
- 6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co
1. 80-06575/02118
2. 34-133-20555-0014
3. 108 000 000
4. Nucorp Energy Company
5. Lietzow-Cowan #1
- 6.
7. Portage OH
8. 11.0 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co
1. 80-06576/02217
2. 34-157-22206-0014
3. 108 000 000
4. Resource Exploration Inc
5. Reidenbach #1
- 6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. November 15, 1979
10. East Ohio Gas Co
1. 80-06577/02985
2. 34-157-21946-0014
3. 108 000 000
4. L & M Exploration Inc
5. Chitti #2
- 6.
7. Tuscarawas OH
8. 2.0 million cubic feet
9. November 15, 1979
10. Bonanza Gas Line
1. 80-06578/02986
2. 34-157-21920-0014
3. 108 000 000
4. L & M Exploration Inc
5. Chitti #1

- 6.
  7. Tuscarawas OH
  8. 2.0 million cubic feet
  9. November 15, 1979
  10. Bonanza Gas Line
  1. 80-06579/03119
  2. 34-151-22302-0014
  3. 108 000 000
  4. L & M Exploration
  5. Fox #3
  - 6.
  7. Stark OH
  8. 1.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06580/03199
  2. 34-099-20885-0014
  3. 108 000 000
  4. Berea Oil and Gas Corporation
  5. M Steiskal #2
  - 6.
  7. Mahoning OH
  8. 20.2 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Co
  1. 80-06581/04015
  2. 34-099-20136-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. Birr #1
  - 6.
  7. Mahoning OH
  8. 12.0 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Company
  1. 80-06582/04016
  2. 34-099-20146-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. Birr #3
  - 6.
  7. Mahoning OH
  8. 7.0 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Company
  1. 80-06583/04017
  2. 34-151-21038-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. Bledsoe #1
  - 6.
  7. Stark OH
  8. 11.0 million cubic feet
  9. November 15, 1979
  10. East Ohio Gas Company
  1. 80-06584/04019
  2. 34-169-21077-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. Ramseyer #1
  - 6.
  7. Wayne OH
  8. 2.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06585/04020
  2. 34-089-21281-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. McKee #2
  - 6.
  7. Licking OH
  8. 4 million cubic feet
  9. November 15, 1979
  10. National Oil & Gas Corporation
1. 80-06586/04021
  2. 34-089-23322-0014
  3. 108 000 000
  4. Buckeye Oil Producing Co
  5. McKee #3
  - 6.
  7. Licking OH
  8. 4 million cubic feet
  9. November 15, 1979
  10. National Oil & Gas Corporation
  1. 80-06587/04366
  2. 34-169-21076-0014
  3. 108 000 000
  4. A W Yenne
  5. John Lengacher #1-B
  6. Wayne
  7. Wayne OH
  8. 1.1 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Co
  1. 80-06588/04371
  2. 34-045-20588-0014
  3. 108 000 000
  4. Reliance Management Co
  5. Franks Unit #1
  - 6.
  7. Fairfield OH
  8. 8.0 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06589/04596
  2. 34-009-21787-0014
  3. 108 000 000
  4. Reliance Management Co
  5. Charles Curtis #1
  - 6.
  7. Athens OH
  8. 1.2 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06590/04597
  2. 34-009-21781-0014
  3. 108 000 000
  4. Reliance Management Co
  5. Charles Curtis #3
  - 6.
  7. Athens OH
  8. 1.4 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06591/04599
  2. 34-009-21778-0014
  3. 108 000 000
  4. Reliance Management Co
  5. Charles Curtis #2
  - 6.
  7. Athens OH
  8. 1.2 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Corp
  1. 80-06592/04637
  2. 34-031-20900-0014
  3. 108 000 000
  4. A W Yenne
  5. Sandy & Nellie Miller #1
  6. Coshocton
  7. Coshocton OH
  8. 4 million cubic feet
  9. November 15, 1979
  10. Columbia Gas Transmission Co
  1. 80-06593/04638
  2. 34-031-21269-0014
  3. 108 000 000
  4. A W Yenne
  5. Byron & Nellie Foster #1

6. Coshocton
7. Coshocton OH
8. 1.9 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Co
1. 80-06594/04927
2. 34-115-21254-0014
3. 108 000 000
4. Reliance Management Co
5. Ophelia Stanely #2
- 6.
7. Morgan OH
8. 2.5 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06595/04928
2. 34-115-21255-0014
3. 108 000 000
4. Reliance Management Co
5. Delmar Wells #3
- 6.
7. Morgan OH
8. 2.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06596/04929
2. 34-115-21226-0014
3. 108 000 000
4. Reliance Management Co
5. Delmar Wells #2
- 6.
7. Morgan OH
8. 2.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06597/04930
2. 34-115-21128-0014
3. 108 000 000
4. Reliance Management Co
5. Ophelia Stanley #1
- 6.
7. Morgan OH
8. 2.0 million cubic feet
9. November 15, 1979
10. Columbia Gas Transmission Corp
1. 80-06598/06422
2. 34-007-20394-0014
3. 108 000 000
4. Stark Oilfield Services Inc
5. Schommer #1
6. Lenox
7. Ashtabula OH
8. 20.0 million cubic feet
9. November 15, 1979
10. The East Ohio Gas Co
1. 80-06599/06612
2. 34-067-20231-0014
3. 108 000 000
4. Resource Exploration Inc
5. Putman-Majors #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp
1. 80-06600/06613
2. 34-157-21830-0014
3. 108 000 000
4. Resource Exploration Inc
5. Anderegg #2
- 6.
7. Tuscarawas OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp



1. 80-06601/06620
2. 34-067-20184-0014
3. 108 000 000
4. Resource Exploration Inc
5. Phillips #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp

1. 80-06602/06621
2. 34-067-20229-0014
3. 108 000 000
4. Resource Exploration Inc
5. Keefer #1
- 6.
7. Harrison OH
8. 12.0 million cubic feet
9. November 15, 1979
10. Columbus Gas Transmission Corp.

**Oklahoma Corporation Commission**

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-06682/00836
2. 35-129-20253-0000
3. 107 000 000
4. Dyco Petroleum Corporation
5. King #1
6. Reydon West
7. Roger Mills, OK
8. 3000.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company, Kansas-Nebraska Natural Gas Co, Panhandle Eastern Pipeline Co

1. 80-06683/04200
2. 35-051-20725-0000
3. 107 000 000
4. Andover Oil Company
5. McCurley #18-1
- 6.
7. Grady, OK
8. 180.0 million cubic feet
9. November 19, 1979
10. Arkansas Louisiana Gas Company

1. 80-06684/01077
2. 35-129-20304-0000
3. 107 000 000
4. Natomas North America Inc
5. Simmons #1-A
6. Carpenter West
7. Roger Mills, OK
8. 1400.0 million cubic feet
9. November 19, 1979
10. Michigan Wisconsin Pipe Line Co., El Paso Natural Gas Co

1. 80-06685/04203
2. 35-129-20388-0000
3. 107 000 000
4. L G Williams Oil Company Inc
5. Mitchell 13-1
6. West Reydon
7. Roger Mills County, OK
8. 500.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

1. 80-06686/00871
2. 35-045-20694
3. 102 000 000
4. The Rosewood Corporation
5. H C Smith No 1 045-56584
6. S E Arnet (Morrow SD)
7. Ellis, OK
8. 185.0 million cubic feet
9. November 19, 1979
10. Northern Natural Gas Company

1. 80-06687/01063
2. 35-051-20726-0000
3. 107 000 000
4. Damson Oil Corporation
5. Weaver 1-23
6. Lavery
7. Grady, OK
8. 500.0 million cubic feet
9. November 19, 1979
10. Cities Service Gas Company

1. 80-06688/03753
2. 35-009-20270-0000
3. 107 000 000
4. The GHK Company
5. Clark 1-32
6. Carpenter
7. Beckham, OK
8. 350.0 million cubic feet
9. November 19, 1979
10. Michigan-Wisconsin Pipe Line Co., Panhandle Eastern Pipeline Co

1. 80-06689A/00907
2. 35-059-20582-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Goering Unit #2 (Hoover)
6. Laverne
7. Harper, OK
8. 100.0 million cubic feet
9. November 19, 1979
10. Colorado Interstate Gas Company, Michigan Wisconsin Pipeline Co

1. 80-06589B/00907
2. 35-059-20582-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Goering Unit #2 (Tonkawa)
6. Laverne
7. Harper, OK
8. 7.0 million cubic feet
9. November 19, 1979
10. Colorado Interstate Gas Company, Michigan Wisconsin Pipeline Co

1. 80-06690/01066
2. 35-051-00000-0000
3. 108 000 000
4. Continental Oil Company
5. Lola Lawrence A No 1
6. E Tuttle
7. Grady, OK
8. 3.5 million cubic feet
9. November 19, 1979
10. Mobil Oil Corporation

1. 80-06691/01031
2. 35-037-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Wattie No 3
6. Big Pond
7. Creek, OK
8. 11.2 million cubic feet
9. November 19, 1979
10. Kerr-McGee Corp

1. 80-06692/00989
2. 35-139-20350-0000

3. 103 000 000
4. Anadarko Production Co
5. Strokes A No 1
6. North Richland Center
7. Texas, OK
8. 151.0 million cubic feet
9. November 19, 1979
10. Panhandle Eastern Pipeline Co

1. 80-06693/00984
2. 35-007-21464-0000
3. 103 000 000
4. Falcon Petroleum Company
5. Hill B No 1 007-55940
6. Northwest Dombey
7. Beaver, OK
8. 329.0 million cubic feet
9. November 19, 1979
10. Panhandle Eastern Pipe Line

1. 80-06694/00977
2. 35-139-20900-0000
3. 108 000 000
4. Continental Oil Company
5. E H Taylor No 1
6. Hugoton
7. Texas, OK
8. 4.5 million cubic feet
9. November 19, 1979
10. Cities Service Gas Co

1. 80-06695/00968
2. 35-007-21338-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Hattie B Eyer #3
6. Clear Lake West
7. Beaver, OK
8. 10.9 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

1. 80-06696/00985
2. 35-007-21571-0000
3. 103 000 000
4. Falcon Petroleum Company
5. Clark No 1 007-56429
6. Northwest Dombey
7. Beaver, OK
8. 292.0 million cubic feet
9. November 19, 1979
10. Panhandle Eastern Pipe Line

1. 80-06697/00811
2. 35-081-00000-0000
3. 103 000 000
4. C & C Energy Co
5. Mary Grotheer No 1
6. Skellyville
7. Lincoln, OK
8. 159.7 million cubic feet
9. November 19, 1979
10. Cities Service Gas Co

1. 80-06698/00772
2. 35-139-21046-0000
3. 103 000 000
4. Southland Royalty Co
5. Lehmbeck #1-30
6. North Hooker Chester
7. Texas OK
8. .0 million cubic feet
9. November 19, 1979
10. Kansas Nebraska Natural Gas Co

1. 80-06699/00990
2. 35-139-20934-0000
3. 103 000 000
4. Anadarko Production Co
5. Blowey A No 2
6. Guymon Lower Morrow
7. Texas OK

8. 7.0 million cubic feet
9. November 19, 1979
10. Phillips Petroleum Co
1. 80-06700/00887
2. 35-047-21445-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Frank Bird A #2
6. N E Enid
7. Garfield OK
8. 38.0 million cubic feet
9. November 19, 1979
10. Champlin Petroleum Co (Enid Plant)

1. 80-06701/00916
2. 35-059-20723-0000
3. 103 000 000
4. Tenneco Oil Company
5. Howard 3-12
6. Selman East
7. Harper OK
8. 11.0 million cubic feet
9. November 19, 1979
10. Delhi Gas Pipeline Corp

1. 80-06702/00917
2. 35-059-20671-0000
3. 103 000 000
4. Tenneco Oil Company
5. Howard 2-12
6. Selman East
7. Harper OK
8. 55.0 million cubic feet
9. November 19, 1979
10. Delhi Gas Pipeline Corp

1. 80-06703/03056
2. 35-051-20708-0000
3. 107 000 000
4. An-Son Corporation
5. State #1-30
6. State #1-30
7. Grady County OK
8. 912.0 million cubic feet
9. November 19, 1979
10. Arkansas-Louisiana Gas Co

1. 80-06704/03541
2. 35-009-20272-0000
3. 107 000 000
4. Helmerich & Payne Inc
5. Littauer No 1
6. West Mayfield
7. Beckham OK
8. 420.0 million cubic feet
9. November 19, 1979
10. Michigan Wisconsin Pipe Line Company, Oklahoma Natural Gas Co

1. 80-06705/00570
2. 35-093-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Boehs-d (M-4) #2
6. Ringwood
7. Major OK
8. 11.6 million cubic feet
9. November 19, 1979
10. Oklahoma Natural Gas Gathering

1. 80-06706/00564
2. 35-047-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Karbon
6. Sooner Trend
7. Garfield OK
8. 6.6 million cubic feet
9. November 19, 1979
10. Exxon Company USA

1. 80-06707/00568

2. 35-091-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Percy #1
6. Ringwood
7. Major OK
8. 16.8 million cubic feet
9. November 19, 1979
10. Oklahoma Natural Gas Gathering

1. 80-06708/00581
2. 35-091-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. D-12 Mississippi
6. Ringwood
7. Major OK
8. 3.6 million cubic feet
9. November 19, 1979
10. Oklahoma Natural Gas Gathering

1. 80-06709/00872
2. 35-045-20216-0000
3. 102 000 000
4. The Rosewood Corporation
5. Sherrill No 1 045-56586
6. S E Arnett (Morrow SD)
7. Ellis OK
8. 76.0 million cubic feet
9. November 19, 1979
10. Northern Natural Gas Company

1. 80-06710/0399
2. 35-009-20235-0000
3. 107 000 000
4. Helmerich & Payne Inc
5. Adkerson No 2
6. West Mayfield
7. Beckham OK
8. 2555.0 million cubic feet
9. November 19, 1979
10. Michigan Wisconsin Pipeline Company, Oklahoma Natural Gas Co

1. 80-06711/01470
2. 35-051-20682-0000
3. 107 000 000
4. John C Oxley
5. Roy Harris No 1
6. Chitwood
7. Grady OK
8. .0 million cubic feet
9. November 19, 1979
- 10.

1. 80-06712/03923
2. 35-039-20235-0000
3. 107 000 000
4. Harper Oil Company
5. Coulson No 1
6. W Arapaho
7. Custer OK
8. 730.0 million cubic feet
9. November 19, 1979
10. Natural Gas Pipeline Company of America

1. 80-06713/04249
2. 35-129-20389-0000
3. 107 000 000
4. El Paso Natural Gas Company
5. White #1
6. Undesignated Morrow Upper
7. Roger Mills OK
8. 1460.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

1. 80-06714/04276
2. 35-009-20265-0000
3. 107 000 000
4. Natomas Gas Pipeline Company

5. Patten No 1
6. Wildcat
7. Beckham OK
8. 791.0 million cubic feet
9. November 19, 1979
10. Natural Gas Pipeline Company
1. 80-06715/03055
2. 35-051-20670-0000
3. 107 000 000
4. An-Son Corporation
5. Long #1
6. Long #1
7. Grady County OK
8. 219.0 million cubic feet
9. November 19, 1979
10. Arkansas-Louisiana Gas Co

1. 80-06716/02319
2. 35-129-
3. 107 000 000
4. L R French Jr
5. Little Blue Sheep No 1
6. Reydon
7. Roger Mills OK
8. 36.5 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Co

1. 80-06717/04290
2. 35-129-20396-0000
3. 107 000 000
4. El Paso Natural Gas Company
5. Conrad #1A
6. Reydon W Morrow Upper
7. Roger Mills OK
8. 1095.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

1. 80-06718/04290
2. 35-129-20396-0000
3. 107 000 000
4. El Paso Natural Gas Company
5. Conrad #1A
6. Reydon W Morrow Upper
7. Roger Mills OK
8. 1095.0 million cubic feet
9. November 19, 1979
10. El Paso Natural Gas Company

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-06603/02468
2. 42-087-26192-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Morgan A #1
6. Panhandle East
7. Collingsworth TX
8. 10.4 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company

1. 80-06604/02467
2. 42-087-26129-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Laycock 11
6. Panhandle East
7. Collingsworth TX
8. 12.4 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company

1. 80-06605/02466
2. 42-087-26003-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Bednorz 1
6. Panhandle East



7. Collingsworth TX  
8. 1.8 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06606/04494  
2. 42-357-00000-0000  
3. 108 000 000  
4. Graham-Michaelis Corporation  
5. Barrett #1  
6. Perryton  
7. Ochiltree TX  
8. 13.0 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06607/04476  
2. 42-065-00000-0000-  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 9  
6. Panhandle Carson County  
7. Carson TX  
8. 15.5 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06608/04460  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 2  
6. Panhandle Carson County  
7. Carson TX  
8. 6.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06609/06168  
2. 42-065-00000-0000-  
3. 108 000 000  
4. Getty Oil Company  
5. Schafer Ranch No 29  
6. Panhandle  
7. Carson TX  
8. .0 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company Natural Gas Plant  
Northern Natural Gas Co  
1. 80-06610/06170  
2. 42-065-00000-0000-  
3. 108 000 000  
4. Getty Oil Company  
5. Schafer Ranch No 22  
6. Panhandle  
7. Carson TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company Natural Gas Plant  
Northern Natural Gas Co  
1. 80-06611/06401  
2. 42-065-00000-0000-  
3. 108 000 000  
4. Getty Oil Company  
5. Schafer Ranch No 28  
6. Panhandle  
7. Carson TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company Natural Gas Plant  
Northern Natural Gas Co  
1. 80-06612/06405  
2. 42-065-00000-0000  
3. 108 000 000  
4. Getty Oil Company  
5. Schafer Ranch No 18  
6. Panhandle  
7. Carson TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company Natural Gas Plant  
Northern Natural Gas Co  
1. 80-06613/06428  
2. 42-065-00000-0000  
3. 108 000 000  
4. Getty Oil Company  
5. Schafer Ranch No 17  
6. Panhandle  
7. Carson TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company Natural Gas Plant  
Northern Natural Gas Co  
1. 80-06614/04450  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Biggs-Holcomb (02466) No 1  
6. Panhandle Carson County  
7. Carson TX  
8. 4.5 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company  
1. 80-06615/04447  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Eller (02373) No 1  
6. Panhandle Carson County  
7. Carson TX  
8. 16.5 million cubic feet  
9. November 15, 1979  
10. Getty Oil Company  
1. 80-06616/04444  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 10  
6. Panhandle Carson County  
7. Carson TX  
8. 18.5 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06617/04408  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 8  
6. Panhandle Carson County  
7. Carson TX  
8. 3.5 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06618/04402  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 4  
6. Panhandle Carson County  
7. Carson TX  
8. 8.5 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06619/05223  
2. 42-341-00000-0000  
3. 108 000 000  
4. Diamond Shamrock Corporation  
5. Coffee C No 3  
6. Panhandle West  
7. Moore TX  
8. 8.0 million cubic feet  
9. November 15, 1979  
10. Northern Natural Gas Co Panhandle  
Eastern Pipe Line Co

1. 80-06620/05179  
2. 42-341-00000-0000  
3. 108 000 000  
4. Diamond Shamrock Corporation  
5. Robertson B No 2  
6. Panhandle West  
7. Moore TX  
8. 8.0 million cubic feet  
9. November 15, 1979  
10. Northern Natural Gas Co Panhandle  
Eastern Pipe Line Co  
1. 80-06621/04979  
2. 42-341-00000-0000  
3. 108 000 000  
4. Diamond Shamrock Corporation  
5. F E Smith No 2  
6. Panhandle West  
7. Moore TX  
8. 8.0 million cubic feet  
9. November 15, 1979  
10. Northern Natural Gas Co Panhandle  
Eastern Pipe Line Co  
1. 80-06622/4940  
2. 42-065-00000-0000  
3. 108 000 000  
4. Donald W Jackson  
5. Karen (00044) No 7  
6. Panhandle Carson County  
7. Carson TX  
8. 14.7 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Co  
1. 80-06623/04547  
2. 42-483-00000-0000  
3. 108 000 000  
4. Graham-Michaelis Corporation  
5. Joyner #1  
6. Panhandle East  
7. Wheeler TX  
8. 13.5 million cubic feet  
9. November 15, 1979  
10. Warren Petroleum Co  
1. 80-06624/04523  
2. 42-483-00000-0000  
3. 108 000 000  
4. Graham-Michaelis Corporation  
5. Barbee #1  
6. Panhandle East  
7. Wheeler TX  
8. 16.1 million cubic feet  
9. November 15, 1979  
10. Warren Petroleum Co  
1. 80-06625/04500  
2. 42-435-30823-0000  
3. 108 000 000  
4. Amoco Production Company  
5. Randee Fawcett Trust C No 4  
6. Sawyer/Canyon  
7. Sutton TX  
8. 1.0 million cubic feet  
9. November 15, 1979  
10. Lone Star Gas Company  
1. 80-06626/07318  
2. 42-365-00000-0000  
3. 108 000 000  
4. Getty Oil Co  
5. Werner-Goodson No 2 ID #33554  
6. Carthage (Paluxy)  
7. Panola TX  
8. 11.2 million cubic feet  
9. November 15, 1979  
10. Texas Gas Transmission Corp  
1. 80-06627/07319  
2. 42-365-00000-0000  
3. 108 000 000

4. Getty Oil Co  
5. Werner-Thompson NO 1 ID #30218  
6. Carthage (Pettit Lo)  
7. Panola TX  
8. 18.0 million cubic feet  
9. November 15, 1979  
10. Texas Gas Transmission Corp  
1. 80-06628/07322  
2. 42-365-00000-0000  
3. 108 000 000  
4. Getty Oil Co  
5. J B Baker #2 ID #33183  
6. Carthage (Paluxy)  
7. Panola TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Texas Gas Transmission Corp  
1. 80-06629/02465  
2. 42-087-26064-0000  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Davis 1  
6. Panhandle East  
7. Collingsworth TX  
8. 4.1 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06630/02464  
2. 42-087-26079-0000  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Gierhart X 1  
6. Panhandle East  
7. Collingsworth TX  
8. 4.5 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06631/02463  
2. 42-483-20072-0000  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Laycock 4-B  
6. Panhandle East  
7. Wheeler TX  
8. 14.2 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06632/00821  
2. 42-105-00000-0000  
3. 108 000 000  
4. Suburban Propane Gas Corporation  
5. Suburban Propane Gas Corp et al 6 U  
6. Ozona Canyon Sand Field  
7. Crockett County TX  
8. 10.7 million cubic feet  
9. November 15, 1979  
10. Northern Natural Gas Company  
1. 80-06633/00739  
2. 42-401-00000-0000  
3. 108 000 000  
4. Geological Exploration Co  
5. Rosie Lee Ferguson #1 RRC #15986  
6. Danville (Lower Pettit)  
7. Rusk TX  
8. 6.0 million cubic feet  
9. November 15, 1979  
10. Lone Star Gas Co  
1. 80-06634/00447  
2. 42-087-00000-0000  
3. 108 000 000  
4. Hubert K Elrod  
5. The Annette-Stafford #1  
6. Panhandle East  
7. Collingsworth TX  
8. 11.0 million cubic feet  
9. November 15, 1979  
10. Warren Petroleum Company  
1. 80-06635/01584  
2. 42-215-00000-0000  
3. 108 000 000  
4. Mobil Oil Corporation  
5. Edinburg Unit No 9 62720  
6. Edinburg/9950 FB-B  
7. Hidalgo TX  
8. 17.9 million cubic feet  
9. November 15, 1979  
10. Tennessee Gas Pipeline Company  
1. 80-06636/01574  
2. 42-497-00000-0000  
3. 108 000 000  
4. McCommons Oil Company  
5. T M Wimbley #1  
6. Boonsville Bend  
7. Wise TX  
8. 10.0 million cubic feet  
9. November 15, 1979  
10. Natural Gas Pipeline Co of Amer  
1. 80-06637/01194  
2. 42-203-00000-0000  
3. 108 000 000  
4. Brammer Engineering Inc  
5. J B Hyde #1  
6. Bethany  
7. Harrison TX  
8. 11.6 million cubic feet  
9. November 15, 1979  
10. United Gas Pipe Line Company  
1. 80-06638/00958  
2. 42-105-30401-0000  
3. 108 000 000  
4. Wood & Locker Inc  
5. L B Cox No 1-U  
6. Cox (Canyon)  
7. Crockett TX  
8. 9.0 million cubic feet  
9. November 15, 1979  
10. Delhi Gas Pipeline Corp The Permian  
Corp  
1. 80-06639/03159  
2. 42-179-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Saunders G H No 2  
6. Panhandle Gray  
7. Gray TX  
8. 3.0 million cubic feet  
9. November 15, 1979  
10. Coltexo Corp  
1. 80-06640/03154  
2. 42-421-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Ring No 1  
6. Texas Hugoton  
7. Sherman TX  
8. .6 million cubic feet  
9. November 15, 1979  
10. Michigan Wisconsin Pipeline Co  
1. 80-06641/03153  
2. 42-233-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Skoog-B No 2  
6. Panhandle Gray  
7. Gray TX  
8. .6 million cubic feet  
9. November 15, 1979  
10. Getty Oil Co  
1. 80-06642/03152  
2. 42-233-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Gulf Sanford A No 2  
6. Panhandle West  
7. Hutchinson TX  
8. 8.6 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Co Panhandle  
Eastern Pipeline Co  
1. 80-06643/03151  
2. 42-233-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Stevens R No 1  
6. Panhandle West  
7. Hutchinson TX  
8. 2.7 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Co Panhandle  
Eastern Pipeline Co  
1. 80-06644/03150  
2. 42-065-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Cooper C No 6  
6. Panhandle Carson  
7. Carson TX  
8. 3.5 million cubic feet  
9. November 15, 1979  
10. Getty Oil Co  
1. 80-06645/02992  
2. 42-105-00842-0000  
3. 108 000 000  
4. American Petrofina Company of Texas  
5. Davidson #1  
6. Hunt Baggett Strawn  
7. Crockett TX  
8. 11.0 million cubic feet  
9. November 15, 1979  
10. Northern Natural Gas Company  
1. 80-06646/02489  
2. 42-087-26117-0000  
3. 108 000 000  
4. El Paso Natural Gas Company  
5. Knoll #3  
6. Panhandle East  
7. Collingsworth TX  
8. 10.9 million cubic feet  
9. November 15, 1979  
10. El Paso Natural Gas Company  
1. 80-06647/03179  
2. 42-065-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Thornburg No 6  
6. Panhandle Carson  
7. Carson TX  
8. 3.1 million cubic feet  
9. November 15, 1979  
10. Getty Oil Co  
1. 80-06648/03178  
2. 42-179-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company  
5. Skoog-B No 2  
6. Panhandle Gray  
7. Gray TX  
8. .6 million cubic feet  
9. November 15, 1979  
10. Getty Oil Co  
1. 80-06649/03172  
2. 42-065-00000-0000  
3. 108 000 000  
4. Phillips Petroleum Company



5. Cooper C No 4
6. Panhandle Carson
7. Carson TX
8. 1.0 million cubic feet
9. November 15, 1979
10. Getty Oil Co
1. 80-06650/03166
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Cooper C No 17
6. Panhandle Carson
7. Carson TX
8. 1.5 million cubic feet
9. November 15, 1979
10. Getty Oil Co
1. 80-06651/03180
2. 42-065-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Thornburg No 7
6. Panhandle Carson
7. Carson TX
8. 2 million cubic feet
9. November 15, 1979
10. Getty Oil Co
1. 80-06652/03181
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Thom-A No 2
6. Panhandle-Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06653/03183
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Turner Harris No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06654/03185
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. West Stinnett U No 1-03
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06655/04400
2. 42-065-00000-0000
3. 108 000 000
4. Donald W Jackson
5. Karen (00044) No 3
6. Panhandle Carson County
7. Carson TX
8. 10.5 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Co
1. 80-06656/03696
2. 42-435-30821-0000
3. 108 000 000
4. Amoco Production Company
5. Edwin S Mayer Jr No 17
6. Swayer/Canyon
7. Sutton TX
8. 8.0 million cubic feet
9. November 15, 1979

10. Lone Star Gas Company
1. 80-06657/03858
2. 42-237-00000-0000
3. 108 000 000
4. Gulf Oil Corporation
5. Fayette Yates No 8
6. Boonsville (Bend Conglomerate)
7. Jack TX
8. 7.3 million cubic feet
9. November 15, 1979
10. Natural Gas Pipeline Co of America
1. 80-06658/03542
2. 42-287-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Granstaff #1
6. Toto
7. Parker TX
8. 7.5 million cubic feet
9. November 15, 1979
10. Lone Star Gas Company
1. 80-06659/035539
2. 42-387-00000-0000
3. 108 000 000
4. Ladd Petroleum Corporation
5. Anderson #1
6. Toto
7. Parker TX
8. 15.2 million cubic feet
9. November 15, 1979
10. Lone Star Gas Company
1. 80-06660/03528
2. 42-435-30483-0000
3. 108 000 000
4. Amoco Production Company
5. H E Glasscock et al No 2
6. Sawyer/Canyon
7. Sutton TX
8. 13.0 million cubic feet
9. November 15, 1979
10. Lone Star Gas Company
1. 80-06661/03488
2. 42-375-00000-0000
3. 108 000 000
4. Cig Exploration Inc
5. Bivins A-150R
6. Panhandle West Red Cave
7. Potter TX
8. 13.0 million cubic feet
9. November 15, 1979
10. Colorado Interstate Gas Co
1. 80-06662/03484
2. 42-375-30236-0000
3. 108 000 000
4. Cig Exploration Inc
5. Masterson 95R
6. Panhandle West Red Cave
7. Potter TX
8. 18.0 million cubic feet
9. November 15, 1979
10. Colorado Interstate Gas Co
1. 80-06663/03479
2. 42-233-00000-0000
3. 108 000 000
4. Cig Exploration Inc
5. Dunaway 1R
6. Panhandle West Red Cave
7. Hutchinson TX
8. 4.0 million cubic feet
9. November 15, 1979
10. Colorado Interstate Gas Co
1. 80-06664/03210
2. 42-233-00000-0000
3. 108 000 000

4. Phillips Petroleum Company
5. Thompson—E No 13
6. Panhandle—Hutchinson
7. Hutchinson TX
8. 2.7 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06665/03209
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Thom—A No. 8
6. Panhandle—Hutchinson
7. Hutchinson TX
8. 2 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06666/03186
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Company
5. West Stinnett U No 4-02
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co

**Utah Division of Oil, Gas and Mining**

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06678/K-111-1(1)
2. 43-047-30385-0000
3. 102 000 000
4. Belco Development Corporation
5. Natural Buttes Unit 31-12B 30385
6. Natural Buttes Unit
7. Uintah
8. 10.0 million cubic feet
9. November 18, 1979
10. Colorado Interstate Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations May, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 27, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38090 Filed 12-11-79; 8:45 am]

BILLING CODE 6450-01-M

**[No. 122]****Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978**

December 3, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

**California Department of Conservation, Division of Oil and Gas**

1. Control Number (FERC/STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06454/79-6-0064
2. 04-095-20390-0000
3. 103 000 000
4. McCulloch Oil & Gas Corp
5. McCulloch No 1-21 Hastings Ranch
6. Lindsey Slough Prospect
7. Solano County CA
8. 913.0 million cubic feet
9. November 10, 1979
10. Pacific Gas and Electric

**Louisiana Office of Conservation**

1. Control Number (FERC/STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06465/79-2664
2. 17-075-22587-0000
3. 102 000 000
4. Exxon Corporation
5. Orleans Levee Board B No 9
6. Potash
7. Plaquemines LA
8. 700.0 million cubic feet
9. November 15, 1979
10. United Gas Pipe Line Co
1. 80-06466/79-2767
2. 17-001-20770-0000
3. 102 000 000
4. Ross Production Company
5. Ronkartz No. 1
6. North Crowley
7. Acadia Parish LA
8. 316.0 million cubic feet
9. November 15, 1979
10. Continental Oil Company

1. 80-06468/79-2767
2. 17-001-20770-0000
3. 102 000 000
4. Ross Production Company
5. Ronkartz No. 1
6. North Crowley
7. Acadia Parish LA
8. 316.0 million cubic feet
9. November 15, 1979
10. Continental Oil Company

**Montana Board of Oil and Gas Conservation**

1. Control Number (FERC/STATE)
2. API well number
3. Section of NGPA
4. Operator

5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06355/3-79-28
2. 25-071-21586-0000
3. 108 000 000
4. Midlands Gas Corporation
5. 2271 1-22 Lewis Miller
6. Bowdoin
7. Phillips MT
8. 8.0 million cubic feet
9. November 14, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-06356A/8-79-252
2. 25-035-06665-0000
3. 108 000 000
4. Hardrock Oil Company
5. McNamer #1
6. Cut Bank
7. Glacier MT
8. 3.4 million cubic feet
9. November 14, 1979
10. Treasure State Pipe Line Company
1. 80-06356B/8-79-252
2. 25-035-06665-0000
3. 108 000 000
4. Hardrock Oil Company
5. McNamer #2
6. Cut Bank
7. Glacier MT
8. 3.4 million cubic feet
9. November 14, 1979
10. Treasure State Pipe Line Company
1. 80-06357/8-79-251
2. 25-035-06651-0000
3. 108 000 000
4. Hardrock Oil Company
5. Midland Realty Company #1
6. Cut Bank
7. Glacier MT
8. 5.1 million cubic feet
9. November 14, 1979
10. Treasure State Pipe Line Company

**New Mexico Department of Energy and Minerals, Oil Conservation Division**

1. Control Number (FERC/STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06455
2. 30-025-02914-0000
3. 108 000 000
4. Phillips Petroleum Company
5. East Vacuum GB/SA unit TR 2801 No 01
6. Vacuum GB/SA
7. Lea NM
8. 6.0 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06456
2. 30-025-01321-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Phillips-E State No 1
6. Maljamar GB/SA

7. Lea NM
8. 1 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06457
2. 30-025-01328-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Phillips-E State No 8
6. Maljamar GB/SA
7. Lea NM
8. 3 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06458
2. 30-025-01521-0000
3. 108 000 000
4. Phillips Petroleum Company
5. Philmex No 5
6. Maljamar GB/SA
7. Lea NM
8. 4 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co
1. 80-06459
2. 30-041-00000-0000
3. 108 000 000
4. Getty Oil Company
5. Hobbs T No 15
6. Chaveroo San Andres
7. Roosevelt NM
8. 3.0 million cubic feet
9. November 15, 1979
10. Cities Service Co
1. 80-06460
2. 30-045-00000-0000
3. 108 000 000
4. C & E Operators Inc
5. Brown #1 F 930 11
6. Aztec Pictured Cliffs
7. San Juan NM
8. 16.7 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company
1. 80-06461
2. 30-025-00000-0000
3. 108 000 000
4. Getty Oil Company
5. Lovington San Andres #5
6. Lovington San Andres
7. Lea NM
8. 7 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company
1. 80-06462
2. 30-045-10988-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #64
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 24.1 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company
1. 80-06463
2. 30-025-00000-0000
3. 108 000 000
4. Getty Oil Company
5. Lovington San Andres #2
6. Lovington San Andres
7. Lea NM
8. 4 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company
1. 80-06464



2. 30-039-06813-0000
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 27-5 unit #18 PC
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 14.0 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company

## Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-06467/00870
2. 35-045-20725-0000
3. 102 000 000
4. The Rosewood Corporation
5. H C Smith No 2 045-56585
6. S E Arnett (Morrow SD)
7. Ellis OK
8. 200.0 million cubic feet
9. November 15, 1979
10. Northern Natural Gas Company

1. 80-06468/00874
2. 35-093-21445-0000
3. 103 000 000
4. Tennaco Oil Company
5. McKee 1-11
6. Dane
7. Major OK
8. 255.0 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company

1. 80-06469/00845
2. 35-039-20192-0000
3. 103 000 000
4. Tennaco Oil Company
5. Hatcher 2-30
6. Anthon NW
7. Custer OK
8. 500.0 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Co

1. 80-06470/00755
2. 35-007-21513-0000
3. 103 000 000
4. Natural Gas Anadarko Inc
5. Patzkowsky #1-30
6. Unassigned
7. Beaver OK
8. 100.0 million cubic feet
9. November 15, 1979
10. Northern Natural Gas Company

1. 80-06471/00180
2. 35-093-21272-0000
3. 103 000 000
4. Ashland Exploration Inc
5. J L Bochs #1-33
6. Seiling NE
7. Major OK
8. 48.4 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Co

1. 80-06472/00904
2. 35-151-20738-0000
3. 103 000 000
4. Southland Royalty Company

5. Buckland 1-8
6. SW Avar
7. Woods OK
8. 125.0 million cubic feet
9. November 15, 1979
10. Panhandle Eastern

1. 80-06473/00905
2. 35-151-20830-0000
3. 103 000 000
4. Southland Royalty Co
5. Hagler #1-4
6. SW Avar Chester
7. Woods OK
8. 350.0 million cubic feet
9. November 15, 1979
10. Panhandle Eastern Pipeline Co

1. 80-06474/00911
2. 35-059-20714-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Carriger No 78-2
6. Lovedale
7. Harper OK
8. 16.5 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Company

1. 80-06475/00912
2. 35-059-20623-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Woolfolk No 78-1
6. Lovedale
7. Harper OK
8. 22.5 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Company

1. 80-06476/00914
2. 35-059-20690-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Woolfolk No 78-3
6. Lovedale
7. Harper OK
8. 22.5 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Company

1. 80-06477/00915
2. 35-059-20719-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Carriger No 78-1
6. Lovedale
7. Harper OK
8. 16.5 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipeline Company

1. 80-06478/00832
2. 35-129-20280-0000
3. 103 000 000
4. El Paso Natural Gas Company
5. Thurmond #3
6. Undesignated Oklahoma
7. Roger Mills OK
8. 250.0 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Company

1. 80-06479/00613
2. 35-007-21317-0000
3. 103 000 000
4. Natural Gas Anadarko Inc
5. Byrum #1-23
- 6.
7. Beaver OK
8. 150.0 million cubic feet
9. November 15, 1979

## 10. Northern Natural Gas Company

1. 80-06480/00902
2. 35-151-20652-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. Kelln A No 1
6. S Waynoka
7. Woods OK
8. 304.0 million cubic feet
9. November 15, 1979
10. Uncontracted

1. 80-06481/00897
2. 35-093-02142-9000
3. 103 000 000
4. Champlin Petroleum Company
5. Velma Proffitt #2
6. E Chaney Dell
7. Major OK
8. 14.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Co

1. 80-06482/00929
2. 35-019-21855-0000
3. 103 000 000
4. Tennaco Oil Company
5. Lowery #1-10
6. Hewitt East
7. Carter OK
8. 252.0 million cubic feet
9. November 15, 1979
10. Natural Gas Operations Company

1. 80-06483/00893
2. 35-047-21579-0000
3. 103 000 000
4. Champlin Petroleum Company
5. State School #5
6. N E Enid
7. Garfield OK
8. 75.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06484/00892
2. 35-047-21298-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Doris Reed #2
6. N E Enid
7. Garfield OK
8. 28.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Co (Enid Plant)

1. 80-06485/00891
2. 35-047-21446-0000
3. 103 000 000
4. Champlin Petroleum Company
5. State School #4
6. N E Enid
7. Garfield OK
8. 18.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Co (Enid Plant)

1. 80-06486/00889
2. 35-047-21704-0000
3. 103 000 000
4. Champlin Petroleum Company
5. E H Roever #2
6. N E Enid
7. Garfield OK
8. 37.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06487/00890

2. 35-047-21297-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Milo G Reed #2
6. N E Enid
7. Garfield OK
8. 60.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06488/00830
2. 35-129-20279-0000
3. 103 000 000
4. EL Paso Natural Gas Company
5. Bryan Berry #1
6. West Cheyenne
7. Roger Mills OK
8. 4740.0 million cubic feet
9. November 15, 1979
10. EL Paso Natural Gas Company

1. 80-06489/00888
2. 35-047-21296-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Bonnie Johnson #2
6. N E Enid
7. Garfield OK
8. 21.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06490/00883
2. 35-047-21603-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Powell Fee Unit #2
6. N E Enid
7. Garfield OK
8. 100.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06491/00884
2. 35-047-21606-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Tank Farm #2
6. N E Enid
7. Garfield OK
8. 18.0 million cubic feet
9. November 15, 1979
10. Champlin Petroleum Company (Enid Plant)

1. 80-06492/00743
2. 35-007-21433-0000
3. 103 000 000
4. Cimarron Petroleum Corporation
5. Jett No 36
6. NE Ivanhoe
7. Beaver OK
8. 206.8 million cubic feet
9. November 15, 1979
10. Northern Natural Gas Company

## West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 80-06378
2. 47-005-00306-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 27-439
- 6.
7. Boone WV
8. 7.4 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06379
2. 47-005-00313-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 23-441
- 6.
7. Boone WV
8. 1.3 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06380
2. 47-005-00304-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Mamie Ballard 3-436
- 6.
7. Boone WV
8. 1.4 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06381
2. 47-005-00294-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Peytona Coal Co 25-431
- 6.
7. Boone WV
8. 6.8 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06382
2. 47-005-00299-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Mamie Ballard 2-434
- 6.
7. Boone WV
8. 2.1 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06383
2. 47-005-00300-0000
3. 108 000 000
4. Industrial Gas Corporation
5. D E Price 1-435
- 6.
7. Boone WV
8. 1.6 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06384
2. 47-005-00381-0000

3. 108 000 000
4. Industrial Gas Corporation
5. J G Roberts 4-481
- 6.
7. Boone WV
8. 2.8 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06385
2. 47-005-00290-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Allen & Pryor 19-428
- 6.
7. Boone WV
8. 2.2 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06386
2. 47-005-00291-0000
3. 108 000 000
4. Industrial Gas Corporation
5. H C Ballard 3-430
- 6.
7. Boone WV
8. 3.6 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06387
2. 47-005-00100-0000
3. 108 000 000
4. Industrial Gas Corporation
5. J E Powell 4-401
- 6.
7. Boone WV
8. 2.0 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06388
2. 47-005-00111-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Cassingham 21-403
- 6.
7. Boone WV
8. 16.1 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06389
2. 47-005-00110-0000
3. 108 000 000
4. Industrial Gas Corporation
5. S M Wheeler 2-402
- 6.
7. Boone WV
8. 1.9 million cubic feet
9. November 14, 1979
10. Houdaille Industries Inc Huntington

- Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc
1. 80-06390
2. 47-005-00159-0000
3. 108 000 000
4. Industrial Gas Corporation
5. Thos Miller 1-341



6.  
7. Boone WV  
8. 3.6 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06391  
2. 47-005-00293-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J G Roberts  
6. 3-432  
7. Boone WV  
8. 1.1 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06392  
2. 47-005-00358-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 20-465  
6.  
7. Boone WV  
8. 2.1 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06393  
2. 47-005-00875-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 18-354  
6.  
7. Boone WV  
8. 6.9 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06394  
2. 47-005-00851-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 17-336  
6.  
7. Boone WV  
8. 6.1 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06395  
2. 47-005-00082-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J E Powell 3-400  
6.  
7. Boone WV  
8. .9 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06396  
2. 47-005-00085-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Cassingham 19-384A  
6.  
7. Boone WV  
8. 1.8 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06397  
2. 47-005-00690-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Siler Coal Land Co 15-699  
6.  
7. Boone WV  
8. .7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06398  
2. 47-005-00693-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Siler Coal Land Co 16-707  
6.  
7. Boone WV  
8. 2.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06399  
2. 47-005-00706-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 44-715  
6.  
7. Boone WV  
8. 6.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06400  
2. 47-005-00605-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. P K Miller 2-672  
6.  
7. Boone WV  
8. 2.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06401  
2. 47-005-00612-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 41-675  
6.  
7. Boone WV  
8. 1.0 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06402  
2. 47-005-00657-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 42-687  
6.  
7. Boone WV  
8. 2.0 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc

1. 80-06403  
2. 47-005-00673-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Little Coal LD Co B29-688  
6.  
7. Boone WV  
8. 8.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06404  
2. 47-005-00674-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Little Coal LD Co B30-689  
6.  
7. Boone WV  
8. 2.5 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06405  
2. 47-005-00675-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Little Coal LD Co B31-690  
6.  
7. Boone WV  
8. 9.5 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06406  
2. 47-005-00676-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Little Coal LD Co B32-691  
6.  
7. Boone WV  
8. 6.3 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06407  
2. 47-005-00446-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Bull Creek 14-557  
6.  
7. Boone WV  
8. 12.1 million cubic feet  
9. November 14, 1979  
10. Libbey-Owens-Ford  
1. 80-06408  
2. 47-005-00501-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Cassingham 37-610  
6.  
7. Boone WV  
8. 1.5 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06409  
2. 47-005-00345-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 29-457

6.  
7. Boone WV  
8. 7.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06410  
2. 47-005-00350-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. V G Van De Lind 2-459  
6.  
7. Boone WV  
8. 3.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06411  
2. 47-005-00356-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Cassingham 28-482  
6.  
7. Boone WV  
8. 1.9 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06412  
2. 47-005-01103-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 14-346  
6.  
7. Boone WV  
8. 1.7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06413  
2. 47-005-01106-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 17-369  
6.  
7. Boone WV  
8. 6.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06414  
2. 47-005-01105-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 16-361  
6.  
7. Boone WV  
8. 1.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06420  
2. 47-005-00862-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 19-373  
6.  
7. Boone WV  
8. 17.3 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06421  
2. 47-005-00030-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J E Powell 2-386  
6.  
7. Boone WV  
8. 5.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06422  
2. 47-005-00035-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. W H Echols 1-392  
6.  
7. Boone WV  
8. 1.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06423  
2. 47-005-00360-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. S M Wheeler 1-394  
6.  
7. Boone WV  
8. 2.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06424  
2. 47-005-00380-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. L F Echols 1-391  
6.  
7. Boone WV  
8. 1.7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06425  
2. 47-005-00390-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Cassingham 20-390  
6.  
7. Boone WV  
8. 3.3 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06426  
2. 47-005-00044-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. V A Van De Lind 1-396  
6.  
7. Boone WV  
8. 2.0 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06427  
2. 47-005-00155-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J G Roberts 2-406  
6.  
7. Boone WV  
8. 1.8 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-Illinois Inc  
1. 80-06428  
2. 47-005-00151-0000  
3. 108 000 000



4. Industrial Gas Corporation  
5. B S Ballard 1-332  
6.  
7. Boone WV  
8. 1.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06429  
2. 47-005-00146-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Little Coal Ld Co B12-405  
6.  
7. Boone WV  
8. 3.7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06430  
2. 47-005-00180-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J E Powell 5-414  
6.  
7. Boone WV  
8. 2.8 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06431  
2. 47-005-00186-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. J E Powell 6-415  
6.  
7. Boone WV  
8. 2.0 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06432  
2. 47-005-00262-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 23-420  
6.  
7. Boone WV  
8. 5.3 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06433  
2. 47-005-00270-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. S M Wheeler 3-421  
6.  
7. Boone WV  
8. 2.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06434  
2. 47-005-00272-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. W G Van De Lind 1-423  
6.

7. Boone WV  
8. 5.9 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06435  
2. 47-005-00276-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Peytona Coal Co 24-424  
6.  
7. Boone WV  
8. 7.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06436  
2. 47-005-00286-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Mamie Ballard 1-426  
6.  
7. Boone WV  
8. 2.9 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06437  
2. 47-005-00366-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Allen & Pryor 21-471  
6.  
7. Boone WV  
8. 1.0 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06438  
2. 47-045-00527-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. T H Harvey 6-976  
6.  
7. Logan WV  
8. 6.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06439  
2. 47-045-00528-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. T H Harvey 7-977  
6.  
7. Logan WV  
8. 5.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06440  
2. 47-099-00950-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Hoard Baldwin 36-914  
6.  
7. Wayne WV  
8. 2.3 million cubic feet  
9. November 14, 1979

10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06441  
2. 47-099-00441-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Polly Smith 1-916  
6.  
7. Wayne WV  
8. 4.3 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06442  
2. 47-099-00588-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Polly Smith 2-917  
6.  
7. Wayne WV  
8. 3.6 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06443  
2. 47-099-00748-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. F E Mathewson 3-815  
6.  
7. Wayne WV  
8. 1.7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06444  
2. 47-099-00813-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Louisa Collins 5-844  
6.  
7. Wayne WV  
8. 1.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06445  
2. 47-099-00788-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. F E Mathewson 4-819  
6.  
7. Wayne WV  
8. 2.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06446  
2. 47-043-01173-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Island Creek Mining 12-910  
6.  
7. Lincoln WV  
8. 2.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc

1. 80-06447  
2. 47-043-01177-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Elwood Runyan 2-963  
6.  
7. Lincoln WV  
8. 8.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06448  
2. 47-043-01178-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. F F Starcher 9-947  
6.  
7. Lincoln WV  
8. 6.4 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06449  
2. 47-043-01179-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. Island Creek Mining 17-948  
6.  
7. Lincoln WV  
8. 4.7 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
1. 80-06450  
2. 47-043-01180-0000  
3. 108 000 000  
4. Industrial Gas Corporation  
5. R H Ronk 1-940  
6.  
7. Lincoln WV  
8. 5.2 million cubic feet  
9. November 14, 1979  
10. Houdaille Industries Inc Huntington  
Alloys Inc Libbey-Owens-Ford Co Owens-  
Illinois Inc  
**Wyoming Oil and Gas Conservation  
Commission**  
1. Control Number (FERC/STATE)  
2. API well number  
3. Section of NGPA  
4. Operator  
5. Well name  
6. Field or OCS area name  
7. County, State or block No.  
8. Estimated annual volume  
9. Date received at FERC  
10. Purchaser(s)  
1. 80-06358/NG-282-79  
2. 49-009-21313-0000  
3. 102 000 000  
4. Davis Oil Company  
5. Lucille No 1  
6. Mikes Draw  
7. Converse WY  
8. 22.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06359/NG-283-79  
2. 49-009-21444-0000  
3. 102 000 000  
4. Davis Oil Company

5. Lucille No 4  
6. Mikes Draw  
7. Converse WY  
8. 50.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06360/NG-284-79  
2. 49-009-21466-0000  
3. 102 000 000  
4. Davis Oil Company  
5. Fred State No 1  
6. Mikes Draw  
7. Converse WY  
8. 121.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06361/NG-285-79  
2. 49-009-21513-0000  
3. 102 000 000  
4. Davis Oil Company  
5. Fred State No 2  
6. Mikes Draw  
7. Converse WY  
8. 35.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06362/NG-280-79  
2. 49-013-20710-0000  
3. 107 000 000  
4. Michigan Wisconsin Pipe Line Company  
5. Lysite #1-11  
6. Lysite  
7. Fremont County WY  
8. 1500.0 million cubic feet  
9. November 15, 1979  
10. Michigan Wisconsin Pipe Line Company  
Colorado Interstate Corp  
1. 80-06363/NG-266-79  
2. 49-037-21400-0000  
3. 107 000 000  
4. Texaco Inc  
5. Table Rock Unit Well No 39X  
6. Table Rock  
7. Sweetwater WY  
8. 1500.0 million cubic feet  
9. November 15, 1979  
10. Colorado Interstate Gas Company  
1. 80-06364/NG-288-79  
2. 49-037-20931-0000  
3. 103 000 000  
4. Davis Oil Company  
5. Storm Shelter Unit No 8  
6. Storm Shelter  
7. Sweetwater WY  
8. 35.0 million cubic feet  
9. November 15, 1979  
10. Panhandle Eastern Pipeline Company  
1. 80-06365/NG-288A-79  
2. 49-037-20974-0000  
3. 103 000 000  
4. Davis Oil Company  
5. Storm Shelter Unit No 9  
6. Storm Shelter  
7. Sweetwater WY  
8. 35.0 million cubic feet  
9. November 15, 1979  
10. Panhandle Eastern Pipeline Company  
1. 80-06366/NG-286-79  
2. 49-009-21506-0000  
3. 102 000 000  
4. Davis Oil Company  
5. Miles G 2  
6. Mikes Draw  
7. Converse WY  
8. 22.0 million cubic feet

9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06367/NG-276-79  
2. 49-007-20407-0000  
3. 102 000 000  
4. Amoco Production Company  
5. Coal Gulch Unit B Well #1  
6. Coal Gulch  
7. Carbon WY  
8. 180.0 million cubic feet  
9. November 15, 1979  
10. Cities Service Gas Company  
1. 80-06368/NG-278-79  
2. 49-007-20394-0000  
3. 102 000 000  
4. Amoco Production Company  
5. Champlin 242 Amoco E Well #1  
6. Echo Springs  
7. Sweetwater WY  
8. 730.0 million cubic feet  
9. November 15, 1979  
10. Cities Service Gas Company  
1. 80-06369/NG-287-79  
2. 49-037-21447-0000  
3. 103 000 000  
4. Husky Oil Company  
5. #15-15 UPRR Baxter  
6. Wildcat  
7. Sweetwater WY  
8. 365.0 million cubic feet  
9. November 15, 1979  
10. Panhandle Eastern Pipeline Co  
1. 80-06370/NG-270-79  
2. 49-045-21294-0000  
3. 103 000 000  
4. Davis Oil Company  
5. No 1 Fortitude State  
6. Todd  
7. Weston WY  
8. 60.0 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum Company  
1. 80-06371/NG-274-79  
2. 49-005-25135-0000  
3. 103 000 000  
4. Continental Oil Company  
5. Conoco Wright 28 No 9  
6. House Creek  
7. Campbell WY  
8. 16.2 million cubic feet  
9. November 15, 1979  
10. Phillips Petroleum  
1. 80-06372/NG-279-79  
2. 49-007-20316-000  
3. 102 000 000  
4. Amoco Production Company  
5. Creston III Unit Well #3  
6. Wildcat  
7. Carbon WY  
8. 550.0 million cubic feet  
9. November 15, 1979  
10. Cities Service Gas Company  
1. 80-06373/NG-277-79  
2. 49-037-21053-0000  
3. 102 000 000  
4. Amoco Production Company  
5. Five Mile Gulch Unit Well #3  
6. Five-Mile Gulch  
7. Sweetwater WY  
8. 100.0 million cubic feet  
9. November 15, 1979  
10. Cities Service Gas Company  
1. 80-06374/NG-281-79  
2. 49-009-21380-0000



3. 103 000 000
4. General American Oil Company of Texas
5. Dilts 12-1
6. Powell
7. Converse WY
8. 180.0 million cubic feet
9. November 15, 1979
10. Montana-Dakota Utilities Co
1. 80-06375/NG-291-79
2. 49-007-20331-0000
3. 102 000 000
4. Michigan Wisconsin Pipeline Company
5. Creston #1-27
6. Creston Nose
7. Carbon WY
8. 365.0 million cubic feet
9. November 15, 1979
10. Michigan Wisconsin Pipe Line Company
1. 80-06376/NG-290-79
2. 49-023-20298-0000
3. 103 000 000
4. John J Christmann
5. Red Gap 3-28
6. South Hogsback
7. Lincoln WY
8. 220.0 million cubic feet
9. November 15, 1979
10. Northwest Pipeline Corp Northwest Pipeline Corporation
1. 80-06377/NG-269-79
2. 49-009-21504-0000
3. 103 000 000
4. Davis Oil Company
5. Thelma #1
6. Mikes Draw
7. Converse WY
8. 18.0 million cubic feet
9. November 15, 1979
10. Phillips Petroleum Company
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06349/G9-415
2. 17-709-40319-00D2-0
3. 102 000 000
4. Gulf Oil Corporation
5. Eugene Is 252 #G-4D OCS G-0983
6. Eugene Island
7. 252
8. 4212.0 million cubic feet
9. November 14, 1979
10. Sea Robin Pipeline Texas Eastern Transmission Corp
1. 80-06352/G9-793
2. 17-708-40184-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-6
6. South Marsh Island
7. 115
8. .0 million cubic feet
9. November 14, 1979
10. Transcontinental Gas Pipe Line Company
1. 80-06353/G9-798
2. 17-708-40222-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-9
6. South Marsh Island
7. 115
8. 843.0 million cubic feet
9. November 14, 1979
10. Transcontinental Gas Pipe Line Company
1. 80-06354/G9-799
2. 17-708-40168-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-3
6. South Marsh Island
7. 115
8. .0 million cubic feet
9. November 14, 1979
10. Transcontinental Gas Pipe Line Company
1. 80-06452/G9-420
2. 17-709-40319-00D1-0
3. 102 000 000
4. Gulf Oil Corporation
5. Eugene Is 252 OCS G-0983 #G-4
6. Eugene Island
7. 252
8. 1944.0 million cubic feet
9. November 15, 1979
10. Sea Robin Pipeline Texas Eastern Transmission Corp
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06350/G9-6-46
2. 42-711-40333-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2557 well No B-1
6. West Cameron
7. 612
8. 1800.0 million cubic feet
9. November 14, 1979
10. Natural Gas Pipeline Company of America Transcontinental Gas Pipeline Co
1. 80-06351/G9-682
2. 42-711-40309-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2412 well No A-1
6. High Island
7. A-317
8. 1825.0 million cubic feet
9. November 14, 1979
10. Natural Gas Pipeline Company of America Michigan Wisconsin Pipeline Co
1. 80-06453/G9-647
2. 42-711-40373-0001-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2743 well No B-7
6. High Island
7. A-349
8. 1800.0 million cubic feet
9. November 15, 1979
10. Natural Gas Pipeline Co of America Transcontinental Gas Pipeline Co
1. 80-06353/G9-798
2. 17-708-40222-0000-0
3. 102 000 000
4. Shell Oil Company
5. A-9

3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-06451/NM-3419-79
2. 30-045-08575-0000-0
3. 108 000 000 denied
4. Amoco Production Company
5. Heath Gas Com J #1
6. Basin Dakota
7. San Juan NM
8. 21.0 million cubic feet
9. November 15, 1979
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy of description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 27, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38007 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

#### [Docket No. TC80-12]

#### South Georgia Natural Gas Co.; Order Approving Settlement

Issued: November 30, 1979.

The settlement we approve here (by granting an exception to Order No. 29) implements section 401(a) of the Natural Gas Policy Act of 1978 (NGPA) <sup>1</sup> for the system of South Georgia Natural Gas Company (South Georgia). Section 401(a) affords a preference to high priority and essential agricultural uses in the curtailment plans of interstate pipelines. Order No. 29 <sup>2</sup> requires certain named interstate pipelines, including South Georgia, to establish two priority classifications in their curtailment plans

<sup>1</sup>For a summary of section 401(a) and the administrative actions taken to implement it, including Order No. 29, see *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

<sup>2</sup>"Final Regulation for the Implementation of section 401 of the Natural Gas Policy Act," Docket No. RM79-15, issued May 2, 1979, 18 CFR 281.201 et seq.

conforming to the statutory definitions of high priority and essential agricultural uses. Volumes attributable to these uses are to be reflected in the pipeline's tariff in the form of an index of entitlements. Curtailments of volumes attributable to all lower priorities must be completed before curtailment of any volumes attributable to high priority or essential agricultural uses is permitted.

At the time of promulgation of Order No. 29, the Commission expressed its willingness to consider settlements at variance with the rule:

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission . . . (Nothing in the rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our rule. Such a settlement will be evaluated by the Commission in light of its responsibility to meet the statutory goal of protecting, to the maximum extent practicable, high priority users and essential agricultural uses. (Preamble to Final Regulations, pp. 10-11.)

In approving a settlement of section 401 matters that departed from Order No. 29 for the system of Northwest Pipeline Corporation, we emphasized that rigid adherence to Order No. 29 will not be required where a suitable alternative is proposed. There we said:

The Commission wishes to emphasize its flexibility under section 401 and its willingness to exercise its flexible authority thereunder, in the forum of an adjustment proceeding or in the context of a settlement. To this end, the Commission has openly encouraged the entry into settlements which meet the requirements of Section 401 even though the settlement may deviate from Order No. 29.<sup>3</sup>

We also called special attention to the Joint Explanatory Statement of the Committee on Conference for the NGPA, which expresses a clear desire to avoid disruption of existing curtailment plans upon implementation of section 401. With this background, we turn to the settlement proposed by South Georgia. On October 1, 1979, South Georgia filed its proposed settlement <sup>4</sup> in

<sup>3</sup> *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

<sup>4</sup>South Georgia's revised curtailment priorities are as follows:

#### 8.2 Curtailment Priorities

Should Seller have a deficiency in gas supplies needed to fulfill the total gas requirements of its system, Seller shall curtail deliveries of gas to its customers in accordance with the priority-of-service categories, with category (9) being the lowest priority:

#### (1) High Priority Requirements.

(2.1) Summer season (April 1-October 31) Essential Agricultural Use Requirements.

(2.2) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements

accordance with § 1.18(e) of the Commission's Rules of Practice and Procedure. (18 CFR 1.18(e)). South Georgia served its proposal on all of its customers and interested state commissions. Notice of the proposed settlement was issued by the Commission on October 5, 1979, and published in the *Federal Register* on October 15, 1979 (44 FR 59281). South Georgia, the Georgia Municipal Association (comprised of most of the municipalities that purchase gas from South Georgia) and the Commission staff filed comments supporting the settlement; no one filed comments in opposition.

In its statement in support of the proposed settlement, South Georgia states that its curtailment plan is implemented through an Index of Requirements by which customers with high priority requirements receive increased deliveries based upon the decrease in system mean temperature below 70 degrees Fahrenheit. The plan limits the deliveries in priority-of-service categories 1 through 5 to each distributor's contractual quantity. As the temperature-sensitive requirements of high-priority customers increase, the volume of gas within the contractual quantity that is available to serve priorities 2 through 5 decreases. At the same time that South Georgia is limiting its customers to contract demand for priorities 1 through 5,<sup>5</sup> South Georgia may also be serving gas above contract demand as authorized overrun gas when

for plant protection, feedstock and process needs, and pipeline customer storage injection requirements.

(3) All industrial requirements not specified in (2.1), (2.2), (4), (5), (6.1), (6.2), (7), (8), or (9).

(4) Firm industrial requirements for boiler fuel use at least than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(5) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(6.1) Winter Season (November 1-March 31). Essential Agricultural Use Requirements.

(6.2) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of intermediate volumes from 1,500 Mcf per day through 3,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements. We note that essential agricultural uses are in either Priority 2.1 or 6.1, depending upon the season of the year.

<sup>5</sup>In effect the limit applies only to priorities 1 through 3 since South Georgia has no customers in priorities 4 and 5.

the available supply makes this possible. Authorized overrun volumes are restricted to Priorities 6 through 9. The operation of these provisions requires South Georgia's distributor customers to utilize their peakshaving supplies on peak days. South Georgia states that if essential agricultural uses were included in Priority 2.1 during the winter season (as would happen under Order No. 29), the combination of a tremendous volume of temperature-sensitive high priority requirements and the quantity limitations in contracts between South Georgia and its customers would mean that a substantial portion of essential agricultural uses would not be served.

In order to provide better service to essential agricultural uses, South Georgia and its customers propose to place essential agricultural uses in a new Priority 6.1 instead of 2.1 during the winter season. With this change, volumes of gas attributable to essential agricultural uses would not be subject to contractual quantity limitations. Therefore, the first gas volumes served to any customer whose deliveries under South Georgia's curtailment plan have reached its contractual quantity would be for essential agricultural uses.<sup>6</sup>

South Georgia requests approval of its proposal to place essential agricultural users in Priority (6.1) during the winter

<sup>6</sup>In data supplied in support of the proposed settlement, South Georgia compared (in Attachment No. 4 to its filing) the volume of gas allocated for essential agricultural uses (EAU) at various system mean temperatures under the settlement plan and under a strict Order No. 29 plan. The comparison was made at South Georgia's projected supply level of 95 Mmcf per day for the 1979-80 winter period and at a conservative supply level of 85 Mmcf per day.

#### 95,000 MCF Sales Level

| Mean temperature | EAU served (settlement plan) | EAU served (order 29 plan) |
|------------------|------------------------------|----------------------------|
| 35               | 15,236                       | 8,324                      |
| 40               | 15,372                       | 8,813                      |
| 45               | 15,628                       | 9,441                      |
| 50               | 16,382                       | 12,019                     |
| 55               | 17,044                       | 15,555                     |
| 60               | 17,551                       | 17,163                     |
| 65               | 17,551                       | 17,551                     |
| 70               | 17,551                       | 17,551                     |

#### 85,000 MCF Sales Level

| Mean temperature | EAU served (settlement plan) | EAU served (order 29 plan) |
|------------------|------------------------------|----------------------------|
| 35               | 13,731                       | 8,324                      |
| 40               | 14,505                       | 8,813                      |
| 45               | 15,628                       | 9,441                      |
| 50               | 16,382                       | 12,019                     |
| 55               | 17,044                       | 15,555                     |
| 60               | 17,551                       | 17,163                     |
| 65               | 17,551                       | 17,551                     |
| 70               | 17,551                       | 17,551                     |



period instead of filing a strict Order No. 29 plan.<sup>7</sup> During the summer season, when the temperature sensitive load is largely absent, the requirements of essential agricultural users can be protected by placing them in Priority (2.1), as contemplated by Order No. 29. *Pro Forma* tariff sheets, including an Index of Requirements, reflecting these provisions were included with South Georgia's filing.

The Commission staff supported South Georgia's proposed settlement, but conditioned its support upon provision being made for the convening of a settlement conference to revise the curtailment plan if South Georgia's projected supplies became so low that essential agricultural users would not receive service during the winter months that was equal to or greater than they would have received had such users been placed in Priority (2.1). In its reply comments filed on October 26, 1979, South Georgia indicated that it would not object to the inclusion of such a condition in the order approving the settlement.<sup>8</sup>

We find that the proposed settlement and the procedures therein specified, as modified by South Georgia's suggested language in footnote 7, provide the requisite measure of protection for high priority and essential agricultural uses mandated by the NPGA. The proposal presents a suitable alternative to Order No. 29 for meeting those statutory objectives. Accordingly, we grant the requested exception to Order No. 29 and approve the settlement.<sup>9</sup>

*The Commission finds and orders*

<sup>7</sup> We treat this request as an adjustment request under section 502(c) of the NPGA and grant the relief requested in the form of an exception, to the extent necessary to implement South Georgia's proposed settlement, from the Order No. 29 requirements that essential agricultural uses be placed in Priority 2 and that all deliveries to customers below Priority 2 be fully curtailed before Priority 2 entitlement are curtailed.

<sup>8</sup> South Georgia proposes the following language to satisfy the condition: "South Georgia shall file a supply forecast with the Commission in April and in September of each year. Should any such forecast project average daily winter season volumes to be less than 75 Mmcf per day, South Georgia shall be required to convene promptly a settlement conference of its customers for the purpose of agreeing on such changes to South Georgia's curtailment plan as may be thought necessary to protect high-priority and EAU requirements. South Georgia shall promptly make such filings with the Commission as are necessary to place into effect any such agreement". South Georgia states that the supply level of 75 Mmcf per day is appropriate because below that level substantial curtailment of the essential agricultural use requirements of its resale customers may be required.

<sup>9</sup> Approval of this settlement does not relieve South Georgia of its obligations under Order No. 55, "Interim Rule-Determination of Alternative Fuels for Essential Agricultural Users," Docket No. RM79-40, issued October 26, 1979.

(1) The October 1, 1979 Settlement Agreement proposed by South Georgia, with the addition of the language set forth in footnote 7 hereof, constitutes a just and reasonable means of implementing Section 401(a) of the Natural Gas Policy Act and is consistent with the objectives of Commission Order Nos. 29, 29-A, 29-B and 29-C.

(2) South Georgia is hereby granted an adjustment in accordance with section 502(c) of the NPGA excepting it from the application of Commission Order Nos. 29, 29-A, 29-B and 29-C to the extent that those orders require South Georgia to include essential agricultural use requirements in Priority 2 during the winter season and to curtail fully deliveries to customers below Priority 2 before curtailing Priority 2 volumes.

(3) The October 1, 1979 Settlement Agreement as conditioned herein is hereby approved.<sup>10</sup> South Georgia shall file tariff sheets implementing the Settlement Agreement, including the proposed language set forth in footnote 7, within 10 days of issuance of this order. The Commission finds it appropriate to waive its regulations to the extent necessary to permit the tariff sheets to become effective as of December 1, 1979.

(4) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding.

By the Commission, Commissioner Holden, concurring, filed a separate statement appended hereto.<sup>11</sup>

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-37995 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30030A; FRL 1373-5]

### Elimination of Authorization for Confidential Formula Statement Clarification

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

**ACTION:** Clarification of prior notice.

**SUMMARY:** This notice clarifies an earlier notice concerning the elimination of the requirement that an applicant wishing the Agency to consider another person's confidential formula statement as part

<sup>10</sup> Our action here makes unnecessary any further proceedings in Docket No. SA80-20, and that proceeding will be terminated.

<sup>11</sup> Concurring statement filed with original document.

of his application obtain the other person's consent. This clarification concerns data entitled to "exclusive use" protection.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Street, Policy and Liaison Staff, Registration Division (TS-767), EPA, 401 M St., SW., Washington, DC 20460, telephone number 202/426-2510.

**SUPPLEMENTARY INFORMATION:** On August 15, 1979, EPA published a notice in the Federal Register (44 FR 47809) announcing the elimination of the requirement that applicants for pesticide registration submit authorization for the Agency to refer to confidential formula information in Agency files where the identity of the ingredient is unknown to the applicant because it is supplied by another manufacturer. However, the August 15, 1979, notice failed to mention the "exclusive use" provision of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(c)(1)(D). Accordingly, that notice is hereby rescinded, and the Agency's policy concerning EPA use of confidential formula statement is as follows.

Under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, an applicant for the registration of a pesticide is required to identify the ingredients of his proposed product. Applications are often accompanied by requests that the Environmental Protection Agency (EPA) refer to confidential information such as a formula statement, submitted by some other person. An applicant who does not know the composition of a particular ingredient of his product which he obtains, in the form of a registered product, from another person, has in the past been required to obtain the other person's authorization for the Agency to refer to confidential formula information in Agency files. Without such authorization, EPA has been prohibited by FIFRA Section 3(c)(1)(D) from referring to the other person's confidential formula statement to complete the applicant's own composition statement.

The 1978 Federal Pesticide Act amended FIFRA section 3(c)(1)(D) by deleting the prohibition against unconsented use of confidential information by the Agency in issuing registrations. (Such information is still protected from disclosure outside the Agency to the extent provided by section 10 of FIFRA).

Therefore, effective August 15, 1979, the Agency will no longer require an applicant for a pesticide registration to submit authorization letters relating to confidential information in our files.

There is one exception to this. Under amended FIFRA section 3(c)(1)(D)(i), data supporting applications for certain products containing "new" active ingredients are entitled to a period of "exclusive use" protection, during which period EPA may not consider the data in support of another person's application without the data submitter's consent. Under this "exclusive use" provision, a composition statement, like other data, may be protected. In such cases EPA will, of course, require applicants to obtain the written consent of the person whose data is protected by the "exclusive use" provision.

In addition, some data-submitting firms engaged in litigation with EPA have obtained injunctions or stipulations which restrict EPA's right to make unconsented use of data they submitted. Compliance by EPA may necessitate applicant submission of letters of authorization from the data submitters.

Dated: December 3, 1979.

Douglas D. Campt,  
Director, Registration Division.

[FR Doc. 79-38064 Filed 12-11-79; 8:45 am]  
BILLING CODE 6560-01-M

[PF-160; FRL 1373-6]

### Filing of Pesticide Petitions

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

**ACTION:** Notice of filing.

**SUPPLEMENTARY INFORMATION:** EPA gives notice that the following petitions have been submitted to the Agency for consideration.

PP OF2280. Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120. Proposes that 40 CFR 180.338 be amended by establishing tolerances for residues of the insecticide 6-methyl-1,3-dithiolo(4,5-b) quinoxalin-2-one in or on the raw agricultural commodities apricots and cherries at 0.02 part per million (ppm). The proposed analytical method for determining residues is gas chromatography equipped with a flame photometric detector.

PP OF2281. The Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes that 40 CFR 180.342 be amended by establishing tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on the raw agricultural commodities alfalfa green forage at 4.0 ppm and alfalfa hay at 15.0 ppm. The proposed analytical method for determining residues is gas chromatography equipped with a hydrogen flame ionization detector.

**COMMENTS/INQUIRIES:** Comments may be submitted, and inquiries directed to Acting Product Manager (PM-12), Mr. Charles Mitchell, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-2635. Comments submitted should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 408(d)(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a))

| EPA registration No. | Product name                                    | Registrant                                                             |
|----------------------|-------------------------------------------------|------------------------------------------------------------------------|
| 707-137              | Vacor Ratkiller                                 | Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105.      |
| 707-139              | DLP-787 House Mouse Killer                      | Do.                                                                    |
| 707-140              | DLP-787                                         | Do.                                                                    |
| 707-141              | Vacor Rat and Mouse Killer                      | Do.                                                                    |
| 876-214              | Vegatrol A-2D-2T Herbicide for Brush Control    | Veisical Chemical Corp., 341 East Ohio St., Chicago, Ill. 60611.       |
| 876-216              | Vegatrol LV-2D-2T Herbicide for Brush Control   | Do.                                                                    |
| 876-217              | Vegatrol BE-4D Herbicide                        | Do.                                                                    |
| 876-219              | Vegatrol BE-2D-2T Herbicide for Brush Control   | Do.                                                                    |
| 876-220              | Vegatrol BE-4T Herbicide for Brush Control      | Do.                                                                    |
| 876-221              | Vegatrol 6-D Herbicide                          | Do.                                                                    |
| 876-226              | Vegatrol O-6T Herbicide for Brush Control       | Do.                                                                    |
| 876-227              | Vegatrol LV-4T Herbicide                        | Do.                                                                    |
| 876-228              | Vegatrol LY-4T Herbicide for Brush Control      | Do.                                                                    |
| 876-229              | Vegatrol LY-6T Herbicide for Brush Control      | Do.                                                                    |
| 876-230              | Vegatrol O-4T Herbicide for Brush Control       | Do.                                                                    |
| 876-232              | Vegatrol LV-6D Herbicide                        | Do.                                                                    |
| 2935-375             | Red-Top Methyl Parathion Thiodan 2.0 C.O. Spray | Wibbur Ellis Co., 191 West Shaw Ave., Suite 107, Fresno, Calif. 93074. |

The Agency has agreed that such cancellations shall be effective January 11, 1980, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier, provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of such existing stocks have been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products as pesticide formulations after the effective date of cancellation

Dated: December 4, 1979.

Douglas D. Campt,  
Director, Registration Division.  
[FR Doc. 79-38065 Filed 12-11-79; 8:45 am]  
BILLING CODE 6560-01-M

[OPP-66058; FRL 1373-4]

### Intent To Cancel Registrations of Certain Pesticide Products

**AGENCY:** Office of pesticide Programs, Environmental Protection Agency (EPA or the Agency).

**ACTION:** Notice of intent to cancel pesticide registrations.

**SUPPLEMENTARY INFORMATION:** EPA has been advised by the following firms of their desire to voluntarily cancel registration of the products listed herein:

will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-792), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the OPP document control number "[OPP-66058]" and the EPA registration number/product name to which the comments pertain. Any comments filed regarding this notice will be available for public inspection in the Office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 6(a)(1) of FIFRA as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136j))



Dated: December 5, 1979.  
 Edwin L. Johnson,  
*Deputy Assistant Administrator for Pesticide Programs.*  
 [FR Doc. 79-38063 Filed 12-11-79; 8:45 am]  
 BILLING CODE 6560-01-M

[OPP-30173; FRL 1373-3]

**Receipt of Application To Register a Pesticide Product Containing New Active Ingredient**

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

**ACTION:** Notice of receipt of application.

**SUPPLEMENTARY INFORMATION:** BASF Wyandotte Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054, has submitted an application to EPA to register the pesticide product Ronilan Fungicide (EPA File Symbol 969-LG) containing 50 percent of the active ingredient 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use as a fungicide to control botrytis rot on strawberries.

Notice of approval or denial of this application to register Ronilan Fungicide will be announced in the *Federal Register*. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the *Federal Register* if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

**COMMENTS/INQUIRIES:** Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202-755-2562.

The comments must be received on or before January 11, 1980, and should bear a notation indicating the EPA "File Symbol 7696-LG". Comments received within the specified time period will be considered before a final decision is made; comments received after the

specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by BASF Wyandotte Corp. as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 3(c)(4), FIFRA and 40 CFR 162.)

Dated: December 3, 1979.

Douglas D. Camp,  
*Director, Registration Division.*

[FR Doc. 79-38062 Filed 12-11-79; 8:45 am]  
 BILLING CODE 6560-01-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**Addition of New System of Records**

**AGENCY:** United States Fire Administration, FEMA.

**ACTION:** Notice of a new system of records.

**SUMMARY:** The United States Fire Administration, Federal Emergency Management Agency proposes to establish a new system of records subject to the Privacy Act of 1974.

**DATE:** The system shall be effective as proposed without further notice January 11, 1980, unless comments or actions are received on or before that date which would result in a contrary determination.

**ADDRESS:** Send comments to Registrar, National Fire Academy, Route 1, Box 10A, Emmitsburg MD 21727.

**FOR FURTHER INFORMATION CONTACT:** Duncan Sells, Area Code 301-447-6555.

**SUPPLEMENTARY INFORMATION:** FEMA has submitted a new system report to OMB regarding this new system in accordance with OMB Circular A-108 Transmittal Memoranda No. 1 and No. 3 which provides guidance regarding the preparation and submission of reports of intent to establish or alter systems of records under the Privacy Act.

Pursuant to section 2(f) of the Circular, as added by Transmittal Memorandum 3, OMB has been requested to waive the 60-day advance notice requirement of the Circular because a delay of 60 days would not be in the public interest. The Fire Academy is scheduled to open January 20, 1980, and it is required that the application forms and other data be ready for use by then.

FA-1

**System name:**

Student Application Records, National Fire Academy.

**System location:**

Office of the Registrar, National Fire Academy, Route 1, Box 10A, Emmitsburg, MD 21727

**Categories of individuals in the system:**

Applicants and former applicants for admission to the courses and programs of the National Fire Academy.

**Categories of records in the system:**

The system contains the application forms and other information submitted by applicants. Information collected will include but not be limited to name, social security number, sex, date of birth, education level, home address and job title.

**Authority for maintenance of the system:**

Public Law 93-498, Federal Fire Prevention and Control Act.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Information contained in the system is used to determine eligibility for participation in the courses and programs of the National Fire Academy.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the systems:**

**Storage:**

Records are stored on microfilm and paper.

**Retrievability:**

Manual.

**Safeguards:**

System records will be contained in locked file cabinets in the Office of the Registrar.

**Retention and disposal:**

Paper records retained for one year, then transferred to microfilm for permanent retention.

**System manager(s) and address:**

Registrar, National Fire Academy, Route 1, Box 10A, Emmitsburg, MD 21727.

**Access location—if different from location of system and system manager:**

Registrar, National Fire Academy, Route 1, Box 10A, Emmitsburg, MD 21727

**Notification procedure:**

A person can determine whether the System contains information pertaining to him or her by submitting a written request to the Registrar. The request should contain the requestor's name,

social security number, current address and telephone number.

**Records access procedures:**

Individuals shall have access to their records in the System by submitting a written request to the Registrar. The request shall contain at least the requestor's name, social security number, current address, telephone number and be signed by the requestor. Access will be granted within a reasonable time, not to exceed 45 calendar days from receipt of the request in the Office of the Registrar.

**Contesting record procedures:**

The rules for contesting records in the System may be obtained from the Office of the Registrar, National Fire Academy.

**Record source categories:**

Records are obtained from the applicants employers, educational institutions and recommendations.

Bill Combs,

*Director, Public Affairs.*

[FR Doc. 79-38116 Filed 12-11-79; 8:45 am]

BILLING CODE 6718-04-M

**GENERAL SERVICES ADMINISTRATION**

**GSA Standards of Conduct**

November 30, 1979.

1. **Purpose.** This order transmits a copy of the Standards of Conduct. These standards apply to every employee, from the Administrator to the newest entrance employee, and will be rigidly enforced.

2. **Background.** We in GSA are responsible for the effective and efficient expenditure and administration of billions of dollars in Federal funds and resources. We not only have to comply with the minimum standards of ethical conduct, we must conduct our official duties in a manner beyond suspicion or reproach.

The casual lunch or dinner with a contractor with whom we do business may not, in the minds of GSA employees, influence them; however, it is the avoidance of even the perception of wrongdoing that is important.

Our unquestioned integrity in dealing with day-to-day tasks can do much to restore our credibility in the minds of the American taxpayers. If you have to ask the question whether or not your actions meet the criteria of ethical conduct in the attached Standards of Conduct, don't proceed further with the action.

3. **Action.** Each supervisor shall ensure that all subordinate employees

are briefed thoroughly regarding the standards and their meanings. A signed GSA Form 2160, Acknowledgment of Receipt of GSA Standards of Conduct, shall be obtained from every GSA employee, including special Government employees (and every new employee hereafter) acknowledging that he or she has received a copy of the GSA Standards of Conduct, has read it, has been briefed regarding it, and understands its contents. The GSA Form 2160 shall be filed in the employee's official personnel folder where it will be maintained for Inspector General review.

4. **Training.** A training program covering the standards will be conducted by the Office of Ethics (K). All questions regarding the attached standards should be addressed to that office, telephone 566-1212.

5. **Forms.** This order provides for the use of revised GSA Form 2160, December 1979, Acknowledgment of Receipt of GSA Standards of Conduct. Supplies of the form may be obtained in the usual manner. Action should be taken to dispose of the previous editions of revised GSA Form 2160.

R. G. Freeman III,

*Administrator of General Services.*

**Part 7. Standards of Conduct**

**Section 1. General**

86. **Enforcement of standards.** Set forth below are the fundamental rules of ethics in the conduct of Government business that are mandatory for all who serve in the General Services Administration. These rules are in addition to the criminal laws and other laws governing conduct of Federal employees. Like the laws, they will be strictly interpreted and firmly enforced. Ignorance of these rules or laxity in observance or enforcement of them will not be condoned. They are the prime responsibility of all GSA personnel.

87. **Definitions.** In this directive, the following terms have the meaning shown:

a. "Special Government employee" means an officer or employee who has been employed to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis (18 U.S.C. 202(a)).

b. "Employee" means any officer or employee of GSA who is not a special Government employee.

c. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, or any other organization or institution.

d. "GSA personnel" means all GSA employees, including special Government employees.

e. "Gratuity" means any gift, favor, entertainment, hospitality, transportation, loan, or any other tangible thing, and any intangible benefit (for example, a discount, passes, or promotional vendor training) given to or on behalf of GSA employees or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government.

f. "Standards of Conduct Counsellors"—See paragraph 88b.

g. "Appropriate supervisor" means that supervisor within the chain of authority who is acquainted with the duties of the subordinate GSA personnel concerned and has the duty to determine the existence and effect of any conflict of interests of the personnel. Ordinarily, this will be the immediate supervisor of the GSA personnel concerned.

88. **Responsibilities.** a. Heads of Services and Staff Offices and Regional Administrators.

(1) Heads of Services and Staff Offices and Regional Administrators are responsible for ensuring (1) that all GSA personnel under their supervision are familiar with and understand the standards of conduct and statutes governing conflicts of interest and post employment restrictions; (2) that all GSA personnel under their supervision are informed of and are familiar with the identity of their appropriate supervisor; and (3) that disciplinary or remedial action is taken in the case of all GSA personnel who violate these standards or related laws and regulations, and against supervisors who fail to carry out their responsibilities in taking or recommending disciplinary or remedial action in these cases.

(2) Heads of Services and Staff Offices and Regional Administrators shall ensure that GSA personnel under their supervision are given a copy of this directive and an oral standards of conduct briefing following receipt. New GSA personnel shall likewise receive a copy and a briefing preceding employment or promptly following assumption of duties. Each individual receiving such briefing shall attest in writing to attendance at the briefing, and that he or she has the standards of conduct and comprehends the requirements imposed. All GSA personnel shall be reminded at least semi-annually of their duty to comply with required standards of conduct by Heads of Services and Staff offices and Regional Administrators. All GSA personnel shall be provided with a copy



of all revisions to the standards of conduct and be required to attest in writing to receiving and understanding them.

(3) Heads of Services and Staff Offices and Regional Administrators shall bring the contents of this directive to the attention of the principal officer of each contractor doing significant business with GSA, and shall periodically utilize the opportunity afforded by conferences with representatives of industry and others transacting business with the GSA to direct attention to these GSA standards of conduct regulations.

b. The Special Counsel to the Administrator for Ethics is the Agency Standards of Conduct Counsellor and Designated Agency Ethics Official.

(1) The Special Counsel to the Administrator for Ethics shall designate Deputy Standards of Conduct Counsellors. Those designated shall be responsible for providing advice and assistance to GSA personnel on all questions arising from the operation and implementation of this directive. They shall also be responsible for the proper review, including audits, coordination, and advice, regarding all standards of conduct problems.

(2) The Special Counsel to the Administrator for Ethics shall supervise the adequacy of the advice and training in standards of conduct provided to all GSA personnel and shall be responsible for the timely collection and review of all Confidential Statements of Employment and Financial Interests (GSA Forms 2157 and 2158) and of all Financial Disclosure Reports (Standard Forms 278 and 278A). In these matters the Deputy Standards of Conduct Counsellors shall be subject to the policy guidance and direction of the Special Counsel to the Administrator for Ethics.

c. Supervisors shall (1) ensure that all GSA personnel under their supervision are instructed in and understand the standards of conduct required by this directive and the law governing conflicts of interest and postemployment restrictions and adhere to them at all times; and (2) take or recommend disciplinary or remedial action in the case of those who violate the standards or related laws and regulations.

d. All GSA personnel are required (1) to be fully familiar with the standards of conduct covered in this directive and the laws governing conflict of interest and postemployment restrictions; (2) to comply strictly with them; and (3) to maintain the highest standards of ethical conduct in transacting the Government's business. When in doubt as to the permissibility under this directive of any

action on their part, they shall not act until they have received the advice of a Standards of Conduct Counsellor or Deputy Standards of Conduct Counsellor.

89. *Proper conduct of official activities.* a. GSA personnel shall become familiar with the scope of authority for, and the limitations concerning, the activities for which they have responsibilities.

b. GSA personnel shall not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive Orders, or applicable directives, instructions, or regulations.

c. In case of doubt as to the propriety of a proposed action or decision in terms of regulation or law, GSA personnel shall consult Legal Counsel or, if appropriate, the Special Counsel to the Administrator for Ethics or a Deputy Standards of Conduct Counsellor to ensure the proper and lawful conduct of GSA activities.

90. *Equal opportunity.* GSA personnel shall scrupulously adhere to the GSA program of equal opportunity regardless of race, color, religion, sex, age, handicap, or nation origin.

91 and 92. [Reserved]

#### Section 2. Standards of Conduct for GSA Personnel

93. *Proper conduct of official activities.* a. GSA personnel shall observe the requirements of courtesy, consideration, and promptness in dealing with the public.

b. GSA personnel shall avoid any action, whether or not specifically prohibited by this directive, which might result in or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government.

94. *Business dealings on behalf of the Government.* a. Those who represent the Government in business dealings have positions of trust and grave responsibility that require them to observe the highest ethical standards. Practices that may be customary in the private business world are not necessarily acceptable for GSA personnel, who are held to a higher standard of public trust.

b. GSA personnel shall not knowingly deal on behalf of the Government with

present or former Government personnel whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this directive.

c. *Impartiality in conduct of official business.* GSA personnel shall not allow themselves to be placed in a position in which a conflict of interest might arise or might justifiably be suspected. Such a conflict may arise or appear to arise by the acceptance of gratuities or by any action which could reasonably be interpreted as influencing the strict impartiality that must prevail in all business relationships involving the Government. Strict impartiality is often difficult to maintain when business relationships are allowed to become overly personal. GSA personnel shall ensure that persons doing business or attempting to do business with the agency, or representing business entities, are not permitted to ingratiate themselves to the extent that GSA personnel hesitate to deny requests for special treatment or otherwise to follow the rule of strict impartiality when officially dealing with such persons.

d. *Conflicts of interest.* (1) *Affiliations and Financial Interests.* GSA personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict or apparent conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their GSA positions. For the purpose of this prohibition, the private interests of a spouse and a minor child are treated as private interests of the GSA personnel.

(2) *Using Inside Information.* GSA personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their GSA positions.

(3) *Using GSA Position.* GSA personnel are prohibited from using their official positions to induce, coerce, or in any manner influence any person, including subordinates, to provide any improper benefit, financial or otherwise, to themselves or others.

(4) *Disqualification or Divestiture Requirements.* Unless otherwise expressly authorized by action taken under 18 U.S.C. 208, all GSA personnel who have affiliations or financial interests which create conflicts, or appearances of conflicts, of interests with their official duties must disqualify themselves from any official activities that are related to those affiliations or

interests or the entities involved. A written disqualification must be sent to an individual's superior and immediate subordinates whenever it appears possible that the individual's official functions will affect those affiliations, interests, or entities. If the individual cannot adequately perform official duties after such disqualification, he must divest himself of such involvement or be removed from that position.

(5) *Membership in Associations.* GSA personnel who are members or officers of non-Governmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions, and must not accept an office proffered because of their Government position and not as a result of a bona fide election.

(6) *Commercial Soliciting by GSA Personnel.* To eliminate the appearance of coercion, intimidation, or pressure from grade or position, full-time GSA personnel, except special Government employees, are prohibited from making personal commercial solicitations for sales, at any time, on or off duty, to GSA personnel who are under their supervision at any level.

(a) This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(b) This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling or to the off-duty employment of GSA personnel as employees in retail stores, or other situations not including solicited sales.

(c) See 18 U.S.C. 205 regarding prohibitions applicable to participation of special Government employees in particular matters involving a specific party or parties.

e. *Acceptance of gratuities.* (1) Acceptance of gratuities (no matter how innocently tendered or received) from those who have or seek business dealings with GSA may be a source of embarrassment to the recipient, and may impair public confidence in the integrity of the conduct of the Government's business. It is emphasized that prohibited conflicts and apparent conflicts of interest can sometimes arise even from relationships and transactions that the persons concerned perceive as inconsequential.

(2) Except as provided in (3) below, GSA personnel and their spouses, minor children, and members of their households shall not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly

from or on behalf of a GSA contractor. A GSA contractor is a person or entity which:

(a) Is engaged in or seeks business or financial relations of any sort with any GSA component;

(b) Conducts operations or activities that are either regulated by a GSA component or significantly affected by GSA decisions; or

(c) Has interests that may be substantially affected by the performance or nonperformance of the official duties of GSA personnel.

(3) This general prohibition does not apply to the following:

(a) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the appropriate Standards of Conduct Counsellor;

(b) Trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public or which are officially approved for GSA personnel participation;

(c) Things available to the public generally (such as university scholarships and attendance at free exhibitions by GSA contractors at public trade fairs);

(d) Participation by GSA personnel in civic and community activities when the involvement of GSA contractors is remote from the business purposes of any contractor who is sponsoring, supporting, or participating in the activity (for example, participation in a Little League or Combined Federal Campaign luncheon which is subsidized by a GSA contractor);

(e) Social activities engaged in by GSA officials or their representatives with local civic leaders as part of community relations programs of GSA;

(f) Instances in which the interests of the Government are served by participation of a GSA employee in widely attended luncheons, dinners, and similar gatherings sponsored by industrial, technical, or professional associations for the discussion of matters of mutual interest. Participation in such events is permitted only when the host is the association and not a private company and only when approved by the employee's supervisor as being a part of or related to his official duties. Acceptance of gratuities, food, or refreshments from a private company in connection with such association's activities is forbidden.

(g) Situations in which participation by GSA personnel at public ceremonial activities of mutual interest to industry or local communities and GSA serves the interests of the Government and acceptance of the invitation is approved

by the head of the activity to which the invitee is attached;

(h) Contractor-provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable and prior approval of the appropriate supervisor is obtained if practicable and the recipient reports the circumstances in writing to the appropriate supervisor as soon as possible;

(i) Attendance or participation of GSA personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the head of the activity to which the invitee is attached or, when there is doubt as to the propriety of acceptance, by higher authority;

(j) Customary exchanges of gratuities between GSA personnel and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gratuity and where it is clear that the gratuity is not paid for by any person or entity described in e(2), above; and

(k) Situations in which, in the sound judgment of the individual concerned or his or her superior, the Government's interest will be served by GSA personnel participating in activities otherwise prohibited. In such case, a written report of the circumstances shall be made by the individual or his or her appropriate superior in advance of acceptance; or when an advance report is not possible, within 48 hours after acceptance, to the appropriate supervisor and to the appropriate standards of conduct counsellor or Deputy Counsellor.

(4) GSA personnel who are offered or receive unsolicited gratuities (or have gratuities received for them) in circumstances not in conformance with the standards of this section, shall promptly report the circumstances to the appropriate supervisor for a determination as to proper disposition and shall report the matter fully to the Inspector General. The appropriate supervisor shall consult with the Standards of Conduct Counsellor or Deputy Standards of Conduct Counsellor.

95. *Contributions.* GSA personnel shall not solicit contributions from other GSA personnel for a gift to an employee



in a superior official position. A person in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than himself or herself. GSA personnel shall not make a donation as a gift to a person in a superior official position (5 U.S.C. 7351). These prohibitions do not apply to a voluntary gift of nominal value (or a donation in a nominal amount) made on a special occasion such as marriage, illness, resignation, transfer, or retirement.

96. *Outside employment.* GSA personnel may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his or her Government job.

a. GSA personnel who engage in outside employment shall report that fact in writing to their supervisor, and shall supply such additional details concerning the nature of that employment as may be required by the supervisor (or a standards of conduct counsellor in some cases), to assist in determining whether the employment is compatible with the full and proper discharge of the employee's official duties. If the supervisor determines that the outside employment is prohibited by this section, the supervisor shall so advise the employee and inform the employee of the consequences of such employment. Standards of Conduct Counsellors are available to assist supervisor in making such determinations. Activities listed in subparagraph d below are exceptions to this rule and require no notification.

b. *Guidelines and limitations.* Outside employment or other outside activity is incompatible with the full and proper discharge of an employee's duties and responsibilities, and hence is prohibited, if:

(1) It would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.

(2) It would give rise to a real or apparent conflict of interest situation.

(3) It would involve acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance might result in, or create the appearance of, a conflict of interest.

(4) It might bring discredit upon, or reasonably cause unfavorable criticism of, the Government or GSA or lead to relationships which might impair public confidence in the integrity of the Government or GSA.

(5) It would involve work with any contractor or subcontractor for GSA or

would otherwise involve work for any person or organization which may be in a position to gain advantage in its dealings with the Government through the exercise of the employee's official duties.

(6) It would identify GSA or the employee officially with any organization manufacturing, distributing, or advertising a product. In any permissible outside employment, care shall be taken to ensure that names and titles of employees are not used to give the impression that the activity or product is officially endorsed or approved by GSA or is part of GSA activities.

(7) It would involve use of the employee's time during official working hours.

(8) It would involve use by the employee of official facilities, e.g., office space, office machines or supplies, or the services of other employees during duty hours.

(9) It would be of such extent or nature as to interfere with the efficient performance of the employee's Government duties, or impair the employee's mental or physical capacity to perform them in an acceptable manner.

(10) It would involve use of information obtained as a result of Government employment that is not freely available to the general public in that it either has not been made available to the general public or would not be made available on request. Written authorization for the use of any such information may be given when the Administrator determines that such use would be in the public interest. Further guidelines appear in subparagraph c below.

(11) It involves the practice of law as an outside professional activity for a fee or other compensation by an incumbent of an attorney position, except that such employee may serve as paid counsel in those instances and conditions specified in 18 U.S.C. 205.

(12) It involves the receipt of salary or anything of monetary value from a private source as compensation for services to the Government (18 U.S.C. 209).

c. Use of Government information or expertise. (1) GSA personnel are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive order, Office of Personnel Management (OPM) regulations, or the provisions of this part. They shall not, however, with or without compensation, engage in teaching, lecturing, or writing that depends on information obtained as a result of Government employment,

except when that information has been made available to the general public or will be made available on request, or when the Administrator gives written authorization for use of nonpublic information on the basis that the use is in the public interest. This prohibition includes teaching, lecturing, or writing for the purpose of the special preparation of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service.

(2) Except as provided in paragraph 97 (and further qualified below), GSA personnel are prohibited from accepting fees, reimbursements, or honoraria for speaking, lecturing, or writing, or for appearing as expert witnesses before State agencies, unless all the following conditions exist:

(a) Acceptance from the person or entity tendering or funding it would not be prohibited under paragraph 94e;

(b) The individual presents himself as a private citizen and not in an official capacity;

(c) Such private activities do not interfere with the individual's official duties; and

(d) The individual's appearance or writing is not part of his or her official duties, does not involve materials which official duties require the individual to prepare or provide, and does not depend on information obtained as a result of Government employment, except when that information has been published or is generally available to the public upon request, or it will be made generally available to the public and the official authorized to release such information to the public gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(3) Unless there is a definite Government position on a matter addressed in the appearance or writing and the individual has been authorized by superior authorities to present that position officially, he shall expressly present his views on that matter as his own and not as those of the Government.

(4) By Executive order the Administrator and Inspector General shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to responsibilities, programs, or operations of this agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

d. GSA personnel who engage in the following activities with or without

compensation, are not required to notify their supervisor:

(1) Participation in the activities of national or State political parties when not prohibited by law.

(2) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational, public service, or civic organization.

e. Prior written approval of the immediate supervisor is required for an employee to engage in any outside employment while on sick leave from GSA employment. Except under unusual circumstances where the facts warrant the granting of permission, employees are prohibited from engaging in other employment, either during working hours or outside working hours, during periods of sick leave.

97. *Reimbursements.* a. Acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in paragraph 94e above is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

b. Except as indicated in paragraph 97a above, GSA personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their supervisor consistent with guidance provided by the appropriate Standards of Conduct Counsellor (pursuant to 5 U.S.C. 4111 or other statutory authority). Rather, reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement.

c. In no case shall GSA personnel accept, either in kind or for cash reimbursement, benefits which are extravagant or excessive in nature.

d. When accommodations, subsistence or services in kind are furnished to GSA personnel by non-U.S. Government sources, consistent with this subsection, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.

98. *Use of Government facilities, property, and staff.* GSA personnel shall not directly or indirectly use, take, or dispose, or allow the use, taking, or disposing of, Government property, facilities, or services, of any kind, including property leased to the

Government, for other than officially approved purposes. Government facilities, property, and staff (such as stationery, stenographic and typing assistance, or duplication and chauffeur services) shall be used only for official Government business. GSA personnel have a positive duty to protect and conserve Government property.

99. *Misuse of information.* For the purpose of furthering a private interest, GSA personnel shall not, except as provided in subpar. 96c, directly or indirectly use, or allow the use of, official information obtained through or in connection with their GSA employment which has not been made available to the general public. Criminal penalties are imposed for disclosure of classified or confidential information.

100. *Disclosure of information.* Disclosure of information from records shall conform with the provisions of the Freedom of Information and Privacy Acts (5 U.S.C. 522).

101. *Use of position titles in connection with commercial enterprises.* GSA employees are prohibited from using their titles or positions in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with GSA procedures.

102. *Indebtedness.* GSA personnel shall pay their just financial obligations in a proper and timely manner, especially those imposed by law, such as Federal, State, or local taxes. For the purposes of this paragraph, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court. In a dispute between GSA personnel and an alleged creditor, GSA will not undertake to determine the validity or amount of a disputed debt.

103. *Gambling, betting, and lotteries.* GSA personnel shall not participate, while on property owned or leased by the Government or while on duty for GSA, in any gambling activity, including the operation of a gambling device, participating in a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket, except as otherwise lawfully authorized.

104. *General conduct prejudicial to the Government.* GSA personnel shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government.

104.1 *Intermediaries.* In any relations with the public, GSA personnel shall not recommend or suggest the use of any non-Government person (individual,

firm, corporation, or other entity) offering service as intermediary, consultant, agent, representative, attorney, expediter, or specialist for the purpose of assisting in any negotiations, transactions, or other business with GSA.

104.2. *Lending or borrowing money.* GSA personnel shall not lend money for profit to other GSA personnel or lend money for profit to any other person on Government premises. A supervisor shall not borrow money from a subordinate under any circumstances. This prohibition is not applicable to recognized employee credit unions or employee welfare plans.

104.3 *Political activity.* a. GSA employees shall not take an active part in political management or in political campaigns; however, political activity in some local elections is permissible. Prohibited activities and exceptions thereto are set forth in subchapter III of chapter 73 of title 5, U.S.C., and chapter 733 of the Federal Personnel Manual.

b. GSA special Government employees are subject to the political activity restrictions of subchapter III of chapter 73 of title 5, U.S.C., and 18 U.S.C. 602, 603, 607, and 608 while in an active duty status only and for the entire 24 hours of any day of actual employment.

c. Advice on this subject is available from any GSA counsel.

104.4 *Reporting suspected irregularities.* It is the obligation of GSA personnel to report immediately any apparent or suspected violation of a statute, order, regulation or directive in connection with any operation of GSA. The report shall be made to the Assistant Inspector General for Investigations in the Central Office or to the Director, Field Investigations Office, in the regional offices and to the appropriate supervisor of the person making the report. GSA personnel shall cooperate with investigations and representatives conducting official investigations and furnish signed statements under oath if appropriate.

104.5 *Purchase of Government property.* GSA personnel shall not purchase for themselves or for any other person, either directly or indirectly any Government property, personal or real, being sold by GSA. This prohibition also applies to any member of their immediate household, and may be waived in writing by the Administrator in appropriate cases. This prohibition does not apply to the purchase of items sold by GSA-operated stores of a retail nature and offered to the general public at pre-determined fixed prices.

104.6 *Purchase of real estate.* GSA personnel whose official duties are in



any way related to the acquisition or disposal of real estate or interests therein or to the maintenance or improvement of real estate shall not, directly or indirectly, purchase any real estate or interest therein except for occupancy as their personal residence unless a full disclosure of the proposed transaction is made in writing to the appropriate supervisor who shall consult with the Special Counsel to the Administrator for Ethics (regional counsel in a region), and the prior written approval of the appropriate supervisor is obtained. A copy of the approval shall be promptly furnished by the supervisor to the GSA General Counsel. Surplus real property may not be purchased under any circumstances. (See par. 104.5)

**104.7 Use of intoxicants.** GSA personnel shall not use intoxicants habitually to excess (5 U.S.C. 7352). Intoxicants shall not be consumed at work or on Government-owned or leased premises.

**104.8 Use of Government vehicles.** GSA personnel shall not use or authorize the use of Government-owned or leased motor vehicles or aircraft for other than official purposes (31 U.S.C. 638(c)) and shall operate such vehicles or aircraft in strict compliance with all applicable laws.

**104.9 Use of official telephones.** GSA personnel shall not use Federal Telecommunications System or commercial telephone facilities for long-distance calls unless specifically authorized to do so.

**104.10 Use of Government records.** GSA personnel shall not knowingly and willfully and unlawfully conceal, remove, mutilate, falsify, or destroy any Government document or record (18 U.S.C. 2085, 2071).

**104.11. Post-employment conflict of interest.** a. Enforcement responsibility. (1) Individual. It is the obligation of all GSA personnel, upon ending service with GSA, to review the post-employment restrictions imposed by law and to determine the restrictions applicable to that individual's future employment and dealings with the agencies of the Federal Government. The limitations are summarized in regulations of the Office of Government Ethics, Office of Personnel Management.

(2) Procedures. It is the responsibility of the Assistant Administrator for Human Resources and Organization to establish procedures to insure that departing GSA personnel are furnished information regarding post-employment limitations and that qualified individuals are made available to provide advice upon request.

(3) General enforcement authority. The Ethics in Government Act and the implementing regulations are enforced by the GSA, the Department of Justice and the Office of Government Ethics.

b. Scientific and Technological Communications. Contacts with GSA that otherwise would be subject to the post-employment prohibitions may be authorized if the following requirements are met:

(1) The GSA office receiving the contact or communication is advised by the former officer or employee, or by the organization represented by that individual, of the prior employment status of the individual and the general subject matter to be communicated. Notice will be given in advance of any communication, if possible.

(2) The subject matter of the communications is limited to scientific and technological exchanges. These may include discussions of feasibility, risk, cost, and speed of implementation.

(3) The GSA office receiving the communication or participating in the discussions maintains copies of the written communications and written summaries of any discussions.

c. Exemption for persons with special qualifications in a technical discipline.

(1) Scope of the exemption. A former Government officer or employee may be exempted from the restrictions on post-employment practices if the following conditions are met:

(a) The Administrator certifies that:

1. the former Government employee has outstanding qualifications in a scientific, technological, or other technical discipline;
2. the former employee is acting with respect to a particular matter which requires such qualifications; and
3. that the national interest would be served by the former Government employee's participation;

(b) The certification is published in the Federal Register.

(2) Limitations. The use of this exemption will be limited to instances where the former Government employee's involvement is needed on so continuous and comprehensive a basis that compliance with the procedures adopted for communication of technological information or other actions to isolate the former Government employee from other aspects of the matter, would be burdensome and impractical.

(3) GSA Registry. The Assistant Administrator for Human Resources and Organization shall establish a registry for current employees, where the nature of their qualifications in one or more technical fields is certified after review by a supervisor, as a basis for

establishing such qualifications in connection with, and to expedite a later request for, certification should the necessity for such request arise. Employees in any component of the GSA may apply, through their supervisors, for positions on this registry. A separate record will be maintained by the Office of the Assistant Administrator for Human Resources and Organization listing those former employees for whom the certification has been granted.

104.12 through 104.24. [Reserved.]

### Section 3. Statements of Employment and Financial Interests

**104.25. General.** Employees and special Government employees in specified positions (other than those required to file Financial Disclosure Reports on Standard Form 278 and 278A) are required to file statements of employment and financial interests. GSA Forms 2157 and 2158, Confidential Statement of Employment and Financial Interests (For Use by Special Government Employees of GSA), shall be used for this purpose.

**104.26. Criteria for selection of positions subject to filing requirement.** The following criteria govern selection of positions subject to the requirement of filing Confidential Statements of Financial Interests. Personnel designated to file Financial Disclosure Reports (Standard Forms 278 and 278A) are not subject to this requirement.

a. Positions in grade GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under another authority, the incumbents of which are responsible for making Government decisions or taking a Government action in regard to:

- (1) Contracting or procurement;
- (2) Administering or monitoring grants or subsidies;
- (3) Regulating or auditing private or other non-Federal enterprise; or
- (4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

b. Positions in grade GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under another authority, the duties of which require the incumbent to report employment and financial interests to avoid involvement in possible conflicts-of-interest situations and to carry out the purpose of law, Executive order, and GSA regulations.

c. Positions below grade GS-13 under 5 U.S.C. 5332, or at a comparable pay level under another authority, that meet the criteria in a or b above, and which have been specifically designated as exceptions essential to protect the integrity of the Government by avoiding employee involvement in conflicts of

interest or apparent conflicts-of-interest situations.

d. Positions that meet the criteria of a. above may be excluded from the reporting requirement when:

(1) Duties are such that the likelihood of involvement in a conflicts-of-interest situation is remote;

(2) Duties are at such a level of responsibility that submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

e. With respect to special Government employees, a statement of employment and financial interests is required only when the special Government employee is hired as a consultant or expert.

**104.27. Identification of positions, the incumbents of which must file Confidential Statements of Employment and Financial Interests.** a. Heads of Central office and Regional office Services and Staff offices shall promptly submit a recommendation to the Special Counsel to the Administrator for Ethics (through the regional counsel in the regions) identifying the specific positions that should be designated as requiring the incumbent to submit Confidential Statements of Employment and Financial Interests. The Assistant Administrator for Human Resources and Organization or the Assistant Regional Administrator for Administration will recommend any positions not in a service or staff office; for example, those in the Administrator's or Regional Administrator's immediate office.

b. The recommendations shall contain a position description and a description of the incumbents of the specified positions by name, title, grade, and organizational location.

c. The Special Counsel to the Administrator for Ethics will review the recommendations and will designate each position that he determines requires the incumbent to file a Confidential Statement of Employment and Financial Interests.

d. All future positions that qualify under the specified criteria shall be promptly processed in the manner provided above, so that the required statements may be submitted not later than 30 days after the employee's entrance on duty. With respect to a special Government employee, the statement shall be submitted not later than the time of his or her employment.

e. Any incumbent of a designated position who holds that position on an "acting" basis for more than 30 days in a calendar year, continuously or otherwise, shall file a statement.

**104.28. Annual statements.** Annual statements shall be submitted on or before July 31 each year, containing information current as of June 30 of that year. A complete statement is required even if it reflects no change since the last statement submitted. Notwithstanding the filing of the annual statement, GSA personnel shall at all times avoid acquiring a financial interest that could result, or taking an action that could result, in a conflict of interests. Each special Government employee shall keep the statement current throughout his or her employment with GSA by the submission of supplementary statements.

**104.29. Interests of relatives.** The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household and excludes in-laws. These provisions also apply to special Government employees.

**104.30. Information not known by employee.** If information required to be included on a statement including a description of holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his or her behalf.

**104.31. Information excluded.** An employee is not required to submit information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For this purpose, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement. These provisions also apply to special Government employees.

**104.32. Confidentiality of statements.** Statements of employment and financial interests shall be held in confidence. Access to information from the statements shall not be disclosed except to carry out the purpose of this directive.

**104.33. Effect of statements on other requirements.** The requirement for the Confidential Statement of Employment and Financial Interests is in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation.

except that GSA personnel required to submit Financial Disclosure Reports (Standard Form 278 or 278A) are not required to submit Confidential Statements of Employment and Financial Interests. The submission of a statement by GSA personnel does not permit them or any other person to participate in a matter in which that participation is prohibited by law, order, or regulation. These provisions also apply to special Government employees.

**104.34. Procedure in obtaining statements.** a. For annual submissions, the appropriate supervisor shall have delivered to the incumbent of each position designated by the Administrator two copies of the statement of employment and financial interests form on or before June 30. The original of the completed form must be returned to the appropriate supervisor no later than July 31. The services of a Deputy Standards of Conduct Counsellor are available to advise and counsel the submitter if requested.

b. The personnel office shall be responsible for ensuring that a completed statement of employment and financial interests is obtained from new GSA personnel who are subject to the requirement before or at the time of entrance on duty. Such statements shall be forwarded for review by the personnel office to the appropriate supervisor and then to a Deputy Standards of Conduct Counsellor, as appropriate.

**104.35. Responsibility for review of statements.** The "appropriate supervisor" as defined in paragraph 87g above is responsible for receiving and promptly reviewing all statements of employment and financial interests submitted by subordinates, and for promptly endorsing his or her comments thereon and forwarding them to the Deputy Standards of Conduct Counsellor for further review and disposition.

**104.36. Resolving conflicts of interests.** a. When in the review of a statement of employment and financial interests, the "appropriate supervisor" or a Deputy Standards of Conduct Counsellor has reason to believe that a possible conflict of interests exists or requires more information on which to make a judgment, the submitter shall be offered an opportunity to provide additional information or to furnish any explanation deemed pertinent. This information must be documented for the file and incorporated into the statement.

b. When, after consideration of the explanation offered, a determination is made that a conflict or possible conflict of interests exists, an effort shall be made by the appropriate supervisor, in



consultation with the Deputy Standards of Conduct Counsellor, to resolve the conflict in manner that is mutually acceptable. When a conflict or possible conflict of interest exists that cannot be satisfactorily resolved at the regional level, the Deputy Standards of Conduct Counsellor shall refer the case to the Special Counsel to the Administrator for Ethics.

c. If efforts of the Special Counsel are unsuccessful in resolving a conflict or apparent conflict, the case will be referred by the Special Counsel to the Administrator for Ethics for resolution by the Administrator.

d. Remedial action directed by the Administrator may include, but is not limited to, one or more of the following:

- (1) Disqualification for a particular assignment;
- (2) Change in assigned duties;
- (3) Divestment by the employee or special Government employee of his conflicting interests;
- (4) Establishment of a blind trust;
- (5) Disciplinary action, including removal.

104.37. *Employee complaint against filing requirement.* An employee required to file a statement of employment and financial interests who believes that the position has been improperly included under these regulations may request a review of such inclusion in accordance with the GSA Grievance Procedure.

104.38. *Inconsequential financial interests.* Financial interests of the following type are deemed too remote or too inconsequential to affect the integrity of the employee's service and need not be reported:

- Investments in State or local government bonds and investments in shares of a widely diversified mutual fund or regulated investment company.

104.39 and 104.40. [Reserved]

#### Section 4. Financial Disclosure Reports

104.41. *General.* The Ethics in Government Act of 1978 as amended (the Act) requires that GSA personnel in specified positions file periodic Financial Disclosure Reports. For these individuals, this requirement is in lieu of the Confidential Statement of Employment and Financial Interests required by Executive order. Standard Form 278 shall be used by employees filing annual reports and termination of employment reports. Standard Form 278A shall be used by employees required to file assumption of duty reports.

104.42. *Who must file.* GSA personnel occupying positions specified in Title II of the Act or positions designated by the

Director of the Office of Government Ethics, Office of Personnel Management.

104.43. *Notice of obligation to file.* a. The Assistant Administrator for Human Resources and Organization shall record in each relevant position description that the incumbent is required to file a Financial Disclosure Report. He shall provide each such person with the appropriate report form upon assumption of the duties of the position, and annually no later than 30 days prior to the May 15th filing deadline prescribed by the Act. Vacancy announcements for appropriate positions shall contain a statement that the incumbent will be subject to the financial disclosure requirements of the Act.

b. When providing each form, the Assistant Administrator for Human Resources and Organization shall send the recipient, by name, a memorandum explaining when and where to file, and shall provide the Special Counsel to the Administrator for Ethics and the individual's appropriate supervisor with a copy of the memorandum.

104.44. *When to file.* a. Within 30 calendar days of assuming a position described in Title II of the Act, unless the individual has left another position described in Section II within 30 days prior to assuming the new position. Individuals coming to a position in GSA described in Title II of the Act from a similar position in another agency shall furnish a copy of their last report filed with the former agency to the Special Counsel to the Administrator for Ethics through their appropriate supervisor.

b. Within 30 calendar days of terminating employment in a position requiring the incumbent to submit Financial Disclosure Reports.

c. No later than May 15 of each calendar year, if the employee occupied a position described in Section II of the Act during the preceding calendar year and performed those duties for more than 60 days in that year.

104.45. *Where to file.* Reports shall be filed with the Special Counsel to the Administrator for Ethics through the individual's appropriate supervisor.

104.46. *Extensions of time.* The Special Counsel to the Administrator for Ethics may extend the date of filing for 20 calendar days, and an additional 15 calendar days upon a written request stating good cause. GSA personnel desiring additional time shall make their request to the Special Counsel, who shall forward the request to the Office of Government Ethics.

104.47. *Review of reports.* a. A reporting individual shall submit the report to his or her appropriate supervisor for review. The appropriate

supervisor shall, within ten days of receipt, make a signed and dated statement in the Comments section of the report, stating whether or not the report reveals a conflict or the appearance of a conflict with the employee's official duties, and shall immediately forward the report to the Special Counsel to the Administrator for Ethics by the most expeditious means, meanwhile taking action to avoid the reporting individual's participation in matters involving a conflict.

b. The Special Counsel shall ensure that all reports are reviewed on a priority basis, and in any event, within 60 days of filing.

c. If the Special Counsel concludes that the reporting individual is in compliance with applicable laws or regulations, that finding shall be entered on the report, the report signed and dated, and the appropriate supervisor duly notified.

d. If the Special Counsel believes that additional information is required, the reporting individual shall be informed of the information required and the time by which it must be submitted.

e. If, on the basis of the information provided, the Special Counsel concludes that a reporting individual is not in compliance with applicable laws and regulations, the reporting individual and his or her appropriate supervisor shall be so notified. The reporting individual shall be afforded a reasonable opportunity for a written or oral response. After consideration or the response, the Special Counsel shall reach an opinion as to whether or not the individual is in compliance.

104.48. *Procedures for resolving noncompliance.*

a. If, after opportunity for an oral or written response, the Special Counsel to the Administrator for Ethics concludes the individual is not in compliance, the Special Counsel shall notify the individual and, after an opportunity for personal consultation (if practicable), notify the reporting individual of the steps considered appropriate for assuring compliance, and the date by which those steps should be taken. Steps may include: (1) Divestiture; (2) restitution; (3) establishment of a blind trust; (4) request for an exemption under section 208(b) of Title 18, United States Code; (5) voluntary request for transfer, reassignment, limitation of duties, or resignation.

b. If steps for assuring compliance are not taken by the employee by the date set, the matter shall be referred by the Special Counsel to the Administrator for Ethics to the Administrator for appropriate disposition.

104.49. *Penalties for failure to comply with reporting requirements.* a. The Special Counsel to the Administrator for Ethics shall report to the Administrator the name of any individual who willfully fails to file a report; who willfully fails to report required information; or who is reasonably believed to have willfully falsified a report.

b. The Administrator will afford the individual an opportunity to explain his or her actions. Any unresolved matter will be referred to the Attorney General, and administrative disciplinary action may also be instituted.

104.50. *Public access and copying.* Financial Disclosure Reports are available for public inspection and copying in accordance with the Act. Financial Disclosure Reports are filed in GSA's Office of General Counsel, Washington, DC 20405.

104.51. *Notices of conflicts and potential conflicts.* The Special Counsel to the Administrator for Ethics shall maintain and periodically publish a list of those circumstances which have resulted or may result in noncompliance with conflict of interest laws or regulations. Absence of a particular item from this list shall not be construed as an indication that the situation does not constitute a conflict or appearance of a conflict of interests or a violation of laws or regulations.

104.52. [Reserved]

#### Section 5. Miscellaneous Statutory Provisions

104.53. *Summary of pertinent conflict of interest laws.* a. 18 U.S.C. 203. Prohibitions in subsection (a) of this statute are encompassed by prohibitions in 18 U.S.C. 205 below. Subsection (b) makes it unlawful to offer or to pay compensation, the solicitation or receipt of which is barred by subsection (a).

b. 18 U.S.C. 205. (1) This section prohibits Government personnel from acting as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

(2) The following exemptions are allowed:

(a) Section 205 does not prevent Government personnel from giving testimony under oath or making statements required to be made under penalty of perjury or contempt or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel matter.

(b) Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special

Government employee, who represents his or her own parents, spouse, or fiduciary. The waiver is available only if approved by the official making appointments to the position. In no event does the waiver extend to representation of any such person in matters in which he or she has participated personally and substantially or which, even in the absence of such participation, are the subject of his or her official responsibility.

(c) Finally, section 205 gives the head of a department or agency the authority to allow a special Government employee to represent his or her regular employer or other outside organization in the performance of work under a Government grant or contract, if the department or agency head certifies and publishes in the Federal Register, that the national interest requires such representation.

c. 18 U.S.C. 208. (1) Subsection (a) requires executive branch personnel to refrain from participating as Government personnel in any matter in which they, their spouses, minor children, or partners have financial interests or in which businesses or nonprofit organizations with which such personnel are connected or are seeking employment have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or abstract scientific principles. The test is whether the individual might reasonably anticipate that his or her Government action, or the decision in which he or she participates or with respect to which he or she advises, will have a direct and predictable effect upon such financial interests.

(2) Subsection (b) permits agencies to grant an ad hoc exemption from subsection (a) of the outside financial interest is deemed not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the Federal Register.

d. 18 U.S.C. 209. Subsection (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Subsection (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses

under the Government Employees Training Act (5 U.S.C. 2301-2319).

e. 18 U.S.C. 207. *Applicable to former Government personnel.* (1) *Restrictions applicable to all former officers and employees.* (a) Permanent bar. A former Government employee is permanently barred from serving as agent or attorney for anyone other than the United States before any Government office or agency on any particular matter involving specific parties in which the former officer or employee had participated personally and substantially while with the Government.

(b) Two-year bar. A restriction similar to the one summarized above prevents a former employee for two years from representational activities on all particular matters which were actually pending under the former employee's "official responsibility" during the one-year period prior to the termination of such responsibility.

(2) *Restrictions applicable only to "senior employees."* (a) *Identification of "senior employees":* There are three types of senior employees. Two are named automatically by statute: civilians at the Executive Level and active duty military personnel at grades O-9 or above. The third group consists of persons holding positions that first must be "designated" as senior employees by the Director of the Office of Government Ethics. The positions must involve significant decision-making or supervisory responsibility and be at a basic rate of pay of GS-17 or above or within the Senior Executive Service, or, in the case of military members, be held by active duty officers at grades O-7 or O-8.

(b) Two-year ban on assisting in representation by personal presence. A former senior employee may not assist in the representation of another person by personal presence at an appearance before the Government on any particular matter in which the former employee personally and substantially participated while with the Government.

(c) One-year ban on attempts to influence former agency. A former senior employee may not represent another person or himself in attempting to influence his own former agency on a matter pending before, or of substantial interest to, such agency. Certain communications are exempted from this provision. These include communications by former senior employees who are employed by State or local governments or by certain educational or medical institutions. Other exempt communications are those that are purely social or informational, communications on matters that are personal, including any expressions of



personal views where the former employee has no pecuniary interest, and responses to a former agency's requests for information.

(3) *Scientific and technological communications.* The prohibitions discussed above do not apply with respect to communications made solely for the purpose of furnishing scientific or technological information under specific procedures.

(4) *Implementing regulations.* Detailed regulations implementing this law have been published by the Director, Office of Government Ethics.

**104.54. Laws applicable to GSA personnel.** There are legal prohibitions concerning the following activities which may subject present and former GSA personnel to criminal or other penalties:

a. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 2).

b. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).

c. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).

d. Lobbying with appropriated funds (see 18 U.S.C. 1913).

e. Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).

f. Disclosure of classified information (see 18 U.S.C. 793, 50 U.S.C. 783); and disclosure of confidential information (see 18 U.S.C. 1905).

g. Habitual use of intoxicants to excess (see 5 U.S.C. 7352).

h. Misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).

i. Misuse of the franking privilege (see 18 U.S.C. 1719).

j. Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).

k. Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001).

l. Mutilating or destroying a public record (see 18 U.S.C. 2071).

m. Counterfeiting and forging transportation requests (see 18 U.S.C. 508).

n. Embezzlement of Government money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); and embezzlement of the money or property of another person in the possession of an employee by

reason of his Government employment (see 18 U.S.C. 654).

o. Unauthorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285).

p. Certain political activities (see 5 U.S.C. 7321-7327 and 18 U.S.C. 602, 603, and 607).

q. Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to Reserves who are not on active duty or who are on active duty for training, or a special Government employee in any case in which the department head certifies to the Attorney General that his or her employment by the United States Government is in the national interest.

r. Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C. 7351).

s. Acceptance of excessive honorariums (see 2 U.S.C. 441(i)).

t. Acceptance, without the consent of the Congress, of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign State by a person holding any office of profit or in trust of the Federal Government. (Art. 1, Sec. 9, U.S. Constitution, and Pub. L. 95-105, Foreign Gifts and Decorations Act of 1966, as amended). (See 5 U.S.C. 7342.)

**104.55 Code of ethics for Government service** (adopted by House Concurrent Resolution, HR Con Res 175, 86th Congress (1958)). It provides:

a. *Any person in Government service should:* (1) Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

(2) Uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

(3) Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

(4) Seek to find and employ more efficient and economical ways of getting tasks accomplished.

(5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

(6) Make no private promises of any kind binding upon the duties of office, since a Government employee has no

private word which can be binding on public duty.

(7) Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

(8) Never use any information coming to him confidentially in the performance of governmental duties as a means of making private profit.

(9) Expose corruption wherever discovered.

(10) Uphold these principles, ever conscious that public office is a public trust.

[FR Doc. 79-38091 Filed 12-11-79; 8:45 am]  
BILLING CODE 6820-34-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of the Assistant Secretary for Health

#### Annual Report for the National Committee on Vital and Health Statistics; Filed With Library of Congress

Announcement is made that pursuant to section 13 of Public Law 92-463, the Annual Report for the National Committee on Vital and Health Statistics has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245-6791. Copies may be obtained from Mr. James A. Smith, National Center for Health Statistics, 3700 East-West Highway, Room 2-12, Hyattsville, Maryland 20872, telephone (301) 436-7122.

Dated: December 6, 1979.

Marilyn McCarroll,

Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-38107 Filed 12-11-79; 8:45 am]

BILLING CODE 4110-84-M

### Health Resources Administration

#### Application Announcement for Grants for Minority Oriented Primary Care Medical Education Programs

The Bureau of Health Manpower, Health Resources Administration, announces that applications for Grants for Minority Oriented Primary Care

Medical Education Programs are now being accepted under Section 780(d) of the Public Health Service Act for support in the development of innovative interdisciplinary primary care medical education programs particularly suited to the needs of underserved minority communities. Eligible applicants are public or nonprofit schools of allopathic medicine or osteopathic medicine which are located in a State and which admitted or propose to admit their first class after July 1, 1974. The following project requirements also apply:

#### Project Requirements for the Overall Project

1. The applicant must be either an accredited school of allopathic medicine, osteopathic medicine or be engaged in the development of a new school of medicine.

2. The proposed project director must have relevant experience and training for directing the project.

3. Evidence of institutional commitment to continue project activities at the end of grant support must be demonstrated.

#### Project Requirements Relating to Each Program Component

Each proposed component must:

1. Be conducted in accordance with the purposes of this grant program.

2. Include a statement of objectives for the program component and a detailed plan for achieving these objectives, including timetable(s) for implementation.

3. Demonstrate an appropriate administrative and organizational plan to facilitate achievement of stated objectives.

4. Demonstrate available, adequate qualified faculty, staff, equipment, patient census, facilities, and other resources required for the conduct of the proposed program.

5. Propose component directors who have relevant experience and training for directing the pertinent program components.

6. Provide a plan for the systematic evaluation of the project including the evaluation of student performance, when applicable, and the extent to which program and educational objectives are met.

7. Provide evidence that the key collaborative arrangements required for the conduct of the program component have been made or will be made on a timely basis.

Priority for funding will be given to schools that train a disproportionately large number of minority physicians. To meet this priority, more than 25 percent

of the enrolled undergraduates must be minorities.

Approximately \$1 million is expected to be available in fiscal year 1980 for grants.

Questions concerning the business and grants management aspects of grants should be directed to: Grants Management Officer (D-31), Bureau of Health Manpower, HRA, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Md. 20782, Phone: (301) 436-6564.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than December 21, 1979. Should additional programmatic information be required, please contact: Chief, Multidisciplinary Systems and Programs Branch, Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Md. 20782, Phone: (301) 436-6724.

Henry A. Foley,

Administrative.

December 7, 1979.

[FR Doc. 79-38181 Filed 12-11-79; 8:45 am]

BILLING CODE 4110-83-M

### Health Services Administration

#### National Advisory Council on the National Health Corps Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1980:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: January 22-23, 1980, 9:00 a.m.

Place: Conference Room F-H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: Agenda items include discussions of: The NHSC site application process; scholarship and recruitment; the NHSC placement policy; and the NHSC special initiatives on prison health, environmental health, and mental health.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. Billy Sandlin, Executive Secretary, National Advisory Council on the

National Health Service Corps, Parklawn Building, Room 6-05, 5600 Fishers Lane, Rockville, Maryland 20857. Phone: (301) 443-4434.

Agenda items are subject to change as priorities dictate.

Dated: December 4, 1979.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 79-38024 Filed 12-11-79; 8:45 am]

BILLING CODE 4110-84-M

### Health Care Financing Administration

#### Statewide Professional Standards Review Council of New Jersey; Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on April 12, 1980.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that these services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have 3 or more PSROs to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their review of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledge about health care provided in New York under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.



Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians). Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

William Toby, Regional Administrator, Health Care Financing Administration, 26 Federal Plaza—Room 3811, New York, New York 10007.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (212) 264-4680.

Dated: December 3, 1979.

William Toby,  
Regional Administrator, Health Care  
Financing Administration

[FR Doc. 79-37985 Filed 12-11-79; 8:45 am]  
BILLING CODE 4110-35-M

#### Public Health Service

#### Health Maintenance Organizations, Continued Regulation

**AGENCY:** Public Health Service, HEW.

**ACTION:** Notice, Continued Regulation of Health Maintenance Organizations.

**SUMMARY:** Notice is given that on October 18, 1978, the Director of the Office of Health Maintenance Organizations (OHMO) of the Public Health Service, HEW, determined that Portland Metro Health, Inc. (PMH), 5201 SW. Westgate Drive, Suite 111, Portland, Oregon 97221, a federally qualified health maintenance organization (HMO), had successfully initiated corrective action, thereby reestablishing compliance with its assurance to the Secretary of HEW that it would maintain a fiscally sound operation.

**FOR FURTHER INFORMATION CONTACT:** Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420

Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

**SUPPLEMENTARY INFORMATION:** Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the Federal Register notices of determinations made under that section.

On October 7, 1977, PMH was officially notified that it was not in compliance with the assurance given the Secretary that it would maintain a fiscally sound operation. This determination did not affect PMH's status as a federally qualified HMO. Subsequently, PMH initiated corrective action to bring it into compliance with its assurances. On October 18, 1978, PMH was notified by the Director, OHMO, that it had satisfied the criteria for reestablishing compliance with its assurance to the Secretary that it would maintain a fiscally sound operation.

Dated: December 3, 1979.

Howard R. Veit,  
Director, Office of Health Maintenance  
Organizations.

[FR Doc. 79-37984 Filed 12-11-79; 8:45 am]  
BILLING CODE 4110-35-M

#### Office of Adolescent Pregnancy Programs; Announcement of Competitive Grant Applications; Project Grant Program—Projects in Adolescent Pregnancy Prevention and Services

**AGENCY:** Office of the Assistant  
Secretary for Health, DHEW.

**SUBJECT:** This is to announce the Availability of Grant Funds, subject to the appropriation of funds, for the Adolescent Pregnancy Prevention and Services project grants as authorized by Title VI of Pub. L. 95-628 (42 U.S.C. 300a-21(a)). Regulations governing the Adolescent Pregnancy Prevention and Services project grants were published in the Federal Register on July 23, 1979 (44 FR page 43226), herein referred to as the Program Regulations.

**DATE:** Competitive grant applications must be received in the Office of Adolescent Pregnancy Programs by 5:00 p.m. on March 14, 1980.

#### Scope of This Program

**Announcement:** This program announcement covers only projects authorized under Title VI of Pub. L. 95-628. It does not include other grant programs administered by the PHS. The purpose of Title VI is to assist in the development and implementation of projects by public and nonprofit entities that will provide comprehensive community services to assist in preventing unwanted pregnancies among adolescents and to assist pregnant adolescents and adolescent parents obtain needed health, social, education, and other services.

**PROGRAM PRIORITIES:** Goals and Objectives. The basic goals and objectives of the Title VI program of project grants are specified in the Program Regulations. In the previous grant review cycle the majority of applications received and all of the projects funded, were for programs with a linkage of services approach. Since it is part of the Title VI legislative mandate to provide support for a variety of types of projects, the Secretary, HEW has determined the following priorities for consideration of grant applications. All the priority areas are of equal importance.

1. Projects providing all necessary core and, as appropriate, supplemental services (as described in § 59.302 of the Program Regulations) at a single site.

2. Projects providing programs through a state-, county-, or city-wide approach for the purpose of providing comprehensive core, and as appropriate, supplemental services to adolescents at risk of unintended pregnancies, pregnant adolescents, and adolescent parents.

3. Projects establishing rural programs to provide the core and supplemental services for addressing the special needs of adolescents at risk of unintended pregnancies, pregnant adolescents, and adolescent parents.

4. Projects providing programs that coordinate, integrate, and provide linkages among providers of core, supplemental, and other services to adolescents at risk of unintended pregnancies, pregnant adolescents, and adolescent parents.

5. Projects providing core, supplemental, and other services to the target population which also include a research component of the service delivery project. Further information on the research component of the service delivery projects may be obtained by writing directly to the Director, OAPP.

(a) Each application submitted under Priority 5 will be reviewed for the service delivery component under one of the four priority areas which the

applicant selects. If the review panel recommends approval for the service delivery component, the application will be reviewed for the research component. An application to be funded under this priority must receive a recommendation of approval for both the service delivery and research components. Any application receiving a high recommendation of approval for the service delivery component and a low recommendation for the research component may, at the discretion of the Secretary, be considered for funding of the service delivery component only.

Added weighting to the review scoring will be given to those projects which emphasize the supplemental services, in addition to the core services. In addition to the above priority considerations, an attempt will be made to insure an equitable geographic distribution of adolescent pregnancy prevention and services projects by approving the award of at least one grant in each of the ten HEW regions.

**ELIGIBLE APPLICANTS:** Any public or nonprofit private entity is eligible to apply for a grant under this announcement.

**Available Funds:** The total appropriation expected for the OAPP for FY 1980 is \$17,500,000. Of this amount approximately \$13,000,000 will be available for competing grants. In addition, it is anticipated that \$200,000 will be available for research projects. It is expected that approximately 52 new grants will be awarded pursuant to this announcement. Previous experience has shown that the range of funds requested for grants has been from \$10,000 to \$1,000,000 with the average award being \$250,000. A grant award, that is, the Federal funds for the grant, must not exceed 70 percent of the total cost of a project for the first and second years. In each year succeeding the second year of the project, Federal support shall decrease by no less than 10 percent. Generally, grants will be approved for 5-year project periods, but will be funded in annual increments (budget periods). A continuation application must be submitted for each of the final four years of the project period.

The funds to be available for Fiscal Year 1980 will sustain the budget of new awards for a period of one year. Support for any additional time remaining in the project depends upon: (1) The availability of funds; (2) the Secretary's assessment of the grantee's satisfactory performance on the project for which the grant was awarded; and (3) the grantee's management practices providing adequate stewardship of Federal Funds

#### Availability of Application Forms:

Grant applications must be submitted on standard forms provided for this purpose. Application kits which include these forms and related instructions may be obtained by writing to: Grants Management Office, Office of Adolescent Pregnancy Programs, Office of the Assistant Secretary for Health, DHEW, Room 16A17, Parklawn Building, 5600 Fishers Land, Rockville, MD 20857 (301-443-1390). The service delivery component of each application will be reviewed under only one priority area as specified under Program Priorities: Goals and Objectives. Each applicant must specify the priority area under which the application is to be considered.

**Circular A-95 Notification Process:** In order to comply with the Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to the OAPP, notify both the State and Area-wide A-95 Clearinghouses of their intent to apply for Federal Assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which this information is to be submitted. Applicants are advised to get in touch with the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for detailed information on meeting the A-95 requirements.

It is strongly recommended that the Clearinghouse be notified at least 60 days before the submission deadline date for receipt of applications. The application should include the Clearinghouse comments, or verification that no comments were made within the applicable period available to the Clearinghouse for comment. Applications will not receive the formal review without Clearinghouse comments.

**Application Submission:** State Agencies are required to submit one (1) signed original and two (2) copies of the applications with all attachments, including the clearinghouse material. All other applicants are required to submit one (1) signed original and ten (10) copies. The completed applications should be sent to the same address and unit of the OAPP as listed in the Availability of Application Forms section.

The application must be signed by an individual authorized to act for the applicant agency or organization, and to

assume for the organization the obligations imposed by the terms and conditions of the grant award. It is recommended that those applicants who submitted an application for FY 1979 funds and whose applications were recommended for approval and not funded and those whose applications were late should request a complete application kit and re-submit an updated application for consideration for funding.

Those applicants whose applications were recommended for disapproval must re-submit an application if they are to be considered for funding.

**Closing Date for Receipt of Applications:** The closing date for receipt of applications under this program announcement is March 14, 1980. Applications will be judged to be on time if:

(a) The application was sent by mail with a postmark no later than midnight of March 14, 1980.

(b) The application is hand-delivered to the Grants Management Office, Room 16A17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 by 5:00 p.m. on March 14, 1980.

**Application Consideration:** Applications, which are late or otherwise do not conform to this announcement, will not be accepted for review and applicants will be notified accordingly and the applications will be returned. All other applications will be subject to a competitive review and evaluation in accordance with an objective review process. Following the objective review process, all applicants will be notified of the outcome of their applications. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, the budget period for which support is being given, and the amount of funding to be contributed by the grantee to project costs.

For additional information, write to Dr. Lulu Mae Nix, at the office address shown above or telephone on (202) 472-9093.

Dated: November 21, 1979.

Lulu Mae Nix,  
Director, Office of Adolescent Pregnancy  
Programs.

[FR Doc. 79-37981 Filed 12-11-79; 8:45 am]  
BILLING CODE 4110-35-M



**Office of the Assistant Secretary for Health****Health Maintenance Organizations; July List**

**AGENCY:** Public Health Service, HEW.  
**ACTION:** Notice, July list of qualified health maintenance organizations.

**SUMMARY:** This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, changes and revisions are reported of previously qualified HMOs.

**FOR FURTHER INFORMATION CONTACT:** Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857. 301/443-4106.

**SUPPLEMENTARY INFORMATION:** Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the *Federal Register*. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

**Qualified Health Maintenance Organizations**  
Name, Address, Service Area, and Date of Qualification

Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a)

1. Southern Connecticut Community Health Plan (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 1010 Summer Street, Stamford, Connecticut 06905. Service area: The following cities and towns in Connecticut: Darien, Greenwich, New Canaan, Norwalk, Redding, Ridgefield, Stamford, Weston, Westport, and Wilton. Date of qualification: July 3, 1979.

2. Protective Health Providers, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 150 West Washington Street, Suite 200, San Diego, California 92103. Service area: San Diego County, California. Date of qualification: March 27, 1979. (Achieved preoperational qualification on December 28, 1978.)

3. COMPREHENSIVE, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), P.O. Box 22047, Denver, Colorado 80222. Service area: The following counties in the State of Colorado: Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson. Date of qualification: July 12, 1979. (Transitionally qualified: August 20, 1976.)

4. Kaiser/Prudential Health Plan, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 7777 Forest Lane, Dallas, Texas 75230. Service area: Dallas and Rockwall Counties, Texas and zip codes in the following counties:

COLLIN  
 75002 75018 75023 75024 75031 75034  
 75064 75066 75069 75073 75074 75075  
 75077 75078 75079 75089 75098

DENTON  
 75028 75056 75065 75067 75068 75201  
 75226 75247 75259 75262

KAUFMAN  
 75032 75087 75114 75126 75146 75160

TARRANT  
 76103 76010-18 76021 76034 76039 76053  
 76063 76080 76112 76117-18 76125 76148  
 76248

Date of qualification: June 1, 1979.  
 (Achieved preoperational qualification on May 30, 1979.)

**Service Area Revisions**

1. HMO Illinois, 233 North Michigan Avenue, Suite 1323, Chicago, Illinois 60601. Service area (current): Cook, DuPage, Fulton, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will and Woodford Counties, Illinois; and Lake and Porter Counties, Indiana. (See *Federal Register* 43 FR 49855 published on October 25, 1978.) Effective date: July 5, 1979.

2. North Communities Health Plan, Inc., 1718 Sherman Avenue, Evanston, Indiana 60201. Service area (current): Arlington Heights, Bannockburn, Barrington, Buffalo Grove, Deerfield, Deer Park, Des Plaines, E. Rogers Park, Evanston, Glenview, Glenview, Golf, Great Lakes, Green Oaks, Hawthorn Woods, Highland Park, Highwood, Indian Creek, Kenilworth, Kildeer, Lake Bluff, Lake Forest, Lake Zurich, Libertyville, Lincolnshire, Lincolnwood, Long Grove, Mettawa, Morton Grove, Mount Prospect, Mundelein, Niles, North Brook, North Chicago, North Field, Palatine, Park Ridge, Prospect Heights, Riverwoods, Rolling Meadows, Skokie, South Barrington, Vernon Hills West Rogers Park, Wheeling, Wilmette, and Winnetka; and the following zip codes in the City of Chicago: 60610-11, 60614, 60622, 60630, 60634-35, 60639, 60641, 60647, 60651, and 60656. (See *Federal Register* 43 FR 14913 published on April 7, 1978.) Effective date: December 27, 1978.

3. Capital Area Community Health Plan, 1201 Troy-Schenectady Road, Latham, New York 12110. Service area: Add the following to the service area published on April 7, 1978, in the *Federal Register* 43 FR 14910: Berkshire County, Massachusetts; Bennington County, Vermont; Columbia, Washington, and the entire county of Rensselaer, New York. Effective date: July 1, 1979.

**Service Area Correction**

1. Matthew Thornton Health Plan, Inc., 591 West Hollis Street, Nashua, New Hampshire 03060. Service area (current) should read: Communities of Amherst, Brookline, Hollis, Hudson, Litchfield, Londonderry, Lyndeboro,

Mason, Merrimack, Milford, Mount Vernon, Nashua, Pelham, Wilton, and Windham, New Hampshire; and, communities of Dunstable, Groton, Pepperell, Townsend, and Tyngsboro, Massachusetts. (See *Federal Register* 44 FR 24241 published on April 24, 1979.) Effective date: January 22, 1979.

**Omission of Information on Previously Qualified HMOs**

Dates of qualification were inadvertently omitted on the following HMOs:  
 1. Roosevelt Health Plan, 1200 N. LaSalle Street, Chicago, Illinois 60610. Date of qualification: Operationally qualified May 24, 1979. (See *Federal Register* 44 FR 53805 published on September 17, 1979.)

2. TakeCare Corporation, 1950 Franklin Street, Oakland, California 94659. Date of qualification: Transitionally qualified June 27, 1979. (See *Federal Register* 44 FR 53806 published on September 17, 1979.)

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: December 3, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-37980 Filed 12-11-79; 8:45 am]

BILLING CODE 4110-85-M

**National Institute for Occupational Safety and Health****Grants for Research and Demonstrations Relating to Occupational Safety and Health**

The National Institute for Occupational Safety and Health (NIOSH) announces that competitive grant applications are being accepted for research and demonstrations relating to occupational safety and health including innovative methods, techniques, and approaches for dealing with occupational safety and health problems. This support is in the form of project grants not exceeding 5 years.

**Authority**

These grants will be awarded and administered by NIOSH under the research and demonstration grant authority of Section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)). Program regulations applicable to these grants

are contained in Part 87 of Title 42, Code of Federal Regulations, "Research and Demonstration Grants Pertaining to Occupational Safety and Health."

Except as otherwise indicated, the basic grant administration policies of the Public Health Service are applicable to this program. This program is not subject to OMB Circular A-95.

**Eligible Applicants**

Eligible applicants may be universities, colleges, research institutions and other public and private nonprofit organizations including State and local governments.

**Program Requirements**

A research grant application should address the establishment, discovery, development, elucidation or confirmation of information on the underlying mechanisms relating to occupational safety or health, including innovative methods, techniques, and approaches for dealing with occupational safety and health problems. A demonstration grant application should address, either on a pilot or full-scale basis, the technical or economic feasibility or application of: (1) A new or improved occupational safety or health procedure, method, technique, or system; or (2) an innovative method, technique, or approach for dealing with occupational safety or health problems.

Particular emphasis is placed on: (1) Causes and prevention of the following occupational diseases or disorders: skin, neurologic, respiratory, cardiovascular, digestive and reproductive; (2) control technology including asbestos and asbestos substitutes; (3) behavioral and motivational factors; (4) safety and injury prevention including musculoskeletal and back disorders; and (5) emerging problems particularly energy/radiation and sidestream smoking.

Of these, immediate emphasis will be given to: (1) Energy; (2) occupational skin disorders; (3) reproductive effects; (4) control technology; and (5) safety. The available funds may be supplemented beyond the projected Fiscal Year 1980 budget of \$6.4 million for special programs in these areas.

**Criteria for Review**

Applications will be reviewed by an appropriate peer review group on the basis of scientific merit, including an assessment of the importance of the proposed research problem; the novelty and originality of the approach; the training, experience, and research competence or promise of the investigator(s); the adequacy of the

experimental design; the suitability of the facilities; and the appropriateness of the requested budget relative to the work proposed.

Demonstration grant applications will be reviewed additionally on the basis of the following criteria:

1. Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.

2. Availability, adequacy and competence of personnel, facilities, and other resources needed to carry out the project.

3. Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.

4. The substantive merit and potential contribution of the project toward developing knowledge and techniques for meeting the objectives of the Occupational Safety and Health Act.

5. Extent of and expected cooperation of industry, unions, or other participants in the project, where applicable.

**Application and Award**

Applications should be submitted on Form PHS-398 (or PHS-5161-1 for State and local governments). Forms should be available from the institutional business offices or from the addresses listed below. The conventional presentation for grant applications should be utilized and the points identified under Criteria for Review must be fulfilled.

An original and six copies (original and two for State and local governments) of the application should be sent or delivered to: Application Receipt, Division of Research Grants, NIH, Room 240, Westwood Building, Bethesda, Maryland 20205.

The name of the applicant institution, principal investigator, and title of the proposed project should be sent to NIOSH at: Grants Administration and Review Branch, OECSP, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-63, Rockville, Maryland 20857.

The proposed timetable for receiving applications and awarding grants is as follows:

| Application deadline | Review group meeting date | Expected start date |
|----------------------|---------------------------|---------------------|
| Mar. 1               | June                      | Dec. 1              |
| July 1               | October/November          | Apr. 1              |
| Nov. 1               | February/March            | July 1              |

Applications received after the deadline date will be considered with the applications received for the following deadline date. Awards will be made based on priority score ranking

and emphasis area, as well as, availability of funds.

**Availability of Funds**

The projected Fiscal Year 1980 research grants budget is \$6.4 million. Grantees will be expected to cost share a minimum of five percent.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph W. West, Grants Management Officer, NIOSH, 5600 Fishers Lane, Room 8-35, Rockville, Maryland 20857, Telephone: (301) 443-3122.

or

Mr. Roger A. Nelson, Research Grants Program Officer, NIOSH, 5600 Fishers Lane, Room 8-35, Rockville, Maryland 20857, Telephone: (301) 443-4496.

(Catalog of Federal Domestic Assistance Program No. 13.262, Occupational Safety and Health Research Grants)

Dated: December 6, 1979.

Ronald F. Coene,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 79-37980 Filed 12-11-79; 8:45 am]

BILLING CODE 4110-87-M

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[F-19155-17]

**Alaska Native Claims Selection**

This decision rejects several State selections surrounding Dot Lake and approves lands for conveyance to Doyon, Limited.

On April 2, 1975, Doyon, Limited filed selection application F-19155-17, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Dot Lake.

On November 14, 1978, the State of Alaska filed general purposes selection applications F-43714, F-43715, F-43720, F-43722 and F-43723, as amended, for all unpatented land in T. 20 N., R. 6 E.; T. 21 N., R. 5 E.; T. 23 N., R. 9 E.; T. 24 N., R. 6 E. and T. 24 N., R. 8 E., Copper River Meridian, respectively, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)).

Section 6(b) of the Alaska Statehood Act states that general purposes selections shall be made from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection.

At the time of filing of the State's selection applications, the following



lands were withdrawn by Sec. 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610), and properly selected pursuant to Sec. 12 of ANCSA by Doyon, Limited. Therefore, these lands were unavailable for selection by the State. Accordingly, the following State selection applications must be and hereby are rejected as to the following described lands:

**Copper River Meridian, Alaska (unsurveyed)**

**State Selection F-43714**

T. 20 N., R. 6 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,800 acres.

**State Selection F-43715**

T. 21 N., R. 5 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 23,910 acres.

**State Selection F-43720**

T. 23 N., R. 9 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,866 acres.

**State Selection F-43722**

T. 24 N., R. 6 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,794 acres.

**State Selection F-43723**

T. 24 N., R. 8 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,794 acres.  
Aggregating approximately 115,164 acres.

The State selected lands rejected above aggregate approximately 115,164 acres. When this decision becomes final, State selections F-43714, F-43715, F-43720, F-43722 and F-43723 will be closed of record.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 115,164 acres, are considered proper for acquisition by Doyon, Limited and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA:

**Copper River Meridian, Alaska (Unsurveyed)**

T. 21 N., R. 5 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 23,910 acres.

T. 20 N., R. 6 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,800 acres.

T. 24 N., R. 8 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,794 acres.

T. 24 N., R. 8 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,794 acres.

T. 23 N., R. 9 E.,  
Secs. 1 to 36, inclusive, all.  
Containing approximately 22,866 acres.  
Aggregating approximately 115,164 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-17, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

**25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

**50 Foot Trail**—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

a. (EIN 17 L) An easement for a proposed access trail fifty (50) feet in width from public lands in Sec. 1, T. 23 N., R. 8 E., Copper River Meridian, northeasterly to public lands in Sec. 31, T. 24 N., R. 9 E., Copper River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 19 C4) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 31, T. 21 N., R. 6 E., Copper River Meridian, southwesterly to public lands in Sec. 1, T. 20 N., R. 5 E., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee,

contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right reconized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date approximately 1,569,652 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the **TUNDRA TIMES**. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 11, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Doyon, Limited, First and Hall Street,  
Fairbanks, Alaska 99701.  
State of Alaska, Department of Natural Resources, Division of Research and

Development, 323 East Fourth Avenue,  
Anchorage, Alaska 99501.

Sue A. Wolf

Chief, Branch of Adjudication.

[FR Doc. 79-38023 Filed 12-11-79; 8:45 am]

BILLING CCDE 4310-84-M

**[F-19155-16]**

**Alaska Native Claims Selection**

On April 2, 1975, Doyon, Limited filed selection application F-19155-16, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Galena. The application excluded the following water bodies as being navigable:

Bishop Creek; Bear Creek; Nikolai Slough; and unnamed lake in Secs. 32, 33 and 34, T. 9 S., R. 9 E., Kateel River Meridian.

As these are considered nonnavigable and as Sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 177,025 acres, are considered proper for acquisition by Doyon, Limited and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA:

**Kateel River Meridian, Alaska (Unsurveyed)**

T. 8 S., R. 8 E.,  
Sec. 1, excluding Yukon River;  
Secs. 2, 3 and 4, all;  
Sec. 5, excluding Yukon River and its Interconnecting slough;  
Secs. 6, 7 and 8, excluding Yukon River;  
Sec. 9, all;  
Sec. 10, excluding Native allotment F-15529 Parcel B and Yukon River;  
Sec. 11, excluding Yukon River;  
Secs. 12 to 15, inclusive, excluding Yukon River and its Interconnecting sloughs;  
Sec. 16, excluding Pilot Mountain Slough and Yukon River;  
Sec. 17, excluding Native allotment F-15061 and Yukon River;  
Sec. 18, excluding Native allotment F-15061;  
Sec. 19, all;

Sec. 20, excluding Native allotment F-15061;  
Sec. 21, excluding Pilot Mountain Slough and the interconnecting slough of Yukon River;  
Sec. 22, excluding the Interconnecting slough of Yukon River;  
Secs. 23, 24, 25 and 26, all;  
Secs. 27, 28, 29 and 30, excluding Pilot Mountain Slough;  
Sec. 31, all;  
Sec. 32, excluding Pilot Mountain Slough;  
Sec. 33, all;  
Sec. 34, excluding Pilot Mountain Slough;  
Secs. 35 and 36, all.

Containing approximately 18,274 acres.

T. 10 S., R. 8 E.,

Secs. 1 to 36, inclusive, all.  
Containing approximately 22,860 acres.

T. 7 S., R. 9 E.,

Secs. 1 to 13, inclusive, all;  
Sec. 14, excluding Native allotment F-13338;  
Secs. 15 to 19, inclusive, all;  
Secs. 20 and 21, excluding Native allotment F-14030

Sec. 22, all;  
Sec. 23, excluding Native allotment F-13338;  
Secs. 26 to 35, inclusive, all

Containing approximately 20,750 acres.

T. 9 S., R. 9 E.,

Secs. 3 to 10, inclusive, all;  
Secs. 15 to 22, inclusive, all;  
Secs. 25 to 32, inclusive, all;  
Secs. 33 and 34, excluding Native allotment F-15479 Parcel A;  
Secs. 35 and 36, all.

Containing approximately 17,628 acres.

T. 11 S., R. 9 E.,

Secs. 1 to 29, inclusive, all;  
Secs. 30 and 31, excluding Mineral Survey application F-23158;  
Secs. 32 to 36, inclusive, all.

Containing approximately 22,852 acres.

T. 8 S., R. 10 E.,

Secs. 1 to 5, inclusive, all;  
Secs. 8 to 12, inclusive, all.  
Containing approximately 6,400 acres.

T. 10 S., R. 10 E.,

Sec. 4, all;  
Sec. 5, excluding Kala Slough;  
Secs. 6 and 7, all;  
Secs. 8, 9, 16 and 17, excluding Kala Slough;  
Secs. 18, 19 and 20, all;  
Sec. 21, excluding Kala Slough;  
Secs. 28 to 33, inclusive, all.

Containing approximately 10,960 acres.

T. 7 S., R. 11 E.,

Secs. 1 to 36, inclusive, all.  
Containing approximately 22,930 acres.

T. 11 S., R. 11 E.,

Secs. 1 to 36, inclusive, all.  
Containing approximately 22,932 acres.

T. 10 S., R. 12 E.,

Secs. 19 to 36, inclusive, all.  
Containing approximately 11,439 acres.  
Aggregating approximately 177,025 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States.

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-18, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

**25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

**50 Foot Trail**—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

**One Acre Site**—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1a L) An easement for an existing access trail fifty (50) feet in width from Sec. 2, T. 10 S., R. 9 E., Kateel River Meridian, northerly to public lands in Secs. 14 and 23, T. 9 S., R. 9 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 1b L) An easement for an existing access trail fifty (50) feet in width from Kala Slough in Sec. 22, T. 10 S., R. 10 E., Kateel River Meridian, southwesterly to public lands in Sec. 30, T. 11 S., R. 10 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 9 C5, L, M, N) An easement for a proposed access trail fifty (50) feet in width from site EIN 14 C5, M, N, in Sec. 16, T. 10 S., R. 11 E., Kateel River Meridian, southeasterly to public lands in Sec. 6, T. 11 S., R. 12 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 17a C4, C5) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 36, T. 7 S., R. 8 E., Kateel River Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 17b C4, C5) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 36, T. 9 S., R. 8 E., Kateel River Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 17d C4, C5) An easement for a proposed access trail fifty (50) feet in width from public lands in Sec. 1, T. 11 S., R. 8 E., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

g. (EIN 22 M, N) An easement for a proposed access trail fifty (50) feet in width



from the left bank of Kala Slough and site EIN 22a M, N in Sec. 8, T. 10 S., R. 10 E., Keteel River Meridian, westerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

h. (EIN 22a M, N) A one (1) acre site easement upland of the ordinary high water mark in Sec. 8, T. 10 S., R. 10 E., Keteel River Meridian, on the left bank of Kala Slough. The uses allowed are those listed above for a one (1) acre site easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 1,454,488 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act have been approved for conveyance to Doyon, Limited.

Within the above described lands, only the following inland water bodies are considered to be navigable:

Pilot Mountain Slough; Kala Slough; Yukon River and its interconnecting sloughs.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 11, 1980, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-38022 Filed 12-11-79; 8:45 am]

BILLING CODE 4310-84-M

#### [Colorado 23734 AC-AF]

#### Colorado; R/W Application for Pipeline

November 27, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way, 79084, 79192, 79254, 79255, 79375, 79385, 79386, 79388-79390, 79425, 79494, 79570, 79674, for 4 1/2" and - 3/4" o.d. natural gas pipeline for the North Douglas Creek Gathering System well hookups, approximately 12.509 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 1 S., R. 101 W.,  
Sec. 22: S 1/2 S 1/2;  
Sec. 27: Lots 4, 5, 6, NE 1/4 SW 1/4, SE 1/4 NE 1/4, N 1/4 SE 1/4, W 1/4 NE 1/4, NE 1/4 NW 1/4;  
Sec. 28: SE 1/4 SE 1/4;  
Sec. 29: SW 1/4 NE 1/4, NW 1/4 SE 1/4, S 1/4 SE 1/4;  
Sec. 32: NE 1/4 NE 1/4;  
Sec. 33: N 1/2 N 1/2, SW 1/4 NW 1/4, NW 1/4 SW 1/4.  
T. 1 S., R. 103 W.,  
Sec. 3: Lots 4, 5, 12-14, SE 1/4 NW 1/4, SW 1/4 SW 1/4, E 1/4 SW 1/4;  
Sec. 4: SE 1/4 SE 1/4;  
Sec. 8: S 1/2 NE 1/4, SW 1/4 NW 1/4;  
Sec. 9: N 1/2 NE 1/4, NE 1/4 NW 1/4, S 1/2 NW 1/4;  
Sec. 10: N 1/4 N 1/2, SE 1/4 NE 1/4;  
Sec. 27: S 1/2 SW 1/4;  
Sec. 28: SE 1/4 SE 1/4;  
Sec. 33: Lot 4, E 1/2 NE 1/4, NE 1/4 SE 1/4;  
Sec. 34: Lot 1, NE 1/4 NW 1/4.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation*. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

William J. Norton II,

Acting Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-37966 Filed 12-11-79; 8:45 am]

BILLING CODE 4310-84-M

#### Nevada—Revision to Wilderness Inventory Decision on Cedar Ridge Wilderness Study Area, Elko District, Nevada

On October 13, 1978, a decision was issued by the Bureau of Land Management in Nevada on the results of an accelerated wilderness inventory conducted on public lands in northeastern Nevada for areas of high interest in oil and gas exploration.

In that decision, the Cedar Ridge Wilderness Inventory Unit (NV-010-088) was identified as a Wilderness Study Area. After the decision was issued, new information was submitted by the public concerning the presence of a road within the unit. The BLM has reviewed this information and has concluded that an error was made in the original inventory and that the route in question meets the definition of a road as published in the *Wilderness Inventory Handbook*. The presence of the road cuts 4,650 acres from the northern end of the unit, creating a new unit NV-010-088A. This new unit has been inventoried and does not qualify under the wilderness criteria of size or outstanding opportunities for either

solitude or primitive and unconfined recreation.

Unit NV-010-088 has been reduced from 14,080 acres to 9,430 acres as a result of this amended decision. Despite this decrease in area, it still meets the wilderness criteria of size, roadlessness, naturalness, and has outstanding opportunities for solitude and primitive and unconfined types of recreation.

A 30-day public comment period on this proposed, amended, intensive inventory decision will begin on December 17, 1979 and conclude on January 15, 1980. Comment should be directed towards the presence or absence of wilderness criteria in NV-010-088A. After public comments received are analyzed, a final decision will then be issued by the State Director and announced in the *Federal Register*. A 30-day period will then lapse before the decision will be implemented. That final decision will be subject to protest during the 30-day period.

An openhouse will be held at the Elko BLM District Office, 2002 Idaho Street, on January 7, 1980 at 1:30 p.m. and materials concerning this proposed decision will be available. Copies of these materials may also be reviewed at the State Office, 300 Booth Street, Room 3031, Reno, Nevada 89509.

Additional information is available in either the Elko or Reno BLM offices.

Dated: December 4, 1979.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 79-33794 Filed 12-11-79; 8:45 am]

BILLING CODE 4310-84-M

#### INTERNATIONAL TRADE COMMISSION

[303-TA-12]

#### Pig Iron From Brazil; Investigation and Hearing

Having received advice from the Department of the Treasury on November 20, 1979, that bounties or grants are being paid with respect to pig iron imported from Brazil, entered duty free under item 607.15 of the Tariff Schedules of the United States, the U.S. International Trade Commission, on December 3, 1979, instituted investigation No. 303-TA-12 under § 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (the countervailing duty law), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

*Conduct of the investigation under the Trade Agreements Act of 1979.* Under the countervailing duty law, the Commission is required to notify the Treasury Department of its determination in this investigation not later than 3 months after receiving Treasury's advice, in this case not later than February 20, 1980. However, the countervailing duty law has been amended in part and supplemented in part by sections 101-103 of the Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 144, July 28, 1979). Section 101 of the act establishes a new title VII of the Tariff Act (sec. 701, et seq.; 19 U.S.C. 1671, et seq.) providing new (supplemental) countervailing duty provisions. Section 102 treats with investigations pending as of the effective date of the new title VII provisions (January 1, 1980, assuming that certain conditions set forth in secs. 2 and 107 of the Trade Agreements Act are fulfilled as of that date). Section 103 amends the present law (sec. 303 of the Tariff Act) in several specific respects to take into account new title VII of the Tariff Act.

Assuming that the new law becomes effective on January 1, 1980, the Commission will be required, under § 102 of the Trade Agreements Act, to terminate this investigation, institute a new investigation under subtitle A of title VII of the Tariff Act, and complete the new investigation within 75 days after January 1. On the assumption that the new law will become effective on January 1, 1980, the procedures described below will be followed in the present investigation.

*Hearing.* A public hearing in connection with the investigation will be held on Wednesday, February 6, 1980, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. Requests to appear at the public hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 30, 1980. (If it appears that the new countervailing duty provisions will not become effective on January 1, 1980, a notice rescheduling the hearing (and related prehearing report and statements) for an earlier date will be issued.)

*Prehearing statements.* The Commission will prepare and place on the record by January 16, 1980, a staff report containing preliminary findings of fact. Parties to the investigation should submit to the Commission a prehearing statement not later than January 29,

1980. The content of such statement should include the following:

- (a) Exceptions, if any, to the preliminary findings of fact contained in the staff report;
- (b) Any additional or proposed alternative findings of fact;
- (c) Proposed conclusions of law;
- (d) Any other information and arguments which a party believes relevant to the Commission's determination in this investigation; and
- (e) A proposed determination for adoption by the Commission.

*Collection and confidentiality of information.* Requests for confidential treatment of information submitted to the Commission should be directed to the attention of the Secretary. Requests must conform to the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). Information submitted to or gathered by the Commission in conjunction with this proceeding under present § 303 of the Tariff Act will be subject to the new countervailing duty law provisions regarding access to information set forth in new title VII of the Tariff Act after January 1, 1980, if that law becomes effective. Those provisions relate to the collection and retention of information by the Commission and the maintenance of confidentiality or the disclosure of information. The provisions of § 777 of title VII will require the following:

- (a) A record of all ex parte meetings between interested parties or persons providing factual information in connection, with an investigation and the Commissioners, their staffs, or any person charged with making a final recommendation in an investigation;
- (b) Disclosure of nonconfidential information or nonconfidential summaries of confidential information which is not in a form that can be associated with or used to identify the operations of a particular person;
- (c) Preventing disclosure of confidential information unless the party submitting the information consents to the disclosure; and
- (d) Limited disclosure of certain confidential information under protective order or by an order of the U.S. Customs Court.

Section 516A of the Tariff Act, as added by the Trade Agreements Act, will require all information in the record before the Commission in the title VII investigation, whether confidential or nonconfidential, to become part of the record before the Customs Court in any review of a Commission determination. Section 771 provides definitions applicable to title VII.

These procedures are set forth pursuant to section 335 of the Tariff Act, which authorizes the Commission to adopt such reasonable procedures as are necessary to carry out its functions and duties.



Issued: December 4, 1979.  
By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 79-36126 Filed 12-11-79; 8:45 am]  
BILLING CODE 7020-02-M

#### [Investigation No. 337-TA-74]

#### Certain Rotatable Photograph and Card Display Units, and Components Thereof; Change of Commission Investigative Attorney

Louis S. Mastriani is designated Commission Investigative Attorney for Investigation No. 337-TA-74, Certain Rotatable Photograph and Card Display Units, and Components Thereof replacing Charles F. Schill. The service of all papers on the Commission Investigative Attorney should henceforth be served upon Mr. Mastriani, effective Monday, December 3, 1979.

The Secretary is requested to publish this notice in the Federal Register.

Dated: December 3, 1979.

Earl Levy,

Deputy Director, Office of Legal Services.

[FR Doc. 79-36127 Filed 12-11-79; 8:45 am]  
BILLING CODE 7020-02-M

#### Roses; Investigation and Hearing

#### [TA-201-42]

*Investigation instituted.* Following receipt of a petition on November 15, 1979, filed on behalf of Roses Incorporated, a trade association of the U.S. rose growing industry, the United States International Trade Commission on November 29, 1979, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether fresh cut roses (provided for in item 192.20 of the tariff Schedules of the United States (TSUS)), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

*Public hearing ordered.* A public hearing in connection with this investigation will be held in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436 beginning at 10 a.m., e.s.t. on Monday, February 25, 1980. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in

Washington, D.C. not later than noon, February 18, 1980.

*Inspection of petition.* The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission, located at 8 World Trade Center.

Issued: December 3, 1979.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 79-36125 Filed 12-11-79; 8:45 am]  
BILLING CODE 7020-02-M

#### OFFICE OF MANAGEMENT AND BUDGET

#### Delay in Publication of Semi-Annual Agenda

December 10, 1979.

AGENCY: Office of Management and Budget.

ACTION: Delay in Publication of Semi-annual Agenda.

**SUMMARY:** The publication of OMB's semi-annual agenda of upcoming actions on OMB directives will be published in the Federal Register December 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. David R. Leuthold, Budget and Management Officer, Room 5208, New Executive Office Building, Washington, D.C. 20503, (202) 395-7250.

David R. Leuthold,  
Budget and Management Officer.

[FR Doc. 79-36202 Filed 12-11-79; 8:45 am]  
BILLING CODE 3110-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 16401; FR-Amex-79-16]

#### American Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 4, 1979.

On October 18, 1979, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend Articles IV, V, IX, and XIII of the Amex Constitution to increase (i) the Gratuity Fund benefits provided for families of deceased, regular Amex members from \$15,000 to \$75,000; (ii) member contributions to the Fund from \$25 to \$115; and (iii) the minimum size of the Fund from \$30,000

to \$150,000. In addition, the proposal provides, with respect to leased memberships, that the lessor rather than the lessee be the Gratuity Fund participant. Lastly, the proposal includes certain related amendments to the Amex Membership Lease Plan.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16298, October 26, 1979) and by publication in the Federal Register (44 FR 62977, November 1, 1979).<sup>1</sup> No comments were received. All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-34058 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 21327; 70-6381]

#### Arkansas Power & Light Co.; Proposed Issuance and Sale of Notes to Banks and Commercial Paper and Exception From Competitive Bidding

December 5, 1979.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding

<sup>1</sup> On October 26, 1979, the Amex amended the original rule filing to indicate that the Amex membership voted approval of the proposed constitutional amendments on October 25, 1979.

Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Arkansas is presently authorized (HCAR Nos. 20711 and 21281 (September 19, 1978, and November 2, 1979)) to issue and sell from time to time, through February 29, 1980, up to \$125,000,000 aggregate principal amount outstanding at any one time of unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper to meet its interim financing requirements.

Arkansas now intends to revise the foregoing program and proposes to issue and sell, from time to time through June 30, 1981, unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper in an aggregate principal amount outstanding at any one time of not more than \$150,000,000. It is stated that the nature of each issue of such notes (including commercial paper) will be determined in the light of the then prevailing market conditions and other factors.

As of September 30, 1979, Arkansas' construction program is expected to result in expenditures of approximately \$265,213,000 in 1980 and \$188,649,000 in 1981. Arkansas will use the net proceeds of the proposed notes for the acquisition of property, the construction, extension, or improvement of its facilities, or the discharge or lawful refunding of its obligations. Most of such net proceeds, together with other funds available from time to time to Arkansas from its operations or derived from the issuance and sale of long-term debt and/or equity securities, will be applied to its construction program.

The notes proposed to be issued and sold to commercial banks will be in the form of unsecured promissory notes payable not more than nine months from the date of issuance with right of renewal, will bear interest at the prime commercial bank rate in effect at the lending bank on the date of issuance or renewal or, from time to time, depending upon the requirements of the lending bank, and will, at the option of Arkansas, be prepayable, in whole or in part, at any time without premium or penalty. While no formal commitments for future borrowings have been made with any bank, it is expected that the banks to whom such notes will be

issued and sold and the maximum amount to be issued and outstanding at any one time to each such bank will be substantially as follows:

|                                                                      | Maximum amount to be borrowed |
|----------------------------------------------------------------------|-------------------------------|
| First National Bank of Eastern Arkansas, Forrest City, Arkansas..... | \$400,000                     |
| Arkansas Bank & Trust Company, Hot Springs, Arkansas.....            | 800,000                       |
| The Commercial National Bank, Little Rock, Arkansas.....             | 2,000,000                     |
| First National Bank in Little Rock, Arkansas                         | 4,000,000                     |
| Union National Bank, Little Rock, Arkansas                           | 2,000,000                     |
| Worthing Bank & Trust Company, N.A., Little Rock, Arkansas.....      | 4,000,000                     |
| National Bank of Commerce, Pine Bluff, Arkansas.....                 | 1,700,000                     |
| Simmons First National Bank, Pine Bluff, Arkansas.....               | 19,000,000                    |
| Peoples Bank & Trust Company, Russellville, Arkansas.....            | 300,000                       |
| Security Pacific National Bank, Los Angeles, California.....         | 18,500,000                    |
| Wells Fargo Bank, N.A., Los Angeles, California.....                 | 5,000,000                     |
| Chemical Bank, New York, New York.....                               | 10,000,000                    |
| Irving Trust Company, New York, New York                             | 10,000,000                    |
| Manufacturers Hanover Trust Company, New York, New York.....         | 45,000,000                    |
| Marine Midland Trust Company, New York, New York.....                | 10,000,000                    |
| Morgan Guaranty Trust Company of New York, New York.....             | 8,000,000                     |
| J. Henry Schroder Bank & Trust Company, New York, New York.....      | 5,300,000                     |
| Mellon Bank, N.A., Pittsburgh, Pennsylvania.....                     | 4,000,000                     |
|                                                                      | \$150,000,000                 |

Arkansas maintains accounts with the above Arkansas banks, and, although balances in these accounts may be deemed to be compensating balances, these accounts are stated to be working accounts, and fluctuations in their balances do not reflect or depend upon fluctuations in the amounts of bank loans outstanding. Assuming that a 15 percent compensating balance is maintained and assuming a 15.25 percent prime rate, the effective interest cost would be 17.94 percent. The above non-Arkansas banks may require compensating balances of up to 10 percent of the amount of the commitment for loans and in some instances may require additional compensating balances or fees equivalent thereto not exceeding in any event 10 percent of the average annual amount of the loans outstanding from those banks. Assuming a 15.25% prime rate and a 20 percent compensating balance, the effective interest cost on loans from the non-Arkansas banks would be 19.06 percent.

Arkansas proposes to issue, reissue, and sell commercial paper in denominations of not less than \$100,000 directly to a dealer in commercial paper at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality of that particular maturity. The proposed

commercial paper will be in the form of unsecured promissory notes with varying maturities not to exceed 270 days, the actual maturities to be determined by market conditions, effective cost of money to Arkansas, and the company's anticipated cash requirements at the time of issuance. In accordance with the established custom and practices in the market, the proposed commercial paper will not be payable prior to maturity. No commission or fee will be payable by Arkansas in connection with the issuance and sale of commercial paper. The dealer, as principal, will reoffer and sell the commercial paper at a discount rate of 1/10 of 1 percent per annum less than the prevailing discount rate to the company. The dealer in reoffering the commercial paper will limit the reoffer and sale to a non-public customer list of not more than 200 buyers to maturity; of commercial paper. It is anticipated that the commercial paper will be held by the buyers however, the dealer may, if desired by a buyer, repurchase the commercial paper for resale to others on the list of customers.

It is stated that the application of the competitive bidding requirements of Rule 50 with respect to the issuance and sale of commercial paper is not necessary or appropriate in the public interest or for the protection of investors or consumers because the commercial paper will have a maturity not in excess of 270 days, current rates for commercial paper for such prime borrowers as Arkansas are published daily in financial publications, and it is not practical to invite bids for commercial paper.

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed \$7,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

*Notice Is Further Given* that any interested person may, not later than December 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in



case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 38060 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

**Boston Stock Exchange, Inc.,  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing**

December 5, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks: Cox Broadcasting Corporation, common, \$1.00 Par Value (File No. 7-5032); American Brands, Inc., \$2.67 Cum. Conv. Pfd., No. Par Value (File No. 7-5104); Georgia-Pacific Corporation, Series A Adjustable Rate, Conv. Pfd. (File No. 7-5105); McDermott (J. Ray) & Co., Inc., \$2.20 Series A Cum. Conv. Pfd., \$1.00 Par Value (File No. 7-5106); and Reynolds (R. J.) Industries, Inc., \$2.25 Cum. Conv. Pfd., No Par Value (File No. 7-5107). These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before January 4, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38049 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

**Cincinnati Stock Exchange, Inc.,  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing**

December 5, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the following common stocks: Colonial Penn Group, \$1.10 Par Value (File No. 7-5037); Jefferson-Pilot Corporation, \$1.25 Par Value (File No. 7-5038); Lincoln National Corporation, \$2.50 Par Value (File No. 7-5039); NLT Corporation, \$5.00 Par Value (File No. 7-5040); USLIFE Corporation, \$1.00 Par Value (File No. 7-5041); Trans World Corporation, \$5.00 Par Value (File No. 7-5121); Greyhound Corporation (Arizona), \$1.50 Par Value (File No. 7-5056); Digital Equipment Corporation, \$1.00 Par Value (File NO. 7-5122); and Southwestern Public Service Co., \$1.00 Par Value (File No. 7-5123). These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before January 4, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38050 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21326]

**Columbia Gas System, Inc. et. al.;  
Proposed Open Account Advances to  
Subsidiary Companies by Parent  
Company in Connection With  
Intrasytem Prepayment of  
Promissory Notes and Related  
Transactions**

December 5, 1979.

In the Matter of The Columbia Gas System, Inc.; Columbia Lng Corporation; Columbia Gas Development Corporation; Columbia Gas System Service Corporation; Columbia Gas Development of Canada, Ltd, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation; 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gas of Ohio, Inc.; Columbia Gas of Kentucky, Inc.; Columbia Gas of Virginia, Inc.; Columbia Gas of West Virginia, Inc.; Columbia Gas of Pennsylvania, Inc.; Columbia Gas of New York, Inc.; Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Coal Gasification Corporation; Columbia Hydrocarbon Corporation; The Inland Gas Company, Inc., 340-17th Street, Ashland, Kentucky 41101. (70-6389).

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly-owned subsidiary companies listed above, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 9, 10, and 12(b) of the Act and Rules 42(b)(2) and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration which is summarized below, for a complete statement of the proposed transactions.

It is stated that during the winter heating season Columbia's distribution subsidiary companies generate substantial amounts of cash in excess of current requirements. During the same period, however, the transmission subsidiary companies generate lesser amounts of cash and have generally larger construction expenditures, requiring Columbia to advance funds to such subsidiary companies. In recent years, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present

filing requests authorization to continue such transactions during the calendar year 1980.

It is proposed that the subsidiary companies listed below will prepay from time to time prior to the end of 1980, with excess cash in aggregate amounts not to exceed the amounts set forth below, a portion of their outstanding installment promissory notes ("Notes") held by Columbia. The following amounts represent the estimated aggregate maximum excess funds that such companies are expected to accumulate at any one time during the year 1980.

|                                         |                    |
|-----------------------------------------|--------------------|
| Columbia Gas System Service Corporation | \$5,000,000        |
| Columbia Gas Transmission Corporation   | 270,000,000        |
| Columbia Gas of Pennsylvania, Inc.      | 55,000,000         |
| Columbia Gas of New York, Inc.          | 7,500,000          |
| Columbia Gas of Maryland, Inc.          | 4,000,000          |
| Columbia Gas of Kentucky, Inc.          | 12,000,000         |
| Columbia Gas of Virginia, Inc.          | 5,000,000          |
| Columbia Gas of West Virginia, Inc.     | 20,000,000         |
| Columbia Gas of Ohio, Inc.              | 125,000,000        |
| Columbia Gulf Transmission Company      | 100,000,000        |
| Columbia Hydrocarbon Corporation        | 3,158,000          |
| The Inland Gas Company, Inc.            | 4,500,000          |
| Columbia Lng Corporation                | 104,000,000        |
| Columbia Gas Development Corporation    | 20,000,000         |
| Columbia Coal Gasification Corporation  | 4,000,000          |
| <b>Total</b>                            | <b>739,158,000</b> |

The Notes ("Indebtedness") prepaid by the individual companies will be those bearing the highest interest rate or rates outstanding at the time of each prepayment. Interest on such Indebtedness will cease upon prepayment and recommence upon reissuance. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia, provided that at no time will the amount of such advances to any subsidiary exceed the amount of Indebtedness theretofore prepaid by it, less any current maturities applicable to Notes which have matured subsequent to the date of prepayment.

The open account advances to any subsidiary company will bear interest commencing on the date of the advances, at the same rate or rates as borne by the equivalent principal amounts of Indebtedness previously prepaid by it during 1979, but in reverse order to that of the prepayments, i.e., beginning from the lowest rate payable on the Indebtedness previously prepaid to the highest rate. Interest on the open account advances will become due on June 30, 1980, and December 31, 1980, and/or on the date such advances are repaid by the reinstatement of Notes. It is further proposed that advances on open account to individual subsidiary companies will be increased or decreased from time to time in accordance with variations in the cash

flow of the individual subsidiary companies. The proposed advances will not be in excess of the Indebtedness prepaid theretofore. At such time as the advances to any subsidiary company equal to the aggregate amount of the Indebtedness prepaid by it, or in any event not later than December 31, 1980, such prepaid Indebtedness will be reinstated in repayment of the outstanding open account advances.

Financing of construction or gas storage programs of any operating subsidiary company pursuant to Commission authorization will not be consummated until such time as advances have been made in amount equal to the amount of Indebtedness prepaid. Any subsidiary company which during 1980 has borrowed on open account from Columbia an amount smaller than the amount of Indebtedness theretofore prepaid by it will on December 31, 1980, reinstate its Indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid Indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against Indebtedness bearing the highest interest rates and would be consummated only with respect to Indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as of December 31, 1980. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to Notes bearing an interest rate less than the rate applicable to debt purchased by Columbia from subsidiary companies at December 31, 1980, such Notes will be reinstated by the subsidiary company at or before the end of 1980.

It is stated that the proposed transactions are designed to achieve the following: (1) flexibility to prepay at the earliest possible date inventory loans with commercial banks and other short-term borrowings; (2) deferment of outside financing until aggregate system funds approach a minimum balance; (3) facilitate the internal financing of emergency requirements; and (4) allow subsidiaries, during any period in which they have excess cash, to temporarily prepay Notes owed Columbia, thereby decreasing their own net corporate interest expense.

Expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at \$7,000, including \$4,000 for services, at cost,

provided by Columbia Gas System Service Corporation.

It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reissuance of prepaid Notes by Columbia Gas of West Virginia, Inc., that the Public Service Commission of New York has authorized the reissuance of prepaid Notes by Columbia Gas of New York, Inc., that the Public Service Commission of Kentucky has authorized the reissuance of prepaid Notes by Columbia Gas of Kentucky, Inc., and that the State Corporation Commission of Virginia has authorized the reissuance of prepaid Notes by Columbia Gas of Virginia, Inc. It is represented that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The applicants-declarants have requested that authorization be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than December 28, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof to take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.



For the Commission, by the Division or Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-38059 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 10969; 811-1584]

**Doll Fund, Inc.; Application Pursuant to Section 8(f) of the Act for an Order Declaring That Applicant Has Ceased To Be an Investment Company**

December 4, 1979.

Notice is hereby given that Doll Fund, Inc., Thackeray Lane, Mendham, New Jersey 07945 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified management investment company, filed an application on October 22, 1979, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of Delaware, registered under the Act on January 15, 1968, under the name Pyramid Fund, Inc., and on June 10, 1968 filed a registration statement on Form S-5 under the Securities Act of 1933 covering 1,000,000 shares of its common stock, \$1.00 par value, in connection with a proposed public offering of its shares. This registration statement was declared effective on December 20, 1968, and Applicant commenced an initial public offering on that date. Applicant states that its name was subsequently changed to Doll Fund, Inc.

Applicant further states that on June 14, 1979, its shareholders ratified a Resolution adopted by its Board of Directors on January 31, 1979 that Applicant be liquidated and dissolved in accordance with Delaware law. Applicant states that, pursuant to such Resolution, all of its assets were converted to cash during the month of August, 1979 and deposited in Applicant's custodian bank. On September 4, 1979, checks to all shareholders were drawn on this cash and mailed to the last known addresses of such shareholders.

Applicant represents that, as of October 22, 1979, four such checks have been returned addressee unknown, and that Applicant is attempting to locate these shareholders. It is stated that if

such shareholders cannot be located, Applicant will place their respective liquidating distributions in a trust account for them. Applicant further represents that as of September 30, 1979, the amount held on deposit at its custodian bank was \$1,447, estimated to be sufficient to pay accrued taxes, dissolution fees, and accounting and filing fees for 1979 returns.

Applicant states that it has been granted a Tax Waiver and Certificate of Withdrawal in the State of New Jersey, its principal place of business, and that it will apply for similar treatment, including the issuance of a certificate of dissolution, in the State of Delaware. Thus, Applicant states that it is not now, nor does it propose to be, engaged in any business activities other than those necessary to winding up its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 28, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38057 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. 21328; 70-6151]

**General Public Utilities Corp. and GPU Service Corp.; Proposed Extension of an Adjustment In Short-Term Debt Authorization**

December 5, 1979.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company and its service company subsidiary General Public Utilities Service Corporation ("Service Company"), have filed with this Commission a post-effective amendment to its declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By orders dated May 18, 1978 (HCAR No. 20550) and July 31, 1978 (HCAR No. 20652), this Commission authorized (a) Service Company to issue its unsecured promissory notes maturing on December 31, 1979, evidencing borrowings of up to \$13,000,000 from Hartford National Bank and Trust Company ("Hartford") and Citibank, N.A., and (b) GPU to guarantee the payment of principal and interest on such borrowings. Such promissory notes were to bear interest at 105% of the banks' prime rate for commercial borrowings as in effect from time to time. The proceeds from such borrowings were to be used to finance the construction and partial equipping of a 125,000 sq. ft. headquarters office building to be constructed by Service Company on a 25 acre site in Parsippany, New Jersey, or to reimburse Service Company's treasury for funds previously expended therefrom for such purposes. By order dated June 5, 1979 (HCAR No. 21082) this Commission authorized Service Company to secure such borrowings by granting Hartford a first mortgage on the 25 acre site and office building. At the date hereof, Service Company has outstanding \$12,700,000 principal amount of such promissory notes.

GPU and Service Company are seeking more permanent financing arrangements for the building. Pending the making of such arrangements, GPU and Service Company by post-effective amendment now request that the time during which Service Company may issue, and GPU may guarantee, notes evidencing borrowings from Hartford and Citibank, as well as the maturity date of such notes, be extended until December 31, 1980. In addition, GPU and Service Company further request that such notes be permitted to bear interest at 108% of the prime rate, in effect from time to time, during the period January 1, 1980 through December 31, 1980. In all other respects the transactions as heretofore authorized by the Commission would remain unchanged.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction in connection with the proposed transactions.

Notice is further given that any interested person may, not later than December 28, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

GPU proposes to allocate the respective amounts of the proposed contributions between these two subsidiaries as to best match the needs of each subsidiary as such needs develop during 1980; provided, however, that the amount of such capital contributions to either of such subsidiaries would not in any event exceed \$30 million. Such needs of these subsidiaries will be affected by the inability to precisely predict their respective earnings and internal cash generation, rate and timing of expenditures of construction, repair and clean-up expenditures at the Three Mile Island nuclear generating station and restrictions on the issuance of unsecured short-term debt. Such cash capital contributions will be credited by the recipients to their respective capital surplus accounts.

The proposed cash capital contributions will be utilized by JCP&L and Met-Ed for the purpose of financing their respective businesses as public utilities, including the construction of

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 79-38044 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 21322; 70-6382]

**General Public Utilities Corp.; Proposal by Holding Company To Make Capital Contributions to Its Subsidiaries**

November 30, 1979.

Notice is hereby given that General Public Utilities Corporation ("PGU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes to make cash capital contributions from time to time through December 31, 1980 to two of its three major operating subsidiaries, Jersey Central Power & Light Company ("JCP&L") and Metropolitan Edison Company ("Met-Ed"), of amounts up to an aggregate of \$50,000,000. GPU does not expect that it will be necessary to make cash capital contributions to its other major operating subsidiary, Pennsylvania Electric Company ("Penelec"), during the year.

GPU proposes to allocate the respective amounts of the proposed contributions between these two subsidiaries as to best match the needs of each subsidiary as such needs develop during 1980; provided, however, that the amount of such capital contributions to either of such subsidiaries would not in any event exceed \$30 million. Such needs of these subsidiaries will be affected by the inability to precisely predict their respective earnings and internal cash generation, rate and timing of expenditures of construction, repair and clean-up expenditures at the Three Mile Island nuclear generating station and restrictions on the issuance of unsecured short-term debt. Such cash capital contributions will be credited by the recipients to their respective capital surplus accounts.

additional facilities, repair and cleanup activities at the Three Mile Island nuclear generating station, and the increase in their working capital.

During 1980, JCP&L will require an aggregate of approximately \$135,000,000 for its construction program, and approximately \$11,000,000 for sinking fund and refinancing purposes. Cash capital contributions from GPU, together with internally generated cash of approximately \$115,000,000 will be applied to these purposes. In addition, JCP&L will have short-term bank borrowings outstanding under the GPU System Revolving Credit Agreement and with other banks from time to time during the year.

During 1980, Met-Ed will require an aggregate of approximately \$50,000,000 for its construction program, and approximately \$15,000,000 for sinking fund and refinancing purposes. Cash capital contributions from GPU, together with internally generated cash of approximately \$15,000,000 will be applied to these purposes. Met-Ed will also have short-term bank borrowings outstanding under the GPU System Revolving Credit Agreement and with other banks from time to time during the year.

During 1980, Penelec will require an aggregate of approximately \$90,000,000 for its construction program, and approximately \$5,000,000 for sinking fund and refinancing purposes. Internally generated cash of approximately \$60,000,000 plus, on an interim basis, the utilization of temporary investments and proceeds of bank borrowings, will be applied to these purposes.

The fees commissions and expenses to be incurred by GPU in connection with the proposed transactions are estimated at \$8,000, including legal fees of \$3,500. It is stated that no state commission or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service, (by



affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38047 Filed 12-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10970; 812-4556]

**InterCapital High Yield Securities, Inc.; Application Pursuant to Section 6(c) of the Act for Exemption From Section 2(a)(19)**

December 4, 1979.

Notice is hereby given that InterCapital High Yield Securities Inc., One Battery Park Plaza, New York, New York 10004, ("Applicant") registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management company, filed an application on October 22, 1979, and an amendment thereto on November 27, 1979, for an order of the Commission pursuant to Section 6(c) of the Act declaring that Dr. Irwin Friend, a director of Applicant, shall not be deemed an interested person of Applicant within the meaning of Section 2(a)(19) of the Act solely by reason of his position as director of PMI Securities Co. ("PMI"), a registered broker-dealer under the Securities Exchange Act of 1934 ("Exchange Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

PMI was originally organized in 1972 to be a holding company of two mortgage insurance companies ("insurance companies"). In 1973 PMI and the insurance companies were acquired by Allstate Insurance Company ("Allstate") and PMI commenced doing business as a "match-maker," that is, bringing together buyers

and sellers of whole mortgages and participations on residential properties without compensation. In 1978 PMI was sold by Allstate to the newly-formed PMI Mortgage Corporation, a company which is a wholly-owned subsidiary of Allstate Enterprises, Inc., which is, in turn, a wholly-owned subsidiary of Sears, Roebuck and Co.

Applicant states the PMI is not now and since its registration as a broker dealer under the Exchange Act has not been engaged in the business of buying or selling any securities either as broker or dealer. However, PMI contemplates acting as a broker-dealer in the distribution of mortgage pass-through securities issued by its parent PMI Mortgage Corporation. These securities may be registered pursuant to the Securities Act of 1933. Applicant states that non-registered private placements of securities are also contemplated.

Dr. Friend is Edward J. Hopkinson Professor of Finance and Economics at The Wharton School of the University of Pennsylvania, and is also Director of the Rodney L. White Center for Financial Research at the University of Pennsylvania. Applicant states that Dr. Friend has no past employment, consulting, contractual, financial, or other relationship with PMI or any affiliated person of PMI, other than as director of PMI, the insurance companies and PMI Mortgage Corporation.

Applicant states that its investment policy is to invest in fixed-income securities and that it is precluded from purchasing interests in real estate, except that it may purchase securities of issuers which engage in real estate operations and securities which are secured by real estate or interests therein. Applicant believes that the mortgage pass-through securities proposed to be the subject of PMI's broker-dealer business may be securities which would qualify for investment by Applicant. Applicant states, however, that similar types of investments are available to Applicant and, therefore, Applicant will have no need to obtain such investments through PMI. Furthermore, Applicant undertakes that it will not, under any circumstances, do any business, directly or indirectly, with PMI, in any capacity, whether as broker, dealer or otherwise, so long as Dr. Friend is a director of Applicant and a director of PMI.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. The term "affiliated person" of another

person is defined by Section 2(a)(3)(D) of the Act to include a director of such other person. Dr. Friend is a director of PMI and is, therefore, an affiliated person of PMI. Applicant does not view Dr. Friend to be an interested person of Applicant but seeks to have Dr. Friend determined by order to be a disinterested director, not withstanding his status as a director of PMI.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that it would be misleading to stockholders and unfair to Dr. Friend to identify him as an interested director of Applicant since such a label, it contends, implies the existence of a question of actual or potential conflict of interest which, Applicant claims, does not in fact exist. Applicant asserts that because of Dr. Friend's personal stature and the removal of any possibility that Applicant will do business with PMI, Dr. Friend will be in a position to act independently on behalf of Applicant and its shareholders without any possible impairment arising out of his affiliation with PMI.

Accordingly, Applicant believes that it would be in its best interests to have Dr. Friend's status as a disinterested director clearly acknowledged and that the requested exemption is therefore appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 28, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As

provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order pursuant to Section 6(c) of the Act disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hallis,  
Assistant Secretary.

[FR Doc. 79-38053 Filed 12-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21323; 70-6376]

**Jersey Central Power & Light Co. et al.; Proposal To Allocate Consolidated Federal Income Tax Liability by Method Other Than Specified in Rule 45(b)(6)**

November 30, 1979.

In the Matter of Jersey Central Power & Light Company, 161 Madison Avenue, Morristown, New Jersey; Metropolitan Edison Company, York Haven Power Company, P.O. Box 542, Reading, Penna. 19603; Pennsylvania Electric Company, Nineveh Water Company, 1001 Broad Street, Johnstown, Penna. 15907; General Public Utilities Corporation, Cherry Hills Fuel Corporation, GPU Service Corporation, 260 Cherry Hill Road, Parsippany, New Jersey 07054.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its subsidiary companies named-above have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the following proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

GPU and its subsidiaries join as a group in the filing of consolidated Federal income tax returns. They state that two of the electric utility subsidiaries, Metropolitan Edison Company ("Met-Ed") and Jersey Central Power & Light Company ("JC") are expected to report losses for tax purposes for the year 1979. Such losses will be used, in the consolidated return, to eliminate taxable income from other

sources, and to adjust the consolidated tax liabilities for prior and future years.

Applicants state that the general allocation formula for allocation of consolidated return tax liabilities authorized by Rule 45(b)(6) is not suitable for a case in which an operating utility company suffers a material loss. Applicants have entered into a tax allocation agreement, pursuant to Section 1552 of the Internal Revenue Code of 1954, as amended, and submit that agreement for approval under Section 12(b) of the Act and Rule 45(a). They propose to allocate the consolidated return liability in accordance with the tax allocation agreement, for the year 1979 and subsequent years, until further order of the Commission.

The tax allocation agreement provides that there shall be allocated to each company in the consolidated group, except the holding company, the tax benefits of its own net operating losses. The tax benefits of the holding company's deductions will be allocated among the subsidiaries in proportion to the holding company's average common stock equity investment in each company during the year. The prior allocation of the holding company deductions under Rule 45(b)(6) for years before 1979, however, will not be adjusted in connection with allocating operating loss carry backs.

A company which does not have a net operating loss of its own and which would have income tax liability (allowing for its own investment tax credits which it could utilize on a separate return basis), were the liability not offset by net operating losses of other companies in the group, will pay the amount of such tax reduction to the companies, other than the holding company, whose net operating losses are so used in the consolidated return. Such payments will be divided among the loss companies in proportion to the use of their net operating losses. If there is a consolidated minimum tax arising from "preference" items as defined in the Internal Revenue Code, such minimum tax will be independently allocated among the companies in the ratio of their respective preference incomes.

Based on estimates of income and expenses for the balance of the tax year, and the companies' interpretation of the relevant tax laws, it is believed that the current operating losses of Met-Ed and JC will produce about \$16 million of 1979 tax deductions. These amounts will be paid to the two operating companies providing the deductions. It appears that no refunds of taxes paid in prior years will occur, but that the operating loss

carry backs expected will replace investment tax credits previously claimed and increase the investment tax credits available for use in future years. The tax allocation agreement would preserve such benefits for the operating utility company which created such credits.

The fees, expenses and commissions incurred in connection with this proposal will be filed by amendment. Although it is not entirely clear whether the contract involved in this Declaration is embraced within Section 2102 of the Pennsylvania Public Utility Code, the Companies propose to file a copy of this declaration with the Pennsylvania Public Utility Commission in response to that provision of the Pennsylvania Public Utility Code. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposal.

Notice is Further Given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38054 Filed 12-11-79; 8:45 am]

BILLING CODE 8010-01-M



# Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 5, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of Purex Industries, Inc. (Delaware), \$1.00 Par Value (File No. 7-5103) and Greyhound Corporation (Arizona), \$1.50 Par Value (File No. 7-5065). These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before January 4, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38051 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 6162; 18-56]

## Munger, Tolles & Rickershauser Retirement Plan; Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests or Participations in the Munger, Tolles & Rickershauser Retirement Plan

December 4, 1979.

Notice is hereby given that Munger, Tolles & Rickershauser (hereinafter referred to as the "Applicant" or the "Firm"), a law firm organized as a partnership under the laws of the State of California, on July 9, 1979 filed an application (amended by letters dated October 23 and October 29, 1979) for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with

the Munger, Tolles & Rickershauser Retirement Plan (the "Plan"). All interested persons are referred to those documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

### I. Introduction

The Plan covers the Firm's partners, lawyers and non-law personnel who have completed three years of service with the Firm. For the year ended December 31, 1978, 23 partners and 13 employees were eligible to participate and 21 partners and 13 employees actually did participate. Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code") and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Plan was adopted effective as of January 1, 1973. It was amended in 1974 and 1975 and was again amended and restated effective as of January 1, 1976. The Internal Revenue Service has issued a ruling to the effect that the Plan is a qualified plan under Section 401(a) of the Code. The Plan is subject to the fiduciary standards and to the full reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974.

### II. Description and Administration of the Plan

Applicant states that it makes annual contributions to the Plan on behalf of all participants in amounts based on their compensation, subject to certain limitations and subject to adjustment based on integration with Social Security benefits. Participants may also make voluntary contributions or not more than 10 per cent of their compensation for the year.

The Plan is administered by a Retirement Plan Committee consisting of three persons appointed by the Firm. Applicant states that since its inception, the Plan has been administered by a Committee of three partners in the Firm. Contributions are made to a trust established pursuant to the Plan, the trustee of which is Bank of America National Trust & Savings Association, Los Angeles, California. Trust assets are invested at the direction of the Retirement Plan Committee.

### III. Discussion

Applicant states that the Plan is in all pertinent respects similar to exempt plans maintained by many single corporate employers, is available only to partners or employees of the Firm, and is not any part of an attempt generally to market interests or participations to self-employed persons unsophisticated in financial matters. The Firm is engaged in providing legal services which involve sophisticated and complex financial matters and believes that the Plan is the type of Plan for which an exemptive order is appropriate in view of the intent of Congress as expressed in the pertinent legislative history.

Applicant concludes that for the foregoing reasons granting the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 31, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following December 31, 1979 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including

the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38055 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-16393; File No. SR-MSRB-79-12]

## Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 29, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows:

### Statement of the Terms of Substance of the Proposed Rule Changes

The Municipal Securities Rulemaking Board (the "Board") is filing amendments (hereafter referred to as the "proposed rule changes") to Board rules A-14 on Annual Fee and A-15 on Notification to Board of Change of Status. The text of the proposed rule changes is as follows:

#### Rule A-14. Annual Fee\*

(a) In addition to any other fees prescribed by the rules of the Board [the fee prescribed by rule A-12 of the Board], each municipal securities broker and municipal securities dealer shall pay an annual fee to the Board of \$100, with respect to each fiscal year of the Board in which the municipal securities broker or municipal securities dealer conducts business [calendar year commencing with the calendar year 1977]. Such fee must be received at the office of the Board in Washington, D.C. no later than February 15 of the fiscal year for which the fee is paid, [in the year following the year with respect to which payment is made, and must be] accompanied by a written statement setting forth the name, address and Commission registration number of the municipal securities broker or municipal securities dealer on whose behalf the fee is paid.

Rule A-15. Notification to Board of Change of Status.

(a) No change.

\*Italics indicate additions; [brackets] indicate deletions.

(b) Obligation to Pay Fees. A person that files notification with the Board pursuant to paragraph (a) of this rule shall be obligated to pay the fees owed to the Board at the time of filing of such notification [assessed pursuant to Board rule A-12 or Board rules A-13 and A-14 for the calendar year during which such notification is filed, provided that any person that files such notice with the Board during the calendar year 1977 and does not act as a municipal securities broker or municipal securities dealer during such year shall not be subject to the fees prescribed in paragraph (a) of Board rule A-14 for such year].

### Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes is as follows:

#### Purpose of Proposed Rule Changes

Rule A-14 currently levies a fee of \$100 on municipal securities brokers and municipal securities dealers for each calendar year, payable to the Board by February 15 of the succeeding year. The Board has decided to amend rule A-14 to provide that the annual fee shall be paid for each fiscal year of the Board, rather than on a calendar year basis.

The Board adopted this amendment to address recently expressed concerns of its independent public auditors regarding the operation of rule A-14. According to the Board's auditors, the rule, prior to amendment, would have required that under accrual accounting principles the annual fee income be shown as earned in two separate fiscal years. The auditors also indicated that a reserve account would have had to have been established in each fiscal year for uncollectible fees. These accounting measures would have greatly complicated the Board's fiscal statements and internal accounting procedures. The proposed rule changes eliminate these problems.

The proposed rule changes will have no material effect on municipal securities brokers or municipal securities dealers. Every municipal securities broker and municipal securities dealer will continue to be required to pay \$100 by February 15 of each year; municipal securities brokers and municipal securities dealers will not be required to make an extra payment by this change.

The change will also not have any material effect on the amount of fees collected by the Board, since the change merely represents a shifting of the period for which the fee is collected.

Rule A-15 prior to being amended required a municipal securities broker or

municipal securities dealer who ceased operations and notified the Board of this change in status to pay all fees due "for the calendar year during which such notification is filed." The proposed rule changes modify rule A-15 in order to reflect the change made in rule A-14.

### Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(J) of the Act, which authorizes and directs the Board to propose and adopt rules to . . . provide that each municipal securities broker and each municipal securities dealer shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. . . .

### Comments Received From Members, Participants or Others on Proposed Rule Changes

The Board neither solicited nor received comments on the proposed rule changes.

### Burden on Competition

The Board believes that the proposed rule changes will not impose any burden on competition, inasmuch as they apply equally to all municipal securities brokers and municipal securities dealers and have no practical effect on their operations.

The foregoing proposed rule changes have become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number



referenced in the caption above and should be submitted by Dec. 31, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

December 3, 1979.

[FR Doc. 79-38045 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

**Pacific Stock Exchange, Inc.;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing**

December 5, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following common stocks: AMP Incorporated, No Par Value (File No. 7-5111); Cluett, Peabody & Co., Inc., \$1.08 1/2 Par Value (File No. 7-5112); Squibb Corporation, \$1.00 Par Value (File No. 7-5114); Wang Laboratories, Inc., Class B common stock, \$.50 Par Value, and common stock \$.50 Par Value (File No. 7-5115); Household Finance Corporation, \$1.00 Par Value (File No. 7-5113); G.D. Searle & Co., \$.33 1/2 Par Value (File No. 7-5116); and Delmarva Power & Light Co., \$.37 1/2 Par Value (File No. 7-5117). These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before January 4, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38052 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

**Philadelphia Stock Exchange, Inc.;  
Applications for Unlisted Trading  
Privileges and of Opportunity for  
Hearing**

December 5, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following common stocks: Trans World Corporation, \$.50 Par Value (File No. 7-5130); Fluor Corporation (Delaware), \$.825 Par Value (File No. 7-5129), and Purex Industries, Inc., \$1.00 Par Value (File No. 7-5126). In addition, the above named national securities exchange has filed applications for unlisted trading privileges in Chrysler Corporation, \$.275 Cum. Prf. Stock, No Par Value (File No. 7-5127) and Chrysler Corporation, Warrants (expiring 6/15/85) (File No. 7-5128). These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before January 4, 1980, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38048 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

|                                       | 1979 <sup>1</sup> | 1980          | 1981          | Total         |
|---------------------------------------|-------------------|---------------|---------------|---------------|
| Generation.....                       | \$84,573,000      | \$105,229,000 | \$122,950,000 | \$312,752,000 |
| Transmission.....                     | 26,723,000        | 29,057,000    | 31,120,000    | 86,900,000    |
| Distribution.....                     | 24,406,000        | 24,102,000    | 26,158,000    | 74,666,000    |
| Fuel exploration and development..... | 13,798,000        | 14,819,000    | 19,493,000    | 48,110,000    |
| Total.....                            | 149,499,000       | 173,207,000   | 199,721,000   | 522,427,000   |

<sup>1</sup> Approximately \$71,766,000 of this 1979 estimated total had been expended as of July 31, 1979.

It is stated that SWEPCO will need to sell additional securities during the period 1979-81 to finance further portions of this program. The amount, types and timing of such additional

[Release No. 21324; 70-6357]

**Southwestern Electric Power Co.;  
Proposal To Issue First Mortgage  
Bonds at Competitive Bidding**

November 30, 1979.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

SWEPCO proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 up to \$60,000,000 principal amount of its First Mortgage Bonds, Series P, %, to be dated December 1, 1979 ("Bonds"), and to mature December 1, 2009.

The proceeds to be derived by SWEPCO from the sale of the Bonds (exclusive of accrued interest and after deducting expenses of issue) will be used by SWEPCO to repay in full short-term borrowings which were incurred for its obligations including projects under construction. Approximately \$60,000,000 of short-term borrowings are expected to be outstanding as of December 18, 1979, the planned date of issuance of the Bonds. Estimated construction and fuel exploration and development expenditures of SWEPCO (exclusive of allowance for funds used during construction) for 1979 through 1981 are as follows:

security sales are not presently determinable.

The annual interest rate and the redemption prices of the Bonds, and the price to be paid to SWEPCO therefore

(which will not be less than 99% nor more than 102.75%) will be determined through competitive bidding. The Bonds will be nonrefundable until December 1, 1984 in anticipation of or through the use of funds borrowed by SWEPCO at a lower interest cost than that of the Bonds. The Bonds will be subject to a 1% sinking fund beginning in 1980. The Bonds will be issued under and secured by the Company's Indenture, dated February 1, 1940, under which Continental Illinois National Banking and Trust Company of Chicago and M. J. Kruger are Trustees, as amended by the indentures supplemental thereto heretofore executed ("Indenture"), and to be further amended by a proposed supplemental indenture to be dated December 1, 1979 ("Supplemental Indenture"). The Supplemental Indenture will set forth the terms, provisions and characteristics of the Bonds, will extend various covenants and conditions in the Indenture in connection with the issuance of the Bonds and will confirm the lien of the Indenture on certain "after-acquired property" constructed or otherwise acquired by SWEPCO on or subsequent to August 1, 1978 (the date of SWEPCO's last previous supplemental indenture extending the lien of the Indenture).

Bonds in the principal amount of \$55,500,000 will be authenticated under the Indenture against \$92,500,000 of available unused net expenditures for SWEPCO's bondable property and the remainder against \$4,500,000 of previously retired bonds. Unused net expenditures will aggregate approximately \$220,000,000 at the issuance of the Bonds.

The fees, commissions and expenses to be incurred by SWEPCO in connection with the proposed transaction are estimated at \$105,000, including legal fees of \$21,450 and accounting fees of \$8,000. The proposed transaction is subject to the jurisdiction of the Arkansas Public Service Commission and the Corporation Commission of Oklahoma. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 26, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which Stock Exchange, Inc. ("NYSE") on October 25, 1979 and concurrently, such stock was suspended from trading on

he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38056 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

[File No. 1-7399]

**TeleCom Corp., Common Stock, Par  
Value \$1; Application To Withdraw  
From Listing and Registration**

December 5, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. TeleCom Corporation's (the "Company's") common stock was listed and registered for trading on the Amex on March 28, 1974.
2. Trading in the Company's common stock commenced on the New York the Amex pursuant to Rule 12d2-1 of the Act.
3. The Company has determined that

the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings on both the Amex and NYSE.

This application relates solely to withdrawal of the applicant's common stock from listing and registration on the Amex and will have no effect upon the continued listing of that stock on the NYSE. The Amex has posed no objections in this matter.

Any interested person may, on or before December 21, 1979 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 79-38048 Filed 12-11-79; 8:45 am]  
BILLING CODE 8010-01-M

**DEPARTMENT OF STATE**

**Office of the Secretary**

(Public Notice 697)

**Certain Nonimmigrant Visas; Validity**

Public Notice 634 of October 19, 1978 authorized consular officers to issue, in their discretion, non-immigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. Argentina appeared on this list. The United States Government and the Government of Argentina on August 14, 1979 agreed to a revised reciprocity schedule whereby otherwise eligible nationals of Argentina may be issued non-immigrant visas valid for 48 months. Argentina is therefore being deleted from the list of countries contained in Public Notice 634.

This notice amends Public Notice 634 of October 19, 1978. (43 FR 48751).



Dated: October 29, 1979.  
Hume Horan,  
*Acting Assistant Secretary for Consular Affairs.*  
[FR Doc. 79-38093 Filed 12-11-79; 8:45 am]  
BILLING CODE 4710-06-M

## DEPARTMENT OF THE TREASURY

(No. 145-13)

### Delegation of Authority to the Commissioner, BGFO, To Make Determinations of Pro Rata Distributions of War Claims Funds to Awardees

Dated: November 13, 1979.

Pursuant to the authority vested in the Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and the authority delegated to the Fiscal Assistant Secretary under Treasury Order No. 101-5, there is hereby delegated to the *Commissioner, Bureau of Government Financial Operations*, the authority of the Secretary of the Treasury under section 213 of the War Claims Act of 1948, as amended (50 U.S.C. App. 20171) and section 7 of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1626), to determine the pro rata distributions of awards under the above Acts certified to the Secretary of the Treasury by the Foreign Claims Settlement Commission.

Paul H. Taylor,  
*Fiscal Assistant Secretary.*  
[FR Doc. 79-38106 Filed 12-11-79; 8:45 am]  
BILLING CODE 4810-25-M

### INTERSTATE COMMERCE COMMISSION

#### Fourth Section Application for Relief

December 6, 1979.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 27, 1979. FSA No. 43776, Southwestern Freight Bureau, Agent's No. B-39, rates on ethylene oxide in tank carloads, from Bayport, TX, to East St. Louis, IL and St. Louis, MO, in Sup. 40 to its Tariff ICC SWFB 4616, to become effective January 1, 1980. Grounds for relief—Market competition.

By the Commission,  
Agatha L. Mergenovich,  
*Secretary.*  
[FR Doc. 79-38090 Filed 12-11-79; 8:45 am]  
BILLING CODE 7035-01-M

### Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *Federal Register* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *Federal Register*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in the ICC Field Office to which protests are to be transmitted.

Note:—All applications seeks authority to operate as a common carrier over irregular routes except as otherwise noted.

#### Motor Carriers of Property Notice No. 205

MC 26396 (Sub-301TA), filed October 22, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Agricultural equipment and supplies* from the facilities of Westguard Industries, Inc. at Cheyenne, WY to points in ID, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westguard Industries, Inc., P.O. Box 2696, Cheyenne, WY 82001. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-302TA), filed September 26, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Sulphur, in bulk and in bags*, from Billings, MT to points in IL, IA, MN, NE, SD and WY, for 180 days. Supporting shipper(s): Montana Sulphur and Chemical Co., P.O. Box 31118, Billings, MT 59107. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 29886 (Sub-370TA), filed October 9, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Ave., Kenosha, WI 53142. Representative: Carl G. Van Dyke (same address as applicant). *Electrostatic precipitator parts* from Riverview, MI to Muhlenberg County, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. A. Jones Construction Co., P.O. Box 31066, Charlotte, NC 28231. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 41116 (Sub-303TA), filed October 15, 1979. Applicant: FORGEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a *contract carrier* over irregular routes transporting paper and paper products from the plantsite of St. Regis Paper Co. at or near Ferguson, MS to Quincy, IL, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): St. Regis Paper Company, 150 East 42 Street, New York, NY 10017. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 46406 (Sub-3TA), filed October 9, 1979. Applicant: JOHNSON TRUCK SERVICE, INC., 537 S. Watertown St., Waupun, WI 53963. Representative: Rolfe E. Hanson, 121 W. Doty St., Madison, WI 53703. *General commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading*. Between Beaver Dam, WI & Milwaukee, WI, serving no intermediate points; 151 between Beaver Dam and 26; 26 between Waupun and 60; and between Waupun and junction with 151 south of Waupun; 60 between 26 and 175; 175 between 60 and Milwaukee, interlining with other carriers at Milwaukee, WI,

for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are four supporting shippers. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-769TA), filed October 17, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). *Printed matter* from the facilities of Cuneo Press, Inc. at or near Milwaukee, WI to points in AL, FL, GA, LA, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Cuneo Press, Inc., 5400 W. Good Hope Rd., Milwaukee, WI 53223. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-771TA), filed October 24, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil Dujardin (same address as applicant). *Paper and paper products except commodities in bulk*, from Cleveland, OH to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Regis Paper Co. 150 E. 42nd St., New York, NY 10017. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-773TA), filed October 25, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil Dujardin, (same address as applicant). *Gas or electrical appliances and parts, and equipment, materials, and supplies used in the distribution or repair of appliances* from facilities of Whirlpool Corp. at Evansville, IN to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Whirlpool Corp., 2000 US 33, N. Benton Harbor, MI 49022. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-774TA), filed October 26, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil Dujardin, (same address as applicant). *Tires, wheels, machine parts (iron or steel), and lawn, garden, and recreation equipment and parts* from points in IN to points in WI, IL, MN, IA, KY, TN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Indus Wheel Co., 1815 Madison Ave., Indianapolis, IN 46206. Send protests to: Gail Daugherty,

TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 60186 (Sub-64TA), filed October 19, 1979. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, Rockville, CT 06066. Representative: Clifford J. O. Nelson, (same address as applicant). *Common carrier: irregular routes: wood pulp*, between Gilman, Vermont, on the one hand, and, on the other, Lincoln, New Hampshire, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Perkins-Goodwin Company, Inc., 1 Rockefeller Plaza, New York, NY 10020. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 95876 (Sub-320TA), filed October 22, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Knocked down steel buildings and parts therefor* from the facilities of National Steel Products Company at Terre Haute, IN to points in AR, CT, DE, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI, and from the facilities of National Steel Products Company at Houston, TX to points in IN, OH, NY, PA and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Steel Products Company, P.O. Box 40490, Houston, TX 77040. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 100666 (Sub-498TA), filed October 15, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger, (same address as applicant). (1) Such commodities as are dealt in or used by manufacturers and dealers of agricultural dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products, (except commodities in bulk) and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities described in part (1) above, (except commodities in bulk) (a) between the facilities of International Harvester Co. in Canton and East Moline, IL; Louisville, KY; and Memphis, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, NM and VA, restricted to traffic originating at or destined to the facilities of International Harvester Co., in the above named cities, and (b) between points in AL, AR, FL, GA, LA,

MS, NC, OK, SC, TN, TX, NM, and VA, restricted to traffic originating at or destined to the facilities of International Harvester Co., for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): International Harvester Company, 401 N. Michigan, Chicago, IL 60611. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102616 (Sub-1015TA), filed September 7, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister, (same as applicant). *Petroleum lubricating oil, in bulk, in tank vehicles* from Olive Branch, MS and Port Huron, MI to Chicago, IL, Elk Grove Village, IL, Houston, TX, and McKees Rocks, PA for 180 days. Supporting shippers(s): Acheson Colloids Co., A Div., of Acheson Industries, Inc., 1635 Washington, Port Huron, MI 48060. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Phila., Pa 19106.

MC 104896 (Sub-61TA), filed October 4, 1979. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Ralph C. Wilgus, (same as applicant). *Such commodities as are dealt in by chain retail variety stores and materials, equipment and supplies used in the conduct of such business*, between the facilities of C. C. Murphy Co. at McKeesport, PA, and points in IL, IN, KY, MI, MN, OH (except points in the Counties of Belmont, Coshocton, Cuyahoga, Lorain, Portage and Trumbull) and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. C. Murphy Company, 531 Fifth Ave., McKeesport, PA 15132. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 107496 (Sub-1251TA), filed September 20, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, (same address as applicant). *Propane, isobutane, normal-butane, and mixtures thereof, in bulk, in tank vehicles*, from Frankfort and Joliet, IL; Blackwell, OK; Sparta, NJ; and Memphis, TN, to points in IN, GA, KS, KY, MI, MN, MO, OH, TN, WI, IL, MA, MD, PA, RI, CT, VA, NY, and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diversified Chemicals and Propellants Co., 700 Enterprise Dr., Oak Brook, IL 60521. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.



MC 107496 (Sub-1252TA), filed September 21, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, (same address as applicant). *Paint and paint products, in bulk, in tank vehicles*, from East Moline, IL, to points in CO and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Valspar Corporation, 1101 Third St., South, Minneapolis, MN 55415. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1253TA), filed September 24, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, (same address as applicant). *Phosphoric acid and sodium phosphates, in bulk, in tank vehicles*, from the facilities of FMC, Lawrence, KS, to points in AL, FL, GA, IA, MS, and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): FMC Corporation, 2000 Market St., Philadelphia, PA 19103. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1254TA), filed October 2, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Spent muriatic acid, in bulk, in tank vehicles*, from Burns Harbor, IN, to the facilities of Pfizer, Inc., at East St. Louis, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pfizer, Inc., 235 E. 42nd St., New York, NY 10017. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1255TA), filed October 10, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Poly-vinyl adhesives, in bulk, in tank vehicles*, from Oak Creek, WI, to points in IL, WI, MI, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Cooper Corporation, 9006 South 5th Ave., Oak Creek, WI 53154. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1256TA), filed October 10, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same address as applicant). *Chemicals, in bulk, in tank vehicles*, from Casper, WY, to points in AZ, CA, NV, NM, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting

shipper(s): Nalco Chemical Company, 2901 Butterfield Rd., Oak Brook, IL 60521. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107576 (Sub-27TA), filed October 12, 1979. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 S. E. Water Avenue, Portland, OR 97214. Representative: Ben D. Browning or Ronald D. Browning, 1321 S. E. Water Avenue, Portland, OR 97214. Common, regular—as attached for 180 days. A corresponding ETA has been filed and a Permanent will be filed within 30 days. Supporting shipper(s): As attached. Send protests to: A. E. Odoms, D/S, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 110656 (Sub-15TA), filed October 16, 1979. Applicant: PARKER MOTOR FREIGHT, INC., 1505 Steele Avenue, SW., Grand Rapids, MI 49507. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. *General Commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment): (1) between Traverse City, MI, and the terminus of MI Hwy 37 on Old Mission Peninsula from Traverse City, MI, over MI Hwy 37 to its terminus on Old Mission Peninsula and return over the same route (2) between Traverse City, MI, and Northport, MI, from Traverse City over MI Hwy 22 to Northport, MI and return over the same route, (3) between Northport, MI, and the terminus of County Road 629 at or near the Lake Michigan Shoreline, from Northport, MI, over MI Hwy 201 to junction with County Road 640, then over County Road 640 to junction with County Road 629, then over County Road 629 to its terminus at or near the shoreline of Lake Michigan, and return over the same route, (4) between Traverse City, MI and Northport, MI from Traverse City, MI over MI Hwy 72 to junction with County Road 651, then over County Road 651 to junction with MI Hwy 22, then over MI Hwy 22 to Northport, MI and return over the same route, (5) between Northport, MI and Cathed Point, MI from Northport over MI Hwy 201 to Cathed Point, MI and return over the same route, (6) between junction of MI Hwy 22 and County Road 651 and the terminus of Sugar Loaf Mountain Road, from the junction of MI Hwy 22 and County Road 651 over MI Hwy 22 to junction with Sugar Loaf Mountain Road, then over Sugar Loaf Mountain Road to its terminus, and return over the same route, (7) between Traverse City, MI and Grawn, MI (a)

from Traverse City, MI over US Hwy 31 to Grawn, and return over same route; and (b) from Traverse City, MI over County Road 633 to Grawn, MI and return over same route, (8) Service is authorized to all intermediate points along the above-described routes as well as all off-route points within three miles of the described routes and all off-route points in the Leelanau Peninsula north of MI Hwy 72 and east of County Road 651. Applicant intends to tack and interline with other carriers, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Associated Truck Lines Inc., 200 Monroe Avenue, NW, 6th Floor, Grand Rapids, MI, 49503; Holland Motor Express, Inc., 750 E. 40th Street, Holland, MI 49423; Bender & Loudon Motor Freight, Inc., 3024 Brecksville Rd., Richfield, OH 44286 and Blue Arrow, Inc., 525 Burton SW., Grand Rapids, MI 49507. Send protests to: C. R. Flemming, D/S, I.C.C., 201, Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 112696 (Sub-65TA), filed September 10, 1979. Applicant: HARTMANS, INC., P.O. Box 898, Harrisonburg, VA 22801. Representative: Lawrence E. Lindeman, 425-13th St., NW., Suite 1032, Washington, DC 20004. *Foodstuffs* from the facilities of Farmland Foods, Inc., at or near Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA; and Crete, Lincoln and Omaha, NE, to points in CT, IL, IN, MA, ME, MI, NH, NJ, NY, OH, PA, RI, VT and WI for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-55TA), filed October 3, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Wooden furniture*. From the facilities of Neptune International Corporation in Dorchester, MA to points in the US east of the western boundaries of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neptune International Corporation, 240 Mt. Vernon Street, Dorchester, MA 02125. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 117876 (Sub-18TA), filed October 29, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Wax impregnated fireplace logs, boxed cord wood, charcoal briquets and lighting fluid (except in bulk), from the facilities owned or utilized by Sebring Forest Industries, Inc., at Alliance, Canton and Sebring, OH to points in the United States east of the western boundaries of NY, PA, WV, KY, TN and GA (except FL) for 180 days. An underlying ETA

6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address). *Wooden Cabinets NOI and cabinet parts*, (A) from Denver, CO to points in IL, NC and in and west of MN, IA, MO, AR and LA (except CO, AK and HI); (B) from Phoenix, AZ to points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mastercraft, Inc., 6750 E. 39th Avenue, Denver, CO 80217. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-554TA), filed August 29, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address). *Meats, Meat Products, and Meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk)*, from the facilities of Farmland Foods, Inc. at or near Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA; and Crete, Lincoln and Omaha, NE, to points in CT, IL, IN, MA, ME, MI, NH, NJ, NY, OH, PA, RI, VT and WI for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-555TA), filed October 3, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Dairy products*, from Green Bay, WI and its commercial zone to Denver and Grand Junction, CO and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Topco Associates, Inc., 7711 Gross Point Road, Skokie, IL 60077. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-556TA), filed October 18, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs, and materials, equipment and supplies used by a manufacturer of foodstuffs*, from Los Angeles, CA and points in the commercial zone to points in OK, CA and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Serv-A-Portion, Inc., 9140 Lurline, Chatsworth, CA 91311. Send protests to: H. Ruoff, 492 Customs House, Denver, CO 80202.

MC 115826 (Sub-557TA), filed October 24, 1979. Applicant: W. J. DIGBY, INC.,

6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *General commodities (except commodities in bulk)*, Between Houston, TX; Pasadena, TX; Kansas City, KS; Seneca, Spartansburg and Startex, SC, on the one hand, and, on the other, all points in the U.S. (except AL and AK), restricted to transportation originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corporation, Phillips Chemical Company, and Phillips Products Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 116077 (Sub-427TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: Franc C. Redfield (same as applicant). *Silicate of soda, in bulk, in tank vehicles*, from points in Harris County (Houston, TX) to points in the states of AR, AL, FL, GA, IL, MO, NJ, OH, TN, CT, NC, SC, MS, OK, and NM, for 180 days. Supporting shipper(s): Diamond Shamrock Corporation, P.O. Box 500, Deer Park, TX 77536. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 117676 (Sub-17TA), filed October 26, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Wooden furniture*. From the facilities of Neptune International Corporation in Dorchester, MA to points in the US east of the western boundaries of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neptune International Corporation, 240 Mt. Vernon Street, Dorchester, MA 02125. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 117876 (Sub-18TA), filed October 29, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Wax impregnated fireplace logs, boxed cord wood, charcoal briquets and lighting fluid (except in bulk), from the facilities owned or utilized by Sebring Forest Industries, Inc., at Alliance, Canton and Sebring, OH to points in the United States east of the western boundaries of NY, PA, WV, KY, TN and GA (except FL) for 180 days. An underlying ETA

seeks 90 days authority. Supporting shipper(s): Sebring Forest Industries, Inc., 1155 Allied Drive, Sebring, OH 44672. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark NJ 07102.

MC 123476 (Sub-48TA), filed October 25, 1979. Applicant: CURTIS TRANSPORT, INC., No. 23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit (address same as above). *Empty plastic bottles, plastic bottle cups, and accessories* (except in bulk in tank vehicles), from Bedford Park, IL to points in MO with return of refused or rejected materials from MO to Bedford Park, IL, for 180 days. Supporting shipper(s): St. Louis Dr. Pepper Bottling, Inc., 4433 Fyler, St. Louis, MO 63116. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 123987 (Sub-30TA), filed September 26, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). (1) *Plastic pipe, aluminum pipe, fittings and accessories*, (2) *irrigation systems and parts for irrigation systems* and (3) *accessories, equipment, materials and supplies used in the manufacture and distribution of the commodities described in (1) and (2) above*, (1) from Peerless Plastics, Inc., at Garden City, KS and from Kroy Metal Products Company at York, NE, to points in AR, AZ, AL, CA, CO, GA, KS, LA, MO, MS, MT, ND, NE, NM, NV, OK, SD, TX, UT, WY; (2) *and materials and supplies used in the manufacture of plastic pipe, aluminum pipe and irrigation systems* from points in States listed in (1) above to Garden City, KS and York, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kroy Metal Products Company, P.O. Box 309, York, NE 68467; Peerless Plastics, Inc., 1600 West Mary, Garden City, KS 67846. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123987 (Sub-31TA), filed September 27, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). *Asphalt and roofing materials*, from the facilities of Roofers Service Supply, Inc., at Wichita, KS, to points in CO, NM, OK, TN, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roofers Service Supply, Inc., 2909 N. Emporia, Wichita, KS 67219. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.



MC 124236 (Sub-99TA), filed October 19, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Joe A. Morgan (address same as above). *Aviation gasolines, and jet fuels* from Dallas and Fort Worth, TX to Texarkana, AR and Abbeville, LA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Campbell Centre, Suite 522, Dallas, TX 75208. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC 124236 (Sub-101TA), filed October 19, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Joe A. Morgan (address same as above). *Asphaltic products, liquid, in tank trucks, in bulk*, from Port Neches, TX to all points in LA, and return of rejected shipments for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Dixie Materials, Inc., P.O. Box 5447, Beaumont, TX 77702. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor Street, 9A27 Federal Building, Fort Worth, TX 76102.

MC 126346 (Sub-30TA), filed October 18, 1979. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representatives: Elaine M. Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Contract carrier; irregular routes: *Such commodities as are dealt in or utilized by manufacturers of ignition products*, between points in the United States. Restricted to traffic moving under continuing contract(s) with R. E. Phelon Company, Inc., for 180 days. Supporting shipper(s): R. E. Phelon Co., Inc., East Longmeadow, MA 01028. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 134286 (Sub-130TA), filed October 5, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Printed matter* from points in MA; Brattleboro, VT; New York, NY; Scranton, PA; Binghamton, NY; Dallas, PA; Baltimore, MD; Philadelphia, PA; and Kingsport, TN to Troy, MO; Scranton, PA; and Binghamton, NY and all points in the commercial zone of each city named above for 180 days. Restricted to traffic originating at or destined to the facilities of Harper & Row Publishers, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harper & Row Publishers, Inc., Michael F. Dantone, General Traffic Manager, Keystone

Industrial Park, Scranton, PA 18512. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134286 (Sub-131TA), filed October 17, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *General commodities (except in bulk)* between Houston, TX; Pasadena, TX; Kansas City, KS; Seneca, SC; Spartanburg, SC; and Startex, SC, on the one hand, and, on the other, all points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. RESTRICTED to transportation originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corporation, Phillips Chemical Company, and Phillips Products Company, Inc. Supporting shipper(s): Phillips Petroleum Company, J. M. Roberts, Director, Chemical Products Distribution, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 136246 (Sub-38TA), filed October 15, 1979. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Westergren & Hauptman, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Grease and tallow, in bulk* from the facilities of Hastings Hide Inc. at Hastings, NE to Kansas City, MO; Sioux City, IA; and Springfield, MO and points in their commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hastings Hide, Inc., William M. Shelley, President, Industrial Park Bldg. 68, P.O. 2008, Hastings, NE 68901. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 136786 (Sub-179TA), filed October 3, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Foodstuffs and material, equipment, and supplies used in the manufacture, distribution, and sale of foodstuffs (except commodities in bulk)* from Kenosha, WI, to points in AL, AR, CO, FL, CA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscean Spray Cranberries, Inc., 7800 South 60th Ave., Kenosha, WI 53140. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-180TA), filed October 5, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk)*, from the facilities of United States Cold Storage, a Division of American Consumer Industries, Inc., at or near Chicago, IL, to Somerset, KY, and Appalachia, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Cold Storage, 8424 W. 47th St., Lyons (Chicago), IL 60534. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-181TA), filed October 9, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Frozen food and coffee (except commodities in bulk), moving in vehicles equipped with mechanical refrigeration*, from Minneapolis, MN, to points in WA and OR, for 180 days. Restricted to shipments involving substitution of trailer on flatcar service for over-the-road motor carrier service for a portion of the through movement. Supporting shipper(s): Stewart Sandwiches and Pizza, 16101 West 78th St., Eden Prairie, MN 55344. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136787 (Sub-182TA), filed October 15, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., Suite 411, 7400 Metro Blvd., Edina, MN 55435. *Paint and paint products (1)* from Dover, DE, to Oak Creek, WI; Houston, TX; Torrence, CA; and Atlanta, GA; (2) from Oak Creek, WI, to Dover, DE, and points in CA; and (3) from Delaware, OH, to Davenport, IA; Minneapolis, MN; Denver, CO; Salt Lake City, UT; Portland, OR, and points in CA, for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138026 (Sub-29TA), filed September 28, 1979. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, Etiwanda and Slover Avenues, Fontana, California 92335. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Helium*, between Liberal, Kansas on the one hand, and on the other, El

Segundo, California, Mountain View, CA and Creighton, PA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Air Products and Chemicals, Inc., Region Distribution Manager, 2021 E. Rosecrans Ave., El Segundo, CA 90245. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138026 (Sub-30TA), filed October 15, 1979. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, Etiwanda and Slover Avenues, Fontana, California 92335. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Methyl chloride*, from Baton Rouge, Louisiana to points in the Los Angeles County, California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Union Carbide Corporation, Area Manager, Rates and Services, One California Street, Rm. 1808, San Francisco, CA 94111. Send protests to: ICC, Irene Carlos, TA, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138076 (Sub-20TA), filed September 26, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Iron and steel articles (except "Mercer" commodities as defined in 74 M.C.C. 459, 543, or earth drilling commodities)* from the commercial zone of Tulsa, OK, Port of Catoosa and the commercial zone of Muskogee, OK and the facilities of Nucor Steel at or near Norfolk, NE to points in Riley County, KS; supporting shipper: Steel and Pipe Supply Co., Inc. P.O. Box 703, Manhattan, KS; for 180 days. common, irregular; send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139906 (Sub-77TA), filed September 26, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NB 68501. *Bakery products*, from the facilities of Nabisco, Inc., at or near Buena Park, CA, to Chicago, IL and Elk Grove Village, IL and Columbus, OH and points in their respective commercial zones, and (2) from the facilities of Nabisco, Inc., at or near Portland, OR to Chicago and Elk Grove Village, IL; Philadelphia, PA; Minneapolis, MN; and Colorado Springs and Denver, CO and points in their respective commercial zones, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140016 (Sub-7TA), filed October 11, 1979. Applicant: TRANSPORTATION SERVICES, INC., 1320 E. Glendale Avenue, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Ground clay, crude or other than crude, except in bulk* from the facilities of Oil-Dri West at or near Christmas Valley, OR to points in WA, OR, CA, NV, ID, MO, WY, CO and UT, for 180 days. Supporting shipper(s): Oil-Dri Corporation, 520 N. Michigan, Chicago, IL, 60611. Send protests to: W. J. Huetig, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 140186 (Sub-40TA), filed October 17, 1979. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: Joel E. Guthals, Attorney at Law, P.O. Box 21115, Billings, MT 59104. *Roofing and siding, iron or steel; roofing and siding materials*; from Gardena, CA to points in ID, MT, ND, SD and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): George D. Widman, Inc., P.O. Box 429, Gardena, CA 90247. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 140188 (Sub-41TA), filed October 17, 1979. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: Joel E. Guthals, P.O. Box 21115, Billings, MT 59104. *Channel, iron or steel*, from Milwaukee, WI to Calexico and Chino, CA; Portland, OR; Blaine and Seattle, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kenworth Truck Company, 8801 E. Marginal Way S., Seattle, WA 98108. Freightliner Corporation, P.O. Box 3849, Portland, OR 97208 A. O. Smith Corporation, P.O. Box 584, Milwaukee, WI 53201. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 140366 (Sub-2TA), filed September 27, 1979. Applicant: CREASY TRUCKING, INC., P.O. Box 447, Highway 231, Westmoreland, TN 37186. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Meat and meat by-products* from the facilities of Packerland Packing Company, Inc. at Green Bay, Eau Claire, Chippewa Falls, WI to points in AL, TN, SC, GA, & FL,

for 180 days. Supporting shipper(s): Packerland Packing Co., Inc., P.O. Box 1184, Green Bay, WI 54305. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 140366 (Sub-3TA), filed September 27, 1979. Applicant: CREASY TRUCKING, INC., P.O. Box 447, Highway 231, Westmoreland, TN 37186. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Printed matter and materials, supplies and equipment used in the maintenance and operation of printing plants (except commodities in bulk, in tank vehicles)*, between the plantsite of R. R. Donnelley & Sons company located at or near Gallatin, TN; Glasgow, KY; Warsaw and Crawfordsville, IN; Dwight, Matton & Chicago, IL; Willard, OH; Harrisonburg, VA; Spartanburg, SC and Lancaster, PA; on the one hand, and, on the other, points in AL, AR, FL, CA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NE, NC, SC, TN, TX and WI, for 180 days. Supporting shipper(s): R. R. Donnelley & Sons Company, 2223 King Drive, Chicago, IL 60616. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142688 (Sub-27TA), filed September 25, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, California 90670. Representative: Joseph Fazio, (same address as above). *Contract; irregular; refrigeration equipment; materials and supplies used in the manufacture thereof*, from Waynesboro, PA, to points West of the Mississippi, for 180 days. Supporting shipper(s): Frick Co., Mgr. Distribution and Traffic, 345 W. Main, Waynesboro, PA 17268. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 142688 (Sub-28TA), filed October 23, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, California 90670. Representative: Joseph Fazio, (same address as above). *Contract; irregular; lubricants and other petroleum products, except in bulk, in tank vehicles*, from the facilities of Fiske Brothers Refining Company at Toledo, OH to Phoenix, AZ; Los Angeles and San Francisco, CA; Denver, CO; Boise, ID; Butte, MT; Reno, NV; Albuquerque, NM; Portland, OR; Medford, OR; Salt Lake City, UT; Seattle and Spokane, WA; and Cheyenne, WY, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Fiske Brothers Refining Company, Toledo, OH. Send protests to:



Irene Carlos, T.A. ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 143236 (Sub-41TA), filed October 11, 1979. Applicant: WHITE TIGER TRANSPORTATION CO., INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Set up office furniture in cartons and materials and equipment used in the manufacture of office furniture between the facilities of Designcraft at or near Carlstadt, NJ and Chicago, IL, St. Louis, MO, Hingham, MA, Auburn, WA, Baltimore, MD, Atlanta, GA, Duluth, GA, Stockton, CA, Elkins, WV, Denver, CO, Ft. Worth, TX, Kansas City, KS and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Designcraft, 111 Kero Road, Carlstadt, NJ. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 143236 (Sub-42TA), filed October 19, 1979. Applicant: WHITE TIGER TRANSPORTATION CO., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. Mirror tiles in boxes, glass in crates and vegetable fibre brushes, materials and supplies used in the manufacture of brushes and mirror tile between the facilities of All American Brush and New Age Mirror located at or near Newark, NJ and points in the states of AR, FL, MO, MD, CA, IL, MA, VT, PA, VA, MI, MN, TX, NY and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): All American Brush/New Age Mirror, 37 Empire Street, Newark, NJ. Send protests to: Robert E. Johnston, District Supervisor, INTERSTATE COMMERCE COMMISSION, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 143607 (Sub-17TA), filed October 15, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Route 6, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Contract, irregular, packaged products from the facilities of Hi-Port Industries at or near Highlands, TX to points in NM, AZ, CO, KS, MO, AR, LA, OK, NC, WA, MS, KY, TN, AL, GA, FL, SC, DC, CA, IL, IN, OH, WY, IA, CT and NJ. Supporting shipper(s): Hi-Port Industries, P.O. Box 755, Highlands, TX 77562. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 143857 (Sub-1TA), filed June 7, 1979. Applicant: VAN DE HOGEN CARTAGE LIMITED, 2590 Dougall Avenue, Winsor, Ontario, Canada N8Z 1T7. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Lumber and waferboard, from Ports of Entry on the international boundary line between the United States and Canada, located in MI and NY, to points in the states of CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Erb Lumber Co., 375 South Eton Road, Birmingham, MI 48012; Furman Lumber, Inc. 108 Massachusetts Ave., Boston, MA 02115; Maxey-bosshardt Lumber Company, Inc., P.O. Box 968, Duluth, GA 30136; Falcon Lumber Limited, 522 Mount Pleasant Road, Toronto, Ontario, Canada M4S 2M3; Wickes Lumber, 315 North Washington Avenue, Saginaw, MI 48606. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 144117 (Sub-48TA), filed October 25, 1979. Applicant: TLC LINES INC., P.O. Box 1090, Fenton, MO 63028. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Such commodities as are dealt in by manufactures of fasteners, staples, and pneumatic tools (except commodities in bulk), from the facilities of Senco Products, Inc., at or near Cincinnati, OH to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Senco Products, Inc., 6485 Broadwell Rd., Cincinnati, OH 45244. Send protests to: Peter E. Binder, D/S, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144227 (Sub-5TA), filed October 15, 1979. Applicant: CARMIL, INC., Box 225, Hershey, NE 68143. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanss, 521 S. 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. Meat by-products, offal and meat and bone meal, in bulk in grain or hopper trailers from Denver and Greeley, CO and points in their commercial zones to points in NE, SD, KS, IA, MN, MO and ND for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 7900 Xerxes Avenue, South, Suite 700, Bloomington, MN 55431 (E.W. Ritchie, Merchandiser). Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144407 (Sub-16TA), filed October 19, 1979. Applicant: DECKER TRANSPORT COMPANY,

INCORPORATED, 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Dialysis supplies and equipment between Delran, NJ on the one hand, and, on the other, points in the US (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Erika Inc., 1 Erika Plaza, Rockleigh, NJ 07647. Send protests to: Joel Morrums, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144667 (Sub-12TA), filed September 20, 1979. Applicant: ARTHUR E. SMITH SON & TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 68361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Meat, meat products, meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk) from the facilities of Geo. A. Hormel & Co. at Scottsbluff, NE to all points in and east of ND, SD, NE, CO, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., Edward C. Hunkele, Supervisor-Motor Carrier Services, P.O. Box 800, Austin, MN 55912. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144827 (Sub-37TA), filed October 17, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Rm. 909, 100 N. Main Bldg., Memphis, TN 38103. Tires, tubes and tread rubber, from Memphis, TN to points in the United States except AR, IA, IN, IL, KS, MO, MS, MI, NE, NV, OH, OR, TN, WA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mohawk Rubber Company, 1379 Farmville Rd., Memphis, TN 38122.

MC 144948 (Sub-3TA), filed October 10, 1979. Applicant: BIG T TRUCK SERVICE, INC., 5878 Buford Hwy., Suite 5, Atlanta, GA 30360. Representative: Stephen J. Habash, 100 East Broad St., Columbus, OH 43125. General commodities, except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from the Department of Defense Depot located in Memphis, TN to Elgin Air Force Base, Okaloosa County, FL; McCoy Air Force Base, Orange County, FL; Fort Benjamin Harrison, Marion County, IN; Fort Knox, Hardin County, KY; Camp Grayling, Crawford County, MI; K. I. Sawyer Air Force, Marquette County, MI; Selfridge

Air Force Base, McComb County, MI; Wurtsmith Air Force Base, Iosco County, MI; Rickenbacker Air Force Base, located at or near Columbus, OH; and Wright-Patterson Air Force Base, located at or near Fairborn, OH. Supporting shipper(s): Headquarters, Military Traffic Management Command, Dept. of Army, Washington, DC 20315. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Atlanta, GA 30309.

MC 145267 (Sub-12TA), filed October 16, 1979. Applicant: CAMPBELL TRANSPORT, INC., Post Office Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, Suite 348, Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. Contract, irregular. Animal feed, feed ingredients, additives, supplements, and materials and supplies used in the manufacture and promotion of animals feed, except in bulk, from the facilities of Kal Kan Foods, Inc., located in Los Angeles and Orange Counties, CA to points in AZ, FL, GA, IL, MD, MA, NJ, NM, OH, TN and TX, under a continuing contract with Kal Kan Foods, Inc. for 180 days. An underlying ETA has been filed. Supporting shipper(s): Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 145636 (Sub-13TA), filed October 25, 1979. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128 1/2 E. 3rd St., Winona, MN 55987. Candy and confectionary from Winona, MN to Chattanooga, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schuler Chocolates, Inc., 1000 W. 5th, Winona, MN 55987. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 145827 (Sub-5TA), filed October 10, 1979. Applicant: LONG ROCK CO., P.O. Box 188, Princeville, IL 61559. Representative: DOUGLAS G. BROWN, P.C., The INB Center, Suite 555, Springfield, IL 62701. Abrasive grain or flour and crude silicon carbide and crude aluminum oxide, from Erie County, NY to points in the following states: IL, IN, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Exolon Company, 1000 E. Niagara St., Tonawanda, NY 14150. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146207 (Sub-3TA), filed September 21, 1979. Applicant: HAROLD E. YOUNG d.b.a. YOUNG'S SERVICE,

6911 "C" Street, Omaha, NE 68106. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Contract carrier; irregular routes: (1) Wrecked, disabled, or salvage vehicles, in truckaway or wrecker service; (2) used vehicles, undamaged, in truckaway or haulaway service; (3) Truck, fork lift or trailer parts, new or used; (4) Salvage tools, shop and garage equipment, new or used between points in the United States in and west of PA, OH, KY, TN, AL (except AK and HI) under continuing contract with Paul Lucht & Sons Body Shop, Inc., Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paul Lucht & Sons Body Shop, Inc., James P. Lucht, Corporate Secretary, 1519 South 3rd St., Omaha, NE 68108. Send protest to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146326, filed September 20, 1979. Applicant: JOHN ALGER, SR. d.b.a. ALGER TRANSPORTATION, 9811 Redman Avenue, Omaha, NE 68134. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68108. Flour, in bags (1) from Omaha, NE to Moline, IL and Chicago, IL and its commercial zone; (2) from Fergus Falls, MN to Chicago, IL and its commercial zone for 180 days. Restricted to traffic originating at the facilities of Con-Agra, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Con-Agra, Inc., Ken Stanton, Traffic Manager-Rates, Kiewit Plaza, Omaha, NE. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 146907 (Sub-2TA), filed April 5, in Washington, D.C. office. Applicant: PEBBLE HAULERS, INC., 2630 Delta Avenue, Colorado Springs, CO 80910. Representative: Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. Iron or steel grinding balls from facilities of CF&I Steel Corporation, Pueblo, CO to Anaconda Carr Fork Project near Tooele, UT and facilities of Kennecott Copper Corp., Magna, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kennecott Copper Corporation, P.O. Box 16600, Salt Lake City, UT 84116, and The Anaconda Copper Co-Mineral Resource Group, 555 17th Street, Denver, CO 80217. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 148007 (Sub-2TA), filed August 16, 1979. Applicant: RAPID HOLDINGS, LTD. d.b.a. RAPID TRANSFER, Box 518, Oliver, B.C., Canada. Representative: William H. Grady, 1100 Norton Building, Seattle, WA 98104. Contract carrier:

irregular routes: Lumber, sawmill supplies and machinery, from points on the U.S./Canada boundary line in WA to points in WA on and east of Highway 97, for the account of Weyerhaeuser Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, Tacoma, WA 98401. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148127 (Sub-3TA), filed Oct. 2, 1979. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: Neal R. Michaud, P.O. Box 5078, Manchester, NH 03108. Chipboard, paper, paper products, plastic, plastic sheeting, and plastic articles, (except commodities in bulk), from points at or near Hamilton, OH, to Manchester, NH, and from Manchester, NH and Kennebunk, ME, to points in NY, OH, IN, IL, PA, NJ, DE, IA, and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mills Industries, Inc., 477 Silver St., Manchester, NH 03108. Send protests to: Ross J. Seymour, D/S, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 148346 (Sub-1TA), filed September 24, 1979. Applicant: QUALITY TRANSPORT CORPORATION, 700 I Street, Anchorage, AK 99501. Representative: William B. Woodland, 700 I Street, Anchorage, AK 99501. Laundry and dry cleaning; fresh, packaged and canned food items; toiletries; sundries; paper products; miscellaneous hardware; and small items required to be supplied for the daily life support systems of camps and institutional facilities, between points in the Seattle, WA commercial zone, on the one hand, and, on the other, points in AK, restricted to traffic moving for the accounts of Transportation Management Services, Merit Enterprises, Inc., and Greyhound Support services, Inc., for 180 days. Supporting shipper(s): Greyhound Support Services, Inc., Business Park Blvd., Anchorage, AK 99502; Merit Enterprises, Inc., 7925 Second Ave. South, Seattle, WA 98206; Transportation Management Services, 700 I Street, Anchorage, AK 99501. Send protests to: D/S Roy S. Ehrhart II, ICC, 701 C Street, Box 7, Anchorage, AK 99513.

MC 148356 (Sub-1TA), filed September 28, 1979. Applicant: STAR MOTOR FREIGHT LINES, INC., 3110 North Stone, Colorado Springs, CO 80907. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. General commodities (except commodities in bulk in tank vehicles, Class A and B explosives, household



goods as defined by the Commission, commodities which because of weight or size require the use of special equipment and commodities of unusual value), between Denver, and Lamar, CO; From Denver, CO over Interstate Hwy 25, U.S. Hwy 85 and U.S. Hwy. 87 to Pueblo, CO, then over U.S. Hwy 50 and U.S. Hwy 50 bypass to Lamar, CO and return over the same route, serving all intermediate points, and serving the commercial zone of all points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 13 supporting shippers. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 148376 (Sub-1TA), filed October 18, 1979. Applicant: BILCO TRANSPORTATION, INC., 660 Riverside Blvd., Watsonville, CA 95076. Representative: E. M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Contract carrier; irregular routes: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, frozen fresh meats, from points in ID, OR, WA and CO to facilities of A. C. Arioto and Sons, San Jose, CA and from San Jose to points in the State of WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. C. Arioto & Sons, Inc., 630 Stockton Ave., San Jose, CA 95126. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 148396 (Sub-1TA), filed October 2, 1979. Applicant: ALLSTATE TRANSPORT, INC., 2250 Occidental South, Seattle, WA 98134. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *General commodities (except Classes A and B explosives, commodities in bulk, those of unusual value and those injurious or contaminating to other lading) in containers or trailers*, between points in Seattle, WA commercial zone, on the one hand, and, on the other, points in Whatcom County, WA; restricted to traffic having a prior or subsequent movement by rail or water, for 180 days. Applicant intends to interline at the Ports of entry on the U.S.-Canada boundary line in Whatcom County, WA. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148417 (Sub-2TA), filed September 28, 1979. Applicant: FLOYD E. PHILLIPS, d.b.a. FUTURE TRUCKING CO., 8125

East Slauson Avenue, Montebello, California 90640. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, California 90017. *Contract; Irregular; non-ferrous metal pipe, tubing, valves and fittings*, from the facilities of Mueller Brass Co., Inc., at the City of Commerce, California, to points in Arizona and Clark County, Nevada, for 180 days. Supporting shipper(s): Mueller Brass Co., Inc., Western Regional Manager, 2929 Vail Ave., City of Commerce, CA 90040. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 148456 (Sub-1TA), filed October 22, 1979. Applicant: MICHAEL MASTEL, d.b.a. MASTEL TRANSFER, Hazelton, ND 58544. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Contract carrier; irregular routes; Corrugated steel pipe, sheet piling, and guard rail, and accessories for corrugated steel pipe, sheet piling and guard rail*, from Minneapolis, MN and Topeka, KS, and their commercial zones, to points in ND, restricted to a transportation service to be performed under a continuing contract or contracts with Basin Steel, Inc., Bismarck, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Basin Steel, Inc., P.O. Box 388, Bismarck, ND 58501. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC W-587 (Sub-30TA), filed October 19, 1979. Applicant: FOSS L & T CO., a corporation, 660 West Ewing Street, Seattle, WA 98119. Representative: Thomas E. Kimball and Richard C. Jones, Attorneys at Law, Two Embarcadero Center, San Francisco, CA 94111. By decision entered October 18, 1979, the Motor Carrier Board granted applicant 45-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of a nuclear steam generator, from the facility of Surry Reactor, at or near Surry, VA, to Longview, WA, via James River, Straits of Florida, Yucatan Straits, Panama Canal, and the Columbia River, under a contract with Battelle Memorial Institute for the U.S. Department of Energy, and the U.S. Nuclear Regulatory Commission, Richland, WA. Any interested person may file a petition for reconsideration with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

#### Notice No. 208

MC 32083 (Sub-7TA), filed October 24, 1979. Applicant: DONNIE A. DIXON, INC., Rt. 9, Box 378, Greenville, NC 27834. Representative: Peter A. Greene, 900 17th St., NW., Washington, DC 20006. *Lumber, poles, timber and building materials* from points in GA, SC, NC and VA to points in and east of WI, MI, IL, KY, TN and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lott Forest Products, P.O. Box 387, High Point, NC 27261. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 47583 (Sub-110TA), filed October 23, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hulst, P.O. Box 225, Lawrence, KS 66044. *Petroleum-products, in packages and containers (except commodities in bulk)* from the facilities of Mobil Oil Corp. located at or near Kansas City, KS, to points in AR, CA, CO, IL, IN, IA, KY, LA, MN, MO, NE, ND, OK, TN, TX, SD, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway—Suite 522, Campbell Centre, Dallas, TX 75206. Send protests to: Vernon V. Coble, DS, I.C.C., 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 47583 (Sub-111TA), filed October 2, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hulst, P.O. Box 225, Lawrence, KS 66044. Paper and paper products, from the facilities of Union Camp Corporation, Kansas City, MO to points in TX, KS, OK, AR, NE and IA. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 61592 (Sub-474TA), filed June 25, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Construction and furniture paneling* from the facilities of Universal Woods, Inc. at Louisville, KY and J. L. Gilbert Co., Inc., at Sellersburg, IN to points in the U.S. in and east of MN, IA, MO, AR and LA. *Equipment and materials used in manufacture of construction and furniture paneling* from points in the U.S. east of MN, IA, MO, AR and LA to facilities of Universal Woods, Inc., at Louisville, KY for 180 days. Supporting shipper(s): Universal Woods, Inc., 2600

Grassland, Louisville, KY 40296. Send protests to: Beverly J. Williams, Trans. Asst., 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 87523 (Sub-104TA), filed October 2, 1979. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M St., Suite 501, Washington, DC 20036. *Insulation and insulating materials, and materials, equipment and supplies used in the manufacture, production and distribution of insulation and insulating materials*, between the facilities of Thermo-Chek Manufacturing Company at or near Manchester, NH, on the one hand, and, on the other, points and places in ME, VT, MA, RI, CT, NY, and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thermo-Chek Manufacturing Company, 100 Willow St., Manchester, NH 03103. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 87523 (Sub-105TA), filed October 2, 1979. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M St., NW, Suite 501, Washington, DC 20036. *Salt, in bags*, from Perth Amboy, NJ, to Bedford, NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Water Center, Rt. 101, Bedford, NH 03102. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 103993 (Sub-1006TA), filed September 21, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as Applicant). *Trailers and trailer chassis (except those designed to be drawn by passenger automobiles)*, from the facilities of American Trailers, Inc., at or near Oklahoma City, OK and Great Bend, KS to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Trailers, Inc., P.O. Box 26568, Oklahoma City, OK 73126. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 107012 (Sub-457TA), filed October 2, 1979. Applicant: NORTH AMERICAN VAN LINES, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, (same address as Applicant). *New furniture, cartoned* from the facilities of Wilshire Furniture Co., located at or near Hillsboro, TX to points in CA, CO, IA, KS, LA, MT, NM, ND, SD, OK and WY for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Wilshire Furniture, Co., P.O. Box 819, Hillsboro, TX 76645. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 107103 (Sub-22TA), filed October 9, 1979. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive, SW, Grand Rapids, MI 49509. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. *Rough cast iron brake drums*; from the facilities of East Jordan Iron Works, at East Jordan, MI to Siloam Springs, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): East Jordan Iron Works, Inc., P.O. Box 439, East Jordan, MI 49727 and Marmon-Webb Division, 510 Indianapolis Ave., Lebanon, IN 46052. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 East Michigan Avenue, Lansing, MI 48933.

MC 111823 (Sub-18TA), filed October 29, 1979. Applicant: SHERWOOD VAN LINES, INC., 4322 Milling Road, San Antonio, TX 78219. Representative: Robert J. Brooks, 1747 Pennsylvania Ave. N.W., Washington, D.C. 20006. *Household goods* as defined by the Commission, between points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI and DC for 180 days. Underlying ETA filed. Supporting shipper(s): Department of Defense, Military Traffic Management Command. Send protests to: Opal Jones, TCS, Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC 112713 (Sub-288TA), filed October 11, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7207, Shawnee Mission, KS 66270. Representative: John M. Records (same as applicant). *General commodities (except Classes A and B explosives, commodities in bulk, household goods as described by the Commission, commodities of unusual value, and those requiring special equipment)* which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8), between San Antonio, TX and Brownsville, TX, serving no intermediate points: From San Antonio over U.S. Hwy 161 to junction of U.S. Hwy 77, then over U.S. Hwy 77 to Brownsville and return over the same route. Applicant intends to tack the authority sought with its authority in MC 112713, joinder at San Antonio, TX. Supporting shipper(s): Republic Freight

System, Inc., P.O. Box 7270, Shawnee Mission, KS 66207. Send protests to: Vernon Coble, D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 115523 (Sub-198TA), filed October 2, 1979. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). *Clay, in bags and in bulk*, from IMV plant near Lathrop Wells, Nye County, NE to Stockton, CA, Fort Morgan, CO, Caldwell and Idaho Falls, ID, and Moses Lake, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest PMS, Inc., 955 East County Club Road, Gering, NE 69341. Send protests to: Lyle D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115703 (Sub-20TA), filed October 4, 1979. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Rd. North, Wyomissing, PA 19610. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. (1) *Air conditioning, air filtration, refrigeration and humidifying equipment*, the transportation of which, because of size or weight, requires the use of special equipment, and (2) *related materials and supplies* between the facilities of Gamewell Mechanical, Inc. located at or near Rowan County, NC, on the one hand, and, on the other, points in AL, GA, IN, LA, MI, MS, NJ, OH, SC, TX, VA, WI and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gamewell Mechanical, Inc., P.O. Box 1949, Salisbury, NC 28144. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 116763 (Sub-613TA), filed October 9, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Paper and paper products (except commodities in bulk)* from the facilities of Olinkraft, Inc. located at or near Kankakee, IL, to Ada and Henryetta, OK; Auburn and Fulton, NJ; Clairon and Chambersburg, PA; Frankfort, MI; Freehold, NJ; and Waco, TX, for 180 days. Restricted to traffic originating at the named origin and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 119493 (Sub-331TA), filed October 10, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Flour mixes*,



meals, and grits (except in bulk), from Topeka, KS, to points in FL, GA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seaboard Allied Milling, P.O. Box 19148, Kansas City, MO 64141. Send protests to: Vernon Coble, D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 125433 (Sub-345TA), filed September 21, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Household and commercial laundry and kitchen appliances and related repair parts*, from Newton, IA to points in the United States (except AK, HI, IA, IL, Upper Peninsula of MI, MN, MO, NE, ND, SD and WI). Restricted to traffic originating at the facilities of The Maytag Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Maytag Company, Newton, IA 50208. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-346TA), filed October 3, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104.

Representative: John B. Anderson (same address as applicant). (1) *Fire hydrants, iron valves, castings, pipe, pipe fittings, indicator posts and floor stands*, and (2) *parts, attachments, accessories and supplies used in connection with the commodities described in (1) above*, (a) from Chattanooga, TN and Albertville, AL, to points in the United States in and east of ND, SD, NE, KS, OK and TX, (b) from Decatur, IL to points in the United States (except AK and HI). (3) *Equipment, material and supplies used in the manufacture of (1) and (2) above*, from points in the United States (except AK and HI) to Chattanooga, TN; Albertville, AL and Decatur, IL.

**RESTRICTION:** Restricted to traffic originating at or destined to the facilities of the Mueller Company, for 180 days. Supporting shipper(s): Mueller Co., 445 East Glendale Avenue, Sparks, NV 89431. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-347TA), filed October 4, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Refrigerators, freezers and microwave ovens*, from Amana, IA to points in AZ, CA, NV, OR, WA, UT, ID, TX, AL and LA. (2) *Air conditioners, central heating furnaces, stoves and electric ranges*, from Fayetteville, TN to points in AZ, CA,

NV, OR, WA, UT, ID, TX, AL and LA. Restricted in (1) and (2) above to traffic originating at the facilities of Amana Refrigeration, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amana Refrigeration, Inc., Amana, IA 52204. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-348TA), filed October 5, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Commodities of the type dealt in or used by manufacturers of heating and cooling systems (except commodities in bulk), and solar energy heating and cooling systems*, between points in the United States (except AK and HI). Restricted to shipments originating at or destined to the facilities utilized by Lennox Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lennox Industries, Inc., P.O. Box 400450, Dallas, TX 75240. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 128273 (Sub-371TA), filed October 12, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Foodstuffs (except frozen)* from the facilities of Adams Packing Association, at or near Auburndale, FL, to points in AZ, AR, CO, ID, IA, KS, KY, LA, MI, MS, MO, MT, NE, ND, SD, TN, and UT; for 180 days, common, irregular; SUPPORTING SHIPPER: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823; SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adams Packing Association, Inc. Traffic Manager, P.O. Box 37, Auburndale, FL 33823.

MC 128543 (Sub-19TA), filed October 1, 1979. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Pulpboard, wallboard and fiberboard*, from the facilities used by Owens Corning Fiberglas Corporation at or near Meridian, MS to points in CT, IL, IN, NJ, NY, OH, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 129613 (Sub-28TA), filed October 5, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier: Irregular routes: Plastic articles* from the plant site facilities of General Foam Plastics Corp., located at or near Norfolk, VA, Scranton, PA, and Lebanon, IN to all points in and East of WI, IL, KY, TN and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Foam Plastics Corp., 3321 E. Princess Ann Rd., Norfolk, VA 23502. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136343 (Sub-187TA), filed October 9, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Highway marking strip glass, ballotini and ground glass (except commodities in bulk, in tank vehicles)* from the facilities of Potters Industries, Inc., at or near Apex, NC to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Potters Industries, Inc., 377 Route 17, Hasbrouck Heights, NJ 07604. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136553 (Sub-88TA), filed September 28, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50390. *Steel* from points in the Chicago, IL, commercial zone to Dyersville, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Curran Hydraulic Corp., 528 5th St., N.W., Dyersville, IA 52040. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136553 (Sub-89TA), filed October 3, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *Steel pipe and pipe fittings* from Bellevue, IA to points in CO, IL, IN, KS, MI, MN, MO, NE, ND, SD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Pipe Coating, Inc., Box 94, Bellevue, IA 52031. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143443 (Sub-3TA), filed October 3, 1979. Applicant: D. J. KIRBY, INC., P.O. Box 195, Gilberts, IL 60136. Representative: Lavern R. Holdeman,

521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Construction materials (except in bulk)*, from the facilities of W. R. Meadows, Inc., at or near Elgin and Hampshire, IL, to points in the States of CA, ID, MT, NV, OR, UT, WA and WY for 180 days. Supporting shipper(s): W. R. Meadows, Inc., P.O. Box 543, Elgin, IL 60120. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 136543 (Sub-2TA), filed October 4, 1979. Applicant: GARY A. SCANNAVINO d.b.a. CHEROKEE FREIGHT LINES, 5463 Cherokee Road, Stockton, CA 95205. Representative: Thomas M. Loughran, of Loughran & Hegarty, 100 Bush Street, 21st Floor, Ph. (415) 986-5778, San Francisco, CA 94104. *Contract carrier, irregular routes: foodstuffs, except frozen, and such products as are dealt in by wholesale and retail grocers*, from facilities of Amstar Corporation, Spreckels Sugar Division, at Manteca, Mendota, Spreckels and Woodland, CA to points in NV, OR and WA, under continuing contract with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corp., Spreckels Sugar Div., 50 California St., San Francisco, CA 94111. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 139193 (Sub-111TA), filed October 12, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Boulevard, Suite 820, Kansas City, MO 64133. Representative: Terrence Jones, 2033 K Street, Washington, D.C. 20006. *Meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in descriptions in Motor Carriers Certificates 61 MCC 209 and 766 (except hides, skins and commodities in bulk)*, from the facilities of Hunter Packing Company at or near East St. Louis, IL to points in LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Vernon V. Coble, DS, I.C.C., 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 140463 (Sub-6TA), filed October 18, 1979. Applicant: ORREN J. LEE TRUCKING, 2312 Braeemer Drive, Sioux Falls, SD 57105. Representative: Claude Stewart, South Dakota Transport Services, Inc., P.O. Box 480, Sioux Falls, SD 57101. *Contract carrier: irregular routes: (1) Plastic articles, balloons, sleeping bags, clothing and electrical equipment* from the facilities of Raven

Industries, Inc., located at or near Sioux Falls, SD to points in AR, CO, KS, KY, IL, IN, IA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI, WY and Albertville, AL; (2) *Materials and supplies used in the manufacture and distribution of the above commodities* from the 21 named states and Albertville, AL to Sioux Falls, SD for the account of Raven Industries, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raven Industries, Inc., 205 E. 6th Street, Box 1007, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 142483 (Sub-3TA), filed October 16, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier, irregular routes: Glass fiber raving, yarn, strand, mat or matting, and fabric, and glass fiber reinforced rigid polypropylene sheets (except in bulk)* from the facilities of PPG Industries, Inc. at Shelby and Lexington, NC to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI and WY, restricted to shipments moving under contract with PPG Industries, Inc., for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Shelia Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 143503 (Sub-27TA), filed October 2, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Such commodities as are dealt in by retail department stores*, from points in PA and VA (except Frederick, Clarke, Loudon, Fairfax, Arlington, Prince William, Fauquier, Stafford, King George, Spotsylvania, Orange, Madison, Culpeper, Rappahannock, and Shenandoah Counties) to the facilities of May Department Stores Company in Howard County, MD, and D.C., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): May Department Stores Company, Director of Transportation, P.O. Box 296, Silver Spring, MD 20907. Send protests to: Irene Carlos, TA, ICC, 300 North Los Angeles Street, Room 1321, Los Angeles, CA 90012.

MC 143533 (Sub-7TA), filed October 4, 1979. Applicant: DIXON LEASING CO., INC., 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative:

Robert B. Einhorn, Esquire, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. *Fiberglass materials and products*, from Newark and Columbus, OH to all points east of a line from the Mississippi River, for 180 days. Supporting shipper(s): OWENS CORNING FIBERGLAS CORPORATION, Fiberglas Tower, Toledo, OH 43659. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark NJ 07102.

MC 143693 (Sub-7TA), filed October 24, 1979. Applicant: DFC TRUCKING COMPANY, 17872 Cartwright Road, Irvine, CA 92705. Representative: Floyd L. Farano 2555 E. Chapman Avenue, Suite 705, Fullerton, CA 92631. *Contract: Irregular; Frozen meat, frozen and fresh fish, poultry, pork; frozen and chilled foodstuffs; canned and packaged foodstuffs; restaurant supplies restricted to table items only, i.e., napkins, china, flatware, glassware, silverware and cloth products; restaurant maintenance and janitorial supplies; restaurant and kitchen supplies and utensils used in kitchens for the preparation and service of food; new and used furniture, fixtures and equipment used in the establishment and operation of a restaurant*. Shipments for the account of Dilly Food Co. and Denny's Restaurants from Hayward, CA to Denny's Restaurants, new and existing, at various points and places in the states of Washington, Oregon, Idaho and Nevada, and return shipments of the same, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Dilly Food Company, District Manager, 17872 Cartwright Road, Irvine, CA 92705. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145623 (Sub-5TA), filed September 26, 1979. Applicant: OK MESSENGER SERVICE, INC., 9107 Telegraph Road, Taylor, MI 48180. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract carrier: irregular routes: Structural steel beams, angles, channels, and plates*, from Plymouth, MI to points in AL, AR, FL, GA, ID, IA, KS, LA, MD, MN, MS, MO, NE, NH, NJ, OK, RI, SC, TX, and UT under a continuing contract with Federal Pipe and Steel Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Pipe and Steel Corporation, 41600 Joy Road, Plymouth, MI. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145813 (Sub-1TA), filed October 17, 1979. Applicant: POINTS WEST



TRUCKING, INC., 25836 Parada Drive, Valencia, CA 91355. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Confectionery products (except in bulk) in vehicles equipped with mechanical refrigeration*, from the facilities of Schrafft Candy Company located at or near Boston and Woburn, MA, and Reading, PA, to Phoenix, AZ, Los Angeles and San Francisco, CA, Denver, CO, and Salt Lake City, UT, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Schrafft Candy Company, Traffic Manager, 529 Main Street, Charleston, MA 02129. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 146293 (Sub-36TA), filed September 21, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Circle, N.E., Lawrenceville, GA 30245. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Materials, equipment and supplies used in the manufacture of fluorescent lighting fixtures (except commodities in bulk)* from Chicago, IL, to facilities of Keystone Lighting Corporation at or near Bristol, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Lighting Corporation, Route 13, Beaver Road, Bristol, PA 19007. Send protests to: Sara K. Davis T/A, ICC, Room 300, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 146553 (Sub-6TA), filed October 5, 1979. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1990 Financial Ctr., Des Moines, IA 50309. *Castings* from Davenport, IA and Moline, IL, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keller Aluminum Foundry, Inc., 1051 South Rolff, Davenport, IA 52808. Frank Foundries Corp., 1726 West 1st St., Davenport, IA 52808. Blackhawk Foundry and Machine Co., 323 South Clark, Davenport, IA 52808. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146623 (Sub-3TA), filed October 11, 1979. Applicant: STAMEY ENTERPRISES, INC., 7350 102nd Place, South, Boynton Beach, FL 33435. Representative: Richard B. Austin, Suite 214, 5255 N.W. 87th Ave., Miami, FL 33178. *Frozen foods and candies* between Newark, NJ, New York, NY and Richmond, VA, on the one hand, and, on the other, Dade County, FL for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): Hamersmith, Inc., 3200 N.W. 125th St., Miami, FL 33187. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 146643 (Sub-19TA), filed September 21, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State St., South Chicago Heights, IL 60411. Representative: DONALD B. LEVINE, 39 South La Salle St., Chicago, IL 60603. Contract carrier-irregular, aluminum ingots (except in bulk) from the facilities utilized by Aluminum Smelting and Refining Company, Inc. at or near Maple Heights, OH and zinc alloy ingots (except in bulk) from the facilities utilized by Certified Alloys Company at or near Maple Heights, OH, to points in IL, IN, KY, MI, MO, and WI. Underlying ETA seeks 90 day authority. Supporting shipper(s): Aluminum Smelting and Refining Company, Inc., Certified Alloys Company, 5463 Dunham Rd., Maple Heights, OH 44137. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 146643 (Sub-20TA), filed September 21, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State St., South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Common carrier—irregular route. *Fiberglass products (except in bulk)* from Kansas City, KS; Newark and Defiance, OH; and Mountaintop, PA to points in Lake and Porter Counties, IN and Cook, DuPage, Kane, Kendall, Lake, and Will Counties, IL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chatham Supply, 2217 West 135th Pl., Blue Island, IL 60406. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 147433 (Sub-1TA), filed September 24, 1979. Applicant: LONG LEASING CORP., Route 3, Box 587, East Jordan, MI 49727. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Castings and iron and steel products* from the facilities of East Jordan Iron Works, Inc. at East Jordan, MI, to points in IL, IN, MO, OH and WI; and materials and supplies used in connection with the manufacture, distribution and installation of *castings and iron and steel products* from points in IL, IN, MO, OH and WI to the facilities of East Jordan Iron Works, Inc. at East Jordan, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): East Jordan Iron Works, Inc.,

P.O. Box 439, East Jordan, MI 49727. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 147943 R (Sub-1TA), filed September 14, 1979. Applicant: E. W. K. CARTAGE, INC., 4855 S. Leamington St., Chicago, IL 60638. Representative: Eugene W. Kolbus (same address as applicant). *General commodities, (except Class A & B explosives, household goods as defined by the Commission, articles requiring special handling or articles of unusual value), having a prior or subsequent movement by rail or water*. Restricted to T.O.F.C. or C.O.F.C. traffic moving on Freight Forwarder Bill of Lading between the Chicago, IL Commercial Zone, on the one hand, and, on the other, points in IL, IN, and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clipper Express, Inc., 3401 W. Pershing Road, Chicago, IL. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148183 (Sub-2TA), filed September 24, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30501. Representative: Pauline E. Myers, Suite 348, Pennsylvania Building, 425 13th Street, N.W., Washington, DC 20004. *Frozen pies and cakes*, in refrigerated vehicles, from the facilities of Lloyd J. Harriss Pie Company at Saugatuck and Holland, MI to points in AL, TN, NC, SC, FL and GA for 180 days. Supporting shipper(s): Lloyd J. Harriss Pie Company, 350 Culver Street, Saugatuck, MI 49453. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 148183 (Sub-3TA), filed September 21, 1979. Applicant: ARROW TRUCK LINES, INC., (Georgia Corp.), P.O. Box 432 Industrial Blvd., Gainesville, GA 30501. Representative: Pauline E. Myers, Suite 348, Pennsylvania Building, Pennsylvania and 13th St. NW., Washington, DC 20004. *Oleomargarine in packages and cartons*, (except in bulk) from the facilities of Deep South Products, Gainesville, GA to points in NC, SC, FL, LA, AL, KY and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Deep South Products, 825 White Sulphur Rd., Gainesville, GA 30501. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 148313 (Sub-1TA), filed October 5, 1979. Applicant: PHIL CLINE TRUCKING, INC., 310 Ichabod Circle, Concord, NC 28025. Representative: Phil

Cline (same as above). *Cotton and rayon goods finished and unfinished* from Concord, Shelby, Butler, Tarboro, NC, Bamberg, SC, Emporia, VA and Brooklandville, MD to San Antonio, TX and Los Angeles and San Francisco, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Concord Warehousing Co., Lancot-Arlen Fabrics, Inc., P.O. Box 1212, Concord, NC 28025. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte NC 28205.

MC 148333 (Sub-1TA), filed September 26, 1979. Applicant: DONLINE HAULAGE, INC., 1715 Britannia Road East, Mississauga, Ontario L4W 2A3. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. Contract carrier-irregular routes. *Steel and steel articles*, between ports of entry on the International Boundary line between the U.S. and Canada in NY, on the one hand, and, on the other, points in NY, NJ and PA, restricted to the transportation of traffic under continuing contract(s) with Bridge & Tank Co. of Canada Limited, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bridge & Tank Co. of Canada Limited, 390 Gage Avenue North, Hamilton, Ontario L8N 3G8. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 148373 (Sub-1TA), filed October 16, 1979. Applicant: WARNER A. ROSS, Rt. 1, Box 282, Toone, TN 38381. Representative: R. Connor Wiggins, Rm. 909, 100 N. Main St., Memphis, TN 38103. *Cross-ties*, from the facilities of Koppers Co., Inc. at or near Bolivar, Brownsville, Jackson, Selmer, Henderson, Toone, Humboldt, Somerville, Bells, and Stanton, TN to the facilities of Koppers Co., Inc. at or near Grenada, MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 148453 (Sub-1TA), filed October 30, 1979. Applicant: FUGAZY CONTINENTAL CORPORATION OF NEW JERSEY, INC., 645 Madison Avenue, New York, NY 10022. Representative: Arthur Wagner, Esq., 600 Madison Avenue, New York, NY 10022. *Contact Carrier*, irregular routes: *passengers and their baggage*, between Bally's Park Place Hotel at Broadwalk and Park Place, Atlantic City, NJ and various points and places in the states of NY, NJ, CT, and Philadelphia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bally's Park Place, Inc., Boardwalk and

Park Place, Atlantic City, NJ 08401. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 148533TA, filed August 31, 1979. Applicant: CHRISTOPHER C. MOORE d.b.a. CHRIS MOORE TRUCKING COMPANY, 144 Vaughn's Gap Road, Nashville, TN 37205. Representative: Christopher C. Moore (same address as applicant). *Plastic Bread Bags*, from Murfreesboro, TN to Lakeland, FL, for 180 days. Supporting shipper(s): Paramount Packaging Co., P.O. Box 488, Murfreesboro, TN 37130. Send protests to: Glenda Kuss, TA, ICC, A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 148593TA, filed October 17, 1979. Applicant: OCS TRUCKING, 2420 S. Eastern Avenue, City of Commerce, CA 90040. Representative: Michael J. Oliva (same address as above). *Contract: Irregular; General commodities*, from California, Texas, Ohio, New Jersey, Pennsylvania, Illinois, Indiana, Kentucky, to California, Texas, Ohio, New Jersey, Pennsylvania, Illinois, Indiana, Kentucky, for 180 days. Supporting shipper(s): R. L. M. Merchandise Co., President, Suite 7322, World Trade Ctr., Classic Chemicals, Director of Distribution, P.O. Box 5000, Arlington, TX 76011. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles CA 90012.

#### Notice No. 209

MC 115353 (Sub-38TA), filed September 27, 1979. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract carrier, irregular routes for 180 days. (1) Materials and supplies used in the manufacture and distribution of cast iron products (except in bulk) and (2) finished cast iron products (except in bulk), between Lynchburg, VA, on the one hand, and, on the other, points in ME, VT, NH, MA, CT, RI, NY, PA, NJ, DE and MD. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 115353 (Sub-39TA), filed October 23, 1979. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract carrier, irregular

routes for 180 days. Roofing and equipment, materials and supplies used in the manufacture, distribution and installation thereof between the facilities of The Flintkote Company at or near Peachtree City, GA, on the one hand, and, on the other, points in FL. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Flintkote Company, P.O. Box 800, Dallas, TX 75062. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 116763 (Sub-598TA), filed September 5, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Equipment, materials and supplies used in the manufacture, distribution, warehousing and sale of lighting fixtures and lighting fixtures (except commodities in bulk, in tank vehicles)* from Madisonville, KY, Paterson, NJ, Mendenhall, MS, Bellevue, OH, Elk Grove Village and Danville, IL, Bridgeport, CT and Evansville and Crawfordsville, IN to the facilities of Lithonia Lighting Div. of National Service Industries, Inc., at or near Conyers & Cochran, GA for 180 days. Restricted to traffic originating at the named origins and destined to the indicated destinations for 180 days. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, 1400 Lester Rd., Conyers, GA 30207. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 116763 (Sub-610TA), filed September 12, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). (1) *Such commodities as are manufactured, processed, distributed, or dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), and (2) equipment, materials, and supplies used in the manufacture and distribution of paper and paper products (except commodities in bulk)*, between the facilities of the Mead Corp. located at or near Kingsport and Gary, TN, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, AR, LA, OK and TX. Restricted to traffic originating at the named origins and destined to the indicated destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mead Corp., Courthouse Plaza, Northeast, Dayton, OH 45463. Send protests to: ICC, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.



MC 116763 (Sub-611TA), filed September 13, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). (1) *Such commodities as are manufactured, processed, distributed, or dealt in by manufacturers or converters of paper and paper articles and (2) equipment, materials and supplies used in the manufacture and distribution of paper and paper products. Restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles* between the facilities of the Mead Corp. located a tor near Chillicothe and Schooleys, OH on the one hand, and on the other, points in AL, CT, GA, ME, MA, NH, NY, NC, RI, SC, TN, VT, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Mead Corp., Courthouse Plaza, N.E., Dayton, OH 45463. Send protests to: ICC, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 116763 (Sub-612TA), filed September 17, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Paper and paper products (except commodities in bulk, in tank vehicles)* from the facilities of Scott Paper Co., at Mobile, AL, to points in IL, MI, MN, and WI for 180 days. Supporting shipper(s): Scott Paper Co., Scott Plaza, Phila., PA 19113. Send protests to: ICC, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 117883 (Sub-258TA), filed September 10, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Dr., P.O. Box 62, Versailles, OH 45380. Representative: Thomas R. Stone (same as applicant). *Foodstuffs, and meats, meat products, and meat by-products (except in bulk in tank vehicles)* from Detroit, MI and its commercial zone to all points in the states of CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, PA, OH, RI, VT, VA, WV, WI and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven supporting shippers. Send protests to: ICC, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 119493 (Sub-321TA), filed September 19, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Plastic pipe and fittings and accessories used in the installation thereof, and materials and supplies used in the manufacture and distribution of plastic*

*pipe, and fittings and accessories (except in bulk), between Booneville, MS, on the one hand, and, on the other, points in IA, KS, MO, NE, ND, OK and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Contactor Utility Sales Co., 4755 Industrial Drive, Springfield, IL 62703. Send protests to: Vernon Coble, D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.*

MC 119493 (Sub-322TA), filed September 25, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). Zinc dust (except in bulk) and materials and supplies used in the manufacture and distribution thereof (except in bulk). Between Spelter and Meadowbrook, WV, on the one hand, and, on the other, points in GA, LA, NC, OK and TX, for 180 days. Supporting shipper(s): The Meadowbrook Corporation, 30 Rockefeller Plaza, New York, NY 10020. Send protests to: Vernon Coble, D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-327TA), filed October 5, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, (same as applicant). Zinc dust, in drums, from Newark, NJ to Maryville, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Royce Chemical Co., 17 Carlton Ave., East Rutherford, NJ 07073. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 121683 (Sub-7TA), filed September 17, 1979. Applicant: JACKSON EXPRESS, INC., 12 Conalco Dr., Jackson, TN 38301. Representative: Lou Amato, P.O. Box E, Bowling Green, KY 42101. General commodities (except Classes A & B explosives, household goods, commodities in bulk, and commodities requiring special equipment). Route (1) Between Nashville, TN and points in its commercial zone, and Tupelo, MS and points in its commercial zone, serving all intermediate points and their commercial zones between Selmer, TN and Tupelo, MS. From Nashville, over Interstate Hwy 40 to its junction with U.S. Hwy 45, thence via U.S. Hwy 45 to Tupelo, and return over the same route. Route (2) Between Memphis, TN and points in its commercial zone and Belmont, MS and points in its commercial zone serving all intermediate points and their commercial zones between Sherman, MS and Belmont, MS. From Memphis over U.S. Hwy 78 to its junction with MS Hwy 25, thence via MS Hwy 25 to

Belmont, and return over the same route. Route (3) Between Memphis, TN and points in its commercial zone and Red Bay, AL and points in its commercial zone serving all intermediate points and their commercial zones between Walnut, MS and Red Bay, AL; and serving as off-route points the Yellow Creek Port Authority and industrial parks, located in Alcorn and Tishomingo Cys., MS, and the T.V.A. Yellow Creek Nuclear Plant, located in Tishomingo Cy., MS. From Memphis over U.S. Hwy 72 to its junction with MS Hwy 25, thence via MS Hwy 25 to its junction with MS Hwy 366, thence via MS Hwy 366 to the MS-AL State line, thence over AL Hwy 24 to Red Bay, and return over the same route. Applicant proposes to tack routes (1), (2), and (3) above at common points and to tack these routes with its existing authorities in MC 121683 and Subs 1 and 4. Applicant also proposes to interline with other carriers at Nashville, Jackson, Memphis, Selmer, Henderson, and Milan, TN, Tupelo and Corinth, MS, and Red Bay, AL. Supporting shipper(s): Applicant has provided 61 supporting shipper statements which can be examined at the field office listed below and headquarters in DC. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 123993 (Sub-61TA), filed September 14, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *flour, corn meal, flour or meal prepared edible and flaked potatoes (except in bulk)* between Conagra, Inc., at Sherman, TX on the one hand, and, on the other, points in NM, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Conagra, Inc., 200 Kiewit Plaza, Omaha, NE 68131. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 123993 (Sub-62TA), filed September 18, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting (1) *Malt beverages (except in bulk); and (2) Materials, supplies and equipment used in the manufacture, sale and distribution of malt beverages (except in bulk)* between Forth Worth, TX on the one hand, and, on the other,

points in LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Natchitoches Beverages, Inc., Box 276, Natchitoches, LA 71457; Svoboda Distributing Co., 3105 Grand Callio Rd., Houma, LA 70360; Baton Rouge Beer Agency, 7808 Airline Hwy., Baton Rouge, LA 70815; Venture Marketing, P.O. Box 307, Alexandria, LA 71301; Beverage Sales, Inc., P.O. Box 3026, Lake Charles, LA 70602; Lesta Distributing Company, Inc., P.O. Box 4508, Monroe, LA 71203. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 123993 (Sub-63TA), filed September 14, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed houses, soy products, paste flour products, dairy based products and; (2) Materials, ingredients and equipment and supplies used in development, manufacture, distribution and sale of items in (1) above except commodities in bulk* between the facilities used by Ralston Purina Co. at or near Oklahoma City, OK, on the one hand, and, on the other, points in AR, LA, MS, TN, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 124813 (Sub-217TA), filed September 28, 1979. Applicant: UMHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *Fertilizer materials* from Eagle Grove, IA, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amoco Oil Company, Chicago, IL. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-218TA), filed September 26, 1979. Applicant: UMHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Railroad ties* from points in Woodbury County, IA, to Milwaukee, WI, and Moline, IL, and points in their

commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Track Ties Unlimited, Inc., R.R. 1, Box 31, Osco, IL 61274. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125433 (Sub-327TA), filed August 28, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Polyethylene pallet bins, parts, attachments and accessories therefor*, from Tacoma and Enumclaw, WA to Ft. Worth and Houston, TX; Toledo, OH and points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agri-Tainer Corporation, P.O. Box 2004, 11 Palouse Street, Wenatchee, WA 98801. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-328TA), filed August 29, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Yellow cake (uranium oxide)*, from Dawn Mining Co., subsidiary of Newmont Mining Corp., Ford, WA to Gore, OK and Metropolis, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newmont Services, Ltd, Subsidiary of Newmont Mining Corporation, 200 West Desert Sky Road, Tucson, AZ 85704. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 125433 (Sub-329TA), filed August 29, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Buildings, complete, knocked down, or in section, (2) building sections and building panels, (3) parts and accessories used in the installation and completion of commodities in (1) and (2) above, and (4) metal prefabricated structural components and panels and accessories used in the installation and completion of such commodities* from the facilities of Armco, Hanford, CA to points in WA, OR, ID, NV, UT, AZ, CO, MT, WY, ND, SD, NE, KS, OK, NM and TX for 180 days. Supporting shipper(s): Armco, Inc., 703 Curtis Street, Middletown, OH 45043. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-330TA), filed September 14, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT

84104. Representative: John B. Anderson (same address as applicant). *Office and household fixtures and furnishings, component parts, equipment, materials and supplies used in the manufacturing of office and household fixtures and furnishings*, except in bulk, between points in the United States (except AK and HI). Restricted to shipments originating at or destined to the facilities utilized by Triangle Pacific Corporation, for 180 days. Supporting shipper(s): Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-331TA), filed September 14, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Iron and steel bars* from the facilities of Nucor Cold Drawn-Vulcraft Division at or near Norfolk, NE to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Nucor Cold Drawn-Vulcraft Division, P.O. Box 59, Norfolk, NE 68701. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-344TA), filed September 24, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Cost stone veneer*, from Napa, CA to points in the United States (except AK and HI). Restricted to shipments originating at the facilities of Stucco Stone Products, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stucco Stone Products, P.O. Box 237, Napa, CA 94558. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 128273 (Sub-363TA), filed September 17, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). (1) *Sugar (except in bulk)* from facilities of Supreme Sugar Co. and/or Southdown Sugars, Inc., at or near Supreme, LA, to: CA, AL, TX, FL, NC, and OK, and (2) *Sugar (except in bulk)* from the facilities of Godchaux-Henderson Sugar Co., Inc., at or near Reserve, LA, to: AL, FL, GA, IL, IN, KY, MO, NC, OK and TX; for 180 days. common, irregular. Supporting shippers: Godchaux-Henderson Sugar Company, Inc., P.O. Drawer AM, Reserve, LA 70084, and Southdown Sugars, Inc., Suite 1821, 1440 Canal St., New Orleans, LA 70112. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS



67202. An underlying ETA seeks 90 days authority.

MC 128273 (Sub-364TA), filed September 19, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Rejected paper shipments, and equipment, materials and supplies used in the manufacture of paper and paper and wood products*, (except in bulk, in tank vehicles) from points in the US (except AK, HI & MN) to the facilities of Potlatch Corporation in Minnesota, for 180 days, common, irregular. Supporting shipper: Potlatch Corp., Northwest Paper Div., Box 510, Cloquet, MN 55720. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 128333 (Sub-2TA), filed September 18, 1979. Applicant: LES CALKINS TRUCKING, INC., 19501 N. Hwy 99, Acampo, CA 95220. Representative: Michael V. Thomas, P.O. Box 736, Lodi, CA 95240. *Common carrier, regular route: Fly ash and/or pozzolan*, in bulk, in pneumatic hi-cube equipment, between Hallelujah Junction, CA, on the one hand and, on the other, points north of San Luis Obispo, Kern and San Bernardino Counties, CA via routes Hwy 195 to Reno, NV to Interstate Hwy 80, thence via Interstate Hwy 80, for 180 days. No pick-up or delivery in Nevada. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lassenite Industries, Inc., P.O. Box 37, Pt Richmond, CA 94907. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 135213 (Sub-20TA), filed September 6, 1979. Applicant: JOE GOOD d.b.a. GOOD TRANSPORTATION, P.O. Box 335, Lovell, WY 82431. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. *Contract carrier, irregular routes: Gypsum, gypsum wall board, joint systems, and materials and supplies used in the application thereof*, from facilities of Georgia-Pacific Corporation at or near Acme, TX to points in WY, MT, ID and UT, for 180 days, RESTRICTED against the transportation of commodities in bulk, under a continuing contract or contracts with Georgia-Pacific Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, 900 S.W. Fifth Avenue, Portland, OR 97204. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg. and Court House, 111 South Wolcott, Casper, WY 82601.

MC 135843 (Sub-8TA), filed September 12, 1979. Applicant: IOWA GATEWAY,

INC. d.b.a. IOWA GATEWAY TERMINAL, River Road, Keokuk, IA 52632. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. (1) *Railway car wheels* from points in the Chicago commercial zone to Alliance, NE, and (2) *railway car wheel sets* from Alliance, NE, to points in AL, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PLM, Inc., 50 California St., San Francisco, CA 94111. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143433 (Sub-12TA), filed September 5, 1979. Applicant: B. L. GILBERT d.b.a. GILBERT TRUCKING CO., 310 South First Ave., Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. *Foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of T. Marzetti, and Quality Bakery, divisions of Lancaster Colony Corporation, at or near Columbus, OH, on the one hand, and, on the other, points in NY, NJ, PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, TN, KY, IN, MI, WI, MN, IL, IA, MO, AR, LA, TX, OK, KS, NE, CO, AZ, NV, & CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lancaster Colony Corporation, 37 West Broad Street, Columbus, OH 43215. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 144643 (Sub-8TA), filed May 3, 1979. Applicant: VINCI BROTHERS TRUCKING CO., INC., 28 Oakdale Avenue, Johnston, RI 02919. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. *Contract-irregular, Food stuffs*, (1) from Warwick, RI, to points in AL, FL, GA, IN, IL, IA, MD, MI, NJ, NC, OH, PA, SC, TN and VA; and (2) from Columbus, OH, to points in CT, ME, MA, NH, NY, PA, RI and VT, restricted to a transportation service to be performed under a continuing contract or contracts with National Pax Corp. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Pax Corporation, 251 South Lake Avenue, Pasadena, CA 91101. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 145503 (Sub-3TA), filed August 3, 1979. Applicant: ART ANDERSON, INC., P.O. Box 138, Oakford, IL 62673. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Fertilizer*, from Fort Madison, IA to the states of IL and MO; from Pekin, Amboy, Marseilles, and

Meredosia, IL to the states of MO, IA, IN, and WI for 180 days. Supporting shipper(s): Vistron Corporation, 313 Midland Bldg., Cleveland, OH 44115. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 148293 (Sub-35TA), filed September 4, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Paper and paper products* from Mobile, AL to points in DE, DC, IL, MD, NJ, NY and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 146643 (Sub-15TA), filed August 31, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INCORPORATED, 3202 State St., South Chicago Heights, IL 60411. Representative: Donald Levine, 39 S. LaSalle St., Chicago, IL 60603. *Glassware*, from the facilities of Libby Glass Division—Owens-Illinois at or near Toledo, OH to points in IN, IL, IA, MN, WI, and the lower peninsula of MI for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Libby Glass Division—Owens-Illinois, Incorporated, P.O. Box 919, Toledo, OH 43693. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 147413 (Sub-3TA), filed August 29, 1979. Applicant: SUNRICH TRANSPORTATION COMPANY, 303 South Santa Fe, Pueblo, CO 81002. Representative: William J. Lippman, Suite 330, 50 S. Steele St., Denver, CO 80209. *Flour and taco shells*, from points in CA to Pueblo, CO for 180 days. Restricted to transportation of traffic originating at or destined to facilities used by Candy's Tortilla Factory, Inc. An underlying ETA seeks authority up to 90 days. Supporting shipper(s): Candy's Tortilla Factory, Inc., 2110 Santa Fe Drive, Pueblo, CO. Send protests to: District Supervisor H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 147553 (Sub-2TA), filed September 17, 1979. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Rick J. Hall, Post Office Box 2465, Salt Lake City, UT

84110. *Beer and wine*, from CA, WA and OR to the facilities of Bonneville Dist. at Salmon and Idaho Falls, ID; Thompson Dist. at Pocatello, ID; Intermountain Beverage at Pocatello, ID & Southern Idaho Dist. at Twin Falls, ID for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bonneville Distributing Co., P.O. Box 456, Idaho Falls, ID 83401; Thompson Distributing Co., P.O. Box 1702, Pocatello, ID 83201; Intermountain Beverage Co. Inc., P.O. Box 4013, Pocatello, ID 83201; Southern Idaho Distributing Co., P.O. Box 423, Twin Falls, ID 83301. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 148193 (Sub-1TA), filed August 30, 1979. Applicant: S & B TRUCKING, INC., 204 E. Robert Toombs Ave., Washington, GA 30673. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Contract carrier: Irregular routes Plastic film and plastic sheeting* from the facilities of Edison Plastic Company at or near Washington (Wilkes County) GA to points in FL, SC, TN and NC, under a continuing contract or contracts with Edison Plastic Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edison Plastic Company, Washington, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 141033 (Sub-59TA), filed September 4, 1979, and published in the issue of November 7, 1979 as (Sub-87TA) and republished as corrected this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: James I. Mendenhall (same as applicant). The purpose of this republication is to correctly identify the application as (Sub-59TA) in lieu of 87TA as previously published. The commodity remains the same as previously published.

#### Notice No. 211

MC 4687 (Sub-27TA), filed October 5, 1979. Applicant: BURCESS & COOK, INC., P.O. Box 458, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Insulation and insulating material*, from points in Nash County, NC to points in AL, FL, GA, SC, MS, KY, LA, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spring Hope Rockwool, Inc., P.O. Box 880, Spring Hope, NC 27882. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 11207 (Sub-506TA), filed October 9, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Iron and steel articles* from Baytown, TX to points in AL, AR, FL, GA, LA, MS and TN, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 27817 (Sub-16TA), filed September 6, 1979. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Canned goods* from the facilities of the Joan of Arc Co. at or near Turkey, NC to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Joan of Arc Co., 2231 W. Altorfer Dr., Peoria, IL 61615. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 30237 (Sub-40TA), filed September 14, 1979. Applicant: YEATTS TRANSFER CO., P.O. Box 666, Altavista, VA 24517. Representative: Eston H. Alt (same as applicant). *New Furniture* from Chester and Richmond, VA to points in CT, DE, DC, KY, ME, MD, MA, NH, NJ, NC, OH, PA, RI, TN, VT, NY and WV for 180 days. Supporting shipper(s): The Hon Co. P.O. Box 820, Muscatine, IA 52761. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 34227 (Sub-20TA), filed October 18, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. *Contract carrier: Irregular routes: Paper and paper products* from the facilities of Simpson Paper Company at or near Pomona CA to points in AZ, CO, NV, NM, TX, UT and WY for 180 days. ETA filed seeking 90 days authority. Supporting shipper(s): Simpson Paper Company, Shasta Mill, P.O. Box 634, Anderson, CA 96007. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 35227 (Sub-12TA), filed September 20, 1979. Applicant: EDSON EXPRESS, INC., 1270 Boston Avenue, P.O. Box 887, Longmont, CO 80501. Representative: Richard P. Kissinger, 50 So. Steele St., Suite 330. *Common carrier: regular routes: General commodities* (except

those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Denver, CO and Lander, WY serving the intermediate point of Riverton, WY and serving points in the Gas Hills Uranium Mining District in WY as off-route points, over the following described routes: from Denver, over U.S. Hwy. 87 and I-25 to jct. U.S. Hwy. 26, then over WY Hwy. 789 to Lander, and return over the same route. From Denver over U.S. Hwy. 287 to jct. I-80, (near Laramie, WY) then over I-80 to jct. U.S. Hwy. (near Rawlins, WY), then over U.S. Hwy. 287 to Lander, WY, and return over the same route for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 138 supporting statements can be examined at Denver field office or headquarters. Send protests to: Roger Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 36556 (Sub-45TA), filed October 18, 1979. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same address as applicant). *Canned or prepared foodstuffs, except in bulk, in tank vehicles* from the plantsite and facilities utilized by Friday Canning Corporation, at or near New Richmond, Coleman, Gillett, Shawano, Eden, Oakfield, Chilton and Sussex, WI to points in IL, IN, MI, OH, Louisville, KY and St. Louis, MO and the return of refused or rejected shipments, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Friday Canning Corporation, 660 North Second Street, New Richmond, WI 54017. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 42487 (Sub-946TA), filed September 19, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Common carrier: regular routes: General Commodities* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Between the junction U.S. Hwy 82 and U.S. Hwy 75 and Albuquerque, NW, serving the intermediate points of Gainesville, Wichita Falls and Amarillo, TX and serving the junction U.S. Hwy 82 and U.S. Hwy 377 for purpose of joinder only. From the junction U.S. Hwy 82 and U.S. Hwy 75 over U.S. Hwy 82 to



junction U.S. Hwy 287 at Henrietta, TX, then over U.S. Hwy 287 to Amarillo, TX, then over U.S. Hwy 86 to Albuquerque, and return over the same route. Between Wichita Falls, TX and Fort Worth, TX, serving no intermediate points. From Wichita Falls over U.S. Hwy 287 to Fort Worth, and return over the same route. Between Denton, TX and the junction U.S. Hwy 377 and U.S. Hwy 82, serving no intermediate points. From Denton over U.S. Hwy 377 to the junction U.S. Hwy 377 and U.S. Hwy 82, and return over the same routes for 180 days. Applicant seeks to serve all points in the Commercial Zones of points of service authorized above.

**Note.**—Applicant intends to tack the authorities described above. Applicant also intends to tack to its existing authority and any other authority it may obtain in the future.

Applicant intends to tack the proposed authority at Wichita Falls, TX and the junction U.S. Hwy 377 and U.S. Hwy 82. Applicant also intends to tack the proposed authority with present authority at Fort Worth, TX, Gainesville, TX and Denton, TX. Authority at Fort Worth, Gainesville and Denton is found in Docket No. MC 42487 Sub 708.

Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper: There are 15 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C., or copies of which may be examined in the field office named below. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 42487 (Sub-949TA), filed October 9, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP., OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). Serving the facilities of Consolidated Metco, Inc., at Monroe, NC, as an off-route point in connection with carrier's presently authorized regular route operations.

**Note.**—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

The facilities of Consolidated Metco, Inc., at Monroe, NC will be off-route to the following service routes of Applicant. MC 42487 (Sub-744(A)). General commodities, except those of

unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Between Asheville, NC, and Winston-Salem, NC, serving all intermediate points. From Asheville over U.S. Hwy 74 to Charlotte, NC, thence over U.S. Hwy 29 to Lexington, NC, thence over U.S. Hwy 52 to Winston-Salem, and return over the same route.

MC 42487 (Sub-944TA), filed August 31, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP., OF DELEWARE 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. General commodities, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). Serving the facilities of Kayser-Roth Hosiery, Inc., at or near Creedmoor, NC, as an off-route point in connection with carrier's presently authorized regular route operations.

**Note.**—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

The facilities of Kayser-Roth Hosiery, Inc., at or near Creedmoor, NC will be off-route to the following service routes of Applicant. MC 42487 (Sub-—). (The Commission authorized Applicant to acquire and merge Burris Express, Inc., under Docket No. MC-F-12497. The transaction was consummated January 14, 1976. A Certificate has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued it will be identified as Docket No. MC 42487 Sub 835). General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Route 15. Between Durham and Laurinburg over U.S. Hwys 15 and 501 via Chapel Hill, Sanford, Carthage, and Aberdeen. (a) Serving all intermediate points and the off-route points and highways. (1) Carrboro west of Chapel Hill on NC Hwy 54. (2) From Tramway south of Sanford to Jonesboro Heights over NC Hwy 78. Route 27. From Raleigh over U. S. Hwy 70 to its intersection with the Raleigh-Durham Airport Road, thence over said airport road to the Raleigh-Durham Airport, thence over an unnumbered highway to Nelson, thence over Durham County Secondary Road No. 1959 to to intersection with U. S. Hwy 70, thence over U. S. Hwy 70 to Durham and return, serving all intermediate points and

William B. Unstead State Park as an off-route point. Alternate route: Between Raleigh and Durham over U. S. Hwy 70 and return serving all intermediate points and William B. Unstead State Park and Raleigh-Durham Airport as off-route points. The proposed authority will be tacked or joined with authority. Applicant acquired from Burris Express, Inc., as an off-route point. That authority, in turn, will be joined with other present authority of Applicant at such points as Charlotte, NC and Winston-Salem, NC to permit service to and from points throughout the United States. Under Docket No. MC-F-12497, the Commission authorized Applicant to acquire and merge the authority of Burris Express, Inc. The transaction was consummated January 14, 1976. A Certificate covering this authority has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued it will be identified as Docket No. MC 42487 (Sub-835). The facilities here involved are off-route to Routes 15 and 27. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting Shipper: Kayser-Roth Hosiery, Inc., 2302 W. Meadowview Rd., Greensboro, No. Carolina 27497. Send Protests To: Neil C. Foster, 211 Main, Suite 500 San Francisco, Ca 94105.

MC 42487 (Sub-952TA), filed September 21, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes. General commodities, (except those of unusual value livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading. Serving the facilities of United Steel Products at Montgomery, MN as an off-route point in connection with carrier's otherwise authorized regular route operations.

**Note.**—Applicant intends to tack to its existing authority and any authority it may acquire in the future.

The facilities of United Steel Products at Montgomery, MN will be off-route to the following service routes of applicant. General commodities, except commodities in bulk and household goods as defined by the Commission. From Asheville over U.S. Hwy 74 to Charlotte, NC, thence over U.S. Hwy 29 to Lexington, NC, thence over U.S. Hwy

52 to Winston-Salem, and return over the same route. (The Commission authorized Applicant to acquire and merge Burris Express, Inc., under Docket No. MC-F-12497. The transaction was consummated January 14, 1976. A Certificate has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued, it will be identified as Docket No. MC 42487 Sub 835). General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. Route 1. Between Charlotte and Carthage over NC Hwy 27. (a) Serving following off-route points: (1) Midland on NC Hwy 601. (2) Oakboro on NC Hwy 205. (3) Badin on NC Hwy 740. (4) Mount Gilead over NC Hwy 73 and 109.

**Note.**—Service authorized to all intermediate points in connection with Routes (1) through (23).

Route 32. From Charlotte to Greensboro over U.S. Hwy 29 and 29-A. Return over the above routes (32 through 45) serving all intermediate points.

Route 52. From Charlotte to North Wilkesboro over NC Hwy 27 from Charlotte to Lincolnton, via Mount Holly, thence over U.S. Hwy 321 from Lincolnton to Conover, via Newton, thence over NC Hwy 16 to intersection U.S. Hwy 421, thence over U.S. Hwy 421 to intersection with NC Hwy 18, thence over NC Hwy 18 to North Wilkesboro. Route 53. From Charlotte to the Virginia Line over NC Hwy 115 (formerly U.S. Hwy 21) to intersection with U.S. Hwy 21 north of Mooresville, thence over U.S. Hwy 21 via Statesville, Brooks Cross Roads, Elkin, Roaring Gap and Sparta; from Statesville to Taylorsville over NC Hwy 90 via Stoney Point. Return over the aforesaid routes (52 through 56) serving all intermediate points.

**Note.**—The authority granted herein (routes 52 and 56) to the extent that it duplicates any authority heretofore granted to or held by carrier shall not be construed as conferring more than one operating right.

Route 73. Transportation of general commodities, except those requiring special equipment, over the following route: From Charlotte, NC over NC Hwy No. 49 to junction of NC Hwy No. 160, thence over NC Hwy 160 to junction of U.S. Hwy 29 (at or near Charlotte), and return over the same route, serving all intermediate points, for 180 days. The proposed authority will be tacked or joined with our authority in Docket No. MC 42487 Sub 744 and authority acquired from Burris Express, Inc., as an off-route point. We will in turn tack our Sub 744 authority and the authority

acquired from Burris Express, Inc., with other present authority of Applicant at such points as Charlotte, NC, Winston-Salem, NC, Cincinnati, OH, Louisville, KY and Atlanta, GA to permit service to and from points throughout Applicant's system. Under Docket No. MC-F-12497, the Commission authorized Applicant to acquire and merge the authority of Burris Express, Inc. The transaction was consummated January 14, 1976. A Certificate covering this authority has not yet been issued in the name of Applicant by the Commission. When the Certificate is issued it will be identified as Docket No. MC 42487 Sub 835. The facilities here involved are off-route to Routes 1, 32, 52, 53 and 73 of the Burris Express, Inc., authority and our Sub 744. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Consolidated Metco, Inc., 780 Patton Ave., P.O. Box 907, Monroe, N.C. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 42487 (Sub-953TA), filed October 18, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97128. Common Carrier; regular routes; general commodities, (except Class A and B explosives, blasting materials, commodities of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of Amerace Corporation, Wheel Products Division at or near Lineville, AL as an off-route point in connection with carrier's otherwise authorized regular route operations. The facilities of Amerace Corp., Wheel Products Division will be off-route to the following service routes of applicant: MC 42487 Sub-— (Consolidated Freightways Corporation of Delaware acquired and merged a portion of the authority of Baggett Transportation Co. as authorized by the Commission in Docket No. MC-F-13224. The acquisition was consummated January 3, 1978. A certificate has not yet been issued in the name of Consolidated Freightways Corporation of Delaware by the Commission, but when it is issued it will be identified as Sub-872) general commodities, except explosives and blasting supplies, and household goods as defined by the Commission. Between Anniston, AL and Gadsden, AL, serving all intermediate points: From Anniston, AL over U.S. Hwy 431 to

Gadsden, AL, and return over the same route. General commodities, except those of unusual value, and except Classes A and B explosives, blasting materials, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Birmingham, AL and Gadsden, AL, serving the intermediate points in Leeds, Pell City, and Anniston, AL, and those on AL Hwys 21 and 74: From Birmingham, AL over U.S. Hwy 78 to Anniston, AL, thence over U.S. Hwy 431 (formerly U.S. Hwy 241) to Gadsden, AL (also from Anniston, AL over AL Hwy 21 (formerly AL Hwy 11) to Piedmont, AL, and thence over AL Hwy 74 to Gadsden, AL), and return over these routes to Birmingham, AL, for 180 days. The authority here sought will be tacked or joined with authority applicant acquired from Baggett Transportation Co. as authorized by the Commission in Docket No. MC-F-13224. A certificate has not yet been issued in the name of applicant, but when it is issued it will be identified as Sub-872. That authority, in turn, will be joined with other present authority of applicant at such points as Birmingham, AL, New Orleans, LA, Atlanta, GA and Chattanooga, TN to permit service to and from points throughout applicant's system. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): Amerace Corp. Div. Wheel Products, P.O. Box 497, Lineville, AL 36266. Send protests to: D/S Neil C. Foster, 211 Main Suite 500, San Francisco, CA 94105.

(Republication) MC 45626 (Sub-No. 72 TA), filed April 30, 1979. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, VT. Representative: John J. Dwyer, 135 St. Paul Street, Burlington, VT. By corrected decision of September 24, 1979, the Motor Carrier Board granted applicant 180-day temporary authority to transport passengers and their baggage, and express in the same coach with passengers, over regular routes, serving all intermediate points, between Bennington, VT and Albany, NY, from Bennington over Vermont Hwy. 9 to the New York-Vermont State line, then over New York Hwy. 7 to junction New York Hwy. 7 and Interstate Hwy. 87 to junction Interstate Hwy. 87 and New York Hwy. 155, then over New York Hwy. 155 to Albany County Airport, Colonie, NY, then over New York Hwy. 155 to junction Interstate Hwy. 87, then



over Interstate Hwy. 87 to Albany, and authorizing applicant to tack with its existing authority under MC 45628. The above-described request for authority was published in the Federal Register on June 1, 1979. Tacking was inadvertently omitted in the prior publication. Any interested party may file a petition for reconsideration within 20 days from the publication of this notice. Within 20 days after the filing of such petition, any interested party may file a reply thereto. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

MC 51146 (Sub-767TA), filed October 9, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). (1) *Carpet, room and pet deodorizers and fresheners* between Houston, TX on the one hand, and, on the other, Appleton, WI and Lewiston, UT; (2) *plastic bottles* from Philmont, NY to Houston, TX, and (3) *Carpet, room and pet deodorizers and fresheners in mixed loads with plastic products, aluminum foil and stretch wrap holders* between Appleton, WI and Lewiston, UT on the one hand, and, on the other, points in the United States (except AK & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Presto Products, Inc., P.O. Box 2399, Appleton, WI 54913. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 51146 (Sub-768TA), filed October 16, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). *Clay, brick and tile products* from points in OH, WV, IL, PA, GA, KY, CT, MA, SC, CA, IA, NE, TX, MI, AR, MD, VA & NC to Milwaukee & Green Bay, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Face Brick & Supply Company, 7830 W. Good Hope Rd., Milwaukee, WI 53223. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 51146 (Sub-770TA), filed October 23, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). *Plastic, plastic products, magnesium alloy engraving plates and coated mill products* between facilities of Dow Chemical Corp. at Findlay, OH and points in the U.S. in and east of ND, SD, NE, KS, OK & TX, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Dow Chemical U.S.A., 3441 N. Main St., Findlay, OH 45840. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-772TA), filed October 25, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. Dujardin (same address as applicant). *Plastic containers* from Kentwood, MI to Minneapolis, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Plastic Beverage Bottles, 4 Landmark SQ., Suite 130, Stamford, CT 06901. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 52657 (Sub-748TA), filed September 27, 1979. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Ct., Burr Ridge, IL 60521. Representative: James Bouril (same address as applicant). *Converted new foreign automobiles*, from Troy, MI to NY, NJ, CT, PA, and MD for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Toyota of Greenwich, 75 E. Putnam Ave., Cos Cob, CT. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 59117 (Sub-72TA), filed September 26, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vanita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fly ash*, in bulk, from Gentry, AR, to points in LA & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gifford-Hill & Co., Inc., Ash Products Division, Box 47127, Dallas, TX 75247. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59457 (Sub-51TA), filed October 9, 1979. Applicant: SORESEN TRANSPORTATION COMPANY, INC., Old Amity Road, Bethany, CT 06525. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Common carrier: irregular routes: Ice cream, ice products, dairy products, desserts, frozen/refrigerated, materials and supplies used in the production thereof* from Stratford, CT to Norfolk and Portsmouth, VA, limited to transportation to or from the facilities of the Borden Corporation at Stratford, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Corporation, 355 Benton Street, Stratford, CT 06497. Send protests to: J. D. Perry, Jr., District Supervisor,

Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 66748 (Sub-24TA), filed August 9, 1979. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Dr., P.O. Box 8308, Jackson, MS 39204. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over the following regular routes: (1) Between Memphis, TN, and Greenville, MS, serving all intermediate points: From Memphis, over U.S. Hwy 61 via Clarksdale, MS, to Leland, MS, thence over U.S. Hwy 82 to Greenville, and return over the same route; (2) Between Clarksdale, MS, and Greenville, MS, serving all intermediate points: From Clarksdale over MS Hwy 1 to Greenville, and return over the same route; (3) Between Cleveland, MS, and Rosedale, MS, serving all intermediate points: From Cleveland over MS Hwy 8 to Rosedale, and return over the same route; (4) Between Clarksdale, MS, and Dundee, MS: From Clarksdale, MS over MS Hwy 6 to Friars Point, MS, thence over unnumbered Cy. road through Powell, MS, to Dundee, MS, and return over the same route, serving all intermediate points, and those off-route points within 5 miles of the designated route; (5) Between jct. of U.S. Hwy 61 and MS Hwy 6 and West Helena, AR, serving all intermediate points: From jct. U.S. Hwy 61 and MS Hwy 6 over MS Hwy 6 to the MS-AR State Line, thence over AR Hwy 6 to West Helena, and return over the same route; (6) Between Leland, MS and Rolling Fork, MS: From Leland, MS, over U.S. Hwy 61 to Rolling Fork, MS, and return over the same route, serving all intermediate points; (7) Between Greenville, MS, and El Dorado, AR, over U.S. Hwy 82, serving all intermediate points and the off-route points of Shuler, AR, and the plantsite of Michigan Chemical Company near El Dorado, AR; (8) Between El Dorado and Smackover, AR over AR Hwy 7; (9) Between Fordyce, AR, and jct. U.S. Hwy 65 and U.S. Hwy 165 near Dermott, AR: From Fordyce over AR Hwy 8 to Warren, AR, thence over AR Hwy 4 to Monticello, AR, thence over U.S. Hwy 165 to its jct. with U.S. Hwy 65, and return over the same route, serving all intermediate points; and serving Fordyce, AR, for purposes of joinder only; (10) between Hamburg, AR, and Lake Village, AR, serving all intermediate points: From Hamburg over AR Hwy 81 to Star City, AR, thence over U.S. Hwy 65 to Lake Village, and return over the same route; (11) Between West

Helena, AR and Dumas, AR: From West Helena over U.S. Hwy 49 to jct. AR Hwy 1, thence over AR Hwy 1 to the Arkansas River, thence over AR Hwy 54 to Dumas, for purposes of joinder only; (12) Between Memphis, TN, and Helena, AR: From Memphis over U.S. Hwy 79 to Marianna, AR, thence over AR Hwy 1 to Barton, AR, and thence over U.S. Hwy 49 to Helena, and return over the same route, serving all intermediate points and the off-route point of Marvelle, AR, for 180 days. Supporting shipper(s): There are 84 statements of support attached to this application. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

Note.—Service between Memphis, TN and points within its commercial zone, on the one hand, and, on the other, points in AR is restricted to service to Crossett, AR. Applicant seeks authority to tack or join with existing authority at common points in the state of MS; to interline at Memphis, TN and Greenville, MS; and to serve all points within the commercial zones of the points sought to be served. An underlying ETA seeks 90 days authority.

MC 66746 (Sub-25TA), filed August 13, 1979. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Drive, P.O. Box 8308 Jackson, MS 39204. Representative: H.D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Tire tubes* between the facilities of Cooper Tire & Rubber Co. at or near Clarksdale, MS and the facilities of Cooper Tire & Rubber Co. at or near Texarkana, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cooper Tire & Rubber Co., P.O. Box 550 Findlay, Ohio 45840. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 66886 (Sub-78TA), filed October 18, 1979. Applicant: BELGER CARTAGE SERVICE, INC., 2106 Walnut Street, Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue Kansas City, MO 64105. *Roofing and roofing materials, composition shingles*, from the plant sites of the Masonite Corporation at or near Little Rock, AR to points in OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corporation, 2701 E. Roosevelt, Little Rock, AR 72203. Send protests to: Vernon V. Coble, DS, I.C.C., 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 76867 (Sub-84TA), filed October 12, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street (P.O. Box 751), Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C.

20001. *Coal*, between points in PA and NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zacherl Coal Company & Wagner Coal Company, 12 Grant Street, Clarion, PA 16214. Send protests to: R.H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 98187 (Sub-4TA), filed October 17, 1979. Applicant: FREDERICK M. JACOBS d.b.a. WALDRON TRUCK LINE, 443 N. 47 St., Ft. Smith, AR 72903. Representative: Frederick M. Jacobs (same as applicant). *Common carrier over irregular routes: General commodities* (except Classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Ft. Smith, AR and Stilwell, OK; from Ft. Smith over I-40 to Sallisaw, OK, then over U.S. Hwy. 59 to Stilwell, and return over the same route, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Electric Company, Inc., 320 S. 9 St., Ft. Smith, AR 72901. Facet Enterprises, P.O. Box 192, Stilwell, OK 74960. Cherokee Nation Industries, Inc., P.O. Box 860, Stilwell, OK 74960. Stilwell Foods, Inc., P.O. Box 432, Stilwell, OK 74960. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 98327 (Sub-36TA), filed September 27, 1979. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Ray V. Mitchell, (415) 632-4700 (same address as applicant). *Common carrier, regular routes: general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, liquid commodities in bulk, and commodities requiring special equipment), between Idaho Falls, ID and Junction U.S. Hwy 91 (Interstate Hwy 15) and Montana Hwy 324, serving no intermediate points, and serving Idaho Falls, ID and its commercial zone, and Junction U.S. Hwy 91 (Interstate Hwy 15) and Montana Hwy 324, from Idaho Falls, ID over U.S. Hwy 91 (Interstate Hwy 15) to Junction U.S. Hwy 91 (Interstate Hwy 15) and Montana Hwy 324, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): No supporting shippers. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 102567 (Sub-231TA), filed July 3, 1979 and published in the Federal Register of August 6, 1979 and republished as corrected this issue. Applicant: MCNAIR TRANSPORT, INC., P.O. Box 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Fwy.

Suite 130, Houston, TX 77040. *Distillate Fuel oils, aviation gasoline and jet fuel*, in bulk, in tank vehicles, from Memphis, TN to AR, for 180 days. Applicant has filed for an underlying ETA seeking 90 days, authority. Supporting shipper: Mobile Oil Corp., 8350 N. Central Expressway, Campbell Centre Suite 522, Dallas, TX 75206. Send protests to: Robert J. Kirspeil, ICC, T-9038 Fed Off. Bldg., 701 Loyola Ave. New Orleans, LA 70113.

MC 108207 (Sub-536TA), filed October 17, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, (same as applicant) *Refrigerated Yogurt (except in bulk) in mechanically refrigerated equipment* from Reed City/Otsego, MI to Logan, Murray, Ogden, Provo, and Salt Lake City, UT; East Milwaukee, Clackamas, Medford, Salem, and Portland, OR for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Yoplait U.S.A., Inc., 400 South County Road 18, Suite 605, Minneapolis, MN 55426. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 108937 (Sub-60TA), filed October 23, 1979. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. *Common carrier: regular routes: General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving Beaver Dam, Beloit, Burlington, Columbus, Delevan, Elkhorn, Fall River, Fort Atkinson, Fredonia, Horicon, Janesville, Kohler, Lake Geneva, Lake Mills, Madison, Manitowoc, Markesan, New Holstein, Oconomowoc, Oostburg, Plymouth, Portage, Sheboygan, Sheboygan Falls, Slinger, Two Rivers, Waterford, Watertown, Williams Bay and Wilmot, WI as off-route points in conjunction with applicant's regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 83 statements of support attached to this application which may be examined at the ICC in Washington, DC or the field office named below. Send protests to: Judith L. Olson, TA, ICC, 414 Fed Bldg., 110 S. 4th St. Minneapolis, MN 55401.

MC 111967 (Sub-8TA), filed October 15, 1979. Applicant: CADELLE TRANSIT CORPORATION, P.O. Box 146, Lawton, OK 73501. Representative: Dean Williamson, Suite 615 East, the Oil Center, 2601 Northwest Expressway,



Oklahoma City, OK 73112. *Roofing asphalt* from Cyril, OK to points in NM south of U.S. Highway 60 and TX, for 180 days. Underlying ETA filed. Supporting shipper(s): Oklahoma Refining Company, P.O. Box 26386, Oklahoma City, OK 73126. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 115557 (Sub-27TA), filed October 9, 1979. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Cooling boxes, beer coolers and beer cooler tanks, and equipment, materials and supplies* used in the manufacture, sale or distribution of the above commodities, between the facilities of Beverage Air Company in Brookville, PA, on the one hand, and, on the other, Baltimore, MD; New York, NY; Spartansburg, SC; St. Paul and Minneapolis, MN; Meridian, MS; Kansas City and St. Louis, MO; Washington, DC; and points in CA, CT, IL, MA, MI, OH, RI, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beverage Air Company, Progress St., Brookville, PA 15825. Send protests to: I.C.C., Fed Res. Bank Bldg., 101 N. 7th St, Rm 620, Philadelphia, PA 19106.

MC 115826 (Sub-553TA), filed August 24, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address). *Petroleum and petroleum products and related items in packages*, from Kansas City, KS to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Phillips Petroleum Company, 154 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: District Supervisor H.C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 119777 (Sub-425TA), filed October 12, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, Kentucky 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Kentucky 42431. Particleboard, from the facilities of Louisiana-Pacific Corp. plant at Urania, LA to Jasper, IN. Supporting shipper(s): Jasper Wood Products Co., Inc., Philip J. Gramelspacher, Purchasing Agent, P.O. Box 271, Jasper, Indiana 47546. Send protests to: Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 121517 (Sub-13TA), filed October 22, 1979. Applicant: ELLSWORTH

MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615—East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fly ash*, from facilities of Oklahoma Gas and Electric Company (Red Rock Station), at or near Ponca City, OK, to points in AR, CO, KS, MO, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walter N. Handy Co., Inc., 1948 (c) South Glenstone, Springfield, MO 65804. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 124236 (Sub-100TA), filed October 19, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Joe A. Morgan (same as above). *Asphalt liquid, in bulk, in tank vehicles*, from points in or near Houston and Beaumont, TX to Westwego, Harvey, Belle Chase, and New Orleans, LA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Gulf States Asphalt Company, Inc., 601 Jefferson, #535, Houston, TX 77002. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 124887 (Sub-100TA), filed October 25, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. (1) *general commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles), in containers or trailers, having an immediately prior or subsequent movement by water, and (2) empty containers and trailer chassis* (1) from Panama City, FL on the one hand, and, on the other, points in AR, LA, SC, and TN, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Panama City Port Authority, P.O. Box 388 Panama City, FL 32401. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 127587 (Sub-10TA), filed July 2, 1979. Applicant: MEXICANA REEFER SERVICES, LTD., 2830 Grandview Highway, Suite 204, Vancouver, B.C. Canada V5M 2C9. Representative: Dan Smigelski, Vice President (Same as Above). *Contract carrier: irregular routes: Chicoite (cat litter)*, from Maricopa, CA, to International Boundary between U.S.-Canada at or near Blaine, WA, for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Panamint Marketing Co., P.O. Box 4846, Anaheim, CA 92803. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 128007 (Sub-147TA), filed October 25, 1979. Applicant: HOFER, INC., P.O. Box 583; Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Trace minerals* from Fremont County, CO, to points in Woodson, Allen, Neosho and Harvey Counties, KS; and Bates, Cass, Henry, Johnson, Pettis and St. Clair Counties, MO for 180 days, common, irregular. Supporting shipper: Missouri Soil Builders, Route 2, Box 380, Warsaw, MO 65355. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 129387 (Sub-101TA), filed October 24, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271 Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). *Boxed meat* from CA to points in MN for 180 days. An underlying ETS seeks 90 days authority. Supporting shipper(s): National Steak Processors Co., 9336 Long Beach Blvd., South Gate, CA 90280. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 129537 (Sub-42TA), filed September 11, 1979. Applicant: REEVES TRANSPORTATION CO., INC., Route 5, Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Carpeting, floor covering, carpet padding, materials, supplies and equipment used in the installation and manufacture thereof*, from the between and all points in Floyd, Bartow, Chatoga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa and Troup Counties, GA on the one hand and all points in the state of LA on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 26 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300 Atlanta, GA 30309.

MC 133937 (Sub-34TA), filed October 19, 1979. Applicant: CAROLINA CARTAGE COMPANY, INC., 1638 East Vesta Avenue, College Park, GA 30337. Representatives: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602; Leonard A. Jaskiewicz, Suite 501, 1739 M St., N.W., DC 20036. *Commodities as are dealt in by catalog and retail department stores, materials, supplies, and equipment, including garments on*

*hangers*, between Hudson County, NJ and the commercial zones of Dallas, Ft. Worth, and Houston, TX, Cincinnati, Cleveland, Columbus, and Dayton, OH, Chicago, IL, Milwaukee, WI, St. Louis, MO, Detroit, MI, Boston, MA, Baltimore, MD, San Francisco and Los Angeles, CA, AL, FL, GA, MS, NC, SC, TN, and DC. Supporting shipper(s): "There are (8) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 134477 (Sub-377TA), filed October 16, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Toys, electronic games, furniture and plastic articles (except commodities in bulk)*, from points in CT, DE, GA, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV to Gary, IN, for 180 days. Supporting shipper(s): Riss Sales, Inc., Pres., 2201 W. 37th Ave., Gary, IN 46408. Send protest to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls, MN 55401.

MC 134477 (Sub-378TA), filed October 16, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Foodstuffs (except commodities in bulk)*, from the facilities of Schrafft Candy Co., at or near Boston, MA and Woburn, MA to points in AL, AR, DE, GA, IL, IN, IA, KS, KY, MD, MI, MN, MO, MS, NE, NC, ND, OH, PA, SC, SD, TN, VA, WV, WI, and DC, for 180 days. Supporting shipper(s): Schrafft Candy Co., Transportation Mgr., 529 Main St., Boston, MA 02129. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls, MN 55401.

MC 135797 (Sub-271TA), filed October 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, (same address as applicant). *Foodstuffs* from the facilities of Lindsay Olive Growers at Lindsay, CA and Salem, OR to points in CO, FL, GA, IL, IN, IA, MA, MI, MN, MO, MS, NE, NY, OH, PA, TN, TX and WI, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Lindsay Olive Growers, 650 W. Turlare Rd., Lindsay, CA 93247. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-272TA), filed October 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC. P.O. Box 130,

Lowell, AR 72745. Representative: Paul R. Bergant, (same address as applicant). *Canned and preserved foodstuffs*, from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to the facilities of Heinz USA at or near Grand Prairie, TX; Greenville, SC; and Jacksonville, FL, and in each case restricted to traffic originating at the named facilities and destined to the named destinations, for 180 days. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135797 (Sub-273TA), filed October 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Such commodities as are dealt in or used by retail stores (except commodities in bulk)*, (1) from points in CA, IL, IN, MA, MO, NJ, NY, OH, TN and TX to the facilities of Modern Merchandising, Inc., located in AZ, FL, IL, KS, MI, MO, NM, OH and UT; (2) from Waseca and Minneapolis, MN to the facilities of Modern Merchandising, Inc., located in AZ, CA, CO, FL, ID, IL, KS, MI, MO, MN, MT, NM, ND, OH, OR, SD, UT, WA and WY, for 180 days. Supporting shipper(s): Modern Merchandising, Inc., P.O. Box 900, Hopkins, MN 55343. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 138157 (Sub-191TA), filed October 15, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Nutritional food supplements, personal care products, household products and materials, equipment and supplies used in the manufacture, sale and distribution of the above commodities (except in bulk)*, (1) From Hayward, CA and Norman, OK to Dayton, NJ; and (2) From Phoenix, AZ to Chicago, IL; Atlanta, GA; Dayton, NJ; Norman, OK; Hayward, CA and Dallas, TX, for 180 days. Restriction: Restricted to traffic originating at or destined to the facilities of Shaklee Corp. Supporting shipper(s): Shaklee Corp., 1900 Powell St., Emeryville, CA 94608. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-192TA), filed October 15, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., P.O. Box 9596, Chattanooga, TN 37410. Representative:

Patrick E. Quinn (same address as applicant). *Chemicals and chemical compounds (except in bulk)* from Murray, KY and Bethel and Norwalk, CT to points in CA, for 180 days. Supporting shipper(s): R. T. Vanderbilt Co., Inc., 30 Winfield St., Norwalk, CT 06855. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-193TA), filed October 18, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Floor covering materials and materials, equipment and supplies used in the installation, sale and distribution of floor covering materials*, from points in GA, NC, SC, and TN to points in AZ, CA, ID, NV and OR, for 180 days. Supporting shipper(s): LaSalle-Deitch Co., Inc., 1231 Warner Avenue, Tustin, CA 92680. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-194TA), filed October 23, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Chemicals and related materials, equipment and supplies (except in bulk)*, from Charleston, SC; Kingsport, TN; Houston, TX and Niagara Falls, NY to Los Angeles, CA, for 180 days. Restriction: Restricted to traffic destined to the facilities of AMVAC Chemical Corporation. Supporting shipper(s): AMVAC Chemical Corporation, 4100 E. Washington Blvd., Los Angeles, CA 90023. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138627 (Sub-88TA), filed September 17, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Building materials, gypsum, and gypsum products* from the facilities of United States Gypsum Company at Southard, OK, to points in AR, CO, IL, IN, IA, KS, MO, NE, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Co., 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 140681 (Sub-3TA), filed August 6, 1979. Applicant: PEBBLE HAULERS, INC., 2830 Delta Avenue, Colorado



Spring, CO 80910. Representative: Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. *Dried sand* from points in El Paso County, CO to points in IL, KS, NE, NM, OK, TX and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Silica Sand, Inc., P.O. Box 15615, Colorado Springs, CO 80935. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 141857 (Sub-11TA), filed August 3, 1979. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader (same address as applicant). *Insulating materials and items and materials used in the manufacture of same*, between Willows, CA and all points in OR, WA, NV, ID, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corp., 2600 Campus Drive, San Mateo, CA 94403. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 143127 (Sub-57TA), filed October 23, 1979. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, Traffic Mgr. (address as above). *Malt beverages*, from Jacksonville, FL, Merrimack, NH, and Williamsburg, VA to East Rochester, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Beverage Corporation, 23 Linden Park, Rochester, NY 14625. Send protests to: Anne C. Siler, T/A, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 143267 (Sub-92TA), filed September 17, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155—15th St. NW., Washington, DC 20005. *Aluminum and aluminum articles and iron and steel articles* between the facilities of Kaiser Aluminum and Chemical Corp. in Lawrence and Owen Counties, IN, on the one hand, and, on the other, points in the US in and east or north of MN, IA, MO, AR, TN, NC, and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Aluminum & Chemical Sales Inc., 9700 So. Harlem Ave., Bridgeview, IL 60455. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 143456 (Sub-6TA), filed October 29, 1979. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Representative:

William L. Rossi (same address as applicant). Contract carrier, irregular routes: *Stone, stone working machinery, stone working supplies, stone working material*, between points in OK, on the one hand, and, on the other, the facilities of Rock of Ages Corporation in VT and NH, under a continuing contract with Rock of Ages Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rock of Ages Corporation and Rock of Ages Building Granite Corp., P.O. Box 482, Barre, VT 05641. Send protests to: Carol A. Perry, T/A, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 143516 (Sub-3TA), filed September 19, 1979. Applicant: RAIL HIGHWAY TRANSPORTATION INC., 11 Heid Ave., Dayton, OH 45404. Representative: Thomas F. Kilroy, Suite 406 Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. *General commodities (except commodities in bulk in tank or hopper vehicles and commodities which because of size or weight require the use of special equipment)*, having a prior or subsequent movement by rail or water, between Columbus, OH, on the one hand, and, on the other, all points in OH, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline with another carrier in Columbus, OH. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144806 (Sub-4TA), filed September 20, 1979. Applicant: FRED M. ANDERSON d.b.a. DELTA VALLEY TRUCKING, 69 North 200 West, Delta, UT 84624. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier: Irregular Route: Such commodities as are used by or dealt in by retail variety stores*, from Los Angeles, CA to Las Vegas, NV, under a continuing contract or contracts with Ben Franklin Stores, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ben Franklin Stores, 3030 South Atlantic Blvd., Los Angeles, CA 90020. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 145317 (Sub-9TA), filed September 11, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel Rd., San Antonio, TX 78217. Representative: C. Tom Clowe, Jr., 9022 Perrin Beitel Rd., San Antonio, TX 78217. *Cement* in bulk, from Hays County, TX to McKinley and Bernalillo Counties, NM, for 180 days. An underlying ETA

seeks 90 days authority. Supporting shipper(s): Texas Cement Company, P.O. Box 610, Buda, TX 78610. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145386 (Sub-2TA), filed October 11, 1979. Applicant: ROBERT L. McMAHON, d.b.a. ROBERT McMAHON CONSTRUCTION, 1105 South Maple Street, Staunton, IL 62088. Representative: (same as applicant). *Contract carrier: irregular routes: Steel tubing and pipe, flat steel, and plastic pipe*, between the plantsite of Livingston Pipe and Tube Inc. at Staunton, IL on the one hand and AK, AL, FL, GA, IA, IN, KS, KY, LA, MI, MO, MS, NC, NE, OH, OK, PA, SC, TN, TX, VA, WI, WV on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Livingston Pipe & Tube Corp., P.O. Box 289, Mount Olive, IL. Send protests to: Annie Booker, T/A, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145457 (Sub-1TA), filed October 18, 1979. Applicant: B & M EXPRESS, INC., 500 S. Western, Oklahoma City, OK 73109. Representative: C. L. Phillips, 1411 N. Classen, Oklahoma City, OK 73106. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk)* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: Connie Stanley, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 145457 (Sub-2TA), filed October 24, 1979. Applicant: B & M EXPRESS, INC., 500 S. Western, Oklahoma City, OK 73109. Representative: C. L. Phillips, Rm. 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. (1) *Such merchandise as is dealt in by wholesale, retail and chain grocery and feed businesses, soy products, paste, flour products, dairy based products (except commodities in bulk, in tank vehicles); and (2) Materials, ingredients and supplies used in the manufacture, distribution and sale of products in (1) above, (except in bulk)* Between the manufacturing and distribution facilities of Ralston Purina Company, located at or near Oklahoma City, OK, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, KY, LA, MS, MO, NE, NM, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034.

MC 145557 (Sub-10TA), filed June 15, 1979 and published in the August 17,

1979 Federal Register and republished as corrected this issue. Applicant: LIBERTY TRANSPORT, INC., 4614 South 40th Street, St. Joseph, Missouri 64503. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Missouri, 64068. *Meat, meat products and meat by-products, and articles* distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except Hides and commodities as are dealt in by retail variety, discount and drug stores and wholesale houses serving such stores (except commodities in bulk), from the Kansas City, Missouri Commercial Zone to AZ, CO, IA, KS, MN, ND, NE, NM, OK, SD, IL, TX and WI. Supporting shippers: Oldham Farm Sausage Co., 622 W. 3rd St., Lees Summit, MO 64063. Ranch Hand Foods, Inc., P.O. Box 13253, Edwardsville, KS 66113. Seven more supporting shippers may be viewed in Washington, D.C. or the District office. Send protests to: Vernon V. Coble, ICC, Rm. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106: The purpose of this republication is to properly indicate the territorial scope of this application.

MC 145627 (Sub-2TA), filed September 12, 1979. Applicant: M & T TRUCKING, INC., 4290 State Route #7, New Waterford, OH 44445. Representative: Joseph F. Mullins, Jr., 1700 K Street NW., Washington, DC 20006. *Coal* from the facilities of Industrial Mining Co. at Lisbon, OH, to points in Beaver County, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Mining Co., 4719 State Route 45, Lisbon, OH 44432. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 145797 (Sub-10TA), filed October 28, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, MO 63017. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Overhead door sections, and materials and hardware used in the manufacture and sale of overhead door sections, from the facilities of Overhead Door Corporation, Dallas and Fort Worth, TX to points in CA, GA, IL, IN, KY, MI, MO, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Overhead Door Corporation, Hartford City, IN 47348. Send protests to: Peter E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.*

MC 146187 (Sub-13TA), filed October 17, 1979. Applicant: TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, 805 South Garden St., Columbia, TN 38401. *Automotive parts, accessories and supplies, including carburetors, carburetor parts, manifold, manifold parts and valves*, between Nashville, TN, Bowling Green, KY, Paris, TN, Water Valley, MS, on the one hand, and points in the states of AZ, CA, CO, IL, KS, MI, NV, NJ, NM, NY, OK, PA, TX, UT, WA, and OR, on the other hand, for 180 days. Restriction: Restricted to traffic originating at or destined to the plantsite of Holley Carburetor Division of Colt Industries Operating Corp., located in Nashville, TN, Paris, TN, Bowling, KY, and Water Valley, MS. Supporting shipper(s): Holley Replacement Part Division of Colt Industries, 508 Space Park S., Nashville, TN 37211. Send protests to: Glenda Kuss, T/A, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 146326 (Sub-10TA), filed October 18, 1979. Applicant: JOHN ALGER d.b.a. ALGER TRANSPORTATION, 9811 Redman Avenue, Omaha, NE 68134. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Cable, wire and telephone equipment (except commodities in bulk)* from Omaha, NE to Sacramento and Fowler, CA; Reno, NV; and Salt Lake City, UT and empty reels on return for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Electric Co., Inc., A.C. Dodge, Resident Transportation Supervisor, P.O. Box 14000, Omaha, NE 68114. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 146756 (Sub-4TA), filed October 22, 1979. Applicant: WAGNER TRUCKING, INC., 6585 Dawn Way, Inver Grove, MN 55075. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Iron and steel articles, sheets and plates*, from Chicago, IL and points in its Commercial Zone to the facilities of Sam Bloom Iron and Metal Co., at Minneapolis, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sam Bloom Iron & Metal Co., 1508 1600 Second St. No., Minneapolis, MN 55411. Send protests to: Judith L. Olson, T/A, ICC 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 146787 (Sub-3TA), filed October 15, 1979. Applicant: DEAN ALBAUGH AND MICKEY ALBAUGH, d.b.a. ALBAUGH FARMS, R.R. 2, Ankeny, IA

50021. Representative: Thomas E. Leahy, Jr., 1980 Financial Ctr., Des Moines, IA 50309. *Reinforcing steel and construction products* from St. Paul, MN, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Contractors Steel Corporation, Box 1696, Des Moines, IA 50306. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146907 (Sub-4TA), filed October 17, 1979. Applicant: PEBBLE HAULERS, INC., 2630 Delta Avenue, Colorado Springs, CO 80910. Representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. *Bentonite*, from facilities of 1st Bentonite Co. of CO located at Coaldale, CO to points in AZ, CA, KS, NE, NM, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 1st Bentonite Company of Colorado, 521 River Line, P.O. Box 718, Salida, CO 81201. Send protests to: H. Ruoff, 492, U.S. Customs House, Denver, CO 80202.

MC 146937 (Sub-3TA), filed September 26, 1979. Applicant: ALL STAR AIR FREIGHT, INC., 7001 W. 20th Ave., Hialeah, FL 33014. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. *Contract carrier—irregular route: Yarns and fabrics* from Montgomery, AL, Washington, GA, Belmont, Charlotte, Gastonia, Landis, Maiden, Reidsville, Salisbury and Swannanoa, NC, and Greenville, SC to Dade County, FL for 180 days. Supporting shipper(s): Niki-Lu Ind., Inc., 14540 N.W. 60th Ave., Miami Lakes, FL 33014. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 147286 (Sub-4TA), filed September 19, 1979. Applicant: A & L TRUCKING, INC., P.O. Box 103, Rocky Face, GA 30740. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Carpets* from the facilities of Carpet Crafts and Indian Springs Carpet Mills located at or near Chatsworth, GA to points in the U.S. in and east of NM, CO, NE, SD, and ND, (See attached list of representative destinations.) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grass More, Inc., Rt. 2, Chatsworth, GA 30705. Carpet Mills, Inc. & Indian Springs Carpet Mills, Rt. 2, Chatsworth, GA 30705. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 147416 (Sub-2TA), filed October 18, 1979. Applicant: RICHARD A. GREATON, 23 Park Ave., Dixfield, ME 04224. Representative: (Same as applicant). Contract: Irregular: Coal in



bulk, in dump-type vehicles, from Westbrook and Winslow, ME to the port of entry on the International Boundary Line between the U.S./Canada at or near Jackman, ME. Restricted to transportation performed under a bilateral contract with Zielinski Brothers, Agawam, MA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zielinski Brothers, 218 Shoemaker Lane, Agawam, MA 01001. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 147577 filed September 20, 1979. Applicant: THRIFT TRANSFER, INC., 4650 Eisenhower Ave., Alexandria, VA 22304. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *Paper and paper products* from the facilities of the Bear Island Paper Co., Hanover County, VA to the District of Columbia and points in DE, MD, NJ, NC, PA, and WV for 180 days. Supporting shipper(s): The Washington Post Co., 1150 15th St. NW., Washington, DC 20071. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 147636 (Sub-5TA), filed August 29, 1979. Applicant: DICK WELLER, INC., Shohan Road, P.O. Box 313, Warehouse Point, CT 06088. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Common carrier: irregular routes: Frozen potatoes* from Clark, SD; Sioux Falls, SD; Kansas City, MO and Independence, MO to points in AL, CT, DE, DC, FL, GA, IN, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, IA, MN, OK, IL, for 180 days. Supporting shipper(s): Chef-Reddy Foods Corporation Midwest, P.O. Box 100, Clark, SD 57225. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 148016 (Sub-2TA), filed September 12, 1979. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Highway 15 North, Ripley, MS 38663. Representative: Owen R. Gray, 1010 Highway 15 North, Ripley, MS 38663. *Bentonite, cat litter and clay products*, from Middleton, TN to points in the United States except AL, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority to authority applied for in MC 148016R. Supporting shipper(s): Maltan, Inc., P.O. Box 626, Memphis, TN 38101. Send protests to: Floyd A. Johnson, Rm.

2006—100 N. Main St., Memphis, TN 38103.

MC 148157 (Sub-2TA), filed October 1, 1979. Applicant: BLAZER EXPRESS, INC., Rt. 2, Pelham Road, Greenville, SC 29607. Representative: Clyde W. Carver, 5299 Roswell Road N.E., Atlanta, GA 30342. *Urethane insulating wallboard*, from facilities of R. Max, Inc., at or near Greer, SC to points in AL, FL, GA, and NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. Max, Inc., Pelham Industrial Park, Rt. 4, Greer, SC 29651. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 148276 (Sub-1TA), Applicant: RAY DESHOTEL d.b.a. RAY'S TRUCKING CO., Route 5, Box 6405, Beaumont, TX 77706. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Petroleum products, paint, stains, and varnishes* (except in bulk), in packages and containers from the facilities of Mobil Oil Corporation at or near Beaumont, TX to points in LA, MS and TX for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 Central Expressway—Suite 522, Dallas, TX 75206. Send protests to: John F. Mensing, DS, ICC 515 Rusk Ave., No. 8610, Houston, TX 77002.

MC 148337 (Sub-2TA), filed October 9, 1979. Applicant: WESTERKAMP TRUCKING, INC., Route 2, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Swinging meat* from Pella, IA, to points in IL, WI, NE, MN, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pella Packing Co., Inc., Route 3, Pella, IA 50219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 148387 (Sub-1TA), filed October 4, 1979. Applicant: S.M.P. INC., 166 Sitgreaves Street, Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Pipe, pipe fittings, and materials, equipment and supplies used in the manufacture and sale of pipe and pipe fittings*, between the facilities of Atlantic States Cast Iron Pipe Co., located at or near Phillipsburg, NJ on the one hand, and, on the other, points in the states of ME, NH, VT, NY, MA, CT, and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Atlantic States Cast Iron Pipe Co., 183 Sitgreaves Street, Phillipsburg, NJ 08865. Send protests to: Joel Morrrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 148407 (Sub-1TA), filed October 22, 1979. Applicant: CHEMICAL DISTRIBUTORS, INC., 2262 N.W.

Nicolai, P.O. Box 10763, Portland, OR 97210. Representative: Bob Eaton, 2112 Alki Ave. S.W., Seattle, WA 98118. *Contract, irregular, lumber, paneling, floor coverings and plastic laminates* between: Portland, OR, and Seattle, Spokane & Tri Cities, WA, and International Boundary between U.S. and Canada in WA; between Seattle, WA and Albany and Eugene, OR; between Boise, ID, and Portland, OR, and Seattle, WA. Supporting shipper(s): Wanke Panel Company, 2204 N. Clark Ave., Portland, OR 97227. Send protests to: D. Merine Galbraith, T/A, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 148547 (Sub-1TA), filed September 28, 1979. Applicant: ELM ENTERPRISES, INC., Building G-8, Freeport Center, Clearfield, UT 84016. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier: Irregular route: Television sets and new appliances, crated, wire recorders or players and stands*, from the facilities of General Electric Company at Clearfield, UT to OR, WA, CA, ID, MT, NV, AZ, NM, CO, and WY, under a continuing contract or contracts with General Electric Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 1 College Blvd., Portsmouth, VA 23703. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg, Salt Lake City, UT 84138.

MC 148577 (Sub-1TA), filed October 15, 1979. Applicant: ORVILLE HOWARD, INC., 1509 Manor Drive, Daytona Beach, FL 32019. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier, irregular routes, transporting (1) steel and steel articles and (2) materials, equipment and supplies used in the production and distribution of steel and steel articles* (1) from Roebling, NJ to points in and east of WI, IA, KS, OK, and TX, and (2) from points in and east of WI, IA, KS, OK, and TX, to Roebling, NJ, for 180 days. Supporting shipper(s): John A. Roebling Steel Corporation, P.O. Box 98, Roebling, NJ 08554. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 148586 (Sub-1TA), filed September 20, 1979. Applicant: PLATTE VALLEY TRUCKING, Box 594, Fremont, NE 68025. Representative: James C. Yeager (same address as applicant). *Grain, gravel, sand and earthen matter, and lime and limestone* between points in NE and points in IA, MN, MO, and SD for 180 days. Supporting shipper(s): (1) Lyman Richey San & Gravel, William R. Brooks, V.P., Secy. & Treas., 4315

Cuming St., Omaha, NE 68131; (2) Kerford Limestone Company, George E. Kerford, President, P.O. Box 449, Weeping Water, NE 68463. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 144726 (Sub-5TA), filed June 22, 1979 and published in the **Federal Register** issue of August 6, 1979 and republished as corrected this issue. Applicant: K.K.W. TRUCKING, INC., 516 West 140th St., Gardena, CA 90243. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. *Kitchen cabinets, bathroom cabinets and vanities, packaged or in cartons, and accessory parts and materials* used in the installation thereof, from the facilities of Triangle Pacific Corp., at Lodi, CA to points in AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Triangle Pacific Corp., 4255 LB Freeway, Dallas, TX 75234. Send protests to: Irene Carlos, ICC, P.O. Box 1551, Los Angeles, CA 90053. The purpose of this republication is to indicate the origin of Lodi,

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November 20, 1979.

MC 2229 (Sub-228TA), filed October 25, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (address same as above). *General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, serving Willis, TX as an off-route point in conjunction with carrier's regular route operations for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Texarkana Ceramic Industries, Inc., 303 Industrial Park Lane, Willis, TX 77378. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 2368 (Sub-98TA), filed October 9, 1979. Applicant: BRALLEY-WILLET TANK LINES, INC., P.O. Box 495, (2212 Deepwater Terminal Rd.), Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 495, Richmond, VA 23204. *Brewer's condensed solubles in bulk, in tank vehicles*, from the plantside of Anheuser-Busch, Inc. at or near Williamsburg, VA to the plantside of Anheuser-Busch Inc. at or near East Brunswick, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 25708 (Sub-32TA), filed October 17, 1979. Applicant: LANEY TANK LINES, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Petroleum naphtha, in bulk, in tank vehicles* (1) from the facilities of Safety Kleen Corp., at Lexington SC to points in AL, FL, GA, KY, MS, NC, TN, VA and (2) from points in AL, FL, GA, KY, MS, NC, TN, and VA to the facilities of Safety-Kleen Corp. at Lexington, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Safety-Kleen Corp., 16325 W. Ryerson, New Berlin, WI 53151. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 35628 (Sub-427TA), filed October 12, 1979. Applicant: Interstate Motor Freight System, P.O. Box 175, 110 Ionia Avenue NW., Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Avenue NW., Grand Rapids, MI 49501. *General Commodities* except those of unusual value. Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment; serving the facilities of Revere Copper and Brass Incorporated, located at or near Shelbyville, KY as an off route point in connection with applicant's presently authorized, regular route service. Applicant intends to tack the authority here applied for to another authority held by it. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revere Copper and Brass Incorporated, P.O. Box 191, Rome, NY 13440. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Ave., Lansing, MI 48933.

MC 56679 (Sub-147TA), filed October 17, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell, 352 University Ave., SW., Atlanta, GA 30310. *Malt beverages* from facilities of Anheuser Busch at Jacksonville, FL and Tampa, FL to points in AL, CT, DE, GA, MD, ME, MI, MS, MO, NH, NJ, NY, NC, OH, PA, SC, TN, TX and VA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Atlanta, GA 30309.

MC 56679 (Sub-149TA), filed October 31, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave. SW., Atlanta, GA 30310.

*Frozen meats* from the facilities of East Tennessee Packing Co. at or near Knoxville, TN to points in AL, LA, and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): East Tennessee Packing Co., 1808 Jones, Knoxville, TN 37920. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 56679 (Sub-150TA), filed October 31, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave., SW., Atlanta, GA 30310. (1) *Sand, industrial, unground and unboned*, from Ottawa, IL to points in Elbert County, GA, (2) *Crude silicon carbide* from points in Niagara and Erie Counties, NY to Salisbury, NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): House of Pfaff, Inc., Box 310, Elberton, GA 30635. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 93649 (Sub-32TA), filed October 31, 1979. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G. Villalon, 1032 Penn. Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. *Textiles and Textile products and materials and supplies used in the manufacture thereof (except commodities in bulk)*, (1) from Bloomsburg and Allentown, PA and Amsterdam, NY to points in NC and SC; and (2) from points in NC, on and east of US Hwy. 501 to points in MD, PA, DE, NJ, NY, CT, RI and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Abbott Fabrics, 1412 Broadway, NY, NY 10018. Penn Weaving Corp., 1430 Broadway, NY, NY 10018. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 97068 (Sub-19TA), filed ????. Applicant: H. S. ANDERSON TRUCKING COMPANY, P.O. Box 3656, Port Arthur, TX 77640. Representative: J. C. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and Steel articles* from Baytown, TX to points in AL, FL, GA, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 106398 (Sub-995TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative:



Gayle Gibson (same address as applicant). (1) *Structural steel and related products, aluminum forms and related products*, and (2) *materials and supplies used in the manufacture of the commodities listed in (1) above*, (1) from the facilities of General Steel Fabricators, Inc., located at Latham, NY, to points in PA, VT, NJ, CT, SC, MA, NH, ME, & RI, and (2) from points in PA, VT, NH, CT, SC, MA, NH, ME, & RI, to the facilities of General Steel Fabricators, Inc., located at Latham, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Steel Fabricators, Inc., P.O. Box 636, Latham, NY 12110. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-996TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Iron and steel articles*, from the facilities of Beall Mfg. Div., located at E. Alton, IL, to points in KS, OK, TX, IA, & IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beall Mfg. Div., 112 N. Shamrock, E. Alton, IL 62024. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 104149 (Sub-214TA), filed October 9, 1979. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st Street, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3428 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Scrap aluminum*, from the facilities of Revere Copper & Brass, Inc. at or near Newport, AR to Meridian, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revere Copper & Brass, Inc., Highway 67 North, Newport, AR 72112. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616 2121 Building, Birmingham AL 35203.

MC 106398 (Sub-997TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Overhead traveling*, from the facilities of Crane Components—Delta Crane, Inc., located at Memphis, TN, to points in AR, AL, CO, FL, GA, IL, IA, IN, KY, KS, LA, MS, MO, NC, NE, OH, OK, PA, SC, TX, VA, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delta Crane, Inc., 3001 Fleetbrook, Memphis, TN 38116. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-998TA), filed October 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Steel sheets*, from the facilities of American Sheet and Strip Steel, located at Granite City, IL, to points in KS, MO, OK, TX, & AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Sheet and Strip Steel Corp., R.R. 1, Box 122, Granite City, IL 62040. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107818 (Sub-101TA), filed October 19, 1979. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Ave., P.O. Box 608, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Frozen foods* from Greenville, MI and Plover, WI to FL and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID. Send protests to: Donna M. Jones, T/A, ICC—BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 108859 (Sub-77TA), filed October 29, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment); serving Fon du Lak (Fond du Lac County) Nashotah and Oconomowoc (Waukesha County) WI and points in their respective commercial zones as off-route points in connection with applicant's presently authorized regular route operation. For 180 days. An underlying ETA seeks 90 days authority. There are approximately 13 supporting shippers. Their statements may be examined at the office listed below or at headquarters. Send protests to: C. R. Flemming, D/S, ICC, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 110288 (Sub-11TA), filed September 25, 1979. Applicant: HARRY HENERY, INC., 3517 West Washington Street, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Plastic pipe, fittings, equipment, material and supplies used in the manufacturing and distribution of plastic pipe* between Rolla, MO; Sparta, TN; and points of WY, CO, NS, SD, NE, KA, OK, TX, NM, AZ, MN, WI, IA, IL, MO, AR, LA, MI, IN, KY, TN, MS, AL,

GA, FL, NC, SC, VA, WV, OH, PA, NY, MD, DC, NJ, CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Can-Tex Industries, P.O. Box 340, Mineral Wells, TX 76067. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 110288 (Sub-12TA), filed September 25, 1979. Applicant: HARRY HENERY, INC., 3517 W. Washington Street, Indianapolis, IN 46241. Representative: Donald W. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. *Heat transfer equipment, equipment, materials and supplies used in the manufacture and distribution of heat transfer equipment* from Danville and Beardstown, IL to Norfolk, VA; Miami, FL; Atlanta, GA; Atlantic City, NJ; Long Island City, Yonkers, and Buffalo, NY; Washington, DC; Winston-Salem, NC; Pittsburgh, PA; Columbia, SC; Boston, MA; Hartford, CT; Baltimore and Salisbury, MD; Jacksonville, Hollywood, and Tallahassee, FL; Lexington, KY; and New Orleans, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bohn Heat Transfer Division, 1625 E. Voorhees Street, Danville, IL 61832. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 114848 (Sub-62TA), filed October 10, 1979. Applicant: WHARTON TRANSPORT CORP., 1498 Channel Avenue, Memphis, TN 38113. Representative: Terry T. Wharton, 1498 Channel Ave., Memphis, TN 38113. *Talc, in bulk*, from Gonzales, TX to Cleveland, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robertson American of MS, Box 1030, Cleveland, MS 38732. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 117119 (Sub-783TA), filed October 10, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, (same address as applicant). *Chemicals, plastics and other commodities* manufactured or sold by manufacturers of chemicals and plastics in packages from the facilities of or used by Dow Chemical, U.S.A. at or near Plaquemine, LA to points in CA, CO, ID, IL, IN, IA, KY, MI, MN, MO, MT, NV, OH, OR, UT, WA, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical, U.S.A., Traffic Services, P.O. Box 150—Bldg. 3302, Plaquemine, LA 70764. Send protests to: William H.

Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-784TA), filed October 15, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Chemicals* (except in bulk), in vehicles equipped with mechanical refrigeration from Rahway, NJ; Riverside, PA; and Elkton, VA to Chicago, IL and St. Louis, MO for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Merck Chemical Manufacturing Division, P.O. Box 2000, Rahway, NJ 07065. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 119789 (Sub-640TA), filed October 24, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., address same as above. *Fresh meat*, from New York City, New York to Tyler, Texas, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Imperial Veal and Lamb Co., 420 W. 14th St., New York NY 10014. Send protests to: Opal M. Jones, TCS, ICC 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 119789 (Sub-641TA), filed October 26, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (same address as applicant). *Such commodities as are dealt in and used by producers and distributors of alcoholic beverages, liquor and wine (except commodities in bulk)*, from Paducah, KY to points in LA, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Heublein, Inc., 5000 Charter & Oak, Paducah, KY 42001. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 119988 (Sub-224TA), filed October 24, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Harold F. Scogin (same as applicant). *General commodities* (except in bulk) between Houston, TX; Pasadena, TX; Kansas City, KS; Seneca, Spartanburg, and Startex, S.C., on the one hand, and, on the other, all points in the U.S. (Except AK and HI) restricted to transportation originating at or destined to the facilities of Phillips Petroleum Co., Phillips Fibers Corp., Phillips Chemical Co., and Phillips Products Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Bldg. Annex, Bartlesville, OK 74004.

Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 120999 (Sub-5TA), filed October 31, 1979. Applicant: California and Western States Ammonia Transport, Inc., d.b.a. CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Avenue (P.O. Box 397), Walnut, CA 91789. Representative: Melvin G. Thurman (same address as above). *Liquid calcium chloride, in bulk, in tank vehicles*, from points in San Bernardino County, CA to points in NV and AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Hill Brothers Chemical Company, Chairman of the Board, 1 City Blvd., Suite 1521, Orange, CA 92668. Send protests to: Irene Carlos, TA, ICC, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 121568 (Sub-21TA), filed October 22, 1979. Applicant: HUMBOLT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell, (same address as applicant). *Pneumatic rubber tires and rubber tubes and materials used in the manufacture, production, and distribution of same*, between the facilities utilized by General Tire and Rubber Co., Inc., located at or near Mayfield, KY, Dallas and Waco, TX, for 180 days.

Note.—Applicant proposes to tack the authority sought here with its existing operating authority, MC-121568. Applicant also proposes to interline with other carriers at Memphis and Nashville, TN.

An underlying ETA seek 90 days authority. Supporting shipper(s): The General Tire & Rubber Co., 1 General St., Akron, OH 44329. Send protests to: Glenda Kuss, TA, ICC, A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 123329 (Sub-50TA), filed October 23, 1979. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: D. S. Vincent (same address as applicant). *Potable alcohol* from ports of entry on the U.S.-Canada International Boundary line located at Blaine and Sumas, WA to the facilities of Potter Distilleries at or near Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Potter Distilleries, Ltd., 132 Montgomery St., Coquitlam, BC, Canada V3K 5E2. Send protests to: Paul J. Labane, DS, ICC, 2802 First Avenue North, Billings, MT 59101.

MC 123748 (Sub-25TA), filed October 18, 1979. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 1060 State Street, New Haven, CT 06511.

Representative: Palmer S. McGee, Jr., Day, Berry & Howard, One Construction Plaza, Hartford, CT 06103. *Common carrier: regular routes: passenger and their baggage in the same vehicle with passenger: Between Southbury, CT, and LaGuardia Airport, New York, NY and John F. Kennedy International Airport, New York, NY. From Southbury over town roads and access roads to junction Interstate Highway 84, then over Interstate Highway 84 to junction U.S. Highway 7, then over U.S. Highway 7 to junction Interstate Highway 95, then over Interstate Highway 95 to the corporate limits of New York, NY, then over city streets and highways to LaGuardia Airport, and John F. Kennedy International Airport and return over the same route. (When the relocation of U.S. Highway 7 is completed, travel will be over said relocated highway. Between Trumbull, CT, and LaGuardia Airport, New York, NY and John F. Kennedy International Airport, New York, NY. From Trumbull over town roads and access roads to CT Highway 25, then over CT Highway 25 to junction CT Highway 127, then over CT Highway 127 to junction CT Highway 8 and 25, then over CT Highway 8 and 25 to junction Interstate Highway 95, then over Interstate Highway 25 to the corporate limits of New York, NY, then over city streets and highways to LaGuardia Airport and John F. Kennedy International Airport and return over the same route. (When the relocation of CT Highway 25 is completed, travel will be over said relocated highway.) For 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Forty statements attached. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.*

MC 123778 (Sub-48TA), filed October 23, 1979. Applicant: JALT CORP. d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, 602 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract carrier, irregular routes for 180 days authority. Magazines from Edison, NJ to Wilmington, DE, Washington, D.C., Strasburg, VA, points in CT, NJ, those in NY on and east of NY Hwy 14, and those in MD and PA on and east of US Hwy 15. An underlying ETA seeks 90 days authority. Supporting shipper(s): Straight Arrow Publishers, Inc., 745 5th Avenue, New York, NY 10020. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 124078 (Sub-999TA), filed October 15, 1979. Applicant: SCHWERMANN



TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53201. Representative: Richard H. Prevette (same address as applicant). *Liquid commodities*, in bulk, from Milwaukee, WI to Los Angeles, CA, Muskogee, OK, Seattle, WA and Glen Falls, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sovox Mfg. Company, 11725 W. Fairview Ave., Milwaukee, WI. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 126489 (Sub-38TA), filed October 25, 1979. Applicant: GASTON FEED TRANSPORTS, INC., P.O. Box 1066, Hutchinson, KS 67501. Representative: William B. Barker, 641 Harrison, Topeka, KS 66603. *Materials and supplies used in the manufacture of textile bags* (except in bulk), from points in AL, GA, LA, NC, SC, TN & TX to facilities of Hutchinson Bag Corporation at Hutchinson, KS; for 180 days, common, irregular. Supporting Shipper: Hutchinson Bag Corporation, P.O. Box 1286, Hutchinson, KS 67501. Send Protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 133149 (Sub-4TA), filed September 26, 1979. Applicant: CLAIR ROBISON, 1016 W. Walnut, Brownstown, IN 47220. Representative: Walter F. Jones, Jr., 610 Chamber of Commerce Building, Indianapolis, IN 46204. Contract Carrier: Irregular Routes: (1) *Plastic gaskets* from Salem, IN to Decatur, AL and Elkton, KY. (2) *Plastic granules and strip, and plastic and iron powder, in cartons* from Louisville, KY to Marietta, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): B. F. Goodrich Company, 500 South Main Street, Akron, OH 44318. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 133178 (Sub-3TA), filed October 26, 1979. Applicant: PAPER CARGO CORPORATION, 3260 Chicago Drive, SW, Grandville, MI 49418. Representative: George A. Pendleton, P.O. Box 51, Comstock Park, MI 49321. *Contract carrier: Irregular routes; (I) Paper and paper articles; between Grand Rapids, MI and its Commercial Zone and points in IL, IN, OH, points in WI on and south of U.S. Hwy 1-94, including points in the Madison, WI and the Milwaukee, WI Commercial Zones, and those points in WI on and east of U.S. Hwy 51 and Pittsburgh, PA. (II) Scrap and waste paper; between points in IL, IN, MI, OH and WI. (III) Paper and paper articles; from Rittman, OH to points in IL, IN and MI. (IV) Pulpboard, from Filer City, MI to points in IL, IN,*

*OH and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Packaging Corporation of America, 470 Market Avenue SW, Grand Rapids, MI 49503. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.*

MC 135419 (Sub-2TA), filed October 18, 1979. Applicant: CONTAINER CARRIER CORPORATION, 301 South 11th St., Ft. Smith, AR 72902. Representative: Joseph K. Reber (same address as applicant). (A) *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, motor vehicles and commodities which because of size and weight require the use of special equipment) in containers and (B) *empty containers*, between Houston, TX and New Orleans, LA, on the one hand, and on the other, points in TX east of U.S. Highway 277 and points in LA south of U.S. Highway 84; and between Mobile, AL on the one hand, and on the other, points in AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 17 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136899 (Sub-49TA), filed October 2, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. BOX 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Fireplaces, space heaters, chimneys and materials, equipment, supplies and accessories used in the manufacture, sale, distribution, or erection of fireplaces and space heaters* from Stevens Point and Wisconsin Rapids, WI to Chicago, IL, Des Moines, IA, Kansas City, MO and Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Preway, Inc., 1430 Second St. N., Wisconsin Rapids, WI 54494. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138438 (Sub-68TA), filed October 15, 1979. Applicant: D. M. BOWMAN INC., Rt. 2 Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Plastic pipe, tubing, fittings, and connections and materials and accessories used in the installation thereof* between Cleveland, OH and its commercial zone, on the one hand, and, on the other, points in and east of the states of MN, IA, MO, AR, and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R & G Sloane Manufacturing, 7606 N. Clybourn, Sun

Valley, CA 91352. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 138438 (Sub-69TA), filed October 12, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Refractory brick and refractory products* from York, PA and its commercial zone, to all points in the U.S. in and east of ND, SD, NE, KS, OK, AR, and LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dolomite Corp. of America, 232 E. Market St., York, PA 17405. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 138438 (Sub-70TA), filed October 15, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. *Masonry building materials, including steel reinforcing bars* from Evansville and Plymouth Meeting, PA and Baltimore and Frederick, MD and their respective commercial zones, to points in MD, PA, VA, and the DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Building Products, Inc., 2041 Martin Luther King Jr. Ave. SE., Washington, DC 20020. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 142999 (Sub-22TA), filed November 1, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Esquire, 1730 M Street NW., Suite 501, Washington, DC 20036. Contract, irregular. *Paper and paper products*. From Miquon, PA to points in AL, IL, IN, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, One Plymouth Meeting, Plymouth Meeting, PA 19482. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 143059 (Sub-110TA), filed October 16, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, Kentucky 40202. (1) *Prefabricated buildings, knocked down, and (2) parts, attachments, tools and accessories used in the erection or installation of the commodities in (1) above. From the facilities of Com-Struct International and its Fibreshall Division, at Sacramento, CA and Placer County, CA*

to New Orleans, LA, Baltimore, MD, and its commercial zone, Portland, OR and its commercial zone, Houston and Galveston, TX, Seattle, WA, and to points in ID, MT, NV, ND, SD, UT, and WY. Restricted to the transportation of traffic originating at the said facilities, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Com-Struct International, 8600 23rd Avenue, Sacramento, Calif 95826. Send protests to: Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 144069 (Sub-15TA), filed October 31, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge, P.O. Box 5204, Charlotte, NC 28225. *Building materials* between the facilities of PR International, Inc. at or near Greensboro, NC, on the one hand, and, on the other, points in SC, GA, FL, AL, TN, KY, WV, OH, PA, VA, MD, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PR International, Inc., 1015 S. Chapman St., Greensboro, NC 27407. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 144168 (Sub-1TA), filed October 10, 1979. Applicant: R. E. GARRISON TRUCKING INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (same as address above). *Foodstuffs, pastry and bakery products and materials and supplies used in the preparation thereof*. Between the facilities of Warner Lambert's subsidiary Entenmanns Bakery in Northlake, IL on the one hand, and on the other, points in CA, FL, GA, KY, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Warner Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144609 (Sub-10TA), filed October 29, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a. DOMINGUEZ BROS. PRODUCE CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, 801 Vaughn Bldg., Austin, TX 78701. *Foodstuffs (except in bulk)*, from points in Cameron and Hidalgo Counties, TX, to points in AZ, CA, CO, ID, NV, NM, OR, UT, and WA, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Crest Fruit Co., 100 N. Tower Road, Alamo, TX 78518. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 144879 (Sub-5TA), filed October 23, 1979. Applicant: D AND J

TRANSFER CO., Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanss, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. *Malt beverages and such commodities as are dealt in by grocery, food and institutional supply business houses (except in bulk)* from Milwaukee, Green Bay, LaCrosse and Beaver Dam, WI, Chicago and Peoria, IL, and Kansas City, MO and points in their respective commercial zones to the facilities of Earl Draper & Sons, Inc., at or near Fairmont, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Earl Draper & Sons, Inc., Box 904, Fairmont, MN 56031. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 144989 (Sub-14TA), filed October 16, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Carpeting, rugs, and bedspreads, bath mat sets, and carpets, and materials used in the manufacture of said articles (except in bulk)* between the facilities of Lawtex Industries, Inc. at Calhoun, GA, Dalton, GA and Virginia Craft at Keysville, VA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lawtex Industries, Inc., P.O. Box 1328, Dalton, GA 30720. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 145468 (Sub-26TA), filed November 6, 1979. Applicant: K. S. S. TRANSPORTATION CORPORATION, Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 108, 7101 Mercy Road, Omaha, NE 68106. Printed matter, and materials, equipment and supplies used in the manufacture, sale and distribution of printed matter (except commodities in bulk) between the facilities of R. R. Donnelley & Sons Company, and its Divisions, in Chicago, IL; Harrisonburg, VA; Crawfordsville and Warsaw, IN; Glasgow, KY; Willard, OH; and Gallatin, TN, on the one hand, and, on the other points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. R. Donnelley & Sons Company, 2223 Martin Luther King Drive, Chicago, IL 60616. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146578 (Sub-13TA), filed October 23, 1979. Applicant: PALMETTO

MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nina G. Shults (same as above). (1) *Can and can ends, S.U.* from facilities of Crown Cork & Seal Co., Cheraw, SC to points in Miami, FL and Baton Rouge, LA commercial zones (2) *Rejected or refused shipments of can and can ends, S.U.* on return, for 180 days. An underlying ETA seeks 90 days authority.

MC 146578 (Sub-14TA), filed October 23, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nina G. Shults (same as above). (1) *Cons and can ends, S.U.* from facilities of Crown Cork & Seal Co., Cheraw, SC to points in Houston and Corpus Christi, TX commercial zones (2) *Rejected or refused shipments of can and can ends, S.U.* on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Cork and Seal Co., Inc., 9300 Ashton Road, Philadelphia, PA 19136. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.

MC 146688 (Sub-8TA), filed November 1, 1979. Applicant: ROAD WEST, INC., 1315 East Holt Boulevard, P.O. Box 3637, Ontario, CA 91761. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. *Contract; irregular; auto parts, and equipment, materials and supplies used in the manufacture, display, sale or merchandising thereof*, from Burlington, Iowa to Atlanta, Georgia, under a continuing contract(s) with Champion Spark Plug Company, Toledo, Ohio, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Champion Spark Plug Co., Traffic Coordinator, P.O. Box 910, Toledo, OH 43661. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 147989 (Sub-2TA), filed November 1, 1979. Applicant: J.I.M. CORPORATION, 3811 Arden Drive, El Monte, CA 91731. Representative: John Ruan (same address as above). *Contract; Irregular; Iron and steel articles; concrete reinforced posts or poles and concrete pilings*, from Los Angeles Harbor, Ameron Plants or other designated origins in California to points and places in Utah, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Ameron Steel & Wire Div., Traffic Manager, P.O. Box 8, Etiwanda, CA 91739. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building,



300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148328 (Sub-1TA), filed October 9, 1979. Applicant: ALLEN TRUCKING, 1001 Kirkwall, Azusa, California 91702. Representative: Leonard Allean and/or Darrell Gilman (same address as above). *Contract; Irregular; Commodities used, sold, or distributed by a manufacturer of cosmetics (except commodities in bulk), from Pasadena, California to points in Arizona and Nevada, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Avon Products, Inc., Branch Transportation Mgr., 2940 E. Foothill, Pasadena, CA 91121. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.*

MC 148339 (Sub-4), filed October 1, 1979. Applicant: WM. POTT & SON, INC., 5547 Cheviot Rd., Cincinnati, OH 45239. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. *Plastic products and materials, equipment, and supplies used in the manufacture of plastic products, except commodities in bulk between the facilities of the Plastic Moldings Corp. at or near Cincinnati, OH; East Enterprise, Osgood, and Shelbyville, IN, on the one hand, and on the other, points in IN, KY, OH, PA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Plastic Moldings Corp., 2181 Grand Ave., Cincinnati, OH 45214. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.*

MC 148369 (Sub-2TA), filed October 9, 1979. Applicant: WALTER J. GRIFFIN, JR., P.O. Box 327, Monroe, NC 28110. Representative: W. G. Reese III, P.O. Box 3004, Charlotte, NC 28203. *Merchandise as is dealt in by retail department stores between the facilities of Charlotte Freight Association located at or near Los Angeles, CA, Atlanta, GA and Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charlotte Freight Association, P.O. Box 8825, Charlotte, NC 28208. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.*

MC 148429 (Sub-1TA), filed October 23, 1979. Applicant: KAISER TRUCKING, INC., 1000 E. 5th Street, Winner, SD 57580. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Dry fertilizer and lime in bulk and in bags from St. Paul, MN to Winner, SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmers Coop Oil Association, 22 Tripp Avenue, Winner, SD 57580. Send protests to: J. L.*

Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 148529 (Sub-0TA), filed October 1, 1979. Applicant: F. ANDREW ANASTASIO, 169 South End Road, East Haven, CT 06512. Representative: John E. Fay, Esq., 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. *Contract carrier; irregular routes: Lumber, products and building materials in mixed or straight shipments between points in CT, RI and MA, and that portion of NY beginning with the line of the MA State Line to Troy, NY, then Westerly to Schenectady, NY, Southerly to Binghamton, NY, and Southeasterly to New York City, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): A. C. Dutton Lumber Corporation, 70 Universal Drive, North Haven, CT 06473. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.*

MC 148618 (Sub-0TA), filed September 19, 1979. Applicant: VAN'S MOBILE HOME SERVICE, RD #1, Rehoboth Beach, DE 19971. Representative: Eugene D. Anderson, 910 Seventeenth St. NW., #428, Washington, DC 20006. (1) *Mobile homes from Leola, Ephrata and Schaefferstown, PA to Dover, and Rehoboth, DE and (2) parts and materials from Rehoboth, DE to Leola, Ephrata, and Schaefferstown, PA for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): Skyline Corp., 2520 By-Pass, Elkhart, IN 46514. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street Room 620, Philadelphia, PA 19106*

#### Notice No. 214

MC 35628 (Sub-428TA), filed October 23, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175—110 Ionia Avenue NW, Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175—110 Ionia Avenue NW, Grand Rapids, MI 49501. *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between Brown, Calumet, Columbia, Dane, Dodge, Door, Fon du Lac, Green Lake, Kenosha, Kewaunee, Jefferson, Lincoln, Manitowoc, Marathon, Milwaukee, Oneida, Outagamie, and Winnebago Counties, WI in connection with applicant's presently authorized regular route service. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 41*

supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 36918 (Sub-12TA), filed October 9, 1979. Applicant: FASTWAY TRANSPORTATION, INC., P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. *Paper and paper products. Between the facilities of The Chesapeake Corporation of Virginia at or near West Point, VA on the one hand, and on the other, points in DE, NJ, NY, MD, PA, CT, and MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Chesapeake Corp. of VA, P.O. Box 311, West Point, VA 23181. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.*

MC 40978 (Sub-68TA), filed October 24, 1979. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Business 141 South, Sheboygan, WI 53081. Representative: Daniel Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Urethane Foam products from Bridgeview, IL to points in IN, IA, MI, MN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tenneco Chemicals, Inc., West 100 Century Rd., Paramus, NJ 07652. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 50069 (Sub-554TA), filed October 19, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Ave., Oregon, OH 43616. Representative: William P. Fromm (same as applicant). *Ferric chloride, in bulk, in tank vehicles from Cleveland, OH to Massillon, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. DuPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.*

MC 82079 (Sub-81TA), filed October 24, 1979. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Frozen Fruits, (except in bulk), in vehicles equipped with mechanical refrigeration; from storage facilities utilized by Itt Continental Baking Co., Inc. at Benton Harbor, Frankfort, Pennville, Hart, Hartford, Muskegon, Suttons Bay, Traverse City and Williamsburg, MI to Chicago, IL:*

Cincinnati, OH; and St. Louis, MO. Restricted to the transportation of shipments originating at named origin points and destined to named destinations. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ITT Continental Baking Co., Inc., P.O. Box 731, Rye, NY 10580. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 88368 (Sub-41TA), filed November 6, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: C. Max Steward (same as applicant). *Recreational park, restaurant, playground and show furniture, fixtures and equipment, materials and supplies used with the foregoing commodities. From the facilities of Miracle Recreation Equipment Company at or near Grinnell (Poweshiek County), IA to points in MA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miracle Recreational Equipment Company, P.O. Box 275, Grinnell, IA 50112. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.*

MC 106398 (Sub-1000TA), filed October 4, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Iron and steel articles and materials and supplies used in the manufacture, sale and distribution of iron and steel articles, from the facilities of Gregory Galvanizing and Metal Processing at Canton, OH, to points in AL, GA, FL, KY, IN, IL, MN, NY, PA, TN, TX, and VA; and, materials and supplies used in the manufacture, sale and distribution of iron and steel articles, from points in IN, IL, and PA, to Canton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gregory Galvanizing and Metal Processing, 1723 Cleveland Avenue, Canton, OH 44706. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 106398 (Sub-1001TA), filed October 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Cooling towers and cooling tower parts and accessories, from the facilities of E. D. Goodfellow, located at Tulsa, OK, to points in NC, SC, LA, FL, TX, IN, MI, CA, CT, AL, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. D. Goodfellow, 4383 South 91st E. Avenue, Tulsa, OK 74145. Send protests to:*

Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-1002TA), filed November 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Molding millwork, plywood, lumber, beams and building materials, from points in WA and OR, to points in OK, CO, TX, WI, IL, CA, AR, MI, ID, UT, NV, and WA, restricted to shipments moving for the account of Wickup Forest Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wickup Forest Products, Inc., Red Oaks Square, Suite A230, Bend, OR 97701. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 106398 (Sub-1003TA), filed November 7, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Lumber, lumber mill products, particleboard and building materials, from points in WA and OR, to points in OK, MO, CA, NE, WI, IL, OH, NM, AZ, UT, and NV, restricted to shipments for the account of Sunrise Forest Products, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sunrise Forest Products, P.O. Box 25060, Portland, OR 97225. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 106398 (Sub-1004TA), filed November 7, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Fire Protection Systems, (1) from the facilities of Grinnell Fire Protection Systems Co., Inc., located at Dallas, TX, to points in AR, CO, IL, IA, KS, LA, MN, MO, NE, N, OK, TN, and WI; and (2) from the facilities of Grinnell Fire Protection Systems Co., Inc., located at Long Beach, CA, to points in AZ, CO, NV, NM, OR, UT, WA, and WY; Fire Protection Systems, (1) from the facilities of Grinnell Fire Protection Systems Co., Inc., located at Cleveland, NC, to points in AL, AR, CT, DE, FL, GA, IN, LA, MD, MA, MS, NJ, NY, OH, PA, SC, and VA; and (2) materials, supplies and accessories used in the manufacture and distribution of fire protection systems from points in AL, AR, CT, DE, FL, GA, IN, LA, MD, MA, MS, NJ, NY, OH, PA, SC, and VA, to the facilities of Grinnell Fire Protection Systems Co., Inc., located at Cleveland, NC, for 180 days. An underlying ETA seeks 90 days*

authority. Supporting shipper(s): Grinnell Fire Protection Systems Co., Inc., 10 Dorrance St., Providence, RI 02903. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106839 (Sub-9TA), filed October 10, 1979. Applicant: LARSEN MOTOR LINES, INC., P.O. Box 53201, New Orleans, LA 70153. Representative: David W. Larsen, 2838 Turo Street, New Orleans, LA 70122. Applicant is seeking authority to operate as a common carrier over regular routes transporting general commodities, except those of unusual value, classes A & B explosives, commodities in bulk, household goods, and those which require special equipment between New Orleans, LA and Pascagoula, MS from New Orleans over U.S. Hwy. 90 and/or Interstate 10 to Pascagoula serving all intermediate points and the off-route points of Ansley, Deslisle, Pearlinton, Waveland, Long Beach, Ocean Springs, Gautier and Moss Point, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Pelican Paper Company, 410 Josephine St., New Orleans, LA 70130; Napko Paint Co., P.O. Box 23158, Harahan, LA; T. C. Patin, Conley Co., Ltd., 2927 1/2 Jackson Ave., New Orleans, LA; R. H. Craeger & Co., Inc., 2419 Delaware St., Kenner, LA 70062; Trade Winds, Inc., 8650 Ponchartrain Blvd., New Orleans, LA 70124; United Sales Associates, Inc., 159 Planation Rd., Jefferson, LA. (There are seven other supporting shippers.) Send protests to: Robert J. Kirspeel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 110288 (Sub-13TA), filed September 25, 1979. Applicant: HARRY HENERY, INC., 3517 West Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Iron and steel articles between facilities of Bekaert Steel Wire Corporation at or near Van Buren, AR and points in United States (except Alaska and Hawaii) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bekaert Steel Wire Corporation, P.O. Box 668, Van Buren, AR 72956. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.*

MC 111289 (Sub-14TA), filed October 12, 1979. Applicant: RICHARD D. FOLTZ, P.O. Box 161, Orwigsburg, PA 17961. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. *Contract carrier: Irregular routes: Such merchandise as is dealt in by wholesale, retail, and chain grocery*



food houses, from the facilities of Dauphin Distribution Services Co., in Hampden Township, Cumberland County, and at or near Camp Hill, PA, to Baltimore, MD, Washington, DC, points in New Castle County, DE, those in Montgomery and Howard Counties, MD, on and east of MD Hwy 97, those in Anne Arundel and Prince Georges Counties, MD, on, west and north of MD Hwys 3 and 4, those in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, NJ, and those in NY on and west of Interstate Hwy 87, under contract with Dauphin Distribution Services, Co. of Mechanicsburg, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dauphin Distribution Services, Inc., 5023 E. Trindle Rd., Mechanicsburg, PA 17055. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 112239 (Sub-4TA), filed October 23, 1979. Applicant: LOGAN TRUCKING, INC., Prairie Hill Road, P.O. Box 41, South Beloit, IL 61080. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. (1) *Concrete products*; also, *Materials, supplies, and equipment used in the manufacture and/or installation of concrete products*; from South Beloit, IL, to points in IL, KY, MD, MI, MO, NE, NJ, NY, ND, OH, PA, SD, and WV; and, (2) *Materials, supplies, and equipment used in the manufacture and/or installation of concrete products*; from South Beloit, IL, to points in IN, IA, MN, and WI for 180 days. Supporting shipper(s): Interpace, Corporation, Prairie Hill Road, South Beloit, IL 61080. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 112989 (Sub-114TA), filed November 5, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. Lumber, lumber mill products, wood products and particleboard from points in Oregon, Washington and California to points in MN, MI, IL, IN and OH for 180 days. Supporting shipper(s): Lawrence R. McCoy & Co., Inc., 120 Front St., Worcester Center, Worcester, MA 01608. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, OR 97204.

MC 113059 (Sub-11TA), filed October 11, 1979. Applicant: KELLER TRANSPORT, INC., Route 1, Katy Lane, Billings, MT 59101. Representative: F. E.

Keller, Pres. (same address as applicant). *Asphalt and road oil* from refineries in Yellowstone County, MT to points in ID, for 180 days. Supporting shipper(s): Parco, 1925 Grand Avenue, Suite 135, P.O. Box 20826, Billings, MT 59104; Evans Products Company, Drawer L, Missoula, MT 59806; Clark Brothers Construction Co., Box 67, Victor, MT 59875; Idaho Asphalt Supply, Inc., P.O. Box 561, Idaho Falls, ID 83401. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 117589 (Sub-66TA), filed September 11, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 9810. (1) *Frozen human blood and blood plasma and materials, equipment and supplies used in the processing and distribution of human blood plasma*. (2) *Commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act, when transported in mixed loads with commodities described in (1) above*, between points in the Seattle, WA Commercial Zone on the one hand, and, on the other, points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seattle Plasma Corp., 4750 University Way N.E., Seattle, WA 98105. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 119399 (Sub-114TA), filed November 5, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Furniture parts, materials, and supplies*, from facilities of Leggett and Platt, Inc., Carthage, MO to points in TX. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett and Platt, Inc., P.O. Box 757, Carthage, MO 64836. Send protests to: Vernon Coble D/S 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119789 (Sub-642TA), filed October 3, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Candy and chewing gum* from Holland, MI to Linden, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Life Savers, Inc., Church St., Canajoharie, NY 13317. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 119789 (Sub-643TA), filed October 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (same as above). *Fluorescent lighting fixtures and parts, and fluorescent lamps* from Americus, GA to MO, KS, AR, IA, and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibson Metalux—Lumark, P.O. Box 1207, Americus, GA 31709. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Building, 819 Taylor St., Ft. Worth, TX 76102.

MC 119988 (Sub-225TA), filed October 23, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Harold E. Scogin (same as applicant). *Foodstuff* (except in bulk) from the facilities of American Home Foods, Division of American Home Products Corporation, located at or near Vacaville, CA to points and places in the states of NM, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division of American Home Products Corporation, 685 3rd Ave., New York, NY 10017. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 120419 (Sub-9TA), filed November 2, 1979. Applicant: SERVICE TRANSFER, INC., P.O. Box 460, Henryetta, OK 74437. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. (1) *Malt beverages*; (2) *Packaging and packing materials, empty containers and pallets*, (1) from St. Louis, MO, to Fort Smith, AR and Bartlesville, Durant, Hugo, Okmulgee, and Vinita, OK; and (2) From Fort Smith, AR and Bartlesville, Durant, Hugo, Okmulgee, and Vinita, OK, to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Premium Beers Incorporated, 1801 West Adams, Bartlesville, OK 74003. Send protests to: Connie Stanley, ICC, Rm. 240 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123329 (Sub-52TA), filed October 30, 1979. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59401. *Unstretched butane*, in bulk, in tank vehicles, from the port of entry on the U.S.-Canada International Boundary line located at Blaine, WA to the facilities of Mobil Oil at Ferndale, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koch Hydrocarbons Canada, a Division

of Koch Oil Co., Ltd., P.O. Box 6088, Stn. D, Calgary, AB, Canada T2P 2C7. Send protests to: Paul J. Labane, DS, ICC, 2602, First Avenue North, Billings, MT 59101.

MC 128648 (Sub-26TA), filed October 19, 1979. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract carrier: irregular routes: (1) water heaters and parts for water heaters, and (2) materials, equipment and supplies used in the manufacture and distribution of water heaters, (except commodities in bulk)*, between the facilities of Bradford-White Corporation at or near Atlanta, GA, Louisville, KY, Portland, OR, Philadelphia, PA and Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Bradford-White Corporation, of Philadelphia, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bradford-White Corporation, 24th & Ellsworth Streets, Philadelphia, PA 19146. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 129908 (Sub-20TA), filed October 29, 1979. Applicant: AMERICAN FARM LINES, INC., P.O. Box 75410, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). *Vacuum cleaners, floor polishers and related parts and vacuum cleaner bags*, from the facilities of Electrolux Corporation, Bristol, VA, to Des Moines, IA, Hammond, IN, Louisville, KY, Toledo, OH, Columbus, OH, Salt Lake City, UT and Reno, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Electrolux Corporation, 2777 Summer Street, Stamford, CT 06905. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129908 (Sub-21TA), filed October 30, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, P.O. Box 75410, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). *Aluminum extrusions, aluminum pipe and aluminum ingot*, from the facilities of Jarl Extrusions, Inc., Elizabethton, TN, to points in AZ, AR, CA, CO, IL, IN, KS, KY, MI, MO, NM, OH, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jarl Extrusions, Inc., State Line road, Elizabethton, TN 37643. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 133689 (Sub-317TA), filed November 7, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Foodstuffs* from the facilities of Fearn International, Inc. at or near Franklin Park, IL to points in the U.S. in and east of ND, SD, NE, KS, OK, AR and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fearn International, Inc., 9353 Belmont Ave., Franklin Park, IL 60131. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-318TA), filed October 31, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Animal and poultry feed, feed ingredients and animal health products* from Minneapolis and Mankato, MN and Louisville, KY to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper(s): Hubbard Milling Co., 424 N. Front St., Mankato, MN 56001. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 138469 (Sub-190TA), filed November 6, 1979. Applicant: DONCO CARRIERS, INC., 4720 S. W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Toilet preparations, shampoo and accessories for the foregoing items*, (except commodities in bulk, in tank vehicles), from the facilities of Cosmair, Inc., in Clark, Piscataway and South Brunswick, NJ, to points in AZ, CA, CO, IL, NV, NM, OK, UT, & TX, for 180 days. Supporting shipper(s): Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-191TA), filed October 30, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Corrugated fibreboard boxes and corrugated fibreboard sheets*, from points in the Dallas-Ft. Worth, TX commercial zone, to the facilities of Corrugated Packaging and Design, Inc., located at Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Corrugated Packaging and Design, Inc., 425 East Hill, Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141459 (Sub-13TA), filed October 18, 1979. A.G.S. ENTERPRISES, INC., 809 Columbia Boulevard, Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. *Plastic and plastic articles (except in bulk)*, from the facilities of International Paper Company, at or near Litchfield, IL, to points in AZ, CA, CO, MS, NM, NV, OR, UT, WA, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, N.Y. 10017. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-103TA), filed October 2, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Paper Boxes*, from the facilities of Southern Paper Box Company at or near Little Rock and Benton, AR to points in AL, GA, LA, KY, MO (including Kansas City Commercial Zone), MS, TN, TX and New Albany, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Paper Box Company, 1400 East 28th Street, Little Rock, AR 72203. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-104TA), filed October 10, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Iron and steel tubing*, from Frankfort, IN to Tarrant City, AL; Memphis, TN and Peoria, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unarco-Rohn, Inc., P.O. Box 609 Bean Plant Rd., Frankfort, IN. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-105TA) filed September 13, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, Illinois 60436. Representative: Jack Riley (same as applicant). *Pipe, fittings, valves, hydrants and accessories thereto*, from Donora, PA to points in MD, OH, WV, and PA (having prior movement by water) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cast Iron Pipe Co., P.O. Box 842, Donora, PA 15033. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, Illinois 60604.

MC 142059 (Sub-106TA), filed October 16, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack



Riley (same address as applicant). *Foodstuffs (except in bulk)*, from Jacksonville, IL to points in AL, FL, GA, KY, MS, NC, OH, SC, TN and Sherman, TX and from Sherman, TX to Jacksonville, IL for 180 days. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 226165, Dallas, TX 75266. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-107TA), filed October 16, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Abrasive ferro silicon in packages*, from Keokuk, IA to Port of New York, NY and Dundalk, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): NABA, Inc., 170 Broadway, New York, NY 10038. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-108TA), filed October 23, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Iron and steel articles (except in bulk)*, from the facilities of Bull Moose Tube Company at Gerald, MO to MN, IA, NE, KS, OK, TX and states east thereof for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bull Moose Tube Company, P.O. Box 214, Gerald, MO 63037. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142559 (Sub-125TA), filed October 10, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44144. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Electrical equipment, doors, scales, power transmission machinery, motors, controls, elevators and escalators, and industrial components* and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above*, restricted in (1) and (2) above against the transportation of commodities in bulk and those which because of size or weight require the use of special equipment, between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities of Reliance Electric Company, for 180 days. Supporting shipper(s): Reliance Electric Company, 220 Eastview Dr., Brooklyn Heights, OH 44131. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142559 (Sub-126TA), filed October 12, 1979. Applicant: BROOKS

TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44144. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in by the manufacturers or converters of paper, paper products, or woodpulp*, (except commodities in bulk), between points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to facilities owned, utilized, or operated by Georgia-Pacific Corporation, for 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 320 Post Rd., Darien, CT 06820. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142559 (Sub-127TA), filed October 12, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44144. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Office equipment, carpet, carpet cushions and carpet underlay*, and (2) *materials, equipment and supplies used in the manufacture, distribution, installation and maintenance of the commodities in (1) above* (except commodities in bulk) between points in the U.S. (except AK and HI), for 180 days. Restricted to traffic originating at or destined to the facilities of General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ. Supporting shipper(s): General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ 07662. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142559 (Sub-128TA), filed October 15, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44144. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Liquid plastic, plastic materials and primer* (except commodities in bulk) and (2) *materials and supplies used in the manufacture, sale, and distribution of the commodities in (1) above*, (except commodities in bulk) between North Baltimore, OH, and Milwaukee, WI, including points in their respective commercial zones, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and TX, for 180 days. Supporting shipper(s): Plast-O-Merit, P.O. Box 6, Waukesha, WI 53187. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142808 (Sub-2TA), filed November 9, 1979. Applicant: SOUTH BAY TRUCK LINES, INC., 1344 W. Valencia Mesa Drive, Fullerton, CA 92633. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Contracts*: irregular:

*Lumber and lumber mill products*, from the facilities of Sun Studs, Inc., near Roseburg, OR, to points in CA, NV, AZ, ID, UT and WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Sun Studs, Inc., P.O. Box 1127, Roseburg, OR 97470. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, California 90012.

MC 142888 (Sub-10TA), filed October 16, 1979. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Michael W. O'Hara, 300 Reich Building, Springfield, IL 62701. *Beer*, from the facilities of Anheuser Busch, Inc. in St. Louis, MO to the facilities of Brewers Distributing, Co. in Peoria, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brewers Distributing Co., 6922 North Galena Road, Peoria, IL 61614. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142999 (Sub-23TA), filed October 29, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, Post Office Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Esquire, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. *Contract carrier*, irregular routes for 180 days. *Paint and paint products* from Reading, PA to points in CA, IL and IN. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.C.M. Corporation, 299 Park Avenue, New York, NY 10017. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 143029 (Sub-4TA), filed October 25, 1979. Applicant: Mc-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier*: irregular routes: *Such merchandise as is dealt in by wholesale and retail food and drug business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such businesses, except in bulk*, between points in IL on the one hand and on the other points in IN; that portion of IA on and east of US 218 and on and south of US 20; that portion of WI on and East of US 51 and on and South of WI 23; Benton Harbor, MI and its commercial zone, Kalamazoo, MI and its commercial zone, Lawton and Paw Paw, MI and that portion of MI on and South of US 94 and on and West of US 131. Restricted to a transportation service to be performed under a continuing contract with Jewel Companies, Inc. for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Jewel Companies, Inc., 1955 West North Avenue, Melrose Park, IL 60160. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 143328 (Sub-29TA), filed November 5, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, 1150 Connecticut Ave NW, Suite 400, Washington, DC 20036. (1) *Malt beverages and related advertising materials, equipment and supplies* from Portland, OR to points in AZ, CA, CO, NV, UT and WY, and (2) *empty containers and materials and supplies used and dealt in by breweries* from points in AZ, CA, CO, NV, UT, and WY to Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pabst Brewing Company, 1133 W. Burnside St., Portland, OR 97209. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143909 (Sub-11TA), filed October 24, 1979. Applicant: KIRBY TRANSPORT, INC., Sola Drive and East End Drive, P.O. Box 17, Gilberts, IL 60136. Representative: Stuart R. Mandel, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Contract carrier*: irregular routes: *Paper and paper products, products and materials, equipment and supplies used in the manufacture, processing, sale and distribution of paper and paper products, and printed matters (except commodities in bulk)*, (1) From Lancaster, PA and Old Saybrook, CT to points in AL, AZ, CA, CO, FL, GA, ID, IL, IN, KS, KY, MI, MO, MT, NE, NV, NM, NC, ND, OK, OH, OR, SC, SD, TN, TX, UT, VA, WA, WV, and WY. (2) From Dwight, Chicago and Mattoon, IL, Warsaw, and Crawfordsville, IN, Glasgow, KY, Callatin, TN, and Willard, OH to points in AL, AZ, CA, CO, FL, GA, ID, KS, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV and WY for 180 days. Supporting shipper(s): R. R. Donnelley & Sons Company, 2223 Martin Luther King Drive, Chicago, IL 60616. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 144189 (Sub-5TA), filed November 8, 1979. Applicant: CORPORATE TRANSPORT INC., 107 7th North Street, Liverpool, NY 13088. Representative: Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier*—irregular routes. *Such commodities as are dealt in by a manufacturer of paper and paper products and materials, equipment and*

*supplies used in the manufacture of such commodities (except commodities in bulk)*, from Canton, OH to CT, DE, DC, MD, MA, ME, NH, NJ, NY, PA, RI, VT, and VA. Restricted to a transportation service to be performed under a continuing contract(s) with St. Regis Paper Company of NY, NY, for 180 days. Supporting shipper(s): St. Regis Paper Company, 150 East 42 Street, NY, NY 10017. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 144858 (Sub-26TA), filed November 5, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam St., Omaha, NE 68102. *Household appliances and parts and accessories for household appliances*, from the facilities of The General Electric Company at or near Little Rock, AR to points in LA, MS, NM, OK, and TX, for 180 days. Supporting shipper(s): General Electric Company, 6901 Lindsey Road, Little Rock, AR. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145848 (Sub-1TA), filed October 10, 1979. Applicant: CROSSLAND TRUCKING, INC., 3170 Broadway, Ville Brossard, Quebec, CD J4Z 2P5. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. *Contract carrier*, irregular routes: *Building materials (except commodities in bulk)*, between ports of entry on the International Boundary Line between the United States and Canada located in ME, NH, NY and VT on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, WI and DC. Restricted to traffic originating at or destined to points in PQ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Domtar Construction Materials Group of Domtar, Inc., P.O. Box 6138, Montreal, Quebec, CD H3C 3K4. Send protests to: Carol A. Perry, TA, ICC, PO Box 548, Montpelier, VT 05602.

MC 145929 (Sub-1TA), filed July 17, 1979. Applicant: NORTHWESTERN CONSTRUCTION, INC., 3812 Spenard Rd., Anchorage, AK 99503. Representative: Leo C. Franey, 918 16th St. NW., Washington, D.C. 20006. *Contract carrier*: irregular routes: *General commodities except household goods as defined by the Commission and commodities in bulk*, between points in Alaska within 50 miles of the United States Post Office at Deadhorse, AK restricted to transportation having a prior or subsequent movement by water

under a continuing contract with Arctic Marine Freighters for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arctic Marine Freighters, 1 Market Plaza, San Francisco, CA 94105. Send protests to: Roy S. Ehrhart, D/S, ICC, 701 C Street, Box 7, Anchorage, AK 99513.

MC 147088 (Sub-4TA), filed October 10, 1979. Applicant: DERBY CITY EXPRESS, INC., 728 Upsliner Road, Louisville, Ky. 40229. Representative: Wm. P. Whitney, Jr., Atty., 708 McClure Bldg., Frankfort, Ky. 40601. *Foodstuffs*, except in bulk, moving in vehicles equipped with mechanical refrigeration, between the facilities of the Louisville Freezer Center at Louisville, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, MI, MS, MO, NC, OH, PA, SC, TN, VA, and WV. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cliff Juckett, Omniway (Owner of Louisville Freezer Center), 2000 S. 9th St., Louisville, Ky. 40208. Send protests to: Ms. Clara Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 147089 (Sub-1TA), filed July 17, 1979. Applicant: KING TRANSPORTATION, INC., 208 Mobile Aerospace Industrial Complex, Mobile, AL 36615. Representative: Clete King (same address as above). *Gasoline, jet fuel, kerosene and fuel oil in bulk in tank vehicles* from points in Mobile County, AL to points in MS, which points shall be on and east of U.S. Hwy 51 and points on and South of U.S. Hwy 80 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ACCO, Inc., P.O. Box 6737, Mobile, AL 36605; Murphy Oil, P.O. Box 1174, Mobile, AL 36601; Hudson Oil Co., 18 Circle Drive, Saraland, AL 36571; Southland Corporation Division Gasoline Marketer, 411 Colonial Drive, Baton Rouge, LA 70806. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 147418 (Sub-1TA), filed October 16, 1979. Applicant: J. A. RIVERA ENTERPRISES, 8232 Polk Circle, Huntington Beach, CA 92646. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1600, Los Angeles, CA 90017. *Contract*: Irregular; *resin compound*, between the facilities of Cargill, Inc. in Los Angeles County, CA, on the one hand, and, on the other, Maricopa County, AZ; Multnomah County, OR; King County, WA; and Ada County, ID for 180 days. An underlying ETA seeks up to 90 days operating



authority. Supporting shipper(s): Cargill, Incorporated, Distribution Manager, 2801 Lynwood Road, Lynwood, CA 90262. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 147499 (Sub-2TA), filed November 2, 1979. Applicant: Donald Hooper d.b.a. D. H. TRANSFER, #671 M-73 Rte 3, Iron River, MI 49935. Representative: Donald Hooper, #671 M-73 Rte 3, Iron River, MI 49935. *Dimension stock built-up lumber and millwork including grade stakes and industrial blocking*; from the facilities of Carlson Enterprises in Bates Twp., at or near Iron River, MI to points in WI, IL, IN, KY, VA, WV, TN, MS, AL, GA, NC, and SC. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carlson Enterprises, 183 Pates-Gastra Road, Iron River, MI 49935. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 147639 (Sub-2TA), filed October 11, 1979. Applicant: SUNDOWN FARMS, INC., 683 Eastland Dr. South, Twin Falls, ID 83301. Representative: John J. Heazler, 1001 Shoshone Street North, Twin Falls, ID 83301. *Lumber*, from points in CA north of I-80, OR and WA to points in ID, for 180 days. Supporting shipper(s): Redwood Coast Lumber Co., Inc., P.O. Box 723, Ukiah, CA 95482; J. C. Anderson, Co., 639 Eastland Dr. S., Twin Falls, ID 83301. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 148183 (Sub-2TA), filed October 16, 1979. Applicant: RETAIL LEASING CORPORATION d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave. NW., Washington, DC 20036. *Contract carrier: Irregular routes: Such fashion merchandise as is dealt in by retail department stores* (except commodities in bulk, in tank vehicles) from Miami, FL; Smithville, TN; and Andalusia, AL to Woburn, MA under continuing contract with Mast Industries a wholly-owned subsidiary of The Limited Stores, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mast Industries, Inc., 270 W. Cummings Park, Woburn, MA 01801. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 148188 (Sub-3TA), filed October 16, 1979. Applicant: RETAIL LEASING CORPORATION d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333

New Hampshire Ave. NW., Washington, DC 20036. *Contract carrier: Irregular routes: Such fashion merchandise as is dealt in by retail department stores, and equipment, materials and supplies used in the conduct of such business* (except commodities in bulk, in tank vehicles) from Los Angeles, CA to Cincinnati, Columbus and Worthington, OH, under continuing contract or contracts with Gold Circle Stores, Shillitos and The Rike-Kumler Co., all divisions of Federal Department Stores, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Rike-Kumler Company, Second & Main St., Dayton, OH 45401; Gold Circle Stores, 6121 Huntley Road, Worthington, OH 43085; Shillitos, 5121 Fishwick Dr., Cincinnati, OH 45216. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 148188 (Sub-4TA), filed October 16, 1979. Applicant: RETAIL LEASING CORPORATION d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave. NW., Washington, DC 20036. *Contract carrier: Irregular routes: Such merchandise as is dealt in by retail department stores, and equipment, materials and supplies used in the conduct of such business* (except commodities in bulk, in tank vehicles) from Los Angeles, CA to Columbus, OH, under continuing contract or contracts with Federated Department Stores, Inc. and its division, namely, Lazarus Department Stores, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lazarus Dept. Stores, Town & High Sts., Columbus, OH. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 148188 (Sub-5TA), filed October 22, 1979. Applicant: RETAIL LEASING CORPORATION d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave. NW., Washington, DC 20036. *Contract carrier: Irregular routes: computer addressed forms* from Marion, OH to (1) Fairview, NJ and (2) Hauppauge, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fulfillment Corp. of America, 205 W. Center, Marion, OH 44302. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 148309 (Sub-1TA), filed October 3, 1979. Applicant: KENNETH M. TUNE AND KENNETH R. TUNE d.b.a. TUNE TRUCKING, Box 83, R.F.D., Patoka, IL 62875. Representative: Edward D.

McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Form machinery*, from Detroit, MI, Des Moines, IA, Cedar Rapids, IA and Brillion, WI to Lange Equipment, Patoka, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lange Equipment, Patoka, IL 62875. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148409 (Sub-1TA), filed October 10, 1979. Applicant: CGR TRUCK LINES, INC., 8456 Glenbrae Cove, Germantown, TN 38138. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Feed, feed ingredients, feed supplements, molasses, meals, fertilizer and fertilizer ingredients* between Memphis, TN, Helena, AR and Blytheville, AR, on the one hand, and, on the other, points in the states of MS, AL, LA, AR, MO, KY, TN, GA, IL, IN, TX, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Applicant has six supporting shippers. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 148438 (Sub-2TA), filed October 17, 1979. Applicant: MARCHAND CONSTRUCTION, INC., P.O. Box 48, Port Allen, LA 70767. Representative: Lawrence A. Winkle, Suite 1125 Frito Lay Tower, Dallas, TX 75245. *Heavy machinery or equipment, used in connection with the construction industry*, between points in TX, MS, LA, AL, GA, SC, NC, TN, and FL, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Raymond, Int'l, 2175 Norcross Tucker Road, Norcross, GA 30071; Midco Louisiana Co., 10110 Daradele Ave., P.O. 15407, Baton Rouge, LA 70895; Scott-Macon, Ltd., 600 Third Ave., New York, NY 10016. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 148418 (Sub-2TA), filed October 10, 1979. Applicant: MOUNTAIN HIGH SHIPPING, INC., 2201 Arapahoe St., Denver, CO 80202. Representative: Thomas J. Burke, Jr., 1660 Lincoln St., Suite 1600, Denver, CO 80264. (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk); (2) Non-alcoholic beverages; and (3) dairy products*; from points in CO to points in AZ, CA, ID, IL, IN, IA, KS, MI, NE, MN, OH, OR, UT, and WA. Restricted in (1) and (2) above to traffic moving in mixed loads with the commodities described in (3) above for

180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 6 supporting shippers—statements may be examined at the Denver field office or at Washington headquarters. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 148468 (Sub-1TA), filed October 22, 1979. Applicant: DON LOEFFLER, INCORPORATED, R.R. 1, Stanford, IL 61774. Representative: MICHAEL W. O'HARA, 300 Reisch Bldg., Springfield, IL 62601. *Fertilizer and fertilizer products*, from points in IA, IN, and MO to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-State Fertilizer Co., Inc., P.O. Box 4153, Bartonville, IL 61607; Platt County Service Company, 427 West Marion, Monticello, IL 61856. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148598 (Sub-2TA), filed October 19, 1979. Applicant: Batrock, Inc., U.S. Highway 124 North, P.O. Box 220, Lawrenceburg, KY 40342. Representative: Robert H. Kinker, 314 West Main Street, Frankfort, KY 40602. *Power transmission machinery, electric motors, electric gear motors, generators, controls, industrial components, telecommunications equipment, scales, and materials, equipment, and supplies* used in the manufacture of such commodities, between points in GA, IL, IN, KY, NC, OH; SC, and TN. Restricted to the transportation of shipments originating at or destined to facilities used by Reliance Electric Company. For 180 days. Supporting shipper(s): Reliance Electric Company, Highway 127 North, Lawrenceburg, KY 40342. Send protests to: Ms. Clara Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40207.

MC 148598 (Sub-3TA), filed October 19, 1979. Applicant: Batrock, Inc., U.S. Highway 124 North, P.O. Box 220, Lawrenceburg, KY 40342. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Plastic or rubber articles or materials, other than expanded group; film or sheeting, other than cellulose printed or not printed in flat sheets not further processed than cut to size, or in tubular form folded completely flat, or in lengths of not less than 100 ft. rolled to a diameter not less than 3 inches or folded upon itself*, between facilities of Deerfield Plastics Corporation, Danville, KY, on the one hand, and, on the other, points in GA, IL, IN, NC, OH, SC, TN, and WI for 180 days. Supporting shipper(s): Deerfield Plastics Corporation, P.O. Box 97, S. Deerfield, MA 01373. Send protests to:

Ms. Clara Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40207.

MC 148199 (Sub-1TA), filed September 6, 1979. Applicant: AQUARIAN LINES, Rt. 1, Box 261, Van Alstyne, TX 75095. Representative: T. G. Garland, Rt. 1 Box 261, Van Alstyne, TX 75095. *Paper products and articles Viz: binding and sealing tapes; chemicals* manufactured by, and used in the manufacture of products by Anchor Continental, Inc. between the plantsite of Anchor Continental, Inc. at Columbus, SC and points and places in TX, AR, OK, LA, MS, AL and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Continental, Inc., 2000 South Beltline Boulevard, P.O. Drawer G, Columbia, SC 29250. Send protests to: Opal M. Jones, TSC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

#### Notice No. 223

MC 114273 (Sub-646TA), filed August 3, 1979, and published in the Federal Register issue of October 22, 1979, and republished as corrected this issue. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). (A) *Iron and steel articles and non-ferrous metal articles* when moving in mixed loads with iron and steel articles, from (1) points in MD within 25 miles of the Washington Monument in Baltimore; points in MD on U.S. Hwy 40 from Baltimore, to junction of U.S. Hwy 13; and Baltimore, Frederick and Hagerstown, MD; (2) points in Bergen, Essex, Hudson, Middlesex (north of the Raritan River), Passaic and Union counties, NJ; (3) points within 25 miles of Rochester, NY; points in NY from Westfield, over NY Hwy 17 to Binghamton then over NY Hwy 7 to Troy; points in NY on U.S. Hwy 20 from PA-NY state line to Silver Creek, then over NY Hwy 5 to Batavia, then over NY Hwy 33 to Rochester, then over NY Hwy 31 to Weedsport, then over NY Hwy 31B to junction NY Hwy 5 (near Elbridge), then over NY Hwy 5 to Albany, points in NY on U.S. Hwy 9 from New York, NY to Albany, points in NY from Binghamton, over NY Hwy 12 to Utica; points in Oneida and Nassau Counties and Westchester County (lying east of U.S. Hwy 9 from Yonkers, to Tarrytown, and on and south of NY Hwy 119 from Tarrytown to Port Chester) NY; and the points of Altmar, Buffalo, Fulton, Hammondsport, New York, Niagara Falls, Oakfield, Oswego, Syracuse and Williamstown, NY; (4) points in PA within a 50 mile radius of the Point Bridge in Pittsburgh, points in PA from Pittsburgh, over U.S. Hwy 30 to

Breezewood, then over unnumbered hwy (formerly portion of Hwy 126) via Crystal Springs, to junction PA Hwy 643, then over PA Hwy 643 to Warfordsburg, then over U.S. Hwy 522 to PA-MD state line; and the points of Philadelphia and Pittsburgh, PA; (5) points in MI on and south of a line beginning at Benton Harbor, and extending along Interstate Hwy 94 to Marshall, then on and east of U.S. Hwy 27 to St. Louis, then on and south of MI Hwy 46 to Saginaw, then on and east of MI Hwy 47 to Bay City, then on and south of MI Hwy 25 to junction U.S. Hwy 25, and then on and south of U.S. Hwy 25 from said junction to Detroit; and Midland, MI; (6) points in OH; and (7) Chicago, IL, to points in CO (on and east of the Continental Divide), MN and MO; (B) *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size and weight require special equipment), between the origin area described in paragraph A above, on the one hand, and, on the other, Ashton, Aurora, Bergen, Chicago, Como, Cortland, Creston, De Kalb, Dixon, Elburn, Franklin Grove, Fulton, Globe, Kaneville, Malta, Maple Lake, Morrison, North Aurora, Rochelle, Rock Falls, St. Charles, Sterling, Union Grove, and Unionville, IL; Adair, Adel, Altoona, Ames, Ankeny, Arcadia, Aspinwall, Atlantic, Avon, Bagley, Bayard, Beaver, Belle Plaine, Berwick, Bondurant, Boone, Cambridge, Carlisle, Carroll, Casey, Cedar Falls, Cedar Rapids, Clinton, Collins, Colo, Coon Rapids, Council Bluffs, Dawson, Dedham, Denison, Des Moines, De Witt, Dewar, Dexter, Dow City, Dunlap, Eagle Center, Evansdale, Ferguson, Gardiner, Gilbertville, Gladstone, Glidden, Grand Junction, Grimes, Haverhill, Hudson, Huxley, Jamaica, Jefferson, Johnston, Kellogg, Le Grand, Lewis, Lisbon, Logan, Lowden, Madrid, Manning, Marion Marshalltown, Maxwell, Mechanicsville, Melbourne, Menlo, Missouri Valley, Mitchellville, Mt. Vernon, Nevada, Norwalk, Norwood, Oakland, Ogden, Orilla, Ortonville, Perry, Quick, Redfield, Rhodes, Scotch Ridge, Scranton, Slater, Stanwood, State Center, Stuart, Tama, Templeton, Toledo, Underwood, Urbandale, Vail, Van Cleave, Washburn, Waterloo, Waukee, West Branch, West Des Moines, West Side, Woodbine, and Woodward IA; points in Berrien County, MI; and Alda, Ames, Arlington, Ashland, Blair, Central City, Chapman, Clarks, Columbus, Duncan, Emerald, Exeter, Fairmont, Fremont, Friend, Gibbon, Grafton, Grand Island, Gretna,



Hanson, Hastings, Kearney, Kennard, Lincoln, Milford, North Bend, Omaha, Richland, Rogers, Schuyler, Shelton, Silver Creek, Sutton, Valley, Waverly and Wood River, NE; (C) *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size and weight require special equipment), from points in the origin area described in paragraph A above to points in IA within 100 air miles of Cedar Rapids, IA; (D) *Such commodities as are dealt in by wholesale, retail or chain grocery stores*, (except in bulk, in tank vehicles), between points in the origin area described in paragraph A above, on the one hand, and, on the other, points in KS (on and east of U.S. Hwy 81); points in MN; points in MO (on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63) and Aurora, Bolivar, Carthage, Clinton, Joplin, Neosho, St. Louis, Springfield and Webb City, MO; and Fargo, ND; (E) *Appliances and commodities used in the production and distribution thereof*, (except in bulk, in tank vehicles), between Amana, IA and Fayetteville, TN, on the one hand, and, on the other, points in NJ and NY described in origin sections 2 and 3 of paragraph A above; and Washington, DC; (F) *Meats, meat products, and meat by-products and articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from Sioux City, IA to the origin area described in paragraph A above; (G) *Iron and steel articles*, from the origin area described in paragraph A above to points in CO, IA, MN, MO, and NE; (H) *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size and weight require special equipment), from Alda, Ames, Arlington, Ashland, Blair, Central City, Chapman, Clarks, Columbus, Duncan, Emerald, Exeter, Fairmont, Fremont, Friend, Gibbon, Grafton, Grand Island, Gretna, Hanson, Hastings, Kearney, Kennard, Lincoln, Milford, North Bend, Omaha, Richland, Rogers, Schuyler, Shelton, Silver Creek, Sutton, Valley, Waverly, and Wood River, NE to points in IA within 100 miles of Cedar Rapids, IA; (I) *Such commodities as are used or sold by dealers in five-and-ten cent store merchandises*, from Richmond, VA to points in IA within 100 miles of Cedar Rapids, IA; (J) *Such commodities as are*

*dealt in by wholesale, retail or chain grocery stores*, between the origin area set forth in paragraph H above, on the one hand, and, on the other, points in KS (on and east of U.S. Hwy 81); MN; MO (on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63), and Aurora, Bolivar, Carthage, Clinton, Joplin, Neosho, St. Louis, Springfield, and Webb City, MO; and Fargo, ND; (K) *Aluminum bus bars, foil, sheet, plate, and ingots*, from the facilities of Aluminum Company of America at or near Riverdale, IA to points in OH and Washington, DC; (L) *Such commodities as are used or sold by dealers in five-and-ten cent store merchandise*, restricted to such commodities as are dealt in by wholesale, retail or chain grocery stores, between Richmond, VA, on the one hand, and, on the other, points in KS (on and east of U.S. Hwy 81); MN; MO (on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63), and Aurora, Bolivar, Carthage, Clinton, Joplin, Neosho, St. Louis, Springfield and Webb City, MO; and Fargo, ND; (M) *Such commodities as are used or sold by dealers in five-and-ten cent store merchandise*, between Richmond, VA, on the one hand, and, on the other, points in the IL, IA, and NE destination area described in paragraph B above; (N) *Paper, paper products, kraft wrapping paper and wood pulpboard*, from Franklin and West Point, VA to Chicago, IL; (O) *Glass containers, closures and rubber rings for glass containers and wooden and paper cases and labels for use in connection with the sale and distribution of glass containers*, from Chicago, IL to points in VA on, east and south of a line beginning at the VA-NC state line and extending along U.S. Hwy 20 through Danville and Lynchburg, to junction U.S. Hwy 60 at Amherst, then east along U.S. Hwy 60 to Richmond, and then along U.S. Hwy 360 through Tappahannock to Reedville on the Chesapeake Bay and points in VA on the Del-Mar-Va Peninsula; (P) *Coffee, tea, prepared foods, nuts, candy, peanut products and cream filled cookies*, from the facilities of Standard Brands, Inc. at or near Suffolk, VA to Chicago, IL. The authority applied for herein shall include authority to provide service to the commercial zones of the above designated points. The purpose of this application is to eliminate numerous CRST internal gateways, which will conserve fuel and reduce transit times. The purpose of this republication is to show the entire request of authority as requested.

MC 147273 (Sub-2TA), filed August 2, 1979, and published in the *Federal*

*Register* issue of October 1, 1979, and republished as corrected this issue. Applicant: KENNETH SHAFER d.b.a. K & T HOT SHOT SERVICE, P.O. Box 558, Proctorville, OH 46669. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Mine machines, machinery and mine machine parts requiring expedited service* between Huntington, WV, and points in the Huntington, WV Terminal Area, on the one hand, and, on the other, points in CO, AZ, UT, NM, WY, MT, NV, and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Fletcher & Co., 707 W. 7th St., Huntington, WV. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Philadelphia, PA 19106. The purpose of this republication is to correctly show the state of NV in lieu of NE as a destination state which was previously published.

By the Commission.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-38089 Filed 12-11-79; 8:45 am]  
BILLING CODE 7035-01-M

## Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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#### 1

##### COMMODITY FUTURES TRADING COMMISSION.

**TIME AND DATE:** 11:00 a.m., December 21, 1979.

**PLACE:** 2033 K Street, NW., Washington, D.C., 8th floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**  
Surveillance Briefing.

##### CONTACT PERSON FOR MORE

**INFORMATION:** Jane Stuckey, 254-6314.

[S-2411-79 Filed 12-10-79; 12:04 pm]

BILLING CODE 6351-01-M

#### 2

##### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** S-2388-79.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 9:30 a.m. (Eastern Time), Tuesday, December 11, 1979.

**CHANGE IN THE MEETING:** The following matter is added to the agenda for the open portion of the meeting.

Proposed sole source contract for statistical data services in connection with a court case.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of Change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; and J. Clay Smith, Jr., Commissioner.

##### CONTACT PERSON FOR MORE

**INFORMATION:** Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued December 7, 1979.

[S-2414-79 Filed 12-10-79; 3:39 pm]

BILLING CODE 6570-06-M

#### 3

##### FEDERAL MARITIME COMMISSION.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** December 7, 1979, 44 FR 70625.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10:00 a.m., December 12, 1979.

**CHANGE IN THE MEETING:** Addition of the following item to the open session:

11. Agreements Nos. LM-27, LM-27-A, and LM-27-B: Tampa Maritime Association.

[S-2413-79 Filed 12-10-79; 3:24 pm]

BILLING CODE 6730-01-M

#### 4

##### NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on December 19, 1979.

A. The meeting will be held on Wednesday, December 19, 1979, in the National Guard Association, Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation, Meeting of the Board of Directors, December 19, 1979

*Closed Session (9:30)*

1. Internal Personnel Matters.
2. Litigation Matters.

*Open Session (10:30)*

Approval of Minutes of Regular Meeting of November 28, 1979.

Commitment Approval Requests:

- 79-123-R1 Revision to 79-123 to Modify 12 Bi-Level Cars for Push/Pull Operation.
- 79-122 Retirement of P30CH Locomotives 713 and 715.

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Wednesday, December 12, 1979

- 80-16 Retirement and Sale of Five (5) Motive Power Units.
- 80-40 Retirement and Sale of Three (3) Turbo trains and Spare Parts.
- 80-42 Low-Level Truck Program.
- 77-266-S5 Purchase Eleven (11) Lightweight Electric Locomotives.
- 80-28 Prototype Automatic Ticketing System.
- 80-34 Grade Crossing Improvements—California.
- 80-38 Purchase/Resale & Leaseback of Computer Equipment.
- 80-41 Procurement of Wheelchair Lifts.
- 79-60-S1 Supplemental Funding for Satellite Commissary—Chicago Union Station.
- 77-242-S4 Chicago, Illinois Phase IIIB, Modernization 12th and 16th Street Yards, Construct Commissary/Warehouse.
- 74-43-S2 Trainside Delivery & Warehouse Equipment, Sunnyside Commissary, New York.
- 5. Approval of Consulting Contract: Optimal Equipment Assignment
- 6. Approval of Consulting Contract: Decentralization of Management
- 7. Canadian Liquor License Resolution
- 8. Board Committee Reports: Audit, Equipment, Finance, Northeast Corridor Improvement Project, Organization & Compensation, and ad hoc By-laws Revision.
- 9. President's Report.
- 10. New Business.
- 11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3973.

Dated: December 7, 1979.

Elyse G. Wander,

Corporate Secretary.

[S-2410-79 Filed 12-10-79; 10:53 am]

#### 5

##### NUCLEAR REGULATORY COMMISSION.

**TIME AND DATE:** Week of December 10, 1979.

**PLACE:** Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

**STATUS:** Open and Closed.

Monday, December 10

No meetings.

Tuesday, December 11

No meetings.

Wednesday, December 12

Changes.



9:30 a.m.

1. Briefing by I&E on Lessons Learned (approximately 1 hour, public meeting, rescheduled from 12/10).
2. Briefing on Status of Short Term Lessons Learned (approximately 1½ hours, public meeting).

1:30 p.m.

1. Briefing on Action Plan (approximately 2 hours, public meeting, rescheduled from 12/10).
2. Affirmation Session (approximately 5 minutes, public meeting):
  - a. Gainesville.
  - b. Sec. 145(b) approval.

Thursday, December 13

No meetings.

Friday, December 14

9:30 a.m.

1. Briefing on Scope of Issues Involved in Setting Standards for Licensee Technical Specifications and Implementation (approximately 1 hour, public meeting).
2. Briefing on NFS/Erwin (approximately 1½ hours, Closed—Exemption 1) (Tentative).

**CONTACT PERSON FOR MORE****INFORMATION:** Walter Magee (202) 634-1410.

Dated: December 7, 1979.

Walter Magee,

Office of the Secretary.

[S-2412-79 Filed 12-10-79, 2:46 pm]

BILLING CODE 7590-01-M

6

**POSTAL SERVICE.**

On December 3, 1979, the Postal Rates Committee of the Board of Governors unanimously voted to close to public observation a portion of a meeting which was commenced on that date, and continued on December 4, at which the Committee discussed the Opinion and Recommended Decision of the Postal Rate Commission dated November 28, 1979, re Third Class Carrier Route Presort Proposal, 1978 (Commission Docket No. MC 78-2). On December 4, 1979, the Governors of the United States Postal Service unanimously voted to close to public observation a portion of the Board meeting of that date, the portion to be closed involving a discussion by the Governors of the aforesaid Opinion and Recommended Decision from the Rate Commission. In each instance, the vote to close a meeting followed a determination in accordance with the Government in the Sunshine Act that agency business required consideration of the Rate Commission's Opinion and Recommended Decision without the delay that would be necessary to afford

public announcement at least one week before the meeting as described in 5 U.S.C. 552b(e). Thus, the Postal Rates Committee of the Board determined by unanimous vote that agency business required the meeting be called on December 3 at Postal Service Headquarters in Washington, D.C. to discuss the aforesaid matter. Further, the Governors determined by unanimous vote that the subject matter of the Board meeting previously announced for December 4 should be changed so as to add consideration of the aforesaid Opinion and Recommended Decision to the agenda for that meeting, that agency business so required, and that no earlier announcement of the change was possible.

In each instance, it was determined (by the Committee in one case and by the Governors in the other) that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the meeting or portion of a meeting to be closed was exempt from the open meeting requirement of the Government in the Sunshine Act in that it was likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and that the public interest did not require the discussion of this matter to be open to the public. In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service certified in each instance that in his opinion the meeting or portion of a meeting to be closed might properly be closed to public observation pursuant to 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations.

The persons who attended the meeting of the Postal Rates Committee were members Wright, Hardesty, Robertson, and Sullivan, Postmaster General Bolger, Senior Assistant Postmaster General Finch, and Secretary of the Board Cox. The persons who attended the closed portion of the meeting of the Board were Board members Wright, Allen, Camp, Ching, Hardesty, Robertson, Sullivan, Bolger and Conway, Senior Assistant Postmaster General Finch, and Secretary of the Board Cox.

Louis A. Cox,

Secretary.

[S-2408-79 Filed 12-10-79, 10:53 am]

BILLING CODE 7710-12-M

7

**POSTAL SERVICE.**

On December 4, 1979, the Board of Governors of the United States Postal Service voted to close to public observation a portion of its next meeting, scheduled for January 8, 1980. Each of the members of the Board voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding.

Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-2409-79 Filed 12-10-79, 10:53 am]

BILLING CODE 7710-12-M



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# test Federal Register

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Wednesday  
December 12, 1979

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## Part II

### Department of the Interior

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Bureau of Land Management

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Interim Management Policy and  
Guidelines for Land Under Wilderness  
Review



## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Ch. II

## Interim Management Policy and Guidelines for Land Under Wilderness Review

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Publication of the Interim Management Policy and Guidelines for Lands Under Wilderness Review.

**SUMMARY:** This document sets the policy and guidelines for managing the use of lands that are under wilderness review by the Bureau of Land Management. This policy is referred to as the "interim" management policy because it will be in effect for only a limited period of time. The policy is applicable to all users of the public lands under the jurisdiction of the Bureau of Land Management under wilderness review. This policy will be further implemented by the publication of regulations at a future date.

**EFFECTIVE DATE:** December 12, 1979.

**ADDRESS:** Any inquiries or suggestions should be sent to: Director (430), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Copies of the Interim Management Policy and Guidelines for Land under Wilderness Review are available at the above address and at all State Offices of the Bureau of Land Management.

**FOR FURTHER INFORMATION CONTACT:** Terry Sopher (202) 343-6064, December 7, 1979.

James W. Curlin,  
Deputy Assistant Secretary of the Interior.

## Interim Management Policy and Guidelines for Lands Under Wilderness Review

U.S. Department of the Interior, Bureau of Land Management, December 12, 1979

Interim Management Policy and Guidelines for Lands Under Wilderness Review—Table of Contents

## Introduction

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- B. Specific Policy Guidance

Chapter II. Implementation of the Interim Management Policy

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- B. Evaluation Procedures
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- D. Enforcement
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## U.S. Department of the Interior

As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interests of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

## Introduction

The Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to review areas of the public lands determined to have wilderness characteristics, and to report to the President his recommendations as to the suitability or nonsuitability of each such area for preservation as wilderness. The Secretary is required to report his recommendations to the President by October 21, 1991, and the President is required to report his recommendations to Congress by October 21, 1993. During the period of this review and until Congress acts on the President's recommendations, the Secretary is required to manage such lands so as not to impair their suitability for preservation as wilderness, subject to certain exceptions and conditions.

This document describes the policy and guidelines under which the Bureau of Land Management (BLM) will manage the lands under wilderness review. This policy is referred to as the "interim"

management policy because it applies to specific areas of the public lands for a limited amount of time, depending upon various stages and schedules of the review process. The purpose of the policy and guidelines is to guide BLM staff in the specific decisions that arise every day in the management of lands under wilderness review.

There are two categories of public lands to which this policy applies: (1) Lands for which the wilderness inventory process has not yet been completed, and (2) wilderness study areas (WSA's). These two categories together are referred to as "lands under wilderness review."

The first category of lands to which the Interim Management Policy (IMP) applies are lands subject to wilderness review but for which the BLM wilderness inventory process has not yet been completed. The inventory is a preliminary phase that leads to identification of wilderness study areas. Because completion of the wilderness inventory process may result in identifying lands under inventory as wilderness study areas, these lands must be managed under the IMP until a final decision in the inventory process resolves their status. The wilderness inventory in the contiguous western States is scheduled for completion in 1980.

The second category of lands, wilderness study areas, consists of lands which the BLM has determined have wilderness characteristics, as defined in the Wilderness Act of 1964. This determination is made through the wilderness inventory process described in the BLM's *Wilderness Inventory Handbook*. These wilderness study areas are being studied by the BLM to determine whether they are suitable or unsuitable for preservation as wilderness. Based on this study, the Secretary of the Interior will submit his recommendations on each wilderness study area to the President, and the President will send his recommendations to Congress. Only Congress can designate an area as wilderness and, therefore, as a unit of the National Wilderness Preservation System.

The Interim Management Policy is temporary and applies only during the time an area is under wilderness review and until Congress acts on wilderness study areas. After Congress acts on the President's recommendations for each wilderness study area, a different policy will apply to the area, depending on whether or not Congress designates the area as wilderness. Areas designated as wilderness will be managed under a basic policy for permanent wilderness

management, which will soon be drafted by the BLM and issued for public review. This policy will be amended as necessary to reflect any requirements incorporated into the law designating a wilderness area on BLM lands. Areas Congress determines not to designate as wilderness will no longer be subject to the Interim Management Policy, and will be managed under general BLM management policies.

The Interim Management Policy (IMP) obviously is not the only policy that governs the management of lands under wilderness review. The BLM has many other laws and policies to carry out which may affect whether and how an activity may take place on lands under wilderness review, even when that activity is permissible under the IMP.

## Mandates From Congress

The BLM wilderness review program stems from section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA). In FLPMA, Congress gave BLM its first unified, comprehensive mandate on how the public lands should be managed. The law establishes a policy of generally retaining the public lands in Federal ownership, and it directs the BLM to manage them under principles of multiple use and sustained yield. The BLM is to prepare an inventory of the public lands and their resources, including identification of areas having wilderness characteristics. Management decisions for the public lands are to be made through a land-use planning process that considers all potential uses of each land area. All public lands are to be managed so as to prevent unnecessary or undue degradation of the lands.

Under FLPMA, wilderness preservation is part of BLM's multiple-use mandate, and wilderness values are recognized as part of the spectrum of resource values and uses to be considered in the inventory and in the land-use planning process. Section 603 of FLPMA specifically directs the BLM, for the first time, to carry out a wilderness review of the public lands. (The complete text of section 603 appears in Appendix B of this document. The BLM's wilderness review program implementing section 603 is summarized in Appendix E.)

Section 603(c) of FLPMA tells the BLM how to manage the lands under wilderness review, in these words:

During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas

for preservation as wilderness \* \* \* (emphasis added)

We will refer to this as the "nonimpairment" mandate.<sup>1</sup>

Importantly, section 603(c) provides a special exception from the nonimpairment mandate for existing mining, grazing, and mineral leasing uses—what we will call "grandfathered" uses—in these words:

\* \* \* subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act \* \* \*

As is obvious from this language, the continuation of these existing uses is not unrestricted. They are restricted to the same "manner and degree" as on the date FLPMA was approved (October 21, 1976).

The Secretary is also directed by section 603(c) to "take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection." This applies to these grandfathered uses and to all other activities. A similar provision in Section 302(b) concerning *all* public lands, even those not under wilderness review, directs the Secretary to "prevent unnecessary or undue degradation of the lands." The practical effect of these two provisions is the same. Therefore, throughout this document the shorter form used in section 302(b) will be cited.

Another provision in section 603(c) directs:

Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character.

(Section 204 spells out the conditions under which the Secretary may make a withdrawal, and the procedures for doing so.)

The BLM's responsibilities under section 603(c) are also affected by section 701(h) of FLPMA, which states:

<sup>1</sup> The wilderness review required by section 603 focuses on roadless areas of 5,000 acres or more and on roadless islands. The BLM as a matter of policy has used its general management authority under sections 302 and 202 of FLPMA to include in the wilderness review some roadless areas smaller than 5,000 acres. (The criteria for such areas are spelled out on page 12 of the *Wilderness Inventory Handbook*.) The management mandate in section 603(c) does not apply to roadless areas smaller than 5,000 acres. However, as a matter of policy the BLM will use its management authority under section 302 of FLPMA to apply a modified form of interim management to these areas, as is explained in Chapter I. A. 5.

All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

These mandates in FLPMA establish as a matter of law that, while some development activities are permissible on lands under wilderness review, they are subject to important limitations and must be carefully regulated. All activities except those specifically exempt must be regulated to prevent impairment of wilderness suitability. If an activity not specifically exempt cannot meet this condition, the activity cannot be permitted on lands under wilderness review.

There are five different practical effects of these provisions with respect to "interim management" of lands under wilderness review. First, the general standard for interim management is that lands under wilderness review must be managed so as not to impair their suitability for preservation as wilderness. We will refer to this as the "nonimpairment" standard. This applies to all uses and activities except those specifically exempted from this standard by FLPMA (such as grandfathered uses).

Second, those grazing, mining, and mineral leasing uses that existed on October 21, 1976 (the date FLPMA was approved), may continue in the same manner and degree as on that date, even if this would impair wilderness suitability.

Third, lands under wilderness review may not be closed to appropriation under the mining laws in order to preserve their wilderness character.

Fourth, valid existing rights must be recognized.

Fifth, the lands must be managed to prevent unnecessary or undue degradation.

## Meaning of the Congressional Mandate

Determining what can take place on lands under wilderness review depends partly on what the specific language of each of these provisions means, partly on how each provision interacts with other provisions of FLPMA and with other laws, and partly on what authority the Department has under FLPMA and other laws to regulate uses of the public lands.

## Nonimpairment

To determine what is permissible under the general "nonimpairment" standard, we must examine what Congress meant by *impairment* of an area's *suitability for preservation as wilderness*.

The term "suitability \* \* \* for preservation as wilderness" originated in the Wilderness Act of 1964, which



directs the Secretary of Agriculture to "review, as to its suitability or nonsuitability for preservation as wilderness" each of the national forest areas classified as "primitive." Likewise, the Wilderness Act directs the Secretary of the Interior to review certain roadless areas and islands in the National Park System and in the national wildlife refuges and game ranges and "report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness." The term is similarly used in section 603(a) of FLPMA, which directs the Secretary of the Interior to review certain roadless areas and islands and to "report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness". (Emphasis added.)

In the Wilderness Act and FLPMA, the term "suitability" implies two things. First, it implies that, at the minimum, the area satisfies the definition of wilderness in section 2(c) of the Wilderness Act:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

The Department therefore has a responsibility under the nonimpairment standard to ensure that each wilderness study area satisfies this definition at the time Congress makes a decision on the area. As a practical matter, this means that it must meet this definition by the time the Secretary reports his recommendation to the President, because the President might immediately send his recommendation to Congress, and Congress might act immediately.

The word "suitability" takes on a second meaning in the context of recommendations made by the

Secretary to the President. Congress made it clear in section 603 of FLPMA that an area with all necessary wilderness characteristics defined in section 2(c) of the Wilderness Act might be found by the Secretary to be either "suitable" or "unsuitable" for preservation as wilderness. Since each area must have been determined to have wilderness characteristics in order to qualify for wilderness study under the mandate of FLPMA, it seems clear that the principal factor to be used by the Secretary in arriving at a suitable/unsuitable recommendation is the value of an area as wilderness compared to its value for other uses, such as commercial forest management or mineral development. The Department therefore has a responsibility to ensure that an area's existing wilderness values are not degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

Management under the nonimpairment standard, to which there are two exceptions described later, has these goals: (1) To ensure that any area that now satisfies the wilderness definition in section 2(c) of the Wilderness Act will satisfy that definition when the Secretary sends his wilderness recommendation to the President and thereafter until Congress acts, and (2) to ensure that, by the time the Secretary sends his wilderness recommendation to the President, the area's wilderness values have not been degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

Anything that would conflict with these goals would constitute impairment of the area's suitability for preservation as wilderness.

Management to the nonimpairment standard does not mean that the lands will be managed as though they had already been designated as wilderness. For example, some uses that could not take place in a designated wilderness area may be permitted under the Interim Management Policy because they are only temporary uses that leave no physical or aesthetic impacts on the land and that can easily be terminated if Congress decides to designate the area as wilderness.

Some temporary uses can be permitted even though they cause physical or aesthetic impacts, because those impacts are temporary and will be

reclaimed promptly. It is generally felt to be in the public interest, for instance, for wilderness study areas to be explored, within the nonimpairment standard, so as to learn as much as possible about all the resource values that are present.

On the other hand, some uses that were explicitly permitted by the Wilderness Act of 1964 in wilderness areas of the national forests (such as mining and mineral leasing) must be restricted under the Interim Management Policy because their impacts clearly could disqualify the area from satisfying the wilderness definition, and thus would impair wilderness suitability. During the wilderness review it is the later and more explicit FLPMA, and not the Wilderness Act, that dictates what is permissible.

The final decision on permanent wilderness designation for each wilderness study area belongs to Congress. Management under the nonimpairment standard protects Congress' right to make the designation decision by preventing actions that would pre-empt that decision.

#### Grandfathered Uses

To determine what uses are protected under the "grandfather" provision, we must examine what Congress meant by "continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act."

To be an "existing" use, the use clearly must have been taking place on the lands as of the date of FLPMA (October 21, 1976). An existing use might have been temporarily inactive for reasons such as bad weather or a short-term depression in market conditions, but clearly a use that had last occurred 5 or 10 years earlier when there was no demonstrable intention of resuming immediately would not qualify, except where the use involved a long "start-up" time.

An existing use would have created actual physical impacts on the land before October 21, 1976. However, the impacts of an existing grazing use would not necessarily be noticeable on that date, because grazing, conducted under good range management practices, leaves no noticeable impacts, except those of range improvement installations.

Continuation in the same "manner and degree" implies different things for the different uses mentioned in the grandfather clause. Mineral uses generally operate by a logical progression that begins with exploration and proceeds through development of a

given deposit by geographic extension until the deposit has been exhausted. By contrast, grazing use is done by grazing a given land area on a continuing basis, because range forage is a renewable resource. No change in the area of use is inherent in grazing.

In both cases, the benchmark for the "manner and degree" of an existing use is the physical and aesthetic impact that use was having on the area on October 21, 1976, because it is that impact that could affect the wilderness review.

For mineral uses, continuation in the same manner and degree implies that the use may proceed by a *logical pace and progression*—either a geographic extension or a change in the type of activity, so long as the impacts of the extension or of the new activity are not of a significantly different kind than the impacts existing on October 21, 1976. This may take place even if the activity impairs wilderness suitability.

For grazing uses, continuation in the same manner and degree implies that grazing may continue on the lands authorized as of October 21, 1976, so long as the impacts of that use do not increase.

#### Appropriation Under the Mining Laws

As it appears in section 603(c), the mandate that lands under wilderness review continue to be subject to appropriation under the mining laws is a prohibition against withdrawal of lands under wilderness review from appropriation under the mining laws for the purpose of preserving the land's wilderness character. It is not an exception to the nonimpairment mandate. Although they may still take place, activities entailed in appropriation under the mining laws—including the location of new claims, assessment work, exploration activities on claims, and the issuance of patents—must be regulated so as not to impair wilderness suitability. (Of course, mining activities covered by the grandfather provision and certain valid existing rights are exceptions to the nonimpairment mandate.)

If a mining claimant, using methods that do not impair wilderness suitability, makes a valid discovery and can show proof of that discovery to the BLM, the discovery represents a right to patent the claim. If a patent is issued, title to the land is transferred to the claimant. At that point the claim ceases to be public land and is therefore no longer subject to wilderness review or to the Interim Management Policy.

#### Valid Existing Rights

The "valid existing rights" provision of FLPMA (Section 701(h)) clearly

applies only to valid rights outstanding ("existing") on October 21, 1976. Those valid rights will be recognized, but they are not necessarily exempt from the nonimpairment mandate.

In cases where the Department has authority to regulate a valid existing right, the nonimpairment mandate of section 603 requires the Department to regulate it to avoid impairing wilderness suitability. This is the case with the majority of mineral leases issued before October 21, 1976. The right granted by those leases is not an absolute, uncontrolled right. It is a right conditioned on compliance by the lessee with the Department's rules, orders, and regulations in effect either on or after the date of the lease. Therefore, lessees will be required to comply with the nonimpairment mandate of FLPMA, unless the activities on the leases qualify as grandfathered uses. If a lessee proposes to conduct activities that cannot meet the nonimpairment standard and those proposed activities are denied for this reason, the lessee has the right to request a suspension of operation. The policy on lease suspensions is explained more fully in Chapter III, J. 1(d).

In cases where the Department has no such authority to regulate the valid existing rights to the nonimpairment standard, those rights may be exercised, even if this will impair wilderness suitability. This is the case with mining claims on which a valid discovery had been made before October 21, 1976. If the claimant can show evidence to the BLM that a discovery was made before that date, the operation will not be regulated to the nonimpairment standard, regardless of the kind of impacts from activities on the claim on October 21, 1976.

The valid existing rights and grandfather provisions create a significant overlap, because some mineral uses qualify under both provisions:

**Mining Claims:** Mining claims located before October 21, 1976, represent a valid existing right if a valid discovery had been made on the claim before October 21, 1976. Of course, if any such claims were actively being worked as of October 21, 1976, they would also qualify as grandfathered uses. But they enjoy a more liberal development standard under the valid existing rights provision, because in this case they would be able to proceed even if the activities exceeded the manner and degree that existed on October 21, 1976.

**Mineral Leases:** Mineral leases issued before October 21, 1976, represent a valid existing right. If they were actively being worked as of October 21, 1976,

and if physical impacts had been created on the ground, these leases would also qualify as grandfathered uses. In most if not all cases (depending upon the legal rights conveyed by the specific lease in question), the grandfather provision provides the more liberal development standard, allowing continuation in the same manner and degree as on October 21, 1976; otherwise, the nonimpairment standard would apply. If a lessee proposed to conduct activities that cannot meet the nonimpairment standard and those proposed activities were denied for this reason, the lessee would have the right to request a suspension of operation. The policy on lease suspension is explained more fully in Chapter III, J. 1(d).

#### Chapter I. Management Policy for Lands Under Wilderness Review

##### A. General Policy

1. The Department of the Interior's management policy is, except in the cases stated below, to continue resource uses on lands under wilderness review in a manner that maintains the areas' suitability for preservation as wilderness. This Interim Management Policy will be in effect until one of the following occurs:

a. In some cases the BLM wilderness inventory process will result in a determination that a wilderness inventory unit does not meet the Wilderness Act's definition of wilderness. In such cases, as soon as the BLM State Director has announced a final decision and any relevant administrative review process has been exhausted, the Interim Management Policy will no longer apply.

b. If Congress designates a wilderness study area as wilderness, the BLM will manage the area for preservation of its wilderness character. The Federal Land Policy and Management Act (FLPMA) requires that designated wilderness areas be managed under provisions of the Wilderness Act that apply to national forest wilderness. BLM will prepare a management policy to implement this mandate for any BLM areas that Congress may decide to designate as wilderness.

c. If Congress determines that a wilderness study area will not be designated as wilderness, the Interim Management Policy will no longer apply.

2. The law provides for, and the Department's policy is to allow, continuation of grazing, mining, and mineral leasing uses on lands under wilderness review in the manner and degree in which these uses were being done on October 21, 1976, so long as



they do not cause unnecessary or undue degradation of the lands. These are referred to as the "grandfathered" uses.

3. The Department's policy is to allow appropriation under the mining laws; i.e., these areas, in accordance with the congressional mandate, will not be withdrawn from the operation of the mining laws for the purpose of preserving their wilderness character. Activities involved in appropriation under the mining laws—including location of new claims and the assessment work necessary to hold claims—will be allowed so long as these activities are carried out in a manner that does not impair the area's wilderness suitability.

4. The Department's policy is to recognize valid existing rights that were outstanding on October 21, 1976. A further explanation of the policy on valid existing rights appears in section B. 7, below.

5. If a wilderness study area or inventory unit (except islands) is smaller than 5,000 acres, existing and new mining activities under the 1872 Mining Law will be regulated in that area only to prevent unnecessary or undue degradation of the lands—not to prevent impairment of wilderness suitability. All other activities will be managed under the Interim Management Policy. The *Wilderness Inventory Handbook* provides for identification of wilderness study areas under 5,000 acres under certain conditions specified on page 12 of the handbook. Although section 603 of FLPMA does not require these areas to be given interim management, the Department has the authority under section 302 of FLPMA to manage these lands similarly. The Department's policy is to manage them under the Interim Management Policy, except with respect to mining claims located under the 1872 Mining Law. The authority to regulate activities to the nonimpairment standard with respect to the mining laws only applies to the areas that meet the criteria of section 603—i.e., either islands or roadless areas of 5,000 acres or more. Section 302 provides the authority to regulate mining on all public lands to prevent unnecessary or undue degradation.

#### B. Specific Policy Guidance

This section tells how the Bureau of Land Management will apply the general policies set forth in section A. above.

1. *Lands under Wilderness Review.* The Bureau of Land Management is conducting a wilderness inventory under procedures described in the *Wilderness Inventory Handbook*, issued on September 27, 1978. The inventory

will sort lands into two categories: (a) Wilderness study areas, to which the Interim Management Policy will apply, and (b) lands that are determined not to have wilderness characteristics and therefore will not be subject to the Interim Management Policy. Lands that are being reviewed in the wilderness inventory and have not yet been dropped from the inventory by a final decision of the BLM will be subject to the Interim Management Policy because they may be identified as wilderness study areas by that final decision.

2. *Nonimpairment.* Any activity that BLM has determined does not impair the land's suitability for preservation as wilderness may be permitted on lands under wilderness review. Before approving proposed activities generally identified as nonimpairing in this document, BLM will first ensure that they conform to the existing management framework plan, if one has been prepared for the affected lands (see 43 CFR 1601.8), and will then review the proposal through an environmental assessment to determine whether, in a specific case, they will be nonimpairing and to ensure that approval of such activities will not create a situation in which the cumulative effect of existing uses and the new proposed uses would impair wilderness suitability.

Activities that protect or enhance the land's wilderness values or that provide the minimum necessary facilities for public enjoyment of the wilderness values are considered nonimpairing. For example, trails and sanitary facilities could be built for primitive recreational use.

All other activities will be considered nonimpairing if the BLM determines that they meet each of the following criteria, referred to hereafter as the "nonimpairment criteria":

a. It is temporary. This means that the use or activity may continue until the time when it must be terminated in order to meet the reclamation requirement of paragraphs (b) and (c) below. A temporary use that creates no new surface disturbance may continue unless Congress designates the area as wilderness, so long as it can easily and immediately be terminated at that time, if necessary to management of the area as wilderness.

b. Any temporary impacts caused by the activity must, at a minimum, be capable of being reclaimed to a condition of being substantially unnoticeable in the wilderness study area (or inventory unit) as a whole by the time the Secretary of the Interior is scheduled to send his recommendations on that area to the President, and the

operator will be required to reclaim the impacts to that standard by that date. If the wilderness study is postponed, the reclamation deadline will be extended accordingly. If the wilderness study is accelerated, the reclamation deadline will not be changed. A full schedule of wilderness studies will be developed by the Department upon completion of the intensive wilderness inventory. In the meantime, in areas not yet scheduled for wilderness study, the reclamation will be scheduled for completion within 4 years after approval of the activity. (Obviously, if and when the Interim Management Policy ceases to apply to an inventory unit dropped from wilderness review following a final wilderness inventory decision of the BLM State Director, the reclamation deadline previously specified will cease to apply.) The Secretary's schedule for transmitting his recommendations to the President will not be changed as a result of any unexpected inability to complete the reclamation by the specified date, and such inability will not constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

The reclamation will, to the extent practicable, be done while the activity is in progress. Reclamation will include the complete recontouring of all cuts and fills to blend with the natural topography, the replacement of topsoil, and the restoration of plant cover at least to the point where natural succession is occurring. Plant cover will be restored by means of reseeding or replanting, using species previously occurring in the area. If necessary, irrigation will be required. The reclamation schedule will be based on conservative assumptions with regard to growing conditions, so as to ensure that the reclamation will be complete, and the impacts will be substantially unnoticeable in the area as a whole, by the time the Secretary is scheduled to send his recommendations to the President. ("Substantially unnoticeable" is defined in Appendix F.)

c. When the activity is terminated, and after any needed reclamation is complete, the area's wilderness values must not have been degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness. The wilderness values to be considered are those mentioned in section 2(c) of the Wilderness Act, including naturalness, outstanding opportunities for solitude or

for primitive and unconfined recreation, and ecological, geological or other features of scientific, educational, scenic, or historical value.

Any temporary impacts authorized by the BLM under these criteria will be ignored during the wilderness study; the area will be considered in its expected condition at the time reclamation is complete, as required by paragraphs (b) and (c) above.

3. *Supporting Activities.* Some activities that in themselves are nonimpairing may require supporting facilities or activities that could impair wilderness suitability. (For example: a boat launching ramp and associated parking area as supporting facilities for boating, or the cross-country use of motor vehicles to retrieve sailplanes or hang gliders.) When this is the case, the supporting activity will be limited as necessary to meet the nonimpairment criteria (see section 2, above). If the supporting activity cannot be done in a nonimpairing manner, then the principal activity will not be approved.

4. *Cumulative Impacts.* It is recognized that many minor impacts of nonimpairing activities could accumulate to a point at which the total impact would impair wilderness suitability either by creating impacts that overall are noticeable (i.e., are not substantially unnoticeable) or by degrading the area's wilderness values so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

To prevent such cumulative impacts from impairing wilderness suitability, the BLM will monitor the cumulative impacts of ongoing activities. If those impacts are growing so great that the area's wilderness suitability could be impaired, the BLM will take steps to control that impact by adjusting the conditions of use (such as time, place, and quantity), by prohibiting the expansion of the activity, or, if necessary, by prohibiting the activity altogether on the affected lands. The BLM will also consider cumulative effects in making decisions on new proposals to conduct what individually would be nonimpairing activities; if the proposed activity will create an unacceptable additional increment of impact, it will not be approved.

5. *Existing Facilities.* Some lands under wilderness review may contain minor man-made facilities that were found in the wilderness inventory process to be substantially unnoticeable in the area. For example, these may include primitive vehicle routes

("ways") and range improvements such as fences and spring developments. There is nothing in this Interim Management Policy that requires such facilities to be removed or shut down. On the contrary, they may remain, and they may be used as before, so long as this does not cause new impacts that would impair the area's wilderness suitability. (Grandfathered uses are, of course, exempt from the nonimpairment standard.)

#### 6. "Grandfathered" Uses.

a. *General.* Section 603(c) of FLPMA provides a special exception to the nonimpairment standard. Grazing, mining, and mineral leasing uses that existed on the date of approval of FLPMA (October 21, 1976) may continue in lands under wilderness review in the same manner and degree as on that date, even if this impairs wilderness suitability. These are the "grandfathered" uses, protected by the "grandfather" clause of section 603. These uses must be regulated to ensure that they do not cause unnecessary or undue degradation of the lands.

Although activities on mining claims on which a valid mineral discovery was made prior to October 21, 1976, may qualify as grandfathered uses, these claims qualify for a more liberal development standard under the policy for valid existing rights (see section 7, below).

b. *Criteria.* A grandfathered use is a mineral or grazing use that was taking place on the land as of the date of approval of FLPMA (October 21, 1976). A grandfathered mineral use must have created actual physical impacts before that date.

In some circumstances, a grazing or mineral use may have been temporarily inactive on October 21, 1976, for reasons such as bad weather, natural disaster, a labor strike, or a short-term depression in the market for the product, and the operator fully intended to resume immediately upon termination of the temporary source of inactivity. In such cases, a rule of reason will be followed, but "temporarily inactive" will normally mean no more than 12 months prior to October 21, 1976. There may be unusual circumstances causing more than 12 months of temporary inactivity; these will be considered case by case, but shutdowns for market reasons longer than 12 months will not qualify. In the case of pre-FLPMA exploration activity creating actual physical impacts, such as seismic operations for oil and gas or drilling for hardrock minerals, normal industry schedules or "start-up" times will be taken into account in determining the permissible period of inactivity. Diligent pursuit and logical

progression of development of the lease or mining claim must be demonstrated before these circumstances will be considered.

If a grandfathered use is acquired by a different owner, the new owner may continue the grandfathered use. But a grandfathered use is not an abstract right or privilege that can be uprooted from one land area and applied to a completely different land area; it is based on the place where it was being conducted as of October 21, 1976.

c. *Manner and Degree for Mineral Uses.* Continuation of a grandfathered use is limited to the same "manner and degree" as on October 21, 1976. The manner and degree of a mineral use refers to the kind of physical and aesthetic impacts the grandfathered use caused as of October 21, 1976.

Continuation of a grandfathered mineral use in the same manner and degree may include a logical progression of activity—a geographic extension of the existing activity, or a change in the type of activity—if these are done at a logical pace and if the new impacts are not of a significantly different kind than the impacts existing on October 21, 1976.

This means that the quantity of on-the-ground impacts may be increased by the logical pace and progression of a grandfathered use, but that the new impacts may not be of a significantly different kind than the impacts involved with the pre-FLPMA activity. In determining whether the kind of impact is significantly different, consideration should be given to degradation of the area's wilderness characteristics (see the definition in Appendix C), including changes in natural contours and visual impacts.

For instance, if oil and gas exploration had been taking place by deep drilling, and one well had been drilled before October 21, 1976, additional wells could be drilled following a logical geographic extension at a logical pace of exploration, so long as the impacts were not of a significantly different kind than those of the first well. If those wells could then go to production without causing new impacts of a significantly different kind, that too could be permitted. For instance, this might occur if collecting pipelines, power lines, tank batteries and pumpjack were installed on already-disturbed sites and routes. It is the kind of impact, rather than the quantity of impact or the stage of development, that will be controlling in determining the manner and degree.

A grandfathered mineral use outside the boundary of an area under wilderness review may continue into the area as long as the activity follows the logical pace and progression of



development and the impacts are not of a significantly different kind.

It is the use, rather than the claim or lease, that is grandfathered. A grandfathered mineral use may continue in the same manner and degree onto adjacent leases or claims held by the same person. Mineral leases unitized prior to October 21, 1976, are grandfathered as a unit.

**d. Manner and Degree for Grazing Uses.** The manner and degree of a grazing use refers to the nature of physical and aesthetic impacts the use caused as of October 21, 1976, including the condition of the range and the range improvements installed or under construction at that time. Continuation of a grazing use in the same manner and degree does not include any logical adjacent geographic continuation, as is provided for grandfathered mineral uses. This is because of the difference in the way grazing and mineral uses are carried out. Mineral uses inherently require a geographic extension to cover the entire mineral deposit. Grazing uses, on the other hand, do not inherently require a geographic extension. Range forage is a renewable resource; therefore grazing utilizes a specified area on a continuing basis.

Continuation in the same manner and degree does not automatically include, nor does it automatically exclude, installation of new range improvements. In cases where a permit issued by the BLM before October 21, 1976, provided for the operator to install a series of improvements and part of that series had already been installed before October 21, 1976, that operator may complete the series after that date. Otherwise, the question as to what range improvements may be installed on lands under wilderness review is more meaningfully dealt with under the nonimpairment concept. Certain new range improvements may be installed under this concept, and existing improvements may be used and maintained, as is explained in the guidelines in Chapter III. H.

**7. Valid Existing Rights.** The valid existing rights of mining claimants and mineral lessees as of October 21, 1976, will be recognized. If the claimant or lessee transfers his claim or lease to another person, the same valid existing right will be recognized in the new holder. But a valid existing right is tied to a particular claim or lease, and cannot be transferred to a different claim or lease.

**a. Mining Claims.** Mining claimants are recognized as having a valid existing right if a valid discovery had been made on the claim before October 21, 1976. Activities for the use and development

of such claims will be exempt from the nonimpairment policy and will be regulated only to prevent unnecessary or undue degradation of the lands. Before beginning operations whose impacts would impair wilderness suitability, the claimant must show evidence of his discovery to the BLM.

However, there is a narrow exception. If on-the-ground activities that would impair wilderness suitability are proposed on a pre-FLPMA claim with valid existing rights within a wilderness study area that the BLM Director has recommended to the Secretary as suitable for designation as wilderness, the proposed impairing activity may be temporarily disapproved by the Director. This is a narrow exception for extraordinary circumstances when the Secretary and the President may be expected to recommend the area as suitable for designation as wilderness and Congress may be expected to act in a short period of time. Such a disapproval would be for one year, subject to renewal, but not to exceed a total of two years. In such cases, the existing right remains, but its enjoyment may be postponed.

**b. Leases.** Valid existing rights for mineral leases issued prior to October 21, 1976, are dependent upon the specific terms and conditions of each lease. Those terms and conditions generally make existing mineral leases subject to regulations enacted and orders issued after issuance of the lease, to Secretarial approval of proposed development activities, and to Secretarial direction as to the rate and location of exploration and development. Those leases on which actual physical impacts had occurred before October 21, 1976, and on which activities were being conducted as of that date, qualify as grandfathered uses and are subject to a more liberal standard of development (described in section 6 above) than is the case under valid existing rights. For the majority of pre-FLPMA leases, in accordance with the usual terms and conditions, where there were no pre-FLPMA physical impacts or where no activities were being conducted on the lease as of October 21, 1976, activities will be allowed so long as they are conducted in a manner that does not impair wilderness suitability. If activities proposed on a pre-FLPMA lease are denied because they cannot meet this standard, the lessee has the right to request a suspension of operation. The policy on lease suspension is explained more fully in Chapter III. J. 1 (d).

**8. Appropriation under the Mining Laws.** Lands under wilderness review will remain open to appropriation under

the 1872 Mining Law except (a) lands that had been withdrawn from appropriation prior to the date of approval of FLPMA (October 21, 1976), and (b) lands withdrawn after October 21, 1976, for reasons other than preservation of their wilderness character. All mining activities, except grandfathered activities and activities on claims determined to have a pre-FLPMA discovery, will be regulated to prevent their impacts from impairing wilderness suitability. Claimants with a pre-FLPMA discovery are recognized as having valid existing rights (see section 7 above), and such operations will be regulated only to prevent unnecessary or undue degradation of the lands.

**9. Maintenance.** Existing structures and installations may be maintained to keep them in an effective usable condition. Except for grandfathered uses and uses based on valid existing rights, maintenance will not be allowed to modify a structure or installation to a condition that would impair the area's suitability for wilderness designation. Measures required to carry out maintenance work will be allowed if these measures do not in themselves impair wilderness suitability. For this purpose—if necessary and only when authorized by the BLM—motor vehicles may be driven cross-country along routes designated by the BLM, without grading or blading. In such cases the operator will be required to reclaim any impacts caused by cross-country travel. In all cases, these activities must satisfy the nonimpairment criteria (see section B. 2 above).

**10. Motor Vehicles and Motorized Equipment.** The use of motor vehicles and motorized equipment does not necessarily impair wilderness suitability, if the use is on existing access routes or elsewhere so long as it does not cause impacts inconsistent with the reclamation requirements of the nonimpairment criteria (see section 2 above). Specific guidelines for recreation use of off-road vehicles appear in Chapter III. A.

Motor vehicles may be allowed off existing access routes when authorized by the BLM for these purposes: (a) In emergencies and search and rescue operations; (b) for maintenance, as described in section B. 9, above; (c) for construction and maintenance of approved structures mentioned elsewhere in this document; and (d) for official purposes by the BLM and other Federal, State and local agencies and their agents only when necessary and specifically authorized by the BLM for protection of human life, safety, and property; for protection of the lands and

their resources; and for gathering essential information on resources. In emergencies, the cross-country travel will not be held to the nonimpairment standard, but in all other cases cross-country travel must satisfy the nonimpairment criteria (see section 2 above), including reclamation requirements. Except in emergencies, the route must be approved by the BLM and will be the route least destructive of wilderness values, no grading or blading will be allowed, and any impacts will promptly be reclaimed by the agency responsible to meet the reclamation requirements of the nonimpairment criteria.

Helicopters and fixed-wing aircraft may be landed on existing airstrips, heliports, and helispots, and on unimproved sites (both land and water). No new landing facilities may be built, except under the following conditions: (a) Temporary facilities that satisfy the nonimpairment criteria (see section 2, above), or (b) helispots that are necessary for fire control and are either (i) part of a fire management plan developed in accordance with Chapter III. D. of this Interim Management Policy, or (ii) necessary in an emergency, under section 11, below.

**11. Emergencies.** In emergencies, such as fire or flood, any action necessary to prevent loss of life or property may be taken, even if the action will impair wilderness suitability. This may include search and rescue operations in cases of lost or injured persons, or removal of the deceased. To the greatest extent feasible, emergency actions will be conducted in the manner that least impairs wilderness suitability, and the resulting impacts will be reclaimed as soon as possible to meet the reclamation requirements of the nonimpairment criteria (see section 2 above). Within 7 days after the emergency action is completed, a record of the circumstances and the action taken will be placed in the WSA case file in the BLM District Office.

**12. Air Quality.** Under the Clean Air Act (as amended, 1977), all BLM-administered lands were given Class II air quality classification, which allows moderate deterioration associated with moderate, well-controlled industrial and population growth. The BLM will continue to manage wilderness study areas as Class II.

The Department of the Interior will not recommend reclassification to the more strict Class I in connection with future wilderness recommendations resulting from the BLM wilderness review. The two processes are separate and distinct, and are accomplished under two different laws, FLPMA and

the Clean Air Act. Recommendations for wilderness designation are made by the BLM through the Secretary of the Interior and the President to Congress. Air quality reclassification is the prerogative of the States, and it must follow a process mandated by the Clean Air Act Amendments of 1977, involving a study of health, environmental, economic, social, and energy effects, a public hearing, and a report to the Environmental Protection Agency. The Department will not recommend any change in air quality classification as part of wilderness recommendations. (The Department's preliminary recommendation of September 7, 1979, on reclassification to Class I of 10 BLM primitive areas was an action taken pursuant to the Clean Air Act Amendments of 1977, which required a study and recommendation on these primitive areas. Those recommendations are not related to the wilderness review, and no such recommendations will be made as part of the wilderness review process.)

**14. Water Resource Projects.** Some lands under wilderness review may contain minor water resource facilities that were found in the wilderness inventory process to be substantially unnoticeable in the area. If such structures are present, they may be maintained under the maintenance policy set forth in section 9, above, so long as the maintenance does not change the location, size, or type, or increase the storage capacity of a reservoir. Survey and investigation activities for new water resource projects may be permitted so long as these activities are nonimpairing as defined by section 2, above. Motor vehicles may be used cross-country if necessary and specifically authorized by the BLM under the policy set forth in section 10, above.

**15. Pre-FLPMA Management.** Some lands under wilderness review (particularly among the instant study areas) were subject to more strict protection, prior to approval of FLPMA, than the Interim Management Policy requires. (For instance, some areas were withdrawn from mineral entry.) In these cases, any use will be controlled by the more strict protection of the wilderness resource, regardless of whether that is provided by the IMP or by a pre-FLPMA withdrawal or regulation that is still in effect.

**16. Contrast Rating.** The Bureau's contrast rating process (BLM Manual Section 8431, and the Contrast Rating Worksheet, Form 8400-4) may be used as an aid in determining whether the impacts of a proposed activity are

substantially unnoticeable. However, results of the contrast rating will not be adequate in themselves to document a conclusion; contrast rating must be used in combination with other methods.

## Chapter II. Implementation of the Interim Management Policy

This chapter explains how the Bureau of Land Management (BLM) will implement the Interim Management Policy (IMP). It tells (1) how actions or activities affected by the IMP will be identified, (2) how to evaluate these actions and determine whether they are permissible under the IMP, (3) how BLM interim management decisions will be reached, (4) how the IMP will be enforced, and (5) how interim management records will be kept.

### A. Activities Subject to the IMP

To determine whether a proposed activity is subject to the Interim Management Policy, the following four questions must be considered regarding the affected lands.

1. Are the affected lands exempt from any wilderness review? If so, the IMP does not apply. The proposal will be assessed through normal BLM procedures.

2. Have the affected lands been dropped from further wilderness review by a final decision in the BLM wilderness inventory? If so, the IMP does not apply once the final inventory decision has been announced and any relevant administrative review process has been exhausted. In this case, the proposal will be assessed through normal BLM procedures.

3. Does the proposal involve public lands that are subject to the wilderness inventory, but on which there has not yet been a final inventory decision? If so, the Interim Management Policy will apply at least until the final inventory decision is made. Proceed with the evaluation described in section B, below.

If the responsible BLM official concludes or has reason to believe that the proposal is not permissible under the IMP, there is another option that may be appropriate in some cases. The BLM State Director has the option of initiating a "special project inventory" using the procedures of the intensive inventory (Step 4-6 in the *Wilderness Inventory Handbook*). This accelerated inventory will sort the lands into two categories:

a. Those identified as WSA's; in this case, the IMP will apply.

b. Those that do not qualify as WSA's and therefore are no longer subject to the Interim Management Policy. The



proposal will be further assessed through normal BLM procedures.

If appropriate, this inventory may be done at the same time as the evaluation described in section B, below.

4. Does the proposal involve public lands identified by the BLM as a wilderness study area? If so, the Interim Management Policy will apply. Proceed with the evaluation described in section B, below.

#### B. Evaluation Procedures

1. *Exceptions to the Nonimpairment Standard.* Determine whether the activity is covered by one of the exceptions to the "nonimpairment" standard:

a. Does the activity qualify as a grandfathered mineral or grazing use continuing in the same manner and degree as on October 21, 1976? (Consult the applicable policies in Chapter I B.6 and Chapter III. H. and J.)

b. Is the activity part of the development of a mining claim on which a valid discovery had been made before October 21, 1976? (Consult the applicable policies in Chapter I. B. 7 and Chapter III. J. 5(b).)

c. In a wilderness study area or inventory unit smaller than 5,000 acres (except islands), is the activity a mining activity under the 1872 Mining Law?

If one of these (a, b, c) is applicable, the activity will be considered acceptable under the Interim Management Policy, and it will be processed through normal BLM procedures. The determination that an activity is acceptable under the IMP will be recorded in appropriate case files and included in any decision documents.

2. *Evaluation Under the Nonimpairment Standard.* BLM field officials will cooperate with applicants to help identify ways by which a proposal can be brought into compliance with the nonimpairment standard, whenever possible. A proposed activity satisfies the nonimpairment standard if the BLM determines that it meets each of the following criteria, which are referred to as the "nonimpairment criteria":

a. It is temporary. This means that the use or activity may continue until the time when it must be terminated in order to meet the reclamation requirement of paragraphs (b) and (c) below. A temporary use that creates no new surface disturbance may continue unless Congress designates the area as wilderness, so long as it can easily and immediately be terminated at that time, if necessary to management of the area as wilderness.

b. Any temporary impacts caused by the activity must, at a minimum, be

capable of being reclaimed to a condition of being substantially unnoticeable in the wilderness study area (or inventory unit) as a whole by the time the Secretary of the Interior is scheduled to send his recommendations on that area to the President, and the operator will be required to reclaim the impacts to that standard by that date. If the wilderness study is postponed, the reclamation deadline will be extended accordingly. If the wilderness study is accelerated, the reclamation deadline will not be changed. A full schedule of wilderness studies will be developed by the Department upon completion of the intensive wilderness inventory. In the meantime, in areas not yet scheduled for wilderness study, the reclamation will be scheduled for completion within 4 years after approval of the project. (Obviously, if and when the Interim Management Policy ceases to apply to an inventory unit dropped from wilderness review following a final wilderness inventory decision of the BLM State Director, the reclamation deadline previously specified will cease to apply.) The Secretary's schedule for transmitting his recommendations to the President will not be changed as a result of any unexpected inability to complete the reclamation by the specified date, and such inability will not constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

The reclamation will, to the extent practicable, be done while the activity is in progress. Reclamation will include the complete recontouring of all cuts and fills to blend with the natural topography, the replacement of topsoil, and the restoration of plant cover at least to the point where natural succession is occurring. Plant cover will be restored by means of reseeding or replanting, using species previously occurring in the area. If necessary, irrigation will be required. The reclamation schedule will be based on conservative assumptions with regard to growing conditions, so as to ensure that the reclamation will be complete, and the impacts will be substantially unnoticeable in the area as a whole, by the time the Secretary is scheduled to send his recommendations to the President. ("Substantially unnoticeable" is defined in Appendix F.)

c. When the activity is terminated, and after any needed reclamation is complete, the area's wilderness values must not have been degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's

recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness. The wilderness values to be considered are those mentioned in section 2(c) of the Wilderness Act, including naturalness, outstanding opportunities for solitude or for primitive and unconfined recreation, and ecological, geological or other features of scientific, educational, scenic, or historical value.

3. *Information for the Evaluation.* The information needed to reach conclusions on the nonimpairment criteria cited above will be documented in the environmental assessment (EA) or environmental impact statement (EIS) that is routinely prepared for every proposed action on public lands. A normal EA or EIS determines and records whether the activity will cause unnecessary or undue degradation of the lands for lands under wilderness review, the EA or EIS for the proposed action will also address the nonimpairment standard. It will include the following information, most of which is already required by the normal EA or EIS procedure:

a. A description of the proposal and its alternatives, including:

- Purpose and need for the action.
- Exact location.
- Access required, including projected use and location.
- Design considerations such as size, color, and materials.
- Support facilities or structures.
- Construction methods, including machinery or vehicles to be used.
- Maintenance schedules and procedures.
- Miles and/or acres of soil and vegetation disturbance.

b. A description of the affected environment, considering both the specific site and the wilderness study area (or inventory unit) in its entirety:

- Meaningful descriptions of soils, erosion potential, vegetation, reclamation potential, topography and climate including precipitation.
- Existing uses and manmade or man-caused features.
- Wilderness characteristics as documented in the intensive inventory report.
- Discussion of scenery characteristics, vistas, key viewing areas and visitor use areas.

c. Analysis of reclamation:

- What the particular reclamation plan will accomplish.
- How the process will be implemented (type and amounts of hand and machine work).
- Vegetation to be reestablished.
- Schedule.
- Probability for success.
- If a reclamation plan is not available or is inadequate, assess what measures would be needed to return the disturbed areas to the required reclamation level.

d. Written assessment of cumulative impacts including the following:

- If the project's impacts (after reclamation) had existed at the time of intensive inventory, would those impacts have disqualified the area from being identified as a wilderness study area?
- Will the addition of this proposal produce an aggregate effect upon the area's wilderness characteristics and values that would constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness, considering the area in its expected condition at the time the Secretary sends his recommendation to the President?
- For wilderness study areas that are pristine in character, will the addition of this proposal significantly reduce the overall wilderness quality of the WSA?

#### C. Decisions and Appeals

BLM decisions will continue to be made through existing procedures by those officials having delegated authority. IMP considerations will be factors in these decisions, but the decision authority, procedures and documentation will remain unchanged. The determination as to whether the project complies with the Interim Management Policy must be included in any decision documents and recorded in appropriate case files, as well as in the WSA files described in section E, below. Appeal procedures remain the same as provided by regulations governing the decision appealed. Applicants who are adversely affected by a management decision within lands under wilderness review will be informed of appeal procedures.

#### D. Enforcement

BLM will take all actions necessary to ensure full compliance with the Interim Management Policy. Every effort will be made to obtain voluntary compliance with the Interim Management Policy by users of the public lands. Where such efforts fail, BLM will promptly initiate additional appropriate action to achieve immediate compliance with the Interim Management Policy.

If unauthorized activities result in surface disturbance or other degradation of the area's suitability for preservation as wilderness, legal action will be initiated as appropriate to obtain full restoration of the area. Impacts resulting from unauthorized activities will not disqualify an area from WSA status.

All action to achieve compliance with the Interim Management Policy will be initiated pursuant to existing regulations governing the noncomplying activity.

In addition to normal enforcement procedures, the following additional steps must be taken whenever a District

Manager believes an activity is taking place on lands under wilderness review that is not in compliance with the Interim Management Policy:

1. Immediately contact the owner of the operation, in any manner that can be verified with documentation. Explain the situation and, depending on the situation or activity, seek the owner's assistance in bringing the operation into compliance with the IMP.

2. If this approach does not resolve the matter, notify the State Director so that additional appropriate action may be taken immediately to prevent impairment of the area's wilderness suitability. The State Director will work with the Regional Solicitor to initiate appropriate legal action, if necessary. Send a copy of the case file to the Director, Bureau of Land Management, for transmittal to the Office of the Solicitor, Division of Energy and Resources, for information.

Criminal penalties are prescribed for prohibited acts under section 303 of FLPMA (43 U.S.C. 1733) and under the following other laws and regulations relevant to the Interim Management Policy:

- Range Management: Unauthorized grazing use: 43 CFR 4140.1(b), 4150.1, 4170.2, 4210.4, 9239.2-1, 9239.3 Wild Free-Roaming Horse and Burro: 43 CFR 4760.2; 18 U.S.C. 3401.
- Timber Management: Unauthorized cutting of timber—mineral and nonmineral lands and public lands in Alaska: 43 CFR 5511.1-1(f)(3), 5511.1-4(e), 5511.1-4(f), 5511.2-5, 9239.1-1, 9239.1-2; 18 U.S.C. 1852, 1853.
- Recreation Management: Public property and resources: 43 CFR 8363.1-6, 8363.5. Public land closures: 43 CFR 8364.2, 9239.2-1. Special recreation permits: 43 CFR 8372.0-7; 18 U.S.C. 3401, 16 U.S.C. 460 I-6a, 16 U.S.C. 670 g-n, 16 U.S.C. 1241-1249. Off-road vehicle use: 43 CFR 8340.0-7.
- Minerals Management: Coal trespass—unauthorized exploration: 43 CFR 9239.5; 18 U.S.C. 1851.

#### E. Record Keeping

The BLM District Office will maintain an individual file for each wilderness study area or inventory unit. In addition to the required inventory documentation, this file should be used to record all actions (including authorized access routes) that are proposed or authorized after the effective date of this policy and to record activities believed to be in violation of FLPMA, section 603 within the WSA or inventory unit. The file should contain the following information for any individual proposal:

1. The WSA or inventory unit number.
2. A brief description of the action.
3. Accurate map notations of the proposal.

4. A description of action taken on proposed and authorized activities (approved/disapproved/pending) and on activities believed to be in violation of FLPMA.

5. A cross-reference to the pertinent case files or decision documentation and the name of staff member handling the case.

6. Comments on problems encountered and on the current status of the proposal or investigation.

#### Chapter III. Guidelines for Specific Activities

The guidelines in this chapter are an application of the Interim Management Policy (IMP) to some of the most common activities that take place on the public lands. It should be recognized that factors other than the IMP enter into the decisions made by the Bureau of Land Management on specific projects and activities—among them the laws, policies, and regulations governing that type of activity, and resource management plans for the affected land.

The decisions on most of these activities will be made by BLM field officials. These decisions will not be a matter of simply approving or denying proposals. BLM field officials will assist applicants to find ways, if possible, of achieving their goals by methods that are consistent with the Interim Management Policy. To be sure, activities that cause major surface disturbance are not likely to be consistent with the IMP, except in grandfathered uses and valid existing rights. But many activities can be designed and carried out in a manner that does not cause such major disturbance, and these may be able to satisfy the IMP requirements.

#### Nonimpairment Criteria

The following three criteria, previously set forth in Chapter I.B.2 of this document, are referred to many times in this chapter as the "nonimpairment criteria." They are restated here for ready reference.

Activities will be considered nonimpairing if the BLM determines that they meet each of the following criteria:

(a) It is temporary. This means that the use or activity may continue until the time when it must be terminated in order to meet the reclamation requirement of paragraphs (b) and (c) below. A temporary use that creates no new surface disturbance may continue unless Congress designates the area as wilderness, so long as it can easily and immediately be terminated at that time, if necessary to management of the area as wilderness.

(b) Any temporary impacts caused by the activity must, at a minimum, be



capable of being reclaimed to a condition of being substantially unnoticeable in the wilderness study area (or inventory unit) as a whole by the time the Secretary of the Interior is scheduled to send his recommendations on that area to the President, and the operator will be required to reclaim the impacts to that standard by that date. If the wilderness study is postponed, the reclamation deadline will be extended accordingly. If the wilderness study is accelerated, the reclamation deadline will not be changed. A full schedule of wilderness studies will be developed by the Department upon completion of the intensive wilderness inventory. In the meantime, in areas not yet scheduled for wilderness study, the reclamation will be scheduled for completion within 4 years after approval of the activity. (Obviously, if and when the Interim Management Policy ceases to apply to an inventory unit dropped from wilderness review following a final wilderness inventory decision of the BLM State Director, the reclamation deadline previously specified will cease to apply.) The Secretary's schedule for transmitting his recommendations to the President will not be changed as a result of any unexpected inability to complete the reclamation by the specified date, and such inability will not constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

The reclamation will, to the extent practicable, be done while the activity is in progress. Reclamation will include the complete recontouring of all cuts and fills to blend with the natural topography, the replacement of topsoil, and the restoration of plant cover at least to the point where natural succession is occurring. Plant cover will be restored by means of reseeding or replanting, using species previously occurring in the area. If necessary, irrigation will be required. The reclamation will be complete, and the impacts will be substantially unnoticeable in the area as a whole, by the time the Secretary is scheduled to send his recommendations to the President. ("Substantially unnoticeable" is defined in Appendix F.)

(c) When the activity is terminated, and after any needed reclamation is complete, the area's wilderness values must not have been degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness. The

wilderness values to be considered are those mentioned in section 2(c) of the Wilderness Act, including naturalness, outstanding opportunities for solitude or for primitive and unconfined recreation, and ecological, geological or other features of scientific, educational, scenic, or historical value.

#### A. Recreation

Most recreation activities (including fishing and hunting) are permitted on lands under wilderness review. However, some activities may be prohibited or restricted because they require permanent structures or because they depend on cross-country use of motor vehicles (for example: pickup vehicles for balloons or sailplanes).

BLM will analyze the magnitude of all proposed activities to ensure that recreation use will not cause impacts that impair the area's wilderness suitability.

Most recreation uses take place under general permission from the BLM rather than under specific project applications. There is a possibility that a continuing use or an increasing use could gradually cause increased impacts and, over time, impair the area's wilderness suitability. An example might be erosion caused by increased off-road vehicle travel on trails. To prevent this type of impairment caused by cumulative impacts, the BLM will monitor ongoing recreation uses and, if necessary, adjust the time, location, or quantity of use, or prohibit that use in the impacted area.

1. No new permanent recreational roads, structures, or installations will be permitted, except structures or installations that are the minimum necessary for human health and safety or the minimum necessary for public enjoyment of wilderness values. In these cases, facilities will be installed so that they are substantially unnoticeable and minimize surface disturbance.

Temporary access routes, structures, and installations may be permitted if they meet the nonimpairment criteria.

2. Hobby collecting of mineral specimens (rockhounding) and vegetative specimens may be permitted.

3. Recreational use of off-road vehicles (ORVs) may be permitted on existing ways and trails and within "open" areas designated prior to approval of FLPMA (October 21, 1976). The BLM will cooperate with ORV organizations to achieve the least amount of new impact on lands under wilderness review. If impacts of ORVs, either on or off existing ways and trails, threaten to impair the area's wilderness suitability, the BLM may close the affected lands to the type of ORVs causing the problem. In some cases, time

or space zoning, public education, or a rest-rotation system may make a total closure unnecessary.

No lands will be designated as "closed" solely because they are under wilderness review, but if increasing impacts threaten to impair wilderness suitability, the BLM will move to control those impacts and may designate the area as "closed" to the type of vehicles causing the problem, in order to control the impacts. The Bureau also has authority under other programs to regulate ORV use to minimize damage to wildlife and other resource values.

4. Organized ORV events may be allowed to pass through areas under wilderness review on existing ways and trails, so long as the BLM has determined that such use satisfies the nonimpairment criteria. Participants and spectators using ORVs will be restricted to the designated ways and trails, which will be appropriately flagged. Assembly areas, start or finish lines, and gasoline pit stops will not be allowed. Care will be taken to ensure that the event and its impacts will not cause degradation of the area's wilderness values (including archeological and paleontological values) so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

Based on past practice, it is expected that ORV events involving cross-country travel (off existing ways and trails) as part of the route would rarely satisfy the nonimpairment criteria. However, if the BLM determines that the event can and will be carefully controlled to ensure that it fully satisfies the nonimpairment criteria, the use of cross-country route segments may be approved. Participants and spectators using ORVs will be restricted to the designated route and designated spectator zones, which will be appropriately flagged. Any impacts caused by the event must be reclaimed as specified in the nonimpairment criteria; therefore, the cross-country route segment and the spectator zones will not be open to recreational ORV use except during the event. Assembly areas, start or finish lines, and gasoline pit stops will not be allowed. Care will be taken to ensure that the event and its impacts will not cause degradation of the area's wilderness values (including archeological and paleontological values) so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

5. Vehicles designed for travel across snow or sand dunes may be permitted cross-country in areas designated for use by snow or sand vehicles. These vehicles may also be permitted on existing ways and trails under the guidelines in sections 3 and 4 above.

6. Facilities necessary for visitors' health and safety may be provided in either of two ways: (a) permanent facilities that are the minimum necessary for public enjoyment of wilderness values (for example: vault toilets, water well with hand pump); (b) temporary facilities that meet the nonimpairment criteria (for example: portable toilets). These facilities will be installed so that they are substantially unnoticeable and minimize surface disturbance.

7. Boating may be permitted, with or without motors. The BLM does not necessarily have authority over all waters within the public lands; some are under jurisdiction of the States. Therefore, the following guidelines apply only to those waters on which the BLM has authority to regulate boating.

No waters will be closed to motorboats solely because they are in areas under wilderness review, but if increasing impacts of boating (such as shore erosion or water pollution) threaten to impair wilderness suitability, the BLM may close the affected waters to motorboats. In some cases, time or space zoning or public education may make a total closure unnecessary. The Bureau also has authority under other programs to regulate boating to minimize damage to wildlife and other resource values.

River running, with or without motors, may be permitted. Cumulative impacts on river campsites will be monitored to prevent impairment of wilderness suitability.

No permanent launching ramps or boat docks will be built. A "brow log" may be used to reduce erosion at boat landings. Temporary launching ramps and boat docks may be installed only if they satisfy the nonimpairment criteria.

8. Environmental education and interpretive programs may be conducted so long as no permanent facilities are required.

9. New trails for foot or horse travel may be built, if they are the minimum necessary for public enjoyment of wilderness values and are constructed in a manner that causes minimal surface disturbance and ensures that the trails blend into the natural setting. Motor vehicles will not be permitted on the new foot or horse trails.

10. Camping may be permitted. Campsites for primitive recreation use may be established if they are the

minimum necessary for public enjoyment of wilderness values. Otherwise, campsites and campgrounds may be installed only if they are temporary facilities that satisfy the nonimpairment criteria. Camping with recreational vehicles may occur along existing ways so long as this use satisfies the nonimpairment criteria.

11. Cross-country skiing may be permitted. Downhill (Alpine) skiing may be permitted only if any support facilities are temporary ones that satisfy the nonimpairment criteria.

12. Aerial activities may be permitted so long as they do not require the use of motorized vehicles off ways and trails to retrieve equipment, except in areas designated as "open" before October 21, 1976. Among these are ballooning, sailplaning, hang gliding, and parachuting (sky diving).

13. Recreational gold dredging and panning, when conducted without location of a mining claim, may be permitted so long as it is done in a manner that satisfies the nonimpairment criteria. If the activity would cause significant damage to fish spawning or rearing areas lasting after the Secretary is scheduled to send his wilderness recommendation on the area to the President, it will be considered to impair wilderness suitability, and the activity will be controlled to prevent such impacts. (This activity is so regulated because it is not done on a mining claim, and therefore is not covered by the exception for "appropriation under the mining laws.") In locations where gold dredging or panning was being done as of October 21, 1976, it may qualify as a grandfathered use. (For further information on grandfathered uses see Chapter I. B. 6.)

14. Concessions will be permitted only if the use and related facilities are temporary and satisfy the nonimpairment criteria. Examples that may qualify include mobile refreshment stands, river trip outfitters, guides, and providers of pack animals and saddle horses.

#### B. Cultural and Paleontological Resources

Cultural and paleontological resource inventories, studies, and research involving surface examination or limited subsurface sampling may be permitted. Salvage of archeological and paleontological sites; rehabilitation, stabilization, reconstruction, and restoration work on historic structures; excavation; and extensive surface collection may be permitted if the specific project satisfies the nonimpairment criteria. Permanent physical protection, such as fences, will

be limited to those measures needed to protect high-value resources, and will be substantially unnoticeable in the area as a whole.

#### C. Lands Actions—Disposal, Rights-of-Way, Access, and Withdrawals

1. *Disposal.* With the exceptions provided below, lands under wilderness review may not be disposed of through any means, including public sales, exchanges, patents under the Recreation and Public Purposes Act, color of title classes I and II, sales under the Unintentional Trespass Act, agricultural leases, desert land entries (except where a vested right was established prior to October 21, 1976), or State selections. (Lands tentatively approved for State selection in Alaska are exempt from wilderness review and are not subject to the Interim Management Policy.)

Disposals of the following types may be permitted under normal BLM procedures: mining patents; desert land entries in which a vested right was established prior to October 21, 1976; exchanges approved prior to October 21, 1976, under authority of the Taylor Grazing Act, section 6; and homestead entries in which a vested right was established prior to October 21, 1976.

Disposals of the following types may be permitted only if BLM determines that the case in question satisfies the nonimpairment criteria: temporary use permits, and leases under the Recreation and Public Purposes Act.

Land exchanges may be made when BLM receives lands within an area under wilderness review, in exchange for public lands that are not under wilderness review.

2. *Rights-of-Way.* Existing rights-of-way may be renewed if they are still being used for their authorized purpose. If necessary for normal, routine maintenance to keep an existing pipeline in a safe and reliable condition, a temporary work area, temporary access route, or cross-country use of motor vehicles may be permitted so long as the activity is determined to satisfy the nonimpairment criteria. Emergency maintenance or emergency repairs may be made to protect human health and safety or to protect wilderness values, even if the activity impairs wilderness suitability; in such cases, the policy on emergencies, set forth in Chapter I.B.11, must be complied with.

New rights-of-way may be approved only for temporary uses that satisfy the nonimpairment criteria.

3. *Right-of-Way Corridors.* Right-of-way corridors may be designated on lands under wilderness review. However, this will in no way interfere with the wilderness review. No new



rights-of-way or expansions of existing rights-of-way will be approved except under the criteria in paragraph 2 above. A right-of-way corridor is not an authorization, but a planning tool. The need for actual rights-of-way within a designated corridor will be considered during the wilderness study, but any recommended rights-of-way inconsistent with the nonimpairment criteria will not be approved unless Congress decides not to designate the area as wilderness.

4. *Access to Mining Claims and Non-Federal Land.* <sup>1</sup> Construction of permanent access routes will not be approved on lands under wilderness review, except in two conditions: (a) when such access qualifies as part of the same manner and degree of grandfathered mineral uses and there is no reasonable, less impairing, alternative access available, and (b) when necessary for operations on mining claims that had a valid discovery prior to October 21, 1976, under criteria described in section J of this chapter, and there is no reasonable, less impairing, alternative access available. Temporary access routes may be approved only if they satisfy the nonimpairment criteria. The BLM will cooperate with applicants to identify reasonable alternative routes or means of access. Access by use of existing ways and trails, by air or water, by horse or pack train, or on foot are among the available methods that probably would satisfy the nonimpairment

<sup>1</sup> Access to State School Lands. The law is not entirely clear on the extent to which a State (or its permittees or lessees) has a right of access to State school trust lands which are entirely surrounded by public lands. A Federal district court in Utah has recently held that the State has a right of access which is subject to regulation by BLM so long as the State may reasonably develop the State lands economically to fulfill the purpose of the State school land grant. Appeal of this decision is now under consideration by the Solicitor General of the United States. Moreover, the Attorney General of the United States is preparing an opinion, at the request of the U.S. Forest Service, on the right of access a State or private landowner has across national forest lands, and the Attorney General's opinion obviously may have implications for the BLM in the management of its lands. Finally, the Supreme Court has under consideration issues concerning the nature of the State school land grant, and the authority of the Secretary of the Interior with respect to those grants.

Because of the pendency of all these matters, the position expressed in this Interim Management Policy may be subject to change, based on further guidance the Department of the Interior may receive from the Department of Justice or the courts. It seems likely, however, that no matter how these issues are ultimately resolved, the BLM has authority to control the method and route of access, if reasonable alternative methods and routes of access are available that would not impair an area's suitability for preservation as wilderness, and therefore can exercise such regulatory authority to prevent impairment of an area's wilderness suitability. Final guidance will be issued by the BLM at a later date.

criteria. If the access constraints are unsatisfactory to the legal owners of property to which access is being sought, the BLM may consider acquiring the property either through exchange of lands or through some other agreeable method of acquisition.

5. *Withdrawals.* Existing withdrawals for military purposes or for specific purposes of agencies other than the BLM may be renewed if the withdrawal is still serving its purpose. No new withdrawals may be made for such purposes, except temporary withdrawals that satisfy the nonimpairment criteria.

Withdrawals transferring land to the U.S. Fish and Wildlife Service U.S. Forest Service, or National Park Service may be approved if the land is part of an already-designated unit of the National Wilderness Preservation System or is part of a wilderness study area mandated by Act of Congress.

Withdrawals for purposes of resource protection may be made (except withdrawals from appropriation under the mining laws in order to preserve wilderness character), so long as the intended use satisfies the nonimpairment criteria.

#### D. Forestry

Those Oregon and California Grant (O & C) lands that are managed for permanent forest production (i.e., commercial timber production) are exempt from wilderness review, and therefore from the Interim Management Policy.

Commercial timber harvest is not permitted on lands under wilderness review, except where an existing contract, permit, lease, or license for timber harvest issued prior to October 21, 1976, cannot be modified to comply with the nonimpairment criteria. The BLM will reevaluate all such instruments to determine whether their terms permit BLM to revoke, cancel, or modify them so as to satisfy the nonimpairment criteria.

Clearcuts, selective cuts, thinning, and stand conversion will not be permitted. Pruning, site preparation, and reforestation will be permitted only in cases that satisfy the nonimpairment criteria. Reforestation using native species may be done following fire or other natural disaster if natural seeding is not adequate.

Salvage logging after natural disaster may be permitted if this can be done through nonimpairing methods, such as use of existing access routes or temporary access routes that satisfy the nonimpairment criteria. Motorized wheeled or track-laying logging equipment may be used in the area of

salvage operations if the activity satisfies the nonimpairment criteria.

Trees may be cut when necessary as part of a mining operation on a pre-FLPMA claim with a valid pre-FLPMA discovery, or when the BLM has determined that this is necessary for insect and disease control or in emergencies such as fire.

Tree improvement (genetic selection and pollination), seed collection (climbing and squirrel cache), and pine nut gathering may be permitted. Insect and disease control by chemical means may be permitted if applied to individual trees or areas up to 5 acres, or to larger areas under emergency conditions when there is no effective alternative.

Domestic firewood gathering, conducted under BLM permits, may be allowed to continue in areas where it was being done before October 21, 1976 (including cross-country use of motor vehicles), only so long as it satisfies the nonimpairment criteria.

#### E. Wildlife

Hunting, fishing, and trapping are permitted on lands under wilderness review, under State regulations. The BLM will continue to cooperate with State wildlife agencies in the management of resident wildlife species in accordance with established policies and procedures.

Stocking of wildlife and fish species native to North America may be permitted. Species such as the chukar partridge and brown trout, which are not native to North America but are now widely established in the West and elsewhere, may also be introduced. Where exotics were being stocked before October 21, 1976, the stocking may continue.

Introduction of threatened, endangered, or sensitive species native to North America may be allowed. If necessary, enclosures and related facilities may be built, so long as they satisfy the nonimpairment criteria.

Vegetative manipulation by chemical, mechanical, or biological means will not be permitted, except to maintain plantings or seedings established before October 21, 1976. Prescribed burning may also be done where it is required to maintain the natural condition of fire-dependent ecosystems. Hand or aerial seeding of native species may be done to restore natural vegetation.

State and Federal agencies may use temporary enclosures and facilities to trap or transplant wildlife so long as the nonimpairment criteria are met. Certain permanent installations may be permitted to maintain or improve conditions for wildlife and fish, if the

benefiting species enhance wilderness values. Installations to protect sources of water on which native wildlife depend, such as exclosures, may be built for permanent use if they are substantially unnoticeable in the area as a whole and blend into the natural setting. Springs, wells, and guzzlers may be maintained, and new ones may be installed if they are substantially unnoticeable in the area and would not require maintenance involving motor vehicles if the area were designated as wilderness. (However, motor vehicles may be used to install and maintain these facilities while the area is under wilderness review, as is discussed below.) Construction activities must satisfy the nonimpairment criteria.

Fisheries enhancement activities may be permitted as long as their purpose is to protect natural conditions and to restore deteriorated habitat, and so long as they are substantially unnoticeable in the area as a whole. Fish traps, fish ladders, stream barriers, sediment control projects, and aerial stocking are among these permitted activities. Any new structures must not require maintenance by motor vehicles if the area is designated as wilderness. Construction activities must satisfy the nonimpairment criteria.

Helicopters may be used in fisheries and wildlife enhancement projects and in enforcement of fish and wildlife laws. Under the policy set forth in Chapter I.B.10 of this document, the BLM may authorize State or local law enforcement officers to use patrol vehicles cross-country when necessary to protect the lands and their resources.

Motor vehicles may also be used cross-country to build or maintain structures and installations authorized under the above guidelines, and temporary access routes may be built for this purpose so long as they satisfy the nonimpairment criteria.

Animal damage control activities directed at individual offending animals, and not indiscriminate control of populations, may be permitted, so long as this will not jeopardize the continued presence of any species in the area.

#### F. Fire Management

BLM will continue all presuppression, suppression, and post-suppression fire activities under current methods of operation, using caution to avoid unnecessary impairment of an area's suitability for preservation as wilderness, until new fire management plans are developed for specific wilderness study areas. These new fire management plans, including prescribed burning and control of wild fire, will be developed promptly. Management

objectives for the area must take into account the existing wilderness characteristics of the area, the need to prevent actions that would impair the suitability of the area for designation as wilderness, historic fire occurrence, natural role of fire, proposed degree of suppression, expected fire behavior, acceptable suppression techniques, adequate buffer zones, smoke management, effect on private or other agency inholdings and on adjacent landowners, the limits of acceptable fire weather, fire behavior, fire effects, and the access requirements of other agencies. Emergency fire rehabilitation measures will continue to be carried out under guidelines in Manual Section 7441 and Departmental Manual Part 910.

To hold fire to the desired level, fire management plans will rely on (1) the most effective methods of suppression that are least damaging to wilderness values, other resources, and the environment, while requiring the least expenditure of public funds to rehabilitate the area; (2) an aggressive fire prevention program; and (3) an integrated cooperative suppression program by agencies of the Department among themselves or with other qualified suppression organizations. Present suppression methods may be used, including use of tool caches, aircraft, motorboats, and motorized fire-fighting equipment. Existing fire lookout towers and heliports may be used and maintained; new ones may be approved as part of the fire management plan if they are the minimum necessary for fire suppression in the wilderness study area.

#### G. Watershed Management

Land treatments (e.g., trenching, ripping, pitting, terracing, plowing) will not be permitted on lands under wilderness review. Vegetative manipulation by chemical, mechanical, or biological means will not be permitted except: (1) plantings or seedings established before October 21, 1976, may be maintained, but not expanded; and (2) such activities may be approved if they qualify under the "manner and degree" provision for grandfathered grazing uses (see section H, below). (There is also a provision for vegetative manipulation for insect and disease control, in section H, 4(e) of this chapter.) Hand or aerial seeding of native species may be done to restore natural vegetation. Structural and similar watershed rehabilitation measures will be permitted only if they satisfy the nonimpairment criteria.

Permanent snow gauges, air quality monitoring instruments, water quantity and quality measuring instruments, and

hydrometeorologic devices may be established if these are the minimum necessary for determination of real or potential threats to human health, safety, or property and if they are substantially unnoticeable in the area. These must, however, use miniaturized equipment, be adequately camouflaged, and must not require access by motor vehicle if the area were designated as wilderness. Temporary monitoring devices for the same purposes may be installed without the above restrictions on use of motor vehicles if they satisfy the nonimpairment criteria.

Watershed rehabilitation work required by emergency conditions caused by fire, flood, storms, biological phenomena, landslides, or fumes may involve any treatments needed but must be conducted to the extent feasible in a manner that will not impair wilderness suitability. For example, the rehabilitation work will use the methods least damaging to the wilderness resource. To the extent feasible reseeding and planting under emergency conditions will utilize species native to the area and will avoid cross-country use of motorized equipment. Seedings and plantings will be staggered or irregular, so as to avoid a straight-line plantation appearance. Any unavoidable impacts which cannot be reclaimed by the time specified under the nonimpairment criteria must receive intensive reclamation efforts to achieve full reclamation as soon as possible.

Rehabilitation projects will be documented according to standard BLM procedures.

#### H. Rangeland Management

1. *General.* In some respects, rangeland management activities are less restricted by the Interim Management Policy than other activities. This is partly because livestock grazing, at appropriate stocking levels, in itself, is compatible with maintaining wilderness suitability; it is partly because most grazing operations on the public lands qualify as grandfathered uses; and it is partly because some range improvements enhance wilderness values by better protecting the rangeland in a natural condition.

Some of the rangeland management activities involve a distinction between grazing uses that are "grandfathered" by section 603(c) of FLPMA and those that are not. The criteria for these two categories follow:

a. Grandfathered grazing use is that grazing authorized and used during the 1976 grazing fee year, including areas that were in the "rest" cycle of a grazing system.



b. Non-grandfathered grazing use is any grazing that was not authorized and used during the 1976 grazing fee year.

#### 2. Grazing.

a. *Changes in Grazing.* In both grandfathered and non-grandfathered grazing, changes in number and kind of livestock or period of use may be permitted, so long as (1) the changes do not cause declining condition or trend of the vegetation or soil, and (2) the changes do not cause unnecessary or undue degradation of the lands.

b. *Prevention of Unnecessary or Undue Degradation.* The grandfather clause does not freeze grandfathered grazing uses at the same level as existed on October 21, 1976. The mandate, in section 603(c), to prevent unnecessary or undue degradation of the lands explicitly applies to grandfathered uses. Thus, the grandfather provision will not prevent implementation of reductions in authorized use adopted in allotment management plans.

c. *Grazing Systems.* Grazing systems in operation during the 1976 grazing fee year may continue to be used and maintained; any new range improvements must satisfy the guidelines for range improvements in section 3, below. New grazing systems may be established as long as the new range improvements needed to implement the system are permissible under the guidelines in section 3.

d. *Motor Vehicles.* Motorized access on existing access routes may be permitted. Cross-country motorized access may be authorized along routes specified by the BLM if it satisfies the nonimpairment criteria, including reclamation requirements; no grading or blading will be permitted. Temporary roads may be built if the BLM has determined that they satisfy the nonimpairment criteria.

3. *Range improvements.* This section sets forth the general criteria that will govern the use, maintenance, and installation of range improvements. The following section 4 shows how these criteria will affect certain specific types of improvements.

a. *Pre-FLPMA Range Improvements.* Range improvements existing or under construction on October 21, 1976, may continue to be used and maintained.

b. *New, Grandfathered Range Improvements.* In a grandfathered grazing operation, if a permit between the BLM and the grazing operator, issued before October 21, 1976, provided for installation by the operator of a series or system of improvements and part of that series or system had been installed before that date, the remaining improvements of the same kind may be installed.

c. *New, Temporary Range Improvements.* Temporary range improvements may be installed if they satisfy the nonimpairment criteria.

d. *New, Permanent Range Improvements.* New, permanent range improvements not permissible under (b) above may be approved for the purpose of enhancing wilderness values by better protecting the rangeland in a natural condition. In such cases they must meet all of the following criteria:

- They would not require motorized access if the area were designated as wilderness;
- The improvements are substantially unnoticeable in the wilderness study area (or inventory unit) as a whole;
- After any needed reclamation is complete, the area's wilderness values must not have been degraded so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability or unsuitability for preservation as wilderness.

For construction of approved range improvements, cross-country use of motor vehicles or construction of temporary access routes may be approved if BLM has determined that they satisfy the nonimpairment criteria.

#### 4. Specific Guidelines for Range Improvements.

a. *Salting.* In both grandfathered and non-grandfathered grazing operations, salting practices may be continued. New salting locations may be established to improve the distribution of grazing use so long as motorized access is on existing ways and trails or is cross-country access determined by the BLM to satisfy the nonimpairment criteria.

b. *Supplemental Feeding.* Supplemental feeding may be continued in grandfathered grazing operations if it was part of the operation in the 1976 grazing fee year. Otherwise, in both grandfathered and non-grandfathered grazing, supplemental feeding may be done in cases where BLM has determined that it satisfies the nonimpairment criteria and under emergency conditions, such as unexpected heavy snowfall.

c. *Fences.* In both grandfathered and non-grandfathered grazing, new permanent fences may be built and maintained if the BLM determines that they are needed to better protect the rangeland in a natural condition. Barbed wire and wood or steel fence posts may be used; the fence will be designed to blend with the landscape and topography, and must meet the criteria in section 3 (d) above.

d. *Water Developments.* In both grandfathered and non-grandfathered grazing, new, permanent water developments will be limited as follows,

and must meet the criteria in section 3(d) above:

- Springs may be developed so long as the water trough blends into the surrounding landscape, and the pipeline area is put back to original contour, and plant cover restored as specified in the nonimpairment criteria.
- Reservoirs, pits, and charcos may be developed if they are designed and constructed to blend into the surrounding landscape. They should be no larger than necessary, and not to exceed 10 acre feet in storage capacity. Borrow areas for fills will be from the impoundment area or within the high-water area.

e. *Vegetative Manipulation.* This includes chemical, mechanical, and biological methods. In grandfathered grazing operations, if vegetative manipulation had been done on the allotment before October 21, 1976, and its impacts were noticeable to the average visitor on that date, the improvement may be maintained by applying the same treatment again on the land previously treated. Otherwise, vegetative manipulation may be used only for control of small areas of poisonous plants or in emergencies for control of insects and disease when there is no effective alternative. Limited exceptions are specified as follows:

- Prescribed burning may also be used where necessary to maintain fire-dependent natural ecosystems.
- Reseeding may also be done by hand or aerial methods to restore natural vegetation. (There is also a provision for reseeding in emergency rehabilitation projects, described in section C of this chapter.)

#### 5. Wild Horse and Burro Management.

Temporary facilities for management of wild horses and burros may be installed if they satisfy the nonimpairment criteria. The above guidelines for grazing practices and range improvements will also apply to wild horse and burro management, where appropriate.

#### J. Mineral Uses

An understanding of several concepts is necessary before reading the following text on mining and mineral leasing operations. In Chapter I we have explained the meaning of the "grandfather" concept, "manner and degree," "nonimpairment," and "valid existing rights." Definitions of "unnecessary or undue degradation" and "substantially unnoticeable" appear in Appendix F.

The meaning and intent of these key terms will guide the minerals management in wilderness study areas during the study period. Once the wilderness study is completed and if an

area is designated by Congress as wilderness, minerals management will then be directed by section 4(d) of the Wilderness Act of 1964, unless the terms of particular leases allow for greater regulation than the Wilderness Act, or unless Congress provides otherwise.

All mineral activities that were existing on October 21, 1976, may continue in the same manner and degree in which they were being conducted on October 21, 1976, even if they would impair wilderness suitability. These activities fall within the grandfather concept as discussed in Chapter I.B.6. They will, however, be regulated to prevent unnecessary or undue degradation of the lands.

On pre-FLPMA oil and gas, geothermal, and coal leases which had no surface-disturbing impacts as of October 21, 1976, if proposed activities are denied because they cannot meet the nonimpairment criteria, the lessee has the right to request a suspension of operation. The policy on lease suspension is explained more fully in section 1(d), below.

Valid existing rights of mining claimants will be recognized. For a claim to qualify as a valid existing right, a "discovery" of a valuable mineral, the test of which has been accepted in case law as the "prudent man test," must be demonstrated. Activities under valid existing rights may impair wilderness suitability, but they will be regulated to prevent unnecessary or undue degradation of the lands.

All leases issued on or before October 21, 1976, have valid existing rights, the extent of which is defined by the terms and conditions of each specific lease. For the majority of pre-FLPMA leases the lease rights are not absolute nor unqualified. In other words, if there were no pre-FLPMA grandfathered activities, post-FLPMA operations would not be allowed if they would impair wilderness suitability.

Activities proposed under leases, permits and mining claims which are not covered by the grandfather or valid existing rights provisions will be subject to the nonimpairment criteria as described at the beginning of Chapter III.

#### 1. Oil and Gas and Geothermal Leasing, Exploration, and Development.

a. *Pre-FLPMA Leases.* All pre-FLPMA leases on which actual pre-FLPMA physical impacts had been created through such activities as seismic, thermal gradient or other exploration drilling, production drilling, or construction of production-related facilities, are grandfathered. Operations on these leases may continue even if impairing, so long as they do not exceed

manner and degree as defined in the grandfather concept. As explained in Chapter I.B.6, this may mean that pre-FLPMA activities which began outside the boundary of a wilderness study area may be continued by that lessee onto the same or other leases held by that lessee in an adjacent wilderness study area, as long as the activity follows the logical pace and progression of development and the impacts are not of a significantly different kind.

Activities on pre-FLPMA leases on which there were no pre-FLPMA impacts will be allowed if the BLM determines that the impacts satisfy the nonimpairment criteria. If proposed activities are denied because they cannot satisfy the nonimpairment criteria, the lessee has the right to request a suspension of operation. The policy on lease suspension is explained more fully in section (d), below.

b. *Post-FLPMA Leases Issued Prior to the Issuance of the Interim Management Policy.* Regardless of the conditions and terms under which these leases were issued, there are no grandfathered uses inherent in post-FLPMA leases. Activities on post-FLPMA leases will be subject to a special wilderness protection stipulation as stated in Appendix A. If there is already production on any lease issued in this period, it would be allowed to continue in the least impairing manner. Increases in production or production facilities would not be allowed if the resultant impacts would further impair.

c. *New Leases.* New leases may be issued provided the special stipulation (Appendix A) is attached. Activities may occur under these leases so long as the BLM determines that they satisfy the nonimpairment criteria.

d. *Suspension of Lease Terms—Oil and Gas and Geothermal.* The Secretary of the Interior has the discretionary authority to direct or assent to a suspension of the operating and producing requirements of an oil and gas or geothermal resources lease if it is in the interest of conservation to do so and when the specific circumstances involved warrant such an action.

When the U.S. Geological Survey (GS) notifies a proponent that an application to conduct operations is being denied because of the prospect for impairment of wilderness suitability of an area under study or review as to its potential for study, it should advise the proponent of the right to (1) appeal that denial, (2) request a suspension of operation, and (3) take such other actions as are deemed appropriate to protect the rights granted by the lease. It is not appropriate for the GS or BLM to speculate as to the potential for

suspension since the specific circumstances involved in each case will be determining factors in any decision. However, if the lessees who are denied the right to conduct operations because of conflicts with wilderness review are to be given a reasonable opportunity to preserve their leases, it is imperative that these potential conflicts be identified as promptly as possible during the review of requests for a preliminary environmental review, applications to conduct operations, and plans of operation, and that any written recommendation for denial be provided promptly to the GS so that it may in turn promptly notify the lessee.

For leases not encumbered with wilderness protection or no-surface-occupancy stipulations and on which an application for an otherwise acceptable plan of operations was denied for wilderness or endangered species considerations, the Secretary has established a policy of assenting to a suspension of operation or production for the time necessary to complete necessary studies and consultations and, if applicable, for a decision on wilderness status to be made. The same policy would apply in cases where a discovery of oil and/or gas has been made in a nonimpairing manner on a leasehold encumbered with a wilderness protection stipulation and for which an otherwise acceptable plan of development and production operations has been denied because it would impair suitability for wilderness.

On the other hand, in instances where a lease is encumbered by a wilderness protection or no-surface-occupancy stipulation and there has been no discovery and a lessee's request for application for permit to drill has been denied, the Secretary's policy generally has been and will be to not grant relief from the terms of the stipulation by granting a suspension.

Lessees are hereby advised that in cases where wilderness review is a factor, applications for proposed operations should be filed no later than 120 days before expiration of the lease term in order to provide adequate processing time, including time for BLM to determine whether the proposed operations would impair the suitability of the area of proposed activity for preservation as wilderness.

e. *Exploration.* Post-FLPMA oil and gas or geothermal exploration applied for under 43 CFR 3045 or 43 CFR 3209 will continue to be approved if the BLM determines that it satisfies the nonimpairment criteria. Pre-FLPMA exploration will be allowed to continue as provided under the grandfather



concept. Consistent with sections 302(b) and 603(c) of FLPMA, all oil and gas and geothermal "Notices of Intent to Conduct Exploration" must be approved by BLM prior to commencement of operations.

2. *Coal.* The policy for coal is more exclusive than the other leasable minerals because of the recent regulations 43 CFR 3481, which were issued on July 19, 1979. These regulations, promulgated as a result of the Surface Mining Control and Reclamation Act and FLPMA, establish criteria for identifying lands that are unsuitable for all or certain stipulated methods of coal mining. These rules, then, supplemented by section 603(c) of FLPMA, will provide the basis for coal management in wilderness study areas.

a. *Pre-FLPMA Leases and Prospecting Permits.* All pre-FLPMA coal leases on which actual pre-FLPMA physical impacts had been created through such activities as production or construction of production-related facilities, may continue consistent with the grandfather provision, even if this would impair wilderness suitability. As explained in Chapter I.B.6, this may include the logical extension of grandfathered activities which began outside the boundary of a wilderness study area. Mining plans on pre-FLPMA nonproducing coal leases, even leases on which pre-FLPMA exploration drilling has taken place, will not be recommended for approval by BLM if the proposed mining methods are by surface methods or if the impacts resulting from underground mining would impair the suitability of the area for preservation as wilderness.

b. *Preference Right Lease Applications.* The preference right lease applicant's right to adjudication of his right to a lease will be recognized. Application of the right, however, involves application of the coal unsuitability criteria, including the wilderness review criterion number 4, of 43 CFR 3461(d)(1) and the imposition of conditions in the proposed lease to prevent impairment of the area's suitability for preservation as wilderness.

The Secretary may initiate exchange proceedings for coal under 43 CFR 3430.5-4 if he determines that, among other things, the lands are unsuitable for coal mining because of wilderness considerations.

c. *New Competitive Leases.* The coal unsuitability criteria will be applied to all coal lands being considered in the BLM's planning system. The only BLM-administered lands that will be offered for competitive lease sale are those on

which a final wilderness inventory decision has determined that the lands lack wilderness characteristics. Once the Congress has determined that a WSA will not be designated as wilderness, the area may be considered for competitive lease.

d. *Exploration Licenses.* Exploration licenses are issued for exploration of unleased Federal land. Unsuitability criteria will not be applied to exploration licenses. If the activities proposed under an exploration license would create impacts that do not satisfy the nonimpairment criteria, they would not be approved.

e. *Suspension of Lease Terms.* The lease suspension policy cited in section 1(d) above will apply to coal leases. One factor in the Secretary's decisions will be the diligent development requirement that must be met by the lessee.

3. *Oil Shale and Tar Sands Leasing.*

a. *Pre-FLPMA Leases.* There are no pre-FLPMA leases for tar sand and only four pre-FLPMA oil shale leases. All pre-FLPMA leases on which actual pre-FLPMA physical impacts have been created through such activities as exploration drilling, production, or construction of production-related facilities, may continue in the same manner and degree under the grandfather provisions as discussed in Chapter I.B.6, even if these activities impair wilderness suitability. Any proposed activity which would exceed that manner and degree, as determined by BLM, would be allowed only if it satisfies the nonimpairment criteria.

Activities on pre-FLPMA leases on which no pre-FLPMA impacts have taken place will be allowed if they satisfy the nonimpairment criteria. If proposed activities are denied because they cannot meet the nonimpairment criteria, the lessee has the right to request a suspension of operation. The policy on lease suspension is explained more fully in section 1(d) above.

b. *New Leases Issued After the Implementation of FLPMA.* New leases may be issued provided the special stipulation (Appendix A) is attached. Activities may occur under these leases so long as the BLM determines that they satisfy the nonimpairment criteria.

c. *Suspension of Lease Terms.* The policy cited in section 1(d) above will apply.

4. *Other Leasable Minerals (Phosphate, Potash, Sodium, Sulphur, and Hardrock (Solid) Minerals on Acquired Lands, Including Uranium).*

a. *Pre-FLPMA Leases and Permits.* All pre-FLPMA leases on which actual pre-FLPMA physical impacts have been created through such activities as exploration drilling, production drilling,

or construction of production-related facilities, may continue consistent with the grandfather provisions. As explained in Chapter I.B.6, this may include logical extension of grandfathered activities which began outside the boundary of a wilderness study area. These activities will continue to be regulated to prevent unnecessary or undue degradation of the lands. Activities on pre-FLPMA leases on which no pre-FLPMA impacts have taken place will be allowed if the BLM determines that they satisfy the nonimpairment criteria.

b. *Prospecting Permits.* Prospecting permits may continue to be issued in wilderness study areas (or inventory units), subject to a stipulation that no preference right lease will be issued until or unless an environmental analysis (or environmental impact statement) is completed and it is demonstrated, on the basis of the environmental analysis and a mining plan submitted with the application for a preference right lease, that the minerals can be removed by mining methods that will not impair the area's suitability for preservation as wilderness. Each permit will also condition exploration operations by a stipulation to insure that the impact caused by the activities will not impair the area's wilderness suitability.

c. *Preference Right Lease Applications.* Existing rights to preference right leases will be recognized. However, conditions will be imposed in such leases to prevent impairment of the area's suitability for preservation as wilderness.

d. *Post-FLPMA Leases Issued Prior to the Issuance of the Interim Management Policy.* Regardless of the conditions and terms under which these leases were issued, there are no grandfathered uses inherent in post-FLPMA leases. Activities on post-FLPMA leases will be subject to the special wilderness protection stipulation as stated in Appendix A. If there is already production on any lease issued in this time frame it would be allowed to continue in the least impairing manner and so as to prevent unnecessary or undue degradation of the lands. Increases in production or in production facilities would not be allowed if the resultant impacts would further impair wilderness suitability.

e. *New Leases or Permits Issued After Implementation of FLPMA.* New leases and prospecting permits will be issued subject to the special wilderness protection stipulation (Appendix A). Activities that would impair wilderness suitability will not be allowed.

#### 5. Mining Operations Under the 1872 Mining Law.

a. *Location, Prospecting, Exploration, and Mining.* Mining operations conducted on lands under wilderness review will be subject to the forthcoming regulations 43 CFR Part 3802. The regulations will not apply to areas where a final decision that the area lacks wilderness characteristics has been made through the BLM wilderness inventory process. These regulations will provide a procedure for notifying the BLM of activities being conducted or proposed to be conducted on mining claims and will also establish the standards for approval of the conduct of those operations, including reclamation.

The regulations have several purposes: (1) To prevent impairment of the wilderness suitability of areas under wilderness review; (2) to recognize valid existing rights; (3) to allow grandfathered activities to continue; (4) to allow continued location and operations under the mining laws; and (5) to prevent unnecessary or undue degradation of the lands.

b. *Valid Existing Rights.* All mining claimants who located claims on or before October 21, 1976, and are able to demonstrate a discovery as of that date, as required under the 1872 Mining Law, as amended (prudent man test—must show that the claim has a reasonable prospect of being mined at a profit), will be allowed to continue their mining operations to full development even if the operations are causing or will cause impairment. Before BLM will grant approval of such operations, the operator will be required to show evidence of such discovery. If warranted, BLM may verify data through a field examination and, if necessary, initiate contest proceedings. Reasonable access to pre-FLPMA valid mining claims will also be granted. Such access shall be regulated to prevent or minimize impairment of the area's wilderness suitability, to the extent possible consistent with the enjoyment of the claimant's rights. Mineral patent applications on these pre-FLPMA valid claims will continue to be processed.

Whether or not the claims have a pre-FLPMA discovery determines only whether the nonimpairment standard applies. All operations will be regulated to prevent unnecessary or undue degradation of the lands until the claims are patented. (Any claim patented in the California Desert Conservation Area will continue to be regulated to prevent unnecessary or undue degradation.) All operations will be subject to the forthcoming regulations 43 CFR Part 3802, which will specify in what

circumstances and in what manner notification will be required.

c. *Temporary Limitation on the Exercise of Valid Existing Rights.* If impairing activities are proposed on a pre-FLPMA claim with valid existing rights, within a wilderness study area (WSA) which the BLM Director has recommended to the Secretary as suitable for preservation as wilderness, the proposed impairing activity may be temporarily disapproved by the Director of the BLM. This is a narrow exception for extraordinary circumstances when the Secretary and the President may be expected to recommend the WSA as suitable for wilderness designation and Congress may be expected to act in a short period of time. Such a disapproval would be for one year, subject to renewal, but not to exceed a total of two years.

d. *Grandfathered Activities.* Owners of unpatented mining claims located on or before October 21, 1976, who cannot establish a valid existing right by demonstrating a "discovery" on the above date will be allowed to continue in the same manner and degree as on that date, even if this impairs wilderness suitability. (See grandfather provision in Chapter I.B.6.) For pre-FLPMA claims which have neither valid existing rights nor grandfathered uses, further exploration work to "prove-up" a discovery will be allowed only if the BLM determines that the proposed operations satisfy the nonimpairment criteria.

e. *Assessment Work.* Assessment work will be permitted only if the BLM determines that it satisfies the nonimpairment criteria. However, assessment work on claims which qualify under valid existing rights or the grandfather concept may, in fact, impair.

f. *Deferment of Assessment Work.* If proposed assessment work would impair the area's suitability for preservation as wilderness, a deferment of annual assessment work, under 30 U.S.C. 28b, may be granted for a period not to exceed two years. At the end of that period, the mining claimant must find other ways of completing nonimpairing assessment work, such as the geological, geochemical, and geophysical work allowed by the Act of September 2, 1958 (30 U.S.C. 28-1).

g. *Mining Claims Located After October 21, 1976.* Lands under wilderness review will continue to be subject to location under the mining laws. Location methods and subsequent assessment work will be restricted to operations which the BLM determines satisfy the nonimpairment criteria. Work towards post-FLPMA discoveries may take place, but not to the extent that

impairment is caused. If discoveries are made in a nonimpairing manner or claims located after October 21, 1976, patents may issue.

h. *Mining Activities in Areas Smaller Than 5,000 Acres.* If the wilderness study area (or inventory unit) is smaller than 5,000 acres, all mining activities under the 1872 Mining Law will be exempt from the nonimpairment standard, and will be regulated only to prevent unnecessary or undue degradation of the lands. (The basis for this guideline is explained in Chapter I.A.6.)

6. *Disposal of Minerals Materials (Soluble).* Sale and free use of mineral materials will be allowed so long as the operation can be conducted consistent with the nonimpairment criteria.

#### Appendix A—Wilderness Protection Stipulation

By accepting this lease, the lessee acknowledges that the lands contained in this lease are being inventoried or evaluated for their wilderness potential by the Bureau of Land Management (BLM) under section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743 (43 U.S.C. Sec. 1782), and that exploration or production activities which are not in conformity with section 603 may never be permitted. Expenditures in leases on which exploration drilling or production are not allowed will create no additional rights in the lease, and such leases will expire in accordance with law.

Activities will be permitted under the lease so long as BLM determines they will not impair wilderness suitability. This will be the case either until the BLM wilderness inventory process has resulted in a final wilderness inventory decision that an area lacks wilderness characteristics, or in the case of a wilderness study area until Congress has decided not to designate the lands included within this lease as wilderness. Activities will be considered nonimpairing if the BLM determines that they meet each of the following three criteria:

(a) It is temporary. This means that the use or activity may continue until the time when it must be terminated in order to meet the reclamation requirement of paragraphs (b) and (c) below. A temporary use that creates no new surface disturbance may continue unless Congress designates the area as wilderness, so long as it can easily and immediately be terminated at that time, if necessary to management of the area as wilderness.

(b) Any temporary impacts caused by the activity must, at a minimum, be capable of being reclaimed to a



condition of being substantially unnoticeable in the wilderness study area (or inventory unit) as a whole by the time the Secretary of the Interior is scheduled to send his recommendations on that area to the President, and the operator will be required to reclaim the impacts to that standard by that date. If the wilderness study is postponed, the reclamation deadline will be extended accordingly. If the wilderness study is accelerated, the reclamation deadline will not be changed. A full schedule of wilderness studies will be developed by the Department upon completion of the intensive wilderness inventory. In the meantime, in areas not yet scheduled for wilderness study, the reclamation will be scheduled for completion within 4 years after approval of the activity. (Obviously, if and when the Interim Management Policy ceases to apply to an inventory unit dropped from wilderness review following a final wilderness inventory decision of the BLM State Director, the reclamation deadline previously specified will cease to apply.) The Secretary's schedule for transmitting his recommendations to the President will not be changed as a result of any unexpected inability to complete the reclamation by the specified date, and such inability will not constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness.

The reclamation will, to the extent practicable, be done while the activity is in progress. Reclamation will include the complete recontouring of all cuts and fills to blend with the natural topography, the replacement of topsoil, and the restoration of plant cover at least to the point where natural succession is occurring. Plant cover will be restored by means of reseeding or replanting, using species previously occurring in the area. If necessary, irrigation will be required. The reclamation schedule will be based on conservative assumptions with regard to growing conditions, so as to ensure that the reclamation will be complete, and the impacts will be substantially unnoticeable in the area as a whole, by the time the Secretary is scheduled to send his recommendations to the President. ("Substantially unnoticeable" is defined in Appendix F of the *Interim Management Policy and Guidelines for Lands under Wilderness Review*.)

(c) When the activity is terminated, and after any needed reclamation is complete, the area's wilderness values must not have been degraded so far, compared with the area's values for other purposes, as to significantly

constrain the Secretary's recommendation with respect to the area's suitability or nonsuitability for preservation as wilderness. The wilderness values to be considered are those mentioned in section 2(c) of the Wilderness Act, including naturalness, outstanding opportunities for solitude or for primitive and unconfined recreation, and ecological, geological or other features of scientific, educational, scenic, or historical value.

If all or any part of the area included within the leasehold estate is formally designated by Congress as wilderness, exploration and development operations taking place or to take place on that part of the lease will remain subject to the requirements of this stipulation, except as modified by the Act of Congress designating the land as wilderness. If Congress does not specify in such act how existing leases like this one will be managed, then the provisions of the Wilderness Act of 1964 will apply, as implemented by rules and regulations promulgated by the Department of the Interior.

#### Appendix B—The Federal Land Policy and Management Act of 1976 (Pub. L. 94-579)

##### Bureau of Land Management Wilderness Study

Sec. 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of the Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness; Provided, that prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the U.S. Geological Survey and the Bureau of Mines to determine the mineral values if any, that may be present in such areas: Provided further, that the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedures specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker

of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: Provided, that, in managing the public land the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress and egress for mining claimants.

#### Appendix C—Section 2(c) of The Wilderness Act of September 3, 1964 (Pub. L. 88-577)

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1)

generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

#### Appendix D—Authority and Regulations

##### 1. Authority

The interim Management Policy is based on the following authorities:

- The Federal Land Policy and Management Act of 1976 (Pub. L. 94-579, 90 Stat. 2743, 43 U.S.C. 1701), sections 603, 302, 201, and 701, as modified by other applicable provisions of that Act and by other laws. (See Appendix B for the text of section 603.)
- The Wilderness Act of 1964 (Pub. L. 88-577, 78 Stat. 890, 16 U.S.C. 1131). (See Appendix C for the text of section 2(c).)

##### 2. Regulations

Requirements of the Interim Management Policy will be considered by the BLM, to the extent necessary, as part of its decisionmaking process in considering approval of any activity on the public lands pursuant to existing or new regulations.

Most of the policies in this document can and will be implemented through existing regulations covering specific activities. However, some of the policies will be implemented through the promulgation of new regulations—either proposed regulations that are now in preparation, or revisions to existing regulations.

One rulemaking now in progress concerns mining activities on lands under wilderness review:

- Exploration and Mining—Wilderness Review Program (43 CFR Part 3802). These regulations pertain only to locatable minerals under the 1872 Mining Law. (See Chapter III, J, 5(a) of this document.)

Two other proposed rulemakings in preparation concern mineral leasing and mining activities on all BLM-administered lands and will reflect the Interim Management Policy.

- Geophysical Exploration—Oil and Gas (43 CFR Part 3045).
- Surface Management of Mining Claims (43 CFR Part 3809). When these regulations are promulgated, they will incorporate the regulations (43 CFR Part 3802) for exploration and mining on lands under wilderness review.

The interim management requirements are already reflected in

general terms in the following regulations, which are now in effect:

- Federal Lands Review—Unsuitability for Mining (43 CFR Part 3461). This covers coal mining on public lands.
- Off-Road Vehicles (43 CFR Part 8340).

Changes in existing regulations will also be proposed wherever this is found necessary to implement the Interim Management Policy.

#### Appendix E—The Wilderness Review Program

To carry out the mandate of section 603 of FLPMA, the Bureau of Land Management has developed a comprehensive wilderness review program. Key elements of the overall program include:

1. *Wilderness Review*. The wilderness review process has three phases: Inventory, study, and reporting to Congress. Public involvement is encouraged in all phases of the process, with opportunity provided for comment, participation, and review. The wilderness review applies to all public lands administered by the BLM except:

- Lands where the United States owns the minerals but the surface is not Federally owned.
- Lands being held for the benefit of Indians, Aleuts, and Eskimos.
- Lands tentatively approved for State selection in Alaska.
- Lands on the Outer Continental Shelf.
- Oregon and California grant (O & C) lands that are managed for commercial timber production.

The phases of the wilderness review process are as follows:

a. *Inventory*. First, BLM does an inventory of the public lands to identify areas that meet the definition of wilderness established by Congress. Such areas are identified as wilderness study area (WSA's). The procedures for this inventory are described in the *Wilderness Inventory Handbook*. The inventory is scheduled for completion in the contiguous Western States in 1980.

b. *Study*. Each WSA must be studied through the BLM land-use planning system to analyze all values, resources, and uses within the WSA. The findings of the study determine whether the area will be recommended as suitable or unsuitable for designation as wilderness.

c. *Reporting*. When the study has been completed, a recommendation as to whether the WSA is suitable or unsuitable for designation as wilderness is submitted through the Secretary of the Interior and the President to Congress. A mineral survey by the U.S. Geological Survey and Bureau of Mines will accompany every "suitable" recommendation. Reports on

all WSA's must reach the President no later than October 21, 1991, and reach Congress by October 21, 1993. Only Congress can designate an area as wilderness.

2. *Instant Study Areas*. FLPMA also requires that by July 1, 1980, the Secretary of the Interior must submit recommendations to the President on the wilderness suitability of 55 public land areas that were formally identified as "natural" or "primitive" areas prior to November 1, 1975. These are known as "instant study areas" because Congress directed study and reporting on these areas, without awaiting completion of the wilderness inventory.

3. *Management of Areas under Wilderness Review*. This is the Interim Management Policy which is the subject of this document. It establishes the guidelines for determining uses and activities that may occur in areas under wilderness review. It applies until Congress takes action on the President's recommendations.

#### Appendix F—Definitions

Some of the terms used in this document have specific meanings and are defined as follows:

*Cross-country*: Refers to travel that is not on existing access routes (ways and trails) and does not involve any surface disturbance other than that caused solely by the passage of vehicles.

*Cumulative Impact*: The aggregate impact of existing and proposed activities individual intrusions when considered by themselves may not impair wilderness suitability; however, when combined with other existing and proposed substantially unnoticeable impacts, the total effect may be sufficient to impair an area's suitability for preservation as wilderness.

*FLPMA*: The Federal Land Policy and Management Act of 1976 (Pub. L. 94-579, 90 Stat. 2743, 43 USC 1701).

*Impact*: The effect, influence, alteration, or imprint of an activity.

*Impair*: To diminish in value or excellence.

*Impair Wilderness Suitability*: Refers to activities that are considered to impair an area's suitability for preservation as wilderness—i.e., that do not satisfy the "nonimpairment criteria" set forth in Chapter I.B.2 of this document.

*Instant Study Area*: One of the 55 primitive and natural areas formally identified by BLM through a final action published in the *Federal Register* before November 1, 1975. FLPMA requires and accelerated wilderness review of these areas.

*Multiple Use*: "... the management of the public lands and their various



resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some of all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." (From section 103, FLPMA).

**Pre-FLPMA:** Before October 21, 1976, the date of approval of the Federal Land Policy and Management Act.

**Primitive and Unconfined Recreation:** Nonmotorized and nondeveloped types of outdoor recreational activities.

**Public Lands:** For the purpose of the wilderness review program, any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

1. Lands where the United States owns the minerals but the surface is not Federally owned.

2. Lands being held for the benefit of Indians, Aleuts, and Eskimos.

3. Lands tentatively approved for State selection in Alaska.

4. Lands on the Outer Continental Shelf.

5. Oregon and California grant (O & C) lands that are managed for commercial timber production.

**Roadless:** For the purpose of the wilderness review program, this refers to the absence of roads which have been improved and maintained by mechanical means to ensure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.

Words and phrases used in the above definition of "roadless" are defined as follows:

1. Improved and maintained: Actions taken physically by man to keep the road open to vehicular traffic. "Improved" does not necessarily mean formal construction. "Maintained" does not necessarily mean annual maintenance.

2. Mechanical means: Use of hand or power machinery or tools.

3. Relatively regular and continuous use: Vehicular use which has occurred and will continue to occur on a relatively regular basis. Examples are: Access roads for equipment to maintain a stock water tank or other established water sources; access roads to maintained recreation sites or facilities; or access roads to mining claims.

**Solitude:** 1. The state of being alone or remote from habitations; isolation. 2. A lonely, unfrequented, or secluded place.

**Substantially Unnoticeable:** Refers to something that either is so insignificant as to be only a very minor feature of the overall area or is not distinctly recognizable by the average visitor as being manmade or man-caused because of age, weathering, or biological change. An example of the first would be a few minor dams or abandoned mine buildings that are widely scattered over a large area, so that they are an inconspicuous part of the scene. Serious intrusions of this kind, or many of them, may preclude inclusion of the land in a wilderness study area. (See also "Cumulative Impact," above.) An example of the second would be an old juniper control project that has grown up to a natural appearance, the old fallen trees largely decomposed.

**Unnecessary or Undue Degradation:** Impacts greater than those that would normally be expected from an activity, being accomplished in compliance with current standards and regulations and based on sound practices, including use of the best reasonably available technology.

**Wilderness:** The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). (See Appendix C for its full text.)

**Wilderness Area:** An area formally designated by Congress as part of the National Wilderness Preservation System.

**Wilderness Characteristics:** The definition contained in section 2(c) of the Wilderness Act of 1964 (78 Stat. 891). (See Appendix C for its full text.)

**Wilderness Inventory:** An evaluation of the public lands in the form of a written description and map showing those lands that meet the wilderness criteria as established under section 603(a) of FLPMA and section 2(c) of the Wilderness Act, which will be referred to as wilderness study areas (WSA's).

(See *Wilderness Inventory Handbook*, dated September 27, 1978.)

**Wilderness Review Program:** The term used to cover the entire process of wilderness inventory, study, and reporting for the wilderness resource, culminating in recommendations submitted through the Secretary of the Interior and the President to Congress as to the suitability or nonsuitability of each wilderness study area for inclusion in the National Wilderness Preservation System. (For a summary of the program, see Appendix E.)

**Wilderness Study Area (WSA):** A roadless area or island that has been inventoried and found to have wilderness characteristics as described in section 603 of FLPMA and section 2(c) of the Wilderness Act of 1964 (78 Stat. 891).

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## Part III

# Department of Housing and Urban Development

Office of Assistant Secretary for  
Community Planning and Development

Comprehensive Planning Assistance;  
Managing a Grant

federal register



DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENTOffice of Assistant Secretary for  
Community Planning and Development

## 24 CFR Part 600

[Docket No. R-79-645]

Comprehensive Planning Assistance;  
Managing a GrantAGENCY: Office of Community Planning  
and Program Coordination, HUD.

ACTION: Final rule.

**SUMMARY:** This rule sets forth requirements and procedures for managing a grant for Comprehensive Planning Assistance and reflects changes made in grant administration pursuant to Office of Management and Budget requirements. The rule is listed in the Department's semiannual agenda of significant rules, issued July 27, 1979 (FR; Vol. 44; No. 149; Wed., Aug. 1, 1979; p. 45343).

EFFECTIVE DATE: January 11, 1980

**FOR FURTHER INFORMATION CONTACT:** Joyce Walther or Leroy Connella, Office of Community Planning and Program Coordination, Room 7254, Washington, D.C. (202) 755-5649.

**SUPPLEMENTARY INFORMATION:** On April 16, 1979, the Secretary of Housing and Urban Development published a Notice of Proposed Rulemaking (44 FR 22666) to set forth requirements and procedures for managing a grant for the Comprehensive Planning Assistance Program (24 CFR 600). Comments were invited until June 15, 1979.

A total of nine comments were received. Each comment was carefully considered. The following is a summary of the comment and the changes made to the proposed rule.

**Background:** This rule presents very little new material. Its purpose is merely to change Handbook 6042.1 REV., Managing a Grant, Comprehensive Planning Assistance, July 1973 into regulation form and update requirements to reflect changes made in grant administration pursuant to the revised Office of Management and Budget Circular No. A-102, dated September 12, 1977. There is also some minor streamlining.

The previous Subparts of these regulations explained the policies and procedures an applicant must follow to obtain a grant. This Subpart, in close conformance to Circular No. A-102, describes the management aspects of grant administration from grant approval to project completion including

such items as accounting, requisitions, allowable costs, personnel, travel and subsistence, subcontracting, and reporting.

## Discussion of Comments

Section 600.405 Administrative  
Policies of the Grantee

Section 600.405(a)(3)(ii). Several comments were received expressing concern that the limitations on independent policies and regulations governing administrative practices described in this paragraph are more restrictive than those found in Federal Management Circular 74-4. Changes have been made to make the wording consistent with that in FMC 74-4.

In this connection, one commenter pointed out that HUD is required to recognize the indirect cost rate approved by the cognizant Federal agency. Indirect costs are covered in § 600.410(f)(4). HUD does recognize the indirect cost rates approved by the cognizant agency.

Section 600.405(b)(1). One comment indicated this paragraph sets prior approval requirements for procurement transactions which are more restrictive than Attachment O of Circular A-102 and FMC 74-4. The intent of this paragraph is to require that only funds budgeted for procurement be used for procurement. No change has been made in the regulations.

Section 600.405(b)(2). One commenter stated that the special limitation against paying consultants a salary in excess of the daily equivalent rate paid GS-18 Federal employees is inconsistent with the provisions of FMC 74-4. The special limitation was imposed by the Congress and because of its statutory base cannot be waived. Thus, the special limitation has been retained.

Section 600.405(d)(2)(ii). Another commenter pointed out that there is no requirement for a final audit in OMB Circular A-102. The requirement for a final audit at the completion of activities under non-continuous grants has been changed to require an audit within two years of the completion of such grants. These audits may be undertaken within the scope of a grantee's regular audit cycle or as part of an audit of other Federal grant assistance programs.

Section 600.405(d)(6)(i). A commenter indicated that the language in this paragraph, which taken directly from the referenced HUD Audit Guide, departs from the limitations imposed on the qualifications of public accountants as prescribed by the GAO in their publication *Standards for Audit of Governmental Organizations, Programs,*

*Activities and Functions.* The commenter stated that this publication says that "such audits shall be conducted by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970. . . ." The quote is correct; however, it is not complete. The GAO standards also allow the Secretary to waive aspects of the requirement. No change has been made since the Office of Management and Budget is in the process of revising OMB Circular A-102 to reflect specific audit requirements (Proposed Attachment P), which will establish standardized Federal audit policies. When OMB Circular A-102, Attachment P takes effect, the HUD Audit Guide and these regulations will be revised accordingly.

## Section 600.410 Fiscal Management

Section 600.410(f)(2). One commenter suggested that capital expenditures should be allowable with prior approval as is provided for in FMC 74-4. Due to the limited funding available under the program, capital expenditures, as a matter of policy, are not permitted. Thus encouraging such requests would not be appropriate if approval is not to be granted.

Section 600.410(f)(3). A commenter stated that the Project Inspection Fee should no longer be identified as a cost which the grantee pays out of its grant. The suggestion was made that HUD should subtract the fee from the awarded grant amount and that the grantee should not be required to carry the administratively cumbersome Project Inspection Fee on its books. The fee is composed of two-thirds Federal and one-third non-Federal money, thus it cannot be deducted entirely out of grant funds. It must be reflected as a grantee cost.

Section 600.420 Program Performance  
Reporting

One comment asked for confirmation that a six-month progress report is not required. Another expressed concern that the regulations as written do not require the reporting of changes in work elements that might require changes in the amount of money needed. A six month progress report is not required. However, grantees must report events which have significant impact upon the work plan and schedules and submit requests for budget revisions that would cause any grant funds, or part thereof, to be used for purposes other than those intended. See OMB Circular A-102, Attachment I, Monitoring and Reporting of Program Performance, paragraphs 1, 2, 5 and 6.

Section 600.425 Copies of 701-Assisted  
Reports

Section 600.425(a). There were a number of comments both supporting and opposing the depository library system. This requirement has not been changed since the benefits of having these reports available are far greater than the burden of the requirement. Further study will be made to determine if the system can be further simplified.

Section 600.425(b)(1)(vi) and (b)(3). A comment noted that depository libraries are not listed for every State and that addresses are not listed for every planning school library. Some States and planning school libraries do not participate in the depository library system. The word "participating" will be inserted in the regulations to make this clear.

Section 600.425(d)(1). A commenter suggested that since the National Technical Information Service (NTIS) no longer charges for its service, grantees should be required to submit copies of reports to NTIS. Grantees will not be required to send copies of reports to NTIS. However, the proposed regulations have been changed to encourage grantees to use NTIS for filing copies of reports of more than local or regional interest.

*Proposed New Section on Joint Funding.* A commenter suggested that a section on joint funding be added to these regulations pursuant to Circular A-111. The proposed change would allow the Regional Administrator to waive non-statutory HUD grant administrative and fiscal requirements and accommodate special timing, where appropriate, to facilitate joint funding. This proposed section has not been added to these regulations because joint funding proposals should be facilitated through general policies rather than dealt with on a case by case basis. OMB Circular A-111 already has established procedures and forms to be used in joint funding.

## Amendments to 24 CFR Part 600

PART 600—COMPREHENSIVE  
PLANNING ASSISTANCE

24 CFR Part 600 is amended as follows:

The Table of Contents is amended by adding a new Subpart G to read:

## Subpart G—Managing a Grant

Sec.

600.400 General information.

600.405 Administrative policies of the grantee.

600.410 Fiscal management.

600.420 Program performance reporting.

600.425 Submission of 701-Assisted Reports

## Appendix

1. Planning Depository Libraries.
2. State Depository Libraries.
3. Planning School Libraries.
4. Project Inspection Fee Schedule.

Authority: Sec. 7(d), Dept. of Housing and Urban Development Act, 42 U.S.C. 3535(d), Sec. 701 of the Housing Act of 1954, as amended, 40 U.S.C. 461, et seq.

## Subpart G—Managing a Grant

## § 600.400 General information.

(a) *Purpose.* The purposes of this subpart are to set forth requirements and procedures for managing a Comprehensive Planning Assistance grant and reflect changes made in grant administration pursuant to the revised Office of Management and Budget Circular No. A-102 dated September 12, 1977, and Federal Management Circular 74-4. Other Subparts of these regulations explain the policies and procedures an applicant must follow to obtain a grant. This subpart describes the management aspects of grant administration from grant approval to project completion, including such items as accounting, requisitions, allowable costs, personnel, travel and subsistence, subcontracting and reporting.

(b) *Application.* This Subpart applies to all types of Comprehensive Planning Assistance grantees (including subgrantees and subcontractors) except those with publicly financed educational institutions subject to Federal Management Circular A-21. All grants made before the effective date of this Subpart may be completed under the terms and conditions thereof and in conformance to the policies and procedures in effect at the time the grants were made.

§ 600.405 Administrative policies of the  
grantee.

(a) *Administrative practices.*—(1) *General policy.* Each grantee must establish or be subject to policies and regulations governing major operating areas such as personnel, compensation, annual and sick leave, travel, procurement and other administrative practices. Such policies and regulations must be used in preparing budgets submitted for HUD approval and are subject to the following limitations:

(i) *That such policies and regulations* are not inconsistent with HUD regulations governing eligible costs (see § 600.410(f));

(ii) *That costs* are within the limits of the approved budget;

(iii) *That when the costs are less* than the maximum permitted by these requirements, the cost charged to the planning grant shall be based on the lower amount; and

(iv) *That the cost for each trip* to a destination outside the jurisdiction of the grantee, which is to be charged wholly or in part to a planning grant, be specifically approved by a designated official of the grantee as necessary to the conduct of the work authorized by the grant documents. This does not pertain to routine trips to nearby communities to carry out the normal functions of the grantee.

(2) *Grantees subject to or adopting State or municipal policies.* When the grantee's administrative practices are governed by State or municipal policies or regulations applicable to all units of State or local government and all employees, such administrative practices will be considered satisfactory to HUD to determine the eligibility of costs subject to the limitations stated in paragraph (a)(1) of this section.

(3) *Grantees electing to establish independent policies—Adaption and approval.* When a grantee adopts policies and regulations governing administrative practices other than those of a State or municipality as indicated above, the policies so adopted must be established in writing, and approved by resolution of its governing body (board, commission, council, etc.). The policies and a written explanation of how the grantee has determined that such administrative practices are reasonable must be retained in the grantee's office. Administrative practices will be considered reasonable when they are comparable with pertinent local public practice. If there are no pertinent local established practices, grantees may wish to adopt Federal standards. Further information is available from the HUD Office managing the grant.

(4) *Travel expense of job candidates and moving expense of new employees.* The policy of the grantee may provide for payment of (i) travel expense for employment interviews incurred by candidates for permanent professional and supervisory positions, and (ii) moving expenses incurred by new employees, including moving expenses for their immediate families and household goods and personal effects, provided the incurring of such expenses are authorized in each instance in advance by official action of the grantee, and the authorization includes a determination that the expense is reasonable and necessary in the particular case. Reimbursement for travel expense must be on a basis which does not exceed that provided for regular employees in the grantee regulations.

(b) *Procurement standards.*—(1) *General policy.* The procurement of



supplies, equipment and services shall be consistent with the requirements of OMB Circular No. A-102, Attachment O, Procurement Standards. All procurements not specifically provided for in the grant budget shall be referred to HUD for prior approval. Requirements for equipment purchases are contained in § 600.410(f)(2).

(2) *Special limitation.* Grantees are prohibited from using Comprehensive Planning Assistance funds to pay the salary of a consultant in excess of the daily equivalent rate paid for GS-18 Federal employees. For this purpose, a consultant is an individual who is hired for a temporary or interim period, under an employer-employee type relationship, to provide advice or expertise that cannot be provided by regular staff. The salary paid to such individuals is subject to the GS-18 limitation. This limitation is not applicable to consultant services provided under an independent Contractor relationship. Such contracts will be governed by the Procurement Standards of Attachment O of OMB Circular A-102.

(c) *Political activities.* Section 12(a) of the Hatch Act, 5 U.S.C. 73, 721-727, restricts the political activities of some non-Federal employees if their principal employment is in connection with an activity financed in whole or in part by a Federal grant. These restrictions are enforced by the Office of Personnel Management. The restrictions prohibit:

(1) *Use of official authority* or influence for the purpose of interfering with an election or nomination for office, or effecting the result thereof.

(2) *Directly or indirectly coercing,* attempting to coerce, commanding, or advising any other officer or employee to pay, lend, or contribute any part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes.

(3) *Active participation* in political management or in political campaigns. A pamphlet entitled, "Political Activity of Federal Officers and Employees", commonly referred to as GC-46, is available from the Office of Personnel Management. The pamphlet contains more detailed information concerning the applicability of the Hatch Act. Any questions regarding the applicability of the Hatch Act in particular situations should be referred to an agency's own counsel or to the counsel of the HUD office administering the grant.

(d) *Audit requirements.*—(1) *Audit authority.* Sections 814-816 of the United States Housing Act of 1954, as amended, provide that audits may be conducted by, or on behalf of HUD, to ensure that grant funds are being used only to

defray eligible costs and that the grant funds are being well managed. Accordingly, the terms and conditions of grant awards between HUD and grantees provide that HUD and the Comptroller General of the United States may make such audits of any grantee as they deem appropriate.

(2) *Audit policy.* Grantee financial management systems shall:

(i) Provide for audits to be made by the grantee or at its direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The grantee will schedule such audits at least once every two years.

(ii) Provide for a final audit within two years of the completion of activities under non-continuous grants.

(iii) Provide for a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(iv) Require subgrantees (recipients of grants which are passed through by the grantee) to comply with the "701" audit policies.

(3) *Audit guide and costs.* (i) The "Audit Guide for the Comprehensive Planning Assistance Program", HUD Handbook IG 6042.2, contains audit standards for all 701 Comprehensive Planning Assistance grants—whether they are performed by auditors employed by State or local governments, independent public accountants (IPAs), or other qualified auditors. Audits made by the grantee or at its direction which meet the above standards will be acceptable to HUD in lieu of an audit made by HUD or at its direction.

(ii) Audit costs may be charged to the "701" program, but shall be prorated on an equitable basis between HUD, and other benefiting Federal grantors, State and local grantors and the grantee.

(4) *Management use of audit reports.* Audits of the books, records and activities of program participants in the 701 program serve to provide both HUD and the local program officials with objective, independent and factual information with regard to the activities that have been conducted under HUD contracts or grant agreements. The management purpose of such audits is to inform HUD program officials and local program officials that the financial interest of HUD and the locality and contract compliance are assured by determining that:

(i) Costs incurred are eligible under the contract and HUD policies, rules and regulations;

(ii) The program participant has complied with the terms and conditions

of the grant contract and HUD regulations;

(iii) Receipts are accounted for and disbursements are proper;

(iv) The program participant's accounting system conforms to HUD requirements and affords an adequate degree of internal control.

(5) *Failure on part of grantee to obtain audit.* Failure to obtain an audit may be grounds for disapproval of subsequent grants. If a grantee fails to obtain an audit, as required, HUD shall obtain such audit and the grantee shall promptly reimburse HUD for its costs. Any such amount not immediately repaid will be collected by setoff against amounts outstanding under any other HUD grant award to the grantee.

(8) *Qualifications and independence of auditor.*—(i) *Qualifications.* The auditor or audit staff assigned to perform the audit must collectively possess adequate professional proficiency for the work required. If the grantee obtains the services of an independent public accountant (IPA) to make the audit, the IPA should be certified, licensed or registered by a regulatory authority of a State or other political subdivision of the United States and meet any legal requirements concerning registration by the State in which the grantee is located.

(ii) *Independence.* In all matters relating to audit work, the auditor and audit organization shall maintain an independent attitude. If the auditor is not sufficiently independent to produce unbiased opinions, conclusions, and judgments, the auditor should state in a prominent place in the audit report his or her relationship with the organization or officials being audited.

(iii) *When an IPA is employed to perform the audit,* the IPA will not be considered independent with respect to any grantee with which such IPA has, or has had during the period covered by audit, any relationship deemed as creating a conflict of interest: family relationship with grantee officials, officer or employee (whether or not paid) of the grantee, and financial interest, either direct or indirect, in any grantee activity (other than in the performance of the audit function).

(iv) *Auditors employed by State or local governments* will be considered independent if they are sufficiently removed from political pressures to ensure objectivity in performing the audit and reporting the conclusions thereon. To achieve maximum independence, such auditors and the audit organization itself should report to the highest practical echelon within the governmental organization, be organizationally located outside the

line-management function of the entity being audited, and be placed under a merit system for determining compensation, training, job tenure, and advancement.

(7) *Audit period and costs.* The audit period will generally cover a period of two years commencing from the ending date of the period covered by the last audit. Preferably, the end of the audit period should coincide with the close of the audit entity's fiscal year. The HUD share of the audit costs should be added to the grantee's overhead item in the Annual Grant Budget and identified in the Program Administration section of the Overall Program Design.

(8) *Documentation supporting selection of auditor.* The selection of an auditor shall be based on provisions of OMB Circular A-102, Attachment O (Procurement) or, if a governmental auditor is selected, grantee files shall include the authority for such audit and the basis for determining the fee.

(9) *Suggested scope of audit and form of audit report.*—(i) The grantee should furnish interested auditors with a copy of the HUD Audit Guide and pertinent regulations. Part IV of the Grant Document, and any pertinent local requirements or policies. The suggested minimum scope of audit and suggested form of audit report are contained in the Audit Guide. The audit report should contain an opinion on the fairness of the financial statements and data on findings and other pertinent financial information.

(ii) *In some cases,* the auditor may request the grantee to prepare a Representation Letter at the close of the audit. This letter deals with the status of particular accounts and any other facts which might affect the overall accuracy of the financial statement.

(10) *Submission of audit report and access to working papers.*—(i) *Submission of Report.* The Audit Report is distributed as follows:

(A) Five copies to the applicable Regional Inspector General for Audit (RIGA). The name, address and jurisdiction of RIGAs are included as Appendix 2 of the Audit Guide.

(B) Sufficient copies to the grantee to satisfy its needs (as specified in the contract).

To facilitate the review of the report by HUD and the determination of its acceptability, the grantee should authorize the auditor, in the contract, to make simultaneous distribution of the Audit Report to HUD and the grantee.

(ii) *Access to working papers.* The grantee should also provide in the contract that the working papers are to be made available during the audit and

for a period of three years thereafter to representatives of the Comptroller General of the United States and of HUD on request by the Inspector General or his or her representatives. The working papers can be reproduced by HUD at its own expense, if such need arises. Such a provision will enable the grantee and HUD to determine whether the audit standards have been met.

(11) *Review of audit report by HUD.* The RIGA will review the Audit Report to determine whether the scope of audit and the format of Audit Report are, as a minimum, equal to the suggested guidelines in the Audit Guide, and will immediately advise the grantee of any significant deficiencies in the Audit Report which need correction. It is the grantee's responsibility to assure that the audit report submitted to HUD meets generally accepted auditing standards. The HUD office managing the grant should be notified when audit reports are submitted to RIGA.

#### § 600.410 Fiscal management.

(a) *General.* This Section prescribes the principles which must be followed by a grantee to account for the funds, costs and activities authorized under a Comprehensive Planning Assistance Grant, to obtain the funds due the grantee under the grant, and to prepare and transmit to HUD necessary financial statements.

(b) *Basic responsibilities.*—(1) *Primary Responsibility.* The primary responsibility for the establishment and maintenance of adequate procedures and internal financial controls governing the management and utilization of Federal funds rests with the grantee.

(2) *Advice and assistance.* The grantee should look first within its own organization, to public financial officers, or to independent public accountants for advice and assistance in establishing the necessary accounting and financial control systems based on the guidelines and requirements in this section. If necessary, however, HUD will, upon request, assist the grantee in establishing the necessary systems. Standards for the development of an adequate system may be found in HUD Handbook 1900.2, Financial Aspects of Administration of Grants-in-Aid, Loans and Contracts with Program Participants.

(3) *Using existing governmental capacity.* It is suggested that new grantees organize in such a way that, wherever possible, the existing facilities of a city, county, or State can be utilized to perform the necessary accounting and fiscal management functions.

(c) *Financial management.* Grantees shall have financial management

systems which comply with OMB Circular A-102, Attachment G, Standards for Grantee Financial Management System.

(d) *HUD evaluation.* If HUD has had no prior experience with a grantee or its designated fiscal agent, HUD will conduct an evaluation of the grantee's financial management system prior to disbursing any program funds or issuing a letter of credit under the terms of the grant award to assure that the grantee's financial management system is in compliance with paragraph (c) of this section.

(e) *Property management standards.* Grantees may use their own property management standards and procedures as long as the provisions of OMB Circular No. A-102, Attachment N, Property Management Standards, are included. Requirements for equipment purchases are contained in § 600.410(f)(2).

(f) *Eligible Costs.*—(1) *Basic criteria.* To be eligible under the Comprehensive Planning Assistance Program, costs must be:

(i) Necessary and reasonable for proper and efficient administration of the Comprehensive Planning Assistance Grant, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the grantee.

(ii) Authorized or not prohibited under State or local laws or regulations.

(iii) In conformity with any limitations or exclusions set forth in these principles, the Approved Budget and grant agreement, these regulations, Federal laws, or other governing limitations as to types or amounts of cost items.

(iv) Consistent with policies, regulations, and procedures that apply uniformly to both Federally assisted and other activities of the unit of government of which the grantee is a part.

(v) Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(vi) Not allocable to or included as a cost of any other Federally financed program in either the current or a prior period.

(vii) Net of all applicable credits and must make no provision for profit or other increment above cost.

(2) *Cost principles for allowable and unallowable costs.* Federal Management Circular 74-4, Cost Principles Applicable to Grants and Contracts with State and Local Governments, shall be applicable except that equipment and other capital acquisitions will not be allowed. Grantees may be compensated for the



use of buildings and equipment through use allowance or depreciation.

(3) *Project inspection fee.* The necessary expenses of Federal inspections, audits, and technical assistance with respect to a grant must be compensated by grantees through the payment of fixed fees. Provision for this fee will be made in each grant. The project inspection fee may be collected by billing the grantee, by an offset against the grant agreement, or by an offset against the first request for grant disbursement. The project inspection fee will be based on the Federal grant amount and will be determined from the Project Inspection Fee Schedule included in Appendix 4. The fee is an eligible project cost and grantees may be reimbursed for such costs in the same ratio as for other eligible project costs. If the grant amount is subsequently amended to increase the grant amount, the fee will be increased accordingly. However, there will not be any downward adjustment of the fee based on a reduced grant amount or on a lower final grant amount calculated on the basis of final costs.

(4) *Indirect cost circulars.* (1) For grantees which are departments or other units of a State, the provisions of HUD Circular 1900.9 dated August 29, 1969, shall apply. Where the grantee determines it is preferable, such as when other agencies are utilizing HEW procedures, the provisions of HEW document OASC-10, "A Guide for State and Local Government Agencies," are an acceptable substitute for HUD Circular 1900.9. Indirect proposals of grantees for which HUD is cognizant shall be forwarded to the appropriate Area Office for approval. (2) Grantees other than those which are subdivisions of State government shall recover indirect costs in accordance with the provisions of HUD Circular 1900.13 "Principles and Standards for Cost Applicable to Grants and Contracts with Local Governments." Where the grantee determines it is preferable, the provisions of HEW document OASC-10, "A Guide for State and Local Government Agencies," are an acceptable substitute for HUD Circular 1900.13.

(g) *Matching Share.*—(1) *Non-Federal matching share.* Expenditures or contributions used as the non-Federal share shall represent an amount equal to or greater than one-third (1/3) of total project costs. The grantee shall not expend Federal funds in relation to non-Federal funds at a ratio greater than the Federal share of the grant bears to the non-Federal share of the grant.

(2) The provisions of OMB Circular No. A-102, Attachment F, Matching

Share, shall be used to determine the allowability of cash and in-kind contributions made by grantees, subgrantees or third parties.

(h) *Program income.* Grantees shall account for program income related to Comprehensive Planning Assistance projects in the manner prescribed by OMB Circular No. A-102, Attachment E, Program Income.

(i) *Financial reporting.* Grantees shall make financial reports on Comprehensive Planning Assistance grants in the manner prescribed by OMB Circular No. A-102, Attachment H, Financial Reporting Requirements, except as modified by these regulations.

(1) *Basis for reporting.* All reports shall be submitted on the accrual basis. If the accounting records are not normally kept on the accrual basis, the grantee shall develop such information through an analysis of the documentation on hand.

(2) *Financial status report.* Each grantee shall use the Financial Status Report (HUD-237) to report the status of funds for all outstanding grants.

(3) *Frequency of reporting.* The Financial Status Report shall be submitted in an original and two copies within 90 days after the completion of the project. If the HUD Area Office determines that a grantee's financial management activities are inadequate more frequent reports may be requested.

(4) *Report of Federal cash transactions.* This report will not be used by 701 grantees. The request for payment or requisition for payment will be used to monitor grantee cash balances and to obtain disbursement information.

(j) *Project and budget revisions.* Grantees shall report deviations from grant budgets and request approvals for budget revisions in the manner prescribed by Attachment K of OMB Circular No. A-102, Budget Revision Procedures, except as modified by these regulations.

(1) The transfer of amounts budgeted for indirect costs to absorb increases in direct cost shall require prior HUD approval.

(2) The transfer of amounts budgeted for use by a specific applicant category (State, local assistance, metropolitan, nonmetropolitan, large city, urban county, Indian and other) to increase the amount budgeted for a different applicant category shall require prior HUD approval.

(3) The transfer of funds among direct cost categories, or among programs, functions and activities for awards in which the Federal share exceeds \$100,000 when the cumulative amount of such transfers exceeds or is expected to

exceed five percent of the total budget shall require prior HUD approval. No transfer may be made that would cause any grant funds, or part thereof, to be used for purposes other than those intended.

(4) Grantees must maintain a record of all budget revisions that do not require prior HUD approval.

(k) *Grant payments.* Payments to grantees will be made in the manner prescribed by OMB Circular No. A-102, Attachment J, Grant Payment Requirements, except as modified by these regulations.

(1) *Cash depositories.* There are no eligibility requirements for State and local governments except as provided for by OMB Circular No. A-102, Attachment A. Grant payment checks will be mailed by the U.S. Treasury Department directly to the bank designated by the recipient for credit to the recipient's bank account and shall not be mailed directly to the recipient's office. In the case of State governments however, checks may also be mailed directly to: (i) The State Treasury, or (ii) the State Treasurer or Comptroller. In the case of disbursements based on requisitions for funds sent to HUD, as distinguished from requests for funds sent directly to the U.S. Treasury Department, the appropriate HUD accounting office shall advise the recipient at the time the schedule for payment is submitted to the U.S. Treasury Department of the amount of Federal funds that the U.S. Treasury will transmit by check.

(2) *Use of minority banks.* Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees are encouraged to use minority banks.

(3) *Bonding and insurance.* Grantees shall satisfy the requirements of State and local laws, as applicable, relative to bonding and insurance.

(4) *Requisition form.* Form HUD-259, Requisition for Grant Payment, shall be submitted to the HUD office managing the grant to requisition a grant payment or advance by Treasury Check. Detailed instructions are contained in HUD Handbook 1900.17, Requisition for Grant Payment Procedures.

(5) *Requisition submission.* Requisitions for advances by Treasury Check or reimbursement shall be submitted in accordance with the following:

(i) *Initial requisition.* The initial requisition may be submitted to HUD after receipt by the grantee of the executed Grant Documents.

(ii) *Establishing fiscal management.* The requirements for establishing adequate fiscal management procedures

as set forth in § 600.410(c) must be met before HUD will process the initial requisition.

(iii) *Interim requisitions.* Interim requisitions, when on a reimbursable basis, may be submitted either on a monthly, quarterly or semi-annual basis. The grantee can expect to receive a check within ten days to two weeks after the requisition has been received by HUD.

(iv) *Overpayments.* Overpayments, if not immediately repaid, will be collected by setoff against amounts due under any other Comprehensive Planning Assistance grant award to the grantee.

(v) *Final requisition.* Payment of final requisition will be adjusted for amounts of overpayment by HUD, if any, and will not preclude the government from collecting any excess payment made to the grantee due to ineligible costs which are discovered during the final settlement or periodic audit of the grantee's books and records.

(6) *Letter of Credit procedures.* The letter of credit will be administered in accordance with HUD Handbook 1900.24, Rev. (Treasury Regional Disbursing Office).

(7) *Advances by Treasury Check.* Advances by Treasury Check shall be requested in amounts to meet immediate disbursement needs.

(1) *Grant closeout.* Grant closeouts will be carried out in the manner prescribed by OMB Circular No. A-102, Attachment L, Grant Closeout Procedures, except as modified by these regulations and the provisions of the Notice of Grant Award (contract).

(1) *Final payment.* Upon request, HUD will make prompt payment to a grantee for allowable reimbursable costs under the grant being closed out.

(2) *Settlement documentation.* Within 90 days after the date of completion the grantee shall submit the following:

(i) Financial Status Report;  
(ii) Annual Program Report;  
(iii) One copy of all reports, maps, plans and other documents identified in the Annual Program Report.

(iv) An accounting for any property acquired with grant funds, or received from HUD in accordance with the provisions of § 600.410(e).

(3) *Determination of completion and compliance.* HUD shall review the settlement documentation to determine whether it constitutes adequate and acceptable evidence that the required project work has been completed in an acceptable manner, all conditions and regulations have been met by the grantee or properly waived by the Department, and there are no unresolved qualifications or objections

to final settlement of the grant agreement.

(4) *Financial settlement.* HUD, following the above reviews, shall make any upward or downward adjustments to the Federal share of costs, subject to the availability of funds, and make a settlement with the grantee accordingly. Any such settlement shall be subject to final audit as noted in paragraph (1)(5) of this section.

(5) *Final audit.* In the event a final audit has not been performed prior to the closeout of the grant, HUD shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(6) *Termination or suspension.* HUD may at any time terminate or suspend the grant in accordance with the, "Terms and Conditions Governing Grants for Comprehensive Planning Assistance" (Part IV of the Grant Document) which provides for such actions and the causes and procedures to be followed.

(m) *Revision in grant period.* The HUD Area Manager is authorized to approve requests for revisions in project periods. For any given grant only one time extension, not to exceed 120 days, shall be allowed.

(1) *Grantee justification.* Grantees must notify the HUD office administering the grant not less than sixty days prior to the end of the grant period. The notification must include the following information:

(i) The problems causing the slippage in the work schedule, and steps taken or contemplated to resolve the problems;

(ii) A status report which provides the following information for each uncompleted work element:

(A) The work remaining,  
(B) The cost and staff requirements to complete the work element.

(iii) An assessment of the impact of the time extension and resultant workload on the grantee's ability to carry out activities in a timely manner under any other outstanding 701 grant awards.

(2) *HUD approval of extension requests.* Extension requests shall only be approved if:

(i) It is not feasible to reprogram activities into subsequent work programs;

(ii) The grantee can complete all activities within the extended project period;

(iii) The grantee's ability to complete activities in any other outstanding 701 work program is not adversely affected; and

(iv) Subsequent grant awards are reduced commensurate with the grantee's ability to use funds.

(A) If the revision of the projected period is approved, the new completion date will be placed on the approved budget, Form HUD 7026.3. A letter to the applicant approving the time extension and transmitting the new budget form will be prepared and signed by the Area Manager.

(B) If the time extension is not approved, the grantee will be so notified by letter from the Area Manager. In such an event, the grantee will also be advised that all outstanding work must be completed by the end of the project period or, as appropriate, reprogrammed into subsequent work programs.

(n) *Project records.* Project records shall be maintained in the manner prescribed by OMB Circular No. A-102, Attachment C, Retention and Custodial Requirements for Records.

#### § 600.420 Program performance reporting.

The reporting of program performance shall comply with OMB Circular No. A-102, Attachment I, Monitoring and Reporting of Program Performance, paragraphs 1, 2, 5 and 6. A completion report shall also be prepared by each grantee and submitted to the HUD office administering the grant. The completion report shall include the following:

(a) *Evaluation of Objectives (Part I).*  
(1) This shall be a brief evaluation statement for each objective included in the overall program design, describing the extent to which activities proposed in the annual work plan were completed and their impact on the achievement of the objective.

(2) This part shall also include separately or by objective, as appropriate, grantee progress in:

(i) Fostering equal opportunity in employment, housing and participation in the benefits of Federally assisted programs, and

(ii) Involving and interacting with citizens, providing citizens access to the decision making process and improvement in communication techniques.

(b) *Statement of Outstanding Achievements (Part II).* This part consists of one page narrative statements of the one or two outstanding achievements resulting from the grantee's use of "701" which has occurred since the last report. Such statements should include the following, as appropriate:

(1) A brief description of the specific achievements.



(2) Specific impacts, i.e., management improvements, improved operations, effectiveness, services, capability, etc.,  
(3) Estimated dollar savings per activity, project, etc.,

(State or other agencies servicing local assistance and/or non-metropolitan recipients shall also include statements of the one or two outstanding achievements of such recipient groups in their submission).

(c) *Listing of Program Documents (Part III).* This part shall list all reports, maps, plans and other documents resulting from the 701 assisted portion of the program. This list shall identify the documents being transmitted and those previously transmitted.

(d) *Nonmetropolitan Area-wide Planning (Part IV).* (1) List in the following format nonmetropolitan area-wide planning organizations receiving assistance:

*Recipient Organization*  
*Federal Grant Amount*

(2) List by recipient, all reports, maps, plans and other documents resulting from assisted objectives and identify those being transmitted and previously transmitted.

(e) *Local Planning and Management Services (Part V).* (1) Identify 701 share of costs of advisory, informational and technical services provided by the grantee, other public agencies or consultants without cost to local, nonmetropolitan and/or metropolitan recipients.

(2) Identify the amount of subgrants (the use of 701 funds by or on behalf of a recipient who provides all or a portion of the non-Federal match or to support a recipient's staff regardless of who provides the non-Federal match) provided to recipients using the following format:

*Recipient Organization*  
*Federal Grant Amount*

(3) List all reports, maps, plans and other documents resulting from assisted services, by recipient, (including general information documents available to all municipalities) and identify those being transmitted and previously transmitted.

(f) A copy of the Cartographic Products Description Report form received from the U.S. Geological Survey pursuant to 24 CFR 600.81, as appropriate.

(g) *Submission Requirements.* The Program Completion Report and project documents shall be transmitted to the HUD Office managing the grant within 90 days after the completion of the grant. The report should be submitted in accord with the following:

(1) Letter of transmittal;  
(2) Program Completion Report (original + 2);  
(3) Reports, maps, plans, and other documents listed in the Annual Program Report (1 copy).

(i) That all maps and plans transmitted be folded to the size of the reports. On the outside top fold of each such map and plan indicate its title, the municipality or area covered, and the report or study to which it relates.

(ii) Unless instructed otherwise by HUD the grantee should not submit reports, plans, maps and other documents in advance of submission of the Program Completion Report.

#### **§ 600.425 Submission of 701-assisted reports.**

(a) *Depository library system.* The depository library system is a process of distribution, deposit, and indexing of all 701-assisted reports for the purposes of reference and purchase by all interested parties. It was set up to insure a wide dissemination of information and to encourage maximum use of Federally-supported reports. Components of the depository system include documents and abstracts, both of which are on deposit for reference only. Personal copies must be obtained from the grantees or the National Technical Information Service. See paragraph (e) of this section for more information on abstracts.

(b) *Submission requirements.* Reports published under the "701" program (except the Annual Program Report), and any interim material which in the opinion of the grantee is of scholarly or public interest, must be deposited as follows:

(1) *For all grantees.* (i) One copy of each document and each abstract to the HUD Washington Library:

Librarian, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

(ii) One copy of each document and each abstract to the HUD Field Office managing the grant.

(iii) One copy of each document and each abstract to the library of the HUD Regional Office having jurisdiction.

(iv) Two copies of each document and each abstract to the Library of Congress:

Unit X Documents, Expediting Project, Library of Congress, Washington, D.C. 20540.

(v) One copy of each document to each of the nine Planning Depository Libraries listed in Appendix 1.

(vi) One copy of each document to the participating State depository library for the State(s) in which the grantee is located, except when such State(s) are

already served by a Planning Depository Library. The State depository libraries are listed in Appendix 2.

(2) *For cities and other municipalities (50,000 or less in population) and counties.* Requirements (iv) through (vi) above apply only to the final comprehensive or summary planning report. To satisfy requirements (i) and (iii) above such grantees need submit only an abstract of the comprehensive or summary report.

(3) *For State, city (50,000 or more in population) urban county and areawide grantees only.* These grantees must send one copy of each document to each participating planning school library within the HUD Region in which they are located, except where doing so would duplicate a submission made according to paragraph (b)(1)(v) or (b)(1)(vi) of this section. These libraries are noted in Appendix 3.

(c) *Notation of 701 support.* A notation indicating the participation of the Federal government must be carried on all reports and maps produced as part of a HUD-assisted project, and on the annual program report. Other periodic administrative reports and those documents exclusively for internal use within the grantee are excluded from this requirement. The suggested wording of that notation is as follows:

The preparation of this report was financed in part through a Comprehensive Planning Assistance grant from the Department of Housing and Urban Development. (Include project number).

(d) *Submission to National Technical Information Service—(1) The grantee.*

Grantees are no longer required to submit copies of reports to the National Technical Information Service (NTIS). However, grantees are encouraged to file copies of reports considered to be of more than local or regional interest with NTIS. Submission requirements are noted below. Alternatively, the grantee should maintain sufficient copies to meet estimated demand.

(2) *Department of Commerce National Technical Information Service—(i) Purpose.* The Department of Commerce National Technical Information Service makes technical reports generated by all Federal agencies accessible in a uniformly indexed system. The NTIS has agreed to announce and disseminate all HUD-assisted publications provided that it can reproduce the report.

(ii) *NTIS submission requirements.* If a grantee wishes to file reports with the NTIS, 10 copies of each document must be sent to the NTIS. The NTIS does not charge for this service. Reports must also meet NTIS reproduction specifications (see paragraph (d)(2)(iii)

of this section. A NTIS Accession Notice must accompany each report submitted to the NTIS. The notice (Form NTIS-79) may be obtained directly from:

Input Section, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151.

(iii) *Reproduction specifications.* Generally reports to be submitted to NTIS should not exceed 8½ × 11 inches; however, NTIS can reproduce larger reports if they can be sectionalized in the reproduction process. NTIS cannot copy foldout maps and is unable to reproduce color, but when possible, will reproduce color plates in black and white. When reports do not meet the above specifications, copies should not be submitted to NTIS and NTIS should not be mentioned as a source of copies in the reports abstract. (See paragraph (e) of this section.)

(iv) *Availability.* In general, publications will be announced in the semi-monthly "Government Reports Announcements and the Government Reports Index". Copies of publications in the NTIS are available to the general public for purchase in paper copy and microfiche. Literature searches are made in the NTIS search system.

(e) *Abstracts.* Any interim material which, in the opinion of the grantee is of scholarly or public interest, and every report published with HUD assistance must contain an abstract (Form NTIS 35) of the publication on the first page after the cover.

(1) *Content.* The abstract must first indicate innovative work and then briefly summarize the publication. New approaches, new methods, and unusual or particularly successful solutions of management or development problems must be emphasized in the abstract.

(2) *Form.* The abstract must be 200 words or less, exact and unambiguous using the present tense and active voice, and be comprehensible to the average citizen. Repetition of titles, project identification numbers, etc., should be avoided. If the abstract refers to previous reports or if the report is one of series, insert the exact citation if possible. (NTIS accession number.)

(3) *Format.* The abstract must be prepared on the National Technical Information Service Bibliographic Data Sheet (BDS) (Form NTIS-35). Instructions for completing this form are printed on the reverse side of the form. Items 17a and 17c are optional and may be left blank. For item 17b, provide descriptors, index terms or key words which represent the major concepts or applications. The linked set of descriptors serves as a condensed abstract and in many cases reveals

more of the nature of the report than the abstract. If the report is not submitted to the NTIS or if the NTIS is unable to reproduce a report for public distribution, it must not be listed in Item 18 as a source of copies. (See paragraph (d)(2)(iii) of this section for NTIS reproduction specifications.) A supply of the BDS (Form NTIS-35) may be obtained directly from the NTIS. (See paragraph (d)(2)(ii) of this section for the mailing address.) Reproduction of the form is authorized.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d), section 701 of the Housing Act of 1954, as amended, 40 U.S.C. 461, et seq.)  
Issued at Washington, D.C., December 6, 1979.

Robert C. Embry, Jr.,  
Assistant Secretary for Community Planning and Development.

#### **Appendix 1.—Planning Depository Libraries**

Harvard University, Frances Loeb Library, Gund Hall, Cambridge, Massachusetts 02138.

Documents Collection, Perry-Castaneda Library, University of Texas Library, PCL 2.403, Austin, Texas 78712

Library, Urban and Regional Studies Collection, Washington University, Box 1061, St. Louis, Missouri 63130.

Librarian, Urban Documents Library, Library West, University of Florida, Gainesville, Florida 32611.

Urban Policy and Planning Library, Michigan State University Library, East Lansing, Michigan 48824.

Documents Librarian, Auraria Libraries, Laurence at 11th Street, Denver, Colorado 80204.

Architecture and Urban Planning Library, 1302 Architecture, University of California, Los Angeles, California 90024.

Architecture and Planning Library, JO-30, University of Washington, Seattle, Washington 98105.

Documents Department, University of Illinois at Chicago Circle, Box 8198, Chicago, Illinois 60680.

#### **Appendix 2.—State Depository Libraries**

1. Alabama—Library, Samford University, Birmingham, Alabama 35309.

2. Arizona—Government Documents Department, Main Library, University of Arizona, Tucson 85721.

3. Arkansas—Library, University of Arkansas, Fayetteville 72701.

4. California—Already served by the Architecture Urban and Planning Depository Library at Los Angeles.

5. Colorado—Already served by the Planning Depository Library at Denver, Colorado.

6. Connecticut—Public Documents Room, Library, Yale University, New Haven 06520.

7. Delaware—Documents and Maps Librarian, University of Delaware, Newark 19711.

8. D.C.—Already served by the HUD Depository Library.

9. Florida—Already served by University of Florida—Gainesville.

10. Georgia—Prince Gilbert Memorial Library, Georgia Institute of Technology, Atlanta, Georgia 30332.

11. Idaho—Library, University of Idaho, Moscow, Idaho 83843.

12. Illinois—Already served by the University of Illinois Library, Chicago.

13. Indiana—Library, Indiana University and Purdue University at Indianapolis 46202.

14. Iowa—Governments Documents Department, Library, University of Iowa, Iowa City 52240.

15. Kansas—Library, Kansas State University, Manhattan, Kansas 66506.

16. Kentucky—Government Publications Dept., Library, University of Kentucky, Lexington 40506.

17. Louisiana—Serials Section, Attention Mrs. Whittemore, Library, Tulane University of Louisiana, New Orleans, Louisiana 70118.

18. Maine—University of Maine, Orono, Maine 04473.

19. Maryland—Johns Hopkins, Baltimore 21218.

20. Massachusetts—Already served by Harvard University, Cambridge.

21. Michigan—Already served by Michigan State University, East Lansing 48823.

22. Minnesota—Government Publications Division—OD, 409 Wilson Library University of Minnesota at Minneapolis 55455.

23. Mississippi—University of Mississippi, University, Mississippi 38677.

24. Missouri—Already served by Washington University, St. Louis.

25. Montana—Documents Librarian, University of Montana, Bozeman, Montana 59717.

26. Nebraska—Acquisitions Division, Library, University of Nebraska, Lincoln, Nebraska 68588.

27. Nevada—Government Publications Dept., Library, University of Nevada, Reno 89557.

28. New Hampshire—Documents Dept., Library, University of New Hampshire, Durham 03824.

29. New Jersey—Government Publications, Alexander Library, Rutgers University, New Brunswick 08903.

30. New Mexico—Documents Dept., Zimmerman Library, University of New Mexico, Albuquerque 87131.

31. New York—Avery Architectural Library, Columbia University, New York, New York 10027.

32. North Carolina—BA/SS Division—Documents, Wilson Library 024A, University of North Carolina, Chapel Hill 27515.

33. North Dakota—Documents Department, Library, North Dakota State University, Fargo, North Dakota 58102.

34. Ohio—Documents Division, Library, Ohio State University, Columbus 43210.

35. Oklahoma—Government Documents Collection, Library, University of Oklahoma, 401 West Brooks, Norman, Oklahoma 73019.

36. Oregon—Bureau of Governmental Research and Science, University of Oregon, Box 3177, Eugene, Oregon 97403.

37. Pennsylvania—Acquisitions Department, Library, University of Pennsylvania, 3420 Walnut Street Philadelphia, Pennsylvania, 19106.

38. Puerto Rico—Documents Section, UPR Station, Library, University of Puerto Rico, Rio Piedras, Puerto Rico 00931.



39. Rhode Island—Community Planning and Area Development, University of Rhode Island, Kingston, Rhode Island 02881.

40. South Dakota—University of South Dakota, Vermillion, South Dakota 57069.

41. Tennessee—Documents Dept., Library, University of Tennessee, Knoxville 37916.

42. Texas—Already served by University of Texas, Austin 78712.

43. Utah—Library, University of Utah, Salt Lake City 84112.

44. Vermont—Library, University of Vermont, Burlington 05401.

45. Virginia—Fiske Kimball Fine Arts Library, Bayly Drive, University of Virginia, Charlottesville 22903.

46. Washington—Already served by University of Washington, Seattle.

47. West Virginia—Library, West Virginia University, Morgantown 26506.

48. Wisconsin—Documents Dept., Memorial Library, University of Wisconsin, Madison 53706.

49. Wyoming—COE Library-Documents Division, Box 3334, University Station, University of Wyoming, Laramie 82070.

#### Appendix 3.—Planning School Libraries

##### Region 1

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont

1. M.I.T. Libraries, Documents Section, Room 14E-210, HUD, Massachusetts Institute of Technology, Cambridge, Mass. 02139.

2. Library, Community Planning and Area Development University of Rhode Island, Kingston, Rhode Island 02881.

3. Library, Public Documents Room, Yale University, New Haven, Connecticut 06520.

##### Region 2

New Jersey, New York, Puerto Rico and the Virgin Islands

1. Documents Section, Serials Department, Library, Cornell University, Ithaca, New York 14853.

2. Library, Hunter College, New York, N.Y. 10021.

3. Bobst Library, Documents Center-7th Floor, 70 Washington Square South, New York University, New York, N.Y. 10003.

4. Library, Pratt Institute, Brooklyn, N.Y. 11205.

5. Social Sciences Library, Bird Library, Waverly Avenue, Syracuse University, Syracuse, N.Y. 13210.

6. Library, Serials Dept., Princeton University, Princeton, N.J. 08540.

7. Alexander Library, Government Publication, Rutgers University, New Brunswick, New Jersey 08901.

8. Documents Section, UPR Station, Library, University of Puerto Rico, Rio Piedras, Puerto Rico 00931.

##### Region 3

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia

1. Engineering and Architecture Library, Catholic University of America, Washington, D.C. 20064.

2. Documents Section C-207, Pattee Library, Pennsylvania State University, University Park, Pennsylvania 16801.

3. Library, Acquisition Division, Graduate School of Public and International Affairs,

Forbes Quadrangle, 1st Floor West, University of Pittsburgh, Pennsylvania 15260.

4. Acquisition Division, University Libraries, Virginia Polytechnic Institute and State University, Blacksburg, Virginia 24061.

5. Fiske Kimball Fine Arts Library, Bayley Drive, University of Virginia, Charlottesville, Va. 22903.

##### Region 4

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee

1. Documents Division, Florida State University Library, Tallahassee, Florida 32306.

2. Tampa Bay Regional Planning Council Research and Information Library, 3151 Third Avenue North, Suite 540, St. Petersburg, Florida 33713.

3. Library, University of Mississippi, University, Mississippi 38677.

4. BA/SS Division-Documents, Wilson Library 024A, Planning Library, Department of City and Regional Planning, Room 211, New East Hall, University of North Carolina, Chapel Hill, North Carolina 27515.

5. Documents Librarian, the University of Tennessee Library, Knoxville, Tennessee 37916.

6. Memphis State University, Memphis, Tennessee 38111.

7. Government Publications Dept., Library, Serials Section, Attn: Mrs. Whittemore, University of Kentucky, Lexington, Kentucky 40506.

##### Region 5

Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin

1. Acquisition Librarian, Library, Ball State University, Muncie, Indiana 47306.

2. Bohn Housing and Planning Library, Case Western Reserve University, Cleveland, Ohio 44106.

3. Documents Processing, University of Chicago Library, 1100 E 57th Street, Chicago, Illinois 60637.

4. Central Library—Documents, University of Cincinnati, Cincinnati, Ohio 45221.

5. The John Crerar Library, Illinois Institute of Technology, Chicago, Illinois 60616.

6. Documents Division, University of Illinois, Library, Urbana, Illinois 61801.

7. Documents Department, Library, Miami University, Oxford, Ohio 45056.

8. Architecture Library, University of Michigan, Ann Arbor, Michigan 48109.

9. Northwestern University Library, Documents Department, Evanston, Illinois 60201.

10. The Ohio State University Libraries, 1858 Neil Avenue, Columbus, Ohio 43210, Attention: Documents.

11. Head, Purdy Library, Wayne State University, Detroit, Michigan 48202.

12. State and Urban Documents Collection, Government Publications Section, Memorial Library, Mankato State College, Mankato, Minn. 56001.

13. Library, Documents Dept. Memorial Library, University of Wisconsin, Madison, Wisconsin 53706.

##### Region 6

Arkansas, Louisiana, New Mexico, Oklahoma and Texas

1. Acquisitions Division, University Library, Texas A&M University, College Station, Texas 77843.

2. Documents Division, University of Houston Libraries, Houston, Texas 77004.

3. Documents Division, University of Oklahoma Library, 401 West Brooks Street, Norman, Oklahoma 73069.

##### Region 7

Iowa, Kansas, Missouri, and Nebraska

1. Library, Government Documents Section, Iowa State University, Ames, Iowa 50011.

2. Government Documents Department, Library, University of Iowa, Iowa City, Iowa 52242.

##### Region 8

Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming

1. Documents Librarian, Montana State University Library, Bozeman, Montana 59715.

##### Region 9

Arizona, California, Guam, Hawaii and Nevada

1. Government Documents Department, Main Library, University of Arizona, Tucson, Arizona 85721.

2. Von Kleinsmid Library, University of Southern California, Los Angeles, California 90007.

3. Arizona State University, Tempe, Arizona 85281.

##### Region 10

Alaska, Idaho, Oregon and Washington

1. University of Oregon Library, Documents Section, Box 3177, Eugene, Oregon 97403.

2. Washington State Library, Olympia, Washington, 98501.

#### Appendix 4.—Project Inspection Fee Schedule

| Federal grant amount   | Proj. insps. fee |
|------------------------|------------------|
| \$0 to \$4,999         | \$200.00         |
| \$5,000 to \$14,999    | 275.00           |
| \$15,000 to \$24,999   | 350.00           |
| \$25,000 to \$34,999   | 425.00           |
| \$35,000 to \$44,999   | 500.00           |
| \$45,000 to \$54,999   | 575.00           |
| \$55,000 to \$64,999   | 650.00           |
| \$65,000 to \$74,999   | 725.00           |
| \$75,000 to \$84,999   | 800.00           |
| \$85,000 to \$94,999   | 875.00           |
| \$95,000 to \$104,999  | 950.00           |
| \$105,000 to \$114,999 | 1,025.00         |
| \$115,000 to \$124,999 | 1,100.00         |
| \$125,000 to \$134,999 | 1,175.00         |
| \$135,000 to \$144,999 | 1,250.00         |
| \$145,000 to \$154,999 | 1,325.00         |
| \$155,000 to \$164,999 | 1,400.00         |
| \$165,000 to \$174,999 | 1,475.00         |
| \$175,000 to \$184,999 | 1,550.00         |
| \$185,000 to \$194,999 | 1,625.00         |
| \$195,000 to \$204,999 | 1,700.00         |
| \$205,000 to \$214,999 | 1,775.00         |
| \$215,000 to \$224,999 | 1,850.00         |
| \$225,000 to \$234,999 | 1,925.00         |
| \$235,000 to \$244,999 | 2,000.00         |
| \$245,000 to \$254,999 | 2,075.00         |
| \$255,000 to \$264,999 | 2,150.00         |
| \$265,000 to \$274,999 | 2,225.00         |
| \$275,000 to \$284,999 | 2,300.00         |
| \$285,000 to \$294,999 | 2,375.00         |
| \$295,000 to \$304,999 | 2,450.00         |
| \$305,000 to \$314,999 | 2,525.00         |
| \$315,000 to \$324,999 | 2,600.00         |
| \$325,000 to \$334,999 | 2,675.00         |
| \$335,000 to \$344,999 | 2,750.00         |

#### Appendix 4.—Project Inspection Fee Schedule—Continued

| Federal grant amount                                          | Proj. insps. fee |
|---------------------------------------------------------------|------------------|
| \$345,000 to \$354,999                                        | 2,825.00         |
| \$355,000 to \$364,999                                        | 2,900.00         |
| \$365,000 to \$374,999                                        | 2,975.00         |
| \$375,000 to \$384,999                                        | 3,050.00         |
| \$385,000 to \$394,999                                        | 3,125.00         |
| \$395,000 to \$404,999                                        | 3,200.00         |
| \$405,000 to \$414,999                                        | 3,275.00         |
| \$415,000 to \$424,999                                        | 3,350.00         |
| \$425,000 to \$434,999                                        | 3,425.00         |
| \$435,000 to \$444,999                                        | 3,500.00         |
| \$445,000 to \$454,999                                        | 3,575.00         |
| \$455,000 to \$464,999                                        | 3,650.00         |
| \$465,000 to \$474,999                                        | 3,725.00         |
| \$475,000 to \$484,999                                        | 3,800.00         |
| \$485,000 to \$494,999                                        | 3,875.00         |
| \$495,000 to \$504,999                                        | 3,950.00         |
| \$505,000 to \$514,999                                        | 4,025.00         |
| \$515,000 to \$524,999                                        | 4,100.00         |
| \$525,000 to \$534,999                                        | 4,175.00         |
| \$535,000 to \$544,999                                        | 4,250.00         |
| \$545,000 to \$554,999                                        | 4,325.00         |
| \$555,000 to \$564,999                                        | 4,400.00         |
| \$565,000 to \$574,999                                        | 4,475.00         |
| \$575,000 to \$584,999                                        | 4,550.00         |
| \$585,000 to \$594,999                                        | 4,625.00         |
| \$595,000 to \$604,999                                        | 4,700.00         |
| \$605,000 to \$614,999                                        | 4,775.00         |
| \$615,000 to \$624,999                                        | 4,850.00         |
| \$625,000 to \$634,999                                        | 4,925.00         |
| \$635,000 to \$644,999                                        | 5,000.00         |
| \$645,000 to \$654,999                                        | 5,075.00         |
| \$655,000 to \$664,999                                        | 5,150.00         |
| \$665,000 to \$674,999                                        | 5,225.00         |
| \$675,000 to \$684,999                                        | 5,300.00         |
| \$685,000 to \$694,999                                        | 5,375.00         |
| \$695,000 to \$704,999                                        | 5,450.00         |
| \$705,000 to \$714,999                                        | 5,525.00         |
| \$715,000 to \$724,999                                        | 5,600.00         |
| \$725,000 to \$734,999                                        | 5,675.00         |
| \$735,000 to \$744,999                                        | 5,750.00         |
| \$745,000 to \$754,999                                        | 5,825.00         |
| \$755,000 to \$764,999                                        | 5,900.00         |
| \$765,000 to \$774,999                                        | 5,975.00         |
| \$775,000 to \$784,999                                        | 6,050.00         |
| \$785,000 to \$794,999                                        | 6,125.00         |
| \$795,000 to \$804,999                                        | 6,200.00         |
| \$805,000 to \$814,999                                        | 6,275.00         |
| \$815,000 to \$824,999                                        | 6,350.00         |
| \$825,000 to \$834,999                                        | 6,425.00         |
| \$835,000 to \$844,999                                        | 6,500.00         |
| \$845,000 to \$854,999                                        | 6,575.00         |
| \$855,000 to \$864,999                                        | 6,650.00         |
| \$865,000 to \$874,999                                        | 6,725.00         |
| \$875,000 to \$884,999                                        | 6,800.00         |
| \$885,000 to \$894,999                                        | 6,875.00         |
| \$895,000 to \$904,999                                        | 6,950.00         |
| \$905,000 to \$914,999                                        | 7,025.00         |
| \$915,000 to \$924,999                                        | 7,100.00         |
| \$925,000 to \$934,999                                        | 7,175.00         |
| \$935,000 to \$944,999                                        | 7,250.00         |
| \$945,000 to \$954,999                                        | 7,325.00         |
| \$955,000 to \$964,999                                        | 7,400.00         |
| \$965,000 to \$974,999                                        | 7,475.00         |
| \$975,000 to \$984,999                                        | 7,550.00         |
| \$985,000 to \$994,999                                        | 7,625.00         |
| \$995,000 to \$1,004,999                                      | 7,700.00         |
| \$1,005,000 to \$1,014,999                                    | 7,775.00         |
| \$1,015,000 to \$1,024,999                                    | 7,850.00         |
| \$1,025,000 to \$1,034,999                                    | 7,925.00         |
| \$1,035,000 to \$1,044,999                                    | 8,000.00         |
| \$1,045,000 to \$1,054,999                                    | 8,075.00         |
| \$1,055,000 to \$1,064,999                                    | 8,150.00         |
| \$1,065,000 to \$1,074,999                                    | 8,225.00         |
| \$1,075,000 to \$1,084,999                                    | 8,300.00         |
| \$1,085,000 to \$1,094,999                                    | 8,375.00         |
| \$1,095,000 to \$1,104,999                                    | 8,450.00         |
| \$1,105,000 to \$1,114,999                                    | 8,525.00         |
| \$1,115,000 to \$1,124,999                                    | 8,600.00         |
| \$1,125,000 to \$1,134,999                                    | 8,675.00         |
| \$1,135,000 to \$1,144,999                                    | 8,750.00         |
| \$1,145,000 to \$1,154,999                                    | 8,825.00         |
| \$1,155,000 to \$1,164,999                                    | 8,900.00         |
| \$1,165,000 to \$1,174,999                                    | 8,975.00         |
| \$1,175,000 to \$1,184,999                                    | 9,050.00         |
| \$1,185,000 to \$1,194,999                                    | 9,125.00         |
| \$1,195,000 to \$1,204,999                                    | 9,200.00         |
| \$1,205,000 to \$1,214,999                                    | 9,275.00         |
| \$1,215,000 to \$1,224,999                                    | 9,350.00         |
| \$1,225,000 to \$1,234,999                                    | 9,425.00         |
| \$1,235,000 to \$1,244,999                                    | 9,500.00         |
| \$1,245,000 to \$1,254,999                                    | 9,575.00         |
| \$1,255,000 to \$1,264,999                                    | 9,650.00         |
| \$1,265,000 to \$1,274,999                                    | 9,725.00         |
| \$1,275,000 to \$1,284,999                                    | 9,800.00         |
| \$1,285,000 to \$1,294,999                                    | 9,875.00         |
| \$1,295,000 to \$1,304,999                                    | 9,950.00         |
| \$1,305,000 to \$1,314,999                                    | 10,025.00        |
| \$1,315,000 to \$1,324,999                                    | 10,100.00        |
| \$1,325,000 to \$1,334,999                                    | 10,175.00        |
| \$1,335,000 to \$1,344,999                                    | 10,250.00        |
| \$1,345,000 to \$1,354,999                                    | 10,325.00        |
| \$1,355,000 to \$1,364,999                                    | 10,400.00        |
| \$1,365,000 to \$1,374,999                                    | 10,475.00        |
| \$1,375,000 to \$1,384,999                                    | 10,550.00        |
| \$1,385,000 to \$1,394,999                                    | 10,625.00        |
| \$1,395,000 to \$1,404,999                                    | 10,700.00        |
| \$1,405,000 to \$1,414,999                                    | 10,775.00        |
| \$1,415,000 to \$1,424,999                                    | 10,850.00        |
| \$1,425,000 to \$1,434,999                                    | 10,925.00        |
| \$1,435,000 to \$1,444,999                                    | 11,000.00        |
| \$1,445,000 to \$1,454,999                                    | 11,075.00        |
| \$1,455,000 to \$1,464,999                                    | 11,150.00        |
| \$1,465,000 to \$1,474,999                                    | 11,225.00        |
| \$1,475,000 to \$1,484,999                                    | 11,300.00        |
| \$1,485,000 to \$1,494,999                                    | 11,375.00        |
| \$1,495,000 to \$1,504,999                                    | 11,450.00        |
| \$1,505,000 to \$1,514,999                                    | 11,525.00        |
| \$1,515,000 to \$1,524,999                                    | 11,600.00        |
| \$1,525,000 to \$1,534,999                                    | 11,675.00        |
| \$1,535,000 to \$1,544,999                                    | 11,750.00        |
| \$1,545,000 to \$1,554,999                                    | 11,825.00        |
| \$1,555,000 to \$1,564,999                                    | 11,900.00        |
| \$1,565,000 to \$1,574,999                                    | 11,975.00        |
| \$1,575,000 to \$1,584,999                                    | 12,050.00        |
| \$1,585,000 to \$1,594,999                                    | 12,125.00        |
| \$1,595,000 to \$1,604,999                                    | 12,200.00        |
| \$1,605,000 to \$1,614,999                                    | 12,275.00        |
| \$1,615,000 to \$1,624,999                                    | 12,350.00        |
| \$1,625,000 to \$1,634,999                                    | 12,425.00        |
| \$1,635,000 to \$1,644,999                                    | 12,500.00        |
| \$1,645,000 to \$1,654,999                                    | 12,575.00        |
| \$1,655,000 to \$1,664,999                                    | 12,650.00        |
| \$1,665,000 to \$1,674,999                                    | 12,725.00        |
| \$1,675,000 to \$1,684,999                                    | 12,800.00        |
| \$1,685,000 to \$1,694,999                                    | 12,875.00        |
| \$1,695,000 to \$1,704,999                                    | 12,950.00        |
| \$1,705,000 to \$1,714,999                                    | 13,025.00        |
| \$1,715,000 to \$1,724,999                                    | 13,100.00        |
| \$1,725,000 to \$1,734,999                                    | 13,175.00        |
| \$1,735,000 to \$1,744,999                                    | 13,250.00        |
| \$1,745,000 to \$1,754,999                                    | 13,325.00        |
| \$1,755,000 to \$1,764,999                                    | 13,400.00        |
| \$1,765,000 to \$1,774,999                                    | 13,475.00        |
| \$1,775,000 to \$1,784,999                                    | 13,550.00        |
| \$1,785,000 to \$1,794,999                                    | 13,625.00        |
| \$1,795,000 to \$1,804,999                                    | 13,700.00        |
| \$1,805,000 to \$1,814,999                                    | 13,775.00        |
| \$1,815,000 to \$1,824,999                                    | 13,850.00        |
| \$1,825,000 to \$1,834,999                                    | 13,925.00        |
| \$1,835,000 to \$1,844,999                                    | 14,000.00        |
| \$1,845,000 to \$1,854,999                                    | 14,075.00        |
| \$1,855,000 to \$1,864,999                                    | 14,150.00        |
| \$1,865,000 to \$1,874,999                                    | 14,225.00        |
| \$1,875,000 to \$1,884,999                                    | 14,300.00        |
| \$1,885,000 to \$1,894,999                                    | 14,375.00        |
| \$1,895,000 to \$1,904,999                                    | 14,450.00        |
| \$1,905,000 to \$1,914,999                                    | 14,525.00        |
| \$1,915,000 to \$1,924,999                                    | 14,600.00        |
| \$1,925,000 to \$1,934,999                                    | 14,675.00        |
| \$1,935,000 to \$1,944,999                                    | 14,750.00        |
| \$1,945,000 to \$1,954,999                                    | 14,825.00        |
| \$2,000,000 & up—\$14,825.00 plus \$750.00/\$100,000 or frac- |                  |
| tion thereof                                                  |                  |



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# Federal Register

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Wednesday  
December 12, 1979

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## Part IV

### Department of Justice

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Law Enforcement Assistance  
Administration

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National Priority Program and  
Discretionary Program Announcements;  
Request for Public Comment



## DEPARTMENT OF JUSTICE

## Law Enforcement Assistance Administration

## National Priority Program and Discretionary Program Announcements; Request for Public Comment

**AGENCY:** Law Enforcement Assistance Administration, U.S. Department of Justice.

**ACTION:** Request for Public Comment.

**SUMMARY:** The Law Enforcement Assistance Administration (LEAA) is publishing these draft program announcements for National Priority Programs and Discretionary Programs to inform the public and to obtain public comments about them. These programs are supported by Federal funds authorized by the Justice System Improvement Act of 1979, which should be enacted soon.

**DATE:** Comments are due on or before January 11, 1980. LEAA is publishing the text of this guideline in order to obtain public comments. All comments will be considered in the publication of the final program announcement. The reasons for the 30 day comment period are:

- As of November 30, 1979, LEAA has no authorizing legislation.
- LEAA's constituencies require prompt notification of LEAA's programs. Absence of legislation and appropriations have delayed program announcements into FY 1980. Further delays can be avoided by shortening the usual comment period from 60 to 30 days. Comments received after the thirty-day period will not be rejected solely because of failure to meet this deadline.

**ADDRESS:** Send comments to: Robert F. Diegelman, Assistant Administrator, Office of Planning and Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, NW., Room 1342, Washington, D.C. 20531.

**FOR FURTHER INFORMATION CONTACT:** Michael A. Cronin, Management Analyst, Office of Planning and Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Ave., NW., Room 1215, Washington, D.C. 20531 (202) 724-7631.

## A. Introduction

This draft program announcement provides information about LEAA's National Priority Programs and Discretionary Programs. Some programs are of both of these types, and are so

labeled in this draft program announcement.

National Priority Programs are supported by LEAA grant funds shared with State and local general funds and LEAA formula grant funds. LEAA usually provides up to 50 percent of program costs from its funds; in some cases LEAA may provide up to 100 percent of program costs. In fiscal year 1981, it is expected that match requirements will be 50 percent for all National Priority Programs. LEAA also provides technical advice and training in support of National Priority Programs. The major broad criteria governing the award of National Priority Program grants are that proposed programs have been found to be effective, that they have broad impact, and that they are of high priority. Some National Priority Programs have been supported since FY 1979 as LEAA Incentive Fund Programs. Eligibility criteria are provided in the program descriptions contained in paragraph B of this draft announcement.

Discretionary programs are supported by LEAA grant funds. Some Discretionary programs receive full support from LEAA, but many require applicants to provide as little as ten percent or as much as 50 percent of program costs. LEAA also provides limited technical advice and assistance, and training in support of Discretionary programs. The general criterion governing the award of Discretionary programs is that proposed programs are of high national priority in the criminal justice system. Eligibility criteria are provided in the program descriptions contained in paragraph C of this announcement.

## B. National Priority Programs Available

National Priority Programs now available include those listed below. These are brief and general descriptions, whose purpose is to inform the public about their availability. More detailed descriptions, including strategies, minimum program elements, specific program requirements, and eligibility criteria are available from the program managers and offices whose names appear at the end of each general description.

1. *Career Criminal Prosecution.* Projects funded by this program screen felony cases and identify offenders with a serious criminal record who continue to frequently commit robbery, aggravated assault, forcible sexual offenses, burglary and recidivistic homicide, and expedite the thorough preparation and presentments of those career criminal defendants' cases to court with due regard for constitutional rights. The major assumption of this

operational approach is that a single, experienced trial prosecutor handles the case from acceptance to disposition, plea negotiations are eliminated, and appearances at all adjudicatory proceedings in these cases are the norm. There also must be coordination at both police and prosecution policy making and operational levels demonstrating a priority commitment to those cases that meet the jurisdiction's established career criminal selection criteria.

## Allocations

In fiscal year 1980, \$4,000,000 has been allocated for this program.

## Number and Dollar Range of Grants

See below.

## Match Requirements

- Continuation grants (non-Competitive): Up to ten grants for single jurisdictions, for a minimum of \$250,000 each; one Statewide grant for up to \$500,000;
- New Project Starts (Competitive): One or two new single jurisdictional grants (\$250,000 each) and up to three new multi-jurisdictional (statewide) grants (\$500,000 maximum federal share) will be awarded on an 80/20 match basis for an initial 18 month grant period, not to exceed \$250,000 federal share. One continuation grant on a 50-50 match basis can be expected upon successful completion of the first grant period.

## Eligibility

Single jurisdictional applicants must be public prosecutors who have a staff of at least six (6) full-time assistant prosecutors and have the responsibility for felony prosecution. Applicants for a multi-jurisdiction program should be an agency (i.e., SPA, State Prosecutors Association) whose authority or representation is statewide and could implement and administer the grant for the several, qualifying and selected local prosecutor's offices within the state jurisdiction.

## Submission Deadlines

Continuation grants must be received 90 days prior to the termination date of a current grant.

New applicants must submit a concept paper by December 31, 1979. After the Career Criminal program staff's review and comment, applications must be received by March 31, 1980.

## Contact

For further information concerning application and match requirements, potential applicants must contact: Mr.

Charles Hollis, Career Criminal Program Manager, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7681.

2. *Anti-Fencing Program.* The Anti-Fencing Program is a response to the rising incidence of property crime rate experienced throughout the country and the significant role of the receiver of stolen goods (the fence) in the acquisition of stolen property, including determining what type of property is to be stolen, how much of it and how the property is to be stolen. As a law enforcement strategy, this program is structured to provide support for joint operations by participating federal, state and local law enforcement agencies. The resulting objective is to remove the fence and his organized criminal associates by utilizing a thief, burglar, and property recovery strategy to identify him and his illegal activities.

## Allocations

In fiscal year 1980, \$4,000,000 has been allocated for this program

## Numbers and Dollar Range of Grants

Seventeen continuation grants only will be awarded with a dollar range of \$200,000 to \$400,000.

## Match Requirements

None.

## Eligibility

Not applicable.

## Submission Deadlines

Continuation grant applications must be received 90 days prior to the termination date of current grant.

## Contact

For further information contact: Steve Cooley, Program Manager, Criminal Conspiracies Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7573.

3. *Free Venture Prison Industries.* This program will provide for delivery of technical assistance and support the development of prison industries that will duplicate the conditions of private industry as closely as possible.

Technical assistance will be provided to participating Free Venture States, and to a limited degree to non-participating States, in areas which include marketing, sales, accounting, and industries engineering.

Seven States are currently participating in the development of Free Venture Prison Industries. Colorado,

Connecticut, Illinois, Iowa, Minnesota, South Carolina and Washington will be funded to continue the implementation of the program during fiscal year 1980.

## Allocations

In fiscal year 1980, \$1 million is allocated for this program.

## Number and Dollar Range of Grants

One continuation grant (\$30,000) to the American Institute of Criminal Justice, and seven continuation grants will be awarded for an average amount of \$100,000 each.

## Match Requirements

Ten percent.

## Eligibility

Not applicable.

## Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grant.

## Contact

For further information concerning this program contact: Paul Wahlberg, Program Manager, Free Venture Prison Industries Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5944.

4. *Treatment Alternatives to Street Crime (TASC).* LEAA is also awarding Discretionary Program grants for this program in FY 1980. This program addresses the major problem of the substance abusing offender within the criminal justice system by implementing a system which provides the following services: (1) Screening arrestees to identify potential clients; (2) providing diagnostic/referral services to ascertain client needs and matching them with the most appropriate treatment facility; and (3) continuously monitoring the progress of clients while in TASC.

LEAA has expended over \$30 million for the development, testing, demonstration, and evaluation of the National TASC program in approximately two-thirds of all the States. Within that time period the program model was proven effective and sufficient knowledge was gained to qualify TASC as a National Priority Program.

The program strategy focuses on state-wide implementation through a state or private agency with the capability of statewide impact. A state coordinating office must be established to manage and coordinate all local sites. Criteria for selection includes documentation of need, sound

implementation plan, scope of the program, financial and cost effectiveness, evaluation, cost assumption, and 50 percent matching funds.

## Allocations

In fiscal year 1980, \$2,000,000 has been allocated for this program.

## Number and Dollar Range of Grants

Approximately 2-4 grants will be awarded for up to \$1,000,000 each.

## Match Requirement

Fifty percent.

## Eligibility

States and private agencies with State-wide acceptance.

## Submission Deadlines

Applicants must submit a concept paper to be received by LEAA by February 15, 1980. After the Treatment Alternatives to Street Crime (TASC) program staff review and comment, applications must be received by April 1, 1980. Awards are expected to be made by July 1, 1980.

## Contact

For further information concerning application and match requirements, potential applicants must contact: Mary Stuart, Program Manager, Treatment Alternatives to Street Crime (TASC) Program, Corrections Division, Office of Criminal Justice Programs, Washington, D.C. 20531, Telephone: (202) 724-5944.

5. *Treatment and Rehabilitation for Addicted Prisoners (TRAP) Program.* The TRAP model has combined several key elements contained in the LEAA Prescriptive Package entitled "Drug Programs in Correctional Institutions" to provide a unified program approach for institutional drug treatment. The approach requires a 12 to 18 month program for voluntary offender participation which encompasses a six to nine month correctional phase with contract parole and a six to nine month community parole phase. The correctional phase is housed in a functional unit setting designed to treat a minimum of 30 inmates at any given time.

## Allocations

In Fiscal Year 1980, \$500,000 has been allocated to continue the first round TRAP projects.

## Number and Dollar Range of Grants

Two continuation grants will be awarded for an average of \$250,000 each.



**Match Requirement**

In accordance with the terms of the original grant.

**Eligibility**

Not applicable.

**Submission Deadline**

Continuation applications must be submitted 90 days prior to expiration of current grant.

**Contact**

For further information contact: Mary Stuart, Program Manager, Treatment and Rehabilitation for Addicted Prisoners (TRAP) Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5859.

6. *Correctional Standards and Accreditation Program.* This program is designed to support the development and revisions of correctional standards, and to support the accreditation process through support of the activities of the Commission on Accreditation for Corrections in a demonstration program.

Established by LEAA in fiscal year 1979, the Commission has begun a process of accrediting correctional agencies and systems. The American Correctional Association, which developed the standards, will continue to examine and revise standards as necessary. LEAA funds support the above process and related activities.

Eleven states were constituted for initial development as demonstrations of the accreditation process. Through state standards management teams they have been implementing all no-cost standards during the first phase of the program. Funds will be provided to them to implement additional standards. There are no plans to add new states in fiscal year 1980.

**Allocations**

\$3,600,000 is allocated for this program in fiscal year 1980.

**Number and Dollar Range of Grants**

\$500,000 to Commission on Accreditation for Corrections.  
\$300,000 to American Correctional Association.

\$750,000 to the 11 state standards management teams.

\$1,690,000 to the 11 states for additional standards implementation in awards ranging from \$75,000 to \$200,000.

**Match Requirements**

Match will be in accordance with applicable conditions at time of original grant.

**Eligibility**

Not applicable.

7. *Court Delay Reduction Program.* The objectives of this program are: (1) to demonstrate methods of reducing criminal and civil court case backlog and processing time while maintaining standards of fairness and due process; and (2) to demonstrate mediation alternatives to court processing for minor disputes.

The program is part of a long range LEAA effort to reduce court delay and congestion at the pre-trial, trial, and appellate stages of case processing.

This program employs a two phased approach in making awards to individual court systems. Phase I is the planning and analysis program component through which local jurisdictions may request LEAA assistance in selecting appropriate methods to address their court delay and backlog problems.

Phase II is the implementation or action part of the program providing significant grant fund assistance to a small number of selected sites. LEAA assistance is available for Phase II efforts to improve staff, establish control procedures, and provide technical assistance and training.

Other program components involve national scope project demonstration site and technical assistance to jurisdictions around the country, and grant assistance for the establishment of community based dispute resolution mechanisms based on the Neighborhood Justice Center Concept. In addition, a national conference on court delay will be held in fiscal year 1980.

**Allocations**

In fiscal year 1980, \$1,350,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Three—four Phase I planning sites, awards up to \$20,000. Four Phase II state or metropolitan delay reduction implementation projects. Awards will range from \$75,000 to \$300,000. Three metropolitan mediation centers—\$100,000 to \$150,000 per project. Two national scope technical assistance projects—estimated total of \$450,000 for both.

**Match Requirements**

Ten percent.

**Eligibility**

State court systems, local courts serving populations exceeding 200,000, local agencies engaged in planning or in support of court operations, and non-profit organizations.

**Submission Deadlines**

Phase I (planning)—April 1, 1980.

Phase II (implementation)—June 1, 1980.  
Mediation Centers—Same as Phase II.

**Contact**

For further information about application and match requirements potential applicants must contact: Nicholas Demos, Program Manager, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7681.

8. *Fundamental Court Improvement Program.* LEAA is also awarding Discretionary Program grants under this program in FY 1980. This program supports State-level efforts to analyze and develop significant alternatives to the present organization, management, and structure of State court systems or State indigent defense delivery systems. Some assistance may be available for organizational studies, strategy development, public education, and implementation associated with statewide defense or court reform. Generally, this program presupposes that major legislation, court rules, or judicial articles have recently been promulgated or passed or are about to be seriously considered. The general program objective is to improve the operations, financing, and services of statewide court or indigent defense systems.

**Court Sub-Program**

This Sub-program is primarily directed toward major court reorganization efforts. A growing number of States have chosen to reduce the fragmentation, inconsistency, and inefficiencies of the traditional court system by systemizing the structure, financing, and service delivery in State court systems. This reorganization and overhaul of procedures often occurs through Constitutional revision, legislation, and corollary court rules revision.

**Allocations**

In Fiscal Year 1980, a total of \$2.5 million has been allocated for this program. Of this total, an estimated \$1.25 million will be allocated to the Courts Sub-program. (The Defense Sub-program described under Discretionary Programs, has also been allocated \$1.25 million.)

**Number and Dollar Range of Grants**

Approximately five grants will be awarded for an average amount of \$250,000.

**Submission Deadlines**

Continuation Grants must be received 90 days prior to the termination date of a current grant.

New applicants must submit a concept paper to reach LEAA by January 15, 1980. After the Fundamental Court Improvement Program staff's review and comment, applications must be received by March 31, 1980.

**Contact**

For further information concerning application and match requirements, potential applicants must contact: Greg Brady, Fundamental Court Improvement Program, Adjudication Division, Office of Criminal Justice Programs, LEAA, Washington, D.C. 20531, Telephone: (202) 724-7685.

9. *Juror Utilization and Management.* This two-year program is designed to achieve permanent improvements in State trial court jury systems through the planned application of specific, proven techniques of juror utilization and management. The basic objectives are equity, savings, and satisfaction. Equity is achieved through better representation of the community on the jury and wider sharing of the burden of jury service. Savings to jurors, to the court, and to the community will result from the application of program techniques for efficient selection and use of jurors and improved management. Satisfaction with the experience of jury duty will result from the more effective use of jurors. Increased community satisfaction with the justice system should result from the respect for the juror built into the program. The development of a permanent capacity at the State level to upgrade and maintain the quality of jury systems within the State is a major objective of the program. While emphasis is placed on statewide programs, local individual courts which can demonstrate statewide impact through implementation of the program are also eligible.

The program focuses on 12 specific elements of the jury system. Program participants must address all 12 elements. The program is divided into three distinct phases. Phase I is a six-month organizational phase. Phase II is a six-month assessment phase. Phase III is a 12-month implementation phase. A technical assistance component and training component are also built into the program.

**Allocations**

In fiscal year 1980, \$1,300,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Approximately 5-7 grants will be awarded, not to exceed \$200,000 for statewide programs, and not to exceed \$100,000 for individual court programs.

**Match Requirements**

50%.

**Eligibility**

State trial court jury systems.

**Submission Deadlines**

Grant applications must be received by March 31, 1980.

**Contact**

For further information concerning application and match requirements potential applicants must contact: John Gregich, Program Manager, Juror Utilization and Management Program, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7681.

10. *Integrated Criminal Apprehension Program (ICAP).* LEAA is also awarding Discretionary Program grants under this program in FY 1980. The Integrated Criminal Apprehension Program (ICAP) represents a recently developed police service delivery concept that focuses on building a structured approach to the management and integration of police service delivery. ICAP is designed to establish a solid developmental base of increasing the overall effectiveness and efficiency of a policy organization through the use of crime and operational analysis; training in crime prevention and investigative procedures; and the utilization of directed patrol strategies based on analysis information. Application of the concept will result in better matching of manpower allocation to workload demands; better analysis of occurring crimes; and better deployment of directed patrol tactics designed to increase quality arrests, clearances, and prosecutions.

**Allocations**

In fiscal year 1980, \$5,000,000 has been allocated for this program (\$2,750,000 for National Priority Programs, and \$2,250,000 for Discretionary Programs.)

**Number and Dollar Range of Grants**

Approximately 23 continuation grants will be awarded for an average amount of \$225,000 each.

**Match Requirements**

In accordance with the terms of the original grant.

**Eligibility**

Not applicable.

**Submission Deadlines**

Continuation applications are due 90 days prior to expiration of current grant.

**Contact**

For further information, contact: Bob Heck, ICAP Program Manager, Enforcement Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7560.

11. *Managing Criminal Investigations.* The MCI program provides a model by which medium-sized police departments will implement specific national procedures designed to manage and control criminal investigations ranging from preliminary investigations to case preparation. This program seeks to encourage improved program development within the State planning process by amplifying block grant resources and providing a validated design for implementation.

The MCI model is defined by five basic components each having its own elements and performance measures:

- Investigative Role of Patrol;
- Case Screening;
- Management of the Continuing Investigation;
- Police-Prosecutor Relations; and,
- Investigative Monitoring System.

**Allocations**

In fiscal year 1980, \$500,000 has been allocated for the program.

**Number and Dollar Range of Grants:**

Approximately six grants will be awarded to State or local planning agencies for an average amount of \$80,000 each.

**Match Requirements**

50%.

**Eligibility**

State or local planning agencies.

**Submission Deadlines**

Proposals for this program must be received by LEAA by March 31, 1980.

Selected sites must submit grant application to their State or local planning agency following approval by LEAA.

**Contact**

For further information concerning application process contact: Donald Anderson, Program Manager, Enforcement Division, Office of Criminal Justice Programs, Law Enforcement



Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7560.

12. *Family Violence Program.* LEAA is also awarding Discretionary Program grants under this program in FY 1980. The Family Violence Program is based on the recognition that family violence is both a social and legal problem and that a comprehensive community effort is essential to combat it. Thus, the program focuses on improving the criminal justice system's handling of such family cases through a partnership with other community services.

LEAA provides funds to support projects that demonstrate community-wide solutions to family violence—projects that involve the active participation of all relevant public and private agencies. Participants must include the obvious institutions—police, prosecutors, hospitals, mental health and social service agencies—and also local and professional organizations, public education, media, neighborhood groups, and schools. Grants finance planning, coordination, and central data collection, as well as new criminal justice or social service program components necessary for a comprehensive approach to dealing with family violence.

The program also supports a free monthly newsletter and national resource center, a national public education program, and technical assistance to local projects.

#### Allocations

In FY 1980, \$3 million has been allocated for this program: \$1 million for National Priority, and \$2.0 million for Discretionary Programs.

#### Number and Dollar Range of Grants

No new grants are planned for fiscal year 1980.

#### Match Requirements

In accordance with the terms of original grants.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grant

#### Contact

For further information about application and match requirements, potential applicants must contact: Jeannie Santos, Program Manager, Family Violence Program, Special Programs Division, Office of Criminal Justice Programs, 633 Indiana Avenue,

NW., Room 711, Washington, D.C. 20531, Telephone: (202) 724-5905.

13. *PROMIS.* The Prosecutor's Management Information System (PROMIS) program supports the implementation of PROMIS throughout the States on a multi-jurisdictional basis to improve the operation and management of local prosecutor's offices. Five States were awarded PROMIS grants in fiscal year 1979 bringing the total number of States participating in this program to eight. Supported by funds from various federal and local sources, PROMIS became operational in 7 additional jurisdictions in FY 1979 and is now operational in 26 jurisdictions, in the transfer stage in 70, and in the planning stage in over 50 more. States participating in the PROMIS National Priority Program are required to match the federal funding received.

#### Allocations

In FY 1980, \$3,000,000 has been allocated for this program.

#### Number and Dollar Range of Grants

6-12 grants will be awarded for between \$200,000 and \$500,000 each to recipients to be selected by LEAA on a competitive basis.

#### Match Requirements

50%.

#### Eligibility

State Planning Agencies must apply for funds under this program.

#### Submission Deadline

Grant applications must be received by March 1, 1980.

#### Contact

Art Fuldner, Systems Development Division, LEAA, Washington, D.C. 20531, Telephone: (301) 492-9057.

14. *Comprehensive Data Systems (CDS).* The subprogram consists of three components for which separate grants are awarded to participating States. The three modules are: Statistical Analysis Center (SAC); Uniform Crime Reports (UCR); Offender Based Transaction Statistics/Computerized Criminal Histories (OBTS/CCH).

The SAC Component was designed to enable the states to create statistical analysis capabilities for criminal justice. States may apply for grants to establish and maintain an analysis unit. Staffed with researchers, analysts or information specialists, the SAC is responsible for analyzing data relevant to the major issues and problems facing criminal justice in that State. In addition, SACs are required to respond

to requests for statistical information and analysis, whenever possible, to provide advice on data collection and analysis upon the request of State and local agencies, and to conduct the crime analysis required for the comprehensive plan. SACs are also expected to collect information on the management and administration of the criminal justice system in their States.

States are eligible to receive up to four grants, three of which are at full eligibility and the fourth at half. One Federal funding ceases, the States are expected to assume the costs of operating these units. Currently, 40 States have operating SACs. By the end of 1979, ten SACs should be operating without Federal support.

Under the UCR program, a single State agency is assigned the responsibility to collect, tabulate, and disseminate crime offense and related data using standards established by the Federal Bureau of Investigation and the International Association of Chiefs of Police. The first State programs became operational in 1969. Since then, an additional 43 States have achieved an operational status. The advantages of these programs are that: the number of agencies reporting data has greatly increased, the quality of the data has improved, and the utility of the data has been increased by more frequent and timely feedback to contributors.

The data are used (1) to satisfy the FBI's national reporting needs, (2) by federal, State, and local units of government for administrative and operational purposes, (3) by researchers and academicians in a variety of ways. In recent years the utility of the data has been enhanced by the development of offense reporting systems in many States which take into account the characteristics of criminal incidents (time, place, weapons used, victim/offender relationships, etc.). These are generally called "incident based crime reporting systems," and some 14 States now have some form of such a system.

OBTS/CCH supports the implementation of a computerized or automated information system, at the State level, to collect, store, and retrieve data from police, courts, and corrections on every person arrested on a serious charge. The police provide data on felonies and first-degree misdemeanors; the courts provide judicial dispositions; and corrections provides data on rehabilitative activities. OBTS is utilized to accurately describe the State's criminal justice process which permits statistical analyses to measure the degree of improvement or impact as changes to the process occur. CCH is utilized to develop a timely, accurate,

and complete criminal history record on an individual for use by the criminal justice system on an intra- and interstate basis.

#### Allocation

In fiscal year 1980 \$4,500,000 has been allocated for this program.

#### Number and Dollar Range of Grants

Approximately 35 grants will be awarded for an average amount of \$130,000 each.

#### Match Requirements

10% in fiscal year 1980.

#### Eligibility

States must have an approved CBS action plan in order to apply for grants under these programs.

#### Submission Deadlines

Since most of these grants will be continuation grants, no fixed deadline for submission has been made. Grant applications should usually be submitted 90 days before expiration of current grant. All grant applications must be received by June 15, 1980.

#### Contact

For further information contact: G. Paul Sylvestre, Statistics Division, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9068.

15. *Serious Juvenile Offender.* This initiative supports the development and improvement of national responses to serious juvenile offenses and offenders through programs, research and legal reforms. It will ultimately assist States and localities to develop comprehensive programs which focus on offenses that are particularly severe and those children that are deemed "chronic" offenders.

The program design is based on an increased need for knowledge with regard to effective programming for serious juvenile offenders and a need for reduction in juvenile rates of recidivism.

#### Allocations

In Fiscal Year 1980, \$4,300,000 has been allocated for this program through the Law Enforcement Assistance Reform Act of 1979.

#### Match Requirement

None in FY 1980.

#### Eligibility

Not yet determined.

#### Number and Dollar Range of Grants

Not yet determined.

#### Submission Deadline

Grant applications must be received by June 30, 1980.

#### Contact

David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW, Washington, D.C. 20531, Telephone: (202) 724-7769.

#### C. Discretionary Programs Available

1. *Arson Control Assistance Program.* The objective of this program is to assist state, regional, county, and local efforts to reduce the number of deaths, the personal injury, and the economic loss related to arson, and to upgrade current knowledge regarding arson incidence and arson control approaches.

The investigative and prosecutorial expertise of federal criminal justice agencies will be integrated with the financial and technical assistance capabilities of LEAA to improve arson control efforts in given jurisdiction. Arson control in this context includes but is not limited to such activities as detection, investigation, prosecution, prevention, and public education. A coordinated approach involving police, fire, and prosecutorial agencies as well as others with interest in arson control is a basic requirement of grants funded under this program.

All awards made in FY 1980 will have been based on applications received by August 29, 1979; no applications will be accepted during FY 1980. In addition to the grants awarded this year, an evaluation of the arson control grant program will also be funded.

#### Allocations

A total of \$8,750,000 will be awarded under this grant program.

#### Number and Dollar Range of Grants

A total of 25 grants ranging from approximately \$90,000 to \$600,000 will be awarded.

#### Match Requirement

10%; if second cycle funding occurs, match is 20%.

#### Eligibility

Not applicable.

#### Submission Deadline

All applications to be considered for funding were received by August 29, 1979; no further applications will be accepted.

#### Contact

For further information contact: Judy O'Connor, Director, Arson Unit, Office

of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Room 1158, Washington, D.C. 20531, Telephone: (202) 724-7659.

2. *White Collar and Organized Crime Programs.* This program is designed to assist State and local law enforcement agencies to (1) identify major criminal conspiracies; (2) apprehend, prosecute and remove those who operate criminal conspiracies; and (3) seize the financial assets of the conspirators to prevent their continuation. Emphasis will be given to multi-jurisdictional enforcement efforts and to those which encompass joint Federal/State or local participation.

A criminal conspiracy is defined in this Program as an agreement between two or more individuals to achieve, by concerted action, either an unlawful objective, or a lawful objective by unlawful means where the substantive crime may include, but is not limited to, the following activities: White collar crime (major frauds), extortion, corruption, narcotics, labor racketeering and infiltration of legitimate business by organized criminal elements.

This program will be funded in two sub-program areas, organized crime and white collar crime:

(a) The organized crime sub-program will focus on joint Federal, State and local enforcement and prosecutorial efforts against the traditional organized crime activities of narcotics, infiltration of legitimate businesses, extortion, gambling, prostitution and labor racketeering.

(b) The white collar crime sub-program will focus on similar joint efforts against such crimes as public corruption, fraud, economic crime, arson for profit and embezzlement.

#### Allocations

In FY 1980, \$2,000,000 is allocated for the organized crime sub-program, and \$1,900,000 is allocated for the white collar crime sub-program.

#### Number and Dollar Range of Grants

Seven grants, ranging from \$100,000 to \$700,000 will be awarded, in each sub-program. These are for continuation projects only; no new awards will be made in FY 1980.

#### Match Requirement

In accordance with terms of original grants.

#### Eligibility

Not applicable.



**Submission Deadline**

Continuation grants must be received 90 days prior to the termination date of current grant.

**Contact**

For further information contact: Program Managers: Dick Ward (Organized Crime); Jay Marshall (White Collar Crime); Criminal Conspiracies Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-6229/7560.

3. *Corrections Standards Implementation Program.* The purpose of this program is to support improvements in the humane custody and effective correctional treatment of incarcerated offenders and encourage the adoption and implementation of national standards (i.e., DOJ and ACA). In prior years, the emphasis in this program area has been in jail and long-term facility renovation. This program will not provide funding for facility renovation, but will focus on program improvements in areas such as recreation, medical and health, visitation, counseling and other inmate services.

Under this program, applicants will assess their existing programs *vis a vis* established national standards and seek funding in order to improve the program areas in which the greatest deficiencies are noted. LEAA will contract for the development and implementation of a self-assessment instrument. It is felt that this mechanism will maximize local (agency) decision-making and priority setting in the determination of which standards or group of standards will be achieved through LEAA support. Funding preference will be given to jurisdictions with facilities under court order and those which are under contract with the U.S. Marshal's Service to house Federal prisoners.

**Allocations**

In FY 1980, \$2,400,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Approximately 25 jails and seven long-term facilities will receive grant awards of between \$75,000-\$300,000.

**Match Requirement**

50%.

**Eligibility**

State and local units of government and State corrections agencies and jails. Institutions and facilities holding persons for less than 24 hours are NOT eligible.

**Submission Deadline**

Applicants must submit a concept paper by April 30, 1980. After the Corrections Standards Implementation Program staff review and comment, applications must be received by June 30, 1980. Awards are expected to be made by September 1, 1980.

**Contact**

For further information concerning applications and match requirements, potential applicants must contact: Kim Rendleson, Program Manager, Corrections Standards Implementation Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5859.

4. *Community Service Restitution.* The program seeks to test the applicability of community service restitution as a disposition for serious misdemeanants and felons. The program strategy calls for a coordination of existing resources including the criminal justice system, the community and the offender which will deliver benefits to all.

The criminal justice system is expected to benefit from the lowered costs of non-incarceration; the offender is expected to benefit from the community service experience and/or skills learned in such service, and the community is expected to benefit from the offender's services.

The proposed approach must include the identification of existing community organizations willing to allocate a specific number of non-salaried positions to the project. Project organization shall exhibit a coordinated effort on the part of system officials or support by these officials to the project. In addition, a specific monitoring function must be included that continuously reviews client success in the completion of the sentence.

**Allocations**

\$1.4 million has been allocated to the program for new starts in FY 1980.

**Number and Dollar Range of Grants**

Approximately 7 awards will be made within the \$100,000-\$300,000 range.

**Match Requirements**

10% for new grants; 20% for continuations.

**Eligibility**

Applications are invited from State Planning Agencies, local units of government and non-profit organizations as co-applicants with appropriate units of government.

**Submission Deadlines**

Applicants' concept papers must be received by January 15, 1980. After the Community Service Restitution staff review and comment, applications must be received by May 15, 1980. Awards are expected to be made by August 15, 1980.

**Contact**

For further information concerning application and match requirements, potential applicants must contact: Marilyn Greene Jackson, Project Manager, Community Service Restitution Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5944.

5. *Treatment Alternatives to Street Crime (TASC).* This program addresses the major problem of the substance abusing offender within the criminal justice system by implementing a system which provides the following services: (1) Screening arrestees to identify potential clients; (2) providing diagnostic/referral services to ascertain client needs and matching them with the most appropriate treatment facility; and, (3) continuously monitoring the progress of clients while in TASC.

No new TASC programs will be considered. This program will be funding discretionary continuation projects only.

**Allocations**

In fiscal year 1980, \$1,700,000 has been allocated for this program to fund continuation grants only.

**Number and Dollar Range of Grants**

Eight continuation awards will be made ranging from \$100,000 to \$450,000.

**Match Requirement**

In accordance with the terms of the original grant.

**Eligibility**

Not applicable.

**Contact**

For further information contact: Karen McFadden, Program Manager, Treatment Alternatives to Street Crime (TASC) Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5944.

6. *Jail Overcrowding and Pre-trial Detainee Program.* The "Jail Overcrowding & Pre-trial Detainee" program is a cooperative Adjudication-Corrections program that emphasized the role of the court in pre-trial services,

and the corrections role in jail intake and jail management.

The goal of the Jail Overcrowding Program is to demonstrate that system-wide planning and policy-making can impact on overcrowding and excessive pre-trial custody time, thereby effectively reducing local jail costs, preventing unnecessary construction, and improving the quality of justice.

This program employs a two-phased approach. *Phase I* is a planning and analysis period during which local jurisdictions, with LEAA assistance, will identify appropriate methods to address their overcrowding and pre-trial detention problems. Funding is provided under contract with the National Program Coordinator. *Phase II* is an implementation stage for jurisdictions ready to implement a jail management policy. The central intake model is one approach being offered for consideration of potential participating sites.

**Allocations**

In FY 1980 \$1,800,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Ten—Phase I sites (up to \$20,000 each)  
Eight—Phase II sites (\$50,000 to \$250,000 each)

Phase II grants will be awarded for up to 18 months. No Phase II continuation grants will be awarded.

National Program Coordinator refunding (no match).

**Match Requirement**

A 10% match is required for all Phase I and II grants.

**Eligibility**

Eligibility for participation in this program is limited to metropolitan jurisdictions in cooperation with the court of general jurisdiction. Applications must have the endorsement of state and local planning units. Letters of cooperation from the Sheriff/Department of Corrections and the Chief Judge must accompany the application.

**Submission Deadlines**

Phase I (planning)—June 1, 1980.  
Phase II (implementation)—May 15, 1980.

**Contact**

For further information concerning application and match requirements potential applicants must contact: Nicholas Demos, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7685.

**Submission Deadlines**

Continuation Grants must be received 90 days prior to the termination date of a current grant.

New applicants must submit a concept paper to be received by January 15, 1980. After the Fundamental Court Improvement program staff's review and comment, applications must be received by March 31, 1980.

**Contact**

For further information contact: Jim Swain, Director, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7681.

9. *Integrated Criminal Apprehension Program (ICAP).* The Integrated Criminal Apprehension Program (ICAP) represents a recently developed police service delivery concept that focuses on building a structured approach to the management and integration of police service delivery. ICAP is designed to establish a solid developmental base of increasing the overall effectiveness and efficiency of a police organization through the use of crime and operational analysis; training in crime prevention and investigative procedures; and the utilization of directed patrol strategies based on analysis information.

Application of the concept will result in better matching of manpower allocation to workplan demands; better analysis of occurring crimes; and better deployment of directed patrol tactics designed to increase quality arrests, clearances, and prosecutions.

**Allocation**

In fiscal year 1980, \$5,000,000 has been allocated for this program (\$2,750,000 for National Priority Program grants, and \$2,250,000 for Discretionary Program grants).

**Number and Dollar Range of Grants**

Approximately 23 continuation grants will be awarded for an average amount of \$225,000 each.

**Match Requirement**

In accordance with the terms of the original grant.

**Eligibility**

Not applicable.

**Submission Deadline**

Continuation applications are due 90 days prior to expiration of current grant.

**Contact**

For further information concerning application and match requirements, potential applicants must contact:

7. *Fundamental Court Improvement Program.* This program supports State-level efforts to analyze and develop significant alternatives to the present organization, management, and structure of State court systems or State indigent defense delivery systems. Some assistance may be available for organizational studies, strategy development, public education, and implementation associated with statewide defense or court reform.

Generally this program presupposes that major legislation, court rules, or judicial articles have recently been promulgated or passed or are about to be seriously considered. The general program objective is to improve the operations, financing, and services of statewide court or indigent defense systems.

**Defense Sub-Program**

This Sub-program is primarily directed toward major state-level efforts at improving the delivery of defense service on a state-wide basis. A growing number of states, in an effort to be in compliance with recent Supreme Court decisions affecting the right to counsel, have dramatically overhauled their defense delivery systems. In some cases this has meant the creation of state-funded, state-administered defender systems at the trial or appellate level; in other cases, it has meant increased funding—often at the state level—along with the development of improved services and the application of relevant national standards (e.g., National Advisory Commission, American Bar Association, and National Study Commission).

**Allocations**

In Fiscal Year 1980, \$1.25 million has been allocated for the Defense Sub-Program.

**Number and Dollar Range of Grants**

Approximately five grants, will be awarded for an average amount of \$250,000.

**Match Requirement**

10%.

**Eligibility**

For defense improvement projects, applicants may be State governmental entities, bar associations, and non-profit organizations. Any application submitted by a non-profit organization must have the clear support of prospective implementing and associated organizations.



Gregory Brady, Fundamental Court Improvement Program, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7685.

8. *Courts Training and Technical Assistance.* The objective of the training component of this program is to expand and update the knowledge and skills of new and experienced court personnel; thereby improving the level of their performance. Annually, these programs provide training for approximately 7,000 court practitioners, including judges, both trial and appellate; prosecutors; defenders; and court administrators. The program provides financial support to eight training institutions which conduct the courses.

The objective of the technical assistance component is to provide on-site and clearinghouse services to the major components of the adjudicatory process—the courts, prosecution, and defense. Pre-trial services agencies are also included. Seven technical assistance projects are funded under this program.

#### Allocation

In fiscal year 1980, \$3,900,000 has been allocated for this program. The major portion of this budget will be used to sustain the 15 national-level projects that are currently funded to provide training and technical assistance as described above.

#### Number and Dollar Range of Grants

Continuation projects have been identified for funding during FY 1980.

#### Match Requirement

In accordance with the terms of the original grant.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications are due 90 days prior to expiration of current grant.

#### Contact

For further information, contact: Bob Heck, IACP Program Manager, Enforcement Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531, Telephone: (202) 724-7560.

10. *Law Enforcement Accreditation Program.* A joint program by the International Association of Chiefs of Police (IACP), the National Organization of Black Law Enforcement Executives (NOBLE), the National Sheriffs' Association (NSA), and the Police

Executives Research Forum (PERF) with IACP acting as the grantee will be implemented to develop measurable accreditation standards which will be presented to an independent commission for notification and eventual use in the agency accreditation process.

The purpose of the program is to improve the efficiency and effectiveness of law enforcement agencies throughout the nation and, simultaneously, to provide a means by which enforcement agencies can review their operations and services against national criteria set by the independent commission and developed by their own peers to develop plans for continuous improvement.

LEAA worked successfully with the American Medical Association to develop health care standards for jails and with the American Correctional Association to develop operational standards for prisons.

Under the Accreditation Program for Law Enforcement Agencies, the methodology will be much the same:

—NOBLE will look at all areas of police jurisdiction, including sheriff's independent counties, and state police organizations focusing on development, advancement, recruitment and selection policies;

—NSA will direct its efforts exclusively towards the Nation's sheriff's departments;

—PERF will focus on municipal police departments in communities servicing a population between 100,000 and 500,000 people; and,

—IACP will develop performance standards for all jurisdictions not covered by the other groups and will address such areas as community resources, employee relations, support services and internal discipline for all jurisdictions.

All standards will be reviewed by the independent accreditation commission consisting of 21 members, 11 officials from the law enforcement community and 10 representatives from governmental and private sector agencies.

The accreditation commission will solicit views from local and state government officials, various communities, and public interest groups, including labor representatives, throughout the standards development stage to assure an acceptable nationwide accreditation process. Members of the commission were unanimously approved by the IACP, NOBLE, NSA, and PERF.

#### Allocations

LEAA's support for this program is \$1.1 million in FY 1980.

#### Match Requirement

None.

#### Eligibility

Not applicable.

#### Contact

For further information contact: Donald Anderson, Enforcement Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-7560.

11. *Police Management Training.* The overall primary objective of this program, both short or long range, is to increase and expand the management capability and expertise of law enforcement executives and leaders, to obtain optimum efficiency and productivity through enlightened, advanced management. Secondly, this program will assist police agencies in addressing specifically identified priority problem areas. This program encompasses a sub-set of projects that provide various levels of police management training for current or potential police executives and managers. Training, instruction, and education is provided at the basic, refresher, and more sophisticated, advanced levels. Clientele served includes state, county, and municipal police executives, senior officers or potential leaders, both elected and appointed, from throughout the country.

#### Allocations

In FY 80, up to \$200,000 has been allocated for an evaluation of the Police Executive Institute Project.

#### Number and Dollar Range of Grants

One grant, for up to \$200,000 will be awarded.

#### Match Requirement

None.

#### Eligibility

Not applicable.

#### Submission Deadlines for Grant Applications

Applicants must submit concept papers by April 1, 1980. After Enforcement Division staff review, comment and acceptance, full applications must be submitted by June 1, 1980.

#### Contact

For further information regarding training opportunities or any other aspects of this program contact: Peter Xenakes, Enforcement Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration,

633 Indiana Avenue NW., Washington, D.C. 20531, Telephone: (202) 724-7560.

12. *Hazardous Devices Training Program.* The program is conducted for LEAA by the U.S. Army at Redstone Arsenal, Alabama. The attendees are public safety personnel who are assigned to bomb deactivation duties.

Training activities consist of two courses—a three-week course for basic bomb technicians, aimed at officers with little or no previous experience with explosive devices, and a one-week refresher course to bring trained bomb technicians up to date on recent developments in the field.

In the basic course, trainees are taught how to conduct searches for explosives, to investigate suspicious packages, to disarm or dispose of live bombs in the safest possible way, and to develop physical evidence that will support subsequent investigation and prosecution. Ten basic and 16 refresher courses are scheduled for FY 80.

#### Allocations

In Fiscal Year 1980, \$400,000 has been allocated for the program.

#### Number and Dollar Range of Grants

One grant of approximately \$400,000 will be awarded to the U.S. Army.

#### Match Requirement

None.

#### Eligibility

Not applicable.

#### Submission Deadline

Not applicable.

#### Contact

For further information concerning prospective participation contact: Ms. Goldie Feldman, Mississippi Criminal Justice Planning Division, 510 George Street, Suite 310, Jackson, Mississippi 39201, Telephone: (601) 354-6330.

13. *Indian Criminal Justice Program.* This program is designed to assist tribes and aboriginal groups to improve the delivery of criminal justice in the Indian community. Emphasis is being placed on the development of basic criminal justice programs on regional levels and on the continued improvement of the tribal court system. The scope of the Indian program must involve a series of tribes in a regional project or national coverage.

The program design is based upon the commonality of problems faced by Indian tribes throughout the U.S. or in a specific geographical area.

The program focuses on inter-tribal cooperation and communication in addressing criminal justice issues.

Projects which are not continuations will be selected based on the documented needs of the tribes involved, degree of inter-tribal cooperation, and the degree to which the proposed project addresses needs, and which may be transferable.

Note.—Individual tribes are also eligible to apply for and participate in programs administered by other offices as outlined in these announcements.

#### Allocations

In FY 1980, \$600,000 has been allocated for this program.

#### Number and Dollar Range of Grants

It is anticipated that one continuation grant not to exceed \$175,000 will be made. Continuation grant applications must be received at least 90 days prior to the end date of the current grant.

Further, it is anticipated that one grant not to exceed \$125,000 will be made to develop model tribal courts, and up to three grants not to exceed \$100,000 each for Statewide or regional basic criminal justice system development programs.

#### Match Requirement

None.

#### Eligibility

1. *Model Court Development.* National Indian organizations which represent tribal courts or tribal governments which have a working relationship with the courts.

2. *Basic Indian Criminal Justice System Development.* Priority consideration will be given to inter-tribal coalitions in states governed by Pub. L. 280 in which tribes are in the process of retrocession or have been given criminal jurisdiction since July 1978 by court decision or an executive order. Pre-applications are required. Technical assistance will be available, as resources permit, to resolve issues raised by competing applications from the same state.

#### Submission Deadlines

New applicants must submit a concept paper by January 1, 1980. After the Indian Justice program staff's review and comment, applications must be received by May 31, 1980.

#### Contact

For further information concerning application and match requirements, potential applicants must contact: Dale Wing, Program Manager, Indian Justice Section, Office of Criminal Justice Programs, 633 Indiana Avenue, NW., Room 713, Washington, D.C. 20531.

14. *Family Violence Program.* The Family Violence Program is based on

the recognition that family violence is both a social and legal problem and that a comprehensive community effort is essential to combat it. Thus, the program focuses on improving the criminal justice system's handling of such family cases through a partnership with other community services.

LEAA provides funds to support projects that demonstrate community-wide solutions to family violence—projects that involve the active participation of all relevant public and private agencies. Participants must include the obvious institutions—police, prosecutors, hospitals, mental health, and social service agencies—and also legal and professional organizations, public education, media, neighborhood groups, and schools. Grants finance planning, coordination, and central data collection, as well as new criminal justice or social service program components necessary for a comprehensive approach to dealing with family violence.

The program also supports a free monthly newsletter and national resource center, a national public education program, and technical assistance to local projects.

#### Dollars Allocated for This Program for Fiscal Year 1980

#### Allocations

In FY 1980, \$3,000,000 has been allocated for this program: \$1 million for National Priority Program grants, and \$2.0 million for Discretionary Program grants.

#### Number and Dollar Range of Grants

No new grants are planned for fiscal year 1980.

#### Match Requirement

In accordance with the terms of the original grant.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications must be received 90 days prior to expiration of current grant.

#### Contact

For further information about application and match requirements, potential applicants must contact: Jeannie Santos, Program Manager, Family Violence Program, Special Programs Division, Office of Criminal Justice Programs, 633 Indiana Avenue, NW., Room 711, Washington, D.C. 20531, Telephone: (202) 724-5905.

15. *Evaluation Technical Assistance (TA).* The Evaluation Technical



Assistance Resource Center program (TARC) is collocated with the Criminal Justice Training Centers. The goal of the TARC is to provide technical assistance (TA) in the area of evaluation in the Law Enforcement Assistance Administration's Service Areas.

Technical assistance delivered by and through the TARC will be geared towards developing the capacity of the receiving agencies to carry out evaluations.

The emphasis on capacity building is the central theme of the proposed delivery strategy. To meet this intent, the TA must leave a residue of knowledge of evaluation behind once delivered. This residue should not only reside in the person or persons receiving the TA but should become institutionalized within the operation of the agencies' evaluation effort.

The TARC will deliver, either by outside consultants or TARC staff members, a full range of TA services in the area of evaluation. These services will include:

1. On-site consultations by technically competent experts in the area of evaluation.

2. Workshops dealing with specific problem areas.

3. The delivery of technical information via telephone contacts.

4. Providing pertinent documents, literature, bibliographies from a central resource documents center.

These services will be consistent with training provided via courses in Criminal Justice Evaluation and Monitoring provided by CJTC. The TA provided will not be delivered in lieu of this training but will be geared to enhance it, nor will it subsidize or perform work in evaluation which substitutes a TA effort for a normal function of a particular agency.

There will be two delivery modes: Proactive (Planned) and Reactive. Primary emphasis will be placed on the planned mode in that at least 80 percent of the TA action budget will be dedicated to providing planned TA to the various state, regional, and local criminal justice planning agencies. Monies are not available to provide TA to operational agencies.

#### Allocations

In fiscal year 1980, \$700,000 has been allocated for this program.

#### Numbers and Dollar Range of Grants

Continuation projects have already been identified for funding during fiscal year 1980.

#### Match Requirements:

None.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current grant.

#### Contact

For further information, contact: Jerald Levine, Program Development and Evaluation Staff, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531. Telephone: (202) 724-7664.

16. *Public Interest Groups.* This program is designed to keep officials of state and local government informed about developments in criminal and juvenile justice. It is also designed to insure that LEAA is kept informed of the goals, concerns, and priorities of state and local government.

Financial assistance will be provided to those organizations with unique public constituencies at the state and local levels of government; and to those special interest groups with constituencies which are part of the LEAA delivery system.

The program strategy focuses on nationwide dissemination of information on criminal and juvenile justice matters to state and local government; and providing feedback to LEAA on state and local criminal and juvenile justice priorities and needs.

#### Allocations

In fiscal year 1980, \$600,000 has been allocated for this program.

#### Number and Dollar Range of Grants

Four continuation grants will be awarded with dollar range of approximately \$85,000-\$320,000.

#### Match Requirement

None.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications must be received 90 days prior to expiration of current grant.

#### Contact

For further information about application and match requirements, potential applicants must contact: Allen Benson, Program Manager, Public Interest Groups, Special Programs Division, Office of Criminal Justice Programs, 633 Indiana Avenue, NW., Room 712, Washington, D.C. 20531.

17. *Integrated Police and Prosecution Witness Assistance Program.* The

Integrated Police and Prosecution Witness Assistance Program is an effort to coordinate successful elements of both Police Department Victim/Witness projects and Victim/Witness projects based in the prosecutor's office into an integrated approach. This comprehensive approach will provide a link between the police and prosecutor resulting in improvements of these systems as well as an improved service delivery system to the witnesses and victims of crime.

This program will support projects in which the police and prosecutor coordinate and integrate procedures, special services, data collection, and other activities designed to improve the treatment of victims and witnesses and ensure better utilization of witnesses, thereby increasing the rate of successful prosecutions. Although police or prosecutor can be the applicant, all program development and implementation must reflect a joint effort by the police and prosecutor.

This program will focus not only on tracking the victim/witness throughout his/her movement in the criminal justice system, but on improving procedures and providing services at key points in order to insure witness cooperation. Although these projects will provide a variety of services to witnesses, the success of the projects will be measured by an increase in the rate of successful prosecutions.

Applicants may choose to establish linkages with probation/parole and other community corrections agencies in their jurisdiction. Such coordination would be intended to ensure that victims and witnesses are provided needed services in cases moving from prosecution to corrections. Formal notification procedures would be established between the prosecutor's office and the probation department of other community corrections agency, enabling the receiving agency to ensure the continuation of service to victims and witnesses. Such services might include enforcement of court-ordered restitution and referrals to social service agencies.

#### Allocations

In fiscal year 1980, \$338,000 has been allocated for two new projects for this program. Monies for three continuation grants have also been allocated in the amount of \$241,000.

#### Number and Dollar Range of Grants

Two grants will be awarded for an average amount of \$100,000. The funding levels for the three continuation grants will be between \$53,000 and \$99,000.

Continuation applications must be received 90 days prior to expiration of current grant.

#### Match Requirement

New grants will require 10 percent match; continuation grants will require a 30 percent match.

#### Eligibility

(1) Police departments, prosecutor's office or other agencies of government which can effectively coordinate the police and prosecutor's activities.

(2) Communities with a population of 50,000 to 500,000. (May be individual precinct, etc., within larger jurisdictions).

#### Submission Deadline

Grant applications must be received by March 31, 1980.

#### Contact

For further information about application and match requirements, potential applicants must contact: Jan Kirby, Victim/Witness Unit, Special Programs Division, Office of Criminal Justice Programs, 633 Indiana Avenue, NW., Room 707, Washington, D.C. 20531. Telephone: (202) 724-5905.

18. *National Victim/Witness Strategy Program.* The National Victim/Witness Strategy Program is designed to improve victim/witness services by enhancing coordination and cooperation among criminal justice and non-criminal justice agencies which are and should be involved in these services. Projects supported by this program will develop and expand the services to victims and witnesses by creating centralized structures or networks of victim/witness service providers and by mobilizing existing non-governmental groups and organizations.

Financial assistance will be provided to statewide organizations to support comprehensive victim/witness planning, resource exchange, and development on the local level to improve the services to victims and witnesses.

Financial assistance will also be provided to not-for-profit national organizations to develop victim/witness programs and activities among their constituencies. Based on research and experience, it has been determined that such coordination and cooperation are required to successfully provide victim/witness services that will be beneficial to the victim/witness and improve the successful operations of the criminal justice system.

#### Allocations

In fiscal year 1980, \$1,720,000 has been allocated for this program.

#### Number and Dollar Range of Grants

\$100,000 for evaluation of the National Victim/Witness Strategy Program.

\$200,000 for an Interagency Agreement between the Law Enforcement Assistance Administration and the Department of Housing and Urban Development.

\$350,000 for continuation grant to the National Institute of Victimology, Victim/Witness Resources Center.

\$246,000 for four new Victim/Witness Strategy grants.

\$824,000 for 14 continuation Victim-Witness strategy grants with funding levels between \$32,000 and \$69,000.

#### Match Requirement

New grants will require 10 percent match. Continuation grants will require a 20 percent match.

#### Eligibility

(1) *Statewide Networks.* Any state or local unit of government, not-for-profit organization, or a coalition of these groups that can effectively coordinate victim/witness efforts in that state.

(2) *Non-Governmental Organizations.* Not-for-profit organizations (criminal justice or other) already active in fields germane to victim/witness services.

(3) *Intergovernmental Agencies.* Federal agencies that have initiated or are considering initiating programs relating to victim/witness services at the state or local level.

#### Submission Deadline

Grant applications must be received by April 30, 1979.

#### Contact

For further information about application and match requirements, potential applicants must contact: Jan Kirby, Victim/Witness Unit, Special Programs Division, Office of Criminal Justice Programs, 633 Indiana Avenue, NW., Room 707, Washington, D.C. 20531. Telephone: (202) 724-5905.

19. *Improving Criminal Justice Planning and Coordination.* The goal of this program is to encourage State and local governments to adopt criminal justice planning and coordination as contributing and integral governmental functions. Direct grant assistance is available for selected States and localities to upgrade planning and coordination functions through one of several options, including, but not necessarily limited to (1) non-grant related program development and evaluation; and (2) governmental reorganization studies and/or implementation. Activities to enhance planning and coordination must go significantly beyond those routinely

carried out in administering the LEAA grant program and result in greater involvement of planning personnel in issues and concerns that transcend the grant program and increase the utility of criminal justice planning and coordination functions in the general government decision-making process.

One or more grants will also be made to organizations to provide information and technical assistance to State and local governmental officials regarding the role, benefits, structure and location of the planning and coordination function.

#### Allocations

\$800,000 has been allocated for this program in fiscal year 1980.

#### Number and Dollar Range of Grants

5-10 grants, ranging from \$25,000-\$100,000 to State and local governments.

1-2 grants, averaging about \$150,000 to technical assistance organizations.

#### Match Requirement

10 percent.

#### Eligibility Requirement

State Planning Agencies.

#### Submission Deadline

Grant applications must be received by April 15, 1980.

#### Contact

For further information concerning application and match requirements potential applicants must contact: Peter Heerwagen, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Telephone: (202) 724-7659.

20. *Community Anti-Crime Program.* This program will provide continuation funding to non-profit community groups to organize neighborhood residents into effective self-help anti-crime activities. Activities conducted by the groups range from some of the more traditional crime prevention techniques such as block watches, tenant patrols, home security efforts, victim services and escort services for the elderly, to innovative, community-based approaches to arson prevention, community dispute settlement, rape prevention, juvenile programming and improved police/community relations.

Grants are made directly to community groups and ongoing program implementation technical assistance in crime prevention organizing and program and financial management is provided to groups throughout their project periods.



**Allocations**

\$10 million in fiscal year 1980 funds have been allocated for this program.

**Number and Dollar Range of Grants**

Approximately 75-80 continuation grants will be awarded with an average amount of \$150,000.

**Matching Requirements**

None.

**Eligibility**

Non-profit community groups.

**Submission Deadline**

Applications will be submitted throughout the year as first-year projects expire. They must be received at least 90 days prior to the end of their initial project period.

**Contact**

For further information contact: Cornelius M. Cooper, Assistant Administrator, Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-6556.

*Comprehensive Crime Prevention Program.* The Comprehensive Crime Prevention Program (CCPP), administered by the Office of Community Anti-Crime Programs, is a successor to many crime prevention programs and research funded by LEAA, each designed to test the validity of a single crime prevention technique or theory. The program attempts to consolidate Federal, State and local crime prevention efforts in a metropolitan area into one highly coordinated program.

Funding and technical expertise are provided to selected jurisdictions to enable them to accurately determine the local crime problems through crime analysis and citizen surveys assess all resources which can be mobilized to prevent crime, establish a city-wide advisory council of government and citizen representatives to oversee the program, and design and implement a multi-component crime prevention program addressing crimes against persons, residences, and businesses.

**Allocations**

In fiscal year 1980, \$1,600,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Four continuation grants will be awarded for an average amount of \$400,000 each.

**Matching Requirements**

None.

**Eligibility**

Not applicable.

**Submission Deadline**

Continuation applications are due 90 days before expiration of ongoing grants.

**Contact**

For further information contact: Ronald J. Trethric, Director, Comprehensive Crime Prevention Programs Division, Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-5940.

22. *Educational Development.* All of the activities in this program in fiscal year 1980 will support LEAA's Black College Initiative by continuing technical and financial assistance to the nation's historically Black colleges and universities and by continuing curriculum and faculty development for criminal justice baccalaureate programs serving minority communities.

Objectives of the program are: (1) To improve the quality of criminal justice-related educational programs offered by institutions of higher education, and (2) to strengthen the educational system's ability to meet specifically defined criminal justice manpower needs.

**Allocations**

In fiscal year 1980, \$200,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Two or three continuation grants will be awarded for about \$65,000 each.

**Matching Requirements**

Between 10-25 percent match is required.

**Eligibility**

Not applicable.

**Submission Deadline**

Continuation grant applications must be received at least 90 days prior to the expiration of current grants.

**Contact**

For further information contact: Jean F. Moore, Office of Criminal Justice Education and Training, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9144.

23. *Manpower Planning.* This program consists of the development of model criminal justice manpower planning methods and procedures for use by state and local agencies. The criminal justice system consists of complex organizations with widely diverse

functions. Yet no concerted effort has been undertaken to develop a comprehensive and systematic way to identify agency personnel needs.

Accomplishment of agency objective requires development of policies, procedures and programs for education, training, recruitment, selection, placement, compensation and utilization of personnel. Costs for these activities are nearly 85 percent of the criminal justice system's total expenditures. Use of the planning model will improve agency capability to identify numbers of employees and the kinds of employee skills, knowledges, and abilities required to accomplish agency goals.

The program supports development of an adequate criminal justice manpower data base, design of model methods and procedures for manpower planning, and testing of these methods and procedures.

**Allocations**

In fiscal year 1980, \$500,000 has been allocated for this program.

**Number and Dollar Range of Grants**

Approximately two continuation grants will be awarded for an average amount of \$250,000

**Matching Requirements**

10-25 percent match is required.

**Eligibility**

Not Applicable.

**Submission Deadline**

Continuation grant applications must be received at least 90 days before the expiration of current grants.

**Contact**

For further information contact: Jean F. Moore, Office of Criminal Justice Education and Training, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9144.

24. *Financial and Grants Management Training.* LEAA has earmarked funds from the fiscal year 1980 budget for a grant to be given to the National Criminal Justice Association for the management and operation of a Financial Management Training Center. The purpose is to facilitate the delivery of financial and grants management training to the State Planning Agency and Regional Planning Unit Personnel.

The training will be provided to approximately 300 persons. Plans are for 10 training sessions with 30 persons at each session. The first session will be scheduled for sometime in January 1980.

Training in financial management and grant administration will include

subjects such as statutory requirements, regulatory requirements, LEAA administrative requirements, financial reporting, letter of credit and grant costs (allowable and unallowable). The proposed legislation, OMB changes in procurement, cash management and audit standards and the revised Financial Guide will also be covered in these training sessions.

**Allocations**

In fiscal year 1980, \$200,000 has been allocated for this program.

**Number and Dollar Range of Grants**

One grant to National Criminal Justice Association.

**Matching Requirements**

None.

**Eligibility Criteria**

Not applicable.

**Submission Deadline**

Not applicable.

**Contact**

For further information contact: Arthur E. Curry, Policy Development and Training Division, Office of the Comptroller, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 724-5863.

25. *State Level Information Systems.* This program is to assist SPAs in establishing a system by which they can provide consistent, accurate and timely information on the programs within their agencies to top management, to their constituencies, and to LEAA. The program is divided into two thrusts. The first is an annual grant to the National Criminal Justice Association (NCJA). The major tasks of this grant are to provide technical assistance to the SPAs, to coordinate mutual assistance between the SPAs, and to perform a clearinghouse function for the SPAs.

The second thrust is a series of implementation grants to SPAs to replicate proven automated management information systems (MIS) or to enhance existing systems.

**Allocations**

In fiscal year 1980, \$600,000 has been allocated for this program.

**Number and Dollar Range of Grants**

One grant to NCJA for \$250,000; 8 implementation grants to SPAs averaging \$43,750.

**Matching Requirement**

None.

**Eligibility**

State Planning Agencies (implementation grants only).

**Submission Deadlines**

Not applicable.

**Contact**

For further information contact: Ms. Delphine Day, Information Systems Division, Office of the Comptroller, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 633-4842.

26. *Civil Rights.* This program will provide training, education and technical assistance to assist recipients of LEAA funds in adhering to the civil rights requirements as set forth in Section 518(c) of the Crime Control Act, Section 262 of the Juvenile Justice and Delinquency Prevention Act, as amended, Section 504 of the Rehabilitation Act of 1973, and Part 90 of the Age Discrimination Act of 1975, as amended.

**Allocations**

In fiscal year 1980, \$400,000 has been allocated for this program.

**Number and Dollar Range of Grants**

A maximum of eight grants will be awarded in amounts between \$20,000 and \$200,000 each.

**Match Requirement**

None.

**Eligibility**

No restrictions.

**Submission Deadline**

Grant applications must be received by June 30, 1980.

**Contact**

For further information contact: Wilbur R. Brantley, Director, Office of Civil Rights Compliance, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (202) 633-2215.

27. *Law Enforcement Information and Communications Systems.* This program will include studies, computer software development and demonstrations for law enforcement agencies in the areas of facsimile fingerprint transmission and crime analysis. A low cost system will be developed and tested for transmission of classifiable fingerprint images by facsimile or by other electronic means from police and sheriffs' agencies to state identification bureaus to permit rapid identification of suspects. The system must be low in cost and have sufficient resolution to permit fingerprint classification.

Under two previous grants the International Association of Chiefs of Police has developed four generalized computer software modules in BASIC for police crime analysis. A new grant will be awarded to add three more crime analysis modules and to convert the software package from BASIC to COBOL.

**Allocations**

\$700,000 (\$500,000 of the \$700,000 will be used for contractual services) has been allocated for this program in fiscal year 1980.

**Number and Dollar Range of Grant:**

Two grants will be awarded during fiscal year 1980 for \$100,000 each. The grant for the continuation of the police crime analysis program development is expected to be awarded to the current grantee, the International Association of Chiefs of Police. The grant for development of a fingerprint transmission system is expected to be awarded to the International Association for Identification as a continuation of a current grant to upgrade identification bureaus. Four competitively bid contracts are expected to be awarded in FY 80: 911 Systems Assessment and Transfer—\$200,000; Automated Management of Criminal Investigations—\$100,000; Technical Assistance for Police Operations System Elementary (POSSE)—\$100,000; and Low Cost Data Entry System—\$100,000.

**Matching Requirement**

Not applicable.

**Eligibility**

Not applicable; contracts awarded after open competition.

**Submission Deadline**

Grant applications must be received by January 15, 1980.

**Contact**

S. S. Ashton, Jr., Systems Development Division, LEAA, Washington, D.C. 20531, Telephone: (301) 492-9053.

28. *State and Local Crime Reporting Systems.* This program includes projects aimed at (1) improving the capture of data in the field by police officers (SCRS), (2) using and describing the data collected in terms of its attributes rather than categorizing the incident solely in terms of legal classification schemes (ABCR), and (3) developing a crime classification system which will provide a future alternative to the Uniform Crime Reports classification system. The importance of SCRS and ABCR is that a generalized data base



capturing and describing criminal events in terms of a set of attributes and characteristics will permit comparative analysis of criminal events, which is not possible under existing systems, and which would be invaluable to criminal justice operating officials in developing crime prevention strategies.

#### Allocations

In fiscal year 1980, \$150,000 has been allocated for this program.

#### Number and Dollar Range of Grants

This program will be funded through a cooperative agreement with SEARCH Group, Inc.

#### Matching Requirement

Not applicable.

#### Eligibility

Not applicable.

#### Submission Deadline

Not applicable.

#### Contact

For further information contact: Paul White, Statistics Division, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9066.

29. *State Judicial Information Systems.* The State Judicial Information Systems (SJIS) program addresses the improvement of the quality of court management information and establishes procedures through which trial courts can supply to a central repository required Computerized Criminal History and Offender-Based Transaction Statistics data with respect to persons accused of serious crimes. The SJIS model addresses seven areas of legal jurisdiction: appeals, criminal, civil juvenile, financial, personnel and courts of special and limited jurisdiction.

Since the SJIS program was initiated, 23 States have joined. Each member State provides a representative to the SJIS Committee. Funding policy has limited each member state to two successive grants of \$200,000 each to improve the States' judicial information systems. SJIS funding has assisted in the development and implementation of 66 SJIS modules in the 20 states that have received funding. These 66 modules include: 18 appellate courts, 29 general jurisdiction courts, 7 juvenile courts, 8 resource allocation modules and 4 courts of limited jurisdiction (civil and criminal).

#### Allocations

\$800,000 is allocated for this program in FY 1980.

#### Number and Dollar Range of Grants

Three phase II grants will be awarded to current SJIS member States (Connecticut, Utah and New Mexico) in fiscal year 1980 for \$200,000 each. One phase I grant will be awarded to North Carolina.

#### Match Requirement

Ten percent for all grants

#### Eligibility

Not applicable.

#### Submission Deadline

Phase II grant applications must be received at least three months in advance of phase I grant terminations. Phase I grant applications must be received by May 1, 1980.

#### Contact

Art Fuldner, Systems Development Division, LEAA, Washington, D.C. 20531, Telephone: (301) 492-9057.

30. *Computer/White Collar Crime.* This program involves the development of activities which assist criminal justice personnel in combating the increasing numbers of white collar crimes perpetrated through the use of the computer.

The program attempts to span information gaps within the criminal justice community with regard to such areas as: appropriate methods of investigation and prosecution of computer crimes, linkages between existing case law and computer crime, computer utilization as a means of white collar crime control, techniques and methods for abusing automated information and fiscal transfer systems, and the impact of computer security upon crime control. While the program is designed to primarily address the needs of criminal justice personnel, efforts will be made to draw upon the existing body of knowledge in this area within the private sector, and to foster cooperation among public and private authorities.

In fiscal year 1980, the program will focus upon the delivery of assistance to address identified needs among all segments of the criminal justice community in the area of computer/white collar crime, the further identification of issues, problems and solutions relating to the abuse of various high technology processes; and the impact of computer security upon criminal justice agencies.

#### Allocations

\$425,000 is allocated for this program in fiscal year 1980.

#### Number and Dollar Range of Grants

Approximately three grants will be awarded at an average amount of \$140,000 each. One grant is a continuation grant to the National District Attorneys Association to continue tasks defined within the overall litigation support program. A grant in the area of Electronic Funds Transfer systems will be awarded competitively. A project in the area of computer security will be negotiated on a sole source or limited competitive basis.

#### Match Requirement

None.

#### Eligibility

No restrictions.

#### Submission Deadline

Grant applications should be received by December 31, 1979 unless extended by individual program solicitations.

#### Contact

Carol G. Kaplan, Director, Privacy and Security Staff, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9036.

31. *Privacy and Security.* This program is intended to assist state and local governments in their efforts to be in compliance with LEAA regulations governing the privacy and security of criminal history records. These regulations require that criminal history information maintained in LEAA funded systems be collected, stored and disseminated in a manner which assures the completeness, accuracy and security of that information as well as the individual's right to access and challenge such data.

The program also explores and develops various related issues concerning information management policy, confidentiality of research and statistical data, and criminal justice intelligence procedures. The intent of the program is to analyze and review current issues and procedures in these areas and to provide information to interested components of the criminal justice community and/or the general public.

#### Allocations

\$525,000 is allocated for this program in fiscal year 1980.

#### Number and Dollar Range of Grants

One contract will be competitively awarded for approximately \$250,000. Two grants will be awarded, totaling approximately \$275,000. One grant will

be a continuation grant to Search Group, Inc. (SGI), for approximately \$175,000 to \$200,000, to further the existing effort to provide state-level assistance. The other grant, to be funded in an amount ranging between \$75,000 to \$100,000, will be to explore techniques to ensure research/statistical confidentiality and will be awarded competitively.

#### Submission Deadline

Grant applications must be received by March 1, 1980.

#### Contact

Carol G. Kaplan, Director, Privacy and Security Staff, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Washington, D.C. 20531, Telephone: (301) 492-9036.

32. *Alternative Education for Juveniles.* This is a new initiative which in fiscal year 1980 will support projects designed to promote institutional changes in schools and provide alternative educational experiences for juveniles who have difficulty adjusting in traditional educational settings.

#### Allocations

In fiscal year 1980, \$8,000,000 has been allocated for this program.

#### Number and Dollar Range of Grants

Approximately 12 to 15 grants will be awarded by July 18, 1980.

#### Match Requirement

None.

#### Eligibility

Public or not-for-profit schools, agencies, or organizations.

#### Submission Deadline

Grant applications must be received by April 18, 1980.

#### Contact

David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7751.

33. *Rural Separation.* Removal of Youths from Adult Jails and Lockups in Rural Areas is a program to assist rural communities in developing and implementing a systematic plan for meeting the requirements of Section 223(a)(13) of the JJDP Act through the removal of juveniles from adult jails and lockups. It will also provide support for these rural areas in the development of suitable detention, correctional and shelter environments for juveniles.

#### Allocations

In fiscal year 1980, \$3,000,000 has been allocated for this program.

#### Number and Dollar Range of Grants

One (1) grant will be awarded.

#### Match Requirement

None.

#### Eligibility

Public or private not-for-profit agencies or organizations.

#### Submission Deadline

Grant applications must be received by June 30, 1980.

#### Contact

David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7751.

34. *Capacity Building: Juvenile Delinquency Prevention.* The purpose of this Initiative is to provide financial support for projects which will increase the capacity of governments and public and private agencies to prevent delinquency and improve the administration of juvenile justice. Under this Initiative, OJJDP will select promising projects through a competitive review process. Priority areas will be established by OJJDP and applications which support those priorities, respond to demonstrated need, and show the greatest potential for impact will be selected.

#### Allocations

In fiscal year 1980, \$4,787,976 has been allocated for this program.

#### Number and Dollar Range of Grants

Twenty-five continuation grants only will be awarded in fiscal year 1980.

#### Match Requirement

None.

#### Eligibility

Not applicable.

#### Submission Deadline

Continuation applications must be submitted 90 days prior to expiration of current projects.

#### Contact

David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7751.

35. *Juvenile Delinquency Prevention Research and Development Project.* The

purpose of this initiative is to develop information on effective organizational strategies, to increase the concentration and coordination of resources (Federal, State and local), and to increase the State capability to promote local efforts to implement effective juvenile delinquency programs.

Strategies for modifying the structure and operations of community, public and private agencies to expand and improve educational employment and service opportunities for youth, are major issues to be considered. Also of top priority is the need to test promising methods for preventing juvenile delinquency.

#### Allocations

In fiscal year 1980, \$2,300,000 has been allocated for this program.

#### Number and Dollar Range of Grants

Up to ten (10) awards will be granted to public and private organizations.

#### Match Requirement

None.

#### Eligibility

Public or private not-for-profit agencies.

#### Submission Deadline

Applications must be received by OJJDP by April 30, 1980.

#### Contact

For further information contact: David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531, Telephone: (202) 724-7751.

#### D. Eligibility Criteria

Many of the programs contained in this draft program announcement have additional eligibility restrictions. Applicants should contact program managers for further information about eligibility criteria.

Henry S. Dogin,

Administrator.

[F.R. Doc. 79-38072 Filed 12-11-79; 8:45 am]

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# **federal register**

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Wednesday  
December 12, 1979

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Part V

## **National Occupational Information Coordinating Committee**

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Occupational Information; Fiscal Year  
1980 Policies and Grants



**NATIONAL OCCUPATIONAL  
INFORMATION COORDINATING  
COMMITTEE****Occupational Information; Fiscal Year  
1980 Policies and Grants**

**AGENCY:** National Occupational  
Information Coordinating Committee.

**ACTION:** Notice.

**SUMMARY:** Published below are the fiscal year 1980 policy and grant announcements of the National Occupational Information Coordinating Committee (NOICC). The policies apply to the NOICC and the development of the occupational information system for which the Committee is responsible. The occupational information system is to be implemented through State occupational information coordinating committees (SOICCs). The NOICC is required to assist SOICCs in that implementation and grant announcements included in this notice apply only to SOICCs. The NOICC has been established for the general purpose of improving coordination, communication, and cooperation in the development of an occupational information system designed to meet the common occupational information and data needs of the vocational education programs and employment and training programs at the national, State, and local level. In addition, the NOICC is mandated to give special attention to the labor market information needs of youth and to assist and encourage the use of occupational information by promoting its use in career decisionmaking.

**Russell B. Flanders,**  
*Executive Director, National Occupational  
Information Coordinating Committee.*

**SUPPLEMENTARY INFORMATION:** The Educational Amendments of 1976 (Pub. L. 94-482), section 202(a), amend the Vocational Education Act of 1963 and establish a National Occupational Information Coordinating Committee specifying the purpose and designed to activate working arrangements was signed by the statutory members of the Committee and published in the **Federal Register** February 7, 1978. Section 103(a)(1)(A) of the Vocational Education Act of 1963, as amended, requires the Commissioner of Education to transfer annually an amount of from \$3 to \$5 million to the NOICC. Section 4(f) of the Comprehensive Employment and Training Act of 1973, as amended in 1978 (Pub. L. 95-524), requires the Secretary of Labor to transfer an amount of from \$3 to \$5 million to the NOICC.

The NOICC will make grants to the SOICCs from those funds.

**Policies of NOICC**

Occupational information that must comprise a national occupational information system (OIS) is accumulated by many different agencies and organizations to serve various needs. The individual collection efforts are often so large as to be called systems themselves. Since the NOICC will seek to avoid duplication, such systems will be integrated into and become component parts of the OIS. Accordingly, it is vital that these efforts be comparable and compatible. This means that the terminology and methods of data collection must be uniform; that results of data analysis must be shared to avoid duplication of work; and that dissemination of information must be efficient, timely, and applicable to user needs. Recognizing this, the Congress directed that the OIS be based on uniform definitions, standard occupational classifications, and standard procedures.

The development of a completely integrated OIS will require the willing efforts of many organizations at all governmental levels. The development of the OIS will have to move forward in stages as policy decisions are rendered, as existing subsystem components are standardized, and as new subsystem components are created.

Several basic NOICC policy determinations have been made to delineate the parameters of the OIS; encourage the delivery of career information, including occupational information; and implement the NOICC/SOICC network. The policies are:

A. NOICC will not be a primary data collection agency but shall coordinate such efforts principally among its member agencies.

B. NOICC adopts the standard occupational classification system of the Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, as a standard overall classification system.

C. NOICC adopts the occupational employment statistics program of the Department of Labor as the standard principal source of current and projected occupational employment data at the local, State, and national level.

D. NOICC, in development of the occupational supply model of the OIS, will utilize data and information available from the following sources:

1. Employment and Training Administration's data reporting systems, e.g., State and National Apprenticeship System (SNAPS) and Employment

Security Automated Reporting System (ESARS).

2. State Employment Security Agency programs, i.e., Employment Service (ES) and Unemployment Insurance Service (UIS).

3. Rehabilitation Services Administration's Case Service Report System (CSRS).

4. National Center for Education Statistics' data reporting systems, i.e., Higher Education General Information Survey (HEGIS), Vocational Education Data System (VEDS), and Noncollegiate Postsecondary School Survey (NPSS).

E. NOICC encourages the implementation of Statewide career information systems for the delivery of occupational and educational information used for career choice and job search purposes. The information used in these systems should be obtained from the OIS to the maximum possible extent. NOICC's concept for the development of these systems is based on the career information system determination program of the Department of Labor.

F. NOICC adopts the labor market area concept, as defined by the Department of Labor, as the basic geographic subdivision for the development and use of occupational information.

NOICC policies will be published in the **Federal Register** at least annually.

**Grants to SOICC's**

A. The NOICC will provide funds to SOICC's for staff leadership (Part A) and OIS implementation and training (Part B).

B. SOICC special purpose grants will be provided to SOICCs on a competitive basis to support work related to the broad purposes of the NOICC/SOICC network. Areas of priority of funding include development and implementation of an occupational information system, improvement of communication and coordination, and/or special attention to the labor market information needs of youth and delivery of career information.

The NOICC formal directions and grant application procedures will be provided to SOICCs through NOICC administrative memorandums.

[FR Doc. 79-38099 Filed 12-11-79; 8:45 am]

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Reader Aids

Federal Register  
Vol. 44, No. 240  
Wednesday, December 12, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

- Federal Register, Daily Issue:**
- 202-783-3238 Subscription orders (GPO)  
202-275-3054 Subscription problems (GPO)  
"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):  
202-523-5022 Washington, D.C.  
312-663-0884 Chicago, Ill.  
213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication  
523-5240 Photo copies of documents appearing in the Federal Register  
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- Code of Federal Regulations (CFR):**  
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523-3517  
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- Presidential Documents:**  
523-5233 Executive Orders and Proclamations  
523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents
- Public Laws:**  
523-5266 Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index  
-5282  
275-3030 Slip Law Orders (GPO)
- Other Publications and Services:**  
523-5239 TTY for the Deaf  
523-5230 U.S. Government Manual  
523-3408 Automation  
523-4534 Special Projects  
523-3517 Privacy Act Compilation

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CFR PARTS AFFECTED DURING DECEMBER

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/SECRETARY*  | USDA/ASCS  |           | DOT/SECRETARY*  | USDA/ASCS  |
| DOT/COAST GUARD | USDA/APHIS |           | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/FHWA        | USDA/FSQS  |           | DOT/FHWA        | USDA/FSQS  |
| DOT/FRA         | USDA/REA   |           | DOT/FRA         | USDA/REA   |
| DOT/NHTSA       | MSPB/OPM   |           | DOT/NHTSA       | MSPB/OPM   |
| DOT/RSPA        | LABOR      |           | DOT/RSPA        | LABOR      |
| DOT/SLSDC       | HEW/FDA    |           | DOT/SLSDC       | HEW/FDA    |
| DOT/UMTA        |            |           | DOT/UMTA        |            |
| CSA             |            |           | CSA             |            |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

## Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

## Next Week's Deadlines for Comments On Proposed Rules

## ACTION

65999 11-16-79 / VISTA trainee deselection and volunteer early termination procedures; comments by 12-17-79

66003 11-16-79 / VISTA Volunteer grievance procedures; comments by 12-17-79

## AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

67131 11-23-79 / Lettuce grown in Lower Rio Grande Valley in South Texas; proposed handling regulation; comments by 12-21-79

69303 12-3-79 / Oranges and grapefruit grown in Texas and imported oranges; grade and size requirements; comments by 12-18-79

Animal and Plant Health Inspection Service—

60306 10-19-79 / Standard requirement for pasteurized multicolored bacterin, avian isolate, type 4; comments by 12-18-79

Food and Nutrition Service—

68853 11-30-79 / Food Stamp program; comments extended to 12-17-79

[Originally published at 44 FR 57414, 10-5-79]

59052 10-12-79 / Food Stamp Program; demonstration, research and evaluation projects; full proposals by 12-17-79

63496 11-2-79 / Provision of social security numbers; fraud disqualification and recoupment; and group living arrangements; comments by 12-17-79

62863 10-31-79 / 1979 amendments to the Food Stamp Act of 1977; Provision of social security numbers; Fraud disqualification and recoupment; and group living arrangements; comments by 12-17-79  
Food Safety and Quality Service—

59548 10-16-79 / Meats, prepared meats, and meat products; Grading, certification, and standards; comments by 12-17-79

## COMMERCE DEPARTMENT

Industry and Trade Administration—

61049 10-23-79 / Amendment of Foreign Excess Property Regulations; comments by 12-17-79

## COMMUNITY SERVICES ADMINISTRATION

60764 10-22-79 / Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance; comments by 12-21-79

## CONSUMER PRODUCT SAFETY COMMISSION

60057 10-17-79 / Consumer products containing asbestos; comments by 12-17-79

60755 10-29-79 / Flammability, standards for children's sleepwear; enforcement policy statements; comments by 12-21-79

## DEFENSE DEPARTMENT

Corps of Engineers—

66213 11-19-79 / Small arms range, Great Lakes, Ill.; danger zone; comments by 12-20-79

Office of the Secretary—

65601 11-14-79 / Commercial or industrial-type activities; comments by 12-22-79

## ENERGY DEPARTMENT

Economic Regulatory Administration—

60307 10-19-79 / Amendments to Special Rule No. 9 providing for special allocation of middle distillates and to provisions concerning allocation of motor gasoline for priority uses; comments by 12-21-79

Federal Energy Regulatory Commission—

66208 11-19-79 / Regulation of natural gas sales under the Natural Gas Policy Act of 1978; comments by 12-19-79

## ENVIRONMENTAL PROTECTION AGENCY

65780 11-15-79 / Approval and promulgation of implementation plans; Kentucky: Proposed 1979 plan revisions; comments by 12-17-79

59561 10-16-79 / Approval and promulgation of implementation plans; Nevada indirect source review program; comments by 12-17-79

60335 10-19-79 / Assistance for pesticide enforcement and applicator training and certification programs; comments by 12-18-79

60061 10-17-79 / Commercial and industrial use of asbestos fibers; comments by 12-17-79

65791 11-15-79 / Designation of areas for air quality planning purposes; attainment status designations: Illinois; comments by 12-17-79

63552 11-5-79 / Guidelines for specification of disposal sites for dredged or fill materials; comments by 12-19-79  
[Originally published at 44 FR 54222, 9-18-79]

60339 10-19-79 / Missouri State Implementation Plan; sulfur dioxide emission; comments by 12-18-79

66850 11-21-79 / Pennsylvania; proposed designations of attainment status; comments by 12-21-79

60759 10-22-79 / Petroleum refineries; review of standards; comments by 12-21-79

66851 11-21-79 / Polychlorinated biphenyls; amendments to disposal requirements for large capacitors in chemical waste landfills; comments by 12-21-79

60761 10-22-79 / Portland Cement Plants; review of standards; comments by 12-21-79

66217 11-19-79 / Proposed tolerance for pesticide chemical dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphate; comments by 12-19-79

60758 10-22-79 / SIP Chapter 4—California air quality control strategies; comments by 12-21-79

66214 11-19-79 / State and Federal Administrative orders revising the Michigan State Implementation Plan; comments by 12-19-79

66216 11-19-79 / Thiabendazole; proposed tolerances for pesticide chemical; comments by 12-19-79

60763 10-22-79 / Toxic substances; inventory reporting requirements; comments by 12-21-79

59565 10-16-79 / Water quality standards; Navigable waters of the State of North Carolina; comments by 12-17-79

65790 11-15-79 / West Virginia; proposed revision of state implementation plan; comments by 12-17-79

## FARM CREDIT ADMINISTRATION

60745 10-22-79 / Nomination and election of directors; comments by 12-17-79

## FEDERAL COMMUNICATIONS COMMISSION

67192 11-23-79 / Eliminating semi annual reports and to provide for the submission of revised data in the annual reports of overseas telecommunications traffic data; reply comments extended to 12-21-79

[Originally published at 44 FR 61214, 10-24-79]

58762 10-11-79 / FM broadcast station; assignment of channel to Coffeyville, Kan.; reply comments by 12-20-79

58764 10-11-79 / FM broadcast station in Lockhart, Tex.; changes in table of assignment; reply comments by 12-18-79

62306 10-30-79 / FM broadcast stations; channel assigned to Ticonderoga, N.Y.; comments by 12-18-79

62305 10-30-79 / Freedom of Information rules; modified fees for records searches; reply comments by 12-21-79

66857 11-21-79 / Great Lakes public coast stations; transmission of weather broadcasts on channel 17 by voice and facsimile; comments by 12-19-79

58929 10-12-79 / Modifying individual radio licensing procedures in the domestic public radio services; reply comments by 12-19-79

55603 9-27-79 / Multiple ownership of AM, FM, and TV broadcast stations; reply comments by 12-17-79

37520 6-27-79 / Television waveform standards concerning horizontal and vertical banking intervals; comments by 12-19-79

## FEDERAL HOME LOAN BANK BOARD

60310 10-19-79 / Monitoring fair lending practices; comments by 12-18-79

## FEDERAL TRADE COMMISSION

59552 10-16-79 / Line of business reports program and quarterly financial reports program; proposed confidentiality rules and procedures; comments by 12-17-79

## HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

64097 11-6-79 / Support for improvement of postsecondary education; comments by 12-21-79

Food and Drug Administration—

60328 10-19-79 / Antacid drug products for over-the-counter human use; proposed amendment of monograph; comments by 12-18-79

60320 10-19-79 / Certain sulfonamide anti-infectives; proposed bioequivalence requirements; comments by 12-18-79

60313 10-19-79 / Iron fortification of flour and bread; standards of identity; comments by 12-18-79

60331 10-19-79 / Neomycin sulfate preparations; proposed revocations of certification; comments by 12-20-79

60332 10-19-79 / Source plasma (human); amendment to storage temperature requirements; comments by 12-18-79

48264 8-17-79 / Quality assurance in nuclear medicine; comments by 12-17-79

Health Care Financing Administration—

60287 10-19-79 / Medicare reimbursement for cost of home dialysis supplies, equipment and support services furnished self-care home patients under direct supervision of approved provider or facility; comments by 12-18-79  
Office of the Secretary—

63115 11-2-79 / Procurement; contract clauses; comments by 12-17-79

## INTERSTATE COMMERCE COMMISSION

66626 11-20-79 / Railroad consolidation procedures; comments by 12-20-79

60122 10-18-79 / Tariff improvement provisions; comments by 12-17-79

## JUSTICE DEPARTMENT

Attorney General—

54950 9-21-79 / Nondiscrimination based on handicap in Federally-assisted programs—implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914; comments by 12-21-79

## LABOR DEPARTMENT

Occupational Safety and Health Administration—

65062 11-9-79 / Reporting of fatality or multiple hospitalization accidents; comments by 12-17-79

## NUCLEAR REGULATORY COMMISSION

60743 10-22-79 / Protection of plants and materials; reporting of safeguards events; comments by 12-21-79

60743 10-22-79 / Radioactive material packaging; comments period extended from 10-16-79 to 12-17-79

[Originally published at 44 FR 48234, 8-17-79]



- PANAMA CANAL COMMISSION**  
 68868 11-30-79 / Organization, functions and availability of information—Panama Canal Company; comments by 12-21-79
- PERSONNEL MANAGEMENT OFFICE**  
 60975 10-23-79 / Non-competitive career and career-conditional non-competitive appointment of Peace Corps personnel; comments by 12-20-79
- 60301 10-19-79 / Processing garnishment orders issued against the U.S. for child support or alimony; comments by 12-18-79
- SMALL BUSINESS ADMINISTRATION**  
 60032 10-17-79 / Nondiscrimination in financial assistance programs; comments by 12-17-79
- STATE DEPARTMENT**  
 Office of the Secretary—  
 66838 11-21-79 / Regulations implementing National Environmental Policy Act; comments by 12-21-79
- TRANSPORTATION DEPARTMENT**  
 Coast Guard—  
 62915 11-1-79 / Changes in tailshaft examination requirements; comments by 12-17-79  
 [Corrected at 44 FR 66219, 11-19-79]
- 63672 11-5-79 / Notifications of arrivals, departures, hazardous conditions, and certain dangerous cargoes; modification of requirements; comments by 12-20-79  
 Federal Aviation Administration—  
 60746 10-22-79 / Petition for rulemaking of the Air Line Pilots Association; comments by 12-21-79
- 66204 11-19-79 / Proposed alteration of transition area; Canadian, Tex.; comments by 12-19-79
- 66204 11-19-79 / Proposed alteration of transition area; Follett, Tex.; comments by 12-19-79  
 Materials Transportation Bureau—  
 60771 10-22-79 / Requirements for transportation radioactive materials; comments period extended from 10-16-79 to 12-17-79  
 [Originally published at 44 FR 1852, 1-8-79]
- TREASURY DEPARTMENT**  
 Alcohol, Tobacco, and Firearms Bureau—  
 50362 8-28-79 / Unlawful trade practices under the Federal Alcohol Administration Act; comments by 12-17-79
- VETERANS ADMINISTRATION**  
 65997 11-16-79 / Loan guaranty; holders acceptance of partial payments on VA guaranteed and insured home, mobile home, and vendee loans; comments by 12-17-79
- 65995 11-16-79 / Provision for one-sum payment of National Service Life Insurance; comments by 12-17-79
- 65996 11-16-79 / Tutorial assistance provisions; comments by 12-17-79
- 66623 11-20-79 / Veterans education; travel expenses for counseling purposes; comments by 12-20-79
- Next Week's Meetings**
- AGRICULTURE DEPARTMENT**  
 Forest Service—  
 65111 11-9-79 / Bridger—Teton National Forest Grazing Advisory Board, Pinedale, Wyo. (open), 12-17-79
- 68943 11-30-79 / Gila National Forest Grazing Advisory Board, Silver City, N. Mex. (open), 12-18-79
- Office of the Secretary—  
 61237 10-24-79 / Structure of Agriculture, Lafayette, Ind. (open), 12-18-79
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**  
 67547 11-26-79 / Dance Panel, Washington, D.C. (partially open), 12-13 through 12-18-79
- 66713 11-20-79 / Humanities Advisory Panel, Washington, D.C. (closed), 12-17 through 12-19 and 12-21-79
- 68042 11-28-79 / Humanities Advisory Panel, Washington, D.C. (closed), 12-19-79
- CIVIL RIGHTS COMMISSION**  
 69316 12-3-79 / New Hampshire Advisory Committee, Manchester, N.H. (open), 12-18-79
- 67202 11-23-79 / North Carolina Advisory Committee, Greensboro, N.C. (open), 12-17-79
- 66862 11-21-79 / Oklahoma Advisory Committee, Oklahoma City, Okla. (open), 12-18-79
- COMMERCE DEPARTMENT**  
 Industry and Trade Administration—  
 68003 11-28-79 / Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 12-18-79
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- H.J. Res. 448 / Pub. L. 96-136 Proclaiming the week of December 3 through December 9, 1979 as "Scouting Recognition Week". (Dec. 7, 1979; 93 Stat. 1060) Price \$.75.
- Documents Relating to Federal Grant Programs**  
 This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.
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- 70652 12-7-79 / HEW/OE—National Direct Student Loan, College Work-Study, and Supplemental educational opportunity grant programs; comments by 1-7-80; hearings on 1-9-80
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- 69370 12-3-79 / HEW/NIH—National Advisory Neurological and Communicative Disorders and Stroke Council, Bethesda, Md. (partially open), 1-24 and 1-25-80
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- 70606 12-7-79 / NFAH—Special Projects Panel, Washington, D.C. (closed), 12-6 and 12-14-79
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- 69367 12-3-79 / HEW/OE—Fund for the Improvement of Postsecondary Education; Comprehensive Program; preapplications due by 1-29-80; apply by 4-8-80
- 69304 12-3-79 / HUD—Community development block grants for Indian tribes and Alaskan Natives; Housing Assistance Plan; transmittal of proposed rule to Congress
- 69732 12-4-79 / Interior/BIA—Indian Child Welfare Act; grant fund distribution formula
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- 70604 12-7-79 / NASA—Direct awards of \$10 million or more; list of aerospace contractors

## THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2½ hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between Federal Register and the Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

## WASHINGTON, D.C.

- WHEN:** Jan. 25; Feb. 8 and 22; at 9 a.m. (identical sessions)
- WHERE:** Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.
- RESERVATIONS:** Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.



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- 72069 Import limitations of cheese and chocolate crumb**  
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- 72077, Amending the Generalized System of Preferences**  
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- 72566 Retailers' Cost Increases** DOE/ERA announces the fixed cents per gallon markup limitation for gasoline retailers will be increased to 16.1 cents; effective 12-15-79 (Part VIII of this issue)
- 72224 Petroleum Products** DOE/ERA issues a notice of continued suspension of oil import fees and tariffs
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- 72113 Tax Counseling for the Elderly** Treasury/IRS provides rules to establish a network of trained volunteers to provide free tax information and return preparation assistance; effective 12-13-79

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**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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- 72131 Child Restraint Systems** DOT/NHTSA establishes a new standard which applies to all types of restraints used in motor vehicles; effective 6-1-80
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  - 72186 HUD-Approved Mortgagees and Lenders** HUD reduces the number of days required to notify HUD of terminations from 30 to 15 calendar days
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Federal Register

Vol. 44, No. 241

Thursday, December 13, 1979

## Presidential Documents

Title 3—

The President

Proclamation 4708 of December 11, 1979

**Import Limitations on Certain Cheese and Chocolate Crumb**  
By the President of the United States of America

## A Proclamation

Import limitations have been imposed on certain dairy products, including certain cheese and chocolate crumb, pursuant to the provisions of Section 22 of the Agricultural Adjustment Act, as amended, 7 U.S.C. 624, (Section 22). Those limitations are set forth in Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS).

Sections 701 and 703 of the Trade Agreements Act of 1979, P.L. 96-39 (The Act), require that the President proclaim a) limitations on the quantity of types of cheese specified therein which may enter the United States in any calendar year after 1979 to an annual aggregate quantity of not more than 111,000 metric tons and b) increases in a specified manner, of the quantity of chocolate crumb now subject to certain import quotas which may be entered in any calendar year after 1979. Such limitations and increases are required to become effective on January 1, 1980.

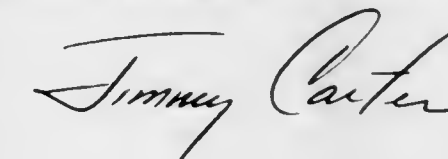
It is provided in Sections 701 and 703 of the Act that such proclamation shall be considered a proclamation issued under Section 22 and which meets the requirements of such section.

The Act also approved bilateral agreements entered into during the Multilateral Trade Negotiations (MTN) by the United States and certain foreign countries with respect to the quantity of cheese and chocolate crumb subject to such limitations that may be imported from such countries. These agreements contained the provision that "the United States agrees to take all necessary measures to permit the maximum utilization of the quotas."

On the basis of the information submitted to me, I find and declare that the import limitations hereinafter proclaimed with respect to cheese and chocolate crumb are in accord with the requirements of Sections 701 and 703 of the Act and the bilateral agreements approved by such Act which were entered into by the United States and certain foreign countries with respect to the quantity of cheese and chocolate crumb subject to such limitations that may be imported from such countries.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of Section 22 of the Agricultural Adjustment Act of 1933, as amended, the Tariff Classification Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, and the bilateral agreements relating to cheese and chocolate crumb approved by the Trade Agreements Act of 1979, do hereby proclaim that Part 3 of the Appendix to the Tariff Schedules of the United States is amended, effective January 1, 1980, as set forth in the Annex to this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of December, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



[FR Doc. 79-38444

Filed 12-12-79; 9:51 am]

Billing code 3195-01-M



## ANNEX

## 1. Headnote 3(a) to part 3 of the Appendix to the Tariff

Schedules of the United States is amended to read as follows:

"3. (a) Dairy products.--

(i) Imported articles subject to the import quotas provided for in items 950.01 through 950.11, except 950.06, may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture, and only in accordance with the terms of such license; except that no such license shall be required for up to 1,837,351 pounds per quota year of natural Cheddar cheese, the product of Canada, made from unpasteurized milk and aged not less than 9 months, which prior to exportation has been certified to meet such requirements by an official of the Canadian government. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in the equitable distribution of the respective quotas for such articles among importers or users and facilitate the utilization of the quotas by the supplying countries, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned.

(ii) Under item 950.08A not more than 10,367,988 pounds of the annual quota quantity shall be products other than natural Cheddar cheese made from unpasteurized milk and aged not less than 9 months.

(iii) Notwithstanding any other provision of this part, if the Secretary of Agriculture determines that a quantity specified in the column entitled "Quota Quantity" opposite the name

of any country is not likely to be entered from such country within any calendar year, he may provide with respect to such article for the adjustment for that calendar year, within the aggregate quantity of such article permitted to be entered from all countries during such calendar year, of the quantities of such article which may be entered during such year from the countries specified as countries of origin for such article. The Secretary of Agriculture shall notify the Secretary of the Treasury of such adjustment and, with respect to country of origin adjustments for any article for which a license is not required, file notice thereof with the Federal Register. With respect to articles for which a license is not required, such adjustment shall become effective 3 days after the date of publication in the Federal Register.

(iv) For the purposes of this part, the term "soft ripened cow's milk cheese" means cheese which--

- (1) has a prominent crust formed on the exterior surface as a result of curing or ripening by biological curing agents such as molds, yeasts, or other microorganisms,
  - (2) visibly cures or ripens from the surface toward the center,
  - (3) has a fat content by weight (on a moisture-free basis) of not less than 50 percent, and
  - (4) has a moisture content (calculated by weight of the non-fatty matter) of not less than 65 percent,
- but does not include cheese with mold distributed throughout its interior."



2. Items 950.07 through 950.16 are amended to read as follows:

| TSUS<br>Item   | Article                                                                                                                                                                                                                                              | Quota Quantity<br>(in pounds) | Metric Equivalent<br>(in kilograms) |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------|
| [Whenever....] |                                                                                                                                                                                                                                                      |                               |                                     |
| [Cheeses....]  |                                                                                                                                                                                                                                                      |                               |                                     |
| 950.07         | Blue-mold cheese (except Stilton produced in the United Kingdom) and cheese and substitutes for cheese containing, or processed from, blue-mold cheese (provided for in item 117.00, 117.05, 117.75, or 117.88):                                     |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                       | 5,463,203                     | 2,479,000                           |
|                | Argentina.....                                                                                                                                                                                                                                       | 4,409                         | 2,000                               |
|                | Other.....                                                                                                                                                                                                                                           | 2                             | 1                                   |
| 950.08A        | Cheddar cheese, and cheese and substitutes for cheese containing, or processed from, Cheddar cheese (provided for in item 117.15, 117.20, 117.75, or 117.88):                                                                                        |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                       | 579,809                       | 263,000                             |
|                | Australia.....                                                                                                                                                                                                                                       | 2,643,520                     | 1,200,000                           |
|                | New Zealand.....                                                                                                                                                                                                                                     | 6,834,260                     | 3,100,000                           |
|                | Canada.....                                                                                                                                                                                                                                          | 1,837,351                     | 833,417                             |
|                | Other.....                                                                                                                                                                                                                                           | 308,399                       | 139,889                             |
| 950.08B        | American-type cheese, including Colby, vashed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such American-type cheese (provided for in item 117.75, 117.81, or 117.88): |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                       | 559,968                       | 254,000                             |
|                | Australia.....                                                                                                                                                                                                                                       | 2,204,600                     | 1,000,000                           |
|                | New Zealand.....                                                                                                                                                                                                                                     | 4,409,200                     | 2,000,000                           |
|                | Other.....                                                                                                                                                                                                                                           | 371,598                       | 168,556                             |

| TSUS<br>Item   | Article                                                                                                                                                                                                                                                                                                                                                                    | Quota Quantity<br>(in pounds) | Metric Equivalent<br>(in kilograms) |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------|
| [Whenever....] |                                                                                                                                                                                                                                                                                                                                                                            |                               |                                     |
| [Cheeses....]  |                                                                                                                                                                                                                                                                                                                                                                            |                               |                                     |
| 950.09A        | Edam and Gouda cheeses (provided for in item 117.25):                                                                                                                                                                                                                                                                                                                      |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                                                                             | 8,842,650                     | 4,011,000                           |
|                | Sweden.....                                                                                                                                                                                                                                                                                                                                                                | 90,388                        | 41,000                              |
|                | Argentina.....                                                                                                                                                                                                                                                                                                                                                             | 275,575                       | 125,000                             |
|                | Other.....                                                                                                                                                                                                                                                                                                                                                                 | 2                             | 1                                   |
| 950.09B        | Cheese and substitutes for cheese containing, or processed from, Edam and Gouda cheese (provided for in item 117.25, 117.75, or 117.88):                                                                                                                                                                                                                                   |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                                                                             | 2,727,090                     | 1,237,000                           |
|                | Norway.....                                                                                                                                                                                                                                                                                                                                                                | 368,168                       | 167,000                             |
|                | Other.....                                                                                                                                                                                                                                                                                                                                                                 | 55,999                        | 25,401                              |
| 950.10         | Italian-type cheeses, made from cow's milk, in original loaves (Romano, made from cow's milk, Reggiano, Parmasano, Provoloni, Provolotte, and Sbrinz) (provided for in item 117.44 or 117.55):                                                                                                                                                                             |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                                                                             | 3,886,709                     | 1,763,000                           |
|                | Argentina.....                                                                                                                                                                                                                                                                                                                                                             | 8,487,710                     | 3,850,000                           |
|                | Other.....                                                                                                                                                                                                                                                                                                                                                                 | 2                             | 1                                   |
| 950.10A        | Italian-type cheeses, made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmasano, Provoloni, Provolotte, Sbrinz, and Goya) and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (provided for in item 117.42, 117.44, 117.55, 117.75, 117.86, or 117.88): |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                                                                             | 103,616                       | 47,000                              |
|                | Argentina.....                                                                                                                                                                                                                                                                                                                                                             | 1,417,557                     | 643,000                             |
|                | Other.....                                                                                                                                                                                                                                                                                                                                                                 | 28,798                        | 13,063                              |



| TSUS<br>Item   | Article                                                                                                                                                                                                                                                                                                                     | Quota Quantity<br>(in pounds) | Metric Equivalent<br>(in kilograms) |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------|
| [Whenever...:] |                                                                                                                                                                                                                                                                                                                             |                               |                                     |
| [Cheeses...:]  |                                                                                                                                                                                                                                                                                                                             |                               |                                     |
| 950.103        | Swiss or Emmentaler cheese with eye formation (provided for in item 117.60):                                                                                                                                                                                                                                                |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                              | 13,227,600                    | 6,000,000                           |
|                | Austria.....                                                                                                                                                                                                                                                                                                                | 13,844,888                    | 6,280,000                           |
|                | Finland.....                                                                                                                                                                                                                                                                                                                | 18,077,720                    | 8,200,000                           |
|                | Norway.....                                                                                                                                                                                                                                                                                                                 | 15,174,261                    | 6,883,000                           |
|                | Switzerland.....                                                                                                                                                                                                                                                                                                            | 7,561,778                     | 3,430,000                           |
|                | Israel.....                                                                                                                                                                                                                                                                                                                 | 59,524                        | 27,000                              |
|                | Australia.....                                                                                                                                                                                                                                                                                                              | 1,102,300                     | 500,000                             |
|                | Canada.....                                                                                                                                                                                                                                                                                                                 | 154,322                       | 70,000                              |
|                | Iceland.....                                                                                                                                                                                                                                                                                                                | 661,380                       | 300,000                             |
|                | Argentina.....                                                                                                                                                                                                                                                                                                              | 176,368                       | 80,000                              |
|                | Other.....                                                                                                                                                                                                                                                                                                                  | 187,999                       | 85,276                              |
| 950.10C        | Swiss or Emmentaler cheese other than with eye formation, Gruyere-process cheese, and cheese and substitutes for cheese containing, or processed from, such cheeses (provided for in item 117.60, 117.75, or 117.88):                                                                                                       |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                              | 7,716,100                     | 3,500,000                           |
|                | Austria.....                                                                                                                                                                                                                                                                                                                | 2,028,232                     | 920,000                             |
|                | Finland.....                                                                                                                                                                                                                                                                                                                | 2,204,600                     | 1,000,000                           |
|                | Switzerland.....                                                                                                                                                                                                                                                                                                            | 3,196,670                     | 1,450,000                           |
|                | Portugal.....                                                                                                                                                                                                                                                                                                               | 275,575                       | 125,000                             |
|                | Other.....                                                                                                                                                                                                                                                                                                                  | 175,999                       | 79,833                              |
| 950.10D        | Cheeses and substitutes for cheese provided for in item 117.75 or 117.88 (except cheese not containing cow's milk and soft ripened cow's milk cheese, cheese (except cottage cheese) containing 0.5 percent or less by weight of butterfat, and articles within the scope of other import quotas provide for in this part): |                               |                                     |
|                | European Economic Community...                                                                                                                                                                                                                                                                                              | 44,092,000                    | 20,000,000                          |
|                | Finland.....                                                                                                                                                                                                                                                                                                                | 2,865,980                     | 1,300,000                           |
|                | Iceland.....                                                                                                                                                                                                                                                                                                                | 712,085                       | 323,000                             |
|                | Norway.....                                                                                                                                                                                                                                                                                                                 | 330,690                       | 150,000                             |
|                | Poland.....                                                                                                                                                                                                                                                                                                                 | 2,063,999                     | 936,224                             |
|                | Sweden.....                                                                                                                                                                                                                                                                                                                 | 2,334,671                     | 1,059,000                           |
|                | Switzerland.....                                                                                                                                                                                                                                                                                                            | 3,571,452                     | 1,620,000                           |
|                | New Zealand.....                                                                                                                                                                                                                                                                                                            | 24,960,481                    | 11,322,000                          |
|                | Canada.....                                                                                                                                                                                                                                                                                                                 | 2,515,448                     | 1,141,000                           |

| TSUS<br>Item   | Article                                                                                                                                                                                                               | Quota Quantity<br>(in pounds) | Metric Equivalent<br>(in kilograms)                                                      |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|------------------------------------------------------------------------------------------|
| [Whenever...:] |                                                                                                                                                                                                                       |                               |                                                                                          |
| [Cheeses...:]  |                                                                                                                                                                                                                       |                               |                                                                                          |
| [Cheeses...:]  |                                                                                                                                                                                                                       |                               |                                                                                          |
|                | Portugal.....                                                                                                                                                                                                         | 1,005,297                     | 456,000                                                                                  |
|                | Austria.....                                                                                                                                                                                                          | 1,432,990                     | 650,000                                                                                  |
|                | Israel.....                                                                                                                                                                                                           | 1,483,695                     | 673,000                                                                                  |
|                | (no more than 352,736 of which shall contain more than 3 percent by weight of butterfat)                                                                                                                              |                               | (no more than 160,000 of which shall contain more than 3 percent by weight of butterfat) |
|                | Argentina.....                                                                                                                                                                                                        | 220,460                       | 100,000                                                                                  |
|                | Australia.....                                                                                                                                                                                                        | 2,314,830                     | 1,050,000                                                                                |
|                | Other.....                                                                                                                                                                                                            | 287,997                       | 130,635                                                                                  |
| 950.10E        | Cheese, and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, provided for in item 117.75 or 117.88 (except articles within the scope of other import quotas provided for in this part): |                               |                                                                                          |
|                | European Economic Community...                                                                                                                                                                                        | 8,818,400                     | 4,000,000                                                                                |
|                | Poland.....                                                                                                                                                                                                           | 385,599                       | 174,907                                                                                  |
|                | Australia.....                                                                                                                                                                                                        | 551,150                       | 250,000                                                                                  |
|                | New Zealand.....                                                                                                                                                                                                      | 2,204,600                     | 1,000,000                                                                                |
|                | Sweden.....                                                                                                                                                                                                           | 551,150                       | 250,000                                                                                  |
|                | Israel.....                                                                                                                                                                                                           | 110,230                       | 50,000                                                                                   |
|                | Other.....                                                                                                                                                                                                            | 2                             | 1                                                                                        |



| TSUS<br>Item | Article                                                                                                                                                                                                                        | Quota Quantity<br>(in pounds) | Metric Equivalent<br>(in kilograms) |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------|
| 950.11       | (Whenever....)<br>Malted milk, and articles of milk or cream (provided for in item 118.30)....                                                                                                                                 | 6,000                         | 2,721                               |
| 950.15       | Chocolate provided for in item 156.30 containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection):                                                                   |                               |                                     |
|              | Ireland.....                                                                                                                                                                                                                   | 9,450,000                     | 4,286,491                           |
|              | United Kingdom.....                                                                                                                                                                                                            | 7,450,000                     | 3,379,297                           |
|              | Netherlands.....                                                                                                                                                                                                               | 100,000                       | 45,359                              |
|              | Australia.....                                                                                                                                                                                                                 | 4,409,200                     | 2,000,000                           |
|              | New Zealand.....                                                                                                                                                                                                               | 2                             | 1                                   |
|              | Other.....                                                                                                                                                                                                                     | None                          | None                                |
| 950.16       | Chocolate provided for in item 156.30 and articles containing chocolate provided for in item 182.99, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection): |                               |                                     |
|              | United Kingdom.....                                                                                                                                                                                                            | 930,000                       | 421,843                             |
|              | Ireland.....                                                                                                                                                                                                                   | 1,750,000                     | 1,700,988                           |
|              | New Zealand.....                                                                                                                                                                                                               | 2                             | 1                                   |
|              | Other.....                                                                                                                                                                                                                     | None                          | None                                |

## Presidential Documents

Executive Order 12180 of December 11, 1979

## Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*), as amended by Section 1111 of the Trade Agreements Act of 1979 (93 Stat. 315), and Section 604 of the Trade Act of 1974 (88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to adapt the preferential treatment under the Generalized System of Preferences (GSP) for articles from countries designated as beneficiary developing countries which are currently eligible for such treatment, to the numerous changes of the law and of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) which have resulted from the enactment of the Trade Agreements Act of 1979 (93 Stat. 144 *et seq.*) and Proclamation 4707 to Carry Out the Geneva (1979) Protocol to the General Agreement on Tariffs and Trade and for Other Purposes; and to make conforming modifications to the TSUS, it is hereby ordered as follows:

**Section 1.** General Headnote 3(c)(ii) of the TSUS, is modified by substituting therefor the new General Headnote 3(c)(ii) as provided in Annex I, attached hereto and made a part hereof.

**Sec. 2.** Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended as provided in Annex II, attached hereto and made a part hereof.

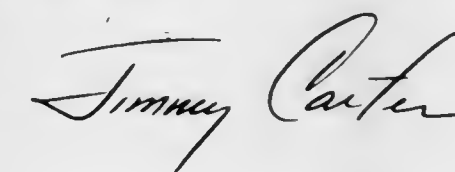
**Sec. 3.** Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in General Headnote 3(c)(iii) of the TSUS, is further amended as provided in Annex III, attached hereto and made a part hereof.

**Sec. 4.** General Headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite these articles, is modified as provided in Annex IV, attached hereto and made a part hereof.

**Sec. 5.** General headnote 3(c)(i) of the TSUS is modified by deleting from the list of independent designated beneficiary countries "Central African Empire" and "Yemen Arab Republic", and by substituting therefor, in alphabetical order, "Central African Republic," and "Yemen (Sana)", respectively.

**Sec. 6.** The amendments and modifications made by this Order shall be effective with respect to articles both: (1) imported on and after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on and after January 1, 1980.

THE WHITE HOUSE,  
December 11, 1979.





## Annex I

General Headnote 3(c)(ii) is modified to read as follows:

"Articles for which the designations "A" or "A\*" appear in the column entitled "GSP" of the schedules are those designated by the President to be eligible articles for purposes of the GSP pursuant to Section 503 of the Trade Act of 1974. The designation "A" signifies that all beneficiary developing countries are eligible for preferential treatment with respect to all articles provided for in the designated TSUS item, while the designation "A\*" indicates that certain beneficiary developing countries, specifically enumerated in subdivision (c)(iii) of this headnote, are not eligible for such preferential treatment with regard to any article provided for in the designated TSUS item. Whenever an eligible article is imported into the customs territory of the United States directly from a country or territory listed in subdivision (c)(i) of this headnote, it shall receive duty-free treatment, unless excluded from such treatment by subdivision (c)(iii) of this headnote, provided that, in accordance with regulations promulgated by the Secretary of the Treasury the sum of (A) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3) of the Trade Act of 1974, plus (B) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States."

## Annex II

Annex II to Executive Order No. 11888, as amended, is further amended--

(a) by deleting the following TSUS item numbers:

|        |        |        |
|--------|--------|--------|
| 100.73 | 533.14 | 661.10 |
| 100.95 | 533.16 | 664.05 |
| 106.40 | 533.23 | 668.20 |
| 106.60 | 533.25 | 672.15 |
| 106.85 | 533.41 | 680.15 |
| 107.75 | 546.40 | 680.20 |
| 111.92 | 546.42 | 680.22 |
| 125.30 | 546.43 | 680.40 |
| 125.80 | 546.44 | 680.43 |
| 126.71 | 546.46 | 680.44 |
| 136.98 | 546.48 | 680.47 |
| 136.99 | 546.49 | 680.48 |
| 137.01 | 546.50 | 680.53 |
| 140.09 | 601.27 | 680.54 |
| 140.55 | 602.30 | 680.55 |
| 141.79 | 607.12 | 680.56 |
| 145.08 | 607.18 | 680.57 |
| 146.73 | 607.35 | 680.60 |
| 146.80 | 607.36 | 680.70 |
| 156.35 | 607.37 | 682.40 |
| 161.15 | 607.45 | 684.30 |
| 161.19 | 607.51 | 686.22 |
| 161.79 | 607.57 | 694.15 |
| 161.94 | 607.65 | 694.20 |
| 168.17 | 608.04 | 694.30 |
| 168.18 | 608.05 | 694.40 |
| 168.23 | 608.06 | 694.50 |
| 168.24 | 608.08 | 694.60 |
| 168.26 | 608.10 | 708.53 |
| 168.33 | 608.25 | 708.55 |
| 168.35 | 608.27 | 708.59 |
| 168.48 | 608.30 | 711.34 |
| 168.52 | 608.32 | 711.36 |
| 168.55 | 609.12 | 711.37 |
| 175.51 | 609.13 | 711.82 |
| 191.15 | 652.12 | 711.83 |
| 252.67 | 653.94 | 711.84 |
| 254.75 | 653.97 | 725.06 |
| 304.20 | 654.00 | 727.32 |
| 428.46 | 654.10 | 727.33 |
| 429.20 | 660.46 | 727.48 |
| 435.70 | 660.52 | 732.40 |
| 445.40 | 660.54 | 734.96 |
| 445.45 | 660.65 | 734.99 |
| 445.50 | 660.70 | 735.05 |
| 493.16 | 660.75 | 771.42 |
| 516.11 | 661.09 | 772.70 |
| 517.27 |        | 791.26 |
| 518.44 |        |        |



(b) by adding, in numerical sequence, the following

TSUS item numbers:

|        |        |        |        |
|--------|--------|--------|--------|
| 107.76 | 445.44 | 654.11 | 686.18 |
| 107.78 | 445.46 | 654.12 | 694.31 |
| 125.32 | 445.48 | 654.13 | 694.50 |
| 125.34 | 445.52 | 654.14 | 694.61 |
| 125.82 | 445.54 | 660.59 | 694.63 |
| 125.84 | 445.56 | 660.62 | 694.64 |
| 136.95 | 493.14 | 660.67 | 694.65 |
| 136.97 | 493.17 | 660.71 | 694.66 |
| 137.02 | 533.15 | 660.74 | 694.67 |
| 137.04 | 533.54 | 660.76 | 708.56 |
| 140.54 | 546.39 | 660.77 | 708.58 |
| 140.56 | 546.47 | 661.05 | 708.61 |
| 141.85 | 606.11 | 661.06 | 708.65 |
| 146.69 | 606.15 | 664.06 | 711.31 |
| 146.82 | 606.26 | 664.07 | 711.32 |
| 146.87 | 606.28 | 664.08 | 711.38 |
| 168.14 | 606.30 | 668.21 | 711.75 |
| 168.16 | 606.33 | 668.23 | 711.77 |
| 168.36 | 606.36 | 672.14 | 711.78 |
| 168.37 | 606.37 | 672.16 | 725.05 |
| 168.39 | 606.44 | 680.13 | 725.07 |
| 168.41 | 606.48 | 680.14 | 725.08 |
| 168.56 | 606.57 | 680.17 | 727.25 |
| 168.58 | 606.59 | 680.19 | 727.27 |
| 168.62 | 606.60 | 680.42 | 727.29 |
| 168.63 | 606.62 | 680.46 | 727.50 |
| 168.79 | 606.64 | 680.49 | 732.43 |
| 168.81 | 606.71 | 680.59 | 735.01 |
| 168.83 | 606.73 | 680.62 | 735.02 |
| 168.85 | 606.75 | 680.69 | 735.04 |
| 168.87 | 606.77 | 680.72 | 735.06 |
| 168.89 | 609.14 | 680.73 | 735.07 |
| 168.91 | 652.13 | 680.76 | 771.41 |
| 168.93 | 652.14 | 680.81 | 771.43 |
| 184.58 | 653.96 | 680.86 | 772.69 |
| 191.18 | 653.99 | 680.88 | 772.71 |
| 428.41 | 654.01 | 682.35 | 791.27 |
| 428.47 | 654.02 | 682.41 | 791.28 |
| 429.19 | 654.03 | 682.45 |        |
| 429.29 | 654.07 | 684.25 |        |
| 445.42 | 654.09 | 684.28 |        |

Annex III

Annex III to Executive Order No. 11888, as amended, is further amended--

(a) by deleting the following TSUS item numbers:

|        |        |
|--------|--------|
| 130.35 | 493.21 |
| 140.25 | 514.11 |
| 141.55 | 533.26 |
| 145.60 | 653.02 |
| 148.25 | 660.44 |
| 154.55 | 692.27 |
| 168.15 | 708.57 |
| 176.33 | 727.31 |
| 202.40 | 774.60 |
| 256.85 |        |

(b) by adding in numerical sequence, the following TSUS item numbers:

|        |        |
|--------|--------|
| 130.32 | 256.87 |
| 130.37 | 660.48 |
| 145.65 | 660.56 |
| 145.70 | 692.29 |
| 148.19 | 692.32 |
| 148.27 | 708.63 |
| 154.43 | 727.23 |
| 154.53 | 774.45 |
| 168.12 | 774.50 |
| 168.13 | 774.55 |
| 256.84 |        |



## Annex IV

General Headnote 3(c)(iii) of the TSUS, is modified--

(a) by deleting the following TSUS item numbers and countries set opposite thereto:

|                               |                              |
|-------------------------------|------------------------------|
| 130.35....Argentina           | 493.21....Taiwan             |
| 140.25....Mexico              | 514.11....Dominican Republic |
| 141.55....Dominican Republic  | 533.26....Romania            |
| 145.60....Taiwan              | 653.02....Mexico             |
| 148.25....Mexico              | 660.44....Mexico             |
| 154.55....Taiwan              | 692.27....Mexico             |
| 168.15....Trinidad            | 708.57....Republic of Korea  |
| 176.33....Malaysia            | 727.31....Republic of Korea  |
| 202.40....Philippine Republic | 774.60....(Hong Kong         |
| 256.85....Mexico              | (Taiwan)                     |

(b) by adding in numerical sequence the following TSUS item numbers and countries set opposite thereto:

|                     |                             |
|---------------------|-----------------------------|
| 130.32....Argentina | 660.48....Mexico            |
| 130.37....Argentina | 660.56....Mexico            |
| 145.65....Taiwan    | 692.29....Mexico            |
| 145.70....Taiwan    | 692.32....Mexico            |
| 148.19....Mexico    | 708.63....Republic of Korea |
| 148.27....Mexico    | 727.23....Republic of Korea |
| 154.43....Taiwan    | 774.45....(Hong Kong        |
| 154.53....Taiwan    | (Taiwan)                    |
| 168.12....Trinidad  | 774.50....(Hong Kong        |
| 168.13....Trinidad  | (Taiwan)                    |
| 256.84....Mexico    | 774.55....(Hong Kong        |
| 256.87....Mexico    | (Taiwan)                    |

## Presidential Documents

Executive Order 12181 of December 11, 1979

## Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V and Section 604 of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 et seq.; 88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to modify, as provided by Section 504(c) of the Trade Act of 1974 (88 Stat. 2070, 19 U.S.C. 2464(c)), the limitations on preferential treatment for eligible articles from countries designated as beneficiary developing countries, and to adjust the original designation of eligible articles taking into account information and advice received in fulfillment of Sections 503(a) and 131-134 of the Trade Act of 1974 (88 Stat. 2069, 19 U.S.C. 2463(a); 88 Stat. 1994, 19 U.S.C. 2151-2154), it is hereby ordered as follows:

**Section 1.** The Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are modified by striking out items 791.24 and 791.26, including the superior Other. . . . 5% ad val. 15% ad val."

**Section 2.** Annex II of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary country is further amended by deleting item 652.99 and by adding items 145.08, 653.00, and 653.01 thereto.

**Section 3.** Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in General Headnote 3(c)(iii) of the TSUS, is further amended by deleting item 145.08 therefrom.

**Section 4.** General Headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is amended by deleting therefrom the following: "145.08. . . . Philippine Republic 724.35. . . . Republic of Korea"; and by adding thereto, in numerical sequence, the following: "724.35. . . . Mexico".

**Section 5.** The amendments made by Executive Order 12124 of February 28, 1979, with respect to TSUS items 680.55 and 680.56 shall be effective as to articles that are both (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after October 21, 1978, and as to which the liquidations of the entries or withdrawals have not become final and conclusive under Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

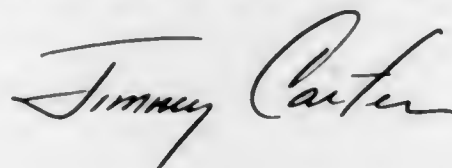
**Section 6.** The amendments made with respect to items 145.08 and 724.35 by Sections 2, 3, and 4 of this Order shall be effective as to articles that are both (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after March 1, 1979, and as to which the liquidations of the entries or withdrawals have not become final and conclusive under Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

**Section 7.** The amendments made with respect to items 652.99, 653.00, and 653.01 by Section 2 of this Order shall be effective as to articles that are both (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after July 26, 1979, and as to which the liquidations of the entries or withdrawals have not become final and conclusive under Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).



Section 8. The amendments made by Section 1 of this Order shall be effective with respect to articles that are both (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after the third day following the date of publication of this Order in the Federal Register.

THE WHITE HOUSE,  
December 11, 1979.



[FR Doc. 79-38446  
Filed 12-12-79; 9:53 am]  
Billing code 3195-01-M

## Rules and Regulations

Federal Register

Vol. 44, No. 241

Thursday, December 13, 1979

72085

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

### COUNCIL ON WAGE AND PRICE STABILITY

#### 6 CFR Parts 705, 706, and 707

#### Noninflationary Pay and Price Behavior; Adoption of Form CO-1 (PAY)

**AGENCY:** Council on Wage and Price Stability.

**ACTION:** Adoption of reporting form and request for submission of data.

**SUMMARY:** The Council is adopting a reporting form designated as Form CO-1 (PAY) and requesting the submission of data by January 4, 1980.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** David S. Hough, Office of Pay Monitoring, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506, 202/456-7100

**SUPPLEMENTARY INFORMATION:** The Council has published final procedural rules for the voluntary anti-inflationary standards applicable during the second program year. (6 CFR Part 706, 44 FR 64284 (November 6, 1979)). To assist in monitoring compliance with the pay standard, the Council is hereby adopting Form CO-1(PAY). This form is to be used for reporting to the Council on Wage and Price Stability the structure of companies for purposes of complying with the pay standard during the second program year. Companies may reorganize their compliance units separately for purposes of compliance with the price and pay standards at the beginning of the second program year, but not thereafter. The Council previously adopted Form CO-1(PRICE)

by publication in the Federal Register (44 FR 67949, November 28, 1979).

The Council designed Form CO-1(PAY) in order to minimize companies' reporting burden by specifying the information about company organization that will be necessary for assessing compliance with the pay standard. Because companies are able to specify only one organizational structure for each program year, it will only be necessary to complete this form once.

The data requests made in the text of Form CO-1(PAY) are pursuant to 6 CFR 706.21(c) and 707.1(b), and are directed to any company that had 5,000 or more employees during any calendar quarter of its last complete fiscal year before October 2, 1979, and any other company designated by the Council. The Council has already sent or will shortly send copies of Form CO-1(PAY) to about 1,000 companies which meet the reporting threshold. However, all companies that meet the reporting threshold are requested to submit Form CO-1(PAY) to the Council. Although the Council asked originally that the completed form be filed by December 1, 1979, we have revised the filing date to January 4, 1980.

While the submission of data is voluntary, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standards. The data will be treated as confidential in accordance with section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904 note, and 6 CFR Part 702, 44 FR 70086 (December 5, 1979).

In accordance with 6 CFR 706.20, if a company has furnished the Council with any of the data requested by Form CO-1(PAY), it need not furnish them again, although it should identify for the Council the document (including page references) containing such data and the date on which the data was submitted.

This form was submitted to the Office of Management and Budget in accordance with the Federal Reports Act, and was approved under No. 116S79026.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092).

Issued in Washington, D.C., December 10, 1979.

**R. Robert Russell,**  
*Director, Council on Wage and Price Stability.*

#### Form CO-1 (Instructions)

OMB No. 116-579026

#### Instructions For Preparation of Report of Company Organization

A. Purpose of Form CO-1 (Pay). The Council on Wage and Price Stability has developed a form for reporting on company organization, Form CO-1 (Pay), to help the Council monitor compliance with the voluntary pay standard. Companies with 5,000 or more employees are requested to report their organization for compliance with the pay standard for the second program year. The Council wishes to obtain that information needed to monitor compliance with the voluntary standards while placing a minimum burden on companies. It is expected that Form CO-1 (Pay) will help achieve these objectives.

B. Authority for Form CO-1 (Pay). The Council on Wage and Price Stability Act, 12 U.S.C. Section 1904, note authorized the Council to collect data on wages, costs, productivity, prices, sales, profits, imports, and exports by product line or by such other categories as the Council may prescribe.

C. Publication of the Pay Standard. The first-year pay standard, published in the Federal Register at 44 FR 60772 (December 28, 1978); 44 FR 9582 (February 13, 1979); and 44 FR 17910 (March 23, 1979) remains in effect during the second program year until the Council acts on the recommendations of the Pay Advisory Committee. All of the terms used on Form CO-1 (Pay) as well as the referenced sections are as defined or set forth in the standard.

D. Confidentiality of Information. All information furnished to the Council on Form CO-1 (Pay) will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act 12 U.S.C. Section 1904, note, and 6 CFR Part 702, 44 FR 70086 (December 5, 1979.)

E. Who Should File.

(1) Any company or compliance unit specifically requested by the Council to do so.



(2) Any other company, as defined in § 705.63, with 5,000 or more employees during any calendar quarter of its last complete fiscal year before October 2, 1979.

F. Choice of Organization for Compliance. A company may be divided into two or more compliance units if the conditions in § 705.64 are satisfied. Companies need not adopt the same organizational structure as in the first program year. Also, the organizational structure adopted for compliance with the pay standard need not be the same as that adopted for compliance with the price standard.

BILLING CODE 3175-01-M

|                                                                          |  |                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FORM CO-1 (Pay)                                                          |  | NOTICE - All information furnished to the Council on Form CO-1 will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 C.F.R. Part 702 44 FR 70086 (December 5, 1979).                                   |
| EXECUTIVE OFFICE OF THE PRESIDENT<br>COUNCIL ON WAGE AND PRICE STABILITY |  |                                                                                                                                                                                                                                                                                              |
| REPORT OF COMPANY ORGANIZATION<br>FOR THE SECOND PROGRAM YEAR            |  |                                                                                                                                                                                                                                                                                              |
| OMB No: 116-S79026                                                       |  |                                                                                                                                                                                                                                                                                              |
| PLEASE READ THE ENCLOSED<br>INSTRUCTIONS BEFORE COMPLETING THIS REPORT   |  | Send this form with relevant attachments to:<br>Office of Pay Monitoring<br>Council on Wage and Price Stability<br>Winder Building<br>600 17th Street, NW.<br>Washington, D.C. 20506<br>NOTE: Please indicate "Submission of Form CO-1" in the lower left hand corner of the envelope. (Pay) |

|                                                                                                                                                                                                                                                                                                                                                                                                |                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| Certification                                                                                                                                                                                                                                                                                                                                                                                  |                                  |
| a. Name of Chief Executive Officer or authorized designee                                                                                                                                                                                                                                                                                                                                      | Title                            |
| b. Name of Company                                                                                                                                                                                                                                                                                                                                                                             | Telephone (Area code, No., Ext.) |
| c. Name of person to contact regarding this report                                                                                                                                                                                                                                                                                                                                             | Telephone (Area code, No., Ext.) |
| d. Address (If different from mailing label)                                                                                                                                                                                                                                                                                                                                                   |                                  |
| To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702 44 FR 70086 (December 5, 1979). |                                  |
| e. Signature                                                                                                                                                                                                                                                                                                                                                                                   | Date                             |



## LIST OF COMPLIANCE UNITS

| (a)<br>Name of Compliance Unit | (b)<br>Principal Line of Business | (c)<br>SIC No. 1/ | (d)<br>Beginning Date of Second Program Year | (e)<br>Employees 2/ | (f)<br>CWPS Use Only |
|--------------------------------|-----------------------------------|-------------------|----------------------------------------------|---------------------|----------------------|
| 1.                             |                                   |                   |                                              |                     |                      |
| 2.                             |                                   |                   |                                              |                     |                      |
| 3.                             |                                   |                   |                                              |                     |                      |
| 4.                             |                                   |                   |                                              |                     |                      |
| 5.                             |                                   |                   |                                              |                     |                      |
| 6.                             |                                   |                   |                                              |                     |                      |
| 7.                             |                                   |                   |                                              |                     |                      |
| 8.                             |                                   |                   |                                              |                     |                      |
| 9.                             |                                   |                   |                                              |                     |                      |
| 10.                            |                                   |                   |                                              |                     |                      |

1/ Four-digit 1972 Standard Industrial Classification Code  
2/ Show the number of employees at the beginning date of the second program year

**NOTE:** Companies are asked to identify individual compliance units (companies, divisions, etc.), not to identify separate employee groups within those compliance units

[FR Doc. 38261 Filed 12-11-79; 8:45 am]  
BILLING CODE 3175-01-C

## DEPARTMENT OF AGRICULTURE

## Federal Crop Insurance Corporation

## 7 CFR Part 416

(Amendment No. 1)

## Pea Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the Pea Crop Insurance Regulations for the 1979 and Succeeding Crop Years by (1) changing the designation of "section" to "part" in the last sentence of § 416.1 of the regulations, and (2) adding an appendix to the regulations, which lists the counties where pea crop insurance is available, as required by the provisions of § 416.1. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On Tuesday, May 1, 1979, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (44 FR 25397), prescribing procedures for insuring pea crops effective with the 1979 crop year.

These regulations are found in 7 CFR 416 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 416.1 of the Pea Crop Insurance Regulations for the 1979 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be published by appendix to this section the name of the county and the crops on which insurance will be offered."

The word "section", as found in the last sentence of § 416.1 of the regulations cited above, is incorrect and is changed to read "part".

Prior to the publication of the Pea Crop Insurance Regulations as a new Part 416 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR 416) in the Federal Register on May 1, 1979 (44 FR 25397), such regulations were contained in 7 CFR 401.131, 146, and 147.

With the development of the Pea Crop Insurance Regulations as a new Part 416 in 7 CFR, it has become necessary to reissue the list of pea crop insurance

counties as an "Appendix" to those regulations.

## Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Pea Crop Insurance Regulations for the 1979 and Succeeding Crop Years (7 CFR Part 416), are amended as follows:

1. By amending the last sentence of 7 CFR 416.1 to read as follows:

## § 416.1 Availability of pea insurance.

\* \* \* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which pea insurance will be offered.

2. By amending the Pea Crop Insurance Regulations by adding at the end thereof, an Appendix to read as follows:

## Appendix

## Counties Designated for Pea Crop Insurance—7 CFR 416

In accordance with the provisions of 7 CFR 416.1, the following counties are designated for pea crop insurance:

## Idaho

Benewah  
Franklin  
Kootenai

Latah  
Lewis  
Nez Perce

## Minnesota

Blue Earth  
Brown  
Dakota  
Dodge  
Faribault  
Freeborn  
Goodhue  
Kandiyohi  
Le Sueur  
McLeod  
Martin  
Meeker  
Mower

Nicollet  
Olmsted  
Redwood  
Renville  
Rice  
Scott  
Sibley  
Steele  
Wabasha  
Waseca  
Watsonwan  
Winona

## Oregon

Umatilla

Union

## Utah

Box Elder  
Cache  
Davis

Salt Lake  
Weber

## Washington

Adams  
Columbia  
Franklin  
Grant

Spokane  
Walla Walla  
Whitman

## Wisconsin

Brown  
Calumet  
Columbia  
Dane  
Dodge  
Door  
Fond du Lac  
Green Lake  
Kewaunee  
Manitowoc

Outagamie  
Rock  
Sauk  
Sheboygan  
Trempealeau  
Walworth  
Washington  
Waushara  
Winnebago

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the word "section" to "part" is minor and nonsubstantive, and the publication of the list of counties where pea crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by:

James D. Deal.

[FR Doc. 79-38166 Filed 12-12-79; 8:45 am]

BILLING CODE 3410-08-M

## 7 CFR Part 417

(Amdt. No. 2)

## Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the Sugarcane Crop Insurance Regulations for the 1980 and Succeeding Crop Years by (1) changing the designation of "chapter" to "part" in the last sentence in § 417.1 of the regulations, and (2) adding an appendix to the regulations, to provide a listing of counties where sugarcane crop insurance is available, as required by the provisions of § 417.1. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 13, 1979.



**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On Thursday, June 21, 1979, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (44 FR 36161), prescribing procedures for insuring sugarcane crops effective with the 1980 crop year.

These regulations are found in 7 CFR 417 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 417.1 of the Sugarcane Crop Insurance Regulations for the 1980 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugarcane insurance will be offered."

The word "chapter", as found in the last sentence of § 417.1 of the regulations cited above, is incorrect and is changed to read "part".

Prior to the publication of the Sugarcane Crop Insurance Regulations as a revised Part 417 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR 417) in the Federal Register on June 21, 1979 (44 FR 36161), the listing of the sugarcane crop insurance counties was published as Amendment No. 1 to the Sugarcane Crop Insurance Regulations for the 1979 and Succeeding Crop Years—7 CFR 417 (Federal Register at 44 FR 1969, Tuesday, January 9, 1979) which contained a listing of counties where Federal Crop Insurance was available on various commodities.

With the development of the Sugarcane Crop Insurance Regulations as a revised Part 417 in 7 CFR, it has become necessary to reissue the list of sugarcane crop insurance counties as an "Appendix B" to those regulations.

Accordingly, Amendment No. 1 (44 FR 1969) as outlined above, is hereby superseded by "Appendix B" outlined below.

#### Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Sugarcane Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 417), are amended as follows:

1. By amending the last sentence of 7 CFR 417.1 to read as follows:

#### § 417.1 Availability of sugarcane insurance.

\* \* \* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which sugarcane insurance will be offered.

2. By amending the Sugarcane Crop Insurance Regulations by adding at the end thereof, an Appendix "B" to read as follows:

#### Appendix B

##### Counties Designated for Sugarcane Crop Insurance—7 CFR 417

In accordance with the provisions of 7 CFR 417.1, the following counties are designated for sugarcane crop insurance:

|                  |                      |
|------------------|----------------------|
| <b>Florida</b>   |                      |
| Glades           | Palm Beach           |
| <b>Louisiana</b> |                      |
| Ascension        | St. James            |
| Assumption       | St. John the Baptist |
| Iberia           | St. Martin           |
| Iberville        | St. Mary             |
| Lafayette        | Terrebonne           |
| Lafourche        | Vermilion            |
| Pointe Coupee    | West Baton Rouge     |
| <b>Texas</b>     |                      |
| Cameron          | Willacy              |
| Hidalgo          |                      |

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the word "chapter" to "part" is minor and nonsubstantive, and the publication of the list of counties where sugarcane crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on September 6, 1979.

**Peter F. Cole,**  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.  
Approved by: James D. Deal.  
[FR Doc. 79-38185 Filed 12-12-79; 8:45 am]  
BILLING CODE 3410-08-M

#### 7 CFR Part 418

##### [Amendment No. 1]

#### Wheat Crop Insurance Regulations

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Wheat Crop Insurance Regulations for the 1980 and Succeeding Crop Years by (1) changing the designation of "chapter" to "part" in the last sentence of § 418.1 of the regulations, and (2) adding an appendix to the regulations, which lists the counties where wheat crop insurance is available, as required by the provisions of § 418.1. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On Friday, June 1, 1979, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (44 FR 31599-31610), prescribing procedures for insuring wheat crops effective with the 1980 crop year.

These regulations are found in 7 CFR 418 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 418.1 of the Wheat Crop Insurance Regulations for the 1980 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which wheat insurance will be offered."

The word "chapter", as found in the last sentence of § 418.1 of the regulations cited above, is incorrect and is changed to read "part".

Prior to the publication of the Wheat Crop Insurance Regulations as a new Part 418 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR 418) in the Federal Register on June 1, 1979

(44 FR 31599), such regulations were contained in 7 CFR 401.126 and 153, and the listing of the wheat crop insurance counties was published as part of Amendment No. 101 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years—7 CFR 401 (Federal Register at 44 FR 749 through 761, Wednesday, January 3, 1979) which contained a listing of counties where Federal Crop Insurance was available on various commodities.

With the development of the Wheat Crop Insurance Regulations as a new Part 418 in 7 CFR, it has become necessary to reissue the list of wheat crop insurance counties as an "Appendix B" to those regulations.

Accordingly, Amendment No. 101 to 7 CFR 401 is hereby superseded as it relates to wheat by "Appendix B" outlined below.

#### Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Wheat Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 418), are amended as follows:

1. By amending the last sentence of 7 CFR 418.1 to read as follows:

#### § 418.1 Availability of wheat insurance.

\* \* \* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which wheat insurance will be offered.

2. By amending the Wheat Crop Insurance Regulations by adding at the end thereof, an Appendix "B" to read as follows:

#### Appendix B

##### Counties Designated for Wheat Crop Insurance—7 CFR 418

In accordance with the provisions of 7 CFR 418.1, the following counties are designated for wheat crop insurance:

#### Alabama

Lawrence

#### Arkansas

Chicot  
Clay  
Craighead  
Crittenden  
Cross

Desha  
Greene  
Mississippi  
Poinsett  
St. Francis

#### California

Colusa  
Fresno  
Imperial  
Kern  
Kings  
Madera  
Merced  
Modoc

Sacramento  
San Joaquin  
Solano  
Stanislaus  
Sutter  
Tulare  
Yolo

#### Colorado

Adams

Arapahoe

Baca  
Cheyenne  
Elbert  
Kit Carson  
Larimer  
Lincoln  
Logan

#### Georgia

Houston

#### Idaho

Ada  
Bannock  
Benewah  
Bingham  
Bonnevill  
Camas  
Canyon  
Caribou  
Cassida  
Franklin  
Fremont  
Gooding  
Idaho

#### Illinois

Adams  
Bond  
Brown  
Cass  
Champaign  
Christian  
Clark  
Clay  
Clinton  
Coles  
Crawford  
Cumberland  
Dewitt  
Douglas  
Edgar  
Effingham  
Fayette  
Fulton  
Greene  
Hamilton  
Hancock  
Iroquois  
Jasper  
Jefferson  
Jersey  
Kane  
Kankakee  
Lawrence  
Livingston  
Logan

#### Indiana

Adams  
Allen  
Bartholomew  
Benton  
Blackford  
Boone  
Carroll  
Cass  
Clay  
Clinton  
Davies  
Decatur  
De Kalb  
Delaware  
Elkhart  
Fayette  
Fountain  
Franklin  
Fulton  
Gibson  
Grant  
Greene  
Hamilton  
Hancock  
Hendricks  
Henry

Morgan  
Phillips  
Powers  
Sedgwick  
Washington  
Weld  
Yuma

Jefferson  
Jerome  
Kootenai  
Latah  
Lewis  
Lincoln  
Madison  
Minidoka  
Nez Perce  
Oneida  
Power  
Teton  
Twin Falls

McDonough  
McLean  
Macon  
Macoupin  
Madison  
Marion  
Mason  
Menard  
Monroe  
Montgomery  
Morgan  
Moultrie  
Perry  
Pike  
Randolph  
Richland  
St. Clair  
Sangamon  
Schuyler  
Scott  
Shelby  
Tazewell  
Vermilion  
Washington  
Wayne  
White  
Will

Howard  
Huntington  
Jackson  
Jasper  
Jay  
Johnson  
Knox  
Kosciusko  
Lagrange  
La Porte  
Madison  
Marion  
Marshall  
Miami  
Montgomery  
Morgan  
Newton  
Noble  
Parke  
Posey  
Pulaski  
Putnam  
Randolph  
Ripley  
Rush  
Shelby

Sullivan  
Tippecanoe  
Tipton  
Union  
Vermillion  
Vigo

#### Iowa

Davis  
Des Moines  
Fremont  
Harrison

#### Kansas

Allen  
Anderson  
Atchison  
Barber  
Barton  
Bourbon  
Brown  
Butler  
Chase  
Chautauqua  
Cherokee  
Cheyenne  
Clark  
Clay  
Cloud  
Coffey  
Comanche  
Cowley  
Crawford  
Decatur  
Dickinson  
Doniphan  
Douglas  
Edwards  
Elk  
Ellis  
Ellsworth  
Finney  
Ford  
Franklin  
Geary  
Gove  
Graham  
Grant  
Gray  
Creeley  
Greenwood  
Hamilton  
Harper  
Harvey  
Haskell  
Hodgeman  
Jackson  
Jefferson  
Jewell  
Johnson  
Kearny  
Kingman  
Kiowa  
Labette  
Lane  
Leavensworth

#### Kentucky

Christian

#### Maryland

Caroline  
Kent

#### Michigan

Bay  
Branch  
Calhoun  
Cass  
Clinton  
Eaton  
Genesee  
Gratiot

Wabash  
Warren  
Wayne  
Wells  
White  
Whitley

#### Lee

Mills  
Monona  
Pottawattamie

#### Lincoln

Linn  
Logan  
Lyon  
McPherson  
Marion  
Marshall  
Meade  
Miami  
Mitchell  
Montgomery  
Morris  
Morton  
Nemaha  
Neosha  
Ness  
Norfolk  
Osage  
Osborne  
Ottawa  
Pawnee  
Phillips  
Pottawatomie  
Pratt  
Rawlins  
Reno  
Republic  
Rice  
Riley  
Rooks  
Rush  
Russell  
Saline  
Scott  
Sedgwick  
Seward  
Shawnee  
Sheridan  
Sherman  
Smith  
Stafford  
Stanton  
Stevens  
Sumner  
Thomas  
Trego  
Wabunsee  
Wallace  
Washington  
Wichita  
Wilson  
Woodson

#### Queen Annes

Hillsdale  
Huron  
Ingham  
Ionia  
Jackson  
Kalamazoo  
Lenawee  
Livingston



## Michigan—Continued

Monroe  
Saginaw  
St. Clair  
St. Joseph

## Minnesota

Becker  
Big Stone  
Blue Earth  
Brown  
Carver  
Chippewa  
Clay  
Cottonwood  
Dakota  
Dodge  
Douglas  
Faribault  
Freeborn  
Goodhue  
Grant  
Kandiyohi  
Kittson  
Lac qui Parle  
Le Sueur  
Lincoln  
Lyon  
McCleod  
Mahnomon  
Marshall  
Meeker  
Mower

## Mississippi

Bolivar  
Calhoun  
Coahoma  
Humphreys  
Leflore  
Quitman

## Missouri

Adair  
Andrew  
Atchison  
Audrain  
Barton  
Bates  
Boone  
Buchanan  
Butler  
Caldwell  
Callaway  
Cape Girardeau  
Carroll  
Cass  
Chariton  
Clark  
Clay  
Clinton  
Cooper  
Dade  
Davies  
De Kalb  
Dunklin  
Franklin  
Gentry  
Harrison  
Henry  
Holt  
Howard  
Jackson  
Jasper

## Montana

Big Horn  
Blaine  
Carbon  
Cascade  
Chouteau  
Custer  
Daniels  
Dawson  
Fallon  
Fergus

Sanilac  
Shiawassee  
Tuscola  
Washtenaw

## Nebraska

Nicollet  
Norman  
Olmsted  
Otter Tail  
Pennington  
Polk  
Pope  
Red Lake  
Redwood  
Renville  
Rice  
Roseau  
Scott  
Sibley  
Stearns  
Steele  
Stevens  
Swift  
Todd  
Traverse  
Wabasha  
Waseca  
Washington  
Wilkin  
Wright  
Yellow Medicine

## New Mexico

Sharkey  
Sunflower  
Tallahatchie  
Tunica  
Washington

## North Carolina

Curry

## North Dakota

Johnson  
Knox  
Lafayette  
Lawrence  
Lewis  
Lincoln  
Linn  
Livingston  
Macon  
Marion  
Mississippi  
Monroe  
Montgomery  
Carroll  
Cass  
Nodaway  
Pemisnot  
Perry  
Pettis  
Pike  
Platte  
Ralls  
Randolph  
Ray  
St. Charles  
Saline  
Scotland  
Scott  
Shelby  
Stoddard  
Sullivan  
Vernon

## Ohio

Callatin  
Garfield  
Glacier  
Golden Valley  
Hill  
Judith Basin  
Liberty  
McCone  
Musselshell  
Petroleum

Phillips  
Pondera  
Prairie  
Richland  
Roosevelt  
Rosebud  
Sheridan  
Stillwater

## Nebraska

Adams  
Banner  
Box Butte  
Butler  
Cass  
Chase  
Cheyenne  
Dawes  
Dodge  
Dundy  
Fillmore  
Franklin  
Frontier  
Furnas  
Garden  
Gosper  
Hall  
Hamilton  
Harlan  
Hayes  
Hitchcock  
Jefferson  
Johnson

## New Mexico

Curry

## North Carolina

Curry

## North Dakota

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Teton  
Treasure  
Valley  
Wheatland  
Wibaux  
Yellowstone

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Highland  
Huron  
Knox  
Licking  
Logan  
Lucas  
Madison  
Marion  
Medina  
Mercer  
Miami  
Montgomery  
Morrow  
Ottawa

## Highland

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## Idaho—Continued

Bonneville  
Camas  
Canyon  
Caribou  
Cassia  
Elmore  
Franklin  
Fremont  
Gooding  
Idaho  
Jefferson  
Jerome

## Maryland

Carolina  
Kent

## Minnesota

Becker  
Big Stone  
Chippewa  
Clay  
Douglas  
Grant  
Kittson  
Mahnomon  
Marshall  
Norman

## Montana

Big Horn  
Blaine  
Carbon  
Cascade  
Chouteau  
Custer  
Daniels  
Dawson  
Fallon  
Fergus  
Gallatin  
Garfield  
Glacier  
Golden Valley  
Hill  
Judith Basin  
Liberty  
Yellowstone

## North Dakota

Adams  
Barnes  
Benson  
Billings  
Bottineau  
Bowman  
Burke  
Burleigh  
Cass  
Cavalier  
Dickey  
Divide  
Dunn  
Eddy  
Emmons  
Foster  
Golden Valley  
Grand Forks  
Grant  
Griggs  
Hettinger  
Kidder  
La Moure  
Logan  
McHenry  
McIntosh  
McKenzie

## Oregon

Gilliam  
Jefferson  
Klamath  
Linn  
Malheur  
Morrow

Kootenai  
Latah  
Lewis  
Lincoln  
Madison  
Minidoka  
Nez Perce  
Oneida  
Owyhee  
Power  
Teton  
Twin Falls

## Queen Annes

Otter Tail  
Pennington  
Polk  
Pope  
Red Lake  
Roseau  
Stevens  
Swift  
Traverse  
Wilkin

McCone  
Musselshell  
Petroleum  
Phillips  
Pondera  
Prairie  
Richland  
Roosevelt  
Rosebud  
Sheridan  
Stillwater  
Teton  
Toole  
Treasure  
Valley  
Wheatland  
Wibaux

McLean  
Mercer  
Morton  
Mountrail  
Nelson  
Oliver  
Pembina  
Pierce  
Ramsey  
Ransom  
Renville  
Richland  
Rolette  
Sargent  
Sheridan  
Sioux  
Slope  
Stark  
Steele  
Stutsman  
Towner  
Traill  
Walsh  
Ward  
Wells  
Williams

Sherman  
Umatilla  
Union  
Wallowa  
Wasco  
Wheeler

## Pennsylvania

Adams  
Chester  
Cumberland  
Dauphin

## South Dakota

Beadle  
Brookings  
Brown  
Brule  
Buffalo  
Campbell  
Charles  
Clark  
Cody  
Day  
Deuel  
Edmunds  
Faulk  
Spink  
Sully

## Utah

Cache  
Davis  
Salt Lake

## Washington

Adams  
Asotin  
Columbia  
Franklin  
Garfield  
Grant

## Wyoming

Big Horn  
Goshen

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the word "chapter" to "part" is minor and nonsubstantive, and the publication of the list of counties where barley crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and determined that good cause exists for issuing this rule without compliance with the 60-day notice provision of Executive Order No. 12044 and the notice, public participation and 30-day effective day requirements of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)) because it is unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

This action has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Franklin  
Lebanon  
York

Grant  
Gregory  
Hamlin  
Hand  
Harding  
Jerauld  
Mix  
Kingabury  
Lake  
McPherson  
Marshall  
Miner  
Roberts  
Ziebach

Utah  
Weber

Klickitat  
Lincoln  
Spokane  
Walla Walla  
Whitman

Park  
Washakie

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,  
Secretary, Federal Crop Insurance Corporation.

Dated: October 12, 1979.

Approved by:

James D. Deal.

[FR Doc. 79-38164 Filed 12-12-79; 6:45 am]

BILLING CODE 3410-08-M

## 7 CFR Part 430

[Amendment No. 1]

## Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the Sugar Beet Crop Insurance Regulations for the 1980 and Succeeding Crop Years by (1) changing the designation of "chapter" to "part" in the last sentence in § 430.1 of the regulations, and (2) adding an appendix to the regulations, which lists the counties where sugar beet crop insurance is available, as required by the provisions of § 430.1. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

**SUPPLEMENTARY INFORMATION:** On Tuesday, June 19, 1979, the Federal Crop Insurance Corporation published a notice of Final Rule in the Federal Register (44 FR 35201), prescribing procedures for insuring sugar beet crops effective with the 1980 crop year.

These regulations are found in 7 CFR 430 and were promulgated under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

The last sentence in § 430.1 of the Sugar Beet Crop Insurance Regulations for the 1980 and Succeeding Crop Years provides that "Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugar beet insurance will be offered."

The word "chapter", as found in the last sentence of § 430.1 of the regulations cited above, is incorrect and is changed to read "part".

Prior to the publication of the Sugar Beet Crop Insurance Regulations as a new Part 430 in Chapter IV of Title 7 of

the Code of Federal Regulations (7 CFR 430) in the Federal Register on June 19, 1979 (44 FR 35201), such regulations were contained in 7 CFR 401.140 and 149, and the listing of the sugar beet crop insurance counties was published as part of Amendment No. 101 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years 7 CFR 401 (Federal Register at 44 FR 749 through 761, Wednesday, January 3, 1979) which contained a listing of counties where Federal Crop Insurance was available on various commodities.

With the development of the Sugar Beet Crop Insurance Regulations as a new Part 430 in 7 CFR, it has become necessary to reissue the list of sugar beet crop insurance counties as an "Appendix B" to those regulations.

Accordingly, Amendment No. 101 to 7 CFR 401 is hereby superseded as it relates to sugar beets by "Appendix B" outlined below.

## Final Rule

Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Sugar Beet Crop Insurance Regulations for the 1980 and Succeeding Crop Years (7 CFR Part 430), are amended as follows:

1. By amending the last sentence of 7 CFR 430.1 to read as follows:

## § 430.1 Availability of sugar beet insurance.

Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which sugar beet insurance will be offered.

2. By amending the Sugar Beet Crop Insurance Regulations by adding at the end thereof, an Appendix "B" to read as follows:

## Appendix "B"

Counties Designated for Sugar Beet Crop Insurance—7 CFR 430

In accordance with the provisions of 7 CFR 430.1, the following counties are designated for sugar beet crop insurance:

## California

Colusa  
Fresno  
Imperial  
Kern  
Kings  
Madera  
Merced  
Monterey

## Colorado

Adams  
Boulder  
Kit Carson  
Larimer  
Logan

Sacramento  
San Benito  
San Joaquin  
Solano  
Stanislaus  
Sutter  
Tulare  
Yolo

Morgan  
Phillips  
Sedgwick  
Weld  
Yuma

## Idaho

Ada  
Bannock  
Bingham  
Bonneville  
Canyon  
Cassia  
Elmore

## Kansas

Finney  
Grant  
Kearny

## Michigan

Bay  
Huron  
Midland

## Minnesota

Chippewa  
Clay  
Faribault  
Grant  
Kandiyohi  
Kittson  
Lac qui Parle  
Marshall

## Montana

Big Horn  
Carbon  
Custer  
Dawson  
Prairie

## Nebraska

Box Butte  
Morrill

## North Dakota

Cass  
Grand Forks  
McKenzie  
Pembina

## Ohio

Hancock  
Henry  
Lucas  
Ottawa

## Oregon

Malheur

## Utah

Box Elder  
Cache  
Davis

## Washington

Adams  
Benton  
Franklin

## Wyoming

Big Horn  
Goshen

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516))

Inasmuch as the changing of the word "chapter" to "part" is minor and nonsubstantive, and the publication of the list of counties where sugar beet crop insurance is available merely provides guidance for the general public and will benefit present and future policyholders, it is found and

Franklin  
Jerome  
Minidoka  
Owyhee  
Power  
Twin Falls

Sherman  
Stanton  
Wallace

Saginaw  
Tuscola

Norman  
Polk  
Redwood  
Renville  
Swift  
Traverse  
Wilkin  
Yellow Medicine

Richland  
Rosebud  
Stillwater  
Treasure  
Yellowstone

Scotts Bluff

Richland  
Traill  
Walsh  
Williams

## Agricultural Marketing Service

## 7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 3, Amdt. 4]

## Tangerines Grown in Florida; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

**SUMMARY:** This amendment increases the quantity of size 210 (2½ inches in diameter) Dancy variety tangerines which each handler may handle during the week December 3 through December 9, 1979, from 50 percent to 100 percent of shipments during a specified prior period. The amendment lowers the minimum size requirement applicable to fresh shipments of such tangerines from 2½ inches to 2¼ inches in diameter during the period December 10, 1979, through October 12, 1980. This action will allow additional supplies of Dancy tangerines during the specified periods in recognition of market needs and the size composition of the available crop in the interest of producers and consumers.



**EFFECTIVE DATE:** December 3, 1979 through October 12, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, (202) 447-5975.

**SUPPLEMENTARY INFORMATION:** Findings.

(1) This document is issued under marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. This marketing order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations of the committee established under the marketing agreement and order, and upon other information. It is found that the regulation of shipments of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of additional smaller size fresh Florida tangerines of the designated variety, during the specified periods based on market needs for greater supplies of such variety. Because of the growing conditions in the production area, the amount of large fruit is presently less than was anticipated and there is a need to augment supplies by permitting shipment of the smaller size fruit as specified.

The Citrus Administrative Committee, at an open meeting on December 4, 1979, reported that the amendment would allow shipment of approximately 48 additional carlots of Dancy variety tangerines during the week ending December 9, 1979. The committee indicated there is a current market demand for larger quantities of smaller size Dancy tangerines, and markets presently can absorb a larger portion of the supply of the smaller fruit.

The Department's Crop Reporting Board estimates the 1979-80 season's crop of Florida tangerines at 4.1 million boxes (approximately 8.2 million cartons), slightly larger than the 1978-79 volume.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,700 carlots); Robinson (1,500 carlots); Honey (1,900 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid

disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (7 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-5975.

Accordingly, it is found that the provisions of § 905.303 (Orange, Grapefruit, Tangerine and Tangelo Regulation 3; (59195, 65962; 66779; 69917), should be and are amended by revising Table I, paragraph (a) and paragraph (d) to read as follows:

**§ 905.303 Orange, Grapefruit, Tangerine, and Tangelo Regulation 3.**

(a) \* \* \*

Table I

| Variety     | Regulation period                          | Min. grade               | Min. dia. (in.) |
|-------------|--------------------------------------------|--------------------------|-----------------|
| (1)         | (2)                                        | (3)                      | (4)             |
| Tangerines: |                                            |                          |                 |
| Dancy       | 12/3/79 to 12/9/79<br>12/10/79 to 10/12/80 | U.S. No. 1<br>U.S. No. 1 | 2 1/8<br>2 1/8  |

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may, during the period December 3, through December 9, 1979, ship Dancy variety tangerines smaller than 2 1/8 inches in diameter: *Provided*, That such smaller tangerines are not smaller than 2 1/8 inches in diameter and *Provided further*, That during the period December 3 through December 9, the quantity of such smaller tangerines does not exceed 100 percent of the quantity shipped in the applicable prior period, as determined by the procedure specified in § 905.152 of this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 7, 1979.

Charles R. Brader,  
Director, Fruit and Vegetable Division,  
Agricultural Marketing Service.

[FR Doc 79-38206 Filed 12-12-79; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF ENERGY

### 10 CFR Part 205

#### Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

**AGENCY:** Department of Energy.

**ACTION:** Notice of Interpretations.

**SUMMARY:** Attached are the interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period October 1, 1979, through November 30, 1979.

Appendix B identifies those requests for interpretation which have been dismissed during the same period.

**FOR FURTHER INFORMATION CONTACT:** Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585, (202) 252-2948.

#### SUPPLEMENTARY INFORMATION:

Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and

other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s)

(§ 205.85(e)). The interpretations published below are not subject to appeal.

Issued in Washington, D.C., December 7, 1979.

Everard A. Marseglia, Jr.,  
Assistant General Counsel for Interpretations  
and Rulings, Office of General Counsel.

#### Appendix A.—Interpretations

| No.     | To                                    | Date        | Category   | File No. |
|---------|---------------------------------------|-------------|------------|----------|
| 1979-23 | Wilson A. Chase                       | November 30 | Allocation | A-407    |
| 1979-24 | National Soft Drink Association       | November 30 | Allocation | A-416    |
| 1979-25 | The Lido Company of New England, Inc. | November 30 | Allocation | A-430    |

#### Interpretation 1979-23

To: Wilson A. Chase.  
*Regulation and Order Interpreted:* 10 CFR 211.106(e); Activation Order No. 1.  
Code: GCW—AI—Part 211, Subpart F; Supplier/Purchaser Relationship; Retail Sales Outlets, Motor Gasoline Transfer of Allocation Entitlement.

#### Facts

Wilson A. Chase is the operator of a drugstore known as Chase Altura Drug located on the extreme northeast corner of a block in Aurora, Colorado. Jefferson C. Webb leased premises from Chase adjacent to the drugstore where he installed pumps and tanks for the purpose of selling motor gasoline at retail. Chase acted as a consignee-agent, selling Webb's gasoline to the public and receiving a cents-per-gallon fee for this service.<sup>1</sup> Webb assigned his interest in this business relationship to Jetway Petroleum, a corporation apparently wholly owned by Webb. Jetway is a wholesale purchaser-reseller of motor gasoline that sells the product to a number of retail sales outlets. The relationship lasted until July 20, 1978, when Jetway went out of business at the Chase Altura Drug and subsequently removed its gasoline tanks and pumps.

After Jetway's departure, Chase located the gasoline retail sales facilities at an already existing car wash in order to continue to serve what he believed to be the same customers that had been served for the past 10 years by the retail sales outlet at Chase Altura Drug. The car wash, owned and operated by Chase since July 1977, is located in the southwest portion of the same city block on which Chase Altura Drug is located. The car wash had always been equipped to operate as a retail sales outlet for motor gasoline but was not used as such until July 28, 1978.

Jetway's supplier of motor gasoline was Spruce Oil Corporation (Spruce), also a

<sup>1</sup> Chase has not argued that as a consignee-agent he is a wholesale purchaser-reseller pursuant to the definition in 10 CFR 211.51, as interpreted by Ruling 1975-8, 40 FR 30037 (July 17, 1975). Consequently, his status as such is not considered in this interpretation.

wholesale purchaser-reseller of gasoline. Chase, however, purchased motor gasoline from Riddell Petroleum (Riddell) on the spot market for the retail sales outlet at the car wash. Chase alleges that he was uncertain as to whether or not Jetway, having ceased selling motor gasoline at the Chase Altura Drug location, would reestablish a retail sales outlet for motor gasoline at another location nearby. To date, Jetway has not reestablished such an outlet serving substantially the same customers or market as the former outlet at Chase Altura Drug.

On March 3, 1979, Chase was informed by Riddell that he could no longer obtain gasoline from it on the spot market, due to Standby Regulation Activation Order No. 1 issued by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE). Believing that Jetway had not reestablished a retail sales outlet for motor gasoline serving substantially the same customers as the outlet at Chase Altura Drug, Chase then informed Spruce that as a "successor on the site" pursuant to 10 CFR 211.106(e), he was entitled to Jetway's allocation entitlement to purchase motor gasoline from Spruce. Chase now seeks an interpretation confirming his position, which is contested by Spruce.

On April 20, 1979, Chase obtained from DOE Region VIII an assignment of XXXXXX gallons of motor gasoline per month from Riddell (Case No. 08-011461). The volume obtained through the assignment, however, is less than the allocation of approximately XXXXXX gallons per month to which Chase argues he would be entitled as the "successor on the site" to Jetway's former retail sales outlet at Chase Altura Drug.

#### Issues

1. Is Chase a "successor on the site" to Jetway Petroleum pursuant to 10 CFR 211.106(e) so that he is entitled to the allocation of motor gasoline attributable to Jetway's former retail sales outlet at Chase Altura Drug?

2. Does Chase continue to be entitled to the volumes of motor gasoline assigned under Standby Regulation Activation Order No. 1?

#### Interpretation

For the reasons discussed below, we have determined that although Chase is not the

"successor on the site" to Jetway's allocation of motor gasoline attributable to the former retail sales outlet at Chase Altura Drug, Chase continues to be entitled to the volumes assigned under Standby Activation Order No. 1.

A firm's qualification, *vel non*, to an allocation as a "successor on the site" is governed by 10 CFR 211.106(e). That section provides:

*Transfer of entitlement.* Whenever a wholesale purchaser-reseller is deemed to have gone out of business in accordance with paragraph (c) of this section, the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEO, after its predecessor vacates the premises.

Section 211.106(c) provides that a wholesale purchaser-reseller that operates a retail sales outlet is deemed to have gone out of business with respect to that outlet if it vacates the site of the retail sales outlet. Chase argues that he qualifies for a transfer of the motor gasoline allocation entitlement attributable to the former Chase Altura Drug retail sales outlet because (1) Jetway has gone out of business at the drugstore site, and (2) within 8 days after Jetway closed the drugstore outlet, Chase established the same ongoing business for the sale of motor gasoline at his car wash as was conducted at the drugstore site.

Our examination, however, indicates that section 211.106(e) requires the new business to be on the same site as the previous retail sales outlet in order to effect a transfer of the allocation entitlement. *See, e.g.,* Ruling 1976-5, 41 FR 36647 (August 31, 1976); *Vickers Dividend Oil Co.* 2 DOE §80.160 (December 13, 1978); *Cities Service Oil Co.* 1 FEA §20.134 (July 29, 1974). We are unable to conclude that Chase qualifies as a "successor on the site" according to the facts presented for our consideration.<sup>2</sup>

With respect to the volumes of motor gasoline that were assigned pursuant to the provisions of the Standby Regulation Activation Order No. 1, that assignment remains valid even though the Activation Order is no longer effective. Activation Order No. 1 of the Standby Petroleum Allocation Regulations, pursuant to which Mr. Chase received his April 20, 1979 assignment order, updated the base period for motor gasoline. 44 FR 11202 (February 25, 1979). The

<sup>2</sup> The retail sales outlet at Chase Altura Drug was located on the northeast corner of a city block and Chase's car wash is located on the southwest portion of the block. The Chase Altura Drug site faced a heavily travelled major thoroughfare whereas the Chase site faces a side street that is less well travelled. Without the volume of passing cars at the northeast corner, it is doubtful that Chase's car wash ordinarily serves substantially the same customers as the retail sales outlet at Chase Altura Drug. Furthermore, Chase does not use the storage tanks, gasoline pumps or any other facilities on the site formerly used at Chase Altura Drug.



Activation Order, which was initially intended to be effective for the months of March, April, and May 1979, established monthly allocation entitlements based upon purchases of motor gasoline in the corresponding month of the period July 1, 1977, through June 30, 1978.<sup>3</sup> Chase began to purchase gasoline from Riddell Petroleum after the base period established in the Activation Order. Firms such as Chase that made no purchases from any supplier during the corresponding month of the base period were directed to apply to the appropriate regional office for the assignment of a base period supplier. Section II(2)(a), Guidelines for Determination of Base-Period Volumes and Suppliers for Motor Gasoline under Activation Order No. 1, 44 FR 16480 (March 19, 1979). Accordingly, on April 20, 1979, Mr. Chase obtained an assignment of XXXXXX gallons from DOE Region VIII with Riddell Petroleum as its base period supplier. (Case No. 08-011461).

The Activation Order was not in effect for the entire period originally intended. On May 1, 1979, the ERA issued an emergency interim final rule that codified many of the provisions of the Activation Order and Guidelines. Inasmuch as the Activation Order was to expire on May 31, 1979 and because both the Activation Order and the interim final rule were intended to avoid similar market dislocations during gasoline shortages, the interim rule was made effective on May 1, 1979, and the Activation Order was revoked for the remainder of the month. 44 FR 26712 (May 4, 1979). Chase's assignment order was issued while the Activation Order was still in effect. In spite of the Activation Order's subsequent revocation, the assignment remains valid under § 211.105(b)(3), which provides that "assignments made under Activation Order No. 1 and the guidelines thereto will remain valid . . ."

For the reasons set forth above, we have determined that the proper application of the Mandatory Petroleum Allocation Regulations to the factual situation presented by the request is as follows:

(1) Wilson Chase's car wash and retail sales outlet is not a "successor on the site" under 10 CFR 211.106(e) to Jetway Petroleum's retail sales outlet at Chase Altura Drug; and

(2) The assignment of motor gasoline issued to Chase on April 20, 1979, with Riddell Petroleum as base period supplier, remains valid.

Issued in Washington, D.C. on November 30, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

#### Interpretation 1979-24

To: National Soft Drink Association.

<sup>3</sup>The original base period was the corresponding month of 1972. The base period has since been updated to the corresponding month of the period November 1977 through October 1978. 44 FR 26712 (May 4, 1979).

<sup>4</sup>It should be noted that even if Chase had been Jetway's successor on the site, any volumes to which Jetway was entitled based upon the earlier 1972 base period may have been affected by the recent updating of the base period.

*Regulations Interpreted:* 10 CFR 211.51; 211.103.

*Code:* GCW-AI—Allocation Levels; Agricultural Production, def.

#### Facts

The National Soft Drink Association (NSDA) is an organization composed of firms engaged in the business of bottling and distributing soft drinks within the United States. In conducting these activities, NSDA's members use significant volumes of motor gasoline, a petroleum product subject to the Mandatory Petroleum Allocation Regulations in 10 CFR Part 211.

NSDA has filed a request for interpretation seeking a determination under the allocation regulations that its members are entitled to a first priority allocation level for motor gasoline of 100 percent of all their base period use under 10 CFR 211.103. They argue that both the bottling and the distribution of soft drinks meet the definition of "agricultural production" as defined in 10 CFR 211.51 and are thereby entitled to a first priority allocation level for motor gasoline. For purposes of this interpretation, we assume that all NSDA members to which this interpretation applies meet the requirements for a "bulk purchaser" as defined in 10 CFR 211.102 and/or "wholesale purchaser-consumer" as defined in 10 CFR 211.51 and thus are generally eligible for the priority allocation levels for motor gasoline as specified in 10 CFR 211.103(a).

#### Issue

Is the use of motor gasoline in the distribution of soft drinks by a firm primarily engaged in the manufacture of soft drinks a use properly characterized as agricultural production (as defined in § 211.51) under the Mandatory Petroleum Allocation Regulations?

#### Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that a firm's use of motor gasoline in the manufacture of soft drinks fits within the agricultural production use as that term is defined in 10 CFR 211.51, and the firm is thereby entitled to a first priority allocation level for this gasoline of 100 percent of its base period use as provided in 10 CFR 211.103(b)(2). However, the distribution of soft drinks by a firm which is primarily engaged in the manufacture of soft drinks is not an agricultural production use; for gasoline used in such distribution the firm would be entitled to a first priority allocation level for the use of cargo, freight, and mail hauling by truck or to a second priority allocation level for a commercial use. 10 CFR 211.103 (b) and (c).

The Mandatory Petroleum Allocation Regulations were adopted to implement the congressional objectives expressed in the Emergency Petroleum Allocation Act of 1973.

<sup>1</sup>Since NSDA has not submitted a complete factual statement concerning the activities of its members, this interpretation does not address the issue of whether the bottling activities mentioned in NSDA's request constitute the manufacturing of soft drinks and thereby qualify as agricultural production.

as amended (EPAA), Pub. L. No. 93-159 (November 27, 1973).<sup>2</sup> Section 4(b)(1) of the EPAA directs the President to promulgate a regulation that provides, *inter alia*, for the "maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto." EPAA, § 4(b)(1)(c). Thus, the Congress clearly expressed an intent that the maintenance of agricultural activities be reflected in the mandatory allocation program.

In compliance with the objectives stated in the EPAA, predecessors of the DOE<sup>3</sup> adopted regulations containing lists of uses entitled to priority allocation levels for each allocated product. For motor gasoline,<sup>4</sup> § 211.103 requires suppliers of that product to provide certain wholesale purchaser-consumers (as defined in § 211.51) and bulk purchasers (as defined in § 211.102) with priority allocation levels. Pursuant to § 211.103(b)(2), suppliers of motor gasoline are required to provide such firms engaged in agricultural production use with 100 percent of their base period use,<sup>5</sup> provided that the use of these volumes is restricted to those activities which fit within the expressly defined agricultural production use. Thus, these regulations entitle certain firms engaged in agricultural production to obtain allocation levels of allocated products for this use without regard to any shortages of product which might affect other purchasers, *i.e.*, their allocation levels are not subject to an allocation fraction.<sup>6</sup>

Although the EPAA did not include a definition of "agricultural operations," the FEO adopted a definition of "agricultural production," which appeared at 10 CFR 211.51. 39 FR 1924 (January 15, 1974). That definition was applicable throughout Part 211 and provided:

"Agricultural production" means commercial farming, dairy, poultry, livestock, horticulture, forestry and fishing activities and services directly related to the planting, cultivation, harvesting, processing and distribution of fiber, timber, tobacco and food intended for human consumption and animal feed.

*Id.* at 1936 (emphasis added.) As the emphasized language indicates, the definition

<sup>1</sup>15 U.S.C. § 751 *et seq.* (1976).

<sup>2</sup>The Department of Energy was created by the Department of Energy Organization Act of 1977, 42 U.S.C. § 7101 *et seq.* Prior to the passage of that Act, the Mandatory Petroleum Allocation Regulations were administered by the Federal Energy Administration (FEA), pursuant to the Federal Energy Administration Act of 1974, 15 U.S.C. § 761 *et seq.*, and prior to that by the Federal Energy Office (FEO), pursuant to Executive Order No. 11748, 38 FR 33575 (December 6, 1973).

<sup>3</sup>With respect to the allocation levels accorded other products currently or previously subject to the Mandatory Petroleum Allocation Regulations, see Subparts D through K of Part 211.

<sup>4</sup>Section 211.103(b)(2) became effective on August 1, 1979. 44 FR 42545 (July 19, 1979). That provision was preceded by § 211.103(b)(1) which permitted wholesale purchaser-consumers and bulk purchasers of motor gasoline engaged in agricultural production to obtain 100 percent of their current requirements for that use. 39 FR 35472 (October 1, 1974).

<sup>5</sup>Section 211.10(b) sets forth the appropriate method for calculating a supplier's allocation fraction.

of agricultural production initially adopted by the FEO included the distribution of various agricultural products. That definition also demonstrated that the agricultural production use only incorporated specified activities and not all activities of entire firms. Thus, the priority allocation level assigned to the agricultural production use was to apply only to the firm's activities as expressly set forth in the definition.

Effective June 1, 1974, the FEO amended the definition of agricultural production appearing in § 211.51. 39 FR 15960 (May 6, 1974). In the preamble to the Notice (issued March 27, 1974) proposing the amended definition, the FEO stated:

[I]t should be noted that the definition of agricultural production in proposed Subpart B has been revised to identify clearly those activities and services included within agricultural production. Agricultural production would be defined by reference to Standard Industrial Classification code numbers.

This revision is intended to identify more precisely those activities falling within the scope of agricultural production. The current definition is susceptible of varying interpretation. Special treatment for agricultural production, which would be enhanced in the proposed program, is designed to insure adequate availability of fuel for the production of foodstuffs and the principal processing activities related thereto. Use of the SIC code system for identifying the activities falling within this definition should assure greater uniformity and consistency in application.

39 FR 11768, 11768 (March 29, 1974) (emphasis added). Thus, the FEO clearly intended to abandon the previous definition of agricultural production adopted two months earlier and replace it with a definition that referenced the Standard Industrial Classification Manual (SIC Manual). The definition, however, continued to be based on the activities conducted by a particular firm and not on particular types of firms. This point is significant inasmuch as the SIC Manual is a classification of establishments according to their primary activities and should not be confused with the focus of the definition of agricultural production. Thus, the proposed definition employed the SIC Manual as a reference for purposes of "identifying the activities," not categories of firms, which qualify as agricultural production. Part 211 entitles firms that are bulk purchasers or wholesale purchaser-consumers to the priority allocation level of the agricultural production use only for motor gasoline consumed in activities fitting within that use.

The March 27, 1974 Notice also indicated that the proposed definition was intended to include activities directly associated with "the production of foodstuffs and the principle [sic] processing activities related thereto." There was no intent to include the distribution of agricultural products as an activity included within the agricultural production use. With respect to activities associated with the actual production and processing of foodstuffs, such as distribution or marketing, the FEO stated:

Activities which are related to the food industry but are not agricultural production fall into the category of "business activities" which are assigned allocation levels in the regulations. They are thereby treated in the same fashion as other industries in the manufacturing and service sectors.

<sup>7</sup>Standard Industrial Classification Manual 59 (1972 edition).

*Id.* at 11768-69. This language emphasizes that certain activities, although closely related to the food industry, are more appropriately included within another use accorded a priority allocation level (such as commercial or industrial) and are therefore excluded from the agricultural production use.

The issuance on May 1, 1974, of the final rulemaking adopting the proposed definitional changes reaffirmed the intent of the FEO to exclude the activity of distribution from the agricultural production use. In that regard, the preamble to the final rulemaking stated:

Although the definition of agricultural production has been modified somewhat in light of these comments, in general the definition is still limited to the actual production of agricultural commodities and processing of these commodities into food items.

39 FR 15960, 15961 (May 6, 1974) (emphasis added). The clear intent of this language was to exclude from the agricultural production use those activities not directly involved in the actual production and processing of food items.

Reflecting these expressed objectives, the FEO adopted on May 1, 1974, the amended definition of agricultural production, which provided in relevant part:

"Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the Standard Industrial Classification Manual, 1972 edition . . .

[(a)] (2) All industry code numbers included in Major Group 20, Food and Kindred Products, of Division D, Manufacturing . . .

10 CFR 211.51 (emphasis added). The definition of agricultural production therefore includes all activities set forth in Major Group 20 of the SIC Manual. This aspect of the definition has remained unaltered since it became effective on July 1, 1974.

In its request for interpretation, NSDA contends that both the manufacture and the distribution of soft drinks by its member firms qualify as an agricultural production use, as defined in § 211.51. Consequently, NSDA argues that these firms are entitled to the first priority allocation level accorded this use under § 211.103.

In support of these contentions, NSDA relies upon the various industry classifications appearing in the SIC Manual and argues that the definition of agricultural production makes reference to and specifically includes the firms classified in Major Group 20 of the SIC Manual. Major Group 20 is entitled "Food and Kindred Products" and according to the SIC Manual, that code number includes "establishments manufacturing or processing foods and beverages for human consumption." <sup>7</sup> Within

this major category, there is under Industry Number 2086 a section entitled "Bottled and Canned Soft Drinks and Carbonated Waters," which directly applies to the activities of soft drink manufacturers.

This category within Major Group 20 includes "[e]stablishments primarily engaged in manufacturing soft drinks [non-alcoholic beverages] and carbonated waters." (Emphasis added.)<sup>8</sup> NSDA maintains that so long as the primary activity of a particular firm is the manufacture of soft drinks, the firm is entitled to the first priority allocation level accorded to the agricultural production use for all of the motor gasoline the firm consumes.

NSDA's position is inconsistent with both the language of the definition of agricultural production and the expressed intent of the FEO in promulgating the definition. Moreover, it undermines and frustrates certain policies expressed in the EPAA and reflected in the Mandatory Petroleum Allocation Regulations.

As stated above, the language appearing in the definition of agricultural production, set forth in § 211.51 (effective June 1, 1974), clearly states that it applies only to activities of a firm. Accordingly, any benefits to be derived from being designated agricultural production are to be attributed only to activities. The definition makes no expressed reference to the terms "firm" or "establishment." Thus, the definition of agricultural production is directed towards those activities listed in Major Group 20 of the SIC Manual, not to all activities of the firm or establishments which have been classified in that code number. FEO could have easily achieved the result advocated by NSDA by indicating that agricultural production includes the firms classified in Major Group 20 of the SIC Manual. On other occasions, this agency has expressly included all of a firm's activities within a priority use so long as the firm is primarily engaged in that use.<sup>9</sup> However, the definition of agricultural production in § 211.51 makes no such reference to the primary activity of a firm.

Furthermore, the preamble to the Notice of Proposed Rulemaking issued on March 27, 1974, *supra*, clearly states that the SIC Manual is used merely as a reference for identifying activities that qualify for treatment as agricultural production. There is, therefore, no support in the proposed rulemaking or in the final rule adopting the section 211.51 definition of agricultural production for a conclusion that the priority use includes all motor gasoline consumed by a firm primarily engaged in a specified activity in contrast to only that motor gasoline consumed in specified activities of that firm.

In addition, the position proffered by NSDA is inconsistent with the objectives of the EPAA and the Mandatory Petroleum Allocation Regulations. Although Section 4(b)(1) of the EPAA directs the President to

<sup>8</sup>*Id.* at 68.

<sup>9</sup>See 10 CFR 211.51 for the definitions of "Social service agency use," "industrial use," and "Commercial use," all second priority allocation levels under § 211.103(c).



promulgate a regulation that provides for the maintenance of agricultural operations, there is no specific directive as to the content of any particular regulation adopted to comply with this provision. The DOE and its predecessors were not bound by the EPAA to provide any particular benefits to agricultural operations. The FEO, however, adopted regulations that provided the highest allocation priority for agricultural production. The distribution of agricultural products was excluded from the definition (effective July 1, 1974) inasmuch as such activities could be conducted by other firms and were not considered directly related to producing and processing foodstuffs. It is the maintenance of the latter activities that is consonant with the EPAA directive.

NSDA's position would have resulted in additional anomalies in the allocation regulations applicable to motor gasoline prior to their recent amendment.<sup>10</sup> Prior to August 1, 1979, § 211.103(b)(1) assigned agricultural production a motor gasoline allocation level of 100 percent of current requirements. However, all other categories of uses which might be applicable to independent distributors, e.g., "cargo, freight and mail hauling by truck," are assigned lower allocation levels. Thus, under NSDA's reasoning firms engaged in agricultural production would have received the highest priority allocation level for their transportation of soft drinks while independent commercial distributors performing the same services would have been subject to a lower priority allocation level. The result of such an action would have been to place independent distribution at a severe disadvantage during periods in which motor gasoline was in short supply inasmuch as the firm engaged in agricultural production would not have been subject to an allocation fraction. This result would not only be inequitable, contravening the applicable objectives of the EPAA discussed above, but was never directed by the EPAA or intended by the FEO.

The issue raised by NSDA in its request has been briefly examined by a predecessor agency in a different factual context. In *Interstate Brands Corporation*, 1 FEA ¶ 20,744 (December 20, 1974), the FEA recognized the distinction between the production and the distribution of certain goods with respect to the gasoline allocation levels accorded the agricultural production use. Although the exception decision involved the production of bakery goods, the agency clearly stated that the distribution of bakery goods would qualify as either "cargo, freight and mail hauling by truck" or "commercial use," but would not be eligible for treatment as agricultural production.

In light of the foregoing analysis, it is clear that those members of NSDA that are bulk purchasers and/or wholesale purchaser-consumers engaged in agricultural production as defined in § 211.51 are entitled to a first priority allocation level of 100 percent of their base period use of motor gasoline consumed in activities within that use. However, the distribution of agricultural or other products by these firms is excluded from the

<sup>10</sup>See discussion in footnote 4.

agricultural production use and hence the first priority allocation level available for motor gasoline consumed in that use. Depending upon the nature of these firms' distribution operations, they would be eligible for a first or second priority allocation level for gasoline consumed in the distribution of soft drinks. Section 211.103(b)(8) states that "cargo, freight and mail hauling by truck" is entitled to the same allocation level as agricultural production, i.e., 100 percent of base period use. A "truck" for purposes of this regulation is defined in § 211.102 as follows:

"Truck" means a motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.

Section 211.103(c)(2) establishes a second priority allocation level for motor gasoline consumed in a "commercial use," which is defined in 10 CFR 211.51 as follows:

"Commercial use" means usage by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

Accordingly, in those instances in which NSDA's members use "trucks" (as defined in § 211.102) for transporting their soft drinks, they will be eligible for the gasoline allocation attributable to "cargo, freight and mail hauling by truck." However, where the soft drinks are transported by vehicles that fail to meet the size requirements specified in the definition for "truck," such activities will fall within "commercial use."

Issued in Washington, D.C., on November 30, 1979.

Everard A. Marseglia, Jr.,  
Assistant General Counsel for Interpretations and Rulings.

#### Interpretation 1979-25

To: The Lido Company of New England, Inc.  
Regulations Interpreted: 10 CFR 211.105(d), 211.12(e)(3).

Code: GCW—AI—Supplier/purchaser relationships, Branded resellers.

#### Facts

The Lido Company of New England, Inc. (Lido) is a "wholesale purchaser-reseller" of motor gasoline and a "branded independent marketer" as those terms are defined in 10 CFR 211.51. Lido, which does business in Massachusetts, New Hampshire, and Maine, has filed a request for interpretation of the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, regarding the obligation of Standard Oil Company (Indiana) (Amoco) to supply Lido with motor gasoline pursuant to § 211.105(d). During the base period for motor

gasoline (November 1977–October 1978) and on February 28, 1979, Lido was supplied primarily by Amoco. In addition, Lido purchased motor gasoline from Belcher of New England (Belcher), George E. Warren Corporation (Warren), and Tripp Oil Company (Tripp). At all times relevant to this interpretation Lido remained a branded Amoco marketer.

Lido and Amoco agree that there is no material issue of fact between them that requires resolution. The only issue in this case is the proper legal construction of § 211.105(d) of the Mandatory Petroleum Allocation Regulations which permits, under certain circumstances, a wholesale purchaser-reseller of motor gasoline to terminate a base period supplier or suppliers and designate one supplier as responsible for the purchaser's entire base period supply volume.

In reliance upon its reading of § 211.105(d), Lido concluded that it was eligible to redesignate its base period suppliers of motor gasoline: it was a wholesale purchaser-reseller and a branded independent marketer; it had more than one base period supplier (Belcher, Warren, Tripp, and Amoco); and it had base period suppliers (Belcher, Warren, or Tripp) different from the firm that was its primary supplier on February 28, 1979, under whose brand it was selling on that date (Amoco). Lido notified Amoco in a timely manner that Lido was designating Amoco as Lido's sole base period supplier of motor gasoline, pursuant to § 211.105(d). In addition, Lido informed Amoco of the amount of the base period volumes supplied by Belcher, Warren, and Tripp and of Lido's expectation that such an amount would be supplied by Amoco in the future. In further compliance with its understanding of § 211.105(d), Lido gave written notice of the designation and the corresponding terminations to base period suppliers Belcher, Warren, and Tripp.

Amoco has refused to supply Lido with its total base period volume. Amoco reads § 211.105(d) narrowly and has asserted that Lido's designation of Amoco as Lido's sole supplier of motor gasoline is invalid. Amoco contends that Lido is not a firm which may exercise the option to name its supplier on February 28, 1979 as its sole base period supplier under § 211.105(d), because that provision applies only to branded independent marketers which have changed brands between the base period and February 28, 1979 and does not apply to branded independent marketers (such as Lido) that had multiple suppliers during the base period and on February 28, 1979 but that had not changed brands.

#### Issue

May Lido, a branded wholesale purchaser-reseller of motor gasoline having multiple suppliers during the base period and on February 28, 1979, terminate certain of those supplier-purchaser relationships and pursuant to 10 CFR § 211.105(d) designate Amoco, the firm whose brand it was selling during the base period and on February 28, 1979, as its sole base period supplier?

#### Discussion

For the reasons discussed below, the Department of Energy (DOE) concludes that

Lido may designate Amoco as its sole base period supplier of motor gasoline pursuant to 10 CFR § 211.105(d), because Lido had base period suppliers different from the firm that was its primary supplier on February 28, 1979, under whose brand it was selling on February 28, 1979. Amoco's contention that § 211.105(d) is available only to wholesale purchaser-resellers that changed brands between the base period and February 28, 1979 is not supported by the language of that provision.

Subpart F of the Mandatory Petroleum Allocation Regulations applies to motor gasoline allocation. Section 211.105 of Subpart F limits supplier/purchaser relationships. Subsection (d) of § 211.105 reads as follows:

(d) *Branded resellers.* (1) Any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer and which has a base period supplier different from the firm that was its supplier on February 28, 1979 under whose brand it was selling on that date may, at its option, designate as its base supplier that supplier which was its supplier on February 28, 1979 and terminate its supplier/purchaser relationship with all its other base period suppliers. If a designation is so made, the firm that supplied the purchaser on February 28, 1979 will become the purchaser's sole base-period supplier and will supply the purchaser's base period volumes as part of its supply obligations. It may certify upward such volumes to its supplier, which in turn will include volumes certified as part of its supply obligations.

(2) A wholesale purchaser-reseller which designates a firm as its sole base period supplier pursuant to this section shall provide, by June 15, 1979, written notice of the designation and the corresponding terminations to any suppliers which supplied the wholesale-purchaser reseller during the base period. Such wholesale purchaser-reseller shall also provide written notice by the same date to the designated supplier of the amount of the wholesale purchaser-reseller's base period use which had been supplied by other suppliers during the base period and which is to be supplied by the designated supplier. The notice to the designated supplier shall include the names and addresses of the actual suppliers during the base period and of the wholesale purchaser-reseller and the location of any facility, including any retail sales outlet concerned.

(3) The relinquishing base period suppliers, i.e., the suppliers that no longer have the obligation to supply the branded independent marketer, will downward adjust their base period use to the same degree that their supply obligations decrease and will make the required certifications under section 211.107(d).<sup>1</sup>

<sup>1</sup> This regulation constitutes an exception to § 211.9(a) of the general allocation provisions found in Subpart A of the Mandatory Petroleum Allocation Regulations. Section 211.9(a) reads in pertinent part:

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the

Section 211.105(d) appeared as an interim final rule in 44 FR 26712 (May 4, 1979) as part of a series of regulatory actions by the Economic Regulatory Administration (ERA) that effective March 1, 1979, updated the motor gasoline allocation base period. On July 6, 1979, the ERA issued a Notice of Intent to Issue a Final Rule, 44 FR 40621 (July 11, 1979) and announced its intention to make the interim final rule a final rule. Section 211.105(d) was issued as a final rule without change in 44 FR 42549 (July 19, 1979).<sup>2</sup>

In the preamble to the interim final rule, ERA stated: "Section 211.105(d) adopts the branding section of Paragraph No. 8 of the Guidelines, and also replaces the previous similar provisions of paragraphs (b), (c) and (d) of § 211.105." The Guidelines referred to in the preamble are "Guidelines for Determination of Base-Period Volumes and Suppliers for Motor Gasoline Under Activation Order No. 1." The Guidelines originated in 44 FR 16480 (March 19, 1979) and had the effect of supplementing the Mandatory Petroleum Allocation Regulations. The Guidelines were superseded by the interim final rule effective May 1, 1979. Paragraph No. 8 of the Guidelines provided in pertinent part:

Any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer and which during the base period had a base period supplier different from the firm that was the supplier on February 28, 1979 under whose brand it was selling on that date and which had not received an ERA assignment designating its February 28, 1979 supplier as its base supplier, may apply to ERA to have designated as its base period supplier that supplier which was its supplier on February 28, 1979. If the firm that supplied the purchaser on February 28, 1979 is willing to become the purchaser's base-period supplier and the purchaser or its supplier has applied to ERA for such a reassignment, pending ERA action the supplier may be temporarily so designated and may supply those volumes on an interim basis and certify upward such volumes to its supplier. The supplier's supplier will include volumes certified as part of its supply obligations on an interim basis pending action on the application for assignment.

Like the rule that superseded it, Paragraph No. 8 was intended to provide an exception

available to certain independent marketers. See Paragraph No. 1 of the Guidelines.

The breadth of the exception set forth in § 211.105(d) must be determined by an examination of the language of the present rule and the regulatory history of its implementation. The updating of the base period effective March 1, 1979 was a general rule applicable to all those subject to the motor gasoline allocation regulations. Section 211.105(d) provides an exception to this general rule. The language of that provision applies to all branded wholesale purchaser-resellers having multiple suppliers during the base period and on February 28, 1979. Therefore any branded marketer such as Lido may simplify its purchase arrangements by terminating certain base period suppliers and naming a February 28, 1979 supplier under whose brand it was selling on that date as responsible for the entire base period volume, provided that this designation of supplier is made on or before June 15, 1979 and otherwise complies with § 211.105(d).

Amoco acknowledges that the exception from the base period supplier/purchaser relationship contained in § 211.105(d) is valid for branded independent marketers which changed brands between the base period and February 28, 1979, but contends that this exception is not available to an independent marketer such as Lido which did not change brands during the operative time period.

Amoco's argument ignores the language of § 211.105(d), which does not require that a purchaser must have changed brands between the base period and February 28, 1979, in order to designate the supplier on the date under whose brand the purchaser was selling motor gasoline as its sole supplier. In addition, Amoco is unable to cite any support in the regulatory history for its contention that § 211.105(d) must be read as narrowly as it suggests.

Lido therefore properly designated Amoco, pursuant to § 211.105(d), as its sole supplier responsible for its entire base period supply volume. Amoco is obligated to include the volumes supplied by Belcher, Warren, and Tripp during the base period as part of Amoco's supply obligation to Lido.

Issued in Washington, D.C., on November 30, 1979.

Everard A. Marseglia, Jr.,  
Assistant General Counsel for Interpretations and Rulings.

#### Appendix B.—Cases Dismissed

| File No.   | Requester                           | Category                  | Date dismissed |
|------------|-------------------------------------|---------------------------|----------------|
| A-367..... | Sabre Refining, Inc.....            | Price and Allocation..... | November 11.   |
| A-433..... | Walters Oil.....                    | Allocation.....           | October 10.    |
| A-468..... | Air Products and Chemical, Inc..... | Conservation.....         | November 27.   |

[FR Doc. 79-38262 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

base period as specified in Subparts D through K of this part.

(2)(i) Unless otherwise provided in this part or directed by (DOE), the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the

duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of (DOE).

<sup>2</sup> Section 211.105(b), the predecessor of § 211.105(d) applicable to the original 1972 base period year, was adopted in 40 FR 47477 (October 9, 1975).



# **SMALL BUSINESS ADMINISTRATION** **13 CFR Parts 108, 118 and 122**

[Revision 4, Amdt. 9; Amdt. 3; Revision 3, Amdt. 13]

## **Removal of Administrative Ceiling Guidelines**

**AGENCY:** Small Business Administration.  
**ACTION:** Final rule.

**SUMMARY:** This change provides for the deletion from the regulations of guidelines or objectives for the waiver of administratively imposed limits on the dollar amounts of Local Development Company Loans, Handicapped Assistance Loans, and Business Loans. Agency guidelines for exceptional situations will be abolished that previously limited many Local Development Company and Business Loans to \$350,000, thus permitting loans to be made up to the statutory limit of \$500,000 in all appropriate cases. The previously established administrative limits of \$100,000 for direct Handicapped Assistance Loans, and \$150,000 for SBA's share of an immediate participation loan under this program, will remain unchanged. Also, in the case of Business Loans, the administrative ceiling on direct loans and on SBA's share of immediate participation loans remains at \$150,000. The administrative limits under the Handicapped Assistance and Business Loan Programs may be exceeded only by written approval of the Regional Administrators, subject to available funding.

**EFFECTIVE DATE:** October 18, 1979.

**FOR FURTHER INFORMATION CONTACT:** Glenn A. John, Financial Analyst, Special Projects Division, Office of Financing, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6570.

**SUPPLEMENTARY INFORMATION:** The Amendment is not issued for proposed rulemaking because it constitutes a liberalization of existing regulations by deletion of an administrative requirement. This action will not adversely affect any loan applicant or borrower, or any participating lending institution. Interested persons are invited to submit written comments or suggestions. Material thus submitted will be given consideration and evaluation for possible SBA actions.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, the following amendments to Parts 108, 118 and 122 are adopted as follows:

# **PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES**

## **§ 108.502-1 [Amended]**

1. In Part 108, paragraphs (d) (3) and (4) of § 108.502-1 are deleted.

# **PART 118—HANDICAPPED ASSISTANCE LOANS**

2. In Part 118, paragraphs (a) (2) and (3) of § 118.31 are deleted, and the following new sentence is added at the end of paragraph (a)(1):

## **§ 118.31 Terms and conditions.**

(a) \* \* \*

(1) \* \* \* The respective administrative ceilings may be extended up to the statutory maximum of \$350,000 where such action is authorized in writing by the Regional Administrator.

# **PART 122—BUSINESS LOANS**

3. In Part 122, § 122.5(c) is deleted, and § 122.5(b) is revised to read as follows:

## **§ 122.5 Introduction.**

\* \* \* \* \*

(b) *Ceiling on loans to a single borrower.* The administrative ceiling on loans to a single borrower made directly or on an immediate participation basis is \$150,000, but the administrative ceiling may be extended up to the statutory maximum amount of \$350,000 where such action is authorized in writing by the Regional Administrator.

(Catalog of Federal Domestic Assistance Programs No. 59.012 Small Business Loans, No. 59.013 State and Local Development Company Loans, and No. 59.021 Handicapped Assistance Loans.)

Dated: December 3, 1979.

William H. Mauk, Jr.,  
Acting Administrator.

[FR Doc. 79-38135 Filed 12-12-79; 8:45 am]

**BILLING CODE** 8025-01-M

# **DEPARTMENT OF TRANSPORTATION**

## **Federal Aviation Administration**

## **14 CFR Part 39**

[Docket No. 79-NE-17; Amdt. 39-3635]

## **Airworthiness Directives; Sikorsky S-76A Helicopters**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On November 16, 1979, an emergency airworthiness directive was issued requiring hydraulic system checks at each rotor startup, and removal from service of defective hydraulic pumps. This is required to prevent failure in flight of improper type design hydraulic pumps installed on the aircraft; these pumps provide power for operation of the helicopter flight control system. The AD is now being published in the *Federal Register* as an amendment to the Federal Aviation Regulations.

**DATES:** Effective date—December 13, 1979. Compliance schedule—as prescribed in text of AD.

**ADDRESSES:** To obtain copies of the Customer Service Notice, referenced in the AD, contact S-76A Product Manager, Commercial Customer Service Department, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602. A copy of the Customer Service Notice is contained in the Rules Docket, Office of the Regional Council, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Bernard Schaffer, Systems and Equipment Staff (ANE-213), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7332.

**SUPPLEMENTARY INFORMATION:** The emergency airworthiness directive adopted and made effective to all known United States operators of Sikorsky S-76A helicopters on November 16, 1979, was required as the result of several failures in flight of improper type design hydraulic pumps installed on the aircraft; these pumps provide power for operation of the helicopter flight control system. The published AD differs from the telegraphic AD by the addition of minor editorial changes in the applicability section and the correction of a typographical error in the part number. The published AD limits applicability to helicopters equipped with specific model number hydraulic pumps. After replacement of these pumps the AD is no longer applicable. The correct part number of the pumps involved should begin with "76650-" instead of "76550-."

This condition still exists, and this AD is now being published in the *Federal Register* as an amendment to § 39.13 of

Part 39 of the Federal Aviation Regulations.

Since a situation exists that requires immediate adoption of the regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

## **Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Sikorsky Aircraft Division.** Applies to all Model S-76A helicopters equipped with Sikorsky Models 76650-09802-101 and 76650-09802-102 hydraulic pumps.

Compliance required as indicated, unless previously accomplished.

To check the operation of existing installed pumps and to replace all defective pumps, accomplish the following:

1. If a hydraulic pump is known to have operated after fluid had been lost from the system, it is likely that the pump has run dry and it must be replaced prior to further flight:

2. If hydraulic fluid has been lost from a hydraulic reservoir, but the system has not run dry, perform servicing and bleeding procedures in accordance with the S-76A maintenance manual prior to further flight.

3. During each rotor startup, check for hydraulic pressure indication in the green arc range at 60% N<sub>r</sub>. The check required by the aforementioned sentence may be performed by the pilot. If hydraulic pressure is not in this range, conduct trouble shooting procedures and replace any malfunctioning component prior to further flight.

4(A). Replace all hydraulic pumps, Sikorsky P/Ns 76650-09802-101 and 76650-09802-102, with Sikorsky P/N 76650-09802-103, in accordance with Paragraphs 4(B) and 4(C) below. These approved replacement pumps may also be identified by the suffix "C" after the serial number.

(B). For pumps with 250 or more hours time in service on the effective date of this AD, compliance with Paragraph 4(A) is required within the next 100 hours time in service.

(C). For pumps with less than 250 hours time in service on the effective date of this AD, compliance with Paragraph 4(A) is required before the

accumulation of 350 hours time in service.

**Note.**—Sikorsky Commercial Customer Service Notice 76-18, dated November 14, 1979, applies to this AD.

The manufacturer's Customer Service Notice and Maintenance Manual identified and described in this directive are incorporated herein and made a part thereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to S-76A Product Manager, Commercial Customer Service Department, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 and FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

This amendment becomes effective on December 13, 1979, except for recipients of the Emergency AD, dated November 16, 1979, for whom it became effective upon receipt.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

**Note.**—The Federal Aviation Administration has determined that this action is an emergency non-significant regulation under Executive Order 12044 as implemented by Department of Transportation policies and procedures 44 FR 11034, February 26, 1979. The action is therefore excepted from the requirements for an evaluation.

**Note.**—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Burlington, Massachusetts, on December 4, 1979.

Robert E. Whittington,  
Director.

[FR Doc. 79-38030 Filed 12-12-79; 8:45 am]

**BILLING CODE** 4910-13-M

## **14 CFR Part 39**

[Docket No. 79-NE-14; Amdt. 39-3610]

## **Airworthiness Directives; General Electric CT58 Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD)

which requires a more representative method of counting cycles for General Electric CT58 engines used for repetitive heavy-lift operation. This AD is needed to remove rotating components from use prior to the accumulation of an excessive number of cycles which could cause component failure.

**DATES:** Effective date—December 13, 1979. Compliance schedule—as prescribed in the body of AD.

**ADDRESSES:** The applicable Service Bulletin may be obtained from General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910. Copies of the Service Bulletin are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Ralph S. Hawkins, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7348.

**SUPPLEMENTARY INFORMATION:** There have been seven reports of cracks, with two of these cracks progressing to failure, on CT58 compressor spools, compressor rear seals, stage one turbine wheels, and stage two turbine wheels which have been used in repetitive heavy-lift operation. Repetitive heavy-lift operations are considered to be those operations during which a lift-carry-drop cycle is repeated more than 10 times per hour without landing. This activity is typical of logging operations and may also include some construction or utility operations. Repetitive heavy-lift operation typically includes a large number of partial power excursions or partial cycles between engine start/takeoff and landing/engine shutdown. These partial cycles, which are not presently accounted for, are life consuming and, therefore, have a bearing on the serviceability and reliability of the rotating components. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires the use of a more representative method of counting cycles for CT58 engines which are presently in use or have been used in repetitive heavy-lift operations.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and



public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**General Electric Company.** Applies to all General Electric CT58 turboshaft engines which are presently in use or have been used in repetitive heavy-lift operation.

Compliance required as indicated, unless already accomplished.

To prevent low cycle fatigue initiated failure, revise the total recorded operating cycles of all life-limited rotating components, on the effective date of this AD, and remove these components from service in accordance with the multiplying factors and retirement lives contained in General Electric Alert Service Bulletin CT58 (A72-162) CEB-258, dated July 9, 1979. Later FAA approved revisions or equivalent means may be approved by the Chief, Engineering and Manufacturing Branch, New England Region. Hourly limits are not affected by this AD.

Components with revised total recorded operating cycles in excess of the limits or within 600 cycles or 100 hours of the limits in Tables I, II, or III of General Electric Alert Service Bulletin CT58 (A72-162), CEB-258, on the effective date of this AD, must be removed from service prior to the accumulation of 600 additional cycles or 100 hours, whichever comes first.

**Note.**—Repetitive heavy-lift operations are considered to be those operations during which a lift-carry-drop cycle is repeated more than 10 times per hour without landing. This activity is typical of logging operations and may also include some construction or utility operations.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to General Electric Company, 1000 Western Avenue, Lynn, Massachusetts, 01910. These documents may also be examined at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its Headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Massachusetts. This amendment

becomes effective upon publication in the **Federal Register**.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

**Note.**—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). A copy of the final evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on October 31, 1979.

**Note.**—The incorporation by reference provisions of this document was approved by the Director of the **Federal Register** on June 19, 1967.

**Robert E. Whittington,**  
*Director, New England Region.*

[FR Doc. 79-37871 Filed 12-12-79; 8:45 am]  
**BILLING CODE 4910-13-M**

#### 14 CFR Part 71

[Airspace Docket No. 79-EA-45]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Pittsburgh, Pa.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the Pittsburgh, Pa., Transition Area over Greater Pittsburgh International Airport, Pittsburgh, Pa. This alteration will provide protection to aircraft executing the proposed amended ILS Runway (10L) instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

**EFFECTIVE DATE:** 0901 GMT January 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, JFK International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter a transition area. The rule resulted from the development of a new instrument approach for the airport. On page 50855 of the **Federal Register** for August 30,

1979, the FAA published a proposed amendment to alter the subject transition area. Interested parties were given time in which to submit comments. No objections were received.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT January 24, 1980, as published.

(Section 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York on November 28, 1979.

**Murray E. Smith,**  
*Director, Eastern Region.*

§ 71.181 [Amended]

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the description of the Pittsburgh, Pennsylvania 700-foot floor transition area as follows:

In the text delete, "of Greater Pittsburgh International Airport, Pittsburgh, Pa.; within an 8.5-mile radius of the Center," and substitute therefor, "of Greater Pittsburgh International Airport, Pittsburgh, Pa; and within 3.5-miles each side of the Greater Pittsburgh ILS Runway 10L Localizer Course extending from the 12-mile radius area to 6.5 miles west of the OM; within an 8.5-mile radius of the center;".

[FR Doc. 79-37873 Filed 12-12-79; 8:45 am]  
**BILLING CODE 4910-13-M**

#### 14 CFR Part 71

[Airspace Docket No. 79-SO-58]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Control Zone, Gadsden, Ala.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule will designate the Gadsden, Alabama, Control Zone and will lower the base of controlled airspace in the vicinity of the Gadsden Municipal Airport from 700' AGL to the surface.

**EFFECTIVE DATE:** 0901 GMT, March 20, 1980.

**ADDRESS:** Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

**FOR FURTHER INFORMATION CONTACT:** Carl F. Stokoe, Airspace and Procedures

Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, October 4, 1979 (44 FR 57106), outlining the details of the proposal to designate a control zone at the Gadsden Municipal Airport. Aviation weather observations are being taken by Republic Airlines, and two-way radio communications exist down to the airport surface with Birmingham Approach Control. These items meet the requirements for establishment of a part-time control zone with irregular hours of operation. No objections to the proposal were received in response to this publication. The final rule has been clarified to show the minimum advance notice required for a change in the hours of control zone effectiveness. Designation of a control zone provides the maximum level of safety by establishing controlled airspace to the surface to contain flight operations near the airport.

#### Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (44 FR 353) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, January 24, 1980, by adding the following:

#### Gadsden, Alabama

... within a 5-mile radius of the Gadsden Municipal Airport (latitude 33°58'26"N., longitude 86°05'28"W.). This control zone is effective during the specific dates and times established at least 24 hours in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

**Note.**—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on December 3, 1979.

**George R. LaCaille,**  
*Acting Director, Southern Region.*

[FR Doc. 79-37870 Filed 12-12-79; 8:45 am]  
**BILLING CODE 4910-13-M**

#### 14 CFR Part 71

[Airspace Docket No. 79-NW-19]

#### Alteration of Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final Rule.

**SUMMARY:** This amendment alters the 700 foot and 1200 foot transition areas for Port Angeles, Washington. This action is necessary to provide controlled airspace for aircraft executing the new ILS/NDB Runway 08 Standard Instrument Approach Procedure developed for the William R. Fairchild International Airport, Port Angeles, Washington.

**EFFECTIVE DATE:** December 18, 1979.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Brown, Airspace Specialist, Operations, Procedures and Airspace Branch, (ANW-534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

#### SUPPLEMENTARY INFORMATION:

##### History

The requirement to expand controlled airspace at Port Angeles, Washington, is necessitated, in part, by the loss of the Hood Canal Floating Bridge. This bridge was a vital transportation link between the North Olympic Peninsula and the Seattle Metropolitan area. The westerly half of the bridge was collapsed and sank in a wind storm on February 13, 1979. This incident resulted in a sharp increase in air service and created a tremendous impact on William R. Fairchild Airport. The air passenger traffic this year more than doubled that of 1978.

Furthermore, a need for another standard instrument approach procedure became necessary to the airport because signals from the very-high-frequency omnidirectional range station (VOR) on Ediz Hook Peninsula, have recently been deflected by large tankers anchored nearby, rendering the Port Angeles VOR-A Standard Instrument Approach Procedure inoperable.

Since this amendment is critical to the transportation needs of the communities of the North Olympic Peninsula and, therefore, a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this

amendment effective in less than 30 days. Furthermore, the amendment poses only a minimal additional burden on only persons using the airspace herein affected.

#### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the 700 foot and 1200 foot Transition Area at Port Angeles, Washington, to provide controlled airspace for aircraft executing the ILS/NDB Runway 08 Standard Instrument Approach Procedure developed for the William R. Fairchild International Airport, Port Angeles, Washington.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Section 71.181 Port Angeles, Washington, is amended as follows:

Replace all after "extending from the VOR to 12 miles east of the VOR" on line four with the following:

"... including the airspace within two miles either side of the William R. Fairchild International Airport Localizer west course, extending from the localizer location (Latitude 48°07'00"N, Longitude 123°29'02"W.), to 8 miles west and that airspace extending upward from 1200 feet above the surface bounded on the east by the west edge of V440, on the south within 4.5 miles of the William R. Fairchild International Airport localizer location (Latitude 48°07'00"N., Longitude 123°29'02"W.), to 28 miles west, and on the north by the United States/Canadian border."

(Sec. 107(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1249(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

**Note.**—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Seattle, Wash., on December 4, 1979.

**C. B. Walk, Jr.,**  
*Director.*

[FR Doc. 79-38230 Filed 12-12-79; 8:45 am]  
**BILLING CODE 4910-13-M**



## 14 CFR Part 73

(Airspace Docket No. 78-SO-80)

## Alteration of Restricted Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

**SUMMARY:** In a rule published in the Federal Register of November 29, 1979, (44 FR 68452), geographic coordinates in the definition of restricted areas R-5314, Subarea G, H and J were published incorrectly. This correction reflects the correct coordinates in these restricted areas.

EFFECTIVE DATE: December 13, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-3715.

**SUPPLEMENTARY INFORMATION:** FR Doc. 79-36421 was published on November 29, 1979, (44 FR 68452), with an effective date of January 24, 1980, and altered restricted areas R-5314, Subarea G, Subarea H, and Subarea J. Recomputation of the subareas determined that corrections are required.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 79-36421 as published on November 29, 1979, on page 68452 is amended in the definition of the restricted areas in the amendatory paragraph to Part 73 on page 68453, as follows:

In the definition of R-5314 Subarea G, the last coordinate, "Lat. 35°51'59"N., Long. 76°02'08"W.," is deleted and "Lat. 35°51'52"N., Long. 76°02'09"W.," is substituted therefor.

In the definition of R-5314 Subarea H, the first coordinate "Lat. 35°51'59"N., Long. 76°02'08"W.," is deleted and "Lat. 35°51'52"N., Long. 76°02'09"W.," is substituted therefor. Also the last coordinate "Lat. 35°52'42"N., Long. 76°09'49"W.," is deleted and "Lat. 35°52'22"N., Long. 76°09'53"W.," is substituted therefor.

In the definition of R-5314 Subarea J, the first coordinate "Lat. 35°52'42"N., Long. 76°09'49"W.," is deleted and "Lat. 35°52'22"N., Long. 76°09'53"W.," is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(A), and 1354(a)); sec.

8(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on December 7, 1979.

William E. Broadwater,  
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-38229 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 73

(Airspace Docket No. 79-SW-53)

## Special Use Airspace; Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment alters Restricted Area R-5103 by subdividing the area as R-5103A, R-5103B, and R-5103C. There will be no change to the current lateral and vertical limits of this restricted area. The redesignation of R-5103 will permit better utilization of the airspace in the Alamogordo, N. Mex. area.

EFFECTIVE DATE: January 24, 1980.

## FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to subdivide Restricted Area R-5103 as R-5103A, R-5103B and R-5103C. This alteration does not change the current lateral and vertical limits of R-5103, however, the new subdivisions will better accommodate military operational and training objectives. Subpart B of Part 73 of the Federal Aviation Regulations was republished in the Federal Register on January 2, 1979, (44 FR 702). Since this amendment is a minor matter on which the public would have no particular desire to comment

and the FAA has determined there are immediate benefits to the Department of Defense for maintaining our national security, I find therefore, notice and public procedure are unnecessary.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 702) is amended, effective 0901

GMT, January 24, 1980, as follows:

Under § 73.51 N. Mex., R-5103 is rewritten as follows:

R-5103A McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°15'00"N., Long. 106°10'00"W.; to Lat. 32°15'00"N., Long. 105°42'00"W.; to Lat. 32°00'15"N., Long. 105°56'40"W.; to Lat. 32°00'30"N., Long. 106°10'25"W.; to Lat. 32°05'20"N., Long. 106°09'20"W.; to Lat. 32°06'00"N., Long. 106°15'30"W.; thence along the Southern Pacific Railroad to point of beginning.

Designated altitudes: Surface to unlimited. Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commanding General, Fort Bliss, Tex.

R-5103B McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°45'00"N., Long. 105°59'00"W.; to Lat. 32°45'00"N., Long. 105°52'20"W.; to Lat. 32°33'20"N., Long. 105°30'00"W.; to Lat. 32°26'20"N., Long. 105°30'00"W.; to Lat. 32°15'00"N., Long. 105°42'00"W.; to Lat. 32°15'00"N., Long. 106°00'00"W.; thence along the Southern Pacific Railroad to Lat. 32°28'00"N., Long. 106°02'00"W.; to Lat. 32°27'40"N., Long. 106°00'00"W.; to Lat. 32°36'40"N., Long. 106°00'00"W.; from the surface to 12,500 feet MSL; to point of beginning excluding that airspace within a 2-NM radius of Lat. 32°39'02"N., Long. 105°40'34"W.; from the surface to 1,500 feet above the surface and also excluding that airspace beginning at Lat. 32°42'49"N., Long. 105°46'10"W.; to Lat. 32°40'47"N., Long. 105°49'38"W.; to Lat. 32°39'42"N., Long. 105°47'42"W.; to Lat. 32°41'58"N., Long. 105°46'12"W.; to point of beginning from the surface to 1,500 feet above the surface.

Designated altitudes: Surface to unlimited. Time of designation: Continuous.

Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commanding General, Fort Bliss, Tex.

R-5103C McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°45'00"N., Long. 105°59'00"W.; to Lat. 32°45'00"N., Long. 105°52'20"W.; to Lat. 32°33'20"N., Long. 105°30'00"W.; to Lat. 32°26'20"N., Long. 105°30'00"W.; to Lat. 32°15'00"N., Long. 105°42'00"W.; to Lat. 32°15'00"N., Long. 106°10'00"W.; thence along the Southern Pacific Railroad to Lat. 32°28'00"N., Long. 106°02'00"W.; to Lat.

32°27'40"N., Long. 106°00'00"W.; to Lat. 32°36'00"N., Long. 106°00'00"W.; to point of beginning from 12,500

feet MSL to unlimited. Designated altitude: Surface to unlimited.

Time of designation: Continuous. Controlling agency: Federal Aviation Administration, Albuquerque, N. Mex., ARTC Center.

Using agency: Commanding General, Fort Bliss, Tex.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on December 4, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-37872 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-13-M

## COMMODITY FUTURES TRADING COMMISSION

## 17 CFR Part 140

## Organization, Functions and Procedures of the Commission; Delegation of Authority to Release Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

**SUMMARY:** The Director of the Division of Enforcement upon request of other departments or agencies within the Executive Branch of the Government—including, for this purpose, independent regulatory agencies—is authorized to release information to them in connection with the investigation or prosecution of violations of federal law. This delegation will eliminate the necessity of the Commission itself authorizing the release of information for these purposes in each separate instance in which such information is requested.

EFFECTIVE DATE: December 13, 1979.

## FOR FURTHER INFORMATION CONTACT:

John A. Field, III, Director, Division of Enforcement, Commodity Futures Trading Commission, 2033 K Street,

N.W. Washington, D.C. 20581, telephone (202) 254-9501.

**SUPPLEMENTARY INFORMATION:** The Commission has determined to delegate to the Director of the Division of Enforcement and, in his absence, each Deputy Director of the Division, the authority, in accordance with section 8(e) of the Commodity Exchange Act, to release information upon request to departments or agencies of the Executive Branch of the Government, including independent regulatory agencies for law enforcement purposes.<sup>1</sup>

Information protected from public disclosure by section 8(a) of the Act—information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers—may be revealed pursuant to this authority. The subsequent disclosure of that information by the requesting agency or department is forbidden by Section 8(e), however, except in the context of an action or proceeding under the laws of the United States to which the requesting agency or department, the Commission, or the United States is a party.

The scope of the delegation is consistent with the Commission's policies governing the release of confidential information to other government bodies.<sup>2</sup> Thus, the Director of the Division of Enforcement may release information, including data which would reveal the identity of individuals, to other government bodies only in the course of their investigation, prosecution or other enforcement of violations of federal law.

Although the Commission will not routinely review requests for information from departments or agencies, the Director of the Division may refer a particular request to the Commission for its determination of whether the information should be released. Moreover, in any particular case in which it believes it appropriate, the Commission may, in the first instance, review an agency request for information.

This delegation to the Commission's chief law enforcement officer, the Director of the Division of Enforcement, will enable the Commission to act

<sup>1</sup> Section 8(e) provides in relevant part: "... Upon the request of any department or agency of the Executive Branch of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Pub. L. No. 95-405, Section 16, 92 Stat. 865, 873-874 (September 30, 1978).

<sup>2</sup> See "Confidentiality of Information", 40 FR 41551 (September 8, 1975).

expeditiously in cooperating with other government agencies where criminal or other violations of federal laws are involved. This delegation shall remain in effect until the Commission orders otherwise.

The Commission finds that the adoption of this rule relates solely to agency practice and procedure and that the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking and other opportunity for public participation are not applicable.

In consideration of the foregoing, 17 CFR Part 140 is amended by adding a new § 140.73 as follows:

**§ 140.73 Delegation of authority to the Director of the Division of Enforcement to disclose information to other government agencies.**

(a) Pursuant to sections 2(a)(11) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, and in his absence, to each Deputy Director of the Division, the authority, upon the request of any department or agency of the Executive Branch of the Government, including for this purpose an independent regulatory agency, acting within the scope of its jurisdiction in the investigation or prosecution of any violation of federal law, to furnish to the department or agency, information in the possession of the Commission obtained in connection with the administration of the Act.

(b) In furnishing information under this delegation the Director of the Division of Enforcement shall remind the department or agency involved that section 8(e) of the Act prohibits the disclosure of information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers except in an action or proceeding under the laws of the United States to which the department or agency, or the Commission or the United States is a party.

(c) This delegation shall not affect any other delegation which the Commission has made or may make, which authorizes any other officer or employee of the Commission to furnish information to other government bodies on the Commission's behalf.

(d) Notwithstanding the provisions of paragraph (a) of this section in any case in which the Director of the Division of Enforcement believes it appropriate he may submit the matter to the Commission for its consideration. In addition, the Commission reserves to itself the authority to determine whether



to grant a request for information in any particular case.

(Secs. 2(a)(11) and 8(e) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(j) (1976); 92 Stat. 873-74 (September 30, 1978).

Issued in Washington, D.C., on December 7, 1979, by the Commission.

Jane K. Stuckey,  
Secretary to the Commission.

[FR Doc. 79-38187 Filed 12-12-79; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF STATE

### 22 CFR Part 42

[Departmental Regulation 108.784]

#### Documentation of Immigrants Under the Immigration and Nationality Act, As Amended; Miscellaneous Amendments

AGENCY: Department of State.

ACTION: Final rule.

**SUMMARY:** The Panama Canal Act of 1979 amended section 101(a)(27) of the Immigration and Nationality Act by granting special immigrant status to three new categories of aliens. This rule amends the regulations in Part 42 to implement the provisions of that statute.

**DATES:** These amendments are effective on October 1, 1979. Comments must be received on or before January 15, 1980.

**ADDRESS:** Submit written comments and recommendations to: Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520.

**FOR FURTHER INFORMATION CONTACT:** Gerald M. Brown, Acting Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520. (202) 632-1900.

**SUPPLEMENTARY INFORMATION:** Section 3201 of Pub. L. 96-70, amends section 101(a)(27) of the Immigration and Nationality Act by adding three new subparagraphs (E), (F) and (G) to grant special immigrant status to three categories of aliens, and the accompanying spouse and children of any such alien, subject to an overall numerical limitation of 15,000 individuals of which not more than 5,000 may be admitted to the United States in any fiscal year. Included within the definition of special immigrants by the addition of these three new subparagraphs to section 101(a)(27) are: "(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as

described in section 3(a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more; "(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or, (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment; or "(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment."

Pub. L. 96-70 was effective upon enactment on September 27, 1979. In view of the need to implement immediately the new subparagraphs (E), (F) and (G), compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is impractical in this instance. However, in keeping with the spirit of that section the public is invited to submit written comments and recommendations regarding these amendments to Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520. All such written comments and recommendations received prior to January 15, 1980 will be duly considered with regard to any further amendments of the regulations. These amendments are issued under the authority contained in section 104 of the Immigration and Nationality Act (8 U.S.C. 1104).

1. The table in paragraph (b) of § 42.12 is revised to read:

#### § 42.12 Classification symbols.

(b) The following symbols shall be used in cases of aliens who are special immigrants:

| Class                                                                                           | Section of the law        | Symbol to be inserted in visa |
|-------------------------------------------------------------------------------------------------|---------------------------|-------------------------------|
| Returning resident.....                                                                         | 101(a)(27)(A).....        | SB-1                          |
| Person who lost U.S. citizenship by marriage.                                                   | 101(a)(27)(B) and 324(a). | SC-1                          |
| Person who lost U.S. citizenship by service in foreign armed forces.                            | 101(a)(27)(B) and 327.    | SC-2                          |
| Minister of Religion.....                                                                       | 101(a)(27)(C).....        | SD-1                          |
| Spouse of alien classified SD-1.                                                                | 101(a)(27)(C).....        | SD-2                          |
| Child of alien classified SD-1.                                                                 | 101(a)(27)(C).....        | SD-3                          |
| Certain employees or former employees of U.S. Government abroad.                                | 101(a)(27)(D).....        | SE-1                          |
| Accompanying spouse of alien classified SE-1.                                                   | 101(a)(27)(D).....        | SE-2                          |
| Accompanying child of alien classified SE-1.                                                    | 101(a)(27)(D).....        | SE-3                          |
| Certain former employees of the Panama Canal Company or Canal Zone Government.                  | 101(a)(27)(E).....        | SF-1                          |
| Accompanying spouse or child of alien classified SF-1.                                          | 101(a)(27)(E).....        | SF-2                          |
| Certain former employees of the U.S. Government in the Panama Canal Zone.                       | 101(a)(27)(F).....        | SG-1                          |
| Accompanying spouse or child of alien classified SG-1.                                          | 101(a)(27)(F).....        | SG-2                          |
| Certain former employees of the Panama Canal Company or Canal Zone Government on April 1, 1979. | 101(a)(27)(G).....        | SH-1                          |
| Accompanying spouse or child of alien classified SH-1.                                          | 101(a)(27)(G).....        | SH-2                          |

2. A new § 42.37 is added to read:

#### § 42.37 Special immigrants—Panama.

(a) An alien who is subject to the numerical limitations specified in section 3201(c) of the Panama Canal Act of 1979, Pub. L. 96-70, shall be classified as a special immigrant under paragraph (E), (F) or (G) of section 101(a)(27) of the Act if he establishes to the satisfaction of the consular officer by the presentation of appropriate evidence that he qualifies under any of those three paragraphs. The evidence presented must satisfy the consular officer that the alien—

(1) Was an employee of the Panama Canal Company or Canal Zone Government on October 1, 1979 and a resident in the Canal Zone on April 1, 1979 and performed faithful service as such an employee for at least one year, or

(2) Is a Panamanian national (i) who was honorably retired from United States Government employment in the Canal Zone before October 1, 1979 following a total of 15 years or more of faithful service, or (ii) who was

employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service on October 1, 1979 and is honorably retired from such service, or

(3) Was an employee of the Panama Canal Company or Canal Zone Government on April 1, 1979 who has performed faithful service for five years or more as such an employee and whose personal safety, or the personal safety of whose spouse or children, as a direct result of the Panama Canal Treaty of 1977, is reasonably placed in danger because of the special nature of any of that employment, or

(4) Is the spouse or child of any alien who establishes to the satisfaction of the consular officer that he qualifies as a special immigrant under paragraphs (a) (1), (2), or (3) of this section and is accompanying that alien to the United States.

(b) An alien who qualifies as a special immigrant under paragraph (a) of this section shall not be ineligible to receive a visa (1) under the provisions of section 212(a)(7) of the Act, or (2) under the provisions of section 212(a)(15) of the Act if he applies for a visa and for admission to the United States prior to April 1, 1982.

3. In § 42.60 in paragraph (a) the word "Authorized" at the beginning of that paragraph is changed to read "Centralized". In addition, paragraph (d) is added to read:

#### § 42.60 Control of numerical limitations by the Department.

(d) *Special Immigrants—Panama.* Centralized control of the numerical limitations on immigration specified in section 3201(c) of the Panama Canal Act of 1979 is established in the Department. In order to effectuate this control, the Department shall limit the number of special immigrant visas that may be issued and the number of adjustments of status that may be granted to aliens qualifying for visas under subsections (E), (F), and (G) of section 101(a)(27) of the Act to a number not to exceed a total of 5,000 in any fiscal year starting with the fiscal year beginning on October 1, 1979. If an immigrant having an immigrant visa issued pursuant to sections 101(a)(27) (E), (F) or (G) of the Act is excluded from the United States and deported, or does not apply for admission to the United States before the expiration of the validity of his visa, or if such a visa is revoked pursuant to § 42.134, the number shall be returned to the Department for reallocation.

4. Section 42.62(b)(2) is amended by deleting the word "or" at the end of subparagraph (i) and changing the

period to a comma and adding the word "or" at the end of subparagraph (ii). In addition subparagraph (iii) is added to read:

#### § 42.62 Priority date of individual applicants.

(b) \* \* \*  
(2) \* \* \*  
(iii) The applicant is entitled to classification as a special immigrant under paragraph (E), (F) or (G) of section 101(a)(27) of the Act.

5. Section 42.63 is amended, by deleting the word "and" at the end of paragraph (a), changing the period to a comma and inserting the word "and" at the end of paragraph (b) and adding a paragraph (c) to read:

#### § 42.63 Order of consideration.

(c) In the chronological order of the priority dates of all applicants within the special immigrant classifications specified in paragraph (E), (F) or (G) of section 101(a)(27) of the Act.

Section 42.64(a) is revised to read:

#### § 42.64 Reports of numbers and priority dates of applications on record.

(a) Consular officers shall report periodically, as the Department may direct, the number and priority dates of all applicants subject to the numerical limitations prescribed in sections 201, 202 and 203 of the Act and in section 3201(c) of the Panama Canal Act of 1979 and whose immigrant visa applications have been recorded in accordance with § 42.61(b).

Dated: November 28, 1979.

Barbara M. Watson,  
Assistant Secretary for Consular Affairs.

[FR Doc. 79-38152 Filed 12-12-79; 8:45 am]

BILLING CODE 4710-06-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 650

#### Highway Bridge Replacement and Rehabilitation Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

**SUMMARY:** The Federal Highway Administration is issuing this document in order to provide further guidance and clarification of procedures for administering the highway bridge replacement and rehabilitation program.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley Gordon, Bridge Division, 202-472-7697; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (the Act), Pub. L. 95-599, 92 Stat. 2689. Section 124 of the Act amended 23 U.S.C. 144 which necessitated a revision to existing regulations implementing the bridge replacement program. The revisions provide a bridge replacement and rehabilitation program both on and off the Federal-aid systems. Inventories and priorities for replacement and rehabilitation of both on and off-system bridges shall be made by the Secretary of Transportation in consultation with the States. The Secretary shall determine the eligibility of a bridge for funds under this program.

The Federal share payable for any project under this program is now 80 percent; formerly, it was 75 percent. In consideration of the foregoing, the Federal Highway Administration (FHWA) published the revised regulations as a final rule in the Federal Register on March 15, 1979, (44 FR 15665), and invited public comments for a 90-day period.

Numerous comments were received from States, counties, local government groups and Federal agencies. These comments were reviewed and categorized.

#### Summary of Major Changes

In response to comments received, the regulations published on March 15, 1979, remain largely unchanged. The following changes have been made to clarify the existing regulations:

1. Section 650.407(a) has been revised to indicate Federal and local government agencies are to submit bridge inventory and inspection data through the State agency.

2. Section 650.411(c) has been revised to clearly indicate maintenance responsibilities for both on and off-system bridge projects funded under the Highway Bridge Replacement and Rehabilitation Program (HBRP).

3. Section 650.411(c)(2) has been revised to provide for existing bridges to remain in place under certain situations.



**Comments and FHWA'S Response**

FHWA received 72 comments from 29 organizations prior to the close of the comment period on June 13, 1979. Comments were received from 18 counties, four county organizations, four State highway administrations, one Federal agency, one railroad agency and one highway group. These comments were grouped for similarity and are discussed by HBRRP regulations section.

**Section 650.403—Definition of terms**

1. Under the current bridge length definition and under HBRRP procedures, most hydraulically hazardous low-water crossings are not currently eligible.

*Discussion:* Low-water crossings which are greater than 20 feet long and are in good condition represent an unusual situation and are not currently eligible for the program. However, to place proper emphasis on the hazardous condition which could exist during flooding for some of these crossings, the Federal Highway Administration will review individual crossings greater than 20 feet in length to determine the acceptability of the project for HBRRP funds. As is the case with all structures 20 feet or less long, low water crossings 20 feet or less in length will continue to be ineligible under the program.

2. Section 650.403 should include a separate definition of historic bridges such that all historic bridges even those under 20 feet in length are eligible.

*Discussion:* The prime purpose of the HBRRP is to replace or rehabilitate deficient bridges, not to revitalize those bridges considered historic. Should an otherwise eligible bridge also have historic significance, it would qualify under the HBRRP and be eligible for rehabilitation or replacement. Under the current bridge definition, there are approximately 105,500 deficient highway bridges nationwide. As the off-system bridge inventory progresses, bridges are being added to the National Bridge Inventory and the number of deficient bridges is increasing. Bridges over 20 feet as now defined are of primary concern under the HBRRP. It is felt that the cost of replacing or rehabilitating minor structures less than 20 feet long, including those which are historic, would be prohibitive in relation to available funds. It has, therefore, been determined that the current 20-foot criteria of the definition will be retained for all bridges.

**Section 650.405—Eligible projects**

3. The regulations should indicate that replacement bridge design costs and the

initial bridge inventory inspection are eligible for HBRRP funding.

The term "eligible project" encompasses all aspects of the undertaking to replace or rehabilitate a bridge except for those items specifically noted as ineligible under § 650.405(c). Thus, the replacement bridge design and initial inventory inspection are considered part of the project and need not be specifically mentioned in the regulations.

4. The regulations should provide more autonomy to FHWA division offices in granting exceptions and waivers in the administration of the HBRRP.

*Discussion:* FHWA Field Divisions administer the program within HBRRP regulations and policies. HBRRP regulations include only those requirements contained or envisioned in the Act, thus providing FHWA offices autonomy for administering the program within confines dictated by law and other policies necessary to administer such a large program. Also, FHWA Division Administrators have the authority to grant HBRRP design exceptions under certain conditions. Thus, additional flexibility to administer the HBRRP at the FHWA Division level is not warranted.

5. The requirement that the replacement or rehabilitation of a structure must meet current standards is too restrictive and flexibility and waiver to the standards should be permitted particularly in the case of historic bridges.

*Discussion:* The FHWA is of the opinion that the design standards for replacement or rehabilitation projects as contained in 23 CFR Part 625 are appropriate in the majority of cases. However, FHWA guidelines and 23 CFR Part 625 do provide for replacement or rehabilitation to less than minimum criteria under certain conditions on a project-by-project basis for both on and off-system bridges including those which are historic. Thus, the mechanism for granting exceptions to the minimum standards presently exists for all bridges and further elaboration within the HBRRP regulations is not warranted.

6. In a situation where a bridge is no longer needed, the regulations should indicate the bridge may be replaced with a road fill if its cost is less than the bridge replacement cost.

*Discussion:* This is a unique situation which occurs infrequently. As with any unusual situation, the FHWA will consider eligibility on a project-by-project basis. The FHWA does not feel elaboration of this unique situation in the HBRRP regulations is warranted.

7. The regulations should clearly define what is meant by "a nominal amount of approach work".

*Discussion:* Each bridge project and its associated roadway work is different and thus an exact definition of approach roadway work as to eligibility is not feasible. The regulations state eligible approach work is that "sufficient to connect the new facility to the existing roadway or to return the grade line to an attainable touchdown point in accordance with good design practice." The FHWA feels these guidelines are sufficient and provide necessary flexibility in judging each project at the field level.

8. The HBRRP regulations should specifically promote the rehabilitation rather than replacement of historic bridges and ensure that such rehabilitation does not adversely affect historic bridges.

*Discussion:* Should an HBRRP eligible bridge also be historic it would qualify as a rehabilitation or replacement project. Under FHWA's extensive environmental and historic assessment procedures, that effect on the final design disposition of the project will be evaluated and determined. It is felt these existing environmental and historic procedures are adequate and further emphasis in the HBRRP regulations is not warranted.

9. The terms "structurally deficient" and "functionally obsolete" should be defined in the regulations and the definition should include bridge load capacity.

*Discussion:* The actual criteria for a bridge's eligibility is outlined in § 650.409 and is based on the AASHTO's sufficiency rating formula and FHWA evaluation criteria. As part of its evaluation the FHWA defines a structurally deficient or functionally obsolete bridge as a matter of policy and as the definitions may change with changes in program emphasis, it is not recommended that they be contained in the regulations.

The definition of these terms cannot be based on load rating alone but must also consider the significance of the highway system of which the bridge is a part. As the overall structural condition appraisal, which considers bridge load carrying capacity and type of highway system, is part of the definitions, adoption of this modification is not recommended.

10. In the case of bridges eligible for rehabilitation only, it is sometimes very difficult to determine the practicality of rehabilitation. The economic feasibility of rehabilitation should be weighed and replacement should be permitted where justified.

*Discussion:* May factors, including some which cannot be evaluated by the sufficiency rating formula, must be considered in the decision of whether to rehabilitate or replace structures. To provide for those unusual conditions where it is virtually impossible to correct deficiencies by rehabilitation, FHWA should review submittals, including thorough engineering and economic studies, for approval on a project-by-project basis.

**Section 650.407—Application for Bridge Replacement or Rehabilitation**

11. Section 650.407(a) should indicate that local governments should submit the bridge data through the State agency.

*Discussion:* The FHWA concurs with this recommendation and the appropriate words have been added to § 650.407(a) to indicate that all government agencies including local and Federal Government should supply the bridge data to the State agency.

12. The HBRRP regulations should indicate that bridge program funds may be utilized on selected eligible bridges prior to a locality's completing and submitting all its bridge inspections.

*Discussion:* Section 650.407(b) indicates bridge inventory data may be submitted as available and once submitted an eligible bridge will automatically appear on the State selection list. In addition, the "New Federal Funds for Off-System Bridges" brochure which was sent to 4200 local jurisdictions, clearly indicates that a locality need not complete all bridge inspections prior to submitting candidates. The FHWA does not feel this modification is necessary.

13. Additional emphasis should be added to § 650.407 of the regulations to ensure that all public highway bridges over railroads are inspected and inventoried.

*Discussion:* The Act and the National Bridge Inspection Standards published on May 1, 1979 at 44 FR 25434 clearly required the inspection and inventory by December 31, 1980 of all public highway bridges, including those over railroads. The FHWA does not feel that further emphasis on this point is necessary in the HBRRP regulations.

14. Section 650.407(d) of the regulations should encourage State application for an historic bridge inventory and require coordination of such inventory with the State Historic Preservation Officer (SHPO).

*Discussion:* It is not within the realm of the bridge program to require such an

<sup>1</sup> This brochure is available for inspection and copying as prescribed in 49 CFR Part 7 Appendix D.

historic inventory and it is felt the addition of § 650.407(d) to the regulations encourages States to pursue such an inventory. The Advisory Council on Historic Preservation's Protection of Historic and Cultural Properties regulations require coordination with the SHPO in the conduct of such historic bridge inventory. The State may, of course, inventory its historic bridges as part of the HBRRP if it so desires.

**Section 650.409—Evaluation of Bridge Inventory**

15. Specific comments recommending minor modifications of the AASHTO sufficiency rating formula and AASHTO *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide)* were received.

*Discussion:* The sufficiency rating formula and *Coding Guide* were prepared by the AASHTO and FHWA and adopted by FHWA after much study. The formula is a composite rating based on *Coding Guide* reported data and as such gives a reliable and uniform indication on a State and national basis of relative structural condition and serviceability. The FHWA does not propose amending the formula or *Coding Guide* at this time.

16. Other factors besides the bridge sufficiency rating formula should be utilized to compare structures.

*Discussion:* The FHWA evaluates bridges prioritized by sufficiency rating for placement on each State's eligible bridge list. In the final selection process, the States select projects from the eligible bridge list based on priorities established at the State and local levels. Thus, factors other than bridge sufficiency ratings are used in the evaluation and selection process.

17. The final project selection and distribution of HBRRP on- and off-system bridge funds should be based on need and equitable fund distribution and should be made in cooperation and consultation with local officials.

*Discussion:* The FHWA selection list for bridges on and off the Federal-aid system consists of structurally deficient and functionally obsolete bridges prioritized by sufficiency rating. Thus, eligible HBRRP projects are based on need. In keeping with the FHWA minimization of red tape policy, the regulation requires that the distribution of project funds be made on a "fair and equitable basis" as stated in the Act. Having overall State transportation planning responsibility, State highway agencies must be responsible for selection of highway bridge projects from various Federal funding categories.

The FHWA encourages cooperation between the State and its localities. However, it is the responsibility of the State and local jurisdictions to work within channels of authority and communication at the State level of government to select projects and determine fund distribution.

18. In determining eligibility for the FHWA candidate selection list only a structure's sufficiency rating should be considered.

*Discussion:* In reviewing the past history, accomplishments and legislative intent of the program prior to implementing the new legislation, FHWA concluded that the best approach to the management of the program would be to relate accomplishments and procedures to the categories of deficient bridges. This determination was based primarily on two items:

1. Deficient bridges provide a direct measurement of progress and of needs in the program, without which the program would be virtually unending. The sufficiency rating formula is merely used to establish priorities in any category. For example, it is possible for a deficient bridge to be rehabilitated to provide a tolerable level of service for some reasonable period of time but yet the sufficiency rating reflecting the work performed would still be less than 80 and continually remain on the eligible selection list.

2. The deficient categories are related to specific definitions in the AASHTO *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide)*. These definitions provide a distinct and recognizable division for the coding of deficient bridges.

We continue to believe that the selection criteria deemed most appropriate are the State's determination and coding of a bridge as either structurally deficient or functionally obsolete. The sufficiency rating will be used to establish priorities in any category.

19. In the HBRRP bridge selection process, FHWA policy permits replacement of bridges with a sufficiency rating of less than 50 and rehabilitation of bridges with a sufficiency rating of 80 or less. These criteria should be part of the regulations.

*Discussion:* The HBRRP regulations discuss sufficiency ratings in § 650.409(a). All State highway agencies have been notified of the current FHWA sufficiency rating eligibility criteria developed pursuant to that section. In addition, the criteria will be incorporated in a forthcoming revision of the Federal-Aid Highway Program



Manual (FHPM 6-7-4-1). Copies of this manual are provided directly to all State highway agencies and are available for inspection and copying pursuant to 49 CFR Part 7, Appendix D.

20. In the selection process, preference should be given to historic bridges and bridges which cross AMTRAK's right-of-way over other competing structures.

*Discussion:* As intended by Congress, the Act considers all eligible bridges equally. As priority selection consideration of historic bridges or bridges crossing AMTRAK's right-of-way would be at the expense of other eligible deficient bridges, FHWA has determined that modification of the regulations is not warranted.

#### Section 650.411—Procedures for Bridge Replacement and Rehabilitation projects

21. The regulations should be revised to specifically indicate maintenance requirements for off-system bridges replaced under the HBRRP.

*Discussion:* The FHWA agrees that HBRRP regulations do not clearly define maintenance requirements and responsibilities for off-system bridges. Consequently, § 650.411(c) has been changed to clarify this point.

22. Regulations should indicate that when a deficient bridge is replaced, the existing bridge may be left in place to service recreation vehicles such as bicycles, mopeds and snowmobiles.

*Discussion:* The FHWA feels that whenever a deficient bridge is replaced or its deficiency alleviated, the existing bridge under certain conditions should be allowed to remain in place if safe and practical for any purpose. Section 650.411(c)(2) has been revised to so indicate.

#### Section 650.413—Funding

23. The amount of funds designated for off-system bridges should be determined by a State's off-system bridge needs.

*Discussion:* The 15 to 35 percent range as contained in the Act was intended by Congress to provide flexibility for funding off-system bridges considering each State's different requirements. The off-system National Bridge Inventory is scheduled for completion by December 31, 1980, and thus the exact off-system bridge needs cannot be determined at this time. When bridge data is available these needs could be considered in HBRRP fund distribution.

24. The FHWA should review and verify that not less than 15 percent of the funds are utilized on off-system bridges within a State and that local jurisdiction verification be required

prior to waiving the minimum 15 percent limit for off-system deficient bridges.

*Discussion:* The FHWA is constantly aware of the status of bridge program funds, through project recordkeeping procedures, which do not permit a State to utilize less than 15 percent of the funds on off-system deficient bridges. Should a State request a waiver of the 15 percent limit, no such waiver will be permitted without documentation after consultation with State and local officials as indicated in § 650.413(c).

25. The regulations should be more explicit in providing off-system designated funds for bridges under both State and local jurisdiction responsibility.

*Discussion:* As all Federal-aid programs are administered by the States with overall highway planning responsibility, HBRRP funds are designated within a State for off-system bridges in general. It is the responsibility of local jurisdictions and a State to work within channels of communications and authority to determine disbursement of off-system bridge funds.

26. Should a local jurisdiction receive HBRRP funds for an eligible deficient bridge, the regulations should permit replacement or rehabilitation of a substitute deficient bridge with a similar sufficiency rating if the local jurisdiction wished.

*Discussion:* Project approval and fund distribution is based on the need for a specific bridge. Thus, should a local jurisdiction be unable to utilize HBRRP funds for the designated bridge, the funds must be returned so they may be applied to the bridge in most need.

#### General:

27. Bridge program projects should be administered under the State's Secondary Road Plan and/or Certification Acceptance procedures.

*Discussion:* Under Federal-aid procedures, the State is responsible for administration of bridge projects funded under the HBRRP. Such projects are administered in accordance with procedures of the road system of which they are a part or under a Certification Acceptance program if applicable.

28. The regulations should have been issued as a proposed rulemaking, not as a final rule.

*Discussion:* As the regulations represent modifications of the existing regulations, consistent with changes in the Act, the regulations were issued as a final rule and comments were solicited.

29. To expedite the bridge program, particularly in the case of rehabilitation projects, environmental assessment, historic preservation, right-of-way, and 404 permit requirements should be

relaxed or apply only to replacement projects.

*Discussion:* By law, such requirements apply to all projects utilizing Federal-aid funds and cannot be relaxed or waived at the discretion of the FHWA.

30. Regulations should indicate that on and off-system bridges should be inspected every 2 years.

*Discussion:* This requirement is contained in the National Bridge Inspection Standards and the FHWA does not feel it is necessary to repeat this requirement in the HBRRP regulations.

#### Conclusions:

The FHWA made a concerted effort to incorporate all valid comments in these final amendments. As noted, revisions have been made to the regulations clarifying certain sections. The FHWA believes that the regulations provide a clear standard for agencies to follow in carrying out the HBRRP while being sufficiently flexible to serve deficient bridge needs at all levels of government.

In consideration of the foregoing, Subpart D of Part 650 of Title 23, Code of Federal Regulations, is amended as follows:

1. Paragraph (a) of § 650.407 is revised to read:

#### § 650.407 Application for bridge replacement or rehabilitation.

(a) Agencies participate in the bridge program by conducting bridge inspections and submitting Structure Inventory and Appraisal (SI&A) sheet inspection data. Federal and local governments supply SI&A sheet data to the State agency for review and processing. The State is responsible for submitting the six computer card format or tapes containing all public road SI&A sheet bridge information through the Division Administrator of the Federal Highway Administration (FHWA) for processing. These requirements are prescribed in 23 CFR 650.309 and 650.311, the National Bridge Inspection Standards.

2. Paragraph (c) of § 650.411 is revised to read:

#### § 650.411 Procedures for bridge replacement and rehabilitation projects. [Amended]

(c)(1) Each approved project will be designed, constructed, and inspected for acceptance in the same manner as other projects on the system on which the project is located. It shall be the responsibility of the State agency to properly maintain, or cause to be properly maintained, any project

constructed under this bridge program. The State highway agency shall enter into a formal agreement for maintenance with appropriate local government officials in cases where an eligible project is located within and is under the legal authority of such a local government.

(2) Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall either be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life. For example, if the only deficiency of the existing structure is inadequate roadway width and the combination of the new and existing structure can be made to meet current standards for the volume of traffic the facility will carry over its design life, the existing bridge may remain in place and be incorporated into the system.

*Note.*—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. The amendments contained herein simply clarify existing policy and procedures. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Stanley Gordon of the program office at the address specified above. In light of the opportunity provided for public comment on the final rule, and because these amendments were addressed in the comments received, it has been determined that publication of these amendments for notice and comment could not reasonably be anticipated to result in the receipt of useful information. The FHWA has also determined that it is in the public interest to issue these amendments without a 30-day delay in effective date in order to provide immediate clarification of current policy and procedures. (23 U.S.C. 144, 315; 49 CFR 1.48(b))

Issued on: December 4, 1979.

John S. Hassell, Jr.,  
Deputy Administrator.

[FR Doc. 79-37940 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 601

#### Statement of Procedural Rules; Tax Counseling for the Elderly.

**AGENCY:** Internal Revenue Service, Treasury Department.

**ACTION:** Final rules.

**SUMMARY:** This document provides rules under which the Internal Revenue Service will enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to the elderly (individuals age 60 or over) under the Revenue Act of 1978.

**DATE:** These rules take effect December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy M. Smith of the Taxpayer Service Division (TX:T-1), Internal Revenue Service, Room 7213, 1111 Constitution Avenue, N.W., Washington, D.C. (202-566-4904).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 163 of the Revenue Act of 1978, Public Law 95-600, November 8, 1978, (92 Stat. 2810) provides that the Internal Revenue Service may enter into agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

##### Cooperative Agreements

Programs will be administered by non-profit agencies and organizations under cooperative agreements with the Internal Revenue Service in compliance with the Federal Grant and Cooperative Agreement Act of 1977, Public Law 95-224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501-509). Cooperative agreements will provide: (1) for the implementation of the program(s) by geographical area, (2) the functions to be performed by the Service and program sponsor, (3) the maximum amount of money available for reimbursement of expenses, and (4) other information.

##### Competition

Normally cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Competition will not be used where time makes competition impracticable. Agencies and organizations will be eligible to enter into a cooperative agreement if they are non-profit and have experience in coordinating volunteer programs. Eligible applicants will be selected to enter into cooperative agreements on the basis of information provided in their application and in accordance with

criteria set forth in the application instructions supplied by the Service.

#### Program Administration

Under a cooperative agreement, the agency or organization sponsoring a Tax Counseling for the Elderly program will normally be responsible for administration of the program, including the recruitment of volunteers.

The Service will normally provide training and technical support. Program operations will be primarily carried on by the volunteers. Sponsoring agencies and organizations will normally receive reimbursements for administrative expenses of the program and volunteers will normally receive reimbursements for expenses incurred in training and in providing tax return assistance. Volunteers will be provided training and will be required to pass tests designed to measure their understanding of Federal tax subjects on which they will provide assistance.

**DRAFTING INFORMATION:** The principal authors of these final rules are Judy M. Smith of the Taxpayer Service Division, Internal Revenue Service, James W. Corbitt, Jr. of the General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, and Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Taxpayer Service Division, other divisions in the Internal Revenue Service and the Office of Chief Counsel participated in developing these final rules, both on matters of substance and style.

**ADOPTION OF AMENDMENTS TO THE REGULATIONS:** The following additions are made to the Statement of Procedural Rules (26 C.F.R. Part 601):

Paragraph 1. The following new provision is added at the end of the table of contents at the head of Part 601:

#### Subpart H—Tax Counseling for the Elderly

|         |                                          |
|---------|------------------------------------------|
| Sec.    |                                          |
| 601.801 | Purpose and statutory authority.         |
| 601.802 | Cooperative agreements.                  |
| 601.803 | Program operations and requirements.     |
| 601.804 | Reimbursements.                          |
| 601.805 | Miscellaneous administrative provisions. |
| 601.806 | Solicitation of applications.            |

Par. 2. New subpart H is added to read as follows:



**Subpart H—Tax Counseling for the Elderly****§ 601.801 Purpose and statutory authority.**

(a) This Subpart H contains the rules for implementation of the Tax Counseling for the Elderly assistance program under section 163 of the Revenue Act of 1978, Pub. L. 95-600, November 6, 1978 (92 Stat. 2810). Section 163 authorizes the Secretary of the Treasury, through the Internal Revenue Service, to enter into agreements with private or public non-profit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals, age 60 and over, in the preparation of their Federal income tax returns.

(b) Section 163 provides that the Secretary may provide:

(1) Preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(2) Publicity for making elderly persons aware of the availability of volunteer taxpayer return preparation assistance programs under this section; and

(3) Technical materials and publications to be used by such volunteers.

(c) In carrying out responsibilities under section 163, the Secretary, through the Internal Revenue Service is also authorized:

(1) To provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly in the preparation of Federal income tax returns;

(2) To provide for the training of such volunteers, and to assist in such training, to ensure that such volunteers are qualified to provide tax counseling assistance to elderly individuals in the preparation of Federal income tax returns;

(3) To provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance in the preparation of Federal income tax returns under this section, and such other support and assistance determined to be appropriate in carrying out the provisions of the section;

(4) To provide for the use of services, personnel, and facilities of Federal

executive agencies and State and local public agencies with their consent, with or without reimbursement; and

(5) To prescribe rules and regulations necessary to carry out the provisions of the section.

(d) With regard to the employment status of volunteers, section 163 also provides that service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be subject to the provisions of law relating to Federal employment, except that the provisions relating to the illegal disclosure of income or other information punishable under section 1905 of Title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

**§ 601.802 Cooperative agreements.**

(a) *General.* Tax Counseling for the Elderly programs will be administered by sponsor organizations under cooperative agreements with the Internal Revenue Service. Use of cooperative agreements is in accordance with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501-509). Cooperative agreements will be legally binding agreements in document form.

(b) *Nature and contents of cooperative agreements.* Each cooperative agreement will provide for implementation of the program in specified geographic areas. Cooperative agreements will set forth:

(1) The functions and duties to be performed by the Internal Revenue Service and the functions and duties to be performed by the program sponsor,

(2) The maximum amount of the award available to the program sponsor,

(3) The services to be provided for each geographical area, and

(4) Other requirements specified in the application.

(c) *Entry into cooperative agreements.* The Commissioner of Internal Revenue, the Director, Taxpayer Service Division, or any other individual designated by the Commissioner may enter into a cooperative agreement for the Internal Revenue Service.

(d) *Competitive award of cooperative agreements.* Cooperative agreements will generally be entered into based upon competition among eligible applicants.

(1) To be eligible to enter into a cooperative agreement, an organization must be a private or public non-profit agency or organization with experience in coordinating volunteer programs. Federal, state, and local governmental

agencies and organizations will not be eligible to become program sponsors.

(2) Eligible applicants will be selected to enter into cooperative agreements based on an evaluation by the Internal Revenue Service of material provided in their applications. The Service will set forth the evaluative criteria in the application instructions.

(3) Determinations as to the eligibility and selection of agencies and organizations to enter into cooperative agreements will be made solely by the Internal Revenue Service and will not be subject to appeal.

(e) *Noncompetitive award of cooperative agreements.* If appropriations to implement the Tax Counseling for the Elderly program are received at a time close to when tax return preparation assistance must be provided or when other factors exist which make the use of competition to select agencies and organizations to enter into cooperative agreements impracticable, cooperative agreements will be entered into without competition with eligible agencies and organizations selected by the Internal Revenue Service. Determination of when the use of competition is impracticable will be made solely by the Internal Revenue Service and will not be subject to appeal.

(f) *Renegotiation, suspension, termination and modification.* (1) Cooperative agreements will be subject to renegotiation (including the maximum amount of the award available to a sponsor), suspension, or termination if performance reports required by the cooperative agreement and/or other evaluations by or audits by the Internal Revenue Service or others indicate that planned performance goals or other provisions of the cooperative agreement, the regulations, or Section 163 of the Revenue Act of 1978 are not being satisfactorily met. The necessity for renegotiation, suspension, or termination, will be determined solely by the Internal Revenue Service and will not be subject to appeal.

(2) Cooperative agreements may be modified in writing by mutual agreement between the Internal Revenue Service and the program sponsor at any time. Modifications will be based upon factors such as an inability to utilize all funds available under a cooperative agreement, the availability of additional funds and an ability to effectively utilize additional funds, and interference of some provisions with the efficient operation of the program.

(g) *Negotiation.* If the proposed program of an eligible applicant does not warrant award of an agreement, the Internal Revenue Service may negotiate

with the applicant to bring the application up to a standard that will be adequate for award. If more than one inadequate application has been received for the geographic area involved, negotiation to bring all such applications up to a standard will be conducted with all such applicants unless time does not permit negotiations with all.

**§ 601.803 Program operations and requirements.**

(a) *Objective.* The objective of the Tax Counseling for the Elderly program is to provide free assistance in the preparation of Federal income tax returns to elderly taxpayers age 60 and over, by providing training, technical and administrative support to volunteers under the direction of non-profit agencies and organizations that have cooperative agreements with the Internal Revenue Service.

(b) *Period of program operations.* Most tax return preparation assistance will be provided to elderly taxpayers during the period for filing Federal income tax returns, from January 1 to April 15 each year. However, the program activities required to ensure elderly taxpayers efficient and quality tax assistance will normally be conducted year round. Program operations will generally be divided into the following segments each year: October—recruit volunteers; November and December—set training and testing schedules for volunteers, identify assistance sites, complete publicity plans for sites; December and January—train and test volunteers, set volunteer assistance schedules; January through May—provide tax assistance, conduct publicity for sites; May and June—prepare final reports and evaluate program; July and August—prepare for next year's program.

(c) *Assistance requirements.* All tax return preparation assistance provided under Tax Counseling for the Elderly programs must be provided free of charge to taxpayers and must be provided only to elderly individuals. An elderly individual is an individual age 60 or over at the close of the individual's taxable year with respect to which tax return preparation assistance is to be provided. Where a joint return is involved, assistance may be provided where only one spouse satisfies the 60 year age requirement.

(d) *Training and testing of volunteers.* Volunteers will normally be provided training and will normally be required to pass tests designed to measure their understanding of Federal tax subjects on which they will provide tax return assistance. Volunteers who do not

receive a satisfactory score will not be eligible to participate in the program.

(e) *Confidentiality of tax information.* Program sponsors must obtain written assurance from all volunteers and all other individuals involved in the program, to respect the confidentiality of income and financial information known as a result of preparation of a return or of providing tax counseling assistance in the preparation of Federal income tax returns.

**§ 601.804 Reimbursements.**

(a) *General.* When provided for in cooperative agreements, the Internal Revenue Service will provide amounts to program sponsors for reimbursement to volunteers for transportation, meals, and other expenses incurred in training or providing tax return assistance and to program sponsors for reimbursement of overhead expenses. Cooperative agreements will establish the items for which reimbursements will be allowed and the method of reimbursement, e.g., stipend versus actual expenses for meals, as well as developing necessary procedures, forms, and accounting and financial control systems.

(b) *Direct, reasonable, and prudent expenses.* Reimbursements will be allowed only for direct, reasonable, and prudent expenses incurred as a part of a volunteer's service or as a part of the program sponsor's overhead.

(c) *Limitation.* Total reimbursements provided to a program sponsor shall not exceed the total amount specified in the cooperative agreement. The Internal Revenue Service shall not be liable for additional amounts to program sponsors, volunteers, or anyone else.

(d) *Availability of appropriated funds.* Expense reimbursements and other assistance to be provided by the Internal Revenue Service under cooperative agreements are contingent upon the availability of appropriated funds for the Tax Counseling for the Elderly program.

**§ 601.805 Miscellaneous administrative provisions.**

(a) *Responsibilities and relationship of Internal Revenue and program sponsor.* Substantial involvement is anticipated between the Internal Revenue Service and the program sponsors in conducting this program. Specific responsibilities and obligations of the Internal Revenue Service and the program sponsors will be set forth in each cooperative agreement.

(b) *Administrative requirements set forth in OMB and Treasury Circulars.*

(1) The basic administrative requirements applicable to individual cooperative agreements are contained in

Office of Management and Budget Circular No. A-110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations (41 FR 32016). Requirements for advances to program sponsor(s) for financing operations under cooperative agreements are contained in Treasury Department Circular No. 1075, as revised, Regulations Governing Withdrawal of Cash from Treasury for Advances under Federal Grant and Other Programs. All applicable provisions of these two circulars and any existing and further supplements and revisions are incorporated into these regulations and into all cooperative agreements entered into between the Internal Revenue Service and program sponsors.

(2) Additional operating procedures and instructions may be developed by the Internal Revenue Service to direct recipient organizations in carrying out the provisions of this subpart, such as instructions for using letters of credit. Any such operating procedures or instructions will be incorporated into each cooperative agreement.

(c) *Joint funding.* Tax Counseling for the Elderly programs will not be eligible for joint funding. Accordingly, the Joint Funding Simplification Act of 1974, Pub. L. 93-510, December 5, 1974 (88 Stat. 1604, 42 U.S.C. 4251-4261) and Office of Management and Budget Circular No. A-111, Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations (41 FR 32039), will not apply.

(d) *Discrimination.* No program sponsor shall discriminate against any person providing tax return assistance on the basis of age, sex, race, religion or national origin in conducting program operations. No program sponsor shall discriminate against any person in providing such assistance on the basis of sex, race, religion or national origin.

**§ 601.806 Solicitation of applications.**

(a) *Solicitation.* The Commissioner of Internal Revenue or the Commissioner's delegate may, at any time, solicit eligible agencies and organizations to submit applications. Generally, applications will be solicited and accepted in June and July of each year. Deadlines for submitting applications and the schedule for selecting program sponsors will be provided with application documents.

(1) Before preparing and submitting an unsolicited application, organizations are strongly encouraged to contact the Internal Revenue Service at the address provided in paragraph (b) (2) of this section.



(2) A solicitation of an application is not an assurance or commitment that the Internal Revenue Service will enter into a cooperative agreement. The Internal Revenue Service will not pay any expenses or other costs incurred by the applicant in considering, preparing or submitting an application.

(b) *Application.* (1) In the application documents, the Commissioner or the Commissioner's delegate will specify program requirements which the applicant must meet.

(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly, Taxpayer Service Division TX:T:L, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, (202) 566-4904.

These regulations involve matters relating to benefits. Accordingly, under section 553(a)(2) of Title 5 of the United States Code, the notice and public procedure prescribed by section 553(b) of the title need not be followed and the

#### § 52.1335 Compliance schedules.

(a) \* \* \*

| Source                                                    | Location        | Regulation involved <sup>1</sup>            | Date adopted  | Effective date | Final compliance date |
|-----------------------------------------------------------|-----------------|---------------------------------------------|---------------|----------------|-----------------------|
| Pilot Knob Pelletizing Co.                                | Pilot Knob, Mo. | V (10 CSR 10-3.050)                         | Oct. 19, 1977 | Immediately    | Dec. 31, 1979.        |
| Associated Electric Co., Thomas Hill Station, Unit No. 2. | Moberly, Mo.    | VI (10 CSR 10-3.060), VII (10 CSR 10-3.080) | Apr. 19, 1978 | Immediately    | Dec. 31, 1982.        |

<sup>1</sup> Effective July 1, 1976, the State of Missouri revised the numbering system for all air pollution control regulations throughout the State. The State air regulations are now contained, title 10, division 10 of the code of State regulations, designated 10 CSR 10. Since the new regulatory numbering system has not been formally submitted by the State to EPA as a revision to the Missouri implementation plan, the old regulation number has been cited with a reference to the corresponding new number indicated in parentheses.

[FR Doc. 79-38141 Filed 12-12-79; 8:45 am]  
BILLING CODE 6560-01-M

#### 40 CFR Part 52

[FRL 1375-2]

#### Approval and Promulgation of Implementation Plans; Minnesota

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice announces approval of a revision to the Minnesota State Implementation Plan (SIP) pursuant to Part D of the Clean Air Act (Act). This revision is the transportation control plan for the St. Cloud urbanized area consisting of Stearns, Sherburne, and Benton Counties. The purpose of this revision is to implement measures designed to attain and maintain the National Ambient Air Quality Standards

effective date limitation of section 553(d) of that title is not applicable.

(Sec. 163(b)(5) of the Revenue Act of 1978, Pub. L. 95-600, November 8, 1978 (92 Stat. 2811) and Pub. L. 89-554, September 8, 1966 (80 Stat. 379, 5 U.S.C. 301).)

Jerome Kurtz,  
Commissioner of Internal Revenue.

[FR Doc. 38236 Filed 12-12-79; 8:45 am]

BILLING CODE 4830-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[FRL 1365-3]

#### Missouri: Approval of State-Issued Variances Submitted as Revisions to the Missouri State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On September 18, 1979, there was published in the Federal Register

(44 FR 54070) a notice of proposed rulemaking setting forth two variance orders issued by the Missouri Air Conservation Commission to Pilot Knob Pelletizing Company (date correction notice published on October 4, 1979, at 44 FR 57118) and Associated Electric Cooperative Thomas Hill Station Unit 2. Interested persons were given thirty days in which to submit comments on the proposed rulemaking.

No written comments have been received and the proposed variance orders are approved without change and are set forth below.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Henry F. Rompage, Enforcement Division, EPA, Region VII, (816) 374-2576.

Signed at Washington, D.C. on November 29, 1979.

Douglas M. Costle,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 52.1335 the table in paragraph (a) is amended by adding the following:

(NAAQS) for carbon monoxide (CO), as expeditiously as practicable but not later than December 31, 1982.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Ms. Maxine Borcharding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6052.

**SUPPLEMENTARY INFORMATION:** On March 3, 1979 (44 FR 8962), pursuant to the requirements of section 107 of the Clean Air Act as amended in 1977, USEPA designated the City of St. Cloud as a nonattainment area with respect to meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), and Sherburne County as a nonattainment area with respect to meeting the NAAQS for photochemical oxidants (ozone).

Part D of the Act added by the 1977 Amendments requires that each state revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987.

In response to these requirements, the State of Minnesota submitted on May 17, 1979, a revision to the Minnesota SIP containing the transportation plan for the St. Cloud Metropolitan Area. The transportation plan contains measures designed to attain and maintain the NAAQS for carbon monoxide. The plan demonstrates attainment of the carbon monoxide standard by December 31, 1982. Therefore, no extension of the

statutory deadline is requested. The St. Cloud transportation plan does not address the ozone problem in Sherburne County because this area has a population of less than 200,000 and is considered rural for the purpose of ozone standard attainment.

Transportation controls are not required in rural nonattainment counties pursuant to United States Environmental Protection Agency guidance which indicates that controls on major stationary sources and the development of transportation plan in urban areas should result in reasonable further progress toward attainment in rural areas.

The United States Environmental Protection Agency (USEPA) reviewed the proposed revision for conformance with the requirements of the Clean Air Act for transportation portions of a State Implementation Plan. With the exception of a technical procedural error whereby the State provided only 27 days notice of the public hearing on this proposed revision rather than the 30 day notice required under 40 CFR 51.4, USEPA found that the proposed revision satisfied these requirements. Therefore, on July 2, 1979, a document was published in the Federal Register (44 FR 38581) describing the submittal and USEPA's analysis of the submittal and proposing to approve the transportation plan for the St. Cloud Metropolitan Area as a revision to the Minnesota SIP.

Interested parties were given until August 31, 1979 to submit written comments on the proposed revision and on USEPA's proposed action. Only the United States Department of Transportation, Federal Highway Administration (FHWA) submitted comments on the proposed SIP revision. FHWA supported the proposed USEPA finding that despite the technical procedural deficiency reasonable public notice was given and agreed with USEPA's assessment that the proposed revision satisfied the requirements of the Clean Air Act for the transportation plans. One commenter submitted extensive national comments which it requested be considered as part of the record for each state plan. Although many of these comments are not relevant to the Minnesota plan, USEPA has placed its response to those comments in the regional office docket and in the Public Information Reference Unit in Washington, D.C.

Having determined that the St. Cloud Metropolitan Area Transportation Plan satisfies the requirements of the Clean Air Act for the transportation portions of the State Implementation Plans, the Administrator approves this revision to

the Minnesota State Implementation Plan. The St. Cloud Metropolitan Area must attain and maintain the carbon monoxide NAAQS by December 31, 1982.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadline required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadline established under section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment

dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a state will be reviewed and acted upon by USEPA as a SIP revision. In addition, as discussed in the April 4, 1979 Federal Register (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502))

Dated: December 10, 1979.

Douglas Costle,  
Administrator.

Incorporation by reference provisions approved by the Director of the Federal Register (May 18, 1972). A copy of the incorporated material is on file in the Federal Register Library.

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. Section 52.1220(c) is amended by adding new paragraph (14) to read as follows:

#### § 52.1220 Identification of plan.

\* \* \*

(c) \* \* \*

(14) A transportation control plan for the St. Cloud Metropolitan Area was



submitted on May 17, 1979 by the Minnesota Pollution Control Agency.

2. Section 52.1223 is revised to read as follows:

**§ 52.1223 Approved status.**

With the exceptions set forth in this subpart, the Administrator approves Minnesota's plans for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all

requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

3. Section 52.1226 is revised to read as follows:

**§ 52.1226 Attainment dates for national standards.**

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Minnesota's plan.

| Air quality control region and nonattainment area     | TSP     |           | Pollutant SO <sub>2</sub> |           | NO <sub>x</sub> | CO                        | O <sub>3</sub> |
|-------------------------------------------------------|---------|-----------|---------------------------|-----------|-----------------|---------------------------|----------------|
|                                                       | Primary | Secondary | Primary                   | Secondary |                 |                           |                |
| Central Minnesota Interstate:                         |         |           |                           |           |                 |                           |                |
| a. St. Cloud Metropolitan Nonattainment Area          | c       | a         | d                         | d         | d               | f                         | d              |
| b. Remainder of AQCR                                  | c       | a         | d                         | d         | d               | d                         | d              |
| Southeast Minnesota-La Crosse (Wisconsin) Interstate: |         |           |                           |           |                 |                           |                |
| a. Red Wing Region                                    | c       | h         | a                         | a         | d               | d                         | d              |
| Duluth (Minnesota)-Superior (Wisconsin) Interstate:   |         |           |                           |           |                 |                           |                |
| a. Cloquet Nonattainment Area                         | a       | h         | c                         | a         | d               | d                         | d              |
| b. Masabi Iron Range Nonattainment area               | a       | h         | c                         | a         | d               | d                         | d              |
| c. Silver Bay Nonattainment Area                      | a       | h         | c                         | a         | d               | d                         | d              |
| d. Remainder of AQCR                                  | a       | a         | c                         | a         | d               | d                         | d              |
| Metropolitan Fargo-Moorhead Interstate:               | c       | a         | d                         | d         | d               | d                         | d              |
| Minneapolis-St. Paul Intrastate                       | a       | a         | a                         | a         | d               | May 31, 1975 <sup>a</sup> | d              |
| Northwest Minnesota Intrastate:                       |         |           |                           |           |                 |                           |                |
| a. East Grand Forks Nonattainment Area                | c       | h         | d                         | d         | d               | d                         | d              |
| b. Remainder of AQCR                                  | c       | a         | d                         | d         | d               | d                         | d              |
| Southwest Minnesota Intrastate                        | d       | d         | d                         | d         | d               | d                         | d              |

a. July 1975.

b. 5 years from plan approval or promulgation.

c. Air quality levels presently below primary standards.

d. Air quality levels presently below secondary standards.

e. Transportation and/or land use control strategy to be submitted no later than April 15, 1973.

f. December 31, 1982.

g. December 31, 1987.

h. 18-month Extension granted.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1226 (1978).

[FR Doc. 79-38234 Filed 12-12-79; 8:45 am]

BILLING CODE 6560-01-M

**40 CFR Part 52**

[FRL 1361-5]

**Approval and Promulgation of Implementation Plans; Final Revision to Idaho State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On July 10, 1979 EPA published in the Federal Register an Advanced Notice of Proposed Rulemaking (44 FR 40360-61) describing the settlement reached between the Bunker Hill Company and EPA on June 11, 1979 and announcing its availability for inspection. Thereafter, on September 7, 1979, EPA proposed to promulgate the

Settlement Agreement reached between the Bunker Hill Company and EPA as a revision to the Idaho State Implementation Plan (SIP) (44 FR 52271 et seq.). EPA is today taking final action to promulgate, without change, the proposed rule as a revision to the Idaho SIP.

**DATE:** This rule will become effective January 14, 1980.

**ADDRESSES:** The Settlement Agreement, Interim Regulation and materials relevant to this final action are available for inspection at the following EPA offices:

Air Programs Branch, M/S 629, Docket No. 10A-79-4, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Central Docket Section, Room WSM-2903B, Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

**COMMENTS SHOULD BE ADDRESSED TO:** Laurie M. Kral, Environmental Protection Agency, Air Programs Branch, M/S 625, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1226, (FTS) 399-1226.

**FOR FURTHER INFORMATION CONTACT:** George C. Hofer, Chief, Technical Support and Special Projects Section, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1125, (FTS) 399-1125.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 1972, the State of Idaho submitted a State Implementation Plan (SIP) to EPA in accordance with Section 110 of the Clean Air Act. On May 31, 1972, EPA approved the SIP except for the sulfur dioxide (SO<sub>2</sub>) control strategy and compliance schedule sections (37 FR 10842). On October 7, 1974, EPA proposed regulations for the control of SO<sub>2</sub> from the Bunker Hill complex requiring 96 percent permanent control of SO<sub>2</sub> (39 FR 36018). Thereafter, on January 10, 1975, the State of Idaho submitted to EPA, as a proposed revision to the SIP, a regulation (Regulation S) for the control of SO<sub>2</sub> at the Bunker Hill complex. On April 10, 1975, EPA proposed to disapprove the Idaho submission on the grounds that it did not meet the requirements of Section 110 of the Clean Air Act and 40 CFR Section 51.13. On November 19, 1975, EPA approved portions of the State of Idaho's Regulation S including the ultimate emission limitation, disapproved other portions of Regulations S including the interim emission limitation, and promulgated federal regulations to replace the disapproved portions (40 FR 53584). Thereafter, the Bunker Hill Company challenged EPA's final rulemaking action in this matter.

The United States Court of Appeals for the Ninth Circuit issued its opinion on July 5, 1977 and remanded the matter back to EPA for further administrative proceedings.<sup>1</sup> The Court stated that a more extensive administrative record was needed to show that the requirements promulgated by EPA dealing with the interim emission limitation were technologically feasible.

In response to a request by Bunker Hill, EPA promulgated regulations on

<sup>1</sup>Bunker Hill Company v. EPA, 572 F.2d 1286 (9th Cir. 1977), hearing denied, No. 75-3670 (December 28, 1977).

November 8, 1977 defining requirements pertaining to excess emission caused by startup, shutdown or malfunction of equipment (42 FR 58171). On November 23, 1977, Bunker Hill challenged EPA's rulemaking on excess emissions and EPA consented to consolidate the November 8, 1977 regulations with the remand of the November 19, 1975 regulations.

During the period of time from December 28, 1977 through June 11, 1979, EPA and the Bunker Hill Company engaged in extensive document discovery, document production, and the development of written testimony for the remand proceedings. Concurrently, EPA and the Bunker Hill Company entered into a preliminary understanding which set forth, in principle, the areas of agreement between EPA and the Bunker Hill Company. On June 11, 1979, representatives of the Bunker Hill Company and EPA executed a Settlement Agreement and Interim Regulation which is the basis for this rulemaking.

The regulations promulgated by EPA in November 1975 called for an interim overall plant SO<sub>2</sub> emission limit of 680 tons per week (approximately 82 percent control), acid plant tailgas limits of 2600 parts per million (ppm) (6-hour average) and a prohibition of bypassing strong gas streams around the acid plant and to the atmosphere. In the technical support document for that rulemaking EPA suggested that supplemental SO<sub>2</sub> injection techniques using a sulfur combustion furnace could be utilized to remedy certain acid plant design deficiencies to enable Bunker Hill to meet the SO<sub>2</sub> control requirements. The sulfur combustion furnace was not a regulatory requirement but rather was suggested as one possible remedy to the SO<sub>2</sub> control problems at Bunker Hill.

As a result of the remand proceedings, EPA initiated a complete re-evaluation of the remanded SO<sub>2</sub> control regulation. The purpose of the review was to demonstrate that either the existing regulation or a more stringent regulation was technically feasible and also to present numerous alternative methods for meeting SO<sub>2</sub> control requirements.

The review included two major segments—an analysis of the Bunker Hill operation and an evaluation of other non-ferrous smelters and acid plants where a high degree of SO<sub>2</sub> capture had been achieved. In addition, the cost and feasibility of SO<sub>2</sub> control alternatives were examined. The technical material supporting this proposed rulemaking is summarized in a report entitled "Summary of Technical Material Supporting EPA Rules

Governing Sulfur Dioxide Capture at Bunker Hill", August 1979.

In brief, if EPA were to carry out the remand, it would be the Agency's contention that the technical information gathered during the remand proceedings affirms the technological feasibility of the original November 19, 1975 and November 8, 1977 EPA rulemaking and perhaps a more restrictive degree of control. However, as a result of the 1977 Clean Air Act Amendments, these questions are to be decided under Section 119 of the Act. It is the Administrator's judgment on the basis of information submitted by Bunker Hill during the remand proceedings that Bunker Hill will probably be eligible for a primary Nonferrous Smelter Order (NSO) under Section 119 when final national NSO rules are promulgated.

**Implementation of The Settlement Agreement**

In accordance with the Settlement Agreement, EPA is today taking final Agency Action to promulgate the regulatory portion of the Settlement Agreement (Section II) as a revision to the Idaho State Implementation Plan (42 CFR Part 52, Subpart N). Information gathered and testimony prepared by EPA as well as other related materials which have been previously prepared for the remand proceedings and settlement negotiations are contained in the docket and form the basis for the provisions of the Interim Regulation.

The Settlement Agreement provides, in brief, that EPA will ultimately issue a first NSO under Section 119 of the Act to Bunker Hill. The Agreement specifies the contents of the NSO, and provides procedures for its issuance. Because EPA has not yet promulgated final national rules governing the NSO program, the Agreement calls for the terms of the NSO to be implemented in the interim through a revision of the Idaho SIP, through appropriate rulemaking procedures.

It should be noted that EPA would ordinarily be legally prohibited by Sections 110, 123, and 302 of the Act from allowing the use of unauthorized dispersion techniques in a SIP. However, the Administrator believes that this situation presents unique circumstances under which the provisions of the savings clause (Section 406) of the Clean Air Act Amendments of 1977 (Pub. L. 95-95) permit the interim amendment of the existing Idaho SIP. The Administrator also believes that after promulgation of the final national NSO rules, provisions allowing the use of dispersion techniques must be removed from the SIP and those

provisions then be converted into an NSO if Bunker Hill is eligible.

The Agreement also provides that Bunker Hill will not challenge the first NSO if it contains the same terms as specified by the Agreement. EPA has agreed to treat the detailed technical and economic information submitted by Bunker Hill during the remand proceeding as Bunker Hill's NSO application. That material contains substantially the same information EPA has proposed to require of all NSO applicants. The provisions of the Interim Regulation and the first NSO issued to them will govern the obligation of Bunker Hill with respect to interim (SO<sub>2</sub>) controls until the January 1, 1983 expiration date of the first NSO.

**The Regulation**

**Emission Limits.** The proposed regulation establishes SO<sub>2</sub> emission limits which Bunker Hill must meet by June 11, 1980. These limits include an overall plant SO<sub>2</sub> emission limit from the two tall stacks of 625 tons per running 7-days. One exceedance of the 7-day limit is allowed per calendar quarter. The overall limit includes acid plant bypass emissions and excess emissions caused by start-up, shutdown, maintenance and malfunction. Acid plant tailgas SO<sub>2</sub> emissions are limited to 2600 ppm averaged over a running 6-hour period. All emissions are to be measured by approved continuous monitoring equipment which meet specified criteria.

**Excess Emissions.** Bypass of process exhaust strong gas streams around an acid plant is excused but only under five narrowly defined situations. The regulation specifies the amount of time bypass can occur following process or acid plant breakdown. It also specifies the amount of time (in terms of operating parameters) that process exhaust gas can bypass the acid plant during acid plant restart. After June 11, 1980 and except as described below, Bunker Hill is prohibited from continuing to operate its processes while the applicable acid plant is shutdown for the annual maintenance period.

**Annual Acid Plant Maintenance Offset.** Continued process operation while an acid plant is shutdown for annual maintenance is allowed to occur for up to 14 days per year provided an offset of emissions is achieved. An interim method is provided to establish the offset until the new SO<sub>2</sub> control system is on line. Effective June 11, 1982 for every ton of SO<sub>2</sub> that is bypassed during the annual maintenance period Bunker Hill must, during the course of the year, capture an additional ton of SO<sub>2</sub>. Such additional SO<sub>2</sub> must be removed from either the sinter machine



weak stream or the blast furnace SO<sub>2</sub> stream—neither of which are currently controlled.

**Fugitive SO<sub>2</sub> Emission Program.** The Bunker Hill Company is required to install a system to eliminate over 90 percent of the blast furnace upset conditions. This system should result in the capture of approximately 21 tons per week of fugitive SO<sub>2</sub> emissions. Those emissions will be released to the atmosphere via the main stack. If the blast furnace fugitive emission program captured less than 21 tons per week, the overall plant SO<sub>2</sub> emission limit will then be reduced by that portion of the 21 ton per week which is not captured.

**Research and Development Program.** The regulation requires the Company to immediately commence a continuous research and development program. Bunker Hill is, however, provided with the option of either employing a full scale or a reduced scale program. Successful implementation of the full scale program would satisfy the acid plant maintenance offset provision. If the Company chooses to implement the reduced scale program, the smelting processes must be shutdown while the applicable acid plant is shutdown during the annual acid plant maintenance period.

The reduced scale program requires that by February 11, 1982 an FGD system must be placed into service to treat a portion of either the sinter machine weak SO<sub>2</sub> stream or the blast furnace exhaust gas. Under the terms of the regulation, the reduced scale program must have a minimum volume operating capacity of 5000 scfm, 95 percent SO<sub>2</sub> capture efficiency, 95 percent on-line availability, continuous measurement instrumentation and must be automatically controlled.

**Supplementary Control System.** The Company is allowed to employ SCS to meet NAAQS using an SCS implementation plan and operating manual approved by EPA. SCS program deficiencies defined by an EPA study entitled "Review of the SCS Used by the Bunker Hill Company-Kellogg, Idaho" (EPA 330/2-79-001) must be corrected.

A study must also be performed by Bunker Hill to demonstrate that ambient SO<sub>2</sub> monitors are located in all areas of maximum expected ambient SO<sub>2</sub> concentrations. Alternative techniques are allowed where air quality in a monitored location is used in conjunction with modelling techniques to predict SO<sub>2</sub> concentrations elsewhere. The modelling techniques, however, must be calibrated using temporary SO<sub>2</sub> monitors. A compliance schedule specifies when the study is to be complete, when a revised SCS plan and

operational manual are to be submitted and when the new SO<sub>2</sub> monitors are to be placed into service. Until such time that the Administrator approves the new SCS program, the existing SCS and SO<sub>2</sub> monitors will be used on an interim basis to assure attainment of NAAQS.

#### Comments

The Agency on September 7, 1979 as an element of the proposed rulemaking for this final action, solicited comments on all aspects of the proposed regulation. No comments were received by EPA during the comment period.

#### Judicial Review

Today's action constitutes final Agency action for the purpose of judicial review under Section 307(b)(1) of the Clean Air Act (42 U.S.C. 7607(b)(1)).

(Secs. 110, 119, 301, Clean Air Act as amended (42 U.S.C. 7410, 7419, and 7601); and sec. 406 of Pub. L. No. 95-95 (August 7, 1977)).

Dated: December 10, 1979.

Douglas M. Costle,  
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended as follows:

#### Subpart N—Idaho

Section 52.676, paragraphs (a)(2) and (b) are revised as set forth below and paragraph (b) is also amended by adding an Appendix A as set forth below:

##### § 52.676 Control strategy: Sulfur oxides—Eastern Washington-Northern Idaho Interstate Region.

(a) . . .

(2) Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is approved with the exception of Section IV. Section IV of Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is disapproved and is replaced by paragraph (b) of this section as shown below.

(b) *Interim Regulation for control of sulfur dioxide (SO<sub>2</sub>) emissions from the Bunker Hill Company lead and zinc smelter located in Shoshone County in the Idaho portion of the Eastern Washington-Northern Idaho Interstate Region.*—(1) *SO<sub>2</sub> Emission Limitations.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(1) in regard to the capture of SO<sub>2</sub>. The requirements governing SO<sub>2</sub> gas stream bypass during the annual acid plant maintenance period as provided by paragraphs (b)(5) and (b)(6) shall become effective on June 11, 1979.

(i) The owner(s) or operator(s) of the smelter subject to paragraph (b)(1) of this section shall not cause or allow the discharge of gases in excess of:

(A) 2600 parts per million (by volume) SO<sub>2</sub>, averaged over any hourly running 6-hour averaging period, from any sulfuric acid plant as determined by continuous monitoring equipment specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. In determining violations of the 6-hour averaging period, no two violations shall contain any common hourly data points; and

(B) 567,000 kg (625 tons) SO<sub>2</sub> over a daily (midnight to midnight) running 7-day period as determined by continuous monitoring equipment<sup>2</sup> specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. Such limitation is plant wide and shall apply to the sum total of SO<sub>2</sub> emissions from the lead smelter main stack and the zinc plant main stack and shall include all excess emissions as defined in paragraph (b)(2)(i) of this section. Except as provided in paragraph (b)(6)(ii) of this section the emission limitation shall not be exceeded more than once per three (3) month calendar quarter; e.g., January, February and March. Such single excused emission shall be the first exceedence of the 7-day limit in the three (3) month quarterly period. In determining violations of the 7-day limit, no two (2) violations shall contain any common daily (midnight-to-midnight) data points. As provided in Appendix A to this regulation and upon notification by the Enforcement Division Director of the EPA-Region X the plant wide emission limit shall be decreased to not less than 548,000 kg (604 tons) SO<sub>2</sub>.

(ii) *Bypass Prohibition.* Except as provided in paragraph (b)(2)(ii) of this section all SO<sub>2</sub> gas streams discharged from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine shall at all times be processed in an SO<sub>2</sub> removal facility. The owner(s) or operator(s) shall not cause or allow these SO<sub>2</sub> gas streams to be discharged to the atmosphere.

(iii) *Circumvention.* Other than for temporary process control or to temporarily prevent significant equipment damage, dilution air or other extraneous gases shall not be allowed to enter or combine with any process gas normally treated by an SO<sub>2</sub> removal

<sup>2</sup> The owner(s) or operator(s) shall have the right in any enforcement proceeding to raise the issue of the accuracy of continuous monitoring instruments.

facility or with any acid plant tailgas prior to SO<sub>2</sub> concentration or flow measurement where the purpose of such combination would be to:

(A) In other than the lead smelter or zinc plant main stacks decrease the concentration of SO<sub>2</sub> in such streams;

(B) Otherwise adversely effect the operation of any SO<sub>2</sub> removal system, SO<sub>2</sub> concentration measurement device or gas flow measurement device; and

(C) Decrease the concentration of SO<sub>2</sub> in gases exhausted from the sinter machine and zinc roasters which will have the effect of circumventing the requirements of paragraph (b)(2)(ii) of this section. The owner(s) or operator(s) must promptly inform the Administrator of any substantial changes in process gas flow which may affect the performance of any SO<sub>2</sub> removal facility or measurement device, regardless of the purpose for any such change.

(iv) *Continuous Monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording SO<sub>2</sub> emission concentrations, gas volumetric flow rates and gas flow indication in accordance with paragraph (b)(4)(ii) of this section for the monitoring equipment listed and at the following locations:

(A) Continuously operated SO<sub>2</sub> emission concentration and gas volumetric flow rate monitors and recorders located immediately downstream of each acid plant such that the measurement system measures only the tailgas from one acid plant;

(B) Continuously operated SO<sub>2</sub> concentration and gas volumetric flow rate monitors and recorders located in the zinc plant main stack;

(C) Continuously operated SO<sub>2</sub> concentration and gas volumetric flow rate monitors and recorders located in the lead smelter main stack and the lead smelter acid plant (upstream of the acid plant converter);

(D) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet from the sinter machine where SO<sub>2</sub> gas streams normally treated in an SO<sub>2</sub> removal facility may be bypassed around such facility and be routed to the atmosphere;

(E) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in each of the individual five ducts receiving the bypass exhaust gas from zinc roasters #1 through #5. Each device must be located to monitor the bypass from only one roaster;

(F) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet where a single zinc roaster or combination of zinc roasters exhaust gas streams may be bypassed around an acid plant and routed to the atmosphere; and

(G) Based on a finding that the monitoring equipment specified herein is reasonably deemed to be inadequate to provide for effective regulatory compliance the Administrator may require the owner(s) or operator(s) to install and continuously operate gas volumetric flow rate monitor(s) and recorder(s) in any duct or outlet where exhaust gas may be bypassed around the acid plant(s) and routed to the atmosphere. In the event that such a finding is made by the Administrator, the owner(s) or operator(s) agree to install and operate such continuous monitors on or before sixty (60) days after the owner(s) or operator(s) receive such written notification by the Enforcement Division Director of Region X-EPA.

(v) *Continuous Process Monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording process parameters for the monitoring equipment listed and at the following locations:

(A) Continuous temperature monitors located to measure and record the inlet gas temperature at the first and third catalyst beds of each sulfuric acid plant;

(B) Continuously operated monitors which will detect and record the commencement and cessation of concentrate feed entering each zinc roaster. The recorded data from such monitors shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(1)(iv) (E) and (F) of this section from each individual zinc roaster; and

(C) Continuously operated monitor which will detect and record the commencement and cessation of concentrate feed entering the sinter machine. The recorded data from such monitor shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(1)(iv)(D) of this section from the sinter machine; and

(vi) *Fugitive SO<sub>2</sub> Emissions.* The owner(s) or operator(s) shall utilize best engineering techniques to capture and vent such fugitive SO<sub>2</sub> gases through stacks serving the facility. Such techniques shall include but not be limited to:

(A) Maintaining and operating all ducts, flues and stacks in a leak-free condition;

(B) Maintaining and operating all process equipment and gas collection systems in such a fashion that out-leakage of SO<sub>2</sub> gases will be prevented to the maximum extent possible;

(C) Instituting a program to reduce the fugitive emissions from the zinc roasters by reducing the frequency of positive pressure surges in the zinc roasters. This will be accompanied by component replacement, new fans, better operating practices, or other improvements to the integrity of the gas collection system as necessary to attain the Occupational Safety and Health Administration (OSHA) lead standard. This project will be completed on the dates required by the OSHA regulation to meet the lead workplace concentration standard. The estimated reduction in SO<sub>2</sub> fugitive emissions is approximately 8 tons per week and after treatment in an acid plant is expected to increase the total SO<sub>2</sub> emissions in the zinc smelter main stack by no more than 1 ton per week;

(D) Instituting a program to improve the draft maintained in the sinter machine hooding. This program will include increased maintenance on the strong and weak gas ducts, complete replacement of any mild steel hood material with stainless steel, excluding the last two hood sections which are not subject to high corrosion, and improvements in other system components to achieve 90 percent collection of the existing fugitive emissions estimated to be 4 tons of SO<sub>2</sub> per week. Part of these emissions will be treated in an acid plant so the increase in emissions through the lead smelter tall stack is estimated to be 3 tons of SO<sub>2</sub> per week. Such a program is expected to increase the total SO<sub>2</sub> emissions from the lead smelter main stack by no more than 3 tons per week; and

(E) Installing and operating a manual and if necessary automatically controlled tuyere air flow control system on both blast furnaces on or before June 11, 1980. The system is to be designed to eliminate over 90 percent of the current furnace upset conditions that result in fugitive SO<sub>2</sub> emissions. Such a program is expected to increase the total SO<sub>2</sub> emissions from the lead smelter main stack by no more than 21 tons per week. The program will be designed to reduce the frequency of blast furnace upset conditions to an aggregate total of less than 3.4 hours per week.

(F) Compliance with the fugitive SO<sub>2</sub> emission control program will be judged by Appendix A to this regulation.



(2) *Excess Emissions.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(2) of this section in regard to acid plant bypass, excess emissions and equipment malfunction. The requirements governing excess emissions during the annual acid plant maintenance period as set forth in paragraphs (b)(5) and (b)(8) of this section shall become effective on June 11, 1979.

(i) *Definition of Excess Emissions.*

Any SO<sub>2</sub> emissions exceeding the limitations specified in paragraph (b)(1)(i) of this section above shall constitute an excess emission. SO<sub>2</sub> gas streams discharged to the atmosphere from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine without being processed in an SO<sub>2</sub> removal facility shall also constitute an excess emission.

(ii) *Presumptively Excused Excess Emissions.* Where the owner(s) or operator(s) fully comply with the reporting requirements of paragraph (b)(2)(iv) of this section and further demonstrate that the conditions specified in paragraphs (b)(2)(ii) (A) through (E) of this section have been met, the bypass of SO<sub>2</sub> gas streams around an SO<sub>2</sub> removal facility shall be excused. Any excess emissions, whether or not claimed by the owner(s) or operator(s) to be excused excess emissions, may be deemed by the Administrator to violate this regulation where the owner(s) or operator(s) fail to comply with any requirement of paragraph (b)(2)(ii) of this section or upon a finding by the Administrator that the excess emissions claimed to be excusable by the owner(s) or operator(s) were caused by one or more of the conditions set forth in paragraph (b)(2)(v) (A) through (C) of this section. Excess emissions resulting from the following conditions are presumptively excused:

(A) *Process Shutdown Following Acid Plant Breakdown.* In the event of a breakdown or malfunction of an acid plant, the owner(s) or operator(s) may bypass the gas stream normally controlled by such acid plant, only for the time period necessary to shut down the process equipment (zinc roaster(s) or sintering machine) whose SO<sub>2</sub> streams would normally be controlled by such acid plant. Shutdown of the process equipment shall be initiated immediately and the time period to accomplish the shutdown and during which bypass is excused shall not exceed the following:

(1) 15 minutes for the sinter machine except where complete emptying of the

sinter belt is required the time period shall not exceed 60 minutes; and  
(2) 30 minutes for shutdown of any single zinc roaster or combination of zinc roasters;

(B) *Process Shutdown Following Zinc Roaster Breakdown.* In the event of a breakdown or malfunction of a zinc roaster, the owner(s) or operator(s) may bypass the gas exhausted from that individual roaster around an acid plant and to the atmosphere commencing 5 minutes after concentrate feed ceases to enter such roaster;

(C) *Process Startup Following Zinc Roaster Shutdown.* During the period when a zinc roaster is restarted following its shutdown the owner(s) or operator(s) may bypass the gas exhausted from that individual roaster around the acid plant and to the atmosphere only as follows:

(1) If either of the zinc plant acid plants is being restarted the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the roaster exhaust gas only for the time period necessary for a well designed, operated and maintained acid plant<sup>3</sup> to establish autothermal<sup>4</sup> operation; and

(2) If no acid plant is being restarted and if one or more zinc roasters is operating the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the exhaust gas from the individual roaster which is starting-up but only for the time period which ends 15 minutes after concentrate feed commences to enter such roaster;

(D) *Process Start-up Following Sinter Machine Shutdown.* In the event that the sinter machine has been shutdown, and upon its restart, the owner(s) or operator(s) may bypass the exhaust gas, around the acid plant and to the atmosphere, only as follows:

(1) If the sintering machine has been shutdown for greater than 3 hours bypass may occur but may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation; and

<sup>3</sup> As used in this regulation, in a well designed, operated and maintained acid plant the first catalyst bed must be at or be heated to a minimum temperature of 750°F before the zinc roaster (or sinter machine) the acid plant serves re-starts.

<sup>4</sup> As used in this regulation the term "autothermal operation" is defined as the point in time when the temperature of gases entering the first catalyst bed in the acid plant converter is at 825°F or when the temperature of gases entering the third catalyst bed is at 750°F whichever comes first. The owner(s) or operator(s) shall insure that at any time an acid plant is started up sufficient gas will be routed to the acid plant as soon as possible to achieve autothermal operation. Further, the fan supplying gas to the lead smelter acid plant (Fan No. 6) shall upon start-up of the sinter machine immediately be brought up to full R.P.M. and operating logs maintained to document full RPM flow rate.

(2) If the sintering machine has been shutdown due to an acid plant component failure and the repair of the acid plant component takes longer than 3 hours bypass during restart of the sinter machine may occur. Such bypass may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation;

(E) *Continued Process Operation During Annual Acid Plant Maintenance.* The owner(s) or operator(s) may bypass the process emissions around the acid plant and to the atmosphere during the annual acid plant maintenance period only to the extent allowed by paragraphs (b)(5) and (b)(6) of this section;

(iii) *Other Excess Emissions.* The owner(s) or operator(s) may in the required excess emission report of paragraph (b)(2)(iv) of this section claim that excess emissions should be deemed by the Administrator to be excusable. Any excess emission claimed to be excusable under this paragraph (b)(2)(iii) of this section shall be a violation of this regulation unless and until the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator that such excess emission should be excused. For the purpose of illustration, cited below are categories of other excess emissions which may be excused:

(A) Bypass of gas around SO<sub>2</sub> removal facilities where necessary to prevent loss of life, personal injury or severe property damage. (Severe property damage does not include economic losses caused by production losses such as those caused by shut down of the blast furnace or electrolytic zinc processes due to lack of feed material.); and

(B) Sudden and unavoidable excess acid plant tailgas SO<sub>2</sub> emissions which are beyond the control of the owner(s) or operator(s). However, excess emissions shall not be deemed beyond the control of the owner(s) or operator(s) if caused by one or more of the following:

(1) Improperly designed acid plant components;

(2) Improperly operated process(es) or acid plant equipment;

(3) Inadequate maintenance of acid plant and/or gas cleaning systems; and

(4) In general, any fluctuations in volume or SO<sub>2</sub> concentrations of the acid plant feed gas.

(iv) *Excess Emission Report.* For any excess emissions, including those covered in paragraphs (b)(2)(ii) and (b)(2)(iii) of this section the owner(s) or operator(s) shall submit an initial report to the Enforcement Division Director of

the EPA—Region X. The report shall be submitted monthly within fifteen (15) days from the last day of the prior month. The owner(s) or operator(s) shall also record and maintain other supplemental information as set forth in paragraph (b)(2)(iv)(B) of this section.

(A) The initial report shall contain the following information:

(1) Identify of the gas stream, stack or other point where the excess emissions occurred;

(2) General magnitude of the excess emissions;

(3) Time and duration of the excess emissions;

(4) Nature and cause of such excess emissions; and

(5) Identity of the equipment causing the excess emissions;

(B) The supplemental information shall include the following and if requested be provided to the Enforcement Division Director of EPA—Region X within thirty (30) days of request:

(1) Specific steps taken by the operator(s) to limit the excess emissions and when those steps were commenced;

(2) If the excess emissions were the result of equipment malfunction, the steps taken to remedy the malfunction and to prevent the recurrence of such malfunction;

(3) Specific magnitude of the excess emissions including monitoring data and calculations which describe or may be used in determining the magnitude of the excess emissions;

(4) Maintenance schedules applicable to the equipment causing the excess emissions;

(5) Copies of properly signed contemporaneous operating log sheets; and

(6) Other related documentation as may be reasonably required by the Director to assist him in the evaluation of the excess emissions including any information necessary to make the determinations set forth in paragraph (b)(2)(v) of this section.

(C) Failure of the owner(s) or operator(s) to provide the EPA with a full and complete excess emissions report within a timely fashion, shall constitute a violation of this regulation.

(v) *Evaluation of Excess Emission Report.* In evaluating the excess emissions, the Enforcement Division Director shall take into consideration, the following:

(A) Whether the air pollution control systems and process equipment were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with best practice for minimizing emissions;

(B) Whether the amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions, and process equipment was shut down within the shortest reasonable time after the SO<sub>2</sub> removal facility shut down occurs; and

(C) Whether the excess emissions were part of a recurring pattern indicative of serious deficiencies in, the design, operation or maintenance of, the process(es), the gas cleaning equipment or the SO<sub>2</sub> removal facility, including whether prescribed maintenance schedules were followed.

(vi) Nothing in this subsection shall be construed to limit the authority of the Administrator to take any action under Section 303 of the Clean Air Act.

(3) *Supplementary Control System.* Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter, in addition to meeting the SO<sub>2</sub> capture requirements of paragraph (b)(1) of this section shall employ a supplementary control system (SCS) to the extent necessary to meet National Ambient Air Quality Standards (NAAQS) for SO<sub>2</sub> and such other additional control measures as may be necessary, to assure the attainment and maintenance of NAAQS for SO<sub>2</sub>. The requirements applicable to the SCS program and meeting ambient air quality standards are as follows:

(i) *SCS Analysis.* On January 18, 1979, the Administrator provided the owner(s) or operator(s) with a copy of an EPA technical analysis of the existing SCS program detailing deficiencies in such program;

(ii) *Final SCS Program.* Except during the interim period as provided in paragraph (b)(3)(vii) of this section, the final SCS program shall be conducted in accordance with the provisions of an SCS implementation plan and an SCS operational manual, both of which must be approved by the Administrator. The SCS implementation plan shall describe the administrative requirements, personnel staffing, components and equipment of the SCS system. The SCS manual shall describe the circumstances under which, the extent to which, and the procedures through which emissions shall be curtailed to prevent violations of the NAAQS for SO<sub>2</sub>. Process SO<sub>2</sub> emission shall be curtailed in accordance with the SCS operating manual whenever the potential for violating any NAAQS for SO<sub>2</sub> is indicated at any point in a designated liability area (as defined in paragraph (b)(3)(v) of this section) by air quality measurements and air quality predictions;

(iii) *The SCS Implementation Plan.* An approvable SCS implementation plan shall contain (but not be limited to) the following:

(A) A detailed description of the emission monitoring system and the continuous SO<sub>2</sub> monitoring network that will be used in the SCS to detect maximum ground-level SO<sub>2</sub> concentrations in the designated liability area (DLA). Such description must specify the number, type and exact location of each SO<sub>2</sub> monitor and in-stack monitor to be used. An approvable monitoring system/network must include the following:

(1) Except as provided in paragraph (b)(3)(viii)(C) of this section, the continuous SO<sub>2</sub> monitoring equipment shall be located at all ambient air<sup>5</sup> points of expected maximum ground-level SO<sub>2</sub> concentrations in the DLA provided that if deemed necessary to guarantee attainment and maintenance of standards, monitors may be located in other locations with the approval of the Administrator. The determination of the locations where maximum concentrations may occur shall take into account all reasonably probable meteorological and process operating conditions, as well as the presence of other sources of SO<sub>2</sub> significantly affecting SO<sub>2</sub> concentrations in the DLA;

(2) The number and location of sites shall be based on dispersion modeling, measured ambient air quality data, meteorological data and other meteorological information;

(3) The system shall include the use of fixed SO<sub>2</sub> ambient monitors and one mobile monitor to be sited as, from time to time, the EPA—Region X may reasonably direct unless the Administrator determines, on the basis of a demonstration by the owner(s) or operator(s), that the use of fewer monitors would not limit coverage of points of maximum concentration or otherwise reduce the capability of the owner(s) or operator(s) to prevent any violations of the NAAQS in the DLA; and

(4) All monitors shall be continuously operated and maintained and shall meet the performance specifications contained in 40 CFR Part 53. The monitors shall be capable of routine real time measurement of maximum expected SO<sub>2</sub> concentrations for the averaging times of SO<sub>2</sub> NAAQS.

(B) A detailed description of the meteorological sensing network. Such description must specify the number,

<sup>5</sup> As used in this regulation the term "ambient air" shall be defined in the same manner as that term is defined in the Clean Air Act and regulations promulgated thereunder.



type and exact location of each meteorological instrument to be used. An approvable network must have an assessment capability adequate to identify conditions requiring emission curtailment to prevent possible violations of the NAAQS. The meteorological assessment capability shall provide all forecast and current information necessary for successful use of the system's operational manual;

(C) A program whereby the owner(s) or operator(s) systematically evaluates and improves the ability of the SCS to protect against violations of the NAAQS. Such program must be based upon the information contained in the EPA Guideline Document—OAQPS 1.2-036; and

(D) A clear delineation of authority delegated to an appropriate named company official to require all other smelter personnel to comply with the SCS operator's curtailment decisions. The identity of responsible and knowledgeable on-site company personnel who are the qualified SCS operators and are authorized to initiate and supervise the actions that will be taken to curtail emissions shall be listed; such personnel must, upon request, be able and be authorized by the Company to inform the Administrator as to the status of the SCS, meteorological and air quality conditions at any time and whether and to what extent the recommendations or determinations of the SCS operator(s) were followed or overridden by any Company official in making any curtailment or operating decision;

(iv) *The SCS Operating Manual.* An approvable operational manual shall require operation of the SCS to include (but not be limited to) the following:

(A) Prescribed emission curtailment decisions based on the use of real time information from the air quality monitoring network, dispersion model estimates of the effect of SO<sub>2</sub> emissions on air quality, and meteorological observations and predictions;<sup>6</sup>

(B) The maintenance and calibration procedures and schedules for all SCS equipment;

(C) The procedures to be followed for the regular acquisition of all meteorological information necessary to operate the system;

(D) The ambient concentrations and meteorological conditions that shall be used as criteria for initiating various degrees of non-discretionary emission curtailment;

(E) The meteorological variables including the thresholds, ranges and combinations of values as to which judgments may be made to anticipate the onset of, and apply, the criteria stated in paragraph (b)(3)(iv)(D) of this section. Specifically, the maximum emission rates which may prevail under each of these meteorological and air quality situations must be specified. Such emission rates shall be determined by in-stack monitors and shall be the basis for determining whether provisions of the operational manual are adhered to;

(F) The procedures through which and the maximum time period within which a curtailment decision will be made and implemented by the SCS operator;

(G) The method for immediately evaluating the adequacy of a particular curtailment decision, including the factors to be considered in that evaluation;

(H) The procedures through which and the time within which additional necessary curtailment will immediately be effected; and

(I) The procedures to be followed to protect the NAAQS for SO<sub>2</sub> in the event of a mechanical failure in any element of the SCS.

(v) *Designated Liability Area.* The DLA shall be the area within two circles, each with a radius of 10 statute miles (16 kilometers) with the center point of such circles coinciding, respectively, with the main stack serving the lead smelter and the main stack serving the zinc plant. If new information becomes available which demonstrates that the DLA should be redefined, the Administrator shall consider such information and if appropriate, redefine the DLA.

(vi) *Consent to Liability.* On or before July 11, 1979, the owner(s) or operator(s) shall submit to the Administrator an affidavit signed by a responsible company official, empowered to do so, stating that in any judicial or administrative proceeding to enforce this regulation the owner(s) will accept responsibility for violations of the NAAQS for SO<sub>2</sub> in areas of ambient air in the DLA as defined by paragraph (b)(3)(v) of this section

(vii) *Interim Conduct of SCS Program.* Until the Administrator approves under paragraph (b)(3)(x) of this section a revised SCS implementation plan and a revised SCS operational manual required under paragraph (b)(3)(ix)(C) of this section, the owner(s) or operator(s) shall conduct the SCS program in accordance with the existing SCS operational manual and the existing SCS implementation plan which has been approved by the Director of the State of

Idaho Department of Health and Welfare (IDHW): *Provided*, That, upon execution of the consent to liability as required by paragraph (b)(3)(vi) of this section, the existing manual and plan shall be deemed modified by such consent.

(viii) *Study Regarding NAAQS.* Within the times specified by paragraph (b)(3)(ix) of this section, the owner(s) or operator(s) shall submit a study to EPA—Region X which accomplishes the following:

(A) Demonstrates that the NAAQS for SO<sub>2</sub> are being met in all areas of ambient air within the DLA surrounding the smelting complex;

(B) Corrects the deficiencies in the existing SCS operational manual and SCS implementation plan described in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i) of this section or documents that the EPA study erroneously described such deficiencies;

(C) Demonstrates that ambient SO<sub>2</sub> monitors are located (or will be located) in all areas of maximum expected ambient SO<sub>2</sub> concentrations that take into account all probable meteorological and operating conditions. For specific locations of maximum expected ambient SO<sub>2</sub> concentrations, if the owner(s) or operator(s) can demonstrate in the study that maximum ground-level SO<sub>2</sub> concentrations can be predicted through use of alternate techniques then SO<sub>2</sub> ambient monitors may not have to be placed at each such respective location: *Provided*, That such respective localities are inaccessible. "Alternative techniques" as used here shall be deemed to be a demonstration through SO<sub>2</sub> monitoring and calibrated modelling techniques that the compliance status of each unmonitored location of maximum expected SO<sub>2</sub> concentration will be accurately determined from data collected at an alternative monitoring site; and

(D) Failure to timely submit an approvable study shall constitute a violation of this regulation.

(ix) *Required Submissions.* The following items must be submitted to the Administrator within the time limitations shown:

(A) Within two (2) months following the date of promulgation of the final NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a study plan for the study required by paragraph (b)(3)(viii) of this section; within one (1) month following receipt of such plan the Administrator will provide comments to the owner(s) or operator(s) on such study plan;

(B) Within five (5) months following the date of promulgation of the final

NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a final study plan for the study required by paragraph (b)(3)(viii) of this section which incorporates the EPA comments described in paragraph (b)(3)(ix)(A) of this section;

(C) Within one (1) year following the date of promulgation of the final NSO regulations under Section 119 of the Act or the final tall stack regulations under Section 123<sup>7</sup> of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator the NAAQS attainment and SO<sub>2</sub> ambient monitor placement study required by subparagraph (b)(3)(viii);

(D) Within eighteen (18) months following the date of promulgation of the final NSO regulations under Section 119 of the Act or the final tall stack regulations under Section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator an approvable SCS implementation plan and an approvable SCS operational manual which accomplishes the following:

(1) takes into account the placement of SO<sub>2</sub> ambient monitors in the areas of maximum expected ambient SO<sub>2</sub> concentrations, as specified by paragraph (b)(3)(viii)(B) of this section; and

(2) Incorporates the requirements of paragraphs (b)(3)(iii) and (b)(3)(iv) of this section and which remedies the problems identified in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i); and

(E) Within twenty-four (24) months following the date of promulgation of the final NSO regulations under Section 119 of the Act or the final tall stack regulations under Section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator a certification that placement of SO<sub>2</sub> ambient monitors is in accordance with paragraph (b)(3)(viii)(C) of this section.

(x) *Final Conduct of SCS Program.* Upon the Administrator's review and approval of the information submitted under paragraph (b)(3)(ix)(D) of this section, the owner(s) or operator(s) will be required to conduct the SCS program in accordance with a revised SCS operational manual and the revised SCS implementation plan approved herein. Failure of the owner(s) or operator(s) to timely submit an approvable study plan, study, SCS implementation plan or SCS operational manual will constitute a violation of this regulation.

<sup>7</sup> These Section 123 tall stack regulations were proposed in the Federal Register on January 12, 1979 (44 FR 2,608).

(xi) *SCS Violations.* During the interim conduct of the SCS program as discussed in paragraph (b)(3)(vii), failure to curtail SO<sub>2</sub> emissions when and as much as indicated by the applicable SCS operational manual or to follow the provisions of the applicable SCS manual and SCS implementation plan shall constitute a violation of this regulation if the NAAQS for SO<sub>2</sub> are exceeded as a result of such failure. Upon commencement of the final SCS program as discussed in paragraph (b)(3)(x) of this section, failure to curtail SO<sub>2</sub> emissions when and as much as indicated by the revised SCS operational manual or to follow the provisions of the revised manual and SCS implementation plan shall constitute a violation of this regulation. Any violation of the NAAQS for SO<sub>2</sub> in the DLA shall be a violation of this regulation unless EPA determines on the basis of a showing by the owner(s) or operator(s) that:

(A) The smelter owner(s) or operator(s) had taken all emission curtailment action indicated by the SCS operational manual; and

(B) The violation was caused in significant part by emissions of another source(s) which were in excess of the maximum permissible emissions applicable to such source(s).

(xii) *Continuing Review of the SCS Program.* The owner(s) or operator(s) shall continuously review the design and operation of the SCS program to determine what measures may be available for improving the performance of the system. An annual report shall be submitted to the Administrator by March 1 of each calendar year detailing the results of this review and specifying measures implemented to prevent the recurrence of any ambient SO<sub>2</sub> violations.

(4) *Monitoring, Compliance Reporting and Compliance Determination.*

Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(4) of this section in regard to monitoring, compliance reporting and compliance determination except where such requirement is to be met in accordance with a separate compliance schedule provided for by this regulation:

(i) *SCS Program.* For the SCS program, the owner(s) or operator(s) shall:

(A) Maintain, in a useable manner, records of all air quality measurements made, meteorological information acquired, and emission curtailments ordered (including the identity of the persons making such decisions) during the operation of the SCS. Such records shall be retained for at least two years; and

(B) Submit to the Administrator, on a monthly basis, within fifteen (15) days after the end of each month, all measurements made of air quality and all other information regarding the SCS program that the Administrator may request. Such submission shall include a monthly summary indicating all dates and times when a NAAQS for SO<sub>2</sub> was exceeded or equalled in the DLA.

(ii) *Compliance Monitoring.* For compliance monitoring, the owner(s) or operator(s) shall:

(A) *SO<sub>2</sub> Concentration Monitors.* Install, operate and maintain SO<sub>2</sub> concentration measurement system(s) in accordance with the performance specifications and other requirements contained in Appendix D to 40 CFR Part 52, and the conditions outlined as follows:

(1) All SO<sub>2</sub> monitors shall be operated continuously and each monitor shall take and record at least one measurement<sup>8</sup> of SO<sub>2</sub> concentration in each 15 minute period;

(2) The sampling point shall be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator;

(3) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645m<sup>2</sup> (50 ft<sup>2</sup>) or at a point no closer to the wall than 0.914m (3 ft.) if the cross sectional area is 4.645m<sup>2</sup> (50 ft<sup>2</sup>) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct; and

(4) The SO<sub>2</sub> concentration measurement system(s) shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(B) *Gas Volumetric Flow Rate Monitors.* Install, operate and maintain gas volumetric flow rate system(s) in

<sup>8</sup> In the event SO<sub>2</sub> measurements cannot be recorded because monitoring equipment was out-of-service for periodic zero adjustment and calibration or maintenance an arithmetic mean shall be used to determine SO<sub>2</sub> concentration for a given time interval. 75% of the required data will be considered sufficient to calculate a valid arithmetic average.

<sup>6</sup> The intent behind this subparagraph is set forth in Subpart D of the recently proposed NSO regulations (44 FR 6283; 6290-6291 (January 31, 1979) and 44 FR 11096; 11097 (February 27, 1979).



accordance with the performance specifications and other requirements contained in Appendix E to 40 CFR Part 52 and the conditions outlined as follows:

(1) The monitors are to be operated on a continuous basis and must be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flange, unless another location is approved by the Administrator.

(2) The sampling point within the duct shall be representative of the average flow in the duct or at the point specified by the instrument manufacturer.

(3) The instrument used to monitor SO<sub>2</sub> gas streams which bypass the lead smelter acid plant shall be adequate to disclose the time of the bypass and its duration.

(4) The measurement system(s) shall be subjected to the manufacturer's calibration procedures at intervals recommended by the manufacturer. Records of these procedures shall be made which clearly show instrument readings before and after any adjustments. If manufacturers calibration procedures do not exist procedures will be specified by the EPA.

(C) *Gas Flow Indicating Devices.* Install, operate, and maintain a system to detect the occurrence of situations when any gas is bypassed around an acid plant as specified in paragraph (b)(1)(iv) of this section in accordance with the following conditions:

(1) The system design for detecting gas flow shall be approved by the Enforcement Division Director of the EPA Region X;

(2) The device shall be located in each flue or duct where gas may bypass an acid plant;

(3) The system shall be capable of detecting gas flows as low as 5 percent of the maximum expected flow through each duct; and

(4) The system shall be continuously operated and capable of disclosing and recording the time of the bypass and its duration.

(D) *Field Test.* All continuously operated instrumentation required herein shall be field tested after installation. If field test requirements are not specified by the manufacturer EPA will provide test requirements. The Administrator shall be notified at least twenty (20) days prior to that start of the field test period, to afford the Administrator the opportunity to have an observer present.

(E) *Certification of Monitors.* With the exception of the 168 hour break-in period for the SO<sub>2</sub> concentration

measurement system(s), all SO<sub>2</sub> concentration and gas volumetric flow rate and gas flow indicating system(s) shall be recertified by the owner(s) or operator(s) at reasonable intervals as requested by the Administrator but in no case less frequently than once per year. The Administrator shall be notified in writing at least twenty (20) days prior to any tests associated with this requirement so that he may have an observer present. A report of the results of each test shall be forwarded to the Administrator within sixty (60) days of the completion of each test;

(F) *Continuous Data Recorder.* The equipment utilized to record the data and parameters measured by continuous monitoring instrumentation shall meet the following requirements or alternate equivalent requirements as the Administrator may require:

(1) Where various parameters are recorded on one strip chart the data must, to the Administrator's satisfaction, be continuously traced and each trace be individually and continuously identifiable when the chart is reproduced. In the event a color coded system of data recording is utilized copies of strip chart recordings submitted to the EPA must also be color coded or include a mathematically reduced tabulation of the data on at least 15 minute intervals;

(2) The scale for all SO<sub>2</sub> concentration readings must be set so that the maximum expected readings will be at least 40 percent of full scale;

(3) The scale for all gas volumetric flow readings must be set so that the maximum expected readings will be at least 80 percent of full scale; and

(4) Other requirements regarding data reduction and recording may be specified by the Administrator as required to enforce this regulation.

(G) All SO<sub>2</sub> concentration, gas volumetric flow rate and gas flow indicating measurement and recording instruments shall be maintained on operational mode and one line at all times except that provision will be made excusing the owner(s) or operator(s) from monitoring during periods when monitors break down due to causes beyond the control of the owner(s) or operator(s). In such an event, the owner(s) or operator(s) shall notify the Administrator within three (3) days of such a break down and provide information as to actions taken during the instrument malfunction period. All strip chart recordings of the instrumentation of paragraphs (b)(1)(iv) and (b)(1)(v) of this section must be marked once per shift as to the actual time a selected recorded measurement is being recorded. Quality assurance

checks shall be performed on all continuous monitoring instrumentation at the frequency specified by the manufacturer or as otherwise reasonably required by the Administrator;

(H) Maintain, in a useable manner, process strip chart recordings, records of all measurements accumulated by the continuous monitoring systems of paragraph (b)(1)(iv) and (b)(1)(v) of this section and compliance determination calculations (measurements) of paragraph (b)(4)(iii) of this section below. Such information shall be retained for at least two (2) years. The Administrator or his authorized representative shall have reasonable access to these records; and

(I) Maintain, in a useable manner, process strip chart recordings, records and operators log sheets of plant operations for a period of at least two (2) years. The Administrator or his authorized representative shall have reasonable access to these records.

(iii) *Compliance Determination.* For compliance determination, the following shall apply:

(A) *Acid Plant Tailgas—Continuous Monitors.* Compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. An hourly running 6-hour averaging period shall commence at each clock hour and continue for a consecutive 6 clock hour period. A new hourly running 6-hour averaging period will commence at every clock hour. For example, in a given day the following typical hourly running 6-hour averaging periods will occur: 2 a.m. to 8 a.m.; 3 a.m. to 9 a.m.; 4 a.m. to 10 a.m.; and 5 a.m. to 11 a.m. *et seq.* Six-hour average SO<sub>2</sub> concentration shall be calculated as of the end of each clock hour for the preceding 6 hours, in the following manner:

(1) Divide each 6-hour period into not less than twenty-four (24) equally spaced time intervals;

(2) Determine on a compatible basis an SO<sub>2</sub> concentration for each individual time interval.<sup>9</sup> These measurements may be obtained either by continuous integration of all measurements recorded during the time interval or from the arithmetic average of any number of SO<sub>2</sub> concentration readings equally spaced over the time interval. In the latter case, the same number of concentration readings shall be taken in

<sup>9</sup> *Supra* note 7.

each interval and the readings shall be similarly spaced within each interval; and

(3) Calculate the arithmetic average of all interval concentration measurements in each 6-hour period.

(B) *Acid Plant Tailgas—Manual Test.* Notwithstanding the requirements of paragraph (b)(4)(iii)(A) of this section, compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall also be determined by using the methods described below at such times as may be reasonably specified by the Administrator. For any acid plant, a 6-hour average SO<sub>2</sub> concentration shall be determined as follows:

(1) The test of each acid plant tailgas SO<sub>2</sub> concentration shall be conducted while the acid plant is operating at or above the maximum rate at which it will be operated and under such other conditions as the Administrator may specify;

(2) Concentrations of SO<sub>2</sub> in emissions shall be determined by using Method 8 as described in 40 CFR Part 60. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling, may be omitted from the over-all test procedure;

(3) Three independent sets of measurements of SO<sub>2</sub> concentrations shall be conducted during three 6-hour periods for each acid plant. Each 6-hour period will consist of three consecutive 2-hour periods. All tests must be completed within a 72-hour period;

(4) In using Method 8, traversing shall be conducted according to Method 1 as described in 40 CFR Part 60. The minimum sampling volume for each 2-hour test shall be 1.132 M<sup>3</sup> (40 ft<sup>3</sup>) corrected to standard conditions, dry basis;

(5) The velocity of the total effluent from each acid plant evaluated shall be determined by using Method 2 as described in 40 CFR Part 60 of this chapter and transversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in 40 CFR Part 60. Moisture content shall be determined by using Method 4 except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content;

(6) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point;

(7) The SO<sub>2</sub> concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 6-hour test period each consisting of three 2-hour tests; and

(8) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(C) *7-Day Emissions—Continuous Monitoring.* Compliance with the requirements of paragraph (b)(1)(i)(B) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. A daily running 7-day period shall commence at midnight of each day and continue for a consecutive 7-day period. A new daily running 7-day period will commence at midnight of every day. For example, in a given week the following typical daily running 7-day periods will occur: Tuesday (0000 hours) to Monday (2400 hours); Wednesday (0000 hours) to Tuesday (2400 hours) and Thursday (0000 hours) to Wednesday (2400 hours), *et seq.* The SO<sub>2</sub> emission rate for a 7-day period shall be calculated on a daily basis (midnight to midnight) in the following manner:

(1) Divide each 6-hour period into not less than twenty-hour (24) equally spaced time intervals;

(2) Determine on a compatible basis an SO<sub>2</sub> concentration and a stack gas flow rate measurement for each individual time interval for each affected stack.<sup>10</sup> These measurements may be obtained either by continuous integration of SO<sub>2</sub> concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the time interval or from the arithmetic average of any number of SO<sub>2</sub> concentration and stack gas flow rate readings equally spaced over the time interval. In the latter case, the number of concentration readings shall be taken in each time interval and the readings shall be similarly spaced within each time interval;

(3) Calculate the arithmetic average (pounds SO<sub>2</sub> per hour) of all interval emission rate measurements in each 6-hour period for the zinc plant main stack and the lead smelter main stack and multiply that arithmetic average by the number of time intervals in the 6-hour period; and

(4) Calculate the SO<sub>2</sub> emission rate for each consecutive 7-day period (midnight to midnight) by summing the twenty-eight (28) 6-hour average SO<sub>2</sub> emission rates for each stack measured over a 7-day period.

(D) *Miscellaneous Source SO<sub>2</sub> Emissions.* The owner(s) or operator(s) shall perform a manual source test of the SO<sub>2</sub> emissions from the zinc fuming

<sup>10</sup> *Supra* note 7.

furnace and any other SO<sub>2</sub> emitting process equipment whose SO<sub>2</sub> emissions are not routed through the zinc plant main stack or lead smelter main stack. These emissions will not be used in calculating the 7-day SO<sub>2</sub> emissions as described in paragraph (b)(4)(iii)(c) above but must be submitted to the Administrator on an annual basis. The following shall apply to the performance of the manual source test:

(1) Manual source test methods shall be in accordance with the procedures contained in Appendix A to 40 CFR Part 60 and as follows:

(i) SO<sub>2</sub> emissions shall be measured by Method 8 sampling train; 3 runs of at least 60 minutes sampling time per run will constitute one manual source test. The minimum sampling volume for each 1-hour test shall be 1.15 m<sup>3</sup> (40.6 ft<sup>3</sup>) corrected to standard conditions, dry basis. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist, as well as the isokinetic sampling, may be omitted from the overall test procedure.

(ii) Sampling will be conducted at a rate proportional to gas velocity determined according to Methods 1 and 2.

(iii) Two gas samples will be collected during each sampling run, according to Method 3.

(iv) Moisture content of the gas stream will be determined from the weight gain of the Method 8 train impingers.

(v) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(2) Source tests shall be conducted on or before (twelve months following execution of this Agreement) and at intervals specified by the Administrator but in any event not less than once per year;

(3) The process(es) tested shall be operated at or above the maximum rate at which it will be operated during the year and under such other conditions as the Administrator may specify; and

(4) The Administrator shall be notified in writing at least twenty (20) days prior to any such test so that he may have an observer present.

(5) *Research and Development Program.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(5) of this section in regard to research and development. The provisions of this paragraph are intended to be read together with those set forth in paragraph (b)(6) of this section regarding bypass of SO<sub>2</sub> streams during the annual acid plant maintenance period:



(i) *Full Scale Research and Development Program.* Except as provided in paragraph (b)(5)(iii) of this section, the owner(s) or operator(s) shall implement a full scale program to capture and control an SO<sub>2</sub> gas stream which was not controlled as of September 28, 1978. A qualifying program shall meet the requirements of paragraphs (b)(5)(ii), (iv), (v), (vi), (vii) and (viii) of this section, and shall consist of one of two options:

(A) An SO<sub>2</sub> removal facility (flue gas desulfurization system) to capture the weak stream exhausted from the sinter machine; or

(B) Substantially complete recirculation of the sinter machine weak stream" and treatment of the resultant gas stream in an SO<sub>2</sub> removal facility.

(ii) *Fuel Scale System Design Criteria.* The following shall constitute the design criteria for the full scale research and development system:

(A) Sinter machine weak stream flue gas desulfurization system:

(1) 95 percent SO<sub>2</sub> capture efficiency as determined by monitoring equipment continuously measuring feed gas SO<sub>2</sub> concentration and tail gas SO<sub>2</sub> concentration; and

(2) 95 percent on-line availability;

(B) Substantially complete sinter machine weak stream recirculation:

(1) Not less than 97 percent partitioning of SO<sub>2</sub> generated in the machine shall be routed to an SO<sub>2</sub> removal facility;

(2) Not more than 3 percent partitioning of the SO<sub>2</sub> gas generated in the machine shall be routed to the atmosphere via the tip end gas stream; and

(3) The SO<sub>2</sub> capture efficiency of the SO<sub>2</sub> removal facility shall not be impaired because of the additional gas captured through utilization of weak stream recirculation.

(iii) *Reduced Scale Research and Development Program.* The owner(s) or operator(s) may elect not to perform the full scale research and development program as set forth in paragraph (b)(5)(i) of this section: *Provided, That:*

(A) The owner(s) or operator(s) notify the EPA—Region X, in writing, of such decision no later than June 11, 1980, and provide a detailed account of the reasons for rejection of the full scale research and development program, including all cost and design information considered in the decision;

(B) The owner(s) or operator(s) immediately submit for the

Administrator's approval a substitute research and development program, consisting of construction and operation of a flue gas desulfurization system with a minimum volume operating capacity of 5000 SCFM to treat a portion of the weak gas exhausted from the sinter machine or blast furnace;

(C) Such flue gas desulfurization system is constructed and operated in accordance with the requirements of paragraphs (b)(5)(iv), (v), (vi), and (viii) of this section within the time periods specified in paragraph (b)(5)(vii) of this section. The following shall constitute the design criteria for the reduced scale research and development system:

(1) 95 percent SO<sub>2</sub> capture efficiency as determined by monitoring equipment continuously measuring feed gas SO<sub>2</sub> concentration and tailgas SO<sub>2</sub> concentration;

(2) 95 percent on-line availability;

(3) Continuous measurement instrumentation to monitor and record the following:

(i) System temperatures, pressures and gas and liquid flow rates;

(ii) Feed gas and tailgas SO<sub>2</sub> concentration;

(iii) Pressure drop within the system, and

(iv) pH and all other critical flue gas desulfurization operating parameters such as liquid make-up and recirculation flow rates;

(4) To the extent technically feasible sufficient automatic control instrumentation shall be provided such that the system automatically compensates for feed gas excursions in particulate loading, flow rate and SO<sub>2</sub> concentration while insuring minimum design criteria are maintained; and

(5) To the extent technically feasible system design and control should be such that correct chemical balance is maintained to avoid scaling, corrosion and equipment malfunction.

(D) The flue gas desulfurization system shall be operated continuously, except during periods of reasonably unavoidable equipment failure in accordance with good engineering practice and in a manner such that the project will result in the collection of information adequate to determine the economic and technological feasibility of a full scale application of such flue gas desulfurization system.

(iv) *Evaluation of the Research and Development Program.* Effective on June 11, 1979, the owner(s) or operator(s) shall evaluate the research and development program and prepare and submit an annual report to the Administrator by March 1 of each calendar year on the progress of the

research and development project and detailing the following:

(A) Capital, operating and other costs of the system;

(B) Disposal of by-products (or waste material) and associated environmental impact;

(C) Energy utilization and related potential effects on energy conservation;

(D) The effectiveness of the system to improve capture of other pollutants of both occupational and environmental significance;

(E) Problems in system design and suggested methods or actual methods undertaken to improve the design including any anticipated scale-up problems;

(F) Maintenance requirements and frequency of system shutdown;

(G) Personnel staffing requirements;

(H) SO<sub>2</sub> capture efficiency as impacted by process exhaust gas fluctuations and sinter machine (or blast furnace) shutdowns; and

(I) Such other related technical information as may be reasonably required by the Administrator to assist him in the evaluation of the research and development program.

(v) *System Operation.* The owner(s) or operator(s) shall install and operate the full scale or reduced scale removal facility, whichever it elects, in accordance with good engineering practice and shall make a good faith effort to operate the project continuously, except for periods of reasonably unavoidable malfunction until the expiration date of the first primary non-ferrous smelter order or until discontinuance is authorized under paragraph (b)(6)(iii) of this section or by written authorization of the Administrator, and in such manner as will result in the collection of information necessary to determine the economic and technological feasibility of the facility. If technically feasible, system performance must be at the design criteria as specified in paragraphs (b)(5)(ii) or (b)(5)(iii) of this section subsequent to its initial break-in period.

(vi) *Sanctions.* Except where the owner(s) or operator(s) have first demonstrated to the satisfaction of the Administrator that due to technical infeasibility design criteria cannot be achieved, departure from the design criteria of paragraphs (b)(5)(ii) and (iii) (as applicable) above in the final construction or operation of the research and development program, or failure to meet the compliance schedule and reporting requirements, shall constitute a violation of this regulation.

(vii) *Research and Development Compliance Schedule.* The owner(s) or

operator(s) shall comply with the following research and development program compliance schedule:

(A) Complete an engineering evaluation of the full scale and reduced scale research and development systems listed in paragraphs (b)(5)(i) and (b)(5)(iii) of this section and submit a complete report and data to the Administrator on or before June 11, 1980;

(B) Notify the Administrator of the research and development system and the gas stream to be treated on or before June 11, 1980;

(C) Complete all engineering and design work on the research and development system on or before ten months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than April 11, 1981. The Administrator shall be provided with a copy of the engineering design for the technique selected;

(D) Award construction contracts for the SO<sub>2</sub> capture system on or before fourteen months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than August 11, 1981. Such award shall be contingent upon a primary non-ferrous smelter order first being issued to the owner(s) or operator(s);

(E) If the full scale research and development system is selected, complete construction of the SO<sub>2</sub> capture system and begin acceptance testing on or before March 11, 1982; and complete all start-up and acceptance testing of the SO<sub>2</sub> capture system and place such system in service by June 11, 1982; and

(F) If the reduced scale research and development system is selected, complete construction of the flue gas desulfurization system by December 11, 1981, and place such system in service by February 11, 1982.

(viii) *Consent to Access.* The owner(s) or operator(s) shall submit a binding written agreement, signed by a responsible corporate official empowered to do so consenting to:

(A) Grant the representatives and contractors of the EPA access to any information or data employed or generated in the research and development program, including any process, emissions, or financial records which the EPA determines are needed to evaluate the technical or economic merits of the program;

(B) Grant physical access to the representatives and contractors of the EPA to each facility at which such research is conducted; and

(C) Grant the representatives and contractors of the EPA reasonable access to the persons in charge of conducting the program on behalf of the

smelter owner for discussions of progress, interpretation of data and results, and any other similar purposes as deemed necessary by the EPA.

(6) *Annual Acid Plant Maintenance Offset.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(6) of this section in regard to continued process operation during the period when an acid plant is shutdown for annual maintenance.

(i) *Bypass Prohibition.* Except as provided in paragraph (b)(6)(ii) of this section, the owner(s) or operator(s) shall not operate the lead smelter sinter machine or any zinc plant roaster when any acid plant(s) serving that process is shut down for maintenance.

(ii) *Criteria for Continuing Process Operation.* Excess emissions occurring during the period when the acid plant is shutdown for the annual maintenance period<sup>12</sup> shall not constitute a violation of paragraph (b)(1)(ii) of this section or be included in the computation of the plant wide SO<sub>2</sub> emissions of paragraph (b)(1)(i)(B) of this section, provided that:

(A) The owner(s) or operator(s) commits to install additional SO<sub>2</sub> removal facilities and/or performs process changes to capture a gas stream in accordance with the full scale research and development program requirements of paragraphs (b)(5)(i) and (b)(5)(vii) of this section. If at any time the owner(s) or operator(s) elect not to undertake a full scale qualifying project, excess emissions occurring during the period when the acid plant is shut down for any annual maintenance period shall constitute a violation of this regulation;

(B) The owner(s) or operator(s) provide written notification to the EPA—Region X on or before June 11, 1980, that it will perform the full scale research and development program. During the period prior to such notification, excess emissions occurring when the acid plant is shut down for the annual maintenance period shall not constitute a violation of this regulation. Such continued operation while an acid plant is shutdown for annual maintenance shall not in any event exceed fourteen (14) calendar days per year for each acid plant through and until June 11, 1980.

(C) Commencing with the first twelve (12) month period after the election of a full scale qualifying research and development system under paragraph

<sup>12</sup> The term "annual maintenance period" as used herein is defined as the period occurring once (or twice if the catalyst needs to be replaced two times a year) per year for each acid plant when various maintenance functions such as catalyst replacement and heat exchanger cleaning occur. This period normally lasts less than two weeks.

(b)(5)(i) of this section, and until the system is required to be placed in service under paragraph (b)(5)(vii) of this section, the combined amount of SO<sub>2</sub> which is released by reason of continued process operation during the annual acid plant maintenance period for all 3 acid plants does not exceed the lesser of fourteen (14) days for each acid plant per year or the annual incremental SO<sub>2</sub> capture for which the full scale research and development system is designed.

(D) During the period of time commencing when the full scale research and development system is required to first be placed in service under paragraph (b)(5)(vii) of this section and ending on the expiration date of the first primary non-ferrous smelter order, the following shall apply:

(1) No process operation is allowed to continue while the respective acid plant is shut down for its annual maintenance period until and unless the full scale system or process change has operated for the time period specified in paragraph (b)(6)(iii) of this section;

(2) During such time period, the full scale system or process change must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section;

(3) The owner(s) or operator(s) must continue to operate the full scale research and development system beyond the time period described in paragraph (b)(6)(iii) of this section and until the expiration date of the first primary non-ferrous smelter order; further the system must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section; and

(4) The combined annual amount of SO<sub>2</sub> which is released by reason of continued process operation during the annual acid plant maintenance period shall not exceed for all 3 acid plants the annual incremental SO<sub>2</sub> capture for which the full scale research and development system is designed and operated;

(E) Annual maintenance shall not be performed simultaneously on the lead smelter acid plant and any zinc acid plant or simultaneously on both zinc plant and acid plants. If, under paragraph (b)(5)(i) of this section, a sinter machine flue gas desulfurization system is installed, annual maintenance shall not be performed simultaneously on the lead smelter acid plant and the flue gas desulfurization system; further, the sinter machine flue gas desulfurization system shall receive the maximum quantity of SO<sub>2</sub> practicable from the sinter machine when the lead smelter acid plant is shutdown. During



annual acid plant maintenance at the zinc plant, the zinc plant acid plant which remains in service shall receive the maximum quantity of SO<sub>2</sub> practicable from the operating zinc roasters; and

(F) Continued process operation while an acid plant is shutdown for annual maintenance shall not in any event exceed fourteen (14) calendar days for each acid plant per year.

(iii) *Discontinuance of Full Scale Research and Development Program.* In the event that severe and unavoidable production losses are incurred as a direct result of the operation of the full scale research and development system or process change during a full nine (9) month period for the flue gas desulfurization system or three (3) month period for the sinter machine weak stream recirculation, or upon terms otherwise agreed, in writing, by the Administrator, the owner(s) or operator(s) may discontinue operation of the full scale research and development project provided that:

(A) Notification to the Administrator of discontinuance of such operation shall be given within one month following the expiration of the requisite period. Such notification shall be accompanied by a full written justification of and analysis for the discontinuance; and (11)(B) Until the expiration date of the first primary non-ferrous smelter order, the lead smelter sinter machine and any zinc plant roaster shall be shut down during any subsequent annual acid plant maintenance period.

(iv) *Pre-determined SO<sub>2</sub> Emissions.* For the purposes of determining compliance with the design and operating criteria set forth in paragraphs (b)(6)(ii)(C) and (D) of this section, the quantity of incremental SO<sub>2</sub> deemed captured by the full scale qualifying project shall be calculated using a predetermined quantity of SO<sub>2</sub> which is emitted in the relevant gas stream prior to installation of such full scale project. The determination of pre-existing SO<sub>2</sub> emissions shall be as follows:

(A) For the sinter machine weak stream, a value of 15.7 tons of SO<sub>2</sub> per 24 hours of operation shall be used;

(B) For the blast furnace, a value of 18.3 tons of SO<sub>2</sub> per 24 hours of operation shall be used; and

(C) On or before June 11, 1980, if the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator, using manual source test techniques, continuous SO<sub>2</sub> measurement techniques, or equivalent alternatives, that a different pre-existing SO<sub>2</sub> emission value is correct, that value may be substituted for the value(s)

listed in paragraphs (b)(6)(iv)(A) and (B) of this section upon agreement of the Administrator.

(7) *Violations—(i) Violations of Provisions.* Failure to comply with any provisions of this regulation or with the NSO issued to replace this regulation may subject the owner(s) or operator(s) to enforcement and sanctions as set forth in the Clean Air Act and regulations promulgated thereunder.

(ii) *Violations of NAAQS.* Nothing in this subparagraph shall be construed to relieve the owner(s) or operator(s) from liability for violations of the NAAQS.

#### Appendix A—Fugitive Sulfur Dioxide Emission Control Program and its Impact to Total Plant Emissions

The total plant emission limitation of paragraph (b)(1)(i)(B) was developed based on historical emission data and included the increase in SO<sub>2</sub> emissions from the main stacks that would likely occur as a result of implementation of the fugitive control program described in paragraphs (b)(1)(vi)(C) (zinc roaster), (b)(1)(vi)(D) (sinter machine), and (b)(1)(vi)(E) (blast furnace). Accordingly, failure of the owner(s) or operator(s) to comply with any of the provisions of the fugitive SO<sub>2</sub> control program will be deemed a violation of this regulation.

Amount of plant wide emission reduction from the 625 tons per 7-day limit

Where H<sub>U</sub> =

$$1 - \frac{33.6 - 2(H_U - 3.36)}{33.6}$$

hours in any 7-day period when the blast furnace is in an upset condition. For the purpose of use in this formula H<sub>U</sub> cannot exceed 20.16 hours.

For example, if blast furnace upset conditions occur for 8.36 hours in any 7-day period the plant wide emission limit would be reduced 6 tons per running 7-day period, i.e. the new plant wide emission limit would be 619 tons SO<sub>2</sub> per running 7-days.

[FR Doc. 79-38235 Filed 12-12-79; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 46 CFR Part 187

[CGD 79-063]

##### Re-Examination and Refusal of Licenses

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

Compliance will be determined as follows:

a. The zinc roaster program of paragraph (b)(1)(vi)(C) is based on compliance with applicable OSHA lead workplace standards in accordance with the OSHA schedules of compliance;

b. The sinter machine program of paragraph (b)(1)(vi)(D) must ensure complete installation of new stainless steel hooding with the exception of the last two (2) sections of the hood which are not subject to high corrosion on or before June 11, 1980; and

c. The blast furnace program of paragraph (b)(1)(vi)(E) must eliminate 90 percent of the blast furnace upset conditions (currently occurring approximately 20 percent of the time).

EPA inspection of the blast furnace operation will be made to ensure that upset conditions occur no more than an aggregate total of 3.36 hours per any 7-day period. The owner(s) or operator(s) explicitly agree that failure to meet the requirements stated herein at any time subsequent to June 11, 1980, will immediately result in the decrease in the plant wide emission limit in proportion to the amount the objective was not attained. The proportional formula is shown below:

**SUMMARY:** This action amends Coast Guard regulations governing the re-examination of applicants for licenses to operate vessels of less than 100 gross tons engaged in carrying more than six passengers. As previously written, these regulations required applicants who failed their first examination to wait a period of one month before being re-examined. This amendment reduces the waiting period to ten days, thereby lessening the economic consequences to persons who are dependent upon the operation of small passenger vessels for their livelihood. It will give permanent effect to a procedure that did not

adversely affect safety interests when implemented on a trial basis during the past year.

**EFFECTIVE DATE:** This amendment is effective on January 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Leo G. Vaske, Merchant Vessel Personnel Division, Office of Merchant Marine Safety, Room 1400, Coast Guard Headquarters, Washington, D.C. 20593 (202) 426-2251.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking concerning this amendment was published in the *Federal Register* on July 19, 1979 (44 FR 42274). Interested persons were invited to submit comments on the proposal by September 19, 1979. Only one comment was received, and this favored the proposal's adoption.

This amendment has been reviewed and determined to be non-significant under the Department of Transportation's "Regulatory Policies and Procedures" published on February 26, 1979 (44 FR 11034). A final evaluation has been prepared and included in the public docket. This may be obtained from the Marine Safety Council (G-CMC/TP24), Coast Guard Headquarters, Washington, D.C. 20593 (202) 755-4901.

The principal persons involved in drafting this rule are: Lieutenant Commander Leo G. Vaske, Project Manager, Office of Merchant Marine Safety, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 187 of Title 46, Code of Federal Regulations is amended by revising paragraph (a) of § 187.05-15 to read as follows

##### § 187.05-15 Re-examination and refusal of licenses.

(a) Any applicant for license or endorsement who has been duly examined or re-examined and refused may come before the same Officer in Charge, Marine Inspection, for re-examination at any time thereafter that may be fixed by such Officer in Charge, Marine Inspection, but such time shall not be less than ten days from the date of the applicant's last failure.

(46 U.S.C. 390b, 49 U.S.C. 1655(b), 49 CFR 1.46(b))

Dated: December 6, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-38282 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-14-M

#### Research and Special Programs Administration

##### 49 CFR Parts 172 and 174

[Docket No. HM-161; Amdt. Nos. 171-51, 172-56, 173-134, 174-36, 175-10, 176-10, 177-47, 178-60]

##### Detonators and Detonating Primers

##### Correction

In FR Doc. 79-37612, appearing in the issue of Monday, December 10, 1979, at page 70721, correct the tables beginning on page 70723 to 70729 and inclusive by noting that the underscored material should be italicized and on page 70732, in the first column, the correction designated as No. 12 under § 174.101 Loading explosives, paragraph (h), the first line, add an "s" to the word "package".

BILLING CODE 1505-01-M

#### National Highway Traffic Safety Administration

##### 49 CFR Part 571

[Docket No. 74-9; Notice 6]

##### Child Restraint Systems Seat Belt Assemblies and Anchorages

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

**SUMMARY:** This rule establishes a new Standard No. 213, *Child Restraint Systems*, which applies to all types of child restraints used in motor vehicles. It also upgrades existing child restraint performance requirements by setting new performance criteria and by replacing the current static tests with dynamic sled tests that simulate vehicle crashes and use anthropomorphic child test dummies. The new standard would reduce the number of children under 5 years of age killed or injured in motor vehicle accidents.

**DATES:** On June 1, 1980, compliance with the requirements of this standard will become mandatory. The current Standard No. 213 is amended to permit, at the manufacturer's option, compliance during the interim period either with the requirements of existing Standard No. 213, *Child Seating Systems*, or the new Standard No. 213, *Child Restraint Systems*.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration,

400 Seventh Street, SW., Washington, D.C. 20590.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264).

**SUPPLEMENTARY INFORMATION:** This notice establishes a new Standard No. 213, *Child Restraint Systems*. A notice of proposed rulemaking was published on May 18, 1978 (43 FR 21470) proposing to upgrade and extend the applicability of the existing Standard No. 213, *Child Seating Systems*. The existing standard does not regulate car beds and infant carriers and uses static testing to assess the effectiveness of child restraint systems. The new standard covers all types of child restraint systems and evaluates their performance in dynamic sled tests with anthropomorphic test dummies. On May 18, 1978 NHTSA also published a companion notice of proposed rulemaking proposing to amend Part 572, *Anthropomorphic Test Dummies*, by specifying requirements for two anthropomorphic test dummies representing 3 year and 6 month old children (43 FR 21490) for use in compliance testing under proposed Standard No. 213. The comment closing date for both notices was December 1, 1978.

At the request of the Juvenile Product Manufacturers Association, NHTSA extended the comment closing date until January 5, 1979, for the portions of both proposals dealing with testing with the child test dummies. This extension was granted because manufacturers were reportedly having problems obtaining the proposed test dummies to conduct their own evaluations.

Consumers, public health organizations, child restraint manufacturers and others submitted comments on the proposed standard. The final rule is based on a thorough evaluation of all data obtained in NHTSA testing, data submitted in the comments, and data obtained from other pertinent documents and test reports. Significant comments submitted to the docket are addressed below. The agency will soon issue a final rule on the anthropomorphic test dummy proposal.

#### Summary of the Final Rule Provisions

The significant portions of the new standard are as follows:

1. The performance of the child restraint system is evaluated in dynamic tests under conditions simulating a frontal crash of an average automobile at 30 mph. The restraint system is anchored with a lap belt and, if



provided with the restraint, a supplementary anchorage belt (tether strap). An additional frontal impact test at 20 mph is conducted for restraints equipped with tether straps or arm rests. In that additional test, child restraints with tether straps will be tested with the tether straps detached and child restraints with arm rests will be tested with the arm rest in place but with the child restraint system belts unbuckled. The additional 20 mph tests are intended to ensure a minimum level of safety performance when the restraints are improperly used.

2. To protect the child, limitations are set on the amount of force exerted on the head and chest of the child test dummy during the dynamic testing of restraints specified for children over 20 pounds. Limitations are also set on the amount of frontal head and knee excursions experienced by the test dummy in forward-facing child restraints and harnesses. To prevent a child from being ejected from a rearward-facing restraint, limitations are set on the amount the seat can tip forward and on the amount of excursion experienced by the test dummy during the simulated crash.

3. During the dynamic testing, no load-bearing or other structural part of any child restraint system shall separate so as to create jagged edges that could injure a child. If the restraint has adjustable positions, it must remain in its pre-test adjusted position during the testing so that the restraint does not shift positions in a crash and possibly injure a child's limbs caught between the shifting parts or allow a child to submarine during the crash (i.e., allow the child's body to slide too far forward and downward, legs first).

4. To prevent injuries to children during crashes from contact with the surface of the restraint, requirements for the size and shape are specified for those surfaces. In addition, protective padding requirements are set for restraints used by children weighing 20 pounds or less.

5. Requirements in Standards No. 209, *Seat Belt Assemblies* (49 CFR 571.209), are applied to the belt restraints used in child restraint systems.

6. The amount of force necessary to open belt buckles and release a child from a restraint system is specified so that children cannot unbuckle themselves, but adults can easily open the buckle.

7. To promote the easy and correct use of all child restraint systems, they are required to attach to the vehicle by means of vehicle seat belts.

8. Warnings for proper use of the restraints must be permanently posted

on the restraint so that the warnings are visible when the restraint is installed. Other information, such as the height and weight limits for children using the child restraint, must also be permanently displayed on the restraint but it does not have to be visible when the restraint is installed. The restraint must also have a location for storing an accompanying information booklet or sheet on how to correctly install and use the restraint.

9. A standard seat assembly is used in the dynamic testing to represent the typical vehicle bench seat and thereby avoid the cost of testing child restraints on numerous vehicle seats.

#### Applicability of Standard No. 213

The provisions of new Standard No. 213 apply to all types of child restraints used in motor vehicles for protection of children weighing up to 50 pounds, such as child seats, infant carriers, child harnesses and car beds. Beginning on June 1, 1980, compliance with the requirements of this standard will become mandatory. The current Standard No. 213 is amended to permit, at the manufacturer's option, compliance during the interim period either with the requirements of existing Standard No. 213, Child Seating Systems, or of the new Standard No. 213, Child Restraint Systems.

#### Dynamic Testing

The requirements to be met in the dynamic testing of child restraints include: maintaining the structural integrity of the system, retaining the head and knees of the dummy within specified excursion limits (i.e., limits on how far those portions of the body may move forward) and limiting the forces exerted on the dummy by the restraint system. These requirements will reduce the likelihood that the child using a child restraint system will be injured by the collapse or disintegration of the system, or by contact with interior of the vehicle, or by imposition of intolerable forces by the restraint system. As explained below, omission of any of these three requirements would render incomplete the criteria for the quantitative assessment of the safety of a child restraint system and could very well lead to the design and use of unsafe restraints.

It was suggested in comments by the child restraint manufacturers and their trade association, the Juvenile Products Manufacturers Association (JPMA), that available restraints are performing satisfactorily. According to them, the new standard imposes expensive testing requirements with instrumented dummies which will increase the price

of child restraints and discourage the purchasing of child restraints because of their increased costs. Many manufacturers suggested that the agency limit the standard to tests for occupant excursion and restraint system structural integrity in dynamic tests and not require the use of instrumented test dummies to measure crash forces imposed upon a child.

NHTSA recognizes that some child restraints perform relatively well, but the agency's testing has shown that others perform unsatisfactorily. Measuring only the structural integrity of the system and the amount of occupant excursion allowed during the testing does not provide a measurement of the severity of forces imposed on a child during a crash and thus does not provide an accurate assessment of the actual safety of the system. For example, a manufacturer could design a restraint with a surface mounted in front of the child that would allow a small amount of occupant excursion. However, that surface could impose potentially injurious forces on a child. NHTSA believes that the force measurement performance requirements are a crucial and necessary test to adequately judge a restraint system's effectiveness in preventing or reducing injuries. The use of instrumented test dummies and force measurement requirements are crucial elements of Standard No. 208, *Occupant Crash Protection*, which establish performance requirements for automatic restraint systems. NHTSA believes that systems designed specifically for children should have to provide the same high degree of occupant protection.

Several manufacturers (GM, Ford, Questor, and others) and JPMA objected to the proposed head and chest acceleration limits that must not be exceeded in the dynamic testing. They argued that the acceleration limits are based on biomechanical data for adults and there is no data showing their applicability to children. Because of the lack of biomechanical data on children's tolerance to impact forces, NHTSA has conducted tests of child restraints with live primates to serve as surrogates for three-year-old children. Primates are similar in certain respects to children and, have been used by GM, Ford and others as surrogates in child restraint testing to assess potential injuries to children in crashes. In simulated 30 mph crashes conducted for NHTSA, similar to the test prescribed in the proposed standard, the primates either were not injured or sustained only minor injuries. NHTSA has also conducted child restraint tests using instrumented test

dummies representing three-year-old children instead of primates. In the tests, the forces measured on the test dummies, which had not been injurious to the primates, did not exceed the head and chest acceleration criteria proposed in the standard. NHTSA is thus confident that the child restraints which do not exceed these performance criteria in the prescribed tests should prevent or reduce injuries to children in crashes.

Use of instrumented test dummies should not unduly raise the price of child restraints. Since many child restraint systems are already close to compliance, the cost per restraint of any needed design and testing costs should be minimal.

The May 1978 notice would have required restraint systems with adjustable positions to meet the performance requirements of the standards in any of its adjusted positions recommended for use in a motor vehicle. The restraint would have had to remain in its adjusted position during testing. International Manufacturing Co. requested the agency to test adjustable restraints in only their extreme up and down positions. If a manufacturer chooses to offer a seat with a number of adjustable positions which it recommends for use in a motor vehicle, it is important that the seat meet the performance requirements of the standard at any of those positions. Therefore, International's request is denied. NHTSA urges manufacturers not to include any adjustment positions for their restraints which are not to be used in a motor vehicle.

Strollee, Questor and Volvo asked NHTSA to allow adjustable position restraints to change positions during the testing, arguing that controlled change of position can be an effective energy-absorbing method. Allowing changes from one adjustment position to another during a crash can cause injuries to children's hands or fingers caught between the structural elements of the restraint as it changes position. Other effective energy-absorbing methods are available which will not pose a risk of injury to children. Thus, NHTSA is not adopting this suggestion.

Child restraint manufacturers and other interested parties, such as Action for Child Transportation Safety (ACTS), American Academy of Pediatrics, Physicians for Automotive Safety and Michigan's Office of Highway Safety, urged NHTSA to lengthen the 30 inch head and knee excursion requirements for forward-facing restraints. They argued that some child restraint systems which have been effective in real world crashes will exceed the proposed head

excursion limit. NHTSA has reviewed its child restraint tests and determined that during the last few inches of excursion the remaining velocity of the head in impacts with padded surfaces is relatively low. Because slightly increasing the head excursion should not increase the forces imposed upon the child's head, the head excursion limit is changed from 30 to 32 inches.

The May 1978 notice proposed limiting the amount of knee excursion in forward-facing child restraints to 30 inches. The purpose of the knee excursion limit is to prevent manufacturers from controlling the amount of head excursion by designing their restraints so that their occupants submarine excessively during a crash (i.e., so that their bodies slide too far downward and forward, legs first). Many child restraint manufacturers and JPMA asked the agency to lengthen the knee excursion limits. They argued that many restraints, particularly reclining child restraints where the occupant's knees will be further forward than a non-reclining child restraint, cannot pass the knee excursion limit, but do not allow the occupants to submarine. They claimed that the reclining feature is a comfort and convenience device which promotes seat usage since it allows a child to sleep in the restraint. They recommended that the agency establish a separate requirement which would prevent the occupant's torso from straightening out and submarining under the belts. NHTSA has tested several child restraints in the reclining position and determined that the knee excursion can be lengthened to 36 inches without allowing submarining if the dummy's torso has rotated at least 15 degrees forward from its initial starting position when the knees have reached their maximum excursion. Thus, the new standard incorporates a 36 inch knee excursion limit and requires the test dummy's torso to have rotated at least 15 degrees forward when the knees have reached their maximum excursion.

For rear-facing child restraints (i.e., infant carriers) the May 1978 notice proposed retaining the dummy's head within the confines of the seat and preventing the back support surface of the restraint from tipping forward far enough to allow the angle between it and the vertical to exceed 60 degrees. If the support surface were allowed to tip more, the infant in the restraint could slide head first out of the shoulder straps. GM and Heinrich Von Wimmersperg pointed out that there is a conflict between the description of the confines of rear-facing restraints contained in the text of the standard

and the manner in which the confines are defined in one of the figures incorporated in the standard. The text has been modified to correctly identify the confines of the restraint systems. GM also commented that the text of the standard defined the head confinement requirements in reference to the head target points of the infant dummy, although the infant dummy, unlike the 3 year child test dummy, does not have target points. The revised specifications for the infant test dummy do include head target points and therefore the confinement requirement is retained as originally proposed.

Several child restraint manufacturers objected to limiting the forward tipping of rear-facing restraints to 60 degrees. They argued that rear-facing child restraints can tip as much as 70 degrees forward and still retain the child within the restraint. They also argued that a rear-facing restraint will hit the instrument panel in the front seat, or the back of the front seat if the restraint is used in the rear seat, before the restraint tips 60 degrees. NHTSA is retaining a limit on forward tipping since a child restraint can be used in a vehicle with the vehicle's front seat moved to its extreme forward or rearward position. If the child restraint is used in the front seat and the vehicle seat is in the extreme rearward position, the child restraint can tip forward without striking the instrument panel. Likewise, a child restraint used in the rear seat, where the vehicle's front seat is in its extreme forward position, can tip forward without striking the back of the front seat. However, tests done by NHTSA have shown that a restraint can tip forward as much as 70 degrees while still retaining the child within the confines of the restraint. Therefore, the limitation on forward tipping is being changed to 70 rather than 60 degrees.

One child restraint manufacturer, the American Association for Automotive Medicine and Heinrich Von Wimmersperg commented that manufacturers of rear-facing restraints may attempt to comply with the limitation on forward rotation by designing the normal resting angle of the seat in a very vertical alignment or by adding attachments to prop the seat into a vertical position. Either of those approaches can create an uncomfortable seating position for the child. They recommended that the agency establish a minimum resting angle for rear-facing restraints. The agency is not adopting this suggestion at this time. By increasing the amount of forward rotation allowed, the agency should have removed the temptation for



manufacturers to design restraint resting angles which would make it easier to comply with the requirement, but would create uncomfortable seating positions for the child.

The May 1978 notice proposed an additional dynamic test at 20 mph for child restraint systems equipped with tether straps with those straps left unattached. A number of commenters (such as Insurance Institute for Highway Safety, ACTS, University of Tennessee, Questor, Bobby Mac, and Michigan's Office of Highway Safety) commented that many people fail to connect the tether. They recommended that this type of restraint be tested at 30 mph with unattached tethers.

The agency is aware of the benefits and disadvantages of child restraints equipped with tethers, which presently account for over 70 percent of the child restraint sales. The agency's testing has shown that in 30 mph frontal tests child restraints with the tethers attached have less occupant excursion and lower head and chest accelerations than shield-type restraints that do not use tethers. Tethered restraints also allow far less occupant excursion in lateral crashes than shield-type restraints. The available accident data on child restraints, which includes consumer letters and accident investigation reports, is limited since the usage of child restraints is low. It does show, however, that tethered restraints, both properly tethered and untethered, have prevented injuries to children in crashes where other vehicle occupants were severely injured.

Because of the performance of properly tethered child restraints under testing and accident conditions, the agency does not want to eliminate those restraints from the market. At the same time, the agency wants to reduce or eliminate the possibility of people not using the tethers that accompany those restraints. Therefore, the agency is requiring all seats equipped with a tether to have a visible label warning people to correctly fasten the tether. In addition, the agency is considering issuing a proposal to require vehicle manufacturers to provide attachments for tether anchorages in all their vehicles. Having such attachments will enable parents to easily and properly attach tethers. The agency is also striving to promote the increased and proper use of child restraints through educational programs. As a part of this effort, NHTSA has conducted a series of regional seminars aimed at helping grass roots organizations educate parents about the importance of child restraints. An NHTSA-sponsored national

conference on child restraint safety is scheduled for December 10-12 in Washington, D.C. to further these educational programs.

To ensure that restraints equipped with tethers provide at least a minimum level of protection if they are misused, the agency will require an additional dynamic test at 20 mph for those restraints. When tested with tethers unattached, the restraints must pass all the dynamic test performance requirements of the standard.

#### Energy Absorption and Distribution

Several manufacturers (Questor, Strollee, Cosco) and JPMA objected to the proposed height requirements for head restraints used to control the rearward movement of a child's head in a crash. The proposal would have slightly increased the requirements currently set in Standard No. 213. They argued that there was no basis for the change, which would require them to redesign their child restraints. The new requirements are based on anthropometric data on children gathered since the standard was originally adopted. NHTSA proposed the new head restraint height requirements in its earlier March 1974 notice of proposed rulemaking on child restraints and many manufacturers have already redesigned their seats to comply with the requirements. Since the new heights more accurately reflect the seating heights of children than the old requirements, the agency is adopting them as proposed. The notice proposed that the top of the head restraint be 22 inches above the seating surface for restraints used by children weighing more than 40 pounds. Questor requested the upper weight be changed to 43 pounds. Since 40 pounds represents the weight of a 50th percentile 5 year old and 23 inches represents its seating height, the requirement is not changed.

Several manufacturers (Cosco, Strollee, Questor) and JPMA raised objections to the proposed requirement that head restraints of child restraint systems have a width of not less than 8 inches. They pointed out that the minimum head restraint width requirement is intended to prevent a child's head from going beyond the width of a head restraint in a lateral or rear impact. They argued that restraints with side supports or "wings" should not have to meet the 8 inch width requirement since the side supports will prevent an occupant's head from moving laterally outside the restraint system. NHTSA agrees that the side supports should help laterally retain the child's head within the restraint during a side or rear impact and therefore is

exempting those restraints from the 8 inch minimum width requirement. However, to ensure that child restraints with side supports have sufficient width to accommodate the heads of the largest child using the restraint, the agency has set a 6 inch minimum width for those restraints. In addition, to ensure that side supports are large enough to retain an occupant's head within the restraint, the agency has set a minimum depth requirement of four inches for those supports. Anthropomorphic data shows that the head of a 50th percentile 5 year old child measures 7 inches front to rear and is 6 inches in breadth. Therefore, a four inch support should contact a sufficient area of the child's head to restrain it.

Manufacturers also questioned if the 8 inch width requirement is to be measured in restraints with side support from the surface of the padded side support or from the surface of the underlying structure before the padding is added. The wording of the standard is changed to make clear that the distance is measured from the surface of the padding, since the padded surface must be wide enough to accommodate the child's head.

The notice proposed that the minimum head restraint height requirement would not apply to restraints that use the vehicle's seat back to restrain the head, if the target point on the side of the head of the test dummy representing a 3 year old child is raised above the top of the seat back. Ford said that because of permitted differences in the dimensions of different test dummies and test seats, its child restraint will not consistently meet the requirements. Ford asked that the height requirement be changed or the manufacturers be permitted to restrict their restraints to seats with head restraints or to rear seats which have a flat surface immediately behind the seat. The standard allows a manufacturer to specify in its instruction manual accompanying the restraints which seating locations cannot be used with the child restraint. Therefore, no change is necessary, since Ford is allowed to restrict use of its restraint.

Several manufacturers (Cosco, Strollee, Questor) and JPMA objected to the proposed force distribution requirement set for the sides of child restraint systems. The specifications do not require manufacturers to incorporate side supports in their restraints, they only regulate the surfaces that the manufacturer decides to provide so that they distribute crash forces over the child's torso. The commenters requested that the agency define the term "torso" and explain the reason for setting

different side support requirements for systems used by infants weighing less than 20 pounds than for systems used by children weighing 20 pounds or more. In restraints for infants less than 20 pounds, the minimum side surface area requirements are based on anthropometric data for a 6-month-old 50 percentile infant to ensure maximum lateral body contact in a side impact. Since the skeletal structure of an infant is just beginning to develop, it is important to distribute impact forces over as large a surface area of the child as possible, rather than concentrating the potentially injurious forces over a small area. For restraints used by children weighing more than 20 pounds and, therefore, having a more developed skeletal structure the minimum surface area requirement is based on anthropometric data for a 50th percentile 3-year-old child to provide restraint for the shoulder and hip areas of the child.

To enable manufacturers to determine their compliance with the torso support requirement, the standard follows the dictionary definition of "torso" and defines the term as referring to the portion of the body of a seated anthropomorphic test dummy, excluding the thighs, that lies between the top of the seating surface and the top of the shoulders of the test dummy.

Several manufacturers (Cosco, Strollee, Questor) and JPMA questioned the basis for prohibiting surfaces with a radius of curvature of less than 3 inches. They and Hamill also asked if the measurement of the curvature is to be made before or after application of foam padding on the underlying surface. The radius of curvature limitation will prevent sharp surfaces that might concentrate potentially injurious forces on the child. It is based on the performance of systems with such a radius of curvature that have not produced injuries in real world crashes. The standard is changed to require the measurement of the radius of curvature to be made on the underlying structure of the restraint, before application of foam padding. Since foam compresses when impacted in a crash, it is important that the structure under the foam be sufficiently curved so it does not concentrate the crash forces on a limited area of the child's body.

For child restraints used by children weighing less than 20 pounds, the notice proposed that surfaces which can be contacted by the test dummy's head during dynamic testing must be padded with a material that meets certain thickness and static compression requirements. A number of

manufacturers (Strollee, Cosco, GM and Questor) and JPMA questioned the specifications set for the padding, arguing that there is no need to change from the current materials and the specification of a minimum thickness is design restrictive. Other commenters (Bobby-Mac, Hamill and American Association for Automotive medicine) requested that the agency establish a test to measure the energy-absorbing capabilities of the underlying structure of the restraint, as well as of the padding.

NHTSA eventually wants to establish dynamic test requirements using instrumented test dummies for restraints used by children weighing 20 pounds or less. Such testing would measure the total energy absorption capability of the padding and underlying structure. At present, there are no instrumented infant test dummies, so the agency is instead specifying long-established static tests of the padding material.

In response to manufacturer comments, the NHTSA has reevaluated the materials currently used in child restraints and determined that those and other widely available materials can apparently provide sufficient energy absorption if used with a specified thickness. The agency has changed the proposed compression-deflection requirements to allow the use of a wider range of materials which should enable manufacturers to provide protective padding for children without having to increase the price of the restraint.

The proposed ban on components, such as arm rests, directly in front of a child which do not restrain the child was objected to by JPMA, and some manufacturers (Strollee, Century Products, International Manufacturing). They argued that arm restraints should not be banned since they promote usage of a child restraint by giving the child an area to rest against or place a book or other plaything. Other manufacturers (Hamill, Bobby-Mac), Michigan's Office of Highway Safety and the American Academy of Pediatrics supported the ban arguing that arm rests promote misuse by creating the impression that a child can be adequately restrained by merely placing the arm rest in front of the child. The agency is concerned that parents' mistaken beliefs about the protective capability of arm rests may mislead them into not using the harness systems in the restraints.

Therefore, such arm rests or other components only may be installed if they provide adequate protection to a child when the restraint is misused in a foreseeable way because of the presence of the arm rest (i.e., the child is

not buckled into the harness that comes with the child restraint system). To measure the performance of child restraints with arm rests and other devices that flip down in front of the child, those restraints will be tested at 20 mph with the component placed in front of the child, but without the child strapped into the restraint system. The restraint must pass the occupant excursion and other dynamic performance requirements in that condition.

#### Child Restraint Belt Systems

The May 1978 notice proposed three alternatives for the buckle release force required for the harnesses that restrain a child within the restraint. Many manufacturers favored the alternative based on the current Standard No. 213 which establishes a maximum force of 20 pounds, but does not establish a minimum force. In order to promote international harmonization, Volvo endorsed another alternative proposed by the Economic Commission of Europe which would set a minimum force of 2.25 pounds and a maximum of 13.45 pounds. However, Volvo proposed deviating from the ECE proposal and allowing a maximum release force of 20 pounds. Michigan's Office of Highway Safety and the American Seat Belt Council (ASBC) supported the other alternative which, based on a study by the National Swedish Road and Traffic Institute, would have set a 12 pound minimum force and a 20 pound maximum force. ASBC stated that this alternative should prevent a small child from opening the buckle, but not be too strong to prevent a small adult female from opening the buckle. Other commenters, such as ACTS and Borgess Hospital, recommended that the force be set at a level which children could not manage. Borgess noted that their experience with 400 rental child restraints shows that keeping children from unbuckling their restraints is a common problem. Physicians for Automotive Safety recommended that all buckle types be standardized and the release force be set at a level which can be quickly opened in an emergency.

Based on its review of the comments, NHTSA had decided to require buckles with a minimum release force of 12 pounds and a maximum release force of 20 pounds. The effectiveness of a restraint depends on the child being properly buckled at the time of impact. If a child is capable of releasing the buckle, it can inadvertently or purposely defeat the protection of the harness system. Setting a minimum force of 12 pounds should prevent small children from opening the buckle. Setting a



maximum of 20 pounds as the release force will enable parents to easily open the buckle. NHTSA encourages manufacturers of child restraints to use push button buckles, similar to those used in automobile belts, so that people unfamiliar with child restraints can readily unbuckle them in emergencies. The agency will consider further rulemaking to standardize the buckle if manufacturers do not voluntarily adopt this approach.

Likewise, NHTSA has already advised child restraint manufacturers that physicians have informed the agency that some children are burned during the summer by over-heated metal buckles or other metal child restraint hardware. NHTSA will monitor manufacturer efforts to eliminate this problem and determine if additional rulemaking is necessary.

The proposal that the belt systems in child restraints meet many of the belt and buckle requirements of Standard No. 209, *Seat Belt Assemblies*, such as those relating to abrasion, resistance to light, resistance to microorganisms, color fastness and corrosion and temperature resistance was not opposed by any of the commenters and is therefore adopted. The buckle release test in Standard No. 209 for child restraint buckles is deleted, since Standard 213 now sets new performance requirements for buckles. Ford noted that the proposal inadvertently dropped a portion of Standard No. 209's abrasion requirements, which have been reincorporated in the final rule.

To prevent the belts from concentrating crash forces over a narrow area of a child's body, the proposal sets a minimum belt width of 1½ inch for any belt that contacts the test dummy during the testings. Hamill requested that pieces of webbing used to position the principal belts that maintain crash loads be exempt from the minimum width requirements. The agency believes that as long as the test dummy, and thus a child, can contact the belts during a crash the belts should be wide enough to spread the crash forces and therefore Hamill's request is denied.

#### Methods of Installation

Many commenters, including ACTS, American Academy for Pediatrics, Insurance Institute for Highway Safety, and American Seat Belt Council, said that child restraint systems cannot be used with some automatic belt systems, since they do not have a lap belt to secure the child restraint to the seat. They asked the agency to require all automatic belt systems to include lap belts.

The agency considers the compatibility of child restraints with automatic belt systems to be an important issue. One of the purposes of the agency's December 12, 1979, public meeting on child safety and motor vehicles is to obtain the public's views and information on that and other child passenger safety issues to assist the agency in determining whether to commence rulemaking. One rulemaking option currently being considered by the agency is to require vehicle manufacturers to provide anchorages for lap belts in automatic restraint equipped vehicles so that parents wishing to install lap belts can easily do so.

A number of manufacturers are voluntarily taking steps to make automatic belt systems compatible with child restraint systems. For example, GM provides an additional manual belt with its optional automatic lap-shoulder belt system for the front passenger's seat in the 1980 model Chevrolet Chevette to enable parents to secure child restraint systems.

Many of the commenters also asked the agency to require vehicle manufacturers to install anchorages or provide predrilled holes to attach tether anchorages in all their vehicles. They argued such anchorages or holes will make it easy for parents to attach tether straps correctly. As mentioned earlier in this notice, the agency is considering issuing a proposal to require manufacturers to provide attachments for tether anchorages in all their vehicles.

The May 1978 notice proposed that all child restraints be capable of being secured to the vehicle seat by a lap belt. Volvo and Mercedes once again asked the agency to allow the use of "vehicle specific" child restraints (systems uniquely designed for installation in a particular make and model which do not utilize vehicle seat belts for anchorages). As explained in the May 1978 notice, such systems can easily be misused by being placed in vehicles for which they were not specifically designed. Standardizing all restraints by requiring them to be capable of being attached by a lap belt is an important way to prevent misuse.

However, since vehicle specific child restraints can provide adequate levels of protection when installed correctly, NHTSA is not prohibiting the manufacture of such devices. The new standard requires them to meet the performance requirements of the standard when secured by a vehicle lap belt. As long as child restraints can pass the performance requirements of the standard secured only by a lap belt, a manufacturer is free to specify other

"vehicle specific" installation conditions.

#### Labeling

The requirement for having a visible label permanently mounted to the restraint to encourage proper use of child restraints was supported by many of the commenters, including the Center for Auto Safety, ACTS, Insurance Institute for Highway Safety, and Michigan's Office of Highway Safety. Several manufacturers (Century, Cosco, Questor) objected to having a visible label on child restraints, claiming that there is not enough space on some restraints to place all the required information. Other commenters supported the visible labeling requirement but suggested that the visible label only have a single warning telling people to follow the manufacturer's instructions (American Association for Automotive Medicine, Strollee, Hammill). Others suggested placing warnings about the correct use of the restraint on a visible label and placing such information as the height and weight limits for children using the restraint and the manufacturer's certification that it meets all Federal motor vehicle safety standards on a nonvisible label (GM, PAS).

After reviewing the comments, NHTSA concludes that it is important to have certain warnings in a visible position to serve as a constant reminder on how to correctly use the restraint. Because of the limited space on some restraints, the agency has shortened the labeling requirements to require only those instructions most directly concerned with the safe use of the seat be visible. Thus, depending on its design, the restraint must warn parents to secure the restraint with the vehicle lap belt, snugly adjust all belts provided with the restraint, correctly attach the top tether strap and only use a restraint adjustment position which are intended for use in a motor vehicle.

In response to the agency's request for other instructions that a manufacturer should give parents, several commenters (ACTS, Michigan's Office of Highway Safety, Borgess Hospital) said that a warning on the label is necessary to prevent misuse of infant carriers. They said many people mistakenly place infant carriers in a forward-facing, rather than a rear-facing position. A forward-facing position defeats the purpose of those restraints which are designed to spread the forces of the crash over the infant's back. Because of the importance of preventing this type of misuse, the agency will require the visible label to also remind parents not

to use rear-facing infant restraints in any other position.

Information about the height and weight limits of the children for which the restraint is designed, the manufacturer and model of the child restraint, and the month, year and place of manufacture and the certification that the restraint complies with all applicable Federal motor vehicle safety standards would also have to be provided, but that information does not have to be on a label that is visible when the seat is installed.

Many commenters (GM, Insurance Institute for Highway Safety, Multnomah County Department of Human Services, Physicians for Automotive Safety, Center for Auto Safety and American Academy of Pediatrics) supported the proposed requirement that manufacturers inform consumers about the primary consequences of not following the manufacturer's warning about the correct use of the restraint. Therefore, the visible label must state the primary consequence of misusing the restraint. The same information would also have to be included in the instruction manual accompanying the restraint.

Ford objected to the requirement that the label have a diagram showing the child restraint installed in a vehicle as specified in the manufacturer's instructions. It said that because of the complexity of the instructions required for proper installation of a restraint with different types of belt systems, it is not practical to place all of the information on a single label. Hamill suggested that because of those same considerations, the agency should only require the diagram to show the proper installation of the restraint at one seating position. Other commenters, such as the American Academy for Pediatrics, supported the use of diagrams on the restraint noting that diagrams can more easily convey information than written instructions.

To promote the correct use of child restraints, NHTSA believes that it is important to have a diagram on the restraint to remind users of the proper method of installation. However, so that the label does not become too unwieldy, the agency will only require manufacturers to provide a diagram showing the restraint correctly installed in the right front seating position with a continuous loop lap/shoulder belt and in the center rear seating position installed with a lap belt. For restraints equipped with top tethers, the diagram must show the tethers correctly attached in both seating positions. It is important to show the correct use of a child restraint with a continuous loop lap/shoulder belt (a

type of belt system used on many current cars) since such belts must have a locking clip installed on the belt to safely secure the child restraint.

GM objected to the requirement that the label be in block type, which it said makes the label difficult to read. GM requested that manufacturers be allowed to use 10 point type with either capitals or upper and lower case lettering. GM said that using such type will result in an easier to read label which, in turn, should promote more complete reading of the label by the consumer. Since the type sought by GM should promote the reading of the label, the agency is changing the requirement to allow the use of such type as an option.

Several organizations (ACTS, Center for Auto Safety and Insurance Institute for Highway Safety) asked the agency to establish performance test to accompany the requirement that the label be permanently affixed to the restraint. They pointed out that some current paper labels peel off after the restraint has been used awhile. NHTSA has not conducted the necessary testing to establish such a requirement. NHTSA urges manufacturer, whenever possible, to mold the label into the surface of the restraint rather than use a paper label.

Consumers Union and the Center for Auto Safety suggested that all restraints be graded based on their performance in frontal and lateral crash tests and the grades be posted on all the packaging, labels, and instruction manuals accompanying the child restraint. The grades would indicate the seating position within the vehicle with which the restraint can be safely used. Neither Consumers Union nor the Center suggested any performance requirements for establishing the different grades. Since the proposed grading system is outside of the scope of the proposed rule and the agency has not done the necessary testing to determine the specific tests and performance requirements necessary to establish such grading system, NHTSA will evaluate the suggestion for use in future rulemaking.

#### Installation Instructions

The May 1978 notice proposed that each restraint be accompanied by instructions for correctly installing the restraint in any passenger seat in motor vehicles. Many commenters (Center for Auto Safety, Borgess and Rainbow Hospitals, University of Tennessee and ACTS) suggested that the requirement for the instructions to accompany the restraint should be more explicit to require the restraint to have a storage location, such as a slot in the restraint or

a plastic pouch affixed to the restraint, for permanently storing the instructions. They point out that storing the instructions with the restraint means they will be available for ready reference and will be passed on to subsequent owners of the restraint. NHTSA believes such a requirement would best carry out its intent to require the instructions to be easily available to all users and therefore the suggestion is adopted.

Several manufacturers (Strollee, Cosco) and JPMA objected to the agency's proposed requirement that the instructions state that the center rear seating position is the safest seating position in a vehicle. While not questioning the validity of the accident data showing the center rear seat to be the safest seating position in most vehicles, they argued that the agency should consider the psychological impact of not having the child near the adult. Accident data have consistently shown that the occupants in the rear seat are safer than occupants in the front seat. The same data show that the center rear seating position is the safest seating position in the rear seat. To enable parents to make an informed judgment about how best to protect their children, NHTSA believes that it is important to clearly inform them about the safest seating positions in the vehicle, and is therefore retaining the requirement.

In response to the agency's request for additional suggestions to be included in the instruction manual accompanying the restraint, ACTS suggested that car bed manufacturers inform consumers that the child should be placed with its head near the center of the vehicle. Because orienting a child's head in that way will ensure that it is the maximum distance away from the sides of the vehicle in a side impact, the agency has adopted ACTS suggestion. Tennessee's Office of Urban and Federal Affairs suggested that users should be told to secure child restraints with a vehicle belt when the child restraint is in the vehicle but not in use. Since an unsecured child restraint can become a flying missile in a crash and injure other vehicle occupants, the agency has adopted Tennessee's suggestion.

#### Test Conditions

The standard specifies requirements for a test assembly representing a vehicle bench seat to be used in the dynamic testing. Bobby-Mac commented that the test seat has a more level seating surface and less support at the forward edge of the seat than the seats in many current cars. These differences mean that a child restraint may



experience more excursion on the test seat than on more angled and firmer car seats, Bobby-Mac said. NHTSA agrees that in comparison to some vehicle seats, the test seat may present more demanding test conditions. However, the test seat is representative of many seats used in vehicles currently on the road. Meeting the performance requirement of the standard on the test seat will ensure that child restraints perform adequately on the variety of different seats found in cars on the road.

Several manufacturers (Cosco and Strollee) and JPMA raised questions about the requirement proposed for the crash pulse (i.e., the amount of test sled deceleration required to simulate the crash forces experienced by a car) for the 20 and 30 mph tests. The agency had proposed a range of sled test pulses to allow manufacturers the option of using pneumatic or impact sled testing machines. Since a variety of different sled test pulses would be permitted under the proposal, manufacturers asked the agency to explain what would happen if they and the agency tested a child restraint system using different sled test pulses and produced inconsistent results (i.e., a failure using one pulse and a pass at the other, when both pulses were within the permissible range). JPMA suggested that the agency should consider a restraint as in compliance if the restraint meets all the applicable performance requirements in a test in which the sled test pulse lies entirely within the proposed range.

To provide manufacturers with certainty they desire, the agency has redefined the sled test pulse requirement to establish a single 20 mph (Figure 3) and a single 30 mph (Figure 2) sled test pulse. Thus, in conducting its compliance testing, NHTSA may not exceed the sled test pulse set for the 20 and 30 mph tests. The sled test pulses chosen by NHTSA are the least severe pulses that meet the acceleration thresholds proposed in the notice of proposed rulemaking. Manufacturers are free to use other sled pulses, as long as the acceleration/time curve of the sled test pulse used is equal to or greater than the acceleration/time curve of the sled test pulse set in the standard.

In response to comments by Ford and others that the durability of the foam used in the standard seat assembly may influence the test results, the agency has changed the standard to specify that the foam in the test seat be changed after each test.

GM pointed out that the instructions for positioning the test dummy within the restraint did not specify when in the positioning sequences any of the restraint's belts should be placed on the

test dummy. An appropriate change has been made to specify when the belts should be attached. Ford said that the dummy positioning requirements result in an "unnatural" positioning of the dummy within its Tot-Guard restraint so that the dummy's arms rest on the side of the restraint rather than with its arms on the padded portion of the shield. NHTSA notes that a child in a real-world accident will not necessarily have its arms resting on the shield. Allowing the test dummy's arm to be positioned on the shield may inhibit the dummy's forward movement and make it easier to comply with the limits on test dummy excursion and acceleration set in the standard. Thus, Ford's requested change in the positioning requirements is rejected.

#### Flammability

The notice proposed requiring child restraints to meet the burn resistance requirements of Standard No. 302, *Flammability of Interior Materials*. The requirement was supported by GM, the American Academy of Pediatrics and the American Seat Belt Council. No commenters opposed the requirement. In supporting the requirement, GM said that the flammability characteristics of child restraints, "which are in close proximity to an occupant," should be "compatible with the flammability characteristics of other parts of the vehicle occupant compartment interior," which already must meet the performance requirements of Standard No. 302. The agency agrees with GM about the desirability of providing all vehicle occupants with the protection of Standard No. 302 and is thus requiring all child restraints to meet the performance requirements of that standard.

#### Inertial Reels

Several commenters raised questions about the effectiveness of vehicle seat belts equipped with inertial reels in securing child restraints. The American Academy of Pediatrics requested the agency to restrict the use of inertial reels to the driver's seating position. Physician for Automotive Safety and ACTS pointed out that continuous loop lap/shoulder belts with inertial reels must be used with locking clips to secure a child restraint. They said that the difficulty of installing such clips deters their use.

Agency research has found that use of inertial reels increases the comfort and convenience of seat belts and thus promotes their use by older children and adults. Thus, the agency will continue to require the use of inertial reels in vehicle belt systems. However, to

ensure that inertial reels are compatible with child restraints, the agency will soon begin rulemaking on the comfort and convenience of vehicle belt systems to require that the belts used in the front right outboard seating position have a manual locking device. This requirement will mean that continuous loop and other types of inertial reel belt systems can be easily and effectively used with child restraints. Such manual locking devices will also be permitted with belts used in the rear seats. As previously outlined in this notice, the agency has established several labeling and installation instruction requirements which deal specifically with the correct use of locking clips on continuous loop belts with inertial reels. Those requirements should reduce or eliminate problems associated with using child restraint in current vehicles equipped with inertial reels.

#### Costs and Benefits

The agency has considered the economic and other impacts of this final rule and determined that this rule is not significant within the meaning of Executive Order 12044 and the Department of Transportation's policies and procedures implementing that order. The agency's assessment of the benefits and economic consequences of this final rule are contained in a regulatory evaluation which has been placed in the docket. Copies of that regulatory evaluation can be obtained by writing NHTSA's docket section, at the address given in the beginning of this notice.

In the 0 to 5 age group, more than 800 children are killed and more than 100,000 children are injured annually as occupants of motor vehicles. Because of the large difference in effectiveness between restraints that can pass the dynamic test of the new standard and those which have passed only a static test, NHTSA projects that there should be 43 fewer deaths and 6,528 fewer injuries per year. Because many restraints have already been upgraded in response to the agency's prior rulemaking proposal, some of the death and injury prevention benefits of the standard have already been realized.

The projected benefits of this standard are limited by the existing low rate of child restraint use. However, the labeling and instruction requirements of this standard should increase the proper usage of child restraints.

Because of NHTSA's 1974 proposal to upgrade child restraints, many manufacturers have currently designed their restraints to meet dynamic test requirements. Therefore, those restraints are only projected to increase in price by approximately \$1.00 in order to meet

the other requirements of this standard. Restraints that do not currently pass dynamic tests would have a price increase of \$16.00 to meet the new requirements. The average sales weighted price increase is \$4.25.

Numerous commenters (including National Safety Council, American Academy of Pediatrics, Tennessee Office of Child Development and North Dakota's Department of Public Health) urged the agency to make the standard effective before the proposed May 1, 1980, effective date. GM and the American Safety Belt Council requested that the effective date be delayed beyond the proposed May 1, 1980. Many manufacturers have already upgraded their restraints to the performance requirements set in this rule. The agency believes that providing six months leadtime, until June 1, 1980, will provide sufficient time for the remaining manufacturers to upgrade their restraints.

The principal authors of this notice are Vladislav Radovich, Office of Vehicle Safety Standards, and Stephen Oesch, Office of Chief Counsel.

In consideration of the foregoing, the following amendments are made in Part 571, Chapter V, Title 49, Code of Federal Regulations:

1. Standard No. 209, Seat Belt Assemblies (49 CFR 571.209), is amended to read as follows:

#### § 571.209 Standard No. 209; Seat belt assemblies.

S1. *Purpose and Scope*. This standard specifies requirements for seat belt assemblies.

S2. *Application*. This standard applies to seat belt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses.

S3. *Definitions*. "Seat belt assembly" means any strap, webbing, or similar device designed to secure a person in a motor vehicle in order to mitigate the results of any accident, including all necessary buckles and other fasteners, and all hardware designed for installing such seat belt assembly in a motor vehicle.

"Pelvic restraint" means a seat belt assembly or portion thereof intended to restrain movement of the pelvis.

"Upper torso restraint" means a portion of a seat belt assembly intended to restrain movement of the chest and shoulder regions.

"Hardware" means any metal or rigid plastic part of a seat belt assembly.

"Buckle" means a quick release connector which fastens a person in a seat belt assembly.

"Attachment hardware" means any or all hardware designed for securing the

webbing of a seat belt assembly to a motor vehicle.

"Adjustment hardware" means any or all hardware designed for adjusting the size of a seat belt assembly to fit the user, including such hardware that may be integral with a buckle, attachment hardware, or retractor.

"Retractor" means a device for storing part or all of the webbing in a seat belt assembly.

"Nonlocking retractor" means a retractor from which the webbing is extended to essentially its full length by a small external force, which provides no adjustment for assembly length, and which may or may not be capable of sustaining restraint forces at maximum webbing extension.

"Automatic-locking retractor" means a retractor incorporating adjustment hardware by means of a positive self-locking mechanism which is capable when locked of withstanding restraint forces.

"Emergency-locking retractor" means a retractor incorporating adjustment hardware by means of a locking mechanism that is activated by vehicle acceleration, webbing movement relative to the vehicle, or other automatic action during an emergency and is capable when locked of withstanding restraint forces.

"Seat back retainer" means the portion of some seat belt assemblies designed to restrict forward movement of a seat back.

"Webbing" means a narrow fabric woven with continuous filling yarns and finished selvages.

"Strap" means a narrow nonwoven material used in a seat belt assembly in place of webbing.

"Type 1 seat belt assembly" is a lap belt for pelvic restraint.

"Type 2 seat belt assembly" is a combination of pelvic and upper torso restraints.

"Type 2a shoulder belt" is an upper torso restraint for use only in conjunction with a lap belt as a Type 2 seat belt assembly.

#### S4 Requirements.

S4.1 (a) *Single occupancy*. A seat belt assembly shall be designed for use by one, and only one, person at any one time.

(b) *Pelvic restraint*. A seat belt assembly shall provide pelvic restraint whether or not upper torso restraint is provided, and the pelvic restraint shall be designed to remain on the pelvis under all conditions, including collision or roll-over of the motor vehicle. Pelvic restraint of a Type 2 seat belt assembly that can be used without upper torso restraint shall comply with requirement

for Type 1 seat belt assembly in S4.1 to S4.4.

(c) *Upper torso restraint*. A Type 2 seat belt assembly shall provide upper torso restraint without shifting the pelvic restraint into the abdominal region. An upper torso restraint shall be designed to minimize vertical forces on the shoulders and spine. Hardware for upper torso restraint shall be so designed and located in the seat belt assembly that the possibility of injury to the occupant is minimized.

A Type 2a shoulder belt shall comply with applicable requirements for a Type 2 seat belt assembly in S4.1 to S4.4, inclusive.

(d) *Hardware*. All hardware parts which contact under normal usage a person, clothing, or webbing shall be free from burrs and sharp edges.

(e) *Release*. A Type 1 or Type 2 seat belt assembly shall be provided with a buckle or buckles readily accessible to the occupant to permit his easy and rapid removal from the assembly. Buckle release mechanism shall be designed to minimize the possibility of accidental release. A buckle with release mechanism in the latched position shall have only one opening in which the tongue can be inserted on the end of the buckle designed to receive and latch the tongue.

(f) *Attachment hardware*. A seat belt assembly shall include all hardware necessary for installation in a motor vehicle in accordance with SAE Recommended Practice J800B, Motor Vehicle Seat Belt Installations, September 1965. However, seat belt assemblies designed for installation in motor vehicles equipped with seat belt assembly anchorages that do not require anchorage nuts, plates, or washers, need not have such hardware, but shall have 7/16-20 UNF-2A or 1/2-13UNC-2A attachment bolts or equivalent hardware. The hardware shall be designed to prevent attachment bolts and other parts from becoming disengaged from the vehicle while in service. Reinforcing plates or washers furnished for universal floor installations shall be of steel, free from burrs and sharp edges on the peripheral edges adjacent to the vehicle, at least 0.06 inch in thickness and at least 4 square inches in projected area. The distance between any edge of the plate and the edge of the bolt hole shall be at least 0.6 inch. Any corner shall be rounded to a radius of not less than 0.25 inch or cut so that no corner angle is less than 135° and no side is less than 0.25 inch in length.

(g) *Adjustment*. (1) A Type 1 or Type 2 seat belt assembly shall be capable of adjustment to fit occupants whose



dimensions and weight range from those of a 5th-percentile adult female to those of a 95th-percentile adult male. The seat belt assembly shall have either an automatic-locking retractor, an emergency-locking retractor, or an adjusting device that is within the reach of the occupant.

(2) A Type 1 or Type 2 seat belt assembly for use in a vehicle having seats that are adjustable shall conform to the requirements of S4.1(g)(1) regardless of seat position. However, if a seat has a back that is separately adjustable, the requirements of S4.1(g)(1) need be met only with the seat back in the manufacturer's nominal design riding position.

(3) The adult occupants referred to in S4.1(g)(1) shall have the following measurements:

|                               | 5th-percentile adult female | 95th-percentile adult male |
|-------------------------------|-----------------------------|----------------------------|
| Weight                        | 102 lbs.                    | 215 lbs.                   |
| Erect sitting height          | 30.9 in.                    | 38 in.                     |
| Hip breadth (sitting)         | 12.8 in.                    | 16.4 in.                   |
| Hip circumference (sitting)   | 36.4 in.                    | 47.2 in.                   |
| Waist circumference (sitting) | 23.6 in.                    | 42.5 in.                   |
| Chest depth                   | 7.5 in.                     | 10.5 in.                   |
| Chest circumference:          |                             |                            |
| Nipple                        | 30.5 in.                    | 44.5 in.                   |
| Upper                         | 29.8 in.                    | 44.5 in.                   |
| Lower                         | 36.6 in.                    | 44.5 in.                   |

(h) *Webbing.* The ends of webbing in a seat belt assembly shall be protected or treated to prevent raveling. The end of webbing in a seat belt assembly having a metal-to-metal buckle that is used by the occupant to adjust the size of the assembly shall not pull out of the adjustment hardware at maximum size adjustment. Provision shall be made for essentially unimpeded movement of webbing routed between a seat back and seat cushion and attached to a retractor located behind the seat.

(i) *Strap.* A strap used in a seat belt assembly to sustain restraint forces shall comply with the requirements for webbing in S4.2, and if the strap is made from a rigid material, it shall comply with applicable requirements in S4.2, S4.3, and S4.4.

(j) *Marking.* Each seat belt assembly shall be permanently and legibly marked or labeled with year of manufacture, model, and name or trademark of manufacturer or distributor, or of importer if manufactured outside the United States. A model shall consist of a single combination of webbing having a specific type of fiber weave and construction, and hardware having a specific design. Webbing of various colors may be included under the same model, but webbing of each color shall comply with the requirements for webbing in S4.2.

(k) *Installation instructions.* A seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items in SAE Recommended Practice, Motor Vehicle Seat Belt Installations—SAE J800b, published by the Society of Automotive Engineers.

(l) *Usage and maintenance instructions.* A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened. Instructions for a nonlocking retractor shall include a caution that the webbing must be fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

(m) *Workmanship.* Seat belt assemblies shall have good workmanship in accordance with good commercial practice.

#### S4.2 Requirements for webbing.

(a) *Width.* The width of the webbing in a seat belt assembly shall be not less than 1.8 inches, except for portions that do not touch a 95th percentile adult male with the seat in any adjustment position and the seat back in the manufacturer's nominal design riding position when measured under the conditions prescribed in S5.1(a).

(b) *Breaking strength.* The webbing in a seat belt assembly shall have not less than the following breaking strength when tested by the procedures specified in S5.1(b): Type 1 seat belt assembly—6,000 pounds or 2,720 kilograms; Type 2 seat belt assembly—5,000 pounds or 2,270 kilograms for webbing pelvic restraint and 4,000 pounds or 1,810 kilograms for webbing in upper torso restraint.

(c) *Elongation.* The webbing in a seat belt assembly shall not extend to more

than the following elongation when subjected to the specified forces in accordance with the procedure specified in S5.1(c): Type 1 seat belt assembly—20 percent at 2,500 pounds or 1,130 kilograms; Type 2 seat belt assembly—30 percent at 2,500 pounds or 1,130 kilograms for webbing in pelvic restraint and 40 percent at 2,500 pounds or 1,130 kilograms for webbing in upper torso restraint.

(d) *Resistance to abrasion.* The webbing of a seat belt assembly, after being subjected to abrasion as specified in S5.1(d), shall have a breaking strength of not less than 75 percent of the breaking strength listed in S4.2(b) for that type of belt assembly.

(e) *Resistance to light.* The webbing in a seat belt assembly after exposure to the light of a carbon arc and tested by the procedure specified in S5.1(e) shall have a breaking strength not less than 60 percent of the strength before exposure to the carbon arc and shall have a color retention not less than No. 2 on the Geometric Gray Scale published by the American Association of Textile Chemists and Colorists, Post Office Box 886, Durham, N.C.

(f) *Resistance to micro-organisms.* The webbing in a seat belt assembly after being subjected to micro-organisms and tested by the procedures specified in S5.1(f) shall have a breaking strength not less than 85 percent of the strength before subjection to micro-organisms.

(g) *Colorfastness to cracking.* The webbing in a seat belt assembly shall not transfer color to a crock cloth either wet or dry to a greater degree than Class 3 on the AATCC Chart for Measuring Transference of Color published by the American Association of Textile Chemists and Colorists, when tested by the procedure specified in S5.1(g).

(h) *Colorfastness to staining.* The webbing in a seat belt assembly shall not stain to a greater degree than Class 3 on the AATCC Chart for Measuring Transference of Color published by the American Association of Textile Chemists and Colorists, when tested by the procedure specified in S5.1(h).

#### S4.3 Requirements for hardware.

(a) *Corrosion resistance.* (1) Attachment hardware of a seat belt assembly after being subjected to the conditions specified in S5.2(a) shall be free of ferrous corrosion on significant surfaces except for permissible ferrous corrosion at peripheral edges or edges of holes on underfloor reinforcing plates and washers. Alternatively, such hardware at or near the floor shall be protected against corrosion by at least a Type KS electrodeposited coating of nickel, or copper and nickel, and other attachment hardware shall be protected

by a Type QS electrodeposited coating of nickel or copper and nickel, in accordance with Tentative Specifications for Electrodeposited Coatings of Nickel and Chromium on Steel, ASTM Designation: A166-61T, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103, but such hardware shall not be racked for electroplating in locations subjected to maximum stresses.

(2) Surfaces of buckles, retractors and metallic parts, other than attachment hardware, of a seat belt assembly after subjection to the conditions specified in S5.2(a) shall be free of ferrous or nonferrous corrosion which may be transferred, either directly or by means of the webbing, to the occupant or his clothing when the assembly is worn. After test, buckles shall conform to applicable requirements in paragraphs (d) to (g) of this section.

(b) *Temperature resistance.* Plastic or other nonmetallic hardware parts of a seat belt assembly when subjected to the conditions specified in S5.2(b) shall not warp or otherwise deteriorate to cause the assembly to operate improperly or fail to comply with applicable requirements in this section and S4.4.

(c) *Attachment hardware.* (1) Eye bolts, shoulder bolts, or other bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall withstand a force of 9,000 pounds or 4,080 kilograms when tested by the procedure specified in S5.2(c)(1), except that attachment bolts of a seat belt assembly designed for installation in specific models of motor vehicles in which the ends of two or more seat belt assemblies cannot be attached to the vehicle by a single bolt shall have a breaking strength of not less than 5,000 pounds or 2,270 kilograms.

(2) Other attachment hardware designed to receive the ends of two seat belt assemblies shall withstand a tensile force of at least 6,000 pounds or 2,720 kilograms without fracture of any section when tested by the procedure specified in S5.2(c)(2).

(3) A seat belt assembly having single attachment hooks of the quick-disconnect type for connecting webbing to an eye bolt shall be provided with a retaining latch or keeper which shall not move more than 0.08 inch or 2 millimeters in either the vertical or horizontal direction when tested by the procedure specified in S5.2(c)(3).

(d) *Buckle release.* (1) The buckle of a Type 1 or Type 2 seat belt assembly shall release when a force of not more than 30 pounds or 14 kilograms is applied.

(2) A buckle designed for pushbutton application of buckle release force shall have a minimum area of 0.7 square inch or 4.5 square centimeters with a minimum linear dimension of 0.4 inch or 10 millimeters for applying the release force, or a buckle designed for lever application of buckle release force shall permit the insertion of a cylinder 0.4 inch or 10 millimeters in diameter and 1.5 inches or 38 millimeters in length to at least the midpoint of the cylinder along the cylinder's entire length in the actuation portion of the buckle release. A buckle having other design for release shall have adequate access for two or more fingers to actuate release.

(3) The buckle of a Type 1 or Type 2 seat belt assembly shall not release under a compressive force of 400 pounds applied as prescribed in paragraph S5.2(d)(3). The buckle shall be operable and shall meet the applicable requirement of paragraph S4.4 after the compressive force has been removed.

(e) *Adjustment force.* The force required to decrease the size of a seat belt assembly shall not exceed 11 pounds or 5 kilograms when measured by the procedure specified in S5.2(e).

(f) *Tilt-lock adjustment.* The buckle of a seat belt assembly having tilt-lock adjustment shall lock the webbing when tested by the procedure specified in S5.2(f) at an angle of not less than 30 degrees between the base of the buckle and the anchor webbing.

(g) *Buckle latch.* The buckle latch of a seat belt assembly when tested by the procedure specified in S5.2(g) shall not fail, nor gall or wear to an extent that normal latching and unlatching is impaired, and a metal-to-metal buckle shall separate when in any position of partial engagement by a force of not more than 5 pounds or 2.3 kilograms.

(h) *Nonlocking retractor.* The webbing of a seat belt assembly shall extend from a nonlocking retractor within 0.25 inch or 6 millimeters of maximum length when a tension is applied as prescribed in S5.2(h). A nonlocking retractor on upper torso restraint shall be attached to the nonadjustable end of the assembly, the reel of the retractor shall be easily visible to an occupant while wearing the assembly, and the maximum retraction force shall not exceed 1.1 pounds or 0.5 kilogram in any strap or webbing that contacts the shoulder when measured by the procedure specified in S5.2(h), unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* The webbing of a seat belt assembly equipped with an automatic locking retractor, when tested by the procedure

specified in S5.2(i), shall not move more than 1 inch or 25 millimeters between locking positions of the retractor, and shall be retracted with a force under zero acceleration of not less than 0.6 pound or 0.27 kilogram when attached to pelvic restraint, and not less than 0.45 pound or 0.2 kilogram nor more than 1.1 pounds or 0.5 kilogram in any strap or webbing that contacts the shoulders of an occupant when the retractor is attached to upper torso restraint. An automatic locking retractor attached to upper torso restraint shall not increase the restraint on the occupant of the seat belt assembly during use in a vehicle traveling over rough roads as prescribed in S5.2(i).

(j) *Emergency-locking retractor.* An emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)—

(1) Shall lock before the webbing extends 1 inch when the retractor is subjected to an acceleration of 0.7g;

(2) Shall not lock, if the retractor is sensitive to webbing withdrawal, before the webbing extends 2 inches when the retractor is subjected to an acceleration of 0.3g or less;

(3) Shall not lock, if the retractor is sensitive to vehicle acceleration, when the retractor is rotated in any direction to any angle of 15° or less from its orientation in the vehicle;

(4) Shall exert a retractive force of at least 0.6 pound under zero acceleration when attached only to the pelvic restraint.

(5) Shall exert a retractive force of not less than 0.2 pound and not more than 1.1 pounds under zero acceleration when attached only to an upper torso restraint;

(6) Shall exert a retractive force of not less than 0.2 pound and not more than 1.5 pounds under zero acceleration when attached to a strap or webbing that restrains both the upper torso and the pelvis.

(k) *Performance of retractor.* A retractor used on a seat belt assembly after subjection to the tests specified in S5.2(k) shall comply with applicable requirements in paragraphs (h) to (j) of this section and S4.4, except that the retraction force shall be not less than 50 percent of its original retraction force.

S4.4 Requirements for assembly performance.

(a) *Type 1 seat belt assembly.* The complete seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedures specified in C5.3(a):



(1) The assembly loop shall withstand a force of not less than 5,000 pounds or 2,270 kilograms; that is, each structural component of the assembly shall withstand a force of not less than 2,500 pounds or 1,130 kilograms.

(2) The assembly loop shall extend not more than 7 inches or 18 centimeters when subjected to a force of 5,000 pounds or 2,270 kilograms; that is, the length of the assembly between anchorages shall not increase more than 14 inches or 36 centimeters.

(3) Any webbing cut by the hardware during test shall have a breaking strength at the cut of not less than 4,200 pounds or 1,910 kilograms.

(4) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

(b) *Type 2 seat belt assembly.* The components of a Type 2 seat belt assembly including webbing, straps, buckles, adjustment and attachment hardware, and retractors shall comply with the following requirements when tested by the procedure specified in S5.3(b):

(1) The structural components in the pelvic restraint shall withstand a force of not less than 2,500 pounds or 1,139 kilograms.

(2) The structural components in the upper torso restraint shall withstand a force of not less than 1,500 pounds or 680 kilograms.

(3) The structural components in the assembly that are common to pelvic and upper torso restraints shall withstand a force of not less than 3,000 pounds or 1,360 kilograms.

(4) The length of the pelvic restraint between anchorages shall not increase more than 20 inches or 50 centimeters when subjected to a force of 2,500 pounds or 1,130 kilograms.

(5) The length of the upper torso restraint between anchorages shall not increase more than 20 inches or 50 centimeters when subjected to a force of 1,500 pounds or 680 kilograms.

(6) Any webbing cut by the hardware during test shall have a breaking strength of not less than 3,500 pounds or 1,590 kilograms at a cut in webbing of the pelvic restraint, or not less than 2,800 pounds or 1,270 kilograms at a cut in webbing of the upper torso restraint.

(7) Complete fracture through any solid section of metal attachment hardware shall not occur during test.

#### S5. Demonstration Procedures.

S5.1 *Webbing.* (a) *Width.* The width of webbing from three seat belt assemblies shall be measured after conditioning for at least 24 hours in an atmosphere having relative humidity between 48 and 67 percent and a temperature of  $23 \pm 2^\circ$  C. or  $73.4 \pm 3.6^\circ$  F. The tension during measurement of width shall be not more

than 5 pounds or 2 kilograms on webbing from a Type 1 seat belt assembly, and  $2,200 \pm 100$  pounds or  $1,000 \pm 50$  kilograms on webbing from a Type 2 seat belt assembly. The width of webbing from a Type 2 seat belt assembly may be measured during the breaking strength test described in paragraph (b) of this section.

(b) *Breaking strength.* Webbing from three seat belt assemblies shall be conditioned in accordance with paragraph (a) of this section and tested for breaking strength in a testing machine of suitable capacity verified to have an error or not more than 1 percent in the range of the breaking strength of the webbing by the Tentative Methods of Verification of Testing Machines, ASTM Designation: E4-64, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

The machine shall be equipped with split drum grips illustrated in Figure 1, having a diameter between 2 and 4 inches or 5 and 10 centimeters. The rate of grip separation shall be between 2 and 4 inches per minute or 5 and 10 centimeters per minute. The distance between the centers of the grips at the start of the test shall be between 4 and 10 inches or 10 and 25 centimeters. After placing the specimen in the grips, the webbing shall be stretched continuously at a uniform rate to failure. Each value shall be not less than the applicable breaking strength requirement in S4.2(b), but the median value shall be used for determining the retention of breaking strength in paragraphs (d), (e), and (f) of this section.

(c) *Elongation.* Elongation shall be measured during the breaking strength test described in paragraph (b) of this section by the following procedure: A preload between 44 and 55 pounds or 20 and 25 kilograms shall be placed on the webbing mounted in the grips of the testing machine and the needle points of an extensometer, in which the points remain parallel during test, are inserted in the center of the specimen. Initially the points shall be set at a known distance apart between 4 and 8 inches or 10 and 20 centimeters. When the force on the webbing reaches the value specified in S4.2(c), the increase in separation of the points of the extensometer shall be measured and the percent elongation shall be calculated to the nearest 0.5 percent. Each value shall be not more than the appropriate elongation requirement in S4.2(c).

(d) *Resistance to abrasion.* The webbing from three seat belt assemblies shall be tested for resistance to abrasion by rubbing over the hexagon bar prescribed in Figure 2 in the following manner: The webbing shall be mounted

in the apparatus shown schematically in Figure 2. One end of the webbing (A) shall be attached to a weight (B) which has a mass of  $5.2 \pm 0.1$  pounds or  $2.35 \pm 0.05$  kilograms, except that a mass of  $3.3 \pm 1$  pounds ( $1.5 \pm 0.05$  kg) shall be used for webbing in pelvic and upper torso restraints of a belt assembly used in a child restraint system. The webbing shall be passed over the two new abrading edges of the hexagon bar (C) and the other end attached to an oscillating drum (D) which has a stroke of 13 inches or 33 centimeters. Suitable guides shall be used to prevent movement of the webbing along the axis of hexagonal bar C. Drum D shall be oscillated for 5,000 strokes or 2,500 cycles at a rate of  $60 \pm 2$  strokes per minute or  $30 \pm 1$  cycles per minutes. The abraded webbing shall be conditioned as prescribed in paragraph (a) of this section and tested for breaking strength by the procedure described in paragraph (b) of this section. The median values for the breaking strengths determined on abraded and unabraded specimens shall be used to calculate the percentage of breaking strength retained.

(e) *Resistance to light.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be suspended vertically on the inside of the specimen rack in a Type E carbon-arc light-exposure apparatus described in recommended Practice for Operation of Light- and Water-Exposure Apparatus (Carbon-Arc Type) for Artificial Weathering Test, ASTM Designation: E42-64, published by the American Society for Testing and Materials. The apparatus shall be operated without water spray at an air temperature of  $60 \pm 2^\circ$  C. or  $140 \pm 3.6^\circ$  F. measured at a point  $1 \pm 0.2$  inch or  $25 \pm 5$  millimeters outside the specimen rack and midway in height. The temperature sensing element shall be shielded from radiation. The specimens shall be exposed to the light from the carbon arc for 100 hours and then conditioned as prescribed in paragraph (a) of this section. The color-fastness of the exposed and conditioned specimens shall be determined on the Geometric Gray Scale issued by the American Association of Textile Chemists and Colorists. The breaking strength of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

(f) *Resistance to micro-organisms.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be subjected

successively to the procedures prescribed in Section 1C1—Water Leaching, Section 1C2—Volatilization, and Section 1B3—Soil Burial Test of AATCC Tentative Test Method 30—1957T, Fungicides, Evaluation of Textiles; Mildew and Rot Resistance of Textiles, published by American Association of Textile Chemists and Colorists. After soil-burial for a period of 2 weeks, the specimen shall be washed in water, dried and conditioned as prescribed in paragraph (a) of this section. The breaking strengths of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

*Note.*—This test shall not be required on webbing made from material which is inherently resistant to micro-organisms.

(g) *Colorfastness to crocking.* Webbing from three seat belt assemblies shall be tested by the procedure specified in Standard Test Method 8—1961, Colorfastness to Crocking (Rubbing) published by the American Association of Textile Chemists and Colorists.

(h) *Colorfastness to staining.* Webbing from three seat belt assemblies shall be tested by the procedure specified in Standard Test Method 107—1962, Colorfastness to Water, published by the American Association of Textile Chemists and Colorists, with the following modifications: Distilled water shall be used, perspiration tester shall be used, the drying time in paragraph 4 of procedures shall be 4 hours, and section entitled "Evaluation Method for Staining (3)" shall be used to determine colorfastness to staining on the AATCC Chart for Measuring Transference of Colors.

S5.2 *Hardware.*—(a) *Corrosion resistance.* Three seat belt assemblies shall be tested by Standard Method of Salt Spray (Fog) Testing, ASTM Designation: B 117-64, published by the American Society for Testing and Materials. The period of test shall be 50 hours for all attachment hardware at or near the floor, consisting of two periods of 24 hours exposure to salt spray followed by 1 hour drying and 25 hours for all other hardware, consisting of one period of 24 hours exposure to salt spray followed by 1 hour drying. In the salt spray test chamber, the parts from the three assemblies shall be oriented differently, selecting those orientations most likely to develop corrosion on the larger areas. At the end of test, the seat belt assembly shall be washed

thoroughly with water to remove the salt. After drying for at least 24 hours under standard laboratory conditions specified in S5.1(a) attachment hardware shall be examined for ferrous corrosion on significant surfaces, that is, all surfaces that can be contacted by a sphere 0.75 inch or 2 centimeters in diameter, and other hardware shall be examined for ferrous and nonferrous corrosion which may be transferred, either directly or by means of the webbing, to a person or his clothing during use of a seat belt assembly incorporating the hardware.

*Note.*—When attachment and other hardware are permanently fastened, by sewing or other means, to the same piece of webbing, separate assemblies shall be used to test the two types of hardware. The test for corrosion resistance shall not be required for attachment hardware made from corrosion-resistant steel containing at least 11.5 percent chromium or for attachment hardware protected with an electrodeposited coating of nickel, or copper and nickel, as prescribed in S4.3(a). The assembly that has been used to test the corrosion resistance of the buckle shall be used to measure adjustment force, tilt-lock adjustment, and buckle latch in paragraphs (e), (f), and (g), respectively, of this section, assembly performance in S5.3 and buckle release force in paragraph (d) of this section.

(b) *Temperature resistance.* Three seat belt assemblies having plastic or nonmetallic hardware or having retractors shall be subjected to the conditions prescribed in Procedure IV of Standard Methods of Test for Resistance of Plastics to Accelerated Service Conditions published by the American Society for Testing and Materials, under designation D 756-56. The dimension and weight measurement shall be omitted. Buckles shall be unlatched and retractors shall be fully retracted during conditioning. The hardware parts after conditioning shall be used for all applicable tests in S4.3 and S4.4.

(c) *Attachment hardware.* (1) Attachment bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall be tested in a manner similar to that shown in Figure 3. The load shall be applied at an angle of  $45^\circ$  to the axis of the bolt through attachment hardware from the seat belt assembly, or through a special fixture which simulates the loading applied by the attachment hardware. The attachment hardware or simulated fixture shall be fastened by the bolt to the anchorage shown in Figure 3, which has a standard  $\frac{1}{16}$ -20 UNF-2B or  $\frac{1}{2}$ -13 UNC-2B threaded hole in a hardened steel plate at least 0.4 inch or 1 centimeter in thickness. The bolt shall be installed with two full threads

exposed from the fully seated position. The appropriate force required by S4.3(c) shall be applied. A bolt from each of three seat belt assemblies shall be tested.

(2) Attachment hardware, other than bolts, designed to receive the ends of two seat belt assemblies shall be subjected to a tensile force of 6,000 pounds or 2,720 kilograms in a manner simulating use. The hardware shall be examined for fracture after the force is released. Attachment hardware from three seat belt assemblies shall be tested.

(3) Single attachment hook for connecting webbing to any eye bolt shall be tested in the following manner: The hook shall be held rigidly so that the retainer latch or keeper, with cotter pin or other locking device in place, is in a horizontal position as shown in Figure 4. A force of  $150 \pm 2$  pounds or  $68 \pm 1$  kilograms shall be applied vertically as near as possible to the free end of the retainer latch, and the movement of the latch by this force at the point of application shall be measured. The vertical force shall be released, and a force of  $150 \pm 2$  pounds or  $68 \pm 1$  kilograms shall be applied horizontally as near as possible to the free end of the retainer latch. The movement of the latch by this force at the point of load application shall be measured. Alternatively, the hook may be held in other positions, provided the forces are applied and the movements of the latch are measured at the points indicated in Figure 4. A single attachment hook from each of three seat belt assemblies shall be tested.

(d) *Buckle release.* (1) Three seatbelt assemblies shall be tested to determine compliance with the maximum buckle release force requirements, following the assembly test in S5.3. After subjection to the force applicable for the assembly being tested, the force shall be reduced and maintained at 150 pounds on the assembly loop of a Type 1 seatbelt assembly, 75 pounds on the components of a Type 2 seatbelt assembly. The buckle release force shall be measured by applying a force on the buckle in a manner and direction typical of those which would be employed by a seatbelt occupant. For pushbutton-release buckles, the force shall be applied at least 0.125 inch from the edge of the pushbutton access opening of the buckle in a direction that produces maximum releasing effect. For lever-release buckles, the force shall be applied on the centerline of the buckle lever or finger tab in a direction that produces maximum releasing effect.

(2) The area for application of release force on pushbutton actuated buckle



shall be measured to the nearest 0.05 square inch or 0.3 square centimeter. The cylinder specified in S4.3(d) shall be inserted in the actuation portion of a lever released buckle for determination of compliance with the requirement. A buckle with other release actuation shall be examined for access of release by fingers.

(3) The buckle of a Type 1 or Type 2 seatbelt assembly shall be subjected to a compressive force of 400 pounds applied anywhere on a test line that is coincident with the centerline of the belt extended through the buckle or on any line that extends over the center of the release mechanism and intersects the extended centerline of the belt at an angle of 60°. The load shall be applied by using a curved cylindrical bar having a cross section diameter of 0.75 inch and a radius of curvature of 8 inches, placed with its longitudinal centerline along the test line and its center directly above the point on the buckle to which the load will be applied. The buckle shall be latched, and a tensile force of 75 pounds shall be applied to the connected webbing during the application of the compressive force. Buckles from three seatbelt assemblies shall be tested to determine compliance with paragraph S4.3(d)(3).

(e) *Adjustment force.* Three seat belt assemblies shall be tested for adjustment force on the webbing at the buckle, or other manual adjusting device normally used to adjust the size of the assembly. With no load on the anchor end, the webbing shall be drawn through the adjusting device at a rate of 20±2 inches per minute or 50±5 centimeters per minute and the maximum force shall be measured to the nearest 0.25 pound or 0.1 kilogram after the first 1 inch or 25 millimeters of webbing movement. The webbing shall be precycled 10 times prior to measurement.

(f) *Tilt-lock adjustment.* This test shall be made on buckles or other manual adjusting devices having tilt-lock adjustment normally used to adjust the size of the assembly. Three buckles or devices shall be tested. The base of the adjustment mechanism and the anchor end of the webbing shall be oriented in planes normal to each other. The webbing shall be drawn through the adjustment mechanism in a direction to increase belt length at a rate of 20±2 inches per minute or 50±5 centimeters per minute while the plane of the base is slowly rotated in a direction to lock the webbing. Rotation shall be stopped when the webbing locks, but the pull on the webbing shall be continued until there is a resistance of at least 20

pounds or 9 kilograms. The locking angle between the anchor end of the webbing and the base of the adjustment mechanism shall be measured to the nearest degree. The webbing shall be precycled 10 times prior to measurement.

(g) *Buckle latch.* The buckles from three seat belt assemblies shall be opened fully and closed at least 10 times. Then the buckles shall be clamped or firmly held against a flat surface so to permit normal movement of buckle part, but with the metal mating plate (metal-to-metal buckles) or webbing and (metal-to-webbing buckles) withdrawn from the buckle. The release mechanism shall be moved 200 times through the maximum possible travel against its stop with a force of 30±3 pounds or 14±1 kilograms at a rate not to exceed 30 cycles per minute. The buckle shall be examined to determine compliance with the performance requirements of S4.3(g). A metal-to-metal buckle shall be examined to determine whether partial engagement is possible by means of any technique representative of actual use. If partial engagement is possible, the maximum force of separation when in such partial engagement shall be determined.

(h) *Nonlocking retractor.* After the retractor is cycled 10 times by full extension and retraction of the webbing, the retractor and webbing shall be suspended vertically and a force of 4 pounds or 1.8 kilograms shall be applied to extend the webbing from the retractor. The force shall be reduced to 3 pounds or 1.4 kilograms when attached to a pelvic restraint, or to 1.1 pounds or 0.5 kilogram per strap or webbing that contacts the shoulder of an occupant when retractor is attached to an upper torso restraint. The residual extension of the webbing shall be measured by manual rotation of the retractor drum or by disengaging the retraction mechanism. Measurements shall be made on three retractors. The location of the retractor attached to upper torso restraint shall be examined for visibility of reel during use of seat belt assembly in a vehicle.

**Note.**—This test shall not be required on a nonlocking retractor attached to the free-end of webbing which is not subjected to any tension during restraint of an occupant by the assembly.

(i) *Automatic-locking retractor.* Three retractors shall be tested in a manner to permit the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the

retractor. While the webbing is being retracted, the average force or retraction within plus or minus 2 inches or 5 centimeters of 75 percent extension (25 percent retraction) shall be determined and the webbing movement between adjacent locking segments shall be measured in the same region of extension. A seat belt assembly with automatic locking retractor in upper torso restraint shall be tested in a vehicle in a manner prescribed by the installation and usage instructions. The retraction force on the occupant of the seat belt assembly shall be determined before and after traveling for 10 minutes at a speed of 15 miles per hour or 24 kilometers per hour or more over a rough road (e.g., Belgian block road) where the occupant is subjected to displacement with respect to the vehicle in both horizontal and vertical directions. Measurements shall be made with the vehicle stopped and the occupant in the normal seated position.

(j) *Emergency-locking retractor.* A retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within plus or minus 2 inches of 75 percent extension shall be determined. A retractor that is sensitive to webbing withdrawal shall be subjected to an acceleration of 0.3g within a period of 50 ms. while the webbing is at 75 percent extension, to determine compliance with S4.3(j)(2). The retractor shall be subjected to an acceleration of 0.7g within a period of 50 milliseconds, while the webbing is at 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing retraction while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane. For a retractor sensitive to vehicle acceleration, the retractor shall be—

(1) Accelerated in the horizontal plane in two directions normal to each other, while the retractor drum's central axis is oriented at the angle at which it is installed in the vehicle; and,

(2) Accelerated in three directions normal to each other while the retractor drum's central axis is oriented at angles of 45°, 90°, 135°, and 180° from the angle

at which it is installed in the vehicle, unless the retractor locks by gravitational force when tilted in any direction to any angle greater than 45° from the angle at which it is installed in the vehicle.

(k) *Performance of retractor.* After completion of the corrosion-resistance test described in paragraph (a) of this section, the webbing shall be fully extended and allowed to dry for at least 24 hours under standard laboratory conditions specified in S5.1(a). The retractor shall be examined for ferrous and non-ferrous corrosion which may be transferred, either directly or by means of the wedding, to a person or his clothing during use of a seat belt assembly incorporating the retractor, and for ferrous corrosion on significant surfaces if the retractor is part of the attachment hardware. The webbing shall be withdrawn manually and allowed to retract for 25 cycles. The retractor shall be mounted in an apparatus capable of extending the webbing fully, applying a force of 20 pounds or 9 kilograms at full extension, and allowing the webbing to retract freely and completely. The webbing shall be withdrawn from the retractor and allowed to retract repeatedly in this apparatus until 2,500 cycles are completed. The retractor and webbing shall then be subjected to the temperature resistance test prescribed in paragraph (b) of this section. The retractor shall be subjected to 2,500 additional cycles of webbing withdrawal and retraction. Then, the retractor and webbing shall be subjected to dust in a chamber similar to one illustrated in Figure 8 containing about 2 pounds or 0.9 kilogram of coarse grade dust conforming to the specification given in SAE Recommended Practice, Air Cleaner Test Code—SAE J728a, published by the Society of Automotive Engineers. The dust shall be agitated every 20 minutes for 5 seconds by compressed air, free of oil and moisture, at a gage pressure of 80±8 pounds per square inch or 5.6±0.6 kilograms per square centimeter entering through an orifice 0.060±0.004 inch or 1.5±0.1 millimeters in diameter. The webbing shall be extended to the top of the chamber and kept extended at all times except that the webbing shall be subjected to 10 cycles of complete retraction and extension within 1 to 2 minutes after each agitation of the dust. At the end of 5 hours, the assembly shall be removed from the chamber. The webbing shall be fully withdrawn from the retractor manually and allowed to retract completely for 25 cycles. An automatic-locking retractor or a

nonlocking retractor attached to pelvic restraint shall be subjected to 5,000 additional cycles of webbing withdrawal and retraction. An emergency-locking retractor or a nonlocking retractor attached to upper torso restraint shall be subjected to 45,000 additional cycles of webbing withdrawal and retraction between 50 and 100 percent extension. The locking mechanism of an emergency locking retractor shall be actuated at least 10,000 times within 50 to 100 percent extension of webbing during the 50,000 cycles. At the end of test, compliance of the retractors with applicable requirements in S4.3 (h), (i), and (j) shall be determined. Three retractors shall be tested for performance.

**S5.3 Assembly Performance.**—(a) *Type 1 seat belt assembly.* Three complete seat belt assemblies, including webbing, straps, buckles, adjustment and attachment hardware, and retractors, arranged in the form of a loop as shown in Figure 5, shall be tested in the following manner:

(1) The testing machine shall conform to the requirements specified in S5.1(b). A double-roller block shall be attached to one head of the testing machine. This block shall consist of two rollers 4 inches or 10 centimeters in diameter and sufficiently long so that no part of the seat belt assembly touches parts of the block other than the rollers during test. The rollers shall be mounted on antifriction bearings and spaced 12 inches or 30 centimeters between centers, and shall have sufficient capacity so that there is no brinelling, bending or other distortion of parts which may affect the results. An anchorage bar shall be fastened to the other head of the testing machine.

(2) The attachment hardware furnished with the seat belt assembly shall be attached to the anchorage bar. The anchor points shall be spaced so that the webbing is parallel in the two sides of the loop. The attaching bolts shall be parallel to, or at an angle of 45° or 90° to the webbing, whichever results in an angle nearest to 90° between webbing and attachment hardware except that eye bolts shall be vertical, and attaching bolts or nonthreaded anchorages of a seat belt assembly designed for use in specific models of motor vehicles shall be installed to produce the maximum angle in use indicated by the installation instructions, utilizing special fixtures if necessary to simulate installation in the motor vehicle. Rigid adapters between anchorage bar and attachment hardware shall be used if necessary to locate and orient the adjustment

hardware. The adapters shall have a flat support face perpendicular to the threaded hole for the attaching bolt and adequate in area to provide full support for the base of the attachment hardware connected to the webbing. If necessary, a washer shall be used under a swivel plate or other attachment hardware to prevent the webbing from being damaged as the attaching bolt is tightened.

(3) The length of the assembly loop from attaching bolt to attaching bolt shall be adjusted to about 51 inches or 130 centimeters, or as near thereto as possible. A force of 55 pounds or 25 kilograms shall be applied to the loop to remove any slack in webbing at hardware. The force shall be removed and the heads of the testing machine shall be adjusted for an assembly loop between 48 and 50 inches or 122 and 127 centimeters in length. The length of the assembly loop shall then be adjusted by applying a force between 20 and 22 pounds or 9 and 10 kilograms to the free end of the webbing at the buckle, or by the retraction force of an automatic-locking or emergency-locking retractor. A seat belt assembly that cannot be adjusted to this length shall be adjusted as closely as possible. An automatic-locking or emergency-locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in excess of the retractive force in order to keep the retractor locked. The buckle shall be in a location so that it does not touch the rollers during test, but to facilitate making the buckle release test in S5.2(d) the buckle should be between the rollers or near a roller in one leg.

(4) The heads of the testing machine shall be separated at a rate between 2 and 4 inches per minute or 5 and 10 centimeters per minute until a force of 5,000±50 pounds or 2,270±20 kilograms is applied to the assembly loop. The extension of the loop shall be determined from measurements of head separation before and after the force is applied. The force shall be decreased to 150±10 pounds or 68±4 kilograms and the buckle release force measured as prescribed in S5.2(d).

(5) After the buckle is released, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width, the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly



shall be used with the webbing repositioned in the hardware. A tensile force of  $2,500 \pm 25$  pounds or  $1,135 \pm 10$  kilograms shall be applied to the components or a force of  $5,000 \pm 50$  pounds or  $2,270 \pm 20$  kilograms shall be applied to an assembly loop. After the force is removed, the breaking strength of the cut webbing shall be determined as prescribed above.

(6) If a Type 1 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor, the webbing and retractor shall be subjected to a tensile force of  $2,500 \pm 25$  pounds or  $1,135 \pm 10$  kilograms with the webbing fully extended from the retractor.

(7) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(b) *Type 2 seat belt assembly.* Components of three seat belt assemblies shall be tested in the following manner:

(1) The pelvic restraint between anchorages shall be adjusted to a length between 48 and 50 inches or 122 and 127 centimeters, or as near this length as possible if the design of the pelvic restraint does not permit its adjustment to this length. An automatic-locking or emergency-locking retractor when included in a seat belt assembly shall be locked at the start of the test with a tension on the webbing slightly in excess of the retractive force in order to keep the retractor locked. The attachment hardware shall be oriented to the webbing as specified in paragraph (a)(2) of this section and illustrated in Figure 5. A tensile force of  $2,500 \pm 25$  pounds or  $1,135 \pm 10$  kilograms shall be applied to the components in any convenient manner and the extension between anchorages under this force shall be measured. The force shall be reduced to  $75 \pm 5$  pounds or  $34 \pm 2$  kilograms and the buckle release force measured as prescribed in S5.2(d).

(2) The components of the upper torso restraint shall be subjected to a tensile force of  $1,500 \pm 15$  pounds or  $680 \pm 5$  kilograms following the procedure prescribed above for testing pelvic restraint and the extension between anchorages under this force shall be measured. If the testing apparatus permits, the pelvic and upper torso restraints may be tested simultaneously. The force shall be reduced to  $75 \pm 5$  pounds or  $34 \pm 2$  kilograms and the buckle release force measured as prescribed in S5.2(d).

(3) Any component of the seat belt assembly common to both pelvic and upper torso restraint shall be subjected

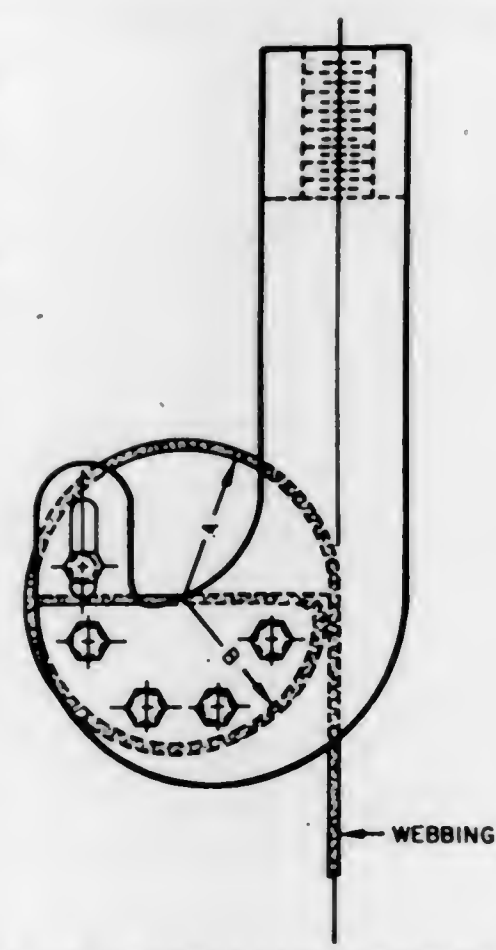
to a tensile force of  $3,000 \pm 30$  pounds or  $1,360 \pm 15$  kilograms.

(4) After the buckle is released in tests of pelvic and upper torso restraints, the webbing shall be examined for cutting by the hardware. If the yarns are partially or completely severed in a line for a distance of 10 percent or more of the webbing width the cut webbing shall be tested for breaking strength as specified in S5.1(b) locating the cut in the free length between grips. If there is insufficient webbing on either side of the cut to make such a test for breaking strength, another seat belt assembly shall be used with the webbing repositioned in the hardware. The force applied shall be  $2,500 \pm 25$  pounds or  $1,135 \pm 10$  kilograms for components of pelvic restraint, and  $1,500 \pm 15$  pounds or  $680 \pm 5$  kilograms for components of upper torso restraint. After the force is removed the breaking strength of the cut webbing shall be determined as prescribed above.

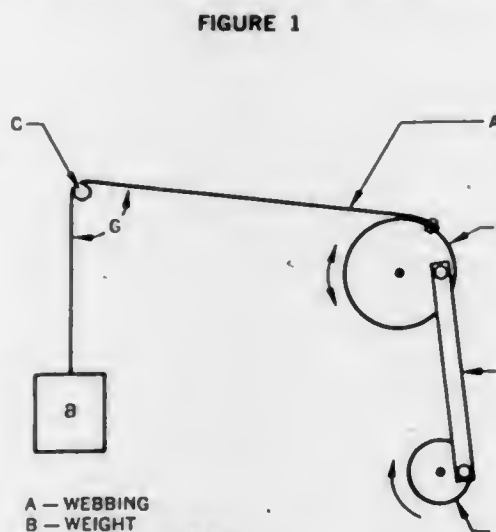
(5) If a Type 2 seat belt assembly includes an automatic-locking retractor or an emergency-locking retractor the webbing and retractor shall be subjected to a tensile force of  $2,500 \pm 25$  pounds or  $1,135 \pm 10$  kilograms with the webbing fully extended from the retractor, or to a tensile force of  $1,500 \pm 15$  pounds or  $680 \pm 5$  kilograms with the webbing fully extended from the retractor if the design of the assembly permits only upper torso restraint forces on the retractor.

(6) If a seat belt assembly has a buckle in which the tongue is capable of inverted insertion, one of the three assemblies shall be tested with the tongue inverted.

(c) *Resistance to buckle abrasion.* Seat belt assemblies shall be tested for resistance to abrasion by each buckle or manual adjusting device normally used to adjust the size of the assembly. The webbing of the assembly to be used in this test shall be exposed for 4 hours to an atmosphere having relative humidity of 65 percent and temperature of  $70^\circ \text{F}$ . The webbing shall be pulled back and forth through the buckle or manual adjusting device as shown schematically in Figure 9. The anchor end of the webbing (A) shall be attached to a weight (B) of 3 pounds. The webbing shall pass through the buckle (C), and the other end (D) shall be attached to a reciprocating device so that the webbing forms an angle of  $8^\circ$  with the hinge stop (E). The reciprocating device shall be operated for 2,500 cycles at a rate of 18 cycles per minute with a stroke length of 8 inches. The abraded webbing shall be tested for breaking strength by the procedure described in paragraph S5.1(b).



A 1 TO 2 INCHES OR 2.5 TO 5 CENTIMETERS  
B A MINUS 0.06 INCH 0.15 CENTIMETER



A - WEBBING  
B - WEIGHT  
C - HEXAGONAL ROD  
STEEL - SAE 51416  
ROCKWELL HARDNESS - B-97 TO B-101  
SURFACE - COLD DRAWN FINISH  
SIZE -  $0.250 \pm 0.001$  INCH OR  
 $6.35 \pm 0.03$  MILLIMETER  
RADIUS ON EDGES -  $0.020 \pm 0.004$  INCH OR  
 $0.5 \pm 0.1$  MILLIMETER  
D - DRUM DIAMETER - 16 INCHES OR  
40 CENTIMETERS  
E - CRANK  
F - CRANK ARM  
G - ANGLE BETWEEN WEBBING -  $85 \pm 2$  DEGS.

FIGURE 2

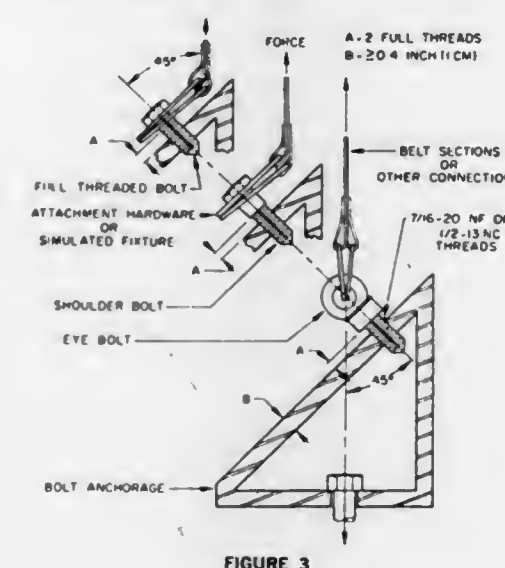


FIGURE 3

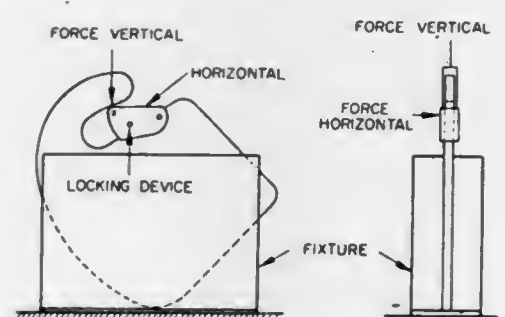
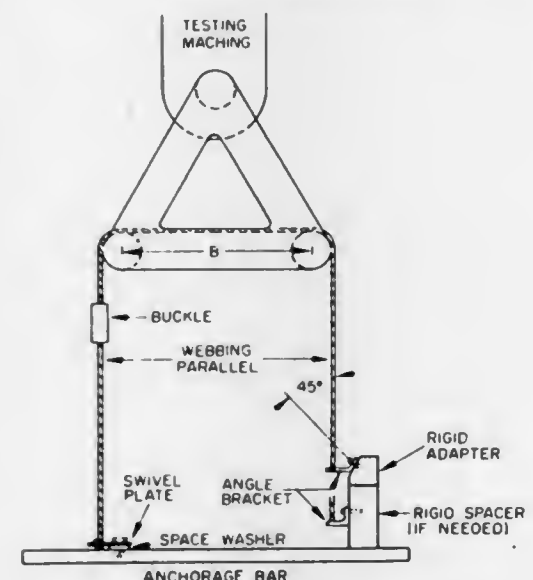


FIGURE 4  
SINGLE ATTACHMENT HOOK



A - 2 INCHES OR  
5 CENTIMETERS  
B - 12 INCHES OR  
30 CENTIMETERS

FIGURE 5

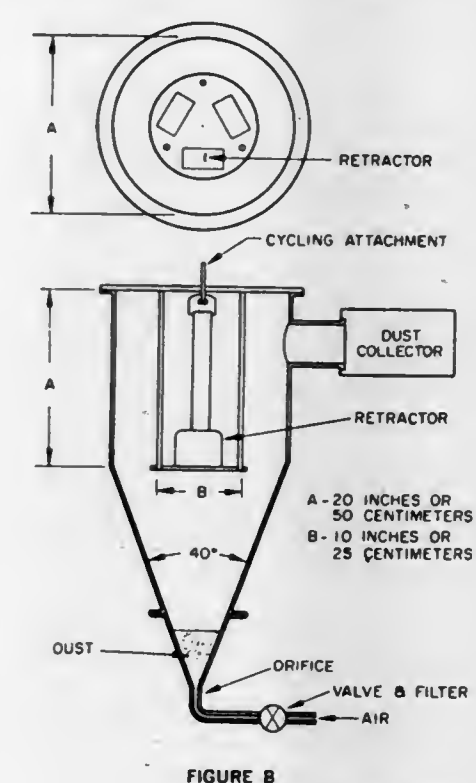


FIGURE 6

[34 F.R. 115  
January 4, 1969]

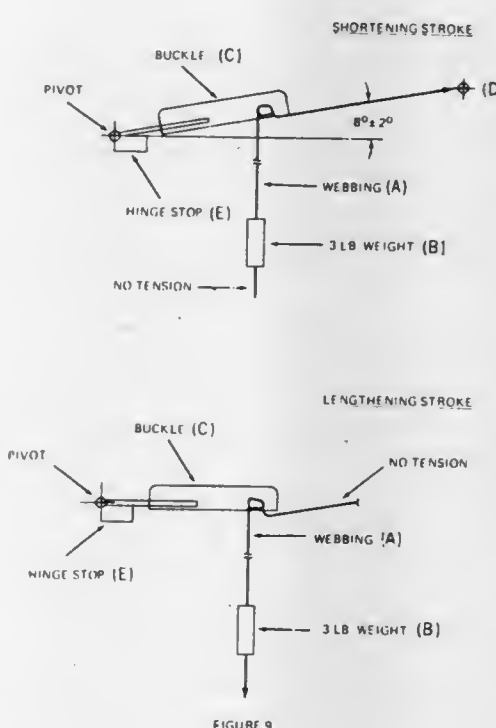


FIGURE 7

#### § 571.213 [Amended]

2. Section S4 of Standard No. 213, Child Seating Systems (49 CFR 571.213), is amended to read as follows:

S4. *Requirements.* Each child seating system manufacturer before June 1, 1980, shall meet, at the option of the manufacturer, either the requirements of S4.1 through S4.11 of this standard, or the requirements of § 571.213 of this part (Standard No. 213, Child Restraint Systems).

3. A new Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems; would be added to read as set forth below.

#### § 571.213080 Standard No. 213; child restraint systems.

S1. *Scope.* This standard specifies requirements for child restraint systems used in motor vehicles.

S2. *Purpose.* The purpose of this standard is to reduce the number of children killed or injured in motor vehicle crashes.

S3. *Application.* This standard applies to child restraint systems for use in motor vehicles.

#### S4. Definitions.

"Car bed" means a child restraint system designed to restrain or position a child in the supine or prone position on a continuous flat surface.

"Child restraint system" means any device, except Type I or Type II seat belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh not more than 50 pounds.

"Contactable surface" means any child restraint system surface (other than that of a belt, belt buckle, or belt adjustment hardware) that may contact any part of the head or torso of the appropriate test dummy, specified in S7, when a child restraint system is tested in accordance with S6.1.

"Seat orientation reference line" or "SORL" means the horizontal line through Point Z as illustrated in Figure 1A.



"Torso" means the portion of the body of a seated anthropomorphic test dummy, excluding the thighs, that lies between the top of the child restraint system seating surface and the top of the shoulders of the test dummy.

**S5. Requirements.** Each child restraint system shall meet the requirements in this section when, as specified, tested in accordance with S6.1.

#### S5.1 Dynamic performance.

**S5.1.1 Child restraint system integrity.** When tested in accordance with S6.1, each child restraint system shall:

(a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 1/4 inch or surfaces with protrusions greater than 1/8 inch above the immediate adjacent surrounding contactable surface of any structural element of the system;

(b) If adjustable to different positions, remain in the same adjustment position during the testing as it was immediately before the testing; and

(c) If a front facing child restraint system, not allow the angle between the system's back support surfaces for the child and the system's seating surface to be less than 45 degrees at the completion of the test.

**S5.1.2 Injury criteria.** When tested in accordance with S6.1, each child restraint system that, in accordance with S5.5.2(f), is recommended for use by children weighing more than 20 pounds, shall—

(a) Limit the resultant acceleration at the location of the accelerometer mounted in the test dummy head as specified in Part 572 such that the expression:

$$\left[ \frac{1}{t_2 - t_1} \int_{t_1}^{t_2} a \, dt \right]^{2.5} (t_2 - t_1)$$

shall not exceed 1,000, where  $a$  is the resultant acceleration expressed as a multiple of  $g$  (the acceleration of gravity), and  $t_1$  and  $t_2$  are any two moments during the impacts.

(b) Limit the resultant acceleration at the location of the accelerometer mounted in the test dummy upper thorax as specified in Part 572 to not more than 60  $g$ 's, except for intervals whose cumulative duration is not more than 3 milliseconds.

**S5.1.3 Occupant excursion.** When tested in accordance with S6.1 and

adjusted in any position which the manufacturer has not, in accordance with S5.5.2(i), specifically warned against using in motor vehicles, each child restraint system shall meet the applicable excursion limit requirements specified in S5.1.3.1–S5.1.3.3.

**S5.1.3.1 Child restraint systems other than rear-facing ones and car beds.** In the case of each child restraint system other than a rear-facing child restraint system or a car bed, the test dummy's torso shall be retained within the system and no portion of the test dummy's head shall pass through the vertical transverse plane that is 32 inches forward of point  $z$  on the standard seat assembly, measured along the center SORL (as illustrated in Figure 1B), and neither knee pivot point shall pass through the vertical transverse plane that is 36 inches forward of point  $z$  on the standard seat assembly, measured along the center SORL, and at the time of maximum knee forward excursion the forward rotation of the dummy's torso from the dummy's initial seating configuration shall be at least 15° measured in the sagittal plane along the line connecting the shoulder and hip pivot points.

**S5.1.3.2 Rear-facing child restraint systems.** In the case of each rear-facing child restraint system, all portions of the test dummy's torso shall be retained within the system and no portion of the target point on either side of the dummy's head shall pass through the transverse orthogonal planes whose intersection contains, the forward-most and top-most points on the child restraint system surfaces (illustrated in Figure 1C).

**S5.1.3.3 Car beds.** In the case of car beds, all portions of the test dummy's head and torso shall be retained within the confines of the car bed.

**S5.1.4 Back support angle.** When a rear-facing child restraint system is tested in accordance with S6.1, the angle between the system's back support surface for the child and the vertical shall not exceed 70 degrees.

#### S5.2 Force distribution.

**S5.2.1 Minimum head support surface—child restraints other than car beds.**

**S5.2.1.1** Except as provided in S5.2.1.2, each child restraint system other than a car bed shall provide restraint against rearward movement of the head of the child (rearward in relation to the child) by means of a continuous seat back which is an integral part of the system and which—

(a) Has a height, measured along the

system seat back surface for the child in the vertical longitudinal plane passing through the longitudinal centerline of the child restraint systems from the lowest point on the system seating surface that is contacted by the buttocks of the seated dummy, as follows:

| Weight (in pounds)                      | Height <sup>1</sup> (in inches) |
|-----------------------------------------|---------------------------------|
| Less than 20 lb.                        | 18                              |
| 20 lb or more, but not more than 40 lb. | 20                              |
| More than 40 lb.                        | 22                              |

<sup>1</sup> When a child restraint system is recommended under S5.5(f) for use by children of the above weights.

<sup>2</sup> The height of the portion of the system seat back providing head restraint shall not be less than the above.

(b) Has a width of not less than 8 inches, measured in the horizontal plane at the height specified in paragraph (a) of this section. Except that a child restraint system with side supports extending at least 4 inches forward from the padded surface of the portion of the restraint system provided for support of the child's head may have a width of not less than 6 inches, measured in the horizontal plane at the height specified in paragraph (a) of this section.

(c) Limits the rearward rotation of the test dummy head so that the angle between the head and torso of the dummy specified in S7 when tested in accordance with S6.1 is not more than 45 degrees greater than the angle between the head and torso after the dummy has been placed in the system in accordance with S8.1.2.3 and before the system is tested in accordance with S6.1.

**S5.2.1.2** A front-facing child restraint system is not required to comply with S5.2.1.1 if the target point on either side of the dummy's head is below a horizontal plane tangent to the top of the standard seat assembly when the dummy is positioned in the system and the system is installed on the assembly in accordance with S6.1.2.

**S5.2.2 Torso impact protection.** Each child restraint system other than a car bed shall comply with the applicable requirements of S5.2.2.1 and S5.2.2.2.

**S5.2.2.1(a)** The system surface provided for the support of the child's back shall be flat or concave and have a continuous surface area of not less than 85 square inches.

(b) Each system surface provided for support of the side of the child's torso shall be flat or concave and have a continuous surface of not less than 24 square inches for systems recommended for children weighing 20 pounds or more, or 48 square inches for systems

recommended for children weighing less than 20 pounds.

(c) Each horizontal cross section of each system surface designed to restrain forward movement of the child's torso shall be flat or concave and each vertical longitudinal cross section shall be flat or convex with a radius of curvature of the underlying structure of not less than 3 inches.

**S5.2.2.2** Each forward facing child restraint system shall have no fixed or movable surface directly forward of the dummy and intersected by a horizontal line parallel to the SORL and passing through any portion of the dummy, except for surfaces which restrain the dummy when the system is tested in accordance with S6.1.2.1.2 so that the child restraint system shall conform to the requirements of S5.1.2 and S5.1.3.1.

#### S5.2.3 Head impact protection.

**S5.2.3.1** Each child restraint system, other than a child harness, which is recommended under S5.5.2(f) for children weighing less than 20 pounds shall comply with S5.2.3.2.

**S5.2.3.2** Each system surface which is contactable by the dummy head when the system is tested in accordance with S6.1 shall be covered with slow recovery, energy absorbing material with the following characteristics:

(a) A 25 percent compression-deflection resistance of not less than 0.5 and not more than 10 pounds per square inch when tested in accordance with S6.3.

(b) A thickness of not less than 1/2 inch if the material has a 25 percent compression-deflection resistance of not less than 3 and not more than 10 pounds per square inch when tested in accordance with S6.3. If the material has a 25 percent compression-deflection resistance of less than 3 pounds, it shall have a thickness of not less than 3/4 inch.

**S5.2.4 Protrusion limitation.** Any portion of a rigid structural component within or underlying a contactable surface, or any portion of a child restraint system surface that is subject to the requirements of S5.2.3 shall, with any padding or other flexible overlay material removed, have a height above any immediately adjacent restraint system surface of not more than 3/8 inch and no exposed edge with a radius of less than 1/4 inch.

#### S5.3 Installation.

**S5.3.1** Each child restraint system shall have no means designed for attaching the system to a vehicle seat cushion or vehicle seat back and no component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back.

**S5.3.2** When installed on a vehicle seat, each child restraint system, other than child harnesses, shall be capable of being restrained against forward movement solely by means of a Type I seat belt assembly (defined in S571.209) that meets Standard No. 208 (S571.208), or by means of a Type I seat belt assembly plus one additional anchorage strap that is supplied with the system and conforms to S5.4.

**S5.3.3 Car beds.** Each car bed shall be designed to be installed on a vehicle seat so that the car bed's longitudinal axis is perpendicular to a vertical longitudinal plane through the longitudinal axis of the vehicle.

#### S5.4 Belts, belt buckles, and belt webbing.

**S5.4.1 Performance requirements.** The webbing of belts provided with a child restraint system and used to attach the system to the vehicle or to restrain the child within the system shall—

(a) After being subjected to abrasion as specified in S5.1(d) of FMVSS No. 209 (S571.209), have a breaking strength of not less than 75 percent of the strength of the unabraded webbing when tested in accordance with S5.1(b) of FMVSS No. 209.

(b) Meet the requirements of S4.2 (e) through (h) of FMVSS No. 209 (S571.209); and

(c) If contactable by the test dummy torso when the system is tested in accordance with S6.1, have a width of not less than 1 1/2 inches when measured in accordance with S5.4.1.1.

**S5.4.1.1 Width test procedure.** Condition the webbing for 24 hours in an atmosphere of any relative humidity between 48 and 67 percent, and any ambient temperature between 70° and 77° F. Measure belt webbing width under a tension of 5 pounds applied lengthwise.

**S5.4.2 Belt buckles and belt adjustment hardware.** Each belt buckle and item of belt adjustment hardware used in a child restraint system shall conform to the requirements of S4.3(a) and S4.3(b) of FMVSS No. 209 (S571.209).

#### S5.4.3 Belt Restraint.

**S5.4.3.1 General.** Each belt that is part of a child restraint system and that is designed to restrain a child using the system shall be adjustable to snugly fit any child whose height and weight are within the ranges recommended in accordance with S5.5.2(f) and who is positioned in the system in accordance with the instructions required by S5.6.

**S5.4.3.2 Direct restraint.** Each belt that is part of a child restraint system and that is designed to restrain a child using the system and to attach the system to the vehicle shall, when tested

in accordance with S6.1, impose no loads on the child that result from the mass of the system or the mass of the seat back of the standard seat assembly specified in S7.3.

**S5.4.3.3 Seating systems.** Except for child restraint systems subject to S5.4.3.4, each child restraint system that is designed for use by a child in a seated position and that has belts designed to restrain the child shall, with the test dummy specified in S7 positioned in the system in accordance with S6.1.2.3, provide:

(a) Upper torso restraint, including belts passing over each shoulder of the child;

(b) Lower torso restraint in the form of a lap belt assembly making an angle between 45° and 90° with the child restraint seating surface at the lap belt attachment points;

(c) In the case of each seating system recommended for children over 20 pounds, a crotch strap connectable to the lap belt or other device used to restrain the lower torso.

**S5.4.3.4 Harnesses.** Each child harness shall:

(a) Provide upper torso restraint, including belts passing over each shoulder of the child;

(b) Provide lower torso restraint by means of lap and crotch belt; and

(c) Prevent a child of any height for which the restraint is recommended for use pursuant to S5.5.2(f) from standing upright on the vehicle seat when the child is placed in the device in accordance with the instructions required by S5.6.

**S5.4.3.5 Buckle Release.** Any buckle in a child restraint system belt assembly designed to restrain a child using the system shall, when tested in accordance with S6.2, not release when a force of not more than 12 pounds is applied before the test specified in S6.1, and (b) release when a force of not more than 20 pounds is applied after the test specified in S6.1.

#### S5.5 Labeling.

**S5.5.1** Each child restraint system shall be permanently labeled with the information specified in S5.5.2 (a) through (k).

**S5.5.2** The information specified in paragraphs (a)–(k) of this section shall be stated in the English language and lettered in letters and numbers that are not smaller than 10 point type and are on a contrasting background.

(a) The model name or number of the system.

(b) The manufacturer's name. A distributor's name may be used instead if the distributor assumes responsibility for all duties and liabilities imposed on the manufacturer with respect to the



system by the National Traffic and Motor Vehicle Safety Act, as amended.

(c) The statement: "Manufactured in —," inserting the month and year of manufacture.

(d) The place of manufacture (city and State, or foreign country). However, if the manufacturer uses the name of the distributor, then it shall state the location (city and State, or foreign country) of the principal offices of the distributor.

(e) The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."

(f) The following statement, inserting the manufacturer's recommendations for the maximum weight and height of children who can safely occupy the system:

THIS CHILD RESTRAINT IS DESIGNED FOR USE ONLY BY CHILDREN WHO WEIGH BETWEEN — AND — POUNDS AND ARE BETWEEN — AND — INCHES IN HEIGHT.

(g) The following statement, inserting the location of the manufacturer's installation instruction booklet or sheet on the restraint:

WARNING! FAILURE TO FOLLOW EACH OF THE FOLLOWING INSTRUCTIONS CAN RESULT IN YOUR CHILD STRIKING THE VEHICLE'S INTERIOR DURING A SUDDEN STOP OR CRASH. SECURE THIS CHILD RESTRAINT WITH A VEHICLE BELT AS SPECIFIED IN THE MANUFACTURER'S INSTRUCTIONS LOCATED —.

(h) In the case of each child restraint system that has belts designed to restrain children using them:

SNUGLY ADJUST THE BELTS PROVIDED WITH THIS CHILD RESTRAINT AROUND YOUR CHILD.

(i) In the case of each child restraint system which is not intended for use in motor vehicles at certain adjustment positions, the following statement, inserting the manufacturer's adjustment restrictions.

DO NOT USE THE — ADJUSTMENT POSITION(S) OF THIS CHILD RESTRAINT IN A MOTOR VEHICLE.

(j) In the case of each child restraint system equipped with an anchorage strap, the statement:

SECURE THE TOP ANCHORAGE STRAP PROVIDED WITH THIS CHILD RESTRAINT AS SPECIFIED IN THE MANUFACTURER'S INSTRUCTIONS.

(k) In the case of each child restraint system which can be used in a rear-facing position:

PLACE THIS CHILD RESTRAINT IN A REAR-FACING POSITION WHEN USING IT WITH AN INFANT.

(l) An installation diagram showing the child restraint system installed in the right front outboard seating position equipped with a continuous-loop lap/shoulder belt and in the center rear seating position as specified in the manufacturer's instructions.

S5.5.3 The information specified in S5.5.2 (g)–(k) shall be located on the child restraint system so that it is visible when the system is installed as specified in S5.6.

S5.6 *Installation instructions.* Each child restraint system shall be accompanied by printed instructions in the English language that provide a step-by-step procedure, including diagrams, for installing the system in motor vehicles, securing the system in the vehicles, positioning a child in the system, and adjusting the system to fit the child.

S5.6.1 The instructions shall state that the rear center seating position is the safest seating position in most vehicles for installing a child restraint system.

S5.6.2 The instructions shall specify in general terms the types of vehicles, seating positions, and vehicle lap belts with which the system can or cannot be used.

S5.6.3 The instructions shall explain the primary consequences of noting following the warnings required to be labeled on the child restraint system in accordance with S5.5.2 (g)–(k).

S5.6.4 The instructions for each car bed shall explain that the car bed should position in such a way that the child's head is near the center of the vehicle.

S5.6.5 The instructions shall state that child restraint systems should be securely belted to the vehicle, even when they are not occupied, since in a crash an unsecured child restraint system may injure other occupants.

S5.6.6 Each child restraint system shall have a location on the restraint for storing the manufacturer's instructions.

S5.7 *Flammability.* Each material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (S571.302).

S6 *Test Conditions and Procedures.*

S6.1 *Dynamic Systems Test.*

S6.1.1 *Test Conditions.*

S6.1.1.1 The test device is the standard seat assembly specified in S7.3. It is mounted on a dynamic test platform so that the center SORL of the seat is parallel to the direction of the test platform travel and so that movement between the base of the assembly and the platform is prevented. The platform is instrumented with an accelerometer and data processing system having a frequency response of 60 Hz channel class as specified in

Society of Automotive Engineers Recommended Practice J211a "Instrumentation for Impact Tests." The accelerometer sensitive axis is parallel to the direction of the test platform travel.

S6.1.1.2 The tests are frontal barrier impact simulations and for—

(a) Test configuration I specified in S6.1.2.1.1, are at a velocity change of 30 mph with the acceleration of the test platform entirely within the curve shown in figure 2.

(b) Test configuration II specified in S6.1.2.1.2, are at a velocity change of 20 mph with the acceleration of the test platform entirely within the curve shown in figure 3.

S6.1.1.3 Type I seat belt assemblies meeting the requirements of Standard No. 209 (S571.209) and having webbing with a width of not more than 2 inches are attached, without the use of retractors or reels of any kind, to the seat belt anchorage points (illustrated in Figure 1B) provided on the standard seat assembly.

S6.1.1.4 Performance tests under S6.1 are conducted at any ambient temperature from 66° to 78° F and at any relative humidity from 10 percent to 70 percent.

S6.1.2 *Dynamic Test Procedure.*

S6.1.2.1 *Test Configuration.*

S6.1.2.1.1 *Test Configuration I.* In the case of each child restraint system, install a new child restraint system at the center seat position of the standard seat assembly in accordance with the manufacturer's instructions provided in accordance with S5.6 with the system.

S6.1.2.1.2 *Test Configuration II.* In the case of each child restraint system, other than a child harness, which is equipped with an anchorage belt or a fixed or movable surface described in S5.2.2.2, install a new child restraint system at the center seat position of the standard seat assembly using only the standard seat lap belt to secure the system to the standard seat.

S6.1.2.2 Tighten all belts used to attach the child restraint system to the standard seat assembly to a tension of not less than 12 pounds and not more than 15 pounds, as measured by a load cell used on the webbing portion of the belt.

S6.1.2.3 Place in the child restraint any dummy specified in S7 for testing systems for use by children of the heights and weights for which the system is recommended in accordance with S5.6.

S6.1.2.3.1 When placing the 3-year-old test dummy in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning

provided by the manufacturer with the system in accordance with S5.6 while conforming to the following:

(a) Place the test dummy in the seated position within the system with the midsagittal plane of the test dummy head coincident with the center SORL of the standard seating assembly, holding the torso upright until it contacts the system's design seating surface.

(b) Extend the arms of the test dummy as far as possible in the upward vertical direction. Extend the legs of the dummy as far as possible in the forward horizontal direction, with the dummy feet perpendicular to the centerline of the lower legs.

(c) Using a flat square surface with an area of 4 square inches, apply a force of 40 pounds, perpendicular to the plane of the back of the standard seat assembly, first against the dummy crotch and then at the dummy thorax in the midsagittal plane of the dummy. For a child restraint system, with a fixed or movable surface described in S5.2.2.2 which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2.4. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2.2. Position each movable surface in accordance with the manufacturer's instructions provided in accordance with S5.6.

(d) After the steps specified in paragraph (c) of this section, rotate each dummy limb downwards in the plane parallel to its midsagittal plane until the limb contacts a surface of the child restraints system or the standard seat. Position the limbs, if necessary, so that limb placement does not inhibit torso or head movement in tests conducted under S6.

S6.1.2.3.2 When placing the 6-month-old dummy in child restraint systems other than car beds, position the test dummy according to the instructions for child positioning provided with the system by the manufacturer in accordance with S5.6 while conforming to the following:

(a) With the dummy in the supine position on a horizontal surface, and while preventing movement of the dummy torso by placing a hand on the center of the torso, rotate the dummy legs upward by lifting the feet until the legs contact the upper torso and the feet touch the head, and then slowly release

the legs but do not return them to the flat surface.

(b) Place the dummy in the child restraint system so that the back of the dummy torso contacts the back support surface of the system. For a child restraint system with a fixed or movable surface described in S5.2.2.2 which is being tested under the conditions of test configuration II, do not attach any of the child restraint belts unless they are an integral part of the fixed or movable surface. For all other child restraint systems and for a child restraint system with a fixed or movable surface which is being tested under the conditions of test configuration I, attach all appropriate child restraint belts and tighten them as specified in S6.1.2.4. Attach all appropriate vehicle belts and tighten them as specified in S6.1.2.2. Position each movable surface in accordance with the manufacturer's instructions provided in accordance with S5.6. If the dummy's head does not remain in the proper position, it shall be taped against the front of the seat back surface of the system by means of a single thickness of ¼-inch-wide paper masking tape placed across the center of the dummy face.

(c) Position the dummy arms vertically upwards and then rotate each arm downward toward the dummy's lower body until it contacts a surface of the child restraint system or the standard seat assembly, ensuring that no arm is restrained from movement in other than the downward direction, by any part of the system or the belts used to anchor the system to the standard seat assembly.

S6.1.2.3.3 When placing the 6-month-old dummy or 3-year-old dummy in a car bed, place the dummy in the car bed in the supine position with its midsagittal plane perpendicular to the center SORL of the standard seat assembly and position the dummy within the car bed in accordance with instructions for child positioning provided with the car bed by its manufacturer in accordance with S5.6.

S6.1.2.4 If provided, shoulder and pelvic belts that directly restrain the dummy shall be adjusted as follows:

Tighten the belts until a 2-pound force applied (as illustrated in figure 5) to the webbing at the top of each dummy shoulder and to the pelvic webbing two inches on either side of the torso midsagittal plane pulls the webbing ¼ inch from the dummy.

S6.1.2.5 Accelerate the test platform to simulate frontal impact in accordance with S6.1.1.2(a) or S6.1.1.2(b), as appropriate.

S6.1.2.6 Measure dummy excursion and determine conformance to the

requirements specified in S5.1 as appropriate.

S6.2 *Buckle release test procedure.* The buckles on the belts of each child restraint system equipped with buckled belts shall be tested in accordance with S6.2.1 through S6.2.5.

S6.2.1 Install the child restraint system on a standard seat assembly and place the appropriate test dummy in the system in accordance with S6.1.2.1 through S6.1.2.4.

S6.2.2 Tie a self-adjusting sling to each ankle and wrist of the dummy in the manner illustrated in figure 4.

S6.2.3 Pull the sling horizontally in the manner illustrated in figure 4 and parallel to the center SORL of the seat assembly and apply a force of 20 pounds in the case of a system tested with a 6 month-old dummy and 45 pounds in the case of a system tested with a 3 year-old dummy.

S6.2.4 While applying the force specified in S6.2.3, operate the buckle release mechanism in the manner specified in S5.2(d) of Standard No. 209 (S571.209).

S6.2.5 Measure the force required to release the buckle.

S6.3 *Head impact protection—energy absorbing material test procedure.*

S6.3.1 Prepare and test specimens of the energy absorbing material used to comply with S5.2.3 in accordance with the applicable 25 percent compression-deflection test described in the American Society for Testing and Materials (ASTM) Standard D1056-73, "Standard Specification for Flexible Cellular Materials—Sponge or Expanded Rubber," or D1564-71 "Standard Method of Testing Flexible Cellular Materials—Slab Urethane Foam" or D1565-76 "Standard Specification for Flexible Cellular Materials—Vinyl Chloride Polymer and Copolymer open-cell foams."

S7 *Test dummies.*

S7.1 *Six-month-old dummy.* An unclothed "Six-month-old Size Manikin" conforming to Subpart D of Part 572 of this chapter is used for testing a child restraint system that is recommended by its manufacturer in accordance with S5.6 for use by children in a weight range that includes children weighing not more than 20 pounds.

S7.2 *Three-year-old dummy.* A three-year-old dummy conforming to Subpart C of Part 572 of this chapter is used for testing a child restraint that is recommended by its manufacturer in accordance with S5.6 for use by children in a weight range that includes children weighing more than 20 pounds.

S7.2.1 Before being used in testing under this standard, the dummy is



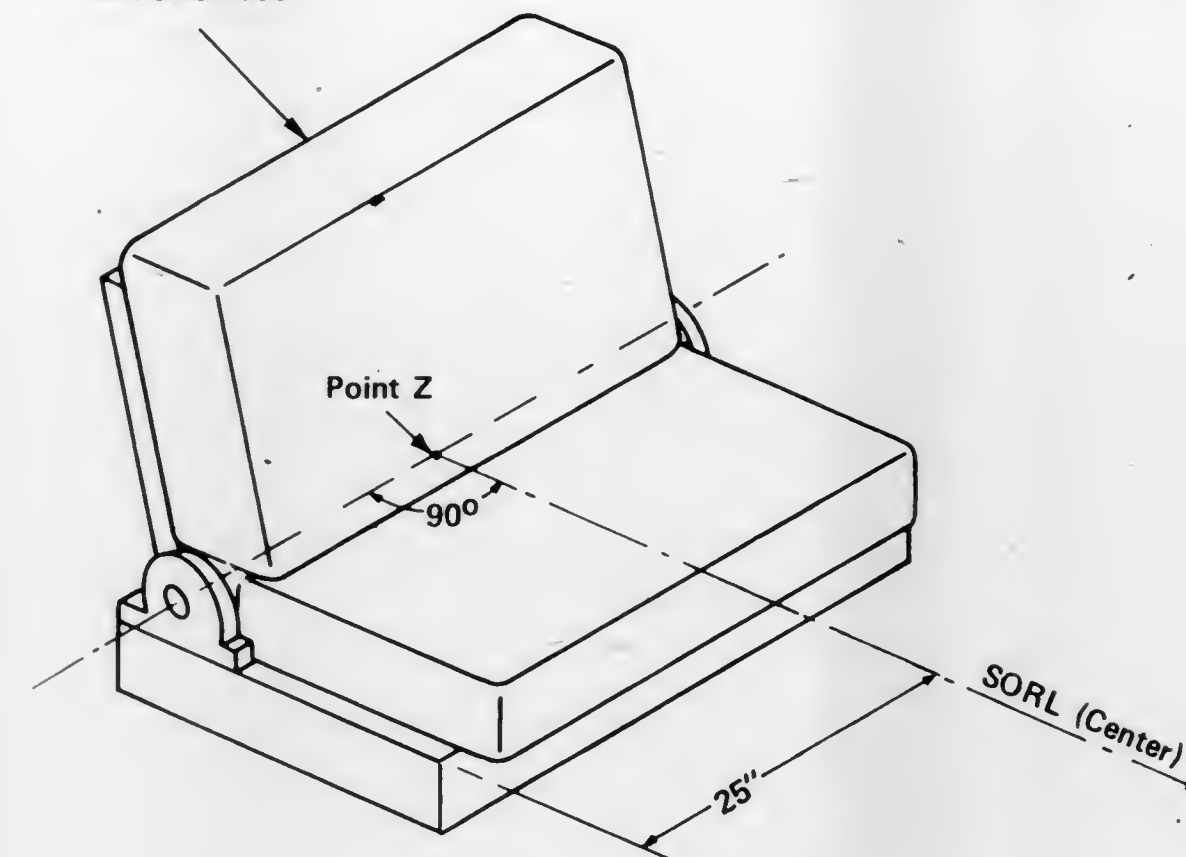
conditioned at any ambient temperature from 66° F to 78° F and at any relative humidity from 10 percent to 70 percent for at least 4 hours.

S7.2.2 When used in testing under this standard, the dummy is clothed in thermal knit waffle-weave polyester and cotton underwear, a size 4 long-sleeved shirt weighing 0.2 pounds, a size 4 pair of long pants weighing 0.2 pounds and cut off just far enough above the knee to allow the knee target to be visible, and size 7M sneakers with rubber toe caps, uppers of dacron and cotton or nylon and a total weight of 1 pound. Clothing other than the shoes is machine-washed in 160° F to 180° F water and machine-dried at 120° F to 140° F for 30 minutes.

S7.3 *Standard seat assembly.* The standard seat assembly used in testing under this standard is a simulated vehicle bench seat, with three seating positions, which is described in Drawing Package SAD-100-1000 and consists of drawings and a bill of materials.

BILLING CODE 4910-59-M

Ref. NHTSA Drawing  
No. SAS-1000

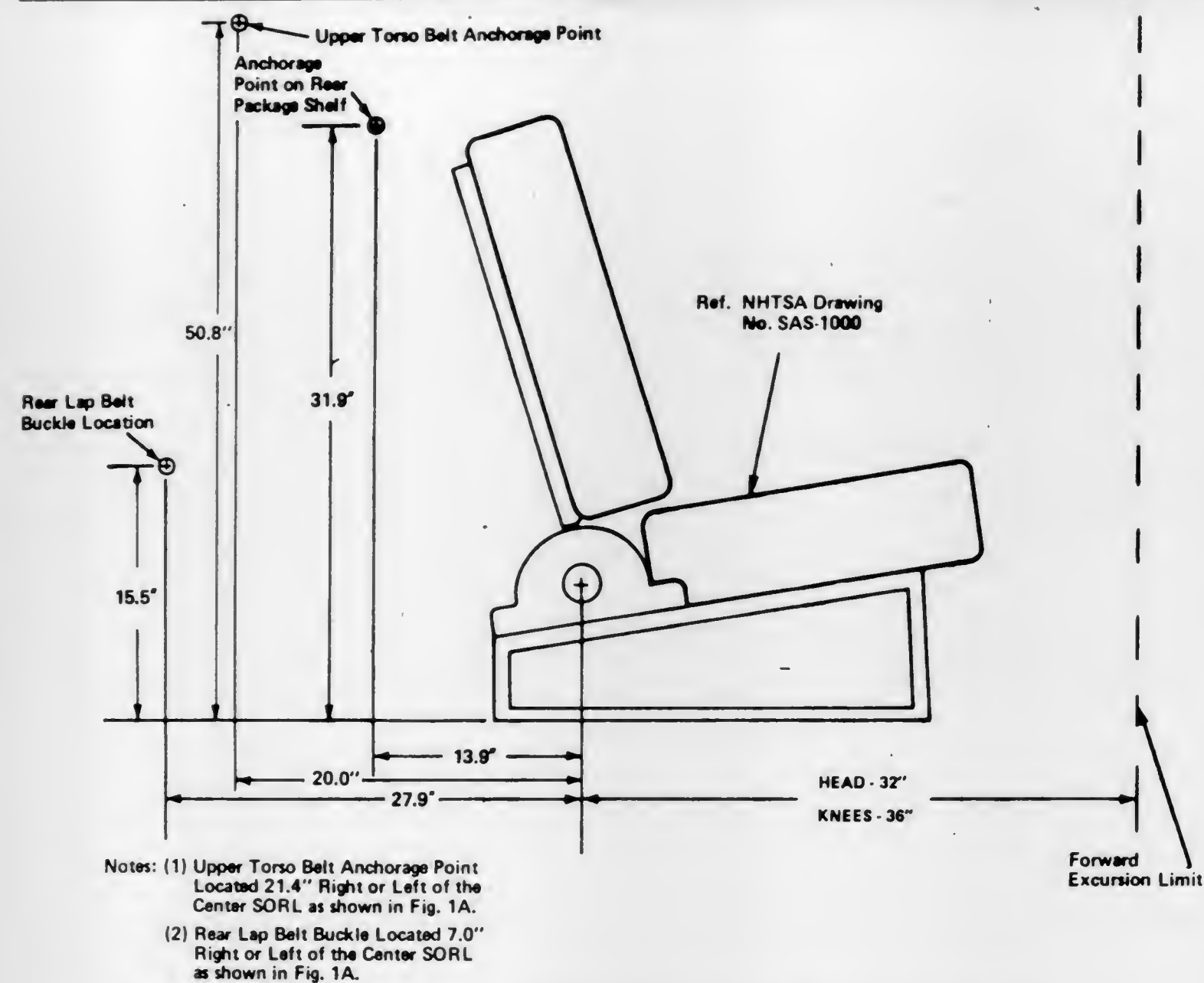


SORL=SEAT ORIENTATION REFERENCE LINE (HORIZONTAL)

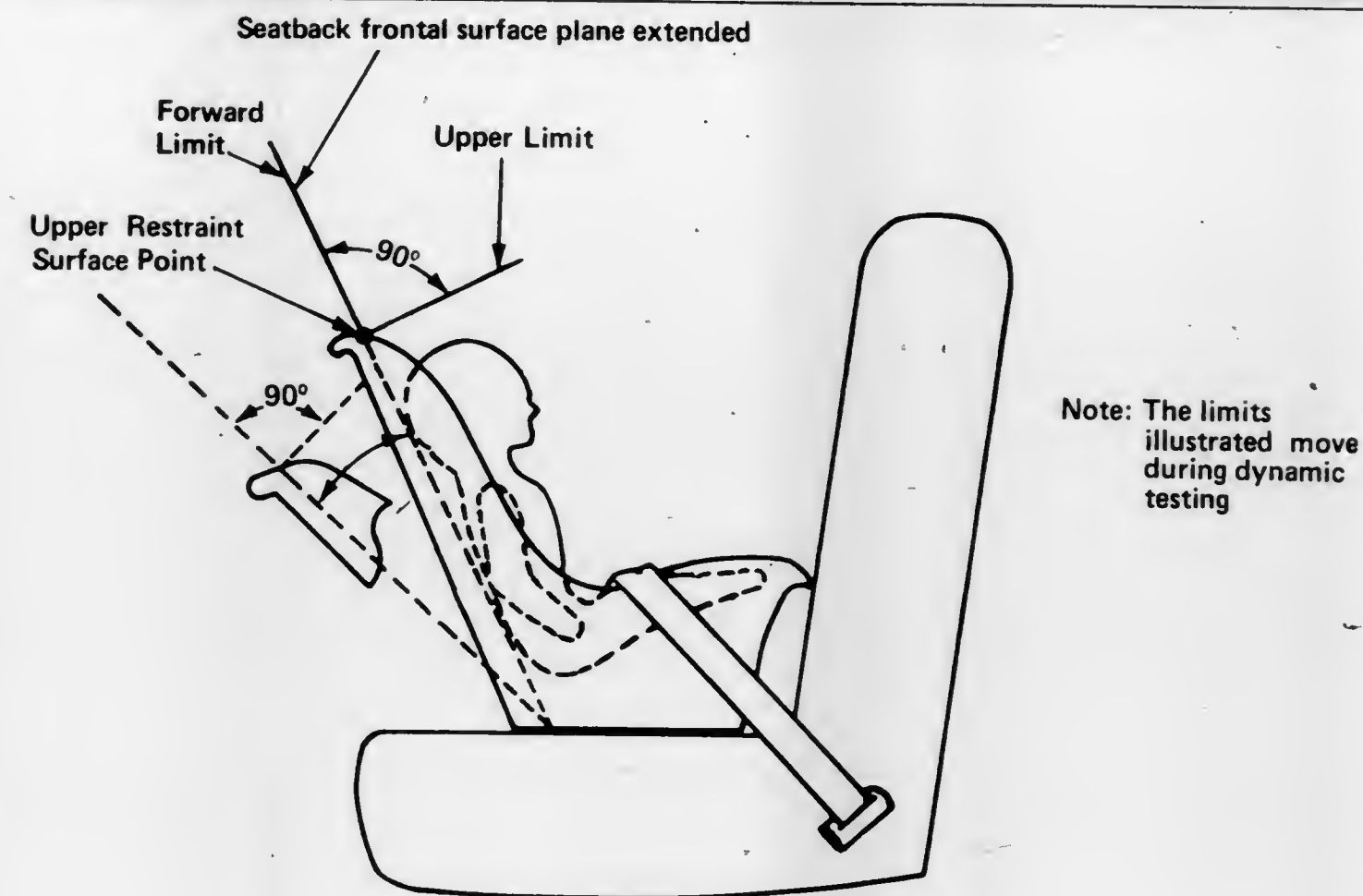
SORL LOCATION ON THE STANDARD SEAT

FIGURE 1A





LOCATIONS OF ADDITIONAL BELT ANCHORAGE POINTS AND FORWARD EXCURSION LIMIT  
FIGURE 1B



REAR FACING CHILD RESTRAINT  
FORWARD AND UPPER HEAD EXCURSION LIMITS

FIGURE 1C



ACCELERATION FUNCTION FOR  $\Delta V = 30$  MPH.

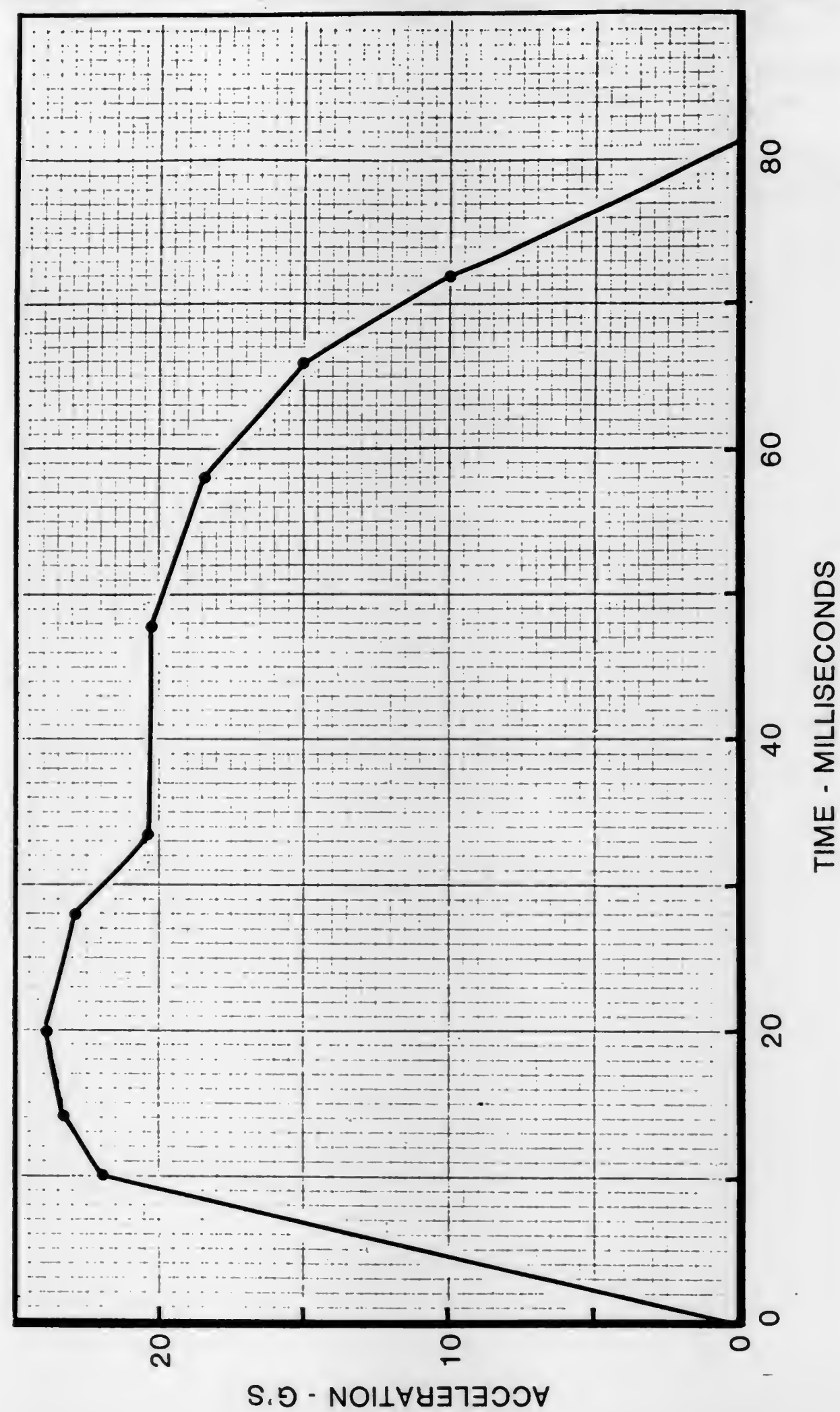


FIGURE 2

ACCELERATION FUNCTION FOR  $\Delta V = 20$  MPH.

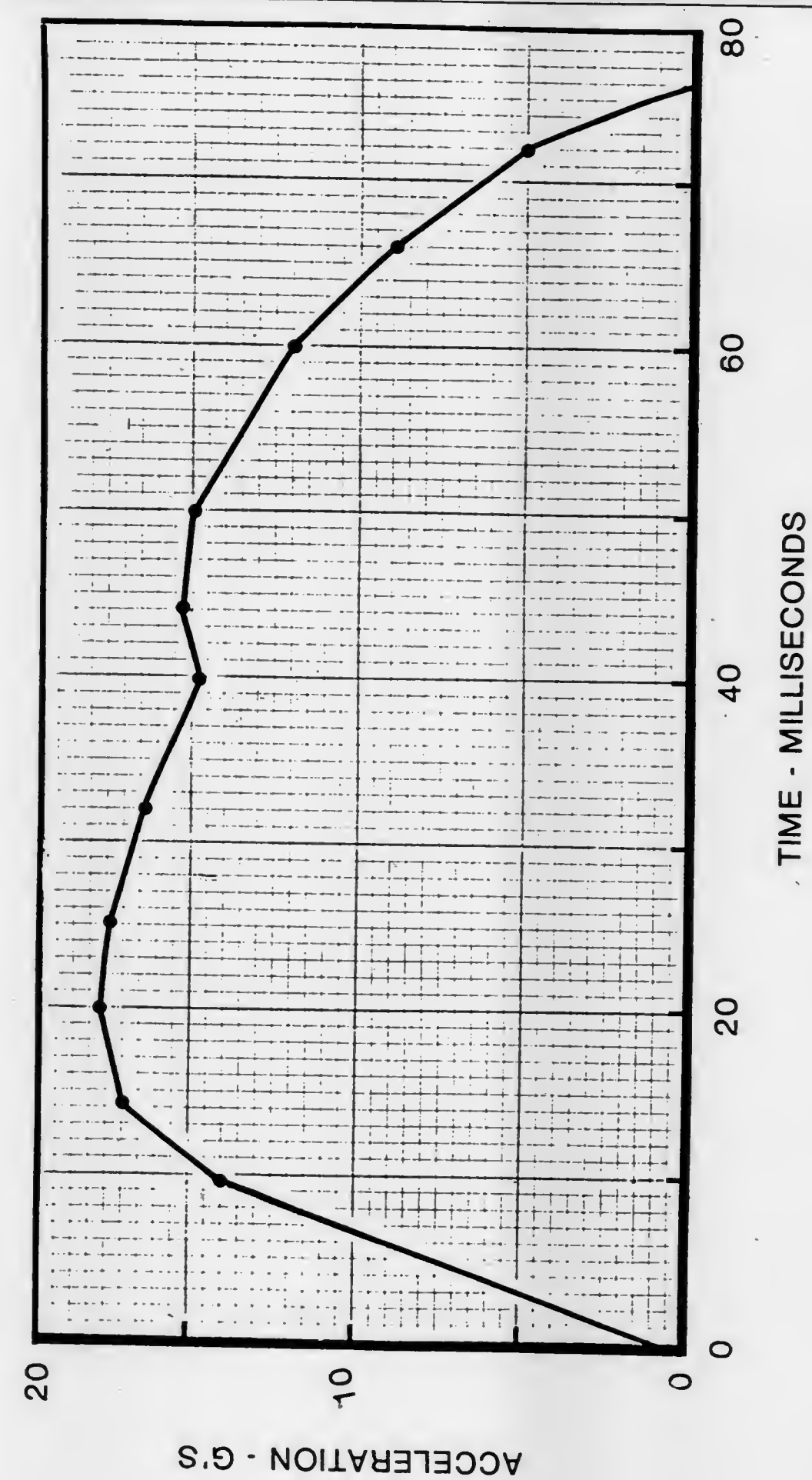
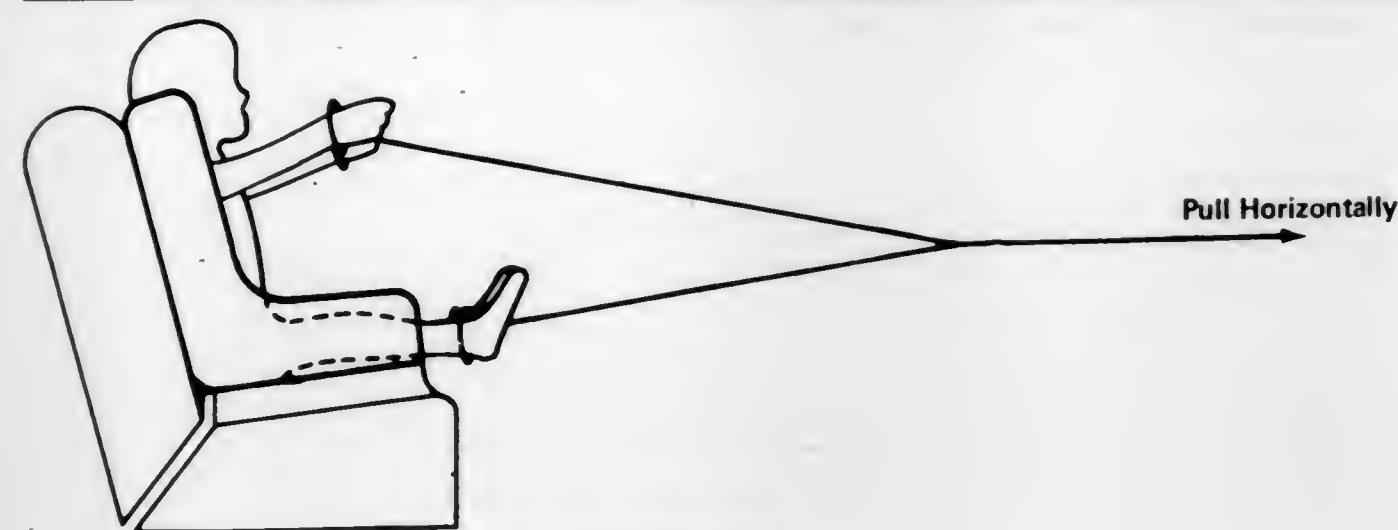
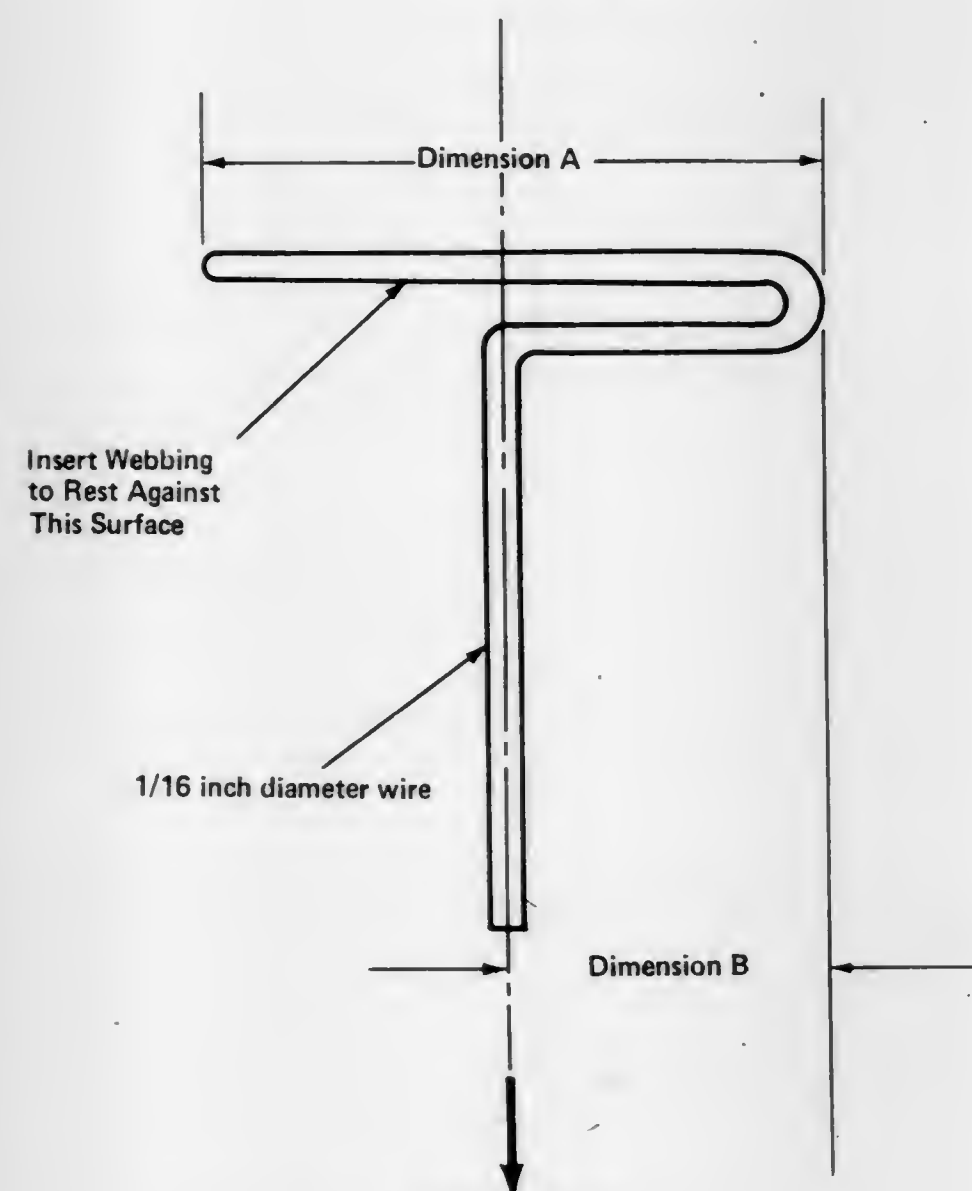


FIGURE 3





BUCKLE RELEASE TEST  
FIGURE 4



Dimension A - Width of Webbing Plus 1/8 inch  
Dimension B - 1/2 of Dimension A

WEBBING TENSION PULL DEVICE  
FIGURE 5

BILLING CODE 4910-59-C

(Secs. 103, 112, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on December 5, 1979.

Joan Claybrook,  
Administrator.

[FR Doc. 79-37868 Filed 12-10-79; 8:45 am]

BILLING CODE 4910-59-M

#### INTERSTATE COMMERCE COMMISSION

##### 49 CFR Part 1033

[Service Order No. 1329-A]

**Chicago, Rock Island & Pacific  
Railroad Co. and the Chicago & North  
Western Transportation Co.**

**AGENCY:** Interstate Commerce  
Commission.

**ACTION:** Service Order No. 1329-A.

**SUMMARY:** Authorized the Chicago, Rock Island and Pacific Railroad Company (RI) to operate over the tracks of the Chicago and North Western Transportation Company (CNW) at Livermore, IA. On April 18, 1979, the Commission granted CNW's petition for abandonment of the line serving Livermore and that line was sold to the industry. RI now provides service over industry owned track. Since an emergency no longer exists, Service Order No. 1329 is vacated effective 11:59 p.m., December 5, 1979.

**FOR FURTHER INFORMATION CONTACT:**  
J. Kenneth Carter (202) 275-7840.

Decided December 5, 1979.

Upon further consideration of Service Order No. 1329 (43 FR 26581; 45868 and 44 FR 19203), and good cause appearing therefor:

It is ordered:

**§ 1033.1329 Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western Transportation Co.**

Service Order No. 1329 is vacated effective 11:59 p.m., December 5, 1979. (49 U.S.C. (10304-10305 and 11121-11126))

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich  
Secretary.

[FR Doc. 79-38173 Filed 12-12-79; 8:45 am]

BILLING CODE 7035-01-M

##### 49 CFR Part 1033

[Service Order No. 1409]

**Burlington Northern, Inc., Authorized  
To Operate Over Tracks of Chicago,  
Rock Island & Pacific Railroad Co. at  
Fairfield, Iowa**

**AGENCY:** Interstate Commerce  
Commission.

**ACTION:** Service Order No. 1409.

**SUMMARY:** Authorizes the Burlington Northern Inc. (BN) to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company at Fairfield, Iowa, due to track embargoes at Fairfield in order to serve industries which would otherwise be deprived of railroad service.

**EFFECTIVE DATE:** 12:01 a.m., November 28, 1979, and continuing in effect until December 3, 1979.

**FOR FURTHER INFORMATION CONTACT:**  
J. Kenneth Carter (202) 275-7840.

Decided: November 27, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) at Fairfield, Iowa, is embargoed due to track conditions depriving shippers located adjacent to these tracks in Fairfield of essential railroad service. The Burlington Northern Inc. (BN) connects with the RI at Fairfield and has consented to operate over the tracks of the RI in Fairfield to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the BN.

It is the opinion of the Commission that an emergency exists requiring the operation of BN trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered.

**§ 1033.1409 Service Order 1409.**

(a) **Burlington Northern Inc. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company at Fairfield, Iowa.** The Burlington Northern Inc. (BN) is authorized to operate over tracks of the Chicago, Rock Island and Pacific

Railroad Company (RI) at Fairfield, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) **Application.** The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) **Rates applicable.** Inasmuch as this operation by the BN over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the BN over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) **Effective date.** This order shall become effective at 12:01 a.m., November 28, 1979.

(e) **Expiration date.** The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-37813 Filed 12-12-79; 8:45 am]

BILLING CODE 7035-01-M

##### 49 CFR Part 1033

[Service Order No. 1341-A]

**Chicago, Milwaukee, St. Paul & Pacific  
Railroad Co. Authorized To Operate  
Over Tracks of Chicago & North  
Western Transportation Co.**

Decided: December 5, 1979.

**AGENCY:** Interstate Commerce  
Commission.

**ACTION:** Service Order No. 1341-A.

**SUMMARY:** Authorized the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over the tracks of the Chicago and North Western Transportation Company at Winnebago, Minnesota. The Commission's order served September 17, 1979, permitted the abandonment by the Chicago and North



Western Transportation Company, and the acquisition by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, of the track serving Winnebago, Minnesota. Since an emergency no longer exists, Service Order No. 1341 is vacated effective 11:59 p.m., December 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** J. Kenneth Carter, (202) 275-7840.

Upon further consideration of Service Order No. 1341 (43 FR 45587 and 44 FR 20437), and good cause appearing therefor:

*It is ordered, § 1033.1341 Chicago, Milwaukee, St. Paul and Pacific Railroad Company Authorized to Operate Over Tracks of Chicago and North Western Transportation Company, Service Order No. 1341 is vacated effective 11:59 p.m., December 5, 1979.*

(49 U.S.C. (10304-10305 and 11121-11126))

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-38213 Filed 12-12-79; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 49 CFR Part 1204

[Order No. 62; Docket No. RM 80-4]

#### Pipeline Companies; Order Amending Title of Account 670 of the Uniform System of Accounts for Pipeline Companies and Related Provisions and Forms

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission hereby revises regulations, and attendant instructions and forms, pertaining to the Uniform System of Accounts for Pipeline

Companies to clarify the procedure for reporting the income taxes of oil pipeline companies. The title of Account 670 and corresponding instructions and forms are amended to make it clear that Account 670 is to be used for the reporting of Federal, state, local, and foreign income taxes on income from the continuing operations of pipeline companies. To the extent that any oil pipeline company, required to file annual reports with the Federal Energy Regulatory Commission, did not correctly report state or other income taxes on continuing operations for the three preceding reporting years, such company is directed to disclose the amount of the accounting change in the space for notes and remarks provided in its 1979 Annual Report Form P of the Federal Energy Regulatory Commission in its 1979 filing.

**EFFECTIVE DATE:** December 6, 1979.

**FOR FURTHER INFORMATION CONTACT:** E. Brooke Parkinson, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-9195.

Issued: December 6, 1979.

#### A. Background

Oil pipeline companies are required to file annual reports with the Federal Energy Regulatory Commission (Commission).<sup>1</sup> These reports must conform to the Uniform System of Accounts for Pipeline Companies, 49 C.F.R. Part 1204 (1978).<sup>2</sup> Responsibility for functions regulated by Part 1204 was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission by section 402(b) of the Department of Energy Organization Act. On October 6, 1977, at 42 FR 55,450, the Federal Energy Regulatory Commission published a statement continuing the effectiveness of Part 1204. It is contemplated that the regulations appearing at 49 CFR Part 1204 will eventually be moved from Title 49 to Title 18 of the Code of Federal Regulations.

As currently written, the regulations and attendant forms of that system contain technical errors regarding Account 670 (account for income taxes

<sup>1</sup> Interstate Commerce Act, 49 U.S.C. 20 (1976), transferred by Department of Energy Organization Act, Sections 306, 402(b), 705(a), 42 U.S.C. 7155, 7172(b), 7295(a) (Supp. 1, 1977).

<sup>2</sup> This system, originally issued by the Interstate Commerce Commission, 32 FR 20,242 (Dec. 20, 1967) was adopted by the Commission. *Interim Regulations for the Operation of the Federal Energy Regulatory Commission*, Order No. 1, Order Providing for the Continuation of Functions Vested In, or Delegated to, the Federal Energy Regulatory Commission, 42 FR 55,450 (1977).

on income from continuing operations). These errors, which derive from the current description of Account 670 referenced in those regulations and forms, would make the amounts paid by oil pipeline companies for property, use, and other operating expense taxes, appear artificially high and may cause the inconsistent reporting of state, local, and foreign taxes. This order is to correct these technical errors.

#### B. Description of Changes

The title of Account 670, "Federal income taxes on income from continuing operations," is corrected to read, "Income taxes on income from continuing operations." As the text of Account 670 makes clear, the account should include all income taxes (Federal, state, local and foreign) on income from continuing operations, not merely Federal taxes as the title would suggest. The title has been changed to reflect accurately the contents of that account so that reporting pipelines will not erroneously place income taxes in Account 580 (Pipeline taxes). Account 580 is restricted to entries of property taxes, use taxes, and other operating expense taxes.

The table of contents of the Uniform System of Accounts and Commission's Annual Report Form P, Schedule 300 (Income Statement) are amended to reflect the title change of Account 670. A related correction is made to the Commission's Annual Report Form P, Schedule 330 (Pipeline Taxes) which corresponds to Account 580. (Copies of amended Annual Report Form P may be obtained from the Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. during regular business hours.)

In addition to these corrections, Instruction 1-12 accompanying Account 670 is amended to reflect that what is to be reported in that account are income taxes on continuing operations rather than on ordinary income. Prior to 1974, Account 670 was used for crediting income taxes on ordinary income and was so entitled.<sup>3</sup> In 1974, the title for Account 670 was revised and Account 670 became the mechanism for reporting only taxes on continuing operations. Income taxes on discontinued operations were to be entered in Accounts 675 and 676.<sup>4</sup> However, this revision was never incorporated into Instruction 1-12(a) and (d) of the Uniform System of Accounts. Instruction 1-12(a) and (d) refers to the title for Account 670 used prior to 1974. The

<sup>3</sup> 32 FR 20,241 (1967).

<sup>4</sup> 39 FR 33,345 (1974); 41 FR 53,249 (1975); 49 CFR Part 1204 (1978).

instruction will now be changed to reflect the title changes to Account 670 effected by this order.

To the extent that any oil pipeline company required to file annual reports with the Commission did not correctly report state or other income taxes on continuing operations for the three preceding reporting years, such company is ordered to disclose the amount of the prior accounting error in the space for notes and remarks provided in its 1979 Annual Report Form P, Schedule 300-A, in order to assure financial data comparability.

#### C. Effective Date

For the reasons set forth above, the Commission finds that revisions to the Uniform System of Accounts for Pipeline Companies are necessary to clarify that Account 670 of that system is to be used for the reporting of all income taxes on income from continuing operations of pipeline companies. Since these revisions are technical and merely conform the title of Account 670, attendant instructions, and references to that title, to the substantive text of the Uniform System, the Commission finds that good cause exists to make this order effective immediately. For the same reasons, the Commission finds that public notice and hearing are unnecessary.

(Interstate Commerce Act, 49 U.S.C. § 20 (1976), Department of Energy Organization Act, 42 U.S.C. §§ 7155, 7172(b), 7295(a) (Supp. 1 1977); E. O. 12,009, 42 FR 46,267 (1977); Federal Energy Regulatory Commission, Order No. 1, 42 FR 55,450 (1977).)

In consideration of the foregoing, Part 1204 of Subchapter C, Chapter X, Title 49 of the Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,  
Secretary.

#### PART 1204—PIPELINE COMPANIES

1. Part 1204 is amended in its table of contents under the category of "Income Accounts" and in the text of the regulations by amending the title of Account 670 to read as follows:

#### INCOME ACCOUNTS

##### Ordinary Items

\* \* \* \* \*

##### Debit

\* \* \* \* \*

670 Income taxes on income from continuing operations.

\* \* \* \* \*

2. Part 1204 is further amended in Instruction 1-12 by deleting the last sentence of paragraph (a) and the first sentence of paragraph (d) and substituting in lieu thereof:

1-12 *Accounting for income taxes.* (a) \* \* \* All income taxes (Federal, state, and other) currently accruable for income tax return purposes shall be charged to account 670. Income taxes on income from continuing operations, and account 695, Income taxes on extraordinary items, as applicable.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 670, Income taxes on income from continuing operations, or account 695, Income taxes on extraordinary items, as applicable, and charge to account 56, Taxes payable, with the amount of investment tax credit utilized in the current accounting period. \* \* \*

4. Part 1204 is further amended in the table of contents and in the text of the regulation by adding a new Instruction 1-16 to read as follows:

#### General Instructions

\* \* \* \* \*

1-16 Accounting for inaccurate reporting of income taxes on income from continuing operations which occurred prior to reporting year 1979.

\* \* \* \* \*

1-16 *Accounting for inaccurate reporting of income taxes on income from continuing operations which occurred prior to reporting year 1979.* To the extent that any oil pipeline company, required to file annual reports with the Commission, did not correctly report state or other income taxes on continuing operations for the 1976, 1977, and 1978 reporting years, such company is ordered to disclose the amount of the accounting change in the space for notes and remarks provided in its 1979 Annual Report Form P, Schedule 300-A, of the Commission.

5. Federal Energy Regulatory Commission Annual Report Form P, Schedule 300, is amended in line 16 of the Ordinary Item category to conform to Attachment A.

6. Federal Energy Regulatory Commission Annual Report Form P, Schedule 330, Heading A, is amended to conform to Attachment B.

[FR Doc. 79-38067 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 26

#### Proposed Public Entry and Use Regulations

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Fish and Wildlife Service issues revised interim regulations concerning public access, use and recreation for the Back Bay National Wildlife Refuge, Virginia. These regulations limit vehicular access. This action is necessary to protect the ecosystem along the refuge beach. This rule will be effective on an interim basis until the final rule is issued.

**DATES:** Comments must be received on or before January 14, 1980. The interim rule is effective January 1, 1980, until publication of the final rule.

**FOR FURTHER INFORMATION CONTACT:** Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, MA 02158. Telephone (617-965-5100, Ext. 200).

**ADDRESS:** Send comments to: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, MA 02158.

**SUPPLEMENTARY INFORMATION:** Edward S. Moses, U.S. Fish and Wildlife Service, Newton Corner, MA 02158 (617-965-5100, Ext. 222) and Ronald L. Fowler, U.S. Fish and Wildlife Service, Division of Refuge Management, Washington, D.C. 20240 (202-343-4305) are the primary authors of this proposed and interim rule. On June 19, 1978 the U.S. Fish and Wildlife Service provided notice of its intent to close the refuge beach to private vehicular access, effective December 31, 1979 (43 FR 26314). Based on further review of the impacts of a complete beach closure on permanent full-time residents of the Currituck Banks between Corolla and the Virginia State line, and on commercial fishermen, who have historically depended upon access through the refuge, these proposed regulations have been designed to permit continuing access for permanent full-time residents and commercial fishermen who meet prescribed criteria, and for vehicles used for emergencies, official government duties, and official public utility operations. As discussed in Final Environmental Statement 72-33, dated December 29, 1972, this proposed action is within management capabilities to obtain refuge objectives.



Owners of improved property who are not full-time residents will not be granted access.

#### Background

For many years the Back Bay Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted. In 1961, less than 10,000 persons used the refuge for various purposes. During the late 1960's, the development of lands south of the refuge for recreation/residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in sharply accelerated use. By 1970, the number of persons using the refuge had increased to 235,000 and in 1971 to 348,000. All but a small fraction of this increase involved off-road vehicular use across the beach portion of the refuge. By 1969, it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes. Following careful analysis, it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction. On January 12, 1972 the Fish and Wildlife Service provided notice in the *Federal Register* that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. This action was necessary to protect the ecosystem along the refuge beach. Environmental Impact Statement 72-33 which was finalized on December 29, 1972, fully assessed the impacts of this restriction. A final rule was published in March 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape State Park area, permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency, service and utility vehicles, and school buses. Implementation of the rulemaking was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 26, 1975, fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. In his opinion and order, Judge MacKenzie stated that "... continued and rapidly escalating use of the refuge beach as a traffic corridor... is inimicable to the use of the property as a wildlife refuge and is a depredation of the purpose of the property as a wildlife refuge." This order

was ultimately upheld by the Fourth Circuit Court of Appeals in a decision issued July 7, 1975. The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion and consternation by the many persons denied vehicular access to recreational properties in North Carolina.

On July 29, 1976, a liberalized rulemaking provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, North Carolina, to and including the village of Corolla, North Carolina, and not just permanent residents of the area as the previous rule had provided.

In order to mitigate the increased adverse impact of travel on the beach by these additional permittees, it was necessary to place more restrictions, and limit the number of round trips per day for permanent full-time residents living between the south boundary of the refuge and the village of Corolla, North Carolina. Based on the restricted access imposed on the permanent full-time residents by the 1976 regulations and the permit program management experience gained during 1976 and 1977, the 1978-79 rulemaking continued to provide access to qualified permanent full-time and part-time residents. The 1978-79 special regulations published in the *Federal Register* (43 FR 26314), provided notice that the refuge beach would be closed to vehicular traffic after December 31, 1979, in order to further reduce the adverse impacts of vehicular traffic on the beach ecosystem. In an effort to avoid undue hardship, this proposed rule shall be in effect on an interim basis from January 1, 1980 until such time as a final rule is issued.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. Irrespective of the types or purpose of public use involved, the National Wildlife Refuge System Administration Act requires the Secretary of the Interior to determine whether this proposed use

is compatible with the major purposes for which the particular refuge was established. The uses permitted by these regulations are compatible, and will not interfere with the primary purposes for which the Back Bay National Wildlife Refuge was established. This determination is based upon consideration of, among other things, Environmental Impact Statement 72-33, which was finalized on December 29, 1972, and the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process.

Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule; however, due to the imminent expiration of the present regulations, public comment on the interim rule is not practicable, and to delay its implementation would not be in the public interest. All relevant comments will be considered by the Department prior to the issuance of a final rule.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is proposed to revise § 26.34 as follows:

#### § 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

##### Virginia

##### Back Bay National Wildlife Refuge Access

- (a) Who can qualify for access?
- (b) Routes of travel.
- (c) How many trips are allowed?
- (d) Medical emergencies.
- (e) Military, fire, or emergency vehicles.
- (f) Public utility vehicles.
- (g) False Cape State Park employees.
- (h) Commercial fishermen and their employees.
- (i) Suspension or waiver of rules.
- (j) Violation of rules.
- (k) Other access rules.

##### General Rules

- (l) Entry on foot, bicycle or motor vehicle.
- (m) Swimming and surfing.
- (n) Parking areas.
- (o) Fishing and boating.
- (p) Fires.
- (q) Dogs.
- (r) Other general rules.

##### Access

- (a) Who can qualify for access? (1) Permanent, full-time residents who can furnish proof of residency prior to

December 31, 1976, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent full-time residents are authorized beach access. Residence is defined as the dwelling in which the permit applicant lives year round on a full time basis. The burden of proof of showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation. Only one permit will be issued per family. (2) All permits issued to full-time residents will be terminated in the event that alternate access is provided during the permit period.

(b) *Routes of travel.* Access to and travel along the refuge beach by motorized vehicles may be allowed between the dune crossing at the field headquarters and the south boundary of the refuge only after a permit has been issued or authorization provided by the Refuge Manager. Travel along the refuge beach by motorized vehicle shall be within the intertidal zone to the maximum extent practicable.

(c) *How many trips are allowed?* Permitted vehicles of permanent full-time residents shall be limited to a total of two round trips per day. Travel is restricted to the designated route of travel between the hours of 5 a.m. to 11 p.m.

(d) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. When evidence of the emergency is not obvious, the vehicle operator will be required to provide the refuge office with a doctor's statement confirming the emergency within 36 hours.

(e) *Military, fire, or emergency vehicles.* Military, fire, emergency, or law enforcement vehicles when used for emergency purposes, vehicles used by an employee, agent or designated representative of the Federal, State, or local government in the course of official duties will be granted access.

(f) *Public utility vehicles.* Public utility vehicles used on official business will be granted access. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(g) *False Cape State Park Employees.* Access will be granted to employees of False Cape State Park and their dependents and designated visitors of employees who reside in the Park.

(h) *Commercial fishermen and their employees.* (1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck

County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge will be limited to commercial fishing crew members. A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(2) Each commercial fisherman is allowed a maximum of five (5) designated employees to travel the refuge beach for commercial fishing purposes. These employees may carry only other commercial fishing employees as passengers. Employees of commercial fishermen engaged in travel directly associated with commercial fishing operations or for the purpose of traveling to and from their home in Virginia to fishing sites in North Carolina will be granted access.

(i) *Suspension or waiver of rules.* (1) In an emergency, the Refuge Manager may suspend any or all of the foregoing restrictions on vehicular travel and announce such suspension by whatever means are available. In the event of adverse weather conditions, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as deemed advisable in the interest of public safety.

(2) The Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for access relating to health or livelihood.

(j) *Violation of rules.* Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the Refuge Manager of access permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended may within 30 days file a written appeal of the suspension to the Area Manager, Annapolis, Maryland, in accordance with 50 CFR 25.44(c).

(k) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it is issued. Permits may be renewed upon the submission of a signed, notarized statement that conditions of the previous permit have not changed.

(2) Evidence that a vehicle has been registered must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle and shall be nontransferable. No more than two vehicles owned by the permit holder may be registered with the Refuge Manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. Permit holders shall not tow vehicles and/or trailers owned by non-permit holders through the refuge. Any towed vehicle or trailer must have advance approval from the Refuge Manager prior to being brought through the refuge.

(3) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

#### General Rules

(l) *Entry on foot, bicycle, or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted during daylight-hours for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming and bicycling.

(m) *Swimming and surfing.* (1) Swimming and surfing are permitted on the entire refuge beach unless designated otherwise by sign. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk.

(2) Nudity is not permitted on the refuge. Nudity is defined as failure by persons over 10 years of age to cover with fully opaque covering their own genitals, pubic areas, rectal areas, or female breasts below a point immediately above the top of the areola when in a public place.

(n) *Parking.* The parking lot at the end of the paved road is available on a first come first served basis for persons engaged in wildlife/wildlands oriented recreation but is not available to those engaged in surfing and swimming.

(o) *Fishing and boating.* Surf fishing from the beach and freshwater fishing in the bay are permitted in accordance with state laws. Vehicular launching of boats is prohibited. Boat access to the bay at field headquarters is limited to canoes and small boats carried on car-top carriers.

(p) *Fires.* Open fires are prohibited. Portable grills with a contained fuel supply are permitted on the beach.

(q) *Dogs.* Dogs on a hand-held leash are permitted on refuge public use areas.



BILLING CODE 4310-55-M

**FOR FURTHER INFORMATION CONTACT:**  
Mr. R. Gregg Chappell, National Flood  
Insurance Program, (202) 426-1460 or

| State                                                   | City/town/country                                        | Source of flooding                             | Location                                                                        | #Depth in feet above ground.<br>*Elevation in feet (NGVD) |
|---------------------------------------------------------|----------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------------------------|
| Alabama.....                                            | Fort Payne (City), DeKalb (County) (Docket No. FI-5591). | Big Wills Creek.....                           | State Highway 35 centerline.....                                                | *802                                                      |
|                                                         |                                                          |                                                | Airport Avenue Second Crossing centerline.....                                  | *827                                                      |
|                                                         |                                                          |                                                | 24th Street centerline.....                                                     | *854                                                      |
|                                                         |                                                          |                                                | U.S. Highway 11 (100 feet) upstream from centerline.....                        | *863                                                      |
|                                                         |                                                          |                                                | 67th Street North (100 feet) upstream from centerline.....                      | *895                                                      |
|                                                         |                                                          | Little Willis Valley Branch.....               | 41st Street South centerline.....                                               | *858                                                      |
|                                                         |                                                          | Davis Gap Creek.....                           | Interstate Highway 59 Southbound Lane (25 feet) downstream from centerline..... | *792                                                      |
|                                                         |                                                          |                                                | Interstate Highway 59 Northbound Lane (25 feet) upstream from centerline.....   | *800                                                      |
|                                                         |                                                          |                                                | Grand Avenue (100 feet) upstream from centerline.....                           | *875                                                      |
|                                                         |                                                          |                                                | Southern Railway (50 feet) downstream from centerline.....                      | *879                                                      |
|                                                         |                                                          |                                                | Southern Railway (25 feet) upstream from centerline.....                        | *884                                                      |
|                                                         |                                                          | Dye Creek.....                                 | Airport Avenue centerline.....                                                  | *815                                                      |
|                                                         |                                                          |                                                | Interstate Highway 59 Southbound Lane centerline.....                           | *819                                                      |
|                                                         |                                                          |                                                | Interstate Highway 59 Northbound Lane centerline.....                           | *826                                                      |
|                                                         |                                                          |                                                | State Highway 35 First Crossing (75 feet) upstream from centerline.....         | *829                                                      |
|                                                         |                                                          |                                                | U.S. Highway 11 centerline.....                                                 | *860                                                      |
|                                                         |                                                          |                                                | 3rd Street South centerline.....                                                | *863                                                      |
|                                                         |                                                          |                                                | 5th Street North (50 feet) upstream from centerline.....                        | *898                                                      |
|                                                         |                                                          | Beeson Branch.....                             | Airport Avenue centerline.....                                                  | *848                                                      |
|                                                         |                                                          |                                                | Interstate Highway 59 Northbound Lane centerline.....                           | *881                                                      |
|                                                         |                                                          |                                                | U.S. Highway 11 centerline.....                                                 | *906                                                      |
|                                                         |                                                          |                                                | Southern Railway (100 feet) upstream from centerline.....                       | *918                                                      |
|                                                         |                                                          | Beeson Branch Tributary.....                   | Confluence With Beeson Branch.....                                              | *917                                                      |
|                                                         |                                                          | Sulphur Springs Branch.....                    | 49th Street North centerline.....                                               | *907                                                      |
|                                                         |                                                          | Sulphur Springs Tributary A.....               | Gault Avenue (25 feet) upstream from centerline.....                            | *912                                                      |
|                                                         |                                                          | Allen Branch.....                              | 67th Street North centerline.....                                               | *894                                                      |
|                                                         |                                                          |                                                | Allen Dam (250 feet) downstream from centerline.....                            | *901                                                      |
|                                                         |                                                          |                                                | Allen Dam (100 feet) upstream from centerline.....                              | *926                                                      |
|                                                         |                                                          |                                                | Abandoned Road centerline.....                                                  | *926                                                      |
| Maps available at City Hall, Fort Payne, Alabama 35967. |                                                          |                                                |                                                                                 |                                                           |
| Alabama.....                                            | City of Greenville, Butler County (FI-5644).             | Stallings Ck.....                              | Approximately 100 feet upstream of southern corporate limits.....               | *347                                                      |
|                                                         |                                                          |                                                | Just upstream of Alabama Highway 10.....                                        | *356                                                      |
|                                                         |                                                          |                                                | Approximately 100 feet downstream of I-65.....                                  | *363                                                      |
|                                                         |                                                          | Stallings Ck. Tributary No. 1.....             | Just upstream of southern corporate limits.....                                 | *343                                                      |
|                                                         |                                                          |                                                | Approximately 200 feet upstream of County Road.....                             | *350                                                      |
|                                                         |                                                          | Stallings Ck. Tributary No. 2—Peavy Creek..... | Western corporate limits 1400 feet south of State Highway 10.....               | *351                                                      |
|                                                         |                                                          | Stallings Ck. Tributary No. 4.....             | Approximately 200 feet upstream of the confluence with Stallings Creek.....     | *361                                                      |

The final base (100-year) flood elevations for selected locations are:



## Final Base (100-Year) Flood Elevations—Continued

| State   | City/town/country                                          | Source of flooding              | Location                                                                                                                                                 | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---------|------------------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Quarry Brook                    | Pleasant Valley Road 50 feet upstream of centerline                                                                                                      | *81                                                    |
|         |                                                            | Farm Brook                      | Confluence with Plum Gully Brook                                                                                                                         | *89                                                    |
|         |                                                            | Oakland Road                    | Oakland Road at centerline                                                                                                                               | *111                                                   |
|         |                                                            | Bancroft Brook                  | Strong Road Bridge 100 feet upstream of centerline                                                                                                       | *40                                                    |
|         |                                                            | Dry Brook                       | Rye Street 100 feet downstream of centerline                                                                                                             | *36                                                    |
|         |                                                            |                                 | Rye Street 50 feet upstream of centerline                                                                                                                | *48                                                    |
|         |                                                            |                                 | Griffin Road 50 feet upstream of centerline                                                                                                              | *94                                                    |
|         |                                                            | Avenys Brook                    | Benedict Drive Bridge (downstream crossing) at centerline                                                                                                | *161                                                   |
|         |                                                            |                                 | Kelly Road Bridge at centerline                                                                                                                          | *201                                                   |
|         |                                                            | Scantic River                   | John Fitch Boulevard at centerline                                                                                                                       | *32                                                    |
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Stoughtons Brook                | Main Street Bridge at centerline                                                                                                                         | *32                                                    |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
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| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Apalachicola River              | Intersection of Ray Avenue and Palm Street                                                                                                               | *55                                                    |
|         |                                                            | Sutton Creek                    | State Highway 71 centerline Charley E. Johns Street (10 feet) upstream from centerline                                                                   | *59                                                    |
|         |                                                            | Ponding                         | Intersection of Lambert Avenue and Church Street                                                                                                         | *66                                                    |
|         |                                                            | Ponding                         | 50 feet Northwest of the Intersection of State Highway 71 and Church Street                                                                              | *64                                                    |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
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|         |                                                            |                                 |                                                                                                                                                          |                                                        |
| Florida | Frostproof (City), Polk County (Docket No. FI-5542).       | Reedy Lake-Lake Ida             | 1,000 feet east of the Intersection of Old State Highway 630 and State Highway 630                                                                       | *81                                                    |
|         |                                                            |                                 | 250 feet east of the Intersection of Cheesney Boulevard and Lake Reedy Boulevard                                                                         | *81                                                    |
|         |                                                            | Lake Clinch                     | Charles Street Between Grace Street and Lelia Street                                                                                                     | *110                                                   |
|         |                                                            |                                 | 200 feet west of the Intersection of Palm Avenue and 1st Street                                                                                          | *110                                                   |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
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| Florida | Sebastian (City), Indian River (County) (FI-5447).         | Indian River                    | Intersection of Riverside Avenue and Main Street                                                                                                         | *8                                                     |
|         |                                                            |                                 | Intersection of Riverside Avenue and Harrison                                                                                                            | *8                                                     |
|         |                                                            | Drainage Right of Way           | 1,200 feet south of the Intersection of Scroll Street and Roulette Street                                                                                | *5                                                     |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
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|         |                                                            |                                 |                                                                                                                                                          |                                                        |
| Georgia | Unincorporated areas of Columbia County (FI-5649).         | Savannah River                  | Northeastern Corporate Limits                                                                                                                            | *164                                                   |
|         |                                                            |                                 | Just upstream of Furys Ferry Road (State Highway 28)                                                                                                     | *204                                                   |
|         |                                                            | Reed Creek                      | Just downstream of Stevens Creek Road                                                                                                                    | *196                                                   |
|         |                                                            |                                 | Just upstream of Furys Ferry Road (State Highway 28)                                                                                                     | *217                                                   |
|         |                                                            |                                 | Just downstream of Columbia Road                                                                                                                         | *323                                                   |
|         |                                                            | Stevens Creek Road Tributary    | Just downstream of the Sewage Treatment Plant Access Road                                                                                                | *196                                                   |
|         |                                                            |                                 | Just upstream of Sewage Treatment Plant Access Road                                                                                                      | *201                                                   |
|         |                                                            | Brown Pond Tributary            | Just upstream of Marlboro Street                                                                                                                         | *267                                                   |
|         |                                                            | Westhampton Tributary No. 1     | Approximately 300 feet upstream from the confluence with Bowen Pond Tributary                                                                            | *255                                                   |
|         |                                                            | Westhampton Tributary No. 2     | Approximately 300 feet upstream from the confluence with Bowen Pond Tributary                                                                            | *265                                                   |
| Georgia | Unincorporated areas of Columbia County (FI-5649).         | Westhampton Tributary No. 3     | Approximately 200 feet upstream from the confluence with Bowen Pond Tributary                                                                            | *271                                                   |
|         |                                                            | West Lake Tributary             | Approximately 640 feet upstream of the confluence with Reed Creek .. At private road approximately 750 feet upstream from the confluence with Reed Creek | *202<br>*213                                           |
|         |                                                            | Furys Ferry Road Tributary East | Approximately 300 from the confluence Reed Creek                                                                                                         | *214                                                   |
|         |                                                            | Furys Ferry Road Tributary West | Just upstream of a private road, approximately 160 feet upstream from the confluence with Reed Creek                                                     | *216                                                   |
|         |                                                            | Wynngate Tributary              | Just downstream of Old Petersburg Road                                                                                                                   | *261                                                   |
|         |                                                            | Bonaire Heights Tributary       | Approximately 450 feet upstream from the confluence with Wynngate Tributary                                                                              | *274                                                   |
|         |                                                            | El Cordero Estates Tributary    | Approximately 740 feet upstream from the confluence with Wynngate Tributary                                                                              | *312                                                   |
|         |                                                            | Old Evans Road Tributary        | Approximately 350 feet upstream from the confluence with Reed Creek                                                                                      | *276                                                   |
|         |                                                            | Holiday Park Tributary          | Approximately 3,000 feet upstream from the confluence with Reed Creek                                                                                    | *315                                                   |
|         |                                                            |                                 | Just downstream of Columbia Road                                                                                                                         | *370                                                   |
| Georgia | Unincorporated areas of Columbia County (FI-5649).         |                                 | Just upstream of Columbia Road                                                                                                                           | *378                                                   |
|         |                                                            | Owens Road Tributary            | Approximately 200 feet upstream from the confluence with Holiday Park Tributary                                                                          | *322                                                   |
|         |                                                            |                                 |                                                                                                                                                          |                                                        |
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Maps are available at Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut.

Send comments to Honorable Nancy Caffyn, Mayor, Town of South Windsor, Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut 06070.

Maps available at City Hall, 125 West Central Avenue, Blountstown, Florida.

Send comments to Honorable Laddie Williams, Mayor, City of Blountstown, 125 W. Central Avenue, Blountstown, Florida 32424.

Maps Available at City Hall, 47 West Wall Street, Frostproof, Florida.

Maps are available at City Hall, Sebastian, Florida.

Send comments to Honorable Pat Flood, Mayor, City of Sebastian, P.O. Box 127, Sebastian, Florida 32958.

## Final Base (100-Year) Flood Elevations—Continued

| State   | City/town/country                                          | Source of flooding                | Location                                                                                                 | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---------|------------------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Upper Reed Creek Tributary        | Approximately 300 feet upstream from the confluence with Reed Creek                                      | *309                                                   |
|         |                                                            | Watery Branch                     | Point Comfort Road                                                                                       | *200                                                   |
|         |                                                            | Watery Branch Tributary           | Approximately 250 feet upstream from the confluence with Watery Branch                                   | *204                                                   |
|         |                                                            | Jones Creek                       | Just downstream of Furys Ferry Road                                                                      | *217                                                   |
|         |                                                            | Furys Ferry Road Tributary North  | Approximately 400 feet upstream from the confluence with Jones Creek                                     | *216                                                   |
|         |                                                            | Furys Ferry Road Tributary South  | Approximately 450 feet upstream from the confluence with Jones Creek                                     | *225                                                   |
|         |                                                            | Jones Creek Tributary No. 1       | Approximately 500 feet upstream from the confluence with Jones Creek                                     | *226                                                   |
|         |                                                            | Seaboard Railroad Tributary       | Approximately 350 feet upstream from the confluence with Jones Creek                                     | *227                                                   |
|         |                                                            | Marshall Pond Tributary           | Approximately 200 feet upstream from the confluence with Jones Creek                                     | *247                                                   |
|         |                                                            | Jones Creek Tributary No. 2       | Approximately 100 feet upstream of the confluence with Jones Creek                                       | *260                                                   |
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Jones Creek Tributary No. 3       | Approximately 100 feet upstream of the confluence with Jones Creek                                       | *272                                                   |
|         |                                                            | Bettys Branch                     | Just upstream of Washington Road                                                                         | *278                                                   |
|         |                                                            | Mt. Enna Branch                   | Just upstream of Silver Lake Road                                                                        | *237                                                   |
|         |                                                            | Washington Road Tributary         | At the confluence of Bettys Branch Tributary                                                             | *270                                                   |
|         |                                                            | Bettys Branch Tributary           | Approximately 500 feet upstream of the confluence with Washington Road Tributary                         | *294                                                   |
|         |                                                            |                                   |                                                                                                          | *306                                                   |
|         |                                                            | Gibbs Road Tributary              | Approximately 250 feet upstream of the confluence with Bettys Branch                                     | *295                                                   |
|         |                                                            | Uchee Creek                       | Approximately 1000 feet upstream of Washington Road                                                      | *208                                                   |
|         |                                                            | Tudor Branch                      | Just upstream of Lewiston Road                                                                           | *241                                                   |
|         |                                                            | Crawford Creek                    | Just downstream of Columbia Road (State Highway 232)                                                     | *283                                                   |
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). |                                   | Just downstream of Columbia Road                                                                         | *313                                                   |
|         |                                                            |                                   | Just downstream of Oakley Pirkle Road                                                                    | *330                                                   |
|         |                                                            | Columbia Road Tributary East      | Just downstream of Columbia Road                                                                         | *322                                                   |
|         |                                                            |                                   | Just upstream of Columbia Road                                                                           | *328                                                   |
|         |                                                            | Columbia Road Tributary West      | Approximately 350 feet upstream of the confluence with Crawford Creek                                    | *320                                                   |
|         |                                                            | Wymberly Tributary                | Approximately 400 feet upstream from the confluence with Crawford Creek                                  | *324                                                   |
|         |                                                            | Oakley Pirkle Road Tributary      | Just downstream of Oakley Pirkle Road                                                                    | *346                                                   |
|         |                                                            |                                   | Just upstream of Oakley Pirkle Road                                                                      | *361                                                   |
|         |                                                            | Oak Lake Tributary West           | Approximately 500 feet upstream from the confluence with Crawford Creek                                  | *343                                                   |
|         |                                                            | Oak Lake Tributary East           | Just upstream of Rockdale Drive                                                                          | *349                                                   |
| Florida | Blountstown (City), Calhoun (County) (Docket No. FI-5503). | Old Belair Road Tributary East    | Just upstream of a private road, approximately 775 feet upstream from the confluence with Crawford Creek | *360                                                   |
|         |                                                            | Old Belair Road Tributary West    | Approximately 450 feet upstream from the confluence with Crawford Creek                                  | *362                                                   |
|         |                                                            | Walton Branch                     | Approximately 1000 feet upstream from the confluence with Tudor Branch                                   | *249                                                   |
|         |                                                            |                                   | Just upstream of Columbia Road                                                                           | *249                                                   |
|         |                                                            | Walton Branch Tributary           | Approximately 400 feet upstream from the confluence with Walton Branch                                   | *285                                                   |
|         |                                                            |                                   |                                                                                                          |                                                        |
|         |                                                            |                                   |                                                                                                          |                                                        |
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| Georgia | Unincorporated areas of Columbia County (FI-5649).         |                                   |                                                                                                          |                                                        |
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|         |                                                            |                                   |                                                                                                          |                                                        |
| Georgia | Unincorporated areas of Columbia County (FI-5649).         | Beaver Ruin Creek                 | Just upstream of corporate limits                                                                        | *913                                                   |
|         |                                                            |                                   | Just downstream of corporate limits                                                                      | *917                                                   |
|         |                                                            | Beaver Ruin Creek Tributary No. 2 | Just upstream of corporate limits                                                                        | *936                                                   |
|         |                                                            | Crooked Creek Tributary No. 2.1   | Just upstream of corporate limits                                                                        | *946                                                   |
|         |                                                            | Crooked Creek Tributary No. 2.1.1 | Just upstream of corporate limits                                                                        | *942                                                   |
|         |                                                            |                                   | Just upstream of Langford Drive                                                                          | *951                                                   |
|         |                                                            |                                   |                                                                                                          |                                                        |
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|         |                                                            |                                   |                                                                                                          |                                                        |
| Idaho   | Pocatello (City), Bannock County (Docket No. FI-5448).     | Pocatello Creek                   | Interstate Highway 15—330 feet downstream from centerline                                                | *4,560                                                 |
|         |                                                            |                                   | Interstate Highway 15—260 feet downstream from centerline                                                | *4,587                                                 |
|         |                                                            |                                   | Booth Road—10 feet upstream from centerline                                                              | *4,652                                                 |
|         |                                                            |                                   | Upstream Corporate Limits                                                                                | *4,685                                                 |
|         |                                                            | Portneuf River                    | U.S. Highway 30N (Business) Lower at centerline                                                          | *4,430                                                 |
|         |                                                            |                                   | West Carson Street at centerline                                                                         | *4,434                                                 |
|         |                                                            |                                   | West Clark Street at centerline                                                                          | *4,444                                                 |
|         |                                                            |                                   | Bannock Highway at centerline                                                                            | *4,458                                                 |
|         |                                                            |                                   | Cheyenne Avenue at centerline                                                                            | *4,464                                                 |
|         |                                                            | Pocatello Creek                   | Intersection of Alameda Road and Jefferson Avenue                                                        | #2                                                     |
| Idaho   | Pocatello (City), Bannock County (Docket No. FI-5448).     |                                   | Intersection of Cedar Street and Willard Avenue                                                          | #2                                                     |
|         |                                                            |                                   | Intersection of Cedar Street and McKinley Avenue                                                         | #2                                                     |
|         |                                                            |                                   | Intersection of Cedar Street and Colorado Avenue                                                         | #2                                                     |
|         |                                                            |                                   | Intersection of Foothill Road and Ravine Drive                                                           | #2                                                     |
|         |                                                            |                                   |                                                                                                          |                                                        |
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Maps available at Columbia County, Planning Department, 108 Davis Road, Martinez, Georgia 30907.

|         |                                              |                                   |                                     |      |
|---------|----------------------------------------------|-----------------------------------|-------------------------------------|------|
| Georgia | City of Norcross, Gwinnett County (FI-5673). | Beaver Ruin Creek                 | Just upstream of corporate limits   | *913 |
|         |                                              |                                   | Just downstream of corporate limits | *917 |
|         |                                              | Beaver Ruin Creek Tributary No. 2 | Just upstream of corporate limits   | *936 |
|         |                                              | Crooked Creek Tributary No. 2.1   | Just upstream of corporate limits   | *946 |
|         |                                              | Crooked Creek Tributary No. 2.1.1 | Just upstream of corporate limits   | *942 |
|         |                                              |                                   | Just upstream of Langford Drive     | *951 |

Maps available at City Clerk's Office, City Hall, 39 South Peachtree Street, Norcross, Georgia 30071.

|       |                                                        |                 |                                                           |        |
|-------|--------------------------------------------------------|-----------------|-----------------------------------------------------------|--------|
| Idaho | Pocatello (City), Bannock County (Docket No. FI-5448). | Pocatello Creek | Interstate Highway 15—330 feet downstream from centerline | *4,560 |
|       |                                                        |                 | Interstate Highway 15—260 feet downstream from centerline | *4,587 |
|       |                                                        |                 | Booth Road—10 feet upstream from centerline               | *4,652 |
|       |                                                        |                 | Upstream Corporate Limits                                 | *4,685 |
|       |                                                        | Portneuf River  | U.S. Highway 30N (Business) Lower at centerline           | *4,430 |
|       |                                                        |                 | West Carson Street at centerline                          | *4,434 |
|       |                                                        |                 | West Clark Street at centerline                           | *4,444 |
|       |                                                        |                 | Bannock Highway at centerline                             | *4,458 |
|       |                                                        |                 | Cheyenne Avenue at centerline                             | *4,464 |
|       |                                                        | Pocatello Creek | Intersection of Alameda Road and Jefferson Avenue         | #2     |
|       |                                                        |                 | Intersection of Cedar Street and Willard Avenue           | #2     |
|       |                                                        |                 | Intersection of Cedar Street and McKinley Avenue          | #2     |
|       |                                                        |                 | Intersection of Cedar Street and Colorado Avenue          | #2     |
|       |                                                        | Trail Creek     | Intersection of Foothill Road and Ravine Drive            | #2     |



## Final Base (100-Year) Flood Elevations—Continued

| State          | City/town/country                                      | Source of flooding                                                                  | Location                                                                            | #Depth in feet above ground. *Elevation in feet (NGVD) |
|----------------|--------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------------------------------------------------|
|                |                                                        | City Creek.....                                                                     | Along Hayes Avenue 400 feet west of its intersection with Idaho Street.             | #2                                                     |
|                |                                                        |                                                                                     | Along Grant Avenue 750 feet west from its intersection with Idaho Street.           | #2                                                     |
|                |                                                        | Cusick Creek.....                                                                   | Intersection of Lamb Street and Grant Avenue                                        | #2                                                     |
|                |                                                        | Johnny Creek.....                                                                   | Intersection of Bannock Highway and Shoshoni Trail                                  | #2                                                     |
|                |                                                        | Maps available at City Hall, 209 East Lewis, Pocatello, Idaho 83201.                |                                                                                     |                                                        |
| Illinois.....  | (V) New Lenox, Will County (Docket No. FI-5665).       | Hickory Creek.....                                                                  | western Corporate limit.....                                                        | *619                                                   |
|                |                                                        |                                                                                     | 200 feet upstream from Vine Street.....                                             | *622                                                   |
|                |                                                        |                                                                                     | 200 feet upstream of Cedar Road.....                                                | *628                                                   |
|                |                                                        |                                                                                     | Eastern corporate limit.....                                                        | *630                                                   |
|                |                                                        | Maps available at Village Hall, 201 North Church Street, New Lenox, Illinois 60451. |                                                                                     |                                                        |
| Indiana.....   | (T) Chesterfield, Madison County (Docket No. FI-5665). | Mill Creek.....                                                                     | Approximately 25 feet upstream from northern corporate limit.....                   | *875                                                   |
|                |                                                        |                                                                                     | Approximately 440 feet upstream from northern corporate limit.....                  | *882                                                   |
|                |                                                        |                                                                                     | Approximately 600 feet downstream from Main Street.....                             | *886                                                   |
|                |                                                        |                                                                                     | Approximately 150 feet downstream from Main Street.....                             | *892                                                   |
|                |                                                        |                                                                                     | Located at Main Street.....                                                         | *895                                                   |
|                |                                                        |                                                                                     | Just upstream from Main Street.....                                                 | *896                                                   |
|                |                                                        |                                                                                     | Approximately 120 feet upstream from Main Street.....                               | *901                                                   |
|                |                                                        |                                                                                     | Approximately 40 feet upstream from Conrail.....                                    | *904                                                   |
|                |                                                        |                                                                                     | Just upstream from State Road 67.....                                               | *906                                                   |
|                |                                                        |                                                                                     | Just downstream from Mulberry Road.....                                             | *907                                                   |
|                |                                                        | White River.....                                                                    | Just downstream from southern corporate limit.....                                  | *907                                                   |
|                |                                                        |                                                                                     | Approximately 2860 feet downstream from Water Street.....                           | *868                                                   |
|                |                                                        |                                                                                     | Approximately 3500 feet upstream from Water Street.....                             | *869                                                   |
|                |                                                        |                                                                                     | Maps available at Town Hall, 207 East Main Street, Chesterfield, Indiana 46017.     |                                                        |
|                |                                                        | Schererville Ditch.....                                                             | At confluence with Dyer Ditch.....                                                  | *628                                                   |
|                |                                                        |                                                                                     | Just upstream of 86th Avenue.....                                                   | *629                                                   |
|                |                                                        |                                                                                     | Just upstream of Roman Drive.....                                                   | *631                                                   |
|                |                                                        |                                                                                     | Just upstream of Roman Drive.....                                                   | *632                                                   |
|                |                                                        | Schilling Ditch.....                                                                | At confluence with Dyer Ditch.....                                                  | *632                                                   |
|                |                                                        |                                                                                     | About 500 feet downstream of U.S. Route 30.....                                     | *637                                                   |
|                |                                                        |                                                                                     | About 500 feet upstream of U.S. Route 30.....                                       | *638                                                   |
|                |                                                        |                                                                                     | About 0.7 mile upstream of Sunset Boulevard.....                                    | *651                                                   |
|                |                                                        | Seberger Ditch.....                                                                 | At southern corporate limits, about 1.3 miles upstream of Sunset Boulevard.....     | *651                                                   |
|                |                                                        |                                                                                     | Just upstream of Main Street.....                                                   | *621                                                   |
|                |                                                        |                                                                                     | Just upstream of Conrail.....                                                       | *625                                                   |
|                |                                                        |                                                                                     | Just upstream of Conrail.....                                                       | *628                                                   |
|                |                                                        | Turkey Creek.....                                                                   | Just downstream of Central Avenue.....                                              | *630                                                   |
|                |                                                        |                                                                                     | Just upstream of Central Avenue.....                                                | *632                                                   |
|                |                                                        |                                                                                     | About 200 feet upstream of Reder Drive.....                                         | *634                                                   |
|                |                                                        |                                                                                     | About 250 feet downstream of eastern corporate limit.....                           | *631                                                   |
|                |                                                        | Dyer Ditch.....                                                                     | Just upstream of gravel road, about 500 feet downstream of Cline Avenue.....        | *635                                                   |
|                |                                                        |                                                                                     | Just upstream of Joliet Street.....                                                 | *636                                                   |
|                |                                                        |                                                                                     | Just downstream of U.S. Route 30.....                                               | *647                                                   |
|                |                                                        |                                                                                     | Just downstream of U.S. Route 30.....                                               | *647                                                   |
| Minnesota..... | (C) Edina, Hennepin County (Docket No. FI-5665).       | Minnehaha Creek.....                                                                | Just upstream of U.S. Route 30.....                                                 | *650                                                   |
|                |                                                        |                                                                                     | About 900 feet upstream of Conrail.....                                             | *651                                                   |
|                |                                                        |                                                                                     | Just upstream of Airport Road.....                                                  | *626                                                   |
|                |                                                        |                                                                                     | Just downstream of Conrail.....                                                     | *627                                                   |
|                |                                                        |                                                                                     | Just upstream of Elgin Joliet & Eastern Railway.....                                | *628                                                   |
|                |                                                        |                                                                                     | About 0.4 mile upstream of Elgin Joliet & Eastern Railway.....                      | *629                                                   |
|                |                                                        |                                                                                     | Just upstream of U.S. Route 30.....                                                 | *635                                                   |
|                |                                                        |                                                                                     | About 0.3 mile upstream of U.S. Route 30.....                                       | *636                                                   |
|                |                                                        |                                                                                     | Maps available at Town Hall, 1640 Wilson Street, Schererville, Indiana 46375.       |                                                        |
|                |                                                        |                                                                                     | Just upstream of Xenex Avenue.....                                                  | *853                                                   |
|                |                                                        | Nine Mile Creek.....                                                                | Downstream corporate limit.....                                                     | *854                                                   |
|                |                                                        |                                                                                     | Just upstream France Avenue South.....                                              | *861                                                   |
|                |                                                        |                                                                                     | Just upstream West 54th Street.....                                                 | *867                                                   |
|                |                                                        |                                                                                     | Just upstream Woodale Avenue.....                                                   | *878                                                   |
|                |                                                        |                                                                                     | Just upstream Browndale Avenue Dam.....                                             | *889                                                   |
|                |                                                        |                                                                                     | Just upstream West 44th Street.....                                                 | *890                                                   |
|                |                                                        |                                                                                     | Upstream corporate limit.....                                                       | *892                                                   |
|                |                                                        |                                                                                     | Downstream corporate limit.....                                                     | *821                                                   |
|                |                                                        |                                                                                     | Just upstream West 77th Street Ramp.....                                            | *825                                                   |
|                |                                                        |                                                                                     | Just upstream West 70th Street.....                                                 | *832                                                   |
|                |                                                        |                                                                                     | Just upstream Minneapolis, Northfield & Southern Railroad.....                      | *837                                                   |
|                |                                                        |                                                                                     | Just upstream Brook Drive.....                                                      | *841                                                   |
|                |                                                        |                                                                                     | Maps available at City Hall, 209 East Lewis, Pocatello, Idaho 83201.                |                                                        |
|                |                                                        |                                                                                     | Maps available at Village Hall, 201 North Church Street, New Lenox, Illinois 60451. |                                                        |
|                |                                                        |                                                                                     | Maps available at Town Hall, 207 East Main Street, Chesterfield, Indiana 46017.     |                                                        |

## Final Base (100-Year) Flood Elevations—Continued

| State              | City/town/country                                                                                                                                                                                 | Source of flooding     | Location                                                                                         | #Depth in feet above ground. *Elevation in feet (NGVD) |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------|
|                    |                                                                                                                                                                                                   |                        | Just upstream Valley View Drive.....                                                             | *848                                                   |
|                    |                                                                                                                                                                                                   |                        | Just upstream County Highway 62.....                                                             | *853                                                   |
|                    |                                                                                                                                                                                                   |                        | Just upstream County Highway 158.....                                                            | *862                                                   |
|                    |                                                                                                                                                                                                   |                        | Just upstream Dover Drive.....                                                                   | *874                                                   |
|                    |                                                                                                                                                                                                   |                        | Upstream corporate limit.....                                                                    | *875                                                   |
|                    |                                                                                                                                                                                                   |                        | At mouth.....                                                                                    | *832                                                   |
|                    |                                                                                                                                                                                                   |                        | 2,800 feet upstream of mouth.....                                                                | *840                                                   |
|                    |                                                                                                                                                                                                   |                        | 4,000 feet upstream of mouth.....                                                                | *844                                                   |
|                    |                                                                                                                                                                                                   |                        | Just upstream Braemer Road.....                                                                  | *846                                                   |
|                    |                                                                                                                                                                                                   |                        | 900 feet upstream Valley View Road.....                                                          | *858                                                   |
|                    | Maps available at City Hall, City of Edina, Edina, Minnesota 55424.                                                                                                                               |                        |                                                                                                  |                                                        |
| Minnesota.....     | (C) Little Falls, Morrison County (Docket No. FI-5665).                                                                                                                                           | Mississippi River..... | Southern corporate limit.....                                                                    | *1,092                                                 |
|                    |                                                                                                                                                                                                   |                        | Just upstream from Burlington Northern Railroad.....                                             | *1,094                                                 |
|                    |                                                                                                                                                                                                   |                        | At Minnesota Power & Light Company.....                                                          | *1,096                                                 |
|                    | Maps available at City Hall—Engineer's Office and City Administrator's office, 100 North East Senexth Avenue, Little Falls, Minnesota 56345.                                                      |                        |                                                                                                  |                                                        |
| Missouri.....      | (T) Agency, Buchanan County (Docket No. FI-5618).                                                                                                                                                 | Pigeon Creek.....      | At eastern corporate limits.....                                                                 | *838                                                   |
|                    |                                                                                                                                                                                                   |                        | Approximately 200 feet upstream of Highway FF.....                                               | *840                                                   |
|                    |                                                                                                                                                                                                   |                        | At western corporate limits.....                                                                 | *848                                                   |
|                    |                                                                                                                                                                                                   | Possum Hollow.....     | At eastern corporate limits.....                                                                 | *838                                                   |
|                    |                                                                                                                                                                                                   |                        | At western corporate limits.....                                                                 | *838                                                   |
|                    | Maps available at City Clerk's Home, Agency, Missouri 64401.                                                                                                                                      |                        |                                                                                                  |                                                        |
| Missouri.....      | (C) Freeman, Cass County (Docket No. FI-5665).                                                                                                                                                    | Poney Creek.....       | 1,975 feet downstream of County Old Route "O".....                                               | *832                                                   |
|                    |                                                                                                                                                                                                   |                        | Just downstream of County Old Route "O".....                                                     | *834                                                   |
|                    |                                                                                                                                                                                                   |                        | Just upstream of County Old Route "O".....                                                       | *835                                                   |
|                    |                                                                                                                                                                                                   |                        | Just downstream of County Route "O".....                                                         | *836                                                   |
|                    |                                                                                                                                                                                                   |                        | 500 feet upstream of County Route "O".....                                                       | *842                                                   |
|                    |                                                                                                                                                                                                   |                        | Upstream corporate limit.....                                                                    | *843                                                   |
|                    | Maps available at City Hall, Freeman, Missouri 64746.                                                                                                                                             |                        |                                                                                                  |                                                        |
| New Hampshire..... | Greenfield (Town), Hillsborough County (Docket No. FI-4816).                                                                                                                                      | Contoocook River.....  | Boston and Maine Railroad Bridge 50 feet upstream of centerline.....                             | *685                                                   |
|                    |                                                                                                                                                                                                   |                        | Forest Road Bridge 30 feet upstream of centerline.....                                           | *685                                                   |
|                    |                                                                                                                                                                                                   |                        | Cavender Road Bridge 30 feet upstream of centerline.....                                         | *689                                                   |
|                    |                                                                                                                                                                                                   | Otter Brook.....       | Slip Road Culvert 20 feet upstream of centerline.....                                            | *813                                                   |
|                    |                                                                                                                                                                                                   |                        | Boston and Maine Railroad—20 feet downstream of centerline.....                                  | *814                                                   |
|                    |                                                                                                                                                                                                   | Stony Brook.....       | Small Dam—50 feet upstream of centerline.....                                                    | *826                                                   |
|                    |                                                                                                                                                                                                   |                        | School House Road Bridge—20 feet upstream of centerline.....                                     | *834                                                   |
|                    |                                                                                                                                                                                                   |                        | Boston and Maine Railroad Culvert 20 feet downstream of centerline.....                          | *835                                                   |
|                    |                                                                                                                                                                                                   |                        | Boston and Maine Railroad Culvert 20 feet upstream of centerline.....                            | *840                                                   |
|                    |                                                                                                                                                                                                   |                        | Russell Station Road Culvert—40 feet upstream of centerline.....                                 | *840                                                   |
|                    |                                                                                                                                                                                                   |                        | Boston and Maine Railroad—20 feet downstream of centerline.....                                  | *840                                                   |
|                    |                                                                                                                                                                                                   | Otter Lake Brook.....  | State Route 136 Culvert—20 feet upstream of centerline.....                                      | *801                                                   |
|                    |                                                                                                                                                                                                   |                        | Swamp Road Culvert 20 feet upstream of centerline.....                                           | *802                                                   |
|                    |                                                                                                                                                                                                   |                        | Forest Road Culvert 20 feet upstream of centerline.....                                          | *806                                                   |
|                    |                                                                                                                                                                                                   |                        | Footbridge approximately 0.26 mile upstream from Forest Road—20 feet upstream of centerline..... | *807                                                   |
|                    |                                                                                                                                                                                                   | Tributary B.....       | Forest Road Culvert 40 feet upstream of centerline.....                                          | *821                                                   |
|                    |                                                                                                                                                                                                   |                        | Miner Road Bridge 30 feet upstream of centerline.....                                            | *861                                                   |
|                    | Maps available at Town Office, Greenfield, New Hampshire. Send comments to Mr. Waldo Stone, Chairman, Board of Selectman, Town of Greenfield, Francis Town Road, Greenfield, New Hampshire 03047. |                        |                                                                                                  |                                                        |
| New Hampshire..... | Peterborough (Town), Hillsborough County (Docket No. FI-5062).                                                                                                                                    | Contoocook River.....  | Confluence with Otter Brook—20 feet upstream.....                                                | *691                                                   |
|                    |                                                                                                                                                                                                   |                        | Confluence with Bogle Brook—80 feet upstream.....                                                | *694                                                   |
|                    |                                                                                                                                                                                                   |                        | U.S. Route 202—40 feet upstream from centerline.....                                             | *701                                                   |
|                    |                                                                                                                                                                                                   |                        | Main Street—30 feet upstream from centerline.....                                                | *724                                                   |
|                    |                                                                                                                                                                                                   |                        | State Route 101—30 feet upstream from centerline.....                                            | *726                                                   |
|                    |                                                                                                                                                                                                   |                        | Morrison Road—50 feet upstream from centerline.....                                              | *739                                                   |
|                    |                                                                                                                                                                                                   |                        | Sharon Road—50 feet upstream from centerline.....                                                | *778                                                   |
|                    |                                                                                                                                                                                                   |                        | Drury Road—60 feet upstream from centerline.....                                                 | *787                                                   |
|                    |                                                                                                                                                                                                   | Otter Brook.....       | New Hampshire State Route 136—30 feet upstream from centerline ..                                | *709                                                   |
|                    |                                                                                                                                                                                                   |                        | Slab Road—30 feet upstream from centerline.....                                                  | *715                                                   |
|                    |                                                                                                                                                                                                   |                        | Gulf Road—20 feet upstream from centerline.....                                                  | *734                                                   |
|                    |                                                                                                                                                                                                   |                        | Unnamed Road—20 feet upstream from centerline.....                                               | *769                                                   |
|                    |                                                                                                                                                                                                   |                        | Unnamed Cart path—30 feet upstream from centerline.....                                          | *798                                                   |
|                    |                                                                                                                                                                                                   | Nubanusit Brook.....   | Grove Street Bridge—20 feet upstream from centerline.....                                        | *723                                                   |
|                    |                                                                                                                                                                                                   |                        | Historical Society Dam—20 feet upstream from centerline.....                                     | *748                                                   |
|                    |                                                                                                                                                                                                   |                        | Elm Street Bridge—30 feet upstream from centerline.....                                          | *778                                                   |
|                    |                                                                                                                                                                                                   |                        | Steel Road Bridge—20 feet upstream from centerline.....                                          | *780                                                   |
|                    |                                                                                                                                                                                                   |                        | Union Street Bridge—20 feet upstream from centerline.....                                        | *851                                                   |
|                    |                                                                                                                                                                                                   |                        | Wilder Street Bridge—20 feet upstream from centerline.....                                       | *864                                                   |



## U M I

U M I

## 72171

72171



Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                       | City/town/country                                         | Source of flooding                | Location                                                                                                                        | #Depth in feet above ground.<br>*Elevation in feet (NGVD) |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                                                                                             |                                                           | Spurgen Creek.....                | Just upstream of NCSR 1755 .....                                                                                                | *747                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet upstream of NCSR 1747 .....                                                                              | *761                                                      |
|                                                                                                             |                                                           |                                   | Approximately 250 feet upstream of NCSR 1741 .....                                                                              | *782                                                      |
|                                                                                                             |                                                           | Mary Reich Creek .....            | Confluence with Spurgen Creek .....                                                                                             | *794                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1733 .....                                                                                                | *799                                                      |
|                                                                                                             |                                                           | Spurgen Ck. Tributary.....        | Confluence with Spurgen Creek .....                                                                                             | *800                                                      |
|                                                                                                             |                                                           | Lakewood Hills Drain.....         | Confluence of Lakewood Hills Branch .....                                                                                       | *849                                                      |
|                                                                                                             |                                                           |                                   | Just downstream of the City of Lexington Northeastern corporate limits .....                                                    | *672                                                      |
|                                                                                                             |                                                           | Lakewood Hills Branch.....        | Confluence of Lakewood Hills Drain .....                                                                                        | *649                                                      |
|                                                                                                             |                                                           | Number 9 Golf Course Drain.....   | Approximately 450 feet upstream of confluence with Fern Valley Branch .....                                                     | *681                                                      |
|                                                                                                             |                                                           | Pounder Fork.....                 | Just upstream of NCSR 2250 .....                                                                                                | *630                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of Bowers Road .....                                                                                              | *712                                                      |
|                                                                                                             |                                                           | Hamby Creek.....                  | Approximately 100 feet upstream of NCSR 2017 .....                                                                              | *671                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 2031 .....                                                                                                | *712                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet downstream of NCSR 2087 .....                                                                            | *730                                                      |
|                                                                                                             |                                                           | Hamby Creek Tributary.....        | Just downstream of NCSR 2020 .....                                                                                              | *660                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet upstream of Southern Railway .....                                                                       | *672                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet downstream of the Thomasville corporate limits .....                                                     | *732                                                      |
|                                                                                                             |                                                           | Rich Fork.....                    | Just downstream of Old US 29 .....                                                                                              | *658                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1797 .....                                                                                                | *670                                                      |
|                                                                                                             |                                                           |                                   | Just downstream of NCSR 1800 .....                                                                                              | *695                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1755 .....                                                                                                | *713                                                      |
|                                                                                                             |                                                           |                                   | Approximately 50 feet upstream of NCSR 1738 .....                                                                               | *782                                                      |
|                                                                                                             |                                                           | Hunts Fork .....                  | Approximately 150 feet downstream of NCSR 1787 .....                                                                            | *684                                                      |
|                                                                                                             |                                                           |                                   | Just downstream of NCSR 1792 .....                                                                                              | *696                                                      |
|                                                                                                             |                                                           |                                   | Just downstream of NCSR 109 .....                                                                                               | *714                                                      |
|                                                                                                             |                                                           | Pineywood Branch.....             | Just downstream of I-85.....                                                                                                    | *740                                                      |
|                                                                                                             |                                                           | Hanks Branch.....                 | Just upstream of US 29-70.....                                                                                                  | *718                                                      |
|                                                                                                             |                                                           | Hasty Creek .....                 | Approximately 100 feet upstream of NCSR 1779 .....                                                                              | *769                                                      |
|                                                                                                             |                                                           |                                   | Just downstream Alternate US 29-70.....                                                                                         | *825                                                      |
|                                                                                                             |                                                           |                                   | Just upstream Alternate US 29-70.....                                                                                           | *830                                                      |
|                                                                                                             |                                                           | Payne Creek .....                 | Just downstream of NCSR 1860 .....                                                                                              | *718                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1762 .....                                                                                                | *728                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1757 .....                                                                                                | *737                                                      |
|                                                                                                             |                                                           | Rich Fork Tributary .....         | Just upstream of NCSR 1739 .....                                                                                                | *777                                                      |
|                                                                                                             |                                                           | Leonard Creek.....                | Just downstream of NCSR 1844 .....                                                                                              | *651                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1843 .....                                                                                                | *667                                                      |
|                                                                                                             |                                                           |                                   | Approximately 150 feet upstream of NCSR 1838 .....                                                                              | *718                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet downstream of NCSR 1815 .....                                                                            | *770                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet upstream of NCSR 1815 .....                                                                              | *775                                                      |
|                                                                                                             |                                                           | Everhart Creek .....              | Just upstream of NCSR 1843 .....                                                                                                | *659                                                      |
|                                                                                                             |                                                           |                                   | Just downstream of NCSR 1846 .....                                                                                              | *694                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1846 .....                                                                                                | *699                                                      |
|                                                                                                             |                                                           | Everhart Creek Tributary .....    | Confluence with Everhart Creek .....                                                                                            | *712                                                      |
|                                                                                                             |                                                           | Arrington Creek .....             | Confluence with Everhart Creek .....                                                                                            | *709                                                      |
|                                                                                                             |                                                           | Jefferson Village.....            | Confluence with Everhart Creek .....                                                                                            | *662                                                      |
|                                                                                                             |                                                           | Jefferson Village Tributary ..... | Just downstream of the City of Lexington southeastern corporate limits .....                                                    | *690                                                      |
|                                                                                                             |                                                           | Northview Heights Branch.....     | Just downstream of the City of Lexington eastern corporate limits (This corporate limit is immediately east of NCSR 8-US 52) .. | *718                                                      |
|                                                                                                             |                                                           | Cain Creek .....                  | Confluence with Leonard Creek.....                                                                                              | *765                                                      |
|                                                                                                             |                                                           | Tinkers Creek .....               | Approximately 104 feet upstream of NCSR 1841 .....                                                                              | *683                                                      |
|                                                                                                             |                                                           |                                   | Approximately 100 feet upstream of NCSR 1821 .....                                                                              | *757                                                      |
|                                                                                                             |                                                           | Easter Creek .....                | Just upstream of NCSR 1836 .....                                                                                                | *725                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1830 .....                                                                                                | *745                                                      |
|                                                                                                             |                                                           |                                   | Just upstream of NCSR 1464 .....                                                                                                | *772                                                      |
| Maps are available at County Manager's Office, Davidson County Courthouse, Lexington, North Carolina 27292. |                                                           |                                   |                                                                                                                                 |                                                           |
| North Carolina.....                                                                                         | Gaston County (Unincorporated Area) (Docket No. FI-5511). | Catawba Creek .....               | North Carolina State Route 2439 (100 feet) upstream from centerline ..                                                          | *615                                                      |
|                                                                                                             |                                                           |                                   | At Confluence with Forest Brook Branch .....                                                                                    | *627                                                      |
|                                                                                                             |                                                           | Crowders Creek.....               | North Carolina State Route 1307 (75 feet) upstream from centerline ..                                                           | *692                                                      |
|                                                                                                             |                                                           | Curtis Branch .....               | At Confluence with South Fork Catawba River .....                                                                               | *570                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2539 (20 feet) upstream from centerline ..                                                           | *615                                                      |
|                                                                                                             |                                                           |                                   | Julia Avenue (20 feet) upstarm from centerline .....                                                                            | *636                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2636 centerline .....                                                                                | *660                                                      |
|                                                                                                             |                                                           | Duharts Creek.....                | North Carolina State Route 2209 (50 feet) upstream from centerline ..                                                           | *614                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2439 (75 feet) upstream from centerline ..                                                           | *649                                                      |
|                                                                                                             |                                                           | Dutchmans Creek.....              | At Mount Holly corporate limits (100 feet) upstream from centerlines ..                                                         | *592                                                      |
|                                                                                                             |                                                           | Fites Creek.....                  | North Carolina State Route 2041 (10 feet) upstream from centerline ..                                                           | *620                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2040 (50 feet) upstream from centerline ..                                                           | *634                                                      |
|                                                                                                             |                                                           | Forest Branch Brook .....         | North Carolina State Route 2445 (70 feet) upstream from centerline ..                                                           | *631                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2445 (10 feet) upstream from centerline ..                                                           | *638                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2444 (20 feet) upstream from centerline ..                                                           | *676                                                      |
|                                                                                                             |                                                           |                                   | Dam (20 feet) downstream from centerline .....                                                                                  | *715                                                      |
|                                                                                                             |                                                           |                                   | Dam (20 feet) upstream from centerline.....                                                                                     | *726                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2719 (10 feet) upstream from centerline ..                                                           | *788                                                      |
|                                                                                                             |                                                           |                                   | North Carolina State Route 2732 (10 feet) upstream from centerline ..                                                           | *810                                                      |
| Maps are available at County Manager's Office, Davidson County Courthouse, Lexington, North Carolina 27292. |                                                           |                                   |                                                                                                                                 |                                                           |

Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                             | City/town/country                                            | Source of flooding            | Location                                                                             | #Depth in feet above ground.<br>*Elevation in feet (NGVD) |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------------------------|-----------------------------------------------------------|
| North Carolina                                                                                                    | Town of Mooresville, Iredell County (FI-5678).               | Kitty's Branch .....          | Southern Railway (100 feet) downstream from centerline .....                         | *572                                                      |
|                                                                                                                   |                                                              |                               | Southern Railway (10 feet) upstream from centerline.....                             | *588                                                      |
|                                                                                                                   |                                                              | Little Long Creek.....        | At confluence with Long Creek.....                                                   | *651                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 275 (50 feet) upstream from centerline .....              | *719                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 1001 centerline .....                                     | *729                                                      |
|                                                                                                                   |                                                              | Long Creek .....              | U.S. Highway 321 (50 feet) upstream from centerline .....                            | *729                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 2003 (20 feet) upstream from centerline .....             | *648                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 275 (50 feet) upstream from centerline .....              | *702                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 1448 (50 feet) upstream from centerline .....             | *746                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 1443 (10 feet) upstream from centerline .....             | *768                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 274 (10 feet) upstream from centerline .....              | *773                                                      |
|                                                                                                                   |                                                              | Nancy Hanks Branch.....       | Southern Railway (140 feet) downstream from centerline .....                         | *572                                                      |
|                                                                                                                   |                                                              |                               | Southern Railway (100 feet) upstream from centerline .....                           | *580                                                      |
|                                                                                                                   |                                                              | Smyre Tributary .....         | North Carolina State Route 2230 (50 feet) downstream from centerline ..              | *724                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 2230 (50 feet) upstream from centerline .....             | *732                                                      |
|                                                                                                                   |                                                              |                               | At Limit of Detailed Study .....                                                     | *743                                                      |
|                                                                                                                   |                                                              | South Fork Catawba Creek..... | Lower Armstrong Bridge centerline .....                                              | *570                                                      |
|                                                                                                                   |                                                              |                               | Seaboard Coast Line Railway centerline .....                                         | *599                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 275 centerline .....                                      | *656                                                      |
|                                                                                                                   |                                                              |                               | North Carolina State Route 1607 centerline .....                                     | *677                                                      |
|                                                                                                                   |                                                              | Stowe Branch .....            | Confluence with Beeverdam Creek .....                                                | *716                                                      |
|                                                                                                                   | Southern Railway (100 feet) downstream from centerline ..... | *572                          |                                                                                      |                                                           |
|                                                                                                                   | Southern Railway (10 feet) upstream from centerline .....    | *578                          |                                                                                      |                                                           |
| Stowe Tributary .....                                                                                             | Stowe Thread Road centerline .....                           | *595                          |                                                                                      |                                                           |
|                                                                                                                   | Confluence with Stowe Branch .....                           | *579                          |                                                                                      |                                                           |
|                                                                                                                   | At Belmont Corporate Limits .....                            | *631                          |                                                                                      |                                                           |
| Maps available at County Courthouse, Gastonia, North Carolina.                                                    |                                                              |                               |                                                                                      |                                                           |
| North Carolina.....                                                                                               | Town of Mooresville, Iredell County (FI-5678).               | Reeds Creek Tributary.....    | Just upstream of Hwy 152.....                                                        | *803                                                      |
|                                                                                                                   |                                                              |                               | Just upstream of Iredell Ave.....                                                    | *841                                                      |
|                                                                                                                   |                                                              | Reeds Creek.....              | Just downstream of Wilson Ave.....                                                   | *785                                                      |
|                                                                                                                   |                                                              | Dye Creek .....               | Just upstream of Cabarus Ave.....                                                    | *825                                                      |
|                                                                                                                   |                                                              | Dye Creek Tributary.....      | White Oaks Road extended .....                                                       | *772                                                      |
|                                                                                                                   |                                                              |                               | Hampton Place extended .....                                                         | *788                                                      |
| Maps available at City Hall, Mooresville, North Carolina 28115.                                                   |                                                              |                               |                                                                                      |                                                           |
| North Dakota.....                                                                                                 | Park River (City), Walsh County, FI-5395.                    | Tributary 1 .....             | At Downstream Corporate Limits.....                                                  | *966                                                      |
|                                                                                                                   |                                                              |                               | Vernon Avenue 10 feet upstream from centerline.....                                  | *988                                                      |
|                                                                                                                   |                                                              |                               | Briggs Avenue 20 feet upstream from centerline .....                                 | *995                                                      |
|                                                                                                                   |                                                              |                               | 4th Street 20 feet upstream from centerline .....                                    | *1,014                                                    |
|                                                                                                                   |                                                              |                               | At Limit of Detailed Study approximately 0.56 mile beyond the Corporate Limits ..... | *1,044                                                    |
|                                                                                                                   |                                                              | Tributary 3 .....             | At Downstream Corporate Limits.....                                                  | *1,005                                                    |
|                                                                                                                   |                                                              |                               | At Upstream Extraterritorial Limits .....                                            | *1,054                                                    |
| Maps are available at City Hall, Park River, North Dakota.                                                        |                                                              |                               |                                                                                      |                                                           |
| Send comments to Honorable Percy Walstad, Mayor, City of Park River, P.O. Box 32, Park River, North Dakota 58270. |                                                              |                               |                                                                                      |                                                           |
| Ohio.....                                                                                                         | (C) Lancaster, Fairfield County (Docket No. FI-5665).        | Hocking River .....           | Downstream corporate limit.....                                                      | *807                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Chessie System (near confluence of Tarhe Run) ..                  | *816                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Conrail.....                                                      | *819                                                      |
|                                                                                                                   |                                                              |                               | Just upstream of Wheeling Street .....                                               | *822                                                      |
|                                                                                                                   |                                                              |                               | About 800 feet downstream of Ety Road .....                                          | *828                                                      |
|                                                                                                                   |                                                              |                               | Upstream corporate limit.....                                                        | *836                                                      |
|                                                                                                                   |                                                              | Pleasant Run .....            | Downstream corporate limit.....                                                      | *821                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Conrail.....                                                      | *825                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of U.S. Route 22 .....                                               | *830                                                      |
|                                                                                                                   |                                                              |                               | About 1250 feet downstream of Marietta Road.....                                     | *837                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Marietta Road .....                                               | *842                                                      |
|                                                                                                                   |                                                              | Baldwin Run.....              | Confluence with Hocking River.....                                                   | *814                                                      |
|                                                                                                                   |                                                              |                               | Just upstream of Conrail .....                                                       | *817                                                      |
|                                                                                                                   |                                                              |                               | Just upstream of Main Street .....                                                   | *821                                                      |
|                                                                                                                   |                                                              | Ewing Run.....                | Confluence of Fatters Run .....                                                      | *821                                                      |
|                                                                                                                   |                                                              |                               | Just downstream Pleasantville Road.....                                              | *822                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Tiki Lane Road.....                                               | *866                                                      |
|                                                                                                                   |                                                              |                               | About 2200 feet upstream of Tiki Land Road.....                                      | *877                                                      |
|                                                                                                                   |                                                              |                               | Just downstream of Rainbow Drive.....                                                | *898                                                      |
|                                                                                                                   |                                                              |                               | Just upstream of Rainbow Drive .....                                                 | *903                                                      |
|                                                                                                                   |                                                              |                               | Upstream corporate limit.....                                                        | *904                                                      |



## Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                | City/town/country                                         | Source of flooding    | Location                                                                  | #Depth in feet above ground. *Elevation in feet (NGVD) |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------|---------------------------------------------------------------------------|--------------------------------------------------------|
|                                                                                                      |                                                           | Fetters Run           | Just downstream Cherry Street                                             | *822                                                   |
|                                                                                                      |                                                           |                       | Just downstream Fair Avenue                                               | *830                                                   |
|                                                                                                      |                                                           |                       | About 2900 feet upstream of Fair Avenue                                   | *844                                                   |
|                                                                                                      |                                                           |                       | Just upstream of Granville Pike                                           | *873                                                   |
|                                                                                                      |                                                           |                       | Upstream corporate limit                                                  | *877                                                   |
|                                                                                                      |                                                           | Tarhe Run             | Just downstream of Columbus Street                                        | *817                                                   |
|                                                                                                      |                                                           |                       | Just upstream of Columbus Street                                          | *821                                                   |
|                                                                                                      |                                                           |                       | Just downstream of Private Road about 400 feet downstream of Broad Street | *827                                                   |
|                                                                                                      |                                                           |                       | About 100 feet upstream of Broad Street                                   | *836                                                   |
|                                                                                                      |                                                           |                       | About 1300 feet upstream of Broad Street                                  | *842                                                   |
|                                                                                                      |                                                           | Hunters Run           | Confluence with Hocking River                                             | *821                                                   |
|                                                                                                      |                                                           |                       | About 580 feet downstream of Lincoln Avenue                               | *831                                                   |
|                                                                                                      |                                                           |                       | Just downstream of Lincoln Avenue (at corporate limit)                    | *834                                                   |
|                                                                                                      |                                                           | Lateral A             | Confluence with Hocking River                                             | *823                                                   |
|                                                                                                      |                                                           |                       | Just downstream Memorial Drive                                            | *824                                                   |
|                                                                                                      |                                                           |                       | Just upstream Memorial Drive                                              | *827                                                   |
|                                                                                                      |                                                           |                       | Just downstream of Columbus Road                                          | *853                                                   |
|                                                                                                      |                                                           |                       | About 300 feet upstream of Hawthorne Drive                                | *863                                                   |
|                                                                                                      |                                                           | Lateral B             | Just downstream of Chesle System                                          | *826                                                   |
|                                                                                                      |                                                           |                       | Just downstream of West Fair Avenue                                       | *831                                                   |
|                                                                                                      |                                                           |                       | Just upstream of West Fair Avenue                                         | *836                                                   |
|                                                                                                      |                                                           |                       | Just downstream of Farm Road                                              | *844                                                   |
|                                                                                                      |                                                           |                       | Just upstream of Farm Road                                                | *849                                                   |
|                                                                                                      |                                                           |                       | About 400 feet upstream of Hoffman Road                                   | *857                                                   |
|                                                                                                      |                                                           | Lateral D             | Confluence with Hocking River                                             | *831                                                   |
|                                                                                                      |                                                           |                       | Just downstream of Collins Road                                           | *836                                                   |
|                                                                                                      |                                                           |                       | Just downstream of West Fair Avenue                                       | *840                                                   |
|                                                                                                      |                                                           |                       | Upstream corporate limit                                                  | *846                                                   |
| Maps available at City Hall, 104 East Main Street, Lancaster, Ohio 43130.                            |                                                           |                       |                                                                           |                                                        |
| Ohio                                                                                                 | (V) Lockbourne, Franklin County (Docket No. FI-5665).     | Big Walnut Creek      | 400 feet downstream of Rowe Road                                          | *897                                                   |
|                                                                                                      |                                                           |                       | Just upstream of Rowe Road                                                | *898                                                   |
|                                                                                                      |                                                           |                       | 2,500 feet upstream of Rowe Road                                          | *899                                                   |
| Maps available at Village Hall, 85 Commerce Street, Lockbourne, Ohio 43137.                          |                                                           |                       |                                                                           |                                                        |
| Ohio                                                                                                 | (V) south Amherst, Lorain County (Docket No. FI-5665).    | Squires-Schramm Ditch | At confluence with Beaver Creek                                           | *751                                                   |
|                                                                                                      |                                                           |                       | Just upstream of South Lake Road                                          | *757                                                   |
|                                                                                                      |                                                           |                       | Just upstream of Annis Road                                               | *787                                                   |
|                                                                                                      |                                                           |                       | Upstream corporate limit                                                  | *789                                                   |
| Maps available at Village Hall, 103 West Main Street, South Amherst, Ohio 44001.                     |                                                           |                       |                                                                           |                                                        |
| Oklahoma                                                                                             | City of Blackwell, Kay County (FI-5683).                  | Tributary 1           | Just downstream of S. First Street                                        | *1,001                                                 |
|                                                                                                      |                                                           |                       | Just downstream of S. Ninth Street                                        | *1,017                                                 |
|                                                                                                      |                                                           | Tributary 2           | Just upstream of N. Sixth Street                                          | *1,010                                                 |
|                                                                                                      |                                                           |                       | Just upstream of N. Eighth Street                                         | *1,011                                                 |
|                                                                                                      |                                                           | Chikaskia River       | Intersection of G St. & College Ave                                       | *1,003                                                 |
|                                                                                                      |                                                           |                       | Intersection of St. Clare Avenue & North B Street                         | *1,007                                                 |
| Maps available at City Administrator's Office, City Hall, Blackwell, Oklahoma 29627.                 |                                                           |                       |                                                                           |                                                        |
| Oklahoma                                                                                             | Town of Webbers Falls, Muskogee County (FI-5683).         | Arkansas River        | At the intersection of Gibson St. and McGorkle St.                        | *482                                                   |
|                                                                                                      |                                                           |                       | At the intersection of Gibson St. and U.S. Highway 84                     | *483                                                   |
| Maps available at City Hall, Webbers Falls, Oklahoma 77470.                                          |                                                           |                       |                                                                           |                                                        |
| Pennsylvania                                                                                         | Bridgewater, Borough, Beaver County (Docket No. FI-5622). | Ohio River            | Downstream Corporate Limits                                               | *703                                                   |
|                                                                                                      |                                                           |                       | Upstream Corporate Limits                                                 | *704                                                   |
|                                                                                                      |                                                           | Beaver River          | Confluence with Ohio River                                                | *704                                                   |
|                                                                                                      |                                                           |                       | Upstream Corporate Limits                                                 | *704                                                   |
|                                                                                                      |                                                           | Brady Run             | Confluence with Beaver River                                              | *704                                                   |
|                                                                                                      |                                                           |                       | Upstream Corporate Limits                                                 | *721                                                   |
| Maps available at the Office of the Borough Secretary, 735 Market Street, Bridgewater, Pennsylvania. |                                                           |                       |                                                                           |                                                        |
| Pennsylvania                                                                                         | Bloomsburg, Town, Columbia County (Docket No. FI-5579).   | Susquehanna River     | Downstream Corporate Limits                                               | *476                                                   |
|                                                                                                      |                                                           |                       | Upstream Corporate Limits                                                 | *480                                                   |
|                                                                                                      |                                                           | Fishing Creek         | Conrail                                                                   | *477                                                   |
|                                                                                                      |                                                           |                       | Pennsylvania State Route 44                                               | *478                                                   |
|                                                                                                      |                                                           |                       | Railroad Street (Upstream)                                                | *485                                                   |
|                                                                                                      |                                                           |                       | Interstate Route 80 (Downstream)                                          | *496                                                   |
|                                                                                                      |                                                           | Kinney Run            | Fifteenth Street                                                          | *479                                                   |
|                                                                                                      |                                                           |                       | Pennsylvania Route 487                                                    | *479                                                   |
|                                                                                                      |                                                           |                       | Old Benwick Road                                                          | *480                                                   |
|                                                                                                      |                                                           |                       | Upstream Corporate Limits                                                 | *480                                                   |
| Maps available at the Town Hall, Bloomsburg, Pennsylvania.                                           |                                                           |                       |                                                                           |                                                        |

## Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                   | City/town/country                                          | Source of flooding               | Location                                                                      | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------|----------------------------------|-------------------------------------------------------------------------------|--------------------------------------------------------|
| Pennsylvania                                                                                            | Eaton, Township, Wyoming County (Docket No. FI-5598).      | Susquehanna River                | Corporate Limits                                                              | *590                                                   |
|                                                                                                         |                                                            |                                  | Confluence of Tributary #1                                                    | *596                                                   |
|                                                                                                         |                                                            |                                  | Confluence of Bowman Creek                                                    | *606                                                   |
|                                                                                                         |                                                            |                                  | State Routes 29 and 309 (Upstream)                                            | *617                                                   |
|                                                                                                         |                                                            |                                  | Corporate Limits                                                              | *626                                                   |
|                                                                                                         |                                                            | Bowman Creek                     | Confluence with Susquehanna River                                             | *606                                                   |
|                                                                                                         |                                                            |                                  | Township Route 413                                                            | *613                                                   |
|                                                                                                         |                                                            |                                  | Pennsylvania State Routes 5, 29 and 30 (Downstream)                           | *628                                                   |
|                                                                                                         |                                                            |                                  | Confluence of Tributary #2                                                    | *632                                                   |
|                                                                                                         |                                                            |                                  | Legislative Route 65004 (Downstream)                                          | *647                                                   |
|                                                                                                         |                                                            |                                  | Legislative Route 65004 (Upstream)                                            | *654                                                   |
|                                                                                                         |                                                            |                                  | State Routes 29 and 309                                                       | *676                                                   |
|                                                                                                         |                                                            |                                  | Confluence of Marsh Creek                                                     | *723                                                   |
|                                                                                                         |                                                            |                                  | Corporate Limits                                                              | *742                                                   |
|                                                                                                         |                                                            |                                  | Limit of flooding affecting community (200 feet upstream of Corporate Limits) | *747                                                   |
| Maps available at the residence of Mr. Murech, Township Secretary, R.D. 2, Tunkhannock, Pennsylvania.   |                                                            |                                  |                                                                               |                                                        |
| Pennsylvania                                                                                            | Edgeworth, Borough, Allegheny County (Docket No. FI-5623). | Ohio River                       | Downstream Corporate Limits                                                   | *713                                                   |
|                                                                                                         |                                                            |                                  | Upstream Corporate Limits                                                     | *715                                                   |
| Maps available at the Edgeworth Borough Building, 301 Beaver Road, Edgeworth, Pennsylvania.             |                                                            |                                  |                                                                               |                                                        |
| Pennsylvania                                                                                            | Tincum, Township, Delaware County (Docket No. FI-5626).    | Delaware River                   | Entire River Bank                                                             | *10                                                    |
|                                                                                                         |                                                            | Darby Creek                      | Confluence of Delaware River                                                  | *10                                                    |
|                                                                                                         |                                                            |                                  | Wanamaker Avenue                                                              | *10                                                    |
|                                                                                                         |                                                            |                                  | Northeast Corporate Limits                                                    | *11                                                    |
| Maps available at the Tincum Township Building, 629 Governor Printz Boulevard, Essington, Pennsylvania. |                                                            |                                  |                                                                               |                                                        |
| South Carolina                                                                                          | City of Belton, Anderson County (FI-5678).                 | Tributary A of Broad-Mouth Creek | Just upstream of O'Neal Street                                                | *778                                                   |
|                                                                                                         |                                                            |                                  | Just upstream of River Street                                                 | *788                                                   |
|                                                                                                         |                                                            | Tributary B of Cupboard Creek    | Just upstream of West Blair Mill Road                                         | *814                                                   |
|                                                                                                         |                                                            |                                  | Just downstream of the Seaboard Coastline Railroad                            | *816                                                   |
| Maps available at City Administrator's Office, City Hall, Belton, South Carolina 29627.                 |                                                            |                                  |                                                                               |                                                        |
| South Carolina                                                                                          | City of Cayce, Lexington County (FI-5678).                 | Congaree River                   | Just upstream of Seaboard Coastline Railroad                                  | *154                                                   |
|                                                                                                         |                                                            |                                  | 200 feet downstream of Blossom Street                                         | *155                                                   |
|                                                                                                         |                                                            | Congaree Creek                   | At South Carolina Highway 2                                                   | *142                                                   |
|                                                                                                         |                                                            |                                  | At Seaboard Coast-Line Railroad                                               | *142                                                   |
|                                                                                                         |                                                            | Six Mile Creek                   | 50 feet downstream of the Seaboard                                            | *142                                                   |
|                                                                                                         |                                                            |                                  | Coastline Railroad 50 feet downstream of U.S. Highway 176 and 321             | *149                                                   |
|                                                                                                         |                                                            |                                  | Just upstream of Interstate 76                                                | *161                                                   |
|                                                                                                         |                                                            | Tributary SM-3                   | At Edmond Road                                                                | *180                                                   |
|                                                                                                         |                                                            | Tributary CR-1                   | 50 feet upstream of Charlotte St.                                             | *168                                                   |
|                                                                                                         |                                                            |                                  | 100 Feet upstream of Morlane St.                                              | *199                                                   |
|                                                                                                         |                                                            |                                  | 25 Feet upstream of Wilkinson St.                                             |                                                        |
|                                                                                                         |                                                            | Tributary CR-1-1                 | 50 feet downstream of Southern Railway                                        | *217                                                   |
|                                                                                                         |                                                            |                                  | At Lafayette Avenue                                                           | *230                                                   |
| Maps available at City Hall, 1800 12th Street Extension, Cayce, South Carolina 29033.                   |                                                            |                                  |                                                                               |                                                        |
| South Carolina                                                                                          | Town of Irmo, Richland, and Lexington, Counties (FI-5678). | Koon Branch                      | Just upstream of southern corporate limits                                    | *272                                                   |
|                                                                                                         |                                                            |                                  | Just upstream of Maintenance Road                                             | *263                                                   |
|                                                                                                         |                                                            | Rawls Creek                      | Just upstream of the Confluence of Tributary R-2                              | *295                                                   |
|                                                                                                         |                                                            |                                  | Approximately 200 feet downstream of northern corporate limits                | *319                                                   |
|                                                                                                         |                                                            | Tributary R-2                    | Just downstream of southern crossing of North Royal Tower Dr.                 | *303                                                   |
|                                                                                                         |                                                            |                                  | Just upstream of northern crossing of North Royal Tower Dr.                   | *321                                                   |
| Maps available at Town Hall, Irmo, South Carolina 29063.                                                |                                                            |                                  |                                                                               |                                                        |
| South Carolina                                                                                          | Town of Lexington, Lexington County (FI-5678).             | Twelve Mile Creek                | Confluence of Tributary TM-2                                                  | *273                                                   |
|                                                                                                         |                                                            |                                  | Just downstream of East Main Street                                           | *274                                                   |
|                                                                                                         |                                                            |                                  | Just upstream of Lexington Mill Pond Dam                                      | *298                                                   |
|                                                                                                         |                                                            |                                  | Confluence of Tributary TM-3                                                  | *299                                                   |
|                                                                                                         |                                                            |                                  | Just downstream of Gibsons Pond Road                                          | *308                                                   |
| Maps available at Town Hall, 111 North Church Street, Lexington, South Carolina 29072.                  |                                                            |                                  |                                                                               |                                                        |
| South Carolina                                                                                          | Town of Springdale, Lexington County (FI-5678).            | Six Mile Creek                   | Approximately 70 feet upstream of Edmund Road                                 | *169                                                   |
|                                                                                                         |                                                            |                                  | Approximately 50 feet upstream of Durham Drive                                | *173                                                   |
|                                                                                                         |                                                            |                                  | Approximately 50 feet downstream of Platt Springs Rd                          | *185                                                   |
|                                                                                                         |                                                            |                                  | Approximately 30 feet upstream of Sandalwood Dr.                              | *194                                                   |
|                                                                                                         |                                                            |                                  | Approximately 40 feet upstream of Franklin Str                                | *201                                                   |
|                                                                                                         |                                                            | Tributary SM-5                   | Approximately 40 feet downstream of Rainbow Dr                                | *194                                                   |
|                                                                                                         |                                                            |                                  | Approximately 50 feet upstream of Bensmin Rd                                  | *199                                                   |



## Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                                                                                | City/town/country                                              | Source of flooding                  | Location                                                                                    | #Depth in feet above ground. *Elevation in feet (NGVD) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Just upstream of Interstate 26.....                                                                                                                                                                  |                                                                |                                     |                                                                                             | *218                                                   |
| Maps available at Town Hall, Springdale, South Carolina 29169.                                                                                                                                       |                                                                |                                     |                                                                                             |                                                        |
| Texas                                                                                                                                                                                                | Hutchins (City), Dallas County FI-5230.                        | Trinity River.....                  | Downstream Corporate Limits.....                                                            | *385                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Interstate Highway Loop 635 100 feet upstream from centerline.....                          | *398                                                   |
|                                                                                                                                                                                                      |                                                                | Stream 4A4.....                     | Goode Road 10 feet upstream from centerline.....                                            | *458                                                   |
|                                                                                                                                                                                                      |                                                                | Stream 4B2.....                     | West Frontage Road 50 feet upstream from centerline.....                                    | *470                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Dowdy Ferry Road 10 feet upstream from centerline.....                                      | *401                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | West Frontage Road at centerline.....                                                       | *460                                                   |
|                                                                                                                                                                                                      |                                                                | Stream 4B4.....                     | Main Street 10 feet upstream from centerline.....                                           | *477                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Willow Grove Drive 10 feet upstream from centerline.....                                    | *416                                                   |
|                                                                                                                                                                                                      |                                                                | Hutchins Creek.....                 | Austin Street 10 feet upstream from centerline.....                                         | *440                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Interstate Highway 635 at centerline.....                                                   | *398                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Interstate Highway 45 20 feet upstream from centerline.....                                 | *439                                                   |
|                                                                                                                                                                                                      |                                                                | Five Mile Creek.....                | Denton Street 50 feet upstream from centerline.....                                         | *464                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | At confluence with Hutchins Creek.....                                                      | *398                                                   |
| Maps are available at City Hall, 321 North Main, Hutchins, Texas.<br>Send comments to Honorable Don Simmons, Mayor, City of Hutchins, City Hall, 321 North Main, P.O. Box AE, Hutchins, Texas 75141. |                                                                |                                     |                                                                                             |                                                        |
| Utah                                                                                                                                                                                                 | Castle Dale (City), Emery (County) (Docket No. FI-5534).       | Cottonwood Creek.....               | Downstream Corporate Limits.....                                                            | *5,626                                                 |
|                                                                                                                                                                                                      |                                                                |                                     | Upstream Corporate Limits.....                                                              | *5,656                                                 |
| Maps available at City Hall, 81 East First North, Castle Dale, Utah.                                                                                                                                 |                                                                |                                     |                                                                                             |                                                        |
| Virginia                                                                                                                                                                                             | Rocky Mount, Town, Franklin County (Docket No. FI-5629).       | Pigg River.....                     | Downstream Corporate Limits.....                                                            | *978                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | U. S. Route 220 Business.....                                                               | *990                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Upstream Corporate Limits.....                                                              | *1,003                                                 |
| Maps available at the Municipal Building, Rocky Mount, Virginia.                                                                                                                                     |                                                                |                                     |                                                                                             |                                                        |
| Washington                                                                                                                                                                                           | Buckley (City), Pierce County (Docket No. FI-5517).            | White River.....                    | State Route 410 (25 feet) upstream from centerline.....                                     | *620                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Burlington Northern Railroad centerline.....                                                | *631                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Puget Power Diversion Dam centerline.....                                                   | *668                                                   |
| Maps available at City Hall, Buckley, Washington 98321.                                                                                                                                              |                                                                |                                     |                                                                                             |                                                        |
| Washington                                                                                                                                                                                           | Chehalis (City), Lewis County (Docket No. FI-5536).            | Chehalis River.....                 | Confluence with Salzer Creek.....                                                           | *175                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Confluence with Dillenbaugh Creek.....                                                      | *179                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Southwest Riverside Road centerline.....                                                    | *181                                                   |
|                                                                                                                                                                                                      |                                                                | Newaukum River.....                 | H.C. Shory Road centerline.....                                                             | *182                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Burlington Northern Railroad (upstream crossing) centerline.....                            | *184                                                   |
|                                                                                                                                                                                                      |                                                                | Coal Creek.....                     | North National Avenue (50 feet) upstream from centerline.....                               | *177                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Coal Creek Road-1 Bridge centerline.....                                                    | *178                                                   |
|                                                                                                                                                                                                      |                                                                | Salzer Creek.....                   | Burlington Northern Railroad centerline.....                                                | *176                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Grand Avenue Bridge centerline.....                                                         | *178                                                   |
|                                                                                                                                                                                                      |                                                                | Dillenbaugh Creek.....              | Ocean Beach Highway centerline.....                                                         | *180                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Burlington Northern Railroad.....                                                           | *183                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Southwest Parkland Drive (100 feet) upstream from centerline.....                           | *185                                                   |
| Maps available at City Hall, Chehalis, Washington 98532.                                                                                                                                             |                                                                |                                     |                                                                                             |                                                        |
| Washington                                                                                                                                                                                           | Franklin (County) (Unincorporated Areas) (Docket No. FI-5518). | Esquatzel Coulee at Pasco Sump..... | County Road 930 centerline.....                                                             | *424                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Solph Landing Road (105 feet) downstream from centerline.....                               | *465                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Solph Landing Road centerline.....                                                          | *470                                                   |
|                                                                                                                                                                                                      |                                                                | Esquatzel Coulee at Eltopia.....    | Eltopia-West Road (100 feet) upstream from centerline.....                                  | *587                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Burlington Northern Railroad (25 feet) from upstream crossing upstream from centerline..... | *593                                                   |
|                                                                                                                                                                                                      |                                                                | Esquatzel Coulee at Connell.....    | State Highway 260 (50 feet) upstream from centerline.....                                   | *832                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Upstream corporate limits of Town of Connell.....                                           | *847                                                   |
|                                                                                                                                                                                                      |                                                                | Kahlotus Creek.....                 | Spokane Avenue (25 feet) upstream from centerline.....                                      | *892                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Upstream corporate limits of Town of Kahlotus.....                                          | *907                                                   |
| Maps available at County Courthouse, 1014 North 4th, Pasco, Washington 99302.                                                                                                                        |                                                                |                                     |                                                                                             |                                                        |
| Washington                                                                                                                                                                                           | Town of Issaquah, King County, (FI-5678).                      | Tibbetts Creek.....                 | Just upstream of Sammamish Rd.....                                                          | *42                                                    |
|                                                                                                                                                                                                      |                                                                |                                     | Just downstream of Highway 900.....                                                         | *78                                                    |
|                                                                                                                                                                                                      |                                                                | Issaquah Creek.....                 | Approximately 200 feet upstream of 56th St., Bridge.....                                    | *50                                                    |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 40 feet upstream of I-90.....                                                 | *58                                                    |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 30 feet downstream of Juniper St.....                                         | *66                                                    |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 30 feet upstream of W. Sunset Way.....                                        | *88                                                    |
|                                                                                                                                                                                                      |                                                                | East Fork Issaquah Creek.....       | Approximately 130 feet upstream of Sycamore Drive.....                                      | *126                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 20 feet downstream of Rainier Blvd.....                                       | *80                                                    |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 30 feet upstream of NE Dogwood St.....                                        | *100                                                   |
|                                                                                                                                                                                                      |                                                                |                                     | Approximately 50 feet downstream of 3rd Ave. NE.....                                        | *108                                                   |
| Maps available at City Hall, Planning and Engineering Department, Issaquah, Washington 98027.                                                                                                        |                                                                |                                     |                                                                                             |                                                        |

## Final Base (100-Year) Flood Elevations—Continued

| State                                                                                                                                                                                                                                            | City/town/country                                             | Source of flooding               | Location                                                                               | #Depth in feet above ground. *Elevation in feet (NGVD) |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|----------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------------------|
| Washington                                                                                                                                                                                                                                       | Whitman County (Unincorporated Area), Whitman County FI-5417. | McCoy Creek.....                 | Union Pacific Railroad Bridge.....                                                     | *2,435                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 110 feet downstream at centerline.....                                                 | **2,440                                                |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 50 feet upstream at centerline.....                                                    |                                                        |
|                                                                                                                                                                                                                                                  |                                                               | Pine Creek.....                  | State Highway 275 feet upstream at centerline.....                                     | *2,441                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 1st Street Bridge 50 feet upstream at centerline.....                                  | *2,209                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | State Highway 271 Bridge.....                                                          |                                                        |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 53 feet downstream at centerline.....                                                  | *2,222                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Hangman Creek.....               | 50 feet upstream at centerline.....                                                    | *2,227                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Little Hangman Creek.....        | County Road 200 at centerline.....                                                     | *2,482                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Road (most downstream crossing) 100 feet upstream at centerline.....           | *2,491                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Silver Creek.....                | Union Pacific Railroad Bridge at centerline.....                                       | *2,501                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Drive.....                                                                     |                                                        |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 60 feet downstream of centerline.....                                                  | *2,439                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 50 feet upstream of centerline.....                                                    | *2,445                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Palouse River.....               | Union Pacific Railroad Bridge 25 feet upstream of centerline.....                      | *2,460                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | State Highway 127 100 feet upstream of centerline.....                                 | *1,954                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Burlington Northern Railroad Bridge at centerline.....                                 | *2,421                                                 |
|                                                                                                                                                                                                                                                  |                                                               | South Fork Palouse River.....    | County Road 5490 at centerline.....                                                    | *2,283                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Road (most downstream crossing) 55 feet upstream of centerline.....            | *2,295                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad Bridge 10 feet upstream of centerline.....                      | *2,301                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Cross Street at centerline.....                                                        | *2,323                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Road (at station 24,640) 50 feet upstream of centerline.....                   | *2,384                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Burlington Northern Railroad Bridge 140 feet upstream of centerline.....               | *2,404                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | County Road 9100 at centerline.....                                                    | *2,462                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | County Federal Air Secondary Road 9060 (downstream crossing).....                      |                                                        |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 5 feet downstream of centerline.....                                                   | *2,478                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 50 feet upstream of centerline.....                                                    | *2,485                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Paradise Creek.....              | Washington-Idaho State Line.....                                                       | *2,518                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad Bridge (at station .570) 50 feet upstream of centerline.....    | *2,382                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad Bridge (at station 1.640) 25 feet upstream of centerline.....   | *2,429                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Road (at station 2.753) 100 feet downstream of centerline.....                 | *2,451                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | (At centerline).....                                                                   | *2,457                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad Bridge (at station 4.280) 10 feet upstream from centerline..... | *2,488                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad Bridge (at station 5.805) 30 feet upstream from centerline..... | *2,513                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Missouri Flat Creek.....         | Washington-Idaho State Line.....                                                       | *2,529                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Burlington Northern Railroad Bridge 150 feet downstream from centerline.....           | *2,385                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | County Road 5220 50 feet upstream from centerline.....                                 | *2,410                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Dry Fork Creek.....              | Private Road (most downstream crossing) at centerline.....                             | *2,430                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Cemetery Road 30 feet upstream from centerline.....                                    | *2,441                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Private Road (most upstream crossing) at centerline.....                               | *2,478                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Union Flat Creek.....            | Private Bridge at centerline.....                                                      | *2,556                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Burlington Northern Railroad Bridge at centerline.....                                 | *2,565                                                 |
|                                                                                                                                                                                                                                                  |                                                               | South Fork Union Flat Creek..... | U.S. Highway 195 50 feet upstream from centerline.....                                 | *2,593                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | County Road 9290 45 feet upstream from centerline.....                                 | *2,597                                                 |
|                                                                                                                                                                                                                                                  |                                                               | Unnamed Creek.....               | Confluence with South Fork Union Flat Creek at centerline.....                         | *2,597                                                 |
| Maps are available at Whitman County Courthouse, North Main, Colfax, Washington.<br>Send comments to Mr. James T. Henning, Chairman, Whitman County Board of Commissioners, Whitman County Courthouse, 400 North Main, Colfax, Washington 99111. |                                                               |                                  |                                                                                        |                                                        |
| West Virginia                                                                                                                                                                                                                                    | Benwood City, Marshall County (Docket No. FI-5630).           | Ohio River.....                  | Downstream Corporate Limits.....                                                       | *658                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Chessie System Bridge.....                                                             | *656                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Upstream Corporate Limits.....                                                         | *657                                                   |
| Maps available at the City Building, 430 Main Street, Benwood, West Virginia.                                                                                                                                                                    |                                                               |                                  |                                                                                        |                                                        |
| Wisconsin                                                                                                                                                                                                                                        | Middleton (City), Dane (County) (Docket No. FI-5563).         | Pheasant Branch.....             | County Truck Highway M (25 feet) upstream from centerline.....                         | *856                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Century Avenue (County Truck Highway M) 25 feet upstream from centerline.....          | *878                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Park Street (60 feet) downstream from centerline.....                                  | *892                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Park Street (180 feet) upstream from centerline.....                                   | *900                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | U.S. Highway 12 (105 feet) upstream from centerline.....                               | *916                                                   |
|                                                                                                                                                                                                                                                  |                                                               |                                  | 1,500 feet northwest of intersection of Airport road and Atom Road.....                | #2                                                     |
| Maps available at City Hall, 7426 Hubbard Avenue, Middleton, Wisconsin.                                                                                                                                                                          |                                                               |                                  |                                                                                        |                                                        |
| Wyoming                                                                                                                                                                                                                                          | Laramie County, FI-5322.....                                  | Dry Creek.....                   | Campstool Road 90 feet downstream of centerline.....                                   | *5,884                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Campstool Road 25 feet upstream of centerline.....                                     | *5,889                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Interstate Highway 80 100 feet downstream of centerline.....                           | *5,896                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Interstate Highway 80 25 feet upstream of centerline.....                              | *5,904                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad 100 feet downstream of centerline.....                          | *5,921                                                 |
|                                                                                                                                                                                                                                                  |                                                               |                                  | Union Pacific Railroad 50 feet upstream of centerline.....                             | *5,935                                                 |



## Final Base (100-Year) Flood Elevations—Continued

| State | City/town/country                                              | Source of flooding                                                                                   | Location | #Depth in feet above ground.<br>*Elevation in feet (NGVD) |
|-------|----------------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------|-----------------------------------------------------------|
|       |                                                                | Pershing Boulevard 20 feet upstream of centerline.....                                               |          | *5,950                                                    |
|       |                                                                | U.S. Highway 30 50 feet downstream of centerline.....                                                |          | *5,951                                                    |
|       |                                                                | U.S. Highway 30 50 feet upstream of centerline.....                                                  |          | *5,967                                                    |
|       |                                                                | Dell Range Boulevard (1st crossing) 70 feet upstream of centerline.....                              |          | *5,002                                                    |
|       |                                                                | Stock Dam 95 feet downstream of centerline.....                                                      |          | *5,066                                                    |
|       |                                                                | Stock Dam 100 feet upstream of centerline.....                                                       |          | *6,073                                                    |
|       |                                                                | Prairie Avenue 200 feet upstream of centerline.....                                                  |          | *6,068                                                    |
|       |                                                                | Yellowstone Road 100 feet downstream of centerline.....                                              |          | *6,116                                                    |
|       |                                                                | Yellowstone Road 25 feet upstream of centerline.....                                                 |          | *6,124                                                    |
|       |                                                                | Interstate Highway 25 100 feet upstream of centerline.....                                           |          | *8,146                                                    |
|       | Crow Creek.....                                                | Campstool Road 100 feet downstream of centerline.....                                                |          | *5,886                                                    |
|       |                                                                | Campstool Road 25 feet upstream of centerline.....                                                   |          | *5,891                                                    |
|       |                                                                | Outer Belt Road (U.S. Alternate Highway 87 and State Route 212) 150 feet upstream of centerline..... |          | *5,974                                                    |
|       |                                                                | Interstate Highway 80 25 feet upstream of centerline.....                                            |          | *5,979                                                    |
|       |                                                                | Refinery Bridge 40 feet upstream of centerline.....                                                  |          | *8,005                                                    |
|       |                                                                | (Last) Corporate Limits at centerline.....                                                           |          | *8,020                                                    |
|       | Wyoming Hereford Ranch Reservoir No. 1 Emergency Spillway..... | Kingm Ditch 200 feet downstream of centerline.....                                                   |          | *5,917                                                    |
|       |                                                                | Kingm Ditch 200 feet upstream of centerline.....                                                     |          | *5,922                                                    |

Maps are available at Cheyenne-Laramie County Regional Planning Office, 1700 Snyder Avenue, Cheyenne, Wyoming 82001.

Send comments to Dean Fogg, Chairman, Board of County Commissioners, Laramie County, City-County Building, P.O. Box 608, Cheyenne, Wyoming 82001.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 19, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38031 Filed 12-12-79; 8:45 am]

BILLING CODE 4210-23-M

## 44 CFR Part 70

[Docket No. FEMA 5712]

## Letter of Map Amendment for the City of Leavenworth, Kan., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Leavenworth, Kansas. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Leavenworth, Kansas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office,

National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 200190A Panel 04, published on October 23, 1979 in 44 FR 61023, indicates that Lot 7, Josela Subdivision, Replat of a part of Blocks 7 and 8, Harkness Park Subdivision, Leavenworth, Kansas, as recorded in Book 10, Page 5, in the Office of the Register of Deeds, Leavenworth,

Kansas, is within the Special Flood Hazard Area.

Map No. H & I 200190A Panel 04 is hereby corrected to reflect that the structure on the above mentioned property is not within the Special Flood Hazard Area identified on January 5, 1978. This structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 30, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38032 Filed 12-12-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 70

[Docket No. FI-3012]

## Letter of Map Amendment for the City of Lincoln, Nebr., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of

Lincoln, Nebraska. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lincoln, Nebraska, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872 (in Alaska and Hawaii call toll free (800) 424-9080).

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 315273A Panel 42, published on June 29, 1977, in 42 FR 33220, indicates that Lots 31 and 32, Block 3, Southwood Hills 4th Addition, Lincoln, Nebraska, recorded as Instrument No. 79-16782, in the Office of the Register of Deeds, Lancaster County, Nebraska, are located within the Special Flood Hazard Area.

Map No. H & I 315273A Panel 42 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on September 3, 1976. These lots are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 30, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38036 Filed 12-12-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 70

[Docket No. FEMA 5712]

## Letter of Map Amendment for the City of Tulsa, Okla., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Federal Insurance Administrator after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755-6570 or toll free line (800) 424-8872, (in Alaska and Hawaii call toll free (800) 424-9080).

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the

National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Telephone: (800) 638-6620.

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 405381D Panel 112, published on October 23, 1979 in 44 FR 61021, indicates that Lot 17, Block 1, Arrowwood Addition, also known as 3805 South Toledo Avenue, Tulsa, Oklahoma, recorded as Instrument Number 120495, Plat Number 1773, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 112 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 30, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38035 Filed 12-12-79; 8:45 am]

BILLING CODE 6718-03-M

## 44 CFR Part 70

[Docket No. FI-3012]

## Letter of Map Amendment for the County of Prince George's, Md., Under National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the County of Prince George's, Maryland. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Prince George's, Maryland, that certain property is partially within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is partially within the Special Flood Hazard Area, with the existing structure remaining out as shown, removes the requirement to purchase flood insurance for that structure as a condition of Federal or



federally related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6570 or toll free line (800) 424-8872.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638-6620 toll free, (800) 492-6605 toll free (Maryland only).

The map amendments listed below are in accordance with S 70.7(b):

Map No. H & I 245208A, Panel No. 50, published on June 29, 1977, in 42 FR 33215, indicates that Lot No. 14, Block B, Section Three, Sherwood Forest, Unincorporated Area of Prince George's County, Maryland, as recorded in Liber WWW 69, Plat 26, in the Office of the Clerk of the Circuit Court of Prince George's County, Maryland, is not located within the Special Flood Hazard Area.

Map No. H & I 245208A, Panel No. 50, is hereby corrected to reflect that the above-mentioned property is partially within the Special Flood Hazard Area. However, the existing structure located on the property will remain out of the Flood Hazard Area identified on August 28, 1976. The structure will remain in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: November 2, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38034 Filed 12-12-79; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 70

[Docket No. FEMA 5712]

##### Letter of Map Amendment for the Township of Clinton, Mich., Under National Flood Insurance Program

**AGENCY:** Federal Insurance Administration.

**ACTION:** Final Rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Township of Clinton, Michigan. It has been determined by the Federal Insurance Administrator, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Clinton, Michigan, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** December 13, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6570 or Toll Free Line (800) 424-8872.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034. Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b): Map No. 260121, Panel No. 0005B, published on October 23, 1979 in 44 FR 61018 indicates that the existing structures

located on Lots Nos. 1, 2, and 3, River Oaks Subdivision, Township of Clinton, Macomb County, Michigan, as recorded in Liber 71, Pages 15 through 18, in the Office of the Clerk of Macomb County, Michigan are located in Zone B.

Map No. 260121, Panel No. 0005B, is hereby corrected to reflect that the existing structures located on the above-mentioned property are not within Zone B identified on August 1, 1979. The structures are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: November 30, 1979.

Gloria M. Jimenez,  
Federal Insurance Administrator.

[FR Doc. 79-38033 Filed 12-12-79; 8:45 am]

BILLING CODE 6718-03-M

## Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 211

[Reg. K; Dockets Nos. R-0258 and R-0259]

##### Interstate Banking Restrictions for Foreign Banks; Proposed Interpretation; Extension of Comment Period

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed Rule and Interpretation: Extension of comment periods.

**SUMMARY:** The Board of Governors of the Federal Reserve System has extended until February 3, 1980, the periods for receipt of public comment on its proposed amendments to Regulation K implementing the interstate banking restrictions of the International Banking Act and a proposed interpretation relating to those amendments.

**DATE:** Comments must be received by February 3, 1980.

**ADDRESS:** Comments, which should refer to Docket No. R-0258 or R-0259, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, Northwest, Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR § 261.6(a)).

**FOR FURTHER INFORMATION CONTACT:** C. Keefe Hurley, Jr., Senior Attorney (202/452-3289) or James S. Keller, Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** On October 30, 1979 (44 FR 62902), the Board requested comment on a proposal to implement the provisions of Section 5 of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) by amending

Regulation K (International Banking Operations) to restrict the establishment of branches and subsidiary banks by a foreign bank outside of its "home State." The Board also proposed an interpretation of that section of its proposed amendments that defines "agency" for the purposes of Regulation K. Comment was requested on the proposals by January 4, 1980. The Board has been requested to extend the comment periods in order to provide interested parties with additional time in which to present their views. In light of the issues involved in the proposals and in order to encourage public participation in these matters, the comment periods have been extended to February 4, 1980.

By order of the Board of Governors, acting through its Secretary under delegated authority, December 6, 1979.

Theodore E. Allison,  
Secretary of the Board.

[FR Doc. 79-38170 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 79-NE-18]

##### Airworthiness Directives; Pratt & Whitney Aircraft JT8D-1, -1A, -1B, -7, -7A, and -7B Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This notice proposes to adopt an Airworthiness Directive (AD) that would require a visual and ultrasonic inspection of second stage fan blades to detect cracks and surface damage at the base of the attachment strap and inner diameter of the strap pinholes. The proposed AD is needed to detect cracks and surface damage in the blade attachment straps which may result in strap fracture and possible uncontained blade liberation and fire.

**DATES:** Comments must be received on or before February 12, 1980

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No., 12 New

Federal Register

Vol. 44, No. 241

Thursday, December 13, 1979

England Executive Park, Burlington, Massachusetts 01803.

The applicable Alert Service Bulletin may be obtained from: Pratt & Whitney Aircraft Group, United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the Alert Service Bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Jay J. Pardee, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that fractures of second stage fan blade attachment straps have occurred due to cracks caused by material defects and surface damage. In addition, several blades with attachment strap cracks and surface defects have been discovered during shop inspections.

Analysis and testing indicates material defects and surface damage increases stress levels in the attachment straps sufficiently to initiate cracks which can progress to complete strap fracture. The specific causes of crack initiation which are generalized under



the terms "material defects" and "surface damage" include forging laps, machining faults, weld defects, porosity, subsurface linear origins and surface nicks, pits, and scratches.

A review of second stage fan blade failure history, relative to these causes, contains instances of strap fracture and blade liberation which have resulted in penetration of engine cases and cowlings and fires caused by damaged or severed fuel components.

Since this condition is likely to exist or develop in other engines of the same type design, the proposed AD would require visual and ultrasonic inspection of second stage fan blade attachment straps in accordance with Pratt & Whitney Aircraft Alert Service Bulletin Number 5022. Blade strap fractures have occurred randomly with respect to operating time, and no specific inspection time interval can be identified. The proposed inspection compliance date of July 1, 1981, was selected after a review of safety considerations, data on availability of replacement fan blades, shop capability of industry to perform the inspection, and the economic impact on the community, both the industry and the public.

#### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

**Pratt & Whitney Aircraft:** Applies to Pratt & Whitney Aircraft JT8D-1, -1A, -1B, -7, -7A, and -7B turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect material defects, surface damage, or cracks at the base of the second stage fan blade attachment strap and inner diameter of the strap pinholes which could result in non-contained strap fracture and possible fire, accomplish the following:

Perform a visual and ultrasonic inspection of second stage fan blade attachment straps in accordance with the procedures contained in Pratt & Whitney Aircraft Alert Service Bulletin Number 5022, dated September 12, 1979, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region, at next blade exposure but not later than July 1, 1981. Second stage fan blade attachment straps with crack, material defect, or surface damage indication must be removed before further flight.

**Note.**—Pratt & Whitney Aircraft JT8D Engine Manual, P/N 481672, Section 72-33-1, requires reinspection at each blade overhaul.

The manufacturer's service bulletins and engine manuals identified and described in this directive are incorporated herein and made a part

hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft Group, United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.

**Note.**—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on November 30, 1979.

**Note.**—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

**Robert E. Whittington,**  
Director, New England Region.

[FR Doc. 79-37874 Filed 12-12-79; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 79-AL-10]

#### Control Zone and Transition Area, Designation

##### Correction

In FR Doc. 79-36414, published at page 68480, on Thursday, November 29, 1979, on page 68481, in the second column, in the second paragraph, in the third line, "... (Lat. 70°54'20" N.," should be corrected to read "... (Lat 70°54'40" N.,".

BILLING CODE 1505-01-M

#### 14 CFR Part 71

[Airspace Docket No. 79-AL-3]

#### Establishment of Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to designate a transition area at Sand Point, Alaska. This transition area is required to provide controlled airspace for arrival/departure operations in the Sand Point area.

**DATES:** Comments must be received on or before January 12, 1980.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 79-AL-3, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before January 12, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

##### Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this

NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish a transition area in the Sand Point, Alaska, area. The FAA is installing a NDB/DME facility at Sand Point to be named "Humboldt" with identifier "HBT." Designation of this transition area is necessary to provide controlled airspace for the increased aircraft operations in the Sand Point area. This action would aid air traffic control by improving the flow control procedures for aircraft arriving/departing the Sand Point terminal area. In addition, there would be protection for aircraft operations down to 700 feet above the surface.

#### ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil

Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) as follows:

Under § 71.181 add:

#### Sand Point, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles west and 9.5 miles east of the 175° T(157°M) bearing from the Humboldt NDB, extending from the NDB to 24.5 miles south of the NDB and within 4.5 miles east and 9.5 miles west of the 345° T(327°M) bearing from the Humboldt NDB, extending from the NDB to 23.5 miles north of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

**Note.**—The FAA has determined that this document involves a propose regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirement for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on December 7, 1979.

**William E. Broadwater,**  
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-38232 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Parts 71 and 73

[Airspace Docket No. 79-SO-78]

#### Proposed Establishment of Temporary Restricted Areas, Camp Lejeune, N.C.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to designate seven temporary restricted areas in the vicinity of Camp Lejeune, N.C., to contain a major military exercise. These proposed actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the joint use restricted airspace during the proposed time the areas are in use.

**DATES:** Comments must be received on or before January 12, 1980.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SO-78, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

Send comments concerning environmental and land use aspects to: Captain C. M. Zucker, USN, CINCLANT N-37, Norfolk, Va. 23511, Telephone: (804) 444-6375.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Mr. George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before January 12, 1980, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the



light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

#### Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### The Proposal

The FAA is considering amendments to § 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5316A, R-5316B, R-5316C, R-5316D, R-5316E, R-5316F and R-5316G in the vicinity of Camp Lejeune, N.C., to contain a major military joint readiness exercise. Those restricted areas that penetrate the Continental Control Area would also be included as controlled airspace for the duration of their designation. This exercise will provide training for several military commands operating under a single joint command. The designated ground maneuver areas are: Camp Lejeune, Croatan National Forest and Cherry Point, N.C., Fort Stewart, Ga., and additional land leased by the Corps of Engineers for this exercise. Camp Lejeune and the surrounding area will be referred to as the Northern Region and will encompass maneuver areas in the vicinity of Wilmington, Beaufort and Washington, N.C., and extend eastward to Warning Area W-122. Fort Stewart and the surrounding area will be referred to as the Southern Region, and will encompass maneuver areas in the vicinity of Savannah, Claxton and Jessup, Ga., and extend eastward to Warning Area W-157.

The air activity and ground maneuvers resulting from the exercise will be such that flights of nonexercise aircraft cannot be safely conducted within the proposed temporary restricted airspace during the time the restricted airspace is in use by the military.

Air operations are anticipated from Moody AFB, Hunter AAF, Savannah Municipal Airport, Shaw AFB, Myrtle

Beach AFB, MCAS Beaufort, and from an aircraft carrier at sea. It is estimated that the exercise will utilize approximately 300 fixed wing aircraft flying 400 daily sorties and 310 helicopter aircraft flying 1,400 daily sorties.

Exercise aircraft operating outside of the proposed restricted area airspace and in positive control airspace, or in instrument meteorological conditions will be on individual flight plans. In addition to the NOTAMs and Military Aviation Notices (MANs) published by FAA, public notices in pictorial and textual form describing the air activity within the exercise airspace will be issued by the joint military exercise commander.

Communications equipment would be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonexercise air traffic through the exercise area when exercise activity permits. Additionally, a VHF communications capability and reverse charge telephone number would be established and published on charts for coordination of nonexercise air traffic.

The military would activate only that airspace actually required to accommodate exercise activity. The proposed temporary restricted areas would be designated as joint use, and both IFR and VFR traffic in the areas could be authorized by the controlling agency when the areas are not in use by the using agency. The controlling agency for the proposed temporary restricted area airspace would be the FAA, Washington ARTC Center, Leesburg, Va.

Live ordnance would not be used and supersonic flight would be prohibited in the proposed airspace.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344, 705) as follows:

In § 71.151 (44 FR 344), the following temporary restricted areas are added for the duration of their time of designation from 0001, May 12, 1980, to 0001, local time, May 18, 1980:

R-5316A Lejeune, N.C.  
R-5316C Lejeune, N.C.  
R-5316D Lejeune, N.C.  
R-5316G Lejeune, N.C.

In § 73.53 (44 FR 705), the following temporary restricted areas are added:

#### R-5316A Lejeune, N.C.

##### Boundaries

Beginning at Lat. 35°15'00"N., Long. 77°30'00"W.; to Lat. 34°57'00"N., Long. 77°02'45"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; to Lat. 34°44'50"N., Long. 77°14'40"W.; to Lat. 34°39'10"N., Long. 77°20'50"W.; to Lat. 34°40'20"N., Long. 77°22'12"W.; to Lat. 34°38'12"N., Long. 77°26'00"W.; to Lat. 34°36'05"N., Long. 77°26'08"W.; to Lat. 34°33'00"N., Long. 77°19'00"W.; to Lat. 34°30'20"N., Long. 77°15'50"W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°23'00"N., Long. 77°30'00"W.; to Lat. 34°21'25"N., Long. 77°32'30"W.; to Lat. 34°26'30"N., Long. 77°40'00"W.; to Lat. 34°43'00"N., Long. 77°22'30"W.; to Lat. 34°55'30"N., Long. 77°35'30"W.; thence to point of beginning.

##### Designated Altitude

Surface to but not including FL 180.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316B Lejeune, N.C.

##### Boundaries

Beginning at Lat. 34°51'00"N., Long. 77°05'30"W.; to Lat. 34°42'00"N., Long. 76°54'45"W.; to Lat. 34°41'50"N., Long. 76°56'20"W.; to Lat. 34°37'30"N., Long. 76°56'20"W.; thence southwest 3 NM from and parallel to the shoreline to Lat. 34°34'30"N., Long. 77°09'00"W.; to Lat. 34°44'50"N., Long. 77°14'40"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; thence to point of beginning.

##### Designated Altitudes

Surface to but not including 1,200 feet MSL.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316C Lejeune, N.C.

##### Boundaries

Beginning at Lat. 34°57'00"N., Long. 77°02'45"W.; to Lat. 34°38'30"N., Long. 76°43'00"W.; thence west 3 NM from and parallel to the shoreline to Lat. 34°37'30"N., Long. 76°56'20"W.; to Lat. 34°41'50"N., Long. 76°56'20"W.; to Lat. 34°42'00"N., Long. 76°54'45"W.; to Lat. 34°51'00"N., Long. 77°05'30"W.; to Lat. 34°49'30"N., Long. 77°10'00"W.; thence to point of beginning.

#### Designated Altitudes

4,000 feet MSL to but not including FL 180.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316D Lejeune, N.C.

##### Boundaries

Beginning at Lat. 35°15'00"N., Long. 77°30'00"W.; to Lat. 35°43'50"N., Long. 76°35'30"W.; to Lat. 35°38'55"N., Long. 76°01'00"W.; to Lat. 35°36'45"N., Long. 76°01'20"W.; to Lat. 35°18'15"N., Long. 76°16'40"W.; to Lat. 35°23'15"N., Long. 76°34'40"W.; to Lat. 35°08'00"N., Long. 76°51'20"W.; to Lat. 35°03'00"N., Long. 76°57'00"W.; to Lat. 34°57'00"N., Long. 77°02'45"W.; thence to point of beginning.

##### Designated Altitudes

10,000 feet MSL to but not including FL 180.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316E Lejeune, N.C.

##### Boundaries

Beginning at Lat. 35°53'50"N., Long. 76°33'10"W.; to Lat. 35°52'22"N., Long. 76°09'53"W.; to Lat. 35°40'25"N., Long. 76°12'25"W.; to Lat. 35°43'50"N., Long. 76°35'30"W.; thence to point of beginning.

##### Designated Altitudes

6,000 feet MSL to and including 14,000 feet MSL.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington, ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316F Lejeune, N.C.

##### Boundaries

Beginning at Lat. 35°52'22"N., Long. 76°09'53"W.; to Lat. 35°51'52"N., Long. 76°02'09"W.; to Lat. 35°39'20"N., Long. 76°05'00"W.; to Lat. 35°40'25"N., Long. 76°12'25"W.; thence to point of beginning.

#### Designated Altitudes

10,000 feet MSL to and including 14,000 feet MSL.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

#### R-5316G Lejeune, N.C.

##### Boundaries

Beginning at Lat. 35°51'52"N., Long. 76°02'09"W.; to Lat. 35°51'35"N., Long. 75°57'55"W.; to Lat. 35°38'55"N., Long. 76°01'00"W.; to Lat. 35°39'20"N., Long. 76°05'00"W.; thence to point of beginning.

##### Designated Altitudes

15,000 feet MSL to but not including 18,000 feet MSL.

##### Time of Designation

Intermittent, 0001, May 12, 1980, to 0001, local time, May 18, 1980.

##### Controlling Agency

Federal Aviation Administration, Washington ARTCC, Leesburg, Va.

##### Using Agency

United States Atlantic Command, Norfolk, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on December 7, 1979.

William E. Broadwater,  
Chief, Airspace and Air Traffic Rules  
Division

[FR Doc. 79-38231 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Fair Housing and Equal Opportunity

#### 24 CFR Part 115

[Docket No. R-79-740]

### Recognition of Substantially Equivalent Laws

AGENCY: Housing and Urban Development/Office of Fair Housing and Equal Opportunity.

ACTION: Proposed Rule.

**SUMMARY:** This proposed rule amends current regulations which provide for recognition by the Department of those States and local fair housing laws which provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment would grant recognition to the State of Delaware and the State of South Dakota.

**DATES:** Comments received on or before February 11, 1980, will be considered prior to publication of a final rule.

**ADDRESSES:** Send written comments to the Rules Docket Clerk, Room 5218, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Steven J. Sacks, Director, Federal, State & Local Programs, Room 5208, Department of Housing & Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-5518.

**SUPPLEMENTARY INFORMATION:** The Department is proposing to grant recognition to the State fair housing laws of the States of Delaware and of South Dakota, pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968. The evaluation of the laws of the States of Delaware and South Dakota was conducted in accordance with the provisions of 24 CFR Part 115, with particular focus on Sections 115.2(a), 115.3 and 115.8. Those sections are set forth to give appropriate information to all parties with an interest in HUD's proposed action.

**Section 115.2 Procedure for Recognition** provides in (a) Recognition under this part shall be based on a consideration of the following materials and information: (1) The text of the jurisdiction's fair housing law and any regulations or directives issued thereunder; (2) the organization of the agency responsible for administering and enforcing such law; (3) the amount



of funds and personnel made available to such agency for fair housing purposes during the current operating year; (4) when considering agencies which have been in operation for 1 year or more, any available indicia of the agency's ability to satisfactorily administer its law consonant with the performance standards delineated in Section 115.8; and (5) any additional documents which the agency may wish to have considered.

**Section 115.3 Criteria** provides: In order for a determination to be made that a State or local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to those provided in the act, the law or ordinance must: (a) Provide for an administrative enforcement body to receive and process complaints; (b) Delegate to the administrative enforcement body comprehensive authority to investigate the allegations of complaints, and power to conciliate complaint matters; (c) Not place any excessive burdens on the complainant which might discourage the filing of complaints; (d) Not contain exemptions which substantially reduce the coverage of housing accommodations as compared to Section 803 of the Act which provides coverage with respect to all dwellings except, under certain circumstances, single-family homes sold or rented by the owner, and units in owner occupied dwellings containing living quarters for no more than four families; and (e) Be sufficiently comprehensive in its prohibitions so as to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., the prohibition of the following acts if they are based on discrimination because of race, color, religion, sex, or national origin:

- (1) Refusal to sell or rent.
- (2) Refusal to negotiate for a sale or rental.
- (3) Making a dwelling unavailable.
- (4) Discriminating in terms, conditions, or privileges of sale or rental, or in the provisions of services or facilities.
- (5) Advertising in a discriminatory manner.
- (6) Falsely representing that a dwelling is not available for inspection, sale or rental.
- (7) Blockbusting.
- (8) Discrimination in financing.
- (9) Denying a person access to or membership or participation in multiple listing services, real estate brokers' organizations, or other services.

Provided, that a law may be determined substantially equivalent if it meets all of the criteria set forth in this

section but does not contain adequate prohibitions with respect to one or more of the acts based on discrimination because of sex, or with respect to one or more of the cases described in paragraphs (e) (7), (8), and (9) of this section. (f) In addition to the factors described in paragraphs (a), (b), (c), (d), and (e) of this section, consideration will be given to the provisions of the law affording judicial protection and enforcement of the rights embodied in the law. However, a law may be determined substantially equivalent even though it does not contain express provision for access to State or local courts.

**Section 115.8 Performance Standards** provides: (a) The initial and continued recognition by the Secretary that a State or local fair housing law provides rights and remedies substantially equivalent to those provided in the Act will be dependent upon, where applicable, an assessment of the State or local agency's administration of its fair housing law to insure that the law is in fact providing substantially equivalent rights and remedies. The performance standards set forth in paragraph (b) of this section will be used in making such assessment. (b) A state or local agency must: (1) Consistently and affirmatively seek the elimination of all prohibited practices under its fair housing law; (2) Consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of such practices; (3) Establish a mechanism for monitoring compliance with any agreements or orders entered into with or issued by the State or local agency to resolve discriminatory housing practices; (4) Engage in comprehensive and thorough investigative activities; and, (5) Commence and complete the administrative processing of a complaint in a timely manner, i.e. the average complaint should, under ordinary circumstances, be investigated and, where applicable, set for conciliation within 30-45 days.

Interested persons and organizations may, on or before February 11, 1980, file written comments on the proposal. If after evaluating any comments so received, the Assistant Secretary for Fair Housing and Equal Opportunity is still of the opinion that recognition is appropriate, the Assistant Secretary shall grant such recognition by amending 24 CFR 115.11. A finding of inapplicability of the National Environmental Policy Act of 1969 has been made, and is available for public inspection and copying in the Office of the Rules Docket Clerk, 451 7th Street, S.W., Washington, D.C. 20410.

#### § 115.11 [Amended]

Accordingly, it is proposed to amend 24 CFR Part 115.11 by adding the following two States: Delaware, South Dakota.

[Section 7(d) of the Department of HUD Act 42 U.S.C. 3535(d)]

Issued at Washington, D.C., November 8, 1979.

**Weldon H. Latham,**  
General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 79-38237 Filed 12-12-79; 8:45 am]

BILLING CODE 4210-01-M

#### Office of Assistant Secretary For Housing—Federal Housing Commissioner

#### 24 CFR Parts 203 and 204

[Docket No. R-79-738]

#### Change in Notification to HUD of Terminations by Mortgagees and Lenders

**AGENCY:** Department of Housing and Urban Development (HUD).

**ACTION:** Proposed Rule.

**SUMMARY:** This proposed amendment would reduce the number of days required for HUD-approved mortgagees and lenders to notify HUD of terminations from 30 to 15 calendar days.

**COMMENTS DUE:** February 11, 1980.

**ADDRESSES:** Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** T. J. O'Connor, Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410 Room 2202, Telephone 202-755-6310. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Under existing regulations, mortgagees and lenders are required to notify HUD within 30 days from the occurrence of one of the approved methods of termination.

The proposed amendment would require the mortgagee or lender to notify HUD of terminations within 15 calendar days. This would permit HUD to terminate its insurance-in-force record sooner and notify the mortgagee or

lender accordingly. This, in turn, would speed up the return of any escrow being held for taxes or insurance. It would also permit HUD to process any distributive share (for section 203 cases) to the mortgagor sooner.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. Copies of the Findings are available for inspection and copy in the Office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed that 24 CFR, Parts 203 and 204, be amended as follows:

1. § 203.318 is amended to read as follows:

#### § 203.318 Notice of termination by mortgagee.

No contract of insurance shall be terminated until the mortgagee has given written notice thereof to the Commissioner within 15 calendar days from the occurrence of one of the approved methods of termination set forth in this subpart.

2. § 203.459 is amended to read as follows:

#### § 203.459 Notice of termination by lender.

No contract of insurance shall be terminated until the lender has given written notice thereof to the Commissioner within 15 calendar days from the occurrence of one of the approved methods of termination set forth in this subpart.

3. § 204.281 is amended to read as follows:

#### § 204.281 Notice of termination by mortgagee.

No contract of insurance shall be terminated until the mortgagee has given written notice thereof to the Commissioner within 15 calendar days from the occurrence of one of the approved methods of termination set forth in §§ 203.440 et seq.

(Sec. 203, 211, 52 Stat. 10, as amended, 23; 12 U.S.C. 1701, et seq.)

Issued at Washington, D.C. on November 7, 1979.

**Morton A. Baruch,**  
Deputy Assistant Secretary for Housing—  
Federal Housing Commissioner.

[FR Doc. 79-38264 Filed 12-12-79; 8:45 am]

BILLING CODE 4210-01-M

#### DEPARTMENT OF THE TREASURY

#### Fiscal Service

#### 31 CFR Part 350

#### Regulations Governing Book-Entry Treasury Bills

**AGENCY:** Fiscal Service, Department of the Treasury.

**ACTION:** Additional notice of proposed rulemaking.

**SUMMARY:** On August 23, 1979, the Department of the Treasury published a proposed amendment of the regulations governing book-entry Treasury bills (31 CFR, Part 350) to increase the period prior to maturity during which requests for transactions affecting book-entry accounts maintained by the Bureau of the Public Debt would not be accepted.

Although no responses were received during the period reserved for filing written comments, which expired on October 19, 1979, in preparing the amendment for publication of the final rule, it was found that a clerical error had been made in the proposed amendment, at § 350.14. A reference to a ten business day closed period on requesting reinvestment was inadvertently retained in the text. Although the summary and the context of the amendment published made it clear that a twenty (20) day closed period was being uniformly prescribed, to avoid any question, an additional period for filing comments is now being provided.

In addition to the corrective change necessitated by the above error, § 350.8 is being further amended to incorporate an explicit reference to the twenty (20) day closed period in the acceptance of requests for transfers from book-entry accounts maintained by the Bureau of the Public Debt. This limitation had been set out only in the Public Debt form prescribed for requesting transactions; it is now being included as part of the regulations.

**DATES:** Written comments must be received on or before January 4, 1980. Proposed effective date: January 15, 1980.

**ADDRESS:** Send comments to Mr. Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Room 309, Washington Building, N.W., Washington, D.C. 20226.

**FOR FURTHER INFORMATION CONTACT:** Mr. Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, 202-376-0244.

Dated: December 7, 1979.

**Paul H. Taylor,**  
Fiscal Assistant Secretary.

Section 350.8 is revised as set forth below:

#### § 350.8 Transfer.

Book-entry Treasury bills maintained under this subpart may not be transferred from one account maintained by the Treasury to another such account, except in cases of lawful succession, as provided in this subpart. They may be withdrawn from an account maintained by the Treasury hereunder and transferred through the Federal Reserve Bank communication system to an account maintained by or through a member bank under Subpart B, which transfer shall be made in the name or names appearing in the account recorded on the books of the Treasury. Such withdrawal may be effected by a certified request therefor by, or on behalf of, the depositor, provided the request therefor is received no earlier than twenty (20) business days after the issue date or the date the securities are transferred to the Treasury, whichever is later, or no later than twenty (20) business days before the maturity date. The request must:

(a) Identify the book-entry account by the name of the depositor and title, if any, the address, and the taxpayer identifying number;

(b) specify by amount, maturity date and CUSIP number the book-entry Treasury bills to be withdrawn and transferred; and

(c) specify the name of the member bank to or through which the transfer is to be effected and, where appropriate, the name of the institution or entity which is to maintain the book-entry account. In the case of book-entry Treasury bills held in the names of two individuals, a certified request by either will be accepted, but the transfer shall be made in the names of both. A transfer after original issue of book-entry Treasury bills from an account maintained by or through a member bank to one maintained by the Treasury may be made through the Federal Reserve Bank communication system, provided the account is to be held in a form authorized by this subpart, and provided the transfer is made no later than one month prior to the maturity date of the bills.

Section 350.14 is amended by revising paragraph (a) as set forth below:



**§ 350.14 Reinvestment or payment at maturity.**

(a) *Request for reinvestment.* Upon the request of the depositor in whose name the account is maintained, book-entry Treasury bills held therein will be reinvested at maturity, i.e., their proceeds at maturity will be applied to the purchase of new Treasury bills at the average price (in three decimals) of accepted competitive bids for such Treasury bills then being offered. The request for a reinvestment may be made on the tender form at the time of purchase; subsequent requests for reinvestment will be accepted if received by the Bureau no later than twenty (20) business days prior to the maturity of the bills. The difference between the par value of the maturing bills and the issue price of the new bills will be remitted to the subscriber in the form of a Treasury check. Requests for the revocation of the reinvestment of bills will also be accepted if received no later than twenty (20) business days prior to the maturity date.

Section 350.16 is amended by revising paragraph (a) as set forth below:

**§ 350.16 Transactions in regular course—~~notices not effective—unacceptable notices.~~**

(a) *Transactions in regular course—~~notices not effective.~~* Transfers of book-entry Treasury bills, payment thereof or reinvestment at maturity or any other transaction therein will be conducted in the regular course of business in accordance with this subpart, notwithstanding notice of the appointment of an attorney-in-fact, or a legal guardian or similar representative, or notice of successorship, the termination of an estate, the dissolution of an entity, or the death of an individual, unless the requisite request, proof, and the evidence necessary to establish entitlement under this subpart is received by the Bureau no later than twenty (20) business days prior to the maturity date of the bills.

[FR Doc. 79-38188 Filed 12-12-79; 8:45 am]  
BILLING CODE 4810-40-M

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD 79-174]

**Drawbridge Operation Regulations; Elizabeth River, Southern Branch, Va.**

AGENCY: Coast Guard, DOT.

**ACTION: Proposed Rule.**

**SUMMARY:** At the request of the City of Chesapeake, Virginia, the Coast Guard is considering establishing regulations to govern the operation of the State Highway 337 drawbridge across the Elizabeth River, Southern Branch, mile 2.8, Chesapeake, Virginia, to allow periods when the draw need not open for the passage of pleasure craft. This proposal is being made because of rush hour traffic during the periods proposed.

**DATE:** Comments must be received on or before January 14, 1980.

**ADDRESSES:** Comments should be submitted to and are available for examination at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

**FOR FURTHER INFORMATION CONTACT:** Wayne J. Creed, Chief, Bridge Section, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth Virginia 23705 (804-398-6226).

**SUPPLEMENTARY INFORMATION:**

Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all comments received and decide on a final course of action. The proposed regulations may be changed in the light of comments received.

**DRAFTING INFORMATION:** The principal persons involved in drafting this proposal are: Wayne J. Creed, Project Manager, Fifth Coast Guard District, Aids to Navigation Branch and Lt. Cheryl Avery, Project Attorney, Assistant Legal Officer, Fifth Coast Guard District.

**Discussion of the Proposed Regulation**

These regulations are being considered because of rush hour traffic during the period concerned. To illustrate this point, rush-hour traffic across the drawbridge, between the hours of 6:30 a.m. to 7:30 a.m. and between the hours of 3:30 p.m. and 4:30 p.m., Monday through Friday, averages approximately 225 vehicles every 15 minutes as workers cross the bridge enroute to their jobs, Monday through Friday. While at other times traffic across the bridge averages approximately 75 vehicles every 15 minutes. The Coast Guard feels that this

proposed change should be presented to the public for comment.

In consideration of the foregoing, it is proposed that Part 117 of Title 3 of the Code of Federal Regulations be amended by adding 117.349a to read as follows:

**PART 117—DRAWBRIDGE OPERATIONS REGULATIONS****§ 117.349a Elizabeth River, Southern Branch, Va., Route 337 drawbridge.**

The drawbridge shall open on signal except that:

(a) From 6:30 a.m. to 7:30 a.m. and from 3:30 p.m. to 4:30 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of pleasure craft.

(b) At all times not covered by the regulations in this paragraph and in all other respects, the regulations contained in § 117.240 shall govern the operation of this bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: December 3, 1979.

T. T. Wetmore III,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 79-38261 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-14-M

**33 CFR Part 158**

[CGD 77-029]

**Ocean Dumping Surveillance System**

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

**SUMMARY:** The Coast Guard is proposing to issue regulations requiring waste transporters to install electronic surveillance equipment on vessels engaged in ocean dumping. Present surveillance methods are labor intensive and costly and do not provide 100% coverage of all dumping activities. Installation of this equipment will result in increased surveillance, while reducing overall costs. Although the cost to the dumping industry will increase because of equipment requirements, the total cost of surveillance of ocean dumping operations will decrease.

**DATES:** Comments must be received on or before March 3, 1980.

**ADDRESSES:** Comments should be submitted in writing to Commandant (G-CMC/TP24) (CGD 77-029), U.S. Coast Guard, Washington, D.C. 20593. Comments will be available for inspection or copying from 7:30 AM to 4:30 PM, Monday through Thursday, at

the Marine Safety Council (G-CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593.

Copies of the documents referred to in this preamble or incorporated by reference under proposed § 158.19 are available for examination at the above address.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Commander Gregory S. Voyik, Marine Environmental Protection Division (G-WEP/TP12), Room 1609, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593 [(202) 755-7938]

**SUPPLEMENTARY INFORMATION:**

The public is invited to participate in this rulemaking by submitting written data, views, or arguments. Each comment should include the name and address of the person submitting the comments, reference the docket number (CGD 77-029), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each argument is made. If an acknowledgment is desired, a stamped, addressed postcard should be enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

**Drafting Information**

The principal persons involved in drafting this proposal are: Lieutenant Commander Gregory S. Voyik, Project Manager, Office of Marine Environment and Systems, and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

**Background**

Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) (the Act) mandates regulation of the dumping and transportation for dumping of materials

into ocean waters. The administration of the ocean dumping program is primarily the responsibility of the Environmental Protection Agency (EPA), which issues all ocean dumping permits other than those for dredged material, which are

issued by the Army Corps of Engineers (COE). The Act assigns to the Department of Transportation the responsibility for surveillance and other appropriate enforcement activities to prevent unlawful transportation of material for dumping and unlawful dumping. The Secretary of the Department of Transportation has delegated this authority to the Commandant of the Coast Guard (49 CFR 1.46(n)(5)).

In order to carry out these new responsibilities, the Coast Guard established an enforcement program which consisted of several surveillance methods. This program included the use of Coast Guard personnel as shipriders to escort vessels on dumping missions, to check for valid permits, to obtain samples of material to be dumped, and to verify vessel logs and notification reports. It also included the use of Coast Guard vessels and aircraft to check transportation routes and dumpsites and the use of radar to track vessels to dumpsites.

Soon after this program was initiated in 1973, it was realized that other types of surveillance would also be needed. Although the methods were extremely effective, they were very costly in terms of staff time, operating expenses, and vessel and aircraft mission hours. Surveillance program goals were established which took into account the available vessel and aircraft operating hours and staff time. These program goals emphasized surveillance coverage of ocean dumping activities authorized by EPA permits. This decision was based on the more toxic nature of the materials disposed of under EPA permits as compared to dredged material authorized for disposal by the COE. Over the past several years, this program has resulted in approximately 24% of all EPA permitted ocean dumping activities being observed by vessels, aircraft, or shipriders. The lack of additional resource or staff time prevents more coverage. It also severely restricts coverage of COE activities. Approximately 90% of all ocean dumping is COE authorized, but the lack of resources does not allow adequate Coast Guard surveillance of these activities. To do so would be cost prohibitive in terms of acquisition of new vessels and aircraft and allotment of personnel to administer the program.

As mentioned previously, the need for alternate surveillance methods was identified in 1973. In addition to the

reasons previously cited, there are other shortcomings with respect to present methods. Vessels and aircraft are relatively ineffective during inclement weather or fog or at night, when some ocean dumping occurs. Several dumpsites are located far enough offshore to be out of range of some Coast Guard aircraft and require a great deal of vessel time for coverage. Shipriding, the placement of Coast Guard personnel on vessels engaged in dumping, does provide coverage despite these conditions, but it is also costly in terms of personnel time. For example, the 179 shiprider missions conducted during 1978 required 8,262 manhours and represented only 17% of all missions conducted that year.

The Coast Guard Office of Research and Development was tasked with the identification of alternate or augmenting surveillance methods. A thorough analysis of many different approaches concluded that the most effective method, considering costs and benefits, would be to require electronic devices for recording dumping operation information be carried on board vessels engaged in ocean dumping. This approach was recommended because it would work day or night or in inclement weather and not be affected by dumpsite distance offshore. The cost for Coast Guard development of a prototype and subsequent purchase of equipment by the dumpers would also be relatively inexpensive compared to new vessel or aircraft purchases. This concept would also provide the Coast Guard with all the data necessary for enforcement, such as what vessel dumped, when and where the dumping occurred, and under what permit the dumping was allowed. Finally, such an approach could provide nearly 100% coverage of all ocean dumping activities.

The recommendations of the study were accepted and further development of this concept was conducted. The concept of the Ocean Dumping Surveillance System (ODSS) contained in this proposal is the result of several Coast Guard funded prototypes and their evaluation.

This system provides a record of an ocean dumping mission on cassette tape provided by the Coast Guard by periodically recording geographic movements of the vessel, the times when the mechanisms for dumping cargo are activated, and data identifying that mission. The vessel's location is determined by a Loran-C receiver, one of the ODSS components. Input from



this component is fed to a digital cassette recorder and recorded every ten minutes. Electronic sensors placed on the devices which activate the dump mechanisms provide data to the recorder indicating whether or not dumping is in progress. When the cassette tape is used up (or within two weeks after beginning the recording, whichever occurs first), it is proposed that the vessel owner or operator see that the tape cassette is delivered to the Coast Guard. The Coast Guard, in turn, analyzes the tape at its own facility.

Purchase of all equipment, less the cassette tapes, will be borne by the ocean dumping industry. The implementation of this equipment will also not entirely relieve the Coast Guard of the need for continued surveillance utilizing some of the present methods. The Coast Guard will continue to search for dumpers without permits, provide shipriders or other coverage when ODSS equipment malfunctions, and spot check dumpsites and transportation routes as a verification process. Nevertheless, the potential benefits that this proposal provides in terms of dramatically increased surveillance coverage merit serious consideration by the Coast Guard, the interested public, and the ocean dumping industry as well. Your comments to this proposal are solicited.

#### Discussion of the Proposed Regulations

##### Subpart A

Subpart A (General) of the proposed regulations sets out the definitions used throughout the regulations, waiver provisions, penalty information, matter incorporated by reference, and address for correspondence with the Coast Guard. Under the proposed definition, dumping under emergency, research, and general permits is not considered "ocean dumping" for the purposes of this part. Research and emergency permits are infrequent one-of-a-kind permits, usually involving unique situations which, if warranted, require on-scene surveillance or observation. General permits are issued for the disposal of target and other vessels and for burials at sea. Surveillance is not considered necessary for these activities. For these reasons, use of an ODSS during these missions is not a proposed requirement.

Proposed § 158.9 authorizes the Commandant of the Coast Guard to grant waivers of any of the requirements in this proposed part. The necessity for this provision is exemplified by the fact that the Loran-C network has not, as yet, been extended to cover the Caribbean. Waste transporters in that area would apply for a waiver and not

be required to install and maintain an ODSS. Instead, other forms of surveillance, such as shipriders, would be used. Waivers under proposed subpart B are submitted to the appropriate Coast Guard District Commander because the waivers would involve operational aspects and the District Commander should have the opportunity to review the request and submit recommendations to the Commandant.

Proposed § 158.15 sets forth the penalties for violating the requirements in this part. The penalties set forth here are prescribed by section 1415 of the Act, which also designates the Administrator of EPA as the person responsible for assessing civil penalties.

The Coast Guard intends to seek the Federal Register's approval of the matter incorporated by reference in proposed § 158.19 before the final rule is published.

Proposed § 158.25 provides a single contact point within the Coast Guard where correspondence on and requests for information about these regulations should be directed. The Chief of the Marine Environmental Protection Division at Coast Guard Headquarters is the program manager for ocean dumping surveillance programs within the Coast Guard.

##### Subpart B

Proposed subpart B concerns ODSS operating and equipment requirements. Proposed § 158.29 lists the major components of an ODSS and where and how the components are to be installed. The Loran-C receiver and the recording device components of an ODSS may be installed on either a vessel containing material to be dumped or any vessel attached to that vessel. However, the sensor components of an ODSS must be installed on each mechanism for dumping the cargo or on each device used for activating that mechanism, regardless of on which vessel the mechanisms or devices are located. Dump mechanisms vary from vessel to vessel and may consist of valves which open or pumps which force the material overboard. In addition to manual operations, some mechanisms are remotely controlled and energized electrically or hydraulically. Some examples of vessel configuration might illustrate these possible variations in equipment installation.

If a vessel which contains material to be dumped is self-propelled and the mechanisms for dumping cargo are remotely controlled from the bridge, then the sensors may be located either on this remote control panel or on each dump mechanism. If the vessel is

equipped with manually operated mechanisms for cargo dumping, the sensors must be located only on each of the mechanisms. In both cases, there is no choice for location of the Loran-C receiver and recording device components because only one vessel is involved.

For towing operations, however, there are options for location of these components and possibly for the sensor components as well. When the mechanisms for dumping cargo from the towed vessel (barge) are remotely controlled from the tug, the sensors may be located on either the tug's remote control panel or on each of the mechanisms for dumping cargo located on the barge. The decision on where to place this installation might be affected by the location of the Loran-C receiver and recording device components. If the sensors are on a vessel other than the vessel on which these latter two components are located, some method of electronically relaying sensor information to the recording device must be designed. For example, a digitally coded radio link could be used to transfer this information. Because it would be most appropriate to place the Loran-C receiver and recording device on the tug so that the vessel operator could observe the navigational readings and other visual displays, then it may also be appropriate to place sensors at the remote control panel. This avoids transmittal of sensor information between two vessels.

For a towing operation where the towed vessel (barge) is manned and equipped with manually operated dump mechanisms, the sensors must be located on each of the barge's dumping mechanisms because there is no device to activate these mechanisms from the tug. Again, however, a choice exists for the Loran-C receiver and recording device installation. If placed on the tug where that vessel's operator can take advantage of the navigational information, it will be necessary to provide for data transmission between the two vessels. If placed on the barge along with the sensors, data relay between vessels is not needed and overall installation is simplified and less costly. The disadvantage is that the tug operator would not have ODSS Loran-C data readily available.

By providing for some variation in the location of equipment, the persons responsible can decide on the installation that best suits their needs.

This proposed section also requires the ODSS installation to be accomplished in a manner that will ensure the equipment is capable of providing the necessary recorded tape

output. This requirement is important because an ODSS that has been approved as meeting the design and performance requirements but improperly installed may produce unacceptable results. There are no published specifications on installation procedures. There are, however, industry-wide installation practices which will enhance the equipment operation. For example, Appendix A to the Minimum Performance Standards Marine Loran-C Receiving Equipment, published in the Radio Technical Commission for Marine Services Paper 12-78/DO-100 of December 20, 1977, provides advice on Loran-C receiver placement, equipment grounding, and external noise suppression.

Proposed § 158.35 describes the persons responsible for performing certain functions before, during, and after an ocean dumping mission. These requirements take into account the previous discussion of the various vessel operations, the persons most logically responsible for certain actions, and the persons most capable of controlling overall operations on board vessels.

Proposed § 158.35(a) requires the owner/charterer to ensure that vessels have an approved ODSS on board before the vessel is permitted to be used on an ocean dumping mission.

For functions required before an ocean dumping mission, proposed § 158.35(b) designates the operator of the propelling vessel as the person responsible. Because these functions include making log entries or maintaining written records, the person in charge of operating the vessel, which in many instances would already be required to have a log, is the appropriate party to execute these responsibilities. Towed barges do not often have a log. The log entries or written record required by this paragraph are needed as a cross reference to the data recorded on the cassette tape.

Several requirements are specified to be carried out during the dumping mission. Proposed § 158.35(c) requires operators of vessels equipped with the Loran-C receiver and recording device components of an ODSS to ensure the ODSS is turned on and properly operated throughout the dumping mission.

After the mission, proposed § 158.35(d) places responsibility for required functions on the operator of the vessel equipped with the recording device. That person is the most logical person responsible for delivering the tape cassettes to the Coast Guard because that person had the responsibility for operating the ODSS

and can best determine when the tapes should be submitted.

The cassette must be sent to the Coast Guard within 14 days after the tape was used to make any recording. This approach permits several missions to be recorded on one tape while maintaining a fairly up-to-date tape turnover. However, the vessel operator must ensure that, before departing on a mission, enough tape remains on the cassette to record the entire mission. This proposal benefits Coast Guard analysis by not splitting one mission onto two tapes.

The cassette tapes are required to be forwarded to the Coast Guard in New York where the tapes will be analyzed. However, the Coast Guard is considering the addition of a data analysis facility on the West Coast if the amount of analysis warrants a second facility. The Coast Guard is also considering the use of addressed, pre-paid mailers for the data tapes.

Recognizing that ODSS malfunctions may occur, the Coast Guard proposes, in § 158.39, certain reporting requirements to ensure that it is kept advised of equipment failures and to enable it to schedule alternate surveillance methods. If the ODSS malfunctions during a disposal operation, the incident would be logged in the propelling vessel's log, or a written record of the incident kept, and the Coast Guard notified within six hours after the vessel's return to port. If immediate repairs cannot be made to the equipment, the persons responsible for a self-propelled vessel containing material or for a towing vessel must receive permission to depart on subsequent ocean dumping missions with an inoperable ODSS. This proposed requirement permits the Coast Guard to schedule an alternate method of surveillance, such as shipriding, and insures that repair of the equipment does not take an unreasonably long period of time.

##### Subpart C

Whereas proposed subparts A and B are directed toward the owners, operators, and charterers of vessels engaged in ocean dumping, the remaining proposed regulations (subparts C and D) are directed toward ODSS manufacturers. Proposed subpart C sets out requirements for ODSS equipment design and performance.

If the ODSS is to provide meaningful data, the Coast Guard must ensure that the ODSS is capable of providing sufficient information in a format compatible with the Coast Guard's analysis equipment. Good navigational data is an essential output of the system. This necessitates a reliable, accurate,

and durable Loran-C receiver. Secondly, the dumping mission must be identifiable and capable of being keyed to the provisions of the applicable permit or authorization. To accomplish this, the ODSS must provide for entering certain data. Proposed § 158.49 lists the types of data that must be recorded on the cassette tape. In order to be useful, the data recorded must include enough information to determine what vessel was dumping, under what permit the dumping was conducted, where the dumping occurred, and at what rate the material was dumped.

Each ODSS will have an identification number assigned to it by the Coast Guard. The Coast Guard anticipates providing a block of such numbers to manufacturers who produce approved ODSS equipment. Because the ODSS must be designed so that this identification number cannot be changed (proposed § 158.49(b)(7)), the Coast Guard will be able to determine which ODSS was used to produce a particular data tape. This would be important if there is an indication that bad data tapes are being produced by a particular ODSS.

Each dumpsite will be identified by a three digit number assigned by the Coast Guard. By comparing the coordinates of the dumpsite with Loran-C navigational data recorded on the tape, the Coast Guard can determine whether or not the material was dumped within the boundaries of the dumpsite. Additionally, the analysis will check to see if the dumpsite entered is the same as the dumpsite specified in the permit.

In order to ascertain where the material was dumped, sensor components indicate when the devices used to activate mechanisms for dumping the cargo are activated. Whenever all of the sensors indicate no dumping, the ODSS records a digit "0" on the cassette tape. When any one of the sensors indicate dumping, a digit "1" is recorded.

Many permits authorize more than one vessel to conduct dumping of the specified material. In addition, a particular vessel may be authorized to dump materials under several different permits. A three digit number will be assigned by the Coast Guard to each vessel for each permit. If five different vessels are named in one permit, each will have a different three digit number. Likewise, if a vessel is named in six different permits, it will have six different numbers. Each number will uniquely identify which vessel is dumping under what permit. With this information, there is no need to issue separate vessel identification numbers



and permit numbers solely for ocean dumping purposes.

Information concerning the quantity of material on board a vessel must be entered into the ODSS so dispersal rate can be determined. Most EPA permits specify a dispersal rate for the material on board (e.g., "dumping must not exceed 15,000 gallons per minute"). The Coast Guard can determine the average dispersal rate by comparing the length of time the dump mechanisms were open to the quantity of material on board. Quantity is entered in tons, gallons, or cubic yards, depending on what units of measurement are specified in the permit. In order to keep data inputs uniform, a four digit entry is proposed. The first digit serves as a key to describe the units of volume or weight as used in the permit to indicate dispersal rate and the last three are the quantity. If the first digit is a "1", the quantity entered is in hundreds of tons (e.g. an entry of "1100" corresponds to 10,000 tons of material on board). If the first digit is a "2", the quantity is entered in hundreds of cubic yards (e.g. an entry of "2100" corresponds to 10,000 cubic yards of material on board). And, if the first digit is a "3", the quantity entered is in tens of thousands of gallons (e.g. "3100" corresponds to 1,000,000 gallons of material). Where no dispersal rate is specified in the permit, the units entered must correspond to the units describing the maximum quantity allowed to be dumped under the permit.

The ODSS must also record a four digit number to identify the group repetition interval of the Loran-C chain (Loran-C rate designator) to which the Loran-C receiver is adjusted. This four digit numerical designation is the time in tens of microseconds between successive master group transmissions. For example, Loran-C chain 9960 repeats its transmissions at 99,600 microsecond intervals. Therefore, if an ODSS operator has set the Loran-C receiver to this chain, the operator would enter a group repetition interval designator of 9960.

At least two, but not more than four, Loran-C time differences must be recorded. A minimum of two are needed in order to provide a navigational position. Because some Loran-C receivers may have the ability to display or provide data output on more than two time differences, proposed § 158.49 (a)(7) permits up to four recorded time differences. No more than four are permitted because there are only four possible Loran-C pairs and, therefore, four time differences available in each chain. If less than four time differences are recorded, the data entries for those

not recorded will be a series of zero digits. This requirement keeps the information portion of the data block a constant length to facilitate data analysis.

The output of Loran-C receivers currently available may be given in either six or seven digits with corresponding readings of either 10ths or 100ths of microseconds. Some sets having a six digit output allow the operator to obtain 100th microsecond readings by dropping the initial digit, which represents the tens of thousands digit. Proposed § 158.49(a)(7) allows either a six or seven digit output but requires that if the output is in six digits, the data block will have the seventh digit as a zero. This proposed paragraph also requires the most significant digit of the recorded Loran-C time difference to be in tens of thousands of microseconds. This is necessary to standardize the format of the recorded data.

Although Loran-C is a highly reliable navigation system, malfunctions in the transmitting equipment can produce unreliable signals. When this occurs, the transmitting stations broadcast warning signals to indicate that improper signals are being transmitted. The Loran-C receiver is required to incorporate several alarm indicators which determine when unreliable Loran-C signals are being received. If no unreliable signals are being received by the ODSS, the recording will so indicate by a digit "0" Loran-C Signal Status. The digit will be "1" when unreliable signals are being received. A Loran-C Signal Status must be provided for each Loran-C master and secondary signal pair so that maximum data reliability is provided.

The date and time are required to be recorded to determine when the ocean dumping occurred. The remaining data to be recorded are required for the analysis process. Line feed and carriage return codes allow printouts to be readable. Because some recording devices produce fixed length data blocks, a provision is included to allow these devices to be used. Null characters may be used to fill up the data block to a fixed length as long as the block does not exceed 86 characters. Null characters are meaningless from the standpoint of surveillance but are necessary in order to keep the data in the correct location in the data block. The 86 character maximum is included to ensure that excessively long data blocks are not produced.

Proposed §§ 158.49(b)(1) through (b)(6) specify where the recorded information is to be generated. The group repetition interval designator, dumpsite identification, permit identification, and

quantity information are recorded from operator controls which allow the operator to manually enter this data. These controls can be in the form of dials, thumbwheels, or other such devices. The time differences and the Loran-C signal status information are recorded automatically from information provided by the Loran-C receiver. The date and time are recorded automatically from a clock which is set to correct local time by the ODSS operator. The dumping status information is provided by the ODSS sensor component. The remaining information—ODSS identification number, line feed, carriage return, and additional nulls—are provided by the recording device.

Proposed § 158.55 is necessary to ensure the cassette tape can "read" by Coast Guard equipment. An American National Standards Institute (ANSI) specification has been incorporated to provide a standardized format.

The ODSS must also record data at specific intervals in order to provide a complete log of the entire ocean dumping mission. Section 158.55(c) proposes that a record be made every ten minutes to reconstruct the voyage. Because additional accuracy is necessary during dumping, the recording device is required to produce a record every two minutes whenever dumping is in progress.

Several visual displays or signals are required by proposed § 158.59 to provide the operator with information on the ODSS operating mode. The displays include a signal that the cassette recorder is recording information, a signal that any of the devices used for activating mechanisms for cargo dumping are activated, and the time.

Proposed § 158.65 requires the sensor components to be designed to provide data on the status of devices for activating dump mechanisms and to provide this data continuously for the duration of the dumping mission.

Proposed § 158.69 contains the requirements which the Loran-C receiver component of the ODSS must meet. The Radio Technical Commission for Marine Services (RTCM), an advisory group to the Federal Communications Commission, published a set of minimum performance standards (MPS) for marine Loran-C receiving equipment in December, 1977 (RTCM Paper 12-78/DO-100). The paper was amended on July 19, 1979. This paper was intended for receivers used aboard vessels of 1,600 gross tons and more. These detailed standards were reviewed for their applicability to the Loran-C receiver component of ODSS. Based on this analysis, the Coast Guard

is proposing to adopt these standards, modified as necessary for the purposes of these regulations. These modifications include (1) consideration of possible interference from communications modulation; (2) new combinations of cross-rate interference conditions which more closely reflect ocean dumping operating conditions; (3) a relaxing of the dynamic tracking requirements because dumping operations are rarely conducted at speeds in excess of 16 knots; and (4) a new requirement that the receiver have a data output connector for use during equipment testing and to provide input to the recording device.

Non-synchronous near-band interfering signals may be subject to communications modulation. The Coast Guard feels that the effects of this modulation should be taken into account when performance in the presence of continuous wave interference is addressed. Therefore, the RTCM minimum performance standards have been modified accordingly by proposed § 158.69(a)(2) for the purposes of ocean dumping surveillance.

The Coast Guard recognizes that the requirement proposed in § 158.69(a)(3) for demonstrating performance in the presence of cross-rate interference with any chain rate selected from among the 6,000 rates listed in paragraph 1.2y of the RTCM MPS paper is broader than is necessary. Because some Loran-C chains are being disestablished and new ones established, all combinations of cross-rate interference conditions for ocean dumping purposes are not yet known. At the time of issuance of the rule, the Coast Guard intends to specify a small number of cross-rate interference combinations to be used for testing. These combinations will be representative of those cross-rate interference conditions experienced in Loran-C chains operational at the time final rules are published.

Recommendations for appropriate cross-rate interference combinations to be used for these tests are solicited.

The relaxing of dynamic tracking requirements in proposed § 158.69(a)(4) will simplify the design of the Loran-C receiver component, improve the ability of the receiver to meet the combined accuracy requirements, and probably result in lower equipment costs.

Proposed § 158.75 requires ODSS equipment manufacturers to provide clear, concise instructions on the proper operation of that equipment. This handbook must include a description of the Loran-C system, instructions on how to use the equipment, explanations of all controls, a description of data available at the data output connector, and

installation procedures. The quality of information derived from an ODSS is dependent on proper installation, operation, and maintenance.

Proposed § 158.79 requires each ODSS to be marked with the name of manufacturer, manufacturer's model and serial numbers, Coast Guard approval number, and date manufactured. This information assists Coast Guard boarding officers and prospective purchasers in identifying approved equipment.

#### Subpart D

Proposed subpart D sets out the requirements for Coast Guard approval of ODSS. This approach is necessary because ODSS is being required on board dumping vessels for the primary purpose of augmenting present surveillance methods. It is, therefore, important to test equipment to determine if it is capable of fulfilling Coast Guard needs. Because the ocean dumping industry is relatively small, it is not anticipated that a large number of prototype devices will be submitted for testing. Therefore, approval procedures would not impose a significant burden.

A full certification program is not proposed. The Coast Guard will have the equipment tested under a combination of operating conditions to determine if the proposed requirements are met for ocean dumping purposes. In addition, the manufacturer will be required to attest in writing that the equipment meets the minimum performance standards. The combination of limited certification by the Coast Guard and attestation by the manufacturer should provide ample assurance that the equipment meets the requirements of these regulations.

The Coast Guard is aware that the Radio Technical Commission for Marine Services (RTCM) has a Loran-C receiver test plan under consideration. This test plan would be used to determine if a receiver meets the Minimum Performance Standards published by RTCM in paper 12-78/DO-100. The Coast Guard will review this test plan for the purpose of determining whether it can be incorporated as the test plan in the ODSS equipment approval process.

The proposed Coast Guard approval process is initiated by an application. The application is required to contain sufficient information for the Coast Guard to determine whether or not the prototype equipment is ready for testing. One aspect of the application is the manufacturer's attestation that the ODSS meets the requirements in proposed subpart C. If the application is not complete, additional information may be requested from the applicant. If

complete, the next step is to arrange for certification testing. The applicant will be advised where to send the ODSS for testing.

The sensor components of ODSS need not accompany ODSS for testing; however, the applicant must provide detailed instructions on how to simulate the signals that these components would provide to the recording device. The ODSS shipped must also include an antenna and antenna coupler electrically equivalent to those used by the manufacturer during the tests or other procedures taken to attest to the ODSS compliance with the minimum standards. This provides some assurance that the attestation was based upon components expected to be used in the ODSS.

The tests are designed to determine the ability of the Loran-C receiver portion of ODSS to meet the minimum performance requirements by using the combination of conditions in proposed § 158.69. If testing by the specified combination of conditions indicates the need to do so, the Coast Guard may require other testing including verification of any tests conducted by the applicant. In addition, the Coast Guard will also test to determine the ability of ODSS to produce data in the proper format. Tapes will be analyzed to ensure compatibility with Coast Guard analysis equipment. Failure to meet any requirement in the proposed regulations will result in rejection of the ODSS.

If the results of the tests are satisfactory, the applicant will be sent a certificate of approval indicating that the ODSS model tested has passed limited certification testing. The ODSS model will also be placed on the Coast Guard's List of Approved ODSS which will be maintained by the Chief of the Coast Guard's Marine Environmental Protection Division at the address listed in proposed § 158.25. The ODSS may then be used for ocean dumping under these regulations. As described in proposed § 158.129, no changes can be made to the ODSS without first advising the Coast Guard so that the Coast Guard may determine if the alternations are significant enough to require new certification testing.

If the results of the tests are unsatisfactory, i.e. the ODSS fails to meet one or more of the minimum performance requirements, the applicant will be advised of this outcome by a report noting the reasons for failure.

At this point, the applicant has several options. If the ODSS deficiencies are corrected, a request for retesting may be made describing the action taken as a result of the failures noted in the test report. If the circumstances



warrant, the applicant may petition the Commandant for a review of any test results or methods used by the Coast Guard. The Commandant or a designated representative will review the material presented and issue findings. If the test methods or results are found to be in error, the Commandant may authorize the issuance of a certificate of approval or require the performance of new tests using the proper methods. If the findings uphold the test results and methods, the petition is denied and the applicant must then correct ODSS deficiencies before retesting can be conducted.

#### Regulatory Evaluation

This proposal is categorized as a "nonsignificant" regulation under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). A Regulatory Evaluation has been prepared which includes an analysis of the economic consequences of the proposed regulations, quantifying, to the extent practicable, their estimated costs to the private sector, consumers, and government, as well as their anticipated benefits and impacts. A copy of the evaluation, presently in draft form, has been placed in the public docket for this rulemaking (CGD 77-029) and is available for inspection or copying at the Office of the Marine Safety Council (see ADDRESSES in this preamble). Based upon comments received, this evaluation will be finalized concurrently with the promulgation of final regulations.

The proposed regulations would affect approximately 100 vessels involved in ocean dumping disposal operations. Of these, 30 are involved in EPA permitted activity, 18 are hopper or sidecast dredges owned by the federal government, and the remainder are involved in contract operations under federal navigation projects or in COE permitted activity. Each ODSS is expected to cost \$10,000, with a one-time installation cost of another \$1,000 to \$2,000. Assuming an annual \$2,000 maintenance cost for each system, the total cost for procurement, installation, and maintenance of equipment over a five year period is \$22,000 per system. This cost will be borne by the entity engaged in ocean dumping. In some cases, it will be the private sector, while in others, it will be a governmental unit, such as a municipality (e.g. City of New York) or a Federal agency (e.g. COE). The total cost to the ocean dumping industry over this initial five year period is estimated at 2.2 million dollars. The Coast Guard testing program set out in proposed subpart D is estimated to cost

\$20,000 for the first year. It is anticipated that the majority of requests for equipment testing will be received during the first year that the regulations are in effect. Another Coast Guard cost is data tape analysis. This is estimated at \$30,000 per year, which includes one fulltime officer for processing the information and the necessary computer time.

The cost of the surveillance program presently conducted by the Coast Guard is approximately \$500,000 per year. This figure was derived from estimated costs of the 1,030 surveillance missions conducted in 1978 which provided coverage of approximately 24% of all EPA permitted ocean dumping activity. The cost of surveillance over 100% of EPA permitted activity alone, if resources had been available, would have exceeded 2.1 million dollars. This figure does not take into account the vast majority of dredged material disposal operations for which no Coast Guard surveillance is conducted. Dredged material disposal accounts for approximately 90% of all ocean dumping. The five year cost for 100% surveillance of just EPA permitted activity would exceed 10 million dollars. The five year cost for 100% surveillance of all ocean dumping activities including dredged material, would be many times this figure. The implementation of these regulations will allow nearly 100% surveillance of all ocean dumping at a cost comparable to present surveillance activity over a portion of only EPA permitted disposal operations.

An incidental benefit to the ODSS owner is the use of the Loran-C receiver for general navigational purposes when not engaged in ocean dumping. The Loran-C receiver portion of ODSS will be equipped with digital displays for the benefit of the vessel operator. Additionally, it is contemplated that Loran-C coordinate conversion data will be made available so that information from the ODSS can be directly used by the vessel operator to confirm his position in the dumpsite. ODSS also provides information which may be useful from the environmental research monitoring aspect. The ODSS provides a record of all dump missions including the actual trackline through the dumpsite, the average rate at which the material was dumped, and the quantity for each dump. This information may be useful for determining actual dispersion and buildup of material within each dumpsite.

The proposed regulations should have no negative environmental effect. Instead, they may have a positive impact by discouraging dumping outside

authorized disposal areas. The extent to which the regulations may benefit the environment cannot be determined because many of the missions in the past were not conducted under Coast Guard surveillance. Although violations of offsite dumping have occurred, there is insufficient information to determine the extent of offsite dumping.

The proposed regulations have been assessed and found to have no potentially significant environmental effects. Therefore, an environmental impact statement is not necessary. A Negative Declaration has been prepared and is on file in the public docket.

#### Effective Date

The Coast Guard is aware that ODSS equipment is not presently available on the market. Therefore, the Coast Guard proposes to provide for Subpart B a six month delay between the date of publication of the final rules and the effective date of those rules. This period is provided to allow for equipment to be approved, marketed, and installed.

In consideration of the foregoing, the Coast Guard proposes to add a new Part 158 to Title 33, Code of Federal Regulations, to read as follows:

#### SUBCHAPTER O—POLLUTION

#### PART 158—OCEAN DUMPING SURVEILLANCE SYSTEM

##### Subpart A—General

| Sec.   | Purpose.                           |
|--------|------------------------------------|
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| 158.5  | Definitions.                       |
| 158.9  | Waiver of Requirements.            |
| 158.15 | Penalties.                         |
| 158.19 | Matter incorporated by reference.  |
| 158.25 | Office to contact for information. |

##### Subpart B—Operating and Equipment Requirements

|        |                                                                    |
|--------|--------------------------------------------------------------------|
| 158.29 | ODSS components, their location and installation on board vessels. |
| 158.35 | Persons responsible.                                               |
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##### Subpart C—ODSS Design and Performance

|        |                                               |
|--------|-----------------------------------------------|
| 158.45 | Purpose.                                      |
| 158.49 | Input to the cassette tape.                   |
| 158.55 | Recording format and intervals.               |
| 158.59 | Visual signals or displays required.          |
| 158.65 | Requirements for sensor components.           |
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| 158.75 | ODSS user and equipment handbook.             |
| 158.79 | ODSS labeling.                                |

##### Subpart D—ODSS Approval

|         |                                             |
|---------|---------------------------------------------|
| 158.95  | Purpose.                                    |
| 158.99  | Application procedure for approval of ODSS. |
| 158.105 | Duties of the applicant.                    |
| 158.109 | Coast Guard tests.                          |
| 158.115 | Report of test results.                     |
| 158.119 | Retesting.                                  |
| 158.125 | Reconsideration of test results.            |
| 158.129 | Modification of ODSS.                       |

Authority: Pub. L. 92-532, Title I, § 108, 86 Stat. 1059 (33 U.S.C. 1418); 49 CFR 1.46(n)(5).

#### Subpart A—General

##### § 158.1 Purpose.

This part establishes ocean dumping surveillance system requirements for vessel operations conducted under an Environmental Protection Agency or Army Corps of Engineers ocean dumping permit or authorization, and requirements for equipment operation, minimum performance, and approval.

##### § 158.5 Definitions.

For the purpose of this part: "Ocean dumping" means that activity which requires (a) a special or interim Environmental Protection Agency permit described in 40 CFR § 220.3, (b) an Army Corps of Engineers permit or other authorization under 33 U.S.C. 1413, or (c) compliance with the regulations for federal projects authorized under 33 U.S.C. 1413(e).

"Ocean Dumping Surveillance System" or "ODSS" means a navigational and recording system which provides a record of an ocean dumping mission.

"Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

##### § 158.9 Waiver of requirements.

(a) The Commander of the Coast Guard may waive for good cause shown any of the requirements of this part.

(b) Requests for waivers must be in writing, identify the provision for which a waiver is requested, and state the reasons for the request.

(c) Requests for waivers of any of the requirements of Subpart B must be submitted to the Commander of the Coast Guard District, as described in Part 3 of this chapter, in which the dumping activity will occur. Requests for waivers of any other provision must be submitted to the address in § 158.25.

##### § 158.15 Penalties.

Any person who violates any regulation in this part shall be liable to the civil and criminal penalties in 33 U.S.C. 1415.

##### § 158.19 Matter incorporated by reference.

(a) The Coast Guard incorporates by reference the materials listed in this

section, subject to the changes described in § 158.85(a). These materials are incorporated as they exist on the dates listed in paragraph (b) of this section. Changes in these materials will be published periodically in the Federal Register.

(b) The materials incorporated by reference are available for inspection at the Library of the Office of the Federal Register, Room 8301, 1100 L Street N.W., Washington, DC 20408 and at the address listed in § 158.25. They are available for purchase as follows:

(1) "Minimum Performance Standards (MPS) Marine Loran-C Receiving Equipment" (RTCM Paper 12-78/DO-100), as amended on July 19, 1979. These standards are available from the Radio Technical Commission for Marine Services, P.O. Box 19087, Washington, DC 20036 at a cost of \$6.00 per copy.

(2) "American National Standard Magnetic Tape Cassettes for Information Interchange" (X3.48-77), approved on May 11, 1976. This material is available from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018 (ATTN: Sales Department) at a cost of \$6.00 per copy, plus \$2.00 for shipping and handling.

(c) Incorporation by reference of the materials listed in this section was approved by the Director of the Federal Register on \_\_\_\_\_, 19\_\_.

##### § 158.25 Office to contact for information.

The Chief, Marine Environmental Protection Division, at the U.S. Coast Guard Headquarters in Washington, DC is the program manager for ocean dumping surveillance programs within the Coast Guard. Telephone inquiries may be made between the hours of 7:30 am and 4:30 pm, Monday through Thursday, by calling (202) 755-7938. Correspondence relating to this part may be directed to Commandant (G-WEP/TP12), U.S. Coast Guard, Washington, DC 20593.

##### Subpart B—Operating and Equipment Requirements

##### § 158.29 ODSS components, their location and installation on board vessels.

(a) An ODSS consists of a Loran-C receiver with antenna and antenna coupler, a recording device, and one or more sensor components.

(b) The Loran-C receiver and recording device components of an ODSS must be located on either the vessel containing material to be dumped or a vessel attached by any means to that vessel.

(c) A sensor component of an ODSS must be located on each mechanism for

dumping the cargo or on each device used for activating that mechanism whether or not that device or mechanism is located on the vessel containing material to be dumped or on a vessel attached by any means to that vessel.

(d) The ODSS must be installed so as to produce the taped record required by this part.

##### § 158.35 Persons responsible.

(a) Before permitting a vessel to be used on an ocean dumping mission, each owner or charterer by demise of any vessel containing material to be dumped and each owner or charterer by demise of any vessel towing that vessel shall ensure that—

(1) An ODSS is on board one or more of the vessels and installed as required in § 158.29; and

(2) The ODSS is one of the models listed in the Coast Guard List of Approved ODSS, copies of which are available at the address in § 158.25.

(b) Before departing on an ocean dumping mission, the operator of a self-propelled vessel containing material to be dumped or the operator of any vessel towing a vessel containing material to be dumped shall ensure that—

(1) The ODSS is turned on;

(2) The recording device is loaded with a tape cassette having enough tape on the supply spool to record the entire mission; and

(3) The following information is entered in the log of that person's vessel or, if the vessel is not required to have a log, is otherwise recorded:

(i) The Loran-C time difference readings being received by the ODSS upon departure on the mission.

(ii) The date and time of departure.

(iii) The geographic location of the vessel upon departure.

(c) During an ocean dumping mission, the operator of a vessel equipped with the Loran-C receiver and recording device components of an ODSS required under this section shall ensure that, from the time the vessel first leaves port to the time that vessel returns to port,

(1) The ODSS is turned on and otherwise operated in the manner specified in the ODSS user and equipment handbook described in § 158.75;

(2) The data required under § 158.49(b) to be entered manually into the ODSS for that mission is entered; and

(3) A taped record is being continuously produced by the ODSS, as required by this part.

(d) Upon completion of an ocean dumping mission, the operator of a vessel equipped with the Loran-C



receiver and recording device components of an ODSS required under this section shall ensure that the tape cassette is forwarded to Commander, Third Coast Guard District (m), Governors Island, New York 10004, or other address designated by the Coast Guard. More than one mission may be recorded on a single tape cassette, however, the cassette must be forwarded within 14 days after the first mission is taped on the cassette.

#### § 158.39 ODSS malfunctions.

(a) Before department on an ocean dumping mission with a known malfunction of the ODSS, the operator of a self-propelled vessel containing material to be dumped or the operator of any vessel towing a vessel containing material to be dumped shall obtain permission to depart from the local Coast Guard Captain of the Port.

(b) If the ODSS malfunctions during an ocean dumping mission, the operator shall—

(1) Ensure that the failure is recorded in the log of that person's vessel or, if the vessel is not required to have a log, is otherwise recorded; and

(2) Notify the local Coast Guard Captain of the Port of the failure within six hours of returning to port.

#### Subpart C—ODSS Design and Performance

##### § 158.45 Purpose.

This subpart sets forth the minimum design and performance requirements for ODSS.

##### § 158.49 Input to the cassette tape.

(a) The ODSS must be designed to record on a cassette tape the following data:

(1) A 3 digit number used by the Coast Guard to identify which ODSS is recording the data.

(2) The 3 digit number used by the Coast Guard to identify the dump site used during the ocean dumping mission.

(3) A one digit number of "1" whenever a sensor component indicates that any device used for activating a mechanism for dumping cargo is activated or of "0" whenever all sensor components indicate that no devices are activated.

(4) The 3 digit number used by the Coast Guard to identify the permit under which a vessel is operating.

(5) A 4 digit number indicating the quantity of material to be dumped, the first digit of which is a "1" when quantity is entered in hundreds of tons, a "2" when in hundreds of cubic yards, or a "3" when in tens of thousands of gallons, and the remaining three digits of

which indicate the quantity. Units for quantity must be the same units describing the dispersal rate in an ocean dumping permit or authorization or, where no dispersal rate is specified, must be the same units describing maximum quantity allowed to be dumped under the permit or authorization.

(6) A 4 digit number indicating the group repetition interval designator of the Loran-C chain used during the ocean dumping mission.

(7) At least two, but not more than four, Loran-C time differences, each in 6 or 7 digits, with the most significant digit in tens of thousands of microseconds. If the output of the Loran-C receiver is given in six digits, the ODSS must record a seventh digit of "0".

(8) A one digit number of "0" for each pair of master and secondary Loran-C signals to indicate that the signals of that pair are properly locked on and tracking and that no alarm cited in the RTCM paper listed in § 158.19(b)(1) is energized for that pair, or a number of "1" for each pair to indicate that the signals of that pair are not properly locked on and tracking or that any alarm cited in the RTCM paper is energized for that pair.

(9) A seven digit number, the first 3 digits of which indicate the Julian date, the next two the hour, and the last two the minute.

(10) A line feed character.

(11) A carriage return character. If the recording device of ODSS produces a fixed length data block, the appropriate number of nulls to complete the data block must be inserted before the carriage return character. The data block must not exceed 86 characters.

(b) The ODSS must be designed to—

(1) Allow the operator to enter manually, by means of dials, thumbwheels, or other devices, the data in paragraphs (a)(2), (a)(4), (a)(5), and (a)(6) of this section;

(2) Record the data in paragraph (a)(2), (a)(4), (a)(5), and (a)(6) of this section from the devices described in paragraph (b)(1) of this section;

(3) Record the data in paragraphs (a)(7) and (a)(8) of this section from the information provided by the data output connector of the Loran-C receiver component;

(4) Include a clock which can be set to Julian date and local time by the operator and from which the data in paragraph (a)(9) of this section can be recorded;

(5) Record the data in paragraph (a)(3) of this section as a result of the inputs from the sensor components;

(6) Record the data in paragraphs (a)(1), (a)(10), and (a)(11); and

(7) Ensure that the ODSS identification number if not capable of being changed by the ODSS operator.

#### § 158.55 Recording format and intervals.

(a) The ODSS must be designed to record the data in § 158.49(a) in the order indicated in figure § 158.55(a) of this section.

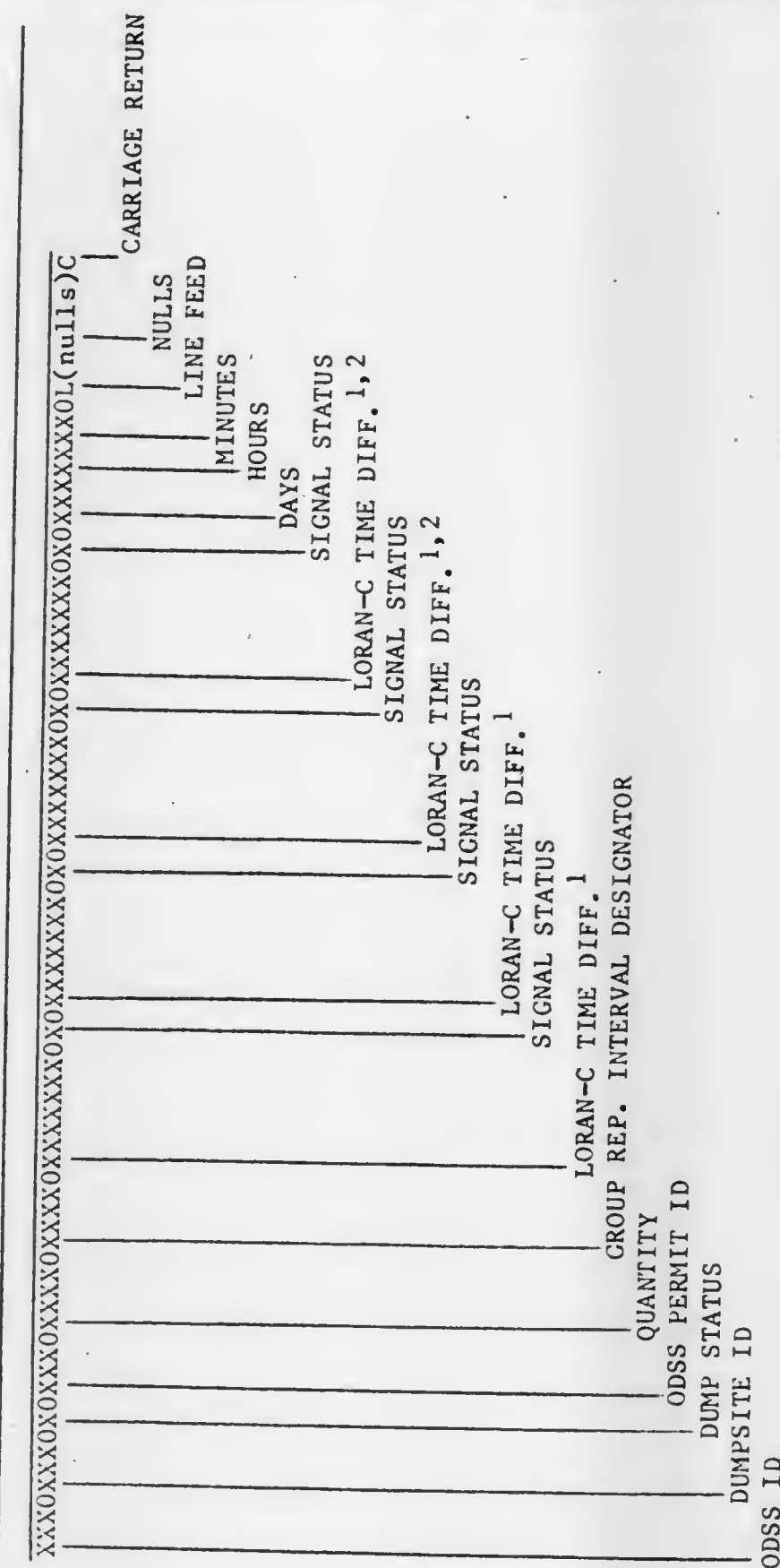
(b) The cassette tape must be formatted in accordance with the standard listed in § 158.19(b)(2).

(c) At any time during an ocean dumping mission when all sensor components indicate that no devices used to activate a mechanism for dumping cargo are activated, the data in § 158.49(a) must be recorded every 10 minutes. As soon as a sensor component indicates that any device is activated, the data must be recorded at that moment and every two minutes thereafter until all sensor components indicate that no devices are activated.

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FIGURE 158.55(a) - ILLUSTRATION OF A

#### COMPLETE DATA BLOCK





**§ 158.59 Visual signals or displays required.**

The ODSS must produce visual signals or displays so that the ODSS operator can be made aware—

(a) Whether the recording device is loaded with a cassette tape and is recording;

(b) Whether any device used for activating a mechanism for the dumping of cargo is activated; and

(c) Of the Julian date and time from the clock required by § 158.49(b)(3).

**§ 158.65 Requirements for sensor components.**

(a) Each sensor component of an ODSS must be designed to provide the input necessary to permit the recording of the data in § 158.49(a)(2).

(b) The data must be provided continuously while the ODSS is turned on so that the cassette tape can be recorded at the intervals in § 158.55(c) for the duration of the ocean dumping mission.

**§ 158.69 Requirements for Loran-C receiver components.**

(a) The Loran-C receiver component of the ODSS must be a Type 1 or Type 2 receiver described in section 1.2 of the RTCM paper listed in § 158.19(b)(1) and must meet the minimum performance standards (MPS) in that paper for marine Loran-C receiving equipment, modified as follows:

(1) The combined accuracy described in section 2.1 of the paper must be met independently for each time difference available as a data output and for each time difference displayed by the receiver.

(2) The MPS must be met when the interfering signals cited in sections 2.4 (b) and (f) of the paper are subject to communications modulation with a maximum bandwidth of 220 Hz (−3 dB).

(3) Under section 2.6 of the paper, receiver performance must be demonstrated by tracking simulated chain signals in the presence of cross-rate interference (CRI) the chain rate of which may be any of the rates listed in paragraph 1.2y of the paper.

(4) The dynamic tracking requirements in sections 2.8 (b) and (c) of the paper need not be met.

(5) The following is to be substituted for section 2.10 of the paper:

In addition to the independent application of requirements cited in the MPS, the receiver must meet the following performance requirements throughout the range of the following conditions:

**Conditions**

1. SNR: −10 dB and greater.

2. Signal level: 25 to 110 dB/uv/m.
3. Differential signal level: 0 to 60 dB.
4. ECD:  $-2.4 \text{ us} < \text{ECD} < +2.4 \text{ us}$ .
5. Skywaves: 37.5 to 60 us. relative skywave signal level 12 dB.
6. CWI: a. One near-band synchronous signal in accordance with section 2.4 (b), including (FSK) information modulation (−3 dB bandwidth of 220 Hz or less); and (simultaneously).
- b. One non-synchronous near-band interfering signal with a SIR of 0 dB with respect to the lowest amplitude Loran-C signal in use.
7. Cross-rate interference: in accordance with section 2.6 as modified.
8. Dynamic tracking: in accordance with section 2.8.a.
9. Noise level: 12 to 75 dB/1uv/m.

**Performance Requirements**

1. Combined accuracy: in accordance with section 2.1 as modified.
2. Maximum lock-on-time: 20 minutes or less.
3. Alarms: in accordance with section 2.7, except that:
  - a. Maximum false alarm rates are one occurrence per day for each type of false alarm.
  - b. Time to alarm and the time to cancel alarm is quadrupled over the requirements in Section 2.7.
  - c. Testing level is 50% (pass/fail).
  - d. Data output: in complete accordance with required displays, alarms, and lock-on status.

(b) The Loran-C receiver component of the ODSS must incorporate a data output connector. The data output available at this connector must include, at a minimum, the time difference display data of section 2.9 of the RTCM paper listed in § 158.19(b)(1); all alarms status data of section 2.7 of that paper; and a status indicator which shows completion of lock-on.

(c) If a receiver displays more than two time differences, or locks on to more than two secondaries, but provides data output for only two time differences, it must be possible to select the two time differences used for data output. Alternatively the receiver may provide data outputs for all available time differences.

**§ 158.75 ODSS user and equipment handbook.**

An ODSS user and equipment handbook must be provided with each ODSS and contain at least—

(a) Step-by-step instructions detailing how the ODSS is operated, including what and how information must be entered by the operator;

(b) A general description of the Loran-C system;

(c) Instructions for obtaining a position using Loran-C coordinates;

(d) An explanation of the meaning of each alarm and indicator;

(e) Installation and check out procedures, including an explanation of the factors to be considered in locating the ODSS on board a vessel to enhance the performance of the ODSS;

(f) All the information cited by the RTCM paper listed in § 158.19(b)(1) to be included in the Loran-C receiving equipment handbook; and

(g) A description of the data output available at the data connector described in § 158.69(c) in sufficient detail to allow complete receiver testing utilizing solely those data output.

**§ 158.79 ODSS labeling.**

Each ODSS component must be clearly and permanently marked with—

- (a) The name of the manufacturer;
- (b) The name of the equipment and the manufacturer's model number;
- (c) The month and year manufactured;
- (d) The manufacturer's serial number assigned to the component; and
- (e) The Coast Guard approval number assigned to the ODSS in the Coast Guard certificate of approval issued under § 158.115(a).

**Subpart D—ODSS Approval****§ 158.95 Purpose.**

This subpart prescribes the requirements and procedures for having an ODSS listed in the Coast Guard List of Approved ODSS.

**§ 158.99 Application procedure for approval of ODSS.**

(a) An application for approval of the ODSS under this subpart may be in any format and must contain at least—

- (1) The name and address of the applicant, the ODSS manufacturer, and the facility where ODSS is manufactured or assembled;
- (2) A description of the ODSS, identifying the ODSS and each component listed in § 158.29 by manufacturer's name and model number;

(3) A request to have the equipment tested for Coast Guard approval for the purposes of this part;

(4) A copy of the ODSS user and equipment handbook required under § 158.75; and

(5) An attestation by the applicant that the ODSS meets the requirements of Subpart C of this part.

(b) The application in paragraph (a) of this section must be submitted to the Coast Guard at the address in § 158.25.

(c) If the Coast Guard determines that the information contained in an application is insufficient, the Coast Guard returns the application to the applicant with a statement of reasons why the information is insufficient. If the information is sufficient, the Coast

Guard notifies the applicant so that arrangements for the test described in § 158.109 may be made.

**§ 158.105 Duties of the applicant.**

(a) After receiving notification under § 158.99 that an application is sufficient, the applicant makes arrangements with the office listed in § 158.25 for the Coast Guard approval tests.

(b) On or before the date arranged for testing, the applicant must deliver the ODSS (less sensor components) to the test site designated by the Coast Guard.

(c) The applicant must provide an antenna and antenna coupler electrically equivalent to those used during the tests and other procedures upon which the attestation required in § 158.99(a)(5) is based.

(d) The applicant must provide step-by-step procedures on how to simulate whether a mechanism for dumping cargo is opened or closed.

**§ 158.109 Coast Guard tests.**

The Coast Guard conducts tests, as necessary—

(a) To determine whether the Loran-C receiver component of an ODSS meets the requirements of the minimum performance standards described in RTCM Paper 12-78/DO-100, as amended by § 158.69; and

(b) To determine whether the ODSS meets the requirements for recording on a cassette tape the data in § 158.49 in the format and at the intervals described in § 158.55.

**§ 158.115 Report of test results.**

(a) If the Coast Guard determines that the results of the tests conducted on the ODSS under § 158.109 are satisfactory, the Coast Guard—

- (1) Sends a certificate of approval for the ODSS to the applicant; and
- (2) Lists, in the Coast Guard List of Approved ODSS, the brand name and model number of the ODSS tested.

(b) If the Coast Guard determines that the results of a test conducted are unsatisfactory, the Coast Guard sends to the applicant a report of the results, indicating which results are unsatisfactory.

(c) Before sending the report required in paragraph (b) of this section, the Coast Guard may perform any of the remaining tests under § 158.109 or may discontinue further testing.

**§ 158.119 Retesting.**

(a) An applicant issued a report of unsatisfactory test results under § 158.115(b) may request a retest by

notifying the office listed in § 158.25.

(b) A request for retesting must be accompanied by an explanation of all changes made to the equipment or steps taken as a result of the report issued under § 158.115(b).

**§ 158.125 Reconsideration of test results.**

An applicant notified of unsatisfactory test results under § 158.115(b) may petition the Commandant of the Coast Guard in any manner for review of the test results and methods used. Upon completion of review by the Commandant or a designated representative, the applicant is advised of the results of the review. The findings may require retesting the equipment by another method, approving the equipment, or denying the petition. The decision of the Commandant is the final agency action.

**§ 158.129 Modification of ODSS.**

No changes may be made to approved ODSS models unless written authorization has been received from the Coast Guard. A description of the proposed modification must be submitted to the office in § 158.25 for determination of the impact on the previous certification under § 158.115(a) and the need for retesting under § 158.109.

(Pub. L. 92-532, Title I, § 108; 86 Stat. 1059 (33 U.S.C. 1418); 49 CFR 1.46(n)(5))

Dated: December 10, 1979.

J. B. Hayes,  
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-38294 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-14-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

(FRL 1374-6)

**State of Maryland; Proposed Revision of the Maryland State Implementation Plan**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed Rule.

**SUMMARY:** The State of Maryland has submitted a proposed revision of the State Implementation Plan (SIP) consisting of a Consent Order for the Firestone Plastics Company, Inc. in Perryville, Maryland. This order grants an exception to Firestone from portions of Maryland Regulation COMAR 10.18.07 that permits the company to

construct and operate a new boiler with relaxed requirements. The ambient air quality standards are presently being met in the Perryville, Maryland area and this exception is not expected to cause any violations of the standards or the Prevention of Significant Deterioration (PSD) increments.

**DATE:** Comments must be submitted on or before January 14, 1980.

**ADDRESSES:** Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Sts., Philadelphia, PA 19106, ATTN: Edward A. Vollberg.  
Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston St., Baltimore, MD 21201, ATTN: George Ferreri.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M St., SW. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before January 14, 1980, will be considered and should be directed to: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH015MD.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8179.

**SUPPLEMENTARY INFORMATION:** On December 1, 1978, the State of Maryland submitted to EPA, Region III a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Firestone Plastics Company, Inc. of Perryville, Maryland. The submittal contained a certification that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR Part 51.4 and all relevant State procedural requirements, and requested that EPA consider the Consent Order as a revision of the State Implementation Plan. The order exempts the construction and operation of a new boiler at the Perryville facility from the provisions of COMAR 10.18.07.03B(2)c(1) which requires the installation of dust collection equipment on residual oil-fired boilers. Concurrently the order



modifies COMAR 10.18.07.02B (which permits no visible emissions) to allow the boiler to have visible emissions not exceeding 20% opacity; and modifies COMAR 10.18.07.03B(2)a (which limits particulate emissions to 0.03 gr/SCFD) thereby allowing the new boiler to emit particulate matter at 0.06 gr/SCFD, corrected to 50% excess air.

The boiler was subject to PSD review for sulfur dioxide emissions, and a permit was issued to the source on July 3, 1979. The Best Available Control Technology (BACT) requirements of the permit will limit the sulfur-in-fuel which is directly related to the formation of particulate matter and therefore affects the amount of particulate matter emissions from a residual oil-fired boiler. The permit conditions will limit the particulate emissions such that they will have an insignificant impact. This is supported by modeling submitted by the State of Maryland on June 1, 1979 which shows no violations of the ambient air quality standards or the PSD increments.

Therefore, it is the tentative decision of the Administrator to approve the proposed revision of the Maryland State Implementation Plan.

The Public is invited to submit to the address stated above, comments on whether the Firestone Plastics Consent Order should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-7642)

Dated: November 30, 1979.

A. R. Morris,  
Acting Regional Administrator.  
FR Doc. 79-38233 Filed 12-12-79; 8:45 am]  
BILLING CODE 6560-01-M

## GENERAL SERVICES ADMINISTRATION

### Public Buildings Service

#### 41 CFR Part 101-20

#### Management of Buildings and Grounds; Accident and Fire Prevention Standards

**AGENCY:** Public Buildings Service, General Services Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) proposes to amend its regulations to update certain provisions of the accident and fire prevention standards. The proposed changes require that GSA space be consistent with Occupational Safety and Health Administration standards and provide a procedure for processing reports of hazardous conditions and for resolving conflicting recommendations made as a result of safety and health inspections by GSA and occupant agency inspection personnel.

**DATE:** Comments must be received on or before January 31, 1980.

**ADDRESS:** Written comments should be sent to the General Services Administration (PBAB), Washington, D.C. 20405.

**FOR FURTHER INFORMATION CONTACT:** Mr. Craig Schilder, Chief, Safety Management Branch, Accident and Fire Prevention Division (202-566-0961).

**SUPPLEMENTARY INFORMATION:** The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

#### PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

##### Subpart 101-20.1—Building Operations, Maintenance, Protection and Alterations

1. Section 101-20.109-1 is revised to read as follows:

##### § 101-20.109-1 Policy.

It is the policy of GSA that:

(a) Standards for space will equal or exceed those promulgated pursuant to the Occupational Safety and Health Act (OSHA) of 1970 (Pub. L. 91-596); Executive Order 11807; and 29 CFR Part 1960, Subpart E—Agency Occupational Safety and Health Standards.

(b) The safety and health of occupants and visitors will not be imperiled by exposure to unnecessary risks and intolerable conditions.

(c) Safeguards will be provided to allow emergency forces to accomplish their mission without undue danger of entrapment.

(d) Fire-limiting and other safety features will be provided to limit danger to the surrounding community.

(e) Safeguards will be provided according to the number of persons involved, the value of the property and importance of the Federal activity to minimize personal harm, property damage, or impairment of the mission.

(f) Accidents involving injury and property damage related to buildings and grounds will be reported immediately to the appropriate GSA buildings manager.

(g) Reports about the safety and health conditions of space will be referred to the appropriate buildings manager for investigation and appropriate action.

2. Section 101-20.109-3 is revised to read as follows:

##### § 101-20.109-3 Responsibility of agencies.

Each occupant agency shall ensure that:

(a) Operations and activities and their use in GSA-assigned space conform to the policies of § 101-20.109-1.

(b) All reasonable precautions are taken, to avoid accidental injuries, illnesses, fires, and property damage.

(c) A safety and health and fire protection liaison is appointed with full authority and responsibility to represent the occupant agency management with the GSA buildings manager.

3. Section 101-20.109-11 is amended by revising its caption and paragraph (a) to read as follows:

##### § 101-20.109-11 Accident prevention and fire protection activities of occupant agencies.

(a) Periodic inspections in accordance with 29 CFR Part 1960, Subpart D—Procedures for Inspections and Abatement, are conducted by the occupant agency of their operations and activities involving GSA buildings and grounds. Inspections shall be documented, and a copy of the documentation shall be provided to the buildings manager not later than 10 days after the inspection. These inspections do not relieve GSA of its responsibilities for these areas, nor do inspections by GSA or others relieve occupant agencies of their responsibilities for maintaining full knowledge of conditions.

4. Section 101-20.109-12 is added to read as follows:

##### § 101-20.109-12 Correction of hazardous conditions.

(a) Conditions within the agency's responsibility to correct that affect the buildings and grounds and could affect any GSA employees in the performance of their responsibilities shall be corrected within 30 workdays in accordance with 29 CFR 1960.34 or established agency program requirements, whichever is more restrictive. An abatement plan shall be prepared for corrective actions requiring more than 30 days. This plan shall contain an explanation of the circumstances of the delay in abatement, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect other agency personnel and GSA buildings and grounds from injury or damage by the unsafe or unhealthy working condition. The occupant liaison shall send a copy of the abatement plan to the buildings manager. If the estimated abatement time is more than 60 workdays, a copy shall also be provided to the GSA regional Accident and Fire Prevention Branch.

(b) Conditions considered to be within the scope of GSA's responsibility to correct shall be forwarded to the GSA buildings manager for action. To correct the hazard, six basic steps will be taken: The Occupant agency must identify, document, and present the problem to GSA, after which GSA will investigate, determine, and resolve the problem. Identification of these conditions may be by an occupant agency employee or by an occupant agency safety and health and fire protection specialist.

When an imminently dangerous situation exists, as defined by 29 CFR 1960.32, a telephone call from the occupant liaison to the GSA buildings manager will be sufficient to constitute the agency's identification, documentation, and presentation of the problem to GSA. Otherwise, a report must document the hazardous condition and cite references to specific standards violated, such as OSHA regulations, GSA criteria, or agency standards. Documentation should include inspection reports, photographs, sketches, or drawings for safety problems and an industrial hygiene survey report for a health problem. The OSHA Form No. 7 may be used as part of the documentation. The occupant liaison shall satisfy him/herself that there are reasonable grounds to believe that an unsafe or unhealthful condition exists before presenting the situation to the GSA buildings manager.

(c) Resolutions by the buildings manager or other regional management

personnel that are unsatisfactory to the occupant agency management may be formally presented to the GSA Regional Administrator by the agency regional, district, or equivalent management.

(d) Unsatisfactory resolutions by GSA regional management may be formally presented to the GSA Safety and Health Official by the agency head or an authorized designee.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: December 3, 1979.

A. R. Marschall,  
Commissioner, Public Buildings Service.

[FR Doc. 79-38207 Filed 12-12-79; 8:45 am]

BILLING CODE 6820-23-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 192

[Docket PS-62; Notice 1]

#### Transportation of Natural and Other Gas by Pipeline; Leakage Surveys

**AGENCY:** Materials Transportation Bureau, DOT.

**ACTION:** Notice of proposed Rulemaking.

**SUMMARY:** This notice proposes to amend Part 192 to require more stringent leakage surveys on pipelines located in areas where gas leaks pose a high risk of damage to persons and property. In addition, time intervals between surveys would be prescribed in a way to permit flexibility in scheduling personnel assignments. This proposal would also establish special procedures for conducting leakage surveys on underground petroleum gas lines to account for the heavier than air nature of petroleum gas.

**DATES:** Interested persons are invited to submit written comments on this proposal before March 31, 1980.

**ADDRESSES:** Comments should be sent in triplicate to: Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Comments submitted will be available for review and copying before and after the closing date at the Docket Branch, Room 8426, Nassif Building, 7th & D Streets, SW., Washington, D.C., between 8:30 a.m. and 5:00 p.m. each working day. Late filed comments will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Cory, 202-426-2392.

**SUPPLEMENTARY INFORMATION:** *Frequency and Method of Surveys in High Risk Areas.* Currently,

§ 192.723(b)(1), *Distribution systems, leakage surveys and procedures*, requires that a leakage survey using detector equipment be conducted in "business districts" at intervals not exceeding 1 year. Both the survey method and survey interval are more stringent than that required under § 192.723(b)(2) for other distribution pipeline areas because of the higher population concentration and potential for hazard in business districts. Only a 5-year survey interval is now required for distribution lines outside of business districts and leak detectors are not required. The term "business districts" was originally adopted in Part 192 from the ANSI B31.8-1968 Code, paragraph 852.22(a) but was not defined in that code. For the purpose of applying Part 192, the Materials Transportation Bureau (MTB) has interpreted "business districts" as areas containing shops and offices where persons engage in the purchase and sale of commodities or in related financial transactions.

Apart from "business districts", MTB believes there are many similar areas where there is a higher than normal potential risk from gas leaks. It follows that persons in all these areas should be afforded the same safety benefits from Federal leakage survey requirements as in now provided in "business districts". Therefore, MTB is proposing to amend § 192.723(b) to delete the term "business districts" and to state in broader terms in both § 192.723(b) and § 192.706 *Transmission lines; leakage survey*, three high risk areas where the most stringent leakage surveys would be required.

MTB believes that one area where leaking gas would result in the highest potential hazard and damage is appropriately described as Class 4 locations (areas with buildings of 4-stories or more as defined by § 192.5(e)). A second area is where the pipeline is within 100 yards of buildings that are occupied by 20 or more persons during normal use (such as a Class 3 location as defined by § 192.5(d)(2)(i)). In the latter case, examples are office buildings, shopping centers, schools, hospitals, churches, and theaters. Both areas are places where large groups of persons would be concentrated, thus giving a potential for a highly hazardous condition if a gas leak should occur in the area.

The third high risk area can be defined as locations where the surface of the ground between the pipeline and nearby buildings is paved with materials (normally asphalt or concrete) capable of restricting leaking gas from venting to the atmosphere. In such areas, leaking



gas can migrate under the paving to nearby buildings and expose people to an explosive condition. These areas are normally found in Class 3 and 4 locations, but may also exist in Classes 1 and 2.

Gas migration has been a factor in several accidents investigated by the National Transportation Safety Board (NTSB). Two of these accidents, one in El Paso, Texas, on April 22, 1973, and the other in Allentown, Pennsylvania, on August 8, 1976, illustrate the paving condition where migration of gas would be likely if any leak should occur. In the accident in El Paso, gas escaping from a leaking 2-inch gas main migrated across a concrete road and under the sidewalk where the gas accumulated in the crawl space under an apartment complex. The gas was ignited by some unknown source causing an explosion, which destroyed at least seven apartment units, hospitalized eight persons and killed seven persons.

The accident in Allentown occurred as a result of a sink hole in the area that broke a 4-inch cast iron main in 5 locations. Although sudden failures of this type might not be detected by a periodic leakage survey, the area where the accident occurred illustrates the type of paving condition under which even a small gas leak would likely migrate under paving to areas that would cause a hazardous condition. The houses in this area of Allentown are built with the front wall of the house at the edge of the sidewalk, and the street paving then completes the cover of the area. The gas main was located under the street.

Paved areas like those in El Paso and Allentown are not uncommon throughout the U.S. Even small leaks occurring on both distribution and transmission pipelines in such areas can be detected by leakage survey methods before they would be detected by odor or before they become hazardous.

In addition to the accidents investigated by NTSB, 992 individual leak reports were filed with DOT under 49 CFR 191.9 during the 4-year period of 1975-78 as a result of leaks that occurred under paving. Leak report form DOT F7100.1, that is required to be submitted in certain distribution system gas leaks under § 191.9 does ask if the leak occurred under paving but does not address migration of gas under paving. MTB therefore, cannot readily determine how many leaks involved migration of gas under pavement resulting in fires and explosions. The number of gas leaks occurring under paving does, however, indicate the magnitude of the potential safety problem. The magnitude of this problem is probably even larger than these leak reports indicate because such

reports are not required from distribution operators having less than 100,000 services.

In each of the three high risk areas discussed above, there is a relatively large amount of surface traffic and construction activity. There is also the difficulty in installing and maintaining cathodic protection in such areas, along with the presence of other underground structures, such as water, sewer, telephone and power lines, all of which often provide a direct path for leaking gas to migrate to buildings. All of these factors lead MTB to believe that the hazards associated with gas pipeline leaks in such areas would be substantially reduced if leakage surveys were carried out at frequent intervals and with appropriate leak detection equipment.

For the above reasons, MTB is proposing to amend Part 192 to require that leakage surveys using leak detector equipment, (as now required yearly on distribution systems in "business districts"), be conducted at least once each calendar year with no more than 65 weeks between consecutive surveys on all distribution and odorized transmission lines in Class 4 locations, Class 3 locations as defined in § 192.5(d)(2)(i), and locations where the area between the pipeline and any building wall is covered by a surface capable of restricting the venting of gas from the soil to the atmosphere. For transmission lines transporting unodorized gas in such areas in accordance with § 192.625, MTB is proposing to require leakage surveys using leak detector equipment four times each calendar year with no more than 18 weeks between consecutive surveys.

For distribution lines outside "business districts" that would be included in high risk areas described above, this proposal would increase the leakage survey frequency from the present 5 year interval to once each calendar year and require that leak detectors be used. The proposal would not alter the frequency or method of survey now required for distribution lines in "business districts".

For odorized transmission lines, this proposal represents no change in the currently required frequency of leakage surveys, but would add the requirement to use leak detector equipment in making the surveys in the three high risk areas discussed above. For unodorized transmission lines, leak detector equipment is now required and the proposal would not alter the quarterly survey required in Class 4 locations. However, the semiannual survey now required for unodorized transmission lines in Class 3 locations as defined in

§ 192.5(d)(2)(i) would be doubled. Offshore transmission and gathering lines would not be affected by this proposal.

#### Other Significant Population Areas

Beyond the above proposed leakage survey requirements for the type of Class 3 locations in paved areas and where a pipeline lies within 100 yards of a building occupied by 20 or more persons during normal use, MTB also believes that pipeline safety in all other Class 3 locations can be enhanced by more frequent leakage surveys of distribution pipeline systems.

Because Class 3 locations include the areas that have the highest number of buildings intended for human occupancy, so long as the buildings have less than four stories above ground (not Class 4), the Class 3 location covers the areas where most of the population lives, varying in density from the inner city to very spacious suburban subdivisions.

Under the current requirements of § 192.723, a leakage survey of distribution systems in a Class 3 location (outside of "business districts") is required at intervals not exceeding 5 years. Under § 192.706, transmission lines in Class 3 locations must be checked annually, unless the line is unodorized, in which case it must be surveyed twice a year.

In view of the number of persons and amount of property in Class 3 locations and the fact that even small leaks can become hazardous in far less than 5 years, MTB believes that a distribution line leakage survey every 5 years is patently inadequate. In fact, many distribution operators conduct surveys in these areas at much more frequent intervals than now required.

For these reasons, MTB is proposing to require for distribution systems in Class 3 locations (other than those in paved areas and those within 100 yards of a building occupied by 20 or more persons during normal use) leakage surveys with leak detector equipment be conducted at least every other calendar year with not more than 119 weeks between consecutive surveys. MTB is not proposing to amend the current survey requirements for transmission lines in these Class 3 locations.

To clarify the intent of these proposals MTB wishes to emphasize that in §§ 192.706 and 192.723, the term "leakage survey" would permit the survey to be conducted by any effective method that will detect significant gas leaks under existing conditions. Where the phrase "leak detector equipment" is included in the current requirement and the proposed rules, appropriate and

effective leak detection instruments must be used for conducting the survey.

#### Issue

MTB recognizes that gas leaks are often discovered as a result of the "gas odor" required by § 192.625, and anticipates comments that more frequent surveys are not needed because odorization solves the problem of leak detection. Odor results from either hydrogen sulfides that sometimes occur naturally in the gas or from chemical odorants (mercaptans or cyclic sulphides) that are added to the gas.

§ 192.625(a) requires that the gas odor must be detectable at a concentration of gas in air of 1/4 of the lower explosive limit. For natural gas this would be at a concentration of about 1% gas in air, which would also be 10,000 parts per million. Instruments in common use can readily detect gas in air at concentrations of 10 parts per million or less. Because these and other instruments are capable of detecting gas in air long before it would be detected by the human sense of smell, MTB considers the leakage survey to be the primary method for detecting gas leaks before they become significant. Unfortunately, it is not feasible for leakage surveys to be conducted in all locations on a continuing basis. Thus, odorization of gas is relied upon as a back-up for leakage surveys, but cannot fully substitute for such surveys.

#### Scheduling Leakage Surveys

The ASME Gas Piping Standards Committee (ASME Committee) in a letter dated December 26, 1975, (Petition No. 75-12) recommended that the present inspection or testing frequencies prescribed at "intervals not exceeding one year" now appearing in various sections of Part 192, including §§ 192.706(b) and 192.723(b), be changed to read "at least once each calendar year, but with intervals not exceeding 15 months." A similar recommendation was made by the Technical Pipeline Safety Standards Committee (TPSSC) at a meeting held in Washington, D.C. on December 5, 1978. The purpose of these recommended changes is to permit scheduling of the required tests and inspections at specified intervals but also permit flexibility in the time intervals to allow for variations in construction and operation activities that often involve the same personnel.

MTB believes that permitting a degree of flexibility in the time interval does not reduce safety and makes compliance with a given requirement considerably less costly to the operator and the public. As a result, MTB is proposing to amend § 192.706(b) to permit surveys

now required at intervals of 1 year, 6 months and 3 months (6 months and 3 months are for pipelines carrying unodorized gas in Class 3 and 4 locations) to be conducted 1, 2, or 4 times each calendar year with no more than 65 weeks, 32 weeks or 16 weeks respectively, between consecutive surveys. Maximum intervals are stated in weeks rather than months to give clear definition of the time intervals. A similar change was made for corrosion monitoring requirements of Subpart I by Amendment 192-33; 43 FR 39389, September 5, 1978.

MTB also proposes to amend the current 5-year leakage survey requirement in § 192.723(b)(2), for Class 1 and 2 non-business district locations, outside of those mentioned above, to permit leakage surveys to be conducted at least one time in each 5 calendar years with intervals not exceeding 274 weeks between consecutive surveys.

MTB is considering future proposed revisions to the leakage survey frequency requirements in Class 1 and 2 locations to make the time intervals between surveys more appropriate for distribution lines and for odorized transmission lines. However, MTB does not have sufficient information to provide a basis for proposing changes to these requirements at this time. As a result, commenters are invited to supply any data available on an appropriate leakage survey frequency for both distribution and transmission lines in Class 1 and 2 locations, giving consideration to operating stress level, class location, environment, and outside force influences. It should also be considered that under proper conditions a vegetation survey may be used in Class 1 and 2 locations.

It is anticipated that future rulemaking action will be taken to make similar changes in the inspection and test frequencies in the remaining sections of Part 192 that were addressed by the ASME and the TPSSC.

#### Petroleum Gas Systems

In many areas of the U.S. and Puerto Rico, there are small petroleum gas pipeline systems transporting gas to customers from liquefied petroleum gas storage tanks. Many of these systems are subject to Part 192 because they either have 10 or more customers or are located in a public place (§ 192.11). It should be noted, however, that based on a statutory interpretation, Part 192 does not apply to any petroleum gas system that serves a single customer when the entire system is located on the customer's property.

One of the characteristics of petroleum gas is that, unlike natural gas

that is lighter than air and will readily migrate to the surface, it is heavier than air and will not normally vent to atmosphere. This difference appears to have been overlooked by many operators of petroleum gas systems who now rely upon a surface type of leakage survey using leak detector equipment such as a hydrogen-flame-ionization (HFI) unit, as would normally be used with natural gas. Thus, these operators depend upon a leakage survey procedure that may not detect many potentially hazardous leaks on an underground petroleum gas system. For these reasons, MTB believes that it is necessary to establish more rigid requirements for leakage surveys on underground petroleum gas lines.

The ASME Committee has recognized this problem by adding Appendix G-11A to the ASME Guide for Gas Transmission and Distribution Piping Systems (Guide). Appendix G-11A is a recommended procedure for leakage surveys in petroleum gas systems.

Using paragraph 4.4(a) of Appendix G-11A as a basis, MTB is proposing a new § 192.724 to require leakage surveys of underground petroleum gas pipeline systems subject to § 192.11 to be made by sampling the sub-surface atmosphere at a minimum of 14 inches depth with an instrument capable of detecting petroleum gas at a concentration of 10 parts per million (such as a HFI unit) or at pipe depth with gas detectors capable of detecting petroleum gas at a concentration of 10 percent of the lower explosive limit (such as combustible gas indicator calibrated for petroleum gas) at sufficient locations along the pipeline to detect leakage but in no case more than 20 feet apart.

MTB has discussed the Guide's recommended procedure with members of the ASME Committee and gas leakage survey specialists who have performed surveys with the procedure on petroleum gas systems. As a result of these discussions, MTB believes that the proposed rules will provide an appropriate Federal standard for conducting leakage surveys on petroleum gas systems. However, we do not have field test data to support this belief. Commenters are specifically requested to provide any available test or operational data relative to the adequacy of using a 14-inch depth of survey when an HFI unit or similar gas detector is used and on the desirability of a maximum spacing of 20 feet between test points.

#### Title Change

In the title and paragraph (a) of § 192.723, the words "system" and "systems" are proposed to be changed



to "line" and "lines" respectively to make it clear that § 192.723 applies to "distribution lines" as defined in § 192.3. Each operator would then apply either § 192.706 or § 192.723 according to whether a pipeline it operates is a transmission or distribution line under § 192.3.

This notice of proposed rulemaking (NPRM) was originally planned to include proposals on the use of vegetation surveys. To permit a more thorough review of the many important aspects of leakage detection and control programs covered in this rulemaking, MTB decided that vegetation surveys will be covered by another NPRM at a later date.

The MTB has determined that the proposals in this notice, if implemented, would not result in major economic

impact (\$100 million or greater) under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). A regulatory evaluation is available in the public docket. This evaluation estimates an annual added cost to U.S. and Puerto Rican pipeline operators of \$27.3 million resulting from this proposal.

In consideration of the foregoing, MTB proposes that Part 192 of Title 49, Code of Federal Regulations, be amended as follows:

1. By amending § 192.706(b) to read as follows:

§ 192.706 Transmission lines: Leakage surveys.

(b) Leakage surveys of each transmission line must be conducted in accordance with the following table:

| Area description                                   | Odorized gas               |                                  |                               | Unodorized gas             |                                  |                               |
|----------------------------------------------------|----------------------------|----------------------------------|-------------------------------|----------------------------|----------------------------------|-------------------------------|
|                                                    | Surveys each calendar year | Leak detector equipment required | Maximum weeks between surveys | Surveys each calendar year | Leak detector equipment required | Maximum weeks between surveys |
| Class 4 and Class 3 as defined in § 192.5(d)(2)(i) | 1                          | Yes                              | 65                            | 4                          | Yes                              | 16                            |
| Class 3 other than as defined in § 192.5(d)(2)(i)  | 1                          | Yes                              | 65                            | 2                          | Yes                              | 32                            |
| Class 1 and 2                                      | 1                          | Optional                         | 65                            | 1                          | Optional                         | 65                            |

2. By amending § 192.723 to read as follows:

§ 192.723 Distribution lines: Leakage surveys and procedures.

(a) Each operator of a distribution line shall provide for periodic leakage surveys in its operating and maintenance plan.

(b) Leakage surveys of each distribution line must be conducted in accordance with the following table:

| Area description                                  | Frequency                  | Leak detector equipment required | Maximum weeks between surveys |
|---------------------------------------------------|----------------------------|----------------------------------|-------------------------------|
| Class 4 and 3 as defined in § 192.5(d)(2)(i)      | Once Each Calendar Year    | Yes                              | 65                            |
| Class 3 other than as defined in § 192.5(d)(2)(i) | Once Each 2 Calendar Years | Yes                              | 119                           |
| Class 1 and 2                                     | Once Each 5 Calendar Years | Optional                         | 274                           |

<sup>1</sup>Locations where the area between the pipeline and any building wall is covered by a surface capable of restricting the venting of leaking gas from the soil to the atmosphere must have a leakage survey conducted using leak detector equipment at least once each calendar year at intervals not exceeding 65 weeks.

3. By adding a new § 192.724 to read as follows:

§ 192.724 Leakage surveys on petroleum gas pipelines.

Leakage surveys of buried pipelines

transporting petroleum gas subject to § 192.11 must be made by sampling the subsurface atmosphere at a minimum 36 centimeters (14 in.) depth with an instrument capable of detecting

petroleum gas at a concentration of 10 parts per million, or at pipe depth with a gas detector capable of detecting petroleum gas at 10 percent of the lower explosive limit, at sufficient locations along the pipeline to detect leakage but in no case more than 61 decimeters (20 ft.) apart.

(49 U.S.C. 1672; 49 CFR 1.53, Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on December 5, 1979.

Cesar DeLeon,  
Associate Director for Pipeline Safety  
Regulation, Materials Transportation Bureau.

[FR Doc. 79-37966 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing for Atlantic Billfish and Sharks; Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.  
ACTION: Proposed Regulations.

SUMMARY: New species reporting codes for Atlantic bill fish and sharks (50 CFR 611.9) are proposed for inclusion in the foreign fishing regulations.

DATES: Written comments are invited until January 14, 1980. Comments should be addressed to: Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Telephone: (813) 893-3141.

SUPPLEMENTARY INFORMATION: Species reporting codes for several species covered by the preliminary fishery management plan for Atlantic billfish and sharks and for species caught incidentally in the fishery are proposed. If a foreign vessel catches these species, it will have to record them by these codes. Presently, all sharks may be

recorded as "nonspecific sharks", and marlin and spearfish are not recorded at all.

Signed in Washington, D.C. this 9th day of December 1979.

Winfred H. Meibohm,  
Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 et seq.

§ 611.9 [Amended]

It is proposed to amend 50 CFR Part 611 by adding the following to the Species Code, § 611.9, Appendix I—Part A, Atlantic Ocean fishes. (Including the Gulf of Mexico):

| Code | Common English name | Scientific name                  |
|------|---------------------|----------------------------------|
| 462  | Porbeagle shark     | <i>Lamna nasus</i> .             |
| 463  | Longfin mako shark  | <i>Isurus paucus</i> .           |
| 464  | Shortfin mako shark | <i>Isurus oxyrinchus</i> .       |
| 465  | Blue shark          | <i>Prionace glauca</i> .         |
| 256  | White marlin        | <i>Tetrapturus albidus</i> .     |
| 254  | Longbill spearfish  | <i>Tetrapturus pfluegeri</i> .   |
| 260  | Blue marlin         | <i>Makaira nigricans</i> .       |
| 252  | Sailfish            | <i>Istiophorus platypterus</i> . |
| 240  | King mackerel       | <i>Scomberomorus cavalla</i> .   |
| 244  | Spanish mackerel    | <i>Scomberomorus maculatus</i> . |

[FR Doc. 79-38267 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-22-M



## Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

### CIVIL AERONAUTICS BOARD

[Dockets 33363, 36489, and 36490]

#### Former Large Irregular Air Service Investigation (Applications of Four Seas Airlines, Inc.); Reassignment of Proceeding

This proceeding, insofar as it involves the applications of Four Seas Airlines, Inc., Dockets 36489 and 36490, has been reassigned to Judge William H. Dapper.

Dated at Washington, D.C., December 7, 1979.

Joseph J. Saunders,  
Chief Administrative Law Judge.  
[FR Doc. 79-38186 Filed 12-12-79; 8:45 am]  
BILLING CODE 6320-01-M

[Dockets 33363 and 36234]

#### Former Large Irregular Air Service Investigation (Application of Silvas Air Lines, Inc.); Reassignment of Proceeding

This proceeding, insofar as it involves the application of Silvas Air Lines, Inc., Docket 36234, has been reassigned to Judge Marvin H. Morse.

Dated at Washington, D.C., December 7, 1979.

Joseph J. Saunders,  
Chief Administrative Law Judge.  
[FR Doc. 79-38187 Filed 12-12-79; 8:45 am]  
BILLING CODE 6320-01-M

[Docket 33477]

#### Texas/Great Lakes Eastern Canada Service Case; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Rudolf Sobernheim to Administrative Law Judge Marvin H. Morse. Future communications should be addressed to Judge Morse.

Dated at Washington, D.C., December 17, 1979.

Joseph J. Saunders,  
Chief Administrative Law Judge.  
[FR Doc. 79-38189 Filed 12-12-79; 8:45 am]  
BILLING CODE 6320-01-M

[Docket 33220]

#### Yucatan Service Case; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Rudolf Sobernheim to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., December 6, 1979.

Joseph J. Saunders,  
Chief Administrative Law Judge.  
[FR Doc. 79-38188 Filed 12-12-79; 8:45 am]  
BILLING CODE 6320-01-M

### COMMISSION ON CIVIL RIGHTS

#### Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on January 4, 1980, at the Wesley House, 2001 North 35th Street, Omaha, Nebraska 68111.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of the meeting is to plan the SAC program activity for FY 1981 and identify the committee assignments for the data gathering efforts in the Western Nebraska Employment Study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 10, 1979.

John I. Binkley,  
Advisory Committee Management Officer.  
[FR Doc. 79-38184 Filed 12-12-79; 8:45 am]  
BILLING CODE 6335-01-M

### Federal Register

Vol. 44, No. 241

Thursday, December 13, 1979

#### Texas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Texas Advisory Committee (SAC) of the Commission will convene at 6:00 p.m. and will end at 10:00 p.m. on January 15, 1980, and will convene at 8:00 p.m. and will end at 10:00 p.m. on January 16, 1980, at the Four Seasons Plaza National, 555 South Alamo, San Antonio, Texas 78205.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204. The purpose of this conference is the release of the Ten Years Later reports and the symposium on civil rights issue.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 10, 1979.

John I. Binkley,  
Advisory Committee Management Officer.  
[FR Doc. 79-38185 Filed 12-12-79; 8:45 am]  
BILLING CODE 6335-01-M

### DEPARTMENT OF COMMERCE

#### Foreign-Trade Zones Board

[Docket No. 14-79]

#### Foreign-Trade Zone and Subzone—Lincoln, Nebr.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Lincoln Foreign Trade Zone, Inc., a Nebraska not-for-profit corporation affiliated with the Lincoln Chamber Industrial Development Corporation, requesting a grant of authority to establish a general-purpose foreign-trade zone and a special-purpose subzone within the City of Lincoln, Nebraska, adjacent to the Omaha Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 6, 1979. The applicant is authorized to make this proposal under

Section 21-20, 146, R.S. Nebraska, 1943, Reissue of 1977.

The proposed general-purpose zone will be located on a 250,000 square foot tract at the Lincoln Airpark West industrial park, a new air cargo center adjacent to the Lincoln Municipal Airport. Owned by the Airport Authority of the City of Lincoln, the tract is under lease to the applicant which would develop and operate the proposed zone. Operations will begin in an existing 37,000 square foot building and adjacent open yard area. At the outset, the zone would be used for warehousing, exhibition, assembly, and manipulation operations on such products as aircraft parts and accessories, waterbeds, and electronic items. The site is served by interstate highway and rail.

The special-purpose subzone would be established at the Lincoln plant of Kawasaki Motors Corp., U.S.A. (KMC), a domestic subsidiary of Kawasaki Heavy Industry, Ltd., of Japan, located at 5600 N.W. 27th Street in Lincoln, near the Municipal Airport. On a 43-acre tract with a structure of 406,000 square feet, the plant has been in operation since 1975 with manufacturing and warehousing operations for the assembly and distribution of motorcycles, jet skis and snowmobiles produced from domestic and foreign parts, employing some 500 persons.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230; Donald E. Grimwood, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region IX, Suite 1501, 55 E. Monroe Street, Chicago, Illinois 60603; and Colonel Vito D. Stipo, District Engineer, U.S. Army Engineer District Omaha, 6014 USPO and Courthouse, Omaha, Nebraska 68102.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on January 9, 1980, beginning at 9:00 a.m., in District Court Room No. 1, County-City Building, Third Floor, 555 South Tenth Street, Lincoln, Nebraska. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. They should notify the Board's Executive Secretary by January 2, 1980, of their desire to be

heard in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through February 8, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing.

A copy of the application and accompanying exhibits will be available for public inspection during the comment period at each of the following locations:

Office of the District Director, U.S. Department of Commerce, Capitol Plaza, Suite 703A, 1815 Capitol Avenue, Omaha, Nebraska 68102.

Lincoln Chamber Industrial Development Corp., 1221 N. Street, Suite 606, Lincoln, Nebraska 68506.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Streets, N.W., Room 6886-B, Washington, D.C. 20230.

Dated: December 10, 1979.

John J. Da Ponte, Jr.,  
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-38214 Filed 12-12-79; 8:45 am]  
BILLING CODE 3510-25-M

### Industry and Trade Administration

#### Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 2, 1980.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through

Friday, in Room 735 at 666-11th Street N.W., Washington, D.C.

Docket No. 80-00004. Applicant: UCLA, School of Engineering, Electrical Sciences & Engineering Department, 7731 Boelter Hall, Los Angeles, CA 90024. Article: Carcinotron—385 Radiation Source, Model CO-08. Manufacturer: Thomson-CSF Electron Tubes, France. Intended use of Article: The article is intended to be used as a radiation source during plasmas related magnetic fusion research, i.e. plasmas with densities  $>10^{13}\text{cm}^{-3}$ . Measurements of the turbulent fluctuation spectra existing in fusion plasmas will be taken to determine the ion temperature in such plasmas. The article will be used in Ph. D. thesis research by graduate students in pursuit of their Ph. D. degrees. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00007. Applicant: Baylor College of Medicine, 1200 Moursund, Houston, TX 77030. Article: Cryokit, IKB 14801-1 and Accessories. Manufacturer: IKB Produkter AB, Sweden. Intended use of Article: The article is intended in preparing frozen thin sections of normal and infarcted rat myocardium in order to detect intracellular ion shifts which occur during infarction. The overall goal of the experiment is to elucidate the role of ion movements during cell injury and death and to assess the efficacy of agents in preventing or delaying cell death. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00008. Applicant: Case Western Reserve University, University Circle, Cleveland, Ohio 44106. Article: Electron Microscope, Model EM 400T. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of Article: The article is intended to be used for microdiffraction or microchemical analysis in the following projects:

1. Composition of coherent precipitates in partially-stabilized  $\text{ZrO}_2$ .
2. Crystallography of the  $\text{TiO}_2$  precipitate in star sapphire.
3. Grain boundary segregation.
4. M/O ratios in non-stoichiometric oxides.
5. Composition of oxide scales.
6. Diffusion-controlled phase transformations.
7. Studies of electrocatalysis.
8. Thin film microanalysis.

The article will also be used in the courses EMMS 509 and EMMS 312 to teach students the practical use, theory, and applications of electron microscopy to metallurgy and materials science, particularly the advanced applications of transmission electron microscopy



(TEM), scanning transmission electron microscopy (STEM), x-ray energy dispersive spectrometry (XEDS), and electron energy loss spectrometry (EELS). Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00009. Applicant: The Ohio State University Research Foundation, 1314 Kinnear Road, Columbus, Ohio 43212. Article: Electron Microscope, Model EM 109R. Manufacturer: Carl Zeiss, West Germany. Intended use of Article: The article is intended to be used in the various studies of the following organisms:

1. Nuclear polyhedrosis viruses of insects—use of insect pathogens (viruses) as possible agents in insect control.

2. Hydra, algae and marine snails—an understanding of how foreign articles are retained or removed by cells; an understanding of sensory organs in molluscs.

3. Salamanders—An understanding of how vertebrate limb regeneration is controlled.

4. Mosquitoes—Control of mosquitoes through an understanding of cell structure and physiology.

5. Parasitic nematodes—Control of parasites of commercially important fish species.

6. Rats and trout; chambered nautilus—An understanding of how insulin activity may be related to atherosclerosis.

7. Protozoan parasites—Understanding of physiology/biochemistry of mammalian parasites, including tapeworms and the causative agent of toxoplasmosis.

8. Rats and humans—An understanding of the relationship between hormone receptors and breast cancer.

9. Various vertebrates—Documentation of the effects of various pesticides on the structure and function of endocrine organs in wildlife and domestic animal species.

Application received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00010. Applicant: University of Rochester, Department of Chemistry, Rochester, New York 14627. Article: EPR/ENDOR Spectrometer, ER 200 and Accessories. Manufacturer: Bruker Instruments, West Germany. Intended use of Article: The article is intended to be used for studies of organic free radicals and transition complexes to determine isotropic and dipolar couplings between the odd electron spin and nuclear spins in these molecules. Analysis of the spectra data

will allow a determination of the structure of transition metal complexes and the mechanism of spin delocalization from the paramagnetic center to the nuclear spins. Analysis of the spectra will also allow a determination of motional correlation times for rotation of molecules in solution. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00011. Applicant: University of California, Department of Chemistry, Davis, California 95616. Article: ER 200D EPR/ENDOR Spectrometer and Accessories. Manufacturer: Bruker-Physik AG, West Germany. Intended use of Article: The article is intended to be used to investigate paramagnetic materials including transition metal complexes, organic free radicals, excited (triplet) states of molecules, and metalloenzymes. Information will be obtained of a detailed nature on the Zeeman splittings of the magnetic sublevels of these systems and the anisotropies in these splittings. Other important interactions of the electron spin—the electron-nuclear hyperfine interactions—are an important aspect of the research and will be studied with the ENDOR accessory which is an intricate part of the spectrometer. The objective of the research is the utilization of EPR and ENDOR spectroscopy to study the detailed magnetic properties of molecules and materials in order to obtain structural information, as well as information regarding the dynamics of spin systems.

The article will be used by selected graduate students in their graduate research course, Chemistry 299 in such cases where EPR/ENDOR spectroscopy will be of assistance in the development of the student's degree-related research. The article will also be used by selected upper-division chemistry majors in the physical chemistry laboratory sequence, Chem 111A, 111B as an instructional tool in enhancing the student's awareness and understanding of modern spectroscopic methods. Application received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00012. Applicant: Rutgers, The State University, Waksman Institute of Microbiology, P.O. Box 759, Piscataway, New Jersey 08854. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used for studies of viruses—structure of avian coronaviruses, localization and structure of spiroplasma viruses, morphogenesis of bacteriophages, and characterization

of baculovirus polyhedra in mammalian cells—cytochemical and immunological studies of yeast alkaline phosphatase, factors affecting yeast mating types, taxonomical studies of actinomycetes, characterization of developmental mutants of the fungus *aspergillus nidulans*, bacteriophage DNA structure and replication, and factors affecting release of the enzyme penicillinase from *Bacillus licheniformis*. Experiments will be conducted seeking a better understanding of the molecular bases of such phenomena as cellular differentiation, protein transport across cell membranes, hormone interactions with cell surfaces, plant pathogenesis associated with Spiroplasmas, viral morphogenesis, and the symbiotic relationships involved in nitrogen fixation between specific plants and actinomycetes. The article will be used in the course "Practical Microscopy" to introduce students to modern electron microscopical techniques, so that they may successfully undertake appropriate research projects with a minimum of additional instruction. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00013. Applicant: Washington University, Department of Earth & Planetary Science, Wilson Hall, Box 1169, St. Louis, MO 63130. Article: Superprobe 733 Electron Probe X-Ray Micro Analyzer. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used as an analytical tool to analyze naturally occurring minerals and glasses, synthetic minerals and glasses, bones and teeth, metals, chemical pellets, dust particles and other solid material. The data obtained will be interpreted in the context of larger research projects in the areas of earth sciences, planetary sciences, materials sciences, applied chemical, pollution and archaeological studies. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00014. Applicant: North Dakota State University, College Station, Fargo, North Dakota 58105. Article: Electron Microscope, Model JEM 1000CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used in the following studies (1) use of chloroplast mutants as a tool in elucidating the genetic factors governing photosynthesis and the ultrastructural development of plastids, (2) examination of the morphological and cytological changes in bacterial and fungal spores when airborne and specific studies of spore germination, penetration, susceptibility, and relationships

between host cells and pathogens, (3) evaluate the purity of various research preparations and the cytological effects due to virus infections, (4) detection of polio, IBR, and other herpes viruses in river and water sediments, (5) taxonomy and classification of insects and (6) determine the ultrastructure of bat kidney to determine the mechanism by which they can tolerate a diet of meal worms without drinking water. The article will also be used to teach a course entitled "Techniques in Electron Microscopy". Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00015. Applicant: Columbia University, College of Physicians and Surgeons, 630 W. 168th Street, New York, N.Y. 10032. Article: Electron Microscope, Model JEM 200CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used for studies of sections of muscle and other biological specimens embedded in epoxy resins. The experiments will be physiological or pharmacological treatments of muscle fiber bundles or of single muscle cells to determine the alterations of muscle fiber structure produced. In addition, the article will be used for the training of advanced graduate students or post-doctoral fellows who will already be familiar with ordinary electron microscopes. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00016. Applicant: Miami University, Oxford, Ohio 45056. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used for the investigation of structural details of single nerve and muscle to understand how nerve and muscle cells become connected together morphologically. The article will be used for individualized instruction of graduate students in the techniques of electron microscopy. Application Received by Commissioner of Customs: November 5, 1979.

Docket No. 80-00018. Applicant: U.S. Army Biomedical Laboratory, Electron Microscopy Laboratory, Comparative Pathology Group, Aberdeen Proving Ground, Edgewood Area, Maryland 21010. Article: LKB 2128 Ultratome IV Ultramicrotome. Manufacturer: IKB Produkter AB, Sweden. Intended use of Article: The article will be used for studies of animal muscle tissues with emphasis on the ultrastructure and receptor function of neuromuscular junctions. Ultrastructure studies will include:

(a) The fine-structure of normal vs abnormal synaptic function.

(b) Localization of acetylcholine receptors with conjugated and unconjugated electron opaque molecular probes.

(c) The binding properties of altered acetylcholine receptors as determined by electron opaque markers.

These studies are conducted to determine, ultrastructurally, modes of acetylcholine receptor binding in normal and biochemically altered synaptic function. Fine-structure changes of junctional and extra-junctional regions will be determined. Correlation to clinically manifested abnormal muscle function will be attempted.

The article will also be used for educational purposes to introduce initiated students to the theory and application of immunocytochemistry and to provide workshop demonstrations on latest techniques in immuno and cytochemistry to advanced students. Application received by Commissioner of Customs: November 13, 1979.

Docket No. 80-00019. Applicant: Veterans Administration Medical Center, Highway 6, Iowa City, Iowa 52240. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for the study of a wide variety of tissues both animal and human such as: endothelium of blood vessels, epithelial surfaces, developing tooth dentin, bacterial, cell and viral cultures, muscle, nerve, kidney, liver and lung. The properties to be investigated will in general be the developmental pathological and experimental ultrastructural features in the various tissues. These include: specialized structures of neoplasms, the geometry and elemental constitution of early crystalline phases in dentin, the formation and differentiation of endothelial junctional complexes, antibody response of endothelial cells and cell cultures, insulin receptor sites, cell surface response to bacterial toxins and other agents, the presence and concentration of particular elements such as copper in cases of Wilson's disease. These investigations will be conducted in order to understand the effects of anti-endothelial antibodies on brain vessels, obtain a 3-dimensional and elemental model of the crystalline components of dentin, develop treatment modalities for infectious diseases, and to understand the reactions and interrelationships of vessel wall components in injury and vascular disease. Application received by Commissioner of Customs: November 13, 1979.

Docket No. 80-00020. Applicant: University of Michigan, Department of Chemistry, Ann Arbor, MI 48109. Article: NMR Spectrometer, Model FX-90Q and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of article: The article is intended to be used for research in "Cluster Chemistry" based on tin, lead and thallium in systematically exploring solutions extracted from Na/Sn/Pb alloy for different sized clusters and establish the nature of any new species e.g. heteroatomic clusters. Also reduction of iron, cobalt, magnesium, manganese cationyls to metal carbonylate anions and hydroboration by thiaboranes will be studied. The article will also be used by faculty and graduate students as a research tool. Application received by Commissioner of Customs: November 13, 1979.

Docket No. 80-00021. Applicant: Louisiana State University Medical Center, 1440 Canal Street, Suite 1510, New Orleans, LA 70112. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of Article: The article is intended to be used for the study of eye tissue and other biological tissue. The wide range of phenomena to be studied include pathological changes in biological tissue, virus-induced changes, physiological processes, drug induced changes particularly in ocular and ocular adnexal tissue requiring electron microscopic examination. Application received by Commissioner of Customs: November 13, 1979. (Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-38178 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-25-M

#### Management-Labor Textile Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on January 23, 1980, at 10:30 a.m. in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.



The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: December 5, 1979.

Arthur Garel,  
Director, Office of Textiles.

[FR Doc. 79-38179 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-25-M

#### University of Washington; Decision on Application for Duty-Free Entry of Scientific Article: Correction

In the Decision on Application for Duty-Free Entry of Scientific Article appearing at page 69705 in the Federal Register of Tuesday, December 4, 1979, Docket Number 70-00215 is hereby corrected to read:

Docket Number 79-00215.  
(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 38177 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-25-M

#### Maritime Administration

[Docket No. S-657]

#### Waterman Steamship Corp.; Notice of Application

Notice is hereby given that Waterman Steamship Corporation (Waterman) has filed an application dated October 23, 1979, requesting approval of the bareboat charter for a period of 12 years of three U.S.-flag MA Design C9-S-81D LASH type vessels from Central Gulf Lines, Inc. (Central Gulf). Waterman has requested that the charter of the three LASH vessels be considered as

fulfillment of its remaining replacement obligation under Operating-Differential Subsidy Agreement, Contract No. MA/MSB-115, which covers Waterman's service on Trade Route No. (TR) 18 (U.S. Atlantic and Gulf/India, Persian Gulf and Red Sea).

Waterman has requested the privilege of serving Egyptian Mediterranean ports on an unsubsidized basis and Waterman has further requested that it be permitted to call on an unsubsidized basis at ports on TR 17 (U.S. Atlantic and Gulf/Indonesia, Malaysia and Singapore) both outbound and inbound with its vessels assigned to TR 18 under Contract No. MA/MSB-115 and with its vessels assigned to TRs 12 and 22 (U.S. Atlantic Gulf/Far East) under Contract No. MA/MSB-378. Waterman's application contemplates the possible transfer of vessels between its TR 18 and TRs 12 and 22 services at foreign ports on either of those services.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th & E Streets, NW, Washington, DC 20230.

Any person, firm or corporation desiring to offer views and comments on such application for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on December 17, 1979. This Notice of Waterman's application is published as a matter of discretion and without decision on whether such Notice is legally required. The Maritime Subsidy Board will consider the views and comments received and take such actions with respect to the application as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11-504, Operating-Differential Subsidy (ODS)).

By order of the Maritime Subsidy Board.

Dated: December 7, 1979.

Robert J. Patton, Jr.,  
Secretary.

[FR Doc 79-38150 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-15-M

#### National Oceanic and Atmospheric Administration

#### Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation

and Management Act of 1976 (Public Law 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, January 8, 1980, at 1:30 p.m., and adjourn at 5 p.m.; reconvene on Wednesday, January 9, 1980, at 8:30 a.m., and adjourn at 5 p.m., and on Thursday, January 10, 1980, reconvene at 8:30 a.m., and adjourn at approximately 1 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Fort Brown Motor Inn, 1900 East Elizabeth, Brownsville, Texas.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813-228-2815).

Dated: December 10, 1979.

Winfred H. Meibohm,  
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-38216 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-22-M

#### National Oceanic and Atmospheric Administration

#### Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and has established a Scientific and Statistical Committee which will meet to discuss management plans, Council research needs, and other fishery management plans.

DATES: The meeting will convene on Friday, January 4, 1980, at approximately 10 a.m., and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Date: December 10, 1979.

Winfred H. Meibohm,  
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-38215 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-22-M

#### Office of the Secretary

#### Patent and Trademark Office Advisory Committee; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, it has been determined that the renewal of the Patent and Trademark Office Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in December 1975 (40 FR 54600, November 25, 1975), and was renewed in 1977 (42 FR 62174, December 9, 1977). Its present charter will expire on December 5, 1979. Its purpose is to continually advise the Patent and Trademark Office on matters concerning the patent system and the administration of the Office. The Committee has been successful in achieving this objective. Its recommendations have aided the Office, and have meaningfully contributed to the strengthening of the patent system.

In renewing the Committee, it has been determined that the original objective of advising the Commissioner on patent related matters is important and worth continuing. The patent system has a significant impact on the development of new technology and thereby on the domestic and international economies. The Commerce Department and the Patent and Trademark Office are continually faced with a broad range of policy questions as a result of pending patent legislation, patent treaties, court decisions, and other possibilities for change. Expert advice is needed from the private sector on patents, and neither the Department nor the Office have any other advisory committee that can perform this function.

The makeup of the Committee will continue with a balance representation of at least 8 but no more than 15 members drawn from independent and corporate inventors, patent attorneys, corporate executives, corporate research directors, members of the judiciary, consumer representatives, economists, journalists, and educators, appointed by the Secretary of Commerce.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer Herbert C. Wamsley, U.S. Patent and Trademark Office, Washington, D.C. 20231, telephone: 703-557-3071.

Dated: December 7, 1979.

Guy W. Chamberlain, Jr.,  
Assistant Secretary for Administration.

[FR Doc. 79-38217 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-17-M

#### [Department Organization Order 20-8; Transmittal 473]

#### Department Organization Order; Office of Personnel

This order effective November 26, 1979 supersedes the material appearing at 43 FR 15478, April 13, 1978.

#### Section 1. Purpose

.01 This Order prescribes the functions and organization of the Office of Personnel.

.02 This revision reflects the abolishment of the former position of Deputy Director, and the former Program Evaluation and System Division; the establishment of the positions of Deputy Director for Personnel Administration and Deputy Director for Personnel Development, the Performance Appraisal and Compensation Division (subparagraph 5.03a.), the Executive Resources Management Division (subparagraph 5.03b.), and the Information Systems Staff (subparagraph 5.02a.). Responsibility for executive personnel management is assigned to the Executive Resources Management Division. Responsibility for pay and compensation policy and administration for executives and merit pay employees, and responsibility for performance appraisal systems for all employees, are assigned to the Performance Appraisal and Compensation Division. Responsibility for information systems is assigned to the Information Systems Staff.

#### Section 2. Status and Line of Authority

The Office of Personnel, a Departmental Office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director of Personnel Administration and a Deputy Director for Personnel Development. The Director shall designate an official of the Office to perform the functions of the Director during the latter's absence or disability.

#### Section 3. Delegation of Authority

In addition to the authority implicit in and essential to carrying out the functions assigned to the Office and related to the exercise of such functions, the Director, Office of Personnel:

a. Is delegated all authorities and responsibilities vested in the Assistant Secretary for Administration pertaining to personnel programming and management, other than equal employment opportunity, including the direction, administration, processing, and authority to take final action on all personnel actions and other personnel matters;

b. Is authorized to redelegate such authority to appropriate officials of the Office of Personnel and other officials of the Department, subject to such conditions in the exercise of such authority as may be prescribed; and

c. As Director of Personnel for the Department, shall be the adviser to, and serve as the representative of, the Assistant Secretary for Administration in all matters of personnel utilization, management, and administration, except for equal employment policies and programs.

#### Section 4. Functions

Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters, other than equal employment opportunity, relating to personnel management and administration, including executive resources management, staffing controls, recruitment, employee utilization and development, classification and position management, performance appraisal, human development/work improvement, pay administration, labor relations, training, employee benefits and services, personnel management evaluation, occupational health, incentives programs, prevention of prohibited personnel practices, and compliance with and enforcement of applicable civil services laws, rules, and regulations;

b. Perform services in the functional areas enumerated in subparagraph a. above, and conduct equal employment opportunity programs and activities, as required by the Office of the Secretary and other selected organizational units of the Department; and

c. Establish and maintain close working relationships with the Office of



Personnel Management (OPM) and other Government agencies, as appropriate.

#### Section 5. Organization

Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Policy Support Staff* shall provide staff assistance and technical advice on policy, regulatory, and procedural matters, including personnel management aspects of the Freedom of Information Act, Privacy Act, and Ethics in Government Act, to the Director, other components of the Office, and the operating units; coordinate comments on and clearance of proposed legislation, issuances, and other materials; and plan, develop, and oversee a variety of special projects or studies peculiar to the overall functions of the Office. In conjunction with other components of the Office, the Staff shall plan the development and issuance of Department personnel policy, regulations, and instructions. The Staff shall plan, direct, and review the labor-management relations policies and programs of the Department, and shall provide technical advice, guidance, and assistance to the Director, to other components of the Office, and to operating units on all aspects of labor-management relations.

.02 The *Deputy Director for Personnel Administration* shall be the Director's principal assistant for personnel administration matters and shall supervise the following organizational units:

a. The *Information Systems Staff* shall be responsible for the personnel management information system; for oversight of automated personnel systems in use throughout the operating units; for ensuring compliance with the OPM requirements for the Central Personnel Data File—and ultimate conversion to the Federal Personnel Management Information System; and shall serve as the control point for all Departmentwide personnel management forms, reports, statistical evaluations, and analyses.

b. The *Classification and Position Management Division* shall plan and coordinate Departmentwide programs and activities in the areas of position classification and position management for employees other than executive employees; administer and monitor the Department's Average Grade Control efforts including Vacancy Review and Maintenance Review Program; maintain liaison with the OPM on matters dealing with job evaluation and related program activities; formulate and issue policy guidance on matters peculiar to

nonexecutive excepted positions, overseas allowances and differentials, and hours of duty; develop and issue a variety of special nonexecutive salary and wage schedules applicable to Department organizations throughout the country; and coordinate classification and qualification standard activities. The Division shall provide Departmental review on all non-executive job classification appeals.

c. The *Staffing and Employee Relations Division* shall plan and develop career management programs and programs pertaining to staffing, employee utilization, employee relations, and a variety of programs peculiar to the health and welfare of the work force (e.g., alcoholism and drug abuse). It shall provide staff assistance, policy guidance, and interpretation to operating units on all matters pertaining to employment, recruitment, placement, employee relations, career management programs, and reduction in force, with particular emphasis on the mandatory and priority placement programs associated with the Department's saved grade program; maintain contacts with colleges, outside organizations, and other Federal agencies on matters pertaining to these programs; and monitor a variety of employee services programs, serving as the Department's liaison between the OPM and the operating unit Personnel Offices. The Division shall administer the Department's Special Employment Programs, and coordinate such programs closely with the OPM; provide staff guidance to Personnel Officers of the Department on the implementation, special funding and reporting requirements of these programs; and monitor or prepare the Department's narrative and statistical reports pertaining to these programs.

d. The *Employee Development and Awards Division* shall plan, direct, and review Department programs for employee training and development, and shall work in conjunction with the Deputy Director for Personnel Development to administer and coordinate executive development and awards programs for the Department. In this capacity, the Division shall plan and operate the Department's Management Training Center; provide staff assistance to operate units on interpretation and implementation of the Government Employees Training Act; and coordinate and approve Department nominations for special programs. The Division shall administer the Department's awards and recognition programs and provide staff assistance to operating unit Personnel Offices on all phases of the

suggestions, awards and recognition programs; provide the Executive Secretary to the Incentive Awards Board; plan, schedule, and oversee the Department's annual and special award and employee-recognition ceremonies as required; and shall represent the Department with the OPM on all matters of training, employee development, and awards.

e. The *Medical Division* shall plan and coordinate Departmentwide policies and programs in employee, health services, represent the Director of Personnel in maintaining professional medical liaison with the U.S. Public Health Service, the OPM, and other appropriate agencies; and provide advice, assistance, and consultative services to operating units in employee health matters as requested. The Division shall be responsible for planning and administering the employee health service program for the Department's central health unit.

f. The *Operations Division* shall plan, organize, and administer a complete operating personnel management program responsive to the needs of the Office of the Secretary and other organizational units, as specified by the Director of Personnel. The program shall include all activities relating to recruitment and placement, appointment, promotion, separation, employee relations, employee recognition and incentives, labor-management relations, job classification, employee training and development, and various employee services and benefits programs. The Division shall develop the Affirmative Action Plan and administer and coordinate the equal opportunity program for employment for all the organizational units serviced.

.03 The *Deputy Director for Personnel Development* shall be the Director's principal assistant for all performance appraisal systems and specified compensation programs and for executive personnel management and development policy matters and shall supervise the following organizational units:

a. The *Performance Appraisal and Compensation Division* shall be responsible for the development of policy and guidance concerning performance appraisal systems for senior executives, merit pay employees, and the general work force, and shall oversee the planning, development, and administration of such systems; develop and administer the Department's pay and compensation policy and guidance for the Senior Executive Service (SES) and other executive positions and for merit pay employees; and assure that

compensation and performance appraisal systems are integrated with other Departmental management systems. The Division shall provide technical advice and assistance to the Department's Executive Resources Board (ERB), operating units, and Performance Review Boards (PRB's) on the above matters; provide administrative support to PRB's; develop and administer means of training executives and managers regarding these matters; evaluate the effectiveness of performance appraisal systems in operating units; and maintain coordination with the OPM and other organizations outside the Department.

b. The *Executive Resources Management Division* shall plan, organize, and administer executive resources management systems and activities; control executive position authorizations; advise and make recommendations to the Assistant Secretary for Administration as to the designation of positions in the SES and the classification of those executive positions outside the SES; compile data on SES positions and submit it biennially to OPM; develop and implement means for executive search, location, and recruitment and for qualification determination and approval; monitor performance related reassignments, transfers, and removals; develop and manage an executive mobility clearinghouse, including consultation with intra-agency and inter-agency placement of SES executives; provide technical advice and assistance to the Department's ERB, PRB's and operating units; provide administrative support to ERB's; and maintain coordination with the OPM, OMB, GAO, and other organizations outside the Department regarding these matters. The Division shall evaluate overall executive resources programs as implemented within operating units; review executive development activities and conduct and test experimental and innovative executive development programs and one-time projects; and develop and implement programs and activities to assist executives and managers in the area of human development/work improvement and advise and assist operating units in establishing such programs.

Guy W. Chamberlin, Jr.,  
Acting Assistant Secretary for Administration.

[FR Doc. 79-38218 Filed 12-12-79; 8:45 am]  
BILLING CODE 3510-17-M

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

##### Procurement List 1980; Establishment

In FR Doc. 79-36429 appearing at page 67926 in the issue of Tuesday, November 27, 1979; on page 67930, first column, under *Class 8465*, the second two-digit number appearing after Belt, M.P., now reading "27" should read "527".

Guy W. Chamberlin, Jr.,  
Acting Assistant Secretary for Administration.

[FR Doc. 79-38218 Filed 12-12-79; 8:45 am]

BILLING CODE 3510-17-M

#### DEPARTMENT OF DEFENSE

##### Corps of Engineers, Department of the Army

##### Intent To Prepare a Supplement to the Revised DEIS for the Proposed Dickey-Lincoln School Lakes Hydroelectric Project, Maine

AGENCY: U.S. Army Corps of Engineers, New England Division, Waltham, Massachusetts, 02154

ACTION: Notice of Intent to Prepare Supplement No. 1 to the Revised DEIS Dickey-Lincoln School Lakes Project, Maine—Impacts of the Mitigation Plan.

1. The proposed action is a plan to mitigate the project induced losses to terrestrial and fishery resources and to endangered species.

2. Alternatives to the plan include various degrees of land acquisition and management scenarios as well as no action.

3. The plan is the result of consultation and joint planning efforts with the U.S. Fish and Wildlife Service and resource agencies of the State of Maine. Differences in approaches by these agencies are identified in the Supplement. Workshops have been held with Federal and State agencies, interest groups and affected private timber company landowners to critique the mitigation proposals. Further scoping meetings are not planned.

4. It is anticipated that the Supplement will be released for a 45 day public review period on 1 February 1980.

5. Questions on the proposed action can be answered by: Dr. B. E. Barrett, Ms. Jan Goldman, New England Division, Corps of Engineers, 424 Trapelo Road, Waltham, MA 02154; Telephone: Commercial—894-2400, Ext. 234, FTS: 839-7234.

Dated: December 6, 1979.

Max B. Scheider,  
Colonel, Corps of Engineers, Division Engineer.

[FR Doc. 79-38199 Filed 12-12-79; 8:45 am]  
BILLING CODE 3710-GT-M

##### Public Hearing on Current Expense Budget and Project Review Applications

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, December 19, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular December business meeting which is open to the public. Both the hearing and the meeting will be held at the Commission's offices, 25 State Police Drive, West Trenton, N.J.



The hearing will be held on two subjects as follows:

#### I. Current Expense Budget

A proposed current expense budget of the fiscal year beginning July 1, 1980, in the aggregate amount of \$1,691,500, and a capital budget for the same period in the amount of \$27,000. The following amounts would be apportioned among the signatory parties, along with the additional appropriations by the Commission, to balance the current expense budget: Delaware \$130,400; New Jersey \$364,000; New York \$270,000; Pennsylvania \$400,200; and the Federal government \$269,000. Copies of summaries of the current expense and capital budget are available from the Commission on request.

#### II. Project Review Applications

Applications for approval of the following projects are pending before the Commission as amendments to the Comprehensive Plan and/or as project approvals pursuant to Section 3.8 of the Compact:

1. *Pennsville Sewerage Authority (D-77-107 CP)*. Expansion of the existing sewage treatment facilities in Pennsville, Salem County, N.J. The expanded project will provide for treatment of 1.9 million gallons per day and will remove approximately 87.5 percent of BOD. Treated effluent will discharge to the Delaware River.

2. *Jackson Township Municipal Utilities Authority (D-79-8 CP)*. A well water supply project to increase withdrawals from two existing wells in Jackson Township, Ocean County, N.J. Combined withdrawals from Wells Nos. 7 and 10 will be increased to 26 million gallons per month which will be used to meet increased demands at the Six Flags Great Adventure Amusement Park.

3. *Horsham Township Authority (D-79-30 CP)*. A well water supply project to augment public water supply in Horsham Township, Montgomery County, Pa. Designated as Well No. 28, the new facility is expected to provide about 490,000 gallons per day.

4. *Middletown Township (D-79-54 CP)*. A well water supply project to augment public water supplies in Middletown Township and portions of several adjacent boroughs, Bucks County, Pa. Designated as Well No. 15, the new facility is expected to provide about 500,000 gallons per day.

5. *West Deptford Township (D-79-82 CP)*. A well water supply project to augment public water supplies in West Deptford Township, Gloucester County, N.J. Two new wells will be utilized to supply peak domestic and fire protection requirements. Designated as Wells Nos.

7 and 8, the projects are expected to yield a maximum of 1 and 1.4 million gallons per day, respectively.

6. *City of Camden (D-79-83 CP)*. A well water supply project to augment public water supplies in the City of Camden, Camden County, N.J. The four new wells will be located in Pennsauken Township, and designated as M12, M13, M14 and M15. The wells will produce a combined yield of 7.8 million gallons per day and will replace existing wells and provide standby capacity.

7. *Mount Airy Lodge (D-77-58)*. Expansion and upgrading of sewage treatment facilities at the Mount Airy Lodge in Paradise Township, Monroe County, Pa. The improved facilities will provide 96 percent removal of BOD and suspended solids from an average sewage flow of 225,000 gallons per day. Treated effluent will discharge to Paradise Creek, a tributary of Brodhead Creek.

8. *Inversand Company (D-79-1)*. An industrial waste treatment project at the company's glauconite mining and process facility in Mantua Township, Gloucester County, N.J. Treatment facilities are designed to bring the discharge of suspended solids and manganese down to applicable limits for a wastewater flow of about 430,000 gallons per day. Treated effluent will continue to discharge to an unnamed tributary of Mantua Creek.

9. *Ellis Farms (D-79-62) and (D-79-63)*. A water supply project at the subject farm in Hamilton Township, Mercer County, N.J. A withdrawal limit of 10.7 million gallons per month will be made from Doctors Creek, and a second withdrawal limited to 13 million gallons per month will be made from Crosswicks Creek. Both projects will be used during the growing season for the irrigation of crops.

10. *Reichold Chemicals, Inc. (D-79-67)*. A well water supply project serving the company's facility in Kent County, Del. Two new wells (Numbers 34 and 35) will be developed to replace abandoned Well No. 9 and the reduced yields from existing Well Nos. 31 and 33. The combined withdrawal of all four wells (Nos. 31, 33, 34, 35) is limited to 600,000 gallons per day.

11. *Hoffmann-La Roche, Inc. (D-79-69)*. Modifications and additions to the company's industrial waste treatment facilities in White Township, Warren County, N.J. The project will provide for removal of 98% of BOD and suspended solids from a waste water flow of three million gallons per day. Treated effluent will discharge to the Delaware River.

12. *Blue Ridge Real Estate Company (D-79-71)*. An increase in the quantity of surface water withdrawal used in the

manufacture of artificial snow at the Jack Frost Ski Area, Kidder Township, Carbon County, Pa. Existing limit of 18,000,000 gallons per month is requested to be increased to 30,000,000 gallons per month.

13. *Robert Hallock (D-79-74)*. A farm water supply project at the subject farm in Plumstead Township, Ocean County, N.J. A withdrawal limited to a maximum of 34 million gallons per month will be made from a tributary to Crosswicks Creek. The facility will be used during the growing season for irrigation of crops.

14. *Perl Acres (D-79-75) and (D-79-76)*. A water supply project at the subject farms in Millstone and Upper Freehold Townships, Monmouth County, N.J. Withdrawals from Doctors Creek and from a Doctors Creek tributary facility will be limited to 25 and 16 million gallons per day, respectively. Both projects will be used during season for irrigation of crops.

15. *Thomas and Betts Corporation—Ansley Electronics Division (D-79-77)*. An industrial waste treatment project at the company's facility in East Rockhill Township, Bucks County, Pa. Existing treatment facilities will be upgraded and the discharge to the East Branch of Perkiomen Creek will be reduced from 30,000 to 15,000 gallons per day.

16. *General Battery Corporation (D-79-78)*. An industrial waste treatment project at the company's facilities in Hamburg Borough, Berks County, Pa. The applicant proposes to construct a demonstration project to determine the feasibility of using a microfiltration process to treat lead-acid storage battery manufacturing wastewater. The project will treat a waste-water flow of about 38,000 gallons per day. Treated effluent will discharge to Kaercher Creek, a tributary of the Schuylkill River.

Documents relating to the above-listed projects may be examined at the Commission's offices. For further information, contact Mr. David B. Everett at the Commission.

Persons wishing to testify on the current expense budget or any of the applications listed above are requested to notify the Secretary to the Commission prior to the hearing.

Dated: December 4, 1979.

W. Brinton Whitall,  
Secretary.

[FR Doc. 79-38200 Filed 12-12-79; 8:45 am]

BILLING CODE 6360-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of November, 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than one and one-half inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations. For further information regarding these Consent Orders, please contact Bob Jones, Program Manager, Department of Energy, Economic Regulatory Administration, Rocky Mountain District, 1075 South Yukon Street, Lakewood, CO 80226, telephone number 303-234-3195.

| Firm name             | Firm address                           | Audit date |
|-----------------------|----------------------------------------|------------|
| Frank's Standard..... | 202 Colorado Ave.,<br>Brush, CO 80723. | 10/24/79   |
| Happy John's Exxon... | Box 915, Williston,<br>ND 58801.       | 10/15/79   |
| Kal Exxon.....        | P.R. #1, Toga, ND<br>58852.            | 10/16/79   |

| Firm name                                | Firm address                                    | Audit date |
|------------------------------------------|-------------------------------------------------|------------|
| Little Bandit Truck<br>Stop, Inc.....    | 1156 N. Colorado,<br>Brush, CO 80723.           | 10/25/79   |
| Rick's Mobil.....                        | Box 317, Watford<br>City, ND 58854.             | 10/17/79   |
| Yacht Basin Marina.....                  | 2035 Canyon Ferry<br>Rd., Helena, MT<br>59601.  | 10/10/79   |
| North Star Chevron.....                  | 41 West 84th Ave.,<br>Denver, CO 80221.         | 11/1/79    |
| Tellis Standard.....                     | 2101 N. Main,<br>Durango, CO<br>81301.          | 11/8/79    |
| George's Meadowlark<br>66.....           | 1608 Fox Farm Rd.,<br>Great Falls, MT.          | 11/1/79    |
| Somers Exxon.....                        | Box 128, Somers, MT<br>59932.                   | 11/1/79    |
| Dale's Interstate Mobil<br>ND 58401..... | Box 692, Jamestown,<br>ND 58401.                | 11/6/79    |
| Pauling's Standard<br>Service.....       | Box 312, Edeley, ND<br>58433.                   | 10/30/79   |
| Corner Service.....                      | Box 204,<br>Wyndermere, ND<br>58081.            | 11/1/79    |
| Farmers Union Oil Co.....                | Box B, Maddox, ND<br>58348.                     | 11/6/79    |
| Lisbon Standard.....                     | 304 Main, Lisbon, ND<br>58054.                  | 11/2/79    |
| Cedar View Sinclair.....                 | S. Main, Box 404,<br>Cedar City, Utah<br>84720. | 11/8/79    |
| Zion General Store.....                  | Box 100, Springdale,<br>Utah 89767.             | 11/7/79    |
| Warren's Standard<br>Service.....        | 215 5th St. NW,<br>Jamestown, ND<br>58401.      | 11/7/79    |
| Minnewaukan Motor.....                   | Box 56,<br>Minnewaukan, ND<br>58351.            | 11/7/79    |
| State Oil & Auto Co.....                 | P.O. 67, Hunter, ND<br>58048.                   | 11/5/79    |

Issued in Lakewood, Colorado on this 3rd day of December, 1979.

George C. Brancucci,

Acting District Manager, Rocky Mountain  
Enforcement District.

[FR Doc. 79-38142 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

#### Action Taken on Consent Orders

AGENCY: Economic regulatory Administration.

ACTION: Notice of action taken on consent orders.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of November. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. (a) Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on each pump used to dispense gasoline, facing each direction from which the pumps are generally viewed by customers, in numbers or letters not less than one-half (1/2) inch high, or (b) post the maximum lawful selling price for each grade of gasoline in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than four (4) inches high, or (c) post a certification that the current selling price is equal to or less than the maximum allowed in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than one and one-half (1 1/2) inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Leon Snead, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, D.C. 20461, telephone number 202-254-5907.

Firm Name, Firm Address, Audit Date

New York Avenue Exxon, 1720 New York Ave., N.E., Washington, D.C. 20002, 11-16-79.

Wilson's Hilltop Exxon, 6400 Central Avenue, Seat Pleasant, MD 20027, 11-26-79.  
Langley Park Gulf, 1348 University Blvd. E., Hyattsville, MD 20783, 11-28-79

Issued in Washington, D.C. on the 7th day of December, 1979.

Robert D. Gerring,

Director, Enforcement Program Operations  
Division, Economic Regulatory  
Administration.

[FR Doc. 79-38257 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-79-011; ERA Case No. 50486-9044-02-12]

Central Illinois Public Service Co.;  
Acceptance of Exemption Request

AGENCY: Department of Energy,  
Economic Regulatory Administration.

ACTION: Notice of Acceptance of  
Exemption Request Pursuant to the



Powerplant and Industrial Fuel Use Act of 1978.

**SUMMARY:** On November 5, 1979, Central Illinois Public Service Company (CIPS) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting one major fuel burning installation (MFBI) from the prohibitions of title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA) which prohibits the use of petroleum and natural gas in certain new major fuel burning installations. Criteria for petitioning for an exemption from the prohibitions of FUA were published at 44 FR 28530 (May 15, 1979), and at 44 FR 28950 (May 17, 1979) (Interim Rules). Central Illinois Public Service Company proposes to install one oil fired auxiliary boiler with a design heat input rate of 200 million Btu's per hour at its coal fired electric generating station in Coffeen, Illinois. Pursuant to the provisions of § 503.39 of the Interim Rules, CIPS has requested a permanent emergency purposes exemption for this unit.

FUA imposes statutory prohibitions against the use of natural gas and petroleum in new MFBI's which consist of a boiler.

ERA's decision in this matter will determine whether the proposed boiler will be granted the requested exemption.

In accordance with the provisions of 701(c) and (d) of FUA and § 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may request that ERA convene a public hearing.

**DATES:** Written comments are due on or before January 24, 1980. A request for a public hearing must be made by any interested person within this same 45 day period.

**ADDRESSES:** Fifteen copies of written comments shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit, box 4629, Room 2313, 2000 M Street, NW, Washington, D.C. 20461.

Docket Number ERA-FC-79-011 should be printed clearly on the outside of the envelope and the document contained therein.

**FOR FURTHER INFORMATION CONTACT:**

William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street, NW, Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration,

Department of Energy, 2000 M Street NW, Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

E. Jiran, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G-087, Washington, D.C. 20585, Phone (202) 252-2967.

**SUPPLEMENTAL INFORMATION:** The ERA published in the Federal Register on May 15, and 17, 1979, interim rules to implement provisions of title II of FUA. FUA prohibits the use of natural gas and petroleum in certain new MFBI's and powerplants unless an exemption to do so has been issued by ERA.

Prior to the filing of its petition and pursuant to § 501.2 of the interim rules, ERA at the request of Central Illinois Public Service Company (CIPS or the Company), conducted a prepetition conference on June 27, 1979, to discuss the filing of a permanent exemption request. The planned auxiliary boiler with a design heat input rate of 200 million Btu per hour is to be located at the Company's Coffeen Power Station (located in Montgomery County, sixty miles south of Springfield, Illinois). The planned auxiliary boiler was intended to replace an auxiliary boiler which is not longer serviceable.

On November 5, 1979, CIPS filed with ERA a petition requesting a permanent emergency purposes exemption pursuant to § 505.29 of the Interim Rules. CIPS requested this exemption based on an asserted inability to maintain plant protection and continued facility operation without the use of an oil fired boiler capable of responding to emergency situations. The planned unit will be installed to support the two main power generating units (electric powerplants plus electric generating turbines) at the station which have an aggregate nameplate rating of 1006 megawatts. The power generating units utilize minemouth coal—coal which is mined adjacent to the generating station.

The steam generated in the existing coal fired electric powerplants power the electric generating turbines. CIPS has asserted that when one of the two coal fired powerplants is off-line (whether due to scheduled outage or failure) and the second unit enters into a forced outage situation, the auxiliary boiler would be required to immediately supply sufficient steam to allow the second unit to cool and depressurize safely and to maintain the steam seals along the turbine shaft. CIPS further asserts that without the steam seals, cool ambient air could enter the housing along the shaft and cause the turbine shaft to warp or buckle.

A steam cross-connection between the two main power boilers has recently

been installed. The cross-connection allows steam to be siphoned from one unit to the other for those purposes for which an auxiliary unit is usually maintained.

CIPS estimates that this new cross-connection will lead to a potential fuel savings by the planned auxiliary boiler of 1,500,000 gallons of distillate oil per year. Prior to the installation of the cross-connection, approximately 2,000,000 gallons of oil was burned annually in the existing auxiliary boiler. After the cross-connection was installed, the oil consumption dropped to less than 500,000 gallons annually. Fuel consumption for the planned boiler is expected to be between 294,000 and 504,000 gallons of oil per year (which would remain constant through 1990).

CIPS also asserted a need for the auxiliary unit when both units are off line, which the Company asserts is never intentional, to provide plant protection during cold weather.

Section 505.29 of the interim rule provides for a permanent exemption from the prohibitions of the Act if the petitioner can demonstrate to the satisfaction of the ERA that the unit will be operated and maintained for emergency purposes only.

While the ERA does not require submission of a Fuels Decision Report for an emergency purposes exemption, ERA does require that the evidence required by the exemption be presented. This includes a demonstration that use of a mixture of petroleum or natural gas and an alternate fuel is not economically or technically feasible. CIPS evaluated the use of a coal/oil mixture in the planned auxiliary boiler and asserts that it is not technically feasible to install a coal/oil mixture capability in this unit.

ERA hereby accepts the filing of this petition as complete for filing. ERA retains the right to request additional information from CIPS at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. As set forth in § 501.3(g) of the interim rules, the acceptance of the petition by ERA does not constitute a determination that CIPS is entitled to the exemption requested.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW, Washington, DC. Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, DC on December 7 1979.

Robert L. Dayies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-38256 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

**Federal Energy Regulatory Commission**

[Docket No. TA80-1-31 (PGA80-1 and IPR80-1)]

**Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Reduced Purchased Gas Cost Adjustment**

December 6, 1979.

Take notice that on November 30, 1979 Arkansas Louisiana Gas Company (Arkla) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule No. G-2, six copies of 21st Revised Sheet No. 4 and Original Sheet No. 4A to become effective January 1, 1980.

Arkla states that the purpose of this filing is to reflect a reduced PGA rate and the incremental surcharges to be billed commencing January 1, 1980, in accordance with the Commission's Order No. 49 issued September 28, 1979, in Docket No. RM79-14, implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38238 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-43 (PGA80-1 and IPR80-1)]

**Cities Service Gas Co., Proposed Changes in FERC Gas Tariff**

December 6, 1979.

Take notice that Cities Service Gas Company (Cities Service) on November 30, 1979, tendered for filing Sixth Revised Sheet No. 6 and Original Sheet Nos. 6A and 6B to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is in compliance with the Commission's Regulations Under the Natural Gas Policy Act of 1978 implementing incremental pricing. These sheets are to become effective January 1, 1980.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP79-76.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38239 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-21 (PGA80-1 and IPR80-1)]

**Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff**

December 6, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 30, 1979, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective January 1, 1980:

Fifty-eighth Revised Sheet No. 16  
Sixth Revised Sheet No. 16A  
Eighteenth Revised Sheet No. 64B  
First Revised Sheet Nos. 64E through 64I

Columbia states that the foregoing tariff sheets being filed to reflect:

- (1) A Purchased Gas Cost Adjustment filed in compliance with § 282.602(a) of Commission Order No. 49, Final Rule, issued September 28, 1979 at Docket No. RM79-14. Such Purchased Gas Cost Adjustment provides for the recovery of \$61,793,244 for the months of January and February, 1980; and
- (2) Projected Incremental Pricing Surcharges in the amount of \$181,488 and \$151,378 for the months of January and February, 1980 respectively, applicable to certain of its Buyers who supply industrial boiler fuel facilities.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38240 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-33 (PGA80-1, IPR80-1 and GRI80-1)]

**El Paso Natural Gas Co.; Proposed Change in Rate**

December 6, 1979.

Take notice that on November 30, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates in accordance with:

- (i) Section 282.602 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Policy Act of 1978 ("NGPA") which directs pipelines to implement the incremental pricing provisions promulgated in its Order No. 49 issued September 28, 1979, at Docket No. RM79-14, by filing, on or before December 1, 1979, tariff sheets reflecting (i) a "reduced PGA" rate adjustment which would be effective for the period January 1, 1980, to the effective date of the pipeline's next normally scheduled PGA filing and (ii) the projected incremental pricing surcharges utilized in determining said reduced PGA rate



adjustment for each affected sale-for-resale and direct non-exempt industrial boiler fuel facility customer; and

(ii) The Commission's Opinion No. 64 issued October 2, 1979, at Docket No. RP79-75, permitting El Paso to give notice of change in the rate charged under its Gas Research Institute General Research, Development and Demonstration Funding Unit Adjustment ("GRI Adjustment") provision contained in Section 21 of the General Terms and Conditions of El Paso's Original Volume No. 1 Tariff.

El Paso states that the proposed "reduced PGA" adjustment identified in (i) above has been determined in accordance with El Paso's November 1, 1979, tariff filing at Docket No. RP80-32, which served to modify its Purchased Gas Cost Adjustment ("PGAC") provision<sup>1</sup> and PGAC—Clean, High Pressure Gas ("PGAC-CHPG")<sup>2</sup> provision by incorporating provisions which would govern El Paso's incremental pricing ratemaking and billing policies.<sup>3</sup> The change in rate occasioned by the subject adjustments will compensate El Paso for *inter alia*, its estimated purchased gas cost (including certain gas produced by El Paso which is priced for rate purposes on an area rate basis), as reduced by those estimated gas purchase costs determined herein to be subject to incremental pricing which El Paso expects to recover by means of incremental pricing surcharges<sup>4</sup> and for

<sup>1</sup> Said PGAC provision is contained in Section 19 of the General Terms and Conditions of El Paso's Original Volume No. 1 Tariff.

<sup>2</sup> Said PGAC-CHPG provision is contained in El Paso's Original Volume No. 2A Tariff and governs the procedures for adjusting rates under certain rate schedules contained in said Tariff for changes in El Paso's weighted average cost of clean, high pressure gas.

<sup>3</sup> On November 1, 1979, El Paso, in compliance with § 282.601 of the Commission's regulations Under the NGPA, tendered certain original and revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2A which modified its PGAC and PGAC-CHPG provisions in order to (i) effectuate the utilization of the "reduced PGA" approach of determining PGAC rate increases provided for in the Commission's Order No. 49 and § 282.503 of the Commission's regulations Under the NGPA, and (ii) incorporate an Incremental Pricing Adjustment provision which will govern the operation of El Paso's incremental pricing pass-through mechanism. Notice of such tariff filing was issued by the Commission on November 9, 1979, at Docket No. RP80-32. The tariff sheets containing said PGAC and PGAC-CHPG incremental pricing modifications will be permitted to become effective on December 1, 1979, in accordance with § 282.601(c) of the Commission's regulations Under the NGPA.

<sup>4</sup> The estimated surcharges designed to recover such estimated incremental gas costs during the months of January, February and March, 1980, are set forth on the tendered Original Sheet No. 159 to El Paso's Original Volume No. 1 Tariff.

changes in the PGAC surcharge adjustment representing the actual balance in El Paso's Account 191, Unrecovered Purchased Gas Cost, as of September 30, 1979, all in accordance with El Paso's said modified PGAC and PGAC-CHPG designed to implement the incremental pricing provisions of the NGPA.

El Paso states that the current net PGAC adjustments, exclusive of the GRI adjustment, proposed for El Paso's east-of-California ("EOC") customers and California customers are 9.05¢ per Mcf and 15.22¢ per Mcf, respectively. Such net PGAC adjustments are comprised of (i) a purchased gas annualized cost adjustment reduced as described below,<sup>5</sup> (ii) a surcharge adjustment attributable to the unrecovered purchased gas cost balance in Account 191, as of September 30, 1979,<sup>6</sup> and (iii) elimination of the PGAC surcharge adjustment presently included in El Paso's effective rates. Included in the determination of the net PGAC adjustment is the reduction of 0.46¢ per Mcf resulting from the application of the Maximum Surcharge Absorption Capability ("MSAC") applicable to the "non-exempt" resale and direct sale customers served by El Paso's interstate pipeline system.

El Paso states that the current net PGAC-CHPG adjustment, exclusive of the GRI adjustment, aggregates an increase of 11.964¢ per Mcf. Such current net adjustment is comprised of (i) an increase in the weighted average purchased cost of clean, high pressure gas, (ii) a surcharge adjustment representing the unrecovered purchased gas cost balance in Account 191 as of September 30, 1979, and (iii) elimination of the PGAC-CHPG surcharge adjustment presently included in El Paso's currently effective rates. El Paso further states that, at this time, there are no MSAC's applicable to El Paso's PGAC-CHPG service, and therefore no reduction in the purchased gas cost is appropriate.

El Paso states that by Opinion No. 64 and accompanying order issued October 2, 1979, at Docket No. RP79-75, the Commission approved a GRI calendar year 1980 funding unit of 0.48¢ per Mcf

<sup>5</sup> Such purchased gas cost adjustment is attributable primarily to certain contractual rate escalations permitted in supplier agreements, supplier and area rate production price increases attributable to the NGPA and certain purchases from intrastate pipelines under sections 311(b) and 312 of the NGPA which are used in El Paso's interstate system operations.

<sup>6</sup> Such actual Account 191 balance includes amounts attributable to sixty (60) day emergency purchases which were made pursuant to Part 157, Subpart C, of the Commission's regulations.

to be collected from GRI members for each Mcf sold under specified GRI funding services commencing January 1, 1980. Accordingly, the change in rate identified in (ii) above is designed to give notice of a change in the GRI Funding Adjustment unit rate from the currently effective 0.35¢ per Mcf to said approved rate of 0.48¢ per Mcf (a net change of 0.13¢ per Mcf), commencing on January 1, 1980, which will be applied as an adjustment to the jurisdictional rates applicable under the rate schedule services provided by El Paso which are subject to the GRI Funding Adjustment.

El Paso has requested that waiver, as necessary, be granted of the applicable Commission Regulations in order that the revised tariff sheets tendered as a part of the instant filing containing the proposed PGAC, PGAC-CHPG and GRI rate adjustments become effective on January 1, 1980, the effective date for the initial incremental pricing "reduced PGA" rate adjustment prescribed in § 282.602 of the Commission's regulations Under the NGPA and the effective date for the 0.48¢ per Mcf GRI Funding Adjustment unit rate approved in the Commission's Opinion No. 64.

El Paso states that copies of the filing and attachments have been served upon all parties of record in Docket Nos. RP72-155, RP79-12, RP79-75 and RP80-32, and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before December 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38241 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-34 (PGA80-1, IPR80-1, and GRI80-1)]

**Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under Purchased Gas Adjustment and Incremental Provisions and GRI RD&D Cost**

December 6, 1979.

Take notice that on November 29, 1979, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing 23d Revised Sheet No. 3-A and Original Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1, containing changes in its resale rates and charges to be effective on January 1, 1980. FGT states that this filing is being made in order to implement the pricing provisions of the NGPA of 1978 and to adjust its GRI RD&D cost pursuant to Commission Opinion No. 64.

According to FGT, the changes in its rates and charges contained on 23d Revised Sheet No. 3-A and Original Sheet No. 3-B are in accordance with the purchased gas cost adjustment and incremental pricing provisions in its Tariff (Section 15, General Terms and Conditions) and the GRI RD&D Costs provision (Section 19, General Terms and Conditions). FGT states that the rates contained on 23d Revised Sheet No. 3-A are proposed to supersede those on 22d Revised Sheet No. 3-A.

In summary, the tariff sheets accomplish the following:

1. Institute an Index of Projected Incremental Pricing Surcharges for the initial period of January, February and March 1980 (Original Sheet No. 3-B).

2. Revise the currently effective rate for cost of purchased gas to:

(a) Adjust the average cost of gas purchased to that which it is estimated to be during the projected period of January, February and March, 1980. The resulting average cost of gas purchased as shown on attached Schedule 3 is 155.043¢/Mcf.

(b) Reduce the average cost of gas purchased to be collected through FGT's resale rates by the MSAC's to be collected through Incremental Pricing Surcharges (net of amount reported to pipeline supplier, Southern Natural Gas Co.). FGT estimates that on an annualized basis the surcharges are approximately \$5,172,000; this reduces the cost of gas purchased from 155.043¢/Mcf to 152.032¢/Mcf, or a reduction in gas cost of 3.011¢/Mcf.

3. Revise the currently effective rates for the newly approved Opinion No. 64 GRI Adjustment (increased to 0.048¢ per therm from 0.035¢ per therm).

FGT further states that the following shows a comparison between the rates

in effect pursuant to 22d Revised Sheet No. 3-A and those to be made effective on January 1, 1980 under this filing:

|                      | Cents per therm                    |                           |
|----------------------|------------------------------------|---------------------------|
|                      | Effective prior to January 1, 1980 | Effective January 1, 1980 |
| Rate Schedule G..... | 22.039                             | 22.415                    |
| Rate Schedule I..... | 22.039                             | 22.415                    |

The effect of the proposed changes for Rate Schedules G and I is a higher current charge of \$3,066,000 annually. The amount is the net result of a (i) total increase in jurisdictional cost of gas of \$5,357,000; (ii) an annualized reduction of approximately \$2,397,000 in cost of gas to reflect Incremental Pricing Surcharges; and (iii) GRI increase of \$106,000 annually.

FGT states that a copy of its filing has been served on all customers purchasing gas under its FERC Gas Tariff, Original Volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Dec. 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38242 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-51 (GRI80-1)]

**Great Lakes Gas Transmission Co.; Proposed Change in Gas Research Institute Charge**

December 6, 1979.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on November 30, 1979, tendered for filing Thirty-Fourth Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective January 1, 1980.

Great Lakes states that the revised tariff sheet reflects the GRI adjustment related to the Gas Research Institute's 1980 Research and Development

Program as approved by Commission Opinion No. 64 (RP79-75) issued October 2, 1979.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20425, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38243 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-46 (IPR80-1 and GRI80-1)]

**Michigan Wisconsin Pipe Line Co.; Proposed Changes in F.E.R.C. Gas Tariff**

December 6, 1979.

Take notice that on November 30, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) in accordance with Commission Orders Nos. 49 and 64, and pending Commission approval of Michigan Wisconsin's incremental pricing tariff provisions, tendered for filing Fifth Revised Sheet No. 7 and First Revised Sheet No. 7a to its F.E.R.C. Gas Tariff, Original Volume No. 1. Michigan Wisconsin proposed an effective date of January 1, 1980 for said sheets.

These tariff sheets reflect a net increase of .04¢ per dekatherm in one-part rates and the commodity component of the two-part rate, consisting of (1) a .09¢ decrease resulting from calculation of the PGA reduction made in compliance with the Commission's Order No. 49, at Docket No. RM79-14, issued on September 28, 1979 and, (2) a .13¢ increase in the GRI Adjustment to .48¢ as approved by the Commission in its Order No. 64, at Docket No. RP79-75, issued on October 2, 1979.

Michigan Wisconsin further states that it requests a waiver of the



requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Fifth Revised Sheet No. 7 and First Revised Sheet No. 7a to be made and to become effective January 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 79-38244 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. G-16841]

**Midwestern Gas Transmission Co.;  
Petition for Declaratory Order**

December 6, 1979.

Take notice that on November 1, 1979, Harvey J. Lewis and Mary Lewis, Route No. 3, Joliet, Illinois, and James B. Marine and Vera L. Marine, 474 Harwood Drive, Arcadia, California (Petitioners), filed in Docket No. G-16841 a petition pursuant to §§ 1.7 and 1.12 of the Commission's rules of practice and procedure (18 CFR 1.7 and 1.12) for a declaratory order (1) that the Commission does not have jurisdiction to authorize the construction and operation of a heliport by an interstate pipeline company, (2) that if jurisdiction exists, it was not exercised in the Commission's order of May 12, 1959, in the instant docket<sup>1</sup> or (3) that the construction or operation of a heliport does not qualify under section 7(h) of the Natural Gas Act as "stations or equipment necessary to the proper operation of" the facilities or to the sales authorized by the order of May 12, 1959, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioners state that Midwestern Gas Transmission Company (Midwestern) is

seeking to condemn one acre of their farm near Joliet, Illinois, for the construction of a heliport under Midwestern's certificate authority issued on May 12, 1959, as amended.

Petitioners contest the Commission's jurisdiction under section 7(c) of the Natural Gas Act as not broad enough to include the certification of the construction and operation of heliports. It is stated that if there is this jurisdiction, it was not exercised in the above mentioned certificate so as to authorize the construction of a heliport, hangar, and refueling facility 20 years later. It is further stated that the proposed heliport does not qualify under the eminent domain provisions of section 7(h) of the Natural Gas Act as a station or equipment necessary to the proper operation of the facilities or sales described in the certificate.

Petitioners, therefore, request a declaratory order that there is no section 7(c) jurisdiction to confer eminent domain authority for the construction of heliports, that, even assuming section 7(c) jurisdiction, the construction of a heliport was not included in the certificate authority granted in this docket or that the power of eminent domain does not extend to the condemnation by Midwestern of Petitioner's property for the construction of a heliport because a heliport is not among the "compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of" Midwestern's pipeline as required by section 7(h).

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 79-38245 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-25 (PGA80-1, IPR80-1 and GRI80-1)]

**Mississippi River Transmission Corp.;  
Proposed Change in Rates**

December 6, 1979.

Take notice that Mississippi River Transmission Corporation ("Mississippi") has submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the below-listed tariff sheets to become effective on the dates indicated.

| Tariff sheet                        | Effective date    |
|-------------------------------------|-------------------|
| Seventy-Fourth Revised Sheet No. 3A | January 1, 1980   |
| Original Sheet No. 3D               | January 1, 1980   |
| Second Revised Sheet No. 3C         | January 1, 1980   |
| Fifth Revised Sheet No. 27H         | December 1, 1979. |

Seventy-Fourth Revised Sheet No. 3A and Original Sheet No. 3D have been submitted to reflect rate adjustments and other data required to be filed in connection with the initiation of incremental pricing under the Natural Gas Policy Act of 1978 (NGPA) on January 1, 1980. The unit adjustment has been determined under Section 17 of Mississippi's tariff to reflect changes in Mississippi's purchased gas costs from pipeline and producer suppliers reduced by the projected recovery of certain gas acquisition costs through incremental pricing surcharges under section 20 of Mississippi's tariff, in accordance with new and revised tariff provisions previously submitted by Mississippi to implement Part 282 of the Commission's Regulations under the NGPA.

Second Revised Sheet No. 3C sets forth, in accordance with Section 18 of Mississippi's tariff, the revised GRI surcharge of \$.0048 per Mcf to be effective January 1, 1980 as authorized by Opinion No. 64 issued October 2, 1979 at Docket No. RP79-75.

Mississippi states that Fifth Revised Sheet No. 27H has been submitted to clarify Paragraph 17.88 of its tariff relating to the method of computing carrying charges beginning October 1, 1979 pursuant to the provisions of Order Nos. 47 and 47-A issued on September 10 and November 9, 1979, respectively, at Docket No. RM77-22. Mississippi has requested waiver of the Commission's Regulations to the extent necessary in order that this proposed tariff sheet may be placed in effect on December 1, 1979.

A copy of this filing has been mailed to Mississippi's jurisdictional customers, all direct market customers subject to incremental pricing and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 79-38246 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TA80-1-59 (IPR80-1)]

**Northern Natural Gas Co.; Purchased  
Gas Cost Adjustment Rate Change**

December 6, 1979.

Take notice that on November 30, 1979, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets;

|                                    |
|------------------------------------|
| Third Revised Volume No. 1         |
| Twenty-second Revised Sheet No. 4a |
| Twelfth Revised Sheet No. 4b       |
| Substitute Original Sheet No. 4c   |
| Original Volume No. 2              |
| Twenty-second Revised Sheet No. 1c |

Such revised tariff sheets, to be effective January 1, 1980, reflect a reduction from the PGA rates filed October 26, 1979, which rates are to become effective December 27, 1979 pending Commission approval. The reduction in PGA rates is being filed in compliance with §§ 282.602, 282.593 and 282.506 of the Commission's Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978 as promulgated in Order No. 49.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 79-38247 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TA80-1-39 (PGA80-1 and IPR80-1)]

**Pacific Interstate Transmission Co.;  
Proposed Changes in FERC Gas Tariff  
Pursuant to Purchased Gas Cost  
Adjustment Provision and Incremental  
Pricing Provision**

December 6, 1979.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on November 30, 1979 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

|                                |
|--------------------------------|
| Fourteenth Revised Sheet No. 4 |
| Fifteenth Revised Sheet No. 5  |

Pacific Interstate states that these tariff sheets are issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision and Incremental Pricing Pricing Provision as set forth in sections 16 and 17, respectively, of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2.

Pacific Interstate further states that the above-tendered tariff sheets are tendered pursuant to and in compliance with the provisions of Order No. 49 in Docket No. RM79-14, Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978. The tendered tariff sheets reflect a proposed S-G-1 commodity rate of 220.68¢ per decatherm, an increase of 36.72¢ from the 183.96¢ per decatherm rate effective October 1, 1979, the date of the last S-G-1 commodity rate change and that such increase reflects a Current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of \$227,542 and that the Surcharge Adjustment is designed to amortize, over a six-month period beginning January 1, 1980, an amount of \$166,388, which is the amount in Pacific Interstate's Unrecovered Purchased Gas Cost account at September 30, 1979. Furthermore, Pacific Interstate states that there is no incremental pricing surcharge adjustment applicable to this

filing, since their only customer has no surcharge absorption capability.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 79-38248 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. RP80-55]

**Sea Robin Pipeline Co.; Proposed  
Changes in FERC Gas Tariff**

December 6, 1979.

Take notice that Sea Robin Pipeline Company (Sea Robin), on November 30, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes are based on the twelve-month period ending July 31, 1979, as adjusted, and would increase jurisdictional revenues by \$4,145,107.

Sea Robin states that the revenue increase results from increases in several areas of Sea Robin's operations.

Copies of the filing have been served upon Sea Robin's jurisdictional customers and the Public Service Commission of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

<sup>1</sup> That proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.11) it was transferred to the Commission.



with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38249 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. CP80-70]

**Southern Energy Co.; Application**

December 6, 1979.

Take notice that on November 9, 1979, Southern Energy Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-70 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to store, regasify, and deliver to Southern Natural Gas Company (Southern Natural) in regasified form for the account of Columbia LNG Corporation (Columbia LNG), certain quantities of liquefied natural gas (LNG) which Columbia LNG is temporarily unable to receive at its LNG terminal facility located at Cove Point, Maryland, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Columbia LNG has informed it that on October 6, 1979, an event of *force majeure* occurred at its LNG receiving terminal at Cove Point, Maryland, which temporarily limits the ability of Columbia LNG to receive LNG deliveries at that location.

It is stated that the quantities of LNG to be received by Applicant at its Elba Island, Georgia, terminal for the account of Columbia LNG pursuant to a terminaling agreement dated October 31, 1979, are the quantities of LNG which are scheduled to be delivered by El Paso Algeria Corporation to Columbia LNG at Cove Point from November 1, 1979, to March 31, 1980, pursuant to a LNG sales agreement dated September 8, 1970, as supplemented and amended.

Applicant states that it would be compensated by Columbia LNG for this terminaling service at a rate of 4.0 cents per million Btu's of regasified LNG delivered by Applicant to Southern Natural for the account of Columbia LNG.

Applicant proposes to perform the described terminaling services until March 31, 1980, or until Columbia LNG's portion of the last cargo of LNG delivered to Elba Island prior to March 31, 1980, has been regasified and delivered to Southern Natural for the account of Columbia LNG.

Any person desiring to be heard or to make any protest with reference to said

application should on or before December 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38250 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. CP80-69]

**Southern Natural Gas Co., et al.; Application**

December 6, 1979.

Take notice that on November 9, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-69 a joint application pursuant to Section 7(c) of the Natural Gas Act for a

certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that due to an event of *force majeure* at the liquefied natural gas (LNG) receiving terminal of Columbia LNG Corporation (Columbia LNG) at Cove Point, Maryland, Columbia LNG is temporarily limited in its ability to deliver regasified LNG to Columbia Gas.

Applicants state that they seek authorization to effectuate an exchange of natural gas which Columbia Gas would purchase from Columbia LNG at a delivery point in Elba Island, Georgia. Southern and Columbia Gas propose that pursuant to an exchange agreement dated October 31, 1979, Southern would use its best efforts to receive for the account of Columbia Gas at Elba Island, Georgia, up to 415 billion Btu's of regasified LNG per day delivered pursuant to a terminaling agreement dated October 31, 1979, between Columbia LNG and Southern Energy Company.

Applicants state that Southern would use its best efforts to cause to be delivered to Columbia Gulf thermally equivalent volumes of natural gas for the account of Columbia Gas at a point at the terminus of the Sea Robin system near Erath, Louisiana, at a point at the outlet of the Grand Isle Plant of Exxon Company, U.S.A. (Exxon) in Jefferson Parish, Louisiana, and/or at such other point or points as may be mutually agreeable. Applicants state that all gas deliveries under the exchange agreement would be on a thermal content basis, without charge by any of the Applicants for the services performed to effectuate the proposed exchange.

Applicants state that in order to effectuate the above described exchange, Sea Robin proposes to allocate volumes to Columbia Gulf for the account of Southern at Erath, Louisiana, pursuant to an agreement between Sea Robin and Southern dated November 1, 1979. It is stated that in addition to the deliveries by Sea Robin at Erath, Louisiana, Southern would instruct Exxon to deliver volumes of gas which Southern would purchase from Exxon at the outlet of its Grand Isle Plant, subject to Commission approval of Exxon's request in Docket No. CI79-620.

The term of the terminaling agreement expires on March 31, 1980, or such later date on which the LNG comprising Columbia LNG's interest in the last cargo of LNG delivered to Elba Island

prior to March 31, 1980, has been regasified and delivered to Southern for the account of Columbia LNG.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38251 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TA80-1-58 (PGA80-1 and IPR80-1)]

**Texas Gas Pipe Line Corp.; Tariff Sheet Filing**

December 6, 1979.

Take notice that on November 30, 1979, Texas Gas Pipe Line Corporation, pursuant to section 154.38 of the Commission regulations under the Natural Gas Act, filed a Second Revised Sheet No. 4a and Original Sheet No. 4b to its FERC Gas Tariff, Second Revised Volume No. 1. Texas Gas states that the filed Tariff Sheets relate to the

Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in section 12 and the Incremental Pricing Surcharge Provision contained in Section 13 of the General Terms and Conditions of the Tariff. More specifically, Second Revised Sheet No. 4a reflects a net decrease under that currently being collected of 2.47¢ per Mcf (at 14.65 psia) to be effective January 1, 1979 Original Sheet No. 4b reflects incremental pricing surcharges for the period January 1, 1980 through May 31, 1980 totalling \$5,899.00.

Any person desiring to be heard and to make any protest with reference to said filing should on or before December 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Texas Gas' Tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38252 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TA80-1-42 (PGA80-1, IPR80-1 and GRI80-1)]

**Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff**

December 6, 1979.

Take notice that Transwestern Pipeline Company (Transwestern) of November 30, 1979, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Fourteenth Revised Sheet No. 5  
Fourteenth Revised Sheet No. 6  
Original Sheet No. 6A

The above tariff sheets are being filed pursuant to Section 282.602 of the Commission's Regulations Under the NGPA. These tariff sheets reflect Transwestern's "reduced PGA" determined in accordance with Section 282.503 of the Commission's Regulations and the projected Incremental Pricing Surcharges (IPS) to be billed for the months of January through March, 1980. Transwestern's next effective date for PGA and IPS shall be April 1, 1980.

Transwestern also proposes by this filing to include in its rates pursuant to Section 21 of the General Terms and Conditions of its FERC Gas Tariff the GRI Funding Unit of 0.48¢/Mcf, approved by the Commission in Opinion No. 64 issued on October 2, 1979 in Docket No. RP79-75. Transwestern has converted the GRI Funding Unit to its billing basis, dekatherms.

The proposed effective date of the above tariff sheets is January 1, 1980.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 79-38253 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

[Docket No. TA80-1-52 (PGA80-1A)]

**Western Gas Interstate Co.; Revised PGA Rate Adjustment**

December 6, 1979.

Take notice that on November 29, 1979, Western Gas Interstate Company ("Western") filed herein Second Substitute Thirteenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1, in accordance with the Commission's letter order in Docket No. RP74-85 (PGA79-2) dated October 31, 1979. Said tariff sheet is proposed to become effective on November 1, 1979.

Western states that the rates shown on the above described tariff sheet have been determined in accordance with the Commission's letter order dated October 31, 1979, which reflect the elimination of gas costs which Western's producer-suppliers and pipeline-suppliers were not authorized to charge Western on or before November 1, 1979. The effect of this revision reduced Western's filing (PGA79-2) by 1.41¢ per Mcf in the Northern Division and resulted in no change in the Southern Division.



Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Western's filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb  
Secretary.

[FR Doc. 79-38254 Filed 12-12-79; 8:45 am]  
BILLING CODE 6450-01-M

#### Office of Conservation and Solar Applications

#### Fuel Economy of Motor Vehicles; Availability of 1980 Gas Mileage Guide

The Department of Energy (DOE) hereby gives notice of the availability of the 1980 Gas Mileage Guide. The Environmental Protection Agency (EPA) has issued regulations on Fuel Economy, Testing, Labeling and Information Disclosure Procedures and Requirements (40 CFR Part 600) which, among other things, contain requirements for dealers of 1980 and later model year automobiles and light trucks to have copies of a booklet, the Gas Mileage Guide, available and on display in their showrooms. In this booklet prospective purchasers will be able to find the fuel economies of the various models of those vehicles offered for sale in a given model year. DOE is required by Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*), as amended by Section 301 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*), to publish and distribute this booklet. Section 600.405-77 of the EPA regulations states that dealers will be expected to make these booklets available as soon as they are received by them, but in no case later than 15 working days after notification is given of booklet availability. The publication today of this notice constitutes such notification.

The 1980 Gas Mileage Guide is available for display and distribution by dealers in their showrooms. Any dealer who has not already received Guides

from DOE or requires additional copies should request copies by writing to the following address, specifying the quantity desired of the 49-State and/or the California version:

For bulk copies, write: Fuel Economy Distribution, Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37830.

Issued in Washington, D.C., December 10, 1979.

Maxine Savitz,  
Acting Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 79-38259 Filed 12-12-79; 8:45 am]

BILLING CODE 6450-01-M

#### Economic Regulatory Administration

[Docket No. ERA-79-55]

#### Continued Suspension of Oil Import Fees and Tariffs

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**ACTION:** Notice of Continued Suspension of Oil Import Fees and Tariffs.

**SUMMARY:** The Department of Energy hereby gives notice that on December 7, 1979, the Secretary determined, in accordance with the provisions of Presidential Proclamation No. 3279, as amended, that the re-imposition of license fees and tariffs on petroleum and petroleum products would not be in accordance with the purposes of the Proclamation. Hence, the suspension of fees and tariffs which followed the issuance of Presidential Proclamation No. 4655, and was continued until December 31, 1979, by a Secretarial determination on June 12, 1979, will continue for an additional six month period.

The Secretary's finding is set forth below. Under Proclamation No. 4655, fees and tariffs will be automatically re-imposed on July 1, 1980. It should be noted that even though fees and tariffs have been suspended, a license is still required to import petroleum and petroleum products. Licenses may be obtained in accordance with the procedures set forth in 10 CFR, Part 213.

#### FOR FURTHER INFORMATION CONTACT:

Josette Maxwell, Senior Economist,  
Department of Energy, Room 7202D, 2000 M Street NW., Washington, D.C. 20461, (202) 254-3910

Robert de Sugny, Office of General Counsel,  
Department of Energy, Room 5E-064,  
Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2900

Issued in Washington, D.C., December 11, 1979.

Douglas G. Robinson,  
Acting Administrator, Economic Regulatory Administration.

#### Determination To Defer the Reimposition of Import License Fees and Tariffs on Imports of Petroleum and Petroleum Products

On April 6, 1979, the President issued Proclamation 4655 (44 FR 21243, April 10, 1979) which suspended license fees and tariffs on imports of petroleum and petroleum products until July 1, 1979. The President based his action on the fact that in view of the then prevailing market shortages and price conditions, imposition of the fees and tariffs did not serve the purposes of the Mandatory Oil Import Program established pursuant to Proclamation 3279, as amended. As a consequence, the President found that the continued imposition of the tariffs and fees was unnecessary as long as those conditions persisted.

The Proclamation also delegated to the Secretary of Energy the authority to defer the reimposition of license fees and tariffs for up to two additional periods not to exceed six months each if the Secretary determined that their reimposition would not be in accordance with the purposes of the Proclamation. On June 12, 1979, the Secretary determined that reimposition of the license fees and tariffs on petroleum and petroleum products would not be in accordance with the purposes of the Proclamation and deferred reimposition of the license fees and tariffs until January 1, 1980 (44 FR 36096, June 20, 1979).

Since that time the instability in international oil markets has not diminished. Some crude oil exporting countries have reduced production or have threatened to do so. The spot market price for oil has risen significantly since April 1979, and the volume of producer government spot market transactions has increased. Production of crude oil in Iran has not been restored to the level which existed prior to the almost complete cessation of Iranian production last spring. That event, which prompted the initial suspension of license fees and tariffs, has been followed by further upheaval and a deteriorating relationship between Iran and the United States, thereby creating a risk of further disruption of Iranian crude oil production and of a reduction in U.S. petroleum and petroleum product supplies. In response to these events, the President found it necessary further to amend Proclamation 3279 in order to bar the importation of crude oil from that

country (Presidential Proclamation 4702, 44 FR 65581, November 14, 1979), and to declare a national emergency to deal with the threat to the national security, foreign policy and economy of the United States which that situation represents (Executive Order 12170, 44 FR 65729, November 15, 1979).

Because the potential for shortages and adverse price impacts with respect to petroleum and petroleum products continues and because there is no immediate prospect for a significant amelioration of these conditions, I have determined that reimposition of the fees and tariffs at this time would not be in accordance with the purposes of Proclamation 3279, as amended.

Therefore, in accordance with the authority delegated to me in Sections three and five of Proclamation 4655, I hereby defer imposition of the \$0.21 and \$0.63 fees, set forth in section 3(a) (i) and (ii) of Proclamation 3279, as amended, as well as the tariffs listed in Schedule 4, Parts 2 and 10, of the Tariff Schedules of the United States, on imports of petroleum and petroleum products as defined therein until July 1, 1980.

Issued in Washington, D.C., December 7, 1979.

Charles W. Duncan Jr.,  
Secretary, Department of Energy.

[FR Doc. 79-38442 Filed 12-12-79; 9:37 am]

BILLING CODE 6450-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53008; FRL 1373-2]

#### Premanufacture Notices Status Report for November 1979)

**AGENCY:** Environmental Protection Agency (EPA or the Agency).

**ACTION:** Monthly Summary of Premanufacture Notices.

**SUMMARY:** Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the Federal Register at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for November 1979.

**DATE:** Persons who wish to file written comments on a specific chemical substance should submit those comments no later than 30 days before the applicable notice review period ends.

**ADDRESS:** Written comments should bear the PMN number of the particular chemical substance, and should be

submitted in triplicate to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M St., SW, Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Smith, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-8816.

**SUPPLEMENTARY INFORMATION:** Section 5(a)(1) of TSCA, requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations,

however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 29564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

EPA normally has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

The monthly status report required under section 5(d)(3) will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the beginning of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances that EPA has added to the Inventory during the month.

(Sec. 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: December 5, 1979.

John B. Ritch, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

#### Premanufacture Notices Status Report for November 1979

| PMN No.                                                                                             | Identity/generic name                                                                                              | FR citation             | Expiration date |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------|
| I. Premanufacture Notices Received During the Month                                                 |                                                                                                                    |                         |                 |
| 5AHO-1179-0007A                                                                                     | (Alkyl hydroxymethyl alkane)diol polymer with chloromethyl In preparation                                          | Feb. 13, 1980.          |                 |
| 5AHO-1179-0010A                                                                                     | 2-Ethyl hexyl-2-propenoate polymer with 2-methyl-2-propenoate and alkyl 2-propenoate.                              | Do.                     |                 |
| 5AHO-1179-0070                                                                                      | Claimed Confidential                                                                                               | Feb. 14, 1980.          |                 |
| 5AHO-1179-0073                                                                                      | 1,3-Benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene.               | Feb. 21, 1980.          |                 |
| 5AHO-1179-0074                                                                                      | 1,3-Benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene acrylonitrile. | Do.                     |                 |
| II. Premanufacture Notices Received Previously and Still Under Review at the Beginning of the Month |                                                                                                                    |                         |                 |
| 5AHO-0979-0016                                                                                      | n-Methanesulfonyl-p-toluene sulfonamide                                                                            | 44 FR 54118 (9/18/79).  | Dec. 4, 1979.   |
| 5AHO-0979-0022                                                                                      | Potassium salt of polyfunctional aliphatic acid oligomer                                                           | 44 FR 55416 (9/26/79).  | Dec. 17, 1979.  |
| 5AHO-0979-0023                                                                                      | Ammonium salt of polyfunctional aliphatic acid oligomer                                                            | Do.                     |                 |
| 5AHO-0979-0011(A)                                                                                   | Poly(vinyl acetate, acrylic acid, butylacrylate diethyl maleate, 2-ethylhexyl acrylate).                           | 44 FR 57488 (10/5/79).  | Dec. 23, 1979.  |
| 5AHO-0979-0024                                                                                      | 2,2'-Methylenebis (4-sec-butyl-6-tert-butylphenol)                                                                 | 44 FR 58600 (10/11/79). | Dec. 25, 1979.  |
| 5AHO-0979-9925                                                                                      | 2,2'-Ethylidenebis (4-sec-butyl-6-tert-butylphenol)                                                                | Do.                     |                 |
| 5AHO-1079-0030                                                                                      | Magnesium dodecylbenzene sulfonate salt                                                                            | 44 FR 59953 (10/17/79). | Dec. 30, 1979.  |
| 5AHO-1079-0035                                                                                      | 2-tert-Butyl-4-sec-butylphenol                                                                                     | 44 FR 59954 (10/17/79). | Jan. 1, 1980.   |
| 5AHO-1079-0019A                                                                                     | Benzene, ethenyl-, tribromo derivative, homopolymer                                                                | 44 FR 65671 (11/14/79). | Jan. 23, 1980.  |
| 5AHO-1079-0037(A)                                                                                   | Dodecenyl succinic acid mono alkylester                                                                            | 44 FR 65673 (11/14/79). | Jan. 27, 1980.  |



## Premanufacture Notices Status Report for November 1979—Continued

| PMN No.                                                                                   | Identity/generic name | FR citation | Expiration date |
|-------------------------------------------------------------------------------------------|-----------------------|-------------|-----------------|
| III. Premanufacture Notices for Which the Notice Review Period Has Ended During the Month |                       |             |                 |
| None                                                                                      |                       |             |                 |
| IV. New Chemical Substances That EPA Has Added to the Inventory During the Month          |                       |             |                 |
| None                                                                                      |                       |             |                 |
| [FR Doc. 79-39061 Filed 12-12-79; 8:45 am]                                                |                       |             |                 |
| BILLING CODE 6560-01-M                                                                    |                       |             |                 |

[FRL 1374-8]

**Water Quality Standards; Surface Waters of the State of North Carolina**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of State water quality standards approval.

**SUMMARY:** The Environmental Protection Agency has approved revisions to water quality standards adopted by the State of North Carolina. These revisions become part of the State's water quality standards contained in the document, "Classifications and Water Quality Standards Applicable to Surface Waters of North Carolina."

**FOR FURTHER INFORMATION CONTACT:** Robert F. McGhee, Water Division, Environmental Protection Agency, Region IV, 345 Courtland Ave., Atlanta, Georgia 30308.

**SUPPLEMENTAL INFORMATION:** On October 5, 15, and 19, 1979, the EPA, Region IV approved the following water quality standards revisions: (1) the reclassification of Pond Creek and Unnamed Tributary (Watauga River Basin) to drinking water supply or food processing waters; Unnamed Tributary to Lower Little River (Catawba River Basin) to primary contact waters; Unnamed Tributary to Bowlen's Creek (French Broad River Basin) to drinking water supply or food processing waters; (2) the reclassification of a segment of South Hyco Creek and all of Cub Creek (Roanoke River Basin) to fishing, boating and secondary contact waters, and (3) the assignment of the additional classification of "Nutrient Sensitive Waters" to waters of the Chowan River Basin. This action is in accord with section 303(c) of the Clean Water Act (33 USC 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's water quality standards regulations at 40 CFR 35.1550.

**AVAILABILITY:** Copies of the North Carolina water quality standards may

be obtained from the North Carolina water quality standards may be obtained from the North Carolina Department of Natural Resources and Community Development, Division of Environmental Management, P.O. Box 27687, Raleigh, N.C. 27611.

Dated: November 8, 1979.

Sweep T. Davis,

*Acting Assistant Administrator for Water and Waste Management.*

[FR Doc. 79-38171 Filed 12-12-79; 8:45 am]

BILLING CODE 6560-01-M

**FEDERAL ELECTION COMMISSION**

[Notice 1979-22]

**Opinion and Regulation Index Supplements**

A new supplement to the Index to Advisory Opinions and Opinions of Counsel (discontinued in April, 1976) issued by the Federal Election Commission is now available for purchase in the Public Records Division of the Commission. The supplemental index includes a revised subject index and supplements to the U.S. Code section index covering opinions issued from the establishment of the Federal Election Commission in April, 1975 through November, 1979, as well as a supplement to the Regulation index covering 1977 and 1979 opinions.

Purchase price of the new index is \$4.40 to cover duplication costs, payable in advance. Checks should be made payable to: United States Treasurer. Person to contact: Mr. Craig Brightup, Public Records Division, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. Telephone: (202) 523-4181.

Dated: December 3, 1979.

Robert O. Tiernan,

*Chairman for the Federal Election Commission.*

[FR Doc. 79-38266 Filed 12-12-79; 8:45 am]

BILLING CODE 6715-01-M

**FEDERAL MARITIME COMMISSION**

[Docket No. 79-98]

**Air/Compak, Inc., Independent Ocean Freight Forwarder License Application; Order of Investigation and Hearing**

Air/Compak Inc. has filed with the Commission an application for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of the applicant, it was determined that the firm had apparently engaged in ocean freight forwarding activities without holding a license issued by the Commission although a warning from the Commission about unlicensed forwarding activities had previously been sent to the applicant.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder. Otherwise the application shall be denied.

The applicant's conduct would appear to reflect adversely upon its qualifications to be licensed.

By letter of August 1, 1979, the Commission notified Air/Compak Inc. of its intent to deny the application unless the applicant requested a hearing on the grounds that such a denial was unwarranted.

In a letter dated September 7, 1979 (after an extension of the deadline had been granted the firm), legal counsel for the applicant requested that the firm be given an opportunity to show at a hearing that such a denial was unwarranted.

Now, therefore, it is ordered. That pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8), a proceeding is hereby instituted to determine:

1. Whether Air/Compak Inc. violated section 44(a), Shipping Act, 1916 by engaging in unlicensed forwarding activities;

2. Whether civil penalties should be assessed against Air/Compak Inc., pursuant to 46 U.S.C. 831(e), for violations of the Shipping Act, 1916, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;

3. Whether Air/Compak Inc. is fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act,

1916, and the requirements, rules and regulations of the Commission issued thereunder.

It is further ordered, That Air/Compak Inc. be named Respondent in this proceeding.

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges, and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law.

It is further ordered, That the following schedule be adhered to:

January 21, 1980—Opening Memorandum of Law, Request for Penalty, and Affidavits of Fact from Hearing Counsel;

February 22, 1980—Opening Memorandum of Law and Affidavits of Fact from Respondent;

March 14, 1980—Reply Memorandum of Law and Affidavits of Fact from Hearing Counsel;

It is further ordered, That within two weeks following the Reply Memorandum of Law of Hearing Counsel, the parties will submit to the Administrative Law Judge written statements identifying any unresolved issues of fact and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any person other than Respondent and Hearing Counsel, having an interest in and desiring to become party to this proceeding and to participate therein, may do so by filing a timely petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That a notice of this Order be published in the Federal Register and that a copy thereof be served upon Respondent and Hearing Counsel;

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by

any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurmey,  
*Secretary.*

[FR Doc. 79-38208 Filed 12-12-79; 8:45 am]  
BILLING CODE 6730-01-M

[Docket No. 79-99]

**H. K. International Forwarding, Inc., Independent Ocean Freight Forwarder License Application; Order of Investigation and Hearing**

H. K. International Forwarding, Inc. has filed with the Commission an application for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of the applicant, it was determined that the firm had apparently engaged in ocean freight forwarding activities without holding a license issued by the Commission although a warning from the Commission about unlicensed forwarding activities had previously been sent to the applicant.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found "fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of this Act and the requirements, rules and regulations of the Commission issued thereunder \* \* \* otherwise such application shall be denied."

The applicant's conduct would appear to reflect adversely upon its qualifications to be licensed.

By letter of September 12, 1979, the Commission notified H. K. International Forwarding, Inc. of its intent to deny the application unless the applicant requested a hearing on the grounds that such a denial was unwarranted.

In a letter dated September 24, 1979, legal counsel for the applicant requested that the firm be given an opportunity to show at a hearing that such a denial was unwarranted.

Now therefore it is ordered, that pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8), a proceeding is hereby instituted to determine:

1. Whether H. K. International Forwarding, Inc. has violated section 44(a), Shipping Act, 1916, by engaging in unlicensed forwarding activities;

2. Whether civil penalties should be assessed against H. K. International

Forwarding, Inc., pursuant to 46 U.S.C. 831(e), for violations of the Shipping Act, 1916, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;

3. Whether, in light of the evidence adduced pursuant to the foregoing issue, together with any other evidence adduced, H. K. International Forwarding, Inc. and its corporate officers, possess the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to be licensed as an independent ocean freight forwarder.

It is further ordered, That H. K. International Forwarding, Inc. be named a Respondent in this proceeding.

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges, and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law.

It is further ordered, That the following schedule be adhered to:

January 21, 1980—Opening Memorandum of Law, Request for Penalty, and Affidavits of Fact from Hearing Counsel;

February 22, 1980—Opening Memorandum of Law and Affidavits of Fact from Respondent;

March 14, 1980—Reply Memorandum of Law and Affidavits of Fact from Hearing Counsel.

It is further ordered, That within two weeks following the Reply Memorandum of Law of Hearing Counsel, the parties will submit to the Administrative Law Judge written statements identifying any unresolved issues of fact and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That any person other than Respondent and Hearing Counsel, having an interest in and desiring to become party to this proceeding and to participate therein, may do so by filing a timely petition to



intervene pursuant to Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72).

It is further ordered, That a notice of this Order be published in the **Federal Register** and that a copy thereof be served upon Respondent and Hearing Counsel.

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission,

Francis C. Hurney,  
Secretary.

[FR Doc. 79-38209 Filed 12-12-79; 8:45 am]  
BILLING CODE 6730-01-M

#### U.S.A./Algerian Discussion Agreement No. 10304; Intent To Approve Conditionally

An agreement among Lykes Bros. Steamship Co., Inc., American Export Lines, Inc. (Farrell Lines), Prudential Lines, Inc., and Compagnie Nationale Algerienne de Navigation has been filed with the Federal Maritime Commission for approval and has been assigned Federal Maritime Commission Number 10304.

Agreement No. 10304 is a discussion agreement in the trade between Algeria and the U.S. Atlantic and Gulf. The agreement provides that the signatories and any other U.S. or Algerian carriers who offer a service in this trade and who join the agreement, may exchange information and cooperate to develop information relating to:

1. Cargo movements, the seasonality and other fluctuations of traffic flows, and related data bearing on the level and frequency of common carrier steamship service required by shippers.

2. Cost of service, rates, rules and tariffs.

3. Practices in connection with the carriage of cargo, and the receipt and delivery of cargo, including interchange with connecting carriers.

The carriers are not obliged to exchange information, and each retains the right of independent action. The agreement provides for a term of one year from the date of approval.

Pursuant to the notice in the **Federal Register** of the filing of Agreement No. 10304, no comments, protests, or requests for hearing were received.

The commercial basis for the agreement, as attested to by Proponents, is to encourage the growth and orderly development of the general cargo trade between the United States and Algeria by the national flag lines serving this trade. Specific problems to be dealt with are (1) the imbalance between eastbound and westbound cargo movements, (2) the type and quantity of ocean liner service which will best serve the trade and produce the desired growth and balance, and (3) the large amount of cargo (50 percent or more eastbound controlled by the Algerian Government).

Included among the various matters which may be discussed and upon which information may be exchanged are "rates, rules and tariffs."

The Commission finds Proponents have not provided evidence which shows that discussion and exchange of information with regard to rates, rules and tariff practices is required to accomplish the purposes or objectives of the proposed discussion agreement.<sup>1</sup> We, therefore, intend to approve Agreement No. 10304 on the condition that the words "rates, rules and tariffs" be deleted from the Agreement. This matter has been discussed with the Proponents, and they will accept such a deletion as a condition of approval, rather than attempt to justify the provision. This requirement, is however, without prejudice to the right of Proponents to request reinstatement of such authority based upon a showing that the exchange of data on these matters is necessary to the legitimate purpose of the agreement.

The Commission recognizes that discussion authority is susceptible to abuse unless closely monitored. For this reason, the Commission will require that Agreement No. 10304 be amended to provide for the prompt filing of detailed minutes of meetings and reports.

Finally, the last paragraph of Agreement No. 10304 provides, *inter alia*, that the agreement will not be amended or modified "... without the unanimous consent of the parties ..." and that "All amendments to this agreement ... shall be reported to the Commission in writing within (30) days of each occurrence." This seemingly implies that amendments need not be filed with the Commission for approval. To remove this implication, the Commission will require that the paragraph be modified to acknowledge the filing and approval requirement.

All of the above proposed changes have been discussed with Proponents,

and they have advised that they will accept them as conditions of approval.

So modified, and based upon the documentation furnished in support of the proposed agreement, Agreement No. 10304 is not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest or violative of the Shipping Act, 1916.

The Commission is considering whether to approve, disapprove or modify the agreement. If it is conditionally approved it shall be modified as follows:

1. The words "... rates, rules and tariffs" be deleted from Paragraph 1, Item 2 of the agreement.

2. Paragraph 3 of the agreement be amended by the addition of the following language:

A. A full and clear description of all matters discussed under this agreement;

B. A full and accurate showing of any action taken on any matter discussed under the agreement and the reasons therefor;

C. A description of each of the views expressed on any matter which was discussed; and

D. An identification of all documents considered in connection with the discussion of or action taken on any matter.

3. The final paragraph of the agreement be modified as follows:

A. Add the following to the first sentence following the words "parties": "... and filed with the Federal Maritime Commission for approval."

B. Add the following to the final sentence following the phrase "All amendments to this agreement—":

"... shall be filed with the Federal Maritime Commission for approval, ..."

It is therefore ordered, that any person submitting a statement as to why Agreement No. 10304, as modified as indicated herein, should not be approved, should submit such matter on or before January 11, 1980.

It is further ordered, that a copy of this Notice of Intent to Approve Conditionally be published in the **Federal Register**.

It is further ordered, that for the purpose of this notice, a document is filed when actually received by the Secretary, Federal Maritime Commission.

<sup>1</sup> See *In Re The For East Discussion Agreement*, No. 0881-5, 17 S.R.R. 857 (1977).

By the Commission, November 29, 1979.

Francis C. Hurney,  
Secretary.

[FR Doc. 79-38210 Filed 12-12-79; 8:45 am]  
BILLING CODE 6730-01-M

#### FEDERAL RESERVE SYSTEM

##### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 4, 1980.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. Marine Midland Banks, Inc., Buffalo, New York (trust company and investment advisory activities; Florida): to engage, through its subsidiary Marine Midland Trust Company of Florida N.A., in activities of a fiduciary, agency, custodial or investment advisory or management nature. These activities would be conducted from an office in Boca Raton, Florida, serving the State of

Florida and primarily serving Palm Beach and Broward Counties Florida.

2. Chemical New York Corporation, New York, New York (investment advisory activities; California): to engage through its subsidiary, Van Deventer & Hoch, Inc., in activities that may be carried on by an investment advisor, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in San Francisco, California, serving all of Northern California, with particular emphasis on the greater San Francisco-Bay area.

B. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

Orbanco, Inc., Portland, Oregon. (mortgage banking and insurance activities; North Carolina, South Carolina) proposes to engage, through its subsidiary, Fort Wayne Mortgage Co. in making or acquiring, for its own account or for the account of others, mortgage loans or other extensions of credit, servicing loans and other extensions of credit for any person and acting as insurance agent or broker for any credit life insurance that is directly related to an extension of credit by it, originating mobile home loans insured by the Federal Housing Administration (FHA) or guaranteed by the Veterans Administration (VA) for sale to investors in mortgage-backed securities guaranteed by the Government National Mortgage Association (GNMA), which loans will be secured by installment sales contracts on mobile homes; servicing such mobile home loans for its investors by collecting payments, periodically inspecting collateral, and supervising repossessions in the event of unremedied defaults; related wholesale financing of mobile home dealers, which consists of making loans secured by the mobile homes, to permit them to carry inventories. The proposed activities would be conducted from an office in Columbia, South Carolina, serving South Carolina, and North Carolina.

C. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, December 5, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38159 Filed 12-12-79; 8:45 am]  
BILLING CODE 6210-01-M

#### Buckeye Bancorp.; Formation of Bank Holding Company

Buckeye Bancorporation, Mt. Gilead, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Community National Bank, Mt. Gilead, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 6, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38156 Filed 12-12-79; 8:45 am]  
BILLING CODE 6210-01-M

#### F & M Bank Shares, Inc.; Formation of Bank Holding Company

F & M Bank Shares, Inc., Hennessey, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90.3 per cent (less directors' qualifying shares) of the voting shares of The Farmers and Merchants National Bank, Hennessey, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.



Board of Governors of the Federal Reserve System, December 5, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38155 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Hugoton Bancshares, Inc.; Formation of Bank Holding Company

Hugoton Bancshares, Inc., Hugoton, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens State Bank, Hugoton, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 5, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38154 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Illinois Holding Co.; Formation of Bank Holding Company

Illinois Holding Co., Sherrard, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82 percent or more of the voting shares of Farmers State Bank of Sherrard, Sherrard, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 6, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38158 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Mercantile Bankshares Corp.; Acquisition of Bank

Mercantile Bankshares Corporation, Baltimore, Maryland, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 per cent of the voting shares of The First National Bank of St. Mary's at Leonardtown, Leonardtown, Maryland. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 6, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38160 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

[Dockets Nos. R-0256 and R-0257]

#### Proposed Report Requirements; Annual Report of Foreign Bank Holding Companies, Foreign Banks, and Foreign Parent Companies and Report of Intercompany Transactions for Foreign Bank Holding Companies and their U.S. Bank Subsidiaries; Extension of Comment Periods

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed reports; extension of comment periods.

**SUMMARY:** The Board of Governors of the Federal Reserve System has extended the period for receipt of public

comment on two proposed reports (Forms FR Y-7 and FR Y-8f) to be filed with Board by foreign banking organizations (Docket Nos. R-0256 and R-0257) until March 4, 1980.

**DATE:** Comments must be received by March 4, 1980.

**ADDRESS:** Comments may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or delivered to Room B-2233, Board of Governors, 20th Street and Constitution Avenue NW., Washington, D.C. 20551. Comments should include the Docket Number R-0256 or R-0257. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR § 261.6(a)).

**FOR FURTHER INFORMATION CONTACT:** Stephen M. Lovette, Financial Analyst (202/452-3622), Division of Banking Supervision and Regulation or Kathleen M. O'Day, Attorney (202/452-3786), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** On October 29, 1979 (44 FR 62947 and 64906), the Board requested comment on two proposed reports, a Report of Intercompany Transactions for Foreign Bank Holding Companies and their U.S. Bank Subsidiaries, Form FR Y-8f, and the Annual Report of Foreign Bank Holding Companies, Foreign Banks, and Foreign Parent Companies, Form FR Y-7. Both reports would require the submission of financial and other data by foreign organizations conducting a banking business in the United States. Comment has been requested on the proposals by January 4, 1980. The Board has been requested to extend the comment period on each report in order to provide interested parties with additional time in which to present their views. In light of the issues involved and the scope of the information requested in the reports, and in order to encourage public participation in this matter, the comment periods have been extended to March 4, 1980.

By order of the Board of Governors, acting through its Secretary under delegated authority, effective December 6, 1979.

Theodore E. Allison,  
Secretary of the Board.

[FR Doc. 79-38161 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Southeast Capital Corp.; Formation of Bank Holding Company

Southeast Capital Corporation, Idabel, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of The Idabel National Bank, Idabel, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 6, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38157 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Affiliated Bankshares of Colorado, Inc.; Proposed Acquisition of First Colorado Bankshares Insurance Co.

Affiliated Bankshares of Colorado, Inc., Boulder Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Colorado Bankshares Insurance Company, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activity of underwriting, as reinsurer, certain types of life and disability insurance coverage. These activities would be performed from office of Applicant's Colorado subsidiary banks located in the cities and towns of: Boulder, Ault, Greeley, Colorado Springs, Denver, Englewood, Fort Carson, Lafayette, Louisville, Loveland, Manitou Springs, and Fort Collins, and the geographic area to be served extends from Denver, Colorado, approximately 95 miles to the north and approximately 75 miles to the south. Such activities have been specified by the Board in § 225.4(a) of

Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 7, 1980.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38220 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### American Security Bank International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as American Security Bank International, Miami, Florida. American Security Bank International would operate as a subsidiary of American Security Bank, National Association, Washington, D.C. The factors that are considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary,

Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 9, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38221 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Apple Valley Bancshares, Inc.; Formation of Bank Holding Company

Apple Valley Bancshares, Inc., Apple Valley, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.73 per cent of the voting shares of First State Bank of Apple Valley, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 6, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-38222 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Avon Bancshares, Inc.; Formation of Bank Holding Company

Avon Bancshares, Inc., Avon, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent of the voting shares of Avon State Bank, Avon, Minnesota. The factors that are considered in acting on the application



are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-38223 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons as written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify

clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than January 7, 1980.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (consumer lending and credit card activities; California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New York, North Carolina, Texas, Virginia, Washington): to engage, through its subsidiary, Citicorp Credit Services, Inc., in activities related to the operation of a credit card business and extensions of credit attendant thereto; including, but not limited to extending, acquiring, and servicing indebtedness (i) incurred by consumers for purchases and leases of goods and services, and (ii) representing loans to consumers. Such servicing may include credit review, issuance of credit cards, billing, collection activities and related services. These activities will be conducted from offices located in New York City and in Melville, New York. Limited purpose offices located in Atlanta, Georgia, San Mateo, California, and Rosemont, Illinois, will engage solely in related collection activities. The geographic service area for this proposal will cover each of the seventeen states listed above.

This application is for the transfer of activities from a subsidiary of Citibank, N.A., to a dormant existing subsidiary of its parent, Citicorp.

2. Citicorp, New York, New York (consumer finance and insurance activities; Illinois, Missouri): to engage, through its indirect subsidiary, Nationwide Financial Corporation of Missouri in conducting previously approved activities including making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of property and casualty insurance and for the sale of credit life and credit accident and health insurance directly related to extensions of credit in an expanded service area. Credit related life, accident and health may be underwritten by Family Guardian Life Insurance Company, an affiliate of Nationwide Financial Corporation of Missouri. The service area of the office in St. Louis, Missouri will

be expanded to include the entire States of Missouri and Illinois.

3. Citicorp, New York, New York (consumer finance and insurance activities; Idaho): to engage through its indirect subsidiary, Citicorp Person-to-Person Financial Center, Inc., (Delaware) in operating a finance company, including making or acquiring consumer loans and other extensions of credit, secured or unsecured; making or acquiring loans and other extensions of credit to finance the purchase of mobile homes or manufactured housing, together with the real property to which such housing is or will be permanently affixed; and acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit. This application represents an expansion of activities and service area of an existing office. Previously approved activities include the purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the making of non-consumer loans; and acting as agent for the sale of property and casualty insurance and for the sale of credit life and credit accident and health insurance directly related to extensions of credit.

All the above activities would be conducted from an office in Boise, Idaho, serving the entire State of Idaho.

B. Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198.

Commercial Landmark Corporation, Muskogee, Oklahoma (financing activities; Oklahoma): to engage in making loans or other extensions of credit in its own behalf. This activity would be conducted from an office in Muskogee, Oklahoma, serving the State of Oklahoma.

C. Other Federal Reserve Banks; none.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-38224 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Citrus & Chemical Bancorporation, Inc.; Formation of Bank Holding Company

Citrus & Chemical Bancorporation, Inc., Bartow, Florida, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80

percent or more of the voting shares of Citrus & Chemical Bank of Bartow, Bartow, Florida. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-38225 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### Georgia Bancshares, Inc.; Acquisition of Bank

Georgia Bancshares, Inc., Macon, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First National Bank of Houston County, Perry, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 7, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 7, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-38226 Filed 12-12-79; 8:45 am]

BILLING CODE 6210-01-M

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Alcohol, Drug Abuse, and Mental Health Administration

##### Advisory Committees; Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of January 1980.

##### National Advisory Council on Alcohol Abuse, and Alcoholism

January 28-29, 1980, 9:30 a.m. Conference Room 703-A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. Open—January 28. Closed—January 29. Contact: James F. Vaughan, Room 16C-10 Parklawn Building, 5600 Fisher Lane, Rockville, Maryland 20857 (301)443/3888.

Purpose: The Council advises the Secretary of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: On January 28, the meeting will be open for general business of the Council, administrative reports on the Followup Study on the Course of Alcoholism, the policy and program initiatives on long-term funding and coordination of alcoholism treatment programs, and a discussion on Federal Employee Health Insurance. On January 29, the Council will conduct a final review of grant applications for Federal Assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

##### Psychiatry Education Review Committee

January 14-17, 10 a.m. Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: January 14, 10 a.m.-12 m. Closed: January 14, 12 m.-Adjournment on January 17. Contact: Irma Fisher, Room 9A-54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-4728.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 10 a.m. to 12 m. on January 14, 1980, the meeting will be open for

discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons above. The NIAAA Public Affairs Office will furnish upon request summaries of the meeting and rosters of the Council members. Contact Mr. Paul Garner, Acting Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-3888. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Paul Sirovacka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-102, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-4536. Dated: December 7, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-38132 Filed 12-12-79; 8:45 am]

BILLING CODE 4110-88-M

#### National Institutes of Health

##### Biotechnology Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, January 10 and 11, 1980, National Institutes of Health, Bldg. 31, Conference Room 7, Bethesda, Maryland 20205.

This meeting will be open to the public on January 10 from 1:00 p.m. to 3:30 p.m. and on January 11 from 9:00 a.m. to adjournment, for discussion of the current status of the Chemical/Biological Information-Handling Project and guidelines for review of PROPHET sites, and discussion of future Committee activities in connection with planning and new initiatives in the Biotechnology Resources Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 10 from 3:30 p.m. to recess, and on January 11, from 8:30 a.m. to 9:00 a.m. for the review, discussion, and evaluation of individual research prospectuses submitted by



organizations seeking access to PROPHET System services. These prospectuses and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the prospectuses, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Rm. 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of meetings and rosters of Committee members. Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Rm. 5B41, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, 301-306-5411, will furnish substantive Program information.

(Catalog of Federal Assistance Program No. 13.371, National Institutes of Health.)

Suzanne L. Freneau,  
*Committee Management Officer, National Institutes of Health.*  
December 4, 1979.

[FR Doc. 79-38183 Filed 12-12-79; 8:45 am]

BILLING CODE 4110-08-M

#### Filing of Annual Reports

Pursuant to sections 10(d) and 13 of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the annual reports for the committees listed below have been filed with the Library of Congress. Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or on weekdays, at the Department Library, North Building, Room 1436, Washington, D.C. 20201, between 9:00 a.m. and 4:30 p.m.

Advisory Committee to the Director, NIH  
Aging Review Committee  
Allergy and Clinical Immunology Research Committee  
Allergy and Immunology Study Section  
Animal Resources Review Committee  
Applied Physiology and Orthopedics Study Section  
Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee  
Artificial Kidney-Chronic Uremia Advisory Committee  
Bacteriology and Mycology Study Section  
Bioanalytical and Metallobiochemistry Study Section  
Biochemical Endocrinology Study Section  
Biochemistry Study Section  
Biomedical Library Review Committee  
Biometry and Epidemiology Contract Review Committee  
Biophysics and Biophysical Chemistry A Study Section

Biophysics and Biophysical Chemistry B Study Section  
Biopsychology Study Section  
Biotechnology Resources Review Committee  
Bladder and Prostatic Cancer Review Committee  
Blood Diseases and Resources Advisory Committee  
Board of Regents of the National Library of Medicine  
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis  
Board of Scientific Counselors, Division of Cancer Cause and Prevention  
Board of Scientific Counselors, Division of Cancer Treatment  
Board of Scientific Counselors, NEI  
Board of Scientific Counselors, NHLBI  
Board of Scientific Counselors, NIA  
Board of Scientific Counselors, NIAID  
Board of Scientific Counselors, NIAMDD  
Board of Scientific Counselors, NICHD  
Board of Scientific Counselors, NIDR  
Board of Scientific Counselors, NIEHS  
Board of Scientific Counselors, NINCDS  
Breast Cancer Task Force Committee  
Cancer and Nutrition Scientific Review Committee  
Cancer Clinical Investigation Review Committee  
Cancer Control and Rehabilitation Advisory Committee  
Cancer Control Grant Review Committee  
Cancer Control Intervention Programs Review Committee  
Cancer Control Merit Review Committee  
Cancer Research Manpower Review Committee  
Cancer Special Program Advisory Committee  
Cardiology Advisory Committee  
Cardiovascular and Pulmonary Study Section  
Cardiovascular and Renal Study Section  
Cause and Prevention Scientific Review Committee  
Cell Biology Study Section  
Cellular and Molecular Basis of Disease Review Committee  
Chemical Pathology Study Section  
Clearinghouse on Environmental Carcinogens  
Clinical Applications and Prevention Advisory Committee  
Clinical Cancer Education Committee  
Clinical Cancer Program Project and Cancer Center Support Review Committee  
Clinical Trials Committee  
Clinical Trials Review Committee  
Committee on Cytology Automation  
Communicative Disorders Review Committee  
Communicative Sciences Study Section  
Dental Caries Program Advisory Committee  
Developmental Therapeutics Committee  
Diagnostic Radiology & Nuclear Medicine Study Section  
Diagnostic Research Advisory Group  
Endocrinology Study Section  
Epidemiology and Disease Control Study Section  
Epilepsy Advisory Committee  
Experimental Therapeutics Study Section  
Experimental Virology Study Section  
General Clinical Research Centers Committee  
General Medicine A Study Section  
General Medicine B Study Section  
General Research Support Review Committee  
Genetic Basis of Disease Review Committee

Genetics Study Section  
Heart, Lung, and Blood Research Review Committee A  
Heart, Lung, and Blood Research Review Committee B  
Hematology Study Section  
Human Development Study Section  
Human Embryology and Development Study Section  
Immunobiology Study Section  
Immunological Sciences Study Section  
Large Bowel and Pancreatic Cancer Review Committee  
Lipid Metabolism Advisory Committee  
Mammalian Genetics Study Section  
Maternal and Child Health Research Committee  
Medicinal Chemistry A Study Section  
Mental Retardation Research Committee  
Metabolism Study Section  
Microbial Chemistry Study Section  
Microbiology and Infectious Diseases Advisory Committee  
Minority Access to Research Careers (MARC) Review Committee  
Molecular Biology Study Section  
Molecular Cytology Study Section  
National Advisory Allergy and Infectious Diseases Council  
National Advisory Child Health and Human Development Council  
National Advisory Council on Aging  
National Advisory Dental Research Council  
National Advisory Environmental Health Sciences Council  
National Advisory Eye Council  
National Advisory General Medical Sciences Council  
National Advisory Neurological and Communicative Disorders and Stroke Council  
National Advisory Research Resources Council  
National Arthritis Advisory Board  
National Commission on Digestive Diseases  
National Arthritis, Metabolism, and Digestive Diseases Advisory Council  
National Cancer Advisory Board  
National Diabetes Advisory Board  
National Heart, Lung and Blood Advisory Council  
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee  
Neurological Disorders Program—Project Review A Committee  
Neurological Disorders Program—Project Review B Committee  
Neurological Sciences Study Section  
Neurology A Study Section  
Neurology B Study Section  
NIDR Special Grants Review Committee  
Nutrition Study Section  
Oral Biology and Medicine Study Section  
Pathobiological Chemistry Study Section  
Pathology A Study Section  
Pathology B Study Section  
Periodontal Diseases Advisory Committee  
Pharmacology Study Section  
Pharmacology-Toxicology Review Committee  
Physiological Chemistry Study Section  
Physiology Study Section  
Population Research Committee  
President's Cancer Panel  
Pulmonary Diseases Advisory Committee  
Radiation Study Section

Recombinant DNA Advisory Committee  
Reproductive Biology Study Section  
Research Manpower Review Committee  
Sickle Cell Disease Advisory Committee  
Social Sciences and Population Study Section  
Surgery and Bioengineering Study Section  
Surgery, Anesthesiology and Trauma Study Section  
Toxicology Study Section  
Transplantation Biology and Immunology Committee  
Tropical Medicine and Parasitology Study Section  
Tumor Immunology Committee  
Virology Study Section  
Vision Research Program Committee  
Visual Sciences A Study Section  
Visual Sciences B Study Section.

Dated: November 30, 1979.

Donald S. Fredrickson,

*Director, NIH.*

[FR Doc. 79-38084 Filed 12-12-79; 8:45 am]

BILLING CODE 4110-08-M

#### Office of Education

##### Handicapped Children's Early Education Program; Outreach Projects; Closing Date for Transmittal of Applications

**AGENCY:** Office of Education.

**ACTION:** Notice of Closing Date for Transmittal of Applications for New Projects.

Applications are invited for new Outreach projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Sections 623 and 624 of the Education of the Handicapped Act. (20 U.S.C. 1423, 1424)

The purpose of this program is to support outreach activities by public agencies and private non-profit organizations which have completed a three-year demonstration grant under the Handicapped Children's Early Education Program and which have met eligibility requirements to assist other agencies in meeting the early educational needs of handicapped children.

**Closing Date for Transmittal of Applications:** An application for a grant must be mailed or hand-delivered by February 27, 1980.

**Applications Delivered by Mail:** An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444B, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

Each late applicant will be notified that its application will not be considered.

**Applications Delivered by Hand:** An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

**Available Funds:** The funding level for the entire Handicapped Children's Early Education Program is expected to be approximately \$20 million for fiscal year 1980, of which approximately \$2,400,000 will be used for new Outreach projects. There will be approximately 15-20 new Outreach projects funded under this program. Funding for new Outreach projects may range between \$50,000 and \$150,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by December 28, 1979. They may be obtained by writing the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 3100), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly

urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

**Applicable Regulations:** Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program Outreach Projects (45 CFR Parts 121d and 121e); and

(b) General Provisions Regulations for the Office of Education (45 CFR Parts 100 and 100a).

**Note:** The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Dr. William Swan, Acting Chief, Program Development Branch, U.S. Office of Education (Donohoe Building, Room 3100), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-9722. (20 U.S.C. 1423, 1424)

(Catalog of Federal Domestic Assistance No. 13.444B, Handicapped Children's Early Education Program—Outreach Projects)

Dated: December 6, 1979.

John Ellis,

*Executive Deputy Commissioner for Educational Programs.*

[FR Doc. 79-38182 Filed 12-12-79; 8:45 am]

BILLING CODE 4110-02-M

#### Office of the Assistant Secretary for Planning and Evaluation

[Contract No. SA-79-6046]

#### Contract Award for Research Program

Pursuant to Section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award and completion of Contract No. SA-79-6046 to Dr. William G. Johnson of DeWitt, New York, for a research project entitled "A Study of Entitlement to Disability Payments from More than One Program."



The purpose of this project was to estimate the prevalence of multiple cash benefits among disabled persons and to evaluate the effects of these overlaps on benefit adequacy. Data on the noninstitutionalized population from the 1972 *Survey of Health and Work Characteristics* were employed.

The study showed that 4.6 million persons receive cash benefits from public programs. This is about one-third of persons described as "currently disabled" by the survey. Among those who do not receive benefits, approximately 22 percent are served by more than one program. Most multiple beneficiaries are served by two programs; less than 3 percent of the beneficiaries receive benefits from more than two programs.

Recipients from more than one program are less likely to be in households with incomes below the poverty line. However, single and multiple program beneficiaries do not differ markedly in the fractions of lost earnings by benefits. No evidence is found to indicate that benefit overlaps overcompensate recipients for earnings losses.

The cost of this project was \$9,450. It was completed in August, 1979.

Dated: December 10, 1979.

John L. Palmer,  
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38227 Filed 12-12-79; 8:45 am]  
BILLING CODE 4110-12-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### Implementation of Decision on Lands Which Will Be Intensively Inventoried for Wilderness Characteristics and Will Remain Subject to the Management Constraints of Section 603(c) of the Federal Land Policy and Management Act of 1976

This notice announces the implementation of the BLM Colorado State Director's Initial Wilderness Inventory Decision 2-A and 2-B as published in the *Federal Register*, Vol. 44, No. 171, Friday, August 31, 1979. Approximately 1,310,922 acres and 118 inventory units of the public lands in Colorado will be intensively inventoried for wilderness characteristics. Inventory of these lands is in progress and the public is encouraged to participate. Management limitations imposed by section 603(c) of the Federal Land Policy and Management Act of 1976 will continue to apply to these lands until

they are officially released from further wilderness consideration or until they are designated as Wilderness by Congress. Implementation of this decision will occur immediately upon publication of this announcement in the *Federal Register*.

Decision 1-A of the August 31, 1979 announcement was implemented through notices in the *Federal Register*, Vol. 44, No. 199, Friday, October 12, 1979.

Decisions 1-B and 1-C of the August 31, 1979 announcement were implemented through notice in the *Federal Register*, Vol. 44, No. 218, Thursday, November 8, 1979.

This notice also announces the addition of two additional tracts of public land for intensive inventory. These tracts were not proposed for intensive wilderness inventory in the August 31, 1979 announcement but as a result of protests received, the Colorado State Director has determined that it is not clear and obvious that they lack wilderness characteristics and therefore should be intensively inventoried. This portion of the State Director's decision will become effective January 14, 1980 to allow for additional protests. Addition of these areas to the intensive inventory represents a change in the State Director's decision, as announced August 31, 1979. Management limitations imposed by section 603(c) of the Federal Land Policy and Management Act of 1976 will continue to apply to these lands until they are officially released from further wilderness consideration or until they are designated as wilderness by Congress. The units to be added to the intensive inventory are as follow:

| Inventory unit No. | Approximate acreage | General location (additional)                                                                                                                  |
|--------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| CO-030-253...      | 720                 | Montrose District. Adjacent to eastern boundary of Mesa Verde National Park.                                                                   |
| CO-070-031...      | 5,162               | Grand Junction District. East of De Beque, Colorado. The unit to be intensively inventoried is expanded and is now approximately 28,740 acres. |

A final decision to intensively inventory these units will be announced in mid-January through notice in the *Federal Register*.

Requests for further information concerning the BLM wilderness inventory in Colorado should be sent to: State Director, c/o Wilderness, Colorado State Office, Bureau of Land Management, Main Post Office Building,

P.O. Box 2266, Denver, Colorado 80201.

Dale R. Andrus,  
State Director, Colorado.

[FR Doc. 79-38137 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [Coal Lease Application C-22777]

#### Land in Jackson County, Colo.; Notice of Public Hearing, Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on January 15, 1980 at 7:00 p.m. in the Soil Conservation District Building, Basement Room, 5th and Logan Street, Walden, Colorado. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) the method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the January 15, 1980 public hearing should be received at the Craig District Office, Bureau of Land Management, P. O. Box 248, Craig, Colorado 81625, prior to the close of business January 14, 1980. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Craig District Office at the above address, prior to close of business on January 21, 1980. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to

the Bureau of Land Management and the U. S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than January 21, 1980.

The coal resource to be offered is limited to 4,875,120 tons of coal recoverable by surface mining methods from the Sudduth coal seam and any overlying coal seams in the following lands located approximately 10 miles east southeast of Walden, Colorado:

T. 9 N., R. 78 W., 6th P.M.  
Sec. 22: NE¼, E½NW¼, SE¼  
Sec. 23: SW¼SW¼  
Sec. 26: W½SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, W½NW¼SE¼  
Sec. 27: NE¼NE¼NE¼

Containing 770 acres.

The coal quality is as follows: Btu—10,180; Sulfur—0.3%; Ash—6.4%; and averages 50.0 feet in thickness under 300 feet of overburden.

The draft Environmental Assessment will be available for review in the Craig District Office. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environmental Assessment, the case file and the

comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, Bureau of Land Management at the address set out above.

Andrew W. Heard,  
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-38136 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [SAC 056952]

#### California; Termination of Proposed Withdrawal and Reservation of Land

December 7, 1979.

Notice of Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, application SAC 056952 for withdrawal and reservation of land for the establishment of the Hayfork Wildlife Management Area, Trinity County, California, was published as FR Doc. 59-9390 on page 9063 of the issue of November 6, 1959. The applicant agency has cancelled its application in its entirety.

#### Mount Diablo Meridian

T. 31 N., R. 11 W.,  
Sec. 2, N½ of Lot 1, N½S½ of Lot 1, SW¼SW¼ of Lot 1, and SE¼SE¼ of Lot 1;  
Sec. 5, SE¼NW¼;  
Sec. 6, Lots 4, 5, and 7, SE¼NW¼, and E½SW¼;  
Sec. 7, NW¼NE¼ and NE¼NW¼.  
T. 32 N., R. 11 W.,  
Sec. 26, S½SW¼;  
Sec. 27, SW¼, NW¼SE¼, and S½SE¼;  
Sec. 28, N½SW¼;  
Sec. 31, Lots 1, 2, and 4 and NE¼NW¼;  
Sec. 32, NE¼SE¼ and S½SE¼;  
Sec. 33, E½NE¼, SW¼NW¼, SW¼, and E½SE¼;  
Sec. 34, W½NE¼, NW¼, SW¼, and W½SE¼;  
Sec. 35, E½NE¼ and E½SE¼;  
Sec. 36, SW¼NE¼ and NW¼.

Total acreage: approximately 2,314.73 acres.

Therefore, pursuant to the regulations contained in 43 CFR 2550, such lands at 10:00 a.m., January 15, 1980, will be relieved of the segregative effect of the above-mentioned application.

Joan B. Russell,  
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-38191 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

#### [CA 3652]

#### California; Termination of Proposed Withdrawal and Reservation of Land

December 7, 1979.

Notice of the National Park Service, U.S. Department of the Interior, Application CA 3652 for withdrawal and reservation of the following described land from the mining laws (30 U.S.C. Ch. 2) and the mineral leasing laws was published as FR Doc. 76-19078 on Page 27097 of the issue of July 1, 1976, and republished as FR Doc. 77-20948 on pages 37445 and 37446 of the issue of July 21, 1977. The applicant has cancelled its application as the land was transferred by legislation.

#### Pinnacles National Monument Mount Diablo Meridian

T. 17 S., R. 7 E.,  
Sec. 13, E½NE¼ and NE¼SE¼.

The area described aggregates 120 acres in San Benito County, California. Therefore, pursuant to the regulations contained in 43 CFR 2350, such land at 10:00 a.m. on January 15, 1980, will be relieved of the segregative effect of the above-mentioned application.

Joan B. Russell,  
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-38193 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

#### Idaho, North Idaho Timber Management Plan; Intent To Prepare an Environmental Impact Statement

The Department of the Interior, Bureau of Land Management, Coeur d'Alene District Office, will prepare an Environmental Impact Statement (EIS) covering proposed timber management for the Coeur d'Alene sustained yield unit (SYU) in northern Idaho. The final statement is to be completed by December 1, 1980.

This statement will analyze the proposed timber management plan for 275,035 acres of public land and alternatives to the proposal. Portions of the SYU are within Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties. The proposed timber management plan will be developed using the Bureau's land use planning system. A proposed sustained yield timber harvest level for the next decade will be identified along with management practices required to achieve this level of harvest. Harvest would be accomplished through clearcutting, shelter wood cutting, and single tree selection. Additional management practices which may be



employed include: Slash disposal, artificial reforestation, road construction, thinning, fertilization, and vegetation control (to release conifers from competing vegetation) with herbicides and manual and mechanical methods.

Discussion of an alternative which is no change from the present harvest level and practices is required and will be included in the EIS. Additional alternatives to the proposal which might be discussed in the statement include:

1. Variations in land use allocation under which more or less land is designated for intensive timber production.

2. Different acreages, cycles, or types of intensive timber management practices.

3. A change in the minimum harvest age which would affect the short-term availability of timber for harvest and the time needed to achieve a regulated forest.

Each alternative included in the statement is likely to have a different harvest level.

The EIS will identify the impacts that can be expected from implementation of either the proposed timber management plan or any of the alternatives discussed. The statement will be an analytical tool used to assist in making final decisions for managing timber resources in the SYU. The final decisions are expected to guide the operations in the SYU for a 10-year period beginning in October 1981.

The Coeur d'Alene District Multiple-Use Advisory Council, interested individuals, organizations, and agencies identified during the development of land use plans will be contacted to help determine the significant issues to be addressed in the EIS. The contacts will also be used to help prepare alternatives and to identify the significant issues related to the alternatives including the proposed action.

Further information may be obtained from the following person: Martin J. Zimmer, District Manager, Bureau of Land Management, P.O. Box 1889, Coeur d'Alene, Idaho 83814, Telephone: (208) 667-2561, ext. 356.

Dated: December 3, 1979.

Martin J. Zimmer,  
District Manager.

[FR Doc. 79-38196 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

### Nevada; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

December 5, 1979.

The Forest Service filed application N-6453 on May 8, 1972 for a withdrawal to extend the boundary of the Toiyabe National Forest to include the following described lands, which shall become subject to all laws and regulations applicable to said national forest. The lands will be segregated from all forms of appropriation under the public land laws excluding the mining laws and mineral leasing laws.

#### Mount Diablo Meridian

T. 12 N., R. 19 E.,  
Sec. 4, W $\frac{1}{2}$  of Lots 1 and 2 of NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 22, NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$  (fractional);  
Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 26, Lot 5.  
T. 13 N., R. 19 E.,  
Sec. 4, Lots 1 and 2 of NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
Sec. 9, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 15, SW $\frac{1}{4}$ ;  
Sec. 16, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 21, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
Sec. 22, NW $\frac{1}{4}$ ;  
Sec. 28, E $\frac{1}{2}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 33, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ .

T. 14 N., R. 19 E.,

Sec. 3;  
Sec. 4, Lots 1 and 2 of NE $\frac{1}{4}$ , Lots 1 and 2 of NW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
Sec. 9, E $\frac{1}{2}$ ;  
Sec. 10, N $\frac{1}{2}$ ;  
Sec. 16, W $\frac{1}{2}$ E $\frac{1}{2}$ .

T. 15 N., R. 19 E.,

Sec. 2, Lot 1 of NW $\frac{1}{4}$ , E $\frac{1}{2}$  of Lot 2 of NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
Secs. 3, 4, 8, 9, those portions lying south and east of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line;  
Sec. 10;  
Sec. 11, W $\frac{1}{2}$ ;  
Sec. 14, W $\frac{1}{2}$ , exclusive of patented M.S. 38;  
Sec. 15, exclusive of patented M.S. 38;  
Sec. 16;  
Sec. 17, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , that portion lying southeast of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
Sec. 20, SW $\frac{1}{4}$ ;  
Sec. 21, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 22, NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
Sec. 23, W $\frac{1}{2}$ ;  
Sec. 27;  
Sec. 28, SE $\frac{1}{4}$ ;  
Sec. 29, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 33, NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 34, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .

T. 16 N., R. 19 E.,

Sec. 34, SE $\frac{1}{4}$ , that portion lying south and east of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line;  
Sec. 35, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , that part south of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate approximately 12,110 acres of public and

patented lands in Ormsby and Douglas Counties. Of these lands of the following are public lands:

#### Mount Diablo Meridian

T. 12 N., R. 19 E.,  
Sec. 23, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 26, Lot 5.  
T. 13 N., R. 19 E.,  
Sec. 15, SW $\frac{1}{4}$ ;  
Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 22, NW $\frac{1}{4}$ ;  
T. 15 N., R. 19 E.,  
Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 11, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 14, W $\frac{1}{2}$ NW $\frac{1}{4}$ , exclusive of patented M.S. 38, SW $\frac{1}{4}$ ;  
Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , exclusive of patented M.S. 38, W $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
Sec. 27, W $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
T. 16 N., R. 19 E.,  
Sec. 35, N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , that part south of the hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate approximately 1,133 acres.

The following described nonpublic lands will be excluded from the Toiyabe National Forest, and the boundary of said forest will be adjusted accordingly:

#### Mount Diablo Meridian

T. 12 N., R. 19 E.,  
Sec. 9, E $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
T. 16 N., R. 19 E.,  
Sec. 35, N $\frac{1}{2}$ SE $\frac{1}{4}$ , that part lying north of hydrographic divide between Washoe Lake and Carson River being the old Washoe County line.

The areas described aggregate 87 acres in Douglas and Ormsby Counties. A notice of the proposed withdrawal was published in the Federal Register on July 27, 1972, Volume 37 No. 145, page 15021, Document No. 72-11649.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below within 40 days from the date of publication of this notice. Upon determination by the State Director that a public hearing will be held, a notice will be published in the Federal Register, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of the Land Management within the 40-day period allowed.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All correspondence in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, 300 Booth Street, Reno, NV 89509.

Charles E. Hancock,  
Acting Chief, Division of Technical Services.

[FR Doc. 79-38192 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

### Area Managers, Roswell District; Redelegation of Authority

1. Pursuant to the authority contained in Part III section 3.1 of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to Area Managers, Roswell District, within their areas of responsibility, authority to take all actions on the matters listed in Part III section 3.2(b), 3.3(b), 3.3(d), 3.6(m), 3.6(n), section 3.7(a) (1), (2), and (3), 3.7(b), 3.7(c), 3.7(d), 3.7(e), 3.7(f), 3.8(a), section 3.9(g) material other than forest products not exceeding \$5,000 in value and issue free use permits for materials other than forest products not exceeding \$5,000 in value, section 3.9(m), 3.9(o), and 3.9(z).

2. All previously published orders of redelegation pursuant to the authority of Bureau Order 701, as amended which pertain to the Area Managers, Roswell District, and which are inconsistent with this order are hereby cancelled and superseded.

3. Effective date. This redelegation will become effective December 15, 1979.

James H. O'Connor,  
District Manager.  
December 1, 1979.

Approved: November 30, 1979.

Arthur W. Zimmermann,  
State Director.

[FR Doc. 79-38198 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

### Coal Lease Applications W-49338 and W-58095 Land in Carbon County, Wyo.; Request for Public Comment

December 5, 1979.

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. The Bureau of Land Management requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease, sale.

For lease offering W-49338, the coal resource to be evaluated consists of coal recoverable by surface mining methods from only bed #77 in Section 20 and from the Hanna No. 5 bed in Section 6, and any overlying beds, in the following described land located north of Hanna, Wyoming:

T. 23 N., R. 81 W., 6th P.M. (Six miles north of Hanna).  
Sec. 20, W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ .

The estimated total strippable reserves are 877,000 tons. The coal quality is as follows: Btu—11,257 per pound; Sulfur—1.05 percent and Ash—9.74 percent. The #77 coal bed averages 19 feet thick.

T. 22 N., R. 81 W., 6th P.M. (Two miles north of Hanna).  
Sec. 6, Lots 1 through 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$  (All).

The estimated total strippable reserves are 4.2 million tons. The coal quality is as follows: Btu—10,800 per pound; Sulfur—.65 percent and Ash—9.5 percent. The Hanna No. 5 bed averages 17 feet thick. Containing 734.86 Acres.

For lease offering W-58095, the coal resource to be evaluated consists of coal recoverable by surface mining methods from only beds #60 and #61 in Section 8 and beds #60, #61, #62, #63, #64 and #65 in Section 20, and any overlying beds, in the following described land located approximately thirteen miles north of Hanna, Wyoming:

T. 23 N., R. 83 W., 6th P.M.,  
Sec. 8, all.  
Sec. 20, all.

Containing 1,280.00 Acres.  
The estimated total strippable reserves are 4.1 million tons. The coal quality is as

follows: Btu—10,166 per pound; Sulfur—.57 percent and Ash—8.8 percent. The coal beds average from four to five feet thick.

The public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Information so marked will not be available to the public if it meets exemptions in the Freedom of Information Act. Comments should be sent to both the State Director Wyoming, Bureau of Land Management, P.O. Box 1828 Cheyenne, Wyoming 82001, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than January 12, 1980. William S. Gilmer,  
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-38194 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

[W-69594]

### Wyoming; Application

November 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to



construct a 4 inch pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming  
T. 12 N., R. 94 W.,  
Sec. 18, SE¼NE¼, NE¼SE¼.

The proposed pipeline will transport natural gas from the Martin Federal #1-18 Well located in the NE¼ of section 18 to a point of connection with an existing pipeline located in the SE¼ of section 18, all within T. 12 N., R. 94 W., Sweetwater County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming, 82301.

Harold G. Stinchcomb,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 79-38195 Filed 12-12-79; 8:45 am]  
BILLING CODE 4310-84-M

#### Office of the Secretary

#### Privacy Act of 1974; Systems of Records; Annual Publication

Federal agencies are required by the Privacy Act of 1974 to give annual notice of records they maintain. In 1977 a complete compilation of notices was published on April 11 (42 FR 18968), and last year a completely updated supplement was published on October 23, 1978 (43 FR 49480). This notice includes a complete publication of those notices published between October 24, 1978 and November 15, 1979.

This document fulfills the annual notice requirements of the Privacy Act of 1978. For further information contact Warren Dahlstrom, Privacy Act Officer, on (202) 343-6669.

William L. Kendig,  
Deputy Assistant Secretary.  
December 6, 1979.

New Record Systems (October 24, 1978 to November 15, 1979)

Personnel Correspondence Files—Interior, Office of the Secretary, OS/99 [Federal Register, Vol. 43 No. 206, Tuesday, October 24, 1978; Page 49579]

Integrated Records Management System—Interior, Bureau of Indian Affairs, BIA-25

[Federal Register, Vol. 44 No. 208, Thursday, October 25, 1979; Page 61464]

Revised Record Systems (October 24, 1978 to November 15, 1979)

Hunting and Fishing Survey Records—Interior, Fish and Wildlife Service, FWS-6 [Federal Register, Vol. 44 No. 32, Wednesday, February 14, 1979; Page 9633]  
Claims—Interior, Bureau of Reclamation, LBR-5 [Federal Register, Vol. 44 No. 86, Wednesday, May 2, 1979; Page 25703]

#### Transferred Records Systems

National Mine Health and Safety Academy Records—Interior MESA-11, has been transferred to the Department of Labor by Public Law 96-38 Supplemental Appropriation Act of 1979 dated July 25, 1979. The National Mine Health and Safety Academy will be under the management of the Mine Safety and Health Administration, Department of Labor.

#### SYSTEM NAME:

Personnel Correspondence Files—Interior, Office of the Secretary; OS/99.

#### SYSTEM LOCATION:

Office of the Secretary, Office of Congressional and Legislative Affairs, Division of Congressional Services, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have corresponded directly or indirectly through Members of Congress with the Office of Congressional and Legislative Affairs concerning personnel and employment matters within the Department.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence files in alphabetical order by individuals names which may contain applications, résumés, or other personal materials in support of their reason of inquiry.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 43 U.S.C. 1457; and Reorganization Plan 3 of 1950.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use is to maintain a temporary record of the personal interest of the subject of the correspondence. Usually the correspondence is advising the constituent of the status of his or her application for a position with the Department, or advising of the current availability of opportunities, or of the procedures the applicant must undergo in order to be eligible for Federal work within the Department. These records are maintained alphabetically by calendar year basis and are destroyed

after the yearly file has become 2 years old. The applications submitted may be provided at the subject's wishes to other personnel authorities within the Department for current consideration should there be possible opportunities or vacancies of possible interest to the applicant.

Disclosures outside the Department of the Interior may be made (1) to a Federal agency so that the agency may respond to an inquiry from the named individual, (2) to the U.S. Department of Justice when related to litigation of anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Records are stored in metal file cabinets in locked rooms.

##### RETRIEVABILITY:

Filing system maintained on yearly basis in alphabetical name order.

##### RETENTION AND DISPOSAL:

Filing system maintained on calendar year basis and the 2d yearly file is destroyed December 31 at the end of the 2d year.

##### SYSTEM MANAGER(S) AND ADDRESS:

Congressional Liaison Officer, Office of the Secretary, Office of Congressional and Legislative Affairs, 18th and C Streets NW., Washington, D.C. 20240.

##### NOTIFICATION PROCEDURE:

Same as above. See 43 CFR 2.60 for submission requirements.

##### RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63 for submission requirements.

##### CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71 for submission requirements.

##### RECORD SOURCE CATEGORIES:

Correspondence or documents signed within the Office of the Secretary, Office of Congressional and Legislative Affairs, or presented to the Office in person by constituents and this material became a record of the interview or visit, etc.

#### SYSTEM NAME:

Integrated Records Management System—Interior BIA-25.

#### SYSTEM LOCATION:

(1) All Area and Agency Offices Listed Below:

##### Agency, Location, and Contact

Billings Area Office Computer, Area Director.  
Billings Area Office, Billings, MT, Area Director.

Flathead Agency, Ronan, MT.  
Superintendent.

Flathead IRR Project, St. Ignatius, MT, Project Engineer.

Northern Cheyenne Agency, Lame Deer, MT.  
Superintendent.

Crow Agency, Crow Agency, MT.  
Superintendent.

Blackfeet Agency, Browning, MT.  
Superintendent.

Fort Belknap Agency, Harlem, MT.  
Superintendent.

Fort Peck Agency, Poplar, MT.  
Superintendent.

Rocky Boy Agency, Box Elder, MT.  
Superintendent.

Wind River Agency, Fort Washakie, WY.  
Superintendent.

##### Aberdeen Area Office

Ft. Berthold Agency, New Town, ND.  
Superintendent.

Turtle Mountain Agency, Rolla, ND (Belcourt), Superintendent.

Lower Brule Agency, Lower Brule, SD.  
Superintendent.

##### Portland Area Office

Yukima Agency, Toppenish, WA.  
Superintendent.

Northern Idaho Agency, Lapwai, ID.  
Superintendent.

Wapato IRR Project, Wapato, WA, Project Engineer.

Denver—Bureau of Mines—Computer, ADP Manager.

Aberdeen, Lower Brule Agency, Reliance, SD.  
Superintendent.

Albuquerque, Southern Pueblos Agency, Albuquerque, NM, Superintendent.

Anadarko, Anadarko Agency, Anadarko, OK, Superintendent.

Muskogee, Tahlequah Agency, Tahlequah, OK, Superintendent.

Phoenix, Pima Agency, Sacaton, AZ.  
Superintendent.

Window Rock, Eastern Navajo Agency, Crownpoint, NM, Superintendent.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian Tribal groups that are owners of real property held in trust by the Government, individuals or groups that are potential or actual lessees of that property, individuals who have been assigned interests of any in Indian Tribes, Pueblos or corporations, and individual Indians who have money accounts.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Land description, current ownership, dower and life estate interest, information on all types of leases or other land uses including grazing, farming, minerals mining, timber and business, etc. Information on individuals including name, address, aliases, sex, date of birth, tribal membership and blood quantum, etc. General ledgers showing deposits and withdrawals from Indian accounts.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are:

(a) To control individual Indians money accounts and disclose to them the status of those accounts. (b) Identification of individual Indians and Indian Tribal groups with interest in lands held in trust. (c) Control of leases on Indian trust lands and real property, and collection and distribution of lease income. (d) Bill individual owners or lessees for irrigation. (e) Determination of eligibility of individuals to participate in or enjoy benefits from an interest in a tribal group. (f) Lists of approved enrollees used to distribute funds or income, or as a base to gather census or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made. (1) To the Tribe, band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder. (2) To a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (4) To the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated

a violation or a potential violation of a statute, regulation, rule, order or license whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether federal, state, local or foreign, charged with the responsibility of enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

#### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Manual: letter files, computer readable media, input forms and computer printouts. Computer: mag tape and disk piles.

##### RETRIEVABILITY:

(a) Indexed by name, identification numbers, family numbers, lease numbers, tract numbers, etc. (b) Retrieved by manual search or computer inquiry.

##### SAFEGUARDS:

In accordance with 43 CFR 2.51.

##### RETENTION AND DISPOSAL:

Permanent records are retrieved. Closed or inactive records are transferred to GSA storage. Prior information on mag tape erased as updated information is added to the system.

##### SYSTEM MANAGER(S) AND ADDRESS:

Chief, Real Property Management, 316 N. 26th St., Billings, MT 59101.

##### NOTIFICATION PROCEDURE:

System Manager or, with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. A written and signed request stating that the request seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

##### RECORDS ACCESS PROCEDURES:

A request for access may be addressed the same as for Notification. The request must be in writing and be signed by the requester, and must meet the content requirements of 43 CFR 2.63.

##### CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

##### RECORD SOURCE CATEGORIES:

Enrollees or claimants. Birth, marriage and death certificates, and family and tribal histories. Owners and lessees. Titles, deeds probates, all types of land



and water rights and usages documents. Individual Indians, depositors in the accounts and claimants against the accounts.

**SYSTEM NAME:**

Hunting and fishing Survey Records—Interior, FWS-6

**SYSTEM LOCATION:**

Division of Program Plans, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Contains days of participation and expenditures of individuals participating in hunting, fishing and nonconsumptive wildlife activities.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Property and Administrative Services Act of 1949, as amended; the Fish and Wildlife Act of 1956 (16 U.S.C. 741a-7421); the Federal Aid in Wildlife and Fish Restoration Acts of 1937 and 1950, as amended, 16 U.S.C. 777-777k, 669-669i.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:**

The primary use of the records is the development of statistical analyses to assist State and Federal governments in managing wildlife resources. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**  
Magnetic tape

**RETRIEVABILITY:**

Indexed by identification number.

**SAFEGUARDS:**

Maintained in accordance with the provisions of 43 CFR 2.51.

**RETENTION AND DISPOSAL:**

For each survey that uses this system, the records will be maintained until summary analyses are completed, after

which the names and addresses will be destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Division of Program Plans, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

**NOTIFICATION PROCEDURE:**

Inquiries regarding the existence of records should be addressed to the System manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

**RECORD ACCESS PROCEDURE:**

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.83.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

**RECORD SOURCE CATEGORIES:**

Individual on whom the record is maintained.

Interior/LBR-5

**SYSTEM NAME:**

Claims—Interior, Reclamation—5.

**SYSTEM LOCATION:**

(1) Washington Office Manager Bureau of Reclamation, U.S. Department of the Interior, Washington, DC 20240. (2) Reclamation offices numbered 3(a through i), 4(a through i), 5(a through i), 6(a through i), 7(a through k), 8(a through h), and 9(a, c, e, f) in Appendix.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have filed Tort, Federal Employee, or Irrigation Claims, and claims under the Teton Dam Disaster Assistance Act, Public Law 94-400, 90 Stat. 1211.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Contains records concerning claims—including the claims and supporting information submitted by the claimant, information developed concerning the claim and a record of the disposition of the claim after processing of the claim is complete.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

(1) Federal Tort Claims Act, 28 U.S.C. 240-2680, (2) military personnel and civilian employees Claims Act, 31 U.S.C. 240-243, (3) Public Works for Water and

Power Development and Atomic Energy Commission Appropriations Act, Public Law 93-393, 88 Stat. 782, (4) [Annual Public Works Appropriation Act of 1976, Public Law 94-180, 89 Stat. 1035, (5) Act of July 12, 1976, 90 Stat. 889, and (6) Teton Dam Disaster Assistance Act, Public Law 94-400, 90 Stat. 1211.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:**

The primary uses of the records are (a) to analyze the facts and circumstances surrounding each accident, (b) for compilation of statistical data, (c) adjudicating tort, appropriation act, and employee claims. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (6) to Auditors from Office of the Inspector General, U.S. Department of Agriculture, Soil Conservation Service (SCS), Agricultural Stabilization and Conservation Service (ASCS) and Farmers Home Administration (FHA), Department of Housing and Urban Development, Army Corps of Engineers, and Federal Disaster Assistance Administration to ascertain whether benefits to individuals were duplicated by the several agencies involved in disaster programs; (7) to Department of Treasury (IRS) and State Department of Revenue and Taxation relative to furnishing information as necessary for compensation for loss of salary or income; (8) to Small Business Administration, Farmers Home Administration and Department of Housing and Urban Development when related to loans secured through these agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Complete file maintained in manual form in file folders.

**RETRIEVABILITY:**

By individual's name.

**SAFEGUARDS:**

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

**RETENTION AND DISPOSAL:**

In accordance with approved Retention and Disposal Schedules.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Paperwork and Records Management Branch, U.S. Department of the Interior, Bureau of Reclamation, Washington, DC 20240.

**NOTIFICATION PROCEDURE:**

An individual may inquire whether or not the system contains a record pertaining to him by addressing a written request to the head of the appropriate office listed under Location (above). See 43 CFR 2.60.

**RECORD ACCESS PROCEDURES:**

Same as Notification above. See 43 CFR 2.60.

**CONTESTING RECORD PROCEDURES:**

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 27.1.

**RECORD SOURCE CATEGORIES:**

Claimant. Investigations conducted by Reclamation offices and contractors, offices of the Department of the Interior State or local government.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

[FR Doc. 79-38203 Filed 12-12-79; 8:45 am]

BILLING CODE 4310-10-M

**INTERNATIONAL TRADE COMMISSION**

[225-1]

**Competitive Status of Certain Benzenoid Chemical Imports From Switzerland and the European Community**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice is hereby given that the United States International Trade Commission has modified its preliminary determinations with respect to lists of benzenoid chemicals and products notified to the United States by Switzerland and the European Community for the purpose of reviewing the U.S. customs treatment accorded each chemical or product during 1976, 1977, and 1978, pursuant to investigation No. 225-1, initiated September 18, 1979 (44 FR 55442, September 26, 1979). The Annex to this notice is a supplementary list of chemicals and products which should be added to the lists which appeared in 44 FR 66082, November 16, 1979, and 44 FR 67736, November 27, 1979.

**WRITTEN SUBMISSIONS:** Interested parties are invited to comment on the Commission's preliminary determination of chemicals and products appearing on the list. Written comments on this supplementary list should be submitted by December 17, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Cappuccilli, Office of Industries ((202) 523-0490) or Mr. Holm Kappler, Office of Nomenclature, Valuation, and Related Activities ((202) 523-0362), United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: December 10, 1979.

By Order of the Commission.

Kenneth R. Mason,  
Secretary.

**Annex**

Chemicals or products which were not valued on the basis of American selling price and for which a more appropriate and representative rate of duty exists in section 223 of the Trade Agreements Act of 1979.

| TSUS item number and column 1 rate of duty in section 223                                                                                   |                                    |               |       |                       |       |
|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------|-------|-----------------------|-------|
| Chemical name/product                                                                                                                       | Representative period (month/year) | Existing rate |       | More appropriate rate |       |
|                                                                                                                                             |                                    | TSUS item     | Rate  | TSUS item             | Rate  |
| Acid Black 211                                                                                                                              | 5/77-5/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Blue 82                                                                                                                                | 4/76-4/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Blue 83                                                                                                                                | 8/76-8/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Blue 280                                                                                                                               | 7/77-7/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Blue 312                                                                                                                               | 7/77-7/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Brown 12                                                                                                                               | 9/76-9/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Green 9                                                                                                                                | 8/77-8/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Green 112                                                                                                                              | 7/77-7/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Orange 92                                                                                                                              | 1/76-1/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Orange 135                                                                                                                             | 3/77-3/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 52                                                                                                                                 | 10/77-10/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 213                                                                                                                                | 10/76-10/77                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 347                                                                                                                                | 1/76-1/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 380                                                                                                                                | 1/76-1/77                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 394                                                                                                                                | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Red 396                                                                                                                                | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Yellow 35                                                                                                                              | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Yellow 72                                                                                                                              | 1/77-1/78                          | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Yellow 98                                                                                                                              | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Yellow 195                                                                                                                             | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Acid Yellow 227                                                                                                                             | 11/77-11/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Basic Blue 120                                                                                                                              | 7/77-7/78                          | 409.74        | 30.9% | 409.70                | 22.6% |
| Basic Yellow 77                                                                                                                             | 10/77-10/78                        | 409.74        | 30.9% | 409.70                | 22.6% |
| Disperse Blue 134                                                                                                                           | 12/77-12/78                        | 409.82        | 28.6% | 409.78                | 23.8% |
| Disperse Blue 26.1                                                                                                                          | 12/77-12/78                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Orange 32                                                                                                                          | 5/77-5/78                          | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Orange 42                                                                                                                          | 7/77-7/78                          | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Red 185                                                                                                                            | 12/76-12/77                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Red 167                                                                                                                            | 9/77-9/78                          | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Red 279                                                                                                                            | 11/77-11/78                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Yellow 44                                                                                                                          | 8/77-8/78                          | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Yellow 58                                                                                                                          | 10/77-10/78                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Disperse Yellow 204                                                                                                                         | 12/77-12/78                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Dyes containing, by weight, 24.2% Acid Yellow 135, 21.7% Acid Orange 51, and 54.1% Acid Blue 113                                            | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Dyes containing, by weight, 10.1% Acid Yellow 64, 11.6% Acid Orange 51, 26.3% Acid Blue 113, 50.5% Acid Black 172, and 1.5% Acid Green 25.1 | 12/77-12/78                        | 409.66        | 30.7% | 409.62                | 23.0% |
| Dyes containing, by weight, 12.7% Disperse Yellow 1, 32.3% Disperse Orange 1, 19.8% Disperse Blue 35, and 35.2% Disperse Blue 31            | 12/77-12/78                        | 409.90        | 27.8% | 409.86                | 22.5% |
| Dyes containing, by volume, 39.0% Disperse Yellow 39, 28.0% Disperse Orange 25, and 33.0% Disperse Violet 27                                | 12/77-12/78                        | 409.90        | 27.8% | 409.86                | 22.5% |



## Annex—Continued

Chemicals or products which were not valued on the basis of American selling price and for which a more appropriate and representative rate of duty exists in section 223 of the Trade Agreements Act of 1979.

| Chemical name/product                                                                                                   | Representative period (month/year) | TSUS item number and column 1 rate of duty in section 223 |                |                       |                |
|-------------------------------------------------------------------------------------------------------------------------|------------------------------------|-----------------------------------------------------------|----------------|-----------------------|----------------|
|                                                                                                                         |                                    | Existing rate                                             |                | More appropriate rate |                |
|                                                                                                                         |                                    | TSUS item                                                 | Rate           | TSUS item             | Rate           |
| Dyes containing, by weight, 89.4% Disperse Violet 27 and 10.6% Disperse Green 9 <sup>1</sup>                            | 12/77-12/78                        | 409.90                                                    | 27.8%          | 409.86                | 22.5%          |
| Dyes containing, by weight, 67.7% Disperse Blue 35, 14.2% Disperse Yellow 1, and 18.1% Disperse Orange 1 <sup>1</sup>   | 12/77-12/78                        | 409.90                                                    | 27.8%          | 409.86                | 22.5%          |
| Dyes containing, by volume, 74.3% Disperse Blue 285, 18.0% Disperse Brown 19, and 7.7% Disperse Yellow 126 <sup>1</sup> | 12/77-12/78                        | 409.90                                                    | 27.8%          | 409.86                | 22.5%          |
| Dyes containing, by weight, 71.0% Reactive Yellow 85 and 29.0% Reactive Orange 13 <sup>1</sup>                          | 12/77-12/78                        | 410.88                                                    | 27.8%          | 410.04                | 20.5%          |
| Dyes containing, by weight, 50.0% Reactive Red 120 and 50.0% Reactive Yellow 84 <sup>1</sup>                            | 12/77-12/78                        | 410.88                                                    | 27.8%          | 410.04                | 20.5%          |
| Dyes containing, by weight, 50.0% Reactive Blue 74 and 50.0% Reactive Blue 63 <sup>1</sup>                              | 12/77-12/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Dyes containing, by weight, 66.7% Reactive Orange 12 and 33.3% Reactive Red 32 <sup>1</sup>                             | 12/77-12/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Dyes containing, by weight, 57.9% Reactive Blue 13 and 42.1% Reactive Black 41 <sup>1</sup>                             | 12/77-12/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Pigment Yellow 113                                                                                                      | 12/77-12/78                        | 410.32                                                    | 31.3%          | 410.28                | 20.4%          |
| Pigment Yellow 153                                                                                                      | 11/77-11/78                        | 410.32                                                    | 31.3%          | 410.28                | 20.4%          |
| Reactive Blue 6                                                                                                         | 7/76-7/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Blue 38                                                                                                        | 3/76-3/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Blue 167                                                                                                       | 3/77-3/78                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Blue 170                                                                                                       | 3/77-3/78                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Orange 3                                                                                                       | 8/76-8/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Orange 89                                                                                                      | 12/77-12/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Red 10                                                                                                         | 4/74-4/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Red 39                                                                                                         | 8/76-8/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Red 44                                                                                                         | 10/76-10/77                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Red 49                                                                                                         | 8/76-8/77                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Red 90                                                                                                         | 5/77-5/78                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Yellow 42                                                                                                      | 11/77-11/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Yellow 125                                                                                                     | 6/77-6/78                          | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Reactive Yellow 135                                                                                                     | 12/77-12/78                        | 410.08                                                    | 27.8%          | 410.04                | 20.5%          |
| Solvent Blue 56                                                                                                         | 8/76-8/77                          | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Green 27                                                                                                        | 12/77-12/78                        | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Red 89                                                                                                          | 8/76-8/77                          | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Red 100                                                                                                         | 1/76-1/77                          | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Red 129                                                                                                         | 8/77-8/78                          | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Red 162                                                                                                         | 6/77-6/78                          | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Solvent Violet 24                                                                                                       | 12/77-12/78                        | 410.00                                                    | 28.0%          | 409.96                | 19.9%          |
| Vat Blue 67                                                                                                             | 2/76-2/77                          | 410.16                                                    | 32.9%          | 410.12                | 20.9%          |
| Vat Red 32                                                                                                              | 12/77-12/78                        | 410.16                                                    | 32.9%          | 410.12                | 20.9%          |
| 3-Amino-4-chloro-alpha-phenyl-3-pyridazinone                                                                            | 7/77-7/78                          | 408.22                                                    | 17c/lb + 15.1% | 408.21                | 17c/lb + 12.6% |
| 4-Amino-2-(N,N-dimethylamino) toluene hydrochloride                                                                     | 8/77-8/78                          | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |
| 1-Amino-8-hydroxynaphthalene disulfonic acid                                                                            | 3/6, 1/77-1/78                     | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |
| 2,4-Bis (n-octylthio)-6-(4-hydroxy-3,5-di-tert-butylamino) 1,3,5-triazine                                               | 9/76-9/77                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2-sec-Butyl-4-tert-butyl-6-(benzotriazol-2-yl) phenol                                                                   | 9/76-9/77                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2-tert-Butyl-4-(2,4-dichloro-5-isopropoxyphenyl) delta-1,3,4-oxadiazolin-5-one                                          | 8/76-8/77                          | 408.22                                                    | 17c/lb + 15.1% | 408.21                | 17c/lb + 12.6% |
| 2-tert-Butyl-4-methyl-6-(5-chlorobenzotriazol-2-yl) phenol                                                              | 11/77-11/78                        | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 4-(4-Chloro-2-methylphenoxy) butyric acid                                                                               | 6/76-7/77                          | 408.22                                                    | 17c/lb + 15.1% | 408.21                | 17c/lb + 12.6% |

## Annex—Continued

Chemicals or products which were not valued on the basis of American selling price and for which a more appropriate and representative rate of duty exists in section 223 of the Trade Agreements Act of 1979.

| Chemical name/product                                              | Representative period (month/year) | TSUS item number and column 1 rate of duty in section 223 |                |                       |                |
|--------------------------------------------------------------------|------------------------------------|-----------------------------------------------------------|----------------|-----------------------|----------------|
|                                                                    |                                    | Existing rate                                             |                | More appropriate rate |                |
|                                                                    |                                    | TSUS item                                                 | Rate           | TSUS item             | Rate           |
| Chloropromazine                                                    | 12/78-12/77                        | 412.34                                                    | 17c/lb + 41.5% | 412.30                | 17c/lb + 12.6% |
| p-Chloropyrazolone                                                 | 7/77-7/78                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 6-Chloro-2-toluidine-4-sulfonic acid                               | 9/77-9/78                          | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |
| p-Cyanophenyl acetate                                              | 11/77-11/78                        | 405.60                                                    | 17c/lb + 20.5% | 405.56                | 17c/lb + 12.7% |
| 4,4-Diaminobenzonitrile                                            | 2/77-2/78                          | 405.32                                                    | 17c/lb + 18.1% | 405.28                | 17c/lb + 12.4% |
| Dibenzcarbinol                                                     | 8/76-8/77                          | 405.08                                                    | 17c/lb + 15.6% | 404.92                | 17c/lb + 12.2% |
| 2,4-Di-tert-butyl-6-(5-benzotriazol-2-yl) phenol                   | 11/77-11/78                        | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2,4-Di-tert-butyl-6-(5-chlorobenzotriazol-2-yl) phenol             | 8/77-8/78                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2,5-Dichloroaniline                                                | 8/77-8/78                          | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |
| Di(2,2,6,6-tetramethyl-4-hydroxyppendine) sebacate                 | 11/77-11/78                        | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| Ethyl-(2-dimethylaminoethyl) aniline                               | 12/77-12/76                        | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |
| N-Ethyl-N-(2-methoxycarbonyl) ethyl) aniline                       | 12/77-12/78                        | 405.08                                                    | 17c/lb + 15.6% | 404.92                | 17c/lb + 12.2% |
| Ethylmercaptopyridine                                              | 12/76-12/77                        | 411.56                                                    | 17c/lb + 22.8% | 411.52                | 17c/lb + 12.5% |
| 1,6-Hexane diol-bis (3,5-di-butyl-4-hydroxyphenyl) propanate       | 12/77-12/78                        | 404.46                                                    | 17c/lb + 17.9% | 404.40                | 17c/lb + 12.5% |
| N,N'-Hexamethylene bis (3,5-di-tert-butyl-4-hydroxyhydrocinnamide) | 11/77-11/78                        | 405.32                                                    | 17c/lb + 18.1% | 405.28                | 17c/lb + 12.4% |
| 2-Methyl-5-ethylpyridine                                           | 7/77-8/78                          | 406.40                                                    | 17c/lb + 16.2% | 404.36                | 17c/lb + 12.4% |
| 2,4-methylcarboxypyrazolic acid                                    | 8/76-8/77                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2-Methylmercaptobenzimidazole                                      | 12/77-12/78                        | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| 2,4-Methylpyrazolic acid                                           | 1/76-1/77                          | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| Methyl phenylpyrazolone                                            | 10/77-10/78                        | 406.40                                                    | 17c/lb + 16.2% | 406.36                | 17c/lb + 12.4% |
| Temoxifen citrate                                                  | 12/77-12/78                        | 412.48                                                    | 17c/lb + 21.7% | 412.42                | 17c/lb + 13.6% |
| 2,5-Xylylene                                                       | 11/77-11/78                        | 404.88                                                    | 17c/lb + 18.8% | 404.84                | 17c/lb + 12.4% |

<sup>1</sup> The named percentages are subject to a tolerance of plus or minus 2 percentage points.

[FR Doc. 79-38151 Filed 12-12-79; 8:45 am]

BILLING CODE 7020-02-M

# NATIONAL ENDOWMENT FOR THE HUMANITIES Humanities Panel Advisory Committee; Meeting

December 7, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506, in the room adjacent to 905, from 9 a.m. to 5:30 p.m. on January 7, 8, 14, 15, 17, and 18, 1980.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

Because the proposed meeting will consider financial information and disclose information of a personal

nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, DC 20506, or call area code 202-724-0367. Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 79-38204 Filed 12-12-79; 8:45 am]

BILLING CODE 7536-01-M

## Humanities Panel Advisory Committee; Meetings

December 7, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: January 7, 1980. Time: 8:30 a.m. to 5:30 p.m. Room: 1023. Purpose: To review state humanities committee applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after March 1, 1980.
2. Date: January 7, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Fellowships, Category C applications in History submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
3. Date: January 8 and 9, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023-1025. Purpose: To review Pilot applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.
4. Date: January 10 and 11, 1980. Time: 8:30 a.m. to 5:30 p.m. Room: 807. Purpose: To review state humanities committee applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after March 1, 1980.
5. Date: January 9, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1130. Purpose: To review NEH Fellowships, Category C applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
6. Date: January 10 and 11, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1023-1025. Purpose: To review Pilot applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.
7. Date: January 18, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 1st Floor Conference Room. Purpose: To review NEH Fellowships, Category C applications in Art submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.
8. Date: January 23, 1980. Time: 9:00 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH Summer Stipend applications in English Literature: Restoration to the Present submitted to the National Endowment for the Humanities for projects beginning after June 1, 1980.

Because the proposed meetings will consider financial information and



disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, date January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,  
Advisory Committee Management Officer.

[FR Doc. 79-38205 Filed 12-12-79; 8:45 am]  
BILLING CODE 7536-01-M

#### NATIONAL SCIENCE FOUNDATION

##### National Science Foundation College Faculty Conferences

December 5, 1979.

The Conference Report on the NSF Authorization Act for the fiscal year beginning October 1, 1979 empowers the Foundation to establish a pilot series of college faculty conferences at a cost of approximately \$400,000. Because of the limited funding level and the tightness of a schedule that calls for the conferences to be held in the summer of 1980, it has been decided to forgo a general solicitation of proposals for the FY 1980 competition. Instead, the Foundation has requested professional scientific societies in the general fields in which it has been active in providing support to recommend areas in their respective fields appropriate for conference treatment and to suggest the names of individuals who might prepare proposals for such conferences. Proposals submitted by the January 14, 1980 deadline by any otherwise eligible organization will be considered by the Foundation without prejudice. Any organization, public or private, having access to the requisite resources (facilities and scientific expertise) necessary to achieve the conference objectives is an eligible organization.

Given the funds available, it is anticipated that the Foundation will be able to support eight conferences, or one in each of the following areas: Social Sciences; Behavioral Sciences; Life Sciences; Earth Sciences; Chemical Sciences; Physical Sciences; Engineering

Sciences; and the Mathematical and Computer Sciences.

Program guidelines and additional information concerning the conferences may be obtained by contacting Dr. Michael M. Frodyma at (202) 282-7191.

Michael M. Frodyma,

Director, Faculty Oriented Programs, Division of Scientific Personnel Improvement.

[FR Doc. 79-38140 Filed 12-12-79; 8:45 am]

BILLING CODE 7555-01-M

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 40-2061—Source Material License No. STA-583]

##### Concerning Approval of a Plan to Decommissioning of Rare Earths Facility, West Chicago, Ill., by Kerr-McGee Chemical Corp.; Availability of Stabilization Plan and Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

**SUMMARY:** 1. Description of the Proposed Action—Kerr-McGee proposes to decommission the Rare Earths Facility located in West Chicago, Illinois. The proposed plan involves demolition of the existing buildings, removal of building rubble and contaminated soil to an adjacent disposal site, and stabilization of building rubble, contaminated soil, ore tailings and ore residues on the disposal site. A source material license, No. STA-583, is currently in effect for the Rare Earths Facility. An application for renewal of STA-583 was submitted by Kerr-McGee on July 20, 1979.

2. Title 10 of the Code of Federal Regulations, Part 51, provides for the preparation of a detailed environmental statement pursuant to the National Environmental Policy Act of 1969 (NEPA) prior to amending a source material license if the amending of that license may result in actions which significantly affect the quality of the human environment. Amending source material license No. STA-583 to authorize stabilization activities will result in such actions. The U.S. Nuclear Regulatory Commission is, therefore, preparing an environmental impact statement to support future licensing action.

3. The principal alternatives currently planned to be considered include alternative sites for disposal of building rubble, ore tailing and residues,

alternative stabilization designs, and the alternative of no licensing action.

4. The draft environmental impact statement is expected to be available to the public for review and comment in May 1980.

5. The licensee's stabilization plan and any subsequent documents will be available for inspection and copying at the Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Copies of the stabilization plan are also being provided to the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 South Second Street, Room 315, Springfield, Illinois 62706, and the Northeastern Illinois Planning Commission, 400 W. Madison Street, Chicago, Illinois 60606.

Questions about the proposed action, or draft environmental impact statement, and any written comments should be directed to W. A. Nixon, U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, 396-SS, Washington, D.C. 20555, phone (301) 427-4510.

Dated at Silver Spring, Maryland, this 6th day of December, 1979.

For the Nuclear Regulatory Commission.

W. T. Crow,

Section Leader, Uranium Process Licensing Section, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 79-38190 Filed 12-12-79; 8:45 am]

BILLING CODE 7590-01-M

#### NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-50]

##### Safety Recommendation Letter and Responses; Availability

###### Aviation Safety Recommendations

A-79-89 and 90.—Engine malfunctions and failures related to fuel line vapor problems in Cessna 200-series aircraft have been under investigation by the National Transportation Safety Board. In a recommendation letter issued December 4 to the Federal Aviation Administration, the Safety Board notes that FAA's Engineering and Manufacturing District Office, which is responsible for oversight of Cessna Aircraft Company, and Cessna Aircraft Company personnel have been fully aware of the Board's concern about this problem for some time.

The Safety Board also notes that Cessna recently issued service letters containing checklists and procedures on this subject to operators of Cessna 200-series aircraft. Additionally, FAA issued an Airworthiness Directive, No. 79-15-01, effective July 26, 1979, making the

provisions of a portion of Cessna's service letters mandatory. Nevertheless, the Board finds, no action has been taken by Cessna or the FAA Central Region to institute hardware changes to correct this problem. The Board is concerned about the lack of timely and adequate corrective action to eliminate fuel system problems that have been identified and believes that FAA should take immediate action to eliminate the potentially unsafe condition on these aircraft.

Board investigation of these Cessna 200-series aircraft engine malfunctions revealed that they frequently are caused by fuel vapor buildup in the aircraft and engine fuel system. Vapor generation in fuel systems is normal, but if it is not properly purged, or if vapor generation becomes excessive, fuel vapor will build up, restrict fuel flow, and may cause intermittent engine operation or complete loss of power. In some cases, the engine-driven fuel pump may cavitate, with an immediate total power loss.

The Safety Board is aware that there is a difference of opinion between the FAA and Cessna regarding compliance of the Cessna 200-series aircraft with Civil Air Regulation 3.446 and Federal Aviation Regulation 23.975. Nevertheless, the Safety Board believes that the Cessna 200-series aircraft fuel systems should be modified to prevent the type of vapor problems evidenced. The vapor return line from the engine-driven fuel pump should be routed in a manner so as to provide positive vapor venting into the fuel tank—a typical practice in other fuel-injected general aviation aircraft, including twin-engine Cessna aircraft. Accordingly, the Safety Board recommends that FAA:

Require the redesign of the Cessna 200-series aircraft fuel system to incorporate a separate means to route fuel vapor from the pump or reservoir to the fuel tanks, and require the retrofit of the new system on existing Cessna 200-series aircraft. (A-79-89)

As an interim measure, issue an Airworthiness Directive to require the inspection of: (1) the forward fuel supply line for proper bend radius and tube diameter in the bend; and (2) the fuel lines inside the engine compartment for proper separation from exhaust system components or other heat sources of all Cessna 200-series airplanes, and the correction of all deficiencies found in those installations. (A-79-90)

Both of the above recommendations have been designated "Class II, Priority Action."

#### Responses to Safety Recommendations Aviation

A-79-72.—The Federal Aviation Administration on November 30 responded to a recommendation issued September 7 following investigation of the November 9, 1978, crash of a Beechcraft B19 at Gurney, Ill. The recommendation asked FAA to amend 14 CFR Part 23 to require that fuel selector valves incorporate devices that prevent movement to "off" positions without separate lever-release action by the pilot. (See 44 FR 53319, September 13, 1979.)

FAA concurs with the Board's recommendation and will include a proposal for fuel selector valves in the Engine Review notice of proposed rulemaking. FAA anticipates that the proposal will be published sometime in the first quarter of 1980. Also, FAA will propose that the design of the selector valve must preclude travel through an "off" position when changing tanks.

#### Marine

M-78-34.—In a response to this recommendation, forwarded December 14, 1978, the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, indicated that a validation was being conducted of wave forecasts for the Great Lakes (43 FR 60677, December 28, 1978). On November 30 NOAA advised the Safety Board that the validation study has been completed and has been published in the October 1979 Monthly Weather Review, a journal of the American Meteorological Society. A reprint of the paper is attached to NOAA's letter. Recommendation M-78-34 was developed following investigation of the sinking of the SS EDMUND FITZGERALD in Lake Superior on November 10, 1975.

#### Pipeline

P-72-53.—The American Gas Association on November 9 responded to the Safety Board's request of August 4, 1978, for reconsideration of this recommendation, developed as a result of investigation of the Washington Gas Light Company natural gas explosion, Annandale, Va., March 24, 1972. The recommendation asked AGA to study the flow of gas through various construction fill media and recommend methods and types of fill to be used in the installation of underground utility lines.

The Safety Board's August 4 letter took note of AGA's earlier response which related the findings of a task group recommending that no further research be initiated toward the end of

controlling underground migration of gas. This finding came from a survey of a number of member companies, many of whom were concerned that the limiting of gas migration might cause large volumes of gas to become trapped underground and that leak detection would be hampered.

The Board noted that recommendation P-72-53 was developed as a result of the National Bureau of Standards tests at the accident site in Annandale shortly after the accident. Those tests showed that the leaking gas was actually led to adjacent buildings through the loosely backfilled trenches for utility connections. The gas then passed through the basement wall material, and there was accumulation of a large volume of gas in a confined space. The Board stressed the fact that large buildups of gas in confined spaces are dangerous, whether underground or in buildings, and through its recommendation the Board was optimistic that AGA would be able to develop, through material selection or method regulation, a means to control the lateral underground migration while allowing for a relative ease of vertical migration to create a situation where the gas could be detected near the pipeline and dissipation into the atmosphere would occur. With these ideas in mind, the Board asked AGA's Distribution Construction and Maintenance Committee of the Operating Section to reconsider this recommendation as a service to gas pipeline operation safety.

In reply to the Safety Board's request, AGA on November 9 forwarded a copy of the committee's report. The report indicates that the committee believes that gas migration cannot be properly controlled by backfill type. More important control items are the installation and maintenance of the facility along with cathodic protection systems and leak survey monitoring. Prompt emergency action is also important. Committee members were asked to fill out a questionnaire; 19 responses were listed. The companies represented by the 19 responders now operate 11,659,000 existing services. These companies will install about 148,000 new services and replace about 130,000 existing services annually. Any change in current practices would affect about 2 percent of the total services annually. Of the responders, 32 percent would support research into backfill only with reservations; 68 percent would not support the research at all.

The committee report also indicates that current construction and maintenance practices should be recognized as efforts beyond code



requirements to minimize gas migration. Examples are: (1) Complete sealing of pipe entry into building, (2) above-ground building entry of service or fuel lines, and (3) more than minimum required leak survey frequency.

P-76-9.—On November 30 the Research and Special Programs Administration, U.S. Department of Transportation, responded to the Safety Board's October 31, 1979, request for an update of the Materials Transportation Bureau's activities relative to recommendation P-76-9 issued April 19, 1976, as a result of Board investigation and analysis of the massive, low-order gas explosion which demolished one wall of a 25-story building in New York City on April 22, 1974. The recommendation asked DOT to determine the availability, the practicability, and the state-of-the-art in manufacture of excess flow valves for use on low-pressure gas distribution systems, and, based upon the results of these findings, to amend 49 CFR Part 192 to incorporate the use of these valves in commercial buildings.

The Board's October 31 letter notes that MTB responded to P-76-9 on July 30, 1976, by stating:

The recent contract study completed for OPSO on "Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failures Due to Overpressure" included a review of the state-of-the-art for rapid shutdown of failed distribution systems. Excess flow valves were considered in that review. Our preliminary evaluation of the report indicates that excess flow valves may be a practical safety device for certain situations. Upon completion of our evaluation, which is expected by January 1977, we will know whether or not a notice of proposed rulemaking should be issued on the subject of excess flow valves or other means of shutting down a low pressure distribution system. At that time, we will advise you of our plans for regulatory action.

The Board accepted the response and held P-76-9 in an open status pending the complete evaluation of the rapid shutdown study. On October 30, 1978, the MTB informed the Board that review of the study had been completed and made the following statement regarding excess flow valves:

... we have determined that the study results are not sufficiently conclusive to support proposed regulations concerning use of excess flow valves (or devices) on new or repaired gas distribution services. The Study indicated that experience with excess flow devices show that they could improve safety by reducing accident effects in service line ruptures. However, the study indicated potential problems with the devices which needed further study, i.e., "possible fouling of those devices over long periods of time due to accumulation of foreign matter and the potential for false closure." The study report

recommended "further research and development . . . to minimize the false closure problem."

On December 29, 1978, the Safety Board made the following statement to MTB:

Even though the report was not conclusive as to the use of excess flow valves, the report did list a recommendation for development of a regulation for the installation of excess flow valves in certain situations. Since this study was completed four years ago, a large number of excess flow valves have been used by the industry on a voluntary basis. Manufacturers have conducted extensive testing and research to improve the operational sensitivity and to perfect the application of these valves.

We believe that the industry survey portion of your "Rapid Shutdown" study should be continued and enhanced so that data on the recent experience gained by manufacturers of these devices could be assembled and analyzed. This data would provide information sufficient to follow through with the recommended regulatory action.

The Safety Board's October 31, letter expressed interest in what further action has been taken by RSPA on this recommendation. Was further research or development planned or carried out? Was the industry surveyed for further information on current design, manufacture, and use of excess flow valves?

In answer to the Safety Board's question about further research or development, RSPA's November 30 letter indicates that MTB has reviewed the contract study, "Rapid Shutdown of Failed Pipeline Systems and Limiting of Pressure to Prevent Pipeline Failure Due to Overpressure," also, the contract report, "Study on Current Practices, Technologies, Problems, and Recommendations Relating to the Overall Safety of Gas Distribution Systems," was reviewed. That study, completed by AMF Inc. for MTB in 1976, also considered excess flow valves and concluded, as did the "Rapid Shutdown" study, that while the excess flow valves are a potentially beneficial safety device for the gas distribution industry, they do still have disadvantages. RSPA lists these problems noted by the gas industry concerning the excess flow devices in the AMF Inc. research:

- False closures and sticking in the closed position when a new service is turned on; repairs in these cases can involve excavation of the street to replace or remove the device.

- The proper flow setting must be selected so that seasonal flow increases or addition of appliances to the service do not trip the valve. Thus, there is a tendency to select the equipment for larger flows to preclude false closures. In these cases, small leaks or partial breaking of service lines may not trip the valve.

- There is a lack of information concerning the ability of equipment to sit quiescent for many years and still be operable under the proper conditions. The effects of aging, contamination, and other factors must be checked by trial use. Aging may cause the device not to work or could cause the device to be more susceptible to pressure fluctuations or street vibrations while contamination may stop a valve from seating properly or be incapable of being reset.

With regard to the industry survey to obtain further information on current design, manufacture, and use of excess flow valves, RSPA plans to hold a conference with some of the major manufacturers in January 1980 to solicit their views regarding the problems cited in the contract reports. Particular attention will be devoted to those manufacturers identified in the technical studies including Continental Industries, Inc. (Autovalve); UMAC (Donkin Flow Limiter); Scientific Controls, Inc. (Marotta Flow-Fuses); Mueller Company (Gas Phuse); Follet Valves, Inc. (Follet Safety Valve); and industry technical groups. RSPA says it will seek information about how the problems discussed above may be overcome as well as recent innovations and improvements in the design and operation of the excess flow valves which would enhance their reliability and serviceability in gas distribution performance.

#### Railroad

R-79-14 through 28.—Letter of October 121 from the Federal Railroad Administration is in response to recommendations issued last March 20 in connection with the Safety Board's report No. NTSB-SEE-79-2, "Safety Effectiveness Evaluation—Review of the Federal Railroad Administration's Hazardous Materials Program and the Applicable Track Safety Standards." (See 44 FR 18749, March 29, 1979.)

Recommendation R-79-14 urged FRA to select and install a railroad safety expert as Associate Administrator for Safety, assuring that he has the authority commensurate with his responsibility for the railroad safety program. FRA reports that on February 26, 1979, Joseph W. Walsh became FRA's Associate Administrator for Safety, bringing with him 33 years of railroad and railroad union experience. FRA notes that Administrator Sullivan is "confident that Mr. Walsh is the competent professional needed for this key position and as such has delegated to Mr. Walsh authority commensurate with his responsibility."

In response to R-79-15, which recommended that FRA change the organization so that the lines of

authority are compatible with the functional requirements of the various organizational elements of the Office of Safety, FRA notes that the Safety Board stated that the entire field inspection force, which is responsible for the everyday compliance activities, reports through Regional Directors of Railroad Safety to Regional Administrators, who in turn, report directly to the Administrator. Further, the Safety Board pointed out that this organizational structure is a major deterrent to successful safety programs, citing the lack of a direct line of authority and the indirect lines of communications as major deterrents to success. FRA says it realized that this problem existed and, 3 months prior to issuance of the Safety Board's report, redrafted the organizational structure. Regional Administrator positions are being abolished and the Regional Directors of Railroad Safety are now reporting directly to the Associate Administrator for Safety.

Recommendation R-79-16 asked FRA to develop a data base that will allow the definition and rating of railroad safety problems, particularly those problems related to the derailment of hazardous materials. FRA notes that the Safety Board warned in its report that the Transportation System Center (TSC) work is jeopardized by the inadequacy of the FRA and Materials Transportation Bureau data which are being used. To alleviate this problem, the recommendation of the DOT Hazardous Materials Task Force, "that a centralized hazardous materials information system be established within the Department to collect and analyze hazardous materials program information," was adopted. The Research and Special Programs Administration, with funding from the modal administrations, is used in the Department's planning, regulatory and compliance efforts. FRA reports that TSC has already begun interviewing and surveying the various users.

Recommendation R-79-17 asked FRA to develop and document a track safety program based on risk as indicated by a comprehensive safety analysis which will include: Desired level of safety (risk) to be achieved; program goals and objectives based on that level; and criteria by which the success of the program will be measured. In response, FRA states that its Track Safety Program is based on the premise that every reasonable effort should be made to prevent the death or injury to railroad employees and the general public. The recent General Inquiry into the revision of the track safety standards revealed a

consensus among participants, including industry representatives and the Safety Board, that all track should be "maintained and made safe for the passage of all types of trains." (See Statement of Elmer Garner, NTSB, Docket No. RSSI-78-5, Transcript pg. 11.) Neither the Safety Board nor the industry, FRA states, would differentiate between track in densely populated areas and track in undeveloped areas or between track used to transport hazardous materials and track used exclusively for the transportation of coal or grain. FRA has recognized that immediate compliance objectives must be selected with more care if loss of life and property is to be minimized.

Further in connection with R-79-17, FRA states that it is impractical to insist that "program goals and objectives be based on that (near perfect) level" of safety. Rather, program objectives must be based on risks identified to be most critical in relation to the possibility of derailment and the potential consequences of derailment. FRA further states that once identified, compliance objectives are achieved by programs of inspection, the assessment of civil penalties and/or the issuance of emergency orders.

In FY 1978, FRA received funding for a comprehensive cost-benefit evaluation of the railroad safety program including track. In December 1977, TSC began working on the Hazard Analysis and Priority Determination System. This system will improve FRA's ability to determine and measure the factors believed to cause accidents providing the ability to rank the severity of safety problems. Alternative safety countermeasures will be analyzed. Countermeasures will be implemented, based largely on cost/benefit analysis, FRA stated. This analysis will enable the Office of Safety to develop a System Safety Plan by the end of 1980.

With respect to R-79-18, which called on FRA to insure that selective upgrading of those sections of track with the worst derailment records to a condition which will not cause derailments, FRA reports that its field personnel receive accident data in order to determine those sections of track with the worst derailment records—an important consideration when establishing inspection priorities. Through FRA's enforcement program, remedial action is taken by the carriers to bring the track into compliance.

Recommendation R-79-19 urged FRA to immediately revise the track safety standards to eliminate the subjectivity, incompatibility, vagueness, and unenforceability; the requirements should be made more explicit to insure

detection and correction of all combinations of track conditions which cause derailments. In response, FRA reports undertaking a complete review of the Track Safety Standards with three primary objectives: (1) All requirements which are burdensome and unessential for safe track are to be eliminated; (2) all requirements which cannot be justified or sufficiently clarified for enforcement purposes by existing data or research will be eliminated until further information becomes available; and (3) knowledge gained from research, data collection, and experience is to be used to strengthen and clarify the remaining requirements. However, it is FRA's conclusion that the basic premise of the original standards is sound. The philosophy enunciated when the standards were introduced is still applicable to any changes proposed in the near future. FRA will again set forth minimum necessary requirements for safe track rather than a comprehensive list of all potential hazardous conditions. It is still the railroads, not FRA, which remain directly responsible for finding and correcting all unsafe track conditions.

In responding to R-79-29, which called for insurance that the Automated Track Inspection Program includes goals and objectives and measurable criteria for program evaluation, FRA states that it is aware of the need to provide headquarters-based support systems to assist in the evaluation of priorities in the track safety program and assure effective use of resources. One such program is the Automated Track Inspection program (ATIP), which has been functioning as an integral part of the FRA compliance effort for over 2 years. During that time, FRA states that substantially all trackage used for passenger service has been surveyed, and followup inspections have been conducted. The ATIP vehicles have also been employed to diagnose track geometry deficiencies on many lines which carry large tonnages of hazardous materials. The surveys and conventional walking inspections have identified numerous conditions which, if left uncorrected, would have resulted in major transportation accidents. Obviously, the benefits achieved by these efforts are not amenable to ready quantification. Nevertheless, additional efforts are underway to assess costs and benefits and to formulate a ranking system for regulatory and compliance priorities. As discussed in reference to FRA's response to recommendation R-79-17, above, in FY 1978, FRA received funding for a comprehensive cost-benefit evaluation of the railroad safety



program, including track, and, in December 1977, TSC began working on the Hazard Analysis and Priority Determination System. FRA says this analysis will enable the office of Safety to develop a System Safety Plan by the end of 1980.

In response to R-79-21, which recommended that FRA determine through an independent study why some States have been unable or unwilling to join in the existing State Participation Program and implement a productive program as contemplated by the Federal Railroad Safety Act of 1970 in which the States are true partners, FRA reports sending out questionnaires to all States and conducting followup interviews with State officials to determine why many States are unable or unwilling to participate in the rail safety program. This review determined that the major areas of conflict between FRA and the States have been with inspector qualifications and the desirability of expanding State participation into investigation and surveillance activities under the older railroad safety statutes. Legislative and funding problems have also kept some States from joining the program. FRA reports that, unfortunately, the States as a group were not able to provide human resources of the quality required in the early years of the decade. Instead, persons with technical expertise had to be recruited or trained. The low salary schedules of many States made recruitment of individuals meeting FRA-established qualifications difficult. FRA notes that the Safety Board is in agreement with FRA that expansion of the State Participation Program into additional areas of inspection would be premature and inadvisable. FRA, in turn, agrees with the Safety Board that this is not to say that at some future time the program should not be expanded when the track and freight car safety programs are perfected.

Recommendation R-79-22 asked FRA to determine in cooperation with the Interstate Commerce Commission the feasibility of establishing hazardous materials routes to bypass populous areas, and, if hazardous materials routing is operationally feasible, require that the track on those routes be maintained at a minimum of Class 4 condition. FRA reports that under the Hazard Analysis/Priority Determination study, FRA has determined the high hazardous materials flow corridors throughout the United States. Through use of FRA's Railroad Network Model and the Waybill Statistics program, FRA has also located the hazardous materials movements by railroad. The

data has also been disaggregated by category of hazardous materials and has been combined with population density information along rail routes in order to assess the current and future exposure and risk associated with the rail transportation of hazardous materials. FRA is studying the feasibility of rerouting hazardous materials shipments. Part of the feasibility study will involve one or more case studies of hazardous materials shippers. FRA believes that track maintained to the standards for a particular class should be safe for the passage of all trains without distinction as to whether or not they handle hazardous materials. At the General Safety Inquiry with respect to Track Safety Standards, held by FRA on November 15 and 16, 1978, all witnesses who addressed this question, including those representing the Safety Board, responded by favoring or endorsing this policy.

In response to R-79-23, which urged FRA to maintain the schedule for owners to complete the head shield and insulation program, FRA reports that the retrofit program for DOT Specifications 112 and 114 tank cars was accelerated in July 1978. The accelerated program required installing shelf couplers by December 31, 1978, head shields on cars carrying anhydrous ammonia and liquefied flammable gas by December 31, 1979, and insulation or insulation and steel jackets on the cars carrying flammable gases by December 31, 1980. FRA reports that on July 1, 1979, the retrofit status was as follows:

|                                                                                                                                   |        |         |
|-----------------------------------------------------------------------------------------------------------------------------------|--------|---------|
| Total number of cars                                                                                                              | 17,493 |         |
| Shelf couplers applied                                                                                                            | 17,475 | (99.9%) |
| In shop for couplers and heavy repairs                                                                                            | 18     | (0.1%)  |
| Cars with completed "A" retrofit (shelf couplers)                                                                                 | 639    | (100%)  |
| Cars subject to "S" retrofit (shelf couplers and head shields)                                                                    | 2,424  |         |
| Completed as of 1 July 79                                                                                                         | 1,698  | (70.0%) |
| Cars subject to "T" retrofit (shelf couplers, head shields and spray on insulation)                                               | 1,786  |         |
| Completed as of 1 July 1979                                                                                                       | 634    | (35.5%) |
| Cars subject to "J" retrofit (shelf couplers, 1/2" steel jacket headshield and 1/4" steel jacket barrel encapsulating insulation) | 12,644 |         |
| Completed as of 1 July 79                                                                                                         | 5,787  | (45.8%) |
| In shops as of 1 July 79                                                                                                          | 675    | (5.4%)  |
| Weekly retrofit capacity                                                                                                          | 125    | (1.0%)  |

FRA reports that adequate progress is being made on both the "S" and "J" retrofits. Most of the remaining 900 anhydrous ammonia tank cars requiring head shields have been equipped during this summer. More than adequate capacity exists to equip the remainder during the fourth quarter of 1979. Likewise, based on a minimum of 110 "J" cars retrofitted each week during 1979 (actual capacity is closer to 120 cars), over 70 percent of the tank cars scheduled for this retrofit are not completed (65 percent completion is required). FRA notes that the "T" retrofit still presents difficulties.

Material shortages and application problems are causing car owners to change their plans from "T" to "J" retrofitting. Since the "J" retrofitters have some third and fourth quarter, 1979, shop space as well as additional shop space in 1980, any additional "J" retrofitting that needs to be done because of changed retrofit elections from "T" to "J" can be accomplished.

Recommendation R-79-24 asked FRA to determine, in cooperation with the Inter-Industry Task Force, what additional cost-effective steps, based on risk-ranking results, can be taken to make tank cars more resistant to hazardous materials releases in derailments. In response, FRA reports working closely with the AAR/Railway Progress Institute Tank Car Safety Research Project to improve tank cars by making them more resistant to hazardous materials releases in derailments. Improved bottom outlet designs are being tested. These designs will lessen the chance of outlet breakage and resulting lading loss.

In answer to R-79-25, which recommended that FRA determine the ultimate safety effect of allowing the indiscriminate lowering of main track classifications instead of maintaining the track at original intended class, FRA states its belief that the safety level of a given segment of track is a function of two factors: (1) The nature and magnitude of the loads imposed on the track by a train, and (2) the ability of the track to withstand those loads at the time of the passage of the train while providing a stable guideway for that train. The first factor is greatly influenced by train speed; the second is simply described as the condition of the track. Neither is influenced by the speed at which trains previously operated, or the previous condition of the track. Safety should not be affected by lowering of main track classification, FRA stated. A study of the relationship between train loading, train speeds, and track conditions is reflected in the revised Track Safety Standards published in a notice of proposed rulemaking on September 6, 1979.

With respect to R-79-26, which recommended that FRA, in cooperation with the Interstate Commerce Commission, develop railroad economic and safety policies which are compatible, FRA refers to its statement from the Secretary's "A Prospectus for Change in the Freight Railroad Industry," published in October 1978, that "... the large increase in the train accident rate that can be attributed to defects in way or structure, compared with other causes, provides clear

evidence of an undermaintained and deteriorating rail plant." FRA notes that the worsening financial condition of the rail industry is the result of a variety of causes not all of which are within the industry's control. Government support for the development of rights-of-way for other modes has had a direct effect on the competitive capability of the rail mode. Also Government taxation, rising interest rates and increasing railroad retirement contributions have added directly to the industry's financial difficulties. These problems comprise an institutional environment for the railroad industry that has impeded its ability to respond to change. The net effect has been deteriorating levels of service and profit. FRA notes that much of the responsibility for resolving these problems falls upon the railroad, industry, both management and labor, but part of the responsibility also falls upon Federal and State governments. Governmental actions have been very much a part of the environment of the transportation industry. There is an urgent need for consideration of whether Government policies toward the transportation sector, including programs of financial assistance, are even-handed, fair and adequate.

With further reference to R-79-26, FRA notes that DOT has comprehensively reviewed rail regulatory policy. Federal regulation has constrained industry's ability to adjust rates, merge corporate entities, provide new services and abandon obsolete facilities and services. The "Railroad Deregulation Act of 1979" was submitted to Congress on March 23, 1979. The Administration's legislation, prepared by DOT, seeks to reform the economic regulation of railroads to foster the development and maintenance of a healthy, efficient private freight transportation system, with a maximum reliance on competitive forces in the transportation market place. The Senate's version of the "Railroad Deregulation Act of 1979" (S. 796) was introduced by Senator Cannon (D-Nev.) on March 27, 1979. H.R. 4570, also cited as the "Railroad Deregulation Act of 1979," was introduced in the House on June 21, 1979, by Representative Staggers (D-W. Va.).

Recommendation R-79-27 asked FRA to revise the policies at the Transportation Test Center to insure that the data which is developed is analyzed systematically and published. FRA states, "Current procedures for analyzing, publishing and distributing data from tests at the Transportation Test Center (TTC) are not sufficiently timely. FRA is seeking to obtain a

computer at TTC to reduce reliance on contractors and to expedite the analysis of test results."

Recommendation R-79-28 asked that FRA require that all trains with placarded loaded tank cars of the 112A and 114A types not equipped with the required shelf couplers and tank head protection, which are loaded with liquefied flammable gases and other liquids or toxic compressed gases, operate at a speed 10 mph less than the maximum speeds authorized for those trains on classes 3, 4, 5, and 6 track. FRA notes that an assessment of the relative safety of any hazardous materials shipment must also consider other operating conditions including train makeup, track handling, and terrain. FRA notes that its retrofit program, requiring tank head protection as indicated in answer to recommendation R-79-23, is well along. It would be highly impractical if not impossible for carriers to make a distinction in freight train speed based on remaining non-equipped cars. FRA stated. In addition, the time involved in amending regulations would be such that essentially all cars will be equipped by the time such an amendment would become fully effective. The measures required of the carriers by FRA Emergency Order 5 regarding 112A and 114A type tank cars not yet equipped with tank head protection have been highly effective, and FRA believes the situation is under the best practicable control possible at this time.

Note.—Copies of recommendation letters issued by the Safety Board, response letters, and related correspondence are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,  
Federal Register Liaison Officer.

December 10, 1979.

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BILLING CODE 4910-58-M

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

December 10, 1979.

#### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35).

Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

#### List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (\*)

#### Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have



comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

#### DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

#### New Forms

Food and Nutrition Service  
Study of Menu Choice, Food Production and Costs of School feeding program  
Single time  
School food service directors, 2,000 responses, 500 hours

Charles A. Ellett, 395-5080

Food Safety and Quality Service  
Consumer Comprehension of U.S.D.A. Grades

Single time  
Nat'l. probability samp. main purchsr., hshlds food items, 1,200 responses, 200 hours

Charles A. Ellett, 395-5080

#### Revisions

Farmer's Home Administration  
Request for Statement of Debts and Collateral  
FMHA 440-32

On occasion  
Description not furnished by agency, \$60,000 responses, 10,000 hours  
Charles A. Ellett, 395-5080

#### DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

#### Revisions

Bureau of the Census  
Plastics Products  
MA-30D  
Annually  
Manufacturers of plastics products, 1,800 responses, 1,800 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census  
Adult Mattresses and Matching Foundations  
MA-25E

Annually  
Bedding manufacturers, 150 hours, 150 responses  
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census  
Farm Machinery and Lawn and Garden Equipment (shipments)  
MA-5A  
Annually

Manufacturers of farm machinery and equipment, 1,000 responses, 1,000 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

#### Reinstatements

Bureau of the Census  
Broadwoven Fabrics (Gray)  
MQ-22T  
Quarterly  
Manufacturers of broadwoven fabrics, 2,000 responses, 6,000 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

Bureau of the Census  
Softwood Plywood  
MA-24H  
Annually  
Plywood manufacturers, 180 responses, 180 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

#### DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

#### Revisions

Departmental and Other  
Claim for Exemption From Submission of Certified Cost or Pricing Data  
DD 633-7  
On occasion  
Contractors, 4,000 responses, 2,000 hours  
Richard Sheppard, 395-3211

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

#### New Forms

Office of the Secretary  
Financial Management Systems and Procedures Survey  
OS-23-79  
Single Time  
Universities, hospital, research institutes, 500 responses, 250 hours  
Richard Eisinger, 395-3214

#### Revisions

Alcohol, Drug Abuse and Mental Health Administration  
Inventory of Mental Health Facilities  
ADM 25-1  
Other (See SF-83)  
Mental health facilities, 2,180 responses, 1,090 hours  
Off. of Federal Statistical Policy and Standard, 673-7974

Center for Disease Control  
Guillain-Barre Syndrome Surveillance  
Other (see SF-83)  
Neurologists, 1,000 responses, 167 hours  
Richard Eisinger, 395-3214

#### Extensions

Center for Disease Control

\*Consent, Release, and History Form  
On occasion  
Next of kin of underground coal miners, 600 responses, 100 hours  
Richard Eisinger, 395-3214

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

#### New Forms

Policy Development and Research  
Measurement of Respondent Burden  
Single time  
700 Households in Phila., Pa., 700 responses, 667 hours  
Arnold Strasser, 395-5080

#### Revisions

Administration (Office of Ass't Sec'y)  
Mortgagee's Certification and Application for Interest Reduction Payments

HUD-3111 and 3197

Monthly  
Mortgagees 6,660 responses, 2,100 hours  
Arnold Strasser, 395-5080

Community Planning and Development  
Certificate of Financial Settlement (N.D.P.)

HUD-6282  
On occasion  
Local public agencies w/neighborhood development programs, 25 responses, 75 hours  
Arnold Strasser, 395-5080

#### DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

#### Revisions

Offices, Boards, Division  
Civil Litigation Project: Screener  
Questionnaire  
Single time  
Households in five Federal judicial districts, 5,000 responses, 1,750 hours  
Off. of Federal Statistical Policy & Standard, 673-7974

#### DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

#### Revisions

Bureau of Labor Statistics  
Job Openings Pilot Survey and Monthly Report on Labor Turnover  
DL-1219, BLA-3115  
On occasion  
Non-agr. establ., 604,840 responses, 83,570 hours  
Off. of Federal Statistical Policy & Standard, 673-7974

#### Extensions

Labor Management and Service Administration

\*Eligibility Data Form

LMSA 1010

Other (see SF-83)

Vet., Reservists, nat'l guard mem., examinees & rejectees, 3,500 responses, 875 hours

Arnold Strasser, 395-5080

#### DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

#### Reinstatements

National Highway Traffic Safety Administration

\*On the Road Fuel Economy Survey  
HS-435

Annually

Owners of 77, 78, 79 passenger cars; 77 light trucks, 46,000 responses, 2,300 hours

Steed, Diane K., 395-3176

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Clearance Officer—Linwood A. Rhodes—632-0084

#### Reinstatements

Investor's Report

AID 1520-10

Monthly

Investors in aid housing guaranty loans, 1,320 responses, 1,320 hours  
C. Louis Kincannon, 395-3772

#### ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

#### New Forms

Notification of Hazardous Waste

Activity

Single time

Generators, transpor. treaters storers & disposers of H.W. 210,100 responses, 315,150 hours

Edward H. Clarke, 395-5867

Comment Form Calendar of Federal Regulations<sup>1</sup>

Single time

All users of calendar, 7,500 responses, 1,875 hours

Edward H. Clarke, 395-5867

<sup>1</sup>The office of Management and Budget has approved this form prior to the usual 10 day time allotted for clearance, because it is important for the Regulatory Council to obtain comments quickly in order to incorporate those comments in the next edition of the Calendar of Federal Regulations.

#### EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Roy A. Nierenberg—456-6286

#### New Forms

Report on Company Organization—(pay)<sup>2</sup>

CO-1 (pay)

Single time

Large companies, private sector, 1,100 responses, 550 hours

Arnold Strasser, 395-5080

#### EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—C. Foster Knight—395-5770

#### New Form

National Environmental Survey

Single time

Adults in lower 48 States, 1,500 responses, 750 hours

Edward H. Clarke, 395-5867

#### RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4693

#### Revisions

\*Employee Registration (railroad employees)<sup>3</sup>

CER-1

On occasion

Railroad employees/railroad employers, 96,000 responses, 16,000 hours

Barbara F. Young, 395-6132

#### VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

#### New Forms

Evaluation of Domiciliary Program, Wood, WI  
Single time

<sup>2</sup>This form was previously submitted for clearance (page 63604 of the Federal Register of November 5, 1979) and returned by OMB to the Council for resolution of some issues raised by public comment. Subsequently, Council and OMB representatives met and agreed that immediate clearance of the form is necessary to establish the ground rules for pay monitoring at the beginning of the second year of the President's anti-inflation program. In returning the prior request without action, OMB had raised questions about the administration of the pay standards during the second program year. The Council's response indicated that 6 CFR 706.21 establishes a need for companies to determine their organizational structure for the second program year at the start of the year. Although the pay standards for the second year may be changed, "it is unlikely that there will be any changes in the Council's administrative procedures about company organization for compliance with the pay standards."

Accordingly, the Council on Wage and Price Stability's request for clearance of form CO-1 (Pay) has been approved for use.

<sup>3</sup>This revised application has been approved for use to allow the Railroad Retirement Board to meet the deadline for compliance with Statistical Policy Directive No. 15.

VA domiciliary patient-mem., 725 responses, 1,087 hours  
Richard Eisinger, 395-3214  
Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-38255 Filed 12-12-79; 8:45 am]

BILLING CODE 3110-01-M

#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1735]

Virginia; Declaration of Disaster Loan Area

Greensville and Sussex Counties and adjacent counties within the State of Virginia constitute a disaster area as a result of natural disasters as indicated:

| County           | Natural disaster(s)                                                                 | Date(s)                   |
|------------------|-------------------------------------------------------------------------------------|---------------------------|
| Greensville..... | Abnormally heavy rainfall during planting season followed by drought in the summer. | Spring and summer of 1979 |
| Sussex.....      | Abnormally heavy rainfall during planting season followed by drought in the summer. | Spring and summer of 1979 |

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 4, 1980, and for economic injury until the close of business on September 4, 1980, at: Small Business Administration, District Office, Federal Building—Room 3015, 400 North Eighth Street, Richmond, Virginia 23240, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 4, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-38122 Filed 12-12-79; 8:45 am]

BILLING CODE 8025-01-M

#### DEPARTMENT OF STATE

[Public Notice CM-8/250]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will hold its Fall meeting on Friday, January 18, 1980 at 2:00 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 3:30 p.m.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in May 1979, the announcement of all gifts and loans from January 1, 1979 to December 31, 1979, as well as a report on the status of the architectural



improvements in the Lounges of the Diplomatic Reception Rooms. Also on the agenda will be a report on the fund raising dinner held September 19, 1979.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of Department of State security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, January 14, 1980, telephone (202) 632-0298 to make arrangements to enter the building.

Dated: December 3, 1979.  
Clement E. Conger,  
Chairman, Fine Arts Committee.  
[FR Doc. 79-38138 Filed 12-12-79; 8:45 am]  
BILLING CODE 4710-01-M

#### [Public Notice CM-8/251]

#### Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Ocean Affairs Advisory Committee will meet at 2:00 PM on Tuesday, January 8, 1980 in Room 1205 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic Affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson. As access to the Department of State is controlled, persons wishing to attend the January 8 meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees to Room 1205.

The Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Wednesday, January 9, 1980 at the National Academy of Sciences Building, 22nd and "C" Streets, NW, in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The

purpose of these discussions will be to elicit views concerning the further development of Antarctic mineral resource policies and to review ongoing Antarctic marine living resource negotiations. Other matters and issues relating to Antarctica which were considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12065.

Requests for further information on the meetings should be directed to R. Tucker Scully or Lisle Rose of OES/OPA, Room 5801, Department of State. They may be reached by telephone on (202) 632-3262.

Bruce L. Smith,  
Executive Secretary.  
[FR Doc. 79-38139 Filed 12-12-79; 8:45 am]  
BILLING CODE 4710-09-M

#### DEPARTMENT OF TRANSPORTATION

##### Federal Highway Administration

##### State Applications for Authority To Acquire Hardship and Protective Buying Parcels—Approval Authority

**AGENCY:** Federal Highway Administration (FHWA), DOT.  
**ACTION:** Notice.

**SUMMARY:** The Federal Highway Administration (FHWA) is providing notice that the authority to approve requests for the acquisition of parcels of land in cases of hardship or protective buying has been redelegated to Regional Federal Highway Administrators.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Bynum, Acquisitions Branch, 202-426-0134, or Ms. Marguerite L. Price, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** In extraordinary cases or emergency situations a State highway department may request and the Federal Highway Administrator may approve Federal participation in the acquisition of a particular parcel or a limited number of particular parcels of land within the limits of a proposed highway project prior to completion of processing of a final environmental impact or related statement. This extraordinary procedure may be used only where it is necessary to alleviate particular hardship to a

property owner, on his request, in contrast to others because of an inability to sell his property, or to prevent imminent development and increased costs of a parcel which would tend to limit the choice of highway alternatives.

The acquisition of parcels of land under this procedure is permitted under an existing FHWA regulation (23 CFR 712.204(d)) and is referred to as either, hardship acquisition or protective buying depending upon the reason for the acquisition. Additional restraints on the use of this procedure are contained in § 712.204(d).

The existing procedure was issued on May 25, 1977 (42 FR 26651), in response to rulings issued by the U.S. District Court and the U.S. Court of Appeals for the District of Columbia Circuit in the case of *National Wildlife Federation v. Snow*, 561 F.2d 227 (D.C. Cir. 1976), on remand, *National Wildlife Federation v. Tiemann*, C.A. No. 1270-73 (D.D.C. Feb. 18, 1977), aff'd, Civil No 77-1562 (D.C. Cir. September 12, 1978). These rulings criticized the procedures previously in effect and led to a significant tightening in the requirements for Federal approval of requests for hardship acquisition and protective buying.

Prior to issuance of the first court ruling in 1976, the authority to approve requests for hardship acquisition and protective buying had been delegated to the Regional Federal Highway Administrators. Following the 1976 court ruling, this authority was reserved to the FHWA Headquarters Office in Washington, D.C., until such time as all further court action had been concluded. (42 FR 5774, Jan. 31, 1977). The final decree was issued by the District Court on February 18, 1977, and an appeal brought by the National Wildlife Federation concerning that decree was dismissed on September 12, 1978.

In light of the final court decree, the dismissal of the appeal, and agency experience in operating under the revised procedures since 1977, the FHWA has determined that it is appropriate to restore the previous delegation of authority for approval of hardship acquisition and protective buying requests. Accordingly, that authority has been redelegated to the regional offices of the FHWA.

Issued on: December 6, 1979.  
John S. Hassell, Jr.,  
Deputy Administrator.  
[FR Doc. 79-37987 Filed 12-12-79; 8:45 am]  
BILLING CODE 4910-22-M

#### Federal Railroad Administration

##### [FRA Walver Petition Docket HS-79-24]

##### Great Western Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Great Western Railroad (GWR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. (64a(e))). That petition requests that the GWR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The GWR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-24, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before January 18, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary. 49 CFR 1.49(d).

Issued in Washington, D.C. on December 6, 1979.

Joseph W. Walsh,  
Chairman, Railroad Safety Board.  
[FR Doc. 79-38169 Filed 12-12-79; 8:45 am]  
BILLING CODE 4910-06-M

#### National Highway Traffic Safety Administration

##### [Docket No. 79-15; Notice 3]

##### Heavy Truck Safety Panel; Public Meeting

**AGENCY:** National Highway Traffic Safety Administration.

This notice announces a public meeting of the Heavy Truck Safety Panel in Room 2230 of the Department of Transportation Headquarters (Nassif Building) at 9:00 a.m. on January 22, 1980. The purpose of this meeting is to review the problems, issues, and possible actions in the area of truck safety that were presented to the panel at a Heavy Truck Safety Meeting held on September 10 and 11, 1979, and to recommend a set of priority actions for the the Government, manufacturers, carriers, and unions. The panel is comprised of representatives of the Government, manufacturers, carriers and labor organizations.

A Summary of Comments has been prepared using (1) testimony presented by speakers at the meeting in September, (2) items contained in Docket 79-15, Heavy Truck Safety Meeting, and (3) suggestions and concerns expressed by the public on a special telephone line installed for the September meeting. This summary will be used by the panel members as a source document to develop a set of recommended actions by the Government, manufacturers, carriers, and unions to remedy the safety problems cited by the participants at the public meeting. The panel will be presented with a multitude of proposals by various panel members for improving heavy truck safety and the major task of the group is to arrange these issues/ actions in order of priority so that the NHTSA, BMCS, manufacturers, and carriers can factor these deliberations into their respective heavy truck safety programs.

Both the Transcript of Proceedings and the Summary of Comments of the Heavy Truck Safety Meeting are available to the public and can be obtained from the NHTSA Docket Section (Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590). The Docket Section is open to the public between the hours of 8 a.m. and 4 p.m.

Members of the public are invited to develop their set of issues/actions that should be considered by the Government, manufacturers, and carriers and transmit them to Docket 79-15. These will not be discussed at the meeting but will be considered by NHTSA in its planning for rulemaking and will be available for review by manufacturers, carriers, and the public. The public is invited to attend this meeting of the panel as observers but only limited space for 75 is available.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Anees Adil, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2715).

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on December 10, 1979.

Michael M. Finkelstein,  
Associate Administrator for Rulemaking.  
[FR Doc. 79-38144 Filed 12-12-79; 8:45 am]  
BILLING CODE 4910-59-M

#### DEPARTMENT OF THE TREASURY

##### Customs Service

##### [T.D. 79-321]

##### Ohaus Scale Corp.; Recordation of Trade Name

On October 25, 1979, there was published in the Federal Register (44 FR 61491) a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Ohaus Scale Corporation. The notice advised that prior to final action on the application, filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), consideration would be given to relevant data, views, or arguments submitted in opposition to the recordation and received not later than January 14, 1980. No responses were received in opposition to the application.

The name "Ohaus Scale Corporation" is hereby recorded as the trade name of Ohaus Scale Corporation, a corporation organized under the laws of the State of New Jersey, located at 29 Hanover Road, Florham Park, New Jersey 07932, when applied to weighing apparatus, including balances, scales, weights and containers and accessories for same, manufactured in the United States. No foreign company, parent or subsidiary company is authorized to use the trade name.



Dated: December 7, 1979.

Harvey B. Fox,  
Acting Director, Office of Regulations and  
Rulings.

[FR Doc. 79-38228 Filed 12-12-79; 8:45 am]  
BILLING CODE 4810-22-M

## INTERSTATE COMMERCE COMMISSION

[Notice No. 153]

### Assignment of Hearings

December 7, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

- MC-C-10254F, Carolina Coach Company, Safety Transit Lines, and Moore Brothers Transportation Company—V—E.S. Charter Service, Inc., now being assigned for hearing January 28, 1980 (2 days) at Raleigh, NC. location of hearing room will be designated later.
- MC-143702 (Sub-No. 5F), All Freight Systems, Inc., now assigned for hearing December 10, 1979 (2 days) at Kansas City, MO is postponed indefinitely.
- MC-44735 (Sub-No. 40F), Kissick Truck Lines, Inc., now assigned for hearing on December 11, 1979 (2 days) at Dallas, TX, is postponed to December 13, 1979 (1 day) at Dallas, TX in Room 5A15-17, Federal Building, 1100 Commerce Street.
- MC-140829 (Sub-No. 182F), Cargo Contract Carrier Corp., now assigned for hearing on December 10, 1979 at Chicago, IL, is canceled and dismissed.
- MC-106647 (Sub-No. 45F), Clark Transport Company, Inc., transferred to Modified Procedure.
- MC-116254 (Sub-No. 233F), Chem Haulers, Inc., transferred to Modified Procedure.
- MC-52460 (Sub-No. 232F), Ellex Transportation, Incorporated, now assigned for hearing on January 8, 1980 (1 day) at Dallas, TX, is canceled and reassigned to January 8, 1980 (2 days) at Fort Worth, TX, in Room No. 600—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.
- MC-118130 (Sub-No. 96F), South Eastern Xpress, Inc., now assigned for hearing on January 9, 1980 (1 day) at Dallas, TX, is canceled and reassigned for January 9, 1980 (1 day) at Fort Worth, TX, in Room No. 600—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.

- MC-133095 (Sub-No. 202F), Texas Continental, Express, Inc., now assigned for hearing on January 10, 1980 at Dallas, TX, is canceled and reassigned for January 10, 1980 (2 days) at Fort Worth, TX, in Room No. 600—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.
- MC-107064 (Sub-No. 131F), Steere Tank Lines, Inc., now assigned for hearing on January 16, 1980 (3 days) at Dallas, TX, is canceled and reassigned for January 16, 1980 (3 days) at Fort Worth, TX, in Room No. 600—4th Floor, 411 West 7th Street, Neil P. Anderson Bldg.
- MC-108340 (Sub-No. 34F), Haney Truck Line, transferred to Modified Procedure.
- FD 28934, Chicago and North Western Transportation Company Construction and Operation of a Line of Railroad in Niobrara and Goshen Counties, WY and in Sioux and Scotts Bluff Counties, NE, and No. FD 29066, Chicago and North Western Transportation Company—Construction, now being assigned for Prehearing Conference on January 8, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
- MC-4491 (Sub-No. 13F), Great Coastal Express, Inc., now being assigned for hearing on February 4, 1980 (2 Weeks), at New York, NY, in a hearing room to be designated later.
- MC-22301 (Sub-No. 27F), Sioux Transportation Company, Inc., now being assigned for hearing on February 26, 1980 (9 Days), at Chicago, IL, in a hearing room to be designated later.
- MC-141969 (Sub-No. 10F), Noble Transport, Inc., now being assigned for hearing on January 22, 1980 (9 Days), at Los Angeles, CA, in a hearing room to be designated later.
- MC 146609 F, Delta Express, Inc., now being assigned for hearing on January 21, 1980 (1 Day), at New York, NY, in a hearing room to be designated later.
- MC-144122 (Sub-No. 44F), Carretta Trucking, Inc., now being assigned for hearing on January 22, 1980 (1 Day), at New York, NY, in a hearing room to be designated later.
- MC-130536 F, Merrill Lynch Relocation Management, Inc., now being assigned for hearing on January 23, 1980 (3 Days), at New York, NY, in a hearing room to be designated later.
- MC-119657 (Sub-No. 23F), George Transit Line, Inc., Transferred to Modified Procedure.
- AB 43 (Sub-No. 58F), Illinois Central Gulf Railroad Company Abandonment Near New Holland and Havana, in Logan and Mason Counties, IL, now being assigned for hearing on February 4, 1980 (1 Week), at Havana, IL, in a hearing room to be designated later.
- AB 1 (Sub-No. 76F), Chicago and North Western Transportation Company Abandonment in LaCrosse and Trempealeau Counties, WI, now being assigned for hearing on February 4, 1980 (1 Week), at LaCrosse, WI, in a hearing room to be designated later.
- MC-142941 (Sub-No. 35F), Scarborough Truck Lines, Inc., now being assigned for hearing on February 20, 1980 (1 Day), at Salt Lake City, UT, in a hearing room to be designated later.

- MC-115523 (Sub-No. 176F), Clark Tank Lines, a Corporation, now being assigned for hearing on February 21, 1980 (2 Days), at Salt Lake City, UT, in a hearing room to be designated later.
- MC-145980 (Sub-No. 2F), H. C. Cook & Bobby Joe Cook, d/b/a Cook Trucking, now being assigned for hearing on February 25, 1980 (1 Week), at Casper, WY, in a hearing room to be designated later.
- MC-1515 (Sub-No. 258F), Greyhound Lines, Inc., a California Corporation, now assigned for continued hearing on January 8, 1980 (4 Days), at Atlanta, GA, in a hearing room to be designated later.
- MC-124211 (Sub-No. 262M1F), Hilt Truck Line, Inc., now assigned for hearing on January 14, 1979 (1 week) at New York, NY, will be held in Room E-2222, Federal Building, 27 Federal Plaza.
- MC-144963 (Sub-No. 1F), W. E. Battles, d/b/a Jobbers Freight Service, now assigned for hearing on January 21, 1980 (2 days) at Boise, ID, will be held in the City Hall, The Les Bois Room, 150 North Capitol.
- MC-135874 (Sub-No. 144F), Lil Perishables, Inc., now assigned for hearing on January 15, 1980 (2 days) at St. Paul, in Room No. 584, Federal Bldg. & U.S. Courthouse, 316 North Robert St., St. Paul, MN.
- MC-135874 (Sub-No. 145F), Lil Perishables, Inc., now assigned for hearing on January 17, 1980 (2 days) at St. Paul, MN, in Room No. 584, Federal Bldg. & U.S. Courthouse, 316 North Robert St.
- MC-146314 (Sub-No. 1F), G & T Trucking Co., now assigned for hearing on January 21, 1980, (1 week) at St. Paul, MN, in Room No. 584, Federal Bldg. & U.S. Courthouse, 316 North Robert St.
- MC-769993 (Sub-No. 28F), Express Freight Lines, Inc., now assigned for hearing on January 15, 1980 (2 days) at Milwaukee, WI in Court Room 254, Federal Bldg. & Courthouse, 517 East Wisconsin Avenue.
- Agatha L. Mergenovich,  
Secretary.
- [FR Doc. 79-38174 Filed 12-12-79; 8:45 am]  
BILLING CODE 7035-01-M

### Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and

facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision by which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the

following decision-notices within 30 days after publication or the application shall stand denied.

**Note.**—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

### Volume No. 227

Decided: November 26, 1979.

By the Commission, Review Board Number 1. Members Carleton, Joyce, and Jones.

MC 1334 (Sub-26F), filed May 31, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: Robert R. Digby, P.O. Box 6849, Phoenix, AZ 85005. Transporting *such commodities* as are dealt in or used by manufacturers of fire retardant chemicals, from Phoenix, AZ, to points in the United States (except AK and HI.) (Hearing site: Phoenix AZ.)

MC 1334 (Sub-27F), filed May 31, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: Robert R. Digby, P.O. Box 6849, Phoenix, AZ. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Salt Lake City, UT, and Naturita, CO, from Salt Lake City over Interstate Hwy 15 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 163, then over U.S. Hwy 163 to junction UT Hwy 46, then over UT Hwy 46 to CO-UT State line and then over CO Hwy 90 to Naturita, and return over the same route, serving all intermediate points in CO. (Hearing site: Naturita, CO.)

MC 1824 (Sub-97F), filed May 24, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 918 16th St., N.W., Washington, DC 20006.

Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), serving points in Cecil, Washington, Frederick, Carroll, Harford, Baltimore, Montgomery, Prince Georges, Howard, Anne Arundel, Calvert, St. Marys and Charles Counties, MD, as off-route points in connection with applicant's presently authorized regular route between Baltimore, MD, and Pittsburgh, PA. (Hearing site: Washington, DC.)

MC 4405 (Sub-606F), filed June 1, 1979. Applicant: DEALERS TRANSIT, INC.,



P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *pumps, valves, and parts*, for pumps and valves, from the facilities of Bingham-Willamette, Inc., at or near Portland, OR, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Portland, OR.)

MC 14215 (Sub-48F), filed June 14, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting *sand and gravel insulating materials*, (except in bulk), from Philadelphia, PA, to points in IL, IN, KY, OH, WV, and the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 42405 (Sub-39F), filed May 23, 1979, previously published in the Federal Register issue of October 30, 1979. Applicant: MISTLETOE EXPRESS SERVICE, a corporation, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *general commodities* (except classes A and B explosives), moving in express service, over regular routes, (1) between Little Rock, AR, and Fordyce, AR, over U.S. Hwy 167, (2) between Springdale, AR, and Alpena, AR, over AR Hwy 68, (3) between Harrison and Conway, AR, over U.S. Hwy 65, (4) between junction U.S. Hwys 65 and 62, and junction U.S. Hwys 63 and 61, from junction U.S. Hwys 65 and 62 over U.S. Hwy 62 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 61, and return over the same route, (5) between Little Rock, AR, and Piggott, AR, from Little Rock over U.S. Hwy 67 to Corning, AR, then over U.S. Hwy 62 to Piggott, and return over the same route, (6) between Walnut Ridge, AR, and Paragould, AR, over AR Hwy 25, (7) between Piggott, AR, and Caruthersville, MO; from Piggott over U.S. Hwy 62 to junction AR Hwy 139, then over AR Hwy 139 to junction AR Hwy 90, then over AR Hwy 90 to junction MO Hwy 84, then over MO Hwy 84 to Caruthersville, and return over the same route, (8) between Caruthersville, MO, and junction County Hwy U and Interstate Hwy 55, over County Hwy U, (9) between junction Interstate Hwy 55 and MO Hwy 84, and Memphis, TN, over Interstate Hwy 55, (10) between Piggott, AR, and Forrest City, AR, over AR Hwy 1, (11) between Brinkley, AR,

and Jonesboro, AR, over AR Hwy 39, (12) between Blytheville, AR, and West Memphis, AR; from Blytheville over U.S. Hwy 61 to junction AR Hwy 77, then over AR Hwy 77 to West Memphis, and return over the same route, (13) between Bald Knob, AR, and Marion, AR, over U.S. Hwy 64, (14) between Little Rock, AR, and Memphis, TN, (a) over Interstate Hwy 40, and (b) over U.S. Hwy 70, (15) between Tecumseh, OK, and junction OK Hwy 3E and OK Hwy 39; from Tecumseh over U.S. Hwy 270 to junction OK Hwy 9A, then over OK Hwy 9A to junction OK Hwy 39, then over OK Hwy 39 to junction OK Hwy 3E, and return over the same route, (16) between junction OK Hwy 58 and U.S. Hwy 270, and junction OK Hwy 58 and U.S. Hwy 60, over OK Hwy 58, (17) between Canton, OK and junction OK Hwy 51 and U.S. Hwy 270, over OK Hwy 51, and (18) between Jonesboro, AR, and Blytheville, AR, over AR Hwy 18, in (1) through (18) above serving all intermediate points. (Hearing site: Memphis, TN.)

Note.—This republication includes route 18.

MC 49304 (Sub-33F), filed May 31, 1979. Applicant: BOWMAN TRUCKING CO., INC., P.O. Box 6, Stephens City, VA 22655. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *salt*, from Baltimore, MD, to points in VA on and north of U.S. Hwy 60 and points in WV on and east of U.S. Hwy 220. (Hearing site: Washington, DC.)

MC 61445 (Sub-13F), filed June 15, 1979. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Avenue, Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting (1) *cranes, personnel hoists, material hoists, and (2) parts and accessories for cranes and hoists*, between points in NY, NJ, PA, DE, MD, WV, VA, NC, SC, and DC. (Hearing site: Washington, DC.)

MC 74164 (Sub-7F), filed June 13, 1979. Applicant: WEST FARMS EXPRESS, INC., 1095 Close Ave., New York, NY 10472. Representative: David A. Malat (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Fairfield, Hartford, Litchfield, Middlesex, and New Haven Counties, CT. (Hearing site: New York, NY, or Newark, N.J.)

MC 96165 (Sub-14F), filed June 15, 1979. Applicant: T. DEL FARNO TRUCKING CO., a corporation, 30 Lockbridge St., Pawtucket, RI 02860. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting (1) *steel pipe, pipe fittings, beams, piling, rails, railway track accessories, pile drivers, and pile extractors*, (2) *parts* for the commodities in (1) above, and (3) *materials and supplies* used in the manufacture, installation, dismantling and distribution of the commodities in (1) and (2) above, (except in dump or tank vehicles), between the facilities of L. B. Foster Company, at Parkersburg and Washington, WV, on the one hand, and, on the other, points in NY, CT, MA, RI, ME, NJ, NH, and VT. (Hearing site: Providence, RI, or Washington, DC.)

MC 106644 (Sub-282F), filed June 14, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Lois C. Parker III, P.O. Box 916, Atlanta, Georgia 30301. Transporting *iron and steel articles*, between facilities of Muskogee Iron Works, at or near Muskogee, OK, on the one hand, and, on the other, points in the United States (except AK and HI) (Hearing site: Oklahoma City, OK, or Washington, DC.)

MC 107515 (Sub-1260F), filed June 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. Transporting (1) *appliances*, and (2) *equipment and parts* used in the manufacture and distribution of appliances, from the facilities of the Tappan Company, at or near (a) Murray, KY, (b) Nashville, TN, and (c) Dalton, GA, to points in the United States (except AK, HI, WA, OR, NV, UT, CO, WY and MT). (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 111045 (Sub-171F), filed May 31, 1979. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L.W. Fincher (same address as applicant). Transporting *chemicals*, in bulk, from Selma, AL, to points in MS. (Hearing site: Montgomery, AL.)

MC 111274 (Sub-45F), filed June 11, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber and lumber mill products*, from

ports of entry on the international boundary line between the United States and Canada, in ND and MN, to points in WI, IL, IN, MO, KS, and IA, under continuing contract(s) with Manitoba Forestry Resources Ltd., of Winnipeg, Manitoba, Canada. (Hearing site: Springfield or Chicago, IL.)

MC 112184 (Sub-68F), filed June 14, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tomato paste*, in bulk, from the facilities of Hunt-Wesson Foods, Inc., at or near (a) Perrysburg, OH, (b) Bridgeton, NJ, and (c) Davis and Oakdale, CA, to points in the United States (except AK and HI), under continuing contract(s) with Hunt-Wesson Foods, Inc., of Fullerton, CA (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 112304 (Sub-191F), filed May 24, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). Transporting (1) *machinery*, (2) *attachments and parts*, for machinery, and (3) *materials, equipment, and supplies* used in the manufacture and assembly of the commodities in (1) above, (except commodities in bulk), between Manitowoc, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, LA, ME, MA, MI, MS, MO, NH, NJ, NY, NC, OK, RI, SC, TN, TX, and VT, and (4) *materials, equipment and supplies* used in the building, repair, and outfitting of marine vessels, (except commodities in bulk) from points in AL, AR, CT, DE, FL, GA, LA, ME, MA, MI, MS, MO, NH, NJ, NY, OK, RI, SC, TN, TX, and VT, to Sturgeon Bay, WI. (Hearing site: Washington, DC.)

MC 116325 (Sub-82F), filed June 15, 1979. Applicant: JENNINGS BOND d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, MO 63762. Representative: Jennings Bond (same address as applicant). Transporting (1) *food* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of *food* (except commodities in bulk), between points in Randolph County, IL, Perry County, MO, and Mississippi County, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 119315 (Sub-27F), filed June 11, 1979. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *glass fibers, glass fiber products, insulation, and insulating materials*, and (2) *materials equipment and supplies* used in the manufacture and installation of the commodities named in (1) above, between Vienna, WV, Defiance, OH, Etowah, TN, Elkhart, Richmond, and Alexandria, IN, and points in Lucas County, OH, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, SC, OH, PA, RI, TN, VT, VA, WV, and WI. (Hearing site: Columbus, OH.)

MC 126514 (Sub-59F), filed June 1, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and processors of photographic equipment (except commodities in bulk), (a) from Rochester, NY, to Oak Brook, IL, Chamblee, GA, San Ramon, Whittier, and Hollywood, CA, and Dallas, TX; (b) from Windsor, CO, to Dayton, NJ, and San Ramon and Whittier, CA; and (c) between Windsor, CO, and Rochester, NY, restricted to the transportation of traffic originating at and destined to the facilities of Eastman Kodak Company. (Hearing site: Buffalo, NY.)

MC 133405 (Sub-10F), filed June 15, 1979. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *malt beverages*, from Merrimack, NH, St. Louis, MO, Tampa, FL, and Houston, TX, to Alexandria, VA, points in Loudoun, Fairfax, Arlington, Prince William, Stafford, Caroline, King George, and Spotsylvania Counties, VA, and points in MD. (Hearing site: Washington, DC.)

MC 133604 (Sub-7F), filed June 14, 1979. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th St., Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, 1501 East Main St., P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) *foodstuffs* (except the commodities in

(1) above), from the facilities of (A) Geo. A. Hormel & Co., at (a) Algona and Ft. Dodge, IA, to points in AL, FL, LA, MS, NC, SC, and TN, and (b) Ottumwa, IA, to points in LA, and (B) Geo. A. Hormel & Co., at Knoxville, IA, and Carriage House, at Ames, IA, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 133684 (Sub-31F), filed June 15, 1979. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway East, Tacoma, WA 98422. Representative: Michael D. Duppenhaler, 211 South Washington St., Seattle, WA 98104. Transporting (1) *malt beverages*, and (2) *materials and supplies* used in the manufacturing and distribution of malt beverages, between Portland, OR, on the one hand, and, on the other, points in WA, ID, WY, UT, CO, AZ, and NM. (Hearing site: Seattle, WA.)

MC 134405 (Sub-78F), filed June 15, 1979. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *petroleum naphtha*, in bulk, in tank vehicles, from Wynnewood, OK, to points in IL and IA. (Hearing site: Oklahoma City, OK.)

MC 134775 (Sub-14F), filed March 16, 1979, previously noticed in the Federal Register issues of August 2, 1979 as MC 134755 (Sub-176F), and November 23, 1979 as MC 13755 (Sub-14F). Applicant: GUNTER BROS., INC., 19060 Frager Rd., Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air cargo containers, landing gear, fuselage fairing components, and interior aircraft furnishings*, from Kent, WA, to points in the United States (except AK and HI), under continuing contract(s) with Heath Tecna Corporation, of Kent WA. (Hearing site: Seattle, WA.)

Note.—This republication corrects the docket number.

MC 134755 (Sub-194F), filed June 14, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution



Warehouse, Inc. at Indianapolis, IN. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 135154 (Sub-3F), filed March 22, 1979, previously published in the FR of August 9, 1979 as MC 29990 Sub-14F. Applicant: BADGER LINES, INC., 3109 West Lisbon Ave., Milwaukee, WI 53208. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *malt beverages*, from the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH, to points in IL, and those points in IN located in the Chicago, IL, commercial zone. This republication indicates the correct docket and sub number, and that the application may have dual operations involved. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 135454 (Sub-27F), filed June 6, 1979. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, NY 14580. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02137. Transporting *such commodities* as are dealt in by manufacturers of glass, chinaware, plastics, and metal products, between points in NJ and PA, on the one hand, and, on the other, points in Chautauqua County, NY, restricted to the transportation of traffic originating at or destined to the facilities of Anchor Hocking Corporation. (Hearing site: Syracuse, NY.)

MC 138875 (Sub-206F), filed June 14, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting (1) *brick and tile*, and (2) *masonry materials and supplies* (except commodities in bulk), from points in MS, OH, OK, PA, TX, and VA, to points in ID, OR, and WA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Boise, ID, or Washington, DC.)

MC 138875 (Sub-207F), filed June 14, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting (1) *brick and tile*, and (2) *masonry materials and supplies* (except commodities in bulk), from points in CA to points in Malheur County, OR, and ID. (Hearing site: Boise, ID, and Washington, DC.)

MC 138875 (Sub-208F), filed June 14, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83705.

Representative: F. L. Sigloh (same address as applicant). Transporting (1) *brick and (2) masonry supplies* (except commodities in bulk), from points in CO, to points in MT, NV, UT, and WY. (Hearing Site: Boise, ID, or Washington, DC.)

MC 143634 (Sub-3F), filed June 4, 1979. Applicant: WILLIAM CAMPBELL, 611 Old Toll Rd., Madison, CT 06443. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wire fencing, fence posts, gates, and wire cloth* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between points in MA, CT, NY, NJ, PA, OH, IN, and IL, under continuing contract(s) with Gilbert & Bennett Mfg. Co., of Georgetown, CT. (Hearing site: Hartford, CT, or New York, NY.)

MC 145054 (Sub-21F), filed June 14, 1979. Applicant: COORS TRANSPORTATION COMPANY, a corporation, 5101 York Street, Denver CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver CO 80264. Transporting *absorbents*, in bags, from Taft and McKittrick, CA, to points in CO and UT. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 146674 (Sub-3F), filed May 21, 1979, previously published in the Federal Register issue of October 23, 1979 as MC 141832 Sub 2F. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Avenue, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street, NW., Suite 501, Washington, DC 20036. Transporting (1) *electrical transformers, transformer parts, pole line hardware, pole line material, electrical appliances, and electrical equipment*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of McGraw Edison Company, at or near (a) Zanesville, OH, (b) Canonsburg and East Stroudsburg, PA, (c) Bloomfield, NJ, (d) Olean, NY, (e) Macomb, IL, (f) Vicksburg, MS, (g) Nacogdoches, TX, and (h) Visalia, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Louisville, KY, or Washington, DC.)

Note.—Dual operations may be involved. This republication indicates the correct docket and sub number.

MC 146964F, filed May 3, 1979, previously published in the Federal Register issue of September 20, 1979. Applicant: RELIABLE TRUCK LINES, INC., Route 13, Laurel, DE 19956.

Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *canned goods*, from the facilities of KMC Foods, Inc., at or near (a) Queen Anne, MD, (b) Milton, DE, and (c) Cheriton, VA, to points in AL, CT, WV, DE, IL, IN, KY, LA, MA, ME, MI, MD, MS, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VT, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

Note.—This republication shows the correct docket number as MC-146964F, instead of MC-147175F.

#### Volume No. 232

Decided: November 27, 1979.

By the Commission. Review Board Number 2, Members Boyle, Eaton, and Liberman. Member Eaton not participating.

The following twelve (12) applications involve authority to transport *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products (except commodities in bulk), from the facilities of Nekoosa Papers Inc., in Little River County, AR. All applications were filed June 14, 1979.

(1) MC 70557 (Sub-14F\*). Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. To points in FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX.

(2) MC 71593 (Sub-37F). Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. To points in AZ, CA, CO, CT, DE, IL, IN, MD, ME, MA, MI, MN, NV, NH, NJ, NY, OH, OR, PA, RI, UT, VA, VT, WA, WI, and DC.

(3) MC 114274 (Sub-66F). Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. To points in CT, DE, IA, IL, IN, MA, MD, MI, MN, NE, NH, NJ, NY, OH, PA, RI, VA, and WI.

(4) MC 140665 (Sub-57F). Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. To points in AZ, CA, CO, IA, ID, IL, IN, KY, MI, MN, MO, MT, NE, NV, OH, OR, UT, WA, WI, and WY.

(5) MC 142364 (Sub-16F). Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. To points in AZ, CA, ID, IL, IN, IA, KY, MI, MN, MO, MD, NM, OH, PA, SD, TN, and WI.

(6) MC 144622 (Sub-84F\*). Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72209. To points in AZ, CA, CO, FL, ID, IL, IN, MO, OH, OR, TX, and WA.

(7) MC 144858 (Sub-10F\*). Applicant: DENVER SOUTHWEST EXPRESS, INC.,

P.O. Box 9799, Little Rock, AR 72219. To points in AL, AZ, CA, CT, IL, IN, IA, MD, MI, MO, NJ, NY, OH, OR, PA, RI, WA, AND WI.

(8) MC 145152 (Sub-89F). Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. To points in CA, CO, DE, FL, GA, IL, IN, IA, KY, MI, MD, MO, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WV, and WI.

(9) MC 145441 (Sub-42F). Applicant: ACB TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. To points in AZ, CA, OR, and WA.

(10) MC 146078 (Sub-7F\*). Applicant: CAL-ARK, INC., P.O. Box 394, Malvern, AR 72104. To points in AZ, CA, CT, ID, MA, ME, NH, NJ, NY, OH, OR, PA, RI, VT, and WA.

(11) MC 146402 (Sub-4F\*). Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. To points in DE, IL, IN, KY, MD, NJ, NY, OH, PA, WV, WI, those in AL and MS on and north of U.S. Hwy 80, those in IA and MO on and east of U.S. Hwy 61, those in MI on and south of MI Hwy 21, and those in TN on and west of Interstate Hwy 24.

(12) MC 146890 (Sub-11F\*). Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. To points in CT, IL, IN, KY, MA, MD, MI, NJ, NY, OH, PA, and RI. Representative for all applicants above: John Duncan Varda, 121 South Pinckney St., Madison, WI 53703. (Hearing site: Chicago, IL, or Washington, DC) \*Dual operations may be involved.

Note.—This republication indicates the correct origin point, and the correct destinations in (2), (3), (7), and (10).

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-38175 Filed 12-12-79; 8:45 am]  
BILLING CODE 7035-01-M

#### [Finance Docket No. 28799 (Sub-No. 1)]

**St. Louis Southwestern Railway Co.—Purchase (Portion)—William M. Gibbons, Trustee of the Property of Chicago, Rock Island Pacific Railroad Co., Debtor**

**AGENCY:** Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

**ACTION:** Notice of availability of final environmental impact statement (FEIS) prepared in above-entitled proceeding.

**SUMMARY:** The FEIS prepared in the above-entitled proceeding has been completed. However, due to a backlog in the Commission's printing office, printed copies will not be available until

December 21, 1979. On that day interested persons may obtain a printed copy of the FEIS by inquiring at Room 5377, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. Printed copies of the FEIS will in any case be served on parties of record through the mails. On December 14, 1979 a limited number of xerox copies of the FEIS will be available in Room 5377 to those persons who expect to cross-examine the Commission's environmental witnesses at hearings to be held on the FEIS on January 8, 1980.

**FOR FURTHER INFORMATION CONTACT:** Carole Dawkins or Steve Botts, Energy and Environment Branch, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Tel. (202) 275-7916. Agatha L. Mergenovich, Secretary.

[FR Doc. 79-38172 Filed 12-12-79; 8:45 am]  
BILLING CODE 7035-01-M

#### [Finance Docket No. 29144; Service Order No., 1411]

**St. Louis Southwestern Railway Co.—Temporary Authority—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee), Between Santa Rosa, N. Mex., and St. Louis, Mo.**

Decided: December 6, 1979.

Applicants (SSW and its corporated parent, SPT) granted emergency authority under 49 U.S.C. § 11123 to operate temporarily Rock Island's "Tucumcari line" without government subsidization. Directly related to Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979), in which the Commission—finding Rock Island "cashless" within the meaning of 49 U.S.C. § 11125(a)(1)—ordered directed service by the Kansas City Terminal Railway Company over Rock Island Lines pursuant to 49 U.S.C. § 11125 and subject to government reimbursement under section 11125(b)(5).

*T. Scott Banister, John L. Bishop, Martin Cassell, William M. Gibbons, Gary A. Laakso, D. K. McNear, Nicholas G. Manos, Martha Martell, Thormund A. Miller, Cyndi Strecker, and Herbert A. Waterman*, for applicants

*Michael W. Blaszak, John O'B. Clarke Jr., Vernon E. Coe, Robert J. Cooney, James P. Daley, Louis T. Duernick, Stuart F. Gassner, Mark M. Hennelly, William P. Higgins, Peter W. Hohenhaus, Mark A. Kalafut, R. K. Knowlton, Leon Leighton, Gordon P.*

*MacDougall, C. M. McIntosh, Paul J. Miller, Milton E. Nelson Jr., Eldon S. Olson, Harold A. Ross, Lawrence R. Samuels, C. Barry Schaefer, William A. Thie, and Dennis W. Wilson*, for protestants.

*Frank S. Farrell, Nicholas P. Moros, and James R. Walker*, for Burlington Northern Inc. (neutral).

On September 22, 1979, a petition was filed by St. Louis Southwestern Railway Company (SSW)—and its corporate parent Southern Pacific Transportation Company (SPT)—seeking "temporary authority" to operate over a certain rail line of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI").

The involved RI line extends from Santa Rosa, NM, to St. Louis, MO, via Kansas City, KS/MO, a total distance of 965.2 miles. This line consists of two main segments: the "Kansas City Segment," extending from Santa Rosa to Kansas City, MO, a distance of 26.5 miles. Collectively, we shall refer to the entire line as either the Santa Rosa/St. Louis line, the Golden State Route, or simply the Tucumcari line.

For the reasons discussed below, we believe SPT's petition should be conditionally granted, although not on the jurisdictional basis suggested in its petition, but rather under 49 U.S.C. 11123.

#### Procedural Matters

On September 27, 1979, the Commission served a notice inviting comments on SPT's petition from interested persons by October 12, 1979. By the October 12 deadline, thirteen comments and a number of letters had been filed with the commission. In addition, three comments were filed late, and two pleadings were filed in opposition to one of those comments. We shall treat the three late-filed pleadings as "petitions for leave to intervene" under Rule 70 of our *General Rules of Practice*. See 49 CFR § 1100.70 (1978). Further, a reply was filed by SPT.

**The Interventions**—Of the three late-filed comments, two supported SPT's application and one opposed it. The two supporting comments were submitted by Anamax Mining Company (filed October 15, 1979) and the Iowa Department of Transportation (Iowa DOT) (filed October 17, 1979). The one

<sup>1</sup> Unless otherwise indicated, all references to SPT shall embrace SSW, and vice-versa.



comment opposing the application was submitted by the Kansas City Terminal Railway Company (KCT) (filed October 19, 1979).

No parties object to our treating the late comments of Iowa DOT and Anamax as petitions for leave to intervene under Rule 70. As these late comments would not unduly broaden the issues or otherwise hinder our consideration of the matters involved in this proceeding, they shall be received for substantive consideration pursuant to Rule 70.

However, two parties (SPT and RI) object to KCT's late-filed comment. In a telegram (filed October 22, 1979), RI challenged the contentions made in KCT's late comment. In a telegram (filed October 23, 1979), SPT urged the Commission to reject KCT's late-filed comment and to consider SPT's temporary authority application without reference to KCT's pleading.

Under Rule 70(e), leave to intervene will be granted "on averments reasonably pertinent to the issues already presented and which do not unduly broaden them." See 49 CFR § 1100.70(e). Since the averments presented by KCT—the "directed rail carrier" (DRC) under Directed Service Order No. 1398 (discussed below)—are clearly pertinent to the issues involved in the instant application and would not unduly broaden the issues, leave to intervene shall be granted. All other arguments against granting leave to intervene are irrelevant under Rule 70(e). Thus, SPT's request that we reject KCT's late-filed pleading is denied.

As RI's challenge goes to the weight rather than the admissibility of KCT's evidence, we need not pass on it here. Rather, we shall consider it as appropriate in reviewing KCT's evidence.

**The Comments**—Of the letters filed in response to our September 27 notice, a substantial number favored granting SPT's application for temporary operating authority over RI's Tucumcari line. Of the sixteen timely and late-filed replies, the following parties took the following positions regarding SPT's application:<sup>2</sup>

#### Support

- RI
- Iowa Department of Transportation (Iowa DOT)\*
- Anamax Mining Company (Anamax)\*
- Liberal, KS. Chamber of Commerce (Liberal)

\*Late pleadings are identified with an asterisk (\*).

#### Oppose

- Missouri-Kansas-Texas Railroad Company (MKT)
- Missouri Pacific Railroad Company (Mopac)
- Union Pacific Railroad Company (UP)
- Atchison, Topeka & Santa Fe Railway Company (Santa Fe)
- Norfolk & Western Railway Company (N&W)
- Chicago & North Western Transportation Company (CNW)
- Railway Labor Executives Association (RLEA)
- Brotherhood of Locomotive Engineers (BLE)
- John W. McGinness, Illinois legislative director of United Transportation Union (McGinness)
- Jointly, Brotherhood of Maintenance-of-Way Employees (BMWE), Brotherhood of Railroad Signalmen (BRS), Brotherhood of Railway and Airline Clerks (BRAC), International Association of Machinists and Aerospace Workers (IAM), and United Transportation Union (UTU)(collectively "Unions").
- Kansas City Terminal Railway Company (KCT)\*

#### Neutral

- Burlington Northern, Inc. (BN)

The views of these parties shall be addressed as appropriate throughout this decision.

#### SPT's "TA" Application

**Background**—SPT's "temporary authority" (TA) application grows out of RI's recent financial and operational difficulties. On August 28, 1979, RI employees went on strike over certain wage issues. Although RI's management attempted to continue essential rail service, it soon became apparent that transportation needs were surpassing the limited ability of RI's management to meet those needs.

Accordingly, on September 20, 1979, President Carter invoked section 10 of the Railway Labor Act (45 U.S.C. § 160) to establish an Emergency Board to intervene in the RI labor dispute. However, the President's action failed to end the strike by September 22, 1979, and SPT filed its petition for temporary operating authority on that date in an effort to resume essential services over RI's Tucumcari line. SPT has an interest in preserving the viability of the Tucumcari line since it has filed an application in Finance Docket No. 28799 (discussed below) to purchase that line.

**Mootness**—Since the filing of SPT's application RI employees have returned to work and most essential service on RI lines has been restored under the terms

of the Commission decision in Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (September 26, 1979) and 44 FR 56343 (October 1, 1979). In DSO No. 1398, we directed KCT to provide service as a "directed rail carrier" (DRC) under 49 U.S.C. § 11125 over safe RI lines.<sup>3</sup>

While directed service has afforded a temporary answer to RI's problems, it is not a long-range solution nor even an ideal short-range one. *Id.*, 360 I.C.C. at 293. By the terms of 49 U.S.C. 11125(b)(1), directed service may not last more than 240 days, at most. Directed service creates a significant drain on the Federal treasury, the managerial resources of the DRC, and the governmental agencies involved in implementing it.

Accordingly, we conclude that SPT's TA application has not been mooted by the issuance of our directed service orders to KCT.

**Requested Relief**—As noted above, SPT's petition was styled an "application for temporary authority" to operate RI's Tucumcari line. SPT relies on a number of provisions of the Interstate Commerce Act (49 U.S.C. Subtitle IV) as supporting our jurisdiction to grant its application for rail "temporary authority" (TA): 49 U.S.C. 10101(a), 10321(a), 11349 and 10928. We find it unnecessary to consider whether these provisions provide the requisite authority, because we have concluded that we have authority to grant the application under another section of the Act, 49 U.S.C. 11123.

Under Rule 2 of our *General Rules of Practice*, we are obliged to construe our rules liberally so as to secure a "just, speedy, and inexpensive determination of the issues presented." See 49 CFR 1100.2 (1978). Regardless of the title of the application or the statutory provisions expressly relied on by the applicant, Rule 2 requires us to look beyond the form of the pleading to its substance in rendering our decision. Accordingly, we shall treat SPT's petition as one for authority under the two provisions of the Act which

<sup>3</sup>This authority was recently extended by us in DSO No. 1398 [Sub-No. 1], decided November 30, 1979. In that decision, we extended directed service for 90 days under 49 U.S.C. § 11125(b)(1), with a partial reduction in the number of lines to be operated under directed service. While KCT was reinstated as DRC over the remaining directed service system, we specifically invited interested rail carriers to apply for temporary operating authority, without government subsidization, over portions of the RI system. We also expressed our willingness selectively to discontinue directed service over those portions of the RI system as to which temporary operating authority may be granted.

empower us to order certain rail operations under emergency conditions:

- 49 U.S.C. 11123 [formerly 49 U.S.C. 1(15)]; and
- 49 U.S.C. 11125 [formerly 49 U.S.C. 1(16)(b)].

Section 11123(a)(2) authorizes the Commission—in emergency situations—to "take action during the emergency to promote service . . . regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle" on such terms of compensation as the carriers agree upon or, failing agreement, upon such terms of compensation as the Commission finds reasonable. Section 11123(a)(4) authorizes the Commission, in emergency situations, to direct the movement of rail traffic under appropriate permits (e.g., service orders). Section 11125—the "directed service" statute—empowers the Commission, under specified circumstances, to direct the handling, routing and movement of an impaired carrier's traffic, and to direct its distribution over the lines of the impaired carrier by another rail carrier.

We shall now consider whether SPT's application warrants approval under any of the foregoing provisions.

#### 49 U.S.C. 11123(a)(2)

**Overview**—Section 11123(a)(2) provides, in pertinent part, as follows:

(a) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States, the Commission may—

(2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to subsection (b)(2) of this section.

The key element of section 11123(a)(2) for present purposes is the finding of an "emergency." If it can be said that an emergency of the type contemplated by the statute exists here, then we may take such action as is necessary to promote service in the interests of public welfare and interstate commerce. For the reasons stated below, we believe a section 11123 "emergency" exists here, and warrants our granting SPT emergency authority temporarily to operate RI's Tucumcari line.

**Emergency**—To meet the threshold jurisdictional test under section 11123, we must first find that "a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States."

See 49 U.S.C. 11123(a). We believe this criterion is fully satisfied here.

We should at the outset note the Commission's broad Congressional mandate under 49 U.S.C. 11123 (formerly 49 U.S.C. 1(15)). As the courts have consistently held:

The only test for the exercise of this power, as outlined by Congress, was the "opinion" of "the Commission" as to the existence, at the time, of the type of emergency contemplated by the statute.

See *United States v. Southern Railway Co.*, 364 F. 2d 86, 93 (5th Cir. 1966), cert. denied 386 U.S. 1031 (1967); accord, *Baltimore & Ohio Railway Co. v. United States*, 298 U.S. 349 (1936) and *United States v. Thompson*, 58 F. Supp. 213, 215 (E.D. Mo. 1944).

Moreover, the type of "emergency" referred to in section 11123(a) has been interpreted by the courts as being significantly broader than the ordinary definition of "emergency." As one court has stated it, the statute refers not simply to ordinary emergencies but to "legislative emergencies," which encompass situations far beyond:

The commonplace meaning of "an unforeseen combination of circumstances which calls for immediate action." Legislative emergencies are those situations where the common good or public interest is legislatively declared to be paramount to individual interests. Common knowledge tells us that legislative action effective immediately has, on legion occasions, been adopted to correct an adverse public interest situation of long standing.

See *Daugherty Lumber Co. v. United States*, 141 F. Supp. 576, 580-81 (D. Or. 1956) (three-judge court); cited with approval in *United States v. Southern Railway Co.*, supra, 364 F. 2d 86.

In view of the statutory scheme behind section 11123(a), the courts have generally deferred to the Commission's administrative expertise in determining whether or not an "emergency" of the type envisioned in section 11123(a) exists. Relying on our expertise in the rail area, we find that an emergency within the meaning of section 11123 exists here and that the emergency requires us to grant SPT emergency authority temporarily to operate RI's Tucumcari line.

RI's present financial difficulties may be characterized as severe at best. As we fully outlined in the RI directed service order, the bankrupt RI is currently suffering from a cash position so poor as to make its continuing operation impossible within the meaning of 49 U.S.C. 11125(a)(1). See DSO No. 1398, *KCT—Operate—CRI&P*, supra, 360 I.C.C. at 290-292 and 316-323, which we hereby incorporate by reference.

Since the Rock Island's collapse, we have relied upon our powers under section 11125 and have ordered the Kansas City Terminal Railroad to provide directed service over nearly all of the Rock Island's lines. This course of action has been successful in preventing severe economic dislocations for thousands of shippers and in providing a breathing space for the development of long-range solutions to the problems of shippers who have no practical alternatives.

The most serious drawback to the continuation of directed service for compensation, however, is its enormous costs. As of December 1, 1979 we have advanced to the KCT over \$34 million; we estimate the costs of continued directed service to be in excess of \$13 million a month, assuming the continuation of service over nearly the entire RI System. Indeed, recent Commission calculations indicate directed service is costing and will continue to cost an average subsidy of \$450 per carload handled by the KCT, the present directed carrier.<sup>4</sup>

The grant of authority to SP over the Tucumcari Line, we believe, will reduce the drain on the Federal Treasury. While we have no way to calculate this savings precisely, such a conclusion is dictated by several factors. First, the entire RI system runs at a sizable deficit and we have no reason to believe that the Tucumcari Line has any greater revenue-generating capacity than any other part of the RI system. In fact, the RI's sale of this line would indicate a contrary conclusion.

Secondly, no heavy maintenance has been done on this line in 5 years which means that operations on this line are more costly than on other parts of RI, many of which have been adequately maintained. Furthermore, the failure of the RI to maintain this line properly indicates at least the belief of RI management that the line was not profitable.

Thirdly, under section 11125 directed service, the directed carrier receives 6

<sup>4</sup>The calculation is based on the following data. For the three months of December 1979 through February 1980, the Commission's Bureau of Accounts estimates the cost of directed service at \$13.7 million per month. For the period of directed service through November 20, 1979, traffic was down 40 percent from 1978 levels and this pattern is expected to continue. During the three months of December 1978 through February 1979, RI handled an average of 50,259 carloads per month. Reducing this figure by 40 percent suggests an average of 30,000 carloads per month this winter, for an average cost of \$457 per carload. In 1978, the average freight revenue received by RI per carload was only \$506 (i.e., freight revenues of \$392 million divided by 774,000 carloads). Thus, in continuing directed service, the Commission would nearly be matching, dollar for dollar, the sums actually paid by users.



percent of the revenue generated as a guaranteed profit. See 49 CFR Part 1126 (1978). Consequently, even if the Tucumcari Line were marginally profitable, which we doubt, its operation by the KCT for compensation would continue to be a drain upon the Federal Treasury.

In such a situation, we see no reason to continue to expend government funds to alleviate the emergency situation created by the collapse of the RI when we can achieve the same result at no expense to the taxpayer. Congress has indicated its reluctance to expend funds for directed service and has instructed the Commission to use such funds sparingly, only to provide service which is essential. See 125 Cong. Rec. H-10548 (November 9, 1979) (Conference Report on H.R. 4440). We believe our action in granting this application complies with that Congressional mandate. We also note that no other carrier has offered to provide service over this line at no compensation.

Accordingly, we find that a grant of SPT's temporary authority application is necessary to deal with the emergency and promote service in the interest of the public and of commerce.

49 U.S.C. 11123(a)(4)—In addition to our authority under 49 U.S.C. 11123(a)(2), we have authority to meet a section 11123-type emergency under 49 U.S.C. 11123(a)(4), which reads in pertinent part as follows:

(a) When the Interstate Commerce Commission considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States, the Commission may—

(4) give direction for . . . movement of traffic under permits.

The key issue here, as in section 11123(a)(2), is whether a section 11123(a) emergency exists. For the reasons stated above, we find that such an emergency does and will continue to exist. Moreover, for the reasons described below, we conclude that we also have jurisdiction under section 11123(a)(4), as well as section 11123(a)(2), to grant SPT's petition for temporary operating authority.

*Jurisdiction to Grant SPT's Requested Relief under section 11123*—Certain protestants contend that we lack jurisdiction under 49 U.S.C. 11123 to direct SPT to move traffic over RI's Tucumcari Line. We disagree.

Upon finding a section 11123-type emergency, section 11123(a)(2) expressly authorizes us to "take action . . . to promote service" and section 11123(a)(4) clearly authorizes us to "give directions for . . . movement of traffic under permits." Protestants primarily rely on

*Peoria Ry. Co. v. United States*, 263 U.S. 528 (1924), in arguing that section 11123 [formerly 49 U.S.C. 1(15)] cannot be used to authorize SPT to operate RI's Tucumcari Line. We must reject this argument.

The *Peoria* case is clearly distinguishable from the present situation. The issue in *Peoria* was simply whether section 1(15) authorized the Commission to direct one carrier to provide a transportation service ("switching services") for another carrier. Finding switching services to be a "transportation service" not fairly inferable from section 1(15)'s car service language, the Supreme Court held that the Commission had overstepped its authority in ordering switching services under section 1(15) without prior notice and hearing. Speaking of sections 1(15) and 1(16), the Court stated:

None of these provisions grants in terms power to require the performance of a transportation service.

Transportation Act 1920 evinces, in many provisions, the intention of Congress to place upon the Commission the administrative duty of preventing interruptions in traffic. But there is no general grant of emergency power to that end; and the detail in which the subjects of such power have been specified precludes its extension to other subjects by implication. [*Id.* at 532, 534-35.]

In this case, in contrast, the Commission is not directing one, unwilling, carrier to provide transportation services for another carrier, but is simply authorizing a willing carrier to use the facilities of another (and willing) carrier; we are merely exercising the express statutory authority conferred upon us by section 11123 to take action to promote service and to direct the movement of traffic upon a finding of emergency. Accordingly, *Peoria* is no impediment to our action here. Indeed, language in the *Peoria* decision strongly supports our authority here, because the Court explained that the purpose of former section 1(15) (now section 11123) was to make "instrumentalities" of transportation, including "[c]ars and locomotives . . . tracks and terminals . . . available in emergencies to a carrier other than the owner . . ." *Id.*, 236 U.S. at 533-534 (emphasis supplied). Moreover, as various courts have recognized, the *Peoria* decision:

Is confined to a declaration that the emergency powers conferred by Congress on the Commission did not include power to require a terminal carrier to switch by its own engines and over its own tracks freight cars which were tendered by and for another connecting carrier. [Emphasis added]

See *United States v. Southern Railway Company*, 364 F.2d 86, 95 (5th

Cir. 1966), *cert. denied* 386 U.S. 1031 (1967). Indeed, the Supreme Court itself has recognized the limited applicability of the *Peoria* decision. As Justice Douglas stated for the Court in *ICC v. Oregon Pacific Industries, Inc.*, 420 U.S. 184, 189 (1975):

As we have noted, *Peoria & P.U.R. Co.*, *supra*, emphasized that the car service authority extends to the "use" of cars and not to a "transportation service," but there the issue was whether one carrier was bound to perform switching services for another carrier. [Emphasis added]

We therefore conclude that we have jurisdiction under section 1123 direct SPT to move traffic over RI's Tucumcari line.<sup>5</sup>

#### SPT's Authority Under Section 11123(a)

In view of the continuing emergency on RI's Tucumcari line, we shall grant SPT's request for emergency authority temporarily to operate RI's Tucumcari line. The authorization shall be in the form of an appropriate service order under 49 U.S.C. § 11123(a). SPT's offer to provide service over this line will ensure affected shippers of reliable service by a carrier genuinely interested in preserving the viability of the line. Moreover, it will reduce the burdens associated with directed service over the remaining RI lines, such as the drain on DRC resources, the cost to the taxpayers, and the administrative burden on the government agencies overseeing directed service. Grant of the application will also make more cars and locomotives available on other parts of the Directed Service System.

Accordingly, we shall issue an appropriate service order authorizing SPT to operate RI's Tucumcari line, effective at 12:01 a.m. (central time (CT)) on the 7th day after the service date of this decision. SPT shall immediately notify this Commission and all parties to this proceeding, in writing, of the date on which it commences operations over RI's Tucumcari line. The service order shall remain in effect until either: (1) SPT's purchase application regarding the Tucumcari line (Finance Docket No. 28799) is decided by the Commission (and the courts, should it be appealed); or (2) the Commission finds the emergency is over.

<sup>5</sup>Our finding of jurisdiction is supported by a review of some of our prior service orders under section 11123. Particularly relevant are Service Order No. 1390, *Chicago, Milwaukee, St. Paul & Pacific Railroad Co. [MILW] and Consolidated Rail Corp. [Conrail]*, 44 FR 46278 (August 7, 1979), and Service Order No. 1394, *Providence & Worcester Company [PW]—Authorized to Operate Over Tracks of Warwick Railway Company [WRWK]*, 44 FR 46693 (August 20, 1979). These cases illustrate that the Commission may find a transportation emergency requiring action under section 11123 where service over a given line is in danger of ending, whether due to track deterioration or a railroad's economic difficulties, and shippers would be substantially adversely affected by such cessation of service.

In fashioning a service order, we believe certain conditions are necessary. In operating over the Tucumcari line, SPT shall use its own cars and operational equipment, so as not to drain RI's existing stocks. In operating the Tucumcari line, SPT will not be restricted to only SPT freight car equipment, but rather shall have full access to the national car fleet under current car service rules and orders.

For car distribution purposes, SPT shall be considered the "home road" on its portion of RI's Tucumcari line, and KCT shall be considered the "home road" on those portions of RI's Tucumcari line which it must traverse in order to provide service over the remaining directed-service system (essentially between Herington and Kansas City).

Further, we shall require SPT to hire RI employees necessary to the performance of the authorized operations, except to the extent that KCT believes certain employees are essential to the continuation of other RI operations. SPT shall pay the RI employees so hired at 1979 wage rates on a current basis, and these employees shall be entitled to all the employee protective conditions established in DSO No. 1398 and DSO No. 1398 (Sub-No. 1). See SPT's TA application, at 10.

As for rates, we authorize SPT to seek changes in existing RI rates and charges involving the Tucumcari line in accordance with 49 U.S.C. 10762. SPT is authorized to act on behalf of RI in all matters pertaining to the establishment of rates, routes, and divisions applicable to RI's Tucumcari line. On the date SPT's operations commence, KCT's authority over such rates, routes and divisions is rescinded to the extent necessary to effectuate the authority granted to SPT above. Also see ordering paragraph 3, below.

Any rehabilitation, operational, or other costs related to the operations authorized herein shall be the sole liability of SPT, and shall not in any way be deemed a liability of the United States Government.

Any operational difficulties encountered in performing the authorized operations shall be resolved by SPT and any other affected party through negotiated agreement or, failing agreement, by the Commission's Railroad Service Board.

There may be some administrative problems to resolve regarding joint operations between SPT and KCT between Herington and Kansas City. Accordingly, we shall direct an allocation of expenses to be made. We believe this could best be done (1) on a "traffic-handled" basis as to those costs related to general overhead (e.g., train dispatching, signals, maintenance of

track, etc.), and (2) on an "out-of-pocket cost" basis as to actual train operations (e.g., crew costs, fuel, etc.). Difficulties will be resolved by the Railroad Service Board. The cost of accounting functions related to these matters shall be the responsibility of SPT.

#### 49 U.S.C. 11125

Having found jurisdiction to grant SPT's application under 49 U.S.C. 11123(a), there is no need for us to consider SPT's application under 49 U.S.C. 11125, the directed-service statute.

We should, however, note that directed service under section 11125 remains an option available to us, should difficulties arise under the service order authorized above. We particularly note KCT's warning that it may be disinclined to continue its role as DRC, if SPT is authorized to operate RI's Tucumcari line. See KCT's late-filed comment. If such a situation were to arise, we will consider ordering SPT to operate the entire Rock Island under an appropriate directed service order.

#### Relationship With F.D. No. 28799

*Prejudgment Issue*—As noted earlier, SPT's TA application involves the same RI line which SPT is seeking to purchase under 49 U.S.C. 11343-44. The purchase application was filed on December 29, 1978, and has been designated Finance Docket No. 28799 (Sub-No. 1, *et. al.*), *St. Louis Southwestern Railway Company—Purchase (Portion)—William M. Gibbons, Trustee of the Property of Chicago, Rock Island & Pacific Railroad Company Debtor*. A final decision in F.D. No. 28799 is statutorily required within 6 months of the close of the evidentiary record.

Protestants allege that approval of SPT's TA application will adversely affect the proceeding in F.D. No. 28799 by "prejudging" the major issues and depriving the parties in that proceeding of due process. We cannot agree.

We fail to see how a grant of SPT's request to operate temporarily RI's Tucumcari line could prejudice the issues in F.D. No. 28799. The criteria in deciding the permanent and TA applications are entirely different. In F.D. No. 28799, consideration must be given to all the pertinent statutory criteria established by 49 U.S.C. 11343-47. However, in F.D. No. 29144, the only major issue is the transportation emergency resulting from RI's financial dilemma, and the need for extraordinary measures to meet the emergency.

We are not convinced that our decision to grant SPT's request to operate temporarily the Tucumcari line would create a *fait accompli* which will prejudice the proceeding in F.D. 28799. A brief look at the motor carrier area is instructive. Under 49 U.S.C. 11349, we

are expressly authorized to grant TA's to motor and water carriers in purchases, controls, mergers, or similar acquisitions under 49 U.S.C. 11343-44. Such TA's may remain in effect pending the final disposition of the application for permanent authority. Yet, no one contends that the grant of a TA to a motor or water carrier improperly prejudices the application for permanent authority. Similarly, our action in authorizing SPT to operate temporarily RI's Tucumcari line under 49 U.S.C. 11123 does not improperly prejudice SPT's application for permanent authority in F.D. No. 28799.

Indeed, we fail to see what conceivable action SPT could take during its temporary emergency operation of RI's Tucumcari line that would later compel us to grant its purchase application in F.D. No. 28799. We hereby put SPT on notice that any investment it makes in the Tucumcari line during the temporary operation period is at its own risk, and will not be a factor in our determination of whether to grant or deny its purchase application in F.D. 28799. Further, we will not permit SPT to rely on the fact of its temporary operation as a basis for seeking approval of its purchase application in F.D. 28799.

*Consolidation*—Certain protestants urge us to consolidate SPT's TA application with its purchase application, so that the record in this proceeding may include all the evidence adduced in F.D. No. 28799. We must reject this suggestion.

As noted above, the issues in the two proceedings are entirely different. In this proceeding, the issue is the need for emergency rail service in RI's operational territory. In F.D. No. 28799, the issues extend to all the statutory criteria reflected in 49 U.S.C. 11343-47. Thus, there is no need in the TA application to consider the evidence necessary to decide the purchase application.

Moreover, in view of the emergency nature of the situation confronting us in the TA application, there is no time to consolidate the two proceedings and to review all the evidence adduced in the purchase application before rendering our decision in the instant proceeding.

#### Effect on DSO No. 1398

*"Skimming" Argument*—Certain protestants argue that, if SPT is authorized to operate RI's Tucumcari line, the cost (particularly the cost to the Federal Government) of directed service under DSO No. 1398 will increase. This argument is based on the contention that the Tucumcari line is one of RI's more profitable lines, and that removal of this line from KCT's directed-service system will leave KCT with a greater



proportion of unprofitable lines. This, in turn, would allegedly increase the cost to the taxpayers of subsidizing the remaining directed-service lines.

This "skimming" argument rests on the assumption that RI's Tucumcari line is a profitable one, or at least one of its better lines. However, the evidence on this point is conflicting. While certain protestants contend that the Tucumcari line is profitable, data currently available to the Commission makes this contention questionable. But for its interest in keeping the line viable pending the conclusion of its purchase proceeding in F.D. No. 28799, even SPT would apparently have no interest in operating the line. Thus, it seems questionable whether any "skimming" would result from permitting SPT to operate RI's Tucumcari line.

Moreover, even if removal of the Tucumcari line from the directed-service system were to skim some revenues from directed-service operations, this loss would be offset by related reductions in directed-service expenses. Removal of the Tucumcari line from the system would reduce rehabilitation costs, result in fewer employees to pay, and generally reduce related operating expenses. Further, since SPT would not be using RI cars, locomotives or other operating equipment in providing service over the Tucumcari line, KCT's inventory of such materials and supplies would actually be increased, thus enhancing its revenue-generating capacity.

Finally, even if some skimming were demonstrable, we would not be inclined to deny a carrier's request to operate a portion of the RI system on a noncompensated basis, unless the drain on the remaining directed-service system was substantial. No such showing has been made here. As we stated in *KCT—Operate—CRI&P, supra*, 360 I.C.C. at 298, the issuance of a directed-service order does not preclude interested carriers from filing petitions to operate portions of the RI system on a noncompensated basis under 49 U.S.C. 11123 or 11125. On the contrary, we encourage such petitions as one of the least costly and most viable ways of providing essential rail service to former RI shippers.

**Operational Difficulties**—Certain protestants further allege that a grant of operating authority to SPT over RI's Tucumcari line would be operationally unworkable. We disagree.

As principal trouble spots, protestants point to the need for joint operations by SPT and KCT between Herington and Topeka, KS, and by SPT, KCT and UP between Topeka and Kansas City. Moreover, protestants note that SPT would have to share the Armourdale Yard in Kansas City with KCT, thus

increasing congestion there. Further, protestants assert that "complex difficulties" would arise regarding such matters as car supply, rolling stock, divisions, and switching movements. See, e.g., Santa Fe comment, at 12-14; UP comment, at 3-6; KCT comment, at 3. Accordingly, they urge us to deny SPT's application on the ground that it would create insurmountable operational difficulties.

While some operational difficulties may arise from SPT's operation of the Tucumcari line, we are not convinced of their magnitude. In view of the limited traffic volume which has moved over this line during the directed-service period, it seems unlikely that a mere change in carriers could "dangerously disrupt" KCT's directed-service operations. Further, since SPT would operate the Tucumcari line at its own expense and risk, it would have a strong interest in minimizing operational difficulties on the line. This interest in the line's viability would be buttressed by SPT's continuing desire to purchase the Tucumcari line. Indeed, SPT's operation and likely upgrading of the line and related facilities may actually improve conditions on the line, to the benefit of all involved, including KCT. At a minimum, SPT's temporary operation of the Tucumcari line would enhance KCT's ability to provide directed service, by permitting KCT to concentrate its attention and resources on other segments of the directed-service system, rather than addressing the need to remedy poor track conditions on the Tucumcari line.

Thus, rather than the spectre of hopeless confusion which certain protestants have alleged will result from permitting SPT to operate the Tucumcari line, we believe our action here will result in few, if any, significant operational problems.

In the event any operational problems should develop, however, we shall direct SPT and any adversely affected entities to seek a negotiated solution to such problems. Where these parties are unable to solve such problems on their own, we shall instruct the Commission's Railroad Service Board to develop an equitable solution.

#### Effects on SPT's Competitors

**Revenue Diversions**—Certain protestants allege that SPT's operation of the Tucumcari line will result in substantial diversions of revenue from SPT's competitors. These diversions, it is asserted, will have disastrous consequences on SPT's competitors and, in turn, on their ability to provide rail service. We are not persuaded that these alleged diversions warrant denial of SPT's emergency service.

To begin with, the question of diversion is immaterial to the

application before us. In deciding whether to authorize emergency operations under 49 U.S.C. 11123(a), the only material issue is whether the Commission finds that "a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States." See 49 U.S.C. 11123(a). In situations arising under section 11123(a), we are concerned only with whether emergency conditions exist and what action is necessary to preserve essential service. Questions of revenue diversion and the like—while appropriate to proceedings for permanent authority under 49 U.S.C. 11343-44—are not compelling reasons for denying the emergency relief required under section 11123.

Further, even assuming that the issue of diversion was material in section 11123 settings, we would still be unpersuaded that the alleged diversions here warrant denial of SPT's temporary authority application. Viewing the record as a whole, we are not convinced that SPT will be able to divert significant amounts of revenue in the limited period of its operation of the Tucumcari line under section 11123. As noted above, traffic on this line during the directed-service period has been relatively low in volume. Moreover, significant portions of the line are in need of substantial rehabilitation, which SPT must perform before the line's quality and profitability can be improved. Indeed, SPT may well lose money operating the Tucumcari line under emergency authority. Additionally, protestants' allegations of diversion are generally based on evidence adduced in F.D. No. 28799, which evidence looks to SPT's permanent acquisition and operation of the line, not SPT's temporary operation of the line.

Accordingly, we do not believe an emergency service order should be withheld on the basis of protestants' allegations of revenue diversion.

#### Labor Matters

We shall condition our approval of SPT's application upon the requirement that SPT afford affected employees appropriate protection.

**Hiring of RI Employees**—In operating the Tucumcari line, SPT shall hire those RI employees necessary to the performance of the authorized operations, except to the extent that KCT believes certain employees are essential to the performance of directed-service operations. RI employees hired by SPT to perform operations over the Tucumcari line shall cease to be the responsibility of KCT (or other RI operator) and shall become the responsibility of SPT for the duration of SPT's emergency operations over the Tucumcari line. RI employees so hired

by SPT shall be paid by SPT at 1979 wage rates on a current basis, and shall be entitled to all the employee protective conditions established in DSO No. 1398 and DSO No. 1398 (Sub-1).

**Employee Protective Conditions**—Any employees terminated or furloughed by SPT or the DRC as a direct result of SPT's emergency operation over the Tucumcari line shall be afforded, by SPT, the employee protective conditions established in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) (*New York Dock II*).

#### Other Matters

**Preservation of the Estate**—During the period of its emergency operation of the Tucumcari line, SPT shall be fully responsible for preserving the value of that line, which is part of the RI estate. Accordingly, SPT shall have an affirmative duty to perform that degree of maintenance and upkeep as is necessary to avoid deterioration to the Tucumcari line and related facilities.

**Reporting Requirements**—To assist us in monitoring SPT's operation of RI's Tucumcari line we shall require SPT to file that data regarding operations over the Tucumcari line which RI would have otherwise filed in ordinary circumstances.

**Traffic Reports**—To further assist us in monitoring SPT's operation of the Tucumcari line, SPT shall file monthly a traffic report identifying: (1) the number of carloads transported over the Tucumcari line daily; (2) the total gross revenue for those carloads; and (3) RI's normal portion of the total gross revenue. These traffic reports shall be submitted to the Commission (see offices listed below) once a month at the end of each calendar month.

#### Conclusion

For the foregoing reasons, we conclude that SPT should be authorized under 49 U.S.C. 11123(a) to perform emergency operations over RI's Tucumcari line, in accordance with the terms and conditions stated above.

#### We find:

(1) There presently exists an emergency requiring immediate action in RI's service territory, within the meaning of 49 U.S.C. 11123(a), which warrants our directing SPT to move traffic over RI's Tucumcari line under 49 U.S.C. 11123(a).

(2) This action will not significantly affect either the quality of the human environment or conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

(3) Any findings made elsewhere in this decision but not specifically enumerated here are hereby expressly adopted.

49 CFR 1033.1411, St. Louis Southwestern Railway Company—

Authority To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) Between Santa Rosa, NM, and St. Louis, Mo.

#### Operations Under 49 U.S.C. 11123(a)

It is ordered: (1) Entry—SSW is authorized to enter upon and operate FI's Tucumcari line for the purpose of moving traffic under this service order. See 49 U.S.C. 11123(a).

(a) The entry shall occur on this order's effective date (see below) and shall continue until this order's expiration date (see below), unless modified or extended by this Commission.

(b) SPT shall immediately notify this Commission and the parties to this proceeding, in writing, of the date it commences operations over RI's Tucumcari line.

(2) **Cars and Equipment**—In operating over the Tucumcari line, SPT shall use its own (and national car fleet) cars and operational equipment.

(3) **Applicable Rates**—We authorize SPT to seek changes in existing RI rates and charges involving the Tucumcari line in accordance with 49 U.S.C. § 10762. SPT is authorized to act on behalf of RI in all matters pertaining to the establishment of rates, routes and divisions applicable to RI's Tucumcari line. SPT shall preserve existing joint rates and through routes.

(4) **Payments by SPT**—SPT shall pay to all other carriers amounts received by the former but due to the latter for the latter's service, for per diem, and for events occurring during the period this service order is in effect, in accordance with established procedures for the settlement of interline transactions and accounts.

(5) **Hiring of RI Employees**—In operating the Tucumcari line, SPT shall hire those RI employees necessary to the performance of the authorized operations, except to the extent that KCT believes certain employees are essential to the continuation of other RI operations.

(a) RI employees hired by SPT to perform operations over the Tucumcari line shall cease to be the responsibility of KCT and shall become the responsibility of SPT for the duration of SPT's emergency operations over the Tucumcari line.

(b) RI employees so hired by SPT shall be paid by SPT at 1979 wage rates on a current basis, and shall be entitled to all the employee protective conditions established in DSO No. 1398 and DSO No. 1398 (Sub-No. 1).

(c) Any employees terminated or furloughed by SPT or the DRC as a direct result of SPT's emergency operation over the Tucumcari line shall be afforded, by SPT, the employee

protective conditions established in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) (*New York Dock II*).

(6) **SPT's Liability for Costs**—Any rehabilitation, operational or other costs related to the operations authorized herein shall be the sole liability of SPT, and shall not in any way be deemed a liability of the United States Government.

(7) **Operational Difficulties**—Any operational difficulties encountered in performing the authorized operations shall be resolved by SPT and any other affected party through negotiated settlement or, failing agreement, by the Commission's Railroad Service Board. The Board may, in its discretion, certify to the entire Commission any matters referred to it.

(8) **49 U.S.C. 11125**—We reserve the right to consider SPT's petition in F.D. No. 29144 as a request for a noncompensated directed service order under 49 U.S.C. § 11125, should circumstances so warrant.

(9) **Preservation of RI Estate**—During its emergency operation of the Tucumcari line, SPT shall be fully responsible for preserving the value of that line, which is part of the RI estate. Accordingly, SPT shall have an affirmative duty to perform that degree of maintenance and upkeep as is necessary to avoid deterioration to the Tucumcari line and related facilities.

(10) **Reporting Requirements**—SPT shall file with the commission that data regarding operations over the Tucumcari line which RI would otherwise have filed in ordinary circumstances.

(11) **Traffic Reports**—SPT shall file with the Commission, on a monthly basis a traffic report identifying: (a) the number of carloads transported over the Tucumcari line daily; (b) the total gross revenue for those carloads; and (c) RI's normal portion of the total gross revenue. These traffic reports shall be submitted to the Commission once a month at the end of each calendar month.

#### General Provisions

(12) **Petitions to Intervene**—The late-filed replies, which we have decided to treat as petitions for leave to intervene, are granted.

(13) **Commission Filings**—All documents filed in this proceeding should refer to "Finance Docket No. 29144/Service Order No. 1411" and shall be sent to the following Commission offices in the Commission's headquarters building at 12th and Constitution Avenue, NW, Washington, DC 20423:

- Office of the Secretary (Room 2215) (original; for filing in docket)
- Section of Finance (Room 5417), Office of Proceedings (3 copies)



- Section of Rail Services Planning (Room 7375), Office of Policy and Analysis (3 copies)
- Railroad Service Board (Room 7115), Bureau of Operations (3 copies)
- Bureau of Accounts (Room 6133) (3 copies)

(14) *Applicability*—The provisions of this decision shall apply to intrastate, interstate, and foreign traffic.

(15) *Enumeration*—All requirements specified in this decision but not specifically enumerated in these ordering paragraphs shall be followed as though specifically enumerated.

(16) *Modifications*—The Commission retains jurisdiction to modify, supplement or reconsider this order at any time.

(17) *Service on Parties*—This decision shall be served upon all the parties in this proceeding (Finance Docket No. 29144), in DSO No. 1398, and in Finance Docket No. 28799 (Sub-No. 1).

(18) *Notice to Public*—Notice of this decision shall be given to the general public by: (a) depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC; and (b) filing a copy with the Director, Office of the Federal Register.

(19) *Effective Date*—This decision and service order shall be effective at 12:01 a.m. (CT) on the 7th day after the service date of this decision. SPT shall immediately notify the Commission, in writing, of the date it commences operations over RI's Tucumcari line.

(20) *Expiration Date*—Unless modified by the Commission, this decision and service order shall remain in effect until either: (a) SPT's purchase application regarding the Tucumcari line (Finance Docket No. 28799) is decided by the Commission (and the courts, should it be appealed); or (2) the Commission finds the emergency is over.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Caskins, and Alexis, Chairman O'Neal concurring in the result. Vice Chairman Stafford dissenting. Commissioner Clapp dissenting. Commissioner Christian not participating. Commissioner Alexis would have required all transit arrangements, already entered into, to be protected.

Agatha L. Mergenovich, Secretary.

**Chairman O'Neal, Concurring in the Result**

I share the concerns of the minority about prejudgment of Southern Pacific Transportation Company's application for permanent acquisition of the Tucumcari line. But this is an extraordinary situation. I do not see any viable alternative for continuing service over this important Rock Island rail line following the additional 90 days of directed service by the Kansas City Terminal Company. I doubt that it's possible for any purchase of the Tucumcari line by one or another of the competing railroads to be accomplished within that 90 days. I even doubt the possibility that the statutory

maximum of 180 days would be adequate if such time were available. It is not available because of the Congressional limit on appropriations and because of the Congressional mandate to use conservatively any directed service at government expense. Vice Chairman Stafford, Dissenting

I would deny the so-called "temporary authority" application filed by SPT. The majority's decision, in my judgment, suffers legal flaws and a naivety as to certain practical considerations.

Legally, and as the majority concedes, SPT's "TA application" has no specific basis in law. At best, we are dealing with implied powers under the Interstate Commerce Act (Act), or as a layman would call it—"bootstrapping."

The most blatant example of the implied powers argument is found in the decision's analogy to the water and motor carrier TA statutes. First of all, it is a general principle of statutory construction that the specific prevails over the general or, in other words, the granting of specific powers (in this case to water and motor carriers) precludes implying the same powers (to rail carriers) relying on general provisions of the Act. Moreover, in the case of water and motor carriers any infusion of assets by the acquiring carrier into the vendor are generally readily retrievable if the permanent application is denied. That is, it is axiomatic that a water or motor carrier does not need improved "roadbed"; betterments will be in new trucks and barges, all readily sellable if the permanent transaction fails. Yet, SPT is going to expend considerable funds in improving the Rock's roadbed. I fail to see how SPT is going to retrieve rail, ties and ballast, etc. if the permanent application is denied, and therefore any analogy with water and motor temporary operations is meaningless.

The reliance on section 11123 of the Act [formerly section 1(15)] is a tenuous one. The present factual situation is not "clearly distinguishable" from the *Peorio* case. Indeed, a strong argument can be made that since the Supreme Court specifically found terminal switching services to be outside the scope of 1(15), obviously directions over 1,000 miles of railroad is also outside the scope of section 1(15).

Another legal problem is the majority's insistence on finding a remedy at law for SPT. Simple due process requires, in my view, that all parties have ample opportunity to know under what theory of law the proceeding is based. Here the rules have been shifted in the "middle of the game"; at a minimum we should entertain further argument from the some 13 protestants as to the validity of section 1(15).

The most important legal problem is the issue of prejudging the SPT permanent application. As discussed, *supra*, the SPT will unquestionably be placing considerable sums of money into the 1,000 mile roadbed. In my view, this fact alone injects a definite element of bias and prejudice into the permanent application proceeding. That proceeding is hotly contested with almost every western and midwestern railroad opposing the application. To date, 75 days of hearing have taken place with 489 exhibits. At least several days, if not weeks, of hearing remain. Yet, as a practical matter, the considerable monies expended by SPT, combined with SPT actually operating the line, will make it virtually impossible for the

Commission to deny the permanent application.

From a practical standpoint, there are several problems with the decision. For one, it is not clear whether operation of the Santa Rosa-St. Louis line temporarily by SPT will save the Government anything at all in terms of KCT directed service funds. In other words, there is considerable disagreement whether the line is "profitable". I must assume it is, as otherwise the SPT would not operate it voluntarily with no government backing. Therefore, the SPT is taking probably the only profitable part of the Rock Island. The conclusion is inescapable that this "skimming" means the costs of KCT directed service will increase. In any event, the line's profitability and consequent financial effects on the Rock Island estate (and of course the taxpayer) need considerable more study.

Another problem left unanswered by the majority is simply this: what happens to other railroads once SPT assumes operations? SPT is entering a substantial new market, but at who's expense? I find it unconscionable that absolutely no consideration has been given to the adverse impacts on other railroads. A possible scenario is the bankruptcy of two or three marginal railroads in the mid-west. How such bankruptcies will help the taxpayer—not to mention shippers and communities in these lines—escapes me.

Moreover, we should not forget that KCT has been doing a relatively good job. My view of directed service has always been twofold: (1) to provide essential services on an interim basis (2) to assure a relative degree of maintaining the respective competitive relationships between the rail carriers. KCT, as a neutral switching company jointly owned by most of the midwest carriers, has accomplished these goals.

A final point needs to be stated, i.e., the question of transit rates. The decision ignores the issue of transit rates and indeed seems to encourage the SPT to ignore existing Rock Island transit rates. Thousands of grain shippers have relied on Rock Island transit rates in marketing their product. A typical situation, for example, would involve a Haviland elevator transporting grain to the Gulf via transit at Hutchinson, Kansas. The shipper has relied on a through rate, as distinguished from the much higher "flat rates." To now force the shipper to pay flat rates will result in an unfair and unjust penalty to the shipper. In certain instances, the flat rates will be double the through transit rates. I shudder to think what this will cost the midwest economy.

**Commissioner Clapp, Dissenting**

I would not grant SPT's temporary authority application in any form. I am concerned about prejudgment of SPT's application for permanent acquisition of the Tucumcari line. Consequently, I would not grant any authority in the nature of a TA to a railroad competing with others for permanently authority unless it is absolutely necessary for the continuation of service in a particular area. Under the circumstances, with KCT operations in place for another 90 days, I would not now substitute SPT's services for KCT's on the basis of an existing "emergency."

[FR Doc. 79-38176 Filed 12-12-79; 8:45 am]

**BILLING CODE 7035-01-M**

## Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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#### 1

##### COMMODITY FUTURES TRADING COMMISSION.

**TIME AND DATE:** 10 a.m., December 18, 1979.

**PLACE:** 2033 K Street, NW., Washington, D.C., fifth floor hearing room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** CFTC Reparations System.

##### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2427-79 Filed 12-11-79; 3:18 pm]

**BILLING CODE 6351-01-M**

#### 2

##### COMMODITY FUTURES TRADING COMMISSION.

**TIME AND DATE:** 10:30 a.m., December 18, 1979.

**PLACE:** 2033 K Street NW., Washington, D.C., fifth floor hearing room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Budget and enforcement matters.

##### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2428-79 Filed 12-11-79; 3:18 pm]

**BILLING CODE 6351-01-M**

#### 3

##### FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in

the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 11:00 a.m. on Monday, December 10, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

A memorandum and resolution re: Final regulations (12 CFR 304.4 and new Part 349) implementing the reporting requirements of Title VIII (Correspondent Accounts) and Title IX (Disclosure of Material Facts) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978; and

A memorandum and resolution re: Amendments to Parts 303 and 304 of the Corporation's rules and regulations—Model agreement governing pledge of assets by foreign banks.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: December 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2418-79 Filed 12-11-79; 12:02 pm]

**BILLING CODE 6714-01-M**

#### 4

##### FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11:30 a.m. on Monday, December 10, 1979, the Corporation's Board of Directors determined, on motion of Director John G. Heimann (Comptroller of the Currency), seconded by Chairman Irvine H. Sprague, concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 44,162-L); and

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Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Legal Division memorandum dated December 6, 1979); and

Notice of acquisition of control: Ennis State Bank, Ennis, Texas.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: December 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2419-79 Filed 12-11-79; 12:02 pm]

**BILLING CODE 6714-01-M**

#### 5

##### FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 17, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of Security Pacific National Bank, Los Angeles, California, and Inyo-Mono National Bank, Bishop, California.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Chapman and Cutler, Chicago, Illinois, in connection with the liquidation of The Drovers' National Bank of Chicago, Chicago, Illinois.

Powell, Goldstein, Frazer & Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Georgia.

Wildman, Harrold, Allen, Dixon & McDonnell, Memphis, Tennessee, in connection with the liquidation of North Point State Bank, Arlington Heights, Illinois.

Sidley & Austin, Chicago, Illinois, in



connection with the liquidation of The Drovers' National Bank of Chicago, Chicago, Illinois.

Chapman and Cutler, Chicago, Illinois, in connection with the liquidation of State Bank of Clearing, Chicago, Illinois.

Sidley & Austin, Chicago, Illinois, in connection with the liquidation of State Bank of Clearing, Chicago, Illinois.

Patterson & Patterson, Whitfield, Manikoff, Ternan and White, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Michigan.

Schumann, Hession, Kennelly and Dormet, Jersey City, New Jersey, in connection with the liquidation of First State Bank of Hudson County, Jersey City, New Jersey.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Feldstein, Gelpi, Hernandez & Castillo, Old San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico (two memorandums).

Atkinson, Mueller & Dean, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Schall, Boudreau & Gore, San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Francis, Doval, Munoz, Acevedo, Otero & Trias, San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of First State Bank & Trust Co., Rio Grande City, Texas.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of South Texas Bank, Houston, Texas.

Pryor, Cashman, Sherman & Flynn, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Parsons, Canzona, Blair & Warren, Red Bank, New Jersey, in connection with the liquidation of The Bank of Bloomfield, Bloomfield, New Jersey.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,160-L—The First State Bank of Tuscola, Tuscola, Texas.

Case No. 44,173-L—Winona State Bank, Winona, Texas.

Memorandum and Resolution re:

#### Delegations of Authority.

Memorandum and Resolution re: Final Rule Deleting Parts 301, 305, 306, 325 and Sections 330.13, 330.14; Proposal to Revise Part 339.

Memorandum re: Changes in FDIC Regulations to amend delegations of authority, to amend the definition of "phantom" bank merger, and to correct an error in a prior publication.

Memorandum and Resolution re: Amendments to FDIC's Regulations Governing Disclosure of Information (12 CFR Part 309).

Memorandum re: Budget of Administrative Expenses for Budget Year 1980.

Memorandum re: Budget of Liquidation Expenses for Budget Year 1980.

#### Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Audit Report: Review of EDP Services Provided to DBS by DMSFS dated September 10, 1979.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located 550-17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2420-79 Filed 12-11-79; 12:02 pm]

BILLING CODE 6714-01-M

#### 6

##### FEDERAL DEPOSIT INSURANCE CORPORATION.

#### Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 17, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The D'Arbonne Bank and Trust Company, a proposed new bank, to be located at 406 Water Street, Farmerville, Louisiana, for Federal deposit insurance.

Michigan Bank—Midland, a proposed new bank, to be located at 1000 South Saginaw Road, Midland, Michigan, for Federal deposit insurance.

Beaver State Bank, a proposed new bank, to be located at the intersection of Hall Boulevard and Watson Street, Beaverton, Oregon, for Federal deposit insurance.

Bank of Baroda, Bombay, India, a United States branch of a foreign bank, located at One Park Avenue, New York, New York, for Federal deposit insurance.

Israel Discount Bank Ltd., Tel Aviv, Israel, two United States branches of a foreign bank, located at 511 Fifth Avenue, New York, New York, and 1350 Broadway, New York, New York, for Federal deposit insurance.

Bank Hapoalim B.M., Tel Aviv, Israel, a United States branch of a foreign bank, located at 3 Penn Center Plaza, Philadelphia, Pennsylvania, for Federal deposit insurance.

Mississippi River Bank, a proposed new bank, to be located at 112 Belle Chasse Highway North, Belle Chasse, Louisiana, for Federal deposit insurance.

American Bank and Trust Company, Inc., a proposed new bank, to be located at 880 Corporate Drive, Lexington, Kentucky, for Federal deposit insurance.

Allied Nederland Bank, a proposed new bank, to be located at the northeast corner of 29th Street and F. M. Highway 365, Nederland, Texas, for Federal deposit insurance.

Allied Mission Bend Bank, a proposed new bank, to be located in the Mission Bend Shopping Center at the southwest corner of Bellaire Boulevard and State Highway 6, Unincorporated Harris County, Texas, for Federal deposit insurance.

Michigan Bank—Livingston, a proposed new bank, to be located at 218 East Grand River Avenue, Brighton, Michigan, for Federal deposit insurance.

The Scott County Bank, a proposed new bank, to be located on the east side of Highway 71B approximately 300 feet south from its intersection with Highway 80 in Waldron, Arkansas, for Federal deposit insurance.

Great American Bank, a proposed new bank, to be located at 1801 Century Park East, Los Angeles, California, for Federal deposit insurance.

The Trust Company of New Jersey, Jersey City, New Jersey, a State member bank, for Federal deposit insurance coincident with its withdrawal from the Federal Reserve System.

Applications for consent to establish branches:

Israel Discount Bank of New York, New York, New York, for consent to establish a foreign branch in George Town, Grand Cayman, Cayman Islands.

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey, for consent to establish a branch at the intersection of Route 9 and Beach Boulevard, Lacey Township, New Jersey.

Application for consent to merge and exercise trust powers:

International Central Bank, Newport Beach, California, an insured State nonmember bank, for consent to merge with International Trust Corporation, Newport Beach, California, a noninsured financial corporation, under the charter and title of

International Central Bank; and for consent to exercise trust powers.

Application for consent to add a subordinated capital note to the bank's capital structure and for advance consent to the retirement thereof:

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey.

#### Notices of acquisition of control:

Bank of Granite, Granite, Oklahoma. Washington Bank and Trust Company, Franklinton, Louisiana.

Request for exemption pursuant to section 348.4(b)(3) of the Corporation's rules and regulations entitled "Management Official Interlocks":

The Ashford Bank, Houston, Texas.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of Surety Bank and Trust Company, Wakefield, Massachusetts.

Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum re: Possible Conflicts of Interest in Connection With Attorneys Fees to Directors, Trustees, Officers or Stockholders.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,148-L—Franklin National Bank, New York, New York.

Case No. 44,149-L—Franklin National Bank, New York, New York.

Case No. 44,151-L—Franklin National Bank, New York, New York.

Case No. 44,152-L—Franklin National Bank, New York, New York.

Case No. 44,154-NR—United States National Bank, San Diego, California.

Case No. 44,156-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Case No. 44,157-NR—United States National Bank, San Diego, California.

Case No. 44,163-L—Franklin National Bank, New York, New York.

Case No. 44,164-L—Southern National Bank, Birmingham, Alabama.

Case No. 44,165-L—Franklin National Bank, New York, New York.

Case No. 44,170-L—Skyline National Bank, Denver, Colorado.

Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois.

Memorandum re: State Bank of Clearing, Chicago, Illinois.

Memorandum re: Guaranty Bank and Trust Company and Gateway National Bank of Chicago, Chicago, Illinois.

Memorandum re: Livingston State Bank, Livingston, New Jersey.

Memorandum re: First State Bank & Trust Co., Rio Grande City, Texas.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2421-79 Filed 12-11-79; 12:02 pm]

BILLING CODE 6714-01-M

#### 7

##### FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, December 18, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Personnel, Audit Policy—Materiality thresholds.

DATE AND TIME: Thursday, December 20, 1979 at 10 a.m.

STATUS: This meeting will be open to the public.

#### MATTERS TO BE CONSIDERED:

Setting of dates for future meetings; correction and approval of minutes; certifications.

1980 election and related matters; presidential monthly status report; candidate debate regulations; delegate selection regulations.

Public notice to banks; consultant's report on audit process (Part II).

Appropriations and budget; pending legislation; classification actions; routine administrative matters.

MATTERS TO BE CONSIDERED IN EXECUTIVE SESSION. Closed to the public: Compliance, Personnel, Audit Policy—Materiality thresholds.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2426-79 Filed 12-11-79; 3:18 pm]

BILLING CODE 6715-01-M

#### 8

##### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

December 10, 1979.

TIME AND DATE: 10 a.m., Tuesday, December 18, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Ora Mae Coal Company, KENT 79-263-D (Petition for Interlocutory Review).

2. Consolidation Coal Company, VINC 77-132-P, IBMA 78-3.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2425-79 Filed 12-11-79; 3:18 pm]

BILLING CODE 6820-12-M

#### 9

##### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 70061, December 5, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, December 10, 1979.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on December 3, 1979.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: December 10, 1979.

Theodore E. Allison,

Secretary of the Board.

[S-2415-79 Filed 12-10-79; 4:12 pm]

BILLING CODE 6210-01-M



10

**NATIONAL CONSUMER COOPERATIVE BANK.**

Meeting of the Board of Directors.

**TIME AND DATE:** 10 a.m. Monday, December 17, 1979 and, if necessary it shall continue at 10 a.m., Tuesday, December 18, 1979.

**PLACE:** Room 4121, Main Treasury Building, 15th Street & Pennsylvania Avenue NW., Washington, D.C.

**STATUS:** Portions of the meeting shall be open to observers, other portions may be closed. Matters to be considered:

*Portions Open to the Public:*

1. Approval of Agenda.
2. Approval of Summary of Minutes of Board Meeting of November 15, 1979.
3. Oral briefing by the acting President on Administrative and Legislative Issues.
4. Discussion of Projected 2nd Quarter Fiscal Year 1980 Budget.
5. Report of Ad Hoc Presidential Search Committee.

6. Oral briefing on Public Participation Meetings.

7. Report by General Counsel on the Relationship Between the National Consumer Cooperative Bank and the Office of Self-Help Development and Introduction of Outside Counsel.

8. Consideration and approval of Sunshine and Conflict of Interest Regulations.

9. Consideration and approval of Proposed Policies and Regulations: (a) Credit and Lending Committee, (b) Self-Help Committee, and (c) Personnel and Management Committee.

*Portions Closed to the Public*

1. Interviews of Prospective Presidential Candidates.

**CONTACT PERSON FOR MORE INFORMATION:** Marcia Kaptur, Office of the Secretary at 202/376-0886.

John Comerford,  
*Acting President.*

[S-2416-79 Filed 12-11-79; 9:47 am]  
BILLING CODE 4610-25-M

11

**NATIONAL TRANSPORTATION SAFETY BOARD.**

[NM-79-45]

**TIME AND DATE:** 9 a.m., Monday, December 17, 1979.

**PLACE:** NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

**STATUS:** Closed under Exemption 9B of the Government in the Sunshine Act.

**MATTER TO BE CONSIDERED:**

A majority of the Board has determined by recorded vote that the business of the Board

requires that the following item be discussed on this date and that no earlier announcement was possible.

Discussion of Board strategy for public hearing on commuter aviation safety to be held beginning January 28, 1980.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming 202-472-6022.

December 11, 1979.

[S-2423-79 Filed 12-11-79; 2:07 pm]

BILLING CODE 4910-58-M

12

**NATIONAL TRANSPORTATION SAFETY BOARD.**

[NM-79-46]

**TIME AND DATE:** 9 a.m., Thursday, December 20, 1979.

**PLACE:** NTSB conference room 8 A, B, C, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Aircraft Accident Report—American Airlines, Inc., McDonnell-Douglas DC-10-10, N110AA, Chicago-O'Hare International Airport, Chicago, Illinois, May 25, 1979.
2. Recommendation to the Federal Aviation Administration re actions to correct deficiencies pertinent to the American Airlines DC-10 accident at Chicago, Illinois, May 25, 1979.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George G. Yearsich at (202) 272-2178.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming 202-472-6022.

December 11, 1979.

[S-2424-79 Filed 12-11-79; 2:07 pm]

BILLING CODE 4910-58-M

13

**POSTAL RATE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 70062, December 5, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE CLOSED MEETING:** 2 p.m., December 6, 1979.

**CHANGES IN THE MEETING:** Meeting date and time changed to 9:30 a.m., December 13, 1979. Meeting remains closed pursuant to 5 U.S.C. 552b(c)(10).

**CONTACT PERSON FOR MORE INFORMATION:** Dennis Watson, 202-254-5614.

[S-2417-79 Filed 12-11-79; 12:02 pm]

BILLING CODE 7715-01-M

14

**SECURITIES AND EXCHANGE COMMISSION.**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [To be published].

**STATUS:** Closed meeting.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:**

Wednesday, December 5, 1979.

**CHANGES IN THE MEETING:** Additional item. The following additional item will be considered at the closed meeting scheduled for Tuesday, December 11, 1979, at 10:00 a.m.:

Administrative proceeding of an enforcement nature.

The following item will not be considered at the above closed meeting. Litigation matter.

The following additional item will be considered at a closed meeting scheduled for Wednesday, December 12, 1979 following the 10 a.m. open meeting:

Settlement of an injunctive action.

The following item will not be considered at the above meeting:

Legislative matter bearing enforcement implications.

In addition, the following closed meeting was held on Friday, November 16, 1979 at 2 p.m. The subject matter of the closed meeting was:

Legislative and regulatory matters bearing enforcement implications.

Chairman Williams and Commissioners, Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George G. Yearsich at (202) 272-2178.

December 10, 1979.

[S-2422-79 Filed 12-11-79; 2:07 pm]

BILLING CODE 8010-01-M

15

**COUNCIL ON ENVIRONMENTAL QUALITY**

December 11, 1979.

**TIME AND DATE:** 11:30 a.m., Thursday, December 20, 1979.

**PLACE:** Conference Room, 722 Jackson Place NW., Washington, D.C. 20006.

**STATUS:** Open meeting.

**MATTERS TO BE CONSIDERED:**

1. Old business.
2. Report on recent changes and improvements in public access to the Upgrade environmental information system.
3. Status report by HCRS on River and Trail initiatives in President's Environmental Message.
4. Briefing on status of agencies' NEPA procedures.

**CONTACT PERSON FOR MORE**

**INFORMATION:** John F. Shea III, (202) 395-4616.

[S-2429-79 Filed 12-11-79; 4:17 pm]

BILLING CODE 3125-01-M

**Reader Aids**

Federal Register

Vol. 44, No. 241

Thursday, December 13, 1979

**INFORMATION AND ASSISTANCE**

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday          | Tuesday    | Wednesday | Thursday        | Friday     |
|-----------------|------------|-----------|-----------------|------------|
| DOT/SECRETARY*  | USDA/ASCS  |           | DOT/SECRETARY*  | USDA/ASCS  |
| DOT/COAST GUARD | USDA/APHIS |           | DOT/COAST GUARD | USDA/APHIS |
| DOT/FAA         | USDA/FNS   |           | DOT/FAA         | USDA/FNS   |
| DOT/FHWA        | USDA/FSQS  |           | DOT/FHWA        | USDA/FSQS  |
| DOT/FRA         | USDA/REA   |           | DOT/FRA         | USDA/REA   |
| DOT/NHTSA       | MSPB/OPM   |           | DOT/NHTSA       | MSPB/OPM   |
| DOT/RSPA        | LABOR      |           | DOT/RSPA        | LABOR      |
| DOT/SLSDC       | HEW/FDA    |           | DOT/SLSDC       | HEW/FDA    |
| DOT/UMTA        |            |           | DOT/UMTA        |            |
| CSA             |            |           | CSA             |            |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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53686 9-14-79 / Oil and gas and sulphur operations in the Outer Continental Shelf  
61886 10-26-79 / Oil and gas and sulphur operations in the Outer Continental Shelf

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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- 72276 Part II—DOE/Office of Conservation and Solar Energy:  
Energy Conservation Program for Consumers Products
- 72288 Part III—HUD:  
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- 72310 Part IV—HUD/NVACP:  
Availability of Neighborhood Self-Help Development Project Grants
- 72316 Part V—EPA:  
Final Determination Concerning the Rebuttable Presumption Against Registration for Certain Uses of Pesticide Products Containing 2,4,5-T
- 72344 Part VI—DOT/FAA:  
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- 72348 Part VII—The President:  
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- 72566 Part VIII—DOE/ERA:  
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# Federal Register

Thursday  
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## Part II

### Department of Energy

Office of Conservation and Solar Energy

Advance Notice of Proposed Rulemaking  
and Request for Public Comments  
Regarding Energy Efficiency Standards  
for Dishwashers, Television Sets, Clothes  
Washers, Humidifiers, and Dehumidifiers



## DEPARTMENT OF ENERGY

## Office of Conservation and Solar Energy

## 10 CFR Part 430

[Docket No. CAS-RM-79-113]

## Advance Notice of Proposed Rulemaking and Request for Public Comments Regarding Energy Efficiency Standards for Dishwashers, Television Sets, Clothes Washers, Humidifiers, and Dehumidifiers

AGENCY: Department of Energy.

ACTION: Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, requires that the Department of Energy prescribe energy efficiency standards for dishwashers, television sets, clothes washers, humidifiers, and dehumidifiers no later than November 1981. The purpose of this advance notice of proposed rulemaking is to facilitate the gathering of information, to provide interested persons an opportunity to become familiar with the standards program, and to invite interested persons to participate in formulating the proposed energy efficiency standards.

**DATES:** Written comments by January 25, 1980; requests to speak by December 27, 1979; statements by January 9, 1980; public meetings to be held on January 15, and 17, 1980. Speakers to be notified by 4:30 p.m., local time, December 31, 1979.

**ADDRESS:** Comments and requests to speak at the hearing to: Carol A. Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235, Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-1651.

Public meetings to be held at: Department of Energy, Room 2105, 2000 M Street NW., Washington, D.C. 20461, at 9:00 a.m. on January 15, 1980, and Centennial B Room, Crown Center Hotel, No. 1 Pershing Road, Kansas City, Missouri 64108, at 9:00 a.m., January 17, 1980.

## FOR FURTHER INFORMATION CONTACT:

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, room 2248, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4814.

Carol A. Snipes, (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Room 3235,

Mail Station 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-1651.  
William J. Dennison, U.S. Department of Energy, Office of General Counsel, Room 3228, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4100.

## SUPPLEMENTARY INFORMATION:

## I. Introduction.

- A. Planned Regulatory Action.  
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## II. Legislative Framework.

- A. Background.  
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## III. Product Types, Likely Product Classes and Tentative Determinations Concerning Maximum Technologically Feasible Energy Efficiency Level.

- A. Definitions.  
B. Tentative Determinations of Maximum Technologically Feasible Energy Efficiency Level.  
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- A. Development of Proposed Energy Efficiency Standards.  
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## I. Introduction

## A. Planned Regulatory Action

Section 325 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by section 422 of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for the types of consumer products listed in section 322(a) of the Act.<sup>1</sup> These consumer products are sometimes referred to as "covered products." Standards for dishwashers, television sets, clothes washers, humidifiers, and dehumidifiers are required by section 325 to be prescribed in the Federal Register no later than November 1981. Standards for refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), kitchen ranges and ovens, central air conditioners, and furnaces are required to be prescribed no later than December 1980. An

<sup>1</sup> This and subsequent references to the "Act", and to sections of the Act, refer to EPCA as amended by NECPA.

advance notice of proposed rulemaking for these nine types of consumer products appeared in the Federal Register of January 2, 1979 (44 FR 49).

The Act defines energy efficiency standards as performance standards, which means that they will establish the minimum energy efficiency level required to be achieved by each unit of a covered product type or class, but will not prescribe the methods, processes, or materials to be used to achieve any particular efficiency level. The standards will apply only to new products manufactured after the effective date of the final rule.

## B. Purpose and Scope of This Notice

Section 325(i)(3) of the Act requires DOE, as the first step in establishing energy efficiency standards for dishwashers, television sets, clothes washers, humidifiers, and dehumidifiers to publish this advance notice of proposed rulemaking which is required to specify the type or class of covered products to which a standard is likely to apply, and to invite comments from interested persons relevant to establishing energy efficiency standards.

DOE expects that the comments received as a result of this advance notice will provide additional technical and economic information which will assist DOE in developing a notice of proposed rulemaking that is expected to be published in August of 1980.

Accordingly, this notice presents a discussion of DOE's approach to the development and implementation of the standards. Ensuing sections deal with the legislative background, the standards implementation process, the probable phase-in period for the standards, the development of proposed standards, a listing of the product types and classes to which standards are likely to apply, the enforcement program, DOE's present views regarding the maximum technologically feasible efficiency levels for each class of product, and a request for data from manufacturers covered by this rule. A more detailed discussion of these subjects will be provided in the "Regulatory Analysis Statement for Appliance Energy Efficiency Standards" which will be available upon request from Mr. James A. Smith, at the address indicated at the beginning of this advance notice, and the DOE Freedom of Information Office, mail station GB-145, U.S. Department of Energy, Forrestal Building, Independence Avenue and L'Enfant Plaza, SW., Washington, D.C., 20585, at the time the proposed rule is published.

Interested persons are invited to provide views, written presentations of

data, and arguments relevant to establishing energy efficiency standards for dishwashers, television sets, clothes washers, humidifiers, and dehumidifiers.

## II. Legislative Framework

## A. Background

The energy conservation program for consumer products is designed to encourage manufacturers to produce, and consumers to purchase, significantly more efficient consumer products. The legislative plan enacted by Congress sets forth two interrelated strategies for accomplishing this objective. The first strategy is to require manufacturers to produce more efficient products, and the second is to enhance consumer acceptance of more efficient products.

The first strategy, as contained in section 325 of EPCA prior to amendment by NECPA in November 1978, called for the promulgation of voluntary efficiency improvement targets representing aggregate industry levels of efficiency improvement that were to be achieved by 1980. As an incentive for the industry to achieve these targets, a reporting and monitoring system was to be established by DOE to track industry progress. In the event that achievement of a target for a particular product appeared unlikely, DOE would have been required to initiate an administrative proceeding to prescribe a mandatory minimum efficiency standard for the product in question.

In the National Energy Plan proposed by the President in April 1977, the voluntary target program was to be replaced with a mandatory minimum efficiency standards program because of the voluntary nature of the targets and the anticipated long delays in establishing standards if the target levels were not achieved. Section 422 of NECPA amends section 325 of EPCA to provide for a program similar to the mandatory standards program requested by the President in the National Energy Plan.

The second strategy, set forth in section 324 of the Act, involves the development of a labeling program to

require that manufacturers label covered products with energy consumption information which will assist consumers in making purchasing decisions. The Federal Trade Commission (FTC) has the responsibility for developing the labeling rules and for administering the labeling program. These rules are expected to become effective in the last quarter of 1979.

In conjunction with the issuance of the labeling rules, section 337 of the Act requires DOE to develop a consumer education program that will enhance consumer awareness of the labels and create a better understanding of the information provided on the labels. This is intended to encourage comparison shopping and to generate consumer demand for the more efficient products. As a consequence, it is anticipated that manufacturers will be influenced to expedite efficiency improvements for their various product lines to meet the market demand.

In order to support these dual strategies, section 323 of the Act requires that DOE develop test procedures for the determination of estimated annual operating costs and at least one other measure of energy consumption for each covered product which will assist consumers in making purchasing decisions. Testing by manufacturers in accordance with these test procedures will serve as a basis for: (1) The energy cost and consumption information that will be required to be included on product labels under the FTC labeling program and (2) representations by manufacturers regarding the energy consumption of their product. Also, measurements of efficiency which are derived from the test procedures will be used as the basis for energy efficiency standards. Manufacturers will be required to establish that their products are in conformance with the standards by testing in accordance with the test procedures. Further, compliance with the standards will be determined by using these procedures. As shown in Table I, DOE has prescribed test procedures for all the covered products included in this advance notice.

Table I.—FEDERAL REGISTER Citations for Test Procedures

| Covered product type    | Proposed                          | Final                          |
|-------------------------|-----------------------------------|--------------------------------|
| 1. Dishwashers.....     | (42 FR 15423, Mar. 22, 1977)..... | (42 FR 39964, Aug. 8, 1977).   |
| 2. Television Sets..... | (42 FR 21576, Apr. 27, 1977)..... | (42 FR 46140, Sept. 14, 1977). |
| 3. Clothes Washers..... | (42 FR 25329, May 17, 1977).....  | (42 FR 49802, Sept. 28, 1977). |
| 4. Humidifiers.....     | (42 FR 27941, June 1, 1977).....  | (42 FR 55599, Oct. 18, 1977).  |
| 5. Dehumidifiers.....   | (42 FR 27841, June 1, 1977).....  | (42 FR 55599, Oct. 18, 1977).  |

Test procedure design must be flexible enough to allow for technological variation among different product lines within a product type, yet standardized enough to assure that different manufacturers' product lines will be subject to the same measurement criteria in order to provide comparable measurements of energy consumption characteristics. DOE is aware that new products or designs will be developed with (1) do not fall under the product test procedure definitions (10 CFR 430.2) or (2) do fall under the definitions but which, when tested, reflect inaccurate efficiencies. DOE intends to address this issue in the notice of proposed rulemaking relating to energy efficiency standards.

## B. Energy Efficiency Standards

The Act requires that standards be prescribed for all the consumer product types listed in section 322(a). Priority is required by the Act to be given to refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment, kitchen ranges and ovens, central air conditioners, and furnaces.

As noted above, those product types were the subject of an advance notice published in the Federal Register on January 2, 1979 (44 FR 49). In addition to those product types and the product types covered by today's advanced notice, the Act also permits DOE to prescribe standards for other product types which meet certain criteria stated in section 325(a)(2). A list of such products which DOE considers may be subject to standards is required to be published no later than November 1980, but the list may be revised thereafter.

The standards prescribed, including any intermediate standards, are required by section 325(c) to be designed so as to achieve the maximum improvement in energy efficiency which is technologically feasible and economically justified. Under section 325(b), however, no standard can be prescribed for a particular type or class of covered product if (1) there is no DOE test procedure for the type or class; or (2) DOE determines, by rule that the establishment of a standard for the particular type or class would not result in significant conservation of energy or is not technologically feasible or economically justified.

Section 325(d) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard in accordance with the



procedure set forth in sections 336(a) and 325(i). After reviewing comments on the proposal, DOE must then determine that the benefits of the standard exceed its burdens based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need of the Nation to conserve energy; and

(7) Any other factors which DOE considers relevant.

Section 325(f) provides that minimum energy efficiency levels do not have to be identical for all products within a type or class. Products that consume different kinds of energy, or that have a capacity or other performance-related feature different from other products within the same type or class, can be required to have higher or lower energy efficiency levels. For example, standards for television sets might vary with screen size.

Section 325(e) provides that manufacturers having annual gross revenues of less than \$8,000,000 (within the meaning of that paragraph) may apply to DOE for exemption for up to 24 months from any standards requirement. This authority may not be exercised unless DOE, after obtaining the written views of the Attorney General, determines that failure to allow the exemption would likely result in a lessening of competition.

Other provisions provide for: (1) A review of test procedures within three years of NECPA enactment, section 323(a) (7); (2) reevaluation of the standards within five years of prescription, section 325(h); (3) supersession of state energy efficiency regulations under the conditions and procedures specified in section 327; and (4) authority to use the powers

otherwise available to the Secretary to collect information relating to the energy efficiency of products or the economic impact of compliance with the proposed standards requirements, section 326 (d).

Section 325(j) of the Act provides for enforcement provisions to assure that each covered product to which a standard applies meets the required minimum energy efficiency level. DOE expects that such provisions will include testing by the manufacturer and submission of information to DOE before a manufacturer introduces products into commerce.

Section 333 provides that any person who knowing violates any provision of section 332 (which lists prohibited acts) shall be subject to civil penalties.

Other enforcement-related provisions of the Act provide for: (1) DOE to prescribe rules requiring manufacturers to allow DOE to observe and inspect results of testing conducted by the Manufacturer or his agent, section 326(b) (5); (2) a manufacturer to supply to DOE a reasonable number of products for testing purposes, section 326(b)(3); (3) a manufacturer to submit information or reports necessary to ensure compliance, section 326(d); and (4) injunctive relief against any prohibited act, including distribution of non-complying products, section 334.

#### C. Implementation Process

Section 325(i) outlines the process by which the standards are to be prescribed. This process differs from that followed in the target program in one important respect. Section 325(i)(3) requires DOE to identify, in the proposed rule, the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of product, and to justify any decision not to propose a standard designed to achieve such efficiency.

DOE will hold a public meeting during the comment period following publication of this advance notice in order to familiarize the public with the standards program and to achieve the highest possible degree of industry and consumer awareness, involvement, and comment.

Based upon comments and specific data received from this advance notice and information otherwise available, DOE will issue a notice of proposed rulemaking proposing specific standards for the product classes which are the subject of this advance notice. The proposal is scheduled to be issued in August 1980. The final rule is required by the Act to be published no later than two years after publication of this advance notice. Under section 325(i), the standards may not become effective

earlier than 180 days after publication of the final rule in the Federal Register.

To inform interested citizens who may wish to contribute information, DOE will make available a background document (Regulatory Analysis Statement for Appliance Energy Efficiency Standards) at the time the notice of proposed rulemaking is published. This will contain a discussion of the product classes, levels of efficiency, and the analytical concepts that will be used in preparing the standards described in that notice.

#### D. Planned Phase-in of Standards

Section 325(c) allows for the phasing-in of standards over a period of up to five years through the establishment of intermediate standards. Use of the full five-year period would provide manufacturers with the greatest possible planning and development time, and thus it would appear that they would be better able to meet higher final standards that might otherwise be the case were a shorter period adopted. Accordingly, DOE tentatively plans to utilize the full phase-in period and will probably propose final standards which are to be achieved by November 1986. To assure that manufacturers make steady progress toward the 1986 standards, intermediate standards are likely to be proposed for most, if not all, of the covered products, to be effective in May 1982. These standards will take into account the short lead time that manufacturers will have had to make design changes.

Another option which DOE is exploring would be to have different phase-in periods for the various product types or classes. This alternative might permit maximum efficiency levels to be reached over shorter time periods, but DOE lacks the information about the efficiency improvement possibilities for individual types and classes of products that is needed in order to consider this approach at this time.

### III. Product Types, Likely Product Classes and Tentative Determination of the Maximum Technologically Feasible Energy Efficiency Level

#### A. Definitions

For purposes of this notice: "Energy efficiency standard" means a performance standard (as opposed to a design standard) which prescribes for each unit of a covered product a minimum energy efficiency level. Energy efficiency standards include test procedures prescribed in 10 CFR Part 430, Subpart B, and any requirements on manufacturers which DOE determines are necessary to assure that each

covered product to which a standard applies meets the required minimum energy efficiency level specified in the standard.

"Minimum energy efficiency level" means the minimum value of the measure of efficiency (i.e., energy factor, receiver energy efficiency factor, regional annual performance factor, defined and measured according to DOE test procedures in 10 CFR Part 430, Subpart B), which each unit of a covered product must meet or exceed in order to be in compliance with an energy efficiency standard.

"Type" of covered products means one of the categories of consumer products designated in section 322(a) of the Act. For example, dishwashers are a type of covered product.

"Class" of covered products means a group of covered products, the functions or intended uses of which are similar. A class of covered products is subject to a single energy efficiency standard. Such standard may prescribe either the same minimum energy efficiency level for all of the basic models of the class, or different minimum energy efficiency levels for basic models which are distinguished by capacity or other performance-related features that affect efficiency and utility. For example, color television sets are a class of covered product.

#### B. Tentative Determinations of the Maximum Technologically Feasible Energy Efficiency Level

In the proposed rule, DOE is required to identify the maximum improvement in energy efficiency that is technologically feasible for each class of covered products. In order to facilitate the

gathering of data, views and arguments, DOE is offering for consideration a definition of the term "maximum technologically feasible energy efficiency" and presenting in Table II DOE's tentative determination of such efficiencies based on 1978 data. The values in Table II may be modified in the proposed rule as a result of either modifying the definition, obtaining better information regarding the highest levels of energy efficiency of basic models commercially available, or identifying efficiency improvements that occur in commercially available products prior to the time of the proposal.

For purposes of this advance notice, the term "maximum technologically feasible energy efficiency" means, for each class of covered products, the highest value of the measure of energy efficiency (i.e., energy factor or receiver energy efficiency factor, defined and measured according to DOE test procedures) of any basic model that is commercially available at the time of proposal. Based on this definition, DOE's tentative determinations of the maximum technologically feasible energy efficiency for each product class are listed in Table II. As mentioned earlier, those efficiency figures are based on products commercially available in 1978. Regarding those product classes for which DOE has incomplete information on the efficiency of the basic models commercially available in 1978, DOE has estimated the maximum technologically feasible energy efficiency based on the best available information. Classes for which figures have been estimated are noted in Table II by one asterisk.

Table II.—Likely Classes and Tentative Determination of Maximum Technologically Feasible Energy Efficiencies

| Covered product type | Class                  | Preliminary maximum technologically feasible energy efficiency |
|----------------------|------------------------|----------------------------------------------------------------|
| Dishwasher           | Standard               | .41 cycles/kwhr <sup>1</sup> (EF).                             |
|                      | Compact                | .50 cycles/kwhr <sup>1</sup> (EF).                             |
| Television sets      | Color                  | .229% <sup>2</sup> (REEF).                                     |
|                      | Monochrome             | .176% <sup>2</sup> (REEF).                                     |
| Clothes washers      | Top loading            | 1.01 ft <sup>3</sup> /kwhr <sup>1</sup> (EF).                  |
|                      | Front loading          | 1.25 ft <sup>3</sup> /kwhr <sup>1</sup> (EF).                  |
| Humidifiers          | Central system         | .92% <sup>1</sup> (EF).                                        |
|                      | Room                   | .93% <sup>1</sup> (EF).                                        |
| Dehumidifiers        | (No classes specified) | 2.9 pints/kwhr <sup>2</sup> (EF).                              |

<sup>1</sup>Based on best available information.

<sup>2</sup>Based on data obtained by using DOE test procedures.

EF = Energy Factor.

REEF = Receiver Energy Efficiency Factor.

#### C. Criteria for Selection of Classes

DOE has segregated the basic models of product types into classes to which

different energy efficiency standards are likely to apply. These classes are tentative, and different classes may be specified in the proposed rule if DOE

receives data, views and arguments which justify changes. The classes identified in Table II have been derived on the basis of differences in capacity, or other performance-related features which affect efficiency and utility.

These criteria as they apply to each product type are discussed in Section III D of this advance notice. For each class within a product type, Section III D includes a discussion of the justification for establishing minimum energy efficiency levels different from those which apply to other classes within the same product type.

For covered products other than televisions, the same minimum energy efficiency level is likely to apply to each basic model within a particular class. For televisions, minimum energy efficiency levels within any class are likely to vary with screen size.

#### D. Product Class Rationale

1. *Dishwashers.* Two classes of dishwashers, standard and compact, are specified in this notice. These classes are distinguished by their capacity. Dishwasher energy consumption is strongly related to the hot water usage of the machine. Compact dishwashers use less water and less energy than standard size dishwashers. Compact dishwashers are dishwashers having an exterior width of less than 22 inches. Compact dishwashers generally have an exterior width of 18", and fit into smaller spaces and handle smaller loads than standard dishwashers.

Standard dishwashers are defined as those with exterior width of greater than or equal to 22 inches. Standard dishwashers generally have an exterior width of 24". Standard dishwashers typically have lower energy factors than compact dishwashers, but their larger capacity provides increased utility to some consumers.

Exterior width was chosen as the criterion of capacity because it accurately delineates the two classes of dishwashers in the current population and is a readily available dimension. Using the number of place settings, for example, as the criterion of capacity would require a definition of the standard pieces and how they should be placed in the machine, neither of which are described in the DOE test procedure.

2. *Television Sets.* Two classes of television sets, color and monochrome, are specified in this notice. These classes are distinguished by their ability to reproduce images in color, a



performance-related feature which affects utility and efficiency.

Color television sets consume more energy than monochrome television sets because of the use of multiple electron guns, whereas monochrome television sets use only one electron gun. For this reason, energy efficiency levels achieved by monochrome television sets are not achievable for color television sets. (The most efficient monochrome television set currently known to DOE typically uses 50 kwh/year, while the most efficient color television set being manufactured typically uses 125 kwh/year.) Since color television sets and monochrome television sets offer distinct differences in utility to the consumer, DOE is specifying separate classes for color and monochrome television sets.

**3. Clothes Washers.** Two classes of clothes washers, top loading and front loading, are specified in this notice. These classes are distinguished by performance-related features which affect utility and efficiency.

Front loaders typically use significantly less water than top loaders. Since clothes washer energy consumption is a strong function of the hot water usage of the machine, front loaders typically use significantly less energy than top loaders. Top loaders, on the other hand, offer a distinct performance-related feature in that they spin the clothes drier. Front loaders are difficult to balance during the spin dry cycle and may vibrate significantly. Spin speeds are typically lower with the front loaders than with top loaders in order to reduce vibration. Because of this, top loaders typically remove more water from the clothes during the spin cycle than to front loaders. Because of these differences in utility and efficiency, top loading clothes washers and front loading clothes washers are specified as separate classes.

**4. Humidifiers.** Two classes of humidifiers, central system and room humidifiers, are specified in this notice. These classes are distinguished by their performance-related features which effect utility and efficiency.

Central system humidifiers are designed to add moisture into the air stream of a heating system. A central system humidifier uses energy supplied by the furnace to evaporate water used for humidification, and it adds moisture to the entire residence.

Room humidifiers are designed to add moisture directly to the conditioned air without requiring connection to a separate heating or distribution system. Room humidifiers have heaters or other means to evaporate the water used for humidification. A room humidifier can

be used to add moisture to a local area of the residence, and can be moved from one room to another if necessary.

Because of the differences in the source of heat for evaporating the water used for humidification, the DOE test method for determining energy efficiency is different for central system and room humidifiers. This difference, as well as differences in utility, require that separate classes be specified for central system and room humidifiers.

**5. Dehumidifiers.** No classes of dehumidifiers are specified. All dehumidifiers have essentially the same combination of components and there do not appear to be any different functional characteristics which affect energy consumption that warrant the specification of separate classes.

#### IV. Data Needed for the Development of Proposed Energy Efficiency Standards

##### A. Development of Proposed Energy Efficiency Standards

Section 325(i) of the Act requires DOE to determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered product in proposing a standard. If the proposed standard is not designed to achieve such efficiency, DOE is required to state in the proposed rule the reasons therefor. If any standard is proposed at a level below that which is the maximum technologically feasible, the reasons for such a proposal are expected to be primarily economic, i.e., related to the seven factors identified by Congress in section 325(d) of the Act which must be considered to the extent practicable in determining whether a standard is economically justified. In order to supplement available data for identifying any reasons for not proposing a standard at the maximum technologically feasible level, DOE has developed Forms CS-179(A) and CS-179(B), as shown below. Comments received in response to this advance notice will also be used in identifying any areas which require additional data prior to prescribing standards.

As previously noted, the Act provides that DOE may not prescribe any standard for a particular type or class of covered product if DOE determines, by rule, that the establishment of a standard for that type or class would not result in significant conservation of energy or that the establishment of a standard would not be technologically feasible or economically justified. The information currently available to DOE does not presently warrant a proposal

not to establish standards for any of the product types covered by this advance notice. DOE will determine whether to propose standards for each of these product types after review of the comments submitted in response to the advance notice.

##### B. Specific Data Requested From Manufacturers

Each private labeler, importer or manufacturer of a consumer product covered by this advance notice is requested to complete a Form CS-179(A) and Form CS-179(B) for each separate class of product (per Table III below). These forms, which have been reviewed by the Office of Management and Budget (OMB), are requested to be completed in accordance with the detailed instructions set forth below. Data can be submitted individually or in aggregated format, which aggregation for DOE's purposes may be performed by trade associations or other groups at commenters' discretion, in accordance with applicable anti-trust laws.

Any questions regarding the manner in which these forms should be completed or the type of aggregation useful to DOE should be directed to Mr. James A. Smith of DOE, at the address and phone number shown at the beginning of this notice.

##### C. Classes of Consumer Product for Which Data are Requested

Table III below shows the tentative classes of consumer products for which Form CS-179(A) and Form CS-179(B) are requested.

TABLE III—Tentative Product Classes

| Product type         | Product class         | Code |
|----------------------|-----------------------|------|
| Dishwashers.....     | Standard.....         | S    |
|                      | Compact.....          | C    |
| Television sets..... | Color.....            | C    |
|                      | Monochrome.....       | M    |
| Clothes washers..... | Top loading.....      | TL   |
|                      | Front loading.....    | FL   |
| Humidifiers.....     | Central system.....   | CS   |
|                      | Room.....             | R    |
| Dehumidifiers.....   | (One class only)..... | OH   |

#### Instructions for Completing Reporting Form CS-179(A) Survey of Consumer Product Manufacturers

**1. Product Type.**—Refer to Table III, column A. Select the generic name for the type of the consumer product being reported. Enter this name in the space provided.

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CS FORM 179 (A)  
SURVEY OF CONSUMER PRODUCT MANUFACTURERS  
PAGE \_\_\_\_\_ OF \_\_\_\_\_ PAGES

(1) Product Type \_\_\_\_\_  
(2) Product Class \_\_\_\_\_  
(3) Corporate Name \_\_\_\_\_  
(4) Address \_\_\_\_\_

| (5) Model Number | (6) Domestic Shipments<br>(1,000's) | (7) Est. '72 | (8) Est. '80 | (9) Est. '85 | (10) Energy Consumption<br>per DOE Test | (11) Efficiency<br>per DOE Test | (12) Est. '72 | (13) Est. '80 | (14) Est. '85 | (15) Est. '72 | (16) Est. '80 | (17) Est. '85 | (18) Est. Average<br>Retail Price | (19) Design Options | (20) Type Est. Energy<br>Savings(%) | (21) Energy Savings<br>per DOE Test(%) | (22) Product<br>Characteristics |
|------------------|-------------------------------------|--------------|--------------|--------------|-----------------------------------------|---------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|-----------------------------------|---------------------|-------------------------------------|----------------------------------------|---------------------------------|
|                  |                                     |              |              |              |                                         |                                 |               |               |               |               |               |               |                                   |                     |                                     |                                        |                                 |

CS FORM 179 (B)  
SURVEY OF CONSUMER PRODUCT MANUFACTURERS  
PAGE \_\_\_\_\_ OF \_\_\_\_\_ PAGES

(1) Product Type: \_\_\_\_\_  
(2) Product Class: \_\_\_\_\_  
(3) Corporate Name: \_\_\_\_\_  
(4) Corporate Address: \_\_\_\_\_  
(5) Unit Model Number(s) \_\_\_\_\_  
(6) DOE Test Procedure Efficiency \_\_\_\_\_  
(7) Product Characteristics: \_\_\_\_\_

| (8) Energy<br>Efficiency<br>Level | (9) Design<br>Options<br>Required | (10) Actual<br>Efficiency Level<br>Achieved | (11) Lead Time<br>for<br>Production | (12) Increase in<br>Retail Price | (13) Change in<br>Investment |
|-----------------------------------|-----------------------------------|---------------------------------------------|-------------------------------------|----------------------------------|------------------------------|
|                                   |                                   |                                             |                                     |                                  |                              |

BILLING CODE 6450-01-C



2. **Product Class.**—Refer to Table III, column B. For the appropriate product type, select the generic name for the class of the consumer product being reported. Enter this name in the space provided.

3. **Corporate Name.**—Self-explanatory.

4. **Corporate Address.**—Self-explanatory.

5. **Model Number.**—Enter the model numbers for all of the models manufactured during calendar year 1978 which fall under the type and class of consumer product being reported.

#### Please Note

You are requested to select, at your option, one of the two reporting procedures described below to follow for the purposes of reporting on such products.

(1) Report on each major component of the product separately. If a major component of a product has not been assigned its own model number, identify it by the product's model number enclosed by parentheses.

(2) Report on the product as a whole. In this case, items 5 through 9 and 18 are to be reported for the product as a whole and items 10 through 17, and 19 through 22 are to be reported for the major components of the product. Each component-specific entry is to be followed by the code letters for the applicable product class for the component, enclosed by parentheses. The code letters for the product classes will be the first letters of the words for the title of the product class taken from the second column of Table III. For example, the code letters for a central system humidifier are CS.

6. **Domestic Shipments.**—Enter the number of units (in thousands) of each model shipped by the manufacturer directly to wholesalers and/or retailers during calendar year 1972. If the model was not in production in 1972 but replaces a model which was in production in 1972, enter the number of units of the preceding model so shipped enclosed by parentheses; otherwise, enter zero.

7. Enter the number of units of each model shipped by the manufacturer directly to wholesalers and/or retailers during calendar year 1978. In cases where a new model was introduced after 1-1-78, enter the total number of units of that model so shipped during the year followed by the date (month and day) that the first unit was so shipped.

8. Enter the projected number of units of each model that would be shipped by the manufacturer directly to wholesalers and/or retailers during calendar year

1980 if there were no DOE Consumer Product Efficiency Standards Program.

9. Same as 8, but for 1985 instead of 1980.

10. **Energy Consumption per DOE Test.**—Enter the estimated yearly energy consumption of the calendar year 1972 production version of the model had it been tested in accordance with the DOE test procedures. If the model being reported was not in production in 1972, enter the estimated yearly energy consumption of the preceding model enclosed by parentheses.

11. Enter the yearly energy consumption of the calendar year 1978 production version of the model determined in accordance with the DOE test procedures. If test data are not available, enter estimated figures and note as an "estimate."

12. Enter the projected yearly energy consumption of the calendar year 1980 production version of the model determined in accordance with the DOE test procedures if there were no DOE Consumer Product Efficiency Standard Program.

13. Same as 12, but for 1985 instead of 1980.

14. **Energy Efficiency per DOE Test.**—Enter the estimated energy efficiency (energy factor or receiver energy efficiency factor, as appropriate) of the calendar year 1972 production version of the model had it been tested in accordance with the DOE test procedures. If the model was not in production in 1972 but replaces a model which was in production in 1972, enter the estimated efficiency of the preceding model enclosed by parentheses.

15. Enter the efficiency of the calendar year 1978 production version of the model being reported determined in accordance with the DOE test procedures. If test data are not available, enter estimated figures and note as an "estimate."

16. Enter the projected efficiency of the calendar year 1980 production version of the model being reported determined in accordance with the DOE test procedures, assuming there were no DOE Consumer Product Efficiency Standards Program.

17. Same as 16, but for 1985 instead of 1980.

18. **Estimated Average Retail Price.**—List estimated average retail price in 1978 dollars.

19. **Model Comparison.**—Compare this model in 1980 with the model within this product class having the same capacity and the lowest 1980 energy efficiency. Record in column 19 the model number of any such model.

20. Record in column 20 the code letters of the design options listed in

Table IV, column B, that makes this model more efficient than the model being compared. If there are design options not included in this list, identify them specifically on the form.

21. **Product Characteristics.**—Refer to Table III, column C. Provide, for each model, the product characteristics listed. Whenever a measure is requested, e.g., capacity, wattage, etc., it is to be understood that the measure requested is that determined in accordance with the Department of Energy's test procedures for consumer products.

#### Instructions for Completing Reporting Form CS-179(B) Survey of Consumer Product Manufacturers

This form has been developed by the U.S. Department of Energy for the purpose of collecting information on consumer products manufactured during calendar year 1978. The information requested will serve as input to the technological and economic assessments to be performed by DOE in the process of developing energy efficiency standards for consumer products.

#### Important Note

Complete Reporting Form CS-179(A) before completing this form.

1. **Product Type.**—Refer to Table III, column A. Select the generic name for the type of the consumer product being reported. Enter this name in the space provided.

2. **Product Class.**—Refer to Table III, column B, for the appropriate product type, select the generic name for the class of the consumer product being reported. Enter this name in the space provided.

3. **Corporate Name.**—Self-explanatory.

4. **Corporate Address.**—Self-explanatory.

5. **Unit Model Number(s).**—Enter the model number of the 1978 model being reported.

6. **DOE Test Procedure Efficiency.**—Enter the energy efficiency of the model (energy factor or receiver energy efficiency factor, as appropriate) determined in accordance with the Department of Energy's test procedures for consumer products. If test data are not available, enter estimated figures and note as an "estimate."

7. **Product Characteristics.**—Refer to Table IV, column C. Provide, for each model, the product characteristics listed. Whenever a measure is requested, e.g., capacity, wattage, etc., it is to be understood that the measure requested is that determined in accordance with

the Department of Energy's test procedures for consumer products.

**Special Note for Item 8-13.**—One purpose of this section of the form is to obtain manufacturer's projections of the changes that they would effect in the

design of the model being reported in order to achieve certain energy efficiency levels. The other purpose is to obtain manufacturer's projections of the timing and impacts (price and investment) of effecting these changes in design if they were to be adopted.

Table IV.—Design Options and Product Characteristics

| (Column A)<br>Product | (Column B)<br>Design options                                                                                                                                                    | (Column C)<br>Product characteristics                                                                                                      |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Dishwashers           | A—Optional Power Dry<br>B—Reduce Inlet Water Temperature Requirement<br>C—Modify Sump Geometry (to reduce water consumption)<br>D—Improve Fill Controls<br>E—Improve Insulation | (a) Exterior width, inches.<br>(b) Total water consumption per cycle and tolerance, gallons.<br>(c) Hot water temperature requirement, °F. |
| Television sets       | A—Eliminate Instant-On<br>B—Replace Tubes (other than picture tube) with Solid State Components<br>C—Improve Thermal Design                                                     | (a) Picture tube diagonal measure, inches.                                                                                                 |
| Clothes washers       | A—Eliminate Warm Rinses<br>B—Improve Fill Control<br>C—Reduce Thermal Mass<br>D—Increase Motor Efficiency<br>E—Add Insulation<br>F—Reduce Tub Clearances                        | (a) Capacity, ft <sup>3</sup> .<br>(b) Per cent of hot water fill.<br>(c) Number of cycle options.                                         |
| Humidifiers           | A—Add Humidistat<br>B—Improve Fan Motor Efficiency                                                                                                                              | (a) Humidification rate, gallons/day.<br>(b) Means of evaporating water, e.g., fluid pan, wetted element, atomization.                     |
| Dehumidifiers         | A—Improve Compressor Efficiency<br>B—Improve Condensor Heat Transfer<br>C—Improve Fan Motor Efficiency<br>D—Improve Controls<br>E—Improve Cycle Efficiency                      | (a) Capacity, pints/day.                                                                                                                   |

Table V.—Energy Efficiency Levels

| (Column A)<br>Product type | (Column B)<br>Product class | (Column C)<br>Energy efficiency (see bottom of page for explanation of symbols) |        |        |
|----------------------------|-----------------------------|---------------------------------------------------------------------------------|--------|--------|
|                            |                             | EF 1                                                                            | EF 2   | EF 3   |
| Dishwashers                | Standard                    | .22                                                                             | .30    | .41    |
|                            | Compact                     | .25                                                                             | .44    | .50    |
|                            |                             | REEF 1                                                                          | REEF 2 | REEF 3 |
| Television sets            | Color                       | 70                                                                              | 123    | 229    |
|                            | Monochrome                  | 59                                                                              | 88     | 176    |
|                            |                             | EF 1                                                                            | EF 2   | EF 3   |
| Clothes washers            | Top loading                 | .57                                                                             | .75    | 1.01   |
|                            | Front loading               | 1.04                                                                            | 1.25   | 1.25   |
| Humidifiers                | Central system              | .92                                                                             | .92    | .92    |
|                            | Room                        | .93                                                                             | .93    | .93    |
| Dehumidifiers              | All                         | 1.44                                                                            | 2.24   | 2.90   |

EF = Energy Factor: cycles per kilowatt-hour for dishwashers, cubic feet per kilowatt-hour for clothes washers, percent for humidifiers, pints/kwhr for dehumidifiers.  
REEF = Receiver energy efficiency factor: percent for television sets.

8. **Energy Efficiency Level.**—Refer to Table V. Three or more energy efficiency levels have been identified for each product type and class listed. Identify the levels that pertain to the model being reported based on the product type and class entries made in items 1 and 2 of this form. Enter the lowest level listed at the top of the column for this item unless this level is lower than that of the model being reported (item 6) in which case enter the lowest level listed which is greater than the model's efficiency. Proceed to complete items 9 through 13 for this entry then return to the listing of energy efficiency levels, select the next higher level listed, and enter this level in the column for this item. Proceed to complete items 9 through 13 for this next higher energy efficiency level. Repeat this procedure for the remainder of the energy efficiency levels listed.

9. **Design Options Required.**—Refer to Table IV, column B. A list of design options is presented for each product type. Using this list, identify the design options or combination of design options that, if incorporated into the design of the model being reported, are projected to achieve the energy efficiency level identified in item 8 at the lowest cost to the manufacturer. Enter the code letters which correspond to the design options identified in this item in columnar form.

If there are design options which the manufacturer would employ to achieve levels which do not appear in the list in Table IV, column B, identify them specifically on the form.

If the model cannot be modified to achieve an energy efficiency level, enter the abbreviation "NA" for not applicable in this item for the level. No further entries need be made on the form for the model being reported.

10. **Actual Efficiency Level Achieved.**—When applying design changes from (9) to achieve certain efficiency levels in (8), it is likely that exact levels will not be achieved. Record the level of efficiency that will be achieved when certain options are added to the individual basic models.

11. **Lead Time for Production.**—For each design option listed in item 9, enter the year and month that the first production unit of the model incorporating the design option would be manufactured.

12. **Increase in Suggested Retail Price.**—For each design option listed in item 9, enter the estimated increase in the retail price of the model if the design option were incorporated into its design.

13. **Change in Investment.**—For each design option listed in item 9, estimate,



on a per unit basis, the cost of the new structures, machinery, and equipment that would be required for production of the model if the design option is incorporated into its design. Express such estimates in terms of the 1978 dollars.

#### V. Enforcement

An enforcement program is expected to be included in the notice of proposed rulemaking, specifying proposed requirements on manufacturers for demonstrating compliance with a standard, as well as proposing the actions DOE could take to assure compliance.

DOE has begun an analysis of enforcement program alternative which evaluates ongoing Federal, State and industry programs. The different approaches are being analyzed according to the overall program costs and benefits, including costs to manufacturers, consumers and the Government. An important part of this evaluation includes contact with manufacturers and trade associations.

The programs that have been evaluated include the following:

1. Environmental Protection Agency; a. Product Noise Enforcement Program. b. Automobile Exhaust Emission Certification Program.
2. National Highway Traffic Safety Administration; Enforcement of Motor Vehicle Safety Standards.
3. Department of Defense/Fleet Ballistic Missiles; Procurement Standards.
4. State of California; Enforcement of Appliance Energy Efficiency Standards.
5. Association of Home Appliance Manufacturers; Certification Program for Room Air Conditioners.
6. Air Conditioning and Refrigeration Institute; Certification of Unitary Air Conditioners.
7. Underwriters Laboratory; Product Safety Certification.

In providing any comments or alternative approaches, commenters should focus on the enforcement authority granted in the Act (discussed in section II B of this notice) and the potential impacts of implementing various approaches available pursuant to this authority.

#### VI. Consumer Participation

Because of the direct impact of the standards on individual consumers, DOE wishes to achieve in the standards development process the maximum level of consumer participation possible. To assist the Department in achieving this goal, a public meeting will be held in Washington, D.C., at the time and place specified at the beginning of this notice.

Representatives of consumer groups and individual consumers are urged to

attend this meeting and to make oral or written statements regarding the standards program. DOE is mailing copies of this notice to all individuals and consumer organizations identified as having an interest in standards development.

Additional information regarding consumer preference is expected to be received from a survey to be conducted under DOE direction. The survey will be used to determine, with respect to energy efficiency, what products have been purchased and what products consumers expect to purchase. Data from this survey will be used in DOE's demand analysis studies to determine the economic impacts of proposed standards.

DOE requests interested persons to submit suggestions and comments regarding the methods that DOE should consider in order to maximize consumer participation in the development of standards.

#### VII. Environmental Review

This advance notice of proposed rulemaking is being published primarily to invite comments from the public regarding the establishment of energy efficiency standards for certain consumer products. This action is informational in nature, and does not commit the agency to any specific course of action at this time. DOE has therefore determined that this advance notice does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 43 U.S.C. 4321 *et seq.* Consequently, an environmental analysis is not necessary in connection with its publication.

An appropriate environmental analysis will be made in connection with the proposed rulemaking and information regarding the environmental analysis will be issued concurrently with publication of the Notice of Proposed Rulemaking.

#### VIII. Comments on Issues

Issues and questions relating to the development of standards are found throughout this notice. The following list of issues, while highlighting some of the major areas of interest to DOE, is not intended to be comprehensive and should not be construed as limiting the scope of comments relating to this notice.

1. DOE intends to *phase in the standards* over a five year period, as described in this notice, with the final standards becoming effective no later than November 1986. DOE is interested

in comments relating to this schedule and other alternative phase-in schedules.

2. DOE has identified the product types and classes to which standards are likely to apply. Product classes were selected on the basis of utility and performance-related features. DOE would like to receive comments pertaining to the *proposed classes*. If additional classes are recommended, the recommendations should include the rationale for the establishment of such classes based on the class selection criteria discussed above.

3. For purposes of this notice, DOE has defined the "*maximum technologically feasible energy efficiency*" in section III B. DOE invites comments on this definition and on the preliminary efficiency levels listed in Table II.

4. DOE's approach to the development of an energy efficiency standard enforcement program has been discussed in section V. Suggestions relating to a compliance and enforcement program would be most valuable in the early stages of program development. In providing any comments or alternative approaches, manufacturers, trade associations and the general public should focus on the enforcement authority granted in the Act (discussed in section II B) and the effectiveness and potential impacts of implementing various approaches pursuant to this authority.

5. DOE believes, on the basis of information currently available, that retail prices vary widely for products of similar efficiencies produced by different manufacturers. Further, retail prices of identical products manufactured by a single manufacturer vary widely. DOE is interested in quantifying the economic factors that are most important in accounting for the numerous *retail pricing* strategies found in the marketplace.

6. Costs to operate consumer products vary widely across the Nation due to different costs of energy, climatic variations, and the different ways in which consumers use these products. DOE is interested in receiving comments regarding methods that could be used to assess the impact of these *variable costs* on the minimum level of energy efficiency that should be reflected in the standards.

7. DOE has identified the data requested from manufacturers in Section IV B. DOE invites comments on the data requested in Form CS-179(A) and Form CS-179(B).

#### IX. Comment Procedures

Interested persons are invited to participate in the development of standards by submitting, to the address indicated at the beginning of this notice, data, views or arguments with respect to the subjects set forth in this notice.

Comments should be identified on the outside of the envelope, and on documents submitted to DOE, with the designation, "Energy Efficiency Standards for Consumer Products." Fifteen copies are requested to be submitted, but this is not a requirement for submitting comments.

Persons responding to this notice may consider part or all of their comments to be of a confidential nature, because the release of certain types of information might be deemed to cause substantial competitive injury. If any person believes that any information submitted is covered by the exemption to the Freedom of Information Act dealing with trade secrets and commercial or financial information obtained from a person and considered privileged or confidential (5 U.S.C. 552(b)(4)), the person should so state at the time of submission and request that DOE treat this information as confidential. Factors of interest to DOE when evaluating

requests to treat as confidential information that has been submitted include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; and (6) an indication as to when such information might lose its confidential character due to the passage of time.

DOE is also interested in obtaining views on what specific types of information warrant consideration under the exemption set forth in 5 U.S.C. 552(b)(4). Examples of specific types of information might include:

1. Number of units produced annually, by model.
2. Factory shipment price of each model.
3. Total employment, by product type.
4. Estimated cost increase to meet a proposed standard, by model.
5. Annual capital investment, by product type.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which he believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which the information believed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

All comments received on or before the date specified at the beginning of this advance notice will be considered by DOE in developing the proposed standards. The comment period will extend beyond the 45 day comment period specified in section 325(i)(1)(B) of the Act because DOE's policy pursuant to Executive Order 12044 requires at least a 60 day comment period. Further, DOE believes that the additional time will result in more meaningful response to this notice, and this extension will not result in delay of the legislated timetable for the prescription of standards.

#### X. Oral Presentation: Conduct of Meetings

Any person who has an interest in this proceeding, or who is a representative of a group of persons having an interest, may make a written request for an opportunity to make an oral presentation at the public meetings to be held on the date indicated at the beginning of this notice. Such requests should be labeled both on the document and on the envelope, "Energy Efficiency Standards for Consumer Products," and should be sent to the address indicated at the beginning of this notice, by the time there specified.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he is a proper representative of a group that has an interest, and give a phone number where he may be contacted.

DOE reserves the right to select the persons to be heard at these meetings, to schedule the respective presentations, and to establish the procedures governing the conduct of the meetings. The length of each presentation may be limited, due to the number of persons requesting to be heard. If time permits, the official conducting the meeting may accept additional comments or questions from those attending.

The meetings will not be a judicial or evidentiary-type hearing. Except during those periods when comments or questions are requested from the floor, questions will be asked only by the persons conducting the meeting. Any

further procedural rules needed for the proper conduct of the meeting will be announced by the presiding officer.

Transcripts of the meetings will be made, and the entire record of the meetings, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, Independence Avenue and L'Enfant Plaza, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the transcribing reporter.

Issued in Washington, D.C., December 3, 1979.

Kelly C. Sandy III,  
Executive Director, Conservation and Solar Energy.

[FR Doc. 79-37852 Filed 12-12-79; 8:45 am]

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# Federal Register

Thursday  
December 13, 1979

## Part III

### Department of Housing and Urban Development

Office of the Secretary

Privacy Act; Systems of Records; Annual  
Publication



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-961]

## Annual Publication of Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Annual Publication of Systems of Records.

SUMMARY: This notice is published to meet the requirements of 5 U.S.C. 552a(e)(4). It is the annual publication providing an up-to-date description of the existence and character of the Department's systems of records. Additionally, it provides notice of HUD's deletion of a routine use from the HUD/DEPT-15, Equal Opportunity Housing Complaints system of records.

EFFECTIVE DATE: The annual publication is effective December 13, 1979. The deletion is effective January 14, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

### FOR FURTHER INFORMATION CONTACT:

Robert English  
Departmental Privacy Act Officer  
Telephone 202-557-0605.

SUPPLEMENTARY INFORMATION: This annual publication brings together all HUD systems of records, including amendments and new systems which have been published since our last annual compilation (43 FR 55102). The words "to real estate licensing groups and local private fair housing enforcement groups and agencies operating under cooperative agreements with HUD—to carry out for HUD investigations and studies of alleged acts of discrimination covered under Title VIII of the Civil Rights Act of 1968" have been deleted from the Routine Uses paragraph of HUD/DEPT-15, Equal Opportunity Housing Complaints since it has been determined that this will not be a routine use. This deletion does not require the submission of a Report on a new System since the deletion is compatible with the purposes for which the system is maintained. Systems HUD/FIA-1, HUD/FIA-2, and HUD/FDAA-1 are included in this publication to ensure their continuity of publication, although the three systems are now under the jurisdiction of the Federal Emergency Management Agency. Similarly, Federal Disaster Assistance Administration locations are included in Appendix A. These systems and locations will be deleted by HUD upon publication by the Federal Emergency Management Agency. Additionally, the system titled Section 8 Program Research Data Files, erroneously numbered HUD/PD&R-6, has been renumbered as HUD/PD&R-7 to correct the error in numeration.

There are a number of routine use disclosures which apply to all HUD systems of records. These routine use disclosures are listed below as "General Statement of Routine Uses."

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., December 3, 1979.

William A. Medina,  
Assistant Secretary for Administration.

### 1 General Statement of Routine Uses.

#### ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

#### ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security

clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

#### ROUTINE USE—DISCLOSURE OR REQUESTED INFORMATION

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

#### ROUTINE USE—DISCLOSURE TO OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

#### ROUTINE USE—DISCLOSURE PURSUANT TO CONGRESSIONAL INQUIRY

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Listing of Systems of Records Within Coverage of Act.

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HUD/DEPT-1 Accidents, Employees and/or Government Vehicles.  
HUD/DEPT-2 Accounting Records.  
HUD/DEPT-4 Fee Inspectors, Appraisers, and Mortgage Credit Examiners.  
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HUD/DEPT-9 Single-family Casualty Damage Files.  
HUD/DEPT-10 Construction Complaints Files.  
HUD/DEPT-15 Equal Opportunity Housing Complaints.  
HUD/DEPT-17 Experimental Housing Allowance Program—Participant Files.  
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HUD/DEPT-20 Homeownership Assistance and Recertification Application (HARAS).  
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HUD/PD&R-4 Prepurchase Counseling Demonstration and Evaluation Records.

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HUD/PD&R-6 Real Estate Settlement Costs Research Files.

HUD/PD&R-7 Section 8 Program Research Data Files.

HUD/FDAA-1 Disaster Recovery Assistance Files.

#### HUD/DEPT-1

System name: Accidents, Employees and/or Government Vehicles.

System location: Most Department Offices, including the Headquarters Office. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees in on-the-job accidents, including accidents involving government owned vehicles.

Categories of records in the system: Details of how accidents occurred and injuries were sustained; employees' absences due to injuries and resultant claims; and property damage incurred.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: the records are used by the Department of Labor when personal injury occurs and/or compensation is involved. GSA uses the records when accidents involve motor vehicles and the repair of those vehicles.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Subject name.

Safeguards: The systems records are kept in lockable file cabinets, desks, and in locked rooms.

Retention and disposal: Procedural disposal follows HUD Handbook General Records Schedule.

#### System manager(s) and address:

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual and supervisor; Federal Government agencies; law enforcement agencies; current or previous employers; accident investigation officers.

#### HUD/DEPT-2

System name: Accounting Records

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgages; mortgages; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgages and purchasers of HUD-owned properties.

Categories of records in the system: Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgages, builders and contrac-

tors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; Internal Revenue Service—for reporting of sales commissions; General Accounting Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgage lenders—for accounting and financial reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Desks; safes; locked filed cabinets, central files; bookcases; ledger trays and binders; tables.

Retrievability: By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

Safeguards: Security checks; limited authorization and access; security guards.

Retention and disposal: GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

#### System manager(s) and address:

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-federal government agencies; HUD personnel.

#### HUD/DEPT-4

System name: Fee Inspectors, Appraisers, and Mortgage Credit Examiners.

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals who have applied to HUD for appointment as fee appraisers, inspectors, and mortgage credit examiners.

Categories of records in the system: Applications and resumes containing personal data and qualifications for position sought; assignment logs, fees paid and appraisals made; and evaluation of qualifications and of appraisals made.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to fee appraisers—for voucher preparation; to VA, mortgages, mortgagees—notice of FHA action, billing; to local government officials—for code enforcement, health and wetlands clearance; to Environmental Protection Agency—for environmental clearance; to Social Security Administration—for research.



**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** File folders and 5 x 8 file cards.

**Retrievability:** Name; case file number (in some cases).

**Safeguards:** Lockable file cabinets and desks.

**Retention and disposal:** Primarily active information; also mixed historical and active. Social Security appraisals are historical data. Disposal in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals; references; and HUD staff.

#### HUD/DEPT-5

**System name:** Architects and Engineers

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Certified architects and engineers dealing with HUD, both directly and on a consultant basis.

**Categories of records in the system:** Applications containing personal data and qualifications for position sought and assignment logs and fees paid.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses Paragraphs of prefatory statement. Other routine uses: to General Accounting Office—investigation and annual audit; to the U.S. Forest Service, Bureau of Indian Affairs, Corps of Engineers, HEW, and Farmers Home Administration for reference and information; to builders and other individuals dealing with HUD—for planning and specifications review.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** Subject name.

**Safeguards:** Files are kept in file cabinets, in desks and on shelves. Access is limited by locks, by security checks, or by authorized individuals.

**Retention and disposal:** Most files are kept active and up-to-date. Some files are partly current and partly historical. Files are destroyed per regulation or stored at a federal records center one year after last date of commitment.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals and references.

#### HUD/DEPT-9

**System name:** Single-family Casualty Damage Files.

**System location:** Field offices; for a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Mortgagors under HUD single-family insurance programs filing claims for repairs due to casualty damage on their insured homes.

**Categories of records in the system:** Inspection reports of repaired property; certifications of casualty damages/repairs; records of repairs made and their costs; and related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses Paragraphs of prefatory statement. Other routine uses: to Veterans' Administration for information on veterans' participation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** File folders.

**Retrievability:** Name; case file.

**Safeguards:** Stored in lockable filed cabinets.

**Retention and disposal:** Primarily active information, some mixed historical and active. Disposed of in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street SW.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 4 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Mortgagors; mortgagees; inspectors; and contractors.

#### HUD/DEPT-10

**System name:** Construction Complaints Files

**System location:** Field Offices; for a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Mortgagors of insured single-family homes who have filed construction complaints with HUD.

**Categories of records in the system:** Complaints regarding construction and defects; inspection reports; records of complaint status and disposition; compliance reports; related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses Paragraphs of prefatory statement. Other routine uses: to the person or firm complained about—for resolution of the complaint; to IRS—for investigation; to Farmers Home Administration, Veterans Administration; Better Business Bureau and local agencies—for notice of restriction of builders; to state agencies—for investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** Name of subject individual; case file number, property location.

**Safeguards:** Records filed in lockable file cabinets with access limited to authorized personnel.

**Retention and disposal:** Records are partly current and partly historical; disposal is in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh St. S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subjects and other individuals, builders and contractors and their current and previous employees, credit bureaus and financial institutions; federal and non-federal agencies.

#### HUD/DEPT-15

**System name:** Equal Opportunity Housing Complaints

**System location:** Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. For a complete listing of these with addresses see Appendix A.

**Categories of individuals covered by the system:** Individuals filing housing discrimination complaints. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

**Categories of records in the system:** Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaints status reports. In mortgage discrimination cases, records include mortgage applications, credit reports and verification of income, employment and bank deposits.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses Paragraphs of prefatory statement. Other routine uses: to state and local government EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

**Retrievability:** Usually retrievable by name of complainant and, in some instances, by case file number.

**Safeguards:** Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

**Retention and disposal:** HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

**System manager(s) and address:**

Director of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:**

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 552a(k)(2), all uninvestigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections in exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

#### HUD/DEPT-17

**System name:** Experimental Housing Allowance Program—Participant Files

**System location:** Headquarters Office.

**Categories of individuals covered by the system:** Applicants for housing allowance; participants under Experimental Housing Allowance Program.

**Categories of records in the system:** Socio-economic, financial and demographic data on EHAP participant.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses Paragraphs of prefatory statement. Other routine uses: to EHAP contractors—analysis for research purposes in accordance with program objectives.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Hard copy survey instrument stored in folders, microform, computer printout, punched cards, and magnetic tape/disc.

**Retrievability:** Manual files by name, social security number, personnel characteristics and case file number. Automated files have been stripped of all personal identifiers and are statistical only.

**Safeguards:** Access to manual files limited to survey subcontractors. No access to these records prime contractors and HUD personnel. Records kept in secured areas and vaults.

**Retention and disposal:** In accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410



**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual; current and previous employers.

#### HUD/DEPT-18

**System name:** Fellowship Files, Urban Studies

**System location:** Headquarters.

**Categories of individuals covered by the system:** Recipients of HUD fellowships in urban studies, and their alternates.

**Categories of records in the system:** Applications; financial statements; correspondence; policy statements; press releases.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Free test in file folders.

**Retrievability:** By name of award recipient and alternate.

**Safeguards:** Files are stored lockable metal file cabinets.

**Retention and disposal:** Files are inactive and historical only. There are no established procedures for disposal of these records.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington D.C. 20410.

**Record source categories:** Individual awardees and alternates; educational institutions.

#### HUD/DEPT-20

**System name:** Homeownership Assistance and Recertifications Application (HARAS)

**System location:** Headquarters.

**Categories of individuals covered by the system:** Participants in Section 235 Homeownership Assistance Program.

**Categories of records in the system:** Historical profile of participant group.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Magnetic tape/disc/drum.

**Retrievability:** Case file number.

**Safeguards:** Computer Facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

**Retention and disposal:** Records system is active and kept up-to-date.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Applications; recertifications; Single-family Statistical Reporting System.

#### HUD/DEPT-22

**System name:** Housing Counseling

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

**Categories of individuals covered by the system:** This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

**Categories of records in the system:** This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** The records are stored in paper files which are kept in standard lockable file cabinets and desks.

**Retrievability:** Records are retrievable by name, case number or property address.

**Safeguards:** During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

**Retention and disposal:** Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street SW.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Information in this system of records is: (1) supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgages, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

#### HUD/DEPT-23

**System name:** Single-family Research Files.

**System location:** Headquarters Office.

**Categories of individuals covered by the system:** Single-family mortgagors.

**Categories of records in the system:** Sample of single-family home cases for most recent five-year period.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Magnetic tape/disc/drum.

**Retrievability:** Name; case file number; property address.

**Safeguards:** Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

**Retention and disposal:** Records system is active and kept up-to-date.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street SW.  
Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Subject individuals; financial institutions; federal government agencies.

#### HUD/DEPT-24

**System name:** Investigation Files

**System location:** Headquarters

**Categories of individuals covered by the system:** HUD program participants and HUD employees under investigation, including mortgagors, grant applicants, and appraisers.

**Categories of records in the system:** Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials and recommendations and disposition to be made.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Use paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Files may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records in file folders.

**Retrievability:** Filed by name, investigation file number, case number.

**Safeguards:** Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those official duties require access.

**Retention and disposal:** Records are primarily active, with destruction of some records after three years and some after five years.

**System manager(s) and address:**

Director  
Office of Organization and Management Information



Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 522 a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G) (H), and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

#### HUD/DEPT—25

**System name:** Legal Actions Files

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Litigants; potential and past claimants against the government.

**Categories of records in the system:** Threatened, pending and past litigation involving HUD as a party; summons; writs; indictments; pleadings; decisions; legal memoranda; litigation reports; deposition; deficiencies on court judgments; notices of levy; settlement negotiations; legal rulings; claims against the government; employee claims.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to Justice Department—information for purposes of litigation, and representation of HUD before the courts and performance of all legal work incident thereto; to HEW—for investigation and litigation; to IRS—for investigation, litigation and collection of taxes; to Local Housing Authorities—for investigation and litigation; to local governments—for investigation and litigation; to parties to litigation—to provide status and facts in litigations; to private individuals and corporations—to assist co-defendants or to provide documents and information as required by the Federal Rules or Civil Procedure; various uses under the Freedom of Information Act.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records in file cabinets.

**Retrievability:** Name; case names; case numbers assigned by courts.

**Safeguards:** Records maintained in locked and lockable metal file cabinets with access limited to authorized personnel.

**Retention and disposal:** Files are partly active and partly historical; disposal in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information

Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals; other individuals; current or previous employers; financial institutions; firms and corporations; Federal government agencies; non-Federal government agencies; and Federal, state, and local courts.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

#### HUD/DEPT—28

**System name:** Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Mobile home, home improvement, and rehabilitation loan debtors delinquent or in default.

**Categories of records in the system:** Names, credit applications, and case histories of borrowers; records of payments; financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to private employers and other Federal agencies—for the purpose of collecting government-owned debts; to the Department of Justice and U.S. Attorney's Offices—for collection purposes; and to financial institutions that serviced Title I loans that were assigned to HUD and subsequently paid off—to inform credit reporting agencies that the loans were paid off; to local agencies that service Section 312 loans—to aid in the collection of delinquent loans; and to counseling agencies—to provide counseling and assistance in the collection of delinquent Section 312 debts in accordance with HUD/Dept-22.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** By name and case file number of individual covered.

**Safeguards:** Files are stored in lockable file cabinets.

**Retention and disposal:** Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual; current and previous employees; credit bureaus; financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

#### HUD/DEPT—29

**System name:** Rehabilitation Grants and Loans Files

**System location:** Field offices; for a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Applicants who have applied for rehabilitation grants and loans.

**Categories of records in the system:** Names of borrowers, builders, dealers and contractors; loan and grant applications and eligibility information; loan and grant documents; payment records; registration records; collection records; complaint records; related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to local agencies—for monitoring and carrying out the program; to financial institutions—for providing supplemental rehabilitation funds; to credit reporting agencies, employers, financial institutions, and retail consumer credit grantors—for verification of employment and financial status; and to Federal National Mortgage Association and loan servicers—for loan servicing.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and/or on magnetic tape/disc/drum.

**Retrievability:** By name, property address and case file number of individual covered.

**Safeguards:** Records stored in lockable file cabinets and technical restraints are employed with regard to accessing computer files.

**Retention and disposal:** Records are primarily active with some historical information; disposal is in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry

about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Financial institutions; subject and other individuals; federal and non-federal agencies; firms, current and previous employers; law enforcement agencies; credit reporting agencies.

#### HUD/DPET—32

**System name:** Delinquent/Default/Assigned

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Mortgages with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgages seeking assistance to prevent foreclosures; and mortgages whose mortgages are held by HUD.

**Categories of records in the system:** Notices of delinquent mortgages; requests for forbearance or assignment; forbearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forbearance agreements; deeds of trust; and related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgage complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling; to Legal Aid—to assist mortgagees.

**Storage:** In file folders and on magnetic tapes, drums, and discs.

**Retrievability:** Name; case file number; property address.

**Safeguards:** Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

**Retention and disposal:** Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.



**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

#### HUD/DEPT—34

**System name:** Pay and Leave Records of Employees.

**System location:** All Department offices. For a complete listing of offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** HUD employees.

**Categories of records in the system:** Name, Social Security number and employee number, grade, step and salary; organization, retirement of FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; coowner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Actions."

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry on its Government-wide personnel function; to GAO—for audit; to other federal government agencies—to facilitate employee transfers; and to State agencies—to verify workmen's compensation injury claims.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Manual, machine-readable and magnetic media.

**Retrievability:** Name of employee; Social Security Number.

**Safeguards:** Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

**Retention and disposal:** Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

#### HUD/DEPT—35

**System name:** Personnel Medical Records.

**System location:** In most HUD offices. For a complete list of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** HUD personnel.

**Categories of records in the system:** Pre-employment medical records and individual medical records of HUD-employees including standard medical forms completed by doctors at time of entrance of duty.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to federal agencies—for review when considering hiring and upon transfer to another agency.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In lockable file cabinets.

**Retrievability:** By name.

**Safeguards:** Records kept in locked file cabinet with access by authorized personnel only.

**Retention and disposal:** Active, kept up-to-date, partly historical. Maintained until retirement, resignation or transfer. Forwarded with official personnel folder when sent out for disposition according to HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Primarily from subject individual.

#### HUD/DEPT—37

**System name:** Personnel Travel System.

**System location:** All Department offices maintain employee travel records, and several maintain driver permit application records. For a complete listing of offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** HUD personnel.

**Categories of records in the system:** All travel records, including vouchers, requests, advances, receipts for requests, orders, applica-

tions for Federal vehicles, driver permits, U.S. Government driver's licenses, drivers' physical fitness forms, motor pool records, monthly motor vehicle use records, and GSA vehicle mileage reports. Applications for parking space.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; driver's license information transmitted to Department of Transportation for verification with National Driver Register; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Files generally stored on standard Government forms in individual file folders or binders.

**Retrievability:** Almost always retrievably by name, occasionally by Social Security number.

**Safeguards:** Kept in lockable desks or file cabinets.

**Retention and disposal:** Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

**System manager(s) and address:**

Director and Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual and supervisors.

#### HUD/DEPT—42

**System name:** Rent Subsidy Program Files

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Low-rent housing applicants and recipients under Section 236 and Rent Supplement programs.

**Categories of records in the system:** Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits; credit bureau reports; and related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit; to IRS—for investigation; to local and state housing authorities—for reference purposes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and on magnetic tape/disc/drum.

**Retrievability:** Name; case file number.

**Safeguards:** Limited access; lock file cabinets; security checks and limited authorization to secured computer facilities.

**Retention and disposal:** Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Records Center for storage or disposed in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal government agencies; project and project managers.

#### HUD/DEPT—43

**System name:** Property Disposition Files.

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Mortgages with HUD/FHA insured single-family homes who have had their mortgages foreclosed and properties acquired by HUD; individuals who have had their properties acquired by the Department of Defense and transferred to HUD; single-family mortgagors who defaulted on Section 312 loans and had their properties acquired by HUD; and potential buyers of HUD-held single-family properties.

**Categories of records in the system:** Documents pertaining to acquisition of foreclosed HUD/FHA insured single-family homes and single-family homes transferred from the Department of Defense. The documents include names, addresses, loan amounts and payments, and reasons for default; leases and rental information if properties are rented; purchasers' family characteristics, income and employment histories, credit reports, sales contracts, and settlement costs; and related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for auditing income tax returns; to insurance companies—to file claims for amounts due; to mortgagees—to review the credit of prospective purchasers; to local public authorities—to check on acquisition, reuse and sales of real estate.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** Case file number and property address.

**Safeguards:** Desk; lockable file cabinet; secured computer facilities. Access restricted.

**Retention and disposal:** Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.



**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies; real estate brokers and agents.

#### HUD/DEPT-44

**System name:** Relocation Assistance Files.

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Displaced persons and relocation claimants who have filed grievances.

**Categories of records in the system:** Names of relocation claimants; family characteristics; personal and family financial data; relocation needs and problems; claims; documentation and evaluation of claims; recommendations; inquiries and grievances; responses to grievances; audits.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to the Department of Justice—for investigation and prosecution; to local public agencies—for processing, training and monitoring purposes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** By name and case file number of subject individual.

**Safeguards:** Stored in lockable file cabinets; access limited to authorized personnel.

**Retention and disposal:** Files are partly active and partly historical, disposal is in accordance with HUD Handbook.

**System manager(s) and address:** Director Office of Organization and Management Information Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject and other individuals; current and previous employers; credit bureaus and financial institutions; firms federal and non-federal agencies.

#### HUD/DEPT-46

**System name:** Single Family Case Files

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Individuals who have applied for HUD/FHA mortgage insurance in connection with single family housing programs of the department.

**Categories of records in the system:** Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrower's inability to make payments, cancellations and monies returned. Also, requests for

refinancing income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and deed of trust; record of escrow account; correspondence and complaints.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to welfare agencies—for fraud investigation, to VA—for coordination with HUD in processing construction complaints. Congressional delegation—providing information concerning status of complaints. Complainants and attorneys representing them—review of complainant file for status and information. Builders and attorneys representing them—review of complainant file for status information.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and computerized tape, disc and drum.

**Retrievability:** File by name of individual and case file number.

**Safeguards:** Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

**Retention and disposal:** Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

**System manager(s) and address:** Director Office of Organization and Management Information Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals, current or previous employers, credit bureaus and financial institutions, corporations and firms and federal and non-federal government agencies.

#### HUD/DEPT-51

**System name:** Standards of Conduct File.

**System location:** Headquarters.

**Categories of individuals covered by the system:** HUD employees.

**Categories of records in the system:** Financial statements; statements of employment.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to the Department of Justice, the Federal Bureau of Investigation, and the Internal Revenue Service for purposes of investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** File folders and standard forms.

**Retrievability:** Name.

**Safeguards:** Locked file cabinets.

**Retention and disposal:** Files are active and kept up-to-date; partly current and partly historical.

**System manager(s) and address:**

Assistant General Counsel for Finance and Administrative Law  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the

headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals.

#### HUD/DEPT-52

**System name:** Privacy Act Requesters.

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

**Categories of records in the system:** Personal identification of requester, nature of request, and disposition of the request by the Department.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** Filed by case number and name of individual.

**Safeguards:** Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

**Retention and disposal:** Records are primarily active. Inactive files are normally disposed of after a one-year period.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals.

#### HUD/DEPT-53

**System name:** Consumer Complaint Handling System.

**System location:** Headquarters.

**Categories of individuals covered by the system:** Any member of the public who writes a letter of complaint to HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenants in FHA-insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest

groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

**Categories of records in the system:** Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State, and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders, cassettes, computerized tape, disc, and drum.

**Retrievability:** Control number, date of receipt, name of writer, date of letter, HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

**Safeguards:** Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

**Retention and disposal:** Correspondence file is closed upon final response, and purged after six months. Correspondence pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

**Notification procedure:** For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Letters of complaint from individuals, and consumer oriented agencies on behalf of individuals.

#### HUD/DEPT-54

**System name:** Parking Permit Application Files.

**System location:** Headquarters Office.

**Categories of individuals covered by the system:** Headquarters and other Federal employees who made application to park at Headquarters location.

**Categories of records in the system:** Application forms that contain information about the vehicles owned by and addresses of the principal applicant and carpool members.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other Routine Uses: To parking management company—for billing purposes.

**Storage:** 8" by 5" card file.

**Retrievability:** Name and permit number.

**Safeguards:** Lockable file cabinets.

**Retention and disposal:** (1) For individuals issued permits, as long as permits are valid; (2) for individuals on the waiting list, approximately 2 years.



**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR part 16. This location is given in appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location (this location is given in appendix A); (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Parking Permit Applicants.

#### HUD-DEPT-55

**System name:** Executive Personnel Files.

**Security classification:** Headquarters office.

**Categories of individuals covered by the system:** Executive employees, namely, executive levels, supergrades, schedule C's, experts and consultants, field office directors, and high potential senior level employees.

**Categories of records in the system:** Data pertaining to experience, training, education, achievements, personal activities, potential and career objectives, and evaluation of these skills and attributes.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraph in prefatory statement. Other routine uses: to former employers, education, institutions, and references for information verification.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records in file cabinets.

**Retrievability:** Name of applicant or HUD organization.

**Safeguards:** Records are maintained in lockable file cabinets with access limited to authorized personnel.

**Retention and disposal:** Retained during active status and then disposed, usually 3 years.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A. (ii) In relation to appeals of initial denials, the HUD Departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Subject individuals, former employers and references.

#### HUD/DEPT-56

**System name:** Telephone Numbers of HUD Officials.

**System location:** Headquarters office.

**Categories of individuals covered by the system:** HUD senior staff officials.

**Categories of records in the system:** Name, title, and home phone number.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See routine uses paragraph in prefatory statement. Other routine uses: Executive Office of the President for identification and communication with key staff.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Bookcase of Director, Office of Executive Secretariat.

**Retrievability:** Office, name, and title.

**Safeguards:** Records are maintained in lockable room with access limited to authorized personnel.

**Retention and disposal:** Records are revised as personnel and telephone numbers change. When records are revised, older records are destroyed.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about the existence of records contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

**Record source categories:** Subject individuals.

#### HUD/DEPT-58

**System name:** HUD Child Care Center Files.

**System location:** Headquarters Office.

**Categories of individuals covered by the system:** Children enrolled in the Center and their parents, staff of the Center, others who may be involved in special programs of the Center, and names of donors.

**Categories of records in the system:** Information on the child, including parents' names and addresses and income; health records of children and staff; information on staff including work history; current work evaluations, and other work-related information; evaluation of the children's progress in the Center; names of donors and amounts of donations to the Center.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:** Paper records in file cabinets.

**Retrievability:** By name of child or name of staff member.

**Safeguards:** Records will be maintained in lockable file cabinets with access limited to authorized personnel of the Center.

**Safeguards:** Records of children who leave will be stored for one year; records of staff who leave will be stored for three years. At the expiration of those periods, records will be disposed of.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Notification procedure:** For information, assistance or inquiry about the existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer

at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Applicants; current and formerly enrolled children and their parents; current and former staff members; doctors and former institutions attended by the children.

#### HUD/DEPT-59

**System name:** Disaster Assistance Personnel Reserve Files.

**System location:** Headquarters and Regional offices. For a complete listing of these offices, with addresses, see appendix A.

**Categories of individuals covered by the system:** Individuals designated as active Disaster Assistance Reservists.

**Categories of records in the system:** File folders and computer files contain name; address; telephone number; social security number; professional specialties and experience in disaster relief and recovery activities; type and date of appointment; expiration date; availability; and duty station.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraph in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and on magnetic tape/disc/drum.

**Retrievability:** Name, functional title.

**Safeguards:** Manual files are kept in lockable cabinets in a secured building; computer records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

**Retention and disposal:** Records are maintained until employee termination date.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rule for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

**Record source categories:** Subject, previous and current employers.

#### HUD/DEPT-60

**System name:** Employee Emergency Reference File.

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** HUD employees.

**Categories of records in the system:** Name, address, home phone number, social security account number, and personal and medical references to be used in an emergency.

**Authority for maintenance of the system:** 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To personal and medical sources identified by subject—for providing HUD with assistance in the event of an emergency affecting the subject.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and card boxes.

**Retrievability:** Subject's name.

**Safeguards:** Records are kept in lockable file cabinets with access limited to authorized personnel.

Records are retained during active status and disposed of within one year of subject's departure from the Department.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals.

#### HUD/H-1

**System name:** Section 8 Lower-Income Rental Assistance Files.

**System location:** Headquarters and many field offices. For a complete list of these offices, with addresses, see Appendix.

**Categories of individuals covered by the system:** Tenants in Section 8 Program.

**Categories of records in the system:** Applicants filing for eligibility and recertification include names; addresses; social security numbers; telephone numbers; family characteristics; employment and income information; HUD review and certification; verification of employment, income and bank deposits; and related correspondence.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraph in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Magnetic tape/disc/drum.

**Retrievability:** Name of tenant. Inquiry capability by HUD management. Output interface with HPMC Section 8 MIS (occupancy characteristics).

**Safeguards:** Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

**Retention and disposal:** Records system in active and kept up-to-date.

**System manager(s) and address:**

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.



**Record source categories:** Subject individuals; landlords; financial institutions; employers; and local housing authorities.

#### HUD/H-2

**System name:** HUD Temporary Housing File.

**System location:** Contact appropriate Regional Offices for locations of field offices. For a complete listing of Regional Offices, see Appendix A.

**Categories of individuals covered by the system:** Individuals who apply for temporary housing disaster assistance in Presidentially declared major disaster or emergency areas, and (2) candidates for staff positions at Federal Disaster Assistance Centers.

**Categories of records in the system:** Personal information is contained, such as name, address, sex, Social Security number, telephone number, wages, job location, family income, insurance data (relating to homes) as pertaining to some applicants, and disapproval or approval of applicants for aid or employment. There is general correspondence concerning complaints, plaudits, reinstatement in jobs or housing, requests for disbursement of payments and inquiries from tenants and landlords in regard to aid. Files also include general administrative and fiscal information, including payroll, payment schedules and forms, travel vouchers, time and attendance records, applications, termination notices, individual and family grant programs, damage and relocation information, leases, contracts, disaster cadre registers, listings of emergency repairs given as a result of specific natural disasters, reasons for tenant eviction or denial of aid, sales information on homes after tenant purchase, and status of dispositions of applicants for housing.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to the FBI—for investigation of possible Small Business Administration loan frauds; to GAO—for the investigation of files and to verify family composition, income and sources of housing plans; to the Small Business Administration—to verify household composition and actual disaster assistance; forwarding of addresses; information concerning contracts to Local Departments of Public Assistance—for verification of occupancy of victims, their income and relocation; to House of Representatives—specific tenant information is given in response to a Congressional inquiry; to Post Office—in regard to location of individuals; to Departments of Motor Vehicles and State Tax Departments—to find serial number and cost of mobile homes and vehicles; to Local Housing Authorities and departments of community affairs (by state) and the Committee on Economic Opportunity—to determine family compositions, income and sources of income and housing plans concerning relocation; to law enforcement agencies—for relocation information; to Local Housing Authorities and local township police—concerning the forwarding of addresses; to utility companies—in regard to lease dates and forwarding addresses; to Defense Department Investigating Service—concerning mobile home occupancy dates; to county investigating services—to verify address and number of people within households; to local relief and government agencies—information on victims and housing; property ownership; tax rebates; to disaster victims—in regard to disaster assistance and its termination.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Some files are in free text form, such as notes, memos, ledger cards, printed cards and 3 x 5 cards, as well as daily reports. Other files are on Standard Forms Nos. SF 171, SF 52, SF 50, 491.1 or various certification forms relative to the need for assistance.

**Retrievability:** Name or case file number.

**Safeguards:** Records are stored in lockable file cabinets in lockable rooms in secured buildings.

**Retention and disposal:** Some files are active and kept up-to-date, but usually only when an individual is receiving assistance. Other files are inactive and historical only, unless a follow-up on a case is needed within one year after the close-down of the Disaster Field Office. Other files are partly current and partly historical. Some files are permanently retained, others destroyed by shredding according to appropriate schedules concerning disposal authority. When Disaster Field Offices are actively functioning, inactive case files are placed in inactive files. When Disaster Field Offices are inactive, case files are stored at record centers. However, when a Disaster Field Office has been audited and closed out, any pertinent records are shipped to Regional Offices. There is a periodic review of some files, which includes the removal of obsolete information. Once a tenant is terminated or has vacated a temporary residence, his or her records are placed in a "vacate file". Some files are eventually sent to the archives for permanent retention.

#### System manager(s) and address:

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Social service and other state and city agencies; subject individuals; current or previous employers; credit bureaus; financial institutions; corporation or firms; Federal Government agencies; non-Federal Government agencies; law enforcement agencies; Disaster Field Offices.

#### HUD/H-3

**System name:** Housing Production and Mortgage Credit Monitoring System

**System location:** Headquarters.

**Categories of individuals covered by the system:** Single-family mortgagors.

**Categories of records in the system:** Cross-indexes (used to support studies and investigations).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Magnetic tape/disc/drum.

**Retrievability:** Name; case file number.

**Safeguards:** Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

**Retention and disposal:** Records system is active and kept up-to-date.

#### System manager(s) and address:

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals; current or previous employers; credit bureaus; financial institutions; corporations; firms; federal government agencies.

#### HUD/H-4

**System name:** Mortgage Activities Review System

**System location:** Headquarters and most field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of records in the system:** Individuals designated as directors, officers and managers and listed in a firm's application filed with HUD for the purpose of becoming a HUD-approved mortgagee.

**Categories of records in the system:** Applications and resumes containing name; address, social security account number; educational, and professional and employment history; and personal references.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and on magnetic tape/disc/drum.

**Retrievability:** Name, social security account number.

**Safeguards:** Manual files are kept in lockable cabinets; computer records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

**Retention and disposal:** Records are maintained in perpetuity.

#### System manager(s) and address:

Director  
Office of Organization and Management Information,  
Department of Housing and Urban Development,  
451 Seventh Street, S.W.,  
Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject, previous and current employers, and business and character references.

#### HUD/H-5

**System name:** Single-family Homes Management Underwriting System.

**System location:** Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

**Categories of individuals covered by the system:** Builders of single-family dwellings.

**Categories of records in the system:** Case binders and automated files contain builder's name; address; telephone number; tax identification number or social security account number; and minority data for statistical tracking to include racial/ethnic background and sex of the builder.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In case binders and on magnetic tape/disc/drum.

**Retrievability:** Name, tax identification number or social security number.

**Safeguards:** Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

**Retention and disposal:** Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** HUD authorized mortgagees.

#### HUD/H-6

**System name:** Section 518 Files.

**System location:** HUD field offices.

**Categories of individuals covered by the system:** HUD insured owners of one-to-four family dwellings who filed claims because of structural or other major defects found in their homes.

**Categories of records in the system:** Name, address, home phone number, property inspection report, disposition of claim information and other information pertinent to the claim.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders.

**Retrievability:** Name, case number, and claim number.

**Safeguards:** Records are kept in lockable file cabinets with access limited to authorized personnel.

**Retention and disposal:** Records are retained for six years and then disposed.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals and Departmental records.

#### HUD/FIA-1

**System name:** Federal Crime Insurance

**System location:** Headquarters.

**Categories of individuals covered by the system:** Federal crime insurance policyholders.



**Categories of records in the system:** Names of policyholders; addresses of insured premises; type of premises; amounts and types of insurance desired; annual premiums; claims information; record of claim payments; record of premium payments; agent's name and address; other insurance held by policyholder; inspection report of protective devices.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: to Safety Management Institute for billing, verification of coverage, claims adjusting and issuance of policies.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper files in metal cabinets, tape/disc library.

**Retrievability:** By name; Social Security number of policyholders policy number.

**Retention and disposal:** Information partly current and partly historical; no procedures for removal of obsolete information.

**System manager(s) and address:**

Director Office of Organization and Management Information  
Department of Housing and Urban Development 451 Seventh  
Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual; police reports (for verification of claims data); servicing companies (for verification of claims data).

**System name:** The National Flood Insurance Application and Related Documents Files.

**System location:** Various offices of the Servicing Agent under contract to the Department.

**Categories of individuals covered by the system:** Applicants for individual's flood insurance and individuals insured.

**Categories of records in the system:** Flood insurance, policy issuance and administration records and claims adjustment records, including applications for emergency and regular flood insurance, Endorsements, Renewal applications, Cancellation Notices, Policy Questionnaires, Notice of Loss, and Proofs of Loss.

**Authority for maintenance of the system:** 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; and to Small Business Administration, American Red Cross, and Federal Disaster Assistance Administration, for verification of nonduplication of benefits.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In the file folders and on magnetic tape/disc/drum.

**Retrievability:** Name, policy number.

**Safeguards:** Records kept in a secured area; automated systems have restricted access limited to authorized personnel.

**Retention and disposal:** Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

**System manager(s) and address:**

Director, Office of Organization and Management Information,  
Department of Housing and Urban Development, 451 Seventh  
Street, S.W., Washington, D.C. 20410.

**Notification procedure:**

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:**

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

**Contesting record procedures:**

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:**

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

#### HUD/PD&R-1

**System name:** Urban Homesteading Evaluation Data

**System location:** Cambridge, Massachusetts.

**Categories of individuals covered by the system:** Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

**Categories of records in the system:** Demographic, socioeconomic, housing characteristics, and housing costs.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

**Retrievability:** Code number; address.

**Safeguards:** File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

**Retention and disposal:** Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

**System manager(s) and address:**

Director, Office of Organization and Management Information,  
Department of Housing and Urban Development, 451 Seventh  
Street S.W., Washington, D.C. 20410

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

ing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

**Record source categories:** Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

#### HUD/PD&R-2

**System name:** Solar Energy Demonstration Survey Files

**System location:** Headquarters.

**Categories of individuals covered by the system:** Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

**Categories of records in the system:** Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socioeconomic information.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and on magnetic tape/disc/drum.

**Retrievability:** Name; address; code number; and index.

**Safeguards:** Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

**Retention and disposal:** Records will be maintained until followup interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed in the conclusion of the study, scheduled to end in approximately five years.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Subject individuals.

#### HUD/PD&R-3

**System name:** Urban Reinvestment Task Force Data.

**System location:** Cambridge, Mass.

**Categories of individuals covered by the system:** Participants in Neighborhood Housing Services (NHS) Program and other residents of NHS neighborhoods.

**Categories of records in the system:** Socio-economic, demographic and housing characteristics of participants, their perceptions of the Neighborhood, and of the NHS program, and housing investment behavior of residents.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders, punch cards, magnetic tape and computer disc.

**Retrievability:** Identification code.

**Safeguards:** Access to file folders and computer files limited to authorized personnel.

**Retention and disposal:** Retained until June 1980 and then destroyed.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

**Record source categories:** Survey participants.

#### HUD/PD&R-4

**System name:** Prepurchase Counseling Demonstration and Evaluation Records.

**System location:** Cambridge, Mass.

**Categories of individuals covered by the system:** Individuals who seek homes and inquire about the program; first-time homeseekers who join the program, counseled individuals after they purchase a home or decide not to purchase; and counseled individuals who default on their mortgages.

**Categories of records in the system:** Socio-economic, demographic, financial, attitudinal and, if appropriate, mortgagor payment information.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** See Routine Uses in prefatory statement. Other routine uses: none.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In file folders and on magnetic tape.

**Retrievability:** Name and Identification No.

**Safeguards:** Files are maintained in a secured data storage bank and in lockable file cabinets with access limited to authorized persons.

**Retention and disposal:** Records are retained until December 31, 1980 and then destroyed.

**System manager(s) and address:** Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

**Notification procedure:** For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

**Record access procedures:** The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

**Contesting record procedures:** The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

**Record source categories:** Subject individual, institution servicing the mortgage and HUD approved counseling agency.



## HUD/PD&amp;R-5

System name: HUD Community Development Block Grant Evaluation Files

System location: Location of private data collection firm to be selected and headquarters office.

Categories of individuals covered by the system: A sample of occupants of owner-occupied and rental housing units and members of neighborhood groups in selected community development block grant (CDBG) entitlement cities.

Categories of records in the system: Demographic, socioeconomic, housing, and neighborhood characteristics, utilization of neighborhood services and facilities and attitudes about the CDBG program.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraphs of prefatory statement. Other routine uses: the University of Pennsylvania for analyses of the impacts and benefits of the CDBG program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual records stored in lockable file drawers located in lockable rooms. Access limited to authorized personnel. Personal identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

Retrievability: Name, address, and numeric code.

Safeguards: Manual records stored in lockable file cabinets in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

Retention and disposal: Records maintained for duration of study, approximately 4 years. Manual records, including lists of names and addresses indexed to numeric codes, will be destroyed. Computer records without personal identifiers will be maintained for a longer period.

System manager(s) and address: Director,

Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street  
Washington, D.C. 20410

Notification procedure: For information, assistance or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individual.

## HUD/PD&amp;R-6

System name: Real Estate Settlement Costs Research Files.

System location: Contractor's office (contractor to be selected).

Categories of individuals covered by the system: Buyers and sellers of individual residential housing units and owners of such units who refinance their mortgages.

Categories of records in the system: A national sample of Uniform Settlement Statement (HUD-1) forms, showing detailed settlement items and their costs, will be collected from mortgage lenders. Follow-up phone calls to buyers and sellers listed on these forms may be made to elicit information on settlement procedures, costs, etc. In addition, a sample of HUD-1 forms and good-faith estimates of settlement costs will be collected from mortgage lenders in about 12 different housing markets across the country; a sub-sample of these forms will be used to draw a sample of buyers and sellers, as well as a sample of attorneys, mortgage lenders, and others who provided services to buyers and sellers in the sub-sample; this sub-sample will then be interviewed.

Data will also be collected from national experts in this subject area and from State and local bodies which regulate providers of settlement services.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tape/disc/drum.

Retrievability: Name or address of subject.

Safeguards: Manual records stored in lockable file cabinets and desks in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

Retention and disposal: All records will be maintained for five years until the end of 1983.

System manager(s) and address:

Director  
Office of Organization and Management Information  
Department of Housing and Urban Development  
451 Seventh Street SW.  
Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC, 20410.

Record source categories: Subject individual, mortgage lenders, title insurance firms, real estate agents, title abstractors, land surveyors and other providers of settlement services.

## HUD/PDR07

System name: Section 8 Program Research Data Files.

System location: Cambridge, Massachusetts.

Categories of individuals covered by the system: Families selected in a random sample of applicants to and certificate holders in the Section 8 Program.

Categories of records in the system: Name, address, household demographics (age, sex, race, education, income, handicapped/disabled), status/condition of pre-program housing unit, typology of pre-program neighborhood, and program understanding of the respondent.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name, address.

Safeguards: Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

Retention and disposal: All personal identifiers will be destroyed approximately four months after the system is created.

System manager(s) and address:

Director, Office of Organization and Management Information,  
Department of Housing and Urban Development,  
451 Seventh Street, SW.,  
Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject.

## HUD/FDAA-1

System name: Disaster Recovery Assistance Files.

System location: Disaster Field Offices; FDAA Regional Offices.

Categories of individuals covered by the system: Persons applying for disaster recovery assistance.

Categories of records in the system: Socio-economic, demographic and financial information; disaster impact (including verification and cost estimates); disaster recovery plans and needs; and other assistance requested by applicant.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraphs of prefatory statement. Other routine uses: to the agencies from which the applicant is seeking disaster recovery assistance: the State or Federal agency administering the Temporary Housing program, the State agency administering the Individual and Family Grant program, and the Small Business Administration which administers the Disaster Home Loan program, for making eligibility determinations. In cases where the applicant is requesting a disaster home loan, references given by applicant will be contacted, and a credit report will be requested. This information may also be provided to: The American Red Cross, the Salvation Army, the Menonite Disaster Service, the appropriate agency providing services to the aged, and to other governmental, voluntary or private organizations offering disaster recovery assistance to supplement that offered through application to HUD. This information may also be shared with insurers of applicants' damaged properties to coordinate recovery assistance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: By subject name; address.

Safeguards: Manual records are kept in lockable cabinets in lockable rooms; computer records are maintained in secured facilities. Access to either type of record is limited to authorized personnel.

Retention and disposal: Applications and supporting documents are retained until the disaster field offices closes, and then moved to the FDAA Regional office and kept no longer than 3 years after the date of the disaster declaration.

System manager(s) and address:

Director,  
Office of Organization and Management of Housing and Urban Development,  
451 Seventh Street SW.,  
Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Applicants for disaster recovery assistance, financial references, credit reporting bureaus, insurance companies and agencies providing disaster relief.

## Appendix A—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

## Headquarters

Privacy Act Officer, 451 Seventh Street SW., Washington, D.C. 20410.

## Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203.

## Area Offices

Area Manager, Bulfinch Building, 15 New Chardon Street, Boston, Mass. 02114.

Area Manager, One Financial Plaza, Hartford, Conn. 06103.

## Service Offices

Supervisor, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103.

Supervisor, Room 300, John O. Pastore Federal Building, U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903.

## Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401.

Supervisor, Federal Building, Elmwood Avenue, Burlington, Vermont 05401.

## Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10007.

## Area Office

Area Manager, Suite 800, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202.

Area Manager, 26 Federal Plaza, New York, New York 10007.

Area Manager, Gateway 1 Building, Raymond Plaza, Newark, New Jersey 07102.

## Caribbean Area Office

Area Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos e. Chardon Avenue, Hato Rey, Puerto Rico 00918.

## Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.

Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103.

## Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.

## Area Offices

Area Manager, Mercantile Bank and Trust Building Two Hopkins Plaza, Baltimore, Maryland 21201.

Area Manager, Curtis Building, 625 Walnut Street, Philadelphia, Pa. 19106.

Area Manager, Fort Pitt Commons, 445 Fort Pitt Blvd. Pittsburgh, Pennsylvania 15219.

Area Manager, 701 East Franklin Street, Richmond, Virginia 23219.

Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

## Service Office

Supervisor, New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25330.

## Valuation/Endorsement Station

Supervisor, Delaware Trust Plaza, 1800 Pennsylvania Avenue, Suite 604, Wilmington, Delaware 19806.

## Region IV

Regional Administrator, Richard B. Russell, Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

## Area Offices

Area Manager, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.



Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233.  
Area Manager, Strom Thurmond Federal Building, 1835-45 Assembly Street, Columbia, South Carolina 29201.  
Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401.  
Area Manager, Federal Building, Suite 1016, 100 W. Capitol Street, Jackson, Mississippi 39201.  
Area Manager, Peninsular Plaza, 661 Riverside Avenue, Jacksonville, Florida 32204.  
Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919.  
Area Manager, 539 River City Mall, Louisville, Kentucky 40201.  
Service Offices  
Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134.  
Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601.  
Supervisor, Federal Building—U.S. Courthouse, 80 N. Hughey Avenue, Post Office Box 1400, Orlando, Florida 32802.  
Supervisor, 28th Floor, 100 North Main Street, Memphis, Tennessee 38103.  
Supervisor, One Commerce Place, Suite 1600, Nashville, Tennessee 37219.

#### Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606.  
Area Offices  
Area Manager, 1 North Dearborn Street, Chicago, Illinois 60602.  
Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215.  
Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.  
Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207.  
Area Manager, 744 North 4th Street, Milwaukee, Wisconsin 53203.  
Area Manager, 6400 France Avenue, South Minneapolis, Minnesota 55435.  
Service Offices  
Supervisor, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.  
Supervisor, 777 Rockwell Avenue, Cleveland, Ohio 44114.  
Supervisor, Northbrook Building Number II, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505.  
Supervisor, Metropolitan Building, 432 North Saginaw Street, Flint, Michigan 48502.  
Valuation/Endorsement Station  
Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 62701.

#### Region VI

Regional Administrator, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.  
Area Offices  
Area Manager, 2001 Bryan Tower, 4th Floor, Dallas, Texas 75201.  
Area Manager, Suite 1400, One Union National Plaza, Little Rock, Arkansas 72201.  
Area Manager, Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113.  
Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102.  
Area Manager, Washington Square, Dolorosa, Post Office Box 9163, San Antonio, Texas 78285.  
Service Offices  
Supervisor, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.  
Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046.  
Supervisor, Courthouse and Federal Office Building, 1205 Texas Avenue, Post Office Box 1647, Lubbock, Texas 79408.  
Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110.  
Supervisor, Joe Waggoner, Federal Building, 500 Fannin Street, Shreveport, Louisiana 71120.  
Supervisor, 1708 Utica Square, Tulsa, Oklahoma 74152.

#### Region VII

Regional Administrator, Federal Office Building, Room 300, 911 Walnut Street, Kansas City, Missouri 64106.

Area Offices  
Area Manager, Two Gateway Center, 4th Street and State Avenue, Kansas City, Kansas 66101.  
Area Manager, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106.  
Area Manager, 210 North 12th Street, St. Louis, Missouri 63101.  
Service Office  
Supervisor, Room 259, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.  
Valuation/Endorsement Station  
Supervisor, 444 S.E. Quincy Street, Room 330, Topeka, Kansas 66683.

#### Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202.  
Service Offices  
Supervisor, Room 340, Federal Office Building, Drawer 10095, 301 South Park, Helena, Montana 59601.  
Supervisor, 125 South State Street, Salt Lake City, Utah 84147.  
Valuation/Endorsement Stations  
Supervisor, Federal Office Building, 100 East B Street, Casper, Wyoming 82601.  
Supervisor, Federal Building, 653-2nd Avenue, North, Fargo, North Dakota 58102.  
Supervisor, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102.

#### Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102.  
Area Offices  
Area Manager, Federal Building, 300 Ala Moana Boulevard, Suite 3318, Honolulu, Hawaii 96850.  
Area Manager, 2500 Wilshire Boulevard Los Angeles, California 90057.  
Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111.  
Service Offices  
Supervisor, 34 Civic Center Plaza, Room 614, Santa Ana, California 92701.  
Supervisor, Federal Office Building, 880 Front Street, Post Office Box 2648, San Diego, California 92112.  
Supervisor, Arizona Bank Building, 101 N. First Avenue, Suite 1800, Phoenix, Arizona 85003.  
Supervisor, Arizona Bank Building, 33 North Stone Avenue, Post Office Box 1911, Tucson, Arizona 85702.  
Supervisor, 1315 Van Ness Street, Fresno, California 93721.  
Supervisor, 545 Downtown Plaza, Post Office Box 1978, Sacramento, California 95809.  
Supervisor, 1050 Bible Way, Post Office Box 4700, Reno, Nevada 89505.  
Supervisor, Federal Building-U.S. Courthouse, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

#### Federal Disaster Assistance Administration

Region I  
Director, Room 710, 150 Causeway Street, Boston, Massachusetts 02114.  
Region II  
Director, 26 Federal Plaza, New York, N.Y. 10007.  
Region III  
Director, Curtis Building, 7th Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.  
Region IV  
Director, 1375 Peachtree St., N.E., Suite 750, Atlanta, Georgia 30309.  
Region V  
Director, 1 N. Dearborn Street, Chicago, Illinois 60602.  
Region VI  
Director, Federal Building, Room 13C28, 1100 Commerce Street, Dallas, Texas 75202.  
Region VII  
Director, Federal Office Building, Room 407, 911 Walnut Street, Kansas City, Missouri 64106.  
Region VIII  
Director, Executive Tower Building, 25th Floor, 1405 Curtis Street, Denver, Colorado 80202.  
Region IX  
Director, 211 Main Street, San Francisco, California 94105.  
Region X  
Director, Arcade Building, Room M-16, 1319 Second Avenue, Seattle, Washington 98101.  
These are permanent offices. For location of the nearest temporary field office, contact the appropriate Regional FDAA Office.

Thursday  
December 13, 1979

## Part IV

# Department of Housing and Urban Development

Office of the Assistant Secretary for  
Neighborhoods, Voluntary Associations  
and Consumer Protection

Availability of Neighborhood Self-Help  
Development Project Grants; Competitive  
Solicitation; Urban Cycle I and Rural  
Cycle I (2 Documents)

Federal Register



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

(Docket No. N-79-963)

## Availability of Neighborhood Self-Help Development Project Grants—Urban Cycle I; Competitive Solicitation

AGENCY: Department of Housing and Urban Development.

ACTION: Announcement of Competitive Solicitation for Neighborhood Self-Help Development Project Grants—Urban Cycle I.

SUMMARY: HUD is accepting applications from neighborhood organizations for grants for eligible neighborhood revitalization projects which directly benefit the residents of low- and moderate-income urban neighborhoods. This grant announcement is the first of two cycles of urban project grants to be solicited during fiscal year 1980. A second cycle of urban project grants is expected to be announced in Spring 1980. For purposes of this announcement urban refers generally to cities and metropolitan areas with a population of more than 10,000 people. Concurrent with this urban project grant announcement, a separate notice of availability is being made for rural project grants.

FOR FURTHER INFORMATION CONTACT: Frank Slezak, Program Support Division, Office of Neighborhood Development, Room 3238, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Telephone: (202) 755-6893. Grant application kits are available upon written or telephone request. To assure a prompt response, it is suggested that requests for application kits be made by telephone: DATE: Applications may be submitted between November 21, 1979 and March 21, 1980. Applications submitted after March 21, 1980 will not be considered for this first cycle of project grants.

### Program Background

The Neighborhood Self-Help Development Act of 1978 (42 USC 8123) authorizes grants and other forms of assistance to neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, which are in need of preservation and

revitalization. The Neighborhood Self-Help Development Act is a component of the President's Urban Policy.

It is the intent of this program, and this announcement, to be responsive to a range of neighborhood revitalization activities and to support specific projects identified and developed by neighborhood organizations as they are in the best position to determine the most appropriate means to satisfy their neighborhood revitalization needs. Therefore, any housing, community and economic development projects which are not specifically cited as ineligible below, and which contribute to the revitalization of low- and moderate-income neighborhoods and directly benefit the residents of those neighborhoods are eligible for project grants. Examples include neighborhood-initiated housing rehabilitation, creative reuse of existing buildings, neighborhood commercial revitalization, neighborhood economic development, and energy conservation and weatherization.

This grant announcement is based on the interim regulations (published in the Federal Register on October 22, 1979) and the initial legislation (passed by Congress on October 15, 1978). Interested persons/organizations are urged to review the regulations, this announcement with the factors for award, and the application kit to determine whether or not they should apply under this program. Another announcement for project grants will be published in Spring 1980.

### Eligible Applicants

Applicants for project grants must meet each of the following criteria to be eligible for grant award:

- (1) The applicant must be an existing voluntary neighborhood organization with a history of service to the neighborhood in which the proposed project is located;
- (2) The organization must be broadly representative of the neighborhood in which the project will be located;
- (3) The organization must be accountable to neighborhood residents with respect to the project being proposed;
- (4) The organization must have as one of its objectives the preservation and revitalization of the neighborhood;
- (5) The organization must be found by the Secretary to have a proven record or demonstrable capacity for developing resources for, and effectively implementing, neighborhood conservation and revitalization projects;
- (6) The organization must be incorporated as a non-profit organization;

(7) The organization must have a board of directors composed chiefly of elected officials who are other than paid staff of the organization, though a small number of paid corporate officers may be part of the board; and

(8) The organization must have financial records in an auditable form.

### Project Grant Activities

Grants under this program will support an organization to prepare and/or implement a specific project. Preparation activities may include: advanced stages of planning, financial packaging, architectural services, land acquisition, or rehabilitation specifications.

Advanced planning or preparation activities are acceptable when the organization can document that the initial stages of planning for the specific project have been completed and when those activities are tied to project implementation. The applicant must have completed at least sufficient planning to have a clear project structure, an initial financial projection, and an estimated timetable for implementation. Grants under this program will not support the early stages of planning. Grants will also not support the full cost of implementation. When specific projects request funds for partial implementation costs, the other financial resources supporting the implementation must be identified.

### Ineligible Project Activities

The following activities are ineligible for project grants:

- (1) Planning functions which are not directly combined with project implementation;
- (2) Public works such as street repairs which are not associated with the specific project being funded;
- (3) Operating social services which are not associated with the specific project to be funded;
- (4) An economic development project which will not primarily benefit the residents of the neighborhood in which it will be located;
- (5) Operating costs of a community group which are not associated with the specific projects being funded;
- (6) Other activities which the Secretary determines are not consistent with the purposes of the Act.

### Local Government Certification

Applications must include a letter from the chief elected official of the most immediate jurisdiction of general local government in which the neighborhood is located. The letter must state that the chief elected official has reviewed the application and that the

proposed project is consistent with, and supportive of, the specific objectives of that unit of local government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by that unit of general local government. No action will be taken on any proposals which are submitted to HUD without the local government certification.

### Factors for Award

Applications will be evaluated and awarded points based on the factors identified below. The weight of each factor is indicated by the assigned number of points. Each sub-factor is considered relatively equal to each other sub-factor within the individual factor.

#### (1) Organizational Qualifications (30 Points)

(a) Proven record or demonstrable capacity of the organization to develop resources, prepare, and effectively implement the same type of neighborhood revitalization project as proposed or a different type of project which required comparable program development.

(b) Proven record or demonstrable capacity of the organization to manage the same type of neighborhood revitalization project as proposed or a different type of project which required comparable management skill.

(c) Extent to which the organization has a history of service to the area served by the project and to low- and moderate-income residents of the area served by the project.

#### (2) Quality of Project Planning (30 Points)

(a) Demonstrated evidence that the organization has addressed neighborhood needs through the development of an overall revitalization strategy and that the project advances that strategy.

(b) Extent to which project planning to-date has advanced to the stage where the organization has:

- (a) identified a specific project and described its basic components;
- (b) completed the early stages of planning;
- (c) made a preliminary financial projection;
- (d) estimated a timetable for implementation.

(c) Extent to which neighborhood residents have been involved to-date in project planning.

#### (3) Soundness of Project and its Components (30 Points)

(a) Extent to which the project is realistically conceived and the project components are complete and directly related to each other.

(b) Extent to which the project benefits low- and moderate-income neighborhood residents.

(c) Probable effectiveness of the project and its individual components to accomplish stated objectives.

(d) Extent to which the project is a neighborhood self-help activity; i.e., the residents who will be directly affected by the project are actively involved in and supportive of project development, implementation, and evaluation.

#### (4) Financial Feasibility (30 Points)

(a) Extent to which the proposed project includes those of the following which are appropriate:

- (1) self-help resources;
- (2) coordination of resources from local, State or Federal Governments;
- (3) coordination of resources from the private sector.

(b) Strength of evidence that the public and private funding sources identified in sub-factor 4(a) above have been realistically identified; and where possible, have been contacted, support the project and can make funds available contingent on the progress of the project.

(c) Realism of proposed HUD Share of the project budget including the type of personnel, level of direct labor effort, type and quality of materials, extent and duration of travel, suitability of subcontractors and consultants, and reasonableness of the total cost of the HUD Share.

#### (5) Quality of Project Management (30 points)

(a) Quality of project management plan including:

- (1) identification of tasks and sub-tasks of work and their interrelationship;
- (2) assignment of responsibility and accountability for accomplishing work tasks;
- (3) clear time-sequencing of each activity;
- (4) identification and availability of resources necessary to accomplish work tasks;
- (5) establishment of financial controls to accomplish the project within budget.

(b) Demonstrated evidence of capability of project team including project manager, organization staff, and outside consultants.

### Application Requirements

The format and content requirements for project grant applications are described in the application kit. Neighborhood organizations should not begin preparing an application until they have obtained an application kit. Each proposed project requires a separate project grant application.

### A-95 Review

Each application must comply with the requirements of OMB Circular A-95. At least 60 days prior to submission of the application to HUD, the applicant must provide a notification of its intent to apply for the project grant to official A-95 State and local clearinghouses. Approximately a month after the notification, the applicant must submit the completed application to the clearinghouses for a 30 day review period prior to submission of the application to HUD. To assure compliance with these requirements, applicants are urged to make the 60 day notification prior to January 7, 1980 and submit the completed application to the clearinghouses by February 6, 1980.

### Applicant Notification

All applicants will be notified by mail of the results of the competition after selection for grant awards are made. No information will be available to applicants during the period of HUD evaluation except for those applicants that are determined ineligible. Selections of successful applicants are expected to be announced by HUD in May 1980.

Applicants who are not selected for Cycle I grant awards and who wish to apply for Cycle II must resubmit their applications in order to be considered.

After submission of the application but prior to grant award, HUD may require applicants to participate in negotiations and to submit application revisions resulting from negotiations.

Issued at Washington, D.C., December 7, 1979.

Geno C. Baroni,  
Assistant Secretary for Neighborhoods,  
Voluntary Associations, and Consumer Protection.

[FR Doc. 79-38148 Filed 12-12-79, 8:45 am]  
BILLING CODE 4210-01-M

[Docket No. N-79-964]

### Notice of Availability of Neighborhood Self-Help Development Project Grants—Rural Cycle I; Competitive Solicitation

AGENCY: Department of Housing and Urban Development



**ACTION:** Announcement of Competitive Solicitation for Neighborhood Self-Help Development Project Grants—Rural Cycle I.

**SUMMARY:** HUD is accepting applications from neighborhood organizations for grants for eligible neighborhood revitalization projects which directly benefit the residents of low- and moderate-income rural neighborhoods. This grant announcement is the first of two cycles of rural project grants to be solicited during fiscal year 1980. A second cycle of rural project grants is expected to be announced in Spring 1980. For purposes of this announcement rural refers generally to areas with a population of less than 10,000 people. Concurrent with this rural project grant announcement, a separate notice of availability is being made for urban project grants.

**FOR FURTHER INFORMATION CONTACT:** Frank Slezak, Program Support Division, Office of Neighborhood Development, Room 3238, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Telephone: (202) 755-6893. Grant application kits are available upon written or telephone request. To assure a prompt response, it is suggested that requests for application kits be made by telephone.

**DATE:** Applications may be submitted between November 21, 1979 and March 21, 1980. Applications submitted after March 21, 1980 will not be considered for this first cycle of project grants.

#### Program Background

The Neighborhood Self-Help Development Act of 1978 (42 USC 8123) authorizes grants and other forms of assistance to neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, which are in need of preservation and revitalization. The Neighborhood Self-Help Development Act is a component of the President's Urban Policy.

It is the intent of this program, and this announcement, to be responsive to a range of neighborhood revitalization activities and to support specific projects identified and developed by neighborhood organizations as they are in the best position to determine the most appropriate means to satisfy their neighborhood revitalization needs. Therefore, any housing, community and economic development projects which are not specifically cited as ineligible below, and which contribute to the

revitalization of low- and moderate-income neighborhoods and directly benefit the residents of those neighborhoods are eligible for project grants. Examples include neighborhood-initiated housing rehabilitation, creative reuse of existing buildings, neighborhood commercial revitalization, neighborhood economic development, and energy conservation and weatherization.

The term "neighborhood", as it applies to this program, is meant to be broader than as commonly used. In some rural areas, "neighborhood", for purposes of this program, may be regarded as synonymous with community. Thus, the program focus in rural areas is on community-based organizations serving specific target areas which may be geographically larger than urban neighborhoods. The rural community and urban neighborhood share a number of characteristics which constitute the primary factors for defining the target areas for this program; namely, a sense of identity with an area, common socio-economic characteristics, resident organizations, and a history of being treated as a distinct unit.

The term "rural" refers generally to areas of less than 10,000 in population. The population size criterion is being used as a general guide. Other factors such as location and economic base are often mentioned by experts in attempts to define rural. Such definitions, however, exclude some community-based organizations throughout the nation which consider themselves rural. Applicants are urged to propose to HUD based on their perception of the character of their target areas. HUD will consider all reasonable definitions of rural target areas. Small cities over 10,000 in population may be considered rural if the applicant can make a convincing case to HUD.

This grant announcement is based on the interim regulations (Published in the Federal Register on October 22, 1979) and the initial legislation (passed by Congress on October 15, 1978). Interested persons/organizations are urged to review the regulations, this announcement with the factors for award, and the application kit to determine whether or not they should apply under this program. Another announcement for project grants will be published in Spring 1980.

#### Eligible Applicants

Applicants for project grants must meet each of the following criteria to be eligible for grant award: (1) the applicant must be an existing voluntary neighborhood organization with a

history of service to the neighborhood in which the proposed project is located; (2) the organization must be broadly representative of the neighborhood in which the project will be located (in rural areas, the organization must be broadly representative of the population of the target area to be served by the project); (3) the organization must be accountable to neighborhood residents with respect to the project being proposed; (4) the organization must have as one of its objectives the preservation and revitalization of the neighborhood; (5) the organization must be found by the Secretary to have a proven record or demonstrable capacity for developing resources for, and effectively implementing, neighborhood conservation and revitalization projects; (6) the organization must be incorporated as a non-profit organization; (7) the organization must have a board of directors composed chiefly of elected officials who are other than paid staff of the organization, though a small number of paid corporate officers may be part of the board; and (8) the organization must have financial records in an auditable form.

#### Project Grant Activities

Grants under this program will support an organization to prepare and/or implement a specific project. Preparation activities may include: advanced stages of planning, financial packaging architectural services, land acquisition, or rehabilitation specifications.

Advance planning or preparation activities are acceptable when the organization can document that the initial stages of planning for the specific project have been completed and when those activities are tied to project implementation. The applicant must have completed at least sufficient planning to have a clear project structure, an initial financial projection, and an estimated timetable for implementation. Grants under this program will not support the early stages of planning. Grants will also not support the full cost of implementation. When specific projects request funds for partial implementation costs, the other financial resources supporting the implementation must be identified.

#### Ineligible Project Activities

The following activities are ineligible for project grants: (1) planning functions which are not directly combined with project implementation; (2) public works such as street repairs which are not associated with the specific project being funded; (3) operating social services which are not associated with

the specific project to be funded; (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located; (5) operating costs of a community group which are not associated with the specific projects being funded; (6) other activities which the Secretary determines are not consistent with the purposes of the Act.

#### Local Government Certification

Applications must include a letter from the chief elected official of the most immediate jurisdiction of general local government in which the neighborhood is located. The letter must state that the chief elected official has reviewed the application and that the proposed project is consistent with, and supportive of, the specific objectives of that unit of local government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by that unit of general local government. No action will be taken on any proposals which are submitted to HUD without the local government certification.

#### Factors for Award

Applications will be evaluated and awarded points based on the factors identified below. The weight of each factor is indicated by the assigned number of points. Each sub-factor is considered relatively equal to each other sub-factor within the individual factor.

(1) *Organizational Qualifications (30 points).*—(a) Proven record or demonstrable capacity of the organization to develop resources, prepare, and effectively implement the same type of neighborhood revitalization project as proposed or a different type of project which required comparable program development.

(b) Proven record or demonstrable capacity of the organization to manage the same type of neighborhood revitalization project as proposed or a different type of project which required comparable management skill.

(c) Extent to which the organization has a history of service to the area served by the project and to low- and moderate-income residents of the area served by the project.

(2) *Quality of Project Planning (30 points).*—(a) Demonstrated evidence that the organization has addressed neighborhood needs through the development of an overall revitalization strategy and that the project advances that strategy.

(b) Extent to which project planning to-date has advanced to the stage where the organization has:

(a) identified a specific project and described its basic components;

(b) completed the early stages of planning;

(c) made a preliminary financial projection;

(d) estimated a timetable for implementation;

(c) Extent to which neighborhood residents have been involved to-date in project planning.

(3) *Soundness of Project and Its Components (30 points).*—(a) Extent to which the project is realistically conceived and the project components are complete and directly related to each other.

(b) Extent to which the project benefits low- and moderate-income neighborhood residents.

(c) Probable effectiveness of project and its individual components to accomplish stated objectives.

(d) Extent to which the project is a neighborhood self-help activity; i.e., the residents who will be directly affected by the project are actively involved in and supportive of project development, implementation, and evaluation.

(4) *Financial Feasibility (30 points).*—(a) Extent to which the proposed project includes those of the following which are appropriate:

(1) self-help resources;

(2) coordination of resources from local, State or Federal Governments;

(3) coordination of resources from the private sector.

(b) Strength of evidence that the public and private funding sources identified in sub-factor 4(a) above have been realistically identified; and where possible, have been contacted, support the project and can make funds available contingent on the progress of the project.

(c) Realism of proposed HUD Share of the project budget including the type of personnel, level of direct labor effort, type and quality of materials, extent and duration of travel, suitability of subcontractors and consultants, and reasonableness of the total cost of the HUD Share.

(5) *Quality of Project Management (30 points).*—(a) Quality of project management plan including:

(1) identification of tasks and sub-tasks of work and their interrelationship;

(2) assignment of responsibility and accountability for accomplishing work tasks;

(3) clear time-sequencing for each activity;

(4) identification and availability of resources necessary to accomplish work tasks;

(5) establishment of financial controls to accomplish the project within budget.

(b) Demonstrated evidence of capability of project team including project manager, organization staff, and outside consultants.

#### Application Requirements

The format and content requirements for project grant applications are described in the application kit. Neighborhood organizations should not begin preparing an application until they have obtained an application kit. Each proposed project requires a separate project grant application.

#### A-95 Review

Each application must comply with the requirements of OMB Circular A-95. At least 60 days prior to submission of the application to HUD, the applicant must provide a notification of its intent to apply for the project grant to official A-95 State and local clearinghouses. Approximately a month after the notification, the applicant must submit the completed application to the clearinghouses for a 30 day review period prior to submission of the application to HUD. To assure compliance with these requirements, applicants are urged to make the 60 day notification prior to January 7, 1980 and submit the completed application to the clearinghouses by February 6, 1980.

#### Application Notification

All applicants will be notified by mail of the results of the competition after selection for grant awards are made. No information will be available to applicants during the period of HUD evaluation except for those applicants that are determined ineligible. Selections of successful applicants are expected to be announced by HUD in May 1980.

Applicants who are not selected for Cycle I grants awards and who wish to apply for Cycle II must resubmit their applications in order to be considered.

After submission of the application but prior to grant award, HUD may require applicants to participate in negotiations and to submit applications revisions resulting from negotiations.

Issued at Washington, D.C., December 7, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection.

[FR Doc. 79-38149 Filed 12-12-79; 8:45 am]

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Thursday  
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## Part V

### Environmental Protection Agency

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Final Determination Concerning the  
Rebuttable Presumptions Against  
Registration for Certain Uses of Pesticide  
Products Containing 2,4,5-T and Silvex  
and Notice of Intent To Hold a Hearing



# ENVIRONMENTAL PROTECTION AGENCY

[FRL-1373-7; OPP-30000/26E]

## Final Determination Concerning the Rebuttable presumption Against Registration for Certain Uses of Pesticide Products Containing 2,4,5-T; Intent To Hold a Hearing To Determine Whether or Not Certain Uses of 2,4,5-T Should Be Canceled; Publication of Final Position Document Concerning All Non-Suspended Uses of 2,4,5-T

AGENCY: Environmental Protection Agency.

**ACTION:** Final notice of intent to hold a hearing concerning all non-suspended uses of pesticide products containing 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) to determine whether or not such uses should be canceled, and announcement of findings concerning the risks and benefits associated with such uses of 2,4,5-T products.

**SUMMARY:** On July 9, 1979, EPA announced its preliminary determination concerning the Rebuttable Presumption against Registration (RPAR) review of all uses of pesticide products containing 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) not suspended by prior Agency action, and proposed to hold a hearing to determine whether or not these uses of 2,4,5-T should be cancelled. See 44 FR 41531, July 17, 1979 (The "Preliminary Notice"). Pursuant to sections 6(b) and 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), copies of related decision documents were forwarded to the Secretary of Agriculture and the FIFRA Scientific Advisory Panel for comment.

This notice constitutes the final determination concerning the RPAR review for all non-suspended uses of 2,4,5-T. The Agency has determined that the potential oncogenic, fetotoxic, and teratogenic risks associated with these uses do not appear to be justified by offsetting economic, social, or environmental benefits and that such uses therefore appear to cause "unreasonable adverse effects on the environment," as defined by FIFRA Section 2(bb). The Agency has also determined that there are uncertainties in the data concerning the risks and benefits of the non-suspended uses, and that additional data relating to the determination of whether or not to cancel registrations for these uses can be developed for and through a hearing.

Accordingly, this notice (1) announces that the Agency will hold a hearing in accordance with FIFRA section 6(b)(2)

to determine whether or not uses of 2,4,5-T products which have not been suspended should be canceled or reclassified, and (2) describes the procedure which should be followed by interested persons who wish to participate in the hearing to be held under section 6(b)(2).

**FOR FURTHER INFORMATION CONTACT:** Michael Dellarco, Project Manager, Special Pesticide Review Division (TS-791), Environmental Protection Agency, 401 M Street, S.W., Room 447, Washington, D.C. 20460, Telephone (202) 557-8244.

**SUPPLEMENTARY INFORMATION:** The Agency's final Position Document (PD 4) reviews specific findings concerning the risks and benefits of non-suspended uses of 2,4,5-T and contains a discussion of the comments of the FIFRA Scientific Advisory Panel and the Secretary of Agriculture on the Agency's preliminary findings and initial proposal to hold a hearing under section 6(b)(2). The PD 4 and the comments of the Scientific Advisory Panel and the Secretary of Agriculture are published in their entirety in the appendix to this notice.

### I. Background

On April 11, 1978, the Environmental Protection Agency issued a notice of Rebuttable Presumption Against Registration (RPAR) for all pesticide products containing 2,4,5-T. See 43 FR 17116, April 21, 1978. Issuance of the RPAR initiated a comprehensive public review of all 2,4,5-T registrations and all pending applications for registration of 2,4,5-T products. On February 28, 1979, relying in large part on information developed and collected during the RPAR review, the Administrator ordered emergency suspension of, and issued notices of intent to cancel, the use of 2,4,5-T on forests, rights-of-way, and pastures (suspended uses), thereby terminating the RPAR review as to these uses of 2,4,5-T. See 44 FR 15874, March 15, 1979.

The RPAR review of the 2,4,5-T uses which were not subject to the suspension orders (non-suspended uses) continued. The non-suspended uses of 2,4,5-T include rice, rangeland, and non-crop uses.<sup>1</sup> Subsequently, on July 9, 1979, EPA announced its preliminary determination concerning the RPAR

<sup>1</sup> The term "non-crop uses" refers to all other currently registered uses of 2,4,5-T, including use at the following sites: airports; fences; hedgerows (not otherwise included in suspended uses, e.g., rights-of-way, pasture); lumber yards; refineries; non-food crop areas; storage areas; wasteland (not otherwise included in suspended uses, e.g., forestry); vacant lots; tank farms; industrial sites and areas (not otherwise included in suspended uses, e.g., rights-of-way).

review of the remaining non-suspended uses of 2,4,5-T, and proposed to hold a hearing under FIFRA section 6(b)(2) to determine whether or not these uses of 2,4,5-T should be cancelled or reclassified. See 44 FR 41531, July 17, 1979. Copies of the Position Document (PD 2/3) summarizing the Agency's preliminary findings, regarding the risks and benefits associated with the non-suspended uses and of the Agency proposal to hold a hearing were forwarded to the Secretary of Agriculture and the FIFRA Scientific Advisory Panel for comment, as required by sections 6(b) and 25(d) of FIFRA. Although not required to do so by FIFRA, the Agency also afforded registrants and other interested persons an opportunity to submit comments on the proposed action.

This notice constitutes the Agency's final determination concerning the RPAR review of the non-suspended uses of pesticide products containing 2,4,5-T and final decision concerning the proposal to hold a hearing under Section 6(b)(2) to determine whether or not the remaining uses of 2,4,5-T should be cancelled. In brief, the Agency has determined that the potential oncogenic, fetotoxic and teratogenic risks associated with these uses of 2,4,5-T do not appear to be justified by offsetting economic, social, or environmental benefits. Position Document 4, which is included in the appendix to this notice, summarizes the evidence on which this determination is based.

The Agency has also determined that further analysis of the risks and benefits of the non-suspended uses of 2,4,5-T will enable the Agency to decide whether or not registration of the remaining uses of 2,4,5-T should be cancelled or reclassified, and that pertinent information concerning the risks and benefits of these uses can be assembled and evaluated by holding a hearing pursuant to FIFRA section 6(b)(2). Pursuant to 40 CFR 164.32, the Agency intends to petition the Chief Administrative Law Judge to consolidate the hearing initiated by this notice with the cancellation hearing for suspended uses of 2,4,5-T and silvex. It is expected that a consolidated formal evidentiary hearing on cancellation of all 2,4,5-T registrations will begin early next year.

### II. Legal Authority

#### A. General

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide

perform its intended function without causing "unreasonable adverse effects on the environment." FIFRA section 3(c)(5). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." FIFRA section 2(bb).

In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of that use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with widespread and commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration (e.g., registrants or users) and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and condition of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

#### B. The RPAR Process

The Agency created the rebuttable presumption against registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria identified in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that exposure of man or other sensitive species which is likely to be associated with use of the pesticide will not result in a significant risk of adverse effects of the type in question. Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the RPAR risk presumptions have been rebutted. If the Agency determines that the presumption has not been rebutted, it then considers information relating to the social, economic, and environmental costs and benefits of use of the pesticide, including information which registrants, the U.S. Department of Agriculture, and other interested persons have submitted to the Agency, and other benefits information known to the Agency. If the Agency determines that the risks of a particular pesticide use appear to outweigh its benefits, the Agency may elect to conclude the RPAR process by issuing a notice of intent to cancel, deny, or reclassify registration of the pesticide for the use in question, pursuant to FIFRA sections 6(b)(1) and 3(c)(6), or by issuing a notice of intent to hold a hearing to determine whether or not registration for that use should be cancelled, denied, or reclassified, pursuant to FIFRA section 6(b)(2).

#### C. Choice of Mode of Action

Two types of proceedings are available under section 6(b) of FIFRA to cancel a pesticide registration, or to modify the terms and conditions of its registration: FIFRA section 6(b)(1) proceedings and FIFRA section 6(b)(2) proceedings. In general, FIFRA section 6(b)(1) proceedings begin with a notice specifying the regulatory action which the Administrator is proposing. This action takes effect automatically, without hearings, at the expiration of a notice period prescribed by statute, unless a registrant or a person adversely affected by the notice requests a hearing within that period. If a hearing is requested, the regulatory action proposed by the Administrator does not take effect; however, at the conclusion of the hearing, the Administrator may implement the proposed action, if he determines that it is appropriate to do so based on the record developed in the hearing.

Section 6(b)(2) proceedings, on the other hand, begin with a general notice specifying the issues which the Administrator desires to have explored at a hearing. Unlike section 6(b)(1) proceedings, the section 6(b)(2) proceeding does not include an initial proposed regulatory solution which would take effect automatically if a hearing is not requested. Interested persons may participate in the hearing; at the conclusion of the hearing, the Administrator may take whatever action he deems appropriate, based upon the

record developed in the hearing, including cancellation of a pesticide registration or modification of the terms and conditions of its registration.

The judgment of whether to issue a FIFRA section 6(b)(1) or a section 6(b)(2) notice is within the sole discretion of the Administrator (or his duly designated delegatee). If the Administrator determines that the risks of a pesticide use appear to outweigh its benefits, he may issue a notice of intent to cancel pursuant to FIFRA section 6(b)(1). If, however, the Administrator's judgment concerning the risks and benefits associated with a particular pesticide use or the appropriate regulatory response is only tentative, the Administrator may issue a notice under FIFRA section 6(b)(2) declaring his intention to hold a hearing "to determine whether or not its registration should be cancelled."

#### D. External Review

The statute requires the Agency to submit notices to be issued pursuant to FIFRA section 6 to the Secretary of Agriculture, along with an analysis of the impact of the proposed action on the agricultural economy. FIFRA section 6(b). The Agency must submit these documents to the Secretary of Agriculture at least 60 days before issuing the notice in final form. If the Secretary of Agriculture comments, in writing, within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's responses to them along with the notice. FIFRA also requires the Administrator to submit FIFRA section 6 notices, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture, to the Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment. FIFRA section 25(d).

Although not required to do so under FIFRA, the Agency has determined that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps were taken to make copies of Position Document 2/3 on the non-suspended uses of 2,4,5-T available to registrants and other interested persons at the time the preliminary decision documents were transmitted for formal external review, through publication of a notice



of availability in the Federal Register, and by other means. Registrants and other interested persons were allowed the same period of time to comment—30 days—that FIFRA provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

The decision to issue a FIFRA section 6 notice is a preliminary determination, pending external review and Agency analysis of comments received. On the basis of these comments, the Agency may withdraw the notice, issue a final notice without modification, or modify the notice, as appropriate.

### III. Determinations and Announcement of Regulatory Actions

As detailed in the Preliminary Notice and PD 2/3, the Agency considered information on the risks associated with the non-suspended uses of 2,4,5-T, including information submitted by registrants and other interested persons in rebuttal to the 2,4,5-T RPAR. The Agency also considered information on social, economic and environmental benefits of the non-suspended uses of 2,4,5-T, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the non-suspended uses of 2,4,5-T, its conclusions and determinations that the non-suspended uses of 2,4,5-T appear to cause unreasonable adverse effects on the environment, and its determination that a section 6(b)(2) hearing on these uses is warranted, were set forth in detail in PD 2/3. The PD 2/3 was adopted by the Agency as its statement of reasons for the determinations and actions announced in the Preliminary Notice.

This notice constitutes the Agency's final notice of determination concluding the RPAR on the non-suspended uses of 2,4,5-T. It reflects any modifications in the Agency's initial determinations on the risks and benefits of non-suspended 2,4,5-T pesticide uses which the Agency has concluded are appropriate, after review of the comments and information received concerning PD 2/3 and the Preliminary Notice from the Secretary of Agriculture, the SAP, and other sources. This notice also indicates that there is no modification of the regulatory action announced in the Preliminary Notice.

PD 4, which accompanies this notice, discusses in detail the comments that were received from the SAP and the

Secretary of Agriculture,<sup>2</sup> the Agency's response to these comments and the Agency's reasons for changing or not changing its initial determinations and the regulatory action announced in the Preliminary Notice. Finally, this notice announces the regulatory action which the Agency is implementing concerning 2,4,5-T. The Agency hereby incorporates PD 2/3 and PD 4 as its statement of reasons for this action.

#### A. Determinations on Risks

The 2,4,5-T RPAR was based on information indicating that 2,4,5-T and/or its TCDD contaminant pose oncogenic, fetotoxic and teratogenic risks to the human population. The Agency has determined that information submitted to rebut these risk criteria was insufficient to remove the Agency's concerns that 2,4,5-T and/or TCDD pose risks of fetotoxic and teratogenic effects in unborn children, and that 2,4,5-T and/or TCDD pose risks of increased incidences of cancer among exposed populations. The Agency has determined that the rangeland, rice and non-crop area uses of 2,4,5-T create opportunities for human exposure to this chemical and TCDD and that such exposure appears generally to cause adverse human effects.<sup>3</sup> The Agency has therefore concluded that the oncogenic, fetotoxic and teratogenic risks associated with the non-suspended uses of 2,4,5-T are of sufficient magnitude to require the Agency to determine whether these uses of 2,4,5-T offer social, economic or environmental benefits which offset these risks.

#### B. Determination of Benefits

The uses of 2,4,5-T which are subject to this notice fall into three categories: rangeland, rice and non-crop uses. For each of these use categories an estimate of the economic impact of cancellation has been made. These estimates are intended only as approximations based on available information.<sup>4</sup> The Agency's analysis of this information leads it to conclude that the benefits of 2,4,5-T for the three categories of uses are roughly as set forth below:<sup>5</sup>

<sup>2</sup>The comments from the SAP and the Secretary of Agriculture are attached as appendices to PD 4. All other comments are available in the 2,4,5-T public file for inspection and review.

<sup>3</sup>The Agency is continuing to collect and review new laboratory data on the toxic effects of these chemicals in animals, and monitoring data on residues of these chemicals in environmental media.

<sup>4</sup>The Agency is continuing to collect and review data relating to the benefits of 2,4,5-T for range, rice, and non-crop uses.

<sup>5</sup>For purposes of this analysis it is assumed that silvex would also be cancelled and, therefore, would not be available as an alternative to 2,4,5-T. In view of the virtually identical toxicological characteristics of the two compounds and the

(1) *Rangeland.*<sup>6</sup> There are an estimated one billion acres of rangeland and pasture suitable for grazing in the contiguous 48 states, plus 351 million acres in Alaska and 3 million acres in Hawaii. About 90 percent of this total acreage is rangeland. Of this total, about one percent is treated with herbicides, primarily 2,4-D.

2,4,5-T is used to control various wood and herbaceous plants on about 1,500 acres of rangeland. The most important weed species treated are mesquite and several species of oak. Cactus, yucca, poisonous plants, and desert shrubs are also treated with 2,4,5-T to a lesser extent.

The estimated impact on farm income and beef prices of cancelling 2,4,5-T on range would be slight. When compared with the U.S. total farm value of beef production (about \$15 billion annually), these impacts, averaging less than \$16.5 million annually, are relatively small (0.1 percent). In those local areas where target weed species are a problem, local farm income may be affected significantly. Adequate information to evaluate such local impacts is not available. At the retail level, cancellation of 2,4,5-T for use on rangeland could cause the consumer price index for food and beverages to increase by a maximum of 0.05 percent, an insignificant increment.

(2) *Rice.* Over 99 percent of the 2.5 million acres of U.S. rice-growing areas are located in Arkansas, Louisiana, Texas, Mississippi and California. 2,4,5-T is currently used to control broadleaf and aquatic weeds on an estimated 300,000 acres in the lower Mississippi Valley area comprising about 12 percent of U.S. rice acres.

similarity of the benefits of both, it is unlikely that one would be cancelled and not the other.

<sup>6</sup>In response to comments expressing confusion about the Agency's range and pasture definitions, provided in PD 2/3 and in the 2,4,5-T Suspension order the March 15, 1979 (44 FR 15874), respectively, the Agency is modifying its range definition and correcting an inadvertent error in its pasture definition.

"Range" is now defined as non-pasture grazing land producing forage from native plant species or introduced species managed as native species. Grazing land which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it is excluded. Forests, defined as lands capable of growing 20 cubic feet of wood per year of desirable species which are not withdrawn for non-forest purposes, are also excluded.

"Pasture" is now defined as land producing forage for animal consumption, harvested by grazing, which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it. Fencerows enclosing pasture are included as part of the pasture.

The modifications in the definitions do not require any modification of the benefits analysis because that analysis was premised on these definitions.

Propanil and 2,4-D are the most likely substitutes for 2,4,5-T for control of rice weeds. These chemicals are thought to be generally less effective than 2,4,5-T for control of the major rice weeds; thus yield and quality reductions may occur where propanil and 2,4-D are used to replace 2,4,5-T. The substitution of these chemicals for 2,4,5-T could result in production reductions of less than 0.1% of national production.

If 2,4,5-T is cancelled for use on rice, annual producer weed control cost increases and production losses are estimated at about \$6 million per year. Prices received by farmers, and ultimately paid by consumers, could increase by about five percent within three years. Since rice comprises only a small portion of the U.S. consumer's diet (consumption of milled rice is less than eight pounds per capita annually), price increases of this magnitude will have only minor impacts on consumers.

(3) *Non-crop uses.*<sup>7</sup> 2,4,5-T is registered for control of many broadleaf and herbaceous weeds in a variety of urban and rural non-crop areas such as hedgerows, storage areas, and vacant lots. It is believed that only 11% (190,000 acres) of all non-crop areas treated with herbicides are treated with 2,4,5-T annually.

Both chemical and non-chemical controls are available as alternatives to 2,4,5-T for chemical control in non-crop areas. The chemical alternatives include 2,4-D, picloram, dicamba, AMS, and amitrole. Non-chemical controls include mechanical methods, such as mowing or shearing, and manual methods. The relative efficacy of the alternatives in comparison to 2,4,5-T is unknown. However, it is believed that chemical alternatives, either in multiple applications or in combination, will be widely substituted for 2,4,5-T and will provide equivalent control.

#### C. Determination on Apparent Unreasonable Adverse Effects

For the reasons set forth in detail in PD 2/3, and as further discussed in PD 4, the Agency has made the following determinations relating to the apparent unreasonable adverse effects of the non-suspended uses of 2,4,5-T:

(1) *Determinations on Rangeland Use.* The Agency has determined that the use of 2,4,5-T on rangeland appears to pose

<sup>7</sup>"Non-crop uses" include: airports; fences; hedgerows (not otherwise included among the previously suspended uses, e.g., rights-of-way, pasture); lumber yards; refineries; non-food crop areas; storage areas; wastelands (not otherwise included among the previously suspended uses, e.g., forestry); vacant lots; tank farms; industrial sites and areas (not otherwise included among the previously suspended uses, e.g., rights-of-way).

risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that the data submitted and reviewed during the RPAR review on the exposure potential and benefits of the rangeland use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of 2,4,5-T on rangeland appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(2) *Determinations on Rice Use.* The Agency has determined that the use of 2,4,5-T on rice appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that data submitted and reviewed during the RPAR review on the exposure potential and benefits of the rice use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of 2,4,5-T on rice appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(3) *Determinations on Non-Crop Uses.* The Agency has determined that the use of 2,4,5-T on airports, fences, lumber yards, refineries, non-food crop areas, storage areas, wastelands, vacant lots, tank farms, industrial sites and other uses not subject to the emergency suspension orders (i.e., forests, rights-of-way, and pastures) appear to pose risks which are greater than the social, economic and environmental benefits of those uses. The Agency has further determined that data submitted and reviewed during the RPAR review of the exposure potential and benefits of the non-crop uses are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the agency has determined that the non-crop uses of 2,4,5-T appear generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

#### D. Announcement of Regulatory Actions

Based upon the determinations summarized above, and developed in detail in PD 2/3 and PD 4, the Agency is

announcing the following regulatory actions, and this document shall constitute its initiation of these actions:

- (1) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the rangeland use of 2,4,5-T;
- (2) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the rice use of 2,4,5-T; and
- (3) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the non-crop uses of 2,4,5-T.

#### IV. Statement of Issues

In accordance with § 164.23 of the Agency's Rules of Practice (40 CFR Part 164), this part of the notice states the questions on which evidence relative to the non-suspended uses of 2,4,5-T shall be taken at the FIFRA section 6(b)(2) hearing.

With respect to the rice, rangeland, and non-crop uses of 2,4,5-T, evidence will be taken as to the following questions:

- (1) Whether the use of 2,4,5-T on rangeland generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;
- (2) Whether the use of 2,4,5-T on rice generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;
- (3) Whether the non-crop uses of 2,4,5-T generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;
- (4) Whether the use of 2,4,5-T on rice, rangeland, or non-crop areas will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice unless the terms and conditions of registration are modified to be more restrictive than those currently in effect;
- (5) Whether, if modifications to the terms and conditions of registration are adopted, the labeling of 2,4,5-T products for these uses will comply with the applicable provisions of FIFRA; and
- (6) Whether, despite modification of the terms and conditions of registration, the use of 2,4,5-T on rice, rangeland, or non-crop areas will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice and should thus be cancelled.



## V. Procedural Matters

## A. Procedure for Participating in the 6(b)(2) Hearing

Hearings concerning notices issued under section 6(b)(2) of FIFRA are initiated solely at the discretion of the Agency and concern all registrations and uses identified in the statement of issues in the notice.<sup>8</sup> Interested persons may participate in hearings convened by the Agency under FIFRA Section 6(b)(2) by filing a timely response in accordance with 40 CFR 164.24.

Section 6(b) of FIFRA provides that any "decision pertaining to registration or classification" of a pesticide which is issued after completion of a Section 6(b)(2) hearing "shall be final." Thus, all registrants and other adversely affected parties who might be affected by cancellation or reclassification of the non-suspended uses of 2,4,5-T should be aware that participation in the hearing initiated by this notice may constitute their sole opportunity to present evidence and/or testimony concerning relating issues prior to final Agency action. Moreover, judicial review under FIFRA section 16(b) of any action concerning the non-suspended uses of 2,4,5-T which is taken by the Administrator at the conclusion of the Section 6(b)(2) hearing can only be obtained by a person who has been "a party to the proceedings . . ."<sup>9</sup>

All persons who request participation in the hearing initiated by this notice must follow the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. Section 164.24 of the Rules of Practice provides that each person who wishes to participate in the hearing initiated by this notice must file a written response which satisfies the following requirements: (1) the response must state the person's position and interest concerning the issues identified in Section IV of this notice; (2) if the

<sup>8</sup>In contrast, hearings concerning notices of regulatory action issued under Section 6(b)(1) of FIFRA are held only if a registrant or other adversely affected party files a valid and timely hearing request and concern only those registrations and uses which are identified in such hearing requests.

<sup>9</sup>It is anticipated that the Section 6(b)(2) hearing initiated by this notice will be consolidated with the Section 6(b)(1) cancellation hearing concerning the suspended uses of 2,4,5-T and silvex. Thus, it is possible that any person who is already a party in the 6(b)(1) proceeding may be able to obtain judicial review of final Agency action concerning the non-suspended uses of 2,4,5-T without filing a separate request to participate in the 6(b)(2) proceeding. However, since consolidation of the proceedings is a matter within the sole discretion of the Chief Administrative Law Judge, the Agency recommends that any party who might desire to seek review of any final Agency action concerning currently permissible uses of 2,4,5-T should file a timely response under 40 CFR § 164.24.

person is a registrant or an applicant for registration, the response must specifically identify the registration or application number of each affected pesticide product and include a copy of the currently accepted and/or proposed labeling and a list of the currently registered or proposed uses for each affected pesticide product; and (3) the response must be received by the Hearing Clerk within thirty (30) days of publication of this notice in the Federal Register. Failure to comply with these requirements will automatically result in denial of the request to participate in the hearing initiated by this notice.

Requests for hearings must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

## b. Ex Parte Communications

The Agency's Rules of Practice for hearings conducted pursuant to section 6 of FIFRA forbid the Administrator, the Judicial Officer, and the Administrative Law Judge, at all stages of the proceedings, from discussing the merits of the proceedings *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in an investigative or expert capacity, or with any of their representatives. 40 CFR 164.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated to perform all investigative and prosecutorial functions in this case: the Office of the Deputy Administrator, the Office of Toxic Substances, the Office of Pesticide Programs, the Office of General Counsel, and the Office of Enforcement.

From the date of this notice until any final decision, neither the Administrative Law Judge, the Judicial Officer, nor the Administrator shall have any *ex parte* contact or communication with any investigative or trial staff employee, or any other interested person not employed by EPA, on any of the issues involved in this proceeding. However, persons interested in this proceeding should feel free to contact any other EPA employee, including both investigative and trial staff, with any questions they may have.

Dated: December 3, 1979.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

## 2,4,5-T/Silvex Position Document 4—U.S. Environmental Protection Agency, Section Head: Kyle Barbehenn

## Position Document 4 for Certain Uses of 2,4,5-Trichlorophenoxyacetic Acid (2,4,5-T) and 2-(2,4,5-Trichlorophenoxy) Propionic Acid (Silvex)

This document represents the conclusion of the Rebuttable Presumption Against Registration (RPAR) process for 2,4,5-T and silvex, and contains the Agency's final determination on regulatory action regarding the use of 2,4,5-T and silvex which were not suspended on February 28, 1979. In summary, the Agency has reviewed the comments received on its decision, principally those of the FIFRA Scientific Advisory Panel (SAP) and the United States Department of Agriculture (USDA), and now reaffirms its preliminary decision to hold FIFRA 6(b)(2) hearings to determine whether or not to cancel these uses of 2,4,5-T and silvex.

## I. Background

On April 11, 1978, the Environmental Protection Agency ("the Agency") issued a notice of rebuttable presumption against registration and continued registration of all pesticide products containing the herbicide 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) [43 FR 17116, April 21, 1978]. Issuance of the RPAR began the Agency's public review of the registered uses of 2,4,5-T and the uses for which applications for registration are pending. Later, on February 28, 1979, the Administrator ordered the emergency suspension of the use of 2,4,5-T on forests, rights-of-way, and pastures (suspended uses) [44 FR 15874, March 15, 1979].<sup>1</sup> The RPAR review continued for the use of 2,4,5-T on rice, range,<sup>2</sup> and certain non-crop sites (non-suspended uses).

When the suspension orders were issued, silvex was a candidate for RPAR review, but an RPAR notice had not been issued. However, the use of silvex on forests, rights-of-way, pastures, homes and gardens, aquatic areas/ditch banks, and commercial/ornamental turf was included in the suspension orders

<sup>1</sup>Data and analyses developed in connection with the RPAR review led the Administrator to issue the emergency suspension orders and related notices of intent to cancel the suspended uses of 2,4,5-T and silvex. Suspension hearings began on April 19, 1979, but were discontinued on May 15, 1979, after all registrants withdrew from the hearings and petitioned the Administrator for an expedited cancellation hearing. The formal evidentiary phase of the cancellation hearing is scheduled to begin on January 22, 1980.

<sup>2</sup>See Appendix A, for a clarification of the definition of pasture (suspended use) and rangeland (non-suspended use).

[44 FR 15897, March 15, 1979] because both 2,4,5-T and silvex contain the highly toxic contaminant 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), both have comparable uses and correspondingly comparable exposure potential, and both pose risks of adverse effects which are similar in many ways.

The RPAR review of 2,4,5-T and the suspension action prompted the Agency to expedite its RPAR review of the uses of silvex which had not been suspended, namely the use on rangeland, rice, sugarcane, orchards, and non-crop areas<sup>3</sup> (non-suspended uses). As a result of this expedited review, the Agency determined that the non-suspended uses of silvex exceed both the oncogenic and

<sup>3</sup>See Table 1.

Table 1.—Suspended and Nonsuspended Uses of 2,4,5-T and Silvex

|                                                                                                                                                     | 2,4,5-T                                     | Silvex                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Nonsuspended uses: [2,4,5-T RPAR issued April 21, 1978 (43 FR 17116); silvex RPAR issued July 17, 1979 (44 FR 41536)]                               | Rice, range, noncrop sites <sup>1</sup> ... | Rice, range, noncrop sites, <sup>1</sup> sugarcane, orchards                                             |
| Suspended uses: [2,4,5-T emergency suspension issued March 15, 1979 (44 FR 15874); silvex emergency suspension issued March 15, 1979 (44 FR 15897)] | Forests, rights-of-way, pasture             | Forests, rights-of-way, pasture, home and garden, aquatic areas/ditch banks, commercial/ornamental turf. |

<sup>1</sup>Includes use on or around noncrop sites, such as fencerows, hedgerows, fences (not otherwise included in suspended uses, e.g., rights-of-way, pasture); industrial sites or buildings (not otherwise included in suspended uses; e.g., rights-of-way, commercial/ornamental turf); storage areas, waste areas, vacant lots, parking areas, and all other noncrop sites.

Concerning the non-suspended uses of 2,4,5-T and silvex, the Agency has also considered economic benefits information which pesticide registrants, the United States Department of Agriculture, and other interested parties originally submitted in response to the 2,4,5-T RPAR notice. During the course of the review, the Agency weighed risks and benefits to determine whether or not the risks of each use were exceeded by the corresponding benefits. The Agency determined that additional benefits data were being developed which merit consideration, especially for the non-suspended uses of silvex.

Accordingly, with respect to the non-suspended uses of 2,4,5-T and silvex, the Agency has concluded: (1) that continued use of these two chemicals appears to cause unreasonable adverse effects on the environment, (2) that there are uncertainties in the data relating to the risks and benefits of the uses at issue, (3) that additional data on the risks and benefits of the non-suspended uses of 2,4,5-T and silvex will permit the Agency to determine whether or not to cancel the registrations for these uses,

other chronic or delayed toxic effects risk criteria for issuance of an RPAR [40 CFR 162.11(a)(3)].

On July 9, 1979, the Agency issued preliminary notices of determination relating to the non-suspended uses of 2,4,5-T and silvex (44 FR 41531; 44 FR 41536, July 17, 1979). The Agency considered risk information concerning the non-suspended uses of 2,4,5-T and silvex and found (1) that 2,4,5-T and silvex are fetotoxic and teratogenic and (2) that 2,3,7,8 tetrachlorodibenzo-p-dioxin (TCDD), the trace contaminant in 2,4,5-T and silvex, is fetotoxic, teratogenic and carcinogenic. The Agency acknowledged that there are some uncertainties about the amount of human exposure to 2,4,5-T, silvex, and TCDD because of the limited exposure information available.

and (4) that such information can be acquired through a public hearing under section 6(b)(2) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.* (FIFRA).

Under FIFRA, the Agency is required to submit these preliminary determinations to the Scientific Advisory Panel for comment on risk issues, and to the United States Department of Agriculture for comment on benefits issues. The Agency must then respond publicly to the comments made by the SAP and the USDA before making a final regulatory decision (7 U.S.C. 136d). The remainder of this document sets forth the Agency's analysis of comments submitted by USDA, the SAP, and other interested parties, and the Agency's reasons and the factual base for the action it is taking. The formal comments submitted by the SAP and the USDA are reproduced in their entirety as Appendices B and C of this document.

## II. Issues Relating to Risk

## A. Comments Relating to Toxicity

The Agency's proposed action is

based in part on data that show 2,4,5-T, silvex, and/or TCDD produce fetotoxic, teratogenic, and carcinogenic effects in test animals. The SAP agreed with the Agency's assessment of the toxic effects of these chemicals but did not fully agree on all aspects of its interpretation of dose level responses.

(1) *Reproductive Toxicity.* In previous position and suspension documents, the Agency cited numerous studies in test species which showed that 2,4,5-T or silvex containing 0.5 parts per million (ppm) or less TCDD and pesticide-free TCDD produce cleft palate, kidney abnormalities, delayed ossification, fetal mortality, and reduced fetal weight (see 43 FR 17116, April 21, 1978 and 44 FR 15874, March 15, 1979 for review). In rodents, adverse effects were noted at maternal doses as low as 10 milligrams per kilogram (mg/kg) body weight 2,4,5-T (0.05 ppb TCDD) [Smith, 1978]; 50 mg/kg silvex body weight (<0.05 ppm TCDD) [Dow, 1973]; and 0.001 micrograms per kilogram (ug/kg) body weight TCDD [Murray, 1979; Smith et al., 1976]. Furthermore, in non-human primates, maternal doses of TCDD as low as 50 parts per trillion (ppt) [about 0.002 ug/kg] resulted in reduced fertility and increased fetal loss [Schantz et al., 1979]. Similar and more severe effects have been observed at higher doses in all species tested. Because statistically significant effects consistent with those seen at higher doses were observed at 0.001 ug/kg TCDD in a three generation study in rats, and because this is the lowest dose tested in any species, the Agency has determined that a non-observed effect level (NOEL) has not been demonstrated for fetotoxic effects due to TCDD exposure.

The SAP agreed with the Agency that 2,4,5-T, silvex, and TCDD are each teratogenic and fetotoxic. The SAP also agreed that a NOEL had not been established for TCDD in monkeys. However, the SAP concluded that "for all practical purposes" a NOEL has been shown for TCDD in studies with rats and mice. Although the SAP concluded that 0.001 ug/kg was a practical NOEL, the Panel also recognized the existence of effects at this dose level. While the Agency interpreted these effects as significant, and sufficient to preclude establishment of a NOEL, the Panel interpreted them as suggestive of a NOEL.

Without additional data, the Agency is reluctant to adopt the Panel's interpretation. TCDD is one of the most toxic chemicals known. Its degree of



toxicity, as well as its toxic manifestations, varies among the animal species, and its effects on the human reproductive system are largely unknown. In addition, the control data upon which the study is based are so variable as to warrant concern that these fluctuations may be masking additional effects. Because the effects seen at 0.001 ug/kg are consistent with those seen at higher doses, and because of the factors listed above, the Agency is unwilling to dismiss the effects observed at 0.001 ug/kg as insignificant to risk assessment. Extrapolations from experimental animal studies to man are difficult even when there is a clear NOEL. When, with TCDD, there is no NOEL, the Agency would prefer to err on the side of safety.

(2) *Oncogenicity.* In Position Document 2/3 on 2,4,5-T and Position Document 1/2/3 on silvex, the Agency concluded that commercial 2,4,5-T and silvex may pose a significant carcinogenic risk to exposed humans. This conclusion was based primarily on data showing that TCDD, an unavoidable contaminant in commercial 2,4,5-T and silvex, is carcinogenic in laboratory animals.

The principal comments made by the SAP regarding the oncogenicity of 2,4,5-T, silvex, and TCDD, together with the Agency's response to these comments, are summarized below.

The SAP agreed with the Agency that TCDD is carcinogenic in laboratory animals. The SAP also agreed that commercial 2,4,5-T products pose some oncogenic risk to man because of contamination of these products with TCDD. However, the SAP concluded that the available evidence indicates that there is no substantial oncogenic risk to man from exposure to commercial 2,4,5-T.

The Agency disagrees with this conclusion. When the SAP considered the Agency's proposed section 6(b)(2) notices for 2,4,5-T and silvex, the Agency had not yet completed its exposure analysis. The exposure information provided to the SAP was thus not a sufficient basis for making an accurate determination on whether or not the oncogenic risk posed by the uses of 2,4,5-T affected by the proposed notices was substantial. An accurate determination may be possible when the Agency completes its exposure analysis.

The SAP stated that the CAG concluded that the non-oncogenic dose [in the study by Kociba et al. (1978) on TCDD] lies between 0.01 and 0.001 mg/kg/day. The Agency, however, contends that the CAG concluded only that no oncogenic response was observed in the Kociba study at a dose of 0.001 mg/kg/

day. On the basis of the no-threshold dose response theory regarding carcinogenicity (Albert et al., 1977), the CAG and the Agency consider any dose of TCDD, no matter how small, to pose some carcinogenic risk to humans.

The SAP concluded that the few oncogenicity studies on silvex which have been conducted do not indicate any oncogenic effects, but commented nonetheless that "these data must be viewed with some caution because of the contamination of commercial silvex with TCDD."

The Agency agrees with the SAP that any chronic studies on silvex which have not demonstrated a carcinogenic response should be viewed with caution. Because TCDD is an unavoidable contaminant of commercial silvex, the Agency concludes that silvex poses some carcinogenic risk to exposed humans. A determination of the substantiability of this risk may be possible when the Agency completes its exposure analysis.

Certain other comments by the SAP reflect differences of opinion among scientists concerning other technical details which have no direct bearing on the Agency's proposal to hold a 6(b)(2) hearing. Such a hearing provides an appropriate forum for an in-depth development and analysis of the issues and the Agency thus feels that it is not necessary to respond to several of the SAP's comments on oncogenicity at this time.

#### *B. Comments Relating to Exposure and Risks*

On the question of potential human exposure to 2,4,5-T, silvex, and/or TCDD from the non-suspended uses, the Agency and the SAP are in agreement on the need for additional data. In reaching a preliminary decision, the Agency concluded that although the non-suspended uses appear to cause unreasonable risks of adverse effects, at present, gaps in the data preclude an accurate assessment of the potential for human hazards. In particular, the Agency specified a need for additional information on possible avenues of human exposure. The SAP also concluded that there is a potential for human exposure from the non-suspended uses, but that the available data are "incomplete and preliminary in nature". The SAP specifically recommended that additional monitoring data be obtained from sources likely to demonstrate human exposure, placing particular emphasis on TCDD levels.

(1) *Monitoring Data.* In the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, the Agency

presented data from STORET, a computerized data base of surface water chemical residues, and from the National Surface Water Monitoring Program for Pesticides (NSWMPP), which indicate that 2,4,5-T and silvex residues were present in water in areas where these herbicides are used. The Agency acknowledged that these residues could not be attributed to specific uses of 2,4,5-T and silvex. However, the Agency's concern about these residues in the environment was supported by monitoring studies in rangeland (Marigold and Schulze, 1969; Lawson, 1976) and apple orchard areas (Cochran et al., 1976).

Concern about potential human exposure to 2,4,5-T, silvex, and/or TCDD from the non-suspended uses has prompted the Agency to undertake new monitoring studies. As indicated in the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, rice, crayfish, catfish, water, and sediment from the South are being tested to determine the extent of environmental contamination due to 2,4,5-T and silvex use on rice. The Agency is also engaged in monitoring edible fish, rice, sediment, human milk, beef fat, and beef liver for TCDD residues.

During the SAP meeting of August 15, 1979, the Agency acknowledged that there is not a large body of monitoring data available for specific uses because previously reported monitoring projects were rarely use-oriented and were frequently conducted at times when the chemical was not being used in the monitored area. Therefore, residues traceable to a particular chemical use might not be detected under these circumstances.

The SAP concurred with the Agency's view that available monitoring data are inadequate to assess potential human exposure from the uses of 2,4,5-T on rice, range, and certain non-crop sites, and from the use of silvex on orchards, rice, range, sugarcane, and certain non-crop sites. The SAP characterized the monitoring data presented by the Agency as incomplete and preliminary in nature and recommended that additional data be gathered regarding the levels of 2,4,5-T, silvex, and TCDD in milk, tissues of range animals and edible aquatic organisms.

As indicated above, the Agency is currently conducting several significant monitoring studies in the media recommended by the SAP. In addition, the Agency is reviewing recent monitoring studies by other researchers, such as another TCDD study in human milk (Memo, 1979c) and a TCDD study in fish (Kuehl et al., 1979). The results of

these studies will be reviewed during the 6(b)(2) hearings.

(2) *Risk Comments.* The SAP made several comments on the issues of exposure and risk, and on the methods of risk reduction with which the Agency disagrees. The Panel concluded that the margins of safety between exposure and the NOEL were sufficient to protect the general population from any reproductive risk associated with the non-suspended uses of 2,4,5-T and silvex. Concerning mixers and loaders, the SAP suggested that risk could be reduced to a safe level by the use of protective clothing and equipment. The Agency's disagreement with the Panel's adoption of a "for all practical purposes" NOEL for TCDD has been discussed above. The Agency further questions whether the existing data are sufficient to permit the Panel's conclusion that protective clothing and equipment are sufficient to adequately reduce risk for mixers and loaders.

In addition, the SAP recommended that efforts be made to reduce the TCDD content in commercial 2,4,5-T and silvex. Although the Agency applauds any efforts by registrants to reduce TCDD levels in pesticide products containing 2,4,5-T and silvex, any review of these chemicals at this time can be based only on the present formulations of 2,4,5-T and silvex products which unavoidably contain TCDD. As for all other pesticides, 2,4,5-T and silvex registrants must provide the Agency with scientific data, through the registration process, that the production of 2,4,5-T and/or silvex without TCDD does not cause unreasonable adverse effects to human health or the environment.

#### *C. Comment Relating to New Data*

In addition to its comments on the Agency's assessment of existing data, the Panel urged the Agency to review new data from several on-going and recently completed studies. Specifically, the SAP recommended that a full set of details be obtained and evaluated concerning new oncogenicity studies conducted by Leuschner et al. (1979) with 2,4,5-T containing less than 0.05 ppm TCDD and by the National Cancer Institute [NCI] (1979) with TCDD. Also, the SAP recommended similar measures for Dr. James Allen's on-going reproductive toxicity study in monkeys fed a diet containing 25 ppt TCDD (Allen, 1979).

This recommendation is fully consistent with the Agency's customary practice of evaluating new information as part of its continuing review of risks and benefits of registered chemicals. The Agency will review and assess

these and any other available studies in the context of the proposed 6(b)(2) hearings.

In conclusion, the Agency has determined that the SAP comments do not warrant a change in the Agency's risk analysis for the non-suspended uses of 2,4,5-T and silvex at this time.

#### *III. Issues Relating to Benefits*

In the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, the Agency provided a preliminary benefits analysis and acknowledged that further review of the chemical alternatives was necessary before the Agency could make a final assessment of the risks and benefits associated with the continued uses of 2,4,5-T and silvex. Throughout the review of 2,4,5-T and silvex, the Agency has expressed concern about the quality and completeness of much of the data it has obtained on the economic benefits of 2,4,5-T and silvex.

In its response to the Agency's proposal, USDA agreed that these data gaps can best be addressed through a 6(b)(2) hearing for the non-suspended uses of 2,4,5-T and silvex. USDA did not provide substantive comment on the benefits determinations which were presented in the Position Documents. In addition, USDA stated its intention to continue assembling additional data to be submitted to the Agency on the uses of, and benefits associated with, these herbicides. The Agency is also continuing to gather benefits information from other sources.

In conclusion, the USDA's comments on the Agency's preliminary benefits analysis for the non-suspended uses of 2,4,5-T and silvex wholly support the Agency's determination that further review is necessary and can best be addressed through a 6(b)(2) hearing.

#### *IV. Conclusion*

The SAP's assessment of the scientific data on the reproductive and the oncogenic effects of 2,4,5-T, silvex, TCDD in test animals is generally consistent with the Agency's position. Also, consistent with the Agency's current efforts were several SAP recommendations for obtaining additional data.

The Panel concluded that it had found no evidence of an "immediate or substantial hazard" to human health or the environment associated with the non-suspended uses, and is likewise the Agency's position. Upon finding evidence of an "imminent hazard", the Agency acts to suspend the pesticide uses which are implicated. An example of such action is the recent emergency

action suspending certain uses of 2,4,5-T and silvex.

As was discussed in the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3 for the non-suspended uses, the Agency recommends holding a hearing, in part because the available data indicates that these uses appear to have unreasonable adverse effects on the environment. However, the Agency did not act to suspend these uses as it would have done if it had found an imminent hazard.

The SAP disagreed with the Agency's proposal to hold a hearing and recommended that the Agency not hold a 6(b)(2) hearing at this time. The Agency has taken the Panel's recommendations into account but has decided that such a hearing is appropriate, based on (1) information showing that the non-suspended uses of 2,4,5-T and silvex appear to cause unreasonable adverse effects on man or the environment, (2) the Agency's and the SAP's conclusion that more information is necessary to resolve the issues involved, and (3) that a combined hearing is the most efficient and effective way to resolve the issues.

The Agency holds that it is in the public interest to combine the hearing for the nonsuspended uses with the cancellation hearing for those uses that were suspended on February 28, 1979. Not only will this action be administratively convenient for the Agency, registrants, and interested parties, entailing more efficient use of resources, but it will also ensure that the Agency's concerns on all uses of 2,4,5-T and silvex are addressed consistently.

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#### Appendix A

In response to comments expressing confusion about the Agency's pasture and range definitions, the Agency is taking this opportunity to correct an inadvertent error in the pasture definition and to modify the range definition.

In the pasture definition the word "and" was inserted in the list of cultural practices in place of the intended word "or" (44 FR 15874; 44 FR 15897, March 15, 1979). Therefore, the definition should be corrected by the substituting of the word "or" for "and" so that the definition now reads as follows:

Pasture is defined as land producing forage for animal consumption, harvested by grazing, which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it. Fencerows enclosing pastures are included as part of the pasture.

This correction clearly specifies that annual application of any one or more of these cultural practices will classify the land as pasture.

The following modification of the range definition will further explain the distinction between range and pasture. These modifications are based on the same USDA Forest Service material which was the source for EPA's definition of pasture and range. With these modifications, range is now defined as follows:

Range is non-pasture grazing land producing forage from native plant species or introduced species managed as native species. Grazing land which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application, or other similar practices applied to it is excluded. However, forest, <sup>1</sup> as defined in 44 FR 15893, March 15, 1979, are excluded.

#### Appendix B—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Scientific Advisory Panel

##### Review of Notices of Intent To Hold FIFRA Section 6(b)(2) Hearing on 2,4,5-T and Silvex

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of the Notices of Intent by the Environmental Protection Agency (EPA) to hold hearings under the provisions of FIFRA Section 6(b)(2) to consider appropriate regulatory action for those uses of 2,4,5-T and Silvex which were not included in the recent suspension orders. The review was completed in open meetings held in Arlington, Virginia, during the periods August 15-16, 1979, and September 20, 1979.

Maximum public participation was encouraged by the Scientific Advisory Panel to ensure an objective and adequate consideration of all relevant scientific issues relating to health and the environment. Public notice of the meetings was published in the Federal Register on July 27, 1979, and September 4, 1979. In addition, telephonic calls and special mailings were also sent to the general public who had previously expressed an interest in activities of the Panel.

Written statements relative to 2,4,5-T and Silvex were received from Dow Chemical Company, and Michigan State University. In addition, oral comments were received from Dr. J. R. Allen, University of Wisconsin Medical School; EPA technical staff; representatives of the Texas State Department of Agriculture; Dow Chemical Company; and the Environmental Defense Fund.

The FIFRA Scientific Advisory Panel wishes to recognize the excellent cooperation and assistance of numerous EPA technical

<sup>1</sup> Lands capable of growing 20 cubic feet of wood per acre per year of desirable species which are not withdrawn for non-timber purposes.

staff throughout the review of 2,4,5-T and Silvex.

In consideration of all matters brought out during the meeting and careful review of all documents submitted by the Agency and other parties, the Panel unanimously submits the following report:

In response to the Agency's request for advice concerning whether a FIFRA Section 6(b)(2) hearing should be held to resolve questions relative to the continued use of 2,4,5-T and Silvex on rice, rangeland, orchards, sugar cane, and certain non-crop sites, (1) *the Scientific Advisory Panel recommends that the Agency not hold such a meeting at this time.* After extensive review of the data we find no evidence of an immediate or substantial hazard to human health or to the environment associated with the use of 2,4,5-T or Silvex on rice, rangeland, orchards, sugar cane, and the non-crop uses specified in the decision documents.

The Scientific Advisory Panel has extensively reviewed the animal toxicity test data base for teratogenesis, carcinogenesis, and reproductive effects for 2,4,5-T, Silvex, and TCDD and has identified some additional data needs which should be addressed prior to final decision making relative to the safety evaluation of 2,4,5-T and Silvex. (2) *The Scientific Advisory Panel recommends specifically that the full details be obtained and evaluated for the following three studies which were discussed briefly at the hearing:*

1. The oncogenicity study on commercial 2,4,5-T being conducted in Germany in the Laboratorium für Pharmakologie und Toxikologie. An oncogenic study has recently been completed on 2,4,5-T which was specially purified to contain a low concentration of TCDD. However, data is needed on the oncogenicity of commercial 2,4,5-T containing TCDD ( $\leq 0.05$  ppm).
2. The oncogenicity study recently completed at NCI with TCDD in both rats and mice; and
3. The reproductive toxicity study being conducted at the University of Wisconsin by Dr. Allen in which monkeys are being fed a diet containing TCDD at 25 ppt.

The Scientific Advisory Panel has also reviewed the available data regarding potential human exposure to 2,4,5-T and Silvex from use on rice, rangeland, orchards, sugar cane, and other non-crop applications and the monitoring data related to these uses and would characterize these as incomplete and preliminary in nature. (3) *We therefore recommend that monitoring data be obtained regarding the levels of 2,4,5-T and Silvex and TCDD in milk, and that additional data be gathered regarding the levels of these agents in the tissues of range animals and that information be obtained regarding the levels of these agents in edible aquatic organisms.* . . . In these additional monitoring studies special emphasis should be placed on TCDD levels rather than levels of 2,4,5-T and Silvex, per se.

In regard to the specific issues and questions posed by the Agency to the Panel regarding review of 2,4,5-T and Silvex, the Scientific Advisory Panel offers the following responses:

#### Issues on Toxicology

Question 1. EPA has found that 2,4,5-T, Silvex, and TCDD are teratogens. Does the Panel agree?

*Response:* The Scientific Advisory Panel agrees with the Agency that 2,4,5-T, Silvex, and TCDD are teratogens.

Question 2. EPA has found that 2,4,5-T, Silvex, and/or TCDD are fetotoxins. Does the Scientific Advisory Panel agree?

*Response:* The Scientific Advisory Panel agrees with the Agency that 2,4,5-T, Silvex, and TCDD produce reproductive (fetotoxic) effects.

Question 3. EPA has determined that TCDD exhibits fetotoxic effects and that a No Observable Effect Level (NOEL) has not been established for this effect. Does the Scientific Advisory Panel agree with this finding?

*Response:* The Panel agrees with the Agency that a NOEL has not been established for TCDD in chronic studies in monkeys. In contrast to the Agency position, the Panel concludes that a NOEL has been established for TCDD for both rats and mice. The Scientific Advisory Panel would like to point out in this regard that the Agency position is relatively close to that of the scientists from the Dow Chemical Company. The Scientific Advisory Panel believes that the dose of 0.001 ug/kg/day is for all practical purposes a NOEL (For the purposes of risk calculation; See Appendix I). It should be pointed out that a NOEL for reproductive effects has been established for commercial 2,4,5-T in all species tested including monkeys.

Question 4. EPA has found that TCDD is carcinogenic in test animals, and thus is a potential human carcinogen. Does the Scientific Advisory Panel concur with this finding?

*Response:* The Scientific Advisory Panel agrees with the Agency opinion that TCDD is carcinogenic in test animals and therefore may be a potential human carcinogen.

Question 5. EPA has found that TCDD is an extremely potent animal carcinogen. Does the Scientific Advisory Panel agree with this finding?

*Response:* Answered in question 4 above.

#### Issues on Exposure

Question 1. EPA believes that human exposure from the use of 2,4,5-T and Silvex on rice may be broad and substantial due to herbicide drift during and after application, and that more diffuse exposure is possible through the water environment and through crayfish, catfish and other food sources. How would the Panel characterize the exposure potentials and concerns for rice use? What questions do they have and how would they be answered by the proposed monitoring plan?

*Response:* The Scientific Advisory Panel agrees that exposure to 2,4,5-T and Silvex from use on rice may be possible through the water environment and through edible aquatic organisms and other food sources. However, the Scientific Advisory Panel believes that insufficient data was presented or made available to the Panel in support of the argument that human exposure from spray drift and the water environment is likely to be broad or substantial. The questions regarding proposed monitoring have already been addressed. In addition to

the need for more data on the concentrations of Silvex, 2,4,5-T, and TCDD in crayfish and catfish, monitoring data should also be obtained on soil sediments.

Question 2. EPA believes that drift from the use of 2,4,5-T/Silvex products on rangeland creates a lower, yet-still-real, potential for exposure due to lower population densities and distribution in range areas relative to rice growing areas. Sparsity of surface water and extreme depth of ground water in many areas would suggest a minimal exposure from aquatic sources used as food. However, beef monitoring shows low levels of dioxin in a limited number of samples from beef that grazed on 2,4,5-T treated range. How would the Panel characterize the exposure potential and concerns for the use of these chemicals on range? What unanswered questions do they believe the Agency should address in determining exposure potential?

*Response:* The Scientific Advisory Panel agrees with the Agency that there is a potential for exposure as a result of drift from the use of 2,4,5-T and Silvex products on rangeland and that the potential for exposure from this mechanism would be lower than that from use of the agents on rice. However, the Panel believes that the data made available to the Panel did not provide a convincing argument for the existence of an immediate or substantial hazard from the use of Silvex and 2,4,5-T on rangelands.

Question 3. Little is known about the potential for dietary exposure to Silvex and/or TCDD from the uses of Silvex on food crops, except for apples on which Silvex residues have been detected. Given the nature of the contaminant TCDD, EPA has reason for presuming that exposure to food consumers and the environment is possible from these uses. What are the Panel's views on the potential for ingestion exposure from these uses?

*Response:* Although there is information on the use patterns of Silvex in orchard crops, the Scientific Advisory Panel believes sufficient residue data is not currently available for a definitive opinion on dietary exposure to Silvex.

Question 4. The Agency believes that TCDD and 2,4,5-T move in water from rice to other environmental compartments thereby increasing exposure to widely diffuse populations. Does the Scientific Advisory Panel concur with this?

*Response:* The Panel agrees with the Agency that it would be possible for 2,4,5-T to move in water from rice fields to other environmental compartments and to thereby increase exposure to widely diffuse populations. However, we believe such movement would be unlikely for TCDD.

#### General Issues

Question 1. Do the residues (2,4,5-T, Silvex and TCDD) in water, sediment, aquatic organisms and/or the potential for exposure from herbicide drift, in light of the toxicological attributes of these compounds, suggest to the Scientific Advisory Panel the possibility of significant risk?

*Response:* No. (See recommendation (1).) Question 2. Can the Scientific Advisory Panel assess whether the residues being found in the rice areas are due to the rice use or to other previously permitted uses?

*Response:* The Panel is not aware of data sufficient to answer this question. (See recommendation (3).)

Question 3. Do the exposure potentials in range use, in light of the toxicological characteristics of these compounds, suggest to the Scientific Advisory Panel the possibility of significant risk?

*Response:* No. (However, see recommendation (3).)

In consideration of the potential toxicity of TCDD, (4) *the Scientific Advisory Panel recommends that efforts should be made to further reduce the level of chemical TCDD in commercial preparations of 2,4,5-T and Silvex.*

Dated: September 26, 1979.

For the Chairman.

Certified as an accurate report of findings.

H. Wade Fowler, Jr.,

Executive Secretary, FIFRA Scientific Advisory Panel.

#### Appendix I—The FIFRA Scientific Advisory Panel Evaluation of the Oncogenicity, Fetotoxicity, and Exposure Characteristics for 2,4,5-T, Silvex and TCDD

##### Introduction

In our opinion the major health and environmental issues relative to possible regulatory action by the Agency center around the potential of commercial forms of 2,4,5-T and Silvex contaminated with TCDD to pose carcinogenic, teratogenic and reproductive risks to persons as a result of (1) exposure during mixing and application, or (2) direct exposure to the spray as a result of living in the immediate area of application. In contrast, the major concern relative to TCDD, essentially free of 2,4,5-T or Silvex, arises from the degree to which this agent concentrates in portions of the human food chain. The primary concern of the Scientific Advisory Panel is the potential carcinogenic, reproductive, and teratogenic risk from use of commercial 2,4,5-T and Silvex contaminated with TCDD. The potential for these same risks from TCDD essentially free of 2,4,5-T and Silvex is of secondary concern, as is the potential risk posed by 2,4,5-T or Silvex essentially free of TCDD.

##### Commercial 2,4,5-T

*Oncogenicity.* Seven studies of variable quality have been carried out in mice to examine the oncogenicity of commercial 2,4,5-T contaminated with TCDD. The results of these studies have not demonstrated a carcinogenic risk from commercial 2,4,5-T in this rodent species. A complete study of the carcinogenic potential of commercial 2,4,5-T contaminated with TCDD at  $\leq 0.05$  ppm has not yet been reported in rats. However, such a study has recently been completed by the Laboratorium für Pharmakologie und Toxikologie, Hamburg, Germany. The Scientific Advisory Panel was informed during the recent meeting that gross autopsy examination of these animals revealed no increase in tumors relative to the control groups. However, until the pathological examination is complete no definitive conclusion can be drawn relative to the oncogenic potential of commercial 2,4,5-T in rats. The Dow Chemical Company has recently completed a study of the oncogenicity of a specially purified sample of 2,4,5-T in rats. This sample of 2,4,5-T contained less than 0.0003 ppm TCDD. In this study there was no increase in tumors resulting from exposure to this purified



preparation of 2,4,5-T fed at the maximum tolerated dose (30 mg/kg/day) or at lower doses (10 mg/kg/day and 3 mg/kg/day). Thus it appears that 2,4,5-T, which is essentially free of contaminating TCDD, is not oncogenic in rats. However, this study is of limited predictive value since the form of 2,4,5-T of concern to the Scientific Advisory Panel is commercial 2,4,5-T; in other words, 2,4,5-T contaminated with TCDD.

Chronic tests carried out using TCDD free of 2,4,5-T have demonstrated that TCDD is carcinogenic in rats and carcinogenic or tumorigenic in mice. Thus, since commercial 2,4,5-T contains TCDD as a contaminant ( $\leq 0.05$  ppm) the lack of a carcinogenic response in rodents using commercial 2,4,5-T must be viewed with caution. The Scientific Advisory Panel is of the opinion that some carcinogenic risk to man is posed by exposure to 2,4,5-T contaminated with TCDD at the level present in the 2,4,5-T in current use. However, the data currently available indicate that this risk is not substantial.

In summary, the evidence currently available indicates there is not an immediate or substantial oncogenic risk to man from exposure to 2,4,5-T contaminated with TCDD at a level of  $\leq 0.005$  ppm.

#### Reproductive and Embryo Toxicity

Commercial 2,4,5-T produces fetal toxicity and is teratogenic in rats and mice. According to the data presented to the Scientific Advisory Panel during the August 15-16, 1979 meeting, the no effect level for embryo toxicity for commercial 2,4,5-T in various species when examined in conventional toxicity studies is as follows: rat, 25 mg/kg/day; mouse, 20 mg/kg/day; hamster, 40 mg/kg/day; and monkey, 40 mg/kg/day. However, a recent study conducted at the National Center for Toxicological Research revealed teratogenic effects in A/J mice at the lowest dose of commercial 2,4,5-T tested (15 mg/kg/day). It would appear, therefore, that there are strain differences in the no effect level for 2,4,5-T in mice.

Two three-generation studies of 2,4,5-T reproductive toxicity have been carried out in rats. One of these studies was carried out using commercial 2,4,5-T containing  $\leq 0.05$  ppm TCDD. No teratogenic effects, reproductive toxicity or fetal toxicity were observed in any animals at the doses tested (3, 10 and 30 mg/kg/day). In contrast another three-generation study carried out using purified 2,4,5-T ( $\leq 0.0003$  ppm TCDD) reported a significant decrease in neonatal survival at 10 and 30 mg/kg/day but not at 3 mg/kg/day. However some effects suggestive of reproductive toxicity were noted at the intake level of 3 mg/kg/day in this study. The Scientific Advisory Panel believes that this three-generation study establishes for practical purposes a NOEL and recommends that this NOEL be used for subsequent evaluation of risk.

In summary, the Scientific Advisory Panel believes that these data suggest that a potential for reproductive risk and embryo toxicity exists for persons engaged in the mixing and application of commercial 2,4,5-T. However, with use of protective clothing such as a one piece jumpsuit with long sleeves, gloves and, perhaps, respirators, risks should be reduced to an acceptable level. The potential for significant reproductive and teratogenic risk to persons living in the immediate area of the spraying operations

does not appear to be substantial except as they may be directly exposed on a chronic basis.

The Panel has some reservations relative to the validity of the three-generation study in rats carried out by the Laboratory for Pharmacologie and Toxikologie using commercial 2,4,5-T ( $\leq 0.05$  ppm TCDD), and recommends that an additional three-generation study in rats using commercial 2,4,5-T be carried out.

#### Silvex

**Oncogenicity.** The carcinogenic testing of commercial Silvex has been less extensive than with 2,4,5-T. However, those few studies which have been carried out did not indicate an increase in oncogenicity as a result of chronic exposure to Silvex. Although no carcinogenic risk has been demonstrated with commercial Silvex, these data must be viewed with some caution because of the contamination of commercial Silvex with TCDD.

**Reproductive and Embryo Toxicity.** In contrast to commercial 2,4,5-T, very few studies of the reproductive toxicity of Silvex have been carried out. Those studies with commercial Silvex that have been carried out in rats and mice indicate that commercial Silvex is teratogenic in mice at high doses (400 mg/kg/day). Silvex is also fetotoxic in mice and rats and the no effect level in rats is 25 mg/kg/day.

Thus commercial Silvex does appear to pose some risks to reproduction and fetal viability. Much less information is available concerning the degree of exposure of humans to Silvex during mixing and spraying operations than is the case with 2,4,5-T. However, it should also be possible using proper protective clothing to reduce the reproductive and teratogenic risk from commercial Silvex to an acceptable level. Similarly there does not appear to be any substantial risk to persons living in the immediate area of the spraying except from direct exposure on a chronic basis.

#### TCDD

**Oncogenicity.** Two major studies of the oncogenicity of TCDD have been reported. One study in rats has been carried out by the Dow Chemical Company and another in mice was performed by the Research Institute of Oncopathology in Hungary. A third study in mice and rats has recently been completed by NCI, but the results of this study were not yet available.

There was an increase in tumors of the liver, lung and hard palates/nasal turbinates in the rats fed 0.1  $\mu\text{g/kg/day}$  of TCDD in the diet. At a dose of 0.01  $\mu\text{g/kg/day}$  there was an increase in hyperplastic nodules in the livers of the female rats. The EPA Carcinogen Assessment Group (CAG) has concluded that this increase in hyperplastic nodules at the dose of 0.01  $\mu\text{g/kg/day}$  indicates that TCDD is also carcinogenic at this dosage level. The Scientific Advisory Panel concludes that there is a tumorigenic response at 0.01  $\mu\text{g/kg/day}$  but has reservations as to whether hyperplastic nodules are precursors, *per se*, to hepatocellular carcinoma. (See Appendix II)

An increased incidence of liver tumors were produced in studies in male outbred Swiss mice in which TCDD was given by gavage at a dose of 0.7  $\mu\text{g/kg/week}$  for one

year. However, in this study there was no significant increase in tumor formation in animals given TCDD at 7.0  $\mu\text{g/kg/day}$  although there was a decreased life span in the mice receiving this dose. There was also no increase in tumors in animals given TCDD at a dose of 0.007  $\mu\text{g/kg/week}$ . Evaluation of this study by the Scientific Advisory Panel is difficult, since the type of liver tumor produced was not identified. Although the authors stated that the ratio of benign hepatomas to hepatocellular carcinomas was the same in the animals receiving the 0.7  $\mu\text{g/kg/week}$  dose of TCDD as in the controls, it is not clear whether there was a significant increase in hepatocellular carcinomas in the treated animals.

The Scientific Advisory Panel concludes that there is a level of TCDD below which no oncogenic or tumorigenic effects were seen in either mice or rats. The dose level for tumorigenic response in the outbred strain of Swiss mice used in the Hungarian oncogenic study lies between 0.007 and 0.7  $\mu\text{g/kg/week}$ . The Scientific Advisory Panel believes that the data available from this study are insufficient to reach a firm conclusion regarding whether there was a true oncogenic response in mice. In rats there was some controversy over which level of exposure to TCDD demonstrated an oncogenic effect. The Dow Chemical Company scientists stated that the level at which no oncogenic effects are seen lies between a dose of 0.1 and 0.01  $\mu\text{g/kg/day}$  in the diet. The EPA Carcinogen Assessment Group concluded that the non-oncogenic dose lies between 0.01 and 0.001  $\mu\text{g/kg/day}$ . Thus, there was agreement concerning the lack of an oncogenic response at the dose level of 0.001  $\mu\text{g/kg/day}$  TCDD.

The major concern of the Scientific Advisory Panel relative to the potential oncogenic risk from TCDD is whether TCDD accumulates in the human food chain. The data necessary to evaluate this risk must be derived from monitoring data for TCDD itself. The oncogenic risk from TCDD present as a contaminant in commercial 2,4,5-T and Silvex is best determined in those experiments in which commercial 2,4,5-T or Silvex contaminated with TCDD has been administered chronically to rats and mice.

The monitoring data obtained thus far does not suggest that TCDD derived from commercial 2,4,5-T and Silvex exhibits any tendency to accumulate in the human food chain in amounts which would pose a substantial risk. For example TCDD has been detected in some fat samples from cows grazed on rangeland immediately after spraying with commercial 2,4,5-T and sacrificed 2 weeks later. If one assumes that all beef fat in the U.S. contains TCDD at the level found in these studies (approximately 10 ppt) and if one assumes further that the average level of beef intake in the U.S. population is 6% of the diet; (1.5 kg food/day; 15% of beef is fat) and produces a 22% incidence of tumors at 0.1  $\mu\text{g/kg/day}$  (Dow Study) a risk of  $4 \times 10^{-6}$  can be calculated. It should be pointed out that this is an extreme worse case calculation since the present data indicate that only a small percent (approximately 7%) of beef fat samples from animals fed on ranges immediately after spraying with 2,4,5-T containing TCDD and that all beef eaten in the U.S. does not come from ranges sprayed with 2,4,5-T (only 2%). Thus, although it appears that there is some

potential oncogenic risk from TCDD present in the food chain, on the basis of the current monitoring data, the risk is judged to be small.

**Reproductive Toxicity.** The results of the embryo toxicity studies indicate that the no effect level for TCDD in mice is 0.1  $\mu\text{g/kg/day}$  (days 6-15 of gestation), in rats is 0.03  $\mu\text{g/kg/day}$  (days 6-15 of gestation), and in monkeys is 0.02  $\mu\text{g/kg/3 times per week}$  (days 20-40 of gestation).

In a three-generation reproductive study carried out in rats by the Dow Chemical Company clear cut embryo toxicity was seen at doses of 0.1 and 0.01  $\mu\text{g/kg/day}$  of TCDD. At the dose of 0.001  $\mu\text{g/kg/day}$  there was a decreased gestational survival in the  $F_2$  generation but not in earlier or later generations. Postnatal survival in the group receiving 0.001  $\mu\text{g/kg/day}$  was decreased in the  $F_2$  generation and increased in the  $F_3$  generation relative to the controls. An increase in dilated renal pelvis was also seen in the  $F_2$  and  $F_3$  generation in the animals receiving 0.001  $\mu\text{g/kg/day}$  but not in later generations or at the 0.01  $\mu\text{g/kg/day}$  dose. Although these effects at 0.001  $\mu\text{g/kg/day}$  are suggestive of an embryo-toxic effect, the inconsistency of the effects from generation to generation and in relation to the higher dose of 0.01  $\mu\text{g/kg/day}$  (dilated renal pelvis) suggests that the 0.001  $\mu\text{g/kg/day}$  dose is for all practical purposes a no effect level.

Long term studies in monkeys have shown reproductive toxicity from TCDD at levels of 50 ppt in the diet. Studies are currently underway at 25 ppt of TCDD in the diet, but results are not yet available. An intake of TCDD of 50 ppt in the diet is equivalent to approximately 0.002  $\mu\text{g/kg/day}$ . If no reproductive toxicity is seen in the monkeys exposed to TCDD in the diet at 25 ppt, then the no effect level in the monkey will be similar to that seen in the rat, namely about 0.001  $\mu\text{g/kg/day}$ .

The major concern of the Scientific Advisory Panel relative to the potential reproductive toxicity or teratogenic effects of TCDD is whether it accumulates in human food chains as previously noted for the oncogenic potential of TCDD. The reproductive toxicity and teratogenic potential of TCDD present as a contaminant in commercial 2,4,5-T and Silvex is best determined from experiments in animals exposed to commercial 2,4,5-T or Silvex contaminated with TCDD.

If one assumes the worse case situation described previously in the evaluation of the oncogenic risk from TCDD in which TCDD is proposed to be present in the fat of all cows marketed in the U.S., the maximum intake would be approximately  $2 \times 10^{-6}$   $\mu\text{g/kg/day}$ . Using a 0.001  $\mu\text{g/kg/day}$  as the no effect level the safety factor would be approximately 500. As pointed out previously in the section on the oncogenicity of TCDD, this calculation represents an extreme exaggeration of exposure to TCDD. The Scientific Advisory Panel believes, therefore, that the current monitoring data do not indicate that there is a substantial reproductive or teratogenic risk posed by the accumulation of TCDD in the human food chain.

#### Appendix II—A Selected Review of the Histology of the Dow TCDD Study (Tox. Appl. Pharm. 46, 279 (1978))

Drs. Donna Kuroda, Richard Kociba and I reviewed 3 representative microscopical sections each from control, 0.01, and 0.1  $\mu\text{g/kg/day}$  level TCDD exposed female Sprague Dawley rats. These sections were selected by Dr. Kociba to demonstrate hyperplastic nodules and lesions designated hepatocellular cancers (see Table #5 R. J. Kociba et al. Tox. & Appl. Pharm. 46, 279 (1978)). Control sections were used for comparison.

Control animals, selected from timed sacrifices, showed a general presentation of the liver architecture. A natural incidence (spontaneous?) of extramedullary hematopoiesis, bile duct reduplication, and "hyperplastic nodules" was found by Dr. Kociba (Table 5) and demonstrated in the sections provided to me. Kociba and colleagues considered a tissue mass to represent a hyperplastic nodule if a group of liver cells, with or without sinusoidal lining cells, formed a discrete population with cellular structure and/or tinctorial properties different from the surrounding parenchyma. These growths may or may not cause compression of surrounding parenchyma and may or may not have bile duct formation. Sharp demarcation from the surrounding parenchyma was observed.

In addition, there were both acute inflammatory exudates and granuloma-like lesions in the controls, not associated with the hyperplastic nodule. In addition there appeared to be an acute cholangitis. No evidence of fibrosis was present.

Sections from the high dose exposure animals (0.1  $\mu\text{g/kg/day}$ ) showed some distortion of the hepatic parenchyma with cellular variability and thickening of the liver cell plates. Portal tracts were sometimes associated with dense collections of lymphocytes. Prominent were hyperplastic nodules and lesions characterized by Kociba and associates as hepatocellular

carcinomata. These latter lesions showed more marked cellular differences from surrounding parenchyma and from hyperplastic nodules. In general, the liver cell nuclei were larger occupying a greater portion of the cell volume, the cell plates more disordered, formation of acinar and tubular forms were identified, and no formation of portal tracts were present in these lesions. These masses in one instance, arose in a hyperplastic nodule. No defined microscopical or gross evidence of invasion of the neoplastic cells into adjacent tissues was noted either at autopsy (according to Kociba) or by microscopy. Not infrequently fat was present in hyperplastic nodules but not in the "carcinomata."

The parenchyma adjacent to the carcinomata and hyperplastic nodules showed some cellular irregularity, staining variation, and hyaline intracytoplasmic masses. No significant evidence of increased inflammatory exudates or fibrosis was noted, but bile duct reduplication was present.

The midrange dose shows hyperplastic nodules, the remaining changes were identical with the high dose, but these slides did not show a carcinoma. I believe that the

group at Dow extensively and properly surveyed the evidence of hepatocellular disease following exposure of rats to TCDD. Autopsies on animals were conducted by pathologists and tissue sections were selected by them. Their microscopical review was extensive. Their nomenclature was defined and understandable. I personally would have been more conservative than they in designating carcinomata, so their result is a "worst case" designation. From these discussions and reviews, I am very comfortable with their evaluation for toxic injury and carcinogenesis. Additionally, I believe liver cancer was shown in the high dose level; might be questioned in the midrange level, but was not present in the low dose group.

Edward Smuckler,

Professor and Chairman, Department of Pathology, University of California School of Medicine, San Francisco, Calif.

August 15, 1979.

Survey conducted at EPA Headquarters, 401 M Street SW., Washington, D.C. 20460.

#### Appendix C—Department of Agriculture, Office of the Secretary

August 10, 1979.

Mr. Edwin L. Johnson,  
Deputy Assistant Administrator for Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dear Ed: The Secretary has asked me to respond to your letter of July 9, 1979, regarding the proposal to hold hearings under Section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136d(b)(2) to determine whether or not the nonsuspended uses of 2,4,5-T and silvex should be cancelled.

As you know, the Secretary is a party in the Section 6(b)(1) hearing. Except for slightly different use patterns and exposure considerations, the issues on both the suspended and nonsuspended uses are similar and we, therefore, plan to participate in the 6(b)(2) portion as well.

Contrary to statements in the Notice of Intent to hold a hearing on the remaining uses of silvex, the Department of Agriculture has not provided information on the "social, economic, and environmental benefits" of using silvex to you. This information is currently being collected by the joint USDA/States/EPA assessment team, but since an RPAR notice was not issued on this compound, the team, which was organized recently, has only had time to develop some preliminary data.

We agree that it is in the best interest of everyone to attempt to resolve all issues in a consolidated hearing. We are preparing to have information available on all uses of both 2,4,5-T and silvex for presentation to the Administrative Law Judge during these proceedings.

We will be submitting for the record of the hearings the benefit and exposure information contained in the 2,4,5-T assessment report prepared by the joint USDA/States/EPA assessment team as well as information presently being gathered by the joint assessment team on silvex. We believe that the assessment team activity has



been an effective means for assembling information needed in the regulatory decision process.

Your notice indicates that additional data on the benefits of the non-suspended uses of 2,4,5-T will be needed before a final regulatory decision can be made. It would be most helpful to us and to the process if you would point out specifically where the data in the USDA/States/EPA report "The Biologic Economic Assessment of 2,4,5-T" is not adequate. We are anxious to cooperate with you in filling any data gaps that may exist to assure that all possible information can be examined in reaching a final decision.

Sincerely,

Barry R. Flamm,

Director, Office of Environmental Quality.

[FR Doc. 79-38026 Filed 12-12-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL-1373-8; OPP-30000/31A]

**Final Determination Concerning the Rebuttable Presumption Against Registration for Certain Uses of Pesticide Products Containing Silvex; Intent To Hold a Hearing To Determine Whether or Not Certain Uses of Silvex Should Be Canceled; Publication of Final Position Document Concerning All Non-Suspended Uses of Silvex**

AGENCY: Environmental Protection Agency.

**ACTION:** Final notice of intent to hold a hearing concerning all non-suspended uses of pesticide products containing 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) to determine whether or not such uses should be cancelled, and announcement of findings concerning the risks and benefits associated with such uses of silvex products.

**SUMMARY:** On July 9, 1979, EPA announced its preliminary determination concerning the Rebuttable Presumption Against Registration (RPAR) review of all uses of pesticide products containing 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) not suspended by prior Agency action, and proposed to hold a hearing to determine whether or not these uses of silvex should be cancelled. See 44 FR 41536, July 17, 1979 (The "Preliminary Notice"). Pursuant to Sections 6(b) and 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), copies of related decision documents were forwarded to the Secretary of Agriculture and the FIFRA Scientific Advisory Panel for comment.

This notice constitutes the final determination concerning the RPAR review for all non-suspended uses of silvex. The Agency has determined that the potential oncogenic, fetotoxic, and teratogenic risks associated with these

uses do not appear to be justified by offsetting economic, social, or environmental benefits and that such uses therefore appear to cause "unreasonable adverse effects on the environment," as defined by FIFRA Section 2(bb). The Agency has also determined that there are uncertainties in the data concerning the risks and benefits of the non-suspended uses, and that additional data relating to the determination of whether or not to cancel registrations for these uses can be developed for and through a hearing.

Accordingly, this notice (1) announces that the Agency will hold a hearing in accordance with FIFRA Section 6(b)(2) to determine whether or not uses of silvex products which have not been suspended should be cancelled or reclassified, and (2) describes the procedure which should be followed by interested persons who wish to participate in the hearing to be held under Section 6(b)(2).

**FOR FURTHER INFORMATION CONTACT:** Michael Dellarco, Project Manager, Special Pesticide Review Division (TS-791), Environmental Protection Agency, 401 M Street, S.W., Room 447, Washington, D.C. 20460, Telephone (202) 557-8244.

**SUPPLEMENTARY INFORMATION:** The Agency's final Position Document (PD 4) reviews specific findings concerning the risks and benefits of non-suspended uses of silvex and contains a discussion of the comments of the FIFRA Scientific Advisory Panel and the Secretary of Agriculture on the Agency's preliminary findings and initial proposal to hold a hearing under section 6(b)(2). The PD 4 and the comments of the Scientific Advisory Panel and the Secretary of Agriculture are also published in their entirety in the appendix to this notice.

#### I. Background

On February 28, 1979, the Administrator of the Environmental Protection Agency ordered emergency suspension of products containing silvex and registered for forestry, right-of-way, pasture, home and garden, ditch bank, aquatic weed control, and commercial/ornamental turf uses, and issued notices of intent to cancel these uses. See 44 FR 15897, March 15, 1979. The emergency suspension of certain silvex uses was based in part on information developed and collected during the Rebuttable Presumption Against Registration (RPAR) review of 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) registrations. See 43 FR 17116, April 21, 1978. 2,4,5-T and silvex both contain the extremely toxic chemical 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) as

an inadvertent but unavoidable contaminant, have comparable use patterns and correspondingly comparable exposure potential, and may thus present similar risks.

At the time the suspension orders were issued, silvex was a candidate for a rebuttable presumption against registration (RPAR), but an RPAR had not been issued. Following the suspension actions, the Agency conducted an expedited RPAR review of all remaining non-suspended uses of silvex. The non-suspended uses of silvex include rangeland, rice, sugarcane, orchards and non-crop uses.<sup>1</sup> Subsequently, on July 9, 1979, EPA announced its determination concerning the RPAR review of the remaining non-suspended uses of silvex, and proposed to hold a hearing to determine whether or not these uses of silvex should be cancelled. See 44 FR 41536, July 17, 1979. Copies of the Position Document summarizing the Agency's preliminary findings regarding the risks and benefits associated with the non-suspended uses of silvex (PD 1/2/3) and of the Agency proposal to hold a hearing were forwarded to the Secretary of Agriculture and the FIFRA Scientific Advisory Panel for comment, as required by sections 6(b) and 25(d) of FIFRA. Although not required to do so by FIFRA, the Agency also afforded registrants and other interested persons an opportunity to submit comments on the proposed action.

This notice constitutes the Agency's final determination concerning the RPAR review of the non-suspended uses of pesticide products containing silvex and final decision concerning the proposal to hold a hearing under section 6(b)(2) to determine whether or not the remaining uses of silvex should be cancelled. In brief, the Agency has determined that the potential oncogenic, fetotoxic and teratogenic risks associated with these uses of silvex do not appear to be justified by offsetting economic, social, or environmental benefits. Position Document 4, which is included in the appendix to this notice, summarizes the evidence on which this determination is based.

The Agency has also determined that further analysis of the risks and benefits of the non-suspended uses of silvex will enable the Agency to decide whether or not registration of the remaining uses of

<sup>1</sup> The term "non-crop uses" refers to all other currently registered uses of silvex, including use at the following sites: fences, hedgerows (not otherwise included in suspended uses, e.g., rights-of-way, pasture); industrial sites or buildings (not otherwise included in suspended uses, e.g., rights-of-way, commercial/ornamental turf); storage areas; waste areas; vacant lots; parking areas.

silvex should be cancelled or reclassified, and that pertinent information concerning the risks and benefits of these uses can be assembled and evaluated by holding a hearing pursuant to FIFRA section 6(b)(2). Pursuant to 40 CFR 164.32, the Agency intends to petition the Chief Administrative Law Judge to consolidate the hearing initiated by this notice in the cancellation hearing for suspended uses of 2,4,5-T and silvex. It is expected that a consolidated formal evidentiary hearing on cancellation of all silvex registrations will begin early next year.

#### II. Legal Authority

##### A. General

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment." FIFRA § 3(c)(5). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." FIFRA section 2(bb).

In effect, this standard requires a finding that benefits of each use of the pesticide exceed the risks of that use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with widespread and commonly recognized practice. The burden of proving that a pesticide satisfied the registration standard is on the proponents of registration (e.g., registrants or users) and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

##### B. The RPAR Process

The Agency created the rebuttable presumption against registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide

meets or exceeds any of the risk criteria identified in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that the exposure to man or other sensitive species which is likely to be associated with use of the pesticide will not result in a significant risk of adverse effects of the type in question. Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of use of the pesticide subject to the presumption outweigh the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the RPAR risk presumptions have been rebutted. If the Agency determines that the presumption has not been rebutted, it then considers information relating to the social, economic, and environmental costs and benefits of use of the pesticide, including information which registrants, the U.S. Department of Agriculture, and other interested persons have submitted to the Agency and other benefits information known to the Agency. If the Agency determines that the risks of a particular pesticide use appear to outweigh its benefits, the Agency may elect to conclude the RPAR process by issuing a notice of intent to cancel, deny, or reclassify registration of the pesticide for the use in question, pursuant to FIFRA sections 6(b)(1) and 3(c)(6), or by issuing a notice of intent to hold a hearing to determine whether or not registration for that use should be cancelled, denied, or reclassified, pursuant to FIFRA section 6(b)(2).

##### C. Choice of Mode of Action

Two types of proceedings are available under Section 6(b) of FIFRA to cancel a pesticide registration, or to modify the terms and condition of its registration: FIFRA Section 6(b)(1) proceedings and FIFRA Section 6(b)(2) proceedings. In general, FIFRA Section 6(b)(1) proceedings begin with a notice specifying the regulatory action which the Administrator is proposing. This action takes effect automatically, without hearings, at the expiration of a notice period prescribed by statute, unless a registrant or a person adversely affected by the notice requests a hearing within that period. If a hearing is

requested, the regulatory action proposed by the Administrator does not take effect; however, at the conclusion of the hearing, the Administrator may implement the proposed action, if he determines that it is appropriate to do so based on the record developed in the hearing.

Section 6(b)(2) proceedings, on the other hand, begin with a general notice specifying the issues which the Administrator desires to have explored at a hearing. Unlike Section 6(b)(1) proceedings, the Section 6(b)(2) proceeding does not include an initial proposed regulatory solution which would take effect automatically if a hearing is not requested. Interested persons may participate in the hearing; at the conclusion of the hearing, the Administrator may take whatever action he deems appropriate, based upon the record developed in the hearing, including cancellation of a pesticide registration or modification of the terms and conditions of its registration.

The judgment of whether to issue a FIFRA section 6(b)(1) or a section 6(b)(2) notice is within the sole discretion of the Administrator (or his duly designated delegate). If the Administrator determines that the risks of a pesticide use appear to outweigh its benefits, he may issue a notice of intent to cancel pursuant to FIFRA section 6(b)(1). If, however, the Administrator's judgment concerning the risks and benefits associated with a particular pesticide use on the appropriate regulatory response is only tentative, the Administrator may issue a notice under FIFRA Section 6(b)(2) declaring his intention to hold a hearing "to determine whether or not its registration should be cancelled."

##### D. External Review

The statute requires the Agency to submit notices to be issued pursuant to FIFRA section 6 to the Secretary of Agriculture, along with an analysis of the impact of the proposed action on the agricultural economy. FIFRA section 6(b). The Agency must submit these documents to the Secretary of Agriculture at least 60 days before issuing the notice in final form. If the Secretary of Agriculture comments, in writing, within 30 days after receiving the notice, the Agency is required to public the Secretary's comments and the Administrator's responses to them along with the notice. FIFRA also requires the Administrator to submit FIFRA section 6 notices, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture, to the Scientific Advisory Panel for comment on the impact of the



action on health and the environment. FIFRA section 25(d).

Although not required to do so under FIFRA, the Agency had determined that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps were taken to make copies of Position Document 1/2/3 on the non-suspended uses of silvex available to registrants and other interested persons at the time the preliminary decision documents were transmitted for formal external review, through publication of a notice of availability in the Federal Register, and by other means. Registrants and other interested persons were allowed the same period of time to comment—30 days—that FIFRA provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

The decision to issue a FIFRA section 6 notice is a preliminary determination, pending external review and Agency analysis of comments received. On the basis of these comments, the Agency may withdraw the notice, issue a final notice without modification, or modify the notice, as appropriate.

### III. Determinations and Announcement of Regulatory Actions

As detailed in the Preliminary Notice and PD 1/2/3, the Agency considered information on the risks associated with the non-suspended uses of silvex, including information submitted by registrants and other interested persons in rebuttal to the 2,4,5-T RPAR. The Agency also considered information on social, economic and environmental benefits of the non-suspended uses of silvex, including benefits information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the non-suspended uses of silvex, its conclusions and determinations that the non-suspended uses of silvex appear to cause unreasonable adverse effects on the environment, and its determination that a section 6(b)(2) hearing on these uses is warranted, were set forth in detail in PD 1/2/3. The PD 1/2/3 was adopted by the Agency as its statement of reasons for the determinations and actions announced in the Preliminary Notice of Determination issued on July 17, 1979 (44 FR 41536).

This Notice constitutes the Agency's Final Notice of Determination Concerning the RPAR of the non-suspended uses of silvex. It reflects any modifications in the Agency's initial determinations on the risks and benefits of non-suspended pesticide uses which the Agency has concluded are appropriate, after review of the comments and information received concerning PD 1/2/3 and the Preliminary Notice from the Secretary of Agriculture, the SAP and any other sources. This Notice also indicates that there is no modification of the regulatory action announced in the Preliminary Notice.

PD 4, which accompanies this Notice, discusses in detail the comments that were received from the SAP and the Secretary of Agriculture,<sup>2</sup> the Agency's response to these comments, and the Agency's reasons for changing or not changing its initial determinations and the regulatory action announced in the Preliminary Notice. Finally, this Notice announces the regulatory action which the Agency is implementing concerning silvex. The Agency hereby incorporates PD 1/2/3 and PD 4 as its statement of reasons for this action.

#### A. Determination on Risks

In the Preliminary Notice, the Agency announced its determination that silvex and/or silvex's TCDD contaminant meet or exceed the risk criteria at 40 CFR 162.11(a) for carcinogenic, fetotoxic, and teratogenic effects, and that the rangeland, rice, sugarcane, orchard and non-crop area uses of silvex pose risks of these adverse effects to human populations. The Agency has determined that information available to it (including information submitted to rebut these risk criteria for the 2,4,5-T RPAR) is insufficient to lay to rest the Agency's concerns that silvex and/or TCDD pose risks of fetotoxic and teratogenic effects in unborn children, and that TCDD and silvex containing TCDD pose risks of cancer among exposed populations. The Agency has determined that the non-suspended uses of silvex create opportunities for human exposure to these chemicals and that such exposure appears generally to cause adverse human effects.<sup>3</sup> The Agency has therefore concluded that the oncogenic, fetotoxic and teratogenic risks associated with the non-suspended

uses of silvex are of sufficient magnitude to require the Agency to determine whether the non-suspended uses of silvex offer social, economic, or environmental benefits which offset these risks.

#### B. Determination of Benefits

The uses of silvex which are subject to this notice fall into five categories: range, rice, sugarcane, orchard and non-crop areas. For each of these use categories an estimate of the economic impact of cancellation of silvex was made.<sup>4</sup> These estimates are intended only as approximations based on available information.<sup>5</sup> The Agency's analysis of this available information leads to the conclusion that the benefits of silvex for the five categories of uses are approximately as set forth below.

(1) *Rangeland*.<sup>6</sup> There are an estimated one billion acres of range and pasture land suitable for grazing in the contiguous 48 states, plus 351 million acres in Alaska and 3 million acres in Hawaii. About 90 percent of this total acreage is rangeland. Of this total, approximately one percent is treated with herbicides, primarily 2,4-D. Only about 150,000 acres, or less than 0.1% of range acres, are treated with silvex.

Silvex is used to control various woody and herbaceous plants found in rangeland. Most silvex use is directed at control of various oak species which compete with desirable forage plants for water, nutrients, sunlight and space.

<sup>4</sup>It is assumed that 2,4,5-T also would be cancelled and unavailable as a substitute for silvex. In view of the virtually identical toxicological characteristics of the two compounds and the similarity of their benefits, it is unlikely that one of them would be cancelled for the uses for which they are alternatives for each other.

<sup>5</sup>The Agency is continuing to collect and review data relating to the benefits of silvex for range, rice, sugarcane, orchard, and non-crop areas.

<sup>6</sup>In response to comments expressing confusion about the Agency's range and pasture definition, provided in PD 1/2/3 and in the silvex Suspension Order of March 15, 1979 (44 FR 15897), respectively, the Agency is modifying its range definition and correcting an inadvertent error in its pasture definition.

"Range" is now defined as non-pasture grazing land producing forage from native plant species or introduced species managed as native species. Grazing land which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it is excluded. Forests, defined as land capable of growing 20 cubic feet of wood per year of desirable species which are not withdrawn for non-timber purposes, are also excluded.

"Pasture" is now defined as land producing forage for animal consumption, harvested by grazing, which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it. Fencerows enclosing pastures are included as part of the pasture.

The modifications in the definitions do not require any modification of the benefits analysis because that analysis was premised on these definitions.

Treatment is generally directed at acreage with severe infestation which, if left uncontrolled, would reduce forage available for livestock grazing.

A number of chemical and non-chemical alternatives to silvex are available to control the various weeds now treated with silvex. However, none of these alternatives is effective against oaks when applied aerially. Thus, effective substitute treatments for silvex must be applied by ground techniques which are more expensive and less convenient. The availability of alternatives and the very small quality of acreage involved indicate that no significant economic impacts will be felt at either the consumer or market levels if silvex is cancelled for this use. At the user level, some increased control costs and decreased production may be experienced by a small number of users. In some locations, the impact on users may be significant.

(2) *Rice*. Although about 98% of all U.S. rice areas are treated with one or more herbicides, silvex is used on only 2,000 acres annually, or less than 0.1% of all U.S. rice acres. In those areas where silvex is used, it is employed to control various broadleaf, aquatic and sedge weeds. These weeds, if not controlled, reduce yield and lower the quality of the rice by contaminating the harvested grain with weed seeds.

There are several chemical alternatives which are likely to be employed as substitutes for silvex use on rice. These compounds may be somewhat less effective and/or more expensive than silvex for use on some weeds. Therefore, some degree of increased control costs and reduced production may be experienced on some acres as a result of the substitution of these materials for silvex. However, because silvex is used on so little rice-growing acreage, the economic impact at the user, consumer and market levels will be quite small if silvex were cancelled for this use.

(3) *Orchard*. Silvex is used on apples and pears to control preharvest fruit drop and on pears to increase fruit set. Premature drops cause a complete economic loss of pears and a substantial loss of apple crops. Approximately 50,000 acres of apples (10% of U.S. crop) are treated annually with about 2,500 pounds of silvex. Most of the treated apples are Red Delicious, grown in Washington and several other states, which are sold for fresh consumption. About 8,300 acres of Italian pears (9% of U.S. acres) grown in Oregon, Washington, and Idaho are treated with about 400 pounds of silvex annually. Treated pears are believed to be sold primarily for fresh consumption.

The extent of silvex usage on pears is unknown.

NAA (1-naphthaleneacetic acid) and Alar (succinic acid 2,2-dimethyl hydrazine) probably would be used by apple growers as chemical alternatives to silvex. Some acres would require two annual treatments with these materials for effective control, whereas use of silvex requires only one treatment. The economic impact is likely to consist of higher costs to apple growers, totaling approximately \$1 million per year or \$20 per average affected acre, resulting from the use of these alternatives. The higher drop control costs will increase production costs by 2-3% per year. Apple production and quality should not be significantly affected.

Prune growers currently using silvex would suffer significant income reductions if silvex is unavailable. Italian and early Italian pears in the Northwest states drop an average of 35% of the fruit if silvex is not applied in mid-June to control summer drop. Since there are no registered alternatives to silvex for this use, production and revenues would decline sharply on the affected acres. Revenue reductions totaling \$1.8 million annually, or about \$222 per affected acre, are projected to occur, assuming no alternatives to silvex are developed to prevent preharvest drop. Continued losses of this magnitude would eventually cause growers to grow alternative crops on the estimated 8,300 acres of pears for which preharvest drop problems are significant.

The retail price of apples and pears would probably be unaffected by cancellation of silvex for orchard use. The retail price of pears would increase by an undetermined amount.

(4) *Sugarcane*. Silvex is used on sugarcane fields to control weeds not controlled by 2,4-D. Failure to control these weeds can result in reduced yields. About 15% (115,000 acres) of all U.S. sugarcane acres (752,000 acres) were treated with silvex in 1978. This reflects a significant decrease in silvex use over previous years, probably resulting from increased use of an alternative dicamba/2,4-D mixture. The dicamba/2,4-D combination alternative is likely to be the most commonly used substitute if silvex is canceled for use on sugarcane. Economic impacts arising from a cancellation of silvex would result from reduced yield, which would occur because the alternative is less effective than silvex. A worst-case estimate indicates a 2% loss of overall U.S. sugarcane production could be experienced. Since U.S.-produced cane sugar comprises only 18% of the total U.S. sugar supply, no measurable sugar

price changes are likely to occur at either the market or consumer levels.

(5) *Non-Crop Uses*.<sup>7</sup> Silvex is registered for control of many broadleaved and herbaceous weeds in a variety of urban and rural non-crop areas such as fencerows, storage areas and parking lots. Only a very small percentage of non-crop areas is treated with silvex each year.

Both chemical and non-chemical controls are available as alternatives to silvex for use on non-crop areas. The chemical alternatives include 2,4-D, picloram, dicamba, AMS, amitrole. Non-chemical controls include mechanical methods. The relative efficacy of the alternatives in comparison to silvex is unknown. However, it is believed that one or a combination of the chemical alternatives will be widely substituted for silvex and will provide equivalent control.

The economic impact of cancelling silvex for non-crop uses is not likely to be significant at user, consumer or market levels because little acreage is treated with silvex and effective alternatives are readily available.

#### C. Determinations on Apparent Unreasonable Adverse Effects

For the reasons set forth in detail in PD 1/2/3, the Agency has made the following determinations relating to the apparent unreasonable adverse effects on the nonsuspended uses of silvex:

(1) *Determinations on Rangeland Use*. The Agency has determined that the use of silvex on rangeland appears to pose risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of use on rangeland are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the use of silvex on rangeland appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(2) *Determinations on Rice Use*. The Agency has determined that the use of silvex on rice appears to pose risks which are greater than the social, economic and environmental benefits of

<sup>7</sup>"Non-crop areas" includes: fencerows, hedgerows, fences (not otherwise included among previously suspended uses, e.g. rights-of-way, pasture); industrial sites or buildings (not otherwise included among previously suspended uses, e.g. rights-of-way, commercial/ornamental turf); storage areas, waste areas, vacant and parking lots.



the use. The Agency has further determined that the available data on the exposure potential and benefits of the rice use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions.

Accordingly, the Agency has determined that the use of silvex on rice appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(3) *Determinations on Sugarcane Use.* The Agency has determined that the use of silvex on sugarcane appears to pose risks which are greater than the social, economic, and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of use on sugarcane are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions.

Accordingly, the Agency has determined that the use of silvex on sugarcane appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(4) *Determinations on Orchard Use.* The Agency has determined that the use of silvex on orchards appears to pose risks which are greater than the social, economic and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of the orchard use are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions.

Accordingly, the Agency has determined that the use of silvex on orchards appears generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

(5) *Determinations on Non-Crop Uses.* The Agency has determined that the use of silvex on fences, lumber yards, refineries, non-food crop areas, storage areas, wastelands, vacant lots, tank farms, industrial sites and other non-crop areas not subject to the emergency suspension orders (i.e., all other non-crop areas except forests, rights-of-way, pastures, home and garden, aquatic weed control/ditch bank and commercial/ornamental turf) appears to pose risks which are greater than the

social, economic and environmental benefits of the use. The Agency has further determined that the available data on the exposure potential and benefits of the non-crop uses are to some extent uncertain and/or incomplete, and that the necessary information may be developed through a public hearing for the review of these questions. Accordingly, the Agency has determined that the non-crop uses of silvex appear generally to cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice.

#### D. Announcement of Regulatory Actions

Based on the determinations summarized above, developed in detail in PD 1/2/3 and PD 4, the Agency is announcing the following regulatory actions, and this document shall constitute its initiation of these actions:

(1) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the use of silvex on rangeland;

(2) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the use of silvex on rice;

(3) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the use of silvex on sugarcane;

(4) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the orchard uses of silvex;

(5) Issuance of a notice of intent to hold a hearing pursuant to FIFRA section 6(b)(2) to determine whether or not to cancel the non-crop uses of silvex.

#### IV. Statement of Issues

In accordance with § 164.23 of the Agency's Rules of Practice (40 CFR Part 164), this part of the notice states the questions on which evidence relative to the non-suspended uses of silvex shall be taken at the FIFRA section 6(b)(2) hearing.

With respect to the rice, rangeland, and non-crop uses of silvex, evidence will be taken as to the following questions:

(1) Whether the use of silvex on rangeland generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(2) Whether the use of silvex on rice generally causes unreasonable adverse effects on the environment when used in

accordance with widespread and commonly recognized practice;

(3) Whether the use of silvex on sugarcane generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(4) Whether the use of silvex on orchards generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(5) Whether the use of silvex on non-crop areas generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice;

(6) Whether the use of silvex on rangeland, rice, orchards, and non-crop areas will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice unless the terms and conditions of registration are modified to be more restrictive than those currently in effect; and

(7) Whether, if modifications to the terms and conditions of registration are adopted, the labeling of silvex products for these uses will comply with applicable provisions of FIFRA.

(8) Whether, despite modifications of the terms and conditions of registration, the use of silvex on rangeland, rice, sugarcane, orchards, and non-crop areas will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice and should thus be cancelled.

#### V. Procedural Matters

##### A. Procedure for Participating in the 6(b)(2) Hearing

Hearings concerning notices issued under section 6(b)(2) of FIFRA are initiated solely at the discretion of the Agency and concern all registrations and uses identified in the statement of issues in the notice.<sup>8</sup> Interested persons may participate in hearings convened by the Agency under FIFRA section 6(b)(2) by filing a timely response in accordance with 40 CFR 164.24.

Section 6(b) of FIFRA provides that any "decision pertaining to registration or classification" of a pesticide which is issued after completion of a section

<sup>8</sup> In contrast, hearings concerning notices of regulatory action issued under section 6(b)(1) of FIFRA are held only if a registrant or other adversely affected party files a valid and timely hearing request and concern only those registrations and uses which are identified in such hearing requests.

6(b)(2) hearing "shall be final." Thus, all registrants and other adversely affected parties who might be affected by cancellation or reclassification of the non-suspended uses of silvex should be aware that participation in the hearing initiated by this notice may constitute their sole opportunity to present evidence and/or testimony concerning related issues prior to final Agency action. Moreover, judicial review under FIFRA section 16(b) of any action concerning the non-suspended uses of silvex which is taken by the Administrator at the conclusion of the section 6(b)(2) hearing can only be obtained by a person who has been "a party to the proceeding." \* \* \*

All persons who request participation in the hearing initiated by this notice must follow the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. Section 164.24 of the Rules of Practice provides that each person who wishes to participate in the hearing initiated by this notice must file a written response which satisfies the following requirements:

(1) the response must state the person's position and interest concerning the issues identified in Section IV of this notice; (2) if the person is a registrant or an applicant for registration, the response must specifically identify the registration or application number of each affected pesticide product and include a copy of the currently accepted and/or proposed labeling and a list of the currently registered or proposed uses for each affected pesticide product; and (3) the response must be received by the Hearing Clerk within thirty (30) days of publication of this notice in the Federal Register. Failure to comply with these requirements will automatically result in denial of the request to participate in the hearing initiated by this notice.

Requests for hearings must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

<sup>9</sup> It is anticipated that the section 6(b)(2) hearing initiated by this notice will be consolidated with the section 6(b)(1) cancellation hearing concerning the suspended uses of 2,4,5-T and silvex. Thus, it is possible that any person who is already a party in the 6(b)(1) proceeding may be able to obtain judicial review of final Agency action concerning the non-suspended uses of silvex without filing a separate request to participate in the 6(b)(2) proceeding. However, since consolidation of the proceedings is a matter within the sole discretion of the Administrative Law Judge, the Agency recommends that any party who might desire to seek review of any final Agency action concerning currently permissible uses of silvex should file a timely response under 40 CFR § 164.24.

#### B. Ex Parte Communications

The Agency's Rules of Practice for hearings conducted pursuant to section 6 of FIFRA forbid the Administrator, the Judicial Officer, and the Administrative Law Judge, at all stages of the proceedings, from discussing the merits of the proceedings *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in an investigative or expert capacity, or with any of their representatives. 40 CFR § 164.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated to perform all investigative and prosecutorial functions in this case: the Office of the Deputy Administrator, the Office of Pesticides and Toxic Substances, the Office of Pesticide Programs, the Office of General Counsel, and the Office of Enforcement.

From the date of this notice until any final decision, neither the Administrative Law Judge, the Judicial Officer, nor the Administrator shall have any *ex parte* contact or communication with any investigative or trial staff employee, or any other interested persons not employed by EPA, on any of the issues involved in this proceeding. However, persons interested in this proceeding should feel free to contact any other EPA employee, including both investigative and trial staff, with any questions they may have.

Dated: December 3, 1979.

Steven D. Jellinek,  
Assistant Administrator for Pesticides and Toxic Substances.

#### 2,4,5-T/Silvex Position Document 4—U.S. Environmental Protection Agency, Section Head: Kyle Barbehenn

##### Position Document 4 for Certain Uses of 2,4,5-Trichlorophenoxyacetic Acid (2,4,5-T) and 2-(2,4,5-Trichlorophenoxy) Propionic Acid (Silvex)

This document represents the conclusion of the Rebuttable Presumption Against Registration (RPAR) process for 2,4,5-T and silvex, and contains the Agency's final determination on regulatory action regarding the uses of 2,4,5-T and silvex which were not suspended on February 28, 1979. In summary, the Agency has reviewed the comments received on its decision, principally those of the FIFRA Scientific Advisory Panel (SAP) and the United States Department of Agriculture (USDA), and now reaffirms its preliminary decision to hold FIFRA 6(b)(2) hearings to determine whether or not to cancel these uses of 2,4,5-T and silvex.

#### I. Background

On April 11, 1978, the Environmental Protection Agency ("the Agency") issued a notice of rebuttable presumption against registration and continued registration of all pesticide products containing the herbicide 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) [43 FR 17116, April 21, 1978]. Issuance of the RPAR began the Agency's public review of the registered uses of 2,4,5-T and the uses for which applications for registration are pending. Later, on February 28, 1979, the Administrator ordered the emergency suspension of the use of 2,4,5-T on forests, rights-of-way, and pastures (suspended uses) [44 FR 15874, March 15, 1979].<sup>1</sup> The RPAR review continued for the use of 2,4,5-T on rice, range,<sup>2</sup> and certain non-crop sites (non-suspended uses).

When the suspension orders were issued, silvex was a candidate for RPAR review, but an RPAR notice had not been issued. However, the use of silvex on forests, rights-of-way, pastures, homes and gardens, aquatic areas/ditch banks, and commercial/ornamental turf was included in the suspension orders [44 FR 15897, March 15, 1979] because both 2,4,5-T and silvex contain the highly toxic contaminant 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), both have comparable use and correspondingly comparable exposure potential, and both pose risks of adverse effects which are similar in many ways.

The RPAR review of 2,4,5-T and the suspension action prompted the Agency to expedite its RPAR review of the uses of silvex which had not been suspended, namely the use on rangeland, rice, sugarcane, orchards, and non-crop areas<sup>3</sup> (non-suspended uses). As a result of this expedited review, the Agency determined that the non-suspended uses of silvex exceed both the oncogenic and other chronic or delayed toxic effects risk criteria for issuance of an RPAR [40 CFR 162.11(a)(3)].

On July 9, 1979, the Agency issued preliminary notices of determination relating to the non-suspended uses of 2,4,5-T and silvex [44 FR 41531; 44 FR 41536, July 17, 1979]. The Agency

<sup>1</sup> Data and analyses developed in connection with the RPAR review led the Administrator to issue the emergency suspension orders and related notices of intent to cancel the suspended uses of 2,4,5-T and silvex. Suspension hearings began on April 19, 1979, but were discontinued on May 15, 1979, after all registrants withdrew from the hearings and petitioned the Administrator for an expedited cancellation hearing. The formal evidentiary phase of the cancellation hearing is scheduled to begin on January 22, 1980.

<sup>2</sup> See Appendix A, for a clarification of the definition of pasture (suspended use) and rangeland (non-suspended use).

<sup>3</sup> See Table 1.



considered risk information concerning the non-suspended uses of 2,4,5-T and silvex and found (1) that 2,4,5-T and silvex are fetotoxic and teratogenic and (2) that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), the trace contaminant in

2,4,5-T and silvex, is fetotoxic, teratogenic and carcinogenic. The Agency acknowledged that there are some uncertainties about the amount of human exposure to 2,4,5-T, silvex, and TCDD because of the limited exposure information available.

Table 1.—Suspended and Nonsuspended Uses of 2,4,5-T and Silvex

|                                                                                                                                                      | 2,4,5-T                                  | Silvex                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Nonsuspended uses: (2,4,5-T RPAR issued April 21, 1978 (43 FR 17116); silvex RPAR issued July 17, 1979 (44 FR 41536)).                               | Rice, range, noncrop sites. <sup>1</sup> | Rice, range, noncrop sites, <sup>1</sup> sugarcane, orchards.                                            |
| Suspended uses: (2,4,5-T emergency suspension issued March 15, 1979 (44 FR 15874); silvex emergency suspension issued March 15, 1979 (44 FR 15897)). | Forests, rights-of-way, pasture.         | Forests, rights-of-way, pasture, home and garden, aquatic areas/ditch banks, commercial/ornamental turf. |

<sup>1</sup>Includes use on ground noncrop sites, such as fencerows, hedgerows, fences (not otherwise included in suspended uses; e.g., rights-of-way, pasture); industrial sites or buildings (not otherwise included in suspended uses; e.g., rights-of-way, commercial/ornamental turf); storage areas, waste areas, vacant lots, parking areas, and all other noncrop sites.

Concerning the non-suspended uses of 2,4,5-T and silvex, the Agency has also considered economic benefits information which pesticide registrants, the United States Department of Agriculture, and other interested parties originally submitted in response to the 2,4,5-T RPAR notice. During the course of the review, the Agency weighed risks and benefits to determine whether or not the risks of each use were exceeded by the corresponding benefits. The Agency determined that additional benefits data were being developed which merit consideration, especially for the non-suspended uses of silvex.

Accordingly, with respect to the non-suspended uses of 2,4,5-T and silvex, the Agency has concluded: (1) that continued use of these two chemicals appears to cause unreasonable adverse effects on the environment, (2) that there are uncertainties in the data relating to the risks and benefits of the uses at issue, (3) that additional data on the risks and benefits of the non-suspended uses of 2,4,5-T and silvex will permit the Agency to determine whether or not to cancel the registrations for these uses, and (4) that such information can be acquired through a public hearing under section 6(b)(2) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. Section 136 *et seq.* (FIFRA).

Under FIFRA, the Agency is required to submit these preliminary determinations to the Scientific Advisory Panel for comment on risk issues, and to the United States Department of Agriculture for comment on benefits issues. The Agency must then respond publicly to the comments

made by the SAP and the USDA before making a final regulatory decision (7 U.S.C. 136d). The remainder of this document sets forth the Agency's analysis of comments submitted by USDA, the SAP, and other interested parties, and the Agency's reasons and the factual base for the action it is taking. The formal comments submitted by the SAP and the USDA are reproduced in their entirety as Appendices B and C of this document.

## II. Issues Relating to Risk

### A. Comments Relating to Toxicity

The Agency's proposed action is based in part on data that show 2,4,5-T, silvex, and/or TCDD produce fetotoxic, teratogenic, and carcinogenic effects in test animals. The SAP agreed with the Agency's assessment of the toxic effects of these chemicals but did not fully agree on all aspects of its interpretation of dose level responses.

(1) *Reproductive Toxicity.* In previous position and suspension documents, the Agency cited numerous studies in test species which showed that 2,4,5-T or silvex containing 0.5 parts per million (ppm) or less TCDD and pesticide-free TCDD produce cleft palate, kidney abnormalities, delayed ossification, fetal mortality, and reduced fetal weight (see 43 FR 17116, April 21, 1978 and 44 FR 15874, March 15, 1979 for review). In rodents, adverse effects were noted at maternal doses as low as 10 milligrams per kilogram (mg/kg) body weight 2,4,5-T (0.05 ppb TCDD) [Smith, 1978]; 50 mg/kg silvex body weight (<0.05 ppm TCDD) [Dow, 1973]; and 0.001 micrograms per kilogram (ug/kg) body weight TCDD [Murray, 1979; Smith et al.,

1976]. Furthermore, in non-human primates, maternal doses of TCDD as low as 50 parts per trillion (ppt) [about 0.002 ug/kg] resulted in reduced fertility and increased fetal loss [Schantz et al., 1979]. Similar and more severe effects have been observed at higher doses in all species tested. Because statistically significant effects consistent with those seen at higher doses were observed at 0.001 ug/kg TCDD in a three generation study in rats, and because this is the lowest dose tested in any species, the Agency has determined that a no-observed effect level (NOEL) has not been demonstrated for fetotoxic effects due to TCDD exposure.

The SAP agreed with the Agency that 2,4,5-T, silvex, and TCDD are each teratogenic and fetotoxic. The SAP also agreed that a NOEL had not been established for TCDD in monkeys. However, the SAP concluded that "for all practical purposes" a NOEL has been shown for TCDD in studies with rats and mice. Although the SAP concluded that 0.001 ug/kg was a practical NOEL, the Panel also recognized the existence of effects at this dose level. While the Agency interpreted these effects as significant, and sufficient to preclude establishment of a NOEL, the Panel interpreted them as suggestive of a NOEL.

Without additional data, the Agency is reluctant to adopt the Panel's interpretation. TCDD is one of the most toxic chemicals known. Its degree of toxicity, as well as its toxic manifestations, varies among the animal species, and its effects on the human reproductive system are largely unknown. In addition, the control data upon which the study is based are so variable as to warrant concern that these fluctuations may be masking additional effects. Because the effects seen at 0.001 ug/kg are consistent with those seen at higher doses, and because of the factors listed above, the Agency is unwilling to dismiss the effects observed at 0.001 ug/kg as insignificant to risk assessment. Extrapolations from experimental animal studies to man are difficult even when there is a clear NOEL. When, with TCDD, there is no NOEL, the Agency would prefer to err on the side of safety.

(2) *Oncogenicity.* In Position Document 2/3 on 2,4,5-T and Position Document 1/2/3 on silvex, the Agency concluded that commercial 2,4,5-T and silvex may pose a significant carcinogenic risk to exposed humans. This conclusion was based primarily on data showing that TCDD, an unavoidable contaminant in commercial

2,4,5-T and silvex, is carcinogenic in laboratory animals.

The principal comments made by the SAP regarding the oncogenicity of 2,4,5-T, silvex, and TCDD, together with the Agency's response to these comments, are summarized below.

The SAP agreed with the Agency that TCDD is carcinogenic in laboratory animals. The SAP also agreed that commercial 2,4,5-T products pose some oncogenic risk to man because of contamination of these products with TCDD. However, the SAP concluded that the available evidence indicates that there is no substantial oncogenic risk to man from exposure to commercial 2,4,5-T.

The Agency disagrees with this conclusion. When the SAP considered the Agency's proposed Section 6(b)(2) notices for 2,4,5-T and silvex, the Agency had not yet completed its exposure analysis. The exposure information provided to the SAP was thus not a sufficient basis for making an accurate determination on whether or not the oncogenic risk posed by the uses of 2,4,5-T affected by the proposed notices was substantial. An accurate determination may be possible when the Agency completes its exposure analysis.

The SAP stated that the CAG concluded that the non-oncogenic dose [in the study by Kociba et al. (1978) on TCDD] lies between 0.01 and 0.001 mg/kg/day. The Agency, however, contends that the CAG concluded only that no oncogenic response was observed in the Kociba study at a dose of 0.001 mg/kg/day. On the basis of the no-threshold dose response theory regarding carcinogenicity (Albert et al., 1977), the CAG and the Agency consider any dose of TCDD, no matter how small, to pose some carcinogenic risk to humans.

The SAP concluded that the few oncogenicity studies on silvex which have been conducted do not indicate any oncogenic effects, but commented nonetheless that "these data must be viewed with some caution because of the contamination of commercial silvex with TCDD."

The Agency agrees with the SAP that any chronic studies on silvex which have not demonstrated a carcinogenic response should be viewed with caution. Because TCDD is an unavoidable contaminant of commercial silvex, the Agency concludes that silvex poses some carcinogenic risk to exposed humans. A determination of the substantiability of this risk may be possible when the Agency completes its exposure analysis.

Certain other comments by the SAP reflect differences of opinion among scientists concerning other technical

details which have no direct bearing on the Agency's proposal to hold a 6(b)(2) hearing. Such a hearing provides an appropriate forum for an in-depth development and analysis of the issues and the Agency thus feels that it is not necessary to respond to several of the SAP's comments on oncogenicity at this time.

### B. Comments Relating to Exposure and Risks

On the question of potential human exposure to 2,4,5-T, silvex, and/or TCDD from the non-suspended uses, the Agency and the SAP are in agreement on the need for additional data. In reaching a preliminary decision, the Agency concluded that although the non-suspended uses appear to cause unreasonable risks of adverse effects, at present, gaps in the data preclude an accurate assessment of the potential for human hazards. In particular, the Agency specified a need for additional information on possible avenues of human exposure. The SAP also concluded that there is a potential for human exposure from the non-suspended uses, but that the available data are "incomplete and preliminary in nature". The SAP specifically recommended that additional monitoring data be obtained from sources likely to demonstrate human exposure, placing particular emphasis on TCDD levels.

(1) *Monitoring Data.* In the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, the Agency presented data from STORET, a computerized data base of surface water chemical residues, and from the National Surface Water Monitoring Program for Pesticides (NSWMP), which indicate that 2,4,5-T and silvex residues were present in water in areas where these herbicides are used. The Agency acknowledged that these residues could not be attributed to specific uses of 2,4,5-T and silvex. However, the Agency's concern about these residues in the environment was supported by monitoring studies in rangeland (Marigold and Schulze, 1969; Lawson, 1976) and apple orchard areas (Cochran et al., 1976).

Concern about potential human exposure to 2,4,5-T, silvex, and/or TCDD from the non-suspended uses has prompted the Agency to undertake new monitoring studies. As indicated in the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, rice, crayfish, catfish, water, and sediment from the South are being tested to determine the extent of environmental contamination due to 2,4,5-T and silvex use on rice. The Agency is also engaged

in monitoring edible fish, rice, sediment, human milk, beef fat, and beef liver for TCDD residues.

During the SAP meeting of August 15, 1979, the Agency acknowledged that there is not a large body of monitoring data available for specific uses because previously reported monitoring projects were rarely use-oriented and were frequently conducted at times when the chemical was not being used in the monitored area. Therefore, residues traceable to a particular chemical use might not be detected under these circumstances.

The SAP concurred with the Agency's view that available monitoring data are inadequate to assess potential human exposure from the uses of 2,4,5-T on rice, range, and certain non-crop sites; and from the use of silvex on orchards, rice, range, sugarcane, and certain non-crop sites. The SAP characterized the monitoring data presented by the Agency as incomplete and preliminary in nature and recommended that additional data be gathered regarding the levels of 2,4,5-T, silvex, and TCDD in milk, tissues of range animals, and edible aquatic organisms.

As indicated above, the Agency is currently conducting several significant monitoring studies in the media recommended by the SAP. In addition, the Agency is reviewing recent monitoring studies by other researchers, such as another TCDD study in human milk (Memo, 1979c) and a TCDD study in fish (Kuehl et al., 1979). The results of these studies will be reviewed during the 6(b)(2) hearings.

(2) *Risk Comments.* The SAP made several comments on the issues of exposure and risk, and on the methods of risk reduction with which the Agency disagrees. The Panel concluded that the margins of safety between exposure and the NOEL were sufficient to protect the general population from any reproductive risk associated with the non-suspended uses of 2,4,5-T and silvex. Concerning mixers and loaders, the SAP suggested that risk could be reduced to a safe level by the use of protective clothing and equipment. The Agency's disagreement with the Panel's adoption of a "for all practical purposes" NOEL for TCDD has been discussed above. The Agency further questions whether the existing data are sufficient to permit the Panel's conclusion that protective clothing and equipment are sufficient to adequately reduce risk for mixers and loaders.

In addition, the SAP recommended that efforts be made to reduce the TCDD content in commercial 2,4,5-T and silvex. Although the Agency applauds any efforts by registrants to reduce



TCDD levels in pesticide products containing 2,4,5-T and silvex, any review of these chemicals at this time can be based only on the present formulations of 2,4,5-T and silvex products which unavoidably contain TCDD. As for all other pesticides, 2,4,5-T and silvex registrants must provide the Agency with scientific data, through the registration process, that the production of 2,4,5-T and/or silvex without TCDD does not cause unreasonable adverse effects to human health or the environment.

#### C. Comment Relating to New Data

In addition to its comments on the Agency's assessment of existing data, the Panel urged the Agency to review new data from several on-going and recently completed studies. Specifically, the SAP recommended that a full set of details be obtained and evaluated concerning new oncogenicity studies conducted by Leuschner et al. (1979) with 2,4,5-T containing less than 0.05 ppm TCDD and by the National Cancer Institute (NCI) (1979) with TCDD. Also, the SAP recommended similar measures for Dr. James Allen's on-going reproductive toxicity study in monkeys fed a diet containing 25 ppt TCDD (Allen, 1979).

This recommendation is fully consistent with the Agency's customary practice of evaluating new information as part of its continuing review of risks and benefits of registered chemicals. The Agency will review and assess these and any other available studies in the context of the proposed 6(b)(2) hearings.

In conclusion, the Agency has determined that the SAP comments do not warrant a change in the Agency's risk analysis for the non-suspended uses of 2,4,5-T and silvex at this time.

#### III. Issues Relating to Benefits

In the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3, the Agency provided a preliminary benefits analysis and acknowledged that further review of the chemical alternatives was necessary before the Agency could make a final assessment of the risks and benefits associated with the continued uses of 2,4,5-T and silvex. Throughout the review of 2,4,5-T and silvex, the Agency has expressed concern about the quality and completeness of much of the data it has obtained on the economic benefits of 2,4,5-T and silvex.

In its response to the Agency's proposal, USDA agreed that these data gaps can best be addressed through a 6(b)(2) hearing for the non-suspended uses of 2,4,5-T and silvex. USDA did not

provide substantive comment on the benefits determinations which were presented in the Position Documents. In addition, USDA stated its intention to continue assembling additional data to be submitted to the Agency on the uses of, and benefits associated with, these herbicides. The Agency is also continuing to gather benefits information from other sources.

In conclusion, the USDA's comments on the Agency's preliminary benefits analysis for the non-suspended uses of 2,4,5-T and silvex wholly support the Agency's determination that further review is necessary and can best be addressed through a 6(b)(2) hearing.

#### IV. Conclusion

The SAP's assessment of the scientific data on the reproductive and the oncogenic effects of 2,4,5-T, silvex, TCDD in test animals is generally consistent with the Agency's position. Also, consistent with the Agency's current efforts were several SAP recommendations for obtaining additional data.

The Panel concluded that it had found no evidence of an "immediate or substantial hazard" to human health or the environment associated with the non-suspended uses, and is likewise the Agency's position. Upon finding evidence of an "imminent hazard", the Agency acts to suspend the pesticide uses which are implicated. An example of such action is the recent emergency action suspending certain uses of 2,4,5-T and silvex.

As was discussed in the 2,4,5-T Position Document 2/3 and the Silvex Position Document 1/2/3 for the non-suspended uses, the Agency recommends holding a hearing, in part because the available data indicates that these uses appear to have unreasonable adverse effects on the environment. However, the Agency did not act to suspend these uses as it would have done if it had found an imminent hazard.

The SAP disagreed with the Agency's proposal to hold a hearing and recommended that the Agency not hold a 6(b)(2) hearing at this time. The Agency has taken the Panel's recommendations into account but has decided that such a hearing is appropriate, based on (1) information showing that the non-suspended uses of 2,4,5-T and silvex appear to cause unreasonable adverse effects on man or the environment, (2) the Agency's and the SAP's conclusion that more information is necessary to resolve the issues involved, and (3) that a combined hearing is the most efficient and effective way to resolve the issues.

The Agency holds that it is in the public interest to combine the hearing for the non-suspended uses with the cancellation hearing for those uses that were suspended on February 28, 1979. Not only will this action be administratively convenient for the Agency, registrants, and interested parties, entailing more efficient use of resources, but it will also ensure that the Agency's concerns on all uses of 2,4,5-T and silvex are addressed consistently.

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#### Appendix A

In response to comments expressing confusion about the Agency's pasture and range definitions, the Agency is taking this opportunity to correct an inadvertent error in the pasture definition and to modify the range definition.

In the pasture definition the word "and" was inserted in the list of cultural practices in place of the intended word "or" (44 FR 15874; 44 FR 15897, March 15, 1979). Therefore, the definition should be corrected by the substituting of the word "or" for "and" so that the definition now reads as follows:

Pasture is defined as land producing forage for animal consumption, harvested by grazing, which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application or other similar practices applied to it. Fencerows enclosing pastures are included as part of the pasture.

This correction clearly specifies that annual application of any one or more of these cultural practices will classify the land as pasture.

The following modification of the range definition will further explain the distinction between range and pasture. These modifications are based on the same USDA Forest Service material which was the source for EPA's definition of pasture and range. With these modifications, range is now defined as follows:

Range is non-pasture grazing land producing forage from native plant species or introduced species managed as native species. Grazing land which has annual or more frequent cultivation, seeding, fertilization, irrigation, pesticide application, or other similar practices applied to it is excluded. However, forests<sup>1</sup>, as defined in 44 FR 15893, March 15, 1979, are excluded.

<sup>1</sup> Lands capable of growing 20 cubic feet of wood per acre per year of desirable species which are not withdrawn for non-timber purposes.

#### Appendix B.—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Scientific Advisory Panel

##### Review of Notices of Intent To Hold FIFRA Section 6(b)(2) Hearing on 2,4,5-T and Silvex

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of the Notices of Intent by the Environmental Protection Agency (EPA) to hold hearings under the provisions of FIFRA section 6(b)(2) to consider appropriate regulatory action for those uses of 2,4,5-T and Silvex which were not included in the recent suspension orders. The review was completed in open meetings held in Arlington, Virginia, during the periods August 15-16, 1979, and September 20, 1979.

Maximum public participation was encouraged by the Scientific Advisory Panel to ensure an objective and adequate consideration of all relevant scientific issues relating to health and the environment. Public notice of the meetings was published in the *Federal Register* on July 27, 1979, and September 4, 1979. In addition, telephonic calls and special mailings were also sent to the general public who had previously expressed an interest in activities of the Panel.

Written statements relative to 2,4,5-T and Silvex were received from Dow Chemical Company, and Michigan State University.

In addition, oral comments were received from Dr. J. R. Allen, University of Wisconsin Medical School; EPA technical staff; representatives of the Texas State Department of Agriculture; Dow Chemical Company; and the Environmental Defense Fund.

The FIFRA Scientific Advisory Panel wishes to recognize the excellent cooperation and assistance of numerous EPA technical staff throughout the review of 2,4,5-T and Silvex.

In consideration of all matters brought out during the meeting and careful review of all documents submitted by the Agency and other parties, the Panel unanimously submits the following report:

In response to the Agency's request for advice concerning whether a FIFRA section 6(b)(2) hearing should be held to resolve questions relative to the continued use of 2,4,5-T and Silvex on rice, rangeland, orchards, sugarcane, and certain non-crop sites, (1) *the Scientific Advisory Panel recommends that the Agency not hold such a meeting at this time.* After extensive review of the data we find no evidence of an immediate or substantial hazard to human health or to the environment associated with the use of 2,4,5-T or Silvex on rice, rangeland, orchards, sugarcane, and the non-crop uses specified in the decision documents.

The Scientific Advisory Panel has extensively reviewed the animal toxicity test data base for teratogenesis, carcinogenesis, and reproductive effects for 2,4,5-T, Silvex, and TCDD and has identified some additional data needs which should be addressed prior to final decision making relative to the safety evaluation of 2,4,5-T and Silvex. (2) *The Scientific Advisory Panel recommends specifically that the full details be obtained and evaluated for the following*

three studies which were discussed briefly at the hearing:

1. The oncogenicity study on commercial 2,4,5-T being conducted in Germany in the *Laboratorium für Pharmakologie und Toxikologie*. An oncogenic study has recently been completed on 2,4,5-T which was specially purified to contain a low concentration of TCDD. However, data is needed on the oncogenicity of commercial 2,4,5-T containing TCDD ( $\leq 0.05$  ppm).

2. The oncogenicity study recently completed at NCI with TCDD in both rats and mice; and

3. The reproductive toxicity study being conducted at the University of Wisconsin by Dr. Allen in which monkeys are being fed a diet containing TCDD at 25 ppt.

The Scientific Advisory Panel has also reviewed the available data regarding potential human exposure to 2,4,5-T and Silvex from use on rice, rangeland, orchards, sugarcane, and other non-crop applications and the monitoring data related to these uses and would characterize these as incomplete and preliminary in nature. (3) *We therefore recommend that monitoring data be obtained regarding the levels of 2,4,5-T and Silvex and TCDD in milk, and that additional data be gathered regarding the levels of these agents in the tissues of range animals and that information be obtained regarding the levels of these agents in edible aquatic organisms.* In these additional monitoring studies special emphasis should be placed on TCDD levels rather than levels of 2,4,5-T and Silvex, per se.

In regard to the specific issues and questions posed by the Agency to the Panel regarding review of 2,4,5-T and Silvex, the Scientific Advisory Panel offers the following responses:

#### Issues on Toxicology

Question 1. EPA has found that 2,4,5-T, Silvex, and TCDD are teratogens. Does the Panel agree?

Response: The Scientific Advisory Panel agrees with the Agency that 2,4,5-T, Silvex, and TCDD are teratogens.

Question 2. EPA has found that 2,4,5-T, Silvex, and/or TCDD are fetotoxins. Does the Scientific Advisory Panel agree?

Response: The Scientific Advisory Panel agrees with the Agency that 2,4,5-T, Silvex, and TCDD produce reproductive (fetotoxic) effects.

Question 3. EPA has determined that TCDD exhibits fetotoxic effects and that a No Observable Effect Level (NOEL) has not been established for this effect. Does the Scientific Advisory Panel agree with this finding?

Response: The Panel agrees with the Agency that a NOEL has not been established for TCDD in chronic studies in monkeys. In contrast to the Agency position, the Panel concludes that a NOEL has been established for TCDD for both rats and mice. The Scientific Advisory Panel would like to point out in this regard that the Agency position is relatively close to that of the scientists from the Dow Chemical Company. The Scientific Advisory Panel believes that the dose of 0.001 ug/kg/day is for all practical purposes a NOEL (For the purposes of risk calculation; See Appendix I). It should be



pointed out that a NOEL for reproductive effects has been established for commercial 2,4,5-T in all species tested including monkeys.

Question 4. EPA has found that TCDD is carcinogenic in test animals, and thus is a potential human carcinogen. Does the Scientific Advisory Panel concur with this finding?

Response: The Scientific Advisory Panel agrees with the Agency opinion that TCDD is carcinogenic in test animals and therefore may be a potential human carcinogen.

Question 5. EPA has found that TCDD is an extremely potent animal carcinogen. Does the Scientific Advisory Panel agree with this finding?

Response: Answered in question 4 above.

#### Issues on Exposure

Question 1. EPA believes that human exposure from the use of 2,4,5-T and Silvex on rice may be broad and substantial due to herbicide drift during and after application, and that more diffuse exposure is possible through the water environment and through crayfish, catfish and other food sources. How would the Panel characterize the exposure potentials and concerns for rice use? What questions do they have and how would they be answered by the proposed monitoring plan?

Response: The Scientific Advisory Panel agrees that exposure to 2,4,5-T and Silvex from use on rice may be possible through the water environment and through edible aquatic organisms and other food sources. However, the Scientific Advisory Panel believes that insufficient data was presented or made available to the Panel in support of the argument that human exposure from spray drift and the water environment is likely to be broad or substantial. The questions regarding proposed monitoring have already been addressed. In addition to the need for more data on the concentrations of Silvex, 2,4,5-T, and TCDD in crayfish and catfish, monitoring data should also be obtained on soil sediments.

Question 2. EPA believes that drift from the use of 2,4,5-T/Silvex products on rangeland creates a lower, yet-still-real, potential for exposure due to lower population densities and distribution in range areas relative to rice growing areas. Sparsity of surface water and extreme depth of ground water in many areas would suggest a minimal exposure from aquatic sources used as food. However, beef monitoring shows low levels of dioxin in a limited number of samples from beef that grazed on 2,4,5-T treated range. How would the Panel characterize the exposure potential and concerns for the use of these chemicals on range? What unanswered questions do they believe the Agency should address in determining exposure potential?

Response: The Scientific Advisory Panel agrees with the Agency that there is a potential for exposure as a result of drift from the use of 2,4,5-T and Silvex products on rangeland and that the potential for exposure from this mechanism would be lower than that from use of the agents on rice. However, the Panel believes that the data made available to the Panel did not provide a convincing argument for the existence of an

immediate or substantial hazard from the use of Silvex and 2,4,5-T on rangelands.

Question 3. Little is known about the potential for dietary exposure to Silvex and/or TCDD from the uses of Silvex on food crops, except for apples on which Silvex residues have been detected. Given the nature of the contaminant TCDD, EPA has reason for presuming that exposure to food consumers and the environment is possible from these uses. What are the Panel's views on the potential for ingestion exposure from these uses?

Response: Although there is information on the use patterns of Silvex in orchard crops, the Scientific Advisory Panel believes sufficient residue data is not currently available for a definitive opinion on dietary exposure to Silvex.

Question 4. The Agency believes that TCDD and 2,4,5-T move in water from rice to other environmental compartments thereby increasing exposure to widely diffuse populations. Does the Scientific Advisory Panel concur with this?

Response: The Panel agrees with the Agency that it would be possible for 2,4,5-T to move in water from rice fields to other environmental compartments and to thereby increase exposure to widely diffuse populations. However, we believe such movement would be unlikely for TCDD.

#### General Issues

Question 1. Do the residues (2,4,5-T, Silvex and TCDD) in water, sediment, aquatic organisms and/or the potential for exposure from herbicide drift, in light of the toxicological attributes of these compounds, suggest to the Scientific Advisory Panel the possibility of significant risk?

Response: No (See recommendation (1).)

Question 2. Can the Scientific Advisory Panel assess whether the residues being found in the rice areas are due to the rice use or to other previously permitted uses?

Response: The Panel is not aware of data sufficient to answer this question (See recommendation (3).)

Question 3. Do the exposure potentials in range use, in light of the toxicological characteristics of these compounds, suggest to the Scientific Advisory Panel the possibility of significant risk?

Response: No. (However, see recommendation (3).)

In consideration of the potential toxicity of TCDD, (4) the Scientific Advisory Panel recommends that efforts should be made to further reduce the level of chemical TCDD in commercial preparations of 2,4,5-T and Silvex.

Dated: September 26, 1979.

For the Chairman.

Certified as an accurate report of findings.  
Wade Fowler, Jr.,  
Executive Secretary, FIFRA Scientific Advisory Panel.

#### Appendix I.—The FIFRA Scientific Advisory Panel Evaluation of the Oncogenicity, Fetotoxicity, and Exposure Characteristics for 2,4,5-T, Silvex and TCDD

##### Introduction

In our opinion the major health and environmental issues relative to possible regulatory action by the Agency center around the potential of commercial forms of 2,4,5-T and Silvex contaminated with TCDD to pose carcinogenic, teratogenic and reproductive risks to persons as a result of (1) exposure during mixing and application, or (2) direct exposure to the spray as a result of living in the immediate area of application. In contrast, the major concern relative to TCDD, essentially free of 2,4,5-T or Silvex, arises from the degree to which this agent concentrates in portions of the human food chain. The primary concern of the Scientific Advisory Panel is the potential carcinogenic, reproductive, and teratogenic risk from use of commercial 2,4,5-T and Silvex contaminated with TCDD. The potential for these same risks from TCDD essentially free of 2,4,5-T and Silvex is of secondary concern, as is the potential risk posed by 2,4,5-T or Silvex essentially free of TCDD.

##### Commercial 2,4,5-T

**Oncogenicity.** Seven studies of variable quality have been carried out in mice to examine the oncogenicity of commercial 2,4,5-T contaminated with TCDD. The results of these studies have not demonstrated a carcinogenic risk from commercial 2,4,5-T in this rodent species. A complete study of the carcinogenic potential of commercial 2,4,5-T contaminated with TCDD at  $\leq 0.05$  ppm has not yet been reported in rats. However, such a study has recently been completed by the Laboratorium für Pharmakologie und Toxikologie, Hamburg, Germany. The Scientific Advisory Panel was informed during the recent meeting that gross autopsy examination of these animals revealed no increase in tumors relative to the control groups. However, until the pathological examination is complete no definitive conclusion can be drawn relative to the oncogenic potential of commercial 2,4,5-T in rats. The Dow Chemical Company has recently completed a study of the oncogenicity of a specially purified sample of 2,4,5-T in rats. This sample of 2,4,5-T contained less than 0.0003 ppm TCDD. In this study there was no increase in tumors resulting from exposure to this purified preparation of 2,4,5-T fed at the maximum tolerated dose (30 mg/kg/day) or at lower doses (10 mg/kg/day and 3 mg/kg/day). Thus it appears that 2,4,5-T, which is essentially free of contaminating TCDD, is not oncogenic in rats. However, this study is of limited predictive value since the form of 2,4,5-T of concern to the Scientific Advisory Panel is commercial 2,4,5-T; in other words, 2,4,5-T contaminated with TCDD.

Chronic tests carried out using TCDD free of 2,4,5-T have demonstrated that TCDD is

carcinogenic in rats and carcinogenic or tumorigenic in mice. Thus, since commercial 2,4,5-T contains TCDD as a contaminant ( $\leq 0.05$  ppm) the lack of a carcinogenic response in rodents using commercial 2,4,5-T must be viewed with caution. The Scientific Advisory Panel is of the opinion that some carcinogenic risk to man is posed by exposure to 2,4,5-T contaminated with TCDD at the level present in the 2,4,5-T in current use. However, the data currently available indicate that this risk is not substantial.

In summary, the evidence currently available indicates there is not an immediate or substantial oncogenic risk to man from exposure to 2,4,5-T contaminated with TCDD at a level of  $\leq 0.05$  ppm.

##### Reproductive and Embryo Toxicity

Commercial 2,4,5-T produces fetal toxicity and is teratogenic in rats and mice. According to the data presented to the Scientific Advisory Panel during the August 15-16, 1979 meeting, the no effect level for embryo toxicity for commercial 2,4,5-T in various species when examined in conventional toxicity studies is as follows: rat, 25 mg/kg/day; mouse, 20 mg/kg/day; hamster, 40 mg/kg/day; and monkey, 40 mg/kg/day. However, a recent study conducted at the National Center for Toxicological Research revealed teratogenic effects in A/J mice at the lowest dose of commercial 2,4,5-T tested (15 mg/kg/day). It would appear, therefore, that there are strain differences in the no effect level for 2,4,5-T in mice.

Two three-generation studies of 2,4,5-T reproductive toxicity have been carried out in rats. One of these studies was carried out using commercial 2,4,5-T containing  $\leq 0.05$  ppm TCDD. No teratogenic effects, reproductive toxicity or fetal toxicity were observed in any animals at the doses tested (3, 10 and 30 mg/kg/day). In contrast another three-generation study carried out using purified 2,4,5-T ( $\leq 0.0003$  ppm TCDD) reported a significant decrease in neonatal survival at 10 and 30 mg/kg/day but not at 3 mg/kg/day. However some effects suggestive of reproductive toxicity were noted at the intake level of 3 mg/kg/day in this study. The Scientific Advisory Panel believes that this three-generation study establishes for practical purposes a NOEL and recommends that this NOEL be used for subsequent evaluation of risk.

In summary, the Scientific Advisory Panel believes that these data suggest that a potential for reproductive risk and embryo toxicity exists for persons engaged in the mixing and application of commercial 2,4,5-T. However with use of protective clothing such as a one piece jump suit with long sleeves, gloves and, perhaps, respirators, risks should be reduced to an acceptable level. The potential for significant reproductive and teratogenic risk to persons living in the immediate area of the spraying operations does not appear to be substantial except as they may be directly exposed on a chronic basis.

The Panel has some reservations relative to the validity of the three-generation study in rats carried out by the Laboratory für Pharmakologie und Toxikologie using commercial 2,4,5-T ( $\leq 0.05$  ppm TCDD), and

recommends that an additional three-generation study in rats using commercial 2,4,5-T be carried out.

##### Silvex

**Oncogenicity.** The carcinogenic testing of commercial Silvex has been less extensive than with 2,4,5-T. However, those few studies which have been carried out did not indicate an increase in oncogenicity as a result of chronic exposure to Silvex. Although no carcinogenic risk has been demonstrated with commercial Silvex, these data must be viewed with some caution because of the contamination of commercial Silvex with TCDD.

**Reproductive and Embryo Toxicity.** In contrast to commercial 2,4,5-T, very few studies of the reproductive toxicity of Silvex have been carried out. Those studies with commercial Silvex that have been carried out in rats and mice indicate that commercial Silvex is teratogenic in mice at high doses (400 mg/kg/day). Silvex is also fetotoxic in mice and rats and the no effect level in rats is 25 mg/kg/day.

Thus commercial Silvex does appear to pose some risks to reproduction and fetal viability. Much less information is available concerning the degree of exposure of humans to Silvex during mixing and spraying operations than is the case with 2,4,5-T. However, it should also be possible using proper protective clothing to reduce the reproductive and teratogenic risk from commercial Silvex to an acceptable level. Similarly there does not appear to be any substantial risk to persons living in the immediate area of the spraying except from direct exposure on a chronic basis.

##### TCDD

**Oncogenicity.** Two major studies of the oncogenicity of TCDD have been reported. One study in rats has been carried out by the Dow Chemical Company and another in mice was performed by the Research Institute of Oncopathology in Hungary. A third study in mice and rats has recently been completed by NCI, but the results of this study were not yet available.

There was an increase in tumors of the liver, lung and hard palates/nasal turbinates in the rats fed of 0.1 ug/kg/day of TCDD in the diet. At a dose of 0.01 ug/kg/day there was an increase in hyperplastic nodules in the livers of the female rats. The EPA Carcinogen Assessment Group (CAC) has concluded that this increase in hyperplastic nodules at the dose of 0.01 ug/kg/day indicates that TCDD is also carcinogenic at this dosage level. The Scientific Advisory Panel concludes that there is a tumorigenic response at 0.01 ug/kg/day but has reservations as to whether hyperplastic nodules are precursors, *per se*, to hepatocellular carcinoma. (See Appendix II.)

An increased incidence of liver tumors were produced in studies in male outbred Swiss mice in which TCDD was given by gavage at a dose of 0.7 ug/kg/week for one year. However, in this study there was no significant increase in tumor formation in animals given TCDD at 7.0 ug/kg/day although there was a decreased life span in the mice receiving this dose. There was also

no increase in tumors in animals given TCDD at a dose of 0.007 ug/kg/week. Evaluation of this study by the Scientific Advisory Panel is difficult, since the type of liver tumor produced was not identified. Although the authors stated that the ratio of benign hepatomas to hepatocellular carcinomas was the same in the animals receiving the 0.7 ug/kg/week dose of TCDD as in the controls, it is not clear whether there was a significant increase in hepatocellular carcinomas in the treated animals.

The Scientific Advisory Panel concludes that there is a level of TCDD below which no oncogenic or tumorigenic effects were seen in either mice or rats. The dose level for tumorigenic response in the outbred strain of Swiss mice used in the Hungarian oncogenic study lies between 0.007 and 0.7 ug/kg/week. The Scientific Advisory Panel believes that the data available from this study are insufficient to reach a firm conclusion regarding whether there was a true oncogenic response in mice. In rats there was some controversy over which level of exposure to TCDD demonstrated an oncogenic effect. The Dow Chemical Company scientists stated that the level at which no oncogenic effects are seen lies between a dose of 0.1 and 0.01 ug/kg/day in the diet. The EPA Carcinogen Assessment Group concluded that the non-oncogenic dose lies between 0.01 and 0.001 ug/kg/day. Thus, there was agreement concerning the lack of an oncogenic response at the dose level of 0.001 ug/kg/day TCDD.

The major concern of the Scientific Advisory Panel relative to the potential oncogenic risk from TCDD is whether TCDD accumulates in the human food chain. The data necessary to evaluate this risk must be derived from monitoring data for TCDD itself. The oncogenic risk from TCDD present as a contaminant in commercial 2,4,5-T and Silvex is best determined in those experiments in which commercial 2,4,5-T or Silvex contaminated with TCDD has been administered chronically to rats and mice.

The monitoring data obtained thus far does not suggest that TCDD derived from commercial 2,4,5-T and Silvex exhibits any tendency to accumulate in the human food chain in amounts which would pose a substantial risk. For example TCDD has been detected in some fat samples from cows grazed on rangeland immediately after spraying with commercial 2,4,5-T and sacrificed 2 weeks later. If one assumes that all beef fat in the U.S. contains TCDD at the level found in these studies (approximately 10 ppt) and if one assumes further that the average level of beef intake in the U.S. Population is 6% of the diet; (1.5 kg food/day; 15% of beef is fat) and produces a 22% incidence of tumors at 0.1 ug/kg/day (Dow Study) a risk of  $4 \times 10^{-6}$  can be calculated. It should be pointed out that this is an extreme worst case calculation since the present data indicate that only a small percent (approximately 7%) of beef fat samples from animals fed on ranges immediately after spraying with 2,4,5-T containing TCDD and that all beef eaten in the U.S. does not come from ranges sprayed with 2,4,5-T (only 2%). Thus, although it appears that there is some potential oncogenic risk from TCDD present in the food chain, on the basis of the current



monitoring data, the risk is judged to be small.

**Reproductive Toxicity.** The results of the embryo toxicity studies indicate that the no effect level for TCDD in mice is 0.1 ug/kg/day (days 6-15 of gestation), in rats is 0.03 ug/kg/day (days 6-15 of gestation), and in monkeys is 0.02 ug/kg/3 times per week (days 20-40 of gestation).

In a three-generation reproductive study carried out in rats by the Dow Chemical Company clear cut embryo toxicity was seen at doses of 0.1 and 0.01 ug/kg/day of TCDD. At the dose of 0.001 ug/kg/day there was a decreased gestational survival in the  $F_2$  generation but not in earlier or later generations. Postnatal survival in the group receiving 0.001 ug/kg/day was decreased in the  $F_2$  generation and increased in the  $F_3$  generation relative to the controls. An increase in dilated renal pelvis was also seen in the  $F_2$  and  $F_3$  generation in the animals receiving 0.001 ug/kg/day but not in later generations or at the 0.01 ug/kg/day dose. Although these effects at 0.001 ug/kg/day are suggestive of an embryo-toxic effect, the inconsistency of the effects from generation to generation and in relation to the higher dose of 0.01 ug/kg/day (dilated renal pelvis) suggests that the 0.001 ug/kg/day dose is for all practical purposes a no effect level.

Long term studies in monkeys have shown reproductive toxicity from TCDD at levels of 50 ppt in the diet. Studies are currently underway at 25 ppt of TCDD in the diet, but results are not yet available. An intake of TCDD of 50 ppt in the diet is equivalent to approximately 0.002 ug/kg/day. If no reproductive toxicity is seen in the monkeys exposed to TCDD in the diet at 25 ppt, then the no effect level in the monkey will be similar to that seen in the rat, namely about 0.001 ug/kg/day.

The major concern of the Scientific Advisory Panel relative to the potential reproductive toxicity or teratogenic effects of TCDD is whether it accumulates in human food chains as previously noted for the oncogenic potential of TCDD. The reproductive toxicity and teratogenic potential of TCDD present as a contaminant in commercial 2,4,5-T and Silvex is best determined from experiments in animals exposed to commercial 2,4,5-T or Silvex contaminated with TCDD.

If one assumes the worse case situation described previously in the evaluation of the oncogenic risk from TCDD in which TCDD is proposed to be present in the fat of all cows marketed in the U.S., the maximum intake would be approximately  $2 \times 10^{-6}$  ug/kg/day. Using a 0.001 ug/kg/day as the no effect level the safety factor would be approximately 500. As pointed out previously in the section on the oncogenicity of TCDD, this calculation represents an extreme exaggeration of exposure to TCDD. The Scientific Advisory Panel believes, therefore, that the current monitoring data do not indicate that there is a substantial reproductive or teratogenic risk posed by the accumulation of TCDD in the human food chain.

#### Appendix II.—A Selected Review of the Histology of the Dow TCDD Study (Tox. Appl. Pharm. 46, 279 (1978))

Drs. Donna Kuroda, Richard Kociba and I reviewed 3 representative microscopical sections each from control, 0.01, and 0.1 ug/kg/day level TCDD exposed female Sprague Dawley rats. These sections were selected by Dr. Kociba to demonstrate hyperplastic nodules and lesions designated hepatocellular cancers (see Table #5 R. J. Kociba et al. Tox. & Appl. Pharm. 46, 279 (1978)). Control sections were used for comparison.

Control animals, selected from timed sacrifices, showed a general presentation of the liver architecture. A natural incidence (spontaneous?) of extramedullary hematopoiesis, bile duct reduplication, and "hyperplastic nodules" was found by Dr. Kociba (Table 5) and demonstrated in the sections provided to me. Kociba and colleagues considered a tissue mass to represent a hyperplastic nodule if a group of liver cells, with or without sinusoidal lining cells, formed a discrete population with cellular structure and/or tinctorial properties different from the surrounding parenchyma. These growths may or may not cause compression of surrounding parenchyma and may or may not have bile duct formation. Sharp demarcation from the surrounding parenchyma was observed.

In addition, there were both acute inflammatory exudates and granuloma-like lesions in the controls, not associated with the hyperplastic nodule. In addition there appeared to be an acute cholangitis. No evidence of fibrosis was present.

Sections from the high dose exposure animals (0.1 ug/kg/day) showed some distortion of the hepatic parenchyma with cellular variability and thickening of the liver cell plates. Portal tracts were sometimes associated with dense collections of lymphocytes. Prominent were hyperplastic nodules and lesions characterized by Kociba and associates as hepatocellular carcinomata. These latter lesions showed more marked cellular differences from surrounding parenchyma and from hyperplastic nodules. In general, the liver cell nuclei were larger occupying a greater portion of the cell volume, the cell plates more disordered, formation of acinar and tubular forms were identified, and no formation of portal tracts were present in these lesions. These masses in one instance, arose in a hyperplastic nodule. No defined microscopical or gross evidence of invasion of the neoplastic cells into adjacent tissues was noted either at autopsy (according to Kociba) or by microscopy. Not infrequently fat was present in hyperplastic nodules but not in the "carcinomata."

The parenchyma adjacent to the carcinomata and hyperplastic nodules showed some cellular irregularity, staining variation, and hyaline intracytoplasmic masses. No significant evidence of increased inflammatory exudates or fibrosis was noted, but bile duct reduplication was present.

The midrange dose shows hyperplastic nodules, the remaining changes were identical with the high dose, but these slides did not show a carcinoma. I believe that the

group at Dow extensively and properly surveyed the evidence of hepatocellular disease following exposure of rats to TCDD. Autopsies on animals were conducted by pathologists and tissue sections were selected by them. Their microscopical review was extensive. Their nomenclature was defined and understandable. I personally would have been more conservative than they in designating carcinomata, so their result is a "worst case" designation. From these discussions and reviews, I am very comfortable with their evaluation for toxic injury and carcinogenesis. Additionally, I believe liver cancer was shown in the high dose level; might be questioned in the midrange level, but was not present in the low dose group.

Edward Smuckler,

*Professor and Chairman, Department of Pathology, University of California School of Medicine, San Francisco, Calif.*

August 15, 1979.

Survey conducted at EPA Headquarters, 401 M Street SW., Washington, D.C. 20460.

#### Appendix C.—Department of Agriculture, Office of the Secretary

August 10, 1979.

Mr. Edwin L. Johnson,

*Deputy Assistant Administrator for Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460.*

Dear Ed: The Secretary has asked me to respond to your letter of July 9, 1979, regarding the proposal to hold hearings under Section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136d(b)(2) to determine whether or not the nonsuspended uses of 2,4,5-T and silvex should be cancelled.

As you know, the Secretary is a party in the Section 6(b)(1) hearing. Except for slightly different use patterns and exposure considerations, the issues on both the suspended and nonsuspended uses are similar and we, therefore, plan to participate in the 6(b)(2) portion as well.

Contrary to statements in the Notice of Intent to hold a hearing on the remaining uses of silvex, the Department of Agriculture has not provided information on the "social, economic, and environmental benefits" of using silvex to you. This information is currently being collected by the joint USDA/States/EPA assessment team, but since an RPAR notice was not issued on this compound, the team, which was organized recently, has only had time to develop some preliminary data.

We agree that it is in the best interest of everyone to attempt to resolve all issues in a consolidated hearing. We are preparing to have information available on all uses of both 2,4,5-T and silvex for presentation to the Administrative Law Judge during these proceedings.

We will be submitting for the record of the hearings the benefit and exposure information contained in the 2,4,5-T assessment report prepared by the joint USDA/States/EPA assessment team as well as information presently being gathered by the joint assessment team on silvex. We believe that the assessment team activity has

been an effective means for assembling information needed in the regulatory decision process.

Your notice indicates that additional data on the benefits of the nonsuspended uses of 2,4,5-T will be needed before a final regulatory decision can be made. It would be most helpful to us and to the process if you would point out specifically where the data in the USDA/States/EPA report "The Biologic Economic Assessment of 2,4,5-T" is not adequate. We are anxious to cooperate with you in filling any data gaps that may exist to assure that all possible information can be examined in reaching a final decision.

Sincerely,

Barry R. Flamm,

*Director, Office of Environmental Quality.*

[FR Doc. 79-36025 Filed 12-12-79; 8:45 am]

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# Federal Register

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Thursday  
December 13, 1979

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## Part VI

### Department of Transportation

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Federal Aviation Administration

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Indirect Air Carrier Security; Final Rule



## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 109, 191

[Docket No. 19840; New Part 109; Amdt. No. 191-1]

## Indirect Air Carrier Security

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule with request for comments.

**SUMMARY:** This regulation requires all indirect air carriers to prepare and carry out a security program designed to prevent or deter the introduction into package cargo of any unauthorized explosive or incendiary device. This emergency regulation is necessary to combat an immediate threat to safety in air commerce from explosives and incendiary devices concealed in this manner.

**DATES:** Effective Date: December 13, 1979. Comments By: February 11, 1980.

**ADDRESS:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 19840, 800 Independence Avenue, SW, Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW, Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Hunter, Acting Chief, Air Operations Security Division, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591. Telephone: (202) 426-8798.

## SUPPLEMENTARY INFORMATION:

## Background

On November 15, 1979, a U.S. air carrier was forced to make an unscheduled landing following the detonation of an explosive device in the cargo hold of the aircraft. The device was concealed in parcel mail, which was transported by the carrier. This incident, together with bomb incidents at New York, Miami, and Los Angeles airports, the destruction by bombs of passenger aircraft both in the air and on the ground, and the discovery of active bombs in passenger checked baggage and in air cargo facilities demonstrates the need for adequate security measures to prevent and deter the introduction of explosive devices into the air transportation system. The public has a right to expect security measures which

will ensure a safe and secure flight. Security measures currently in use have brought about a reduction in scheduled air carrier hijackings. However, the number and threat of sabotage type incidents involving parcel airmail and air cargo has increased to a point where positive and practical security measures are needed to meet this threat. It is vital that the aviation industry develop and implement improved and effective security measures which ensure safe air transportation and which are operationally sound and economically acceptable.

## Direct Air Carriers

Section 121.538 of the Federal Aviation Regulations, 14 CFR 121.538, presently requires that direct air carriers implement and put into use security procedures which ensure that baggage is checked in by a responsible agent or representative and prevent checked baggage and cargo from being loaded aboard their aircraft unless handled in accordance with their procedures. Air carrier security programs now in effect are designed to prevent unauthorized access to checked baggage and cargo, to preclude tampering with or adding to the contents of the baggage and cargo and to ensure that baggage is accepted from only ticketed passengers. These programs have also included cautionary measures to be taken by the airlines with regard to acceptance of cargoes, including small package service cargo. To further satisfy the urgent need for improved aviation security, direct air carrier security programs have been strengthened with regard to the acceptance of package cargo. These programs have been approved by the FAA.

Procedures now in effect appear adequate to ensure the security of property when it is submitted directly to the direct air carrier by the shipper or passenger. An urgent need exists to ensure, however, that the property received by the direct air carrier from an indirect air carrier does not contain bombs or other explosive or incendiary devices. The best and least expensive means or satisfying this need is to increase surveillance and inspections of this cargo at the most appropriate handling point prior to the transfer of the property to the direct air carrier.

## Indirect Air Carriers

Accordingly, to reduce the possibilities of an act of sabotage, including an in-flight bomb explosion, the FAA has found it necessary to require, by regulation, all indirect air carriers to put into use a system acceptable to the Administrator, which

is intended to prevent or deter the introduction into package cargo of any unauthorized explosive or incendiary device. This regulation has been coordinated with the United States Postal Service and the requirements of this rule are fully consistent with similar requirements with respect to parcel air mail set forth in a Memorandum of Understanding on this subject between the United States Postal Service and the Federal Aviation Administration. A model standard security program which meets the requirements of this regulation is available upon request to authorized representatives of indirect air carriers from the Federal Aviation Administration, Office of Civil Aviation Security, ACS-100, 800 Independence Avenue, SW, Washington, D.C. 20591.

This regulation implements section 316 of the Federal Aviation Act (49 U.S.C. 1357), which requires, among other things, the Administrator to prescribe such reasonable rules and regulations requiring such practices, methods and procedures as he may deem necessary to protect persons and property aboard aircraft operating in air transportation against acts of criminal violence. This regulation also is consistent with the most recent expression of Congressional concern for maintaining the highest standard of aviation safety, as stated in Section 5(a) of the Airline Deregulation Act of 1978, (49 U.S.C. 1307(a)).

## Disclosure of Information

Part 191 of the Federal Aviation Regulations, "Withholding Security Information From Disclosure Under the Air Transportation Security Act of 1974," is being amended to limit the public availability of security programs of any indirect air carriers and the United States Postal Service.

## Emergency Rulemaking

Since a safety emergency exists which requires immediate action in the interest of ensuring safety in air commerce and air transportation, the Administrator finds that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

## Invitation to Comment

Interested persons are invited to submit such written data, views, or arguments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue,

SW, Washington, D.C. 20591. All communications received on or before February 11, 1980, will be considered by the Administrator and this FAR may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Docket Number 19840." The postcard will be date/time stamped and returned to the commenter.

## Adoption of the Amendment

Accordingly, the Federal Aviation Regulations (14 CFR Chapter I) are amended effective December 13, 1979, as follows:

1. By adding to Subchapter F (14 CFR Chapter I) a new Part 109 to read as follows:

## PART 109—INDIRECT AIR CARRIER SECURITY

## Sec.

109.1 Applicability.

109.3 Security program.

109.5 Approval of security programs and amendments.

Authority.—Secs. 313(a), 316, 601, 1005, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1357, 1421, and 1485); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

## § 109.1 Applicability.

(a) This part prescribes aviation security rules governing each air carrier, including each air freight forwarder and each cooperative shippers' association, engaged indirectly in air transportation of property;

(b) For the purposes of this part, "property" means any package cargo.

## § 109.3 Security program.

(a) Each indirect air carrier shall adopt and carry out a security program that—

(1) Is designed to prevent or deter the unauthorized introduction of any explosive or incendiary device into any package cargo intended for carriage by air;

(2) Is in writing and signed by the carrier or any person delegated authority in this matter;

(3) Includes a system of security safeguards acceptable to the Administrator; and

(4) Has been approved by the Administrator.

(b) Each indirect air carrier shall maintain at least one complete copy of

its security program at its principal business office, and a complete copy or the pertinent portions of its security program or appropriate implementing instructions at each office where package cargo is accepted, and shall make those documents available for inspection upon request of any Civil Aviation Security Inspector.

(c) Each indirect air carrier shall—

(1) Restrict the distribution, disclosure, and availability of information contained in the security program to persons with an operational need-to-know;

(2) Require those persons to keep that information confidential; and

(3) Refer requests for such information to the Director of the Office of Civil Aviation Security Service of the FAA.

## § 109.5 Approval of security programs and amendments.

(a) Each indirect air carrier shall submit its security program to the Administrator for approval. Each carrier engaged in the air transportation of property before December 13, 1979, shall submit its program no later than January 14, 1980. Each carrier not engaged in air transportation or intrastate air transportation of property before December 13, 1979, shall submit its program at least 30 days before the date it intends to engage in that transportation.

(b) Within 30 days after receipt of the program, the Administrator either approves the program or notifies the carrier as to modifications necessary for the program to comply with this part.

(c) Any person notified pursuant to paragraph (b) of this section may petition the Administrator to reconsider the notice to modify within 30 days after receipt of the notice and, except in the case of any emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(d) The Administrator may order amendment of an approved security program, if it is determined that safety and the public interest require the amendment, as follows:

(1) The Administrator notifies the carrier, in writing, of the proposed amendment, fixing a period of not less than 30 days within which it may submit written information, views, and arguments on the amendment.

(2) After considering all relevant material, the Administrator notifies the carrier of any amendment adopted, or rescinds the notice of the proposed amendment. The amendment becomes effective not less than 30 days after such person receives the notice, unless it petitions the Administrator to reconsider the amendment, in which

case the effective date is stayed by the Administrator.

(3) If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation or in air commerce that makes the procedure in this paragraph impracticable or contrary to the public interest he may issue an amendment, effective on the date the carrier receives notice of it, and not subject to stay. In such a case, the Administrator incorporates the findings and a brief statement of the reasons for it, in the notice of the amendment to be adopted.

(e) A carrier may submit a request to the Administrator to amend its program. The application must be filed with the Administrator at least 30 days before the date it proposes for the amendment to become effective, unless a shorter period is allowed by the Administrator. Within 15 days after receipt of a proposed amendment, the Administrator either approves or denies the request. Within 30 days after receiving from the Administrator a notice of refusal to approve the application for amendment, the applicant may petition the Administrator to reconsider the refusal to amend.

## PART 191—WITHHOLDING SECURITY INFORMATION FROM DISCLOSURE UNDER THE AIR TRANSPORTATION SECURITY ACT OF 1974

2. By adding a new paragraph (b)(10) to § 191.3 to read as follows:

## § 191 Records and information withheld.

\* \* \* \*

(b) \* \* \*

(10) The security program of any indirect air carrier and that portion of the security program of the United States Postal Service that relates to security of parcel mail to be transported by air.

(Secs. 313(a), 316, 601, and 1005, of the Federal Aviation Act of 1958 (49 U.S.C. secs. 1354(a), 1357, 1421, and 1485); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on December 10, 1979.

Langhorne Bond,  
Administrator.

[FR Doc. 79-38286 Filed 12-12-79; 8:45 am]

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## Part VII

### The President

Proclamation 4707—to Carry Out the Geneva  
(1979) Protocol to the General Agreement on  
Tariffs and for Other Purposes



## Presidential Documents

Title 3—

The President

Proclamation 4707 of December 11, 1979

### Proclamation to Carry Out the Geneva (1979) Protocol to the General Agreement on Tariffs and Trade and for Other Purposes

By the President of the United States of America.

#### A Proclamation

1. Pursuant to Section 101(a) of the Trade Act of 1974 (19 U.S.C. 2111(a)), I determined that certain existing duties and other import restrictions of the United States and of foreign countries were unduly burdening and restricting the foreign trade of the United States and that one or more of the purposes stated in Section 2 of the Trade Act of 1974 (19 U.S.C. 2102) would be promoted by entering into the trade agreements identified in the third and fourth recitals of this proclamation.

2. Sections 131, 132, 133, 134, 135, and 161(b) of the Trade Act of 1974 (19 U.S.C. 2151, 2152, 2153, 2154, 2155, and 2211(b)) and Section 4(c) of Executive Order No. 11846 of March 27, 1975, (3 CFR 1971-1975 Comp. 974), have been complied with.

3. Pursuant to Section 101(a)(1) of the Trade Act of 1974 (19 U.S.C. 2111(a)(1)), I, through my duly empowered representative, (1) on July 11, 1979, entered into a trade agreement with other contracting parties to the General Agreement on Tariffs and Trade (61 Stat. (pts. 5 and 6)), as amended (the General Agreement), with countries seeking to accede to the General Agreement, and the European Economic Community, which agreement consists of the Geneva (1979) Protocol to the General Agreement, including a schedule of United States concessions annexed thereto (hereinafter referred to as "Schedule XX (Geneva-1979)"), a copy of which Geneva (1979) Protocol (including Schedule XX (Geneva-1979) annexed thereto) is annexed to this proclamation as Part 1 of Annex I, (2) on November 18, 1978, entered into a trade agreement with the Hungarian People's Republic, including a schedule of United States concessions annexed thereto, a copy of which agreement, and schedule, is annexed to this proclamation as Part 2 of Annex I, (3) on October 31, 1979, entered into a trade agreement with the United Mexican States, which agreement consists of an exchange of letters, one enclosing a schedule of United States concessions, a copy of which exchange of letters, including such enclosed schedule, is annexed to this proclamation as Part 3 of Annex I, and (4) on March 2, 1979, entered into a trade agreement with the Socialist Republic of Romania, which agreement consists of an exchange of letters, one enclosing a schedule of United States concessions, a copy of which exchange of letters, including such enclosed schedule, is annexed to this proclamation as Part 4 of Annex I; and on October 24, 1979, the American Institute in Taiwan entered into a trade agreement with the Coordination Council for North American Affairs (see the Taiwan Relations Act, Sections 4(b)(1), 6(a)(1), and 10(a), 93 Stat. 15, 17, and 18, E.O. 12143, sections 1-203 and 1-204, 44 Fed. Reg. 37191), which agreement consists of an exchange of letters, one enclosing a schedule of the United States concessions, a copy of which exchange of letters, including such enclosed schedule, is annexed to this proclamation as Part 5 of Annex I.

4. Pursuant to Section 102 of the Trade Act of 1974 (19 U.S.C. 2112), I have determined that barriers to (and other distortions of) international trade were unduly burdening and restricting the foreign trade of the United States, and, through the Special Representative for Trade Negotiations (the Special Repre-

sentative), I have consulted with the appropriate Committees of the Congress, notified the House of Representatives and the Senate of my intention to enter into the agreements identified in Section 2(c) of the Trade Agreements Act of 1979 (93 Stat. 148), transmitted to the Congress copies of such agreements (a copy of one of which agreements, with the Hungarian People's Republic, is annexed to this proclamation as Part 6 of Annex I), together with a draft of an implementing bill and a statement of administrative action, and such implementing bill, approving the agreements and the proposed administrative action, has been enacted into law (Section 2(a) of the Trade Agreements Act of 1979 (93 Stat. 147)).

5.(a) Pursuant to Section 502 of the Trade Agreements Act of 1979 (93 Stat. 251), I have determined that appropriate concessions have been received from foreign countries under trade agreements entered into under Title I of the Trade Act of 1974 (19 U.S.C. 2111 *et seq.*);

(b) Pursuant to Section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267), I have determined that duty-free treatment for certain articles now classified in the items of the Tariff Schedules of the United States (19 U.S.C. 1202) (TSUS) listed in, and certified pursuant to, Section 601(a)(2) of that Act (93 Stat. 267), will provide treatment comparable to that provided by foreign countries under the Agreement on Trade in Civil Aircraft;

(c) Pursuant to Section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251), I have determined, after providing interested parties an opportunity to comment, that each article identified in Annex IV to this proclamation is not import sensitive;

(d) Pursuant to Section 855(a) of the Trade Agreements Act of 1979 (93 Stat. 295), I have determined that adequate reciprocal concessions have been received, under trade agreements entered into under the Trade Act of 1974, for the application of the rate of duty appearing in rate column numbered 1 on January 1, 1979, for the comparable item on a proof gallon basis in the case of alcoholic beverages classified in all items in subpart D of part 12 of schedule 1 of the TSUS, except items 168.09, 168.12, 168.43, 168.77, 168.81, 168.87, and 168.95;

(e) Pursuant to Section 2(b)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 147), I have determined that obligations substantially the same as those applicable to developing countries set forth in the agreements listed in Section 2(c)(1), (2), (3), (4), and (5) of that Act (93 Stat. 148) will be observed in Taiwan.

6. Each modification of existing duty proclaimed herein which provides with respect to an article for a decrease in duty below the limitation specified in Sections 101(b)(1) or 109(a) of the Trade Act of 1974 (19 U.S.C. 2111(b)(1) or 2119(a)), and each modification of any other import restriction or tariff provision so proclaimed is authorized by one or more of the following provisions or statutes:

(a) Section 101(b)(2) of the Trade Act of 1974 (19 U.S.C. 2111(b)(2)), by virtue of the fact that the rate of duty existing on January 1, 1975, applicable to the article was not more than 5 percent ad valorem (or ad valorem equivalent);

(b) Section 109(b) of the Trade Act of 1974 (19 U.S.C. 2119(b)), by virtue of the fact that I have determined, pursuant to that section, that the decrease authorized by that section will simplify the computation of the amount of duty imposed with respect to the article;

(c) Sections 503(a)(2)(A) and 503(a)(3) to (6) of the Trade Agreements Act of 1979 (93 Stat. 251 and 252) by virtue of the fact that they permit departures from the staging provisions of Section 109(a) of the Trade Act of 1974 (19 U.S.C. 2119(a));

(d) Sections 502(a), 855(a), and 601(a) of the Trade Agreements Act of 1979 (93 Stat. 251, 295, and 267) by virtue of the authority in such sections for specified concessions based on reciprocity, but in the case of the last such section only after the conditions for acceptance of the Agreement on Trade in Civil Aircraft, identified in Section 2(c)(10) of that Act (93 Stat. 148), are fulfilled;



(e) Sections 505 through 513, inclusive, of the Trade Agreements Act of 1979 (93 Stat. 252-257) by virtue of the fact that they permit exceeding the limitations specified in Sections 101 or 109 of the Trade Act of 1974 (19 U.S.C. 2111 or 2119);

(f) Section 255 of the Trade Expansion Act of 1962 (19 U.S.C. 1885) by virtue of the fact that it permits termination of proclamations issued pursuant to authority contained in that act;

(g) Section 2(a) of the Trade Agreements Act of 1979 (93 Stat. 147) by virtue of its approval of the agreements identified in Section 2(c) of that Act (93 Stat. 148); and

(h) Section 304(a)(3)(J) of the Tariff Act of 1930 (19 U.S.C. 1304(a)(3)(J)) and Section 602(f) of the Trade Act of 1974 (19 U.S.C. 2101 note), by virtue of the fact that I have found that the effectiveness of the proviso to Section 304(a)(3)(J) with respect to the marking of articles provided for in headnote 2 of part 1 of schedule 2 of the TSUS is required or appropriate to carry out the first agreement identified in the third recital of this proclamation.

7. In the case of each decrease in duty, including those of the type specified in clause (a) or (b) of the sixth recital of this proclamation, which involves the determination of the ad valorem equivalent of a specific or compound rate of duty, and in the case of each modification in the form of an import duty, the United States International Trade Commission determined, pursuant to Section 601(4) of the Trade Act of 1974 (19 U.S.C. 2481(4)) in accordance with Section 4(e) of Executive Order No. 11846 of March 27, 1975, (3 CFR 1971-1975 Comp. 973), and at my direction, the ad valorem equivalent of the specific or compound rate, on the basis of the value of imports of the article concerned during a period determined by it to be representative, utilizing, to the extent practicable, the standards of valuation contained in Sections 402 and 402a of the Tariff Act of 1930 (19 U.S.C. 1401a and 1402) applicable to the article during such representative period.

8. Pursuant to the Trade Act of 1974 and the Trade Agreements Act of 1979, I determine that the modification or continuance of existing duties or other import restrictions or the continuance of existing duty-free or excise treatment hereinafter proclaimed is required or appropriate to carry out the trade agreements identified in the third recital of this proclamation or one or more of the trade agreements identified in Section 2(c) of the Trade Agreements Act of 1979 (93 Stat. 148).

9. Following unsatisfactory negotiations with the European Economic Community under Articles XXIV:6 and XXVIII of the General Agreement regarding the maintenance by the European Economic Community of unreasonable import restrictions upon imports of poultry from the United States, the President, by Proclamation 3564 of December 4, 1963 (77 Stat. 1035), suspended certain United States tariff concessions; as a result of the reciprocal concessions contained in the Geneva (1979) Protocol to the General Agreement, I determine that the termination of such suspension of tariff concessions contained in Proclamation 3564 (except those applicable to automobile trucks valued at \$1,000 or more (provided for in TSUS item 692.02)) is required to carry out the General Agreement.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including but not limited to Title I and Section 604 of the Trade Act of 1974, Section 2 and Titles V, VI, and VIII of the Trade Agreements Act of 1979, Section 255 of the Trade Expansion Act of 1962, and Section 301 of Title 3 of the United States Code, do proclaim that:

(1) At the close of December 31, 1979, the suspension of tariff concessions contained in Proclamation 3564 (except those applicable to automobile trucks valued at \$1,000 or more (provided for in TSUS item 692.02)) shall terminate.

(2) The amendment to Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) provided for in Section 601(a)(3) of the Trade Agreements Act of 1979 (93 Stat.

268) shall be effective with respect to entries made under Section 466 on and after the date designated by the President under paragraph 5(b) of this proclamation.

(3) The rate of duty applicable to each item as to which the determination has been made in recital 5(d) is the rate of duty appearing in rate column numbered 1 on January 1, 1979, for the comparable item on a proof gallon basis or such rate as reduced under Section 101 of the Trade Act of 1974 (19 U.S.C. 2111).

(4) Subject to the provisions of the General Agreement, of the Geneva (1979) Protocol, of other agreements supplemental to the General Agreement, of the other agreements identified in recitals 3 and 4, and of United States law (including but not limited to provisions for more favorable treatment), the modification or continuance of existing duties or other import restrictions and the continuance of existing duty-free or excise treatment provided for in Schedule XX (Geneva-1979) (except those provided for in the items listed in Parts 1C, 1D, 2D, 2E, 2K, 3C, 3D, 4C, and 4D of Annex I to Schedule XX which are required to implement the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, and those provided for in Section 1, Chapter 4, Unit C, Note 2 (cheese quotas), and in Section 1, Chapter 10, Unit B, note 2 (chocolate quotas), all of which will be the subject of one or more separate proclamations), in the agreements identified in the third and fourth recitals of this proclamation, and in trade agreements legislation, shall become effective on or after January 1, 1980, as provided for herein.

(5) To this end—

(a) Except as provided in subparagraph (b), the modifications to the TSUS made by Annex II, Section A of Annex III, and Sections B(1) through (4) of Annex IV of this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after the effective dates specified in those annexes;

(b) The modifications provided for in Section A of Annex II to this proclamation which are authorized by Section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267) shall apply to articles entered, or withdrawn from warehouse, for consumption on and after the date designated by the President when he determines that the requirements of Section 2(b) of the Trade Agreements Act of 1979 (93 Stat. 147) have been met with respect to the Agreement on Trade in Civil Aircraft;

(c) The Special Representative shall make any determinations relevant to the designation of the effective dates of the modifications of the TSUS made by Sections B through G of Annex III, and Sections B (5) through (10) of Annex IV of this proclamation, and shall publish in the Federal Register the effective date with respect to each of the modifications made by these sections; such modifications shall apply to articles entered, or withdrawn from warehouse, for consumption on and after such effective date;

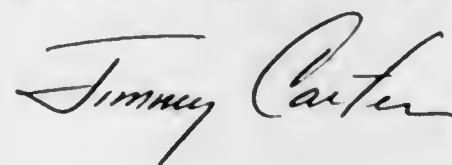
(d) The modifications to the TSUS made by Section C of Annex IV to this proclamation, relating to special treatment for the least developed developing countries (LDDC's), shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after the effective dates as provided for in Section B of Annex IV; whenever the rate of duty specified in the column numbered 1 for any TSUS item is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, the rate of duty in the column entitled "LDDC" shall be deleted from the TSUS, and when the duty rates for all such items in Annex IV have been deleted, the modifications to the TSUS made by Section C of Annex IV to this proclamation shall be deleted;

(e) Section A of Annex IV shall become effective on January 1, 1980.



IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of December, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

THE WHITE HOUSE,  
December 11, 1979.



## ANNEX I

TEXTS OF AGREEMENTS IDENTIFIED IN THE THIRD AND FOURTH  
RECITALS OF THIS PROCLAMATION 1/

- Part 1 Geneva (1979) Protocol to the General Agreement on Tariffs and Trade (Including Schedules of Concessions)
- Part 2 Trade Agreement with the People's Republic of Hungary Entered Into on November 18, 1979
- Part 3 Trade Agreement with the United Mexican States Entered Into on October 31, 1979
- Part 4 Trade Agreement with the Socialist Republic of Romania Entered Into on March 2, 1979
- Part 5 Trade Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs Entered Into on October 24, 1979
- Part 6 Agreement with the Hungarian People's Republic Entered Into on June 13, 1979

1/ Not printed in the Federal Register. The text of the Geneva (1979) Protocol to the General Agreement in part 1 of Annex I has been printed by the Contracting Parties to the General Agreement on Tariffs and Trade in four volumes entitled Geneva (1979) Protocol to the General Agreements on Tariffs and Trade. The Agreement with the Hungarian People's Republic in part 6 of Annex I has been printed in House Document 96-153, vol. 1, p. 703. The general provisions of all the agreements in parts 1 to 6 of annex I, but not schedules of concessions by other parties, will be printed in the Customs Bulletin. The texts of all these agreements will be printed in Treaties and Other International Acts Series, and in the bound volumes of United States Treaties and Other International Agreements.



## ANNEX II

GENERAL MODIFICATIONS OF THE TARIFF  
SCHEDULES OF THE UNITED STATES

## Notes:

1. A rate of duty specifically set forth in this Annex which does not reflect a trade agreement concession granted in Schedule XX (Geneva-1979) is enclosed in brackets. Such bracketed rates are included in this Annex in cases in which items in the Tariff Schedules of the United States are subdivided or redesignated as required or appropriate to carry out trade agreement concessions. Additional bracketed matter is included to assist in the understanding of proclaimed modifications.

2. In instances in this Annex in which one or more complete items, with or without preceding superior descriptions, supersede matter now in the Tariff Schedules of the United States, the items and superior descriptions are set forth in columnar form, and material in such columns is inserted in the columns designated, "Item", "Articles", "Rates of Duty 1", and "Rates of Duty 2", respectively, in the Tariff Schedules of the United States.

Subject to the above notes and to the insertion, as indicated herein, of the appropriate rates of duty set forth in Annex III to this proclamation, the Tariff Schedules of the United States are modified as follows:

Section A. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1980 1/:Schedule 1, Part 2, Subpart B

1. Item 106.20 is superseded by: (as provided in the Trade Agreements Act of 1979, Sec. 505)

|             |                                                        |
|-------------|--------------------------------------------------------|
| [Meats...:] |                                                        |
| "106.22     | Sheep (except lambs)..... [See Annex III] [5¢ per lb.] |
| 106.25      | Goats..... [See Annex III] [5¢ per lb.]";              |

1/ Except that proposed headnote 3 to part 6C of schedule 6 of the TSUS and the changes provided for in this annex with respect to the following item numbers will be effective as to articles entered, or withdrawn from warehouse, for consumption on and after this date only if the President determines, in accordance with section 601(a) of the Trade Agreements Act of 1979 (93 Stat. 267), that the conditions under section 2(b) of that Act (93 Stat. 147) on acceptance of the Agreement on Trade in Civil Aircraft have been fulfilled:

|        |        |        |        |        |
|--------|--------|--------|--------|--------|
| 518.52 | 661.14 | 682.08 | 686.21 | 711.33 |
| 544.43 | 661.17 | 682.42 | 686.25 | 711.39 |
| 642.22 | 661.22 | 682.46 | 686.62 | 711.76 |
| 647.04 | 661.37 | 682.61 | 688.14 | 711.81 |
| 647.07 | 661.91 | 683.62 | 688.42 | 712.00 |
| 652.11 | 661.97 | 684.26 | 694.16 | 712.06 |
| 653.41 | 662.52 | 684.31 | 694.21 | 712.48 |
| 653.98 | 664.12 | 684.42 | 694.41 | 712.52 |
| 660.58 | 676.16 | 684.51 | 694.62 | 715.16 |
| 660.61 | 676.31 | 684.72 | 709.46 | 720.09 |
| 660.69 | 678.48 | 685.25 | 710.09 | 727.49 |
| 660.73 | 680.61 | 685.31 | 710.15 | 727.51 |
| 660.87 | 680.65 | 685.41 | 710.17 | 727.56 |
| 660.99 | 680.75 | 685.61 | 710.31 | 772.46 |
| 661.08 | 680.78 | 685.72 | 710.47 | 772.67 |

If such a determination is not made prior to January 1, 1980, these changes shall become effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date designated by the President after such determination has been made.

2. Item 107.60 is superseded by: (as provided in the Trade Agreements Act of 1979, Sec. 506)

[Beef...:]

[Other:]

"Valued over 30 cents per pound:  
Prepared, whether fresh,  
chilled or frozen, but not  
otherwise preserved:

|        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                 |                 |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|
| 107.61 | Beef specially processed into fancy cuts, special shapes, or otherwise made ready for particular uses by the retail consumer (but not ground or comminuted, diced or cut into sizes for stew meat or similar uses, or rolled or skewered), which meets the specifications in regulations issued by the U.S. Department of Agriculture for Prime or Choice beef, and which has been so certified prior to exportation by an official of the government of the exporting country, in accordance with regulations issued by the Secretary of the Treasury after consultation with the Secretary of Agriculture..... | [See Annex III] | [20% ad val.]   |
| 107.62 | Other.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | [10% ad val.]   | [20% ad val.]   |
| 107.63 | Other.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | [See Annex III] | [20% ad val.]"; |

3. Item 107.75 is superseded by:

[Other...:]

[Other:]

"Valued over 30 cents per pound:

|        |                                       |                 |                 |
|--------|---------------------------------------|-----------------|-----------------|
| 107.76 | Lamb or mutton (excluding offal)..... | [See Annex III] | [20% ad val.]   |
| 107.78 | Other.....                            | [5% ad val.]    | [20% ad val.]"; |

Schedule 1, Part 4, Subpart C

4. Item 117.40 is superseded by:

|         |                    |                 |                 |
|---------|--------------------|-----------------|-----------------|
| "117.42 | Goya cheese.....   | [25% ad val.]   | [35% ad val.]   |
| 117.44  | Sbrinz cheese..... | [See Annex III] | [35% ad val.]"; |



5. Item 117.85 is superseded by:

|        |                                                                                                                                                                                                                       |                 |                 |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|
|        | [Other....:]                                                                                                                                                                                                          |                 |                 |
|        | [Other:]                                                                                                                                                                                                              |                 |                 |
|        | [Valued....:]                                                                                                                                                                                                         |                 |                 |
|        | "Other:                                                                                                                                                                                                               |                 |                 |
| 117.86 | Cheese and substitutes for cheese, whether or not in original loaves, containing, or processed from Romano, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz, and Goya, all the foregoing made from cow's milk..... | [See Annex III] | [35% ad val.]   |
| 117.88 | Other.....                                                                                                                                                                                                            | [10% ad val.]   | [35% ad val.]"; |

Schedule 1, Part 5, Subpart A

6. Schedule 1, part 5A is modified by adding the following new item in numerical sequence:

|         |                   |                 |                 |
|---------|-------------------|-----------------|-----------------|
|         | [Leather....:]    |                 |                 |
|         | [Other:]          |                 |                 |
|         | [Other:]          |                 |                 |
|         | [Not....:]        |                 |                 |
|         | [Other:]          |                 |                 |
| "121.62 | Goat and kid..... | [See Annex III] | [25% ad val.]"; |

Schedule 1, Part 6, Subpart A

7. Item 125.30 is superseded by:

|        |                                              |                 |                 |
|--------|----------------------------------------------|-----------------|-----------------|
|        | [Bulbs....:]                                 |                 |                 |
|        | "Other, imported for horticultural purposes: |                 |                 |
| 125.32 | With soil attached to roots.....             | [See Annex III] | [30% ad val.]   |
| 125.34 | Other.....                                   | [5.5% ad val.]  | [30% ad val.]"; |

8. Item 125.80 is superseded by:

|        |                                                                 |                 |                 |
|--------|-----------------------------------------------------------------|-----------------|-----------------|
|        | "Live plants suitable for planting, not specially provided for: |                 |                 |
| 125.82 | With soil attached to roots.....                                | [See Annex III] | [25% ad val.]   |
| 125.84 | Other.....                                                      | [7.5% ad val.]  | [25% ad val.]"; |

Schedule 1, Part 7, Subpart A

9. Item 130.10 is superseded by:

|        |                           |                           |                            |
|--------|---------------------------|---------------------------|----------------------------|
|        | "Barley:                  |                           |                            |
| 130.08 | For malting purposes..... | [See Annex III]           | [20c per bu. of 48 lbs.]   |
| 130.11 | Other.....                | [7.5c per bu. of 48 lbs.] | [20c per bu. of 48 lbs.]"; |

10. Items 130.35 and 130.36 are superseded by:

|        |                          |                               |                          |
|--------|--------------------------|-------------------------------|--------------------------|
|        | [Corn....:]              |                               |                          |
|        | "Other:                  |                               |                          |
| 130.32 | Yellow dent corn.....    | [See Annex III]               | [25c per bu. of 56 lbs.] |
| 130.37 | Other.....               | [25c per bu. of 56 lbs.]      | [25c per bu. of 56 lbs.] |
| 130.38 | If products of Cuba..... | [10c per bu. of 56 lbs. (s)]" |                          |

[(s) = Suspended. See general headnote 3(b).];

11. Item 130.55 is superseded by:

|        |                                         |                |                  |
|--------|-----------------------------------------|----------------|------------------|
|        | [Rice:]                                 |                |                  |
|        | "Brown (hulls removed, all or in part): |                |                  |
| 130.56 | Basmati.....                            | 0.6c per lb.   | [1.5c per lb.]   |
| 130.58 | Other.....                              | [1.5c per lb.] | [1.5c per lb.]"; |

Schedule 1, Part 7, Subpart B

12. Schedule 1, Part 7B is modified by deleting items 131.21 and 131.31;

Schedule 1, Part 8, Subpart A

13. Item 135.41 is modified by deleting the rates of duty in rate columns numbered 1 and 2 and inserting in lieu thereof "1c per lb." and "8c per lb.", respectively (as provided in the Trade Agreements Act of 1979, Sec. 508);
14. Item 135.42 is modified by deleting the rates of duty in rate columns numbered 1 and 2 and inserting in lieu thereof "0.5c per lb." and "4c per lb.", respectively (as provided in the Trade Agreements Act of 1979, Sec. 508);



15. Item 136.98 is superseded by:

|                    |                  |                |                  |
|--------------------|------------------|----------------|------------------|
| [Vegetables....]   |                  |                |                  |
| [Peas:]            |                  |                |                  |
| [If....]           |                  |                |                  |
| "Fresh or chilled: |                  |                |                  |
| 136.94             | Pigeon peas..... | Free           | [3.9c per lb.]   |
| 136.95             | Other.....       | [0.5c per lb.] | [3.9c per lb.]"; |

16. Item 136.99 is superseded by:

|                  |                  |              |                  |
|------------------|------------------|--------------|------------------|
| [Vegetables....] |                  |              |                  |
| [Peas:]          |                  |              |                  |
| [If....]         |                  |              |                  |
| "Frozen:         |                  |              |                  |
| 136.96           | Pigeon peas..... | Free         | [3.9c per lb.]   |
| 136.97           | Other.....       | [1c per lb.] | [3.9c per lb.]"; |

17. Item 137.01 is superseded by:

|                  |                  |                 |                  |
|------------------|------------------|-----------------|------------------|
| [Vegetables....] |                  |                 |                  |
| [Peas:]          |                  |                 |                  |
| "Other:          |                  |                 |                  |
| 137.02           | Pigeon peas..... | [See Annex III] | [3.9c per lb.]   |
| 137.04           | Other.....       | [2c per lb.]    | [3.9c per lb.]"; |

18. Item 137.86 is superseded by the following new items which are to be inserted in numerical sequence:

|                  |                              |                 |                 |
|------------------|------------------------------|-----------------|-----------------|
| [Vegetables....] |                              |                 |                 |
| [Other:]         |                              |                 |                 |
| "137.78          | Fiddlehead ferns.....        | [See Annex III] | [50% ad val.]   |
| 137.82           | Yams and sweet potatoes..... | [See Annex III] | [50% ad val.]   |
| 137.84           | Other.....                   | [25% ad val.]   | [50% ad val.]"; |

19. Item 138.50 is superseded by:

|                  |                           |                 |                 |
|------------------|---------------------------|-----------------|-----------------|
| [Vegetables....] |                           |                 |                 |
| "138.25          | Kidney beans, frozen..... | [See Annex III] | [35% ad val.]   |
| 138.30           | Rutabagas.....            | [See Annex III] | [35% ad val.]   |
| 138.40           | Other.....                | [17.5% ad val.] | [35% ad val.]"; |

#### Schedule 1, Part 8, Subpart B

20. Item 140.55 is superseded by:

|                  |              |                 |                 |
|------------------|--------------|-----------------|-----------------|
| [Vegetables....] |              |                 |                 |
| [Dried....]      |              |                 |                 |
| "140.54          | Carrots..... | [See Annex III] | [35% ad val.]   |
| 140.56           | Other.....   | [13% ad val.]   | [35% ad val.]"; |

#### Schedule 1, Part 8, Subpart C

21. Item 141.21 is deleted and items 141.79 and 141.81 are superseded by the following new items which are to be inserted in numerical sequence:

|                  |                                           |                 |                 |
|------------------|-------------------------------------------|-----------------|-----------------|
| [Vegetables....] |                                           |                 |                 |
| [Other:]         |                                           |                 |                 |
| "Other:          |                                           |                 |                 |
| 141.78           | Bamboo shoots in airtight containers..... | [See Annex III] | [35% ad val.]   |
| 141.82           | Carrots in airtight containers.....       | [See Annex III] | [35% ad val.]   |
| 141.83           | Corn in airtight containers.....          | [See Annex III] | [35% ad val.]   |
| 141.84           | Kidney beans in airtight containers.....  | [See Annex III] | [35% ad val.]   |
| 141.85           | Palm hearts.....                          | [See Annex III] | [35% ad val.]   |
| 141.86           | Potatoes.....                             | [See Annex III] | [35% ad val.]   |
| 141.87           | Sweet ginger.....                         | [See Annex III] | [35% ad val.]   |
| 141.88           | Other.....                                | [17.5% ad val.] | [35% ad val.]"; |

#### Schedule 1, Part 9, Subpart A

22. Item 145.49 is deleted and item 145.60 is superseded by:

|               |                                                        |                 |                 |
|---------------|--------------------------------------------------------|-----------------|-----------------|
| [Other....]   |                                                        |                 |                 |
| [Shelled....] |                                                        |                 |                 |
| [Other....]   |                                                        |                 |                 |
| "Other:       |                                                        |                 |                 |
| 145.65        | Litchi (lychee) or longan, in airtight containers..... | [See Annex III] | [35% ad val.]   |
| 145.70        | Other.....                                             | 28% ad val.     | [35% ad val.]"; |

#### Schedule 1, Part 9, Subpart B

23. Items 146.68, 146.70, 146.73, and 146.75, including the superior heading thereto, are superseded by:

|                                  |                                                                                 |                 |                 |
|----------------------------------|---------------------------------------------------------------------------------|-----------------|-----------------|
| [Berries....]                    |                                                                                 |                 |                 |
| "Frozen:                         |                                                                                 |                 |                 |
| 146.68                           | Blueberries.....                                                                | Free            | [35% ad val.]   |
| 146.69                           | Black currants, gooseberries, lingon or partridge berries and loganberries..... | [7% ad val.]    | [35% ad val.]   |
| 146.71                           | Cranberries.....                                                                | [See Annex III] | [35% ad val.]   |
| 146.74                           | Raspberries.....                                                                | [See Annex III] | [35% ad val.]   |
| 146.76                           | Strawberries.....                                                               | [14% ad val.]   | [35% ad val.]   |
| 146.77                           | Other berries.....                                                              | [14% ad val.]   | [35% ad val.]   |
| Otherwise prepared or preserved: |                                                                                 |                 |                 |
| 146.79                           | Blueberries.....                                                                | [3.5% ad val.]  | [35% ad val.]   |
| 146.82                           | Black currants, gooseberries, lingon or partridge berries and loganberries..... | [17% ad val.]   | [35% ad val.]   |
| 146.83                           | Cranberries.....                                                                | [See Annex III] | [35% ad val.]   |
| 146.84                           | Raspberries.....                                                                | [See Annex III] | [35% ad val.]   |
| 146.85                           | Strawberries.....                                                               | [14% ad val.]   | [35% ad val.]   |
| 146.86                           | Other berries.....                                                              | [14% ad val.]   | [35% ad val.]"; |



24. Schedule 1, part 9B is modified by redesignating 146.80 as "146.87" and by deleting item 147.97;

25. Items 147.10 and 147.11 are superseded by:

|                                                                                      |                            |                    |                |
|--------------------------------------------------------------------------------------|----------------------------|--------------------|----------------|
| [Citrus...:]                                                                         |                            |                    |                |
| [Grapefruit:]                                                                        |                            |                    |                |
| "If entered during the period from August 1 to September 30, inclusive, in any year: |                            |                    |                |
| 147.03                                                                               | Fresh.....                 | [1c per lb.]       | [1.5c per lb.] |
| 147.04                                                                               | If product of Cuba.....    | [0.3c per lb. (s)] |                |
| 147.05                                                                               | Prepared or preserved..... | 0.6c per lb.       | [1.5c per lb.] |
| 147.06                                                                               | If product of Cuba.....    | [0.3c per lb. (s)] |                |
| [(s) = Suspended. See general headnote 3(b).];                                       |                            |                    |                |

26. Items 147.13 and 147.14 are superseded by:

|                                                |                            |                    |                |
|------------------------------------------------|----------------------------|--------------------|----------------|
| [Citrus...:]                                   |                            |                    |                |
| [Grapefruit:]                                  |                            |                    |                |
| "If entered during the month of October:       |                            |                    |                |
| 147.07                                         | Fresh.....                 | [0.8c per lb.]     | [1.5c per lb.] |
| 147.08                                         | If product of Cuba.....    | [0.6c per lb. (s)] |                |
| 147.09                                         | Prepared or preserved..... | 0.6c per lb.       | [1.5c per lb.] |
| [(s) = Suspended. See general headnote 3(b).]; |                            |                    |                |

27. Items 147.16 and 147.17 are superseded by:

|                                                                                                  |                            |                    |                |
|--------------------------------------------------------------------------------------------------|----------------------------|--------------------|----------------|
| [Citrus...:]                                                                                     |                            |                    |                |
| [Grapefruit:]                                                                                    |                            |                    |                |
| "If entered during the period from November 1, in any year, to the following July 31, inclusive: |                            |                    |                |
| 147.15                                                                                           | Fresh.....                 | [1.3c per lb.]     | [1.5c per lb.] |
| 147.16                                                                                           | If product of Cuba.....    | [1.2c per lb. (s)] |                |
| 147.17                                                                                           | Prepared or preserved..... | 0.6c per lb.       | [1.5c per lb.] |
| [(s) = Suspended. See general headnote 3(b).];                                                   |                            |                    |                |

28. Item 147.40 is superseded by:

|                                                                                                |                  |                 |                |
|------------------------------------------------------------------------------------------------|------------------|-----------------|----------------|
| [Dates...:]                                                                                    |                  |                 |                |
| [Fresh...:]                                                                                    |                  |                 |                |
| [With...:]                                                                                     |                  |                 |                |
| "Packed in units weighing (with the immediate container, if any) not more than 10 pounds each: |                  |                 |                |
| 147.38                                                                                         | Chiani type..... | [See Annex III] | [7.5c per lb.] |
| 147.41                                                                                         | Other.....       | [7.5c per lb.]  | [7.5c per lb.] |

29. Items 148.20, 148.21, 148.25, 148.30, and 148.31 are superseded by:

|                                                |                                                                                                    |                   |               |
|------------------------------------------------|----------------------------------------------------------------------------------------------------|-------------------|---------------|
| [Melons...:]                                   |                                                                                                    |                   |               |
| [Fresh:]                                       |                                                                                                    |                   |               |
| "Ogen and Galia melons:                        |                                                                                                    |                   |               |
| 148.19                                         | If entered during the period from December 1, in any year, to the following May 31, inclusive..... | [See Annex III]   | [35% ad val.] |
| 148.22                                         | If entered at any other time.....                                                                  | [See Annex III]   | [35% ad val.] |
| 148.23                                         | If product of Cuba.....                                                                            | [14% ad val. (s)] |               |
| 148.24                                         | Watermelons.....                                                                                   | [20% ad val.]     | [35% ad val.] |
| 148.26                                         | If product of Cuba.....                                                                            | [Free (s)]        |               |
| Other melons:                                  |                                                                                                    |                   |               |
| 148.27                                         | If entered during the period from December 1, in any year, to the following May 31, inclusive..... | [8.5% ad val.]    | [35% ad val.] |
| 148.32                                         | If entered at any other time.....                                                                  | [35% ad val.]     | [35% ad val.] |
| 148.33                                         | If product of Cuba.....                                                                            | [14% ad val. (s)] |               |
| [(s) = Suspended. See general headnote 3(b).]; |                                                                                                    |                   |               |

30. Items 149.19 and 149.20 are superseded by:

|             |                                                                                    |                 |                |
|-------------|------------------------------------------------------------------------------------|-----------------|----------------|
| [Plums...:] |                                                                                    |                 |                |
| [Fresh:]    |                                                                                    |                 |                |
| "149.18     | If entered during the period from January 1 to May 31, inclusive, in any year..... | [See Annex III] | [0.5c per lb.] |

31. Items 150.00 and 150.01 are superseded by:

|                                                         |                                                                                          |                   |               |
|---------------------------------------------------------|------------------------------------------------------------------------------------------|-------------------|---------------|
| "Mixtures of two or more fruits, prepared or preserved: |                                                                                          |                   |               |
| 150.02                                                  | In airtight containers and not containing apricots, citrus fruits, peaches or pears..... | [See Annex III]   | [35% ad val.] |
| 150.03                                                  | If products of Cuba.....                                                                 | [14% ad val. (s)] |               |
| 150.05                                                  | Other.....                                                                               | [17.5% ad val.]   | [35% ad val.] |
| 150.06                                                  | If products of Cuba.....                                                                 | [14% ad val. (s)] |               |
| [(s) = Suspended. See general headnote 3(b).];          |                                                                                          |                   |               |

#### Schedule 1, Part 9, Subpart D

32. Schedule 1, part 9D is modified by redesignating 154.55 as "154.53" and by inserting the following new item in numerical sequence:

|              |                                          |               |               |
|--------------|------------------------------------------|---------------|---------------|
| [Candied...] |                                          |               |               |
| "154.43      | Kumquats, mangoes, plums and prunes..... | See Annex III | [40% ad val.] |



## Schedule 1, Part 11, Subpart B

33. Item 161.59 is superseded by:

|        |                               |                 |                 |
|--------|-------------------------------|-----------------|-----------------|
| 161.58 | "Mustard, ground or prepared: |                 |                 |
| 161.60 | Ground.....                   | [See Annex III] | [10¢ per lb.]   |
|        | Other.....                    | [2¢ per lb.]    | [10¢ per lb.]"; |

## Schedule 1, Part 12

34. In schedule 1, part 12, the first sentence of headnote 2 is modified to read as follows:  
(as provided in the Trade Agreements Act of 1979, Sec. 851)

"The standard for determining the proof of brandy and other spirits or liquors of any kind when imported is the same as that which is defined in the laws relating to internal revenue.";

## Schedule 1, Part 12, Subpart C

35. Schedule 1, part 12C, headnote 1 is modified by deleting "item 168.52" and substituting "items 168.87 and 168.89" in lieu thereof;

## Schedule 1, Part 12, Subpart D

36. Items 168.05 through 168.90, inclusive, are superseded by:  
(as provided in the Trade Agreements Act of 1979, Sec. 852)

|                                          |                                                   |                       |                              |
|------------------------------------------|---------------------------------------------------|-----------------------|------------------------------|
| "Aquavit:                                |                                                   |                       |                              |
| 168.04                                   | In containers each holding not over 1 gallon..... | 42¢ per proof gal.    | [\$7.52 per proof gal.] [1/] |
| 168.06                                   | In containers each holding over 1 gallon.....     | 42¢ per proof gal.    | [\$5.00 per proof gal.] [1/] |
| Arrack:                                  |                                                   |                       |                              |
| 168.09                                   | In containers each holding not over 1 gallon...   | \$2.28 per proof gal. | [\$6.72 per proof gal.] [1/] |
| 168.11                                   | In containers each holding over 1 gallon.....     | \$1.00 per proof gal. | [\$5.00 per proof gal.] [1/] |
| Bitters of all kinds containing spirits: |                                                   |                       |                              |
| Not fit for use as beverages:            |                                                   |                       |                              |
| 168.12                                   | In containers each holding not over 1 gallon..... | \$1.04 per proof gal. | [\$5.56 per proof gal.] [1/] |
| 168.13                                   | In containers each holding over 1 gallon.....     | 94¢ per proof gal.    | [\$5.00 per proof gal.] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 852.]

## [Bitters....]

|                           |                                                   |                    |                               |
|---------------------------|---------------------------------------------------|--------------------|-------------------------------|
| Fit for use as beverages: |                                                   |                    |                               |
| 168.14                    | In containers each holding not over 1 gallon..... | 50¢ per proof gal. | [\$27.32 per proof gal.] [1/] |
| 168.16                    | In containers each holding over 1 gallon.....     | 50¢ per proof gal. | [\$5.00 per proof gal.] [1/]  |

## Brandy:

|                                               |                                     |                 |                              |
|-----------------------------------------------|-------------------------------------|-----------------|------------------------------|
| Pisco and singani:                            |                                     |                 |                              |
| In containers each holding not over 1 gallon: |                                     |                 |                              |
| 168.36                                        | Valued not over \$9 per gallon..... | [See Annex III] | [\$6.72 per proof gal.] [1/] |
| 168.37                                        | Valued over \$9 per gallon.....     | [See Annex III] | [\$6.72 per proof gal.] [1/] |
| In containers each holding over 1 gallon:     |                                     |                 |                              |
| 168.39                                        | Valued not over \$9 per gallon..... | [See Annex III] | [\$5.00 per proof gal.] [1/] |
| 168.41                                        | Valued over \$9 per gallon.....     | [See Annex III] | [\$5.00 per proof gal.] [1/] |

## Other:

|                                               |                                                   |                       |                               |
|-----------------------------------------------|---------------------------------------------------|-----------------------|-------------------------------|
| In containers each holding not over 1 gallon: |                                                   |                       |                               |
| 168.43                                        | Valued not over \$9 per gallon.....               | \$3.40 per proof gal. | [\$8.88 per proof gal.] [1/]  |
| 168.44                                        | Valued over \$9 but not over \$13 per gallon..... | \$1.25 per proof gal. | [\$8.88 per proof gal.] [1/]  |
| 168.49                                        | Valued over \$13 per gallon.....                  | [See Annex III]       | [\$8.88 per proof gal.] [1/]  |
| In containers each holding over 1 gallon:     |                                                   |                       |                               |
| 168.51                                        | Valued not over \$9 per gallon.....               | 50¢ per proof gal.    | [\$5.00 per proof gal.] [1/]  |
| 168.53                                        | Valued over \$9 per gallon.....                   | [See Annex III]       | [\$5.00 per proof gal.] [1/]  |
| Cordials, liquors, kirschwasser, and ratafia: |                                                   |                       |                               |
| 168.56                                        | In containers each holding not over 1 gallon..... | 50¢ per proof gal.    | [\$11.64 per proof gal.] [1/] |
| 168.58                                        | In containers each holding over 1 gallon.....     | 50¢ per proof gal.    | [\$5.00 per proof gal.] [1/]  |
| 168.60                                        | Ethyl alcohol for beverage purposes.....          | \$1.12 per proof gal. | [\$5.00 per proof gal.] [1/]  |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 852.]



|        |                                                                                                 |                          |                                    |
|--------|-------------------------------------------------------------------------------------------------|--------------------------|------------------------------------|
| 168.62 | Gin:<br>In containers each holding not<br>over 1 gallon.....                                    | 50¢ per<br>proof gal.    | [\$7.52 per<br>proof<br>gal.] [1/] |
| 168.63 | In containers each holding over<br>1 gallon.....                                                | 50¢ per<br>proof gal.    | [\$5.00 per<br>proof<br>gal.] [1/] |
| 168.65 | Rum (including <i>cana paraguaya</i> ):<br>In containers each holding not<br>over 1 gallon..... | [See Annex III]          | [\$7.52 per<br>proof<br>gal.] [1/] |
| 168.67 | In containers each holding over<br>1 gallon.....                                                | [See Annex III]          | [\$5.00 per<br>proof<br>gal.] [1/] |
| 168.69 | Whiskey:<br>Irish and Scotch:<br>In containers each holding<br>not over 1 gallon.....           | [See Annex III]          | [\$7.52 per<br>proof<br>gal.] [1/] |
| 168.71 | In containers each holding<br>over 1 gallon.....                                                | [See Annex III]          | [\$5.00 per<br>proof<br>gal.] [1/] |
| 168.73 | Other:<br>In containers each holding<br>not over 1 gallon.....                                  | [See Annex III]          | [\$7.74 per<br>proof<br>gal.] [1/] |
| 168.75 | In containers each holding<br>over 1 gallon.....                                                | [See Annex III]          | [\$5.00 per<br>proof<br>gal.] [1/] |
| 168.77 | Tequila:<br>In containers each holding not<br>over 1 gallon.....                                | \$2.27 per<br>proof gal. | [\$6.35 per<br>proof<br>gal.] [1/] |
| 168.79 | In containers each holding over<br>1 gallon.....                                                | \$1.25 per<br>proof gal. | [\$5.00 per<br>proof<br>gal.] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 852.]

|        |                                                                                                                                                                                                   |                          |                                     |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|
| 168.81 | Vodka:<br>In containers each holding not<br>over 1 gallon:<br>Valued not over \$7.75 per<br>gallon.....                                                                                           | \$2.56 per<br>proof gal. | [\$6.72 per<br>proof<br>gal.] [1/]  |
| 168.83 | Valued over \$7.75 per<br>gallon.....                                                                                                                                                             | [See Annex III]          | [\$6.72 per<br>proof<br>gal.] [1/]  |
| 168.85 | In containers each holding over<br>1 gallon.....                                                                                                                                                  | \$1.25 per<br>proof gal. | [\$5.00 per<br>proof<br>gal.] [1/]  |
| 168.87 | Other spirits, and preparations in chief<br>value of distilled spirits, fit for use<br>as beverages or for beverage purposes:<br>Spirits:<br>In containers each holding not<br>over 1 gallon..... | \$2.56 per<br>proof gal. | [\$6.72 per<br>proof<br>gal.] [1/]  |
| 168.89 | In containers each holding<br>over 1 gallon.....                                                                                                                                                  | \$1.25 per<br>proof gal. | [\$5.00 per<br>proof<br>gal.] [1/]  |
| 168.91 | Other:<br>In containers each holding not<br>over 1 gallon.....                                                                                                                                    | \$1.25 per<br>proof gal. | [\$15.33 per<br>proof<br>gal.] [1/] |
| 168.93 | In containers each holding<br>over 1 gallon.....                                                                                                                                                  | \$1.25 per<br>proof gal. | [\$5.00 per<br>proof<br>gal.] [1/]  |
| 168.95 | Imitations of brandy and other spirituous<br>beverages:<br>In containers each holding not<br>over 1 gallon.....                                                                                   | \$5.75 per<br>proof gal. | [\$8.88 per<br>proof<br>gal.] [1/]  |
| 168.97 | In containers each holding over<br>1 gallon.....                                                                                                                                                  | \$2.50 per<br>proof gal. | [\$5.00 per<br>proof<br>gal.] [1/]  |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 852.]

#### Schedule 1, Part 13

37. Schedule 1, part 13 is modified by deleting items 170.11 and 170.21;

#### Schedule 1, Part 14, Subpart A

38. Items 175.48 and 175.49 are superseded by:

|         |               |      |                   |
|---------|---------------|------|-------------------|
| "175.50 | Soybeans..... | Free | [2¢ per<br>lb.]"; |
|---------|---------------|------|-------------------|



## Schedule 1, Part 14, Subpart D

39. Item 178.10 is superseded by:

"Hydrogenated or hardened oils, fats, and greases; and lard substitutes whether or not containing lard:

|        |                   |                 |                       |
|--------|-------------------|-----------------|-----------------------|
| 178.15 | Rapeseed oil..... | [See Annex III] | [12.5% ad val.] [1/]  |
| 178.20 | Other.....        | [5¢ per lb.]    | [12.5% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

## Schedule 1, Part 15, Subpart B

40. Schedule 1, part 15B is modified by deleting item 182.93, by redesignating item 182.98 as "182.99", by deleting "182.93," and "182.98" in subpart headnote 3 and inserting "182.99", and by inserting the following new items in numerical sequence:

|         |                                                      |                 |                |
|---------|------------------------------------------------------|-----------------|----------------|
| "182.33 | Grass jelly.....                                     | [See Annex III] | [20% ad val.]  |
| 182.53  | Spring rolls and stuffed steamed bread dumplings.... | [See Annex III] | [20% ad val.]  |
| 182.60  | Watermelon seeds, prepared or preserved.....         | [See Annex III] | [20% ad val.]; |

## Schedule 1, Part 15, Subpart C

41. Item 184.52 is superseded by:

|              |                                          |                 |                 |
|--------------|------------------------------------------|-----------------|-----------------|
| [Soybean...] |                                          |                 |                 |
| "184.51      | Rapeseed oil cake and oil-cake meal..... | [See Annex III] | [0.3¢ per lb.]  |
| 184.53       | Other.....                               | [0.3¢ per lb.]  | [0.3¢ per lb.]; |

42. The following new item is inserted in numerical sequence:

|         |                                             |                 |                |
|---------|---------------------------------------------|-----------------|----------------|
| "184.58 | Wheat gluten to be used as animal feed..... | [See Annex III] | [20% ad val.]; |
|---------|---------------------------------------------|-----------------|----------------|

43. Item 184.75 is superseded by:

|             |                                                       |                 |                |
|-------------|-------------------------------------------------------|-----------------|----------------|
| [Animal...] |                                                       |                 |                |
| "Other:     |                                                       |                 |                |
| 184.80      | Animal feeds containing milk or milk derivatives..... | [7.5% ad val.]  | [20% ad val.]  |
| 184.85      | Other.....                                            | [See Annex III] | [20% ad val.]; |

## Schedule 1, Part 15, Subpart F

44. Item 191.15 is superseded by:

"Animal substances, crude, not specially provided for:

|        |                                       |                |                |
|--------|---------------------------------------|----------------|----------------|
| 191.16 | Bull semen of the bovine species..... | Free           | [10% ad val.]  |
| 191.18 | Other.....                            | [2.5% ad val.] | [10% ad val.]; |

## Schedule 1, Part 15, Subpart G

45. Item 192.20 is superseded by:

"Cut flowers, fresh; bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts:

|        |                                   |                 |                |
|--------|-----------------------------------|-----------------|----------------|
| 192.17 | Miniature (spray) carnations..... | [See Annex III] | [40% ad val.]  |
| 192.19 | Other.....                        | 8% ad val.      | [40% ad val.]; |

## Schedule 2, Part 4, Subpart D

46. Item 256.85 is superseded by:

[Articles...]  
[Other:]

|                                                                                                              |                                                                                                           |                 |                       |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------|-----------------------|
| "Of papers, coated, or of any of the papers provided for in items 253.25, 253.30, 253.35, 253.40, or 253.45: |                                                                                                           |                 |                       |
| 256.84                                                                                                       | Sanitary food and beverage containers, and other articles for serving or storing foods and beverages..... | [See Annex III] | [26.5% ad val.] [1/]  |
| 256.87                                                                                                       | Other.....                                                                                                | 5.6% ad val.    | [26.5% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



## Schedule 3, Headnotes

47. Schedule 3 is modified by adding the following new headnote after headnote 7:  
(as provided in the Trade Agreements Act of 1979, Sec. 504)

"8. In the case of each item in this schedule and schedule 7 on which the United States has agreed to reduce the rate of duty, pursuant to a trade agreement entered into under section 101 of the Trade Act of 1974 before January 3, 1980, on any cotton, wool, or manmade fiber textile product as defined in the Arrangement Regarding International Trade in Textiles, as extended on December 14, 1977 (the Arrangement), if the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, ceases to be in effect with respect to the United States before the total reduction in the rate of duty for such item under sections 101 and 109 of the Trade Act of 1974 has become effective, then the President shall proclaim the rate of duty in rate column numbered 1 for such item existing on January 1, 1975, to be the rate of duty effective, with respect to articles entered, or withdrawn from warehouse, for consumption, within 30 days after such cessation and until the President proclaims the continuation of such reduction under the next sentence. If subsequently the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, is in effect with respect to the United States, then the President shall proclaim the continuation of the reduction of such rate of duty pursuant to such trade agreement. For purposes of section 109(c)(2) of the Trade Act of 1974, any time when a rate of duty existing on January 1, 1975, is in effect under this headnote shall be time when part of such reduction is not in effect by reason of legislation of the United States or action thereunder."

## Schedule 3, Part 1, Subpart C

48. Schedule 3, part 1C is modified by adding the following new headnote after headnote 6:

"7. For the purposes of item 307.66, the term "average fiber diameter" means the sum of the individual fiber diameter measurements divided by the number of fibers measured."

49. Item 307.64 is superseded by:

[Yarns...:]  
[Other:]

|         |                                                                                                                        |               |                      |
|---------|------------------------------------------------------------------------------------------------------------------------|---------------|----------------------|
| "307.66 | Yarns, wholly of wool, of which the average fiber diameter of the fibers in the yarn is not less than 34.40 microns... | See Annex III | 55.5% ad val. [1/]   |
| 307.68  | Other.....                                                                                                             | See Annex III | 55.5% ad val.;" [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

## Schedule 4, Part 2, Subpart D

50. Schedule 4, part 2D is modified by adding the following new item in numerical sequence:

|         |                                         |                                     |                          |
|---------|-----------------------------------------|-------------------------------------|--------------------------|
| "428.41 | [Alcohols...:]<br>Neopentyl glycol..... | [1.5¢ per lb.<br>+ 7.5% ad<br>val.] | [54.5% ad<br>val.]; [1/] |
|---------|-----------------------------------------|-------------------------------------|--------------------------|

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

51. Schedule 4, part 2D is modified by redesignating item 428.46 as "428.47";

52. Schedule 4, part 2D is modified by deleting item 429.20 and substituting the following new items, in numerical sequence, in lieu thereof:

|         |                                                                      |                                     |                                   |
|---------|----------------------------------------------------------------------|-------------------------------------|-----------------------------------|
| "429.19 | [Halogenated...:]<br>Butylene dichloride and propylene dichloride... | [1.5¢ per lb.<br>+ 7.5% ad<br>val.] | [6¢ per lb.<br>+ 30% ad<br>val.]  |
| 429.29  | Ethylene dichloride.....                                             | [1.5¢ per lb.<br>+ 7.5% ad<br>val.] | [6¢ per lb.<br>+ 30% ad<br>val.]; |

V  
4  
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53. Item 429.52 is superseded by:

|                 |                                                                                                                                                           |                             |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| [Hydrocarbons:] |                                                                                                                                                           |                             |
| "Other:         |                                                                                                                                                           |                             |
| 429.54          | Hydrocarbons derived in whole or in part from petroleum, shale oil, or natural gas (except isoprene having a purity of 95 percent or more by weight)..... | [5% ad val.] [25% ad val.]  |
| 429.56          | Other.....                                                                                                                                                | [5% ad val.] [25% ad val.]; |

54. Item 430.00 is superseded by:

|                                             |                                                                                                                                  |                                                                                                                                                                              |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "Mixtures of two or more organic compounds: |                                                                                                                                  |                                                                                                                                                                              |
| 430.10                                      | Mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil, or natural gas..... | [5% ad val., but not less than the highest rate applicable to any component compound] [25% ad val., but not less than the highest rate applicable to any component compound] |
| 430.20                                      | Other.....                                                                                                                       | [See Annex III] [25% ad val., but not less than the highest rate applicable to any component compound];                                                                      |

Schedule 4, Part 2, Subpart E

55. Item 432.00 is superseded by:

|                                       |                                                                                                                                  |                                                                                                                                                                              |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "Mixtures not specially provided for: |                                                                                                                                  |                                                                                                                                                                              |
| 432.10                                | Mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil, or natural gas..... | [5% ad val., but not less than the highest rate applicable to any component material] [25% ad val., but not less than the highest rate applicable to any component material] |

|        |                              |                                                                                                         |
|--------|------------------------------|---------------------------------------------------------------------------------------------------------|
| 432.20 | [Mixtures...:]<br>Other..... | [See Annex III] [25% ad val., but not less than the highest rate applicable to any component material]; |
|--------|------------------------------|---------------------------------------------------------------------------------------------------------|

Schedule 4, Part 4, Subpart A

56. Items 445.40, 445.45 and 445.50 are superseded by:

|                                                                                                              |                                            |                                                     |
|--------------------------------------------------------------------------------------------------------------|--------------------------------------------|-----------------------------------------------------|
| [Synthetic...:]                                                                                              |                                            |                                                     |
| [Vinyl...:]                                                                                                  |                                            |                                                     |
| "Polyvinyl acetate and vinyl resins containing by weight 50 percent or more of derivatives of vinyl acetate: |                                            |                                                     |
| 445.42                                                                                                       | Polyvinyl alcohol resins.....              | [0.6c per lb. + 3% ad val.] [37.5% ad val.] [1/1]   |
| 445.44                                                                                                       | Other.....                                 | 4% ad val. [37.5% ad val.] [1/1]                    |
| Other:                                                                                                       |                                            |                                                     |
| 445.46                                                                                                       | Polyvinyl chloride resins.....             | [1.25c per lb. + 6% ad val.] [43.5% ad val.] [1/1]  |
| 445.48                                                                                                       | Other.....                                 | [1.25c per lb. + 6% ad val.] [43.5% ad val.] [1/1]  |
| 445.52                                                                                                       | Polypropylene resins.....                  | [1.3c per lb. + 10% ad val.] [33.5% ad val.] [1/1]  |
| 445.54                                                                                                       | Polytetrafluoroethylene (PTFE) resins..... | [1.3c per lb. + 10% ad val.] [33.5% ad val.] [1/1]  |
| 445.56                                                                                                       | Other.....                                 | [1.3c per lb. + 10% ad val.] [33.5% ad val.]; [1/1] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

Schedule 4, Part 13, Subpart B

57. Schedule 4, part 13B is modified by redesignating item 493.15 as "493.12";



58. Item 493.16 is superseded by:

|              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [Casein....] |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| "Other:      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 493.14       | Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported..... [1.3¢ per lb.] [5.5¢ per lb.] |
| 493.17       | Other..... 0.2¢ per lb. [5.5¢ per lb.]                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

Schedule 5, Part 1, Subpart F

59. Schedule 5, Part 1F is modified by adding the following new item in numerical sequence:

|          |                                                                                   |      |               |
|----------|-----------------------------------------------------------------------------------|------|---------------|
| [518.51] | [Articles....]                                                                    |      |               |
| "518.52  | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [25% ad val.] |

Schedule 5, Part 2, Subpart C

60. Schedule 5, part 2C is modified by: (as provided in the Trade Agreements Act of 1979, Sec. 509)

|                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                            |                 |               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| (a) deleting "(items 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, 533.68 and 533.69)" in headnote 2(a) and inserting in lieu thereof the following: "(items 533.22, 533.24, 533.62, and 533.64)"; |                                                                                                                                                                                                                                                                            |                 |               |
| (b) deleting "or (c)" in headnote 2(a);                                                                                                                                                                      |                                                                                                                                                                                                                                                                            |                 |               |
| (c) deleting "533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, or 533.68" in headnote 2(b) and inserting in lieu thereof the following: "533.22, 533.24, 533.62 or 533.64";                           |                                                                                                                                                                                                                                                                            |                 |               |
| (d) deleting "appraiser" in headnote 2(b) and inserting in lieu thereof "appropriate customs officer";                                                                                                       |                                                                                                                                                                                                                                                                            |                 |               |
| (e) inserting "sold or offered for sale," after "12 teacups and their saucers," in headnote 2(b);                                                                                                            |                                                                                                                                                                                                                                                                            |                 |               |
| (f) deleting headnote 2(c) and redesignating headnote 2(d) as 2(c); and                                                                                                                                      |                                                                                                                                                                                                                                                                            |                 |               |
| (g) deleting items 533.11 through 533.77, including the superior heading to such items, and inserting in lieu thereof the following:                                                                         |                                                                                                                                                                                                                                                                            |                 |               |
| "Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients:                                                                                                |                                                                                                                                                                                                                                                                            |                 |               |
| 533.11                                                                                                                                                                                                       | Of coarse-grained earthenware, or of coarse-grained stoneware.....                                                                                                                                                                                                         | [See Annex III] | [15% ad val.] |
| 533.15                                                                                                                                                                                                       | Of fine-grained earthenware, whether or not decorated, having a reddish-colored body and a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt..... | [See Annex III] | [25% ad val.] |

[Articles....]

Of fine-grained earthenware (except articles provided for in item 533.15) or of fine-grained stoneware:

|        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                 |                    |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|
| 533.20 | Hotel or restaurant ware and other ware not household ware .....                                                                                                                                                                                                                                                                                                                                                                                                                      | [See Annex III] | [55% ad val.] [1/] |
| 533.22 | Household ware available in specified sets:<br>In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over \$38.....                                                                                                                                                                                                                                                                                                             | [See Annex III] | [55% ad val.] [1/] |
| 533.24 | In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over \$38.....                                                                                                                                                                                                                                                                                                                                                                | [See Annex III] | [55% ad val.] [1/] |
| 533.29 | Household ware not available in specified sets:<br>Steins with permanently attached pewter lids.....                                                                                                                                                                                                                                                                                                                                                                                  | [See Annex III] | [55% ad val.] [1/] |
| 533.30 | Mugs and other steins.....                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 13.5% ad val.   | [55% ad val.] [1/] |
| 533.32 | Candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets.....                                                                                                                                                                                                                                                                             | [See Annex III] | [55% ad val.] [1/] |
| 533.34 | Cups valued over \$5.25 per dozen; saucers valued over \$3 per dozen; soups, oatmeals, and cereals valued over \$6 per dozen; plates not over 9 inches in maximum diameter and valued over \$6 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$8.50 per dozen; platters or chop dishes valued over \$35 per dozen; sugars valued over \$21 per dozen; creamers valued over \$15 per dozen; and beverage servers valued over \$42 per dozen..... | [See Annex III] | [55% ad val.] [1/] |
| 533.39 | Other articles.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | [See Annex III] | [55% ad val.] [1/] |
| 533.52 | Of chinaware or of subporcelain:<br>Hotel or restaurant ware and other ware not household ware.....                                                                                                                                                                                                                                                                                                                                                                                   | [See Annex III] | [75% ad val.] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 509.]



[Articles....]

[Of chinaware....]

Household ware:

533.54 Of bone chinaware..... [See Annex III] [75% ad val.] [1/]

Of nonbone chinaware or subporcelain:

533.62 Available in specified sets:  
In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over \$56.... [See Annex III] [75% ad val.] [1/]

533.64 In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over \$56..... [See Annex III] [75% ad val.] [1/]

533.72 Not available in specified sets:  
Steins with permanently attached pewter lids..... [See Annex III] [70% ad val.]

533.74 Mugs and other steins..... [See Annex III] [70% ad val.]

533.76 Candy boxes, decantera, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets..... [See Annex III] [70% ad val.]

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 509.]

[Articles....]

[Of chinaware....]

[Household ....]

[Of nonbone....]

[Not available....]

533.78 Cups valued over \$8 per dozen; saucers valued over \$5.25 per dozen; soups, oatmeals, and cereals valued over \$9.30 per dozen; plates not over 9 inches in maximum diameter and valued over \$8.50 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over \$11.50 per dozen; platters or chop dishes valued over \$40 per dozen; sugars valued over \$23 per dozen; creamers valued over \$20 per dozen; and beverage servers valued over \$50 per dozen..... [See Annex III] [75% ad val.] [1/]

533.79 Other articles..... 26% ad val. [75% ad val.]; [1/]

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 509.]

## Schedule 5, Part 3, Subpart A

61. Item 540.33 is superseded by:

[Solid....]  
"540.30 Not over 1 millimeter in diameter..... [17.5% ad val.] [60% ad val.]  
540.32 Over 1 millimeter but not over 6 millimeters in diameter..... See Annex III [60% ad val.];

## Schedule 5, Part 3, Subpart B

62. Schedule 5, part 3, subpart B is modified by adding the following new item in numerical sequence:

[544.41] [Laminated....]  
"544.43 Windshields, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [60% ad val.];



## Schedule 5, Part 3, Subpart C

63. Item 546.17 is superseded by:

|                 |                                            |                 |                 |
|-----------------|--------------------------------------------|-----------------|-----------------|
| [Articles....]  |                                            |                 |                 |
| [Glassware....] |                                            |                 |                 |
| "546.18         | Valued over \$3 but not over \$5 each..... | [10.5% ad val.] | [60% ad val.]   |
| 546.20          | Valued over \$5 each.....                  | See Annex III   | [60% ad val.]"; |

64. Items 546.40 through 546.50, including the superior headings to such items, are superseded by:

|                   |                                                        |                 |                 |
|-------------------|--------------------------------------------------------|-----------------|-----------------|
| [Articles....]    |                                                        |                 |                 |
| "Other glassware: |                                                        |                 |                 |
| 546.39            | Smokers' articles.....                                 | [See Annex III] | [60% ad val.]   |
| 546.47            | Perfume bottles fitted with ground glass stoppers..... | [See Annex III] | [60% ad val.]"; |

65. Items 546.54 and 546.56 are superseded by:

|                |                                               |               |                 |
|----------------|-----------------------------------------------|---------------|-----------------|
| [Articles....] |                                               |               |                 |
| [Other....]    |                                               |               |                 |
| [Other:]       |                                               |               |                 |
| "546.60        | Valued over \$0.30 but not over \$3 each..... | [30% ad val.] | [60% ad val.]"; |

66. Items 546.58 and 546.59 are superseded by:

|                   |                                            |                 |                 |
|-------------------|--------------------------------------------|-----------------|-----------------|
| [Articles....]    |                                            |                 |                 |
| [Other....]       |                                            |                 |                 |
| [Other:]          |                                            |                 |                 |
| [Valued....]      |                                            |                 |                 |
| "Cut or engraved: |                                            |                 |                 |
| 546.62            | Valued over \$3 but not over \$5 each..... | [15% ad val.]   | [60% ad val.]   |
| 546.64            | Valued over \$5 each.....                  | [See Annex III] | [60% ad val.]   |
| Other:            |                                            |                 |                 |
| 546.66            | Valued over \$3 but not over \$5 each..... | [15% ad val.]   | [60% ad val.]   |
| 546.68            | Valued over \$5 each.....                  | [See Annex III] | [60% ad val.]"; |

## Schedule 6, Part 1

67. Schedule 6, part 1 is modified by deleting items 601.28 and 602.31;

## Schedule 6, Part 2, Subpart B

68. Schedule 6, part 2B, headnote 2(h) is modified by (1) deleting "and" in subparagraph (iii), (2) deleting the period at the end of subparagraph (iv) and substituting a semi-colon in lieu thereof, and (3) adding the following, immediately after subparagraph (iv):

"(v) "tool steel" refers to alloy steel which contains the following combinations of elements in the quantity, by weight, respectively indicated:

- (A) not less than 1.0 percent carbon and over 11.0 percent chromium; or
- (B) not less than 0.3 percent carbon and 1.25 percent to 11.0 percent inclusive chromium; or
- (C) not less than 0.85 percent carbon and 1.0 percent to 1.8 percent inclusive manganese; or
- (D) 0.9 percent to 1.2 percent inclusive chromium and 0.9 percent to 1.4 percent inclusive molybdenum; or
- (E) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or
- (F) not less than 0.5 percent carbon and not less than 5.5 percent tungsten;

(vi) "high speed tool steel" refers to all tool steel which contains by weight, not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or not less than 0.5 percent carbon and not less than 5.5 percent tungsten;

(vii) "tool steel of the type described in headnote 2(h)(vii)" refers to alloy tool steel which contains, in addition to iron, each of the following elements by weight in the amounts specified:

- carbon: not less than 0.95 nor more than 1.13 percent;
- manganese: not less than 0.22 nor more than 0.48 percent;
- sulfur: none, or not more than 0.03 percent;
- phosphorus: none, or not more than 0.03 percent;
- silicon: not less than 0.18 nor more than 0.37 percent;
- chromium: not less than 1.25 nor more than 1.65 percent;
- nickel: none, or not more than 0.28 percent;
- copper: none, or not more than 0.38 percent;
- molybdenum: none, or not more than 0.09 percent;

(viii) "chipper knife steel" refers to alloy tool steel which contains, in addition to iron, each of the following elements by weight in the amount specified:

- carbon: not less than 0.48 nor more than 0.55 percent;
- manganese: not less than 0.20 nor more than 0.50 percent;
- silicon: not less than 0.75 nor more than 1.05 percent;
- chromium: not less than 7.25 nor more than 8.75 percent;
- molybdenum: not less than 1.25 nor more than 1.75 percent;
- tungsten: none, or not more than 1.75 percent;
- vanadium: not less than 0.20 nor more than 0.55 percent;

(ix) "silicon electrical steel" refers to alloy steel containing, by weight, not over 6.0 percent of silicon, which may also contain aluminum not in excess of 0.5 percent by weight, but containing no other metallic elements that would render the steel an alloy steel as defined in headnote 2(h)(ii) of this subpart; and

(x) "razor blade steel" refers to stainless steel strip not over 0.010 inch in thickness and not over 0.9 inch in width, containing by weight not less than 0.6 percent and not over 0.75 percent carbon, and containing by weight not less than 11.5 percent and not over 14.7 percent chromium, certified at the time of entry to be used in the manufacture of razor blades.";



69. Schedule B, part 2B, headnote 4 is modified by deleting "607.01, 607.02, 607.03, and 607.04" and substituting "606.00, 606.02, 606.04, and 606.06" in lieu thereof, and by deleting "this headnote" and substituting "additional duties" in lieu thereof;

70. All matter from item 607.01, including the superior heading thereto, to item 609.08, inclusive, is superseded by:

|                                                                                                                                          |                                                                                                                    |                                                   |                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|----------------------------------------------------------|
| "Iron or steel products containing any of the following metals in the quantity respectively specified" (see headnote 4 of this subpart): |                                                                                                                    |                                                   |                                                          |
| 606.00                                                                                                                                   | Containing over 0.2 percent by weight of chromium.....                                                             | Additional duty of 0.1% ad val.                   | [Additional duty of 1% ad val.] [1/]                     |
| 606.02                                                                                                                                   | Containing over 0.1 percent by weight of molybdenum.....                                                           | Additional duty of 0.3% ad val.                   | [Additional duty of 1% ad val.] [1/]                     |
| 606.04                                                                                                                                   | Containing over 0.3 percent by weight of tungsten.....                                                             | Additional duty of 0.4% ad val.                   | [Additional duty of 1% ad val.] [1/]                     |
| 606.06                                                                                                                                   | Containing over 0.1 percent by weight of vanadium.....                                                             | Additional duty of 0.2% ad val.                   | [Additional duty of 1% ad val.] [1/]                     |
| Iron or steel waste and scrap:                                                                                                           |                                                                                                                    |                                                   |                                                          |
| 606.08                                                                                                                                   | Tin plate waste or scrap.....                                                                                      | [Free]                                            | [Free]                                                   |
| Other:                                                                                                                                   |                                                                                                                    |                                                   |                                                          |
| 606.09                                                                                                                                   | Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart..... | [Free]                                            | [75¢ per ton]                                            |
| 606.11                                                                                                                                   | Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart.....     | [See Annex III]                                   | [0.5% ad val. + additional duties (see headnote 4)] [1/] |
| Pig iron, cast iron, and spiegeleisen, all the foregoing in pigs, blocks, lumps, and similar forms:                                      |                                                                                                                    |                                                   |                                                          |
| Pig iron and cast iron:                                                                                                                  |                                                                                                                    |                                                   |                                                          |
| 606.13                                                                                                                                   | Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart..... | [Free]                                            | [\$1.125 per ton]                                        |
| 606.15                                                                                                                                   | Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart.....     | 0.2% ad val. + additional duties (see headnote 4) | [0.5% ad val. + additional duties (see headnote 4)] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

|                                                                          |                                                                                                                    |                 |                                                        |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------------------------------------|
| [Fig....]                                                                |                                                                                                                    |                 |                                                        |
| Spiegeleisen:                                                            |                                                                                                                    |                 |                                                        |
| 606.17                                                                   | Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart..... | 0.2% ad val.    | [0.5% ad val.] [1/]                                    |
| 606.19                                                                   | Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart.....     | [See Annex III] | [1% ad val. + additional duties (see headnote 4)] [1/] |
| 606.20                                                                   | Ferronickel.....                                                                                                   | [Free]          | [3¢ per lb.]                                           |
| Ferroalloys:                                                             |                                                                                                                    |                 |                                                        |
| Ferrochromium:                                                           |                                                                                                                    |                 |                                                        |
| 606.22                                                                   | Not containing over 3 percent by weight of carbon.....                                                             | [See Annex III] | [30% ad val.]                                          |
| 606.24                                                                   | Containing over 3 percent by weight of carbon.....                                                                 | 1.9% ad val.    | [7.5% ad val.] [1/]                                    |
| Ferromanganese:                                                          |                                                                                                                    |                 |                                                        |
| 606.26                                                                   | Not containing over 1 percent by weight of carbon.....                                                             | [See Annex III] | [22% ad val.] [1/]                                     |
| 606.28                                                                   | Containing over 1 percent but not over 4 percent by weight of carbon.....                                          | [See Annex III] | [6.5% ad val.] [1/]                                    |
| 606.30                                                                   | Containing over 4 percent by weight of carbon.....                                                                 | [See Annex III] | [10.5% ad val.] [1/]                                   |
| 606.31                                                                   | Ferromolybdenum.....                                                                                               | [See Annex III] | [31.5% ad val.] [1/]                                   |
| 606.33                                                                   | Ferrophosphorus.....                                                                                               | [See Annex III] | [25% ad val.]                                          |
| Ferrosilicon:                                                            |                                                                                                                    |                 |                                                        |
| 606.35                                                                   | Containing over 8 percent but not over 60 percent by weight of silicon.....                                        | [Free]          | [2¢ per lb. on silicon content]                        |
| Containing over 60 percent but not over 80 percent by weight of silicon: |                                                                                                                    |                 |                                                        |
| 606.36                                                                   | Containing over 3 percent by weight of calcium.....                                                                | [See Annex III] | [11.5% ad val.] [1/]                                   |
| 606.37                                                                   | Other.....                                                                                                         | [See Annex III] | [11.5% ad val.] [1/]                                   |
| 606.39                                                                   | Containing over 80 percent but not over 90 percent by weight of silicon.....                                       | [See Annex III] | [9% ad val.] [1/]                                      |
| 606.40                                                                   | Containing over 90 percent by weight of silicon.....                                                               | [See Annex III] | [40% ad val.] [1/]                                     |
| 606.42                                                                   | Ferrosilicon chromium.....                                                                                         | [10% ad val.]   | [25% ad val.]                                          |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



|                                                                                                 |                                                                                                                    |                 |                                                           |
|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------|-----------------------------------------------------------|
| [Ferroalloys:]                                                                                  |                                                                                                                    |                 |                                                           |
| 606.44                                                                                          | Ferrosilicon manganese.....                                                                                        | [See Annex III] | [23% ad val.] [1/]                                        |
| 606.46                                                                                          | Ferrotitanium and ferrosilicon titanium.....                                                                       | [See Annex III] | [25% ad val.]                                             |
| 606.48                                                                                          | Ferrotungsten and ferrosilicon tungsten.....                                                                       | [See Annex III] | [35% ad val.] [1/]                                        |
| 606.50                                                                                          | Ferrovandium.....                                                                                                  | [See Annex III] | [25% ad val.]                                             |
| 606.51                                                                                          | Ferrozirconium.....                                                                                                | [See Annex III] | [25% ad val.]                                             |
| 606.53                                                                                          | Other.....                                                                                                         | [5% ad val.]    | [25% ad val.]                                             |
| Sponge iron; iron or steel powders:                                                             |                                                                                                                    |                 |                                                           |
| Sponge iron, including powders thereof:                                                         |                                                                                                                    |                 |                                                           |
| 606.55                                                                                          | Not containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart..... | [Free]          | [\$2.25 per ton]                                          |
| 606.57                                                                                          | Containing chromium, molybdenum, tungsten, or vanadium in amounts specified in headnote 4 of this subpart.....     | [See Annex III] | [\$2.25 per ton + additional duties (see headnote 4)]     |
| Other powders:                                                                                  |                                                                                                                    |                 |                                                           |
| 606.59                                                                                          | Other than alloy iron or steel.....                                                                                | [See Annex III] | [0.75% per lb.]                                           |
| Alloy iron or steel:                                                                            |                                                                                                                    |                 |                                                           |
| 606.60                                                                                          | Stainless steel powders.....                                                                                       | 0.3% ad val.    | [1% ad val.] [1/]                                         |
| 606.62                                                                                          | Other.....                                                                                                         | [See Annex III] | [45% ad val.]                                             |
| 606.64                                                                                          | Grit and shot, including wire pellets, of iron or steel.....                                                       | [See Annex III] | [3% ad val.] [1/]                                         |
| Ingots, blooms, billets, slabs, and sheet bars, all the foregoing of iron or steel:             |                                                                                                                    |                 |                                                           |
| 606.67                                                                                          | Other than alloy iron or steel.....                                                                                | [See Annex III] | [20% ad val.]                                             |
| 606.69                                                                                          | Alloy iron or steel.....                                                                                           | [See Annex III] | [28% ad val. + additional duties (see headnote 4)]        |
| Forgings of iron or steel, not machined, not tooled, and not otherwise processed after forging: |                                                                                                                    |                 |                                                           |
| 606.71                                                                                          | Other than alloy iron or steel.....                                                                                | [See Annex III] | [25% ad val.]                                             |
| 606.73                                                                                          | Alloy iron or steel.....                                                                                           | [See Annex III] | [33% ad val. + additional duties (see headnote 4)]        |
| Bars of wrought iron:                                                                           |                                                                                                                    |                 |                                                           |
| 606.75                                                                                          | Other than alloy wrought iron.....                                                                                 | [See Annex III] | [7% ad val.] [1/]                                         |
| 606.77                                                                                          | Alloy wrought iron.....                                                                                            | [See Annex III] | [10.5% ad val. + additional duties (see headnote 4)] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

|                                     |                                                                             |                                                      |                                                    |
|-------------------------------------|-----------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| Bars of steel:                      |                                                                             |                                                      |                                                    |
| Deformed concrete reinforcing bars: |                                                                             |                                                      |                                                    |
| 606.79                              | Other than alloy steel.....                                                 | [See Annex III]                                      | [20% ad val.]                                      |
| 606.81                              | Alloy steel.....                                                            | [See Annex III]                                      | [28% ad val. + additional duties (see headnote 4)] |
| Other bars:                         |                                                                             |                                                      |                                                    |
| Other than alloy steel:             |                                                                             |                                                      |                                                    |
| Not cold formed:                    |                                                                             |                                                      |                                                    |
| 606.83                              | Not coated or plated with metal.....                                        | [See Annex III]                                      | [20% ad val.]                                      |
| 606.86                              | Coated or plated with metal.....                                            | [See Annex III]                                      | [0.2% per lb. + 20% ad val.]                       |
| 606.88                              | Cold formed.....                                                            | [See Annex III]                                      | [0.125% per lb. + 20% ad val.]                     |
| Alloy steel:                        |                                                                             |                                                      |                                                    |
| 606.90                              | Stainless steel.....                                                        | [10.5% ad val. + additional duties (see headnote 4)] | [28% ad val. + additional duties (see headnote 4)] |
| Tool steel:                         |                                                                             |                                                      |                                                    |
| 606.91                              | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III]                                      | [28% ad val. + additional duties (see headnote 4)] |
| Chipper knife steel:                |                                                                             |                                                      |                                                    |
| 606.93                              | Not cold formed.....                                                        | [See Annex III]                                      | [28% ad val. + additional duties (see headnote 4)] |
| 606.94                              | Cold formed.....                                                            | [10.5% ad val. + additional duties (see headnote 4)] | [28% ad val. + additional duties (see headnote 4)] |
| 606.95                              | Other.....                                                                  | [10.5% ad val. + additional duties (see headnote 4)] | [28% ad val. + additional duties (see headnote 4)] |
| Other:                              |                                                                             |                                                      |                                                    |
| 606.97                              | Not cold formed.....                                                        | [See Annex III]                                      | [28% ad val. + additional duties (see headnote 4)] |
| 606.99                              | Cold formed.....                                                            | [See Annex III]                                      | [28% ad val. + additional duties (see headnote 4)] |



|                                                         |                                                                             |                                                                                                           |
|---------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| Hollow drill steel:                                     |                                                                             |                                                                                                           |
| Other than alloy steel:                                 |                                                                             |                                                                                                           |
| 607.05                                                  | Valued not over 8 cents per pound.....                                      | [See Annex III] [23% ad val.] [1/]                                                                        |
| 607.07                                                  | Valued over 8 cents per pound.....                                          | [See Annex III] [22% ad val.]                                                                             |
| 607.09                                                  | Alloy steel.....                                                            | [See Annex III] [30% ad val. + additional duties (see headnote 4)]                                        |
| Wire/rods of iron or steel:                             |                                                                             |                                                                                                           |
| Other than alloy iron or steel:                         |                                                                             |                                                                                                           |
| Not tempered, not treated, and not partly manufactured: |                                                                             |                                                                                                           |
| 607.14                                                  | Valued not over 4 cents per pound....                                       | [See Annex III] [4.5% ad val.] [1/]                                                                       |
| 607.17                                                  | Valued over 4 cents per pound.....                                          | [See Annex III] [5.5% ad val.] [1/]                                                                       |
| Tempered, treated, or partly manufactured:              |                                                                             |                                                                                                           |
| 607.22                                                  | Valued not over 4 cents per pound....                                       | [See Annex III] [29.5% ad val.] [1/]                                                                      |
| 607.23                                                  | Valued over 4 cents per pound.....                                          | [See Annex III] [6% ad val.] [1/]                                                                         |
| Alloy iron or steel:                                    |                                                                             |                                                                                                           |
| Not tempered, not treated, and not partly manufactured: |                                                                             |                                                                                                           |
| 607.26                                                  | Stainless steel.....                                                        | 4.3% ad val. + additional duties (see headnote 4) [11% ad val. + additional duties (see headnote 4)] [1/] |
| Tool steel:                                             |                                                                             |                                                                                                           |
| 607.28                                                  | High speed tool steel.....                                                  | 4.2% ad val. + additional duties (see headnote 4) [11% ad val. + additional duties (see headnote 4)] [1/] |
| 607.32                                                  | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [11% ad val. + additional duties (see headnote 4)] [1/]                                   |
| 607.34                                                  | Other.....                                                                  | 4.9% ad val. + additional duties (see headnote 4) [11% ad val. + additional duties (see headnote 4)] [1/] |
| 607.41                                                  | Other.....                                                                  | [See Annex III] [11% ad val. + additional duties (see headnote 4)] [1/]                                   |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

|                                                                                                                                        |                                                                             |                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| [Wire....]                                                                                                                             |                                                                             |                                                                                                           |
| [Alloy....]                                                                                                                            |                                                                             |                                                                                                           |
| Tempered, treated, or partly manufactured:                                                                                             |                                                                             |                                                                                                           |
| 607.43                                                                                                                                 | Stainless steel.....                                                        | 4.6% ad val. + additional duties (see headnote 4) [10% ad val. + additional duties (see headnote 4)] [1/] |
| Tool steel:                                                                                                                            |                                                                             |                                                                                                           |
| 607.46                                                                                                                                 | High speed tool steel.....                                                  | 4.3% ad val. + additional duties (see headnote 4) [10% ad val. + additional duties (see headnote 4)] [1/] |
| 607.48                                                                                                                                 | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [10% ad val. + additional duties (see headnote 4)] [1/]                                   |
| 607.54                                                                                                                                 | Other.....                                                                  | 5.9% ad val. + additional duties (see headnote 4) [10% ad val. + additional duties (see headnote 4)] [1/] |
| 607.59                                                                                                                                 | Other.....                                                                  | [See Annex III] [10% ad val. + additional duties (see headnote 4)] [1/]                                   |
| Plates and sheets of iron or steel, not cut, not pressed, and not stamped to nonrectangular shape (except as provided in item 609.17): |                                                                             |                                                                                                           |
| Not coated or plated with metal and not clad:                                                                                          |                                                                             |                                                                                                           |
| Black plate:                                                                                                                           |                                                                             |                                                                                                           |
| 607.62                                                                                                                                 | Corrugated or crimped.....                                                  | [See Annex III] [20% ad val.]                                                                             |
| 607.64                                                                                                                                 | Other.....                                                                  | [See Annex III] [20% ad val.]                                                                             |
| Other:                                                                                                                                 |                                                                             |                                                                                                           |
| Not pickled and not cold rolled:                                                                                                       |                                                                             |                                                                                                           |
| Other than alloy iron or steel:                                                                                                        |                                                                             |                                                                                                           |
| 607.66                                                                                                                                 | Plates.....                                                                 | [See Annex III] [20% ad val.]                                                                             |
| 607.67                                                                                                                                 | Sheets.....                                                                 | [See Annex III] [20% ad val.]                                                                             |
| Alloy iron or steel:                                                                                                                   |                                                                             |                                                                                                           |
| Plates and sheets of tool steel:                                                                                                       |                                                                             |                                                                                                           |
| 607.69                                                                                                                                 | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [28% ad val. + additional duties (see headnote 4)]                                        |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



|                                  |                                                                             |                                                                                                                         |
|----------------------------------|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| [Plates....:]                    |                                                                             |                                                                                                                         |
| [Not....:]                       |                                                                             |                                                                                                                         |
| [Other:]                         |                                                                             |                                                                                                                         |
| [Not....:]                       |                                                                             |                                                                                                                         |
| [Alloy....:]                     |                                                                             |                                                                                                                         |
| [Plates....:]                    |                                                                             |                                                                                                                         |
| 607.72                           | Other.....                                                                  | [9.5% ad val. + addition-al duties (see head-note 4)] [28% ad val. + addition-al duties (see head-note 4)]              |
| 607.76                           | Plates and sheets of stainless steel.....                                   | [9.5% ad val. + addition-al duties (see head-note 4)] [28% ad val. + addition-al duties (see head-note 4)]              |
| Other:                           |                                                                             |                                                                                                                         |
| 607.78                           | Plates.....                                                                 | [See Annex III] [28% ad val. + addition-al duties (see head-note 4)]                                                    |
| 607.81                           | Sheets.....                                                                 | [9.5% ad val. + addition-al duties (see head-note 4)] [28% ad val. + addition-al duties (see head-note 4)]              |
| Pickled or cold rolled:          |                                                                             |                                                                                                                         |
| 607.83                           | Other than alloy iron or steel..                                            | [See Annex III] [0.2c per lb. + 20% ad val.]                                                                            |
| Alloy iron or steel:             |                                                                             |                                                                                                                         |
| Plates and sheets of tool steel: |                                                                             |                                                                                                                         |
| 607.86                           | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)]                                      |
| 607.88                           | Other.....                                                                  | [10% ad val. + addition-al duties (see head-note 4)] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)] |
| 607.90                           | Plates and sheets of stainless steel.....                                   | [10% ad val. + addition-al duties (see head-note 4)] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)] |
| Other:                           |                                                                             |                                                                                                                         |
| 607.91                           | Plates.....                                                                 | [See Annex III] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)]                                      |

|                                  |                                                                   |                                                                                    |
|----------------------------------|-------------------------------------------------------------------|------------------------------------------------------------------------------------|
| [Plates....:]                    |                                                                   |                                                                                    |
| [Not....:]                       |                                                                   |                                                                                    |
| [Other:]                         |                                                                   |                                                                                    |
| [Pickled....:]                   |                                                                   |                                                                                    |
| [Alloy....:]                     |                                                                   |                                                                                    |
| [Other:]                         |                                                                   |                                                                                    |
| Sheets:                          |                                                                   |                                                                                    |
| 607.92                           | Silicon electrical steel.....                                     | [See Annex III] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)] |
| 607.93                           | Other.....                                                        | [See Annex III] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)] |
| 607.94                           | Clad.....                                                         | [See Annex III] [30% ad val.]                                                      |
| Coated or plated with metal:     |                                                                   |                                                                                    |
| Tin plate and tin coated sheets: |                                                                   |                                                                                    |
| 607.96                           | Imported for use in the manufacture of maple sap evaporators..... | Free [1c per lb.]                                                                  |
| Other:                           |                                                                   |                                                                                    |
| 607.97                           | Valued not over 10 cents per pound.....                           | [See Annex III] [1c per lb.]                                                       |
| 607.99                           | Valued over 10 cents per pound.....                               | [See Annex III] [6% ad val.] [1/]                                                  |
| 608.01                           | Terne plate and terne coated sheets.....                          | [See Annex III] [6% ad val.] [1/]                                                  |
| Other:                           |                                                                   |                                                                                    |
| Other than alloy iron or steel:  |                                                                   |                                                                                    |
| 608.07                           | Valued not over 10 cents per pound.....                           | [See Annex III] [0.2c per lb. + 20% ad val.]                                       |
| Valued over 10 cents per pound:  |                                                                   |                                                                                    |
| 608.11                           | Plates.....                                                       | [See Annex III] [21.5% ad val.] [1/]                                               |
| 608.13                           | Sheets.....                                                       | [See Annex III] [21.5% ad val.] [1/]                                               |
| 608.14                           | Alloy iron or steel.....                                          | [See Annex III] [0.2c per lb. + 28% ad val. + additional duties (see head-note 4)] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



Strip, of iron or steel, not cut, not pressed, and not stamped to nonrectangular shape (except as provided in item 609.17):

|                                                |                                                                             |                                                                                                         |
|------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Other than alloy iron or steel:                |                                                                             |                                                                                                         |
| 608.19                                         | Not over 0.01 inch in thickness.....                                        | [See Annex III] [25% ad val.]                                                                           |
| 608.21                                         | Over 0.01 but not over 0.05 inch in thickness.....                          | [See Annex III] [25% ad val.]                                                                           |
| 608.23                                         | Over 0.05 inch in thickness.....                                            | [See Annex III] [25% ad val.]                                                                           |
| Alloy iron or steel:                           |                                                                             |                                                                                                         |
| Not over 0.01 inch in thickness:               |                                                                             |                                                                                                         |
| Stainless steel:                               |                                                                             |                                                                                                         |
| 608.26                                         | Razor blade steel.....                                                      | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| 608.29                                         | Other.....                                                                  | [8% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)]    |
| Tool steel:                                    |                                                                             |                                                                                                         |
| 608.31                                         | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| 608.34                                         | Other.....                                                                  | [8% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)]    |
| 608.38                                         | Other.....                                                                  | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| Over 0.01 but not over 0.05 inch in thickness: |                                                                             |                                                                                                         |
| 608.39                                         | Silicon electrical steel.....                                               | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| 608.43                                         | Stainless steel.....                                                        | [10.5% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)] |

[Strip...:]

[Alloy...:]

[Over...:]

|                              |                                                                             |                                                                                                         |
|------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Tool steel:                  |                                                                             |                                                                                                         |
| 608.47                       | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| 608.49                       | Other.....                                                                  | [10.5% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)] |
| 608.55                       | Other.....                                                                  | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| Over 0.05 inch in thickness: |                                                                             |                                                                                                         |
| 608.57                       | Stainless steel.....                                                        | [11.5% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)] |
| Tool steel:                  |                                                                             |                                                                                                         |
| 608.59                       | Tool steel of the type described in headnote 2(h)(vii) of this subpart..... | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |
| 608.64                       | Other.....                                                                  | [11.5% ad val. + additional duties (see headnote 4)] [33% ad val. + additional duties (see headnote 4)] |
| 608.67                       | Other.....                                                                  | [See Annex III] [33% ad val. + additional duties (see headnote 4)]                                      |

71. Items 609.12 and 609.13 and the superior heading thereto are superseded by:

|              |                                     |                                 |
|--------------|-------------------------------------|---------------------------------|
| [Plates...:] |                                     |                                 |
| "609.14      | Other than alloy iron or steel..... | [See Annex III] [20% ad val.]"; |

72. Items 609.26 and 609.27 are superseded by:

|              |                                  |                                      |
|--------------|----------------------------------|--------------------------------------|
| [Wire...:]   |                                  |                                      |
| [Flat...:]   |                                  |                                      |
| [Other...:]  |                                  |                                      |
| [Coated...:] |                                  |                                      |
| "609.28      | Over 0.01 inch in thickness..... | [See Annex III] [26% ad val.]"; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

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71. Items 609.31 and 609.32 are superseded by:

|         |                                 |                 |                                                      |
|---------|---------------------------------|-----------------|------------------------------------------------------|
|         | [Wire....]                      |                 |                                                      |
|         | [Flat....]                      |                 |                                                      |
|         | [Alloy....]                     |                 |                                                      |
|         | [Not....]                       |                 |                                                      |
| "609.33 | Over 0.01 inch in thickness.... | [See Annex III] | [33% ad val. + additional duties (see headnote 4)]"; |

Schedule 6, Part 2, Subpart J

74. Item 629.15 is superseded by:

|         |                      |                 |                 |
|---------|----------------------|-----------------|-----------------|
|         | [Titanium....]       |                 |                 |
| "629.12 | Waste and scrap..... | [See Annex III] | [25% ad val.]   |
| 629.14  | Unwrought.....       | [See Annex III] | [25% ad val.]"; |

Schedule 6, Part 2, Subpart K

75. Item 632.32 is superseded by:

|        |                      |                 |                      |
|--------|----------------------|-----------------|----------------------|
|        | [Other....]          |                 |                      |
|        | [Other....]          |                 |                      |
|        | "Manganese:          |                 |                      |
| 632.28 | Waste and scrap..... | [See Annex III] | [20% ad val.] [1/]   |
| 632.30 | Unwrought.....       | 14% ad val.     | [20% ad val.]"; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

76. Item 632.84 is superseded by:

|        |                                                                                  |                 |                 |
|--------|----------------------------------------------------------------------------------|-----------------|-----------------|
|        | [Other....]                                                                      |                 |                 |
|        | [Alloys....]                                                                     |                 |                 |
|        | "Other alloys, unwrought:                                                        |                 |                 |
|        | Containing by weight 96 percent or more but less than 99 percent of silicon..... | [9% ad val.]    | [45% ad val.]   |
| 632.86 |                                                                                  |                 |                 |
| 632.88 | Other.....                                                                       | [See Annex III] | [45% ad val.]"; |

Schedule 6, Part 3, Subpart B

77. Schedule 6, part 3B is modified by adding the following new item in numerical sequence:

|         |                                                                                   |      |                 |
|---------|-----------------------------------------------------------------------------------|------|-----------------|
|         | [Strands....]                                                                     |      |                 |
|         | [Fitted....]                                                                      |      |                 |
| "642.22 | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [45% ad val.]"; |

Schedule 6, Part 3, Subpart D

78. Schedule 6, part 3D is modified by adding the following new items in numerical sequence:

|          |                                                                                   |      |                 |
|----------|-----------------------------------------------------------------------------------|------|-----------------|
|          | [Hinges....]                                                                      |      |                 |
|          | [Not....]                                                                         |      |                 |
|          | [Of iron....]                                                                     |      |                 |
| [647.03] | [Other]                                                                           |      |                 |
| "647.04  | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [45% ad val.]   |
| [647.05] | [Other]                                                                           |      |                 |
| 647.07   | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [45% ad val.]"; |

Schedule 6, Part 3, Subpart F

79. Schedule 6, part 3F is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                 |      |                 |
|----------|---------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [652.09] | [Flexible....]                                                                                                                  |      |                 |
| "652.11  | Flexible metal hose or tubing, with fittings, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [30% ad val.]"; |

80. Item 652.12 is superseded by:

|        |                                             |                 |  |
|--------|---------------------------------------------|-----------------|--|
|        | [Chain....]                                 |                 |  |
|        | [Of iron....]                               |                 |  |
|        | [Chain....]                                 |                 |  |
|        | [Of....]                                    |                 |  |
|        | "Valued under 40 cents per pound:           |                 |  |
| 652.13 | Bicycle chains and parts... [See Annex III] | [40% ad val.]   |  |
| 652.14 | Other chains and parts..... [See Annex III] | [40% ad val.]"; |  |

81. The article description for item 652.39 is modified by deleting "652.12" and substituting "652.13" in lieu thereof;

82. Schedule 6, part 3F is modified by adding the following new item in numerical sequence:

|          |                                                                                   |      |                 |
|----------|-----------------------------------------------------------------------------------|------|-----------------|
|          | [Illuminating....]                                                                |      |                 |
|          | [Other:]                                                                          |      |                 |
|          | [Other:]                                                                          |      |                 |
| [653.39] | [Other]                                                                           |      |                 |
| "653.41  | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [45% ad val.]"; |



83. Item 653.94 is superseded by:

|                 |                                                                                   |                 |                |
|-----------------|-----------------------------------------------------------------------------------|-----------------|----------------|
| [Articles....:] |                                                                                   |                 |                |
| [Articles....:] |                                                                                   |                 |                |
| [Of iron....:]  |                                                                                   |                 |                |
| [Not....:]      |                                                                                   |                 |                |
| [Other:]        |                                                                                   |                 |                |
| 653.96          | Toilet and sanitary ware...                                                       | [See Annex III] | [40% ad val.]  |
| 653.98          | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free            | [40% ad val.]  |
| Other:          |                                                                                   |                 |                |
| 653.99          | Cooking ware (except stainless steel or chrome-plated).....                       | [See Annex III] | [40% ad val.]  |
| 654.01          | Other.....                                                                        | [See Annex III] | [40% ad val.]; |

84. Schedule 6, part 3F is modified by redesignating items 653.97 and 654.00 as "654.02" and "654.03", respectively;

85. Item 654.10 is superseded by:

|                                                                        |            |                 |                       |
|------------------------------------------------------------------------|------------|-----------------|-----------------------|
| [Articles....:]                                                        |            |                 |                       |
| [Articles....:]                                                        |            |                 |                       |
| "Of aluminum:                                                          |            |                 |                       |
| Not enameled or glazed and not containing non-stick interior finishes: |            |                 |                       |
| Cooking and kitchen ware:                                              |            |                 |                       |
| 654.07                                                                 | Cast.....  | [See Annex III] | [45.5% ad val.] [1/]  |
| 654.09                                                                 | Other..... | [See Annex III] | [45.5% ad val.] [1/]  |
| 654.11                                                                 | Other..... | [See Annex III] | [45.5% ad val.] [1/]  |
| Enameled or glazed or containing non-stick interior finishes:          |            |                 |                       |
| Cooking and kitchen ware:                                              |            |                 |                       |
| 654.12                                                                 | Cast.....  | [See Annex III] | [45.5% ad val.] [1/]  |
| 654.13                                                                 | Other..... | [See Annex III] | [45.5% ad val.] [1/]  |
| 654.14                                                                 | Other..... | [See Annex III] | [45.5% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

#### Schedule 6, Part 4, Subpart A

86. The article description for item 660.40 is modified by deleting "692.30" and substituting "692.34" in lieu thereof;

87. Items 660.44 and 660.45 are superseded by:

|                                                   |                                                                                                   |                 |                |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------|----------------|
| [Internal....:]                                   |                                                                                                   |                 |                |
| [Piston-type....:]                                |                                                                                                   |                 |                |
| [Other:]                                          |                                                                                                   |                 |                |
| "Engines other than compression-ignition engines: |                                                                                                   |                 |                |
| Specially designed for:                           |                                                                                                   |                 |                |
| 660.48                                            | Automobiles (including trucks and buses).....                                                     | [See Annex III] | [35% ad val.]  |
| 660.49                                            | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)... | [Free]          |                |
| 660.56                                            | Other.....                                                                                        | [See Annex III] | [35% ad val.]  |
| 660.57                                            | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)... | [Free]          |                |
| 660.58                                            | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                 | Free            | [35% ad val.]; |

88. Items 660.46 and 660.47 are superseded by:

|                                                  |                                                                                                     |                   |               |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------|-------------------|---------------|
| [Internal....:]                                  |                                                                                                     |                   |               |
| "Non-piston type engines:                        |                                                                                                     |                   |               |
| 660.59                                           | Aircraft engines.....                                                                               | [5% ad val.] [1/] | [35% ad val.] |
| 660.61                                           | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                   | Free              | [35% ad val.] |
| 660.62                                           | Other.....                                                                                          | [5% ad val.] [1/] | [35% ad val.] |
| 660.63                                           | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)..... | [Free];           |               |
| [1/ See Annex III for future staged reductions.] |                                                                                                     |                   |               |



89. Schedule 6, part 4A is modified by deleting item 660.51;

90. Schedule 6, part 4A is modified by redesignating items 660.50, 660.52, and 660.53 as "660.64", "660.67", and "660.68", respectively, and by inserting the following new item in numerical sequence:

|        |                |                                                                                   |                      |
|--------|----------------|-----------------------------------------------------------------------------------|----------------------|
|        | [Internal....] |                                                                                   |                      |
|        | [Parts:]       |                                                                                   |                      |
|        | [Other...]     |                                                                                   |                      |
| 660.67 | [Parts...]     |                                                                                   |                      |
| 660.69 |                | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

91. Schedule 6, part 4A is modified by redesignating items 660.54 and 660.55 as "660.71" and "660.72", respectively, and by inserting the following new item in numerical sequence:

|        |                |                                                                                   |                      |
|--------|----------------|-----------------------------------------------------------------------------------|----------------------|
|        | [Internal....] |                                                                                   |                      |
|        | [Parts:]       |                                                                                   |                      |
|        | [Other....]    |                                                                                   |                      |
| 660.71 | [Other]        |                                                                                   |                      |
| 660.73 |                | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

92. Schedule 6, part 4A is modified by redesignating items 660.65, 660.70 and 660.75 as "660.74", "660.76", and "660.77", respectively;

93. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|        |                    |                                                                                                                    |                        |
|--------|--------------------|--------------------------------------------------------------------------------------------------------------------|------------------------|
|        | [Non-electric....] |                                                                                                                    |                        |
| 660.85 | [Other]            |                                                                                                                    |                        |
| 660.87 |                    | Non-electric engines and motors, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [27.5% ad val.]"; |

94. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|        |             |                                                                                                                                          |                      |
|--------|-------------|------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
|        | [Pumps....] |                                                                                                                                          |                      |
| 660.97 | [Other]     |                                                                                                                                          |                      |
| 660.99 |             | Pumps for liquids, operated by any kind of power unit, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

95. Schedule 6, part 4A is modified by redesignating items 661.09, 661.10 and 661.11 as "661.05", "661.06" and "661.07", respectively, and by adding the following new item in numerical sequence:

|        |            |                                                                                                     |                      |
|--------|------------|-----------------------------------------------------------------------------------------------------|----------------------|
|        | [Air....]  |                                                                                                     |                      |
|        | [Fans....] |                                                                                                     |                      |
| 661.06 | [Other]    |                                                                                                     |                      |
| 661.08 |            | Fans and blowers, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

96. Schedule 6, part 4A is modified by adding the following new items in numerical sequence:

|        |                  |                                                                                                               |                      |
|--------|------------------|---------------------------------------------------------------------------------------------------------------|----------------------|
|        | [Air....]        |                                                                                                               |                      |
| 661.12 | [Compressors...] |                                                                                                               |                      |
| 661.14 |                  | Compressors, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                | Free [35% ad val.]"; |
| 661.15 | [Other]          |                                                                                                               |                      |
| 661.17 |                  | Air pumps and vacuum pumps, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

97. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|        |                       |                                                                                                              |                      |
|--------|-----------------------|--------------------------------------------------------------------------------------------------------------|----------------------|
| 661.20 | [Air-conditioning...] |                                                                                                              |                      |
| 661.22 |                       | Air-conditioning machines, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

98. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|        |                    |                                                                                                                              |                      |
|--------|--------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 661.35 | [Refrigerators...] |                                                                                                                              |                      |
| 661.37 |                    | Refrigerators and refrigerating equipment, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [35% ad val.]"; |

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99. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|          |                                                                                                |      |                 |
|----------|------------------------------------------------------------------------------------------------|------|-----------------|
|          | [Centrifuges....]                                                                              |      |                 |
|          | [Centrifuges....]                                                                              |      |                 |
| [661.90] | [Other]                                                                                        |      |                 |
| "661.91  | Centrifuges, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [25% ad val.]"; |

100. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                    |      |                 |
|----------|------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
|          | [Centrifuges....]                                                                                                                  |      |                 |
|          | [Other:]                                                                                                                           |      |                 |
| [661.95] | [Other]                                                                                                                            |      |                 |
| "661.97  | Filtering and purifying machinery and apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

101. Schedule 6, part 4A is modified by adding the following new item in numerical sequence:

|          |                                                                                                       |      |                 |
|----------|-------------------------------------------------------------------------------------------------------|------|-----------------|
|          | [Mechanical....]                                                                                      |      |                 |
|          | [Other]                                                                                               |      |                 |
| [662.50] | [Other]                                                                                               |      |                 |
| "662.52  | Fire extinguishers, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

Schedule 6, Part 4, Subpart B

102. Item 664.05 is superseded by:

|        |                                                                                                                                                                                                                                                                                                          |                 |                 |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|
|        | "Mechanical shovels, coal-cutters, excavators, scrapers, bulldozers, and other excavating, leveling, boring, and extracting machinery, all the foregoing, whether stationary or mobile, for earth, minerals, or ores; pile drivers; snow plows, not self-propelled; all the foregoing and parts thereof: |                 |                 |
| 664.06 | Peat excavators.....                                                                                                                                                                                                                                                                                     | [See Annex III] | [35% ad val.]   |
| 664.07 | Backhoes, shovels, clamshells, draglines, and wheel-type front-end loaders.....                                                                                                                                                                                                                          | [See Annex III] | [35% ad val.]   |
| 664.08 | Other.....                                                                                                                                                                                                                                                                                               | [See Annex III] | [35% ad val.]"; |

103. The article description for item 664.10 is modified by deleting "item 664.05" and substituting "items 664.06, 664.07, or 664.08" in lieu thereof;

104. Schedule 6, part 4B is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                                                                                                                             |      |                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [664.10] | [Elevators....]                                                                                                                                                                                                                                             |      |                 |
| "664.12  | Elevators, hoists, winches, cranes, jacks, pulley tackle, belt conveyors, and other lifting, handling, loading, or unloading machinery, and conveyors; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

Schedule 6, Part 4, Subpart D

105. Schedule 6, part 4D is modified by:

(a) Adding the following new headnote:

"1. For the purposes of this subpart the weight of duplicating machines and offset presses shall be determined in their condition when fully assembled." and

(b) Superseding item 668.20 by:

|        |                                                                                             |                 |                 |
|--------|---------------------------------------------------------------------------------------------|-----------------|-----------------|
|        | [Printing....]                                                                              |                 |                 |
|        | "Other, including printing presses, offset duplicating machines, and stencil copy machines: |                 |                 |
| 668.21 | Offset printing presses of the sheet-fed type weighing 3,500 pounds or more.....            | [See Annex III] | [25% ad val.]   |
| 668.23 | Other.....                                                                                  | [See Annex III] | [25% ad val.]"; |

Schedule 6, Part 4, Subpart E

106. Item 672.15 is superseded by:

|        |                                                          |                 |                 |
|--------|----------------------------------------------------------|-----------------|-----------------|
|        | [Sewing....]                                             |                 |                 |
|        | [Sewing....]                                             |                 |                 |
|        | "Valued over \$10 each:                                  |                 |                 |
| 672.14 | Specially designed for industrial or commercial use..... | [See Annex III] | [30% ad val.]   |
| 672.16 | Other.....                                               | [See Annex III] | [30% ad val.]"; |

Schedule 6, Part 4, Subpart G

107. Schedule 6, part 4G is modified by adding the following new item in numerical sequence:

|          |                                                                                   |      |                 |
|----------|-----------------------------------------------------------------------------------|------|-----------------|
|          | [Calculating....]                                                                 |      |                 |
|          | [Accounting...]                                                                   |      |                 |
| [676.15] | [Accounting...]                                                                   |      |                 |
| "676.16  | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |



108. Schedule 6, part 4G is modified by adding the following new item in numerical sequence:

[676.30] [Office....]

"676.31 If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.]"

Schedule 6, Part 4, Subpart H

109. Schedule 6, part 4H is modified by adding the following new item in numerical sequence:

"678.48 Flight simulating machines and parts thereof..... Free [35% ad val.]";

Schedule 6, Part 4, Subpart J

110. Items 680.15, 680.20, 680.21, and 680.40 are redesignated as "680.13", "680.14", "680.16", and "680.42", respectively;

111. Items 680.22 and 680.23 are superseded by:

[Taps....]

[Hand-operated....]

"680.17 Of iron or steel..... [See Annex III] [45% ad val.]

680.18 If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)..... [Free]

680.19 Other..... [See Annex III] [45% ad val.]

680.24 If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)..... [Free]";

112. Items 680.43 through 680.56, including the superior headings thereto, are superseded by:

"Gear boxes and other speed changers with fixed, multiple, or variable ratios; pulleys and shaft couplings; pillow blocks; flange, take-up, cartridge, and hanger units; torque converters; chain sprockets; clutches; and universal joints; all the foregoing (except parts of agricultural or horticultural machinery and implements provided for in item 666.00 and parts of motor vehicles, aircraft, and bicycles) and parts thereof:

Gear boxes and other speed changers and parts thereof:

Fixed ratio speed changers, multiple and variable ratio speed changers each ratio of which is selected by manual manipulation, and parts thereof:

680.46 Imported for use with machines for making cellulosic pulp, paper, or paperboard..... [See Annex III] [27.5% ad val.]

680.49 Other..... [See Annex III] [27.5% ad val.]

[Gear....]

[Gear....]

680.59 Other speed changers..... [See Annex III] [\$4.50 each + 65% ad val.]

680.61 If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [\$4.50 each + 65% ad val.]

680.62 Other parts..... [See Annex III] [65% ad val.]

680.63 Pulleys and shaft couplings, and parts thereof..... [See Annex III] [45% ad val.]

680.65 Pulleys, shaft couplings, and parts of the foregoing which are specially designed for installation in civil aircraft; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [45% ad val.]

Pillow blocks and parts thereof:

680.66 Ball or roller bearing type..... [See Annex III] [45% ad val.]

680.68 Other types..... [See Annex III] [45% ad val.]

Flange, take-up, cartridge, and hanger units, and parts thereof:

680.69 Ball or roller bearing type..... [See Annex III] [45% ad val.]

680.72 Other types..... [See Annex III] [45% ad val.]

680.73 Torque converters, and parts thereof..... [See Annex III] [27.5% ad val.]

680.75 Torque converters; and parts thereof which are specially designed for installation in civil aircraft; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [27.5% ad val.]

680.76 Chain sprockets, clutches, universal joints, and parts thereof..... [See Annex III] [45% ad val.]

680.78 Chain sprockets, clutches and universal joints, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [45% ad val.]";

113. Items 680.57, 680.58, 680.60, and 680.70 are redesignated as "680.81", "680.84", "680.86", and "680.88", respectively.

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## Schedule 6, Part 5

114. Schedule 6, part 5 is amended by redesignating headnotes 3 and 4 as "4" and "5", respectively, and by inserting the following new headnote 3:

"3. The provisions of this headnote apply to "television apparatus and parts thereof" provided for in items 685.11 through 685.19, inclusive, of this part.

(a) The term "complete", as used to describe television receivers, means a television receiver, fully assembled, whether or not packaged or tested for distribution to the ultimate purchaser.

(b) For the purposes of items 685.15 and 685.16--

(i) each subassembly that contains as a component, or is covered in the same entry with, one or more of the following television components, viz., tuner, channel selector assembly, antenna, deflection yoke, degaussing coil, picture tube mounting bracket, grounding assembly, parts necessary for fixing the picture tube or tuner in place, consumer operated controls, or speaker, shall be classified in item 685.15; and

(ii) each subassembly shall be counted as a single unit, except that two or more different printed circuit boards or ceramic substrates covered by the same entry and designed for assembly into the same television models shall be counted as one unit."

115. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

[Generators....]  
[Transformers:]  
[Other:]

[682.07]

"682.08

If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];

116. Item 682.40 is superseded by:

[Generators....]  
[Motors:]

"682.35

682.41

Of over 1/10 but under 1 horsepower..... [5% ad val.] [35% ad val.]  
Of 1 horsepower or more, but not over 20 horsepower..... [See Annex III] [35% ad val.]

682.42

If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.]

[Generators....]

[Motors:]

682.45

Of over 20 horsepower but under 200 horsepower..... [See Annex III] [35% ad val.]

682.46

If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];

117. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

[Generators....]

[682.60]

[Other]

"682.61

Generators, motor-generators, converters (rotary or static), rectifiers and rectifying apparatus, and inductors; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];

118. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

[683.60] [Ignition...]

"683.62

Ignition magnetos, magneto-generators, ignition coils, starter motors, spark plugs, glow plugs, and other electrical starting and ignition equipment for internal combustion engines; generators and cut-outs for use in conjunction therewith; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];

119. Item 684.30 is superseded by:

[Electric....]

[Other:]

"Cooking stoves and ranges, and parts thereof:

684.25

Microwave ovens..... [4% ad val.] [35% ad val.]

684.26

If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.]

684.28

Other, including parts..... [See Annex III] [35% ad val.]

684.31

Cooking stoves and ranges, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];

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120. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|                |                                                                                                                 |
|----------------|-----------------------------------------------------------------------------------------------------------------|
| [Electric...:] |                                                                                                                 |
| [Other:]       |                                                                                                                 |
| [684.40]       | [Furnaces...]                                                                                                   |
| "684.42        | Furnaces, heaters, and ovens, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... |
|                | Free [35% ad val.]";                                                                                            |

121. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|                |                                                                                                         |
|----------------|---------------------------------------------------------------------------------------------------------|
| [Electric...:] |                                                                                                         |
| [Other:]       |                                                                                                         |
| [684.50]       | [Other]                                                                                                 |
| "684.51        | Food warming devices, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... |
|                | Free [35% ad val.]";                                                                                    |

122. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                                                                                                                           |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [684.70] | [Microphones...]                                                                                                                                                                                                                                          |
| "684.72  | Microphones; loudspeakers; head phones; audio-frequency electric amplifiers; electric sound amplifier sets comprised of the foregoing components; all of the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... |
|          | Free [35% ad val.]";                                                                                                                                                                                                                                      |

123. Item 685.20 is superseded by:

|                                                                                                  |                                                               |
|--------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| [Radiotelegraphic...:]                                                                           |                                                               |
| [Radiotelegraphic...:]                                                                           |                                                               |
| "Television apparatus, and parts thereof:                                                        |                                                               |
| Television receivers and parts thereof:                                                          |                                                               |
| Having a picture tube:                                                                           |                                                               |
| 685.11                                                                                           | Complete television receivers..... [5% ad val.] [35% ad val.] |
| Assemblies (including kits containing all parts necessary for assembly into complete receivers): |                                                               |
| 685.13                                                                                           | Monochrome..... [See Annex III] [35% ad val.]                 |
| 685.14                                                                                           | Color..... [5% ad val.] [35% ad val.]                         |

|                                                                                                                                                                                                            |                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| [Radiotelegraphic...:]                                                                                                                                                                                     |                                                                                                         |
| [Radiotelegraphic...:]                                                                                                                                                                                     |                                                                                                         |
| [Television...:]                                                                                                                                                                                           |                                                                                                         |
| [Television...:]                                                                                                                                                                                           |                                                                                                         |
| Not having a picture tube:                                                                                                                                                                                 |                                                                                                         |
| Printed circuit boards and ceramic substrates with components assembled thereon, for use in receivers; subassemblies containing more of such boards or substrates, except tuners or convergence assemblies |                                                                                                         |
| 685.15                                                                                                                                                                                                     | Entered with components enumerated in headnote 3(b)(1) of this schedule..... [5% ad val.] [35% ad val.] |
| 685.16                                                                                                                                                                                                     | Other..... [5% ad val.] [1/] [35% ad val.]                                                              |
| Other:                                                                                                                                                                                                     |                                                                                                         |
| 685.17                                                                                                                                                                                                     | Tuners..... [5% ad val.] [35% ad val.]                                                                  |
| 685.18                                                                                                                                                                                                     | Other..... [5% ad val.] [1/] [35% ad val.]                                                              |
| 685.19                                                                                                                                                                                                     | Other television apparatus and parts thereof..... [See Annex III] [35% ad val.]";                       |
| [1/ See Annex III for future staged reductions.]                                                                                                                                                           |                                                                                                         |

124. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|                        |                                                                                   |
|------------------------|-----------------------------------------------------------------------------------|
| [Radiotelegraphic...:] |                                                                                   |
| [Radiotelegraphic...:] |                                                                                   |
| [Other:]               |                                                                                   |
| [Solid-state...:]      |                                                                                   |
| [Other:]               |                                                                                   |
| [685.24]               |                                                                                   |
| "685.25                | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... |
|                        | Free [35% ad val.]";                                                              |

125. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|                        |                                                                                                                                                              |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [Radiotelegraphic...:] |                                                                                                                                                              |
| [Radiotelegraphic...:] |                                                                                                                                                              |
| [Other:]               |                                                                                                                                                              |
| [Other:]               |                                                                                                                                                              |
| [685.29]               |                                                                                                                                                              |
| "685.31                | Radiotelegraphic and radiotelephonic transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... |
|                        | Free [35% ad val.]";                                                                                                                                         |



126. Schedule 6, part 5 is modified by redesignating item 685.30 as "685.33";

127. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                                                                                                                                                                                                                     |      |                 |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [685.40] | [Radiotelegraphic...]<br>[Tape recorders...]                                                                                                                                                                                                                                                                                                        |      |                 |
| "685.41  | Tape recorders and dictation recording and transcribing machines; assemblies and subassemblies of such machines, consisting of two or more parts or pieces fastened or joined together, specially designed for installation in civil aircraft; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

128. The article description for item 685.55 is modified by deleting "685.20" and substituting "685.11" in lieu thereof;

129. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                                                                                                                                                                                                                                         |      |                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [685.60] | [Radio...]                                                                                                                                                                                                                                                                                                                                                              |      |                 |
| "685.61  | Radio navigational aid apparatus, radar apparatus, and radio remote control apparatus; assemblies and subassemblies of such apparatus, consisting of 2 or more parts or pieces fastened or joined together, specially designed for installation in civil aircraft; all the foregoing, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

130. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                                                             |      |                 |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [685.70] | [Bells...]                                                                                                                                                                                  |      |                 |
| "685.72  | Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signalling apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

131. Schedule 6, part 5 is modified by redesignating items 686.22 and 686.23 as "686.18" and "686.19", respectively, and inserting the following new items in numerical sequence:

|          |                                                                                                                                     |      |               |
|----------|-------------------------------------------------------------------------------------------------------------------------------------|------|---------------|
| [686.18] | [Automatic...]<br>[Designed...]                                                                                                     |      |               |
| "686.21  | Automatic voltage and voltage-current regulators, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [25% ad val.] |

|          |                                                                                                                                     |      |                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [686.24] | [Automatic...]<br>[Other]                                                                                                           |      |                 |
| 686.25   | Automatic voltage and voltage-current regulators, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

132. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                   |      |                 |
|----------|-----------------------------------------------------------------------------------|------|-----------------|
| [686.60] | [Electric...]<br>[Filament...]<br>[Sealed-beam...]                                |      |                 |
| "686.62  | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [20% ad val.]"; |

133. Items 687.60 and 687.61 are superseded by:

|          |                                                                                                                      |                 |               |
|----------|----------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| [687.54] | [Electronic...]<br>"Other:<br>Cathode-ray tubes and parts thereof (including parts of television picture tubes)..... | [6% ad val.]    | [35% ad val.] |
| 687.56   | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6).....                  | [Free]          |               |
| 687.58   | Other.....                                                                                                           | [See Annex III] | [35% ad val.] |
| 687.62   | If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6).....                  | [Free]";        |               |

134. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                   |      |                 |
|----------|-----------------------------------------------------------------------------------|------|-----------------|
| [688.12] | [Insulated...]<br>[With...]<br>[Ignition...]                                      |      |                 |
| 688.14   | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [30% ad val.]"; |

135. Schedule 6, part 5 is modified by adding the following new item in numerical sequence:

|          |                                                                                                                        |      |                 |
|----------|------------------------------------------------------------------------------------------------------------------------|------|-----------------|
| [688.40] | [Electrical...]                                                                                                        |      |                 |
| "688.42  | Electrical synchros and transducers, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.]"; |

#### Schedule 6, Part 6, Subpart B

136. Schedule 6, part 6B, headnote 1(b) is modified by deleting "or" and substituting "and" in lieu thereof, and by deleting "item 692.27" and inserting "items 692.29 and 692.32, respectively" in lieu thereof:

[The next number is 138.]

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138. Schedule 6, part 6B is modified by deleting item 692.25;

139. Items 692.27 and 692.28 are superseded by:

|        |                                                                                                |                 |               |  |
|--------|------------------------------------------------------------------------------------------------|-----------------|---------------|--|
|        | [Chassis...]                                                                                   |                 |               |  |
|        | [Other:]                                                                                       |                 |               |  |
|        | "Other:                                                                                        |                 |               |  |
| 692.29 | Automobile truck tractors, if imported without their trailers.....                             | [4% ad val.]    | [25% ad val.] |  |
| 692.31 | If Canadian article (see headnote 2 of this subpart).....                                      | [Free]          |               |  |
| 692.32 | Other.....                                                                                     | [See Annex III] | [25% ad val.] |  |
| 692.33 | If Canadian article and original motor-vehicle equipment (see headnote 2 of this subpart)..... | [Free]";        |               |  |

140. Schedule 6, part 6B is modified by redesignating item 692.30 as "692.34";

#### Schedule 6, Part 6, Subpart C

141. Schedule 6, part 6C is modified by adding the following new headnote in numerical sequence:

"3. Certified for Use in Civil Aircraft:  
(a) Whenever the term "certified for use in civil aircraft" is used in an item description in the schedules, the importer shall file a written statement, accompanied by such supporting documentation as the Secretary of the Treasury may require, with the appropriate customs officer stating that the imported article has been imported for use in civil aircraft, that it will be so used, and that the article has been approved for use by the Administrator of the Federal Aviation Administration (F.A.A.) or by the airworthiness authority in the country of exportation, if such approval is recognized by the F.A.A. as an acceptable substitute for F.A.A. certification, or that an application for approval for such use has been submitted to, and accepted by, the Administrator of the F.A.A.

(b) For purposes of this schedule the term "civil aircraft" means all aircraft other than aircraft purchased for use by the Department of Defense or the United States Coast Guard.

142. All matter from item 694.15, including the superior heading thereto, to item 694.60, inclusive, is superseded by:

|        |                                                                                                                 |                 |                   |  |
|--------|-----------------------------------------------------------------------------------------------------------------|-----------------|-------------------|--|
|        | "Aircraft and spacecraft, and parts thereof:<br>Civil aircraft; spacecraft; and parts of each of the foregoing: |                 |                   |  |
| 694.16 | Balloons and airships.....                                                                                      | Free            | [27.5% ad val.]   |  |
| 694.21 | Gliders.....                                                                                                    | Free            | [27.5% ad val.]   |  |
| 694.31 | Kites, and parts thereof.....                                                                                   | [See Annex III] | [50% ad val.]     |  |
| 694.41 | Airplanes.....                                                                                                  | Free            | [30% ad val.]     |  |
| 694.50 | Spacecraft.....                                                                                                 | [See Annex III] | [27.5% ad val.]   |  |
| 694.61 | Other parts.....                                                                                                | [See Annex III] | [27.5% ad val.]   |  |
| 694.62 | If certified for use in civil aircraft (see headnote 3 of this subpart).....                                    | Free            | [27.5% ad val.]   |  |
|        | Other aircraft and parts thereof:                                                                               |                 |                   |  |
| 694.63 | Balloons and airships.....                                                                                      | [4.5% ad val.]  | [27.5% ad val.]   |  |
| 694.64 | Gliders.....                                                                                                    | [4.5% ad val.]  | [27.5% ad val.]   |  |
| 694.65 | Kites, and parts thereof.....                                                                                   | [See Annex III] | [50% ad val.]     |  |
| 694.66 | Airplanes.....                                                                                                  | [5% ad val.]    | [30% ad val.]     |  |
| 694.67 | Other parts.....                                                                                                | [See Annex III] | [27.5% ad val.]"; |  |

#### Schedule 7, Part 1, Subpart A

143. Item 700.85 is superseded by:

|        |                                                     |                 |                 |  |
|--------|-----------------------------------------------------|-----------------|-----------------|--|
|        | [Other...:]                                         |                 |                 |  |
|        | "Other:                                             |                 |                 |  |
| 700.90 | Disposable footwear, designed for one-time use..... | [See Annex III] | [35% ad val.]   |  |
| 700.95 | Other.....                                          | [12.5% ad val.] | [35% ad val.]"; |  |

#### Schedule 7, Part 1, Subpart C

144. Schedule 7, part 1C, headnote 3 is modified by deleting "(Items 705.62, 705.64, and 705.67 through 705.71)" and substituting "(Items 705.67, 705.68, and 705.69)" in lieu thereof;

145. Items 705.62 and 705.64 and the superior heading thereto are superseded by:

|         |                                       |                 |                 |  |
|---------|---------------------------------------|-----------------|-----------------|--|
|         | [Gloves...:]                          |                 |                 |  |
|         | [Seamed...:]                          |                 |                 |  |
|         | [Women's...:]                         |                 |                 |  |
|         | [Seamed...:]                          |                 |                 |  |
| "705.63 | Valued over \$20 per dozen pairs..... | [See Annex III] | [50% ad val.]"; |  |



146. Items 705.70 and 705.71 and the superior heading thereto are superseded by:

[Gloves....]  
[Seamed:]  
[Women's....]  
[Not....]  
"705.70 Valued over \$20 per dozen pairs..... [See Annex III] [50% ad val.];"

Schedule 7, Part 1, Subpart D

147. Item 706.08 is superseded by:

[Luggage....]  
[Of....]  
[Luggage....]  
"Other:  
Handbags:  
706.07 Valued not over \$20 each... [10% ad val.] [35% ad val.]  
706.09 Valued over \$20 each..... [See Annex III] [35% ad val.]  
706.13 Other..... [See Annex III] [35% ad val.];"

148. Schedule 7, part 1D is modified by redesignating items 706.10, 706.11, 706.12, and 706.14 as "706.15", "706.16", "706.17", and "706.18", respectively;

Schedule 7, Part 2, Subpart A

149. Item 708.53 is superseded by:

[Refracting....]  
[Telescopes:]  
[Not....]  
"Other:  
708.56 Telescopic sights for rifles.... [20% ad val.] [45% ad val.]  
708.58 Other..... [See Annex III] [45% ad val.];"

150. Schedule 7, part 2A is modified by redesignating items 708.55, 708.57, and 708.59 as "708.61", "708.63", and "708.65", respectively;

Schedule 7, Part 2, Subpart B

151. Schedule 7, part 2B is modified by adding the following new item in numerical sequence:

[709.45] [Artificial...]  
"709.46 Gas masks and similar respirators, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];"

Schedule 7, Part 2, Subpart C

152. Schedule 7, part 2C is modified by adding the following new item in numerical sequence:

[Surveying....]  
[Optical....]  
[Other....]  
"710.08  
"710.09 Optical instruments, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [45% ad val.];"

153. Schedule 7, part 2C is modified by adding the following new items in numerical sequence:

[Surveying....]  
[Other....]  
[Compasses....]  
[Gyroscopic...]  
"710.14  
"710.15 If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.]  
"710.16 [Other...]  
710.17 Compasses, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [45% ad val.];"

154. Schedule 7, part 2C is modified by adding the following new item in numerical sequence:

[Surveying....]  
[Other....]  
[Automatic...]  
"710.30  
"710.31 If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [35% ad val.];"

155. Schedule 7, part 2C is modified by adding the following new item in numerical sequence:

[Surveying....]  
[Other....]  
[Other:]  
[Navigational...]  
"710.46  
"710.47 If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... Free [30% ad val.];"

Schedule 7, Part 2, Subpart D

156. Schedule 7, part 2D, headnote 2 is modified by deleting "712.51" and substituting "712.52" in lieu thereof;



157. Schedule 7, part 2D is modified by redesignating items 711.34, 711.36 and 711.37 as "711.31", "711.32", and "711.38", respectively, and adding the following new items in numerical sequence:

|                     |                                                                                   |      |               |
|---------------------|-----------------------------------------------------------------------------------|------|---------------|
| [Hydrometers....]   |                                                                                   |      |               |
| [Thermometers....]  |                                                                                   |      |               |
| [Nonrecording....]  |                                                                                   |      |               |
| [Thermometers:]     |                                                                                   |      |               |
| [Liquid-filled....] |                                                                                   |      |               |
| [Other]             |                                                                                   |      |               |
| [711.32]            |                                                                                   |      |               |
| "711.33             | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [85% ad val.] |
| [711.38]            | [Other]                                                                           |      |               |
| 711.39              | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [40% ad val.] |

158. Schedule 7, part 2D is modified by redesignating item 711.82 as "711.75" and adding the following new item in numerical sequence:

|                  |                                                                                   |      |                             |
|------------------|-----------------------------------------------------------------------------------|------|-----------------------------|
| [Pressure....]   |                                                                                   |      |                             |
| [Flow....]       |                                                                                   |      |                             |
| [Instruments...] |                                                                                   |      |                             |
| [711.75]         |                                                                                   |      |                             |
| "711.76          | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [\$4.50 each + 65% ad val.] |

159. Schedule 7, part 2D is modified by redesignating items 711.83, 711.84, and 711.85 as "711.77", "711.78", and "711.79", respectively, and adding the following new item in numerical sequence:

|                |                                                                                                              |      |               |
|----------------|--------------------------------------------------------------------------------------------------------------|------|---------------|
| [Pressure....] |                                                                                                              |      |               |
| [Other]        |                                                                                                              |      |               |
| [711.78]       |                                                                                                              |      |               |
| "711.81        | Instruments and apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.] |

160. Schedule 7, part 2D is modified by adding the following new item in numerical sequence:

|                  |                                                                                                                 |      |               |
|------------------|-----------------------------------------------------------------------------------------------------------------|------|---------------|
| [Revolution....] |                                                                                                                 |      |               |
| [Other]          |                                                                                                                 |      |               |
| [711.98]         |                                                                                                                 |      |               |
| "712.00          | Speedometers and tachometers, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [35% ad val.] |

161. Schedule 7, part 2D is modified by adding the following new item in numerical sequence:

|                  |                                                                                                                     |      |               |
|------------------|---------------------------------------------------------------------------------------------------------------------|------|---------------|
| [Electrical....] |                                                                                                                     |      |               |
| [Optical....]    |                                                                                                                     |      |               |
| [712.05]         |                                                                                                                     |      |               |
| "712.06          | Optical instruments or apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [50% ad val.] |

162. Schedule 7, part 2D is modified by adding the following new items in numerical sequence:

|                  |                                                                                                                                                                                     |      |               |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---------------|
| [Electrical....] |                                                                                                                                                                                     |      |               |
| [Other:]         |                                                                                                                                                                                     |      |               |
| [Automatic....]  |                                                                                                                                                                                     |      |               |
| [712.47]         |                                                                                                                                                                                     |      |               |
| "712.48          | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                                                                                                   | Free | [40% ad val.] |
| [712.49]         | [Other]                                                                                                                                                                             |      |               |
| 712.52           | Electrical measuring, checking, analyzing or automatically-controlling instruments and apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [40% ad val.] |

Schedule 7, Part 2, Subpart E  
(as provided in the Trade Agreements Act of 1979, Sec. 510)

163. Schedule 7, part 2E is modified by deleting headnote 3(a) and by redesignating headnotes 3(b), (c), (d), (e), and (f) as "3(a)", "(b)", "(c)", "(d)", and "(e)", respectively;

164. Schedule 7, part 2E, headnote 3(a) (as redesignated herein) is modified to read as follows:

"3. (a) The complete citation for watches covered by item 715.05 and clocks covered by items 715.15 and 715.16 shall be each of such item numbers, followed by the appropriate item numbers for the respective movements and cases comprising such watches or clocks. Thus, item 715.05-716.04-720.20 is the correct citation for a watch in a gold case with a movement having over 17 jewels and valued not over \$15."



165. Schedule 7, part 2E, headnote 3(b) (as redesignated herein) is modified to read as follows:

"(b) In this subpart, each of the rates of duty provided for watch movements, having no jewels or not over 17 jewels, not adjusted, not self-winding, and not constructed or designed to operate for a period in excess of 47 hours without rewinding (items 716.10 through 716.44, inclusive) is also the "base rate" for watch movements having the same width and number of jewels covered by item 719.--. For citation purposes, the two blanks on the end of such item number shall be filled in with the last two digits of the item number for the applicable base rate. Thus, "item 719.38" would be the citation for a watch movement, 0.7 inch wide, having 17 jewels, which is adjusted or self-winding or constructed or designed to operate for a period in excess of 47 hours without rewinding, and valued not over \$15.";

166. Schedule 7, part 2E, headnote 4(a) is modified by deleting "in Arabic numerals and" in paragraphs (iii) and (iv) of the headnote;

167. Schedule 7, part 2E, headnote 4(e) is modified to read as follows:

"(e) Dials shall be marked to show the name of the country of manufacture.";

168. Schedule 7, part 2E, headnote 6(b) is modified by deleting "716.03" and substituting "716.04" in lieu thereof;

169. Items 715.05 and 715.15 are modified by deleting "(b)" in the item column and substituting "(a)" in lieu thereof;

170. Schedule 7, part 2E, is modified by adding the following new item in numerical sequence:

| [Clocks:]           |                                            | [With...] |                                                                                                                                                          |
|---------------------|--------------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 715.15              |                                            |           |                                                                                                                                                          |
| 715.16              | If certified for use in civil aircraft     |           |                                                                                                                                                          |
| (see headnote 3(a)) | (see headnote 3, part 6C, schedule 6)..... | Free      | [The column 2 rates applicable to the cases, plus the column 2 rates applicable to the movements, if such cases and movements were imported separately]; |

171. Item 716.08 is superseded by:

| [Watch...:] |  | [Having over 17 jewels:]       |                                  |
|-------------|--|--------------------------------|----------------------------------|
| 716.04      |  | Valued not over \$15 each..... | [\$5.37 each] [\$10.75 each]     |
| 716.06      |  | Valued over \$15 each.....     | [See Annex III] [\$10.75 each]"; |

172. Items 716.10 through 716.26, inclusive, are superseded by:

| [Watch...:] |  | [Having...:]                                    |                                      |
|-------------|--|-------------------------------------------------|--------------------------------------|
|             |  | [Not...:]                                       |                                      |
|             |  | [Having...:]                                    |                                      |
| 716.10      |  | Not over 0.6 inch in width.....                 | [See Annex III] [\$1.50 each]        |
| 716.18      |  | Over 0.6 but not over 1.77 inches in width..... | [See Annex III] [\$1.50 each] [1]    |
|             |  | Having over 1 jewel but not over 7 jewels:      |                                      |
| 716.20      |  | Not over 0.6 inch in width.....                 | [See Annex III] [\$2.50 each]        |
| 716.27      |  | Over 0.6 but not over 0.9 inch in width.....    | [See Annex III] [\$2.50 each] [1/]   |
| 716.28      |  | Over 0.9 but not over 1 inch in width.....      | [See Annex III] [\$2.50 each] [1/]   |
| 716.29      |  | Over 1 but not over 1.77 inches in width.....   | [See Annex III] [\$2.50 each]"; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 510.]

173. Items 716.30 through 716.36, inclusive, are superseded by:

| [Watch...:] |  | [Having...:]                                 |                                                                                         |
|-------------|--|----------------------------------------------|-----------------------------------------------------------------------------------------|
|             |  | [Not...:]                                    |                                                                                         |
|             |  | [Having...:]                                 |                                                                                         |
|             |  | "Valued not over \$15 each:                  |                                                                                         |
| 716.37      |  | Not over 0.6 inch in width.....              | [\$1.80 each + 9c for each jewel over 7] [\$2.50 each + 15c for each jewel over 7]      |
| 716.38      |  | Over 0.6 but not over 0.9 inch in width..... | [\$1.35 each + 9c for each jewel over 7] [\$2.50 each + 15c for each jewel over 7] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 510.]



|        |                                                                          |                                                              |                                                   |                                                             |
|--------|--------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------|-------------------------------------------------------------|
| 716.39 | [Watch...:]<br>[Having...:]<br>[Not...:]<br>[Having...:]<br>[Valued...:] | Over 0.9 but not over<br>1 inch in width.....                | [\$1.20 each +<br>9c for each<br>jewel over<br>7] | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7] [1/1] |
|        |                                                                          | Over 1 but not over<br>1.77 inches in width.....             | [90c each +<br>9c for<br>each jewel<br>over 7]    | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7] [1/1] |
| 716.40 |                                                                          | Valued over \$15 each:<br>Not over 0.6 inch in<br>width..... | [See Annex III]                                   | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7]       |
|        |                                                                          | Over 0.6 but not over<br>0.9 inch in width.....              | [See Annex III]                                   | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7] [1/1] |
| 716.41 |                                                                          | Over 0.9 but not over<br>1 inch in width.....                | [See Annex III]                                   | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7] [1/1] |
|        |                                                                          | Over 1 but not over<br>1.77 inches in width.....             | [See Annex III]                                   | [\$2.50 each +<br>15c for<br>each jewel<br>over<br>7] [1/1] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 510.]

174. Items 717.-- through 719.--, inclusive, are superseded by:

|                                           |                             |                                                                                                                                                                                                                                |                 |                                                                                                          |
|-------------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------------------------------------------------------------------------------------|
| "719.--<br>(see<br>head-<br>note<br>3(b)) | [Watch...:]<br>[Having...:] | Adjusted or self-winding, whether or<br>not adjusted, (or if a self-winding de-<br>vice can be incorporated therein), or<br>constructed or designed to operate for<br>a period in excess of 47 hours without<br>rewinding..... | [See Annex III] | [Column 2<br>base rate<br>+ \$1 each<br>if self-<br>winding +<br>\$1 for each<br>adjust-<br>ment]; [1/1] |
|                                           |                             |                                                                                                                                                                                                                                |                 |                                                                                                          |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 510.]

175. Schedule 7, part 2E is modified by adding the following new item in numerical sequence:

|          |                                                                     |                                                                                          |      |                                                         |
|----------|---------------------------------------------------------------------|------------------------------------------------------------------------------------------|------|---------------------------------------------------------|
| [720.08] | [Clock...:]<br>[Measuring...:]<br>[Constructed...:]<br>[Having...:] | If certified for use in<br>civil aircraft (see head-<br>note 3, part 6C, schedule 6).... | Free | [\$2.25 each<br>+ 15c for<br>each jewel<br>over<br>7]"; |
|          |                                                                     |                                                                                          |      |                                                         |

#### Schedule 7, Part 3, Subpart A

176. Item 725.06 is superseded by:

|                                                            |        |                                 |                 |                    |
|------------------------------------------------------------|--------|---------------------------------|-----------------|--------------------|
| [Stringed...:]<br>"Other stringed instruments:<br>Guitars: | 725.05 | Valued not over \$100 each..... | [See Annex III] | [40% ad<br>val.]   |
|                                                            |        | Other.....                      | [See Annex III] | [40% ad<br>val.]   |
|                                                            | 725.07 | Other.....                      | [See Annex III] | [40% ad<br>val.]   |
|                                                            | 725.08 | Other.....                      | [See Annex III] | [40% ad<br>val.]"; |

#### Schedule 7, Part 3, Subpart B

177. The article description for item 726.55 is modified by deleting "item 725.06" and substituting "items 725.05, 725.07, or 725.08" in lieu thereof;

#### Schedule 7, Part 4, Subpart A

178. Schedule 7, part 4A is modified by redesignating items 727.31 and 727.32 as "727.23" and "727.25", respectively;

179. Item 727.33 is superseded by:

|                                                                   |        |              |                 |                    |
|-------------------------------------------------------------------|--------|--------------|-----------------|--------------------|
| [Furniture...:]<br>[Of wood:]<br>[Other:]<br>[Chairs:]<br>"Other: | 727.27 | Of teak..... | [See Annex III] | [40% ad<br>val.]   |
|                                                                   |        | Other.....   | [See Annex III] | [40% ad<br>val.]"; |
|                                                                   | 727.29 | Other.....   | [See Annex III] | [40% ad<br>val.]"; |



180. Schedule 7, part 4A is modified by redesignating item 727.48 as "727.50" and by adding the following new items in numerical sequence:

|                 |                                                                                                                 |      |                 |
|-----------------|-----------------------------------------------------------------------------------------------------------------|------|-----------------|
| [Furniture...:] |                                                                                                                 |      |                 |
| [Of rubber...:] |                                                                                                                 |      |                 |
| [727.47]        | [Of...]                                                                                                         |      |                 |
| "727.49         | Furniture, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                    | Free | [65% ad val.]   |
| [727.50]        | [Other]                                                                                                         |      |                 |
| 727.51          | Furniture, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).....                    | Free | [25% ad val.]   |
| [727.52]        | [Of copper]                                                                                                     |      |                 |
| [727.55]        | [Other]                                                                                                         |      |                 |
| 727.56          | Furniture, except of leather, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free | [45% ad val.]"; |

#### Schedule 7, Part 5, Subpart C

181. Items 732.20 and 732.22 are superseded by:

|              |                                       |                 |                 |
|--------------|---------------------------------------|-----------------|-----------------|
| [Bicycles:]  |                                       |                 |                 |
| [Having...:] |                                       |                 |                 |
| [Other:]     |                                       |                 |                 |
| "732.21      | Valued not over \$16.66-2/3 each..... | [See Annex III] | [30% ad val.]"; |

182. Item 732.39 is superseded by:

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |                 |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-----------------|
| [Parts...:] |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |                 |
| "732.41     | Variable speed hubs (except three speed) with internal gear-changing mechanisms, whether or not incorporating a coaster brake; derailleurs; drum brakes; click twist grips; click stick levers; cotterless type crank sets; rims; parts of all the foregoing and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle..... | [See Annex III] | [30% ad val.]   |
| 732.42      | Other parts of bicycles.....                                                                                                                                                                                                                                                                                                                                                                                                                                             | [See Annex III] | [30% ad val.]"; |

183. Schedule 7, part 5C is modified by redesignating item 732.40 as "732.43";

#### Schedule 7, Part 5, Subpart D

184. Item 734.96 is superseded by:

|                      |                         |                 |                     |
|----------------------|-------------------------|-----------------|---------------------|
| [Skis...:]           |                         |                 |                     |
| "Skis and snowshoes: |                         |                 |                     |
| 735.01               | Cross-country skis..... | [See Annex III] | [33-1/3% ad val.]   |
| 735.02               | Other.....              | [See Annex III] | [33-1/3% ad val.]"; |

185. Schedule 7, part 5D is modified by redesignating item 734.98 as "735.03";

186. Item 734.99 is superseded by:

|            |                                                    |                 |                 |
|------------|----------------------------------------------------|-----------------|-----------------|
| [Skis...:] |                                                    |                 |                 |
| "Other:    |                                                    |                 |                 |
| 735.04     | Cross-country ski equipment and parts thereof..... | [See Annex III] | [45% ad val.]   |
| 735.06     | Other.....                                         | [See Annex III] | [45% ad val.]"; |

187. Schedule 7, part 5D is modified by redesignating item 735.05 as "735.07";

#### Schedule 7, Part 8, Subpart A

188. Schedule 7, part 8A is modified by deleting the superior heading to items 750.26 and 750.27 and inserting in lieu thereof "Valued not over 45c each"; and by deleting the item description for item 750.28 and inserting in lieu thereof "Valued over 45c each" (as provided in the Trade Agreements Act of 1979, Sec. 511);

189. Schedule 7, part 8A is modified by deleting item 750.33;



Schedule 7, Part 12, Subpart B

190. Item 771.42 is superseded by:

|            |                                                                                                                                            |                              |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| [Film...:] |                                                                                                                                            |                              |
| [Not...:]  |                                                                                                                                            |                              |
| [Film...:] |                                                                                                                                            |                              |
| "Other:    |                                                                                                                                            |                              |
| 771.41     | Of materials other than polyester, polyvinyl chloride, polyethylene, or polypropylene, over 0.006 inch in thickness, and not in rolls..... | [6% ad val.] [25% ad val.]   |
| 771.43     | Other.....                                                                                                                                 | [6% ad val.] [25% ad val.]"; |

Schedule 7, Part 12, Subpart C

191. Schedule 7, part 12C is modified by adding the following new item in numerical sequence:

|                     |                                                                                   |                      |
|---------------------|-----------------------------------------------------------------------------------|----------------------|
| [Tires...:]         |                                                                                   |                      |
| [Pneumatic...:]     |                                                                                   |                      |
| [772.45] [Airplane] |                                                                                   |                      |
| "772.46             | If certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [30% ad val.]"; |

192. The article description for item 772.50 is modified by deleting "692.30" and substituting "692.34" in lieu thereof;

193. Schedule 7, part 12C is modified by adding the following new item in numerical sequence:

|          |                                                                                                                                                     |                      |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| [772.65] | [Hose...]                                                                                                                                           |                      |
| "772.67  | Hose, pipe, and tubing; all the foregoing with attached fittings, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)..... | Free [25% ad val.]"; |

194. Item 772.70 is superseded by:

|                                                                                                                               |                                                 |                              |
|-------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|------------------------------|
| "Wall coverings (including wall tiles), not specially provided for, of rubber or plastics, with or without applied adhesives: |                                                 |                              |
| 772.69                                                                                                                        | Vinyl-coated, fabric-backed wall coverings..... | [6% ad val.] [25% ad val.]   |
| 772.71                                                                                                                        | Other.....                                      | [6% ad val.] [25% ad val.]"; |

Schedule 7, Part 12, Subpart D

195. Item 774.60 is superseded by:

|                |                                                                                                                                                                                          |                                |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| [Articles...:] |                                                                                                                                                                                          |                                |
| "Other:        |                                                                                                                                                                                          |                                |
| 774.45         | Artificial flowers, trees, foliage, fruits, vegetables, grasses, or grains, all the foregoing, wholly or almost wholly of plastics, other than articles classifiable in item 748.20..... | [8.5% ad val.] [80% ad val.]   |
| 774.50         | Parts of footwear.....                                                                                                                                                                   | [8.5% ad val.] [80% ad val.]   |
| 774.55         | Other.....                                                                                                                                                                               | [8.5% ad val.] [80% ad val.]"; |

[1/ See Annex III for future staged reductions.]

Schedule 7, Part 13, Subpart B

196. Item 791.26 is superseded by:

|               |             |                              |
|---------------|-------------|------------------------------|
| [Leather...:] |             |                              |
| "Other:       |             |                              |
| 791.27        | Uppers..... | [5% ad val.] [15% ad val.]   |
| 791.28        | Other.....  | [5% ad val.] [15% ad val.]"; |

[1/ See Annex III for future staged reductions.]

Schedule 8, Part 1, Subpart A

197. Schedule 8, part 1A is modified by deleting item 802.40;

Schedule 8, Part 4

198. Schedule 8, part 4, headnote 6(a)(ii) is modified by deleting "694.15, 694.50" and inserting "694.16, 694.50, 694.63" in lieu thereof;



Schedule 8, Part 7  
(as provided in the Trade Agreements Act of 1979, Sec. 512)

199. Schedule 8, part 7 is modified by adding the following new headnote:

"2. The provisions of items 870.40 and 870.45 do not apply to --

- (i) articles of textile materials; articles provided for in schedule 5; articles of leather or of fur on the skin;
- (ii) articles provided for in schedule 6, part 2, part 3 (subparts A through F except items 652.13 through 652.38, inclusive, 652.84, 652.88, 653.00, and 653.01), part 5 (except item 688.40) or part 6, but interchangeable agricultural and horticultural implements are classifiable in item 870.40 even if mounted at the time of importation on a tractor provided for in part 6B of schedule 6;
- (iii) ball or roller bearings, including such bearings with integral shafts, and parts thereof, provided for in items 680.33 through 680.35, inclusive; or
- (iv) articles provided for in item 666.00."

200. Schedule 8, part 7 is modified by inserting in numerical sequence the following new items:

|        |                                                                                                                                                                                                                                                     |                                                              |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| 870.40 | Machinery, equipment, and implements to be used for agricultural or horticultural purposes..... Free                                                                                                                                                | [The column 2 rate applicable in the absence of this item]   |
| 870.45 | Parts to be used in articles provided for in item 666.00, whether or not such parts are chiefly used as parts of such articles and whether or not covered by a specific provision within the meaning of general interpretative rule 10(i)..... Free | [The column 2 rate applicable in the absence of this item]"; |

Appendix, Part 1, Subpart B

- 201. Subpart B, part 1 of the appendix is modified by deleting items 903.50 and 903.51, and the superior heading thereto;
- 202. The article description for item 903.60 is modified by deleting "141.81" and substituting "141.88" in lieu thereof;
- 203. The effective period column applicable to items 905.10 and 905.11 is modified by deleting "On or before 6/30/80" and inserting "On or before 6/30/85" in lieu thereof (as provided in the Trade Agreements Act of 1979, Sec. 513);
- 204. The article description for item 909.01 is modified by deleting "517.24, or 517.27," and substituting "or 517.24," in lieu thereof;
- 205. Subpart B, part 1 of the appendix is modified by deleting item 911.07;
- 206. The article description for item 912.10 is modified by deleting "732.39" and substituting "732.41" in lieu thereof;

Appendix, Part 2, Subpart A

- 207. Headnote 3(a)(i) in part 2A, of the appendix is modified by deleting "700.85" and inserting "700.90" in lieu thereof;
- 208. The article description for item 923.18 is modified by deleting "607.31" and substituting "606.24" in lieu thereof;
- 209. The article description for item 923.20 is modified by deleting "608.85, 608.88, 609.06, 609.07, and 609.08" and substituting "607.76, 607.90, 608.29, 608.43, and 608.57" in lieu thereof;
- 210. The article description for item 923.21 is modified by deleting "608.85 and 608.88" and substituting "607.76 and 607.90" in lieu thereof;
- 211. The article description for item 923.22 is modified by deleting "608.52" and substituting "606.30" in lieu thereof;
- 212. The article description for item 923.23 is modified by deleting "608.76 and 608.78" and substituting "607.26 and 607.43" in lieu thereof;
- 213. The article description for item 923.26 is modified by deleting "608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08" and substituting "606.95, 607.28, 607.34, 607.46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64" in lieu thereof;
- 214. The superior heading to items 923.74 and 923.76 is modified by deleting "item 685.20" and substituting "items 685.11 and 685.14" in lieu thereof;
- 215. The superior heading to items 923.78 and 923.79 is modified by deleting "685.20" and substituting "685.15" in lieu thereof;



216. The superior heading to items 923.81 and 923.83 is deleted and the following new superior heading inserted in lieu thereof:

"Color television receivers, having a picture tube, provided for in items 685.11 and 685.14; printed circuit boards and ceramic substrates with components assembled thereon for color television receivers and subassemblies containing one or more of such boards or substrates (except tuners or convergence assemblies), all the foregoing not having a picture tube, and entered with components enumerated in headnote 5(a)(1) and with all or part of a chassis frame, provided for in item 685.15:"

217. The article description for item 923.92 is modified by deleting "700.66 through 700.85" and "700.85" and substituting "700.66 through 700.95" and "700.90", respectively, in lieu thereof;

218. The article description for item 923.94 is modified by deleting "700.66 through 700.85" and "700.85" and substituting "700.66 through 700.95" and "700.90", respectively, in lieu thereof;

Appendix, Part 2, Subpart B

219. Subpart B, part 2 of the appendix is modified by deleting items 945.13, 945.17, 945.18, 945.19, 945.20, and 945.49, and the superior headings thereto;

Appendix, Part 2, Subpart C

220. Subpart C, part 2 of the appendix is modified by deleting items 946.02 and 946.62, and by deleting item 946.54 and the two superior headings immediately precedent thereto;

Appendix, Part 3

221. The article description for item 950.10D is modified by deleting "and 117.85" and substituting "117.86, and 117.88" in lieu thereof;
222. The article description for item 950.16 is modified by deleting "182.98" and substituting "182.99" in lieu thereof;
223. The article description for item 950.17 is modified by deleting "184.75" and substituting "184.80" in lieu thereof;
224. The article description for item 950.19 is modified by deleting "182.98" and "493.16" and substituting "182.99" and "493.14" in lieu thereof;
225. The article description for item 950.23 is modified by deleting "182.98" and substituting "182.99" in lieu thereof.

Section B. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1981

Schedule 1, Part 9, Subpart B

1. Schedule 1, part 9B is modified by deleting items 149.61 and 150.03;

Appendix, Part 2, Subpart C

2. The appendix, part 2C is modified by deleting item 946.14.

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Section C. Effective as to articles entered, or withdrawn from warehouse,  
for consumption on and after January 1, 1982:

Schedule 1, Part 9, Subpart C

1. Schedule 1, part 9C is modified by deleting item 152.44;

Schedule 1, Part 15, Subpart F

2. Schedule 1, Part 15F is modified by deleting item 190.94;

Schedule 3, Headnotes

3. Schedule 3, headnote 6 is superseded by:

"6. For the purposes of this schedule, the term "Certified hand-loomed and folklore products" refers to hand-loomed fabrics of the cottage industry, hand-made cottage industry products made of such hand-loomed fabrics, and traditional folklore handicraft textile products, provided such fabrics and products have been certified, in accordance with regulations issued by the Secretary of the Treasury, by an official of a government agency of the country where the fabrics or products were produced, to have been so made."

Schedule 3, Part 2

4. Item 316.60 is superseded by:

[Cordage:]

"Of man-made fibers:

- |        |                                            |                               |                       |
|--------|--------------------------------------------|-------------------------------|-----------------------|
| 316.55 | Measuring under 3/16 inch in diameter..... | [See Annex III]               | [76.5% ad val.] [1/]  |
| 316.58 | Measuring 3/16 inch or over in diameter... | [12.5¢ per lb. + 15% ad val.] | [76.5% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

Schedule 3, Part 3, Subpart A

5. Schedule 3, part 3A, headnote 4(i) is modified by deleting "0.23" and substituting "0.17" in lieu thereof;
6. Schedule 3, part 3A, headnote 4(ii) is modified by deleting "0.3" and substituting "0.22" in lieu thereof;

Schedule 3, Part 3, Subpart C

7. Item 336.60 is superseded by:

[Woven...:]

[Other:]

- |        |                                                           |                 |                       |
|--------|-----------------------------------------------------------|-----------------|-----------------------|
| 336.62 | Valued over \$2 per pound but not over \$9 per pound..... | [See Annex III] | [68.5% ad val.] [1/]  |
| 336.64 | Valued over \$9 per pound.....                            | [See Annex III] | [68.5% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

Schedule 3, Part 3, Subpart E

8. Item 338.30 is superseded by:

[Woven...:]

[Other:]

- |        |                                                                                                                                                                                                                      |                 |                     |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------|
| 338.40 | Wholly of continuous man-made fibers, yarn dyed, the thread count of which per inch (treating ply yarns as single threads) is over 175 but not over 360 in the warp and over 79 but not over 180 in the filling..... | [See Annex III] | [81% ad val.] [1/]  |
| 338.50 | Other.....                                                                                                                                                                                                           | [See Annex III] | [81% ad val.]; [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



## Schedule 3, Part 6, Subpart F

9. Items 380.00 through 382.87, including the superior headings thereto, are superseded by:

|                                                                                                                               |                                                                                            |                 |               |
|-------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|-----------------|---------------|
| "Men's or boys' lace or net wearing apparel, whether or not ornamented, and other men's or boys' wearing apparel, ornamented: |                                                                                            |                 |               |
| Of cotton:                                                                                                                    |                                                                                            |                 |               |
| 379.00                                                                                                                        | Certified hand-loomed and folklore products.....                                           | [See Annex III] | [90% ad val.] |
| Other:                                                                                                                        |                                                                                            |                 |               |
| Knit:                                                                                                                         |                                                                                            |                 |               |
| 379.02                                                                                                                        | Coats, suits, vests, trousers, slacks, shorts, shirts, and sweaters.....                   | [See Annex III] | [90% ad val.] |
| 379.04                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| Not knit:                                                                                                                     |                                                                                            |                 |               |
| 379.06                                                                                                                        | Coats, shirts, suits, vests, trousers, slacks and shorts.....                              | [See Annex III] | [90% ad val.] |
| 379.08                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| Of wool:                                                                                                                      |                                                                                            |                 |               |
| 379.11                                                                                                                        | Certified hand-loomed and folklore products.....                                           | [See Annex III] | [90% ad val.] |
| Other:                                                                                                                        |                                                                                            |                 |               |
| Knit:                                                                                                                         |                                                                                            |                 |               |
| 379.13                                                                                                                        | Coats, suits, trousers, slacks, and shorts.....                                            | [See Annex III] | [90% ad val.] |
| 379.15                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| Not Knit:                                                                                                                     |                                                                                            |                 |               |
| 379.17                                                                                                                        | Coats, shirts, suits, trousers, slacks, and shorts.....                                    | [See Annex III] | [90% ad val.] |
| 379.20                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| Of man-made fibers:                                                                                                           |                                                                                            |                 |               |
| Knit:                                                                                                                         |                                                                                            |                 |               |
| 379.23                                                                                                                        | Coats, suits, swimming trunks and other swimwear, trousers, slacks, and shorts.....        | [See Annex III] | [90% ad val.] |
| 379.26                                                                                                                        | Shirts and sweaters.....                                                                   | [See Annex III] | [90% ad val.] |
| 379.28                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| Not knit:                                                                                                                     |                                                                                            |                 |               |
| 379.31                                                                                                                        | Coats, shirts, suits, swimming trunks and other swimwear, trousers, slacks and shorts..... | [See Annex III] | [90% ad val.] |
| 379.33                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |
| 379.35                                                                                                                        | Other.....                                                                                 | [See Annex III] | [90% ad val.] |

Other men's or boys' wearing apparel, not ornamented:

|                                                         |                                                             |                 |                 |
|---------------------------------------------------------|-------------------------------------------------------------|-----------------|-----------------|
| Of cotton:                                              |                                                             |                 |                 |
| Knit:                                                   |                                                             |                 |                 |
| 379.37                                                  | Certified hand-loomed and folklore products.....            | [See Annex III] | [45% ad val.]   |
| Other:                                                  |                                                             |                 |                 |
| 379.39                                                  | Coats, suits, vests, trousers, slacks, and shorts.....      | [See Annex III] | [45% ad val.]   |
| 379.40                                                  | Shirts and sweaters.....                                    | [21% ad val.]   | [45% ad val.]   |
| 379.41                                                  | Other.....                                                  | [See Annex III] | [45% ad val.]   |
| Not knit:                                               |                                                             |                 |                 |
| Coats:                                                  |                                                             |                 |                 |
| 379.43                                                  | Valued not over \$4 each.....                               | [See Annex III] | [37.5% ad val.] |
| Valued over \$4 each:                                   |                                                             |                 |                 |
| 379.45                                                  | Certified hand-loomed and folklore products.....            | [See Annex III] | [37.5% ad val.] |
| 379.46                                                  | Other.....                                                  | [8% ad val.]    | [37.5% ad val.] |
| Dressing gowns, including bath- robes, and beach robes: |                                                             |                 |                 |
| 379.48                                                  | Valued not over \$2.50 each.....                            | [See Annex III] | [37.5% ad val.] |
| 379.49                                                  | Valued over \$2.50 each.....                                | [8% ad val.]    | [37.5% ad val.] |
| Pajamas:                                                |                                                             |                 |                 |
| 379.51                                                  | Valued not over \$1.50 per suit..                           | [See Annex III] | [37.5% ad val.] |
| 379.52                                                  | Valued over \$1.50 per suit.....                            | [8% ad val.]    | [37.5% ad val.] |
| Shirts:                                                 |                                                             |                 |                 |
| 379.54                                                  | Certified hand-loomed and folklore products.....            | [See Annex III] | [45% ad val.]   |
| 379.55                                                  | Other.....                                                  | [21% ad val.]   | [45% ad val.]   |
| 379.56                                                  | Shirt collars and cuffs.....                                | [See Annex III] | [20% ad val.]   |
| Vests:                                                  |                                                             |                 |                 |
| 379.57                                                  | Valued not over \$2 each.....                               | [See Annex III] | [37.5% ad val.] |
| 379.58                                                  | Valued over \$2 each.....                                   | [8% ad val.]    | [37.5% ad val.] |
| Other:                                                  |                                                             |                 |                 |
| 379.60                                                  | Certified hand-loomed and folklore products.....            | [See Annex III] | [37.5% ad val.] |
| Other:                                                  |                                                             |                 |                 |
| 379.62                                                  | Suits, trousers, slacks, and shorts.....                    | [16.5% ad val.] | [37.5% ad val.] |
| 379.63                                                  | Judo, karate, and other oriental martial arts uniforms..... | [See Annex III] | [37.5% ad val.] |
| 379.64                                                  | Other.....                                                  | [See Annex III] | [37.5% ad val.] |

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|-------------------------------------|-------------------------------------------------------------|-----------------|----------------------|
| [Other...:]                         |                                                             |                 |                      |
| Of vegetable fibers, except cotton: |                                                             |                 |                      |
| 379.66                              | Knit.....                                                   | [See Annex III] | [45% ad val.]        |
| Not knit:                           |                                                             |                 |                      |
| 379.68                              | Shirt collars and cuffs.....                                | [See Annex III] | [10% ad val.]        |
| 379.69                              | Other.....                                                  | [See Annex III] | [35% ad val.]        |
| Of wool:                            |                                                             |                 |                      |
| Knit:                               |                                                             |                 |                      |
| Valued not over \$5 per pound:      |                                                             |                 |                      |
| 379.71                              | Coats, suits, trousers, slacks, and shorts.....             | [See Annex III] | [63% ad val.] [1/]   |
| 379.72                              | Other.....                                                  | [See Annex III] | [63% ad val.] [1/]   |
| Valued over \$5 per pound:          |                                                             |                 |                      |
| 379.74                              | Sweaters valued over \$18 per pound wholly of cashmere..... | [See Annex III] | [52% ad val.] [1/]   |
| 379.75                              | Coats, suits, trousers, slacks, and shorts.....             | [See Annex III] | [54.5% ad val.] [1/] |
| 379.76                              | Other.....                                                  | [See Annex III] | [54.5% ad val.] [1/] |
| Not knit:                           |                                                             |                 |                      |
| Valued not over \$4 per pound:      |                                                             |                 |                      |
| 379.78                              | Coats, shirts, suits, trousers, slacks, and shorts.....     | [See Annex III] | [58% ad val.] [1/]   |
| 379.79                              | Other.....                                                  | [See Annex III] | [58% ad val.] [1/]   |
| Valued over \$4 per pound:          |                                                             |                 |                      |
| 379.81                              | Certified hand-loomed and folklore products.....            | [See Annex III] | [58.5% ad val.] [1/] |
| Other:                              |                                                             |                 |                      |
| 379.83                              | Coats, shirts, suits, trousers, slacks, and shorts...       | [See Annex III] | [58.5% ad val.] [1/] |
| 379.84                              | Other.....                                                  | [See Annex III] | [58.5% ad val.] [1/] |
| Of silk:                            |                                                             |                 |                      |
| 379.86                              | Knit.....                                                   | [See Annex III] | [60% ad val.]        |
| 379.87                              | Not knit.....                                               | [See Annex III] | [65% ad val.]        |
| Of man-made fibers:                 |                                                             |                 |                      |
| Knit:                               |                                                             |                 |                      |
| 379.89                              | Coats, suits, trousers, slacks, and shorts.....             | [See Annex III] | [72% ad val.] [1/]   |
| 379.90                              | Shirts and sweaters.....                                    | [See Annex III] | [72% ad val.] [1/]   |
| 379.91                              | Swimming trunks and other swimwear...                       | [See Annex III] | [72% ad val.] [1/]   |
| 379.92                              | Other.....                                                  | [See Annex III] | [72% ad val.] [1/]   |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

|                                                                                                                                                          |                                                                                            |                 |                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|-----------------|--------------------|
| [Other...:]                                                                                                                                              |                                                                                            |                 |                    |
| [Of man-made...:]                                                                                                                                        |                                                                                            |                 |                    |
| Not knit:                                                                                                                                                |                                                                                            |                 |                    |
| 379.94                                                                                                                                                   | Certified hand-loomed and folklore products.....                                           | [See Annex III] | [76% ad val.] [1/] |
| Other:                                                                                                                                                   |                                                                                            |                 |                    |
| 379.95                                                                                                                                                   | Coats, shirts, suits, swimming trunks and other swimwear, trousers, slacks, and shorts.... | [See Annex III] | [76% ad val.] [1/] |
| 379.96                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [76% ad val.] [1/] |
| 379.98                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [40% ad val.]      |
| Women's, girls', or infants' lace or net wearing apparel, whether or not ornamented, and other women's, girls', or infants' wearing apparel, ornamented: |                                                                                            |                 |                    |
| Of cotton:                                                                                                                                               |                                                                                            |                 |                    |
| 383.00                                                                                                                                                   | Certified hand-loomed and folklore products.....                                           | [See Annex III] | [90% ad val.]      |
| Other:                                                                                                                                                   |                                                                                            |                 |                    |
| Knit:                                                                                                                                                    |                                                                                            |                 |                    |
| 383.02                                                                                                                                                   | Blouses, shirts, sweaters, coats, suits, trousers, slacks, and shorts.....                 | [See Annex III] | [90% ad val.]      |
| 383.03                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [90% ad val.]      |
| Not knit:                                                                                                                                                |                                                                                            |                 |                    |
| 383.05                                                                                                                                                   | Blouses, coats, and shirts.....                                                            | [See Annex III] | [90% ad val.]      |
| 383.06                                                                                                                                                   | Suits, vests, trousers, slacks, and shorts.....                                            | [See Annex III] | [90% ad val.]      |
| 383.08                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [90% ad val.]      |
| Of wool:                                                                                                                                                 |                                                                                            |                 |                    |
| 383.10                                                                                                                                                   | Certified hand-loomed and folklore products.....                                           | [See Annex III] | [90% ad val.]      |
| Other:                                                                                                                                                   |                                                                                            |                 |                    |
| Knit:                                                                                                                                                    |                                                                                            |                 |                    |
| 383.12                                                                                                                                                   | Coats.....                                                                                 | [See Annex III] | [90% ad val.]      |
| 383.13                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [90% ad val.]      |
| Not knit:                                                                                                                                                |                                                                                            |                 |                    |
| 383.15                                                                                                                                                   | Blouses, coats, and shirts.....                                                            | [See Annex III] | [90% ad val.]      |
| 383.16                                                                                                                                                   | Other.....                                                                                 | [See Annex III] | [90% ad val.]      |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]



|                                                                     |                                                                                                     |                 |                 |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------|-----------------|
| [Women's....]                                                       |                                                                                                     |                 |                 |
| Of man-made fibers:                                                 |                                                                                                     |                 |                 |
| Knit:                                                               |                                                                                                     |                 |                 |
| 383.18                                                              | Blouses, body suits and body shirts, shirts, and sweaters.....                                      | [See Annex III] | [90% ad val.]   |
| 383.19                                                              | Coats, suits, swimming suits and other swimwear, tops, trousers, slacks, and shorts.....            | [See Annex III] | [90% ad val.]   |
| 383.20                                                              | Other.....                                                                                          | [See Annex III] | [90% ad val.]   |
| Not knit:                                                           |                                                                                                     |                 |                 |
| 383.22                                                              | Blouses, coats, shirts, suits, swimming suits and other swimwear, trousers, slacks, and shorts..... | [See Annex III] | [90% ad val.]   |
| 383.23                                                              | Other.....                                                                                          | [See Annex III] | [90% ad val.]   |
| 383.25                                                              | Other.....                                                                                          | [See Annex III] | [90% ad val.]   |
| Other women's, girls', or infants' wearing apparel, not ornamented: |                                                                                                     |                 |                 |
| Of cotton:                                                          |                                                                                                     |                 |                 |
| Knit:                                                               |                                                                                                     |                 |                 |
| 383.27                                                              | Blouses, shirts, and sweaters.....                                                                  | [21% ad val.]   | [45% ad val.]   |
| 383.28                                                              | Coats, suits, trousers, slacks, and shorts.....                                                     | [See Annex III] | [45% ad val.]   |
| 383.29                                                              | Dresses.....                                                                                        | [See Annex III] | [45% ad val.]   |
| 383.30                                                              | Other.....                                                                                          | [See Annex III] | [45% ad val.]   |
| Not knit:                                                           |                                                                                                     |                 |                 |
| Coats:                                                              |                                                                                                     |                 |                 |
| 383.32                                                              | Valued not over \$4 each.....                                                                       | [See Annex III] | [37.5% ad val.] |
| Valued over \$4 each:                                               |                                                                                                     |                 |                 |
| 383.33                                                              | Certified hand-loomed and folklore products.....                                                    | [See Annex III] | [37.5% ad val.] |
| 383.34                                                              | Other.....                                                                                          | [8% ad val.]    | [37.5% ad val.] |
| Dressing gowns, including bathrobes, and beach robes:               |                                                                                                     |                 |                 |
| 383.36                                                              | Valued not over \$2.50 each.....                                                                    | [See Annex III] | [37.5% ad val.] |
| 383.37                                                              | Valued over \$2.50 each.....                                                                        | [8% ad val.]    | [37.5% ad val.] |
| Pajamas:                                                            |                                                                                                     |                 |                 |
| 383.39                                                              | Valued not over \$1.50 per suit..                                                                   | [See Annex III] | [37.5% ad val.] |
| 383.40                                                              | Valued over \$1.50 per suit.....                                                                    | [8% ad val.]    | [37.5% ad val.] |
| Veats:                                                              |                                                                                                     |                 |                 |
| 383.42                                                              | Valued not over \$2 each.....                                                                       | [See Annex III] | [37.5% ad val.] |
| 383.43                                                              | Valued over \$2 each.....                                                                           | [8% ad val.]    | [37.5% ad val.] |

|                                     |                                                             |                 |                      |
|-------------------------------------|-------------------------------------------------------------|-----------------|----------------------|
| [Other....]                         |                                                             |                 |                      |
| [Of cotton:]                        |                                                             |                 |                      |
| [Not knit:]                         |                                                             |                 |                      |
| Other:                              |                                                             |                 |                      |
| 383.45                              | Certified hand-loomed and folklore products.....            | [See Annex III] | [37.5% ad val.]      |
| Other:                              |                                                             |                 |                      |
| 383.47                              | Blouses, shirts, suits, trousers, slacks, and shorts.....   | [16.5% ad val.] | [37.5% ad val.]      |
| 383.48                              | Dresses.....                                                | [See Annex III] | [37.5% ad val.]      |
| 383.49                              | Judo, karate, and other oriental martial arts uniforms..... | [See Annex III] | [37.5% ad val.]      |
| 383.50                              | Other.....                                                  | [See Annex III] | [37.5% ad val.]      |
| Of vegetable fibers, except cotton: |                                                             |                 |                      |
| 383.52                              | Knit.....                                                   | [See Annex III] | [45% ad val.]        |
| 383.53                              | Not knit.....                                               | [See Annex III] | [35% ad val.]        |
| Of wool:                            |                                                             |                 |                      |
| Knit:                               |                                                             |                 |                      |
| 383.55                              | Infants' outerwear.....                                     | [See Annex III] | [78.5% ad val.] [1/] |
| Other:                              |                                                             |                 |                      |
| Valued not over \$5 per pound:      |                                                             |                 |                      |
| 383.57                              | Coats.....                                                  | [See Annex III] | [63% ad val.] [1/]   |
| 383.58                              | Other.....                                                  | [See Annex III] | [63% ad val.] [1/]   |
| Valued over \$5 per pound:          |                                                             |                 |                      |
| 383.60                              | Sweaters valued over \$18 per pound wholly of cashmere..... | [See Annex III] | [52% ad val.] [1/]   |
| 383.62                              | Coats.....                                                  | [See Annex III] | [54.5% ad val.] [1/] |
| 383.63                              | Other.....                                                  | [See Annex III] | [54.5% ad val.] [1/] |
| Not knit:                           |                                                             |                 |                      |
| Valued not over \$4 per pound:      |                                                             |                 |                      |
| 383.65                              | Blouses, coats, and shirts.....                             | [See Annex III] | [58% ad val.] [1/]   |
| 383.66                              | Other.....                                                  | [See Annex III] | [58% ad val.] [1/]   |
| Valued over \$4 per pound:          |                                                             |                 |                      |
| 383.68                              | Certified hand-loomed and folklore products.....            | [See Annex III] | [58.5% ad val.] [1/] |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

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|                                    |                                                                 |                               |                      |
|------------------------------------|-----------------------------------------------------------------|-------------------------------|----------------------|
| [Other....:]                       |                                                                 |                               |                      |
| [Of wool:]                         |                                                                 |                               |                      |
| [Not knit:]                        |                                                                 |                               |                      |
| [Valued....:]                      |                                                                 |                               |                      |
| Other:                             |                                                                 |                               |                      |
| 383.70                             | Blouses and shirts.....                                         | [37.5¢ per lb. + 21% ad val.] | [58.5% ad val.] [1/] |
| 383.72                             | Coats.....                                                      | [See Annex III]               | [58.5% ad val.] [1/] |
| 383.75                             | Other.....                                                      | [See Annex III]               | [58.5% ad val.] [1/] |
| Of silk:                           |                                                                 |                               |                      |
| 383.77                             | Knit.....                                                       | [See Annex III]               | [60% ad val.]        |
| 383.78                             | Not knit.....                                                   | [See Annex III]               | [65% ad val.]        |
| Of man-made fibers:                |                                                                 |                               |                      |
| Knit:                              |                                                                 |                               |                      |
| 383.80                             | Blouses, body suits and body shirts, shirts, and sweaters.....  | [See Annex III]               | [72% ad val.] [1/]   |
| 383.81                             | Coats, suits, tops, trousers, slacks, and shorts.....           | [See Annex III]               | [72% ad val.] [1/]   |
| Swimming suits and other swimwear: |                                                                 |                               |                      |
| 383.83                             | Valued not over \$10 each.....                                  | [See Annex III]               | [72% ad val.] [1/]   |
| 383.84                             | Valued over \$10 each.....                                      | [See Annex III]               | [72% ad val.] [1/]   |
| 383.86                             | Other.....                                                      | [See Annex III]               | [72% ad val.] [1/]   |
| Not knit:                          |                                                                 |                               |                      |
| 383.88                             | Certified hand-loomed or folklore products.....                 | [See Annex III]               | [76% ad val.] [1/]   |
| Other:                             |                                                                 |                               |                      |
| 383.90                             | Blouses, coats, shirts, suits, trousers, slacks, and shorts.... | [See Annex III]               | [76% ad val.] [1/]   |
| 383.92                             | Other.....                                                      | [See Annex III]               | [76% ad val.] [1/]   |
| 383.95                             | Other.....                                                      | [See Annex III]               | [40% ad val.]";      |

[1/ This rate reflects the modification of a column 2 rate of duty pursuant to the Trade Agreements Act of 1979, Sec. 514.]

#### Appendix, Part 2, Subpart C

10. The appendix, part 2C is modified by deleting items 946.50, 946.58, 946.68, and items 946.64 and 946.66, and the superior heading thereto.

#### Section D. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1983:

##### Schedule 1, Part 9, Subpart B

1. Schedule 1, part 9B is modified by deleting item 148.99;

##### Appendix, Part 2, Subpart C

2. The appendix, part 2C is modified by deleting items 946.42, 946.46, and item 946.56, and the superior heading thereto.

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## Appendix, Part 2, Subpart C

1. Subpart C, part 2 of the appendix is deleted.

Schedule 7, Part 2, Subpart E

1. Schedule 7, part 2E, headnote 3(b) is modified by deleting "716.10" and "716.44" and substituting "716.09" and "716.45", respectively, in lieu thereof;

2. Items 716.10 and 716.18, including the superior heading thereto, are superseded by:

[Watch...:]

. [Having...:]

[Not...:]

"716.09

Having no jewels or only 1 jewel..... 36¢ each [\$1.50  
each]";

3. Items 716.20 through 716.29, inclusive, including the superior heading thereto, are superseded by:

[Watch...:]

[Having...:]

[Not...:]

"716.17

|                             |          |                    |
|-----------------------------|----------|--------------------|
| Having over 1 jewel but not |          |                    |
| over 7 jewels.....          | 72¢ each | [\$2.50<br>each]"; |

4. Items 716.41 through 716.44, inclusive, including the superior heading thereto, are superseded by:

[Watch...:]

[Having...:]

[Not...:]

"716.45

|                            |            |                |
|----------------------------|------------|----------------|
| [Having...:]               |            |                |
| Valued over \$15 each..... | 72¢ each + | [\$2.50 each + |
|                            | 4¢ for     | 15¢ for each   |
|                            | each       | jewel over     |
|                            | jewel      | 7]".           |
|                            | over 7     |                |



Section G. Effective as to articles entered, or withdrawn from warehouse,  
for consumption on and after January 1, 1986:

Schedule 1, Part 9, Subpart B

1. Schedule 1, part 9B is modified by deleting item 148.23.

Section H. Effective as to articles entered or withdrawn from warehouse,  
for consumption on and after January 1, 1987:

Schedule 1, Part 6, Subpart A

1. Schedule 1, part 6A is modified by deleting item 125.51;

Schedule 3, Part 2

2. Schedule 3, part 2 is modified by deleting items 315.41 and 315.56.

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## Section 1. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1988:

## Schedule 1, Part 3, Subpart A

1. Schedule 1, part 3A, headnote 1 is deleted;
2. Items 110.50 and 110.55 and the superior heading thereto are superseded by:

[Fish....]

[Other:]

[Otherwise....]

"110.52 Cod, cusk, haddock, hake, pollock, and Atlantic ocean perch (rosefish)..... 1.875¢ per lb. [2.5¢ per lb.];"

## Schedule 1, Part 8, Subpart A

3. Items 137.20 and 137.21 and the superior heading thereto are superseded by:

[Vegetables....]

[Potatoes....]

"137.22 Seed, certified by a responsible officer or agency of a foreign government in accordance with official rules and regulations to have been grown and approved especially for use as seed, in containers marked with the foreign government's official certified seed potato tags..... 35¢ per 100 lbs. [75¢ per 100 lbs.];"

4. Items 137.25, 137.26, 137.28, and 137.29 and the superior heading thereto are superseded by:

[Vegetables....]

[Potatoes....]

"137.27 Other than such certified seed..... 35¢ per 100 lbs. [75¢ per 100 lbs.]

137.30 If product of Cuba and entered during the period from December 1 in any year to the last day of the following February, both dates inclusive..... [30¢ per 100 lbs. (s)]"

[(s) = Suspended. See general headnote 3(b).];

5. Schedule 1, part 8A, headnote 2 is deleted;

## Schedule 2, Part 3

6. Items 245.45 and 245.50 and the superior heading thereto are superseded by:

"245.47 Wood particle board, whether or not face finished... 4% ad val. [40% ad val.];"

## Schedule 3, Part 3, Subpart A

7. Items 319.01, 319.03, 319.05, and 319.07 and the superior heading thereto are superseded by:

[Woven....]

"319.02 Colored, whether or not bleached and whether or not fancy or figured, and made on a hand loom (i.e., a nonpower-driven loom) by a cottage industry, and which prior to exportation have been certified by an official of a government agency of the country where the fabrics were produced to have been so made, of number 59 or coarser..... 6% ad val. [The rate that would apply in the absence of this item];"

## Schedule 3, Part 5, Subpart C

8. Items 366.30 and 366.33 are superseded by:

[Other....]

[Of....]

[Towels:]

[Of....]

[Woven....]

"366.31 With not over 120 yarns per square inch, counting warp and filling..... 8% ad val. [55% ad val.];"

## Schedule 3, Part 6, Subpart C

9. Items 374.05 and 374.10 and the superior heading thereto are superseded by:

[Hosiery:]

[Lace....]

[Of vegetable....]

"374.07 Embroidered..... 20% ad val. [90% ad val.];"

## Schedule 3, Part 6, Subpart E

10. Items 378.20 and 378.25 and the superior heading thereto are superseded by:

[Other....]

[Of vegetable....]

[Not....]

"378.22 Of cotton..... 6.5% ad val. [37.5% ad val.];"



Schedule 3, Part 6, Subpart F

11. Items 379.48 and 379.49 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton...:]  
[Not...:]

"379.47 Dressing gowns, including bathrobes,  
and beach robes..... 8% ad val. [37.5% ad  
val.]";

12. Items 379.51 and 379.52 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton:]  
[Not...:]

"379.50 Pajamas..... 8% ad val. [37.5% ad  
val.]";

13. Items 379.57 and 379.58 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton:]  
[Not...:]

"379.59 Vests..... 8% ad val. [37.5% ad  
val.]";

14. Items 383.36 and 383.37 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton:]  
[Not...:]

"383.35 Dressing gowns, including bathrobes,  
and beach robes..... 8% ad val. [37.5% ad  
val.]";

15. Items 383.39 and 383.40 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton:]  
[Not...:]

"383.38 Pajamas..... 8% ad val. [37.5% ad  
val.]";

16. Items 383.42 and 383.43 and the superior heading thereto are superseded by:

[Other...:]  
[Of cotton:]  
[Not...:]

"383.41 Vests..... 8% ad val. [37.5% ad  
val.]";

Schedule 5, Part 1, Subpart C

17. Items 513.35 and 513.36 and the superior heading thereto are superseded by:

[Stone...:]

"513.33 Limestone..... Free [\$1 per  
short  
ton]";

Schedule 5, Part 1, Subpart F

18. Schedule 5, part 1F is modified by deleting item 518.52;

Schedule 5, Part 2, Subpart C

19. Items 534.74 and 534.76 are superseded by:

[Smokers'...:]  
"534.75 Of fine-grained earthenware, whether or not  
decorated, having a reddish-colored body and  
a lustrous glaze, and mottled, streaked, or  
solidly colored brown to black with metallic  
oxide or salt..... 2.5% ad val. [25% ad  
val.]";

20. The superior heading to items 534.81 through 534.87 is modified by deleting "items  
534.74 and 534.76" and substituting "item 534.75" in lieu thereof;

Schedule 6, Part 4, Subpart A

21. Schedule 6, part 4A is modified by deleting items 660.57, 660.58, and 661.93;

Schedule 6, Part 5

22. Schedule 6, part 5 is modified by deleting items 682.46, 683.66, 684.31, and 686.81;

Schedule 6, Part 6, Subpart C

23. Schedule 6, part 6C is modified by deleting item 694.62;

Schedule 7, Part 2, Subpart C

24. Schedule 7, part 2C is modified by deleting item 710.47;

Schedule 7, Part 2, Subpart D

25. Schedule 7, part 2D is modified by deleting items 711.99 and 712.00;

Schedule 7, Part 2, Subpart F

26. Items 722.02 and 722.04 and the superior heading thereto are superseded by:

"722.03 Photographic motion-picture cameras, with or  
without sound recording systems..... 4.5% ad val. [20% ad  
val.]";



Schedule 7, Part 7, Subpart A

27. Items 745.70 and 745.72 and the superior heading thereto are superseded by:

"745.71 [Slide...:]  
Fasteners..... 15% ad val. [66% ad  
val.]";

Schedule 7, Part 12, Subpart C

28. Schedule 7, part 12C is modified by deleting item 772.46;

Schedule 7, Part 13, Subpart B

29. Schedule 7, part 13B is modified by deleting item 791.91.

Section J. Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1992.Schedule 3, Part 6, Subpart C

1. Items 374.20 and 374.25 and the superior heading thereto are superseded by:

[Hosiery:]  
[Lace...:]  
[Of wool:]  
"374.22 Embroidered..... 20% ad val. [90% ad  
val.]";

Schedule 7, Part 1, Subpart C

2. Items 704.25 and 704.30 and the superior heading thereto are superseded by:

[Gloves...:]  
[Lace...:]  
[Of wool...:]  
"704.28 Not embroidered..... 20% ad val. [90% ad  
val.]".

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## ANNEX III

STAGED RATE MODIFICATIONS OF THE TARIFF  
SCHEDULES OF THE UNITED STATES

## Note:

Each rate in the following tables, opposite the number of an item in the Tariff Schedules of the United States (TSUS) identified therein, is inserted in column numbered 1 in such item, effective for articles provided for therein which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of the column in which such rate is set forth and such rate shall be superseded by the rate, if any, for that item in the immediately following column, effective for articles which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of such latter column.

## Section A. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1980.

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty <u>1</u> %, effective with respect to articles entered on and after January 1 -- |           |           |           |           |           |           |            |
|--------------------------------------------------|---------------------------|------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|------------|
|                                                  |                           | 1980                                                                                           | 1981      | 1982      | 1983      | 1984      | 1985      | 1986      | 1987       |
| Schedule 1, Part 1                               |                           |                                                                                                |           |           |           |           |           |           |            |
| 100.50                                           | 0.7c per lb.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 100.73                                           | \$2.75 per<br>head        | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 100.75                                           | 3% ad val.                | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 100.85                                           | 0.5c per lb.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 100.95                                           | 3.5% ad val.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| Schedule 1, Part 2                               |                           |                                                                                                |           |           |           |           |           |           |            |
| 106.10                                           | 3c per lb.                | 2.5c/lb.                                                                                       | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.     |
| 106.22                                           | 2.5c per lb.              | 2.3c/lb.                                                                                       | 2.2c/lb.  | 2.1c/lb.  | 2c/lb.    | 1.8c/lb.  | 1.7c/lb.  | 1.6c/lb.  | 1.5c/lb.   |
| 106.25                                           | 2.5c per lb.              | 2.2c/lb.                                                                                       | 1.9c/lb.  | 1.6c/lb.  | 1.2c/lb.  | 0.9c/lb.  | 0.6c/lb.  | 0.3c/lb.  | Free       |
| 106.30                                           | 1.7c per lb.              | 0.5c/lb.                                                                                       | 0.5c/lb.  | 0.5c/lb.  | 0.5c/lb.  | 0.5c/lb.  | 0.5c/lb.  | 0.5c/lb.  | 0.5c/lb.   |
| 106.40                                           | 0.5c per lb.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 106.60                                           | 2.5% ad val.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 106.80                                           | 0.5c per lb.              | 0.2c/lb.                                                                                       | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 106.85                                           | 2.5% ad val.              | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 107.10                                           | 1.6c per lb.              | 0.6c/lb.                                                                                       | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.   |
| 107.15                                           | 1.625c per<br>lb.         | 0.6c/lb.                                                                                       | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.  | 0.6c/lb.   |
| 107.30                                           | 2c per lb.                | 1c/lb.                                                                                         | 1c/lb.    | 1c/lb.    | 1c/lb.    | 1c/lb.    | 1c/lb.    | 1c/lb.    | 1c/lb.     |
| 107.40                                           | 3c per lb.                | 2.7c/lb.                                                                                       | 2.5c/lb.  | 2.2c/lb.  | 2c/lb.    | 1.7c/lb.  | 1.5c/lb.  | 1.2c/lb.  | 1c/lb.     |
| 107.52                                           | 7.5% ad val.              | 4.5%                                                                                           | 3%        | 3%        | 3%        | 3%        | 3%        | 3%        | 3%         |
| 107.55                                           | 3c per lb.                | 2.5c/lb.                                                                                       | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.    | 2c/lb.     |
| 107.61                                           | 10% ad val.               | 7%                                                                                             | 4%        | 4%        | 4%        | 4%        | 4%        | 4%        | 4%         |
| 107.63                                           | 10% ad val.               | 7%                                                                                             | 4%        | 4%        | 4%        | 4%        | 4%        | 4%        | 4%         |
| 107.70                                           | 1.5c per lb.              | 1.3c/lb.                                                                                       | 1.2c/lb.  | 1.1c/lb.  | 1c/lb.    | 0.9c/lb.  | 0.8c/lb.  | 0.7c/lb.  | 0.6c/lb.   |
| 107.76                                           | 5% ad val.                | 2%                                                                                             | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 107.80                                           | 1c per lb.                | 0.9c/lb.                                                                                       | 0.7c/lb.  | 0.6c/lb.  | 0.5c/lb.  | 0.4c/lb.  | 0.2c/lb.  | 0.1c/lb.  | Free       |
| Schedule 1, Part 3                               |                           |                                                                                                |           |           |           |           |           |           |            |
| 110.28                                           | 0.35c/lb.                 | 0.3c/lb.                                                                                       | 0.26c/lb. | 0.22c/lb. | 0.17c/lb. | 0.13c/lb. | 0.08c/lb. | 0.04c/lb. | Free       |
| 110.55                                           | 2.5c per lb.              | 2.42c/lb.                                                                                      | 2.36c/lb. | 2.27c/lb. | 2.19c/lb. | 2.11c/lb. | 2.04c/lb. | 1.96c/lb. | 1.875c/lb. |
| 110.65                                           | 0.6% ad val.              | 0.5%                                                                                           | 0.5%      | 0.4%      | 0.3%      | 0.2%      | 0.1%      | 0.1%      | Free       |
| 111.37                                           | 6% ad val.                | 5.8%                                                                                           | 5.5%      | 5.2%      | 5%        | 4.8%      | 4.5%      | 4.2%      | 4%         |
| 111.48                                           | 4% ad val.                | 3.9%                                                                                           | 3.8%      | 3.6%      | 3.5%      | 3.4%      | 3.3%      | 3.1%      | 3%         |
| 111.52                                           | 0.9% ad val.              | 0.9%                                                                                           | 0.9%      | 0.9%      | 0.9%      | 0.9%      | 0.9%      | 0.9%      | 0.9%       |
| 111.56                                           | 0.5% ad val.              | 0.5%                                                                                           | 0.5%      | 0.5%      | 0.5%      | 0.5%      | 0.5%      | 0.5%      | 0.5%       |
| 111.60                                           | 12.5% ad val.             | 12.2%                                                                                          | 11.9%     | 11.6%     | 11.2%     | 10.9%     | 10.6%     | 10.3%     | 10%        |
| 111.76                                           | 0.3c per lb.              | 0.26c/lb.                                                                                      | 0.22c/lb. | 0.19c/lb. | 0.15c/lb. | 0.11c/lb. | 0.07c/lb. | 0.04c/lb. | Free       |
| 111.84                                           | 3% ad val.                | 2.9%                                                                                           | 2.9%      | 2.8%      | 2.8%      | 2.7%      | 2.6%      | 2.6%      | 2.5%       |
| 111.92                                           | 3% ad val.                | Free                                                                                           | Free      | Free      | Free      | Free      | Free      | Free      | Free       |
| 112.01                                           | 12.5% ad val.             | 9.5%                                                                                           | 6.5%      | 5%        | 5%        | 5%        | 5%        | 5%        | 5%         |
| 112.03                                           | 2.2% ad val.              | 1.9%                                                                                           | 1.7%      | 1.4%      | 1.1%      | 0.8%      | 0.6%      | 0.3%      | Free       |
| 112.12                                           | 0.8% ad val.              | 0.7%                                                                                           | 0.6%      | 0.5%      | 0.4%      | 0.3%      | 0.2%      | 0.1%      | Free       |
| 112.18                                           | 7.5% ad val.              | 6.9%                                                                                           | 6.4%      | 5.8%      | 5.3%      | 4.7%      | 4.1%      | 3.6%      | 3%         |
| 112.20                                           | 5% ad val.                | 4.7%                                                                                           | 4.4%      | 4.1%      | 3.8%      | 3.4%      | 3.1%      | 2.8%      | 2.5%       |
| 112.24                                           | 1.7% ad val.              | 1.7%                                                                                           | 1.7%      | 1.7%      | 1.7%      | 1.7%      | 1.7%      | 1.7%      | 1.7%       |
| 112.42                                           | 7.5% ad val.              | 7.2%                                                                                           | 6.9%      | 6.5%      | 6.2%      | 5.9%      | 5.6%      | 5.2%      | 4.9%       |
| 112.46                                           | 12.5% ad val.             | 11.9%                                                                                          | 11.4%     | 10.8%     | 10.3%     | 9.7%      | 9.1%      | 8.6%      | 8%         |
| 112.54                                           | 30% ad val.               | 27.8%                                                                                          | 25.5%     | 23.3%     | 21%       | 18.8%     | 16.5%     | 14.3%     | 12%        |
| 112.79                                           | 6% ad val.                | 5.8%                                                                                           | 5.5%      | 5.3%      | 5%        | 4.8%      | 4.5%      | 4.3%      | 4%         |
| 112.86                                           | 24% ad val.               | 23.5%                                                                                          | 23%       | 22.5%     | 22%       | 21.5%     | 21%       | 20.5%     | 20%        |
| 112.94                                           | 12.5% ad val.             | 11.8%                                                                                          | 11%       | 10.3%     | 9.5%      | 8.8%      | 8%        | 7.3%      | 6.5%       |
| 113.01                                           | 4% ad val.                | 3.5%                                                                                           | 3%        | 2.5%      | 2%        | 1.5%      | 1%        | 0.5%      | Free       |
| 113.05                                           | 12.5% ad val.             | 11.8%                                                                                          | 11%       | 10.3%     | 9.6%      | 8.8%      | 8.1%      | 7.3%      | 6.6%       |
| 113.15                                           | 0.8% ad val.              | 0.8%                                                                                           | 0.8%      | 0.8%      | 0.8%      | 0.8%      | 0.8%      | 0.8%      | 0.8%       |
| 113.40                                           | 2c per lb.                | 1.7c/lb.                                                                                       | 1.5c/lb.  | 1.2c/lb.  | 1c/lb.    | 0.8c/lb.  | 0.5c/lb.  | 0.2c/lb.  | Free       |
| 113.50                                           | 12.5% ad val.             | 11.6%                                                                                          | 10.6%     | 9.7%      | 8.8%      | 7.8%      | 6.9%      | 5.9%      | 5%         |
| 114.25                                           | 7.5% ad val.              | 7.2%                                                                                           | 6.9%      | 6.6%      | 6.3%      | 5.9%      | 5.6%      | 5.3%      | 5%         |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged  | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                        |                        |                        |                        |                        |                        |                      |
|--------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|----------------------|
|                                                  |                            | 1980                                                                                   | 1981                   | 1982                   | 1983                   | 1984                   | 1985                   | 1986                   | 1987                 |
| Schedule 1, Part 3--Continued                    |                            |                                                                                        |                        |                        |                        |                        |                        |                        |                      |
| 114.34                                           | 2.1% ad val.               | 1.8%                                                                                   | 1.6%                   | 1.3%                   | 1%                     | 0.8%                   | 0.5%                   | 0.3%                   | Free                 |
| 114.36                                           | 5% ad val.                 | 4.7%                                                                                   | 4.7%                   | 4.7%                   | 4.7%                   | 4.7%                   | 4.7%                   | 4.7%                   | 4.7%                 |
| 114.55                                           | 4.5% ad val.               | 3.9%                                                                                   | 3.4%                   | 2.8%                   | 2.3%                   | 1.7%                   | 1.1%                   | 0.6%                   | Free                 |
| Schedule 1, Part 4                               |                            |                                                                                        |                        |                        |                        |                        |                        |                        |                      |
| 114.20                                           | 15c per gal.               | 12c/gal.                                                                               | 12c/gal.               | 12c/gal.               | 12c/gal.               | 12c/gal.               | 12c/gal.               | 12c/gal.               | 12c/gal.             |
| 116.00                                           | 7c per lb.                 | 5.6c/lb.                                                                               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.             |
| 116.10                                           | 7c per lb.                 | 5.6c/lb.                                                                               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.             |
| 116.20                                           | 7c per lb.                 | 5.6c/lb.                                                                               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.               | 5.6c/lb.             |
| 117.15                                           | 15% ad val.                | 12%                                                                                    | 12%                    | 12%                    | 12%                    | 12%                    | 12%                    | 12%                    | 12%                  |
| 117.20                                           | 20% ad val.                | 17%                                                                                    | 16%                    | 16%                    | 16%                    | 16%                    | 16%                    | 16%                    | 16%                  |
| 117.44                                           | 25% ad val.                | 24.3%                                                                                  | 23.5%                  | 22.8%                  | 22%                    | 21.3%                  | 20.5%                  | 19.8%                  | 19%                  |
| 117.55                                           | 20% ad val.                | 17%                                                                                    | 15%                    | 15%                    | 15%                    | 15%                    | 15%                    | 15%                    | 15%                  |
| 117.60                                           | 8% ad val.                 | 7.8%                                                                                   | 7.6%                   | 7.4%                   | 7.2%                   | 7%                     | 6.8%                   | 6.6%                   | 6.4%                 |
| 117.88                                           | 10% ad val.                | 9.7%                                                                                   | 9.4%                   | 9.1%                   | 8.8%                   | 8.4%                   | 8.1%                   | 7.8%                   | 7.5%                 |
| Schedule 1, Part 5                               |                            |                                                                                        |                        |                        |                        |                        |                        |                        |                      |
| 120.17                                           | 2% ad val.                 | 1.8%                                                                                   | 1.5%                   | 1.3%                   | 1%                     | 0.8%                   | 0.5%                   | 0.3%                   | Free                 |
| 121.10                                           | 7.5% ad val.               | 7.2%                                                                                   | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                   | 5.2%                   | 4.9%                 |
| 121.15                                           | 5% ad val.                 | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                 |
| 121.25                                           | 6% ad val.                 | 5.8%                                                                                   | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                 |
| 121.30                                           | 9% ad val.                 | 8.6%                                                                                   | 8.1%                   | 7.7%                   | 7.3%                   | 6.8%                   | 6.4%                   | 5.9%                   | 5.5%                 |
| 121.35                                           | 4% ad val.                 | 3.9%                                                                                   | 3.8%                   | 3.7%                   | 3.6%                   | 3.4%                   | 3.3%                   | 3.2%                   | 3.1%                 |
| 121.40                                           | 5% ad val.                 | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                 |
| 121.45                                           | 9% ad val.                 | 8.6%                                                                                   | 8.1%                   | 7.7%                   | 7.3%                   | 6.8%                   | 6.4%                   | 5.9%                   | 5.5%                 |
| 121.50                                           | 6% ad val.                 | 5.8%                                                                                   | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                 |
| 121.52                                           | 4% ad val.                 | 3.5%                                                                                   | 3%                     | 2.5%                   | 2%                     | 1.5%                   | 1%                     | 0%                     | Free                 |
| 121.54                                           | 6% ad val.                 | 5.8%                                                                                   | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                 |
| 121.55                                           | 5% ad val.                 | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                 |
| 121.62                                           | 5% ad val.                 | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                 |
| 121.64                                           | 6% ad val.                 | 5.8%                                                                                   | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                 |
| 121.65                                           | 6% ad val.                 | 5.8%                                                                                   | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                 |
| 124.50                                           | 18.5% ad val.              | 17.2%                                                                                  | 15.9%                  | 14.6%                  | 13.3%                  | 11.9%                  | 10.6%                  | 9.3%                   | 8%                   |
| 124.20                                           | 8.5% ad val.               | 8.1%                                                                                   | 7.7%                   | 7.3%                   | 6.9%                   | 6.5%                   | 6.1%                   | 5.7%                   | 5.3%                 |
| 124.25                                           | 2.5% ad val.               | 2.5%                                                                                   | 2.4%                   | 2.3%                   | 2.3%                   | 2.3%                   | 2.2%                   | 2.1%                   | 2.1%                 |
| 124.30                                           | 5% ad val.                 | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                 |
| 124.60                                           | 10% ad val.                | 9.5%                                                                                   | 9%                     | 8.4%                   | 7.9%                   | 7.4%                   | 6.9%                   | 6.3%                   | 5.8%                 |
| 124.65                                           | 4% ad val.                 | 3.9%                                                                                   | 3.8%                   | 3.7%                   | 3.6%                   | 3.4%                   | 3.3%                   | 3.2%                   | 3.1%                 |
| 124.70                                           | 7.5% ad val.               | 7.2%                                                                                   | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                   | 5.2%                   | 4.9%                 |
| 124.80                                           | 6% ad val.                 | 5.6%                                                                                   | 5.1%                   | 4.7%                   | 4.2%                   | 3.8%                   | 3.3%                   | 2.9%                   | 2.5%                 |
| Schedule 1, Part 6                               |                            |                                                                                        |                        |                        |                        |                        |                        |                        |                      |
| 125.32                                           | 5.5% ad val.               | 3.8%                                                                                   | 2.2%                   | 2.2%                   | 2.2%                   | 2.2%                   | 2.2%                   | 2.2%                   | 2.2%                 |
| 125.50                                           | 5% ad val.                 | 4.4%                                                                                   | 3.8%                   | 3.1%                   | 2.5%                   | 1.9%                   | 1.3%                   | 0.6%                   | Free                 |
| 125.65                                           | 1c each                    | 0.5c each                                                                              | Free                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                 |
| 125.70                                           | 4% ad val.                 | 1%                                                                                     | Free                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                 |
| 125.82                                           | 7.5% ad val.               | 6.9%                                                                                   | 6.4%                   | 5.8%                   | 5.3%                   | 4.7%                   | 4.1%                   | 3.6%                   | 3%                   |
| 126.23                                           | 1c per lb.                 | 0.8c/lb.                                                                               | 0.7c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.3c/lb.               | 0.2c/lb.               | 0.1c/lb.               | Free                 |
| 126.27                                           | 1c per lb.                 | 0.8c/lb.                                                                               | 0.7c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.3c/lb.               | 0.2c/lb.               | 0.1c/lb.               | Free                 |
| 126.29                                           | 0.4c per lb.               | 0.35c/lb.                                                                              | 0.3c/lb.               | 0.25c/lb.              | 0.2c/lb.               | 0.15c/lb.              | 0.1c/lb.               | 0.05c/lb.              | Free                 |
| 126.33                                           | 1c per lb.                 | 0.8c/lb.                                                                               | 0.7c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.3c/lb.               | 0.2c/lb.               | 0.1c/lb.               | Free                 |
| 126.35                                           | 0.5c per lb.               | 0.4c/lb.                                                                               | 0.3c/lb.               | 0.3c/lb.               | 0.2c/lb.               | 0.2c/lb.               | 0.1c/lb.               | Free                   | Free                 |
| 126.41                                           | 9c per lb.                 | Free                                                                                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                 |
| 126.71                                           | 3c per lb.                 | Free                                                                                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                   | Free                 |
| Schedule 1, Part 7                               |                            |                                                                                        |                        |                        |                        |                        |                        |                        |                      |
| 130.8                                            | 7.5c per bu.<br>of 48 lbs. | 7.2c/bu.<br>of 48 lbs.                                                                 | 6.9c/bu.<br>of 48 lbs. | 6.6c/bu.<br>of 48 lbs. | 6.2c/bu.<br>of 48 lbs. | 5.9c/bu.<br>of 48 lbs. | 5.6c/bu.<br>of 48 lbs. | 5.3c/bu.<br>of 48 lbs. | 5c/bu.<br>of 48 lbs. |
| 130.30                                           | 6c per bu.<br>of 56 lbs.   | 5c/bu.<br>of 56 lbs.                                                                   | 4c/bu.<br>of 56 lbs.   | 4c/bu.<br>of 56 lbs.   | 3c/bu.<br>of 56 lbs.   | 2c/bu.<br>of 56 lbs.   | 1c/bu.<br>of 56 lbs.   | 0.5c/bu.<br>of 56 lbs. | Free                 |
| 130.32                                           | 25c per bu.<br>of 56 lbs.  | 22c/bu.<br>of 56 lbs.                                                                  | 20c/bu.<br>of 56 lbs.  | 17c/bu.<br>of 56 lbs.  | 15c/bu.<br>of 56 lbs.  | 12c/bu.<br>of 56 lbs.  | 10c/bu.<br>of 56 lbs.  | 7c/bu.<br>of 56 lbs.   | 5c/bu.<br>of 56 lbs. |
| 130.45                                           | 4c per bu.<br>of 32 lbs.   | 3.5c/bu.<br>of 32 lbs.                                                                 | 3c/bu.<br>of 32 lbs.   | 2.5c/bu.<br>of 32 lbs. | 2c/bu.<br>of 32 lbs.   | 1.5c/bu.<br>of 32 lbs. | 1c/bu.<br>of 32 lbs.   | 0.5c/bu.<br>of 32 lbs. | Free                 |
| 130.60                                           | 6c per bu.<br>of 56 lbs.   | 5c/bu.<br>of 56 lbs.                                                                   | 4.5c/bu.<br>of 56 lbs. | 3.5c/bu.<br>of 56 lbs. | 3c/bu.<br>of 56 lbs.   | 2c/bu.<br>of 56 lbs.   | 1.5c/bu.<br>of 56 lbs. | 1c/bu.<br>of 56 lbs.   | Free                 |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                  | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                          |                                          |                                          |                                          |                                          |                                          |                                          |
|--------------------------------------------------|--------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|
|                                                  |                                            | 1980                                                                                   | 1981                                     | 1982                                     | 1983                                     | 1984                                     | 1985                                     | 1986                                     | 1987                                     |
| Schedule 1, Part 7--Continued                    |                                            |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                                          |
| 131.20                                           | 50c per 100 lbs.                           | 47c/100 lbs.                                                                           | 45c/100 lbs.                             | 42c/100 lbs.                             | 40c/100 lbs.                             | 37c/100 lbs.                             | 35c/100 lbs.                             | 32c/100 lbs.                             | 30c/100 lbs.                             |
| 131.30                                           | 2.5c per lb.                               | 1.5c/lb.                                                                               | 1c/lb.                                   | 1c/lb.                                   | 1c/lb.                                   | 1c/lb.                                   | 1c/lb.                                   | 1c/lb.                                   | 1c/lb.                                   |
| 132.50                                           | 1c per lb.                                 | 0.4c/lb.                                                                               | 0.4c/lb.                                 | 0.4c/lb.                                 | 0.4c/lb.                                 | 0.4c/lb.                                 | 0.4c/lb.                                 | 0.4c/lb.                                 | 0.4c/lb.                                 |
| Schedule 1, Part 8                               |                                            |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                                          |
| 136.00                                           | 12.5% ad val.                              | 9.5%                                                                                   | 6.5%                                     | 5%                                       | 5%                                       | 5%                                       | 5%                                       | 5%                                       | 5%                                       |
| 136.92                                           | 1.75c per lb.                              | 1.6c/lb.                                                                               | 1.4c/lb.                                 | 1.3c/lb.                                 | 1.2c/lb.                                 | 1.1c/lb.                                 | 0.9c/lb.                                 | 0.8c/lb.                                 | 0.7c/lb.                                 |
| 137.02                                           | 2c per lb.                                 | 1c/lb.                                                                                 | 0.8c/lb.                                 | 0.8c/lb.                                 | 0.8c/lb.                                 | 0.8c/lb.                                 | 0.8c/lb.                                 | 0.8c/lb.                                 | 0.8c/lb.                                 |
| 137.20                                           | 37.5c per 100 lbs.                         | 37c/100 lbs.                                                                           | 37c/100 lbs.                             | 36.5c/100 lbs.                           | 36c/100 lbs.                             | 36c/100 lbs.                             | 35.5c/100 lbs.                           | 35c/100 lbs.                             | 35c/100 lbs.                             |
| 137.21                                           | 75c per 100 lbs.                           | 70c/100 lbs.                                                                           | 65c/100 lbs.                             | 60c/100 lbs.                             | 55c/100 lbs.                             | 50c/100 lbs.                             | 45c/100 lbs.                             | 40c/100 lbs.                             | 35c/100 lbs.                             |
| 137.25                                           | 37.5c per 100 lbs.                         | 37c/100 lbs.                                                                           | 37c/100 lbs.                             | 36.5c/100 lbs.                           | 36c/100 lbs.                             | 36c/100 lbs.                             | 35.5c/100 lbs.                           | 35c/100 lbs.                             | 35c/100 lbs.                             |
| 137.28                                           | 75c per 100 lbs.                           | 70c/100 lbs.                                                                           | 65c/100 lbs.                             | 60c/100 lbs.                             | 55c/100 lbs.                             | 50c/100 lbs.                             | 45c/100 lbs.                             | 40c/100 lbs.                             | 35c/100 lbs.                             |
| 137.78                                           | 25% ad val.                                | 22%                                                                                    | 19%                                      | 16%                                      | 13%                                      | 10%                                      | 10%                                      | 10%                                      | 10%                                      |
| 137.82                                           | 25% ad val.                                | 22%                                                                                    | 19%                                      | 16%                                      | 13%                                      | 10%                                      | 10%                                      | 10%                                      | 10%                                      |
| 138.25                                           | 17.5% ad val.                              | 14.5%                                                                                  | 11.5%                                    | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       |
| 138.30                                           | 17.5% ad val.                              | 14.8%                                                                                  | 12.2%                                    | 9.6%                                     | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       |
| 140.09                                           | 0.6c per lb.                               | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 140.14                                           | 1.2c per lb.                               | 0.5c/lb.                                                                               | 0.5c/lb.                                 | 0.5c/lb.                                 | 0.5c/lb.                                 | 0.5c/lb.                                 | 0.5c/lb.                                 | 0.5c/lb.                                 | 0.5c/lb.                                 |
| 140.25                                           | 0.37c per lb.                              | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 140.40                                           | 35% ad val.                                | 33.8%                                                                                  | 32.5%                                    | 31.3%                                    | 30%                                      | 28.8%                                    | 27.5%                                    | 26.3%                                    | 25%                                      |
| 140.45                                           | 0.4c per lb.                               | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 140.54                                           | 13% ad val.                                | 10%                                                                                    | 7%                                       | 5.2%                                     | 5.2%                                     | 5.2%                                     | 5.2%                                     | 5.2%                                     | 5.2%                                     |
| 141.10                                           | 0.7c per lb.                               | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 141.20                                           | 3c per lb. on entire contents of container | 1.5c/lb. on entire contents of container                                               | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container | 1.5c/lb. on entire contents of container |
| 141.30                                           | 8.5% ad val.                               | 5.5%                                                                                   | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       |
| 141.50                                           | 17.5% ad val.                              | 14.8%                                                                                  | 12.2%                                    | 9.6%                                     | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       |
| 141.55                                           | 1c per lb. on entire contents of container | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 141.60                                           | 9.5% ad val.                               | 9.5%                                                                                   | 9.5%                                     | 9.5%                                     | 9.5%                                     | 9.5%                                     | 9.5%                                     | 9.5%                                     | 9.5%                                     |
| 141.70                                           | 17.5% ad val.                              | 14.5%                                                                                  | 11.5%                                    | 8.5%                                     | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       |
| 141.78                                           | 17.5% ad val.                              | 14.5%                                                                                  | 11.5%                                    | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       |
| 141.82                                           | 17.5% ad val.                              | 16.6%                                                                                  | 15.6%                                    | 14.7%                                    | 13.8%                                    | 12.8%                                    | 11.9%                                    | 10.9%                                    | 10%                                      |
| 141.83                                           | 17.5% ad val.                              | 16.9%                                                                                  | 16.3%                                    | 15.6%                                    | 15%                                      | 14.4%                                    | 13.8%                                    | 13.1%                                    | 12.5%                                    |
| 141.84                                           | 17.5% ad val.                              | 16.6%                                                                                  | 15.6%                                    | 14.7%                                    | 13.8%                                    | 12.8%                                    | 11.9%                                    | 10.9%                                    | 10%                                      |
| 141.85                                           | 8.5% ad val.                               | 7.9%                                                                                   | 7.2%                                     | 6.6%                                     | 6%                                       | 5.3%                                     | 4.7%                                     | 4%                                       | 3.4%                                     |
| 141.86                                           | 17.5% ad val.                              | 16.6%                                                                                  | 15.6%                                    | 14.7%                                    | 13.8%                                    | 12.8%                                    | 11.9%                                    | 10.9%                                    | 10%                                      |
| 141.87                                           | 17.5% ad val.                              | 14.5%                                                                                  | 11.5%                                    | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       | 9%                                       |
| 144.12                                           | 3.2c per lb. + 10% ad val                  | 2.9c/lb. + 9.3%                                                                        | 2.7c/lb. + 8.5%                          | 2.4c/lb. + 7.8%                          | 2.2c/lb. + 7%                            | 2c/lb. + 6.3%                            | 1.8c/lb. + 5.5%                          | 1.5c/lb. + 4.8%                          | 1.3c/lb. + 4%                            |
| Schedule 1, Part 9                               |                                            |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                                          |
| 145.08                                           | 1c per lb.                                 | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 145.09                                           | 10% ad val.                                | 7%                                                                                     | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       | 4%                                       |
| 145.30                                           | 2.5c per lb.                               | 1.3c/lb.                                                                               | 1.3c/lb.                                 | 1.3c/lb.                                 | 1.3c/lb.                                 | 1.3c/lb.                                 | 1.3c/lb.                                 | 1.3c/lb.                                 | 1.3c/lb.                                 |
| 145.48                                           | 7c per lb.                                 | 4.6c/lb.                                                                               | 3c/lb.                                   | 3c/lb.                                   | 3c/lb.                                   | 3c/lb.                                   | 3c/lb.                                   | 3c/lb.                                   | 3c/lb.                                   |
| 145.65                                           | 28% ad val.                                | 25%                                                                                    | 22%                                      | 19%                                      | 16%                                      | 14%                                      | 12%                                      | 10%                                      | 9%                                       |
| 146.30                                           | 7.5c per lb.                               | 7.3c/lb.                                                                               | 7.1c/lb.                                 | 6.9c/lb.                                 | 6.7c/lb.                                 | 6.5c/lb.                                 | 6.3c/lb.                                 | 6.1c/lb.                                 | 6c/lb.                                   |
| 146.44                                           | 7.5% ad val.                               | 4.5%                                                                                   | 3%                                       | 3%                                       | 3%                                       | 3%                                       | 3%                                       | 3%                                       | 3%                                       |
| 146.50                                           | 0.3c per lb.                               | Free                                                                                   | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     | Free                                     |
| 146.71                                           | 14% ad val.                                | 11.3%                                                                                  | 8.6%                                     | 6%                                       | 6%                                       | 6%                                       | 6%                                       | 6%                                       | 6%                                       |
| 146.74                                           | 14% ad val.                                | 11.6%                                                                                  | 9.3%                                     | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       |
| 146.83                                           | 14% ad val.                                | 12.6%                                                                                  | 11.3%                                    | 10%                                      | 10%                                      | 10%                                      | 10%                                      | 10%                                      | 10%                                      |
| 146.84                                           | 14% ad val.                                | 11.6%                                                                                  | 9.3%                                     | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       | 7%                                       |
| 146.87                                           | 7% ad val.                                 | 4%                                                                                     | 2.6%                                     | 2.8%                                     | 2.8%                                     | 2.8%                                     | 2.8%                                     | 2.8%                                     | 2.8%                                     |
| 146.90                                           | 0.2c per lb.                               | 0.2c/lb.                                                                               | 0.1c/lb.                                 | 0.1c/lb.                                 | 0.1c/lb.                                 | 0.1c/lb.                                 | Free                                     | Free                                     | Free                                     |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                 | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                    |
|--------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------|
|                                                  |                                                                           | 1980                                                                                   | 1981                                                                 | 1982                                                                 | 1983                                                                 | 1984                                                                 | 1985                                                                 | 1986                                                                 | 1987                                                               |
| Schedule 1, Part 9--Continued                    |                                                                           |                                                                                        |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                    |
| 147.30                                           | 0.5c per lb.                                                              | 0.25c/lb.                                                                              | 0.25c/lb.                                                            | 0.25c/lb.                                                            | 0.25c/lb.                                                            | 0.25c/lb.                                                            | 0.25c/lb.                                                            | 0.25c/lb.                                                            | 0.25c/lb.                                                          |
| 147.33                                           | 8.5% ad val.                                                              | 7.9%                                                                                   | 7.2%                                                                 | 6.6%                                                                 | 6%                                                                   | 5.3%                                                                 | 4.7%                                                                 | 4%                                                                   | 3.4%                                                               |
| 147.36                                           | 35% ad val.                                                               | 32%                                                                                    | 29%                                                                  | 26%                                                                  | 23%                                                                  | 20%                                                                  | 17.5%                                                                | 17.5%                                                                | 17.5%                                                              |
| 147.38                                           | 7.5c per lb.                                                              | 6c/lb.                                                                                 | 4.5c/lb.                                                             | 3c/lb.                                                               | 3c/lb.                                                               | 3c/lb.                                                               | 3c/lb.                                                               | 3c/lb.                                                               | 3c/lb.                                                             |
| 147.61                                           | 5.25c per cu.<br>ft. of such<br>bulk or the<br>capacity of<br>the package | 5.1c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package                   | 4.9c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4.8c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4.6c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4.5c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4.3c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4.2c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package | 4c/cu. ft.<br>of such bulk<br>or the<br>capacity of<br>the package |
| 147.77                                           | 17.5% ad val.                                                             | 16.2%                                                                                  | 14.9%                                                                | 13.6%                                                                | 12.3%                                                                | 10.9%                                                                | 9.6%                                                                 | 8.3%                                                                 | 7%                                                                 |
| 147.85                                           | 4% ad val.                                                                | 3.5%                                                                                   | 3%                                                                   | 2.5%                                                                 | 2%                                                                   | 1.5%                                                                 | 1%                                                                   | 0.5%                                                                 | Free                                                               |
| 147.96                                           | 3.75c per lb.                                                             | 2.1c/lb.                                                                               | 1.5c/lb.                                                             | 1.5c/lb.                                                             | 1.5c/lb.                                                             | 1.5c/lb.                                                             | 1.5c/lb.                                                             | 1.5c/lb.                                                             | 1.5c/lb.                                                           |
| 148.19                                           | 8.5% ad val.                                                              | 5.5%                                                                                   | 3.5%                                                                 | 3.5%                                                                 | 3.5%                                                                 | 3.5%                                                                 | 3.5%                                                                 | 3.5%                                                                 | 3.5%                                                               |
| 148.22                                           | 15% ad val.                                                               | 32%                                                                                    | 29%                                                                  | 26%                                                                  | 23%                                                                  | 20%                                                                  | 17%                                                                  | 14%                                                                  | 12%                                                                |
| 148.35                                           | 35% ad val.                                                               | 32%                                                                                    | 29%                                                                  | 26%                                                                  | 23%                                                                  | 20%                                                                  | 17.5%                                                                | 17.5%                                                                | 17.5%                                                              |
| 148.65                                           | 7% ad val.                                                                | 4%                                                                                     | 4%                                                                   | 4%                                                                   | 4%                                                                   | 4%                                                                   | 4%                                                                   | 4%                                                                   | 4%                                                                 |
| 148.72                                           | 0.1c per lb.                                                              | 0.09c/lb.                                                                              | 0.07c/lb.                                                            | 0.06c/lb.                                                            | 0.05c/lb.                                                            | 0.04c/lb.                                                            | 0.02c/lb.                                                            | 0.01c/lb.                                                            | Free                                                               |
| 148.81                                           | 0.25c per lb.                                                             | 0.22c/lb.                                                                              | 0.19c/lb.                                                            | 0.16c/lb.                                                            | 0.12c/lb.                                                            | 0.09c/lb.                                                            | 0.06c/lb.                                                            | 0.03c/lb.                                                            | Free                                                               |
| 148.83                                           | 1.5c per lb.                                                              | 1.3c/lb.                                                                               | 1.1c/lb.                                                             | 0.9c/lb.                                                             | 0.7c/lb.                                                             | 0.5c/lb.                                                             | 0.4c/lb.                                                             | 0.2c/lb.                                                             | Free                                                               |
| 148.98                                           | 0.75c per lb.                                                             | 0.69c/lb.                                                                              | 0.62c/lb.                                                            | 0.56c/lb.                                                            | 0.5c/lb.                                                             | 0.44c/lb.                                                            | 0.38c/lb.                                                            | 0.31c/lb.                                                            | 0.25c/lb.                                                          |
| 149.15                                           | 7.5% ad val.                                                              | 4.5%                                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                 |
| 149.18                                           | 0.1c per lb.                                                              | 0.09c/lb.                                                                              | 0.07c/lb.                                                            | 0.06c/lb.                                                            | 0.05c/lb.                                                            | 0.04c/lb.                                                            | 0.02c/lb.                                                            | 0.01c/lb.                                                            | Free                                                               |
| 149.50                                           | 8.5% ad val.                                                              | 7.9%                                                                                   | 7.2%                                                                 | 6.6%                                                                 | 6%                                                                   | 5.3%                                                                 | 4.7%                                                                 | 4%                                                                   | 3.4%                                                               |
| 149.60                                           | 17.5% ad val.                                                             | 14.5%                                                                                  | 11.5%                                                                | 8.5%                                                                 | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                 |
| 150.02                                           | 17.5% ad val.                                                             | 14.5%                                                                                  | 11.5%                                                                | 8.5%                                                                 | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                 |
| 152.14                                           | 0.6c per lb.                                                              | 0.5c/lb.                                                                               | 0.4c/lb.                                                             | 0.3c/lb.                                                             | 0.3c/lb.                                                             | 0.2c/lb.                                                             | 0.1c/lb.                                                             | Free                                                                 | Free                                                               |
| 152.30                                           | 3.4c per lb.                                                              | 2c/lb.                                                                                 | 1.4c/lb.                                                             | 1.4c/lb.                                                             | 1.4c/lb.                                                             | 1.4c/lb.                                                             | 1.4c/lb.                                                             | 1.4c/lb.                                                             | 1.4c/lb.                                                           |
| 152.42                                           | 17.5% ad val.                                                             | 16.9%                                                                                  | 16.3%                                                                | 15.6%                                                                | 15%                                                                  | 14.4%                                                                | 13.8%                                                                | 13%                                                                  | 12.4%                                                              |
| 152.43                                           | 17.5% ad val.                                                             | 14.5%                                                                                  | 11.5%                                                                | 8.5%                                                                 | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                   | 7%                                                                 |
| 152.54                                           | 7% ad val.                                                                | 6.5%                                                                                   | 6%                                                                   | 5.4%                                                                 | 4.9%                                                                 | 4.4%                                                                 | 3.9%                                                                 | 3.4%                                                                 | 2.9%                                                               |
| 152.58                                           | 7% ad val.                                                                | 4%                                                                                     | 2.8%                                                                 | 2.8%                                                                 | 2.8%                                                                 | 2.8%                                                                 | 2.8%                                                                 | 2.8%                                                                 | 2.8%                                                               |
| 153.02                                           | 5% ad val.                                                                | 2%                                                                                     | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 153.08                                           | 5% ad val.                                                                | 2%                                                                                     | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 154.40                                           | 13.5% ad val.                                                             | 12.5%                                                                                  | 11.5%                                                                | 10.5%                                                                | 9.5%                                                                 | 8.4%                                                                 | 7.4%                                                                 | 6.4%                                                                 | 5.4%                                                               |
| 154.43                                           | 10% ad val.                                                               | 7%                                                                                     | 5%                                                                   | 5%                                                                   | 5%                                                                   | 5%                                                                   | 5%                                                                   | 5%                                                                   | 5%                                                                 |
| 154.45                                           | 8.5% ad val.                                                              | 7.9%                                                                                   | 7.2%                                                                 | 6.6%                                                                 | 6%                                                                   | 5.3%                                                                 | 4.7%                                                                 | 4%                                                                   | 3.4%                                                               |
| Schedule 1, Part 10                              |                                                                           |                                                                                        |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                    |
| 155.75                                           | 15% ad val.                                                               | 13.9%                                                                                  | 12.8%                                                                | 11.6%                                                                | 10.5%                                                                | 9.4%                                                                 | 8.3%                                                                 | 7.1%                                                                 | 6%                                                                 |
| 156.25                                           | 0.4c per lb.                                                              | 0.4c/lb.                                                                               | 0.3c/lb.                                                             | 0.3c/lb.                                                             | 0.2c/lb.                                                             | 0.2c/lb.                                                             | 0.1c/lb.                                                             | 0.1c/lb.                                                             | Free                                                               |
| 156.35                                           | 3% ad val.                                                                | Free                                                                                   | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 156.45                                           | 5% ad val.                                                                | 2%                                                                                     | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| Schedule 1, Part 11                              |                                                                           |                                                                                        |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                    |
| 161.15                                           | 1.5c per lb.                                                              | Free                                                                                   | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 161.19                                           | 1.5c per lb.                                                              | Free                                                                                   | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 161.31                                           | 5% ad val.                                                                | 2%                                                                                     | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 161.58                                           | 2c per lb.                                                                | 1.7c/lb.                                                                               | 1.5c/lb.                                                             | 1.2c/lb.                                                             | 1c/lb.                                                               | 0.7c/lb.                                                             | 0.5c/lb.                                                             | 0.2c/lb.                                                             | Free                                                               |
| 161.61                                           | 0.43c per lb.                                                             | 0.38c/lb.                                                                              | 0.32c/lb.                                                            | 0.27c/lb.                                                            | 0.21c/lb.                                                            | 0.16c/lb.                                                            | 0.11c/lb.                                                            | 0.05c/lb.                                                            | Free                                                               |
| 161.71                                           | 5c per lb.                                                                | 4.2c/lb.                                                                               | 4.2c/lb.                                                             | 3.9c/lb.                                                             | 3.5c/lb.                                                             | 3.1c/lb.                                                             | 2.7c/lb.                                                             | 2.4c/lb.                                                             | 2c/lb.                                                             |
| 161.75                                           | 15% ad val.                                                               | 13.9%                                                                                  | 12.8%                                                                | 11.6%                                                                | 10.5%                                                                | 9.4%                                                                 | 8.3%                                                                 | 7.1%                                                                 | 6%                                                                 |
| 161.79                                           | 1.5c per lb.                                                              | Free                                                                                   | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 161.94                                           | 0.5c per lb.                                                              | Free                                                                                   | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                                 | Free                                                               |
| 162.15                                           | 7.5% ad val.                                                              | 4.5%                                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                   | 3%                                                                 |
| Schedule 1, Part 12                              |                                                                           |                                                                                        |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                      |                                                                    |
| 168.26                                           | 62c per<br>proof gal.                                                     | 57c/proof<br>gal.                                                                      | 52c/proof<br>gal.                                                    | 48c/proof<br>gal.                                                    | 43c/proof<br>gal.                                                    | 38c/proof<br>gal.                                                    | 34c/proof<br>gal.                                                    | 29c/proof<br>gal.                                                    | 25c/proof<br>gal.                                                  |
| 168.37                                           | \$1.25 per<br>proof gal.                                                  | \$1.16/proof<br>gal.                                                                   | \$1.06/proof<br>gal.                                                 | 97c/proof<br>gal.                                                    | 87c/proof<br>gal.                                                    | 78c/proof<br>gal.                                                    | 69c/proof<br>gal.                                                    | 59c/proof<br>gal.                                                    | 50c/proof<br>gal.                                                  |
| 168.39                                           | 50c per<br>proof gal.                                                     | 46c/proof<br>gal.                                                                      | 42c/proof<br>gal.                                                    | 38c/proof<br>gal.                                                    | 35c/proof<br>gal.                                                    | 31c/proof<br>gal.                                                    | 27c/proof<br>gal.                                                    | 23c/proof<br>gal.                                                    | 20c/proof<br>gal.                                                  |
| 168.41                                           | \$1 per<br>proof gal.                                                     | 92c/proof<br>gal.                                                                      | 85c/proof<br>gal.                                                    | 77c/proof<br>gal.                                                    | 70c/proof<br>gal.                                                    | 62c/proof<br>gal.                                                    | 55c/proof<br>gal.                                                    | 47c/proof<br>gal.                                                    | 40c/proof<br>gal.                                                  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged         | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                       |                       |                       |                       |                       |                       |                       |
|--------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
|                                                  |                                   | 1980                                                                                   | 1981                  | 1982                  | 1983                  | 1984                  | 1985                  | 1986                  | 1987                  |
| Schedule 1, Part 12--Continued                   |                                   |                                                                                        |                       |                       |                       |                       |                       |                       |                       |
| 168.49                                           | \$1.25 per<br>proof gal.          | \$1.16/proof<br>gal.                                                                   | \$1.06/proof<br>gal.  | 97c/proof<br>gal.     | 87c/proof<br>gal.     | 78c/proof<br>gal.     | 69c/proof<br>gal.     | 59c/proof<br>gal.     | 50c/proof<br>gal.     |
| 168.53                                           | \$1 per<br>proof gal.             | 92c/proof<br>gal.                                                                      | 85c/proof<br>gal.     | 77c/proof<br>gal.     | 70c/proof<br>gal.     | 62c/proof<br>gal.     | 55c/proof<br>gal.     | 47c/proof<br>gal.     | 40c/proof<br>gal.     |
| 168.65                                           | \$1.75 per<br>proof gal.          | \$1.70/proof<br>gal.                                                                   | \$1.66/proof<br>gal.  | \$1.62/proof<br>gal.  | \$1.57/proof<br>gal.  | \$1.53/proof<br>gal.  | \$1.48/proof<br>gal.  | \$1.44/proof<br>gal.  | \$1.40/proof<br>gal.  |
| 168.67                                           | \$1.75 per<br>proof gal.          | \$1.70/proof<br>gal.                                                                   | \$1.66/proof<br>gal.  | \$1.62/proof<br>gal.  | \$1.57/proof<br>gal.  | \$1.53/proof<br>gal.  | \$1.48/proof<br>gal.  | \$1.44/proof<br>gal.  | \$1.40/proof<br>gal.  |
| 168.69                                           | 51c per<br>proof gal.             | 47c/proof<br>gal.                                                                      | 43c/proof<br>gal.     | 39c/proof<br>gal.     | 35c/proof<br>gal.     | 31c/proof<br>gal.     | 28c/proof<br>gal.     | 24c/proof<br>gal.     | 20c/proof<br>gal.     |
| 168.71                                           | 51c per<br>proof gal.             | 47c/proof<br>gal.                                                                      | 43c/proof<br>gal.     | 39c/proof<br>gal.     | 35c/proof<br>gal.     | 31c/proof<br>gal.     | 28c/proof<br>gal.     | 24c/proof<br>gal.     | 20c/proof<br>gal.     |
| 168.73                                           | 62c per<br>proof gal.             | 57c/proof<br>gal.                                                                      | 53c/proof<br>gal.     | 48c/proof<br>gal.     | 43c/proof<br>gal.     | 39c/proof<br>gal.     | 34c/proof<br>gal.     | 29c/proof<br>gal.     | 25c/proof<br>gal.     |
| 168.75                                           | 62c per<br>proof gal.             | 57c/proof<br>gal.                                                                      | 53c/proof<br>gal.     | 48c/proof<br>gal.     | 43c/proof<br>gal.     | 39c/proof<br>gal.     | 34c/proof<br>gal.     | 29c/proof<br>gal.     | 25c/proof<br>gal.     |
| 168.83                                           | \$1.25 per<br>proof gal.          | \$1.16/proof<br>gal.                                                                   | \$1.06/proof<br>gal.  | 97c/proof<br>gal.     | 87c/proof<br>gal.     | 78c/proof<br>gal.     | 69c/proof<br>gal.     | 59c/proof<br>gal.     | 50c/proof<br>gal.     |
| Schedule 1, Part 13                              |                                   |                                                                                        |                       |                       |                       |                       |                       |                       |                       |
| 170.10                                           | 90.9c per lb.                     | 36c/lb.                                                                                | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               |
| 170.15                                           | \$1.548 per<br>lb.                | 62c/lb.                                                                                | 62c/lb.               | 62c/lb.               | 62c/lb.               | 62c/lb.               | 62c/lb.               | 62c/lb.               | 62c/lb.               |
| 170.20                                           | 90.9c per lb.                     | 36c/lb.                                                                                | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               | 36c/lb.               |
| 170.35                                           | 45c per lb.                       | 41c/lb.                                                                                | 38c/lb.               | 35c/lb.               | 32c/lb.               | 29c/lb.               | 26c/lb.               | 23c/lb.               | 20c/lb.               |
| 170.45                                           | 23c per lb.                       | 20c/lb.                                                                                | 20c/lb.               | 20c/lb.               | 20c/lb.               | 20c/lb.               | 20c/lb.               | 20c/lb.               | 20c/lb.               |
| 170.66                                           | 95c per lb. +<br>5% ad val.       | 86c/lb. +<br>4.5%                                                                      | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     | 86c/lb. +<br>4.5%     |
| Schedule 1, Part 14                              |                                   |                                                                                        |                       |                       |                       |                       |                       |                       |                       |
| 175.18                                           | 50c per bu.<br>of 56 lbs.         | 36c/bu. of<br>56 lbs.                                                                  | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. | 22c/bu. of<br>56 lbs. |
| 175.39                                           | 1c per lb.                        | 0.9c/lb.                                                                               | 0.8c/lb.              | 0.7c/lb.              | 0.7c/lb.              | 0.6c/lb.              | 0.5c/lb.              | 0.4c/lb.              | 0.4c/lb.              |
| 175.51                                           | 0.4c per lb.                      | Free                                                                                   | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  |
| 176.01                                           | 7.5% ad val.                      | 4.5%                                                                                   | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    |
| 176.16                                           | 10% ad val.                       | 7%                                                                                     | 4%                    | 4%                    | 4%                    | 4%                    | 4%                    | 4%                    | 4%                    |
| 176.17                                           | 1c per lb.                        | 0.2c/lb.                                                                               | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  |
| 176.24                                           | 1.125c per<br>lb. + 5%<br>ad val. | 0.9c/lb. +<br>4.6%                                                                     | 0.9c/lb. +<br>4.3%    | 0.8c/lb. +<br>3.9%    | 0.8c/lb. +<br>3.5%    | 0.7c/lb. +<br>3.1%    | 0.6c/lb. +<br>2.8%    | 0.5c/lb. +<br>2.4%    | 0.5c/lb. +<br>2%      |
| 176.33                                           | 0.5c per lb.                      | Free                                                                                   | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  | Free                  |
| 176.45                                           | 1.8c per lb.                      | 1.8c/lb.                                                                               | 1.8c/lb.              | 1.8c/lb.              | 1.5c/lb.              | 1.3c/lb.              | 1.1c/lb.              | 0.9c/lb.              | 0.7c/lb.              |
| 176.46                                           | 0.45c per lb.                     | 0.45c/lb.                                                                              | 0.45c/lb.             | 0.45c/lb.             | 0.36c/lb.             | 0.27c/lb.             | 0.18c/lb.             | 0.09c/lb.             | Free                  |
| 176.47                                           | 10.1% ad val.                     | 2.4c/lb.                                                                               | 2.4c/lb.              | 2.4c/lb.              | 9.6%                  | 9.1%                  | 8.5%                  | 8%                    | 7.5%                  |
| 177.62                                           | 2.65c per lb.                     | 1.3c/lb.                                                                               | 1.3c/lb.              | 1.3c/lb.              | 1.3c/lb.              | 1.3c/lb.              | 1.3c/lb.              | 1.3c/lb.              | 1.3c/lb.              |
| 178.15                                           | 15.6% ad val.                     | 5c/lb.                                                                                 | 5c/lb.                | 5c/lb.                | 14.3%                 | 13%                   | 11.6%                 | 10.3%                 | 9%                    |
| Schedule 1, Part 15                              |                                   |                                                                                        |                       |                       |                       |                       |                       |                       |                       |
| 182.11                                           | 17% ad val.                       | 14%                                                                                    | 11%                   | 8%                    | 8%                    | 8%                    | 8%                    | 8%                    | 8%                    |
| 182.15                                           | 14% ad val.                       | 11%                                                                                    | 8%                    | 7%                    | 7%                    | 7%                    | 7%                    | 7%                    | 7%                    |
| 182.20                                           | 3% ad val.                        | 2.6%                                                                                   | 2.3%                  | 1.9%                  | 1.5%                  | 1.1%                  | 0.8%                  | 0.4%                  | Free                  |
| 182.33                                           | 10% ad val.                       | 7%                                                                                     | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    |
| 182.35                                           | 0.5c per lb.                      | 0.44c/lb.                                                                              | 0.37c/lb.             | 0.31c/lb.             | 0.25c/lb.             | 0.19c/lb.             | 0.12c/lb.             | 0.06c/lb.             | Free                  |
| 182.36                                           | 0.7c per lb.                      | 0.6c/lb.                                                                               | 0.5c/lb.              | 0.4c/lb.              | 0.3c/lb.              | 0.2c/lb.              | 0.1c/lb.              | 0.1c/lb.              | Free                  |
| 182.45                                           | 6% ad val.                        | 3%                                                                                     | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    |
| 182.53                                           | 10% ad val.                       | 7%                                                                                     | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    |
| 182.60                                           | 10% ad val.                       | 7%                                                                                     | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    | 5%                    |
| 182.92                                           | 20% ad val.                       | 19.5%                                                                                  | 19%                   | 18.5%                 | 18%                   | 17.5%                 | 17%                   | 16.5%                 | 16%                   |
| 182.96                                           | 10% ad val.                       | 9.8%                                                                                   | 9.5%                  | 9.3%                  | 9%                    | 8.8%                  | 8.5%                  | 8.3%                  | 8%                    |
| 184.51                                           | 0.3c per lb.                      | 0.28c/lb.                                                                              | 0.25c/lb.             | 0.23c/lb.             | 0.21c/lb.             | 0.19c/lb.             | 0.16c/lb.             | 0.14c/lb.             | 0.12c/lb.             |
| 184.58                                           | 10% ad val.                       | 9.3%                                                                                   | 6.5%                  | 7.8%                  | 7%                    | 6.3%                  | 5.5%                  | 4.8%                  | 4%                    |
| 184.65                                           | 4% ad val.                        | 2%                                                                                     | 2%                    | 2%                    | 2%                    | 2%                    | 2%                    | 2%                    | 2%                    |
| 184.85                                           | 7.5% ad val.                      | 5.2%                                                                                   | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    | 3%                    |
| 186.15                                           | 15% ad val.                       | 7.5%                                                                                   | 7.5%                  | 7.5%                  | 7.5%                  | 7.5%                  | 7.5%                  | 7.5%                  | 7.5%                  |
| 186.50                                           | 4% ad val.                        | 3.9%                                                                                   | 3.7%                  | 3.7%                  | 3.6%                  | 3.4%                  | 3.3%                  | 3.2%                  | 3.1%                  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged             | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                                       | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule 1, Part 1--Continued                    |                                       |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 188.34                                           | 2.5c per lb.                          | 2.44c/lb.                                                                              | 2.37c/lb.          | 2.31c/lb.          | 2.25c/lb.          | 2.19c/lb.          | 2.12c/lb.          | 2.06c/lb.          | 2c/lb.             |
| 190.10                                           | 5c per lb.                            | 4.4c/lb.                                                                               | 3.7c/lb.           | 3.1c/lb.           | 2.5c/lb.           | 1.9c/lb.           | 1.2c/lb.           | 0.6c/lb.           | Free               |
| 190.25                                           | 17% ad val.                           | 15.8%                                                                                  | 14.7%              | 13.5%              | 12.4%              | 11.2%              | 10%                | 8.9%               | 7.7%               |
| 190.68                                           | 7.5% ad val.                          | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 190.85                                           | 3.5% ad val.                          | 3.1%                                                                                   | 2.6%               | 2.2%               | 1.8%               | 1.3%               | 0.9%               | 0.4%               | Free               |
| 190.93                                           | 7.5% ad val.                          | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 192.17                                           | 10% ad val.                           | 7%                                                                                     | 4%                 | 4%                 | 4%                 | 4%                 | 4%                 | 4%                 | 4%                 |
| Schedule 2, Part 1                               |                                       |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 200.06                                           | 5% ad val.                            | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 200.20                                           | 6% ad val.                            | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 200.25                                           | 8% ad val.                            | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 200.45                                           | 1% ad val.                            | 0.9%                                                                                   | 0.8%               | 0.6%               | 0.5%               | 0.4%               | 0.3%               | 0.1%               | Free               |
| 200.95                                           | 16-2/3%<br>ad val.                    | 15.6%                                                                                  | 14.4%              | 13.3%              | 12.2%              | 11%                | 9.9%               | 8.7%               | 7.6%               |
| 202.38                                           | 1% ad val.                            | 0.9%                                                                                   | 0.8%               | 0.6%               | 0.5%               | 0.4%               | 0.3%               | 0.1%               | Free               |
| 202.40                                           | 75c per 1000<br>ft., board<br>measure | Free                                                                                   | Free               | Free               | Free               | Free               | Free               | Free               | Free               |
| 202.54                                           | 5% ad val.                            | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 202.56                                           | 4% ad val.                            | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free               |
| 202.60                                           | 8% ad val.                            | 7.4%                                                                                   | 6.8%               | 6.2%               | 5.6%               | 5%                 | 4.4%               | 3.8%               | 3.2%               |
| 202.66                                           | 8.5% ad val.                          | 8%                                                                                     | 7.5%               | 7%                 | 6.5%               | 6%                 | 5.5%               | 5%                 | 4.5%               |
| 203.10                                           | 10% ad val.                           | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 203.20                                           | 10.5c per lb.<br>+ 8.5% ad<br>val.    | 9.7c/lb. +<br>7.9%                                                                     | 9c/lb. +<br>7.3%   | 8c/lb. +<br>6.6%   | 7.5c/lb. +<br>6%   | 6.7c/lb. +<br>5.4% | 6c/lb. +<br>4.8%   | 5.2c/lb. +<br>4.1% | 4.5c/lb. +<br>3.5% |
| 203.30                                           | 10.5c per lb.<br>+ 8.5% ad<br>val.    | 9.7c/lb. +<br>7.9%                                                                     | 9c/lb. +<br>7.3%   | 8c/lb. +<br>6.6%   | 7.5c/lb. +<br>6%   | 6.7c/lb. +<br>5.4% | 6c/lb. +<br>4.8%   | 5.2c/lb. +<br>4.1% | 4.5c/lb. +<br>3.5% |
| 204.05                                           | 17% ad val.                           | 15.8%                                                                                  | 14.7%              | 13.5%              | 12.4%              | 11.2%              | 10%                | 8.9%               | 7.7%               |
| 204.10                                           | 3.5% ad val.                          | 3.4%                                                                                   | 3.3%               | 3.2%               | 3.2%               | 3.1%               | 3%                 | 2.9%               | 2.8%               |
| 204.20                                           | 8% ad val.                            | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 204.35                                           | 7.5% ad val.                          | 4.5%                                                                                   | 3%                 | 3%                 | 3%                 | 3%                 | 3%                 | 3%                 | 3%                 |
| 204.40                                           | 16-2/3% ad<br>val.                    | 15.5%                                                                                  | 14.2%              | 13%                | 11.7%              | 10.5%              | 9.2%               | 8%                 | 6.7%               |
| 204.50                                           | 2c per lb.<br>+ 4% ad val.            | 1.8c/lb. +<br>3.9%                                                                     | 1.7c/lb. +<br>3.7% | 1.6c/lb. +<br>3.6% | 1.5c/lb. +<br>3.5% | 1.4c/lb. +<br>3.3% | 1.2c/lb. +<br>3.2% | 1.1c/lb. +<br>3%   | 1c/lb. +<br>2.9%   |
| 206.45                                           | 7% ad val.                            | 6.7%                                                                                   | 6.4%               | 6.1%               | 5.8%               | 5.4%               | 5.1%               | 4.8%               | 4.5%               |
| 206.47                                           | 8.5% ad val.                          | 5.5%                                                                                   | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               |
| 206.50                                           | 4% ad val.                            | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free               |
| 206.52                                           | 7% ad val.                            | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free               |
| 206.53                                           | 8.5% ad val.                          | 6.2%                                                                                   | 5.7%               | 5.2%               | 5.2%               | 5.2%               | 4.9%               | 4.7%               | 4.4%               |
| 206.67                                           | 20% ad val.                           | 17%                                                                                    | 16%                | 11%                | 8%                 | 8%                 | 8%                 | 8%                 | 8%                 |
| 206.85                                           | 6% ad val.                            | 6%                                                                                     | 6%                 | 5.7%               | 5.4%               | 5.1%               | 4.8%               | 4.5%               | 4.2%               |
| 206.95                                           | 14% ad val.                           | 11%                                                                                    | 8%                 | 7%                 | 7%                 | 7%                 | 7%                 | 7%                 | 7%                 |
| 206.96                                           | 8% ad val.                            | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 206.98                                           | 8% ad val.                            | 5.1%                                                                                   | 5.1%               | 5.1%               | 5.1%               | 5.1%               | 5.1%               | 5.1%               | 5.1%               |
| 207.00                                           | 8% ad val.                            | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |           |           |           |           |           |           |          |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|----------|
|                                                  |                           | 1980                                                                                   | 1981      | 1982      | 1983      | 1984      | 1985      | 1986      | 1987     |
| Schedule 2, Part 2                               |                           |                                                                                        |           |           |           |           |           |           |          |
| 220.10                                           | 1.5c per lb.              | 1.4c/lb.                                                                               | 1.3c/lb.  | 1.3c/lb.  | 1.2c/lb.  | 1.1c/lb.  | 1.1c/lb.  | 1c/lb.    | 1c/lb.   |
| 220.15                                           | 0.5c per lb.              | 0.49c/lb.                                                                              | 0.47c/lb. | 0.46c/lb. | 0.45c/lb. | 0.44c/lb. | 0.42c/lb. | 0.41c/lb. | 0.4c/lb. |
| 220.20                                           | 4c per lb.                | 3.8c/lb.                                                                               | 3.6c/lb.  | 3.4c/lb.  | 3.2c/lb.  | 3c/lb.    | 2.8c/lb.  | 2.7c/lb.  | 2.5c/lb. |
| 220.25                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%      | 4.5%      | 4.4%      | 4.2%      | 4%        | 3.9%      | 3.7%     |
| 220.31                                           | 2.5c per lb.              | 2.4c/lb.                                                                               | 2.4c/lb.  | 2.3c/lb.  | 2.2c/lb.  | 2.2c/lb.  | 2.1c/lb.  | 2.1c/lb.  | 2c/lb.   |
| 220.35                                           | 30c per lb.               | 28c/lb.                                                                                | 27c/lb.   | 26c/lb.   | 25c/lb.   | 23c/lb.   | 22c/lb.   | 21c/lb.   | 20c/lb.  |
| 220.36                                           | 12c per lb.               | 11.5c/lb.                                                                              | 11c/lb.   | 10.5c/lb. | 10c/lb.   | 10c/lb.   | 9.5c/lb.  | 9c/lb.    | 8.5c/lb. |
| 220.37                                           | 12c per lb.               | 11.7c/lb.                                                                              | 11.5c/lb. | 11.2c/lb. | 11c/lb.   | 10.7c/lb. | 10.5c/lb. | 10.2c/lb. | 10c/lb.  |
| 220.39                                           | 10c per lb.               | 9.6c/lb.                                                                               | 9.2c/lb.  | 8.9c/lb.  | 8.5c/lb.  | 8.1c/lb.  | 7.7c/lb.  | 7.4c/lb.  | 7c/lb.   |
| 220.41                                           | 10c per lb.               | 9.6c/lb.                                                                               | 9.2c/lb.  | 8.9c/lb.  | 8.5c/lb.  | 8.1c/lb.  | 7.7c/lb.  | 7.4c/lb.  | 7c/lb.   |
| 220.48                                           | 10c per lb.               | 9.6c/lb.                                                                               | 9.2c/lb.  | 8.9c/lb.  | 8.5c/lb.  | 8.1c/lb.  | 7.7c/lb.  | 7.4c/lb.  | 7c/lb.   |
| 222.10                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%      | 3.7%      | 3.6%      | 3.4%      | 3.3%      | 3.2%      | 3.1%     |
| 222.30                                           | 14% ad val.               | 13.1%                                                                                  | 12.3%     | 11.4%     | 10.5%     | 9.6%      | 8.8%      | 7.9%      | 7%       |
| 222.32                                           | 12.5% ad val.             | 11.8%                                                                                  | 11%       | 10.3%     | 9.6%      | 8.8%      | 8.1%      | 7.3%      | 6.6%     |
| 222.34                                           | 5% ad val.                | 3.5%                                                                                   | 3.5%      | 3.5%      | 3.5%      | 3.5%      | 3.5%      | 3.5%      | 3.5%     |
| 222.36                                           | 5% ad val.                | 4.8%                                                                                   | 4.6%      | 4.4%      | 4.3%      | 4.1%      | 3.9%      | 3.7%      | 3.5%     |
| 222.40                                           | 25% ad val.               | 22%                                                                                    | 19%       | 16%       | 13%       | 10%       | 10%       | 10%       | 10%      |
| 222.41                                           | 10% ad val.               | 9.5%                                                                                   | 9%        | 8.4%      | 7.9%      | 7.4%      | 6.9%      | 6.3%      | 5.8%     |
| 222.42                                           | 25% ad val.               | 23.1%                                                                                  | 21.2%     | 19.4%     | 17.5%     | 15.6%     | 13.8%     | 11.9%     | 10%      |
| 222.44                                           | 6.5% ad val.              | 5.5%                                                                                   | 4.5%      | 4.5%      | 4.5%      | 4.5%      | 4.5%      | 4.5%      | 4.5%     |
| 222.50                                           | 20% ad val.               | 17%                                                                                    | 14%       | 11%       | 8%        | 8%        | 8%        | 8%        | 8%       |
| 222.55                                           | 3% ad val.                | 2.6%                                                                                   | 2.3%      | 1.9%      | 1.5%      | 1.1%      | 0.8%      | 0.4%      | Free     |
| 222.57                                           | 8% ad val.                | 5%                                                                                     | 3.2%      | 3.2%      | 3.2%      | 3.2%      | 3.2%      | 3.2%      | 3.2%     |
| 222.60                                           | 12.5% ad val.             | 11.8%                                                                                  | 11%       | 10.3%     | 9.6%      | 8.8%      | 8.1%      | 7.3%      | 6.6%     |
| 222.62                                           | 4% ad val.                | 3%                                                                                     | 3%        | 3%        | 3%        | 3%        | 3%        | 3%        | 3%       |
| 222.64                                           | 5% ad val.                | 3%                                                                                     | 3%        | 3%        | 3%        | 3%        | 3%        | 3%        | 3%       |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |      |       |      |      |      |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|------|-------|------|------|------|
|                                                  |                           | 1980                                                                                   | 1981  | 1982  | 1983 | 1984  | 1985 | 1986 | 1987 |
| Schedule 2, Part 3                               |                           |                                                                                        |       |       |      |       |      |      |      |
| 240.00                                           | 4% ad val.                | 12                                                                                     | Free  | Free  | Free | Free  | Free | Free | Free |
| 240.01                                           | 10% ad val.               | 72                                                                                     | 4%    | 4%    | 4%   | 4%    | 4%   | 4%   | 4%   |
| 240.02                                           | 5% ad val.                | 22                                                                                     | Free  | Free  | Free | Free  | Free | Free | Free |
| 240.03                                           | 8% ad val.                | 32                                                                                     | 3.2%  | 3.2%  | 3.2% | 3.2%  | 3.2% | 3.2% | 3.2% |
| 240.04                                           | 5% ad val.                | 22                                                                                     | Free  | Free  | Free | Free  | Free | Free | Free |
| 240.05                                           | 20% ad val.               | 18.5%                                                                                  | 17%   | 15.5% | 14%  | 12.5% | 11%  | 9.5% | 8%   |
| 240.06                                           | 12.5% ad val.             | 11.8%                                                                                  | 10.6% | 9.7%  | 8.8% | 7.8%  | 6.9% | 5.9% | 5%   |
| 240.07                                           | 7.5% ad val.              | 6.1%                                                                                   | 5.4%  | 4.7%  | 4.0% | 3.3%  | 2.6% | 1.9% | 1.2% |
| 240.08                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.2%  | 6.3%  | 5.4% | 4.5%  | 3.6% | 2.7% | 1.8% |
| 240.09                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.10                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.11                                           | 10% ad val.               | 10%                                                                                    | 10%   | 10%   | 10%  | 10%   | 10%  | 10%  | 10%  |
| 240.12                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.13                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.14                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.15                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.16                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.17                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.18                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.19                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.20                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.21                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.22                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.23                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.24                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.25                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.26                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.27                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.28                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.29                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.30                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.31                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.32                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.33                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.34                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.35                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.36                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.37                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.38                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.39                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.40                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.41                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.42                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.43                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.44                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.45                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.46                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.47                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.48                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.49                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.50                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.51                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.52                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.53                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.54                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.55                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.56                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.57                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.58                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.59                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.60                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.61                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.62                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.63                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.64                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.65                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.66                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.67                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.68                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.69                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.70                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.71                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.72                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.73                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.74                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.75                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.76                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.77                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.78                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.79                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.80                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.81                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.82                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.83                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.84                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.85                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.86                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.87                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.88                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.89                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.90                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.91                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.92                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.93                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.94                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.95                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.96                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.97                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.98                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 240.99                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |
| 241.00                                           | 20% ad val.               | 17%                                                                                    | 14%   | 10%   | 8%   | 6%    | 4%   | 2%   | 1%   |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged         | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                                   | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule 2, Part 4--Continued                    |                                   |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 252.61                                           | 7.3% ad val.                      | 7%                                                                                     | 6.7%               | 6.4%               | 6.1%               | 5.7%               | 5.4%               | 5.1%               | 4.8%               |
| 252.63                                           | 2% ad val.                        | 1.9%                                                                                   | 1.9%               | 1.9%               | 1.9%               | 1.9%               | 1.9%               | 1.8%               | 1.8%               |
| 252.67                                           | 2.5% ad val.                      | Free                                                                                   | Free               | Free               | Free               | Free               | Free               | Free               | Free               |
| 252.70                                           | 6.8% ad val.                      | 6.3%                                                                                   | 5.8%               | 5.3%               | 4.8%               | 4.2%               | 3.7%               | 3.2%               | 2.7%               |
| 252.73                                           | 3.9% ad val.                      | 3.8%                                                                                   | 3.7%               | 3.6%               | 3.5%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 252.75                                           | 6% ad val.                        | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 252.77                                           | 3.8% ad val.                      | 3.5%                                                                                   | 3.2%               | 2.9%               | 2.7%               | 2.4%               | 2.1%               | 1.8%               | 1.5%               |
| 252.79                                           | 0.5c per lb.<br>+ 2% ad val.      | 0.05c/lb. +<br>0.5% ad val.                                                            | Free               | Free               | Free               | Free               | Free               | Free               | Free               |
| 252.81                                           | 4% ad val.                        | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free               |
| 252.84                                           | 6% ad val.                        | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 252.86                                           | 5% ad val.                        | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 252.90                                           | 10% ad val.                       | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.3%               | 5.5%               | 4.8%               | 4%                 |
| 253.05                                           | 2.9% ad val.                      | 2.8%                                                                                   | 2.6%               | 2.7%               | 2.7%               | 2.6%               | 2.5%               | 2.5%               | 2.4%               |
| 253.10                                           | 5.4% ad val.                      | 5.2%                                                                                   | 5%                 | 4.8%               | 4.7%               | 4.5%               | 4.3%               | 4.1%               | 3.9%               |
| 253.15                                           | 4.5% ad val.                      | 4.4%                                                                                   | 4.2%               | 4.1%               | 4%                 | 3.8%               | 3.7%               | 3.5%               | 3.4%               |
| 253.20                                           | 4.7% ad val.                      | 4.1%                                                                                   | 3.5%               | 2.9%               | 2.4%               | 1.8%               | 1.2%               | 0.6%               | Free               |
| 253.25                                           | 2.2% ad val.                      | 1.9%                                                                                   | 1.7%               | 1.4%               | 1.1%               | 0.8%               | 0.6%               | 0.3%               | Free               |
| 253.30                                           | 0.5c per lb.<br>+ 2.5% ad<br>val. | 0.4c/lb. +<br>2.2%                                                                     | 0.3c/lb. +<br>1.9% | 0.3c/lb. +<br>1.4% | 0.2c/lb. +<br>1.3% | 0.2c/lb. +<br>0.9% | 0.1c/lb. +<br>0.6% | 0.1c/lb. +<br>0.3% | Free               |
| 253.35                                           | 6.1% ad val.                      | 5.6%                                                                                   | 5.2%               | 4.7%               | 4.3%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 253.40                                           | 5% ad val.                        | 4.4%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 253.45                                           | 4.3% ad val.                      | 4.2%                                                                                   | 4.1%               | 3.9%               | 3.8%               | 3.7%               | 3.6%               | 3.5%               | 3.4%               |
| 254.05                                           | 1% ad val.                        | 1%                                                                                     | 1%                 | 1%                 | 1%                 | 0.9%               | 0.9%               | 0.9%               | 0.9%               |
| 254.09                                           | 0.6c per lb.<br>+ 4% ad val.      | 0.4c/lb. + 4%                                                                          | 0.3c/lb. + 4%      | 0.2c/lb. + 4%      | 0.1c/lb. + 4%      | 4%                 | 3.6%               | 3.1%               | 2.6%               |
| 254.15                                           | 7% ad val.                        | 5.4%                                                                                   | 5%                 | 4.7%               | 4.3%               | 3.9%               | 3.5%               | 3.2%               | 2.8%               |
| 254.18                                           | 3.4% ad val.                      | 3%                                                                                     | 2.6%               | 2.1%               | 1.7%               | 1.3%               | 0.9%               | 0.4%               | Free               |
| 254.20                                           | 4% ad val.                        | 3.7%                                                                                   | 3.4%               | 3.1%               | 2.8%               | 2.5%               | 2.2%               | 1.9%               | 1.6%               |
| 254.25                                           | 7.5% ad val.                      | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%               |
| 254.30                                           | 3.5% ad val.                      | 3.2%                                                                                   | 3.1%               | 3.1%               | 3%                 | 2.9%               | 2.9%               | 2.8%               | 2.8%               |
| 254.35                                           | 4.5% ad val.                      | 4.4%                                                                                   | 4.2%               | 4.1%               | 4%                 | 3.8%               | 3.7%               | 3.6%               | 3.5%               |
| 254.40                                           | 5.7% ad val.                      | 5%                                                                                     | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.2%               | 4%                 | 3.8%               |
| 254.42                                           | 4.3% ad val.                      | 4.2%                                                                                   | 4.1%               | 3.9%               | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               |
| 254.44                                           | 1.6% ad val.                      | 1.4%                                                                                   | 1.2%               | 1%                 | 0.8%               | 0.6%               | 0.4%               | 0.2%               | Free               |
| 254.46                                           | 6.2% ad val.                      | 5.9%                                                                                   | 5.4%               | 4.9%               | 4.4%               | 4%                 | 3.5%               | 3%                 | 2.5%               |
| 254.48                                           | 1c per lb. +<br>4% ad val.        | 0.7c/lb. +<br>4%                                                                       | 0.4c/lb. +<br>4%   | 0.3c/lb. +<br>4%   | 0.2c/lb. +<br>4%   | 0.2c/lb. +<br>3.9% | 0.2c/lb. +<br>3.1% | 0.2c/lb. +<br>2.3% | 0.2c/lb. +<br>2.3% |
| 254.50                                           | 3.3% ad val.                      | 3.1%                                                                                   | 2.8%               | 2.6%               | 2.3%               | 2.1%               | 1.8%               | 1.6%               | 1.3%               |
| 254.54                                           | 4.5% ad val.                      | 4.4%                                                                                   | 4.2%               | 4.1%               | 4%                 | 3.7%               | 3.7%               | 3.5%               | 3.4%               |
| 254.56                                           | 6.5% ad val.                      | 6.2%                                                                                   | 5.7%               | 5.2%               | 5.5%               | 5.2%               | 4.9%               | 4.7%               | 4.4%               |
| 254.58                                           | 6% ad val.                        | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 254.63                                           | 3.7% ad val.                      | 3.6%                                                                                   | 3.5%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               | 3%                 | 2.9%               |
| 254.65                                           | 2.5% ad val.                      | 2.2%                                                                                   | 1.9%               | 1.6%               | 1.3%               | 0.9%               | 0.6%               | 0.3%               | Free               |
| 254.70                                           | 1.5c per lb.<br>+ 4% ad val.      | 1.1c/lb. +<br>3.8%                                                                     | 1.1c/lb. +<br>3.5% | 0.9c/lb. +<br>3.3% | 0.7c/lb. +<br>3%   | 0.5c/lb. +<br>2.8% | 0.4c/lb. +<br>2.5% | 0.1c/lb. +<br>2.4% | 2%                 |
| 254.75                                           | 2.7% ad val.                      | Free                                                                                   | Free               | Free               | Free               | Free               | Free               | Free               | Free               |
| 254.80                                           | 3.2% ad val.                      | 2.8%                                                                                   | 2.4%               | 2%                 | 1.6%               | 1.2%               | 0.8%               | 0.4%               | Free               |
| 254.85                                           | 4.8% ad val.                      | 4.4%                                                                                   | 4%                 | 3.7%               | 3.3%               | 3%                 | 2.6%               | 2.3%               | 1.9%               |
| 254.90                                           | 4.9% ad val.                      | 4.5%                                                                                   | 4.2%               | 3.8%               | 3.5%               | 3.1%               | 2.7%               | 2.4%               | 2%                 |
| 254.95                                           | 3.3% ad val.                      | 2.9%                                                                                   | 2.5%               | 2.1%               | 1.7%               | 1.2%               | 0.8%               | 0.4%               | Free               |
| 256.05                                           | 5% ad val.                        | 4.4%                                                                                   | 3.6%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 256.10                                           | 7.5% ad val.                      | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%               |
| 256.13                                           | 1% ad val.                        | 1%                                                                                     | 1%                 | 1%                 | 1%                 | 0.9%               | 0.9%               | 0.9%               | 0.9%               |
| 256.15                                           | 5% ad val.                        | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 256.20                                           | 0.7c per lb.<br>+ 5% ad val.      | 0.4c/lb. +<br>5%                                                                       | 0.4c/lb. +<br>5%   | 0.2c/lb. +<br>5%   | 0.1c/lb. +<br>5%   | 5%                 | 4.4%               | 3.8%               | 3.2%               |
| 256.25                                           | 8% ad val.                        | 7.4%                                                                                   | 6.8%               | 6.2%               | 5.6%               | 5%                 | 4.4%               | 3.8%               | 3.2%               |
| 256.30                                           | 7.5% ad val.                      | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 256.35                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               |
| 256.40                                           | 8% ad val.                        | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 256.42                                           | 7.5% ad val.                      | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |



## Section A--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                   |
|-----------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|-------------------|
|                                               |                                | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987 -            |
| Schedule 2, Part 4--Continued                 |                                |                                                                                        |                    |                    |                    |                    |                    |                    |                   |
| 256.44                                        | 10 1/2% ad val.                | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.3%               | 5.5%               | 4.8%               | 4%                |
| 256.48                                        | 3% ad val.                     | 2.9%                                                                                   | 2.9%               | 2.8%               | 2.8%               | 2.7%               | 2.6%               | 2.6%               | 2.5%              |
| 256.52                                        | 7.5% ad val.                   | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                |
| 256.54                                        | 7% ad val.                     | 6.5%                                                                                   | 6%                 | 5.4%               | 4.9%               | 4.4%               | 3.9%               | 3.3%               | 2.8%              |
| 256.56                                        | 10% ad val.                    | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.3%               | 5.5%               | 4.8%               | 4%                |
| 256.58                                        | 4% ad val.                     | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free              |
| 256.60                                        | 6.5% ad val.                   | 4%                                                                                     | 4%                 | 4%                 | 4%                 | 4%                 | 4%                 | 4%                 | 4%                |
| 256.65                                        | 4.1% ad val.                   | 4%                                                                                     | 3.9%               | 3.8%               | 3.7%               | 3.5%               | 3.4%               | 3.3%               | 3.2%              |
| 256.67                                        | 0.7% per lb. +<br>+ 8% ad val. | 0.6c/lb. +<br>7.7%                                                                     | 0.5c/lb. +<br>7.5% | 0.4c/lb. +<br>7.2% | 0.3c/lb. +<br>6.9% | 0.3c/lb. +<br>6.6% | 0.1c/lb. +<br>6.4% | 6.1%               | 5.8%              |
| 256.70                                        | 5% ad val.                     | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free              |
| 256.75                                        | 4% ad val.                     | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%              |
| 256.80                                        | 4.9% ad val.                   | 4.7%                                                                                   | 4.6%               | 4.4%               | 4.3%               | 4.1%               | 3.9%               | 3.8%               | 3.6%              |
| 256.84                                        | 5.6% ad val.                   | 5.4%                                                                                   | 5.2%               | 5%                 | 4.8%               | 4.6%               | 4.4%               | 4.2%               | 4%                |
| 256.90                                        | 8.5% ad val.                   | 8.1%                                                                                   | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%               | 5.7%               | 5.3%              |
| Schedule 2, Part 5                            |                                |                                                                                        |                    |                    |                    |                    |                    |                    |                   |
| 270.45                                        | 1.5% ad val.                   | 1.3%                                                                                   | 1.1%               | 0.9%               | 0.8%               | 0.6%               | 0.4%               | 0.2%               | Free              |
| 270.50                                        | 3.5% ad val.                   | 3.1%                                                                                   | 2.6%               | 2.2%               | 1.8%               | 1.3%               | 0.9%               | 0.4%               | Free              |
| 273.30                                        | 8.5% ad val.                   | 8.1%                                                                                   | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%               | 5.7%               | 5.3%              |
| 273.50                                        | 1.5% ad val.                   | 1.5%                                                                                   | 1.5%               | 1.5%               | 1.5%               | 1.4%               | 1.4%               | 1.4%               | 1.4%              |
| 273.55                                        | 4% ad val.                     | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free              |
| 273.65                                        | 3% per lb. +<br>+ 5% ad val.   | 34c/lb. +<br>4.7%                                                                      | 32c/lb. +<br>4.4%  | 30c/lb. +<br>4%    | 27c/lb. +<br>3.7%  | 25c/lb. +<br>3.4%  | 22c/lb. +<br>3.1%  | 20c/lb. +<br>2.7%  | 18c/lb. +<br>2.4% |
| 273.70                                        | 9c per lb. +<br>5% ad val.     | 8.6c/lb. +<br>4.8%                                                                     | 8.2c/lb. +<br>4.6% | 7.9c/lb. +<br>4.4% | 7.5c/lb. +<br>4.3% | 7.1c/lb. +<br>4.1% | 6.7c/lb. +<br>3.9% | 6.3c/lb. +<br>3.7% | 6c/lb. +<br>3.5%  |
| 273.75                                        | 10c per lb.                    | 9.6c/lb.                                                                               | 9.2c/lb.           | 8.9c/lb.           | 8.5c/lb.           | 8.1c/lb.           | 7.7c/lb.           | 7.3c/lb.           | 7c/lb.            |
| 273.85                                        | 10% ad val.                    | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.3%               | 5.5%               | 4.8%               | 4%                |
| 273.90                                        | 6% ad val.                     | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%              |
| 273.95                                        | 4% ad val.                     | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%              |
| 274.05                                        | 7.5% ad val.                   | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%              |
| 274.10                                        | 6c per lb.                     | 5c/lb.                                                                                 | 4.5c/lb.           | 3.5c/lb.           | 3c/lb.             | 2c/lb.             | 1.5c/lb.           | 0.5c/lb.           | Free              |
| 274.15                                        | 2.5c per lb.                   | 2.4c/lb.                                                                               | 2.4c/lb.           | 2.3c/lb.           | 2.2c/lb.           | 2.2c/lb.           | 2.1c/lb.           | 2.1c/lb.           | 2c/lb.            |
| 274.20                                        | 7.5% ad val.                   | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                |
| 274.23                                        | 15c per lb.                    | 14.5c/lb.                                                                              | 14c/lb.            | 14c/lb.            | 13.5c/lb.          | 13c/lb.            | 12.5c/lb.          | 12c/lb.            | 12c/lb.           |
| 274.27                                        | 32c per lb.                    | 31.5c/lb.                                                                              | 31c/lb.            | 30.5c/lb.          | 30c/lb.            | 29.5c/lb.          | 29c/lb.            | 28.5c/lb.          | 28c/lb.           |
| 274.29                                        | 9c per lb.                     | 8.4c/lb.                                                                               | 7.7c/lb.           | 7.1c/lb.           | 6.5c/lb.           | 5.9c/lb.           | 5.2c/lb.           | 4.6c/lb.           | 4c/lb.            |
| 274.33                                        | 15c per lb.                    | 14.5c/lb.                                                                              | 14c/lb.            | 13.5c/lb.          | 13c/lb.            | 12.5c/lb.          | 12c/lb.            | 11.5c/lb.          | 11c/lb.           |
| 274.35                                        | 6% ad val.                     | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%              |
| 274.65                                        | 2.5c per lb.                   | 2c/lb.                                                                                 | 2c/lb.             | 1.5c/lb.           | 1c/lb.             | 1c/lb.             | 0.5c/lb.           | Free               | Free              |
| 274.70                                        | 4% ad val.                     | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%              |
| 274.75                                        | 6c per lb.                     | 5c/lb.                                                                                 | 4.5c/lb.           | 3.5c/lb.           | 3c/lb.             | 2c/lb.             | 1.5c/lb.           | 0.5c/lb.           | Free              |
| 274.85                                        | 2% ad val.                     | 2%                                                                                     | 2%                 | 1.9%               | 1.9%               | 1.9%               | 1.9%               | 1.8%               | 1.8%              |
| 274.90                                        | 7.5% ad val.                   | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%              |
| Schedule 3, Part 1                            |                                |                                                                                        |                    |                    |                    |                    |                    |                    |                   |
| 300.15                                        | 3.5c per lb.                   | 3.5c/lb.                                                                               | 3.5c/lb.           | 2c/lb.             | 2c/lb.             | 2c/lb.             | 2c/lb.             | 2c/lb.             | 2c/lb.            |
| 300.20                                        | 1.75c per lb.                  | 1.75c/lb.                                                                              | 1.75c/lb.          | 0.7c/lb.           | 0.7c/lb.           | 0.7c/lb.           | 0.7c/lb.           | 0.7c/lb.           | 0.7c/lb.          |
| 300.60                                        | 14.5% ad val.                  | 14.5%                                                                                  | 14.5%              | 13.9%              | 13.3%              | 12.7%              | 12%                | 11.4%              | 10.8%             |
| 301.01                                        | 3.4% ad val.                   | 3.4%                                                                                   | 3.4%               | 3.4%               | 3.3%               | 3.2%               | 3.2%               | 3.2%               | 3.1%              |
| 301.02                                        | 3.56% ad val.                  | 3.56%                                                                                  | 3.56%              | 3.5%               | 3.5%               | 3.4%               | 3.4%               | 3.3%               | 3.3%              |
| 301.03                                        | 3.72% ad val.                  | 3.72%                                                                                  | 3.72%              | 3.7%               | 3.6%               | 3.5%               | 3.4%               | 3.4%               | 3.3%              |
| 301.04                                        | 3.88% ad val.                  | 3.88%                                                                                  | 3.88%              | 3.8%               | 3.7%               | 3.6%               | 3.6%               | 3.5%               | 3.5%              |
| 301.05                                        | 4.04% ad val.                  | 4.04%                                                                                  | 4.04%              | 4%                 | 3.9%               | 3.8%               | 3.7%               | 3.7%               | 3.6%              |
| 301.06                                        | 4.2% ad val.                   | 4.2%                                                                                   | 4.2%               | 4.1%               | 4%                 | 4%                 | 3.9%               | 3.8%               | 3.7%              |
| 301.07                                        | 4.36% ad val.                  | 4.36%                                                                                  | 4.36%              | 4.3%               | 4.2%               | 4.1%               | 4.1%               | 4%                 | 3.9%              |
| 301.08                                        | 4.52% ad val.                  | 4.52%                                                                                  | 4.52%              | 4.4%               | 4.3%               | 4.2%               | 4.1%               | 4%                 | 3.9%              |
| 301.09                                        | 4.68% ad val.                  | 4.68%                                                                                  | 4.68%              | 4.6%               | 4.5%               | 4.4%               | 4.3%               | 4.2%               | 4.1%              |
| 301.10                                        | 4.84% ad val.                  | 4.84%                                                                                  | 4.84%              | 4.7%               | 4.6%               | 4.5%               | 4.4%               | 4.3%               | 4.2%              |
| 301.11                                        | 5% ad val.                     | 5%                                                                                     | 5%                 | 4.9%               | 4.8%               | 4.7%               | 4.6%               | 4.5%               | 4.4%              |
| 301.12                                        | 5.16% ad val.                  | 5.16%                                                                                  | 5.16%              | 5.1%               | 4.9%               | 4.8%               | 4.7%               | 4.6%               | 4.5%              |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged     | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                   |                   |                   |                     |                   |                     |                    |
|--------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|-------------------|-------------------|-------------------|---------------------|-------------------|---------------------|--------------------|
|                                                  |                               | 1980                                                                                   | 1981              | 1982              | 1983              | 1984                | 1985              | 1986                | 1987               |
| Schedule 3, Part 1--Continued                    |                               |                                                                                        |                   |                   |                   |                     |                   |                     |                    |
| 301.13                                           | 5.32% ad val.                 | 5.32%                                                                                  | 5.32%             | 5.2%              | 5.1%              | 5%                  | 4.8%              | 4.7%                | 4.6%               |
| 301.14                                           | 5.48% ad val.                 | 5.48%                                                                                  | 5.48%             | 5.4%              | 5.2%              | 5.1%                | 5%                | 4.8%                | 4.7%               |
| 301.15                                           | 5.64% ad val.                 | 5.64%                                                                                  | 5.64%             | 5.5%              | 5.4%              | 5.2%                | 5.1%              | 4.9%                | 4.8%               |
| 301.16                                           | 5.8% ad val.                  | 5.8%                                                                                   | 5.8%              | 5.7%              | 5.5%              | 5.4%                | 5.3%              | 5.1%                | 5%                 |
| 301.17                                           | 5.96% ad val.                 | 5.96%                                                                                  | 5.96%             | 5.8%              | 5.7%              | 5.5%                | 5.4%              | 5.2%                | 5.1%               |
| 301.18                                           | 6.12% ad val.                 | 6.12%                                                                                  | 6.12%             | 6%                | 5.8%              | 5.7%                | 5.5%              | 5.4%                | 5.2%               |
| 301.19                                           | 6.28% ad val.                 | 6.28%                                                                                  | 6.28%             | 6.1%              | 6%                | 5.8%                | 5.6%              | 5.5%                | 5.3%               |
| 301.20                                           | 6.44% ad val.                 | 6.44%                                                                                  | 6.44%             | 6.3%              | 6.1%              | 5.9%                | 5.7%              | 5.6%                | 5.4%               |
| 301.21                                           | 6.6% ad val.                  | 6.6%                                                                                   | 6.6%              | 6.4%              | 6.3%              | 6.1%                | 5.9%              | 5.8%                | 5.6%               |
| 301.22                                           | 6.76% ad val.                 | 6.76%                                                                                  | 6.76%             | 6.6%              | 6.4%              | 6.2%                | 6.1%              | 5.9%                | 5.7%               |
| 301.23                                           | 6.92% ad val.                 | 6.92%                                                                                  | 6.92%             | 6.7%              | 6.5%              | 6.4%                | 6.2%              | 6%                  | 5.8%               |
| 301.24                                           | 7.08% ad val.                 | 7.08%                                                                                  | 7.08%             | 6.9%              | 6.7%              | 6.5%                | 6.3%              | 6.1%                | 5.9%               |
| 301.25                                           | 7.24% ad val.                 | 7.24%                                                                                  | 7.24%             | 7%                | 6.8%              | 6.6%                | 6.4%              | 6.2%                | 6%                 |
| 301.26                                           | 7.4% ad val.                  | 7.4%                                                                                   | 7.4%              | 7.2%              | 7%                | 6.8%                | 6.5%              | 6.3%                | 6.1%               |
| 301.27                                           | 7.56% ad val.                 | 7.56%                                                                                  | 7.56%             | 7.4%              | 7.1%              | 6.9%                | 6.7%              | 6.5%                | 6.3%               |
| 301.28                                           | 7.72% ad val.                 | 7.72%                                                                                  | 7.72%             | 7.5%              | 7.3%              | 7.1%                | 6.8%              | 6.6%                | 6.4%               |
| 301.29                                           | 7.88% ad val.                 | 7.88%                                                                                  | 7.88%             | 7.7%              | 7.4%              | 7.2%                | 7%                | 6.7%                | 6.5%               |
| 301.30                                           | 8.04% ad val.                 | 8.04%                                                                                  | 8.04%             | 7.8%              | 7.5%              | 7.3%                | 7%                | 6.8%                | 6.5%               |
| 301.31                                           | 8.2% ad val.                  | 8.2%                                                                                   | 8.2%              | 8%                | 7.7%              | 7.5%                | 7.2%              | 7%                  | 6.7%               |
| 301.32                                           | 8.36% ad val.                 | 8.36%                                                                                  | 8.36%             | 8.1%              | 7.8%              | 7.6%                | 7.3%              | 7.1%                | 6.8%               |
| 301.33                                           | 8.52% ad val.                 | 8.52%                                                                                  | 8.52%             | 8.3%              | 8%                | 7.7%                | 7.4%              | 7.2%                | 6.9%               |
| 301.34                                           | 8.68% ad val.                 | 8.68%                                                                                  | 8.68%             | 8.4%              | 8.2%              | 7.9%                | 7.6%              | 7.4%                | 7.1%               |
| 301.35                                           | 8.84% ad val.                 | 8.84%                                                                                  | 8.84%             | 8.6%              | 8.3%              | 8%                  | 7.7%              | 7.4%                | 7.1%               |
| 301.36                                           | 9% ad val.                    | 9%                                                                                     | 9%                | 8.7%              | 8.4%              | 8.1%                | 7.8%              | 7.5%                | 7.2%               |
| 301.37                                           | 9.16% ad val.                 | 9.16%                                                                                  | 9.16%             | 8.9%              | 8.6%              | 8.3%                | 8%                | 7.7%                | 7.4%               |
| 301.38                                           | 9.32% ad val.                 | 9.32%                                                                                  | 9.32%             | 9%                | 8.7%              | 8.4%                | 8.1%              | 7.8%                | 7.5%               |
| 301.39                                           | 9.48% ad val.                 | 9.48%                                                                                  | 9.48%             | 9.2%              | 8.9%              | 8.5%                | 8.2%              | 7.9%                | 7.6%               |
| 301.40                                           | 9.64% ad val.                 | 9.64%                                                                                  | 9.64%             | 9.3%              | 9%                | 8.6%                | 8.3%              | 7.9%                | 7.6%               |
| 301.41                                           | 9.8% ad val.                  | 9.8%                                                                                   | 9.8%              | 9.5%              | 9.1%              | 8.8%                | 8.5%              | 8.1%                | 7.8%               |
| 301.42                                           | 9.96% ad val.                 | 9.96%                                                                                  | 9.96%             | 9.6%              | 9.3%              | 8.9%                | 8.6%              | 8.2%                | 7.9%               |
| 301.43                                           | 10.12% ad val.                | 10.12%                                                                                 | 10.12%            | 9.8%              | 9.4%              | 9.1%                | 8.7%              | 8.4%                | 8%                 |
| 301.44                                           | 10.28% ad val.                | 10.28%                                                                                 | 10.28%            | 9.9%              | 9.6%              | 9.2%                | 8.8%              | 8.5%                | 8.1%               |
| 301.45                                           | 10.44% ad val.                | 10.44%                                                                                 | 10.44%            | 10.1%             | 9.7%              | 9.3%                | 8.9%              | 8.6%                | 8.2%               |
| 301.46                                           | 10.6% ad val.                 | 10.6%                                                                                  | 10.6%             | 10.2%             | 9.8%              | 9.5%                | 9.1%              | 8.7%                | 8.3%               |
| 301.47                                           | 10.76% ad val.                | 10.76%                                                                                 | 10.76%            | 10.4%             | 10%               | 9.6%                | 9.3%              | 8.9%                | 8.5%               |
| 301.48                                           | 10.92% ad val.                | 10.92%                                                                                 | 10.92%            | 10.5%             | 10.1%             | 9.7%                | 9.3%              | 8.9%                | 8.5%               |
| 301.49                                           | 11.08% ad val.                | 11.08%                                                                                 | 11.08%            | 10.7%             | 10.3%             | 9.9%                | 9.5%              | 9.1%                | 8.7%               |
| 301.50                                           | 11.24% ad val.                | 11.24%                                                                                 | 11.24%            | 10.8%             | 10.4%             | 10%                 | 9.6%              | 9.2%                | 8.7%               |
| 301.51                                           | 11.4% ad val.                 | 11.4%                                                                                  | 11.4%             | 11%               | 10.6%             | 10.2%               | 9.7%              | 9.3%                | 8.9%               |
| 301.52                                           | 11.56% ad val.                | 11.56%                                                                                 | 11.56%            | 11.1%             | 10.7%             | 10.3%               | 9.9%              | 9.4%                | 9%                 |
| 301.53                                           | 11.72% ad val.                | 11.72%                                                                                 | 11.72%            | 11.3%             | 10.8%             | 10.4%               | 10%               | 9.5%                | 9.1%               |
| 301.54                                           | 11.88% ad val.                | 11.88%                                                                                 | 11.88%            | 11.4%             | 11%               | 10.5%               | 10.1%             | 9.6%                | 9.2%               |
| 301.55                                           | 12.04% ad val.                | 12.04%                                                                                 | 12.04%            | 11.6%             | 11.1%             | 10.7%               | 10.2%             | 9.8%                | 9.3%               |
| 301.56                                           | 12.2% ad val.                 | 12.2%                                                                                  | 12.2%             | 11.7%             | 11.3%             | 10.8%               | 10.3%             | 9.9%                | 9.4%               |
| 301.57                                           | 12.36% ad val.                | 12.36%                                                                                 | 12.36%            | 11.9%             | 11.4%             | 10.9%               | 10.5%             | 10%                 | 9.5%               |
| 301.58                                           | 12.52% ad val.                | 12.52%                                                                                 | 12.52%            | 12%               | 11.5%             | 11.1%               | 10.6%             | 10.1%               | 9.6%               |
| 301.59                                           | 12.68% ad val.                | 12.68%                                                                                 | 12.68%            | 12.2%             | 11.7%             | 11.2%               | 10.7%             | 10.2%               | 9.7%               |
| 301.60                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.70                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.80                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.82                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.84                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.86                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.88                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.92                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |
| 301.94                                           | 3.6c per lb. +<br>13% ad val. | 3.6c/lb. +<br>13%                                                                      | 3.6c/lb. +<br>13% | 3.4c/lb. +<br>12% | 3.3c/lb. +<br>12% | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>11.5% | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9% |



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged     | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                     |                     |                     |                     |                     |                     |
|--------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                                  |                               | 1980                                                                                   | 1981                 | 1982                | 1983                | 1984                | 1985                | 1986                | 1987                |
| Schedule 3, Part 1--Continued                    |                               |                                                                                        |                      |                     |                     |                     |                     |                     |                     |
| 301.96                                           | 3.6c per lb. +<br>131 ad val. | 3.6c/lb. +<br>131                                                                      | 3.6c/lb. +<br>131    | 3.4c/lb. +<br>12.5% | 3.3c/lb. +<br>12%   | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>10.9%   | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9%  |
| 301.98                                           | 3.6c per lb. +<br>131 ad val. | 3.6c/lb. +<br>131                                                                      | 3.6c/lb. +<br>131    | 3.4c/lb. +<br>12.5% | 3.3c/lb. +<br>12%   | 3.1c/lb. +<br>11.5% | 3c/lb. +<br>10.9%   | 2.8c/lb. +<br>10.4% | 2.7c/lb. +<br>9.9%  |
| 302.--                                           | Base rate +<br>3.25% ad val.  | Base rate +<br>3.25%                                                                   | Base rate +<br>3.25% | Base rate +<br>3.1% | Base rate +<br>2.9% | Base rate +<br>2.7% | Base rate +<br>2.5% | Base rate +<br>2.3% | Base rate +<br>2.1% |
| 303.10                                           | 14.5% ad val.                 | 14.5%                                                                                  | 14.5%                | 13.9%               | 13.3%               | 12.7%               | 12%                 | 11.4%               | 10.8%               |
| 303.20                                           | 4c per lb. +<br>8% ad val.    | 4c/lb. + 8%                                                                            | 4c/lb. + 8%          | 3c/lb. + 7.5%       | 3c/lb. + 7%         | 2c/lb. + 6.5%       | 1c/lb. + 6%         | 1c/lb. + 5.5%       | 5%                  |
| 304.04                                           | 4% ad val.                    | 1%                                                                                     | Free                 | Free                | Free                | Free                | Free                | Free                | Free                |
| 304.20                                           | 0.2c per lb.                  | Free                                                                                   | Free                 | Free                | Free                | Free                | Free                | Free                | Free                |
| 304.22                                           | 0.4c per lb.                  | 0.4c/lb.                                                                               | 0.4c/lb.             | 0.38c/lb.           | 0.37c/lb.           | 0.35c/lb.           | 0.33c/lb.           | 0.32c/lb.           | 0.3c/lb.            |
| 304.26                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 3.9%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.1%                |
| 304.34                                           | 0.75c per lb.                 | 0.75c/lb.                                                                              | 0.75c/lb.            | 0.72c/lb.           | 0.7c/lb.            | 0.67c/lb.           | 0.65c/lb.           | 0.62c/lb.           | 0.6c/lb.            |
| 304.36                                           | 5% ad val.                    | 5%                                                                                     | 5%                   | 2%                  | Free                | Free                | Free                | Free                | Free                |
| 304.40                                           | 4% ad val.                    | 3.5%                                                                                   | 3%                   | 2.5%                | 2%                  | 1.5%                | 1%                  | 0.5%                | Free                |
| 304.44                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 3.3%                | 2.7%                | 2%                  | 1.3%                | 0.7%                | Free                |
| 304.52                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 3.9%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.1%                |
| 304.58                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 1%                  | Free                | Free                | Free                | Free                | Free                |
| 305.04                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 3.9%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.1%                |
| 305.06                                           | 12.5% ad val.                 | 12.5%                                                                                  | 12.5%                | 11.5%               | 10.5%               | 9.6%                | 8.6%                | 7.6%                | 6.6%                |
| 305.08                                           | 6% ad val.                    | 6%                                                                                     | 6%                   | 5.7%                | 5.4%                | 5.1%                | 4.8%                | 4.5%                | 4.2%                |
| 305.09                                           | 6.5% ad val.                  | 6.5%                                                                                   | 6.5%                 | 6.4%                | 6.3%                | 6.3%                | 6.2%                | 6.1%                | 6%                  |
| 305.10                                           | 15% ad val.                   | 15%                                                                                    | 15%                  | 13.5%               | 12%                 | 10.5%               | 9%                  | 7.5%                | 6%                  |
| 305.12                                           | 4% ad val.                    | 4%                                                                                     | 4%                   | 3.9%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.1%                |
| 305.14                                           | 17.5% ad val.                 | 17.5%                                                                                  | 17.5%                | 15.9%               | 14.3%               | 12.7%               | 11%                 | 9.4%                | 7.8%                |
| 305.16                                           | 6% ad val.                    | 6%                                                                                     | 6%                   | 5.7%                | 5.4%                | 5.1%                | 4.8%                | 4.5%                | 4.2%                |
| 305.18                                           | 8% ad val.                    | 8%                                                                                     | 8%                   | 7.5%                | 7%                  | 6.6%                | 6.1%                | 5.6%                | 5.1%                |
| 305.20                                           | 7.5% ad val.                  | 7.5%                                                                                   | 7.5%                 | 4.5%                | 3%                  | 3%                  | 3%                  | 3%                  | 3%                  |
| 305.22                                           | 11% ad val.                   | 11%                                                                                    | 11%                  | 8%                  | 5%                  | 4.4%                | 4.4%                | 4.4%                | 4.4%                |
| 305.26                                           | 10% ad val.                   | 10%                                                                                    | 10%                  | 7%                  | 4%                  | 4%                  | 4%                  | 4%                  | 4%                  |
| 305.30                                           | 12.5% ad val.                 | 12.5%                                                                                  | 12.5%                | 9.5%                | 6.5%                | 5%                  | 5%                  | 5%                  | 5%                  |
| 305.40                                           | 10% ad val.                   | 10%                                                                                    | 10%                  | 4%                  | 4%                  | 4%                  | 4%                  | 4%                  | 4%                  |
| 305.50                                           | 10% ad val.                   | 10%                                                                                    | 10%                  | 9.3%                | 8.6%                | 7.9%                | 7.2%                | 6.5%                | 5.8%                |
| 306.10                                           | 5.5c per clean<br>lb.         | 4c/clean lb.                                                                           | 3c/clean lb.         | 2c/clean lb.        | 2c/clean lb.        | 2c/clean lb.        | 2c/clean lb.        | 2c/clean lb.        | 2c/clean lb.        |
| 306.11                                           | 6.5c per clean<br>lb.         | 5c/clean<br>lb.                                                                        | 3.5c/clean<br>lb.    | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   |
| 306.12                                           | 7c per clean<br>lb.           | 5.5c/clean<br>lb.                                                                      | 4c/clean<br>lb.      | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   | 2.5c/clean<br>lb.   |
| 306.13                                           | 8c per clean<br>lb.           | 6c/clean lb.                                                                           | 4.5c/clean<br>lb.    | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        |
| 306.14                                           | 11.5c per lb.                 | 11.5c/lb.                                                                              | 11.5c/lb.            | 10c/lb.             | 9c/lb.              | 7.5c/lb.            | 6.5c/lb.            | 5c/lb.              | 4c/lb.              |
| 306.20                                           | 7.5c per clean<br>lb.         | 7c/clean<br>lb.                                                                        | 6c/clean<br>lb.      | 5.5c/clean<br>lb.   | 5c/clean<br>lb.     | 4.5c/clean<br>lb.   | 4c/clean<br>lb.     | 3.5c/clean<br>lb.   | 3c/clean<br>lb.     |
| 306.21                                           | 8.5c per clean<br>lb.         | 6.5c/clean<br>lb.                                                                      | 4.5c/clean<br>lb.    | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        |
| 306.22                                           | 9c per clean<br>lb.           | 7c/clean lb.                                                                           | 5c/clean lb.         | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        | 3c/clean lb.        |
| 306.23                                           | 10c per clean<br>lb.          | 8c/clean lb.                                                                           | 6c/clean lb.         | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        |
| 306.24                                           | 13.5c per lb.                 | 13.5c/lb.                                                                              | 13.5c/lb.            | 12c/lb.             | 10c/lb.             | 9c/lb.              | 7c/lb.              | 6c/lb.              | 5c/lb.              |
| 306.30                                           | 12c per clean<br>lb.          | 9c/clean lb.                                                                           | 6.5c/clean<br>lb.    | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        | 4c/clean lb.        |
| 306.31                                           | 25.5c per<br>clean lb.        | 20c/clean lb.                                                                          | 15c/clean lb.        | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       |
| 306.32                                           | 26.25c per<br>clean lb.       | 20c/clean lb.                                                                          | 15c/clean lb.        | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       | 10c/clean lb.       |
| 306.33                                           | 27.75c per<br>clean lb.       | 22c/clean lb.                                                                          | 16.5c/clean<br>lb.   | 11c/clean lb.       | 11c/clean lb.       | 11c/clean lb.       | 11c/clean lb.       | 11c/clean lb.       | 11c/clean lb.       |
| 306.34                                           | 33c per lb.                   | 26c/lb.                                                                                | 19c/lb.              | 13c/lb.             | 13c/lb.             | 13c/lb.             | 13c/lb.             | 13c/lb.             | 13c/lb.             |
| 306.40                                           | 11c per clean<br>lb.          | 10c/clean lb.                                                                          | 9c/clean lb.         | 8.5c/clean<br>lb.   | 7.5c/clean<br>lb.   | 6.5c/clean<br>lb.   | 6c/clean lb.        | 5c/clean lb.        | 4.5c/clean<br>lb.   |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 17 1980 |                    |                 |                 |                 |                 |                |                  |
|--------------------------------------------------|--------------------------------|-------------------------------------------------------------------------------------------|--------------------|-----------------|-----------------|-----------------|-----------------|----------------|------------------|
|                                                  |                                | 1980                                                                                      | 1981               | 1982            | 1983            | 1984            | 1985            | 1986           | 1987             |
| Schedule 3, Part I--Continued                    |                                |                                                                                           |                    |                 |                 |                 |                 |                |                  |
| 306.41                                           | 12c per clean lb.              | 12c/clean lb.                                                                             | 12c/clean lb.      | 10.5c/clean lb. | 9.5c/clean lb.  | 8.5c/clean lb.  | 7c/clean lb.    | 6c/clean lb.   | 5c/clean lb.     |
| 306.42                                           | 12.5c per clean lb.            | 12.5c/clean lb.                                                                           | 12.5c/clean lb.    | 11c/clean lb.   | 10c/clean lb.   | 8.5c/clean lb.  | 7.5c/clean lb.  | 6c/clean lb.   | 5c/clean lb.     |
| 306.43                                           | 13c per clean lb.              | 13c/clean lb.                                                                             | 13c/clean lb.      | 11.5c/clean lb. | 10c/clean lb.   | 9c/clean lb.    | 7.5c/clean lb.  | 6c/clean lb.   | 5c/clean lb.     |
| 306.44                                           | 17c per lb.                    | 17c/lb.                                                                                   | 17c/lb.            | 15c/lb.         | 13.5c/lb.       | 12c/lb.         | 10c/lb.         | 8.5c/lb.       | 7c/lb.           |
| 306.52                                           | 3c per clean lb.               | 3c/clean lb.                                                                              | 3c/clean lb.       | Free            | Free            | Free            | Free            | Free           | Free             |
| 306.53                                           | 4c per clean lb.               | 4c/clean lb.                                                                              | 4c/clean lb.       | 3.5c/clean lb.  | 3c/clean lb.    | 3c/clean lb.    | 2.5c/clean lb.  | 2c/clean lb.   | 1.5c/clean lb.   |
| 306.54                                           | 5c per lb.                     | 5c/lb.                                                                                    | 5c/lb.             | 4.5c/lb.        | 4c/lb.          | 3.5c/lb.        | 3c/lb.          | 2.5c/lb.       | 2c/lb.           |
| 306.60                                           | 8c per clean lb.               | 7.5c/clean lb.                                                                            | 6.5c/clean lb.     | 6c/clean lb.    | 5.5c/clean lb.  | 5c/clean lb.    | 4c/clean lb.    | 3.5c/clean lb. | 3c/clean lb.     |
| 306.61                                           | 9c per clean lb.               | 9c/clean lb.                                                                              | 9c/clean lb.       | 8c/clean lb.    | 7c/clean lb.    | 6c/clean lb.    | 5c/clean lb.    | 4c/clean lb.   | 3.5c/clean lb.   |
| 306.62                                           | 9c per clean lb.               | 9c/clean lb.                                                                              | 9c/clean lb.       | 8c/clean lb.    | 7c/clean lb.    | 6c/clean lb.    | 5c/clean lb.    | 4c/clean lb.   | 3.5c/clean lb.   |
| 306.63                                           | 10c per clean lb.              | 10c/clean lb.                                                                             | 10c/clean lb.      | 9c/clean lb.    | 8c/clean lb.    | 7c/clean lb.    | 6c/clean lb.    | 5c/clean lb.   | 4c/clean lb.     |
| 306.64                                           | 14c per lb.                    | 14c/lb.                                                                                   | 14c/lb.            | 12.5c/lb.       | 11c/lb.         | 9.5c/lb.        | 8c/lb.          | 7c/lb.         | 5.5c/lb.         |
| 306.70                                           | 10c per clean lb.              | 9c/clean lb.                                                                              | 8.5c/clean lb.     | 7.5c/clean lb.  | 7c/clean lb.    | 6c/clean lb.    | 5.5c/clean lb.  | 4.5c/clean lb. | 4c/clean lb.     |
| 306.71                                           | 11c per clean lb.              | 11c/clean lb.                                                                             | 11c/clean lb.      | 10c/clean lb.   | 8.5c/clean lb.  | 7.5c/clean lb.  | 6.5c/clean lb.  | 5.5c/clean lb. | 4.5c/clean lb.   |
| 306.72                                           | 11c per clean lb.              | 11c/clean lb.                                                                             | 11c/clean lb.      | 10c/clean lb.   | 9c/clean lb.    | 7.5c/clean lb.  | 6.5c/clean lb.  | 5.5c/clean lb. | 4.5c/clean lb.   |
| 306.73                                           | 12.5c per clean lb.            | 12.5c/clean lb.                                                                           | 12.5c/clean lb.    | 11c/clean lb.   | 10c/clean lb.   | 8.5c/clean lb.  | 7.5c/clean lb.  | 6c/clean lb.   | 5c/clean lb.     |
| 306.74                                           | 16c per lb.                    | 16c/lb.                                                                                   | 16c/lb.            | 14.5c/lb.       | 12.5c/lb.       | 11c/lb.         | 9.5c/lb.        | 8c/lb.         | 6.5c/lb.         |
| 306.80                                           | 16c per clean lb.              | 15c/clean lb.                                                                             | 14c/clean lb.      | 12c/clean lb.   | 11c/clean lb.   | 10c/clean lb.   | 9c/clean lb.    | 8c/clean lb.   | 6.5c/clean lb.   |
| 306.81                                           | 17c per clean lb.              | 17c/clean lb.                                                                             | 17c/clean lb.      | 15c/clean lb.   | 13.5c/clean lb. | 12c/clean lb.   | 10c/clean lb.   | 8.5c/clean lb. | 7c/clean lb.     |
| 306.82                                           | 17c per clean lb.              | 17c/clean lb.                                                                             | 17c/clean lb.      | 15c/clean lb.   | 13.5c/clean lb. | 12c/clean lb.   | 10c/clean lb.   | 8.5c/clean lb. | 7c/clean lb.     |
| 306.83                                           | 18c per clean lb.              | 18c/clean lb.                                                                             | 18c/clean lb.      | 16c/clean lb.   | 14c/clean lb.   | 12c/clean lb.   | 10c/clean lb.   | 8.5c/clean lb. | 7c/clean lb.     |
| 306.84                                           | 22c per lb.                    | 22c/lb.                                                                                   | 22c/lb.            | 19.5c/lb.       | 17.5c/lb.       | 15.5c/lb.       | 13c/lb.         | 11c/lb.        | 9c/lb.           |
| 307.02                                           | 4.5c per lb.                   | 4.5c/lb.                                                                                  | 4.5c/lb.           | 4.1c/lb.        | 3.7c/lb.        | 3.2c/lb.        | 2.8c/lb.        | 2.4c/lb.       | 2c/lb.           |
| 307.04                                           | 7c per lb.                     | 7c/lb.                                                                                    | 7c/lb.             | 6c/lb.          | 5.5c/lb.        | 5c/lb.          | 4c/lb.          | 3.5c/lb.       | 3c/lb.           |
| 307.06                                           | 6c per lb.                     | 6c/lb.                                                                                    | 6c/lb.             | 5c/lb.          | 4.5c/lb.        | 4c/lb.          | 3.5c/lb.        | 3c/lb.         | 2.5c/lb.         |
| 307.08                                           | 8c per lb.                     | 8c/lb.                                                                                    | 8c/lb.             | 7c/lb.          | 6c/lb.          | 5.5c/lb.        | 4.5c/lb.        | 3.5c/lb.       | 3c/lb.           |
| 307.10                                           | 14c per lb.                    | 14c/lb.                                                                                   | 14c/lb.            | 12.5c/lb.       | 11c/lb.         | 9.5c/lb.        | 8c/lb.          | 7c/lb.         | 5.5c/lb.         |
| 307.12                                           | 6.5c per lb.                   | 6.5c/lb.                                                                                  | 6.5c/lb.           | 5.5c/lb.        | 5c/lb.          | 4.5c/lb.        | 3.5c/lb.        | 3c/lb.         | 2.5c/lb.         |
| 307.16                                           | 5c per lb.                     | 5c/lb.                                                                                    | 5c/lb.             | 4.5c/lb.        | 4c/lb.          | 3.5c/lb.        | 3c/lb.          | 2.5c/lb.       | 2c/lb.           |
| 307.18                                           | 4.5c per lb.                   | 4.5c/lb.                                                                                  | 4.5c/lb.           | 4.1c/lb.        | 3.7c/lb.        | 3.2c/lb.        | 2.8c/lb.        | 2.4c/lb.       | 2c/lb.           |
| 307.30                                           | 3.5c per lb.                   | 3.5c/lb.                                                                                  | 3.5c/lb.           | 1.5c/lb.        | 1.5c/lb.        | 1.5c/lb.        | 1.5c/lb.        | 1.5c/lb.       | 1.5c/lb.         |
| 307.50                                           | 27.75c per lb. + 6.25% ad val. | 27.75c/lb. + 6.25%                                                                        | 27.75c/lb. + 6.25% | 23c/lb. + 6.25% | 19c/lb. + 6.25% | 15c/lb. + 6.25% | 11c/lb. + 6.25% | 7c/lb. + 6.25% | 3.5c/lb. + 6.25% |
| 307.52                                           | 27.75c per lb. + 6.25% ad val. | 27.75c/lb. + 6.25%                                                                        | 27.75c/lb. + 6.25% | 23c/lb. + 6.25% | 19c/lb. + 6.25% | 15c/lb. + 6.25% | 11c/lb. + 6.25% | 7c/lb. + 6.25% | 3.5c/lb. + 6.25% |
| 307.62                                           | 20c per lb. + 5% ad val.       | 20c/lb. + 5%                                                                              | 20c/lb. + 5%       | 17c/lb. + 5%    | 13c/lb. + 5%    | 10c/lb. + 5%    | 7c/lb. + 5%     | 3c/lb. + 5%    | 5%               |
| 307.66                                           | 30c per lb. + 15% ad val.      | 30c/lb. + 15%                                                                             | 30c/lb. + 15%      | 25c/lb. + 15%   | 20c/lb. + 15%   | 15c/lb. + 15%   | 10c/lb. + 15%   | 5c/lb. + 15%   | 5%               |
| 307.68                                           | 30c per lb. + 15% ad val.      | 30c/lb. + 15%                                                                             | 30c/lb. + 15%      | 25c/lb. + 15%   | 20c/lb. + 15%   | 15c/lb. + 15%   | 10c/lb. + 15%   | 5c/lb. + 15%   | 5%               |
| 308.06                                           | 7% ad val.                     | 4%                                                                                        | 2.8%               | 2.8%            | 2.8%            | 2.8%            | 2.8%            | 2.8%           | 2.8%             |
| 308.10                                           | 7% ad val.                     | 6.7%                                                                                      | 6.4%               | 6.1%            | 5.9%            | 5.6%            | 5.3%            | 5%             | 4.7%             |
| 308.16                                           | 8.5% ad val.                   | 8.1%                                                                                      | 7.7%               | 7.3%            | 6.9%            | 6.5%            | 6.1%            | 5.7%           | 5.3%             |
| 308.18                                           | 10% ad val.                    | 9.5%                                                                                      | 9%                 | 8.4%            | 7.9%            | 7.4%            | 6.9%            | 6.3%           | 5.8%             |
| 308.20                                           | 7% ad val.                     | 6.5%                                                                                      | 6%                 | 5.4%            | 4.9%            | 4.4%            | 3.9%            | 3.3%           | 2.8%             |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 1 — |                    |                      |                    |                     |                     |                     |                    |
|--------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------|--------------------|----------------------|--------------------|---------------------|---------------------|---------------------|--------------------|
|                                                  |                                | 1980                                                                                  | 1981               | 1982                 | 1983               | 1984                | 1985                | 1986                | 1987               |
| Schedule 3, Part 1—Continued                     |                                |                                                                                       |                    |                      |                    |                     |                     |                     |                    |
| 308.30                                           | 10% ad val.                    | 7%                                                                                    | 5%                 | 5%                   | 5%                 | 5%                  | 5%                  | 5%                  | 5%                 |
| 308.35                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 308.40                                           | 8.5% ad val.                   | 8.1%                                                                                  | 7.6%               | 7.2%                 | 6.8%               | 6.3%                | 5.9%                | 5.4%                | 5%                 |
| 308.45                                           | 12.5% ad val.                  | 11.6%                                                                                 | 10.6%              | 9.7%                 | 8.8%               | 7.8%                | 6.9%                | 5.9%                | 5%                 |
| 308.47                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 308.50                                           | 12.5% ad val.                  | 11.6%                                                                                 | 10.6%              | 9.7%                 | 8.8%               | 7.8%                | 6.9%                | 5.9%                | 5%                 |
| 308.51                                           | 10% ad val.                    | 7%                                                                                    | 5%                 | 5%                   | 5%                 | 5%                  | 5%                  | 5%                  | 5%                 |
| 308.55                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 308.60                                           | 8.5% ad val.                   | 8.1%                                                                                  | 7.6%               | 7.2%                 | 6.8%               | 6.3%                | 5.9%                | 5.4%                | 5%                 |
| 308.65                                           | 12.5% ad val.                  | 11.6%                                                                                 | 10.6%              | 9.7%                 | 8.8%               | 7.8%                | 6.9%                | 5.9%                | 5%                 |
| 308.66                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 308.70                                           | 12.5% ad val.                  | 11.6%                                                                                 | 10.6%              | 9.7%                 | 8.8%               | 7.8%                | 6.9%                | 5.9%                | 5%                 |
| 308.71                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 308.75                                           | 13.5% ad val.                  | 12.4%                                                                                 | 11.4%              | 10.3%                | 9.3%               | 8.2%                | 7.1%                | 6.1%                | 5%                 |
| 308.80                                           | 13.5% ad val.                  | 13.5%                                                                                 | 12.5%              | 12.1%                | 10.7%              | 9.3%                | 7.8%                | 6.4%                | 5%                 |
| 308.90                                           | 10% ad val.                    | 9.4%                                                                                  | 8.8%               | 8.1%                 | 7.5%               | 6.9%                | 6.3%                | 5.6%                | 5%                 |
| 309.02 <sup>2/</sup>                             | 20c per lb.                    | 20c/lb.                                                                               | 20c/lb.            | 18.5c/lb.            | 17c/lb.            | 15.5c/lb.           | 14c/lb.             | 12.5c/lb.           | 11c/lb. + 2/       |
| 309.03                                           | 25% ad val.                    | 25%                                                                                   | 25%                | 22.5%                | 20%                | 17.5%               | 15%                 | 12.5%               | 10%                |
| 309.05                                           | 15c per lb.                    | 15c/lb.                                                                               | 15c/lb.            | 13.5c/lb.            | 12c/lb.            | 10.5c/lb.           | 9c/lb.              | 7.5c/lb.            | 6c/lb.             |
| 309.06                                           | 17.5% ad val.                  | 17.5%                                                                                 | 17.5%              | 15.9%                | 14.3%              | 12.7%               | 11%                 | 9.4%                | 7.8%               |
| 309.10                                           | 12c per lb. +<br>15% ad val.   | 12c/lb. +<br>15%                                                                      | 12c/lb. +<br>15%   | 10c/lb. +<br>13.8%   | 8c/lb. +<br>12.5%  | 6c/lb. +<br>11.3%   | 4c/lb. +<br>10%     | 2c/lb. +<br>8.7%    | 7.5%               |
| 309.20                                           | 12.5c per lb.                  | 12.5c/lb.                                                                             | 12.5c/lb.          | 11c/lb.              | 10c/lb.            | 8.5c/lb.            | 7.5c/lb.            | 6c/lb.              | 5c/lb.             |
| 309.21                                           | 12.5% ad val.                  | 12.5%                                                                                 | 12.5%              | 11.5%                | 10.5%              | 9.6%                | 8.6%                | 7.6%                | 6.6%               |
| 309.25                                           | 12.5c per lb. +<br>15% ad val. | 12.5c/lb. +<br>15%                                                                    | 12.5c/lb. +<br>15% | 10c/lb. +<br>13.8%   | 8c/lb. +<br>12.5%  | 6c/lb. +<br>11.3%   | 4c/lb. +<br>10%     | 2c/lb. +<br>8.7%    | 7.5%               |
| 309.28                                           | 10.5% ad val.                  | 9.9%                                                                                  | 9.4%               | 8.8%                 | 8.3%               | 7.7%                | 7.1%                | 6.5%                | 6%                 |
| 309.29                                           | 15% ad val.                    | 14%                                                                                   | 13.1%              | 12.1%                | 11.1%              | 10.1%               | 9.2%                | 8.2%                | 7.2%               |
| 309.30                                           | 8.5c per lb.                   | 8.5c/lb.                                                                              | 8.5c/lb.           | 8.1c/lb.             | 7.6c/lb.           | 7.2c/lb.            | 6.8c/lb.            | 6.4c/lb.            | 6c/lb.             |
| 309.31                                           | 10.5% ad val.                  | 10.5%                                                                                 | 10.5%              | 10.4%                | 10.3%              | 10.3%               | 10.2%               | 10%                 | 10%                |
| 309.35                                           | 12c per lb. +<br>15% ad val.   | 12c/lb. + 15%                                                                         | 12c/lb. + 15%      | 10.5c/lb. +<br>13.5% | 9.5c/lb. +<br>12%  | 8.5c/lb. +<br>10.5% | 7c/lb. + 9%         | 5c/lb. + 7.5%       | 3c/lb. + 6%        |
| 309.43                                           | 7.5% ad val.                   | 7.5%                                                                                  | 7.5%               | 7.1%                 | 6.6%               | 6.2%                | 5.8%                | 5.4%                | 4.9%               |
| 309.50                                           | 12.5c per lb. +<br>15% ad val. | 12.5c/lb. +<br>15%                                                                    | 12.5c/lb. +<br>15% | 11c/lb. +<br>13.7%   | 10c/lb. +<br>12.3% | 9c/lb. +<br>11%     | 7.5c/lb. +<br>9.7%  | 5.5c/lb. +<br>7%    | 3.5c/lb. +<br>5.2% |
| 309.60                                           | 6% ad val.                     | 6%                                                                                    | 6%                 | 5.7%                 | 5.4%               | 5.1%                | 4.8%                | 4.5%                | 4.2%               |
| 309.65                                           | 3.7c per lb.                   | 3.7c/lb.                                                                              | 3.7c/lb.           | 3.5c/lb.             | 3.3c/lb.           | 3.1c/lb.            | 2.9c/lb.            | 2.7c/lb.            | 2.5c/lb.           |
| 309.66                                           | 2.5% ad val.                   | 2.5%                                                                                  | 2.5%               | 2.4%                 | 2.4%               | 2.3%                | 2.2%                | 2.2%                | 2.1%               |
| 309.70                                           | 2.5c per lb. +<br>6% ad val.   | 2.5c/lb. + 6%                                                                         | 2.5c/lb. + 6%      | 2.1c/lb. + 6%        | 1.6c/lb. + 6%      | 1.2c/lb. + 6%       | 0.8c/lb. + 6%       | 0.4c/lb. + 6%       | 6%                 |
| 309.75                                           | 7.5% ad val.                   | 7.5%                                                                                  | 7.5%               | 7.1%                 | 6.6%               | 6.2%                | 5.8%                | 5.3%                | 4.9%               |
| 309.80                                           | 12c per lb. +<br>15% ad val.   | 12c/lb. +<br>15%                                                                      | 12c/lb. +<br>15%   | 10c/lb. +<br>13.8%   | 8c/lb. +<br>12.5%  | 6c/lb. +<br>11.3%   | 4c/lb. +<br>10%     | 2c/lb. +<br>8.7%    | 7.5%               |
| 309.90                                           | 2.5c per lb. +<br>7.5% ad val. | 2.5c/lb. +<br>7.5%                                                                    | 2.5c/lb. +<br>7.5% | 2.1c/lb. +<br>7.3%   | 1.6c/lb. +<br>7.2% | 1.2c/lb. +<br>7%    | 0.8c/lb. +<br>6.8%  | 0.4c/lb. +<br>6.7%  | 0.5%               |
| 309.98                                           | 10.5% ad val.                  | 10.1%                                                                                 | 9.7%               | 9.3%                 | 9%                 | 8.6%                | 8.2%                | 7.9%                | 7.5%               |
| 309.99                                           | 15% ad val.                    | 14.3%                                                                                 | 13.7%              | 13%                  | 12.3%              | 11.6%               | 11%                 | 10.3%               | 9.6%               |
| 310.01                                           | 12.5c per lb.                  | 12.5c/lb.                                                                             | 12.5c/lb.          | 11.5c/lb.            | 11c/lb.            | 10c/lb.             | 9.5c/lb.            | 8.5c/lb.            | 8c/lb.             |
| 310.02                                           | 16% ad val.                    | 16%                                                                                   | 15%                | 14%                  | 13%                | 12%                 | 11%                 | 10%                 | 9%                 |
| 310.05                                           | 25c per lb.                    | 25c/lb.                                                                               | 25c/lb.            | 24c/lb.              | 23c/lb.            | 22c/lb.             | 21c/lb.             | 20c/lb.             | 19c/lb.            |
| 310.06                                           | 11c per lb. +<br>12.5% ad val. | 11c/lb. +<br>12.5%                                                                    | 11c/lb. +<br>12.5% | 9c/lb. +<br>12.3%    | 7c/lb. +<br>12.2%  | 5.5c/lb. +<br>12%   | 3.5c/lb. +<br>11.8% | 1.5c/lb. +<br>11.7% | 11.5%              |
| 310.10                                           | 16c per lb.                    | 16c/lb.                                                                               | 16c/lb.            | 14.5c/lb.            | 13.5c/lb.          | 12.5c/lb.           | 11c/lb.             | 10c/lb.             | 9c/lb.             |
| 310.11                                           | 13.5% ad val.                  | 13.5%                                                                                 | 13.5%              | 12.7%                | 12%                | 11.2%               | 10.4%               | 9.7%                | 8.9%               |
| 310.20                                           | 25c per lb.                    | 25c/lb.                                                                               | 25c/lb.            | 23c/lb.              | 21.5c/lb.          | 19.5c/lb.           | 18c/lb.             | 16c/lb.             | 14.5c/lb.          |
| 310.21                                           | 11c per lb. +<br>13.5% ad val. | 11c/lb. +<br>13.5%                                                                    | 11c/lb. +<br>13.5% | 9c/lb. +<br>13.3%    | 7c/lb. +<br>13%    | 5.5c/lb. +<br>12.8% | 3.5c/lb. +<br>12.5% | 1.5c/lb. +<br>12.3% | 12%                |
| 310.40                                           | 3.1c per lb. +<br>1.1% ad val. | 3.1c/lb. +<br>1.1%                                                                    | 3.1c/lb. +<br>1.1% | 2.5c/lb. +<br>1.1%   | 2c/lb. +<br>1.1%   | 1.5c/lb. +<br>1.1%  | 1c/lb. +<br>1.1%    | 0.5c/lb. +<br>1.1%  | 11%                |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 309.02, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988-- 9.5c/lb.  
 Effective with respect to articles entered on and after January 1, 1989-- 8c/lb.

Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                             | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                             |                                                  |                                                  |                                                  |                                                |                                                  |                                                 |  |
|--------------------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|------------------------------------------------|--------------------------------------------------|-------------------------------------------------|--|
|                                                  |                                                                       | 1980                                                                                   | 1981                                        | 1982                                             | 1983                                             | 1984                                             | 1985                                           | 1986                                             | 1987                                            |  |
| Schedule 3, Part 1--Continued                    |                                                                       |                                                                                        |                                             |                                                  |                                                  |                                                  |                                                |                                                  |                                                 |  |
| 310.50                                           | 3c per lb. +<br>12.5% ad val.                                         | 3c/lb. +<br>12.5%                                                                      | 3c/lb. +<br>12.5%                           | 2.5c/lb. +<br>12.4%                              | 2c/lb. +<br>12.3%                                | 1.5c/lb. +<br>12.3%                              | 1c/lb. +<br>12.2%                              | 0.5c/lb. +<br>12.1%                              | 12%                                             |  |
| 310.60                                           | 12c per lb. +<br>15% ad val.                                          | 12c/lb. + 15%                                                                          | 12c/lb. + 15%                               | 10c/lb. + 15%                                    | 8c/lb. + 15%                                     | 6c/lb. + 15%                                     | 4c/lb. + 15%                                   | 2c/lb. + 15%                                     | 15%                                             |  |
| 310.80                                           | 12c per lb. +<br>15% ad val.                                          | 12c/lb. + 15%                                                                          | 12c/lb. + 15%                               | 10c/lb. +<br>14.4%                               | 8c/lb. +<br>13.8%                                | 6c/lb. +<br>13.3%                                | 4c/lb. +<br>12.7%                              | 2c/lb. +<br>12.1%                                | 11.5%                                           |  |
| 310.90                                           | 20c per lb.                                                           | 20c/lb.                                                                                | 20c/lb.                                     | 18.5c/lb.                                        | 17c/lb.                                          | 15.5c/lb.                                        | 14c/lb.                                        | 12.5c/lb.                                        | 11.5c/lb.                                       |  |
| 310.91                                           | 22% ad val.                                                           | 22%                                                                                    | 22%                                         | 20.5%                                            | 19%                                              | 17.5%                                            | 16%                                            | 14.5%                                            | 13%                                             |  |
| 312.10                                           | 5% ad val.                                                            | 5%                                                                                     | 5%                                          | 4.8%                                             | 4.6%                                             | 4.4%                                             | 4.1%                                           | 3.9%                                             | 3.7%                                            |  |
| 312.30                                           | 3c per lb +<br>5% ad val.                                             | 3c/lb + 5%                                                                             | 3c/lb. + 5%                                 | 2.5c/lb. +<br>4.6%                               | 2c/lb. +<br>4.2%                                 | 1.5c/lb. +<br>3.8%                               | 1c/lb. +<br>3.3%                               | 0.5c/lb. +<br>2.9%                               | 2.5%                                            |  |
| 312.40                                           | 8.5% ad val.                                                          | 8.5%                                                                                   | 8.5%                                        | 8%                                               | 7.4%                                             | 6.9%                                             | 6.4%                                           | 5.8%                                             | 5.3%                                            |  |
| 312.50                                           | 10% ad val.                                                           | 9.5%                                                                                   | 9%                                          | 8.4%                                             | 7.9%                                             | 7.4%                                             | 6.9%                                           | 6.3%                                             | 5.8%                                            |  |
| Schedule 3, Part 2                               |                                                                       |                                                                                        |                                             |                                                  |                                                  |                                                  |                                                |                                                  |                                                 |  |
| 315.05                                           | 20% ad val.                                                           | 20%                                                                                    | 20%                                         | 18%                                              | 16.1%                                            | 14.1%                                            | 12.1%                                          | 10.2%                                            | 8.2%                                            |  |
| 315.10                                           | 20% ad val.                                                           | 20%                                                                                    | 20%                                         | 18%                                              | 16.1%                                            | 14.1%                                            | 12.1%                                          | 10.2%                                            | 8.2%                                            |  |
| 315.15                                           | 20% ad val.                                                           | 20%                                                                                    | 20%                                         | 18%                                              | 16.1%                                            | 14.1%                                            | 12.1%                                          | 10.2%                                            | 8.2%                                            |  |
| 315.25                                           | 15% ad val.                                                           | 15%                                                                                    | 15%                                         | 13.7%                                            | 12.4%                                            | 11.1%                                            | 9.8%                                           | 8.5%                                             | 7.2%                                            |  |
| 315.30                                           | 7.5% ad val.                                                          | 7.5%                                                                                   | 7.5%                                        | 7.1%                                             | 6.6%                                             | 6.2%                                             | 5.8%                                           | 5.3%                                             | 4.9%                                            |  |
| 315.35                                           | 2c per lb. +<br>10% ad val.                                           | 0.7c/lb. +<br>10%                                                                      | 8.5%                                        | 6.8%                                             | 6.8%                                             | 6.8%                                             | 6.8%                                           | 6.8%                                             | 6.8%                                            |  |
| 315.40                                           | 1c per lb. +<br>7.5% ad val.                                          | 1c/lb. + 7.5%                                                                          | 1c/lb. + 7.5%                               | 0.8c/lb. +<br>7.4%                               | 0.6c/lb. +<br>7.3%                               | 0.5c/lb. +<br>7.3%                               | 0.3c/lb. +<br>7.2%                             | 0.1c/lb. +<br>7.1%                               | 7%                                              |  |
| 315.45                                           | 2c/lb. + 15%<br>ad val.                                               | 2c/lb. + 15%                                                                           | 2c/lb. + 15%                                | 15%                                              | 12%                                              | 9%                                               | 7%                                             | 7%                                               | 7%                                              |  |
| 315.50                                           | 2c per lb.                                                            | 0.7c/lb.                                                                               | Free                                        | Free                                             | Free                                             | Free                                             | Free                                           | Free                                             | Free                                            |  |
| 315.55                                           | 1c per lb.                                                            | 1c/lb.                                                                                 | 1c/lb.                                      | 0.95c/lb.                                        | 0.95c/lb.                                        | 0.9c/lb.                                         | 0.85c/lb.                                      | 0.85c/lb.                                        | 0.8c/lb.                                        |  |
| 315.60                                           | 2c per lb.                                                            | Free                                                                                   | Free                                        | Free                                             | Free                                             | Free                                             | Free                                           | Free                                             | Free                                            |  |
| 315.75                                           | 10% ad val.                                                           | 10%                                                                                    | 10%                                         | 9.5%                                             | 8%                                               | 8.5%                                             | 8%                                             | 7.5%                                             | 7%                                              |  |
| 315.80                                           | 10% ad val.                                                           | 10%                                                                                    | 10%                                         | 9%                                               | 8%                                               | 7%                                               | 6%                                             | 5%                                               | 4%                                              |  |
| 315.85                                           | 12.5% ad val.                                                         | 12.5%                                                                                  | 12.5%                                       | 11.3%                                            | 10%                                              | 8.8%                                             | 7.5%                                           | 6.3%                                             | 5%                                              |  |
| 315.90                                           | 10.5% ad val.                                                         | 10.5%                                                                                  | 10.5%                                       | 9.5%                                             | 4.5%                                             | 4.2%                                             | 4.2%                                           | 4.2%                                             | 4.2%                                            |  |
| 315.95                                           | 13% ad val.                                                           | 13%                                                                                    | 13%                                         | 10%                                              | 7%                                               | 5.2%                                             | 5.2%                                           | 5.2%                                             | 5.2%                                            |  |
| 316.05                                           | 15% ad val.                                                           | 15%                                                                                    | 15%                                         | 13.5%                                            | 12%                                              | 10.5%                                            | 9%                                             | 7.5%                                             | 6%                                              |  |
| 316.10                                           | 8% ad val.                                                            | 8%                                                                                     | 8%                                          | 7.7%                                             | 7.3%                                             | 7%                                               | 6.7%                                           | 6.3%                                             | 6%                                              |  |
| 316.20                                           | 15% ad val.                                                           | 15%                                                                                    | 15%                                         | 13.5%                                            | 12%                                              | 10.5%                                            | 9%                                             | 7.5%                                             | 6%                                              |  |
| 316.25                                           | 8% ad val.                                                            | 8%                                                                                     | 8%                                          | 7.7%                                             | 7.3%                                             | 7%                                               | 6.7%                                           | 6.3%                                             | 6%                                              |  |
| 316.30                                           | 3% ad val.                                                            | 3%                                                                                     | 3%                                          | 2.9%                                             | 2.8%                                             | 2.8%                                             | 2.7%                                           | 2.6%                                             | 2.5%                                            |  |
| 316.40                                           | 16% ad val.                                                           | 16%                                                                                    | 16%                                         | 13%                                              | 10%                                              | 7.5%                                             | 7.5%                                           | 7.5%                                             | 7.5%                                            |  |
| 316.50                                           | 13.5% ad val.                                                         | 10.5%                                                                                  | 7.5%                                        | 7%                                               | 7%                                               | 7%                                               | 7%                                             | 7%                                               | 7%                                              |  |
| 316.55                                           | 12.5c per lb.<br>+ 15% ad val.                                        | 2/                                                                                     | 2/                                          | 10c/lb. +<br>13.8%                               | 8c/lb. +<br>12.7%                                | 6c/lb. +<br>11.5%                                | 4c/lb. +<br>10.3%                              | 2c/lb. + 9.2%                                    | 8%                                              |  |
| 316.70                                           | 8.5% ad val.                                                          | 8.5%                                                                                   | 8.5%                                        | 8%                                               | 7.4%                                             | 6.9%                                             | 6.4%                                           | 5.8%                                             | 5.3%                                            |  |
| Schedule 3, Part 3                               |                                                                       |                                                                                        |                                             |                                                  |                                                  |                                                  |                                                |                                                  |                                                 |  |
| 319.01                                           | 9% ad val.                                                            | 9%                                                                                     | 9%                                          | 8.5%                                             | 8%                                               | 7.5%                                             | 7%                                             | 6.5%                                             | 6%                                              |  |
| 319.03                                           | 11.5% ad val.                                                         | 11.5%                                                                                  | 11.5%                                       | 10.6%                                            | 9.7%                                             | 8.8%                                             | 7.8%                                           | 6.9%                                             | 6%                                              |  |
| 319.05                                           | 13% ad val.                                                           | 13%                                                                                    | 13%                                         | 11.8%                                            | 10.7%                                            | 9.5%                                             | 8.3%                                           | 7.2%                                             | 6%                                              |  |
| 319.07                                           | 14.5% ad val.                                                         | 14.5%                                                                                  | 14.5%                                       | 13.1%                                            | 11.7%                                            | 10.3%                                            | 8.8%                                           | 7.4%                                             | 6%                                              |  |
| 319.21                                           | 7.5% ad val.<br>+ 0.25% ad<br>val. for<br>each number                 | 7.5% + 0.25%<br>for each<br>number                                                     | 7.5% + 0.25%<br>for each<br>number          | 7.1% + 0.24%<br>for each<br>number               | 6.7% + 0.23%<br>for each<br>number               | 6.4% + 0.23%<br>for each<br>number               | 6.1% + 0.22%<br>for each<br>number             | 5.8% + 0.21%<br>for each<br>number               | 5.5% + 0.2%<br>for each<br>number               |  |
| 319.23                                           | 5c per lb. +<br>7.5% ad val.<br>+ 0.25% ad<br>val. for<br>each number | 5c/lb. + 7.5%<br>+ 0.25% for<br>each number                                            | 5c/lb. + 7.5%<br>+ 0.25% for<br>each number | 4.7c/lb. +<br>7.1% + 0.24%<br>for each<br>number | 4.5c/lb. +<br>6.7% + 0.23%<br>for each<br>number | 4.2c/lb. +<br>6.4% + 0.23%<br>for each<br>number | 4c/lb. +<br>6.1% + 0.22%<br>for each<br>number | 3.7c/lb. +<br>5.8% + 0.21%<br>for each<br>number | 3.5c/lb. +<br>5.5% + 0.2%<br>for each<br>number |  |
| 319.25                                           | 5c per lb. +<br>27.5% ad val.                                         | 5c/lb. +<br>27.5%                                                                      | 5c/lb. +<br>27.5%                           | 4.7c/lb. +<br>26.1%                              | 4.5c/lb. +<br>24.7%                              | 4.2c/lb. +<br>23.4%                              | 4c/lb. + 22%                                   | 3.7c/lb. +<br>20.6%                              | 3.5c/lb. +<br>19.2%                             |  |
| 319.27                                           | Base rate +<br>2.5% ad val.                                           | Base rate +<br>2.5%                                                                    | Base rate +<br>2.5%                         | Base rate +<br>2.4%                              | Base rate +<br>2.3%                              | Base rate +<br>2.2%                              | Base rate +<br>2%                              | Base rate +<br>1.9%                              | Base rate +<br>1.8%                             |  |
| 319.29                                           | Base rate +<br>4.5% ad val.                                           | Base rate +<br>4.5%                                                                    | Base rate +<br>4.5%                         | Base rate +<br>4.3%                              | Base rate +<br>4.1%                              | Base rate +<br>3.9%                              | Base rate +<br>3.6%                            | Base rate +<br>3.4%                              | Base rate +<br>3.2%                             |  |
| 320.01                                           | 5.9% ad val.                                                          | 5.9%                                                                                   | 5.9%                                        | 5.8%                                             | 5.6%                                             | 5.5%                                             | 5.4%                                           | 5.2%                                             | 5.1%                                            |  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ This item is not established until January 1, 1982.



## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty 1/2, effective with respect to articles entered on and after January 1 -- |                      |                     |                     |                     |                     |                     |                     |
|--------------------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------|----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                                  |                                     | 1980.                                                                                   | 1981                 | 1982                | 1983                | 1984                | 1985                | 1986                | 1987                |
| Schedule 3, Part 3--Continued                    |                                     |                                                                                         |                      |                     |                     |                     |                     |                     |                     |
| 320.02                                           | 6.09% ad val.                       | 6.09%                                                                                   | 6.09%                | 5.9%                | 5.8%                | 5.6%                | 5.5%                | 5.3%                | 5.2%                |
| 320.03                                           | 6.28% ad val.                       | 6.28%                                                                                   | 6.28%                | 6.1%                | 6%                  | 5.8%                | 5.6%                | 5.5%                | 5.3%                |
| 320.04                                           | 6.47% ad val.                       | 6.47%                                                                                   | 6.47%                | 6.3%                | 6.1%                | 6%                  | 5.8%                | 5.7%                | 5.5%                |
| 320.05                                           | 6.66% ad val.                       | 6.66%                                                                                   | 6.66%                | 6.5%                | 6.3%                | 6.1%                | 6%                  | 5.8%                | 5.6%                |
| 320.06                                           | 6.85% ad val.                       | 6.85%                                                                                   | 6.85%                | 6.7%                | 6.5%                | 6.3%                | 6.2%                | 6%                  | 5.8%                |
| 320.07                                           | 7.04% ad val.                       | 7.04%                                                                                   | 7.04%                | 6.9%                | 6.7%                | 6.5%                | 6.3%                | 6.1%                | 5.9%                |
| 320.08                                           | 7.23% ad val.                       | 7.23%                                                                                   | 7.23%                | 7%                  | 6.8%                | 6.6%                | 6.4%                | 6.2%                | 6%                  |
| 320.09                                           | 7.42% ad val.                       | 7.42%                                                                                   | 7.42%                | 7.2%                | 7%                  | 6.8%                | 6.5%                | 6.3%                | 6.1%                |
| 320.10                                           | 7.61% ad val.                       | 7.61%                                                                                   | 7.61%                | 7.4%                | 7.2%                | 7%                  | 6.7%                | 6.5%                | 6.3%                |
| 320.11                                           | 7.8% ad val.                        | 7.8%                                                                                    | 7.8%                 | 7.6%                | 7.3%                | 7.1%                | 6.9%                | 6.6%                | 6.4%                |
| 320.12                                           | 7.99% ad val.                       | 7.99%                                                                                   | 7.99%                | 7.8%                | 7.5%                | 7.3%                | 7.1%                | 6.8%                | 6.6%                |
| 320.13                                           | 8.18% ad val.                       | 8.18%                                                                                   | 8.18%                | 7.9%                | 7.7%                | 7.4%                | 7.2%                | 6.9%                | 6.7%                |
| 320.14                                           | 8.37% ad val.                       | 8.37%                                                                                   | 8.37%                | 8.1%                | 7.8%                | 7.6%                | 7.3%                | 7.1%                | 6.8%                |
| 320.15                                           | 8.56% ad val.                       | 8.56%                                                                                   | 8.56%                | 8.3%                | 8%                  | 7.8%                | 7.5%                | 7.3%                | 7%                  |
| 320.16                                           | 8.75% ad val.                       | 8.75%                                                                                   | 8.75%                | 8.5%                | 8.2%                | 7.9%                | 7.7%                | 7.4%                | 7.1%                |
| 320.17                                           | 8.94% ad val.                       | 8.94%                                                                                   | 8.94%                | 8.7%                | 8.4%                | 8.1%                | 7.8%                | 7.5%                | 7.2%                |
| 320.18                                           | 9.13% ad val.                       | 9.13%                                                                                   | 9.13%                | 8.8%                | 8.5%                | 8.2%                | 7.9%                | 7.6%                | 7.3%                |
| 320.19                                           | 9.32% ad val.                       | 9.32%                                                                                   | 9.32%                | 9%                  | 8.7%                | 8.4%                | 8.1%                | 7.8%                | 7.5%                |
| 320.20                                           | 9.51% ad val.                       | 9.51%                                                                                   | 9.51%                | 9.2%                | 8.9%                | 8.6%                | 8.2%                | 7.9%                | 7.6%                |
| 320.21                                           | 9.7% ad val.                        | 9.7%                                                                                    | 9.7%                 | 9.4%                | 9%                  | 8.7%                | 8.4%                | 8%                  | 7.7%                |
| 320.22                                           | 9.89% ad val.                       | 9.89%                                                                                   | 9.89%                | 9.6%                | 9.2%                | 8.9%                | 8.6%                | 8.2%                | 7.9%                |
| 320.23                                           | 10.08% ad val.                      | 10.08%                                                                                  | 10.08%               | 9.7%                | 9.4%                | 9%                  | 8.7%                | 8.3%                | 8%                  |
| 320.24                                           | 10.27% ad val.                      | 10.27%                                                                                  | 10.27%               | 9.9%                | 9.5%                | 9.2%                | 8.8%                | 8.5%                | 8.1%                |
| 320.25                                           | 10.46% ad val.                      | 10.46%                                                                                  | 10.46%               | 10.1%               | 9.7%                | 9.4%                | 9%                  | 8.7%                | 8.3%                |
| 320.26                                           | 10.65% ad val.                      | 10.65%                                                                                  | 10.65%               | 10.3%               | 9.9%                | 9.5%                | 9.2%                | 8.8%                | 8.4%                |
| 320.27                                           | 10.84% ad val.                      | 10.84%                                                                                  | 10.84%               | 10.5%               | 10.1%               | 9.7%                | 9.3%                | 8.9%                | 8.5%                |
| 320.28                                           | 11.03% ad val.                      | 11.03%                                                                                  | 11.03%               | 10.6%               | 10.2%               | 9.8%                | 9.4%                | 9%                  | 8.6%                |
| 320.29                                           | 11.22% ad val.                      | 11.22%                                                                                  | 11.22%               | 10.8%               | 10.4%               | 10%                 | 9.5%                | 9.1%                | 8.7%                |
| 320.30                                           | 11.41% ad val.                      | 11.41%                                                                                  | 11.41%               | 11%                 | 10.5%               | 10.1%               | 9.7%                | 9.2%                | 8.8%                |
| 320.31                                           | 11.6% ad val.                       | 11.6%                                                                                   | 11.6%                | 11.2%               | 10.7%               | 10.3%               | 9.9%                | 9.4%                | 9%                  |
| 320.32                                           | 11.79% ad val.                      | 11.79%                                                                                  | 11.79%               | 11.3%               | 10.9%               | 10.4%               | 10%                 | 9.5%                | 9.1%                |
| 320.33                                           | 11.98% ad val.                      | 11.98%                                                                                  | 11.98%               | 11.5%               | 11.1%               | 10.6%               | 10.2%               | 9.7%                | 9.3%                |
| 320.34                                           | 12.17% ad val.                      | 12.17%                                                                                  | 12.17%               | 11.7%               | 11.2%               | 10.8%               | 10.3%               | 9.9%                | 9.4%                |
| 320.35                                           | 12.36% ad val.                      | 12.36%                                                                                  | 12.36%               | 11.9%               | 11.4%               | 10.9%               | 10.5%               | 10%                 | 9.5%                |
| 320.36                                           | 12.55% ad val.                      | 12.55%                                                                                  | 12.55%               | 12.1%               | 11.6%               | 11.1%               | 10.6%               | 10.1%               | 9.6%                |
| 320.37                                           | 12.74% ad val.                      | 12.74%                                                                                  | 12.74%               | 12.2%               | 11.7%               | 11.2%               | 10.7%               | 10.2%               | 9.7%                |
| 320.38                                           | 12.93% ad val.                      | 12.93%                                                                                  | 12.93%               | 12.4%               | 11.9%               | 11.4%               | 10.8%               | 10.3%               | 9.8%                |
| 320.39                                           | 13.12% ad val.                      | 13.12%                                                                                  | 13.12%               | 12.6%               | 12.1%               | 11.6%               | 11%                 | 10.5%               | 10%                 |
| 320.40                                           | 13.31% ad val.                      | 13.31%                                                                                  | 13.31%               | 12.8%               | 12.3%               | 11.7%               | 11.2%               | 10.6%               | 10.1%               |
| 320.41                                           | 13.5% ad val.                       | 13.5%                                                                                   | 13.5%                | 13%                 | 12.4%               | 11.9%               | 11.3%               | 10.8%               | 10.2%               |
| 320.42                                           | 13.69% ad val.                      | 13.69%                                                                                  | 13.69%               | 13.1%               | 12.6%               | 12%                 | 11.4%               | 10.9%               | 10.3%               |
| 320.43                                           | 13.88% ad val.                      | 13.88%                                                                                  | 13.88%               | 13.3%               | 12.8%               | 12.2%               | 11.6%               | 11.1%               | 10.5%               |
| 320.44                                           | 14.07% ad val.                      | 14.07%                                                                                  | 14.07%               | 13.5%               | 12.9%               | 12.3%               | 11.8%               | 11.2%               | 10.6%               |
| 320.45                                           | 14.26% ad val.                      | 14.26%                                                                                  | 14.26%               | 13.7%               | 13.1%               | 12.5%               | 11.9%               | 11.3%               | 10.7%               |
| 320.46                                           | 14.45% ad val.                      | 14.45%                                                                                  | 14.45%               | 13.8%               | 13.2%               | 12.6%               | 12%                 | 11.4%               | 10.8%               |
| 320.47                                           | 14.64% ad val.                      | 14.64%                                                                                  | 14.64%               | 14%                 | 13.4%               | 12.8%               | 12.1%               | 11.5%               | 10.9%               |
| 320.48                                           | 14.83% ad val.                      | 14.83%                                                                                  | 14.83%               | 14.2%               | 13.6%               | 12.9%               | 12.3%               | 11.6%               | 11%                 |
| 320.49                                           | 15.02% ad val.                      | 15.02%                                                                                  | 15.02%               | 14.4%               | 13.7%               | 13.1%               | 12.4%               | 11.8%               | 11.1%               |
| 320.50                                           | 15.21% ad val.                      | 15.21%                                                                                  | 15.21%               | 14.5%               | 13.9%               | 13.2%               | 12.5%               | 11.9%               | 11.2%               |
| 320.51                                           | 15.4% ad val.                       | 15.4%                                                                                   | 15.4%                | 14.7%               | 14.1%               | 13.4%               | 12.7%               | 12.1%               | 11.4%               |
| 320.52                                           | 15.59% ad val.                      | 15.59%                                                                                  | 15.59%               | 14.9%               | 14.2%               | 13.5%               | 12.9%               | 12.2%               | 11.5%               |
| 320.53                                           | 15.78% ad val.                      | 15.78%                                                                                  | 15.78%               | 15.1%               | 14.4%               | 13.7%               | 13%                 | 12.3%               | 11.6%               |
| 320.54                                           | 15.97% ad val.                      | 15.97%                                                                                  | 15.97%               | 15.3%               | 14.6%               | 13.9%               | 13.2%               | 12.5%               | 11.8%               |
| 320.55                                           | 16.16% ad val.                      | 16.16%                                                                                  | 16.16%               | 15.5%               | 14.7%               | 14%                 | 13.3%               | 12.6%               | 11.9%               |
| 320.56                                           | 16.35% ad val.                      | 16.35%                                                                                  | 16.35%               | 15.6%               | 14.9%               | 14.2%               | 13.5%               | 12.7%               | 12%                 |
| 320.57                                           | 16.54% ad val.                      | 16.54%                                                                                  | 16.54%               | 15.8%               | 15.1%               | 14.3%               | 13.6%               | 12.8%               | 12.1%               |
| 320.58                                           | 16.73% ad val.                      | 16.73%                                                                                  | 16.73%               | 16%                 | 15.2%               | 14.5%               | 13.7%               | 13%                 | 12.2%               |
| 320.59                                           | 16.92% ad val.                      | 16.92%                                                                                  | 16.92%               | 16.2%               | 15.4%               | 14.6%               | 13.8%               | 13.1%               | 12.3%               |
| 320.60                                           | 3.8c per lb. +<br>17.11% ad<br>val. | 3.8c/lb. +<br>17.11%                                                                    | 3.8c/lb. +<br>17.11% | 3.6c/lb. +<br>16.3% | 3.4c/lb. +<br>15.4% | 3.2c/lb. +<br>14.6% | 3.1c/lb. +<br>13.7% | 2.9c/lb. +<br>12.9% | 2.7c/lb. +<br>12%   |
| 320.61                                           | 3.8c per lb. +<br>17.3% ad val.     | 3.8c/lb. +<br>17.3%                                                                     | 3.8c/lb. +<br>17.3%  | 3.6c/lb. +<br>16.4% | 3.4c/lb. +<br>15.6% | 3.2c/lb. +<br>14.7% | 3.1c/lb. +<br>13.8% | 2.9c/lb. +<br>12.1% | 2.7c/lb. +<br>12.1% |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |                      |                     |                     |                     |                     |                     |                     |
|--------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------|----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                                  |                                     | 1980                                                                                               | 1981                 | 1982                | 1983                | 1984                | 1985                | 1986                | 1987                |
| Schedule 3, Part 3--Continued                    |                                     |                                                                                                    |                      |                     |                     |                     |                     |                     |                     |
| 320.62                                           | 3.8c per lb. +<br>17.49% ad<br>val. | 3.8c/lb. +<br>17.49%                                                                               | 3.8c/lb. +<br>17.49% | 3.6c/lb. +<br>16.6% | 3.4c/lb. +<br>15.7% | 3.2c/lb. +<br>14.8% | 3.1c/lb. +<br>14%   | 2.9c/lb. +<br>13.1% | 2.7c/lb. +<br>12.2% |
| 320.63                                           | 3.8c per lb. +<br>17.68% ad<br>val. | 3.8c/lb. +<br>17.68%                                                                               | 3.8c/lb. +<br>17.68% | 3.6c/lb. +<br>16.8% | 3.4c/lb. +<br>15.9% | 3.2c/lb. +<br>15%   | 3.1c/lb. +<br>14.2% | 2.9c/lb. +<br>13.3% | 2.7c/lb. +<br>12.4% |
| 320.64                                           | 3.8c per lb. +<br>17.87% ad<br>val. | 3.8c/lb. +<br>17.87%                                                                               | 3.8c/lb. +<br>17.87% | 3.6c/lb. +<br>17%   | 3.4c/lb. +<br>16.1% | 3.2c/lb. +<br>15.2% | 3.1c/lb. +<br>14.3% | 2.9c/lb. +<br>13.4% | 2.7c/lb. +<br>12.5% |
| 320.65                                           | 3.8c per lb. +<br>18.06% ad<br>val. | 3.8c/lb. +<br>18.06%                                                                               | 3.8c/lb. +<br>18.06% | 3.6c/lb. +<br>17.2% | 3.4c/lb. +<br>16.2% | 3.2c/lb. +<br>15.3% | 3.1c/lb. +<br>14.4% | 2.9c/lb. +<br>13.5% | 2.7c/lb. +<br>12.6% |
| 320.66                                           | 3.8c per lb. +<br>18.25% ad<br>val. | 3.8c/lb. +<br>18.25%                                                                               | 3.8c/lb. +<br>18.25% | 3.6c/lb. +<br>17.3% | 3.4c/lb. +<br>16.4% | 3.2c/lb. +<br>15.5% | 3.1c/lb. +<br>14.6% | 2.9c/lb. +<br>13.7% | 2.7c/lb. +<br>12.8% |
| 320.67                                           | 3.8c per lb. +<br>18.44% ad<br>val. | 3.8c/lb. +<br>18.44%                                                                               | 3.8c/lb. +<br>18.44% | 3.6c/lb. +<br>17.5% | 3.4c/lb. +<br>16.6% | 3.2c/lb. +<br>15.7% | 3.1c/lb. +<br>14.7% | 2.9c/lb. +<br>13.8% | 2.7c/lb. +<br>12.9% |
| 320.68                                           | 3.8c per lb. +<br>18.63% ad<br>val. | 3.8c/lb. +<br>18.63%                                                                               | 3.8c/lb. +<br>18.63% | 3.6c/lb. +<br>17.7% | 3.4c/lb. +<br>16.8% | 3.2c/lb. +<br>15.8% | 3.1c/lb. +<br>14.9% | 2.9c/lb. +<br>13.9% | 2.7c/lb. +<br>13%   |
| 320.69                                           | 3.8c per lb. +<br>18.82% ad<br>val. | 3.8c/lb. +<br>18.82%                                                                               | 3.8c/lb. +<br>18.82% | 3.6c/lb. +<br>17.9% | 3.4c/lb. +<br>16.9% | 3.2c/lb. +<br>16%   | 3.1c/lb. +<br>15.1% | 2.9c/lb. +<br>14.1% | 2.7c/lb. +<br>13.2% |
| 320.70                                           | 3.8c per lb. +<br>19.01% ad<br>val. | 3.8c/lb. +<br>19.01%                                                                               | 3.8c/lb. +<br>19.01% | 3.6c/lb. +<br>18.1% | 3.4c/lb. +<br>17.1% | 3.2c/lb. +<br>16.2% | 3.1c/lb. +<br>15.2% | 2.9c/lb. +<br>14.3% | 2.7c/lb. +<br>13.3% |
| 320.71                                           | 3.8c per lb. +<br>19.2% ad<br>val.  | 3.8c/lb. +<br>19.2%                                                                                | 3.8c/lb. +<br>19.2%  | 3.6c/lb. +<br>18.2% | 3.4c/lb. +<br>17.3% | 3.2c/lb. +<br>16.3% | 3.1c/lb. +<br>15.3% | 2.9c/lb. +<br>14.4% | 2.7c/lb. +<br>13.4% |
| 320.72                                           | 3.8c per lb. +<br>19.39% ad<br>val. | 3.8c/lb. +<br>19.39%                                                                               | 3.8c/lb. +<br>19.39% | 3.6c/lb. +<br>18.4% | 3.4c/lb. +<br>17.5% | 3.2c/lb. +<br>16.5% | 3.1c/lb. +<br>15.5% | 2.9c/lb. +<br>14.6% | 2.7c/lb. +<br>13.6% |
| 320.73                                           | 3.8c per lb. +<br>19.58% ad<br>val. | 3.8c/lb. +<br>19.58%                                                                               | 3.8c/lb. +<br>19.58% | 3.6c/lb. +<br>18.6% | 3.4c/lb. +<br>17.7% | 3.2c/lb. +<br>16.7% | 3.1c/lb. +<br>15.7% | 2.9c/lb. +<br>14.8% | 2.7c/lb. +<br>13.8% |
| 320.74                                           | 3.8c per lb. +<br>19.77% ad<br>val. | 3.8c/lb. +<br>19.77%                                                                               | 3.8c/lb. +<br>19.77% | 3.6c/lb. +<br>18.8% | 3.4c/lb. +<br>17.8% | 3.2c/lb. +<br>16.8% | 3.1c/lb. +<br>15.8% | 2.9c/lb. +<br>14.8% | 2.7c/lb. +<br>13.8% |
| 320.75                                           | 3.8c per lb. +<br>19.96% ad<br>val. | 3.8c/lb. +<br>19.96%                                                                               | 3.8c/lb. +<br>19.96% | 3.6c/lb. +<br>19%   | 3.4c/lb. +<br>17.9% | 3.2c/lb. +<br>16.9% | 3.1c/lb. +<br>15.9% | 2.9c/lb. +<br>14.9% | 2.7c/lb. +<br>13.9% |
| 320.76                                           | 3.8c per lb. +<br>20.15% ad<br>val. | 3.8c/lb. +<br>20.15%                                                                               | 3.8c/lb. +<br>20.15% | 3.6c/lb. +<br>19.1% | 3.4c/lb. +<br>18.1% | 3.2c/lb. +<br>17.1% | 3.1c/lb. +<br>16.1% | 2.9c/lb. +<br>15.1% | 2.7c/lb. +<br>14.1% |
| 320.77                                           | 3.8c per lb. +<br>20.34% ad<br>val. | 3.8c/lb. +<br>20.34%                                                                               | 3.8c/lb. +<br>20.34% | 3.6c/lb. +<br>19.3% | 3.4c/lb. +<br>18.3% | 3.2c/lb. +<br>17.3% | 3.1c/lb. +<br>16.2% | 2.9c/lb. +<br>15.2% | 2.7c/lb. +<br>14.2% |
| 320.78                                           | 3.8c per lb. +<br>20.53% ad<br>val. | 3.8c/lb. +<br>20.53%                                                                               | 3.8c/lb. +<br>20.53% | 3.6c/lb. +<br>19.5% | 3.4c/lb. +<br>18.5% | 3.2c/lb. +<br>17.5% | 3.1c/lb. +<br>16.4% | 2.9c/lb. +<br>15.4% | 2.7c/lb. +<br>14.4% |
| 320.79                                           | 3.8c per lb. +<br>20.72% ad<br>val. | 3.8c/lb. +<br>20.72%                                                                               | 3.8c/lb. +<br>20.72% | 3.6c/lb. +<br>19.7% | 3.4c/lb. +<br>18.6% | 3.2c/lb. +<br>17.6% | 3.1c/lb. +<br>16.5% | 2.9c/lb. +<br>15.5% | 2.7c/lb. +<br>14.5% |
| 320.80                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.82                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.84                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.86                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.88                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.92                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.94                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |
| 320.96                                           | 3.8c per lb. +<br>21% ad val.       | 3.8c/lb. +<br>21%                                                                                  | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%   | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8% | 2.7c/lb. +<br>14.7% |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

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Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged        | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                      |                     |                     |                     |                      |                     |
|--------------------------------------------------|----------------------------------|----------------------------------------------------------------------------------------|----------------------|----------------------|---------------------|---------------------|---------------------|----------------------|---------------------|
|                                                  |                                  | 1980                                                                                   | 1981                 | 1982                 | 1983                | 1984                | 1985                | 1986                 | 1987                |
| Schedule 3, Part 3--Continued                    |                                  |                                                                                        |                      |                      |                     |                     |                     |                      |                     |
| 320.98                                           | 3.8c per lb. +<br>21% ad val.    | 3.8c/lb. +<br>21%                                                                      | 3.8c/lb. +<br>21%    | 3.6c/lb. +<br>20%    | 3.4c/lb. +<br>18.9% | 3.2c/lb. +<br>17.9% | 3.1c/lb. +<br>16.8% | 2.9c/lb. +<br>15.8%  | 2.7c/lb. +<br>14.7% |
| 321.--                                           | Base rate +<br>1.9% ad val.      | Base rate +<br>1.9%                                                                    | Base rate +<br>1.9%  | Base rate +<br>1.8%  | Base rate +<br>1.7% | Base rate +<br>1.5% | Base rate +<br>1.4% | Base rate +<br>1.3%  | Base rate +<br>1.2% |
| 322.--                                           | Base rate +<br>3.8% ad val.      | Base rate +<br>3.8%                                                                    | Base rate +<br>3.8%  | Base rate +<br>3.6%  | Base rate +<br>3.3% | Base rate +<br>3.1% | Base rate +<br>2.9% | Base rate +<br>2.6%  | Base rate +<br>2.4% |
| 323.--                                           | Base rate +<br>1.9% ad val.      | Base rate +<br>1.9%                                                                    | Base rate +<br>1.9%  | Base rate +<br>1.8%  | Base rate +<br>1.7% | Base rate +<br>1.5% | Base rate +<br>1.4% | Base rate +<br>1.3%  | Base rate +<br>1.2% |
| 324.--                                           | Base rate +<br>3.8% ad val.      | Base rate +<br>3.8%                                                                    | Base rate +<br>3.8%  | Base rate +<br>3.6%  | Base rate +<br>3.3% | Base rate +<br>3.1% | Base rate +<br>2.9% | Base rate +<br>2.6%  | Base rate +<br>2.4% |
| 325.--                                           | Base rate +<br>5.3% ad val.      | Base rate +<br>5.3%                                                                    | Base rate +<br>5.3%  | Base rate +<br>5%    | Base rate +<br>4.6% | Base rate +<br>4.3% | Base rate +<br>3.9% | Base rate +<br>3.6%  | Base rate +<br>3.2% |
| 326.--                                           | Base rate +<br>1.9% ad val.      | Base rate +<br>1.9%                                                                    | Base rate +<br>1.9%  | Base rate +<br>1.8%  | Base rate +<br>1.7% | Base rate +<br>1.5% | Base rate +<br>1.4% | Base rate +<br>1.3%  | Base rate +<br>1.2% |
| 327.--                                           | Base rate +<br>3.8% ad val.      | Base rate +<br>3.8%                                                                    | Base rate +<br>3.8%  | Base rate +<br>3.6%  | Base rate +<br>3.3% | Base rate +<br>3.1% | Base rate +<br>2.9% | Base rate +<br>2.6%  | Base rate +<br>2.4% |
| 328.--                                           | Base rate +<br>5.3% ad val.      | Base rate +<br>5.3%                                                                    | Base rate +<br>5.3%  | Base rate +<br>5%    | Base rate +<br>4.6% | Base rate +<br>4.3% | Base rate +<br>3.9% | Base rate +<br>3.6%  | Base rate +<br>3.2% |
| 329.--                                           | Base rate +<br>3.8% ad val.      | Base rate +<br>3.8%                                                                    | Base rate +<br>3.8%  | Base rate +<br>3.6%  | Base rate +<br>3.3% | Base rate +<br>3.1% | Base rate +<br>2.9% | Base rate +<br>2.6%  | Base rate +<br>2.4% |
| 330.--                                           | Base rate +<br>5.7% ad val.      | Base rate +<br>5.7%                                                                    | Base rate +<br>5.7%  | Base rate +<br>5.3%  | Base rate +<br>4.9% | Base rate +<br>4.6% | Base rate +<br>4.2% | Base rate +<br>3.8%  | Base rate +<br>3.4% |
| 331.--                                           | Base rate +<br>7.5% ad val.      | Base rate +<br>7.5%                                                                    | Base rate +<br>7.5%  | Base rate +<br>7%    | Base rate +<br>6.5% | Base rate +<br>5.9% | Base rate +<br>5.4% | Base rate +<br>4.9%  | Base rate +<br>4.4% |
| 332.10                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 14.3%                | 13.5%               | 12.8%               | 12%                 | 11.3%                | 10.5%               |
| 332.40                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 14.3%                | 13.5%               | 12.8%               | 12%                 | 11.3%                | 10.5%               |
| 335.50                                           | 0.2c per lb. +<br>2.5% ad val.   | 0.2c/lb. +<br>2.5%                                                                     | 0.2c/lb. +<br>2.5%   | 1%                   | 1%                  | 1%                  | 1%                  | 1%                   | 1%                  |
| 335.55 <sup>2/</sup>                             | 30c per lb. +<br>4% ad val.      | 30c/lb. +<br>4%                                                                        | 30c/lb. +<br>4%      | 26c/lb. +<br>4.2%    | 23c/lb. +<br>4.0%   | 20c/lb. +<br>4.0%   | 16c/lb. +<br>3.6%   | 13c/lb. +<br>3.3%    | 10c/lb. +<br>3.1%   |
| 335.60                                           | 12.5c per lb. +<br>11% ad val.   | 12.5c/lb. +<br>11%                                                                     | 12.5c/lb. +<br>11%   | 10c/lb. +<br>10.3%   | 8c/lb. +<br>9.7%    | 6c/lb. +<br>9.7%    | 4c/lb. +<br>8.3%    | 2c/lb. +<br>7.7%     | 1%                  |
| 335.70                                           | 3.2% ad val.                     | 3.2%                                                                                   | 3.2%                 | 3.2%                 | 3.1%                | 3.1%                | 3.1%                | 3%                   | 3%                  |
| 335.75                                           | 3.2% ad val.                     | 3.2%                                                                                   | 3.2%                 | 3.2%                 | 3.1%                | 3.1%                | 3.1%                | 3%                   | 3%                  |
| 335.85                                           | 5% ad val.                       | 5%                                                                                     | 5%                   | 4.7%                 | 4.3%                | 4%                  | 3.7%                | 3.3%                 | 3%                  |
| 335.95                                           | 5% ad val.                       | 5%                                                                                     | 5%                   | 4.7%                 | 4.3%                | 4%                  | 3.7%                | 3.3%                 | 3%                  |
| 336.10                                           | 30c per lb. +<br>12.5% ad val.   | 30c/lb. +<br>12.5%                                                                     | 30c/lb. +<br>12.5%   | 28c/lb. +<br>12.5%   | 26c/lb. +<br>12.5%  | 24c/lb. +<br>12.5%  | 22c/lb. +<br>12.5%  | 20c/lb. +<br>12.5%   | 18c/lb. +<br>12.5%  |
| 336.15                                           | 37.5c per lb. +<br>12.5% ad val. | 37.5c/lb. +<br>12.5%                                                                   | 37.5c/lb. +<br>12.5% | 32c/lb. +<br>12.5%   | 27c/lb. +<br>12.5%  | 22c/lb. +<br>12.5%  | 18c/lb. +<br>12.5%  | 13c/lb. +<br>12.5%   | 8c/lb. +<br>12.5%   |
| 336.20                                           | 30c per lb. +<br>12.5% ad val.   | 30c/lb. +<br>12.5%                                                                     | 30c/lb. +<br>12.5%   | 25c/lb. +<br>11.6%   | 20c/lb. +<br>10.7%  | 15c/lb. +<br>9.7%   | 10c/lb. +<br>8.8%   | 5c/lb. +<br>7.9%     | 7%                  |
| 336.25                                           | 37.5c per lb. +<br>12.5% ad val. | 37.5c/lb. +<br>12.5%                                                                   | 37.5c/lb. +<br>12.5% | 31c/lb. +<br>11.0%   | 25c/lb. +<br>10.7%  | 19c/lb. +<br>9.7%   | 12c/lb. +<br>8.8%   | 6c/lb. +<br>7.9%     | 7%                  |
| 336.30 <sup>3/</sup>                             | 30c per lb. +<br>30% ad val.     | 30c/lb. +<br>30%                                                                       | 30c/lb. +<br>30%     | 27c/lb. +<br>29.4%   | 24c/lb. +<br>28.6%  | 21c/lb. +<br>28.2%  | 18c/lb. +<br>27.6%  | 15c/lb. +<br>27%     | 12c/lb. +<br>26.4%  |
| 336.35                                           | 68c per lb.                      | 68c/lb.                                                                                | 68c/lb.              | 63c/lb.              | 57c/lb.             | 52c/lb.             | 47c/lb.             | 42c/lb.              | 37c/lb.             |
| 336.40                                           | 30c per lb. +<br>19% ad val.     | 30c/lb. +<br>19%                                                                       | 30c/lb. +<br>19%     | 25c/lb. +<br>17.3%   | 20c/lb. +<br>15.5%  | 15c/lb. +<br>13.8%  | 10c/lb. +<br>12%    | 5c/lb. +<br>10.3%    | 5c/lb.              |
| 336.50 <sup>4/</sup>                             | 37.5c per lb. +<br>60% ad val.   | 37.5c/lb. +<br>60%                                                                     | 37.5c/lb. +<br>60%   | 33.5c/lb. +<br>58.9% | 30c/lb. +<br>57.8%  | 26c/lb. +<br>56.7%  | 22c/lb. +<br>55.6%  | 18.5c/lb. +<br>54.5% | 15c/lb. +<br>53.4%  |

- 1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 335.55, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--6c/lb. + 29.5%.  
 Effective with respect to articles entered on and after January 1, 1989--3c/lb. + 27.2%.  
 Effective with respect to articles entered on and after January 1, 1990--23%.  
 3/ For item 336.30, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--9c/lb. + 25.8%.  
 Effective with respect to articles entered on and after January 1, 1989--6c/lb. + 25.2%.  
 Effective with respect to articles entered on and after January 1, 1990--3c/lb. + 24.6%.  
 Effective with respect to articles entered on and after January 1, 1991--24%.  
 4/ For item 336.50, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--11c/lb. + 52.3%.  
 Effective with respect to articles entered on and after January 1, 1989--7c/lb. + 51.2%.  
 Effective with respect to articles entered on and after January 1, 1990--3.5c/lb. + 50.1%.  
 Effective with respect to articles entered on and after January 1, 1991--49%.

Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                      |                    |                    |                      |                                  |
|--------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|----------------------|--------------------|--------------------|----------------------|----------------------------------|
|                                                  |                                | 1980                                                                                   | 1981               | 1982               | 1983                 | 1984               | 1985               | 1986                 | 1987                             |
| Schedule 3, Part 3--Continued                    |                                |                                                                                        |                    |                    |                      |                    |                    |                      |                                  |
| 336.55                                           | \$1.135 per lb.                | \$1.135/lb.                                                                            | \$1.135/lb.        | \$1.08/lb.         | \$1.03/lb.           | 97c/lb.            | 92c/lb.            | 87c/lb.              | 82c/lb.                          |
| 336.62                                           | 37.5c per lb.<br>+ 38% ad val. | 2/                                                                                     | 2/                 | 35c/lb. +<br>38%   | 32c/lb. +<br>38%     | 30c/lb. +<br>38%   | 27c/lb. +<br>38%   | 24c/lb. +<br>38%     | 22c/lb. +<br>38%                 |
| 336.64                                           | 37.5c per lb.<br>+ 38% ad val. | 2/                                                                                     | 2/                 | 31c/lb. +<br>37.2% | 25c/lb. +<br>36.3%   | 19c/lb. +<br>35.5% | 12c/lb. +<br>34.7% | 6c/lb. +<br>33.8%    | 33%                              |
| 337.10                                           | 15% ad val.                    | 13.9%                                                                                  | 12.8%              | 11.6%              | 10.5%                | 9.4%               | 8.3%               | 7.1%                 | 6%                               |
| 337.20                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%               | 9.1%               | 8.5%                 | 7.9%               | 7.3%               | 6.6%                 | 6%                               |
| 337.30                                           | 13.5% ad val.                  | 12.6%                                                                                  | 11.6%              | 10.7%              | 9.8%                 | 8.8%               | 7.9%               | 6.9%                 | 6%                               |
| 337.40                                           | 10.5% ad val.                  | 9.9%                                                                                   | 9.4%               | 8.8%               | 8.3%                 | 7.7%               | 7.1%               | 6.6%                 | 6%                               |
| 337.50                                           | 17.5% ad val.                  | 16.3%                                                                                  | 15.1%              | 13.9%              | 12.8%                | 11.6%              | 10.4%              | 9.2%                 | 8%                               |
| 337.55                                           | 18.5% ad val.                  | 17.2%                                                                                  | 15.9%              | 14.6%              | 13.3%                | 11.9%              | 10.6%              | 9.3%                 | 8%                               |
| 337.60                                           | 15% ad val.                    | 12%                                                                                    | 9%                 | 6%                 | 6%                   | 6%                 | 6%                 | 6%                   | 6%                               |
| 337.70                                           | 11.5% ad val.                  | 11.5%                                                                                  | 11.5%              | 10.6%              | 9.7%                 | 8.7%               | 7.8%               | 6.9%                 | 6%                               |
| 337.80                                           | 13.5% ad val.                  | 12.7%                                                                                  | 11.9%              | 11.1%              | 10.3%                | 9.4%               | 8.6%               | 7.8%                 | 7%                               |
| 337.90                                           | 13.5% ad val.                  | 13.5%                                                                                  | 13.5%              | 12.4%              | 11.3%                | 10.3%              | 9.2%               | 8.1%                 | 7%                               |
| 338.10                                           | 15c per lb. +<br>25% ad val.   | 15c/lb. +<br>25%                                                                       | 15c/lb. +<br>25%   | 12c/lb. +<br>24.8% | 10c/lb. +<br>24.7%   | 7c/lb. +<br>24.5%  | 5c/lb. +<br>24.3%  | 2c/lb. +<br>24.2%    | 24%                              |
| 338.15                                           | 15c per lb. +<br>15% ad val.   | 15c/lb. + 15%                                                                          | 15c/lb. + 15%      | 12c/lb. + 15%      | 10c/lb. + 15%        | 7c/lb. + 15%       | 5c/lb. + 15%       | 2c/lb. + 15%         | 15%                              |
| 338.25                                           | 10.5% ad val.                  | 10.2%                                                                                  | 10%                | 9.7%               | 9.4%                 | 9.1%               | 8.9%               | 8.6%                 | 8.3%                             |
| 338.27                                           | 15% ad val.                    | 14.5%                                                                                  | 14%                | 13.5%              | 13.1%                | 12.6%              | 12.1%              | 11.6%                | 11.1%                            |
| 338.40                                           | 13c per lb. +<br>22.5% ad val. | 2/                                                                                     | 2/                 | 13c/lb. +<br>22.5% | 12.5c/lb. +<br>22.5% | 12c/lb. +<br>22.5% | 12c/lb. +<br>22.5% | 11.5c/lb. +<br>22.5% | 11c/lb. +<br>22.5%               |
| 338.50                                           | 13c per lb. +<br>22.5% ad val. | 2/                                                                                     | 2/                 | 10c/lb. +<br>21.6% | 8c/lb. +<br>20.7%    | 6c/lb. +<br>19.7%  | 4c/lb. +<br>18.8%  | 2c/lb. +<br>17.9%    | 17%                              |
| 339.05 <sup>3/</sup>                             | 30c per lb. +<br>50% ad val.   | 30c/lb. +<br>50%                                                                       | 30c/lb. +<br>50%   | 27c/lb. +<br>47.1% | 24c/lb. +<br>44.2%   | 21c/lb. +<br>41.3% | 18c/lb. +<br>38.4% | 15c/lb. +<br>35.5%   | 12c/lb. +<br>32.6% <sup>2/</sup> |
| 339.10                                           | 8.5% ad val.                   | 8.5%                                                                                   | 8.5%               | 8%                 | 7.4%                 | 6.9%               | 6.4%               | 5.8%                 | 5.3%                             |
| Schedule 3, Part 4                               |                                |                                                                                        |                    |                    |                      |                    |                    |                      |                                  |
| 345.10                                           | 25% ad val.                    | 25%                                                                                    | 25%                | 23.2%              | 21.3%                | 19.5%              | 17.7%              | 15.6%                | 14%                              |
| 345.30                                           | 37.5c per lb. +<br>20% ad val. | 37.5c/lb. +<br>20%                                                                     | 37.5c/lb. +<br>20% | 31c/lb. +<br>19.8% | 25c/lb. +<br>19.7%   | 18c/lb. +<br>19.5% | 12c/lb. +<br>19.2% | 6c/lb. +<br>19.2%    | 19%                              |
| 345.35                                           | 13.5% ad val.                  | 13.5%                                                                                  | 13.5%              | 12.4%              | 11.3%                | 10.2%              | 9.1%               | 8%                   | 6.9%                             |
| 345.50                                           | 25c per lb. +<br>20% ad val.   | 25c/lb. +<br>20%                                                                       | 25c/lb. +<br>20%   | 21c/lb. +<br>19%   | 16c/lb. +<br>18%     | 12c/lb. +<br>17%   | 8c/lb. +<br>16%    | 4c/lb. +<br>15%      | 14%                              |
| 345.60                                           | 8.5% ad val.                   | 8.5%                                                                                   | 8.5%               | 8%                 | 7.4%                 | 6.9%               | 6.4%               | 5.8%                 | 5.3%                             |
| 346.10                                           | 38% ad val.                    | 38%                                                                                    | 38%                | 35.5%              | 33%                  | 30.5%              | 28%                | 25.5%                | 23%                              |
| 346.15                                           | 25% ad val.                    | 25%                                                                                    | 25%                | 23.5%              | 22%                  | 20.5%              | 19%                | 17.5%                | 16%                              |
| 346.20                                           | 30% ad val.                    | 30%                                                                                    | 30%                | 28.3%              | 26.7%                | 25%                | 23.3%              | 21.7%                | 20%                              |
| 346.22                                           | 25c per sq.<br>yd.             | 25c/sq. yd.                                                                            | 25c/sq. yd.        | 24.2c/sq. yd.      | 23.3c/sq. yd.        | 22.5c/sq. yd.      | 21.7c/sq. yd.      | 20.8c/sq. yd.        | 20c/sq. yd.                      |
| 346.24                                           | 22.5% ad val.                  | 22.5%                                                                                  | 22.5%              | 22.1%              | 21.7%                | 21.3%              | 20.8%              | 20.4%                | 20%                              |
| 346.30                                           | 17c per lb.                    | 17c/lb.                                                                                | 17c/lb.            | 16c/lb.            | 15.3c/lb.            | 14.5c/lb.          | 13.5c/lb.          | 12.8c/lb.            | 12c/lb.                          |
| 346.32                                           | 15% ad val.                    | 15%                                                                                    | 15%                | 14.4%              | 13.7%                | 13.1%              | 12.4%              | 11.6%                | 11.1%                            |
| 346.35                                           | 30% ad val.                    | 30%                                                                                    | 30%                | 28.5%              | 27%                  | 25.5%              | 24%                | 22.5%                | 21%                              |
| 346.40                                           | 17.5% ad val.                  | 17.5%                                                                                  | 17.5%              | 16.7%              | 15.9%                | 15.1%              | 14.2%              | 13.4%                | 12.6%                            |
| 346.45                                           | 15% ad val.                    | 15%                                                                                    | 15%                | 14.4%              | 13.7%                | 13.1%              | 12.4%              | 11.6%                | 11.1%                            |
| 346.50                                           | 6% ad val.                     | 6%                                                                                     | 6%                 | 5.7%               | 5.4%                 | 5.1%               | 4.8%               | 4.5%                 | 4.2%                             |
| 346.52                                           | 33c per lb. +<br>12.5% ad val. | 33c/lb. +<br>12.5%                                                                     | 33c/lb. +<br>12.5% | 27c/lb. +<br>11.8% | 22c/lb. +<br>10.3%   | 16c/lb. +<br>9.5%  | 11c/lb. +<br>8.8%  | 5.5c/lb. +<br>8.2%   | 8%                               |
| 346.56                                           | 8.5% ad val.                   | 8.5%                                                                                   | 8.5%               | 8%                 | 7.4%                 | 6.9%               | 6.4%               | 5.8%                 | 5.3%                             |
| 346.60                                           | 15c per lb. +<br>25% ad val.   | 15c/lb. +<br>25%                                                                       | 15c/lb. +<br>25%   | 12c/lb. +<br>24.1% | 10c/lb. +<br>23.2%   | 7c/lb. +<br>22.3%  | 5c/lb. +<br>21.3%  | 2c/lb. +<br>20.4%    | 19.5%                            |
| 346.65                                           | 8.5% ad val.                   | 8.5%                                                                                   | 8.5%               | 8%                 | 7.4%                 | 6.9%               | 6.4%               | 5.8%                 | 5.3%                             |

- 1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ This item is not established until January 1, 1982.  
 3/ For item 339.05, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--9c/lb. + 29.7%.  
 Effective with respect to articles entered on and after January 1, 1989--6c/lb. + 26.8%.  
 Effective with respect to articles entered on and after January 1, 1990--3c/lb. + 23.9%.  
 Effective with respect to articles entered on and after January 1, 1991--21%.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged       | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                     |                     |                     |                    |                   |                  |          |
|--------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------|---------------------|---------------------|---------------------|--------------------|-------------------|------------------|----------|
|                                                  |                                 | 1980                                                                                   | 1981                | 1982                | 1983                | 1984               | 1985              | 1986             | 1987     |
| Schedule 3, Part 4--Continued                    |                                 |                                                                                        |                     |                     |                     |                    |                   |                  |          |
| 346.70                                           | 19% ad val.                     | 19%                                                                                    | 19%                 | 16%                 | 13%                 | 10%                | 8.1%              | 8.1%             | 8.1%     |
| 346.80                                           | 6% ad val.                      | 6%                                                                                     | 6%                  | 5.7%                | 5.4%                | 5.1%               | 4.8%              | 4.5%             | 4.2%     |
| 346.82                                           | 33c per lb. +<br>12.5% ad val.  | 33c/lb. +<br>12.5%                                                                     | 33c/lb. +<br>12.5%  | 27c/lb. +<br>11.6%  | 22c/lb. +<br>10.7%  | 16c/lb. +<br>9.8%  | 11c/lb. +<br>8.8% | 5c/lb. +<br>7.9% | 7%       |
| 346.86                                           | 8.5% ad val.                    | 8.5%                                                                                   | 8.5%                | 8%                  | 7.4%                | 6.9%               | 6.4%              | 5.8%             | 5.3%     |
| 346.90                                           | 7c per lb. +<br>12.5% ad val.   | 7c/lb. +<br>12.5%                                                                      | 7c/lb. +<br>12.5%   | 5.5c/lb. +<br>11.6% | 4.5c/lb. +<br>10.7% | 3.5c/lb. +<br>9.8% | 2c/lb. +<br>8.8%  | 1c/lb. +<br>7.9% | 7%       |
| 346.95                                           | 8.5% ad val.                    | 8.5%                                                                                   | 8.5%                | 8%                  | 7.4%                | 6.9%               | 6.4%              | 5.8%             | 5.3%     |
| 347.10                                           | 20% ad val.                     | 20%                                                                                    | 20%                 | 18%                 | 16.1%               | 14.1%              | 12.1%             | 10.2%            | 8.2%     |
| 347.15                                           | 20% ad val.                     | 20%                                                                                    | 20%                 | 18%                 | 16.1%               | 14.1%              | 12.1%             | 10.2%            | 8.2%     |
| 347.20                                           | 7% ad val.                      | 7%                                                                                     | 7%                  | 6.6%                | 6.2%                | 5.9%               | 5.5%              | 5.1%             | 4.7%     |
| 347.26                                           | 10% ad val.                     | 10%                                                                                    | 10%                 | 9.3%                | 8.6%                | 7.9%               | 7.2%              | 6.5%             | 5.8%     |
| 347.28                                           | 10% ad val.                     | 10%                                                                                    | 10%                 | 9.3%                | 8.6%                | 7.9%               | 7.2%              | 6.5%             | 5.8%     |
| 347.30                                           | 14% ad val.                     | 14%                                                                                    | 14%                 | 11%                 | 8%                  | 5.6%               | 5.6%              | 5.6%             | 5.6%     |
| 347.33                                           | 13.3% ad val.                   | 13.3%                                                                                  | 13.3%               | 12.8%               | 12.2%               | 11.7%              | 11.1%             | 10.6%            | 10%      |
| 347.35                                           | 7% ad val.                      | 7%                                                                                     | 7%                  | 6.6%                | 6.2%                | 5.9%               | 5.5%              | 5.1%             | 4.7%     |
| 347.40                                           | 37.5c per lb. +<br>10% ad val.  | 37.5c/lb. +<br>10%                                                                     | 37.5c/lb. +<br>10%  | 31c/lb. +<br>9.6%   | 25c/lb. +<br>9.2%   | 19c/lb. +<br>8.8%  | 12c/lb. +<br>8.3% | 6c/lb. +<br>7.9% | 7.5%     |
| 347.45                                           | 8.5% ad val.                    | 8.5%                                                                                   | 8.5%                | 8%                  | 7.4%                | 6.9%               | 6.4%              | 5.8%             | 5.3%     |
| 347.50                                           | 7.5% ad val.                    | 7.5%                                                                                   | 7.5%                | 6.8%                | 6%                  | 5.3%               | 4.5%              | 3.8%             | 3%       |
| 347.55                                           | 15c per lb. +<br>11% ad val.    | 15c/lb. +<br>11%                                                                       | 15c/lb. +<br>11%    | 12c/lb. +<br>10.8%  | 10c/lb. +<br>10.5%  | 7c/lb. +<br>10.3%  | 5c/lb. +<br>10%   | 2c/lb. +<br>9.8% | 9.5%     |
| 347.60                                           | 12c per lb. +<br>10% ad val.    | 12c/lb. +<br>10%                                                                       | 12c/lb. +<br>10%    | 10c/lb. +<br>9.8%   | 8c/lb. +<br>9.7%    | 6c/lb. +<br>9.5%   | 4c/lb. +<br>9.3%  | 2c/lb. +<br>9.2% | 9%       |
| 347.65                                           | 12c per lb. +<br>11.25% ad val. | 12c/lb. +<br>11.25%                                                                    | 12c/lb. +<br>11.25% | 10c/lb. +<br>10.5%  | 8c/lb. +<br>9.8%    | 6c/lb. +<br>9.1%   | 4c/lb. +<br>8.4%  | 2c/lb. +<br>7.7% | 7%       |
| 347.68                                           | 10.5% ad val.                   | 9.9%                                                                                   | 9.4%                | 8.8%                | 8.3%                | 7.7%               | 7.1%              | 6.6%             | 6%       |
| 347.69                                           | 15% ad val.                     | 14%                                                                                    | 13.1%               | 12.1%               | 11.1%               | 10.1%              | 9.2%              | 8.2%             | 7.2%     |
| 347.70                                           | 12c per lb. +<br>9.5% ad val.   | 12c/lb. +<br>9.5%                                                                      | 12c/lb. +<br>9.5%   | 10c/lb. +<br>9.1%   | 8c/lb. +<br>8.7%    | 6c/lb. +<br>8.3%   | 4c/lb. +<br>7.8%  | 2c/lb. +<br>7.4% | 7%       |
| 347.72                                           | 6% ad val.                      | 6%                                                                                     | 6%                  | 5.7%                | 5.4%                | 5.1%               | 4.8%              | 4.5%             | 4.2%     |
| 347.75                                           | 8.5% ad val.                    | 8.5%                                                                                   | 8.5%                | 8%                  | 7.4%                | 6.9%               | 6.4%              | 5.8%             | 5.3%     |
| 348.00                                           | 15% ad val.                     | 15%                                                                                    | 15%                 | 13.7%               | 12.4%               | 11.1%              | 9.8%              | 8.5%             | 7.2%     |
| 348.05                                           | 21% ad val.                     | 21%                                                                                    | 21%                 | 18.9%               | 16.8%               | 14.7%              | 12.6%             | 10.5%            | 8.4%     |
| 349.10                                           | 15% ad val.                     | 14%                                                                                    | 13.1%               | 12.1%               | 11.1%               | 10.1%              | 9.2%              | 8.2%             | 7.2%     |
| 349.15                                           | 20% ad val.                     | 20%                                                                                    | 20%                 | 18%                 | 16%                 | 14%                | 12%               | 10%              | 8%       |
| 349.25                                           | 15% ad val.                     | 15%                                                                                    | 15%                 | 13.8%               | 12.7%               | 11.5%              | 10.3%             | 9.2%             | 8%       |
| 349.30                                           | 21% ad val.                     | 21%                                                                                    | 21%                 | 18.9%               | 16.8%               | 14.7%              | 12.6%             | 10.5%            | 8.4%     |
| 350.00                                           | 13% ad val.                     | 13%                                                                                    | 13%                 | 12%                 | 10.9%               | 9.9%               | 8.8%              | 7.8%             | 6.7%     |
| 351.05 <sup>2/</sup>                             | 38% ad val.                     | 38%                                                                                    | 35.1%               | 32.3%               | 29.4%               | 26.5%              | 23.6%             | 20.8%            | 20.8% 2/ |
| 351.20                                           | 20% ad val.                     | 20%                                                                                    | 20%                 | 19.2%               | 18.3%               | 17.5%              | 16.7%             | 15.8%            | 15%      |
| 351.25                                           | 9.5% ad val.                    | 9.5%                                                                                   | 9.5%                | 8.9%                | 8.2%                | 7.6%               | 7%                | 6.3%             | 5.7%     |
| 351.30 <sup>3/</sup>                             | 36% ad val.                     | 36%                                                                                    | 33.3%               | 30.6%               | 27.9%               | 25.2%              | 22.5%             | 19.8%            | 19.8% 3/ |
| 351.40                                           | 25% ad val.                     | 25%                                                                                    | 22.5%               | 20%                 | 17.5%               | 15%                | 12.5%             | 10%              | 10%      |
| 351.44                                           | 22.5% ad val.                   | 22.5%                                                                                  | 22.5%               | 21.8%               | 21%                 | 20.3%              | 19.5%             | 18.8%            | 18%      |
| 351.46                                           | 4% ad val.                      | 4%                                                                                     | 4%                  | 3.9%                | 3.6%                | 3.3%               | 3%                | 2.7%             | 2.4%     |
| 351.50                                           | 25% ad val.                     | 25%                                                                                    | 25%                 | 23.5%               | 22%                 | 20.5%              | 19%               | 17.5%            | 16%      |
| 351.60                                           | 20% ad val.                     | 20%                                                                                    | 20%                 | 18%                 | 16.1%               | 14.1%              | 12.1%             | 10.2%            | 8.2%     |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 351.05, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--17.9%.

Effective with respect to articles entered on and after January 1, 1989--15%.

3/ For item 351.30, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--17%.

Effective with respect to articles entered on and after January 1, 1989--14.4%.

4/ For item 351.46, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--24%.

Effective with respect to articles entered on and after January 1, 1989--21%.

Effective with respect to articles entered on and after January 1, 1990--18%.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                                                       | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 --                                       |                                                                                                                                      |                                                                                                                                      |                                                                                                                                      |                                                                                                                                      |                                                                                                                                     |                                                                                                                                       |                                                                                                                                       |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                                                 | 1980                                                                                                                                 | 1981                                                                                                                                 | 1982                                                                                                                                 | 1983                                                                                                                                 | 1984                                                                                                                                 | 1985                                                                                                                                | 1986                                                                                                                                  | 1987                                                                                                                                  |
| Schedule 3, Part 4--Continued                    |                                                                                                                                                 |                                                                                                                                      |                                                                                                                                      |                                                                                                                                      |                                                                                                                                      |                                                                                                                                      |                                                                                                                                     |                                                                                                                                       |                                                                                                                                       |
| 351.70                                           | 25% ad val.                                                                                                                                     | 25%                                                                                                                                  | 23%                                                                                                                                  | 23.5%                                                                                                                                | 22%                                                                                                                                  | 20.5%                                                                                                                                | 19%                                                                                                                                 | 17.5%                                                                                                                                 | 16%                                                                                                                                   |
| 351.80 <sup>2/</sup>                             | 40% ad val.                                                                                                                                     | 40%                                                                                                                                  | 37%                                                                                                                                  | 34%                                                                                                                                  | 31%                                                                                                                                  | 28%                                                                                                                                  | 25%                                                                                                                                 | 22%                                                                                                                                   | 22% <sup>2/</sup>                                                                                                                     |
| 351.90                                           | 32% ad val.                                                                                                                                     | 32%                                                                                                                                  | 32%                                                                                                                                  | 29.3%                                                                                                                                | 26.7%                                                                                                                                | 24%                                                                                                                                  | 21.3%                                                                                                                               | 18.7%                                                                                                                                 | 16%                                                                                                                                   |
| 352.10                                           | 30% ad val.                                                                                                                                     | 30%                                                                                                                                  | 30%                                                                                                                                  | 27%                                                                                                                                  | 24%                                                                                                                                  | 21%                                                                                                                                  | 18%                                                                                                                                 | 15%                                                                                                                                   | 12%                                                                                                                                   |
| 352.20                                           | 21% ad val.                                                                                                                                     | 21%                                                                                                                                  | 21%                                                                                                                                  | 19.5%                                                                                                                                | 18%                                                                                                                                  | 16.5%                                                                                                                                | 15%                                                                                                                                 | 13.5%                                                                                                                                 | 12%                                                                                                                                   |
| 352.30                                           | 30% ad val.                                                                                                                                     | 30%                                                                                                                                  | 30%                                                                                                                                  | 27%                                                                                                                                  | 24%                                                                                                                                  | 21%                                                                                                                                  | 18%                                                                                                                                 | 15%                                                                                                                                   | 12%                                                                                                                                   |
| 352.40                                           | 15% ad val.                                                                                                                                     | 15%                                                                                                                                  | 15%                                                                                                                                  | 14.5%                                                                                                                                | 14%                                                                                                                                  | 13.5%                                                                                                                                | 13%                                                                                                                                 | 12.5%                                                                                                                                 | 12%                                                                                                                                   |
| 352.50                                           | 30% ad val.                                                                                                                                     | 30%                                                                                                                                  | 30%                                                                                                                                  | 27%                                                                                                                                  | 24%                                                                                                                                  | 21%                                                                                                                                  | 18%                                                                                                                                 | 15%                                                                                                                                   | 12%                                                                                                                                   |
| 353.10                                           | 22.5% ad val.                                                                                                                                   | 22.5%                                                                                                                                | 22.5%                                                                                                                                | 21.4%                                                                                                                                | 20.3%                                                                                                                                | 19.3%                                                                                                                                | 18.2%                                                                                                                               | 17.1%                                                                                                                                 | 16%                                                                                                                                   |
| 353.50                                           | 21% ad val.,<br>but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 21%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 21%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 18%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 15%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 12%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 9%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 8.4%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented | 8.4%, but in the case of<br>ornamented fabrics not<br>less than the rate<br>which would apply to<br>such fabrics if not<br>ornamented |
| 355.02                                           | 15% ad val.                                                                                                                                     | 15%                                                                                                                                  | 15%                                                                                                                                  | 13.7%                                                                                                                                | 12.4%                                                                                                                                | 11.1%                                                                                                                                | 9.8%                                                                                                                                | 8.5%                                                                                                                                  | 7.2%                                                                                                                                  |
| 355.04                                           | 20% ad val.                                                                                                                                     | 20%                                                                                                                                  | 20%                                                                                                                                  | 18%                                                                                                                                  | 16%                                                                                                                                  | 14%                                                                                                                                  | 12%                                                                                                                                 | 10%                                                                                                                                   | 8%                                                                                                                                    |
| 355.15                                           | 22.5c per lb.<br>+ 10% ad val.                                                                                                                  | 22.5c/lb.<br>+ 10%                                                                                                                   | 22.5c/lb.<br>+ 10%                                                                                                                   | 21c/lb.<br>+ 10%                                                                                                                     | 19.5c/lb.<br>+ 10%                                                                                                                   | 18c/lb.<br>+ 10%                                                                                                                     | 16.5c/lb.<br>+ 10%                                                                                                                  | 15c/lb.<br>+ 10%                                                                                                                      | 13.5c/lb.<br>+ 10%                                                                                                                    |
| 355.18                                           | 16% ad val.                                                                                                                                     | 16%                                                                                                                                  | 16%                                                                                                                                  | 14.6%                                                                                                                                | 13.2%                                                                                                                                | 11.8%                                                                                                                                | 10.3%                                                                                                                               | 8.9%                                                                                                                                  | 7.5%                                                                                                                                  |
| 355.20                                           | 13.5% ad val.                                                                                                                                   | 13.5%                                                                                                                                | 13.5%                                                                                                                                | 12.4%                                                                                                                                | 11.3%                                                                                                                                | 10.2%                                                                                                                                | 9.1%                                                                                                                                | 8%                                                                                                                                    | 6.9%                                                                                                                                  |
| 355.25                                           | 12c per lb. +<br>15% ad val.                                                                                                                    | 12c/lb. +<br>15%                                                                                                                     | 12c/lb. +<br>15%                                                                                                                     | 10c/lb. +<br>14.6%                                                                                                                   | 8c/lb. +<br>14.2%                                                                                                                    | 6c/lb. +<br>13.8%                                                                                                                    | 4c/lb. +<br>13.3%                                                                                                                   | 2c/lb. +<br>12.9%                                                                                                                     | 12.5%                                                                                                                                 |
| 355.35                                           | 17.5% ad val.                                                                                                                                   | 17.5%                                                                                                                                | 17.5%                                                                                                                                | 15.9%                                                                                                                                | 14.3%                                                                                                                                | 12.7%                                                                                                                                | 11%                                                                                                                                 | 9.4%                                                                                                                                  | 7.8%                                                                                                                                  |
| 355.42                                           | 11% ad val.                                                                                                                                     | 11%                                                                                                                                  | 11%                                                                                                                                  | 10.2%                                                                                                                                | 9.4%                                                                                                                                 | 8.6%                                                                                                                                 | 7.8%                                                                                                                                | 7%                                                                                                                                    | 6.2%                                                                                                                                  |
| 355.45 <sup>3/</sup>                             | 25c per lb. +<br>12.5% ad val.                                                                                                                  | 25c/lb. +<br>12.5%                                                                                                                   | 25c/lb. +<br>12.5%                                                                                                                   | 21c/lb. +<br>10.2%                                                                                                                   | 18c/lb. +<br>9.4%                                                                                                                    | 15c/lb. +<br>8.6%                                                                                                                    | 12c/lb. +<br>7.8%                                                                                                                   | 9c/lb. +<br>7%                                                                                                                        | 6c/lb. +<br>6.2%                                                                                                                      |
| 355.50                                           | 7.5% ad val.                                                                                                                                    | 7.5%                                                                                                                                 | 7.5%                                                                                                                                 | 7.1%                                                                                                                                 | 6.6%                                                                                                                                 | 6.2%                                                                                                                                 | 5.8%                                                                                                                                | 5.3%                                                                                                                                  | 4.9%                                                                                                                                  |
| 355.55                                           | 5.5% ad val.                                                                                                                                    | 5.5%                                                                                                                                 | 5.5%                                                                                                                                 | 5.2%                                                                                                                                 | 4.7%                                                                                                                                 | 4.4%                                                                                                                                 | 4%                                                                                                                                  | 3.6%                                                                                                                                  | 3.2%                                                                                                                                  |
| 355.60 <sup>4/</sup>                             | 12.5c per lb. +<br>15% ad val.                                                                                                                  | 12.5c/lb. +<br>15%                                                                                                                   | 12.5c/lb. +<br>15%                                                                                                                   | 10.5c/lb. +<br>13.9%                                                                                                                 | 8.5c/lb. +<br>12.9%                                                                                                                  | 7c/lb. +<br>11.8%                                                                                                                    | 5c/lb. +<br>10.7%                                                                                                                   | 3c/lb. +<br>9.6%                                                                                                                      | 1.5c/lb. +<br>8.6%                                                                                                                    |
| 355.65                                           | 8.5% ad val.                                                                                                                                    | 8.5%                                                                                                                                 | 8.5%                                                                                                                                 | 8%                                                                                                                                   | 7.4%                                                                                                                                 | 6.9%                                                                                                                                 | 6.4%                                                                                                                                | 5.8%                                                                                                                                  | 5.3%                                                                                                                                  |
| 355.70 <sup>5/</sup>                             | 37.5c per lb. +<br>32% ad val.                                                                                                                  | 37.5c/lb. +<br>32%                                                                                                                   | 37.5c/lb. +<br>32%                                                                                                                   | 33c/lb. +<br>30.2%                                                                                                                   | 30c/lb. +<br>28.4%                                                                                                                   | 26c/lb. +<br>26.6%                                                                                                                   | 22c/lb. +<br>24.8%                                                                                                                  | 18c/lb. +<br>23%                                                                                                                      | 15c/lb. +<br>21.2%                                                                                                                    |
| 355.75                                           | 13.5% ad val.                                                                                                                                   | 13.5%                                                                                                                                | 13.5%                                                                                                                                | 12.4%                                                                                                                                | 11.3%                                                                                                                                | 10.2%                                                                                                                                | 9.1%                                                                                                                                | 8%                                                                                                                                    | 6.9%                                                                                                                                  |
| 355.81                                           | 6% ad val.                                                                                                                                      | 6%                                                                                                                                   | 6%                                                                                                                                   | 5.7%                                                                                                                                 | 5.4%                                                                                                                                 | 5.1%                                                                                                                                 | 4.8%                                                                                                                                | 4.5%                                                                                                                                  | 4.2%                                                                                                                                  |
| 355.82                                           | 12.5c per lb. +<br>15% ad val.                                                                                                                  | 12.5c/lb. +<br>15%                                                                                                                   | 12.5c/lb. +<br>15%                                                                                                                   | 10c/lb. +<br>13.9%                                                                                                                   | 8c/lb. +<br>12.8%                                                                                                                    | 6c/lb. +<br>11.8%                                                                                                                    | 4c/lb. +<br>10.7%                                                                                                                   | 2c/lb. +<br>9.6%                                                                                                                      | 1.5c/lb. +<br>8.5%                                                                                                                    |
| 355.85                                           | 8.5% ad val.                                                                                                                                    | 8.5%                                                                                                                                 | 8.5%                                                                                                                                 | 8%                                                                                                                                   | 7.4%                                                                                                                                 | 6.9%                                                                                                                                 | 6.4%                                                                                                                                | 5.8%                                                                                                                                  | 5.3%                                                                                                                                  |
| 356.05                                           | 11.5% ad val.                                                                                                                                   | 11.5%                                                                                                                                | 11.5%                                                                                                                                | 10.8%                                                                                                                                | 10.2%                                                                                                                                | 9.5%                                                                                                                                 | 8.8%                                                                                                                                | 8.1%                                                                                                                                  | 7.4%                                                                                                                                  |
| 356.10                                           | 5% ad val.                                                                                                                                      | 5%                                                                                                                                   | 5%                                                                                                                                   | 4.8%                                                                                                                                 | 4.6%                                                                                                                                 | 4.4%                                                                                                                                 | 4.1%                                                                                                                                | 3.9%                                                                                                                                  | 3.7%                                                                                                                                  |
| 356.15                                           | 12.5% ad val.                                                                                                                                   | 12.5%                                                                                                                                | 12.5%                                                                                                                                | 11.5%                                                                                                                                | 10.5%                                                                                                                                | 9.6%                                                                                                                                 | 8.6%                                                                                                                                | 7.6%                                                                                                                                  | 6.6%                                                                                                                                  |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 351.80, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--19%.

Effective with respect to articles entered on and after January 1, 1989--16%.

3/ For item 355.45, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--3c/lb. + 18.9%.

Effective with respect to articles entered on and after January 1, 1989--17%.

4/ For item 355.60, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 7.5%.

5/ For item 355.70, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--11c/lb. + 19.4%.

Effective with respect to articles entered on and after January 1, 1989--7c/lb. + 17.6%.

Effective with respect to articles entered on and after January 1, 1990--3c/lb. + 15.8%.

Effective with respect to articles entered on and after January 1, 1991--14%.



| Item in TSUS as modified by Annex II  |                                                                                         | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 -- |                                                                                 |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                  |
|---------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Rate from which staged                |                                                                                         | 1980                                                                                           | 1981                                                                            | 1982                                                                              | 1983                                                                              | 1984                                                                              | 1985                                                                              | 1986                                                                              | 1987                                                                             |
| <u>Schedule J, Part 4--Continued.</u> |                                                                                         |                                                                                                |                                                                                 |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                  |
| 356.20                                | 7% ad val.                                                                              | 7%                                                                                             | 7%                                                                              | 6.6%                                                                              | 6.2%                                                                              | 5.9%                                                                              | 5.5%                                                                              | 5.1%                                                                              | 4.7%                                                                             |
| 356.25                                | 7% ad val.                                                                              | 7%                                                                                             | 7%                                                                              | 6.6%                                                                              | 6.2%                                                                              | 5.9%                                                                              | 5.5%                                                                              | 5.1%                                                                              | 4.7%                                                                             |
| 356.30 <sup>2/</sup>                  | 37.5¢ per lb. + 32% ad val.                                                             | 37.5¢/lb. + 32%                                                                                | 37.5¢/lb. + 32%                                                                 | 32¢/lb. + 29.7%                                                                   | 27¢/lb. + 25.1%                                                                   | 21¢/lb. + 25.1%                                                                   | 16¢/lb. + 22.9%                                                                   | 10¢/lb. + 20.6%                                                                   | 5¢/lb. + 18.3% <sup>1/2</sup>                                                    |
| 356.35                                | 13.5% ad val.                                                                           | 13.5%                                                                                          | 13.5%                                                                           | 12.4%                                                                             | 11.3%                                                                             | 10.2%                                                                             | 9.1%                                                                              | 8%                                                                                | 6.9%                                                                             |
| 356.40                                | 12¢ per lb. + 15% ad val.                                                               | 12¢/lb. + 15%                                                                                  | 12¢/lb. + 15%                                                                   | 10¢/lb. + 13.8%                                                                   | 8¢/lb. + 12.7%                                                                    | 6¢/lb. + 11.5%                                                                    | 4¢/lb. + 10.3%                                                                    | 2¢/lb. + 9.2%                                                                     | 8%                                                                               |
| 356.45                                | 8.5% ad val.                                                                            | 8.5%                                                                                           | 8.5%                                                                            | 8%                                                                                | 7.4%                                                                              | 6.9%                                                                              | 6.4%                                                                              | 5.8%                                                                              | 5.3%                                                                             |
| 356.70                                | 20% ad val.                                                                             | 20%                                                                                            | 20%                                                                             | 18%                                                                               | 16.1%                                                                             | 14.1%                                                                             | 12.1%                                                                             | 10.2%                                                                             | 8.2%                                                                             |
| 356.80                                | 5% ad val.                                                                              | 5%                                                                                             | 5%                                                                              | 4.8%                                                                              | 4.6%                                                                              | 4.4%                                                                              | 4.1%                                                                              | 3.9%                                                                              | 3.7%                                                                             |
| 357.05                                | 22.5% ad val.                                                                           | 22.5%                                                                                          | 22.5%                                                                           | 20.3%                                                                             | 18%                                                                               | 15.8%                                                                             | 13.5%                                                                             | 11.3%                                                                             | 9%                                                                               |
| 357.10 <sup>2/</sup>                  | 37.5¢ per lb. + 9% ad val.                                                              | 37.5¢/lb. + 9%                                                                                 | 37.5¢/lb. + 9%                                                                  | 34.5¢/lb. + 9%                                                                    | 32¢/lb. + 9%                                                                      | 29¢/lb. + 9%                                                                      | 26.5¢/lb. + 9%                                                                    | 23.5¢/lb. + 9%                                                                    | 21¢/lb. + 9% <sup>2/</sup>                                                       |
| 357.15                                | 37.5¢ per lb. + 7% ad val.                                                              | 37.5¢/lb. + 7%                                                                                 | 37.5¢/lb. + 7%                                                                  | 31¢/lb. + 7%                                                                      | 25¢/lb. + 7%                                                                      | 19¢/lb. + 7%                                                                      | 12¢/lb. + 7%                                                                      | 6¢/lb. + 7%                                                                       | 7%                                                                               |
| 357.20 <sup>4/</sup>                  | 37.5¢ per lb. + 10% ad val.                                                             | 37.5¢/lb. + 30%                                                                                | 37.5¢/lb. + 30%                                                                 | 32¢/lb. + 27.6%                                                                   | 27¢/lb. + 25.1%                                                                   | 21¢/lb. + 22.7%                                                                   | 16¢/lb. + 20.3%                                                                   | 10¢/lb. + 17.9%                                                                   | 5¢/lb. + 15.4% <sup>1/2</sup>                                                    |
| 357.30                                | 15% ad val.                                                                             | 15%                                                                                            | 15%                                                                             | 13.7%                                                                             | 12.4%                                                                             | 11.1%                                                                             | 9.8%                                                                              | 8.5%                                                                              | 7.2%                                                                             |
| 357.35                                | 12¢ per lb. + 11% ad val.                                                               | 12¢/lb. + 11%                                                                                  | 12¢/lb. + 11%                                                                   | 10¢/lb. + 10.3%                                                                   | 8¢/lb. + 9.5%                                                                     | 6¢/lb. + 8.8%                                                                     | 4¢/lb. + 8%                                                                       | 2¢/lb. + 7.3%                                                                     | 6.5%                                                                             |
| 357.40                                | 15% ad val.                                                                             | 15%                                                                                            | 15%                                                                             | 13.5%                                                                             | 12%                                                                               | 10.5%                                                                             | 9%                                                                                | 7.5%                                                                              | 6%                                                                               |
| 357.45                                | 12.5¢ per lb. + 11% ad val.                                                             | 12.5¢/lb. + 11%                                                                                | 12.5¢/lb. + 11%                                                                 | 10¢/lb. + 10.3%                                                                   | 8¢/lb. + 9.5%                                                                     | 6¢/lb. + 8.8%                                                                     | 4¢/lb. + 8%                                                                       | 2¢/lb. + 7.3%                                                                     | 6.5%                                                                             |
| 357.60                                | 21% ad val., but not less than the rate which would apply to such fabrics without tucks | 21%, but not less than the rate which would apply to such fabrics without tucks                | 21%, but not less than the rate which would apply to such fabrics without tucks | 18.9%, but not less than the rate which would apply to such fabrics without tucks | 16.8%, but not less than the rate which would apply to such fabrics without tucks | 14.7%, but not less than the rate which would apply to such fabrics without tucks | 12.6%, but not less than the rate which would apply to such fabrics without tucks | 10.5%, but not less than the rate which would apply to such fabrics without tucks | 8.4%, but not less than the rate which would apply to such fabrics without tucks |
| 357.70                                | 21% ad val.                                                                             | 21%                                                                                            | 21%                                                                             | 18.9%                                                                             | 16.8%                                                                             | 14.7%                                                                             | 12.6%                                                                             | 10.5%                                                                             | 8.4%                                                                             |
| 357.80                                | 12.5% ad val.                                                                           | 12.5%                                                                                          | 12.5%                                                                           | 11.5%                                                                             | 10.5%                                                                             | 9.6%                                                                              | 8.6%                                                                              | 7.6%                                                                              | 6.6%                                                                             |
| 357.90                                | 9.7¢ per lb. + 7.5% ad val.                                                             | 9.7¢/lb. + 7.5%                                                                                | 9.7¢/lb. + 7.5%                                                                 | 8¢/lb. + 7%                                                                       | 6.5¢/lb. + 6.5%                                                                   | 4.5¢/lb. + 6.5%                                                                   | 3¢/lb. + 5.5%                                                                     | 1.5¢/lb. + 5%                                                                     | 4.5%                                                                             |
| 357.95                                | 12.5¢ per lb. + 11% ad val.                                                             | 12.5¢/lb. + 11%                                                                                | 12.5¢/lb. + 11%                                                                 | 10¢/lb. + 10.3%                                                                   | 8¢/lb. + 9.5%                                                                     | 6¢/lb. + 8.8%                                                                     | 4¢/lb. + 8%                                                                       | 2¢/lb. + 7.3%                                                                     | 6.5%                                                                             |
| 358.02                                | 8% ad val.                                                                              | 7.6%                                                                                           | 7.3%                                                                            | 6.9%                                                                              | 6.6%                                                                              | 6.2%                                                                              | 5.8%                                                                              | 5.5%                                                                              | 5.1%                                                                             |
| 358.05                                | 8% ad val.                                                                              | 7.6%                                                                                           | 7.3%                                                                            | 6.9%                                                                              | 6.6%                                                                              | 6.2%                                                                              | 5.8%                                                                              | 5.5%                                                                              | 5.1%                                                                             |
| 358.06                                | 8% ad val.                                                                              | 7.6%                                                                                           | 7.3%                                                                            | 6.9%                                                                              | 6.6%                                                                              | 6.2%                                                                              | 5.8%                                                                              | 5.5%                                                                              | 5.1%                                                                             |
| 358.08                                | 18.7¢ per lb. + 7.5% ad val.                                                            | 16¢/lb. + 7.3%                                                                                 | 14¢/lb. + 7.1%                                                                  | 12¢/lb. + 6.9%                                                                    | 9¢/lb. + 6.8%                                                                     | 7¢/lb. + 6.6%                                                                     | 4¢/lb. + 6.4%                                                                     | 2¢/lb. + 6.2%                                                                     | 6%                                                                               |
| 358.09                                | 16% ad val.                                                                             | 14.9%                                                                                          | 13.9%                                                                           | 12.8%                                                                             | 11.8%                                                                             | 10.7%                                                                             | 9.6%                                                                              | 8.6%                                                                              | 7.5%                                                                             |
| 358.11                                | 13.5% ad val.                                                                           | 12.5%                                                                                          | 11.5%                                                                           | 10.5%                                                                             | 9.5%                                                                              | 8.4%                                                                              | 7.4%                                                                              | 6.4%                                                                              | 5.4%                                                                             |
| 358.14                                | 12.5¢ per lb. + 15% ad val.                                                             | 11¢/lb. + 14.1%                                                                                | 9¢/lb. + 13.3%                                                                  | 7¢/lb. + 12.4%                                                                    | 6¢/lb. + 11.5%                                                                    | 4¢/lb. + 10.6%                                                                    | 3¢/lb. + 9.8%                                                                     | 1¢/lb. + 8.9%                                                                     | 8%                                                                               |
| 358.16                                | 6% ad val.                                                                              | 5.6%                                                                                           | 5.1%                                                                            | 4.7%                                                                              | 4.2%                                                                              | 3.8%                                                                              | 3.3%                                                                              | 2.9%                                                                              | 2.4%                                                                             |
| 358.24                                | 10% ad                                                                                  |                                                                                                |                                                                                 |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                   |                                                                                  |

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1/ The symbol "%2" indicates percent ad valorem. The symbol "/M" indicates per stated unit of quantity.  
2/ For item 359.30, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--5c/1b. + 17.12.  
Effective with respect to articles entered on and after January 1, 1989--15%.  
3/ For item 359.50, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 16%.



## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged        | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|----------------------------------|----------------------------------------------------------------------------------------|----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                                  | 1980                                                                                   | 1981                 | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule J, Part 5--Continued                    |                                  |                                                                                        |                      |                    |                    |                    |                    |                    |                    |
| 363.02                                           | 18% ad val.                      | 18%                                                                                    | 13%                  | 16.2%              | 14.4%              | 12.6%              | 10.8%              | 9%                 | 7.2%               |
| 363.05 <sup>2/</sup>                             | 34% ad val.                      | 34%                                                                                    | 31%                  | 28%                | 25%                | 22%                | 19%                | 16%                | 12 <sup>2/</sup>   |
| 363.10                                           | 30c per lb. +<br>15% ad val.     | 30c/lb. +<br>15%                                                                       | 30c/lb. +<br>15%     | 25c/lb. +<br>15%   | 20c/lb. +<br>15%   | 15c/lb. +<br>15%   | 10c/lb. +<br>15%   | 5c/lb. +<br>15%    | 15%                |
| 363.15                                           | 37.5c per lb. +<br>12.5% ad val. | 37.5c/lb. +<br>12.5%                                                                   | 37.5c/lb. +<br>12.5% | 35c/lb. +<br>12.5% | 32c/lb. +<br>12.5% | 29c/lb. +<br>12.5% | 26c/lb. +<br>12.5% | 24c/lb. +<br>12.5% | 21c/lb. +<br>12.5% |
| 363.20                                           | 21% ad val.                      | 21%                                                                                    | 21%                  | 20%                | 18.9%              | 17.9%              | 16.9%              | 15.8%              | 14.8%              |
| 363.25 <sup>3/</sup>                             | 42.5% ad val.                    | 42.5%                                                                                  | 42.5%                | 39.7%              | 36.8%              | 34%                | 31.2%              | 28.3%              | 25.5%              |
| 363.30                                           | 9.5% ad val.                     | 9.5%                                                                                   | 9.5%                 | 9.2%               | 8.9%               | 8.6%               | 8.2%               | 7.9%               | 7.6%               |
| 363.35                                           | 4% ad val.                       | 4%                                                                                     | 4%                   | 3.9%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.1%               |
| 363.40                                           | 6c per lb.                       | 6c/lb.                                                                                 | 6c/lb.               | 5.7c/lb.           | 5.3c/lb.           | 5c/lb.             | 4.7c/lb.           | 4.3c/lb.           | 4c/lb.             |
| 363.45                                           | 12.5% ad val.                    | 12.5%                                                                                  | 12.5%                | 12%                | 11.5%              | 11%                | 10.5%              | 10%                | 9.5%               |
| 363.50                                           | 12.5% ad val.                    | 12.5%                                                                                  | 12.5%                | 9.5%               | 6.5%               | 5%                 | 5%                 | 5%                 | 5%                 |
| 363.51                                           | 6% ad val.                       | 6%                                                                                     | 6%                   | 5.8%               | 5.7%               | 5.5%               | 5.3%               | 5.2%               | 5%                 |
| 363.55                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 14.4%              | 13.7%              | 13.1%              | 12.4%              | 11.8%              | 11.1%              |
| 363.60                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 14.4%              | 13.7%              | 13.1%              | 12.4%              | 11.8%              | 11.1%              |
| 363.65                                           | 30c per lb. +<br>15% ad val.     | 30c/lb. +<br>15%                                                                       | 30c/lb. +<br>15%     | 25c/lb. +<br>15%   | 20c/lb. +<br>15%   | 16c/lb. +<br>15%   | 11c/lb. +<br>15%   | 6c/lb. +<br>15%    | 2c/lb. +<br>15%    |
| 363.70                                           | 37.5c per lb. +<br>12.5% ad val. | 37.5c/lb. +<br>12.5%                                                                   | 37.5c/lb. +<br>12.5% | 32c/lb. +<br>12.5% | 27c/lb. +<br>12.5% | 23c/lb. +<br>12.5% | 18c/lb. +<br>12.5% | 13c/lb. +<br>12.5% | 8c/lb. +<br>12.5%  |
| 363.75                                           | 16% ad val.                      | 16%                                                                                    | 16%                  | 15.3%              | 14.6%              | 13.9%              | 13.1%              | 12.4%              | 11.7%              |
| 363.80                                           | 13.5% ad val.                    | 13.5%                                                                                  | 13.5%                | 12.2%              | 10.8%              | 9.5%               | 8.1%               | 6.8%               | 5.4%               |
| 363.85                                           | 12.5c per lb. +<br>15% ad val.   | 12.5c/lb. +<br>15%                                                                     | 12.5c/lb. +<br>15%   | 10c/lb. +<br>14.7% | 8c/lb. +<br>14.3%  | 6c/lb. +<br>14%    | 4c/lb. +<br>13.7%  | 2c/lb. +<br>13.3%  | 13%                |
| 363.90                                           | 8.5% ad val.                     | 8.5%                                                                                   | 8.5%                 | 8%                 | 7.4%               | 6.9%               | 6.4%               | 5.8%               | 5.3%               |
| 364.07                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.09                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.13                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.14                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.16                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.18                                           | 15% ad val.                      | 15%                                                                                    | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%               | 7.2%               |
| 364.20                                           | 37.5c per lb. +<br>9% ad val.    | 37.5c/lb. +<br>9%                                                                      | 37.5c/lb. +<br>9%    | 32c/lb. +<br>9%    | 26c/lb. +<br>9%    | 21c/lb. +<br>9%    | 16c/lb. +<br>9%    | 10c/lb. +<br>9%    | 5c/lb. +<br>9%     |
| 364.22                                           | 37.5c per lb. +<br>7% ad val.    | 37.5c/lb. +<br>7%                                                                      | 37.5c/lb. +<br>7%    | 31c/lb. +<br>6.4%  | 25c/lb. +<br>5.8%  | 18c/lb. +<br>5.3%  | 12c/lb. +<br>4.7%  | 6c/lb. +<br>4.1%   | 3.5%               |
| 364.25                                           | 13.5% ad val.                    | 13.5%                                                                                  | 13.5%                | 12.4%              | 11.3%              | 10.2%              | 9.1%               | 8%                 | 6.9%               |
| 364.30                                           | 12c per lb. +<br>15% ad val.     | 12c/lb. +<br>15%                                                                       | 12c/lb. +<br>15%     | 10c/lb. +<br>13.8% | 8c/lb. +<br>12.7%  | 6c/lb. +<br>11.5%  | 4c/lb. +<br>10.3%  | 2c/lb. +<br>9.2%   | 6%                 |
| 364.35                                           | 8.5% ad val.                     | 8.5%                                                                                   | 8.5%                 | 8%                 | 7.4%               | 6.9%               | 6.4%               | 5.8%               | 5.3%               |
| 365.00 <sup>4/</sup>                             | 35% ad val.                      | 35%                                                                                    | 32%                  | 29%                | 26%                | 23%                | 20%                | 17%                | 12 <sup>4/</sup>   |
| 365.05                                           | 15% ad val.                      | 15%                                                                                    | 14.8%                | 14.7%              | 14.5%              | 14.3%              | 14.2%              | 14%                | 14%                |
| 365.11                                           | 20% ad val.                      | 20%                                                                                    | 19%                  | 18%                | 17%                | 16%                | 15%                | 14%                | 14%                |
| 365.14                                           | 20% ad val.                      | 20%                                                                                    | 19%                  | 18%                | 17%                | 16%                | 15%                | 14%                | 14%                |
| 365.15                                           | 9.5% ad val.                     | 9.5%                                                                                   | 8.9%                 | 8.2%               | 7.6%               | 7%                 | 6.3%               | 5.7%               | 5.7%               |
| 365.20                                           | 18% ad val.                      | 18%                                                                                    | 17.7%                | 17.3%              | 17%                | 16.7%              | 16.3%              | 16%                | 16%                |
| 365.25                                           | 21% ad val.                      | 21%                                                                                    | 20.2%                | 19.3%              | 18.5%              | 17.7%              | 16.8%              | 16%                | 16%                |
| 365.29                                           | 22.5% ad val.                    | 22.5%                                                                                  | 21.4%                | 20.3%              | 19.3%              | 18.2%              | 17.1%              | 16%                | 16%                |
| 365.31 <sup>5/</sup>                             | 40% ad val.                      | 40%                                                                                    | 37%                  | 34%                | 31%                | 28%                | 25%                | 22%                | 22%                |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 363.05, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 13.6%.

3/ For item 363.25, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988—22.7%.

Effective with respect to articles entered on and after January 1, 1989—19.8%.

Effective with respect to articles entered on and after January 1, 1990—17%.

4/ For item 365.00, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.

5/ For item 365.31, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988—19%.

Effective with respect to articles entered on and after January 1, 1989—16%.

## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |         |           |           |           |           |           |           |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|---------|-----------|-----------|-----------|-----------|-----------|-----------|
|                                                  |                           | 1980                                                                                   | 1981    | 1982      | 1983      | 1984      | 1985      | 1986      | 1987      |
| Schedule J, Part 5--Continued                    |                           |                                                                                        |         |           |           |           |           |           |           |
| 365.35                                           | 20% ad val.               | 20%                                                                                    | 20%     | 19.3%     | 18.7%     | 18%       | 17.3%     | 16.7%     | 16%       |
| 365.40                                           | 25% ad val.               | 25%                                                                                    | 25%     | 23.5%     | 22%       | 20.5%     | 19%       | 17.5%     | 16%       |
| 365.45                                           | 25% ad val.               | 25%                                                                                    | 25%     | 23.5%     | 22%       | 20.5%     | 19%       | 17.5%     | 16%       |
| 365.50 <sup>2/</sup>                             | 40% ad val.               | 40%                                                                                    | 40%     | 37%       | 34%       | 31%       | 28%       | 25%       | 22%       |
| 365.70                                           | 22.5% ad val.             | 22.5%                                                                                  | 22.5%   | 20.8%     | 19.3%     | 17.7%     | 16%       | 14.4%     | 12.8%     |
| 365.75 <sup>3/</sup>                             | 32% ad val.               | 32%                                                                                    | 32%     | 29.3%     | 26.5%     | 23.8%     | 21%       | 18.3%     | 15.5%     |
| 365.77                                           | 20% ad val.               | 20%                                                                                    | 20%     | 18.8%     | 17.6%     | 16.4%     | 15.2%     | 14%       | 12.8%     |
| 365.78 <sup>4/</sup>                             | 30% ad val.               | 30%                                                                                    | 30%     | 27.5%     | 25.1%     | 22.6%     | 20.2%     | 17.7%     | 15.3%     |
| 365.80                                           | 15% ad val.               | 15%                                                                                    | 15%     | 14.6%     | 14.3%     | 13.9%     | 13.5%     | 13.2%     | 12.8%     |
| 365.81                                           | 20% ad val.               | 20%                                                                                    | 20%     | 18.8%     | 17.6%     | 16.4%     | 15.2%     | 14%       | 12.8%     |
| 365.83                                           | 20% ad val.               | 20%                                                                                    | 20%     | 18.8%     | 17.6%     | 16.4%     | 15.2%     | 14%       | 12.8%     |
| 365.84                                           | 20% ad val.               | 20%                                                                                    | 20%     | 18.8%     | 17.6%     | 16.4%     | 15.2%     | 14%       | 12.8%     |
| 365.86                                           | 21% ad val.               | 21%                                                                                    | 21%     | 19.6%     | 18.3%     | 16.9%     | 15.5%     | 14.2%     | 12.8%     |
| 365.91                                           | 21% ad val.               | 21%                                                                                    | 21%     | 19.6%     | 18.3%     | 16.9%     | 15.5%     | 14.2%     | 12.8%     |
| 366.03                                           | 30% ad val.               | 30%                                                                                    | 30%     | 27.5%     | 25%       | 22.5%     | 20%       | 17.5%     | 15%       |
| 366.06 <sup>5/</sup>                             | 38% ad val.               | 38%                                                                                    | 38%     | 35.1%     | 32.3%     | 29.4%     | 26.5%     | 23.6%     | 20.8%     |
| 366.09                                           | 19% ad val.               | 19%                                                                                    | 19%     | 18.3%     | 17.7%     | 17%       | 16.3%     | 15.7%     | 15%       |
| 366.12                                           | 6% ad val.                | 6%                                                                                     | 6%      | 5.4%      | 4.8%      | 4.2%      | 3.6%      | 3%        | 2.4%      |
| 366.15                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.18                                           | 14% ad val.               | 14%                                                                                    | 14%     | 13.4%     | 12.8%     | 12.3%     | 11.7%     | 11.1%     | 10.5%     |
| 366.21                                           | 14c per lb.               | 14c/lb.                                                                                | 14c/lb. | 13.9c/lb. | 13.8c/lb. | 13.7c/lb. | 13.7c/lb. | 13.6c/lb. | 13.5c/lb. |
| 366.24                                           | 14% ad val.               | 14%                                                                                    | 14%     | 13.4%     | 12.8%     | 12.3%     | 11.7%     | 11.1%     | 10.5%     |
| 366.27                                           | 15% ad val.               | 15%                                                                                    | 15%     | 14.3%     | 13.5%     | 12.8%     | 12%       | 11.3%     | 10.5%     |
| 366.30                                           | 20% ad val.               | 20%                                                                                    | 20%     | 18%       | 16%       | 14%       | 12%       | 10%       | 8%        |
| 366.33                                           | 13.5% ad val.             | 13.5%                                                                                  | 13.5%   | 12.6%     | 11.7%     | 10.8%     | 9.8%      | 8.9%      | 8%        |
| 366.36                                           | 4% ad val.                | 4%                                                                                     | 4%      | 3.9%      | 3.7%      | 3.6%      | 3.4%      | 3.3%      | 3.1%      |
| 366.39                                           | 6.5% ad val.              | 6.5%                                                                                   | 6.5%    | 6.2%      | 5.8%      | 5.5%      | 5.1%      | 4.8%      | 4.4%      |
| 366.42                                           | 13.5% ad val.             | 13.5%                                                                                  | 13.5%   | 12.4%     | 11.3%     | 10.2%     | 9.1%      | 8%        | 6.9%      |
| 366.45                                           | 20% ad val.               | 20%                                                                                    | 20%     | 17%       | 14%       | 11%       | 8.2%      | 6.2%      | 4.2%      |
| 366.46                                           | 9% ad val.                | 9%                                                                                     | 9%      | 8%        | 5.5%      | 5.5%      | 5.5%      | 5.5%      | 5.5%      |
| 366.47                                           | 12.5% ad val.             | 12.5%                                                                                  | 12.5%   | 11.5%     | 10.5%     | 9.6%      | 8.6%      | 7.6%      | 6.6%      |
| 366.48                                           | 5% ad val.                | 5%                                                                                     | 5%      | 4.8%      | 4.6%      | 4.4%      | 4.1%      | 3.9%      | 3.7%      |
| 366.51                                           | 6.5% ad val.              | 6.5%                                                                                   | 6.5%    | 6.2%      | 5.8%      | 5.5%      | 5.1%      | 4.8%      | 4.4%      |
| 366.54                                           | 5% ad val.                | 5%                                                                                     | 5%      | 4.8%      | 4.6%      | 4.4%      | 4.1%      | 3.9%      | 3.7%      |
| 366.57                                           | 19% ad val.               | 19%                                                                                    | 19%     | 17.1%     | 15.2%     | 13.3%     | 11.4%     | 9.5%      | 7.6%      |
| 366.60                                           | 30% ad val.               | 30%                                                                                    | 30%     | 27%       | 24%       | 21%       | 18%       | 15%       | 12%       |
| 366.63 <sup>6/</sup>                             | 38% ad val.               | 38%                                                                                    | 38%     | 35.2%     | 32.3%     | 29.5%     | 26.6%     | 23.8%     | 20.9%     |
| 366.65                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.69                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.72                                           | 6% ad val.                | 6%                                                                                     | 6%      | 5.7%      | 5.4%      | 5.1%      | 4.8%      | 4.5%      | 4.2%      |
| 366.75                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.77                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.79                                           | 15% ad val.               | 15%                                                                                    | 15%     | 13.7%     | 12.4%     | 11.1%     | 9.8%      | 8.5%      | 7.2%      |
| 366.81                                           | 5% ad val.                | 5%                                                                                     | 5%      | 4.8%      | 4.6%      | 4.4%      | 4.1%      | 3.9%      | 3.7%      |
| 366.84                                           | 6.5% ad val.              | 6.5%                                                                                   | 6.5%    | 6.2%      | 5.8%      | 5.5%      | 5.1%      | 4.8%      | 4.4%      |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 365.50, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988—19%.

Effective with respect to articles entered on and after January 1, 1989—16%.

3/ For item 365.75, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 12.8%.

4/ For item 366.06, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 12.8%.

5/ For item 366.63, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988—17.9%.

Effective with respect to articles entered on and after January 1, 1989—15%.

6/ For item 366.63, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988—18.1%.

Effective with respect to articles entered on and after January 1, 1989—15.2%.



## Section A.--Continued

| Section A.--Continued                            |                                | Section A.--Continued                                                                              |                     |                      |                      |                      |                      |                      |                      |
|--------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |                     |                      |                      |                      |                      |                      |                      |
|                                                  |                                | 1980                                                                                               | 1981                | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                 |
| Schedule 3, Part 5--Continued                    |                                |                                                                                                    |                     |                      |                      |                      |                      |                      |                      |
| 367.05                                           | 37.5c per lb.<br>+ 15% ad val. | 37.5c/lb. +<br>15%                                                                                 | 37.5c/lb. +<br>15%  | 31c/lb. +<br>14%     | 25c/lb. +<br>13%     | 18c/lb. +<br>12%     | 12c/lb. +<br>11%     | 6c/lb. +<br>10%      | 9%                   |
| 367.10                                           | 37.5c per lb.<br>+ 10% ad val. | 37.5c/lb. +<br>10%                                                                                 | 37.5c/lb. +<br>10%  | 31c/lb. +<br>9.8%    | 25c/lb. +<br>9.7%    | 18c/lb. +<br>9.5%    | 12c/lb. +<br>9.3%    | 6c/lb. +<br>9.2%     | 9%                   |
| 367.15                                           | 33c per lb. +<br>10% ad val.   | 33c/lb. +<br>10%                                                                                   | 33c/lb. +<br>10%    | 27c/lb. +<br>9.7%    | 22c/lb. +<br>9.3%    | 16c/lb. +<br>9%      | 11c/lb. +<br>8.7%    | 5c/lb. +<br>8.3%     | 8%                   |
| 367.20                                           | 22.5c per lb.<br>+ 10% ad val. | 22.5c/lb. +<br>10%                                                                                 | 22.5c/lb. +<br>10%  | 19c/lb. +<br>10%     | 15.5c/lb. +<br>10%   | 12c/lb. +<br>10%     | 8.5c/lb. +<br>10%    | 5c/lb. +<br>10%      | 2c/lb. +<br>10%      |
| 367.25                                           | 30c per lb. +<br>10% ad val.   | 30c/lb. +<br>10%                                                                                   | 30c/lb. +<br>10%    | 25c/lb. +<br>9.6%    | 20c/lb. +<br>9.2%    | 15c/lb. +<br>8.8%    | 10c/lb. +<br>8.3%    | 5c/lb. +<br>7.9%     | 7.5%                 |
| 367.30                                           | 16% ad val.                    | 16%                                                                                                | 16%                 | 13%                  | 10%                  | 7.5%                 | 7.5%                 | 7.5%                 | 7.5%                 |
| 367.35                                           | 10% ad val.                    | 10%                                                                                                | 10%                 | 9.3%                 | 8.6%                 | 7.9%                 | 7.2%                 | 6.5%                 | 5.8%                 |
| 367.40                                           | 8.5% ad val.                   | 8.5%                                                                                               | 8.5%                | 8%                   | 7.4%                 | 6.9%                 | 6.4%                 | 5.8%                 | 5.3%                 |
| 367.45                                           | 13.5% ad val.                  | 13.5%                                                                                              | 13.5%               | 10.5%                | 7.5%                 | 5.4%                 | 5.4%                 | 5.4%                 | 5.4%                 |
| 367.50                                           | 12.5c per lb.<br>+ 10% ad val. | 12.5c/lb. +<br>16%                                                                                 | 12.5c/lb. +<br>16%  | 10c/lb. +<br>14.7%   | 8c/lb. +<br>13.3%    | 6c/lb. +<br>12%      | 4c/lb. +<br>10.7%    | 2c/lb. +<br>9.3%     | 8%                   |
| 367.55                                           | 7c per lb. +<br>12.5% ad val.  | 7c/lb. +<br>12.5%                                                                                  | 7c/lb. +<br>12.5%   | 5c/lb. +<br>11.6%    | 4c/lb. +<br>10.7%    | 3c/lb. +<br>9.8%     | 2c/lb. +<br>8.8%     | 1c/lb. +<br>7.9%     | 7%                   |
| 367.59                                           | 13.5% ad val.                  | 12.7%                                                                                              | 11.9%               | 11%                  | 10.2%                | 9.4%                 | 8.6%                 | 7.7%                 | 6.9%                 |
| 367.60                                           | 25c per lb. +<br>17% ad val.   | 25c/lb. +<br>17%                                                                                   | 25c/lb. +<br>17%    | 20c/lb. +<br>15.6%   | 16c/lb. +<br>14.2%   | 12c/lb. +<br>12.8%   | 8c/lb. +<br>11.3%    | 4c/lb. +<br>9.9%     | 8.5%                 |
| 367.65                                           | 8.5% ad val.                   | 8.5%                                                                                               | 8.5%                | 7.7%                 | 6.8%                 | 6%                   | 5.1%                 | 4.3%                 | 3.4%                 |
| Schedule 3, Part 6                               |                                |                                                                                                    |                     |                      |                      |                      |                      |                      |                      |
| 370.04                                           | 1c each +<br>10% ad val.       | 1c each +<br>10%                                                                                   | 1c each +<br>10%    | 0.7c each +<br>10%   | 0.4c each +<br>10%   | 0.1c each +<br>10%   | 8.5%                 | 7.5%                 | 7.5%                 |
| 370.08                                           | 0.5c each +<br>7.5% ad val.    | 0.5c each +<br>7.5%                                                                                | 0.5c each +<br>7.5% | 0.4c each +<br>7.5%  | 0.3c each +<br>7.5%  | 0.2c each +<br>7.5%  | 0.1c each +<br>7.5%  | 7.5%                 | 7.5%                 |
| 370.12                                           | 0.5c each +<br>7.5% ad val.    | 0.5c each +<br>7.5%                                                                                | 0.5c each +<br>7.5% | 0.4c each +<br>7.5%  | 0.3c each +<br>7.5%  | 0.2c each +<br>7.5%  | 0.1c each +<br>7.5%  | 7.5%                 | 7.5%                 |
| 370.16 <sup>2/</sup>                             | 4c each +<br>40% ad val.       | 4c each +<br>40%                                                                                   | 4c each +<br>40%    | 3.6c each +<br>38.2% | 3.2c each +<br>36.3% | 2.4c each +<br>34.5% | 2.4c each +<br>32.6% | 2c each +<br>30.8%   | 1.6c each +<br>28.9% |
| 370.19                                           | 2c each +<br>20% ad val.       | 2c each +<br>20%                                                                                   | 2c each +<br>20%    | 1.5c each +<br>19.9% | 1.3c each +<br>19.8% | 1c each +<br>19.8%   | 0.5c each +<br>19.7% | 0.3c each +<br>19.6% | 19.5%                |
| 370.19                                           | 1c each +<br>10% ad val.       | 1c each +<br>10%                                                                                   | 1c each +<br>10%    | 0.8c each +<br>9.1%  | 0.6c each +<br>8.2%  | 0.3c each +<br>7.3%  | 0.3c each +<br>6.3%  | 0.1c each +<br>5.4%  | 4.5%                 |
| 370.21                                           | 1c each +<br>10% ad val.       | 1c each +<br>10%                                                                                   | 1c each +<br>10%    | 0.8c each +<br>9.1%  | 0.6c each +<br>8.2%  | 0.3c each +<br>7.3%  | 0.3c each +<br>6.3%  | 0.1c each +<br>5.4%  | 4.5%                 |
| 370.22                                           | 1c each +<br>10% ad val.       | 1c each +<br>10%                                                                                   | 1c each +<br>10%    | 0.6c each +<br>9.1%  | 0.6c each +<br>8.2%  | 0.3c each +<br>7.3%  | 0.3c each +<br>6.3%  | 0.1c each +<br>5.4%  | 4.5%                 |
| 370.24                                           | 17.5% ad val.                  | 17.5%                                                                                              | 17.5%               | 15.9%                | 14.3%                | 12.8%                | 11.2%                | 9.6%                 | 8%                   |
| 370.28                                           | 3c per lb. +<br>20% ad val.    | 3c/lb. + 20%                                                                                       | 3c/lb. + 20%        | 2c/lb. + 18%         | 2c/lb. + 16%         | 1c/lb. + 14%         | 1c/lb. + 12%         | 10%                  | 8%                   |
| 370.32                                           | 3c per lb. +<br>20% ad val.    | 3c/lb. + 20%                                                                                       | 3c/lb. + 20%        | 2c/lb. + 18%         | 2c/lb. + 16%         | 1c/lb. + 14%         | 1c/lb. + 12%         | 10%                  | 8%                   |
| 370.36                                           | 17.5% ad val.                  | 17.5%                                                                                              | 17.5%               | 15.9%                | 14.3%                | 12.8%                | 11.2%                | 9.6%                 | 8%                   |
| 370.40                                           | 3c per lb. +<br>20% ad val.    | 3c/lb. + 20%                                                                                       | 3c/lb. + 20%        | 2c/lb. + 18%         | 2c/lb. + 16%         | 1c/lb. + 14%         | 1c/lb. + 12%         | 10%                  | 8%                   |
| 370.44                                           | 3c per lb. +<br>20% ad val.    | 3c/lb. + 20%                                                                                       | 3c/lb. + 20%        | 2c/lb. + 18%         | 2c/lb. + 16%         | 1c/lb. + 14%         | 1c/lb. + 12%         | 10%                  | 8%                   |
| 370.48                                           | 25% ad val.                    | 25%                                                                                                | 25%                 | 23.2%                | 21.3%                | 19.5%                | 17.7%                | 15.8%                | 14%                  |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 370.16, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--1.2c each + 27.1%.

Effective with respect to articles entered on and after January 1, 1989--0.8c each + 25.2%.

Effective with respect to articles entered on and after January 1, 1990--0.4c each + 23.4%.

Effective with respect to articles entered on and after January 1, 1991--21.5%.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged        | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                    |                      |                      |                                 |
|--------------------------------------------------|----------------------------------|----------------------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|--------------------|----------------------|----------------------|---------------------------------|
|                                                  |                                  | 1980                                                                                               | 1981                 | 1982                 | 1983                 | 1984               | 1985                 | 1986                 | 1987                            |
| Schedule 3, Part 5--Continued                    |                                  |                                                                                                    |                      |                      |                      |                    |                      |                      |                                 |
| 370.52 <sup>2/</sup>                             | 5c per lb. +<br>35% ad val.      | 5c/lb. + 35%                                                                                       | 5c/lb. + 35%         | 4c/lb. + 32%         | 4c/lb. + 29%         | 3c/lb. + 26%       | 2c/lb. + 23%         | 1c/lb. + 20%         | 1c/lb. +<br>17% <sup>2/</sup>   |
| 370.56 <sup>3/</sup>                             | 5c per lb. +<br>35% ad val.      | 5c/lb. + 35%                                                                                       | 5c/lb. + 35%         | 4c/lb. +<br>32.4%    | 3c/lb. +<br>29.8%    | 3c/lb. +<br>27.1%  | 2c/lb. +<br>24.5%    | 2c/lb. +<br>21.9%    | 1c/lb. +<br>19.3% <sup>3/</sup> |
| 370.60                                           | 25% ad val.                      | 25%                                                                                                | 25%                  | 23.2%                | 21.3%                | 19.5%              | 17.7%                | 15.8%                | 14%                             |
| 370.64 <sup>4/</sup>                             | 5c per lb. +<br>35% ad val.      | 5c/lb. + 35%                                                                                       | 5c/lb. + 35%         | 4c/lb. + 32%         | 4c/lb. + 29%         | 3c/lb. + 26%       | 2c/lb. + 23%         | 1c/lb. + 20%         | 1c/lb. +<br>17% <sup>4/</sup>   |
| 370.68 <sup>5/</sup>                             | 5c per lb. +<br>35% ad val.      | 5c/lb. + 35%                                                                                       | 5c/lb. + 35%         | 4c/lb. + 32%         | 4c/lb. + 29%         | 3c/lb. + 26%       | 2c/lb. + 23%         | 1c/lb. + 20%         | 1c/lb. +<br>17% <sup>5/</sup>   |
| 370.72                                           | 3% ad val.                       | 3%                                                                                                 | 3%                   | 2.9%                 | 2.8%                 | 2.6%               | 2.4%                 | 2.2%                 | 2.5%                            |
| 370.76                                           | 1c each +<br>24% ad val.         | 1c each +<br>24%                                                                                   | 1c each +<br>24%     | 0.8c each +<br>21.7% | 0.6c each +<br>19.3% | 0.5c each +<br>17% | 0.3c each +<br>14.7% | 0.1c each +<br>12.3% | 10%                             |
| 370.80                                           | 9% ad val.                       | 9%                                                                                                 | 9%                   | 8.4%                 | 7.8%                 | 7.3%               | 6.7%                 | 6.1%                 | 5.5%                            |
| 370.84                                           | 16% ad val.                      | 16%                                                                                                | 16%                  | 14.6%                | 13.2%                | 11.8%              | 10.3%                | 8.9%                 | 7.5%                            |
| 370.88                                           | 25c per lb. +<br>16% ad val.     | 25c/lb. + 16%                                                                                      | 25c/lb. + 16%        | 21c/lb. + 16%        | 16c/lb. + 16%        | 12c/lb. + 16%      | 8c/lb. + 16%         | 4c/lb. + 16%         | 16%                             |
| 370.92                                           | 10% ad val.                      | 10%                                                                                                | 10%                  | 9.3%                 | 8.6%                 | 7.9%               | 7.2%                 | 6.5%                 | 5.8%                            |
| 372.04                                           | 20% ad val.                      | 20%                                                                                                | 20%                  | 18.7%                | 17.3%                | 16%                | 14.7%                | 13.3%                | 12%                             |
| 372.06                                           | 26% ad val.                      | 26%                                                                                                | 26%                  | 23.7%                | 21.3%                | 19%                | 16.7%                | 14%                  | 12%                             |
| 372.08                                           | 13% ad val.                      | 13%                                                                                                | 13%                  | 12.8%                | 12.7%                | 12.5%              | 12.3%                | 12.2%                | 12%                             |
| 372.10                                           | 30% ad val.                      | 30%                                                                                                | 30%                  | 27%                  | 24%                  | 21%                | 18%                  | 15%                  | 12%                             |
| 372.15                                           | 17% ad val.                      | 17%                                                                                                | 17%                  | 16.2%                | 15.3%                | 14.5%              | 13.7%                | 12.8%                | 12%                             |
| 372.20                                           | 7.5% ad val.                     | 7.5%                                                                                               | 7.5%                 | 7.1%                 | 6.6%                 | 6.2%               | 5.8%                 | 5.3%                 | 4.9%                            |
| 372.25                                           | 37.5c per lb. +<br>32% ad val.   | 37.5c/lb. +<br>32%                                                                                 | 37.5c/lb. +<br>32%   | 31c/lb. +<br>29.3%   | 25c/lb. +<br>26.7%   | 19c/lb. +<br>24%   | 12c/lb. +<br>21.3%   | 6c/lb. +<br>18.7%    | 16%                             |
| 372.30 <sup>6/</sup>                             | 37.5c per lb. +<br>30% ad val.   | 37.5c/lb. +<br>30%                                                                                 | 37.5c/lb. +<br>30%   | 32c/lb. +<br>28%     | 26c/lb. +<br>26%     | 21c/lb. +<br>24%   | 16c/lb. +<br>22%     | 10c/lb. +<br>20%     | 5c/lb. +<br>18% <sup>6/</sup>   |
| 372.35                                           | 37.5c per lb. +<br>20% ad val.   | 37.5c/lb. +<br>20%                                                                                 | 37.5c/lb. +<br>20%   | 31c/lb. +<br>18.2%   | 25c/lb. +<br>16.3%   | 19c/lb. +<br>14.5% | 12c/lb. +<br>12.7%   | 6c/lb. +<br>10.8%    | 9%                              |
| 372.40                                           | 25c per lb. +<br>21% ad val.     | 25c/lb. +<br>21%                                                                                   | 25c/lb. +<br>21%     | 20c/lb. +<br>20.2%   | 16c/lb. +<br>19.3%   | 12c/lb. +<br>18.5% | 8c/lb. +<br>17.7%    | 4c/lb. +<br>16.8%    | 16%                             |
| 372.45                                           | 37.5c per lb. +<br>21% ad val.   | 37.5c/lb. +<br>21%                                                                                 | 37.5c/lb. +<br>21%   | 31c/lb. +<br>20.2%   | 25c/lb. +<br>19.3%   | 19c/lb. +<br>18.5% | 12c/lb. +<br>17.7%   | 6c/lb. +<br>16.8%    | 16%                             |
| 372.50                                           | 10% ad val.                      | 10%                                                                                                | 10%                  | 9.3%                 | 8.6%                 | 7.9%               | 7.2%                 | 6.5%                 | 5.8%                            |
| 372.55                                           | 20% ad val.                      | 20%                                                                                                | 20%                  | 18%                  | 16%                  | 14%                | 12%                  | 10%                  | 8%                              |
| 372.60                                           | 13.5% ad val.                    | 13.5%                                                                                              | 13.5%                | 12.4%                | 11.3%                | 10.2%              | 9.1%                 | 8%                   | 6.9%                            |
| 372.65                                           | 16% ad val.                      | 16%                                                                                                | 16%                  | 14.7%                | 13.3%                | 12%                | 10.7%                | 9.3%                 | 8%                              |
| 372.70 <sup>7/</sup>                             | 25c per lb. +<br>32.5% ad val.   | 25c/lb. +<br>32.5%                                                                                 | 25c/lb. +<br>32.5%   | 21c/lb. +<br>30%     | 18c/lb. +<br>27.5%   | 14c/lb. +<br>25%   | 11c/lb. +<br>22.5%   | 7c/lb. +<br>20%      | 3c/lb. +<br>17.5% <sup>7/</sup> |
| 372.75                                           | 25c per lb. +<br>14% ad val.     | 25c/lb. +<br>14%                                                                                   | 25c/lb. +<br>14%     | 21c/lb. +<br>13.3%   | 16c/lb. +<br>12.7%   | 12c/lb. +<br>12%   | 8c/lb. +<br>11.3%    | 4c/lb. +<br>10.7%    | 10%                             |
| 372.80                                           | 10% ad val.                      | 10%                                                                                                | 10%                  | 9.3%                 | 8.6%                 | 7.9%               | 7.2%                 | 6.5%                 | 5.8%                            |
| 373.05                                           | 21% ad val.                      | 21%                                                                                                | 21%                  | 20%                  | 19%                  | 18%                | 16.9%                | 15.9%                | 14.9%                           |
| 373.10                                           | 16.5% ad val.                    | 16.5%                                                                                              | 16.5%                | 15.1%                | 13.7%                | 12.3%              | 10.8%                | 9.4%                 | 8%                              |
| 373.15                                           | 37.5c per lb. +<br>10.5% ad val. | 37.5c/lb. +<br>10.5%                                                                               | 37.5c/lb. +<br>10.5% | 31c/lb. +<br>10.1%   | 25c/lb. +<br>9.7%    | 19c/lb. +<br>9.3%  | 12c/lb. +<br>8.8%    | 6c/lb. +<br>8.4%     | 8%                              |
| 373.20                                           | 10% ad val.                      | 10%                                                                                                | 10%                  | 9.7%                 | 9.3%                 | 9%                 | 8.7%                 | 8.3%                 | 8%                              |
| 373.22                                           | 16% ad val.                      | 16%                                                                                                | 16%                  | 14.7%                | 13.3%                | 12%                | 10.7%                | 9.3%                 | 8%                              |
| 373.25                                           | 12c per lb. +<br>16% ad val.     | 12c/lb. +<br>16%                                                                                   | 12c/lb. +<br>16%     | 10c/lb. +<br>14.7%   | 8c/lb. +<br>13.3%    | 6c/lb. +<br>12%    | 4c/lb. +<br>10.7%    | 2c/lb. +<br>9.3%     | 8%                              |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 370.52, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.

3/ For item 370.56, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--16.6%.

4/ For item 370.64, the rate of duty effective with respect to articles entered on and after January 1, 1989--14%.

5/ For item 370.68, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.

6/ For item 372.30, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 16%.

7/ For item 372.70, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 15%.



## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 -- |                      |                    |                    |                    |                    |                   |                                 |
|--------------------------------------------------|-------------------------------------|------------------------------------------------------------------------------------------------|----------------------|--------------------|--------------------|--------------------|--------------------|-------------------|---------------------------------|
|                                                  |                                     | 1980                                                                                           | 1981                 | 1982               | 1983               | 1984               | 1985               | 1986              | 1987                            |
| Schedule 3, Part 6--Continued                    |                                     |                                                                                                |                      |                    |                    |                    |                    |                   |                                 |
| 373.30                                           | 10% ad val.                         | 10%                                                                                            | 10%                  | 9.7%               | 9.3%               | 9%                 | 8.7%               | 8.3%              | 8%                              |
| 374.05                                           | 30% ad val.                         | 30%                                                                                            | 30%                  | 28.3%              | 26.7%              | 25%                | 23.3%              | 21.7%             | 20%                             |
| 374.10                                           | 21.5% ad val.                       | 21.5%                                                                                          | 21.5%                | 21.3%              | 21%                | 20.8%              | 20.5%              | 20.3%             | 20%                             |
| 374.15                                           | 30% ad val.                         | 30%                                                                                            | 30%                  | 28.3%              | 26.7%              | 25%                | 23.3%              | 21.7%             | 20%                             |
| 374.20 <sup>2/</sup>                             | 50% ad val.                         | 50%                                                                                            | 50%                  | 47%                | 44%                | 41%                | 38%                | 35%               | 32% <sup>2/</sup>               |
| 374.25                                           | 34% ad val.                         | 34%                                                                                            | 34%                  | 31.7%              | 29.3%              | 27%                | 24.7%              | 22.3%             | 20%                             |
| 374.30 <sup>3/</sup>                             | 42.5% ad val.                       | 42.5%                                                                                          | 42.5%                | 39.7%              | 36.9%              | 34.1%              | 31.3%              | 28.4%             | 25.6% <sup>3/</sup>             |
| 374.35                                           | 21% ad val.                         | 21%                                                                                            | 21%                  | 20.8%              | 20.7%              | 20.5%              | 20.3%              | 20.2%             | 20%                             |
| 374.40 <sup>4/</sup>                             | 36% ad val.                         | 36%                                                                                            | 36%                  | 33.3%              | 30.6%              | 27.9%              | 25.2%              | 22.5%             | 19.8% <sup>4/</sup>             |
| 374.45                                           | 10% ad val.                         | 10%                                                                                            | 10%                  | 9.3%               | 8.6%               | 7.9%               | 7.2%               | 6.5%              | 5.8%                            |
| 374.50                                           | 37.5c per lb.<br>+ 12% ad val.      | 37.5c/lb. +<br>12%                                                                             | 37.5c/lb. +<br>12%   | 31c/lb. +<br>12%   | 25c/lb. +<br>12%   | 19c/lb. +<br>12%   | 12c/lb. +<br>12%   | 6c/lb. +<br>12%   | 12%                             |
| 374.55                                           | 12% ad val.                         | 12%                                                                                            | 12%                  | 11.1%              | 10.2%              | 9.3%               | 8.3%               | 7.4%              | 6.5%                            |
| 374.60 <sup>5/</sup>                             | 25c per lb. +<br>35% ad val.        | 25c/lb. +<br>35%                                                                               | 25c/lb. +<br>35%     | 21c/lb. +<br>32.6% | 19c/lb. +<br>30.1% | 15c/lb. +<br>27.7% | 12c/lb. +<br>25.3% | 9c/lb. +<br>22.8% | 6c/lb. +<br>20.4% <sup>5/</sup> |
| 374.65                                           | 10% ad val.                         | 10%                                                                                            | 10%                  | 9%                 | 8%                 | 7%                 | 6%                 | 5%                | 4%                              |
| 376.04                                           | 15% ad val.                         | 15%                                                                                            | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%              | 7.2%                            |
| 376.08                                           | 37.5c per lb.<br>+ 10% ad val.      | 37.5c/lb. +<br>10%                                                                             | 37.5c/lb. +<br>10%   | 31c/lb. +<br>9.9%  | 25c/lb. +<br>9.8%  | 18c/lb. +<br>9.8%  | 12c/lb. +<br>9.7%  | 6c/lb. +<br>9.6%  | 9.5%                            |
| 376.12                                           | 7% ad val.                          | 7%                                                                                             | 7%                   | 6.6%               | 6.2%               | 5.9%               | 5.5%               | 5.1%              | 4.7%                            |
| 376.16                                           | 12c per lb. +<br>9.5% ad val.       | 12c/lb. +<br>9.5%                                                                              | 12c/lb. +<br>9.5%    | 10c/lb. +<br>9.1%  | 8c/lb. +<br>8.7%   | 6c/lb. +<br>8.3%   | 4c/lb. +<br>7.8%   | 2c/lb. +<br>7.4%  | 7%                              |
| 376.20                                           | 10% ad val.                         | 10%                                                                                            | 10%                  | 9.3%               | 8.6%               | 7.9%               | 7.2%               | 6.5%              | 5.8%                            |
| 376.54                                           | 12.5% ad val.                       | 12.5%                                                                                          | 12.5%                | 11.5%              | 10.5%              | 9.6%               | 8.6%               | 7.6%              | 6.6%                            |
| 376.56                                           | 16.5% ad val.                       | 16.5%                                                                                          | 16.5%                | 15%                | 13.5%              | 12.1%              | 10.6%              | 9.1%              | 7.6%                            |
| 378.05 <sup>6/</sup>                             | 42.5% ad val.                       | 42.5%                                                                                          | 42.5%                | 39.7%              | 36.8%              | 34%                | 31.2%              | 28.3%             | 25.5% <sup>6/</sup>             |
| 378.10                                           | 25% ad val.                         | 25%                                                                                            | 25%                  | 22.5%              | 20%                | 17.5%              | 15%                | 12.5%             | 10%                             |
| 378.15                                           | 15% ad val.                         | 15%                                                                                            | 15%                  | 13.7%              | 12.4%              | 11.1%              | 9.8%               | 8.5%              | 7.2%                            |
| 378.20                                           | 16.5% ad val.                       | 16.5%                                                                                          | 16.5%                | 14.8%              | 13.2%              | 11.5%              | 9.8%               | 8.2%              | 6.5%                            |
| 378.25                                           | 8% ad val.                          | 8%                                                                                             | 8%                   | 7.8%               | 7.5%               | 7.3%               | 7%                 | 6.8%              | 6.5%                            |
| 378.30                                           | 7.5% ad val.                        | 7.5%                                                                                           | 7.5%                 | 7.3%               | 7.2%               | 7%                 | 6.8%               | 6.7%              | 6.5%                            |
| 378.35                                           | 37.5c per lb.<br>+ 6.5% ad<br>val.  | 37.5c/lb. +<br>6.5%                                                                            | 37.5c/lb. +<br>6.5%  | 31c/lb. +<br>6.4%  | 25c/lb. +<br>6.3%  | 18c/lb. +<br>6.3%  | 12c/lb. +<br>6.2%  | 6c/lb. +<br>6.1%  | 6%                              |
| 378.40                                           | 25c per lb. +<br>10.5% ad val.      | 25c/lb. +<br>10.5%                                                                             | 25c/lb. +<br>10.5%   | 20c/lb. +<br>10.1% | 16c/lb. +<br>9.7%  | 12c/lb. +<br>9.3%  | 8c/lb. +<br>8.8%   | 4c/lb. +<br>8.4%  | 8%                              |
| 378.45                                           | 37.5c per lb.<br>+ 10.5% ad<br>val. | 37.5c/lb. +<br>10.5%                                                                           | 37.5c/lb. +<br>10.5% | 31c/lb. +<br>9.8%  | 25c/lb. +<br>9.2%  | 19c/lb. +<br>8.5%  | 12c/lb. +<br>7.8%  | 6c/lb. +<br>7.2%  | 6.5%                            |

- 1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.
- 2/ For item 374.20, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--29%.  
Effective with respect to articles entered on and after January 1, 1989--26%.  
Effective with respect to articles entered on and after January 1, 1990--23%.  
Effective with respect to articles entered on and after January 1, 1991--20%.
- 3/ For item 374.30, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.8%.  
Effective with respect to articles entered on and after January 1, 1989--20%.
- 4/ For item 374.40, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--17%.  
Effective with respect to articles entered on and after January 1, 1989--14.4%.
- 5/ For item 374.60, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--3c/lb. + 17.9%.  
Effective with respect to articles entered on and after January 1, 1989--15.5%.
- 6/ For item 378.05, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.

## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                    |                    |                    |                    |                   |                                              |
|--------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------|----------------------|--------------------|--------------------|--------------------|--------------------|-------------------|----------------------------------------------|
|                                                  |                                     | 1980                                                                                   | 1981                 | 1982               | 1983               | 1984               | 1985               | 1986              | 1987                                         |
| Schedule                                         | 3, Part 6--Continued                |                                                                                        |                      |                    |                    |                    |                    |                   |                                              |
| 378.50                                           | 12% ad val.                         | 12%                                                                                    | 12%                  | 11.1%              | 10.2%              | 9.3%               | 8.3%               | 7.4%              | 6.5%                                         |
| 378.55                                           | 16% ad val.                         | 16%                                                                                    | 16%                  | 14.4%              | 12.8%              | 11.3%              | 9.7%               | 8.1%              | 6.5%                                         |
| 378.60 <sup>2/</sup>                             | 25c per lb. +<br>35% ad val.        | 25c/lb. +<br>35%                                                                       | 25c/lb. +<br>35%     | 21c/lb. +<br>32.6% | 19c/lb. +<br>30.1% | 15c/lb. +<br>27.7% | 12c/lb. +<br>25.3% | 9c/lb. +<br>22.8% | 6c/lb. +<br>20.4% <sup>3/</sup>              |
| 378.65                                           | 12.5c per lb.<br>+ 13.5% ad<br>val. | 12.5c/lb. +<br>13.5%                                                                   | 12.5c/lb. +<br>13.5% | 10c/lb. +<br>12.5% | 8c/lb. +<br>11.5%  | 6c/lb. +<br>10.5%  | 4c/lb. +<br>9.5%   | 2c/lb. +<br>8.5%  | 7.5%                                         |
| 378.70                                           | 10% ad val.                         | 10%                                                                                    | 10%                  | 9.3%               | 8.6%               | 7.9%               | 7.2%               | 6.5%              | 5.8%                                         |
| 379.00 <sup>3/</sup>                             | 35% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 32%<br>32.7%       | 29%<br>30.3%       | 26%<br>28%         | 23%<br>25.7%       | 20%<br>23.3%      | 17% <sup>3/</sup><br>21%                     |
| 379.02                                           | 35% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 32%<br>32.7%       | 29%<br>30.3%       | 26%<br>28%         | 23%<br>25.7%       | 20%<br>23%        | 17% <sup>4/</sup><br>21%                     |
| 379.04 <sup>4/</sup>                             | 35% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 32%<br>32.7%       | 29%<br>30.3%       | 26%<br>28%         | 23%<br>25.7%       | 20%<br>23%        | 17% <sup>4/</sup><br>21%                     |
| 379.06 <sup>5/</sup>                             | 35% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 32%<br>32.7%       | 29%<br>30.3%       | 26%<br>28%         | 23%<br>25.7%       | 20%<br>23%        | 17% <sup>5/</sup><br>21%                     |
| 379.08 <sup>6/</sup>                             | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 39.7%<br>39.7%     | 36.8%<br>36.8%     | 34%<br>34.1%       | 31.2%<br>31.4%     | 28.3%<br>28.6%    | 25.5% <sup>6/</sup><br>25.8% <sup>7/</sup>   |
| 379.11 <sup>8/</sup>                             | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 39.7%<br>39.7%     | 36.8%<br>36.8%     | 34%<br>34.1%       | 31.2%<br>31.4%     | 28.3%<br>28.6%    | 25.5% <sup>8/</sup><br>25.8% <sup>9/</sup>   |
| 379.12 <sup>9/</sup>                             | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 39.7%<br>39.7%     | 36.8%<br>36.8%     | 34%<br>34.1%       | 31.2%<br>31.4%     | 28.3%<br>28.6%    | 25.5% <sup>10/</sup><br>25.8% <sup>10/</sup> |
| 379.15 <sup>10/</sup>                            | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 40.4%<br>41.3%     | 38.3%<br>40%       | 36.3%<br>38.8%     | 34.2%<br>37.5%     | 32.1%<br>36.3%    | 30%<br>35%                                   |
| 379.20 <sup>11/</sup>                            | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 39.7%<br>39.7%     | 36.8%<br>36.8%     | 34%<br>34%         | 31.2%<br>31.2%     | 28.3%<br>28.3%    | 25.5% <sup>11/</sup><br>25.5% <sup>11/</sup> |
| 379.23 <sup>12/</sup>                            | 42.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 40.4%<br>39.7%     | 38.3%<br>36.8%     | 36.3%<br>34%       | 34.2%<br>31.2%     | 32.1%<br>28.3%    | 30%<br>25.5% <sup>12/</sup>                  |
| 379.33 <sup>12/</sup>                            | 21% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 18%<br>18.9%       | 15%<br>16.8%       | 12%<br>14.8%       | 9%<br>12.7%        | 8%<br>10.6%       | 8%<br>8.5%                                   |
| 379.35                                           | 21% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 20.3%<br>18.8%     | 19.5%<br>16.7%     | 18.8%<br>14.5%     | 18%<br>12.3%       | 17.3%<br>10.2%    | 16.5%<br>8%                                  |
| 379.37                                           | 21% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 18.8%<br>15.1%     | 16.7%<br>13.7%     | 14.5%<br>12.3%     | 12.3%<br>10.8%     | 10.2%<br>9.4%     | 8%<br>8%                                     |
| 379.39                                           | 16.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 15.1%<br>7.5%      | 13.7%<br>7%        | 12.3%<br>6.5%      | 10.8%<br>6%        | 9.4%<br>5.5%      | 8%<br>5%                                     |
| 379.41                                           | 8% ad val.                          | 13/<br>13/                                                                             | 13/<br>13/           | 15.1%<br>15.1%     | 13.7%<br>13.7%     | 12.3%<br>12.3%     | 10.8%<br>10.8%     | 9.4%<br>9.4%      | 8%<br>8%                                     |
| 379.43                                           | 16.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.45                                           | 21% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.48                                           | 7% ad val.                          | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.50                                           | 8% ad val.                          | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.52                                           | 16.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.54                                           | 16.5% ad val.                       | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |
| 379.56                                           | 21% ad val.                         | 13/<br>13/                                                                             | 13/<br>13/           | 16.9%<br>6.6%      | 16.8%<br>6.2%      | 14.7%<br>5.8%      | 12.6%<br>5.3%      | 10.5%<br>4.9%     | 8.4%<br>4.5%                                 |

- 1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.
- 2/ For item 379.60, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--3c/lb. + 17.9%.  
Effective with respect to articles entered on and after January 1, 1989--15.5%.
- 3/ For item 379.00, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.
- 4/ For item 379.04, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.
- 5/ For item 379.08, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.
- 6/ For item 379.11, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.
- 7/ For item 379.13, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 23%.
- 8/ For item 379.15, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.
- 9/ For item 379.17, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 23%.
- 10/ For item 379.20, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.
- 11/ For item 379.28, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.
- 12/ For item 379.33, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--22.7%.  
Effective with respect to articles entered on and after January 1, 1989--19.8%.  
Effective with respect to articles entered on and after January 1, 1990--17%.
- 13/ This item is not established until January 1, 1982.



## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |      |                    |                    |                    |                    |                    |                                 |
|--------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------|------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------------------|
|                                                  |                                     | 1980                                                                                               | 1981 | 1982               | 1983               | 1984               | 1985               | 1986               | 1987                            |
| Schedule 3, Part 6--Continued                    |                                     |                                                                                                    |      |                    |                    |                    |                    |                    |                                 |
| 179.57                                           | 16.51 ad val.                       | 2/                                                                                                 | 2/   | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                              |
| 179.60                                           | 16.51 ad val.                       | 2/                                                                                                 | 2/   | 152                | 13.52              | 122                | 10.52              | 92                 | 7.52                            |
| 179.63                                           | 16.52 ad val.                       | 2/                                                                                                 | 2/   | 14.82              | 13.22              | 11.52              | 9.82               | 8.22               | 6.52                            |
| 179.64                                           | 16.52 ad val.                       | 2/                                                                                                 | 2/   | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                              |
| 179.66                                           | 12.52 ad val.                       | 2/                                                                                                 | 2/   | 9.52               | 6.52               | 52                 | 52                 | 52                 | 52                              |
| 179.68                                           | 2.52 ad val.                        | 2/                                                                                                 | 2/   | 2.42               | 2.32               | 2.32               | 2.22               | 2.12               | 22                              |
| 179.69                                           | 7.52 ad val.                        | 2/                                                                                                 | 2/   | 6.82               | 62                 | 5.32               | 4.52               | 3.82               | 32                              |
| 179.71                                           | 37.52 per lb.<br>+ 302 ad val.      | 2/                                                                                                 | 2/   | 31c/lb. +<br>28.62 | 25c/lb. +<br>27.72 | 18c/lb. +<br>26.52 | 12c/lb. +<br>25.32 | 6c/lb. +<br>24.22  | 232                             |
| 179.72 <sup>2/</sup>                             | 37.52 per lb.<br>+ 302 ad val.      | 2/                                                                                                 | 2/   | 32c/lb. +<br>28.42 | 28c/lb. +<br>26.82 | 23c/lb. +<br>25.12 | 18c/lb. +<br>23.52 | 14c/lb. +<br>21.92 | 9c/lb. +<br>20.32 $\frac{1}{2}$ |
| 179.74                                           | 37.52 per lb.<br>+ 15.52 ad<br>val. | 2/                                                                                                 | 2/   | 31c/lb. +<br>14.22 | 25c/lb. +<br>12.82 | 19c/lb. +<br>11.52 | 12c/lb. +<br>10.22 | 6c/lb. +<br>8.82   | 7.52                            |
| 179.75                                           | 37.52 per lb.<br>+ 202 ad val.      | 2/                                                                                                 | 2/   | 37.1c/lb. +<br>202 | 36.7c/lb. +<br>202 | 36.3c/lb. +<br>202 | 35.8c/lb. +<br>202 | 35.4c/lb. +<br>202 | 35c/lb. +<br>202                |
| 179.76                                           | 37.52 per lb.<br>+ 202 ad val.      | 2/                                                                                                 | 2/   | 31c/lb. +<br>19.52 | 25c/lb. +<br>192   | 19c/lb. +<br>18.52 | 12c/lb. +<br>182   | 6c/lb. +<br>17.52  | 172                             |
| 179.78                                           | 25c per lb. +<br>212 ad val.        | 2/                                                                                                 | 2/   | 21c/lb. +<br>212   | 18c/lb. +<br>212   | 14c/lb. +<br>212   | 11c/lb. +<br>212   | 7c/lb. +<br>212    | 4c/lb. +<br>212                 |
| 179.79                                           | 25c per lb. +<br>212 ad val.        | 2/                                                                                                 | 2/   | 21c/lb. +<br>20.32 | 17c/lb. +<br>19.72 | 13c/lb. +<br>192   | 8c/lb. +<br>18.32  | 4c/lb. +<br>17.22  | 172                             |
| 179.81                                           | 37.52 per lb.<br>+ 212 ad val.      | 2/                                                                                                 | 2/   | 31c/lb. +<br>19.12 | 25c/lb. +<br>17.22 | 19c/lb. +<br>15.32 | 12c/lb. +<br>13.32 | 6c/lb. +<br>11.42  | 9.52                            |
| 179.83                                           | 37.52 per lb.<br>+ 212              | 2/                                                                                                 | 2/   | 35c/lb. +<br>212   | 33c/lb. +<br>212   | 31c/lb. +<br>212   | 28c/lb. +<br>212   | 26c/lb. +<br>212   | 24c/lb. +<br>212                |
| 179.84                                           | 37.52 per lb.<br>+ 212 ad val.      | 2/                                                                                                 | 2/   | 31c/lb. +<br>20.32 | 25c/lb. +<br>19.72 | 19c/lb. +<br>192   | 12c/lb. +<br>18.32 | 6c/lb. +<br>17.22  | 172                             |
| 179.86                                           | 102 ad val.                         | 2/                                                                                                 | 2/   | 9.32               | 8.72               | 82                 | 7.32               | 6.72               | 62                              |
| 179.87                                           | 162 ad val.                         | 2/                                                                                                 | 2/   | 14.62              | 13.22              | 11.82              | 10.32              | 8.92               | 7.52                            |
| 179.89                                           | 25c per lb. +<br>32.52 ad val.      | 2/                                                                                                 | 2/   | 20c/lb. +<br>32.12 | 16c/lb. +<br>31.72 | 12c/lb. +<br>31.32 | 8c/lb. +<br>30.62  | 4c/lb. +<br>30.42  | 302                             |
| 179.90                                           | 25c per lb. +<br>32.52 ad val.      | 2/                                                                                                 | 2/   | 23c/lb. +<br>32.52 | 21c/lb. +<br>32.52 | 19c/lb. +<br>32.52 | 17c/lb. +<br>32.52 | 15c/lb. +<br>32.52 | 13c/lb. +<br>32.52              |
| 179.91                                           | 25c per lb. +<br>32.52 ad val.      | 2/                                                                                                 | 2/   | 20c/lb. +<br>31.32 | 16c/lb. +<br>302   | 12c/lb. +<br>28.82 | 8c/lb. +<br>27.52  | 4c/lb. +<br>26.32  | 252                             |
| 179.92 <sup>2/</sup>                             | 25c per lb. +<br>32.52 ad val.      | 2/                                                                                                 | 2/   | 21c/lb. +<br>30.32 | 17c/lb. +<br>28.12 | 14c/lb. +<br>25.92 | 10c/lb. +<br>23.62 | 7c/lb. +<br>21.42  | 3c/lb. +<br>19.22 $\frac{1}{2}$ |
| 179.94 <sup>2/</sup>                             | 25c per lb. +<br>27.52 ad val.      | 2/                                                                                                 | 2/   | 21c/lb. +<br>25.42 | 17c/lb. +<br>23.42 | 14c/lb. +<br>21.32 | 10c/lb. +<br>19.22 | 7c/lb. +<br>17.12  | 3c/lb. +<br>15.12 $\frac{1}{2}$ |
| 179.95                                           | 25c per lb. +<br>27.52 ad val.      | 2/                                                                                                 | 2/   | 23c/lb. +<br>27.52 | 21c/lb. +<br>27.52 | 19c/lb. +<br>27.52 | 17c/lb. +<br>27.52 | 15c/lb. +<br>27.52 | 13c/lb. +<br>27.52              |
| 179.96                                           | 25c per lb. +<br>27.52 ad val.      | 2/                                                                                                 | 2/   | 20c/lb. +<br>25.82 | 16c/lb. +<br>242   | 12c/lb. +<br>22.32 | 8c/lb. +<br>20.52  | 4c/lb. +<br>18.82  | 172                             |
| 179.98                                           | 102 ad val.                         | 2/                                                                                                 | 2/   | 92                 | 82                 | 72                 | 62                 | 52                 | 42                              |
| 183.00 <sup>2/</sup>                             | 352 ad val.                         | 2/                                                                                                 | 2/   | 322                | 292                | 262                | 232                | 202                | 172                             |
| 183.02                                           | 352 ad val.                         | 2/                                                                                                 | 2/   | 30.32              | 30.32              | 282                | 25.72              | 23.32              | 212                             |
| 183.03 <sup>2/</sup>                             | 352 ad val.                         | 2/                                                                                                 | 2/   | 322                | 292                | 262                | 232                | 202                | 172                             |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 179.72, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--4c/lb. + 18.62.

Effective with respect to articles entered on and after January 1, 1989--172.

3/ For item 179.94, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 172.

4/ For item 183.00, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 132.

5/ For item 183.02, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 142.

6/ For item 183.03, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 142.

7/ This item is not established until January 1, 1982.

## Section A--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 2/, effective with respect to articles entered on and after January 1 -- |      |                    |                    |                    |                    |                    |                   |
|--------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------|------|--------------------|--------------------|--------------------|--------------------|--------------------|-------------------|
|                                                  |                                | 1980                                                                                   | 1981 | 1982               | 1983               | 1984               | 1985               | 1986               | 1987              |
| Schedule 3, Part 6--Continued                    |                                |                                                                                        |      |                    |                    |                    |                    |                    |                   |
| 383.05                                           | 352 ad val.                    | 13/                                                                                    | 13/  | 31.92              | 28.82              | 25.82              | 22.72              | 19.62              | 16.52             |
| 383.06 <sup>2/</sup>                             | 352 ad val.                    | 13/                                                                                    | 13/  | 32.72              | 30.32              | 282                | 25.72              | 23.32              | 212               |
| 383.08 <sup>2/</sup>                             | 352 ad val.                    | 13/                                                                                    | 13/  | 322                | 292                | 262                | 232                | 202                | 172               |
| 383.10 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.82              | 342                | 31.22              | 28.32              | 25.52             |
| 383.12 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.92              | 34.12              | 31.42              | 28.62              | 25.82             |
| 383.13 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.82              | 342                | 31.22              | 28.32              | 25.52             |
| 383.15 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.92              | 34.12              | 31.42              | 28.62              | 25.82             |
| 383.16 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.82              | 342                | 31.22              | 28.32              | 25.52             |
| 383.18                                           | 42.52 ad val.                  | 13/                                                                                    | 13/  | 41.32              | 402                | 38.82              | 37.52              | 36.32              | 352               |
| 383.19                                           | 42.52 ad val.                  | 13/                                                                                    | 13/  | 40.42              | 38.32              | 36.32              | 34.22              | 32.12              | 302               |
| 383.20 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.82              | 342                | 31.22              | 28.32              | 25.52             |
| 383.22 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 40.42              | 38.32              | 36.32              | 34.22              | 32.12              | 302               |
| 383.23 <sup>2/</sup>                             | 42.52 ad val.                  | 13/                                                                                    | 13/  | 39.72              | 36.82              | 342                | 31.22              | 28.32              | 25.52             |
| 383.25                                           | 212 ad val.                    | 13/                                                                                    | 13/  | 18.82              | 16.72              | 14.52              | 12.32              | 10.22              | 82                |
| 383.28                                           | 212 ad val.                    | 13/                                                                                    | 13/  | 20.32              | 19.52              | 18.82              | 182                | 17.32              | 16.52             |
| 383.29                                           | 212 ad val.                    | 13/                                                                                    | 13/  | 19.52              | 182                | 16.52              | 152                | 13.52              | 122               |
| 383.30                                           | 212 ad val.                    | 13/                                                                                    | 13/  | 18.82              | 16.72              | 14.52              | 12.32              | 10.22              | 82                |
| 383.32                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                |
| 383.33                                           | 82 ad val.                     | 13/                                                                                    | 13/  | 7.52               | 72                 | 6.52               | 62                 | 5.52               | 52                |
| 383.36                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                |
| 383.39                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                |
| 383.42                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                |
| 383.45                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 152                | 132                | 122                | 10.52              | 92                 | 7.52              |
| 383.48                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.82              | 152                | 14.32              | 13.52              | 12.82              | 122               |
| 383.49                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 14.82              | 13.22              | 11.52              | 9.82               | 8.22               | 6.52              |
| 383.50                                           | 16.52 ad val.                  | 13/                                                                                    | 13/  | 15.12              | 13.72              | 12.32              | 10.82              | 9.42               | 82                |
| 383.52                                           | 12.52 ad val.                  | 13/                                                                                    | 13/  | 11.32              | 102                | 8.82               | 7.52               | 6.32               | 52                |
| 383.53                                           | 7.52 ad val.                   | 13/                                                                                    | 13/  | 6.82               | 62                 | 5.32               | 4.52               | 3.82               | 32                |
| 383.55 <sup>10/</sup>                            | 37.52 per lb.<br>+ 322 ad val. | 13/                                                                                    | 13/  | 32c/lb. +<br>29.92 | 27c/lb. +<br>27.72 | 21c/lb. +<br>25.62 | 16c/lb. +<br>23.42 | 11c/lb. +<br>21.32 | 5c/lb. +<br>19.12 |
| 383.57 <sup>11/</sup>                            | 37.52 per lb.<br>+ 302 ad val. | 13/                                                                                    | 13/  | 32c/lb. +<br>292   | 26c/lb. +<br>272   | 21c/lb. +<br>252   | 16c/lb. +<br>232   | 10c/lb. +<br>212   | 5c/lb. +<br>192   |
| 383.58 <sup>12/</sup>                            | 37.52 per lb.<br>+ 302 ad val. | 13/                                                                                    | 13/  | 32c/lb. +<br>28.42 | 28c/lb. +<br>26.82 | 23c/lb. +<br>25.12 | 18c/lb. +<br>23.52 | 14c/lb. +<br>21.92 | 9c/lb. +<br>20.32 |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 383.07, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 142.

3/ For item 383.10, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--22.72.

Effective with respect to articles entered on and after January 1, 1989--19.82.

Effective with respect to articles entered on and after January 1, 1990--172.

4/ For item 383.12, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 232.

5/ For item 383.13, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--22.72.

Effective with respect to articles entered on and after January 1, 1989--19.82.

Effective with respect to articles entered on and after January 1, 1990--172.

6/ For item 383.15, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 232.

7/ For item 383.16, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--22.72.

Effective with respect to articles entered on and after January 1, 1989--19.82.

Effective with respect to articles entered on and after January 1, 1990--172.

8/ For item 383.20, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--22.72.

Effective with respect to articles entered on and after January 1, 1989--19.82.

Effective with respect to articles entered on and after January 1, 1990--172.

9/ For item 383.23, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--22.72.

Effective with respect to articles entered on and after January 1, 1989--19.82.

Effective with respect to articles entered on and after January 1, 1990--172.

10/ For item 383.55, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 172.

11/ For item 383.57, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 232.

12/ For item 383.58, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--4c/lb. + 18.62.

Effective with respect to articles entered on and after January 1, 1989--172.

13/ This item is not established until January 1, 1982.



## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged     | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                  |                  |                 |                  |                  |                  |                 |
|--------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|------------------|------------------|-----------------|------------------|------------------|------------------|-----------------|
|                                                  |                               | 1980                                                                                   | 1981             | 1982             | 1983            | 1984             | 1985             | 1986             | 1987            |
| Schedule 3, Part 6--Continued                    |                               |                                                                                        |                  |                  |                 |                  |                  |                  |                 |
| 383.60                                           | 37.5c per lb. + 15.5% ad val. | 4/                                                                                     | 4/               | 31c/lb. + 14.2%  | 25c/lb. + 12.8% | 19c/lb. + 11.5%  | 12c/lb. + 10.2%  | 6c/lb. + 8.8%    | 7.5%            |
| 383.62                                           | 37.5c per lb. + 20% ad val.   | 4/                                                                                     | 4/               | 36c/lb. + 20%    | 35c/lb. + 20%   | 34c/lb. + 20%    | 33c/lb. + 20%    | 32c/lb. + 20%    | 31c/lb. + 20%   |
| 383.63                                           | 37.5c per lb. + 20% ad val.   | 4/                                                                                     | 4/               | 31c/lb. + 19.5%  | 25c/lb. + 19%   | 19c/lb. + 18.5%  | 12c/lb. + 18%    | 6c/lb. + 17.5%   | 17%             |
| 383.65                                           | 25c per lb. + 21% ad val.     | 4/                                                                                     | 4/               | 21c/lb. + 21%    | 18c/lb. + 21%   | 15c/lb. + 21%    | 12c/lb. + 21%    | 9c/lb. + 21%     | 6c/lb. + 21%    |
| 383.66                                           | 25c per lb. + 21% ad val.     | 4/                                                                                     | 4/               | 20c/lb. + 20.3%  | 16c/lb. + 19.7% | 12c/lb. + 19%    | 8c/lb. + 18.3%   | 4c/lb. + 17.7%   | 17%             |
| 383.68                                           | 37.5c per lb. + 21% ad val.   | 4/                                                                                     | 4/               | 31c/lb. + 20.3%  | 25c/lb. + 19.7% | 19c/lb. + 19%    | 12c/lb. + 18.3%  | 6c/lb. + 17.7%   | 17%             |
| 383.72                                           | 37.5c per lb. + 21% ad val.   | 4/                                                                                     | 4/               | 35c/lb. + 21%    | 32c/lb. + 21%   | 29c/lb. + 21%    | 26c/lb. + 21%    | 24c/lb. + 21%    | 21c/lb. + 21%   |
| 383.75                                           | 37.5c per lb. + 21% ad val.   | 4/                                                                                     | 4/               | 31c/lb. + 20.3%  | 25c/lb. + 19.7% | 19c/lb. + 19%    | 12c/lb. + 18.3%  | 6c/lb. + 17.7%   | 17%             |
| 383.77                                           | 10% ad val.                   | 4/                                                                                     | 4/               | 9.3%             | 8.7%            | 8%               | 7.3%             | 6.7%             | 6%              |
| 383.78                                           | 14% ad val.                   | 4/                                                                                     | 4/               | 14.6%            | 13.2%           | 11.8%            | 10.3%            | 8.9%             | 7.5%            |
| 383.80                                           | 25c per lb. + 32.5% ad val.   | 4/                                                                                     | 4/               | 23c/lb. + 32.5%  | 21c/lb. + 32.5% | 19c/lb. + 32.5%  | 17c/lb. + 32.5%  | 15c/lb. + 32.5%  | 13c/lb. + 32.5% |
| 383.81                                           | 25c per lb. + 32.5% ad val.   | 4/                                                                                     | 4/               | 20c/lb. + 32.5%  | 16c/lb. + 31.7% | 12c/lb. + 31.3%  | 8c/lb. + 30.8%   | 4c/lb. + 30.4%   | 30%             |
| 383.83                                           | 25c per lb. + 32.5% ad val.   | 4/                                                                                     | 4/               | 20c/lb. + 32.5%  | 16c/lb. + 31.7% | 12c/lb. + 31.3%  | 8c/lb. + 30.8%   | 4c/lb. + 30.4%   | 30%             |
| 383.84                                           | 25c per lb. + 32.5% ad val.   | 4/                                                                                     | 4/               | 21c/lb. + 29.9%  | 16c/lb. + 27.3% | 12c/lb. + 24.8%  | 8c/lb. + 22.2%   | 4c/lb. + 19.6%   | 17%             |
| 383.86 <sup>2/</sup>                             | 25c per lb. + 32.5% ad val.   | 4/                                                                                     | 4/               | 21c/lb. + 30.3%  | 17c/lb. + 28.1% | 14c/lb. + 25.9%  | 10c/lb. + 23.6%  | 7c/lb. + 21.4%   | 3c/lb. + 19.2%  |
| 383.88 <sup>3/</sup>                             | 25c per lb. + 27.5% ad val.   | 4/                                                                                     | 4/               | 21c/lb. + 25.3%  | 17c/lb. + 23.1% | 14c/lb. + 20.9%  | 10c/lb. + 18.6%  | 7c/lb. + 16.4%   | 3c/lb. + 14.2%  |
| 383.90                                           | 25c per lb. + 27.5% ad val.   | 4/                                                                                     | 4/               | 23c/lb. + 27.5%  | 22c/lb. + 27.5% | 21c/lb. + 27.5%  | 19c/lb. + 27.5%  | 18c/lb. + 27.5%  | 17c/lb. + 27.5% |
| 383.92                                           | 25c per lb. + 27.5% ad val.   | 4/                                                                                     | 4/               | 20c/lb. + 25.8%  | 16c/lb. + 24%   | 12c/lb. + 22.3%  | 8c/lb. + 20.5%   | 4c/lb. + 18.8%   | 17%             |
| 383.95                                           | 10% ad val.                   | 4/                                                                                     | 4/               | 9%               | 8%              | 7%               | 6%               | 5%               | 4%              |
| Schedule 3, Part 7                               |                               |                                                                                        |                  |                  |                 |                  |                  |                  |                 |
| 385.15                                           | 8% ad val.                    | 8%                                                                                     | 8%               | 7.5%             | 7%              | 6.6%             | 6.1%             | 5.6%             | 5.1%            |
| 385.20                                           | 6% ad val.                    | 6%                                                                                     | 6%               | 5.7%             | 5.4%            | 5.1%             | 4.8%             | 4.5%             | 4.2%            |
| 385.25                                           | 17.5% ad val.                 | 17.5%                                                                                  | 17.5%            | 15.9%            | 14.3%           | 12.7%            | 11%              | 9.4%             | 7.8%            |
| 385.30                                           | 7% ad val.                    | 7%                                                                                     | 7%               | 6.6%             | 6.2%            | 5.9%             | 5.5%             | 5.1%             | 4.7%            |
| 385.40                                           | 10% ad val.                   | 10%                                                                                    | 10%              | 9.3%             | 8.6%            | 7.9%             | 7.2%             | 6.5%             | 5.8%            |
| 385.45                                           | 0.2c per lb. + 1.5% ad val.   | 0.2c/lb. + 1.5%                                                                        | 0.2c/lb. + 1.5%  | Free             | Free            | Free             | Free             | Free             | Free            |
| 385.50                                           | 0.25c per lb. + 2.5% ad val.  | 0.25c/lb. + 2.5%                                                                       | 0.25c/lb. + 2.5% | 0.23c/lb. + 2.5% | 0.2c/lb. + 2.5% | 0.18c/lb. + 2.5% | 0.15c/lb. + 2.5% | 0.13c/lb. + 2.5% | 0.1c/lb. + 2.5% |
| 385.53                                           | 12c per lb. + 15% ad val.     | 12c/lb. + 15%                                                                          | 12c/lb. + 15%    | 10c/lb. + 14.1%  | 8c/lb. + 13.2%  | 6c/lb. + 12.3%   | 4c/lb. + 11.3%   | 2c/lb. + 10.4%   | 9.5%            |
| 385.55                                           | 14% ad val.                   | 14%                                                                                    | 14%              | 12.8%            | 11.7%           | 10.5%            | 9.3%             | 8.2%             | 7%              |
| 385.60                                           | 9% ad val.                    | 9%                                                                                     | 9%               | 8.4%             | 7.8%            | 7.3%             | 6.7%             | 6.1%             | 5.5%            |
| 385.61                                           | 25c per lb. + 19% ad val.     | 25c/lb. + 19%                                                                          | 25c/lb. + 19%    | 21c/lb. + 17.3%  | 16c/lb. + 15.7% | 12c/lb. + 14%    | 8c/lb. + 12.3%   | 4c/lb. + 10.7%   | 9%              |
| 385.63                                           | 13.5% ad val.                 | 13.5%                                                                                  | 13.5%            | 12.4%            | 11.3%           | 10.2%            | 9.1%             | 8%               | 6.9%            |
| 385.70                                           | 15% ad val.                   | 15%                                                                                    | 15%              | 13.7%            | 12.4%           | 11.1%            | 9.8%             | 8.5%             | 7.2%            |
| 385.75                                           | 21% ad val.                   | 21%                                                                                    | 21%              | 18.9%            | 16.8%           | 14.7%            | 12.6%            | 10.5%            | 8.4%            |
| 385.80                                           | 10% ad val.                   | 10%                                                                                    | 10%              | 9.3%             | 8.6%            | 7.9%             | 7.2%             | 6.5%             | 5.8%            |

- 1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 383.86, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 17%.  
 3/ For item 383.88, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 17%.  
 4/ This item is not established until January 1, 1982.

## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged    | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                  |                    |                   |                   |                 |                  |                   |
|--------------------------------------------------|------------------------------|----------------------------------------------------------------------------------------|------------------|--------------------|-------------------|-------------------|-----------------|------------------|-------------------|
|                                                  |                              | 1980                                                                                   | 1981             | 1982               | 1983              | 1984              | 1985            | 1986             | 1987              |
| Schedule 3, Part 7--Continued                    |                              |                                                                                        |                  |                    |                   |                   |                 |                  |                   |
| 385.85                                           | 12c per lb. +<br>15% ad val. | 12c/lb. +<br>15%                                                                       | 12c/lb. +<br>15% | 10c/lb. +<br>13.8% | 8c/lb. +<br>12.5% | 6c/lb. +<br>11.3% | 4c/lb. +<br>10% | 2c/lb. +<br>8.8% | 7.5%              |
| 385.90                                           | 10% ad val.                  | 10%                                                                                    | 10%              | 9%                 | 8%                | 7%                | 6%              | 5%               | 4%                |
| 385.95                                           | 5c per sq. ft.               | 5c/sq. ft.                                                                             | 5c/sq. ft.       | 4c/sq. ft.         | 3c/sq. ft.        | 2c/sq. ft.        | 2c/sq. ft.      | 2c/sq. ft.       | 2c/sq. ft.        |
| 386.04                                           | 40% ad val.                  | 40%                                                                                    | 40%              | 37%                | 34%               | 31%               | 28%             | 25%              | 22% <sup>27</sup> |
| 386.06                                           | 25% ad val.                  | 25%                                                                                    | 25%              | 22.5%              | 20%               | 17.5%             | 15%             | 12.5%            | 10%               |
| 386.07                                           | 25% ad val.                  | 25%                                                                                    | 25%              | 22.5%              | 20%               | 17.5%             | 15%             | 12.5%            | 10%               |
| 386.09                                           | 25% ad val.                  | 25%                                                                                    | 25%              | 22.5%              | 20%               | 17.5%             | 15%             | 12.5%            | 10%               |
| 386.10                                           | 17.5% ad val.                | 17.5%                                                                                  | 17.5%            | 15.9%              | 14.3%             | 12.7%             | 11%             | 9.4%             | 7.8%              |
| 386.20                                           | 35% ad val.                  | 35%                                                                                    | 35%              | 32%                | 29%               | 26%               | 23%             | 20%              | 17% <sup>21</sup> |
| 386.25                                           | 14% ad val.                  | 14%                                                                                    | 14%              | 11%                | 8%                | 7%                | 7%              | 7%               | 7%                |

- 1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 386.04, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--19%.  
 Effective with respect to articles entered on and after January 1, 1989--16%.  
 3/ For item 386.20, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 14%.



## Section A.--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged      | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                   |                   |          |
|-----------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|-------------------|-------------------|----------|
|                                               |                                | 1980                                                                                               | 1981               | 1982               | 1983               | 1984               | 1985              | 1986              | 1987     |
| <u>Schedule J, Part 7--Continued</u>          |                                |                                                                                                    |                    |                    |                    |                    |                   |                   |          |
| 186.30                                        | 28% ad val.                    | 28%                                                                                                | 28%                | 25%                | 22%                | 19%                | 16%               | 13%               | 11.2%    |
| 186.40                                        | 17.5% ad val.                  | 17.5%                                                                                              | 17.5%              | 15.9%              | 14.3%              | 12.7%              | 11%               | 9.4%              | 7.8%     |
| 186.50                                        | 14% ad val.                    | 14%                                                                                                | 14%                | 12.8%              | 11.7%              | 10.5%              | 9.3%              | 8.2%              | 7%       |
| 186.10                                        | 12.5% ad val.                  | 12.5%                                                                                              | 12.5%              | 11.5%              | 10.5%              | 9.6%               | 8.6%              | 7.6%              | 6.6%     |
| 187.20                                        | 6% ad val.                     | 6%                                                                                                 | 6%                 | 3%                 | 2.4%               | 2.4%               | 2.4%              | 2.4%              | 2.4%     |
| 187.37                                        | 6.5% ad val.                   | 6.5%                                                                                               | 6.5%               | 6.2%               | 5.8%               | 5.5%               | 5.1%              | 4.8%              | 4.4%     |
| 187.34                                        | 6.5% ad val.                   | 6.5%                                                                                               | 6.5%               | 6.2%               | 5.8%               | 5.5%               | 5.1%              | 4.8%              | 4.4%     |
| 186.10                                        | 37.5% per lb.<br>+ 15% ad val. | 37.5%/lb. +<br>15%                                                                                 | 37.5%/lb. +<br>15% | 31c/lb. +<br>14.5% | 25c/lb. +<br>14%   | 18c/lb. +<br>13.5% | 12c/lb. +<br>13%  | 6c/lb. +<br>12.5% | 12%      |
| 188.20                                        | 37.5% per lb.<br>+ 10% ad val. | 37.5%/lb. +<br>10%                                                                                 | 37.5%/lb. +<br>10% | 31c/lb. +<br>9.5%  | 25c/lb. +<br>9%    | 19c/lb. +<br>8.5%  | 12c/lb. +<br>7.5% | 6c/lb. +<br>7%    | 7%       |
| 182.37                                        | 3% per lb. +<br>10% ad val.    | 3%/lb. +<br>10%                                                                                    | 3%/lb. +<br>10%    | 27c/lb. +<br>9.5%  | 22c/lb. +<br>9%    | 16c/lb. +<br>8.5%  | 11c/lb. +<br>8%   | 5c/lb. +<br>7.5%  | 7%       |
| 189.40                                        | 10% ad val.                    | 10%                                                                                                | 10%                | 14.1%              | 13.2%              | 11.8%              | 10.3%             | 8.9%              | 7.5%     |
| 189.10                                        | 10% ad val.                    | 10%                                                                                                | 10%                | 9.3%               | 8.6%               | 7.9%               | 7.2%              | 6.5%              | 5.8%     |
| 189.20                                        | 9.5% ad val.                   | 9.5%                                                                                               | 9.5%               | 8%                 | 7.4%               | 6.9%               | 6.4%              | 5.8%              | 5.3%     |
| 189.30                                        | 13.5% ad val.                  | 13.5%                                                                                              | 13.5%              | 12.4%              | 11.3%              | 10.2%              | 9.1%              | 8%                | 6.9%     |
| 189.40                                        | 25% per lb. +<br>25% ad val.   | 25%/lb. +<br>25%                                                                                   | 25%/lb. +<br>25%   | 21c/lb. +<br>22.9% | 16c/lb. +<br>20.8% | 12c/lb. +<br>18.7% | 8c/lb. +<br>16.7% | 4c/lb. +<br>14.6% | 12.5%    |
| 189.50                                        | 15% per lb. +<br>25% ad val.   | 15%/lb. +<br>25%                                                                                   | 15%/lb. +<br>25%   | 12c/lb. +<br>22.7% | 10c/lb. +<br>20.3% | 7c/lb. +<br>18%    | 5c/lb. +<br>15.7% | 2c/lb. +<br>13.3% | 11%      |
| 189.60                                        | 25% per lb. +<br>15% ad val.   | 25%/lb. +<br>15%                                                                                   | 25%/lb. +<br>15%   | 21c/lb. +<br>14%   | 16c/lb. +<br>13%   | 12c/lb. +<br>12%   | 8c/lb. +<br>11%   | 4c/lb. +<br>10%   | 9%       |
| 189.62                                        | 25% per lb. +<br>15% ad val.   | 25%/lb. +<br>15%                                                                                   | 25%/lb. +<br>15%   | 21c/lb. +<br>14%   | 16c/lb. +<br>13%   | 12c/lb. +<br>12%   | 8c/lb. +<br>11%   | 4c/lb. +<br>10%   | 9%       |
| 189.70                                        | 10% ad val.                    | 10%                                                                                                | 10%                | 9.3%               | 8.6%               | 7.9%               | 7.2%              | 6.5%              | 5.8%     |
| 189.14                                        | 2.5% ad val.                   | 2.5%                                                                                               | 2.4%               | 2.4%               | 2.3%               | 2.3%               | 2.2%              | 2.2%              | 2.1%     |
| 190.10                                        | 2.5% ad val.                   | 2.5%                                                                                               | 2.4%               | 2.4%               | 2.3%               | 2.3%               | 2.2%              | 2.2%              | 2.1%     |
| 190.16                                        | 1c per lb.                     | 0.6c/lb.                                                                                           | 0.7c/lb.           | 0.6c/lb.           | 0.5c/lb.           | 0.3c/lb.           | 0.2c/lb.          | 0.1c/lb.          | Free     |
| 190.40                                        | 4.5% per lb.                   | 4.3c/lb.                                                                                           | 4.1c/lb.           | 3.9c/lb.           | 3.6c/lb.           | 3.4c/lb.           | 3.2c/lb.          | 3c/lb.            | 2.8c/lb. |
| 190.50                                        | 2% ad val.                     | 1.8%                                                                                               | 1.5%               | 1.3%               | 1%                 | 0.8%               | 0.5%              | 0.3%              | Free     |
| <u>Schedule K, Part 2</u>                     |                                |                                                                                                    |                    |                    |                    |                    |                   |                   |          |
| 115.05                                        | 5c per lb.                     | 4.6c/lb.                                                                                           | 4.3c/lb.           | 3.9c/lb.           | 3.5c/lb.           | 3.1c/lb.           | 2.8c/lb.          | 2.4c/lb.          | 2c/lb.   |
| 115.10                                        | 8.5% ad val.                   | 8.1%                                                                                               | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%              | 5.7%              | 5.3%     |
| 115.20                                        | 8% ad val.                     | 4.4%                                                                                               | 3.7%               | 3.1%               | 2.5%               | 1.9%               | 1.3%              | 0.6%              | Free     |
| 115.27                                        | 8c per lb.                     | 7.7c/lb.                                                                                           | 7.2c/lb.           | 6.7c/lb.           | 6.2c/lb.           | 5.7c/lb.           | 5.2c/lb.          | 4.7c/lb.          | 4.2c/lb. |
| 115.30                                        | 12.5% ad val.                  | 11.8%                                                                                              | 11%                | 10.3%              | 9.6%               | 8.8%               | 8.1%              | 7.3%              | 6.6%     |
| 115.38                                        | 2c per lb.                     | 1.7c/lb.                                                                                           | 1.5c/lb.           | 1.2c/lb.           | 1c/lb.             | 0.7c/lb.           | 0.5c/lb.          | 0.3c/lb.          | Free     |
| 115.40                                        | 5% ad val.                     | 4.7%                                                                                               | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                | 3.8%              | 3.7%     |
| 115.50                                        | 8% ad val.                     | 7.8%                                                                                               | 7.7%               | 7.5%               | 7.4%               | 7.2%               | 7%                | 6.8%              | 6.7%     |
| 115.60                                        | 1.5% per lb.                   | 1.4c/lb.                                                                                           | 1.4c/lb.           | 1.4c/lb.           | 1.4c/lb.           | 1.4c/lb.           | 1.4c/lb.          | 1.4c/lb.          | 1.4c/lb. |
| 115.10                                        | 3.2% ad val.                   | 1.5%                                                                                               | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.5%              | 1.5%              | 1.5%     |
| 116.00                                        | 1.9% ad val.                   | 1%                                                                                                 | 2.0%               | 2.4%               | 2%                 | 1.5%               | 1%                | 0.5%              | Free     |
| 116.05                                        | 1.8% ad val.                   | 1.1%                                                                                               | 13.9%              | 13.3%              | 12.8%              | 12.2%              | 11.6%             | 11.1%             | 10.5%    |
| 116.45                                        | 6% ad val.                     | 5.6%                                                                                               | 5.6%               | 5.3%               | 5.1%               | 4.8%               | 4.7%              | 4.4%              | 4.2%     |
| 116.10                                        | 1.9% ad val.                   | 1.0%                                                                                               | 1.8%               | 1.8%               | 1.7%               | 1.7%               | 1.7%              | 1.6%              | 1.5%     |
| 117.16                                        | 1.3% ad val.                   | 1.1%                                                                                               | 1%                 | 0.8%               | 0.7%               | 0.5%               | 0.3%              | 0.2%              | Free     |
| 117.18                                        | 4% ad val.                     | 3.5%                                                                                               | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                | 0.5%              | Free     |
| 117.10                                        | 4% ad val.                     | 3.9%                                                                                               | 3.6%               | 3.7%               | 3.6%               | 3.4%               | 3.3%              | 3.2%              | 3.1%     |
| 117.20                                        | 6.0% ad val.                   | 5.5%                                                                                               | 5.4%               | 5.4%               | 4.9%               | 4.3%               | 3.6%              | 3.3%              | 2.8%     |
| 117.24                                        | 2% ad val.                     | 1.9%                                                                                               | 1.9%               | 1.9%               | 1.9%               | 1.8%               | 1.8%              | 1.7%              | 1.7%     |
| 117.26                                        | 1.7% ad val.                   | 1.6%                                                                                               | 1.6%               | 1.6%               | 1.6%               | 1.6%               | 1.6%              | 1.6%              | 1.6%     |
| 117.28                                        | 6.2% ad val.                   | 5.7%                                                                                               | 5.7%               | 5.5%               | 5.3%               | 5%                 | 4.8%              | 4.5%              | 4.3%     |
| 117.30                                        | 1.7% ad val.                   | 1.6%                                                                                               | 1.6%               | 1.6%               | 1.6%               | 1.6%               | 1.6%              | 1.6%              | 1.6%     |
| 117.32                                        | 0.2% ad val.                   | 0.2%                                                                                               | 0.2%               | 0.2%               | 0.2%               | 0.2%               | 0.2%              | 0.2%              | 0.2%     |
| 117.34                                        | 1.7% ad val.                   | 1.6%                                                                                               | 1.6%               | 1.6%               | 1.6%               | 1.6%               | 1.6%              | 1.5%              | 1.5%     |
| 117.36                                        | 5% ad val.                     | 4.8%                                                                                               | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                | 3.8%              | 3.7%     |
| 117.38                                        | 4% ad val.                     | 3.9%                                                                                               | 3.7%               | 3.6%               | 3.6%               | 3.4%               | 3.3%              | 3.2%              | 3.1%     |
| 117.40                                        | 13.3% ad val.                  | 12.9%                                                                                              | 12.5%              | 12.1%              | 11.7%              | 11.2%              | 10.8%             | 10.4%             | 10%      |
| 117.42                                        | 16% ad val.                    | 15.4%                                                                                              | 14.8%              | 14.2%              | 13.6%              | 13%                | 12.4%             | 11.8%             | 11.2%    |
| 117.44                                        | 4% ad val.                     | 3.9%                                                                                               | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%              | 3.2%              | 3.1%     |

1 The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged  | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 -- |                    |                    |                  |                    |                    |                    |                |
|--------------------------------------------------|----------------------------|------------------------------------------------------------------------------------------------|--------------------|--------------------|------------------|--------------------|--------------------|--------------------|----------------|
|                                                  |                            | 1980                                                                                           | 1981               | 1982               | 1983             | 1984               | 1985               | 1986               | 1987           |
| Schedule 4, Part 2--Continued                    |                            |                                                                                                |                    |                    |                  |                    |                    |                    |                |
| 417.50                                           | 0.3c per lb.               | 0.3c/lb.                                                                                       | 0.2c/lb.           | 0.2c/lb.           | 0.1c/lb.         | 0.1c/lb.           | 0.1c/lb.           | Free               | Free           |
| 417.52                                           | 61 ad val.                 | 5.8%                                                                                           | 5.3%               | 5.3%               | 5.1%             | 4.9%               | 4.7%               | 4.4%               | 4.2%           |
| 417.54                                           | 10-1% ad val.              | 9.6%                                                                                           | 9%                 | 8.5%               | 8%               | 7.4%               | 6.9%               | 6.3%               | 5.8%           |
| 417.64                                           | 51 ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 417.70                                           | 5.9% ad val.               | 5.7%                                                                                           | 5.5%               | 5.3%               | 5.1%             | 4.8%               | 4.6%               | 4.4%               | 4.2%           |
| 417.72                                           | 3% ad val.                 | 2.9%                                                                                           | 2.9%               | 2.8%               | 2.8%             | 2.7%               | 2.6%               | 2.6%               | 2.5%           |
| 417.74                                           | 2.4% ad val.               | 2.3%                                                                                           | 2.3%               | 2.3%               | 2.2%             | 2.2%               | 2.1%               | 2.1%               | 2%             |
| 417.76                                           | 2.3% ad val.               | 2.2%                                                                                           | 2.2%               | 2.2%               | 2.2%             | 2.1%               | 2.1%               | 2%                 | 2%             |
| 417.78                                           | 2.3% ad val.               | 2.2%                                                                                           | 2.2%               | 2.2%               | 2.2%             | 2.1%               | 2.1%               | 2%                 | 2%             |
| 417.80                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 417.90                                           | 5% ad val.                 | 3.7%                                                                                           | 3.7%               | 3.7%               | 3.7%             | 3.7%               | 3.7%               | 3.7%               | 3.7%           |
| 417.92                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 418.00                                           | 14% ad val.                | 13.1%                                                                                          | 12.3%              | 11.4%              | 10.5%            | 9.6%               | 0.8%               | 7.9%               | 7%             |
| 418.14                                           | 2.1% ad val.               | 2%                                                                                             | 2%                 | 1.9%               | 1.9%             | 1.9%               | 1.9%               | 1.8%               | 1.6%           |
| 418.1b                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 418.22                                           | 6% ad val.                 | 5.6%                                                                                           | 5.1%               | 4.7%               | 4.2%             | 3.8%               | 3.3%               | 2.9%               | 2.4%           |
| 418.24                                           | 1.4% ad val.               | 1.3%                                                                                           | 1.3%               | 1.3%               | 1.3%             | 1.3%               | 1.3%               | 1.3%               | 1.3%           |
| 418.26                                           | 4.9% ad val.               | 4.6%                                                                                           | 4.6%               | 4.6%               | 4.6%             | 4.6%               | 4.6%               | 4.7%               | 4.7%           |
| 418.28                                           | 4.5% ad val.               | 4%                                                                                             | 3.4%               | 2.8%               | 2.3%             | 1.7%               | 1.1%               | 0.6%               | Free           |
| 418.30                                           | 11.3% ad val.              | 11.1%                                                                                          | 11%                | 10.8%              | 10.7%            | 10.5%              | 10.3%              | 10.2%              | 10%            |
| 418.32                                           | 5% ad val.                 | 4.4%                                                                                           | 3.8%               | 3.1%               | 2.5%             | 1.9%               | 1.3%               | 0.6%               | Free           |
| 418.40                                           | 15% ad val.                | 14%                                                                                            | 13.1%              | 12.1%              | 11.1%            | 10.1%              | 9.2%               | 8.2%               | 7.2%           |
| 418.42                                           | 15% ad val.                | 14%                                                                                            | 13.1%              | 12.1%              | 11.1%            | 10.1%              | 9.2%               | 8.2%               | 7.2%           |
| 418.44                                           | 15% ad val.                | 14%                                                                                            | 13.1%              | 12.1%              | 11.1%            | 10.1%              | 9.2%               | 8.2%               | 7.2%           |
| 418.50                                           | 6% ad val.                 | 5.8%                                                                                           | 5.5%               | 5.3%               | 5%               | 4.8%               | 4.5%               | 4.3%               | 4%             |
| 418.52                                           | 5% ad val.                 | 4.9%                                                                                           | 4.8%               | 4.6%               | 4.5%             | 4.4%               | 4.3%               | 4.1%               | 4%             |
| 418.62                                           | 1.5% ad val.               | 1.4%                                                                                           | 1.4%               | 1.4%               | 1.4%             | 1.4%               | 1.4%               | 1.4%               | 1.4%           |
| 418.68                                           | 6% ad val.                 | 5.8%                                                                                           | 5.6%               | 5.3%               | 5.1%             | 4.9%               | 4.7%               | 4.4%               | 4.2%           |
| 418.72                                           | 5.8% ad val.               | 5.6%                                                                                           | 5.4%               | 5.2%               | 5%               | 4.7%               | 4.5%               | 4.3%               | 4.1%           |
| 418.74                                           | 6.3% ad val.               | 6.1%                                                                                           | 5.8%               | 5.6%               | 5.3%             | 5.1%               | 4.8%               | 4.6%               | 4.3%           |
| 418.76                                           | 1.8% ad val.               | 1.4%                                                                                           | 1.4%               | 1.4%               | 1.4%             | 1.4%               | 1.4%               | 1.4%               | 1.4%           |
| 418.78                                           | 6.6% ad val.               | 6.3%                                                                                           | 5.9%               | 5.6%               | 5.3%             | 4.9%               | 4.6%               | 4.2%               | 3.9%           |
| 418.94                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.00                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.02                                           | 2.3% ad val.               | 2.2%                                                                                           | 2.2%               | 2.2%               | 2.1%             | 2.1%               | 2%                 | 2%                 | 1.9%           |
| 419.04                                           | 7.5% ad val.               | 7.2%                                                                                           | 6.8%               | 6.5%               | 6.2%             | 5.8%               | 5.5%               | 5.1%               | 4.8%           |
| 419.10                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.20                                           | 4% ad val.                 | 3.9%                                                                                           | 3.8%               | 3.7%               | 3.6%             | 3.4%               | 3.3%               | 3.2%               | 3.1%           |
| 419.22                                           | 0.25c per lb.              | 0.2c/lb.                                                                                       | 0.2c/lb.           | 0.2c/lb.           | 0.2c/lb.         | 0.2c/lb.           | 0.2c/lb.           | 0.2c/lb.           | 0.2c/lb.       |
| 419.24                                           | 1.4% ad val.               | 1.2%                                                                                           | 1.1%               | 0.9%               | 0.7%             | 0.5%               | 0.4%               | 0.2%               | Free           |
| 419.26                                           | 1.7% ad val.               | 1.6%                                                                                           | 1.6%               | 1.6%               | 1.6%             | 1.6%               | 1.6%               | 1.5%               | 1.5%           |
| 419.32                                           | 1c per lb.                 | 0.9c/lb.                                                                                       | 0.7c/lb.           | 0.6c/lb.           | 0.5c/lb.         | 0.4c/lb.           | 0.2c/lb.           | 0.1c/lb.           | Free           |
| 419.34                                           | 5% ad val.                 | 4.5%                                                                                           | 4.4%               | 4.3%               | 4.2%             | 4%                 | 3.9%               | 3.8%               | 3.7%           |
| 419.38                                           | 4% ad val.                 | 3.9%                                                                                           | 3.8%               | 3.7%               | 3.6%             | 3.4%               | 3.3%               | 3.2%               | 3.1%           |
| 419.40                                           | 5% ad val.                 | 4.6%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.42                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.44                                           | 7% ad val.                 | 6.7%                                                                                           | 6.4%               | 6.1%               | 5.9%             | 5.6%               | 5.3%               | 5%                 | 4.7%           |
| 419.50                                           | 9c per lb. +<br>6% ad val. | 8.6c/lb. +<br>5.8%                                                                             | 8.2c/lb. +<br>5.5% | 7.8c/lb. +<br>5.3% | 7.5c/lb. +<br>5% | 7.1c/lb. +<br>4.8% | 6.7c/lb. +<br>4.5% | 6.3c/lb. +<br>4.3% | 6c/lb. +<br>4% |
| 419.52                                           | 9c per lb. +<br>6% ad val. | 8.6c/lb. +<br>5.8%                                                                             | 8.2c/lb. +<br>5.5% | 7.8c/lb. +<br>5.3% | 7.5c/lb. +<br>5% | 7.1c/lb. +<br>4.8% | 6.7c/lb. +<br>4.5% | 6.3c/lb. +<br>4.3% | 6c/lb. +<br>4% |
| 419.54                                           | 9c per lb. +<br>6% ad val. | 8.6c/lb. +<br>5.8%                                                                             | 8.2c/lb. +<br>5.5% | 7.8c/lb. +<br>5.3% | 7.5c/lb. +<br>5% | 7.1c/lb. +<br>4.8% | 6.7c/lb. +<br>4.5% | 6.3c/lb. +<br>4.3% | 6c/lb. +<br>4% |
| 419.60                                           | 4.1% ad val.               | 4%                                                                                             | 3.9%               | 3.8%               | 3.7%             | 3.5%               | 3.4%               | 3.3%               | 3.2%           |
| 419.70                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.74                                           | 5% ad val.                 | 4.8%                                                                                           | 4.6%               | 4.3%               | 4.1%             | 3.9%               | 3.7%               | 3.4%               | 3.2%           |
| 419.76                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 419.80                                           | 4.5% ad val.               | 4.4%                                                                                           | 4.2%               | 4.1%               | 3.9%             | 3.8%               | 3.6%               | 3.5%               | 3.3%           |
| 419.82                                           | 12.7% ad val.              | 11.9%                                                                                          | 11.2%              | 10.4%              | 9.7%             | 8.9%               | 8.1%               | 7.4%               | 6.6%           |
| 419.84                                           | 5% ad val.                 | 4.4%                                                                                           | 3.8%               | 3.1%               | 2.5%             | 1.9%               | 1.3%               | 0.6%               | Free           |
| 419.90                                           | 5% ad val.                 | 4.8%                                                                                           | 4.7%               | 4.5%               | 4.4%             | 4.2%               | 4%                 | 3.9%               | 3.7%           |
| 420.00                                           | 0.5c per lb.               | 0.4c/lb.                                                                                       | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.         | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.       |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                       | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                     |                                    |           |           |           |           |           |
|--------------------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------|-------------------------------------|------------------------------------|-----------|-----------|-----------|-----------|-----------|
|                                                  |                                                 | 1980                                                                                   | 1981                                | 1982                               | 1983      | 1984      | 1985      | 1986      | 1987      |
| Schedule 4, Part 2--Continued                    |                                                 |                                                                                        |                                     |                                    |           |           |           |           |           |
| 420.02                                           | 2c per lb.                                      | 1.9c/lb.                                                                               | 1.9c/lb.                            | 1.8c/lb.                           | 1.7c/lb.  | 1.7c/lb.  | 1.6c/lb.  | 1.5c/lb.  | 1.5c/lb.  |
| 420.04                                           | 2.31 ad val.                                    | 2.22                                                                                   | 2.22                                | 2.22                               | 2.12      | 2.12      | 22        | 22        | 1.92      |
| 420.06                                           | 4.41 ad val.                                    | 4.32                                                                                   | 4.12                                | 42                                 | 3.92      | 3.72      | 3.62      | 3.42      | 3.32      |
| 420.08                                           | 1.71 ad val.                                    | 1.62                                                                                   | 1.62                                | 1.62                               | 1.62      | 1.62      | 1.62      | 1.52      | 1.52      |
| 420.14                                           | 1.8c per lb.                                    | 1.8c/lb.                                                                               | 1.7c/lb.                            | 1.7c/lb.                           | 1.7c/lb.  | 1.6c/lb.  | 1.6c/lb.  | 1.5c/lb.  | 1.5c/lb.  |
| 421.16                                           | 0.8c per lb.                                    | 0.7c/lb.                                                                               | 0.7c/lb.                            | 0.7c/lb.                           | 0.7c/lb.  | 0.7c/lb.  | 0.7c/lb.  | 0.7c/lb.  | 0.7c/lb.  |
| 420.18                                           | 0.15c per lb.                                   | 0.13c/lb.                                                                              | 0.11c/lb.                           | 0.09c/lb.                          | 0.07c/lb. | 0.06c/lb. | 0.04c/lb. | 0.02c/lb. | Free      |
| 420.20                                           | 3.52 ad val.                                    | 3.42                                                                                   | 3.32                                | 3.22                               | 3.22      | 3.12      | 32        | 2.92      | 2.82      |
| 420.22                                           | 3.82 ad val.                                    | 3.72                                                                                   | 3.62                                | 3.52                               | 3.42      | 3.32      | 3.22      | 3.12      | 32        |
| 420.24                                           | 2.92 ad val.                                    | 2.82                                                                                   | 2.82                                | 2.72                               | 2.72      | 2.62      | 2.52      | 2.52      | 2.42      |
| 420.26                                           | 1.31 ad val.                                    | 1.12                                                                                   | 12                                  | 0.82                               | 0.72      | 0.52      | 0.32      | 0.22      | Free      |
| 420.28                                           | 7.81 ad val.                                    | 7.52                                                                                   | 7.12                                | 6.82                               | 6.42      | 6.12      | 5.72      | 5.42      | 52        |
| 420.30                                           | 42 ad val.                                      | 3.92                                                                                   | 3.82                                | 3.72                               | 3.62      | 3.42      | 3.32      | 3.12      | 3.12      |
| 420.32                                           | 252 ad val.                                     | 23.12                                                                                  | 21.32                               | 19.42                              | 17.52     | 15.62     | 13.82     | 11.92     | 102       |
| 420.34                                           | 162 ad val.                                     | 15.42                                                                                  | 14.82                               | 14.22                              | 13.62     | 132       | 12.42     | 11.82     | 11.22     |
| 420.36                                           | 42 ad val.                                      | 3.92                                                                                   | 3.82                                | 3.72                               | 3.62      | 3.42      | 3.32      | 3.12      | 3.12      |
| 420.40                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 420.44                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 420.48                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 420.52                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.12      |
| 420.70                                           | 0.4c per lb.                                    | 0.3c/lb.                                                                               | 0.3c/lb.                            | 0.3c/lb.                           | 0.3c/lb.  | 0.3c/lb.  | 0.3c/lb.  | 0.3c/lb.  | 0.3c/lb.  |
| 420.72                                           | 0.05c per lb.                                   | 0.06c/lb.                                                                              | 0.05c/lb.                           | 0.05c/lb.                          | 0.04c/lb. | 0.04c/lb. | 0.04c/lb. | 0.03c/lb. | 0.03c/lb. |
| 420.74                                           | 8c per lb.                                      | 7.4c/lb.                                                                               | 6.7c/lb.                            | 6.1c/lb.                           | 5.5c/lb.  | 4.9c/lb.  | 4.2c/lb.  | 3c/lb.    | 3c/lb.    |
| 420.76                                           | 1.31 ad val.                                    | 1.22                                                                                   | 1.22                                | 1.22                               | 1.22      | 1.22      | 1.22      | 1.22      | 1.22      |
| 420.80                                           | 0.2c per lb.                                    | 0.2c/lb.                                                                               | 0.2c/lb.                            | 0.2c/lb.                           | 0.1c/lb.  | 0.1c/lb.  | 0.1c/lb.  | 0.1c/lb.  | 0.1c/lb.  |
| 421.88                                           | 3.22 ad val.                                    | 2.82                                                                                   | 2.42                                | 22                                 | 1.62      | 1.22      | 0.82      | 0.42      | Free      |
| 421.92                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.94                                           | 32 ad val.                                      | 2.62                                                                                   | 2.32                                | 1.92                               | 1.52      | 1.12      | 0.82      | 0.42      | Free      |
| 421.98                                           | 2.91 ad val.                                    | 2.82                                                                                   | 2.82                                | 2.72                               | 2.72      | 2.62      | 2.52      | 2.52      | 2.42      |
| 421.04                                           | 1.42 ad val.                                    | 1.82                                                                                   | 1.82                                | 1.82                               | 1.82      | 1.82      | 1.82      | 1.72      | 1.72      |
| 421.08                                           | 0.2c per lb.                                    | 0.15c/lb.                                                                              | 0.15c/lb.                           | 0.1c/lb.                           | 0.1c/lb.  | 0.05c/lb. | 0.05c/lb. | Free      | Free      |
| 421.10                                           | 5.11 ad val.                                    | 4.92                                                                                   | 4.82                                | 4.62                               | 4.42      | 4.22      | 4.12      | 3.92      | 3.72      |
| 421.14                                           | 21.5 ad val.                                    | 19.92                                                                                  | 18.32                               | 16.72                              | 15.12     | 13.42     | 11.82     | 10.22     | 8.62      |
| 421.16                                           | 1.62 ad val.                                    | 1.52                                                                                   | 1.52                                | 1.52                               | 1.52      | 1.52      | 1.52      | 1.42      | 1.42      |
| 421.18                                           | 3.12 ad val.                                    | 32                                                                                     | 32                                  | 2.92                               | 2.82      | 2.72      | 2.72      | 2.62      | 2.52      |
| 421.22                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.24                                           | 1.21 ad val.                                    | 1.12                                                                                   | 1.12                                | 1.12                               | 1.12      | 1.12      | 1.12      | 1.12      | 1.12      |
| 421.26                                           | 5.82 ad val.                                    | 5.62                                                                                   | 5.42                                | 5.22                               | 52        | 4.72      | 4.32      | 4.12      | 4.12      |
| 421.44                                           | 42c per ton                                     | 39c/ton                                                                                | 38c/ton                             | 37c/ton                            | 36c/ton   | 35c/ton   | 34c/ton   | 33c/ton   | 33c/ton   |
| 421.46                                           | 3.12 ad val.                                    | 32                                                                                     | 32                                  | 2.92                               | 2.82      | 2.72      | 2.72      | 2.62      | 2.52      |
| 421.52                                           | 3.61 ad val.                                    | 3.52                                                                                   | 3.42                                | 3.32                               | 3.32      | 3.22      | 3.12      | 32        | 2.92      |
| 421.54                                           | 1.81 ad val.                                    | 1.72                                                                                   | 1.72                                | 1.72                               | 1.62      | 1.62      | 1.62      | 1.52      | 1.52      |
| 421.56                                           | 12.72 ad val.                                   | 12.42                                                                                  | 122                                 | 11.72                              | 11.42     | 112       | 10.72     | 10.32     | 102       |
| 421.60                                           | 162 ad val.                                     | 15.42                                                                                  | 14.82                               | 14.22                              | 13.62     | 132       | 12.42     | 11.82     | 11.22     |
| 421.62                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.72                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 421.74                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 421.76                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 421.84                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.88                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.90                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.92                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.94                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.96                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 421.98                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 422.00                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 422.02                                           | 52 ad val.                                      | 4.82                                                                                   | 4.72                                | 4.52                               | 4.42      | 4.22      | 42        | 3.72      | 3.72      |
| 422.04                                           | 17.52 ad val.                                   | 16.32                                                                                  | 15.12                               | 13.92                              | 12.72     | 11.42     | 10.22     | 92        | 7.82      |
| 422.12                                           | 17.52 ad val.                                   | 16.32                                                                                  | 15.12                               | 13.92                              | 12.72     | 11.42     | 10.22     | 92        | 7.82      |
| 422.14                                           | 17.52 ad val.                                   | 16.32                                                                                  | 15.12                               | 13.92                              | 12.72     | 11.42     | 10.22     | 92        | 7.82      |
| 422.20                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 422.24                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 422.26                                           | 62 ad val.                                      | 5.82                                                                                   | 5.62                                | 5.32                               | 5.12      | 4.92      | 4.72      | 4.42      | 4.22      |
| 422.30                                           | 7.52 ad val.                                    | 7.22                                                                                   | 6.92                                | 6.52                               | 6.22      | 5.92      | 5.62      | 5.22      | 4.92      |
| 422.40                                           | 21c per lb. on tungsten content + 12.52 ad val. | 16c/lb. on tungsten content + 12.52                                                    | 10c/lb. on tungsten content + 12.52 | 5c/lb. on tungsten content + 12.52 | 12.52     | 122       | 11.52     | 112       | 10.52     |



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                         | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
|--------------------------------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
|                                                  |                                                                                   | 1980                                                                                   | 1981                                                                        | 1982                                                                        | 1983                                                                        | 1984                                                                        | 1985                                                                      | 1986                                                                        | 1987                                                                        |
| Schedule 4, Part 3--Continued                    |                                                                                   |                                                                                        |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
| 436.00                                           | The rate provided for such product in this sub-part, but not less than 5% ad val. | The rate provided for such product in this sub-part, but not less than 4.8%            | The rate provided for such product in this sub-part, but not less than 4.7% | The rate provided for such product in this sub-part, but not less than 4.5% | The rate provided for such product in this sub-part, but not less than 4.4% | The rate provided for such product in this sub-part, but not less than 4.2% | The rate provided for such product in this sub-part, but not less than 4% | The rate provided for such product in this sub-part, but not less than 3.9% | The rate provided for such product in this sub-part, but not less than 3.7% |
| 437.55                                           | 6% ad val.                                                                        | 5.8%                                                                                   | 5.6%                                                                        | 5.3%                                                                        | 5.1%                                                                        | 4.9%                                                                        | 4.7%                                                                      | 4.4%                                                                        | 4.2%                                                                        |
| 437.60                                           | 5% ad val.                                                                        | 4.8%                                                                                   | 4.7%                                                                        | 4.5%                                                                        | 4.4%                                                                        | 4.2%                                                                        | 4%                                                                        | 3.9%                                                                        | 3.7%                                                                        |
| 437.74                                           | 30% ad val.                                                                       | 27.8%                                                                                  | 25.5%                                                                       | 23.3%                                                                       | 21%                                                                         | 18.8%                                                                       | 16.5%                                                                     | 14.3%                                                                       | 12%                                                                         |
| 437.86                                           | 4% ad val.                                                                        | 3.8%                                                                                   | 3.7%                                                                        | 3.5%                                                                        | 3.4%                                                                        | 3.2%                                                                        | 3%                                                                        | 2.9%                                                                        | 2.7%                                                                        |
| 438.01                                           | 4% ad val.                                                                        | 3.9%                                                                                   | 3.8%                                                                        | 3.7%                                                                        | 3.6%                                                                        | 3.4%                                                                        | 3.3%                                                                      | 3.2%                                                                        | 3.1%                                                                        |
| 438.02                                           | The rate provided for such product in this sub-part, but not less than 5% ad val. | The rate provided for such product in this sub-part, but not less than 4.8%            | The rate provided for such product in this sub-part, but not less than 4.7% | The rate provided for such product in this sub-part, but not less than 4.5% | The rate provided for such product in this sub-part, but not less than 4.4% | The rate provided for such product in this sub-part, but not less than 4.2% | The rate provided for such product in this sub-part, but not less than 4% | The rate provided for such product in this sub-part, but not less than 3.9% | The rate provided for such product in this sub-part, but not less than 3.7% |
| 439.50                                           | 5% ad val.                                                                        | 3.7%                                                                                   | 3.7%                                                                        | 3.7%                                                                        | 3.7%                                                                        | 3.7%                                                                        | 3.7%                                                                      | 3.7%                                                                        | 3.7%                                                                        |
| 440.00                                           | The rate provided for such product in this sub-part, but not less than 5% ad val. | The rate provided for such product in this sub-part, but not less than 4.8%            | The rate provided for such product in this sub-part, but not less than 4.7% | The rate provided for such product in this sub-part, but not less than 4.5% | The rate provided for such product in this sub-part, but not less than 4.4% | The rate provided for such product in this sub-part, but not less than 4.2% | The rate provided for such product in this sub-part, but not less than 4% | The rate provided for such product in this sub-part, but not less than 3.9% | The rate provided for such product in this sub-part, but not less than 3.7% |
| Schedule 4, Part 4                               |                                                                                   |                                                                                        |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
| 440.10                                           | 5% ad val.                                                                        | 4.4%                                                                                   | 3.8%                                                                        | 3.1%                                                                        | 2.5%                                                                        | 1.9%                                                                        | 1.3%                                                                      | 0.6%                                                                        | Free                                                                        |
| 440.15                                           | 3% ad val.                                                                        | 2.6%                                                                                   | 2.3%                                                                        | 1.9%                                                                        | 1.5%                                                                        | 1.1%                                                                        | 0.8%                                                                      | 0.4%                                                                        | Free                                                                        |
| 440.30                                           | 5% ad val.                                                                        | 4.4%                                                                                   | 3.8%                                                                        | 3.1%                                                                        | 2.5%                                                                        | 1.9%                                                                        | 1.3%                                                                      | 0.6%                                                                        | Free                                                                        |
| Schedule 4, Part 5                               |                                                                                   |                                                                                        |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
| 450.10                                           | 6% ad val.                                                                        | 5.8%                                                                                   | 5.6%                                                                        | 5.3%                                                                        | 5.1%                                                                        | 4.9%                                                                        | 4.7%                                                                      | 4.4%                                                                        | 4.2%                                                                        |
| 452.24                                           | 3.5% ad val.                                                                      | 3.4%                                                                                   | 3.3%                                                                        | 3.2%                                                                        | 3.2%                                                                        | 3.1%                                                                        | 3%                                                                        | 2.9%                                                                        | 2.8%                                                                        |
| 452.48                                           | 2% ad val.                                                                        | 2.9%                                                                                   | 2.9%                                                                        | 2.8%                                                                        | 2.8%                                                                        | 2.7%                                                                        | 2.6%                                                                      | 2.6%                                                                        | 2.5%                                                                        |
| 452.54                                           | 12.5% ad val.                                                                     | 11.8%                                                                                  | 11%                                                                         | 10.3%                                                                       | 9.6%                                                                        | 8.8%                                                                        | 8.1%                                                                      | 7.3%                                                                        | 6.6%                                                                        |
| 452.58                                           | 2% ad val.                                                                        | 1.8%                                                                                   | 1.5%                                                                        | 1.3%                                                                        | 1%                                                                          | 0.8%                                                                        | 0.5%                                                                      | 0.3%                                                                        | Free                                                                        |
| 452.80                                           | 3% ad val.                                                                        | 2.6%                                                                                   | 2.3%                                                                        | 1.9%                                                                        | 1.5%                                                                        | 1.1%                                                                        | 0.8%                                                                      | 0.4%                                                                        | Free                                                                        |
| Schedule 4, Part 6                               |                                                                                   |                                                                                        |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
| 455.02                                           | 7.5% ad val.                                                                      | 6.9%                                                                                   | 6.4%                                                                        | 5.8%                                                                        | 5.3%                                                                        | 4.7%                                                                        | 4.1%                                                                      | 3.6%                                                                        | 3%                                                                          |
| 455.06                                           | 8.5% ad val.                                                                      | 8.1%                                                                                   | 7.7%                                                                        | 7.3%                                                                        | 6.9%                                                                        | 6.5%                                                                        | 6.1%                                                                      | 5.7%                                                                        | 5.3%                                                                        |
| 455.30                                           | 0.5% per lb. + 5% ad val.                                                         | 0.4% per lb. + 5.6%                                                                    | 0.4% per lb. + 5.1%                                                         | 0.3% per lb. + 4.7%                                                         | 0.3% per lb. + 4.2%                                                         | 0.3% per lb. + 3.8%                                                         | 0.2% per lb. + 3.3%                                                       | 0.2% per lb. + 2.9%                                                         | 0.2% per lb. + 2.4%                                                         |
| 455.32                                           | 2% per lb. + 6% ad val.                                                           | 1.9% per lb. + 5.7%                                                                    | 1.8% per lb. + 5.4%                                                         | 1.7% per lb. + 5.1%                                                         | 1.6% per lb. + 4.8%                                                         | 1.5% per lb. + 4.5%                                                         | 1.4% per lb. + 4.2%                                                       | 1.3% per lb. + 3.9%                                                         | 1.2% per lb. + 3.6%                                                         |
| 455.36                                           | 0.1% per lb. + 1.5% ad val.                                                       | 0.2% per lb. + 3.1%                                                                    | 0.2% per lb. + 2.6%                                                         | 0.1% per lb. + 2.2%                                                         | 0.1% per lb. + 1.8%                                                         | 0.1% per lb. + 1.3%                                                         | 0.9%                                                                      | 0.4%                                                                        | Free                                                                        |
| 455.38                                           | 2% per lb. + 6% ad val.                                                           | 1.8% per lb. + 5.6%                                                                    | 1.7% per lb. + 5.1%                                                         | 1.5% per lb. + 4.7%                                                         | 1.4% per lb. + 4.2%                                                         | 1.2% per lb. + 3.8%                                                         | 1.1% per lb. + 3.3%                                                       | 0.9% per lb. + 2.9%                                                         | 0.8% per lb. + 2.4%                                                         |
| Schedule 4, Part 7                               |                                                                                   |                                                                                        |                                                                             |                                                                             |                                                                             |                                                                             |                                                                           |                                                                             |                                                                             |
| 460.85                                           | 8% per lb. + 8% ad val.                                                           | 7.5% per lb. + 5.8%                                                                    | 7% per lb. + 5.5%                                                           | 6.5% per lb. + 5.3%                                                         | 6.5% per lb. + 5.1%                                                         | 6% per lb. + 4.8%                                                           | 5.5% per lb. + 4.6%                                                       | 5% per lb. + 4.3%                                                           | 5% per lb. + 4.1%                                                           |
| 460.90                                           | 8% per lb. + 7.5% ad val.                                                         | 7.5% per lb. + 5.8%                                                                    | 7% per lb. + 5.5%                                                           | 6.5% per lb. + 5.3%                                                         | 6.5% per lb. + 5.1%                                                         | 6% per lb. + 4.8%                                                           | 5.5% per lb. + 4.6%                                                       | 5% per lb. + 4.3%                                                           | 5% per lb. + 4.1%                                                           |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                        |                        |                        |                        |                        |                        |                        |
|--------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
|                                                  |                                | 1980                                                                                   | 1981                   | 1982                   | 1983                   | 1984                   | 1985                   | 1986                   | 1987                   |
| Schedule 4, Part 7--Continued                    |                                |                                                                                        |                        |                        |                        |                        |                        |                        |                        |
| 461.10                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                     | 8.4%                   | 7.9%                   | 7.4%                   | 6.9%                   | 6.3%                   | 5.8%                   |
| 461.15                                           | 8% per lb. +<br>12% ad val.    | 7.5% per lb. +<br>11.3%                                                                | 7% per lb. +<br>10.5%  | 6.5% per lb. +<br>9.6% | 6% per lb. +<br>9.1%   | 5.5% per lb. +<br>8.3% | 5% per lb. +<br>7.6%   | 4.5% per lb. +<br>6.8% | 4% per lb. +<br>6.1%   |
| 461.20                                           | 4% ad val.                     | 3.5%                                                                                   | 3%                     | 2.5%                   | 2%                     | 1.5%                   | 1%                     | 0.5%                   | Free                   |
| 461.30                                           | 7.5% ad val.                   | 7.2%                                                                                   | 6.9%                   | 6.6%                   | 6.3%                   | 5.9%                   | 5.6%                   | 5.3%                   | 5%                     |
| 461.35                                           | 8% per lb. +<br>7.5% ad val.   | 7% per lb. +<br>7.2%                                                                   | 6% per lb. +<br>6.9%   | 5% per lb. +<br>6.6%   | 4% per lb. +<br>6.3%   | 3% per lb. +<br>5.9%   | 2% per lb. +<br>5.6%   | 1% per lb. +<br>5.3%   | 5%                     |
| 461.40                                           | 7.5% ad val.                   | 7.2%                                                                                   | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                   | 5.2%                   | 4.9%                   |
| 461.45                                           | 8% per lb. +<br>7.5% ad val.   | 7.5% per lb. +<br>7.1%                                                                 | 7% per lb. +<br>6.8%   | 6.5% per lb. +<br>6.4% | 6.5% per lb. +<br>6%   | 6% per lb. +<br>5.6%   | 5.5% per lb. +<br>5.3% | 5% per lb. +<br>4.8%   | 4.5% per lb. +<br>4.5% |
| Schedule 4, Part 8                               |                                |                                                                                        |                        |                        |                        |                        |                        |                        |                        |
| 465.05                                           | 1.5% per lb. +<br>7.5% ad val. | 1.4% per lb. +<br>7.1%                                                                 | 1.3% per lb. +<br>6.7% | 1.2% per lb. +<br>6.3% | 1.2% per lb. +<br>5.9% | 1.1% per lb. +<br>5.5% | 1% per lb. +<br>5.1%   | 0.9% per lb. +<br>4.7% | 0.9% per lb. +<br>4.3% |
| 465.10                                           | 1.6% per lb. +<br>7.5% ad val. | 1.7% per lb. +<br>7.1%                                                                 | 1.6% per lb. +<br>6.8% | 1.5% per lb. +<br>6.4% | 1.4% per lb. +<br>6%   | 1.3% per lb. +<br>5.6% | 1.2% per lb. +<br>5.2% | 1.1% per lb. +<br>4.9% | 1% per lb. +<br>4.5%   |
| 465.15                                           | 1.5% per lb. +<br>7.5% ad val. | 1.4% per lb. +<br>7.1%                                                                 | 1.3% per lb. +<br>6.8% | 1.3% per lb. +<br>6.4% | 1.2% per lb. +<br>6%   | 1.1% per lb. +<br>5.6% | 1.1% per lb. +<br>5.2% | 1% per lb. +<br>4.9%   | 1% per lb. +<br>4.5%   |
| 465.20                                           | 1.8% per lb. +<br>7.5% ad val. | 1.7% per lb. +<br>7.1%                                                                 | 1.6% per lb. +<br>6.8% | 1.5% per lb. +<br>6.4% | 1.4% per lb. +<br>6%   | 1.3% per lb. +<br>5.6% | 1.2% per lb. +<br>5.2% | 1.1% per lb. +<br>4.9% | 1% per lb. +<br>4.5%   |
| 465.25                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.30                                           | 0.7% per lb. +<br>5% ad val.   | 0.7% per lb. +<br>4.6%                                                                 | 0.6% per lb. +<br>4.6% | 0.6% per lb. +<br>4.4% | 0.6% per lb. +<br>4.2% | 0.6% per lb. +<br>4%   | 0.5% per lb. +<br>3.8% | 0.5% per lb. +<br>3.6% | 0.5% per lb. +<br>3.4% |
| 465.35                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.40                                           | 0.7% per lb. +<br>5% ad val.   | 0.7% per lb. +<br>4.6%                                                                 | 0.6% per lb. +<br>4.6% | 0.6% per lb. +<br>4.4% | 0.6% per lb. +<br>4.2% | 0.6% per lb. +<br>4%   | 0.5% per lb. +<br>3.8% | 0.5% per lb. +<br>3.6% | 0.5% per lb. +<br>3.4% |
| 465.45                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.50                                           | 0.7% per lb. +<br>5% ad val.   | 0.7% per lb. +<br>4.6%                                                                 | 0.6% per lb. +<br>4.6% | 0.6% per lb. +<br>4.4% | 0.6% per lb. +<br>4.2% | 0.6% per lb. +<br>4%   | 0.5% per lb. +<br>3.9% | 0.5% per lb. +<br>3.7% | 0.5% per lb. +<br>3.5% |
| 465.55                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.60                                           | 0.3% per lb. +<br>5% ad val.   | 0.3% per lb. +<br>4.6%                                                                 | 0.2% per lb. +<br>4.7% | 0.2% per lb. +<br>4.5% | 0.2% per lb. +<br>4.3% | 0.2% per lb. +<br>4.1% | 0.2% per lb. +<br>4%   | 0.2% per lb. +<br>3.8% | 0.2% per lb. +<br>3.6% |
| 465.65                                           | 7% ad val.                     | 6.5%                                                                                   | 6%                     | 5.4%                   | 4.9%                   | 4.4%                   | 3.9%                   | 3.4%                   | 3.2%                   |
| 465.70                                           | 0.3% per lb. +<br>7% ad val.   | 0.2% per lb. +<br>6.5%                                                                 | 0.2% per lb. +<br>6.1% | 0.2% per lb. +<br>5.6% | 0.1% per lb. +<br>5.1% | 0.1% per lb. +<br>4.6% | 0.1% per lb. +<br>4.2% | 0.1% per lb. +<br>3.7% | 0.1% per lb. +<br>3.2% |
| 465.75                                           | 1% per lb. +<br>7% ad val.     | 0.9% per lb. +<br>6.5%                                                                 | 0.8% per lb. +<br>6%   | 0.7% per lb. +<br>5.4% | 0.7% per lb. +<br>4.9% | 0.6% per lb. +<br>4.4% | 0.5% per lb. +<br>3.9% | 0.4% per lb. +<br>3.4% | 0.4% per lb. +<br>2.9% |
| 465.80                                           | 0.7% per lb. +<br>7% ad val.   | 0.6% per lb. +<br>6.7%                                                                 | 0.6% per lb. +<br>6.3% | 0.6% per lb. +<br>5.7% | 0.5% per lb. +<br>5.2% | 0.5% per lb. +<br>4.7% | 0.4% per lb. +<br>4.2% | 0.4% per lb. +<br>3.7% | 0.4% per lb. +<br>3.2% |
| 465.85                                           | 7% ad val.                     | 6.7%                                                                                   | 6.4%                   | 6.1%                   | 5.9%                   | 5.6%                   | 5.3%                   | 5%                     | 4.7%                   |
| 465.90                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.92                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 465.95                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.8%                   | 3.7%                   |
| 466.05                                           | 4% ad val.                     | 3.9%                                                                                   | 3.8%                   | 3.7%                   | 3.6%                   | 3.4%                   | 3.3%                   | 3.2%                   | 3.1%                   |
| 466.10                                           | 0.5% per lb. +<br>5% ad val.   | 0.3% per lb. +<br>3.3%                                                                 | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% | 0.3% per lb. +<br>3.3% |
| 466.15                                           | 0.8% per lb. +<br>5% ad val.   | 0.6% per lb. +<br>4.8%                                                                 | 0.7% per lb. +<br>4.7% | 0.6% per lb. +<br>4.5% | 0.6% per lb. +<br>4.3% | 0.6% per lb. +<br>4.1% | 0.5% per lb. +<br>4%   | 0.5% per lb. +<br>3.8% | 0.5% per lb. +<br>3.6% |
| 466.20                                           | 7% ad val.                     | 6.7%                                                                                   | 6.4%                   | 6.1%                   | 5.9%                   | 5.6%                   | 5.3%                   | 5%                     | 4.7%                   |
| 466.25                                           | 0.5% per lb. +<br>4% ad val.   | 0.4% per lb. +<br>3.9%                                                                 | 0.4% per lb. +<br>3.7% | 0.4% per lb. +<br>3.6% | 0.4% per lb. +<br>3.5% | 0.4% per lb. +<br>3.3% | 0.4% per lb. +<br>3.2% | 0.4% per lb. +<br>3%   | 0.4% per lb. +<br>2.9% |
| 466.30                                           | 5% ad val.                     | 4.4%                                                                                   | 4.4%                   | 4.2%                   | 4.2%                   | 4%                     | 3.8%                   | 3.6%                   | Free                   |
| Schedule 4, Part 9                               |                                |                                                                                        |                        |                        |                        |                        |                        |                        |                        |
| 472.04                                           | 6% ad val.                     | 5.8%                                                                                   | 5.7%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                   | 4.4%                   | 4.2%                   |
| 472.06                                           | 0.8% per lb.                   | 0.6% per lb.                                                                           | 0.5% per lb.           | 0.5% per lb.           | 0.5% per lb.           | 0.4% per lb.           | 0.4% per lb.           | 0.4% per lb.           | 0.4% per lb.           |
| 472.14                                           | 0.3% per lb.                   | 0.2% per lb.                                                                           | 0.2% per lb.           | 0.2% per lb.           | 0.2% per lb.           | 0.2% per lb.           | 0.2% per lb.           | 0.2% per lb.           | 0.2% per lb.           |
| 472.22                                           | 1.6% ad val.                   | 1.5%                                                                                   | 1.5%                   | 1.5%                   | 1.5%                   | 1.5%                   | 1.5%                   | 1.4%                   | 1.4%                   |
| 472.24                                           | 5% ad val.                     | 4.4%                                                                                   | 4.4%                   | 4.2%                   | 4.2%                   | 4%                     | 3.8%                   | 3.6%                   | Free                   |
| 472.30                                           | 4.4% ad val.                   | 8.2%                                                                                   | 7.8%                   | 7.4%                   | 7%                     | 6.5%                   | 6.1%                   | 5.7%                   | 5.3%                   |
| 472.44                                           | 2.3% ad val.                   | 2.2%                                                                                   | 2.2%                   | 2.2%                   | 2.2%                   | 2.1%                   | 2.1%                   | 2%                     | 2%                     |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged   | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|-----------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                             | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule 4, Part 9--Continued                    |                             |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 472.48                                           | 0.09c per lb.               | 0.08c/lb.                                                                              | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          |
| 472.50                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 473.02                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.06                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.14                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.16                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.19                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.24                                           | 8.4% ad val.                | 8%                                                                                     | 7.6%               | 7.1%               | 6.7%               | 6.3%               | 5.9%               | 5.4%               | 5%                 |
| 473.28                                           | 4% ad val.                  | 3.7%                                                                                   | 3.7%               | 3.7%               | 3.7%               | 3.7%               | 3.7%               | 3.7%               | 3.7%               |
| 473.30                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 473.32                                           | 0.06c per lb.               | 0.06c/lb.                                                                              | 0.05c/lb.          | 0.05c/lb.          | 0.05c/lb.          | 0.05c/lb.          | 0.04c/lb.          | 0.04c/lb.          | 0.04c/lb.          |
| 473.38                                           | 0.09c per lb.               | 0.08c/lb.                                                                              | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          | 0.08c/lb.          |
| 473.46                                           | 1.2% ad val.                | 1.2%                                                                                   | 1.2%               | 1.2%               | 1.2%               | 1.2%               | 1.2%               | 1.2%               | 1.2%               |
| 473.48                                           | 4.3% ad val.                | 4.3%                                                                                   | 4.3%               | 4.3%               | 4.3%               | 4.3%               | 4.3%               | 4.3%               | 4.3%               |
| 473.52                                           | 6% ad val.                  | 3%                                                                                     | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               |
| 473.54                                           | 2.8% ad val.                | 2.7%                                                                                   | 2.7%               | 2.6%               | 2.6%               | 2.5%               | 2.4%               | 2.4%               | 2.3%               |
| 473.56                                           | 8.6% ad val.                | 5.6%                                                                                   | 3.4%               | 3.4%               | 3.4%               | 3.4%               | 3.4%               | 3.4%               | 3.4%               |
| 473.60                                           | 1.4% ad val.                | 0.5%                                                                                   | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               |
| 473.66                                           | 4.1% ad val.                | 4.1%                                                                                   | 4.1%               | 4.1%               | 4.1%               | 4.1%               | 4.1%               | 4.1%               | 4.1%               |
| 473.70                                           | 7.5% ad val.                | 7.3%                                                                                   | 7.1%               | 6.9%               | 6.8%               | 6.6%               | 6.4%               | 6.2%               | 6%                 |
| 473.76                                           | 1.6% ad val.                | 1.4%                                                                                   | 1%                 | 0.8%               | 0.6%               | 0.4%               | 0.2%               | Free               | Free               |
| 473.80                                           | 3.6% ad val.                | 3.5%                                                                                   | 3.4%               | 3.3%               | 3.2%               | 3.1%               | 3%                 | 2.9%               | 2.8%               |
| 473.86                                           | 8.5% ad val.                | 8.1%                                                                                   | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%               | 5.7%               | 5.3%               |
| Schedule 4, Part 10                              |                             |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 475.55                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 475.60                                           | 1c per lb. +<br>10% ad val. | 0.9c/lb. +<br>9.5%                                                                     | 0.9c/lb. +<br>8.9% | 0.8c/lb. +<br>8.4% | 0.8c/lb. +<br>7.9% | 0.7c/lb. +<br>7.3% | 0.7c/lb. +<br>6.8% | 0.6c/lb. +<br>6.2% | 0.6c/lb. +<br>5.7% |
| Schedule 4, Part 12                              |                             |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 485.10                                           | 0.37c per lb.               | 0.32c/lb.                                                                              | 0.28c/lb.          | 0.23c/lb.          | 0.19c/lb.          | 0.14c/lb.          | 0.09c/lb.          | 0.05c/lb.          | Free               |
| 485.20                                           | 4c per lb.                  | 3.9c/lb.                                                                               | 3.8c/lb.           | 3.6c/lb.           | 3.5c/lb.           | 3.4c/lb.           | 3.3c/lb.           | 3.1c/lb.           | 3c/lb.             |
| 485.30                                           | 15% ad val.                 | 14%                                                                                    | 13.1%              | 12.1%              | 11.1%              | 10.1%              | 9.2%               | 8.2%               | 7.2%               |
| Schedule 4, Part 13                              |                             |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 490.05                                           | 16% ad val.                 | 14.9%                                                                                  | 13.9%              | 12.8%              | 11.7%              | 10.6%              | 9.6%               | 8.5%               | 7.4%               |
| 490.30                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 490.32                                           | 6.1% ad val.                | 5.9%                                                                                   | 5.6%               | 5.4%               | 5.2%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               |
| 490.42                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 490.44                                           | 11.1% ad val.               | 10.5%                                                                                  | 9.9%               | 9.3%               | 8.7%               | 8%                 | 7.4%               | 6.8%               | 6.2%               |
| 490.46                                           | 5.6% ad val.                | 5.4%                                                                                   | 5.2%               | 5%                 | 4.8%               | 4.6%               | 4.4%               | 4.2%               | 4%                 |
| 490.48                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 490.50                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 490.65                                           | 7.9% ad val.                | 7.9%                                                                                   | 7.9%               | 7.9%               | 7.9%               | 7.9%               | 7.9%               | 7.9%               | 7.9%               |
| 490.90                                           | 5.4% ad val.                | 5.2%                                                                                   | 5%                 | 4.8%               | 4.6%               | 4.4%               | 4.2%               | 4%                 | 3.8%               |
| 490.92                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 490.94                                           | 5% ad val.                  | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 493.10                                           | 3% ad val.                  | 2.9%                                                                                   | 2.9%               | 2.8%               | 2.8%               | 2.7%               | 2.6%               | 2.5%               | 2.5%               |
| 493.21                                           | 2.4c per lb.                | Free                                                                                   | Free               | Free               | Free               | Free               | Free               | Free               | Free               |
| 493.25                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 493.26                                           | 7.5% ad val.                | 7.2%                                                                                   | 6.8%               | 6.5%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               | 4.8%               |
| 493.30                                           | 1.125c per lb.              | 1.05c/lb.                                                                              | 0.97c/lb.          | 0.89c/lb.          | 0.81c/lb.          | 0.74c/lb.          | 0.66c/lb.          | 0.58c/lb.          | 0.50c/lb.          |
| 493.46                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 493.68                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 493.82                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 494.40                                           | 0.5c per lb.                | 0.4c/lb.                                                                               | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           | 0.4c/lb.           |
| 494.52                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 494.60                                           | 2.5% ad val.                | 2.5%                                                                                   | 2.4%               | 2.4%               | 2.3%               | 2.3%               | 2.2%               | 2.2%               | 2.1%               |
| 495.05                                           | 6% ad val.                  | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 495.10                                           | 8.5% ad val.                | 7.9%                                                                                   | 7.3%               | 6.6%               | 6%                 | 5.4%               | 4.8%               | 4.1%               | 3.5%               |
| 495.15                                           | 4% ad val.                  | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 495.20                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |               |               |               |               |               |               |             |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|-------------|
|                                                  |                           | 1980                                                                                   | 1981          | 1982          | 1983          | 1984          | 1985          | 1986          | 1987        |
| Schedule 5, Part 1                               |                           |                                                                                        |               |               |               |               |               |               |             |
| 511.25                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 511.41                                           | 13% ad val.               | 12%                                                                                    | 11.1%         | 10.1%         | 9.1%          | 8.1%          | 7.2%          | 6.2%          | 5.2%        |
| 511.61                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 511.71                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%         | 11%           | 10.2%         | 9.4%          | 8.6%          | 7.7%          | 6.9%        |
| 512.24                                           | 59c per ton               | 57c/ton                                                                                | 55c/ton       | 53c/ton       | 50c/ton       | 48c/ton       | 46c/ton       | 44c/ton       | 42c/ton     |
| 512.31                                           | \$5 per ton               | \$4.69/ton                                                                             | \$4.39/ton    | \$4.08/ton    | \$3.77/ton    | \$3.47/ton    | \$3.16/ton    | \$2.86/ton    | \$2.55/ton  |
| 512.35                                           | \$7 per ton               | \$6.47/ton                                                                             | \$5.95/ton    | \$5.42/ton    | \$4.90/ton    | \$4.37/ton    | \$3.85/ton    | \$3.32/ton    | \$2.80/ton  |
| 513.11                                           | 25c per ton               | 22c/ton                                                                                | 19c/ton       | 16c/ton       | 12c/ton       | 9c/ton        | 6c/ton        | 3c/ton        | Free        |
| 513.21                                           | 5% ad val.                | 4.4%                                                                                   | 3.8%          | 3.1%          | 2.5%          | 1.9%          | 1.3%          | 0.6%          | Free        |
| 513.31                                           | 5% ad val.                | 4.4%                                                                                   | 3.8%          | 3.1%          | 2.5%          | 1.9%          | 1.3%          | 0.6%          | Free        |
| 513.36                                           | 10c per short<br>ton      | 8c/short ton                                                                           | 7c/short ton  | 6c/short ton  | 5c/short ton  | 3c/short ton  | 2c/short ton  | 1c/short ton  | Free        |
| 513.41                                           | 2.5% ad val.              | 2.2%                                                                                   | 1.9%          | 1.6%          | 1.3%          | 0.9%          | 0.6%          | 0.3%          | Free        |
| 513.51                                           | 4% ad val.                | 3.9%                                                                                   | 3.6%          | 3.3%          | 3.0%          | 2.7%          | 2.4%          | 2.1%          | 1.8%        |
| 513.74                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%          | 5.3%          | 5.1%          | 4.9%          | 4.7%          | 4.4%          | 4.2%        |
| 513.81                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 513.84                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%         | 11%           | 10.2%         | 9.4%          | 8.6%          | 7.7%          | 6.9%        |
| 513.94                                           | 4% ad val.                | 3.1%                                                                                   | 2.7%          | 2.3%          | 1.9%          | 1.5%          | 1.1%          | 0.7%          | 0.3%        |
| 514.11                                           | 10c per short<br>ton      | Free                                                                                   | Free          | Free          | Free          | Free          | Free          | Free          | Free        |
| 514.21                                           | 1c per cu.<br>ft.         | 0.9c/cu. ft.                                                                           | 0.7c/cu. ft.  | 0.6c/cu. ft.  | 0.5c/cu. ft.  | 0.4c/cu. ft.  | 0.2c/cu. ft.  | 0.1c/cu. ft.  | Free        |
| 514.24                                           | 10.5% ad val.             | 9.9%                                                                                   | 9.4%          | 8.8%          | 8.3%          | 7.7%          | 7.1%          | 6.6%          | 6%          |
| 514.31                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%          | 4.5%          | 4.4%          | 4.2%          | 4%            | 3.9%          | 3.7%        |
| 514.41                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 514.44                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%         | 11%           | 10.2%         | 9.4%          | 8.6%          | 7.7%          | 6.9%        |
| 514.51                                           | 13.5c per cu.<br>ft.      | 14.3c/cu. ft.                                                                          | 13.1c/cu. ft. | 12.9c/cu. ft. | 12.7c/cu. ft. | 12.6c/cu. ft. | 12.4c/cu. ft. | 12.2c/cu. ft. | 12c/cu. ft. |
| 514.57                                           | 25c per cu.<br>ft.        | 24.4c/ cu. ft.                                                                         | 23.7c/cu. ft. | 23.1c/cu. ft. | 22.5c/cu. ft. | 21.9c/cu. ft. | 21.2c/cu. ft. | 20.6c/cu. ft. | 20c/cu. ft. |
| 514.61                                           | 2.5% ad val.              | 2.2%                                                                                   | 2.4%          | 2.4%          | 2.3%          | 2.2%          | 2.2%          | 2.2%          | 2.1%        |
| 514.65                                           | 3.5% ad val.              | 3.4%                                                                                   | 3.3%          | 3.2%          | 3.2%          | 3.1%          | 3%            | 2.9%          | 2.8%        |
| 514.81                                           | 10.5% ad val.             | 9.9%                                                                                   | 9.4%          | 8.8%          | 8.3%          | 7.7%          | 7.1%          | 6.6%          | 6%          |
| 515.11                                           | 12.5% ad val.             | 11.8%                                                                                  | 11%           | 10.3%         | 9.6%          | 8.8%          | 8.1%          | 7.3%          | 6.6%        |
| 515.14                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%          | 4.5%          | 4.4%          | 4.2%          | 4%            | 3.9%          | 3.7%        |
| 515.21                                           | 9c per cu. ft.            | 4.9c/cu. ft.                                                                           | 4.7c/cu. ft.  | 4.6c/cu. ft.  | 4.5c/cu. ft.  | 4.4c/cu. ft.  | 4.2c/cu. ft.  | 4.1c/cu. ft.  | 4c/cu. ft.  |
| 515.24                                           | 10.5% ad val.             | 9.9%                                                                                   | 9.4%          | 8.8%          | 8.3%          | 7.7%          | 7.1%          | 6.6%          | 6%          |
| 515.31                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 515.34                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%         | 11%           | 10.2%         | 9.4%          | 8.6%          | 7.7%          | 6.9%        |
| 515.51                                           | 1c per cu. ft.            | 0.9c/cu. ft.                                                                           | 0.7c/cu. ft.  | 0.6c/cu. ft.  | 0.5c/cu. ft.  | 0.4c/cu. ft.  | 0.2c/cu. ft.  | 0.1c/cu. ft.  | Free        |
| 515.54                                           | 10.5% ad val.             | 9.9%                                                                                   | 9.4%          | 8.8%          | 8.3%          | 7.7%          | 7.1%          | 6.6%          | 6%          |
| 515.74                                           | 13.5% ad val.             | 10.5%                                                                                  | 7.5%          | 6.9%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |
| 515.81                                           | 5% ad val.                | Free                                                                                   | Free          | Free          | Free          | Free          | Free          | Free          | Free        |
| 516.21                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%          | 5.3%          | 5.1%          | 4.9%          | 4.7%          | 4.4%          | 4.2%        |
| 516.24                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%          | 5.3%          | 5.1%          | 4.9%          | 4.7%          | 4.4%          | 4.2%        |
| 516.71                                           | 11% ad val.               | 8%                                                                                     | 7.5%          | 7.2%          | 6.9%          | 6.6%          | 6.3%          | 6%            | 5.7%        |
| 516.74                                           | 12.5% ad val.             | 6.5%                                                                                   | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%        |
| 516.74                                           | 20% ad val.               | 17%                                                                                    | 14%           | 11%           | 8%            | 5%            | 2%            | Free          | Free        |
| 516.76                                           | 12.5% ad val.             | 9.5%                                                                                   | 6.5%          | 5%            | 5%            | 5%            | 5%            | 5%            | 5%          |
| 516.81                                           | 6% ad val.                | 5.6%                                                                                   | 5.1%          | 4.7%          | 4.2%          | 3.8%          | 3.3%          | 2.9%          | 2.4%        |
| 516.91                                           | 8.4% ad val.              | 8.1%                                                                                   | 7.7%          | 7.3%          | 6.9%          | 6.5%          | 6.1%          | 5.7%          | 5.3%        |
| 516.94                                           | 12.5% ad val.             | 6.5%                                                                                   | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%          | 6.5%        |
| 517.11                                           | 2.5% ad val.              | 2.2%                                                                                   | 1.9%          | 1.6%          | 1.3%          | 0.9%          | 0.6%          | 0.3%          | Free        |
| 517.21                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%          | 5.8%          | 5.3%          | 4.7%          | 4.1%          | 3.6%          | 3%          |
| 517.24                                           | 0.4c per lb.              | 0.3c/lb.                                                                               | 0.3c/lb.      | 0.3c/lb.      | 0.3c/lb.      | 0.3c/lb.      | 0.3c/lb.      | 0.3c/lb.      | 0.3c/lb.    |
| 517.27                                           | 2.5% ad val.              | Free                                                                                   | Free          | Free          | Free          | Free          | Free          | Free          | Free        |
| 517.51                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%          | 5.8%          | 5.3%          | 4.7%          | 4.1%          | 3.6%          | 3%          |
| 517.61                                           | 6% ad val.                | 5.8%                                                                                   | 5.1%          | 4.7%          | 4.2%          | 3.8%          | 3.3%          | 2.9%          | 2.4%        |
| 517.71                                           | 7% ad val.                | 6.5%                                                                                   | 6%            | 5.4%          | 4.9%          | 4.4%          | 3.9%          | 3.3%          | 2.8%        |
| 517.74                                           | 6% ad val.                | 5.6%                                                                                   | 5.1%          | 4.7%          | 4.2%          | 3.8%          | 3.3%          | 2.9%          | 2.4%        |
| 517.81                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%          | 4.5%          | 4.4%          | 4.2%          | 4%            | 3.8%          | 3.7%        |
| 517.91                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%          | 6.5%          | 6.2%          | 5.9%          | 5.6%          | 5.2%          | 4.9%        |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged          | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                     |                     |                     |                     |                     |                     |                     |
|--------------------------------------------------|------------------------------------|----------------------------------------------------------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                                  |                                    | 1980                                                                                   | 1981                | 1982                | 1983                | 1984                | 1985                | 1986                | 1987                |
| Schedule 5, Part 1--Continued                    |                                    |                                                                                        |                     |                     |                     |                     |                     |                     |                     |
| 518.21                                           | 4% ad val.                         | 3.5%                                                                                   | 3%                  | 2.5%                | 2%                  | 1.5%                | 1%                  | 0.5%                | Free                |
| 518.44                                           | 0.1c per lb.                       | Free                                                                                   | Free                | Free                | Free                | Free                | Free                | Free                | Free                |
| 518.51                                           | 4.5% ad val.                       | 3.9%                                                                                   | 3.4%                | 2.8%                | 2.3%                | 1.7%                | 1.1%                | 0.6%                | Free                |
| 519.11                                           | 0.02c per lb.                      | 0.01c/lb.                                                                              | 0.01c/lb.           | 0.01c/lb.           | 0.01c/lb.           | 0.01c/lb.           | 0.01c/lb.           | 0.01c/lb.           | 0.01c/lb.           |
| 519.14                                           | 0.04c per lb.                      | 0.035c/lb.                                                                             | 0.035c/lb.          | 0.035c/lb.          | 0.035c/lb.          | 0.035c/lb.          | 0.035c/lb.          | 0.035c/lb.          | 0.035c/lb.          |
| 519.31                                           | 0.17c per lb.                      | 0.16c/lb.                                                                              | 0.16c/lb.           | 0.15c/lb.           | 0.15c/lb.           | 0.14c/lb.           | 0.14c/lb.           | 0.13c/lb.           | 0.13c/lb.           |
| 519.37                                           | 0.4c per lb.                       | 0.3c/lb.                                                                               | 0.3c/lb.            | 0.3c/lb.            | 0.3c/lb.            | 0.3c/lb.            | 0.3c/lb.            | 0.3c/lb.            | 0.3c/lb.            |
| 519.51                                           | 3% ad val.                         | 2.9%                                                                                   | 2.9%                | 2.8%                | 2.8%                | 2.7%                | 2.6%                | 2.6%                | 2.5%                |
| 519.63                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 519.84                                           | 10c per lb. +<br>8.5% ad val.      | 9.3c/lb. +<br>7.9%                                                                     | 8.6c/lb. +<br>7.4%  | 7.9c/lb. +<br>6.8%  | 7.2c/lb. +<br>6.2%  | 6.6c/lb. +<br>5.6%  | 5.9c/lb. +<br>5.1%  | 5.2c/lb. +<br>4.5%  | 4.5c/lb. +<br>3.9%  |
| 519.86                                           | 5% ad val.                         | 4.8%                                                                                   | 4.7%                | 4.5%                | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 519.91                                           | 5% ad val.                         | 4.8%                                                                                   | 4.7%                | 4.5%                | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 519.93                                           | 7% ad val.                         | 6.7%                                                                                   | 6.4%                | 6.1%                | 5.9%                | 5.6%                | 5.3%                | 5%                  | 4.7%                |
| 519.95                                           | 2.5% ad val.                       | 2.2%                                                                                   | 1.9%                | 1.6%                | 1.3%                | 0.9%                | 0.6%                | 0.3%                | Free                |
| 519.97                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 520.21                                           | 7.5% ad val.                       | 6.9%                                                                                   | 6.4%                | 5.8%                | 5.3%                | 4.7%                | 4.1%                | 3.6%                | 3%                  |
| 520.31                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 520.32                                           | 4% ad val.                         | 1%                                                                                     | Free                | Free                | Free                | Free                | Free                | Free                | Free                |
| 520.33                                           | 5% ad val.                         | 2%                                                                                     | Free                | Free                | Free                | Free                | Free                | Free                | Free                |
| 520.35                                           | 4% ad val.                         | 1%                                                                                     | Free                | Free                | Free                | Free                | Free                | Free                | Free                |
| 520.37                                           | 5% ad val.                         | 4.4%                                                                                   | 3.8%                | 3.1%                | 2.5%                | 1.9%                | 1.3%                | 0.6%                | Free                |
| 520.39                                           | 2.5% ad val.                       | 2.5%                                                                                   | 2.4%                | 2.4%                | 2.3%                | 2.3%                | 2.2%                | 2.2%                | 2.1%                |
| 520.54                                           | 10.5% ad val.                      | 9.9%                                                                                   | 9.4%                | 8.8%                | 8.3%                | 7.7%                | 7.1%                | 6.6%                | 6%                  |
| 520.71                                           | 4% ad val.                         | 3.9%                                                                                   | 3.8%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.2%                | 3.1%                |
| 520.75                                           | 15% ad val.                        | 15%                                                                                    | 15%                 | 13.5%               | 12%                 | 10.5%               | 9%                  | 7.5%                | 6%                  |
| 521.71                                           | 42c per ton                        | 41.5c/ton                                                                              | 41c/ton             | 40.5c/ton           | 40c/ton             | 39.5c/ton           | 39c/ton             | 38.5c/ton           | 38c/ton             |
| 521.74                                           | 85c per ton                        | 84c/ton                                                                                | 83c/ton             | 82c/ton             | 81c/ton             | 80c/ton             | 79c/ton             | 78c/ton             | 77c/ton             |
| 521.87                                           | 0.05c per lb.<br>+ 6% ad val.      | 0.04c/lb. +<br>5.6%                                                                    | 0.04c/lb. +<br>5.1% | 0.04c/lb. +<br>4.7% | 0.04c/lb. +<br>4.3% | 0.04c/lb. +<br>3.8% | 0.04c/lb. +<br>3.4% | 0.04c/lb. +<br>2.9% | 0.04c/lb. +<br>2.5% |
| 522.24                                           | 13.5% ad val.                      | 13.5%                                                                                  | 13.5%               | 13.5%               | 13.5%               | 13.5%               | 13.5%               | 13.5%               | 13.5%               |
| 522.41                                           | 3.5% ad val.                       | 3.4%                                                                                   | 3.3%                | 3.2%                | 3.2%                | 3.1%                | 3%                  | 2.9%                | 2.8%                |
| 522.45                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 522.61                                           | 52.62 per ton                      | 52.29c/ton                                                                             | 51.96c/ton          | 51.64c/ton          | 51.31c/ton          | 50.98c/ton          | 50.65c/ton          | 50.32c/ton          | 49.99c/ton          |
| 522.64                                           | 55.25 per ton                      | 54.92c/ton                                                                             | 54.59c/ton          | 54.26c/ton          | 53.93c/ton          | 53.60c/ton          | 53.27c/ton          | 52.94c/ton          | 52.61c/ton          |
| 522.71                                           | 2% ad val.                         | 2%                                                                                     | 1.9%                | 1.9%                | 1.9%                | 1.9%                | 1.9%                | 1.8%                | 1.8%                |
| 522.81                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 523.33                                           | 6% ad val.                         | 5.6%                                                                                   | 5.1%                | 4.7%                | 4.2%                | 3.8%                | 3.3%                | 2.9%                | 2.4%                |
| 523.35                                           | 0.2c per lb.                       | 0.1c/lb.                                                                               | 0.1c/lb.            | 0.1c/lb.            | 0.1c/lb.            | Free                | Free                | Free                | Free                |
| 523.37                                           | 1% ad val.                         | 9%                                                                                     | 6%                  | 4.8%                | 4.8%                | 4.8%                | 4.8%                | 4.8%                | 4.8%                |
| 523.61                                           | 7% ad val.                         | 6.5%                                                                                   | 6%                  | 5.4%                | 4.9%                | 4.4%                | 3.9%                | 3.3%                | 2.8%                |
| 523.91                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 523.94                                           | 13.5% ad val.                      | 12.7%                                                                                  | 11.9%               | 11%                 | 10.2%               | 9.4%                | 8.6%                | 7.7%                | 6.9%                |
| Schedule 5, Part 2                               |                                    |                                                                                        |                     |                     |                     |                     |                     |                     |                     |
| 531.01                                           | 0.19c per lb.                      | 0.19c/lb.                                                                              | 0.18c/lb.           | 0.18c/lb.           | 0.17c/lb.           | 0.17c/lb.           | 0.17c/lb.           | 0.16c/lb.           | 0.16c/lb.           |
| 531.11                                           | 7.5% ad val.                       | 6.9%                                                                                   | 6.4%                | 5.8%                | 5.3%                | 4.7%                | 4.1%                | 3.6%                | 3%                  |
| 531.21                                           | 12.5% ad val.                      | 11.8%                                                                                  | 11%                 | 10.3%               | 9.6%                | 8.8%                | 8.1%                | 7.3%                | 6.6%                |
| 531.24                                           | 0.19c per lb.<br>+ 2.5% ad<br>val. | 0.16c/lb. +<br>2.2%                                                                    | 0.14c/lb. +<br>1.9% | 0.11c/lb. +<br>1.6% | 0.09c/lb. +<br>1.3% | 0.07c/lb. +<br>0.9% | 0.05c/lb. +<br>0.6% | 0.02c/lb. +<br>0.3% | Free                |
| 531.33                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 531.35                                           | 5% ad val.                         | 4.8%                                                                                   | 4.7%                | 4.5%                | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 531.37                                           | 22.5% ad val.                      | 20.8%                                                                                  | 19.1%               | 17.4%               | 15.8%               | 14.1%               | 12.4%               | 10.7%               | 9%                  |
| 531.39                                           | 7.5% ad val.                       | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 532.14                                           | 3% ad val.                         | 2.6%                                                                                   | 2.3%                | 1.9%                | 1.5%                | 1.1%                | 0.8%                | 0.4%                | Free                |
| 532.21                                           | 24.5% ad val.                      | 23.9%                                                                                  | 23.4%               | 22.8%               | 22.3%               | 21.7%               | 21.1%               | 20.6%               | 20%                 |
| 532.24                                           | 22.5% ad val.                      | 22.5%                                                                                  | 22.5%               | 21.9%               | 21.3%               | 20.8%               | 20.2%               | 19.6%               | 19%                 |
| 532.27                                           | 24% ad val.                        | 24%                                                                                    | 24%                 | 23.3%               | 22.7%               | 22%                 | 21.3%               | 20.7%               | 20%                 |
| 532.41                                           | 6% ad val.                         | 5.8%                                                                                   | 5.6%                | 5.3%                | 5.1%                | 4.9%                | 4.7%                | 4.4%                | 4.2%                |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex 21 | Rate from<br>which staged       | Rates of duty 1/, effective with respect to articles entered on and after January 1 — |                        |                        |                        |                        |                      |                       |                  |
|--------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|----------------------|-----------------------|------------------|
|                                                  |                                 | 1980                                                                                  | 1981                   | 1982                   | 1983                   | 1984                   | 1985                 | 1986                  | 1987             |
| Schedule 5, Part 2—Continued                     |                                 |                                                                                       |                        |                        |                        |                        |                      |                       |                  |
| 532.61                                           | 7.5% ad val.                    | 7.2%                                                                                  | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                 | 5.2%                  | 4.9%             |
| 533.11                                           | 2.5% ad val.                    | 2.2%                                                                                  | 1.9%                   | 1.6%                   | 1.3%                   | 0.9%                   | 0.6%                 | 0.3%                  | Free             |
| 533.15                                           | 6% ad val.                      | 5.6%                                                                                  | 5.1%                   | 4.7%                   | 4.3%                   | 3.8%                   | 3.4%                 | 2.9%                  | 2.5%             |
| 533.20                                           | 48.7% ad val.                   | 47%                                                                                   | 45.3%                  | 43.6%                  | 41.9%                  | 40.1%                  | 38.4%                | 36.7%                 | 35%              |
| 533.22                                           | 23.5% ad val.                   | 22%                                                                                   | 20.5%                  | 19%                    | 17.5%                  | 16%                    | 14.5%                | 13%                   | 11.5%            |
| 533.24                                           | 11.4% ad val.                   | 10.5%                                                                                 | 9.7%                   | 8.8%                   | 8%                     | 7.1%                   | 6.2%                 | 5.4%                  | 4.5%             |
| 533.29                                           | 13.6% ad val.                   | 12.6%                                                                                 | 11.6%                  | 10.6%                  | 9.6%                   | 8.5%                   | 7.5%                 | 6.5%                  | 5.5%             |
| 533.32                                           | 13.6% ad val.                   | 12.6%                                                                                 | 11.6%                  | 10.6%                  | 9.6%                   | 8.5%                   | 7.5%                 | 6.5%                  | 5.5%             |
| 533.34                                           | 11.6% ad val.                   | 10.7%                                                                                 | 9.8%                   | 8.9%                   | 8.1%                   | 7.2%                   | 6.3%                 | 5.4%                  | 4.5%             |
| 533.39                                           | 23.5% ad val.                   | 22%                                                                                   | 20.5%                  | 19%                    | 17.5%                  | 16%                    | 14.5%                | 13%                   | 11.5%            |
| 533.52                                           | 48.7% ad val.                   | 47%                                                                                   | 45.3%                  | 43.6%                  | 41.9%                  | 40.1%                  | 38.4%                | 36.7%                 | 35%              |
| 533.54                                           | 17.5% ad val.                   | 16.3%                                                                                 | 15.1%                  | 13.9%                  | 12.8%                  | 11.6%                  | 10.4%                | 9.2%                  | 8%               |
| 533.62                                           | 38.6% ad val.                   | 37%                                                                                   | 35.5%                  | 33.9%                  | 32.3%                  | 30.7%                  | 29.2%                | 27.6%                 | 26%              |
| 533.64                                           | 18.4% ad val.                   | 17.1%                                                                                 | 15.8%                  | 14.5%                  | 13.2%                  | 11.9%                  | 10.6%                | 9.3%                  | 8%               |
| 533.72                                           | 22.5% ad val.                   | 20.8%                                                                                 | 19.1%                  | 17.4%                  | 15.8%                  | 14.1%                  | 12.4%                | 10.7%                 | 9%               |
| 533.74                                           | 22.5% ad val.                   | 21.9%                                                                                 | 21.3%                  | 20.6%                  | 20%                    | 19.4%                  | 18.8%                | 18.1%                 | 17.5%            |
| 533.76                                           | 22.5% ad val.                   | 20.8%                                                                                 | 19.1%                  | 17.4%                  | 15.8%                  | 14.1%                  | 12.4%                | 10.7%                 | 9%               |
| 533.78                                           | 18% ad val.                     | 16.8%                                                                                 | 15.5%                  | 14.3%                  | 13%                    | 11.8%                  | 10.5%                | 9.3%                  | 8%               |
| 534.11                                           | 4% ad val.                      | 3.9%                                                                                  | 3.8%                   | 3.7%                   | 3.6%                   | 3.4%                   | 3.3%                 | 3.2%                  | 3.1%             |
| 534.21                                           | 6% ad val.                      | 5.8%                                                                                  | 5.6%                   | 5.3%                   | 5.1%                   | 4.9%                   | 4.7%                 | 4.4%                  | 4.2%             |
| 534.31                                           | 2.5% ad val.                    | 2.5%                                                                                  | 2.4%                   | 2.4%                   | 2.3%                   | 2.3%                   | 2.2%                 | 2.2%                  | 2.1%             |
| 534.74                                           | 6% ad val.                      | 5.6%                                                                                  | 5.1%                   | 4.7%                   | 4.3%                   | 3.8%                   | 3.4%                 | 2.9%                  | 2.5%             |
| 534.76                                           | 3% ad val.                      | 2.9%                                                                                  | 2.9%                   | 2.8%                   | 2.8%                   | 2.7%                   | 2.6%                 | 2.6%                  | 2.5%             |
| 534.81                                           | 6c per doz.<br>+ 17%<br>ad val. | 5.5c/doz.<br>+ 17%                                                                    | 5c/doz.<br>+ 17%       | 4.5c/doz.<br>+ 17%     | 4c/doz.<br>+ 17%       | 3.5c/doz.<br>+ 17%     | 3c/doz.<br>+ 17%     | 2.5c/doz.<br>+ 17%    | 2c/doz.<br>+ 17% |
| 534.84                                           | 5c per doz.<br>+ 15%<br>ad val. | 4c/doz. + 14%<br>+ 14%                                                                | 4c/doz. + 13%<br>+ 13% | 3c/doz. + 12%<br>+ 12% | 2c/doz. + 11%<br>+ 11% | 2c/doz. + 10%<br>+ 10% | 1c/doz. + 9%<br>+ 9% | 8%                    | 7%               |
| 534.87                                           | 2c/per doz.<br>+ 10%<br>ad val. | 1.7c/doz.<br>+ 9.6%                                                                   | 1.5c/doz.<br>+ 9.3%    | 1.2c/doz.<br>+ 8.9%    | 1c/doz.<br>+ 8.5%      | 0.7c/doz.<br>+ 8.1%    | 0.5c/doz.<br>+ 7.8%  | 0.2c/doz. +<br>+ 7.4% | 7%               |
| 534.91                                           | 12.5% ad val.                   | 11.8%                                                                                 | 11%                    | 10.3%                  | 9.6%                   | 8.8%                   | 8.1%                 | 7.3%                  | 6.6%             |
| 534.94                                           | 22.5% ad val.                   | 20.8%                                                                                 | 19.1%                  | 17.4%                  | 15.8%                  | 14.1%                  | 12.4%                | 10.7%                 | 9%               |
| 534.97                                           | 13.5% ad val.                   | 12.7%                                                                                 | 11.9%                  | 11%                    | 10.2%                  | 9.4%                   | 8.6%                 | 7.7%                  | 6.9%             |
| 535.11                                           | 15% ad val.                     | 13.9%                                                                                 | 12.8%                  | 11.6%                  | 10.5%                  | 9.4%                   | 8.3%                 | 7.1%                  | 6%               |
| 535.12                                           | 7.5% ad val.                    | 7.2%                                                                                  | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                 | 5.2%                  | 4.9%             |
| 535.14                                           | 15% ad val.                     | 13.9%                                                                                 | 12.8%                  | 11.6%                  | 10.5%                  | 9.4%                   | 8.3%                 | 7.1%                  | 6%               |
| 535.21                                           | 30% ad val.                     | 27.8%                                                                                 | 25.5%                  | 23.3%                  | 21%                    | 18.8%                  | 16.5%                | 14.3%                 | 12%              |
| 535.24                                           | 20% ad val.                     | 18.5%                                                                                 | 17.1%                  | 15.6%                  | 14.1%                  | 12.6%                  | 11.2%                | 9.7%                  | 8.2%             |
| 535.27                                           | 10% ad val.                     | 9.3%                                                                                  | 8.5%                   | 7.8%                   | 7%                     | 6.3%                   | 5.5%                 | 4.8%                  | 4%               |
| 535.31                                           | 15% ad val.                     | 14%                                                                                   | 13.1%                  | 12.1%                  | 11.1%                  | 10.1%                  | 9.2%                 | 8.2%                  | 7.2%             |
| 535.41                                           | 7% ad val.                      | 6.7%                                                                                  | 6.4%                   | 6.1%                   | 5.9%                   | 5.6%                   | 5.3%                 | 5%                    | 4.7%             |
| 536.11                                           | 22.5% ad val.                   | 20.8%                                                                                 | 19.1%                  | 17.4%                  | 15.8%                  | 14.1%                  | 12.4%                | 10.7%                 | 9%               |
| 536.15                                           | 20% ad val.                     | 18.5%                                                                                 | 17%                    | 15.5%                  | 14%                    | 12.5%                  | 11%                  | 9.5%                  | 8%               |
| Schedule 5, Part 3                               |                                 |                                                                                       |                        |                        |                        |                        |                      |                       |                  |
| 540.11                                           | 7.5% ad val.                    | 7.2%                                                                                  | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                 | 5.2%                  | 4.9%             |
| 540.13                                           | 10.5% ad val.                   | 9.9%                                                                                  | 9.4%                   | 8.8%                   | 8.3%                   | 7.7%                   | 7.1%                 | 6.6%                  | 6%               |
| 540.14                                           | 2% ad val.                      | 1.8%                                                                                  | 1.5%                   | 1.3%                   | 1%                     | 0.8%                   | 0.5%                 | 0.3%                  | Free             |
| 540.32                                           | 17.5% ad val.                   | 16.3%                                                                                 | 15.1%                  | 13.9%                  | 12.7%                  | 11.4%                  | 10.2%                | 9%                    | 7.8%             |
| 540.37                                           | 12.5% ad val.                   | 11.6%                                                                                 | 10.6%                  | 9.7%                   | 8.8%                   | 7.8%                   | 6.9%                 | 5.9%                  | 5%               |
| 540.41                                           | 7% ad val.                      | 6.7%                                                                                  | 6.4%                   | 6.1%                   | 5.9%                   | 5.6%                   | 5.3%                 | 5%                    | 4.7%             |
| 540.43                                           | 16% ad val.                     | 14.9%                                                                                 | 13.9%                  | 12.8%                  | 11.8%                  | 10.7%                  | 9.6%                 | 8.6%                  | 7.5%             |
| 540.51                                           | 6.5% ad val.                    | 6.1%                                                                                  | 7.2%                   | 7.3%                   | 6.9%                   | 6.5%                   | 6.1%                 | 5.7%                  | 5.3%             |
| 540.55                                           | 15% ad val.                     | 14%                                                                                   | 13.1%                  | 12.1%                  | 11.1%                  | 10.1%                  | 9.2%                 | 8.2%                  | 7.2%             |
| 540.61                                           | 5% ad val.                      | 4.4%                                                                                  | 3.8%                   | 3.1%                   | 2.5%                   | 1.9%                   | 1.3%                 | 0.6%                  | Free             |
| 540.63                                           | 10% ad val.                     | 9.3%                                                                                  | 8.5%                   | 7.8%                   | 7%                     | 6.3%                   | 5.5%                 | 4.8%                  | 4%               |
| 540.65                                           | 20% ad val.                     | 18.5%                                                                                 | 17.1%                  | 15.6%                  | 14.1%                  | 12.6%                  | 11.2%                | 9.7%                  | 8.2%             |
| 540.67                                           | 25% ad val.                     | 23.1%                                                                                 | 21.3%                  | 19.4%                  | 17.5%                  | 15.6%                  | 13.8%                | 11.9%                 | 10%              |
| 540.71                                           | 11% ad val.                     | 10.4%                                                                                 | 9.8%                   | 9.2%                   | 8.6%                   | 8%                     | 7.4%                 | 6.8%                  | 6.2%             |
| 541.11                                           | 0.3c per lb.                    | 0.2c/lb.                                                                              | 0.2c/lb.               | 0.2c/lb.               | 0.2c/lb.               | 0.2c/lb.               | 0.2c/lb.             | 0.2c/lb.              | 0.2c/lb.         |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                        |                        |                        |                        |                        |                        |                        |
|--------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
|                                                  |                                     | 1980                                                                                   | 1981                   | 1982                   | 1983                   | 1984                   | 1985                   | 1986                   | 1987                   |
| Schedule 5, Part 3--Continued                    |                                     |                                                                                        |                        |                        |                        |                        |                        |                        |                        |
| 541.21                                           | 0.6c per lb.                        | 0.5c/lb.                                                                               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               |
| 541.31                                           | 0.3c per lb.<br>+ 1% ad val.        | 0.2c/lb. +<br>1%                                                                       | 0.2c/lb. +<br>1%       | 0.2c/lb. +<br>1%       | 0.2c/lb. +<br>1%       | 0.2c/lb. +<br>0.9%     | 0.2c/lb. +<br>0.9%     | 0.2c/lb. +<br>0.9%     | 0.2c/lb. +<br>0.9%     |
| 542.31                                           | 0.7c per lb.                        | 0.6c/lb.                                                                               | 0.6c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.4c/lb.               | 0.4c/lb.               | 0.4c/lb.               |
| 542.33                                           | 0.9c per lb.                        | 0.8c/lb.                                                                               | 0.7c/lb.               | 0.6c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.4c/lb.               | 0.4c/lb.               |
| 542.35                                           | 1.1c per lb.                        | 1c/lb.                                                                                 | 0.9c/lb.               | 0.8c/lb.               | 0.7c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.4c/lb.               | 0.4c/lb.               |
| 542.37                                           | 1.4c per lb.                        | 1.3c/lb.                                                                               | 1.2c/lb.               | 1.1c/lb.               | 1c/lb.                 | 0.9c/lb.               | 0.8c/lb.               | 0.7c/lb.               | 0.7c/lb.               |
| 542.42                                           | 0.7c per lb.                        | 0.5c/lb.                                                                               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               |
| 542.44                                           | 0.9c per lb.                        | 0.8c/lb.                                                                               | 0.8c/lb.               | 0.7c/lb.               | 0.7c/lb.               | 0.6c/lb.               | 0.6c/lb.               | 0.5c/lb.               | 0.5c/lb.               |
| 542.46                                           | 1.1c per lb.                        | 1c/lb.                                                                                 | 0.9c/lb.               | 0.9c/lb.               | 0.8c/lb.               | 0.7c/lb.               | 0.7c/lb.               | 0.6c/lb.               | 0.6c/lb.               |
| 542.48                                           | 1.4c per lb.                        | 1.3c/lb.                                                                               | 1.2c/lb.               | 1.1c/lb.               | 1c/lb.                 | 0.9c/lb.               | 0.8c/lb.               | 0.7c/lb.               | 0.6c/lb.               |
| 542.57                                           | 1.7c per lb.                        | 1.6c/lb.                                                                               | 1.6c/lb.               | 1.6c/lb.               | 1.5c/lb.               | 1.5c/lb.               | 1.4c/lb.               | 1.4c/lb.               | 1.4c/lb.               |
| 542.67                                           | 0.6c per lb.                        | 0.5c/lb.                                                                               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               | 0.5c/lb.               |
| 542.71                                           | 0.7c per lb.<br>+ 2.5% ad<br>val.   | 0.6c/lb. +<br>2.4%                                                                     | 0.6c/lb. +<br>2.4%     | 0.6c/lb. +<br>2.3%     | 0.6c/lb. +<br>2.3%     | 0.6c/lb. +<br>2.2%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.73                                           | 0.9c per lb.<br>+ 2.5% ad<br>val.   | 0.8c/lb. +<br>2.4%                                                                     | 0.8c/lb. +<br>2.4%     | 0.8c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.2%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.75                                           | 1.1c per lb.<br>+ 2.5% ad<br>val.   | 1c/lb. +<br>2.4%                                                                       | 0.9c/lb. +<br>2.4%     | 0.9c/lb. +<br>2.3%     | 0.8c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.2%     | 0.7c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.77                                           | 1.4c per lb.<br>+ 2.5% ad<br>val.   | 1.3c/lb. +<br>2.4%                                                                     | 1.2c/lb. +<br>2.4%     | 1.1c/lb. +<br>2.3%     | 1c/lb. +<br>2.3%       | 0.9c/lb. +<br>2.2%     | 0.8c/lb. +<br>2.1%     | 0.7c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.92                                           | 0.7c per lb.<br>+ 2.5% ad<br>val.   | 0.6c/lb. +<br>2.4%                                                                     | 0.6c/lb. +<br>2.4%     | 0.6c/lb. +<br>2.3%     | 0.6c/lb. +<br>2.3%     | 0.6c/lb. +<br>2.2%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.94                                           | 0.9c per lb.<br>+ 2.5% ad<br>val.   | 0.8c/lb. +<br>2.4%                                                                     | 0.8c/lb. +<br>2.4%     | 0.8c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.2%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.96                                           | 1.1c per lb.<br>+ 2.5% ad<br>val.   | 1c/lb. +<br>2.4%                                                                       | 0.9c/lb. +<br>2.4%     | 0.9c/lb. +<br>2.3%     | 0.8c/lb. +<br>2.3%     | 0.7c/lb. +<br>2.2%     | 0.7c/lb. +<br>2.1%     | 0.6c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 542.98                                           | 1.4c per lb.<br>+ 2.5% ad<br>val.   | 1.3c/lb. +<br>2.4%                                                                     | 1.2c/lb. +<br>2.4%     | 1.1c/lb. +<br>2.3%     | 1c/lb. +<br>2.3%       | 0.9c/lb. +<br>2.2%     | 0.8c/lb. +<br>2.1%     | 0.7c/lb. +<br>2.1%     | 0.6c/lb. +<br>2%       |
| 543.11                                           | 3.8c per sq.<br>ft.                 | 3.7c/sq. ft.                                                                           | 3.6c/sq. ft.           | 3.5c/sq. ft.           | 3.4c/sq. ft.           | 3.3c/sq. ft.           | 3.2c/sq. ft.           | 3.1c/sq. ft.           | 3c/sq. ft.             |
| 543.23                                           | 2.5c per sq.<br>ft.                 | 2.4c/sq. ft.                                                                           | 2.4c/sq. ft.           | 2.3c/sq. ft.           | 2.2c/sq. ft.           | 2.2c/sq. ft.           | 2.1c/sq. ft.           | 2.1c/sq. ft.           | 2c/sq. ft.             |
| 543.27                                           | 2.8c per sq.<br>ft.                 | 2.6c/sq. ft.                                                                           | 2.4c/sq. ft.           | 2.3c/sq. ft.           | 2.1c/sq. ft.           | 2c/sq. ft.             | 1.8c/sq. ft.           | 1.6c/sq. ft.           | 1.5c/sq. ft.           |
| 543.31                                           | 10.5% ad val.                       | 9.9%                                                                                   | 9.4%                   | 8.8%                   | 8.3%                   | 7.7%                   | 7.1%                   | 6.6%                   | 6%                     |
| 543.61                                           | 1.7c per sq.<br>ft. + 1% ad<br>val. | 1.4c/sq. ft.<br>+ 0.9%                                                                 | 1.3c/sq. ft.<br>+ 0.8% | 1c/sq. ft.<br>+ 0.6%   | 0.8c/sq. ft.<br>+ 0.5% | 0.6c/sq. ft.<br>+ 0.4% | 0.4c/sq. ft.<br>+ 0.3% | 0.2c/sq. ft.<br>+ 0.1% | Free                   |
| 543.63                                           | 2.5c per sq.<br>ft. + 1% ad<br>val. | 2.3c/sq. ft.<br>+ 0.9%                                                                 | 2.1c/sq. ft.<br>+ 0.9% | 1.9c/sq. ft.<br>+ 0.8% | 1.7c/sq. ft.<br>+ 0.7% | 1.5c/sq. ft.<br>+ 0.6% | 1.3c/sq. ft.<br>+ 0.6% | 1.1c/sq. ft.<br>+ 0.5% | 1c/sq. ft.<br>+ 0.4%   |
| 543.67                                           | 2.8c per sq.<br>ft. + 1% ad<br>val. | 2.6c/sq. ft.<br>+ 0.9%                                                                 | 2.4c/sq. ft.<br>+ 0.9% | 2.3c/sq. ft.<br>+ 0.8% | 2.1c/sq. ft.<br>+ 0.7% | 2c/sq. ft.<br>+ 0.6%   | 1.8c/sq. ft.<br>+ 0.6% | 1.6c/sq. ft.<br>+ 0.5% | 1.5c/sq. ft.<br>+ 0.4% |
| 543.69                                           | 11.5% ad val.                       | 10.9%                                                                                  | 10.2%                  | 9.6%                   | 8.9%                   | 8.3%                   | 7.6%                   | 7%                     | 6.3%                   |
| 544.11                                           | 22% ad val.                         | 19%                                                                                    | 16%                    | 13%                    | 10%                    | 8.8%                   | 8.8%                   | 8.8%                   | 8.8%                   |
| 544.14                                           | 11.5% ad val.                       | 10.9%                                                                                  | 10.2%                  | 9.6%                   | 8.9%                   | 8.3%                   | 7.6%                   | 7%                     | 6.3%                   |
| 544.16                                           | 15% ad val.                         | 14%                                                                                    | 13.1%                  | 12.1%                  | 11.1%                  | 10.1%                  | 9.2%                   | 8.2%                   | 7.2%                   |
| 544.18                                           | 7.5% ad val.                        | 7.2%                                                                                   | 6.9%                   | 6.5%                   | 6.2%                   | 5.9%                   | 5.6%                   | 5.2%                   | 4.9%                   |
| 544.31                                           | 11% ad val.                         | 10.4%                                                                                  | 9.8%                   | 9.2%                   | 8.6%                   | 8%                     | 7.4%                   | 6.8%                   | 6.2%                   |
| 544.41                                           | 9% ad val.                          | 8.6%                                                                                   | 8.1%                   | 7.7%                   | 7.3%                   | 6.8%                   | 6.4%                   | 5.9%                   | 5.5%                   |
| 544.51                                           | 17.5% ad val.                       | 16.3%                                                                                  | 15.1%                  | 13.9%                  | 12.7%                  | 11.4%                  | 10.2%                  | 9%                     | 7.8%                   |
| 544.61                                           | 11% ad val.                         | 10.2%                                                                                  | 9.4%                   | 8.5%                   | 7.7%                   | 6.9%                   | 6.1%                   | 5.2%                   | 4.4%                   |
| 544.64                                           | 15% ad val.                         | 14%                                                                                    | 13.1%                  | 12.1%                  | 11.1%                  | 10.1%                  | 9.2%                   | 8.2%                   | 7.2%                   |
| 545.11                                           | 5% ad val.                          | 4.8%                                                                                   | 4.7%                   | 4.5%                   | 4.4%                   | 4.2%                   | 4%                     | 3.9%                   | 3.7%                   |
| 545.17                                           | 16% ad val.                         | 14.9%                                                                                  | 13.9%                  | 12.8%                  | 11.8%                  | 10.7%                  | 9.6%                   | 8.6%                   | 7.5%                   |
| 545.21                                           | 11c per gross                       | 9.6c/gross                                                                             | 8.3c/gross             | 6.9c/gross             | 5.5c/gross             | 4.1c/gross             | 2.8c/gross             | 1.4c/gross             | Free                   |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                       |                                       |                                       |                                       |                                      |                                      |                                    |
|--------------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|--------------------------------------|--------------------------------------|------------------------------------|
|                                                  |                                          | 1980                                                                                   | 1981                                  | 1982                                  | 1983                                  | 1984                                  | 1985                                 | 1986                                 | 1987                               |
| Schedule 5, Part 3--Continued                    |                                          |                                                                                        |                                       |                                       |                                       |                                       |                                      |                                      |                                    |
| 545.25                                           | 0.37c per lb.                            | 0.32c/lb.                                                                              | 0.27c/lb.                             | 0.23c/lb.                             | 0.18c/lb.                             | 0.14c/lb.                             | 0.09c/lb.                            | 0.05c/lb.                            | Free                               |
| 545.27                                           | 0.2c per lb.                             | 0.1c/lb.                                                                               | 0.1c/lb.                              | 0.1c/lb.                              | 0.1c/lb.                              | Free                                  | Free                                 | Free                                 | Free                               |
| 545.31                                           | 4c each +<br>20% ad val.                 | 3.7c each +<br>18.8%                                                                   | 3.5c each +<br>17.6%                  | 3.2c each +<br>16.4%                  | 3c each +<br>15.2%                    | 2.8c each +<br>14%                    | 2.5c each +<br>12.8%                 | 2.3c each +<br>11.6%                 | 2c each +<br>10.4%                 |
| 545.34                                           | 7c each +<br>20% ad val.                 | 6.5c each +<br>18.5%                                                                   | 5.9c each +<br>17%                    | 5.4c each +<br>15.5%                  | 4.9c each +<br>14%                    | 4.4c each +<br>12.5%                  | 3.8c each +<br>11%                   | 3.3c each +<br>9.5%                  | 2.8c each +<br>8%                  |
| 545.35                                           | 10.5c each +<br>20% ad val.              | 9.7c each +<br>18.5%                                                                   | 8.9c each +<br>17%                    | 8.1c each +<br>15.5%                  | 7.2c each +<br>14%                    | 6.4c each +<br>12.5%                  | 5.6c each +<br>11%                   | 4.8c each +<br>9.5%                  | 4c each +<br>8%                    |
| 545.37                                           | 16.5c each +<br>20% ad val.              | 15c each +<br>18.5%                                                                    | 13c each +<br>17%                     | 12c each +<br>15.5%                   | 11c each +<br>14%                     | 10c each +<br>12.5%                   | 8c each +<br>11%                     | 7c each +<br>9.5%                    | 6c each +<br>8%                    |
| 545.55                                           | 12% ad val.                              | 11.3%                                                                                  | 10.6%                                 | 9.9%                                  | 9.3%                                  | 8.6%                                  | 7.9%                                 | 7.2%                                 | 6.5%                               |
| 545.57                                           | 12% ad val.                              | 11.3%                                                                                  | 10.6%                                 | 9.9%                                  | 9.3%                                  | 8.6%                                  | 7.9%                                 | 7.2%                                 | 6.5%                               |
| 545.61                                           | 13% ad val.                              | 12.2%                                                                                  | 11.4%                                 | 10.6%                                 | 9.9%                                  | 9.1%                                  | 8.3%                                 | 7.5%                                 | 6.7%                               |
| 545.63                                           | 12% ad val.                              | 11.3%                                                                                  | 10.6%                                 | 9.9%                                  | 9.3%                                  | 8.6%                                  | 7.9%                                 | 7.2%                                 | 6.5%                               |
| 545.67                                           | 12% ad val.                              | 11.3%                                                                                  | 10.6%                                 | 9.9%                                  | 9.3%                                  | 8.6%                                  | 7.9%                                 | 7.2%                                 | 6.5%                               |
| 545.81                                           | 6% ad val.                               | 5.6%                                                                                   | 5.1%                                  | 4.7%                                  | 4.2%                                  | 3.8%                                  | 3.3%                                 | 2.9%                                 | 2.4%                               |
| 545.85                                           | 20% ad val.                              | 17%                                                                                    | 14%                                   | 12%                                   | 10%                                   | 8.2%                                  | 6.2%                                 | 4.2%                                 | 2.2%                               |
| 545.87                                           | 12.5% ad val.                            | 11.8%                                                                                  | 11%                                   | 10.3%                                 | 9.6%                                  | 8.8%                                  | 8.1%                                 | 7.3%                                 | 6.6%                               |
| 546.20                                           | 10.5% ad val.                            | 9.9%                                                                                   | 9.4%                                  | 8.8%                                  | 8.3%                                  | 7.7%                                  | 7.1%                                 | 6.6%                                 | 6%                                 |
| 546.21                                           | 12% ad val.                              | 11.3%                                                                                  | 10.6%                                 | 9.9%                                  | 9.3%                                  | 8.6%                                  | 7.9%                                 | 7.2%                                 | 6.5%                               |
| 546.23                                           | 20% ad val.                              | 18.5%                                                                                  | 17%                                   | 15.5%                                 | 14%                                   | 12.5%                                 | 11%                                  | 9.5%                                 | 8%                                 |
| 546.25                                           | 12.5% ad val.                            | 11.8%                                                                                  | 11%                                   | 10.3%                                 | 9.6%                                  | 8.8%                                  | 8.1%                                 | 7.3%                                 | 6.6%                               |
| 546.39                                           | 22.5% ad val.                            | 20.8%                                                                                  | 19.1%                                 | 17.4%                                 | 15.8%                                 | 14.1%                                 | 12.4%                                | 10.7%                                | 9%                                 |
| 546.47                                           | 17.5% ad val.                            | 16.3%                                                                                  | 15.1%                                 | 13.9%                                 | 12.7%                                 | 11.4%                                 | 10.2%                                | 9%                                   | 7.8%                               |
| 546.52                                           | 50% ad val.                              | 48.5%                                                                                  | 47%                                   | 45.5%                                 | 44%                                   | 42.5%                                 | 41%                                  | 39.5%                                | 38%                                |
| 546.64                                           | 15% ad val.                              | 14%                                                                                    | 13.1%                                 | 12.1%                                 | 11.1%                                 | 10.1%                                 | 9.2%                                 | 8.2%                                 | 7.2%                               |
| 546.68                                           | 15% ad val.                              | 14%                                                                                    | 13.1%                                 | 12.1%                                 | 11.1%                                 | 10.1%                                 | 9.2%                                 | 8.2%                                 | 7.2%                               |
| 547.11                                           | 7.5% ad val.                             | 7.2%                                                                                   | 6.9%                                  | 6.5%                                  | 6.2%                                  | 5.9%                                  | 5.6%                                 | 5.2%                                 | 4.9%                               |
| 547.13                                           | 24% ad val.                              | 22.2%                                                                                  | 20.4%                                 | 18.6%                                 | 16.8%                                 | 15%                                   | 13.2%                                | 11.4%                                | 9.6%                               |
| 547.15                                           | 12.5% ad val.                            | 11.6%                                                                                  | 10.6%                                 | 9.7%                                  | 8.8%                                  | 7.8%                                  | 6.9%                                 | 5.9%                                 | 5%                                 |
| 547.21                                           | 10% ad val.                              | 9.5%                                                                                   | 9%                                    | 8.4%                                  | 7.9%                                  | 7.4%                                  | 6.9%                                 | 6.3%                                 | 5.8%                               |
| 547.31                                           | 5% ad val.                               | 4.8%                                                                                   | 4.7%                                  | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                   | 3.7%                                 | 3.5%                               |
| 547.37                                           | 12.5% ad val.                            | 11.8%                                                                                  | 11%                                   | 10.3%                                 | 9.6%                                  | 8.8%                                  | 8.1%                                 | 7.3%                                 | 6.6%                               |
| 547.41                                           | 7.5% ad val.                             | 7.2%                                                                                   | 6.9%                                  | 6.5%                                  | 6.2%                                  | 5.9%                                  | 5.6%                                 | 5.2%                                 | 4.9%                               |
| 547.43                                           | 10% ad val.                              | 9.5%                                                                                   | 9%                                    | 8.4%                                  | 7.9%                                  | 7.4%                                  | 6.9%                                 | 6.3%                                 | 5.8%                               |
| 547.53                                           | 10% ad val.                              | 9.5%                                                                                   | 9%                                    | 8.4%                                  | 7.9%                                  | 7.4%                                  | 6.9%                                 | 6.3%                                 | 5.8%                               |
| 547.55                                           | 21% ad val.                              | 19.4%                                                                                  | 17.9%                                 | 16.3%                                 | 14.7%                                 | 13.1%                                 | 11.6%                                | 10%                                  | 8.4%                               |
| 548.01                                           | 7% ad val.                               | 6.7%                                                                                   | 6.4%                                  | 6.1%                                  | 5.9%                                  | 5.6%                                  | 5.3%                                 | 5%                                   | 4.7%                               |
| 548.03                                           | 16% ad val.                              | 14.9%                                                                                  | 13.9%                                 | 12.8%                                 | 11.8%                                 | 10.7%                                 | 9.6%                                 | 8.6%                                 | 7.5%                               |
| 548.05                                           | 12.5% ad val.                            | 11.8%                                                                                  | 11%                                   | 10.3%                                 | 9.6%                                  | 8.8%                                  | 8.1%                                 | 7.3%                                 | 6.6%                               |
| Schedule 6, Part 1                               |                                          |                                                                                        |                                       |                                       |                                       |                                       |                                      |                                      |                                    |
| 601.27                                           | 0.12c per lb.<br>on manganese<br>content | Free                                                                                   | Free                                  | Free                                  | Free                                  | Free                                  | Free                                 | Free                                 | Free                               |
| 601.33                                           | 12c per lb.<br>on molybdenum<br>content  | 11.6c/lb. on<br>molybdenum<br>content                                                  | 11.3c/lb. on<br>molybdenum<br>content | 10.9c/lb. on<br>molybdenum<br>content | 10.5c/lb. on<br>molybdenum<br>content | 10.1c/lb. on<br>molybdenum<br>content | 9.8c/lb. on<br>molybdenum<br>content | 9.4c/lb. on<br>molybdenum<br>content | 9c/lb. on<br>molybdenum<br>content |
| 601.54                                           | 25c per lb.<br>on tungsten<br>content    | 17c/lb. on<br>tungsten<br>content                                                      | 17c/lb. on<br>tungsten<br>content     | 17c/lb. on<br>tungsten<br>content     | 17c/lb. on<br>tungsten<br>content     | 17c/lb. on<br>tungsten<br>content     | 17c/lb. on<br>tungsten<br>content    | 17c/lb. on<br>tungsten<br>content    | 17c/lb. on<br>tungsten<br>content  |
| 602.20                                           | 0.67c per lb.<br>on zinc<br>content      | 0.62c/lb. on<br>zinc<br>content                                                        | 0.58c/lb. on<br>zinc<br>content       | 0.53c/lb. on<br>zinc<br>content       | 0.48c/lb. on<br>zinc<br>content       | 0.44c/lb. on<br>zinc<br>content       | 0.39c/lb. on<br>zinc<br>content      | 0.35c/lb. on<br>zinc<br>content      | 0.3c/lb. on<br>zinc<br>content     |
| 602.28                                           | 1c per lb. on<br>copper<br>content       | 0.9c/lb. on<br>copper<br>content                                                       | 0.9c/lb. on<br>copper<br>content      | 0.9c/lb. on<br>copper<br>content      | 0.9c/lb. on<br>copper<br>content      | 0.8c/lb. on<br>copper<br>content      | 0.8c/lb. on<br>copper<br>content     | 0.8c/lb. on<br>copper<br>content     | 0.8c/lb. on<br>copper<br>content   |
| 602.30                                           | 0.8c per lb.<br>on copper<br>content     | Free                                                                                   | Free                                  | Free                                  | Free                                  | Free                                  | Free                                 | Free                                 | Free                               |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 545.31, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988--1.8c each + 9.2%.  
 Effective with respect to articles entered on and after January 1, 1989--1.6c each + 8%.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                              | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 --              |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                           |
|--------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                        | 1980                                                                                                        | 1981                                                                                                        | 1982                                                                                                        | 1983                                                                                                        | 1984                                                                                                        | 1985                                                                                                        | 1986                                                                                                        | 1987                                                                                                      |
| Schedule 5, Part 1--Continued                    |                                                                                                                        |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                           |
| 603.15                                           | 30c per ton                                                                                                            | 36c/ton                                                                                                     | 35c/ton                                                                                                     | 34c/ton                                                                                                     | 33c/ton                                                                                                     | 33c/ton                                                                                                     | 32c/ton                                                                                                     | 31c/ton                                                                                                     | 30c/ton                                                                                                   |
| 603.25                                           | 1.0625c per<br>lb. on<br>lead content                                                                                  | 1.04c/lb. on<br>lead<br>content                                                                             | 1.02c/lb. on<br>lead<br>content                                                                             | 1c/lb. on<br>lead<br>content                                                                                | 0.98c/lb. on<br>lead<br>content                                                                             | 0.96c/lb. on<br>lead<br>content                                                                             | 0.94c/lb. on<br>lead<br>content                                                                             | 0.92c/lb. on<br>lead<br>content                                                                             | 0.9c/lb. on<br>lead<br>content                                                                            |
| 603.30                                           | 0.75c per lb.                                                                                                          | 0.73c/lb.                                                                                                   | 0.71c/lb.                                                                                                   | 0.69c/lb.                                                                                                   | 0.67c/lb.                                                                                                   | 0.66c/lb.                                                                                                   | 0.64c/lb.                                                                                                   | 0.62c/lb.                                                                                                   | 0.6c/lb.                                                                                                  |
| 603.40                                           | 10c per lb. on<br>molybdenum<br>content + 3%<br>ad val.                                                                | 9.5c/lb. on<br>molybdenum<br>content +<br>2.9%                                                              | 9c/lb. on<br>molybdenum<br>content +<br>2.7%                                                                | 8.5c/lb. on<br>molybdenum<br>content +<br>2.5%                                                              | 8c/lb. on<br>molybdenum<br>content +<br>2.3%                                                                | 7.5c/lb. on<br>molybdenum<br>content +<br>2.2%                                                              | 7c/lb. on<br>molybdenum<br>content +<br>2.1%                                                                | 6.5c/lb. on<br>molybdenum<br>content +<br>2%                                                                | 6c/lb. on<br>molybdenum<br>content +<br>1.9%                                                              |
| 603.45                                           | 21c per lb. on<br>tungsten<br>content +<br>10% ad val.                                                                 | 16c/lb. on<br>tungsten<br>content +<br>7.6%                                                                 | 11c/lb. on<br>tungsten<br>content +<br>5.2%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                                 | 10c/lb. on<br>tungsten<br>content +<br>4.8%                                                               |
| 603.49                                           | 1c per lb. on<br>copper<br>content +<br>0.75c per<br>lb. on lead<br>content +<br>0.67c per<br>lb. on zinc<br>content   | 0.96c/lb. on<br>copper<br>content +<br>0.72c/lb.<br>on lead<br>content +<br>0.65c/lb.<br>on zinc<br>content | 0.92c/lb. on<br>copper<br>content +<br>0.69c/lb.<br>on lead<br>content +<br>0.63c/lb.<br>on zinc<br>content | 0.89c/lb. on<br>copper<br>content +<br>0.66c/lb.<br>on lead<br>content +<br>0.60c/lb.<br>on zinc<br>content | 0.85c/lb. on<br>copper<br>content +<br>0.62c/lb.<br>on lead<br>content +<br>0.58c/lb.<br>on zinc<br>content | 0.81c/lb. on<br>copper<br>content +<br>0.59c/lb.<br>on lead<br>content +<br>0.56c/lb.<br>on zinc<br>content | 0.77c/lb. on<br>copper<br>content +<br>0.56c/lb.<br>on lead<br>content +<br>0.54c/lb.<br>on zinc<br>content | 0.74c/lb. on<br>copper<br>content +<br>0.53c/lb.<br>on lead<br>content +<br>0.52c/lb.<br>on zinc<br>content | 0.7c/lb. on<br>copper<br>content +<br>0.5c/lb.<br>on lead<br>content +<br>0.5c/lb.<br>on zinc<br>content  |
| 603.50                                           | 0.6c per lb. on<br>copper<br>content +<br>0.75c per<br>lb. on lead<br>content +<br>0.67c per<br>lb. on zinc<br>content | 0.74c/lb. on<br>copper<br>content +<br>0.69c/lb.<br>on lead<br>content +<br>0.62c/lb.<br>on zinc<br>content | 0.68c/lb. on<br>copper<br>content +<br>0.64c/lb.<br>on lead<br>content +<br>0.58c/lb.<br>on zinc<br>content | 0.62c/lb. on<br>copper<br>content +<br>0.58c/lb.<br>on lead<br>content +<br>0.52c/lb.<br>on zinc<br>content | 0.56c/lb. on<br>copper<br>content +<br>0.52c/lb.<br>on lead<br>content +<br>0.48c/lb.<br>on zinc<br>content | 0.5c/lb. on<br>copper<br>content +<br>0.47c/lb.<br>on lead<br>content +<br>0.44c/lb.<br>on zinc<br>content  | 0.44c/lb. on<br>copper<br>content +<br>0.41c/lb.<br>on lead<br>content +<br>0.39c/lb.<br>on zinc<br>content | 0.38c/lb. on<br>copper<br>content +<br>0.36c/lb.<br>on lead<br>content +<br>0.35c/lb.<br>on zinc<br>content | 0.32c/lb. on<br>copper<br>content +<br>0.3c/lb.<br>on lead<br>content +<br>0.3c/lb.<br>on zinc<br>content |
| 603.54                                           | 1c per lb. on<br>copper<br>content +<br>0.75c per lb.<br>on lead<br>content +<br>0.67c per lb.<br>on zinc<br>content   | 0.95c/lb. on<br>copper<br>content +<br>0.71c/lb.<br>on lead<br>content +<br>0.64c/lb.<br>on zinc<br>content | 0.9c/lb. on<br>copper<br>content +<br>0.68c/lb.<br>on lead<br>content +<br>0.6c/lb.<br>on zinc<br>content   | 0.85c/lb. on<br>copper<br>content +<br>0.65c/lb.<br>on lead<br>content +<br>0.57c/lb.<br>on zinc<br>content | 0.8c/lb. on<br>copper<br>content +<br>0.62c/lb.<br>on lead<br>content +<br>0.53c/lb.<br>on zinc<br>content  | 0.75c/lb. on<br>copper<br>content +<br>0.59c/lb.<br>on lead<br>content +<br>0.5c/lb.<br>on zinc<br>content  | 0.7c/lb. on<br>copper<br>content +<br>0.49c/lb.<br>on lead<br>content +<br>0.48c/lb.<br>on zinc<br>content  | 0.65c/lb. on<br>copper<br>content +<br>0.46c/lb.<br>on lead<br>content +<br>0.43c/lb.<br>on zinc<br>content | 0.6c/lb. on<br>copper<br>content +<br>0.4c/lb.<br>on lead<br>content +<br>0.4c/lb.<br>on zinc<br>content  |
| 603.55                                           | 0.8c per lb. on<br>copper<br>content +<br>0.75c per lb.<br>on lead<br>content +<br>0.67c per lb.<br>on zinc<br>content | 0.7c/lb. on<br>copper<br>content +<br>0.66c/lb.<br>on lead<br>content +<br>0.59c/lb.<br>on zinc<br>content  | 0.6c/lb. on<br>copper<br>content +<br>0.56c/lb.<br>on lead<br>content +<br>0.50c/lb.<br>on zinc<br>content  | 0.5c/lb. on<br>copper<br>content +<br>0.47c/lb.<br>on lead<br>content +<br>0.42c/lb.<br>on zinc<br>content  | 0.4c/lb. on<br>copper<br>content +<br>0.37c/lb.<br>on lead<br>content +<br>0.33c/lb.<br>on zinc<br>content  | 0.3c/lb. on<br>copper<br>content +<br>0.28c/lb.<br>on lead<br>content +<br>0.25c/lb.<br>on zinc<br>content  | 0.2c/lb. on<br>copper<br>content +<br>0.19c/lb.<br>on lead<br>content +<br>0.17c/lb.<br>on zinc<br>content  | 0.1c/lb. on<br>copper<br>content +<br>0.09c/lb.<br>on lead<br>content +<br>0.08c/lb.<br>on zinc<br>content  | Free                                                                                                      |
| 603.70                                           | 7.5% ad val.                                                                                                           | 7.2%                                                                                                        | 6.9%                                                                                                        | 6.6%                                                                                                        | 6.3%                                                                                                        | 5.9%                                                                                                        | 5.6%                                                                                                        | 5.3%                                                                                                        | 5%                                                                                                        |
| Schedule 5, Part 2                               |                                                                                                                        |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                             |                                                                                                           |
| 605.03                                           | 20% ad val.                                                                                                            | 18.5%                                                                                                       | 17.1%                                                                                                       | 15.6%                                                                                                       | 14.1%                                                                                                       | 12.6%                                                                                                       | 11.2%                                                                                                       | 9.7%                                                                                                        | 8.2%                                                                                                      |
| 605.05                                           | 25% ad val.                                                                                                            | 23.1%                                                                                                       | 21.3%                                                                                                       | 19.4%                                                                                                       | 17.5%                                                                                                       | 15.6%                                                                                                       | 13.8%                                                                                                       | 11.9%                                                                                                       | 10%                                                                                                       |
| 605.06                                           | 12% ad val.                                                                                                            | 11.3%                                                                                                       | 10.6%                                                                                                       | 9.9%                                                                                                        | 9.3%                                                                                                        | 8.6%                                                                                                        | 7.9%                                                                                                        | 7.2%                                                                                                        | 6.5%                                                                                                      |
| 605.08                                           | 20% ad val.                                                                                                            | 18.5%                                                                                                       | 17.1%                                                                                                       | 15.6%                                                                                                       | 14.1%                                                                                                       | 12.6%                                                                                                       | 11.2%                                                                                                       | 9.7%                                                                                                        | 8.2%                                                                                                      |
| 605.27                                           | 16% ad val.                                                                                                            | 14.9%                                                                                                       | 13.9%                                                                                                       | 12.8%                                                                                                       | 11.8%                                                                                                       | 10.7%                                                                                                       | 9.6%                                                                                                        | 8.6%                                                                                                        | 7.5%                                                                                                      |
| 605.28                                           | 20% ad val.                                                                                                            | 18.5%                                                                                                       | 17.1%                                                                                                       | 15.6%                                                                                                       | 14.1%                                                                                                       | 12.6%                                                                                                       | 11.2%                                                                                                       | 9.7%                                                                                                        | 8.2%                                                                                                      |
| 605.46                                           | 16% ad val.                                                                                                            | 14.9%                                                                                                       | 13.9%                                                                                                       | 12.8%                                                                                                       | 11.8%                                                                                                       | 10.7%                                                                                                       | 9.6%                                                                                                        | 8.6%                                                                                                        | 7.5%                                                                                                      |
| 605.47                                           | 25% ad val.                                                                                                            | 23.1%                                                                                                       | 21.3%                                                                                                       | 19.4%                                                                                                       | 17.5%                                                                                                       | 15.6%                                                                                                       | 13.8%                                                                                                       | 11.9%                                                                                                       | 10%                                                                                                       |
| 605.48                                           | 10.5% ad val.                                                                                                          | 9.9%                                                                                                        | 9.4%                                                                                                        | 8.8%                                                                                                        | 8.3%                                                                                                        | 7.7%                                                                                                        | 7.1%                                                                                                        | 6.6%                                                                                                        | 6%                                                                                                        |
| 605.60                                           | 12% ad val.                                                                                                            | 11.3%                                                                                                       | 10.6%                                                                                                       | 9.9%                                                                                                        | 9.3%                                                                                                        | 8.6%                                                                                                        | 7.9%                                                                                                        | 7.2%                                                                                                        | 6.5%                                                                                                      |
| 605.65                                           | 10.5% ad val.                                                                                                          | 9.9%                                                                                                        | 9.4%                                                                                                        | 8.8%                                                                                                        | 8.3%                                                                                                        | 7.7%                                                                                                        | 7.1%                                                                                                        | 6.6%                                                                                                        | 6%                                                                                                        |
| 606.11                                           | 0.1% ad val.<br>+ additional<br>duties                                                                                 | 18c per ton<br>+ additional<br>duties                                                                       | 18c per ton<br>+ additional<br>duties                                                                       | Free                                                                                                        | Free                                                                                                        | Free                                                                                                        | Free                                                                                                        | Free                                                                                                        | Free                                                                                                      |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged              | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                |                                   |                                   |                                   |                                   |                                  |                                |
|--------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|----------------------------------|--------------------------------|
|                                                  |                                        | 1980                                                                                   | 1981                                           | 1982                              | 1983                              | 1984                              | 1985                              | 1986                             | 1987                           |
| Schedule                                         | 5, Part 2--Continued                   |                                                                                        |                                                |                                   |                                   |                                   |                                   |                                  |                                |
| 606.19                                           | 1% ad val.<br>+ additional<br>duties   | 75c/ton +<br>additional<br>duties                                                      | 75c/ton +<br>additional<br>duties              | 0.9% +<br>additional<br>duties    | 0.9% +<br>additional<br>duties    | 0.9% +<br>additional<br>duties    | 0.9% +<br>additional<br>duties    | 0.9% +<br>additional<br>duties   | 0.9% +<br>additional<br>duties |
| 606.22                                           | 4% ad val.                             | 4%                                                                                     | 4%                                             | 3.9%                              | 3.7%                              | 3.6%                              | 3.4%                              | 3.3%                             | 3.1%                           |
| 606.26                                           | 2.7% ad val.                           | 0.3c/lb. on<br>manganese<br>content<br>+ 2%                                            | 0.3c/lb. on<br>manganese<br>content<br>+ 2%    | 2.6%                              | 2.6%                              | 2.5%                              | 2.4%                              | 2.4%                             | 2.3%                           |
| 606.28                                           | 1.5% ad val.                           | 0.46c/lb. on<br>manganese<br>content                                                   | 0.46c/lb. on<br>manganese<br>content           | 1.4%                              | 1.4%                              | 1.4%                              | 1.4%                              | 1.4%                             | 1.4%                           |
| 606.30                                           | 1.7% ad val.                           | 0.3c/lb. on<br>manganese<br>content                                                    | 0.3c/lb. on<br>manganese<br>content            | 1.6%                              | 1.6%                              | 1.6%                              | 1.5%                              | 1.5%                             | 1.5%                           |
| 606.31                                           | 6.6% ad val.                           | 10c/lb. on<br>molybdenum<br>content +<br>3%                                            | 10c/lb. on<br>molybdenum<br>content +<br>3%    | 6.3%                              | 5.9%                              | 5.6%                              | 5.2%                              | 4.9%                             | 4.5%                           |
| 606.33                                           | 6% ad val.                             | 5.6%                                                                                   | 5.1%                                           | 4.7%                              | 4.2%                              | 3.8%                              | 3.3%                              | 2.9%                             | 2.4%                           |
| 606.36                                           | 1.7% ad val.                           | 0.5c/lb. on<br>silicon<br>content                                                      | 0.5c/lb. on<br>silicon<br>content              | 1.1%                              | 1.1%                              | 1.1%                              | 1.1%                              | 1.1%                             | 1.1%                           |
| 606.37                                           | 1.7% ad val.                           | 0.5c/lb. on<br>silicon<br>content                                                      | 0.5c/lb. on<br>silicon<br>content              | 1.6%                              | 1.6%                              | 1.6%                              | 1.6%                              | 1.5%                             | 1.5%                           |
| 606.39                                           | 2.2% ad val.                           | 1c/lb. on<br>silicon<br>content                                                        | 1c/lb. on<br>silicon<br>content                | 1.9%                              | 1.9%                              | 1.9%                              | 1.9%                              | 1.9%                             | 1.9%                           |
| 606.40                                           | 10% ad val.                            | 2c/lb. on<br>silicon<br>content                                                        | 2c/lb. on<br>silicon<br>content                | 9.3%                              | 8.6%                              | 7.9%                              | 7.2%                              | 6.5%                             | 5.8%                           |
| 606.44                                           | 5.5% ad val.                           | 0.46c/lb. on<br>manganese<br>content<br>+ 3.5%                                         | 0.46c/lb. on<br>manganese<br>content<br>+ 3.5% | 5.2%                              | 5%                                | 4.7%                              | 4.4%                              | 4.2%                             | 3.9%                           |
| 606.46                                           | 5% ad val.                             | 5%                                                                                     | 5%                                             | 4.8%                              | 4.6%                              | 4.4%                              | 4.1%                              | 3.9%                             | 3.7%                           |
| 606.48                                           | 9.3% ad val.                           | 21c/lb. on<br>tungsten<br>content +<br>6%                                              | 21c/lb. on<br>tungsten<br>content +<br>6%      | 8.8%                              | 8.2%                              | 7.5%                              | 6.9%                              | 6.2%                             | 5.6%                           |
| 606.50                                           | 6% ad val.                             | 6%                                                                                     | 6%                                             | 5.7%                              | 5.4%                              | 5.1%                              | 4.8%                              | 4.5%                             | 4.2%                           |
| 606.51                                           | 6% ad val.                             | 6%                                                                                     | 6%                                             | 5.7%                              | 5.4%                              | 5.1%                              | 4.8%                              | 4.5%                             | 4.2%                           |
| 606.57                                           | 31c per ton +<br>additional<br>duties  | 31c/ton +<br>additional<br>duties                                                      | 31c/ton +<br>additional<br>duties              | 25c/ton +<br>additional<br>duties | 20c/ton +<br>additional<br>duties | 15c/ton +<br>additional<br>duties | 10c/ton +<br>additional<br>duties | 5c/ton +<br>additional<br>duties | Free                           |
| 606.59                                           | 0.3c per lb.                           | 0.3c/lb.                                                                               | 0.3c/lb.                                       | 0.25c/lb.                         | 0.2c/lb.                          | 0.15c/lb.                         | 0.1c/lb.                          | 0.05c/lb.                        | Free                           |
| 606.62                                           | 9.5% ad val.                           | 9.5%                                                                                   | 9.5%                                           | 8.6%                              | 7.7%                              | 6.8%                              | 5.8%                              | 4.9%                             | 4%                             |
| 606.64                                           | 1.1% ad val.                           | 0.3c/lb.                                                                               | 0.3c/lb.                                       | 1%                                | 1%                                | 1%                                | 1%                                | 1%                               | 1%                             |
| 606.67                                           | 6% ad val.                             | 6%                                                                                     | 6%                                             | 5.7%                              | 5.4%                              | 5.1%                              | 4.8%                              | 4.5%                             | 4.2%                           |
| 606.69                                           | 8% ad val. +<br>additional<br>duties   | 8% +<br>additional<br>duties                                                           | 8% +<br>additional<br>duties                   | 7.5% +<br>additional<br>duties    | 7% +<br>additional<br>duties      | 6.6% +<br>additional<br>duties    | 6.1% +<br>additional<br>duties    | 5.6% +<br>additional<br>duties   | 5.1% +<br>additional<br>duties |
| 606.71                                           | 6% ad val.                             | 6%                                                                                     | 6%                                             | 5.7%                              | 5.4%                              | 5.1%                              | 4.8%                              | 4.5%                             | 4.2%                           |
| 606.73                                           | 8% ad val. +<br>additional<br>duties   | 8% +<br>additional<br>duties                                                           | 8% +<br>additional<br>duties                   | 7.3% +<br>additional<br>duties    | 6.7% +<br>additional<br>duties    | 6% +<br>additional<br>duties      | 5.3% +<br>additional<br>duties    | 4.7% +<br>additional<br>duties   | 4% +<br>additional<br>duties   |
| 606.75                                           | 2.4% ad val.                           | 0.5c/lb.                                                                               | 0.5c/lb.                                       | 2.3%                              | 2.3%                              | 2.2%                              | 2.1%                              | 2.1%                             | 2%                             |
| 606.77                                           | 2.8% ad val.<br>+ additional<br>duties | 0.5c/lb. +<br>2% +<br>additional<br>duties                                             | 0.5c/lb. +<br>2% +<br>additional<br>duties     | 2.7% +<br>additional<br>duties    | 2.6% +<br>additional<br>duties    | 2.6% +<br>additional<br>duties    | 2.5% +<br>additional<br>duties    | 2.4% +<br>additional<br>duties   | 2.3% +<br>additional<br>duties |
| 606.79                                           | 7.5% ad val.                           | 7.5%                                                                                   | 7.5%                                           | 7.1%                              | 6.6%                              | 6.2%                              | 5.8%                              | 5.3%                             | 4.9%                           |
| 606.81                                           | 9.5% ad val.<br>+ additional<br>duties | 9.5% +<br>additional<br>duties                                                         | 9.5% +<br>additional<br>duties                 | 8.9% +<br>additional<br>duties    | 8.2% +<br>additional<br>duties    | 7.6% +<br>additional<br>duties    | 7% +<br>additional<br>duties      | 6.3% +<br>additional<br>duties   | 5.7% +<br>additional<br>duties |
| 606.83                                           | 7% ad val.                             | 7%                                                                                     | 7%                                             | 6.6%                              | 6.2%                              | 5.9%                              | 5.5%                              | 5.1%                             | 4.7%                           |
| 606.86                                           | 8% ad val.                             | 8%                                                                                     | 8%                                             | 7.2%                              | 6.4%                              | 5.6%                              | 4.8%                              | 4%                               | 3.2%                           |
| 606.88                                           | 8.5% ad val.                           | 8.5%                                                                                   | 8.5%                                           | 8.3%                              | 8.2%                              | 8%                                | 7.8%                              | 7.7%                             | 7.5%                           |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged               | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                              |                                        |                                        |                                        |                                      |                                        |                                        |
|-----------------------------------------------|-----------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|--------------------------------------|----------------------------------------|----------------------------------------|
|                                               |                                         | 1980                                                                                   | 1981                                         | 1982                                   | 1983                                   | 1984                                   | 1985                                 | 1986                                   | 1987                                   |
| Schedule B, Part 2--Continued                 |                                         |                                                                                        |                                              |                                        |                                        |                                        |                                      |                                        |                                        |
| 606.91                                        | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.82 +<br>additional<br>duties         | 9% +<br>additional<br>duties           | 8.32 +<br>additional<br>duties         | 7.52 +<br>additional<br>duties       | 6.82 +<br>additional<br>duties         | 6% +<br>additional<br>duties           |
| 606.93                                        | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.82 +<br>additional<br>duties         | 9% +<br>additional<br>duties           | 8.32 +<br>additional<br>duties         | 7.52 +<br>additional<br>duties       | 6.82 +<br>additional<br>duties         | 6% +<br>additional<br>duties           |
| 606.97                                        | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.82 +<br>additional<br>duties         | 9% +<br>additional<br>duties           | 8.32 +<br>additional<br>duties         | 7.52 +<br>additional<br>duties       | 6.82 +<br>additional<br>duties         | 6% +<br>additional<br>duties           |
| 606.99                                        | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 10% +<br>additional<br>duties          | 9.52 +<br>additional<br>duties         | 9% +<br>additional<br>duties           | 8.52 +<br>additional<br>duties       | 8% +<br>additional<br>duties           | 7.52 +<br>additional<br>duties         |
| 607.05                                        | 8.52 ad val.                            | 0.18c/lb. +<br>52                                                                      | 0.18c/lb. +<br>52                            | 82                                     | 7.42                                   | 6.92                                   | 6.42                                 | 5.82                                   | 5.32                                   |
| 607.07                                        | 7.52 ad val.                            | 7.52                                                                                   | 7.52                                         | 7.12                                   | 6.62                                   | 6.22                                   | 5.82                                 | 5.32                                   | 4.92                                   |
| 607.09                                        | 9.52 ad val.<br>+ additional<br>duties  | 9.52 +<br>42 +<br>additional<br>duties                                                 | 9.52 +<br>42 +<br>additional<br>duties       | 8.92 +<br>42 +<br>additional<br>duties | 8.22 +<br>42 +<br>additional<br>duties | 7.62 +<br>42 +<br>additional<br>duties | 7% +<br>42 +<br>additional<br>duties | 6.32 +<br>42 +<br>additional<br>duties | 5.72 +<br>42 +<br>additional<br>duties |
| 607.14                                        | 1.52 ad val.                            | 0.1c/lb.                                                                               | 0.1c/lb.                                     | 1.42                                   | 1.42                                   | 1.42                                   | 1.42                                 | 1.42                                   | 1.42                                   |
| 607.17                                        | 2.22 ad val.                            | 0.25c/lb.                                                                              | 0.25c/lb.                                    | 22                                     | 22                                     | 22                                     | 1.92                                 | 1.92                                   | 1.92                                   |
| 607.22                                        | 9.92 ad val.                            | 0.2c/lb.                                                                               | 0.2c/lb.                                     | 9.22                                   | 8.52                                   | 7.92                                   | 7.22                                 | 6.52                                   | 5.82                                   |
| 607.24                                        | 2.72 ad val.                            | 0.175c/lb.                                                                             | 0.175c/lb.                                   | 2.32                                   | 2.32                                   | 2.32                                   | 2.32                                 | 2.32                                   | 2.32                                   |
| 607.32                                        | 52 ad val.<br>+ additional<br>duties    | 0.25c/lb.<br>+ 42 +<br>additional<br>duties                                            | 0.25c/lb. +<br>42 +<br>additional<br>duties  | 42 +<br>additional<br>duties           | 42 +<br>additional<br>duties           | 3.52 +<br>additional<br>duties         | 32 +<br>additional<br>duties         | 2.52 +<br>additional<br>duties         | 22 +<br>additional<br>duties           |
| 607.41                                        | 5.52 ad val.<br>+ additional<br>duties  | 0.25c/lb. +<br>42 +<br>additional<br>duties                                            | 0.25c/lb. +<br>42 +<br>additional<br>duties  | 5.32 +<br>additional<br>duties         | 5.22 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 4.82 +<br>additional<br>duties       | 4.72 +<br>additional<br>duties         | 4.52 +<br>additional<br>duties         |
| 607.43                                        | 5.72 ad val.<br>+ additional<br>duties  | 0.375c/lb.<br>+ 42 +<br>additional<br>duties                                           | 0.375c/lb.<br>+ 42 +<br>additional<br>duties | 5.42 +<br>additional<br>duties         | 5.22 +<br>additional<br>duties         | 4.92 +<br>additional<br>duties         | 4.62 +<br>additional<br>duties       | 4.42 +<br>additional<br>duties         | 4.12 +<br>additional<br>duties         |
| 607.59                                        | 5.82 ad val.<br>+ additional<br>duties  | 0.375c/lb.<br>+ 42 +<br>additional<br>duties                                           | 0.375c/lb.<br>+ 42 +<br>additional<br>duties | 5.42 +<br>additional<br>duties         | 5.22 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 4.92 +<br>additional<br>duties       | 4.72 +<br>additional<br>duties         | 4.52 +<br>additional<br>duties         |
| 607.62                                        | 92 ad val.                              | 92                                                                                     | 92                                           | 8.42                                   | 7.82                                   | 7.32                                   | 6.72                                 | 6.12                                   | 5.52                                   |
| 607.64                                        | 82 ad val.                              | 82                                                                                     | 82                                           | 7.22                                   | 6.42                                   | 5.62                                   | 4.82                                 | 4.2                                    | 3.22                                   |
| 607.66                                        | 7.52 ad val.                            | 7.52                                                                                   | 7.52                                         | 7.12                                   | 6.62                                   | 6.22                                   | 5.82                                 | 5.32                                   | 4.92                                   |
| 607.67                                        | 9.52 ad val.                            | 9.52                                                                                   | 9.52                                         | 7.12                                   | 6.62                                   | 6.22                                   | 5.82                                 | 5.32                                   | 4.92                                   |
| 607.69                                        | 9.52 ad val.<br>+ additional<br>duties  | 9.52 +<br>additional<br>duties                                                         | 9.52 +<br>additional<br>duties               | 8.62 +<br>additional<br>duties         | 7.62 +<br>additional<br>duties         | 6.72 +<br>additional<br>duties         | 5.72 +<br>additional<br>duties       | 4.82 +<br>additional<br>duties         | 3.82 +<br>additional<br>duties         |
| 607.72                                        | 9.52 ad val.<br>+ additional<br>duties  | 9.52 +<br>additional<br>duties                                                         | 9.52 +<br>additional<br>duties               | 8.62 +<br>additional<br>duties         | 7.62 +<br>additional<br>duties         | 6.72 +<br>additional<br>duties         | 5.72 +<br>additional<br>duties       | 4.82 +<br>additional<br>duties         | 3.82 +<br>additional<br>duties         |
| 607.83                                        | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                                   | 72                                     | 6.62                                   | 6.12                                 | 5.62                                   | 5.12                                   |
| 607.88                                        | 102 ad val.<br>+ additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties           | 82 +<br>additional<br>duties           | 72 +<br>additional<br>duties           | 62 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 42 +<br>additional<br>duties           |
| 607.91                                        | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties           | 82 +<br>additional<br>duties           | 72 +<br>additional<br>duties           | 62 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 42 +<br>additional<br>duties           |
| 607.92                                        | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties           | 82 +<br>additional<br>duties           | 72 +<br>additional<br>duties           | 62 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 42 +<br>additional<br>duties           |
| 607.93                                        | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties           | 82 +<br>additional<br>duties           | 72 +<br>additional<br>duties           | 62 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 42 +<br>additional<br>duties           |
| 607.94                                        | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties           | 82 +<br>additional<br>duties           | 72 +<br>additional<br>duties           | 62 +<br>additional<br>duties         | 52 +<br>additional<br>duties           | 42 +<br>additional<br>duties           |
| 607.95                                        | 122 ad val.                             | 122                                                                                    | 122                                          | 11.12                                  | 10.22                                  | 9.32                                   | 8.32                                 | 7.42                                   | 6.52                                   |
| 607.97                                        | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                                   | 72                                     | 6.62                                   | 6.12                                 | 5.62                                   | 5.12                                   |
| 607.99                                        | 42 ad val.                              | 0.8c/lb.                                                                               | 0.8c/lb.                                     | 42                                     | 42                                     | 3.92                                   | 3.72                                 | 3.62                                   | 3.52                                   |
| 608.01                                        | 9.92 ad val.                            | 0.4c/lb.                                                                               | 0.4c/lb.                                     | 5.32                                   | 5.12                                   | 4.82                                   | 4.52                                 | 4.22                                   | 42                                     |

1/ The symbol "c" indicates per cent ad valorem. The symbol "/" indicates per stated unit of quantity.

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## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged               | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                              |                                 |                                |                                |                                |                                |                                |
|--------------------------------------------------|-----------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------|---------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
|                                                  |                                         | 1980                                                                                   | 1981                                         | 1982                            | 1983                           | 1984                           | 1985                           | 1986                           | 1987                           |
| Schedule B, Part 2--Continued                    |                                         |                                                                                        |                                              |                                 |                                |                                |                                |                                |                                |
| 608.07                                           | 92 ad val.                              | 92                                                                                     | 92                                           | 8.42                            | 7.82                           | 7.32                           | 6.72                           | 6.12                           | 5.52                           |
| 608.11                                           | 8.72 ad val.                            | 0.1c/lb. +<br>82                                                                       | 0.1c/lb. +<br>82                             | 8.22                            | 7.62                           | 7.12                           | 6.52                           | 62                             | 5.42                           |
| 608.13                                           | 8.62 ad val.                            | 0.1c/lb. +<br>82                                                                       | 0.1c/lb. +<br>82                             | 8.32                            | 7.92                           | 7.62                           | 7.22                           | 6.92                           | 6.52                           |
| 608.14                                           | 112 ad val. +<br>additional<br>duties   | 112 +<br>additional<br>duties                                                          | 112 +<br>additional<br>duties                | 10.22 +<br>additional<br>duties | 9.42 +<br>additional<br>duties | 8.62 +<br>additional<br>duties | 7.82 +<br>additional<br>duties | 72 +<br>additional<br>duties   | 6.22 +<br>additional<br>duties |
| 608.19                                           | 62 ad val.                              | 62                                                                                     | 62                                           | 5.42                            | 4.82                           | 4.22                           | 3.62                           | 32                             | 2.42                           |
| 608.21                                           | 8.52 ad val.                            | 8.52                                                                                   | 8.52                                         | 7.72                            | 6.82                           | 62                             | 5.12                           | 4.32                           | 3.42                           |
| 608.23                                           | 9.52 ad val.                            | 9.52                                                                                   | 9.52                                         | 8.92                            | 8.22                           | 7.62                           | 72                             | 6.32                           | 5.72                           |
| 608.26                                           | 82 ad val. +<br>additional<br>duties    | 82 +<br>additional<br>duties                                                           | 82 +<br>additional<br>duties                 | 7.52 +<br>additional<br>duties  | 72 +<br>additional<br>duties   | 6.62 +<br>additional<br>duties | 6.12 +<br>additional<br>duties | 5.62 +<br>additional<br>duties | 5.12 +<br>additional<br>duties |
| 608.31                                           | 82 ad val. +<br>additional<br>duties    | 82 +<br>additional<br>duties                                                           | 82 +<br>additional<br>duties                 | 7.52 +<br>additional<br>duties  | 72 +<br>additional<br>duties   | 6.62 +<br>additional<br>duties | 6.12 +<br>additional<br>duties | 5.62 +<br>additional<br>duties | 5.12 +<br>additional<br>duties |
| 608.32                                           | 82 ad val. +<br>additional<br>duties    | 82 +<br>additional<br>duties                                                           | 82 +<br>additional<br>duties                 | 7.52 +<br>additional<br>duties  | 72 +<br>additional<br>duties   | 6.62 +<br>additional<br>duties | 6.12 +<br>additional<br>duties | 5.62 +<br>additional<br>duties | 5.12 +<br>additional<br>duties |
| 608.34                                           | 82 ad val. +<br>additional<br>duties    | 82 +<br>additional<br>duties                                                           | 82 +<br>additional<br>duties                 | 7.52 +<br>additional<br>duties  | 72 +<br>additional<br>duties   | 6.62 +<br>additional<br>duties | 6.12 +<br>additional<br>duties | 5.62 +<br>additional<br>duties | 5.12 +<br>additional<br>duties |
| 608.40                                           | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.92 +<br>additional<br>duties  | 9.32 +<br>additional<br>duties | 8.82 +<br>additional<br>duties | 8.22 +<br>additional<br>duties | 7.62 +<br>additional<br>duties | 72 +<br>additional<br>duties   |
| 608.47                                           | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.92 +<br>additional<br>duties  | 92 +<br>additional<br>duties   | 8.32 +<br>additional<br>duties | 7.52 +<br>additional<br>duties | 6.82 +<br>additional<br>duties | 62 +<br>additional<br>duties   |
| 608.55                                           | 10.52 ad val.<br>+ additional<br>duties | 10.52 +<br>additional<br>duties                                                        | 10.52 +<br>additional<br>duties              | 9.92 +<br>additional<br>duties  | 92 +<br>additional<br>duties   | 8.32 +<br>additional<br>duties | 7.52 +<br>additional<br>duties | 6.82 +<br>additional<br>duties | 62 +<br>additional<br>duties   |
| 608.59                                           | 11.52 ad val.<br>+ additional<br>duties | 11.52 +<br>additional<br>duties                                                        | 11.52 +<br>additional<br>duties              | 10.62 +<br>additional<br>duties | 9.82 +<br>additional<br>duties | 9.02 +<br>additional<br>duties | 82 +<br>additional<br>duties   | 7.22 +<br>additional<br>duties | 6.32 +<br>additional<br>duties |
| 608.67                                           | 11.52 ad val.<br>+ additional<br>duties | 11.52 +<br>additional<br>duties                                                        | 11.52 +<br>additional<br>duties              | 10.62 +<br>additional<br>duties | 9.82 +<br>additional<br>duties | 9.02 +<br>additional<br>duties | 82 +<br>additional<br>duties   | 7.22 +<br>additional<br>duties | 6.32 +<br>additional<br>duties |
| 609.14                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                            | 72                             | 6.62                           | 6.12                           | 5.62                           | 5.12                           |
| 609.17                                           | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties    | 82 +<br>additional<br>duties   | 72 +<br>additional<br>duties   | 62 +<br>additional<br>duties   | 52 +<br>additional<br>duties   | 42 +<br>additional<br>duties   |
| 609.17                                           | 9.52 ad val.                            | 9.52                                                                                   | 9.52                                         | 8.92                            | 8.22                           | 7.62                           | 72                             | 6.32                           | 5.72                           |
| 609.20                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 5.72                            | 5.42                           | 5.12                           | 4.82                           | 4.52                           | 4.22                           |
| 609.21                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 7.22                            | 6.42                           | 5.62                           | 4.82                           | 42                             | 3.22                           |
| 609.27                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                            | 72                             | 6.62                           | 6.12                           | 5.62                           | 5.12                           |
| 609.28                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                            | 72                             | 6.62                           | 6.12                           | 5.62                           | 5.12                           |
| 609.28                                           | 82 ad val.                              | 82                                                                                     | 82                                           | 7.52                            | 72                             | 6.62                           | 6.12                           | 5.62                           | 5.12                           |
| 609.30                                           | 82 ad val. +<br>additional<br>duties    | 82 +<br>additional<br>duties                                                           | 82 +<br>additional<br>duties                 | 7.22 +<br>additional<br>duties  | 6.42 +<br>additional<br>duties | 5.62 +<br>additional<br>duties | 4.82 +<br>additional<br>duties | 42 +<br>additional<br>duties   | 3.22 +<br>additional<br>duties |
| 609.34                                           | 102 ad val. +<br>additional<br>duties   | 102 +<br>additional<br>duties                                                          | 102 +<br>additional<br>duties                | 92 +<br>additional<br>duties    | 82 +<br>additional<br>duties   | 72 +<br>additional<br>duties   | 62 +<br>additional<br>duties   | 52 +<br>additional<br>duties   | 42 +<br>additional<br>duties   |
| 609.35                                           | 3.22 ad val. +<br>additional<br>duties  | 0.05c/lb. +<br>82 +<br>additional<br>duties                                            | 0.05c/lb. +<br>82 +<br>additional<br>duties  | 7.72 +<br>additional<br>duties  | 7.22 +<br>additional<br>duties | 6.72 +<br>additional<br>duties | 6.22 +<br>additional<br>duties | 5.72 +<br>additional<br>duties | 5.22 +<br>additional<br>duties |
| 609.36                                           | 10.22 ad val. +<br>additional<br>duties | 0.05c/lb. +<br>102 +<br>additional<br>duties                                           | 0.05c/lb. +<br>102 +<br>additional<br>duties | 9.52 +<br>additional<br>duties  | 8.82 +<br>additional<br>duties | 8.12 +<br>additional<br>duties | 7.32 +<br>additional<br>duties | 6.62 +<br>additional<br>duties | 5.92 +<br>additional<br>duties |
| 609.37                                           | 10.62 ad val. +<br>additional<br>duties | 0.05c/lb. +<br>102 +<br>additional<br>duties                                           | 0.05c/lb. +<br>102 +<br>additional<br>duties | 9.82 +<br>additional<br>duties  | 9.12 +<br>additional<br>duties | 8.32 +<br>additional<br>duties | 7.52 +<br>additional<br>duties | 6.82 +<br>additional<br>duties | 62 +<br>additional<br>duties   |
| 609.40                                           | 8.52 ad val.                            | 8.52                                                                                   | 8.52                                         | 7.42                            | 6.92                           | 6.42                           | 5.82                           | 5.32                           | 4.82                           |
| 609.41                                           | 1.72 ad val.                            | 0.3c/lb.                                                                               | 0.3c/lb.                                     | 1.52                            | 1.52                           | 1.52                           | 1.52                           | 1.52                           | 1.52                           |

1/ The symbol "c" indicates per cent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in TSUS as modified by Annex II | Rate from which staged            | Rates of duty <u>1/</u> , effective with respect to articles entered on and after January 1 -- |                                     |                           |                          |                          |                          |                          |                          |
|--------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|                                      |                                   | 1980                                                                                           | 1981                                | 1982                      | 1983                     | 1984                     | 1985                     | 1986                     | 1987                     |
| Schedule                             | 6, Part 2--Continued              |                                                                                                |                                     |                           |                          |                          |                          |                          |                          |
| 609.43                               | 8.5% ad val.                      | 8.5%                                                                                           | 8.5%                                | 8%                        | 7.4%                     | 6.9%                     | 6.4%                     | 5.8%                     | 5.3%                     |
| 609.45                               | 10.5% ad val. + additional duties | 10.5% + additional duties                                                                      | 10.5% + additional duties           | 10.3% + additional duties | 10% + additional duties  | 9.8% + additional duties | 9.5% + additional duties | 9.3% + additional duties | 9% + additional duties   |
| 609.70                               | 9% ad val.                        | 9%                                                                                             | 9%                                  | 8.4%                      | 7.8%                     | 7.3%                     | 6.7%                     | 6.1%                     | 5.5%                     |
| 609.72                               | 9.2% ad val.                      | 0.05c/lb. + 9%                                                                                 | 0.05c/lb. + 9%                      | 8.6%                      | 8%                       | 7.4%                     | 6.8%                     | 6.2%                     | 5.6%                     |
| 609.75                               | 11% ad val. + additional duties   | 11% + additional duties                                                                        | 11% + additional duties             | 10.2% + additional duties | 9.4% + additional duties | 8.6% + additional duties | 7.8% + additional duties | 7% + additional duties   | 6.2% + additional duties |
| 609.76                               | 11% ad val. + additional duties   | 0.05c/lb. + 11% + additional duties                                                            | 0.05c/lb. + 11% + additional duties | 10.2% + additional duties | 9.4% + additional duties | 8.6% + additional duties | 7.8% + additional duties | 7% + additional duties   | 6.2% + additional duties |
| 609.80                               | 1% ad val.                        | 0.1c/lb.                                                                                       | 0.1c/lb.                            | 0.9%                      | 0.9%                     | 0.9%                     | 0.9%                     | 0.9%                     | 0.9%                     |
| 609.82                               | 2.4% ad val. + additional duties  | 0.1c/lb. + 2% + additional duties                                                              | 0.1c/lb. + 2% + additional duties   | 2.3% + additional duties  | 2.3% + additional duties | 2.2% + additional duties | 2.1% + additional duties | 2.1% + additional duties | 2% + additional duties   |
| 609.84                               | 6.5% ad val.                      | 6.5%                                                                                           | 6.5%                                | 6.2%                      | 5.8%                     | 5.5%                     | 5.1%                     | 4.8%                     | 4.4%                     |
| 609.86                               | 8.5% ad val. + additional duties  | 8.5% + additional duties                                                                       | 8.5% + additional duties            | 8% + additional duties    | 7.4% + additional duties | 6.9% + additional duties | 6.4% + additional duties | 5.8% + additional duties | 5.3% + additional duties |
| 609.88                               | 7.5% ad val.                      | 7.5%                                                                                           | 7.5%                                | 7.1%                      | 6.6%                     | 6.2%                     | 5.8%                     | 5.3%                     | 4.9%                     |
| 609.90                               | 9.5% ad val. + additional duties  | 9.5% + additional duties                                                                       | 9.5% + additional duties            | 8.9% + additional duties  | 8.2% + additional duties | 7.6% + additional duties | 7% + additional duties   | 6.3% + additional duties | 5.7% + additional duties |
| 609.96                               | 0.9% ad val.                      | 0.1c/lb.                                                                                       | 0.1c/lb.                            | 0.8%                      | 0.8%                     | 0.8%                     | 0.8%                     | 0.8%                     | 0.8%                     |
| 609.98                               | 2% ad val. + additional duties    | 0.1c/lb. + 2% + additional duties                                                              | 0.1c/lb. + 2% + additional duties   | 1.9% + additional duties  | 1.9% + additional duties | 1.9% + additional duties | 1.8% + additional duties | 1.8% + additional duties | 1.8% + additional duties |
| 610.20                               | 0.6% ad val.                      | 0.05c/lb.                                                                                      | 0.05c/lb.                           | 0.3%                      | 0.3%                     | 0.3%                     | 0.3%                     | 0.3%                     | 0.3%                     |
| 610.21                               | 4.6% ad val. + additional duties  | 0.05c/lb. + 4% + additional duties                                                             | 0.05c/lb. + 4% + additional duties  | 4.4% + additional duties  | 4.2% + additional duties | 4.1% + additional duties | 3.9% + additional duties | 3.7% + additional duties | 3.5% + additional duties |
| 610.25                               | 1% ad val.                        | 0.125c/lb.                                                                                     | 0.125c/lb.                          | 0.9%                      | 0.9%                     | 0.9%                     | 0.9%                     | 0.9%                     | 0.9%                     |
| 610.26                               | 4% ad val. + additional duties    | 0.125c/lb. + 4% + additional duties                                                            | 0.125c/lb. + 4% + additional duties | 3.9% + additional duties  | 3.7% + additional duties | 3.6% + additional duties | 3.4% + additional duties | 3.3% + additional duties | 3.1% + additional duties |
| 610.30                               | 6.5% ad val.                      | 0.875c/lb.                                                                                     | 0.875c/lb.                          | 6.2%                      | 5.8%                     | 5.5%                     | 5.2%                     | 4.8%                     | 4.5%                     |
| 610.31                               | 3.2% ad val.                      | 0.625c/lb.                                                                                     | 0.625c/lb.                          | 3.1%                      | 3%                       | 2.9%                     | 2.8%                     | 2.7%                     | 2.6%                     |
| 610.32                               | 2.2% ad val.                      | 0.3c/lb.                                                                                       | 0.3c/lb.                            | 1.9%                      | 1.9%                     | 1.9%                     | 1.9%                     | 1.9%                     | 1.9%                     |
| 610.35                               | 5% ad val. + additional duties    | 0.875c/lb. + 4% + additional duties                                                            | 0.875c/lb. + 4% + additional duties | 4.8% + additional duties  | 4.6% + additional duties | 4.4% + additional duties | 4.1% + additional duties | 3.9% + additional duties | 3.7% + additional duties |
| 610.36                               | 4.6% ad val. + additional duties  | 0.625c/lb. + 4% + additional duties                                                            | 0.625c/lb. + 4% + additional duties | 4.4% + additional duties  | 4.2% + additional duties | 4.1% + additional duties | 3.9% + additional duties | 3.7% + additional duties | 3.5% + additional duties |
| 610.37                               | 4.9% ad val. + additional duties  | 4.9% + additional duties                                                                       | 4.9% + additional duties            | 4.9% + additional duties  | 4.9% + additional duties | 4.9% + additional duties | 4.9% + additional duties | 4.9% + additional duties | 4.9% + additional duties |
| 610.39                               | 3.6% ad val.                      | 0.1c/lb.                                                                                       | 0.1c/lb.                            | 0.5%                      | 0.5%                     | 0.5%                     | 0.5%                     | 0.5%                     | 0.5%                     |
| 610.40                               | 4.3% ad val. + additional duties  | 0.1c/lb. + 4% + additional duties                                                              | 0.1c/lb. + 4% + additional duties   | 4.1% + additional duties  | 4% + additional duties   | 3.8% + additional duties | 3.6% + additional duties | 3.5% + additional duties | 3.3% + additional duties |
| 610.42                               | 7.5% ad val.                      | 7.5%                                                                                           | 7.5%                                | 7.1%                      | 6.6%                     | 6.2%                     | 5.8%                     | 5.3%                     | 4.9%                     |
| 610.43                               | 11% ad val. + additional duties   | 11% + additional duties                                                                        | 11% + additional duties             | 10.2% + additional duties | 9.4% + additional duties | 8.6% + additional duties | 7.8% + additional duties | 7% + additional duties   | 6.2% + additional duties |
| 610.45                               | 11% ad val.                       | 11                                                                                             | 11                                  | 10.2%                     | 9.4%                     | 8.6%                     | 7.8%                     | 7%                       | 6.2%                     |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by 2/<br>Annex II | Rate from<br>which staged                                    | Rates of duty <u>1/2</u> , effective with respect to articles entered on and after January 1, -- |                                                                |                                                                |                                                                |                                                                |                                                                |                                                                |                                                                |
|-----------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|
|                                                     |                                                              | 1980                                                                                             | 1981                                                           | 1982                                                           | 1983                                                           | 1984                                                           | 1985                                                           | 1986                                                           | 1987                                                           |
| Schedule 6, Part 2--Continued                       |                                                              |                                                                                                  |                                                                |                                                                |                                                                |                                                                |                                                                |                                                                |                                                                |
| 610.46                                              | 13% ad val.<br>+ additional<br>duties                        | 13% +<br>additional<br>duties                                                                    | 13% +<br>additional<br>duties                                  | 12% +<br>additional<br>duties                                  | 10.9% +<br>additional<br>duties                                | 9.9% +<br>additional<br>duties                                 | 8.8% +<br>additional<br>duties                                 | 7.8% +<br>additional<br>duties                                 | 6.7% +<br>additional<br>duties                                 |
| 610.48                                              | 11% ad val.                                                  | 11%                                                                                              | 11%                                                            | 10.2%                                                          | 9.4%                                                           | 8.6%                                                           | 7.8%                                                           | 7%                                                             | 6.2%                                                           |
| 610.49                                              | 10.5% ad val.                                                | 10.5%                                                                                            | 10.5%                                                          | 10.1%                                                          | 9.7%                                                           | 9.3%                                                           | 8.8%                                                           | 8.4%                                                           | 8%                                                             |
| 610.51                                              | 13% ad val.<br>+ additional<br>duties                        | 13% +<br>additional<br>duties                                                                    | 13% +<br>additional<br>duties                                  | 12.1% +<br>additional<br>duties                                | 11.2% +<br>additional<br>duties                                | 10.3% +<br>additional<br>duties                                | 9.3% +<br>additional<br>duties                                 | 8.4% +<br>additional<br>duties                                 | 7.5% +<br>additional<br>duties                                 |
| 610.52                                              | 13% ad val.<br>+ additional<br>duties                        | 13% +<br>additional<br>duties                                                                    | 13% +<br>additional<br>duties                                  | 12.1% +<br>additional<br>duties                                | 11.2% +<br>additional<br>duties                                | 10.3% +<br>additional<br>duties                                | 9.3% +<br>additional<br>duties                                 | 8.4% +<br>additional<br>duties                                 | 7.5% +<br>additional<br>duties                                 |
| 610.56                                              | 10% ad val.                                                  | 10%                                                                                              | 10%                                                            | 9%                                                             | 8%                                                             | 7%                                                             | 6%                                                             | 5%                                                             | 4%                                                             |
| 610.58                                              | 12% ad val.<br>+ additional<br>duties                        | 12% +<br>additional<br>duties                                                                    | 12% +<br>additional<br>duties                                  | 11.1% +<br>additional<br>duties                                | 10.2% +<br>additional<br>duties                                | 9.3% +<br>additional<br>duties                                 | 8.3% +<br>additional<br>duties                                 | 7.4% +<br>additional<br>duties                                 | 6.5% +<br>additional<br>duties                                 |
| 610.62                                              | 10% ad val.                                                  | 10%                                                                                              | 10%                                                            | 9.3%                                                           | 8.6%                                                           | 7.9%                                                           | 7.2%                                                           | 6.5%                                                           | 5.8%                                                           |
| 610.63                                              | 12% ad val.<br>+ additional<br>duties                        | 12% +<br>additional<br>duties                                                                    | 12% +<br>additional<br>duties                                  | 11.1% +<br>additional<br>duties                                | 10.2% +<br>additional<br>duties                                | 9.3% +<br>additional<br>duties                                 | 8.3% +<br>additional<br>duties                                 | 7.4% +<br>additional<br>duties                                 | 6.5% +<br>additional<br>duties                                 |
| 610.65                                              | 3% ad val.                                                   | 3%                                                                                               | 3%                                                             | 2.9%                                                           | 2.8%                                                           | 2.8%                                                           | 2.7%                                                           | 2.6%                                                           | 2.5%                                                           |
| 610.66                                              | 5% ad val.<br>+ additional<br>duties                         | 5% +<br>additional<br>duties                                                                     | 5% +<br>additional<br>duties                                   | 4.8% +<br>additional<br>duties                                 | 4.6% +<br>additional<br>duties                                 | 4.4% +<br>additional<br>duties                                 | 4.1% +<br>additional<br>duties                                 | 3.9% +<br>additional<br>duties                                 | 3.7% +<br>additional<br>duties                                 |
| 610.70                                              | 8% ad val.                                                   | 8%                                                                                               | 8%                                                             | 7.5%                                                           | 7%                                                             | 6.6%                                                           | 6.1%                                                           | 5.6%                                                           | 5.1%                                                           |
| 610.71                                              | 10% ad val.<br>+ additional<br>duties                        | 10% +<br>additional<br>duties                                                                    | 10% +<br>additional<br>duties                                  | 9.3% +<br>additional<br>duties                                 | 8.6% +<br>additional<br>duties                                 | 7.9% +<br>additional<br>duties                                 | 7.2% +<br>additional<br>duties                                 | 6.5% +<br>additional<br>duties                                 | 5.8% +<br>additional<br>duties                                 |
| 610.74                                              | 11% ad val.                                                  | 11%                                                                                              | 11%                                                            | 10.2%                                                          | 9.4%                                                           | 8.6%                                                           | 7.8%                                                           | 7%                                                             | 6.2%                                                           |
| 610.80                                              | 11% ad val.                                                  | 11%                                                                                              | 11%                                                            | 10.2%                                                          | 9.4%                                                           | 8.6%                                                           | 7.8%                                                           | 7%                                                             | 6.2%                                                           |
| 612.02A                                             | 1.7% ad val.<br>on the<br>value of<br>the copper<br>content  | 1.7% on the<br>value of<br>the copper<br>content                                                 | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               | 1.7% on the<br>value of<br>the copper<br>content               |
| 612.03A                                             | 1.4% ad val.<br>on the<br>value of<br>the copper<br>content  | 1.3% on the<br>value of<br>the copper<br>content                                                 | 1.3% on the<br>value of<br>the copper<br>content               | 1.3% on the<br>value of<br>the copper<br>content               | 1.2% on the<br>value of<br>the copper<br>content               | 1.2% on the<br>value of<br>the copper<br>content               | 1.1% on the<br>value of<br>the copper<br>content               | 1.1% on the<br>value of<br>the copper<br>content               | 1% on the<br>value of<br>the copper<br>content                 |
| 612.03B                                             | 1% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content                                             | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.8% per lb. on<br>99.6% of<br>the copper<br>content           | 0.8% per lb. on<br>99.6% of<br>the copper<br>content           | 0.8% per lb. on<br>99.6% of<br>the copper<br>content           | 0.7% per lb. on<br>99.6% of<br>the copper<br>content           | 0.7% per lb. on<br>99.6% of<br>the copper<br>content           | 0.7% per lb. on<br>99.6% of<br>the copper<br>content           |
| 612.05A                                             | 6.8% ad val.                                                 | 6.8%                                                                                             | 6.8%                                                           | 6%                                                             | 5.7%                                                           | 5.4%                                                           | 5.2%                                                           | 4.9%                                                           | 4.6%                                                           |
| 612.05B                                             | 1% per lb. on<br>copper<br>content + 5%<br>ad val.           | 0.9% per lb. on<br>copper<br>content +<br>4.6%                                                   | 0.9% per lb. on<br>copper<br>content +<br>4.6%                 | 0.9% per lb. on<br>copper<br>content +<br>4.4%                 | 0.8% per lb. on<br>copper<br>content +<br>4.3%                 | 0.8% per lb. on<br>copper<br>content +<br>4.1%                 | 0.8% per lb. on<br>copper<br>content +<br>3.9%                 | 0.7% per lb. on<br>copper<br>content +<br>3.7%                 | 0.7% per lb. on<br>copper<br>content +<br>3.5%                 |
| 612.06A                                             | 1.3% ad val.                                                 | 1%                                                                                               | 1%                                                             | 1%                                                             | 1%                                                             | 1%                                                             | 1%                                                             | 1%                                                             | 1%                                                             |
| 612.06B                                             | 1% per lb. on<br>copper<br>content                           | 0.75% per lb. on<br>copper<br>content                                                            | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          | 0.75% per lb. on<br>copper<br>content                          |
| 612.07A                                             | 1% ad val.                                                   | 1%                                                                                               | 1%                                                             | 0.7%                                                           | 0.7%                                                           | 0.7%                                                           | 0.7%                                                           | 0.7%                                                           | 0.7%                                                           |
| 612.07B                                             | 1% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.7% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.7%                                   | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.7% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.5% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.3% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>4.1% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>3.8% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>3.5% | 0.9% per lb. on<br>99.6% of<br>the copper<br>content +<br>3.2% |
| 612.10A                                             | 1.5% ad val.                                                 | 1.3%                                                                                             | 1.1%                                                           | 0.9%                                                           | 0.8%                                                           | 0.6%                                                           | 0.4%                                                           | 0.2%                                                           | Free                                                           |
| 612.11A                                             | 1% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content                                             | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           | 0.9% per lb. on<br>99.6% of<br>the copper<br>content           |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
2/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-b or column 1-c, as the case may be, of the corresponding item in the Tariff Schedules of the United States.



## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by 2/<br>Annex II | Rate from<br>which staged                  | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                       |                                       |                                       |                                       |                                       |                                       |                                       |
|-----------------------------------------------------|--------------------------------------------|----------------------------------------------------------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
|                                                     |                                            | 1980                                                                                   | 1981                                  | 1982                                  | 1983                                  | 1984                                  | 1985                                  | 1986                                  | 1987                                  |
| Schedule B, Part 2--Continued                       |                                            |                                                                                        |                                       |                                       |                                       |                                       |                                       |                                       |                                       |
| 612.15A                                             | 2.6% ad val.                               | 2.6%                                                                                   | 2.6%                                  | 2.6%                                  | 2.6%                                  | 2.6%                                  | 2.6%                                  | 2.6%                                  | 2.6%                                  |
| 612.17A                                             | 0.6c per lb. + 6% ad val.                  | 0.5c/lb. + 6%                                                                          | 0.4c/lb. + 6%                         | 0.3c/lb. + 6%                         | 0.2c/lb. + 6%                         | 0.1c/lb. + 6%                         | 6%                                    | 5.7%                                  | 5.3%                                  |
| 612.17B                                             | 0.75c per lb. + 6% ad val.                 | 0.7c/lb. + 5.7%                                                                        | 0.6c/lb. + 5.4%                       | 0.5c/lb. + 5.1%                       | 0.4c/lb. + 4.8%                       | 0.3c/lb. + 4.4%                       | 0.5c/lb. + 4.1%                       | 0.5c/lb. + 3.8%                       | 0.5c/lb. + 3.5%                       |
| 612.20A                                             | 10.6% ad val.                              | 10%                                                                                    | 9.5%                                  | 8.9%                                  | 8.3%                                  | 7.7%                                  | 7.2%                                  | 6.6%                                  | 6%                                    |
| 612.20B                                             | 0.75c per lb. + 10% ad val.                | 0.7c/lb. + 9.4%                                                                        | 0.6c/lb. + 9.9%                       | 0.6c/lb. + 9.3%                       | 0.5c/lb. + 8.8%                       | 0.5c/lb. + 8.2%                       | 0.5c/lb. + 7.7%                       | 0.4c/lb. + 6.1%                       | 0.4c/lb. + 5.5%                       |
| 612.30A                                             | 12.8% ad val.                              | 12%                                                                                    | 11.3%                                 | 10.5%                                 | 9.8%                                  | 9%                                    | 8.2%                                  | 7.5%                                  | 6.7%                                  |
| 612.30B                                             | 0.75c per lb. + 12% ad val.                | 0.7c/lb. + 11.3%                                                                       | 0.6c/lb. + 10.6%                      | 0.6c/lb. + 9.9%                       | 0.5c/lb. + 9.3%                       | 0.5c/lb. + 8.6%                       | 0.4c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.5%                       |
| 612.31A                                             | 1.6% ad val.                               | 1.5%                                                                                   | 1.5%                                  | 1.4%                                  | 1.3%                                  | 1.2%                                  | 1.2%                                  | 1.1%                                  | 1%                                    |
| 612.31B                                             | 1.625c per lb.                             | 1.5c/lb.                                                                               | 1.4c/lb.                              | 1.4c/lb.                              | 1.3c/lb.                              | 1.2c/lb.                              | 1.1c/lb.                              | 1c/lb.                                | 1c/lb.                                |
| 612.32A                                             | 11.7% ad val.                              | 10.8%                                                                                  | 10%                                   | 9.1%                                  | 8.2%                                  | 7.3%                                  | 6.5%                                  | 5.6%                                  | 4.7%                                  |
| 612.32B                                             | 0.75c per lb. + 11% ad val.                | 0.6c/lb. + 10.2%                                                                       | 0.6c/lb. + 9.4%                       | 0.5c/lb. + 8.6%                       | 0.5c/lb. + 7.8%                       | 0.4c/lb. + 6.9%                       | 0.4c/lb. + 6.1%                       | 0.3c/lb. + 5.3%                       | 0.3c/lb. + 4.5%                       |
| 612.34A                                             | 12.3% ad val.                              | 11.6%                                                                                  | 10.9%                                 | 10.1%                                 | 9.4%                                  | 8.7%                                  | 8%                                    | 7.2%                                  | 6.5%                                  |
| 612.34B                                             | 0.75c per lb. + 12% ad val.                | 0.7c/lb. + 11.3%                                                                       | 0.6c/lb. + 10.6%                      | 0.6c/lb. + 9.9%                       | 0.5c/lb. + 9.3%                       | 0.5c/lb. + 8.6%                       | 0.4c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.5%                       |
| 612.35A                                             | 15.4% ad val.                              | 14.3%                                                                                  | 13.1%                                 | 12%                                   | 10.8%                                 | 9.7%                                  | 8.5%                                  | 7.4%                                  | 6.2%                                  |
| 612.35B                                             | 1c per lb. on copper content + 15% ad val. | 0.9c/lb. on copper content + 13.9%                                                     | 0.8c/lb. on copper content + 12.8%    | 0.7c/lb. on copper content + 11.6%    | 0.7c/lb. on copper content + 10.5%    | 0.6c/lb. on copper content + 9.4%     | 0.5c/lb. on copper content + 8.3%     | 0.4c/lb. on copper content + 7.1%     | 0.4c/lb. on copper content + 6%       |
| 612.36A                                             | 11.1% ad val.                              | 10.5%                                                                                  | 9.9%                                  | 9.3%                                  | 8.7%                                  | 8%                                    | 7.4%                                  | 6.8%                                  | 6.2%                                  |
| 612.36B                                             | 0.75c per lb. + 11% ad val.                | 0.7c/lb. + 10.4%                                                                       | 0.6c/lb. + 9.8%                       | 0.6c/lb. + 9.1%                       | 0.5c/lb. + 8.5%                       | 0.5c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.6%                       | 0.4c/lb. + 6%                         |
| 612.38A                                             | 12.7% ad val.                              | 12%                                                                                    | 11.2%                                 | 10.5%                                 | 9.7%                                  | 9%                                    | 8.2%                                  | 7.5%                                  | 6.7%                                  |
| 612.38B                                             | 0.75c per lb. + 12% ad val.                | 0.7c/lb. + 11.3%                                                                       | 0.6c/lb. + 10.6%                      | 0.6c/lb. + 9.9%                       | 0.5c/lb. + 9.3%                       | 0.5c/lb. + 8.6%                       | 0.4c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.5%                       |
| 612.39A                                             | 2.2% ad val.                               | 2%                                                                                     | 2%                                    | 2%                                    | 2%                                    | 1.9%                                  | 1.9%                                  | 1.9%                                  | 1.9%                                  |
| 612.39B                                             | 1c per lb. on copper content + 1c per lb.  | 0.9c/lb. on copper content + 0.9c/lb.                                                  | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. |
| 612.40A                                             | 12.9% ad val.                              | 12.1%                                                                                  | 11.4%                                 | 10.6%                                 | 9.8%                                  | 9%                                    | 8.3%                                  | 7.5%                                  | 6.7%                                  |
| 612.40B                                             | 0.75c per lb. + 12% ad val.                | 0.7c/lb. + 11.3%                                                                       | 0.6c/lb. + 10.6%                      | 0.6c/lb. + 9.9%                       | 0.5c/lb. + 9.3%                       | 0.5c/lb. + 8.6%                       | 0.4c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.5%                       |
| 612.41A                                             | 11.3% ad val.                              | 10.7%                                                                                  | 10.1%                                 | 9.4%                                  | 8.8%                                  | 8.2%                                  | 7.6%                                  | 6.9%                                  | 6.3%                                  |
| 612.41B                                             | 0.75c per lb. + 11% ad val.                | 0.7c/lb. + 10.4%                                                                       | 0.6c/lb. + 9.8%                       | 0.6c/lb. + 9.1%                       | 0.5c/lb. + 8.5%                       | 0.5c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.6%                       | 0.4c/lb. + 6%                         |
| 612.43A                                             | 12.7% ad val.                              | 12%                                                                                    | 11.2%                                 | 10.5%                                 | 9.7%                                  | 9%                                    | 8.2%                                  | 7.5%                                  | 6.7%                                  |
| 612.43B                                             | 0.75c per lb. + 12% ad val.                | 0.7c/lb. + 11.3%                                                                       | 0.6c/lb. + 10.6%                      | 0.6c/lb. + 9.9%                       | 0.5c/lb. + 9.3%                       | 0.5c/lb. + 8.6%                       | 0.4c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.5%                       |
| 612.44A                                             | 1.9% ad val.                               | 1.7%                                                                                   | 1.7%                                  | 1.7%                                  | 1.7%                                  | 1.7%                                  | 1.7%                                  | 1.7%                                  | 1.7%                                  |
| 612.44B                                             | 1c per lb. on copper content + 1c per lb.  | 0.9c/lb. on copper content + 0.9c/lb.                                                  | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. | 0.9c/lb. on copper content + 0.9c/lb. |
| 612.45A                                             | 8% ad val.                                 | 7.6%                                                                                   | 7.3%                                  | 6.9%                                  | 6.6%                                  | 6.2%                                  | 5.8%                                  | 5.5%                                  | 5.1%                                  |
| 612.45B                                             | 0.75c per lb. + 7.5% ad val.               | 0.7c/lb. + 7.2%                                                                        | 0.6c/lb. + 6.9%                       | 0.6c/lb. + 6.6%                       | 0.6c/lb. + 6.3%                       | 0.5c/lb. + 5.9%                       | 0.5c/lb. + 5.6%                       | 0.5c/lb. + 5.3%                       | 0.5c/lb. + 5%                         |
| 612.50A                                             | 11.4% ad val.                              | 10.8%                                                                                  | 10.1%                                 | 9.3%                                  | 8.9%                                  | 8.2%                                  | 7.6%                                  | 6.9%                                  | 6.3%                                  |
| 612.50B                                             | 0.75c per lb. + 11% ad val.                | 0.7c/lb. + 10.4%                                                                       | 0.6c/lb. + 9.8%                       | 0.6c/lb. + 9.1%                       | 0.5c/lb. + 8.5%                       | 0.5c/lb. + 7.9%                       | 0.4c/lb. + 7.2%                       | 0.4c/lb. + 6.6%                       | 0.4c/lb. + 6%                         |
| 612.52A                                             | 8.2% ad val.                               | 7.8%                                                                                   | 7.5%                                  | 7.1%                                  | 6.7%                                  | 6.3%                                  | 6%                                    | 5.6%                                  | 5.2%                                  |
| 612.52B                                             | 0.75c per lb. + 7.5% ad val.               | 0.7c/lb. + 7.1%                                                                        | 0.6c/lb. + 6.8%                       | 0.6c/lb. + 6.4%                       | 0.6c/lb. + 6%                         | 0.5c/lb. + 5.6%                       | 0.5c/lb. + 5.3%                       | 0.5c/lb. + 4.9%                       | 0.5c/lb. + 4.5%                       |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by 2/<br>Annex II | Rate from<br>which staged                                              | Rates of duty 1/, effective with respect to articles entered on and after January 1 — |                                                           |                                                           |                                                          |                                                           |                                                           |                                                           |                                                         |
|-----------------------------------------------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|---------------------------------------------------------|
|                                                     |                                                                        | 1980                                                                                  | 1981                                                      | 1982                                                      | 1983                                                     | 1984                                                      | 1985                                                      | 1986                                                      | 1987                                                    |
| Schedule B, Part 2—Continued                        |                                                                        |                                                                                       |                                                           |                                                           |                                                          |                                                           |                                                           |                                                           |                                                         |
| 612.55A                                             | 3.8% ad val.                                                           | 3.7%                                                                                  | 3.6%                                                      | 3.5%                                                      | 3.4%                                                     | 3.3%                                                      | 3.2%                                                      | 3.1%                                                      | 3%                                                      |
| 612.55B                                             | 5.75c/lb.                                                              | 5.5c/lb.                                                                              | 5.4c/lb.                                                  | 5.3c/lb.                                                  | 5.1c/lb.                                                 | 4.9c/lb.                                                  | 4.8c/lb.                                                  | 4.6c/lb.                                                  | 4.5c/lb.                                                |
| 612.56A                                             | 8.8% ad val.                                                           | 8.5%                                                                                  | 8.2%                                                      | 7.6%                                                      | 7.2%                                                     | 6.7%                                                      | 6.3%                                                      | 5.8%                                                      | 5.4%                                                    |
| 612.56B                                             | 0.75c per lb.<br>+ 8.5% ad<br>val.                                     | 0.7c/lb. +<br>8.1%                                                                    | 0.6c/lb. +<br>7.6%                                        | 0.6c/lb. +<br>7.2%                                        | 0.6c/lb. +<br>6.8%                                       | 0.5c/lb. +<br>6.3%                                        | 0.5c/lb. +<br>5.9%                                        | 0.5c/lb. +<br>5.4%                                        | 0.5c/lb. +<br>5%                                        |
| 612.60A                                             | 1.5% ad val.                                                           | 1.4%                                                                                  | 1.4%                                                      | 1.3%                                                      | 1.3%                                                     | 1.2%                                                      | 1.1%                                                      | 1.1%                                                      | 1%                                                      |
| 612.60B                                             | 1.6c per lb.                                                           | 1.5c/lb.                                                                              | 1.4c/lb.                                                  | 1.3c/lb.                                                  | 1.3c/lb.                                                 | 1.2c/lb.                                                  | 1.1c/lb.                                                  | 1c/lb.                                                    | 1c/lb.                                                  |
| 612.61A                                             | 15.4% ad val.                                                          | 14.4%                                                                                 | 13.4%                                                     | 12.4%                                                     | 11.4%                                                    | 10.3%                                                     | 9.3%                                                      | 8.3%                                                      | 7.3%                                                    |
| 612.61B                                             | 1c per lb. on<br>copper<br>content + 15%<br>ad val.                    | 0.9c/lb. on<br>copper<br>content +<br>14%                                             | 0.8c/lb. on<br>copper<br>content +<br>13%                 | 0.8c/lb. on<br>copper<br>content +<br>12%                 | 0.7c/lb. on<br>copper<br>content +<br>11%                | 0.6c/lb. on<br>copper<br>content +<br>10%                 | 0.6c/lb. on<br>copper<br>content +<br>9%                  | 0.5c/lb. on<br>copper<br>content +<br>8%                  | 0.5c/lb. on<br>copper<br>content +<br>7%                |
| 612.62A                                             | 2.6% ad val.                                                           | 2.5%                                                                                  | 2.5%                                                      | 2.5%                                                      | 2.4%                                                     | 2.4%                                                      | 2.3%                                                      | 2.3%                                                      | 2.2%                                                    |
| 612.62B                                             | 1c per lb. on<br>copper<br>content + 1c<br>per lb.                     | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.                                        | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.           | 0.8c/lb. on<br>copper<br>content +<br>0.8c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>0.8c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>0.8c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>0.8c/lb.          |
| 612.63A                                             | 11.2% ad val.                                                          | 10.6%                                                                                 | 10%                                                       | 9.3%                                                      | 8.7%                                                     | 8.1%                                                      | 7.5%                                                      | 6.8%                                                      | 6.2%                                                    |
| 612.63B                                             | 0.75c per lb.<br>+ 11% ad val.                                         | 0.7c/lb. +<br>10.4%                                                                   | 0.6c/lb. +<br>9.8%                                        | 0.6c/lb. +<br>9.1%                                        | 0.5c/lb. +<br>8.5%                                       | 0.5c/lb. +<br>7.9%                                        | 0.4c/lb. +<br>7.3%                                        | 0.4c/lb. +<br>6.6%                                        | 0.4c/lb. +<br>6%                                        |
| 612.66A                                             | 1.8% ad val.                                                           | 1.7%                                                                                  | 1.7%                                                      | 1.7%                                                      | 1.7%                                                     | 1.7%                                                      | 1.7%                                                      | 1.6%                                                      | 1.6%                                                    |
| 612.66B                                             | 1c per lb. on<br>copper<br>content + 1c<br>per lb.                     | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.                                        | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.           | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.          |
| 612.70A                                             | 15.2% ad val.                                                          | 14.2%                                                                                 | 13.2%                                                     | 12.2%                                                     | 11.3%                                                    | 10.3%                                                     | 9.3%                                                      | 8.3%                                                      | 7.3%                                                    |
| 612.70B                                             | 1c per lb. on<br>copper<br>content +<br>15% ad val.                    | 0.9c/lb. on<br>copper<br>content +<br>14%                                             | 0.8c/lb. on<br>copper<br>content +<br>13.1%               | 0.8c/lb. on<br>copper<br>content +<br>12.1%               | 0.7c/lb. on<br>copper<br>content +<br>11.1%              | 0.6c/lb. on<br>copper<br>content +<br>10.1%               | 0.6c/lb. on<br>copper<br>content +<br>9.2%                | 0.5c/lb. on<br>copper<br>content +<br>8.2%                | 0.5c/lb. on<br>copper<br>content +<br>7.2%              |
| 612.71A                                             | 15.5% ad val.                                                          | 14.5%                                                                                 | 13.5%                                                     | 12.5%                                                     | 11.5%                                                    | 10.4%                                                     | 9.4%                                                      | 8.4%                                                      | 7.4%                                                    |
| 612.71B                                             | 1c per lb. on<br>copper<br>content + 0.05c<br>per lb. +<br>15% ad val. | 0.9c/lb. on<br>copper<br>content +<br>0.04c/lb. +<br>14%                              | 0.8c/lb. on<br>copper<br>content +<br>0.03c/lb. +<br>13%  | 0.8c/lb. on<br>copper<br>content +<br>0.03c/lb. +<br>12%  | 0.7c/lb. on<br>copper<br>content +<br>0.02c/lb. +<br>11% | 0.6c/lb. on<br>copper<br>content +<br>0.02c/lb. +<br>10%  | 0.6c/lb. on<br>copper<br>content +<br>0.02c/lb. +<br>9%   | 0.5c/lb. on<br>copper<br>content +<br>0.02c/lb. +<br>8%   | 0.5c/lb. on<br>copper<br>content +<br>0.02c/lb. +<br>7% |
| 612.72A                                             | 0.8c per lb.<br>on copper<br>content + 6%<br>ad val.                   | 0.7c/lb. on<br>copper<br>content +<br>5.8%                                            | 0.6c/lb. on<br>copper<br>content +<br>5.5%                | 0.5c/lb. on<br>copper<br>content +<br>5.3%                | 0.4c/lb. on<br>copper<br>content +<br>5%                 | 0.3c/lb. on<br>copper<br>content +<br>4.8%                | 0.2c/lb. on<br>copper<br>content +<br>4.5%                | 0.1c/lb. on<br>copper<br>content +<br>4.3%                | 0.1c/lb. on<br>copper<br>content +<br>4%                |
| 612.72B                                             | 1c per lb. on<br>copper<br>content + 6%<br>ad val.                     | 0.9c/lb. on<br>copper<br>content +<br>5.7%                                            | 0.8c/lb. on<br>copper<br>content +<br>5.4%                | 0.8c/lb. on<br>copper<br>content +<br>5.1%                | 0.7c/lb. on<br>copper<br>content +<br>4.8%               | 0.6c/lb. on<br>copper<br>content +<br>4.4%                | 0.5c/lb. on<br>copper<br>content +<br>4.1%                | 0.4c/lb. on<br>copper<br>content +<br>3.8%                | 0.3c/lb. on<br>copper<br>content +<br>3.5%              |
| 612.73A                                             | 6.5% ad val.                                                           | 6.2%                                                                                  | 6%                                                        | 5.7%                                                      | 5.5%                                                     | 5.2%                                                      | 4.9%                                                      | 4.7%                                                      | 4.4%                                                    |
| 612.73B                                             | 1c per lb. on<br>copper<br>content +<br>0.05c per lb.<br>+ 6% ad val.  | 0.9c/lb. on<br>copper<br>content +<br>0.04c/lb.<br>+ 5.8%                             | 0.9c/lb. on<br>copper<br>content +<br>0.04c/lb.<br>+ 5.5% | 0.8c/lb. on<br>copper<br>content +<br>0.04c/lb.<br>+ 5.3% | 0.8c/lb. on<br>copper<br>content +<br>0.04c/lb.<br>+ 5%  | 0.7c/lb. on<br>copper<br>content +<br>0.03c/lb.<br>+ 4.8% | 0.7c/lb. on<br>copper<br>content +<br>0.03c/lb.<br>+ 4.5% | 0.6c/lb. on<br>copper<br>content +<br>0.03c/lb.<br>+ 4.3% | 0.6c/lb. on<br>copper<br>content +<br>0.03c/lb.<br>+ 4% |
| 612.80A                                             | 11.5% ad val.                                                          | 10.9%                                                                                 | 10.2%                                                     | 9.6%                                                      | 8.9%                                                     | 8.3%                                                      | 7.6%                                                      | 7%                                                        | 6.3%                                                    |
| 612.80B                                             | 0.75c per lb.<br>+ 11% ad<br>val.                                      | 0.7c/lb. +<br>10.4%                                                                   | 0.6c/lb. +<br>9.8%                                        | 0.6c/lb. +<br>9.1%                                        | 0.5c/lb. +<br>8.5%                                       | 0.5c/lb. +<br>7.9%                                        | 0.4c/lb. +<br>7.3%                                        | 0.4c/lb. +<br>6.6%                                        | 0.4c/lb. +<br>6%                                        |
| 612.81A                                             | 4.1% ad val.                                                           | 4%                                                                                    | 3.9%                                                      | 3.8%                                                      | 3.7%                                                     | 3.6%                                                      | 3.4%                                                      | 3.3%                                                      | 3.2%                                                    |
| 612.81B                                             | 1c per lb. on<br>copper<br>content + 3c<br>per lb.                     | 0.9c/lb. on<br>copper<br>content +<br>2.8c/lb.                                        | 0.9c/lb. on<br>copper<br>content +<br>2.7c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>2.6c/lb.            | 0.9c/lb. on<br>copper<br>content +<br>2.5c/lb.           | 0.8c/lb. on<br>copper<br>content +<br>2.3c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>2.2c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>2.1c/lb.            | 0.8c/lb. on<br>copper<br>content +<br>2c/lb.            |
| 612.82A                                             | 8.3% ad val.                                                           | 7.9%                                                                                  | 7.5%                                                      | 7.1%                                                      | 6.8%                                                     | 6.4%                                                      | 6%                                                        | 5.6%                                                      | 5.2%                                                    |
| 612.82B                                             | 0.75c per lb.<br>+ 7.5% ad<br>val.                                     | 0.7c/lb. +<br>7.1%                                                                    | 0.6c/lb. +<br>6.8%                                        | 0.6c/lb. +<br>6.4%                                        | 0.6c/lb. +<br>6%                                         | 0.5c/lb. +<br>5.6%                                        | 0.5c/lb. +<br>5.3%                                        | 0.5c/lb. +<br>4.9%                                        | 0.5c/lb. +<br>4.5%                                      |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.



## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by 2/<br>Annex II | Rate from<br>which staged                            | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                |                                                |                                                |                                                |                                                |                                                |                                                |
|-----------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|
|                                                     |                                                      | 1980                                                                                   | 1981                                           | 1982                                           | 1983                                           | 1984                                           | 1985                                           | 1986                                           | 1987                                           |
| Schedule 5, Part 2—Continued                        |                                                      |                                                                                        |                                                |                                                |                                                |                                                |                                                |                                                |                                                |
| 613.02A                                             | 2.9% ad val.                                         | 2.7%                                                                                   | 2.6%                                           | 2.4%                                           | 2.2%                                           | 2%                                             | 1.9%                                           | 1.7%                                           | 1.5%                                           |
| 613.02B                                             | 2.75c per lb.                                        | 2.5c/lb.                                                                               | 2.4c/lb.                                       | 2.2c/lb.                                       | 2c/lb.                                         | 1.9c/lb.                                       | 1.7c/lb.                                       | 1.5c/lb.                                       | 1.4c/lb.                                       |
| 613.03A                                             | 2.5% ad val.                                         | 2.4%                                                                                   | 2.4%                                           | 2.4%                                           | 2.3%                                           | 2.2%                                           | 2.2%                                           | 2.2%                                           | 2.1%                                           |
| 613.03B                                             | 3.2c per lb.                                         | 3.1c/lb.                                                                               | 3c/lb.                                         | 3c/lb.                                         | 2.9c/lb.                                       | 2.8c/lb.                                       | 2.8c/lb.                                       | 2.7c/lb.                                       | 2.7c/lb.                                       |
| 613.04A                                             | 11.4% ad val.                                        | 10.6%                                                                                  | 9.8%                                           | 9%                                             | 8.2%                                           | 7.4%                                           | 6.6%                                           | 5.8%                                           | 5%                                             |
| 613.04B                                             | 0.75c per lb.<br>+ 11% ad val.                       | 0.6c/lb. +<br>10.2%                                                                    | 0.6c/lb. +<br>9.5%                             | 0.5c/lb. +<br>8.8%                             | 0.5c/lb. +<br>8%                               | 0.4c/lb. +<br>7.2%                             | 0.4c/lb. +<br>6.5%                             | 0.3c/lb. +<br>5.8%                             | 0.3c/lb. +<br>5%                               |
| 613.06A                                             | 11.1% ad val.                                        | 10.3%                                                                                  | 9.9%                                           | 9.3%                                           | 8.7%                                           | 8%                                             | 7.4%                                           | 6.8%                                           | 6.2%                                           |
| 613.06B                                             | 0.75c per lb.<br>+ 11% ad val.                       | 0.7c/lb. +<br>10.4%                                                                    | 0.6c/lb. +<br>9.6%                             | 0.6c/lb. +<br>9.1%                             | 0.5c/lb. +<br>8.5%                             | 0.5c/lb. +<br>7.9%                             | 0.4c/lb. +<br>7.3%                             | 0.4c/lb. +<br>6.6%                             | 0.4c/lb. +<br>6%                               |
| 613.08A                                             | 7.9% ad val.                                         | 7.6%                                                                                   | 7.2%                                           | 6.9%                                           | 6.5%                                           | 6.2%                                           | 5.8%                                           | 5.5%                                           | 5.1%                                           |
| 613.08B                                             | 0.75c per lb.<br>+ 7.5% ad<br>val.                   | 0.7c/lb. +<br>7.1%                                                                     | 0.6c/lb. +<br>6.8%                             | 0.6c/lb. +<br>6.4%                             | 0.6c/lb. +<br>6%                               | 0.5c/lb. +<br>5.6%                             | 0.5c/lb. +<br>5.3%                             | 0.5c/lb. +<br>4.9%                             | 0.5c/lb. +<br>4.5%                             |
| 613.10A                                             | 1.5% ad val.                                         | 1.4%                                                                                   | 1.4%                                           | 1.4%                                           | 1.4%                                           | 1.4%                                           | 1.4%                                           | 1.4%                                           | 1.4%                                           |
| 613.10B                                             | 1c per lb. on<br>copper<br>content + 1c<br>per lb.   | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb.                                         | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. | 0.9c/lb. on<br>copper<br>content +<br>0.9c/lb. |
| 613.11A                                             | 0.8c per lb. on<br>copper<br>content + 3c<br>per lb. | 0.7c/lb. on<br>copper<br>content +<br>2.9c/lb.                                         | 0.7c/lb. on<br>copper<br>content +<br>2.8c/lb. | 0.7c/lb. on<br>copper<br>content +<br>2.7c/lb. | 0.7c/lb. on<br>copper<br>content +<br>2.6c/lb. | 0.6c/lb. on<br>copper<br>content +<br>2.5c/lb. | 0.6c/lb. on<br>copper<br>content +<br>2.4c/lb. | 0.6c/lb. on<br>copper<br>content +<br>2.3c/lb. | 0.6c/lb. on<br>copper<br>content +<br>2.3c/lb. |
| 613.11B                                             | 1c per lb. on<br>copper<br>content + 3c<br>per lb.   | 0.9c/lb. on<br>copper<br>content +<br>2.9c/lb.                                         | 0.9c/lb. on<br>copper<br>content +<br>2.8c/lb. | 0.9c/lb. on<br>copper<br>content +<br>2.7c/lb. | 0.9c/lb. on<br>copper<br>content +<br>2.6c/lb. | 0.8c/lb. on<br>copper<br>content +<br>2.5c/lb. | 0.8c/lb. on<br>copper<br>content +<br>2.4c/lb. | 0.8c/lb. on<br>copper<br>content +<br>2.3c/lb. | 0.8c/lb. on<br>copper<br>content +<br>2.3c/lb. |
| 613.12A                                             | 7.7% ad val.                                         | 7.3%                                                                                   | 6.9%                                           | 6.5%                                           | 6.1%                                           | 5.7%                                           | 5.3%                                           | 4.9%                                           | 4.5%                                           |
| 613.12B                                             | 0.75c per lb.<br>+ 7.5% ad<br>val.                   | 0.7c/lb. +<br>7.1%                                                                     | 0.6c/lb. +<br>6.8%                             | 0.6c/lb. +<br>6.4%                             | 0.6c/lb. +<br>6%                               | 0.5c/lb. +<br>5.6%                             | 0.5c/lb. +<br>5.3%                             | 0.5c/lb. +<br>4.9%                             | 0.4c/lb. +<br>4.5%                             |
| 613.15A                                             | 11.2% ad val.                                        | 11.2%                                                                                  | 11.2%                                          | 11.2%                                          | 11.2%                                          | 11.2%                                          | 11.2%                                          | 11.2%                                          | 11.2%                                          |
| 613.16A                                             | 7.9% ad val.                                         | 7.3%                                                                                   | 6.7%                                           | 6.1%                                           | 5.6%                                           | 5%                                             | 4.4%                                           | 3.8%                                           | 3.2%                                           |
| 613.18B                                             | 0.75c per lb.<br>+ 7.5% ad<br>val.                   | 0.6c/lb. +<br>6.9%                                                                     | 0.6c/lb. +<br>6.4%                             | 0.5c/lb. +<br>5.8%                             | 0.5c/lb. +<br>5.3%                             | 0.4c/lb. +<br>4.7%                             | 0.4c/lb. +<br>4.1%                             | 0.3c/lb. +<br>3.6%                             | 0.3c/lb. +<br>3%                               |
| 618.01                                              | 3.2% ad val.                                         | 3.1%                                                                                   | 3.1%                                           | 3%                                             | 2.9%                                           | 2.8%                                           | 2.8%                                           | 2.7%                                           | 2.6%                                           |
| 618.02                                              | 1c per lb.                                           | 0.8c/lb.                                                                               | 0.7c/lb.                                       | 0.6c/lb.                                       | 0.5c/lb.                                       | 0.3c/lb.                                       | 0.2c/lb.                                       | 0.1c/lb.                                       | Free                                           |
| 618.04                                              | 2.5% ad val.                                         | 2.4%                                                                                   | 2.4%                                           | 2.4%                                           | 2.3%                                           | 2.2%                                           | 2.2%                                           | 2.2%                                           | 2.1%                                           |
| 618.06                                              | 1c per lb.                                           | 0.8c/lb.                                                                               | 0.7c/lb.                                       | 0.6c/lb.                                       | 0.5c/lb.                                       | 0.3c/lb.                                       | 0.2c/lb.                                       | 0.1c/lb.                                       | Free                                           |
| 618.10                                              | 2.5% ad val.                                         | 2%                                                                                     | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             |
| 618.15                                              | 3.2% ad val.                                         | 2.9%                                                                                   | 2.9%                                           | 2.6%                                           | 2.8%                                           | 2.7%                                           | 2.7%                                           | 2.6%                                           | 2.6%                                           |
| 618.17                                              | 9.5% ad val.                                         | 8.9%                                                                                   | 8.4%                                           | 7.8%                                           | 7.3%                                           | 6.7%                                           | 6.1%                                           | 5.6%                                           | 5%                                             |
| 618.20                                              | 8% ad val.                                           | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |
| 618.22                                              | 6.1% ad val.                                         | 5.9%                                                                                   | 5.6%                                           | 5.4%                                           | 5.2%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |
| 618.25                                              | 3.8% ad val.                                         | 3%                                                                                     | 3%                                             | 3%                                             | 3%                                             | 3%                                             | 3%                                             | 3%                                             | 3%                                             |
| 618.27                                              | 2.7% ad val.                                         | 2.7%                                                                                   | 2.7%                                           | 2.7%                                           | 2.7%                                           | 2.7%                                           | 2.7%                                           | 2.7%                                           | 2.7%                                           |
| 618.29                                              | 12% ad val.                                          | 11.3%                                                                                  | 10.6%                                          | 9.9%                                           | 9.3%                                           | 8.6%                                           | 7.9%                                           | 7.2%                                           | 6.5%                                           |
| 618.40                                              | 2.3% ad val.                                         | 2%                                                                                     | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             | 2%                                             |
| 618.42                                              | 9.5% ad val.                                         | 9%                                                                                     | 8.6%                                           | 8.1%                                           | 7.6%                                           | 7.1%                                           | 6.7%                                           | 6.2%                                           | 5.7%                                           |
| 618.45                                              | 2.3% ad val.                                         | 1.5%                                                                                   | 1.5%                                           | 1.5%                                           | 1.5%                                           | 1.5%                                           | 1.5%                                           | 1.5%                                           | 1.5%                                           |
| 618.47                                              | 9.5% ad val.                                         | 9%                                                                                     | 8.6%                                           | 8.1%                                           | 7.6%                                           | 7.1%                                           | 6.7%                                           | 6.2%                                           | 5.7%                                           |
| 620.08                                              | 12% ad val.                                          | 11.3%                                                                                  | 10.5%                                          | 9.8%                                           | 9%                                             | 8.3%                                           | 7.5%                                           | 6.8%                                           | 6%                                             |
| 620.10                                              | 5% ad val.                                           | 4.8%                                                                                   | 4.6%                                           | 4.4%                                           | 4.3%                                           | 4.1%                                           | 3.9%                                           | 3.7%                                           | 3.5%                                           |
| 620.12                                              | 7% ad val.                                           | 6.7%                                                                                   | 6.4%                                           | 6.1%                                           | 5.9%                                           | 5.6%                                           | 5.3%                                           | 5.2%                                           | 4.7%                                           |
| 620.16                                              | 9% ad val.                                           | 8.6%                                                                                   | 8.1%                                           | 7.7%                                           | 7.3%                                           | 6.8%                                           | 6.4%                                           | 5.9%                                           | 5.5%                                           |
| 620.20                                              | 5% ad val.                                           | 4.8%                                                                                   | 4.7%                                           | 4.5%                                           | 4.4%                                           | 4.2%                                           | 4%                                             | 3.9%                                           | 3.7%                                           |
| 620.22                                              | 7% ad val.                                           | 6.7%                                                                                   | 6.4%                                           | 6.1%                                           | 5.9%                                           | 5.6%                                           | 5.3%                                           | 5%                                             | 4.7%                                           |
| 620.26                                              | 9% ad val.                                           | 8.6%                                                                                   | 8.1%                                           | 7.7%                                           | 7.3%                                           | 6.8%                                           | 6.4%                                           | 5.9%                                           | 5.5%                                           |
| 620.30                                              | 5c per lb.                                           | 4.4c/lb.                                                                               | 3.7c/lb.                                       | 3.1c/lb.                                       | 2.5c/lb.                                       | 1.9c/lb.                                       | 1.2c/lb.                                       | 0.6c/lb.                                       | Free                                           |
| 620.40                                              | 4% ad val.                                           | 3.9%                                                                                   | 3.8%                                           | 3.6%                                           | 3.5%                                           | 3.4%                                           | 3.3%                                           | 3.1%                                           | 2.9%                                           |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
2/ The letter "A" or "B" following an item number in this column is for purposes of identifying the staged rate of duty to be inserted in column 1-a or column 1-b, as the case may be, of the corresponding item in the Tariff Schedules of the United States.

## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                 | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                |                                                |                                                |                                                |                                                |                                                |                                                |  |
|--------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|--|
|                                                  |                                                           | 1980                                                                                   | 1981                                           | 1982                                           | 1983                                           | 1984                                           | 1985                                           | 1986                                           | 1987                                           |  |
| Schedule                                         | 6, Part 2—Continued                                       |                                                                                        |                                                |                                                |                                                |                                                |                                                |                                                |                                                |  |
| 620.46                                           | 9% ad val.                                                | 8.3%                                                                                   | 7.7%                                           | 7%                                             | 6.3%                                           | 5.6%                                           | 5%                                             | 4.3%                                           | 3.6%                                           |  |
| 620.50                                           | 5% ad val.                                                | 4.8%                                                                                   | 4.7%                                           | 4.5%                                           | 4.4%                                           | 4.2%                                           | 4%                                             | 3.9%                                           | 3.7%                                           |  |
| 622.15                                           | 6% ad val.                                                | 5.6%                                                                                   | 5.1%                                           | 4.7%                                           | 4.2%                                           | 3.8%                                           | 3.3%                                           | 2.9%                                           | 2.4%                                           |  |
| 622.17                                           | 12% ad val.                                               | 11.1%                                                                                  | 10.2%                                          | 9.3%                                           | 8.4%                                           | 7.5%                                           | 6.6%                                           | 5.7%                                           | 4.8%                                           |  |
| 622.20                                           | 6% ad val.                                                | 5%                                                                                     | 4.4%                                           | 4.2%                                           | 4.2%                                           | 4.2%                                           | 4.2%                                           | 4.2%                                           | 4.2%                                           |  |
| 622.22                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 622.25                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 622.35                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 622.40                                           | 6% ad val.                                                | 5.6%                                                                                   | 5.1%                                           | 4.7%                                           | 4.2%                                           | 3.8%                                           | 3.3%                                           | 2.9%                                           | 2.4%                                           |  |
| 624.02                                           | 5.2% ad val.<br>on the value<br>of the lead<br>content    | 3.5% on the<br>value of<br>the lead<br>content                                         | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content |  |
| 624.03                                           | 5.1% ad val.<br>on the value<br>of the lead<br>content    | 3.5% on the<br>value of<br>the lead<br>content                                         | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content | 3.5% on the<br>value of<br>the lead<br>content |  |
| 624.04                                           | 5.8% ad val.<br>on the value<br>of the lead<br>content    | 3.6% on the<br>value of<br>the lead<br>content                                         | 3.4% on the<br>value of<br>the lead<br>content | 3.2% on the<br>value of<br>the lead<br>content | 3% on the<br>value of<br>the lead<br>content   | 2.8% on the<br>value of<br>the lead<br>content | 2.7% on the<br>value of<br>the lead<br>content | 2.5% on the<br>value of<br>the lead<br>content | 2.3% on the<br>value of<br>the lead<br>content |  |
| 624.10                                           | 3.3% ad val.                                              | 3.2%                                                                                   | 3.2%                                           | 3.1%                                           | 3%                                             | 2.9%                                           | 2.9%                                           | 2.6%                                           | 2.7%                                           |  |
| 624.14                                           | 5.5% ad val.                                              | 5.3%                                                                                   | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.5%                                           | 4.3%                                           | 4.1%                                           | 3.9%                                           |  |
| 624.16                                           | 12% ad val.                                               | 11.3%                                                                                  | 10.6%                                          | 9.9%                                           | 9.3%                                           | 8.6%                                           | 7.9%                                           | 7.2%                                           | 6.5%                                           |  |
| 624.18                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 624.20                                           | 5.5% ad val.                                              | 5.3%                                                                                   | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.5%                                           | 4.3%                                           | 4.1%                                           | 3.9%                                           |  |
| 624.22                                           | 3% ad val.                                                | 2.9%                                                                                   | 2.9%                                           | 2.8%                                           | 2.8%                                           | 2.7%                                           | 2.6%                                           | 2.6%                                           | 2.5%                                           |  |
| 624.24                                           | 5.5% ad val.                                              | 5.3%                                                                                   | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.5%                                           | 4.3%                                           | 4.1%                                           | 3.9%                                           |  |
| 624.30                                           | 1.3% ad val.                                              | 1.2%                                                                                   | 1.2%                                           | 1.2%                                           | 1.2%                                           | 1.2%                                           | 1.2%                                           | 1.2%                                           | 1.2%                                           |  |
| 624.32                                           | 11.4% ad val.                                             | 10.8%                                                                                  | 10.1%                                          | 9.5%                                           | 8.9%                                           | 8.2%                                           | 7.6%                                           | 6.9%                                           | 6.3%                                           |  |
| 624.34                                           | 11.25% ad val.                                            | 10.6%                                                                                  | 10%                                            | 9.4%                                           | 8.7%                                           | 8.1%                                           | 7.5%                                           | 6.8%                                           | 6.2%                                           |  |
| 624.40                                           | 11.9% ad val.                                             | 11.9%                                                                                  | 11.9%                                          | 11.9%                                          | 11.9%                                          | 11.9%                                          | 11.9%                                          | 11.9%                                          | 11.9%                                          |  |
| 624.50                                           | 2.6% ad val.                                              | 2.5%                                                                                   | 2.5%                                           | 2.4%                                           | 2.3%                                           | 2.2%                                           | 2.2%                                           | 2.1%                                           | 2%                                             |  |
| 624.52                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 624.54                                           | 5.5% ad val.                                              | 5.3%                                                                                   | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.5%                                           | 4.3%                                           | 4.1%                                           | 3.9%                                           |  |
| 626.02                                           | 2% ad val.                                                | 1.9%                                                                                   | 1.8%                                           | 1.8%                                           | 1.7%                                           | 1.7%                                           | 1.6%                                           | 1.6%                                           | 1.5%                                           |  |
| 626.10                                           | 5.2% ad val.                                              | 4.6%                                                                                   | 4.4%                                           | 4%                                             | 3.7%                                           | 3.3%                                           | 2.9%                                           | 2.5%                                           | 2.1%                                           |  |
| 626.15                                           | 9.5% ad val.                                              | 9%                                                                                     | 8.6%                                           | 8.1%                                           | 7.6%                                           | 7.1%                                           | 6.7%                                           | 6.2%                                           | 5.7%                                           |  |
| 626.17                                           | 1% ad val.                                                | 0.9%                                                                                   | 0.9%                                           | 0.9%                                           | 0.9%                                           | 0.9%                                           | 0.9%                                           | 0.9%                                           | 0.9%                                           |  |
| 626.18                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 626.20                                           | 9.5% ad val.                                              | 9%                                                                                     | 8.6%                                           | 8.1%                                           | 7.6%                                           | 7.1%                                           | 6.7%                                           | 6.2%                                           | 5.7%                                           |  |
| 626.22                                           | 9.5% ad val.                                              | 9.5%                                                                                   | 9.5%                                           | 9.5%                                           | 9.5%                                           | 9.5%                                           | 9.5%                                           | 9.5%                                           | 9.5%                                           |  |
| 626.24                                           | 12% ad val.                                               | 11.3%                                                                                  | 10.6%                                          | 9.9%                                           | 9.3%                                           | 8.6%                                           | 7.9%                                           | 7.2%                                           | 6.5%                                           |  |
| 626.30                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 626.31                                           | 6% ad val.                                                | 5.8%                                                                                   | 5.6%                                           | 5.3%                                           | 5.1%                                           | 4.9%                                           | 4.7%                                           | 4.4%                                           | 4.2%                                           |  |
| 626.35                                           | 9.5% ad val.                                              | 9%                                                                                     | 8.6%                                           | 8.1%                                           | 7.6%                                           | 7.1%                                           | 6.7%                                           | 6.2%                                           | 5.7%                                           |  |
| 626.45                                           | 9.5% ad val.                                              | 8.8%                                                                                   | 8.1%                                           | 7.4%                                           | 6.7%                                           | 5.9%                                           | 5.2%                                           | 4.5%                                           | 3.8%                                           |  |
| 628.15                                           | 5% ad val.                                                | 4.8%                                                                                   | 4.7%                                           | 4.5%                                           | 4.4%                                           | 4.2%                                           | 4%                                             | 3.9%                                           | 3.7%                                           |  |
| 628.17                                           | 7.5% ad val.                                              | 7.2%                                                                                   | 6.9%                                           | 6.5%                                           | 6.2%                                           | 5.9%                                           | 5.6%                                           | 5.2%                                           | 4.9%                                           |  |
| 628.20                                           | 9% ad val.                                                | 8.6%                                                                                   | 8.1%                                           | 7.7%                                           | 7.3%                                           | 6.8%                                           | 6.4%                                           | 5.9%                                           | 5.5%                                           |  |
| 628.25                                           | 5% ad val.                                                | 4.8%                                                                                   | 4.7%                                           | 4.5%                                           | 4.4%                                           | 4.2%                                           | 4%                                             | 3.9%                                           | 3.7%                                           |  |
| 628.30                                           | 9% ad val.                                                | 8.6%                                                                                   | 8.1%                                           | 7.7%                                           | 7.3%                                           | 6.8%                                           | 6.4%                                           | 5.9%                                           | 5.5%                                           |  |
| 628.35                                           | 5% ad val.                                                | 4.4%                                                                                   | 3.8%                                           | 3.1%                                           | 2.5%                                           | 1.9%                                           | 1.3%                                           | 0.6%                                           | Free                                           |  |
| 628.45                                           | 5% ad val.                                                | 4.4%                                                                                   | 3.8%                                           | 3.1%                                           | 2.5%                                           | 1.9%                                           | 1.3%                                           | 0.6%                                           | Free                                           |  |
| 628.50                                           | 9% ad val.                                                | 8.3%                                                                                   | 7.7%                                           | 7%                                             | 6.3%                                           | 5.6%                                           | 5%                                             | 4.3%                                           | 3.6%                                           |  |
| 628.55                                           | 20% ad val.                                               | 19%                                                                                    | 16%                                            | 16.5%                                          | 15%                                            | 13.5%                                          | 12%                                            | 10%                                            | 8%                                             |  |
| 628.57                                           | 12.1% ad val.                                             | 7.3%                                                                                   | 7.2%                                           | 7.1%                                           | 7%                                             | 6.8%                                           | 6.7%                                           | 6.6%                                           | 6.5%                                           |  |
| 628.59                                           | 6.5c per lb.<br>on magnesium<br>content +<br>3.5% ad val. | 6c/lb. on<br>magnesium<br>content +<br>3.4%                                            | 5.7c/lb. on<br>magnesium<br>content +<br>3.1%  | 5.5c/lb. on<br>magnesium<br>content +<br>3%    | 5.2c/lb. on<br>magnesium<br>content +<br>2.9%  | 5c/lb. on<br>magnesium<br>content +<br>2.8%    | 4.7c/lb. on<br>magnesium<br>content +<br>2.6%  | 4.5c/lb. on<br>magnesium<br>content +<br>2.5%  | 4.3c/lb. on<br>magnesium<br>content +<br>2.4%  |  |
| 628.70                                           | 10.5% ad val.                                             | 9.9%                                                                                   | 9.4%                                           | 8.8%                                           | 8.3%                                           | 7.7%                                           | 7.1%                                           | 6.6%                                           | 6%                                             |  |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section A.--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged                       | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                     |                                       |                                       |                                       |                                       |                                       |
|-----------------------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------|-------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
|                                               |                                                 | 1980                                                                                   | 1981                                | 1982                                  | 1983                                  | 1984                                  | 1985                                  | 1986                                  |
| Schedule 6, Part 2--Continued                 |                                                 |                                                                                        |                                     |                                       |                                       |                                       |                                       |                                       |
| 628.72                                        | 10c per lb. on molybdenum content + 3% ad val.  | 9.5c/lb. on molybdenum content + 2.9%                                                  | 9c/lb. on molybdenum content + 2.7% | 8.6c/lb. on molybdenum content + 2.6% | 8.1c/lb. on molybdenum content + 2.5% | 7.6c/lb. on molybdenum content + 2.3% | 7.2c/lb. on molybdenum content + 2.2% | 6.3c/lb. on molybdenum content + 1.9% |
| 628.74                                        | 12.5% ad val.                                   | 11.8%                                                                                  | 11%                                 | 10.3%                                 | 9.6%                                  | 8.8%                                  | 8.1%                                  | 6.6%                                  |
| 628.90                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 628.95                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.05                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.07                                        | 7.5% ad val.                                    | 7.2%                                                                                   | 6.9%                                | 6.5%                                  | 6.2%                                  | 5.9%                                  | 5.6%                                  | 4.9%                                  |
| 629.10                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.12                                        | 18% ad val.                                     | 16.7%                                                                                  | 15.3%                               | 14%                                   | 12.6%                                 | 11.3%                                 | 9.9%                                  | 7.2%                                  |
| 629.14                                        | 18% ad val.                                     | 18%                                                                                    | 18%                                 | 17.5%                                 | 17%                                   | 16.5%                                 | 16%                                   | 15%                                   |
| 629.16                                        | 18% ad val.                                     | 18%                                                                                    | 18%                                 | 17.5%                                 | 17%                                   | 16.5%                                 | 16%                                   | 15%                                   |
| 629.25                                        | 7.5% ad val.                                    | 7.2%                                                                                   | 6.9%                                | 6.5%                                  | 6.2%                                  | 5.9%                                  | 5.6%                                  | 4.9%                                  |
| 629.26                                        | 10.5% ad val.                                   | 7.5%                                                                                   | 7.2%                                | 6.8%                                  | 6.4%                                  | 6.1%                                  | 5.8%                                  | 4.9%                                  |
| 629.28                                        | 21c per lb. on tungsten content + 12.5% ad val. | 21c/lb. on tungsten content + 12.5%                                                    | 21c/lb. on tungsten content + 12.5% | 15c/lb. on tungsten content + 12.5%   | 9c/lb. on tungsten content + 12.5%    | 3c/lb. on tungsten content + 12.5%    | 12.1%                                 | 10.5%                                 |
| 629.29                                        | 10.5% ad val.                                   | 10.5%                                                                                  | 10.5%                               | 9.8%                                  | 9%                                    | 8.3%                                  | 7.5%                                  | 6%                                    |
| 629.30                                        | 12.5% ad val.                                   | 12.5%                                                                                  | 12.5%                               | 11.5%                                 | 10.5%                                 | 9.6%                                  | 8.6%                                  | 6.6%                                  |
| 629.42                                        | 7% ad val.                                      | 6.7%                                                                                   | 6.4%                                | 6.1%                                  | 5.9%                                  | 5.6%                                  | 5.3%                                  | 4.7%                                  |
| 629.44                                        | 12.5% ad val.                                   | 12.5%                                                                                  | 12.5%                               | 11.5%                                 | 10.5%                                 | 9.6%                                  | 8.6%                                  | 6.6%                                  |
| 629.45                                        | 12.5% ad val.                                   | 12.5%                                                                                  | 12.5%                               | 11.5%                                 | 10.5%                                 | 9.6%                                  | 8.6%                                  | 6.6%                                  |
| 629.50                                        | 12.5% ad val.                                   | 11.6%                                                                                  | 10.6%                               | 9.7%                                  | 8.8%                                  | 7.8%                                  | 6.9%                                  | 5%                                    |
| 629.60                                        | 5% ad val.                                      | 5.6%                                                                                   | 5.6%                                | 5.3%                                  | 5.1%                                  | 4.9%                                  | 4.7%                                  | 4.2%                                  |
| 629.62                                        | 7.5% ad val.                                    | 7.2%                                                                                   | 6.9%                                | 6.5%                                  | 6.2%                                  | 5.9%                                  | 5.6%                                  | 4.9%                                  |
| 629.65                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.72                                        | 1c per lb. on 0.9c/lb.                          | 0.9c/lb.                                                                               | 0.9c/lb.                            | 0.9c/lb.                              | 0.9c/lb.                              | 0.9c/lb.                              | 0.9c/lb.                              | Free                                  |
| 629.74                                        | 2c per lb. on 1.8c/lb.                          | 1.8c/lb.                                                                               | 1.8c/lb.                            | 1.8c/lb.                              | 1.8c/lb.                              | 1.8c/lb.                              | 1.8c/lb.                              | Free                                  |
| 629.76                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.12                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.16                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.18                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.22                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.28                                        | 1% ad val.                                      | 1%                                                                                     | 1.1%                                | 1.0%                                  | 0.9%                                  | 0.8%                                  | 0.7%                                  | 0.6%                                  |
| 629.34                                        | 12.5c per lb. on 11.9c/lb.                      | 11.9c/lb.                                                                              | 11.3c/lb.                           | 10.6c/lb.                             | 10c/lb.                               | 9.4c/lb.                              | 8.8c/lb.                              | 7.5c/lb.                              |
| 629.36                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.42                                        | 5.3% ad val.                                    | 5.3%                                                                                   | 5.3%                                | 5.3%                                  | 5.3%                                  | 5.3%                                  | 5.3%                                  | 5.3%                                  |
| 629.44                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.46                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.48                                        | 4% ad val.                                      | 3.5%                                                                                   | 3%                                  | 2.5%                                  | 2%                                    | 1.5%                                  | 1%                                    | Free                                  |
| 629.50                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.52                                        | 6% ad val.                                      | 5.6%                                                                                   | 5.6%                                | 5.3%                                  | 5.1%                                  | 4.9%                                  | 4.7%                                  | 4.2%                                  |
| 629.58                                        | 5% ad val.                                      | 4.8%                                                                                   | 4.7%                                | 4.5%                                  | 4.4%                                  | 4.2%                                  | 4%                                    | 3.7%                                  |
| 629.60                                        | 1c per lb. on 0.9c/lb.                          | 0.9c/lb.                                                                               | 0.9c/lb.                            | 0.9c/lb.                              | 0.9c/lb.                              | 0.9c/lb.                              | 0.9c/lb.                              | Free                                  |
| 629.62                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.64                                        | 4% ad val.                                      | 3.5%                                                                                   | 3%                                  | 2.5%                                  | 2%                                    | 1.5%                                  | 1%                                    | Free                                  |
| 629.66                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.68                                        | 10c per lb. on 4% lb.                           | 4% lb.                                                                                 | 4% lb.                              | 4% lb.                                | 4% lb.                                | 4% lb.                                | 4% lb.                                | 3% lb.                                |
| 629.70                                        | 10c per lb. on 4% lb. + 5.6%                    | 4% lb. + 5.1%                                                                          | 4% lb. + 4.7%                       | 4% lb. + 4.3%                         | 4% lb. + 3.9%                         | 4% lb. + 3.5%                         | 4% lb. + 3.1%                         | 4% lb. + 2.7%                         |
| 629.72                                        | 4% ad val.                                      | 3.5%                                                                                   | 3%                                  | 2.5%                                  | 2%                                    | 1.5%                                  | 1%                                    | Free                                  |
| 629.74                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.76                                        | 9% ad val.                                      | 8.6%                                                                                   | 8.1%                                | 7.7%                                  | 7.3%                                  | 6.8%                                  | 6.4%                                  | 5.5%                                  |
| 629.78                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.80                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.82                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.84                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.86                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.88                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.90                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.92                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.94                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.96                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.98                                        | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |
| 629.100                                       | 7.5% ad val.                                    | 6.9%                                                                                   | 6.4%                                | 5.8%                                  | 5.3%                                  | 4.7%                                  | 4.1%                                  | 3%                                    |

1/ The symbol "c" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Section A.--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |       |       |       |       |      |
|-----------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|-------|-------|-------|-------|------|
|                                               |                           | 1980                                                                                   | 1981  | 1982  | 1983  | 1984  | 1985  | 1986  | 1987 |
| Schedule 6, Part 3--Continued                 |                           |                                                                                        |       |       |       |       |       |       |      |
| 642.08                                        | 10% ad val.               | 9.5%                                                                                   | 9%    | 8.4%  | 7.9%  | 7.4%  | 6.9%  | 6.3%  | 5.8% |
| 642.09                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.11                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.12                                        | 4.7% ad val.              | 4.6%                                                                                   | 4.4%  | 4.3%  | 4.1%  | 4%    | 3.8%  | 3.7%  | 3.5% |
| 642.14                                        | 6.5% ad val.              | 6.2%                                                                                   | 6%    | 5.7%  | 5.5%  | 5.2%  | 4.9%  | 4.7%  | 4.4% |
| 642.18                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.20                                        | 9% ad val.                | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 642.25                                        | 25% ad val.               | 23.1%                                                                                  | 21.3% | 19.4% | 17.5% | 15.6% | 13.8% | 11.9% | 10%  |
| 642.27                                        | 17.5% ad val.             | 16.3%                                                                                  | 15.1% | 13.9% | 12.7% | 11.4% | 10.2% | 9%    | 7.8% |
| 642.30                                        | 25% ad val.               | 23.1%                                                                                  | 21.3% | 19.4% | 17.5% | 15.6% | 13.8% | 11.9% | 10%  |
| 642.45                                        | 10.5% ad val.             | 9.9%                                                                                   | 9.4%  | 8.8%  | 8.3%  | 7.7%  | 7.1%  | 6.6%  | 6%   |
| 642.47                                        | 12.5% ad val.             | 11.8%                                                                                  | 11%   | 10.3% | 9.6%  | 8.8%  | 8.1%  | 7.3%  | 6.6% |
| 642.50                                        | 8.9% ad val.              | 8.5%                                                                                   | 8%    | 7.6%  | 7.2%  | 6.7%  | 6.3%  | 5.8%  | 5.4% |
| 642.52                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.54                                        | 5.4% ad val.              | 5.3%                                                                                   | 5.3%  | 5.3%  | 5.3%  | 5.3%  | 5.3%  | 5.3%  | 5.3% |
| 642.56                                        | 5.6% ad val.              | 5.4%                                                                                   | 5.2%  | 5%    | 4.8%  | 4.6%  | 4.4%  | 4.2%  | 4%   |
| 642.58                                        | 6.6% ad val.              | 6.3%                                                                                   | 6.1%  | 5.8%  | 5.6%  | 5.3%  | 5%    | 4.8%  | 4.5% |
| 642.60                                        | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 642.62                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.64                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.66                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.68                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.70                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.72                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.74                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.76                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.78                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.80                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.82                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.84                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.86                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.88                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.90                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.92                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.94                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.96                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 642.98                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.00                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.02                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.04                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.06                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.08                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.10                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.12                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.14                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.16                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.18                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.20                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.22                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.24                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.26                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.28                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.30                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.32                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.34                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.36                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.38                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.40                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.42                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.44                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.46                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.48                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.50                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.52                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.54                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.56                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.58                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.60                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.62                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.64                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.66                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.68                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.70                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.72                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.74                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.76                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.78                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.80                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.82                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.84                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.86                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.88                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.90                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.92                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.94                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.96                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 643.98                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.00                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.02                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.04                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.06                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.08                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.10                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.12                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.14                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.16                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.18                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.20                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.22                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.24                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.26                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.28                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.30                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.32                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.34                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.36                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.38                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.40                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.42                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.44                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.46                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.48                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.50                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.52                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.54                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.56                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.58                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.60                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.62                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.64                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.66                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.68                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.70                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.72                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.74                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.76                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.78                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.80                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.82                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.84                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.86                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.88                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.90                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.92                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.94                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 644.96                                        | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  |       |       |       |       |       |      |



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                           | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule 6, Part 3--Continued                    |                           |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 644.68                                           | 5.2% ad val.              | 5%                                                                                     | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.2%               | 4%                 | 3.8%               |
| 644.72                                           | 1.5c per 100<br>leaves    | 1.4c/100<br>leaves                                                                     | 1.4c/100<br>leaves | 1.4c/100<br>leaves | 1.4c/100<br>leaves | 1.4c/100<br>leaves | 1.4c/100<br>leaves | 1.4c/100<br>leaves | 1.4c/100<br>leaves |
| 644.80                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 644.84                                           | 7.4% ad val.              | 7.1%                                                                                   | 6.8%               | 6.4%               | 6.1%               | 5.8%               | 5.5%               | 5.1%               | 4.8%               |
| 644.88                                           | 1% ad val.                | 0.9%                                                                                   | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               |
| 646.92                                           | 2% ad val.                | 1.5%                                                                                   | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.5%               |
| 646.98                                           | 2.1% ad val.              | 2%                                                                                     | 2%                 | 2%                 | 2%                 | 1.9%               | 1.9%               | 1.8%               | 1.8%               |
| 646.02                                           | 1.5% ad val.              | 1.4%                                                                                   | 1.4%               | 1.4%               | 1.4%               | 1.4%               | 1.4%               | 1.4%               | 1.4%               |
| 646.04                                           | 8% ad val.                | 5%                                                                                     | 3.2%               | 3.2%               | 3.2%               | 3.2%               | 3.2%               | 3.2%               | 3.2%               |
| 646.17                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%               |
| 646.20                                           | 1% ad val.                | 0.9%                                                                                   | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               | 0.9%               |
| 646.22                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.25                                           | 1.3% ad val.              | 0.5%                                                                                   | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               |
| 646.26                                           | 0.5% ad val.              | 0.5%                                                                                   | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               |
| 646.27                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.5%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 646.28                                           | 0.5% ad val.              | 0.5%                                                                                   | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               |
| 646.30                                           | 4.1% ad val.              | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.5%               | 3.4%               | 3.3%               | 3.2%               |
| 646.32                                           | 2.9% ad val.              | 2.3%                                                                                   | 2.3%               | 2.3%               | 2.3%               | 2.3%               | 2.3%               | 2.3%               | 2.3%               |
| 646.34                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 646.36                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.41                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%               | 6.1%               | 5.9%               | 5.6%               | 5.3%               | 5%                 | 4.7%               |
| 646.42                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.45                                           | 3.2% ad val.              | 3.1%                                                                                   | 3.1%               | 3%                 | 2.9%               | 2.8%               | 2.8%               | 2.7%               | 2.6%               |
| 646.47                                           | 9.5% ad val.              | 8.8%                                                                                   | 8.1%               | 7.4%               | 6.7%               | 5.9%               | 5.2%               | 4.5%               | 3.8%               |
| 646.51                                           | 11.5% ad val.             | 10.9%                                                                                  | 10.2%              | 9.6%               | 8.9%               | 8.3%               | 7.6%               | 7%                 | 6.3%               |
| 646.53                                           | 9% ad val.                | 8.6%                                                                                   | 8.1%               | 7.7%               | 7.3%               | 6.8%               | 6.4%               | 5.9%               | 5.5%               |
| 646.54                                           | 0.7% ad val.              | 0.7%                                                                                   | 0.7%               | 0.7%               | 0.7%               | 0.7%               | 0.7%               | 0.7%               | 0.7%               |
| 646.56                                           | 0.7% ad val.              | 0.2%                                                                                   | 0.2%               | 0.2%               | 0.2%               | 0.2%               | 0.2%               | 0.2%               | 0.2%               |
| 646.57                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%               | 6.1%               | 5.9%               | 5.6%               | 5.3%               | 5%                 | 4.7%               |
| 646.58                                           | 0.5c per lb.              | 0.49c/lb.                                                                              | 0.48c/lb.          | 0.48c/lb.          | 0.47c/lb.          | 0.47c/lb.          | 0.46c/lb.          | 0.45c/lb.          | 0.45c/lb.          |
| 646.60                                           | 11% ad val.               | 10.4%                                                                                  | 9.8%               | 9.2%               | 8.6%               | 8%                 | 7.4%               | 6.8%               | 6.2%               |
| 646.65                                           | 10% ad val.               | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 646.72                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.74                                           | 1.6% ad val.              | 1.5%                                                                                   | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.5%               | 1.4%               | 1.4%               |
| 646.75                                           | 11.5% ad val.             | 10.9%                                                                                  | 10.2%              | 9.6%               | 8.9%               | 8.3%               | 7.6%               | 7%                 | 6.3%               |
| 646.76                                           | 9% ad val.                | 8.6%                                                                                   | 8.1%               | 7.7%               | 7.3%               | 6.8%               | 6.4%               | 5.9%               | 5.5%               |
| 646.77                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 646.78                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.80                                           | 5.7% ad val.              | 5.3%                                                                                   | 4.9%               | 4.4%               | 4%                 | 3.6%               | 3.2%               | 2.7%               | 2.3%               |
| 646.81                                           | 5.3% ad val.              | 5.1%                                                                                   | 4.9%               | 4.7%               | 4.6%               | 4.4%               | 4.2%               | 4%                 | 3.8%               |
| 646.82                                           | 6.9% ad val.              | 6.6%                                                                                   | 6.3%               | 6%                 | 5.8%               | 5.5%               | 5.2%               | 4.9%               | 4.6%               |
| 646.83                                           | 10.7% ad val.             | 10.1%                                                                                  | 9.6%               | 9%                 | 8.4%               | 7.8%               | 7.3%               | 6.7%               | 6.1%               |
| 646.84                                           | 7.2% ad val.              | 5.9%                                                                                   | 5.7%               | 5.4%               | 5.4%               | 5.3%               | 5.1%               | 5%                 | 4.8%               |
| 646.85                                           | 5.9% ad val.              | 5.7%                                                                                   | 5.5%               | 5.3%               | 5.1%               | 4.8%               | 4.6%               | 4.4%               | 4.2%               |
| 646.86                                           | 8.6% ad val.              | 8.2%                                                                                   | 7.8%               | 7.4%               | 7%                 | 6.5%               | 6.1%               | 5.7%               | 5.3%               |
| 646.87                                           | 9.2% ad val.              | 8.8%                                                                                   | 8.3%               | 7.9%               | 7.4%               | 7%                 | 6.5%               | 6.1%               | 5.6%               |
| 646.88                                           | 16% ad val.               | 15.5%                                                                                  | 15.1%              | 14.6%              | 14.2%              | 13.7%              | 13.2%              | 12.8%              | 12.3%              |
| 646.89                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%               | 5.7%               | 5.3%               |
| 646.90                                           | 11% ad val.               | 10.4%                                                                                  | 9.8%               | 9.2%               | 8.6%               | 8%                 | 7.4%               | 6.8%               | 6.2%               |
| 646.92                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 646.95                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%               | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.1%               | 3.9%               |
| 646.97                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               |
| 647.01                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 647.03                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%               | 8.1%               | 7.6%               | 7.1%               | 6.7%               | 6.2%               | 5.7%               |
| 647.05                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%               | 6.2%               | 5.8%               | 5.5%               | 5.1%               |
| 647.10                                           | 20% ad val.               | 18.5%                                                                                  | 17%                | 15.5%              | 14%                | 12.5%              | 11%                | 9.5%               | 8%                 |
| 648.51                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 648.53                                           | 3.5% ad val.              | 3.4%                                                                                   | 3.3%               | 3.2%               | 3.2%               | 3.1%               | 3%                 | 2.9%               | 2.8%               |
| 648.55                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 648.57                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%               | 5.8%               | 5.3%               | 4.7%               | 4.1%               | 3.6%               | 3%                 |
| 648.61                                           | 3.5% ad val.              | 3.4%                                                                                   | 3.3%               | 3.2%               | 3.2%               | 3.1%               | 3%                 | 2.9%               | 2.8%               |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged     | Rates of duty <u>1</u> /, effective with respect to articles entered on and after January 1 -- |                      |                      |                     |                     |                     |                     |                     |
|--------------------------------------------------|-------------------------------|------------------------------------------------------------------------------------------------|----------------------|----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
|                                                  |                               | 1980                                                                                           | 1981                 | 1982                 | 1983                | 1984                | 1985                | 1986                | 1987                |
| Schedule 6, Part 3--Continued                    |                               |                                                                                                |                      |                      |                     |                     |                     |                     |                     |
| 648.63                                           | 7.5% ad val.                  | 4.5%                                                                                           | 3%                   | 3%                   | 3%                  | 3%                  | 3%                  | 3%                  | 3%                  |
| 648.67                                           | 11% ad val.                   | 10.4%                                                                                          | 9.8%                 | 9.2%                 | 8.6%                | 8%                  | 7.4%                | 6.8%                | 6.2%                |
| 648.69                                           | 4% ad val.                    | 3.5%                                                                                           | 3%                   | 2.5%                 | 2%                  | 1.5%                | 1%                  | 0.5%                | Free                |
| 648.71                                           | 1c each + 6%<br>ad val.       | 0.9c each +<br>5.7%                                                                            | 0.9c each +<br>5.5%  | 0.8c each +<br>5.2%  | 0.8c each +<br>4.9% | 0.7c each +<br>4.6% | 0.7c each +<br>4.4% | 0.6c each +<br>4.1% | 0.6c each +<br>3.8% |
| 648.73                                           | 5c each + 11%<br>ad val.      | 4.5c each +<br>10.3%                                                                           | 4c each +<br>9.5%    | 3.5c each +<br>8.8%  | 3.5c each +<br>8.1% | 3c each +<br>7.3%   | 2.5c each +<br>6.6% | 2c each +<br>5.8%   | 2c each +<br>5.1%   |
| 648.75                                           | 2c each + 4%<br>ad val.       | 1.8c each +<br>3.9%                                                                            | 1.7c each +<br>3.7%  | 1.6c each +<br>3.6%  | 1.5c each +<br>3.4% | 1.3c each +<br>3.3% | 1.2c each +<br>3.1% | 1.1c each +<br>3%   | 1c each +<br>2.8%   |
| 648.80                                           | 20% ad val.                   | 19%                                                                                            | 18%                  | 17%                  | 16%                 | 15%                 | 14%                 | 13%                 | 12%                 |
| 648.82                                           | 20% ad val.                   | 19%                                                                                            | 18%                  | 17%                  | 16%                 | 15%                 | 14%                 | 13%                 | 12%                 |
| 648.85                                           | 1.6c each +<br>10% ad val.    | 1.5c each +<br>9.4%                                                                            | 1.4c each +<br>8.9%  | 1.4c each +<br>8.3%  | 1.3c each +<br>7.8% | 1.2c each +<br>7.2% | 1.1c each +<br>6.6% | 1c each +<br>6.1%   | 1c each +<br>5.5%   |
| 648.89                                           | 9.5% ad val.                  | 9%                                                                                             | 8.6%                 | 8.1%                 | 7.6%                | 7.1%                | 6.7%                | 6.2%                | 5.7%                |
| 648.91                                           | 5c each + 11%<br>ad val.      | 4.5c each +<br>10.2%                                                                           | 4c each +<br>9.4%    | 3.5c each +<br>8.5%  | 3.5c each +<br>7.7% | 3c each +<br>6.9%   | 2.5c each +<br>6.1% | 2c each +<br>5.2%   | 2c each +<br>4.4%   |
| 648.93                                           | 15% ad val.                   | 13.9%                                                                                          | 12.8%                | 11.6%                | 10.5%               | 9.4%                | 8.3%                | 7.1%                | 6%                  |
| 648.95                                           | 10.5% ad val.                 | 9.7%                                                                                           | 8.9%                 | 8.1%                 | 7.4%                | 6.6%                | 5.8%                | 5%                  | 4.2%                |
| 648.97                                           | 11% ad val.                   | 10.8%                                                                                          | 10.5%                | 10.3%                | 10%                 | 9.8%                | 9.5%                | 9.3%                | 9%                  |
| 649.01                                           | 6c per doz.                   | 5.9c/doz.                                                                                      | 5.8c/doz.            | 5.6c/doz.            | 5.5c/doz.           | 5.4c/doz.           | 5.3c/doz.           | 5.1c/doz.           | 5c/doz.             |
| 649.03                                           | 10c per doz.                  | 9.9c/doz.                                                                                      | 9.8c/doz.            | 9.6c/doz.            | 9.5c/doz.           | 9.4c/doz.           | 9.3c/doz.           | 9.1c/doz.           | 9c/doz.             |
| 649.05                                           | 14c per doz.                  | 13.5c/doz.                                                                                     | 13.5c/doz.           | 13c/doz.             | 13c/doz.            | 12.5c/doz.          | 12.5c/doz.          | 12c/doz.            | 12c/doz.            |
| 649.07                                           | 8c per doz.                   | 7.9c/doz.                                                                                      | 7.9c/doz.            | 7.6c/doz.            | 7.5c/doz.           | 7.4c/doz.           | 7.3c/doz.           | 7.1c/doz.           | 7c/doz.             |
| 649.11                                           | 3.5% ad val.                  | 3.1%                                                                                           | 2.6%                 | 2.2%                 | 1.8%                | 1.3%                | 0.9%                | 0.4%                | Free                |
| 649.14                                           | 4% ad val.                    | 3.9%                                                                                           | 3.8%                 | 3.7%                 | 3.6%                | 3.4%                | 3.3%                | 3.2%                | 3.1%                |
| 649.17                                           | 4% ad val.                    | 3.9%                                                                                           | 3.8%                 | 3.7%                 | 3.6%                | 3.4%                | 3.3%                | 3.2%                | 3.1%                |
| 649.19                                           | 5% ad val.                    | 4.8%                                                                                           | 4.7%                 | 4.5%                 | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 649.21                                           | 10c per gross                 | 9.5c/gross                                                                                     | 9.5c/gross           | 9c/gross             | 9c/gross            | 8.5c/gross          | 8.5c/gross          | 8c/gross            | 8c/gross            |
| 649.23                                           | 15% ad val.                   | 14%                                                                                            | 13.1%                | 12.1%                | 11.1%               | 10.1%               | 9.2%                | 8.2%                | 7.2%                |
| 649.24                                           | 4.5% ad val.                  | 4.4%                                                                                           | 4.2%                 | 4.1%                 | 4%                  | 3.8%                | 3.7%                | 3.5%                | 3.4%                |
| 649.25                                           | 3.5% ad val.                  | 3.1%                                                                                           | 2.6%                 | 2.2%                 | 1.8%                | 1.3%                | 0.9%                | 0.4%                | Free                |
| 649.26                                           | 7.5% ad val.                  | 7.2%                                                                                           | 6.9%                 | 6.5%                 | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 649.27                                           | 9.5% ad val.                  | 9%                                                                                             | 8.6%                 | 8.1%                 | 7.6%                | 7.1%                | 6.7%                | 6.2%                | 5.7%                |
| 649.29                                           | 5% ad val.                    | 4.8%                                                                                           | 4.7%                 | 4.5%                 | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 649.31                                           | 5% ad val.                    | 4.8%                                                                                           | 4.7%                 | 4.5%                 | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 649.32                                           | 9.5% ad val.                  | 9%                                                                                             | 8.6%                 | 8.1%                 | 7.6%                | 7.1%                | 6.7%                | 6.2%                | 5.7%                |
| 649.33                                           | 1% ad val.                    | 0.9%                                                                                           | 0.9%                 | 0.9%                 | 0.9%                | 0.9%                | 0.9%                | 0.9%                | 0.9%                |
| 649.35                                           | 9% ad val.                    | 8.6%                                                                                           | 8.1%                 | 7.7%                 | 7.3%                | 6.8%                | 6.4%                | 5.9%                | 5.5%                |
| 649.39                                           | 4.5% ad val.                  | 1.5%                                                                                           | Free                 | Free                 | Free                | Free                | Free                | Free                | Free                |
| 649.41                                           | 3% ad val.                    | 2.9%                                                                                           | 2.9%                 | 2.8%                 | 2.8%                | 2.7%                | 2.6%                | 2.6%                | 2.5%                |
| 649.43                                           | 15% ad val.                   | 14%                                                                                            | 13.1%                | 12.1%                | 11.1%               | 10.1%               | 9.2%                | 8.2%                | 7.2%                |
| 649.44                                           | 21% ad val.                   | 19.4%                                                                                          | 17.9%                | 16.3%                | 14.7%               | 13.1%               | 11.6%               | 10%                 | 8.4%                |
| 649.46                                           | 10.5% ad val.                 | 9.9%                                                                                           | 9.4%                 | 8.8%                 | 8.3%                | 7.7%                | 7.1%                | 6.6%                | 6%                  |
| 649.47                                           | 11% ad val.                   | 10.4%                                                                                          | 9.8%                 | 9.2%                 | 8.6%                | 8%                  | 7.4%                | 6.8%                | 6.2%                |
| 649.48                                           | 7.5% ad val.                  | 7.2%                                                                                           | 6.9%                 | 6.5%                 | 6.2%                | 5.9%                | 5.6%                | 5.2%                | 4.9%                |
| 649.49                                           | 5% ad val.                    | 4.8%                                                                                           | 4.7%                 | 4.5%                 | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 649.53                                           | 15% ad val.                   | 14%                                                                                            | 13%                  | 12%                  | 11%                 | 10%                 | 9%                  | 8%                  | 7%                  |
| 649.57                                           | 8.5% ad val.                  | 8.1%                                                                                           | 7.7%                 | 7.3%                 | 6.9%                | 6.5%                | 6.1%                | 5.7%                | 5.3%                |
| 649.67                                           | 5% ad val.                    | 4.8%                                                                                           | 4.7%                 | 4.5%                 | 4.4%                | 4.2%                | 4%                  | 3.9%                | 3.7%                |
| 649.71                                           | 25% ad val.                   | 22%                                                                                            | 19%                  | 16%                  | 13%                 | 10%                 | 10%                 | 10%                 | 10%                 |
| 649.73                                           | 25% ad val.                   | 23.1%                                                                                          | 21.3%                | 19.4%                | 17.5%               | 15.6%               | 13.8%               | 11.9%               | 10%                 |
| 649.75                                           | 25% ad val.                   | 23.1%                                                                                          | 21.3%                | 19.4%                | 17.5%               | 15.6%               | 13.8%               | 11.9%               | 10%                 |
| 649.77                                           | 4.5c each +<br>13.5% ad val.  | 4.1c each +<br>12.4%                                                                           | 3.8c each +<br>11.4% | 3.5c each +<br>10.3% | 3.2c each +<br>9.3% | 2.9c each +<br>8.2% | 2.6c each +<br>7.1% | 2.3c each +<br>6.1% | 2c each +<br>5%     |
| 649.79                                           | 6.2c each +<br>12.5% ad val.  | 5.7c each +<br>11.6%                                                                           | 5.2c each +<br>10.6% | 4.8c each +<br>9.7%  | 4.3c each +<br>8.8% | 3.9c each +<br>7.8% | 3.4c each +<br>6.9% | 3c each +<br>5.9%   | 2.5c each +<br>5%   |
| 649.81                                           | 5c each +<br>12.5% ad val.    | 4.5c each +<br>11.6%                                                                           | 4c each +<br>10.6%   | 3.5c each +<br>9.7%  | 3.5c each +<br>8.8% | 3c each +<br>7.8%   | 2.5c each +<br>6.9% | 2c each +<br>5.9%   | 2c each +<br>5%     |
| 649.83                                           | 8.7c each +<br>13.5% ad val.  | 8c each +<br>12.5%                                                                             | 7c each +<br>11.5%   | 6.5c each +<br>10.5% | 5.5c each +<br>9.5% | 5c each +<br>8.4%   | 4c each +<br>7.4%   | 3.5c each +<br>6.4% | 3c each +<br>5.4%   |
| 649.85                                           | 2.75c each +<br>13.5% ad val. | 2.5c each +<br>12.5%                                                                           | 2.3c each +<br>11.5% | 2c each +<br>10.5%   | 1.8c each +<br>9.5% | 1.6c each +<br>8.4% | 1.4c each +<br>7.4% | 1.2c each +<br>6.4% | 1c each +<br>5.4%   |
| 649.87                                           | 8.7c each +<br>13.5% ad val.  | 8c each +<br>12.5%                                                                             | 7c each +<br>11.5%   | 6.5c each +<br>10.4% | 5.5c each +<br>9.5% | 5c each +<br>8.4%   | 4c each +<br>7.4%   | 3.5c each +<br>6.4% | 3c each +<br>5.4%   |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged     | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                      |                      |                      |                      |
|--------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
|                                                  |                               | 1980                                                                                   | 1981                 | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                 |
| Schedule B, Part 3--Continued                    |                               |                                                                                        |                      |                      |                      |                      |                      |                      |                      |
| 849.89                                           | 2.75c each +<br>13.5% ad val. | 2.5c each +<br>12.5%                                                                   | 2.3c each +<br>11.5% | 2c each +<br>10.4%   | 1.8c each +<br>9.5%  | 1.6c each +<br>8.4%  | 1.4c each +<br>7.4%  | 1.2c each +<br>6.4%  | 1c each +<br>5.4%    |
| 849.91                                           | 18.5% ad val.                 | 17.2%                                                                                  | 15.9%                | 14.6%                | 13.3%                | 11.9%                | 10.6%                | 9.3%                 | 8%                   |
| 850.01                                           | 0.46c each +<br>5% ad val.    | 0.43c each +<br>4.7%                                                                   | 0.4c each +<br>4.5%  | 0.36c each +<br>4.2% | 0.33c each +<br>3.9% | 0.3c each +<br>3.6%  | 0.26c each +<br>3.4% | 0.23c each +<br>3.1% | 0.2c each +<br>2.8%  |
| 850.03                                           | 2c each +<br>8.5% ad val.     | 1.8c each +<br>8.1%                                                                    | 1.7c each +<br>7.6%  | 1.6c each +<br>7.2%  | 1.5c each +<br>6.7%  | 1.3c each +<br>6.3%  | 1.2c each +<br>5.8%  | 1.1c each +<br>5.4%  | 1c each +<br>4.9%    |
| 850.05                                           | 4c each +<br>8.5% ad val.     | 3.5c each +<br>8.1%                                                                    | 3c each +<br>7.8%    | 2.5c each +<br>7.4%  | 2c each +<br>7%      | 1.5c each +<br>6.6%  | 1c each +<br>6.3%    | 0.5c each +<br>5.9%  | 5.5%                 |
| 850.07                                           | 1c each +<br>7.5% ad val.     | 0.9c each +<br>7.2%                                                                    | 0.8c each +<br>6.8%  | 0.8c each +<br>6.5%  | 0.8c each +<br>6.1%  | 0.7c each +<br>5.8%  | 0.7c each +<br>5.4%  | 0.6c each +<br>5.1%  | 0.6c each +<br>4.7%  |
| 850.13                                           | 2c each + 6%<br>ad val.       | 1.8c each +<br>5.8%                                                                    | 1.7c each +<br>5.5%  | 1.6c each +<br>5.2%  | 1.5c each +<br>5%    | 1.3c each +<br>4.8%  | 1.2c each +<br>4.5%  | 1.1c each +<br>4.3%  | 1c each +<br>4%      |
| 850.15                                           | 2c each +<br>12.5% ad val.    | 1.8c each +<br>11.7%                                                                   | 1.7c each +<br>10.8% | 1.6c each +<br>10%   | 1.5c each +<br>9.1%  | 1.3c each +<br>8.3%  | 1.2c each +<br>7.4%  | 1.1c each +<br>6.6%  | 1c each +<br>5.7%    |
| 850.17                                           | 2c each +<br>8.5% ad val.     | 1.8c each +<br>8%                                                                      | 1.7c each +<br>7.5%  | 1.6c each +<br>7%    | 1.5c each +<br>6.6%  | 1.3c each +<br>6.1%  | 1.2c each +<br>5.6%  | 1.1c each +<br>5.1%  | 1c each +<br>4.6%    |
| 850.19                                           | 1c each + 6%<br>ad val.       | 0.9c each +<br>5.8%                                                                    | 0.8c each +<br>5.6%  | 0.6c each +<br>5.4%  | 0.5c each +<br>5.2%  | 0.4c each +<br>5%    | 0.3c each +<br>4.8%  | 0.1c each +<br>4.6%  | 4.4%                 |
| 850.21                                           | 0.5c each +<br>8.5% ad val.   | 0.5c each +<br>8.2%                                                                    | 0.5c each +<br>7.9%  | 0.4c each +<br>7.6%  | 0.4c each +<br>7.3%  | 0.4c each +<br>7%    | 0.4c each +<br>6.7%  | 0.4c each +<br>6.4%  | 0.4c each +<br>6.1%  |
| 850.31                                           | 0.4c each +<br>5% ad val.     | 0.38c each +<br>4.6%                                                                   | 0.37c each +<br>4.6% | 0.36c each +<br>4.3% | 0.35c each +<br>4.1% | 0.34c each +<br>3.9% | 0.32c each +<br>3.7% | 0.31c each +<br>3.4% | 0.3c each +<br>3.2%  |
| 850.35                                           | 4c each +<br>8.5% ad val.     | 3.5c each +<br>8.1%                                                                    | 3c each +<br>7.7%    | 2.5c each +<br>7.3%  | 2c each +<br>7%      | 1.5c each +<br>6.6%  | 1c each +<br>6.2%    | 0.5c each +<br>5.8%  | 5.4%                 |
| 850.37                                           | 0.5c each +<br>6% ad val.     | 0.4c each +<br>5.8%                                                                    | 0.4c each +<br>5.5%  | 0.4c each +<br>5.3%  | 0.4c each +<br>5%    | 0.3c each +<br>4.8%  | 0.3c each +<br>4.5%  | 0.3c each +<br>4.3%  | 0.3c each +<br>4%    |
| 850.43                                           | 2c each + 6%<br>ad val.       | 1.8c each +<br>5.8%                                                                    | 1.8c each +<br>5.5%  | 1.6c each +<br>5.3%  | 1.5c each +<br>5%    | 1.3c each +<br>4.8%  | 1.1c each +<br>4.5%  | 1c each +<br>4.3%    | 1c each +<br>4%      |
| 850.45                                           | 1c each +<br>6% ad val.       | 0.9c each +<br>5.7%                                                                    | 0.8c each +<br>5.3%  | 0.8c each +<br>5%    | 0.7c each +<br>4.6%  | 0.6c each +<br>4.3%  | 0.6c each +<br>3.9%  | 0.5c each +<br>3.6%  | 0.5c each +<br>3.2%  |
| 850.47                                           | 1c each +<br>6% ad val.       | 0.8c each +<br>4.2%                                                                    | 0.8c each +<br>3.2%  | 0.5c each +<br>3.2%  | 0.5c each +<br>3.2%  | 0.5c each +<br>3.2%  | 0.5c each +<br>3.2%  | 0.5c each +<br>3.2%  | 0.5c each +<br>3.2%  |
| 850.49                                           | 0.5c each +<br>8.5% ad val.   | 0.4c each +<br>8%                                                                      | 0.4c each +<br>7.5%  | 0.4c each +<br>7%    | 0.4c each +<br>6.5%  | 0.3c each +<br>6%    | 0.3c each +<br>5.5%  | 0.3c each +<br>5%    | 0.3c each +<br>4.5%  |
| 850.51                                           | 12.5% ad val.                 | 11.8%                                                                                  | 11%                  | 10.3%                | 9.6%                 | 8.8%                 | 8.1%                 | 7.3%                 | 6.6%                 |
| 850.53                                           | 10.5% ad val.                 | 9.9%                                                                                   | 9.4%                 | 8.8%                 | 8.3%                 | 7.7%                 | 7.1%                 | 6.6%                 | 6%                   |
| 850.55                                           | 17% ad val.                   | 15.8%                                                                                  | 14.6%                | 13.4%                | 12.3%                | 11.1%                | 9.9%                 | 8.7%                 | 7.5%                 |
| 850.57                                           | 11% ad val.                   | 10.2%                                                                                  | 9.4%                 | 8.5%                 | 7.7%                 | 6.9%                 | 6.1%                 | 5.2%                 | 4.4%                 |
| 850.61                                           | 1c each +<br>6% ad val.       | 0.9c each +<br>5.8%                                                                    | 0.9c each +<br>5.5%  | 0.8c each +<br>5.3%  | 0.8c each +<br>5.1%  | 0.7c each +<br>4.8%  | 0.7c each +<br>4.6%  | 0.7c each +<br>4.3%  | 0.7c each +<br>4.1%  |
| 850.63                                           | 2c each +<br>8.5% ad val.     | 1.8c each +<br>8.1%                                                                    | 1.7c each +<br>7.7%  | 1.6c each +<br>7.2%  | 1.5c each +<br>6.8%  | 1.3c each +<br>6.4%  | 1.2c each +<br>6%    | 1.1c each +<br>5.5%  | 1c each +<br>5.1%    |
| 850.65                                           | 2c each + 6%<br>ad val.       | 1.8c each +<br>5.8%                                                                    | 1.7c each +<br>5.5%  | 1.6c each +<br>5.3%  | 1.5c each +<br>5%    | 1.3c each +<br>4.8%  | 1.2c each +<br>4.5%  | 1.1c each +<br>4.3%  | 1c each +<br>4%      |
| 850.71                                           | 1c each +<br>2.5% ad val.     | 0.9c each +<br>2.1%                                                                    | 0.8c each +<br>2.1%  | 0.7c each +<br>1.9%  | 0.7c each +<br>1.8%  | 0.6c each +<br>1.6%  | 0.5c each +<br>1.4%  | 0.4c each +<br>1.2%  | 0.4c each +<br>1%    |
| 850.73                                           | 4% ad val.                    | 3.9%                                                                                   | 3.8%                 | 3.7%                 | 3.6%                 | 3.4%                 | 3.3%                 | 3.2%                 | 3.1%                 |
| 850.75                                           | 0.1c each +<br>1% ad val.     | 0.09c each +<br>2.7%                                                                   | 0.09c each +<br>2.7% | 0.08c each +<br>2.6% | 0.08c each +<br>2.4% | 0.07c each +<br>2.3% | 0.07c each +<br>2.1% | 0.06c each +<br>2%   | 0.06c each +<br>1.8% |
| 850.77                                           | 4.5% ad val.                  | 4.4%                                                                                   | 4.2%                 | 4.1%                 | 4%                   | 3.8%                 | 3.7%                 | 3.5%                 | 3.4%                 |
| 850.79                                           | 7% each +<br>7.5% ad val.     | 7c each +<br>6.8%                                                                      | 6.6c each +<br>6.2%  | 6.1c each +<br>6.2%  | 5.7c each +<br>5.7%  | 5.2c each +<br>5.3%  | 4.8c each +<br>4.8%  | 4.3c each +<br>4.4%  | 3.9c each +<br>3.9%  |
| 850.81                                           | 7c each +<br>5% ad val.       | 6.6c each +<br>4.6%                                                                    | 6.1c each +<br>4.6%  | 6c each +<br>4.3%    | 5.7c each +<br>4.1%  | 5.4c each +<br>3.9%  | 5.1c each +<br>3.7%  | 4.8c each +<br>3.4%  | 4.5c each +<br>3.2%  |
| 850.83                                           | 20% ad val.                   | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                   |
| 850.85                                           | 4c each +<br>2.5% ad val.     | 3.7c each +<br>6.4%                                                                    | 3.5c each +<br>8.3%  | 3.2c each +<br>7.7%  | 3c each +<br>7.1%    | 2.7c each +<br>6.4%  | 2.4c each +<br>5.8%  | 2c each +<br>5.2%    | 1.7c each +<br>4.6%  |

1/ The symbol "1/1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
2/ For items 850.76, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--3.4c each + 3.5%.  
Effective with respect to articles entered on and after January 1, 1989--3c each + 3%.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged         | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                      |                      |                      |                      |
|--------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
|                                                  |                                   | 1980                                                                                   | 1981                 | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                 |
| Schedule B, Part 3--Continued                    |                                   |                                                                                        |                      |                      |                      |                      |                      |                      |                      |
| 850.87                                           | 0.87c each +<br>11% ad val.       | 0.8c each +<br>10.2%                                                                   | 0.74c each +<br>9.4% | 0.67c each +<br>8.5% | 0.61c each +<br>7.7% | 0.54c each +<br>6.9% | 0.48c each +<br>6.1% | 0.41c each +<br>5.2% | 0.35c each +<br>4.4% |
| 850.89                                           | 1.75c each +<br>11% ad val.       | 1.5c each +<br>10.3%                                                                   | 1.3c each +<br>9.5%  | 1.2c each +<br>8.6%  | 1.1c each +<br>7.7%  | 1.0c each +<br>6.8%  | 0.9c each +<br>5.9%  | 0.8c each +<br>5.1%  | 0.7c each +<br>4.2%  |
| 850.91                                           | 10c each +<br>22.5% ad val.       | 10c each +<br>20.9%                                                                    | 10c each +<br>19.4%  | 10c each +<br>17.8%  | 10c each +<br>16.3%  | 10c each +<br>14.7%  | 10c each +<br>13.1%  | 10c each +<br>11.6%  | 10c each +<br>10%    |
| 851.01                                           | 19% ad val.                       | 17.6%                                                                                  | 16.2%                | 14.7%                | 13.3%                | 11.9%                | 10.5%                | 9%                   | 7.6%                 |
| 851.03                                           | 12.5% ad val.                     | 11.8%                                                                                  | 11%                  | 10.3%                | 9.6%                 | 8.8%                 | 8.1%                 | 7.3%                 | 6.6%                 |
| 851.04                                           | 9.5% ad val.                      | 9%                                                                                     | 8.6%                 | 8.1%                 | 7.6%                 | 7.1%                 | 6.7%                 | 6.2%                 | 5.7%                 |
| 851.07                                           | 18.1% ad val.                     | 16.7%                                                                                  | 15.4%                | 14%                  | 12.7%                | 11.3%                | 9.9%                 | 8.6%                 | 7.2%                 |
| 851.09                                           | 10% ad val.                       | 9.5%                                                                                   | 9%                   | 8.4%                 | 7.9%                 | 7.4%                 | 6.9%                 | 6.3%                 | 5.8%                 |
| 851.11                                           | 10% ad val.                       | 9.3%                                                                                   | 8.5%                 | 7.8%                 | 7%                   | 6.3%                 | 5.5%                 | 4.8%                 | 4%                   |
| 851.13                                           | 19% ad val.                       | 17.6%                                                                                  | 16.3%                | 14.9%                | 13.6%                | 12.2%                | 10.8%                | 9.5%                 | 8.1%                 |
| 851.15                                           | 12.5% ad val.                     | 11.6%                                                                                  | 10.6%                | 9.7%                 | 8.8%                 | 7.8%                 | 6.9%                 | 5.9%                 | 5%                   |
| 851.21                                           | 11% ad val.                       | 10.4%                                                                                  | 9.8%                 | 9.2%                 | 8.6%                 | 8%                   | 7.4%                 | 6.8%                 | 6.2%                 |
| 851.23                                           | 2.5% ad val.                      | 2.5%                                                                                   | 2.4%                 | 2.4%                 | 2.3%                 | 2.3%                 | 2.2%                 | 2.2%                 | 2.2%                 |
| 851.25                                           | 0.3c per lb.                      | 0.28c/lb.                                                                              | 0.27c/lb.            | 0.26c/lb.            | 0.25c/lb.            | 0.23c/lb.            | 0.22c/lb.            | 0.21c/lb.            | 0.2c/lb.             |
| 851.27                                           | 11% ad val.                       | 10.4%                                                                                  | 9.6%                 | 9.2%                 | 8.6%                 | 8%                   | 7.4%                 | 6.8%                 | 6.2%                 |
| 851.29                                           | 15% ad val.                       | 14%                                                                                    | 13.1%                | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                 |
| 851.31                                           | 11% ad val.                       | 10.4%                                                                                  | 9.6%                 | 9.2%                 | 8.6%                 | 8%                   | 7.4%                 | 6.8%                 | 6.2%                 |
| 851.33                                           | 8.5% ad val.                      | 8.1%                                                                                   | 7.7%                 | 7.3%                 | 6.9%                 | 6.5%                 | 6.1%                 | 5.7%                 | 5.3%                 |
| 851.37                                           | 11% ad val.                       | 10.4%                                                                                  | 9.6%                 | 9.2%                 | 8.6%                 | 8%                   | 7.4%                 | 6.8%                 | 6.2%                 |
| 851.45                                           | 1.5% ad val.                      | 1.3%                                                                                   | 1.1%                 | 0.9%                 | 0.8%                 | 0.6%                 | 0.4%                 | 0.2%                 | Free                 |
| 851.47                                           | 6.5% ad val.                      | 6.1%                                                                                   | 5.7%                 | 5.3%                 | 4.9%                 | 4.5%                 | 4.1%                 | 3.7%                 | 3.3%                 |
| 851.49                                           | 5% ad val.                        | 4.8%                                                                                   | 4.7%                 | 4.5%                 | 4.4%                 | 4.2%                 | 4%                   | 3.9%                 | 3.7%                 |
| 851.51                                           | 7.5% ad val.                      | 7.2%                                                                                   | 6.9%                 | 6.5%                 | 6.2%                 | 5.9%                 | 5.6%                 | 5.2%                 | 4.9%                 |
| 851.53                                           | 1.7c per lb.<br>+ 8.5% ad<br>val. | 1.6c/lb. +<br>8.1%                                                                     | 1.5c/lb. +<br>7.6%   | 1.4c/lb. +<br>7.2%   | 1.3c/lb. +<br>6.8%   | 1.2c/lb. +<br>6.3%   | 1.1c/lb. +<br>5.9%   | 1c/lb. +<br>5.4%     | 9c/lb. +<br>5%       |
| 851.55                                           | 6.5% ad val.                      | 6.1%                                                                                   | 5.7%                 | 5.3%                 | 4.9%                 | 4.5%                 | 4.1%                 | 3.7%                 | 3.3%                 |
| 851.57                                           | 12.5% ad val.                     | 11.8%                                                                                  | 11%                  | 10.3%                | 9.6%                 | 8.8%                 | 8.1%                 | 7.3%                 | 6.6%                 |
| 851.59                                           | 20% ad val.                       | 18.5%                                                                                  | 17.1%                | 15.6%                | 14.1%                | 12.6%                | 11.2%                | 9.7%                 | 8.2%                 |
| 851.61                                           | 9.5% ad val.                      | 9%                                                                                     | 8.6%                 | 8.1%                 | 7.6%                 | 7%                   | 6.5%                 | 6%                   | 5.5%                 |
| 851.63                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.65                                           | 3.5% ad val.                      | 3.5%                                                                                   | 3.4%                 | 3.2%                 | 3.1%                 | 2.9%                 | 2.7%                 | 2.5%                 | 2.3%                 |
| 851.67                                           | 10% ad val.                       | 9.5%                                                                                   | 9%                   | 8.4%                 | 7.9%                 | 7.4%                 | 6.9%                 | 6.3%                 | 5.8%                 |
| 851.69                                           | 12.5% ad val.                     | 11.8%                                                                                  | 11%                  | 10.3%                | 9.6%                 | 8.8%                 | 8.1%                 | 7.3%                 | 6.6%                 |
| 851.71                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.73                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.75                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.77                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.79                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.81                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.83                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.85                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.87                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.89                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.91                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.93                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.95                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.97                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |
| 851.99                                           | 6% ad val.                        | 5.8%                                                                                   | 5.6%                 | 5.3%                 | 5.1%                 | 4.9%                 | 4.7%                 | 4.4%                 | 4.2%                 |

1/ The symbol "1/1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |          |          |          |          |          |          |        |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|----------|----------|----------|----------|----------|----------|--------|
|                                                  |                           | 1980                                                                                   | 1981     | 1982     | 1983     | 1984     | 1985     | 1986     | 1987   |
| Schedule 6, Part 3--Continued                    |                           |                                                                                        |          |          |          |          |          |          |        |
| 652.86                                           | 51 ad val.                | 4.8%                                                                                   | 4.7%     | 4.5%     | 4.4%     | 4.2%     | 4%       | 3.9%     | 3.7%   |
| 652.88                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 652.90                                           | 8.51 ad val.              | 7.9%                                                                                   | 7.2%     | 6.6%     | 6%       | 5.3%     | 4.7%     | 4%       | 3.4%   |
| 652.92                                           | 61 ad val.                | 5.6%                                                                                   | 5.1%     | 4.7%     | 4.2%     | 3.8%     | 3.3%     | 2.9%     | 2.4%   |
| 652.93                                           | 1.51 ad val.              | 1.5%                                                                                   | 1.5%     | 1.5%     | 1.5%     | 1.4%     | 1.4%     | 1.4%     | 1.4%   |
| 652.94                                           | 3.51 ad val.              | 3.4%                                                                                   | 3.3%     | 3.2%     | 3.1%     | 3.1%     | 3%       | 2.9%     | 2.8%   |
| 652.95                                           | 61 ad val.                | 5.8%                                                                                   | 5.6%     | 5.3%     | 5.1%     | 4.9%     | 4.7%     | 4.4%     | 4.2%   |
| 652.96                                           | 5.51 ad val.              | 5.3%                                                                                   | 5.1%     | 4.9%     | 4.7%     | 4.5%     | 4.3%     | 4.1%     | 3.9%   |
| 652.97                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.00                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.01                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.02                                           | 3.51 ad val.              | Free                                                                                   | Free     | Free     | Free     | Free     | Free     | Free     | Free   |
| 653.05                                           | 2.6c per lb.              | 2.5c/lb.                                                                               | 2.5c/lb. | 2.4c/lb. | 2.3c/lb. | 2.2c/lb. | 2.2c/lb. | 2.1c/lb. | 2c/lb. |
| 653.15                                           | 51 ad val.                | 4.4%                                                                                   | 3.8%     | 3.1%     | 2.5%     | 1.9%     | 1.3%     | 0.6%     | Free   |
| 653.20                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.25                                           | 9.51 ad val.              | 9.5%                                                                                   | 9.5%     | 8.9%     | 8.2%     | 7.6%     | 7%       | 6.3%     | 5.7%   |
| 653.30                                           | 51 ad val.                | 4.8%                                                                                   | 4.7%     | 4.5%     | 4.4%     | 4.2%     | 4%       | 3.9%     | 3.7%   |
| 653.35                                           | 51 ad val.                | 4.8%                                                                                   | 4.7%     | 4.5%     | 4.4%     | 4.2%     | 4%       | 3.9%     | 3.7%   |
| 653.37                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.39                                           | 191 ad val.               | 17.6%                                                                                  | 16.2%    | 14.7%    | 13.3%    | 11.9%    | 10.5%    | 9%       | 7.6%   |
| 653.45                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 653.47                                           | 61 ad val.                | 4.2%                                                                                   | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%   |
| 653.48                                           | 61 ad val.                | 4.2%                                                                                   | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%   |
| 653.52                                           | 61 ad val.                | 4.2%                                                                                   | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%     | 4.2%   |
| 653.60                                           | 12.51 ad val.             | 11.8%                                                                                  | 11%      | 10.3%    | 9.6%     | 8.8%     | 8.1%     | 7.3%     | 6.6%   |
| 653.62                                           | 10.51 ad val.             | 9.9%                                                                                   | 9.4%     | 8.8%     | 8.3%     | 7.7%     | 7.1%     | 6.6%     | 6%     |
| 653.65                                           | 201 ad val.               | 18.5%                                                                                  | 17.1%    | 15.6%    | 14.1%    | 12.6%    | 11.2%    | 9.7%     | 8.2%   |
| 653.70                                           | 161 ad val.               | 14.9%                                                                                  | 13.9%    | 12.8%    | 11.8%    | 10.7%    | 9.6%     | 8.6%     | 7.5%   |
| 653.75                                           | 201 ad val.               | 18.5%                                                                                  | 17.1%    | 15.6%    | 14.1%    | 12.6%    | 11.2%    | 9.7%     | 8.2%   |
| 653.80                                           | 8.51 ad val.              | 7.9%                                                                                   | 7.4%     | 6.8%     | 6.3%     | 5.7%     | 5.1%     | 4.6%     | 4%     |
| 653.85                                           | 41 ad val.                | 3.5%                                                                                   | 3%       | 2.5%     | 2%       | 1.5%     | 1%       | 0.5%     | Free   |
| 653.90                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%     | 3.7%     | 3.6%     | 3.4%     | 3.3%     | 3.1%     | 3%     |
| 653.93                                           | 8.51 ad val.              | 8.1%                                                                                   | 7.7%     | 7.3%     | 6.9%     | 6.5%     | 6.1%     | 5.7%     | 5.3%   |
| 653.96                                           | 8.51 ad val.              | 7.9%                                                                                   | 7.2%     | 6.6%     | 6%       | 5.3%     | 4.7%     | 4%       | 3.4%   |
| 653.99                                           | 8.51 ad val.              | 8.1%                                                                                   | 7.7%     | 7.3%     | 6.9%     | 6.5%     | 6.1%     | 5.7%     | 5.3%   |
| 654.01                                           | 8.51 ad val.              | 7.9%                                                                                   | 7.2%     | 6.6%     | 6%       | 5.3%     | 4.7%     | 4%       | 3.4%   |
| 654.02                                           | 3.41 ad val.              | 3.3%                                                                                   | 3.2%     | 3.1%     | 3.1%     | 3%       | 2.9%     | 2.8%     | 2.7%   |
| 654.03                                           | 51 ad val.                | 4.8%                                                                                   | 4.7%     | 4.5%     | 4.4%     | 4.2%     | 4%       | 3.9%     | 3.7%   |
| 654.05                                           | 7.51 ad val.              | 7.2%                                                                                   | 6.9%     | 6.5%     | 6.2%     | 5.9%     | 5.6%     | 5.2%     | 4.9%   |
| 654.07                                           | 9.81 ad val.              | 9.1%                                                                                   | 8.3%     | 7.6%     | 6.9%     | 6.1%     | 5.4%     | 4.6%     | 3.9%   |
| 654.09                                           | 101 ad val.               | 9.3%                                                                                   | 8.5%     | 7.8%     | 7%       | 6.3%     | 5.5%     | 4.8%     | 4%     |
| 654.11                                           | 9.51 ad val.              | 9.3%                                                                                   | 8.5%     | 7.7%     | 6.9%     | 6.2%     | 5.4%     | 4.6%     | 3.8%   |
| 654.12                                           | 9.71 ad val.              | 9%                                                                                     | 8.3%     | 7.5%     | 6.8%     | 6.1%     | 5.4%     | 4.6%     | 3.9%   |
| 654.13                                           | 9.61 ad val.              | 9.1%                                                                                   | 8.6%     | 8.1%     | 7.7%     | 7.2%     | 6.7%     | 6.2%     | 5.7%   |
| 654.14                                           | 9.61 ad val.              | 8.8%                                                                                   | 8.1%     | 7.4%     | 6.7%     | 5.9%     | 5.2%     | 4.5%     | 3.8%   |
| 654.15                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%     | 3.7%     | 3.6%     | 3.4%     | 3.3%     | 3.1%     | 3%     |
| 654.20                                           | 8.51 ad val.              | 7.9%                                                                                   | 7.2%     | 6.6%     | 6%       | 5.3%     | 4.7%     | 4%       | 3.4%   |
| 656.05                                           | 201 ad val.               | 18.5%                                                                                  | 17%      | 15.5%    | 14%      | 12.5%    | 11%      | 9.5%     | 8%     |
| 656.10                                           | 201 ad val.               | 18.5%                                                                                  | 17.1%    | 15.6%    | 14.1%    | 12.6%    | 11.2%    | 9.7%     | 8.2%   |
| 656.15                                           | 10.51 ad val.             | 9.9%                                                                                   | 9.4%     | 8.8%     | 8.3%     | 7.7%     | 7.1%     | 6.6%     | 6%     |
| 656.20                                           | 161 ad val.               | 14.9%                                                                                  | 13.9%    | 12.8%    | 11.8%    | 10.7%    | 9.6%     | 8.6%     | 7.5%   |
| 656.25                                           | 251 ad val.               | 23.1%                                                                                  | 21.3%    | 19.4%    | 17.5%    | 15.6%    | 13.8%    | 11.9%    | 10%    |
| 656.35                                           | 121 ad val.               | 11.3%                                                                                  | 10.6%    | 9.9%     | 9.3%     | 8.6%     | 7.9%     | 7.2%     | 6.5%   |
| 657.10                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%     | 3.7%     | 3.6%     | 3.4%     | 3.3%     | 3.1%     | 3%     |
| 657.15                                           | 61 ad val.                | 5.6%                                                                                   | 5.1%     | 4.7%     | 4.2%     | 3.8%     | 3.3%     | 2.9%     | 2.4%   |
| 657.24                                           | 9.51 ad val.              | 8.8%                                                                                   | 8.1%     | 7.4%     | 6.7%     | 5.9%     | 5.2%     | 4.5%     | 3.8%   |
| 657.25                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 657.30                                           | 11.31 ad val.             | 10.7%                                                                                  | 10.1%    | 9.4%     | 8.8%     | 8.2%     | 7.6%     | 6.9%     | 6.3%   |
| 657.35                                           | 7.71 ad val.              | 7.4%                                                                                   | 7%       | 6.7%     | 6.4%     | 6%       | 5.7%     | 5.3%     | 5%     |
| 657.40                                           | 9.51 ad val.              | 9%                                                                                     | 8.6%     | 8.1%     | 7.6%     | 7.1%     | 6.7%     | 6.2%     | 5.7%   |
| 657.50                                           | 91 ad val.                | 8.6%                                                                                   | 8.1%     | 7.7%     | 7.3%     | 6.8%     | 6.4%     | 5.9%     | 5.5%   |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |      |      |      |      |      |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|------|------|------|------|------|
|                                                  |                           | 1980                                                                                   | 1981  | 1982  | 1983 | 1984 | 1985 | 1986 | 1987 |
| Schedule 6, Part 3--Continued                    |                           |                                                                                        |       |       |      |      |      |      |      |
| 657.60                                           | 61 ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1% | 4.9% | 4.7% | 4.4% | 4.2% |
| 657.70                                           | 0.62 ad val.              | 6.6%                                                                                   | 6.2%  | 0.6%  | 0.6% | 0.6% | 0.6% | 0.6% | 0.6% |
| 657.75                                           | 5.51 ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7% | 4.5% | 4.3% | 4.1% | 3.9% |
| 657.80                                           | 0.51 ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6% | 7.1% | 6.7% | 6.2% | 5.7% |
| 658.00                                           | 91 ad val.                | 8.6%                                                                                   | 8.1%  | 7.7%  | 7.3% | 6.8% | 6.4% | 5.9% | 5.5% |
| Schedule 6, Part 4                               |                           |                                                                                        |       |       |      |      |      |      |      |
| 660.20                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6% | 3.4% | 3.3% | 3.1% | 3.1% |
| 660.22                                           | 71 ad val.                | 6.5%                                                                                   | 6%    | 5.4%  | 4.9% | 4.4% | 3.9% | 3.3% | 2.8% |
| 660.24                                           | 51 ad val.                | 4.7%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 660.28                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6% | 3.4% | 3.3% | 3.1% | 3.1% |
| 660.56                                           | 41 ad val.                | 3.5%                                                                                   | 3%    | 2.5%  | 2%   | 1.5% | 1%   | 0.5% | Free |
| 660.67                                           | 41 ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6% | 3.4% | 3.3% | 3.1% | 3.1% |
| 660.7                                            | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 660.71                                           | 61 ad val.                | 5%                                                                                     | 4.7%  | 4.4%  | 4.2% | 4%   | 3.8% | 3.6% | 3.4% |
| 660.80                                           | 101 ad val.               | 9.1%                                                                                   | 8.5%  | 7.8%  | 7%   | 6.3% | 5.5% | 4.8% | 4%   |
| 660.85                                           | 41 ad val.                | 4.4%                                                                                   | 4.2%  | 4%    | 3.8% | 3.6% | 3.4% | 3.2% | 3.4% |
| 660.91                                           | 11 ad val.                | 2.4%                                                                                   | 2.4%  | 2.4%  | 2.4% | 2.4% | 2.4% | 2.4% | 2.4% |
| 660.96                                           | 31 ad val.                | 3.1%                                                                                   | 3%    | 2.9%  | 1.8% | 1.3% | 0.9% | 0.4% | Free |
| 660.97                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4%   | 3.8% | 3.5% | 3.3% | 3%   |
| 661.03                                           | 51 ad val.                | 4.4%                                                                                   | 4.4%  | 4.3%  | 2.5% | 1.9% | 1.3% | 0.6% | Free |
| 661.06                                           | 1 ad val.                 | 6.7%                                                                                   | 6.4%  | 6.1%  | 5.9% | 5.6% | 5.3% | 5%   | 4.7% |
| 661.12                                           | 31 ad val.                | 4.4%                                                                                   | 4.2%  | 4.1%  | 4%   | 3.8% | 3.7% | 3.5% | 3.4% |
| 661.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 661.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.3% | 4.2% | 4%   | 3.9% | 3.7% |
| 661.21                                           | 41 ad val.                | 4.4%                                                                                   | 4.2%  | 4%    | 4%   | 3.8% | 3.7% | 3.5% | 3.4% |
| 661.31                                           | 91 ad val.                | 9%                                                                                     | 8.6%  | 8.1%  | 7.6% | 7.1% | 6.7% | 6.2% | 5.7% |
| 661.35                                           | 51 ad val.                | 4.7%                                                                                   | 4.5%  | 4.3%  | 4%   | 3.7% | 3.4% | 3.2% | 2.9% |
| 661.40                                           | 141 ad val.               | 13%                                                                                    | 11.9% | 10.9% | 9.8% | 8.8% | 7.7% | 6.7% | 5.6% |
| 661.45                                           | 51 ad val.                | 4.7%                                                                                   | 4.5%  | 4.3%  | 2.5% | 1.9% | 1.3% | 0.6% | Free |
| 661.50                                           | 51 ad val.                | 4.7%                                                                                   | 4.5%  | 4.3%  | 6.6% | 6.2% | 5.8% | 5.5% | 5.1% |
| 661.54                                           | 51 ad val.                | 4.1%                                                                                   | 3.9%  | 3.7%  | 1.8% | 1.3% | 0.9% | 0.4% | Free |
| 661.56                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 661.65                                           | 91 ad val.                | 8.8%                                                                                   | 8.1%  | 7.4%  | 6.8% | 6.1% | 5.4% | 4.7% | 4%   |
| 661.67                                           | 111 ad val.               | 10.4%                                                                                  | 9.7%  | 9%    | 8.3% | 7.6% | 6.9% | 6.2% | 5.5% |
| 661.68                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 5.3% | 4.9% | 4.7% | 4.4% | 4.2% |
| 661.69                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 661.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 661.92                                           | 111 ad val.               | 10.4%                                                                                  | 9.7%  | 9%    | 8.3% | 7.6% | 6.9% | 6.2% | 5.5% |
| 661.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.15                                           | 71 ad val.                | 7.1%                                                                                   | 6.8%  | 6.4%  | 6%   | 5.6% | 5.3% | 4.9% | 4.5% |
| 662.18                                           | 111 ad val.               | 10.4%                                                                                  | 9.7%  | 9%    | 8.3% | 7.6% | 6.9% | 6.2% | 5.5% |
| 662.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.26                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.30                                           | 91 ad val.                | 8.6%                                                                                   | 8.1%  | 7.7%  | 7.3% | 6.8% | 6.4% | 5.9% | 5.5% |
| 662.35                                           | 91 ad val.                | 9%                                                                                     | 8.6%  | 8.1%  | 7.6% | 7.1% | 6.7% | 6.2% | 5.7% |
| 662.40                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.45                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.50                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.55                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.60                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.65                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.70                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.75                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.80                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.85                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 662.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.00                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.05                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.25                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.30                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.35                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.40                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.45                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.50                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.55                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.60                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.65                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.70                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.75                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.80                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.85                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 663.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.00                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.05                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.25                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.30                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.35                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.40                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.45                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.50                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.55                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.60                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.65                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.70                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.75                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.80                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.85                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 664.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.00                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.05                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.25                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.30                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.35                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.40                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.45                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.50                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.55                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.60                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.65                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.70                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.75                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.80                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.85                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 665.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.00                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.05                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.25                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.30                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.35                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.40                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.45                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.50                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.55                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.60                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.65                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.70                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.75                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.80                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.85                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.90                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 666.95                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 667.00                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 667.05                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 667.10                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 667.15                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4% | 4.2% | 4%   | 3.9% | 3.7% |
| 667.20                                           | 51 ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  |      |      |      |      |      |



## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                        |                      |                        |                      |                     |                     |
|--------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------|----------------------|------------------------|----------------------|------------------------|----------------------|---------------------|---------------------|
|                                                  |                                     | 1980                                                                                   | 1981                 | 1982                   | 1983                 | 1984                   | 1985                 | 1986                | 1987                |
| Schedule 6, Part 4--Continued                    |                                     |                                                                                        |                      |                        |                      |                        |                      |                     |                     |
| 668.21                                           | 6% ad val.                          | 5.7%                                                                                   | 5.3%                 | 5%                     | 4.7%                 | 4.3%                   | 4%                   | 3.6%                | 3.3%                |
| 668.32                                           | 5% each +<br>20% ad val.            | \$1.85 each<br>+ 16.5%                                                                 | \$1.70 each<br>+ 17% | \$1.55 each<br>+ 15.5% | \$1.40 each<br>+ 14% | \$1.25 each<br>+ 12.5% | \$1.10 each<br>+ 11% | 93c each<br>+ 9.5%  | 80c each<br>+ 8%    |
| 668.34                                           | 20% ad val.                         | 18.5%                                                                                  | 17%                  | 15.5%                  | 14%                  | 12.5%                  | 11%                  | 9.5%                | 8%                  |
| 668.36                                           | 5% ad val.                          | 4.8%                                                                                   | 4.7%                 | 4.5%                   | 4.4%                 | 4.2%                   | 4%                   | 3.9%                | 3.7%                |
| 668.38                                           | 5% ad val.                          | 4.4%                                                                                   | 3.8%                 | 3.1%                   | 2.5%                 | 1.9%                   | 1.3%                 | 0.6%                | Free                |
| 670.00                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.02                                           | 4% ad val.                          | 3.9%                                                                                   | 3.8%                 | 3.7%                   | 3.6%                 | 3.4%                   | 3.3%                 | 3.2%                | 3.1%                |
| 670.04                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.06                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 670.12                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.14                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.16                                           | 6.5% ad val.                        | 6.2%                                                                                   | 6%                   | 5.7%                   | 5.5%                 | 5.2%                   | 4.9%                 | 4.7%                | 4.4%                |
| 670.17                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 670.18                                           | 8% ad val.                          | 7.6%                                                                                   | 7.3%                 | 6.9%                   | 6.6%                 | 6.2%                   | 5.8%                 | 5.5%                | 5.1%                |
| 670.19                                           | 8% ad val.                          | 7.6%                                                                                   | 7.3%                 | 6.9%                   | 6.6%                 | 6.2%                   | 5.8%                 | 5.5%                | 5.1%                |
| 670.20                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.22                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 670.23                                           | 5% ad val.                          | 4.8%                                                                                   | 4.7%                 | 4.5%                   | 4.4%                 | 4.2%                   | 4%                   | 3.9%                | 3.7%                |
| 670.25                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.27                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 670.29                                           | 6.5% ad val.                        | 6.2%                                                                                   | 6%                   | 5.7%                   | 5.5%                 | 5.2%                   | 4.9%                 | 4.7%                | 4.4%                |
| 670.31                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 670.35                                           | 6.5% ad val.                        | 6.2%                                                                                   | 6%                   | 5.7%                   | 5.5%                 | 5.2%                   | 4.9%                 | 4.7%                | 4.4%                |
| 670.40                                           | 7% ad val.                          | 6.7%                                                                                   | 6.4%                 | 6.1%                   | 5.9%                 | 5.6%                   | 5.3%                 | 5%                  | 4.7%                |
| 670.41                                           | 5.5% ad val.                        | 5.3%                                                                                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.5%                   | 4.3%                 | 4.1%                | 3.9%                |
| 670.42                                           | 5.5% ad val.                        | 5.3%                                                                                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.5%                   | 4.3%                 | 4.1%                | 3.9%                |
| 670.43                                           | 8% ad val.                          | 7.6%                                                                                   | 7.3%                 | 6.9%                   | 6.6%                 | 6.2%                   | 5.8%                 | 5.5%                | 5.1%                |
| 670.56                                           | 6.5% ad val.                        | 6.2%                                                                                   | 6%                   | 5.7%                   | 5.5%                 | 5.2%                   | 4.9%                 | 4.7%                | 4.4%                |
| 670.52                                           | 5% ad val.                          | 4.8%                                                                                   | 4.7%                 | 4.5%                   | 4.4%                 | 4.2%                   | 4%                   | 3.9%                | 3.7%                |
| 670.54                                           | 12.5% ad val.                       | 11.8%                                                                                  | 11%                  | 10.3%                  | 9.6%                 | 8.8%                   | 8.1%                 | 7.3%                | 6.6%                |
| 670.56                                           | 14% ad val.                         | 13.1%                                                                                  | 12.3%                | 11.4%                  | 10.5%                | 9.6%                   | 8.8%                 | 7.9%                | 7%                  |
| 670.58                                           | 50c per 1,000<br>+ 15% ad val.      | 50c/1,000 +<br>15%                                                                     | 50c/1,000 +<br>15%   | 41c/1,000 +<br>14.2%   | 33c/1,000 +<br>13.3% | 25c/1,000 +<br>12.5%   | 16c/1,000 +<br>11.7% | 8c/1,000 +<br>10.8% | 10%                 |
| 670.60                                           | 37c per 1,000<br>+ 12.5% ad<br>val. | 34c/1,000 +<br>11.7%                                                                   | 32c/1,000 +<br>11%   | 30c/1,000 +<br>10.2%   | 28c/1,000 +<br>9.5%  | 25c/1,000 +<br>8.7%    | 23c/1,000 +<br>7.9%  | 21c/1,000 +<br>7.2% | 19c/1,000 +<br>6.4% |
| 670.62                                           | 57c per 1,000<br>+ 20% ad val.      | 52c/1,000 +<br>18.5%                                                                   | 48c/1,000 +<br>17.1% | 44c/1,000 +<br>15.6%   | 40c/1,000 +<br>14.1% | 35c/1,000 +<br>12.6%   | 31c/1,000 +<br>11.2% | 27c/1,000 +<br>9.7% | 23c/1,000 +<br>8.2% |
| 670.64                                           | 37c per 1,000<br>+ 10% ad val.      | 35c/1,000 +<br>9.5%                                                                    | 33c/1,000 +<br>8.9%  | 31c/1,000 +<br>8.4%    | 29c/1,000 +<br>7.8%  | 27c/1,000 +<br>7.3%    | 25c/1,000 +<br>6.7%  | 23c/1,000 +<br>6.2% | 21c/1,000 +<br>5.6% |
| 670.66                                           | 12% ad val.                         | 11.1%                                                                                  | 10.2%                | 9.3%                   | 8.4%                 | 7.5%                   | 6.6%                 | 5.7%                | 4.8%                |
| 670.68                                           | 17.5% ad val.                       | 16.3%                                                                                  | 15.1%                | 13.9%                  | 12.7%                | 11.4%                  | 10.2%                | 9%                  | 7.6%                |
| 670.70                                           | 10% ad val.                         | 9.5%                                                                                   | 9%                   | 8.4%                   | 7.9%                 | 7.4%                   | 6.9%                 | 6.3%                | 5.8%                |
| 670.72                                           | 10c per 1,000<br>+ 12.5% ad<br>val. | 9c/1,000 +<br>11.6%                                                                    | 8c/1,000 +<br>10.6%  | 7c/1,000 +<br>9.7%     | 7c/1,000 +<br>8.8%   | 6c/1,000 +<br>7.8%     | 5c/1,000 +<br>6.9%   | 4c/1,000 +<br>5.9%  | 4c/1,000 +<br>5%    |
| 670.90                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 672.10                                           | 3.5% ad val.                        | 3.1%                                                                                   | 2.6%                 | 2.2%                   | 1.8%                 | 1.3%                   | 0.9%                 | 0.4%                | Free                |
| 672.14                                           | 5% ad val.                          | 4.7%                                                                                   | 4.4%                 | 4.1%                   | 3.8%                 | 3.4%                   | 3.1%                 | 2.8%                | 2.5%                |
| 672.16                                           | 5% ad val.                          | 4.8%                                                                                   | 4.7%                 | 4.5%                   | 4.4%                 | 4.2%                   | 4%                   | 3.9%                | 3.7%                |
| 672.20                                           | 37c per 1,000<br>+ 10% ad val.      | 32c/1,000 +<br>9.5%                                                                    | 27c/1,000 +<br>9%    | 23c/1,000 +<br>8.5%    | 18c/1,000 +<br>8%    | 13c/1,000 +<br>7.5%    | 9c/1,000 +<br>7%     | 4c/1,000 +<br>6.5%  | 6%                  |
| 672.22                                           | 12% ad val.                         | 11.3%                                                                                  | 10.6%                | 9.9%                   | 9.3%                 | 8.6%                   | 7.9%                 | 7.2%                | 6.5%                |
| 672.25                                           | 5% ad val.                          | 4.7%                                                                                   | 4.4%                 | 4.1%                   | 3.8%                 | 3.4%                   | 3.1%                 | 2.8%                | 2.5%                |
| 674.10                                           | 4.5% ad val.                        | 3.9%                                                                                   | 3.4%                 | 2.8%                   | 2.3%                 | 1.7%                   | 1.1%                 | 0.6%                | Free                |
| 674.20                                           | 7.5% ad val.                        | 7.2%                                                                                   | 6.9%                 | 6.5%                   | 6.2%                 | 5.9%                   | 5.6%                 | 5.2%                | 4.9%                |
| 674.30                                           | 10% ad val.                         | 9.5%                                                                                   | 9%                   | 8.4%                   | 7.9%                 | 7.4%                   | 6.9%                 | 6.3%                | 5.8%                |
| 674.32                                           | 6% ad val.                          | 5.8%                                                                                   | 5.6%                 | 5.3%                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.4%                | 4.2%                |
| 674.35                                           | 7.5% ad val.                        | 7.1%                                                                                   | 6.7%                 | 6.3%                   | 6%                   | 5.6%                   | 5.2%                 | 4.8%                | 4.4%                |
| 674.40                                           | 5.5% ad val.                        | 5.3%                                                                                   | 5.1%                 | 4.9%                   | 4.7%                 | 4.5%                   | 4.3%                 | 4.1%                | 3.9%                |
| 674.42                                           | 5% ad val.                          | 4.6%                                                                                   | 4.5%                 | 4.3%                   | 4%                   | 3.8%                   | 3.5%                 | 3.3%                | 3%                  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |       |       |       |       |      |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|-------|-------|-------|-------|------|
|                                                  |                           | 1980                                                                                   | 1981  | 1982  | 1983  | 1984  | 1985  | 1986  | 1987 |
| Schedule 6, Part 4--Continued                    |                           |                                                                                        |       |       |       |       |       |       |      |
| 674.50                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 674.52                                           | 10% ad val.               | 9.5%                                                                                   | 9%    | 8.4%  | 7.9%  | 7.4%  | 6.9%  | 6.3%  | 5.8% |
| 674.53                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%  | 6.1%  | 5.9%  | 5.6%  | 5.3%  | 5%    | 4.7% |
| 674.55                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 674.60                                           | 7.5% ad val.              | 7.1%                                                                                   | 6.8%  | 6.4%  | 6%    | 5.6%  | 5.3%  | 4.9%  | 4.5% |
| 674.70                                           | 4.5% ad val.              | 4.1%                                                                                   | 4%    | 3.8%  | 3.5%  | 3.3%  | 3%    | 2.8%  | 2.5% |
| 674.75                                           | 4.5% ad val.              | 4.1%                                                                                   | 4%    | 3.8%  | 3.5%  | 3.3%  | 3%    | 2.8%  | Free |
| 674.80                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 674.90                                           | 4.5% ad val.              | 4.1%                                                                                   | 4%    | 3.8%  | 3.5%  | 3.3%  | 3%    | 2.8%  | Free |
| 676.07                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 3.9%  | 3.6%  | 3%    | 2.6%  | 2.2% |
| 676.10                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 676.12                                           | 4% ad val.                | 3.6%                                                                                   | 3%    | 2.5%  | 2%    | 1.5%  | 1%    | 0.5%  | Free |
| 676.15                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.20                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 676.22                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | Free |
| 676.23                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%  | 6.9%  | 6.6%  | 6.2%  | 5.8%  | 5.5%  | 5.2% |
| 676.25                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.30                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 676.32                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 676.35                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.40                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.45                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 676.50                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 676.55                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.60                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 676.62                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.63                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.65                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.66                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 4%    | 3.6%  | 3.3%  | 4.1%  | 3.9% |
| 676.68                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.69                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.72                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.73                                           | 4.5% ad val.              | 4.1%                                                                                   | 4%    | 3.8%  | 3.5%  | 3.3%  | 3%    | 2.8%  | 2.5% |
| 676.75                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.81                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| 676.86                                           | 1.5% ad val.              | 1.5%                                                                                   | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5% |
| 676.88                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 676.90                                           | 9.5% ad val.              | 9%                                                                                     | 8.6%  | 8.1%  | 7.6%  | 7.1%  | 6.7%  | 6.2%  | 5.7% |
| Schedule 6, Part 5                               |                           |                                                                                        |       |       |       |       |       |       |      |
| 682.05                                           | 12.5% ad val.             | 11.8%                                                                                  | 11%   | 10.3% | 9.6%  | 8.8%  | 8.1%  | 7.3%  | 6.6% |
| 682.07                                           | 4% ad val.                | 4.6%                                                                                   | 4.5%  | 4.3%  | 4.2%  | 4%    | 3.8%  | 3.5%  | 3.2% |
| 682.20                                           | 25% ad val.               | 23.1%                                                                                  | 21.1% | 19.4% | 17.5% | 15.6% | 13.8% | 11.9% | 10%  |
| 682.25                                           | 1.5% ad val.              | 1.5%                                                                                   | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5%  | 1.5% |
| 682.30                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex 11 | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |       |       |       |       |      |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|-------|-------|-------|-------|------|
|                                                  |                           | 1980                                                                                   | 1981  | 1982  | 1983  | 1984  | 1985  | 1986  | 1987 |
| Schedule 6, Part 5--Continued                    |                           |                                                                                        |       |       |       |       |       |       |      |
| 682.41                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 682.45                                           | 5% ad val.                | 4.4%                                                                                   | 3.8%  | 3.1%  | 2.5%  | 1.9%  | 1.3%  | 0.6%  | Free |
| 682.50                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 682.52                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 682.55                                           | 25% ad val.               | 23.1%                                                                                  | 21.3% | 19.4% | 17.5% | 15.6% | 13.8% | 11.9% | 10%  |
| 682.60                                           | 7.5% ad val.              | 6.9%                                                                                   | 6.4%  | 5.8%  | 5.3%  | 4.7%  | 4.1%  | 3.6%  | 3%   |
| 682.70                                           | 8% ad val.                | 7.4%                                                                                   | 6.8%  | 6.2%  | 5.6%  | 5%    | 4.4%  | 3.8%  | 3.2% |
| 682.80                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 682.90                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 682.95                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7%  | 5.3% |
| 683.10                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7%  | 5.3% |
| 683.15                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%  | 6.9%  | 6.6%  | 6.2%  | 5.8%  | 5.5%  | 5.1% |
| 683.20                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 3.9%  | 3.6%  | 3%    | 2.6%  | 2.2% |
| 683.30                                           | 6.5% ad val.              | 6.1%                                                                                   | 5.7%  | 5.3%  | 5%    | 4.6%  | 4.2%  | 3.8%  | 3.4% |
| 683.32                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 683.40                                           | 10% ad val.               | 9.3%                                                                                   | 8.5%  | 7.8%  | 7%    | 6.3%  | 5.5%  | 4.8%  | 4%   |
| 683.50                                           | 6.5% ad val.              | 6.2%                                                                                   | 6%    | 5.7%  | 5.5%  | 5.2%  | 4.9%  | 4.7%  | 4.4% |
| 683.60                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6%  | 3.4%  | 3.3%  | 3.2%  | 3.1% |
| 683.65                                           | 4% ad val.                | 3.5%                                                                                   | 3%    | 2.5%  | 2%    | 1.5%  | 1%    | 0.5%  | Free |
| 683.70                                           | 35% ad val.               | 33.8%                                                                                  | 32.5% | 31.3% | 30%   | 28.6% | 27.5% | 26.3% | 25%  |
| 683.80                                           | 13.75% ad val.            | 12.9%                                                                                  | 12%   | 11.2% | 10.3% | 9.5%  | 8.6%  | 7.8%  | 6.9% |
| 683.90                                           | 4% ad val.                | 3.8%                                                                                   | 3.5%  | 3.3%  | 3%    | 2.8%  | 2.5%  | 2.3%  | 2%   |
| 683.95                                           | 5% ad val.                | 4.7%                                                                                   | 4.4%  | 4.1%  | 3.8%  | 3.5%  | 3.1%  | 2.8%  | 2.5% |
| 684.10                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%  | 4.3%  | 3.9%  | 3.6%  | 3%    | 2.6%  | 2.2% |
| 684.15                                           | 17% ad val.               | 15.7%                                                                                  | 14.5% | 13.2% | 11.9% | 10.6% | 9.4%  | 8.1%  | 6.8% |
| 684.20                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7%  | 5.3% |
| 684.28                                           | 4% ad val.                | 3.5%                                                                                   | 3%    | 2.5%  | 2%    | 1.5%  | 1%    | 0.5%  | Free |
| 684.40                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 684.50                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 684.64                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%  | 6.1%  | 5.9%  | 5.6%  | 5.3%  | 5%    | 4.7% |
| 684.70                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 684.16                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |
| 684.13                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 684.15                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 684.21                                           | 10.4% ad val.             | 10.1%                                                                                  | 9.8%  | 9.5%  | 9.2%  | 8.9%  | 8.6%  | 8.3%  | 6%   |
| 685.24                                           | 16.4% ad val.             | 9.9%                                                                                   | 9.3%  | 8.8%  | 8.2%  | 7.7%  | 7.1%  | 6.6%  | 6%   |
| 685.26                                           | 6% ad val.                | 5.6%                                                                                   | 5.1%  | 4.7%  | 4.2%  | 3.8%  | 3.3%  | 2.9%  | 2.4% |
| 685.33                                           | 6.5% ad val.              | 6.2%                                                                                   | 6%    | 5.7%  | 5.5%  | 5.2%  | 4.9%  | 4.7%  | 4.4% |
| 685.34                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 685.36                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 685.40                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 685.42                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 685.50                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 685.60                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 685.70                                           | 4% ad val.                | 3.8%                                                                                   | 3.7%  | 3.5%  | 3.4%  | 3.2%  | 3%    | 2.9%  | 2.7% |
| 685.90                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7%  | 5.3% |
| 686.16                                           | 4% ad val.                | 3.9%                                                                                   | 3.6%  | 3.4%  | 3.2%  | 3%    | 2.8%  | 2.6%  | 2.4% |
| 686.24                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%  | 6.5%  | 6.2%  | 5.9%  | 5.6%  | 5.2%  | 4.9% |
| 686.30                                           | 10% ad val.               | 7%                                                                                     | 5.8%  | 5.8%  | 5.8%  | 5.8%  | 5.8%  | 5.8%  | 5.8% |
| 686.40                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6%  | 3.4%  | 3.3%  | 3.2%  | 3.1% |
| 686.50                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6%  | 3.4%  | 3.3%  | 3.2%  | 3.1% |
| 686.60                                           | 4% ad val.                | 3.9%                                                                                   | 3.8%  | 3.7%  | 3.6%  | 3.4%  | 3.3%  | 3.2%  | 3.1% |
| 686.70                                           | 18% ad val.               | 16.7%                                                                                  | 15.5% | 14.2% | 13%   | 11.7% | 10.4% | 9.2%  | 7.9% |
| 686.80                                           | 4% ad val.                | 3.5%                                                                                   | 3%    | 2.5%  | 2%    | 1.5%  | 1%    | 0.5%  | Free |
| 687.10                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9%  | 3.7% |
| 687.20                                           | 5.5% ad val.              | 5.3%                                                                                   | 5.1%  | 4.9%  | 4.7%  | 4.5%  | 4.3%  | 4.1%  | 3.9% |
| 687.30                                           | 5% ad val.                | 4.6%                                                                                   | 4.3%  | 3.9%  | 3.5%  | 3.1%  | 2.8%  | 2.4%  | 2%   |
| 687.42                                           | 15% ad val.               | 14%                                                                                    | 13.1% | 12.1% | 11.1% | 10.1% | 9.2%  | 8.2%  | 7.2% |
| 687.43                                           | 15% ad val.               | 14%                                                                                    | 13.1% | 12.1% | 11.1% | 10.1% | 9.2%  | 8.2%  | 7.2% |
| 687.48                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4%  | 4.2% |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex 11 | Rate from<br>which staged     | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                    |                    |                    |                    |                    |
|--------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|                                                  |                               | 1980                                                                                   | 1981               | 1982               | 1983               | 1984               | 1985               | 1986               | 1987               |
| Schedule 6, Part 5--Continued                    |                               |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 688.04                                           | 8.5% ad val.                  | 5.3%                                                                                   | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               | 5.3%               |
| 688.06                                           | 7.5% ad val.                  | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%               | 5.9%               | 5.6%               | 5.2%               | 4.9%               |
| 688.10                                           | 20% ad val.                   | 17%                                                                                    | 14%                | 11%                | 8%                 | 8%                 | 8%                 | 8%                 | 8%                 |
| 688.15                                           | 8.5% ad val.                  | 6.5%                                                                                   | 6.3%               | 6.1%               | 5.9%               | 5.8%               | 5.6%               | 5.5%               | 5.3%               |
| 688.20                                           | 7.5% ad val.                  | 4.9%                                                                                   | 4.9%               | 4.9%               | 4.9%               | 4.9%               | 4.9%               | 4.9%               | 4.9%               |
| 688.25                                           | 6% ad val.                    | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               |
| 688.30                                           | 10% ad val.                   | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 688.35                                           | 10% ad val.                   | 9.5%                                                                                   | 9%                 | 8.4%               | 7.9%               | 7.4%               | 6.9%               | 6.3%               | 5.8%               |
| 688.40                                           | 5.5% ad val.                  | 5.3%                                                                                   | 5.1%               | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.1%               | 3.9%               |
| Schedule 6, Part 6                               |                               |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 690.05                                           | 5.5% ad val.                  | 5.3%                                                                                   | 5.1%               | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.1%               | 3.9%               |
| 690.10                                           | 11.5% ad val.                 | 10.9%                                                                                  | 10.2%              | 9.6%               | 8.9%               | 8.3%               | 7.6%               | 7%                 | 6.3%               |
| 690.20                                           | 5% ad val.                    | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 690.25                                           | 0.5% ad val.                  | 0.5%                                                                                   | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               | 0.5%               |
| 690.35                                           | 9% ad val.                    | 8.6%                                                                                   | 8.1%               | 7.7%               | 7.3%               | 6.8%               | 6.4%               | 5.9%               | 5.5%               |
| 690.40                                           | 5.5% ad val.                  | 5.3%                                                                                   | 5.1%               | 4.9%               | 4.7%               | 4.5%               | 4.3%               | 4.1%               | 3.9%               |
| 692.04                                           | 4% ad val.                    | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 692.10                                           | 3% ad val.                    | 2.9%                                                                                   | 2.8%               | 2.8%               | 2.8%               | 2.7%               | 2.6%               | 2.6%               | 2.5%               |
| 692.14                                           | 8.5% ad val.                  | 8.1%                                                                                   | 7.7%               | 7.3%               | 6.9%               | 6.5%               | 6.1%               | 5.7%               | 5.3%               |
| 692.16                                           | 5% ad val.                    | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 692.22                                           | 3% ad val.                    | 2.9%                                                                                   | 2.8%               | 2.8%               | 2.8%               | 2.7%               | 2.6%               | 2.6%               | 2.5%               |
| 692.32                                           | 4% ad val.                    | 3.9%                                                                                   | 3.8%               | 3.7%               | 3.6%               | 3.4%               | 3.3%               | 3.2%               | 3.1%               |
| 692.35                                           | 5.5% ad val.                  | 5.1%                                                                                   | 4.7%               | 4.3%               | 3.9%               | 3.4%               | 2.6%               | 3.1%               | 2.2%               |
| 692.40                                           | 4.5% ad val.                  | 3.9%                                                                                   | 3.6%               | 3.2%               | 2.8%               | 2.3%               | 1.7%               | 0.6%               | Free               |
| 692.45                                           | 5% ad val.                    | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 692.50                                           | 5% ad val.                    | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 692.55                                           | 6% ad val.                    | 5.8%                                                                                   | 5.6%               | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               |
| 692.60                                           | 8% ad val.                    | 7.4%                                                                                   | 6.8%               | 6.2%               | 5.6%               | 5%                 | 4.4%               | 3.8%               | 3.2%               |
| 694.31                                           | 12.5% ad val.                 | 11.6%                                                                                  | 10.6%              | 9.7%               | 8.8%               | 7.8%               | 6.9%               | 5.9%               | 5%                 |
| 694.50                                           | 5% ad val.                    | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 694.61                                           | 5% ad val.                    | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 694.65                                           | 12.5% ad val.                 | 11.6%                                                                                  | 10.6%              | 9.7%               | 8.8%               | 7.8%               | 6.9%               | 5.9%               | 5%                 |
| 694.67                                           | 5% ad val.                    | 4.4%                                                                                   | 3.8%               | 3.1%               | 2.5%               | 1.9%               | 1.3%               | 0.6%               | Free               |
| 694.70                                           | 15% ad val.                   | 13.9%                                                                                  | 12.8%              | 11.6%              | 10.5%              | 9.4%               | 8.3%               | 7.1%               | 6%                 |
| 696.05                                           | 2% ad val.                    | 1.9%                                                                                   | 1.9%               | 1.8%               | 1.8%               | 1.7%               | 1.6%               | 1.6%               | 1.5%               |
| 696.10                                           | 5% ad val.                    | 4.6%                                                                                   | 4.1%               | 3.7%               | 3.3%               | 2.8%               | 2.4%               | 1.9%               | 1.5%               |
| 696.15                                           | 6% ad val.                    | 5.8%                                                                                   | 5.3%               | 5.1%               | 4.9%               | 4.7%               | 4.4%               | 4.2%               | 4.2%               |
| 696.30                                           | 4% ad val.                    | 3.5%                                                                                   | 3%                 | 2.5%               | 2%                 | 1.5%               | 1%                 | 0.5%               | Free               |
| 696.35                                           | 6% ad val.                    | 3%                                                                                     | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               | 2.4%               |
| 696.40                                           | 10% ad val.                   | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.3%               | 5.5%               | 4.8%               | 4%                 |
| 696.50                                           | 5% ad val.                    | 4.8%                                                                                   | 4.7%               | 4.5%               | 4.4%               | 4.2%               | 4%                 | 3.9%               | 3.7%               |
| 696.60                                           | 9.5% ad val.                  | 8.8%                                                                                   | 8.1%               | 7.4%               | 6.7%               | 5.9%               | 5.2%               | 4.5%               | 3.8%               |
| Schedule 7, Part 1                               |                               |                                                                                        |                    |                    |                    |                    |                    |                    |                    |
| 700.51                                           | 12.5% ad val.                 | 11.8%                                                                                  | 11%                | 10.3%              | 9.6%               | 8.6%               | 8.1%               | 7.3%               | 6.6%               |
| 700.54                                           | 6% ad val.                    | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%               | 3.8%               | 3.3%               | 2.9%               | 2.4%               |
| 700.75                                           | 7% ad val.                    | 6.5%                                                                                   | 6%                 | 5.4%               | 4.9%               | 4.4%               | 3.9%               | 3.3%               | 2.8%               |
| 700.90                                           | 12.5% ad val.                 | 11.9%                                                                                  | 11.3%              | 10.6%              | 10%                | 9.4%               | 8.8%               | 8.1%               | 7.5%               |
| 702.06                                           | 21% ad val.                   | 19.4%                                                                                  | 17.9%              | 16.3%              | 14.7%              | 13.1%              | 11.6%              | 10%                | 8.4%               |
| 702.08                                           | 21% ad val.                   | 19.4%                                                                                  | 17.9%              | 16.3%              | 14.7%              | 13.1%              | 11.6%              | 10%                | 8.4%               |
| 702.12                                           | 20% ad val.                   | 18.5%                                                                                  | 17%                | 15.5%              | 14%                | 12.5%              | 11%                | 9.5%               | 8.2%               |
| 702.14                                           | 20% ad val.                   | 18.5%                                                                                  | 17%                | 15.5%              | 14%                | 12.5%              | 11%                | 9.5%               | 8.2%               |
| 702.15                                           | 17.5% ad val.                 | 14.5%                                                                                  | 11.5%              | 8.5%               | 7%                 | 7%                 | 7%                 | 7%                 | 7%                 |
| 702.28                                           | 94c per doz.<br>+ 8% ad val.  | 87c/doz. +<br>7.4%                                                                     | 80c/doz. +<br>6.8% | 72c/doz. +<br>6.2% | 65c/doz. +<br>5.6% | 58c/doz. +<br>5%   | 51c/doz. +<br>4.4% | 44c/doz. +<br>3.8% | 37c/doz. +<br>3.2% |
| 702.30                                           | 80c per doz.<br>+ 6% ad val.  | 76c/doz. +<br>5.7%                                                                     | 72c/doz. +<br>5.3% | 68c/doz. +<br>5.2% | 65c/doz. +<br>4.9% | 61c/doz. +<br>4.6% | 57c/doz. +<br>4.2% | 53c/doz. +<br>4.1% | 50c/doz. +<br>3.8% |
| 702.32                                           | 60c per doz.<br>+ 10% ad val. | 56c/doz. +<br>9.4%                                                                     | 52c/doz. +<br>8.8% | 49c/doz. +<br>8.2% | 45c/doz. +<br>7.6% | 41c/doz. +<br>7%   | 37c/doz. +<br>6.4% | 34c/doz. +<br>5.8% | 30c/doz. +<br>5.2% |
| 702.37                                           | 10% ad val.                   | 9.3%                                                                                   | 8.5%               | 7.8%               | 7%                 | 6.2%               | 5.5%               | 4.8%               | 4%                 |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.—Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged                           | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                            |                                            |                                          |                                           |                                          |                                          |                                        |
|-----------------------------------------------|-----------------------------------------------------|----------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------------|------------------------------------------|-------------------------------------------|------------------------------------------|------------------------------------------|----------------------------------------|
|                                               |                                                     | 1980                                                                                   | 1981                                       | 1982                                       | 1983                                     | 1984                                      | 1985                                     | 1986                                     | 1987                                   |
| Schedule 7, Part 1—Continued                  |                                                     |                                                                                        |                                            |                                            |                                          |                                           |                                          |                                          |                                        |
| 702.54                                        | 33c per lb.<br>+ 18% ad val.                        | 31c/lb. +<br>16.9%                                                                     | 29c/lb. +<br>15.9%                         | 27c/lb. +<br>14.8%                         | 25c/lb. +<br>13.7%                       | 23c/lb. +<br>12.6%                        | 21c/lb. +<br>11.6%                       | 19c/lb. +<br>10.5%                       | 17c/lb. +<br>9.4%                      |
| 702.56                                        | 37.5c per lb.<br>+ 25% ad val.                      | 35c/lb. +<br>23.8%                                                                     | 34c/lb. +<br>22.6%                         | 32c/lb. +<br>21.4%                         | 30c/lb. +<br>20.2%                       | 28c/lb. +<br>19%                          | 26c/lb. +<br>17.8%                       | 23c/lb. +<br>16.6%                       | 23c/lb. +<br>15.4%                     |
| 702.60                                        | 12c per lb. +<br>27.5% ad val.                      | 11c/lb. +<br>25.4%                                                                     | 10c/lb. +<br>23.4%                         | 9c/lb. +<br>21.3%                          | 8c/lb. +<br>19.3%                        | 7c/lb. +<br>17.2%                         | 6c/lb. +<br>15.1%                        | 6c/lb. +<br>13.1%                        | 5c/lb. +<br>11%                        |
| 702.65                                        | 15c per lb. +<br>20% ad val.<br>+ 4c per<br>article | 13.9c/lb. +<br>18.5% +<br>3.7c/<br>article                                             | 12.7c/lb. +<br>17% +<br>3.5c/<br>article   | 11.6c/lb. +<br>15.5% +<br>3.2c/<br>article | 10.5c/lb. +<br>14% +<br>3c/<br>article   | 9.4c/lb. +<br>12.5% +<br>2.7c/<br>article | 8.2c/lb. +<br>11% +<br>2.5c/<br>article  | 7.1c/lb. +<br>9.5% +<br>2.2c/<br>article | 6c/lb. +<br>8% +<br>2c/<br>article     |
| 702.70                                        | 15c per lb. +<br>15% ad val.<br>+ 4c per<br>article | 13.9c/lb. +<br>14% +<br>3.7c/<br>article                                               | 12.7c/lb. +<br>12.9% +<br>3.5c/<br>article | 11.6c/lb. +<br>11.9% +<br>3.2c/<br>article | 10.5c/lb. +<br>10.9% +<br>3c/<br>article | 9.4c/lb. +<br>9.8% +<br>2.7c/<br>article  | 8.2c/lb. +<br>8.8% +<br>2.5c/<br>article | 7.1c/lb. +<br>7.7% +<br>2.2c/<br>article | 6.5c/lb. +<br>6.7% +<br>2c/<br>article |
| 702.75                                        | 25c per lb. +<br>21% ad val.                        | 23c/lb. +<br>19.4%                                                                     | 21c/lb. +<br>17.9%                         | 19c/lb. +<br>16.3%                         | 17c/lb. +<br>14.7%                       | 15c/lb. +<br>13.1%                        | 13c/lb. +<br>11.6%                       | 11c/lb. +<br>10%                         | 10c/lb. +<br>8.4%                      |
| 702.80                                        | 37.5c per lb.<br>+ 21% ad val.                      | 34c/lb. +<br>19.4%                                                                     | 31c/lb. +<br>17.9%                         | 29c/lb. +<br>16.3%                         | 26c/lb. +<br>14.7%                       | 23c/lb. +<br>13.1%                        | 20c/lb. +<br>11.6%                       | 17c/lb. +<br>10%                         | 15c/lb. +<br>8.4%                      |
| 702.85                                        | 40c each +<br>8% ad val.                            | 37c each +<br>7.4%                                                                     | 34c each +<br>6.8%                         | 31c each +<br>6.1%                         | 28c each +<br>5.5%                       | 25c each +<br>4.9%                        | 22c each +<br>4.3%                       | 19c each +<br>3.6%                       | 16c each +<br>3%                       |
| 702.90                                        | 10% ad val.                                         | 9.5%                                                                                   | 9%                                         | 8.4%                                       | 7.9%                                     | 7.4%                                      | 6.9%                                     | 6.3%                                     | 5.8%                                   |
| 702.95                                        | 16% ad val.                                         | 14.9%                                                                                  | 13.9%                                      | 12.8%                                      | 11.8%                                    | 10.7%                                     | 9.6%                                     | 8.6%                                     | 7.5%                                   |
| 703.05                                        | 18% ad val.                                         | 16.7%                                                                                  | 15.3%                                      | 14%                                        | 12.6%                                    | 11.3%                                     | 9.9%                                     | 8.6%                                     | 7.2%                                   |
| 703.10                                        | 25c per lb. +<br>20% ad val.                        | 24c/lb. +<br>19.3%                                                                     | 23c/lb. +<br>18.5%                         | 22c/lb. +<br>17.8%                         | 21c/lb. +<br>17.1%                       | 20c/lb. +<br>16.3%                        | 19c/lb. +<br>15.6%                       | 18c/lb. +<br>14.8%                       | 16c/lb. +<br>14.1%                     |
| 703.15                                        | 25c per lb. +<br>20% ad val.                        | 23c/lb. +<br>18.5%                                                                     | 21c/lb. +<br>17%                           | 19c/lb. +<br>15.5%                         | 17c/lb. +<br>14%                         | 15c/lb. +<br>12.5%                        | 13c/lb. +<br>11%                         | 12c/lb. +<br>9.5%                        | 10c/lb. +<br>8%                        |
| 703.20                                        | 27.5% ad val.                                       | 25.4%                                                                                  | 23.4%                                      | 21.3%                                      | 19.3%                                    | 17.2%                                     | 15.1%                                    | 13.1%                                    | 11%                                    |
| 703.25                                        | 23.5% ad val.                                       | 21.7%                                                                                  | 20%                                        | 18.2%                                      | 16.5%                                    | 14.7%                                     | 12.9%                                    | 11.2%                                    | 9.4%                                   |
| 703.30                                        | 20% ad val.                                         | 18.5%                                                                                  | 17.1%                                      | 15.6%                                      | 14.1%                                    | 12.6%                                     | 11.2%                                    | 9.7%                                     | 8.2%                                   |
| 703.35                                        | \$2.75 per doz.<br>+ 4% ad val.                     | \$2.54/doz. +<br>3.7%                                                                  | \$2.33/doz. +<br>3.4%                      | \$2.13/doz. +<br>3.1%                      | \$1.92/doz. +<br>2.8%                    | \$1.71/doz. +<br>2.5%                     | \$1.51/doz. +<br>2.2%                    | \$1.30/doz. +<br>1.9%                    | \$1.10/doz. +<br>1.6%                  |
| 703.40 <sup>2/</sup>                          | 55% ad val.                                         | 51.7%                                                                                  | 48.4%                                      | 45.1%                                      | 41.8%                                    | 38.5%                                     | 35.2%                                    | 31.9%                                    | 28.6% 2/                               |
| 703.45 <sup>3/</sup>                          | 65% ad val.                                         | 61.1%                                                                                  | 57.2%                                      | 53.3%                                      | 49.4%                                    | 45.5%                                     | 41.6%                                    | 37.7%                                    | 33.8% 3/                               |
| 703.50                                        | 20% ad val.                                         | 18.5%                                                                                  | 17.1%                                      | 15.6%                                      | 14.1%                                    | 12.6%                                     | 11.2%                                    | 9.7%                                     | 8.2%                                   |
| 703.55                                        | \$3.40 per doz.<br>+ 5% ad val.                     | \$3.21/doz. +<br>4.7%                                                                  | \$3.03/doz. +<br>4.5%                      | \$2.84/doz. +<br>4.2%                      | \$2.66/doz. +<br>3.9%                    | \$2.47/doz. +<br>3.6%                     | \$2.29/doz. +<br>3.4%                    | \$2.10/doz. +<br>3.1%                    | \$1.92/doz. +<br>2.8%                  |
| 703.60                                        | 12.5% ad val.                                       | 11.8%                                                                                  | 11%                                        | 10.3%                                      | 9.6%                                     | 8.8%                                      | 8.1%                                     | 7.3%                                     | 6.6%                                   |
| 703.70                                        | 10c per lb. +<br>8.5% ad val.                       | 9.2c/lb. +<br>7.9%                                                                     | 8.5c/lb. +<br>7.3%                         | 7.7c/lb. +<br>6.6%                         | 7c/lb. +<br>6%                           | 6.2c/lb. +<br>5.3%                        | 5.5c/lb. +<br>4.7%                       | 4.7c/lb. +<br>4%                         | 4c/lb. +<br>3.4%                       |
| 703.72                                        | 6% ad val.                                          | 3%                                                                                     | 2.4%                                       | 2.4%                                       | 2.4%                                     | 2.4%                                      | 2.4%                                     | 2.4%                                     | 2.4%                                   |
| 703.80                                        | 2% ad val.                                          | 1.8%                                                                                   | 1.5%                                       | 1.3%                                       | 1%                                       | 0.8%                                      | 0.5%                                     | 0.3%                                     | Free                                   |
| 703.85                                        | 5% ad val.                                          | 4.4%                                                                                   | 3.8%                                       | 3.1%                                       | 2.5%                                     | 1.9%                                      | 1.3%                                     | 0.6%                                     | Free                                   |
| 703.90                                        | 5% ad val.                                          | 4.4%                                                                                   | 3.8%                                       | 3.1%                                       | 2.5%                                     | 1.9%                                      | 1.3%                                     | 0.6%                                     | Free                                   |
| 703.95                                        | 9% ad val.                                          | 8.3%                                                                                   | 7.7%                                       | 7%                                         | 6.3%                                     | 5.6%                                      | 5%                                       | 4.3%                                     | 3.6%                                   |
| 704.05                                        | 25% ad val.                                         | 25%                                                                                    | 25%                                        | 24.2%                                      | 23.3%                                    | 22.5%                                     | 21.7%                                    | 20.8%                                    | 20%                                    |
| 704.10                                        | 25% ad val.                                         | 25%                                                                                    | 25%                                        | 24.2%                                      | 23.3%                                    | 22.5%                                     | 21.7%                                    | 20.8%                                    | 20%                                    |
| 704.15                                        | 25% ad val.                                         | 25%                                                                                    | 25%                                        | 24.2%                                      | 23.3%                                    | 22.5%                                     | 21.7%                                    | 20.8%                                    | 20%                                    |
| 704.20 <sup>4/</sup>                          | 50% ad val.                                         | 50%                                                                                    | 50%                                        | 47%                                        | 44%                                      | 41%                                       | 38%                                      | 35%                                      | 32% 4/                                 |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 703.40, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—25.3%.  
Effective with respect to articles entered on and after January 1, 1989—22%.3/ For item 703.45, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—27.7%.  
Effective with respect to articles entered on and after January 1, 1989—26%.4/ For item 704.20, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—29%.  
Effective with respect to articles entered on and after January 1, 1989—26%.  
Effective with respect to articles entered on and after January 1, 1990—23%.  
Effective with respect to articles entered on and after January 1, 1991—20%.

## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged           | Rates of duty <u>1</u> %, effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                      |                      |                      |                                     |
|--------------------------------------------------|-------------------------------------|------------------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|-------------------------------------|
|                                                  |                                     | 1980                                                                                           | 1981                 | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                                |
| Schedule 7, Part 1--Continued                    |                                     |                                                                                                |                      |                      |                      |                      |                      |                      |                                     |
| 704.25 <sup>2/</sup>                             | 45% ad val.                         | 45%                                                                                            | 45%                  | 42.2%                | 39.4%                | 36.7%                | 33.9%                | 31.1%                | 28.3% <sup>2/</sup>                 |
| 704.30 <sup>3/</sup>                             | 50% ad val.                         | 50%                                                                                            | 50%                  | 47%                  | 44%                  | 41%                  | 38%                  | 35%                  | 32% <sup>3/</sup>                   |
| 704.32                                           | 30% ad val.                         | 30%                                                                                            | 30%                  | 28.3%                | 26.7%                | 25%                  | 23.3%                | 21.7%                | 20%                                 |
| 704.34                                           | 30% ad val.                         | 30%                                                                                            | 30%                  | 28.3%                | 26.7%                | 25%                  | 23.3%                | 21.7%                | 20%                                 |
| 704.50                                           | 25% ad val.                         | 25%                                                                                            | 25%                  | 22.5%                | 20%                  | 17.5%                | 15%                  | 12.5%                | 10%                                 |
| 704.56                                           | 20c per lb. +<br>17.5% ad val.      | 20c/lb. +<br>17.5%                                                                             | 20c/lb. +<br>17.5%   | 18c/lb. +<br>15.8%   | 16c/lb. +<br>14.2%   | 14c/lb. +<br>12.5%   | 12c/lb. +<br>10.8%   | 10c/lb. +<br>9.2%    | 8.5c/lb. +<br>7.5%                  |
| 704.60 <sup>4/</sup>                             | 37.5c per lb. +<br>50% ad val.      | 37.5c/lb. +<br>50%                                                                             | 37.5c/lb. +<br>50%   | 35c/lb. +<br>47%     | 33c/lb. +<br>44%     | 30c/lb. +<br>41%     | 28c/lb. +<br>38%     | 26c/lb. +<br>35%     | 24c/lb. +<br>32% <sup>4/</sup>      |
| 704.65                                           | 37.5c per lb. +<br>18.5% ad<br>val. | 37.5c/lb. +<br>18.5%                                                                           | 37.5c/lb. +<br>18.5% | 33c/lb. +<br>16.6%   | 30c/lb. +<br>14.8%   | 26c/lb. +<br>13%     | 22c/lb. +<br>11.1%   | 18c/lb. +<br>9.2%    | 15c/lb. +<br>7.4%                   |
| 704.70                                           | 37.5c per lb. +<br>15% ad val.      | 37.5c/lb. +<br>15%                                                                             | 37.5c/lb. +<br>15%   | 33c/lb. +<br>13.5%   | 30c/lb. +<br>12%     | 27c/lb. +<br>10.5%   | 22c/lb. +<br>9%      | 18c/lb. +<br>7.5%    | 15c/lb. +<br>6%                     |
| 704.75                                           | 12% ad val.                         | 12%                                                                                            | 12%                  | 11.1%                | 10.2%                | 9.3%                 | 8.3%                 | 7.4%                 | 6.5%                                |
| 704.80                                           | 16% ad val.                         | 16%                                                                                            | 16%                  | 14.6%                | 13.2%                | 11.8%                | 10.3%                | 8.9%                 | 7.5%                                |
| 704.85                                           | 25c per lb. +<br>32.5% ad val.      | 25c/lb. +<br>32.5%                                                                             | 25c/lb. +<br>32.5%   | 23c/lb. +<br>29.9%   | 21c/lb. +<br>27.4%   | 19c/lb. +<br>24.8%   | 17c/lb. +<br>22.2%   | 15c/lb. +<br>19.7%   | 13c/lb. +<br>17.1%                  |
| 704.90 <sup>5/</sup>                             | 25c per lb. +<br>27.5% ad val.      | 25c/lb. +<br>27.5%                                                                             | 25c/lb. +<br>27.5%   | 22c/lb. +<br>25.1%   | 20c/lb. +<br>22.8%   | 18c/lb. +<br>20.4%   | 16c/lb. +<br>18.1%   | 14c/lb. +<br>15.7%   | 12c/lb. +<br>13.4% <sup>5/</sup>    |
| 704.95                                           | 10% ad val.                         | 10%                                                                                            | 10%                  | 9%                   | 8%                   | 7%                   | 6%                   | 5%                   | 4%                                  |
| 705.30                                           | 10% ad val.                         | 9.2%                                                                                           | 8.5%                 | 7.8%                 | 7%                   | 6.2%                 | 5.5%                 | 4.8%                 | 4%                                  |
| 705.35                                           | 15% ad val.                         | 15%                                                                                            | 15%                  | 15%                  | 15%                  | 15%                  | 15%                  | 15%                  | 14%                                 |
| 705.40 <sup>6/</sup>                             | \$5 per doz.<br>pairs               | \$4.74/doz.<br>pairs                                                                           | \$4.49/doz.<br>pairs | \$4.23/doz.<br>pairs | \$3.98/doz.<br>pairs | \$3.72/doz.<br>pairs | \$3.47/doz.<br>pairs | \$3.21/doz.<br>pairs | \$2.96/doz.<br>pairs <sup>6/</sup>  |
| 705.42 <sup>7/</sup>                             | 25% ad val.                         | 23.9%                                                                                          | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2% <sup>7/</sup>                 |
| 705.43 <sup>8/</sup>                             | \$5 per doz.<br>pairs               | \$4.70/doz.<br>pairs                                                                           | \$4.40/doz.<br>pairs | \$4.10/doz.<br>pairs | \$3.80/doz.<br>pairs | \$3.50/doz.<br>pairs | \$3.20/doz.<br>pairs | \$2.90/doz.<br>pairs | \$2.60/doz.<br>pairs <sup>8/</sup>  |
| 705.45 <sup>9/</sup>                             | 25% ad val.                         | 23.9%                                                                                          | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2% <sup>9/</sup>                 |
| 705.46 <sup>10/</sup>                            | 25% ad val.                         | 23.9%                                                                                          | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2% <sup>10/</sup>                |
| 705.48 <sup>11/</sup>                            | \$5 per doz.<br>pairs               | \$4.74/doz.<br>pairs                                                                           | \$4.48/doz.<br>pairs | \$4.22/doz.<br>pairs | \$3.96/doz.<br>pairs | \$3.71/doz.<br>pairs | \$3.45/doz.<br>pairs | \$3.19/doz.<br>pairs | \$2.93/doz.<br>pairs <sup>11/</sup> |

1/ The symbol "X" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 704.25, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—25.6%.  
Effective with respect to articles entered on and after January 1, 1989—22.8%.3/ For item 704.30, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—29%.  
Effective with respect to articles entered on and after January 1, 1989—26%.4/ For item 704.30, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—29%.  
Effective with respect to articles entered on and after January 1, 1989—26%.5/ For item 704.30, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—29%.  
Effective with respect to articles entered on and after January 1, 1989—26%.

6/ For item 704.90, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 10c/lb. + 11%.

7/ For item 705.40, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—\$2.70/doz. pairs.  
Effective with respect to articles entered on and after January 1, 1989—\$2.45/doz. pairs.8/ For item 705.42, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—15.1%.  
Effective with respect to articles entered on and after January 1, 1989—14%.9/ For item 705.43, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—\$2.30/doz. pairs.  
Effective with respect to articles entered on and after January 1, 1989—\$2/doz. pairs.10/ For item 705.45, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—15.1%.  
Effective with respect to articles entered on and after January 1, 1989—14%.11/ For item 705.46, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—15.1%.  
Effective with respect to articles entered on and after January 1, 1989—14%.12/ For item 705.48, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988—\$2.67/doz. pairs.  
Effective with respect to articles entered on and after January 1, 1989—\$2.42/doz. pairs.



## Section A.--Continued

| Item in<br>TSUS as<br>modified by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                      |                      |                      |                      |
|-----------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
|                                               |                           | 1980                                                                                   | 1981                 | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                 |
|                                               |                           | Schedule 7, Part 1--Continued                                                          |                      |                      |                      |                      |                      |                      |                      |
| 705.50 <sup>2/</sup>                          | 25% ad val.               | 23.9%                                                                                  | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2%                |
| 705.51 <sup>2/</sup>                          | \$5 per doz.<br>pairs     | \$4.73/doz.<br>pairs                                                                   | \$4.47/doz.<br>pairs | \$4.20/doz.<br>pairs | \$3.94/doz.<br>pairs | \$3.67/doz.<br>pairs | \$3.41/doz.<br>pairs | \$3.14/doz.<br>pairs | \$2.88/doz.<br>pairs |
| 705.53 <sup>2/</sup>                          | 25% ad val.               | 23.9%                                                                                  | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2%                |
| 705.54 <sup>5/</sup>                          | 25% ad val.               | 23.9%                                                                                  | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2%                |
| 705.55 <sup>5/</sup>                          | \$5 per doz.<br>pairs     | \$4.73/doz.<br>pairs                                                                   | \$4.47/doz.<br>pairs | \$4.20/doz.<br>pairs | \$3.94/doz.<br>pairs | \$3.67/doz.<br>pairs | \$3.41/doz.<br>pairs | \$3.14/doz.<br>pairs | \$2.88/doz.<br>pairs |
| 705.57 <sup>7/</sup>                          | 25% ad val.               | 23.9%                                                                                  | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2%                |
| 705.58 <sup>8/</sup>                          | 25% ad val.               | 23.9%                                                                                  | 22.8%                | 21.7%                | 20.6%                | 19.5%                | 18.4%                | 17.3%                | 16.2%                |
| 705.60 <sup>8/</sup>                          | \$6 per doz.<br>pairs     | \$5.64/doz.<br>pairs                                                                   | \$5.28/doz.<br>pairs | \$4.92/doz.<br>pairs | \$4.56/doz.<br>pairs | \$4.20/doz.<br>pairs | \$3.84/doz.<br>pairs | \$3.48/doz.<br>pairs | \$3.12/doz.<br>pairs |
| 705.63 <sup>10/</sup>                         | 30% ad val.               | 28.4%                                                                                  | 26.8%                | 25.2%                | 23.6%                | 22%                  | 20.4%                | 18.8%                | 17.2%                |
| 705.64 <sup>11/</sup>                         | \$6 per doz.<br>pairs     | \$5.64/doz.<br>pairs                                                                   | \$5.28/doz.<br>pairs | \$4.92/doz.<br>pairs | \$4.56/doz.<br>pairs | \$4.20/doz.<br>pairs | \$3.84/doz.<br>pairs | \$3.48/doz.<br>pairs | \$3.12/doz.<br>pairs |
| 705.67 <sup>12/</sup>                         | \$6 per doz.<br>pairs     | \$5.64/doz.<br>pairs                                                                   | \$5.28/doz.<br>pairs | \$4.92/doz.<br>pairs | \$4.56/doz.<br>pairs | \$4.20/doz.<br>pairs | \$3.84/doz.<br>pairs | \$3.48/doz.<br>pairs | \$3.12/doz.<br>pairs |
| 705.68 <sup>13/</sup>                         | 35% ad val.               | 32.5%                                                                                  | 30%                  | 27.5%                | 25%                  | 22.5%                | 20%                  | 17.5%                | 15%                  |
| 705.70 <sup>13/</sup>                         | 30% ad val.               | 28.4%                                                                                  | 26.8%                | 25.2%                | 23.6%                | 22%                  | 20.4%                | 18.8%                | 17.2%                |
| 705.72 <sup>14/</sup>                         | \$7 per doz.<br>pairs     | \$6.67/doz.<br>pairs                                                                   | \$6.35/doz.<br>pairs | \$6.02/doz.<br>pairs | \$5.70/doz.<br>pairs | \$5.37/doz.<br>pairs | \$5.05/doz.<br>pairs | \$4.72/doz.<br>pairs | \$4.40/doz.<br>pairs |
| 705.73 <sup>15/</sup>                         | 22% ad val.               | 21.2%                                                                                  | 20.4%                | 19.6%                | 18.8%                | 18%                  | 17.2%                | 16.4%                | 15.6%                |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 705.50, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.1%.

Effective with respect to articles entered on and after January 1, 1989--14%.

3/ For item 705.51, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$2.61/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$2.35/doz. pairs.

4/ For item 705.53, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.1%.

Effective with respect to articles entered on and after January 1, 1989--14%.

5/ For item 705.54, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.1%.

Effective with respect to articles entered on and after January 1, 1989--14%.

6/ For item 705.55, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$2.61/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$2.35/doz. pairs.

7/ For item 705.57, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.1%.

Effective with respect to articles entered on and after January 1, 1989--14%.

8/ For item 705.58, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.1%.

Effective with respect to articles entered on and after January 1, 1989--14%.

9/ For item 705.60, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$2.76/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$2.40/doz. pairs.

10/ For item 705.63, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.6%.

Effective with respect to articles entered on and after January 1, 1989--14%.

11/ For item 705.66, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$2.76/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$2.40/doz. pairs.

12/ For item 705.67, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$2.76/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$2.40/doz. pairs.

13/ For item 705.70, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--15.6%.

Effective with respect to articles entered on and after January 1, 1989--14%.

14/ For item 705.72, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$4.07/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$3.75/doz. pairs.

15/ For item 705.73, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--14.8%.

Effective with respect to articles entered on and after January 1, 1989--14%.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                      |                      |                      |                      |                      |                      |                                    |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|------------------------------------|
|                                                  |                           | 1980                                                                                   | 1981                 | 1982                 | 1983                 | 1984                 | 1985                 | 1986                 | 1987                               |
| Schedule 7, Part 1--Continued                    |                           |                                                                                        |                      |                      |                      |                      |                      |                      |                                    |
| 705.72 <sup>2/</sup>                             | 22% ad val.               | 21.2%                                                                                  | 20.4%                | 19.6%                | 18.8%                | 18%                  | 17.2%                | 16.4%                | 15.6% <sup>2/</sup>                |
| 705.76 <sup>2/</sup>                             | \$7 per doz.<br>pairs     | \$6.65/doz.<br>pairs                                                                   | \$6.30/doz.<br>pairs | \$5.95/doz.<br>pairs | \$5.60/doz.<br>pairs | \$5.25/doz.<br>pairs | \$4.90/doz.<br>pairs | \$4.55/doz.<br>pairs | \$4.20/doz.<br>pairs <sup>2/</sup> |
| 705.78 <sup>2/</sup>                             | 22% ad val.               | 21.2%                                                                                  | 20.4%                | 19.6%                | 18.8%                | 18%                  | 17.2%                | 16.4%                | 15.6% <sup>2/</sup>                |
| 705.82                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%                 | 4.5%                 | 4.4%                 | 4.2%                 | 4%                   | 3.9%                 | 3.7%                               |
| 705.83                                           | 5% ad val.                | 4.6%                                                                                   | 4.7%                 | 4.5%                 | 4.4%                 | 4.2%                 | 4%                   | 3.9%                 | 3.7%                               |
| 705.90                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%                 | 4.5%                 | 4.4%                 | 4.2%                 | 4%                   | 3.9%                 | 3.7%                               |
| 706.04                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%                 | 6.1%                 | 5.9%                 | 5.6%                 | 5.3%                 | 5%                   | 4.7%                               |
| 706.06                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%                 | 7.3%                 | 6.9%                 | 6.5%                 | 6.1%                 | 5.7%                 | 5.3%                               |
| 706.09                                           | 10% ad val.               | 9.9%                                                                                   | 9.6%                 | 9.2%                 | 8.9%                 | 8.4%                 | 8.1%                 | 7.7%                 | 7%                                 |
| 706.13                                           | 10% ad val.               | 9.8%                                                                                   | 9.5%                 | 9.1%                 | 8.8%                 | 8.3%                 | 8.1%                 | 7.7%                 | 7%                                 |
| 706.16                                           | 10% ad val.               | 9.5%                                                                                   | 9%                   | 8.4%                 | 7.9%                 | 7.4%                 | 6.9%                 | 6.3%                 | 5.8%                               |
| 706.17                                           | 25% ad val.               | 24.1%                                                                                  | 23.3%                | 22.4%                | 21.5%                | 20.6%                | 19.6%                | 18.9%                | 18%                                |
| 706.18                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%                 | 7.3%                 | 6.9%                 | 6.5%                 | 6.1%                 | 5.7%                 | 5.3%                               |
| 706.20                                           | 21% ad val.               | 19.4%                                                                                  | 17.8%                | 16.3%                | 14.7%                | 13.1%                | 11.6%                | 10%                  | 8.4%                               |
| 706.22                                           | 15% ad val.               | 14%                                                                                    | 13%                  | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                               |
| 706.40                                           | 20% ad val.               | 18.5%                                                                                  | 17.1%                | 15.6%                | 14.1%                | 12.6%                | 11.2%                | 9.7%                 | 8.2%                               |
| 706.45                                           | 17.5% ad val.             | 16.3%                                                                                  | 15.1%                | 13.9%                | 12.7%                | 11.4%                | 10.2%                | 9%                   | 7.8%                               |
| 706.47                                           | 17.5% ad val.             | 17.5%                                                                                  | 17.5%                | 15.9%                | 14.3%                | 12.7%                | 11%                  | 9.4%                 | 7.8%                               |
| 706.50                                           | 22% ad val.               | 20.4%                                                                                  | 18.7%                | 17.1%                | 15.4%                | 13.8%                | 12.1%                | 10.5%                | 8.8%                               |
| 706.55                                           | 17.5% ad val.             | 16.3%                                                                                  | 15.1%                | 13.9%                | 12.7%                | 11.4%                | 10.2%                | 9%                   | 7.8%                               |
| Schedule 7, Part 2                               |                           |                                                                                        |                      |                      |                      |                      |                      |                      |                                    |
| 708.01                                           | 9.5% ad val.              | 9%                                                                                     | 8.5%                 | 8%                   | 7.6%                 | 7.1%                 | 6.6%                 | 6.1%                 | 5.6%                               |
| 708.03                                           | 14% ad val.               | 13%                                                                                    | 11.9%                | 10.9%                | 9.8%                 | 8.8%                 | 7.7%                 | 6.7%                 | 5.6%                               |
| 708.05                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.07                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.09                                           | 21% ad val.               | 19.4%                                                                                  | 17.9%                | 16.3%                | 14.7%                | 13.1%                | 11.6%                | 10%                  | 8.4%                               |
| 708.21                                           | 17.5% ad val.             | 16.2%                                                                                  | 14.9%                | 13.6%                | 12.3%                | 10.9%                | 9.6%                 | 8.3%                 | 7%                                 |
| 708.23                                           | 12.5% ad val.             | 11.8%                                                                                  | 11%                  | 10.3%                | 9.6%                 | 8.8%                 | 8.1%                 | 7.3%                 | 6.6%                               |
| 708.25                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.27                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.29                                           | 21% ad val.               | 19.4%                                                                                  | 17.9%                | 16.3%                | 14.7%                | 13.1%                | 11.6%                | 10%                  | 8.4%                               |
| 708.41                                           | 22.5% ad val.             | 20.8%                                                                                  | 19.1%                | 17.4%                | 15.8%                | 14.1%                | 12.4%                | 10.7%                | 9%                                 |
| 708.43                                           | 15% ad val.               | 14%                                                                                    | 13.1%                | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                               |
| 708.45                                           | 15% ad val.               | 14%                                                                                    | 13.1%                | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                               |
| 708.47                                           | 15% ad val.               | 14%                                                                                    | 13.1%                | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                               |
| 708.51                                           | 8.5% ad val.              | 7.9%                                                                                   | 7.2%                 | 6.6%                 | 6%                   | 5.3%                 | 4.7%                 | 4%                   | 3.4%                               |
| 708.52                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.56                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.61                                           | 5.5% ad val.              | 5.1%                                                                                   | 4.7%                 | 4.3%                 | 3.9%                 | 3.4%                 | 3%                   | 2.6%                 | 2.2%                               |
| 708.63                                           | 22.5% ad val.             | 20.8%                                                                                  | 19.1%                | 17.4%                | 15.8%                | 14.1%                | 12.4%                | 10.7%                | 9%                                 |
| 708.71                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.72                                           | 20% ad val.               | 18.5%                                                                                  | 17%                  | 15.5%                | 14%                  | 12.5%                | 11%                  | 9.5%                 | 8%                                 |
| 708.73                                           | 22.5% ad val.             | 20.8%                                                                                  | 19.1%                | 17.4%                | 15.8%                | 14.1%                | 12.4%                | 10.7%                | 9%                                 |
| 708.75                                           | 22.5% ad val.             | 20.8%                                                                                  | 19.1%                | 17.4%                | 15.8%                | 14.1%                | 12.4%                | 10.7%                | 9%                                 |
| 708.76                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%                 | 6.5%                 | 6.2%                 | 5.9%                 | 5.6%                 | 5.2%                 | 4.9%                               |
| 708.78                                           | 11% ad val.               | 10.2%                                                                                  | 9.4%                 | 8.5%                 | 7.7%                 | 6.9%                 | 6.1%                 | 5.2%                 | 4.4%                               |
| 708.80                                           | 15% ad val.               | 14%                                                                                    | 13.1%                | 12.1%                | 11.1%                | 10.1%                | 9.2%                 | 8.2%                 | 7.2%                               |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 705.74, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--14.6%.

Effective with respect to articles entered on and after January 1, 1989--14%.

3/ For item 705.76, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--\$3.85/doz. pairs.

Effective with respect to articles entered on and after January 1, 1989--\$3.50/doz. pairs.

4/ For item 705.78, the rates of duty after 1987 will be as follows:

Effective with respect to articles entered on and after January 1, 1988--14.6%.

Effective with respect to articles entered on and after January 1, 1989--14%.



## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged      | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                   |                     |                     |                     |                    |                    |                    |
|--------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------|-------------------|---------------------|---------------------|---------------------|--------------------|--------------------|--------------------|
|                                                  |                                | 1980                                                                                   | 1981              | 1982                | 1983                | 1984                | 1985               | 1986               | 1987               |
| Schedule 7, Part 2--Continued                    |                                |                                                                                        |                   |                     |                     |                     |                    |                    |                    |
| 708.82                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%              | 9.2%                | 8.6%                | 8%                  | 7.4%               | 6.8%               | 6.2%               |
| 708.85                                           | 12.5% ad val.                  | 11.8%                                                                                  | 11%               | 10.3%               | 9.6%                | 8.8%                | 8.1%               | 7.3%               | 6.6%               |
| 708.87                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                | 8.4%                | 7.9%                | 7.4%                | 6.9%               | 6.3%               | 5.8%               |
| 708.89                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 708.91                                           | 15% ad val.                    | 13.9%                                                                                  | 12.8%             | 11.6%               | 10.5%               | 9.4%                | 8.3%               | 7.1%               | 6%                 |
| 708.93                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 709.01                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 709.03                                           | 12.5% ad val.                  | 11.8%                                                                                  | 11%               | 10.3%               | 9.6%                | 8.8%                | 8.1%               | 7.3%               | 6.6%               |
| 709.05                                           | 25% ad val.                    | 23.1%                                                                                  | 21.3%             | 19.4%               | 17.5%               | 15.6%               | 13.8%              | 11.9%              | 10%                |
| 709.06                                           | 9.5% ad val.                   | 9%                                                                                     | 8.6%              | 8.1%                | 7.6%                | 7.1%                | 6.7%               | 6.2%               | 5.7%               |
| 709.07                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%              | 9.2%                | 8.6%                | 8%                  | 7.4%               | 6.8%               | 6.2%               |
| 709.09                                           | 6% ad val.                     | 5.8%                                                                                   | 5.6%              | 5.3%                | 5.1%                | 4.9%                | 4.7%               | 4.4%               | 4.2%               |
| 709.10                                           | 9.5% ad val.                   | 9%                                                                                     | 8.6%              | 8.1%                | 7.6%                | 7.1%                | 6.7%               | 6.2%               | 5.7%               |
| 709.11                                           | 4.5% ad val.                   | 4.4%                                                                                   | 4.2%              | 4.1%                | 4%                  | 3.8%                | 3.7%               | 3.5%               | 3.4%               |
| 709.13                                           | 21% ad val.                    | 19.4%                                                                                  | 17.9%             | 16.3%               | 14.7%               | 13.1%               | 11.6%              | 10%                | 8.4%               |
| 709.15                                           | 18% ad val.                    | 16.7%                                                                                  | 15.5%             | 14.2%               | 13%                 | 11.7%               | 10.4%              | 9.2%               | 7.9%               |
| 709.17                                           | 6% ad val.                     | 5.8%                                                                                   | 5.6%              | 5.3%                | 5.1%                | 4.9%                | 4.7%               | 4.4%               | 4.2%               |
| 709.19                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%              | 9.2%                | 8.6%                | 8%                  | 7.4%               | 6.8%               | 6.2%               |
| 709.21                                           | 8.5% ad val.                   | 8.1%                                                                                   | 7.7%              | 7.3%                | 6.9%                | 6.5%                | 6.1%               | 5.7%               | 5.3%               |
| 709.23                                           | 16% ad val.                    | 14.8%                                                                                  | 13.6%             | 12.4%               | 11.2%               | 10%                 | 8.8%               | 7.6%               | 6.4%               |
| 709.25                                           | 7% ad val.                     | 6.7%                                                                                   | 6.4%              | 6.1%                | 5.9%                | 5.6%                | 5.3%               | 5%                 | 4.7%               |
| 709.27                                           | 18% ad val.                    | 16.7%                                                                                  | 15.5%             | 14.2%               | 13%                 | 11.7%               | 10.4%              | 9.2%               | 7.9%               |
| 709.40                                           | 6% ad val.                     | 5.8%                                                                                   | 5.6%              | 5.3%                | 5.1%                | 4.9%                | 4.7%               | 4.4%               | 4.2%               |
| 709.45                                           | 5% ad val.                     | 4.8%                                                                                   | 4.7%              | 4.5%                | 4.4%                | 4.2%                | 4%                 | 3.9%               | 3.7%               |
| 709.50                                           | 8% ad val.                     | 5.8%                                                                                   | 5.6%              | 5.3%                | 5.1%                | 4.9%                | 4.7%               | 4.4%               | 4.2%               |
| 709.55                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 709.56                                           | 18% ad val.                    | 16.7%                                                                                  | 15.5%             | 14%                 | 12.6%               | 11.3%               | 9.9%               | 8.6%               | 7.2%               |
| 709.57                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                | 8.4%                | 7.9%                | 7.4%                | 6.9%               | 6.3%               | 5.8%               |
| 709.61                                           | 3% ad val.                     | 2.9%                                                                                   | 2.8%              | 2.6%                | 2.5%                | 2.3%                | 2.2%               | 2.0%               | 1.9%               |
| 709.63                                           | 2.5% ad val.                   | 2.5%                                                                                   | 2.4%              | 2.3%                | 2.2%                | 2.1%                | 2.0%               | 1.9%               | 1.8%               |
| 709.66                                           | 6% ad val.                     | 4.7%                                                                                   | 4.6%              | 4.5%                | 4.4%                | 4.3%                | 4.2%               | 4.1%               | 4%                 |
| 710.04                                           | 14% ad val.                    | 13%                                                                                    | 12%               | 11%                 | 10%                 | 9%                  | 8%                 | 7%                 | 6%                 |
| 710.06                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 710.08                                           | 14% ad val.                    | 13%                                                                                    | 11.9%             | 10.9%               | 9.8%                | 8.8%                | 7.7%               | 6.7%               | 5.6%               |
| 710.12                                           | 14% ad val.                    | 13%                                                                                    | 11.9%             | 10.9%               | 9.8%                | 8.8%                | 7.7%               | 6.7%               | 5.6%               |
| 710.14                                           | 5.5% ad val.                   | 5.3%                                                                                   | 5.1%              | 4.9%                | 4.7%                | 4.5%                | 4.3%               | 4.1%               | 3.9%               |
| 710.16                                           | 9.5% ad val.                   | 9%                                                                                     | 8.6%              | 8.1%                | 7.6%                | 7.1%                | 6.7%               | 6.2%               | 5.7%               |
| 710.20                                           | 46c each +<br>7% ad val.       | 42c each +<br>6.5%                                                                     | 39c each +<br>6%  | 35c each +<br>5.4%  | 32c each +<br>4.9%  | 28c each +<br>4.4%  | 25c each +<br>3.9% | 21c each +<br>3.3% | 18c each +<br>2.8% |
| 710.21                                           | 25% ad val.                    | 23.1%                                                                                  | 21.3%             | 19.4%               | 17.5%               | 15.6%               | 13.8%              | 11.9%              | 10%                |
| 710.26                                           | \$1.12 each +<br>17.5% ad val. | \$1.03 each +<br>16.2%                                                                 | 95c each +<br>15% | 87c each +<br>13.7% | 79c each +<br>12.5% | 71c each +<br>11.2% | 63c each +<br>9.9% | 55c each +<br>8.7% | 47c each +<br>7.4% |
| 710.27                                           | 22.5% ad val.                  | 20.8%                                                                                  | 19.1%             | 17.4%               | 15.8%               | 14.1%               | 12.4%              | 10.7%              | 9%                 |
| 710.30                                           | 5.5% ad val.                   | 5.3%                                                                                   | 5.1%              | 4.9%                | 4.7%                | 4.5%                | 4.3%               | 4.1%               | 3.9%               |
| 710.36                                           | 5.5% ad val.                   | 5.1%                                                                                   | 4.7%              | 4.3%                | 3.9%                | 3.4%                | 3%                 | 2.6%               | 2.2%               |
| 710.38                                           | 11% ad val.                    | 10.2%                                                                                  | 9.4%              | 8.5%                | 7.7%                | 6.9%                | 6.1%               | 5.2%               | 4.4%               |
| 710.40                                           | 8% ad val.                     | 7.6%                                                                                   | 7.3%              | 6.9%                | 6.6%                | 6.2%                | 5.8%               | 5.5%               | 5.1%               |
| 710.42                                           | 14% ad val.                    | 13%                                                                                    | 11.9%             | 10.9%               | 9.8%                | 8.8%                | 7.7%               | 6.7%               | 5.6%               |
| 710.46                                           | 5% ad val.                     | 4.4%                                                                                   | 3.8%              | 3.1%                | 2.5%                | 1.9%                | 1.3%               | 0.6%               | Free               |
| 710.50                                           | 11% ad val.                    | 10.2%                                                                                  | 9.4%              | 8.5%                | 7.7%                | 6.9%                | 6.1%               | 5.2%               | 4.4%               |
| 710.60                                           | 6.5% ad val.                   | 6.2%                                                                                   | 6%                | 5.7%                | 5.5%                | 5.2%                | 4.9%               | 4.7%               | 4.4%               |
| 710.61                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%              | 9.2%                | 8.6%                | 8%                  | 7.4%               | 6.8%               | 6.2%               |
| 710.63                                           | 11% ad val.                    | 10.4%                                                                                  | 9.8%              | 9.2%                | 8.6%                | 8%                  | 7.4%               | 6.8%               | 6.2%               |
| 710.65                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                | 8.4%                | 7.9%                | 7.4%                | 6.9%               | 6.3%               | 5.8%               |
| 710.67                                           | 13% ad val.                    | 12.2%                                                                                  | 11.4%             | 10.6%               | 9.8%                | 9.1%                | 8.3%               | 7.5%               | 6.7%               |
| 710.68                                           | 12% ad val.                    | 11.1%                                                                                  | 10.6%             | 9.9%                | 9.3%                | 8.6%                | 7.9%               | 7.2%               | 6.5%               |
| 710.70                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                | 8.4%                | 7.9%                | 7.4%                | 6.9%               | 6.3%               | 5.8%               |
| 710.72                                           | 8.5% ad val.                   | 8.1%                                                                                   | 7.7%              | 7.3%                | 6.9%                | 6.5%                | 6.1%               | 5.7%               | 5.3%               |
| 710.76                                           | 10% ad val.                    | 9.5%                                                                                   | 9%                | 8.4%                | 7.9%                | 7.4%                | 6.9%               | 6.3%               | 5.8%               |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.-- Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                         | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                           |                                                           |                                                           |                                                           |                                                           |                                                           |                                                       |
|--------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------|
|                                                  |                                                                   | 1980                                                                                   | 1981                                                      | 1982                                                      | 1983                                                      | 1984                                                      | 1985                                                      | 1986                                                      | 1987                                                  |
| Schedule 7, Part 2--Continued                    |                                                                   |                                                                                        |                                                           |                                                           |                                                           |                                                           |                                                           |                                                           |                                                       |
| 710.78                                           | 5.5% ad val.                                                      | 5.3%                                                                                   | 5.1%                                                      | 4.9%                                                      | 4.7%                                                      | 4.5%                                                      | 4.3%                                                      | 4.1%                                                      | 3.9%                                                  |
| 710.80                                           | 7.5% ad val.                                                      | 7.2%                                                                                   | 6.9%                                                      | 6.5%                                                      | 6.2%                                                      | 5.9%                                                      | 5.6%                                                      | 5.2%                                                      | 4.9%                                                  |
| 710.86                                           | 17.5% ad val.                                                     | 16.2%                                                                                  | 14.9%                                                     | 13.6%                                                     | 12.3%                                                     | 10.9%                                                     | 9.6%                                                      | 8.3%                                                      | 7%                                                    |
| 710.88                                           | 22.5% ad val.                                                     | 20.8%                                                                                  | 19.1%                                                     | 17.4%                                                     | 15.8%                                                     | 14.1%                                                     | 12.4%                                                     | 10.7%                                                     | 9%                                                    |
| 710.90                                           | 25% ad val.                                                       | 23.1%                                                                                  | 21.3%                                                     | 19.4%                                                     | 17.5%                                                     | 15.6%                                                     | 13.8%                                                     | 11.9%                                                     | 10%                                                   |
| 711.04                                           | 9.5% ad val.                                                      | 9%                                                                                     | 8.6%                                                      | 8.1%                                                      | 7.6%                                                      | 7.1%                                                      | 6.7%                                                      | 6.2%                                                      | 5.7%                                                  |
| 711.08                                           | 12.5% ad val.                                                     | 11.8%                                                                                  | 11%                                                       | 10.3%                                                     | 9.6%                                                      | 8.8%                                                      | 8.1%                                                      | 7.3%                                                      | 6.6%                                                  |
| 711.25                                           | 7% ad val.                                                        | 6.7%                                                                                   | 6.4%                                                      | 6.1%                                                      | 5.9%                                                      | 5.6%                                                      | 5.3%                                                      | 5%                                                        | 4.7%                                                  |
| 711.30                                           | 21% ad val.                                                       | 19.4%                                                                                  | 17.9%                                                     | 16.3%                                                     | 14.7%                                                     | 13.1%                                                     | 11.6%                                                     | 10%                                                       | 8.4%                                                  |
| 711.31                                           | 42.5% ad val.                                                     | 39.7%                                                                                  | 36.8%                                                     | 34%                                                       | 31.2%                                                     | 28.3%                                                     | 25.5%                                                     | 22.7%                                                     | 19.8% 2/                                              |
| 711.32                                           | 21% ad val.                                                       | 19.4%                                                                                  | 17.9%                                                     | 16.3%                                                     | 14.7%                                                     | 13.1%                                                     | 11.6%                                                     | 10%                                                       | 8.4%                                                  |
| 711.38                                           | 7% ad val.                                                        | 6.7%                                                                                   | 6.4%                                                      | 6.1%                                                      | 5.9%                                                      | 5.6%                                                      | 5.3%                                                      | 5%                                                        | 4.7%                                                  |
| 711.40                                           | 25% ad val.                                                       | 23.1%                                                                                  | 21.3%                                                     | 19.4%                                                     | 17.5%                                                     | 15.6%                                                     | 13.8%                                                     | 11.9%                                                     | 10%                                                   |
| 711.42                                           | 8% ad val.                                                        | 7.5%                                                                                   | 7.1%                                                      | 6.6%                                                      | 6.1%                                                      | 5.6%                                                      | 5.2%                                                      | 4.7%                                                      | 4.2%                                                  |
| 711.45                                           | 14% ad val.                                                       | 13%                                                                                    | 11.9%                                                     | 10.9%                                                     | 9.8%                                                      | 8.8%                                                      | 7.7%                                                      | 6.7%                                                      | 5.6%                                                  |
| 711.47                                           | 4.5% ad val.                                                      | 4.3%                                                                                   | 4.1%                                                      | 3.9%                                                      | 3.7%                                                      | 3.4%                                                      | 3.2%                                                      | 3%                                                        | 2.8%                                                  |
| 711.49                                           | 9.5% ad val.                                                      | 8.9%                                                                                   | 8.3%                                                      | 7.7%                                                      | 7.1%                                                      | 6.4%                                                      | 5.8%                                                      | 5.2%                                                      | 4.6%                                                  |
| 711.55                                           | 8% ad val.                                                        | 7.5%                                                                                   | 7%                                                        | 6.5%                                                      | 6%                                                        | 5.4%                                                      | 4.9%                                                      | 4.4%                                                      | 3.9%                                                  |
| 711.60                                           | 5% ad val.                                                        | 4.8%                                                                                   | 4.5%                                                      | 4.3%                                                      | 4%                                                        | 3.8%                                                      | 3.5%                                                      | 3.3%                                                      | 3%                                                    |
| 711.67                                           | 7% ad val.                                                        | 6.7%                                                                                   | 6.4%                                                      | 6.1%                                                      | 5.9%                                                      | 5.6%                                                      | 5.3%                                                      | 5%                                                        | 4.7%                                                  |
| 711.75                                           | \$1.12 each +<br>17.5% ad val.                                    | \$1.04 each +<br>16.3%                                                                 | 96c each +<br>15%                                         | 88c each +<br>13.8%                                       | 80c each +<br>12.6%                                       | 72c each +<br>11.3%                                       | 64c each +<br>10.1%                                       | 56c each +<br>8.8%                                        | 49c each +<br>7.6%                                    |
| 711.77                                           | 22.5% ad val.                                                     | 20.8%                                                                                  | 19.1%                                                     | 17.4%                                                     | 15.8%                                                     | 14.1%                                                     | 12.4%                                                     | 10.7%                                                     | 9%                                                    |
| 711.78                                           | 7% ad val.                                                        | 6.7%                                                                                   | 6.4%                                                      | 6.1%                                                      | 5.9%                                                      | 5.6%                                                      | 5.3%                                                      | 5%                                                        | 4.7%                                                  |
| 711.86                                           | 25% ad val.                                                       | 23.1%                                                                                  | 21.3%                                                     | 19.4%                                                     | 17.5%                                                     | 15.6%                                                     | 13.8%                                                     | 11.9%                                                     | 10%                                                   |
| 711.88                                           | 11% ad val.                                                       | 10.4%                                                                                  | 9.8%                                                      | 9.2%                                                      | 8.6%                                                      | 8%                                                        | 7.4%                                                      | 6.8%                                                      | 6.2%                                                  |
| 711.90                                           | 21% ad val.                                                       | 20.3%                                                                                  | 19.5%                                                     | 18.8%                                                     | 18%                                                       | 17.3%                                                     | 16.5%                                                     | 15.8%                                                     | 15%                                                   |
| 711.93                                           | 27.5% ad val.                                                     | 26.2%                                                                                  | 24.9%                                                     | 23.6%                                                     | 22.3%                                                     | 20.9%                                                     | 19.6%                                                     | 18.3%                                                     | 17%                                                   |
| 711.98                                           | 5% ad val.                                                        | 4.4%                                                                                   | 3.8%                                                      | 3.1%                                                      | 2.5%                                                      | 1.9%                                                      | 1.3%                                                      | 0.6%                                                      | Free                                                  |
| 712.05                                           | 25% ad val.                                                       | 23.1%                                                                                  | 21.3%                                                     | 19.4%                                                     | 17.5%                                                     | 15.6%                                                     | 13.8%                                                     | 11.9%                                                     | 10%                                                   |
| 712.10                                           | 46c each +<br>7% ad val.                                          | 40c each +<br>6.7%                                                                     | 34c each +<br>6.5%                                        | 28c each +<br>6.2%                                        | 23c each +<br>5.9%                                        | 17c each +<br>5.6%                                        | 11c each +<br>5.4%                                        | 5c each +<br>5.1%                                         | 4.8%                                                  |
| 712.12                                           | 25% ad val.                                                       | 23.1%                                                                                  | 21.3%                                                     | 19.4%                                                     | 17.5%                                                     | 15.6%                                                     | 13.8%                                                     | 11.9%                                                     | 10%                                                   |
| 712.15                                           | 7% ad val.                                                        | 6.7%                                                                                   | 6.4%                                                      | 6.1%                                                      | 5.9%                                                      | 5.6%                                                      | 5.3%                                                      | 5%                                                        | 4.7%                                                  |
| 712.20                                           | 7.5% ad val.                                                      | 7.2%                                                                                   | 6.9%                                                      | 6.5%                                                      | 6.2%                                                      | 5.9%                                                      | 5.6%                                                      | 5.2%                                                      | 4.9%                                                  |
| 712.25                                           | \$1.12 each +<br>17.5% ad val.                                    | \$1.04 each +<br>16.3%                                                                 | 96c each +<br>15%                                         | 88c each +<br>13.8%                                       | 80c each +<br>12.6%                                       | 72c each +<br>11.3%                                       | 64c each +<br>10.1%                                       | 56c each +<br>8.8%                                        | 49c each +<br>7.6%                                    |
| 712.27                                           | 22.5% ad val.                                                     | 20.8%                                                                                  | 19.1%                                                     | 17.4%                                                     | 15.8%                                                     | 14.1%                                                     | 12.4%                                                     | 10.7%                                                     | 9%                                                    |
| 712.47                                           | 6% ad val.                                                        | 4.2%                                                                                   | 4.2%                                                      | 4.2%                                                      | 4.2%                                                      | 4.2%                                                      | 4.2%                                                      | 4.2%                                                      | 4.2%                                                  |
| 712.49                                           | 10% ad val.                                                       | 9.4%                                                                                   | 8.7%                                                      | 8.1%                                                      | 7.5%                                                      | 6.8%                                                      | 6.2%                                                      | 5.5%                                                      | 4.9%                                                  |
| 713.05                                           | 75c each +<br>16% ad val.                                         | 69c each +<br>14.8%                                                                    | 63c each +<br>13.6%                                       | 58c each +<br>12.4%                                       | 52c each +<br>11.2%                                       | 46c each +<br>10%                                         | 41c each +<br>8.8%                                        | 35c each +<br>7.6%                                        | 30c each +<br>6.4%                                    |
| 713.07                                           | \$1.12 each +<br>16% ad val.                                      | 98c each +<br>14%                                                                      | 84c each +<br>12%                                         | 70c each +<br>10%                                         | 56c each +<br>8%                                          | 45c each +<br>6.4%                                        | 45c each +<br>6.4%                                        | 45c each +<br>6.4%                                        | 45c each +<br>6.4%                                    |
| 713.09                                           | \$1.12 each +<br>11% ad val.                                      | \$1.03 each +<br>10.2%                                                                 | 95c each +<br>9.4%                                        | 86c each +<br>8.5%                                        | 78c each +<br>7.7%                                        | 70c each +<br>6.9%                                        | 61c each +<br>6.1%                                        | 53c each +<br>5.2%                                        | 45c each +<br>4.4%                                    |
| 713.11                                           | \$1.12 each +<br>17.5% ad val.                                    | \$1.03 each +<br>16.2%                                                                 | 95c each +<br>14.9%                                       | 86c each +<br>13.6%                                       | 78c each +<br>12.3%                                       | 70c each +<br>10.9%                                       | 61c each +<br>9.6%                                        | 53c each +<br>8.3%                                        | 45c each +<br>7%                                      |
| 713.15                                           | 22.5% ad val.                                                     | 20.8%                                                                                  | 19.1%                                                     | 17.4%                                                     | 15.8%                                                     | 14.1%                                                     | 12.4%                                                     | 10.7%                                                     | 9%                                                    |
| 713.17                                           | \$1.12 each +<br>17.5% ad val.                                    | \$1.03 each +<br>16.2%                                                                 | 95c each +<br>14.9%                                       | 86c each +<br>13.6%                                       | 78c each +<br>12.3%                                       | 70c each +<br>10.9%                                       | 61c each +<br>9.6%                                        | 53c each +<br>8.3%                                        | 45c each +<br>7%                                      |
| 713.19                                           | 22.5% ad val.                                                     | 20.8%                                                                                  | 19.1%                                                     | 17.4%                                                     | 15.8%                                                     | 14.1%                                                     | 12.4%                                                     | 10.7%                                                     | 9%                                                    |
| 715.20                                           | 50c each +<br>8.5% ad val.<br>+ 3.5c for<br>each jewel,<br>if any | 54c each +<br>8.1% + 3.3c<br>for each<br>jewel, if<br>any                              | 51c each +<br>7.6% + 3.1c<br>for each<br>jewel, if<br>any | 48c each +<br>7.2% + 2.9c<br>for each<br>jewel, if<br>any | 45c each +<br>6.7% + 2.7c<br>for each<br>jewel, if<br>any | 42c each +<br>6.3% + 2.5c<br>for each<br>jewel, if<br>any | 39c each +<br>5.9% + 2.3c<br>for each<br>jewel, if<br>any | 36c each +<br>5.4% + 2.1c<br>for each<br>jewel, if<br>any | 34c each +<br>5% + 2c<br>for each<br>jewel, if<br>any |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
2/ For item 711.31, the rate of duty effective with respect to articles entered on and after January 1, 1986, will be 17%.



Section A.—Continued

| Item to<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                               | Rates of duty 1/, effective with respect to articles entered on and after January 1 — |                                                              |                                                              |                                                             |                                                             |                                                            |                                                            |                                                            |
|--------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------|
|                                                  |                                                                         | 1980                                                                                  | 1981                                                         | 1982                                                         | 1983                                                        | 1984                                                        | 1985                                                       | 1986                                                       | 1987                                                       |
| Schedule 7, Part 2—Continued                     |                                                                         |                                                                                       |                                                              |                                                              |                                                             |                                                             |                                                            |                                                            |                                                            |
| 715.25 <sup>2/</sup>                             | 12.5c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any     | 12.6c each +<br>14.9% + 5.8c<br>for each<br>jewel, if<br>any                          | 11.7c each +<br>13.9% + 5.4c<br>for each<br>jewel, if<br>any | 10.8c each +<br>12.8% + 5c<br>for each<br>jewel, if<br>any   | 9.9c each +<br>11.7% + 4.5c<br>for each<br>jewel, if<br>any | 9.1c each +<br>10.7% + 4.1c<br>for each<br>jewel, if<br>any | 8.2c each +<br>9.6% + 3.7c<br>for each<br>jewel, if<br>any | 7.3c each +<br>8.5% + 3.3c<br>for each<br>jewel, if<br>any | 6.4c each +<br>7.5% + 2.9c<br>for each<br>jewel, if<br>any |
| 715.27                                           | 25c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any       | 23c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 21c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 19c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 17c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 15c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 13c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 11c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 10c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.29                                           | 37.5c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any     | 34c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 31c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 29c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 26c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 23c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 20c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 17c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 15c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.31                                           | 75c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any       | 69c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 63c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 58c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 52c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 46c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 41c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 35c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 30c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.33                                           | \$1.12c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any   | \$1.03c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                        | 95c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 86c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 78c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 70c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 61c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 53c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 45c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.40                                           | 90c each +<br>13% ad val.<br>+ 5c for<br>each jewel,<br>if any          | 83c each +<br>12% + 4.6c<br>for each<br>jewel, if<br>any                              | 76c each +<br>11% + 4.2c<br>for each<br>jewel, if<br>any     | 69c each +<br>10.1% + 3.8c<br>for each<br>jewel, if<br>any   | 63c each +<br>9.1% + 3.5c<br>for each<br>jewel, if<br>any   | 56c each +<br>8.1% + 3.1c<br>for each<br>jewel, if<br>any   | 49c each +<br>7.1% + 2.7c<br>for each<br>jewel, if<br>any  | 42c each +<br>6.2% + 2.3c<br>for each<br>jewel, if<br>any  | 36c each +<br>5.2% + 2c<br>for each<br>jewel, if<br>any    |
| 715.45                                           | 11.75c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any    | 12.7c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                          | 11.6c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any | 10.6c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any | 9.6c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any | 8.5c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any   | 7.5c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any | 6.5c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any | 5.5c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any |
| 715.47                                           | 25c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any       | 23c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 21c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 19c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 17c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 15c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 13c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 11c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 10c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.49                                           | 37.5c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any     | 34c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 31c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 29c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 26c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 23c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 20c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 17c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 15c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.51                                           | 75c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any       | 69c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 63c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 58c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 52c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 46c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 41c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 35c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 30c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |
| 715.53                                           | \$1.12c each +<br>17.5% ad val.<br>+ 6.25c for<br>each jewel,<br>if any | \$1.03c each +<br>16.2% + 5.7c<br>for each<br>jewel, if<br>any                        | 95c each +<br>14.9% + 5.3c<br>for each<br>jewel, if<br>any   | 86c each +<br>13.6% + 4.8c<br>for each<br>jewel, if<br>any   | 78c each +<br>12.2% + 4.3c<br>for each<br>jewel, if<br>any  | 70c each +<br>10.9% + 3.9c<br>for each<br>jewel, if<br>any  | 61c each +<br>9.6% + 3.4c<br>for each<br>jewel, if<br>any  | 53c each +<br>8.3% + 2.9c<br>for each<br>jewel, if<br>any  | 45c each +<br>7% + 2.5c<br>for each<br>jewel, if<br>any    |
| 715.60                                           | 13.75c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any    | 12.7c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                          | 11.6c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any | 10.6c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any | 9.6c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any | 8.5c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any   | 7.5c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any | 6.5c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any | 5.5c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any |
| 715.62                                           | 25c each +<br>16% ad val.<br>+ 6.25c for<br>each jewel,<br>if any       | 23c each +<br>14.8% + 5.7c<br>for each<br>jewel, if<br>any                            | 21c each +<br>13.6% + 5.3c<br>for each<br>jewel, if<br>any   | 19c each +<br>12.4% + 4.8c<br>for each<br>jewel, if<br>any   | 17c each +<br>11.2% + 4.3c<br>for each<br>jewel, if<br>any  | 15c each +<br>10% + 3.9c<br>for each<br>jewel, if<br>any    | 13c each +<br>8.8% + 3.4c<br>for each<br>jewel, if<br>any  | 11c each +<br>7.6% + 2.9c<br>for each<br>jewel, if<br>any  | 10c each +<br>6.4% + 2.5c<br>for each<br>jewel, if<br>any  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ For item 715.25, the rate of duty effective with respect to articles entered on and after January 1, 1986, will be 5.5c each + 6.4% + 2.5c for each jewel, if any.

Section A.—Continued

| Item in TSUS as modified by Annex II | Rate from which staged                                                  | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |
|--------------------------------------|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|
|                                      |                                                                         | 1980                                                                                   | 1981                                                                    | 1982                                                                    | 1983                                                                    | 1984                                                                    | 1985                                                                    | 1986                                                                    | 1987                                                                    |
| Schedule 7, Part 2--Continued        |                                                                         |                                                                                        |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |                                                                         |
| 715.64                               | 37.5c each + 10% ad val. + 6.25c for each jewel, if any                 | 34c each + 9.2% + 5.7c for each jewel, if any                                          | 31c each + 8.5% + 5.3c for each jewel, if any                           | 29c each + 7.7% + 4.8c for each jewel, if any                           | 26c each + 7% + 4.3c for each jewel, if any                             | 23c each + 6.2% + 3.9c for each jewel, if any                           | 20c each + 5.5% + 3.4c for each jewel, if any                           | 17c each + 4.7% + 2.9c for each jewel, if any                           | 15c each + 4% + 2.5c for each jewel, if any                             |
| 715.66                               | 75c each + 10% ad val. + 6.25c for each jewel, if any                   | 69c each + 9.2% + 5.7c for each jewel, if any                                          | 63c each + 8.5% + 5.3c for each jewel, if any                           | 58c each + 7.7% + 4.8c for each jewel, if any                           | 52c each + 7% + 4.3c for each jewel, if any                             | 46c each + 6.2% + 3.9c for each jewel, if any                           | 41c each + 5.5% + 3.4c for each jewel, if any                           | 35c each + 4.7% + 2.9c for each jewel, if any                           | 30c each + 4% + 2.5c for each jewel, if any                             |
| 715.68                               | \$1.12 each + 16% ad val. + 6.25c for each jewel, if any                | \$1.03 each + 14.8% + 5.7c for each jewel, if any                                      | 95c each + 13.6% + 5.3c for each jewel, if any                          | 86c each + 12.4% + 4.8c for each jewel, if any                          | 78c each + 11.2% + 4.3c for each jewel, if any                          | 70c each + 10% + 3.9c for each jewel, if any                            | 61c each + 8.8% + 3.4c for each jewel, if any                           | 53c each + 7.6% + 2.9c for each jewel, if any                           | 45c each + 6.4% + 2.5c for each jewel, if any                           |
| 716.06 <sup>3/</sup>                 | \$5.37 each                                                             | \$4.73 each                                                                            | \$4.08 each                                                             | \$3.44 each                                                             | \$2.79 each                                                             | \$2.15 each                                                             | \$2.15 each                                                             | \$2.15 each                                                             | \$2.15 each                                                             |
| 716.10 <sup>3/</sup>                 | 90c each                                                                | 79c each                                                                               | 68c each                                                                | 58c each                                                                | 47c each                                                                | 36c each                                                                | 36c each                                                                | 36c each                                                                | 36c each                                                                |
| 716.18 <sup>3/</sup>                 | 75c each                                                                | 67c each                                                                               | 59c each                                                                | 52c each                                                                | 44c each                                                                | 36c each                                                                | 36c each                                                                | 36c each                                                                | 36c each                                                                |
| 716.20 <sup>3/</sup>                 | \$1.80 each                                                             | \$1.58 each                                                                            | \$1.37 each                                                             | \$1.15 each                                                             | 94c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                |
| 716.22 <sup>3/</sup>                 | \$1.35 each                                                             | \$1.22 each                                                                            | \$1.10 each                                                             | 97c each                                                                | 85c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                |
| 716.24 <sup>3/</sup>                 | \$1.20 each                                                             | \$1.10 each                                                                            | \$1 each                                                                | 91c each                                                                | 82c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                |
| 716.26 <sup>3/</sup>                 | 90c each                                                                | 86c each                                                                               | 83c each                                                                | 79c each                                                                | 76c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                | 72c each                                                                |
| 716.41 <sup>4/</sup>                 | \$1.80 each + 9c for each jewel over 7                                  | \$1.58 each + 8c for each jewel over 7                                                 | \$1.36 each + 7c for each jewel over 7                                  | \$1.15 each + 6c for each jewel over 7                                  | 93c each + 5c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     |
| 716.42 <sup>4/</sup>                 | \$1.35 each + 9c for each jewel over 7                                  | \$1.22 each + 8c for each jewel over 7                                                 | \$1.09 each + 7c for each jewel over 7                                  | 97c each + 6c for each jewel over 7                                     | 84c each + 5c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     |
| 716.43 <sup>4/</sup>                 | \$1.20 each + 9c for each jewel over 7                                  | \$1.10 each + 8c for each jewel over 7                                                 | \$1 each + 7c for each jewel over 7                                     | 91c each + 6c for each jewel over 7                                     | 81c each + 5c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     |
| 716.44 <sup>4/</sup>                 | 90c each + 9c for each jewel over 7                                     | 86c each + 8c for each jewel over 7                                                    | 82c each + 7c for each jewel over 7                                     | 79c each + 6c for each jewel over 7                                     | 75c each + 5c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     | 72c each + 4c for each jewel over 7                                     |
| 719.--                               | Column 1 base rate + 50c each if self-winding + 50c for each adjustment | Column 1 base rate + 47c each if self-winding + 47c for each adjustment                | Column 1 base rate + 44c each if self-winding + 44c for each adjustment | Column 1 base rate + 41c each if self-winding + 41c for each adjustment | Column 1 base rate + 38c each if self-winding + 38c for each adjustment | Column 1 base rate + 35c each if self-winding + 35c for each adjustment | Column 1 base rate + 35c each if self-winding + 35c for each adjustment | Column 1 base rate + 35c each if self-winding + 35c for each adjustment | Column 1 base rate + 35c each if self-winding + 35c for each adjustment |
| 720.02                               | 37c each                                                                | 30c each                                                                               | 23c each                                                                | 16c each                                                                | 9c each                                                                 | 3c each                                                                 | 3c each                                                                 | 3c each                                                                 | 3c each                                                                 |
| 720.04                               | 62c each + 6.75c for each jewel over 7                                  | 61c each + 6.5c for each jewel over 7                                                  | 60c each + 6.4c for each jewel over 7                                   | 59c each + 6.2c for each jewel over 7                                   | 57c each + 6.1c for each jewel over 7                                   | 56c each + 5.9c for each jewel over 7                                   | 55c each + 5.8c for each jewel over 7                                   | 54c each + 5.6c for each jewel over 7                                   | 53c each + 5.5c for each jewel over 7                                   |
| 720.06                               | 75c each                                                                | 73c each                                                                               | 71c each                                                                | 69c each                                                                | 67c each                                                                | 65c each                                                                | 64c each                                                                | 62c each                                                                | 60c each                                                                |
| 720.08                               | \$1 each + 6.75c for each jewel over 7                                  | 98c each + 6.5c for each jewel over 7                                                  | 96c each + 6.4c for each jewel over 7                                   | 94c each + 6.2c for each jewel over 7                                   | 92c each + 6.1c for each jewel over 7                                   | 90c each + 5.9c for each jewel over 7                                   | 88c each + 5.8c for each jewel over 7                                   | 86c each + 5.6c for each jewel over 7                                   | 85c each + 5.5c for each jewel over 7                                   |
| 720.10                               | 13.75c each + 16% ad val. + 6.25c for each jewel, if any                | 12.7c each + 14.8% + 5.7c for each jewel, if any                                       | 11.6c each + 13.6% + 5.3c for each jewel, if any                        | 10.6c each + 12.4% + 4.8c for each jewel, if any                        | 9.6c each + 11.2% + 4.3c for each jewel, if any                         | 8.5c each + 10% + 3.9c for each jewel, if any                           | 7.5c each + 8.8% + 3.4c for each jewel, if any                          | 6.5c each + 7.6% + 2.9c for each jewel, if any                          | 5.5c each + 6.4% + 2.5c for each jewel, if any                          |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

2/ Items 716.10 and 716.18 are discontinued effective January 1, 1985, and are transferred to new item 716.09. See Annex II, Section II.

3/ Items 716.20, 716.22, 716.24 and 716.26 are discontinued effective January 1, 1985, and are transferred to new item 716.17. See Annex II, Section II.

4/ Items 716.41, 716.42, 716.43 and 716.44 are discontinued effective January 1, 1985, and are transferred to new item 716.45. See Annex II, Section II.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                                                                                                                                                                                                                                              | Rates of duty 1/, effective with respect to articles entered on and after January 1 --                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                                                                                                                                                                                                                                        | 1980                                                                                                                                                                                                                                                                                                                                   | 1981                                                                                                                                                                                                                                                                                                                                   | 1982                                                                                                                                                                                                                                                                                                                                  | 1983                                                                                                                                                                                                                                                                                                                                  | 1984                                                                                                                                                                                                                                                                                                                                  | 1985                                                                                                                                                                                                                                                                                                                                  | 1986                                                                                                                                                                                                                                                                                                                                  | 1987                                                                                                                                                                                                                                                                                                                              |
| Schedule 1, Part 2--Continued                    |                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                   |
| 720.12                                           | 25c each +<br>18c ad val.<br>+ 6.25c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                      | 23c each +<br>14.8c +<br>5.7c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 21c each +<br>13.6c +<br>5.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 19c each +<br>12.4c +<br>4.8c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 17c each +<br>11.2c +<br>4.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 15c each +<br>10c + 3.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                              | 13c each +<br>8.8c + 3.4c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 11c each +<br>7.6c + 2.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 10c each +<br>6.4c + 2.5c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                         |
| 720.14                                           | 37.5c each +<br>18c ad val.<br>+ 6.25c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                    | 34c each +<br>14.8c +<br>5.7c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 31c each +<br>13.6c +<br>5.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 29c each +<br>12.4c +<br>4.8c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 26c each +<br>11.2c +<br>4.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 23c each +<br>10c + 3.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                              | 20c each +<br>8.8c + 3.4c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 17c each +<br>7.6c + 2.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 15c each +<br>6.4c + 2.5c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                         |
| 720.16                                           | 75c each +<br>18c ad val.<br>+ 6.25c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                      | 69c each +<br>14.8c +<br>5.7c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 63c each +<br>13.6c +<br>5.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 58c each +<br>12.4c +<br>4.8c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 52c each +<br>11.2c +<br>4.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 46c each +<br>10c + 3.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                              | 41c each +<br>8.8c + 3.4c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 35c each +<br>7.6c + 2.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 30c each +<br>6.4c + 2.5c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                         |
| 720.18                                           | \$1.125 each +<br>18c ad val.<br>+ 6.25c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                  | \$1.04 each +<br>14.8c +<br>5.7c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                          | 95c each +<br>13.6c +<br>5.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                             | 87c each +<br>12.4c +<br>4.8c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 78c each +<br>11.2c +<br>4.3c for<br>each jewel,<br>if any                                                                                                                                                                                                                                                                            | 70c each +<br>10c + 3.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                              | 61c each +<br>8.8c + 3.4c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 53c each +<br>7.6c + 2.9c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                             | 45c each +<br>6.4c + 2.5c<br>for each<br>jewel, if<br>any                                                                                                                                                                                                                                                                         |
| 720.20                                           | 17c each +<br>15c ad val.                                                                                                                                                                                                                                                                                                              | 34c each +<br>13.8c                                                                                                                                                                                                                                                                                                                    | 31c each +<br>12.7c                                                                                                                                                                                                                                                                                                                    | 28c each +<br>11.6c                                                                                                                                                                                                                                                                                                                   | 26c each +<br>10.5c                                                                                                                                                                                                                                                                                                                   | 23c each +<br>9.3c                                                                                                                                                                                                                                                                                                                    | 20c each +<br>8.2c                                                                                                                                                                                                                                                                                                                    | 17c each +<br>7.1c                                                                                                                                                                                                                                                                                                                    | 15c each +<br>6c                                                                                                                                                                                                                                                                                                                  |
| 720.21                                           | 18c each +<br>15c ad val.                                                                                                                                                                                                                                                                                                              | 15c each +<br>14.1c                                                                                                                                                                                                                                                                                                                    | 13c each +<br>13.3c                                                                                                                                                                                                                                                                                                                    | 11c each +<br>12.4c                                                                                                                                                                                                                                                                                                                   | 9c each +<br>11.5c                                                                                                                                                                                                                                                                                                                    | 6c each +<br>10.6c                                                                                                                                                                                                                                                                                                                    | 4c each +<br>9.8c                                                                                                                                                                                                                                                                                                                     | 2c each +<br>8.9c                                                                                                                                                                                                                                                                                                                     | 1c                                                                                                                                                                                                                                                                                                                                |
| 720.22                                           | 20c ad val.                                                                                                                                                                                                                                                                                                                            | 18.5c                                                                                                                                                                                                                                                                                                                                  | 17c                                                                                                                                                                                                                                                                                                                                    | 15.5c                                                                                                                                                                                                                                                                                                                                 | 14c                                                                                                                                                                                                                                                                                                                                   | 12.5c                                                                                                                                                                                                                                                                                                                                 | 11c                                                                                                                                                                                                                                                                                                                                   | 9.5c                                                                                                                                                                                                                                                                                                                                  | 8c                                                                                                                                                                                                                                                                                                                                |
| 720.24                                           | 20c each +<br>15c ad val.                                                                                                                                                                                                                                                                                                              | 18.5c each +<br>13.9c                                                                                                                                                                                                                                                                                                                  | 17c each +<br>12.8c                                                                                                                                                                                                                                                                                                                    | 15.5c each +<br>11.6c                                                                                                                                                                                                                                                                                                                 | 14c each +<br>10.5c                                                                                                                                                                                                                                                                                                                   | 12.5c each +<br>9.4c                                                                                                                                                                                                                                                                                                                  | 11c each +<br>8.3c                                                                                                                                                                                                                                                                                                                    | 9.5c each +<br>7.1c                                                                                                                                                                                                                                                                                                                   | 8c each +<br>6c                                                                                                                                                                                                                                                                                                                   |
| 720.25                                           | 10c each +<br>15c ad val.                                                                                                                                                                                                                                                                                                              | 9c each +<br>13.9c                                                                                                                                                                                                                                                                                                                     | 8.5c each +<br>12.8c                                                                                                                                                                                                                                                                                                                   | 7.5c each +<br>11.6c                                                                                                                                                                                                                                                                                                                  | 7c each +<br>10.5c                                                                                                                                                                                                                                                                                                                    | 6c each +<br>9.4c                                                                                                                                                                                                                                                                                                                     | 5.5c each +<br>8.3c                                                                                                                                                                                                                                                                                                                   | 4.5c each +<br>7.1c                                                                                                                                                                                                                                                                                                                   | 4c each +<br>6c                                                                                                                                                                                                                                                                                                                   |
| 720.26                                           | 15c ad val.                                                                                                                                                                                                                                                                                                                            | 13.9c                                                                                                                                                                                                                                                                                                                                  | 12.8c                                                                                                                                                                                                                                                                                                                                  | 11.6c                                                                                                                                                                                                                                                                                                                                 | 10.5c                                                                                                                                                                                                                                                                                                                                 | 9.4c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7.1c                                                                                                                                                                                                                                                                                                                                  | 6c                                                                                                                                                                                                                                                                                                                                |
| 720.28                                           | 5c each +<br>10c ad val.                                                                                                                                                                                                                                                                                                               | 4.8c each +<br>9.8c                                                                                                                                                                                                                                                                                                                    | 4.7c each +<br>9.6c                                                                                                                                                                                                                                                                                                                    | 4.6c each +<br>9.4c                                                                                                                                                                                                                                                                                                                   | 4.5c each +<br>9.3c                                                                                                                                                                                                                                                                                                                   | 4.3c each +<br>9.1c                                                                                                                                                                                                                                                                                                                   | 4.2c each +<br>8.9c                                                                                                                                                                                                                                                                                                                   | 4.1c each +<br>8.7c                                                                                                                                                                                                                                                                                                                   | 4c each +<br>8.5c                                                                                                                                                                                                                                                                                                                 |
| 720.29                                           | 2.5c each +<br>1c ad val.                                                                                                                                                                                                                                                                                                              | 2.4c each +<br>9.8c                                                                                                                                                                                                                                                                                                                    | 2.3c each +<br>9.6c                                                                                                                                                                                                                                                                                                                    | 2.3c each +<br>9.4c                                                                                                                                                                                                                                                                                                                   | 2.2c each +<br>9.3c                                                                                                                                                                                                                                                                                                                   | 2.1c each +<br>9.1c                                                                                                                                                                                                                                                                                                                   | 2.1c each +<br>8.9c                                                                                                                                                                                                                                                                                                                   | 2c each +<br>8.7c                                                                                                                                                                                                                                                                                                                     | 2c each +<br>8.5c                                                                                                                                                                                                                                                                                                                 |
| 720.30                                           | 9.5c ad val.                                                                                                                                                                                                                                                                                                                           | 9.3c                                                                                                                                                                                                                                                                                                                                   | 9.2c                                                                                                                                                                                                                                                                                                                                   | 9c                                                                                                                                                                                                                                                                                                                                    | 8.8c                                                                                                                                                                                                                                                                                                                                  | 8.6c                                                                                                                                                                                                                                                                                                                                  | 8.5c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 8.1c                                                                                                                                                                                                                                                                                                                              |
| 720.32                                           | 18.5c ad val.                                                                                                                                                                                                                                                                                                                          | 17.1c                                                                                                                                                                                                                                                                                                                                  | 15.7c                                                                                                                                                                                                                                                                                                                                  | 14.3c                                                                                                                                                                                                                                                                                                                                 | 13c                                                                                                                                                                                                                                                                                                                                   | 11.6c                                                                                                                                                                                                                                                                                                                                 | 10.2c                                                                                                                                                                                                                                                                                                                                 | 8.8c                                                                                                                                                                                                                                                                                                                                  | 7.4c                                                                                                                                                                                                                                                                                                                              |
| 720.33                                           | 10c ad val.                                                                                                                                                                                                                                                                                                                            | 9.3c                                                                                                                                                                                                                                                                                                                                   | 8.5c                                                                                                                                                                                                                                                                                                                                   | 7.8c                                                                                                                                                                                                                                                                                                                                  | 7c                                                                                                                                                                                                                                                                                                                                    | 6.3c                                                                                                                                                                                                                                                                                                                                  | 5.5c                                                                                                                                                                                                                                                                                                                                  | 4.8c                                                                                                                                                                                                                                                                                                                                  | 4c                                                                                                                                                                                                                                                                                                                                |
| 720.34                                           | 11.5c ad val.                                                                                                                                                                                                                                                                                                                          | 12.7c                                                                                                                                                                                                                                                                                                                                  | 11.9c                                                                                                                                                                                                                                                                                                                                  | 11c                                                                                                                                                                                                                                                                                                                                   | 10.2c                                                                                                                                                                                                                                                                                                                                 | 9.4c                                                                                                                                                                                                                                                                                                                                  | 8.6c                                                                                                                                                                                                                                                                                                                                  | 7.7c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                              |
| 720.36                                           | 15c ad val.                                                                                                                                                                                                                                                                                                                            | 13.9c                                                                                                                                                                                                                                                                                                                                  | 12.8c                                                                                                                                                                                                                                                                                                                                  | 11.6c                                                                                                                                                                                                                                                                                                                                 | 10.5c                                                                                                                                                                                                                                                                                                                                 | 9.4c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7.1c                                                                                                                                                                                                                                                                                                                                  | 6c                                                                                                                                                                                                                                                                                                                                |
| 720.40                                           | 1.2c each +<br>22.5c ad val.                                                                                                                                                                                                                                                                                                           | 1.1c each +<br>20.8c                                                                                                                                                                                                                                                                                                                   | 1c each +<br>19.1c                                                                                                                                                                                                                                                                                                                     | 0.9c each +<br>17.4c                                                                                                                                                                                                                                                                                                                  | 0.8c each +<br>15.8c                                                                                                                                                                                                                                                                                                                  | 0.7c each +<br>14.1c                                                                                                                                                                                                                                                                                                                  | 0.6c each +<br>12.4c                                                                                                                                                                                                                                                                                                                  | 0.5c each +<br>10.7c                                                                                                                                                                                                                                                                                                                  | 0.5c each +<br>9c                                                                                                                                                                                                                                                                                                                 |
| 720.42                                           | 12.5c ad val.                                                                                                                                                                                                                                                                                                                          | 11.8c                                                                                                                                                                                                                                                                                                                                  | 11c                                                                                                                                                                                                                                                                                                                                    | 10.3c                                                                                                                                                                                                                                                                                                                                 | 9.6c                                                                                                                                                                                                                                                                                                                                  | 8.8c                                                                                                                                                                                                                                                                                                                                  | 8.1c                                                                                                                                                                                                                                                                                                                                  | 7.3c                                                                                                                                                                                                                                                                                                                                  | 6.6c                                                                                                                                                                                                                                                                                                                              |
| 720.44                                           | 35c ad val.                                                                                                                                                                                                                                                                                                                            | 23.1c                                                                                                                                                                                                                                                                                                                                  | 21.3c                                                                                                                                                                                                                                                                                                                                  | 19.4c                                                                                                                                                                                                                                                                                                                                 | 17.5c                                                                                                                                                                                                                                                                                                                                 | 15.6c                                                                                                                                                                                                                                                                                                                                 | 13.8c                                                                                                                                                                                                                                                                                                                                 | 11.9c                                                                                                                                                                                                                                                                                                                                 | 10c                                                                                                                                                                                                                                                                                                                               |
| 720.46                                           | 5c ad val.                                                                                                                                                                                                                                                                                                                             | 4.7c                                                                                                                                                                                                                                                                                                                                   | 3.8c                                                                                                                                                                                                                                                                                                                                   | 3.1c                                                                                                                                                                                                                                                                                                                                  | 2.5c                                                                                                                                                                                                                                                                                                                                  | 1.9c                                                                                                                                                                                                                                                                                                                                  | 1.3c                                                                                                                                                                                                                                                                                                                                  | 0.6c                                                                                                                                                                                                                                                                                                                                  | Free                                                                                                                                                                                                                                                                                                                              |
| 720.48                                           | 17.5c each<br>assembly                                                                                                                                                                                                                                                                                                                 | 16c each<br>assembly                                                                                                                                                                                                                                                                                                                   | 15c each<br>assembly                                                                                                                                                                                                                                                                                                                   | 13c each<br>assembly                                                                                                                                                                                                                                                                                                                  | 12c each<br>assembly                                                                                                                                                                                                                                                                                                                  | 11c each<br>assembly                                                                                                                                                                                                                                                                                                                  | 9c each<br>assembly                                                                                                                                                                                                                                                                                                                   | 8c each<br>assembly                                                                                                                                                                                                                                                                                                                   | 7c each<br>assembly                                                                                                                                                                                                                                                                                                               |
| 720.50                                           | 22.5c ad val.                                                                                                                                                                                                                                                                                                                          | 20.8c                                                                                                                                                                                                                                                                                                                                  | 19.1c                                                                                                                                                                                                                                                                                                                                  | 17.4c                                                                                                                                                                                                                                                                                                                                 | 15.7c                                                                                                                                                                                                                                                                                                                                 | 14.1c                                                                                                                                                                                                                                                                                                                                 | 12.4c                                                                                                                                                                                                                                                                                                                                 | 10.7c                                                                                                                                                                                                                                                                                                                                 | 9c                                                                                                                                                                                                                                                                                                                                |
| 720.60                                           | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>12.5c for<br>each jewel<br>(if any) +<br>2.5c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>11.5c for<br>each jewel<br>(if any) +<br>2.3c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>10.6c for<br>each jewel<br>(if any) +<br>2.1c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>9.6c for<br>each jewel<br>(if any) +<br>1.9c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>8.7c for<br>each jewel<br>(if any) +<br>1.7c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>7.8c for<br>each jewel<br>(if any) +<br>1.5c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>6.8c for<br>each jewel<br>(if any) +<br>1.3c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>5.9c for<br>each jewel<br>(if any) +<br>1.1c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>5c for<br>each jewel<br>(if any) +<br>1c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                                                                                                                                                                                                                                               | Rates of duty 1/, effective with respect to articles entered on and after January 1 --                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                                                                                                                                                                                                                                         | 1980                                                                                                                                                                                                                                                                                                                                  | 1981                                                                                                                                                                                                                                                                                                                                  | 1982                                                                                                                                                                                                                                                                                                                                | 1983                                                                                                                                                                                                                                                                                                                                  | 1984                                                                                                                                                                                                                                                                                                                                  | 1985                                                                                                                                                                                                                                                                                                                                  | 1986                                                                                                                                                                                                                                                                                                                                  | 1987                                                                                                                                                                                                                                                                                                                                  |
| Schedule 1, Part 2--Continued                    |                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                       |
| 720.82                                           | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>6.25c for<br>each jewel<br>(if any) +<br>1.25c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>5.7c for<br>each jewel<br>(if any) +<br>1.2c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>5.3c for<br>each jewel<br>(if any) +<br>1.1c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>4.8c for<br>each jewel<br>(if any) +<br>1c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>4.3c for<br>each jewel<br>(if any) +<br>0.9c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>3.9c for<br>each jewel<br>(if any) +<br>0.8c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>3.4c for<br>each jewel<br>(if any) +<br>0.7c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>2.9c for<br>each jewel<br>(if any) +<br>0.6c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement | The column 1<br>rate speci-<br>fied in item<br>720.67 for<br>the plate or<br>plates +<br>2.5c for<br>each jewel<br>(if any) +<br>0.5c for<br>each other<br>part or<br>piece (if<br>any), but<br>the total<br>duty on the<br>assembly or<br>subassembly<br>shall not<br>exceed the<br>column 1<br>duty for the<br>complete<br>movement |
| 720.84                                           | 32.5c ad val.<br>+ 12.5c for<br>each jewel<br>(if any) +<br>1.5c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                  | 30.1c +<br>11.5c for<br>each jewel<br>(if any) +<br>1.3c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                        | 27.6c +<br>10.6c for<br>each jewel<br>(if any) +<br>1.2c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                        | 25.2c +<br>9.6c for<br>each jewel<br>(if any) +<br>1.1c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                       | 22.8c +<br>8.7c for<br>each jewel<br>(if any) +<br>1c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                           | 20.3c +<br>7.8c for<br>each jewel<br>(if any) +<br>0.9c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                         | 17.9c +<br>6.8c for<br>each jewel<br>(if any) +<br>0.8c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                         | 15.4c +<br>5.9c for<br>each jewel<br>(if any) +<br>0.7c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                         | 13c +<br>5c for<br>each jewel<br>(if any) +<br>0.6c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                             |
| 720.86                                           | 16c ad val. +<br>6.25c for<br>each jewel<br>(if any) +<br>0.75c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                   | 14.8c + 5.7c<br>for each<br>jewel<br>(if any) +<br>0.69c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                        | 13.6c + 5.3c<br>for each<br>jewel<br>(if any) +<br>0.63c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                        | 12.4c + 4.8c<br>for each<br>jewel<br>(if any) +<br>0.58c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                      | 11.2c + 4.3c<br>for each<br>jewel<br>(if any) +<br>0.52c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                        | 10c + 3.9c<br>for each<br>jewel<br>(if any) +<br>0.47c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                          | 8.8c + 3.4c<br>for each<br>jewel<br>(if any) +<br>0.41c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                         | 7.6c + 2.9c<br>for each<br>jewel<br>(if any) +<br>0.35c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                         | 6.4c + 2.5c<br>for each<br>jewel<br>(if any) +<br>0.3c for<br>each other<br>piece or<br>part                                                                                                                                                                                                                                          |
| 720.90                                           | 27.5c ad val.                                                                                                                                                                                                                                                                                                                           | 25.4c                                                                                                                                                                                                                                                                                                                                 | 23.4c                                                                                                                                                                                                                                                                                                                                 | 21.3c                                                                                                                                                                                                                                                                                                                               | 19.3c                                                                                                                                                                                                                                                                                                                                 | 17.2c                                                                                                                                                                                                                                                                                                                                 | 15.1c                                                                                                                                                                                                                                                                                                                                 | 13.1c                                                                                                                                                                                                                                                                                                                                 | 11c                                                                                                                                                                                                                                                                                                                                   |
| 720.92                                           | 25c ad val.                                                                                                                                                                                                                                                                                                                             | 23.1c                                                                                                                                                                                                                                                                                                                                 | 21.3c                                                                                                                                                                                                                                                                                                                                 | 19.4c                                                                                                                                                                                                                                                                                                                               | 17.5c                                                                                                                                                                                                                                                                                                                                 | 15.6c                                                                                                                                                                                                                                                                                                                                 | 13.8c                                                                                                                                                                                                                                                                                                                                 | 11.9c                                                                                                                                                                                                                                                                                                                                 | 10c                                                                                                                                                                                                                                                                                                                                   |
| 720.94                                           | 16c ad val.                                                                                                                                                                                                                                                                                                                             | 14.8c                                                                                                                                                                                                                                                                                                                                 | 13.6c                                                                                                                                                                                                                                                                                                                                 | 12.4c                                                                                                                                                                                                                                                                                                                               | 11.2c                                                                                                                                                                                                                                                                                                                                 | 10c                                                                                                                                                                                                                                                                                                                                   | 8.8c                                                                                                                                                                                                                                                                                                                                  | 7.6c                                                                                                                                                                                                                                                                                                                                  | 6.4c                                                                                                                                                                                                                                                                                                                                  |
| 721.05                                           | 22.5c ad val.                                                                                                                                                                                                                                                                                                                           | 20.8c                                                                                                                                                                                                                                                                                                                                 | 19.1c                                                                                                                                                                                                                                                                                                                                 | 17.4c                                                                                                                                                                                                                                                                                                                               | 15.8c                                                                                                                                                                                                                                                                                                                                 | 14.1c                                                                                                                                                                                                                                                                                                                                 | 12.4c                                                                                                                                                                                                                                                                                                                                 | 10.7c                                                                                                                                                                                                                                                                                                                                 | 9c                                                                                                                                                                                                                                                                                                                                    |
| 721.10                                           | 6c ad val.                                                                                                                                                                                                                                                                                                                              | 5.6c                                                                                                                                                                                                                                                                                                                                  | 5.1c                                                                                                                                                                                                                                                                                                                                  | 4.7c                                                                                                                                                                                                                                                                                                                                | 4.2c                                                                                                                                                                                                                                                                                                                                  | 3.8c                                                                                                                                                                                                                                                                                                                                  | 3.3c                                                                                                                                                                                                                                                                                                                                  | 2.9c                                                                                                                                                                                                                                                                                                                                  | 2.4c                                                                                                                                                                                                                                                                                                                                  |
| 721.12                                           | 11c ad val.                                                                                                                                                                                                                                                                                                                             | 10.2c                                                                                                                                                                                                                                                                                                                                 | 9.4c                                                                                                                                                                                                                                                                                                                                  | 8.5c                                                                                                                                                                                                                                                                                                                                | 7.7c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.1c                                                                                                                                                                                                                                                                                                                                  | 5.2c                                                                                                                                                                                                                                                                                                                                  | 4.4c                                                                                                                                                                                                                                                                                                                                  |
| 722.02                                           | 12c ad val.                                                                                                                                                                                                                                                                                                                             | 11.1c                                                                                                                                                                                                                                                                                                                                 | 10.1c                                                                                                                                                                                                                                                                                                                                 | 9.2c                                                                                                                                                                                                                                                                                                                                | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7.3c                                                                                                                                                                                                                                                                                                                                  | 6.4c                                                                                                                                                                                                                                                                                                                                  | 5.4c                                                                                                                                                                                                                                                                                                                                  | 4.5c                                                                                                                                                                                                                                                                                                                                  |
| 722.04                                           | 6c ad val.                                                                                                                                                                                                                                                                                                                              | 5.8c                                                                                                                                                                                                                                                                                                                                  | 5.6c                                                                                                                                                                                                                                                                                                                                  | 5.4c                                                                                                                                                                                                                                                                                                                                | 5.3c                                                                                                                                                                                                                                                                                                                                  | 5.1c                                                                                                                                                                                                                                                                                                                                  | 4.9c                                                                                                                                                                                                                                                                                                                                  | 4.7c                                                                                                                                                                                                                                                                                                                                  | 4.5c                                                                                                                                                                                                                                                                                                                                  |
| 722.10                                           | 12.5c ad val.                                                                                                                                                                                                                                                                                                                           | 11.6c                                                                                                                                                                                                                                                                                                                                 | 10.6c                                                                                                                                                                                                                                                                                                                                 | 9.7c                                                                                                                                                                                                                                                                                                                                | 8.7c                                                                                                                                                                                                                                                                                                                                  | 7.8c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 5.9c                                                                                                                                                                                                                                                                                                                                  | 5c                                                                                                                                                                                                                                                                                                                                    |
| 722.12                                           | 10c ad val.                                                                                                                                                                                                                                                                                                                             | 9.3c                                                                                                                                                                                                                                                                                                                                  | 8.5c                                                                                                                                                                                                                                                                                                                                  | 7.8c                                                                                                                                                                                                                                                                                                                                | 7c                                                                                                                                                                                                                                                                                                                                    | 6.3c                                                                                                                                                                                                                                                                                                                                  | 5.5c                                                                                                                                                                                                                                                                                                                                  | 4.8c                                                                                                                                                                                                                                                                                                                                  | 4c                                                                                                                                                                                                                                                                                                                                    |
| 722.14                                           | 17c ad val.                                                                                                                                                                                                                                                                                                                             | 15.7c                                                                                                                                                                                                                                                                                                                                 | 14.5c                                                                                                                                                                                                                                                                                                                                 | 13.2c                                                                                                                                                                                                                                                                                                                               | 11.9c                                                                                                                                                                                                                                                                                                                                 | 10.6c                                                                                                                                                                                                                                                                                                                                 | 9.4c                                                                                                                                                                                                                                                                                                                                  | 8.1c                                                                                                                                                                                                                                                                                                                                  | 6.8c                                                                                                                                                                                                                                                                                                                                  |
| 722.16                                           | 7.5c ad val.                                                                                                                                                                                                                                                                                                                            | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.4c                                                                                                                                                                                                                                                                                                                                  | 5.8c                                                                                                                                                                                                                                                                                                                                | 5.3c                                                                                                                                                                                                                                                                                                                                  | 4.7c                                                                                                                                                                                                                                                                                                                                  | 4.1c                                                                                                                                                                                                                                                                                                                                  | 3.6c                                                                                                                                                                                                                                                                                                                                  | 3c                                                                                                                                                                                                                                                                                                                                    |
| 722.18                                           | 7.5c ad val.                                                                                                                                                                                                                                                                                                                            | 7.2c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.5c                                                                                                                                                                                                                                                                                                                                | 6.2c                                                                                                                                                                                                                                                                                                                                  | 5.9c                                                                                                                                                                                                                                                                                                                                  | 5.6c                                                                                                                                                                                                                                                                                                                                  | 5.2c                                                                                                                                                                                                                                                                                                                                  | 4.9c                                                                                                                                                                                                                                                                                                                                  |
| 722.20                                           | 12.5c ad val.                                                                                                                                                                                                                                                                                                                           | 11.6c                                                                                                                                                                                                                                                                                                                                 | 10.6c                                                                                                                                                                                                                                                                                                                                 | 9.7c                                                                                                                                                                                                                                                                                                                                | 8.8c                                                                                                                                                                                                                                                                                                                                  | 7.8c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 5.9c                                                                                                                                                                                                                                                                                                                                  | 5c                                                                                                                                                                                                                                                                                                                                    |
| 722.32                                           | 7.5c ad val.                                                                                                                                                                                                                                                                                                                            | 7.2c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.5c                                                                                                                                                                                                                                                                                                                                | 6.2c                                                                                                                                                                                                                                                                                                                                  | 5.9c                                                                                                                                                                                                                                                                                                                                  | 5.6c                                                                                                                                                                                                                                                                                                                                  | 5.2c                                                                                                                                                                                                                                                                                                                                  | 4.9c                                                                                                                                                                                                                                                                                                                                  |
| 722.34                                           | 10c ad val.                                                                                                                                                                                                                                                                                                                             | 9.5c                                                                                                                                                                                                                                                                                                                                  | 9c                                                                                                                                                                                                                                                                                                                                    | 8.4c                                                                                                                                                                                                                                                                                                                                | 7.9c                                                                                                                                                                                                                                                                                                                                  | 7.4c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.3c                                                                                                                                                                                                                                                                                                                                  | 5.8c                                                                                                                                                                                                                                                                                                                                  |
| 722.40                                           | 17.5c ad val.                                                                                                                                                                                                                                                                                                                           | 17.5c                                                                                                                                                                                                                                                                                                                                 | 17.5c                                                                                                                                                                                                                                                                                                                                 | 15.8c                                                                                                                                                                                                                                                                                                                               | 14c                                                                                                                                                                                                                                                                                                                                   | 12.3c                                                                                                                                                                                                                                                                                                                                 | 10.5c                                                                                                                                                                                                                                                                                                                                 | 8.8c                                                                                                                                                                                                                                                                                                                                  | 7c                                                                                                                                                                                                                                                                                                                                    |
| 722.42                                           | 5.5c ad val.                                                                                                                                                                                                                                                                                                                            | 5.1c                                                                                                                                                                                                                                                                                                                                  | 4.7c                                                                                                                                                                                                                                                                                                                                  | 4.3c                                                                                                                                                                                                                                                                                                                                | 3.9c                                                                                                                                                                                                                                                                                                                                  | 3.4c                                                                                                                                                                                                                                                                                                                                  | 2.9c                                                                                                                                                                                                                                                                                                                                  | 2.6c                                                                                                                                                                                                                                                                                                                                  | 2c                                                                                                                                                                                                                                                                                                                                    |
| 722.44                                           | 17.5c ad val.                                                                                                                                                                                                                                                                                                                           | 16.2c                                                                                                                                                                                                                                                                                                                                 | 14.9c                                                                                                                                                                                                                                                                                                                                 | 13.6c                                                                                                                                                                                                                                                                                                                               | 12.3c                                                                                                                                                                                                                                                                                                                                 | 10.9c                                                                                                                                                                                                                                                                                                                                 | 9.6c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7c                                                                                                                                                                                                                                                                                                                                    |
| 722.46                                           | 17.5c ad val.                                                                                                                                                                                                                                                                                                                           | 16.2c                                                                                                                                                                                                                                                                                                                                 | 14.9c                                                                                                                                                                                                                                                                                                                                 | 13.6c                                                                                                                                                                                                                                                                                                                               | 12.3c                                                                                                                                                                                                                                                                                                                                 | 10.9c                                                                                                                                                                                                                                                                                                                                 | 9.6c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7c                                                                                                                                                                                                                                                                                                                                    |
| 722.50                                           | 17.5c ad val.                                                                                                                                                                                                                                                                                                                           | 16.2c                                                                                                                                                                                                                                                                                                                                 | 14.9c                                                                                                                                                                                                                                                                                                                                 | 13.6c                                                                                                                                                                                                                                                                                                                               | 12.3c                                                                                                                                                                                                                                                                                                                                 | 10.9c                                                                                                                                                                                                                                                                                                                                 | 9.6c                                                                                                                                                                                                                                                                                                                                  | 8.3c                                                                                                                                                                                                                                                                                                                                  | 7c                                                                                                                                                                                                                                                                                                                                    |
| 722.52                                           | 17.5c ad val.                                                                                                                                                                                                                                                                                                                           | 16.3c                                                                                                                                                                                                                                                                                                                                 | 15.1c                                                                                                                                                                                                                                                                                                                                 | 13.9c                                                                                                                                                                                                                                                                                                                               | 12.7c                                                                                                                                                                                                                                                                                                                                 | 11.4c                                                                                                                                                                                                                                                                                                                                 | 10.2c                                                                                                                                                                                                                                                                                                                                 | 9c                                                                                                                                                                                                                                                                                                                                    | 7.8c                                                                                                                                                                                                                                                                                                                                  |
| 722.55                                           | 22.5c ad val.                                                                                                                                                                                                                                                                                                                           | 22.5c                                                                                                                                                                                                                                                                                                                                 | 22.5c                                                                                                                                                                                                                                                                                                                                 | 20.3c                                                                                                                                                                                                                                                                                                                               | 18c                                                                                                                                                                                                                                                                                                                                   | 15.8c                                                                                                                                                                                                                                                                                                                                 | 13.5c                                                                                                                                                                                                                                                                                                                                 | 11.3c                                                                                                                                                                                                                                                                                                                                 | 9c                                                                                                                                                                                                                                                                                                                                    |
| 722.56                                           | 7c ad val.                                                                                                                                                                                                                                                                                                                              | 6.7c                                                                                                                                                                                                                                                                                                                                  | 6.4c                                                                                                                                                                                                                                                                                                                                  | 6.1c                                                                                                                                                                                                                                                                                                                                | 5.9c                                                                                                                                                                                                                                                                                                                                  | 5.6c                                                                                                                                                                                                                                                                                                                                  | 5.3c                                                                                                                                                                                                                                                                                                                                  | 5c                                                                                                                                                                                                                                                                                                                                    | 4.7c                                                                                                                                                                                                                                                                                                                                  |
| 722.60                                           | 9.5c ad val.                                                                                                                                                                                                                                                                                                                            | 9c                                                                                                                                                                                                                                                                                                                                    | 8.6c                                                                                                                                                                                                                                                                                                                                  | 8.1c                                                                                                                                                                                                                                                                                                                                | 7.6c                                                                                                                                                                                                                                                                                                                                  | 7.1c                                                                                                                                                                                                                                                                                                                                  | 6.7c                                                                                                                                                                                                                                                                                                                                  | 6.2c                                                                                                                                                                                                                                                                                                                                  | 5.7c                                                                                                                                                                                                                                                                                                                                  |
| 722.64                                           | 10c ad val.                                                                                                                                                                                                                                                                                                                             | 9.5c                                                                                                                                                                                                                                                                                                                                  | 9c                                                                                                                                                                                                                                                                                                                                    | 8.4c                                                                                                                                                                                                                                                                                                                                | 7.9c                                                                                                                                                                                                                                                                                                                                  | 7.4c                                                                                                                                                                                                                                                                                                                                  | 6.9c                                                                                                                                                                                                                                                                                                                                  | 6.3c                                                                                                                                                                                                                                                                                                                                  | 5.8c                                                                                                                                                                                                                                                                                                                                  |
| 722.70                                           | 10c ad val.                                                                                                                                                                                                                                                                                                                             | 9.3c                                                                                                                                                                                                                                                                                                                                  | 8.5c                                                                                                                                                                                                                                                                                                                                  | 7.8c                                                                                                                                                                                                                                                                                                                                | 7c                                                                                                                                                                                                                                                                                                                                    | 6.3c                                                                                                                                                                                                                                                                                                                                  | 5.5c                                                                                                                                                                                                                                                                                                                                  | 4.8c                                                                                                                                                                                                                                                                                                                                  | 4c                                                                                                                                                                                                                                                                                                                                    |
| 722.72                                           | 5.5c ad val.                                                                                                                                                                                                                                                                                                                            | 5.1c                                                                                                                                                                                                                                                                                                                                  | 5.1c                                                                                                                                                                                                                                                                                                                                  | 4.9c                                                                                                                                                                                                                                                                                                                                | 4.7c                                                                                                                                                                                                                                                                                                                                  | 4.5c                                                                                                                                                                                                                                                                                                                                  | 4.3c                                                                                                                                                                                                                                                                                                                                  | 4.1c                                                                                                                                                                                                                                                                                                                                  | 3.9c                                                                                                                                                                                                                                                                                                                                  |

1/ The symbol "2" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.—Continued

| Item in TSUS as modified by Annex II |                                     | Rates of duty $\frac{1}{2}$ , effective with respect to articles entered on and after January 1 -- |                                   |                                   |                                   |                                   |                                   |                                   |                                   |  |
|--------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|--|
| Rate from which staged               |                                     | 1980                                                                                               | 1981                              | 1982                              | 1983                              | 1984                              | 1985                              | 1986                              | 1987                              |  |
| Schedule 7, Part 2--Continued        |                                     |                                                                                                    |                                   |                                   |                                   |                                   |                                   |                                   |                                   |  |
| 722.75                               | 4.5% ad val.                        | 4.4%                                                                                               | 4.2%                              | 4.1%                              | 4%                                | 3.8%                              | 3.7%                              | 3.5%                              | 3.4%                              |  |
| 722.78                               | 12.5% ad val.                       | 11.6%                                                                                              | 10.6%                             | 9.7%                              | 8.8%                              | 7.8%                              | 6.9%                              | 5.9%                              | 5%                                |  |
| 722.80                               | 9.5% ad val.                        | 9%                                                                                                 | 8.6%                              | 8.1%                              | 7.6%                              | 7.1%                              | 6.7%                              | 6.2%                              | 5.7%                              |  |
| 722.82                               | 9.5% ad val.                        | 8.8%                                                                                               | 8.1%                              | 7.4%                              | 6.7%                              | 5.9%                              | 5.2%                              | 4.5%                              | 3.8%                              |  |
| 722.83                               | 4% ad val.                          | 3.9%                                                                                               | 3.7%                              | 3.4%                              | 3.2%                              | 3.4%                              | 3.3%                              | 3.1%                              | 3.1%                              |  |
| 722.85                               | 13.5% ad val.                       | 12.7%                                                                                              | 11.9%                             | 11%                               | 10.2%                             | 9.4%                              | 8.6%                              | 7.7%                              | 6.9%                              |  |
| 722.86                               | 5.5% ad val.                        | 5.1%                                                                                               | 4.7%                              | 4.3%                              | 3.9%                              | 3.4%                              | 3%                                | 2.6%                              | 2.2%                              |  |
| 722.88                               | 10c per lb. + 8.5% ad val.          | 9.3c/lb. + 8%                                                                                      | 8.7c/lb. + 7.5%                   | 8.1c/lb. + 7%                     | 7.5c/lb. + 6.5%                   | 6.8c/lb. + 6%                     | 6.2c/lb. + 5.5%                   | 5.6c/lb. + 5%                     | 5c/lb. + 4.5%                     |  |
| 722.90                               | 9.5% ad val.                        | 8.8%                                                                                               | 8.1%                              | 7.4%                              | 6.7%                              | 5.9%                              | 5.2%                              | 4.5%                              | 3.8%                              |  |
| 722.92                               | 9.5% ad val.                        | 8.8%                                                                                               | 8.1%                              | 7.4%                              | 6.7%                              | 5.9%                              | 5.2%                              | 4.5%                              | 3.8%                              |  |
| 722.94                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 722.96                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 723.05                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 723.10                               | 0.05c per 16.5 sq. in.              | 0.04c/16.5 sq. in.                                                                                 | 0.04c/16.5 sq. in.                | 0.03c/16.5 sq. in.                | 0.02c/16.5 sq. in.                | 0.02c/16.5 sq. in.                | 0.01c/16.5 sq. in.                | Free                              | Free                              |  |
| 723.15                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 723.20                               | 7.5% ad val.                        | 6.9%                                                                                               | 6.4%                              | 5.8%                              | 5.3%                              | 4.7%                              | 4.1%                              | 3.6%                              | 3%                                |  |
| 723.25                               | 7.5% ad val.                        | 7.2%                                                                                               | 6.9%                              | 6.5%                              | 6.2%                              | 5.9%                              | 5.6%                              | 5.2%                              | 4.9%                              |  |
| 723.30                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 723.32                               | 4% ad val.                          | 3.9%                                                                                               | 3.8%                              | 3.7%                              | 3.6%                              | 3.4%                              | 3.3%                              | 3.2%                              | 3.1%                              |  |
| 723.35                               | 3.5% ad val.                        | 3.4%                                                                                               | 3.3%                              | 3.2%                              | 3.1%                              | 3.1%                              | 3%                                | 2.9%                              | 2.8%                              |  |
| 724.10                               | 0.48c per lin. ft.                  | 0.42c/lin. ft.                                                                                     | 0.36c/lin. ft.                    | 0.30c/lin. ft.                    | 0.24c/lin. ft.                    | 0.18c/lin. ft.                    | 0.12c/lin. ft.                    | 0.06c/lin. ft.                    | Free                              |  |
| 724.12                               | 0.4c per lin. ft.                   | 0.37c/lin. ft.                                                                                     | 0.33c/lin. ft.                    | 0.29c/lin. ft.                    | 0.25c/lin. ft.                    | 0.21c/lin. ft.                    | 0.17c/lin. ft.                    | 0.13c/lin. ft.                    | 0.2c/lin. ft.                     |  |
| 724.20                               | 0.5c per lin. ft.                   | 0.46c/lin. ft.                                                                                     | 0.42c/lin. ft.                    | 0.39c/lin. ft.                    | 0.35c/lin. ft.                    | 0.31c/lin. ft.                    | 0.27c/lin. ft.                    | 0.24c/lin. ft.                    | 0.2c/lin. ft.                     |  |
| 724.25                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 724.35                               | 0.4c per lin. ft.                   | 0.37c/lin. ft.                                                                                     | 0.33c/lin. ft.                    | 0.29c/lin. ft.                    | 0.25c/lin. ft.                    | 0.21c/lin. ft.                    | 0.17c/lin. ft.                    | 0.13c/lin. ft.                    | 0.2c/lin. ft.                     |  |
| 724.40                               | 1c per sq. ft. of recording surface | 1c/sq. ft. of recording surface                                                                    | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface | 0.9c/sq. ft. of recording surface |  |
| 724.45                               | 6% ad val.                          | 5.8%                                                                                               | 5.6%                              | 5.3%                              | 5.1%                              | 4.9%                              | 4.7%                              | 4.4%                              | 4.2%                              |  |
| Schedule 7, Part 3                   |                                     |                                                                                                    |                                   |                                   |                                   |                                   |                                   |                                   |                                   |  |
| 725.01                               | 8.5% ad val.                        | 8.1%                                                                                               | 7.7%                              | 7.3%                              | 6.9%                              | 6.5%                              | 6.1%                              | 5.7%                              | 5.3%                              |  |
| 725.03                               | 8.5% ad val.                        | 8.1%                                                                                               | 7.7%                              | 7.3%                              | 6.9%                              | 6.5%                              | 6.1%                              | 5.7%                              | 5.3%                              |  |
| 725.04                               | 25c each + 7% ad val.               | 21c each + 6.5%                                                                                    | 18c each + 6.2%                   | 15c each + 6%                     | 12c each + 5.7%                   | 9c each + 5.4%                    | 6c each + 5.2%                    | 3c each + 5%                      | 4.9%                              |  |
| 725.05                               | 17% ad val.                         | 15.7%                                                                                              | 14.5%                             | 13.2%                             | 11.9%                             | 10.6%                             | 9.4%                              | 8.1%                              | 6.8%                              |  |
| 725.07                               | 1% ad val.                          | 16.5%                                                                                              | 16%                               | 15.5%                             | 15%                               | 14.5%                             | 14%                               | 13.5%                             | 13%                               |  |
| 725.08                               | 17% ad val.                         | 15.8%                                                                                              | 14.5%                             | 13.3%                             | 12%                               | 10.8%                             | 9.5%                              | 8.3%                              | 7%                                |  |
| 725.10                               | 5% ad val.                          | 4%                                                                                                 | 3.8%                              | 3.6%                              | 3.4%                              | 3.2%                              | 3%                                | 2.8%                              | 2.6%                              |  |
| 725.12                               | 8.5% ad val.                        | 8.1%                                                                                               | 7.7%                              | 7.3%                              | 6.9%                              | 6.5%                              | 6.1%                              | 5.7%                              | 5.3%                              |  |
| 725.14                               | 7% ad val.                          | 6.7%                                                                                               | 6.4%                              | 6.1%                              | 5.8%                              | 5.6%                              | 5.3%                              | 5%                                | 4.7%                              |  |
| 725.16                               | 8% ad val.                          | 7.6%                                                                                               | 7.3%                              | 6.9%                              | 6.6%                              | 6.2%                              | 5.8%                              | 5.5%                              | 5.1%                              |  |
| 725.18                               | 7% ad val.                          | 6.7%                                                                                               | 6.4%                              | 6.1%                              | 5.8%                              | 5.6%                              | 5.3%                              | 5%                                | 4.7%                              |  |
| 725.20                               | 30% ad val.                         | 27%                                                                                                | 24%                               | 21%                               | 18%                               | 15%                               | 12%                               | 10%                               | 12%                               |  |
| 725.22                               | 10% ad val.                         | 9.5%                                                                                               | 9%                                | 8.4%                              | 7.9%                              | 7.4%                              | 6.9%                              | 6.3%                              | 5.8%                              |  |
| 725.24                               | 7.5% ad val.                        | 7.2%                                                                                               | 6.9%                              | 6.5%                              | 6.2%                              | 5.9%                              | 5.6%                              | 5.2%                              | 4.9%                              |  |
| 725.26                               | 8.5% ad val.                        | 7.9%                                                                                               | 7.2%                              | 6.6%                              | 6%                                | 5.3%                              | 4.7%                              | 4%                                | 3.4%                              |  |
| 725.30                               | 5% ad val.                          | 4.4%                                                                                               | 3.8%                              | 3.1%                              | 2.5%                              | 1.9%                              | 1.3%                              | 0.6%                              | Free                              |  |
| 725.32                               | 8.5% ad val.                        | 8.1%                                                                                               | 7.7%                              | 7.3%                              | 6.9%                              | 6.5%                              | 6.1%                              | 5.7%                              | 5.3%                              |  |
| 725.34                               | 5% ad val.                          | 4.8%                                                                                               | 4.7%                              | 4.5%                              | 4.4%                              | 4.2%                              | 4%                                | 3.9%                              | 3.7%                              |  |
| 725.36                               | 7% ad val.                          | 6.5%                                                                                               | 6%                                | 5.4%                              | 4.9%                              | 4.4%                              | 3.9%                              | 3.4%                              | 2.8%                              |  |
| 725.38                               | 3% ad val.                          | 2.6%                                                                                               | 2.3%                              | 1.9%                              | 1.5%                              | 1.1%                              | 0.8%                              | 0.4%                              | Free                              |  |
| 725.40                               | 8.5% ad val.                        | 8.1%                                                                                               | 7.7%                              | 7.3%                              | 6.9%                              | 6.5%                              | 6.1%                              | 5.7%                              | 5.3%                              |  |
| 725.46                               | 17% ad val.                         | 15.7%                                                                                              | 14.5%                             | 13.2%                             | 11.9%                             | 10.6%                             | 9.4%                              | 8.1%                              | 6.8%                              |  |
| 725.47                               | 17% ad val.                         | 15.7%                                                                                              | 14.5%                             | 13.2%                             | 11.9%                             | 10.6%                             | 9.4%                              | 8.1%                              | 6.8%                              |  |
| 725.50                               | 8% ad val.                          | 7.4%                                                                                               | 6.8%                              | 6.2%                              | 5.6%                              | 5%                                | 4.4%                              | 3.8%                              | 3.2%                              |  |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.—Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged            | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                         |                         |                         |                         |                         |                         |                         |
|--------------------------------------------------|--------------------------------------|----------------------------------------------------------------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
|                                                  |                                      | 1980                                                                                   | 1981                    | 1982                    | 1983                    | 1984                    | 1985                    | 1986                    | 1987                    |
| Schedule 7, Part 3--Continued                    |                                      |                                                                                        |                         |                         |                         |                         |                         |                         |                         |
| 725.52                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 726.10                                           | 7% ad val.                           | 6.7%                                                                                   | 6.4%                    | 6.1%                    | 5.8%                    | 5.6%                    | 5.3%                    | 5%                      | 4.7%                    |
| 726.15                                           | 6% ad val.                           | 5.8%                                                                                   | 5.6%                    | 5.3%                    | 5.1%                    | 4.9%                    | 4.7%                    | 4.4%                    | 4.2%                    |
| 726.20                                           | 20% ad val.                          | 18.5%                                                                                  | 17.1%                   | 15.6%                   | 14.1%                   | 12.6%                   | 11.2%                   | 9.7%                    | 8.2%                    |
| 726.25                                           | 9.5% ad val.                         | 9%                                                                                     | 8.6%                    | 8.1%                    | 7.6%                    | 7.1%                    | 6.7%                    | 6.2%                    | 5.7%                    |
| 726.40                                           | 7% ad val.                           | 6.7%                                                                                   | 6.4%                    | 6.1%                    | 5.8%                    | 5.6%                    | 5.3%                    | 5%                      | 4.7%                    |
| 726.45                                           | 17c per 1000<br>pins + 6%<br>ad val. | 16c/1000<br>pins + 5.7%                                                                | 15c/1000<br>pins + 5.4% | 14c/1000<br>pins + 5.1% | 13c/1000<br>pins + 4.8% | 12c/1000<br>pins + 4.4% | 11c/1000<br>pins + 4.1% | 10c/1000<br>pins + 3.8% | 10c/1000<br>pins + 3.5% |
| 726.50                                           | 7% ad val.                           | 6.6%                                                                                   | 6.3%                    | 5.9%                    | 5.5%                    | 5.1%                    | 4.8%                    | 4.4%                    | 4%                      |
| 726.52                                           | 8% ad val.                           | 7.6%                                                                                   | 7.1%                    | 6.7%                    | 6.2%                    | 5.8%                    | 5.3%                    | 4.9%                    | 4.4%                    |
| 726.55                                           | 17% ad val.                          | 15.7%                                                                                  | 14.4%                   | 13.1%                   | 11.8%                   | 10.5%                   | 9.2%                    | 7.9%                    | 6.6%                    |
| 726.60                                           | 6% ad val.                           | 5.8%                                                                                   | 5.6%                    | 5.3%                    | 5.1%                    | 4.9%                    | 4.7%                    | 4.4%                    | 4.2%                    |
| 726.62                                           | 5% ad val.                           | 4.8%                                                                                   | 4.6%                    | 4.3%                    | 4.1%                    | 3.9%                    | 3.7%                    | 3.4%                    | 3.2%                    |
| 726.63                                           | 7% ad val.                           | 6.6%                                                                                   | 6.3%                    | 5.9%                    | 5.5%                    | 5.1%                    | 4.8%                    | 4.4%                    | 4%                      |
| 726.65                                           | 10% ad val.                          | 9.4%                                                                                   | 8.8%                    | 8.1%                    | 7.5%                    | 6.9%                    | 6.3%                    | 5.6%                    | 5.2%                    |
| 726.70                                           | 7.5% ad val.                         | 7.2%                                                                                   | 6.9%                    | 6.5%                    | 6.2%                    | 5.9%                    | 5.6%                    | 5.2%                    | 4.9%                    |
| 726.75                                           | 8% ad val.                           | 7.4%                                                                                   | 6.8%                    | 6.2%                    | 5.6%                    | 5%                      | 4.4%                    | 3.8%                    | 3.2%                    |
| 726.85                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 726.90                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| Schedule 7, Part 4                               |                                      |                                                                                        |                         |                         |                         |                         |                         |                         |                         |
| 727.02                                           | 5.5% ad val.                         | 5.3%                                                                                   | 5.1%                    | 4.9%                    | 4.7%                    | 4.5%                    | 4.3%                    | 4.1%                    | 3.9%                    |
| 727.04                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 727.06                                           | 4% ad val.                           | 3.9%                                                                                   | 3.8%                    | 3.7%                    | 3.6%                    | 3.4%                    | 3.3%                    | 3.2%                    | 3.1%                    |
| 727.15                                           | 12.5% ad val.                        | 11.8%                                                                                  | 11%                     | 10.3%                   | 9.6%                    | 8.8%                    | 8.1%                    | 7.3%                    | 6.6%                    |
| 727.23                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 727.25                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 727.27                                           | 8.5% ad val.                         | 7.9%                                                                                   | 7.2%                    | 6.6%                    | 6%                      | 5.3%                    | 4.7%                    | 4%                      | 3.4%                    |
| 727.29                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 727.35                                           | 5% ad val.                           | 4.7%                                                                                   | 4.4%                    | 4.1%                    | 3.8%                    | 3.4%                    | 3.1%                    | 2.8%                    | 2.5%                    |
| 727.40                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 727.45                                           | 17.5% ad val.                        | 16.2%                                                                                  | 14.9%                   | 13.6%                   | 12.3%                   | 10.9%                   | 9.6%                    | 8.3%                    | 7%                      |
| 727.47                                           | 15% ad val.                          | 13.9%                                                                                  | 12.8%                   | 11.6%                   | 10.5%                   | 9.4%                    | 8.3%                    | 7.1%                    | 6%                      |
| 727.50                                           | 6% ad val.                           | 5%                                                                                     | 4.4%                    | 3.8%                    | 3.2%                    | 2.4%                    | 2.4%                    | 2.4%                    | 2.4%                    |
| 727.52                                           | 6% ad val.                           | 5.8%                                                                                   | 5.6%                    | 5.3%                    | 5.1%                    | 4.9%                    | 4.7%                    | 4.4%                    | 4.2%                    |
| 727.55                                           | 10% ad val.                          | 9.3%                                                                                   | 8.5%                    | 7.8%                    | 7%                      | 6.3%                    | 5.5%                    | 4.7%                    | 4%                      |
| 727.82                                           | 15% ad val.                          | 15%                                                                                    | 15%                     | 12%                     | 9%                      | 6%                      | 3%                      | 0%                      | 0%                      |
| 727.86                                           | 15% ad val.                          | 13.9%                                                                                  | 12.8%                   | 11.6%                   | 10.5%                   | 9.4%                    | 8.3%                    | 7.1%                    | 6%                      |
| 728.05                                           | 10.5% ad val.                        | 10.5%                                                                                  | 10.5%                   | 9.5%                    | 8.4%                    | 7.4%                    | 6.3%                    | 5.3%                    | 4.2%                    |
| 728.10                                           | 6% ad val.                           | 6%                                                                                     | 6%                      | 5.7%                    | 5.4%                    | 5.1%                    | 4.8%                    | 4.5%                    | 4.2%                    |
| 728.15                                           | 5% ad val.                           | 4.8%                                                                                   | 4.7%                    | 4.5%                    | 4.4%                    | 4.2%                    | 4%                      | 3.9%                    | 3.7%                    |
| 728.20                                           | 2.5c per lb.                         | 2.2c/lb.                                                                               | 1.9c/lb.                | 1.6c/lb.                | 1.3c/lb.                | 0.9c/lb.                | 0.6c/lb.                | 0.3c/lb.                | Free                    |
| Schedule 7, Part 5                               |                                      |                                                                                        |                         |                         |                         |                         |                         |                         |                         |
| 730.05                                           | 8.5% ad val.                         | 8.1%                                                                                   | 7.7%                    | 7.3%                    | 6.9%                    | 6.5%                    | 6.1%                    | 5.7%                    | 5.3%                    |
| 730.15                                           | \$1 each +<br>27.5% ad val.          | 94c each +<br>25.9%                                                                    | 88c each +<br>24.2%     | 82c each +<br>22.6%     | 76c each +<br>20.9%     | 70c each +<br>19.3%     | 64c each +<br>17.6%     | 58c each +<br>16%       | 52c each +<br>14.3%     |
| 730.17                                           | 67c each +<br>15% ad val.            | 61c each +<br>13.6%                                                                    | 55c each +<br>12.2%     | 49c each +<br>10.8%     | 43c each +<br>9.4%      | 37c each +<br>8%        | 31c each +<br>6.6%      | 27c each +<br>6%        | 27c each +<br>6%        |
| 730.19                                           | 70c each +<br>11% ad val.            | 64c each +<br>10.4%                                                                    | 59c each +<br>9.8%      | 53c each +<br>9.1%      | 48c each +<br>8.5%      | 43c each +<br>7.9%      | 37c each +<br>7.3%      | 32c each +<br>6.6%      | 27c each +<br>6%        |
| 730.23                                           | 19.5% ad val.                        | 18.1%                                                                                  | 16.7%                   | 15.2%                   | 13.8%                   | 12.4%                   | 11%                     | 9.5%                    | 8.1%                    |

1/ The symbol "1" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.  
 2/ For item 730.15, the rates of duty after 1987 will be as follows:  
 Effective with respect to articles entered on and after January 1, 1988—46c each + 12.6%.  
 Effective with respect to articles entered on and after January 1, 1989—40c each + 11%.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                    |                    |                  |                    |                    |                    |                  |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|--------------------|--------------------|------------------|--------------------|--------------------|--------------------|------------------|
|                                                  |                           | 1980                                                                                   | 1981               | 1982               | 1983             | 1984               | 1985               | 1986               | 1987             |
| Schedule 7, Part 5--Continued                    |                           |                                                                                        |                    |                    |                  |                    |                    |                    |                  |
| 710.25                                           | 22.7% ad val.             | 21%                                                                                    | 19.3%              | 17.6%              | 15.9%            | 14.2%              | 12.5%              | 10.8%              | 9.1%             |
| 710.27                                           | 15.7% ad val.             | 14.5%                                                                                  | 13.4%              | 12.2%              | 11%              | 9.8%               | 8.6%               | 7.5%               | 6.3%             |
| 710.29                                           | 18.2% ad val.             | 16.9%                                                                                  | 15.5%              | 14.2%              | 12.9%            | 11.5%              | 10.2%              | 8.8%               | 7.5%             |
| 710.31                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%               | 6.1%               | 5.9%             | 5.6%               | 5.3%               | 5%                 | 4.7%             |
| 710.37                                           | 25% ad val.               | 23.1%                                                                                  | 21.3%              | 19.4%              | 17.5%            | 15.6%              | 13.8%              | 11.9%              | 10%              |
| 710.39                                           | 20.8% ad val.             | 19.3%                                                                                  | 17.7%              | 16.2%              | 14.6%            | 13.1%              | 11.5%              | 10%                | 8.4%             |
| 710.41                                           | 13.2% ad val.             | 12.2%                                                                                  | 11.2%              | 10.2%              | 9.3%             | 8.3%               | 7.3%               | 6.3%               | 5.3%             |
| 710.43                                           | 8.2% ad val.              | 7.6%                                                                                   | 7%                 | 6.4%               | 5.8%             | 5.1%               | 4.5%               | 3.9%               | 3.3%             |
| 710.45                                           | 8% ad val.                | 7.6%                                                                                   | 7.3%               | 6.9%               | 6.6%             | 6.2%               | 5.8%               | 5.5%               | 5.1%             |
| 710.51                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%              | 11%                | 10.2%            | 9.4%               | 8.6%               | 7.7%               | 6.9%             |
| 710.53                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%              | 11%                | 10.2%            | 9.4%               | 8.6%               | 7.7%               | 6.9%             |
| 710.55                                           | 13.5% ad val.             | 12.7%                                                                                  | 11.9%              | 11%                | 10.2%            | 9.4%               | 8.6%               | 7.7%               | 6.9%             |
| 710.57                                           | 13.5% ad val.             | 12.5%                                                                                  | 11.5%              | 10.5%              | 9.5%             | 8.4%               | 7.4%               | 6.4%               | 5.4%             |
| 710.59                                           | 13.5% ad val.             | 12.5%                                                                                  | 11.5%              | 10.5%              | 9.5%             | 8.4%               | 7.4%               | 6.4%               | 5.4%             |
| 710.61                                           | 21% ad val.               | 19.4%                                                                                  | 17.9%              | 16.3%              | 14.7%            | 13.1%              | 11.6%              | 10%                | 8.4%             |
| 710.63                                           | 13.9% ad val.             | 13%                                                                                    | 12.2%              | 13.3%              | 10.4%            | 9.6%               | 8.7%               | 7.9%               | 7%               |
| 710.65                                           | 80c each +<br>10% ad val. | 74c each +<br>9.2%                                                                     | 68c each +<br>7.7% | 62c each +<br>7.7% | 56c each +<br>7% | 50c each +<br>6.2% | 44c each +<br>5.5% | 38c each +<br>4.7% | 32c each +<br>4% |
| 710.67                                           | 9% ad val.                | 8.3%                                                                                   | 7.8%               | 7%                 | 6.3%             | 5.6%               | 4.9%               | 4.3%               | 3.6%             |
| 710.71                                           | 7% ad val.                | 6.5%                                                                                   | 6%                 | 5.4%               | 4.9%             | 4.4%               | 3.9%               | 3.3%               | 2.8%             |
| 710.73                                           | 2.5% ad val.              | 2.5%                                                                                   | 2.4%               | 2.4%               | 2.3%             | 2.3%               | 2.2%               | 2.2%               | 2.1%             |
| 710.74                                           | 5.7% ad val.              | 5.3%                                                                                   | 4.9%               | 4.4%               | 4%               | 3.6%               | 3.2%               | 2.7%               | 2.3%             |
| 710.75                                           | 6% ad val.                | 5.6%                                                                                   | 5.1%               | 4.7%               | 4.2%             | 3.8%               | 3.3%               | 2.9%               | 2.4%             |
| 710.77                                           | 13.5% ad val.             | 12.5%                                                                                  | 11.5%              | 10.5%              | 9.5%             | 8.4%               | 7.4%               | 6.4%               | 5.4%             |
| 710.80                                           | 21% ad val.               | 19.5%                                                                                  | 17.9%              | 16.3%              | 14.8%            | 13.2%              | 11.6%              | 10%                | 8.4%             |
| 710.81                                           | 4.5% ad val.              | 4.4%                                                                                   | 4.2%               | 4.1%               | 4%               | 3.8%               | 3.7%               | 3.5%               | 3.4%             |
| 710.85                                           | 17.5% ad val.             | 16.3%                                                                                  | 15.1%              | 13.9%              | 12.7%            | 11.4%              | 10.2%              | 9%                 | 7.8%             |
| 710.86                                           | 4.5% ad val.              | 4.4%                                                                                   | 4.2%               | 4%                 | 3.8%             | 3.7%               | 3.5%               | 3.4%               | 3.2%             |
| 710.88                                           | 9.5% ad val.              | 9%                                                                                     | 8.4%               | 7.8%               | 7.2%             | 6.6%               | 6%                 | 5.4%               | 4.8%             |
| 710.90                                           | 12.5% ad val.             | 11.6%                                                                                  | 10.6%              | 9.7%               | 8.8%             | 7.8%               | 6.9%               | 5.9%               | 5%               |
| 710.91                                           | 6% ad val.                | 5.6%                                                                                   | 5.2%               | 5.3%               | 5.1%             | 4.9%               | 4.7%               | 4.4%               | 4.2%             |
| 710.94                                           | 8% ad val.                | 7.6%                                                                                   | 7.2%               | 6.8%               | 6.2%             | 5%                 | 4.4%               | 3.8%               | 3.2%             |
| 710.94                                           | 9% ad val.                | 8.3%                                                                                   | 7.7%               | 7%                 | 6.3%             | 5.6%               | 5%                 | 4.3%               | 3.6%             |
| 711.05                                           | 12.5% ad val.             | 9.5%                                                                                   | 8.5%               | 7.5%               | 6.5%             | 5%                 | 4%                 | 3%                 | 2%               |
| 711.06                                           | 15% ad val.               | 13.9%                                                                                  | 12.8%              | 11.6%              | 10.5%            | 9.4%               | 8.3%               | 7.1%               | 6%               |
| 711.10                                           | 12.5% ad val.             | 9.5%                                                                                   | 8.5%               | 7.5%               | 6.5%             | 5%                 | 4%                 | 3%                 | 2%               |
| 711.15                                           | 10.5% ad val.             | 15.4%                                                                                  | 14.3%              | 13.2%              | 12.1%            | 10.9%              | 9.8%               | 8.7%               | 7.6%             |
| 711.20                                           | 23% ad val.               | 21.3%                                                                                  | 19.6%              | 17.8%              | 16.1%            | 14.4%              | 12.7%              | 10.9%              | 9.2%             |
| 711.22                                           | 62.5c each                | 58c each                                                                               | 54c each           | 50c each           | 46c each         | 42c each           | 38c each           | 34c each           | 30c each         |
| 711.24                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%             | 5.9%               | 5.6%               | 5.2%               | 4.9%             |
| 711.26                                           | 13.5% ad val.             | 12.5%                                                                                  | 11.5%              | 10.5%              | 9.5%             | 8.4%               | 7.4%               | 6.4%               | 5.4%             |
| 711.30                                           | 17.5% ad val.             | 16.2%                                                                                  | 14.9%              | 13.6%              | 12.3%            | 10.9%              | 9.6%               | 8.3%               | 7%               |
| 711.40                                           | 10% ad val.               | 9.2%                                                                                   | 8.4%               | 7.6%               | 6.8%             | 6%                 | 5.2%               | 4.4%               | 3.6%             |
| 711.42                                           | 6.5% ad val.              | 6.2%                                                                                   | 5.7%               | 5.2%               | 4.7%             | 4.2%               | 3.7%               | 3.2%               | 2.7%             |
| 711.44                                           | 11.5% ad val.             | 12.5%                                                                                  | 11.5%              | 10.5%              | 9.5%             | 8.4%               | 7.4%               | 6.4%               | 5.4%             |
| 711.50                                           | 12.5% ad val.             | 11.6%                                                                                  | 10.6%              | 9.7%               | 8.8%             | 7.8%               | 6.9%               | 5.9%               | 5%               |
| 711.65                                           | 12.5% ad val.             | 12.1%                                                                                  | 11.6%              | 11.2%              | 10.8%            | 10.3%              | 9.9%               | 9.4%               | 9%               |
| 711.70                                           | 12.5% ad val.             | 12.1%                                                                                  | 11.6%              | 11.2%              | 10.8%            | 10.3%              | 9.9%               | 9.4%               | 9%               |
| 712.04                                           | 93.5c each                | 87c each                                                                               | 81c each           | 75c each           | 69c each         | 63c each           | 57c each           | 51c each           | 45c each         |
| 712.10                                           | \$1.50 each               | \$1.38 each                                                                            | \$1.27 each        | \$1.16 each        | \$1.05 each      | \$0.93 each        | \$0.82 each        | \$0.71 each        | \$0.60 each      |
| 712.16                                           | 9c each                   | 89c each                                                                               | 80c each           | 70c each           | 60c each         | 50c each           | 40c each           | 30c each           | 20c each         |
| 712.21                                           | 15% ad val.               | 14%                                                                                    | 13.1%              | 12.1%              | 11.1%            | 10.1%              | 9.2%               | 8.2%               | 7.2%             |
| 712.30                                           | 15% ad val.               | 14%                                                                                    | 13.1%              | 12.1%              | 11.1%            | 10.1%              | 9.2%               | 8.2%               | 7.2%             |
| 712.32                                           | 62.5c each                | 58c each                                                                               | 54c each           | 50c each           | 46c each         | 42c each           | 38c each           | 34c each           | 30c each         |
| 712.34                                           | 7.5% ad val.              | 7.2%                                                                                   | 6.9%               | 6.5%               | 6.2%             | 5.9%               | 5.6%               | 5.2%               | 4.9%             |
| 712.35                                           | 15% ad val.               | 13.9%                                                                                  | 12.8%              | 11.6%              | 10.5%            | 9.4%               | 8.3%               | 7.1%               | 6%               |
| 712.38                                           | 15% ad val.               | 13.9%                                                                                  | 12.8%              | 11.6%              | 10.5%            | 9.4%               | 8.3%               | 7.1%               | 6%               |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged   | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                     |                     |                     |                     |                     |                   |                     |
|--------------------------------------------------|-----------------------------|----------------------------------------------------------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|-------------------|---------------------|
|                                                  |                             | 1980                                                                                   | 1981                | 1982                | 1983                | 1984                | 1985                | 1986              | 1987                |
| Schedule 7, Part 5--Continued                    |                             |                                                                                        |                     |                     |                     |                     |                     |                   |                     |
| 732.41                                           | 15% ad val.                 | 13.9%                                                                                  | 12.8%               | 11.6%               | 10.5%               | 9.4%                | 8.3%                | 7.1%              | 6%                  |
| 732.42                                           | 15% ad val.                 | 15%                                                                                    | 14.2%               | 13.3%               | 12.5%               | 11.7%               | 10.8%               | 10%               | 9%                  |
| 732.43                                           | 17.5% ad val.               | 16.3%                                                                                  | 15.1%               | 13.9%               | 12.7%               | 11.4%               | 10.2%               | 9%                | 7.8%                |
| 732.50                                           | 4.5% ad val.                | 3.9%                                                                                   | 3.4%                | 2.8%                | 2.3%                | 1.7%                | 1.1%                | 0.6%              | Free                |
| 732.52                                           | 9% ad val.                  | 8.3%                                                                                   | 7.7%                | 7%                  | 6.3%                | 5.6%                | 5%                  | 4.3%              | 3.6%                |
| 732.60                                           | 7.5% ad val.                | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%              | 4.9%                |
| 732.62                                           | 6% ad val.                  | 5.6%                                                                                   | 5.1%                | 4.7%                | 4.2%                | 3.8%                | 3.3%                | 2.9%              | 2.4%                |
| 734.05                                           | 20% ad val.                 | 18.5%                                                                                  | 17.1%               | 15.6%               | 14.1%               | 12.6%               | 11.2%               | 9.7%              | 8.2%                |
| 734.10                                           | 8% ad val.                  | 5.1%                                                                                   | 5.1%                | 5.1%                | 5.1%                | 5.1%                | 5.1%                | 5.1%              | 5.1%                |
| 734.15                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                  | 8.4%                | 7.9%                | 7.4%                | 6.9%                | 6.3%              | 5.8%                |
| 734.20                                           | 5.5% ad val.                | 5.3%                                                                                   | 5.1%                | 4.9%                | 4.7%                | 4.5%                | 4.3%                | 4.1%              | 3.9%                |
| 734.25                                           | 2c per pack +<br>2% ad val. | 1.8c/pack +<br>1.9%                                                                    | 1.7c/pack +<br>1.7% | 1.5c/pack +<br>1.6% | 1.4c/pack +<br>1.4% | 1.2c/pack +<br>1.3% | 1.1c/pack +<br>1.1% | 0.9c/pack +<br>1% | 0.8c/pack +<br>0.8% |
| 734.30                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%                | 6.9%                | 6.6%                | 6.2%                | 5.8%                | 5.5%              | 5.1%                |
| 734.32                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                  | 8.4%                | 7.9%                | 7.4%                | 6.9%                | 6.3%              | 5.8%                |
| 734.34                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%                | 6.9%                | 6.6%                | 6.2%                | 5.8%                | 5.5%              | 5.1%                |
| 734.40                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%                | 6.9%                | 6.6%                | 6.2%                | 5.8%                | 5.5%              | 5.1%                |
| 734.42                                           | 9.5% ad val.                | 9.5%                                                                                   | 9.5%                | 8.6%                | 7.6%                | 6.7%                | 5.7%                | 4.8%              | 3.8%                |
| 734.45                                           | 8.5% ad val.                | 7.9%                                                                                   | 7.2%                | 6.6%                | 6%                  | 5.3%                | 4.7%                | 4%                | 3.4%                |
| 734.48                                           | 14% ad val.                 | 13%                                                                                    | 11.9%               | 10.9%               | 9.8%                | 8.8%                | 7.7%                | 6.7%              | 5.6%                |
| 734.51                                           | 14% ad val.                 | 11%                                                                                    | 8%                  | 5.6%                | 5.6%                | 5.6%                | 5.6%                | 5.6%              | 5.6%                |
| 734.56                                           | 7.5% ad val.                | 6.9%                                                                                   | 6.4%                | 5.8%                | 5.3%                | 4.7%                | 4.1%                | 3.6%              | 3%                  |
| 734.60                                           | 8% ad val.                  | 7.4%                                                                                   | 6.8%                | 6.2%                | 5.6%                | 5%                  | 4.4%                | 3.8%              | 3.2%                |
| 734.70                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%                | 3.1%                | 2.5%                | 1.9%                | 1.3%                | 0.6%              | Free                |
| 734.71                                           | 4% ad val.                  | 3.9%                                                                                   | 3.8%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.2%              | 3.1%                |
| 734.72                                           | 7.5% ad val.                | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%              | 4.9%                |
| 734.75                                           | 6% ad val.                  | 5.6%                                                                                   | 5.1%                | 4.7%                | 4.2%                | 3.8%                | 3.3%                | 2.9%              | 2.4%                |
| 734.77                                           | 7.5% ad val.                | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%              | 4.9%                |
| 734.80                                           | 4.5% ad val.                | 3.9%                                                                                   | 3.4%                | 2.8%                | 2.3%                | 1.7%                | 1.1%                | 0.6%              | Free                |
| 734.85                                           | 6% ad val.                  | 5.8%                                                                                   | 5.6%                | 5.3%                | 5.1%                | 4.9%                | 4.7%                | 4.4%              | 4.2%                |
| 734.86                                           | 5.5% ad val.                | 5.3%                                                                                   | 5.1%                | 4.9%                | 4.7%                | 4.5%                | 4.3%                | 4.1%              | 3.9%                |
| 734.87                                           | 8.5% ad val.                | 5.3%                                                                                   | 5.3%                | 5.3%                | 5.3%                | 5.3%                | 5.3%                | 5.3%              | 5.3%                |
| 734.88                                           | 4% ad val.                  | 3.9%                                                                                   | 3.8%                | 3.7%                | 3.6%                | 3.4%                | 3.3%                | 3.2%              | 3.1%                |
| 734.90                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%                | 3.1%                | 2.5%                | 1.9%                | 1.3%                | 0.6%              | Free                |
| 734.91                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                  | 8.4%                | 7.9%                | 7.4%                | 6.9%                | 6.3%              | 5.8%                |
| 734.93                                           | 5% ad val.                  | 4.6%                                                                                   | 4.3%                | 3.9%                | 3.5%                | 3.1%                | 2.8%                | 2.4%              | 2%                  |
| 734.95                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%                | 3.1%                | 2.5%                | 1.9%                | 1.3%                | 0.6%              | Free                |
| 735.01                                           | 8% ad val.                  | 7.4%                                                                                   | 6.9%                | 6.3%                | 5.8%                | 5.2%                | 4.6%                | 4.1%              | 3.5%                |
| 735.02                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%                | 6.9%                | 6.6%                | 6.2%                | 5.8%                | 5.5%              | 5.1%                |
| 735.04                                           | 9% ad val.                  | 8.3%                                                                                   | 7.6%                | 6.9%                | 6.3%                | 5.6%                | 4.9%                | 4.2%              | 3.5%                |
| 735.06                                           | 9% ad val.                  | 8.6%                                                                                   | 8.1%                | 7.7%                | 7.3%                | 6.8%                | 6.4%                | 5.9%              | 5.4%                |
| 735.09                                           | 12% ad val.                 | 11.3%                                                                                  | 10.5%               | 9.8%                | 9%                  | 8.3%                | 7.5%                | 6.8%              | 6%                  |
| 735.10                                           | 17.5% ad val.               | 16.3%                                                                                  | 15.1%               | 13.9%               | 12.7%               | 11.4%               | 10.2%               | 9%                | 7.8%                |
| 735.11                                           | 13.5% ad val.               | 10.5%                                                                                  | 7.5%                | 6.9%                | 6.9%                | 6.9%                | 6.9%                | 6.9%              | 6.9%                |
| 735.12                                           | 7.5% ad val.                | 7.2%                                                                                   | 6.9%                | 6.5%                | 6.2%                | 5.9%                | 5.6%                | 5.2%              | 4.9%                |
| 735.15                                           | 4.5% ad val.                | 3.9%                                                                                   | 3.4%                | 2.8%                | 2.3%                | 1.7%                | 1.1%                | 0.6%              | Free                |
| 735.17                                           | 3.5% ad val.                | 3.1%                                                                                   | 2.6%                | 2.2%                | 1.8%                | 1.3%                | 0.9%                | 0.4%              | Free                |
| 735.18                                           | 5% ad val.                  | 4.4%                                                                                   | 3.8%                | 3.1%                | 2.5%                | 1.9%                | 1.3%                | 0.6%              | Free                |
| 735.20                                           | 10% ad val.                 | 9.5%                                                                                   | 9%                  | 8.4%                | 7.9%                | 7.4%                | 6.9%                | 6.3%              | 5.8%                |
| 737.07                                           | 8% ad val.                  | 7.6%                                                                                   | 7.3%                | 6.9%                | 6.6%                | 6.2%                | 5.8%                | 5.5%              | 5.1%                |
| 737.09                                           | 9.5% ad val.                | 9%                                                                                     | 8.6%                | 8.1%                | 7.6%                | 7.1%                | 6.7%                | 6.2%              | 5.7%                |
| 737.15                                           | 17.5% ad val.               | 16.3%                                                                                  | 15.1%               | 13.9%               | 12.7%               | 11.4%               | 10.2%               | 9%                | 7.8%                |
| 737.21                                           | 17.5% ad val.               | 16.3%                                                                                  | 15.1%               | 13.9%               | 12.8%               | 11.6%               | 10.4%               | 9.2%              | 8%                  |
| 737.22                                           | 17.5% ad val.               | 16.8%                                                                                  | 16.1%               | 15.4%               | 14.8%               | 14.1%               | 13.4%               | 12.7%             | 12%                 |
| 737.25                                           | 28% ad val.                 | 25.9%                                                                                  | 23.8%               | 21.7%               | 19.6%               | 17.5%               | 15.4%               | 13.3%             | 11.2%               |
| 737.30                                           | 9% ad val.                  | 8.6%                                                                                   | 8.1%                | 7.7%                | 7.3%                | 6.8%                | 6.4%                | 5.9%              | 5.4%                |

1/ The symbol "x" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                                        | Rates of duty 1/, effective with respect to articles entered on and after January 1 --                               |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                                  | 1980                                                                                                                 | 1981                                                                                                                 | 1982                                                                                                                 | 1983                                                                                                                 | 1984                                                                                                                 | 1985                                                                                                                 | 1986                                                                                                                 | 1987                                                                                                                 |
| Schedule 7, Part 5--Continued                    |                                                                                                                                  |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |
| 737.35                                           | 10.5% ad val.                                                                                                                    | 9.7%                                                                                                                 | 8.9%                                                                                                                 | 8.1%                                                                                                                 | 7.4%                                                                                                                 | 6.6%                                                                                                                 | 5.8%                                                                                                                 | 5%                                                                                                                   | 4.2%                                                                                                                 |
| 737.40                                           | 17.5% ad val.                                                                                                                    | 16.2%                                                                                                                | 14.9%                                                                                                                | 13.6%                                                                                                                | 12.3%                                                                                                                | 10.9%                                                                                                                | 9.6%                                                                                                                 | 8.3%                                                                                                                 | 7%                                                                                                                   |
| 737.45                                           | 12% ad val.                                                                                                                      | 11.2%                                                                                                                | 10.5%                                                                                                                | 9.7%                                                                                                                 | 8.9%                                                                                                                 | 8.1%                                                                                                                 | 7.4%                                                                                                                 | 6.6%                                                                                                                 | 5.8%                                                                                                                 |
| 737.50                                           | 22% ad val.                                                                                                                      | 20.4%                                                                                                                | 18.7%                                                                                                                | 17.1%                                                                                                                | 15.4%                                                                                                                | 13.8%                                                                                                                | 12.1%                                                                                                                | 10.5%                                                                                                                | 8.8%                                                                                                                 |
| 737.55                                           | 10.5% ad val.                                                                                                                    | 9.9%                                                                                                                 | 9.4%                                                                                                                 | 8.8%                                                                                                                 | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7.1%                                                                                                                 | 6.6%                                                                                                                 | 6%                                                                                                                   |
| 737.60                                           | 16% ad val.                                                                                                                      | 14.8%                                                                                                                | 13.6%                                                                                                                | 12.4%                                                                                                                | 11.2%                                                                                                                | 10%                                                                                                                  | 8.8%                                                                                                                 | 7.6%                                                                                                                 | 6.4%                                                                                                                 |
| 737.65                                           | 10% ad val.                                                                                                                      | 9.5%                                                                                                                 | 9%                                                                                                                   | 8.4%                                                                                                                 | 7.9%                                                                                                                 | 7.4%                                                                                                                 | 6.9%                                                                                                                 | 6.3%                                                                                                                 | 5.8%                                                                                                                 |
| 737.70                                           | 10% ad val.                                                                                                                      | 7%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   | 4%                                                                                                                   |
| 737.75                                           | 22% ad val.                                                                                                                      | 20.4%                                                                                                                | 18.7%                                                                                                                | 17.1%                                                                                                                | 15.4%                                                                                                                | 13.8%                                                                                                                | 12.1%                                                                                                                | 10.5%                                                                                                                | 8.8%                                                                                                                 |
| 737.80                                           | 17.5% ad val.                                                                                                                    | 16.2%                                                                                                                | 14.9%                                                                                                                | 13.6%                                                                                                                | 12.7%                                                                                                                | 11.4%                                                                                                                | 10.2%                                                                                                                | 9%                                                                                                                   | 7.8%                                                                                                                 |
| 737.85                                           | 17.5% ad val.                                                                                                                    | 16.2%                                                                                                                | 14.9%                                                                                                                | 13.6%                                                                                                                | 12.3%                                                                                                                | 10.9%                                                                                                                | 9.6%                                                                                                                 | 8.3%                                                                                                                 | 7%                                                                                                                   |
| Schedule 7, Part 6                               |                                                                                                                                  |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |
| 740.10                                           | 12% ad val.                                                                                                                      | 11.3%                                                                                                                | 10.6%                                                                                                                | 9.9%                                                                                                                 | 9.3%                                                                                                                 | 8.6%                                                                                                                 | 7.9%                                                                                                                 | 7.2%                                                                                                                 | 6.5%                                                                                                                 |
| 740.15                                           | 18% ad val.                                                                                                                      | 16.7%                                                                                                                | 15.3%                                                                                                                | 14%                                                                                                                  | 12.6%                                                                                                                | 11.3%                                                                                                                | 9.9%                                                                                                                 | 8.6%                                                                                                                 | 7.2%                                                                                                                 |
| 740.20                                           | 35% ad val.                                                                                                                      | 32.4%                                                                                                                | 29.8%                                                                                                                | 27.1%                                                                                                                | 24.5%                                                                                                                | 21.9%                                                                                                                | 19.3%                                                                                                                | 16.6%                                                                                                                | 14%                                                                                                                  |
| 740.25                                           | 35% ad val.                                                                                                                      | 32.4%                                                                                                                | 29.8%                                                                                                                | 27.1%                                                                                                                | 24.5%                                                                                                                | 21.9%                                                                                                                | 19.3%                                                                                                                | 16.6%                                                                                                                | 14%                                                                                                                  |
| 740.30                                           | 27.5% ad val.                                                                                                                    | 25.4%                                                                                                                | 23.4%                                                                                                                | 21.3%                                                                                                                | 19.3%                                                                                                                | 17.2%                                                                                                                | 15.1%                                                                                                                | 13.1%                                                                                                                | 11%                                                                                                                  |
| 740.35                                           | 7.5% ad val.                                                                                                                     | 7.2%                                                                                                                 | 6.9%                                                                                                                 | 6.5%                                                                                                                 | 6.2%                                                                                                                 | 5.9%                                                                                                                 | 5.6%                                                                                                                 | 5.3%                                                                                                                 | 4.9%                                                                                                                 |
| 740.40                                           | 17.5% ad val.                                                                                                                    | 16.2%                                                                                                                | 14.9%                                                                                                                | 13.6%                                                                                                                | 12.7%                                                                                                                | 11.4%                                                                                                                | 10.2%                                                                                                                | 9%                                                                                                                   | 7.8%                                                                                                                 |
| 740.45                                           | 10% ad val.                                                                                                                      | 9.5%                                                                                                                 | 9%                                                                                                                   | 8.4%                                                                                                                 | 7.9%                                                                                                                 | 7.4%                                                                                                                 | 6.9%                                                                                                                 | 6.3%                                                                                                                 | 5.8%                                                                                                                 |
| 740.50                                           | 10% ad val.                                                                                                                      | 15.8%                                                                                                                | 14.5%                                                                                                                | 13.3%                                                                                                                | 12%                                                                                                                  | 10.8%                                                                                                                | 9.5%                                                                                                                 | 8.3%                                                                                                                 | 7%                                                                                                                   |
| 740.55                                           | 20% ad val.                                                                                                                      | 18.5%                                                                                                                | 17%                                                                                                                  | 15.5%                                                                                                                | 14%                                                                                                                  | 12.5%                                                                                                                | 11%                                                                                                                  | 9.5%                                                                                                                 | 8%                                                                                                                   |
| 740.60                                           | 27.5% ad val.                                                                                                                    | 25.4%                                                                                                                | 23.4%                                                                                                                | 21.3%                                                                                                                | 19.3%                                                                                                                | 17.2%                                                                                                                | 15.1%                                                                                                                | 13.1%                                                                                                                | 11%                                                                                                                  |
| 740.65                                           | 2.5% ad val.                                                                                                                     | 2.5%                                                                                                                 | 2.4%                                                                                                                 | 2.4%                                                                                                                 | 2.3%                                                                                                                 | 2.3%                                                                                                                 | 2.2%                                                                                                                 | 2.2%                                                                                                                 | 2.1%                                                                                                                 |
| 740.70                                           | 10% ad val.                                                                                                                      | 9.5%                                                                                                                 | 8.9%                                                                                                                 | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7.1%                                                                                                                 | 6.5%                                                                                                                 | 5.9%                                                                                                                 | 5.3%                                                                                                                 |
| 740.75                                           | 7% ad val.                                                                                                                       | 6.7%                                                                                                                 | 6.4%                                                                                                                 | 6.1%                                                                                                                 | 5.8%                                                                                                                 | 5.5%                                                                                                                 | 5.2%                                                                                                                 | 4.8%                                                                                                                 | 4%                                                                                                                   |
| 740.80                                           | 3.5% ad val.                                                                                                                     | 3.4%                                                                                                                 | 3.3%                                                                                                                 | 3.2%                                                                                                                 | 3.1%                                                                                                                 | 3%                                                                                                                   | 2.9%                                                                                                                 | 2.8%                                                                                                                 | 2.6%                                                                                                                 |
| 740.85                                           | 20% ad val.                                                                                                                      | 18.5%                                                                                                                | 17%                                                                                                                  | 15.5%                                                                                                                | 14%                                                                                                                  | 12.5%                                                                                                                | 11%                                                                                                                  | 9.5%                                                                                                                 | 8%                                                                                                                   |
| 740.90                                           | 12.5% ad val.                                                                                                                    | 11.8%                                                                                                                | 11%                                                                                                                  | 10.3%                                                                                                                | 9.6%                                                                                                                 | 8.8%                                                                                                                 | 8.1%                                                                                                                 | 7.3%                                                                                                                 | 6.6%                                                                                                                 |
| Schedule 7, Part 7                               |                                                                                                                                  |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |                                                                                                                      |
| 741.10                                           | 9% ad val.                                                                                                                       | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7%                                                                                                                   | 6.3%                                                                                                                 | 5.6%                                                                                                                 | 5%                                                                                                                   | 4.3%                                                                                                                 | 3.6%                                                                                                                 |
| 741.15                                           | 5% ad val.                                                                                                                       | 4.8%                                                                                                                 | 4.5%                                                                                                                 | 4.2%                                                                                                                 | 4%                                                                                                                   | 3.8%                                                                                                                 | 3.5%                                                                                                                 | 3.2%                                                                                                                 | 3%                                                                                                                   |
| 741.20                                           | 27.5% ad val.                                                                                                                    | 25.4%                                                                                                                | 23.4%                                                                                                                | 21.3%                                                                                                                | 19.3%                                                                                                                | 17.2%                                                                                                                | 15.1%                                                                                                                | 13.1%                                                                                                                | 11%                                                                                                                  |
| 741.25                                           | 0.8% per line<br>gross +<br>12.5% ad val.                                                                                        | 0.7% per line<br>gross +<br>10.7%                                                                                    | 0.6% per line<br>gross +<br>8.9%                                                                                     | 0.5% per line<br>gross +<br>7.1%                                                                                     | 0.3% per line<br>gross +<br>5.3%                                                                                     | 0.3% per line<br>gross +<br>5%                                                                                       | 0.3% per line<br>gross +<br>5%                                                                                       | 0.3% per line<br>gross +<br>5%                                                                                       | 0.3% per line<br>gross +<br>5%                                                                                       |
| 741.30                                           | 7.5% ad val.                                                                                                                     | 7.2%                                                                                                                 | 6.9%                                                                                                                 | 6.5%                                                                                                                 | 6.2%                                                                                                                 | 5.9%                                                                                                                 | 5.6%                                                                                                                 | 5.3%                                                                                                                 | 4.9%                                                                                                                 |
| 741.35                                           | 9% ad val.                                                                                                                       | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7%                                                                                                                   | 6.3%                                                                                                                 | 5.6%                                                                                                                 | 5%                                                                                                                   | 4.3%                                                                                                                 | 3.6%                                                                                                                 |
| 741.40                                           | 7.5% ad val.                                                                                                                     | 7.2%                                                                                                                 | 6.9%                                                                                                                 | 6.5%                                                                                                                 | 6.2%                                                                                                                 | 5.9%                                                                                                                 | 5.6%                                                                                                                 | 5.3%                                                                                                                 | 4.9%                                                                                                                 |
| 741.45                                           | 0.5% per line<br>gross +<br>1% ad val.                                                                                           | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     | 0.5% per line<br>gross +<br>0.5%                                                                                     |
| 741.50                                           | 9% ad val.                                                                                                                       | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7%                                                                                                                   | 6.3%                                                                                                                 | 5.6%                                                                                                                 | 5%                                                                                                                   | 4.3%                                                                                                                 | 3.6%                                                                                                                 |
| 741.55                                           | 27.5% ad val.                                                                                                                    | 25.4%                                                                                                                | 23.4%                                                                                                                | 21.3%                                                                                                                | 19.3%                                                                                                                | 17.2%                                                                                                                | 15.1%                                                                                                                | 13.1%                                                                                                                | 11%                                                                                                                  |
| 741.60                                           | 0.5% ad val.                                                                                                                     | 9%                                                                                                                   | 8.3%                                                                                                                 | 7.7%                                                                                                                 | 7%                                                                                                                   | 6.3%                                                                                                                 | 5.6%                                                                                                                 | 5%                                                                                                                   | 4.3%                                                                                                                 |
| 741.65                                           | 25% ad val.                                                                                                                      | 23.1%                                                                                                                | 21.3%                                                                                                                | 19.4%                                                                                                                | 17.5%                                                                                                                | 15.6%                                                                                                                | 13.8%                                                                                                                | 11.9%                                                                                                                | 10%                                                                                                                  |
| 741.70                                           | 20% ad val.                                                                                                                      | 18.5%                                                                                                                | 17%                                                                                                                  | 15.5%                                                                                                                | 14%                                                                                                                  | 12.5%                                                                                                                | 11.2%                                                                                                                | 9.7%                                                                                                                 | 8.2%                                                                                                                 |
| 741.75                                           | 20% ad val.                                                                                                                      | 18.5%                                                                                                                | 17%                                                                                                                  | 15.5%                                                                                                                | 14%                                                                                                                  | 12.5%                                                                                                                | 11.2%                                                                                                                | 9.7%                                                                                                                 | 8.2%                                                                                                                 |
| 741.80                                           | 21.5% ad val.                                                                                                                    | 19.4%                                                                                                                | 17.4%                                                                                                                | 15.4%                                                                                                                | 13.4%                                                                                                                | 11.4%                                                                                                                | 9.4%                                                                                                                 | 7.4%                                                                                                                 | 5.4%                                                                                                                 |
| 741.85                                           | 7.5% ad val.                                                                                                                     | 7.2%                                                                                                                 | 6.9%                                                                                                                 | 6.5%                                                                                                                 | 6.2%                                                                                                                 | 5.9%                                                                                                                 | 5.6%                                                                                                                 | 5.3%                                                                                                                 | 4.9%                                                                                                                 |
| 741.90                                           | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 10.5% ad<br>val. | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 9.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 8.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 7.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 6.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 5.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 4.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 3.5% | 1.5% per lb.<br>including<br>weight of<br>cards, car-<br>tons, and<br>immediate<br>wrappings<br>and labels<br>+ 2.5% |

1 The symbol "1/" indicates percent ad valorem. The symbol "1/" indicates per stated unit of quantity.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                    | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |                                          |                                          |                                          |                                          |                                          |                                          |                     |
|--------------------------------------------------|----------------------------------------------|----------------------------------------------------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|------------------------------------------|---------------------|
|                                                  |                                              | 1980                                                                                   | 1981                                     | 1982                                     | 1983                                     | 1984                                     | 1985                                     | 1986                                     | 1987                |
| Schedule 7, Part 7--Continued                    |                                              |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                     |
| 745.61                                           | 27.5% ad val.                                | 27.5%                                                                                  | 27.5%                                    | 24.8%                                    | 22%                                      | 19.3%                                    | 16.5%                                    | 13.8%                                    | 11%                 |
| 745.62                                           | 27.5% ad val.                                | 27.5%                                                                                  | 27.5%                                    | 24.8%                                    | 22%                                      | 19.3%                                    | 16.5%                                    | 13.8%                                    | 11%                 |
| 745.65                                           | 13.5% ad val.                                | 12.7%                                                                                  | 11.9%                                    | 11%                                      | 10.2%                                    | 9.4%                                     | 8.6%                                     | 7.7%                                     | 6.9%                |
| 745.66                                           | 12% ad val.                                  | 11.3%                                                                                  | 10.6%                                    | 9.9%                                     | 9.3%                                     | 8.6%                                     | 7.9%                                     | 7.2%                                     | 6.5%                |
| 745.67                                           | 27.5% ad val.                                | 25.4%                                                                                  | 23.4%                                    | 21.3%                                    | 19.3%                                    | 17.2%                                    | 15.1%                                    | 13.1%                                    | 11%                 |
| 745.68                                           | 8.5% ad val.                                 | 8.1%                                                                                   | 7.7%                                     | 7.3%                                     | 6.9%                                     | 6.5%                                     | 6.1%                                     | 5.7%                                     | 5.3%                |
| 745.70                                           | 25% ad val.                                  | 23.8%                                                                                  | 22.5%                                    | 21.3%                                    | 20%                                      | 18.8%                                    | 17.5%                                    | 16.3%                                    | 15%                 |
| 745.72                                           | 20% ad val.                                  | 19.4%                                                                                  | 18.8%                                    | 16.1%                                    | 17.5%                                    | 16.9%                                    | 16.3%                                    | 15.6%                                    | 15%                 |
| 745.74                                           | 35% ad val.                                  | 33.5%                                                                                  | 32%                                      | 30.5%                                    | 29%                                      | 27.5%                                    | 26%                                      | 24.5%                                    | 23%                 |
| 748.05                                           | 3c per lb. +<br>5% ad val.                   | 2.9c/lb. +<br>4.8%                                                                     | 2.7c/lb. +<br>4.7%                       | 2.6c/lb. +<br>4.5%                       | 2.5c/lb. +<br>4.3%                       | 2.4c/lb. +<br>4.1%                       | 2.3c/lb. +<br>4%                         | 2.2c/lb. +<br>3.8%                       | 2c/lb. +<br>3.6%    |
| 748.10                                           | 8% ad val.                                   | 8%                                                                                     | 8%                                       | 7.5%                                     | 7%                                       | 6.6%                                     | 6.1%                                     | 5.6%                                     | 5.1%                |
| 748.12                                           | 6% ad val.                                   | 6%                                                                                     | 6%                                       | 5.4%                                     | 4.8%                                     | 4.2%                                     | 3.6%                                     | 3%                                       | 2.4%                |
| 748.15                                           | 17.5% ad val.                                | 16.2%                                                                                  | 14.9%                                    | 13.6%                                    | 12.3%                                    | 10.9%                                    | 9.6%                                     | 8.3%                                     | 7%                  |
| 748.20                                           | 21% ad val.                                  | 19.4%                                                                                  | 17.9%                                    | 16.3%                                    | 14.7%                                    | 13.1%                                    | 11.6%                                    | 10%                                      | 8.4%                |
| 748.21                                           | 42.5% ad val.                                | 39.7%                                                                                  | 36.8%                                    | 34%                                      | 31.2%                                    | 28.3%                                    | 25.5%                                    | 22.7%                                    | 19.8%               |
| 748.40                                           | 7% ad val.                                   | 6.7%                                                                                   | 6.4%                                     | 6.1%                                     | 5.8%                                     | 5.5%                                     | 5.2%                                     | 4.7%                                     | 4.7%                |
| Schedule 7, Part 8                               |                                              |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                     |
| 750.05                                           | 0.2c each +<br>5% ad val.                    | 0.2c each +<br>4.6%                                                                    | 0.2c each +<br>4.3%                      | 0.2c each +<br>3.9%                      | 0.1c each +<br>3.5%                      | 0.1c each +<br>3.1%                      | 0.1c each +<br>2.8%                      | 0.1c each +<br>2.4%                      | 0.1c each +<br>2%   |
| 750.10                                           | 17.4% ad val.                                | 16.2%                                                                                  | 15%                                      | 13.8%                                    | 12.6%                                    | 11.4%                                    | 10.2%                                    | 9%                                       | 7.8%                |
| 750.15                                           | 0.4c each +<br>8% ad val.                    | 0.37c each +<br>7.6%                                                                   | 0.35c each +<br>7.2%                     | 0.32c each +<br>6.7%                     | 0.3c each +<br>6.3%                      | 0.27c each +<br>5.9%                     | 0.25c each +<br>5.5%                     | 0.22c each +<br>5%                       | 0.2c each +<br>4.6% |
| 750.20                                           | 8.5% ad val.                                 | 8.1%                                                                                   | 7.7%                                     | 7.3%                                     | 6.9%                                     | 6.5%                                     | 6.1%                                     | 5.7%                                     | 5.3%                |
| 750.22                                           | 27.5% ad val.                                | 24.5%                                                                                  | 21.5%                                    | 18.5%                                    | 15.5%                                    | 12.5%                                    | 11%                                      | 11%                                      | 11%                 |
| 750.26                                           | 20% ad val.                                  | 17%                                                                                    | 14%                                      | 11%                                      | 8%                                       | 8%                                       | 8%                                       | 8%                                       | 8%                  |
| 750.29                                           | 20% ad val.                                  | 18.5%                                                                                  | 17%                                      | 15.5%                                    | 14%                                      | 12.5%                                    | 11%                                      | 9.5%                                     | 8%                  |
| 750.32                                           | 25% ad val.                                  | 22%                                                                                    | 19%                                      | 16%                                      | 13%                                      | 10%                                      | 10%                                      | 10%                                      | 10%                 |
| 750.35                                           | 7% ad val.                                   | 6.7%                                                                                   | 6.4%                                     | 6.1%                                     | 5.8%                                     | 5.5%                                     | 5.2%                                     | 4.9%                                     | 4.6%                |
| 750.40                                           | 0.4c each +<br>8.5% ad val.                  | 0.37c each +<br>7.9%                                                                   | 0.35c each +<br>7.2%                     | 0.32c each +<br>6.6%                     | 0.3c each +<br>6%                        | 0.27c each +<br>5.3%                     | 0.25c each +<br>4.7%                     | 0.22c each +<br>4%                       | 0.2c each +<br>3.4% |
| 750.45                                           | 0.4c each +<br>17.5% ad val.                 | 0.37c each +<br>16.2%                                                                  | 0.35c each +<br>14.9%                    | 0.32c each +<br>13.6%                    | 0.3c each +<br>12.3%                     | 0.27c each +<br>10.9%                    | 0.25c each +<br>9.6%                     | 0.22c each +<br>8.3%                     | 0.2c each +<br>7%   |
| 750.47                                           | 0.4c each +<br>5% ad val.                    | 0.37c each +<br>4.8%                                                                   | 0.35c each +<br>4.7%                     | 0.32c each +<br>4.5%                     | 0.3c each +<br>4.3%                      | 0.27c each +<br>4.1%                     | 0.25c each +<br>4%                       | 0.22c each +<br>3.8%                     | 0.2c each +<br>3.6% |
| 750.50                                           | 8% ad val.                                   | 7.6%                                                                                   | 7.2%                                     | 6.8%                                     | 6.4%                                     | 6%                                       | 5.6%                                     | 5.2%                                     | 4.8%                |
| 750.55                                           | 0.4c each                                    | 0.38c each                                                                             | 0.37c each                               | 0.36c each                               | 0.35c each                               | 0.33c each                               | 0.32c each                               | 0.31c each                               | 0.3c each           |
| 750.60                                           | 4% ad val.                                   | 3.9%                                                                                   | 3.8%                                     | 3.7%                                     | 3.6%                                     | 3.4%                                     | 3.3%                                     | 3.2%                                     | 3.1%                |
| 750.65                                           | 10% ad val.                                  | 9%                                                                                     | 8%                                       | 7%                                       | 6%                                       | 5%                                       | 4%                                       | 3%                                       | 2%                  |
| 750.70                                           | 14% ad val.                                  | 13%                                                                                    | 11.9%                                    | 10.9%                                    | 9.8%                                     | 8.8%                                     | 7.7%                                     | 6.7%                                     | 5.6%                |
| 750.75                                           | 14% ad val.                                  | 13%                                                                                    | 11.9%                                    | 10.9%                                    | 9.8%                                     | 8.8%                                     | 7.7%                                     | 6.7%                                     | 5.6%                |
| 750.80                                           | 16% ad val.                                  | 14.9%                                                                                  | 13.9%                                    | 12.8%                                    | 11.8%                                    | 10.7%                                    | 9.6%                                     | 8.6%                                     | 7.5%                |
| 751.05                                           | 20% ad val.                                  | 17%                                                                                    | 14%                                      | 11%                                      | 8.2%                                     | 8.2%                                     | 8.2%                                     | 8.2%                                     | 8.2%                |
| 751.10                                           | 12.5% ad val.                                | 9.5%                                                                                   | 6.5%                                     | 5%                                       | 5%                                       | 5%                                       | 5%                                       | 5%                                       | 5%                  |
| 751.11                                           | 10% ad val.                                  | 9.5%                                                                                   | 9%                                       | 8.4%                                     | 7.9%                                     | 7.4%                                     | 6.9%                                     | 6.3%                                     | 5.8%                |
| 751.15                                           | 12% ad val.                                  | 11.1%                                                                                  | 10.2%                                    | 9.3%                                     | 8.4%                                     | 7.5%                                     | 6.6%                                     | 5.7%                                     | 4.8%                |
| 751.20                                           | 30% ad val.                                  | 27%                                                                                    | 24%                                      | 21%                                      | 18%                                      | 15%                                      | 12%                                      | 12%                                      | 12%                 |
| 751.25                                           | 16% ad val.                                  | 14.9%                                                                                  | 13.9%                                    | 12.8%                                    | 11.8%                                    | 10.7%                                    | 9.6%                                     | 8.6%                                     | 7.5%                |
| Schedule 7, Part 9                               |                                              |                                                                                        |                                          |                                          |                                          |                                          |                                          |                                          |                     |
| 755.05                                           | 7.5c per gross<br>of immediate<br>containers | 6.6c/gross<br>of immediate<br>containers                                               | 5.6c/gross<br>of immediate<br>containers | 4.7c/gross<br>of immediate<br>containers | 3.7c/gross<br>of immediate<br>containers | 2.8c/gross<br>of immediate<br>containers | 1.9c/gross<br>of immediate<br>containers | 0.9c/gross<br>of immediate<br>containers | Free                |
| 755.10                                           | 1c per 1000<br>matches                       | 0.8c/1000<br>matches                                                                   | 0.7c/1000<br>matches                     | 0.6c/1000<br>matches                     | 0.5c/1000<br>matches                     | 0.4c/1000<br>matches                     | 0.3c/1000<br>matches                     | 0.2c/1000<br>matches                     | Free                |

1/ The symbol "1/" indicates percent ad valorem. The symbol "1/" indicates per stated unit of quantity.

2/ For item 748.21, the rate of duty effective with respect to articles entered on and after January 1, 1988, will be 17%.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                   | Rates of duty 1/, effective with respect to articles entered on and after January 1 --                  |                                                                                                         |                                                                                                        |                                                                                                          |                                                                                                        |                                                                                                        |                                                                                                        |                                                                                                        |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                             | 1980                                                                                                    | 1981                                                                                                    | 1982                                                                                                   | 1983                                                                                                     | 1984                                                                                                   | 1985                                                                                                   | 1986                                                                                                   | 1987                                                                                                   |
| Schedule 7, Part 9--Continued                    |                                                                                                             |                                                                                                         |                                                                                                         |                                                                                                        |                                                                                                          |                                                                                                        |                                                                                                        |                                                                                                        |                                                                                                        |
| 755.15                                           | 12c per lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 11c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 10c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 9c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 8.5c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 7c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 6c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 5c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings | 5c/lb.,<br>including<br>the weight<br>of all<br>coverings,<br>packing<br>material,<br>and<br>wrappings |
| 755.20                                           | 16c ad val.                                                                                                 | 14.9%                                                                                                   | 13.9%                                                                                                   | 12.8%                                                                                                  | 11.8%                                                                                                    | 10.7%                                                                                                  | 9.6%                                                                                                   | 8.6%                                                                                                   | 7.5%                                                                                                   |
| 755.25                                           | 10c ad val.                                                                                                 | 9.5%                                                                                                    | 9%                                                                                                      | 8.4%                                                                                                   | 7.9%                                                                                                     | 7.4%                                                                                                   | 6.9%                                                                                                   | 6.3%                                                                                                   | 5.8%                                                                                                   |
| 755.30                                           | 13.5c ad val.                                                                                               | 13.5%                                                                                                   | 13.5%                                                                                                   | 12.4%                                                                                                  | 11.3%                                                                                                    | 10.2%                                                                                                  | 9.1%                                                                                                   | 8%                                                                                                     | 6.9%                                                                                                   |
| 755.35                                           | 50c per lb. +<br>5c ad val.                                                                                 | 46c/lb. +<br>5.6%                                                                                       | 43c/lb. +<br>5.1%                                                                                       | 39c/lb. +<br>4.7%                                                                                      | 36c/lb. +<br>4.3%                                                                                        | 32c/lb. +<br>3.9%                                                                                      | 29c/lb. +<br>3.5%                                                                                      | 25c/lb. +<br>3%                                                                                        | 22c/lb. +<br>2.6%                                                                                      |
| 755.45                                           | 0.24c each +<br>0.06c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap          | 0.22c each +<br>0.056c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap     | 0.2c each +<br>0.051c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap      | 0.19c each +<br>0.047c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap    | 0.17c each +<br>0.043c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap      | 0.15c each +<br>0.038c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap    | 0.13c each +<br>0.034c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap    | 0.12c each +<br>0.029c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap    | 0.1c each +<br>0.025c each<br>for each<br>0.5 gram of<br>explosive<br>over 1.5<br>grams per<br>cap     |
| 755.50                                           | 4c per 1,000<br>feet                                                                                        | 41c/1,000<br>feet                                                                                       | 40.5c/1,000<br>feet                                                                                     | 40c/1,000<br>feet                                                                                      | 39c/1,000<br>feet                                                                                        | 38c/1,000<br>feet                                                                                      | 37.5c/1,000<br>feet                                                                                    | 37c/1,000<br>feet                                                                                      | 36c/1,000<br>feet                                                                                      |
| 756.02                                           | 15c ad val.                                                                                                 | 14%                                                                                                     | 13.1%                                                                                                   | 12.1%                                                                                                  | 11.1%                                                                                                    | 10.1%                                                                                                  | 9.2%                                                                                                   | 8.2%                                                                                                   | 7.2%                                                                                                   |
| 756.04                                           | 25c ad val.                                                                                                 | 23.1%                                                                                                   | 21.3%                                                                                                   | 19.4%                                                                                                  | 17.5%                                                                                                    | 15.6%                                                                                                  | 13.8%                                                                                                  | 11.9%                                                                                                  | 10%                                                                                                    |
| 756.06                                           | 22.5c ad val.                                                                                               | 20.8%                                                                                                   | 19.1%                                                                                                   | 17.4%                                                                                                  | 15.8%                                                                                                    | 14.1%                                                                                                  | 12.4%                                                                                                  | 10.7%                                                                                                  | 9%                                                                                                     |
| 756.10                                           | 12c ad val.                                                                                                 | 11.1%                                                                                                   | 10.2%                                                                                                   | 9.3%                                                                                                   | 8.4%                                                                                                     | 7.5%                                                                                                   | 6.6%                                                                                                   | 5.7%                                                                                                   | 4.8%                                                                                                   |
| 756.15                                           | 25c ad val.                                                                                                 | 23.1%                                                                                                   | 21.3%                                                                                                   | 19.4%                                                                                                  | 17.5%                                                                                                    | 15.6%                                                                                                  | 13.8%                                                                                                  | 11.9%                                                                                                  | 10%                                                                                                    |
| 756.21 <sup>2</sup>                              | 2.5c each +<br>40c ad val.                                                                                  | 2.3c each +<br>37.6%                                                                                    | 2.2c each +<br>35.2%                                                                                    | 2c each +<br>32.8%                                                                                     | 1.9c each +<br>30.4%                                                                                     | 1.7c each +<br>28%                                                                                     | 1.6c each +<br>25.6%                                                                                   | 1.4c each +<br>23.2%                                                                                   | 1.3c each +<br>20.8% <sup>2</sup>                                                                      |
| 756.23                                           | 1.25c each +<br>20c ad val.                                                                                 | 1.16c each +<br>18.5%                                                                                   | 1.06c each +<br>17%                                                                                     | 0.97c each +<br>15.5%                                                                                  | 0.88c each +<br>14%                                                                                      | 0.79c each +<br>12.5%                                                                                  | 0.69c each +<br>11%                                                                                    | 0.6c each +<br>9.5%                                                                                    | 0.5c each +<br>8%                                                                                      |
| 756.25                                           | 1.2c each +<br>10c ad val.                                                                                  | 1.1c each +<br>9.3%                                                                                     | 1c each +<br>8.5%                                                                                       | 0.9c each +<br>7.8%                                                                                    | 0.8c each +<br>7%                                                                                        | 0.7c each +<br>6.3%                                                                                    | 0.6c each +<br>5.5%                                                                                    | 0.5c each +<br>4.8%                                                                                    | 0.5c each +<br>4%                                                                                      |
| 756.30                                           | 5c ad val.                                                                                                  | 3.7%                                                                                                    | 3.7%                                                                                                    | 3.7%                                                                                                   | 3.7%                                                                                                     | 3.7%                                                                                                   | 3.7%                                                                                                   | 3.7%                                                                                                   | 3.7%                                                                                                   |
| 756.35                                           | 1c each +<br>12.5c ad val.                                                                                  | 0.9c each +<br>11.7%                                                                                    | 0.8c each +<br>10.2%                                                                                    | 0.8c each +<br>9.5%                                                                                    | 0.7c each +<br>8.7%                                                                                      | 0.6c each +<br>7.9%                                                                                    | 0.6c each +<br>7.2%                                                                                    | 0.5c each +<br>6.4%                                                                                    | 0.5c each +<br>6.4%                                                                                    |
| 756.40                                           | 17.5c ad val.                                                                                               | 16.2%                                                                                                   | 14.9%                                                                                                   | 13.6%                                                                                                  | 12.3%                                                                                                    | 10.9%                                                                                                  | 9.6%                                                                                                   | 8.3%                                                                                                   | 7%                                                                                                     |
| 756.45                                           | 1.25c each +<br>7.5c ad val.                                                                                | 1.1c each +<br>6.9%                                                                                     | 1c each +<br>6.4%                                                                                       | 0.9c each +<br>5.8%                                                                                    | 0.8c each +<br>5.3%                                                                                      | 0.7c each +<br>4.7%                                                                                    | 0.7c each +<br>4.1%                                                                                    | 0.6c each +<br>3.6%                                                                                    | 0.5c each +<br>3%                                                                                      |
| 756.50                                           | 17.5c ad val.                                                                                               | 16.3%                                                                                                   | 15.1%                                                                                                   | 13.9%                                                                                                  | 12.7%                                                                                                    | 11.4%                                                                                                  | 10.2%                                                                                                  | 9%                                                                                                     | 7.8%                                                                                                   |
| 756.55                                           | 0.5c each +<br>7.5c ad val.                                                                                 | 0.46c each +<br>6.9%                                                                                    | 0.42c each +<br>6.4%                                                                                    | 0.38c each +<br>5.8%                                                                                   | 0.35c each +<br>5.3%                                                                                     | 0.31c each +<br>4.7%                                                                                   | 0.27c each +<br>4.1%                                                                                   | 0.24c each +<br>3.6%                                                                                   | 0.2c each +<br>3%                                                                                      |
| 756.60                                           | 5c ad val.                                                                                                  | 4.8%                                                                                                    | 4.7%                                                                                                    | 4.5%                                                                                                   | 4.4%                                                                                                     | 4.2%                                                                                                   | 4%                                                                                                     | 3.9%                                                                                                   | 3.7%                                                                                                   |
| Schedule 7, Part 10                              |                                                                                                             |                                                                                                         |                                                                                                         |                                                                                                        |                                                                                                          |                                                                                                        |                                                                                                        |                                                                                                        |                                                                                                        |
| 760.05                                           | 2c each +<br>13.5c ad val.                                                                                  | 1.8c each +<br>12.5%                                                                                    | 1.7c each +<br>11.5%                                                                                    | 1.5c each +<br>10.5%                                                                                   | 1.4c each +<br>9.5%                                                                                      | 1.2c each +<br>8.5%                                                                                    | 1.1c each +<br>7.4%                                                                                    | 0.9c each +<br>6.4%                                                                                    | 0.8c each +<br>5.4%                                                                                    |
| 760.10                                           | 16.5c ad val.                                                                                               | 15.4%                                                                                                   | 14.1%                                                                                                   | 12.9%                                                                                                  | 11.6%                                                                                                    | 10.4%                                                                                                  | 9.1%                                                                                                   | 7.9%                                                                                                   | 6.6%                                                                                                   |
| 760.12                                           | 8.5c ad val.                                                                                                | 7.9%                                                                                                    | 7.2%                                                                                                    | 6.6%                                                                                                   | 6%                                                                                                       | 5.3%                                                                                                   | 4.7%                                                                                                   | 4%                                                                                                     | 3.4%                                                                                                   |
| 760.15                                           | 20c ad val.                                                                                                 | 18.5%                                                                                                   | 17%                                                                                                     | 15.5%                                                                                                  | 14%                                                                                                      | 12.5%                                                                                                  | 11%                                                                                                    | 9.5%                                                                                                   | 8%                                                                                                     |
| 760.20                                           | 8c per gross +<br>7c ad val.                                                                                | 2c/gross +<br>7%                                                                                        | 6.8%                                                                                                    | 6.5%                                                                                                   | 6.2%                                                                                                     | 5.8%                                                                                                   | 5.5%                                                                                                   | 5.2%                                                                                                   | 4.9%                                                                                                   |
| 760.30                                           | 10c ad val.                                                                                                 | 9.5%                                                                                                    | 9%                                                                                                      | 8.4%                                                                                                   | 7.9%                                                                                                     | 7.4%                                                                                                   | 6.9%                                                                                                   | 6.3%                                                                                                   | 5.8%                                                                                                   |
| 760.32                                           | 5c per gross                                                                                                | 4.4c/gross                                                                                              | 3.8c/gross                                                                                              | 3.1c/gross                                                                                             | 2.5c/gross                                                                                               | 1.9c/gross                                                                                             | 1.3c/gross                                                                                             | 0.6c/gross                                                                                             | Free                                                                                                   |
| 760.34 <sup>3</sup>                              | \$1 per 1000 +<br>17.5c ad val.                                                                             | 94c/1000 +<br>16.5%                                                                                     | 88c/1000 +<br>15.4%                                                                                     | 82c/1000 +<br>14.4%                                                                                    | 76c/1000 +<br>13.3%                                                                                      | 70c/1000 +<br>12.3%                                                                                    | 64c/1000 +<br>11.2%                                                                                    | 58c/1000 +<br>10.2%                                                                                    | 52c/1000 +<br>9.1% <sup>2</sup>                                                                        |

- 1/ The symbol "c" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.
- 2/ For item 756.21, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--1.1c each + 18.4%.  
Effective with respect to articles entered on and after January 1, 1989--1c each + 16%.
- 3/ For item 760.34, the rates of duty after 1987 will be as follows:  
Effective with respect to articles entered on and after January 1, 1988--46c/1000 + 8.1%.  
Effective with respect to articles entered on and after January 1, 1989--40c/1000 + 7%.

## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged                                                                                                   | Rates of duty 1/, effective with respect to articles entered on and after January 1 --                              |                                                                                                                   |                                                                                                                     |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                             | 1980                                                                                                                | 1981                                                                                                              | 1982                                                                                                                | 1983                                                                                                               | 1984                                                                                                               | 1985                                                                                                               | 1986                                                                                                               | 1987                                                                                                               |
| Schedule 7, Part 10--Continued                   |                                                                                                                             |                                                                                                                     |                                                                                                                   |                                                                                                                     |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |
| 760.36                                           | 2c each +<br>13.5% ad val.                                                                                                  | 1.8c each +<br>12.5%                                                                                                | 1.7c each +<br>11.5%                                                                                              | 1.5c each +<br>10.5%                                                                                                | 1.4c each +<br>9.5%                                                                                                | 1.2c each +<br>8.5%                                                                                                | 1.1c each +<br>7.4%                                                                                                | 0.9c each +<br>6.4%                                                                                                | 0.8c each +<br>5.4%                                                                                                |
| 760.38                                           | 9.5% ad val.                                                                                                                | 8.8%                                                                                                                | 8.1%                                                                                                              | 7.4%                                                                                                                | 6.7%                                                                                                               | 5.9%                                                                                                               | 5.2%                                                                                                               | 4.5%                                                                                                               | 3.8%                                                                                                               |
| 760.40                                           | 2c each +<br>13.5% ad val.                                                                                                  | 1.8c each +<br>12.6%                                                                                                | 1.7c each +<br>11.7%                                                                                              | 1.5c each +<br>10.7%                                                                                                | 1.4c each +<br>9.8%                                                                                                | 1.3c each +<br>8.9%                                                                                                | 1.1c each +<br>8.1%                                                                                                | 1c each +<br>7%                                                                                                    | 0.9c each +<br>6.1%                                                                                                |
| 760.42                                           | 9.5% ad val.                                                                                                                | 8.8%                                                                                                                | 8.1%                                                                                                              | 7.4%                                                                                                                | 6.7%                                                                                                               | 5.9%                                                                                                               | 5.2%                                                                                                               | 4.5%                                                                                                               | 3.8%                                                                                                               |
| 760.45                                           | 7.5c per gross                                                                                                              | 6.6c/gross                                                                                                          | 5.6c/gross                                                                                                        | 4.7c/gross                                                                                                          | 3.8c/gross                                                                                                         | 2.8c/gross                                                                                                         | 1.9c/gross                                                                                                         | 0.9c/gross                                                                                                         | Free                                                                                                               |
| 760.48                                           | 25c per gross<br>+ 7.5% ad val.                                                                                             | 23c/gross +<br>7.1%                                                                                                 | 22c/gross +<br>6.7%                                                                                               | 20c/gross +<br>6.3%                                                                                                 | 19.5c/gross +<br>5.9%                                                                                              | 18c/gross +<br>5.5%                                                                                                | 16c/gross +<br>5.1%                                                                                                | 15c/gross +<br>4.7%                                                                                                | 14c/gross +<br>4.3%                                                                                                |
| 760.50                                           | 2c per gross                                                                                                                | 1.8c/gross                                                                                                          | 1.7c/gross                                                                                                        | 1.5c/gross                                                                                                          | 1.4c/gross                                                                                                         | 1.2c/gross                                                                                                         | 1.1c/gross                                                                                                         | 0.9c/gross                                                                                                         | 0.8c/gross                                                                                                         |
| 760.52                                           | 4c per gross                                                                                                                | 3.5c/gross                                                                                                          | 3c/gross                                                                                                          | 2.5c/gross                                                                                                          | 2c/gross                                                                                                           | 1.5c/gross                                                                                                         | 1c/gross                                                                                                           | 0.5c/gross                                                                                                         | Free                                                                                                               |
| 760.56                                           | 8% ad val.                                                                                                                  | 7.6%                                                                                                                | 7.3%                                                                                                              | 6.9%                                                                                                                | 6.6%                                                                                                               | 6.2%                                                                                                               | 5.8%                                                                                                               | 5.5%                                                                                                               | 5.1%                                                                                                               |
| 760.58                                           | 8.5c per gross<br>+ 5% ad val.                                                                                              | 8.1c/gross +<br>4.8%                                                                                                | 7.7c/gross +<br>4.6%                                                                                              | 7.4c/gross +<br>4.4%                                                                                                | 7c/gross +<br>4.2%                                                                                                 | 6.6c/gross +<br>4%                                                                                                 | 6.2c/gross +<br>3.8%                                                                                               | 5.9c/gross +<br>3.6%                                                                                               | 5.5c/gross +<br>3.4%                                                                                               |
| 760.65                                           | 5% ad val.                                                                                                                  | 2%                                                                                                                  | Free                                                                                                              | Free                                                                                                                | Free                                                                                                               | Free                                                                                                               | Free                                                                                                               | Free                                                                                                               | Free                                                                                                               |
| Schedule 7, Part 11                              |                                                                                                                             |                                                                                                                     |                                                                                                                   |                                                                                                                     |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |
| 766.30                                           | A duty of<br>12.5% ad val.<br>in addition<br>to any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>11.8% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>11% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>10.3% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>9.6% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>8.8% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>8.1% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>7.3% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules | A duty of<br>6.6% in<br>addition to<br>any other<br>duty imposed<br>on such<br>article<br>under these<br>schedules |
| Schedule 7, Part 12                              |                                                                                                                             |                                                                                                                     |                                                                                                                   |                                                                                                                     |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |
| 770.70                                           | 6% ad val.                                                                                                                  | 5.8%                                                                                                                | 5.6%                                                                                                              | 5.3%                                                                                                                | 5.1%                                                                                                               | 4.9%                                                                                                               | 4.7%                                                                                                               | 4.4%                                                                                                               | 4.2%                                                                                                               |
| 770.80                                           | 12.5% ad val.                                                                                                               | 11.8%                                                                                                               | 11%                                                                                                               | 10.3%                                                                                                               | 9.6%                                                                                                               | 8.8%                                                                                                               | 8.1%                                                                                                               | 7.3%                                                                                                               | 6.6%                                                                                                               |
| 772.30                                           | 12.5% ad val.                                                                                                               | 12.5%                                                                                                               | 12.5%                                                                                                             | 11.3%                                                                                                               | 10%                                                                                                                | 8.8%                                                                                                               | 7.5%                                                                                                               | 6.3%                                                                                                               | 5%                                                                                                                 |
| 772.40                                           | 4% ad val.                                                                                                                  | 3.9%                                                                                                                | 3.8%                                                                                                              | 3.7%                                                                                                                | 3.6%                                                                                                               | 3.4%                                                                                                               | 3.3%                                                                                                               | 3.2%                                                                                                               | 3.1%                                                                                                               |
| 772.45                                           | 5% ad val.                                                                                                                  | 4.4%                                                                                                                | 3.8%                                                                                                              | 3.1%                                                                                                                | 2.5%                                                                                                               | 1.9%                                                                                                               | 1.3%                                                                                                               | 0.6%                                                                                                               | Free                                                                                                               |
| 772.54                                           | 5% ad val.                                                                                                                  | 4.4%                                                                                                                | 3.8%                                                                                                              | 3.1%                                                                                                                | 2.5%                                                                                                               | 1.9%                                                                                                               | 1.3%                                                                                                               | 0.6%                                                                                                               | Free                                                                                                               |
| 772.60                                           | 5% ad val.                                                                                                                  | 4.8%                                                                                                                | 4.7%                                                                                                              | 4.5%                                                                                                                | 4.4%                                                                                                               | 4.2%                                                                                                               | 4%                                                                                                                 | 3.9%                                                                                                               | 3.7%                                                                                                               |
| 772.65                                           | 4% ad val.                                                                                                                  | 3.9%                                                                                                                | 3.8%                                                                                                              | 3.7%                                                                                                                | 3.6%                                                                                                               | 3.4%                                                                                                               | 3.3%                                                                                                               | 3.2%                                                                                                               | 3.1%                                                                                                               |
| 772.95                                           | 12.5% ad val.                                                                                                               | 11.6%                                                                                                               | 10.6%                                                                                                             | 9.7%                                                                                                                | 8.8%                                                                                                               | 7.8%                                                                                                               | 6.9%                                                                                                               | 5.9%                                                                                                               | 5%                                                                                                                 |
| 772.97                                           | 8.5% ad val.                                                                                                                | 8.1%                                                                                                                | 7.7%                                                                                                              | 7.3%                                                                                                                | 6.9%                                                                                                               | 6.5%                                                                                                               | 6.1%                                                                                                               | 5.7%                                                                                                               | 5.3%                                                                                                               |
| 773.20                                           | 26.3% ad val.                                                                                                               | 24.3%                                                                                                               | 22.4%                                                                                                             | 20.4%                                                                                                               | 18.4%                                                                                                              | 16.4%                                                                                                              | 14.5%                                                                                                              | 12.5%                                                                                                              | 10.5%                                                                                                              |
| 773.25                                           | 5% ad val.                                                                                                                  | 4.8%                                                                                                                | 4.6%                                                                                                              | 4.4%                                                                                                                | 4.3%                                                                                                               | 4.1%                                                                                                               | 3.9%                                                                                                               | 3.7%                                                                                                               | 3.5%                                                                                                               |
| 773.30                                           | 5% ad val.                                                                                                                  | 4.8%                                                                                                                | 4.7%                                                                                                              | 4.5%                                                                                                                | 4.4%                                                                                                               | 4.2%                                                                                                               | 4%                                                                                                                 | 3.9%                                                                                                               | 3.7%                                                                                                               |
| 773.35                                           | 6% ad val.                                                                                                                  | 5.8%                                                                                                                | 5.6%                                                                                                              | 5.3%                                                                                                                | 5.1%                                                                                                               | 4.9%                                                                                                               | 4.7%                                                                                                               | 4.4%                                                                                                               | 4.2%                                                                                                               |
| 774.20                                           | 15% ad val.                                                                                                                 | 13.9%                                                                                                               | 12.8%                                                                                                             | 11.6%                                                                                                               | 10.5%                                                                                                              | 9.4%                                                                                                               | 8.3%                                                                                                               | 7.1%                                                                                                               | 6%                                                                                                                 |
| 774.25                                           | 6% ad val.                                                                                                                  | 5.8%                                                                                                                | 5.6%                                                                                                              | 5.3%                                                                                                                | 5.1%                                                                                                               | 4.9%                                                                                                               | 4.7%                                                                                                               | 4.4%                                                                                                               | 4.2%                                                                                                               |
| 774.35                                           | 11.6% ad val.                                                                                                               | 11.6%                                                                                                               | 11.6%                                                                                                             | 11.6%                                                                                                               | 11.6%                                                                                                              | 11.6%                                                                                                              | 11.6%                                                                                                              | 11.6%                                                                                                              | 11.6%                                                                                                              |
| Schedule 7, Part 13                              |                                                                                                                             |                                                                                                                     |                                                                                                                   |                                                                                                                     |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |                                                                                                                    |
| 790.00                                           | 16% ad val.                                                                                                                 | 14.8%                                                                                                               | 13.6%                                                                                                             | 12.4%                                                                                                               | 11.2%                                                                                                              | 10%                                                                                                                | 8.8%                                                                                                               | 7.6%                                                                                                               | 6.4%                                                                                                               |
| 790.03                                           | 9.5% ad val.                                                                                                                | 9%                                                                                                                  | 8.6%                                                                                                              | 8.1%                                                                                                                | 7.6%                                                                                                               | 7.1%                                                                                                               | 6.7%                                                                                                               | 6.2%                                                                                                               | 5.7%                                                                                                               |
| 790.10                                           | 6% ad val.                                                                                                                  | 5.6%                                                                                                                | 5.1%                                                                                                              | 4.7%                                                                                                                | 4.2%                                                                                                               | 3.8%                                                                                                               | 3.3%                                                                                                               | 2.9%                                                                                                               | 2.4%                                                                                                               |
| 790.15                                           | 7% ad val.                                                                                                                  | 6.5%                                                                                                                | 6%                                                                                                                | 5.4%                                                                                                                | 4.9%                                                                                                               | 4.4%                                                                                                               | 3.9%                                                                                                               | 3.3%                                                                                                               | 2.8%                                                                                                               |
| 790.23                                           | 4% ad val.                                                                                                                  | 4%                                                                                                                  | 4%                                                                                                                | 3.3%                                                                                                                | 2.7%                                                                                                               | 2%                                                                                                                 | 1.3%                                                                                                               | 0.7%                                                                                                               | Free                                                                                                               |
| 790.30                                           | 6% ad val.                                                                                                                  | 5.8%                                                                                                                | 5.6%                                                                                                              | 5.3%                                                                                                                | 5.1%                                                                                                               | 4.9%                                                                                                               | 4.7%                                                                                                               | 4.4%                                                                                                               | 4.2%                                                                                                               |
| 790.37                                           | 6% ad val.                                                                                                                  | 5.6%                                                                                                                | 5.1%                                                                                                              | 4.7%                                                                                                                | 4.2%                                                                                                               | 3.8%                                                                                                               | 3.3%                                                                                                               | 2.9%                                                                                                               | 2.4%                                                                                                               |
| 790.39                                           | 6% ad val.                                                                                                                  | 4.2%                                                                                                                | 4.2%                                                                                                              | 4.2%                                                                                                                | 4.2%                                                                                                               | 4.2%                                                                                                               | 4.2%                                                                                                               | 4.2%                                                                                                               | 4.2%                                                                                                               |
| 790.40                                           | 4% ad val.                                                                                                                  | 3.5%                                                                                                                | 3%                                                                                                                | 2.5%                                                                                                                | 2%                                                                                                                 | 1.5%                                                                                                               | 1%                                                                                                                 | 0.5%                                                                                                               | Free                                                                                                               |
| 790.50                                           | 12.5% ad val.                                                                                                               | 11.8%                                                                                                               | 11%                                                                                                               | 10.3%                                                                                                               | 9.6%                                                                                                               | 8.8%                                                                                                               | 8.1%                                                                                                               | 7.3%                                                                                                               | 6.6%                                                                                                               |
| 790.59                                           | 22.8% ad val.                                                                                                               | 21.1%                                                                                                               | 19.4%                                                                                                             | 17.6%                                                                                                               | 15.9%                                                                                                              | 14.2%                                                                                                              | 12.5%                                                                                                              | 10.7%                                                                                                              | 9%                                                                                                                 |
| 790.60                                           | 23.1% ad val.                                                                                                               | 20.1%                                                                                                               | 17.1%                                                                                                             | 14.1%                                                                                                               | 11.1%                                                                                                              | 9%                                                                                                                 | 7%                                                                                                                 | 5%                                                                                                                 | 3%                                                                                                                 |
| 790.61                                           | 21.7% ad val.                                                                                                               | 20.1%                                                                                                               | 18.5%                                                                                                             | 16.8%                                                                                                               | 15.2%                                                                                                              | 13.6%                                                                                                              | 12%                                                                                                                | 10.3%                                                                                                              | 8.7%                                                                                                               |
| 790.62                                           | 21.9% ad val.                                                                                                               | 20.3%                                                                                                               | 18.6%                                                                                                             | 17%                                                                                                                 | 15.3%                                                                                                              | 13.7%                                                                                                              | 12%                                                                                                                | 10.4%                                                                                                              | 8.7%                                                                                                               |
| 790.63                                           | 22.5% ad val.                                                                                                               | 20.6%                                                                                                               | 19.1%                                                                                                             | 17.4%                                                                                                               | 15.8%                                                                                                              | 14.1%                                                                                                              | 12.4%                                                                                                              | 10.7%                                                                                                              | 9%                                                                                                                 |

- 1/ The symbol "c" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



## Section A.--Continued

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/, effective with respect to articles entered on and after January 1 -- |       |       |       |       |       |      |      |
|--------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------|-------|-------|-------|-------|-------|------|------|
|                                                  |                           | 1980                                                                                   | 1981  | 1982  | 1983  | 1984  | 1985  | 1986 | 1987 |
| Schedule 7, Part 13--continued                   |                           |                                                                                        |       |       |       |       |       |      |      |
| 790.70                                           | 7% ad val.                | 4%                                                                                     | 2.8%  | 2.8%  | 2.8%  | 2.8%  | 2.8%  | 2.8% | 2.8% |
| 791.05                                           | 18.5% ad val.             | 17.1%                                                                                  | 15.7% | 14.3% | 13%   | 11.6% | 10.2% | 8.8% | 7.4% |
| 791.10                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7% | 5.3% |
| 791.15                                           | 10% ad val.               | 9.5%                                                                                   | 9%    | 8.4%  | 7.9%  | 7.4%  | 6.9%  | 6.3% | 5.8% |
| 791.17                                           | 18.5% ad val.             | 15.5%                                                                                  | 12.5% | 9.5%  | 7.4%  | 7.4%  | 7.4%  | 7.4% | 7.4% |
| 791.19                                           | 8.5% ad val.              | 5.5%                                                                                   | 3.4%  | 3.4%  | 3.4%  | 3.4%  | 3.4%  | 3.4% | 3.4% |
| 791.30                                           | 5% ad val.                | 4.6%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9% | 3.7% |
| 791.35                                           | 5% ad val.                | 4.8%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9% | 3.7% |
| 791.45                                           | 3% ad val.                | 2.9%                                                                                   | 2.9%  | 2.8%  | 2.8%  | 2.7%  | 2.6%  | 2.6% | 2.5% |
| 791.48                                           | 5% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4% | 4.2% |
| 791.50                                           | 3.5% ad val               | 3.1%                                                                                   | 2.6%  | 2.2%  | 1.8%  | 1.3%  | 0.9%  | 0.4% | Free |
| 791.54                                           | 7% ad val.                | 6.5%                                                                                   | 6%    | 5.4%  | 4.9%  | 4.4%  | 3.9%  | 3.3% | 2.8% |
| 791.57                                           | 5% ad val.                | 3.4%                                                                                   | 3.3%  | 3.2%  | 3.2%  | 3.1%  | 3%    | 2.9% | 2.8% |
| 791.60                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7% | 5.3% |
| 791.65                                           | 10% ad val.               | 9.5%                                                                                   | 9%    | 8.4%  | 7.9%  | 7.4%  | 6.9%  | 6.3% | 5.8% |
| 791.70                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%  | 6.1%  | 5.9%  | 5.6%  | 5.3%  | 5%   | 4.7% |
| 791.80                                           | 14% ad val.               | 11%                                                                                    | 8%    | 5.6%  | 5.6%  | 5.6%  | 5.6%  | 5.6% | 5.6% |
| 791.90                                           | 4% ad val.                | 3.5%                                                                                   | 3%    | 2.5%  | 2%    | 1.5%  | 1%    | 0.5% | Free |
| 792.10                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4% | 4.2% |
| 792.22                                           | 17% ad val.               | 15.8%                                                                                  | 14.7% | 13.5% | 12.4% | 11.2% | 10%   | 8.9% | 7.7% |
| 792.30                                           | 10% ad val.               | 9.3%                                                                                   | 8.5%  | 7.8%  | 7%    | 6.3%  | 5.5%  | 4.8% | 4%   |
| 792.32                                           | 3% ad val.                | 2.9%                                                                                   | 2.9%  | 2.8%  | 2.8%  | 2.7%  | 2.6%  | 2.6% | 2.5% |
| 792.40                                           | 5% ad val.                | 4.4%                                                                                   | 3.8%  | 3.1%  | 2.5%  | 1.9%  | 1.3%  | 0.6% | Free |
| 792.40                                           | 8.5% ad val.              | 8.1%                                                                                   | 7.7%  | 7.3%  | 6.9%  | 6.5%  | 6.1%  | 5.7% | 5.3% |
| 792.60                                           | 6% ad val.                | 5.8%                                                                                   | 5.6%  | 5.3%  | 5.1%  | 4.9%  | 4.7%  | 4.4% | 4.2% |
| 792.75                                           | 7% ad val.                | 6.7%                                                                                   | 6.4%  | 6.1%  | 5.9%  | 5.6%  | 5.3%  | 5%   | 4.7% |
| Schedule 7, Part 14                              |                           |                                                                                        |       |       |       |       |       |      |      |
| 799.00                                           | 5% ad val.                | 4.4%                                                                                   | 4.7%  | 4.5%  | 4.4%  | 4.2%  | 4%    | 3.9% | 3.7% |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section B. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that the Philippines provide satisfactory supply access assurances for rattan.

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty 1/ effective with respect to articles entered on and after the dates to be notified and published for the appropriate stages below: |         |         |         |         |         |         |         |
|--------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|---------|---------|
|                                      |                        | Stage 1                                                                                                                                           | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule 7, Part 4                   |                        |                                                                                                                                                   |         |         |         |         |         |         |         |
| 777.10                               | 14% ad val.            | 14.9%                                                                                                                                             | 13.9%   | 12.8%   | 11.8%   | 10.7%   | 9.6%    | 8.6%    | 7.5%    |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section C. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that satisfactory progress has been made toward the development of a common North American standard for software plywood.

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty 1/ effective with respect to articles entered on and after the dates to be notified and published for the appropriate stages below: |         |         |         |         |         |         |         |
|--------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|---------|---------|
|                                      |                        | Stage 1                                                                                                                                           | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule 7, Part 3                   |                        |                                                                                                                                                   |         |         |         |         |         |         |         |
| 760.21                               | 20% ad val.            | 16.5%                                                                                                                                             | 17%     | 15.5%   | 14%     | 12.5%   | 11%     | 9.5%    | 8%      |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## Section D. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) on which the import relief action under section 203 of the Trade Act of 1974 with respect to iron bars, initiated by Presidential Proclamation 4510 of June 22, 1977, has terminated.

| Item in<br>TSUS as<br>modified<br>by<br>Annex II | Rate from<br>which staged | Rates of duty 1/ effective with respect to articles entered on and after<br>the dates to be notified and published for the appropriate stages below: |         |         |         |         |         |         |         |
|--------------------------------------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|---------|---------|
|                                                  |                           | Stage 1                                                                                                                                              | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule 7, Part 12                              |                           |                                                                                                                                                      |         |         |         |         |         |         |         |
| 774.40                                           | 8.5% ad val.              | 8.1%                                                                                                                                                 | 7.7%    | 7.3%    | 6.9%    | 6.5%    | 6.1%    | 5.7%    | 5.3%    |
| Schedule 7, Part 13                              |                           |                                                                                                                                                      |         |         |         |         |         |         |         |
| 791.0                                            | 3.5% ad val.              | 3.4%                                                                                                                                                 | 3.3%    | 3.2%    | 3.2%    | 3.1%    | 3%      | 2.9%    | 2.8%    |
| 791.27                                           | 5% ad val.                | 4.8%                                                                                                                                                 | 4.7%    | 4.5%    | 4.4%    | 4.2%    | 4%      | 3.9%    | 3.7%    |

1/ The symbol "Z" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.



Section E. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) on which the import relief actions under section 203 of the Trade Act of 1974 with respect to color television receivers and certain subassemblies thereof, initiated by Presidential Proclamations 4511 and 4634, of June 24, 1977, and January 26, 1979, respectively, have terminated.

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty 1/ effective with respect to articles entered on and after the dates to be notified and published for the appropriate stages below: |         |         |         |         |         |         |         |
|--------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|---------|---------|
|                                      |                        | Stage 1                                                                                                                                           | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule C, Part 5                   |                        |                                                                                                                                                   |         |         |         |         |         |         |         |
| 685.16                               | 5% ad val.             | 4.8%                                                                                                                                              | 4.7%    | 4.5%    | 4.4%    | 4.2%    | 4%      | 3.9%    | 3.7%    |
| 685.18                               | 5% ad val.             | 4.8%                                                                                                                                              | 4.7%    | 4.5%    | 4.4%    | 4.2%    | 4%      | 3.9%    | 3.7%    |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Section F. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that other major countries provide adequate entity coverage under the Agreement on Government Procurement, entered into on April 12, 1979.

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty 1/ effective with respect to articles entered on and after the dates to be notified and published for the appropriate stages below: |         |         |         |         |         |         |         |
|--------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|---------|---------|---------|---------|---------|
|                                      |                        | Stage 1                                                                                                                                           | Stage 2 | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule D, Part 4                   |                        |                                                                                                                                                   |         |         |         |         |         |         |         |
| 660.10                               | 6.5% ad val.           | 6.2%                                                                                                                                              | 6%      | 5.7%    | 5.5%    | 5.2%    | 4.9%    | 4.7%    | 4.4%    |
| 660.15                               | 7% ad val.             | 6.7%                                                                                                                                              | 6.4%    | 6.1%    | 5.9%    | 5.6%    | 5.3%    | 5%      | 4.7%    |
| 660.25                               | 4% ad val.             | 3.8%                                                                                                                                              | 3.6%    | 3.4%    | 3.2%    | 3%      | 2.8%    | 2.6%    | 2.4%    |
| 660.30                               | 7.5% ad val.           | 7.2%                                                                                                                                              | 6.9%    | 6.6%    | 6.3%    | 6%      | 5.7%    | 5.4%    | 5.1%    |
| 660.35                               | 4.5% ad val.           | 4.4%                                                                                                                                              | 4.2%    | 4.1%    | 4%      | 3.8%    | 3.7%    | 3.5%    | 3.4%    |
| 660.59                               | 5% ad val.             | 4.4%                                                                                                                                              | 3.8%    | 3.1%    | 2.5%    | 1.9%    | 1.3%    | 0.6%    | Free    |
| 660.62                               | 5% ad val.             | 4.8%                                                                                                                                              | 4.7%    | 4.5%    | 4.4%    | 4.2%    | 4%      | 3.9%    | 3.7%    |
| 660.74                               | 18.4% ad val.          | 17.1%                                                                                                                                             | 15.8%   | 14.5%   | 13.2%   | 11.9%   | 10.6%   | 9.3%    | 8%      |
| 660.76                               | 7.5% ad val.           | 7.2%                                                                                                                                              | 6.9%    | 6.6%    | 6.3%    | 6%      | 5.7%    | 5.4%    | 5.1%    |
| Schedule E, Part 5                   |                        |                                                                                                                                                   |         |         |         |         |         |         |         |
| 660.62                               | 8.5% ad val.           | 8.1%                                                                                                                                              | 7.7%    | 7.3%    | 6.9%    | 6.5%    | 6.1%    | 5.7%    | 5.3%    |

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Section G. Staged rate modifications effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) of the implementation by Canada of the concession rate of 1 cent per pound on Canadian tariff item 501-1.

| Item in TSUS as modified by Annex II | Rate from which staged | Rates of duty 1/ effective with respect to articles entered on and after the dates to be notified and published for the appropriate stages below: |          |         |         |         |         |         |         |
|--------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------|---------|---------|---------|---------|---------|---------|
|                                      |                        | Stage 1                                                                                                                                           | Stage 2  | Stage 3 | Stage 4 | Stage 5 | Stage 6 | Stage 7 | Stage 8 |
| Schedule F, Part 1                   |                        |                                                                                                                                                   |          |         |         |         |         |         |         |
| 100.40                               | 1.5c per lb.           | 1.3c/lb.                                                                                                                                          | 1.1c/lb. | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  |
| 100.41                               | 2.5c per lb.           | 2c/lb.                                                                                                                                            | 1.5c/lb. | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  |
| 100.53                               | 1.5c per lb.           | 1.3c/lb.                                                                                                                                          | 1.1c/lb. | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  |
| 100.55                               | 2.5c per lb.           | 2c/lb.                                                                                                                                            | 1.5c/lb. | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  | 1c/lb.  |

1/ The symbol "c" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

## ANNEX IV

## PRODUCTS OF LEAST DEVELOPED DEVELOPING COUNTRIES

Section A. The countries set forth in general headnote 3(d)(1) of the TSUS, as added by Section C of this Annex, are the least developed developing countries to which Section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251) is applicable, and products of such countries which are entered under the TSUS items listed in Section B of this Annex are eligible for full tariff reductions without staging in accordance with that section.

Section B. Imported articles, the products of least developed developing countries referred to in Section A above, which are provided for in the following TSUS item numbers, are subject to the rates of duty set opposite thereto on and after the effective dates specified below (except when such articles are subject to temporary modifications as specified in the new general headnote 3(d)(11) of the TSUS, set forth in section C of this annex):

(1) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1980:

| TSUS Item No. | Rate of duty   | TSUS Item No. | Rate of duty          |
|---------------|----------------|---------------|-----------------------|
| 106.10        | 2c per lb.     | 117.20        | 16% ad val.           |
| 106.22        | 1.5c per lb.   | 117.44        | 19% ad val.           |
| 106.25        | Free           | 117.55        | 15% ad val.           |
| 106.80        | Free           | 117.60        | 6.4% ad val.          |
| 107.40        | 1c per lb.     | 117.86        | 7.5% ad val.          |
| 107.48        | 3% ad val.     | 120.17        | Free                  |
| 107.52        | 3% ad val.     | 121.10        | 4.9% ad val.          |
| 107.55        | 2c per lb.     | 121.15        | 3.7% ad val.          |
| 107.61        | 4% ad val.     | 121.25        | 4.2% ad val.          |
| 107.63        | 4% ad val.     | 121.30        | 5.5% ad val.          |
| 107.70        | 0.6c per lb.   | 121.35        | 3.1% ad val.          |
| 107.76        | Free           | 121.40        | 3.7% ad val.          |
| 107.80        | Free           | 121.45        | 5.5% ad val.          |
| 110.28        | Free           | 121.50        | 4.2% ad val.          |
| 110.55        | 1.875c per lb. | 121.52        | Free                  |
| 110.65        | Free           | 121.54        | 2.4% ad val.          |
| 111.37        | 4% ad val.     | 121.55        | 3.7% ad val.          |
| 111.48        | 3% ad val.     | 121.61        | Free                  |
| 111.60        | 10% ad val.    | 121.62        | 3.7% ad val.          |
| 111.76        | Free           | 121.64        | 4.2% ad val.          |
| 111.84        | 2.5% ad val.   | 121.65        | 2.4% ad val.          |
| 112.01        | 5% ad val.     | 123.50        | 8% ad val.            |
| 112.03        | Free           | 124.20        | 5.3% ad val.          |
| 112.12        | Free           | 124.30        | 3.7% ad val.          |
| 112.18        | 3% ad val.     | 124.60        | 5.8% ad val.          |
| 112.20        | 2.5% ad val.   | 124.65        | 3.1% ad val.          |
| 112.42        | 4.9% ad val.   | 124.70        | 4.9% ad val.          |
| 112.46        | 8% ad val.     | 124.80        | 2.4% ad val.          |
| 112.54        | 12% ad val.    | 125.32        | 2.2% ad val.          |
| 112.79        | 4% ad val.     | 125.50        | Free                  |
| 112.86        | 20% ad val.    | 125.65        | Free                  |
| 112.94        | 6.5% ad val.   | 125.70        | Free                  |
| 113.01        | Free           | 125.82        | 3% ad val.            |
| 113.05        | 6.6% ad val.   | 126.23        | Free                  |
| 113.40        | Free           | 126.27        | Free                  |
| 113.50        | 5% ad val.     | 126.29        | Free                  |
| 114.25        | 5% ad val.     | 126.33        | Free                  |
| 114.34        | Free           | 126.35        | Free                  |
| 114.55        | Free           | 130.08        | 5c per bu. of 48 lbs. |



## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty                                                     | TSUS<br>Item No. | Rate of duty              |
|------------------|------------------------------------------------------------------|------------------|---------------------------|
| 130.30           | Free                                                             | 148.72           | Free                      |
| 130.32           | 5c per bu. of 56 lbs.                                            | 148.81           | Free                      |
| 130.45           | Free                                                             | 148.83           | Free                      |
| 130.60           | Free                                                             | 148.98           | 0.25c per lb.             |
| 131.20           | 30c per 100 lbs.                                                 | 149.15           | 3% ad val.                |
| 131.30           | 1c per lb.                                                       | 149.18           | Free                      |
| 136.00           | 5% ad val.                                                       | 149.50           | 3.4% ad val.              |
| 136.92           | 0.7c per lb.                                                     | 149.60           | 7% ad val.                |
| 137.02           | 0.8c per lb.                                                     | 150.02           | 7% ad val.                |
| 137.20           | 35c per 100 lbs.                                                 | 152.14           | Free                      |
| 137.21           | 35c per 100 lbs.                                                 | 152.30           | 1.4c per lb.              |
| 137.25           | 35c per 100 lbs.                                                 | 152.42           | 12.5% ad val.             |
| 137.28           | 35c per 100 lbs.                                                 | 152.43           | 7% ad val.                |
| 137.78           | 10% ad val.                                                      | 152.54           | 2.8% ad val.              |
| 137.82           | 10% ad val.                                                      | 152.58           | 2.8% ad val.              |
| 138.25           | 9% ad val.                                                       | 153.02           | Free                      |
| 138.30           | 7% ad val.                                                       | 153.08           | Free                      |
| 140.40           | 25% ad val.                                                      | 154.40           | 5.4% ad val.              |
| 140.54           | 5.2% ad val.                                                     | 154.43           | 5% ad val.                |
| 141.30           | 4% ad val.                                                       | 154.45           | 3.4% ad val.              |
| 141.50           | 7% ad val.                                                       | 155.75           | 6% ad val.                |
| 141.70           | 7% ad val.                                                       | 156.45           | Free                      |
| 141.78           | 9% ad val.                                                       | 161.31           | Free                      |
| 141.82           | 10% ad val.                                                      | 161.58           | Free                      |
| 141.83           | 12.5% ad val.                                                    | 161.61           | Free                      |
| 141.84           | 10% ad val.                                                      | 161.71           | 2c per lb.                |
| 141.85           | 3.4% ad val.                                                     | 161.75           | 6% ad val.                |
| 141.86           | 10% ad val.                                                      | 162.15           | 3% ad val.                |
| 141.87           | 9% ad val.                                                       | 168.36           | 25c per proof gal.        |
| 144.12           | 1.3c per lb. + 4% ad val.                                        | 168.37           | 50c per proof gal.        |
| 145.09           | 4% ad val.                                                       | 168.39           | 20c per proof gal.        |
| 145.48           | 3c per lb.                                                       | 168.41           | 40c per proof gal.        |
| 145.65           | 14% ad val.                                                      | 168.49           | 50c per proof gal.        |
| 146.30           | 6c per lb.                                                       | 168.53           | 40c per proof gal.        |
| 146.44           | 3% ad val.                                                       | 168.65           | \$1.40 per proof gal.     |
| 146.71           | 6% ad val.                                                       | 168.67           | \$1.40 per proof gal.     |
| 146.74           | 7% ad val.                                                       | 168.69           | 20c per proof gal.        |
| 146.83           | 10% ad val.                                                      | 168.71           | 20c per proof gal.        |
| 146.84           | 7% ad val.                                                       | 168.73           | 25c per proof gal.        |
| 146.87           | 2.8% ad val.                                                     | 168.75           | 25c per proof gal.        |
| 147.33           | 3.4% ad val.                                                     | 168.83           | 50c per proof gal.        |
| 147.36           | 17.5% ad val.                                                    | 170.35           | 20c per lb.               |
| 147.38           | 3c per lb.                                                       | 175.18           | 22c per bu. of 56 lbs.    |
| 147.61           | 4c per cu. ft. of such<br>bulk or the capacity<br>of the package | 175.39           | 0.4c per lb.              |
|                  |                                                                  | 176.01           | 3% ad val.                |
|                  |                                                                  | 176.16           | 4% ad val.                |
| 147.77           | 7% ad val.                                                       | 176.17           | Free                      |
| 147.85           | Free                                                             | 176.24           | 0.5c per lb. + 2% ad val. |
| 147.96           | 1.5c per lb.                                                     | 182.11           | 8% ad val.                |
| 148.19           | 3.5% ad val.                                                     | 182.15           | 7% ad val.                |
| 148.22           | 14% ad val.                                                      | 182.20           | Free                      |
| 148.35           | 17.5% ad val.                                                    | 182.33           | 5% ad val.                |

## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty                | TSUS<br>Item No. | Rate of duty                |
|------------------|-----------------------------|------------------|-----------------------------|
| 182.35           | Free                        | 220.41           | 7c per lb.                  |
| 182.36           | Free                        | 220.48           | 7c per lb.                  |
| 182.53           | 5% ad val.                  | 222.10           | 3.1% ad val.                |
| 182.60           | 5% ad val.                  | 222.30           | 7% ad val.                  |
| 182.92           | 16% ad val.                 | 222.32           | 6.6% ad val.                |
| 182.96           | 8% ad val.                  | 222.36           | 3.5% ad val.                |
| 184.51           | 0.12c per lb.               | 222.40           | 10% ad val.                 |
| 184.58           | 4% ad val.                  | 222.41           | 5.8% ad val.                |
| 184.85           | 3% ad val.                  | 222.42           | 10% ad val.                 |
| 186.50           | 3.1% ad val.                | 222.44           | 4.5% ad val.                |
| 188.34           | 2c per lb.                  | 222.50           | 8% ad val.                  |
| 190.10           | Free                        | 222.55           | Free                        |
| 190.25           | 7.7% ad val.                | 222.57           | 3.2% ad val.                |
| 190.68           | 3% ad val.                  | 222.60           | 6.6% ad val.                |
| 190.85           | Free                        | 240.00           | Free                        |
| 190.93           | 3% ad val.                  | 240.02           | 4% ad val.                  |
| 192.17           | 4% ad val.                  | 240.03           | Free                        |
| 200.06           | 3.7% ad val.                | 240.04           | 3.2% ad val.                |
| 200.20           | 2.4% ad val.                | 240.06           | Free                        |
| 200.25           | 5.1% ad val.                | 240.10           | 8% ad val.                  |
| 200.45           | Free                        | 240.12           | 5% ad val.                  |
| 200.95           | 7.6% ad val.                | 240.14           | 3% ad val.                  |
| 202.38           | Free                        | 240.16           | 5.3% ad val.                |
| 202.54           | Free                        | 240.17           | 8% ad val.                  |
| 202.56           | Free                        | 240.19           | 8% ad val.                  |
| 202.60           | 3.2% ad val.                | 240.25           | 8% ad val.                  |
| 202.66           | 4.5% ad val.                | 240.30           | 8% ad val.                  |
| 203.10           | 5.8% ad val.                | 240.32           | 6.6% ad val.                |
| 203.20           | 4.5c per lb. + 3.5% ad val. | 240.34           | 3% ad val.                  |
| 203.30           | 4.5c per lb. + 3.5% ad val. | 240.36           | 5.3% ad val.                |
| 204.05           | 7.7% ad val.                | 240.38           | 4% ad val.                  |
| 204.10           | 2.8% ad val.                | 240.40           | 4% ad val.                  |
| 204.20           | 5.1% ad val.                | 240.50           | 8.2% ad val.                |
| 204.35           | 3% ad val.                  | 240.52           | 6.6% ad val.                |
| 204.40           | 6.7% ad val.                | 240.54           | 3% ad val.                  |
| 204.50           | 1c per lb. + 2.9% ad val.   | 240.56           | 5.3% ad val.                |
| 206.45           | 4.5% ad val.                | 240.58           | 4% ad val.                  |
| 206.47           | 5.3% ad val.                | 240.60           | 4% ad val.                  |
| 206.50           | Free                        | 245.45           | 4% ad val.                  |
| 206.52           | Free                        | 245.50           | 4% ad val.                  |
| 206.53           | 4.4% ad val.                | 245.60           | 4% ad val.                  |
| 206.67           | 8% ad val.                  | 245.70           | 2.4% ad val.                |
| 206.95           | 7% ad val.                  | 245.80           | 1.3c per lb. + 2.3% ad val. |
| 206.96           | 5.1% ad val.                | 251.10           | 3.7% ad val.                |
| 207.00           | 5.1% ad val.                | 251.15           | 4.9% ad val.                |
| 220.10           | 1c per lb.                  | 251.20           | 5.8% ad val.                |
| 220.15           | 0.4c per lb.                | 251.25           | 2.8% ad val.                |
| 220.20           | 2.5c per lb.                | 251.30           | Free                        |
| 220.25           | 3.7% ad val.                | 251.45           | Free                        |
| 220.31           | 2c per lb.                  | 251.49           | Free                        |
| 220.35           | 20c per lb.                 | 252.05           | Free                        |
| 220.36           | 8.5c per lb.                | 252.10           | Free                        |
| 220.37           | 10c per lb.                 | 252.13           | 3.8% ad val.                |
| 220.39           | 7c per lb.                  | 252.15           | 3.2% ad val.                |



## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty | TSUS<br>Item No. | Rate of duty               |
|------------------|--------------|------------------|----------------------------|
| 252.17           | Free         | 254.95           | Free                       |
| 252.20           | 1.6% ad val. | 256.05           | Free                       |
| 252.25           | 2.6% ad val. | 256.10           | 4.9% ad val.               |
| 252.27           | 2% ad val.   | 256.15           | 3.7% ad val.               |
| 252.30           | 3.5% ad val. | 256.20           | 3.2% ad val.               |
| 252.35           | 4.9% ad val. | 256.25           | 3.2% ad val.               |
| 252.40           | 4.3% ad val. | 256.30           | 3% ad val.                 |
| 252.42           | 2% ad val.   | 256.35           | 4.2% ad val.               |
| 252.45           | 1.6% ad val. | 256.40           | 5.1% ad val.               |
| 252.50           | 4.2% ad val. | 256.42           | 3% ad val.                 |
| 252.57           | 2.4% ad val. | 256.44           | 4% ad val.                 |
| 252.59           | 3.8% ad val. | 256.48           | 2.5% ad val.               |
| 252.61           | 4.8% ad val. | 256.52           | 3% ad val.                 |
| 252.63           | 1.8% ad val. | 256.54           | 2.8% ad val.               |
| 252.70           | 2.7% ad val. | 256.56           | 4% ad val.                 |
| 252.73           | 3.1% ad val. | 256.58           | Free                       |
| 252.75           | 2.4% ad val. | 256.65           | 3.2% ad val.               |
| 252.77           | 1.5% ad val. | 256.67           | 5.8% ad val.               |
| 252.79           | Free         | 256.70           | Free                       |
| 252.81           | Free         | 256.75           | 3.1% ad val.               |
| 252.84           | 2.4% ad val. | 256.80           | 3.6% ad val.               |
| 252.86           | Free         | 256.84           | 4% ad val.                 |
| 252.90           | 4% ad val.   | 256.90           | 5.3% ad val.               |
| 253.05           | 2.4% ad val. | 270.45           | Free                       |
| 253.10           | 3.9% ad val. | 270.50           | Free                       |
| 253.15           | 3.4% ad val. | 273.30           | 5.3% ad val.               |
| 253.20           | Free         | 273.55           | Free                       |
| 253.25           | Free         | 273.65           | 18c per lb. + 2.4% ad val. |
| 253.30           | Free         | 273.70           | 6c per lb. + 3.5% ad val.  |
| 253.35           | 2.4% ad val. | 273.75           | 7c per lb.                 |
| 253.40           | 3.7% ad val. | 273.85           | 4% ad val.                 |
| 253.45           | 3.3% ad val. | 273.90           | 4.2% ad val.               |
| 254.09           | 2.6% ad val. | 273.95           | 3.1% ad val.               |
| 254.15           | 2.8% ad val. | 274.05           | 4.9% ad val.               |
| 254.18           | Free         | 274.10           | Free                       |
| 254.20           | 1.6% ad val. | 274.15           | 2c per lb.                 |
| 254.25           | 4.9% ad val. | 274.20           | 3% ad val.                 |
| 254.30           | 2.8% ad val. | 274.23           | 12c per lb.                |
| 254.35           | 3.4% ad val. | 274.27           | 28c per lb.                |
| 254.40           | 3.8% ad val. | 274.29           | 4c per lb.                 |
| 254.42           | 3.3% ad val. | 274.33           | 11c per lb.                |
| 254.44           | Free         | 274.35           | 4.2% ad val.               |
| 254.46           | 2.5% ad val. | 274.65           | Free                       |
| 254.48           | 2.2% ad val. | 274.70           | 3.1% ad val.               |
| 254.50           | 1.3% ad val. | 274.75           | Free                       |
| 254.54           | 3.4% ad val. | 274.90           | 4.9% ad val.               |
| 254.56           | 4.4% ad val. | 304.04           | Free                       |
| 254.58           | 2.4% ad val. | 304.40           | Free                       |
| 254.63           | 2.9% ad val. | 305.40           | 4% ad val.                 |
| 254.65           | Free         | 306.10           | 2c per clean lb.           |
| 254.70           | 2% ad val.   | 306.11           | 2.5c per clean lb.         |
| 254.80           | Free         | 306.12           | 2.5c per clean lb.         |
| 254.85           | 1.9% ad val. | 306.13           | 3c per clean lb.           |
| 254.90           | 2% ad val.   |                  |                            |

## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty       | TSUS<br>Item No. | Rate of duty  |
|------------------|--------------------|------------------|---------------|
| 306.20           | 3c per clean lb.   | 415.20           | Free          |
| 306.21           | 3c per clean lb.   | 415.27           | 6c per lb.    |
| 306.22           | 3c per clean lb.   | 415.30           | 6.6% ad val.  |
| 306.23           | 4c per clean lb.   | 415.35           | Free          |
| 306.30           | 4c per clean lb.   | 415.40           | 3.7% ad val.  |
| 306.31           | 10c per clean lb.  | 415.50           | 3.7% ad val.  |
| 306.32           | 10c per clean lb.  | 416.30           | Free          |
| 306.33           | 11c per clean lb.  | 416.40           | 10.5% ad val. |
| 306.34           | 13c per lb.        | 416.45           | 4.2% ad val.  |
| 306.40           | 4.5c per clean lb. | 417.10           | 1.6% ad val.  |
| 306.60           | 3c per clean lb.   | 417.16           | Free          |
| 306.70           | 4c per clean lb.   | 417.18           | Free          |
| 306.80           | 6.5c per clean lb. | 417.20           | 3.1% ad val.  |
| 308.06           | 2.8% ad val.       | 417.22           | 2.8% ad val.  |
| 308.10           | 4.7% ad val.       | 417.24           | 1.7% ad val.  |
| 308.16           | 5.3% ad val.       | 417.26           | 2.9% ad val.  |
| 308.18           | 5.8% ad val.       | 417.28           | 4.3% ad val.  |
| 308.20           | 2.8% ad val.       | 417.30           | Free          |
| 308.30           | 5% ad val.         | 417.34           | 1.5% ad val.  |
| 308.35           | 5% ad val.         | 417.36           | 3.7% ad val.  |
| 308.40           | 5% ad val.         | 417.38           | 3.1% ad val.  |
| 308.45           | 5% ad val.         | 417.40           | 10% ad val.   |
| 308.47           | 5% ad val.         | 417.42           | 11.2% ad val. |
| 308.50           | 5% ad val.         | 417.44           | 3.1% ad val.  |
| 308.51           | 5% ad val.         | 417.52           | 4.2% ad val.  |
| 308.55           | 5% ad val.         | 417.54           | 5.8% ad val.  |
| 308.90           | 5% ad val.         | 417.64           | 3.7% ad val.  |
| 309.28           | 6% ad val.         | 417.70           | 4.2% ad val.  |
| 309.29           | 7.2% ad val.       | 417.72           | 2.5% ad val.  |
| 312.50           | 5.8% ad val.       | 417.74           | 2% ad val.    |
| 315.35           | 6.8% ad val.       | 417.76           | 2% ad val.    |
| 315.50           | Free               | 417.78           | 2% ad val.    |
| 316.50           | 7% ad val.         | 417.80           | 3.7% ad val.  |
| 337.10           | 6% ad val.         | 417.92           | 3.7% ad val.  |
| 337.20           | 6% ad val.         | 418.00           | 7% ad val.    |
| 337.30           | 6% ad val.         | 418.14           | 1.8% ad val.  |
| 337.40           | 6% ad val.         | 418.18           | 3.7% ad val.  |
| 358.02           | 5.1% ad val.       | 418.22           | 2.4% ad val.  |
| 358.06           | 5.1% ad val.       | 418.26           | 4.7% ad val.  |
| 358.08           | 6% ad val.         | 418.28           | Free          |
| 358.09           | 7.5% ad val.       | 418.30           | 10% ad val.   |
| 358.11           | 5.4% ad val.       | 418.32           | Free          |
| 358.14           | 8% ad val.         | 418.40           | 7.2% ad val.  |
| 358.16           | 2.4% ad val.       | 418.42           | 7.2% ad val.  |
| 390.30           | Free               | 418.44           | 7.2% ad val.  |
| 390.40           | 2.8c per lb.       | 418.50           | 4% ad val.    |
| 390.50           | Free               | 418.52           | 4% ad val.    |
| 415.05           | 2c per lb.         | 418.68           | 4.2% ad val.  |
| 415.10           | 5.3% ad val.       | 418.72           | 4.1% ad val.  |



## Section B. (1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>     | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>     |
|--------------------------------|-------------------------|--------------------------------|-------------------------|
| 418.74                         | 4.3% ad val.            | 420.92                         | 3.7% ad val.            |
| 418.78                         | 3.9% ad val.            | 420.94                         | Free                    |
| 418.94                         | 3.7% ad val.            | 420.98                         | 2.4% ad val.            |
| 419.00                         | 3.7% ad val.            | 421.04                         | 1.7% ad val.            |
| 419.02                         | 1.9% ad val.            | 421.08                         | Free                    |
| 419.04                         | 4.8% ad val.            | 421.10                         | 3.7% ad val.            |
| 419.10                         | 3.7% ad val.            | 421.14                         | 8.6% ad val.            |
| 419.20                         | 3.1% ad val.            | 421.16                         | 1.4% ad val.            |
| 419.24                         | Free                    | 421.18                         | 2.5% ad val.            |
| 419.28                         | 1.5% ad val.            | 421.22                         | 3.7% ad val.            |
| 419.32                         | Free                    | 421.36                         | 4.1% ad val.            |
| 419.34                         | 3.7% ad val.            | 421.44                         | 33¢ per ton             |
| 419.38                         | 3.1% ad val.            | 421.46                         | 2.5% ad val.            |
| 419.40                         | 3.7% ad val.            | 421.52                         | 2.9% ad val.            |
| 419.42                         | 3.7% ad val.            | 421.54                         | 1.5% ad val.            |
| 419.44                         | 4.7% ad val.            | 421.56                         | 10% ad val.             |
| 419.50                         | 6¢ per lb. + 4% ad val. | 421.60                         | 11.2% ad val.           |
| 419.52                         | 6¢ per lb. + 4% ad val. | 421.62                         | 3.7% ad val.            |
| 419.54                         | 6¢ per lb. + 4% ad val. | 421.72                         | 4.2% ad val.            |
| 419.60                         | 3.2% ad val.            | 421.74                         | 4.2% ad val.            |
| 419.70                         | 3.7% ad val.            | 421.76                         | 4.2% ad val.            |
| 419.74                         | 3.2% ad val.            | 421.84                         | 3.7% ad val.            |
| 419.76                         | 3.7% ad val.            | 421.86                         | 3.7% ad val.            |
| 419.80                         | 3.3% ad val.            | 421.90                         | 3.7% ad val.            |
| 419.82                         | 6.6% ad val.            | 422.00                         | 3.7% ad val.            |
| 419.84                         | Free                    | 422.10                         | 7.8% ad val.            |
| 419.90                         | 3.7% ad val.            | 422.12                         | 7.8% ad val.            |
| 420.02                         | 1.5¢ per lb.            | 422.14                         | 7.8% ad val.            |
| 420.04                         | 1.9% ad val.            | 422.20                         | 4.2% ad val.            |
| 420.06                         | 3.3% ad val.            | 422.24                         | 4.2% ad val.            |
| 420.08                         | 1.5% ad val.            | 422.26                         | 4.2% ad val.            |
| 420.18                         | Free                    | 422.30                         | 4.9% ad val.            |
| 420.20                         | 2.8% ad val.            | 422.40                         | 10.5% ad val.           |
| 420.22                         | 3% ad val.              | 422.42                         | 10% ad val.             |
| 420.24                         | 2.4% ad val.            | 422.58                         | 4.2% ad val.            |
| 420.26                         | Free                    | 422.70                         | 4.2% ad val.            |
| 420.28                         | 5% ad val.              | 422.72                         | 1.6% ad val.            |
| 420.30                         | 3.1% ad val.            | 422.78                         | 3.7% ad val.            |
| 420.32                         | 10% ad val.             | 422.80                         | 3.7% ad val.            |
| 420.34                         | 11.2% ad val.           | 422.82                         | 3.7% ad val.            |
| 420.36                         | 3.1% ad val.            | 422.90                         | 3.7% ad val.            |
| 420.40                         | 3.7% ad val.            | 422.92                         | 4.2% ad val.            |
| 420.54                         | 3.7% ad val.            | 422.94                         | 4.2% ad val.            |
| 420.60                         | 3.7% ad val.            | 423.00                         | 3.7% ad val.            |
| 420.68                         | 3.1% ad val.            | 423.80                         | 7% ad val.              |
| 420.82                         | 3¢ per lb.              | 423.86                         | 6¢ per lb. + 4% ad val. |
| 420.88                         | Free                    |                                |                         |

## Section B. (1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                                   | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>         |
|--------------------------------|---------------------------------------------------------------------------------------|--------------------------------|-----------------------------|
| 423.88                         | 2.8% ad val.                                                                          | 455.32                         | 1.2¢ per lb. + 3.6% ad val. |
| 423.92                         | 10% ad val.                                                                           | 455.36                         | Free                        |
| 423.94                         | 7.4% ad val.                                                                          | 455.38                         | 0.8¢ per lb. + 2.4% ad val. |
| 423.96                         | Free                                                                                  | 460.85                         | 5¢ per lb. + 4.1% ad val.   |
| 425.84                         | 3.7% ad val.                                                                          | 460.90                         | 5¢ per lb. + 4.7% ad val.   |
| 425.87                         | 4.2% ad val.                                                                          | 461.10                         | 5.8% ad val.                |
| 426.22                         | 7.2% ad val.                                                                          | 461.15                         | 4¢ per lb. + 6.1% ad val.   |
| 426.24                         | 4.2% ad val.                                                                          | 461.20                         | Free                        |
| 426.26                         | 4.2% ad val.                                                                          | 461.30                         | 5% ad val.                  |
| 426.32                         | 4.4% ad val.                                                                          | 461.35                         | 5% ad val.                  |
| 426.42                         | 2.5% ad val.                                                                          | 461.40                         | 4.9% ad val.                |
| 426.52                         | 3.7% ad val.                                                                          | 461.45                         | 5¢ per lb. + 4.5% ad val.   |
| 427.14                         | 7.8% ad val.                                                                          | 465.05                         | 0.9¢ per lb. + 4.3% ad val. |
| 427.92                         | 1.3¢ per lb.                                                                          | 465.10                         | 1¢ per lb. + 4.5% ad val.   |
| 432.20                         | 3.7% ad val., but not less than the highest rate applicable to any component material | 465.15                         | 1¢ per lb. + 4.5% ad val.   |
|                                | The rate provided for such product in this subpart, but not less than 3.7% ad val.    | 465.20                         | 1¢ per lb. + 4.5% ad val.   |
| 436.00                         |                                                                                       | 465.25                         | 3.7% ad val.                |
|                                |                                                                                       | 465.30                         | 0.5¢ per lb. + 3.4% ad val. |
|                                |                                                                                       | 465.35                         | 3.7% ad val.                |
|                                |                                                                                       | 465.40                         | 0.5¢ per lb. + 3.4% ad val. |
| 437.55                         | 4.2% ad val.                                                                          | 465.45                         | 3.7% ad val.                |
| 437.60                         | 3.7% ad val.                                                                          | 465.50                         | 0.5¢ per lb. + 3.5% ad val. |
| 437.74                         | 12% ad val.                                                                           | 465.55                         | 3.7% ad val.                |
| 437.86                         | 2.7% ad val.                                                                          | 465.60                         | 0.2¢ per lb. + 3.6% ad val. |
| 438.01                         | 3.1% ad val.                                                                          | 465.65                         | 2.8% ad val.                |
| 438.02                         | The rate provided for such product in this subpart, but not less than 3.7% ad val.    | 465.70                         | 3.2% ad val.                |
|                                |                                                                                       | 465.75                         | 0.4¢ per lb. + 2.8% ad val. |
|                                |                                                                                       | 465.80                         | 0.4¢ per lb. + 4.3% ad val. |
|                                |                                                                                       | 465.85                         | 4.7% ad val.                |
|                                |                                                                                       | 465.90                         | 3.7% ad val.                |
| 440.00                         | The rate provided for such product in this subpart, but not less than 3.7% ad val.    | 465.92                         | Free                        |
|                                |                                                                                       | 465.95                         | 3.7% ad val.                |
|                                |                                                                                       | 466.05                         | 3.1% ad val.                |
|                                |                                                                                       | 466.15                         | 0.5¢ per lb. + 3.6% ad val. |
|                                |                                                                                       | 466.20                         | 4.7% ad val.                |
| 446.10                         | Free                                                                                  | 466.25                         | 0.4¢ per lb. + 2.9% ad val. |
| 446.15                         | Free                                                                                  | 466.30                         | Free                        |
| 446.30                         | Free                                                                                  | 472.04                         | 4.2% ad val.                |
| 450.10                         | 4.2% ad val.                                                                          | 472.06                         | 0.4¢ per lb.                |
| 452.24                         | 2.8% ad val.                                                                          | 472.22                         | 1.4% ad val.                |
| 452.48                         | 2.5% ad val.                                                                          | 472.24                         | Free                        |
| 452.54                         | 6.6% ad val.                                                                          | 472.30                         | 5.3% ad val.                |
| 452.58                         | Free                                                                                  | 472.44                         | 2% ad val.                  |
| 452.80                         | Free                                                                                  | 472.50                         | 5.8% ad val.                |
| 455.02                         | 3% ad val.                                                                            | 473.02                         | 3.7% ad val.                |
| 455.06                         | 5.3% ad val.                                                                          | 473.06                         | 3.7% ad val.                |
| 455.30                         | 0.2¢ per lb. + 2.4% ad val.                                                           | 473.14                         | 3.7% ad val.                |



## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>         | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|-----------------------------|--------------------------------|---------------------|
| 473.16                         | 3.7% ad val.                | 513.21                         | Free                |
| 473.19                         | 3.7% ad val.                | 513.31                         | Free                |
| 473.24                         | 5% ad val.                  | 513.36                         | Free                |
| 473.30                         | 3.7% ad val.                | 513.41                         | Free                |
| 473.52                         | 2.4% ad val.                | 513.51                         | 3.1% ad val.        |
| 473.54                         | 2.3% ad val.                | 513.74                         | 4.2% ad val.        |
| 473.56                         | 3.4% ad val.                | 513.81                         | 4.9% ad val.        |
| 473.70                         | 6% ad val.                  | 513.84                         | 6.9% ad val.        |
| 473.76                         | Free                        | 513.94                         | 5.3% ad val.        |
| 473.80                         | 2.8% ad val.                | 514.21                         | Free                |
| 473.86                         | 5.3% ad val.                | 514.24                         | 6% ad val.          |
| 475.55                         | 5.8% ad val.                | 514.34                         | 3.7% ad val.        |
| 475.60                         | 0.6c per lb. + 5.7% ad val. | 514.41                         | 4.9% ad val.        |
| 485.10                         | Free                        | 514.44                         | 6.9% ad val.        |
| 485.20                         | 3c per lb.                  | 514.51                         | 12c per cu. ft.     |
| 485.30                         | 7.2% ad val.                | 514.57                         | 20c per cu. ft.     |
| 490.05                         | 7.4% ad val.                | 514.65                         | 2.8% ad val.        |
| 490.30                         | 3.7% ad val.                | 514.81                         | 6% ad val.          |
| 490.32                         | 4.2% ad val.                | 515.11                         | 6.6% ad val.        |
| 490.42                         | 5.8% ad val.                | 515.14                         | 3.7% ad val.        |
| 490.44                         | 6.2% ad val.                | 515.21                         | 4c per cu. ft.      |
| 490.46                         | 4% ad val.                  | 515.24                         | 6% ad val.          |
| 490.48                         | 3.7% ad val.                | 515.31                         | 4.9% ad val.        |
| 490.50                         | 3.7% ad val.                | 515.34                         | 6.9% ad val.        |
| 490.90                         | 3.8% ad val.                | 515.51                         | Free                |
| 490.92                         | 3.7% ad val.                | 515.54                         | 6% ad val.          |
| 490.94                         | 3.7% ad val.                | 515.64                         | 6.9% ad val.        |
| 493.10                         | 2.5% ad val.                | 516.21                         | 4.2% ad val.        |
| 493.25                         | 5.8% ad val.                | 516.24                         | 2.4% ad val.        |
| 493.26                         | 4.8% ad val.                | 516.71                         | 4.4% ad val.        |
| 493.30                         | 0.5c per lb.                | 516.73                         | 5% ad val.          |
| 493.46                         | 5.1% ad val.                | 516.74                         | 8% ad val.          |
| 493.68                         | 5.8% ad val.                | 516.76                         | 5% ad val.          |
| 493.82                         | Free                        | 516.81                         | 2.4% ad val.        |
| 494.52                         | Free                        | 516.91                         | 5.3% ad val.        |
| 495.05                         | 2.4% ad val.                | 516.94                         | 5% ad val.          |
| 495.10                         | 3.5% ad val.                | 517.11                         | Free                |
| 495.15                         | 3.1% ad val.                | 517.21                         | 3% ad val.          |
| 495.20                         | 5.8% ad val.                | 517.51                         | 3% ad val.          |
| 511.25                         | 4.9% ad val.                | 517.61                         | 2.4% ad val.        |
| 511.41                         | 5.2% ad val.                | 517.71                         | 2.8% ad val.        |
| 511.61                         | 4.9% ad val.                | 517.74                         | 2.4% ad val.        |
| 511.71                         | 6.9% ad val.                | 517.81                         | 3.7% ad val.        |
| 512.24                         | 42c per ton                 | 517.91                         | 4.9% ad val.        |
| 512.31                         | \$2.55 per ton              | 518.21                         | Free                |
| 512.35                         | \$2.80 per ton              | 518.51                         | Free                |
| 513.11                         | Free                        | 519.31                         | 0.13c per lb.       |

## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>         | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>              |
|--------------------------------|-----------------------------|--------------------------------|----------------------------------|
| 519.51                         | 2.5% ad val.                | 533.39                         | 11.5% ad val.                    |
| 519.83                         | 4.9% ad val.                | 533.52                         | 35% ad val.                      |
| 519.84                         | 4.5c per lb. + 3.9% ad val. | 533.54                         | 8% ad val.                       |
| 519.86                         | 3.7% ad val.                | 533.62                         | 26% ad val.                      |
| 519.91                         | 3.7% ad val.                | 533.64                         | 8% ad val.                       |
| 519.93                         | 4.7% ad val.                | 533.72                         | 9% ad val.                       |
| 519.95                         | Free                        | 533.74                         | 17.5% ad val.                    |
| 519.97                         | 4.9% ad val.                | 533.76                         | 9% ad val.                       |
| 520.21                         | 3% ad val.                  | 533.78                         | 8% ad val.                       |
| 520.31                         | 4.9% ad val.                | 534.11                         | 3.1% ad val.                     |
| 520.32                         | Free                        | 534.21                         | 4.2% ad val.                     |
| 520.33                         | Free                        | 534.74                         | 2.5% ad val.                     |
| 520.35                         | Free                        | 534.76                         | 2.5% ad val.                     |
| 520.37                         | Free                        | 534.81                         | 2c per doz. pcs. +<br>7% ad val. |
| 520.54                         | 6% ad val.                  | 534.84                         | 7% ad val.                       |
| 520.71                         | 3.1% ad val.                | 534.87                         | 7% ad val.                       |
| 521.71                         | 38c per ton                 | 534.91                         | 6.6% ad val.                     |
| 521.74                         | 77c per ton                 | 534.94                         | 9% ad val.                       |
| 521.87                         | 2.5% ad val.                | 534.97                         | 6.9% ad val.                     |
| 522.41                         | 2.8% ad val.                | 535.11                         | 6% ad val.                       |
| 522.45                         | 4.9% ad val.                | 535.12                         | 4.9% ad val.                     |
| 522.61                         | Free                        | 535.14                         | 6% ad val.                       |
| 522.81                         | 4.9% ad val.                | 535.21                         | 12% ad val.                      |
| 523.33                         | 2.4% ad val.                | 535.24                         | 8.2% ad val.                     |
| 523.35                         | Free                        | 535.27                         | 4% ad val.                       |
| 523.37                         | 4.8% ad val.                | 535.31                         | 7.2% ad val.                     |
| 523.61                         | 2.8% ad val.                | 535.41                         | 4.7% ad val.                     |
| 523.91                         | 4.9% ad val.                | 536.11                         | 9% ad val.                       |
| 523.94                         | 6.9% ad val.                | 536.15                         | 8% ad val.                       |
| 531.11                         | 3% ad val.                  | 540.11                         | 4.9% ad val.                     |
| 531.21                         | 6.6% ad val.                | 540.13                         | 6% ad val.                       |
| 531.24                         | Free                        | 540.14                         | Free                             |
| 531.33                         | 4.9% ad val.                | 540.32                         | 7.8% ad val.                     |
| 531.35                         | 3.7% ad val.                | 540.37                         | 5% ad val.                       |
| 531.37                         | 9% ad val.                  | 540.41                         | 4.7% ad val.                     |
| 531.39                         | 4.9% ad val.                | 540.43                         | 7.5% ad val.                     |
| 532.14                         | Free                        | 540.51                         | 5.3% ad val.                     |
| 532.21                         | 20% ad val.                 | 540.55                         | 7.2% ad val.                     |
| 532.41                         | 4.2% ad val.                | 540.61                         | Free                             |
| 532.61                         | 4.9% ad val.                | 540.63                         | 4% ad val.                       |
| 533.11                         | Free                        | 540.65                         | 8.2% ad val.                     |
| 533.15                         | 2.5% ad val.                | 540.67                         | 10% ad val.                      |
| 533.20                         | 35% ad val.                 | 540.71                         | 6.2% ad val.                     |
| 533.22                         | 11.5% ad val.               | 541.31                         | 0.2c per lb. + 0.9% ad val.      |
| 533.24                         | 4.5% ad val.                | 542.31                         | 0.4c per lb.                     |
| 533.29                         | 5.5% ad val.                | 542.33                         | 0.4c per lb.                     |
| 533.32                         | 5.5% ad val.                | 542.35                         | 0.4c per lb.                     |
| 533.34                         | 4.5% ad val.                |                                |                                  |



## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>             | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                                           |
|--------------------------------|---------------------------------|--------------------------------|-----------------------------------------------------------------------------------------------|
| 542.37                         | 0.7¢ per lb.                    | 546.21                         | 6.5% ad val.                                                                                  |
| 542.44                         | 0.5¢ per lb.                    | 546.23                         | 8% ad val.                                                                                    |
| 542.46                         | 0.6¢ per lb.                    | 546.25                         | 6.6% ad val.                                                                                  |
| 542.48                         | 0.6¢ per lb.                    | 546.39                         | 9% ad val.                                                                                    |
| 542.57                         | 1.4¢ per lb.                    | 546.47                         | 7.8% ad val.                                                                                  |
| 542.67                         | 3.5¢ per lb.                    | 546.52                         | 38% ad val.                                                                                   |
| 542.71                         | 0.6¢ per lb. + 2% ad val.       | 546.64                         | 7.2% ad val.                                                                                  |
| 542.73                         | 0.6¢ per lb. + 2% ad val.       | 546.68                         | 7.2% ad val.                                                                                  |
| 542.75                         | 0.6¢ per lb. + 2% ad val.       | 547.11                         | 4.9% ad val.                                                                                  |
| 542.77                         | 0.6¢ per lb. + 2% ad val.       | 547.13                         | 9.6% ad val.                                                                                  |
| 542.92                         | 0.6¢ per lb. + 2% ad val.       | 547.15                         | 5% ad val.                                                                                    |
| 542.94                         | 0.6¢ per lb. + 2% ad val.       | 547.21                         | 5.8% ad val.                                                                                  |
| 542.96                         | 0.6¢ per lb. + 2% ad val.       | 547.31                         | 3.7% ad val.                                                                                  |
| 542.98                         | 0.6¢ per lb. + 2% ad val.       | 547.37                         | 6.6% ad val.                                                                                  |
| 543.11                         | 3¢ per sq. ft.                  | 547.41                         | 4.9% ad val.                                                                                  |
| 543.23                         | 2¢ per sq. ft.                  | 547.43                         | 5.8% ad val.                                                                                  |
| 543.27                         | 1.5¢ per sq. ft.                | 547.53                         | 5.8% ad val.                                                                                  |
| 543.31                         | 6% ad val.                      | 547.55                         | 8.4% ad val.                                                                                  |
| 543.61                         | Free                            | 548.01                         | 4.7% ad val.                                                                                  |
| 543.63                         | 1¢ per sq. ft. + 0.4% ad val.   | 548.03                         | 7.5% ad val.                                                                                  |
| 543.67                         | 1.5¢ per sq. ft. + 0.4% ad val. | 548.05                         | 6.6% ad val.                                                                                  |
| 543.69                         | 6.3% ad val.                    | 601.33                         | 9¢ per lb. on molybdenum content                                                              |
| 544.11                         | 8.8% ad val.                    |                                |                                                                                               |
| 544.14                         | 6.3% ad val.                    | 602.20                         | 0.3¢ per lb. on zinc content                                                                  |
| 544.16                         | 7.2% ad val.                    |                                |                                                                                               |
| 544.18                         | 4.9% ad val.                    | 602.28                         | 0.8¢ per lb. on copper content                                                                |
| 544.31                         | 6.2% ad val.                    |                                |                                                                                               |
| 544.41                         | 5.5% ad val.                    | 603.15                         | 30¢ per ton                                                                                   |
| 544.51                         | 7.8% ad val.                    | 603.25                         | 0.9¢ per lb. on lead content                                                                  |
| 544.61                         | 4.4% ad val.                    |                                |                                                                                               |
| 544.64                         | 7.2% ad val.                    | 603.30                         | 0.6¢ per lb.                                                                                  |
| 545.11                         | 3.7% ad val.                    | 603.40                         | 6¢ per lb. on molybdenum content + 1.9% ad val.                                               |
| 545.17                         | 7.5% ad val.                    |                                |                                                                                               |
| 545.21                         | Free                            | 603.45                         | 10¢ per lb. on tungsten content + 4.8% ad val.                                                |
| 545.25                         | Free                            |                                |                                                                                               |
| 545.27                         | Free                            | 603.49                         | 0.7¢ per lb. on copper content + 0.5¢ per lb. on lead content + 0.5¢ per lb. on zinc content  |
| 545.31                         | 1.6¢ each + 8% ad val.          |                                |                                                                                               |
| 545.34                         | 2.8¢ each + 8% ad val.          |                                |                                                                                               |
| 545.35                         | 4¢ each + 8% ad val.            |                                |                                                                                               |
| 545.37                         | 6¢ each + 8% ad val.            |                                |                                                                                               |
| 545.55                         | 6.5% ad val.                    |                                |                                                                                               |
| 545.57                         | 6.5% ad val.                    |                                |                                                                                               |
| 545.61                         | 6.7% ad val.                    |                                |                                                                                               |
| 545.63                         | 6.5% ad val.                    | 603.50                         | 0.32¢ per lb. on copper content + 0.3¢ per lb. on lead content + 0.3¢ per lb. on zinc content |
| 545.67                         | 6.5% ad val.                    |                                |                                                                                               |
| 545.81                         | 2.4% ad val.                    |                                |                                                                                               |
| 545.85                         | 8.2% ad val.                    |                                |                                                                                               |
| 545.87                         | 6.6% ad val.                    |                                |                                                                                               |
| 546.20                         | 6% ad val.                      |                                |                                                                                               |

## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                                          |
|--------------------------------|----------------------------------------------------------------------------------------------|
| 603.54                         | 0.6¢ per lb. on copper content + 0.4¢ per lb. on lead content + 0.4¢ per lb. on zinc content |
| 603.55                         | Free                                                                                         |
| 603.70                         | 5% ad val.                                                                                   |
| 605.03                         | 8.2% ad val.                                                                                 |
| 605.05                         | 10% ad val.                                                                                  |
| 605.06                         | 6.5% ad val.                                                                                 |
| 605.08                         | 8.2% ad val.                                                                                 |
| 605.27                         | 7.5% ad val.                                                                                 |
| 605.28                         | 8.2% ad val.                                                                                 |
| 605.46                         | 7.5% ad val.                                                                                 |
| 605.47                         | 10% ad val.                                                                                  |
| 605.48                         | 6% ad val.                                                                                   |
| 605.60                         | 6.5% ad val.                                                                                 |
| 605.65                         | 6% ad val.                                                                                   |
| 606.33                         | 2.4% ad val.                                                                                 |

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                           | <u>Column 1-a</u> | <u>Column 1-b</u>                                        |
|--------------------------------|-----------------------------------------------|-------------------|----------------------------------------------------------|
| 612.03                         | 1% ad val. on the value of the copper content |                   | 0.7¢ per lb. on 99.6% of the copper content              |
| 612.05                         | 4.6% ad val.                                  |                   | 0.7¢ per lb. on copper content + 3.5% ad val.            |
| 612.08                         | 2.4% ad val.                                  |                   | 0.4¢ per lb. on 99.6% of the copper content + 2% ad val. |
| 612.10                         | Free                                          |                   | 0.4¢ per lb. on 99.6% of the copper content              |
| 612.17                         | 5.3% ad val.                                  |                   | 0.5¢ per lb. + 3.5% ad val.                              |
| 612.20                         | 6% ad val.                                    |                   | 0.4¢ per lb. + 5.5% ad val.                              |
| 612.30                         | 6.7% ad val.                                  |                   | 0.4¢ per lb. + 6.5% ad val.                              |
| 612.31                         | 1% ad val.                                    |                   | 1¢ per lb.                                               |
| 612.32                         | 4.7% ad val.                                  |                   | 0.3¢ per lb. + 4.5% ad val.                              |
| 612.34                         | 6.5% ad val.                                  |                   | 0.4¢ per lb. + 6.5% ad val.                              |
| 612.35                         | 6.2% ad val.                                  |                   | 0.4¢ per lb. on copper content + 6% ad val.              |
| 612.36                         | 6.2% ad val.                                  |                   | 0.4¢ per lb. + 6% ad val.                                |
| 612.38                         | 6.7% ad val.                                  |                   | 0.4¢ per lb. + 6.5% ad val.                              |
| 612.39                         | 1.9% ad val.                                  |                   |                                                          |
| 612.40                         | 6.7% ad val.                                  |                   | 0.4¢ per lb. + 6% ad val.                                |
| 612.41                         | 6.3% ad val.                                  |                   | 0.4¢ per lb. + 6% ad val.                                |
| 612.43                         | 6.7% ad val.                                  |                   | 0.4¢ per lb. + 6.5% ad val.                              |
| 612.45                         | 5.1% ad val.                                  |                   | 0.5¢ per lb. + 5% ad val.                                |
| 612.50                         | 6.3% ad val.                                  |                   | 0.4¢ per lb. + 6% ad val.                                |
| 612.52                         | 5.2% ad val.                                  |                   | 0.5¢ per lb. + 4.5% ad val.                              |
| 612.55                         | 3% ad val.                                    |                   | 4.5¢ per lb.                                             |
| 612.56                         | 5.4% ad val.                                  |                   | 0.5¢ per lb. + 5% ad val.                                |



## Section B.(1)--Continued

| TSUS<br>Item No. | Column 1-a                                       | Rate of duty | Column 1-b                                                        |
|------------------|--------------------------------------------------|--------------|-------------------------------------------------------------------|
| 612.60           | 1% ad val.                                       |              | 1c per lb.                                                        |
| 612.61           | 7.3% ad val.                                     |              | 0.5c per lb. on copper<br>content + 7% ad val.                    |
| 612.62           | 2.2% ad val.                                     |              | 0.8c per lb. on copper<br>content + 0.8c per lb.                  |
| 612.63           | 6.2% ad val.                                     |              | 0.4c per lb. + 6% ad val.                                         |
| 612.64           | 1.6% ad val.                                     |              |                                                                   |
| 612.70           | 7.3% ad val.                                     |              | 0.5c per lb. on copper<br>content + 7.2% ad val.                  |
| 612.71           | 7.4% ad val.                                     |              | 0.5c per lb. on copper<br>content + 0.02c per lb.<br>+ 7% ad val. |
| 612.72           | 4% ad val.                                       |              | 0.6c per lb. on copper<br>content + 3.5% ad val.                  |
| 612.73           | 4.4% ad val.                                     |              | 0.7c per lb. on copper<br>content + 0.03c per lb.<br>+ 4% ad val. |
| 612.80           | 6.3% ad val.                                     |              | 0.4c per lb. + 6% ad val.                                         |
| 612.81           | 3.2% ad val.                                     |              | 0.8c per lb. on copper<br>content + 2c per lb.                    |
| 612.82           | 5.2% ad val.                                     |              | 0.5c per lb. + 4.5% ad val.                                       |
| 613.02           | 1.5% ad val.                                     |              | 1.4c per lb.                                                      |
| 613.03           | 2.1% ad val.                                     |              | 2.7c per lb.                                                      |
| 613.04           | 5% ad val.                                       |              | 0.3c per lb. + 5% ad val.                                         |
| 613.06           | 6.2% ad val.                                     |              | 0.4c per lb. + 6% ad val.                                         |
| 613.08           | 5.1% ad val.                                     |              | 0.5c per lb. + 4.5% ad val.                                       |
| 613.11           | 0.6c per lb. on copper<br>content + 2.3c per lb. |              | 0.8c per lb. on copper<br>content + 2.3c per lb.                  |
| 613.12           | 4.5% ad val.                                     |              | 0.4c per lb. + 4.5% ad val.                                       |
| 613.18           | 3.2% ad val.                                     |              | 0.3c per lb. + 3% ad val.                                         |

| TSUS<br>Item No. | Rate of duty | TSUS<br>Item No. | Rate of duty |
|------------------|--------------|------------------|--------------|
| 618.01           | 2.6% ad val. | 620.08           | 6% ad val.   |
| 618.02           | Free         | 620.10           | 3.5% ad val. |
| 618.04           | 2.1% ad val. | 620.12           | 4.7% ad val. |
| 618.06           | Free         | 620.16           | 5.5% ad val. |
| 618.15           | 2.6% ad val. | 620.20           | 3.7% ad val. |
| 618.17           | 5% ad val.   | 620.22           | 4.7% ad val. |
| 618.20           | 4.2% ad val. | 620.26           | 5.5% ad val. |
| 618.22           | 4.2% ad val. | 620.30           | Free         |
| 618.29           | 6.5% ad val. | 620.40           | 2.5% ad val. |
| 618.42           | 5.7% ad val. | 620.42           | 3% ad val.   |
| 618.47           | 5.7% ad val. | 620.46           | 3.6% ad val. |

## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty                                            | TSUS<br>Item No. | Rate of duty               |
|------------------|---------------------------------------------------------|------------------|----------------------------|
| 620.50           | 3.7% ad val.                                            | 628.90           | 3.7% ad val.               |
| 622.15           | 2.4% ad val.                                            | 628.95           | 5.5% ad val.               |
| 622.17           | 4.8% ad val.                                            | 629.05           | 3.7% ad val.               |
| 622.20           | 2.4% ad val.                                            | 629.07           | 4.9% ad val.               |
| 622.22           | 4.2% ad val.                                            | 629.10           | 5.5% ad val.               |
| 622.25           | 4.2% ad val.                                            | 629.12           | 7.2% ad val.               |
| 622.35           | 4.2% ad val.                                            | 629.25           | 4.9% ad val.               |
| 622.40           | 2.4% ad val.                                            | 629.26           | 4.2% ad val.               |
| 624.04           | 2.3% ad val. on the value<br>of the lead content        | 629.32           | 4.7% ad val.               |
| 624.10           | 2.7% ad val.                                            | 629.35           | 6.5% ad val.               |
| 624.14           | 3.9% ad val.                                            | 629.50           | 5% ad val.                 |
| 624.16           | 6.5% ad val.                                            | 629.60           | 4.2% ad val.               |
| 624.18           | 4.2% ad val.                                            | 629.62           | 4.9% ad val.               |
| 624.20           | 3.9% ad val.                                            | 629.65           | 5.5% ad val.               |
| 624.22           | 2.5% ad val.                                            | 632.02           | Free                       |
| 624.24           | 3.9% ad val.                                            | 632.04           | Free                       |
| 624.32           | 6.3% ad val.                                            | 632.06           | Free                       |
| 624.34           | 6.2% ad val.                                            | 632.12           | 3.7% ad val.               |
| 624.50           | 2% ad val.                                              | 632.16           | 3% ad val.                 |
| 624.52           | 4.2% ad val.                                            | 632.18           | 3.7% ad val.               |
| 624.54           | 3.9% ad val.                                            | 632.24           | 3.7% ad val.               |
| 626.02           | 1.5% ad val.                                            | 632.28           | 5.6% ad val.               |
| 626.10           | 2.1% ad val.                                            | 632.34           | 7.5c per lb.               |
| 626.15           | 5.7% ad val.                                            | 632.38           | 3.7% ad val.               |
| 626.18           | 4.2% ad val.                                            | 632.43           | 3.7% ad val.               |
| 626.20           | 5.7% ad val.                                            | 632.46           | 3.7% ad val.               |
| 626.24           | 6.5% ad val.                                            | 632.48           | Free                       |
| 626.30           | 4.2% ad val.                                            | 632.50           | Free                       |
| 626.31           | 4.2% ad val.                                            | 632.52           | 4.2% ad val.               |
| 626.35           | 5.7% ad val.                                            | 632.58           | 3.7% ad val.               |
| 626.45           | 3.8% ad val.                                            | 632.60           | Free                       |
| 628.15           | 3.7% ad val.                                            | 632.62           | 5.5% ad val.               |
| 628.17           | 4.9% ad val.                                            | 632.66           | 5.5% ad val.               |
| 628.20           | 5.5% ad val.                                            | 632.68           | 3% ad val.                 |
| 628.25           | 3.7% ad val.                                            | 632.78           | 32c per lb.                |
| 628.30           | 5.5% ad val.                                            | 632.79           | 20c per lb. + 2.4% ad val. |
| 628.35           | Free                                                    | 632.88           | 5.5% ad val.               |
| 628.45           | Free                                                    | 633.00           | 5.5% ad val.               |
| 628.50           | 3.6% ad val.                                            | 640.20           | 3% ad val.                 |
| 628.55           | 8% ad val.                                              | 640.25           | 5.7% ad val.               |
| 628.57           | 6.5% ad val.                                            | 640.30           | Free                       |
| 628.59           | 4.5c per lb. on<br>magnesium content<br>+ 2.5% ad val.  | 640.35           | 2.6% ad val.               |
| 628.70           | 6% ad val.                                              | 640.40           | 2.4% ad val.               |
| 628.72           | 6.3c per lb. on<br>molybdenum content<br>+ 1.9% ad val. | 642.06           | 4.7% ad val.               |
| 628.74           | 6.6% ad val.                                            | 642.08           | 5.8% ad val.               |
|                  |                                                         | 642.09           | 4.9% ad val.               |
|                  |                                                         | 642.11           | 4.9% ad val.               |
|                  |                                                         | 642.12           | 3.5% ad val.               |
|                  |                                                         | 642.14           | 4.4% ad val.               |
|                  |                                                         | 642.18           | 4.9% ad val.               |
|                  |                                                         | 642.20           | 5.7% ad val.               |



## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty | TSUS<br>Item No. | Rate of duty  |
|------------------|--------------|------------------|---------------|
| 642.25           | 10% ad val.  | 644.84           | 4.8% ad val.  |
| 642.27           | 7.8% ad val. | 644.98           | 1.8% ad val.  |
| 642.30           | 10% ad val.  | 646.04           | 3.2% ad val.  |
| 642.45           | 6% ad val.   | 646.17           | 4.9% ad val.  |
| 642.47           | 6.6% ad val. | 646.22           | 5.7% ad val.  |
| 642.50           | 5.4% ad val. | 646.27           | 3.1% ad val.  |
| 642.52           | 4.9% ad val. | 646.30           | 3.2% ad val.  |
| 642.56           | 4% ad val.   | 646.34           | 5.1% ad val.  |
| 642.58           | 4.5% ad val. | 646.36           | 5.7% ad val.  |
| 642.60           | 3.7% ad val. | 646.41           | 4.7% ad val.  |
| 642.62           | 4.9% ad val. | 646.42           | 5.7% ad val.  |
| 642.64           | 4.9% ad val. | 646.45           | 2.6% ad val.  |
| 642.66           | 3.9% ad val. | 646.47           | 3.8% ad val.  |
| 642.68           | 4% ad val.   | 646.51           | 6.3% ad val.  |
| 642.70           | 4.6% ad val. | 646.53           | 5.5% ad val.  |
| 642.72           | 3.7% ad val. | 646.57           | 4.7% ad val.  |
| 642.74           | 7.2% ad val. | 646.58           | 0.45c per lb. |
| 642.76           | 6.7% ad val. | 646.60           | 6.2% ad val.  |
| 642.78           | 6.6% ad val. | 646.65           | 5.8% ad val.  |
| 642.80           | 5.7% ad val. | 646.72           | 5.7% ad val.  |
| 642.82           | 3.2% ad val. | 646.74           | 1.4% ad val.  |
| 642.85           | 4.6% ad val. | 646.75           | 6.3% ad val.  |
| 642.87           | 4.7% ad val. | 646.76           | 5.5% ad val.  |
| 642.91           | 5.7% ad val. | 646.77           | 5.1% ad val.  |
| 644.02           | 1% ad val.   | 646.78           | 5.7% ad val.  |
| 644.06           | 5.3% ad val. | 646.80           | 2.3% ad val.  |
| 644.08           | 9.8% ad val. | 646.81           | 3.8% ad val.  |
| 644.09           | 5.8% ad val. | 646.82           | 4.6% ad val.  |
| 644.11           | 5.8% ad val. | 646.83           | 6.1% ad val.  |
| 644.12           | 5.3% ad val. | 646.84           | 4.8% ad val.  |
| 644.15           | 7% ad val.   | 646.85           | 4.2% ad val.  |
| 644.17           | 4.7% ad val. | 646.86           | 5.3% ad val.  |
| 644.18           | 3.9% ad val. | 646.87           | 5.6% ad val.  |
| 644.20           | 3.8% ad val. | 646.88           | 12.3% ad val. |
| 644.22           | 3.6% ad val. | 646.89           | 5.3% ad val.  |
| 644.24           | 6% ad val.   | 646.90           | 6.2% ad val.  |
| 644.26           | 5.7% ad val. | 646.92           | 5.7% ad val.  |
| 644.28           | 2.2% ad val. | 646.95           | 3.9% ad val.  |
| 644.30           | 5.7% ad val. | 646.97           | 4.2% ad val.  |
| 644.32           | 5.5% ad val. | 647.01           | 3.1% ad val.  |
| 644.36           | 3.3% ad val. | 647.03           | 5.7% ad val.  |
| 644.38           | 3.7% ad val. | 647.05           | 5.1% ad val.  |
| 644.40           | Free         | 647.10           | 8% ad val.    |
| 644.42           | Free         | 648.51           | 3% ad val.    |
| 644.52           | 5.2% ad val. | 648.53           | 2.8% ad val.  |
| 644.60           | 8.2% ad val. | 648.55           | 3% ad val.    |
| 644.64           | 2.7% ad val. | 648.57           | 3% ad val.    |
| 644.68           | 3.8% ad val. | 648.61           | 2.8% ad val.  |
| 644.80           | 3.7% ad val. | 648.63           | 3% ad val.    |

## Section B.(1)--Continued

| TSUS<br>Item No. | Rate of duty             | TSUS<br>Item No. | Rate of duty              |
|------------------|--------------------------|------------------|---------------------------|
| 648.67           | 6.2% ad val.             | 649.87           | 3c each + 5.4% ad val.    |
| 648.69           | Free                     | 649.89           | 1c each + 5.4% ad val.    |
| 648.71           | 0.6c each + 3.8% ad val. | 649.91           | 8% ad val.                |
| 648.73           | 2c each + 5.1% ad val.   | 650.01           | 0.2c each + 2.8% ad val.  |
| 648.75           | 1c each + 2.8% ad val.   | 650.03           | 1c each + 4.9% ad val.    |
| 648.80           | 12% ad val.              | 650.05           | 5.5% ad val.              |
| 648.82           | 12% ad val.              | 650.07           | 0.6c each + 4.7% ad val.  |
| 648.85           | 1c each + 5.5% ad val.   | 650.13           | 1c each + 4% ad val.      |
| 648.89           | 5.7% ad val.             | 650.15           | 1c each + 5.7% ad val.    |
| 648.91           | 2c each + 4.4% ad val.   | 650.17           | 1c each + 4.6% ad val.    |
| 648.93           | 6% ad val.               | 650.19           | 4.4% ad val.              |
| 648.95           | 4.2% ad val.             | 650.21           | 0.4c each + 6.1% ad val.  |
| 648.97           | 9% ad val.               | 650.31           | 0.3c each + 3.2% ad val.  |
| 649.01           | 5c per doz.              | 650.35           | 5.4% ad val.              |
| 649.03           | 9c per doz.              | 650.37           | 0.3c each + 4% ad val.    |
| 649.05           | 12c per doz.             | 650.43           | 1c each + 4% ad val.      |
| 649.07           | 7c per doz.              | 650.45           | 0.5c each + 3.2% ad val.  |
| 649.11           | Free                     | 650.47           | 0.5c each + 3.2% ad val.  |
| 649.14           | 3.1% ad val.             | 650.49           | 0.3c each + 4.5% ad val.  |
| 649.17           | 3.1% ad val.             | 650.51           | 6.6% ad val.              |
| 649.19           | 3.7% ad val.             | 650.53           | 6% ad val.                |
| 649.21           | 8c per gross             | 650.56           | 7.5% ad val.              |
| 649.23           | 7.2% ad val.             | 650.57           | 4.4% ad val.              |
| 649.24           | 3.4% ad val.             | 650.61           | 0.7c each + 4.1% ad val.  |
| 649.25           | Free                     | 650.63           | 1c each + 5.1% ad val.    |
| 649.26           | 4.9% ad val.             | 650.65           | 1c each + 4% ad val.      |
| 649.27           | 5.7% ad val.             | 650.71           | 0.4c each + 1% ad val.    |
| 649.29           | 3.7% ad val.             | 650.73           | 3.1% ad val.              |
| 649.31           | 3.7% ad val.             | 650.75           | 0.06c each + 1.8% ad val. |
| 649.32           | 5.7% ad val.             | 650.77           | 3.4% ad val.              |
| 649.35           | 5.5% ad val.             | 650.79           | 3c each + 3% ad val.      |
| 649.39           | Free                     | 650.81           | 4.5c each + 3.2% ad val.  |
| 649.41           | 2.5% ad val.             | 650.83           | 8% ad val.                |
| 649.43           | 7.2% ad val.             | 650.85           | 2c each + 4.6% ad val.    |
| 649.44           | 8.4% ad val.             | 650.87           | 0.35c each + 4.4% ad val. |
| 649.46           | 6% ad val.               | 650.89           | 2c each + 5.1% ad val.    |
| 649.47           | 6.2% ad val.             | 650.91           | 10c each + 10% ad val.    |
| 649.48           | 4.9% ad val.             | 651.01           | 7.6% ad val.              |
| 649.49           | 3.7% ad val.             | 651.03           | 6.6% ad val.              |
| 649.53           | 7% ad val.               | 651.04           | 5.7% ad val.              |
| 649.57           | 5.3% ad val.             | 651.07           | 7.2% ad val.              |
| 649.67           | 3.7% ad val.             | 651.09           | 5.8% ad val.              |
| 649.71           | 10% ad val.              | 651.11           | 4% ad val.                |
| 649.73           | 10% ad val.              | 651.13           | 8.1% ad val.              |
| 649.75           | 10% ad val.              | 651.15           | 5% ad val.                |
| 649.77           | 2c each + 5% ad val.     | 651.21           | 6.2% ad val.              |
| 649.79           | 2.5c each + 5% ad val.   | 651.25           | 0.2c per lb.              |
| 649.81           | 2c each + 5% ad val.     | 651.27           | 6.2% ad val.              |
| 649.83           | 3c each + 5.4% ad val.   | 651.29           | 7.2% ad val.              |
| 649.85           | 1c each + 5.4% ad val.   | 651.31           | 6.2% ad val.              |



## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>       | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|---------------------------|--------------------------------|---------------------|
| 651.33                         | 5.3% ad val.              | 653.39                         | 7.6% ad val.        |
| 651.37                         | 6.2% ad val.              | 653.45                         | 5.7% ad val.        |
| 651.45                         | Free                      | 653.60                         | 6.6% ad val.        |
| 651.47                         | 5.3% ad val.              | 653.62                         | 6% ad val.          |
| 651.49                         | 3.7% ad val.              | 653.65                         | 8.2% ad val.        |
| 651.51                         | 4.9% ad val.              | 653.70                         | 7.5% ad val.        |
| 651.53                         | 1c per lb. + 5% ad val.   | 653.75                         | 8.2% ad val.        |
| 651.55                         | 5.3% ad val.              | 653.80                         | 4% ad val.          |
| 651.60                         | 6.6% ad val.              | 653.85                         | Free                |
| 651.62                         | 8.2% ad val.              | 653.90                         | 3.1% ad val.        |
| 651.64                         | 3.8% ad val.              | 653.93                         | 5.3% ad val.        |
| 652.03                         | 4.2% ad val.              | 653.96                         | 3.4% ad val.        |
| 652.09                         | 5.8% ad val.              | 653.99                         | 5.3% ad val.        |
| 652.13                         | 6.6% ad val.              | 654.01                         | 3.4% ad val.        |
| 652.14                         | 5% ad val.                | 654.02                         | 2.7% ad val.        |
| 652.15                         | 4.2% ad val.              | 654.03                         | 3.7% ad val.        |
| 652.18                         | 4.2% ad val.              | 654.05                         | 4.9% ad val.        |
| 652.21                         | Free                      | 654.07                         | 3.9% ad val.        |
| 652.24                         | 1.5% ad val.              | 654.09                         | 4% ad val.          |
| 652.27                         | Free                      | 654.11                         | 3.8% ad val.        |
| 652.35                         | 5.7% ad val.              | 654.12                         | 3.9% ad val.        |
| 652.36                         | 5.1% ad val.              | 654.13                         | 5.7% ad val.        |
| 652.38                         | 5.7% ad val.              | 654.14                         | 3.8% ad val.        |
| 652.41                         | Free                      | 654.15                         | 3.1% ad val.        |
| 652.42                         | 5.7% ad val.              | 654.20                         | 3.4% ad val.        |
| 652.45                         | 1c per lb. + 6% ad val.   | 656.05                         | 8% ad val.          |
| 652.50                         | 1c per lb. + 2.5% ad val. | 656.10                         | 8.2% ad val.        |
| 652.55                         | 8% ad val.                | 656.15                         | 6% ad val.          |
| 652.60                         | 5.8% ad val.              | 656.20                         | 7.5% ad val.        |
| 652.65                         | 4.2% ad val.              | 656.25                         | 10% ad val.         |
| 652.70                         | 5.3% ad val.              | 656.35                         | 6.5% ad val.        |
| 652.72                         | 8.2% ad val.              | 657.10                         | 3.1% ad val.        |
| 652.75                         | 3.8% ad val.              | 657.15                         | 2.4% ad val.        |
| 652.80                         | 3.8% ad val.              | 657.24                         | 3.8% ad val.        |
| 652.86                         | 3.7% ad val.              | 657.25                         | 5.7% ad val.        |
| 652.88                         | 5.7% ad val.              | 657.30                         | 6.3% ad val.        |
| 652.90                         | 3.4% ad val.              | 657.35                         | 5% ad val.          |
| 652.92                         | 2.4% ad val.              | 657.40                         | 5.7% ad val.        |
| 652.94                         | 2.8% ad val.              | 657.50                         | 5.5% ad val.        |
| 652.95                         | 4.2% ad val.              | 657.60                         | 4.2% ad val.        |
| 652.96                         | 3.9% ad val.              | 657.75                         | 3.9% ad val.        |
| 652.97                         | 5.7% ad val.              | 657.80                         | 5.7% ad val.        |
| 653.00                         | 5.7% ad val.              | 658.00                         | 5.5% ad val.        |
| 653.01                         | 5.7% ad val.              | 660.20                         | 3.1% ad val.        |
| 653.05                         | 2c per lb.                | 660.22                         | 2.8% ad val.        |
| 653.15                         | Free                      | 660.42                         | 3.7% ad val.        |
| 653.20                         | 5.7% ad val.              | 660.48                         | 3.1% ad val.        |
| 653.30                         | 3.7% ad val.              | 660.56                         | Free                |
| 653.35                         | 3.7% ad val.              | 660.67                         | 3.1% ad val.        |
| 653.37                         | 5.7% ad val.              |                                |                     |

## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>   | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>          |
|--------------------------------|-----------------------|--------------------------------|------------------------------|
| 660.71                         | 3.7% ad val.          | 668.34                         | 8% ad val.                   |
| 660.77                         | 2.4% ad val.          | 668.36                         | 3.7% ad val.                 |
| 660.80                         | 4% ad val.            | 668.38                         | Free                         |
| 660.85                         | 3.4% ad val.          | 670.00                         | 4.7% ad val.                 |
| 660.92                         | 2.5% ad val.          | 670.02                         | 3.1% ad val.                 |
| 660.96                         | Free                  | 670.04                         | 4.7% ad val.                 |
| 660.97                         | 3% ad val.            | 670.06                         | 4.2% ad val.                 |
| 661.05                         | Free                  | 670.12                         | 4.7% ad val.                 |
| 661.06                         | 4.7% ad val.          | 670.14                         | 4.7% ad val.                 |
| 661.12                         | 3.4% ad val.          | 670.16                         | 4.4% ad val.                 |
| 661.15                         | 3.7% ad val.          | 670.17                         | 4.2% ad val.                 |
| 661.20                         | 2.2% ad val.          | 670.18                         | 5.1% ad val.                 |
| 661.25                         | 3.4% ad val.          | 670.19                         | 5.1% ad val.                 |
| 661.30                         | 5.7% ad val.          | 670.20                         | 4.7% ad val.                 |
| 661.35                         | 2.9% ad val.          | 670.22                         | 4.2% ad val.                 |
| 661.40                         | 5.6% ad val.          | 670.23                         | 3.7% ad val.                 |
| 661.45                         | Free                  | 670.25                         | 4.7% ad val.                 |
| 661.50                         | 5.1% ad val.          | 670.27                         | 4.2% ad val.                 |
| 661.54                         | Free                  | 670.29                         | 4.4% ad val.                 |
| 661.56                         | 3.7% ad val.          | 670.33                         | 5.1% ad val.                 |
| 661.65                         | 4% ad val.            | 670.35                         | 4.4% ad val.                 |
| 661.67                         | 2.4% ad val.          | 670.40                         | 2.8% ad val.                 |
| 661.68                         | 4.2% ad val.          | 670.41                         | 3.9% ad val.                 |
| 661.85                         | 3.7% ad val.          | 670.42                         | 3.9% ad val.                 |
| 661.90                         | 3.9% ad val.          | 670.43                         | 5.1% ad val.                 |
| 661.92                         | Free                  | 670.50                         | 4.4% ad val.                 |
| 661.95                         | 3.9% ad val.          | 670.52                         | 3.7% ad val.                 |
| 662.10                         | 3.4% ad val.          | 670.54                         | 6.6% ad val.                 |
| 662.15                         | 4.5% ad val.          | 670.56                         | 7% ad val.                   |
| 662.20                         | 3.6% ad val.          | 670.60                         | 19c per 1,000 + 6.4% ad val. |
| 662.26                         | 3.7% ad val.          | 670.62                         | 23c per 1,000 + 8.2% ad val. |
| 662.30                         | 5.5% ad val.          | 670.64                         | 21c per 1,000 + 5.6% ad val. |
| 662.35                         | 5.7% ad val.          | 670.66                         | 4.8% ad val.                 |
| 662.50                         | 3.7% ad val.          | 670.68                         | 7.8% ad val.                 |
| 664.06                         | Free                  | 670.70                         | 5.8% ad val.                 |
| 664.07                         | 2% ad val.            | 670.72                         | 4c per 1,000 + 5% ad val.    |
| 664.08                         | 2.5% ad val.          | 670.90                         | 4.2% ad val.                 |
| 664.10                         | 2% ad val.            | 672.10                         | Free                         |
| 666.10                         | 4% ad val.            | 672.14                         | 2.5% ad val.                 |
| 666.25                         | 3.5% ad val.          | 672.16                         | 3.7% ad val.                 |
| 668.00                         | Free                  | 672.20                         | 6% ad val.                   |
| 668.02                         | 2% ad val.            | 672.22                         | 6.5% ad val.                 |
| 668.04                         | 4.7% ad val.          | 672.25                         | 2.5% ad val.                 |
| 668.06                         | Free                  | 674.10                         | Free                         |
| 668.07                         | 3% ad val.            | 674.20                         | 4.9% ad val.                 |
| 668.10                         | 3.7% ad val.          | 674.30                         | 5.8% ad val.                 |
| 668.15                         | 5.1% ad val.          | 674.32                         | 4.2% ad val.                 |
| 668.21                         | 2.4% ad val.          | 674.35                         | 4.4% ad val.                 |
| 668.23                         | 3.3% ad val.          | 674.40                         | 3.9% ad val.                 |
| 668.32                         | 80c each + 8% ad val. | 674.42                         | 3% ad val.                   |



## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>     | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|-------------------------|--------------------------------|---------------------|
| 674.50                         | 4.9% ad val.            | 680.90                         | 5.7% ad val.        |
| 674.52                         | 5.8% ad val.            | 682.05                         | 6.6% ad val.        |
| 674.53                         | 4.7% ad val.            | 682.07                         | 2.4% ad val.        |
| 674.55                         | 3.7% ad val.            | 682.20                         | 10% ad val.         |
| 674.60                         | 4.5% ad val.            | 682.25                         | 6.6% ad val.        |
| 674.70                         | 2.5% ad val.            | 682.30                         | 4.2% ad val.        |
| 674.75                         | Free                    | 682.41                         | 3.7% ad val.        |
| 674.80                         | 5.7% ad val.            | 682.45                         | Free                |
| 674.90                         | Free                    | 682.50                         | 4.2% ad val.        |
| 676.07                         | 2.2% ad val.            | 682.52                         | 3.7% ad val.        |
| 676.10                         | 4.2% ad val.            | 682.55                         | 10% ad val.         |
| 676.12                         | Free                    | 682.60                         | 3% ad val.          |
| 676.15                         | 3.9% ad val.            | 682.70                         | 3.2% ad val.        |
| 676.20                         | 3.7% ad val.            | 682.80                         | 4.9% ad val.        |
| 676.22                         | Free                    | 682.90                         | 3.9% ad val.        |
| 676.23                         | 4.2% ad val.            | 682.95                         | 5.3% ad val.        |
| 676.25                         | 3.9% ad val.            | 683.10                         | 5.3% ad val.        |
| 676.30                         | 3.7% ad val.            | 683.15                         | 5.1% ad val.        |
| 676.50                         | 4% ad val.              | 683.20                         | 2.2% ad val.        |
| 676.52                         | 3.9% ad val.            | 683.30                         | 3.4% ad val.        |
| 678.20                         | 2.9% ad val.            | 683.32                         | 4.2% ad val.        |
| 678.30                         | 3.9% ad val.            | 683.40                         | 4% ad val.          |
| 678.32                         | 3.7% ad val.            | 683.50                         | 4.4% ad val.        |
| 678.35                         | 3.9% ad val.            | 683.60                         | 3.1% ad val.        |
| 678.40                         | 3.9% ad val.            | 683.65                         | Free                |
| 678.45                         | 4.2% ad val.            | 683.70                         | 25% ad val.         |
| 678.50                         | 3.7% ad val.            | 683.80                         | 6.9% ad val.        |
| 680.05                         | 5.7% ad val.            | 683.90                         | 2% ad val.          |
| 680.07                         | 4.2% ad val.            | 683.95                         | 2.5% ad val.        |
| 680.12                         | 3.9% ad val.            | 684.10                         | 2.2% ad val.        |
| 680.13                         | 3.9% ad val.            | 684.15                         | 6.8% ad val.        |
| 680.14                         | 5.6% ad val.            | 684.20                         | 5.3% ad val.        |
| 680.19                         | 4.4% ad val.            | 684.28                         | Free                |
| 680.25                         | 3.9% ad val.            | 684.40                         | 3.7% ad val.        |
| 680.27                         | 3.7% ad val.            | 684.50                         | 3.9% ad val.        |
| 680.30                         | 4.9% ad val.            | 684.64                         | 4.7% ad val.        |
| 680.33                         | 4.2% ad val.            | 684.70                         | 4.9% ad val.        |
| 680.42                         | 4.2% ad val.            | 685.10                         | 4.2% ad val.        |
| 680.46                         | Free                    | 685.13                         | 3.7% ad val.        |
| 680.49                         | 2.5% ad val.            | 685.19                         | 3.7% ad val.        |
| 680.59                         | 50c each + 7.7% ad val. | 685.21                         | 8% ad val.          |
| 680.62                         | 9% ad val.              | 685.24                         | 6% ad val.          |
| 680.63                         | 5.7% ad val.            | 685.26                         | 2.4% ad val.        |
| 680.66                         | 5.7% ad val.            | 685.33                         | 4.4% ad val.        |
| 680.68                         | 5.7% ad val.            | 685.34                         | 3.9% ad val.        |
| 680.69                         | 5.7% ad val.            | 685.36                         | 3.9% ad val.        |
| 680.72                         | 5.7% ad val.            | 685.40                         | 3.9% ad val.        |
| 680.73                         | 3.4% ad val.            | 685.42                         | 4.9% ad val.        |
| 680.76                         | 5.7% ad val.            | 685.50                         | 4.9% ad val.        |
| 680.81                         | 5.7% ad val.            | 685.60                         | 4.9% ad val.        |
| 680.88                         | 3.7% ad val.            | 685.70                         | 2.7% ad val.        |

## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>            |
|--------------------------------|---------------------|--------------------------------|--------------------------------|
| 685.90                         | 5.3% ad val.        | 696.60                         | 3.8% ad val.                   |
| 686.18                         | 3.1% ad val.        | 700.51                         | 6.6% ad val.                   |
| 686.24                         | 4.9% ad val.        | 700.54                         | 2.4% ad val.                   |
| 686.30                         | 5.8% ad val.        | 700.90                         | 7.5% ad val.                   |
| 686.40                         | 3.1% ad val.        | 702.08                         | 8.4% ad val.                   |
| 686.50                         | 3.1% ad val.        | 702.14                         | 8% ad val.                     |
| 686.60                         | 3.1% ad val.        | 702.15                         | 7% ad val.                     |
| 686.70                         | 7.9% ad val.        | 702.28                         | 37c per doz. + 3.2% ad val.    |
| 686.80                         | Free                | 702.30                         | 50c per doz. + 3.8% ad val.    |
| 687.10                         | 3.7% ad val.        | 702.32                         | 30c per doz. + 5.2% ad val.    |
| 687.20                         | 3.9% ad val.        | 702.37                         | 4% ad val.                     |
| 687.30                         | 2% ad val.          | 702.85                         | 16c each + 3% ad val.          |
| 687.42                         | 7.2% ad val.        | 702.90                         | 5.8% ad val.                   |
| 687.43                         | 7.2% ad val.        | 702.95                         | 7.5% ad val.                   |
| 687.58                         | 4.2% ad val.        | 703.20                         | 11% ad val.                    |
| 688.06                         | 4.9% ad val.        | 703.25                         | 9.4% ad val.                   |
| 688.10                         | 8% ad val.          | 703.30                         | 8.2% ad val.                   |
| 688.15                         | 5.3% ad val.        | 703.35                         | \$1.10 per doz. + 1.6% ad val. |
| 688.25                         | 4.2% ad val.        | 703.40                         | 22% ad val.                    |
| 688.30                         | 5.8% ad val.        | 703.45                         | 26% ad val.                    |
| 688.35                         | 5.8% ad val.        | 703.50                         | 8.2% ad val.                   |
| 688.40                         | 3.9% ad val.        | 703.55                         | \$1.92 per doz. + 2.8% ad val. |
| 690.05                         | 3.9% ad val.        | 703.60                         | 6.6% ad val.                   |
| 690.10                         | 6.3% ad val.        | 703.70                         | 4c per lb. + 3.4% ad val.      |
| 690.20                         | 3.7% ad val.        | 703.72                         | 2.4% ad val.                   |
| 690.35                         | 5.5% ad val.        | 703.80                         | Free                           |
| 690.40                         | 3.9% ad val.        | 703.85                         | Free                           |
| 692.04                         | 3.1% ad val.        | 705.30                         | 4% ad val.                     |
| 692.10                         | 2.5% ad val.        | 705.40                         | \$2.45 per doz. pairs          |
| 692.14                         | 5.3% ad val.        | 705.42                         | 14% ad val.                    |
| 692.16                         | 3.7% ad val.        | 705.43                         | \$2 per doz. pairs             |
| 692.22                         | 2.5% ad val.        | 705.45                         | 14% ad val.                    |
| 692.32                         | 3.1% ad val.        | 705.46                         | 14% ad val.                    |
| 692.35                         | 2.2% ad val.        | 705.48                         | \$2.42 per doz. pairs          |
| 692.40                         | Free                | 705.50                         | 14% ad val.                    |
| 692.45                         | Free                | 705.51                         | \$2.35 per doz. pairs          |
| 692.50                         | 3.7% ad val.        | 705.53                         | 14% ad val.                    |
| 692.55                         | 4.2% ad val.        | 705.54                         | 14% ad val.                    |
| 692.60                         | 3.2% ad val.        | 705.55                         | \$2.35 per doz. pairs          |
| 694.31                         | 5% ad val.          | 705.57                         | 14% ad val.                    |
| 694.50                         | 3.7% ad val.        | 705.58                         | 14% ad val.                    |
| 694.61                         | Free                | 705.60                         | \$2.40 per doz. pairs          |
| 694.65                         | 5% ad val.          | 705.63                         | 14% ad val.                    |
| 694.67                         | Free                | 705.66                         | \$2.40 per doz. pairs          |
| 694.70                         | 6% ad val.          | 705.67                         | \$2.40 per doz. pairs          |
| 696.05                         | 1.5% ad val.        | 705.68                         | 15% ad val.                    |
| 696.10                         | 1.5% ad val.        | 705.70                         | 14% ad val.                    |
| 696.15                         | 4.2% ad val.        | 705.72                         | \$3.75 per doz. pairs          |
| 696.30                         | Free                | 705.73                         | 14% ad val.                    |
| 696.35                         | 2.4% ad val.        | 705.74                         | 14% ad val.                    |
| 696.40                         | 4% ad val.          | 705.76                         | \$3.50 per doz. pairs          |
| 696.50                         | 3.7% ad val.        | 705.78                         | 14% ad val.                    |

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## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>     |
|--------------------------------|---------------------|--------------------------------|-------------------------|
| 705.82                         | 3.7% ad val.        | 709.07                         | 6.2% ad val.            |
| 705.83                         | 3.7% ad val.        | 709.09                         | 4.2% ad val.            |
| 705.90                         | 3.7% ad val.        | 709.10                         | 5.7% ad val.            |
| 706.04                         | 4.7% ad val.        | 709.11                         | 3.4% ad val.            |
| 706.06                         | 5.3% ad val.        | 709.13                         | 8.4% ad val.            |
| 706.09                         | 9% ad val.          | 709.15                         | 7.9% ad val.            |
| 706.13                         | 8% ad val.          | 709.17                         | 4.2% ad val.            |
| 706.16                         | 5.8% ad val.        | 709.19                         | 6.2% ad val.            |
| 706.17                         | 18% ad val.         | 709.21                         | 5.3% ad val.            |
| 706.18                         | 5.3% ad val.        | 709.23                         | 6.4% ad val.            |
| 706.40                         | 8.2% ad val.        | 709.25                         | 4.7% ad val.            |
| 706.45                         | 7.8% ad val.        | 709.27                         | 7.9% ad val.            |
| 706.50                         | 8.8% ad val.        | 709.40                         | 4.2% ad val.            |
| 706.55                         | 7.8% ad val.        | 709.45                         | 3.7% ad val.            |
| 708.01                         | 5.6% ad val.        | 709.50                         | 4.2% ad val.            |
| 708.03                         | 5.6% ad val.        | 709.55                         | 9% ad val.              |
| 708.05                         | 8% ad val.          | 709.56                         | 7.2% ad val.            |
| 708.07                         | 8% ad val.          | 709.57                         | 5.8% ad val.            |
| 708.09                         | 8.4% ad val.        | 709.61                         | 2.5% ad val.            |
| 708.21                         | 7% ad val.          | 709.66                         | 4% ad val.              |
| 708.23                         | 6.6% ad val.        | 710.04                         | 6% ad val.              |
| 708.25                         | 8% ad val.          | 710.06                         | 9% ad val.              |
| 708.27                         | 8% ad val.          | 710.08                         | 5.6% ad val.            |
| 708.29                         | 8.4% ad val.        | 710.12                         | 5.6% ad val.            |
| 708.41                         | 9% ad val.          | 710.14                         | 3.9% ad val.            |
| 708.43                         | 7.2% ad val.        | 710.16                         | 5.7% ad val.            |
| 708.45                         | 7.2% ad val.        | 710.20                         | 18c each + 2.8% ad val. |
| 708.47                         | 7.2% ad val.        | 710.21                         | 10% ad val.             |
| 708.51                         | 3.4% ad val.        | 710.26                         | 47c each + 7.4% ad val. |
| 708.52                         | 8% ad val.          | 710.27                         | 9% ad val.              |
| 708.58                         | 8% ad val.          | 710.30                         | 3.9% ad val.            |
| 708.61                         | 2.2% ad val.        | 710.34                         | 2.2% ad val.            |
| 708.63                         | 9% ad val.          | 710.36                         | 4.4% ad val.            |
| 708.71                         | 8% ad val.          | 710.40                         | 5.1% ad val.            |
| 708.72                         | 8% ad val.          | 710.42                         | 5.6% ad val.            |
| 708.73                         | 9% ad val.          | 710.46                         | Free                    |
| 708.75                         | 9% ad val.          | 710.50                         | 4.4% ad val.            |
| 708.76                         | 4.9% ad val.        | 710.60                         | 4.4% ad val.            |
| 708.78                         | 4.4% ad val.        | 710.61                         | 6.2% ad val.            |
| 708.80                         | 7.2% ad val.        | 710.63                         | 6.2% ad val.            |
| 708.82                         | 6.2% ad val.        | 710.65                         | 5.8% ad val.            |
| 708.85                         | 6.6% ad val.        | 710.67                         | 6.7% ad val.            |
| 708.87                         | 5.8% ad val.        | 710.68                         | 6.5% ad val.            |
| 708.89                         | 9% ad val.          | 710.70                         | 5.8% ad val.            |
| 708.91                         | 6% ad val.          | 710.72                         | 5.3% ad val.            |
| 708.93                         | 9% ad val.          | 710.76                         | 5.8% ad val.            |
| 709.01                         | 9% ad val.          | 710.78                         | 3.9% ad val.            |
| 709.03                         | 6.6% ad val.        | 710.80                         | 4.9% ad val.            |
| 709.05                         | 10% ad val.         | 710.86                         | 7% ad val.              |
| 709.06                         | 5.7% ad val.        | 710.88                         | 9% ad val.              |

## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>      | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>      |
|--------------------------------|--------------------------|--------------------------------|--------------------------|
| 710.90                         | 10% ad val.              | 715.29                         | 15c each + 6.4% ad val.  |
| 711.04                         | 5.7% ad val.             |                                | + 2.5c for each jewel,   |
| 711.08                         | 6.6% ad val.             |                                | if any                   |
| 711.25                         | 4.7% ad val.             | 715.31                         | 30c each + 6.4% ad val.  |
| 711.30                         | 8.4% ad val.             |                                | + 2.5c for each jewel,   |
| 711.31                         | 17% ad val.              |                                | if any                   |
| 711.32                         | 8.4% ad val.             | 715.33                         | 45c each + 6.4% ad val.  |
| 711.38                         | 4.7% ad val.             |                                | + 2.5c for each jewel,   |
| 711.40                         | 10% ad val.              |                                | if any                   |
| 711.42                         | 4.2% ad val.             | 715.40                         | 36c each + 5.2% ad val.  |
| 711.45                         | 5.6% ad val.             |                                | + 2c for each jewel,     |
| 711.47                         | 2.8% ad val.             |                                | if any                   |
| 711.49                         | 4.6% ad val.             | 715.45                         | 5.5c each + 6.4% ad val. |
| 711.55                         | 3.9% ad val.             |                                | + 2.5c for each jewel,   |
| 711.60                         | 3% ad val.               |                                | if any                   |
| 711.67                         | 4.7% ad val.             | 715.47                         | 10c each + 6.4% ad val.  |
| 711.75                         | 49c each + 7.6% ad val.  |                                | + 2.5c for each jewel,   |
| 711.77                         | 9% ad val.               |                                | if any                   |
| 711.78                         | 4.7% ad val.             | 715.49                         | 15c each + 6.4% ad val.  |
| 711.86                         | 10% ad val.              |                                | + 2.5c for each jewel,   |
| 711.88                         | 6.2% ad val.             |                                | if any                   |
| 711.90                         | 15% ad val.              | 715.51                         | 30c each + 6.4% ad val.  |
| 711.93                         | 17% ad val.              |                                | + 2.5c for each jewel,   |
| 711.98                         | Free                     |                                | if any                   |
| 712.05                         | 10% ad val.              | 715.53                         | 45c each + 7% ad val.    |
| 712.10                         | 4.8% ad val.             |                                | + 2.5c for each jewel,   |
| 712.12                         | 10% ad val.              |                                | if any                   |
| 712.15                         | 4.7% ad val.             | 715.60                         | 5.5c each + 6.4% ad val. |
| 712.20                         | 4.9% ad val.             |                                | + 2.5c for each jewel,   |
| 712.25                         | 49c each + 7.6% ad val.  |                                | if any                   |
| 712.27                         | 9% ad val.               | 715.62                         | 10c each + 6.4% ad val.  |
| 712.49                         | 4.9% ad val.             |                                | + 2.5c for each jewel,   |
| 713.05                         | 30c each + 6.4% ad val.  |                                | if any                   |
| 713.07                         | 45c each + 6.4% ad val.  | 715.64                         | 15c each + 4% ad val.    |
| 713.09                         | 45c each + 4.4% ad val.  |                                | + 2.5c for each jewel,   |
| 713.11                         | 45c each + 7% ad val.    |                                | if any                   |
| 713.15                         | 9% ad val.               | 715.66                         | 30c each + 4% ad val.    |
| 713.17                         | 45c each + 7% ad val.    |                                | + 2.5c for each jewel,   |
| 713.19                         | 9% ad val.               |                                | if any                   |
| 715.20                         | 34c each + 5% ad val.    | 715.68                         | 45c each + 6.4% ad val.  |
|                                | + 2c for each jewel,     |                                | + 2.5c for each jewel,   |
|                                | if any                   |                                | if any                   |
| 715.25                         | 5.5c each + 6.4% ad val. | 716.06                         | \$2.15 each              |
|                                | + 2.5c for each jewel,   | 716.10                         | 36c each                 |
|                                | if any                   | 716.18                         | 36c each                 |
| 715.27                         | 10c each + 6.4% ad val.  | 716.20                         | 72c each                 |
|                                | + 2.5c for each jewel,   | 716.27                         | 72c each                 |
|                                | if any                   | 716.28                         | 72c each                 |

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## Section B. (1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                           | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                                                                                                                                                                                                                                        |
|--------------------------------|-------------------------------------------------------------------------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 716.29                         | 72c each                                                                      | 720.60                         | Free                                                                                                                                                                                                                                                                                       |
| 716.41                         | 72c each + 4c for each<br>jewel over 7                                        | 720.70                         | 7c each assembly                                                                                                                                                                                                                                                                           |
| 716.42                         | 72c each + 4c for each<br>jewel over 7                                        | 720.75                         | 9% ad val.                                                                                                                                                                                                                                                                                 |
| 716.43                         | 72c each + 4c for each<br>jewel over 7                                        | 720.80                         | The column 1 rate specified<br>in item 720.67 for the<br>plate or plates + 5c for<br>each jewel (if any) + 1c<br>for each other part or<br>piece (if any), but the<br>total duty on the assembly<br>or subassembly shall not<br>exceed the column 1 duty<br>for the complete movement.     |
| 719.--                         | Column 1 base rate +<br>35c each if self-winding<br>+ 35c for each adjustment |                                |                                                                                                                                                                                                                                                                                            |
| 720.02                         | 30c each                                                                      |                                |                                                                                                                                                                                                                                                                                            |
| 720.04                         | 53c each + 5.5c for each<br>jewel over 7                                      | 720.82                         | The column 1 rate specified<br>in item 720.67 for the<br>plate or plates + 2.5c for<br>each jewel (if any) + 0.5c<br>for each other part or<br>piece (if any), but the<br>total duty on the assembly<br>or subassembly shall not<br>exceed the column 1 duty<br>for the complete movement. |
| 720.06                         | 60c each                                                                      |                                |                                                                                                                                                                                                                                                                                            |
| 720.08                         | 85c each + 5.5c for each<br>jewel over 7                                      |                                |                                                                                                                                                                                                                                                                                            |
| 720.10                         | 5.5c each + 6.4% ad val.<br>+ 2.5c for each jewel,<br>if any                  |                                |                                                                                                                                                                                                                                                                                            |
| 720.12                         | 10c each + 6.4% ad val.<br>+ 2.5c for each jewel,<br>if any                   | 720.84                         | 13% ad val. + 5c for each<br>jewel (if any) + 0.6c<br>for each other piece or<br>part                                                                                                                                                                                                      |
| 720.14                         | 15c each + 6.4% ad val.<br>+ 2.5c for each jewel,<br>if any                   |                                |                                                                                                                                                                                                                                                                                            |
| 720.16                         | 30c each + 6.4% ad val.<br>+ 2.5c for each jewel,<br>if any                   | 720.86                         | 6.4% ad val. + 2.5c for<br>each jewel (if any) +<br>0.3c for each other<br>piece or part                                                                                                                                                                                                   |
| 720.18                         | 45c each + 6.4% ad val.<br>+ 2.5c for each jewel,<br>if any                   | 720.90                         | 11% ad val.                                                                                                                                                                                                                                                                                |
| 720.20                         | 15c each + 6% ad val.                                                         | 720.92                         | 10% ad val.                                                                                                                                                                                                                                                                                |
| 720.21                         | 8% ad val.                                                                    | 720.94                         | 6.4% ad val.                                                                                                                                                                                                                                                                               |
| 720.22                         | 8% ad val.                                                                    | 721.05                         | 9% ad val.                                                                                                                                                                                                                                                                                 |
| 720.24                         | 8c each + 6% ad val.                                                          | 721.10                         | 2.4% ad val.                                                                                                                                                                                                                                                                               |
| 720.25                         | 4c each + 6% ad val.                                                          | 721.12                         | 4.4% ad val.                                                                                                                                                                                                                                                                               |
| 720.26                         | 6% ad val.                                                                    | 722.02                         | 4.5% ad val.                                                                                                                                                                                                                                                                               |
| 720.28                         | 4c each + 8.5% ad val.                                                        | 722.04                         | 4.5% ad val.                                                                                                                                                                                                                                                                               |
| 720.29                         | 2c each + 8.5% ad val.                                                        | 722.10                         | 5% ad val.                                                                                                                                                                                                                                                                                 |
| 720.30                         | 8.1% ad val.                                                                  | 722.12                         | 4% ad val.                                                                                                                                                                                                                                                                                 |
| 720.32                         | 7.4% ad val.                                                                  | 722.14                         | 6.8% ad val.                                                                                                                                                                                                                                                                               |
| 720.33                         | 4% ad val.                                                                    | 722.16                         | 3% ad val.                                                                                                                                                                                                                                                                                 |
| 720.34                         | 6.9% ad val.                                                                  | 722.18                         | 4.9% ad val.                                                                                                                                                                                                                                                                               |
| 720.36                         | 6% ad val.                                                                    | 722.30                         | 5% ad val.                                                                                                                                                                                                                                                                                 |
| 720.40                         | 0.5c each + 9% ad val.                                                        | 722.32                         | 4.9% ad val.                                                                                                                                                                                                                                                                               |
| 720.42                         | 6.6% ad val.                                                                  | 722.34                         | 5.8% ad val.                                                                                                                                                                                                                                                                               |
| 720.44                         | 10% ad val.                                                                   | 722.42                         | 2.2% ad val.                                                                                                                                                                                                                                                                               |
|                                |                                                                               | 722.44                         | 7% ad val.                                                                                                                                                                                                                                                                                 |

## Section B. (1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>       | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                 |
|--------------------------------|---------------------------|--------------------------------|-------------------------------------|
| 722.46                         | 7% ad val.                | 725.26                         | 3.4% ad val.                        |
| 722.50                         | 7% ad val.                | 725.30                         | Free                                |
| 722.52                         | 7.8% ad val.              | 725.32                         | 5.3% ad val.                        |
| 722.56                         | 4.7% ad val.              | 725.34                         | 3.7% ad val.                        |
| 722.60                         | 5.7% ad val.              | 725.36                         | 2.8% ad val.                        |
| 722.64                         | 5.8% ad val.              | 725.38                         | Free                                |
| 722.70                         | 4% ad val.                | 725.40                         | 5.3% ad val.                        |
| 722.72                         | 3.9% ad val.              | 725.46                         | 6.8% ad val.                        |
| 722.75                         | 3.4% ad val.              | 725.47                         | 6.8% ad val.                        |
| 722.78                         | 5% ad val.                | 725.50                         | 3.2% ad val.                        |
| 722.80                         | 5.7% ad val.              | 725.52                         | 5.3% ad val.                        |
| 722.82                         | 3.8% ad val.              | 726.10                         | 4.7% ad val.                        |
| 722.83                         | 3.1% ad val.              | 726.15                         | 4.2% ad val.                        |
| 722.85                         | 6.9% ad val.              | 726.20                         | 8.2% ad val.                        |
| 722.86                         | 2.2% ad val.              | 726.25                         | 5.7% ad val.                        |
| 722.88                         | 5c per lb. + 4.5% ad val. | 726.40                         | 4.7% ad val.                        |
| 722.90                         | 3.8% ad val.              | 726.45                         | 10c per 1000 pins +<br>3.5% ad val. |
| 722.92                         | 3.8% ad val.              |                                |                                     |
| 722.94                         | 3.7% ad val.              | 726.50                         | 4% ad val.                          |
| 722.96                         | 3.7% ad val.              | 726.52                         | 4.4% ad val.                        |
| 723.05                         | 3.7% ad val.              | 726.55                         | 6.6% ad val.                        |
| 723.10                         | Free                      | 726.60                         | 4.2% ad val.                        |
| 723.15                         | 3.7% ad val.              | 726.62                         | 3.2% ad val.                        |
| 723.20                         | 3% ad val.                | 726.63                         | 4% ad val.                          |
| 723.25                         | 4.9% ad val.              | 726.65                         | 5% ad val.                          |
| 723.30                         | 3.7% ad val.              | 726.70                         | 4.9% ad val.                        |
| 723.32                         | 3.1% ad val.              | 726.75                         | 3.2% ad val.                        |
| 723.35                         | 2.8% ad val.              | 726.85                         | 5.3% ad val.                        |
| 724.10                         | Free                      | 726.90                         | 5.3% ad val.                        |
| 724.12                         | 0.2c per lin. ft.         | 727.02                         | 3.9% ad val.                        |
| 724.20                         | 0.2c per lin. ft.         | 727.04                         | 5.3% ad val.                        |
| 724.25                         | 3.7% ad val.              | 727.06                         | 3.1% ad val.                        |
| 724.35                         | 0.2c per lin. ft.         | 727.15                         | 6.6% ad val.                        |
| 724.45                         | 4.2% ad val.              | 727.23                         | 5.3% ad val.                        |
| 725.01                         | 5.3% ad val.              | 727.25                         | 5.3% ad val.                        |
| 725.03                         | 5.3% ad val.              | 727.27                         | 3.4% ad val.                        |
| 725.04                         | 4.9% ad val.              | 727.29                         | 5.3% ad val.                        |
| 725.05                         | 6.8% ad val.              | 727.35                         | 2.5% ad val.                        |
| 725.07                         | 13% ad val.               | 727.45                         | 7% ad val.                          |
| 725.08                         | 7% ad val.                | 727.47                         | 6% ad val.                          |
| 725.10                         | Free                      | 727.50                         | 2.4% ad val.                        |
| 725.12                         | 5.3% ad val.              | 727.52                         | 4.2% ad val.                        |
| 725.14                         | 4.7% ad val.              | 727.55                         | 4% ad val.                          |
| 725.16                         | 5.1% ad val.              | 727.86                         | 6% ad val.                          |
| 725.18                         | 4.7% ad val.              | 728.15                         | 3.7% ad val.                        |
| 725.20                         | 12% ad val.               | 728.20                         | Free                                |
| 725.22                         | 5.8% ad val.              | 730.05                         | 5.3% ad val.                        |
| 725.24                         | 4.9% ad val.              | 730.15                         | 40c each + 11% ad val.              |



## Section B. (1)--Continued

| TSUS<br>Item No. | Rate of duty          | TSUS<br>Item No. | Rate of duty                 |
|------------------|-----------------------|------------------|------------------------------|
| 730.17           | 27c each + 6% ad val. | 732.16           | 65c each                     |
| 730.19           | 27c each + 6% ad val. | 732.21           | 7.2% ad val.                 |
| 730.23           | 8.1% ad val.          | 732.30           | 7.2% ad val.                 |
| 730.25           | 9.1% ad val.          | 732.32           | 36c each                     |
| 730.27           | 6.3% ad val.          | 732.34           | 4.9% ad val.                 |
| 730.29           | 7.5% ad val.          | 732.35           | 6% ad val.                   |
| 730.31           | 4.7% ad val.          | 732.38           | 6% ad val.                   |
| 730.37           | 10% ad val.           | 732.41           | 6% ad val.                   |
| 730.39           | 8.4% ad val.          | 732.43           | 7.8% ad val.                 |
| 730.41           | 5.3% ad val.          | 732.50           | Free                         |
| 730.43           | 3.3% ad val.          | 732.52           | 3.6% ad val.                 |
| 730.45           | 5.1% ad val.          | 732.60           | 4.9% ad val.                 |
| 730.51           | 6.9% ad val.          | 732.62           | 2.4% ad val.                 |
| 730.53           | 6.9% ad val.          | 734.05           | 8.2% ad val.                 |
| 730.55           | 6.9% ad val.          | 734.15           | 5.8% ad val.                 |
| 730.57           | 5.4% ad val.          | 734.20           | 3.9% ad val.                 |
| 730.59           | 5.4% ad val.          | 734.25           | 0.8c per pack + 0.8% ad val. |
| 730.61           | 8.4% ad val.          | 734.30           | 5.1% ad val.                 |
| 730.63           | 7% ad val.            | 734.32           | 5.8% ad val.                 |
| 730.65           | 32c each + 4% ad val. | 734.34           | 5.1% ad val.                 |
| 730.67           | 3.6% ad val.          | 734.40           | 5.1% ad val.                 |
| 730.71           | 2.8% ad val.          | 734.45           | 3.4% ad val.                 |
| 730.74           | 2.3% ad val.          | 734.48           | 5.6% ad val.                 |
| 730.75           | 2.4% ad val.          | 734.51           | 5.6% ad val.                 |
| 730.77           | 5.4% ad val.          | 734.56           | 3% ad val.                   |
| 730.80           | 8.4% ad val.          | 734.60           | 3.2% ad val.                 |
| 730.81           | 3.4% ad val.          | 734.70           | Free                         |
| 730.85           | 7.8% ad val.          | 734.71           | 3.1% ad val.                 |
| 730.86           | 3.4% ad val.          | 734.72           | 4.9% ad val.                 |
| 730.88           | 5.7% ad val.          | 734.75           | 2.4% ad val.                 |
| 730.90           | 5% ad val.            | 734.77           | 4.9% ad val.                 |
| 730.91           | 4.2% ad val.          | 734.80           | Free                         |
| 730.92           | 3.2% ad val.          | 734.85           | 4.2% ad val.                 |
| 730.93           | 3.6% ad val.          | 734.86           | 3.9% ad val.                 |
| 731.05           | 5% ad val.            | 734.88           | 3.1% ad val.                 |
| 731.06           | 6% ad val.            | 734.90           | Free                         |
| 731.10           | 5% ad val.            | 734.91           | 5.8% ad val.                 |
| 731.15           | 7.6% ad val.          | 734.93           | 2% ad val.                   |
| 731.20           | 9.2% ad val.          | 734.95           | Free                         |
| 731.22           | 30c each              | 735.01           | 3.5% ad val.                 |
| 731.24           | 4.9% ad val.          | 735.02           | 5.1% ad val.                 |
| 731.26           | 5.4% ad val.          | 735.04           | 3.5% ad val.                 |
| 731.30           | 7% ad val.            | 735.06           | 5.5% ad val.                 |
| 731.40           | 5.8% ad val.          | 735.09           | 6% ad val.                   |
| 731.42           | 4.4% ad val.          | 735.10           | 7.8% ad val.                 |
| 731.44           | 5.4% ad val.          | 735.11           | 6.9% ad val.                 |
| 731.50           | 5% ad val.            | 735.12           | 4.9% ad val.                 |
| 731.65           | 9% ad val.            | 735.15           | Free                         |
| 731.70           | 9% ad val.            | 735.17           | Free                         |
| 732.04           | 45c each              | 735.18           | Free                         |
| 732.10           | 60c each              | 735.20           | 5.8% ad val.                 |

## Section B. (1)--Continued

| TSUS<br>Item No. | Rate of duty                           | TSUS<br>Item No. | Rate of duty                                                                                       |
|------------------|----------------------------------------|------------------|----------------------------------------------------------------------------------------------------|
| 737.07           | 5.1% ad val.                           | 745.50           | 10% ad val.                                                                                        |
| 737.09           | 5.7% ad val.                           | 745.52           | 8.2% ad val.                                                                                       |
| 737.15           | 7.8% ad val.                           | 745.54           | 5.1% ad val.                                                                                       |
| 737.21           | 8% ad val.                             | 745.56           | 9% ad val.                                                                                         |
| 737.22           | 12% ad val.                            | 745.58           | 3.4% ad val.                                                                                       |
| 737.25           | 11.2% ad val.                          | 745.60           | 1c per lb. (including weight of cards, cartons, and immediate wrappings and labels) + 5.8% ad val. |
| 737.30           | 5.5% ad val.                           |                  |                                                                                                    |
| 737.35           | 4.2% ad val.                           | 745.65           | 6.9% ad val.                                                                                       |
| 737.40           | 7% ad val.                             | 745.66           | 6.5% ad val.                                                                                       |
| 737.45           | 5.8% ad val.                           | 745.67           | 11% ad val.                                                                                        |
| 737.50           | 8.8% ad val.                           | 745.68           | 5.3% ad val.                                                                                       |
| 737.55           | 6% ad val.                             | 745.70           | 15% ad val.                                                                                        |
| 737.60           | 6.4% ad val.                           | 745.72           | 15% ad val.                                                                                        |
| 737.65           | 5.8% ad val.                           | 745.74           | 23% ad val.                                                                                        |
| 737.70           | 4% ad val.                             | 748.05           | 2c per lb. + 3.6% ad val.                                                                          |
| 737.80           | 8.8% ad val.                           | 748.15           | 7% ad val.                                                                                         |
| 737.85           | 7.8% ad val.                           | 748.20           | 8.4% ad val.                                                                                       |
| 737.95           | 7% ad val.                             | 748.21           | 17% ad val.                                                                                        |
| 740.10           | 6.5% ad val.                           | 750.05           | 0.1c each + 2% ad val.                                                                             |
| 740.30           | 7.2% ad val.                           | 750.10           | 7.8% ad val.                                                                                       |
| 740.34           | 14% ad val.                            | 750.15           | 0.2c each + 4.6% ad val.                                                                           |
| 740.35           | 14% ad val.                            | 750.20           | 5.3% ad val.                                                                                       |
| 740.38           | 11% ad val.                            | 750.22           | 11% ad val.                                                                                        |
| 740.50           | 4.9% ad val.                           | 750.26           | 8% ad val.                                                                                         |
| 740.55           | 7.8% ad val.                           | 750.29           | 8% ad val.                                                                                         |
| 740.60           | 5.8% ad val.                           | 750.32           | 10% ad val.                                                                                        |
| 740.70           | 7% ad val.                             | 750.35           | 2.8% ad val.                                                                                       |
| 740.75           | 8% ad val.                             | 750.40           | 0.2c each + 3.4% ad val.                                                                           |
| 740.80           | 11% ad val.                            | 750.45           | 0.2c each + 7% ad val.                                                                             |
| 741.10           | 8% ad val.                             | 750.47           | 0.3c each + 3.6% ad val.                                                                           |
| 741.20           | 4% ad val.                             | 750.55           | 0.3c each                                                                                          |
| 741.35           | 2.8% ad val.                           | 750.60           | 3.1% ad val.                                                                                       |
| 741.40           | 8% ad val.                             | 750.65           | 4% ad val.                                                                                         |
| 741.50           | 6.6% ad val.                           | 750.70           | 5.6% ad val.                                                                                       |
| 745.04           | 3.6% ad val.                           | 750.75           | 5.6% ad val.                                                                                       |
| 745.08           | 3.7% ad val.                           | 750.80           | 7.5% ad val.                                                                                       |
| 745.10           | 11% ad val.                            | 751.05           | 8.2% ad val.                                                                                       |
| 745.20           | 0.35c per line per gross + 5% ad val.  | 751.10           | 5% ad val.                                                                                         |
| 745.25           | 4.9% ad val.                           | 751.11           | 5.8% ad val.                                                                                       |
| 745.28           | 5.5% ad val.                           | 751.15           | 4.8% ad val.                                                                                       |
| 745.30           | 5.3% ad val.                           | 751.20           | 12% ad val.                                                                                        |
| 745.32           | 0.4c per line per gross + 6.4% ad val. | 751.25           | 7.5% ad val.                                                                                       |
| 745.34           | 5.7% ad val.                           | 755.05           | Free                                                                                               |
| 745.40           | 11.4% ad val.                          | 755.10           | Free                                                                                               |
| 745.45           | 5.7% ad val.                           |                  |                                                                                                    |



## Section B.(1)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                                                                                | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|----------------------------------------------------------------------------------------------------|--------------------------------|---------------------|
| 755.15.                        | 5c per lb., including the weight of all coverings, packing material, and wrappings                 | 772.45                         | Free                |
| 755.20                         | 7.5% ad val.                                                                                       | 772.54                         | Free                |
| 755.25                         | 5.8% ad val.                                                                                       | 772.60                         | 3.7% ad val.        |
| 755.35                         | 22c per lb. + 2.6% ad val.                                                                         | 772.65                         | 3.1% ad val.        |
| 755.45                         | 0.1c each + 0.025c each for each 0.5 gram of explosive over 1.5 grams per cap                      | 772.95                         | 5% ad val.          |
| 755.50                         | 36c per 1,000 feet                                                                                 | 772.97                         | 5.3% ad val.        |
| 756.02                         | 7.2% ad val.                                                                                       | 773.20                         | 10.5% ad val.       |
| 756.04                         | 10% ad val.                                                                                        | 773.25                         | 3.5% ad val.        |
| 756.06                         | 9% ad val.                                                                                         | 773.30                         | 3.7% ad val.        |
| 756.10                         | 4.8% ad val.                                                                                       | 773.35                         | 4.2% ad val.        |
| 756.15                         | 10% ad val.                                                                                        | 774.20                         | 6% ad val.          |
| 756.21                         | 1c each + 16% ad val.                                                                              | 774.25                         | 4.2% ad val.        |
| 756.23                         | 0.5c each + 8% ad val.                                                                             | 790.00                         | 6.4% ad val.        |
| 756.25                         | 0.5c each + 4% ad val.                                                                             | 790.03                         | 5.7% ad val.        |
| 756.35                         | 0.5c each + 6.4% ad val.                                                                           | 790.10                         | 2.4% ad val.        |
| 756.40                         | 7% ad val.                                                                                         | 790.15                         | 2.8% ad val.        |
| 756.45                         | 0.5c each + 3% ad val.                                                                             | 790.30                         | 4.2% ad val.        |
| 756.50                         | 7.8% ad val.                                                                                       | 790.37                         | 2.4% ad val.        |
| 756.55                         | 0.2c each + 3% ad val.                                                                             | 790.40                         | Free                |
| 756.60                         | 3.7% ad val.                                                                                       | 790.50                         | 6.6% ad val.        |
| 760.05                         | 0.8c each + 5.4% ad val.                                                                           | 790.59                         | 9% ad val.          |
| 760.10                         | 6.6% ad val.                                                                                       | 790.60                         | 9% ad val.          |
| 760.12                         | 3.4% ad val.                                                                                       | 790.61                         | 8.7% ad val.        |
| 760.15                         | 8% ad val.                                                                                         | 790.62                         | 8.7% ad val.        |
| 760.20                         | 4.9% ad val.                                                                                       | 790.63                         | 9% ad val.          |
| 760.30                         | 5.8% ad val.                                                                                       | 790.70                         | 2.8% ad val.        |
| 760.32                         | Free                                                                                               | 791.05                         | 7.4% ad val.        |
| 760.34                         | 40c per 1000 + 7% ad val.                                                                          | 791.10                         | 5.3% ad val.        |
| 760.36                         | 0.8c each + 5.4% ad val.                                                                           | 791.15                         | 5.8% ad val.        |
| 760.38                         | 3.8% ad val.                                                                                       | 791.17                         | 7.4% ad val.        |
| 760.40                         | 0.9c each + 6.1% ad val.                                                                           | 791.19                         | 3.4% ad val.        |
| 760.42                         | 3.8% ad val.                                                                                       | 791.30                         | 3.7% ad val.        |
| 760.45                         | Free                                                                                               | 791.35                         | 3.4% ad val.        |
| 760.48                         | 14c per gross + 4.3% ad val.                                                                       | 791.45                         | 2.5% ad val.        |
| 760.50                         | 0.8c per gross                                                                                     | 791.48                         | 4.2% ad val.        |
| 760.52                         | Free                                                                                               | 791.50                         | Free                |
| 760.56                         | 5.1% ad val.                                                                                       | 791.54                         | 2.8% ad val.        |
| 760.58                         | 5.5c per gross + 3.4% ad val.                                                                      | 791.57                         | 2.8% ad val.        |
| 760.65                         | Free                                                                                               | 791.60                         | 5.3% ad val.        |
| 766.30                         | A duty of 6.6% ad val. in addition to any other duty imposed on such article under these schedules | 791.65                         | 5.8% ad val.        |
| 770.70                         | 4.2% ad val.                                                                                       | 791.70                         | 4.7% ad val.        |
| 770.80                         | 6.6% ad val.                                                                                       | 791.80                         | 5.6% ad val.        |
| 772.40                         | 3.1% ad val.                                                                                       | 791.90                         | Free                |
|                                |                                                                                                    | 792.10                         | 4.2% ad val.        |
|                                |                                                                                                    | 792.22                         | 7.7% ad val.        |
|                                |                                                                                                    | 792.30                         | 4% ad val.          |
|                                |                                                                                                    | 792.32                         | 2.5% ad val.        |
|                                |                                                                                                    | 792.40                         | Free                |
|                                |                                                                                                    | 792.50                         | 3.4% ad val.        |
|                                |                                                                                                    | 792.60                         | 4.2% ad val.        |
|                                |                                                                                                    | 792.75                         | 4.7% ad val.        |
|                                |                                                                                                    | 799.00                         | 3.7% ad val.        |

(2) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1981:

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>          |
|--------------------------------|---------------------|--------------------------------|------------------------------|
| 124.25                         | 2.1% ad val.        | 531.01                         | 0.16c per lb.                |
| 146.90                         | Free                | 534.31                         | 2.1% ad val.                 |
| 156.25                         | Free                | 644.48                         | 38.5c for each 1,140 sq. ft. |
| 390.14                         | 2.1% ad val.        | 651.23                         | 2.1% ad val.                 |
| 390.16                         | 2.1% ad val.        | 652.06                         | 2.1% ad val.                 |
| 417.50                         | Free                | 652.30                         | Free                         |
| 420.14                         | 1.5c per lb.        | 652.33                         | Free                         |
| 420.78                         | 0.03c per lb.       | 709.63                         | 2.1% ad val.                 |
| 473.32                         | 0.04c per lb.       | 730.73                         | 2.1% ad val.                 |
| 494.60                         | 2.1% ad val.        | 741.06                         | 2.1% ad val.                 |
| 514.61                         | 2.1% ad val.        | 741.15                         | 2.1% ad val.                 |
| 520.39                         | 2.1% ad val.        |                                |                              |

(3) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1982:

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|---------------------|--------------------------------|---------------------|
| 206.85                         | 4.2% ad val.        | 306.41                         | 5c per clean lb.    |
| 245.00                         | 3% ad val.          | 306.42                         | 5c per clean lb.    |
| 245.10                         | 3% ad val.          | 306.43                         | 5c per clean lb.    |
| 245.20                         | 3% ad val.          | 306.44                         | 7c per lb.          |
| 245.30                         | 6% ad val.          | 306.53                         | 1.5c per clean lb.  |
| 274.85                         | 1.8% ad val.        | 306.54                         | 2c per lb.          |
| 304.22                         | 0.3c per lb.        | 306.61                         | 3.5c per clean lb.  |
| 304.26                         | 3.1% ad val.        | 306.62                         | 3.5c per clean lb.  |
| 304.34                         | 0.6c per lb.        | 306.63                         | 4c per clean lb.    |
| 304.36                         | Free                | 306.64                         | 5.5c per lb.        |
| 304.44                         | Free                | 306.71                         | 4.5c per clean lb.  |
| 304.52                         | 3.1% ad val.        | 306.72                         | 4.5c per clean lb.  |
| 304.58                         | Free                | 306.73                         | 5c per clean lb.    |
| 305.04                         | 3.1% ad val.        | 306.74                         | 6.5c per lb.        |
| 305.06                         | 6.6% ad val.        | 306.81                         | 7c per clean lb.    |
| 305.08                         | 4.2% ad val.        | 306.82                         | 7c per clean lb.    |
| 305.09                         | 6% ad val.          | 306.83                         | 7c per clean lb.    |
| 305.10                         | 6% ad val.          | 306.84                         | 9c per lb.          |
| 305.12                         | 3.1% ad val.        | 307.02                         | 2c per lb.          |
| 305.14                         | 7.8% ad val.        | 307.04                         | 3c per lb.          |
| 305.16                         | 4.2% ad val.        | 307.06                         | 2.5c per lb.        |
| 305.18                         | 5.1% ad val.        | 307.08                         | 3c per lb.          |
| 305.20                         | 3% ad val.          | 307.10                         | 5.5c per lb.        |
| 305.22                         | 4.4% ad val.        | 307.12                         | 2.5c per lb.        |
| 305.28                         | 4% ad val.          | 307.16                         | 2c per lb.          |
| 305.30                         | 5% ad val.          | 307.18                         | 2c per lb.          |
| 305.50                         | 5.8% ad val.        | 308.80                         | 5% ad val.          |
| 306.14                         | 4c per lb.          | 309.02                         | 8c per lb.          |
| 306.24                         | 5c per lb.          | 309.03                         | 10% ad val.         |



## Section B.(3)--Continued

| TSUS<br>Item No. | Rate of duty              | TSUS<br>Item No. | Rate of duty   |
|------------------|---------------------------|------------------|----------------|
| 309.05           | 6¢ per lb.                | 347.28           | 5.8% ad val.   |
| 309.06           | 7.8% ad val.              | 347.30           | 5.6% ad val.   |
| 309.10           | 7.5% ad val.              | 347.35           | 4.7% ad val.   |
| 309.20           | 5¢ per lb.                | 347.45           | 5.3% ad val.   |
| 309.21           | 6.6% ad val.              | 347.50           | 3% ad val.     |
| 309.25           | 7.5% ad val.              | 347.72           | 4.2% ad val.   |
| 309.30           | 6¢ per lb.                | 347.75           | 5.3% ad val.   |
| 309.31           | 10% ad val.               | 351.44           | 18% ad val.    |
| 309.35           | 5¢ per lb. + 6% ad val.   | 355.04           | 8% ad val.     |
| 309.43           | 4.9% ad val.              | 355.20           | 6.9% ad val.   |
| 309.50           | 5.5¢ per lb. + 7% ad val. | 355.42           | 6.2% ad val.   |
| 309.60           | 4.2% ad val.              | 355.55           | 3.9% ad val.   |
| 309.65           | 2.5¢ per lb.              | 355.65           | 5.3% ad val.   |
| 309.66           | 2.1% ad val.              | 355.70           | 14% ad val.    |
| 309.70           | 6% ad val.                | 355.75           | 6.9% ad val.   |
| 309.75           | 4.9% ad val.              | 355.81           | 4.2% ad val.   |
| 309.80           | 8% ad val.                | 355.85           | 5.3% ad val.   |
| 309.90           | 6.5% ad val.              | 356.05           | 5.4% ad val.   |
| 312.10           | 3.7% ad val.              | 356.10           | 3.7% ad val.   |
| 312.30           | 2.5% ad val.              | 356.15           | 6.6% ad val.   |
| 312.40           | 5.3% ad val.              | 356.20           | 4.7% ad val.   |
| 315.25           | 7.2% ad val.              | 356.25           | 4.7% ad val.   |
| 315.30           | 4.9% ad val.              | 356.30           | 16% ad val.    |
| 315.40           | 7% ad val.                | 356.35           | 6.9% ad val.   |
| 315.45           | 7% ad val.                | 356.40           | 8% ad val.     |
| 315.55           | 0.8¢ per lb.              | 356.45           | 5.3% ad val.   |
| 315.75           | 7% ad val.                | 356.70           | 8.2% ad val.   |
| 315.80           | 4% ad val.                | 356.80           | 3.7% ad val.   |
| 315.85           | 5% ad val.                | 357.30           | 7.2% ad val.   |
| 315.90           | 4.2% ad val.              | 357.40           | 6% ad val.     |
| 315.95           | 5.2% ad val.              | 357.90           | 4.5% ad val.   |
| 316.05           | 6% ad val.                | 357.95           | 6.5% ad val.   |
| 316.10           | 6% ad val.                | 358.24           | 5.8% ad val.   |
| 316.20           | 6% ad val.                | 358.26           | 7% ad val.     |
| 316.25           | 6% ad val.                | 358.40           | 6.9% ad val.   |
| 316.30           | 2.5% ad val.              | 358.50           | 7.5% ad val.   |
| 316.70           | 5.3% ad val.              | 358.60           | 5.8% ad val.   |
| 319.01           | 6% ad val.                | 359.20           | 4.4% ad val.   |
| 319.03           | 6% ad val.                | 359.40           | 5.4% ad val.   |
| 319.05           | 6% ad val.                | 359.60           | 3.4% ad val.   |
| 319.07           | 6% ad val.                | 360.35           | 2¢ per sq. ft. |
| 335.70           | 3% ad val.                | 360.36           | 3.5% ad val.   |
| 335.75           | 3% ad val.                | 360.77           | 5% ad val.     |
| 335.85           | 3% ad val.                | 360.79           | 5% ad val.     |
| 335.95           | 3% ad val.                | 360.82           | 7.6% ad val.   |
| 339.10           | 5.3% ad val.              | 360.84           | 7.6% ad val.   |
| 345.60           | 5.3% ad val.              | 361.21           | 5.1% ad val.   |
| 346.65           | 5.3% ad val.              | 361.53           | 4.7% ad val.   |
| 346.80           | 4.2% ad val.              | 361.85           | 3.4% ad val.   |
| 346.86           | 5.3% ad val.              | 363.02           | 7.2% ad val.   |
| 346.95           | 5.3% ad val.              | 363.35           | 3.1% ad val.   |
| 347.20           | 4.7% ad val.              | 363.80           | 5.4% ad val.   |

## Section B.(3)--Continued

| TSUS<br>Item No. | Rate of duty                | TSUS<br>Item No. | Rate of duty                                                                          |
|------------------|-----------------------------|------------------|---------------------------------------------------------------------------------------|
| 363.90           | 5.3% ad val.                | 429.70           | 7.2% ad val.                                                                          |
| 364.09           | 7.2% ad val.                | 429.85           | 6% ad val.                                                                            |
| 364.14           | 7.2% ad val.                | 430.20           | 3.7% ad val., but not less than the highest rate applicable to any component compound |
| 364.18           | 7.2% ad val.                |                  |                                                                                       |
| 364.25           | 6.9% ad val.                |                  |                                                                                       |
| 364.35           | 5.3% ad val.                |                  |                                                                                       |
| 365.05           | 14% ad val.                 | 520.75           | 6% ad val.                                                                            |
| 365.14           | 14% ad val.                 | 522.71           | 1.8% ad val.                                                                          |
| 365.15           | 5.7% ad val.                | 532.24           | 19% ad val.                                                                           |
| 365.25           | 16% ad val.                 | 532.27           | 20% ad val.                                                                           |
| 365.29           | 16% ad val.                 | 606.22           | 3.1% ad val.                                                                          |
| 365.80           | 12.8% ad val.               | 606.26           | 2.3% ad val.                                                                          |
| 365.81           | 12.8% ad val.               | 606.30           | 1.5% ad val.                                                                          |
| 365.83           | 12.8% ad val.               | 606.31           | 4.5% ad val.                                                                          |
| 365.84           | 12.8% ad val.               | 606.37           | 1.5% ad val.                                                                          |
| 365.91           | 12.8% ad val.               | 606.40           | 5.8% ad val.                                                                          |
| 366.12           | 2.4% ad val.                | 606.44           | 3.9% ad val.                                                                          |
| 366.30           | 8% ad val.                  | 606.46           | 3.7% ad val.                                                                          |
| 366.33           | 8% ad val.                  | 606.48           | 5.6% ad val.                                                                          |
| 366.36           | 3.1% ad val.                | 606.50           | 4.2% ad val.                                                                          |
| 366.39           | 4.4% ad val.                | 606.51           | 4.2% ad val.                                                                          |
| 366.48           | 3.7% ad val.                | 606.57           | Free                                                                                  |
| 366.51           | 4.4% ad val.                | 606.59           | Free                                                                                  |
| 366.54           | 3.7% ad val.                | 606.62           | 4% ad val.                                                                            |
| 366.72           | 4.2% ad val.                | 606.67           | 4.2% ad val.                                                                          |
| 366.81           | 3.7% ad val.                | 606.69           | 5.1% ad val. + additional duties                                                      |
| 366.84           | 2.5% ad val.                |                  |                                                                                       |
| 367.35           | 5.8% ad val.                | 606.71           | 4.2% ad val.                                                                          |
| 367.40           | 5.3% ad val.                | 606.73           | 4% ad val. + additional duties                                                        |
| 367.45           | 5.4% ad val.                |                  |                                                                                       |
| 367.65           | 3.4% ad val.                | 606.75           | 2% ad val.                                                                            |
| 385.15           | 5.1% ad val.                | 606.77           | 2.3% ad val. + additional duties                                                      |
| 385.50           | 0.1¢ per lb. + 2.5% ad val. |                  |                                                                                       |
| 385.63           | 6.9% ad val.                | 606.79           | 4.9% ad val.                                                                          |
| 385.90           | 4% ad val.                  | 606.81           | 5.7% ad val. + additional duties                                                      |
| 385.95           | 2¢ per sq. ft.              |                  |                                                                                       |
| 386.09           | 10% ad val.                 | 606.83           | 4.7% ad val.                                                                          |
| 386.10           | 7.8% ad val.                | 606.86           | 3.2% ad val.                                                                          |
| 386.20           | 14% ad val.                 | 606.88           | 7.5% ad val.                                                                          |
| 386.25           | 7% ad val.                  | 606.91           | 6% ad val. + additional duties                                                        |
| 386.30           | 11.2% ad val.               |                  |                                                                                       |
| 386.40           | 7.8% ad val.                | 606.93           | 6% ad val. + additional duties                                                        |
| 387.10           | 6.6% ad val.                |                  |                                                                                       |
| 387.20           | 2.4% ad val.                | 606.97           | 6% ad val. + additional duties                                                        |
| 387.32           | 4.4% ad val.                |                  |                                                                                       |
| 387.34           | 4.4% ad val.                | 606.99           | 7.5% ad val. + additional duties                                                      |
| 389.10           | 5.8% ad val.                |                  |                                                                                       |
| 389.20           | 5.3% ad val.                | 607.05           | 5.3% ad val.                                                                          |
| 389.30           | 6.9% ad val.                | 607.07           | 4.9% ad val.                                                                          |
| 389.40           | 12.5% ad val.               | 607.09           | 5.7% ad val. + additional duties                                                      |
| 389.50           | 11% ad val.                 |                  |                                                                                       |
| 389.61           | 9% ad val.                  | 607.17           | 1.9% ad val.                                                                          |
| 389.70           | 5.8% ad val.                | 607.22           | 5.8% ad val.                                                                          |
| 425.74           | 6% ad val.                  |                  |                                                                                       |

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## Section B.(3)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                 | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                 |
|--------------------------------|-------------------------------------|--------------------------------|-------------------------------------|
| 607.32                         | 2% ad val. + additional<br>duties   | 609.15                         | 5.8% ad val. + additional<br>duties |
| 607.41                         | 4.5% ad val. + additional<br>duties | 609.17                         | 5.7% ad val.                        |
| 607.48                         | 4.1% ad val. + additional<br>duties | 609.20                         | 4.2% ad val.                        |
| 607.59                         | 4.5% ad val. + additional<br>duties | 609.21                         | 3.2% ad val.                        |
| 607.62                         | 5.5% ad val.                        | 609.22                         | 5.1% ad val.                        |
| 607.64                         | 3.2% ad val.                        | 609.25                         | 4.2% ad val.                        |
| 607.66                         | 6% ad val.                          | 609.28                         | 5.2% ad val.                        |
| 607.67                         | 4.9% ad val.                        | 609.30                         | 3.2% ad val. + additional<br>duties |
| 607.69                         | 3.8% ad val. + additional<br>duties | 609.33                         | 5.8% ad val. + additional<br>duties |
| 607.78                         | 3.8% ad val. + additional<br>duties | 609.35                         | 5.2% ad val. + additional<br>duties |
| 607.83                         | 5.1% ad val.                        | 609.36                         | 5.9% ad val. + additional<br>duties |
| 607.86                         | 4% ad val. + additional<br>duties   | 609.37                         | 6% ad val. + additional<br>duties   |
| 607.91                         | 5.8% ad val. + additional<br>duties | 609.40                         | 5.3% ad val.                        |
| 607.92                         | 5.8% ad val. + additional<br>duties | 609.43                         | 5.3% ad val.                        |
| 607.93                         | 4% ad val. + additional<br>duties   | 609.45                         | 9% ad val. + additional<br>duties   |
| 607.94                         | 6.5% ad val.                        | 609.70                         | 5.5% ad val.                        |
| 607.97                         | 5.1% ad val.                        | 609.72                         | 5.6% ad val.                        |
| 607.99                         | 3.5% ad val.                        | 609.75                         | 6.2% ad val. + additional<br>duties |
| 608.01                         | 4% ad val.                          | 609.76                         | 6.2% ad val. + additional<br>duties |
| 608.07                         | 5.5% ad val.                        | 609.82                         | 2% ad val. + additional<br>duties   |
| 608.11                         | 5.4% ad val.                        | 609.84                         | 4.4% ad val.                        |
| 608.13                         | 6.5% ad val.                        | 609.86                         | 5.3% ad val. + additional<br>duties |
| 608.14                         | 6.2% ad val. + additional<br>duties | 609.88                         | 4.9% ad val.                        |
| 608.19                         | 2.4% ad val.                        | 609.90                         | 5.7% ad val. + additional<br>duties |
| 608.21                         | 3.4% ad val.                        | 609.98                         | 1.8% ad val. + additional<br>duties |
| 608.23                         | 5.7% ad val.                        | 610.21                         | 3.5% ad val. + additional<br>duties |
| 608.26                         | 5.1% ad val. + additional<br>duties | 610.26                         | 3.1% ad val. + additional<br>duties |
| 608.31                         | 5.1% ad val. + additional<br>duties | 610.30                         | 4.5% ad val.                        |
| 608.38                         | 5.1% ad val. + additional<br>duties | 610.31                         | 2.6% ad val.                        |
| 608.39                         | 7% ad val. + additional<br>duties   | 610.35                         | 3.7% ad val. + additional<br>duties |
| 608.47                         | 6% ad val. + additional<br>duties   | 610.36                         | 3.5% ad val. + additional<br>duties |
| 608.55                         | 6% ad val. + additional<br>duties   | 610.40                         | 3.3% ad val. + additional<br>duties |
| 608.59                         | 6.3% ad val. + additional<br>duties | 610.42                         | 6% ad val.                          |
| 608.67                         | 6.3% ad val. + additional<br>duties | 610.43                         | 6.2% ad val. + additional<br>duties |
| 609.14                         | 5.1% ad val.                        | 610.45                         | 6.2% ad val.                        |
|                                |                                     | 610.46                         | 6.7% ad val. + additional<br>duties |

## Section B.(3)--Continued

| <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u>                 | <u>TSUS</u><br><u>Item No.</u> | <u>Rate of duty</u> |
|--------------------------------|-------------------------------------|--------------------------------|---------------------|
| 610.48                         | 6.2% ad val.                        | 629.33                         | 6.6% ad val.        |
| 610.49                         | 8% ad val.                          | 642.97                         | 5.3% ad val.        |
| 610.51                         | 7.5% ad val. + additional<br>duties | 653.25                         | 5.7% ad val.        |
| 610.52                         | 7.5% ad val. + additional<br>duties | 662.18                         | 1.3% ad val.        |
| 610.56                         | 4% ad val.                          | 670.58                         | 10% ad val.         |
| 610.58                         | 6.5% ad val. + additional<br>duties | 680.17                         | 8% ad val.          |
| 610.62                         | 5.8% ad val.                        | 704.34                         | 20% ad val.         |
| 610.63                         | 6.5% ad val. + additional<br>duties | 704.75                         | 6.5% ad val.        |
| 610.65                         | 2.5% ad val.                        | 704.80                         | 7.5% ad val.        |
| 610.66                         | 3.7% ad val. + additional<br>duties | 704.95                         | 4% ad val.          |
| 610.70                         | 5.1% ad val.                        | 706.47                         | 7.8% ad val.        |
| 610.71                         | 5.8% ad val. + additional<br>duties | 722.40                         | 7% ad val.          |
| 610.74                         | 6.2% ad val.                        | 722.55                         | 9% ad val.          |
| 610.80                         | 6.2% ad val.                        | 727.40                         | 5.3% ad val.        |
| 626.22                         | 5.7% ad val.                        | 728.05                         | 4.2% ad val.        |
| 629.14                         | 15% ad val.                         | 728.10                         | 4.2% ad val.        |
| 629.20                         | 15% ad val.                         | 732.42                         | 10% ad val.         |
| 629.28                         | 10.5% ad val.                       | 734.42                         | 3.8% ad val.        |
| 629.29                         | 6% ad val.                          | 745.61                         | 11% ad val.         |
| 629.30                         | 6.6% ad val.                        | 745.62                         | 11% ad val.         |
|                                |                                     | 748.10                         | 5.1% ad val.        |
|                                |                                     | 748.12                         | 2.4% ad val.        |
|                                |                                     | 755.30                         | 6.9% ad val.        |
|                                |                                     | 772.30                         | 5% ad val.          |
|                                |                                     | 790.23                         | Free                |

(4) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after January 1, 1983:

| <u>TSUS Item No.</u> | <u>Rate of Duty</u> |
|----------------------|---------------------|
| 176.45               | 0.7¢ per lb.        |
| 176.46               | Free                |
| 176.47               | 7.5% ad val.        |
| 178.15               | 9% ad val.          |

(5) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that the Philippines provide satisfactory supply access assurances for rattan:

| <u>TSUS Item No.</u> | <u>Rate of Duty</u> |
|----------------------|---------------------|
| 727.10               | 7.5% ad val.        |

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(6) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that satisfactory progress has been made toward the development of a common North American standard for softwood plywood:

| TSUS Item No. | Rate of duty |
|---------------|--------------|
| 240.21        | 8% ad val.   |

(7) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) on which the import relief action under section 203 of the Trade Act of 1974 with respect to footwear, initiated by Presidential Proclamation 4510 of June 22, 1977, has terminated:

| TSUS Item No. | Rate of Duty |
|---------------|--------------|
| 774.50        | 5.3% ad val. |
| 791.20        | 2.8% ad val. |
| 791.27        | 3.7% ad val. |

(8) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) on which the import relief actions under section 203 of the Trade Act of 1974 with respect to color television receivers and certain subassemblies thereof, initiated by Presidential Proclamations 4511 and 4634 of June 24, 1977, and January 26, 1979, respectively, have terminated:

| TSUS Item No. | Rate of duty |
|---------------|--------------|
| 685.16        | 3.7% ad val. |
| 685.18        | 3.7% ad val. |

(9) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register) not more than 30 days after the date on which the Special Representative has determined that other major countries provide adequate entity coverage under the Agreement on Government Procurement, entered into on April 12, 1979:

| TSUS Item No. | Rate of Duty |
|---------------|--------------|
| 660.10        | 4.4% ad val. |
| 660.15        | 4.7% ad val. |
| 660.25        | 3.1% ad val. |
| 660.30        | 4.9% ad val. |
| 660.35        | 3.4% ad val. |
| 660.59        | Free         |
| 660.62        | 3.7% ad val. |
| 660.74        | 8% ad val.   |
| 660.76        | 4.9% ad val. |
| 684.62        | 5.3% ad val. |

(10) Effective as to articles entered, or withdrawn from warehouse, for consumption on and after the date (published in the Federal Register by the Special Representative) of the implementation by Canada of the concession rate of 1 cent per pound on Canadian tariff item 501-1:

| TSUS Item No. | Rate of Duty |
|---------------|--------------|
| 100.40        | 1¢ per lb.   |
| 100.43        | 1¢ per lb.   |
| 100.53        | 1¢ per lb.   |
| 100.55        | 1¢ per lb.   |

Section C. The Tariff Schedules of the United States (TSUS) are modified as follows:

(1) A column entitled "LDDC" is inserted between Rate of Duty columns numbered 1 and 2 on each page of schedules 1 through 7 of the TSUS. The rates of duty specified in Section B of this Annex shall be placed in the column entitled "LDDC" on the effective date indicated in Section B opposite the TSUS item number of each article which has been designated as an eligible article for full tariff reduction without staging;

(2) General headnote 3 is modified by inserting "and the column designated LDDC" after "columns numbered 1 and 2";

(3) General headnote 3(g) is deleted;

(4) General headnotes 3(d), (e), and (f) are redesignated as 3(e), (f), and (g), respectively;

(5) General headnote 3(e) (as redesignated herein) is modified by deleting "(d)(ii)" and inserting "(e)(ii)" in lieu thereof;

(6) A new general headnote 3(d) is added as follows:

"(d) Products of Least Developed Developing Countries.

(1) The following countries are designated least developed developing countries (LDDC's), and, subject to the restrictions of subparagraph (ii), products of such countries imported into the customs territory of the United States, whether imported directly or indirectly, and which are entered under TSUS item numbers for which rates of duty appear in the column entitled "LDDC" of the schedules, are eligible for full tariff reductions without staging in accordance with Section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251):

|                          |               |
|--------------------------|---------------|
| Afghanistan              | Haiti         |
| Bangladesh               | Lesotho       |
| Benin                    | Malawi        |
| Bhutan                   | Maldives      |
| Botswana                 | Mali          |
| Burundi                  | Nepal         |
| Cape Verde               | Niger         |
| Central African Republic | Rwanda        |
| Chad                     | Somalia       |
| Comoros                  | Sudan         |
| Ethiopia                 | Tanzania      |
| Gambia                   | Upper Volta   |
| Guinea                   | Western Samoa |
|                          | Yemen (Sana)  |

(11) Imported articles, the products of least developed developing countries as designated in subparagraph (1) above, provided for under the TSUS items for which rates of duty appear in the column entitled "LDDC" of the schedules are subject to those rates of duty rather than the rates of duty provided for in column numbered 1, except that articles subject to temporary modifications under any provisions of the Appendix to these schedules shall be subject to the rates of duty set forth therein. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 shall apply."

[FR Doc. 79-38443

Filed 12-12-79; 9:50 am]

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Part VIII

## Department of Energy

Mandatory Petroleum Price Regulations;  
adjustment to fixed cents per gallon  
markup for retailer sales of gasoline



## DEPARTMENT OF ENERGY

## 10 CFR Part 212

[Docket No. ERA-R-79-32A]

**Mandatory Petroleum Price Regulations; Adjustment to Fixed Cents per Gallon Markup for Retailer Sales of Gasoline**

**AGENCY:** Economic Regulatory Administration, Department of Energy.  
**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby announces that, effective December 15, 1979, the fixed cents per gallon markup limitation for gasoline retailers will be increased to 16.1 cents to reflect retailers' cost increases due to inflation.

**EFFECTIVE DATE:** December 15, 1979.

**FOR FURTHER INFORMATION CONTACT:**

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170  
 Ed Mampe or Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2134, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7200  
 William M. Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6754

**SUPPLEMENTARY INFORMATION:**

- I. Adjustment Adopted.
- II. Other Matters.

**I. Adjustment Adopted**

On July 15, 1979, we amended § 212.93 to provide that gasoline retailers may charge for each type and grade of gasoline a price equal to their acquisition cost, plus applicable taxes, plus a markup of 15.4 cents per gallon (44 FR 42541, July 19, 1979). The amended regulation also provides that, beginning December 15, 1979, we will adjust the per gallon markup on a semi-annual basis to reflect increased costs due to inflation.

We obtained the 15.4 cents per gallon markup by applying a standard measure of inflation to the average national retail margin (7.5 cents per gallon) and the maximum permitted pass-through of increased non-product costs (3 cents per gallon) for gasoline in the first quarter of 1974. The standard measure was derived from the first revision of the GNP deflator for the first quarter of 1979, as adjusted by the projected rate of inflation for the second quarter.

We have calculated the adjusted markup in the same manner, except that the standard measure of inflation was derived from the first revision of the

GNP deflator for the third quarter of 1979, as adjusted by the projected rate of inflation for the fourth quarter. Our calculations yield a retail margin of 16.1 cents per gallon which we are hereby adopting as the fixed cents per gallon markup for gasoline retailers, effective December 15, 1979.

In light of our action with respect to independent gasoline retailers, in which we adopted the fixed cents per gallon markup for retailer sales of gasoline, we also placed a limitation on the price which refiners and reseller-retailers can charge in retail sales of gasoline (44 FR 45352, August 1, 1979). This rule provides that refiners and reseller-retailers may not charge a price in retail sales of gasoline which exceeds a firm's most recent dealer tank wagon price to the nearest independent retailer, plus applicable taxes, plus 15.4 cents per gallon. In order to preserve the same relationship between independent retailers and other sellers of gasoline at the retail level and to account for the effects of inflation on the costs of these other sellers, we are amending the provisions which establish this limitation to provide a corresponding increase from 15.4 cents per gallon to 16.1 cents per gallon. In addition, we are making conforming amendments to these provisions to clarify that we will adjust this limitation semi-annually on the same basis as is provided for independent retailers.

**II. Other Matters**

Under section 501(e) of the Department of Energy Organization Act (DOE Act) we are not bound by the prior notice and hearing requirements of subsections (b)-(d) with respect to a rule upon our determination that no substantial issue of law or fact exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of the Administrative Procedure Act (APA).

We have made such a determination with respect to our action concerning the markup for gasoline retailers since this action is purely ministerial in nature. Section 212.93(a)(2) requires us to adjust the markup on a semi-annual basis, beginning December 15, 1979, and further requires us to base this adjustment on the latest revision of the GNP deflator.

Section 555(b) of the APA provides that the notice requirements contained therein are inapplicable when the agency for good cause finds that notice and public procedure on a rule is

impracticable, unnecessary or contrary to the public interest. We find that the notice and public procedures of section 553(b) are unnecessary in this case, given the nature of our action, as described above.

Subsection (d)(1) of section 553 of the APA provides that the required publication of a rule be made at least 30 days before the effective date of the rule unless the rule relieves a restriction. Our action relieves a price restriction and, therefore fits the exemption in section 553(d)(1).

Executive Order 12044 (43 FR 12661, March 23, 1978) requires a public comment period of sixty days and the preparation of a regulatory analysis. In view of the ministerial nature of today's action, we have determined that the requirements of the Executive Order are not applicable to today's final rule.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 48287)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 15, 1979.

Issued in Washington, D.C., December 10, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. Section 212.83(c)(1)(i) is revised to read as follows:

**§ 212.83 Price rule.**

- (c) \* \* \*
- (1) \* \* \*
- (i) \* \* \*

(C) Notwithstanding any other provision of this Subpart, a refiner which sells gasoline to independent retailers at dealer tank wagon prices, may not charge a price in retail sales of gasoline at a retail outlet which exceeds the refiner's most recent dealer tank wagon price to the nearest independent retailer to that retail outlet, plus 16.1 cents per gallon, plus tax cost as defined in § 212.92. Beginning December 15, 1979, DOE shall adjust semi-annually

the fixed cents per gallon amount to reflect the GNP deflator.

2. Section 212.93 is amended by revising paragraphs (a)(2) and (a)(4) to read as follows:

**§ 212.93 Price rule.**

- (a) \* \* \*

(2) With respect to sales of gasoline by retailers, a retailer may not charge a price in a sale of any type or grade of gasoline which exceeds the most recent acquisition cost, plus 16.1 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

(4) With respect to retail sales of gasoline by reseller-retailers which sell gasoline to independent retailers at dealer tank wagon prices, a reseller-retailer may not charge a price in retail sales of gasoline at a retail outlet which exceeds the most recent dealer tank wagon price the reseller-retailer charged to the nearest independent retailer to that retail outlet, plus 16.1 cents per gallon, plus tax costs. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

[FR Doc. 79-38441 Filed 12-12-79; 9:37 am]

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